

Ref: FOI/GS/ID 4839

Please reply to:
FOI Administrator
Trust Management
Maidstone Hospital
Hermitage Lane
Maidstone
Kent
ME16 9QQ
Email: mtw-tr.foiadmin@nhs.net

21 August 2018

Freedom of Information Act 2000

I am writing in response to your request for information made under the Freedom of Information Act 2000 in relation to the sale of the Kent and Sussex hospital site.

You asked:

Could you please send me a copy of the agreement for the sale of the Kent and East Sussex hospital site entered into between Maidstone & Tunbridge Wells NHS Trust and Berkeley Homes?

Trust response:

We can confirm that the Trust does hold the information covered by your request.

By way of advice and assistance, the sale was completed in 2013.

Whilst a copy of the information is enclosed, some information is exempt from disclosure under s.40(2) FOIA, as it is information which constitutes personal data, such as names and signatures, which it would not be fair to disclose 'to the world' (and disclosure would thereby contravene article 5(1)(a) of the General Data Protection Regulation).

Please also be aware that certain lands sales information is available from HM Land Registry (<https://www.gov.uk/government/organisations/land-registry>) in some cases for a fee. In future cases relating to information which is held by the Land Registry (and which therefore is reasonably accessible via other means), the Trust may make use of the exemption for such information set out in s. 21 FOIA.

Finally, we apologise for the slight delay (relative to the statutory time period for compliance) in responding to your request; this is because a careful review of the information was necessary prior to disclosure.

DATED 29 March 2012

MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST (1)

and

BERKELEY HOMES (EASTERN COUNTIES) LIMITED (2)

and

BERKELEY HOMES PLC (3)

AGREEMENT

relating to

former Kent and Sussex Hospital
Mount Ephraim
Tunbridge Wells
Kent

Brachers LLP
Somerfield House
59 London Road
Maidstone
Kent ME16 8JH
Matter: MA11783-206

THIS AGREEMENT is made the

day of

29 Nov

2012

1. Parties

- 1.1 The Seller : MAIDSTONE AND TUNBRIDGE WELLS
NHS TRUST of trust headquarters
Maidstone Hospital Hermitage Lane
Maidstone Kent
- 1.2 The Buyer : BERKELEY HOMES (EASTERN
COUNTIES) LIMITED (Company number
01454062) whose registered office is at
Berkeley House, 19 Portsmouth Road,
Cobham, Surrey, KT11 1JG
- 1.3 The Guarantor : BERKELEY HOMES PLC (Company
number 04088248 whose registered office
is at Berkeley House, 19 Portsmouth Road,
Cobham, Surrey, KT11 1JG

2. Definitions and Interpretation

2.1 In this Agreement the following words shall have the following meanings:-

- 2.1.1 Bank Bond : an irrevocable Bank Bond for Deferred
Payment as defined in clause 6 in the form
annexed at Annexure 1 from a recognised
UK Clearing Bank subject to changes as
are reasonably agreed by the parties to this
Agreement or required by the Bank
- 2.1.2 Burslem House : the land and buildings being the subject of
the Lease and shown edged red on Plan 1
annexed to the Lease
- 2.1.3 Buyer's Obligations : The Buyers obligations contained in the
Schedule to this Agreement

- 2.1.4 Buyer's Solicitors : Eversheds LLP of Kett House, Station Road, Cambridge, CB1 2JY (Ref: [REDACTED]) or such solicitors as shall be appointed by the Buyer and notified to the Seller in writing
- 2.1.5 Commencement of Development Works : means Material operation as defined in Section 56(4) of the Town and Country Planning Act 1990 beginning to be carried out in relation to the Buyers development of the Property
- 2.1.6 Completion : actual completion of the sale and purchase agreed in this Agreement
- 2.1.7 Completion Date : 29 March 2012
- 2.1.8 Completion Moneys : £8,415,000 (Eight Million, Four Hundred and Fifteen Thousand Pounds)
- 2.1.9 Contract Rate : 4% above National Westminster Bank Plc Base Rate or some other UK Clearing Bank nominated in writing from time to time by or on behalf of the Seller
- 2.1.10 Delayed Payment Date : the later of:
 2.1.10.1 the date twenty four months from the date of Completion namely 29 March 2014; and
 2.1.10.2 the date on which the Seller delivers Vacant Possession of Burslem House to the Buyer
- 2.1.11 Deposit : One Million Eight Hundred and Seventy Thousand Pounds (£1,870,000) being 10% of the Purchase Price

2.1.12	General Conditions	:	the Standard Commercial Property Conditions (Second Edition)
2.1.13	Group Company	:	a company within the same group of companies as the Buyer or Guarantor as defined in Section 42 of the Landlord and Tenant Act 1954)
2.1.14	Interest Payment	:	a contribution of £150,000 towards the interest properly charged on the Instalment pursuant to clause 6.2 of this Agreement
2.1.15	Legal Charge	:	the legal charge in the form of the draft annexed at Annexure 2
2.1.16	Parent Company Guarantee	:	a parent company guarantee in the form set out in clause 17 of this Agreement
2.1.17	Planning Agreements	:	<p>an agreement or undertaking in respect of and affecting the Property (whether or not also affecting other property) pursuant to</p> <p>a) Section 106 of the Town and Country Planning Act 1990;</p> <p>b) Section 111 Local Government Act 1972;</p> <p>c) Section 38 or 278 Highways Act 1980;</p> <p>d) Section 33 Local Government (Miscellaneous Provisions) Act 1982;</p> <p>e) Section 104 Water Insolvency Act 1991 or any other provision of similar interest to that section within the meaning of the Water Act 1989 with an appropriate authority for the supply of water to or drainage of surface water from the Property</p>

			f) the statutory requirements of an appropriate authority or utility company relating to the passage or transmission of gas water electricity foul or surface water drainage or any of them and includes any statute amending consolidating or replacing it for the time being in force
2.1.18	Property	:	the former Kent and Sussex Hospital Mount Ephraim Tunbridge Wells Kent registered at the Land Registry under title numbers K832431 and K238594
2.1.19	Purchase Price	:	Eighteen Million Seven Hundred Thousand Pounds (£18,700,000)
2.1.20	Reports	:	reports more particularly detailed in at Annexure 3
2.1.21	Seller's Solicitors	:	Brachers LLP of Somerfield House 59 London Road Maidstone Kent ME16 8JH (Ref [REDACTED]) or such other solicitors as shall be appointed by the Seller and notified to the Buyer in writing
2.1.22	Solicitor's Undertaking Situation 1	:	the undertaking from the Seller's Solicitors to the Buyer's Solicitors in the form annexed at Annexure 4
2.1.23	Solicitor's Undertaking Situation 2	:	the undertaking from the Seller's Solicitors to the Buyer's Solicitors in the form

			annexed at Annexure 5
2.1.24	Solicitor's Undertaking		
	Situation 3	:	the undertaking from the Seller's Solicitors to the Buyer's Solicitors in the form annexed at Annexure 6
2.1.25	Solicitor's Undertaking for RX4:		the undertaking from the Seller's Solicitors to the Buyer's Solicitors in the form annexed at Annexure 7
2.1.26	Lease	:	the lease in the form of the draft annexed at Annexure 8
2.1.27	Transfer	:	the transfer in the form of the draft annexed at Annexure 9
2.1.28	VAT	:	the amount equal to the VAT as charged in accordance with the Value Added Tax Act or any equivalent or substituted tax
2.1.29	Vacant Possession	:	means <ol style="list-style-type: none"> 1) the Seller has vacated the Property and the Property is free from any third party occupiers; and 2) the part of the Property comprised in the Lease of Burslem House is yielded up in accordance with the covenants in clause 17.3 of Schedule 2 in that Lease; and 3) (subject to clause 8.2) does not require the Seller to remove any items fixtures fittings furniture or equipment from the Property and any such items remaining at the

Property shall be treated as
abandoned by the Seller

- 2.1.30 Value Added Tax Act : the Value Added Tax Act 1994 or any
equivalent tax act
- 2.1.31 1954 Act : Landlord and Tenant Act 1954

2.2 In this Agreement where the context so admits:-

- 2.2.1 the expression "the Seller" includes permitted assigns or statutory successors of the Seller
and the expression "the Buyer" includes the permitted assigns and successors in title of the
Buyer and "the Guarantor" includes the successors in title of the Guarantor
- 2.2.2 "this Agreement" means this documentation as varied by any subsequent documentation
- 2.2.3 words importing one gender shall be construed as importing any other gender
- 2.2.4 words importing the singular shall be construed as importing the plural and vice versa
- 2.2.5 where any party comprises more than one person the obligations and liabilities of that party
under this Agreement shall be joint and several obligations and liabilities of those persons
- 2.2.6 references to persons shall include bodies corporate
- 2.2.7 references in this Agreement to any clause sub-clause or schedule without further
designation shall be construed as a reference to the clause sub-clause or schedule to this
Agreement
- 2.2.8 references to a specific statute include (in the absence of any provision to the contrary in
this Agreement) any statutory extension modification amendment or re-enactment of that
statute and any regulations or orders made under it
- 2.3 The clause headings do not form part of this Agreement and shall not be taken into
account in its construction or interpretation

3. Agreement for Sale

The Seller shall sell and the Buyer shall buy the Property at the Purchase Price which shall be
exclusive of VAT

4. Deposit

The Deposit shall be paid to the Seller's Solicitors and the Deposit is to be held by the Sellers

solicitors as stakeholder

5. Completion

- 5.1 Completion of the sale and purchase and payment of the Completion Moneys shall take place on the Completion Date on or before 2.00 pm at the offices of the Seller's Solicitors or where they may direct
- 5.2 If the Completion Moneys are received after 2.00 pm on the Completion Date or on a day which is not a working day Completion shall be deemed for the purposes of the General Conditions to have taken place on the next working day after receipt

6. Payment of Purchase Price

- 6.1 Part of the Purchase Price amounting to £8,415,000 (Eight Million Four Hundred and Fifteen Thousand Pounds) ("the Instalment") (subject to any deductions permitted pursuant to clauses 32 and 33 of this Agreement) is to remain outstanding on Completion and is to be paid by the Buyer to the Seller on the Delayed Payment Date or (if that day is not a working day) on the next working day
- 6.2 If the Instalment is not paid on the Delayed Payment Date the Buyer shall pay to the Seller in addition to the Instalment interest calculated at the Contract Rate on the amount of the Instalment for the period from (but excluding) the Delayed Payment Date to (and including) the date on which the Instalment is actually paid save that if there shall be a dispute which shall have been referred to the Specialist to determine pursuant to clause 20 of this Agreement then no interest shall be chargeable and payable until the Specialist has determined the matter in dispute and then if his determination is in favour of the Seller interest shall be charged at the Contract Rate from the Deferred Payment Date until the date payment shall be made to the Seller's Solicitors and in the alternative if the Specialist determines the matter in dispute in favour of the Buyer no interest shall be charged
- 6.3 The payment of the Instalment and interest properly charged pursuant to clause 6.2 collectively "the Deferred Payment" is to be secured by the Legal Charge to be completed on Completion

7. Title guarantee

The Property is sold with the limited guarantee set out in the Transfer with the modifications

included in it

8. Possession and Works

- 8.1 Subject to the provisions of clause 8.2 and 8.3 the Property is sold with Vacant Possession on Completion
- 8.2 All fixtures and fittings within Burslem House are excluded from the sale and remain in the ownership of the Seller and the Seller shall be entitled to (but shall not be obliged to) remove all or any fixtures and fittings at any time on or before the determination of the Lease provided that in removing such items the Seller will cause as little damage as reasonably possible to Burslem House and any items fixtures fittings furniture or equipment remaining at the Property shall be treated as abandoned by the Seller
- 8.3 Immediately following Completion the Buyer shall grant and the Seller shall accept the grant of a lease in the form of the Lease
- 8.4 The Buyer shall:
 - 8.4.1 notify the Seller in writing at least two weeks prior to the Commencement of Development Works on the Property
 - 8.4.2 as soon as practicable after Completion and in any event within the notice referred to in clause 8.4.1 provide an indicative programme of the proposed works that will be carried out whilst the Lease subsists and
 - 8.4.3 keep the Seller notified at regular intervals (not more than once a month) during the Lease as to the progress of the works so notified and with details and timescales of any other proposed works whilst the Lease subsists
- 8.5 For the avoidance of doubt it is agreed that nothing in this Agreement or in the Lease will require the Seller to pay any costs disbursements or outgoings in connection with the provision of services to Burslem House other than those actually utilised by Burslem House

9. Title

Title to the Property is registered at the Land Registry with absolute title under title numbers K832431 and K238594 and Title having been deduced prior to the date of this Agreement and the Buyer or the Buyer's Solicitors having been supplied with such copies prior to the date of this Agreement the Buyer shall be deemed to purchase with full knowledge of the title in all respects

and shall not raise any requisitions or make any objection in relation to the title save in respect of new matters appearing on the registered titles to K832431 after 9th March 2012 at 11:30:50 and K238594 after 29th December 2011 at 08:55:06 or new matters appearing on pre-completion searches carried out by the Buyer at HM Land Registry revealing entries not currently revealed on registered titles K832431 as at 9th March 2012 at 11:30:50 and K238594 as at 29th December 2011 at 08:55:06

10. Incumbrances and Transfer

- 10.1 The transfer to the Buyer shall be in the form of the Transfer
- 10.2 The Property is sold subject to and (where appropriate) with the benefit of:
- 10.2.1 the rights exceptions reservations covenants restrictions and other matters (if any) referred to in the Transfer
- 10.2.2 the matters contained or referred to in the property proprietorship and charges register of title numbers K832431 as at 9th March 2012 at 11:30:50 and K238594 as at 29th December 2011 at 08:55:06 so far as they relate to the Property
- 10.3 The Buyer or the Buyer's Solicitors having been supplied with copies of the matter (if any) referred to in clause 10.2 prior to the date of this Agreement shall be deemed to purchase with full notice and knowledge of them and shall not raise any requisition or make any objection in relation to that
- 10.4 The Transfer shall be engrossed in duplicate by the Seller's Solicitors and both engrossments shall be executed by the Buyer before the Completion Date

11. Legal Charge

11.1. Security

The liability on the part of the Buyer to pay the monies by way of Deferred Payment to the Seller pursuant to the provisions of this Agreement is to be secured by a first Legal Charge of the Property executed by the Buyer in favour of the Seller and in the form of the Legal Charge which the Buyer is to execute with the Transfer on Completion. The Buyer must at its own expense do all things as may be necessary to register the Legal Charge at Companies House and at HM Land Registry

11.2. Release

11.2.1. At any time after the Completion Date the Buyer may provide the Seller with 15 Working Days' notice of its intention to request a release of part of the Property from the Legal Charge.

11.2.2. The Buyer shall then (after the period referred to in 11.2.1 above) serve a further written notice on the Seller (which shall include a plan to a suitable scale detailing the part of the Property which is the subject of the application) "the Application Land" together with such evidence as may be available to support the valuation of the Application Land and subject to the payment of the Seller's reasonable legal costs by the Buyer the Seller will deliver to the Buyer a release within 10 Working Days of the service of the notice referred to in 11.2.1 above (in the form required by HM Land Registry) of the Legal Charge over the Application Land where:

11.2.3. the land remaining subject to the Legal Charge (namely the Property excluding the Application Land and any other part of the Property released previously pursuant to this clause at the date of the application in this clause 11.2) shall:

11.2.3.1. have a value of a minimum of 130 per cent of the instalment outstanding together with any other monies due from the Buyer to the Seller pursuant to the provisions of clause 6.3 of this Agreement; and

11.2.3.2. immediately abut a highway maintained at the public expense and

11.2.3.3. planning permission has been granted for the development of substantially the whole of the Property

11.3. Notwithstanding **clause 11.2** the Seller will execute a DS1 in the form annexed at Annexure 10 (or an equivalent Land Registry Form replacing the same) releasing the whole of the Property from the Legal Charge and will deliver this irrevocably to the Seller's Solicitors to be held by them on the Completion Date until either –

11.3.1. the payment of the instalment together with any sums due pursuant to clause 6.2 of this Agreement at any time up to or on the Delayed Payment Date

11.3.2. the delivery of an executed Bank Bond to the Seller or the Seller's Solicitor; or

11.3.3. the date of [²⁹] March 2014 occurs and Situation 1, Situation 2 or Situation 3 as set out in **clause 11.4** apply

whereupon the Seller hereby authorises its solicitors to release the executed DS1 to the Buyer's Solicitors

11.4. If on or after [²⁹] March 2014 the Seller shall not for whatever reason have secured Vacant Possession of Burslem House or there is a dispute on that date between the Seller and the Buyer over whether Vacant Possession of Burslem House has been achieved then the Seller acknowledges the Buyer may make one of the following elections in the Buyers absolute discretion:

11.4.1. replace the Legal Charge with the Bank Bond pursuant to **clause 11.3.2** of this Agreement whereupon the Seller hereby authorises its solicitor to release the executed DS1 to the Buyer's Solicitors (Situation 1);

11.4.2. pay the Deferred Payment less any Deduction (defined in clause 33.1) to the Seller or the Seller's Solicitor whereupon the Seller hereby authorises its solicitor to release the executed DS1 to the Buyer's Solicitors (Situation 2);

11.4.3. lodge the Instalment and the Interest Payment with the Buyer's Solicitor with irrevocable written instructions from the Buyer to the Buyer's Solicitors to pay the Instalment less any Deductions due (as defined in clause 33.1) and such interest as may be due pursuant to clause 6.2 of this Agreement up to the maximum of the Interest Payment to the Seller's Solicitors upon Vacant Possession of Burslem House being achieved and upon written confirmation from the Buyer's Solicitors to the Seller's Solicitors that it holds the Instalment and the Interest Payment in its client account and that they have received the Buyer's irrevocable written instructions the Seller hereby authorises its solicitor to release the executed DS1 to the Buyer's Solicitors (Situation 3).

11.5. The Seller will on the Completion Date give irrevocable instructions to the Seller's Solicitors to ensure that the Seller's Solicitors will hand over to the Buyer's Solicitors on

the Completion Date the Solicitors Undertaking Situation 1 Solicitors Undertaking Situation 2 and Solicitors Undertaking Situation 3 each executed and dated.

- 11.6. If Situation 3 shall occur and there shall be a dispute about whether Vacant Possession has been achieved the interest whilst held in the Buyer's Solicitor's Bank Account that accrues on the Deferred Payment shall belong to whichever party the Specialist determines is correct in relation to the fact of whether or not Vacant Possession has been achieved.

12. Overage Provisions

The provisions of schedule 1 shall apply

13. Other Matters affecting the Property

The Property is sold subject to the following matters:-

all local land charges registered before the date of this Agreement and all matters capable of registration as local land charges whether or not actually so registered

- 13.1 all notices served and orders demands proposals or requirements made by any local public or other competent authority whether before or after the date of this Agreement
- 13.2 all actual charges notices orders restrictions agreements conditions contraventions or other matters arising under any statute
- 13.3 all easements quasi-easements rights exceptions or other similar matters including rights of way drainage water watercourses light rights of adjoining owners affecting the Property and liability to repair or covenants to repair roads pavements paths ways passages sewers drains gutters fences and other like matters whether or not apparent on inspection or disclosed in any of the documents referred to in this Agreement
- 13.4 matters referred to in General Condition 3.2
- 13.5 matters discoverable by inspection of the Property before the date of this Agreement
- 13.6 matters relating to the Property about which the Seller does not know and could not reasonably be expected to know
- 13.7 matters disclosed or which would be disclosed by any searches or as a result of enquiries (formal or informal and made in person in writing or orally) made by or for the Buyer or

which a prudent buyer ought to make and

- 13.8 unregistered interest which override first registration or registered dispositions listed in the Land Registration Act 2002 Schedules 1 and 3 (as amended) as appropriate

14. Disclaimer

14.1. The Buyer admits that:-

- 14.1.1. it has inspected the Property and purchases it with full knowledge of its actual state and condition and takes the Property as it stands
- 14.1.2. it has verified the position of the boundaries and the size of the Property and that no warranty statement or representation has been made by the Seller in respect of these points.
- 14.1.3. it enters into this Agreement solely as a result of its own inspection and on the basis of the terms of this Agreement and not in reliance upon any advertisement statement representation or warranty either written or oral or implied made by or on behalf of the Seller (save for any representation or warranty contained in written replies given by the Seller's Solicitors to any written preliminary enquiries raised by the Buyer's Solicitors)
- 14.1.4 no warranty statement or representation has been made or given to the Buyer that the Property can be used or developed in any particular way or for any particular purpose and the Seller shall not be liable to the Buyer if the Property cannot for any reason whatsoever be so used or developed
- 14.2 This Agreement contains the entire agreement between the parties and incorporates all the terms agreed between them for the purposes of the Law of Property (Miscellaneous Provisions) Act 1989 Section 2 and there are no other terms or provisions agreed prior to the date of this Agreement which have not been incorporated into this Agreement

15. Incorporation of Conditions of Sale

- 15.1.1 The Standard Conditions shall apply to this Agreement in so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the terms of this Agreement and shall be amended as follows:
- 15.1.2 the following Standard Conditions do not apply:
- 1.3.3(b), 6.1, 6.3, 6.4.2, 6.6.5.

- 15.1.3 in Standard Condition 1.1.1(e) the "contract rate" is 4% per year above the base rate of National Westminster Bank plc from time to time in force
- 15.1.4 delete Standard Condition 1.1.1(g) and substitute the following:-
"*direct credit*" means a direct transfer by the CHAPS system of cleared funds to the Seller's Solicitors client account number [REDACTED] at [REDACTED] or such other account held at a clearing bank nominated in writing by the Seller's Solicitors"
- 15.1.5 in Standard Condition 1.1.1(o) a "working day" expires at 5.00pm and add the words:- "and does not fall between 24th December and 31st December (both days inclusive) in any year"
- 15.1.6 in Standard Condition 1.2 the following words are added after the words "which they undertake" the words "or agree to undertake"
- 15.1.7 the following words are added to the end of Standard Condition 1.3.2:
"*so long as such notice or document or letter accompanying the same quotes the recipient conveyancer's correct reference*"
- 15.1.8 in Standard Condition 1.3 Add as an additional sub-condition the following:-
"*1.3.9 If the receiving party consists of more than one person a notice to one of them is a notice to all*"
- 15.1.9 In Standard Condition 3.1.3 delete the words "of any new public requirements and".
- 15.1.10 in Standard Condition 9.1.1 delete the words "*plan or*" and "or in negotiations leading to it" and "or was" are deleted
- 15.1.11 If there is any conflict between the Standard Conditions as amended and the terms of this Agreement the terms of this Agreement prevail

16. Restriction on Assignment

16.1. This Agreement is not capable of being:

- (a) charged or mortgaged or
- (b) assigned

prior to the date of actual Completion save that:

16.1.1 the Buyer may assign the benefit of this Agreement to a Group Company; and

- 16.1.2 the Seller may assign to another NHS Body.
- 16.2. The Buyer shall not be entitled to assign the benefit of part only of this Agreement and shall not be entitled to charge or mortgage it or use it as security in any way
- 16.3. The Seller shall not be required to transfer the Property on the Completion Date:-
- 16.3.1. to anyone other than the Buyer named in this Agreement save as permitted in clause 16.1
- 16.3.1.1. at a price greater than the Purchase Price and
- 16.3.1.2. except by one transfer of the Property as a whole

17. Guarantor's obligations for Overage Provisions

- 17.1 In consideration of the Seller entering into this Agreement at the Guarantor's request the Guarantor agrees with the Seller as a primary obligation that:
- 17.1.1 the Buyer shall observe and perform all the Buyer's Obligations
- 17.1.2 if the Buyer fails to observe and perform the Buyer's Obligations or any of them subject to clauses 17.1.3 and 17.3 the Guarantor shall observe and perform them and shall indemnify the Seller against all losses damages claims demands costs and expenses arising as a result of such failure for the avoidance of doubt the guarantee shall only apply to the Buyers Obligations and not to any other provisions in this Agreement
- 17.1.3 The Seller shall not make any claim against the Guarantor without giving not less than 10 working days' notice in writing to the Guarantor of its intention to do so and giving the Guarantor the opportunity to remedy the default of the Buyer
- 17.1.4 the liability of the Guarantor shall not be affected reduced or extinguished by
- 17.1.4.1 any time or indulgence granted by the Seller to the Buyer
- 17.1.4.2 any neglect or forbearance of the Seller in enforcing its rights under this Agreement
- 17.1.4.3 any variation of this Agreement between the Seller and the Buyer
- 17.1.4.4 anything else by which apart from this clause 17 the Guarantor would be released
- 17.2 notwithstanding any provision to the contrary the indemnity of the Guarantor shall not exceed the liability of the Buyer under the Schedule of this Agreement
- 17.3 the obligations of the Guarantor under this Agreement will automatically come to an end on

the expiry of the Overage Period Provided That any sums due to the Seller pursuant to the Schedule have been paid to the Seller or to whom the Seller shall direct.

18. Warranty Clause

- 18.1 The Buyer acknowledges that it has represented to the Seller and hereby warrants that it has full power and authority to enter into this Agreement that it has taken all necessary corporate or other actions to authorise the same and that as executed such agreement (and the performance of all obligations herein contained) does not and will not constitute a breach of any law regulation or official directive in force at the date of this Agreement to which the Buyer is subject or any agreement by which the Buyer is bound and is and will be valid and enforceable in accordance with its terms
- 18.2 The Seller acknowledges that it has represented to the Buyer that it has full power and authority to enter into this Agreement and it has taken all necessary actions to authorise the same and that as executed such agreement (and the performance of all obligations herein contained) does not and will not constitute a breach of any law regulations or official directive in force at the date of this Agreement to which the Buyer is subject or any agreement by which the Buyer is bound and is and will be valid and enforceable in accordance with its terms

19. Insolvency of Buyer

- 19.1 If the Buyer:-
- 19.1.1 enters into voluntary liquidation (other than for the purpose of reconstruction or amalgamation not involving a realisation of assets) or has a winding-up order made against it by the court or has a receiver appointed over all or any part of its assets or an administration order is made pursuant to the Insolvency Act 1986 or
- 19.1.2 becomes insolvent or enters into any composition with its or his creditors or enters into a voluntary arrangement (within the meaning of the Insolvency Act 1986 Sections 1 or 253) then and in any such case the Seller may rescind this Agreement by notice to the Buyer
- 19.2 Condition 9.2 of the Standard Conditions shall apply save that in this instance the Seller shall not be obliged to pay any interest which has accrued on the deposit

20. Disputes

20.1 In this clause:-

20.1.1 "Dispute" means a dispute issue difference question or claim as between the Seller and the Buyer relating to or arising out of this Agreement

20.1.2 "Party" means a party to the Dispute

20.1.3 "Specialist" means a person qualified to act as an independent expert in relation to the Dispute having experience in the profession in which he practises for the period of at least ten years immediately preceding the date of referral and (in the case of a Specialist who is a chartered surveyor) the person shall have requisite experience in residential property values in NHS land transactions and residential development land and holds a minimum of £10 million professional indemnity insurance cover

20.2 Either Party may give to the other notice ("Dispute Notice") requiring a Dispute to be referred to a Specialist and proposing an appropriate Specialist

20.3 The Party served is to be deemed to accept the proposals under clause 20.2 made in the Dispute Notice unless the Party within 10 working days of receipt of the Dispute Notice gives notice rejecting one or more of the proposals or unless each Party serves a Dispute Notice on the other contemporaneously

20.4 Unless the Parties agree or are deemed to agree the appropriate Specialist:

20.4.1 if the Parties do not agree which type of Specialist is appropriate to resolve the Dispute either Party may refer that question to the President or next most senior available officer of the Royal Institution of Chartered Surveyors or (if he will not accept that reference) to the President or next most senior available officer of the Law Society who must (with the right to take such further advice as he may require) determine that question and nominate or arrange to have nominated the appropriate Specialist

20.4.2 if the Parties agree the appropriate type of Specialist but do not agree the identity of the Specialist he is to be nominated on the application of either Party by the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist but if no such organisation exists then by the President or next most senior available officer of the Royal Institution of Chartered Surveyors

- 20.5 The Parties agree that the Specialist should act as an independent expert and:
- 20.5.1 each Party may within 15 working days of his appointment make written representations which are to be made to him and copied to the other Party
- 20.5.2 each Party is to be given a further 10 working days to give him written comment on those representations
- 20.5.3 the Specialist is to be at liberty to call for such written evidence from the Parties and to seek such legal or other expert assistance as he may reasonably require
- 20.5.4 the Specialist is to have regard to all representations and evidence when making his decision which is to be in writing and he is to be required to give reasons for his decision
- 20.5.5 the Specialist is to use all reasonable endeavours to publish his decision within six weeks of his appointment
- 20.6 All costs of referring a Dispute to a Specialist under this clause including costs connected with the appointment of the Specialist and the legal and other professional costs of any Party in relation to a Dispute are to be borne as the Specialist shall determine or if not determined then equally by the parties

21. Exclusion of the 1954 Act

- 21.1 The Seller and the Buyer confirm that:-
- 21.1.1 the Buyer served a notice dated 26th March 2012 on the Seller, as required by Section 38A(3)(a) of the 1954 Act and which applies to the tenancy to be created by the Lease, (a copy of which notice is attached to this Agreement at Annexure 11;
- 21.1.2 [REDACTED] who was duly authorised by the Seller to do so, made a statutory declaration dated 27th March 2012 in accordance with the requirements of Section 38A(3)(b) of the 1954 Act (a copy of which statutory declaration is attached to this Agreement at Annexure 12)

22. Contaminated Land

- 22.1 In this clause the following words will have the following meanings:
- 22.1.1 Contaminated Land Regime: the contaminated land regime under Part 2A of the Environmental Protection Act 1990 (as amended from time to time) and any statutory instrument, circular or guidance issued under it.

- 22.1.2 Enforcing Authority: the relevant regulator for the Property under the Contaminated Land Regime.
- 22.1.3 Environment: the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
- 22.1.4 Environmental Law: all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes (as amended from time to time in so far as legally binding) in so far as they relate to the protection of the Environment.
- 22.1.5 Excluded Liabilities: any liabilities incurred or sustained or suffered by any third party including any claims by any current or former employees prior to the Completion Date in respect of or arising from Hazardous Substances
- 22.1.6 Hazardous Substances: any material, substance or organism which, alone or in combination with others, is capable of causing harm to the Environment or which is likely to cause an actionable nuisance.

23. Agreement on environmental liabilities

- 23.1.1 Notwithstanding any other provisions in this Agreement, the Buyer and Seller agree that:
- 23.1.1.1 Any liability under Environmental Law (including, without limitation, any liability under the Contaminated Land Regime) arising in respect of Hazardous Substances in, on, under or emanating from the Property on or before the date of Completion shall be the sole responsibility of the Buyer save in relation to Excluded Liabilities which remain the responsibility of the Seller.
- 23.1.1.2 This clause 23.2 (together with clause 23.3) constitutes an agreement on liabilities under paragraphs D.38 and D.39 of the Department for Environment, Food and Rural Affairs' Circular 1/2006 setting out guidance on the Contaminated Land Regime.
- 23.1.2 If the Enforcing Authority serves a notice under the Contaminated Land Regime on either party to this Agreement, either party may produce a copy of clause 23.2 and clause 23.3 to

any Enforcing Authority or court for the purposes of determining liability under the Contaminated Land Regime, regardless of any confidentiality agreement that may exist between the Parties relating to this Agreement or any of its provisions.

23.1.3 Neither Party shall challenge the application of the agreement on liabilities set out in this clause and this clause 23.

23.2 Sold with information

23.2.1 The Buyer acknowledges that, before the date of this Agreement, it has had full permission and opportunity to inspect, survey and investigate the condition of the Property and the Buyer has acquired information about the condition of the Property in the form of copies of all documents listed in Annexure 3 and:

23.2.1.1 that information was reasonably sufficient to allow the Buyer to be aware of the presence on the Property of any Hazardous Substances and the broad measure of that presence;

23.2.2 The Buyer agrees that, as a result of the permission to investigate the condition of the Property and the information acquired by the Buyer referred to in clause 23.2.1 any liability which the Seller might otherwise have had under the Contaminated Land Regime in respect of Hazardous Substances in, on or under the Property on or before the date of Completion has been transferred by this Agreement to the Buyer save in relation to Excluded Liabilities which remain the responsibility of the Seller.

24. VAT

The Seller warrants to the Buyer that it has made no election to waive exemption from VAT with respect to the Property with effect from a date prior to this Agreement and further covenants that it will not do so at any time in the future

25. Notice to Complete

In the event of the Seller serving upon the Buyer or the Buyer's Solicitors any notice to complete or notice of rescission (as the case may be) the Buyer shall pay to the Seller's Solicitors the sum of £150 plus VAT to cover the cost of such notice and its service and hereby authorises its solicitor to make such payment and such payment shall be without prejudice to any other claim that the Seller

may have for damages and/or costs in respect of such failure to complete howsoever arising

26. Merger on Completion

The provisions of this Agreement shall not merge on the completion of the transfer of the Property to the Buyer so far as they remain to be performed

27. The Contracts (Rights of Third Parties) Act 1999

None of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this Agreement

28. Reports

The Seller will at its own cost use reasonable endeavours to procure on or as soon as reasonably practicable after the Completion Date letters of assignment in respect of the Reports substantially in the form annexed at Annexure 13.

29. Planning Agreements

29.1 Where the local planning authority require any Planning Agreements as a pre-condition to the grant of a planning permission relating to the Property the Seller will sign as Lessee of Burslem House as well as Chargee of the Property such Planning Agreements by way of giving its consent to the same

29.2 To the extent that any Planning Agreement contains terms that take effect before the Completion Date, the Buyer is to indemnify the Seller against the cost of complying with those terms where the Seller is required to do so by the local planning authority.

29.3 To the extent that any Planning Agreement imposes continuing liability on the Seller after the Completion Date, the Buyer is to indemnify the Seller against any breach of that Planning Agreement by the Buyer or the Buyer's successors in title to the Property

30. Licence for Access

The Seller will be permitted on not less than 7 days written notice to the Buyer to access the Property for a period of three months from the Completion Date with its workmen and contractors and all necessary equipment and vehicles to remove the Poole Pottery tiles from the former Childrens' Ward and will carry out such works in a workmanlike manner causing as little damage as reasonably possible to the building within which the Poole Pottery tiles are located and having

regard to all health and safety legislation and has requisite insurance in place

31. Buyer's Contribution to costs

On exchange of this Agreement and in addition to the Purchase Price the Buyer shall pay to the Seller the sum of £18,055 plus VAT (namely £21666.05) as a contribution towards the costs incurred in employing Hydrock Consultants Limited.

32. Warranty

32.1. The Seller warrants to the Buyer –

32.1.1. that there are no persons companies partnerships or other business entities (who are at the date of this Agreement currently in occupation of Burslem House) and have security of tenure under Part II of the Landlord and Tenant Act 1954;

32.1.2. that no person company partnerships or other entity currently in occupation of Burslem House was in occupation prior to 1 February 1997

32.1.3. that no person currently in occupation of Burslem House occupies as a successor

32.1.4. that no person currently in occupation of Burslem House occupies other than as a licensee or pursuant to an Assured Shorthold Tenancy;

32.1.5. that no person currently in occupation of Burslem House has a right to remain in occupation post [29 Nov] 2014

32.1.6. that there are no persons companies partnerships or other entity other than the Seller in occupation of the medical centre in Burslem House as at today's date

32.2. The Seller will indemnify the Buyer against any cost claim bond damage or loss including any delays to the build and/or the development as a result of any delay caused by the Seller in not giving vacant possession of Burslem House and which arises from breach of the warranty in clause 32.1 as at today's date and on the Completion Date

32.3. The indemnity given in 32.2 above shall not cover the Buyer to the extent that a claim under it results from the Buyer's negligence or wilful misconduct.

32.4. If the Buyer makes any claims pursuant to the warranty or the indemnity it is entitled but is not obliged to deduct the amounts claimed from the Instalment and Interest Payment and any other sums due pursuant to clause 6.2 of the Agreement

32.5. If any third party makes a claim, or notifies an intention to make a claim, against the Buyer

which may reasonably be considered likely to give rise to a liability under this indemnity (a Claim), the Buyer shall:

- 32.5.1. as soon as reasonably practicable, give written notice of the Claim to the Seller, specifying the nature of the Claim in reasonable detail;
- 32.5.2. not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Seller (such consent not to be unreasonably conditioned, withheld or delayed), provided that the Buyer may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Seller, but without obtaining the Seller's consent) if the Buyer reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;
- 32.5.3. give the Seller and its professional advisers access at reasonable times (on reasonable prior notice) to documents and records within the power or control of the Buyer, so as to enable the Seller and its professional advisers to examine them and to take copies (at the Seller's expense) for the purpose of assessing the Claim; and
- 32.5.4. reasonably consider any request that the Seller may make and if the Buyer acting on its absolute discretion considers it reasonable to take such action to avoid, dispute, compromise or defend the Claim.
- 32.6. Nothing in this clause shall restrict or limit the Buyer's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

33. Deductions

- 33.1. The Buyer shall be entitled to deduct from the Instalment and Interest Payment and any other sums due pursuant to clause 6.2 of the Agreement such sums claimed in losses and damages as the Buyer is entitled to recover from the Seller pursuant to:
 - 33.1.1. clause 32.2 and 32.4 of this Agreement; and
 - 33.1.2. the Seller failing to give Vacant Possession of Burslem House to the Buyer on [29] March 2014 including claims under clause 12 of Schedule 2 of the Lease so far as they relate to Vacant Possession of Burslem House not being provided on that date

(the Deduction*).

- 33.2. If there shall be any disagreement about the amount of the Deduction then the amount of the Deduction may be referred by either party to the Specialist to determine pursuant to clause 20 of this Agreement.
- 33.3. For the avoidance of doubt if the Delayed Payment Date shall arise before the amount of Deduction has been agreed between the parties or determined by the Specialist pursuant to clause 20 of the Agreement then the Buyer shall pay to the Seller the Instalment less what the parties determine is a reasonable estimate of the Deduction and if this estimate shall not be agreed between the Buyer and the Seller then the amount of the estimated deduction may be referred by either party to the Specialist to determine pursuant to clause 20 of this Agreement.
- 33.4. Any estimated deduction made pursuant to Clauses 33.3 of this Agreement is to be held by the Buyers Solicitors in their client account and not released until the final reconciliation pursuant to Clause 33.5 of this Agreement has taken place whereupon the respective monies due either to the Buyer or the Seller shall be released in accordance with the provisions of Clause 33.5.
- 33.5. If the Deduction is based on estimates as set out in clause 33.3 of this Agreement then there will be a final reconciliation as soon as possible after the actual Deduction has been determined pursuant to clause 33.2 and;
- 33.5.1. if the estimated deduction made has exceeded the claim by the Buyer pursuant to clause 33.1 of this Agreement then the balance shall be paid to the Seller within 7 days of such sum being determined and notified in writing to the parties; and
- 33.5.2. if the estimated deduction has been insufficient and the claim by the Buyer pursuant to clause 33.1 of this Agreement has exceeded the amount of the estimated deduction then the Seller shall pay to the Buyer such sum within 7 days of such sum being determined and notified in writing to the parties.
- 33.6. If there shall be a late payment of sums due to either party pursuant to this clause 33 of this Agreement then interest shall be charged at the Contract Rate on the sum outstanding from the date due until payment is received.

34. Nature of this Agreement

This Agreement is a deed and shall be executed by the parties as a deed

Schedule

Overage Provisions

"Affordable Units"

means a house maisonette flat apartment or other dwelling in respect of which it is a condition of a planning permission or related Planning Agreement to restrict or limit the price of which the dwelling can be sold or its ownership or terms of lease or occupation or disposal. Affordable Units of Affordable Housing shall be construed accordingly

"Act of Circumvention"

means an act or omission by the Buyer where the principle purpose or purposes is or are to avoid the Overage Payment or to reduce the size of the Overage Payment

"Approved List"

Savills

Landsdowne House, 57 Berkeley Square, London W1J 9ER
020 7877 4700

74 High Street, Sevenoaks, Kent, TN13 1JR
01732 789 761

Jones Lang La Salle

30 Warwick Street, London, W1B 5NH
020 7493 4933

Knight Frank

55 Baker Street, London, W1U 8AN
020 7629 8171

85 Mount Pleasant Road, Town Centre, Tunbridge Wells
TN1 1PX
01892 515035

Wood & Pilcher

23 High Street, Royal Tunbridge Wells, Tunbridge Wells,
Kent TN1 1UT
01892 511 211

Bracketts

27-29 High Street, Tunbridge Wells, Kent TN1 1UU
01892 533733

Broadlands
52 High St, Tunbridge Wells TN1 1XF
01892 512 422

"Authorisation Criteria"

- a) the Disposal is to an Authorised Disponee; and
- b) a Surveyors Certificate has been produced for such Disposal.

"Authorised Disponee"

means a subsequent purchaser of the Property or part or parts thereof who either –

- a) a company with net assets as shown by the latest consolidated audited accounts registered at Companies House exceeding £100,000,000 one hundred million pounds; or
- b) supplies to the Seller (to be determined by the Seller acting reasonably) by way of legal charge or bank guarantee or guarantee from another company for performance of the obligations in this Schedule such legal charge or bank guarantee or guarantee to be in such form as the Seller may reasonably require and the reasonable costs and expenses incurred by the Seller in approving such security are to be paid by the Buyer; or
- c) is capable financially of meeting the obligations in the Schedule and who the Seller in its absolute discretion approves.

"Authorised Disposal"

means any Disposal of the Property or part or parts thereof which satisfies the Authorisation Criteria and which is not a Disposal to an Excluded Person

"Base Price"

- a) On the first Disposal £18,700,000 (Eighteen Million Seven Hundred Thousand Pounds) or Pro-Rata for any part or parts thereof of the Property the subject of the Disposal and
- b) on any second or subsequent Disposal of the same area of the Property or part thereof the consideration set out in the previous transfer

deed or lease for the Disposal which has been subject to a calculation of the Net Sale on Sum

"Connected Person"

In relation to a person:

- (a) who is a connected person (as defined in Section 839 of the Income and Corporation Taxes Act 1988) to the first mentioned person
- (b) who when the first mentioned person is "acting in concert" (as defined in the City Code on Takeovers and Mergers)
- (c) and includes without limitation any Group Company

"Costs"

means in respect of the Property the subject of a relevant Disposal or such part or parts on a Pro-Rata basis –

- (a) stamp duty land tax incurred by the Buyer on purchase of the Property
- (b) finance costs of holding the Property security costs of the Property and rates charged in respect of the Property
- (c) the costs of all technical investigations commissioned by the Buyer
- (d) the cost of infrastructure works, including costs of consents and works installed or on which works has started at the Property
- (e) legal fees
- (f) agents fees
- (g) planning fees
- (h) consultants fees and all other fees and costs in the preparation and submission of any planning application submitted by the Buyer relating to the Property including costs in relation to public exhibitions and consultations and work necessary to facilitate a favourable determination of the Buyers planning application
- (i) the cost of entering in to altering and complying with a Planning Agreement required for the Development

- (j) demolition costs.
- (k) and costs reasonably attributable to the purchase and a Disposal necessitating calculation of the Net Sale on Sum

In each case covering costs actually or committed to be incurred by the Buyer and if required by the Seller the Buyer shall provide reasonable evidence of the proof of such costs and fees

"Deed of Covenant"

means the Deed of Covenant in the form set out at Annexure 14

"Development"

means the proposed re-development of the Property

"Disposal"

means the legal completion of a legal or equitable conveyance of the freehold interest or grant or assignment of a Long Leasehold Interest or other vesting or combination of any of those of the whole or any parts of the Buyers estate or interest in the Property and Disponee shall be construed accordingly

"Disposal To An Excluded Person"

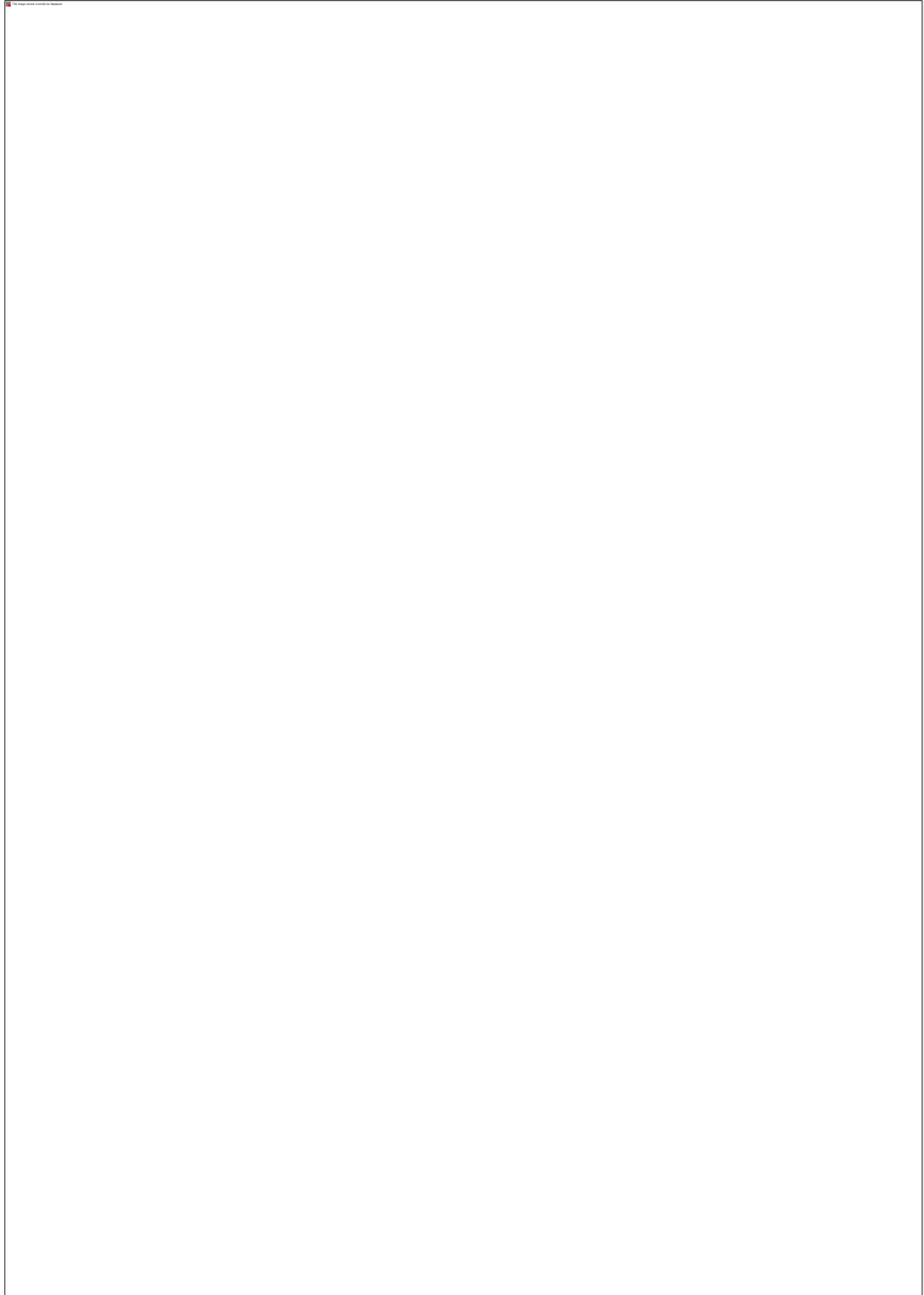
Means Disposal of the Property or part or parts thereof to an Excluded Person

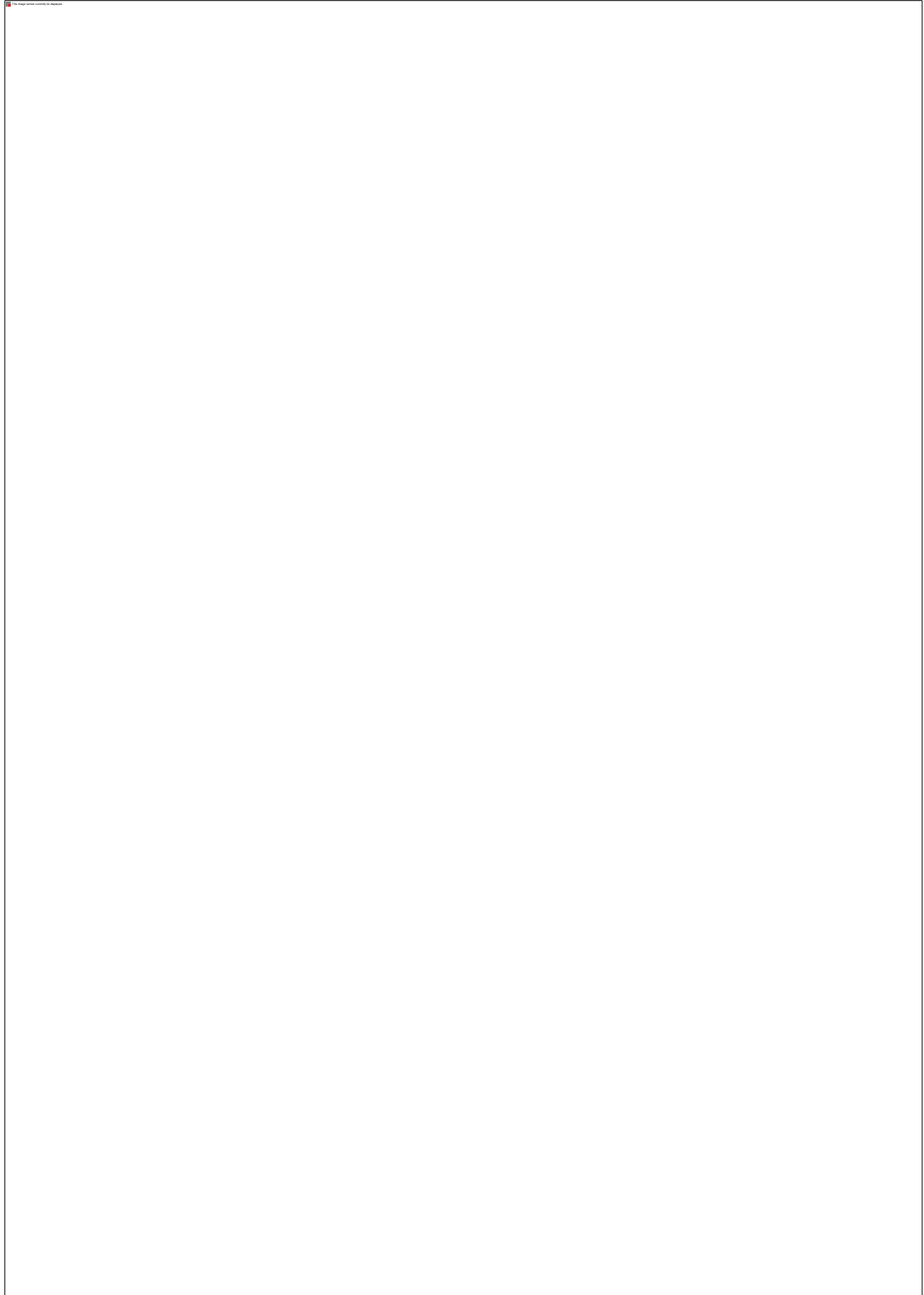
"Excluded Person"

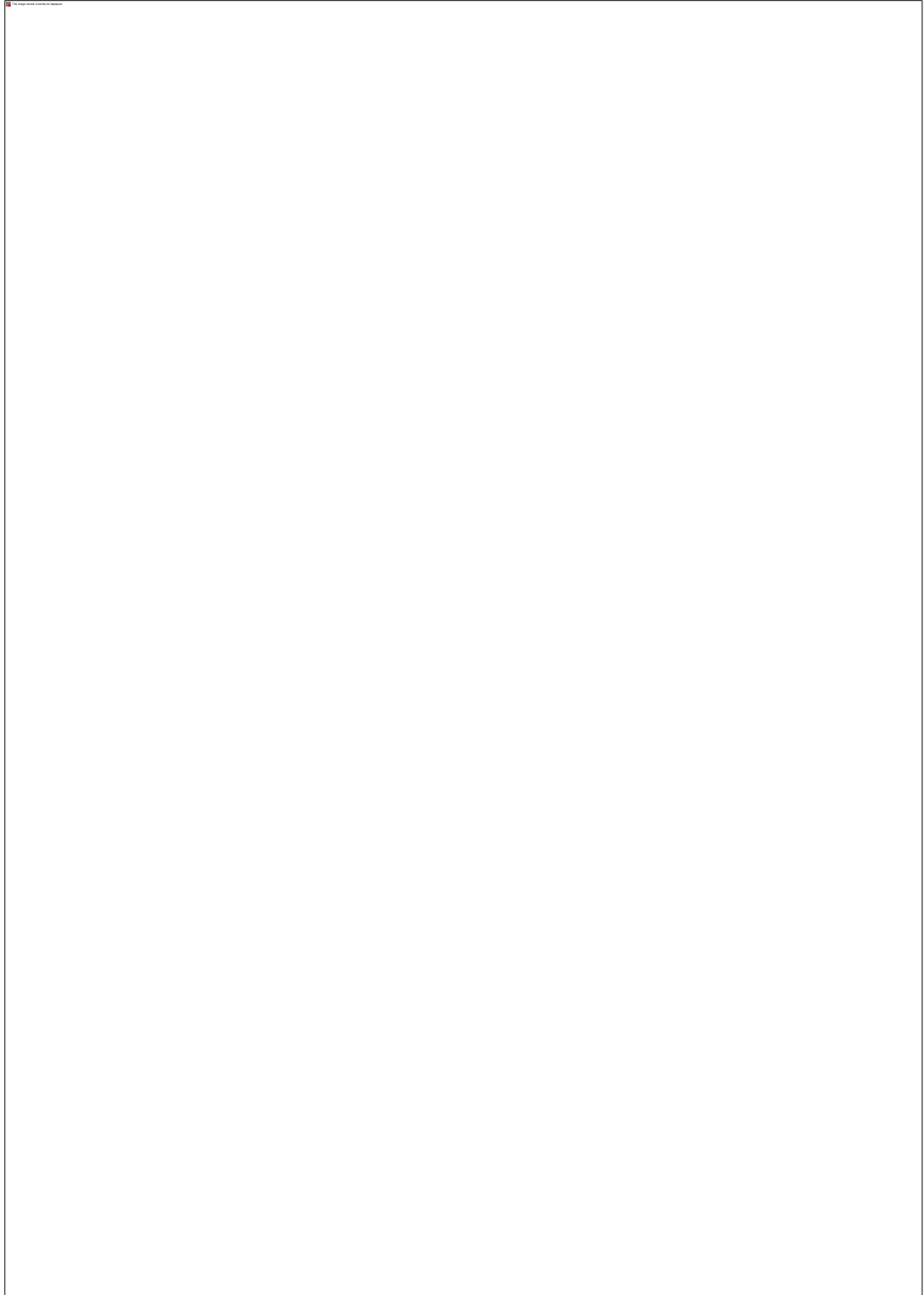
means:

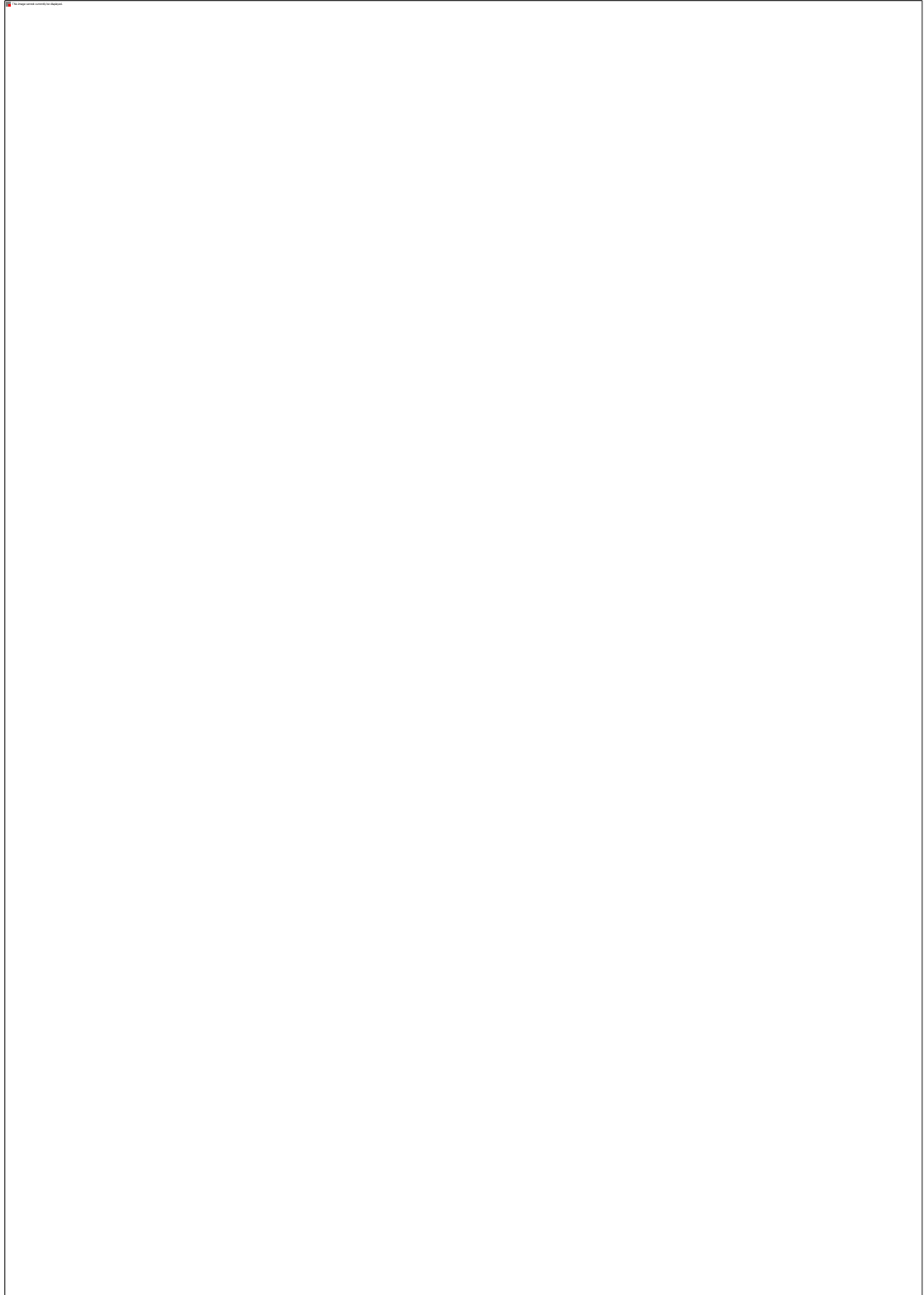
- (l) a purchaser of a Private Residential Unit or a number of Private Residential Units who intends to use the same as private dwelling houses maisonettes apartments or flats either by occupation or by letting to third parties
- (m) a registered provider or other entity providing Affordable Units and any authority local thereto provided that if the particular Disposal is of an undeveloped part of the Property it is with a linked construction contract with the Buyer or its successors in title for the construction of Affordable Units on the relevant part of the Property
- (n) any Service Provider providing Services to the Development whether by Disposition or deed of grant;
- (o) a highway authority or local planning authority or

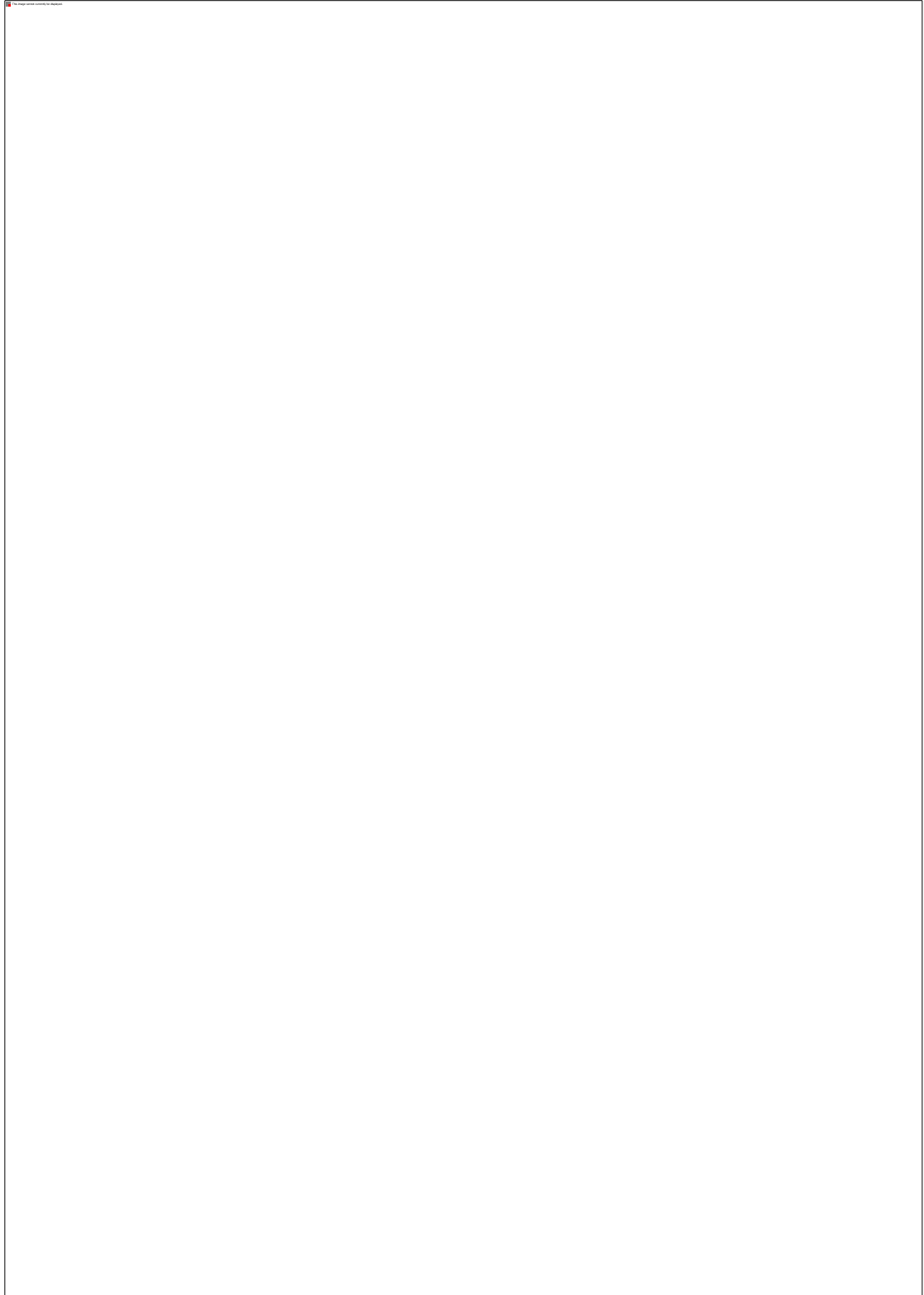
	other third party to whom a land Disposal of part of the Property is directed in the planning permission or Planning Agreement
	(p) a lessee of any commercial units constructed on the Property
	(q) the purchaser/lessee of the reversionary interest of any commercial unit constructed on the Property (which gives the purchaser or lessee the ability to receive the rental income from any lease or leases granted of commercial units constructed on the Property)
"Group Company"	means any company in the same group of companies as the Buyer or the Guarantor as defined in section 42 of the Landlord and Tenant Act 1954
"Long Leasehold Interest"	means an interest in the relevant land for a term which is for not less than thirty five years and which has a capital value
"Net Sale On Sum"	means the payment received by the Buyer on its Disposal and as detailed in the Surveyors Certificate less Base Price and Costs
"NHS Body"	A health service body as defined in Section 9(4) of the national Health Service Act 2006 or as an NHS Foundation Trust as defined in Section 30(1) of the National Health Service Act 2006
"Overage Payment"	means the payment due under paragraph 1 of this Schedule which in the period: <ul style="list-style-type: none"> (r) from the Completion Date to 6 months from the Completion Date shall comprise 75% of the Net Sale On Sum (s) from the period 6 months and one day from the Completion Date to the date 12 months from the Completion Date shall comprise 50% of the Net Sale On Sum (t) From the period 12 months and one day from the Completion Date to the date 24 months from the Completion Date shall comprise 40% of the

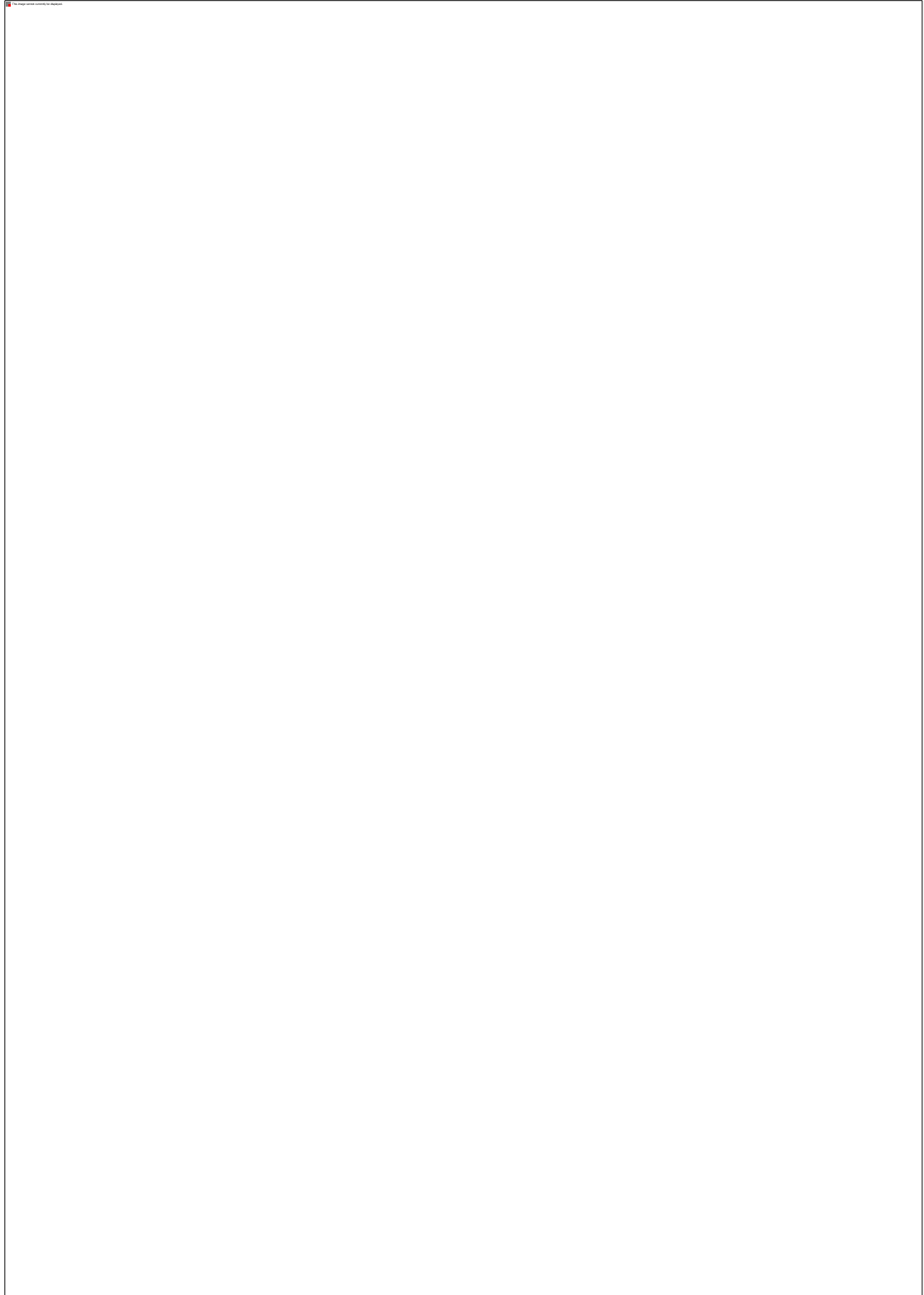


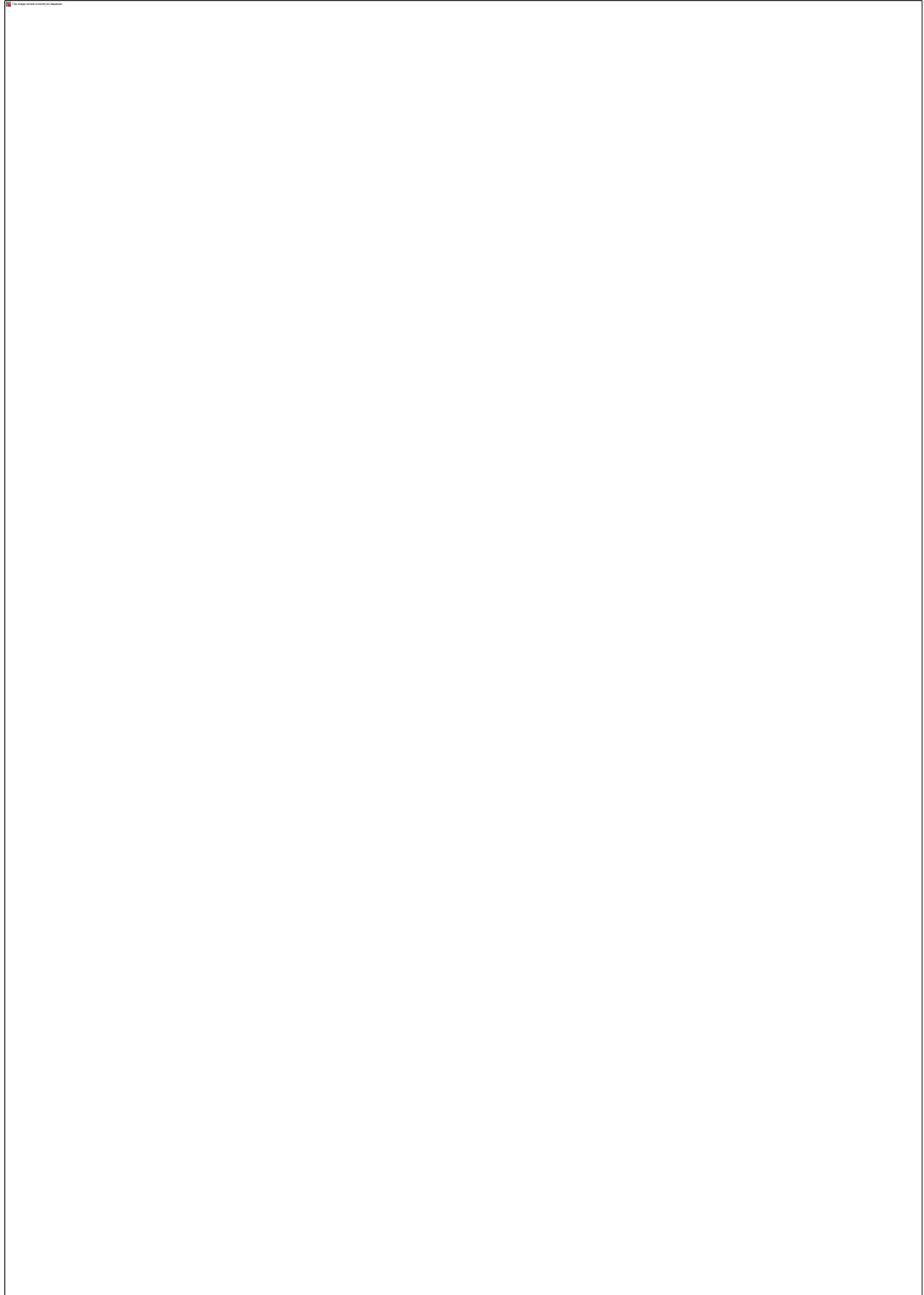


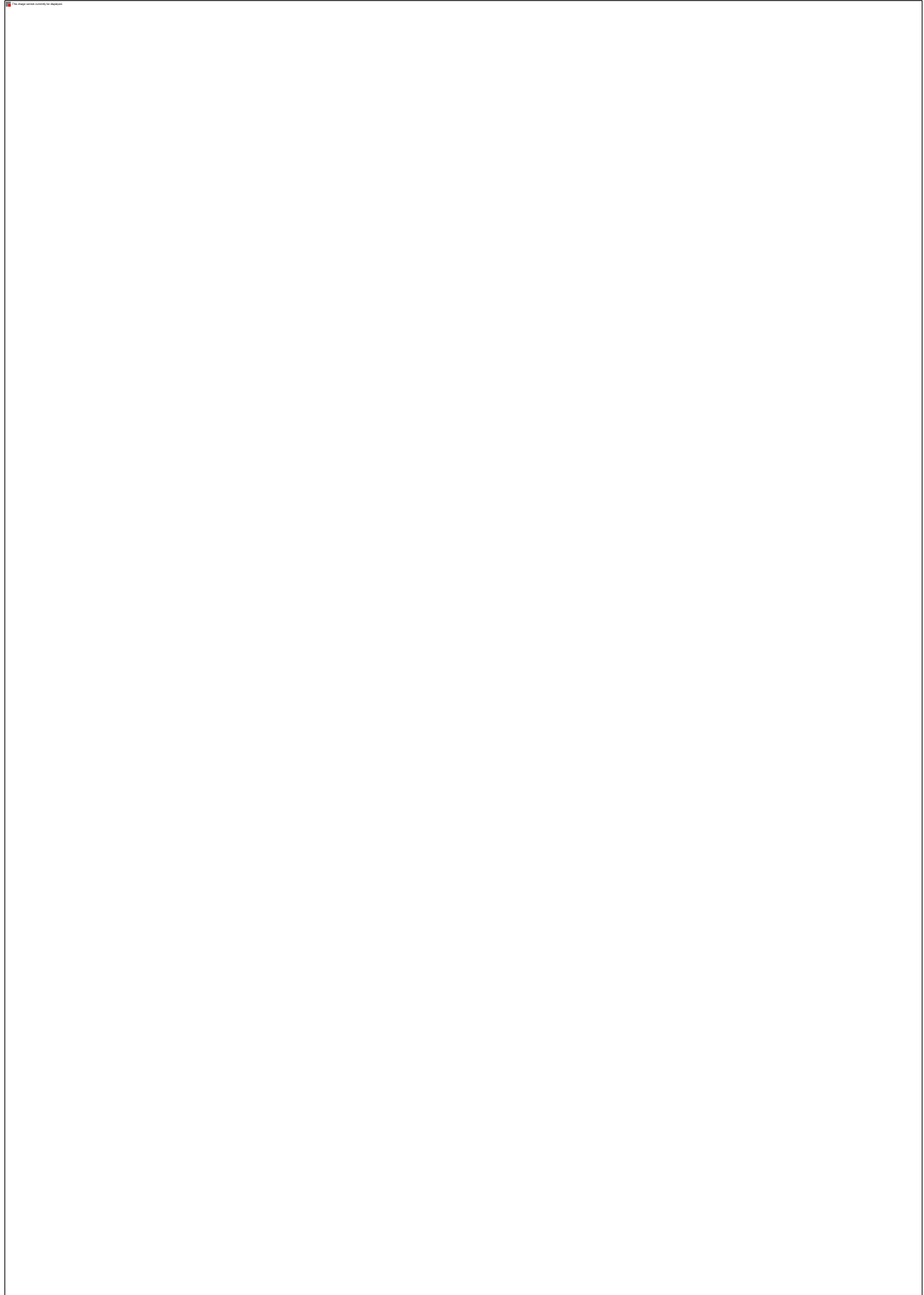


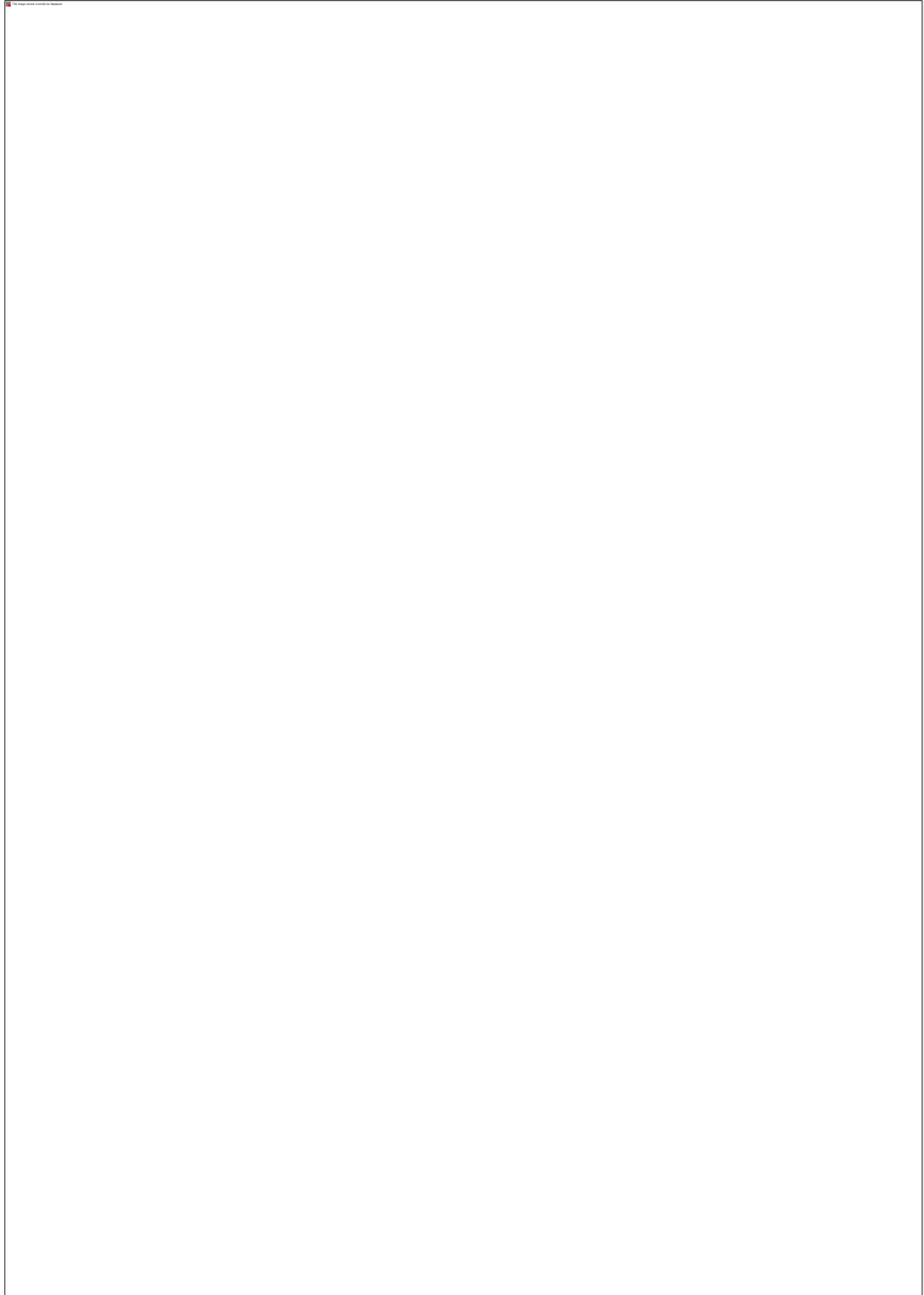


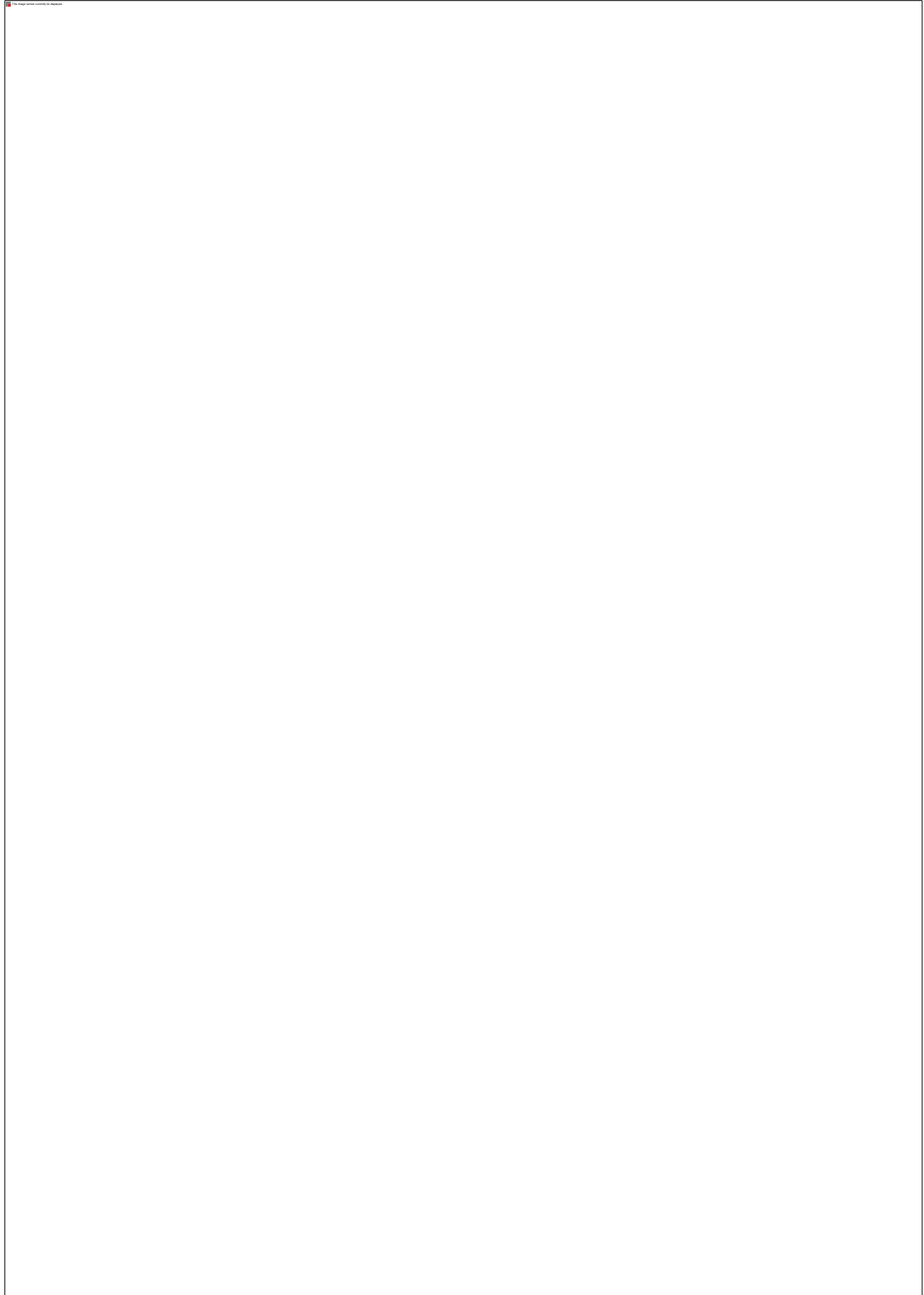


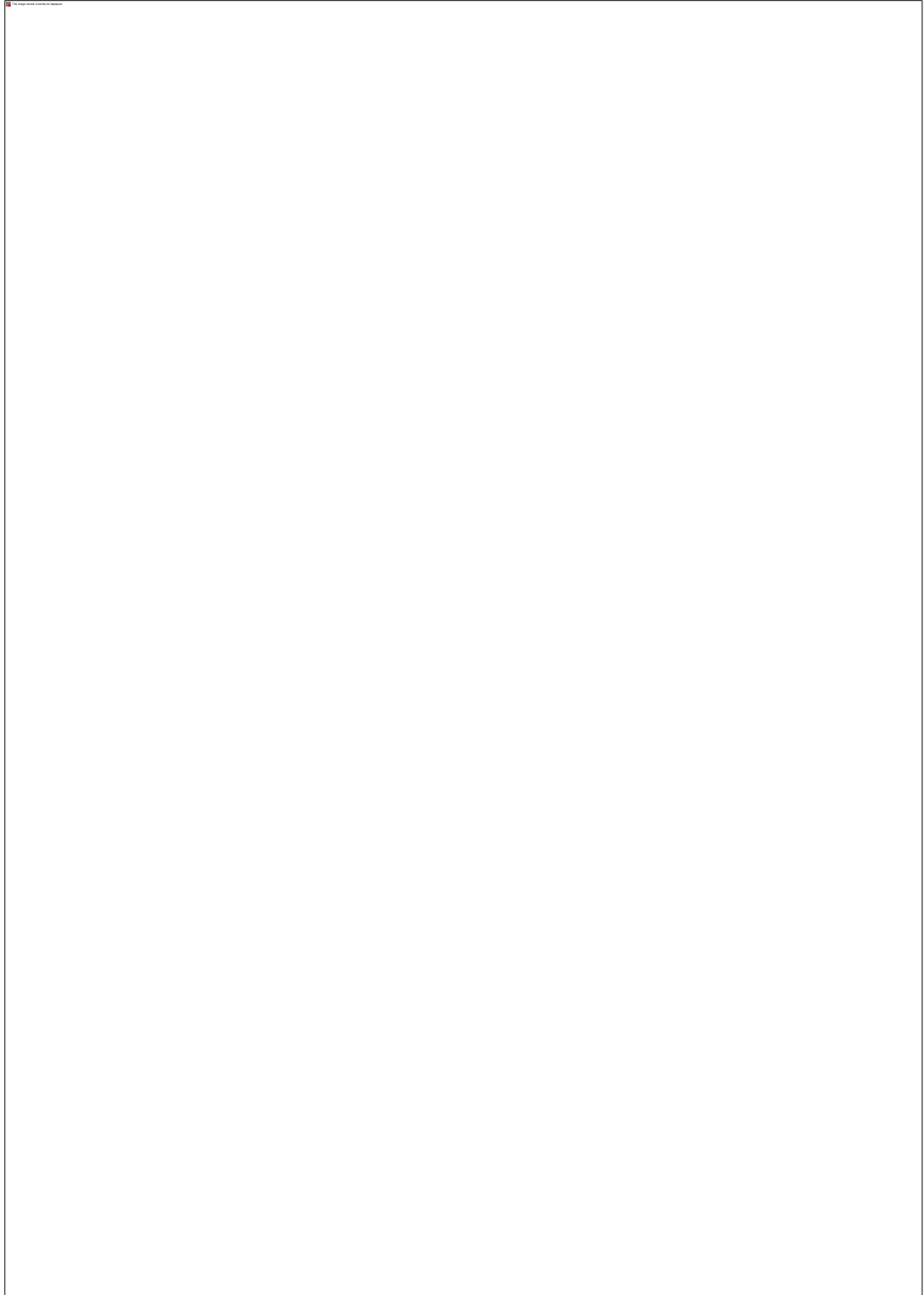


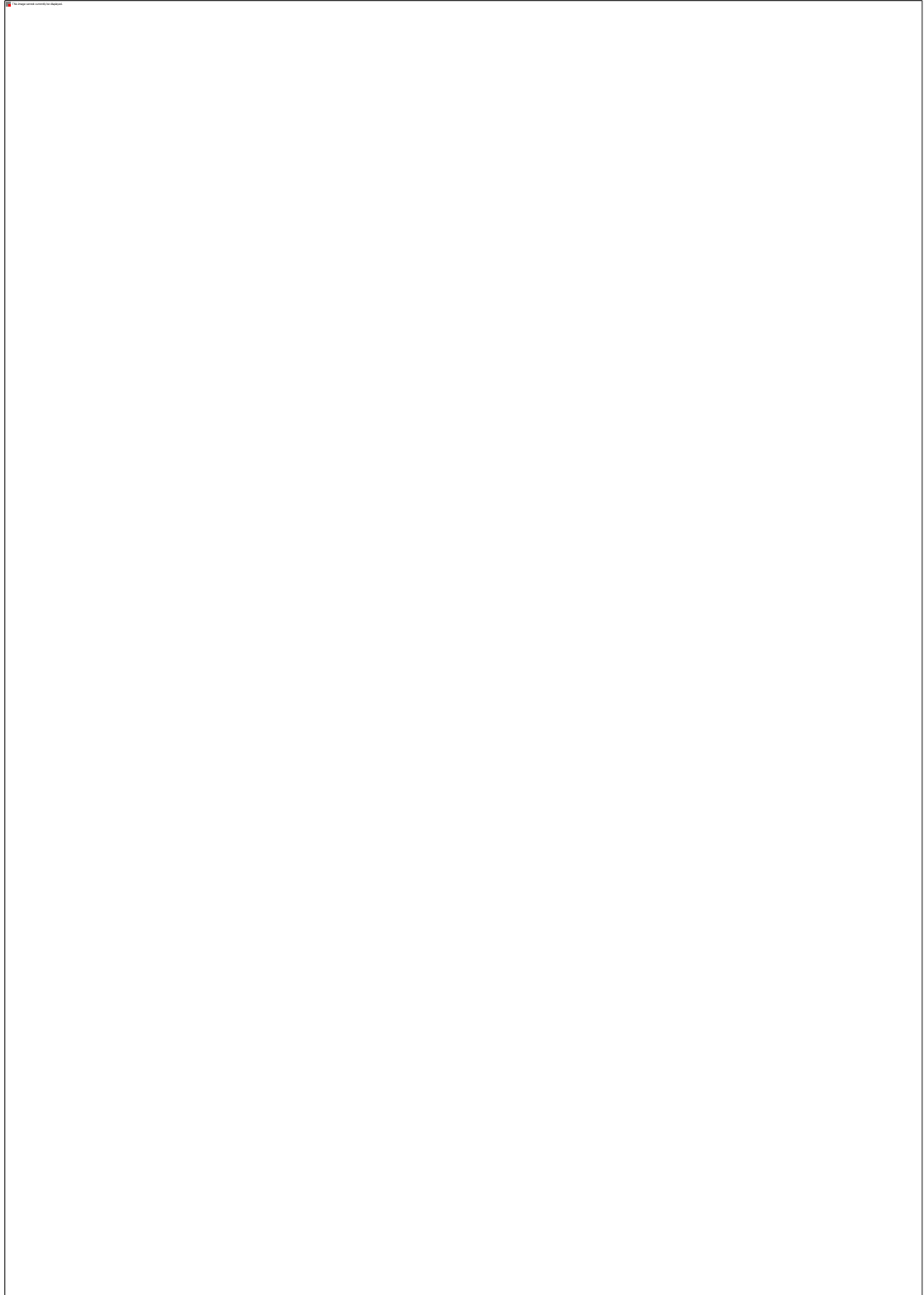


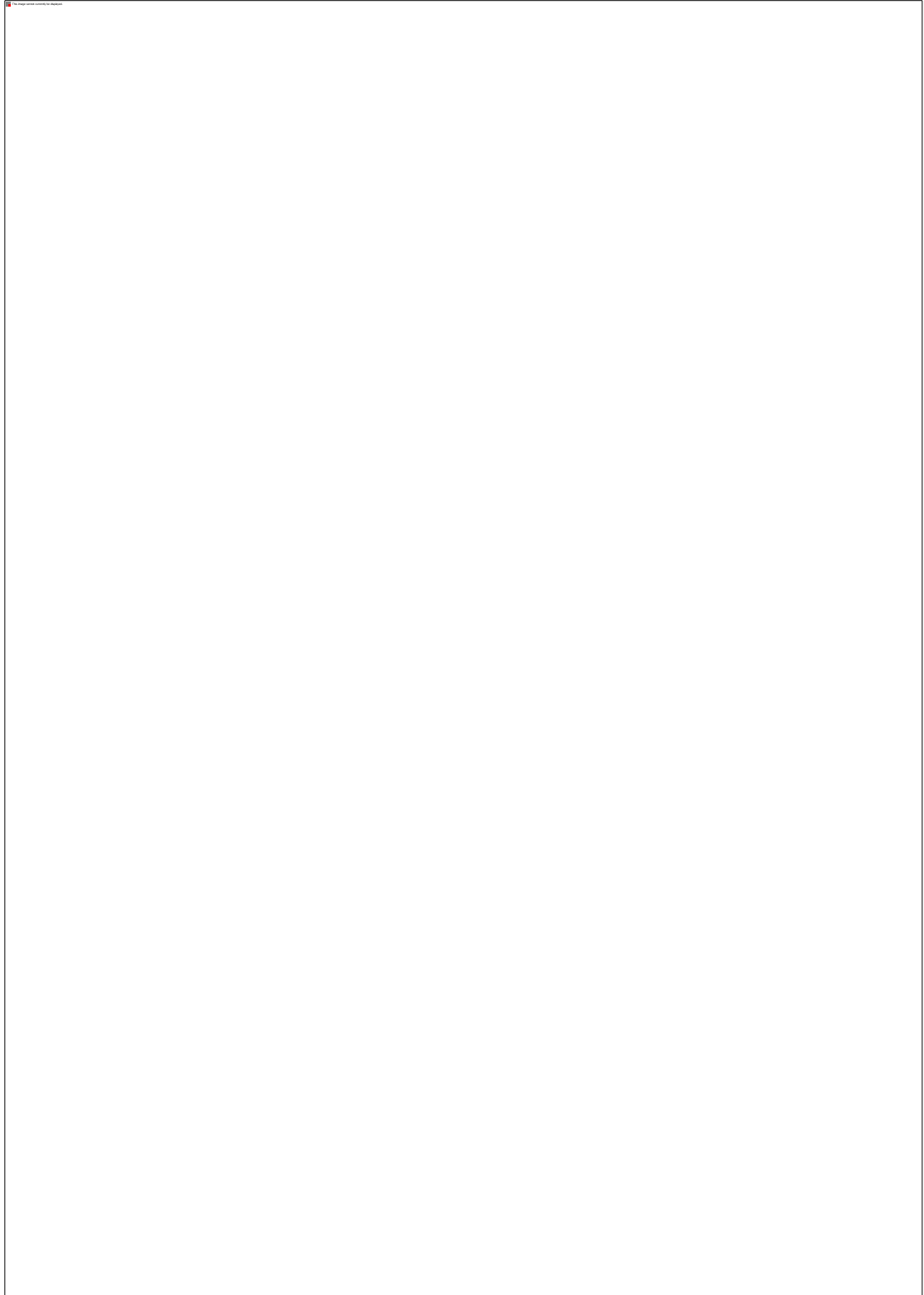


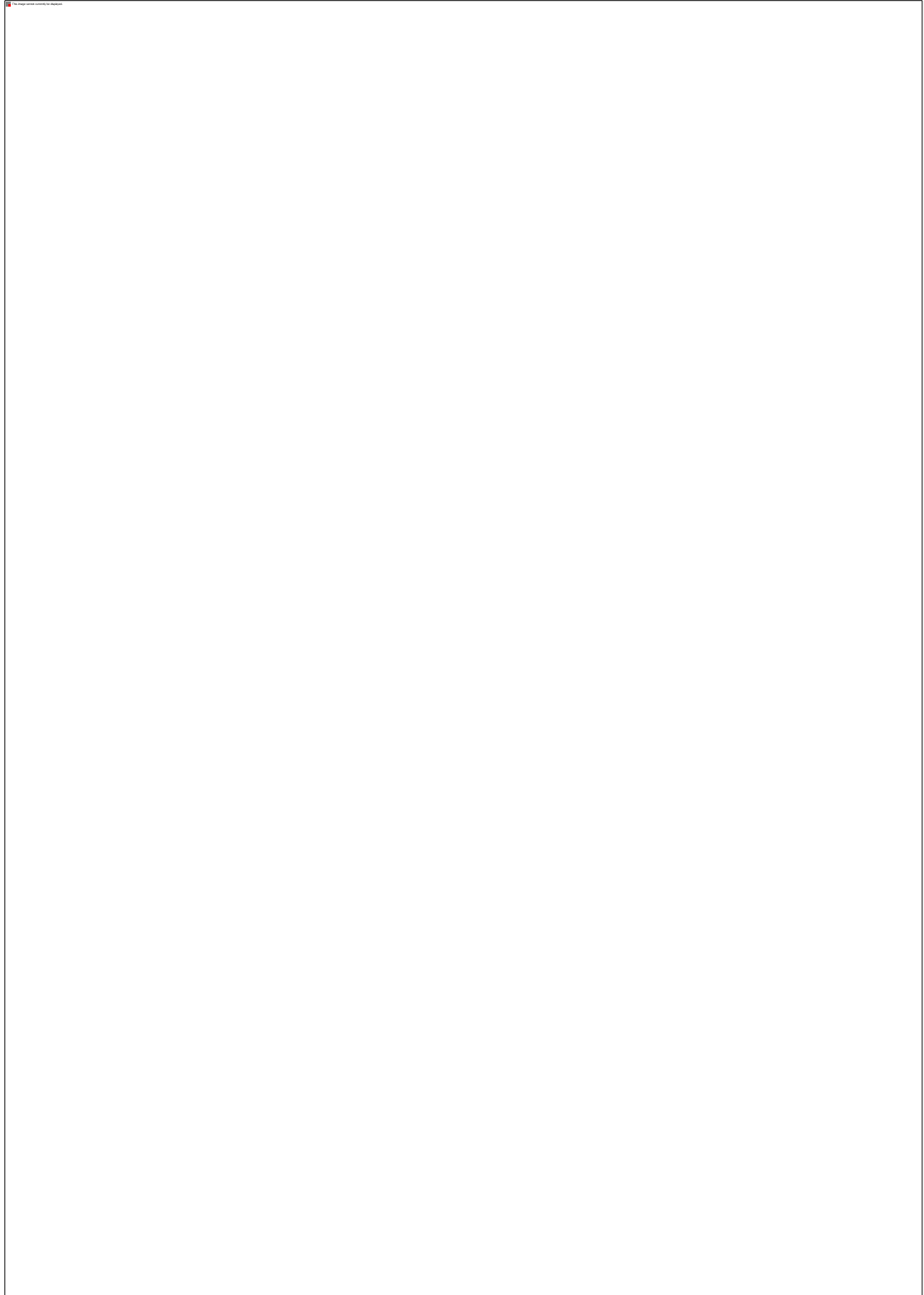


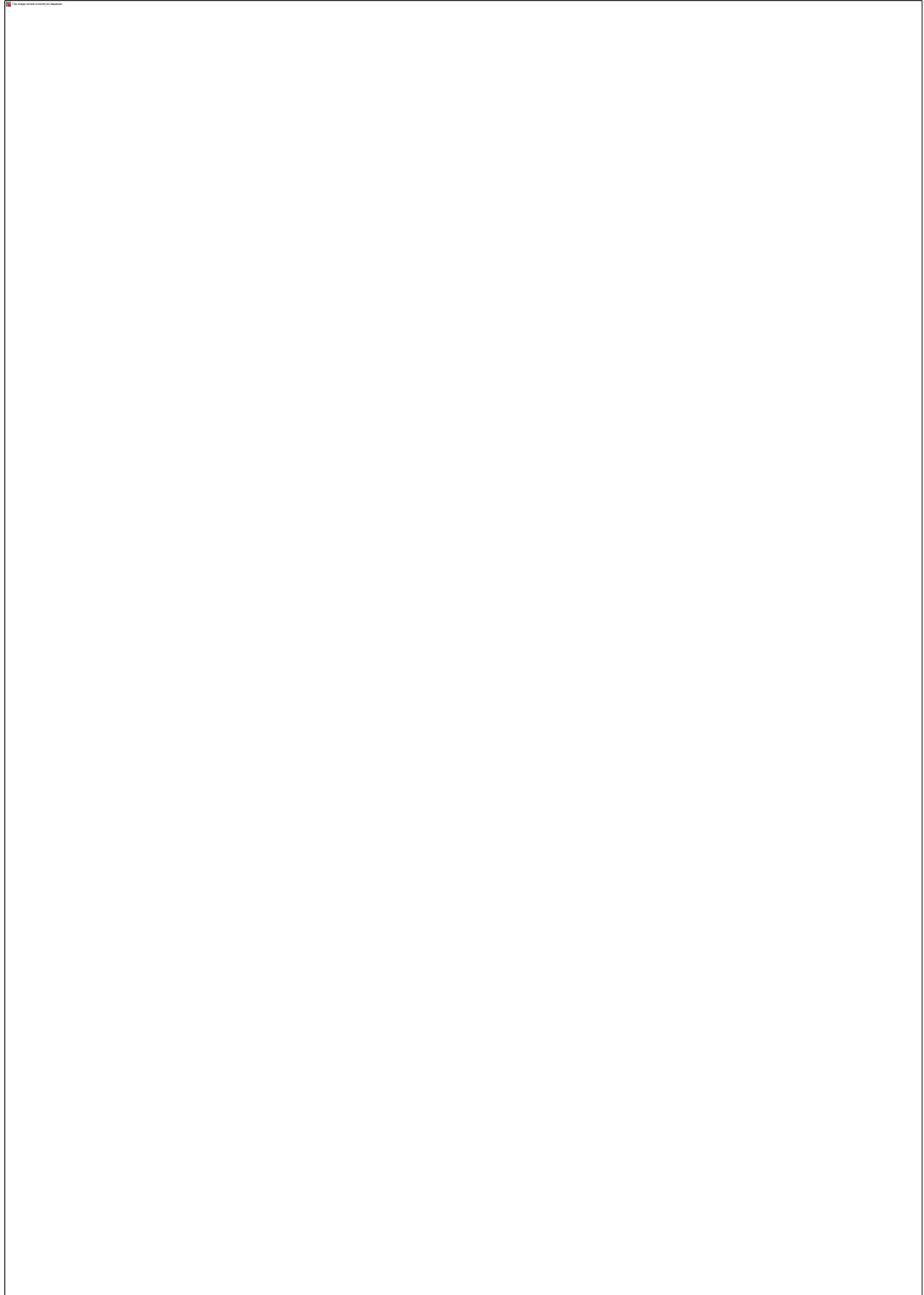


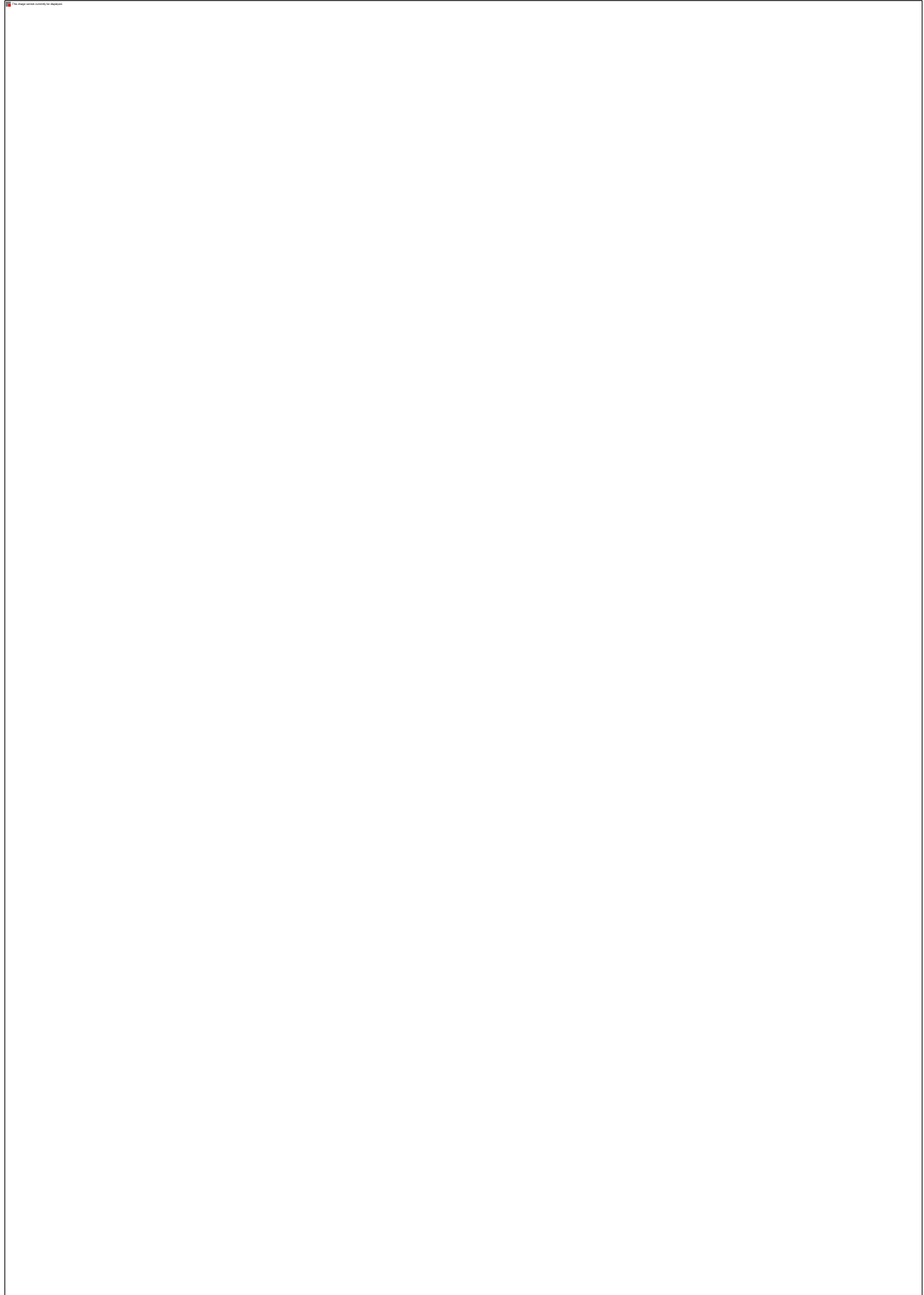


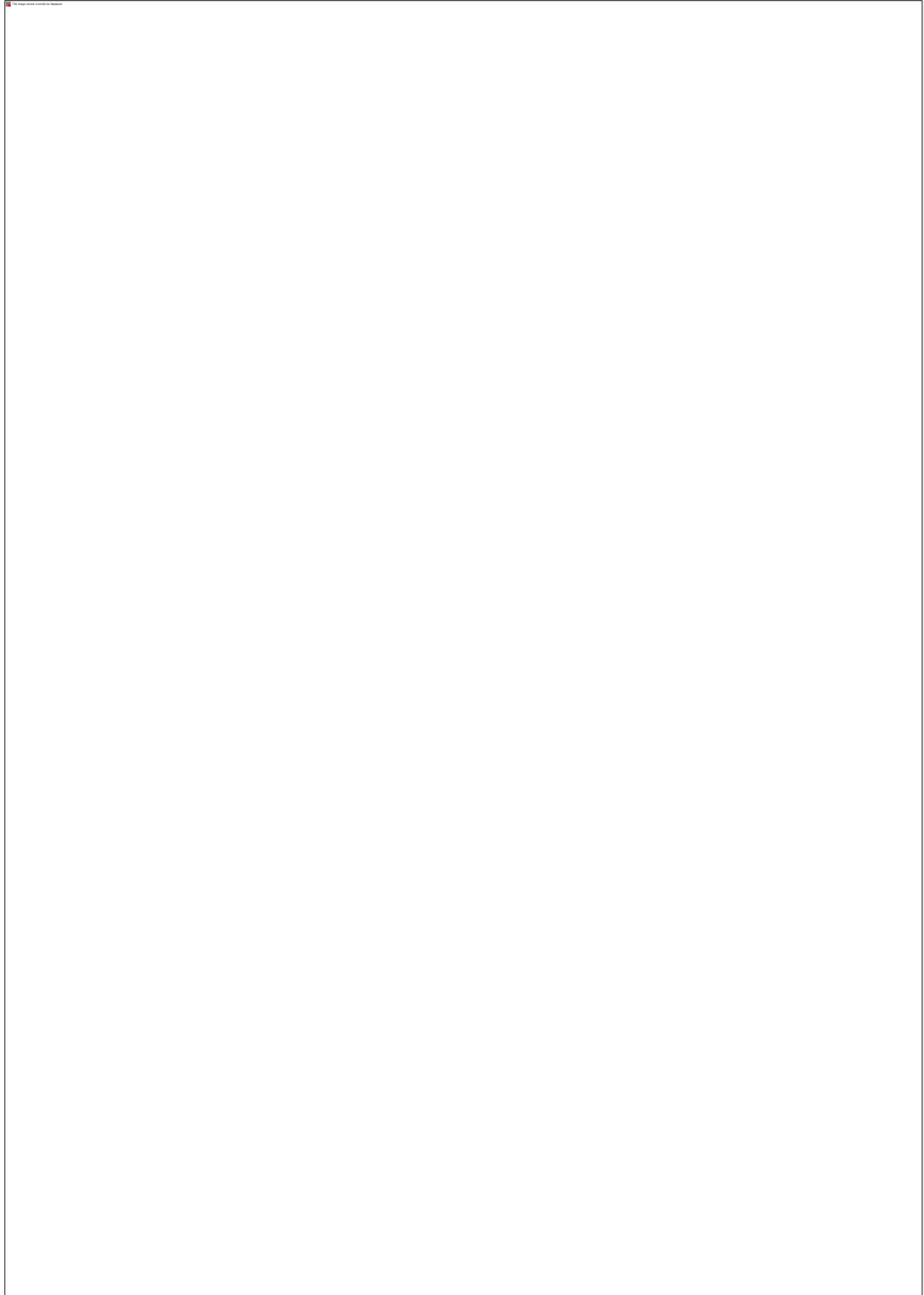


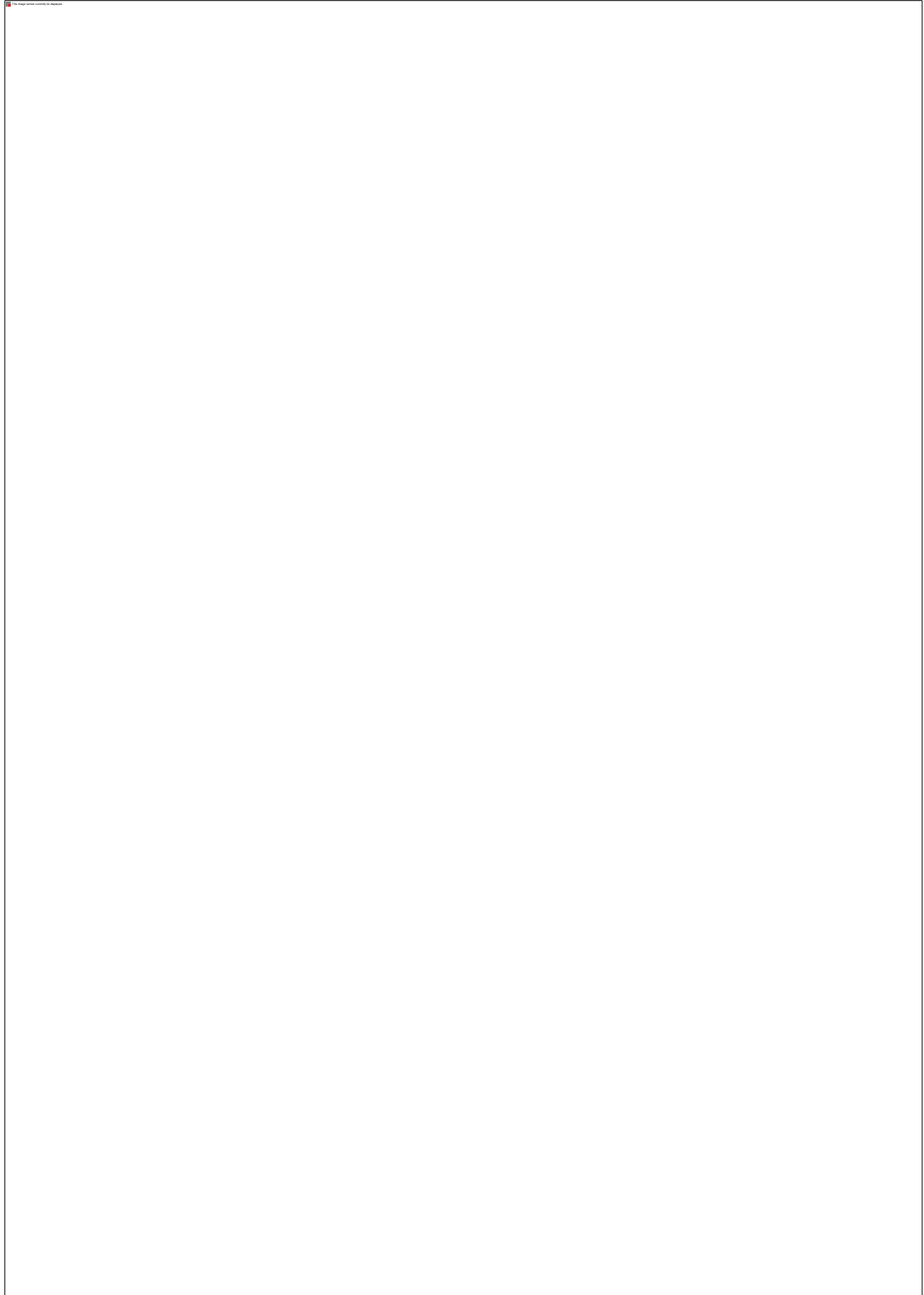


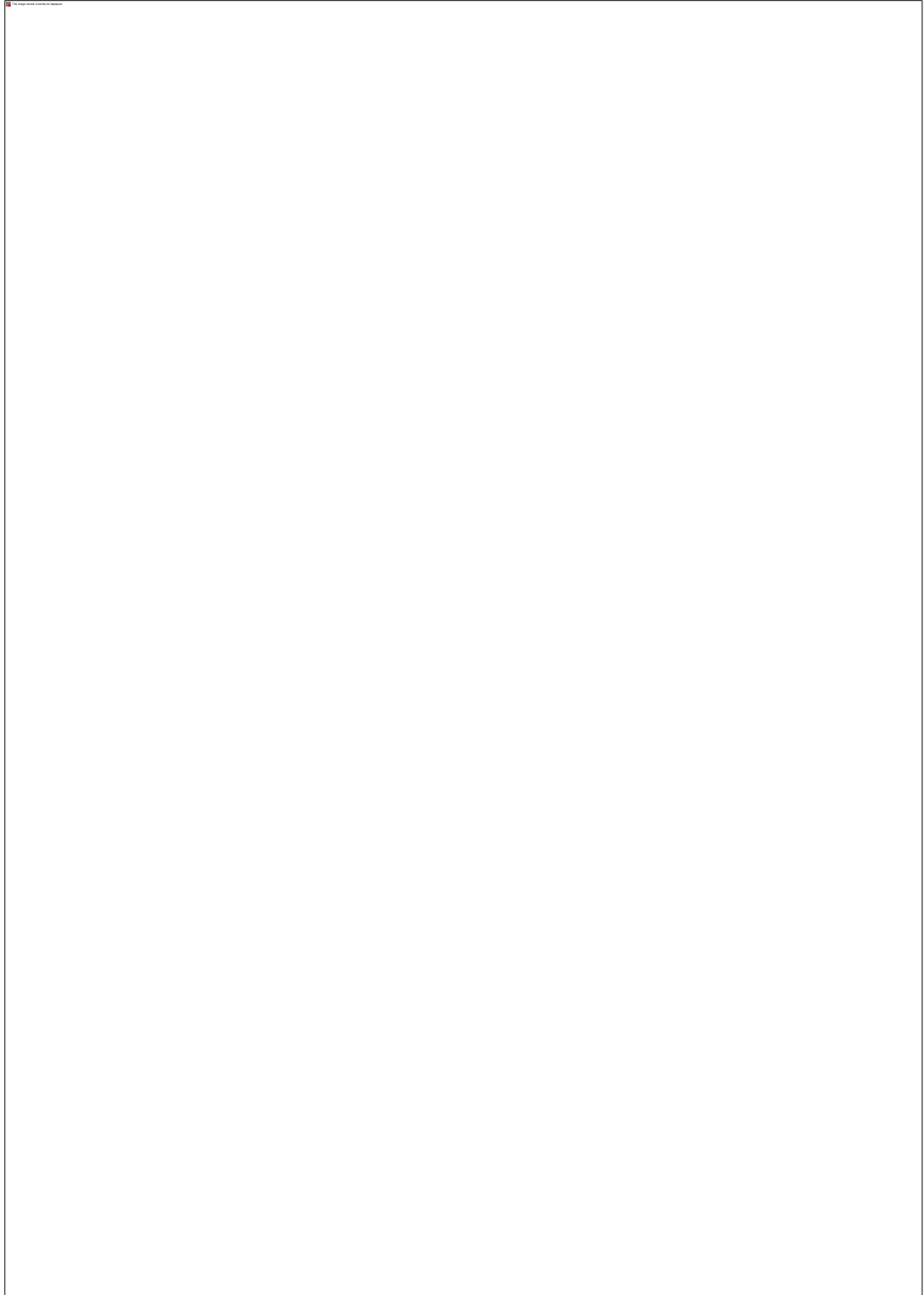


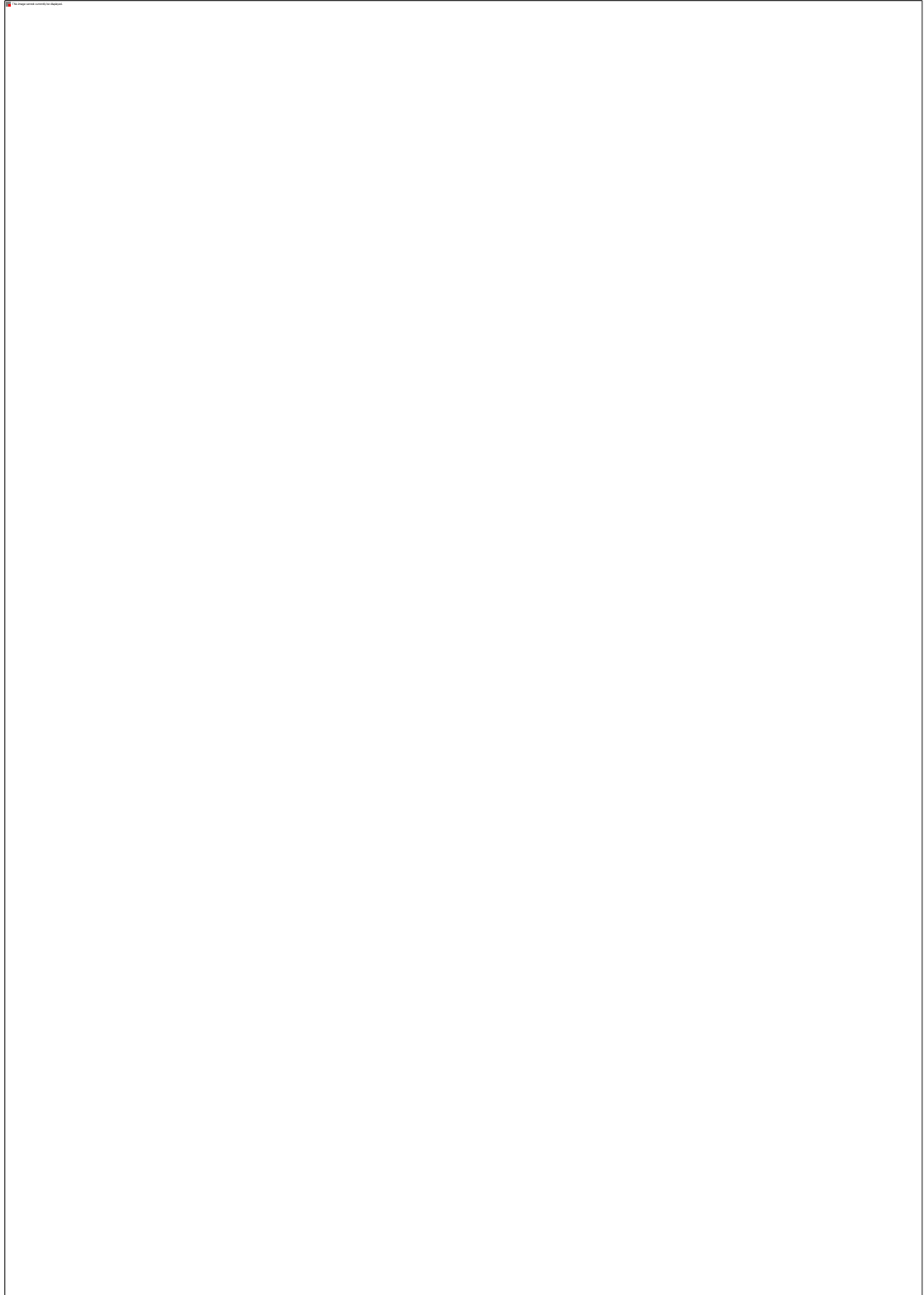


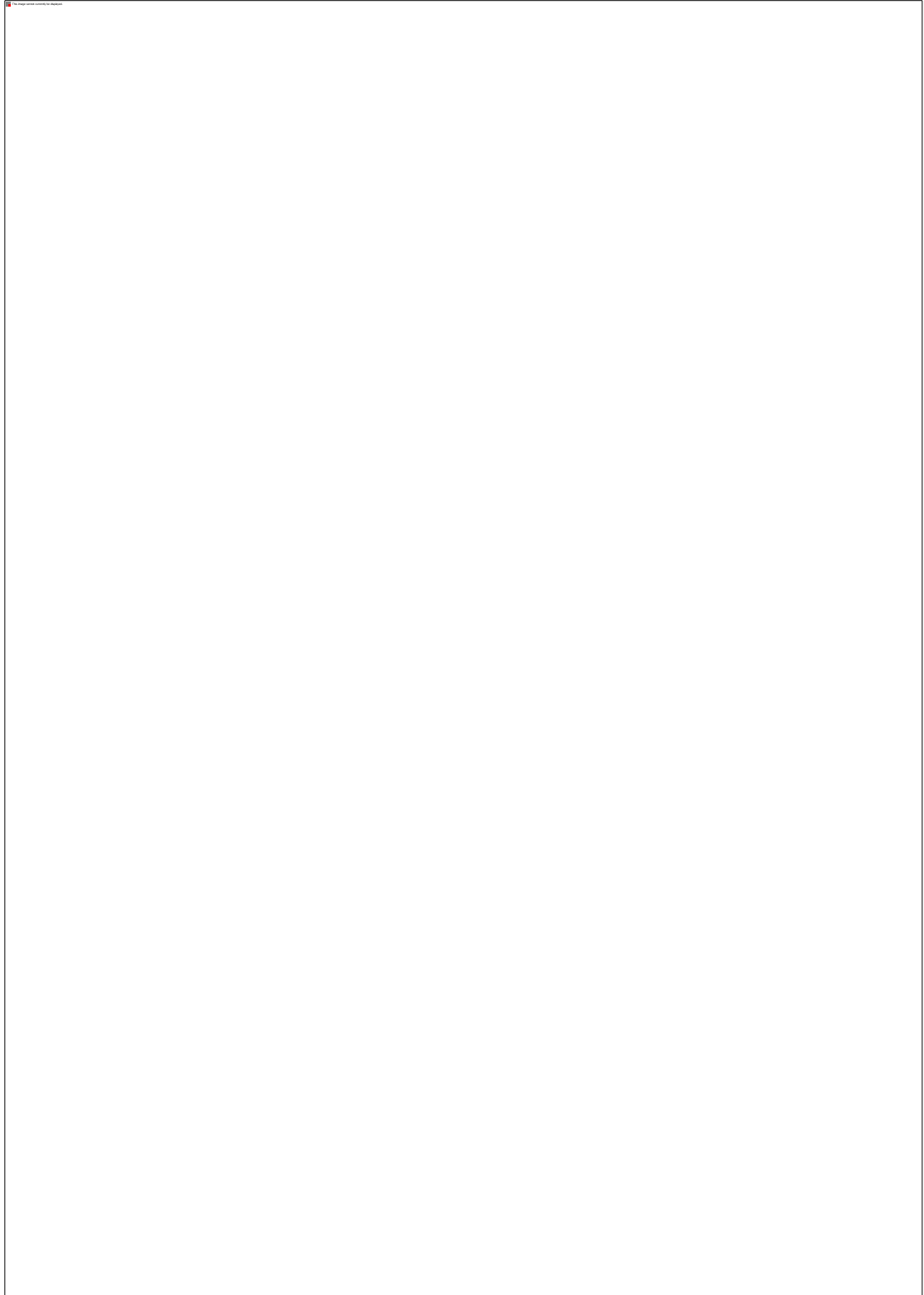


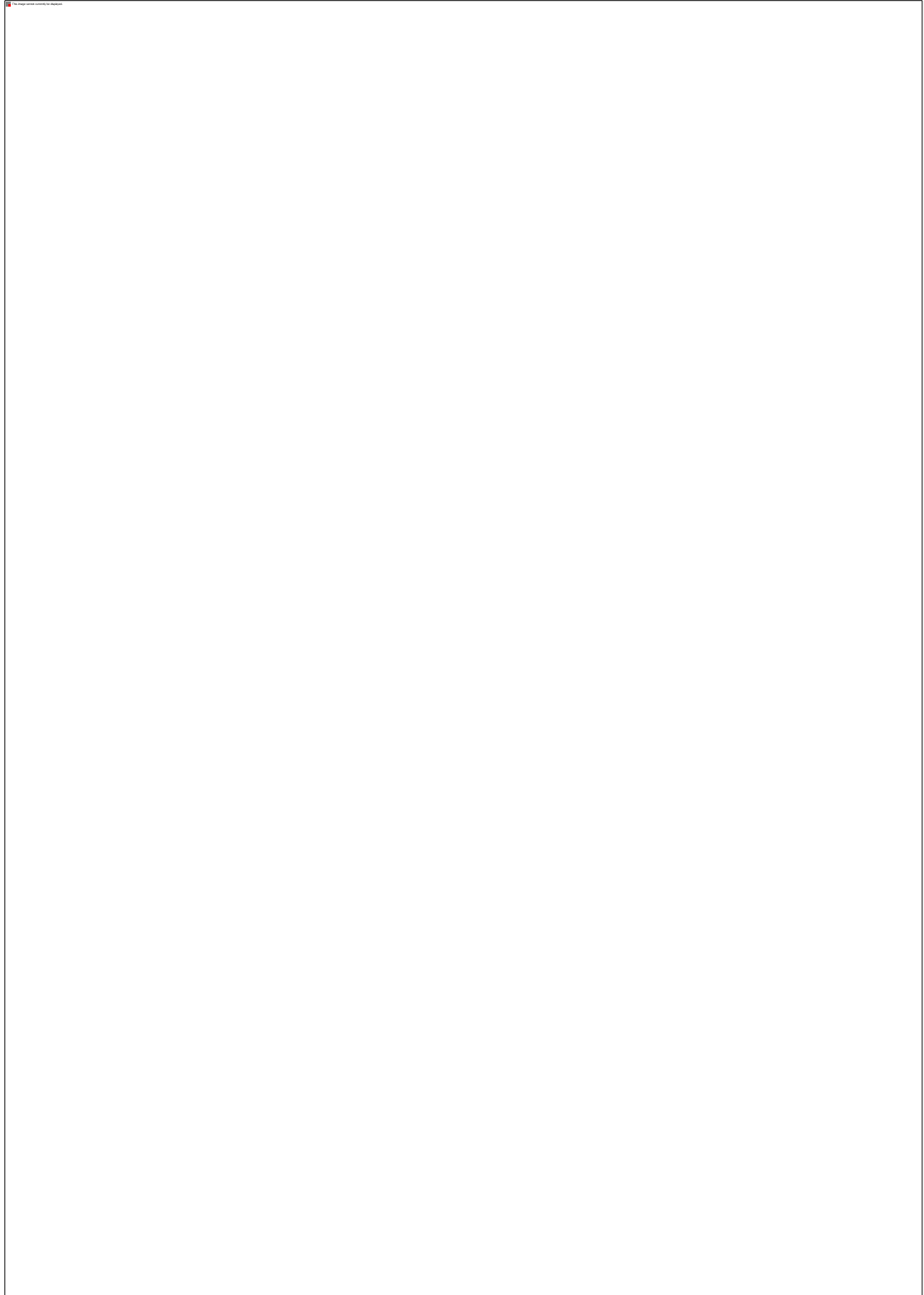


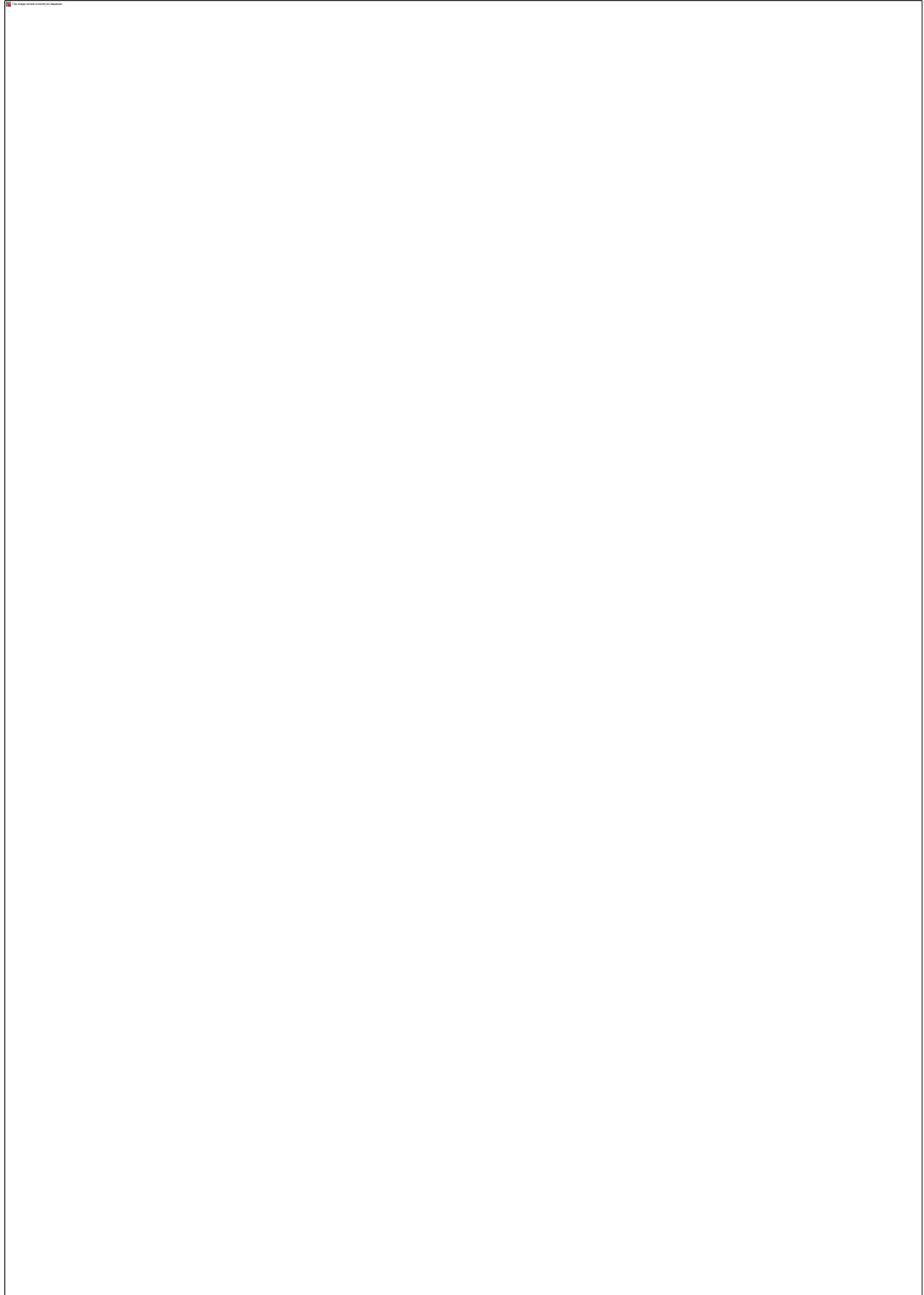


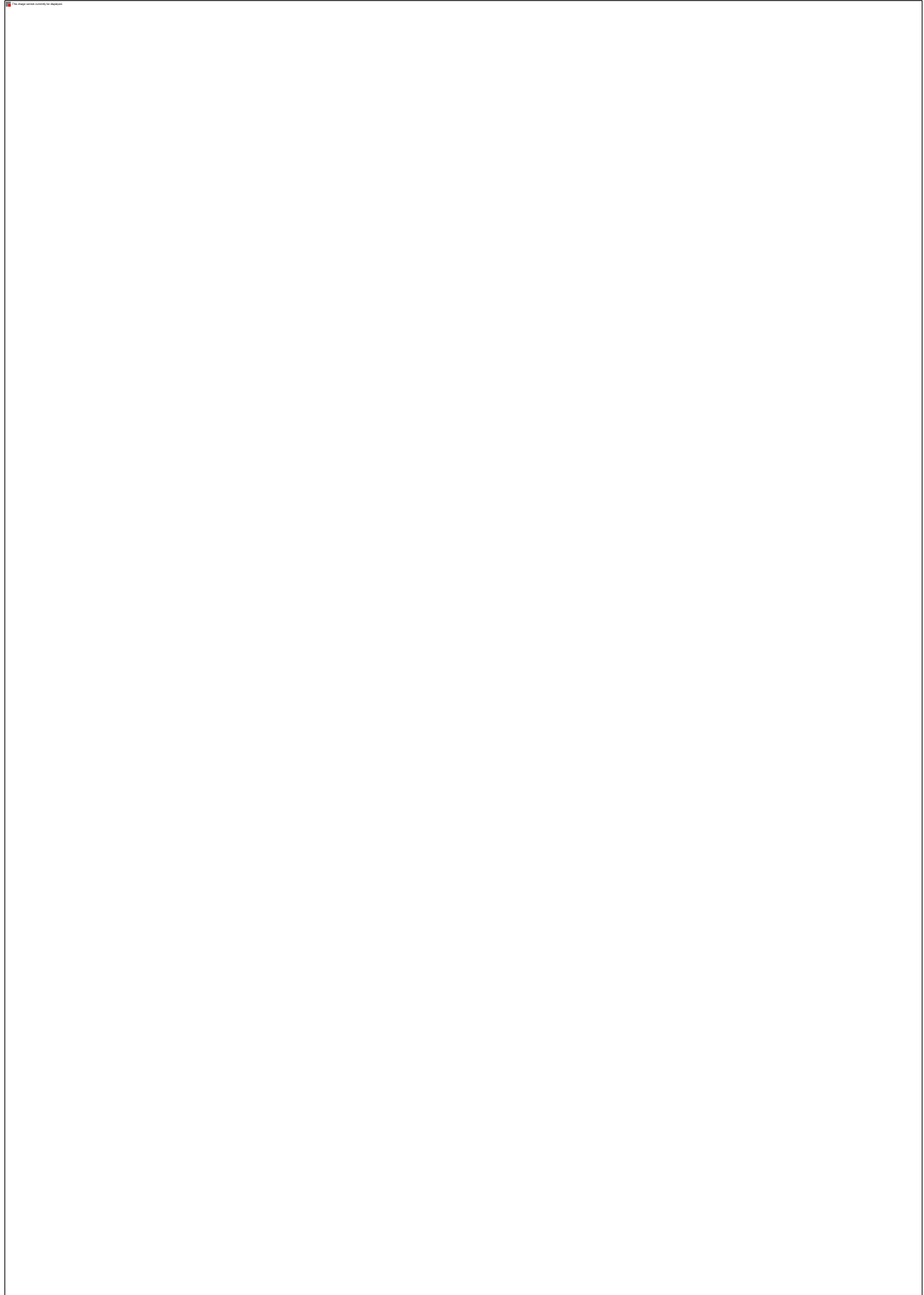


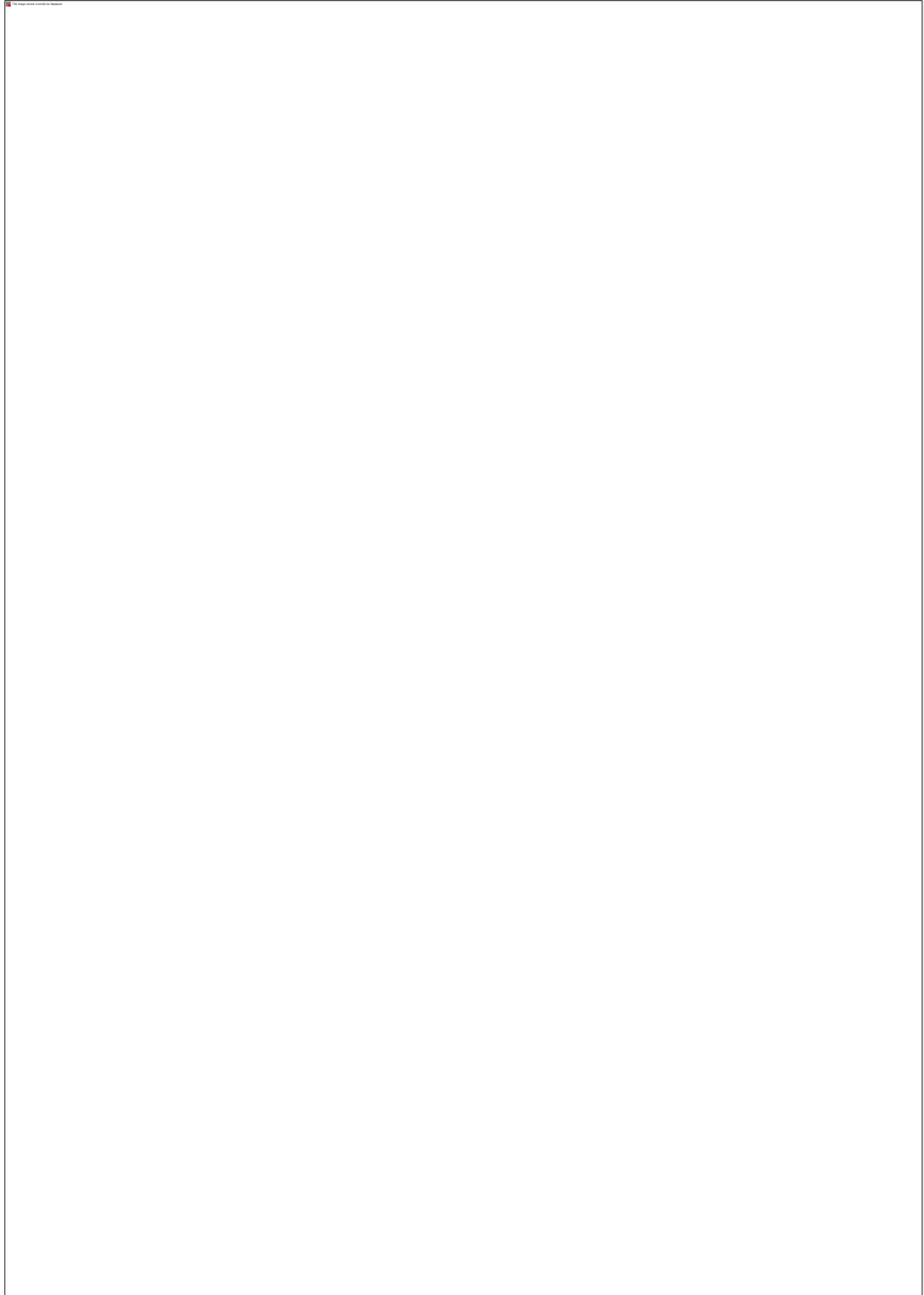


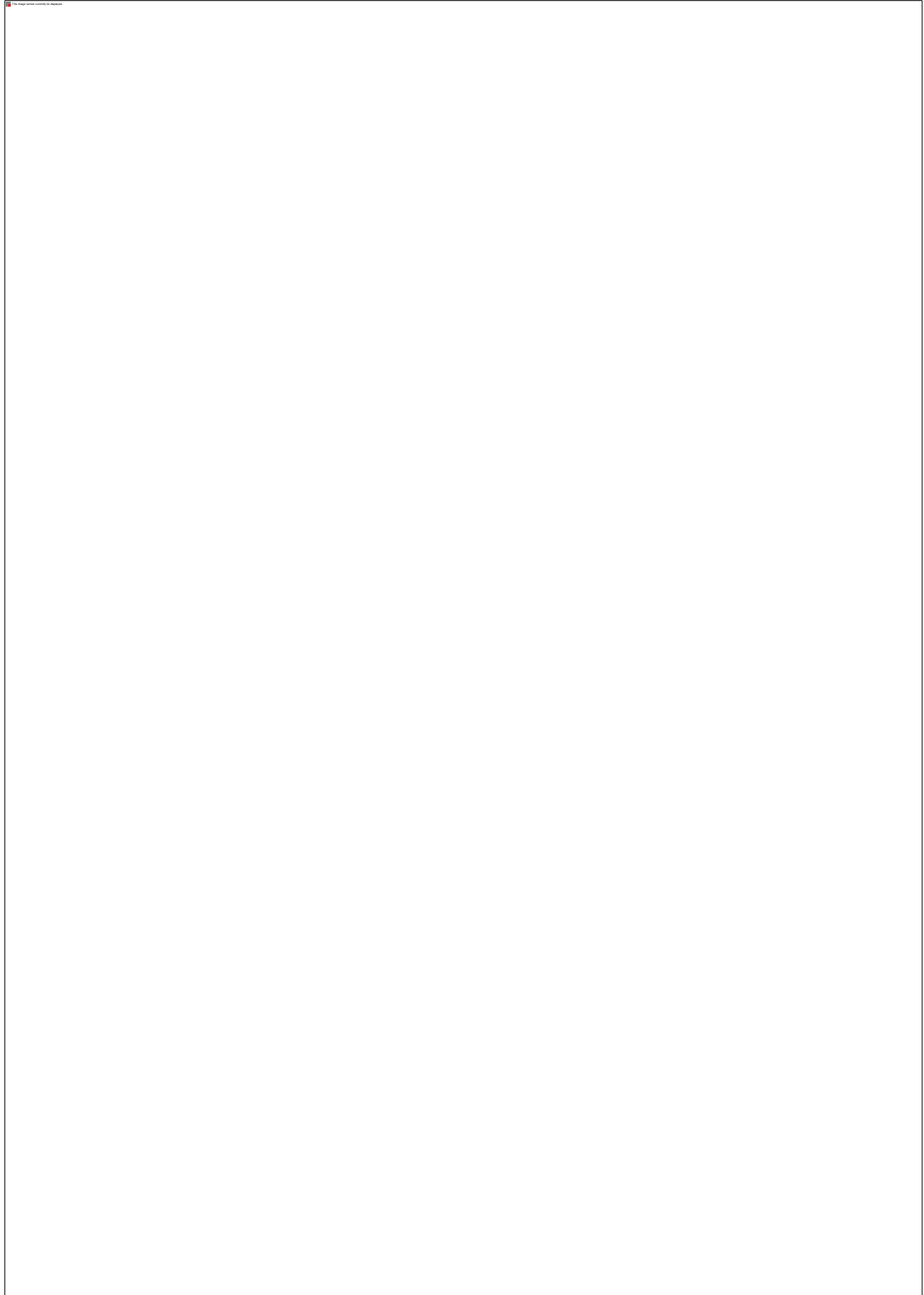


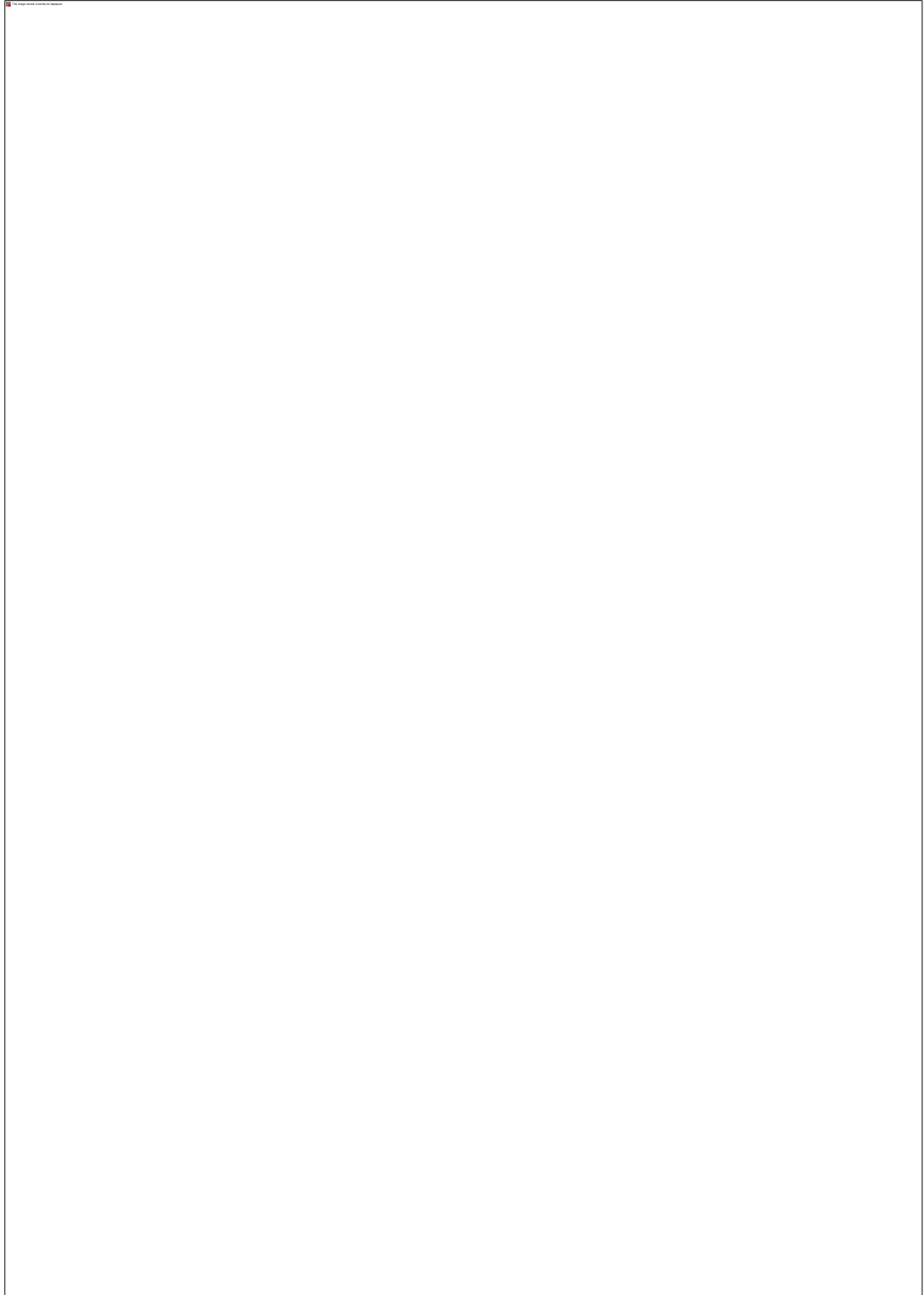


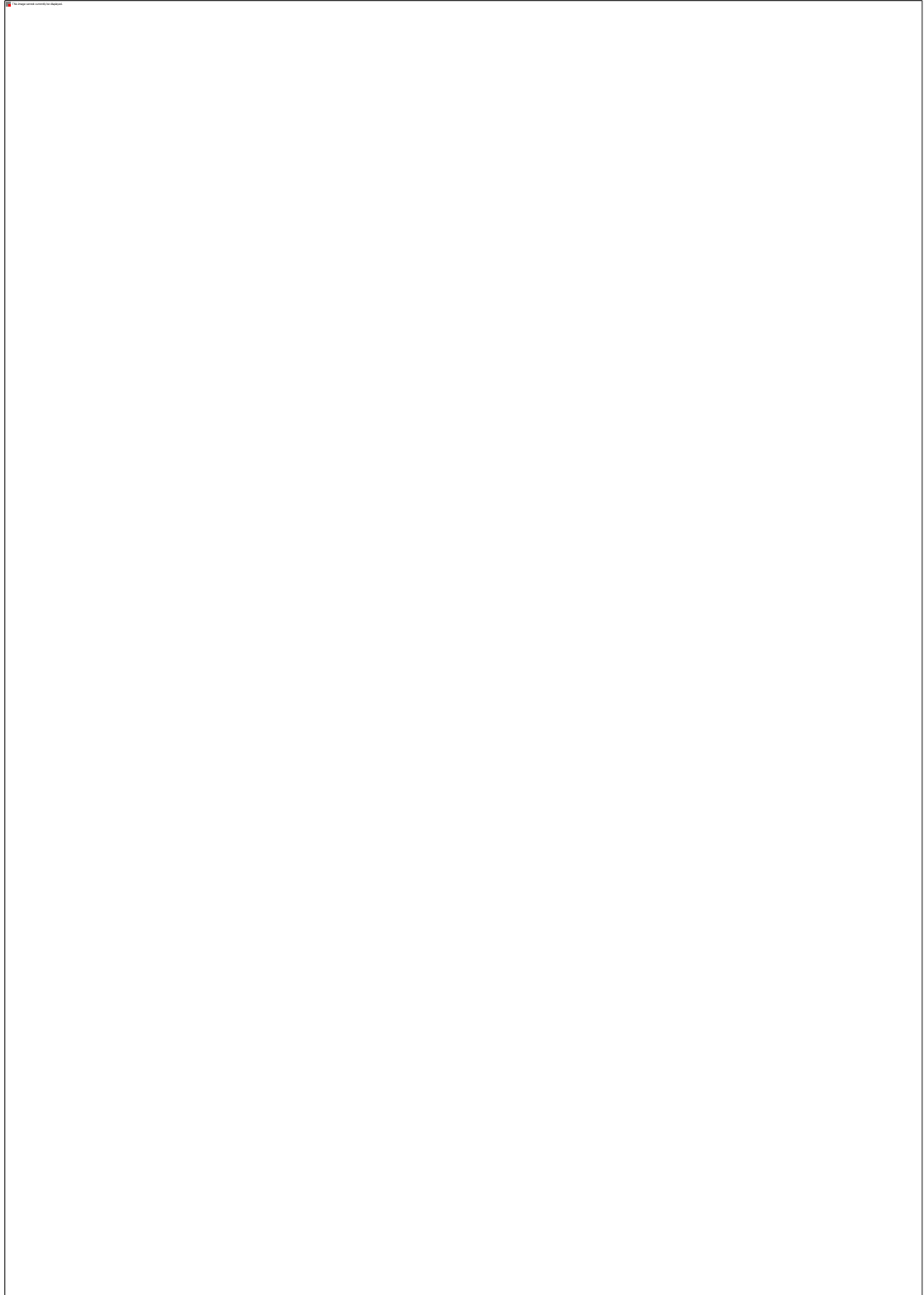


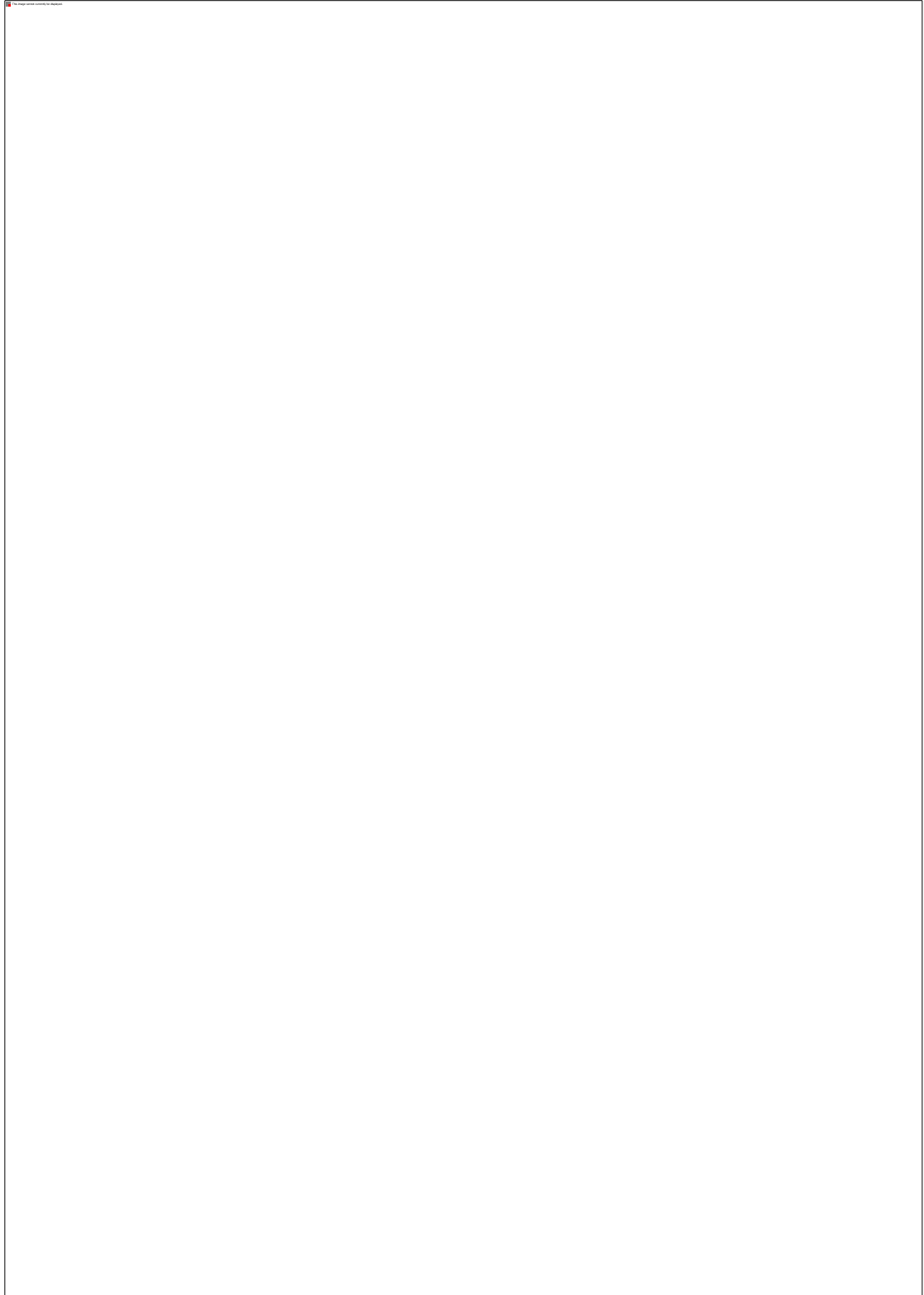


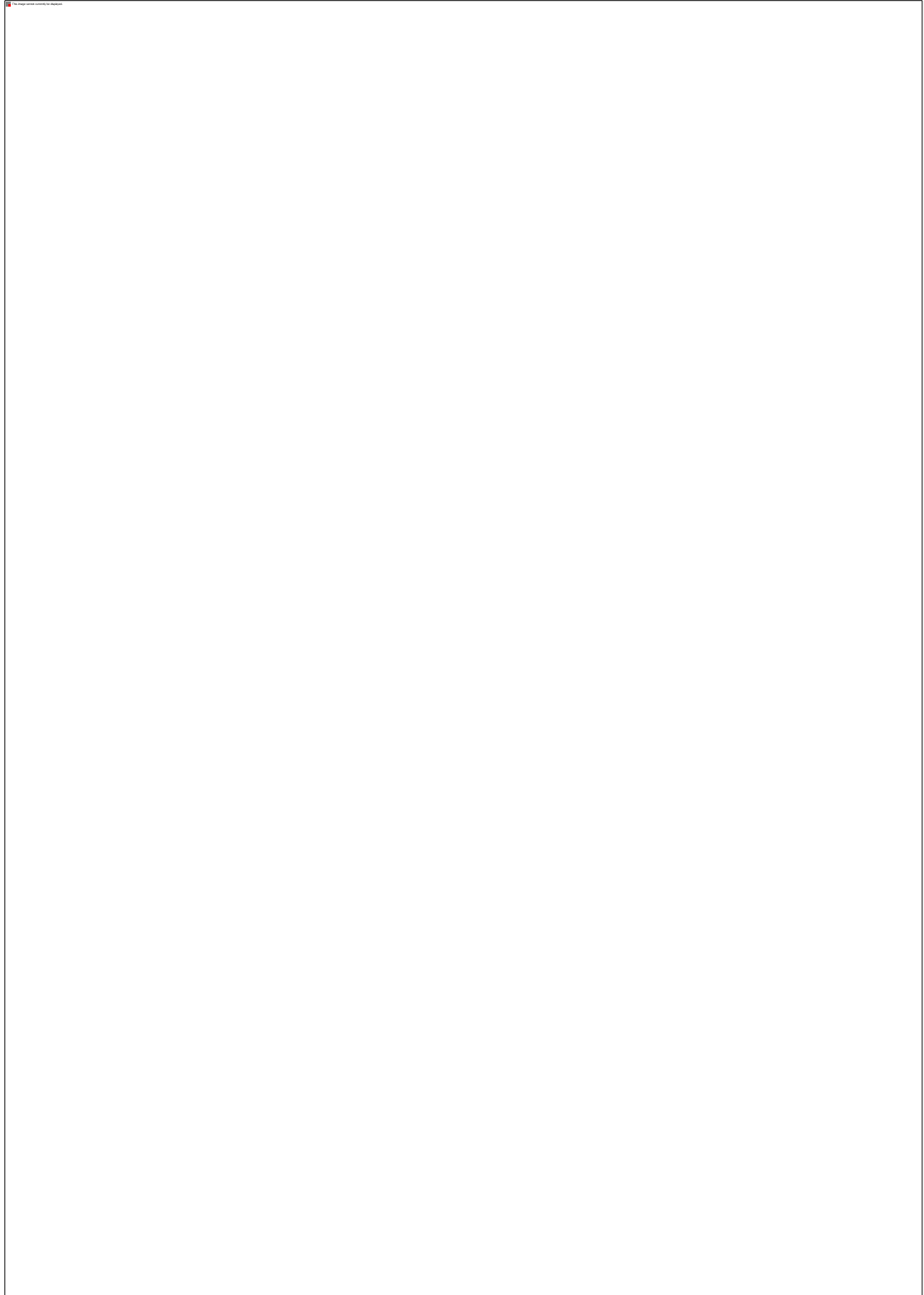


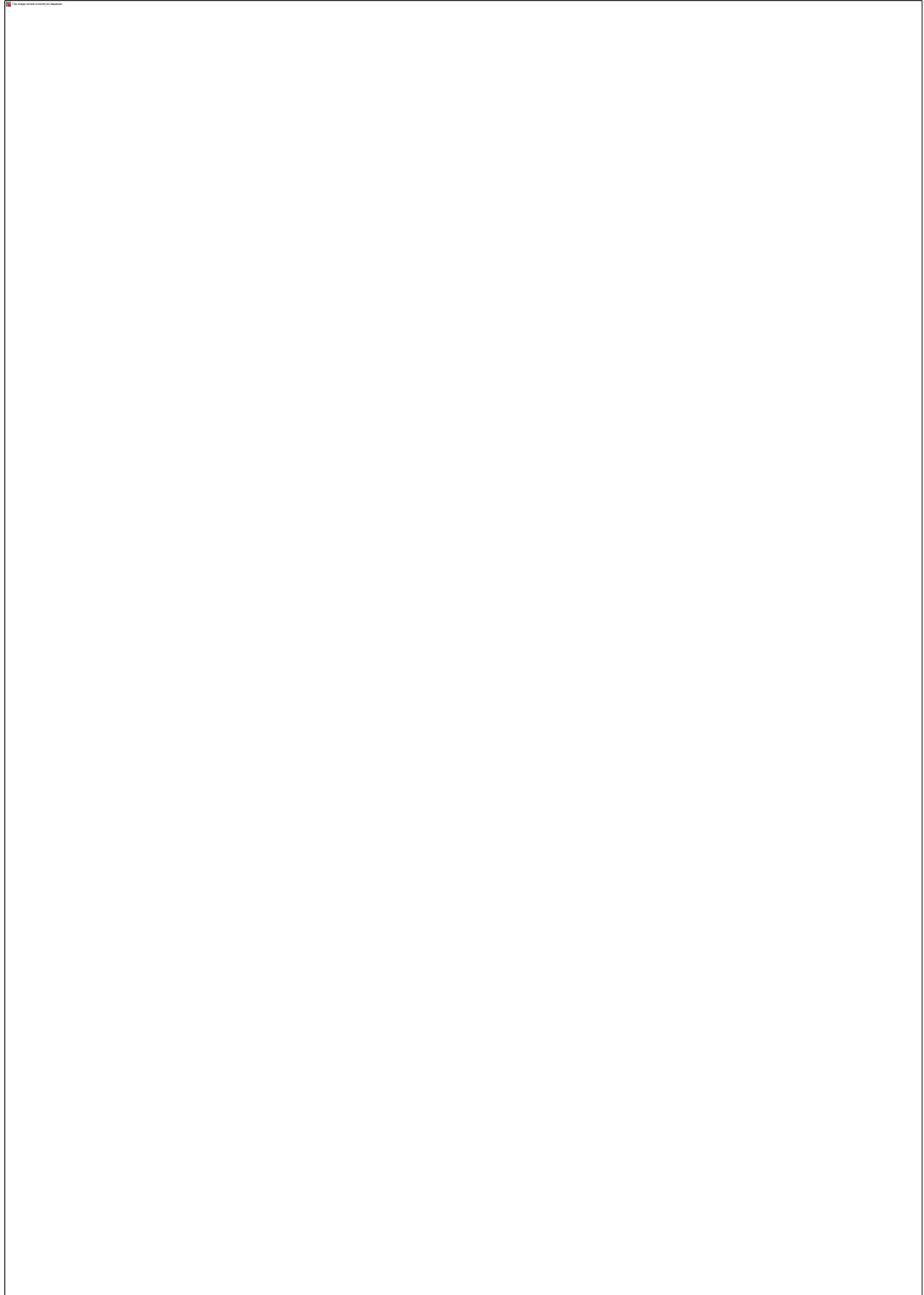


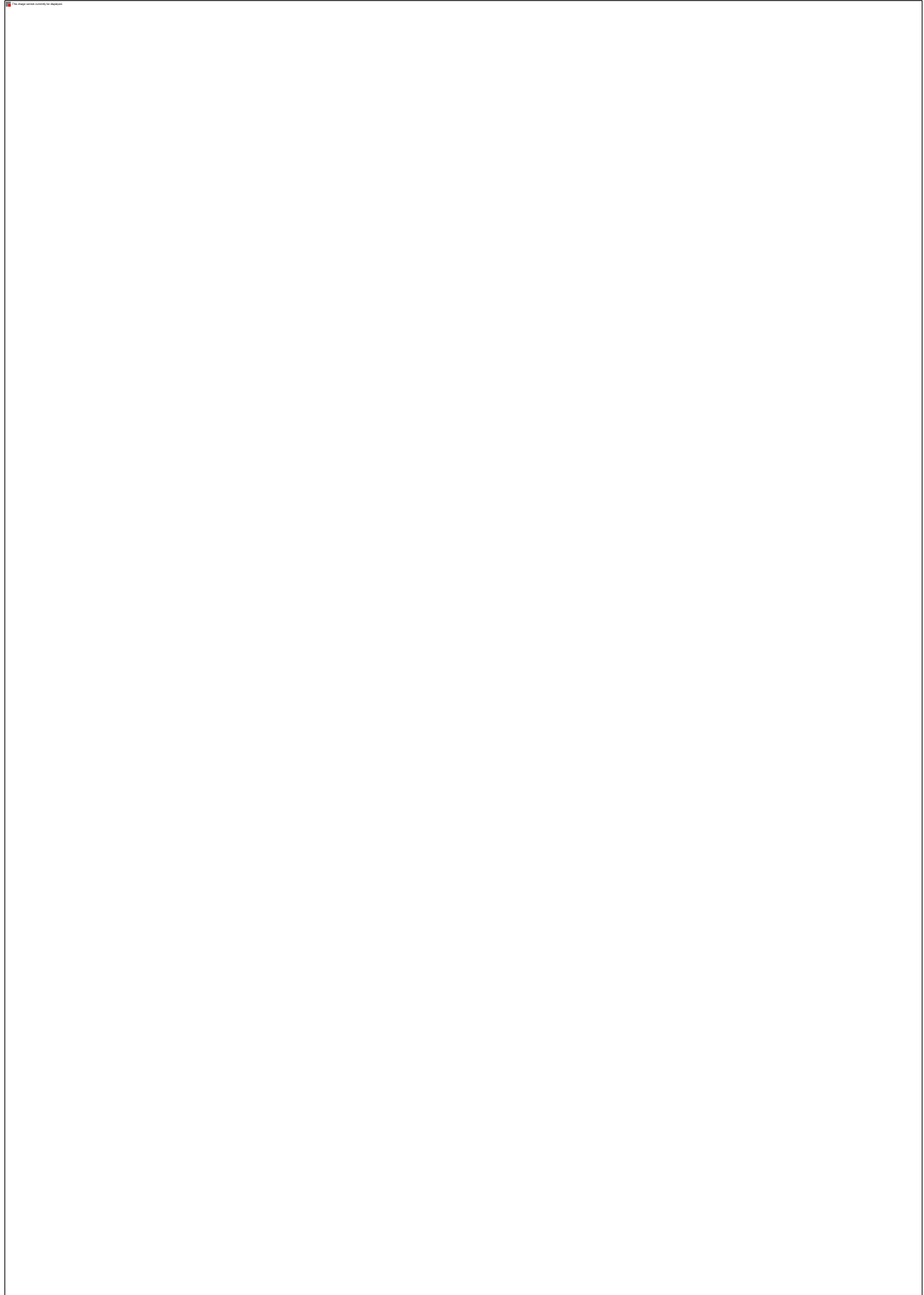


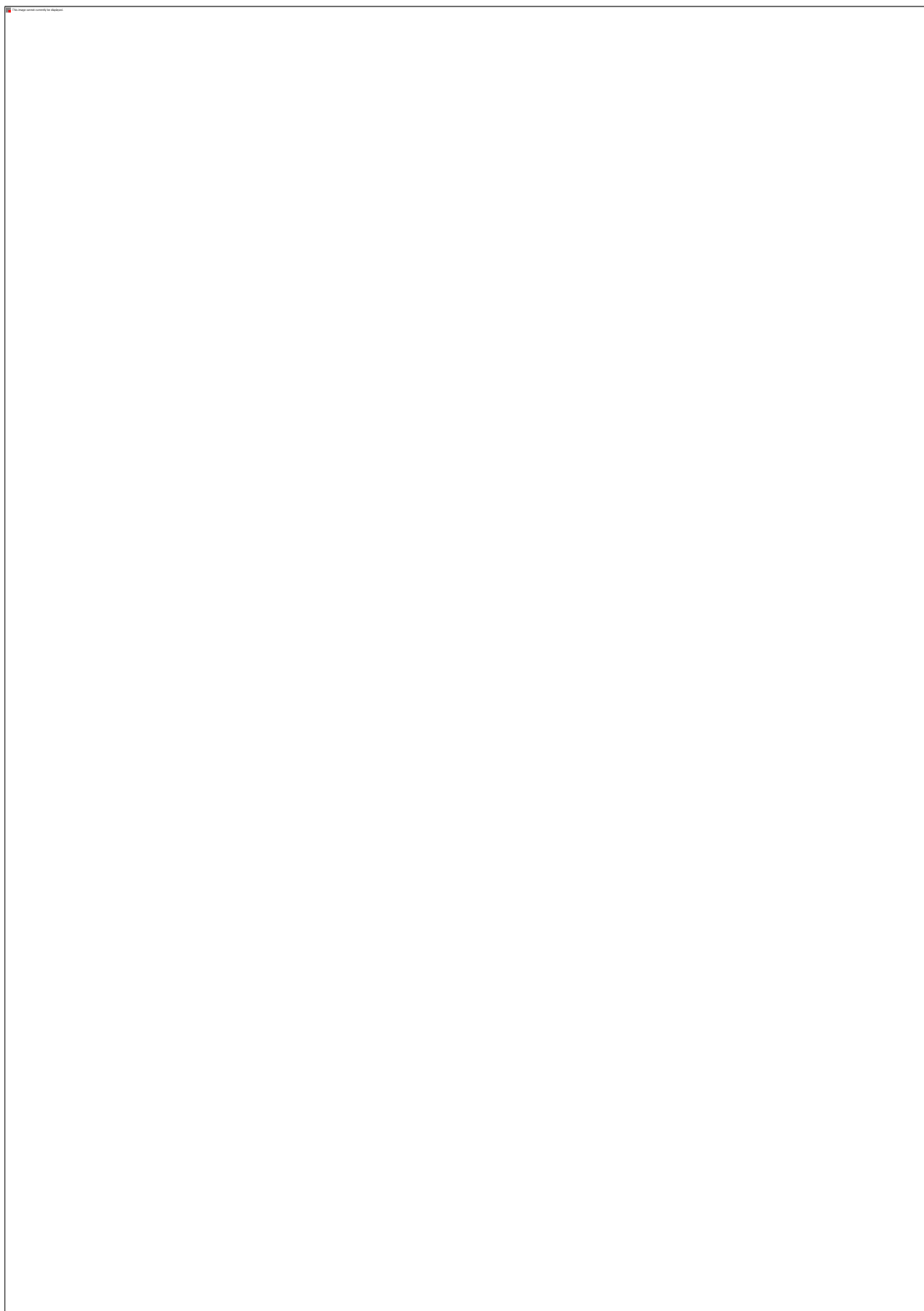


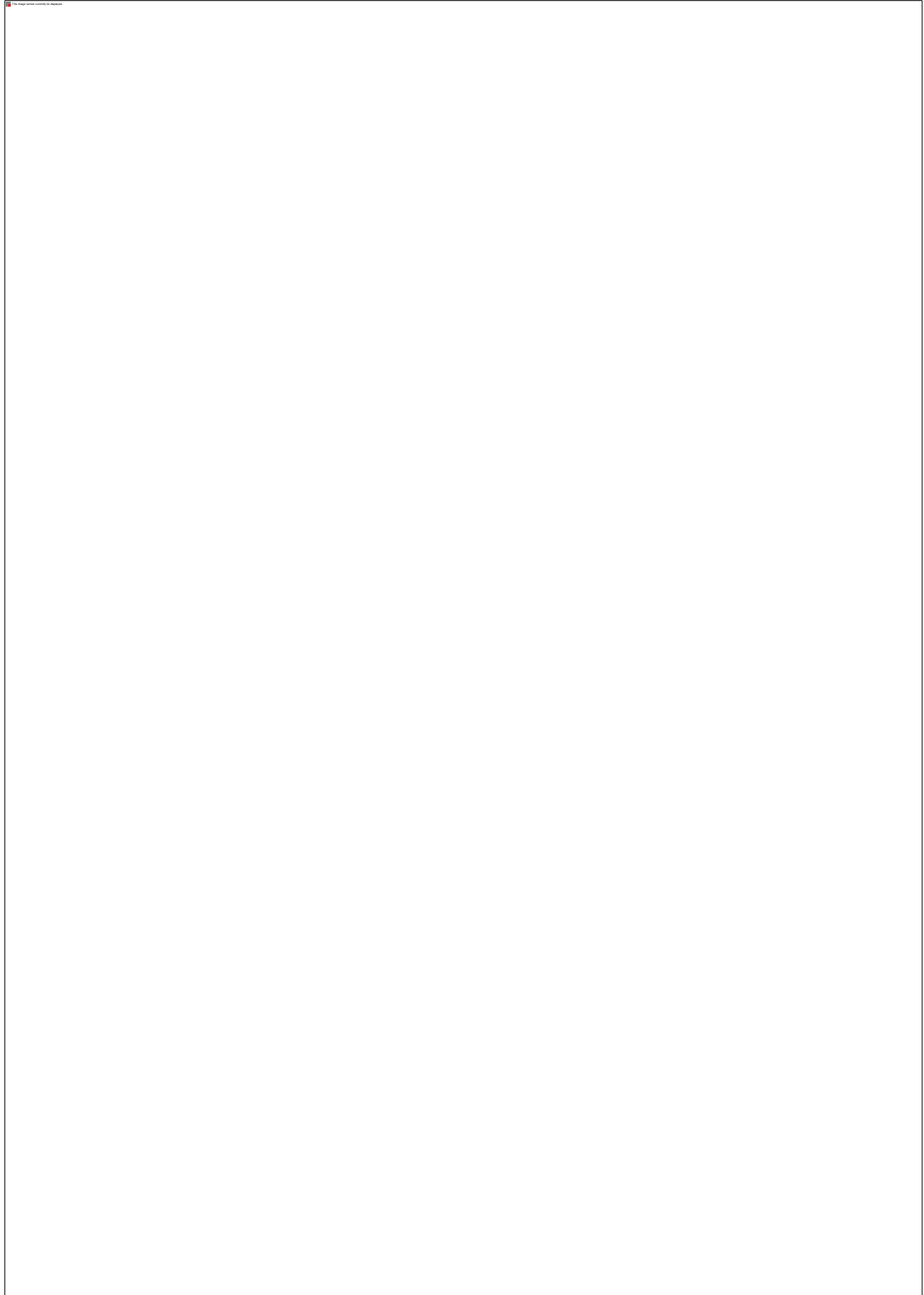


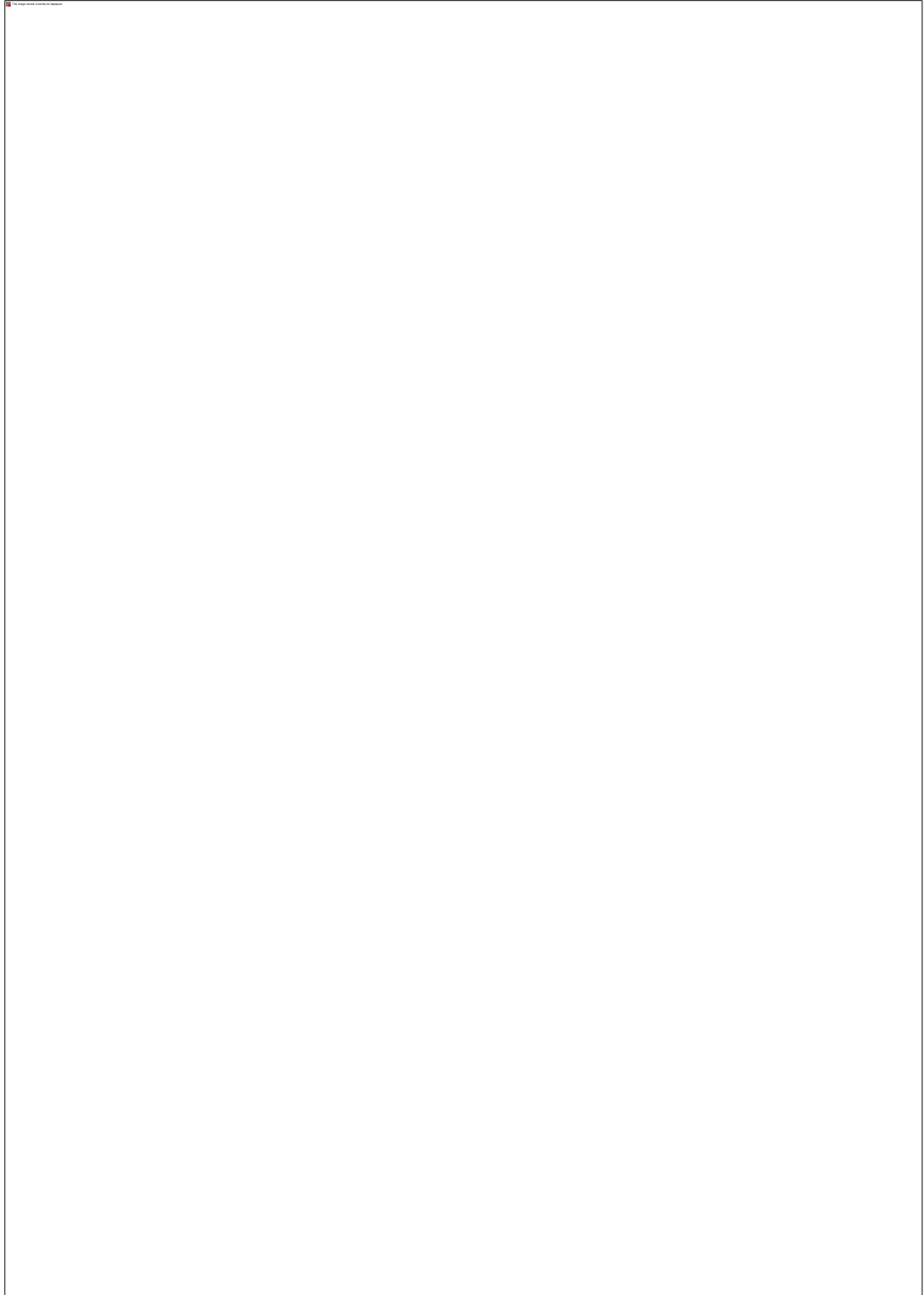


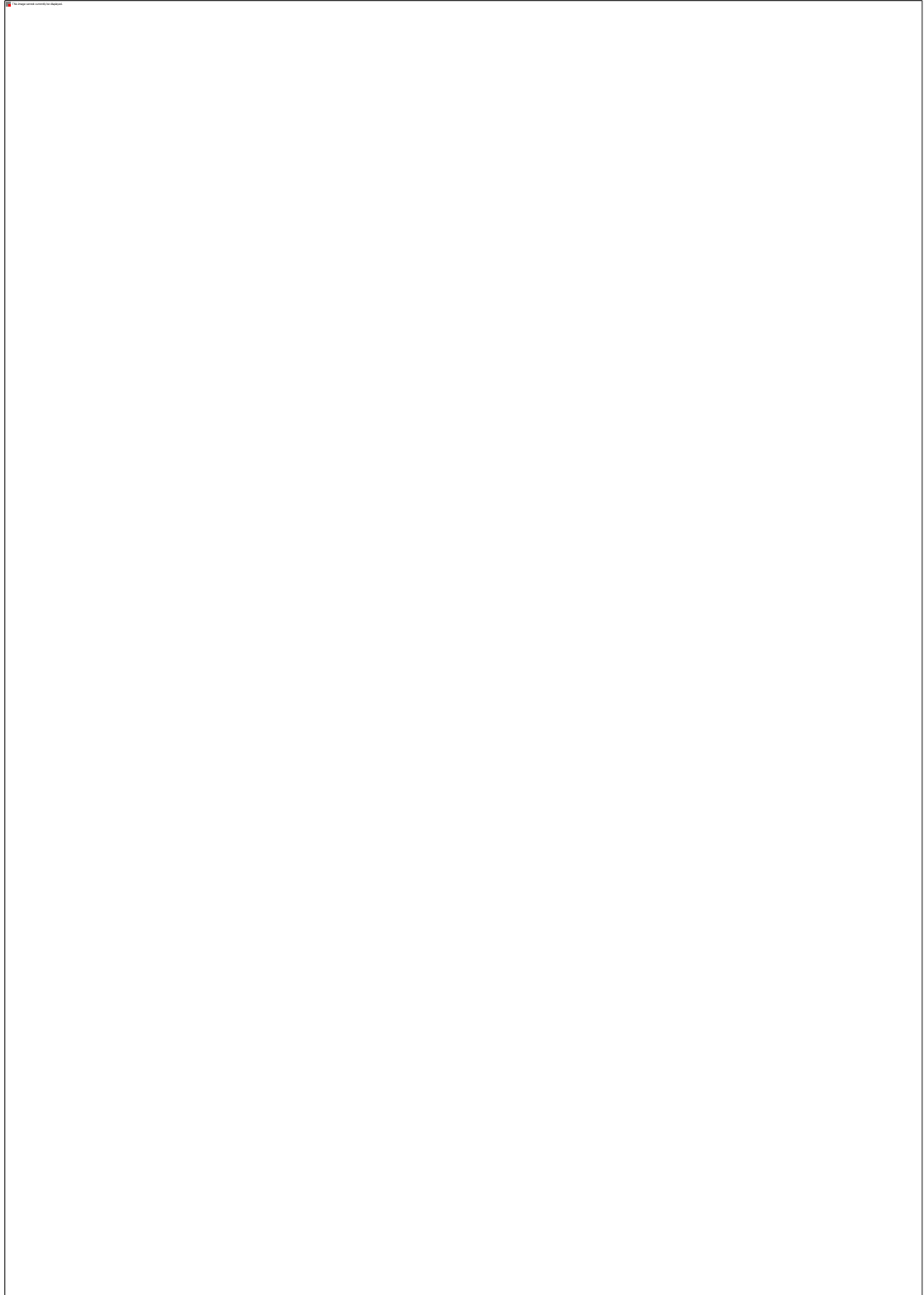


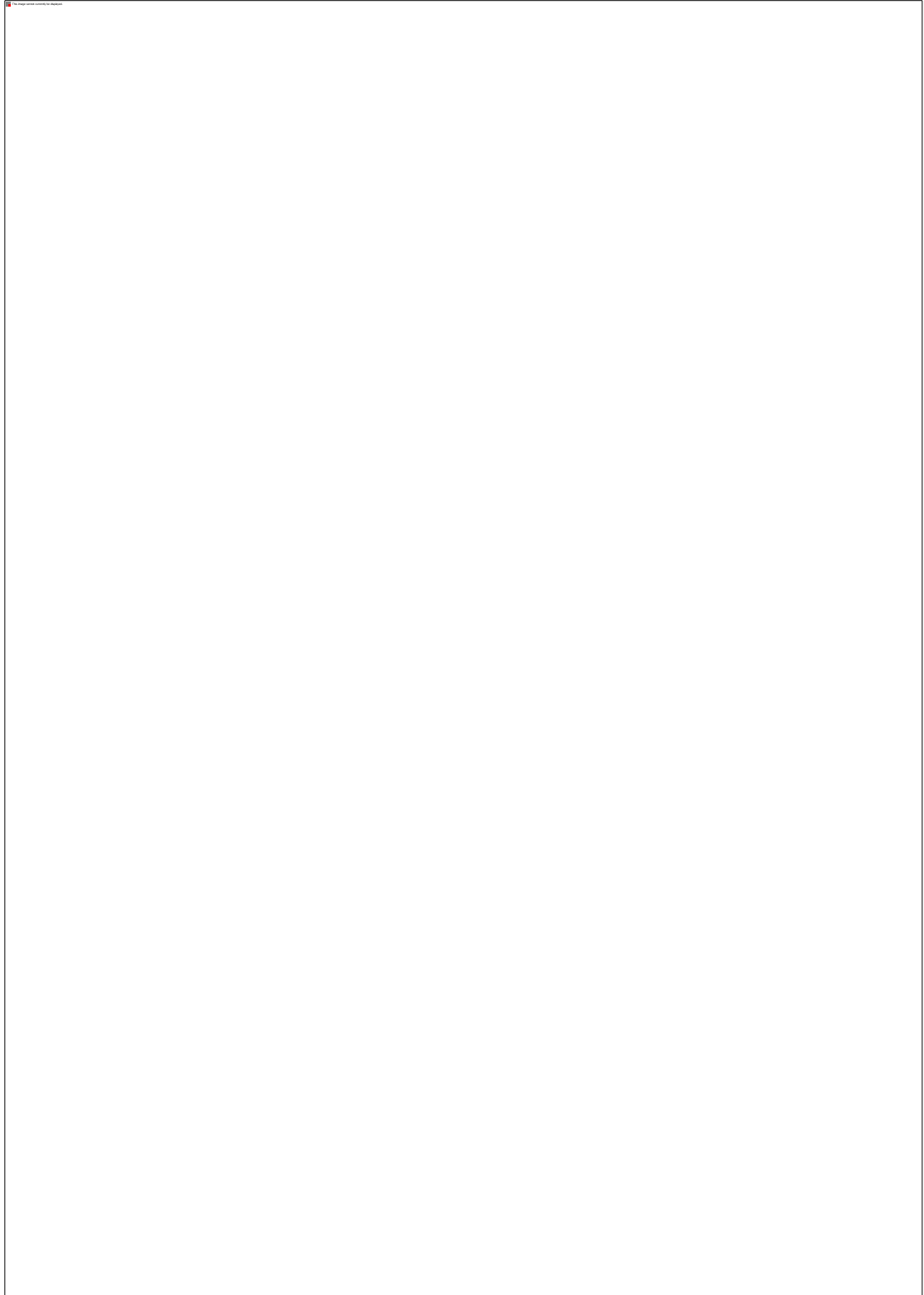


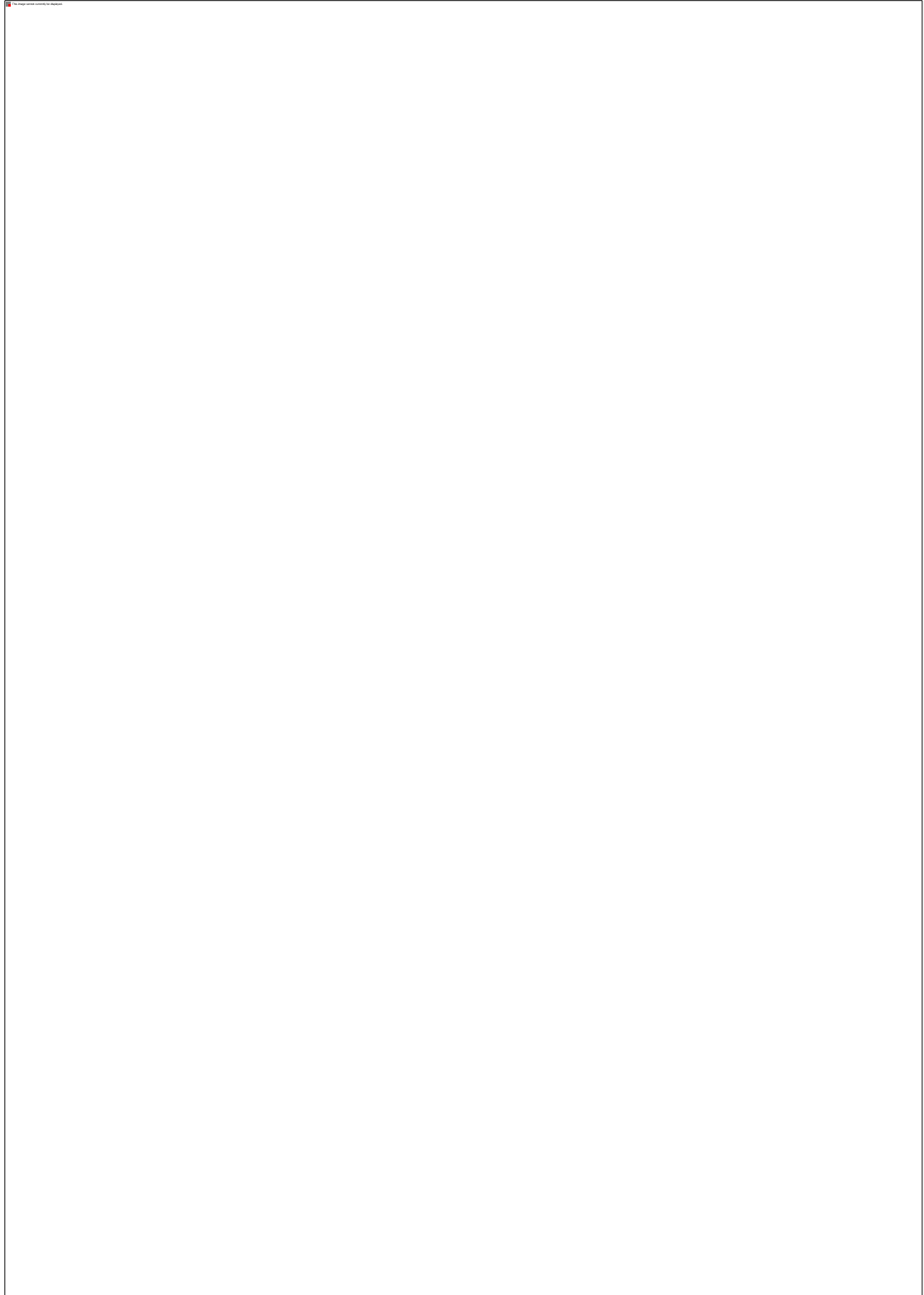


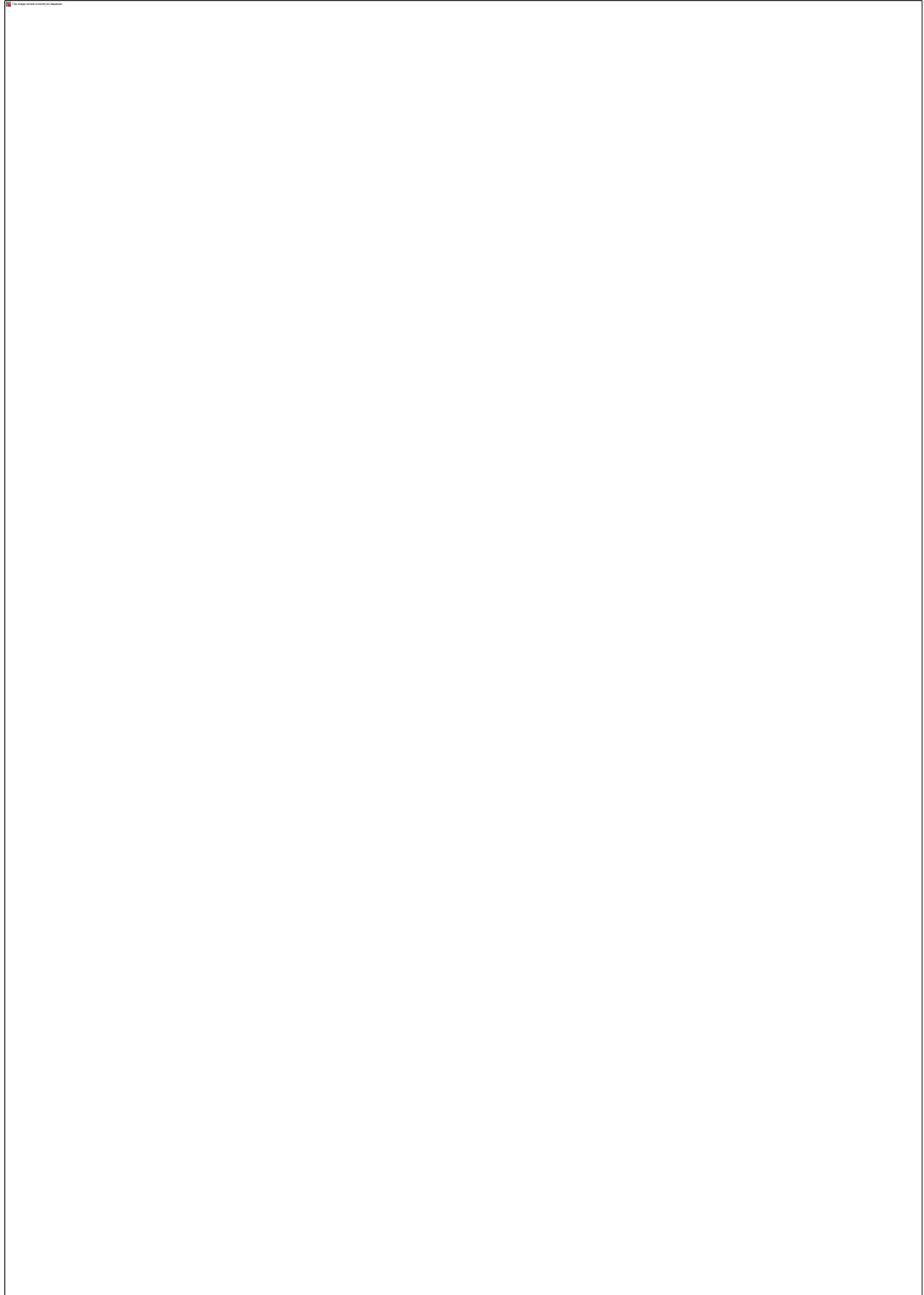


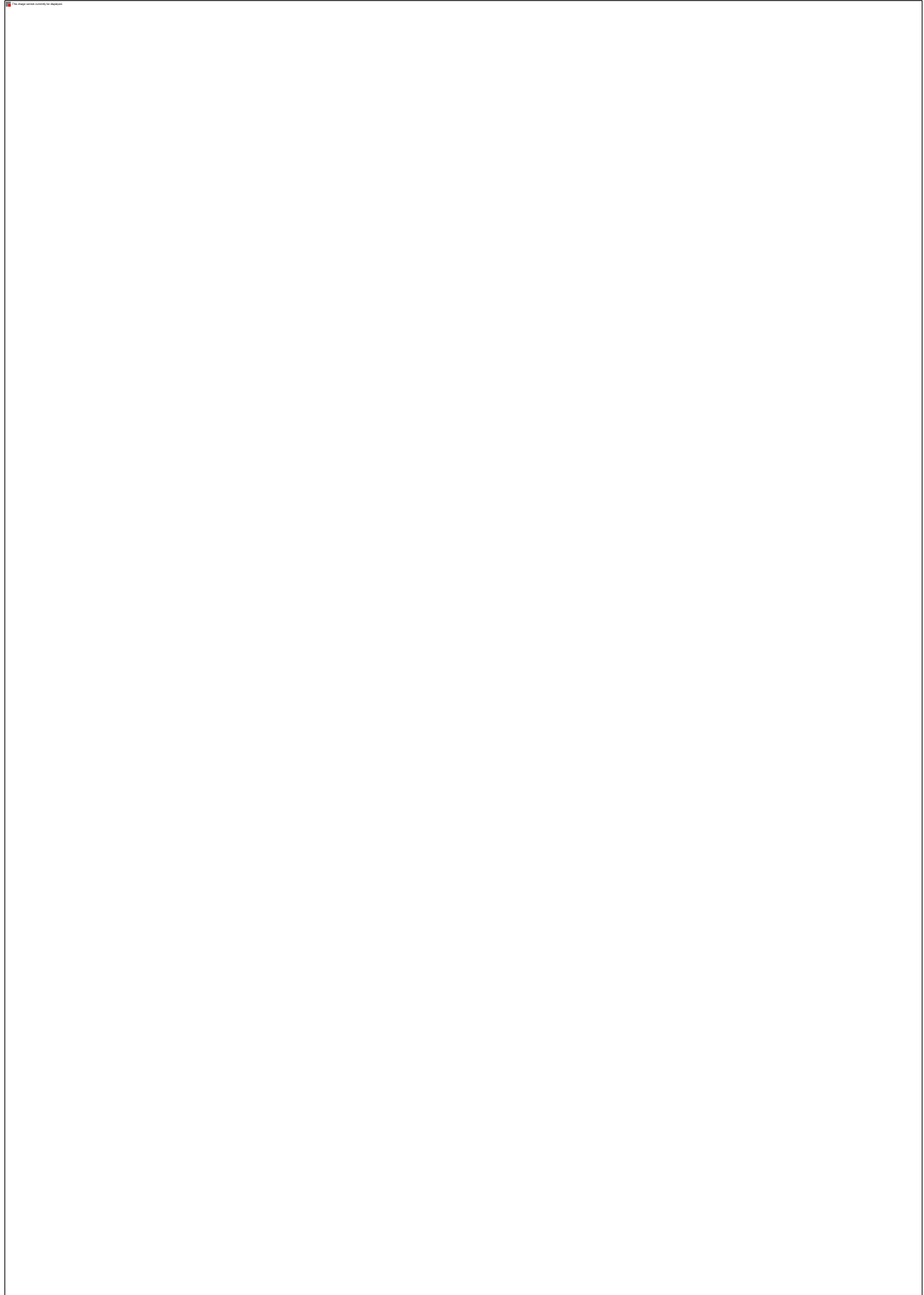


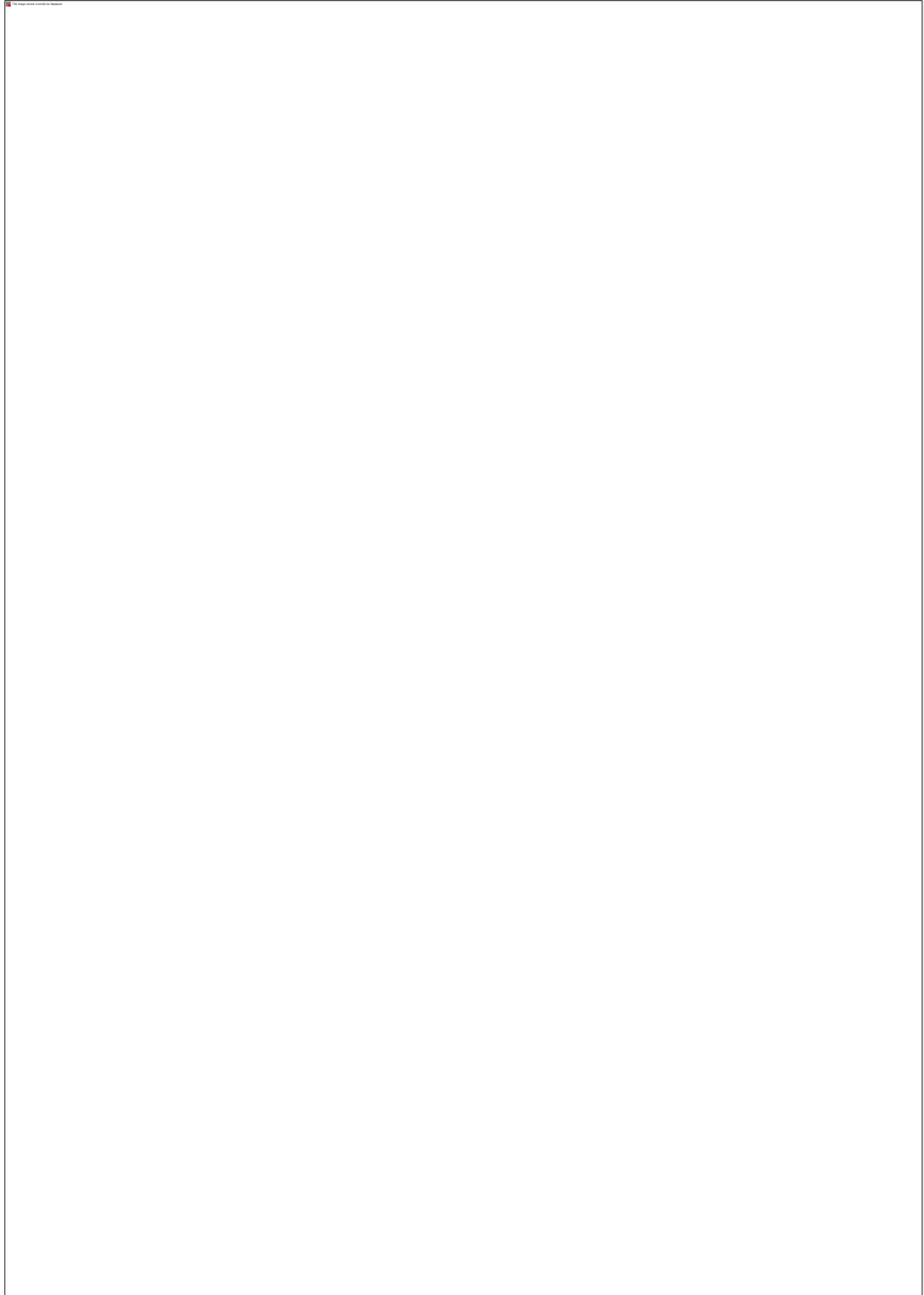


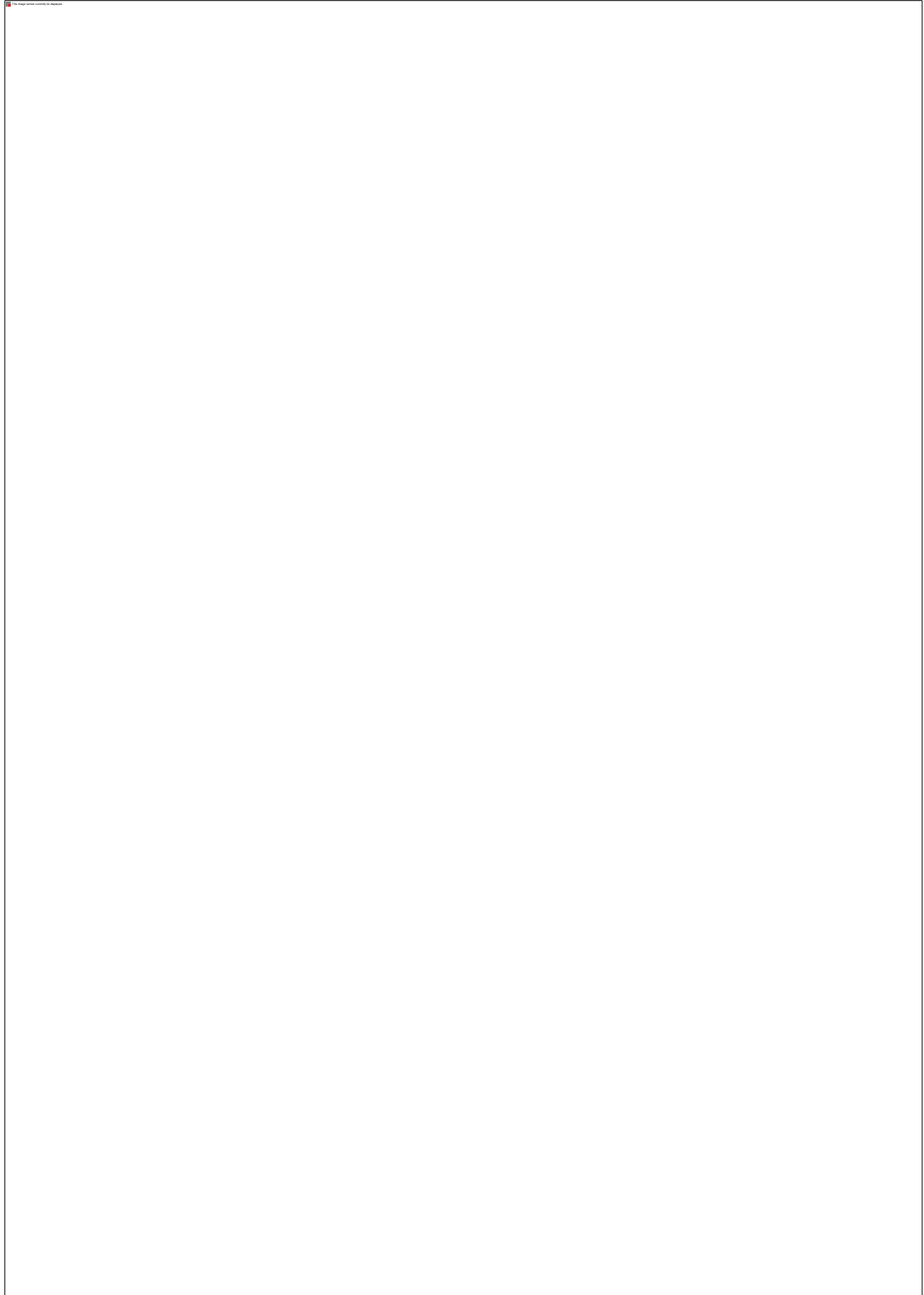


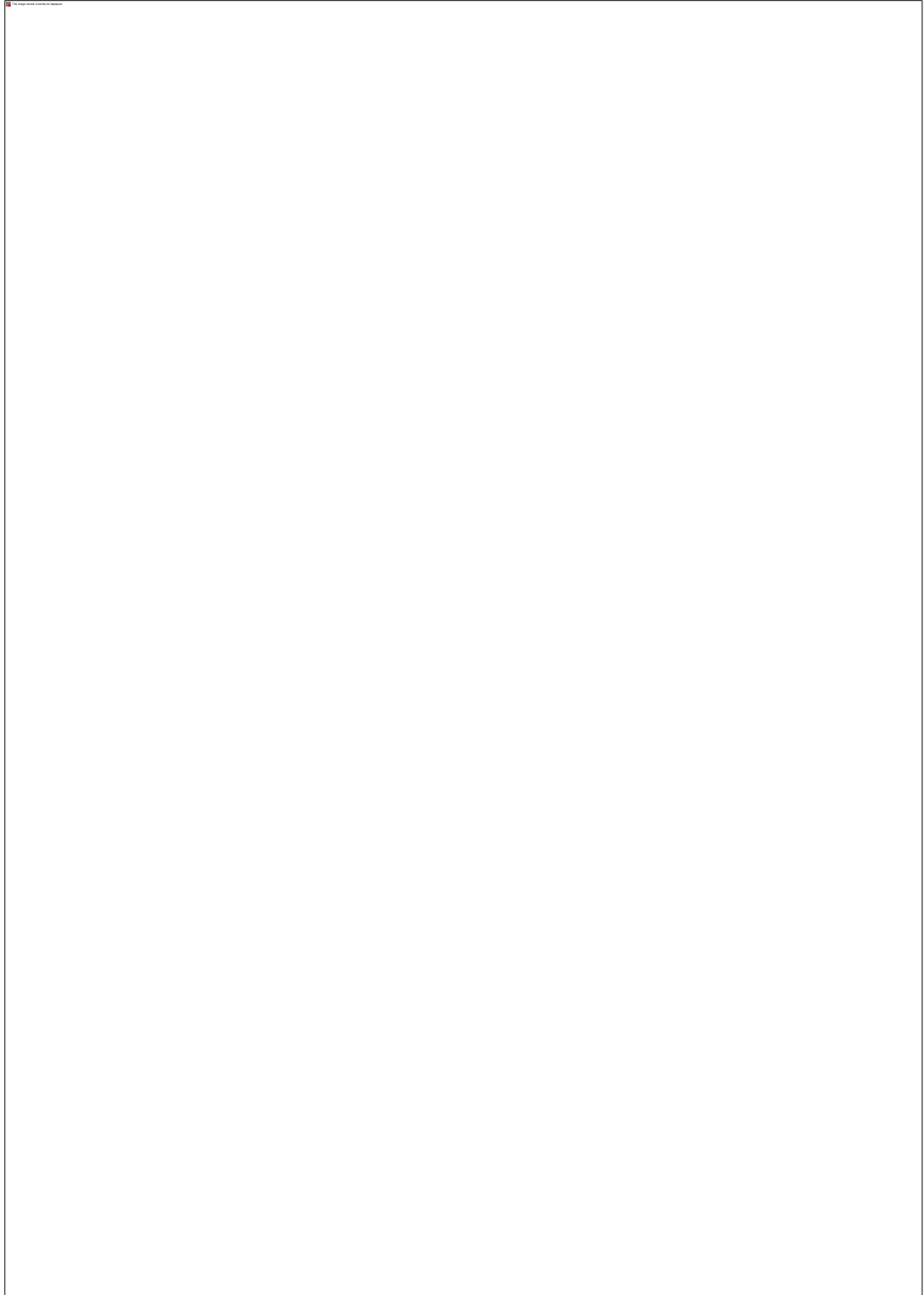


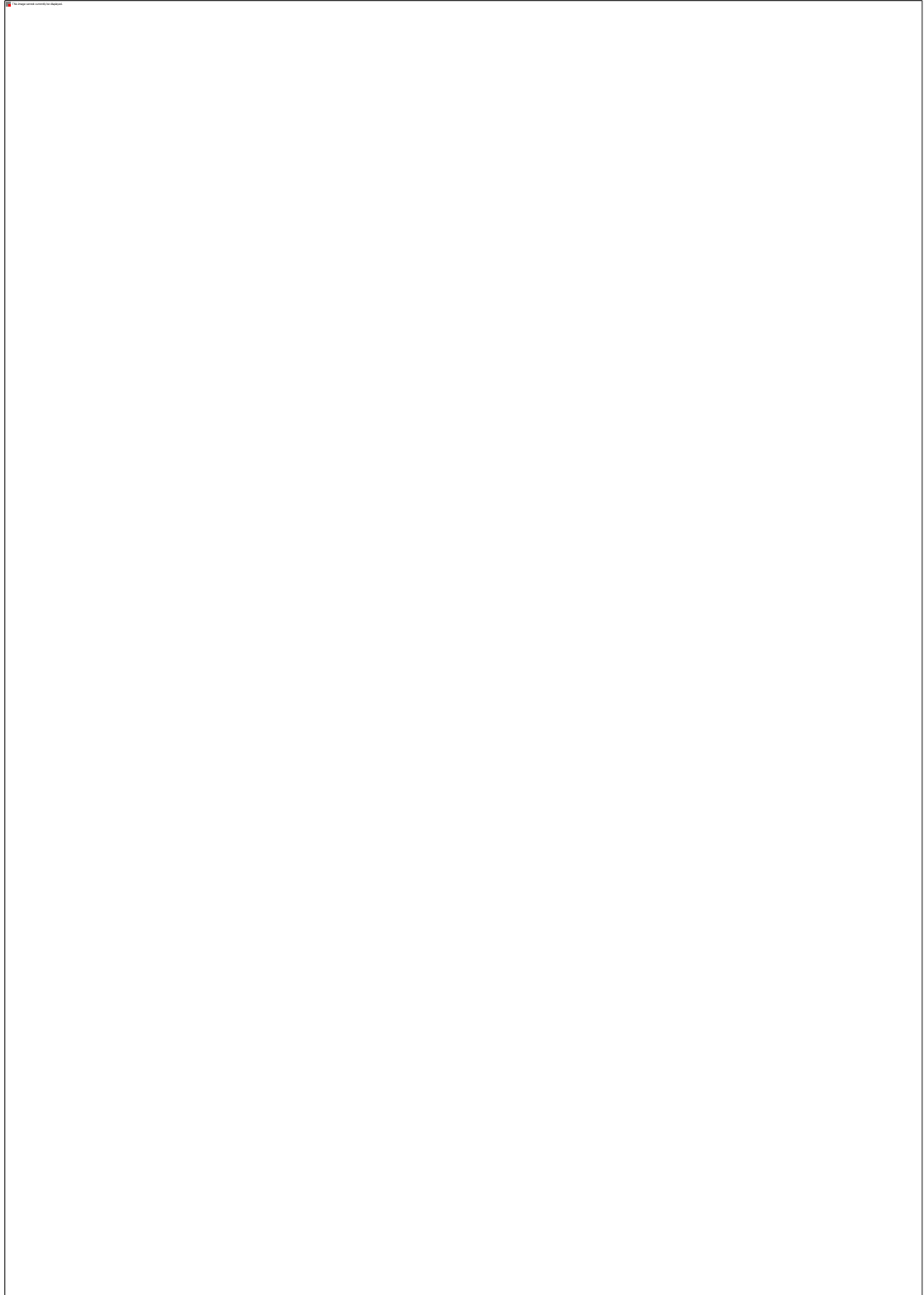


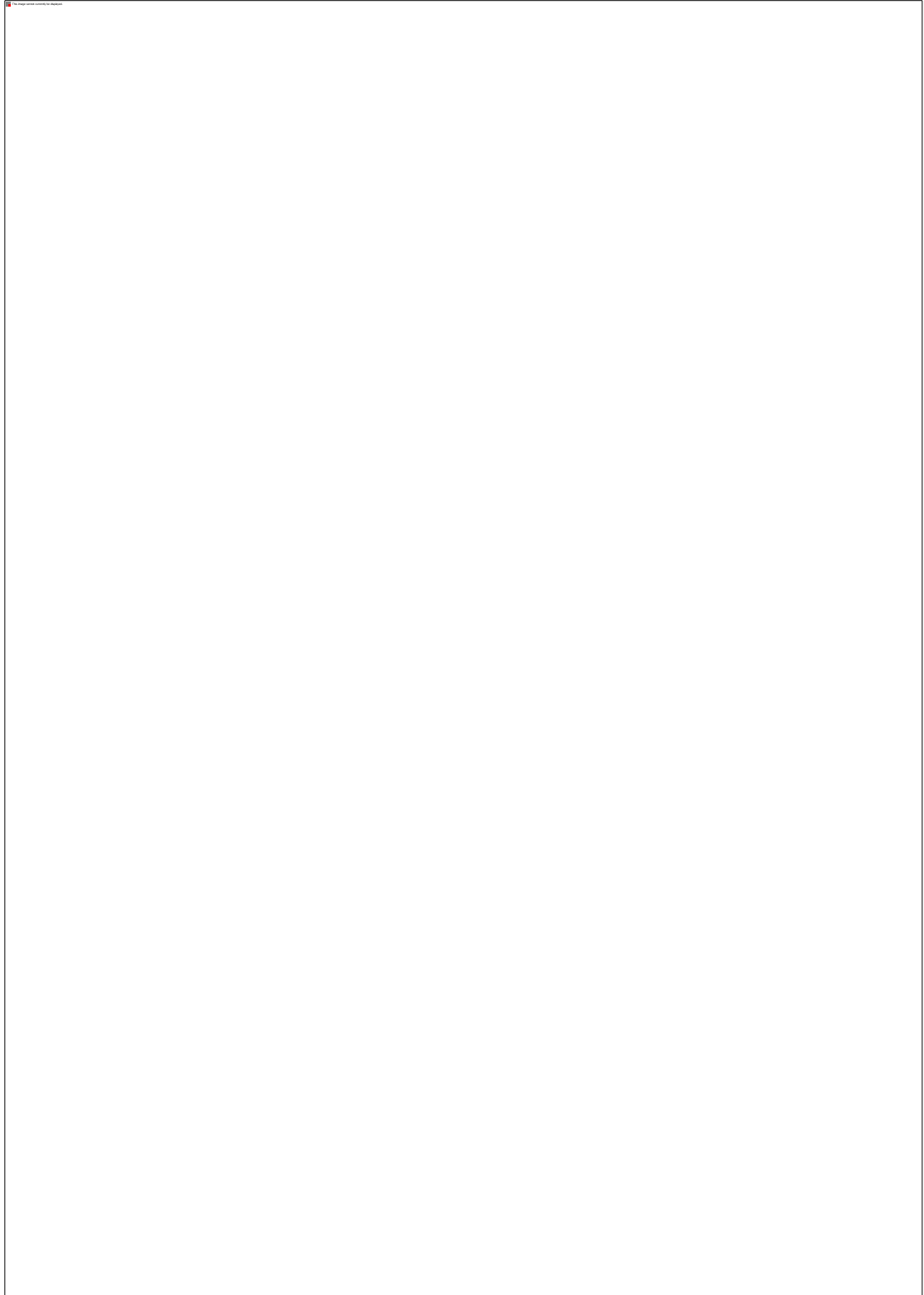


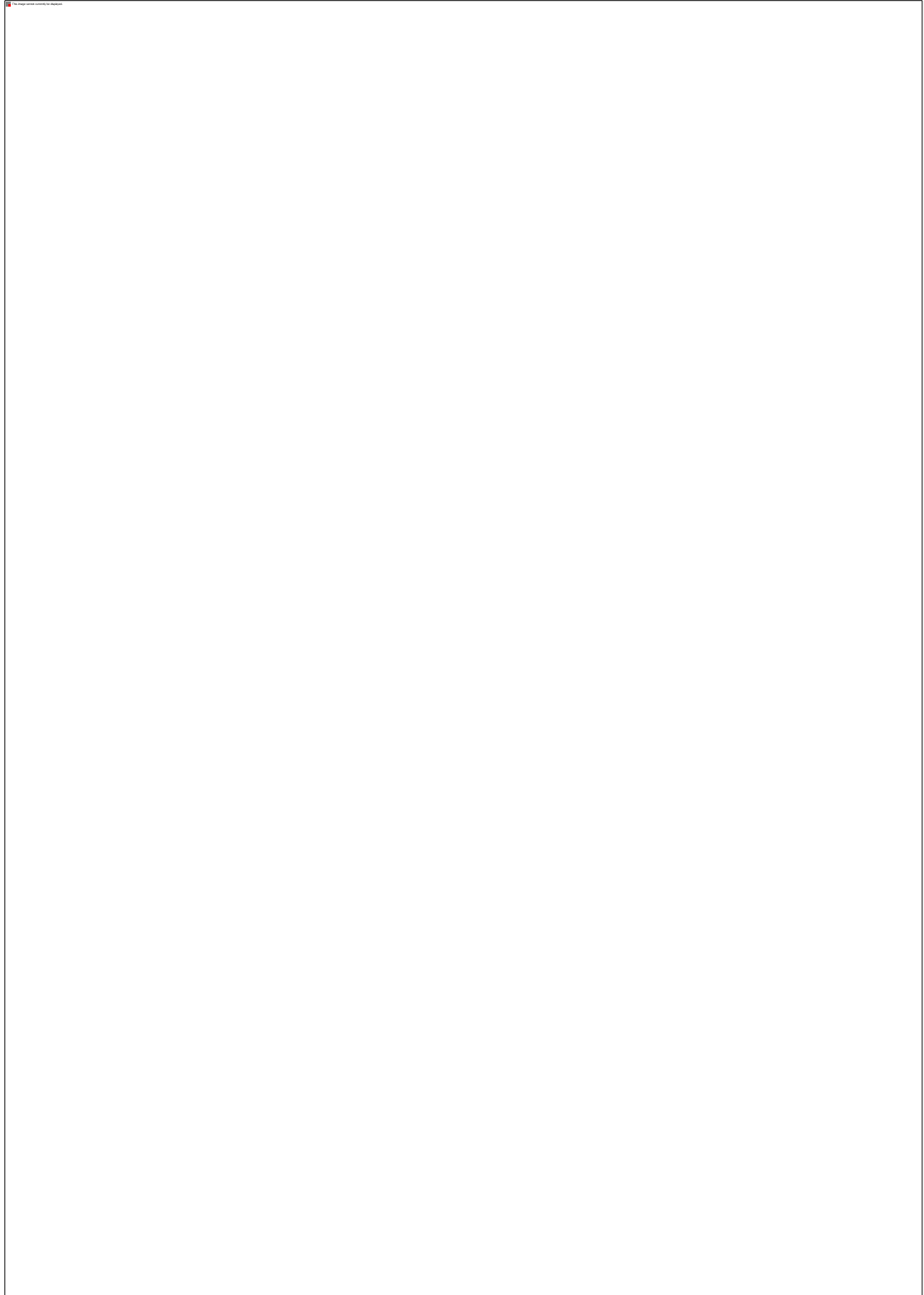












HM LAND REGISTRY
LAND REGISTRATION ACT 2002

LEASE

LEASE Date 2012

Parties

- 1.1 Landlord : **BERKELEY HOMES (EASTERN COUNTIES) LIMITED** (registered company number 01454062) whose registered office is at Berkeley House, 19 Portsmouth Road, Cobham, Surrey, KT11 1JG
- 1.2 Tenant : **MAIDSTONE & TUNBRIDGE WELLS NHS TRUST** Trust Headquarters Maidstone Hospital Hermitage Lane Kent

2 Definitions

In this Lease the following expressions shall have the meaning opposite them:-

- Accessway : The roadway coloured brown on Plan 1 or in such alternative position as may be provided for pursuant to Paragraph 1 of Part 3 Schedule 1
- Property : The property described in Schedule 1
- Term : 2 years from and including the
- Rent : One peppercorn
- Rent Commencement Date : 2012
- Rent Days : 01 January in every year
- Retained Land : The freehold land and buildings being the former Kent and Sussex Hospital site registered at the Land Registry under title number K832431 but excluding the

		Property
Permitted Use	:	As a medical clinic operated by or on behalf of an NHS Body for outpatient appointments and residential accommodation for staff of the Tenant or Medical Students
Plan 1	:	The plan annexed to this Lease marked Plan 1
Plan 2	:	The plan annexed to this Lease marked Plan 2
Conducting Media	:	any media apparatus or facility required for or ancillary to the provision of a Utility or Utilities to or from or for any land or buildings including the Drain and any other channels sewers sewage treatment plant conduits ducts pipes wires cables watercourses pumps gutters culverts soakaways lighting standards and apparatus and references to Conducting Media "in" or "on" include Conducting Media in on under over or through
Drain	:	The drains pipes outflows and other conducting media used or to be used for the foul and surface water drainage of the Property the approximate position of which is shown highlighted green on Plan 2 or in such alternative position as may be provided for pursuant to Paragraph 2 of

		Part 3 Schedule 1 and references to Drain "in" or "on" include Drain in on under over or through and such position as varied
Entry Conditions	:	<p>Whichever is the person exercising any right of entry shall:-</p> <ul style="list-style-type: none"> • give reasonable prior written notice (except in cases of emergency) to the other before exercising the right of entry concerned • comply with the security and health and safety requirements of the other party • cause as little damage and inconvenience as possible and • immediately make good all damage caused (or, at the election of the person suffering the damage, pay compensation instead)
Medical Student	:	Any person undertaking a course of study relating to the provision of services within the healthcare sector
NHS Body	:	A health service body as defined in section 9(4) of the National Health Service Act 2006 or an NHS foundation trust as defined in section 30(1) of the National Health Service Act 2006
NHS Employee	:	A person employed by an NHS Body
Disputes Clause	:	Clause 13 of the Lease

Outgoings	:	All rates taxes assessments impositions duties levies charges and other outgoings of any type but excluding any payable by the Landlord in respect of the receipt of Rent or any other payment made by the Tenant under this Lease or on any disposition of or dealing with the ownership of the reversion of this Lease
Planning Acts	:	Town and Country Planning Act 1990 Planning (Listed Buildings and Conservation Areas) Act 1990 Planning (Consequential Provisions) Act 1990 Planning (Hazardous Substances) Act 1990 Planning and Compensation Act 1991 Planning and Compulsory Purchase Act 2004 and Planning Act 2008
Tenant's Covenants	:	The covenants at Schedule 2 of this Lease
Utilities	:	The drainage of water and sewage the drainage of surface water and the supply of water gas electricity telecommunications information cable television and radio services and any other services (and "Utility" shall be construed accordingly)
1954 Act	:	Landlord and Tenant Act 1954 Part II
1995 Act	:	Landlord and Tenant (Covenants) Act 1995

3 Interpretation

In this Lease (unless inconsistent with the context):-

In this Lease (unless inconsistent with the context):-

3.1 "Landlord" includes the person from time to time entitled to possession of the Property when this Lease comes to an end

3.2 "this Lease" includes (except where the contrary is indicated) any document supplemental to or collateral to this Lease or entered into in accordance with this Lease

3.3 "Losses" includes all liabilities incurred by the either party all damage and loss suffered by it and all damages awarded against it all claims demands actions and proceedings made or brought against it and all costs disbursements and expenses incurred by it

3.4 "Property" includes:

- any building or other structure that is now on the Property or that is erected or constructed there during the Term
- the surrounding fences and walls
- all parking and forecourt areas
- all Conducting Media on the Property which solely serve the Property
- all additions alterations and improvements carried out during the Term
- the plant and fittings belonging to the Landlord
- all fixtures (whether or not fixed at the beginning of the Term) except any installed by the Tenant that can be removed without defacing the Property

and any references to the Property shall (except where the contrary is indicated) include any part of the Property

3.5 "Tenant" includes the person from time to time in whom the tenant's interest under this Lease is vested including any statutory successors in title to the Tenant

3.6 "VAT" means value added tax and any similar tax substituted for it or in addition to it

3.7 references:-

3.7.1 (unless otherwise specified) to a particular statute or law is a reference to it as it is in force for the time being (taking account of any extension modification amendment or re-enactment) and includes all derivative legislation and

- subordinate laws for the time being in force made under it as well as all orders notices codes of practice and guidance made under it
- 3.7.2 to laws in general is to all local national and directly applicable supra-national laws in force for the time being (taking into account any extension modification amendment or re-enactment and includes all derivative legislation and subordinate laws for the time being in force made under them and all orders notices codes of practice and guidance made under them)
- 3.7.3 to the base rate is to the base lending rate of National Westminster Bank Plc or if that rate has been abolished to the equivalent rate that has replaced it or if none to the rate of interest most comparable with the base lending rate determined (in the absence of agreement) by the Landlord's surveyor
- 3.8 any consent or approval of the Landlord (unless expressly required to be by way of deed) must be in writing and signed by or on its behalf if it is to be effective under this Lease
- 3.9 whenever any party consists of more than one person any obligation of or to that party is of or to those persons separately, all together or in any combination
- 3.10 references to the singular include the plural (and vice versa) references to any gender include all other genders and references to "persons" shall include all forms of legal entity (including individuals companies governmental entities and limited liability partnerships and, in relation to any party who is an individual, his legal personal representatives)
- 3.11 an obligation not to do something includes an obligation not to agree to or allow or suffer it to be done and an obligation to do something includes an obligation to procure that it is done
- 3.12 any right reserved or covenant to allow or the Tenant to enter the Retained Land and any right granted to the Landlord to enter the Property shall be construed as extending to all agents professional advisers contractors workmen and others authorised by that party (together with plant equipment and materials)
- 3.13 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Lease
- 3.14 references in any schedule to numbered paragraphs are references to the relevant

paragraph in that schedule

- 3.15 headings are for guidance only and are not to be taken into account in its construction or interpretation
- 3.16 The term "working day" means a day when the UK clearing banks are open for business in the City of London

4 Letting rights

- 4.1 The Landlord lets the Property with limited guarantee to the Tenant for the Term
- 4.2 The Landlord grants the rights specified in Schedule 1 Part 2
- 4.3 The Landlord reserves the rights specified in Schedule 1 Part 3
- 4.4 The letting is with the benefit of and subject to (as the case may be) the matters specified in Schedule 1 Part 4

5 Rent

The Tenant covenants with the Landlord to pay the Rent without any deduction or set-off by equal payments in advance on the Rent Days and:-

- 5.1 the first payment is for the period beginning on the Rent Commencement Date and ending on the day before the next Rent Day
- 5.2 the first payment is due on the Rent Commencement Date

6 Tenant's covenants

The Tenant covenants with the Landlord as specified in Schedule 2

7 Landlord's covenants

The Landlord covenants with the Tenant:-

7.1 Quiet Enjoyment

To permit the Tenant to hold the Property peaceably and without any interruption by the Landlord or any person claiming under or in trust for the Landlord save that the Tenant recognises that the Landlord redevelopment of the Property including demolition and construction works will not breach this Covenant.

7.2 Landlord's Works

- 7.2.1 In carrying out any works on the Retained Land the Landlord shall cause as little inconvenience disruption and disturbance as reasonably possible to the Tenant and its

occupiers and in any event no such works shall prevent the Tenant or its occupiers from using the Property for the Permitted Use. It is however recognised that the Landlord is carrying out redevelopment of the Property and this will include demolition and construction works which will not breach this Covenant.

7.2.2 Not without the consent of the Tenant (such consent not to be unreasonably withheld or delayed) to block or obstruct access to the Property or to cut off the supply of Utilities to the Property

7.3 **Outgoings**

To pay all rates taxes assessments impositions duties levies charges and outgoings of any type which now or during the Term are charged assessed or imposed on the Accessway

7.4 **Accessway**

To maintain the Accessway in fair and reasonable repair and condition to facilitate access for the Permitted Use and to keep the same clear and free from obstruction and suitably lit

7.5 **Statute**

To comply with all statutes byelaws regulations and requirements of any competent authority from time to time and of the insurers in relation to the Accessway

8 **Insurance**

The parties agree and acknowledge that

8.1.1 The Tenant shall be entitled to include the Property under the Tenant's self insurance scheme operated through the NHS Litigation Authority; and

8.1.2 The Landlord shall also be entitled to insure the Property;

however, neither party shall be under an obligation to the other to insure the Property and for the avoidance of doubt each party shall be entitled to spend its own insurance monies as it in its absolute discretion shall determine

Reinstatement

8.1.3 "Insured Damage" means that the Property or part of it is destroyed or damaged by any risk against which either the Landlord or the Tenant has insured

8.1.4 Whenever Insured Damage occurs either the Landlord or the Tenant may (but shall not be obliged to) apply such insurance money received in obtaining any consents to reinstate the Property and (subject to these consents being obtained and not revoked) when the insurance money is to hand to apply the insurance monies and with all reasonable speed to reinstatement but if reinstatement shall be prevented or frustrated for any reason beyond the reasonable control of the parties or the parties agree (acting reasonably) that the Property is not to be re-instated the insurance proceeds will belong to the relevant insured party absolutely

8.1.5 In the event either party is prevented from making a claim against or prevented from being entitled to receive insurance monies otherwise due in respect of any insurance cover it may have procured pursuant to clause 8.1.1 or 8.1.2 respectively as a direct result of the existence of any insurance cover held by the other party that party shall not be entitled to recover such loss of insurance monies from the other party

8.2 **Termination**

8.2.1 Whenever damage occurs to the Property and the Property or any part of it is unfit for use the Tenant may at any time thereafter while the Property or part of it remains unfit serve on the Landlord a notice referring to this clause whereupon this Lease will immediately come to an end

8.2.2 Subject to clause 8.1.5 above termination under clause 8.2.1 will not affect any rights that any party may have against another

9 **Forfeiture**

9.1 A "Forfeiting Event" is any of the following:-

- any Rent or sum regarded as rent for the purposes of this Lease is outstanding for twenty one days after becoming due whether formally demanded or not
- a breach by the Tenant of any of the covenants or other terms of this Lease or of any condition attached to any consent or approval given under this Lease

9.2 Whenever a Forfeiting Event exists the Landlord may re-enter the Property (or any part of it) at any time even if a previous right of re-entry has been waived and then the Term will end but without affecting any rights that any party may have against another including

(for example) the breach under which the re-entry is made

10 Miscellaneous

10.1 Representations

The Tenant acknowledges that it has not entered into this Lease in reliance wholly or partly on any representation made by or on behalf of the Landlord

10.2 Exclusion of Use Warranty

Nothing in this Lease or in any consent granted by the Landlord under this Lease implies that the Property may be used for any particular purpose under the Planning Acts or otherwise

10.3 Entire Understanding

This Lease embodies the entire understanding of the parties relating to the Property or to any of the matters dealt with by any of the terms of this Lease

10.4 New Tenancy

This Lease creates a "new tenancy" as defined by the 1995 Act Section 28(1)

10.5 The 1995 Act

For the purposes of the 1995 Act the provisions of this Lease are to be construed independently and so as not to impose upon the Landlord the Tenant or any surety any liability or restriction which is more onerous than that permitted by that Act and if any provision is held to be void or unenforceable in whole or in part that provision to that extent is to be deemed not to form part of this Lease but the validity and enforceability of the remainder of that provision or of the Lease is not to be affected

11 Right to break

If the Tenant wishes to determine this Lease and gives to the Landlord not less than four weeks' written notice to this effect (to be served at any time) and gives vacant possession (including vacant possession free from any third parties) on that termination date

12 Notices

12.1 A notice under this Lease must be in writing and (unless the receiving party or its authorised agent acknowledges receipt) is valid if (and only if) it:

12.1.1 is given by hand, sent by registered post or recorded delivery (provided a

confirmatory copy is on the same day given by hand or sent by registered post or recorded delivery) and

12.1.2

is served:

- where the receiving party is a company or limited liability partnership incorporated within Great Britain at its registered office marked for the Head of Legal or
- where the receiving party is an NHS Body at the address shown in this Lease marked for the attention of Director of Estates and Facilities and at the Tenant's Solicitor's address shown in this Lease
- where the receiving party is the Landlord and that party is not such a company or limited liability partnership at that party's address shown in this Lease marked for the Head of Legal and the Landlord's Solicitors or at any substituted address specified in a notice given by that party to the serving party

12.2 Unless it is returned through the Post Office undelivered, a notice sent by registered post or recorded delivery is to be treated as served on the third working day after posting whenever and whether or not it is received

12.3 The term "working day" means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory bank holiday

12.4 If the receiving party consists of more than one person a notice to one of them is notice to all

13 Disputes

13.1 In this clause:-

13.1.1 "Dispute" means a dispute issue difference question or claim as between the Landlord and the Tenant relating to or arising out of this Lease

13.1.2 "Party" means a party to the Dispute

13.1.3 "Specialist" means a person qualified to act as an independent expert in relation to the Dispute having experience in the profession in which he practises for the period of at least ten years immediately preceding the date of referral and (in the

case of a Specialist who is a chartered surveyor) the person shall have requisite experience in residential property values in NHS land transactions and residential development land and hold a minimum of £10 million professional indemnity insurance cover

- 13.2 Either Party may give to the other notice ("Dispute Notice") requiring a Dispute to be referred to a Specialist and proposing an appropriate Specialist
- 13.3 The Party served is to be deemed to accept the proposals under clause 13.2 made in the Dispute Notice unless the Party within 10 working days of receipt of the Dispute Notice gives notice rejecting one or more of the proposals or unless each Party serves a Dispute Notice on the other contemporaneously
- 13.4 Unless the Parties agree or are deemed to agree the appropriate Specialist:
- 13.4.1 if the Parties do not agree which type of Specialist is appropriate to resolve the Dispute either Party may refer that question to the President or next most senior available officer of the Royal Institution of Chartered Surveyors or (if he will not accept that reference) to the President or next most senior available officer of the Law Society who must (with the right to take such further advice as he may require) determine that question and nominate or arrange to have nominated the appropriate Specialist
- 13.4.2 if the Parties agree the appropriate type of Specialist but do not agree the identity of the Specialist he is to be nominated on the application of either Party by the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist but if no such organisation exists then by the President or next most senior available officer of the Royal Institution of Chartered Surveyors
- 13.5 The Parties agree that the Specialist should act as an independent expert and:
- 13.5.1 each Party may within 15 working days of his appointment make written representations which are to be made to him and copied to the other Party
- 13.5.2 each Party is to be given a further 10 days to give him written comment on those representations

- 13.5.3 the Specialist is to be at liberty to call for such written evidence from the Parties and to seek such legal or other expert assistance as he may reasonably require
- 13.5.4 the Specialist is to have regard to all representations and evidence when making his decision which is to be in writing and he is to be required to give reasons for his decision
- 13.5.5 the Specialist is to use all reasonable endeavours to publish his decision within six weeks of his appointment
- 13.6 All costs of referring a Dispute to a Specialist under this clause including costs connected with the appointment of the Specialist and the legal and other professional costs of any Party in relation to a Dispute are to be borne as the Specialist shall determine and in the absence of determination then equally by the parties

14 Governing Law and Jurisdiction

This Lease shall be governed by and construed in accordance with English law and (subject to clause 13 any party to this Lease submits to the exclusive jurisdiction of the English courts

15 Contracts (Rights of Third Parties) Act 1999

No term of this Lease shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party (but this does not affect any right or remedy of a third party which exists or is available apart from under that Act)

16 Exclusion of the 1954 Act

The Landlord and the Tenant confirm that:-

- (a) the Landlord served a notice dated 2012 on the Tenant, as required by Section 38A(3)(a) of the 1954 Act and which applies to the tenancy created by this Lease a copy of which notice is attached to this Lease
- (b) **Graham Goddard**, who was duly authorised by the Tenant to do so, made a declaration dated 2012 in accordance with the requirements of Section 38A(3)(b) of the 1954 Act, a copy of which declaration is attached to this Lease
- (c) The Landlord and the Tenant agree that the provisions of Sections 24-28 (inclusive) of the 1954 Act are excluded in relation to the tenancy created by this

Lease

SCHEDULE 1

PART 1

THE PROPERTY

Burslem House part of the former Kent & Sussex Hospital Tunbridge Wells Kent and being part of the land registered under freehold title K832431 and shown edged red on Plan 1

PART 2

RIGHTS GRANTED

The rights set out in this Part of the Schedule are for the benefit of the Tenant and all persons expressly or by implication authorised by the Tenant (in common with the Landlord and all other persons expressly or by implication authorised by the Landlord or having the like or a similar right) and are as follows:-

1. The right:-
 - 1.1 to pass and repass to and from the Property at all times with or without vehicles of any description for all purposes connected with the use and enjoyment of the Property over the Accessway
 - 1.2 to cross the Retained Land in case of emergency only on foot only by such route (if any) as may from time to time be stipulated by the Landlord for the purposes of egress from the Property
2. to convey and discharge (as the case may be) waste and/or surface water through the existing Drain in under over or through the Retained Land or through any Drain laid or installed during the lease term in addition to or in substitution of the existing Drain pursuant to the rights in clause 2 part 3 of this Schedule
3. the right of access onto such part of the Retained Land as is reasonably necessary upon reasonable prior notice (except in the case of emergency) with or without workmen, tools plant and materials to carry out any repair renewal inspection or maintenance of the Drain or to carry out repairs and maintenance of the Property in order to comply with the Tenant's Covenants or to put the Property into a wind and water tight condition suitable for the Permitted Use.

4. Support and protection from the land and buildings comprised in the Retained Land for the Property

PART 3

EXCEPTIONS AND RESERVATIONS

1. The right to vary the route of the Accessway upon service of not less than 10 Working Days prior written notice upon the Tenant to include a plan detailing the route of the new roadway together with confirmation of the date from which the new route will need to be used Provided That any replacement route will be of no less width than that currently existing and to an appropriate standard to provide access to and egress from the Property to a publicly maintained highway
2. The right to replace renew or vary the route of the Drain upon service of not less than 5 Working Days prior written notice upon the Tenant to include a plan detailing the route of the new Drain together with confirmation of the date from which the new Drain will become operational Provided That any replacement or alternative drain shall permit the use as a utility of no less capacity or function to the Tenant than the drain it replaces.
3. The right to access the Property on not less than 3 Working Days notice (and on no notice in an emergency) with or without workmen plant and equipment:
 - 3.1. To ascertain whether the Tenant has complied with its obligations in the Lease
 - 3.2. To inspect the state of repair and condition of the Property
 - 3.3. For the purposes specified in clause 4.1 of Schedule 2 of this Lease
4. The right throughout the Term of the Lease to build on, alter, add to, redevelop or extend in any way the land and buildings comprised within the Retained Land even though the access of light and air to the Property may be affected and without being liable to pay any compensation to the Tenant subject to the Landlord ensuring that the scaffolding does not materially prevent access to the Property nor so far as reasonably practicable materially interfere with the Tenant's use and enjoyment of the Property. This clause constitutes a consent for the purposes of Section 3 Prescription Act 1832.
5. The right to erect scaffolding temporarily outside the Property in connection with any of

Schedule 1

the rights reserved in this Schedule subject to the Landlord ensuring that the scaffolding does not materially prevent access to the Property nor so far as reasonably practicable materially interfere with the Tenant's use and enjoyment of the Property

6. Support and protection from the land and buildings comprised in the Property for the Retained Land
7. The right for cranes to oversail the Property in connection with the redevelopment of the Retained Land

PART 4

MATTERS BENEFITING THE PROPERTY AND/OR SUBJECT TO WHICH IT IS LET

8. The Property is let together with the benefit of but subject to (as the case may be) the rights exceptions and reservations covenants and other matters contained or referred to in the registers of title K832431 and in any documents referred to in those registers in so far as they may benefit or affect (as the case may be) the Property
9. The Property is let subject to all orders rights easements privileges restrictions covenants and stipulations affecting it

SCHEDULE 2

Tenant's Covenants

1 Alterations

- 1.1 Not to erect any new building or structure on the Property or unite the Property with any adjoining property
- 1.2 Not to make any addition or alteration to the exterior of the Property or to any load-bearing part of the Property or its roof or foundations
- 1.3 Not to make any other addition or alteration to the Property without the consent of the Landlord (by way of deed only) and that consent must not be unreasonably withheld (provided the alteration proposed is non-structural) but the Tenant may install reposition or remove internal demountable partitions and carry out minor alterations to the floor without the Landlords consent and will provide details of such completed works to the landlord on request
- 1.4 Without prejudice to the generality of the foregoing not to carry out any alterations to plumbing, light fittings and electrical points and air conditioning plant that overload the electrical services or plumbing to the Property
- 1.5 Not to connect with or alter any Conducting Media which serve the Property without the approval of the appropriate authority or supplier and the Landlord (the Landlord's approval not to be unreasonably withheld)
- 1.6 To ensure that all Conducting Media for the Utilities in the Property (apart from the Drain) are connected to mains supply and serve only the Property and not the Retained Land.
- 1.7 In respect of any works which the Tenant carries out to or at the Property which are within the Construction (Design and Management) Regulations 2007:-
 - to comply with those Regulations
 - to maintain a health and safety file for the purposes of those Regulations and to supply a copy of that file to the Landlord on request during the Term
 - to hand the complete health and safety file to the Landlord on the expiry of the Term

- whenever required by the Landlord during the Term and in any event on the expiry of the Term to give or procure an assignment of any copyright in any of the contents of the health and safety file or a licence to enable the Landlord freely and without cost to use the file in any way in which it thinks fit (including, for example, copying it)
- to obtain and maintain all requisite insurances

2 Use

- 2.1 Not to use the Property except for the Permitted Use
- 2.2 Not to do any act or allow to remain on the Property any substance or article which may constitute a nuisance or which may cause inconvenience disturbance injury or annoyance to the Landlord or the occupiers of adjoining or nearby property or cause damage to the Property or any adjoining or nearby property
- 2.3 Not to use the Property for any dangerous noisy or offensive occupation or for any illegal or immoral purpose or commit any waste or damage
- 2.4 Not to keep on any part of the Property not built upon any materials equipment plant bins crates boxes or any skip or other receptacle for refuse (other than where these are required for the proper conduct of the Tenant's business in a reasonable manner)
- 2.5 Not to discharge into any Drain within or that serve the Property any substance that may obstruct them or cause damage or danger or any noxious poisonous or radioactive matter or anything likely to pollute or contaminate
- 2.6 Not to overload the Property
- 2.7 To ensure there is no release or fly tipping onto the Property (or the Landlord's adjoining or neighbouring property from the Property) or from the Property (or the Landlord's adjoining or neighbouring property) into any environmental or other medium of any substance that is or in such quantities or concentrations that are capable of causing harm to the health of man or other living organisms or to land buildings or surface or ground water or ecology systems and the parties agree that any such release or fly tipping which is already revealed in any reports or investigations carried out on behalf of or provided to the Landlord for or on behalf of the Tenant prior to the date of this Lease shall not give

rise to a breach of this clause by the Tenant

- 2.8 Not to use any Conducting Media (apart from the Drain) that serve the Retained Land
- 2.9 To comply with any relevant statutory requirements relating to the removal of all clinical and medical waste produced by the medical clinic operating from the Property

3 Planning

- 3.1 Not to commit any breach of planning control and to comply with the Planning Acts in relation to the Property
- 3.2 Not to make any application for planning permission in relation to the Property or to serve any notices in respect of any application without the approval of the Landlord such approval not to be unreasonably withheld
- 3.3 Not to object to any application for planning permission made by the Landlord for redevelopment of the Property and the Retained Land or any part thereof

4 Access of Landlord and notice to repair

- 4.1 To permit the Landlord and all persons authorised by the Landlord at reasonable times and on reasonable notice (except in an emergency) to enter the Property:-
- (a) to establish if the provisions of this Lease have been observed
 - (b) to take schedules and inventories
 - (c) for any purpose connected with the insurance or mortgage of the Property
 - (d) to view the condition of the Property and any work being carried out at the Property
 - (e) (unless served in any other way) to give the Tenant (or leave on the Property) a notice:-
 - specifying any breach of covenant by the Tenant
 - specifying any work carried out in breach of the provisions of this Lease
 - requiring the Tenant immediately to remedy the breach and to reinstate the Property

5 Alienation

5A. General prohibition

- 5A.1 Except to the extent permitted under the subsequent provisions of this paragraph 5, not to

assign charge or mortgage this Lease or any part of it nor to underlet part with possession or share possession or occupation of the Property or any part of it nor to permit another to occupy the Property or any part of it nor to hold the Lease or any part of it on trust for another but the Tenant may allow another NHS Body to occupy the whole or part of the Property for the Permitted Use:

- so long as no relationship of landlord and tenant is established by that arrangement; and
- so long as the Tenant gives to the Landlord in writing full and complete details of the terms of the occupation (including the name of the NHS Body concerned) prior to occupation starting and immediately supplies to the Landlord such information relating to that occupancy from time to time when reasonably required by the Landlord and the new NHS Body prior to taking up occupation enter into a deed of covenant with the Landlord on a form reasonably agreed between the parties whereby the new NHS Body covenants with the Landlord to observe and perform the covenants and obligations of the Tenant in this Lease so far as it relates to the part of the Property it occupies.

5B. Assignment

5B.1 Not to assign any part only of the Property

5B.2 Not to assign the whole of the Property except to another NHS Body who are to take over the responsibilities of Maidstone & Tunbridge Wells NHS Trust

5C. Charging

Not to charge the whole or any part of the Property

5D. Underletting

Not to underlet the whole of the Property or any part of the Property except as permitted by paragraph 5E of this Schedule

5E Sub-letting

Not to grant any sub-tenancy of any part of the Property:

5E.1 in respect of which is used as a medical clinic except to another NHS Body

5E.2 in respect of which is used as residential accommodation except in the form of an assured

shorthold tenancy or licence in the forms annexed for a period not exceeding 12 months and which does not attract statutory security of tenure and only to an NHS Employee or Medical Student Provided That where either an NHS Employee ceases for any reason to be an NHS Employee during their contractual period of occupation or a Medical Student ceases to be a medical student during their contractual period of occupation this shall not be regarded as a breach of this clause 5E by the Tenant and instead the Tenant covenants with the Landlord to take all reasonable and necessary steps at its own cost to secure possession of that part of the Property from the former NHS Employee or former Medical Student soon as is reasonably practicable and to keep the Landlord reasonably informed in writing of all such situations and progress in securing vacant possession

5E. 3 after 1st March 2013 no further assured shorthold-tenancies or licences as permitted by clause 5E.2 may be granted and the Tenant shall at such date provide a list of the assured shorthold tenancies and licences that exist together with details of their expiry dates

5E.4 after 1st March 2013 the medical clinic will not be occupied by any person or body other than the Tenant

6 Outgoings

6.1 To pay and to indemnify the Landlord against:-

- (a) all Outgoings which now or during the Term are charged assessed or imposed on the Property or on its owner lessor lessee or occupier
- (b) the proportion properly attributable to the Property (to be determined in the absence of agreement between the parties by the Landlord's surveyor) of all Outgoings which now or during the Term are charged assessed or imposed on the Property and other property or on the owner lessor lessee or occupier of the Property and other property

7 Legislation

7.1 The Tenant is to comply with all statutes and other legislation and any notice order proposed requisition, direction or other communication from any public authority in respect of the use and occupation of the Property and maintenance and repair obligations at the Property

7.2 If the Tenant receives any notice, order, requisition, direction or other communication from a third party affecting or likely to affect the Property its use or occupation by the Tenant the Tenant is as soon as reasonably practicable to provide a copy to the Landlord and the request and cost of the Landlord to join in with the Landlord in making representations and objections in respect of these matters as the Landlord may reasonably require.

8 **Supplies**

8.1 To pay the supplier of Utilities and to indemnify the Landlord against all charges for water electricity gas telephone telecommunications and other Utilities consumed on the Property and to pay all equipment rents and standing charges

8.2 Where supply charges are made in relation to the Property and other property (or upon the owner or occupier of the Property and other property) in particular for foul and surface water drainage to pay the suppliers and to indemnify the Landlord against the proportion of the charges properly attributable to the Property (or the owner or occupier of the Property) to be determined in the absence of agreement by the Landlord's surveyor

8.3 To comply with the regulations and requirements of the suppliers of the Utilities

8.4 In the event that any Utilities are disconnected due to the failure of the Tenant to discharge any invoice then to pay all reconnection charges and to indemnify the Landlord against them

9 **VAT**

9.1 To pay and indemnify the Landlord against any VAT that may be chargeable on the Rent or any other payment made by the Tenant under this Lease in addition to the Rent or other payment (VAT being recoverable as if it were rent where it is charged on Rent or on a payment that is either reserved as additional rent or that this Lease provides is recoverable as if it were rent)

9.2 Whenever the Tenant has agreed in this Lease to reimburse the Landlord for a payment made by the Landlord to reimburse the Landlord in addition for any VAT paid by the Landlord on that payment unless the VAT is recovered by the Landlord

10 **Interest**

To pay interest on demand at a yearly rate of 4% above the base rate from time to time on any Rent or other sum payable under this Lease from the due date to the date of payment (both before and after any judgement and where the Landlord refuses to accept the tender or payment of any Rent or other sum because of a breach of any of the Tenant's covenants) and any payment made by the Tenant shall first be in discharge of interest and then in reduction of the principal

11 Defective premises

11.1 To give notice immediately to the Landlord of any defect in the Property which might give rise to a liability or duty on the Landlord

11.2 To display all notices which the Landlord may reasonably require

12 Indemnity

To be responsible for and to keep the Landlord indemnified against all losses resulting directly or indirectly from any breach by the Tenant of the terms of this Lease

13 Encroachments

13.1 Not to stop up darken or obstruct any windows in the Property

13.2 To take all reasonable steps at the Tenant's cost to prevent any encroachment or easement being made or acquired over the Property and to give notice to the Landlord immediately if any is attempted

14 Landlord's costs

14.1 To pay to the Landlord on an indemnity basis all fees charges costs and other expenses incurred by the Landlord and any superior landlord and their respective mortgagees in relation to:-

(a) an application made by the Tenant for consent required of the Landlord and any superior landlord and/or mortgagee whether it is granted refused offered subject to any qualification or withdrawn

(b) the preparation and service of a notice under the Law of Property Act 1925 Section 146 or incurred in taking or contemplating proceedings under Sections 146 and 147 of that Act even if forfeiture is avoided otherwise than by a court order

(c) the recovery or attempted recovery of Rent or other sums due from the Tenant or any

17.3.2 to give up all keys of the Property to the Landlord and all things (including keys and information) to enable the Landlord to take over and use any security and other alarms at the Property

18 Enforcement

18.1 This Lease is governed by and interpreted in accordance with English Law

18.2 The Courts of England are to have jurisdiction in relation to any dispute between the parties arising out of or related to this Lease.

SIGNED as a deed by BERKELEY HOMES (EASTERN COUNTIES) LIMITED acting by:

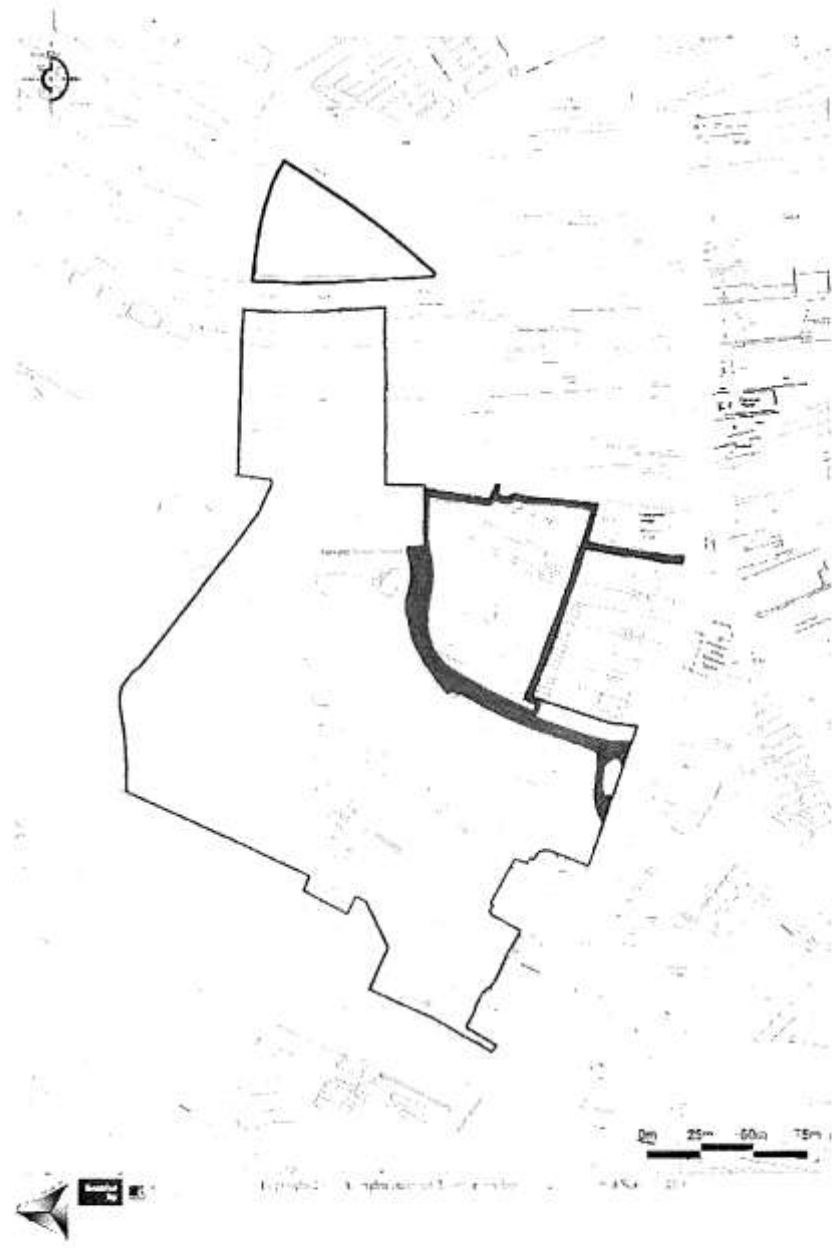
Signature Director
Name (capital letters)

Signature Director*/Secretary*
Name (capital letters)

* Delete if inappropriate

PLAN 1

Kent and Sussex Hospital,
Mount Ephraim, Tunbridge Wells, TN4 8NZ



**NOTICE THAT SECTIONS 24 TO 28 OF THE LANDLORD AND TENANT ACT 1954
ARE NOT TO APPLY TO A BUSINESS TENANCY**

To: MAIDSTONE & TUNBRIDGE WELLS NHS TRUST of Trust Headquarters
Maidstone Hospital, Hermitage Lane, Kent [*Name and address of tenant*]

From: BERKELEY HOMES (EASTERN COUNTIES) LIMITED
whose registered office is at Berkeley House, 19 Portsmouth Road,
Cobham, Surrey, KT11 1JG [*Name and address of landlord*]

Premises: land known as Burslem House, part of the former Kent & Sussex
Hospital, Tunbridge Wells, Kent

Date:

A copy of the agreed form of lease is attached.

IMPORTANT NOTICE

You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

If you commit yourself to the lease you will be giving up these important legal rights.

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

But if you do not receive at least 14 days' notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

Received a copy of the above notice on: *Date:* _____

Signed: *Name:* _____

Position: _____

Dated

2012

Statutory declaration

relating to a notice that sections 24 to 28 Landlord and Tenant Act 1954 are not to apply to a tenancy of Burslem House, Part of the former Kent & Sussex Hospital, Tunbridge Wells, Kent pursuant to paragraph 4 of Schedule 2 to The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

Eversheds LLP
Kett House
Station Road
Cambridge
CB1 2JY

Tel 0845 497 9797
Fax 0845 497 3777
Int +44 1223 443666
DX 5807 Cambridge
www.eversheds.com

[REDACTED] of Maidstone and Tunbridge Wells National Health Service Trust of Trust Headquarters Maidstone Hospital Hermitage Lane Maidstone Kent do solemnly and sincerely declare that –

1. MAIDSTONE & TUNBRIDGE WELLS NHS TRUST (*name of tenant*) proposes to enter into a tenancy of premises at land known as Burslem House, part of the former Kent & Sussex Hospital, Tunbridge Wells, Kent (*address of premises*) for a term commencing on the date the tenancy is granted.
2. The tenant proposes to enter into an agreement with BERKELEY HOMES (EASTERN COUNTIES) LIMITED (*name of landlord*) that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 (security of tenure) shall be excluded in relation to the tenancy.
3. The landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form of notice set out in that Schedule is reproduced below.
4. The tenant has read the notice referred to in paragraph 3 above and accepts the consequences of entering into the agreement referred to in paragraph 2 above.
5. (*as appropriate*) I am duly authorised by the tenant to make this declaration.

To: *[Name and address of tenant]*

From: *[Name and address of landlord]*

IMPORTANT NOTICE

You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

If you commit yourself to the lease you will be giving up these important legal rights.

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

But if you do not receive at least 14 days' notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

DECLARED at _____
this _____ day of _____ 2012

SIGNED by _____

NAME(in capitals) _____

POSITION _____

Before me _____

(signature of person before whom declaration is made)

A commissioner for oaths or A solicitor empowered to administer oaths or *(as appropriate)*

Maidstone and Tunbridge Wells NHS Trust

THIS TRUST OPERATES A NON SMOKING POLICY

Tenancy Agreement for letting a dwelling house on an Assured Shorthold Tenancy under Part I of the Housing Act 1988

AN AGREEMENT dated
Made between (1) The Landlord and (2) The Tenant referred to in the following particulars.

PARTICULARS

The Landlord	Maidstone and Tunbridge Wells NHS Trust Pembury Hospital, Pembury, Tunbridge Wells, Kent TN2 4QJ
The Tenant	
The Premises	
The Term	A fixed term of _____ months, from _____ until _____
The Rent	£ _____ [per month] to be paid in advance The first of such payments to be made on the signing of this Agreement
The Deposit £	
The maximum Permitted number Of residents	
The Service Expenses	The cost of all supplies of gas electricity including all fixed charges for fuel oil consumed or supplied on or to the Premises during the Term and charges including rental for the use of the telephone on the Premises during the Term.

1. IN THIS AGREEMENT wherever the context so admits or requires:-
 - (1) The expression "the Particulars" shall mean the foregoing particulars.
 - (2) The expressions in the first column of the Particulars shall have the respective meanings set out in the second column of the Particulars.
 - (3) The expression "the Landlord" shall include the persons for the time being entitled to the reversion expectant on the tenancy created by this agreement and any superior Landlord.
 - (4) The expression "the Contents" shall mean the fixtures fittings furniture and effects in and about the Premises specified in the attached inventory signed by the Landlord and the Tenant.
 - (5) The singular shall include the plural the masculine shall include the feminine and neuter and the obligations entered into and burdens assumed by a party consisting of more than one person shall be deemed to be entered into and assumed jointly and severally so as to apply to and be enforceable against all both or any of such persons and each of their personal representatives.
 - (6) In paragraphs 3 (26) to (30) inclusive the expression "the Premises" shall include where appropriate the communal block or residence belonging to the Landlord in which the Premises let to the Tenant are situated.
2.
 - (1) THE Landlord lets and the Tenant takes the Premises together with the contents for the Term at the Rent.
 - (2) There are respectively included in and reserved from the tenancy created by this agreement all such rights over any adjoining property belonging to the Landlord as

are necessary for the reasonable enjoyment of the Premises and all such rights over the Premises as are necessary for the reasonable enjoyment of the whole or any part of such adjoining property.

3. THE Tenant will:-

- (1) Pay the Rent as provided in the Particulars.
- (2) Pay the Service Expenses.
- (3) Keep the interior of the Premises clean and tidy and in as good and tenantable a state of repair and decorative order as at the beginning of the Term reasonable wear and tear and damage by fire excepted.
- (4) Not damage or injure the Premises or make any alteration in or addition to the Premises or the style or colour of the decorations except with the permission of the Landlord.
- (5) Use the Premises in a tenant-like manner.
- (6) Keep the contents in as good a state of repair and condition as at the commencement of the Term (reasonable wear and tear and damage by fire excepted) and from time to time replace any of the contents to the approval of the Landlord which may be destroyed or so damaged as to be unusable with others of similar value.
- (7) Clean or cause to be cleaned the windows of the Premises and wash or clean or cause to be washed or cleaned the curtains hanging in such windows as often as may be necessary.

- (8) Keep any garden or yard which may be included in the Premises clean and tidy and (so far as such garden is concerned) in a proper state of cultivation and keep the doors of the garage which may be included in the Premises secured at all times.
- (9) Not to carry out any redecoration or make any alterations to the Premises except with the permission of the Landlord.
- (10) Not to install or use any additional heater.
- (11) Not to erect or install any television or other aerial.
- (12) Not to keep any animals, birds or creatures of any description on the Premises.
- (13) Not remove any of the contents from the Premises or from the respective positions in the Premises which they occupy at the commencement of the Term without the consent of the Landlord.
- (14) Dispose regularly of all rubbish in the bins provided.
- (15) Abide by any fire and other regulations applicable to the Premises.
- (16) Not paste or exhibit any poster placard notice board or notice so as to be visible from the exterior of the Premises.
- (17) Not to do permit or suffer to be done on the Premises anything which may be or become a nuisance or annoyance to the Landlord or the occupiers of any adjoining premises or which may render the Landlord's insurance of the Premises void or voidable or increase the rate of premium for such insurance.
- (18) Not use the Premises for any illegal immoral or improper purpose.

- (19) Not make any noise or play any radio television set, gramophone or musical instrument in or about the Premises between the hours of 11 pm and 7am so as to be audible outside the premises.
- (20) Not block or cause any blockage to the drains and pipes gutters and channels in or about the Premises.
- (21) Not assign underlet share or part with the possession of the whole or any part of the Premises or take in lodgers or paying guests provided that the Tenant is permitted to share the Premises with members of the Tenant's immediate family [whose number should not exceed the maximum permitted number of residents specified in the Particulars].
- (22) Not to use the accommodation for any purpose other than as a private residence in the occupation of the Tenant and his family [save that their number should not exceed the maximum permitted number of residents specified in the Particulars] and not to use the Premises for or in connection with any trade, profession or business.
- (23) Permit the Landlord and the Landlord's agents at reasonable hours in the daytime by appointment to enter the Premises to view the state and condition of the Premises and the contents to take inventories and to execute repairs and other necessary works upon any building of which the Premises form part.
- (24) Permit the Landlord and the Landlord's agents at reasonable hours in the daytime by appointment to enter the Premises during the last 28 days of the Term with prospective tenants and at any time with prospective purchasers of the Landlord's interest in the Premises.
- (25) Notify the Landlord forthwith in writing of any defect in the Premises which the Landlord may be liable to remedy under any obligation herein contained or implied as soon as practicable after such defect come to the notice of the Tenant and to

indemnify the Landlord against any liability which may be incurred by the Landlord whether to the Tenant or to any other person as a result of any such defect which shall not have been so notified by the Tenant to the Landlord.

- (26) Ensure that all guests and visitors leave the Premises before 24.00 hours.
- (27) Escort all guests and visitors within the Premises at all times and escort from the Premises all guests and visitors leaving after 22.30 hours.
- (28) Not allow guests and visitors to remain in the Premises whilst the Tenant is on duty.
- (29) If the Premises are situated in a communal block or residence not to hold parties in the Premises save that the Landlord may at the request of the Tenant allocate a specific area within the Premises for any such party.
- (30) Not to hand to guests or visitors for their own personal use the keys to the Premises.
- (31) At the end of the Term:-
 - a) Yield up the Premises and the contents in such state of repair and condition as shall be in accordance with the Tenant's obligations under this agreement. All walls and paint work to be of the original colour as when the premises were accepted and any holes where items have been hung on walls to be made good
 - b) Make good or pay for the repair or replacement of such of the contents as shall have been broken lost damaged during the Term (reasonable wear and tear and damage by fire excepted) and
 - c) Pay for the washing (including ironing and pressing) of all linen and for the washing and cleaning (including ironing and pressing) of all counterpanes blankets and curtains which shall have been soiled during the Term.

4. THE landlord will:-

- (1) Pay and indemnify the Tenant against all rates, taxes assessments and outgoings in respect of the Premises (except those for which responsibility is expressly assumed by the Tenant under this agreement).
- (2) Permit the Tenant so long as the Tenant shall pay the Rent and perform the obligations on the part of the Tenant contained in this agreement quietly to use and enjoy the Premises during the Term without any lawful interruption from the Landlord or any person rightfully claiming under or in Trust for the Landlord.
- (3) Be liable for any repairs which are the responsibility of the Landlord by virtue of Section 11 of the Landlord and Tenant Act 1985.
- (4) Return to the Tenant any rent payable for any period in which the Premises may have been rendered uninhabitable by fire or any other risk against which the Landlord shall be insured.

5. IF and whenever any part of the Rent shall be in arrears for seven days or if the Tenant has persistently delayed paying any rent due (whether legally demanded or not) or if and whenever there shall be a breach by the Tenant of any of the Tenant's obligations under this agreement or if the Premises shall (save by arrangement with the Landlord) be left vacant or unoccupied for a continuous period of more than four weeks the Landlord may re-enter the Premises and immediately thereupon the tenancy created by this agreement shall be determined without prejudice to any other rights and remedies of the Landlord.

9. (1) THE Landlord acknowledges the receipt from the Tenant of the Deposit and agrees to repay the same to the Tenant at the end of the Term after deducting all arrears of Rent and any other sums which may be then due from the Tenant to the Landlord as a result of any breach by the Tenant of any of the Tenant's obligations under this agreement.

(2) No part of the Deposit may be claimed by the Tenant until the end of the Tenancy.

(3) The Tenant may at any time after the expiry of five calendar months from the date hereof serve not less than one month's written notice on the Landlord terminating the tenancy of the Premises.

10. It is acknowledged by the parties that:

(1) Any Notice requiring to be served hereunder on the Tenant shall be sufficiently served if sent by first class post to the Tenant at the Property or left addressed to the Tenant at the Property or forwarded to the Tenant by first class post at the last known address in Great Britain of the Tenant.

(2) The rules as to the service of Notices in Section 196(4) of the Law of Property Act 1925 apply to any Notice given under this Agreement and in addition any Notice is deemed to be properly served by or on the Landlord at the address of the Landlord stated in this Agreement.

(3) The parties to this agreement do not intend that any of its terms shall be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

11. THE tenancy hereby granted is an Assured Shorthold Tenancy as defined by Section 20 of the Housing Act 1988.

SIGNED AS A DEED ON BEHALF OF)

THE LANDLORD in the presence of)

SIGNED AS A DEED BY THE TENANT)

In the presence of)

Maidstone & Tunbridge Wells NHS Trust

AGREEMENT FOR HOTEL ACCOMMODATION

The Trust, which is named above, has agreed to make available for your temporary use overnight accommodation for up to a maximum of 28 nights. If a lesser period has been agreed this will be shown below. Details of the room allocated for your use and the nightly charge is shown below. This is not a Tenancy and the Trust and its employees may enter the room at any time. It will retain a key for this purpose. The Trust may also change the room allocated for your use at any time although it will endeavour to give you as much warning as possible if a change of room is necessary.

If a deposit is required the amount will be shown below. The deposit will be returned to you after your stay less any deductions for damage to the room or furniture and effects or outstanding charges.

During your stay you will:

- A) not be a nuisance to other users of the building
- B) use the room only for overnight sleeping accommodation
- C) take reasonable care not to damage the Room or its furniture or effects
- D) observe any rules brought to your attention which have been made by the Trust for good management of the building or in the common interest of other users

Name
Room Number
[insert address]

Number of Nights
[insert upto a maximum of 28 days]

KEY Deposit
[delete if not applicable £ refundable]

Nightly charge
[insert amount]

Please sign where indicated at the bottom giving your full name and address. Your signature is required as a receipt for the key and confirmation that you agree to abide by the terms set out above.

Signature.....

Name.....print

HOME Address.....

Date.....

Accommodation Services
Maidstone & Tunbridge Wells NHS Trust

THIS TRUST OPERATES A TOTAL BAN ON SMOKING POLICY, IN ALL AREAS OF TRUST PROPERTY INCLUDING ACCOMMODATION

Annexure 9

Transfer

TR1

DATED _____ 2012

MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST (1)

and

BERKELEY HOMES (EASTERN COUNTIES) LIMITED (2)

TRANSFER

relating to

former Kent and Sussex Hospital
Mount Ephraim
Tunbridge Wells
Kent

Brachers LLP
Sommerfield House
59 London Road
Maidstone
Kent ME16 8JH
Matter: MAI1783-206

**Land Registry
Transfer of whole
of registered title(s)**

TR1

1. Title numbers of the property:

K832431 and K238594

2. Property:

former Kent and Sussex Hospital Mount Ephraim Tunbridge Wells Kent

3. Date:

2012

4. Transferor:

MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST

5. Transferee for entry in the register:

BERKELEY HOMES (EASTERN COUNTIES) LIMITED (Company number 01454062)

6. Transferee's intended address(es) for service for entry in the register:

Berkeley House, 19 Portsmouth Road, Cobham, Surrey, KT11 1JG

7. The transferor transfers the property to the transferee

8. Consideration

The transferor has received from the transferee for the property the following sum (in words and figures): Eighteen Million Seven Hundred Thousand Pounds (£18,700,000)

1220976-4.1

The transferor transfers with limited title guarantee with the modifications set out below

8.1. In this panel "the 1994 Act" means the Law of Property (Miscellaneous Provisions) Act 1994

8.2. For the purposes of Section 6(2)(a) of the 1994 Act:-

8.2.1. all matters now recorded in registers open to public inspection (including, for example only, any registers at H M Land Registry) and evident ascertainable from those registers or any documents or matters referred to in them

8.2.2. any overriding interest (within the meaning of Section 70(1) of the Land Registration Act 1925) or any matter which would be an overriding interest if the title to the Property had been registered at H M Land Registry

8.2.3. any local land charge (whether registered or not before the date of this Transfer) or any matter capable of registration as a local land charge

8.2.4. any notice served or order demand proposal or requirement made by any local or other competent public authority and any actual or proposed charge notice order restriction agreement condition or other matter arising under any statute

are deemed to be in the actual knowledge of the Transferee notwithstanding the provisions of Section 6(3) of the 1994 Act

9. Declaration of trust

None

10. Additional provisions

11.1 In this deed where the context so admits:-

11.1.1 the expressions "the Transferor" and "the Transferee" shall be deemed to include their successors in title

11.1.2 words importing one gender shall be construed as importing any other gender

11.1.3 words importing the singular shall be construed as importing the plural and vice versa

11.1.4 where any party comprises more than one person the obligations and liabilities of that party under this transfer shall be joint and several obligations and liabilities of those persons

11.1.5 references to persons shall include bodies corporate

11.1.6 references in this transfer to any clause sub-clause or schedule without further designation shall be construed as a reference to the clause sub-clause or schedule to this transfer

11.1.7 references to a specific statute include (in the absence of any provision in the contrary in this transfer) any statutory extension modification amendment or re-enactment of that statute and any regulations or orders made under it

11.1.8 the expression "the Property" includes the whole or any part or parts thereof

11.2 The clause headings do not form part of this deed and shall not be taken into account in its construction or interpretation

11. The Contracts (Rights of Third Parties) Act 1999

None of the provisions of this transfer are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this transfer

SCHEDULE

The Transferee's covenants

Title Indemnity

The Transferee for the purpose only of affording to the Transferor a full and sufficient indemnity hereby covenants with the Transferor that the Transferee and those deriving title under the Transferee will at all times hereafter observe and perform the covenants whether will insofar as the positive or restrictive contained or referred to in the documents contained or referred to in the above titles so far as the same relate to the Property and are still subsisting and capable of being enforced indemnify the Transferor and the Transferor's estate against any liability resulting from their future breach non-observance or non-performance

12. Nature of Document

This Transfer is a deed and shall be treated as having been executed and delivered on it being dated

13. Execution

**EXECUTED AS A DEED by MAIDSTONE AND
TUNBRIDGE WELLS NATIONAL HEALTH
SERVICE TRUST whose Corporate Common
Seal was hereunto affixed in the presence of**

..... Chief Executive

..... Director

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act

2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

Annexure 10

DS1

Land Registry
Cancellation of entries relating
to a registered charge

DS1

This form should be accompanied by either Form AP1 or Form DS2

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Include register entry number, if more than one charge of same date to same lender.

Complete as appropriate where the lender is a company.

The lender must execute this transfer as a deed using the space opposite. If there is more than one lender, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003.

Alternatively the lender may sign in accordance with the facility letter referred to in panel 7.

1	Title number(s) of the property: K832431 and K238594
2	Property: Former Kent and Sussex Hospital Mount Emphraim Tunbridge Wells Kent
3	Date:
4	Date of charge:
5	Lender: Maidstone and Tunbridge Wells NHS Health Trust <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	The lender acknowledges that the property identified in panel 2 is no longer charged as security for the payment of sums due under the charge
7	Date of Land Registry facility letter (if any):
8	Execution Executed as a deed by Maidstone and Tunbridge Wells National Health Service Trust whose Corporate Common Seal was hereto affixed in the presence of Signature of Chief Executive Signature of Director

Corporate Common Seal

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

Annexure 11
Landlord and Tenant Act Notice

**NOTICE THAT SECTIONS 24 TO 28 OF THE LANDLORD AND TENANT ACT 1954
ARE NOT TO APPLY TO A BUSINESS TENANCY**

To: MAIDSTONE & TUNBRIDGE WELLS NHS TRUST of Trust Headquarters
Maidstone Hospital, Hermitage Lane, Kent [*Name and address of tenant*]

From: BERKELEY HOMES (EASTERN COUNTIES) LIMITED
whose registered office is at Berkeley House, 19 Portsmouth Road,
Cobham, Surrey, KT11 1JG [*Name and address of landlord*]

Premises: land known as Burslem House, part of the former Kent & Sussex
Hospital, Tunbridge Wells, Kent

Date:

A copy of the agreed form of lease is attached.

IMPORTANT NOTICE

You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

If you commit yourself to the lease you will be giving up these important legal rights.

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

But if you do not receive at least 14 days' notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

Received a copy of the above notice on: *Date:* _____

Signed: *Name:* _____

Position: _____

Annexure 12
Landlord and Tenant Act Statutory Declaration

Dated

2012

Statutory declaration

relating to a notice that sections 24 to 28 Landlord and Tenant Act 1954 are not to apply to a tenancy of Burslem House, Part of the former Kent & Sussex Hospital, Tunbridge Wells, Kent pursuant to paragraph 4 of Schedule 2 to The Regulatory Reform (Business Tenancies) (England and Wales) Order 2003

Eversheds LLP
Kett House
Station Road
Cambridge
CB1 2JY

Tel 0845 497 9797
Fax 0845 497 3777
Int +44 1223 443666
DX 5807 Cambridge
www.eversheds.com

I, [REDACTED] of Maidstone and Tunbridge Wells National Health Service Trust of Trust Headquarters Maidstone Hospital Hermitage Lane Maidstone Kent do solemnly and sincerely declare that –

1. MAIDSTONE & TUNBRIDGE WELLS NHS TRUST (*name of tenant*) proposes to enter into a tenancy of premises at land known as Burslem House, part of the former Kent & Sussex Hospital, Tunbridge Wells, Kent (*address of premises*) for a term commencing on the date the tenancy is granted.
2. The tenant proposes to enter into an agreement with BERKELEY HOMES (EASTERN COUNTIES) LIMITED (*name of landlord*) that the provisions of sections 24 to 28 of the Landlord and Tenant Act 1954 (security of tenure) shall be excluded in relation to the tenancy.
3. The landlord has served on the tenant a notice in the form, or substantially in the form, set out in Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form of notice set out in that Schedule is reproduced below.
4. The tenant has read the notice referred to in paragraph 3 above and accepts the consequences of entering into the agreement referred to in paragraph 2 above.
5. (*as appropriate*) I am duly authorised by the tenant to make this declaration.

To: [Name and address of tenant]

From: [Name and address of landlord]

IMPORTANT NOTICE

You are being offered a lease without security of tenure. Do not commit yourself to the lease unless you have read this message carefully and have discussed it with a professional adviser.

Business tenants normally have security of tenure – the right to stay in their business premises when the lease ends.

If you commit yourself to the lease you will be giving up these important legal rights.

- You will have **no right** to stay in the premises when the lease ends.
- Unless the landlord chooses to offer you another lease, you will need to leave the premises.
- You will be unable to claim compensation for the loss of your business premises, unless the lease specifically gives you this right.
- If the landlord offers you another lease, you will have no right to ask the court to fix the rent.

It is therefore important to get professional advice – from a qualified surveyor, lawyer or accountant – before agreeing to give up these rights.

If you want to ensure that you can stay in the same business premises when the lease ends, you should consult your adviser about another form of lease that does not exclude the protection of the Landlord and Tenant Act 1954.

If you receive this notice at least 14 days before committing yourself to the lease, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the lease.

But if you do not receive at least 14 days' notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the lease sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to exclude the protection of the Landlord and Tenant Act 1954, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

DECLARED at _____

this _____ day of _____ 2012

SIGNED by _____

NAME(In capitals) _____

POSITION _____

Before me _____

(signature of person before whom declaration is made)

A commissioner for oaths or A solicitor empowered to administer oaths
or (as appropriate)

Annexure 13
Letter of Reliance Pro Forma

[TO BE PRODUCED ON CONSULTANT'S HEADED NOTE PAPER]

TO:
Berkeley Homes (Eastern Counties) Limited
Berkeley House
19 Portsmouth Road
Cobham
Surrey
KT11 1SG

Dear Sirs

Premises at former Kent and Sussex Hospital Mount Ephraim Tunbridge Wells Kent (the "Property")

We confirm that we were instructed by Maidstone and Tunbridge Wells NHS Trust of Trust Headquarters Maidstone Hospital Hermitage Lane Maidstone Kent (the "**Client**") to carry out [] at the Property for the purposes of establishing [] the results of which are contained in [] (the "**Report**").

In consideration of the payment of one pound (£1) by Berkeley Homes (Eastern Counties) Limited (company registration number 01454062) whose registered office is at Berkeley House 19 Portsmouth Road Cobham Surrey KT11 1SG (the "**Beneficiary**"), we issue this reliance letter for the benefit of the Beneficiary.

Notwithstanding anything to the contrary contained in the Report(s), we acknowledge and agree that the Report(s) may be relied upon by the Beneficiary and that the Beneficiary may rely on the Report(s) and the information and conclusions set forth therein in connection with freehold sale of the Property to it as if the Report was originally prepared for and addressed directly to the Beneficiary at the time of its preparation and for the purpose for which it was prepared.

We agree to issue a further reliance letter in the same form as this letter to any one funding institution of the Beneficiary as and when requested so to do by the Beneficiary.

Yours sincerely

Annexure 14
Deed of Covenant

HM LAND REGISTRY
LAND REGISTRATION ACT 2002
DEED OF COVENANT

County and District : Kent
Title Number : K832431 and K238594
Property : Land at former Kent and Sussex Hospital
Mount Ephraim Tunbridge Wells Kent
Date :
1. Parties
1.1 Covenantor :
1.2 Owner : MAIDSTONE AND TUNBRIDGE WELLS
NHS TRUST of trust headquarters
Maidstone Hospital Hermitage Lane
Maidstone Kent
1.3 Original Covenantor : []
1.4 Guarantor : []

DN: Insert appropriate parties once identity is known.

2. Definitions

In this deed the following expressions shall have the meanings set opposite them:-

2.1 Agreement : means an Agreement for sale dated []
2012 made between The Owner (1) The
Original Covenantor (2) and Berkeley
Homes PLC (3) relating to the Property
2.2 Authorised Disposition : has the meaning ascribed to it in the
Agreement
2.3 Overage Period : has the meaning ascribed to it in the

2.4 Transfer : Agreement
transfer dated
2012 and made between The Owner (1)
and The Original Covenantor (2) and
BERKELEY HOMES PLC (3) relating to
the Property

3. Interpretation

In this deed (unless the context otherwise requires):-

- 3.1 any expression used in this deed shall have the same meaning ascribed to it in the Agreement and the Transfer
- 3.2 the expressions "the Covenantor" and "the Owner" includes the personal representatives (as the case may be) of the Covenantor and the Owner
- 3.3 all definitions referred to in the Agreement and Transfer shall have the same meaning in this Deed of Covenant
- 3.3 words importing any gender include every gender
- 3.4 words importing the singular number only include the plural number and vice versa
- 3.5 where any obligation is undertaken by two or more persons jointly those persons shall be jointly and severally liable in respect of that obligation
- 3.6 references to persons shall include bodies corporate
- 3.7 references to numbered clauses and sub-clauses are to the relevant numbered clause or sub-clause in this deed
- 3.8 headings to the clauses shall not affect its interpretation

4. Background

- 4.1 This deed is supplemental to the Agreement and is being executed pursuant to paragraph 2.1 of the Schedule Agreement
- 4.2 The Owner is the person entitled to enforce the covenants contained in Schedule 1 to the Agreement
- 4.3 The Covenantor is a disponee having immediately prior to completion of this Deed completed an Authorised Disposition of the Property [the part of the Property shown

edged red on the plan annexed]

5. Covenant by the Covenantor

5.1 *(DN: if an Authorised Disposal of whole of the Property has been completed)*

The Covenantor covenants with the Owner that he will henceforth observe and perform and comply with and be bound by the covenants and terms contained in the Schedule to the Agreement for the remainder of the Overage Period.

5.2 *(DN: if an Authorised Disposal of Part of the Property has been completed)*

The Covenantor covenants with the Owner that he will henceforth observe and perform and comply with and be bound by the covenants and terms contained in the Schedule to the Agreement in so far as they relate to that part of the Property for the remainder of the Overage Period

6. Release

The Owner on the date of this Deed releases the Original Covenantor [and the Guarantor] from the obligations in the Schedule of the Agreement on the Completion of this Deed of Covenant in so far as it relates to that part of the Property the subject of the Authorised Disposal.

(DN: adjust to not include a release for the Guarantor where the Guarantor decides in its absolute discretion to guarantee the covenant pursuant to clause 2.2 of the Schedule to the Agreement)

7. Land Registry

The parties apply to The Chief Land Registrar to enter a note of this deed in the charges register of the title to the property to which it relates and to retain the restriction registered pursuant to clause 9.1 of the Schedule to the Agreement in the registers of title to the Property and/or to enter such a restriction on the registers of title relating to the part of the Property the subject of the Relevant Disposition (as appropriate) for the remainder of the Overage Period

8. The Contracts (Rights of Third Parties) Act 1999

None of the provisions of this deed are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties Act 1999) on a person who is not named as a party to this deed

9. Nature of Document

This document is a deed and has been executed by the parties as a deed and shall be deemed to have been delivered upon it being dated

EXECUTED as a Deed by
[ORIGINAL COVENANTOR]

Acting by:

Director

Director/Secretary

EXECUTED as a Deed by
MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST

Acting by:

Director

Director/Secretary

EXECUTED as a Deed by
Authorised Disponee/Covenantor

Acting by:

Director

Director/Secretary

EXECUTED as a Deed by
Authorised Disponee/Covenantor

In the presence of:

Witness Signature:

Witness Name:

Witness Address:

EXECUTED as a Deed by

[GUARANTOR]

Acting by:

Director

Director/Secretary