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OFFICE OF THE INSPECTOR GENERAL
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE

(b) (3) - P.L. 86-36

To: For Chief, [redacted] Date: 7 May 2015

From: Senior Investigator [redacted]

Subject: [redacted] alleged Historically Underutilized Business zone (HUBZone) Small Business Administration (SBA) misrepresentation.

File No: IV-13-0049

Precedence: Routine

Purpose: To provide a summary report of investigation and to recommend that this case be closed.

Details:

I. (U) Background:

(U//~~FOUO~~) The NSA/CSS Office of the Inspector General (OIG) conducted an audit of the Agency's Small Business Programs (AU-13-0001). During this audit it was noted that [redacted] may not be maintaining the required work presence within a HUBZone as required by the Small Business Administration (SBA). This issue was referred to the OIG's Investigative Division. On 13 March 2013 a joint investigation was initiated with the Defense Criminal Investigative Service (DCIS), Department of Defense, Baltimore Resident Agency.

(U//~~FOUO~~) [redacted] occupied two different HUBZone locations [redacted] at the time of contract award with NSA.

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II. (U) Issue: Did [redacted] misrepresent their status to the SBA in order to obtain contracts with NSA through the SBA's HUBZone program?

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III. (U) **Applicable Standards**

(U) Title 13 C.F.R. § 126.100

(U) The purpose of the HUBZone program is to provide federal contracting assistance for qualified SBCs located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in such areas.

...

(U) Title 13 C.F.R. § 126.103

(U) Principal Office means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose "primary industry" is service or construction, the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

...

(U) Title 13 C.F.R. § 126.200

(U) (3) Principal Office.

(U) The concern's principal office must be located in a HUBZone.

(U) (4) Employees.

(U) At least 35% of the concern's employees must reside in a HUBZone.

...

IV. (U) **Investigative Activity**

A. (U) **Document Review**

(U//~~FOUO~~) DCIS Report of Investigation, 16 January 2015.

(U//~~FOUO~~) This Report of Investigation contains the narrative events of the joint NSA/CSS OIG and DCIS investigation concerning this matter (Appendix A).

(U//~~FOUO~~) DCIS Review of Records Memorandum, 23 September 2014.

(U//~~FOUO~~) This Memorandum contains a review of the two instances where [redacted] certified to the SBA that they were a HUBZone business pertaining to NSA contracts. This Memorandum also details that [redacted] was not occupying

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a HUBZone when awarded [redacted] contract that was a SBA set-aside for HUBZone concerns (Appendix B).

B. (U) Interviews

(U//FOUO) Multiple interviews were conducted during the course of this investigation. The interviews are documented within the DCIS Report of Investigation.

V. (U) Analysis

(U//FOUO) The initial referral for this investigation was based on the possibility that [redacted] misrepresented its status as a qualified SBC by not maintaining the appropriate presence in a HUBZone. The investigation determined that, at the time [redacted] self-certified as being a HUBZone business to the SBA, and at the time of NSA contract award (May 2012), [redacted] was maintaining a presence in a HUBZone area, either at [redacted] location, and appeared to meet the SBA requirements to qualify as an SBC.

(U//FOUO) However, the investigation identified that after [redacted] vacated the HUBZone area at [redacted] (July 2012) it obtained a HUBZone set-aside contract with the [redacted]. Although [redacted] maintained that its "Principal" office was located at [redacted] the investigation showed that this location contained one desk and was occupied by one part-time employee. As this arrangement does not appear to meet the *Title 13 C.F.R. § 126.103* "number of employee requirement," [redacted]

VI. (U) Conclusion

(U//FOUO) The allegation that [redacted] submitted a false statement when it asserted to the SBA that it was a HUBZone company at the time of contract award by NSA was unsubstantiated.

VII. (U) Recommendation

(U//FOUO) In accordance with the above information, this matter is closed with no further action needed.

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APPENDIX A

DCIS Report of Investigation

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APPENDIX B

DCIS Review of Records Memorandum

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(Investigations)

DEPARTMENT OF DEFENSE
OFFICE OF INSPECTOR GENERAL
DEFENSE CRIMINAL INVESTIGATIVE SERVICE
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BALTIMORE, MARYLAND 21201

2014000015-02-OCT-2013-60BT-E0

September 23, 2014

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[Redacted]

REVIEW OF RECORDS: On September 16, 2014, SA [Redacted] DCIS Baltimore Resident Agency, completed a review of [Redacted] contracts with the National Security Agency (NSA) (Attachment 1). As background, [Redacted] contractor who was suspected of falsely representing to the government that it operated and hired its employees out of [Redacted] a disadvantaged area, expressly to obtain HUBZone set aside contracts.

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(b) (7) (C)

The purpose of SA [Redacted] review was to determine whether [Redacted] was in compliance with 13 CFR 126.200, the Small Business Administration (SBA), HUBZone requirement to maintain its "Principal Office" in a HUBZone, (Attachment 2). According to 13 CFR 126.103, in order to correctly calculate the principal office, SA [Redacted] had to exclude [Redacted] employees who were dedicated to a government facility from his calculation (Attachment 3). 13 CFR 126.103 dictates that a "Principal Office" under the HUBZone program is defined as "The location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose 'primary industry' is service or construction, the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations."

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(b) (7) (C)

SA [Redacted] determined that there were two instances when [Redacted] certified to the government that it was a HUBZone concern; April 4, 2011, when [Redacted] submitted its HUBZone recertification package; and May 4, 2012, when NSA awarded [Redacted] contract [Redacted]. During both dates the majority of [Redacted] employees (not dedicated to a NSA contract) were located at the [Redacted] which was a qualified HUBZone location.

(b) (6)
(b) (7) (C)

SA [Redacted] discovered online open-source documents that informed [Redacted] obtained a contract with the [Redacted] (Attachment 4). According to the website [Redacted] was awarded a [Redacted] contract that was set-aside for HUBZone concerns. However, at the time of the contract, the majority of [Redacted] employees were located at [Redacted]. Nevertheless, [Redacted] listed its "Principal Office" as [Redacted].

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(b) (7) (E)

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201400015-02-OCT-2013-60BT-E0

AGENT'S NOTE: On August 12, 2013, SA [redacted] visited [redacted] and interviewed [redacted]. [redacted] informed that he was the only [redacted] employee in [redacted] and had been since February 2012.

Attachments:

- 1. Review of NSA contracts, dated September 16, 2014.
- 2. 13 CFR 126.200
- 3. 13 CFR 126.103

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[redacted]

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(b) (7) (E)

(b) (6)
(b) (7) (C)

[redacted]
APPR: [redacted]

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Prepared by SA [redacted] Baltimore RA
DISTR: NSA OIG [redacted]

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ATTACHMENT 1

[Redacted]

I. Allegation/Background:

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On December 4, 2012, NSA-OIG Auditors inspected the location of [Redacted] a DoD contractor, principal office and found it vacant. Based on the fact that [Redacted] did not occupy the site that it had listed as its principal office, it was believed that [Redacted] falsely represented to the government that it operated and employed out of [Redacted] a disadvantaged area, expressly to obtain Historically Underutilized Business Zone (HUBZone) set aside contracts. Under the HUBZone program, companies must maintain its principal office in a designated HUBZone and employ 35 percent of its workforce from the HUBZone. It was alleged that [Redacted] did not maintain its principal office in the HUBZone nor did it employ 35 percent of its workforce from the HUBZone.

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On August 12, 2013, SA [Redacted] and AIG [Redacted] visited several locations in [Redacted] that [Redacted] claimed to occupy in search of identifying any and all [Redacted] presence in [Redacted]. SA [Redacted] and AIG [Redacted] interviewed individuals at each location. SA [Redacted] and AIG [Redacted] discovered that [Redacted] maintained one part-time employee at [Redacted]. Furthermore, this part-time employee occupied a one desk office and worked only 26 hours a week, as he was a graduate student at Salisbury University in Salisbury, MD. According to the Maryland Department of Labor Licensing and Regulation wage records, [Redacted] employed 34 individuals during the fourth quarter of 2012.

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On February 11, 2014, SA [Redacted] interviewed [Redacted] regarding [Redacted] lease with the [Redacted]. On June 18, 2011, [Redacted] leased five office spaces (641 rentable square feet) at the [Redacted]. At the time of the lease, [Redacted] principal office was located at [Redacted]. These office spaces were designed to be an office for one person however, [Redacted] often crammed two employees per office. [Redacted] believed approximately ten (10) [Redacted] employees occupied the [Redacted]. [Redacted] confirmed that she provided [Redacted] with ten [Redacted] suite keys.

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(b) (7) (C)

II. 13 CFR 126.200

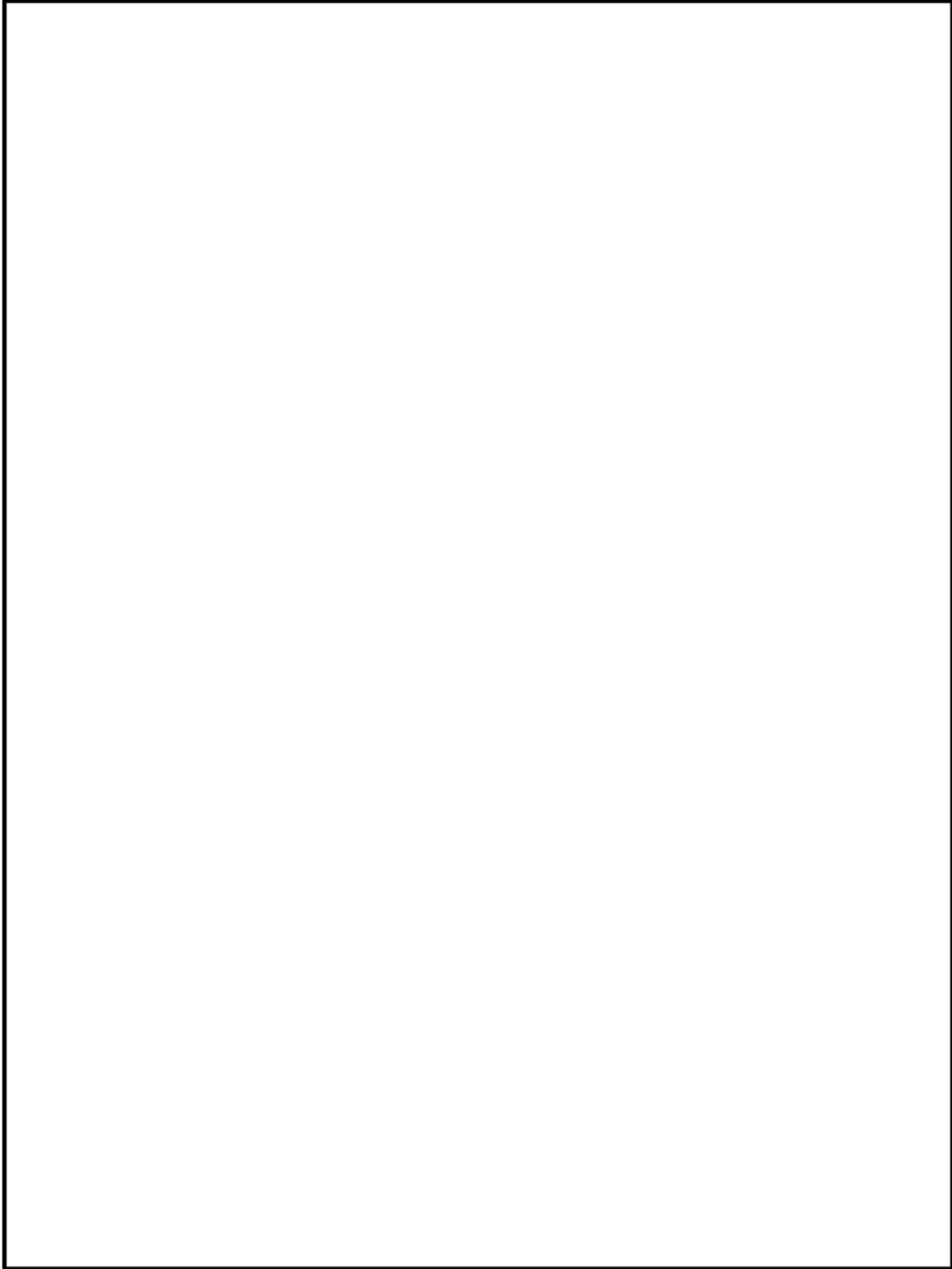
- Principal Office. The concern's principal office must be located in a HUBZone.

III. 13 CFR 126.103

- "Employee" means all individuals employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours per month.
- "Principal Office" means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose 'primary industry' is service or construction, the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations

IV. Contracts:

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ATTACHMENT 2



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CFR > Title 13 > Chapter I > Part 126 > Subpart B > Section 126.200

13 CFR 126.200 - WHAT REQUIREMENTS MUST A CONCERN MEET TO RECEIVE SBA CERTIFICATION AS A QUALIFIED HUBZONE SBC?

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There are 2 Updates appearing in the Federal Register for 13 CFR 126. View below or at eCFR (GPOAccess)

CFR | Updates | Authorities (U.S. Code) | Rulemaking

§ 126.200 What requirements must a concern meet to receive SBA certification as a qualified HUBZone SBC?

(a) *Concerns owned by Indian Tribal Governments—*

(1) *Ownership.*

- (i) The concern must be wholly owned by one or more Indian Tribal Governments;
- (ii) The concern must be wholly owned by a corporation that is wholly owned by one or more Indian Tribal Governments;
- (iii) The concern must be owned in part by one or more Indian Tribal Governments and all other owners are either United States citizens or SBCs; or
- (iv) The concern must be owned in part by a corporation, which is wholly owned by one or more Indian Tribal Governments, and all other owners are either United States citizens or SBCs.

(2) *Size.* The concern, with its affiliates, must meet the size standard corresponding to its primary industry classification as defined in part 121 of this chapter.

(3) *Other Requirements.* The concern must either:

- (i) Maintain a principal office located in a HUBZone and ensure that at least 35% of its employees reside in a HUBZone as provided in paragraph (b)(4) of this section; or

(ii) Certify that when performing a HUBZone contract, at least 35% of its employees engaged in performing that contract will reside within any Indian reservation governed by one or more of the Indian Tribal Government owners, or reside within any HUBZone adjoining such Indian reservation. A HUBZone and Indian reservation are adjoining when the two areas are next to and in contact with each other; and

(iii) The concern will "attempt to maintain" (see § 126.103) that applicable employment percentage stated above during the performance of any HUBZone contract it receives.

(b) Concerns owned by U.S. citizens, ANCs or CDCs—

(1) Ownership.

(i) The concern must be at least 51% unconditionally and directly owned and controlled by persons who are United States citizens;

Example:

A concern that is a partnership owned 50% by an individual who is a United States citizen and 50% by someone who is not, is not an eligible concern because it is not at least 51% owned by United States citizens.

(ii) The concern must be an ANC owned and controlled by Natives (determined pursuant to section 29(e)(1) of the ANCSA); or a direct or indirect subsidiary corporation, joint venture, or partnership of an ANC qualifying pursuant to section 29(e)(1) of ANCSA, if that subsidiary, joint venture, or partnership is owned and controlled by Natives (determined pursuant to section 29(e)(2)) of the ANCSA; or

(iii) The concern must be wholly owned by a CDC, or owned in part by one or more CDCs, if all other owners are either United States citizens or SBCs;

(2) Size. The concern, together with its affiliates, must qualify as a small business under the size standard corresponding to its primary industry classification as defined in part 121 of this chapter.

(3) Principal office. The concern's principal office must be located in a HUBZone;

(4) Employees. At least 35% of the concern's employees must reside in a HUBZone. When determining the percentage of employees that reside in a HUBZone, if the percentage results in a fraction, round up to the nearest whole number;

Example 1:

A concern has 25 employees, 35% or 8.75 employees must reside in a HUBZone. Thus, 9 employees must reside in a HUBZone.

Example 2:

A concern has 95 employees, 35% or 33.25 employees must reside in a HUBZone. Thus, 34 employees must reside in a HUBZone.

(5) *Contract Performance.* The concern must represent, as provided in the application, that it will "attempt to maintain" (see § 126.103) having 35% of its employees reside in a HUBZone during the performance of any HUBZone contract it receives. CRR'

(6) *Subcontracting.* The concern must represent, as provided in the application, that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

(c) *Concerns owned by small agricultural cooperatives—*

(1) *Ownership.*

- (i) A small agricultural cooperative organized or incorporated in the United States;
- (ii) A small business concern wholly owned by one or more small agricultural cooperatives organized or incorporated in the United States; or
- (iii) A small business concern owned in part by one or more small agricultural cooperatives organized or incorporated in the United States, provided that all other owners are small business concerns or United States citizens.

(2) *Size.* The small agricultural cooperative must meet the size standard corresponding to its primary industry classification as defined in part 121 of this chapter. However, in determining such size, an agricultural cooperative is treated as a "business concern" and its member shareholders are not considered affiliated with the cooperative by virtue of their membership in the cooperative.

(3) *Principal office.* The cooperative's principal office must be located in a HUBZone.

(4) *Employees.* At least 35% of the cooperative's employees must reside in a HUBZone. When determining the percentage of employees that reside in a HUBZone, if the percentage results in a fraction, round up to the nearest whole number.

(5) *Contract Performance.* The concern must represent, as provided in the application, that it will "attempt to maintain" (see § 126.103) having 35% of its employees reside in a HUBZone during the performance of any HUBZone contract it receives.

(d) *Subcontracting.* The concern must represent, as provided in the application, that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

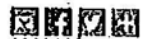
[69 FR 29422, May 24, 2004, as amended at 70 FR 51249, Aug. 30, 2005]

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ATTACHMENT 3



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CFR > Title 13 > Chapter I > Part 126 > Subpart A > Section 126.103

13 CFR 126.103 - WHAT DEFINITIONS ARE IMPORTANT IN THE HUBZONE PROGRAM?

PREV | next

There are 2 Updates appearing in the Federal Register for 13 CFR 126. View below or at [eCFR \(GPOAccess\)](#)

CFR

Updates

Authorities (U.S. Code)

Rulemaking

§ 126.103 What definitions are important in the HUBZone program?

Administrator means the Administrator of the United States Small Business Administration (SBA).

AA/BD means SBA's Associate Administrator for Business Development.

AA/GC&BD means Associate Administrator, Office of Government Contracting & Business Development.

Agricultural commodity has the same meaning as in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

Alaska Native Corporation (ANC) has the same meaning as the term "Native Corporation" in section 3 of the ANCSA, 43 U.S.C. 1602.

Alaska Native Village has the same meaning as the term "Native village" in section 3 of the ANCSA, 43 U.S.C. 1602.

ANCSA means the Alaska Native Claims Settlement Act, as amended.

Attempt to maintain means making substantive and documented efforts such as written offers of employment, published advertisements seeking employees, and attendance at job fairs.

Base closure area means lands within the external boundaries of a military installation that were closed through a privatization process under the authority of:

- (1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101-510; 10 U.S.C. 2687 note);
- (2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100-526; 10 U.S.C. 2687 note);

(3) 10 U.S.C. 2687; or

(4) Any other provision of law authorizing or directing the Secretary of Defense or the Secretary of a military department to dispose of real property at the military installation for purposes relating to base closures or redevelopment, while retaining the authority to enter into a leaseback of all or a portion of the property for military use.

Certify means the process by which SBA determines that a HUBZone SBC is qualified for the HUBZone program and entitled to be included in SBA's "List of Qualified HUBZone SBCs."

Citizen means a person born or naturalized in the United States. SBA does not consider holders of permanent visas and resident aliens to be citizens.

Community Development Corporation (CDC) means a corporation that has received financial assistance under Part 1 of Subchapter A of the Community Economic Development Act of 1981, 42 U.S.C. 9805-9808.

Concern means a firm which satisfies the requirements in §§ 121.105(a) and (b) of this title.

Contract opportunity means a situation in which a requirement for a procurement exists, none of the exclusions from § 126.605 applies, and any applicable conditions in § 126.607 are met.

Contracting Officer (CO) has the meaning given that term in 41 U.S.C. 423(f)(5), which defines a CO as a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

County means the political subdivisions recognized as a county by a state or commonwealth or which is an equivalent political subdivision such as a parish, borough, independent city, or *municipio*, where such subdivisions are not subdivisions within counties.

County unemployment rate is the rate of unemployment for a county based on the most recent data available from the United States Department of Labor, Bureau of Labor Statistics. The appropriate data may be found in the DOL/BLS publication titled "Supplement 2, Unemployment in States and Local Areas." This publication is available for public inspection at the Department of Labor, Bureau of Labor Statistics, Division of Local Area Unemployment Statistics located at 2 Massachusetts Ave., NE, Room 4675, Washington DC 20212. A copy is also available at SBA, Office of D/HUB, 409 3rd Street, SW., Washington DC 20416.

DAA/GC&BD means SBA's Deputy Associate Administrator for Government Contracting and Business Development.

D/HUB means SBA's Director Office of HUBZone;

De-certify means the process by which SBA determines that a concern is no longer a qualified HUBZone SBC and removes that concern from its List.

Employee means all individuals employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours per month. This includes employees obtained from a temporary employee agency, leasing concern, or through a union agreement or co-employed pursuant to a professional employer organization agreement.

SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal Income tax purposes and those set forth in SBA's Size Policy Statement No. 1, in determining whether individuals are employees of a concern. Volunteers (*i.e.*, individuals who receive deferred compensation or no compensation, including no in-kind compensation, for work performed) are not considered employees. However, if an individual has an ownership interest in and works for the HUBZone SBC a minimum of 40 hours per month, that owner is considered an employee regardless of whether or not the individual receives compensation.

HUBZone means a historically underutilized business zone, which is an area located within one or more:

- (1) Qualified census tracts;
- (2) Qualified non-metropolitan counties;
- (3) Lands within the external boundaries of an Indian reservation;
- (4) Qualified base closure area; or
- (5) Redesignated area.

HUBZone small business concern (HUBZone SBC) means an SBC that is:

- (1) At least 51% owned and controlled by 1 or more persons, each of whom is a United States citizen;
- (2) An ANC owned and controlled by Natives (as determined pursuant to section 29(e)(1) of the ANCSA, 43 U.S.C. 1626(e)(1));
- (3) A direct or indirect subsidiary corporation, joint venture, or partnership of an ANC qualifying pursuant to section 29(e)(1) of the ANCSA, 43 U.S.C. 1626(e)(1), if that subsidiary, joint venture, or partnership is owned and controlled by Natives (as determined pursuant to section 29(e)(2) of the ANCSA, 43 U.S.C. 1626(e)(2));
- (4) Wholly owned by one or more Indian Tribal Governments, or by a corporation that is wholly owned by one or more Indian Tribal Governments;
- (5) An SBC that is owned in part by one or more Indian Tribal Governments or in part by a corporation that is wholly owned by one or more Indian Tribal Governments, if all other owners are either United States citizens or SBCs;
- (6) An SBC that is wholly owned by a CDC or owned in part by one or more CDCs, if all other owners are either United States citizens or SBCs; or
- (7) An SBC that is a small agricultural cooperative organized or incorporated in the United States, wholly owned by one or more small agricultural cooperatives organized or incorporated in the United States or owned in part by one or more small agricultural cooperatives organized or incorporated in the United States, provided that all other owners are small business concerns or United States citizens.

Indian reservation (1) Has the same meaning as the term "Indian country" in 18 U.S.C. 1151, except that such term does not include:

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(i) Any lands that are located within a State in which a tribe did not exercise governmental jurisdiction as of December 21, 2000, unless that tribe is recognized after that date by either an Act of Congress or pursuant to regulations of the Secretary of the Interior for the administrative recognition that an Indian group exists as an Indian tribe (25 CFR part 83); and

(ii) Lands taken into trust or acquired by an Indian tribe after December 21, 2000 if such lands are not located within the external boundaries of an Indian reservation or former reservation or are not contiguous to the lands held in trust or restricted status as of December 21, 2000; and

(2) In the State of Oklahoma, means lands that:

(i) Are within the jurisdictional areas of an Oklahoma Indian tribe (as determined by the Secretary of the Interior); and

(ii) Are recognized by the Secretary of the Interior as of December 21, 2000, as eligible for trust land status under 25 CFR part 151.

Indian Tribal Government means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Interested party means any concern that submits an offer for a specific HUBZone sole source or set-aside contract, any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone SBC, the contracting activity's contracting officer, or SBA.

Lands within the external boundaries of an Indian reservation include all lands within the perimeter of an Indian reservation, whether tribally owned and governed or not. For example, land that is individually owned and located within the perimeter of an Indian reservation is "lands within the external boundaries of an Indian reservation." By contrast, an Indian-owned parcel of land that is located outside the perimeter of an Indian reservation is not "lands within the external boundaries of an Indian reservation."

List refers to the database of qualified HUBZone SBCs that SBA has certified.

Median household income has the meaning used by the Bureau of the Census, United States Department of Commerce, in its publication titled, "1990 Census of Population, Social and Economic Characteristics," Report Number CP-2, pages B-14 and B-17. This publication is available for inspection at any local Federal Depository Library. For the location of a Federal Depository Library, call toll-free (888) 293-6498 or contact the Bureau of the Census, Income Statistics Branch, Housing and Economic Statistics Division, Washington D.C. 20233-8500.

Metropolitan statistical area means an area as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986, (Title 26 of the United States Code).

Non-metropolitan has the meaning used by the Bureau of the Census, United States Department of Commerce, in its publication titled, "1990 Census of Population, Social and Economic Characteristics," Report Number CP-2, page A-9. This publication is available

for inspection at any local Federal Depository Library. For the location of a Federal Depository Library, call toll-free (888) 293-6498 or contact the Bureau of the Census, Population Distribution Branch, Population Division, Washington D.C. 20233-8800.

Person means a natural person.

Principal office means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose "primary industry" (see 13 CFR 121.107) is service or construction (see 13 CFR 121.201), the determination of principal office excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

Qualified base closure area means a base closure area for a period of 5 years either from December 8, 2004, or from the date of final base closure, whichever is later.

Qualified census tract has the meaning given that term in section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986.

Qualified HUBZone SBC means a HUBZone SBC that SBA certifies as qualified for federal contracting assistance under the HUBZone program.

Qualified non-metropolitan county means any county that was not located in a metropolitan statistical area at the time of the most recent census taken for purposes of selecting qualified census tracts under section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986, and in which:

- (i) The median household income is less than 80% of the non-metropolitan State median household income, based on the most recent data available from the Bureau of the Census of the Department of Commerce; or
- (ii) The unemployment rate is not less than 140 percent of the average unemployment rate for the United States or for the State in which such county is located, whichever is less, based on the most recent data available from the Secretary of Labor.

Redesignated area means any census tract or any non-metropolitan county that ceases to be a qualified HUBZone, except that such census tracts or non-metropolitan counties may be "redesignated areas" only until the later of:

- (1) The date on which the Census Bureau publicly releases the first results from the 2010 decennial census; or
- (2) Three years after the date on which the census tract or non-metropolitan county ceased to be so qualified. The date on which the census tract or non-metropolitan county ceases to be qualified is the date that the official government data, which affects the eligibility of the HUBZone, is released to the public.

Reside means to live in a primary residence at a place for at least 180 days, or as a currently registered voter, and with intent to live there indefinitely.

Small agricultural cooperative means an association (corporate or otherwise), comprised exclusively of other small agricultural cooperatives, small business concerns, or U.S. citizens, pursuant to the provisions of the Agricultural Marketing Act, 12 U.S.C. 11411, whose size does not exceed the applicable size standard pursuant to part 121 of this

chapter. In determining such size, an agricultural cooperative is treated as a "business concern" and its member shareholders are not considered affiliated with the cooperative by virtue of their membership in the cooperative. CFR'

Small business concern (SBC) means a concern that, with its affiliates, meets the size standard for its primary industry, pursuant to part 121 of this chapter.

Small disadvantaged business (SDB) means a concern that is small pursuant to part 121 of this chapter, is owned and controlled by one or more socially and economically disadvantaged individuals, tribes, ANCs, Native Hawaiian Organizations, or CDCs and has been certified pursuant to subpart A or B, part 124 of this chapter.

Statewide average unemployment rate is the rate based on the most recent data available from the Bureau of Labor Statistics, United States Department of Labor, Division of Local Area Unemployment Statistics, 2 Massachusetts Ave., NE., Room 4675, Washington, DC 20212. A copy is also available at SBA, Office of D/HUB, 409 3rd Street, SW., Washington DC 20416.

[63 FR 31908, June 11, 1998, as amended at 66 FR 4645, Jan. 18, 2001; 69 FR 29421, May 24, 2004; 70 FR 51248, Aug. 30, 2005; 72 FR 50041, Aug. 30, 2007; 74 FR 45754, Sept. 4, 2009; 74 FR 56702, Nov. 3, 2009]

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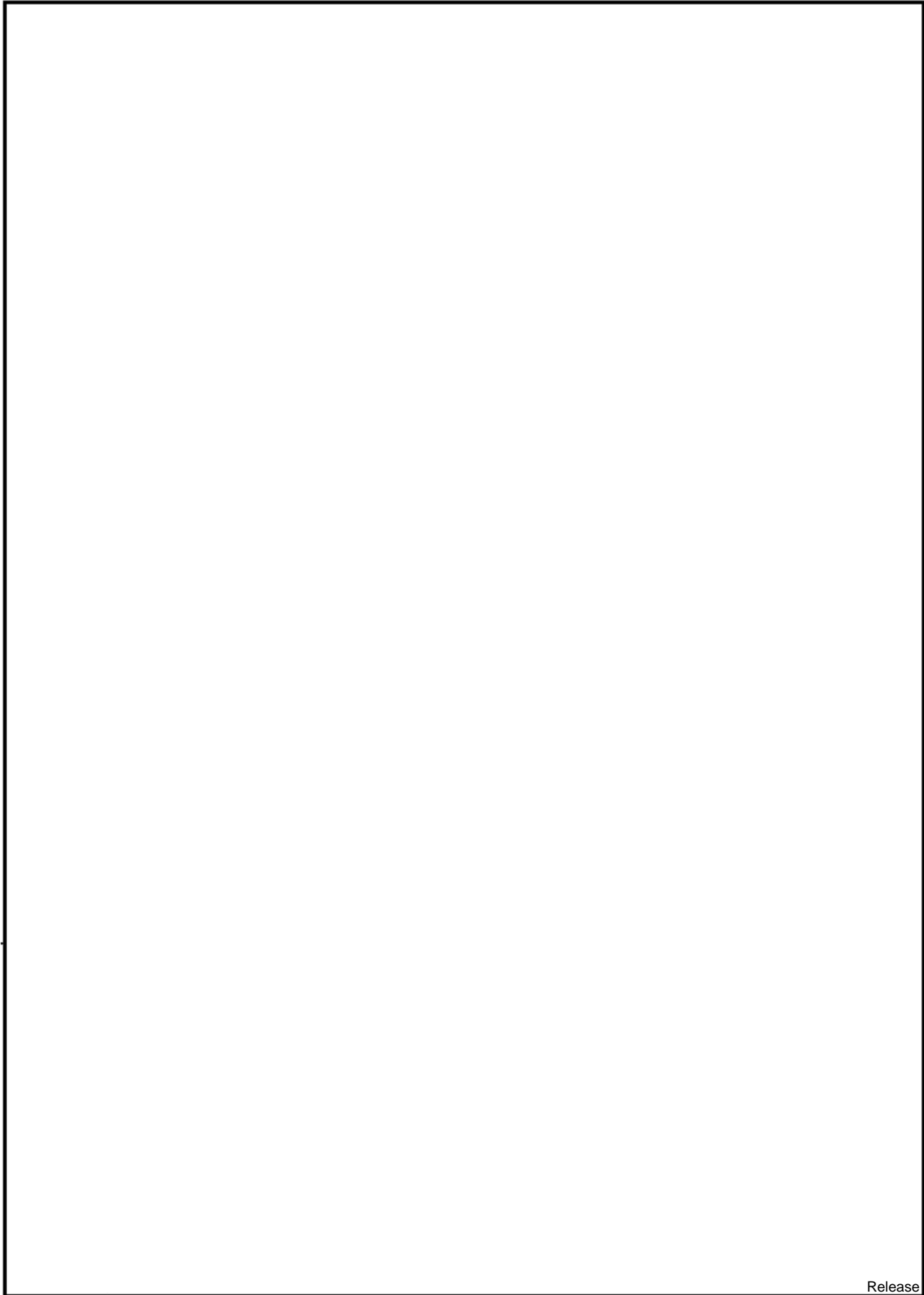
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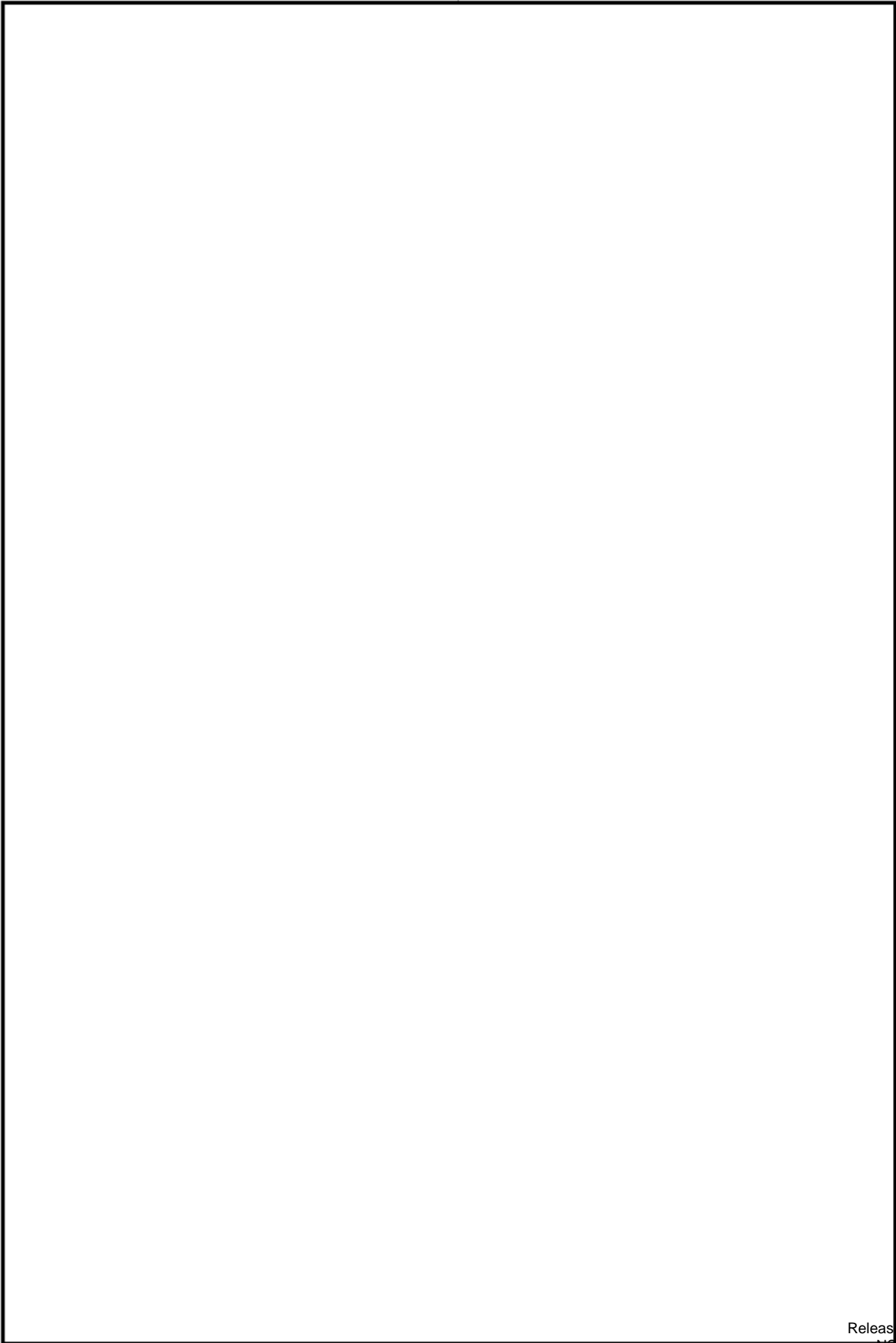
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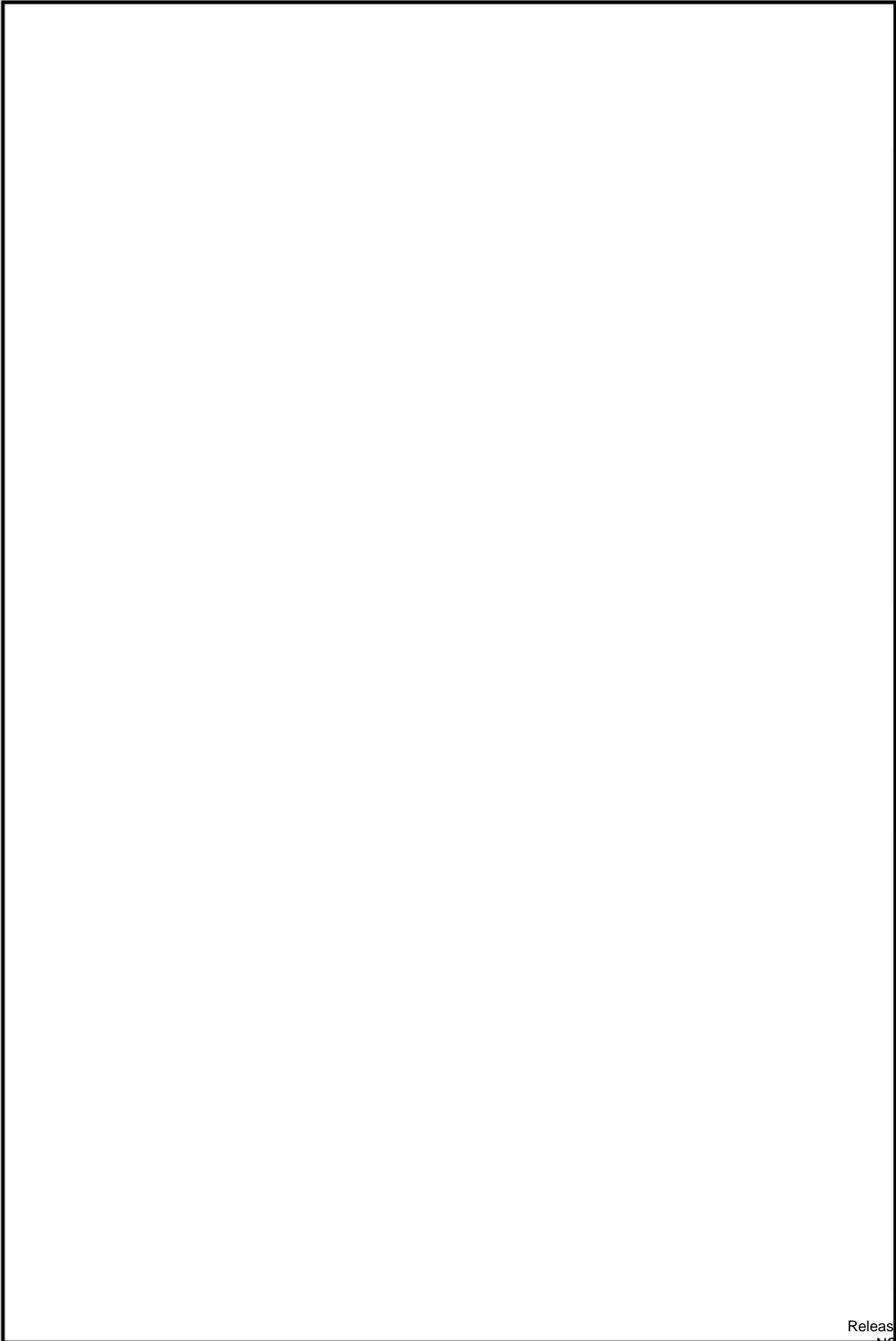
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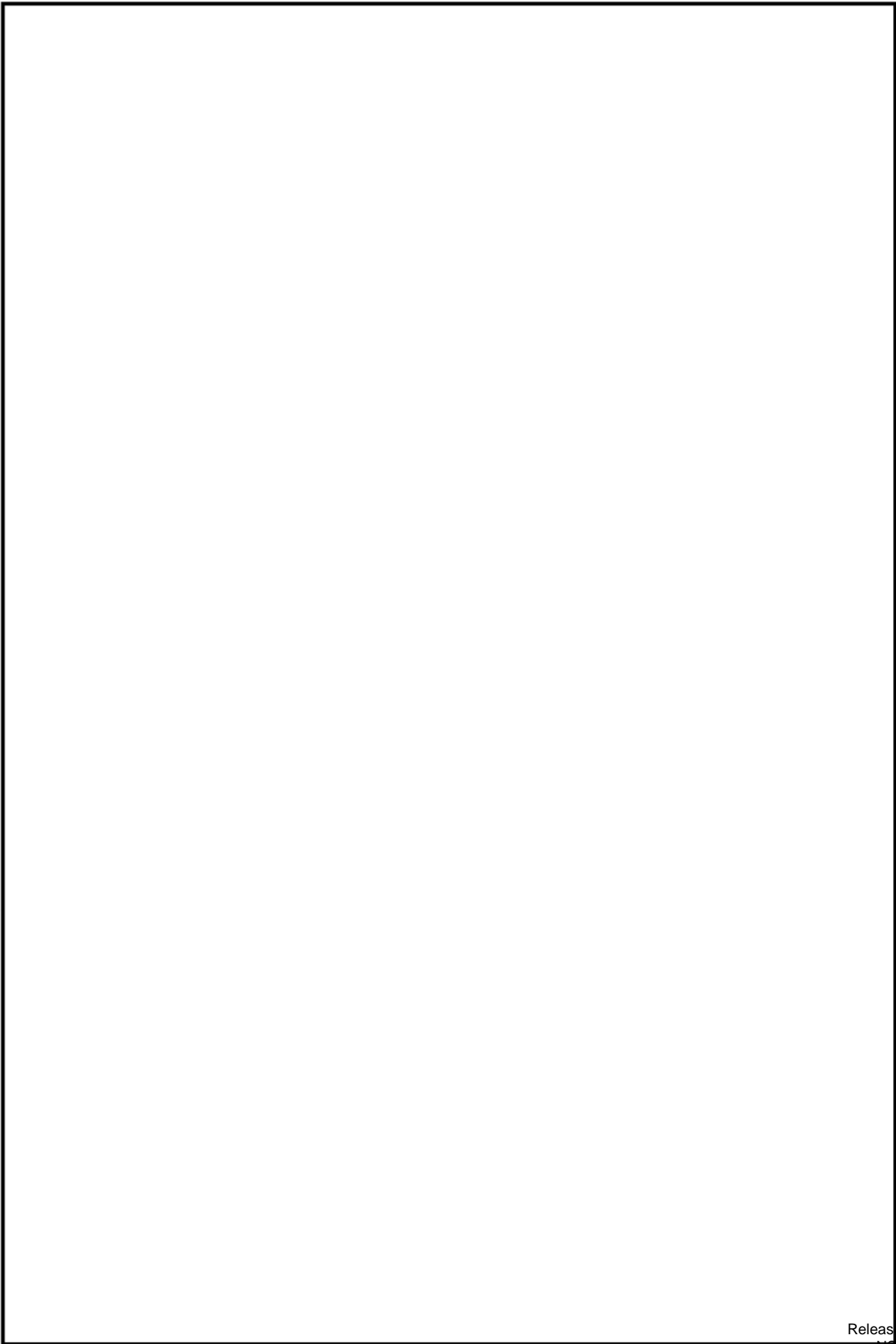
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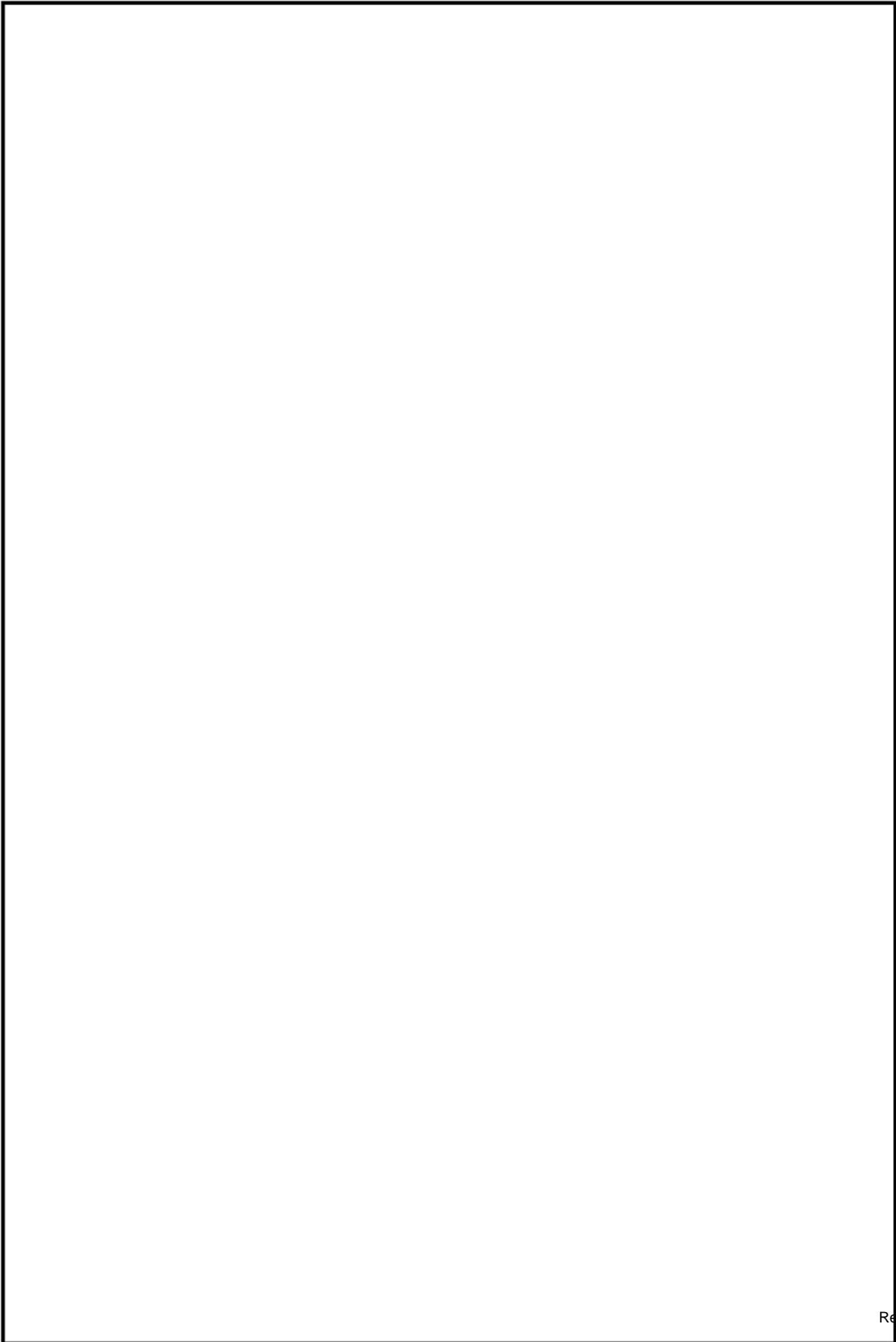
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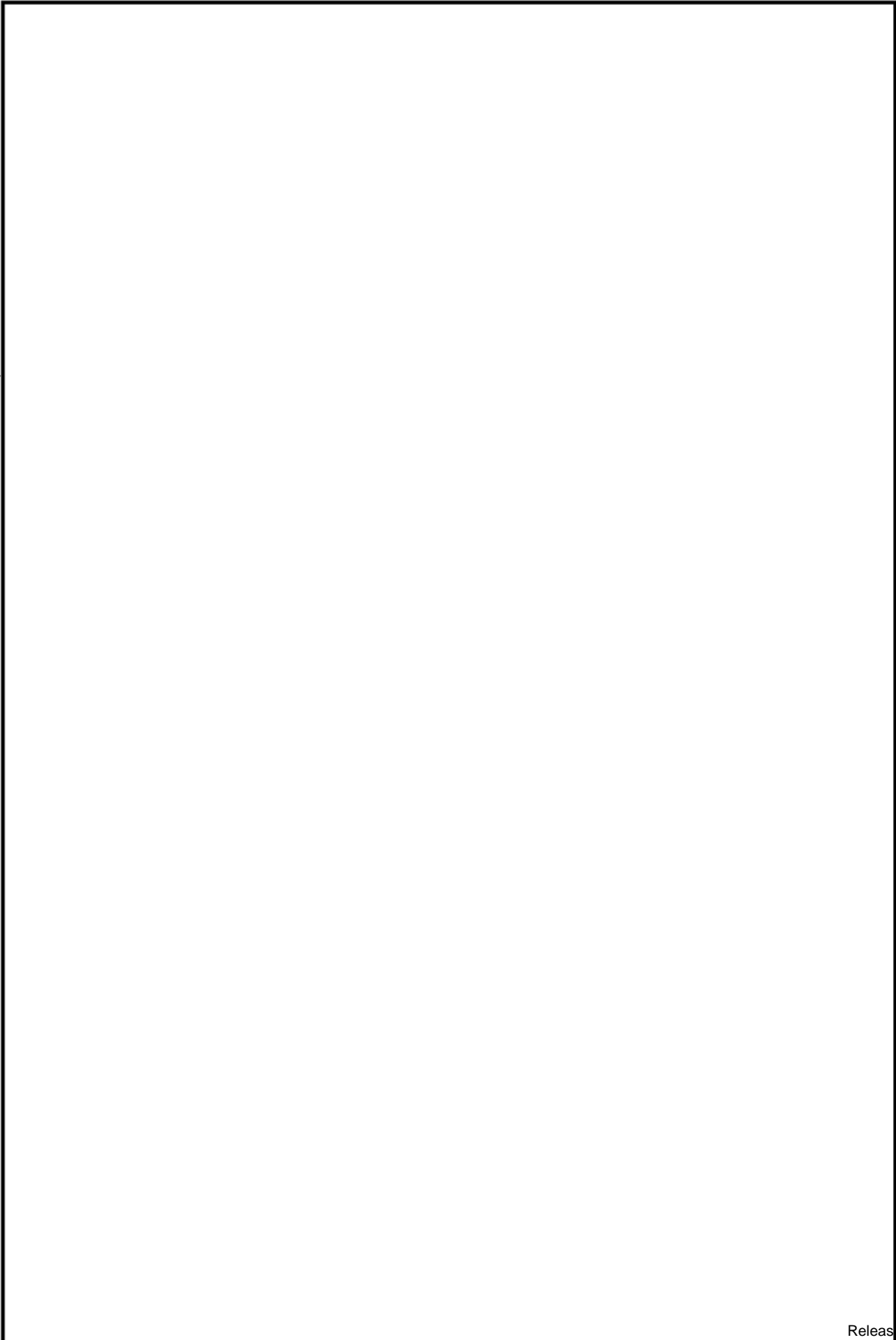
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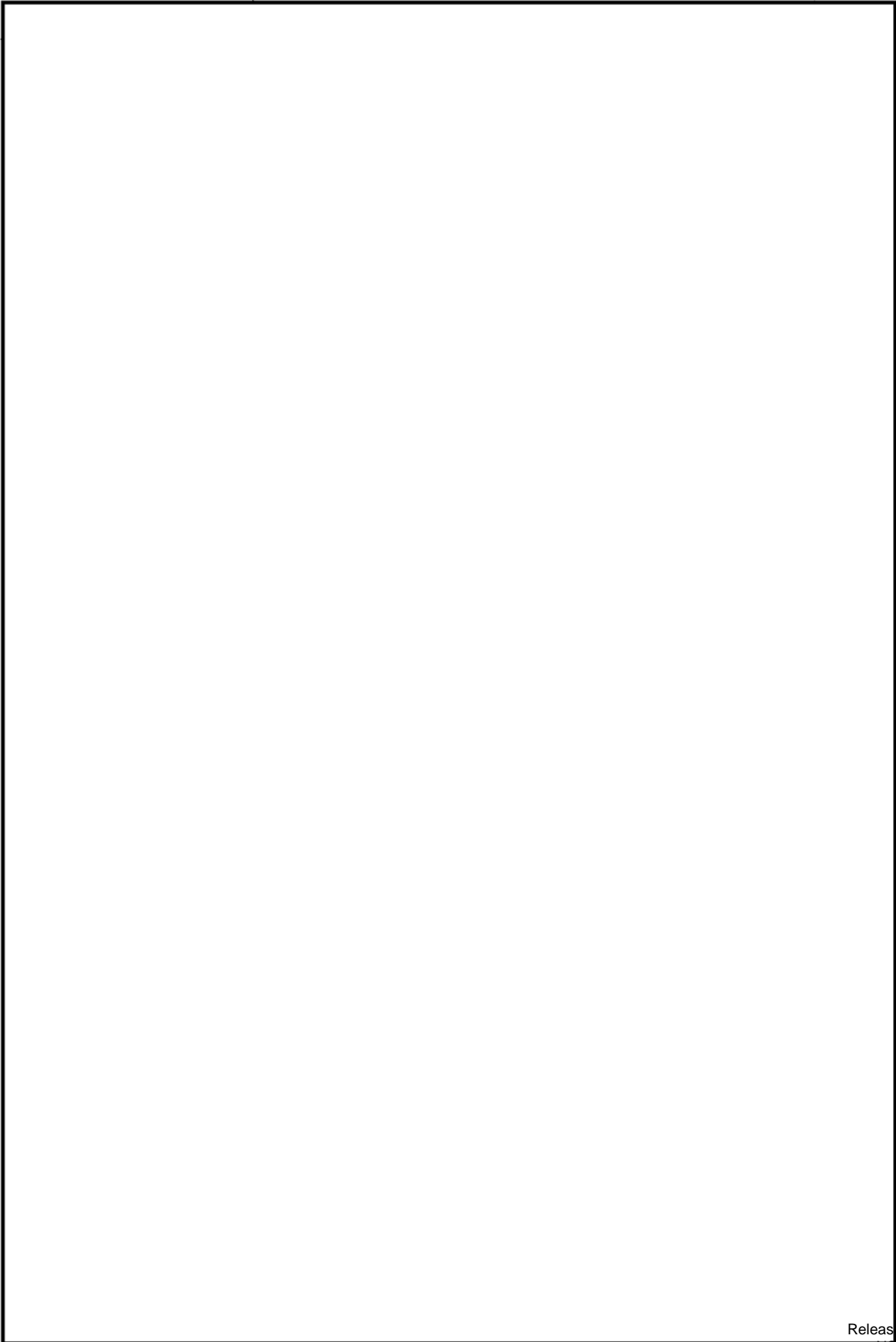
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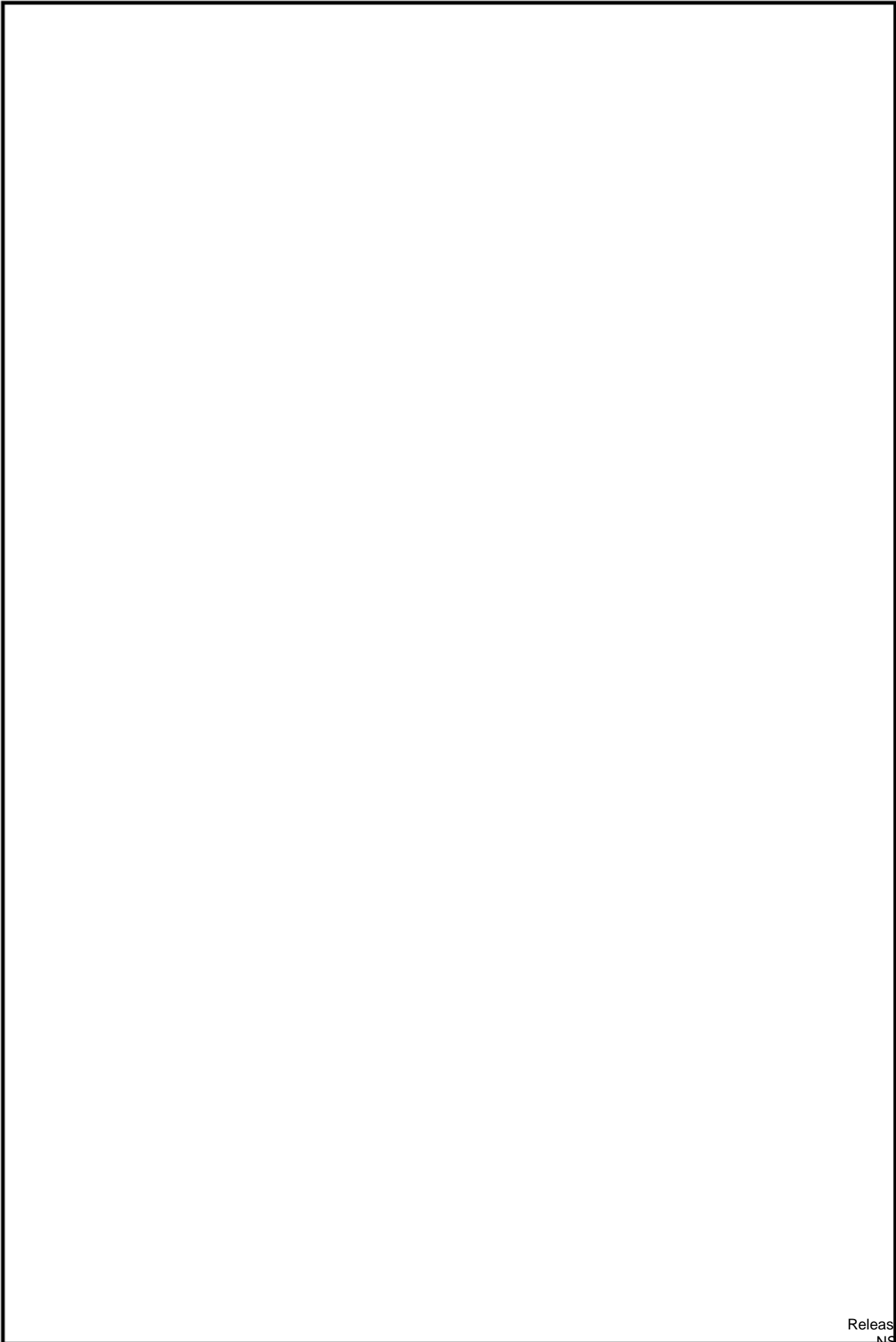
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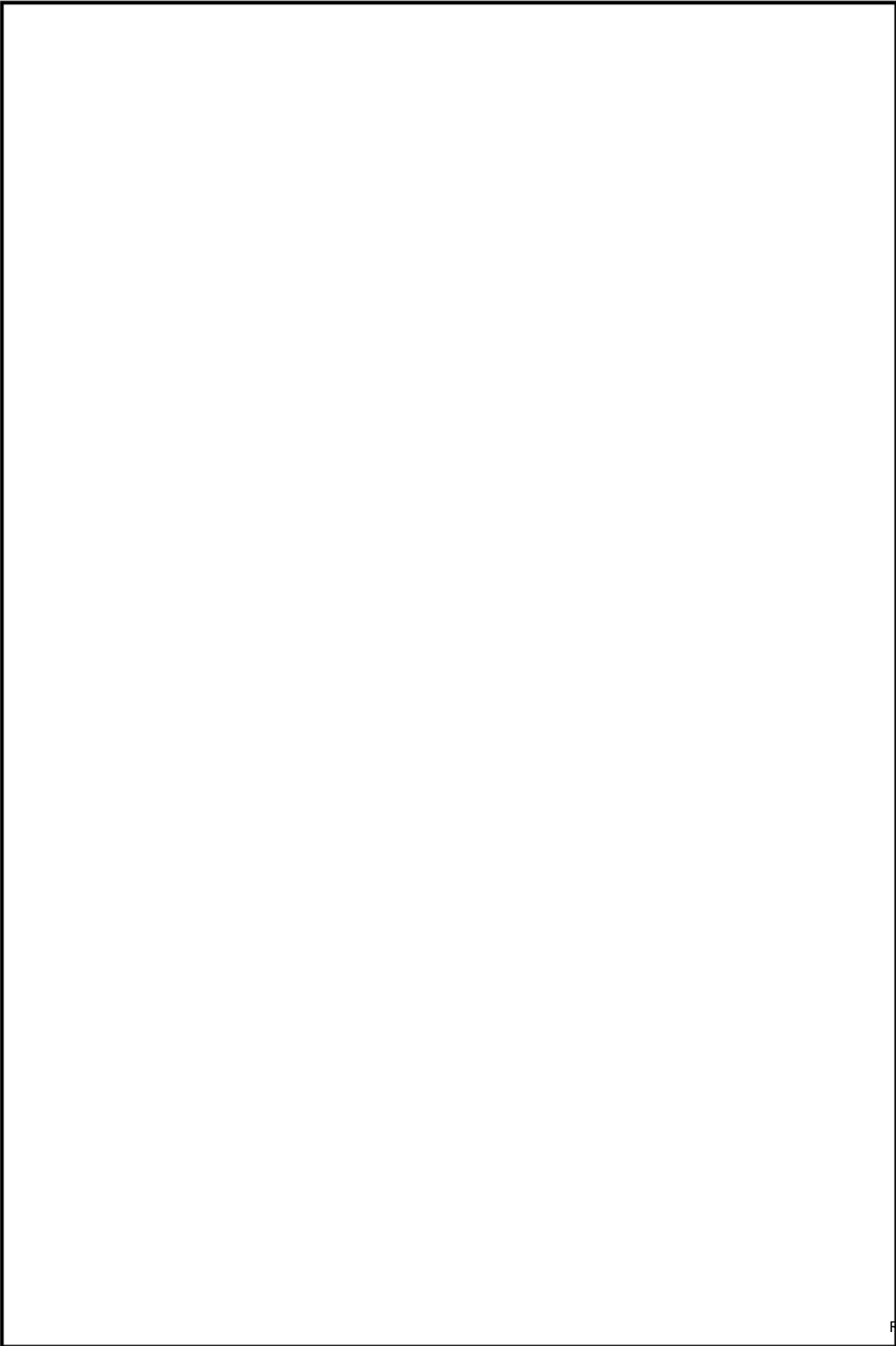
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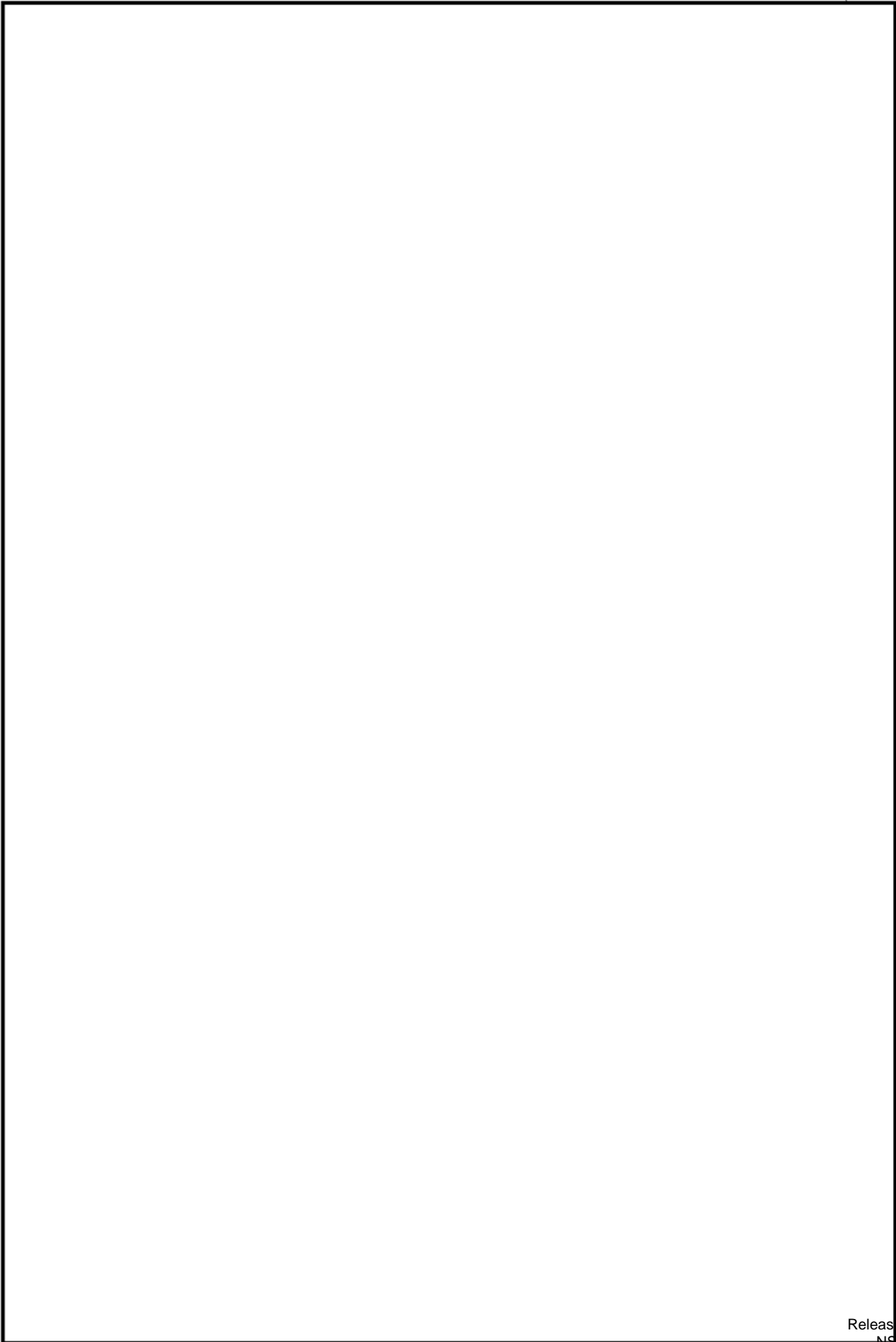
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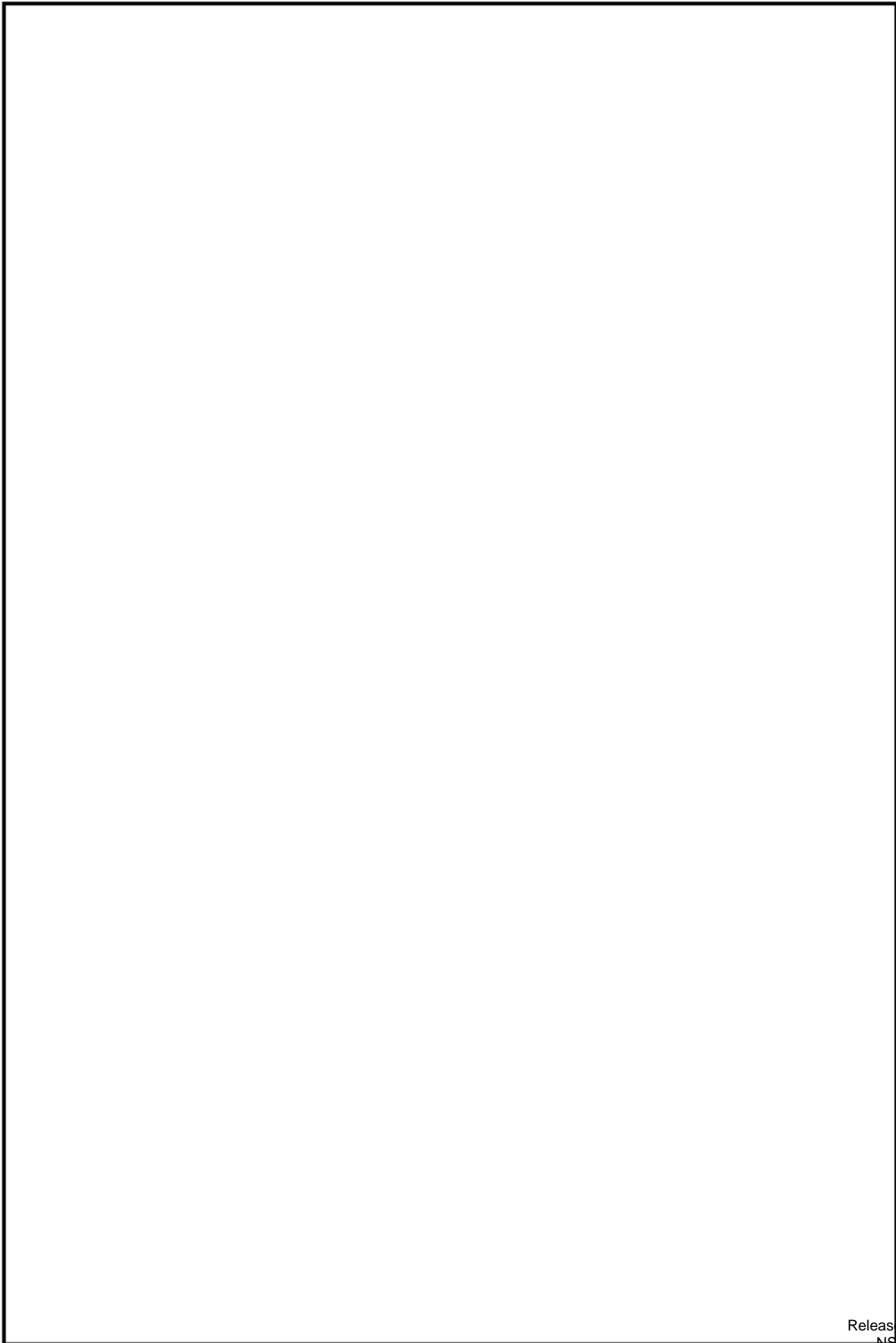
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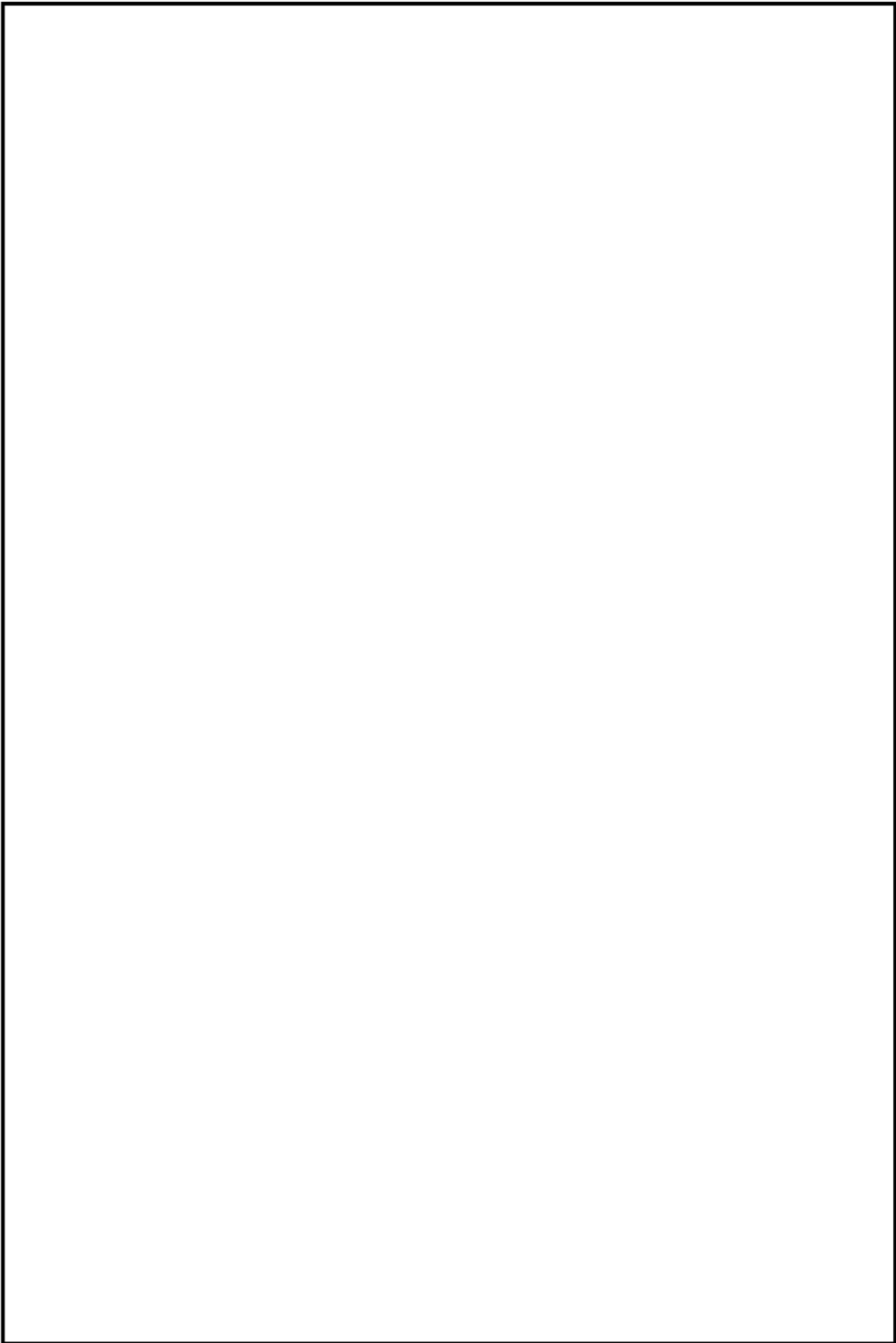
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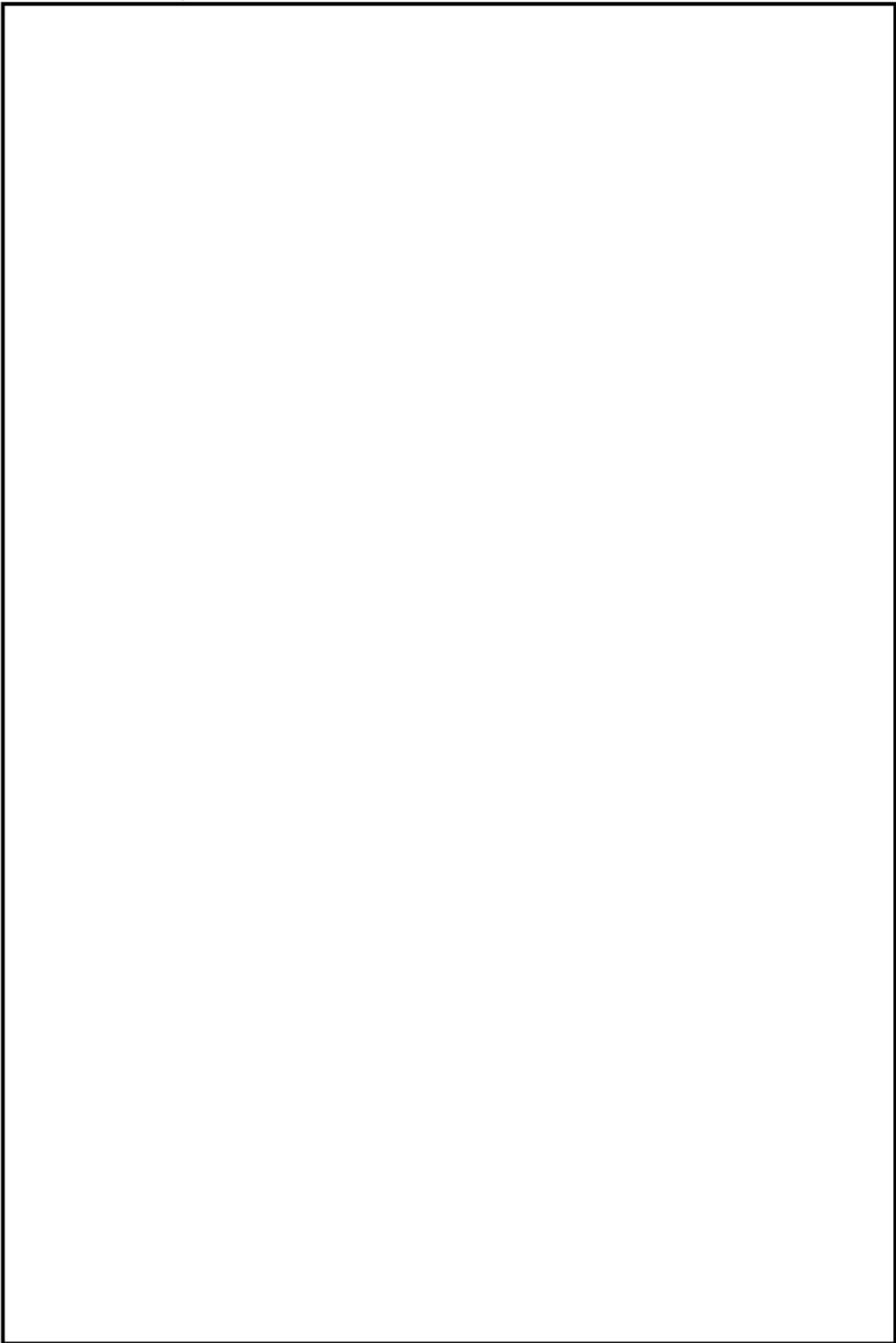
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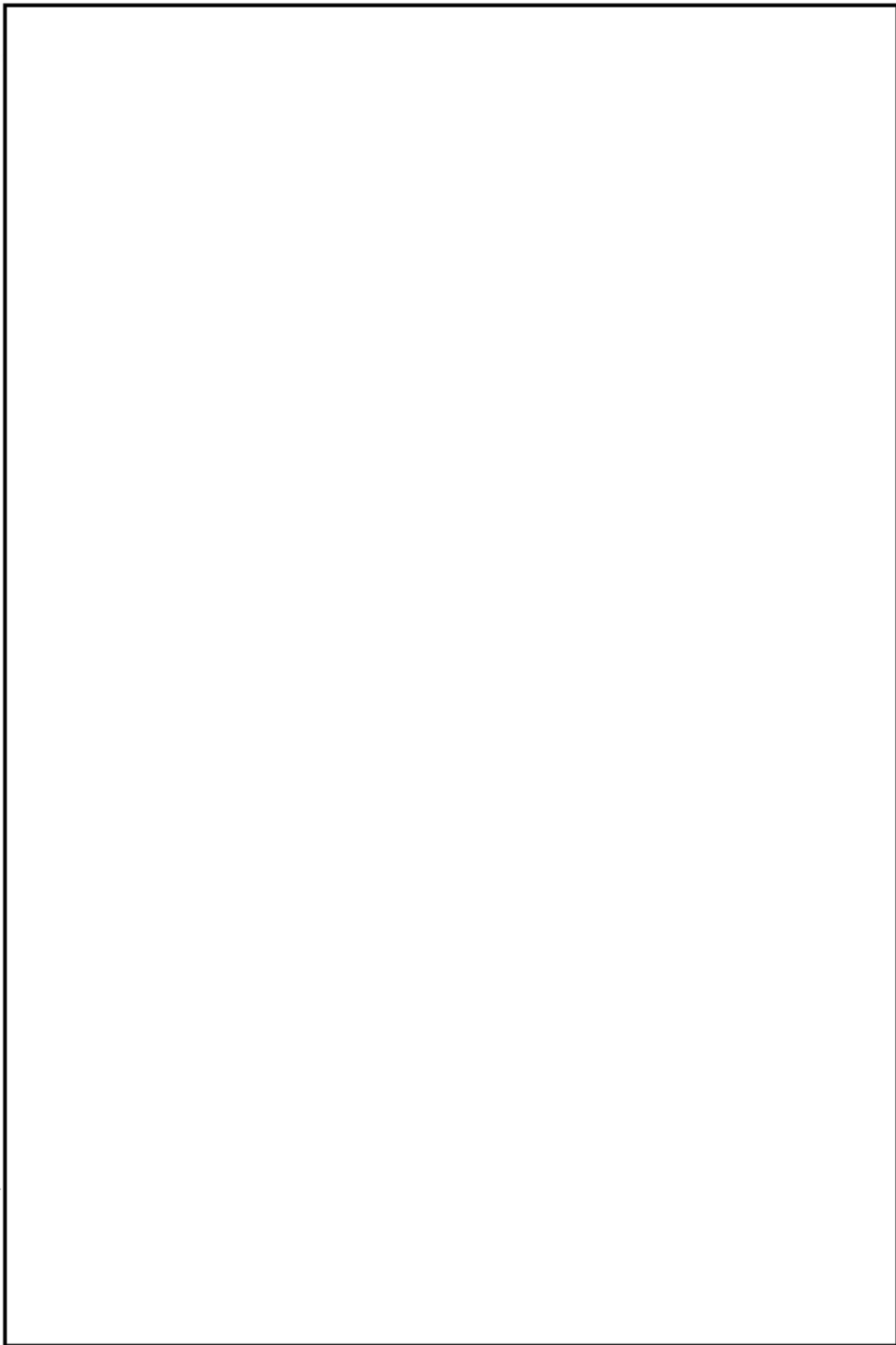
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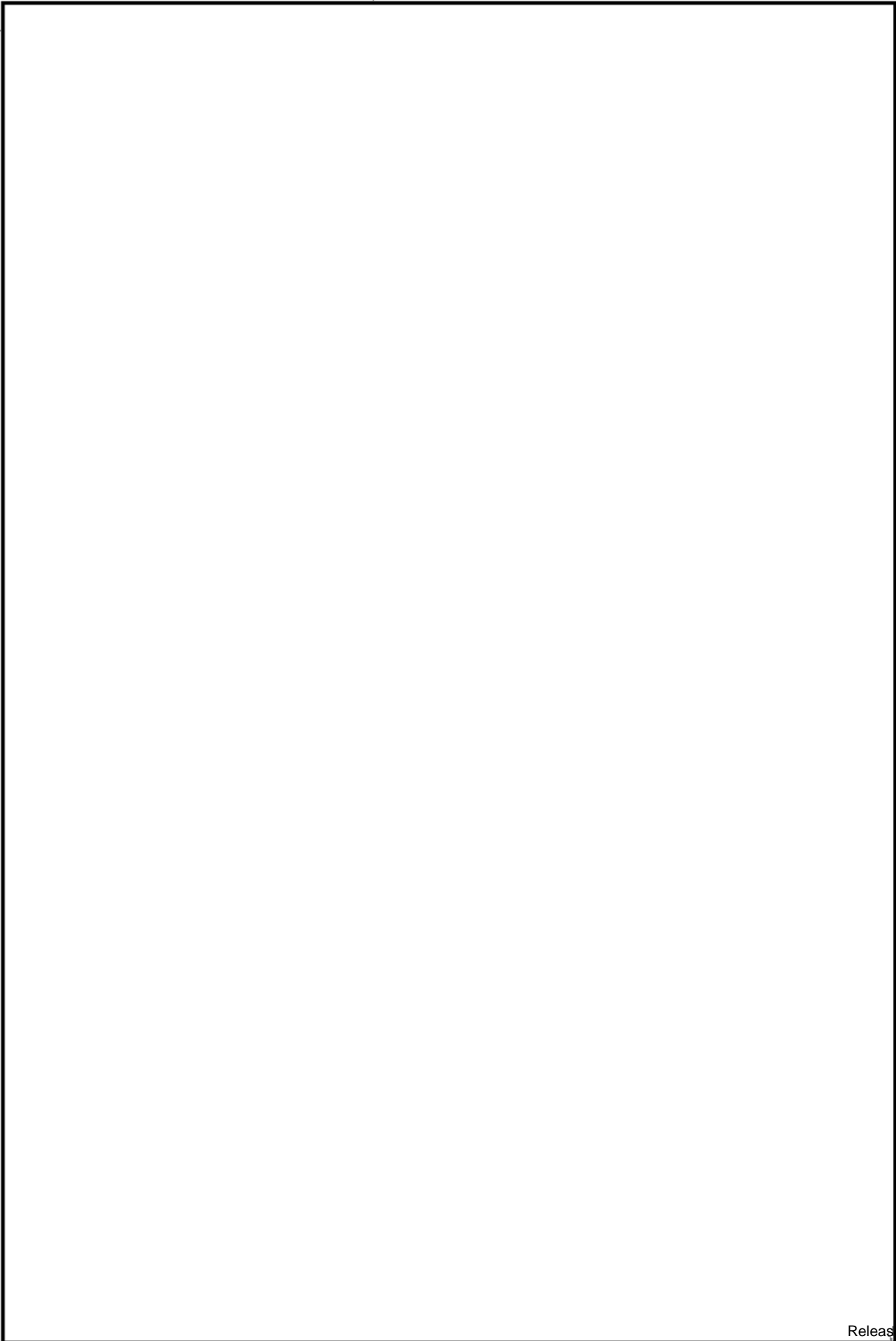
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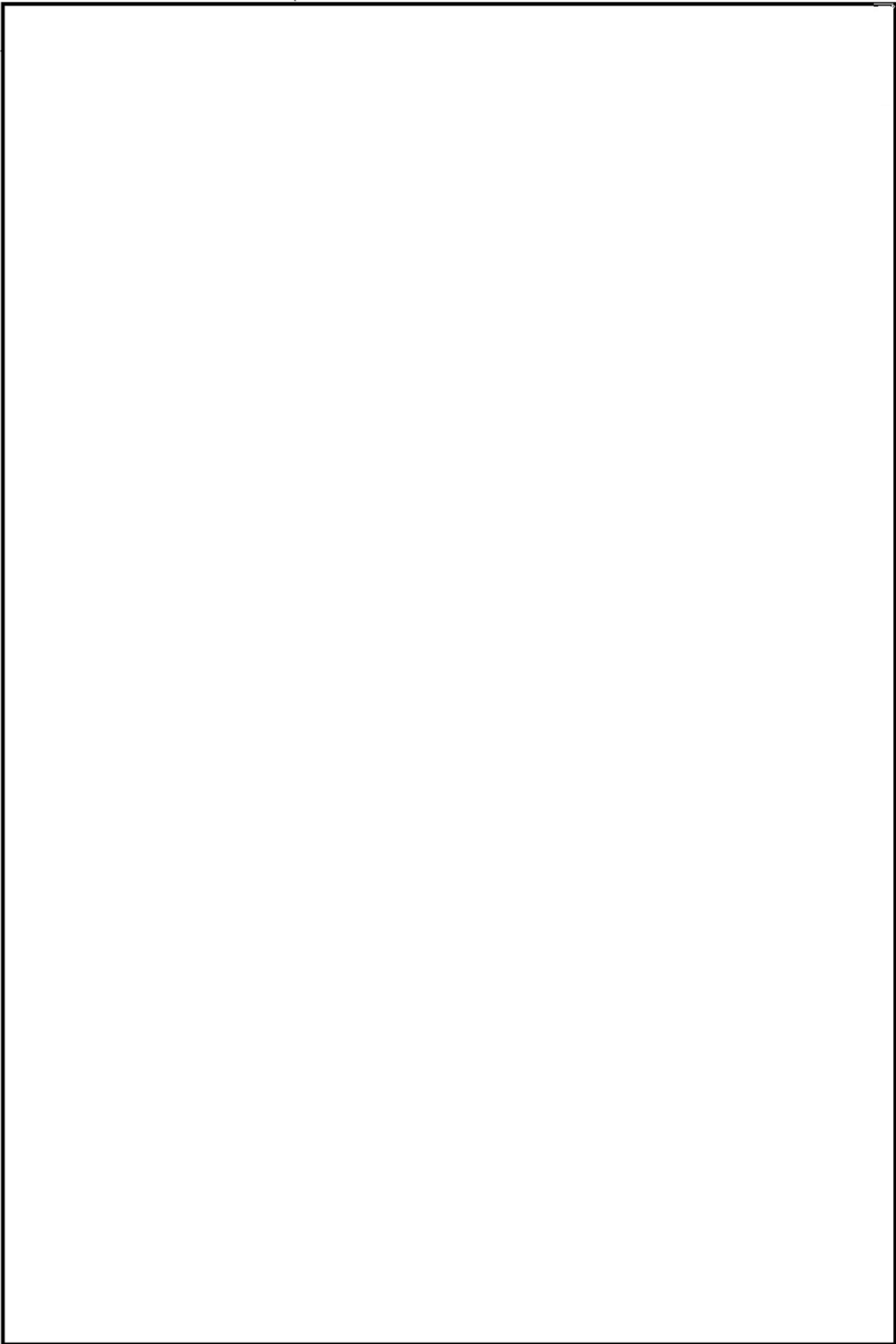
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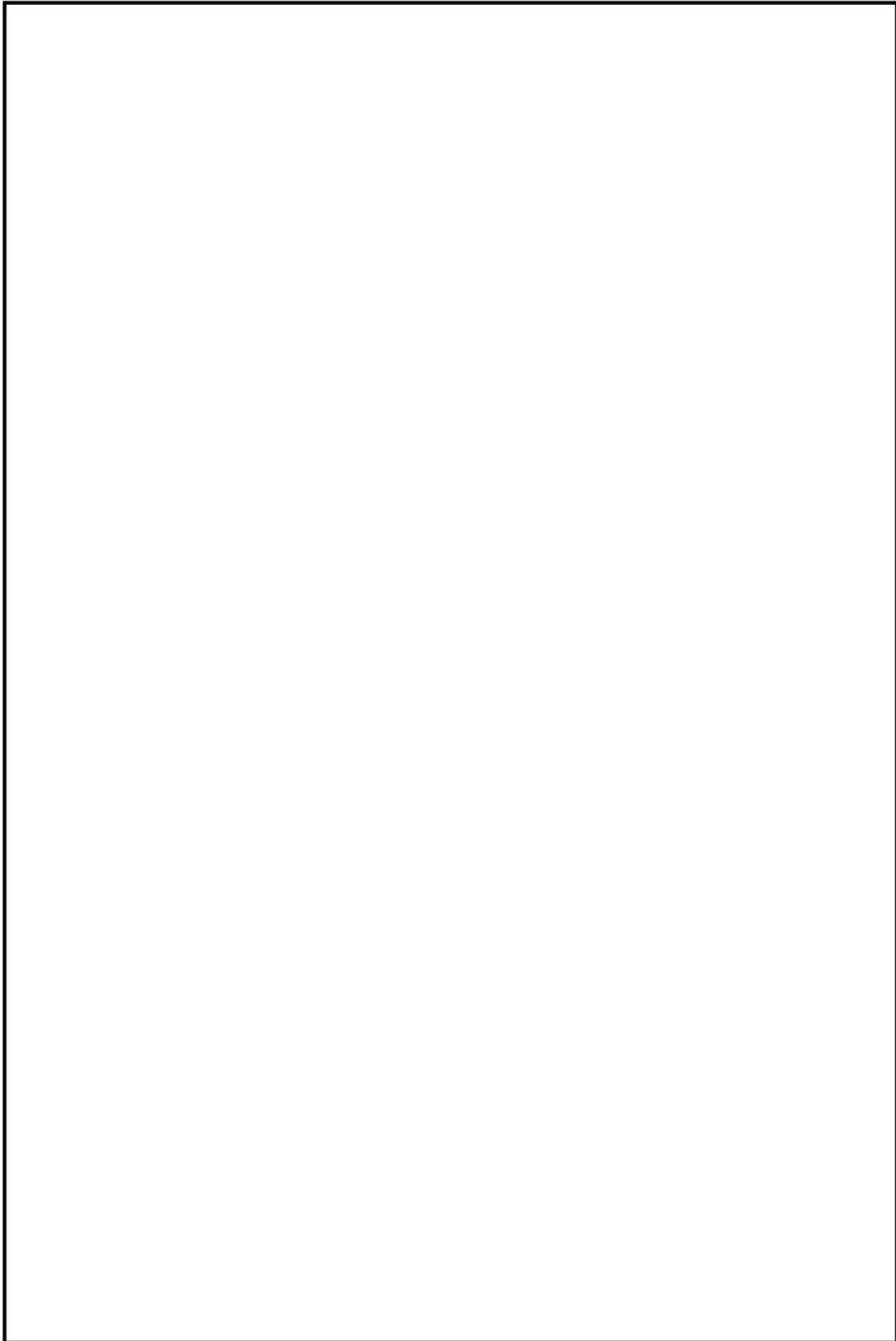
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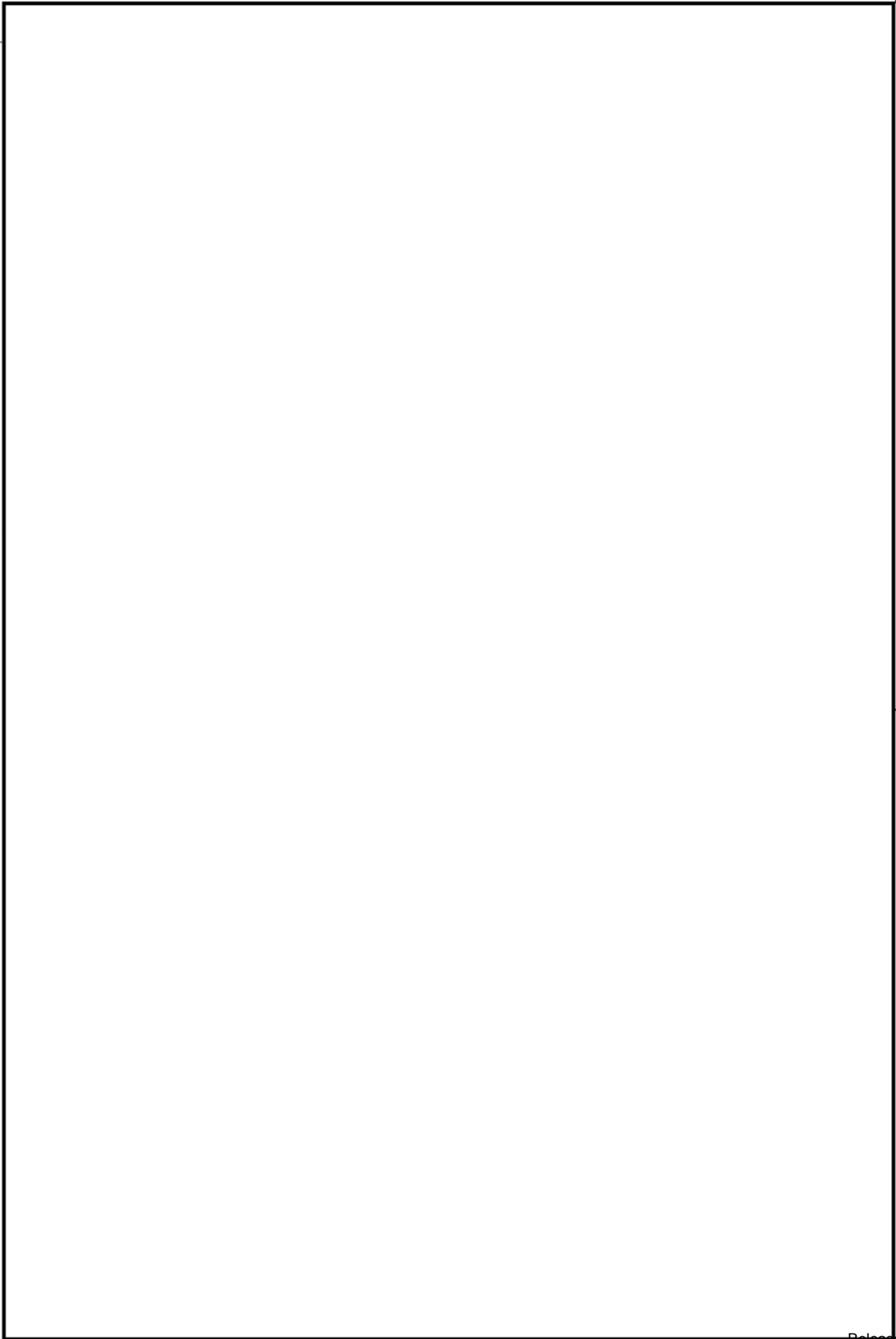
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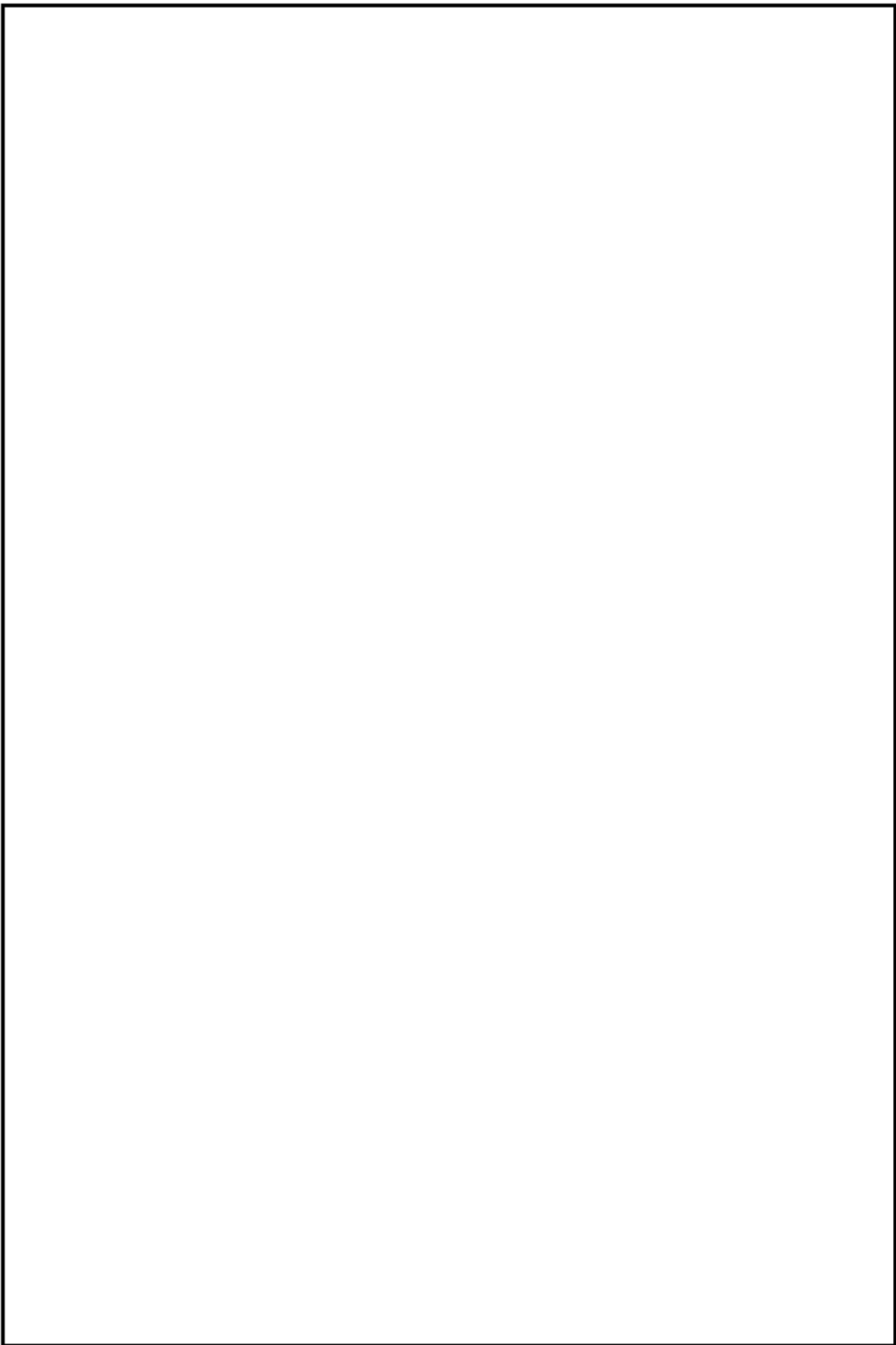
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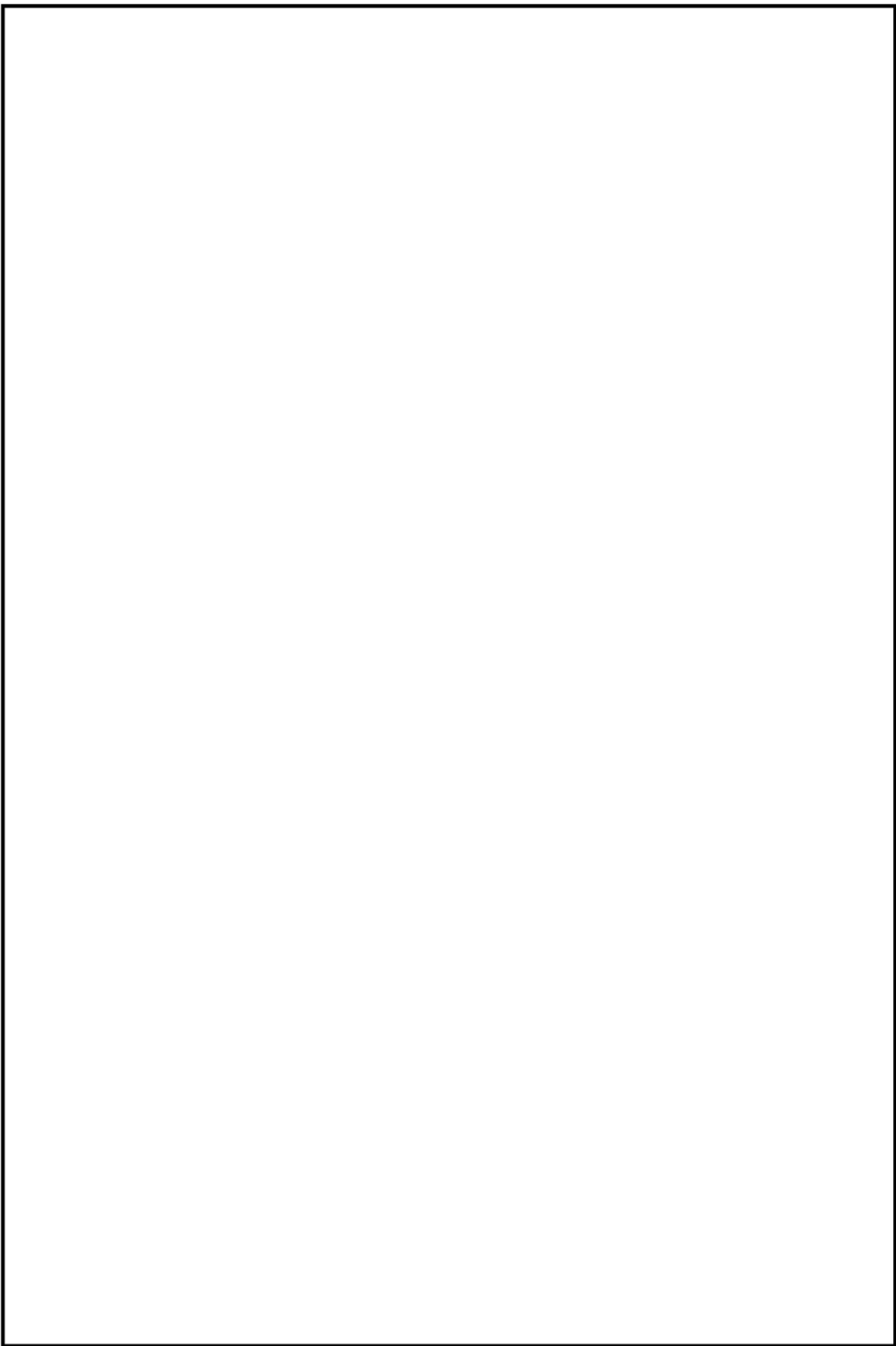
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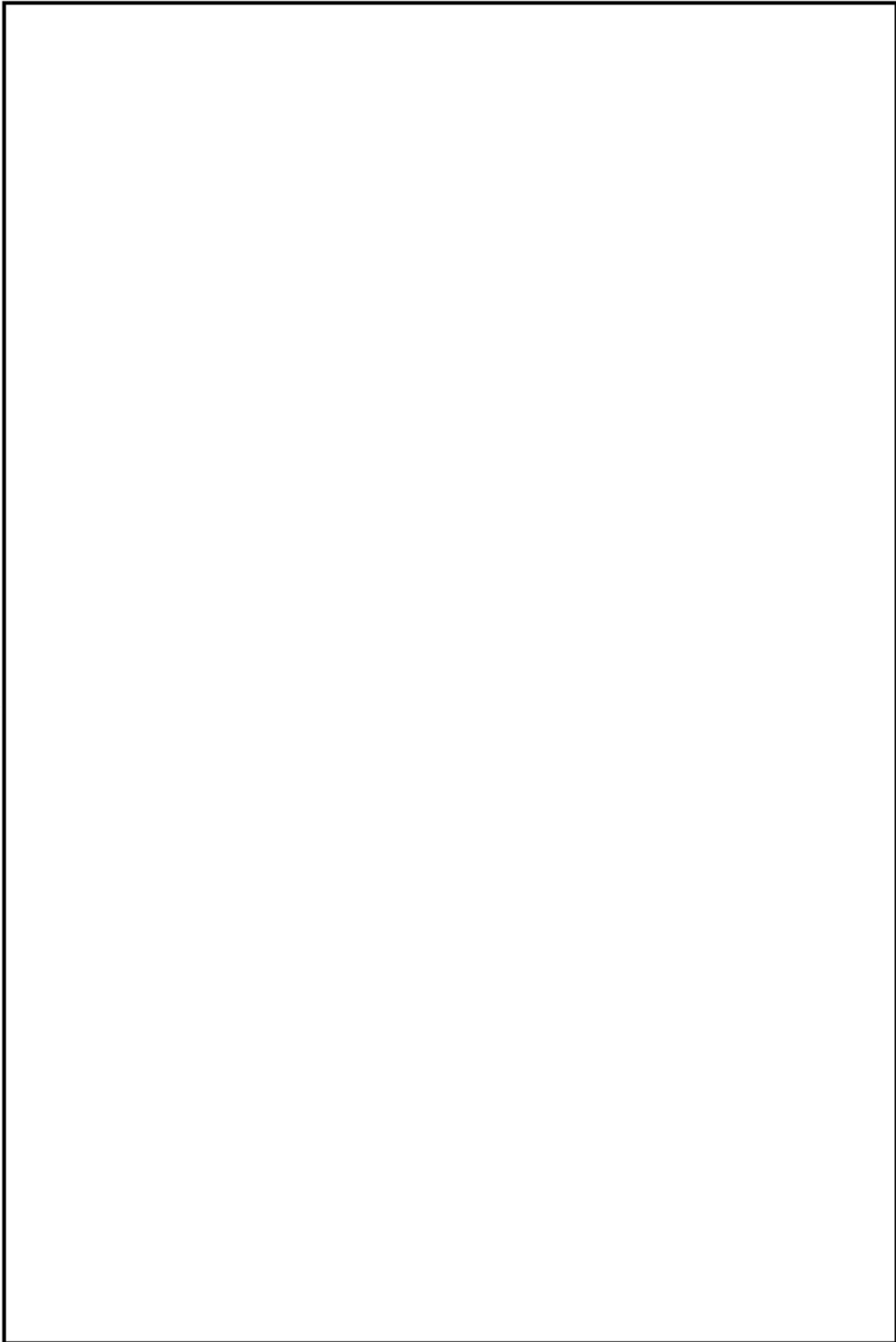
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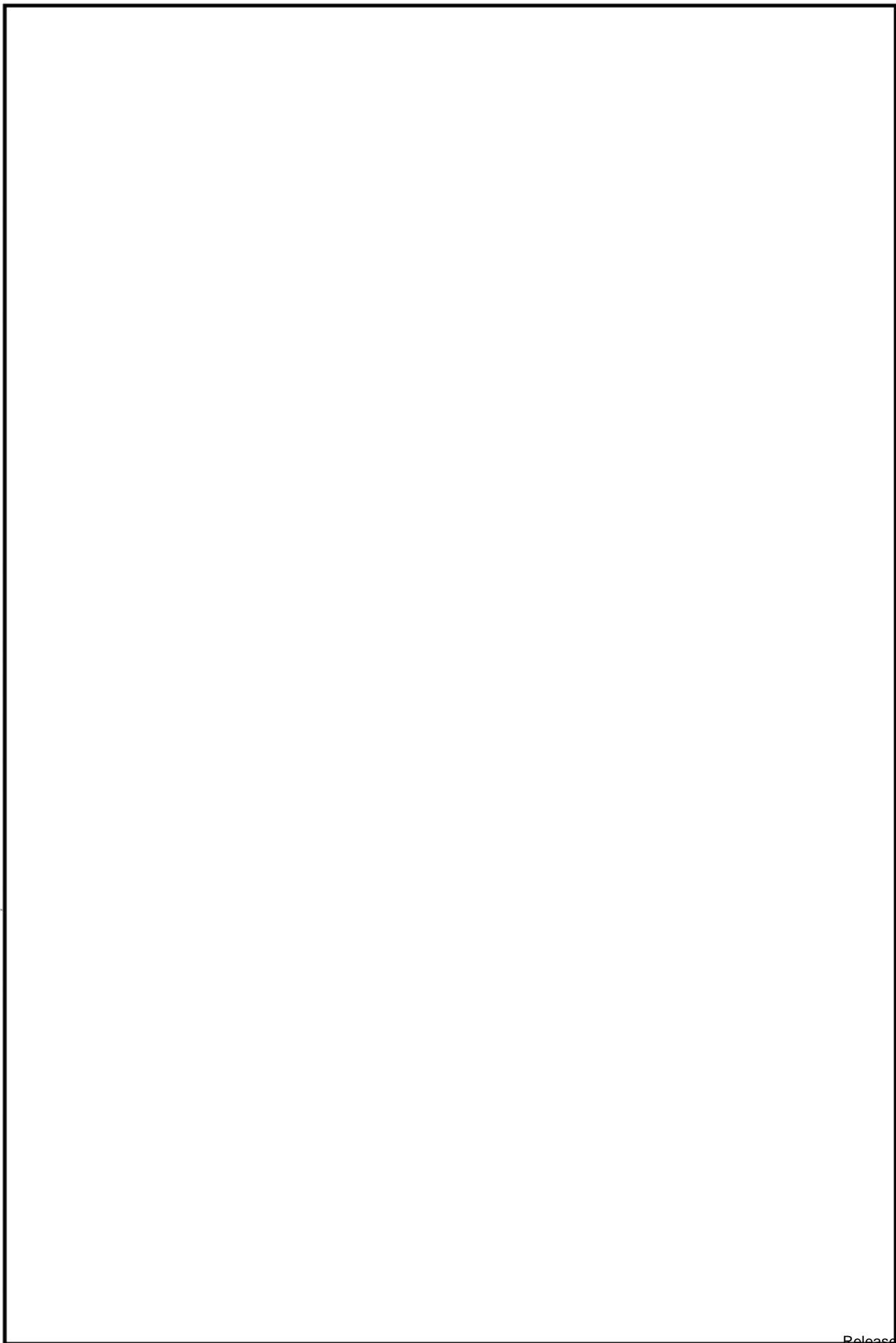
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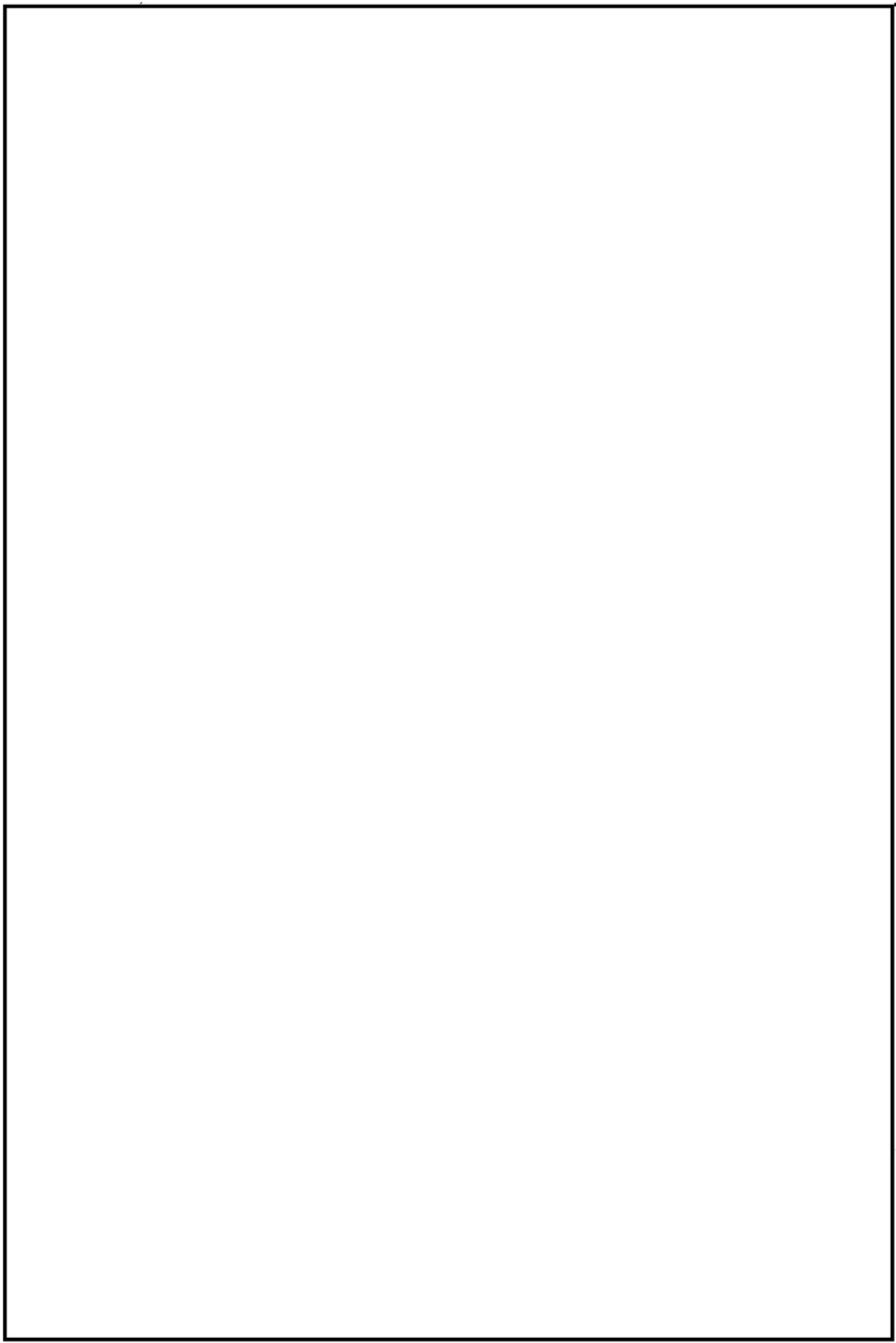
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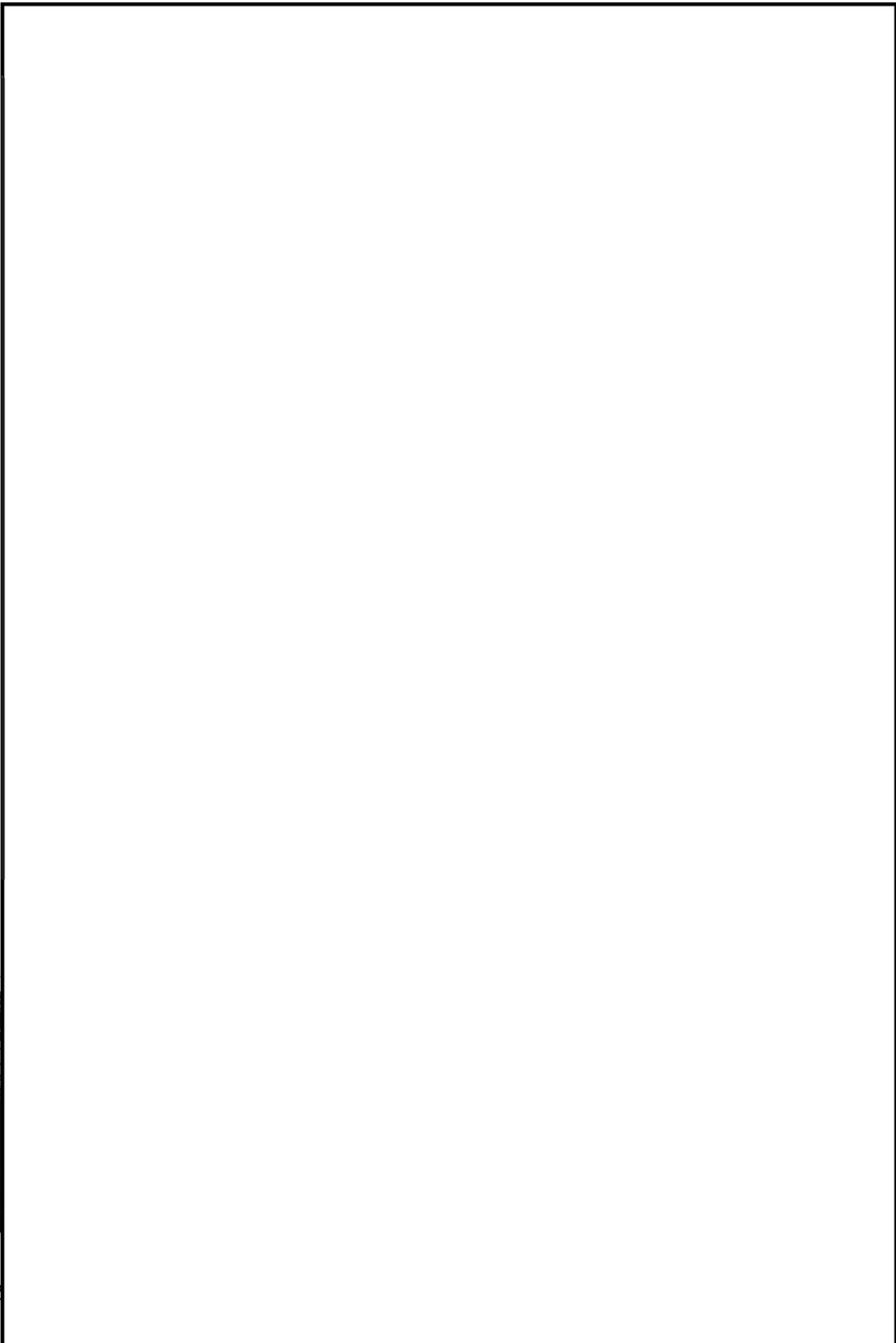
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(Investigations)

DEPARTMENT OF DEFENSE
OFFICE OF INSPECTOR GENERAL
DEFENSE CRIMINAL INVESTIGATIVE SERVICE
BALTIMORE RESIDENT AGENCY
BANK OF AMERICA BUILDING, TOWER II
100 SOUTH CHARLES STREET, SUITE 401
BALTIMORE, MARYLAND 21201

REPORT OF INVESTIGATION

2014000015-02-OCT-2013-60BT-E0/D

January 16, 2015

[Redacted]

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DISTRIBUTION:

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DCIS HQ 03
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NARRATIVE:

1. This investigation was initiated based on facts provided by Assistant Inspector General (AIG) [redacted], National Security Agency (NSA). AIG [redacted] apprised SA [redacted], DCIS Baltimore Resident Agency (RA) of allegations that [redacted] a DoD contractor, falsely represented to the government that it operated and employed out of [redacted] a disadvantaged area, expressly to obtain U.S. Small Business Administration (SBA), Historically Underutilized Business Zone (HUBZone) set-aside contracts. Under the HUBZone program, companies must maintain its principle office in a designated HUBZone and employ 35 percent of its workforce from the HUBZone. It was alleged that [redacted] did not maintain its principle office in the HUBZone nor did it employ 35 percent of its workforce from the HUBZone.

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2. [redacted] most of which were awarded to [redacted] due to its HUBZone status.

3. On December 4, 2012, NSA Office of Inspector General (OIG) Auditors conducted a field site visit of [redacted]'s business location in [redacted]. The NSA OIG auditors visited [redacted] and [redacted] and discovered that [redacted] did not occupy either building. Subsequently, NSA OIG auditors notified the NSA OIG investigators of the potential fraud.

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4. On August 12, 2013, SA [redacted] and AIG [redacted] visited several locations in [redacted] claimed to occupy in search of identifying any and all [redacted] presence in [redacted]. SA [redacted] and AIG [redacted] interviewed individuals at each location. First, SA [redacted] and AIG [redacted] interviewed [redacted] [redacted] owns the building and subleases spare offices. [redacted] informed that [redacted] was a tenant of [redacted] from January 2011 to January 2012. [redacted] recalled seeing [redacted] and an individual later identified as [redacted] at the location. [redacted] believed that [redacted] had another office and performed most of his work in the Washington, DC, area at a client site.

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5. Next, on August 12, 2013, SA [redacted] and AIG [redacted] interviewed [redacted]. [redacted] informed that he was a part-time employee. He occupied a one-desk office and worked only 26 hours a week, as he was a graduate student at Salisbury University in Salisbury, MD. [redacted] stated that he had been the only [redacted] employee in [redacted] since February 2012.

6. Last, on August 12, 2013, SA [redacted] and AIG [redacted] interviewed [redacted]. [redacted] was not aware of when [redacted] initially leased the building but knew that they vacated the office in late 2010 or early 2011. Because [redacted] had a separate entrance to enter the second floor [redacted] was not aware of how many employees occupied the office.

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7. On February 4, 2014, SA [redacted] reviewed [redacted] SBA HUBZone file. During the review, SA [redacted] discovered that [redacted] came close to being decertified from the HUBZone program, as they failed to meet the HUBZone 35 percent residency requirement. In response to the proposed decertification, [redacted] provided evidence to support that it was attempting to maintain the 35 percent HUBZone requirement. [redacted] provided the HUBZone program office with a lease agreement with the [redacted] [redacted] which is in a HUBZone. [redacted] also stated that it advertised employment opportunities through "Help Wanted" advertisements in local newspapers, the Maryland Workforce Exchange, local colleges and universities, and on Monster.com. During the review, [redacted] HUBZone program office, sent an e-mail to his subordinates stating that a company who made the "attempt to maintain" claim may justify its assertion with offers of employment, published advertisements, and/or attendance at job fairs.

8. On February 11, 2014, SA [redacted] interviewed [redacted] [redacted] regarding [redacted] lease with the [redacted] stated that [redacted] leased five office spaces from June 2011 to July 2012. [redacted] explained that [redacted] usually placed two employees in each office. Therefore, [redacted] had approximately ten employees working out of the [redacted] during the lease period.

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9. On September 16, 2014, SA [redacted] completed a review of [redacted] contracts with the NSA. SA [redacted] determined that there were two instances when [redacted] certified to the government that it was a HUBZone concern; April 4, 2011, when [redacted] submitted its HUBZone recertification package; and May 4, 2012, when NSA awarded [redacted] contract [redacted]. During both dates the majority of [redacted] employees (not dedicated to a NSA contract) were located at the [redacted] [redacted] which was a qualified HUBZone location.

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10. At the initiation of this investigation it was believed that [redacted] only office in a HUBZone location was [redacted]. Investigation showed that from June 2011 to July 2012 [redacted] also occupied [redacted]. Therefore, certifications that [redacted] made to the DoD concerning its HUBZone status appear valid during this timeframe. However, after [redacted] vacated [redacted] it obtained a HUBZone set-aside contract with the [redacted]. [redacted] maintained that its "Principal" office was located at [redacted]. Investigation showed that this location contained one desk and was occupied by one part-time [redacted] employee. [redacted]. Accordingly, this matter is referred to [redacted] for further investigation.

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11. On January 15, 2015, Assistant United States Attorney (AUSA), [redacted] United States Attorney's Office, District of Maryland, declined to prosecute [redacted]. [redacted] AUSA [redacted] advised that there was insufficient evidence to prove that [redacted] committed a crime related to the NSA/DoD HUBZone certifications.

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12. SA [redacted] did not refer this case to NSA Suspension and Debarment Officials' (SDO) or the DoD Consolidated Adjudications Facility (CAF), as the allegation that [redacted] committed a false statement when it asserted to the DoD that it was a HUBZone company was unsubstantiated.

[redacted]

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11. All investigative effort by DCIS is now complete. This office will pursue no further action. No major issues requiring a fraud vulnerability report were identified during the course of the investigation. This investigation is closed as "declined."

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IDENTITY OF SUBJECT

[Redacted]

Commodity:

[Redacted]

[Redacted]

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Prepared by SA [Redacted] Baltimore RA

APPR: [Redacted]

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