

COMMERCIAL IN CONFIDENCE

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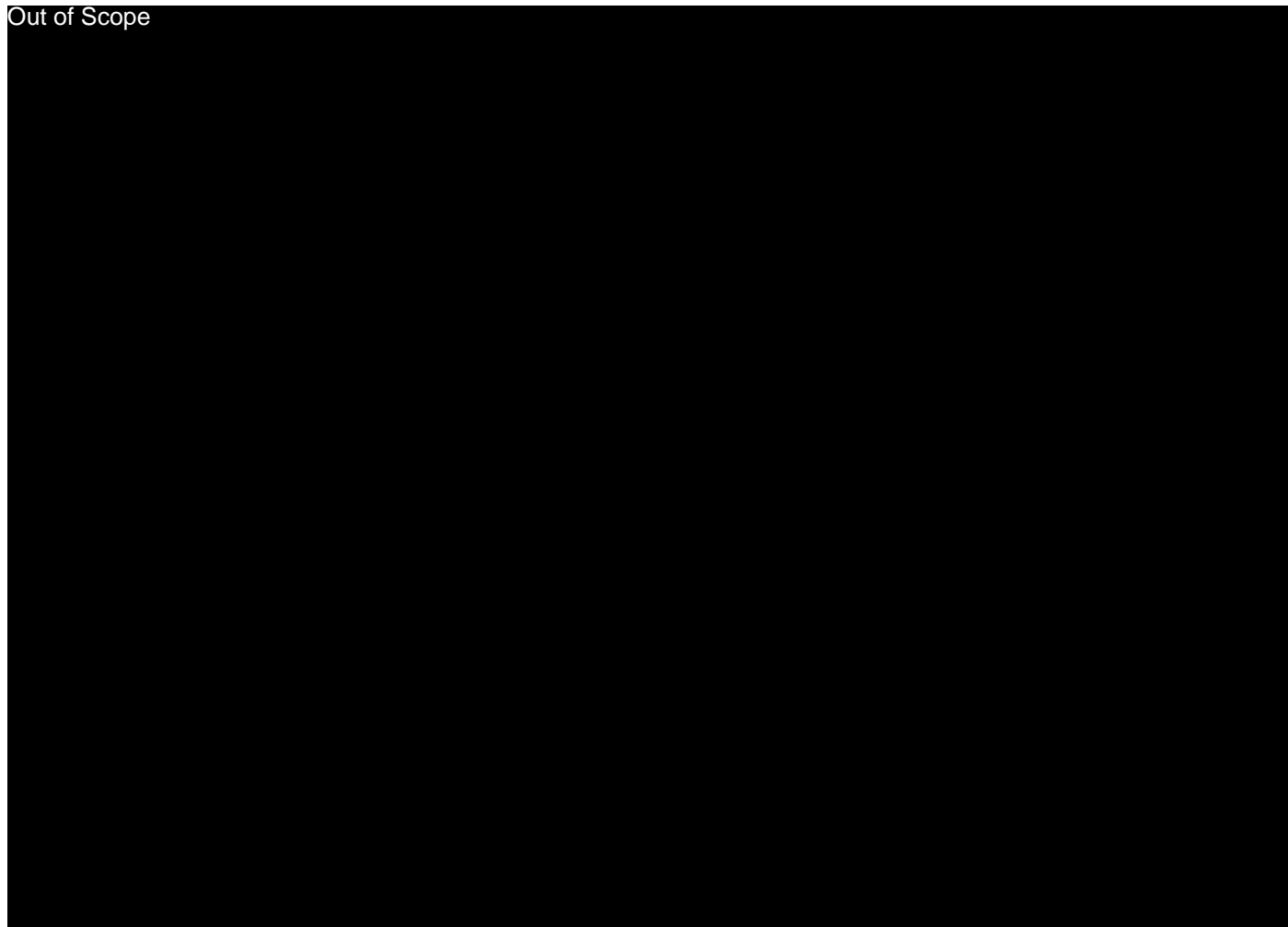
ACT Gambling and Racing Commission

**Casino Canberra
Transfer of Ownership Suitability Report
Aquis Canberra Pty Ltd**

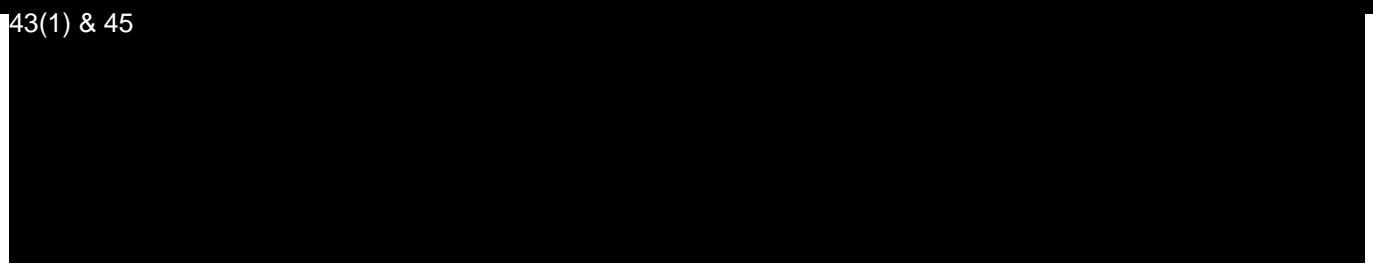
December 2014

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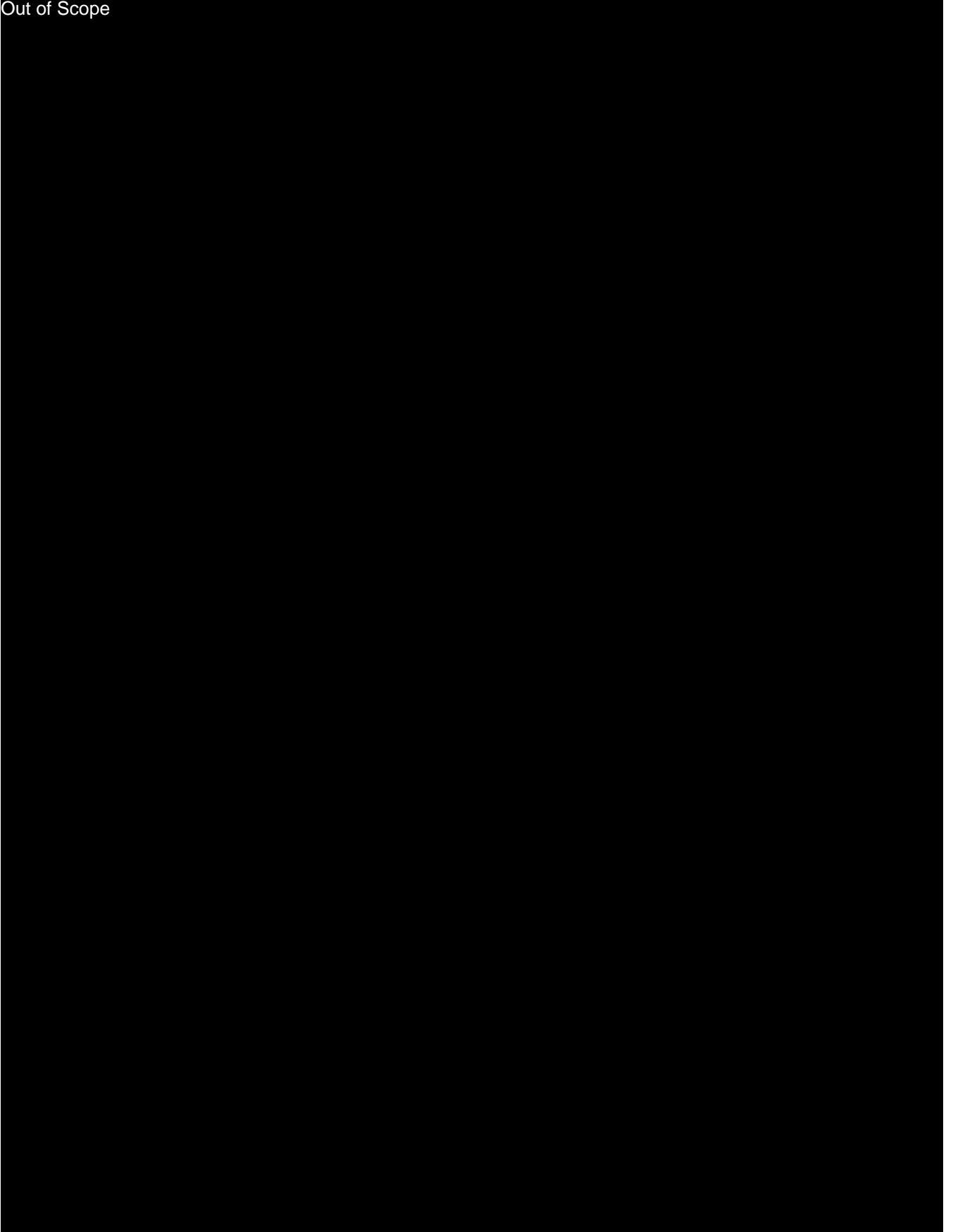


43(1) & 45



Executive Summary

Out of Scope



Out of Scope

36(1) & 43(1)

A number of conditions on the licence are suggested to enhance the Commission's regulatory role, particularly in terms of information requests and being kept abreast of any adverse events relating to the licensee and associated entities.

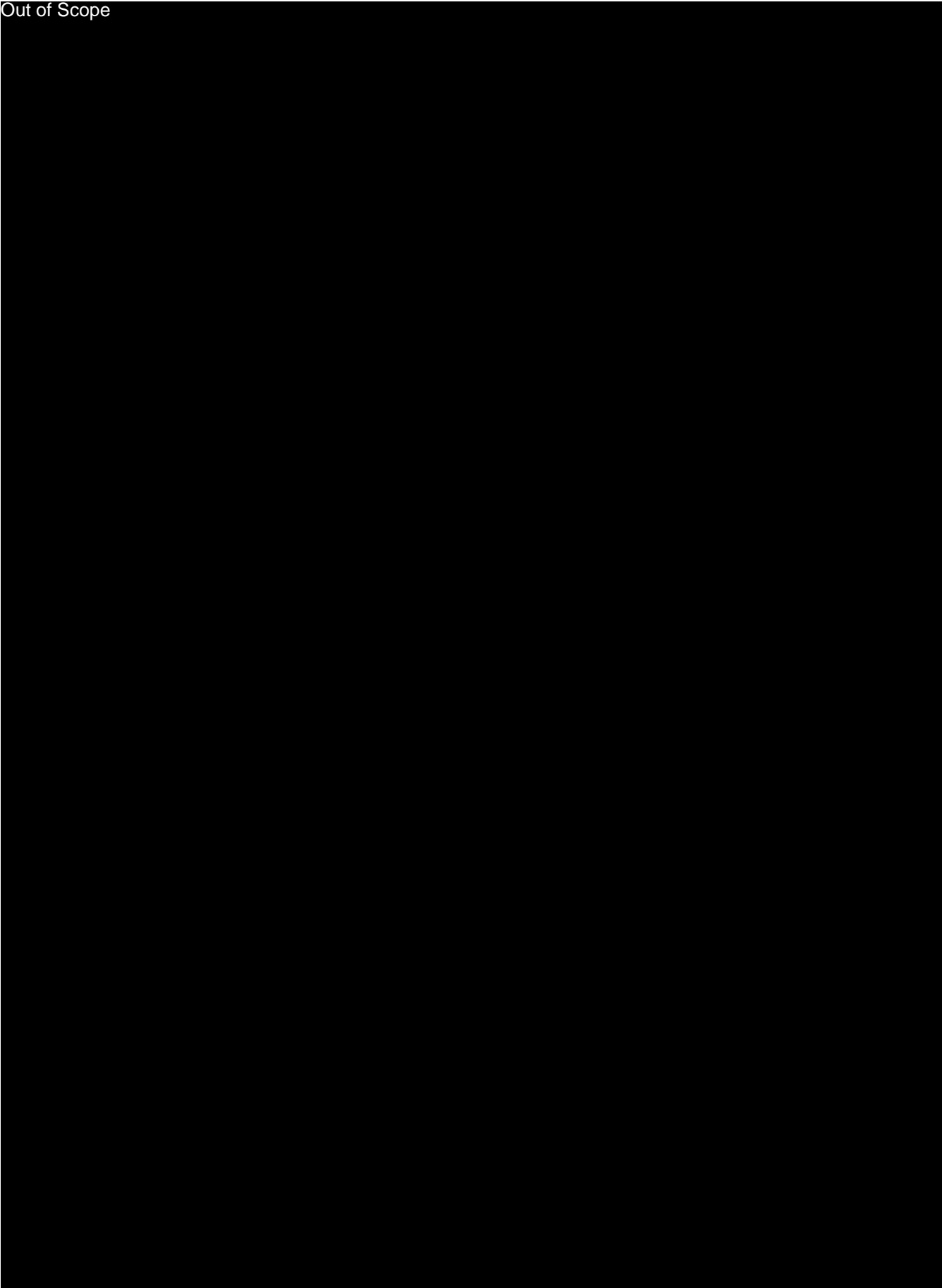
Based on the information made available to the Commission, it has concluded that there are no eligibility objections to the applicant (Aquis Canberra Pty Ltd) operating a casino in the Australian Capital Territory.

In order to further protect the Territory's interest and ensure that the Commission has sufficient additional regulatory oversight capabilities, it is recommended that the proposed casino licence conditions **39 & 40(1)** be implemented as part of any approval to transfer ownership. Aquis has been extensively consulted on these documents and is in agreement with their content.

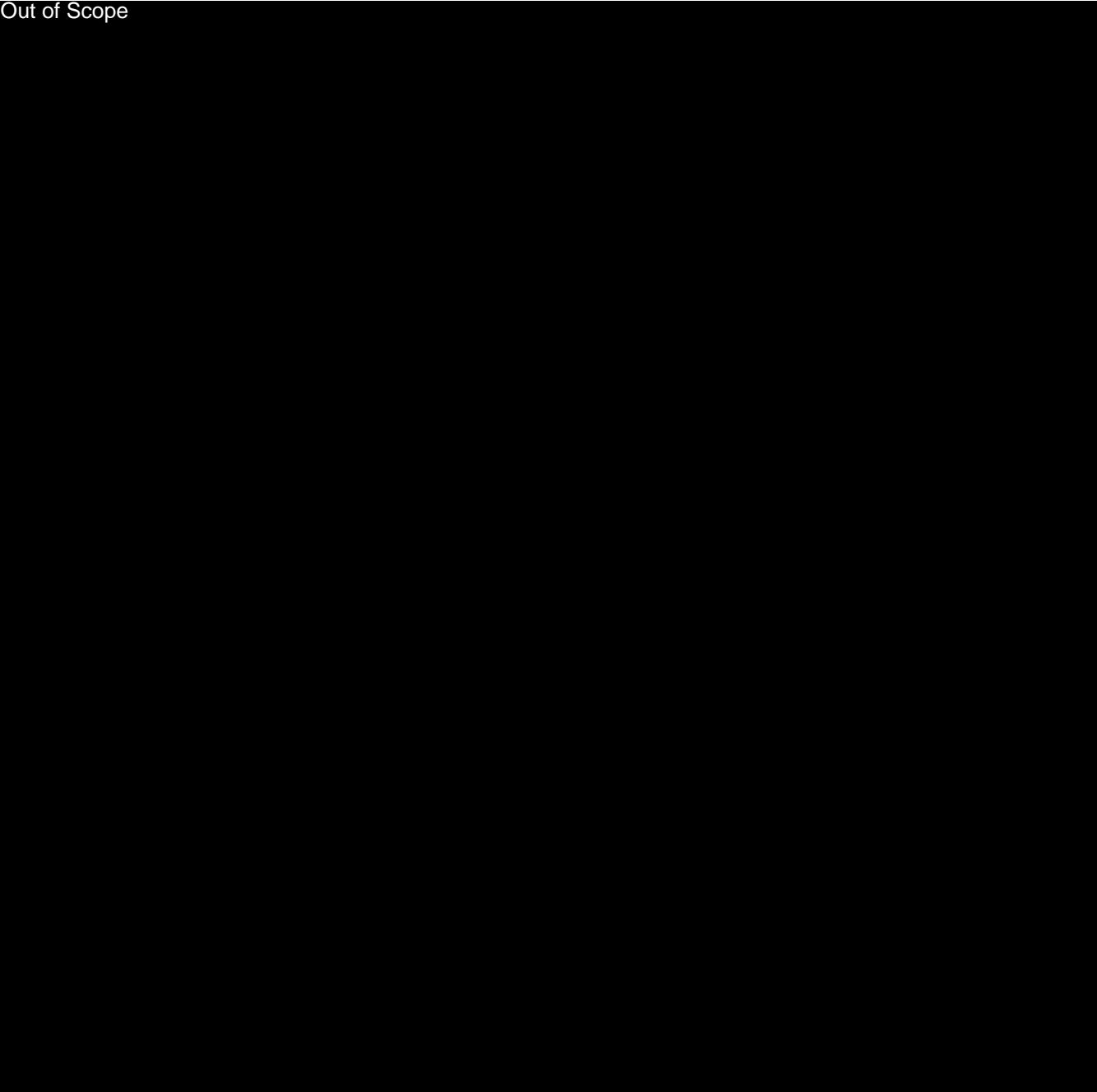
On the basis that the licence conditions **39 & 40(1)** are adopted in full, the Commission advises that it has not identified any matter that would prevent the Minister from approving the transfer of the casino's ownership to Aquis Canberra Pty Ltd.

1.0 Introduction and Background

Out of Scope

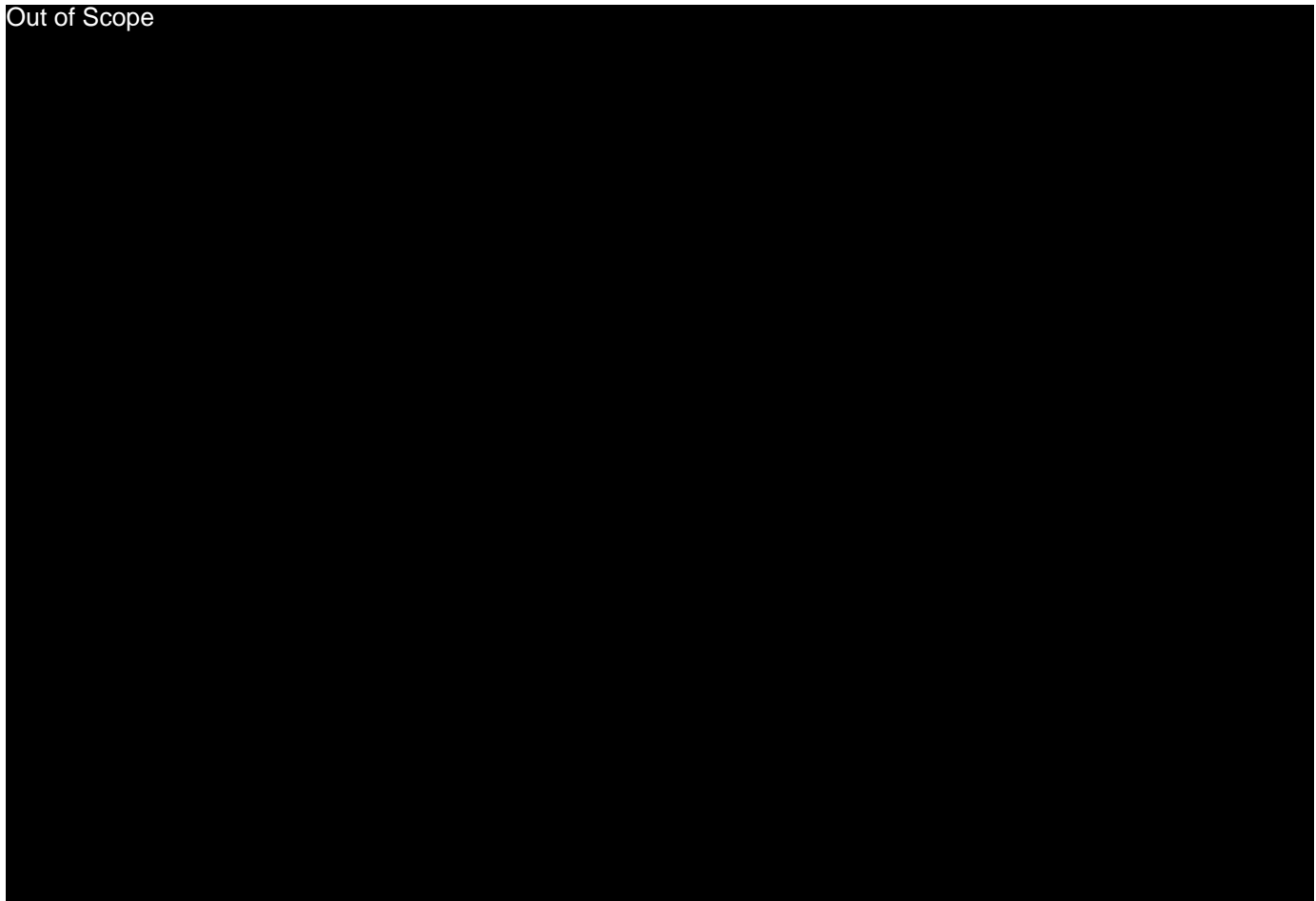


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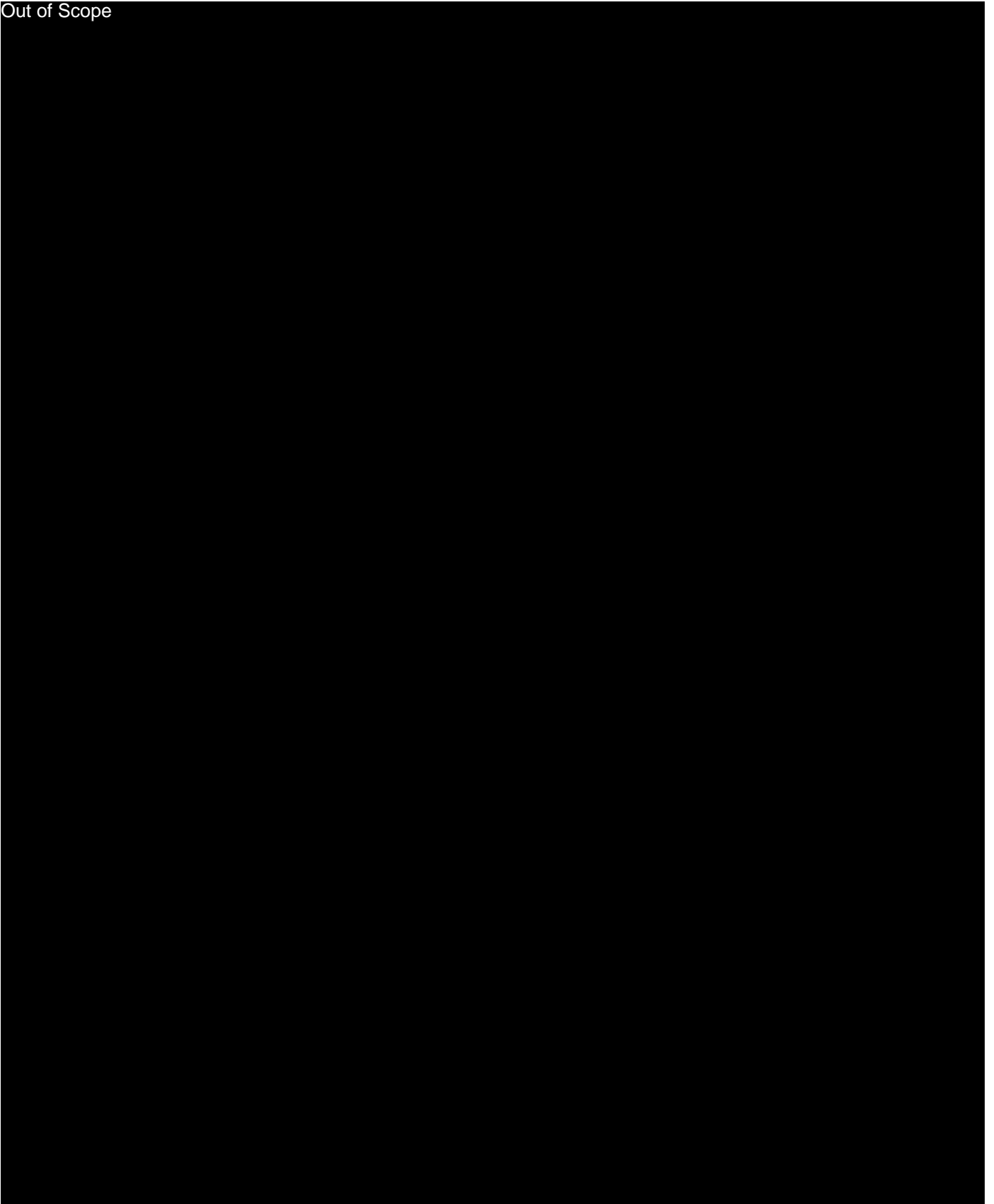
2.0 Legislative Background

Out of Scope

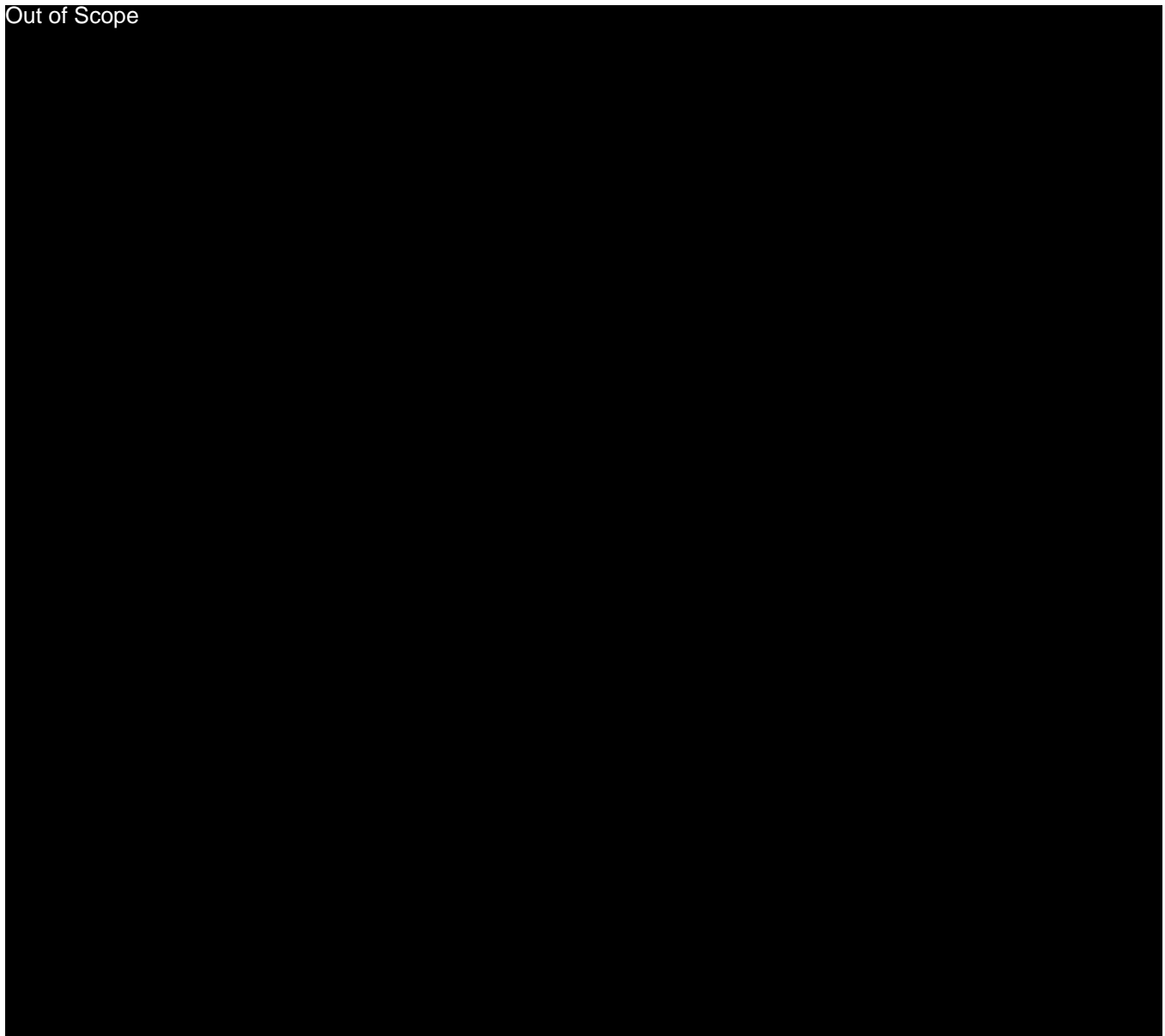


3.0 Description of Purchaser

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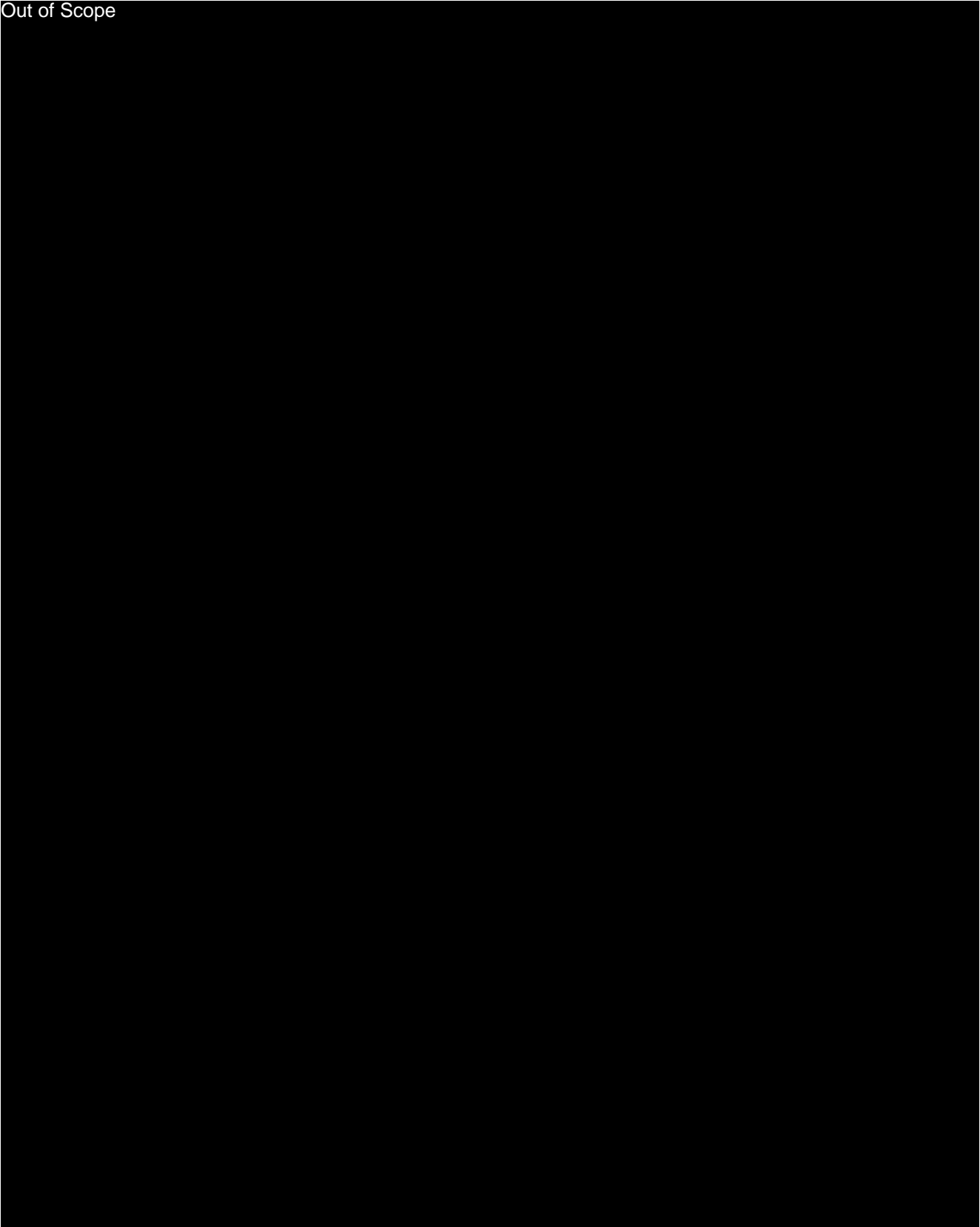


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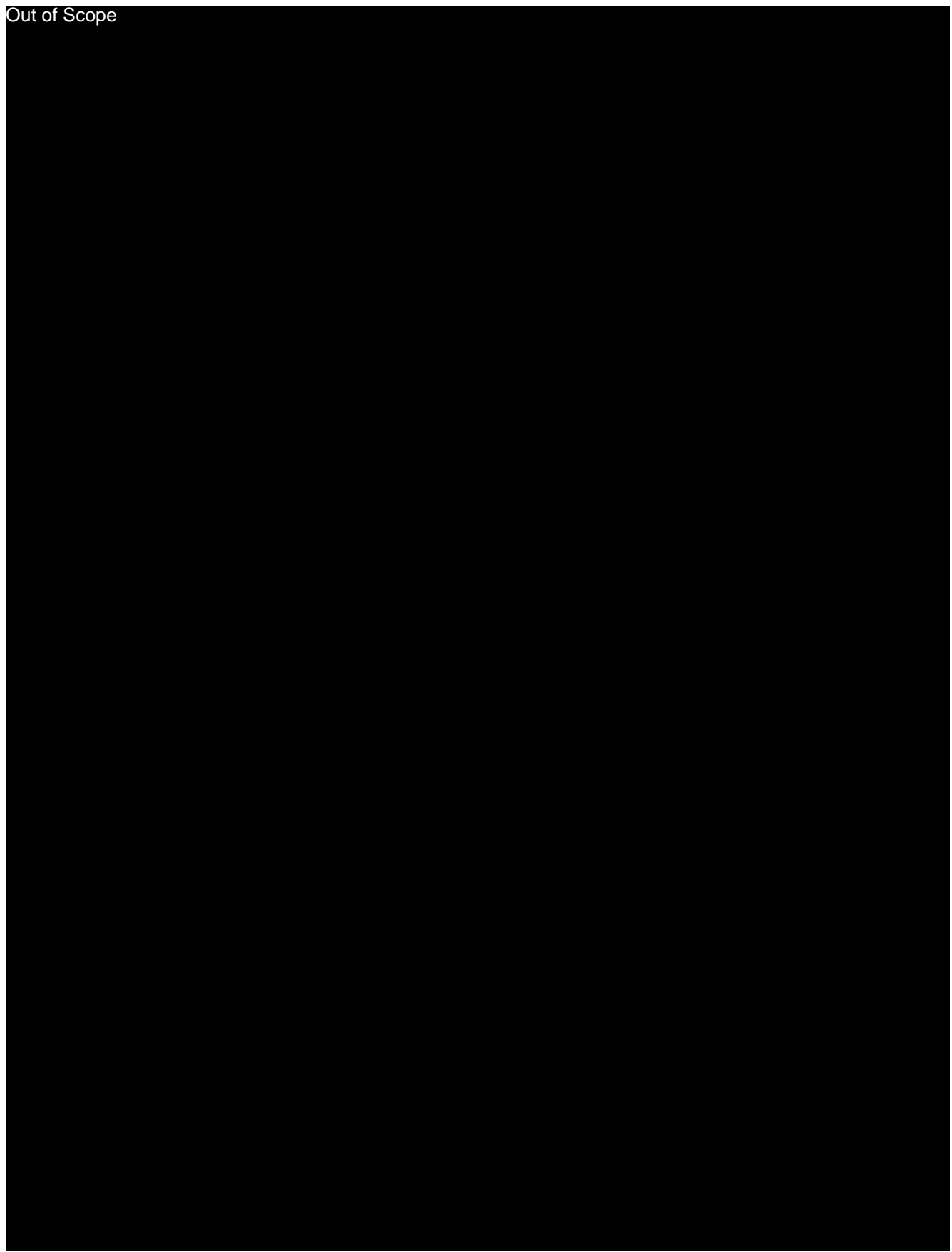
4.0 Investigation Methodology

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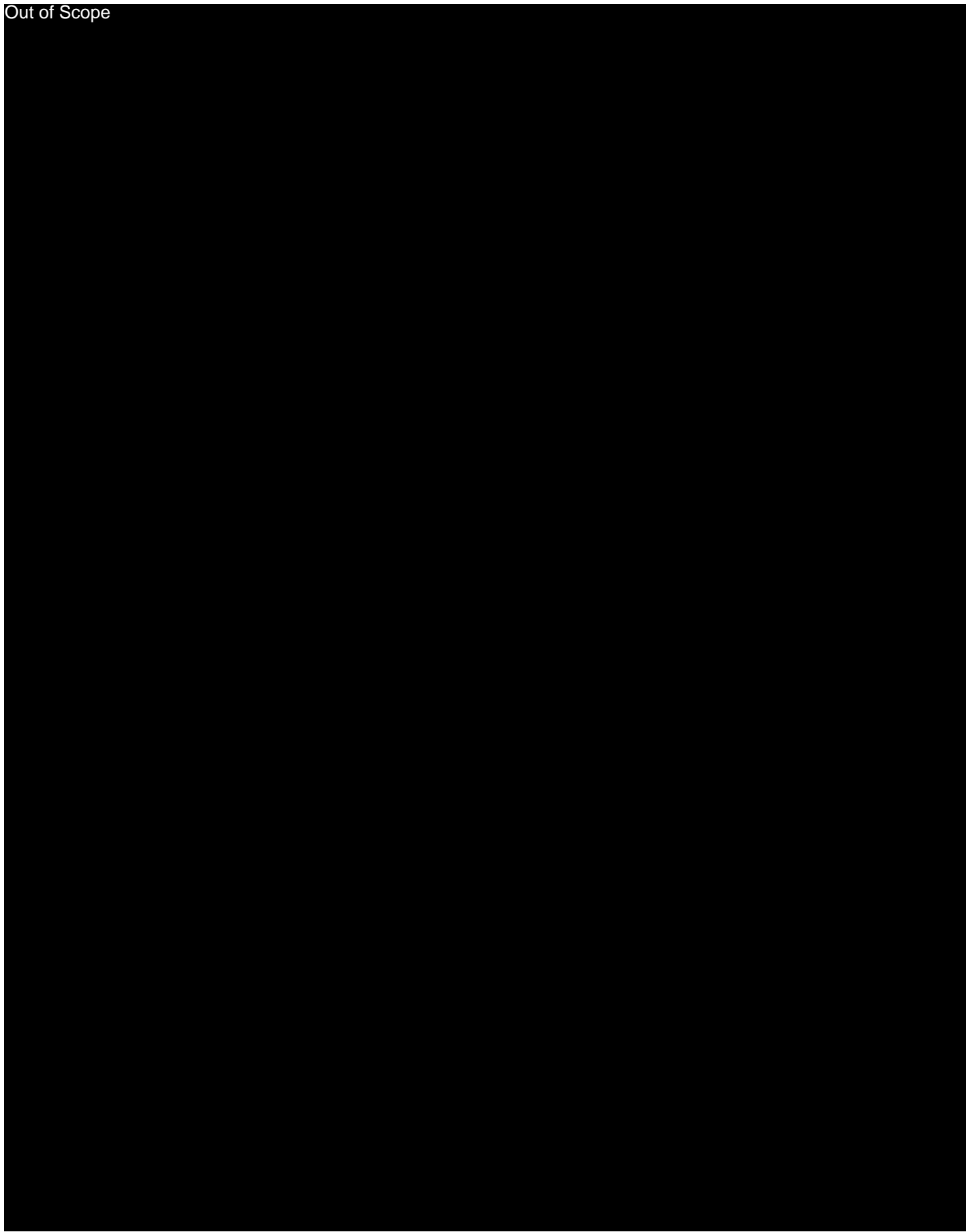


5.0 Investigation Outcomes

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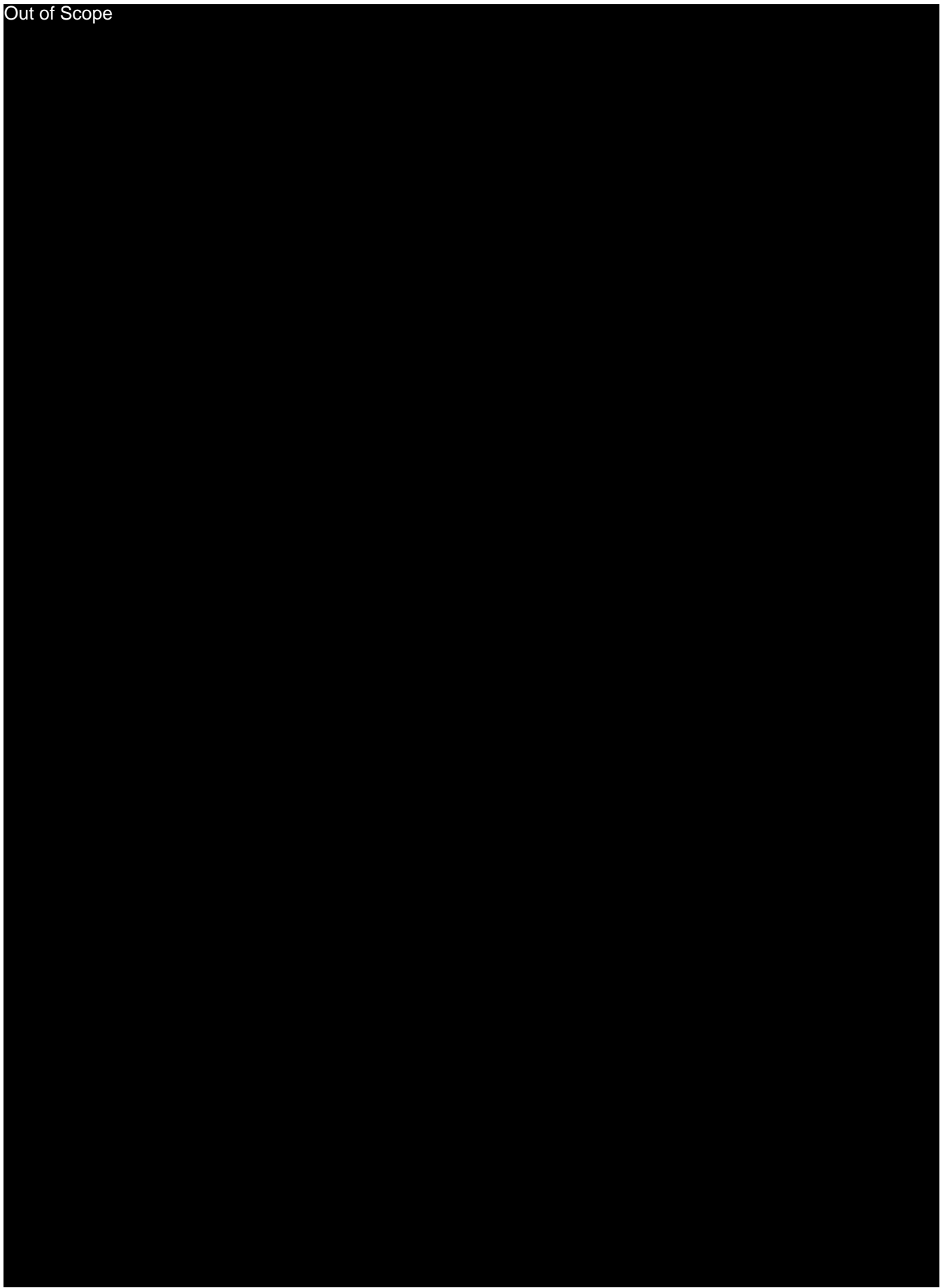


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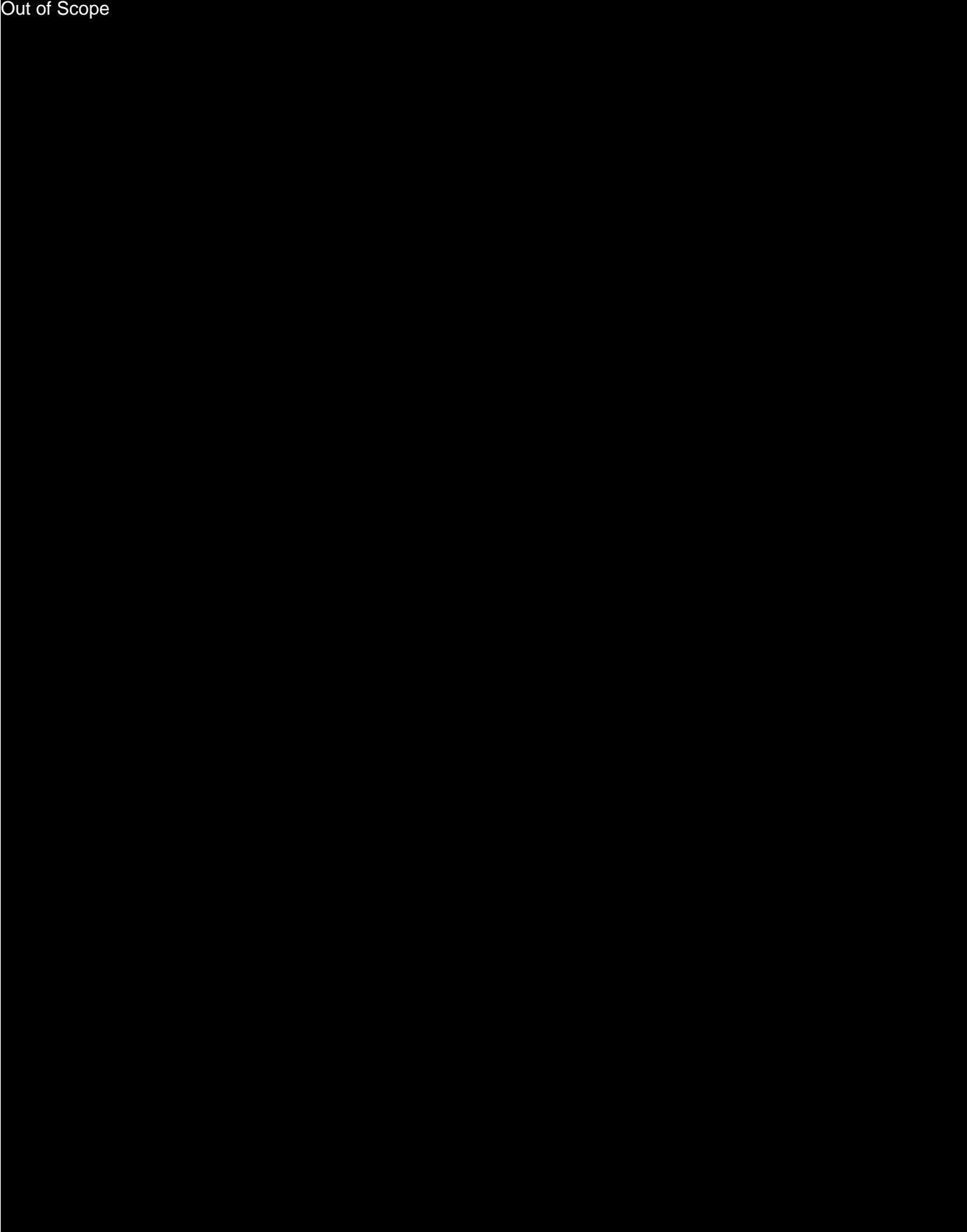


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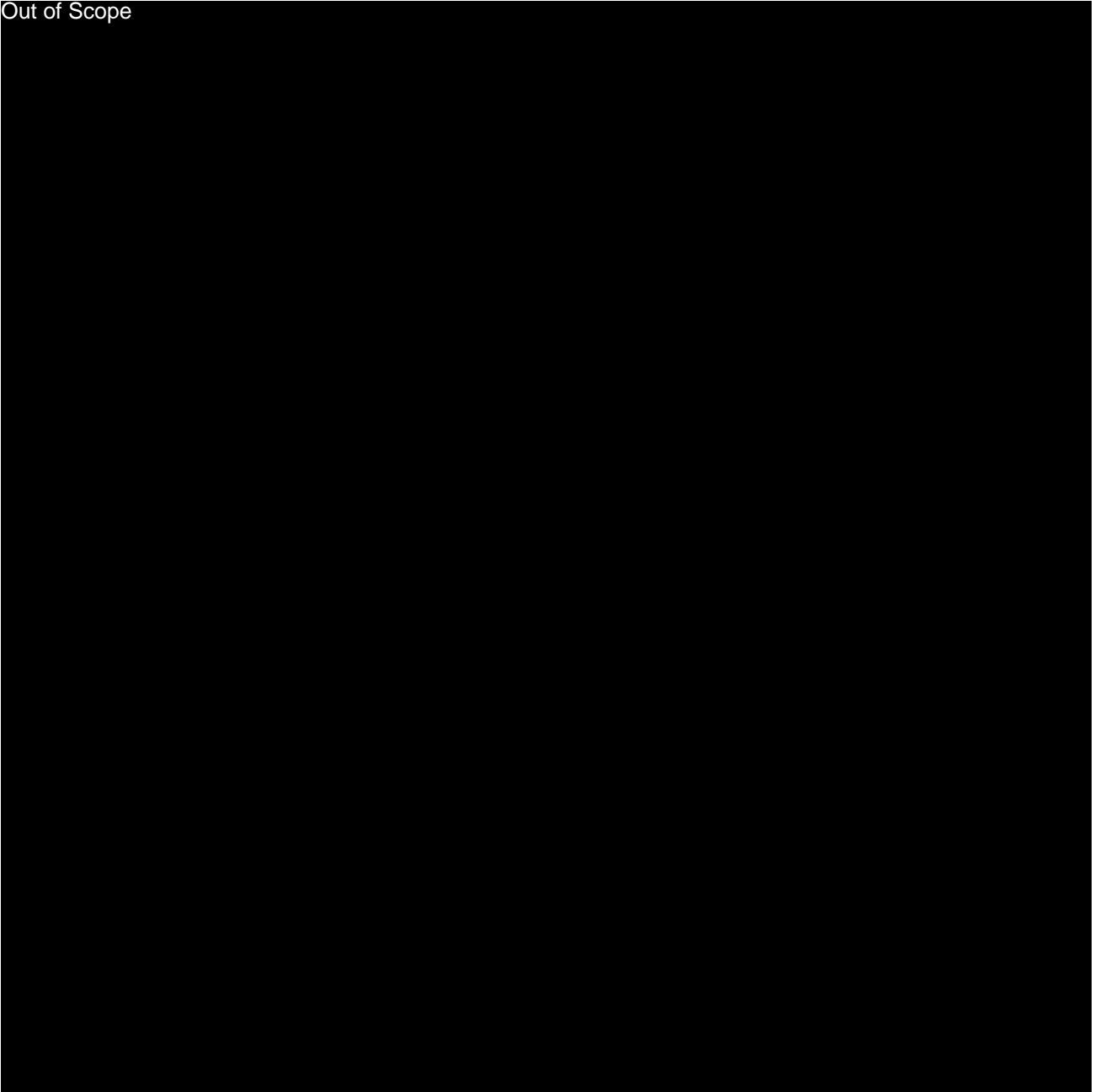


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6.0 Conclusions

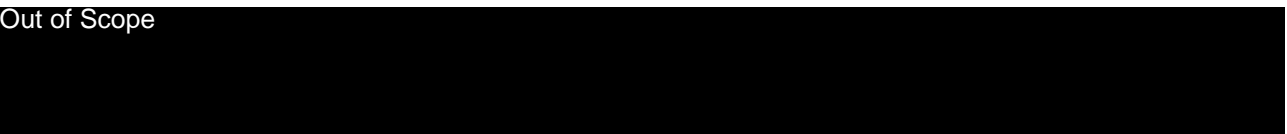
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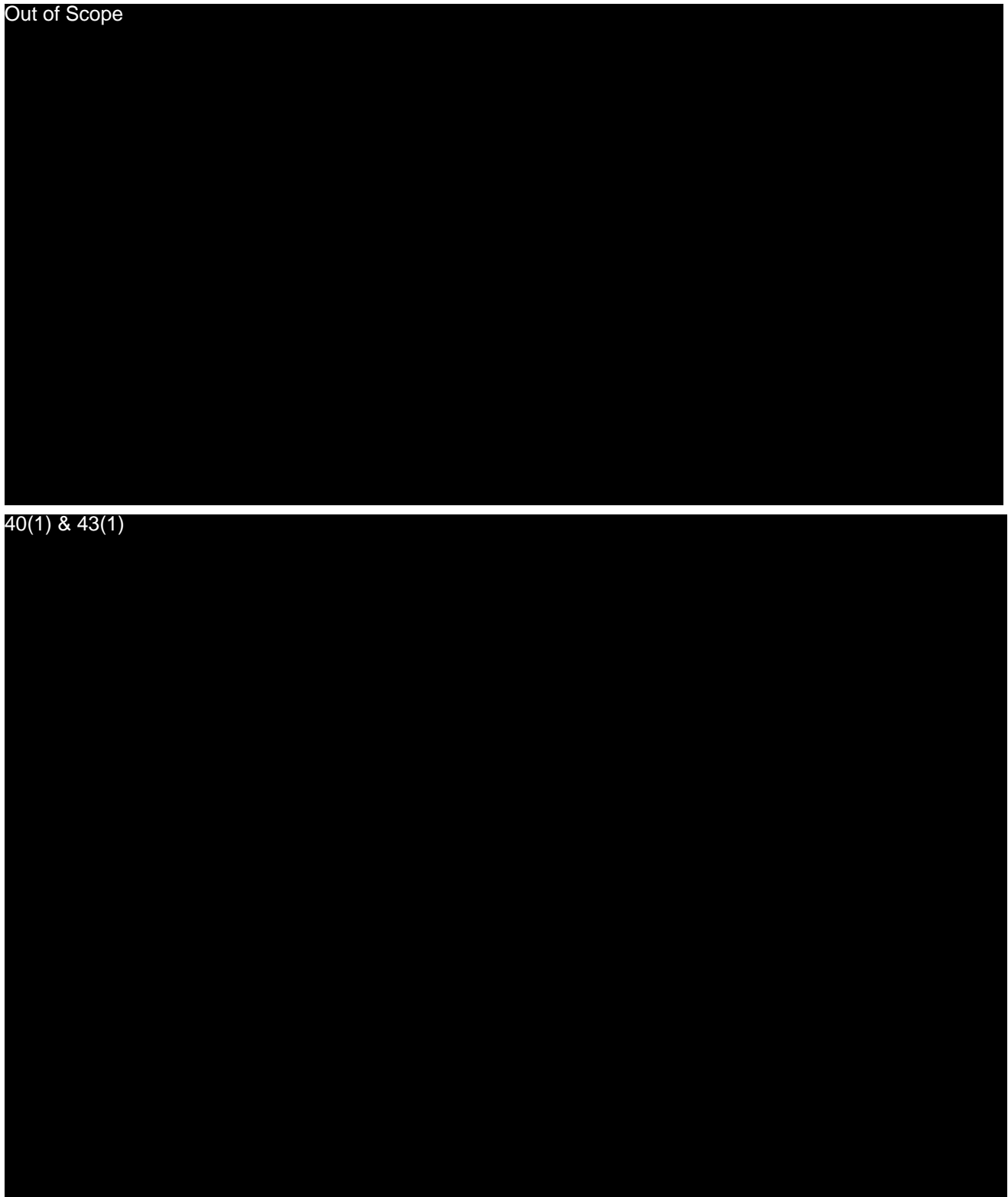
40(1) & 43(1)



Out of Scope



Out of Scope




40(1) & 43(1)

The Commission's probity conclusions and its recommendations that follow are provided as an integrated package that includes all terms of the proposed conditions of casino licence 39 & 40(1)

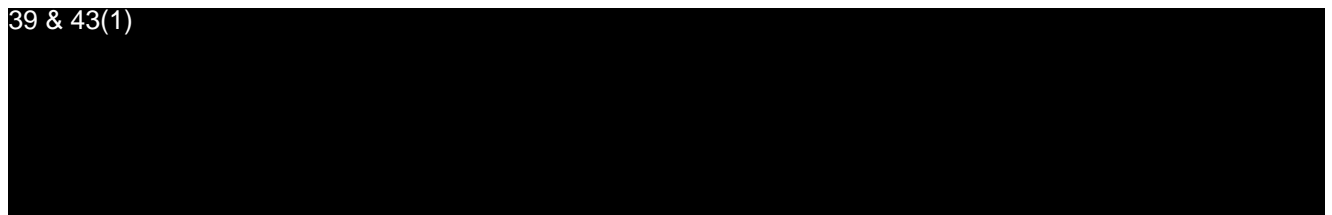
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7.0 Recommendations

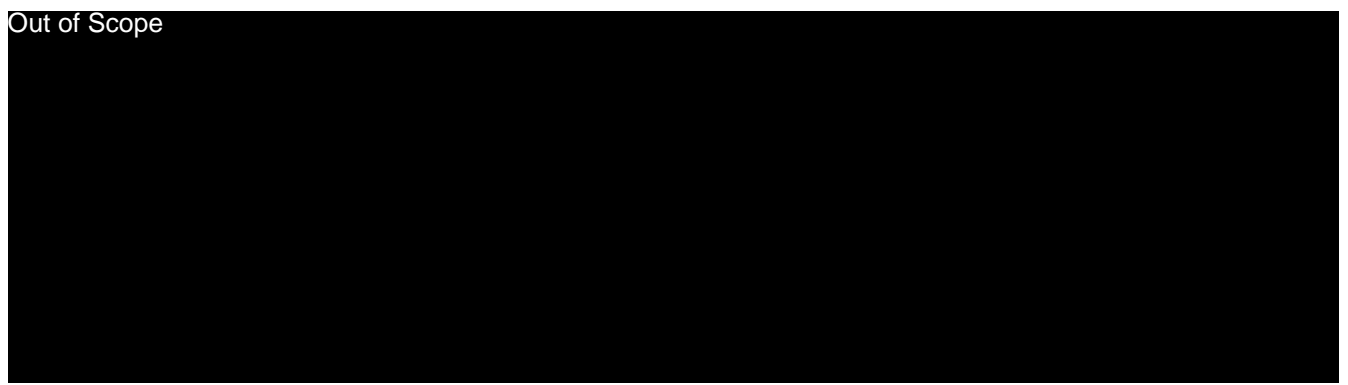
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39 & 43(1)

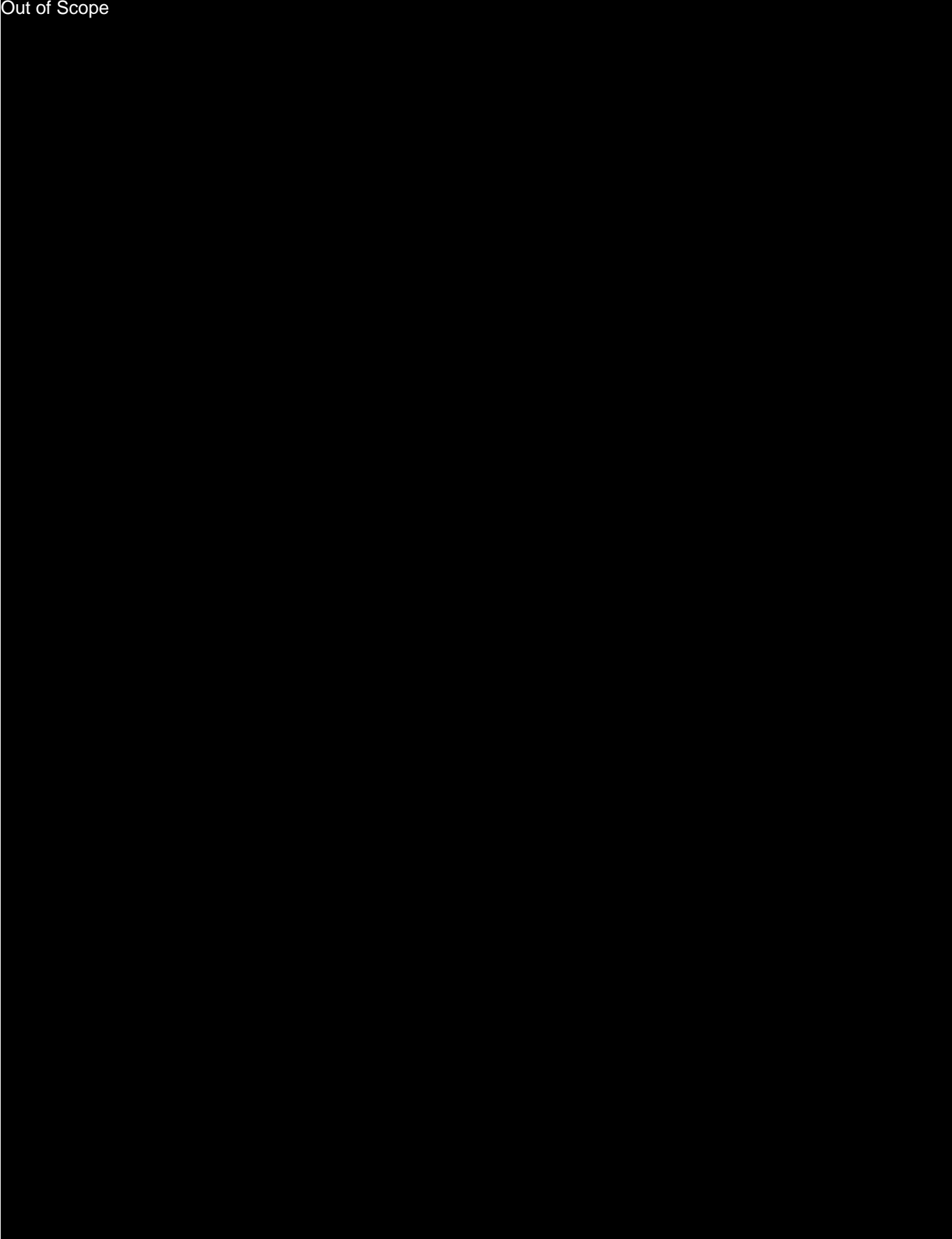


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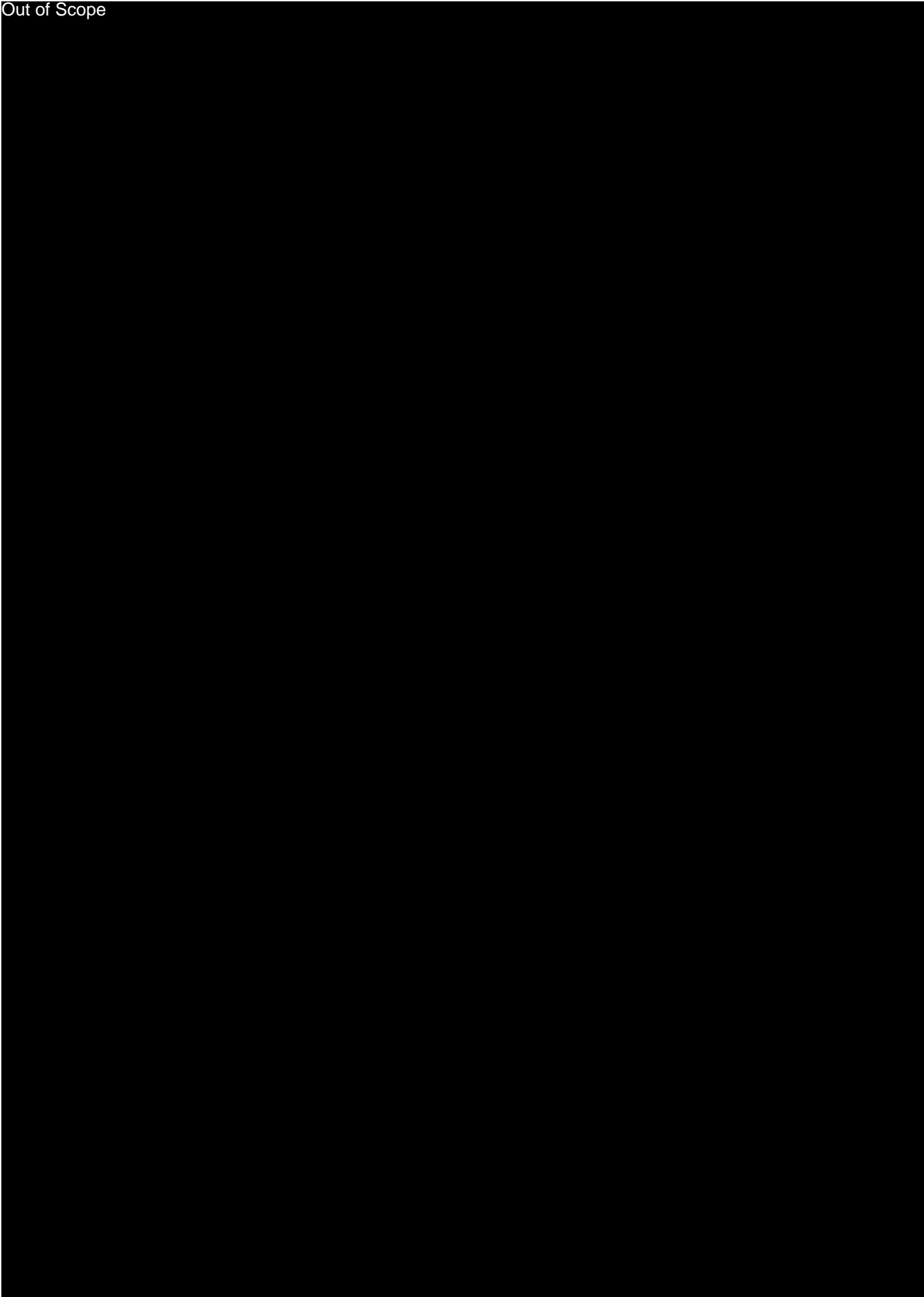


ATTACHMENT A

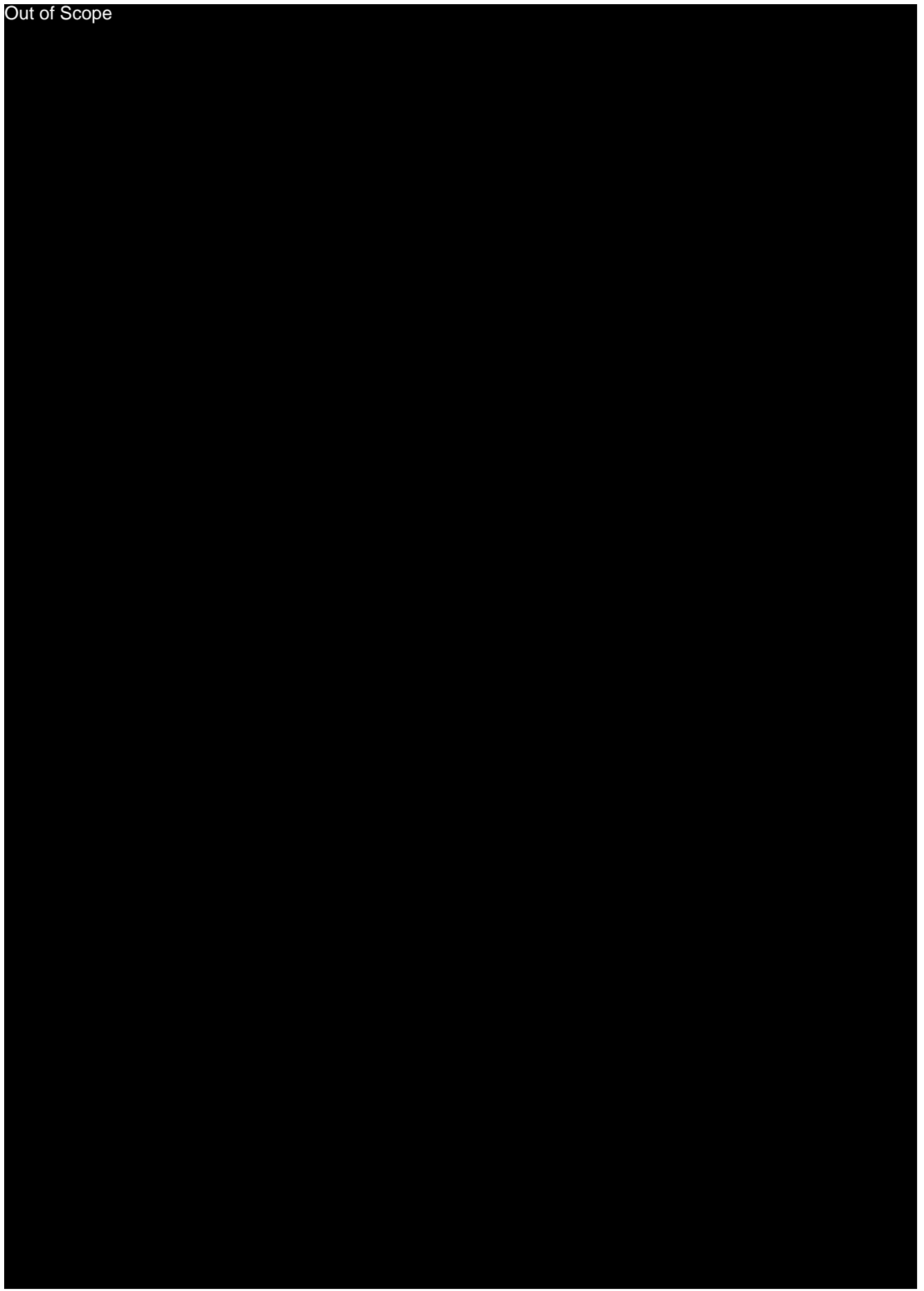
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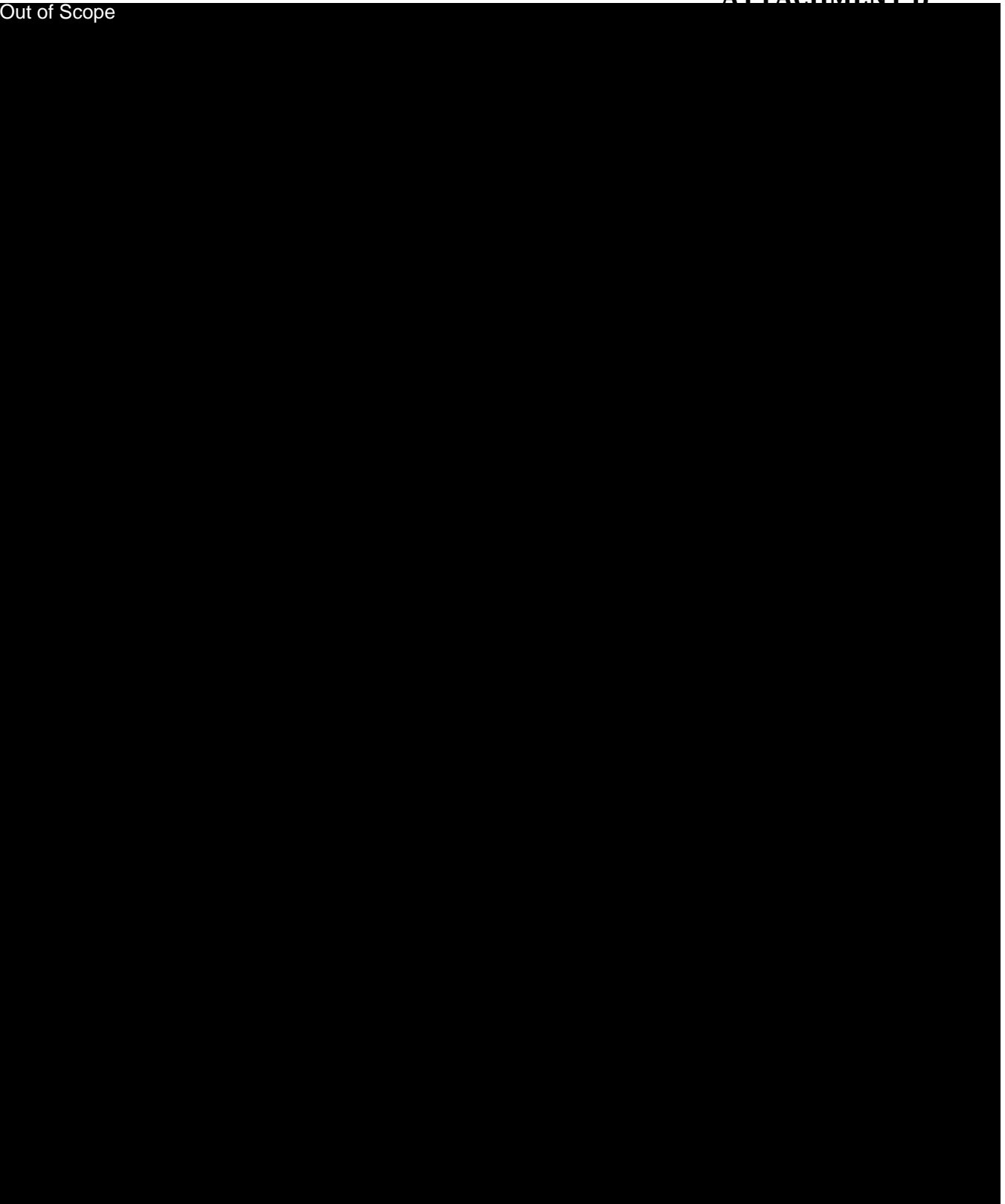
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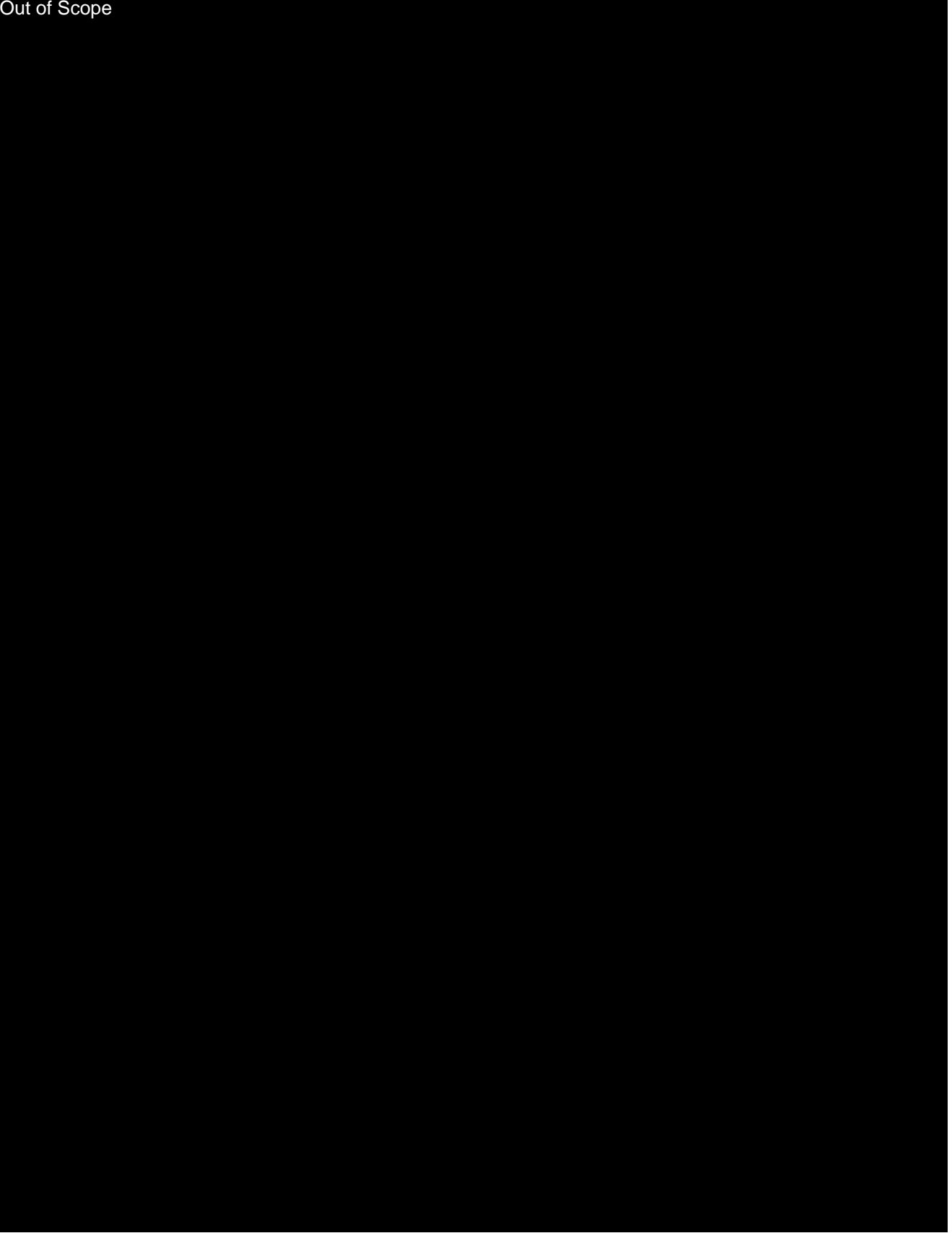
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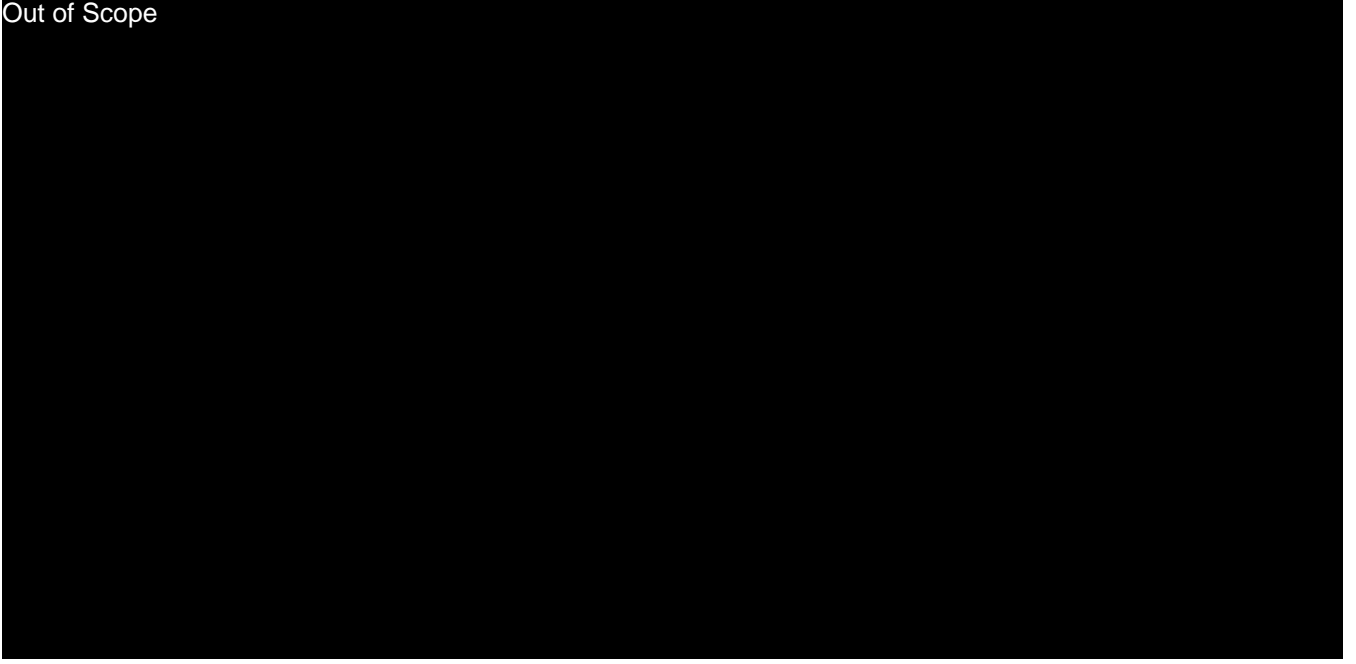
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43(1)



43(1)



43(1)



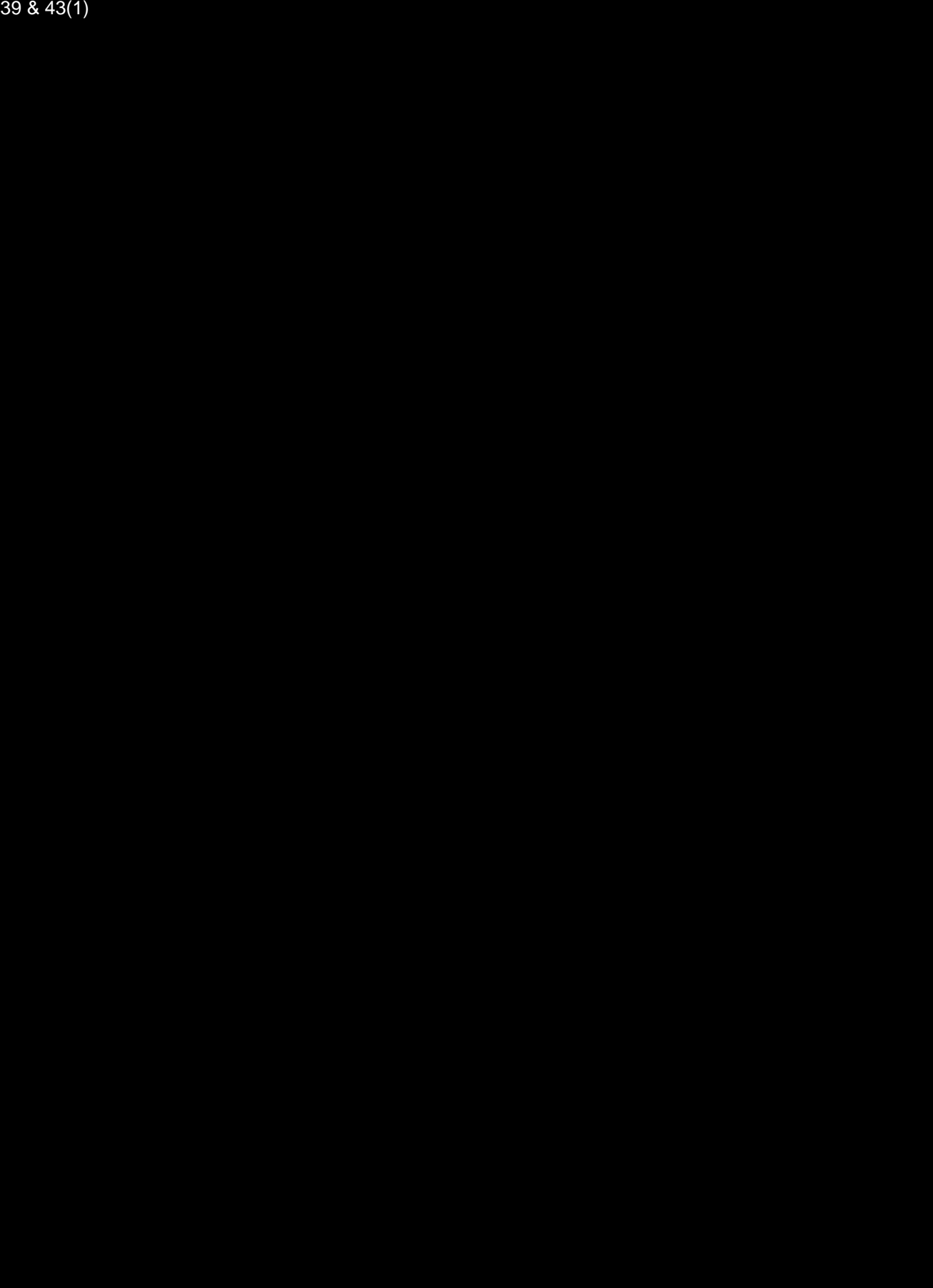
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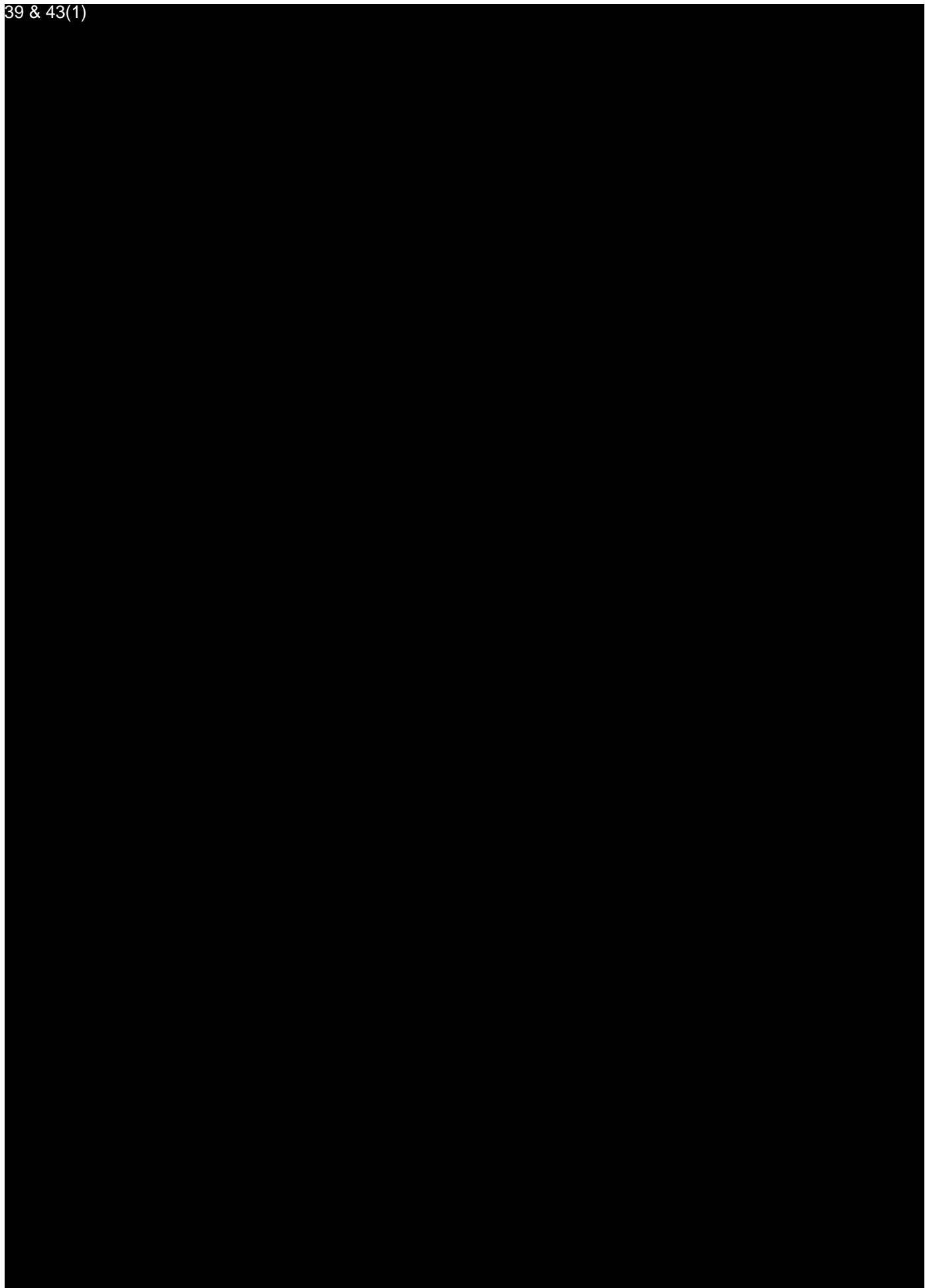
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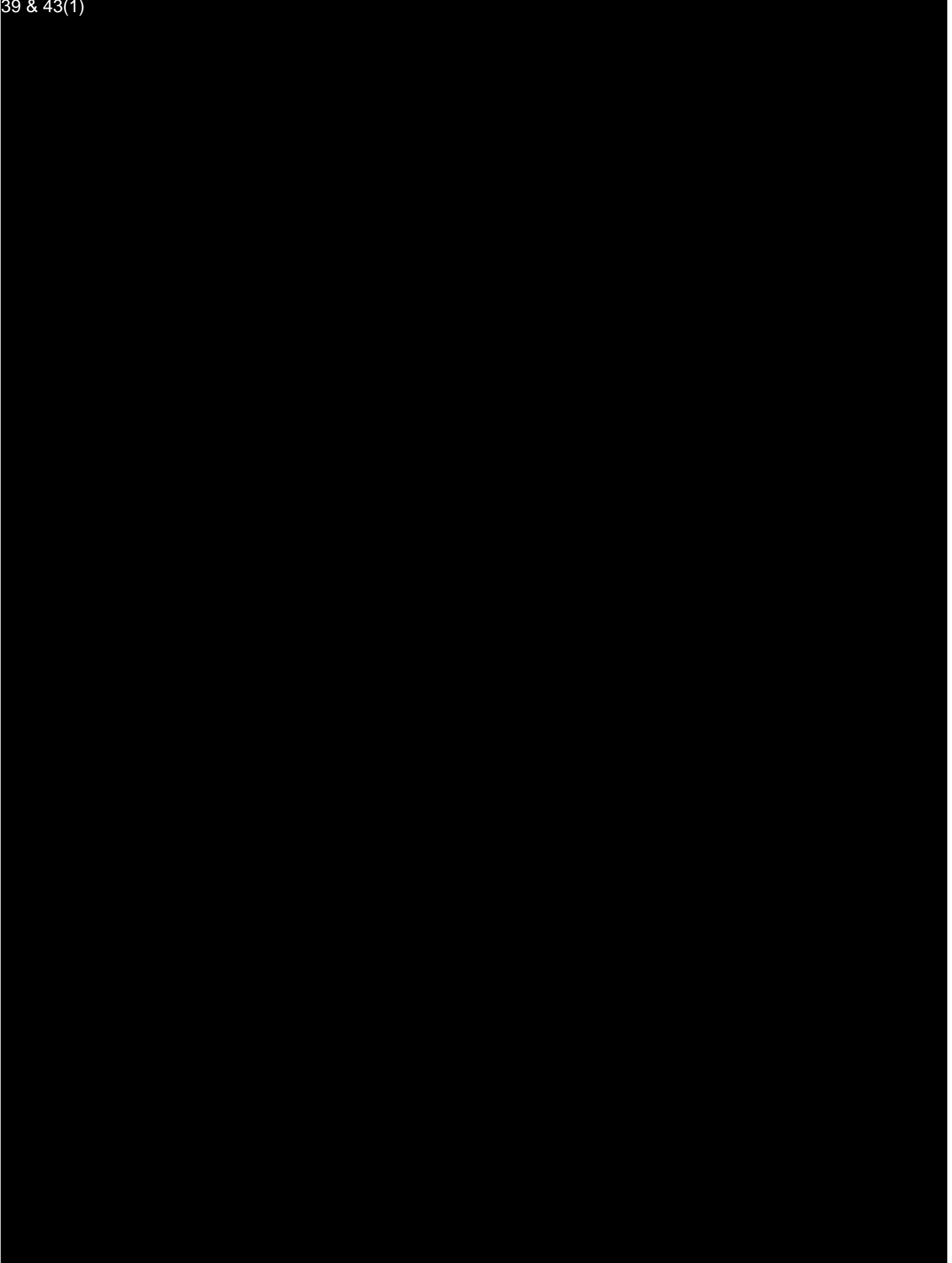
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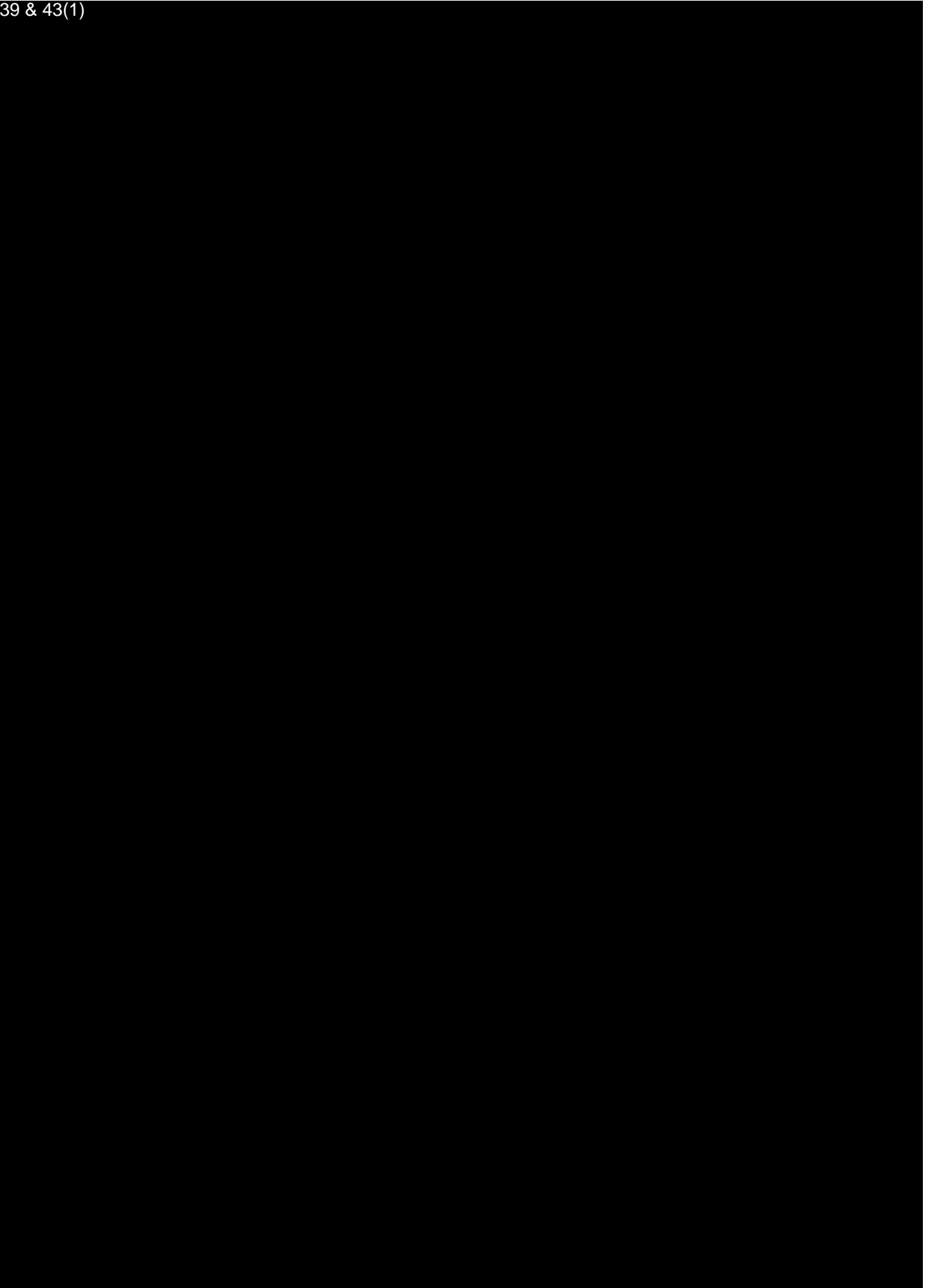
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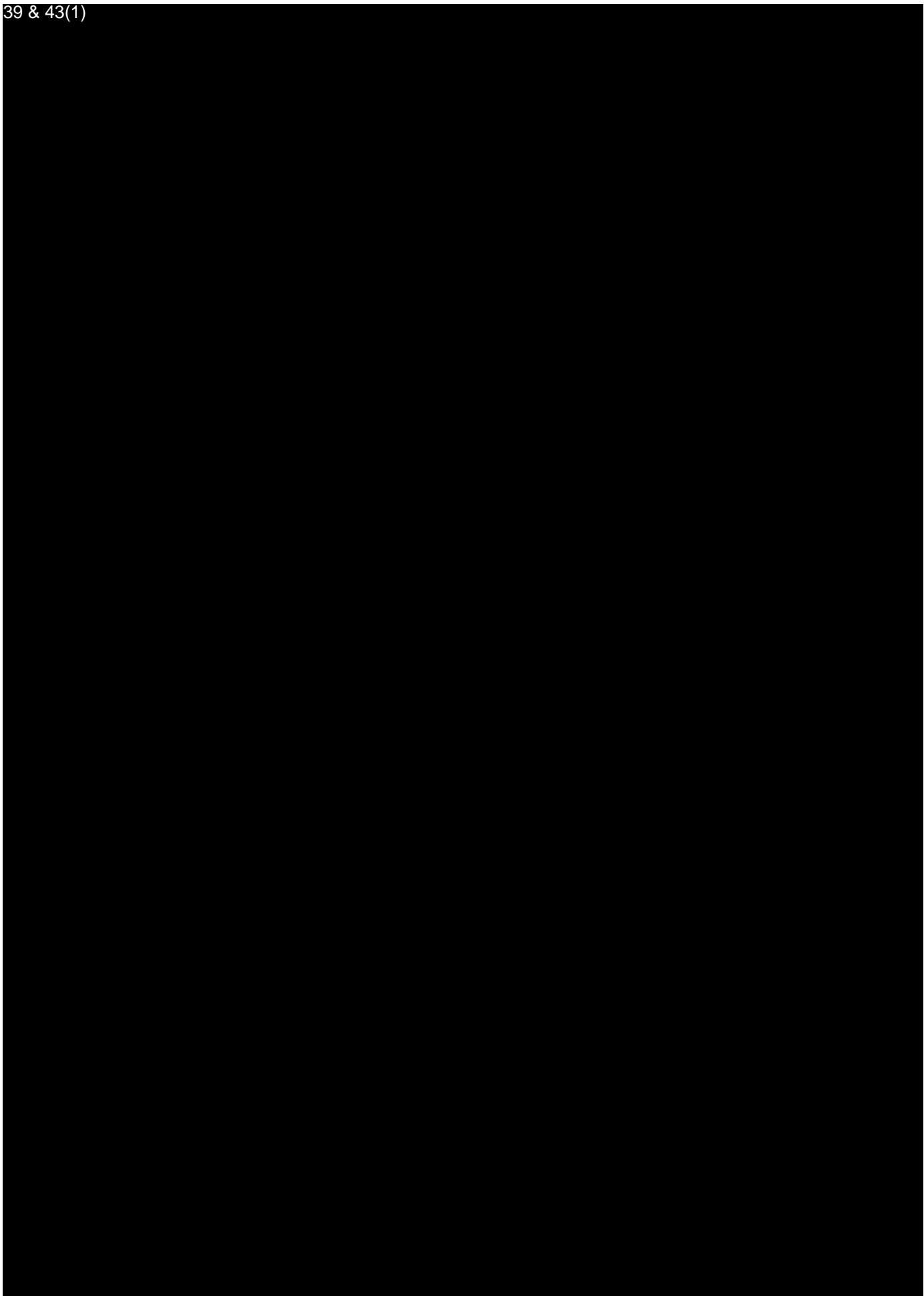
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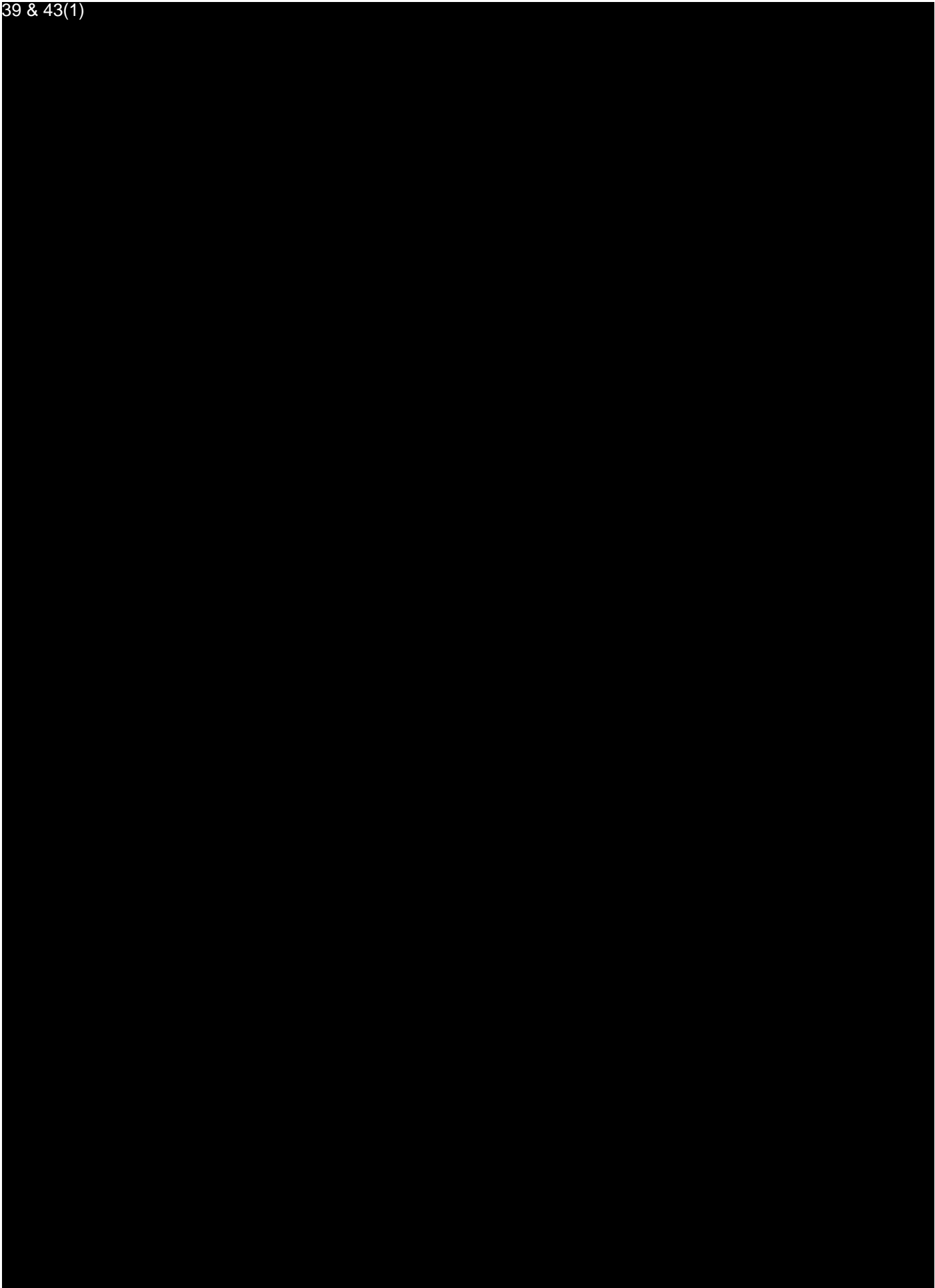
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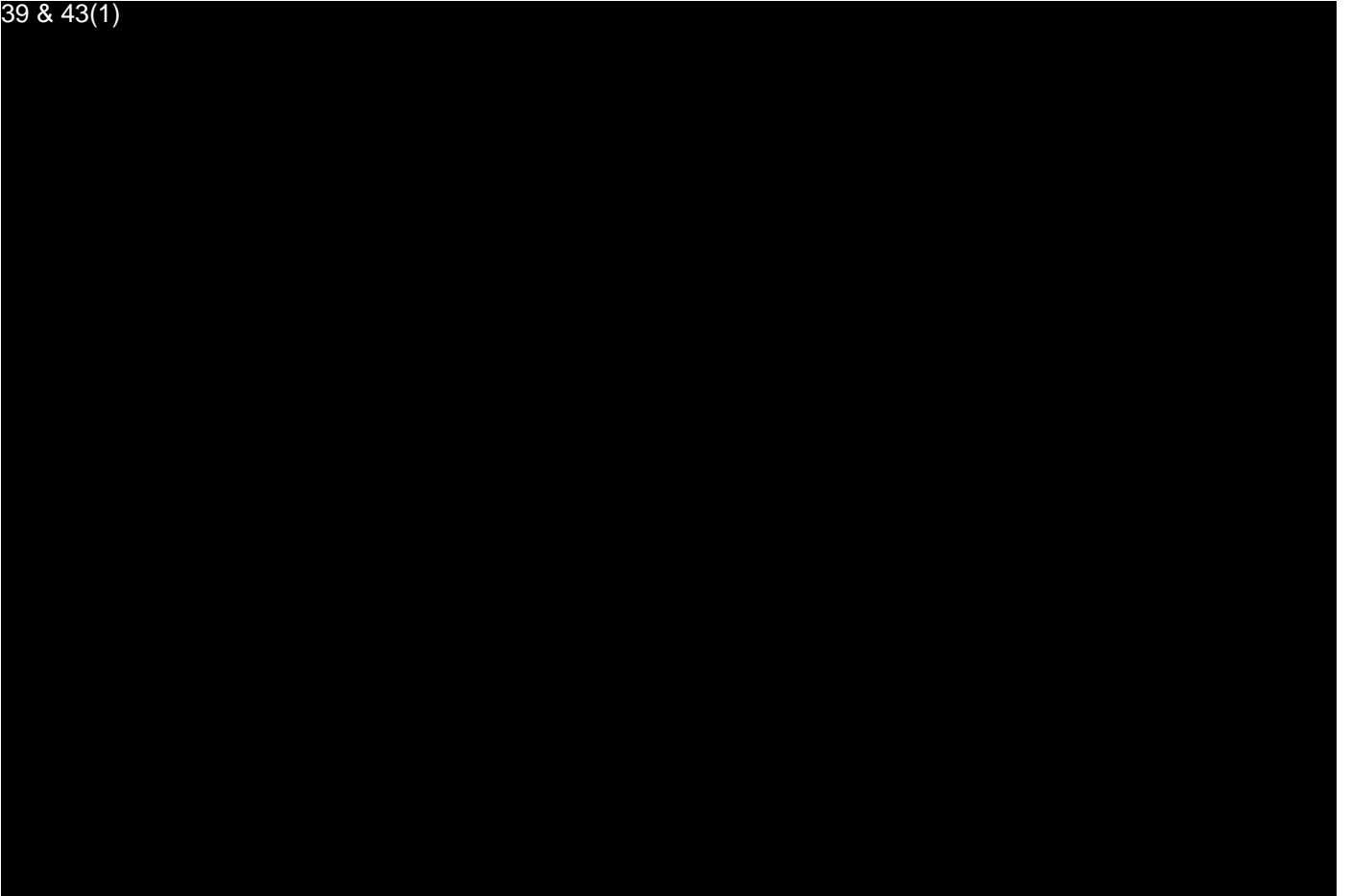
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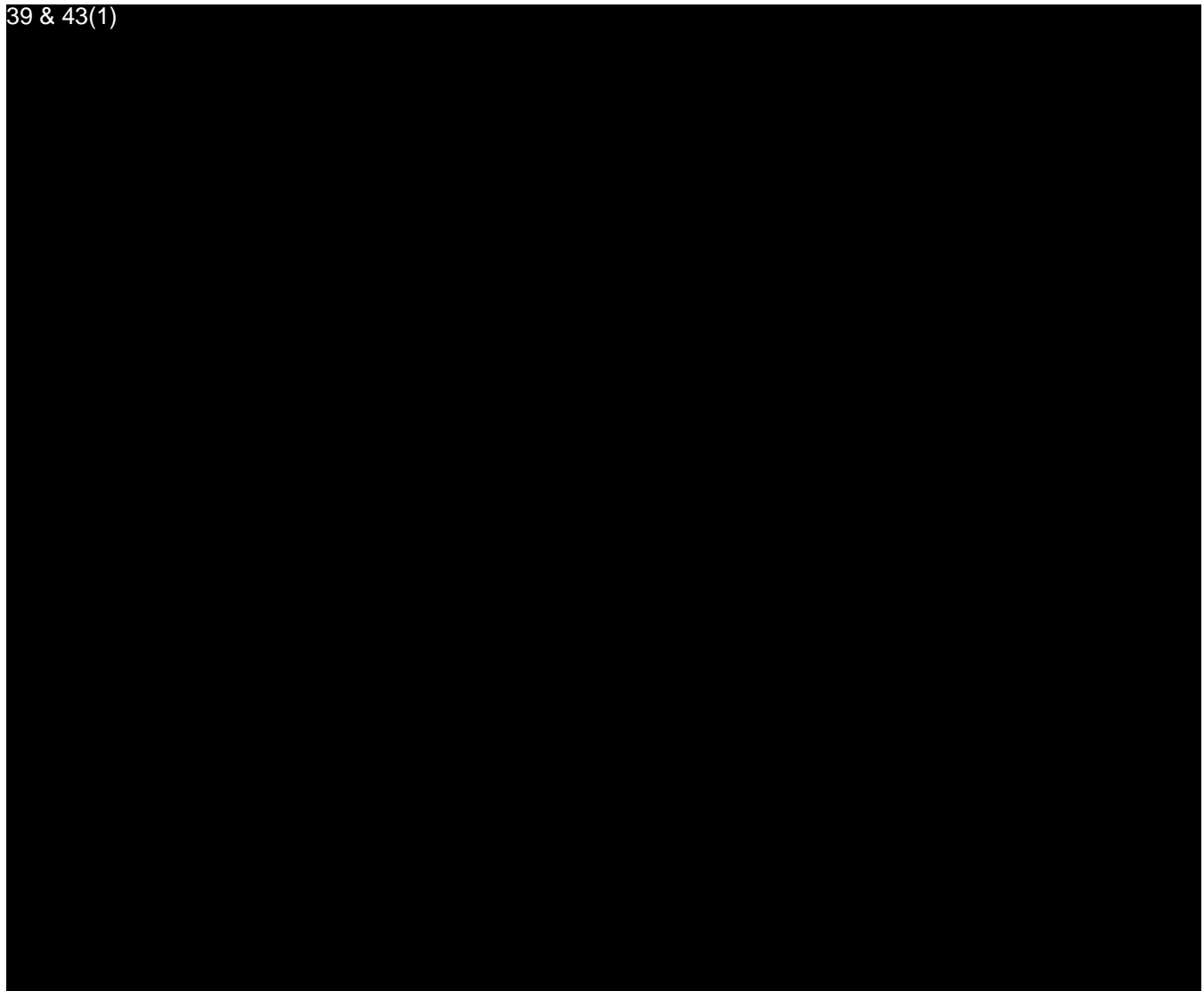
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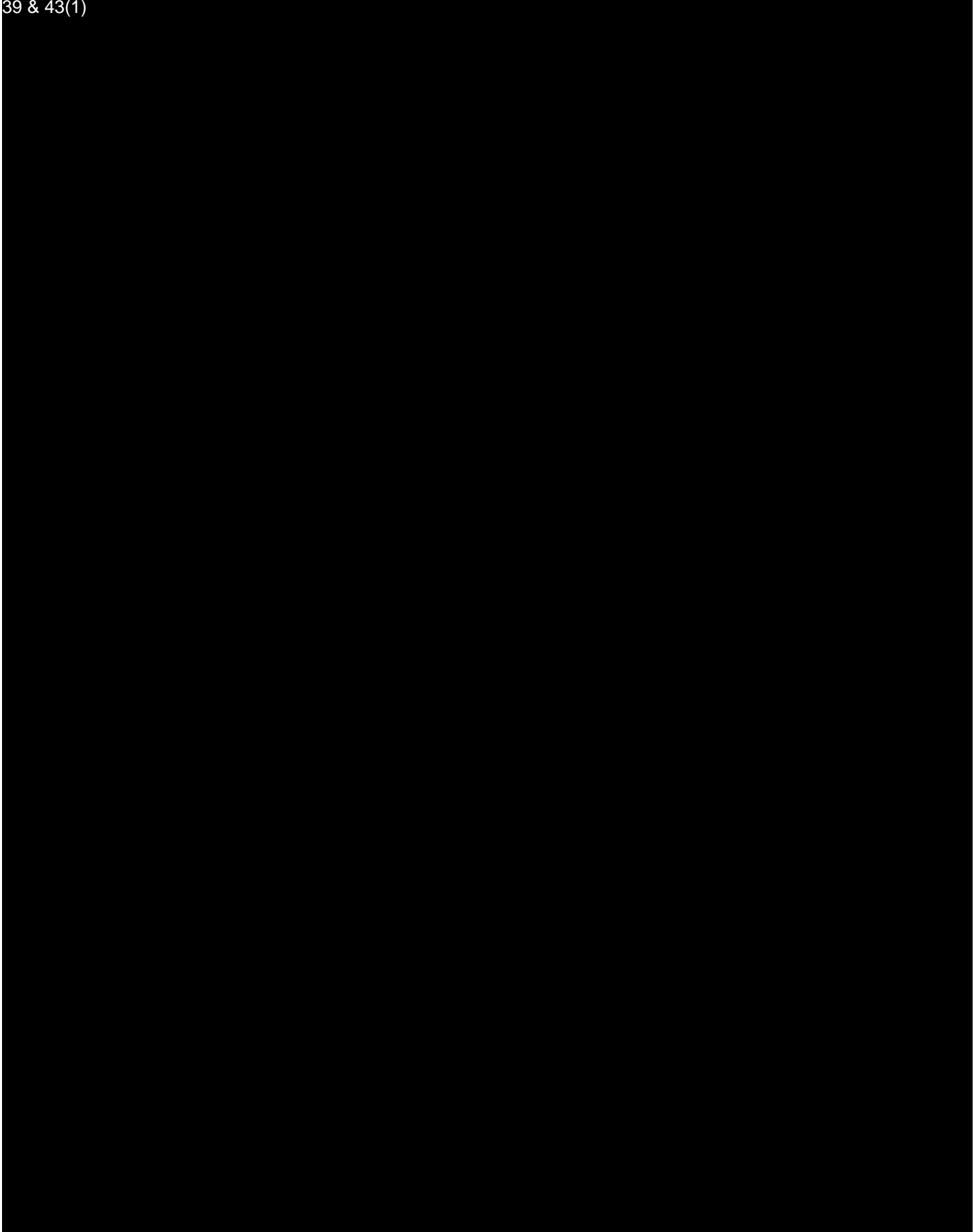
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ACT
Government



GAMBLING
AND
RACING
COMMISSION

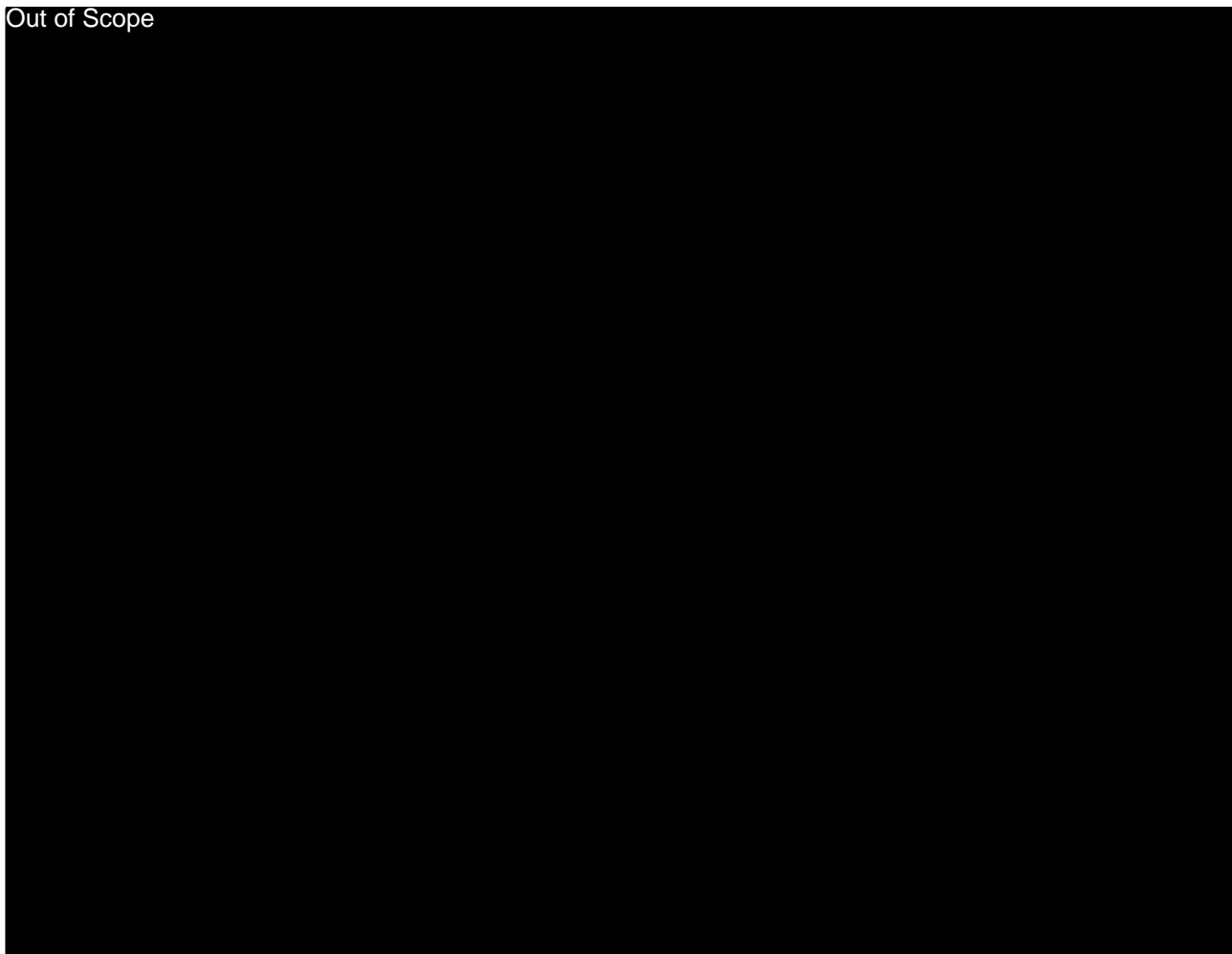
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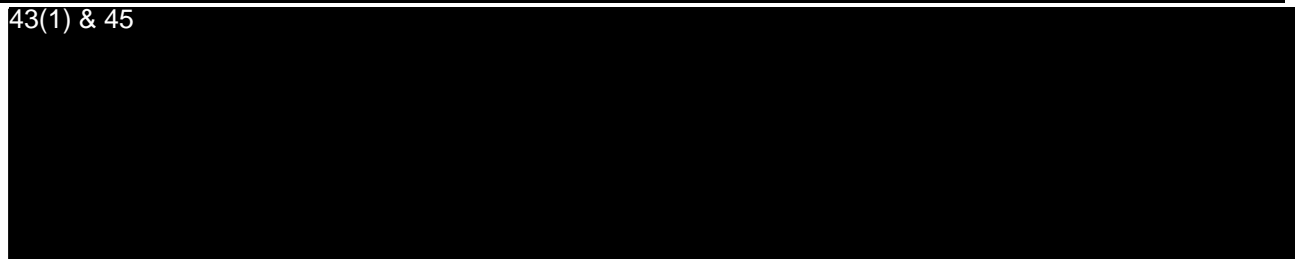
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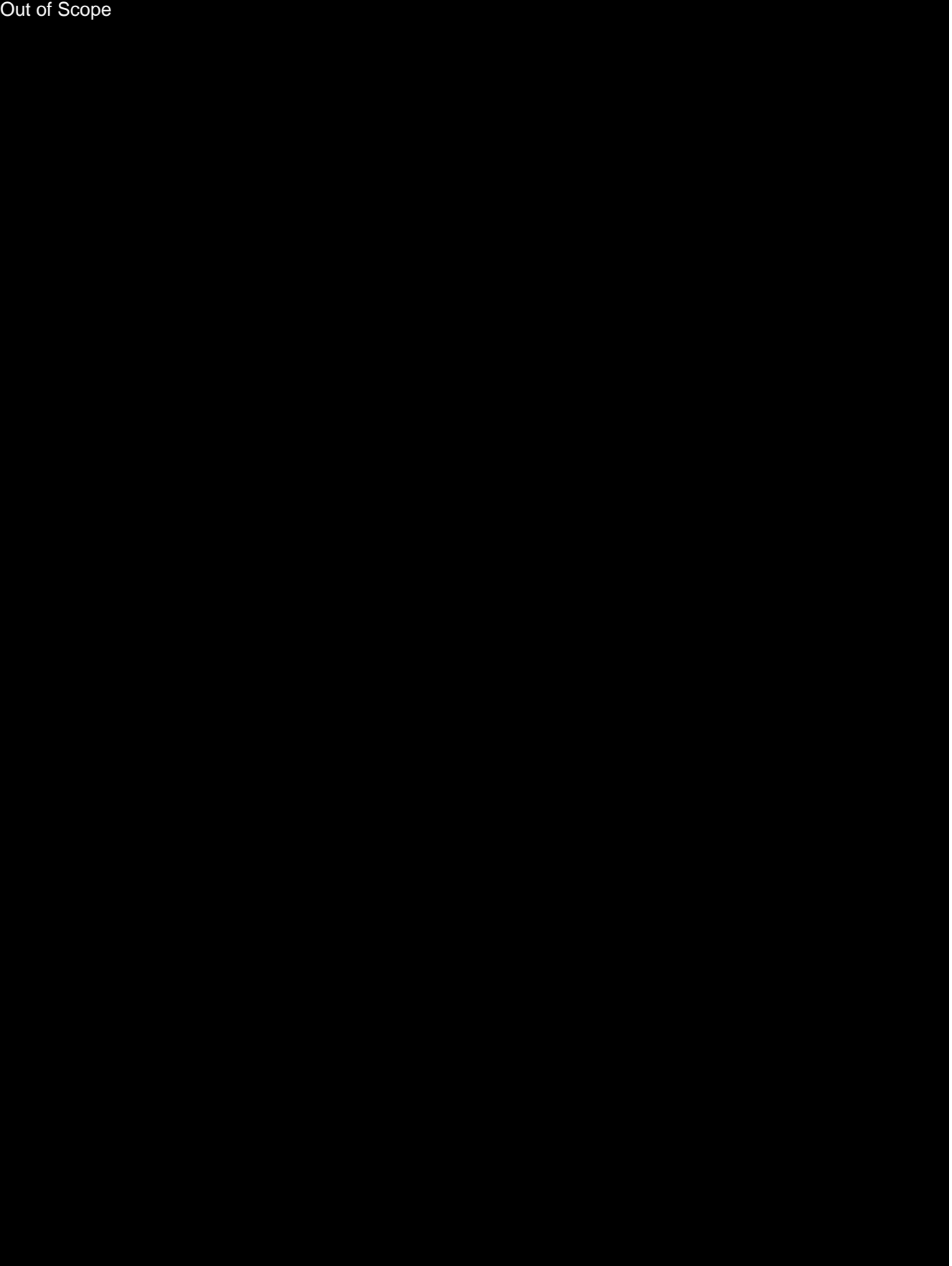


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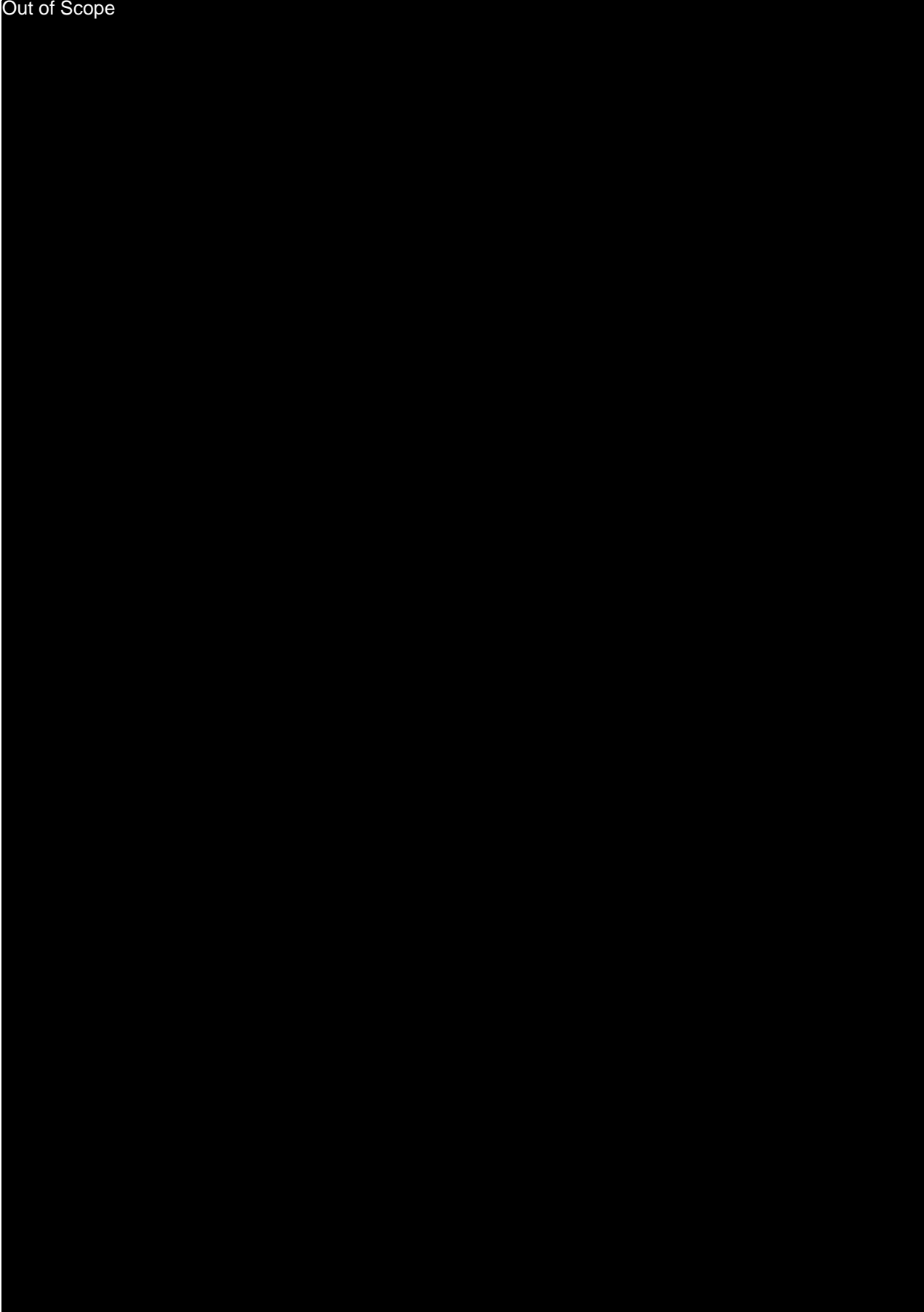
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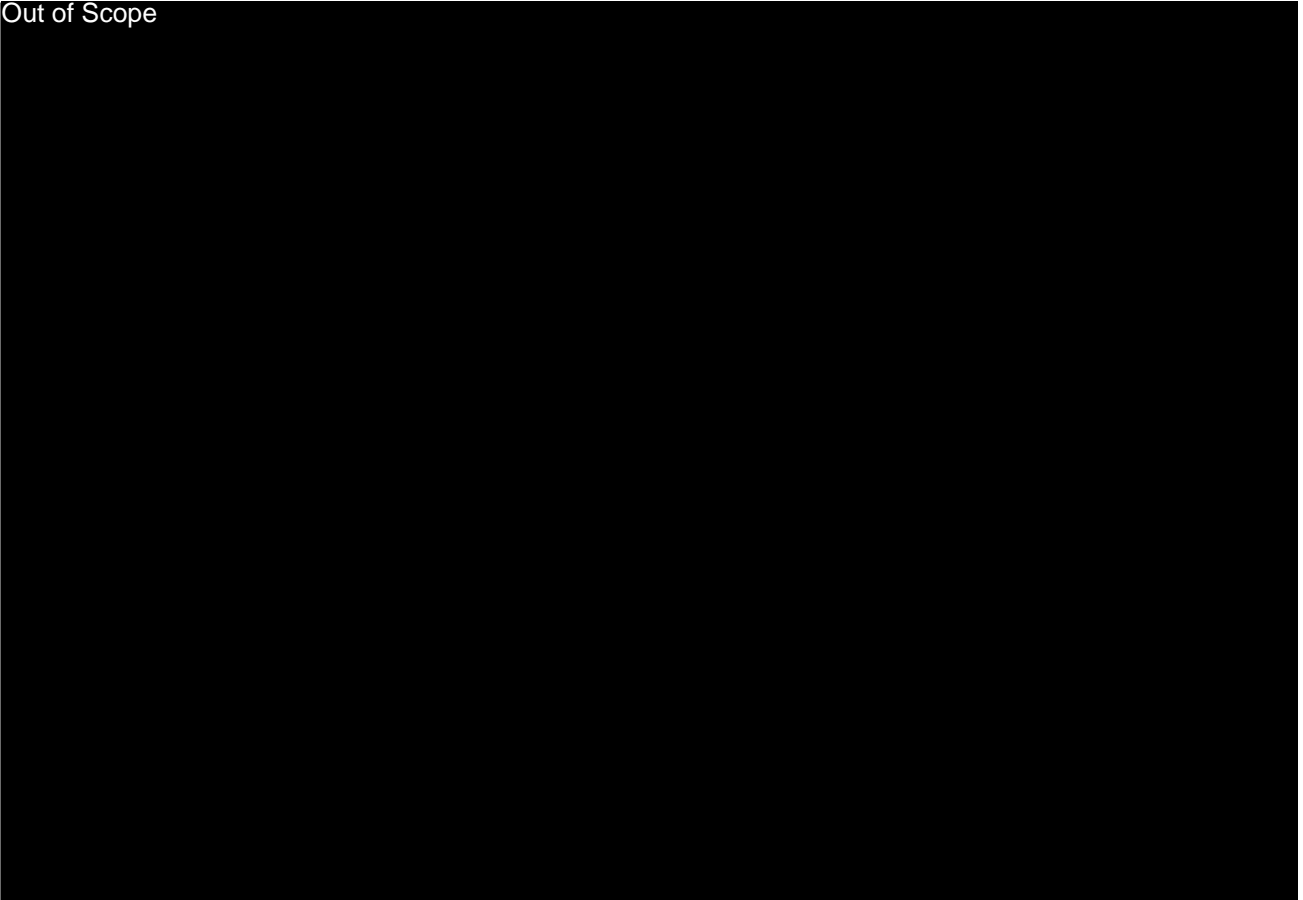


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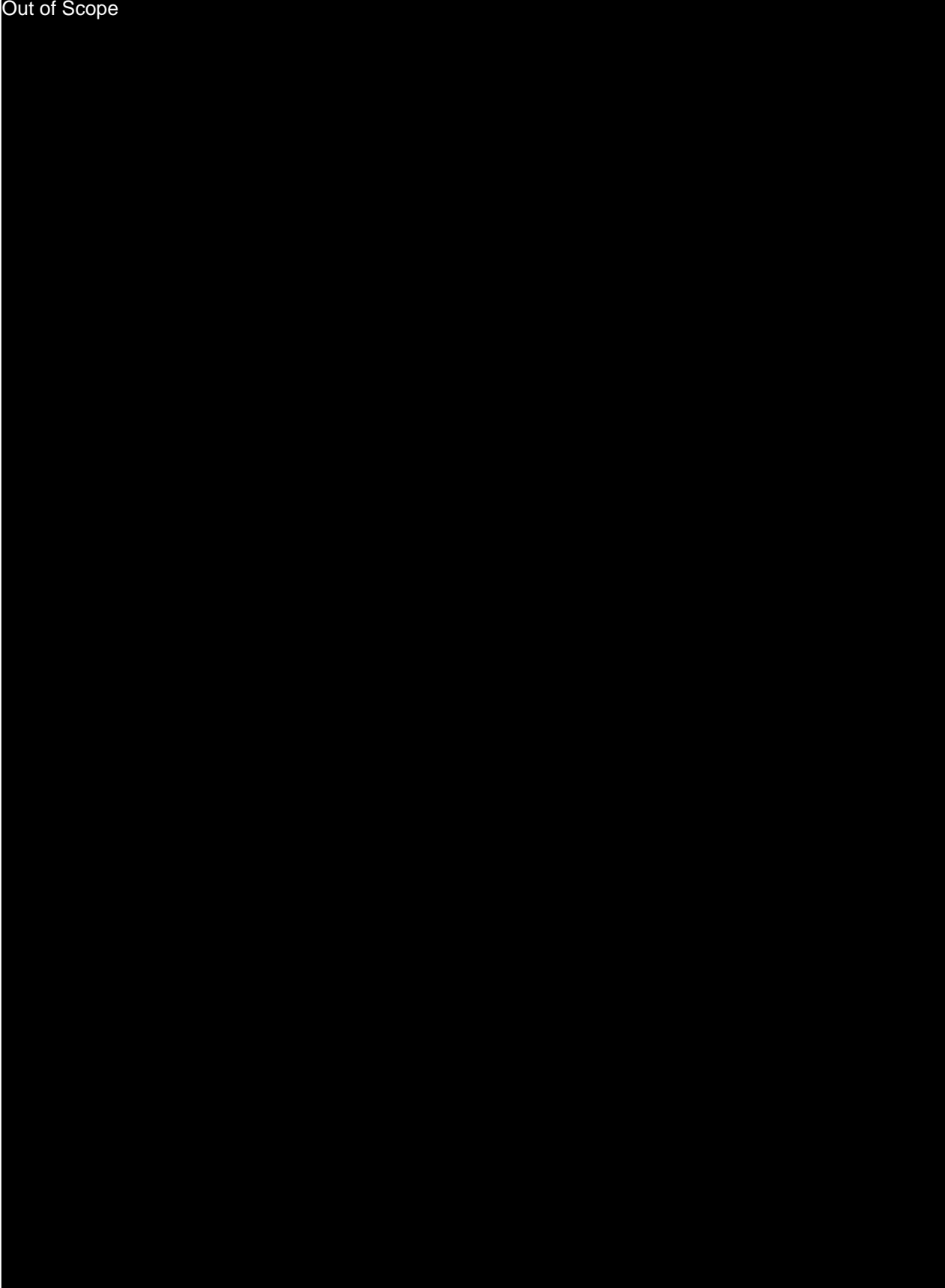
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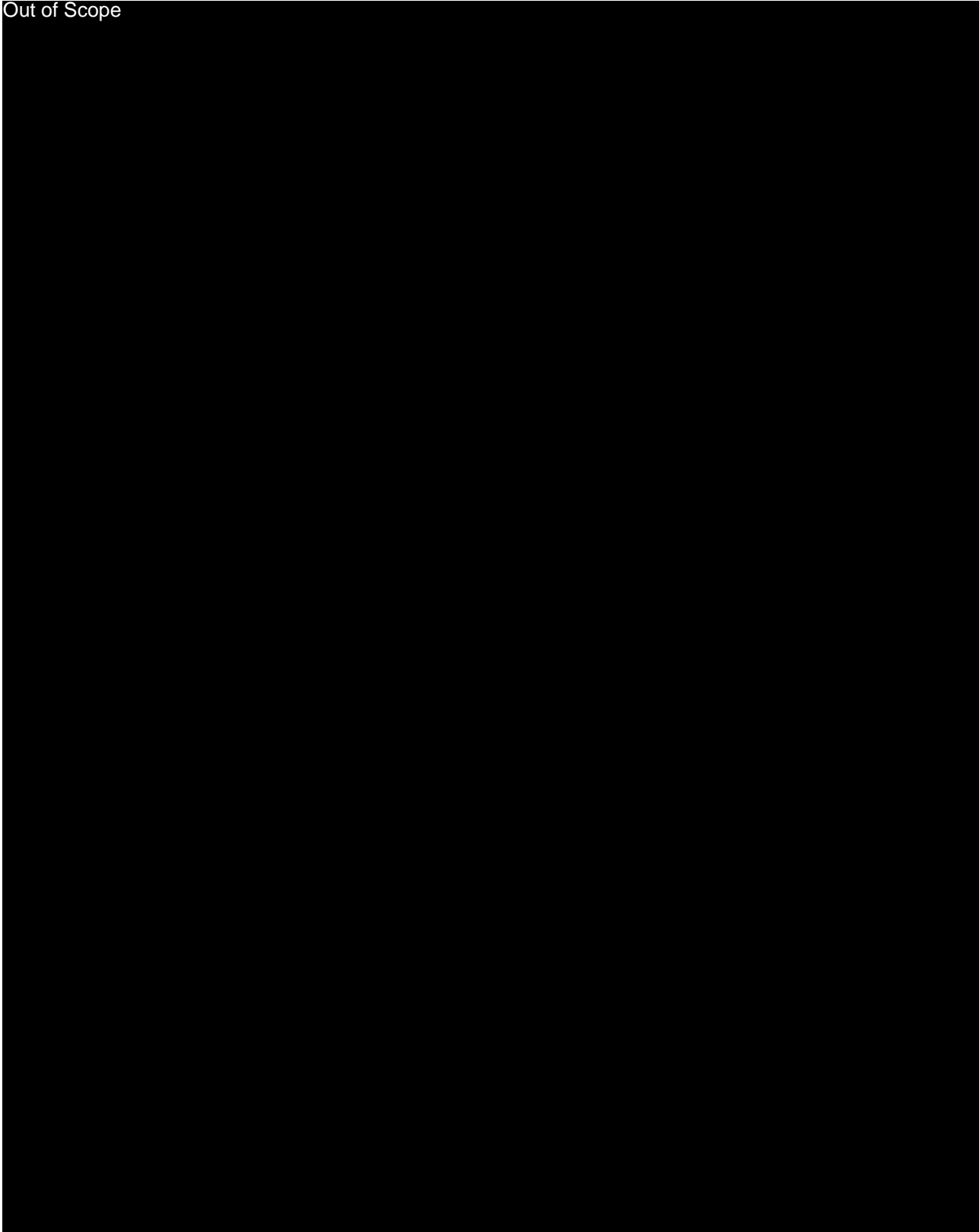


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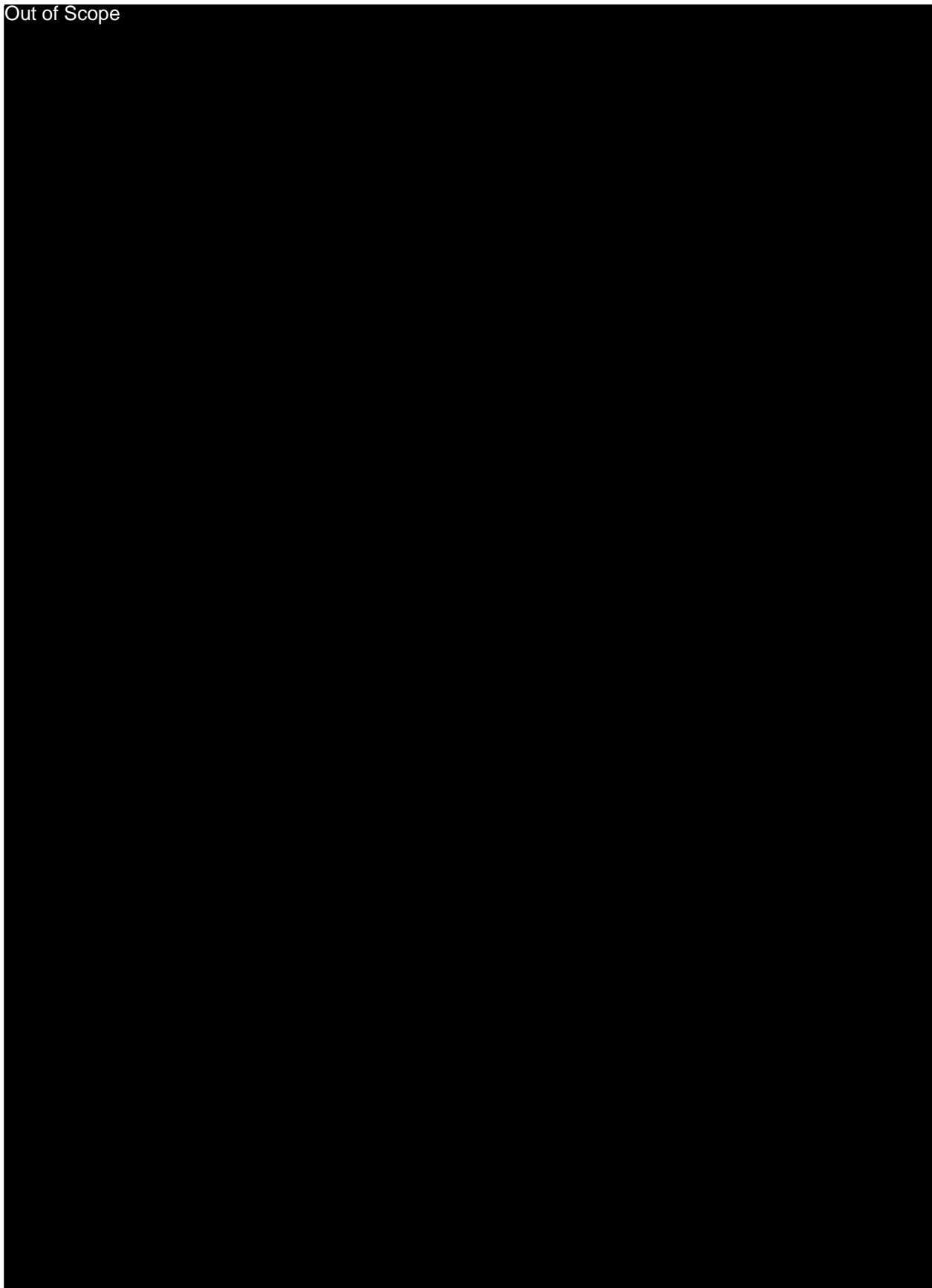
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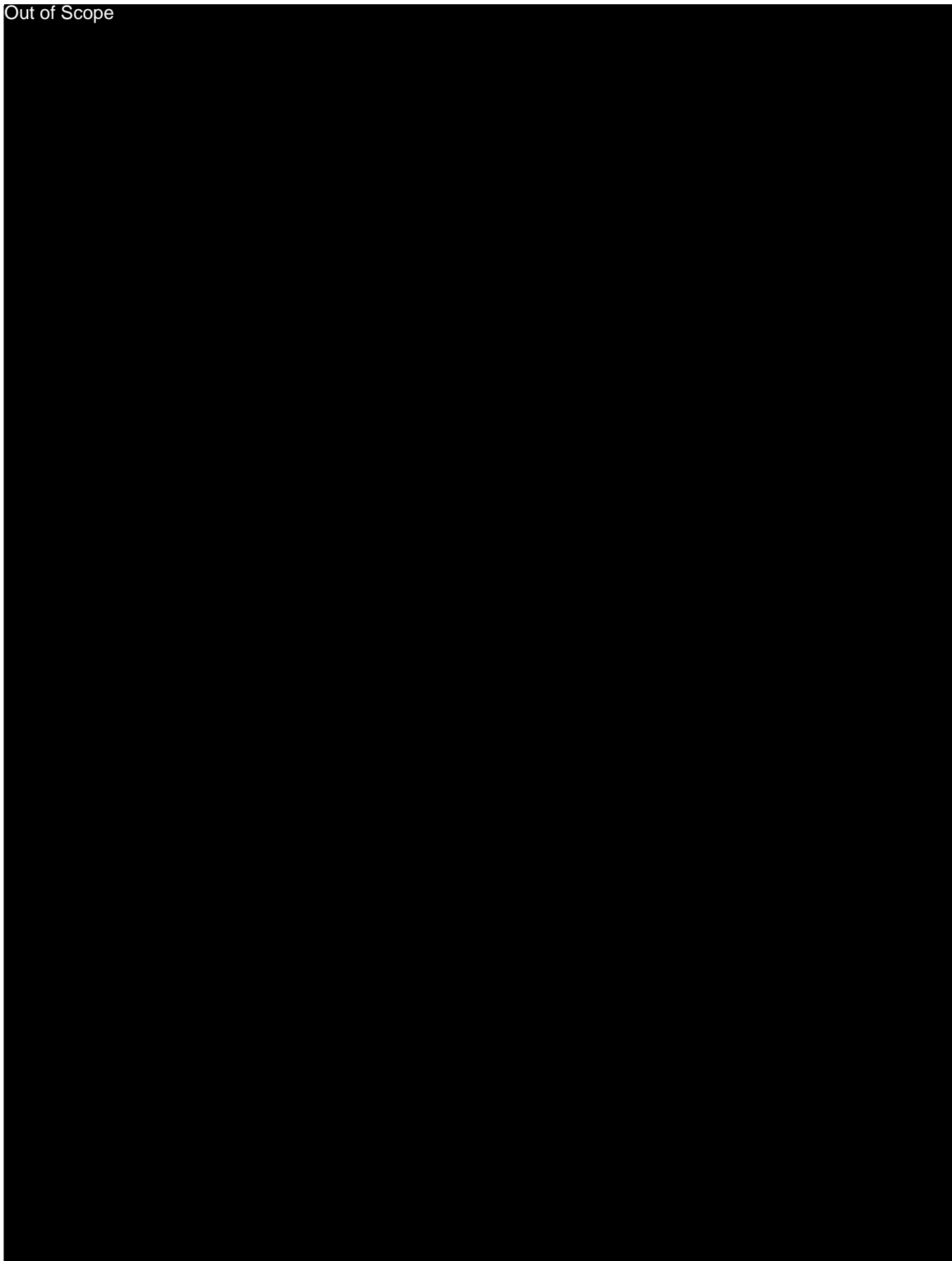


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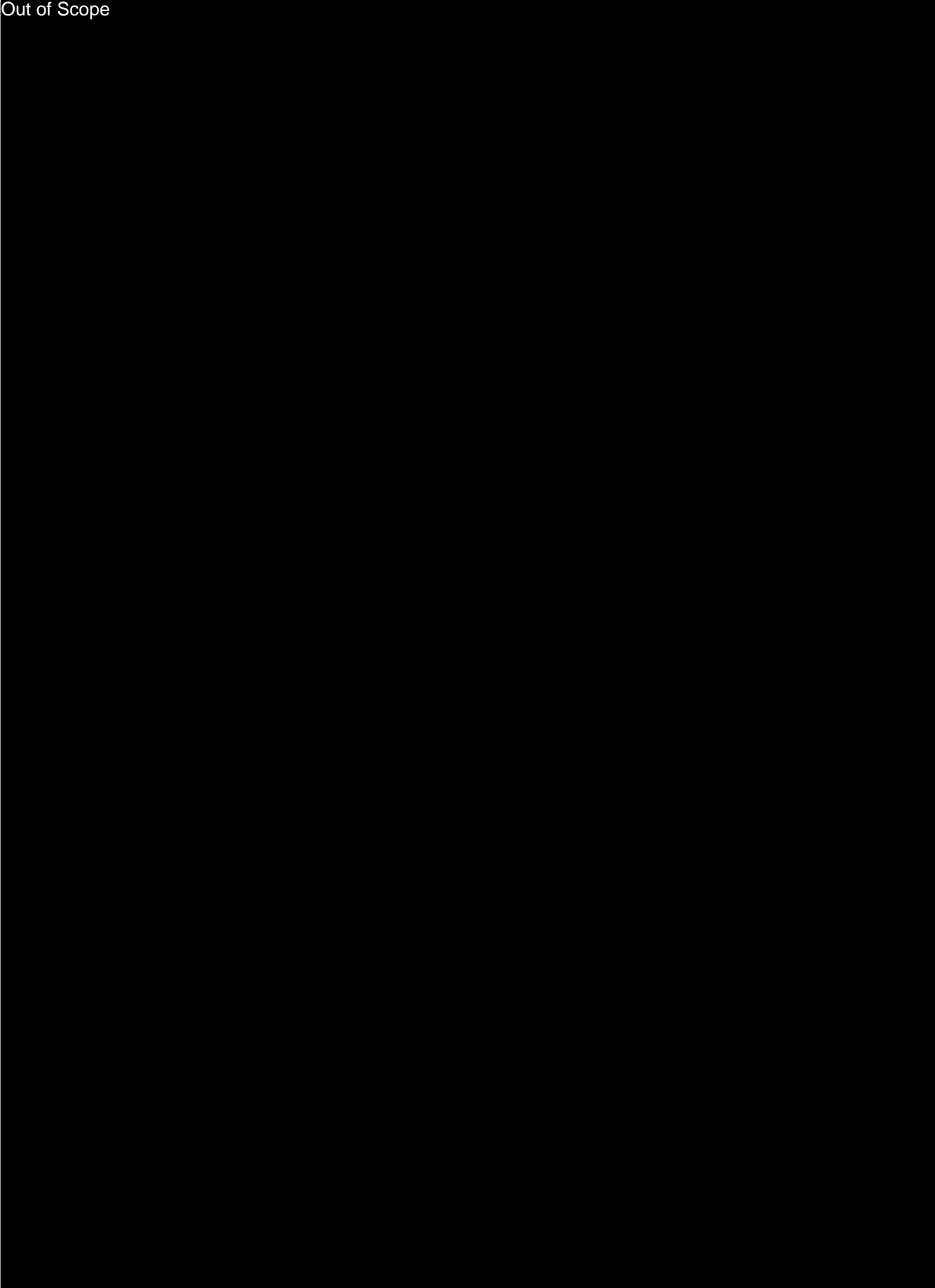


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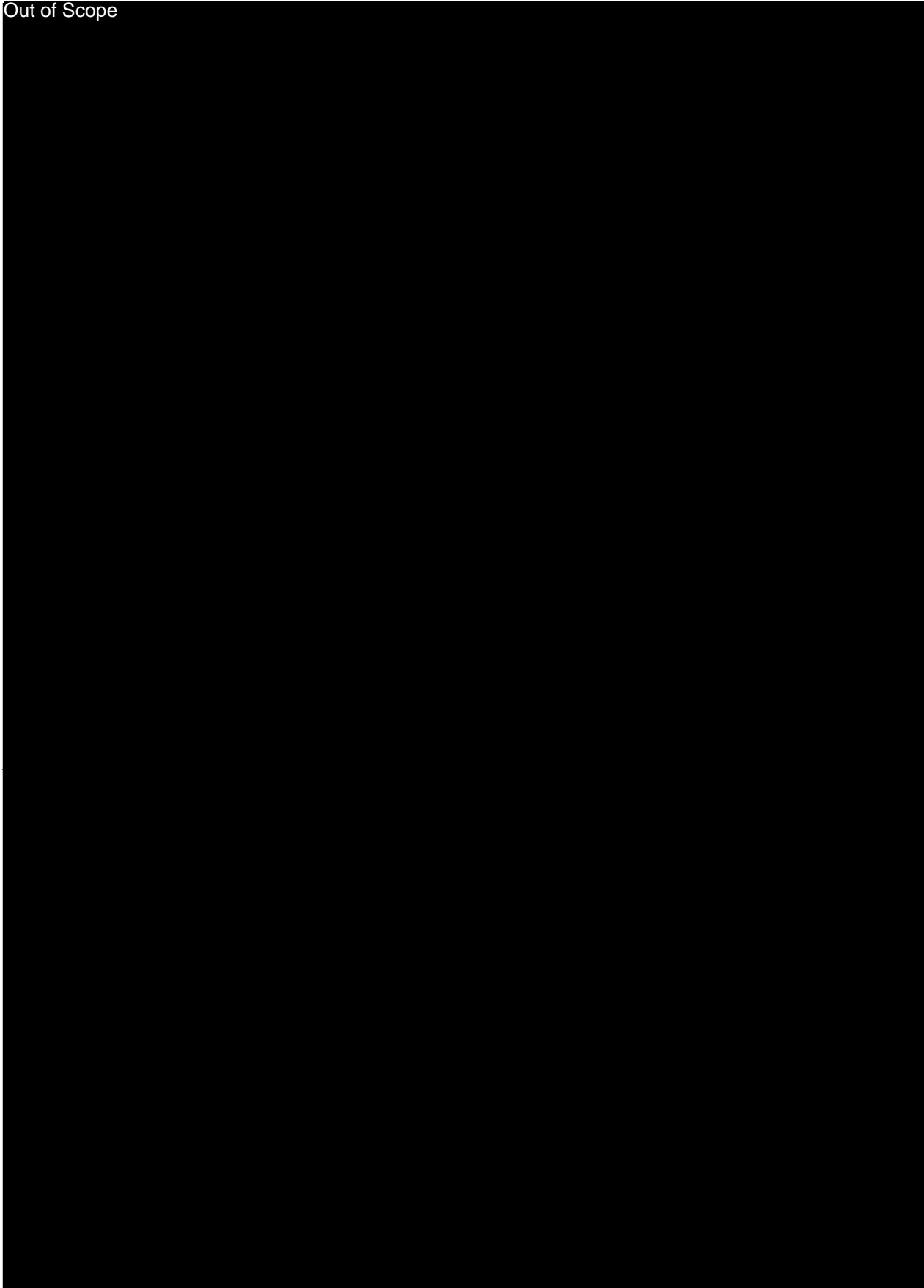


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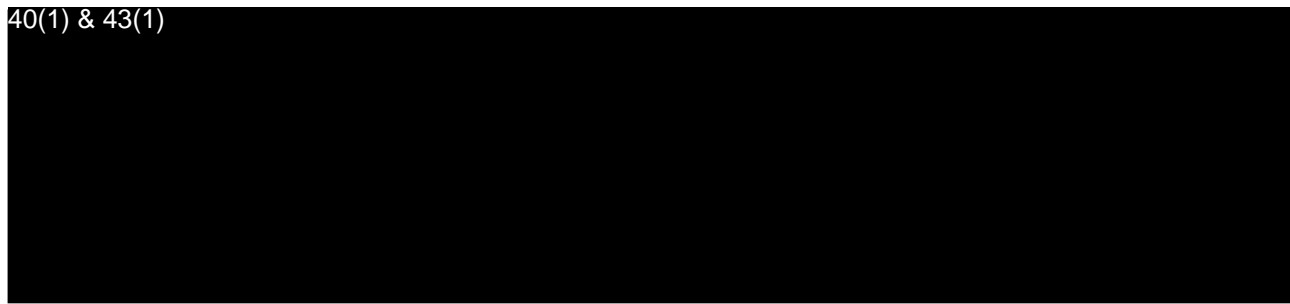


6.0 Conclusions

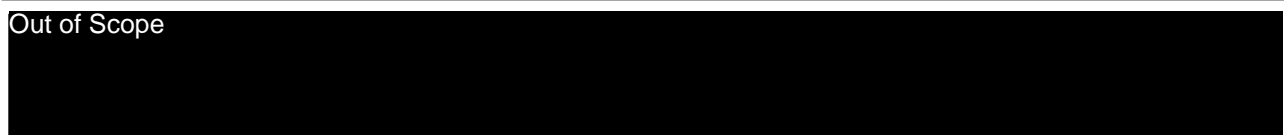
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40(1) & 43(1)



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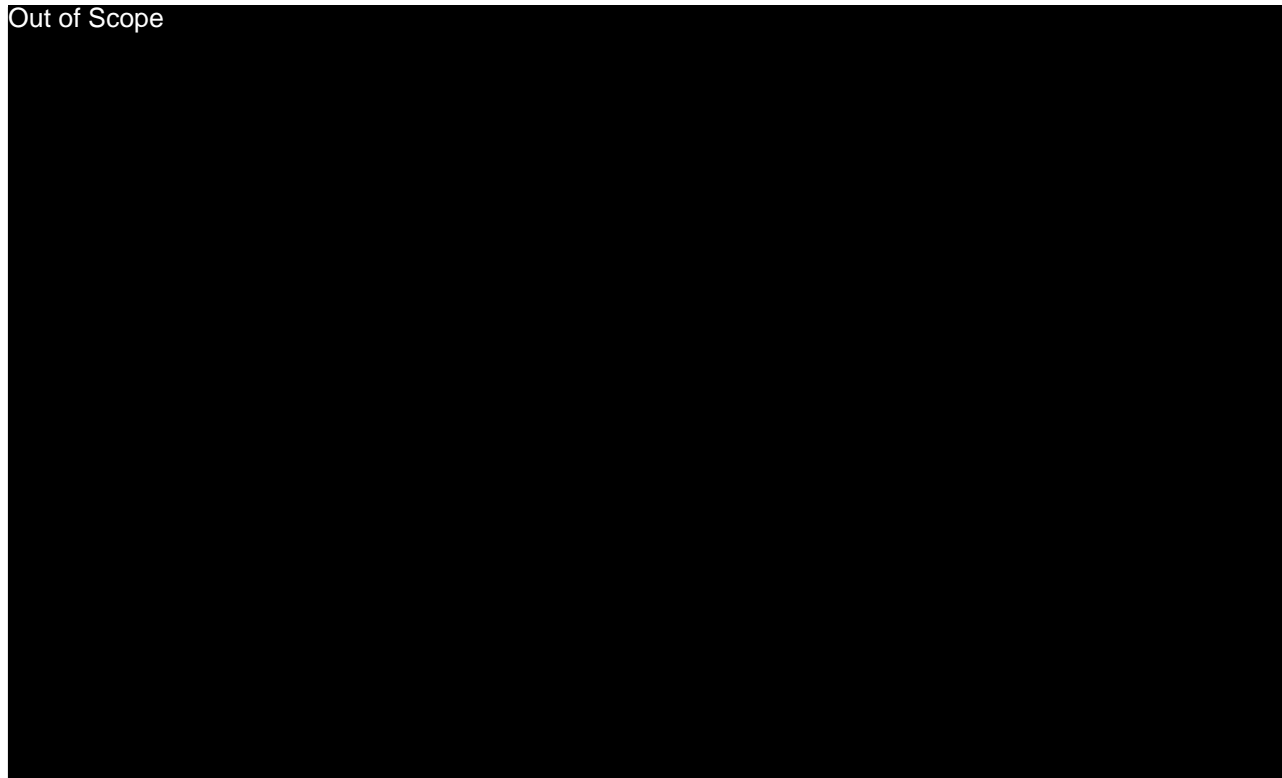
39 & 40(1)



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7.0 Recommendations

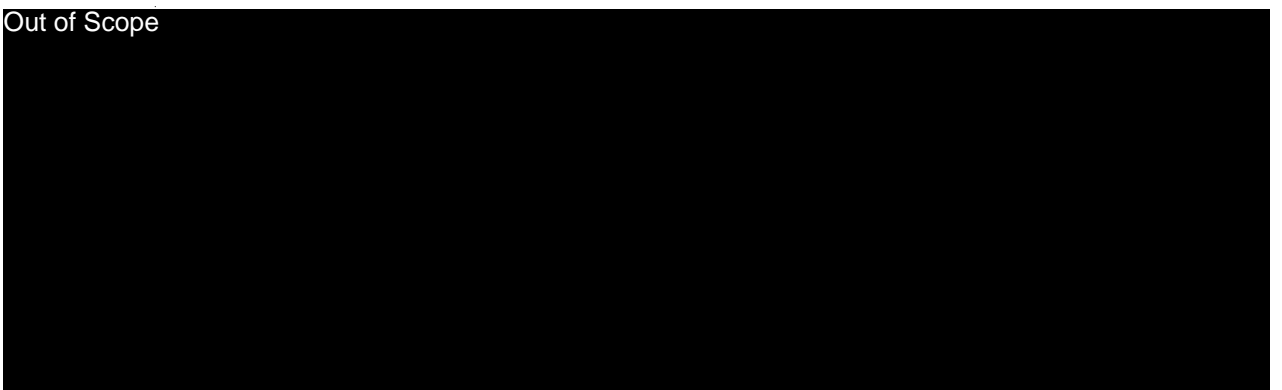
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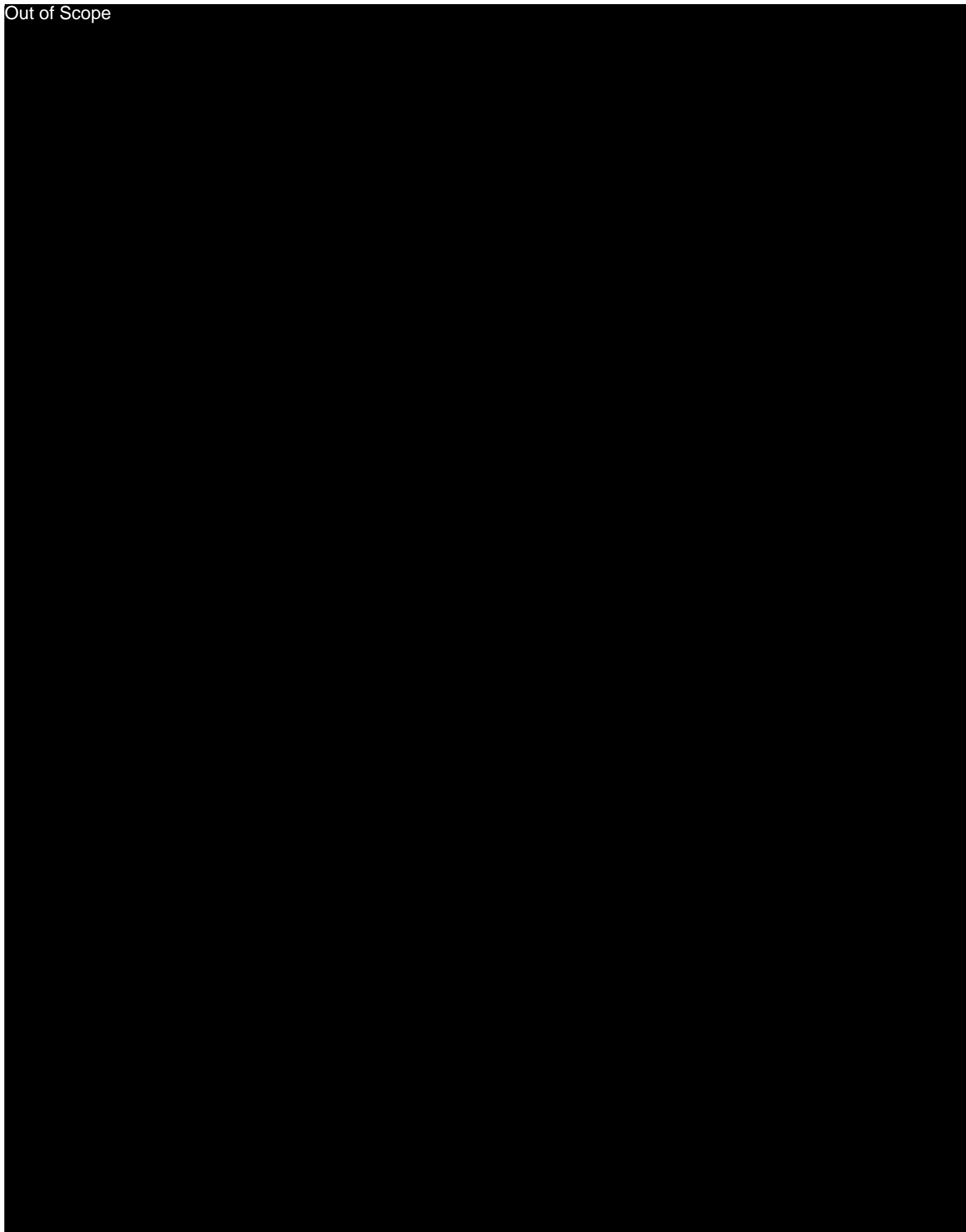


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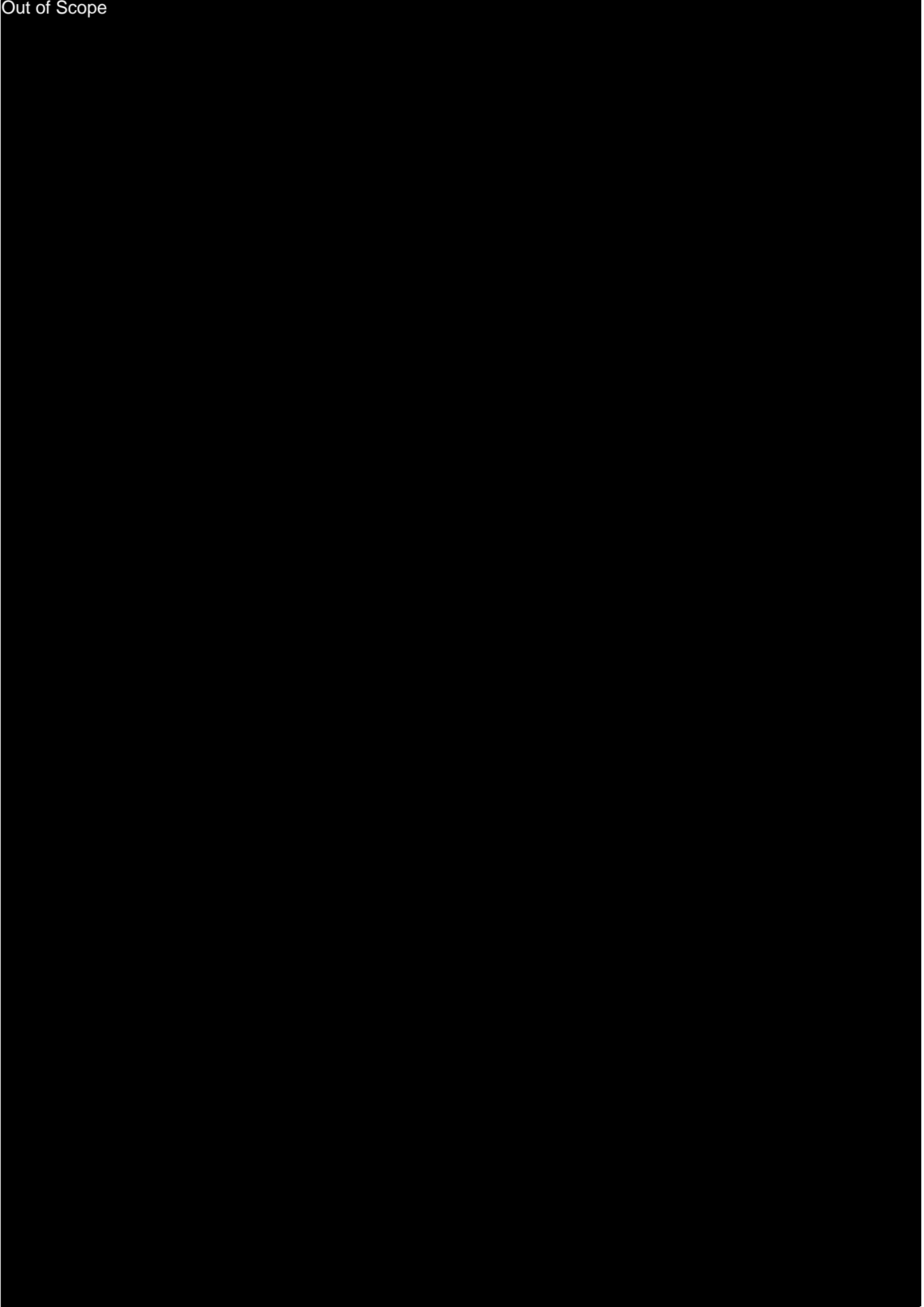


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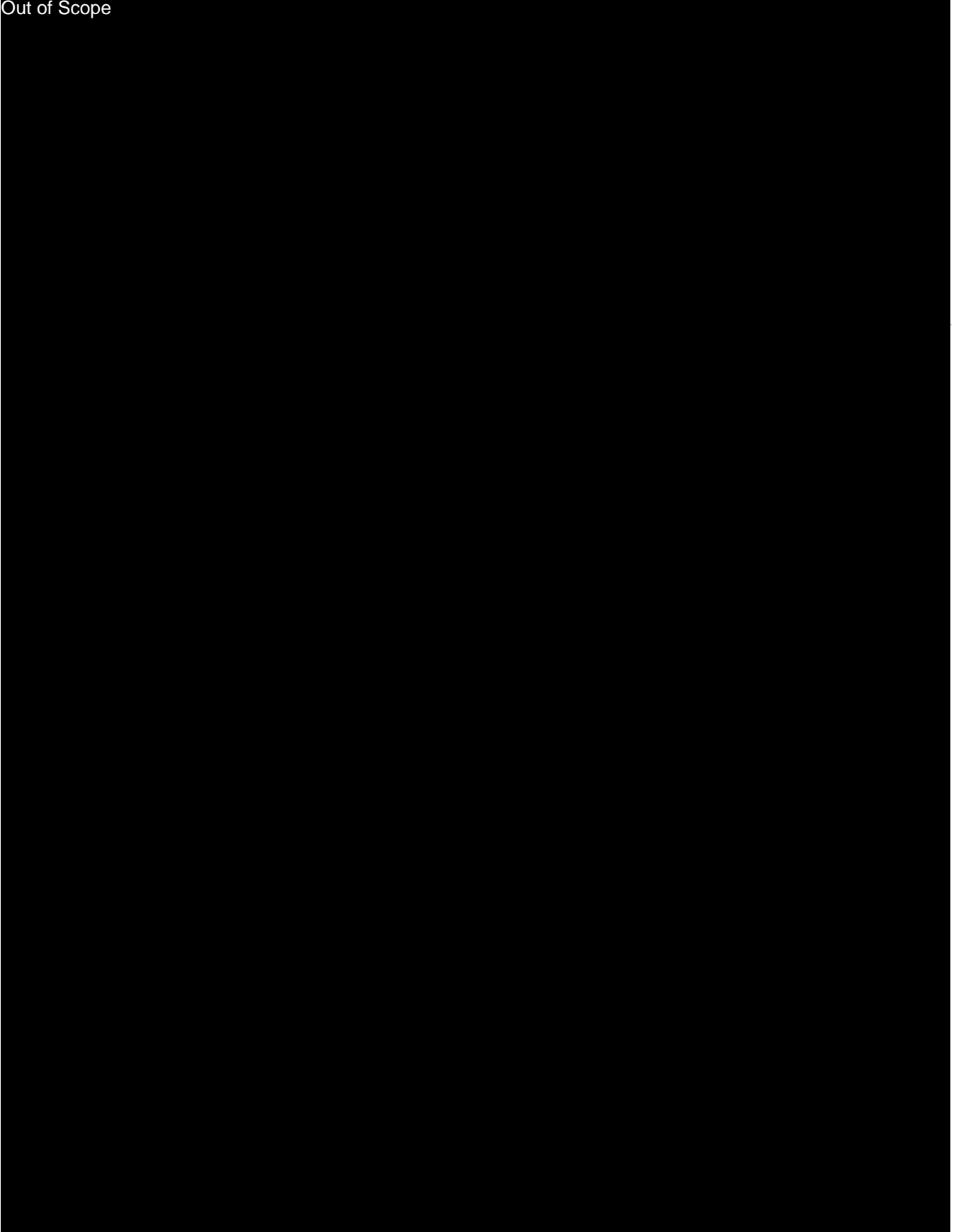
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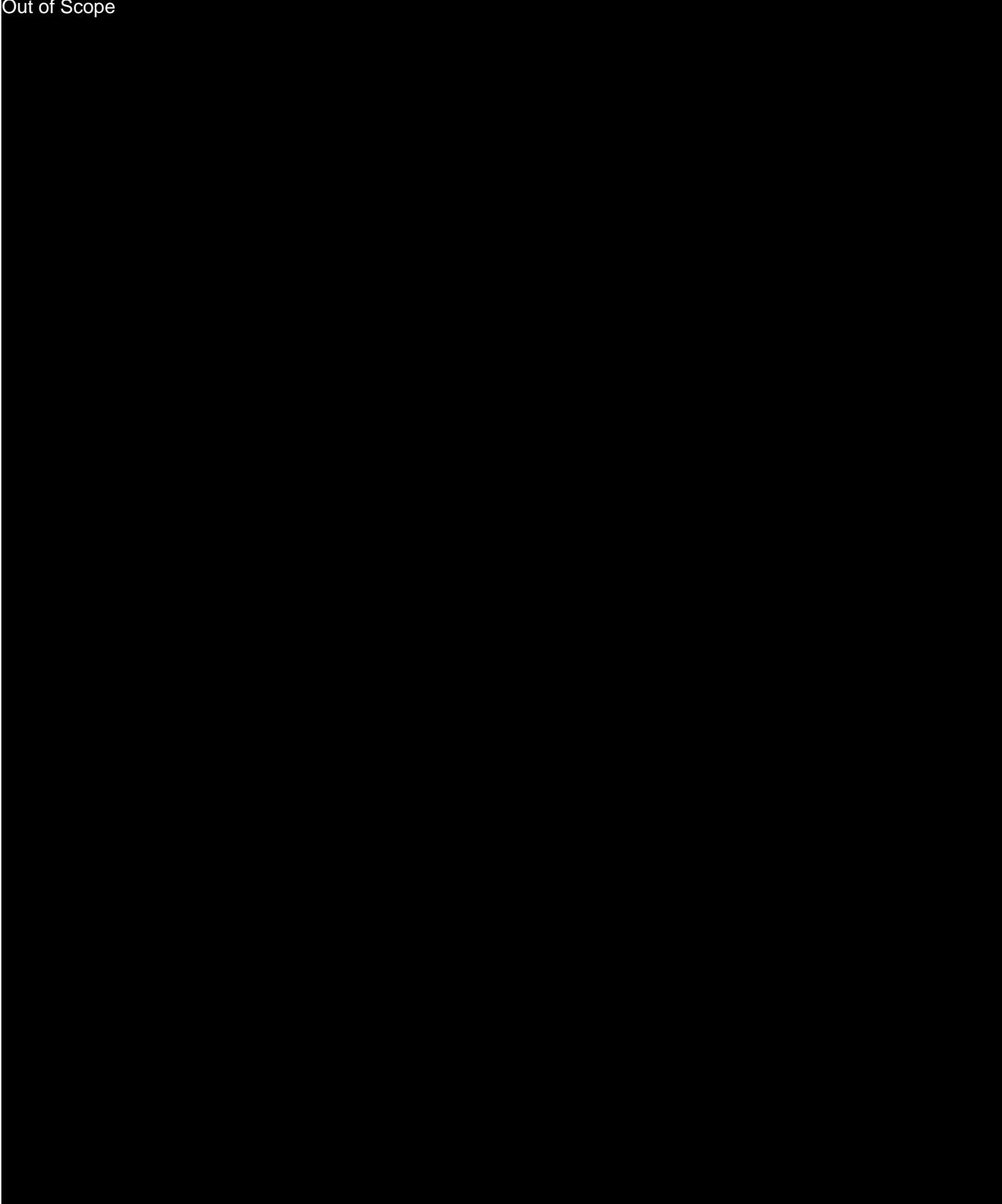


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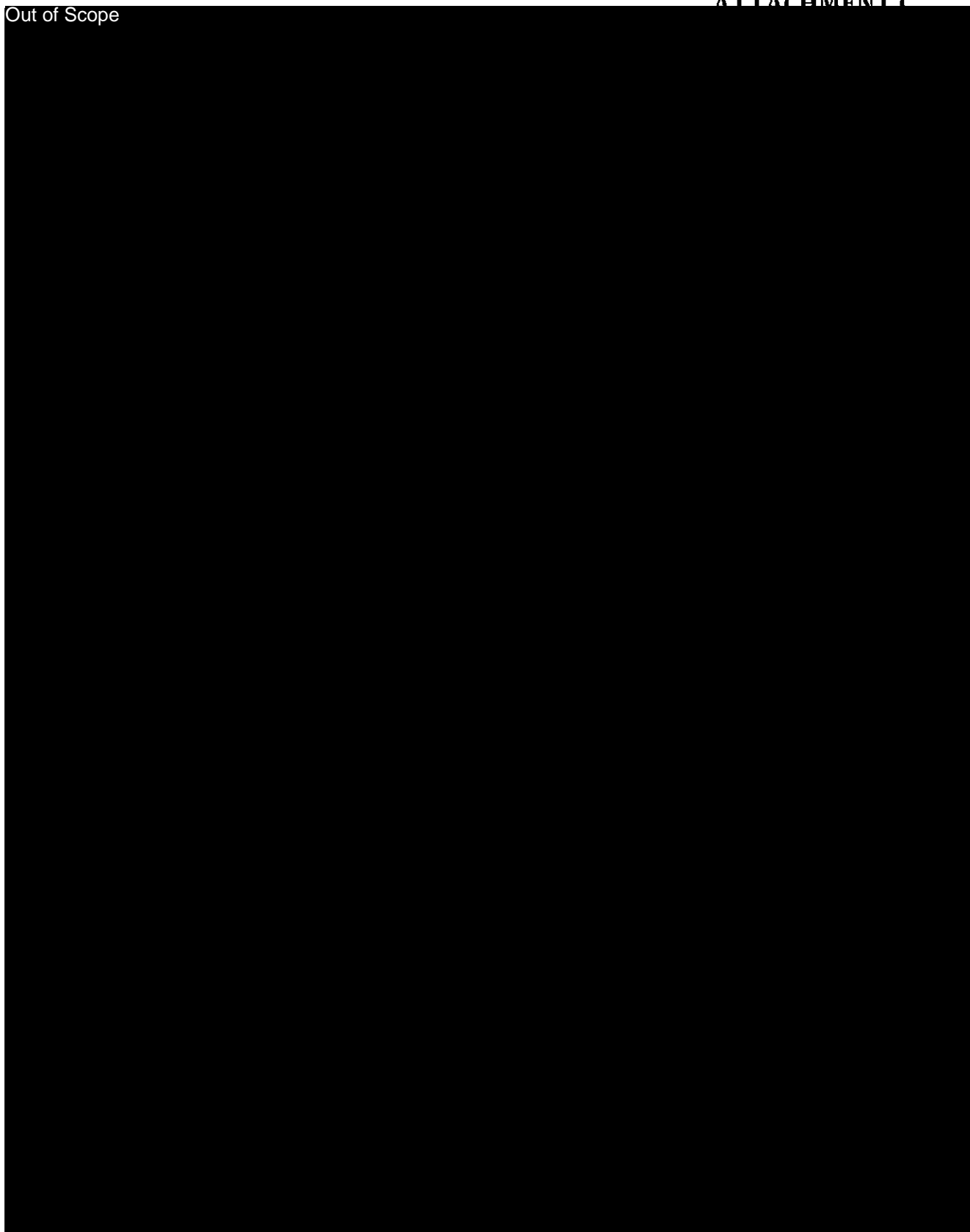


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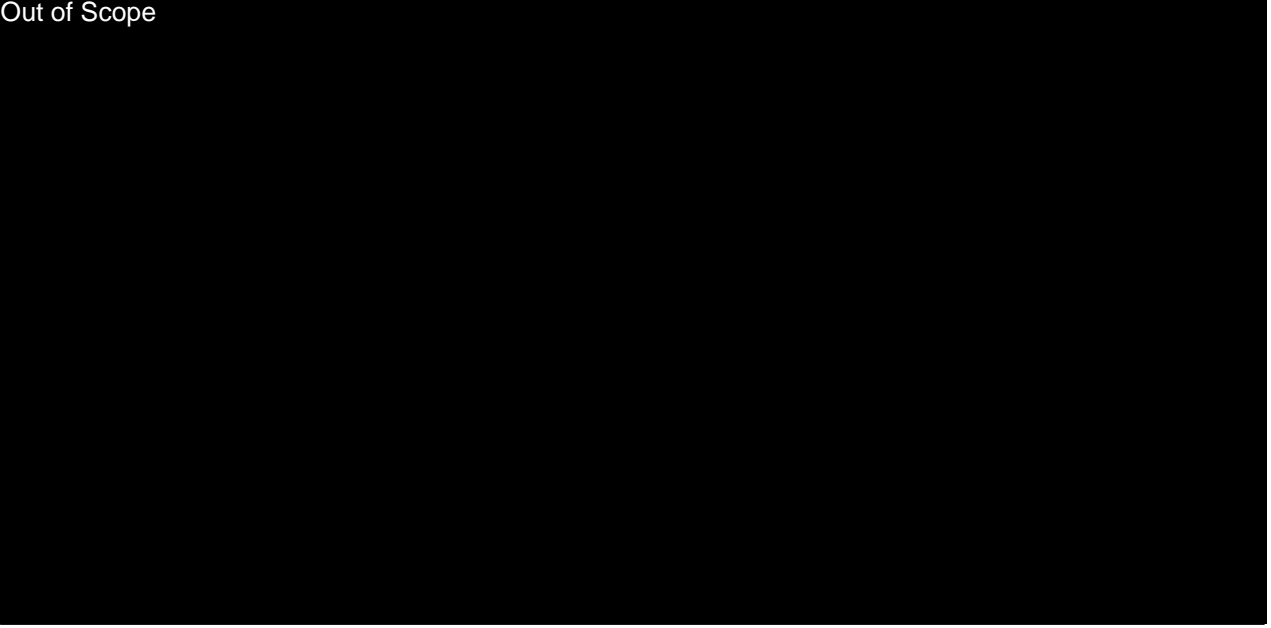
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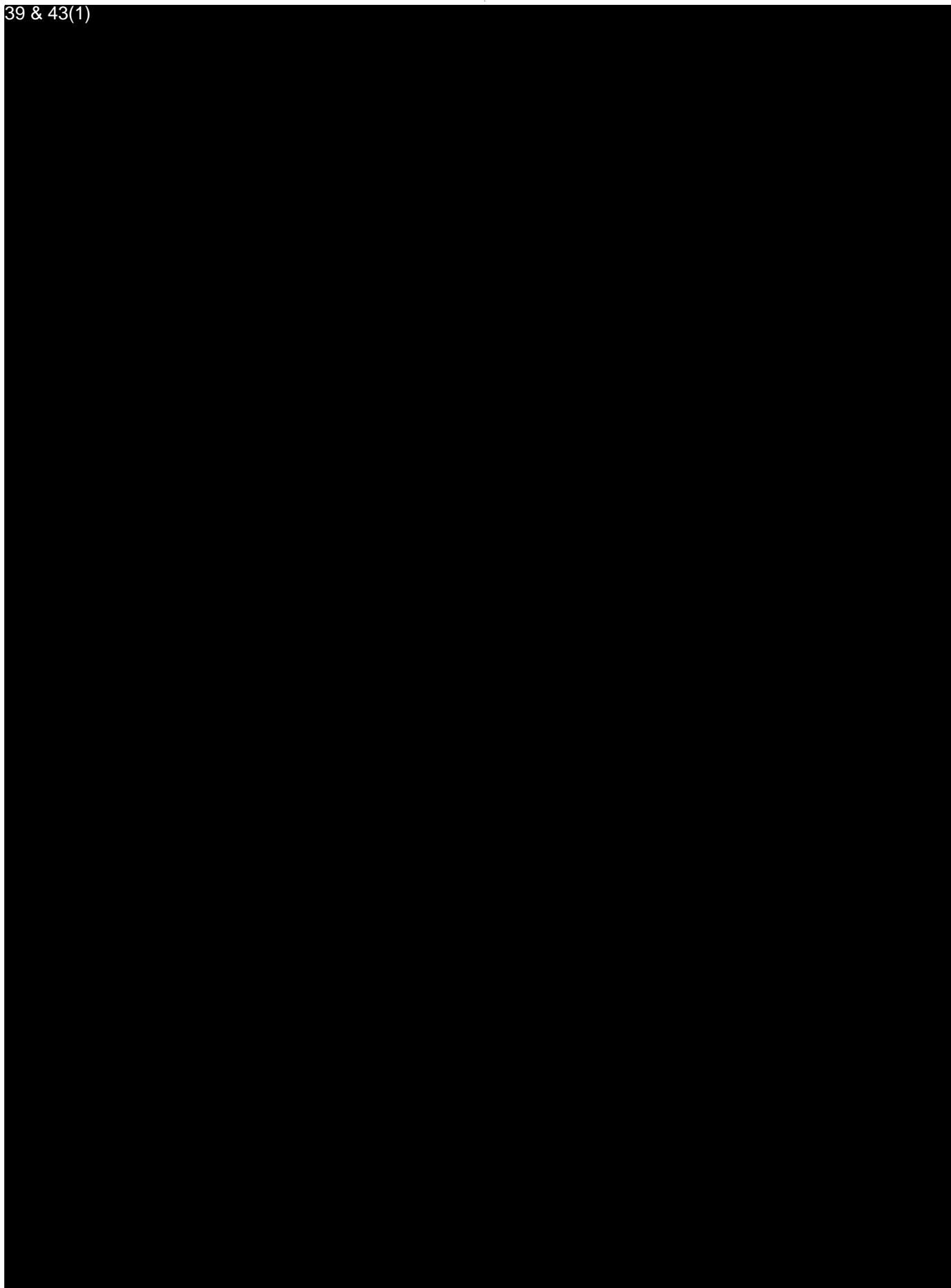
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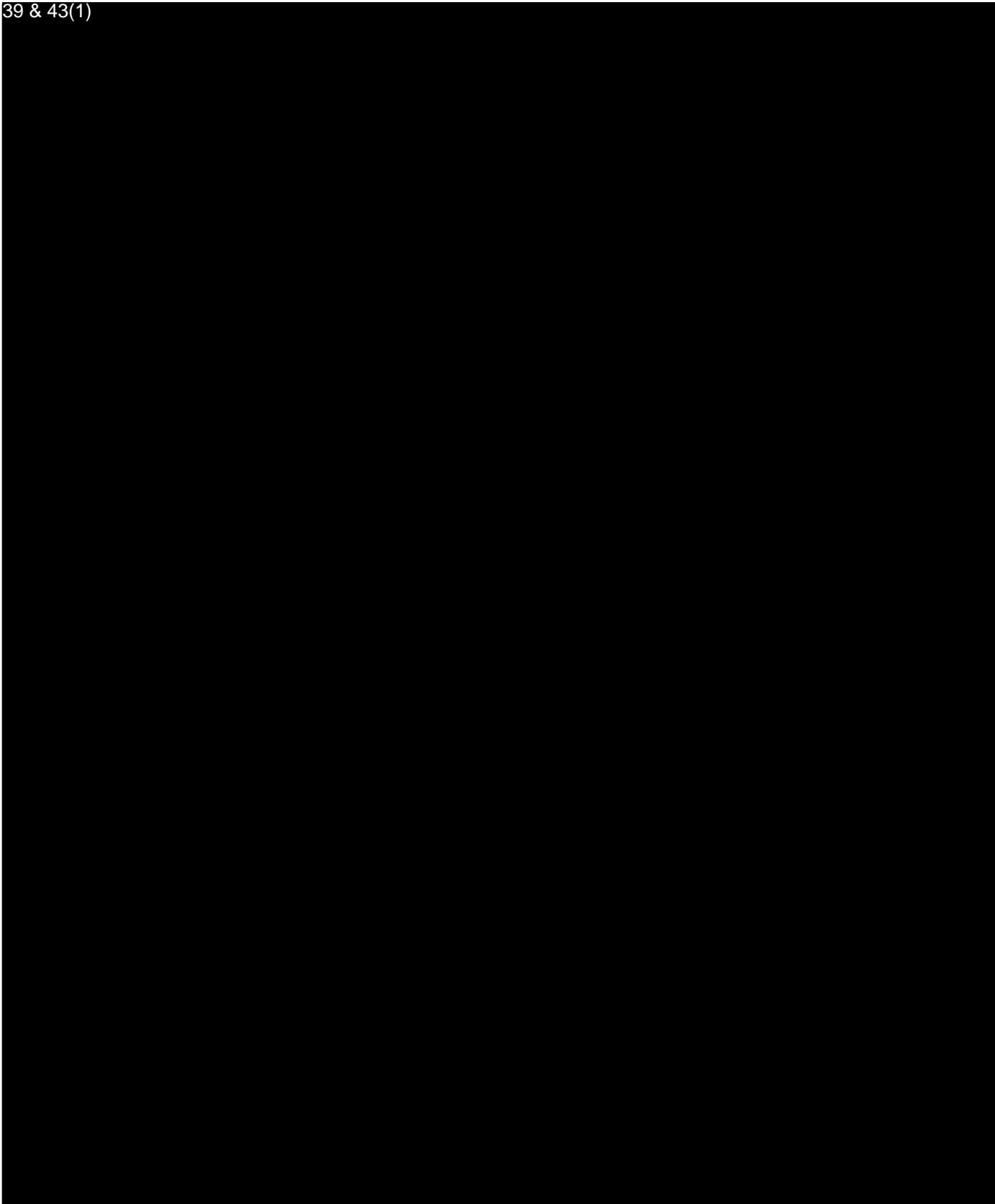
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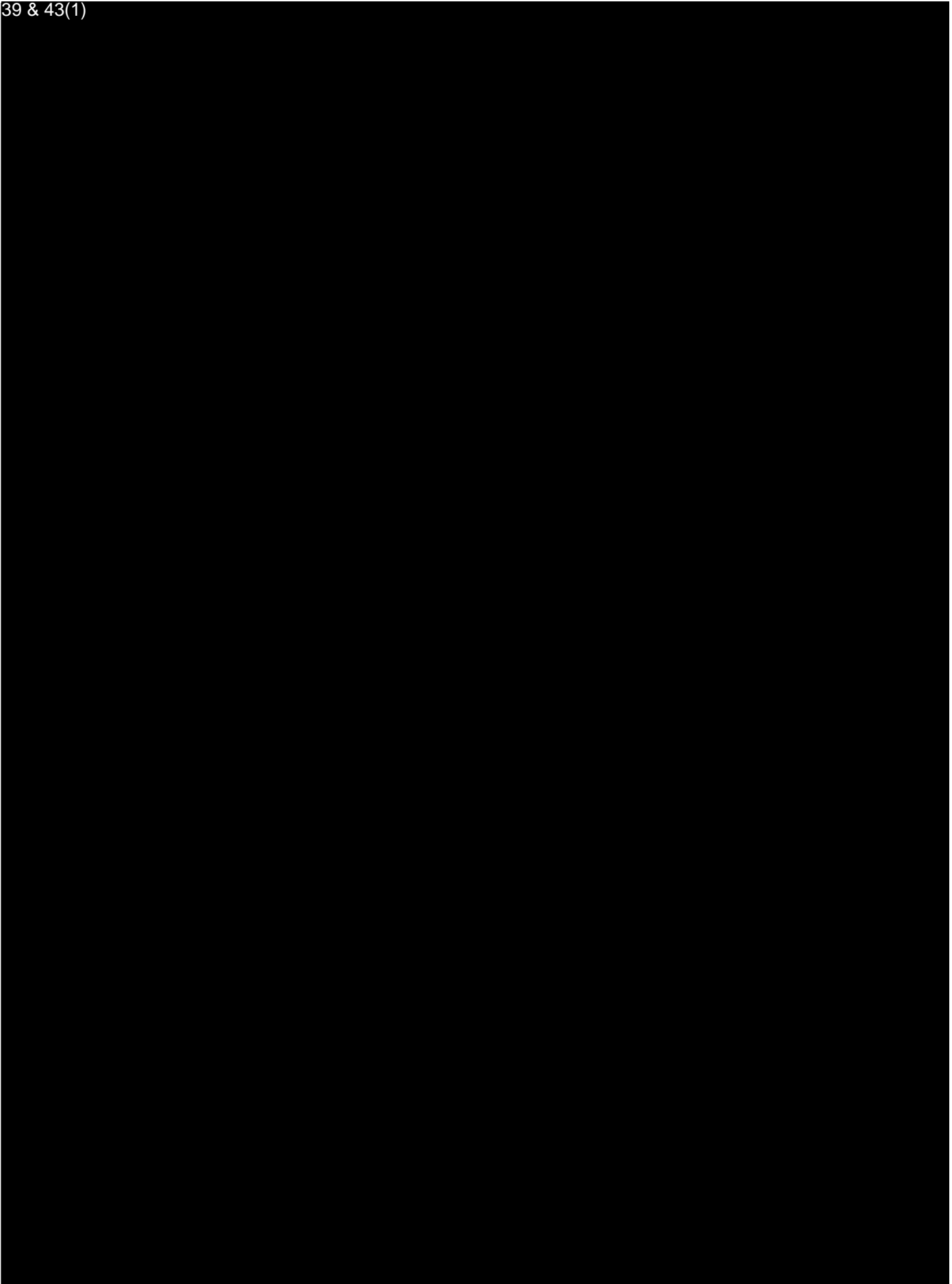
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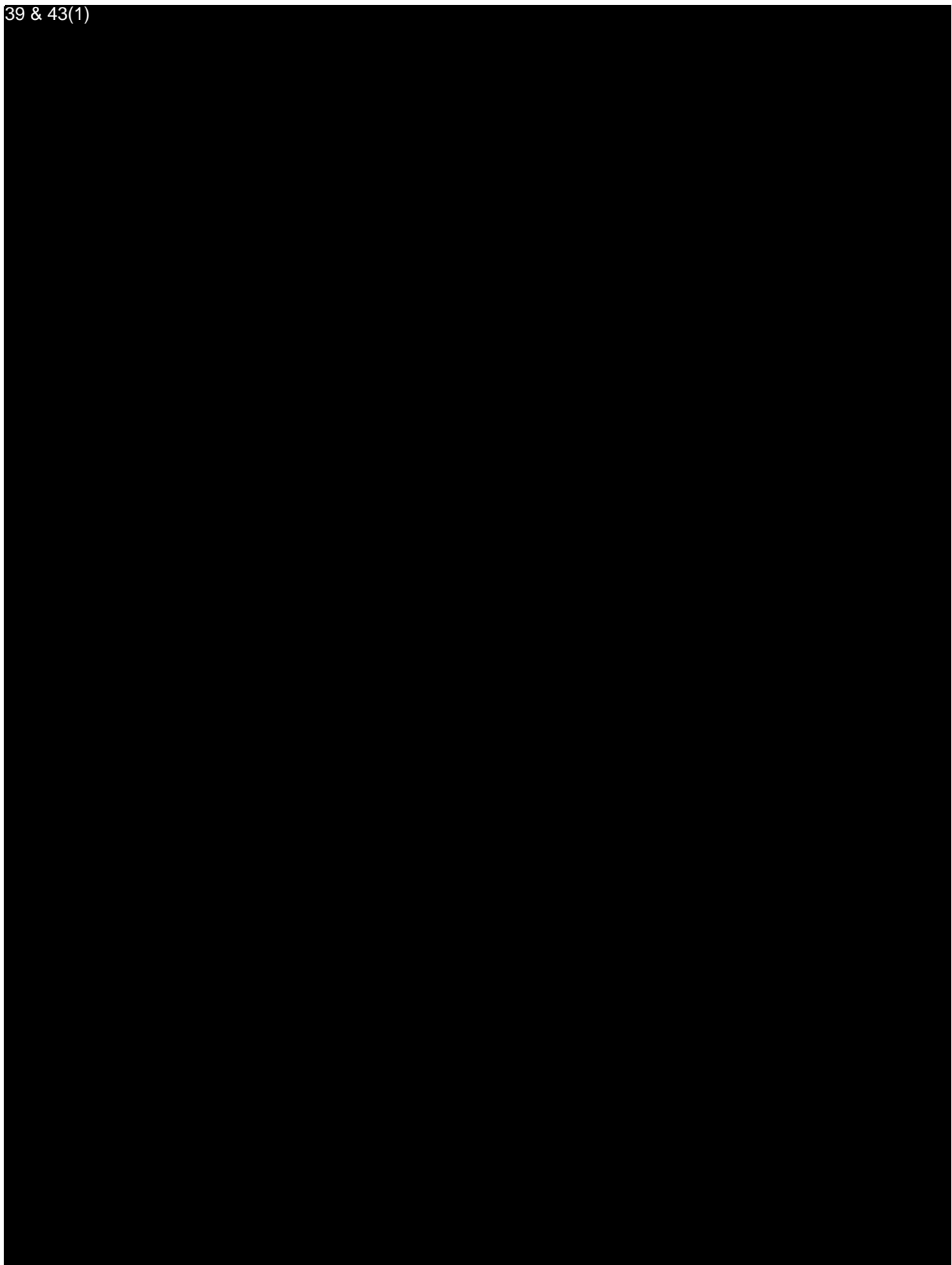
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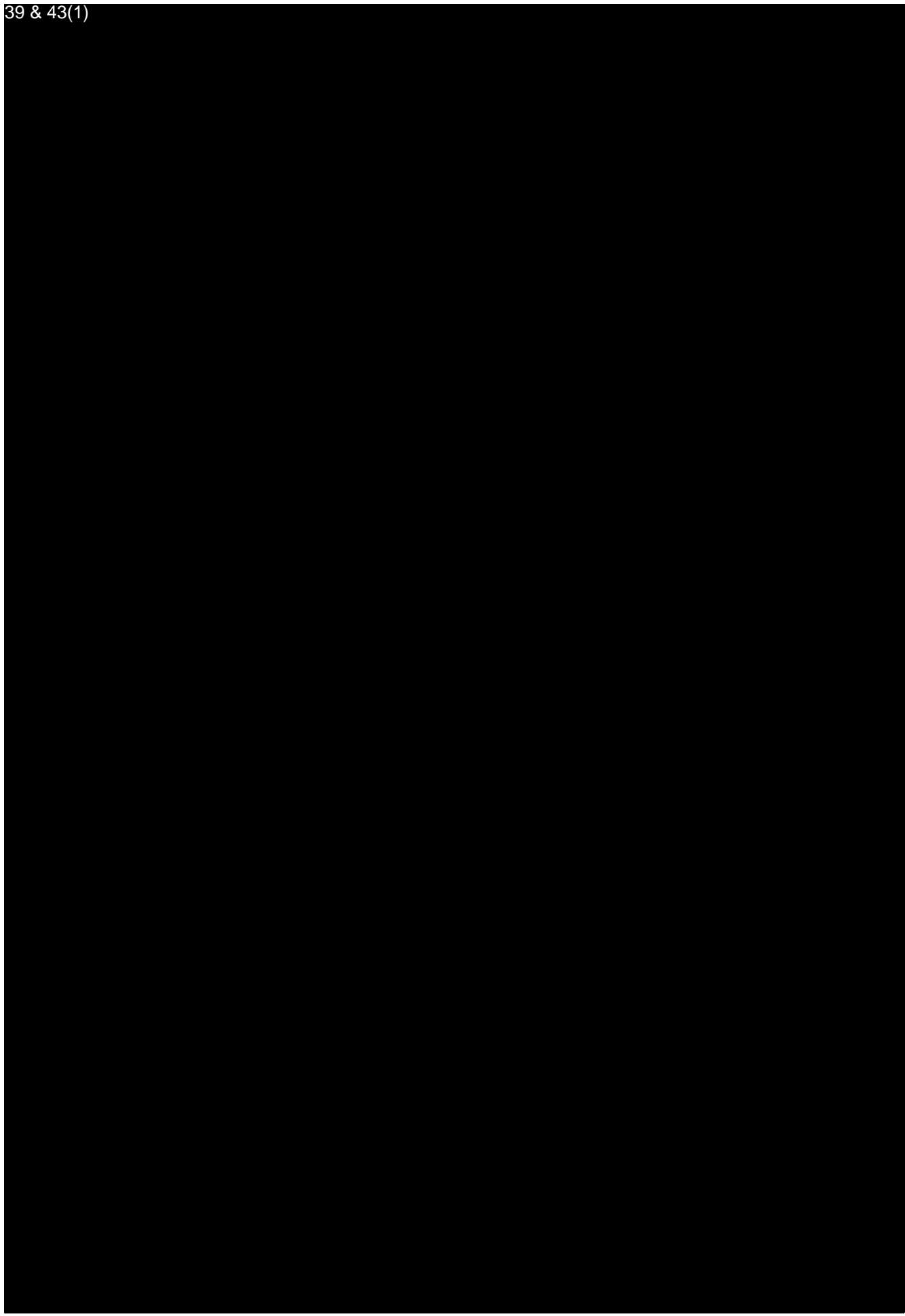
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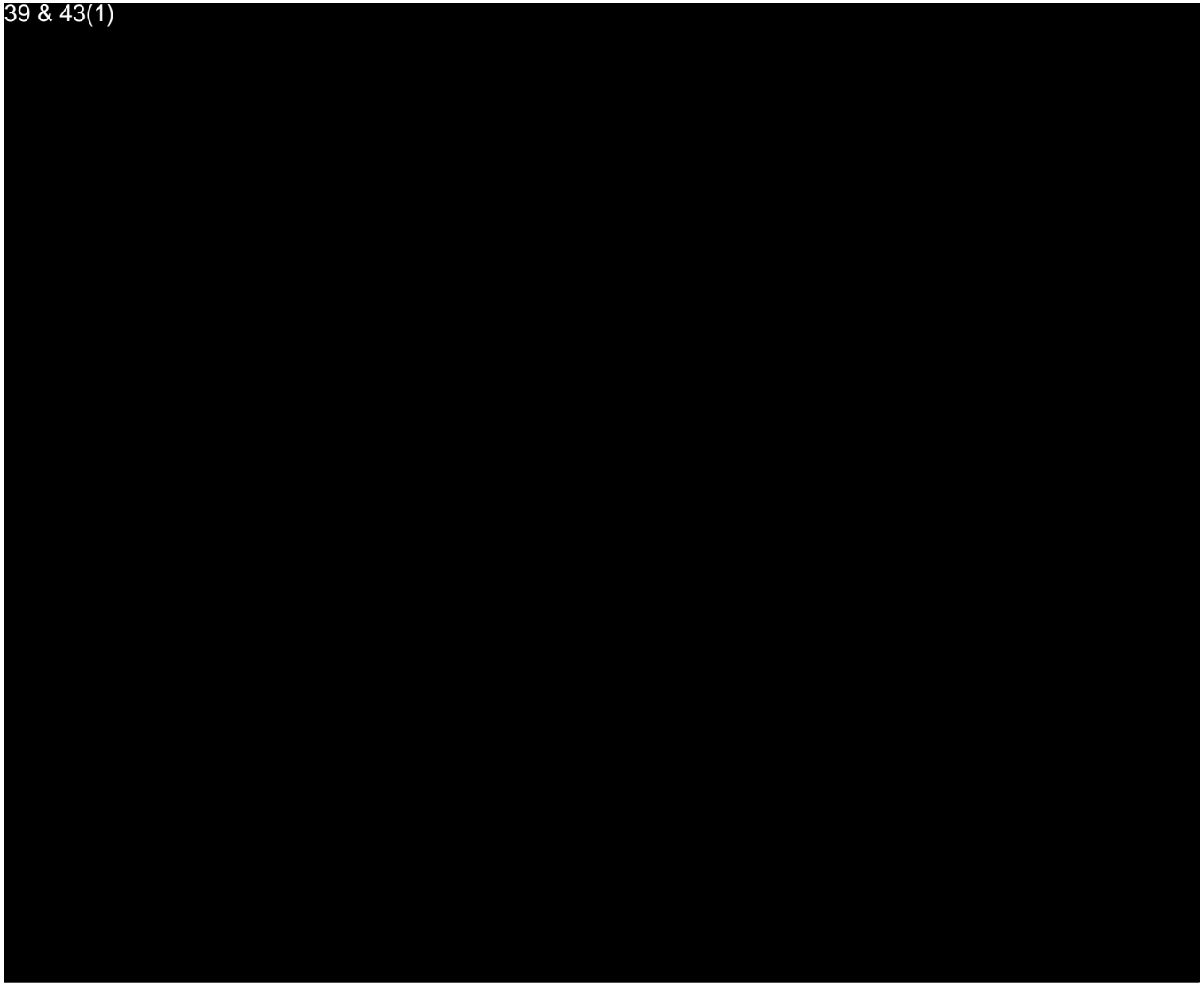
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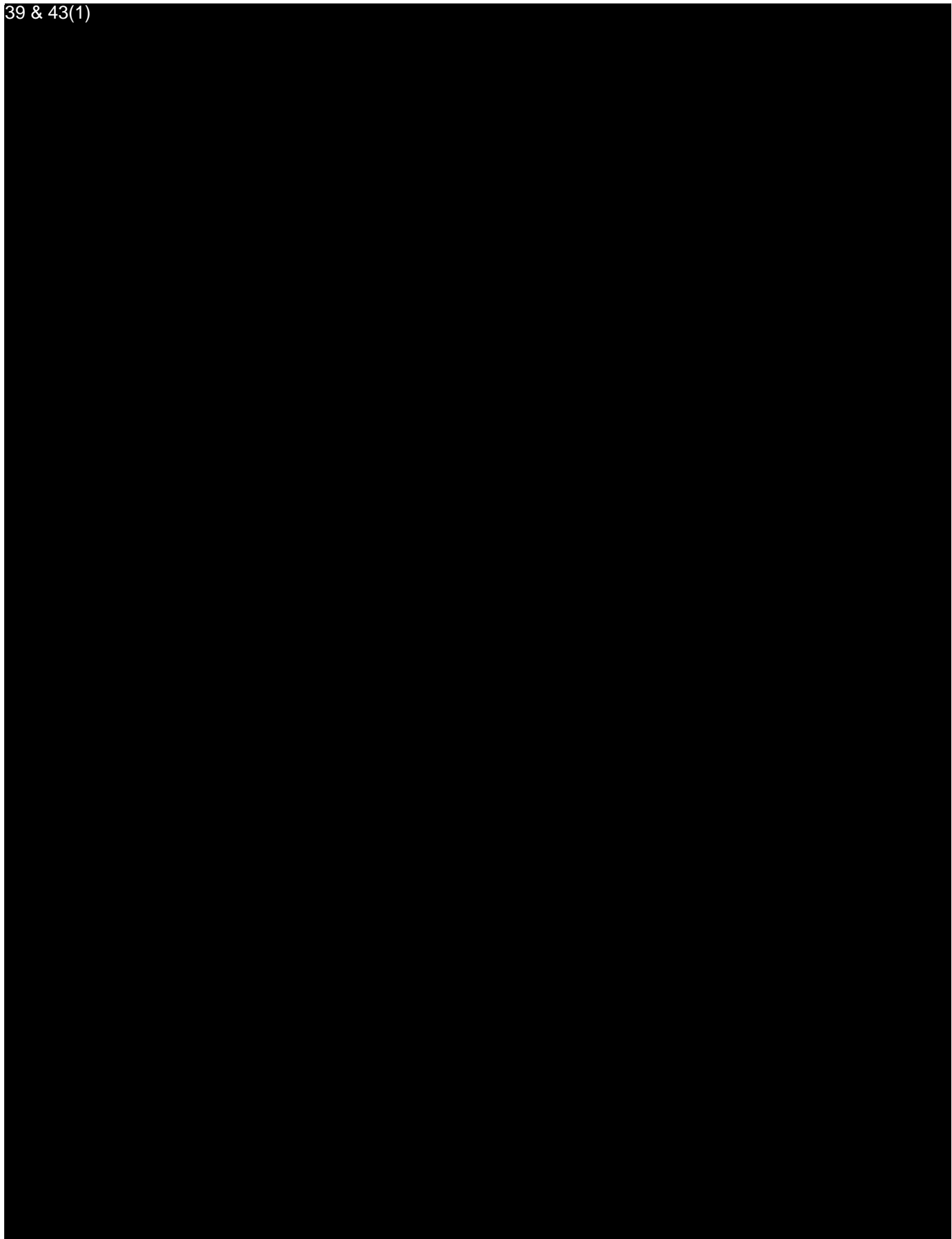
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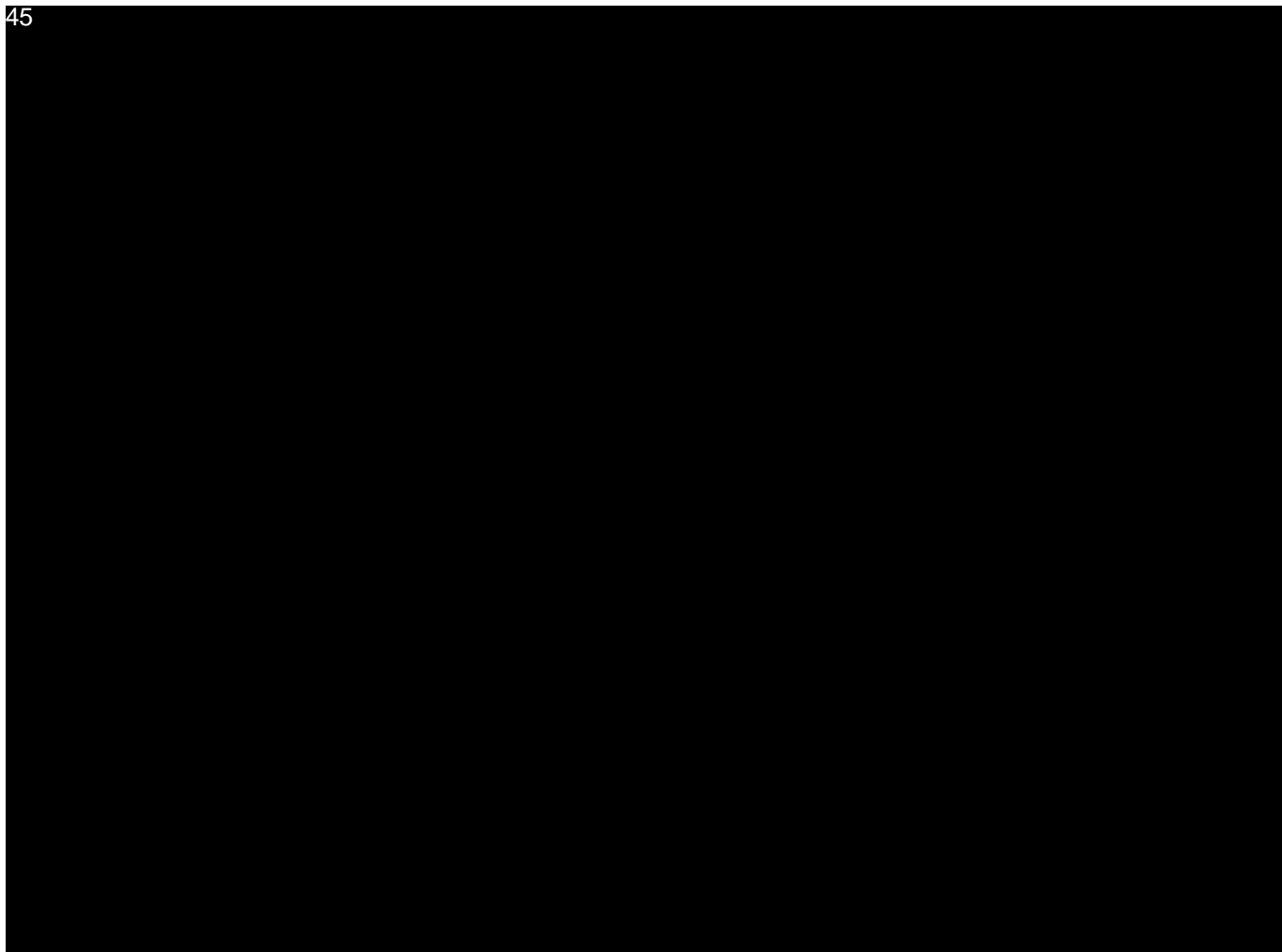
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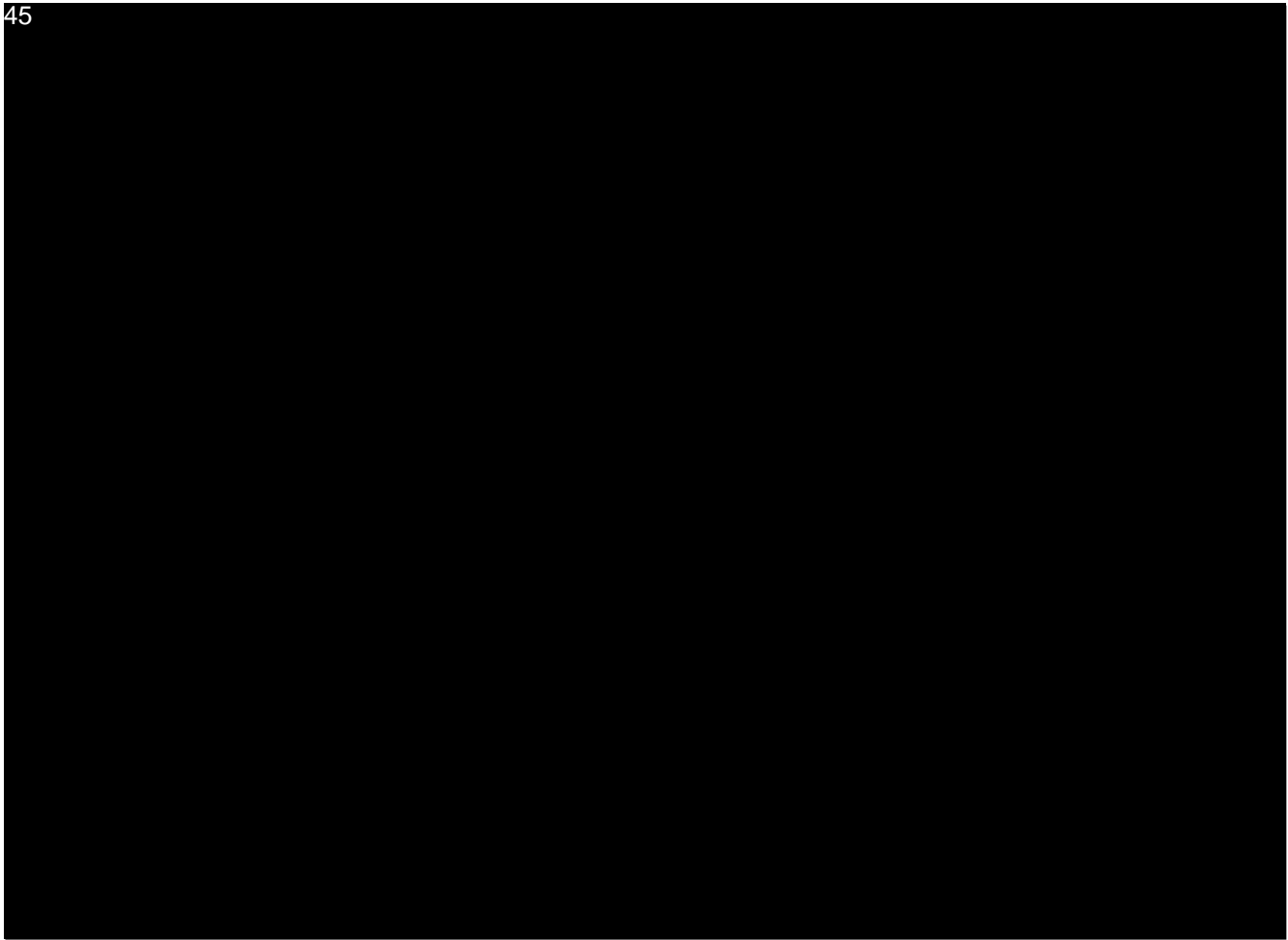


41(1)

Solicitor of King & Wood
Malesons, 1 Eagle Street, Brisbane, certify that this
is a true copy of the original

41(1) 45







General Security Deed

Between:

Australian Capital Territory Gambling and Racing
Commission and the Australian Capital Territory (**Secured
Party**)

and

Casino Canberra Limited (**Grantor**)

Prepared by the ACT Government Solicitor for:
ACT Gambling and Racing Commission
Level 5, 40 Allara St
Canberra ACT 2600

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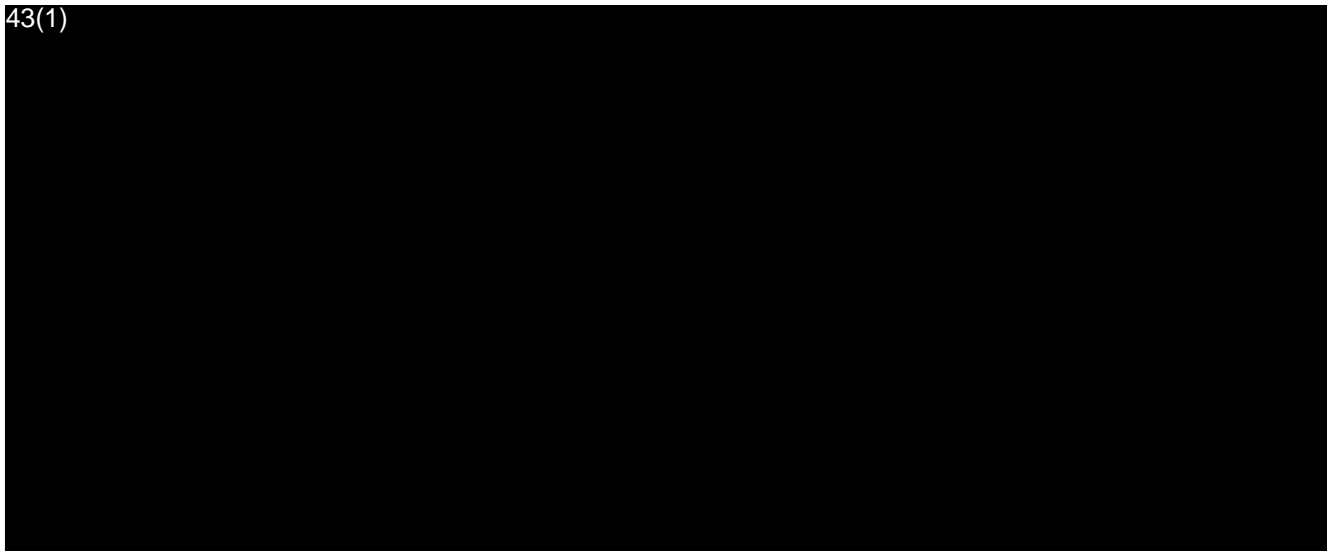
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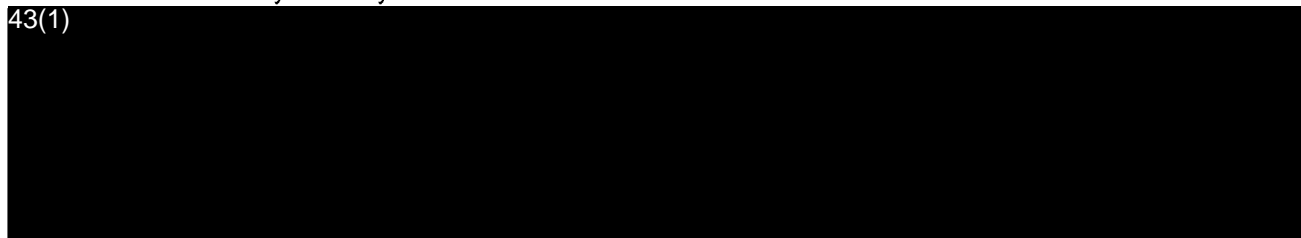
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Deed made on 23 DECEMBER 2014

Parties Casino Canberra Limited ACN 051 204 114 of 21 Binara St, Canberra ACT 2601
(Grantor)

Australian Capital Territory Gambling and Racing Commission ABN 13 567 691 159, a statutory authority established by the *Gambling and Racing Control Act 1999* (ACT) of Level 2, 1 Constitution Avenue, Canberra City 2601 in the Australian Capital Territory and the **Australian Capital Territory** the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth) both jointly and each severally (**Secured Party**)

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this document the following definitions apply unless the context indicates otherwise:

- (1) **Accounting Standards** means the accounting principles and practices applying by applicable law or otherwise generally accepted in Australia, consistently applied;
- (2) **Accounts** means profit and loss accounts and balance sheets together with statements, reports and notes, including a director's report or an auditor's report, attached to or intended to be read with any of those profit and loss accounts or balance sheets;
- (3) Not used;
- (4) **Attorney** means any attorney (including any delegate) appointed under this document and any person who by delegation directly or indirectly derives a right from an attorney;
- (5) **Authorisation** includes any consent, authorisation, registration, filing, lodgment, document, notarisation, certificate, permission, Licence, approval, authority or exemption prescribed by law or regulation or required by any Government Agency including in relation to water usage, access or allocation;
- (6) **Authorised Officer** means:
 - (a) in relation to the Grantor which is not a natural person, any director or company secretary of the Grantor, or any person nominated by the Grantor by a notice to the Secured Party as an authorised officer on behalf of the Grantor to sign notices or documents in connection with this document, the notice to be accompanied by specimen signatures of the persons concerned;
 - (b) in relation to the Grantor that is a natural person, that person; and
 - (c) in relation to the Secured Party, any person appointed as an Authorised Officer by the Secured Party;
- (7) **Business Day** means a day that is not a Saturday, Sunday or a public or bank holiday in the Relevant Jurisdiction;

- (8) **Collateral** means all PPSA Personal Property and all Other Property;
- (9) **Collateral Security** means any document that grants a Security Interest to the Secured Party, any Guarantee in favour of the Secured Party or other document or agreement at any time created or entered into in connection with or as security for any Secured Money;
- (10) **Controller** has the meaning given in the Corporations Act;
- (11) **Corporations Act** means the *Corporations Act 2001* (Cth);
- (12) **Designated Account** means any account that the Secured Party requires the Grantor to open and maintain under clause 8;
- (13) **Documents of Title** means any original, duplicate or counterpart certificate or document of title, including any land certificate of title or any share certificate;
- (14) **Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person and includes any PPSA Security Interest.
- (15) **Event of Default** means any event or circumstance specified as such in clause 9 or otherwise specified in this document as an Event of Default;
- (16) Not used;
- (17) **Government Agency** means any government or any governmental or semi-governmental entity or judicial entity or authority, and includes any self-regulatory organisation established under applicable law or a stock exchange;
- (18) **Guarantee** means any guarantee, indemnity, letter of credit, performance bond, legally binding letter of comfort or suretyship, or any other obligation to indemnify against the consequences of default in the payment of, or to be responsible otherwise for, an obligation or indebtedness of another person;
- (19) **Improvements** means any improvements, fixtures, plant or machinery affixed to or used with any Land that is part of the Collateral;
- (20) **Indirect Tax** means any goods and services tax, consumption tax, value-added tax or any tax of a similar nature;
- (21) **Insolvent** means, in relation to any Transaction Party:
- (a) it is a body corporate and is unable to pay its debts when they fall due;
 - (b) it is a body corporate and is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
 - (c) a Liquidation occurs in relation to a person;
 - (d) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any applicable law or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Secured Party);
 - (e) an application (not being an application that is being contested in good faith and that, is not stayed, withdrawn or dismissed within 30 Business Days of its commencement) is made to a court for an order or an order is made that a

body corporate be wound up or that a liquidator be appointed to a body corporate;

- (f) a receiver, receiver and manager, trustee, administrator or similar official is appointed over any or all of the assets or undertaking of a body corporate; and
 - (g) anything analogous or having a substantially similar effect to any of the events described above happens in connection with that corporation under the law of any applicable jurisdiction.
- (22) **Insurance** means insurance policies that a Transaction Party is obliged to take out or maintain under a Transaction Document;
- (23) **Land** includes any lease or other interest in or right:
- (a) in respect of land; or
 - (b) which authorises exploration for or extraction or mining of, minerals, petroleum, geothermal energy or any other substance from land;
- (24) **Licence** means any notification, permit, licence, registration, authority, consent, quota or approval from a Government Agency required, held or necessary in relation to:
- (a) the Collateral;
 - (b) the Grantor's occupation, acquisition or use of the Collateral; or
 - (c) any business or other activity carried out, on or in connection with the Collateral,
 - (d) and includes any gaming licence or liquor licence;
- (25) **Liquidation** includes provisional liquidation, administration, receivership, appointment of controller, compromise, arrangement, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, arrangement or compromise with creditors, bankruptcy or death;
- (26) **Marketable Securities** means intermediated securities or investment instruments;

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- (28) **Permitted Security Interest** means:
- (a) any Security Interest granted in favour of the Secured Party under the Transaction Documents;
 - (b) any Security Interest over any of the Grantor's assets to which the Secured Party has expressly consented in writing but only to the extent it secures financial indebtedness in amounts to which the Secured Party has given consent;
 - (c) a lien arising by operation of law in the ordinary course of day-to-day trading and not securing financial accommodation (whether actual or contingent), where the Grantor duly pays the indebtedness secured by that lien other than indebtedness contested in good faith;

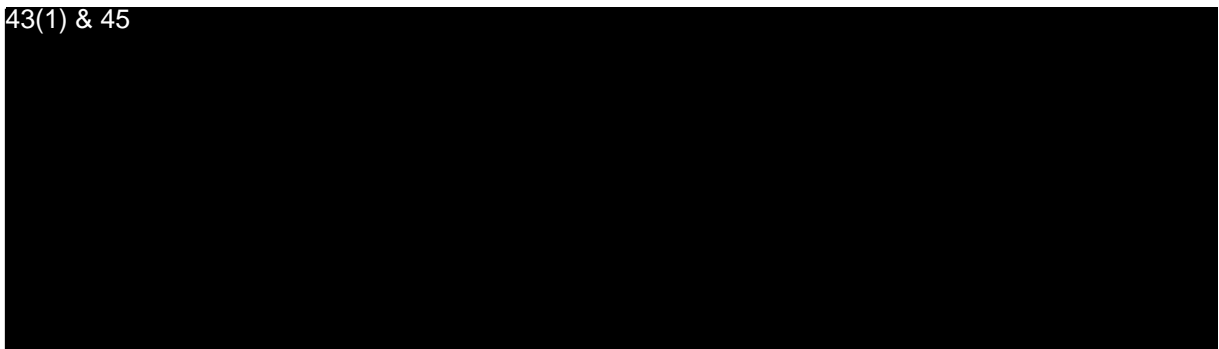
- (d) a charge or lien arising in favour of a Government Agency by operation of law unless there is default in payment of money secured by that charge or lien;
- (e) any Security Interest that is:
 - (i) a lease of goods (whether or not a "PPS lease" as defined in the PPSA) entered into in the ordinary course of ordinary business on the lessor's usual terms (or on terms more favourable to the Grantor);
 - (ii) a right of title retention over goods acquired in the ordinary course of ordinary business on the supplier's usual terms (or on terms more favourable to the Grantor);
 - (iii) a Security Interest granted under any hire purchase or conditional sale agreement or any similar arrangement entered into in the ordinary course of ordinary business on the supplier's usual terms (or on terms more favourable to the Grantor,

provided the rental amount or secured amount (as applicable) under the Security Interest is paid when due or is being contested in good faith, and any rental amount or secured amount (as applicable) under the Security Interest which remains due after final determination or settlement of the contest is paid promptly.

(29) **PPS Register** means the Personal Property Securities Register established under section 147 of the PPSA;

(30) **PPSA** means the *Personal Property Securities Act 2009* (Cth);

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(32) **PPSA Security Interest** has the meaning given to the term 'security interest' in the PPSA;

(33) **Receiver** means a receiver or receiver and manager appointed by the Secured Party under any Transaction Document and any person who derives a right directly or indirectly from any Receiver;

(34) **Related Body Corporate** has the meaning given in the Corporations Act;

(35) **Relevant Document** means each Transaction Document and any other document that a Transaction Party and the Secured Party agree is a Relevant Document;

(36) **Relevant Jurisdiction** means the jurisdiction described in Item 2 of Schedule 1;

(37) **Remedy Proceeds** means money received by the Secured Party, Receiver or Attorney from the exercise of any right, including enforcement, against the Collateral;

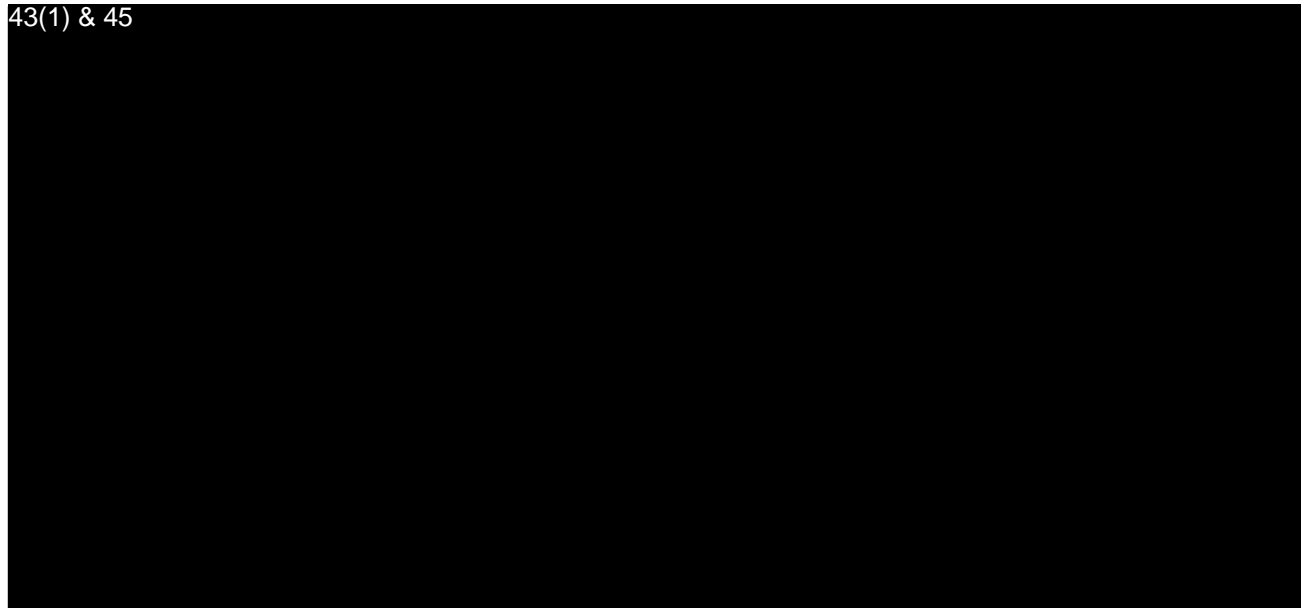
(38) **Representative** means a person's officer, employee, nominee, contractor or agent;

(41) **Security Interest** means:

- (a) a PPSA Security Interest;
- (b) any interest held as security for the payment of a monetary obligation or the performance of any other obligation, including:
 - (i) a charge, encumbrance, lien, pledge or hypothecation; and

- (ii) a bill of sale, assignment, title retention arrangement, trust or power held as security;
- (42) **Serial Numbered Collateral** means any item of personal property that may or must be described by serial number in a registration on the PPS Register and specified in Schedule 2;
- (43) **Tax** includes any tax, Indirect Tax, rate, levy, impost or duty (other than a tax on the net overall income of the Secured Party) and any interest, penalty, fine or expense relating to any of them;

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1.2 Interpretation

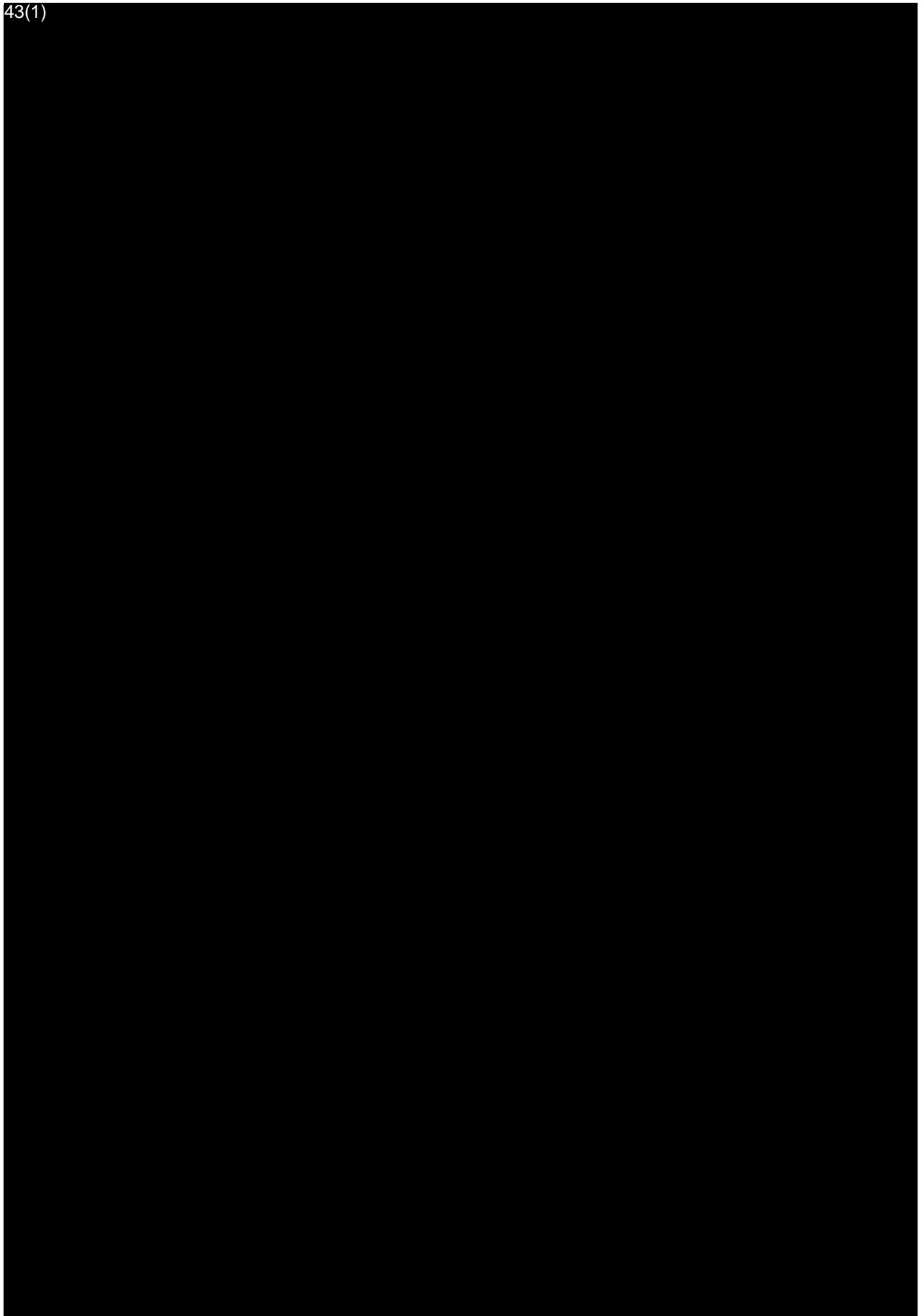
- (1) In this document, unless the context indicates otherwise, reference to:
 - (a) the following words and expressions have the meanings given to them in the PPSA: account; after-acquired property, attaches, bankruptcy, chattel paper, circulating asset, control, effective, financing statement, financing change statement, fixtures, future advance, interest, inventory, located, intermediated security, investment instrument, negotiable instrument, perfected, perfection, personal property, possession, proceeds, provides, register, registration, serial number, value, verification statement and water source;
 - (b) one gender includes the others;
 - (c) the singular includes the plural and the plural includes the singular;
 - (d) a person includes a natural person, firm, unincorporated association, corporation, partnership, joint venture and a government or statutory body or authority;
 - (e) a party to this document or another agreement or document includes the party's executors, administrators, successors and permitted substitutes (including persons taking by novation) or permitted assigns;
 - (f) a statute, regulation or provision of a statute or regulation (**Law**) includes that Law as amended or re-enacted, a statute, regulation or provision enacted in replacement of that Law, another regulation or other statutory instrument made or issued under that Law and any amendment made to a statute,

- regulation or provision as a consequence of another statute, regulation or provision;
- (g) this document includes any schedule or annexure to it;
 - (h) a thing (including any amount) is a reference to the whole and each part of it;
 - (i) a clause, annexure or schedule is a reference to a clause of, or annexure or schedule to, this document;
 - (j) an agreement or document is to the agreement or document as amended, novated, supplemented or replaced, except to the extent prohibited by this document;
 - (k) conduct includes an omission, statement or undertaking, whether or not in writing;
 - (l) "property" or "asset" includes any real or personal, present or future, tangible or intangible property or asset and any right, interest, revenue or benefit in, under or derived from the property or asset;
 - (m) an amount for which a person is contingently liable includes an amount which that person may become actually or contingently liable to pay if a contingency occurs, whether or not that liability will actually arise;
 - (n) a right includes a benefit, remedy, discretion, authority and power;
 - (o) an obligation includes any warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (p) "\$" or "dollars" is a reference to the lawful currency of Australia;
 - (q) payment includes repayment, discharge or satisfaction; and
 - (r) **know your customer checks** means any know your customer obligations or other identification requirements, checks or procedures in connection with any law.
- (2) A reference to costs and expenses in this document includes legal costs and expenses on a full indemnity basis.
 - (3) Anything that this document states is to be done by either the Secured Party or the Grantor is to be done at the Grantor's expense.
 - (4) "Including" and similar expressions are not words of limitation.
 - (5) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
 - (6) Headings and any table of contents or index are for convenience only and do not form part of this document or affect its interpretation.

1.3 Parties

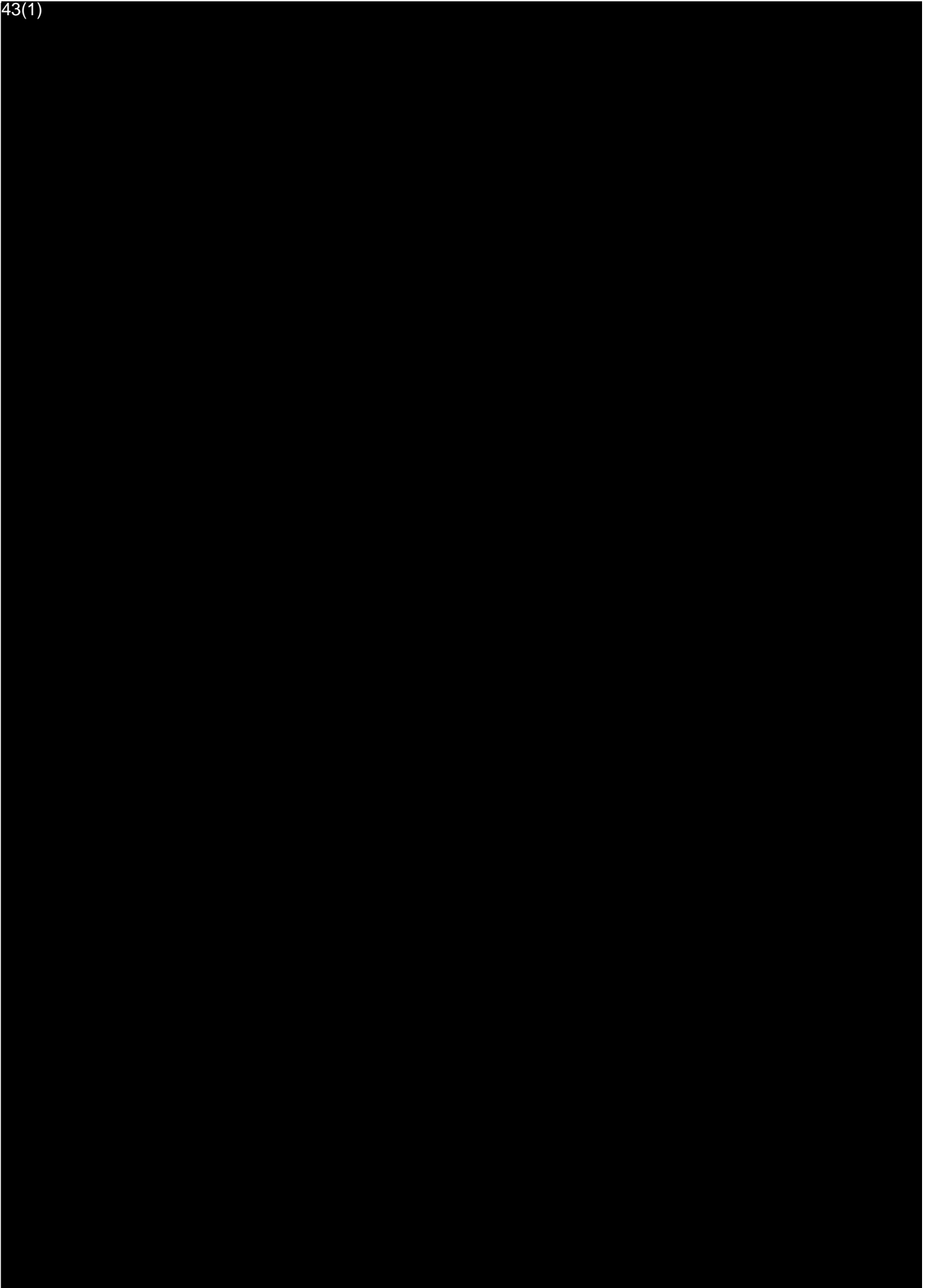
If the Grantor comprises 2 or more persons, a reference to the Grantor includes each and any 2 or more of them, and this document binds each of them separately and any 2 or more of them jointly.

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6 Representations and warranties

6.1 Transaction Document representations

The Grantor represents and warrants that all representations and warranties given by the Grantor in any Transaction Document are correct and not misleading or will be correct and not misleading when given.

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6.4 Repetition

The representations and warranties are deemed to be made by the Grantor by reference to the facts and circumstances then existing on the date of this document and each other Transaction Document.

6.5 Reliance

Not used.

6.6 Additional representations and warranties

Not used.

7 Undertakings

7.1 Undertakings remain in full force

The obligations and undertakings in this clause 7 remain in full force from the date of this document for so long as the Secured Money or any other amounts are outstanding under any Transaction Document.

7.2 Transaction Document obligations and undertakings

Not used.

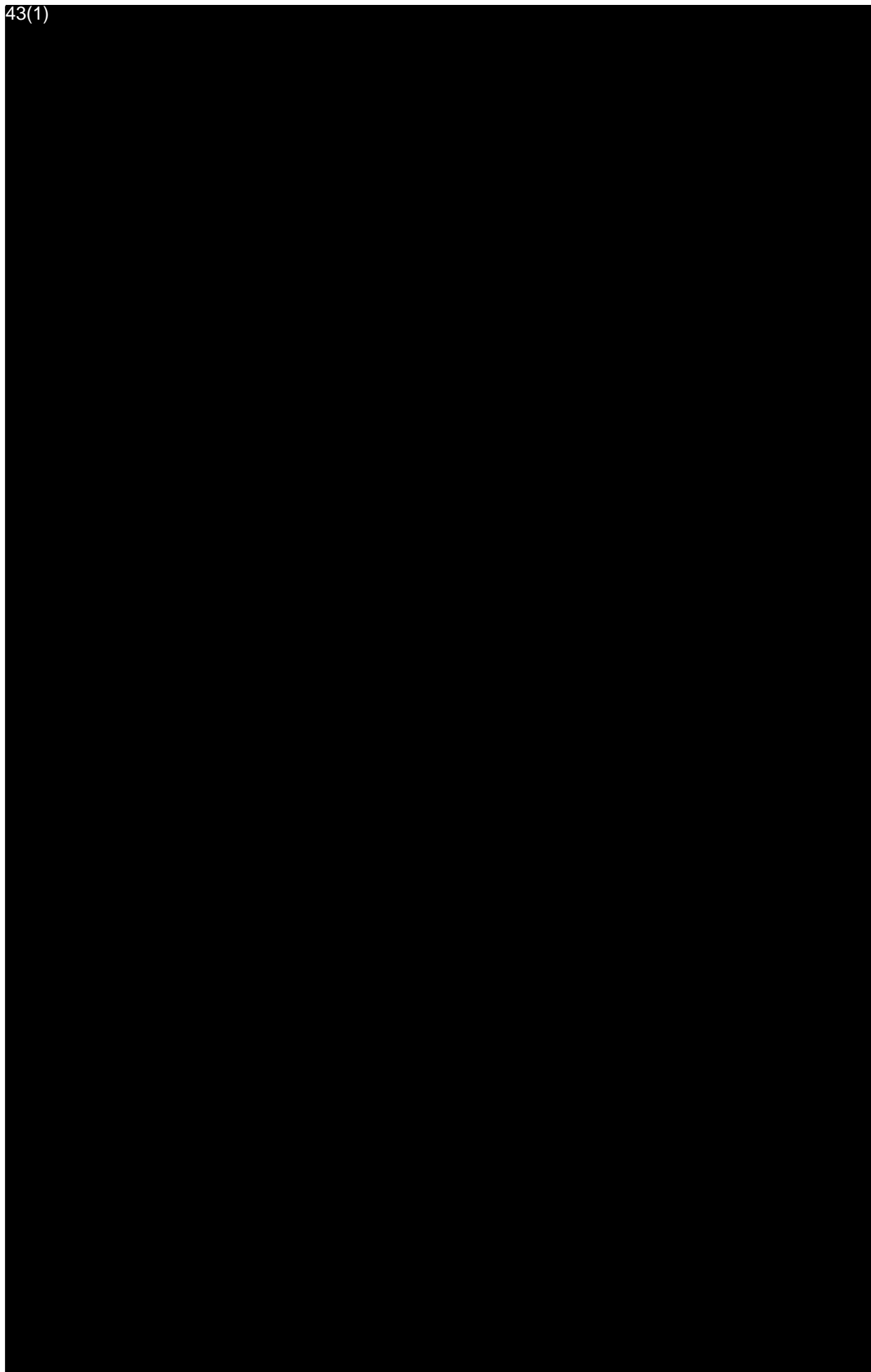
7.3 Grantor's undertakings

The Grantor must:

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(6) **change of name or other details**

not change its name or other details without notifying the Secured Party of the proposed new name or other details at least 10 Business Days before it proposes to do so;

(7) **title documents**

without limiting any other provision of this document:

- (a) promptly deposit or cause to be deposited all Documents of Title with the Secured Party;
- (b) allow the Secured Party to hold and retain possession or control or take possession or control of Documents of Title until the Secured Party discharges the Security Interests created by this document,

however the Grantor:

- (c) is not obliged to deposit any Documents of Title with the Secured Party if:
 - (i) those Documents of Title have been deposited with the holder of another Security Interest over the Collateral that ranks in priority before any Security Interest was created by this document; and
 - (ii) the Secured Party has consented to a lower ranking Security Interest, in which case the Grantor must promptly deposit those Documents of Title with the Secured Party immediately after that prior ranking Security Interest is discharged.

(8) **maintain Collateral**

- (a) keep the Collateral in good repair and in good working order (after allowing for fair wear and tear);
- (b) protect the Collateral from theft, damage or loss;
- (c) promptly notify the Secured Party if all or a substantial part of the Collateral is stolen, seriously damaged or lost;
- (d) not do anything or permit anything to be done or omit to do anything that materially lowers the value or may lower the value of the Collateral; and
- (e) promptly carry out any direction of the Secured Party to remedy any defect in the condition of the Collateral;

(9) **tax**

pay all Tax payable by the Grantor when due, but it need not pay Tax for which it has set aside sufficient reserves and that payment is being contested in good faith;

(10) **default**

not cause or permit any Event of Default to occur;

(11) **comply with laws**

comply with its obligations in relation to the Collateral, including:

- (a) under any Security Interest over the Collateral;
- (b) any law binding on it or affecting it;
- (c) any Authorisation applicable to the Collateral;
- (d) any requirements of any Government Agency binding on it or its business, that, if it failed to comply, will or may materially impair its ability to perform its obligations under the Transaction Documents; and
- (e) institute or defend any legal proceedings that the Secured Party may reasonably require to protect the Collateral;

(12) **rent**

not cause or permit any Land that is part of the Collateral to be leased or licensed for occupancy or use otherwise than at a rent that is not less than the full market rent and otherwise on terms that a prudent and reasonable owner of the Land would in the ordinary course of business cause or permit;

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(14) **right of entry**

- (a) grant to the Secured Party and its Representatives at any reasonable time a right to enter on any property owned, used or occupied by the Grantor for any purpose related to this document; and
- (b) do everything on its part and cause and permit its Related Bodies Corporate to do everything on their part that is necessary or desirable to enable the Secured Party to exercise its rights under clause (a) including the use of the facilities and the services of personnel of the Grantor and its Related Bodies Corporate to the extent reasonably required by the Secured Party for that purpose;

(15) **conduct of business**

conduct its business in a proper and efficient manner and do everything to maintain its corporate or business existence in good standing;

(16) **replacement of Improvements**

not demolish, alter or remove any Improvements unless the demolition, alteration or removal is:

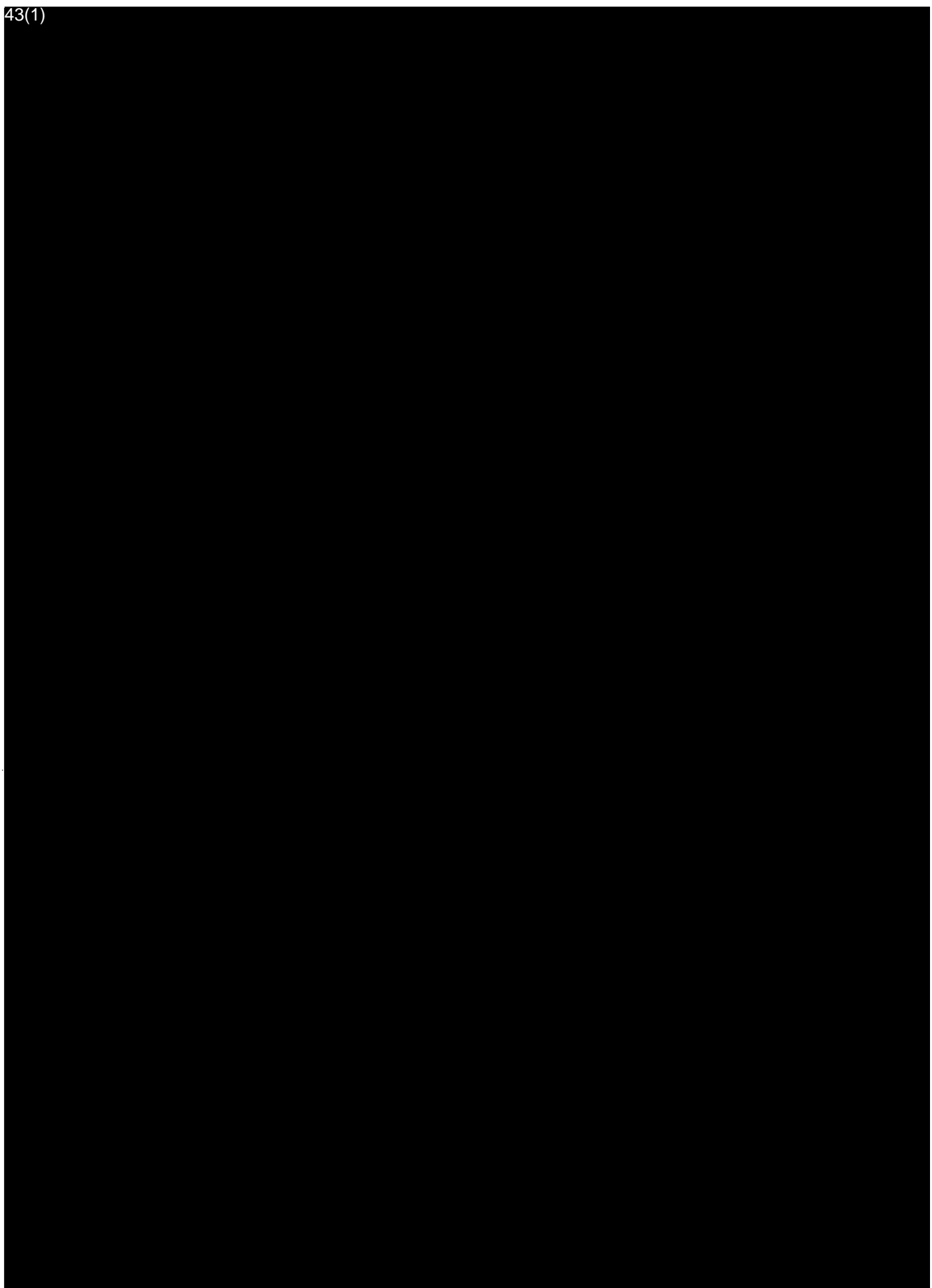
- (a) due to the refurbishment or refitting of any Improvements in the ordinary course of the Grantor's business;
- (b) because the Improvements are worn out, damaged, destroyed, or otherwise no longer suitable for the purposes for which they were acquired;
- (c) required by law;
- (d) necessary for their modification for the purposes of the Grantor's business or their maintenance or repair (in which case they must be replaced as soon as practicable);
- (e) necessary to prevent their damage or destruction (in which case they must be replaced as soon as practicable); or
- (f) in accordance with the consent of the Secured Party;

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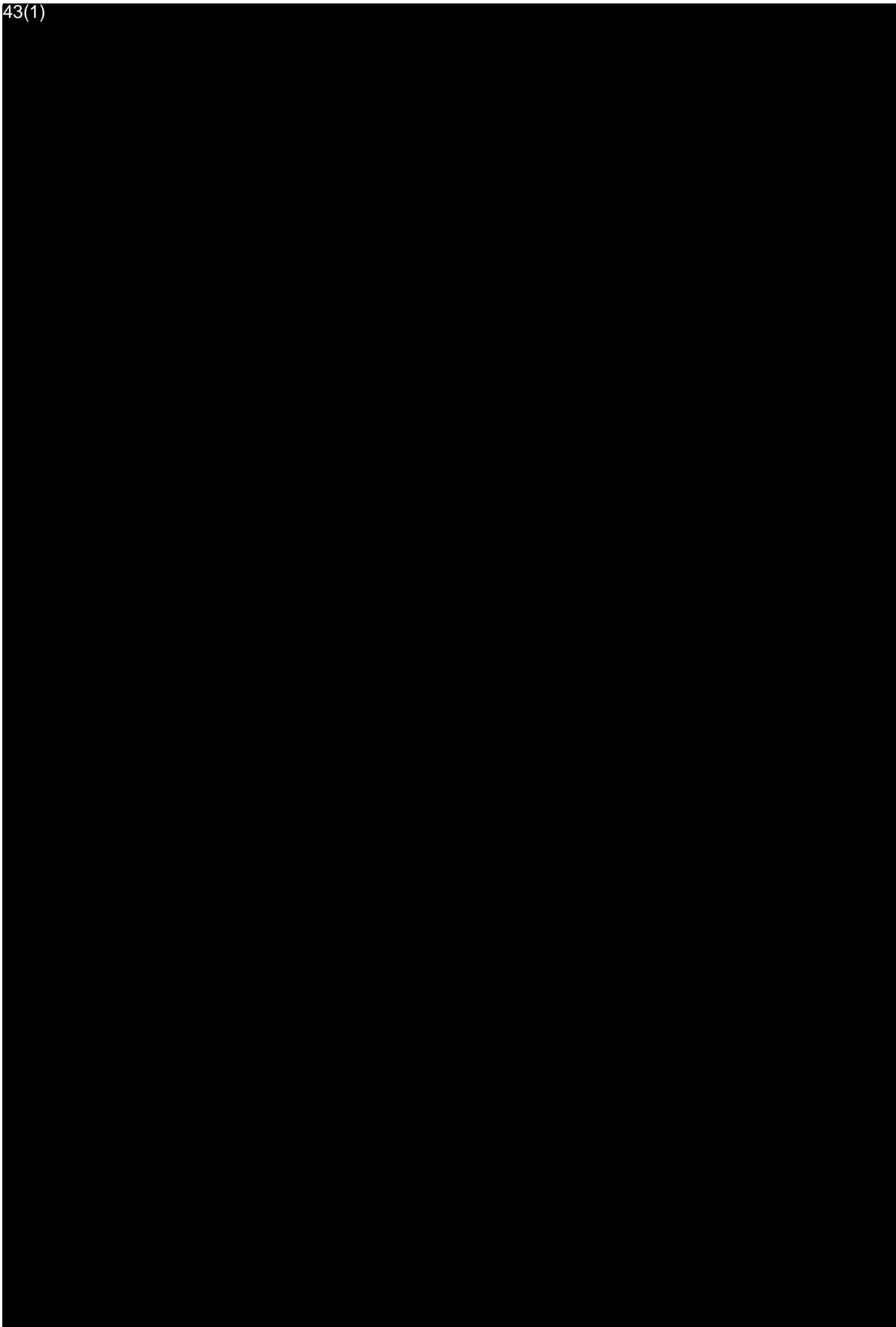


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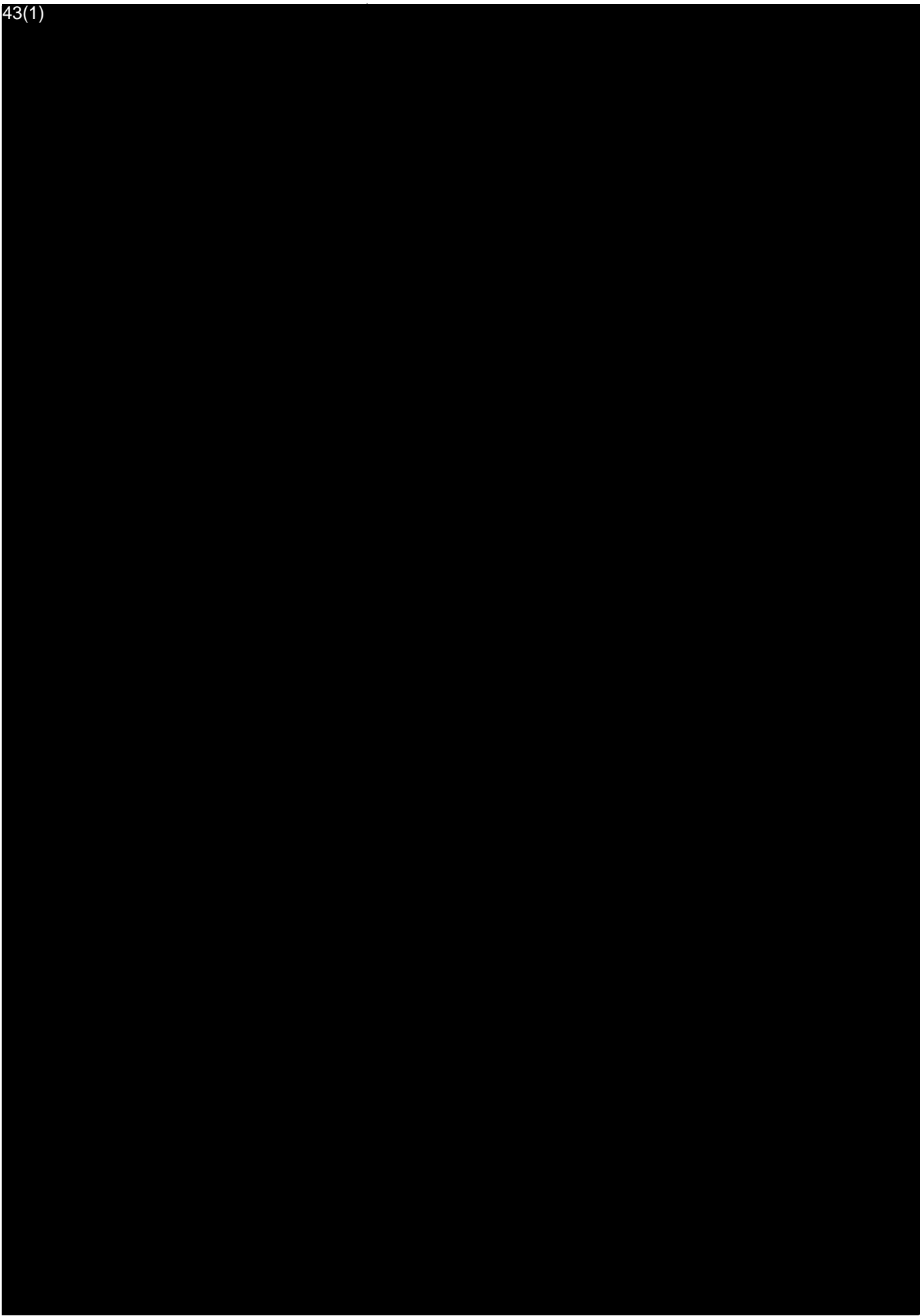
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12 Exclusion of notice or time period

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12.3 PPSA notices

- (1) Without limiting clause 12.1 neither the Secured Party nor any Receiver is obliged to give any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- (2) The Grantor consents to the waiver of the requirement for notice under this clause 12.3 and waives any rights it has to receive a notice under sections 95, 118, 121(4), 130 and 157 of the PPSA.

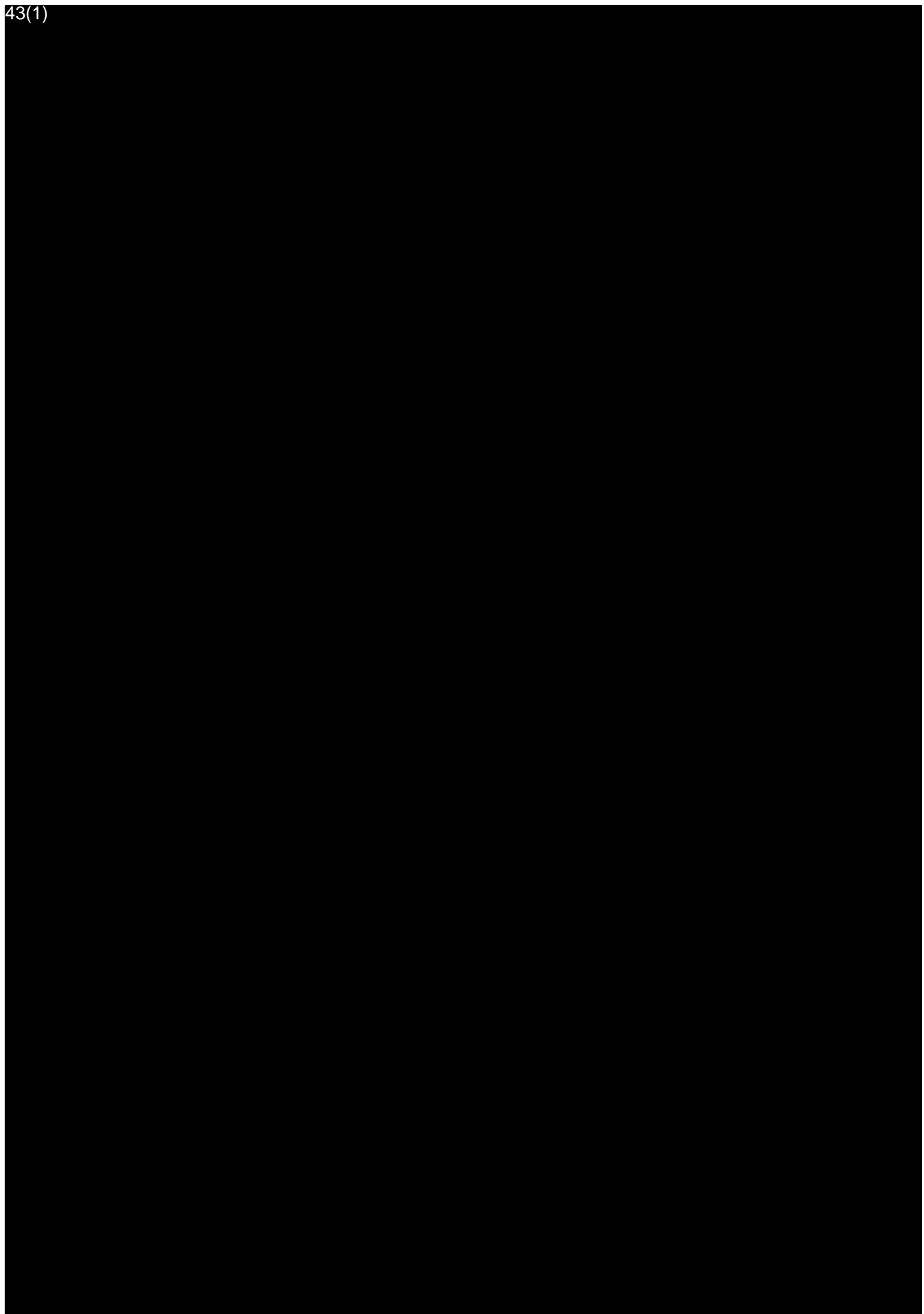
12.4 Contracting out of PPSA provisions

- (1) To the extent that Chapter 4 of the PPSA would otherwise apply to enforcement by the Secured Party of any Security Interest in the Collateral, the parties agree that the following provisions of the PPSA are excluded:
 - (a) to the extent permitted by section 115(1) of the PPSA: sections 125, 132(3)(d), 132(4), 142 and 143 of the PPSA; and
 - (b) to the extent permitted by section 115(7) of the PPSA: sections 132 and 137.
- (2) The Grantor consents to the waiver of the requirement for notice under any other provision of the PPSA that the Secured Party may notify to the Grantor after the date of this document and waives any rights it has to receive that notice.

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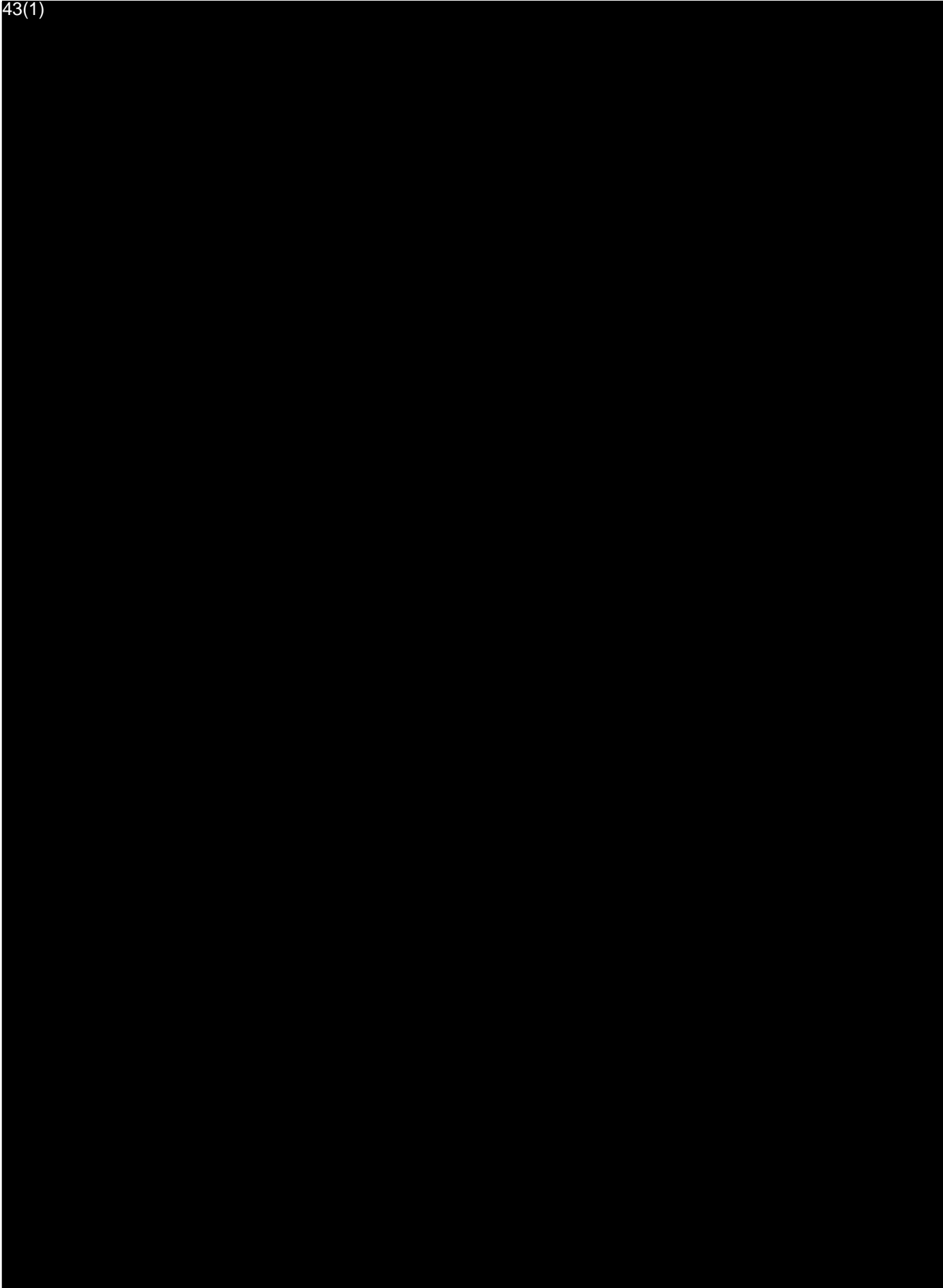
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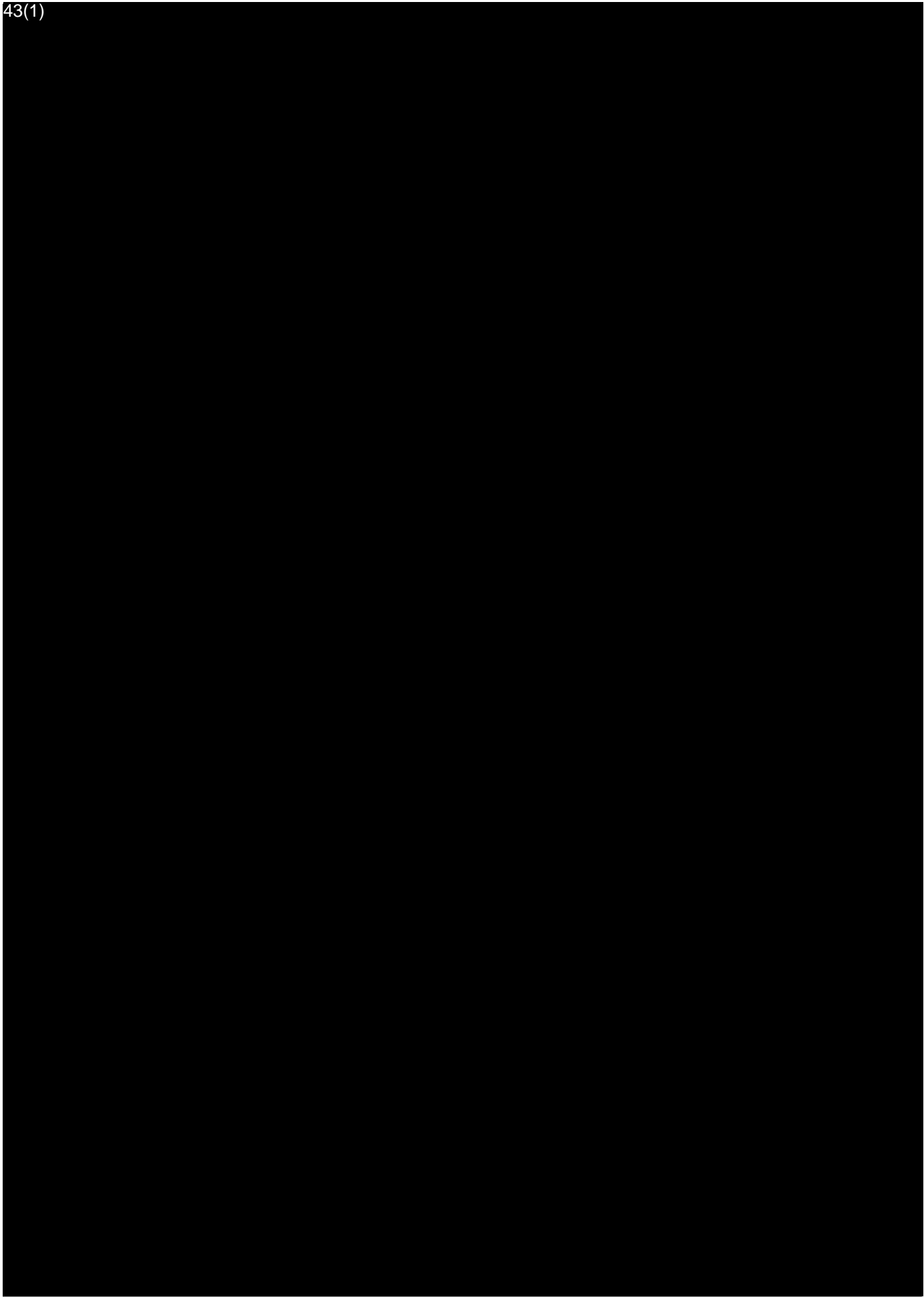


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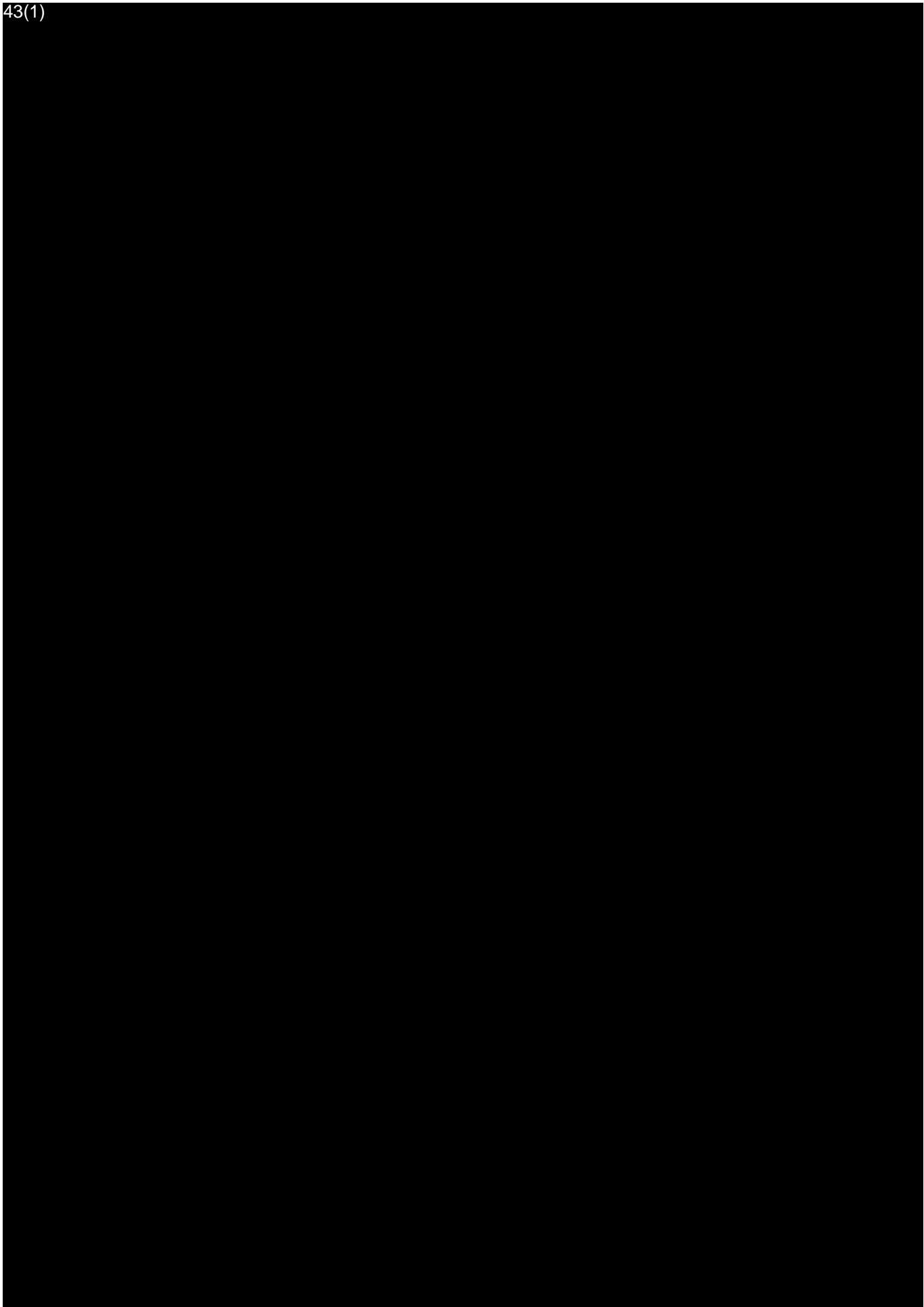


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18 Costs and expenses

18.1 Transaction expenses

- (1) Not used.

18.2 Amendment costs

If the Grantor requests an amendment, discharge, replacement, waiver or consent, the Grantor must, within 3 Business Days of demand, reimburse the Secured Party for the amount of all costs and expenses incurred by or for the account of the Secured Party in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 Enforcement costs

The Grantor must, within 3 Business Days of demand, pay to the Secured Party the amount of all costs and expenses incurred by the Secured Party in connection with the enforcement of, or the preservation of any rights under, any Transaction Document or in connection with anything referred to in clause 17.

18.4 Taxes or registration fees

The Grantor must, within 3 Business Days of demand, pay to the Secured Party the amount of any Taxes and registration or other fees (including fines and penalties relating to the Taxes and fees) that are payable or are assessed by a relevant Government Agency or other person to be payable in relation to the Transaction Documents.

18.5 Indirect Tax

- (1) All payments expressed to be payable under any Transaction Document by the Grantor are deemed to be exclusive of Indirect Tax.
- (2) If any Indirect Tax is chargeable on any supply made by the Secured Party to the Grantor in connection with any Transaction Document the Grantor must pay to the Secured Party (in addition to and at the same time as paying the payment) an amount equal to the amount of the Indirect Tax.
- (3) Where a Transaction Document requires the Grantor to reimburse the Secured Party for any costs or expenses, the Grantor must also at the same time pay and indemnify the Secured Party against all Indirect Tax incurred by the Secured Party in respect of the costs or expenses to the extent the Secured Party reasonably determines that it is not entitled to repayment or credit in respect of the Indirect Tax.

- (4) The Secured Party must promptly provide to the Grantor a tax invoice complying with the relevant law relating to that Indirect Tax.

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21 Set-off (Secured Party may set off obligation)

Not used.

22 Certificates

22.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Transaction Document, the entries made in the Accounts maintained by the Secured Party are, unless the contrary is proved, sufficient evidence of the matters to which they relate.

22.2 Certificates and determinations

- (1) **Secured Party** - Any certification or determination by the Secured Party of an exchange rate, a rate of interest, or amount under any Transaction Document and any other matter is, unless the contrary is proven, sufficient evidence of the matters to which it relates.
- (2) **Grantor** - The Grantor:
 - (a) irrevocably authorises the Secured Party to rely on a certificate by any person purporting to be its director or secretary as to the identity and signatures of its Authorised Officers; and
 - (b) warrants that those persons have been authorised to give notices and communications on its behalf under or in connection with the Transaction Documents.

22.3 Not obliged to give reasons

The Secured Party is not obliged to give the reasons for its determination or opinion in relation to any matter under any Transaction Document.

23 Partial invalidity

If, at any time, any provision of any Transaction Document is or becomes illegal, invalid or unenforceable in any respect under any applicable law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of the provision under the applicable law of any other jurisdiction is in any way affected or impaired.

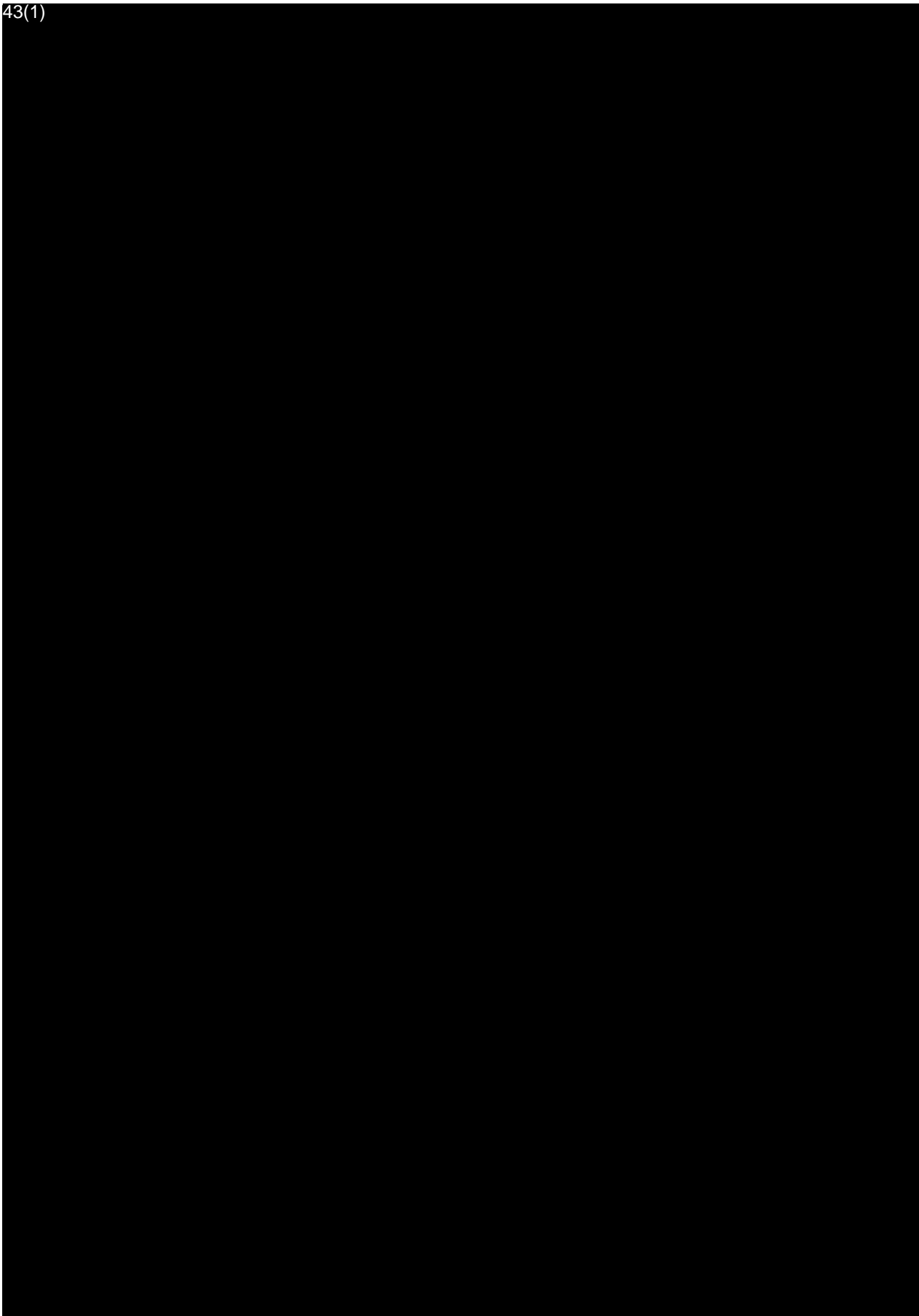
24 Remedies and waivers

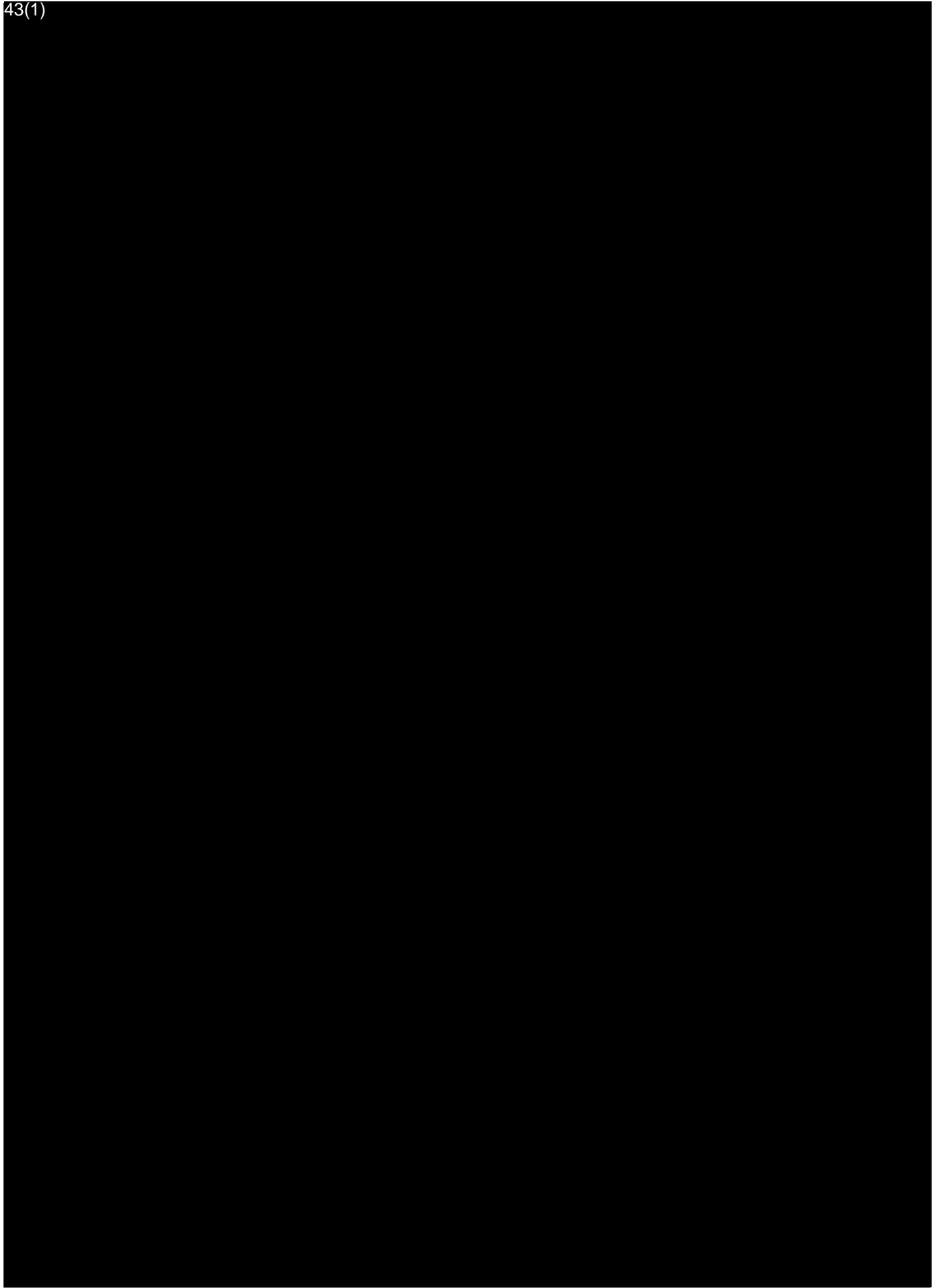
- (1) No failure to exercise, nor any delay in exercising, on the part of the Secured Party, any right or remedy under the Transaction Documents operates as a waiver, nor any single or partial exercise of any right or remedy prevents any further or other exercise or the exercise of any other right or remedy.
- (2) The rights and remedies provided in this document are cumulative and not exclusive of any rights or remedies provided by applicable law.

25 Amendments and waivers

Any term of a Transaction Document may be amended or waived only in writing with the consent of the Secured Party and any amendment or waiver is binding on all parties.

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30 Severability

Any provision of this document or any Collateral Security that is prohibited or unenforceable in any jurisdiction is ineffective to the extent of that prohibition or unenforceability. This does not invalidate or affect the validity and enforceability of that provision in any other jurisdiction nor the validity and enforceability of the remaining provisions of this document or any Collateral Security.

31 Waiver and exercise of rights

31.1 Waiver

A right in favour of the Secured Party under this document, a breach of an obligation of the Grantor under this document or the occurrence of an Event of Default can only be waived by a written instrument signed by the Secured Party. No other act, omission or delay of the Secured Party will constitute a waiver.

31.2 Exercise of rights

A single or partial exercise or waiver by the Secured Party of a right relating to this document will not prevent any other exercise of that right or the exercise of any other right.

32 Notices

- (1) **Must be in writing** - A notice or other communication connected with this document (**Notice**) has no legal effect unless it is in writing.
- (2) **Service** - In addition to any other method of service provided by law, the Notice may be:
 - (a) sent by prepaid post to the address of the addressee set out in this document or subsequently notified;
 - (b) sent by email to the email address of the addressee; or
 - (c) delivered at the address of the addressee set out in this document or subsequently notified.
- (3) **Address for Service** - The address for service and email addresses for the parties to this document are as specified in Item 5 of Schedule 1 or any other address or email address in the same country subsequently notified by one party to the other party for this document.

- (4) **Delivery** - If the Notice is sent or delivered in a manner provided by clause (2) it must be treated as given to and received by the party to which it is addressed:
- (a) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;
 - (b) if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.
- (5) **Email:**
- (a) an email is not treated as given or received if the sender's computer reports that the message has not been delivered; and
 - (b) an email is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of that fact within 3 hours after the transmission ends or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is later.
- (6) **Valid Notice** - A Notice sent or delivered in a manner provided by clause (2) must be treated as validly given to and received by the party to which it is addressed even if the addressee has become Insolvent or is deregistered or is absent from the place at which the Notice is delivered or to which it is sent, or if the Notice is returned unclaimed.
- (7) **Notice** - Any Notice by a party may be given and may be signed by its solicitor.
- (8) **PPSA Notice** - Despite anything in this clause 32 the Grantor agrees to send any Notice in connection with a PPSA registration to the address for service specified in the registration.

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34 Governing law and jurisdiction

- (1) **Relevant Jurisdiction** - The law of the Relevant Jurisdiction governs this document.
- (2) **Non-exclusive jurisdiction** - The parties submit to the non-exclusive jurisdiction of the courts of the Relevant Jurisdiction and of Australia.

35 Counterparts

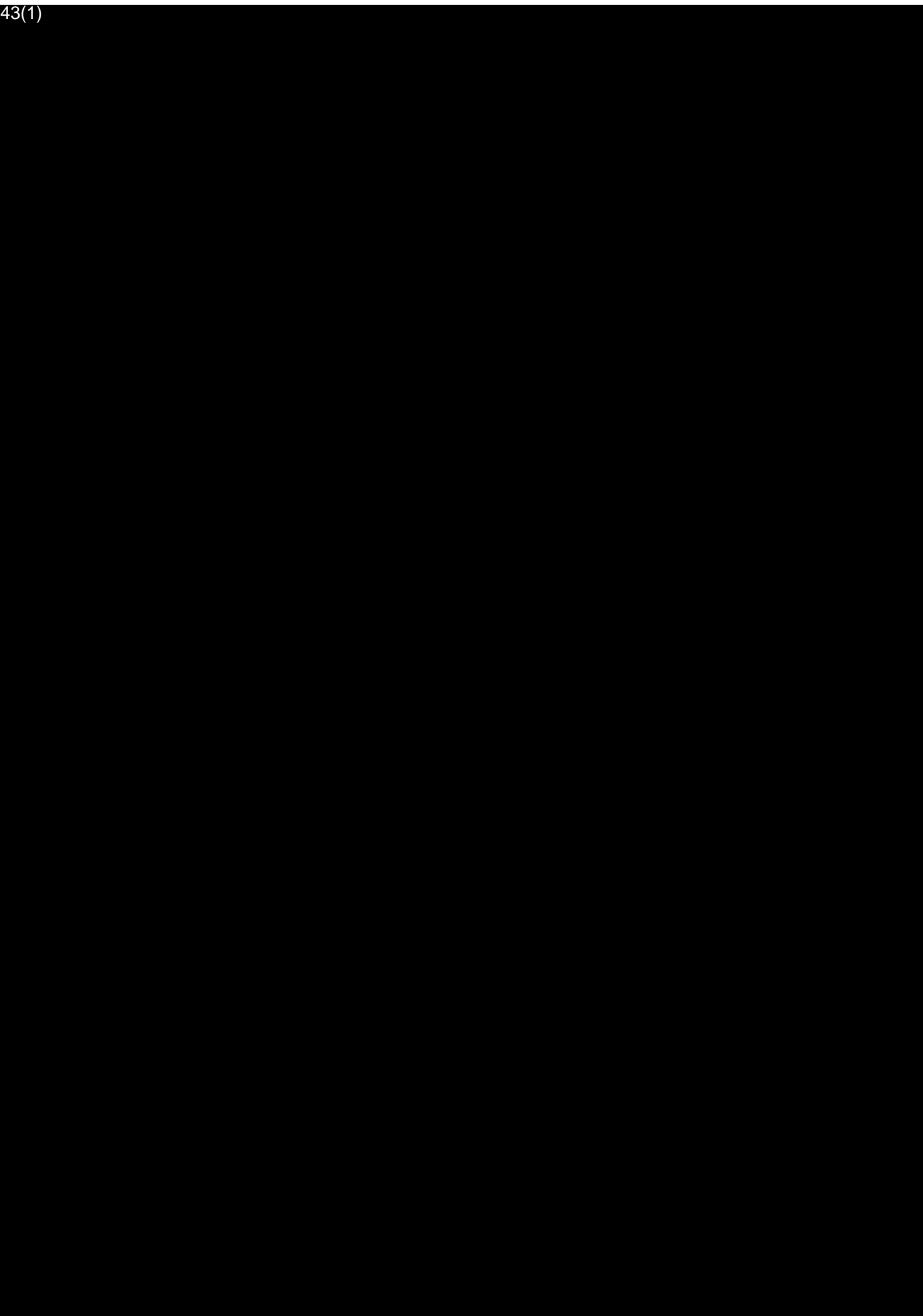
This document may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same instrument.

36 Execution by attorney

If an attorney executes this document, the attorney declares that the attorney has no notice of revocation, termination or suspension of the power of attorney under which the attorney executes this document.

43(1)







Schedule 1- Details

Item 1 Not used.

Item 2 **Relevant Jurisdiction**

The Australian Capital Territory.

Item 3 Not used.

Item 4 Not used.

Item 5 **Address for service of each party**

The Secured Party: The Australian Capital Territory Gambling and Racing Commission and the Australian Capital Territory.

Address: GPO Box 214, Canberra ACT 2601

Email address Greg.jones@act.gov.au

Attention: Greg Jones

The Grantor: Canberra Casino Limited ACN 051 204 114

Address: 21 Binara St, Canberra ACT 2601

43(1)



Schedule 2 - Serial Numbered Collateral

Consumer Property

[insert table if required]

Commercial Property - Collateral that may or must be described by serial number

Goods: Motor Vehicles	Vehicle identification number	Chassis number	Manufacturer's number
(Insert description if Collateral includes any motor vehicles. Insert VIN, or if no VIN exists, insert chassis number, or if no chassis number exists, insert manufacturer's number.)			

<p>Intangible Property</p> <p>(Insert description if Collateral includes Intangible Property)</p> <p>Licences must be described by serial number of the right for which the licence is given</p>	The Intangible Property includes the following:	
	Intangible Property	IP or IP application no. of Intangible Property
	Designs (or if none design application no)	
	Patents (or if none patent application number or if none a PCT no)	
	Plant Breeder's Rights (or if none plant breeder's right application no)	
	Trade marks (or if none trade mark application no)	
	Licences	
	Designs licence	
	Patents licence	
	Plant Breeder's licence	
Trade marks licence		

Executed as a deed and delivered on the date shown on the first page.

Signed and sealed for and on behalf of
Casino Canberra Limited ACN 051 204
114 in accordance with section 127 of the
Corporations Act 2001:

41(1) & 43(1)



Signed and sealed for and on behalf of
the **Australian Capital Territory**
Gambling and Racing Commission by
its duly appointed delegate in the
presence of:

41(1)



Witness

41(1)



KIM BRADY

Name of Witness

GREG JONES

Name of Delegate

Signed and sealed for and on behalf of
the **Australian Capital Territory** by its
duly appointed delegate in the presence
of:

41(1)



Witness

41(1)

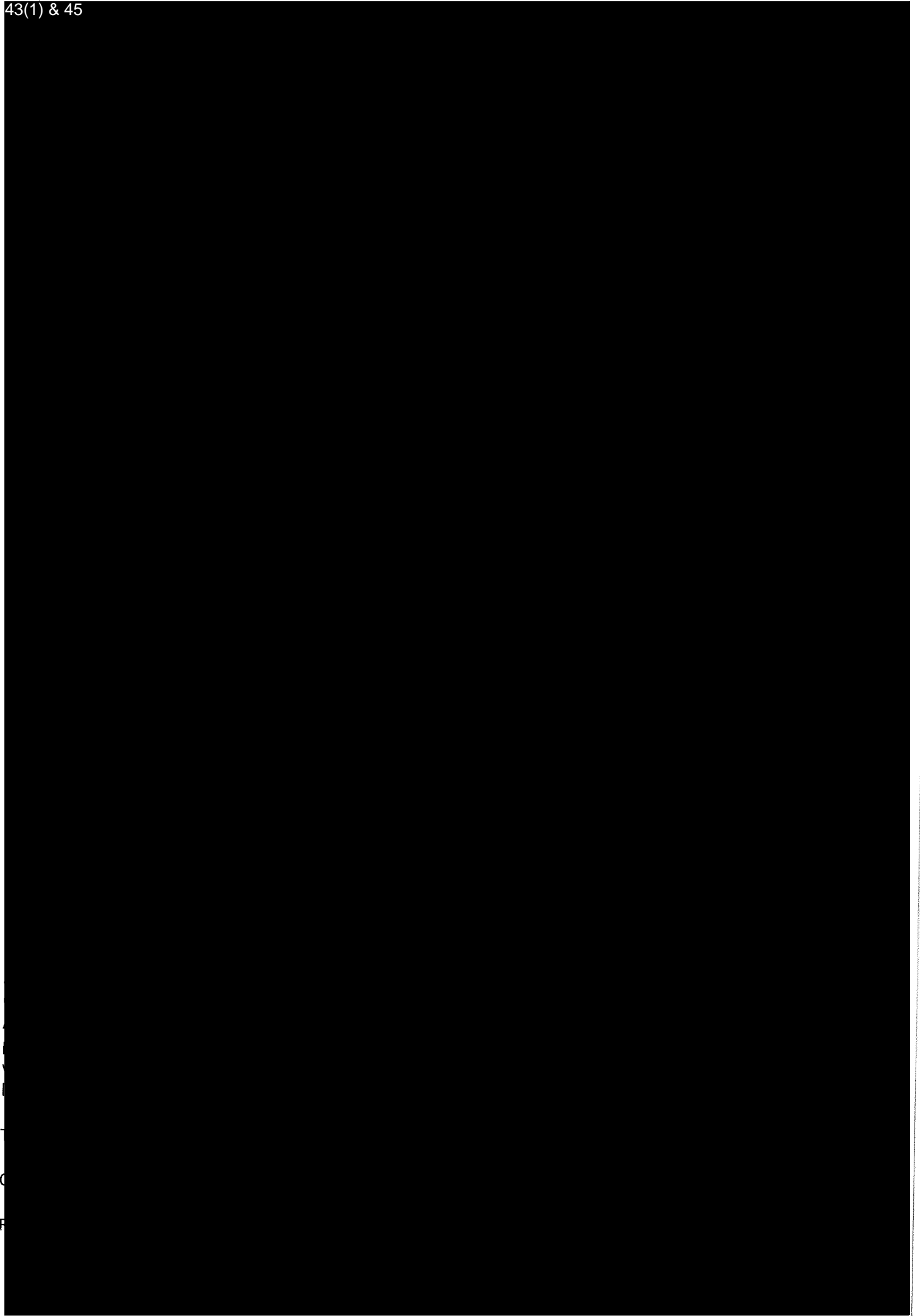


KIM BRADY

Name of Witness

DAVID DAWES

Name



C
F



ACT
Government

Justice and Community Safety

OFFICE OF R
ACT Justice and Commur.

LAND TITLES



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29/01/2015 15:26:39 CROWG

1955481

Land Titles Act 1925

Form 026 - M

LODGING PARTY DETAILS

Name	Postal Address	Contact Telephone Number
Australian Capital Territory Government Solicitor	PO Box 260, Civic Square ACT 2608	(02) 6205 5306

TITLE AND LAND DETAILS

Volume & Folio	District/Division	Section	Block	Unit
1255:94	CITY	65	16	

FULL NAME OF MORTGAGOR - PROPRIETOR

(Surname Last)(ACN required for all companies)

Casino Canberra Limited ACN 051 204 114

FULL POSTAL ADDRESS OF MORTGAGOR - PROPRIETOR

120 Spence Street
CAIRNS QLD 4870

FULL NAME AND ADDRESS OF MORTGAGEE - LENDER (Surname Last) (ACN required for all Companies)

Australian Capital Territory Gambling and Racing Commission ABN 13 567 691 159 a statutory authority established by the *Gambling and Racing Control Act 1999 (ACT)*
PO Box 214 CIVIC SQUARE ACT 2608

TENANCY OF MORTGAGEES

(Only complete if more than one Mortgagee)

INTEREST BEING MORTGAGED (ie. whole or please state share)

Whole

DETAILS OF MORTGAGE (Tick whichever box applies – at least one box should be ticked)

The covenants implied at sections 115, 116, 118 and 122 of the *Land Titles Act 1925* are hereby negated.

The provisions set forth in the registered Memorandum of Provisions (MOP) are deemed to be incorporated herein / as modified by annexure as attached. Please provide registered MOP number below.

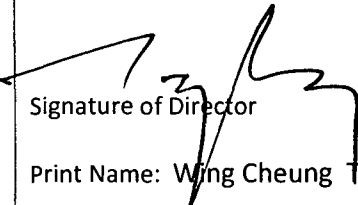

The covenants and conditions set out in the annexure attached are deemed to be incorporated


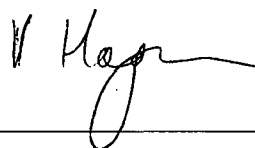
Provide registered MOP number -


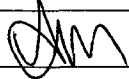

PRINCIPAL SUM (Optional)

DETAILS OF REPAYMENT (Optional)

DATE	28 January 2015

MORTGAGOR'S - REGISTERED PROPRIETOR'S EXECUTION	
Print full name of Mortgagor Casino Canberra Limited ACN 051 204 114  Signature of Director Print Name: Wing Cheung Tony Fung  Signature of Director Print Name: Justin Seung Yan Fung	Print full name and address of witness Signature of witness

MORTGAGEE'S - LENDER'S EXECUTION	
Print full name of Mortgagee Australian Capital Territory Gambling and Racing Commission ABN 13 567 691 159  Signature of Delegate Greg JONES, Chief Executive Print Name and Designation	Print full name and address of witness Vicki Ann Hagen Nara Centre 1 Constitution Avenue Canberra City Signature of witness 

OFFICE USE ONLY			
Lodged by		Certificate of title lodged	1255:94 F
Data entered by		Certificates attached to title	
Registered by		Attachments / Annexures	x 1
Registration date	10 FEB 2015	Production number	



AUSTRALIAN CAPITAL TERRITORY

ANNEXURE TO MORTGAGE

Date of
Document

28 January

2015

This is the Annexure referred to in the Mortgage between the Australian Capital Territory Gambling and Racing Commission (as mortgagee) and Casino Canberra Limited ACN 051 204 114 (as mortgagor) over Volume 1255 Folio 94 - consisting of 24 pages.

Prepared by

Australian Capital Territory Government Solicitor
Level 6
12 Moore Street
CANBERRA CITY ACT 2600
Ph: 6205 2766
Fax: 6207 0539
Ref: 626295

COVENANTS AND CONDITIONS OF MORTGAGE

BACKGROUND

The mortgagor has agreed to grant this Mortgage to the mortgagee to secure the secured money on the terms and conditions set out in this document.

IT IS AGREED by the parties as follows:

1. Interpretation

(1) *Definitions*

In this document, unless the context otherwise requires:

'approved plans' means plans and specifications approved by the mortgagee and all relevant government bodies;

'attorney' means a person appointed in terms of clause 14 and any person who derives a right by delegation directly or indirectly from an attorney;

'authorised representative' means in relation to any party a person appointed by that party to act as an authorised representative for the purpose of this document and whose appointment is notified in writing by the appointor to the other party;

'building contract' means any contract for the provision of services or property relating to the carrying out of any building works;

'building documents' means the records, books of account, approvals, plans, drawings, specifications, schedules, feasibility studies, reports, certificates and other documents relating to any building works, including, without limitation, the mortgagor's copy or counterpart of the building contracts and the approved plans;

'building works' includes the demolition, alteration or construction of improvements;

'business day' means a day which is not a Saturday, Sunday or a public or bank holiday in the Australian Capital Territory;

'crown lease' means the crown lease(s) issued in respect of the secured property and includes any further or subsequent lease which may be granted to the mortgagor in respect of the secured property;

'default notice' means a notice under clause 7(2);

'encumbrance' in relation to any property means:

- (a) any interest in or right over the property; and
- (b) anything which prevents, restricts or delays:
 - (i) the exercise of any right over the property;
 - (ii) the use of the property; or
 - (iii) the registration of any interest in or dealing with the property;

'event of default' means any event described in clause 6;

'environmental assessment report' means a report upon compliance with environmental legislation in relation to the secured property;

'environmental legislation' means any legislation which addresses environmental matters, including, without limitation, legislation concerning land use, development, pollution, waste, disposal, toxic and hazardous substances, conservation of natural or cultural resources and resource allocation;

'environmental liabilities' means any liability, obligation, expense, penalty or fine arising out of a breach of environmental legislation which could be imposed upon the mortgagor or the mortgagee or any occupier of the secured property as a result of activities carried on during the ownership or occupation of the secured property by the mortgagor or one of its predecessors in title or any previous occupier of the property;

'financial indebtedness' of a person means any indebtedness or liability (actual or contingent) relating to any guarantee given by it or relating to any financial accommodation granted to it, including, without limitation, any indebtedness or liability for payments in respect of:

- (a) moneys borrowed or raised by that person;
- (b) the sale or negotiation of any bill of exchange or promissory note;
- (c) any finance lease or hire purchase agreement under which that person is the lessee or hirer (as the case may be);
- (d) the deferred purchase price of any property or services other than indebtedness for the purchase price of trading stock incurred by that person in the ordinary course of its ordinary trading business; and
- (e) any redeemable preference share issued by that person;

'government body' means:

- (a) any person, agency or other thing exercising an executive, legislative, judicial or other governmental function of any country or political sub-division of any country;
- (b) any public authority constituted by or under a law of any country or political sub-division of any country; and
- (c) any person deriving a right by delegation directly or indirectly from any other government body;

'guarantee' means:

- (a) a guarantee, indemnity, letter of credit, security, acceptance or endorsement of a bill of exchange or promissory note or other obligation given by any person to secure the performance of an obligation by another person;
- (b) an obligation by a person to ensure the solvency of or the ability of another person to perform an obligation, including, without limitation, by the advance of money to that other person or the purchase of property or services from

that other person; and

- (c) any put option given by a person whereby that person is obliged upon the exercise of the option to buy:
 - (i) any debt or liability owed by another person; or
 - (ii) any property which is the subject of a security interest;

'improvements' means every building or other improvement which is or may at any time be constructed or erected upon the secured property or any part of it including all fixtures, machinery, equipment, fittings, pipes, drains, sewers and cables and other things attached to any such improvement or attached to or within the secured property or any part of it;

'material adverse effect' means a material adverse effect upon either:

- (a) the ability of the mortgagor to perform its obligations under this document; or
- (b) the effectiveness, priority or enforceability of this or any other credit support;

'permitted encumbrance' means:

- (a) an encumbrance created with the consent of the mortgagee; or
- (b) a lien or statutory charge which arises by operation of law in the ordinary course of day to day business, which does not secure a finance facility, where the mortgagor duly and punctually pays any indebtedness secured by such lien or charge;

'potential event of default' means any thing which with the giving of notice, lapse of time, fulfilment of any condition or determination of materiality will constitute, or would be likely to constitute, an event of default;

'remedy proceeds' means money received from the exercise of any right against the secured property;

'representative' of a person means an officer, employee, contractor or agent of that person;

'secured money' means all moneys and damages which now or in the future are owing (actually or contingently), by the mortgagor to the mortgagee pursuant to the:

- (a) *Casino Control Act 2006 (ACT)*; and
- (b) the deed executed between the mortgagor, the mortgagee and the Australian Capital Territory on or about 23 December 2014,

and, without limitation, includes moneys and damages payable:

- (c) by the mortgagor alone or jointly or severally with any other person;
- (d) if there is more than one mortgagor, by all or any of them;
- (e) by the mortgagor in its own right or in any capacity;
- (f) to the mortgagee in its own right or in any capacity;

- (g) to the mortgagee pursuant to any assignment by any person to the mortgagee of a debt payable by the mortgagor or other transaction, including, without limitation, any assignment or other transaction to which the mortgagor is not a party and irrespective of whether the mortgagor consented to the assignment or other transaction or whether before that assignment or other transaction the payment of those moneys was secured or unsecured, interest was payable by the mortgagor on that debt or any other thing;
- (h) by the mortgagor as liquidated or unliquidated damages caused or contributed to by any breach by the mortgagor of any obligation owed by the mortgagor to the mortgagee, any tort by the mortgagor or any other act or omission of the mortgagee; and
- (i) by the mortgagor under this document.

'secured property' means Block 16 Section 65 City together with any liberty, privilege, easement, right of way and other benefit which is or may at any time become appurtenant to the property or any part of it and includes the improvements;

'security' means any instrument or transaction which reserves or creates a security interest or under which a person agrees to create a security interest;

'security interest' means an interest in or right over property which secures the payment of a debt or other monetary obligation or the performance of any other obligation;

'taxes' means taxes, rates, levies, imposts and duties (other than those on the net overall income of the mortgagee) and any interest, penalties, fines and expenses relating to any of them;

'unit plan' has the same meaning as in the Unit Titles Act 2001;

'Unit Titles Act' means the *Unit Titles Act 2001 (ACT)*.

(2) *General*

In this document, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) a word denoting the singular number includes the plural number and vice versa;
- (c) a word denoting an individual or person includes a corporation, firm, authority, government body and vice versa;
- (d) a word denoting a gender includes all genders;
- (e) a reference to a clause is to a clause of this document;
- (f) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as varied, novated, supplemented or replaced from time to time; and

- (g) a reference to any party includes that party's administrators, substitutes, successors and permitted assigns.

(3) *Headings and parts of speech*

In this document:

- (a) headings are for convenience of reference only and do not affect interpretation; and
- (b) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

2. Security and release

(1) *Security*

The mortgagor charges the secured property to the mortgagee to secure the payment of the secured money.

(2) *Release*

The mortgagee shall at the request of the mortgagor release the secured property from the security interest held by the mortgagee if the mortgagor's obligation to pay the secured money is satisfied and in the mortgagee's opinion (acting reasonably) no payment towards the satisfaction of the mortgagor's obligation to pay the secured money is likely to be void or voidable under any law relating to bankruptcy.

3. Payment and interest

(1) *Place manner and time of payment*

The mortgagor, subject to clause 7(2), shall pay the secured money to the mortgagee in accordance with any instrument or agreement which obliges the mortgagor to pay it and in the absence of the instrument or agreement:

- (a) upon demand at the time and place and in the manner reasonably required by the mortgagee; and
- (b) in immediately available funds and without set-off, counter-claims, conditions or, unless required by law, deductions or withholdings.

(2) *Interest*

- (a) The mortgagor shall pay interest on that part of the secured money which is from time to time owing by the mortgagor to the mortgagee.
- (b) Interest shall be paid in accordance with any agreement requiring interest to be paid on the secured money.
- (c) In the absence of any agreement, the applicable interest rate will be that determined from time to time by the mortgagee, interest will accrue from day to day, interest will be computed from and including the day when the moneys upon which interest is payable become owing to the mortgagee by the mortgagor until but excluding the day of payment of those moneys and

interest will be calculated on the actual number of days elapsed on the basis of a 365 day year.

(3) *Currency of payment*

The mortgagor shall pay the secured money in Australian dollars.

(4) *Appropriation*

The mortgagee may, subject to any express provision in this document to the contrary, appropriate any payment towards the satisfaction of any moneys due by the mortgagor in relation to this document in any way that the mortgagee requires and notwithstanding any purported appropriation by the mortgagor.

(5) *Payments in gross*

The mortgagee in applying towards satisfaction of the secured money any money received by it shall credit the mortgagor only with that part of those moneys which is actually received by the mortgagee in immediately available funds.

4. Representations and warranties

(1) The mortgagor represents and warrants that:

- (a) this document is enforceable by the mortgagee in accordance with its terms and is not void or voidable;
- (b) any security interest which this document purports to create is validly created;
- (c) each authorisation from a government body necessary to enable:
 - (i) the mortgagor to perform its obligations under this document; and
 - (ii) the mortgagee to exercise its rights under this document, has been obtained;
- (d) the unconditional execution and delivery of, and performance by the mortgagor of, its obligations under this document does not contravene:
 - (i) a law or directive from a government body; or
 - (ii) an agreement or instrument to which the mortgagor is a party where contravention under the agreement or instrument has had or would likely to have a material adverse effect;
- (e) all information given to, and each statement made to, the mortgagee relating to this document or the secured property or both by or at the direction of the mortgagor is correct, complete and not misleading;
- (f) except as notified to the mortgagee in writing prior to the date of this document:
 - (i) no litigation, arbitration or administrative proceeding is now current, pending or, to the knowledge of the mortgagor, threatened which has or is likely to have a material adverse effect; and
 - (ii) there are no encumbrances over the secured property other than permitted encumbrances;
- (g) there are no environmental liabilities affecting the secured property and the use of the secured property complies with all environmental legislation; and

- (h) no unremedied or unwaived event of default has occurred.

(2) *General*

- (a) The interpretation of any statement contained in any representation or warranty shall not be restricted by reference to or inference from any other statement contained in any other representation or warranty.
- (b) The mortgagor acknowledges that the mortgagee has entered into this document in reliance upon the representations and warranties.
- (c) Each representation and warranty will survive the execution of this document and be deemed to be repeated with reference to the facts and circumstances then existing whenever any financial accommodation secured by this document is granted by the mortgagee or any property becomes subject to any security interest created by this document.

5. General undertakings

(1) *Prohibited dealings and variation of other secured indebtedness*

- (a) The mortgagor shall not:
 - (i) cause or permit any person to acquire any interest in the secured property except permitted encumbrances;
 - (ii) subdivide, consolidate or dedicate for any public purpose, the secured property, or accept the surrender or cause the termination before its expiration, of any lease of the secured property;
 - (iii) consent to the subletting, give a licence to use or occupy or part with possession of the secured property;
 - (iv) cause or permit any person to acquire any easement, profit a prendre or covenant which burdens the secured property; or
 - (v) release or vary an easement, profit a prendre or covenant which benefits the secured property.
- (b) If the secured property is subject to a lease, the mortgagor shall ensure that the tenant obtains the consent of the mortgagee in addition to that of the mortgagor in each circumstance where the lease contemplates that the tenant will obtain the mortgagor's consent and, without limitation, no:
 - (i) disposition by the tenant of any interest in the lease;
 - (ii) variation or replacement of the lease by the tenant and mortgagor;
 - (iii) termination of the lease by the tenant and mortgagor before its expiration; or
 - (iv) determination of the rent or other money or consideration payable under the lease,is permitted without the mortgagee's written consent.

(2) *Title documents*

- (a) The mortgagor shall upon the execution of this document by the mortgagor deposit with the mortgagee the title documents relating to the secured property.
- (b) The mortgagee may have possession and control of the title documents until

the mortgagee is obliged to release the secured property from the security interest created by this document.

- (c) The mortgagor may from time to time and at reasonable times at its request and at its own cost and on payment of the mortgagee's costs and expenses relating to the exercise of the mortgagor's right, inspect and make copies or abstracts of, or extracts from, the title documents or other documents relating to the secured property in the possession or under the control of the mortgagee.

(3) *Material adverse effect*

The mortgagor shall use its best endeavours to delay and prevent any occurrence which has or is likely to have a material adverse effect in relation to the mortgagor or to the secured property or both.

(4) *Mortgagor's other obligations*

The mortgagor shall duly perform its obligations in relation to the secured property, including, without limitation, under any encumbrance over the secured property, under any law applicable to the secured property and under any lawful direction from any government body.

(5) *Mortgagee's rights to entry and assistance*

- (a) The mortgagee and its nominees may at any reasonable time enter on any property owned, used or occupied by the mortgagor for any purpose related to this document.
- (b) The mortgagor shall provide the mortgagee with all reasonable assistance and facilities to enable the mortgagee to exercise its rights under this document.

(6) *Information*

The mortgagor shall give to the mortgagee in writing:

- (a) full particulars of any event of default or potential event of default immediately after its occurrence;
- (b) immediately upon receipt, a copy of any notice or order received from any government body or any other person relating to any proposal in relation to the secured property which if implemented may have, or be likely to have, a material adverse effect; and
- (c) as soon as it is commenced or, to the knowledge of the mortgagor, is threatened, full particulars of any litigation, arbitration or administrative proceeding which affects the mortgagor or the secured property and which may have, or be likely to have, a material adverse effect.

(7) *Further assurances*

The mortgagor shall promptly execute any document and do anything else that the mortgagee from time to time reasonably requires for further or more perfectly:

- (a) establishing the priority of this document and stamping and registering it in

any jurisdiction that the mortgagee demands; and

- (b) giving to the mortgagee the rights that this document purports to give or which are contemplated by it.

(8) *Default*

The mortgagor shall not cause or permit any event of default to occur.

(9) *Development approvals*

The mortgagor shall maintain any development or building approvals relating to the secured property reasonably required by the mortgagee.

(10) *Encroachments*

- (a) If any improvement encroaches on adjoining land the mortgagor shall rectify the encroachment, obtain an easement to authorise its continued existence or acquire the land which is the subject of the encroachment, if a failure to do so would cause or contribute to a material adverse effect.
- (b) If any improvement on adjoining land at any time encroaches on the secured property the mortgagor shall cause the encroachment to be removed if its existence would cause or contribute to a material adverse effect.

(11) *Reporting*

The mortgagor shall give to the mortgagee immediately upon receipt a copy of any notice or order received from any government body relating to:

- (a) any proposal of the government body to resume or change the permitted use of the secured property which, if implemented, may have or be likely to have a material adverse effect; and
- (b) any alleged environmental liability or breach of environmental legislation.

(12) *Compliance with crown lease*

The mortgagor must:

- (a) not permit anything to occur which would make the crown lease liable to forfeiture;
- (b) promptly give to the mortgagee full particulars of any notification of forfeiture of the crown lease immediately upon becoming aware of it;
- (c) if the crown lease is forfeited, use its best endeavours to ensure the reversal of the forfeiture;
- (d) cause or permit to be fulfilled any conditions attaching to any reversal of a forfeiture;
- (e) not surrender the crown lease or part of any land subject to the crown lease; and
- (f) not apply for or consent to any alteration, modification, addition to or

revocation of:

- (i) the conditions attaching to the crown lease; or
 - (ii) the purpose of the crown lease,
- if that alteration, modification, addition to or revocation would decrease the value of the crown lease.

(13) *Unit titles*

- (a) This clause applies if the secured property now or in the future comprises a unit in a unit plan.
- (b) The mortgagor:
 - (i) shall promptly pay all contributions and any other moneys which at any time become payable in respect of the secured property to the owners corporation;
 - (ii) shall promptly comply with and observe the provisions of the Unit Titles Act and the constitution or articles of the owners corporation;
 - (iii) shall use its best endeavours to cause any building of which the secured property forms part to be insured for its full insurable value against such risks and upon such terms and conditions as a prudent and reasonable person would consider appropriate;
 - (iv) shall ensure that the mortgagee is entitled in its absolute discretion to exercise the voting rights conferred upon it by the Unit Titles Act; and
 - (v) irrevocably authorises the mortgagee at any time or times to obtain from the corporation and irrevocably authorises the owners corporation from time to time to provide to the mortgagee all information which the mortgagee may require pursuant to the Unit Titles Act, including, without limitation, information relating to the present or future constitution or articles of the owners corporation and the compliance with obligations and exercise of rights of the owners corporation.

(14) *Environmental assessment report*

The mortgagor shall:

- (a) when reasonably required by the mortgagee obtain or permit the mortgagee to obtain an environmental assessment report from a person approved by the mortgagee; and
- (b) promptly comply with any reasonable recommendation contained in any environmental assessment report relating to compliance with environmental legislation.

(15) *Building works*

- (a) The mortgagor shall not cause or permit the carrying out of any material building works without the approval of the mortgagee (not to be unreasonably withheld or delayed) and except in accordance with any conditions subject to which the mortgagee's approval is given.
- (b) If the mortgagor carries out any material building works clauses 5(15)(c) to (f) will apply.
- (c) The mortgagor shall:

- (i) carry out the building works with reasonable speed, with due care and skill and in accordance with the approved plans;
 - (ii) comply with all applicable laws and directions of any relevant governmental body to the satisfaction of the mortgagee and the relevant government bodies, including, without limitation, the obtaining of all necessary consents and the fulfilment of any conditions to which the consents are subject;
 - (iii) promptly obtain any appropriate certificate or other evidence that the building works have been carried out in compliance with those laws and directions;
 - (iv) not encroach upon any adjoining land or street;
 - (v) observe the provisions of any easement or restrictive covenant which burdens the secured property;
 - (vi) complete the building works within the time agreed with the mortgagee or, if no time has been agreed, within a reasonable time;
 - (vii) keep proper records and books of account relating to the building works;
 - (viii) permit the mortgagee and its representatives at all reasonable times to enter upon the secured property to inspect the building works and any building documents;
 - (ix) upon demand (acting reasonably) give to the mortgagee or its representative any information relating to the building works it reasonably requires including, without limitation, copies of the building documents;
 - (x) give at least 5 business days' notice to the mortgagee of any proposed material variation to, or replacement of, any building contract or approved plan and obtain the mortgagee's consent to any variation or replacement; and
 - (xi) indemnify the mortgagee against any claim, liability, cost or expense caused or contributed to by any inspection, approval or acceptance of the approved plans or the carrying out of the building works.
- (d) The mortgagee assumes no liability to the mortgagor for any matter relating to the approved plans or the carrying out of the building works notwithstanding that the mortgagee may have purported to approve the approved plans or any variation or replacement of them or to inspect and approve or accept any aspect of the building works.
- (e) No approval or acceptance by the mortgagee will imply the exercise by or on behalf of the mortgagee of any care or skill and not relieve the mortgagor from its obligations to ensure good design and workmanship and proper carrying out of the building works.
- (f) The mortgagor shall hold as bailee for the mortgagee the building documents relating to the building works.

(16) *Mortgagor's chattels*

- (a) The mortgagor shall, upon demand made after a default notice is given, remove from the secured property all chattels and if the mortgagor does not do so the mortgagee may remove them and store them in the name and at the cost of the mortgagor with any person and for any period that the mortgagee thinks fit.
- (b) If the mortgagee gives a written notice to the mortgagor stating where the chattels are stored and the amount of the costs incurred at the date of the

notice in relation to the removal and storage of the chattels the mortgagee will have no liability to the mortgagor in relation to the chattels.

- (c) The mortgagee may sell the chattels for any price, in any manner and upon any terms and conditions that the mortgagee thinks fit unless the mortgagor pays to the mortgagee the cost of removal and storage of the chattels up to and including the date of payment within 10 business days of service on the mortgagor of the notice referred to in clause 5(16)(a) above.
- (d) The proceeds of any sale of chattels referred to above may be applied by the mortgagee in accordance with clause 10.

6. Default

- (1) Each of the following is an event of default (whether or not caused by anything outside the control of the mortgagor):
 - (a) the mortgagor does not pay the secured money in accordance with this document or perform its obligations under clause 5(1);
 - (b) the mortgagor does not perform one of its other obligations under this document and the default is not capable of rectification or, if that default is capable of rectification:
 - (i) it is not rectified within 20 business days (or any other longer period agreed by the mortgagee) of its occurrence; and
 - (ii) the mortgagor does not during that period take all action which in the mortgagee's opinion is necessary or desirable to quickly remedy that default;
 - (c) a representation, warranty or statement made or deemed to be made by or on behalf of the mortgagor, whether in this document or not, is untrue or misleading in any material respect (in this clause 6.1(c), a "**material misrepresentation**") and, if the circumstances giving rise to the material misrepresentation can be remedied, the mortgagor does not remedy them within 5 business days of the mortgagee notifying the mortgagor or the mortgagor becoming aware of the relevant circumstances (whichever is the earlier);
 - (d) this document is void, voidable or otherwise unenforceable by the mortgagee or is claimed to be so by the mortgagor;
 - (e) a security interest which this document purports to create ceases to secure the payment of the secured moneys or the performance of the obligations which it purports to secure, otherwise than by any act of the mortgagee;
 - (f) a distress, attachment or execution is levied or enforced against any property of the mortgagor for an amount exceeding \$300,000 or its equivalent;
 - (g) an authorisation from a government body necessary to enable:
 - (i) the mortgagor to perform its obligations under this document; or
 - (ii) the mortgagee to exercise its rights under this document,is withdrawn or terminates and is not promptly replaced by another authorisation acceptable to the mortgagee; or
 - (h) an event or series of events, whether related or not, including, without limitation, any material adverse change in the property or financial condition

of the mortgagor, occurs which has, or is in the mortgagee's opinion likely to have, a material adverse effect.

7. Default powers

(1) *General*

- (a) The mortgagee may, subject to the operation of any applicable law, at any time after an event of default has occurred, exercise any or all of the rights set out in this clause 7 in any manner and at any time.
- (b) The interpretation of any right set out in this clause 7 shall not be restricted by reference to or inference from any other right.

(2) *Acceleration*

If an event of default occurs the mortgagee may at any time by notice to the mortgagor make:

- (a) the secured money which is owing; and
- (b) an amount equal to that part of the secured money which is contingently owing by the mortgagor to the mortgagee,

immediately due and owing.

(3) *Statutory and implied powers*

The mortgagee may exercise all rights capable of being conferred by the statutes and other laws of any relevant jurisdiction upon mortgagees.

(4) *Dealings*

The mortgagee may:

- (a) take possession or control of the secured property;
- (b) manage, quietly enjoy and otherwise deal with the secured property;
- (c) exercise the rights of the mortgagor and perform the obligations of the mortgagor in respect of the secured property and cause and permit any other person to perform their obligations in respect of the secured property;
- (d) vary, replace or release any right or interest of the mortgagor or any other person;
- (e) exchange any part of the secured property for any other property and, if there is a difference in value between the property exchanged, give or receive, as the case may be, any moneys or other consideration equal to the difference in value in order to give or receive equal value for the exchange;
- (f) vary, replace, rescind or terminate any agreement relating to the secured property to which it or the mortgagor is a party;
- (g) acquire or grant easements, profits à prendre and covenants which benefit or burden the secured property and dedicate for any public purpose any part of

the secured property;

- (h) subdivide or consolidate the secured property;
- (i) grant options and rights of first refusal to acquire the secured property;
- (j) sever improvements from the secured property and deal with them separately from the balance of the secured property; and
- (k) exercise the mortgagor's rights and performance and observe its obligations under any lease of the secured property.

(5) *Investment of moneys*

Any remedy proceeds or any other moneys received by the mortgagee under or pursuant to this document which are not required to be immediately applied in the exercise of any right or pursuant to clause 10 may be invested in any way authorised by the laws of any relevant jurisdiction for the investment of trust moneys and the mortgagee may vary or otherwise deal with the investment.

(6) *Ancillary powers*

The mortgagee may:

- (a) employ or engage any person for the purpose of exercising any of the mortgagee's rights under this clause 7;
- (b) commence, defend, prosecute, settle, discontinue and compromise litigation, administrative or arbitral proceedings relating to the secured property;
- (c) give receipts for and satisfy, release, or compromise any debt or other obligation owed to or by the mortgagor in relation to the secured property;
- (d) enter into and execute and deliver documents and agreements relating to the exercise of its rights under this clause 7;
- (e) delegate to any person any right (including this right of delegation) under this clause 7; and
- (f) do anything incidental or conducive to the exercise of any of its rights under this clause 7.

(7) *Building works*

The mortgagee may:

- (a) carry out any building works in any manner the mortgagee thinks fit and in doing so may:
 - (i) adhere to or vary the approved plans; and
 - (ii) increase or reduce the estimated costs of carrying out the building works;
- (b) use any materials, plant and equipment of the mortgagor upon the secured property in the carrying out of the building works;
- (c) enter into any contracts or arrangements in relation to the building works;

- (d) expend the balance of any moneys held by the mortgagee and intended to form part of the secured moneys towards the carrying out of the building works,

and:
- (e) the mortgagor shall cause and permit the building documents to be delivered to the mortgagee; and
- (f) the mortgagee will not be liable to the mortgagor if the mortgagee does not carry out or complete any building works or having begun to do so, stops.

8. Insurance

(1) *Mortgagor to insure*

The mortgagor must, during the term of this Mortgage:

- (a) insure and keep insured the secured property, with an insurer having a Standard & Poor's rating of A or better in the names of the mortgagor and mortgagee for their respective interests, for its full insurable value on a replacement and reinstatement basis against fire, the other usual risks against which a prudent owner of property of similar type to the secured property would insure, and any other risks reasonably specified by the mortgagee ('**insurance**');
- (b) pay each insurance premium at least 3 business days before the due date;
- (c) not cause or allow the insurance to become vitiated or invalid or the rights of the mortgagor or the mortgagee under the insurance to be prejudiced in any manner; and
- (d) immediately rectify anything which might prejudice the insurance and reinstate the insurance if it lapses.

(2) *Evidence of insurance*

The mortgagor must produce to the mortgagee on demand (which demand may be made from time to time and at any time) any policy, receipt for any premium or other payment or any notice or other document relating to the insurance.

(3) *Notification of claim*

The mortgagor must immediately notify the mortgagee of:

- (a) any claim made under the insurance; or
- (b) any occurrence, event or circumstance which may give rise to a claim under the insurance.

(4) *Proceeds of claim*

Subject to clause 10, the proceeds of any claim made under the insurance (even if in the name of the mortgagor alone in contravention of clause 8(1)) which are not required by the insurer to be applied to the replacement or reinstatement of the secured property, must be held by the recipient in a separate account for the mortgagee and paid (after satisfaction of claims taking priority over this Mortgage), at

the mortgagee's option:

- (a) towards replacement and reinstatement of the secured property;
- (b) towards demolition work to the secured property; or
- (c) in the manner described in clause 10.

(5) *Unit Titles Act*

This clause 8 does not apply to any part of the secured property which is a unit under the Unit Titles Act.

9. Exercise of default rights

(1) *No hindrance*

The mortgagor shall not cause or permit the mortgagee, a receiver or an attorney to be prevented or hindered from exercising its rights under this document.

(2) *Mortgagee in possession*

- (a) If the mortgagee exercises its rights under this document or takes possession of the secured property, it will not be liable to account as mortgagee in possession.
- (b) If the mortgagee has taken possession of the secured property it may give up possession of the secured property at any time.
- (c) The obligations of the mortgagor under this document relating to the secured property shall not be affected by the mortgagee, any receiver or any attorney taking possession of the secured property.

(3) *Exclusion of legislation*

- (a) The provisions implied in securities by any statute will for the purposes of this document be negated or varied only so far as they are inconsistent with the provisions of this document and are otherwise varied so as to become consistent with this document.
- (b) Any statutory restrictions (other than mandatory restrictions) upon any right of the mortgagee, receiver or attorney to deal with the secured property will not apply to the rights of those persons under this document.

(4) *Default notice*

- (a) The mortgagor and the mortgagee, to the extent that any applicable law permits and to the extent not inconsistent with the express terms of this document, dispense with:
 - (i) any notice to the mortgagor (including, without limitation, any notice identifying a default by the mortgagor, giving a period to rectify it and stating that the power to sell the secured property, appoint a receiver to the secured property or take possession of the secured property can be exercised if the default is not rectified); or
 - (ii) any lapse of time (including, without limitation, a period to rectify a default),

prescribed by any statute or rule of law or equity and which would otherwise be required to be given or allowed before the mortgagee exercises its rights relating to an event of default.

- (b) If an applicable law requires that notice be given or a lapse of time before any right can be exercised, then if no particular period of notice or lapse of time is required, the period of notice or lapse shall be one day.

10. Application of money

(1) *Method*

The remedy proceeds shall, subject to any mandatory statutory requirements, be applied or paid by the mortgagee, as follows:

- (a) first, towards the secured money which is then due and owing and, if any secured money is contingently owing or owing but not due, in accordance with clause 10(5) and the remedy proceeds shall be appropriated between those categories of secured money as the mortgagee requires; and
- (c) secondly, towards any moneys owing (actually or contingently) by the mortgagor to any person who in the mortgagee's opinion is the holder of any security interest in the secured property which ranks in priority after any security interest created by this document to the extent that their security interest secures the payment of those moneys in priority after the secured money; and
- (d) thirdly, to any person entitled to the secured property or authorised to give receipts for those moneys.

(2) *Mortgagee's certificate and disputes*

- (a) The mortgagee may rely upon a certificate issued by any person who claims to be entitled to receive any of the remedy proceeds to the effect that moneys are owing (actually or contingently) by the mortgagor to it and stating the amount owing (actually or contingently) without being obliged to make any further inquiry.
- (b) If there is any dispute between any persons (other than the mortgagee) as to who is entitled to receive the remedy proceeds, the mortgagee may pay those moneys into court and if that is done the mortgagee will have no further obligations in relation to those moneys.

(3) *No interest on remedy proceeds*

The mortgagee is not obliged to pay interest to any person upon the remedy proceeds.

(4) *Payment into bank account*

If the mortgagee pays the remedy proceeds or any other moneys received under or pursuant to this document into a bank account in the name of any person to whom the mortgagee is obliged to pay moneys under clause 10.1 and notifies that person of the particulars of the account the mortgagee will have no further obligations in relation to those remedy proceeds or other moneys.

(5) *Contingent debts*

If part of the secured money is contingently owing or owing but not due and the mortgagee receives any remedy proceeds or other moneys under or pursuant to this document the mortgagee may:

- (a) pay those remedy proceeds or other moneys into a suspense account and hold them to secure the payment of such part of the secured money; and
- (b) at any time appropriate any moneys in the suspense account towards the satisfaction of any moneys due by the mortgagor to the mortgagee in any way that the mortgagee requires,

and when the secured money is satisfied in full and, in the opinion of the mortgagee no further part of the secured money is contingently owing or may otherwise become owing in the future, the mortgagee shall pay the balance of the remedy proceeds to any person entitled to the secured property or authorised to give receipts for those moneys.

(6) *Payments during default notice period*

If during the period from the service of a notice requiring the rectification of a default by the mortgagor under this document in the payment of moneys until the expiration of that notice the mortgagor pays any moneys to the mortgagee towards satisfaction of the secured money the mortgagee may apply those moneys first, towards satisfaction of any moneys due and owing by the mortgagor to the mortgagee other than those which are the subject of the notice and secondly, towards satisfaction of the moneys which are the subject of the notice.

(7) *Accounting for remedy proceeds*

The mortgagee is not obliged to account to the mortgagor for any remedy proceeds or any other moneys relating to the exercise by any of them of any right under this document until moneys are actually received in immediately available funds and, without limitation, if any of them sell the secured property on terms whereby:

- (a) any part of the purchase price remains unpaid (secured or unsecured) after transfer of the secured property to the purchaser; or
- (b) the purchase price is payable in instalments on or before the transfer of the secured property to the purchaser,

they are not obliged to account for the purchase price before those remedy proceeds or that other money is actually received in immediately available funds.

11. Third party dealings

(1) *Mortgagee's receipts and discharges*

The mortgagee may give valid discharges and receipts for any moneys payable by any third party in respect of any exercise of a right under this document by the mortgagee, any receiver or any attorney.

(2) *No duty to inquire*

- (a) Any person dealing with the mortgagee in relation to the exercise by any of

them of a right under this document shall not be concerned to inquire whether:

- (i) any event of default has occurred;
- (ii) the receiver or attorney is properly appointed;
- (iii) the right is otherwise properly exercised by that person; and
- (iv) any moneys paid by it to the mortgagee, receiver or attorney are properly applied,

and the title of that person to any property acquired by it from the mortgagee, receiver or attorney, shall not be adversely affected by any improper exercise of the right or application of moneys by the mortgagee, any receiver or any attorney.

- (b) The benefit of clause 11(2)(a) is held on trust for the benefit of the mortgagee and each person dealing with the mortgagee.

12. Costs and expenses

(1) *General*

The mortgagor shall pay, and if paid by the mortgagee reimburse, to the mortgagee:

- (a) the mortgagee's reasonable costs and expenses relating to this document, including, without limitation, those which the mortgagor is liable to pay under any applicable law and those in relation to:
 - (i) any consent, request for consent, communication, the waiver of any right or the variation or replacement of this document;
 - (ii) the exercise or attempted exercise or the preservation of any rights of the mortgagee under this document;
 - (iii) any event of default or potential event of default; and
 - (iv) the creation, lodgement, registration or release of, or any dealing relating to, any encumbrance, including any security interest created by this document, over the secured property; and
- (b) any taxes and registration or other fees (and fines and penalties relating to the taxes and fees) which are payable or are assessed by a relevant government body to be payable in relation to this document, any document contemplated by it or any transaction contemplated by it.

(2) *Legal costs*

A reference to costs and expenses in this document includes, without limitation, legal costs and expenses on a full indemnity basis.

(3) *Acts at mortgagor's expense*

Anything which this document states is to be done by either the mortgagee or the mortgagor is to be done at the mortgagor's expense.

(4) *Remuneration*

The mortgagee, any receiver and any attorney shall be remunerated by the mortgagor for any services rendered by them in relation to the exercise of any right under this document and the rate of the remuneration and the manner of payment will be that determined by the mortgagee.

(5) *Preparation of this document*

For the avoidance of doubt, the parties will each bear their own costs in relation to the negotiation, preparation, execution, stamping and registration of this document.

13. Indemnities

(1) *General*

- (a) The mortgagor indemnifies the mortgagee against any liability, loss, cost or expense caused or contributed to by any event of default or the exercise or attempted exercise of any right by the mortgagee under this document and against any environmental liability.
- (b) The mortgagor shall indemnify the representatives of the mortgagee against any liability, loss, cost and expense caused or contributed to by anything the mortgagee is indemnified against under clause 13(1)(a) and the mortgagee holds the benefit of this clause 13(1)(b) upon trust for those persons.

(2) *Independence and survival*

Each indemnity in this document is a continuing obligation, separate and independent from the other obligations of the mortgagor and survives the termination of this document.

14. Attorney

(1) *Appointment and powers*

The mortgagor irrevocably appoints the mortgagee as its attorney with the right:

- (a) at any time to:
 - (i) perform the obligations of the mortgagor under this document;
 - (ii) do everything which in the attorney's opinion is necessary or expedient to enable the exercise of any right of the mortgagee in relation to this document;
 - (iii) if the secured property is or is proposed to be the subject of any dealing or other thing which may have or is likely to have a material adverse effect, do anything in relation to the secured property to prevent or delay that material adverse effect;
 - (iv) appoint substitutes and otherwise delegate its rights (including this right of delegation); and
- (b) after any event of default has occurred, to do everything that the mortgagor may lawfully authorise an attorney to do in respect of the secured property.

(2) *General*

- (a) Any attorney may exercise its rights notwithstanding that the exercise of the right constitutes a conflict of interest or duty.
- (b) The mortgagor shall ratify any exercise of a right by an attorney.
- (c) The power of attorney is granted for valuable consideration (receipt of which is hereby acknowledged by the mortgagor) and to secure the performance of the obligations of the mortgagor to the mortgagee under this document and any proprietary interests of the mortgagee under this document.

15. Miscellaneous

(1) *Not Used*

(2) *Mortgagee's determination*

- (a) If any matter related to this document is to be resolved by the determination or opinion of the mortgagee:
- (i) the determination or opinion of the mortgagee will be binding upon the mortgagor if it is reasonable;
 - (ii) the mortgagee is not obliged to give the reasons for a determination or opinion; and
 - (iii) the mortgagor will have the onus of proving that a determination or opinion of the mortgagee is unreasonable.
- (b) A determination or an opinion of an authorised representative of the mortgagee, which is given to the mortgagor or otherwise expressed or acted upon by the mortgagee as being a determination or an opinion of the mortgagee, will be deemed to be a determination or opinion of the mortgagee.

(3) *Rights cumulative*

The rights of the mortgagee in respect of this document are cumulative and in addition to any other rights of the mortgagee.

(4) *Exercise of rights*

- (a) A single or partial exercise or waiver by the mortgagee of any right relating to this document will not prevent any other exercise of that right or the exercise of any other right.
- (b) The mortgagee and its representatives will not be liable for any loss, cost or expense of the mortgagor caused or contributed to by waiver of, the exercise of, attempted exercise of, failure to exercise or delay in exercising a right and the mortgagee holds the benefit of this clause 15(4) upon trust for itself and its representatives.

(5) *Business days*

- (a) If the day on which anything is to be done under this document is not a business day, that thing shall be done on the preceding business day, except where it is to be done on demand, in which case it shall be done on the next following business day.
- (b) If a payment is received from the mortgagor by the mortgagee on the due date but after the time specified for payment, that payment will be deemed to have been received before the specified time on the following business day.

(6) *Variation*

No variation or waiver of, or any consent to any departure by a party from, a provision of this document is effective unless it is confirmed in writing signed by the mortgagee and then that variation, waiver or consent is effective only in circumstances for which it may be made or given.

(7) *Severance*

If any provision of this document is unenforceable in accordance with its terms, other provisions which are self-sustaining and capable of separate enforcement with regard to the unenforceable provision, are and continue to be, enforceable in accordance with their terms.

(8) *Counterparts*

This document may be executed by any number of counterparts and all of these counterparts taken together constitute one and the same instrument.

(9) *Attorneys*

If this document is executed on behalf of a party by an attorney, that attorney by executing declares that the attorney has no notice of the revocation of the power of attorney under the authority of which the attorney executes this document on behalf of that party.

(10) *Governing law and jurisdiction*

This document is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the parties submit to the non-exclusive jurisdiction of the courts of Australian Capital Territory and any court hearing appeals from those courts.

16. Notices

- (1) Any notice or demand, including any other communication, required to be given or sent to either party under this document must be in writing. A notice will be deemed to have been given:
 - (a) if delivered by hand, on delivery;
 - (b) if sent by prepaid mail, on the expiration of two days after the date on which it was sent;
 - (c) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
 - (d) if sent by electronic mail, on the other party's acknowledgement of receipt by any means.
- (2) The mortgagor's address for service will be, at the discretion of the mortgagee, either:
 - (a) the mortgagor's registered office; or
 - (b) such other address notified by the mortgagor to the mortgagee in writing from time to time, and at the date of this document that address is 120 Spence Street, Cairns, Queensland 4870.
- (3) The mortgagor facsimile number for the purpose of this document will be (07) 4047 5121 or such other number as notified in writing by the mortgagor to the mortgagee from time to time.

- (4) The mortgagee's address for service will be, either:
- (a) Chief Executive, Australian Capital Territory Gambling and Racing Commission, PO Box 214, Civic Square ACT 2608; or
 - (b) such other address notified by the mortgagee to the mortgagor in writing from time to time.
- (5) The mortgagee's facsimile number for the purpose of this document will be (02) 6207 7390 or such other number as notified in writing by the mortgagee to the mortgagor from time to time.



ACT
Government



COMMERCIAL IN CONFIDENCE

MINUTE

Date: 11 December 2014

To: Chairperson, Members

From: Assistant Manager, Casino, Racing and Wagering

Subject: **Casino Licensee Transfer of Ownership Suitability Report – Aquis Canberra Pty Ltd**

Through: Chief Executive *Supported* s41(1) *11/12/2014*

Purpose


Out of Scope

Background

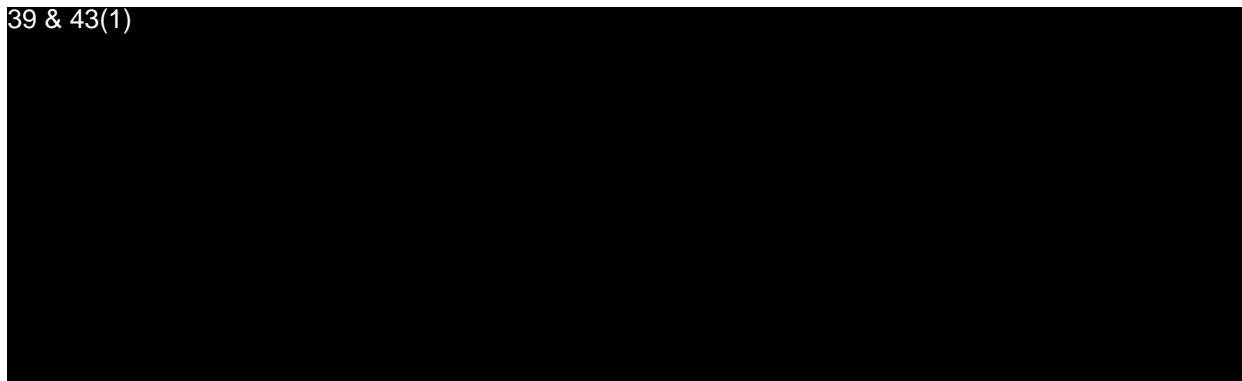
Out of Scope

Issues

Out of Scope

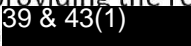


39 & 43(1)

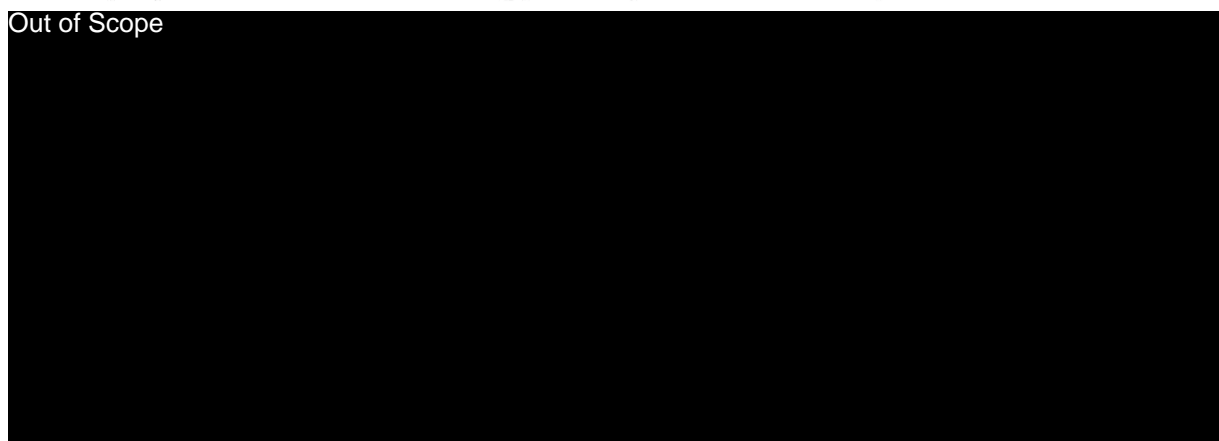


Out of Scope



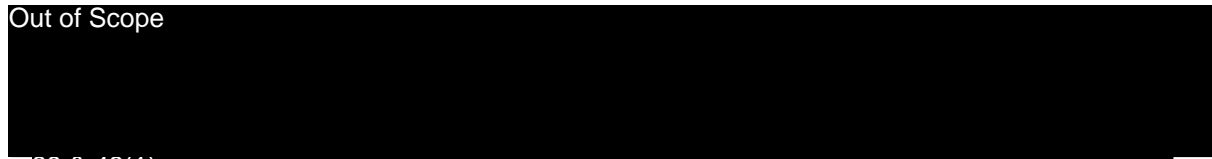
10. To ensure appropriate flexibility and timeliness for providing the required approvals, delegation is being sought for the Chief Executive to  and any other necessary documentation and to make any reasonable decision necessary for the completion of the sale to facilitate the transfer of ownership. This, of course, is predicated on the Commission, and ultimately the Minister, agreeing to the proposed course of action to approve Aquis as suitable to operate the casino.

Out of Scope



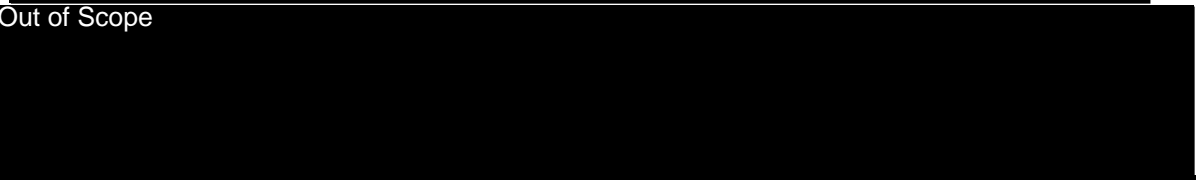
Recommendation

Out of Scope



s39 & 43(1)

Out of Scope



s39 & 43(1)

s41(1)



Kim Brady

**EXTRACT OF MINUTES OF THE
ACT GAMBLING AND RACING COMMISSION
TUESDAY 16 DECEMBER 2014**

Attendees: John Haskins, Chairperson
Rebecca Vassarotti, Member
Greg Jones, Chief Executive

Staff and others in attendance during the course of the meeting:

- Vicki Hagen (Secretariat)

Item 1: Apologies

Alice Tay, Member

Item 6: Casino Canberra – Transfer of Ownership Suitability Report

After general discussion members agreed to the following resolutions:

Out of Scope

39 & 43(1)

Out of Scope

39 & 43(1)

Ms Tay was an apology at the meeting, however she indicated her agreed to the recommendations contained in the brief to the Board via email to the Chief Executive on 15 December 2014.

Certified Extract

s41(1)

Greg Jones ✓
Chief Executive Officer
18 December 2014

**MINUTES OF THE
ACT GAMBLING AND RACING COMMISSION
TUESDAY 16 DECEMBER 2014**

Attendees: **John Haskins, Chairperson**
 Rebecca Vassarotti, Member
 Greg Jones, Chief Executive

Staff and others in attendance during the course of the meeting:

- Vicki Hagen (Secretariat)

Item 1: Apologies

Alice Tay, Member

Item 2: Conflict of Interest and Manager's Declaration

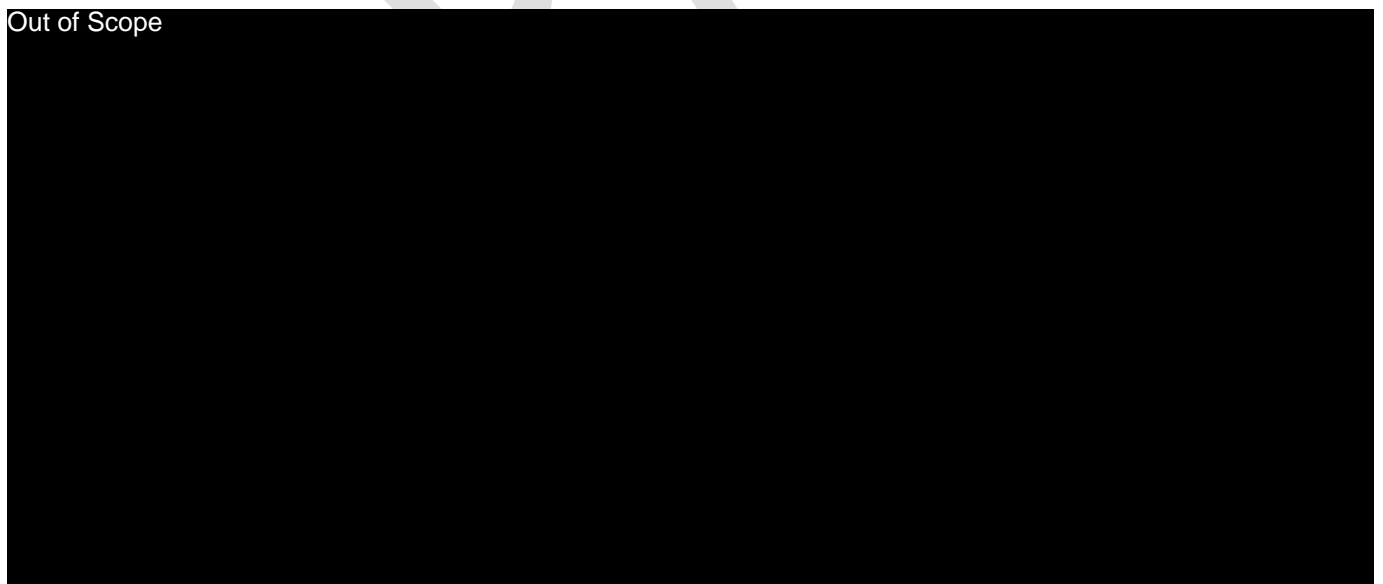
There were no conflicts of interest declared by members in relation to agenda items. The Executive and Manager Declaration by management staff was tabled and noted.

Item 3 - Minutes of previous meeting – 18 November 2014

The minutes of the meeting held on 18 November 2014 were accepted as a true and accurate record.

Item 4: Business Arising from the Previous Minutes

Out of Scope

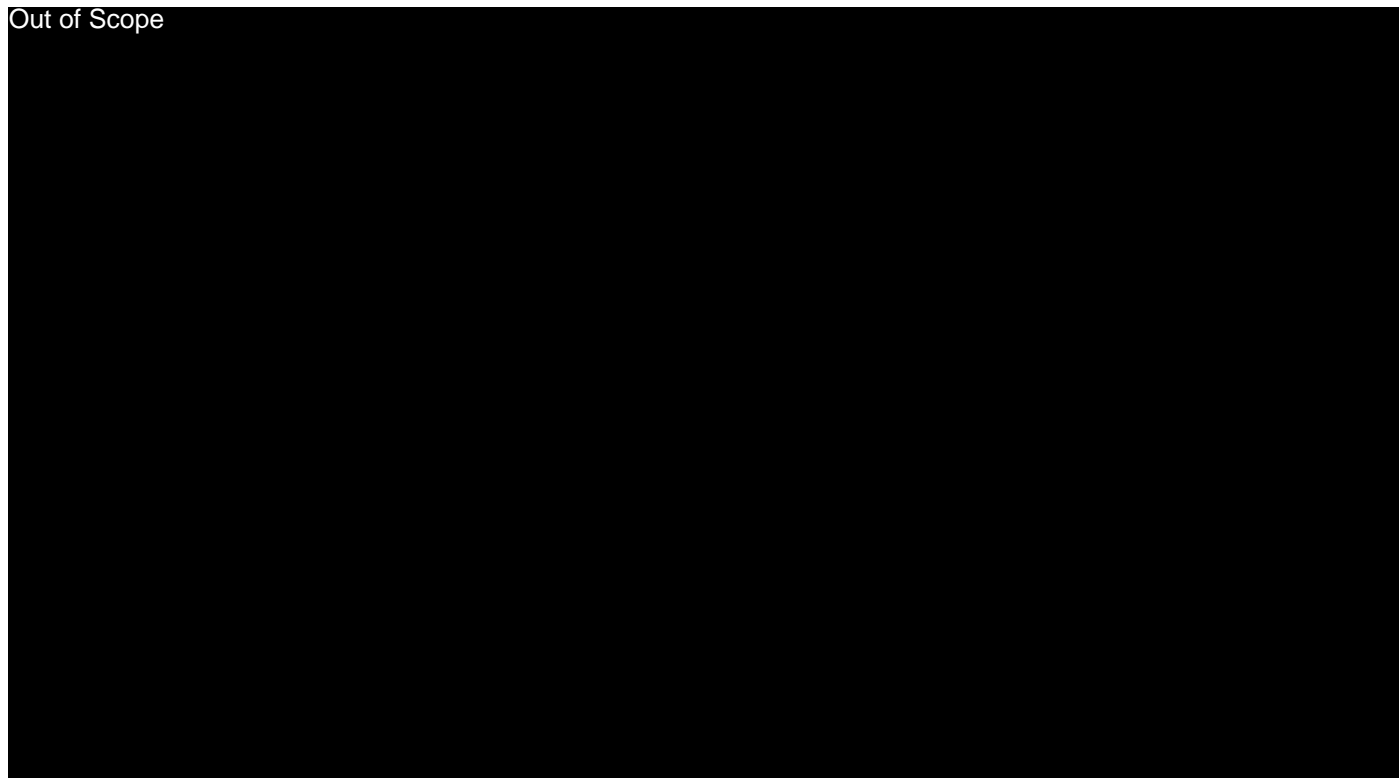


Item 5: CEO's Activity Report

Out of Scope

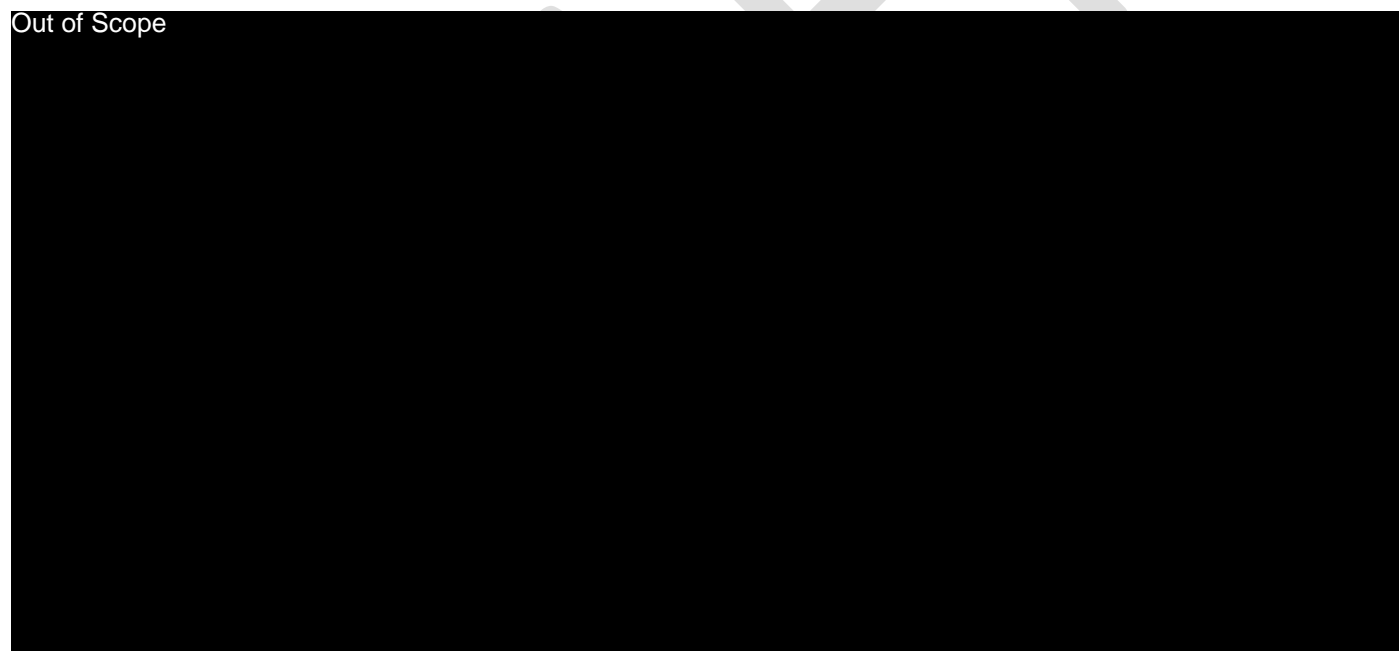


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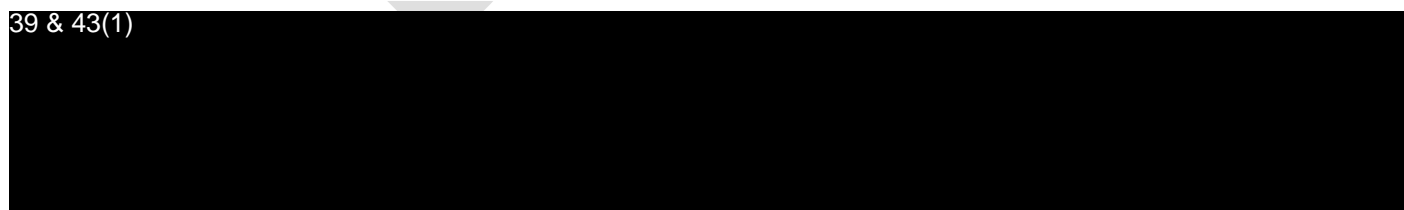


Item 6: Casino Canberra – Transfer of Ownership Suitability Report

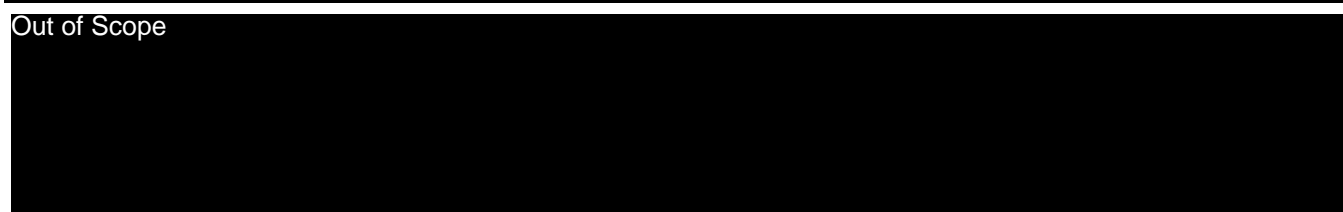
Out of Scope



39 & 43(1)



Out of Scope



After general discussion members agreed to the following resolutions:

Out of Scope

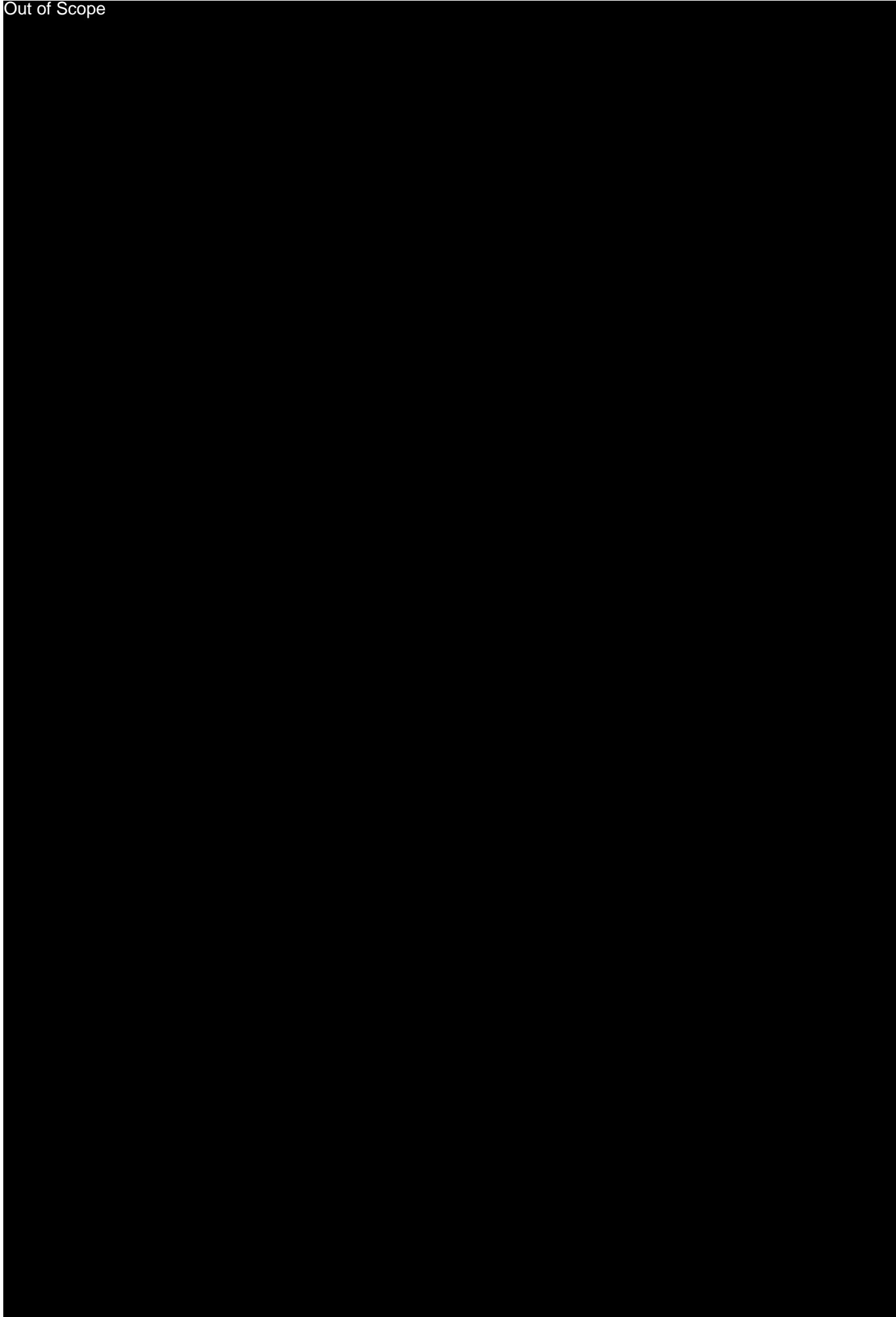
39 & 43(1)

Out of Scope

39 & 43(1)

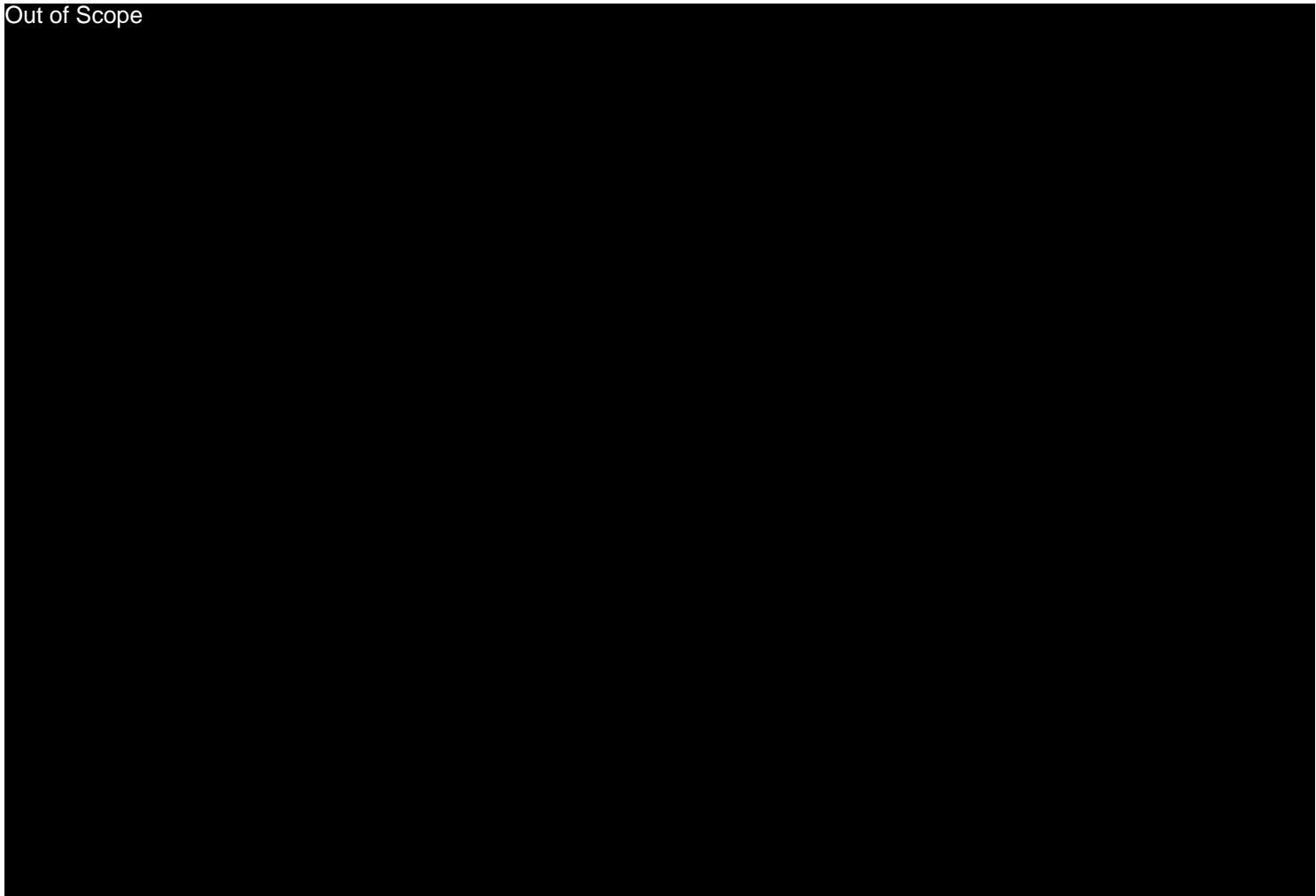
Ms Tay was an apology at the meeting, however she indicated her agreed to the recommendations contained in the brief to the Board via email to the Chief Executive on 15 December 2014. The Board acknowledged the contribution made by the Mr Jones and Ms Brady and the sale of casino will be a great outcome for the Territory.

Out of Scope





DRAFT



DRAFT

RECEIVED

- 4 AUG 2011

ACT GAMBLING &
RACING COMMISSION

11098

Date

..... 3 August 2011

Parties

ACT GAMBLING AND RACING COMMISSION

CASINO CANBERRA LTD

**PARTICIPATION IN THE PROBLEM
GAMBLING ASSISTANCE FUND**

PARTIES:

ACT Gambling and Racing Commission, a territory authority established by Section 6 of the *Gambling and Racing Control Act 1999 (ACT) (GRC)*.

and

Casino Canberra Limited (ABN 67 051 204 114)
Glebe Park 21 Binara Street Canberra City ACT 2601
(Participant)

BACKGROUND:

- A. Section 163B of the *Gaming Machine Act 2004 (ACT) (the Act)*, establishes the Problem Gambling Assistance Fund from 1 July 2011 (**the Fund**).
- B. The GRC administers the Fund which provides funding for a range of services including alleviating problem gambling, or the disadvantages that arise from problem gambling and for providing or ascertaining information about problem gambling.
- C. The Participant wishes to voluntarily contribute to the Fund and in return receive benefits from operation of the Fund as if it were a licensee in terms of the Act on the terms set out in this Deed.

IT IS AGREED AS FOLLOWS:

1. Parties Obligations

1.1 The Participant

- (1) Before 1 June in any year, the Participant may notify the GRC that it wishes to participate in the Services for the 12 month period commencing on the next 1 July and ending on 30 June in the following year. For the avoidance of doubt, the parties acknowledge and agree that the notice required in terms of this clause has been given in respect of the period commencing on 1 July 2011 and ending on 30 June 2012.
- (2) If the Participant notifies the GRC in accordance with clause 1.1(1) the Participant will make monthly payments in arrears of \$4,167 on or before the 7th day of each month commencing on 7 August in the relevant period and ending on 7 July in the following year (**Payments**).
- (3) If the Participant does not give the notice in accordance with clause 1.1(1) on or before 1 June in any year, then unless otherwise agreed in writing by the GRC the Participant is not entitled to participate in the Services for the 12 month period commencing on the next 1 July and ending on 30 June in the following year.

1.2 The GRC

Subject to the Participant making the Payments the GRC will:

- (1) allow the Participant to utilise and to advertise to or otherwise notify its clients that they are entitled to access the services provided by funding from the Fund;
- (2) provide advice and information to the Participant of any relevant changes in government policy, the services provided by the Fund and funding conditions that may affect the operation of this Deed;
- (3) ensure the Participant is included in other outcomes arising out of provision of the services by the Fund such as access to an electronic exclusion database, research outcomes, "Problem Gambling Awareness Week" campaigns and other public campaigns and promotions; and
- (4) include the Participant on the consultative committee to advise the GRC on expenditure from the Fund,

(Services).

2. Term

This Deed commences on 1 July 2011 and continues until 30 June 2014 unless terminated under the provisions of this Deed.

3. Termination

3.1 By the GRC

The GRC may terminate this Deed at any time by written notice to the Participant.

3.2 By the Participant

The Participant may, at any time by written notice to GRC, terminate this Deed provided that where the notice is given during a 12 month period in which the Participant has given notice it wishes to participate in the Services in accordance with clause 1.1(1) the notice will not take effect until the end of that 12 month period.

4. Assignment

The Participant must not assign the whole or any part of this Deed or otherwise deal with its rights and obligations under this Deed without the prior written consent of GRC. In giving its consent the GRC may impose any conditions it considers appropriate.

SIGNED AS A DEED ON

4 August

2011

SIGNED for and on behalf of the GRC in the presence of:

s41(1)

Signature of witness

s41(1)
Signature of GRC Delegate

GREG JONES, Chief Executive
Print name and position

Row LEONARD
Print name

SIGNED for and on behalf of the Participant in the presence of:

s41(1)

Signature of witness

s41(1)
Signature of authorised person

Bernadene MORRIS - General Manager
Print name and position

Jeffrey KWONG
Print name

I, [REDACTED] Solicitor of King & Wood
Mallesons, 1 Eagle Street, Brisbane, certify that this
is a true copy of the original.

Casino Canberra Limited
(ACN 051 204 114)
("Company")

Date 23/12/14

I certify that:

- the following is a true and correct extract from the minutes ("**Minutes**") of a duly constituted meeting of the Company's board of directors held on 18 December 2014; and
- the Minutes have been recorded in the Company's minute book as required by section 251A of the *Corporations Act 2001* (Cth) ("**Corporations Act**").

s41(1)

[REDACTED]
Signature of director/company secretary

18 / 12 / 14
Date

Allan Tan
Name of director/company secretary

SALE OF THE COMPANY TO AQUIS CANBERRA PTY LTD ("AQUIS CANBERRA")

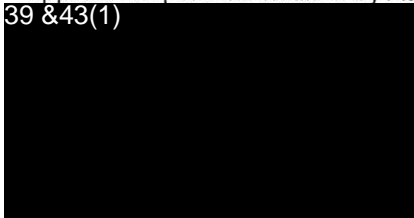
The Board discussed the Share Purchase Agreement between Casinos Austria International Limited ("**CAIL**") and Aquis Canberra dated 24 February 2014, as varied by the Deed of Variation between CAIL and Aquis Canberra dated 23 November 2014 ("**Deed of Variation**") ("**Share Purchase Agreement**") in relation to the sale by CAIL of all of the issued shares in the Company to Aquis Canberra ("**Proposed Transaction**"), and in particular the requirements under clause 5.2 of the Share Purchase Agreement.

There was tabled:

- (a) the Share Purchase Agreement;
- (b) the Deed of Variation;
- (c) a draft share transfer form;
- (d) a declaration and undertaking as to a missing share certificate;
- (e) draft share certificate to be numbered share certificate 18 in respect of 46,000,000 shares in the Company;
- (f) consents to act as a director of the Company from:
[REDACTED] s39 & 43(1)
- (g) draft bank authority letters; and
- (h) draft letters of resignation from:
 - (i) Allan Tan (as director, secretary and public officer);

- (ii) Paul McHenry (as director);
- (iii) Karl Stoss (as director); and
- (iv) Alexander Tucek (as director).

It was resolved (subject to Completion occurring, as that term is defined in the Share Purchase Agreement and the constitution of the Company) to:

- (a) register the transfer of shares in the Company from CAIL to Aquis Canberra in accordance with the share transfer form;
- (b) accept the declaration and undertaking as to the missing share certificate number 14 and cancel all existing share certificates representing the transferred shares;
- (c) subject to paragraph (b), issue and execute new share certificate(s) representing the transferred shares;
- (d) appoint the persons notified by Aquis Canberra being:
39 &43(1)

- as directors, secretaries and public officers (as applicable) subject to receipt of duly executed consents;
- (e) change the signatories of any bank account maintained by the Company to those notified by Aquis Canberra; and
- (f) accept the resignation of:
 - (i) Allan Tan (as director, secretary and public officer);
 - (ii) Paul McHenry (as director);
 - (iii) Karl Stoss (as director); and
 - (iv) Alexander Tucek (as director).

as directors, secretaries, auditors and public officers (as applicable) of the Company,

in each case with effect from the date of Completion, as that term is defined in the Share Purchase Agreement.



ACT
Government



GAMBLING
AND
RACING
COMMISSION

Date 16 December 2014 File No:

To Minister for Racing and Gaming

- Copy to Director-General, Economic Development

From Chief Executive, ACT Gambling and Racing Commission

Subject Casino Canberra Transfer of Ownership Suitability Report –
Aquis Canberra Pty Ltd

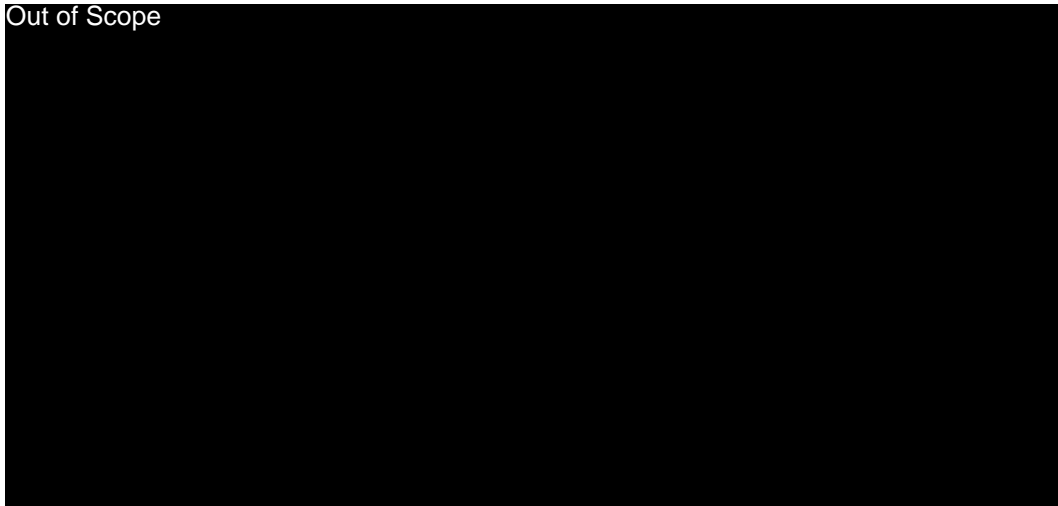
Critical date and reason

19 December 2014, to enable the proposed transfer of ownership for Casino Canberra pursuant to section 13 of the *Casino Control Act 2006* (the Act) scheduled to be completed on 23 December 2014.

Purpose

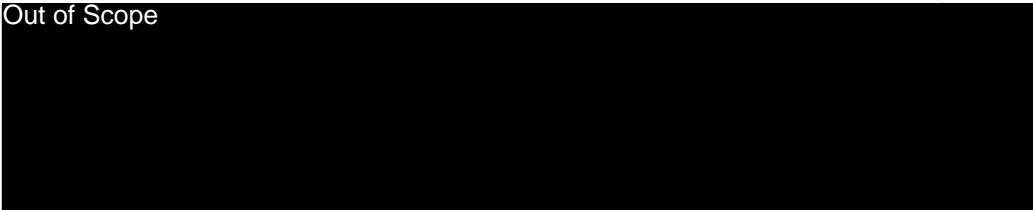
To submit for your consideration the Casino Canberra Transfer of Ownership Suitability Report on Aquis Canberra Pty Ltd as prepared by the Gambling and Racing Commission (the Commission) and to seek your agreement to the transfer of ownership, proposed new licence conditions and associated documents required for sale settlement.

Background

1. Out of Scope
 - 2.
 - 3.
- 

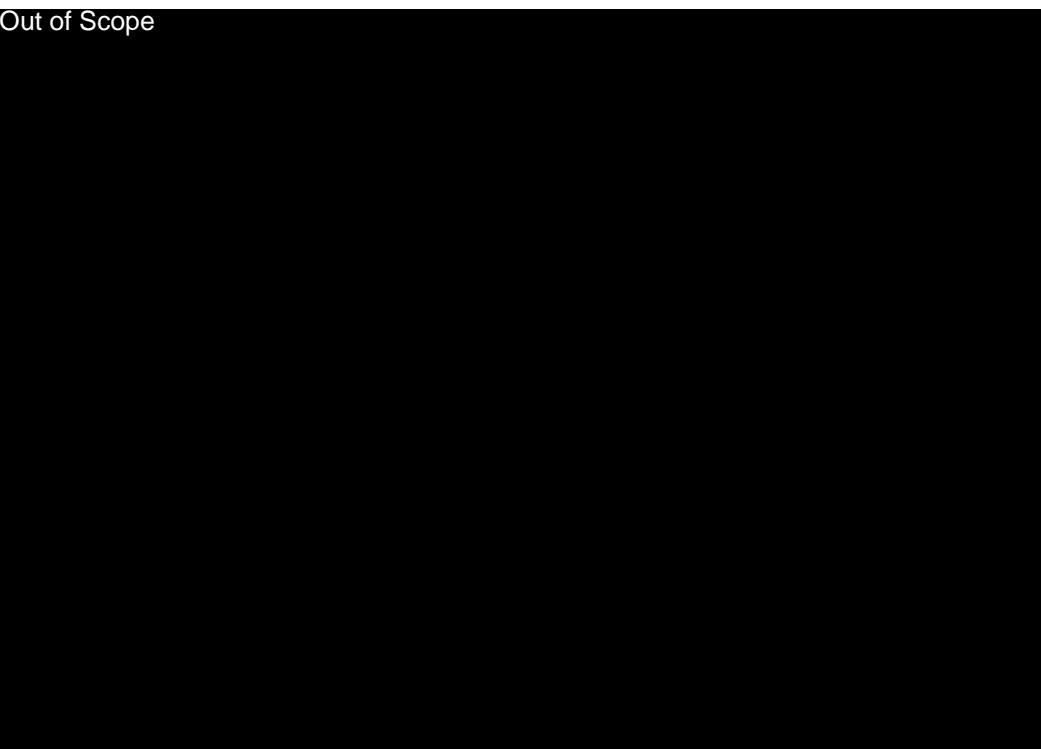
COMMERCIAL IN CONFIDENCE

4. Out of Scope



Issues

5. Out of Scope

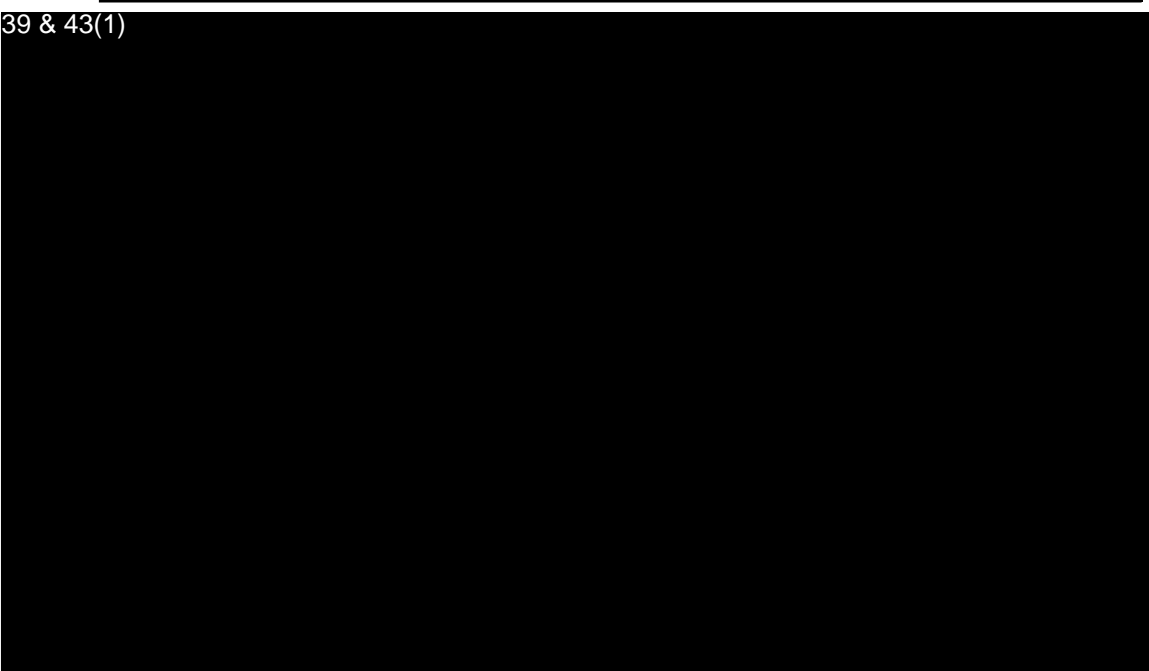


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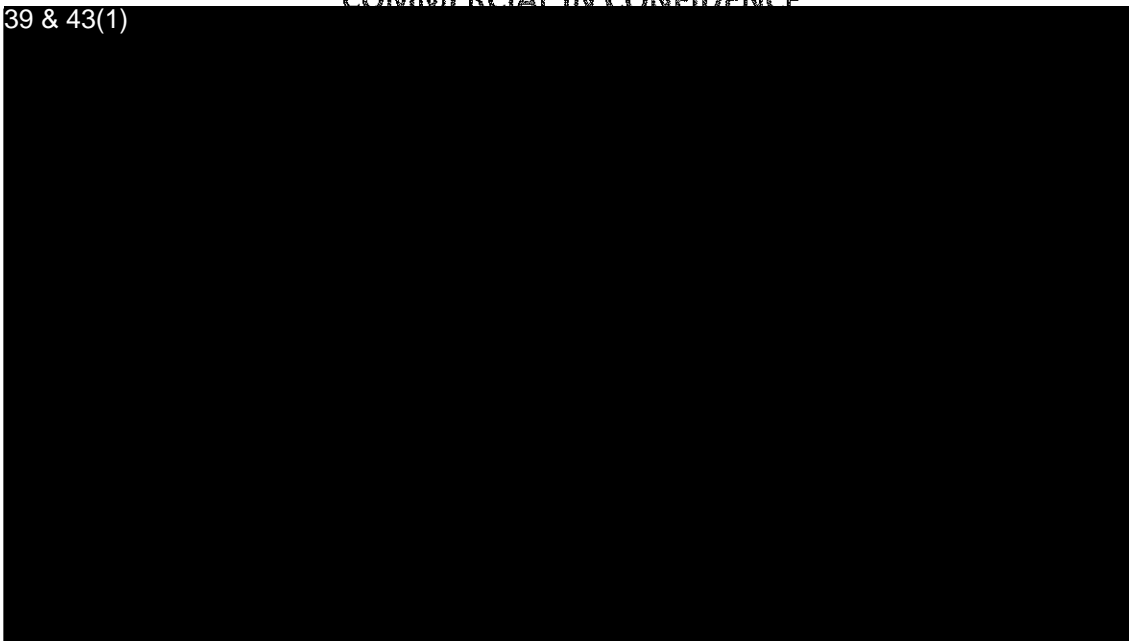
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39 & 43(1)



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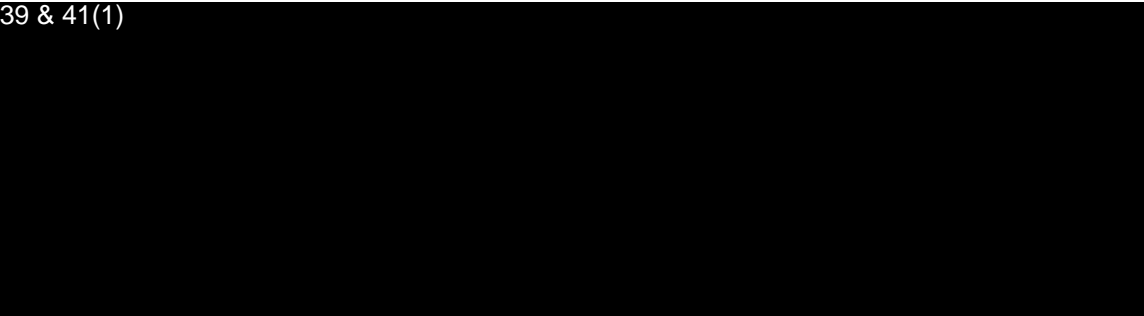


13. Out of Scope

14.

Consultation


39 & 41(1)



COMMERCIAL IN CONFIDENCE


Financial

16. Out of Scope



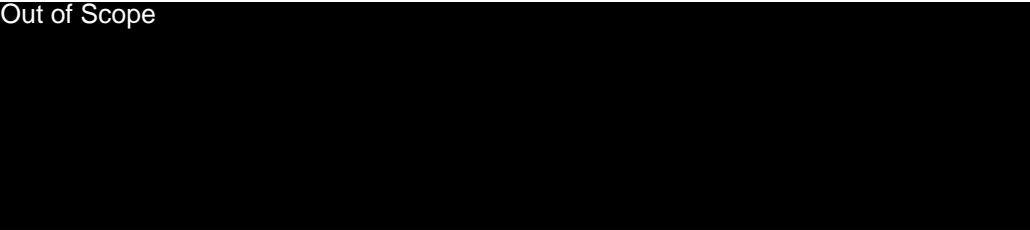
Risks/ Sensitivities

17. Out of Scope



Media

18. Out of Scope

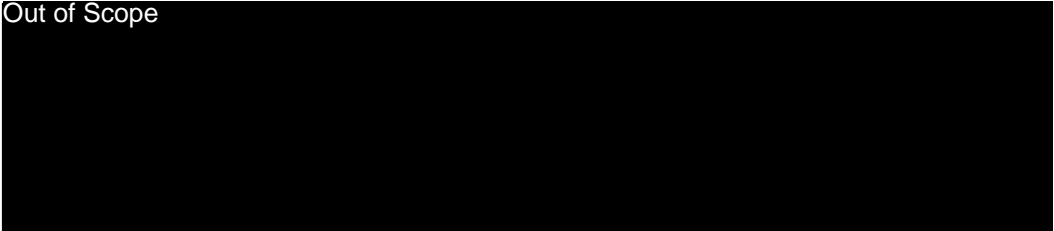


19.


Recommendations

I recommend that you:

• Out of Scope



• agree to the recommendations in the Report to approve the proposed transfer of ownership of the casino licence from CAIL to Aquis Canberra Pty Ltd ^{39 & 39 & 43(1)}



AGREED/NOT AGREED/PLEASE DISCUSS

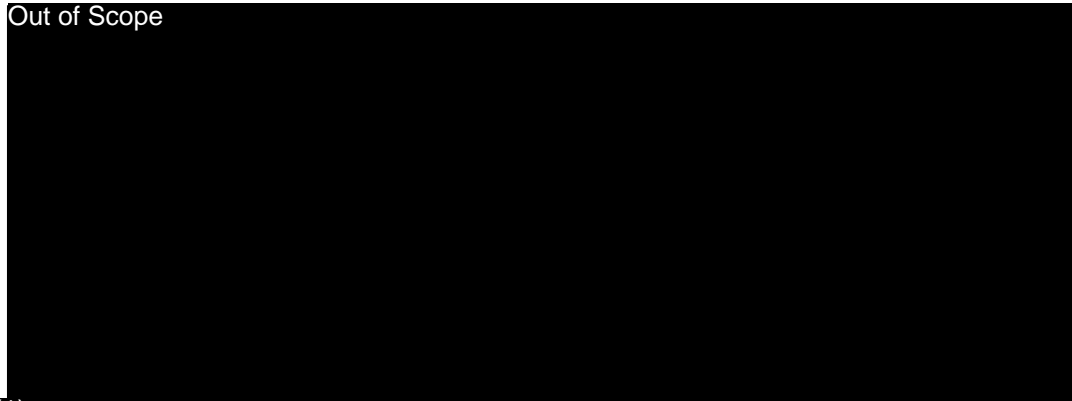
• ^{39 & 43(1)}



AGREED/NOT AGREED/PLEASE DISCUSS

COMMERCIAL IN CONFIDENCE

Out of Scope

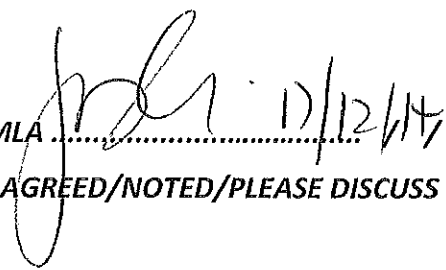


s41(1)



Greg Jones
Chief Executive

Action Officer: Kim Brady
Phone: 70340


Joy Burch MLA 11/12/14
AGREED/NOT AGREED/NOTED/PLEASE DISCUSS