

Framework Schedule 6 (Order Form Template and Call-Off Schedules)

Order Form

CALL-OFF REFERENCE:	C366611 - NHS UK Secure Repository Procurement
THE BUYER:	NHS England
BUYER ADDRESS	7-8 Wellington Place, Leeds, LS1 4AP
THE SUPPLIER:	Akhter Computers Limited
SUPPLIER ADDRESS:	Akhter House, Perry Road, Harlow, Essex, CM18 7PN
REGISTRATION NUMBER:	02253061
DUNS NUMBER:	2253061
SID4GOV ID:	N/A

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated 23rd July 2025.

It's issued under the Framework Contract with the reference number RM6098 for the provision of Technology Products & Associated Service.

CALL-OFF LOT(S):

Lot 1 Hardware

CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off Contract. Where numbers are missing, we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form, including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6098
3. Framework Special Terms

4. The following Schedules in equal order of precedence:

- Joint Schedules for RM6098
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - Joint Schedule 6 (Key Subcontractors)
 - Joint Schedule 10 (Rectification Plan)
 - Joint Schedule 11 (Processing Data)
- Call-Off Schedules for **C314003**
 - Call-Off Schedule 5 (Pricing Details)
 - Call-Off Schedule 6 (ICT Services) including Annexes A to E

5. CCS Core Terms (version 3.0.11) as amended by the Framework Award Form

6. Joint Schedule 5 (Corporate Social Responsibility) RM6098

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

CALL-OFF SPECIAL TERMS

The following Special Terms are incorporated into this Call-Off Contract:

Special Term 1: **Cyber Security Requirements**

The following wording shall be included as a new Clause 3.4 of the Core Terms of the Call-Off Contract:

The Supplier warrants and represents that it has complied with and throughout the Contract Period will continue to comply with the Cyber Security Requirements. The “**Cyber Security Requirements**” means:

- a) compliance with the data security and protection toolkit (DSP Toolkit), an online self-assessment tool that allows organisations to measure their performance against the National Data Guardian’s 10 data security standards and supports key requirements of the UK GDPR, which can be accessed from <https://www.dsptoolkit.nhs.uk/>, as may be amended or replaced by the Buyer or the Department of Health and Social Care from time to time;
- b) such requirements as are identified by the Buyer in its Security Policy (if applicable); and
- c) any other cyber security requirements relating to the Services notified to the Supplier by the Buyer from time to time;

Special Term 2: Supplier Staff

The following wording shall be included as a new Clause 7.6 of the Core Terms of the Call-Off Contract:

- 7.6 Notwithstanding that Call-Off Schedule 9 (Security) has not been incorporated into this Order Form under the section headed "CALL-OFF INCORPORATED TERMS", paragraph 3.4.3 of Part B of Call-Off Schedule 9 (Security) shall apply to this Order Form in any event.

Special Term 3: Intellectual Property Rights (IPRs)

Clause 9.1 of the Core Terms of the Call-Off Contract – Delete this Clause and replace with:

- 9.1. Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to:
- receive and use the Deliverables
 - make use of the deliverables provided by a Replacement Supplier
 - develop and provide products and services to third parties

Special Term 4: Execution and Counterparts

The following wording shall be included as new Clause 36 of the Core Terms of the Call-Off Contract:

36 Execution and Counterparts

- 36.1 This Call-Off Contract may be executed in any number of counterparts (including by electronic transmission), each of which when executed shall constitute an original but all counterparts together shall constitute one and the same instrument.
- 36.2 Execution of this Call-Off Contract may be carried out in accordance with the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (SI 2016/696) and the Electronic Communications Act 2000. In the event each Party agrees to sign this Call-Off Contract by electronic signature (whatever form the electronic signature takes) it is confirmed that this method of signature is as conclusive of each Party's intention to be bound by this Call-Off Contract as if signed by each Party's manuscript signature. In such situation, this Call-Off Contract shall be formed on the date on which both Parties have electronically signed the Call-Off Contract as recorded in the Buyer's electronic contract management system.

CALL-OFF START DATE: 23rd July 2025

CALL-OFF EXPIRY DATE: 22nd July 2028

CALL-OFF INITIAL PERIOD: 36 months.

CALL-OFF OPTIONAL EXTENSION PERIOD This Call-Off Contract may be extended for a maximum period of 36 Months, in increments of up to 12 months.

MINIMUM PERIOD OF NOTICE FOR WITHOUT REASON TERMINATION – 30 Days

CALL-OFF DELIVERABLES

Description	Qty
EditShare Ultimate EFS 210 - 64TB Storage Node. 2u 8x6TB Storage Node with Platform & Storage License	1
ARK SAS Connection Kit for Tape Library (2mtrs)	1
ARK 24 Slot Autoloader 2u with LTO-8 Tape Drive, SAS. Includes 24 Ark Tape Licenses	1
Additional ARK 25 Tape Licenses	1
Migration of EditShare Flow Asset Management and Ark LTO Database to new system Professional Service	2
Tyrell Installation and Configuration Professional Services	2
Tyrell Administration and End User Training Professional Services	2
EditShare EFS 210 - 64TB Annual Renewal	1
EditShare Ark LTO Library 5 Year Hardware Warranty.	1
Tyrell Hours- Package of 10	1

LOCATION FOR DELIVERY

Electronic Delivery to [REDACTED]

DATES FOR DELIVERY

Within 7 calendar days of receipt of the purchase order.

TESTING OF DELIVERABLES

None

WARRANTY PERIOD

The warranty period for the purposes of Clause 3.1.2 of the Core Terms shall be 90 calendar days. However, for software licensing subscription, the period will be as per the subscription term (of either 12, 36 or 60 months).

MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

Estimated Year 1 Charges

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is [REDACTED]

CALL-OFF CHARGES

Option B: See details in Call-Off Schedule 5 (Pricing Details)

The Total Call-Off Contract Value for the Initial Period is £46,300.00

The Total Call-Off Contract Value for the Full Extended Term is £54,250.00

REIMBURSABLE EXPENSES

None

PAYMENT METHOD

The Supplier is to be paid via BACS following the receipt of a matching invoice that references the Buyer's purchase order number.

BUYER'S INVOICE ADDRESS:

Any queries regarding outstanding payments should be directed to NHS England's Accounts Payable section by email at financialaccounts@nhs.net

Invoices should clearly quote the purchase order number, be addressed to NHS England, X24 Payables K005, PO Box 312, LEEDS LS11 1HP and be sent as a PDF attachment by email to the following email address; sbs.apinvoicing@nhs.net (one invoice per PDF) and emails must not exceed 10Mb and quote, 'X24 Invoice Scanning' in subject line or alternatively invoices can be sent via post to the above address.

BUYER'S AUTHORISED REPRESENTATIVE

[REDACTED]

7-8 Wellington Place, Leeds, LS1 4AP

BUYER'S ENVIRONMENTAL POLICY

NHS England Social Value Charter available online at: [NHS England Social value charter](#)

&

NHS England's [Sustainable development management plan: summary report](#)

BUYER'S SECURITY POLICY
N/A

SUPPLIER'S AUTHORISED REPRESENTATIVE

[REDACTED]

Akhter House, Perry Road, Harlow, Essex, CM18

SUPPLIER'S CONTRACT MANAGER

[REDACTED]

Akhter House, Perry Road, Harlow, Essex, CM18

PROGRESS REPORT FREQUENCY
N/A

PROGRESS MEETING FREQUENCY
N/A

KEY STAFF
N/A

KEY SUBCONTRACTOR(S)

[REDACTED]

COMMERCIALLY SENSITIVE INFORMATION
N/A

SERVICE CREDITS
Not applicable

ADDITIONAL INSURANCES
Not applicable

GUARANTEE
Not applicable

SOCIAL VALUE COMMITMENT
MAC 3.4 - Collaboration throughout the supply chain

BUYER CORE GOODS AND/OR SERVICES REQUIREMENTS

Goods and/or Services

- 1 The following requirements shall take priority above all terms, conditions and specifications set out in this Call-Off Contract (including without limitation any embedded documents and terms), and the Supplier shall ensure that the software licences meet and conform with the following requirements:
 - 1.1 The Buyer shall be entitled, free of charge, to sub licence the software to any contractor and/or sub-contractor of the Buyer who is working towards and/or is providing services to the Buyer.
 - 1.2 The Buyer's role as national information and technology partner to the NHS and social care bodies involves the Buyer buying services for or on behalf of the NHS and social care entities. Nothing in the licences for any of the software shall have the effect of restricting the Buyer from discharging its role as the national information and technology partner for the health and care system, which includes the ability of the Buyer to offer software and services to the NHS and social care entities. Specifically, any software licensing clause prohibiting 'white labelling', 'provision of outsourcing services' or similar, shall not be interpreted as prohibiting the Buyer's services.
 - 1.3 The Buyer shall be entitled to deploy the software at any location from which the Buyer and/or any contractor and/or sub-contractor of the Buyer is undertaking services pursuant to which the software is being licenced.
 - 1.4 Any software licenced to the Buyer on a named users basis shall permit the transfer from one user to another user, free of charge provided that the Supplier is notified of the same (including without limitation to a named user who is a contractor and/or Subcontractor of the Buyer).
 - 1.5 The Supplier shall ensure that the Buyer shall be entitled to assign or novate all or any of the software licences free of charge to any other central government entity, by giving the licensor prior written notice.
 - 1.6 The Supplier shall notify the Buyer in advance if any software or service permits the Supplier or any third party remote access to the software or systems of the Buyer.
 - 1.7 Where the Supplier is responsible for the calculation of the appropriate number of users for software, and it is later shown there is a shortfall of licences, the Supplier shall be responsible for all costs of the Buyer.

For and on behalf of the Supplier:

[Redacted Signature]












Full Name: [Redacted]
Job Title/Role: [Redacted]
Date Signed: 28 July 2025

For and on behalf of the Buyer:

[Redacted Signature]

Full Name: [Redacted]
Job Title/Role: [Redacted]
Date Signed: 28th July 2025

Annex 1: Core Terms and Applicable Schedules

Document Name	Embedded Document
CCS Core Terms (version 3.0.11)	 RM6098-Core-terms -v3.0.11-1.pdf
Joint Schedule 1 (Definitions and Interpretation) RM6098	 Joint Schedule 1 - Definitions v1.0 RM60
Joint Schedule 2 (Variation Form)	 Joint Schedule 2 - Variation Form v.1.0 F
Joint Schedule 3 (Insurance Requirements)	 Joint Schedule 3 - Insurance Requirements
Joint Schedule 4 (Commercially Sensitive Information)	 Joint Schedule 4 - Commercially Sensitive
Joint Schedule 5 (Corporate Social Responsibility) RM6098	 Joint Schedule 5 - Corporate Social Responsibility
Joint Schedule 6 (Key Subcontractors)	 Joint Schedule 6 - Key Subcontractors v.
Joint Schedule 10 (Rectification Plan)	 Joint Schedule 10 - Rectification Plan v.1.0
Joint Schedule 11 (Processing Data)	 Joint Schedule 11 - Processing Data. v1.0
Call-Off Schedule 5 (Pricing Details)	 Call-Off Schedule 5 - Pricing Details v1.0 RM6
Call-Off Schedule 6 (ICT Services) including Annexes A to E	 Call-Off Schedule 6 - ICT Services v2.0 RM6

Call-Off Schedule 5 (Pricing Details)



C314003 Cost Model
- NHS Secure Reposit

Total Cost of Services for the Provision of Secure Repository Costs account for 35% of the total evaluation score. Additional year costs will not be included in the cost evaluation					
Tenderer's Name		Akhter Computers Limited			
Name of service		C314003- NHS Secure Repository / EditShare Post Production Shared Storage			
Contract length (years) - Including optional Extensions		3 years +1+1+1+1			
all pricing in GBP					
PRICING		Quantity	Unit Cost	Initial Term (3 years)	
				Year 1 (12 months)	Year 2 (12 months)
	Items		Cost		
	EditShare Ultimate EFS 210 - 64TB Storage Node. 2u 8x6TB Storage Node with Platform & Storage License (See Comments for further notes)	1			
	ARK SAS Connection Kit for Tape Library (2mtrs)	1			
	ARK 24 Slot Autoloader 2u with LTO-8 Tape Drive, SAS. Includes 24 Ark Tape Licenses	1			
	Additional ARK 25 Tape Licenses (See Comments for further notes)	0			
	Migration of EditShare Flow Asset Management and Ark LTO Database to new system Professional Service	2			
	Tyrell Installation and Configuration Professional Services (See Comments for further notes)	2			
	Tyrell Administration and End User Training Professional Services (See Comments for further notes)	2			
	EditShare EFS 210 - 64TB Annual Renewal (See Comments for further notes)	1			
	EditShare Ark LTO Library 5 Year Hardware Warranty. (See Comments for further notes)	1			
	Tyrell Hours- Package of 10 (See Comments for further notes)	1			
	Grand Total (The initial 2 years are the evaluated cost - Cell G12 to be evaluated)				
Additional Offer/Discounts: Bidders to provide details of any additional offers, discounts, or value-added services they may offer beyond the specified items. This could be promotional pricing, bundle deals, or any other incentives. These costs will not be included as part of the Commercial evaluation Comments, points of clarity and Assumptions - Where you have made assumptions in the formulation of your pricing offer then this should be clearly articulated					

Pricing	Total costs
TOTAL COST OF SERVICES OVER Initial Term (Cell G12 to be evaluated)	£46,300.00
TOTAL COST OF SERVICES OVER 7 YEARS (3 +1+1+1+1) - for the avoidance of doubt, the Authority requires a cost for the '+1+1+1+1' timeframe	£54,250.00

Call-Off Schedule 6 (ICT Services)

1. Definitions

1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Buyer Property"	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
"Buyer Software"	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
"Buyer System"	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
"Commercial off the shelf Software" or "COTS Software"	Non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms
"Core Network"	the provision of any shared central core network capability forming part of the overall Services delivered to the Buyer, which is not specific or exclusive to a specific Call-Off Contract, and excludes any configuration information specifically associated with a specific Call-Off Contract;
"Defect"	any of the following: <ul style="list-style-type: none">a) any error, damage or defect in the manufacturing of a Deliverable; orb) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or

- c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call Off Contract; or
- d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;

"Emergency Maintenance"	ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;
"ICT Environment"	the Buyer System and the Supplier System;
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Call Off Contract, including any COTS Software;
"Maintenance Schedule"	has the meaning given to it in paragraph 8 of this Schedule;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"New Release"	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected)

	while still retaining the original designated purpose of that item;
"Open Source Software"	computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;
"Operating Environment"	means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: the Deliverables are (or are to be) provided; or the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or where any part of the Supplier System is situated;
"Permitted Maintenance"	has the meaning given to it in paragraph 8.2 of this Schedule;
"Quality Plans"	has the meaning given to it in paragraph 6.1 of this Schedule;
"Sites"	has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Call Off Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;
"Software"	Specially Written Software COTS Software and non-COTS Supplier and third party Software;
"Software Supporting Materials"	has the meaning given to it in paragraph 9.1 of this Schedule;
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;

"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
"Supplier System"	the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);

2. When this Schedule should be used

- 2.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

3. Buyer due diligence requirements

- 3.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
 - 3.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
 - 3.1.2. operating processes and procedures and the working methods of the Buyer;
 - 3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
 - 3.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
- 3.2. The Supplier confirms that it has advised the Buyer in writing of:
 - 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;

- 3.2.2. the actions needed to remedy each such unsuitable aspect; and
- 3.2.3. a timetable for and the costs of those actions.

4. Licensed software warranty

- 4.1. The Supplier represents and warrants that:
 - 4.1.1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Buyer;
 - 4.1.2. all components of the Specially Written Software shall:
 - 4.1.2.1. be free from material design and programming errors;
 - 4.1.2.2. perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 14 (Service Levels) and Documentation; and
 - 4.1.2.3. not infringe any IPR.

5. Provision of ICT Services

- 5.1. The Supplier shall:
 - 5.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
 - 5.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
 - 5.1.3. ensure that the Supplier System will be free of all encumbrances;
 - 5.1.4. ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
 - 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables;

6. Standards and Quality Requirements

- 6.1. The Supplier shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2. The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
- 6.3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Call Off Contract Period:
 - 6.4.1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

7. ICT Audit

- 7.1. The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1. If specified by the Buyer in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (other than to the Core Network)

(which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.

- 8.3. The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance, including to the Core Network.
- 8.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

9. Intellectual Property Rights in ICT

9.1. Assignments granted by the Supplier: Specially Written Software

- 9.1.1. The Supplier assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Buyer with full guarantee (or shall procure assignment to the Buyer), title to and all rights and interest in the Specially Written Software together with and including:

- 9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and
- 9.1.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**").

- 9.1.2. The Supplier shall:

- 9.1.2.1. inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
- 9.1.2.2. deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and
- 9.1.2.3. without prejudice to paragraph 9.1.2.2, provide full details to the Buyer of any of the Supplier's Existing IPRs or Third

Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier's Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.

- 9.1.3. The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Buyer.

9.2. Licences for non-COTS IPR from the Supplier and third parties to the Buyer

- 9.2.1. Unless the Buyer gives its Approval the Supplier must not use any:

- a) of its own Existing IPR that is not COTS Software;
- b) third party software that is not COTS Software

- 9.2.2. Where the Buyer Approves the use of the Supplier's Existing IPR that is not COTS Software the Supplier shall grants to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Central Government Body, any other Central Government Body's) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Call Off Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.

- 9.2.3. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:

- 9.2.3.1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and

- 9.2.3.2. only use such third party IPR as referred to at paragraph 9.2.3.1 if the Buyer Approves the terms of the licence from the relevant third party.

- 9.2.4. Where the Supplier is unable to provide a license to the Supplier's Existing IPR in accordance with Paragraph 9.2.2 above, it must meet

the requirement by making use of COTS Software or Specially Written Software.

- 9.2.5. The Supplier may terminate a licence granted under paragraph 9.2.1 by giving at least thirty (30) days' notice in writing if there is an Authority Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.

9.3. Licenses for COTS Software by the Supplier and third parties to the Buyer

- 9.3.1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.2. Where the Supplier owns the COTS Software it shall make available the COTS software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 9.3 the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licensee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
- 9.3.4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
- 9.3.4.1. will no longer be maintained or supported by the developer;
or
- 9.3.4.2. will no longer be made commercially available

9.4. Buyer's right to assign/novate licences

- 9.4.1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:
- 9.4.1.1. a Central Government Body; or
- 9.4.1.2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.
- 9.4.2. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in paragraph 9.2.

9.5. Licence granted by the Buyer

- 9.5.1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer

Software and the Specially Written Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality).

9.6. Open Source Publication

9.6.1. Unless the Buyer otherwise agrees in advance in writing (and subject to paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Supplier shall also provide the converted format to the Buyer) into a format, which is:

9.6.1.1. suitable for publication by the Buyer as Open Source; and

9.6.1.2. based on Open Standards (where applicable),

and the Buyer may, at its sole discretion, publish the same as Open Source.

9.6.2. The Supplier hereby warrants that the Specially Written Software and the New IPR:

9.6.2.1. are suitable for release as Open Source and that the Supplier has used reasonable endeavours when developing the same to ensure that publication by the Buyer will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Buyer System;

9.6.2.2. have been developed using reasonable endeavours to ensure that their publication by the Buyer shall not cause any harm or damage to any party using them;

9.6.2.3. do not contain any material which would bring the Buyer into disrepute;

9.6.2.4. can be published as Open Source without breaching the rights of any third party;

9.6.2.5. will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date notified by the Buyer to the Supplier; and

9.6.2.6. do not contain any Malicious Software.

9.6.3. Where the Buyer has Approved a request by the Supplier for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Existing IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source), the Supplier shall:

- 9.6.3.1. as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and
- 9.6.3.2. include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer's ability to publish such other items or Deliverables as Open Source.

9.7. Malicious Software

- 9.7.1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 9.7.2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
- 9.7.3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 9.7.2 shall be borne by the Parties as follows:
 - 9.7.3.1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
 - 9.7.3.2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

10. Supplier-Furnished Terms

10.1. Software Licence Terms

- 10.1.1. Terms for licensing of non-COTS third party software in accordance with Paragraph 9.2.3 are detailed in Annex A of this Call Off Schedule 6.
- 10.1.2. Terms for licensing of COTS software in accordance with Paragraph 9.3 are detailed in Annex B of this Call Off Schedule 6.

10.2. Software Support & Maintenance Terms

- 10.2.1. Additional terms for provision of Software Support & Maintenance Services are detailed in Annex C of this Call Off Schedule 6.

10.3. Software as a Service Terms

10.3.1. Additional terms for provision of a Software as a Service solution are detailed in Annex D of this Call Off Schedule 6.

10.4. As a Service Terms

10.4.1. Additional terms for provision of a devices, utility and consumption models for technology infrastructure generally described as “As a Service” solutions are detailed in Annex E to this Call-Off Schedule 6.

ANNEX A

Non-COTS Third Party Software Licensing Terms

Not applicable to Supplier Equipment.

All EditShare servers are based on CotS hardware.

ANNEX B

COTS Licensing Terms

Editshare Terms & Conditions of Sale and License

1. General

These general terms and conditions (“Terms and Conditions”) exclusively govern all transactions for the purchase of EditShare hardware and the subscription or license for the use of EditShare software products (“Products”) between any Buyer and the EditShare LLC and its affiliates, worldwide (“EditShare”).

Transactions may be initiated by an EditShare quotation, offer or proposal (“Quotation”), that is accepted, in writing, by the Buyer or by Buyer’s issuance and EditShare’s acceptance of a purchase order (the entity accepting the EditShare offer or issuing the purchase order is hereinafter referred to as the “Buyer”). These Terms and Conditions shall be exclusive of and prevail over all other terms and conditions, written or oral, implied by trade, custom or course of dealing, wherever appearing or however introduced (including those in any buyer general terms and conditions, request for quotation, order or confirmation) unless expressly otherwise agreed by EditShare in writing. All other terms or conditions are expressly rejected by EditShare.

Defined Terms, as used herein, are set forth in Appendix A

2. Packaging, Shipment and Delivery

EditShare will pack the Hardware Products in such manner and with such materials, as EditShare believes is appropriate. The cost of special packaging, if agreed or deemed necessary by EditShare, shall be an additional charge. EditShare will deliver the Hardware Products (“Delivery”) by shipping them, Ex Works, from the EditShare manufacturing or warehouse location, and Buyer shall be responsible for all shipping and insurance costs. Delivery dates are estimates only and EditShare shall not be responsible or liable for any delays in Delivery. EditShare may make partial deliveries and partial delivery shall not affect the Buyer’s obligation to pay for any other part of the order.

3. Acceptance

Buyer shall have the right to inspect the Products upon receipt and shall promptly notify EditShare of any damage, defect or discrepancy (“Defect”). Buyer will be deemed to have accepted the Products unless it notifies EditShare of a Defect within three business days of receipt. If Buyer rightfully rejects

the Products, EditShare shall have a reasonable opportunity to replace or correct the Products, and if it cannot do so, then EditShare's sole liability shall be to accept return of the Products and refund all payments made by Buyer for the Defective products

4. Price and Payment

The price for the Products shall be the relevant price in the valid EditShare Quotation or the current EditShare price list at the date of order, less any discount agreed by EditShare in writing. EditShare may change its price list at any time, without notice. The Buyer shall bear the cost of any applicable sales, value added, excise, or similar tax in relation to the goods unless the Buyer provides EditShare with a tax exemption certificate or license acceptable to the taxing authorities before shipment.

Buyer shall pay for all Products ordered hereunder net thirty days from the date of invoice, which shall be issued upon Delivery. Notwithstanding the foregoing, EditShare may impose commercially reasonable credit terms on any transaction and may withhold Delivery pending satisfaction with such terms. Interest shall accrue on overdue payments at the rate of 2% per month. EditShare shall retain title to the Hardware Products until it has received payment in full of all sums due and/or owing in connection with the supply of all Products to the Buyer at any time.

5. Hardware Specifications

EditShare supplies Hardware Products in accordance with the relevant manufacturer's standard specifications but EditShare reserves the right for manufacturers to make such improvements and modifications in such specifications without prior notice in the suppliers discretion, without obligation to modify goods previously delivered or to supply new goods in accordance with earlier specifications.

If the Buyer wishes to change or customize the specification of any Products to be supplied by EditShare then EditShare shall not be obliged to agree to such change. If EditShare does agree to any proposed change requested by the Buyer then EditShare shall be entitled to adjust the price, delivery and warranty accordingly.

All technical information and particulars of Hardware Products or their performance given by EditShare are given as accurately as possible but are not to be treated as binding or as forming part of any contract with the Buyer unless specifically confirmed or agreed by EditShare in writing.

6. Software License

6.1 All Software products supplied by EditShare (whether embedded in the

Hardware Product, contained on disks or other media or provided in a Cloud Environment) including all related Documentation (collectively “Software”) are delivered subject to the terms of the following license agreement:

EditShare grants Licensee a non-exclusive, non-transferable (except as provided below) license (i) to use the EditShare Software with and on the specified Hardware or (ii) in the Cloud Environment from which it is provided, for the duration of the Subscription Term and within the Scope of the License ordered and paid for by Licensee. The “Subscription Term” for Software delivered on or with a Hardware Product is for the duration of the time that the Buyer uses the Hardware Product.

6.2 If ordered by Licensee, EditShare shall install the Software on the Customer’s own hardware or in the customer’s Cloud Environment and configure it for use in accordance with Licensee’s Order and mutually agreed upon Statement of Work. EditShare shall notify Licensee when it has completed installation and the Software is operational in accordance with the Statement of Work (“Acceptance”).

Should Licensee use the Software for production purposes, it shall constitute Acceptance, regardless of whether installation is fully complete. For Private Deployments, Licensee shall secure access by EditShare to the customer’s Cloud Environment, as necessary to enable EditShare to perform installation, maintenance and support, professional services, and to verify Licensee’s compliance with its License Scope.

6.3 The Software contains proprietary, trade secret and confidential information belonging exclusively to EditShare or its licensors. Title to, ownership of and all proprietary rights in the Software and all copies of the Software, including translations or compilations or partial copies, are reserved to and will at all times remain with EditShare and its licensors. Buyer shall not attempt to disassemble, decompile, reverse engineer or otherwise endeavor to discover or disclose the methods and concepts embodied in the Software. Except as expressly allowed under this Agreement, Buyer shall not copy, modify, transcribe, store, translate, sell, lease, or otherwise transfer the Software in whole or in part. Buyer will not alter or remove any copyright or other proprietary legends or notices on the Products, including copies of the Software.

6.4 For Software in a Cloud Environment, Licensee shall control access to use of the Software by assigning and controlling password access through its account. Licensee is responsible for maintaining the security of its passwords, shall be responsible for all use made of the Software through its account and shall indemnify EditShare for any illegal use or damage to any third party caused by Licensee through its account. Licensee will take all reasonable steps to safeguard the Software and the Documentation and to ensure that no unauthorized persons have access to the Software or the Documentation, and that no persons authorized to have such access shall take any action which would be prohibited by this Agreement if taken by Licensee.

7. Warranty

7.1 Hardware Warranty. EditShare warrants that Hardware Products sold hereunder shall be free of defects in materials and workmanship and will conform to any agreed specification(s) at the time of Delivery and for such period thereafter, if any, as notified by EditShare to the Buyer in writing and as selected and purchased by the Buyer. If the Buyer alleges that the goods were defective during the warranty period, the Buyer shall forthwith notify EditShare in writing of the alleged defects and shall, at EditShare's option, return the goods and packing at its own expense to EditShare or, or where so directed, hold the goods and packing for inspection by EditShare. If the goods are proved to have been defective during the warranty period, EditShare undertakes to arrange for the repair or replacement of such defective goods free of charge.

7.2 Software Warranty. EditShare warrants that during the Warranty Period, the Software will perform materially in accordance with the Documentation. For Software licensed on a Subscription basis, the Warranty Period is the duration of the Subscription. For Software licensed on a perpetual basis, the Warranty Period is 90 days from Delivery. If EditShare receives notice from Licensee that the Software is not performing in accordance with the Documentation, EditShare will use commercially reasonable efforts to remedy or fix such defect in accordance with the Maintenance and Support procedures appended hereto. In addition, EditShare will install maintenance releases, feature enhancements and all new versions and releases of the EditShare Software during the Term. EditShare will use commercially reasonable efforts to provide Company with ongoing notice of such maintenance activity.

7.3 Licensee Responsibility. Licensee acknowledges, (i) that the Software is intended as a tool only and not a guarantee of a particular outcome or result; Licensee is solely responsible for the results achieved using the Software; (ii) that Licensee has control of and is solely responsible for the security of its data while on the Server, including transit to and from the Server; and (iv) that Licensee is responsible to maintain and back up all Licensee data, including the results achieved using the Software.

7.4 Support. EditShare shall also provide Maintenance and Support and/or Professional Services for the Products as provided in the EditShare standard Terms of Support and Maintenance and Master Services Agreement, available at the EditShare website.

7.5 EXCEPT FOR THE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, EDITSHARE DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, AND EDITSHARE DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

8. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, PROFIT OR BUSINESS, OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER ARISING IN AN ACTION OF CONTRACT, TORT OR OTHER LEGAL THEORY. EACH PARTYS LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (in contract or tort), SHALL BE LIMITED TO THE PURCHASE PRICE STATED IN THE PARTICULAR PURCHASE ORDER FOR THE PRODUCT(S) THAT CAUSED THE DAMAGES OR ARE THE SUBJECT MATTER OF THE CAUSE OF ACTION. No action arising out of or in connection with this Agreement or any transaction hereunder may be brought by either party more than eighteen (18) months after the cause of action has arisen, except for an action for non-payment.

9. Infringement Indemnity

EditShare shall indemnify, defend and hold Licensee harmless from and against any claims, actions, or demands alleging that the Software, or any part thereof, directly infringes or misappropriates any United States patent, trademark, copyright, or trade secret right of any third party, provided that Licensee promptly notifies EditShare of any such claim, allows EditShare to control the defense and provides reasonable information and assistance to EditShare (at EditShare's expense) in the defense of the claim. Licensee shall permit EditShare to replace or modify any affected Software to avoid infringement, or to procure for Licensee the right to continue to use such Software. If neither of such alternatives is reasonably possible, EditShare may require Licensee to cease using the Software and EditShare's sole liability in regard shall be to refund to Licensee any License fees paid by Licensee for periods after such cessation of use. EditShare shall have no obligation with respect to claims, actions, or demands to the extent that they are based upon (i) the combination of Software with any items not supplied by EditShare, (ii) any modification or change to the Software by Licensee, (iii) any failure by Licensee to implement modifications or replacements distributed by EditShare to address any alleged infringement or (iv) any intellectual property right in which Licensee or any affiliate of Licensee has a proprietary interest. This Section states the entire liability of EditShare with respect to indemnification or liability for infringement of patents, copyrights or other proprietary rights by the Software or any part thereof or by their use or operation.

10. Confidential Information

Buyer shall not, without EditShare's written consent, disclose to any third party any secret or confidential information supplied by EditShare to the Buyer. The Buyer shall not copy or reproduce drawings, specifications, or other written material supplied by EditShare in connection with the goods or any of the goods themselves or any part thereof.

11. Termination

If the Buyer fails to comply with any material term or condition of these Terms and Conditions, and fails to remedy such breach within thirty (30) days after receiving written notice of such breach from EditShare, or if the Buyer makes an assignment for the benefit of creditors or is the subject of any bankruptcy or reorganization proceeding, EditShare may terminate this Agreement upon written notice and EditShare may, without prejudice to any other rights, cancel any undelivered or uncompleted portion of the order and stop any goods in transit.

12. Cancellation of Orders

No cancellation of any order by the Buyer shall be accepted by EditShare unless, (i) Buyer's request for cancellation is received by EditShare in writing; (ii) EditShare accepts the cancellation in writing and (iii) Buyer agrees to pay (a) the sales price of that part of the Products completed and work done in connection with the order; (b) the sales value of any items or materials bought by EditShare that cannot reasonably be used elsewhere by EditShare and (c) any other costs and liabilities that EditShare incurs by reason of the Buyer's cancellation. Orders may not be cancelled or returned after Delivery, except upon written agreement by EditShare which EditShare may refuse in its sole discretion. EditShare may condition any return or cancellation upon payment of a restocking fee and payment by Buyer of all shipping charges.

13. Compliance with Law

Licensee acknowledges that the Software is of U.S. origin and subject to U.S. export jurisdiction. Licensee agrees to comply with all applicable international and national laws that apply to the Product, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments. Buyer expressly agrees that it will not export or permit export of any EditShare Products without complying with and obtaining appropriate permits in accordance with all applicable export and custom laws. Buyer further agrees that it will comply with all applicable laws and regulations in its purchase and use of the EditShare Products.

14. Force Majeure

Neither Party shall be in default if failure to perform any obligation hereunder is caused by conditions beyond that Party's control, including acts of God, civil commotion and governmental demands or requirements. EditShare shall be entitled to cancel or rescind any contract and shall not be liable for any loss or damage if its ability to perform its obligations under the contract is adversely affected by an event of Force Majeure.

15. Miscellaneous

15.1 U.S. Government License Rights. All Product provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein.

15.2 Neither party may assign this Agreement, or its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, however, either party may assign all, but not less than all, of its rights and obligations hereunder to a successor party in the event that such party merges or sells its relevant assets to such successor party, or engages in a similar type transaction, and provided that such successor party agrees to be bound by all of the terms and conditions of this Agreement.

15.3 Each party shall comply with all applicable laws and regulations of governmental bodies or agencies in its performance under this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts (excluding its choice of law rules.) The exclusive jurisdiction for any legal proceeding regarding this Agreement shall be in the state or federal courts located in the Commonwealth of Massachusetts and each party hereto expressly submits to the jurisdiction of said courts and hereby waives any objection to the venue in such courts.

15.4 Neither party shall, by lapse of time or inaction, be deemed to waive any breach by the other party of this Agreement. No waiver shall be effective unless in writing and signed by the party against which enforcement of such waiver is sought. The waiver by either party of a particular breach of this Agreement by the other party shall not be a continuing waiver of such breach, or of other breaches of this Agreement.

15.5 All notices and other communications under this Agreement shall be sent either by U.S. mail as registered mail, return receipt requested, or by overnight courier service, postage prepaid, and addressed to the party at the address noted above, unless by such notice a different address shall have been designated in writing. All such notices shall be effective when delivery is made or attempted by the Postal or Courier Service.

15.6 If any provision of this Agreement shall be held unenforceable or illegal, the validity of the remaining portions or provisions hereof shall not be affected thereby. The parties agree that this Agreement is the complete and exclusive statement of their agreement and supersedes all proposals (oral or written), understandings, representations, conditions, warranties, covenants and all other communications between the parties relating thereto. Only a writing that refers to this Agreement and is duly signed by both parties may amend this Agreement.

Appendix A Definitions

1.1 "**Software**" means all EditShare software products, as offered by EditShare from time to time, in object code only, delivered by EditShare to Licensee, the Authorization Key, and all EditShare- authorized maintenance updates, replacements or modifications of the EditShare software provided to Licensee for use under the terms of this Agreement. Software does not include Third Party Software or open source software (such as Linux) which Licensee may obtain for use with the EditShare Software.

1.2 "**Cloud Environment**" means the Linux or Windows cloud-based computing environment that Licensee uses of (either through EditShare or through arrangement with a third-party cloud computing service provider) for operation of the Software. The Cloud Environment must comply with the recommendations provided by EditShare.

1.3 "**Private Deployment**" means a deployment of the EditShare Software in a cloud computing environment managed or controlled by or for the Buyer.

1.5 "**SaaS Deployment**" means a service whereby EditShare provides access to the EditShare Software via remote access in a cloud environment provided and managed by EditShare.

1.6 "**Documentation**" means the user guides, reference manuals, installation materials and other written materials (in whatever format, including electronic or hardcopy) relating to the complete Software delivered by EditShare to Licensee.

1.7 "**Authorization Key**" means the key delivered by EditShare that contains a unique series of data elements that enables use of the Software.

1.8 "**Subscription Type**" means either a Private Deployment of a SaaS Deployment, as ordered by the Licensee.

ANNEX C

Software Support & Maintenance Terms



Doc. Title:	EditShare Support Level Agreement - Ultimate EFS
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Document Type:	Service Assurance
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Release Date:	December 2024
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Document Ref:	ES-SUP
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Revision:	Version 24.12.12
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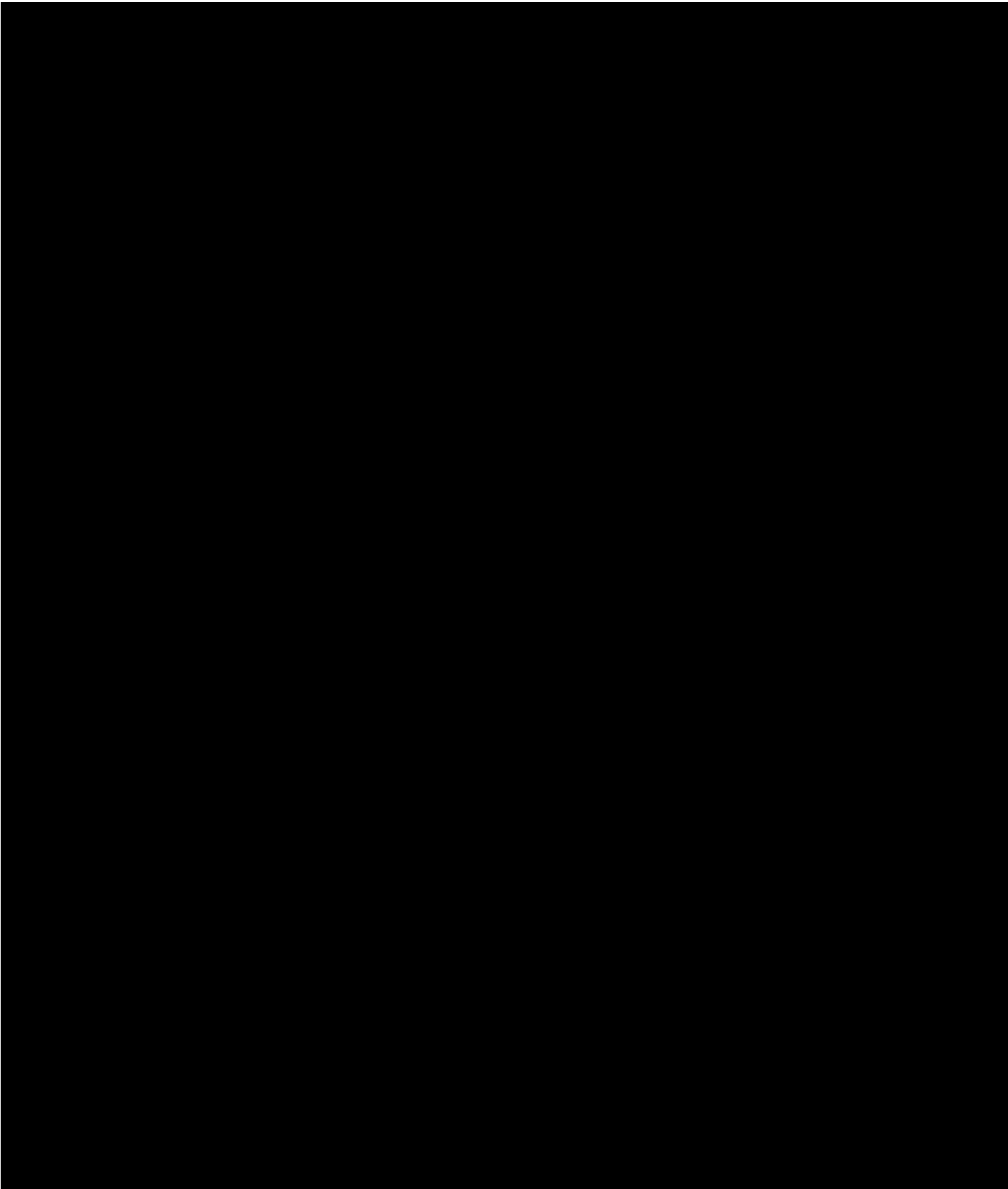
Owner:

Global Service Assurance



Table of Contents

[REDACTED]





Agreement Information

Please review all the details in this agreement, then sign electronically on the final page. The EditShare Service Level Agreement is only active once this document has been signed.

Agreement No:	{{CONTRACT_CONTRACT NUMBER}}
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Channel Partner:	{{CONTRACT_PARTNER _NAME}}
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Order Reference:	{{CONTRACT_SBQQ_OR DER_ORDERNUMBER}}
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End User:	{{CONTRACT_ACCOUN T_NAME}}
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Start Date:	{{CONTRACT_STARTDAT E \@ dd/MM/yyyy}}
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End Date:	{{CONTRACT_ENDDATE \@ dd/MM/yyyy}}
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Prepared By:	{{CONTRACTOWNER_FULLNAME}}
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End User Contact for Support.

Contact Name:	{{CONTRACT_PRIMARY_CONTACT_NAME}}
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EditShare Support Service Definitions Document



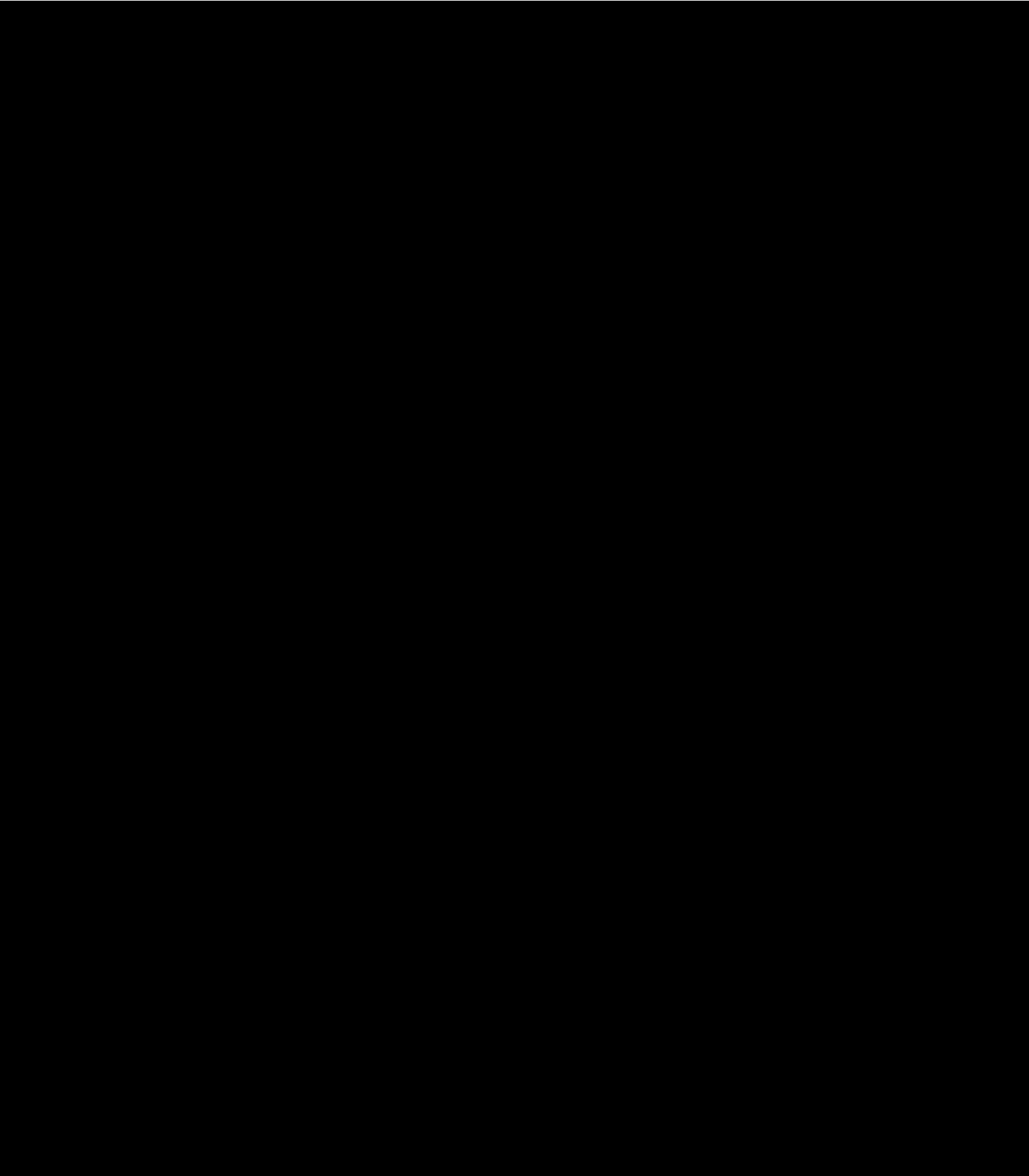
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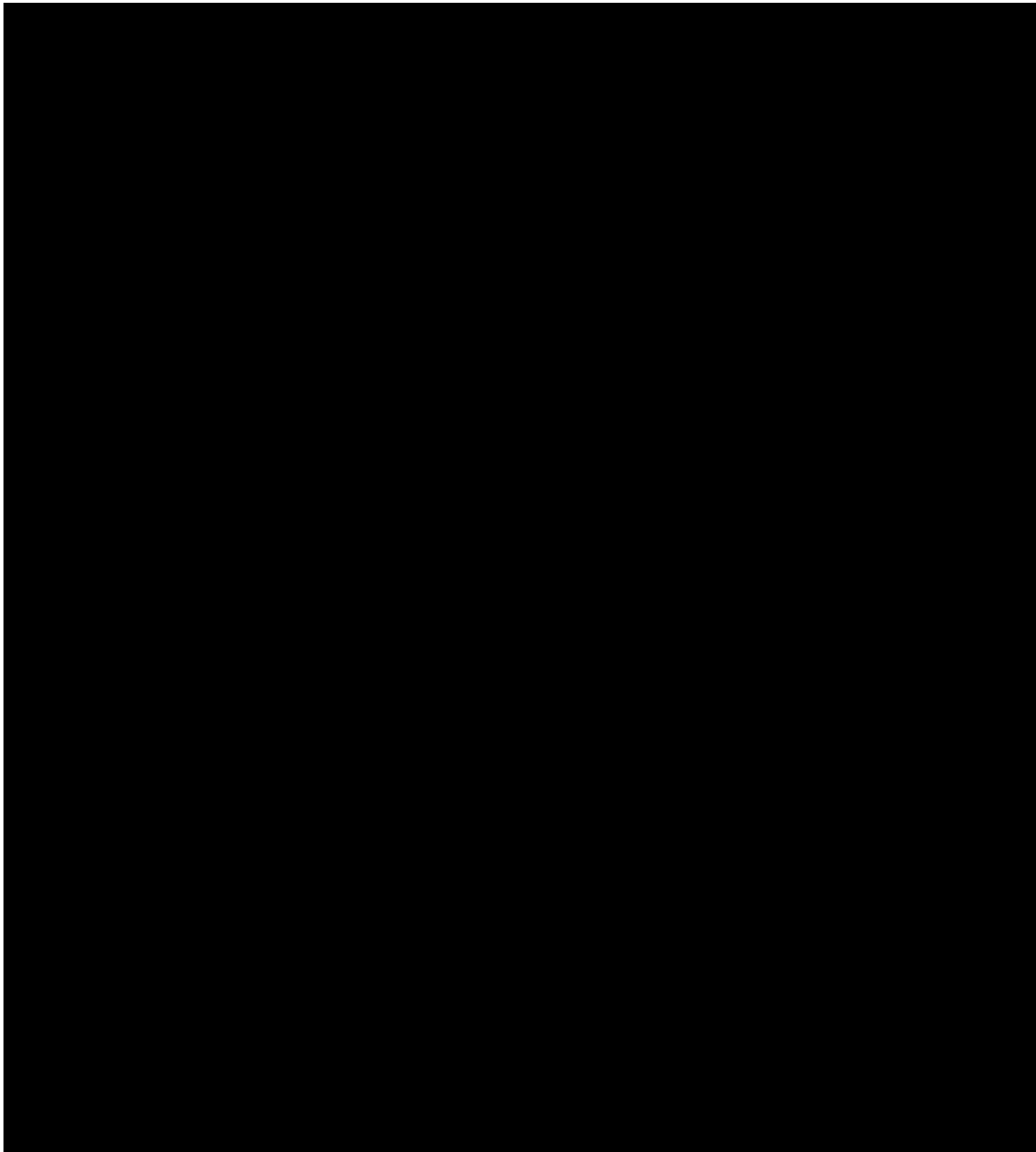
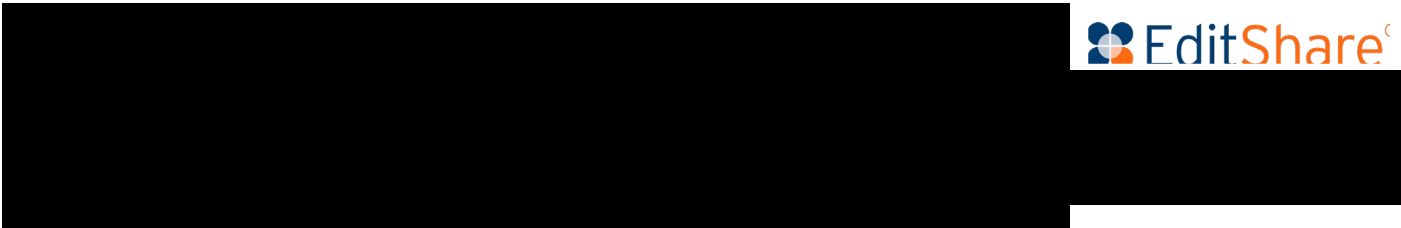
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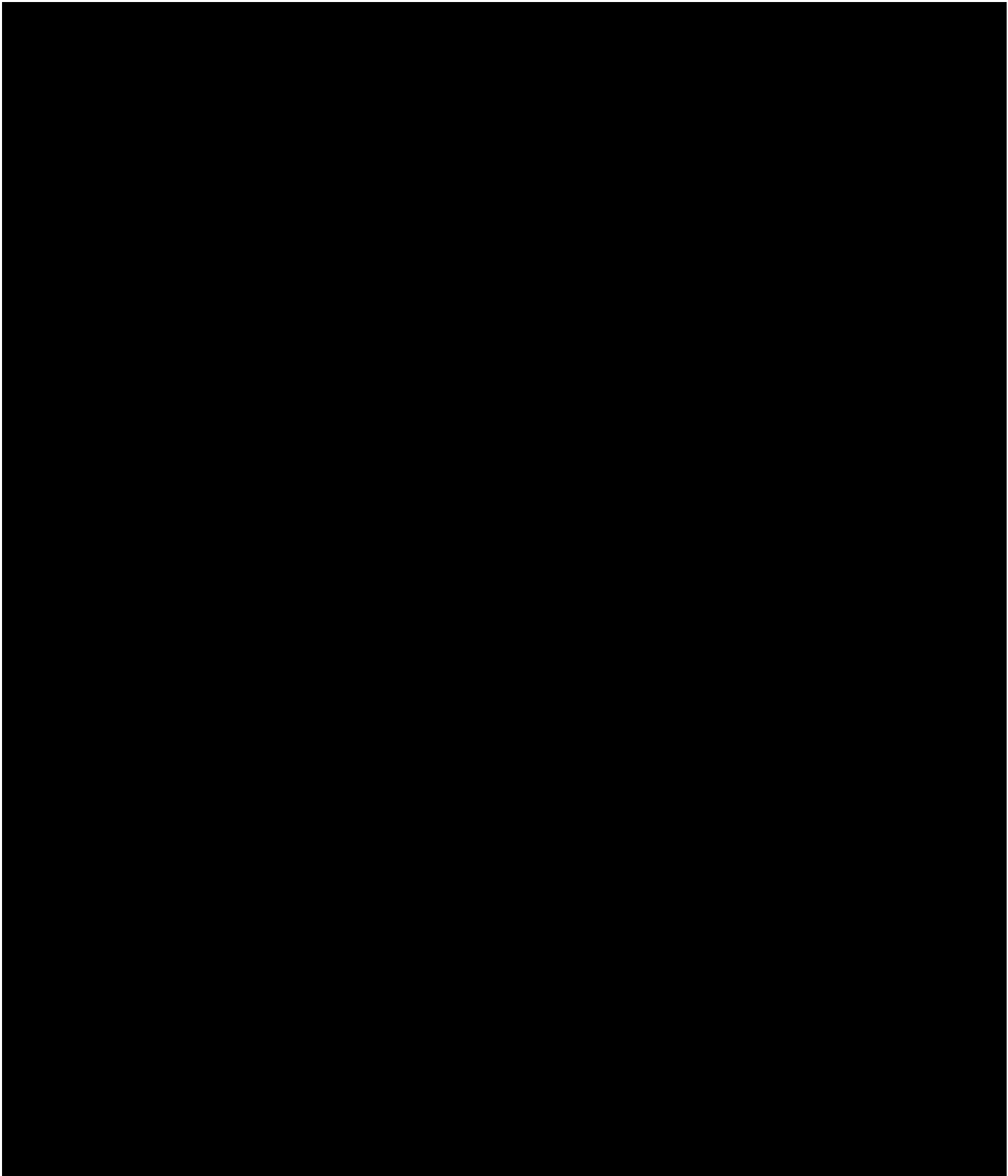
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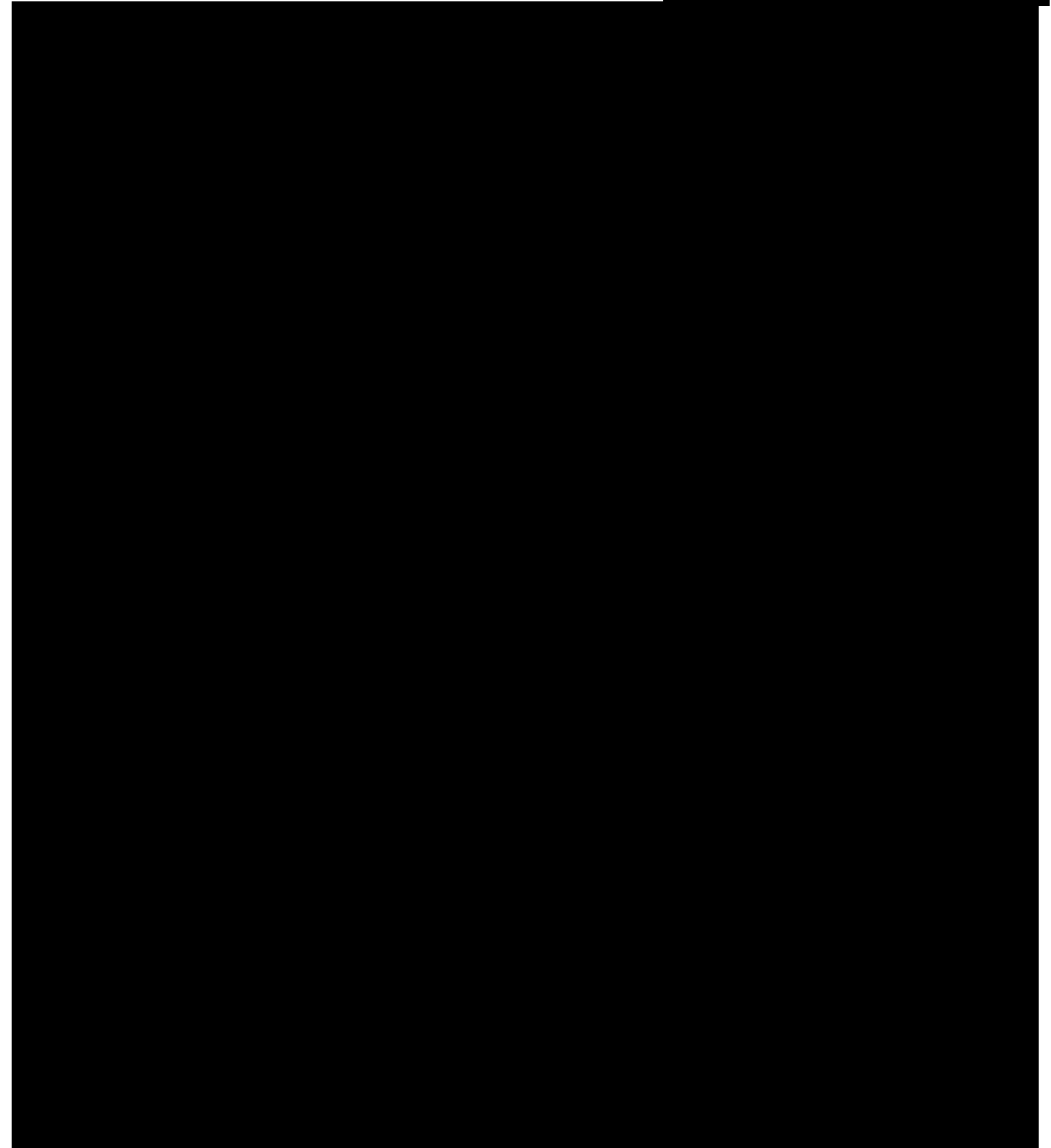
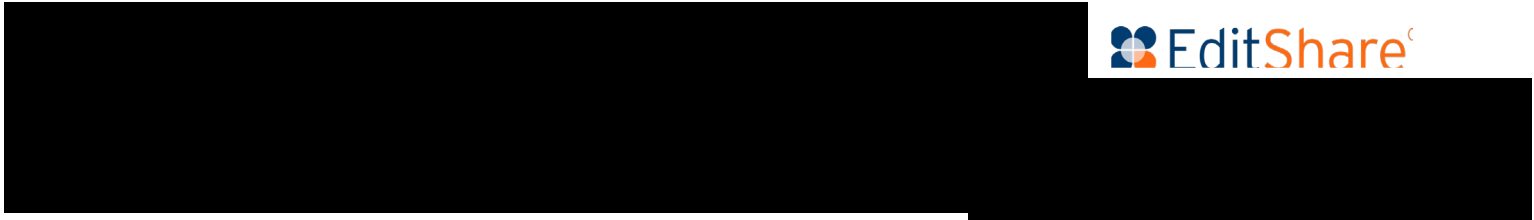




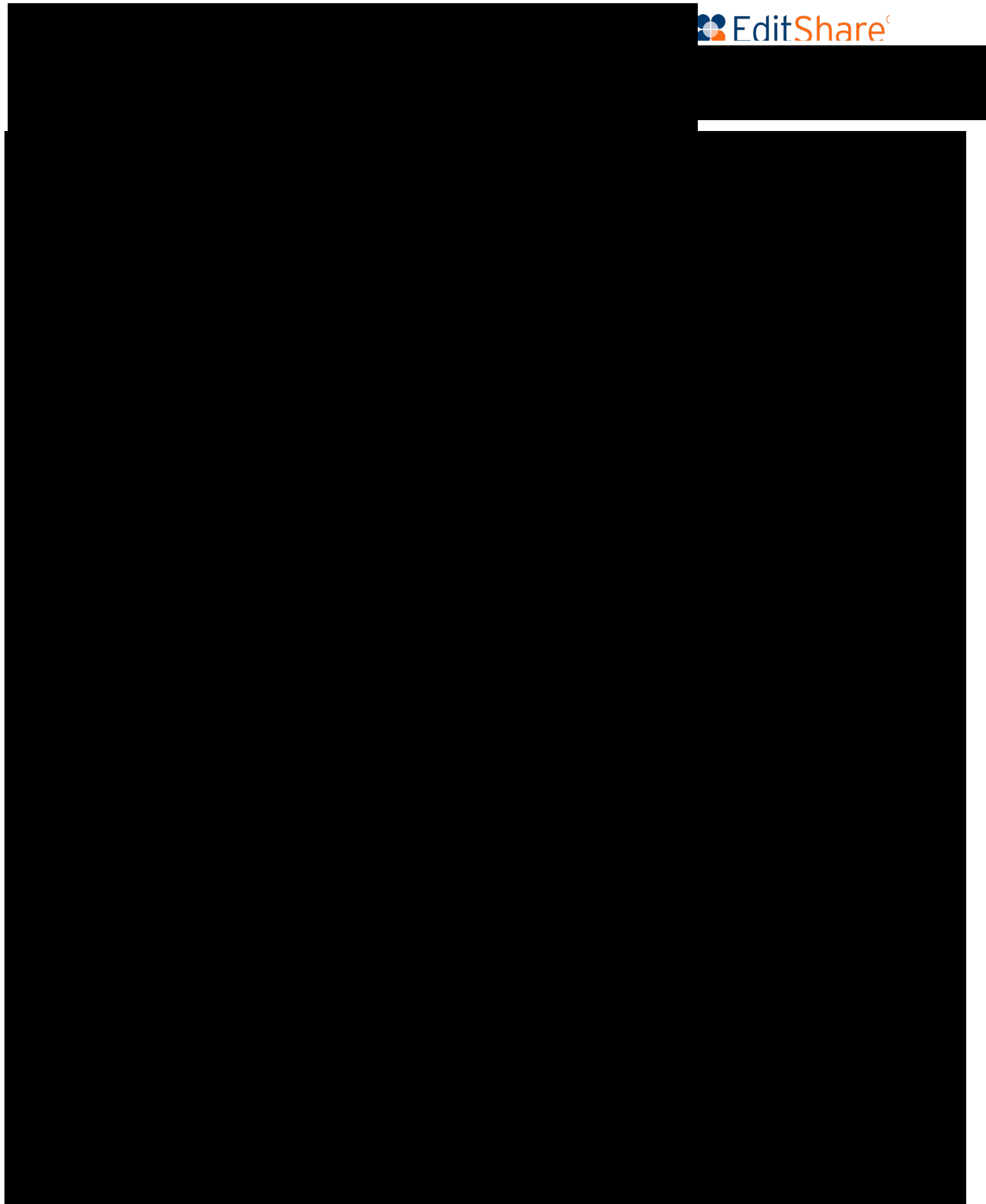
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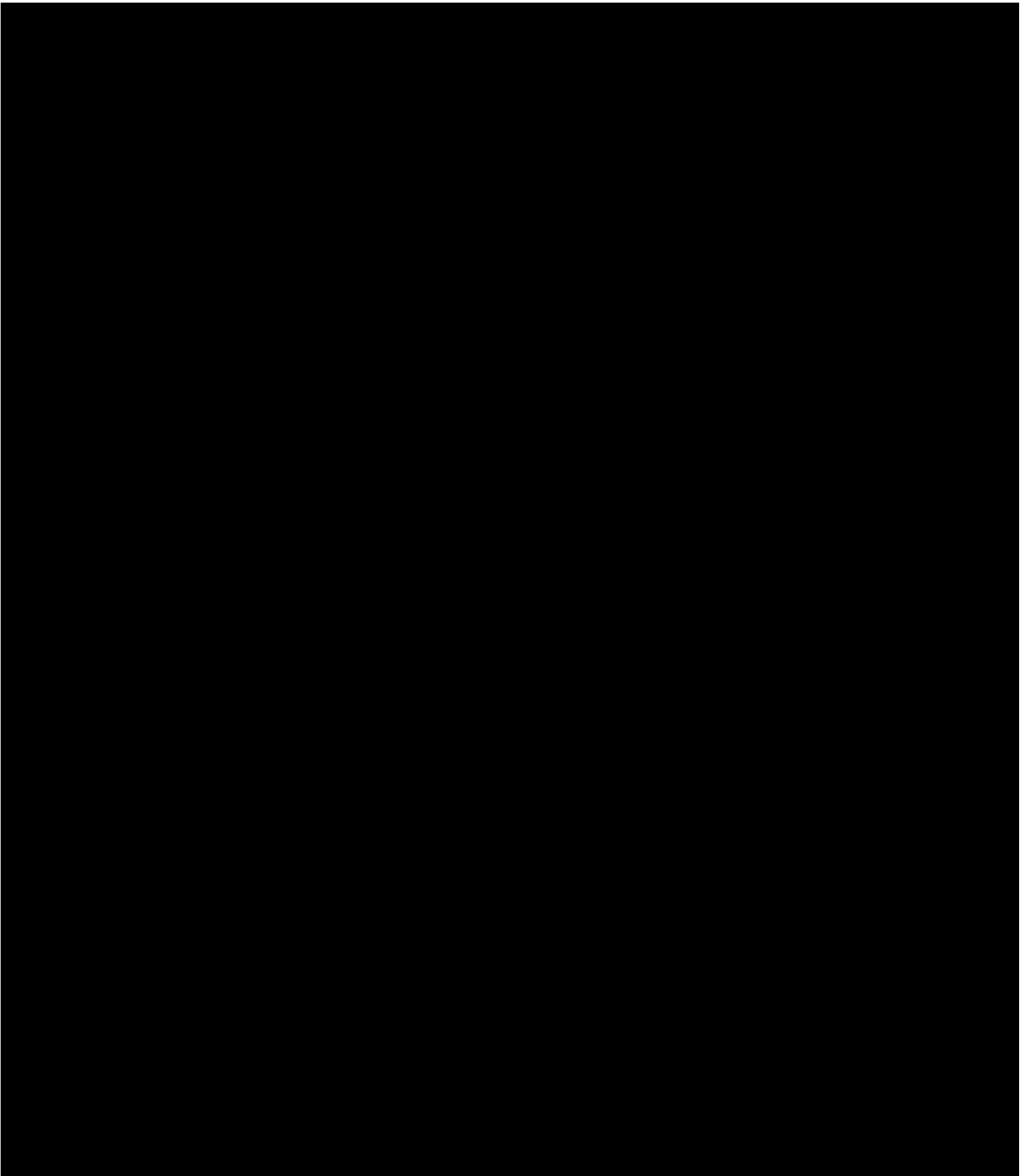














Declaration

By signing this document, I declare that I have read and agree to the terms and conditions of this service level agreement.

EditShare Channel Partner OR End User Authorized signature.

Name:	
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Position:	
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Signature:	
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Date:	
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EditShare Authorized signature.

Name:	
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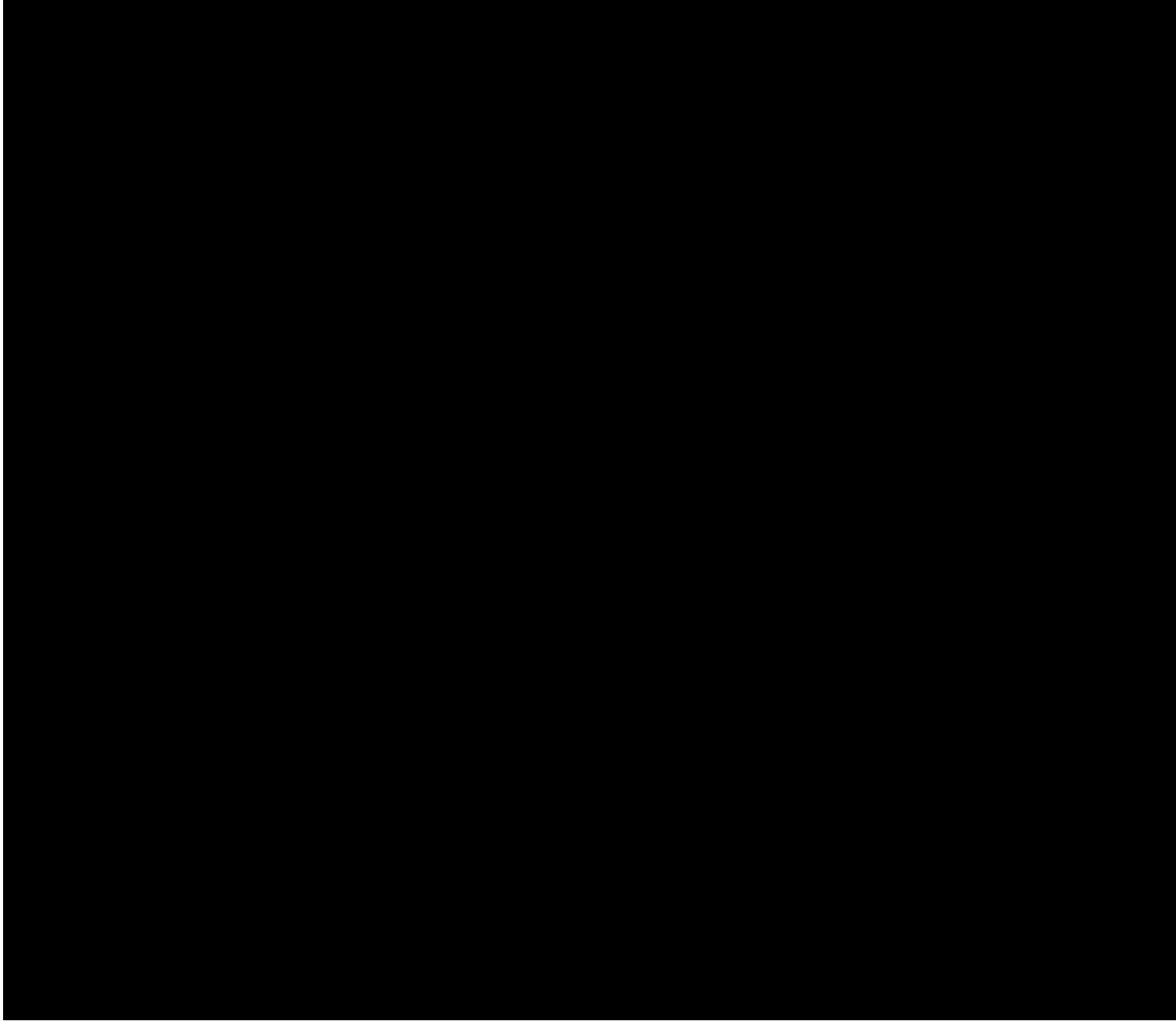
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Amendment - A

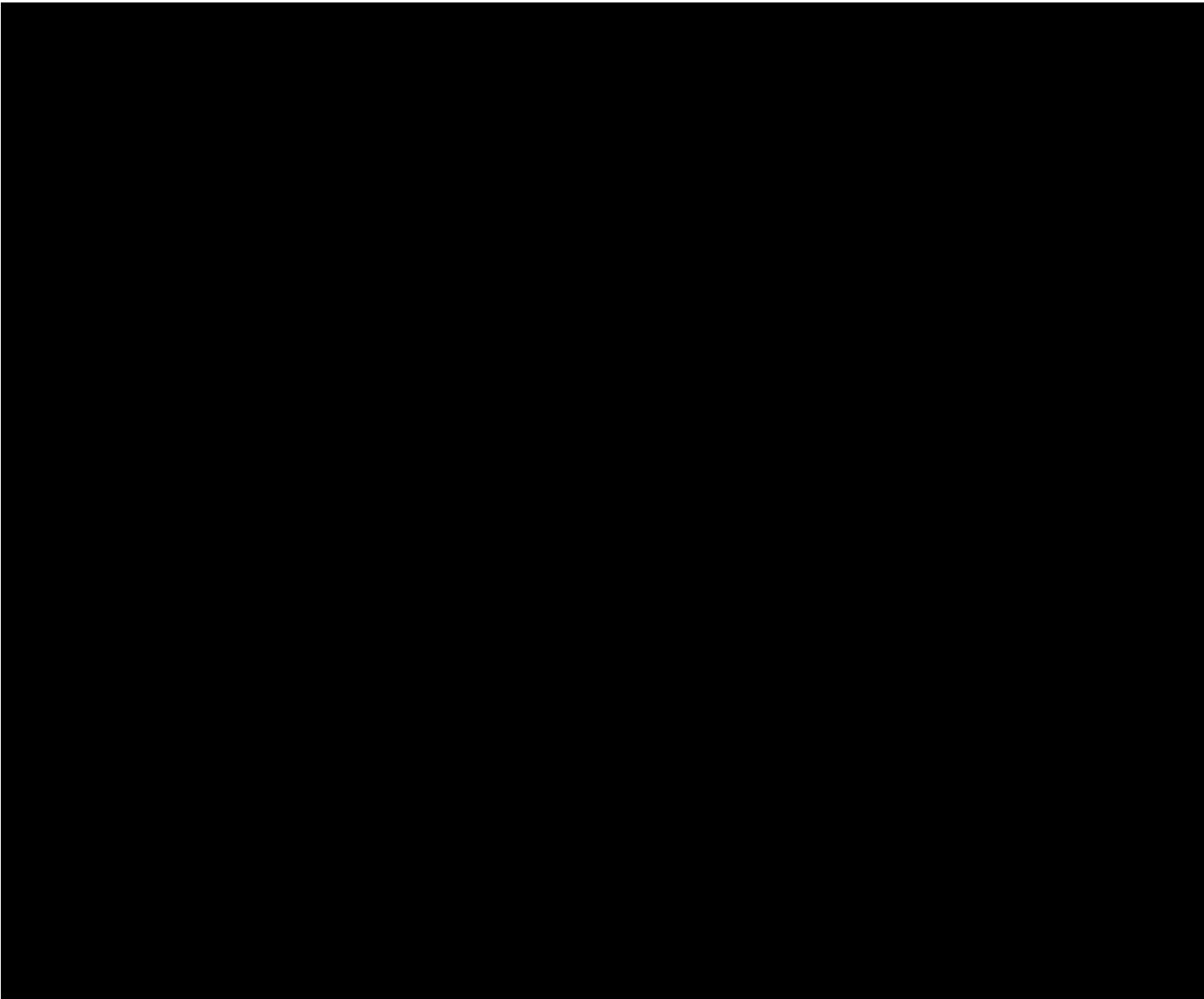
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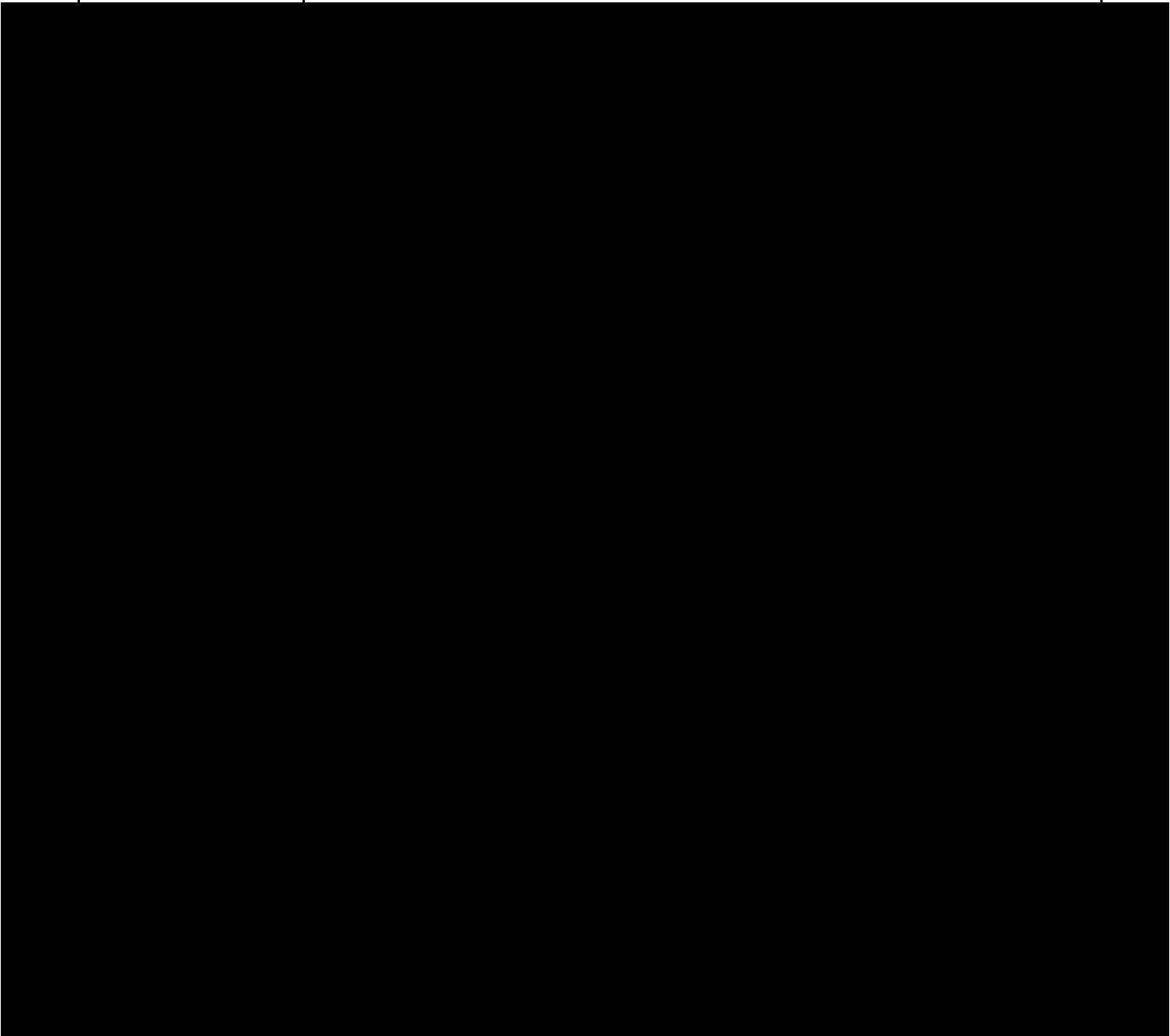


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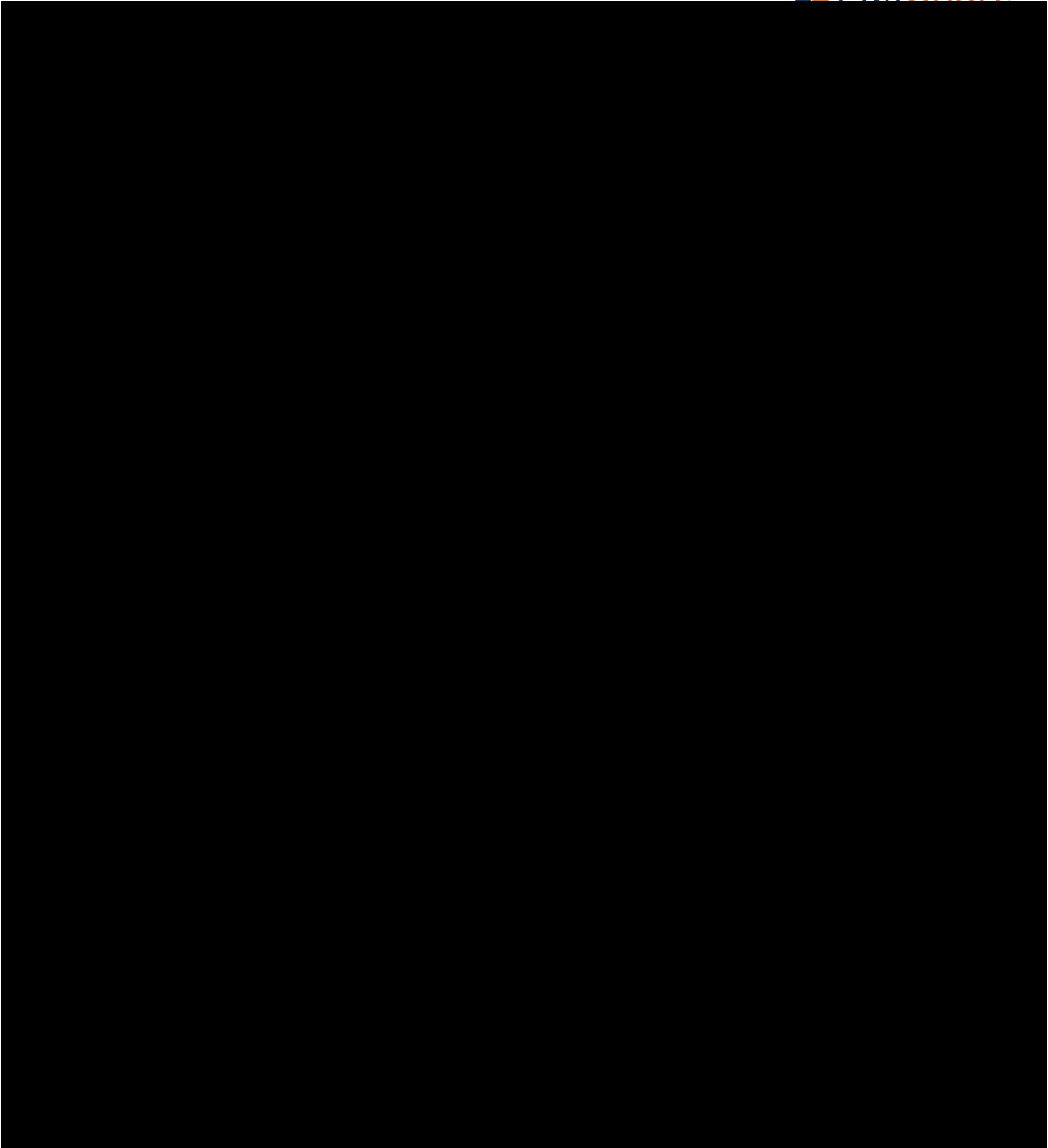
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EditShare Support Service Definitions Document

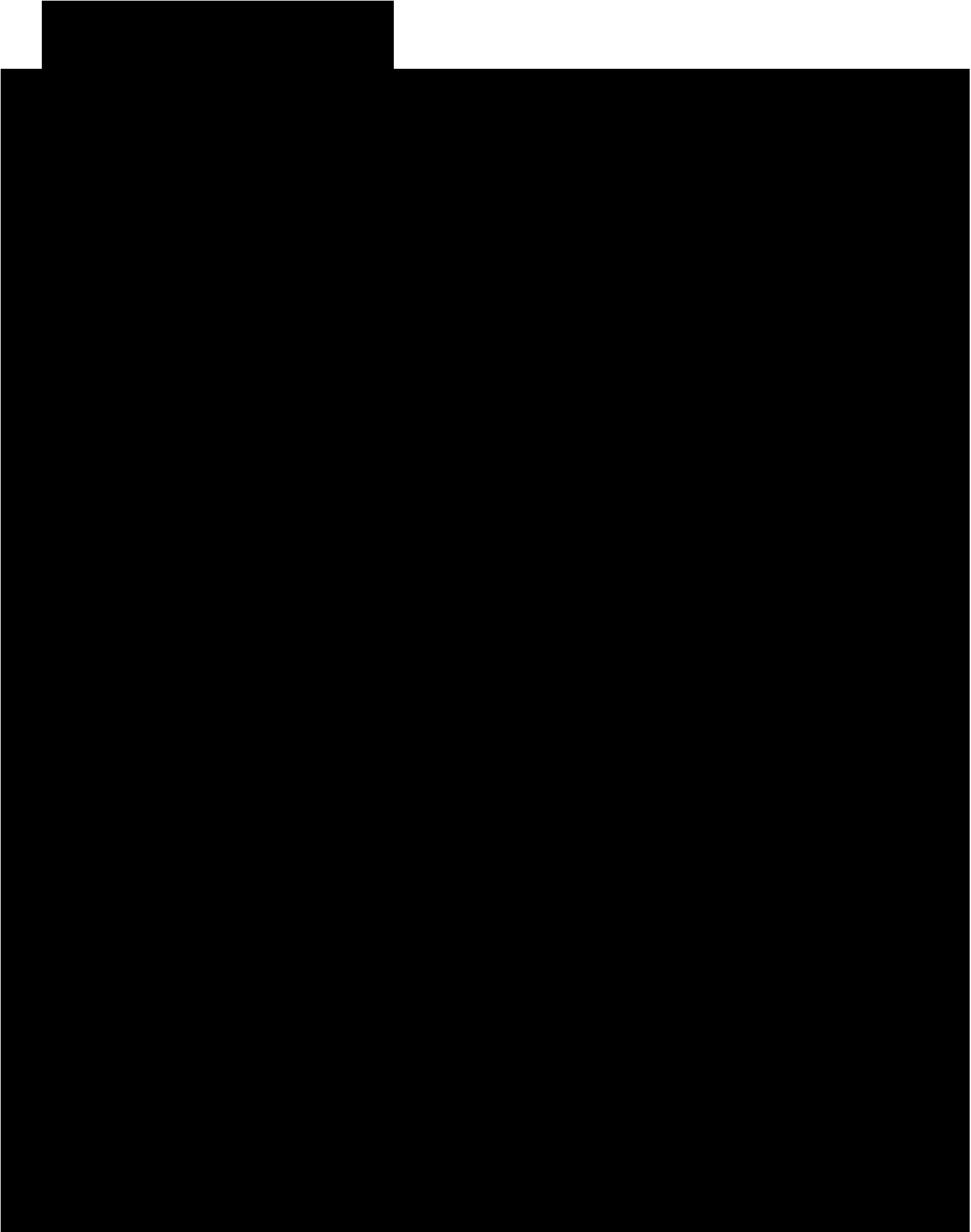


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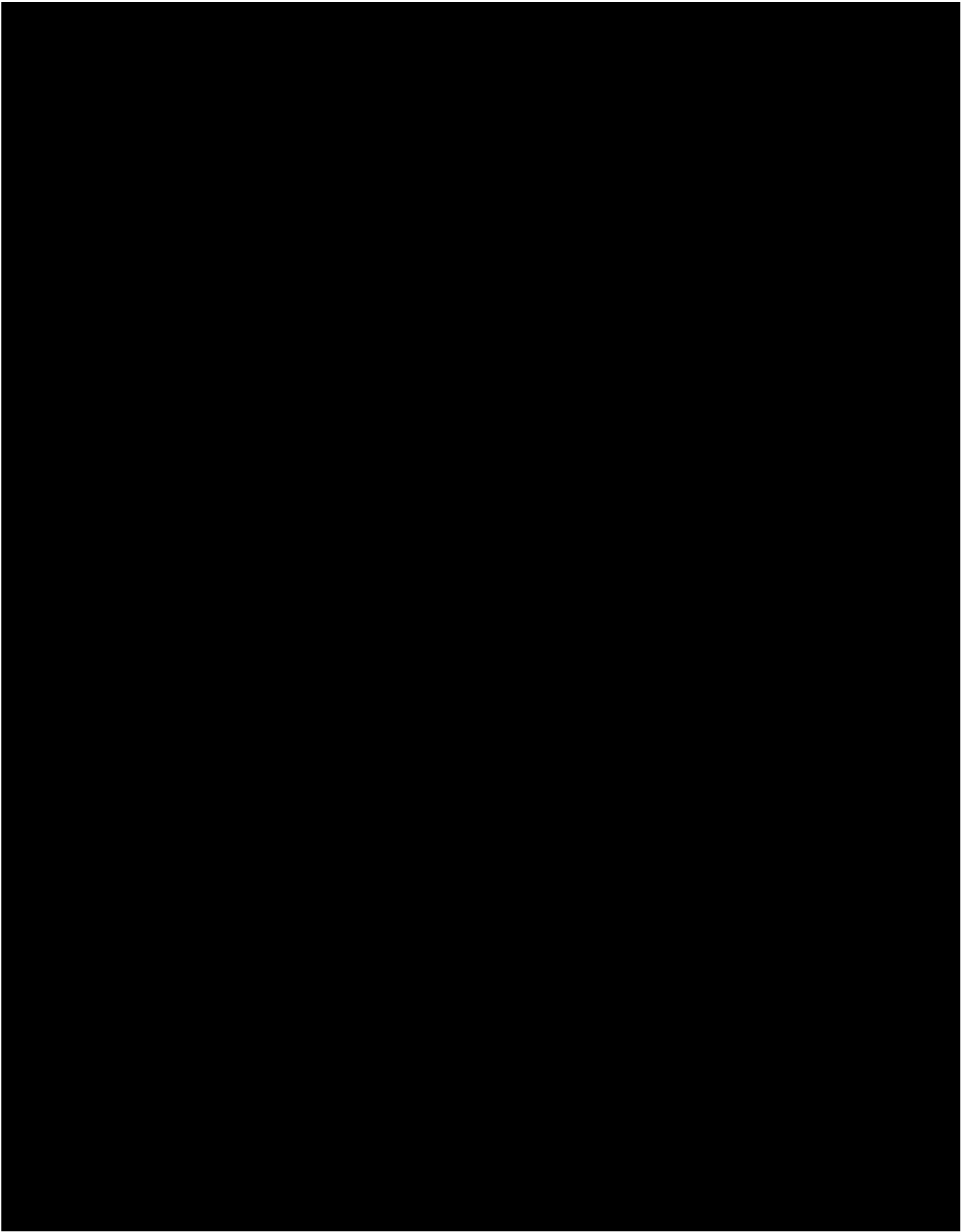
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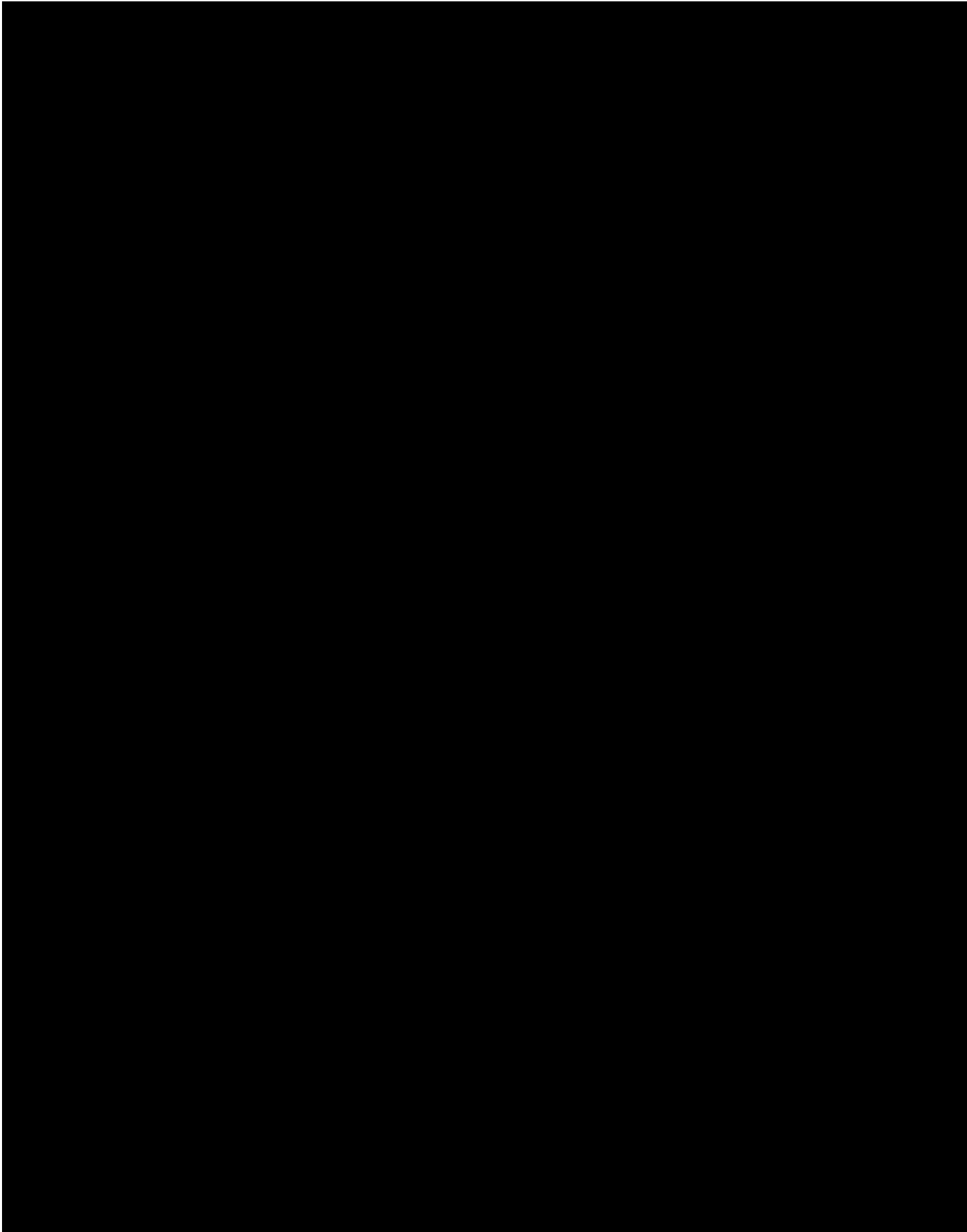
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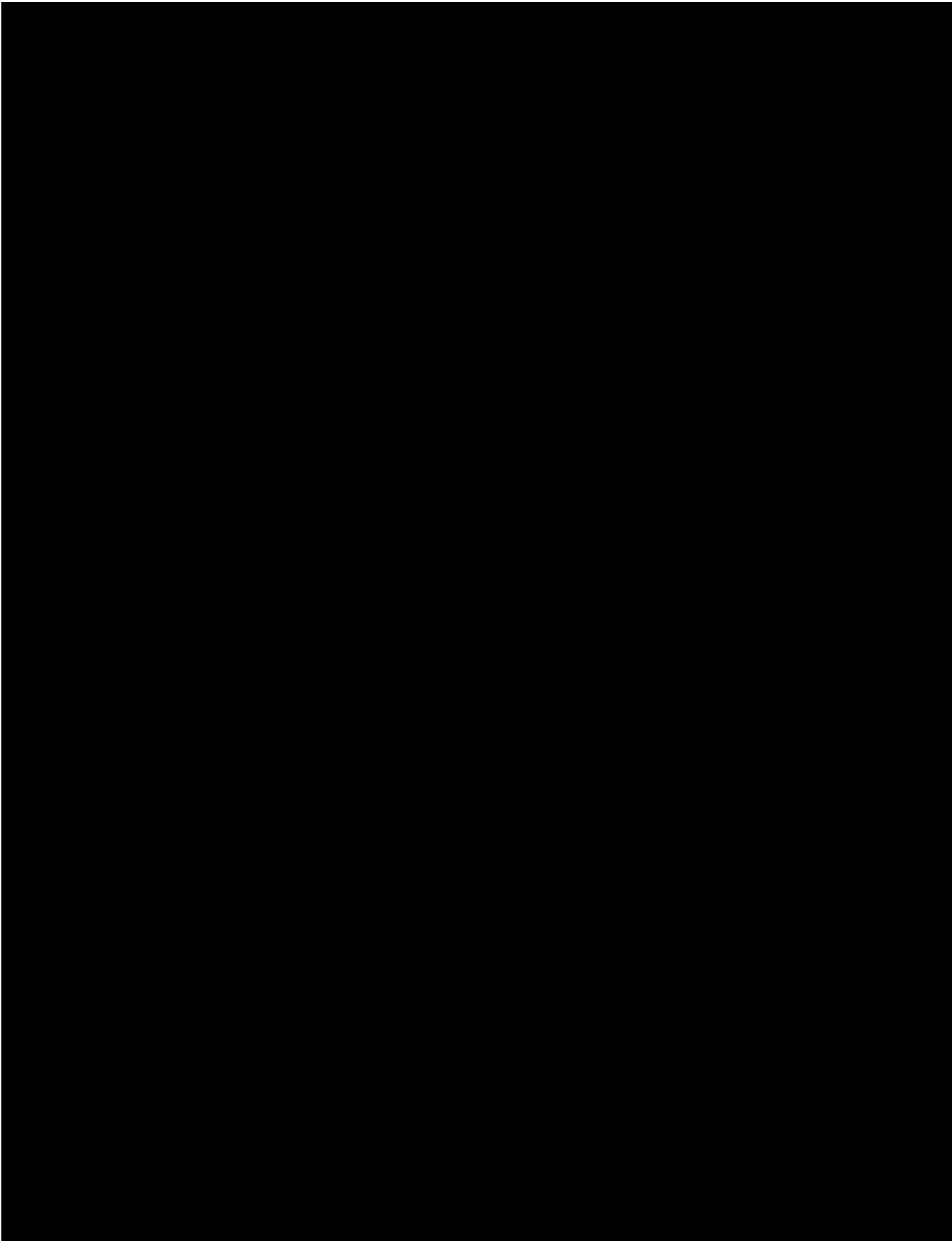
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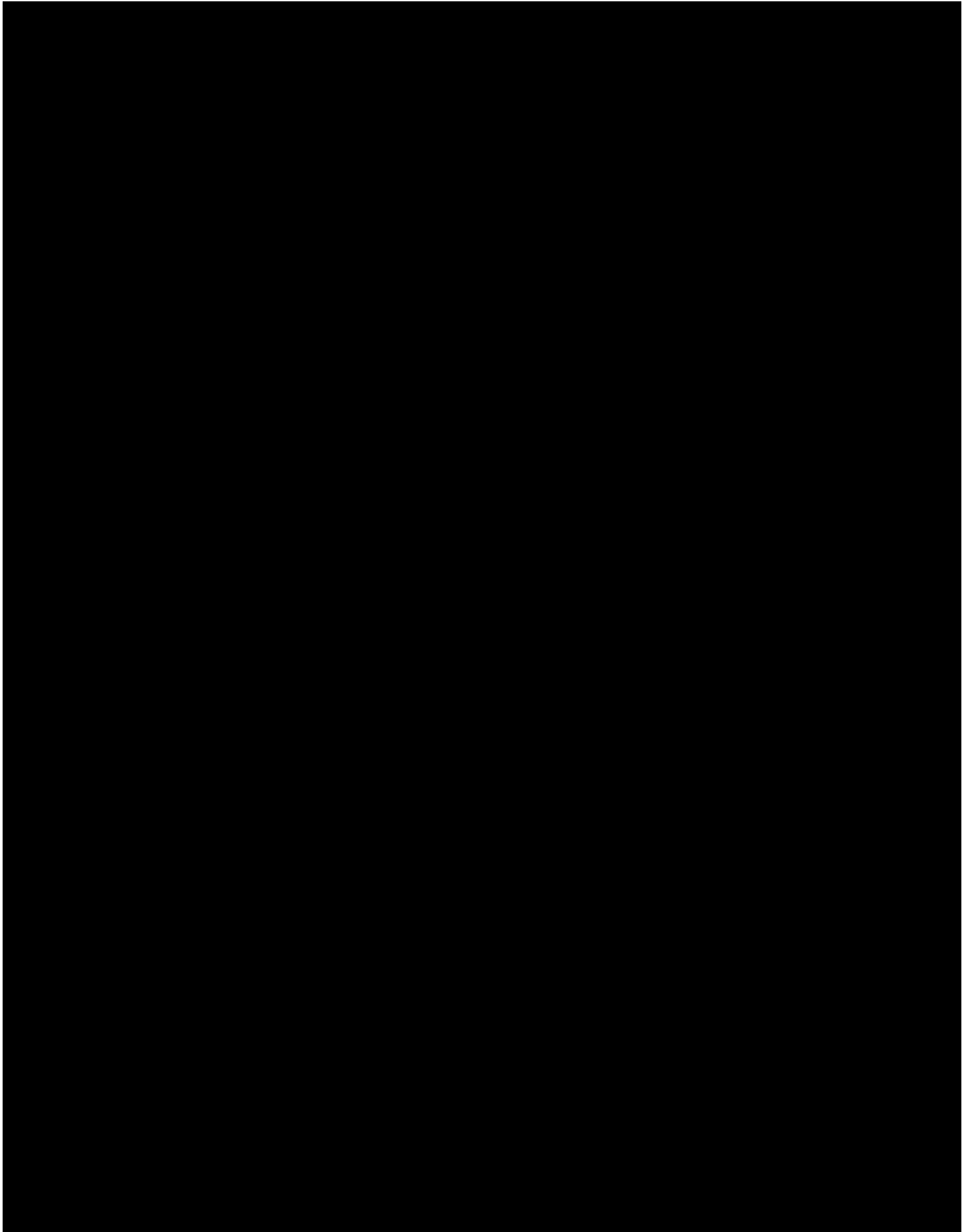
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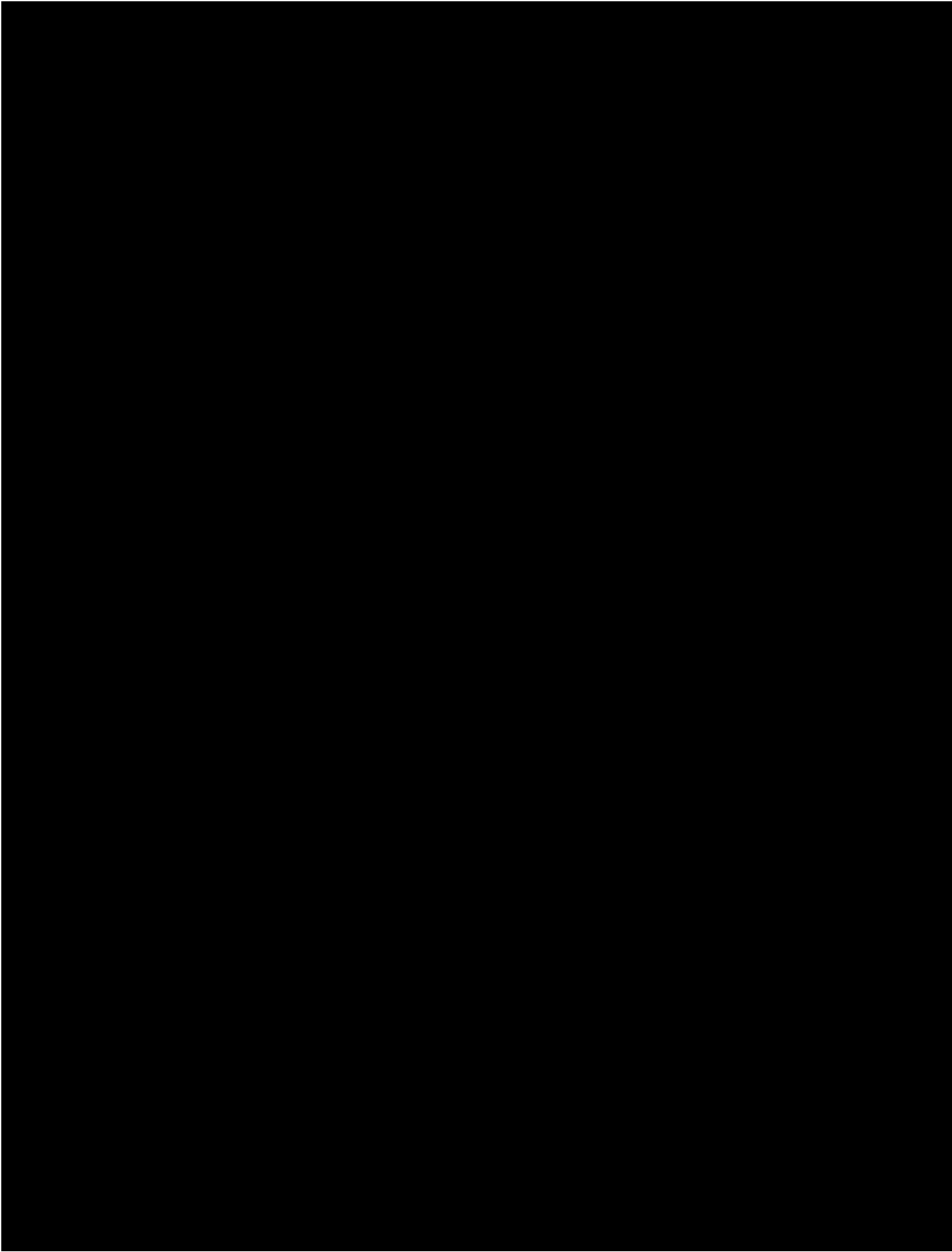
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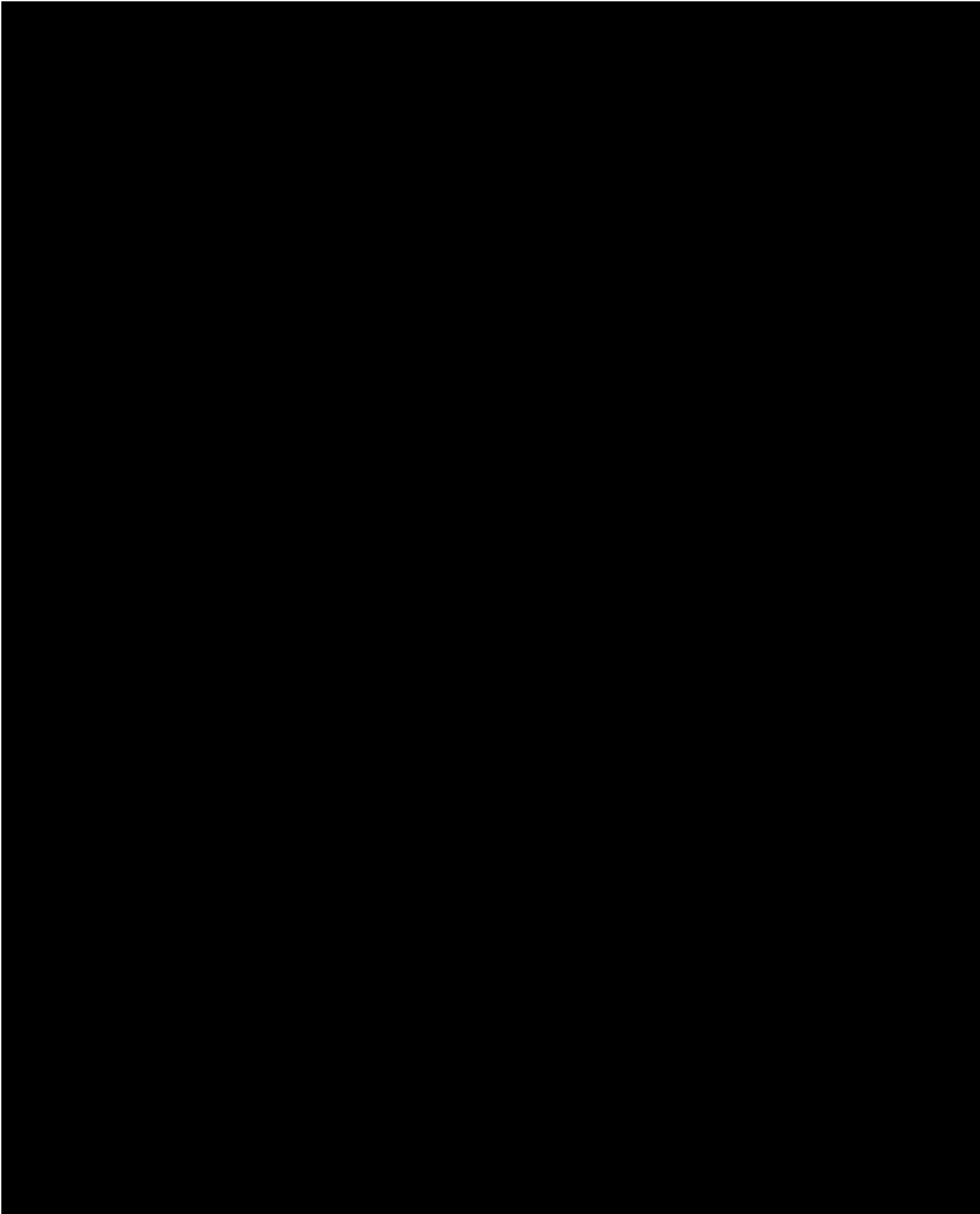
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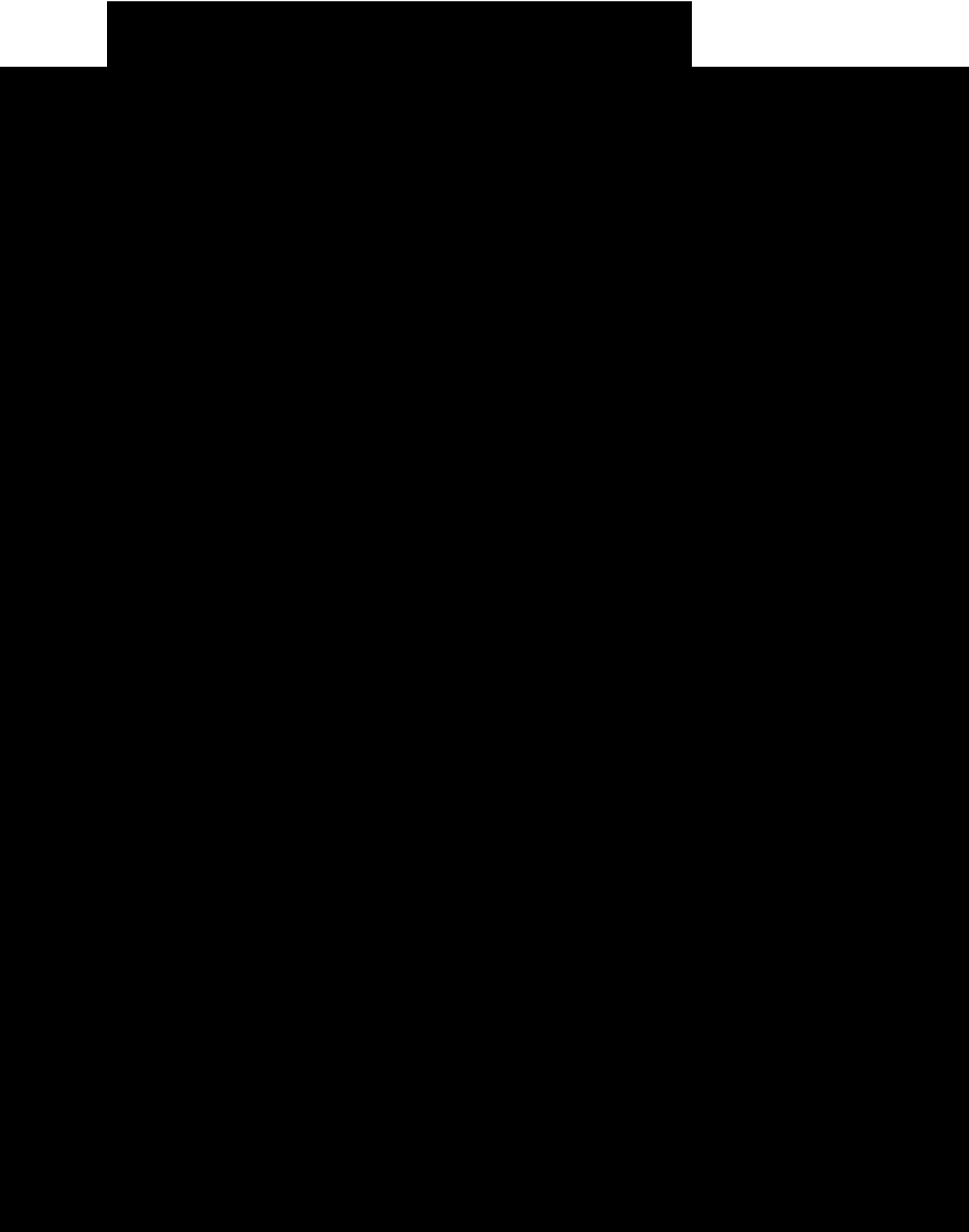
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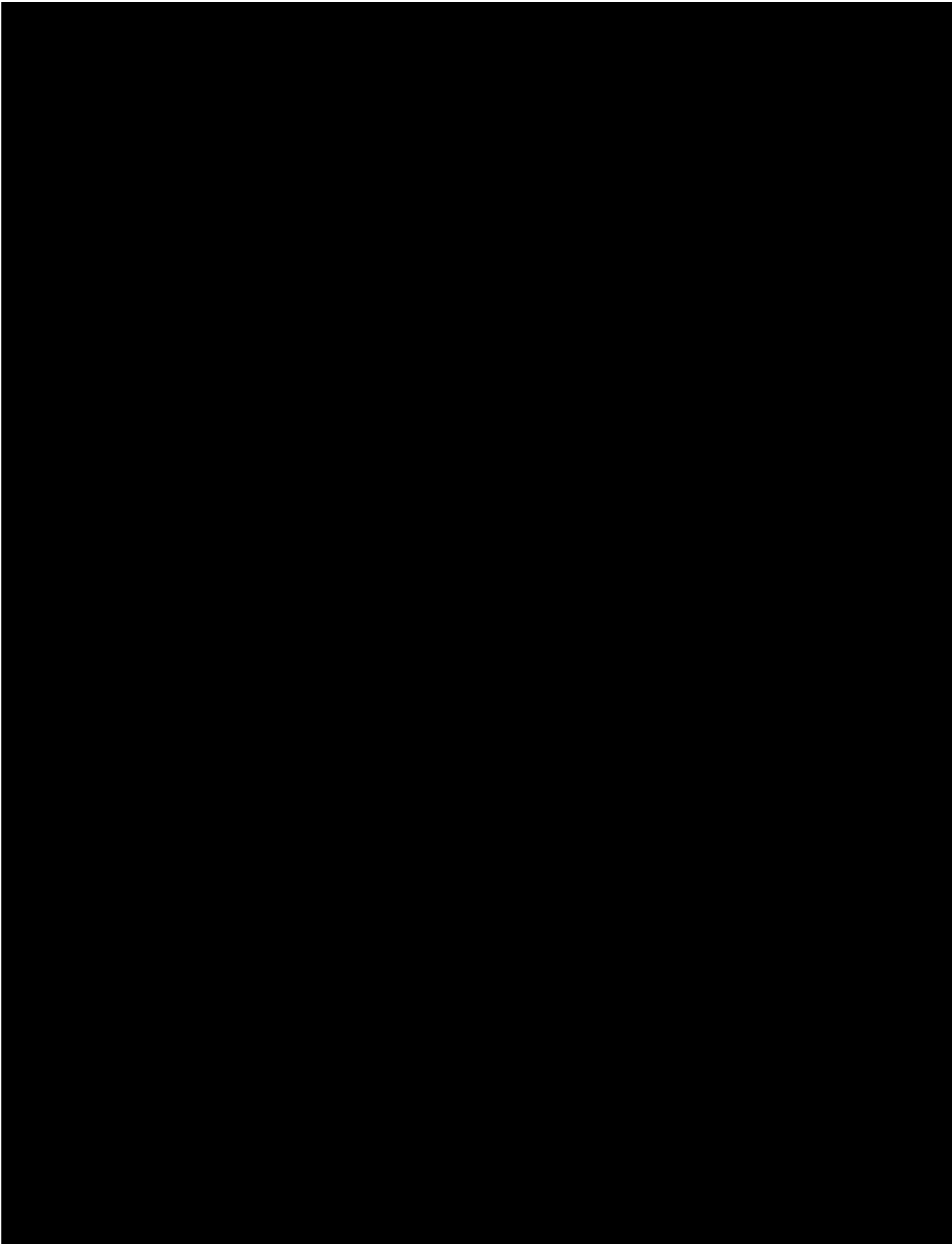
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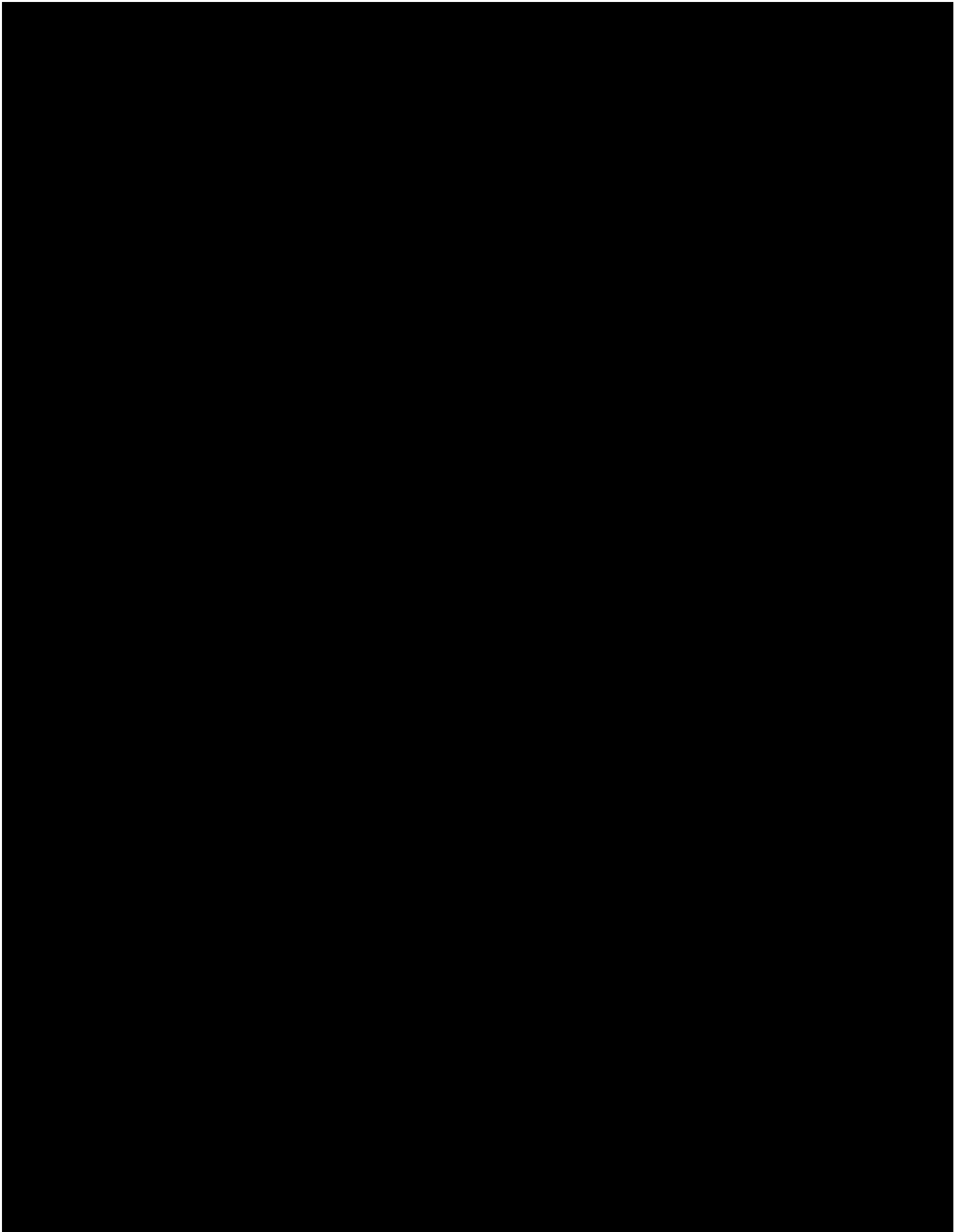
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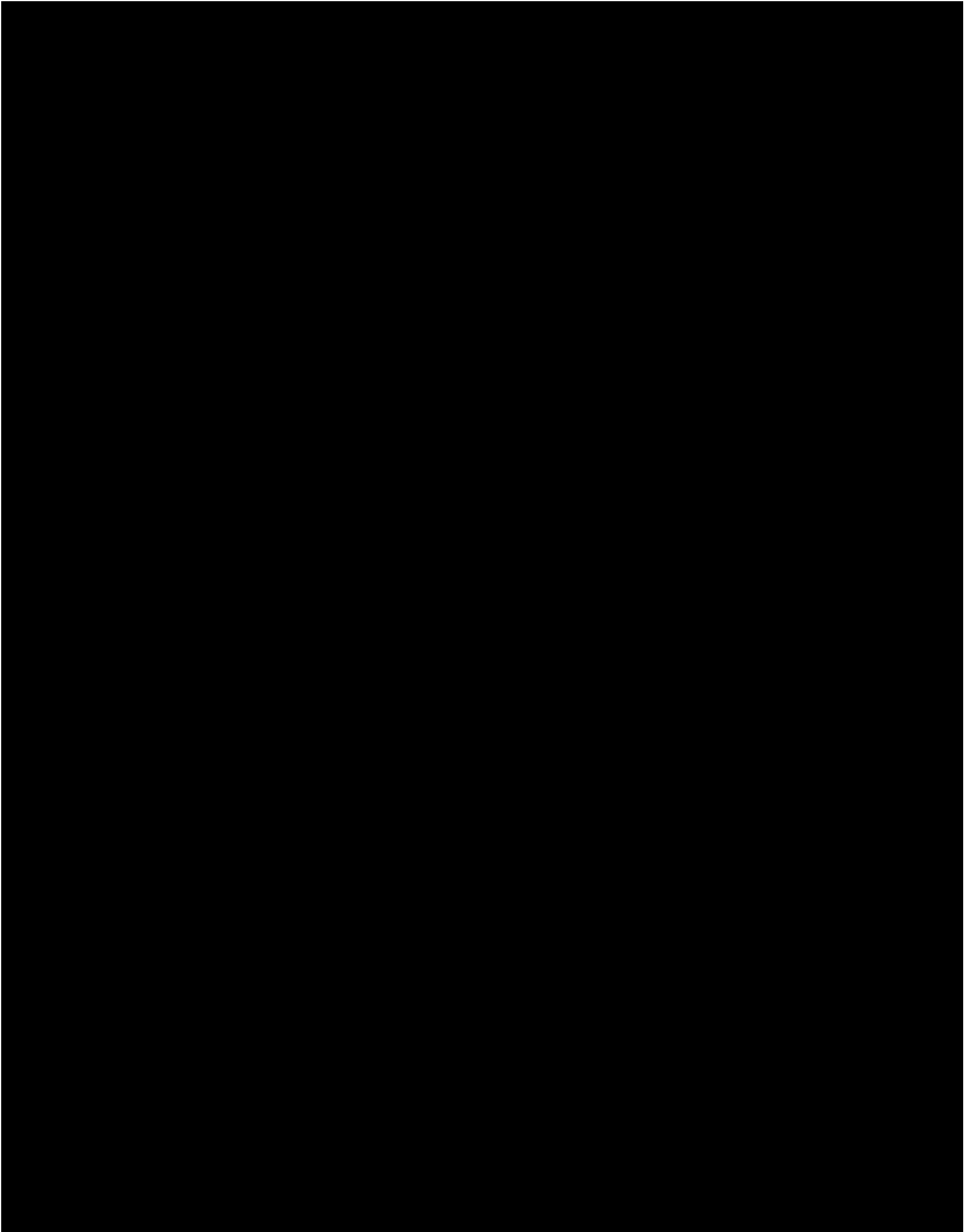
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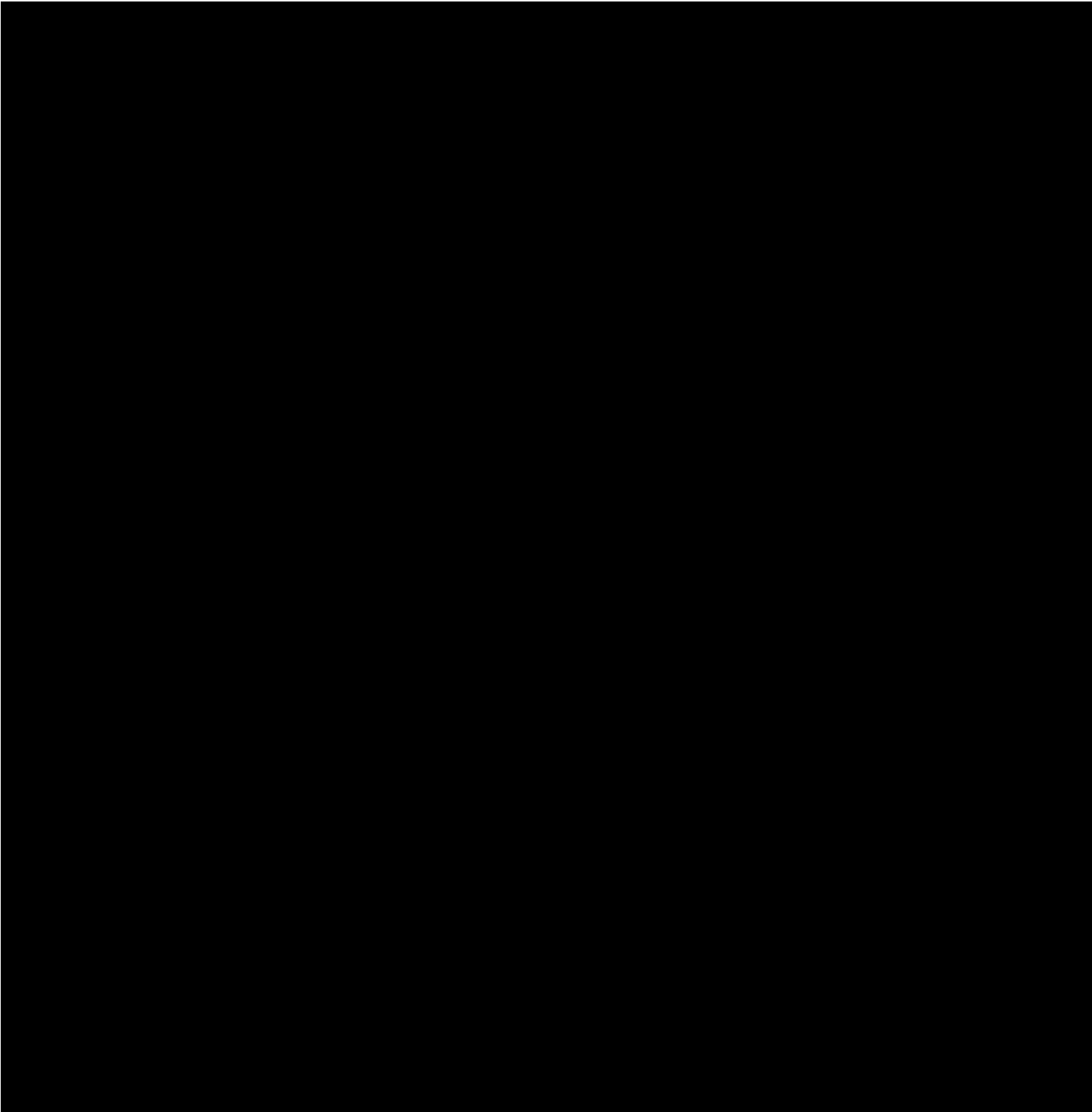
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ANNEX D

Software as a Service Terms

Not applicable

This bid does not include any Software as a Service element from Editshare.

The system proposed is based off an on-premise hardware unit with perpetual user license.

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Annex E

As a Service Terms

Not applicable as per Annex D statement.

Joint Schedule 11 (Processing Data)

Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

“Processor Personnel” all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller and may not otherwise be determined by the Processor.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- (a) a systematic description of the envisaged Processing and the purpose of the Processing;

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- (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*) and shall not Process the Personal Data for any other purpose, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject. In the event of the Controller reasonably rejecting Protection Measures put in place by the Processor, the Processor must propose alternative Protective Measures to the satisfaction of the Controller. Failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures. Protective Measures must take account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that:
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*) of the Core Terms;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and

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- (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - (d) not transfer, Process, or otherwise make available for Processing, Personal Data outside of the UK unless the prior written consent of the Controller has been obtained (such consent may be withheld or subject to such conditions as the Customer considers fit at the Customer's absolute discretion) and the following conditions are fulfilled:
 - (i) the destination country has been recognised as adequate by the UK Government in accordance with Article 45 UK GDPR or section 74 of the DPA 2018;
 - (ii) Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 DPA 2018) as determined by the Controller;
 - (iii) the Data Subject has enforceable rights and effective legal remedies;
 - (iv) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (v) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;

if any of the mechanisms relied on under paragraph 6(d) in respect of any transfers of Personal Data by the Processor at any time ceases to be valid, the Processor shall, if possible, implement an alternative mechanism to ensure compliance with the Data Protection Legislation. If no alternative mechanism is available, the Controller and the Processor shall work together in good faith to determine the appropriate measures to be taken, taking into account any relevant guidance and accepted good industry practice. The Controller reserves the right to require the Processor to cease any affected transfers if no alternative mechanism to ensure compliance with Data Protection Legislation is reasonably available; and
 - (e) at the written direction, and absolute discretion, of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 8 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);

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- (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
8. The Processor's obligation to notify under paragraph 7 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 7 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.

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11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
 - (a) notify the Controller in writing of the intended Subprocessor and Processing that will be undertaken by the Subprocessor;
 - (b) obtain the written consent of the Controller (such consent may be withheld or subject to such conditions as the Controller considers fit at the Controller's absolute discretion);
 - (c) enter into a written legally binding agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor, prior to any Personal Data being transferred to or accessed by the Subprocessor; and
 - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. Any Processing by a Subprocessor or transfer of Personal Data to a Subprocessor permitted by the Controller shall not relieve the Processor from any of its liabilities, responsibilities and obligations to the Controller under this Joint Schedule 11, and the Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 3 to this Joint Schedule 11.

Independent Controllers of Personal Data

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the

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- Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
 20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 18 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
 21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
 22. The Parties shall only provide Personal Data to each other:
 - (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
 23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
 24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
 25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):

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- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 28 of this Joint Schedule 11.

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Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are:
[REDACTED]
NHS England
Mobile: [REDACTED]
Email: [REDACTED]
- 1.2 The contact details of the Supplier's Data Protection Officer are:
[REDACTED]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Relevant Authority is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraph 3 to paragraph 16 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller, and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> On Editshare, we currently host (and will continue to host raw footage and final video files and photographs used to maintain the multimedia content on the NHS website and YouTube channel, plus model release forms for this content, granting us the rights to use a subject's likeness in public facing content. Minimal personal data is retained. For a typical video we would gain data subject consent via a consent form, consisting of their name, signature, and either email address and/or phone number. Their physical likeness or voice would be recorded as part of the filming process. The consent forms would be stored on our work PCs/and secure Editshare storage system/database. The videos would be published to live via either Brightcove, a cloud-based video hosting platform (for NHS.UK) or uploaded to YouTube directly.

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	<p>The Supplier is Controller and the Relevant Authority is Processor</p> <p><i>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller, and the Relevant Authority is the Processor in accordance with paragraph 3 to paragraph 16 of the following Personal Data:</i></p> <ul style="list-style-type: none"> • No Personal data is held by the Supplier directly, they simply provide the storage server, which is securely located internally in 10SC, London. This is currently a closed system with no external web access.
Subject matter of the Processing	<p><i>The processing is needed to ensure that the Processor can effectively deliver the contract to provide Multimedia content for NHS.UK channels.</i></p>
Duration of the Processing	<p><i>Ongoing from previous server. Starting from 2025 for proposed duration of the new server, with an approximate 7-year lifespan.</i></p>
Nature and purposes of the Processing	<p>The storage of the multimedia content for the NHS website and YouTube channel, plus model release forms for this content, granting us the rights to use a subject's likeness in public facing content. Minimal personal data is retained. For a typical video we would gain data subject consent via a consent form, consisting of their name, signature, and either email address and/or phone number. Their physical likeness or voice would be recorded as part of the filming process. The consent forms would be stored on our work PCs/and secure Editshare storage system/database. The videos would be published to live via either Brightcove, a cloud-based video hosting platform (for NHS.UK) or uploaded to YouTube directly.</p>
Type of Personal Data being Processed	<p>For a typical video or photograph we would gain data subject consent via a consent form, consisting of their name, signature, and either email address and/or phone number. Their physical likeness and/or voice would be recorded as part of the filming or</p>

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	photography process and would also be publicly held based on the legal basis of public interest.
Categories of Data Subject	<i>Data subjects consent via a consent form, consisting of their name, signature, and either email address and/or phone number</i>
International transfers and legal gateway	<i>UK only as this is a physical server with no cloud link.</i>
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<i>The data is stored indefinitely and is only removed from public channels if retired due to failing a clinical review or if out of date, or if requested to do so by the subject/participant. We share our footage using the legal basis of public interest/public consent, as agreed with our internal legal team and IG/DPIA colleagues.</i>

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Annex 2 – Security

The technical security requirements set out below provide an indication of the types of security measures that might be considered, in order to protect Personal Data. More, or less, measures may be appropriate depending on the subject matter of the contract, but the overall approach must be proportionate. The technical requirements must also be compliant with legislative and regulatory obligations for content and data, such as UK GDPR. The example technical security requirements set out here are intended to supplement, not replace, security schedules that will detail the total contractual security obligations and requirements that the Processor (i.e. a supplier) will be held to account to deliver under contract. Processors are also required to ensure sufficient 'flow-down' of legislative and regulatory obligations to any third party Sub-processors.

External Certifications e.g. Buyers should ensure that Suppliers hold at least Cyber Essentials certification and ISO 27001:2013 certification if proportionate to the service being procured.

Risk Assessment e.g. Supplier should perform a technical information risk assessment on the service supplied and be able to demonstrate what controls are in place to address those risks.

Security Classification of Information e.g. If the provision of the Services requires the Supplier to Process Authority/Buyer Data which is classified as OFFICIAL, OFFICIAL-SENSITIVE or Personal Data, the Supplier shall implement such additional measures as agreed with the Authority/Buyer from time to time in order to ensure that such information is safeguarded in accordance with the applicable legislative and regulatory obligations.

End User Devices e.g.

- The Supplier shall ensure that any Authority/Buyer Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Authority/Buyer except where the Authority/Buyer has given its prior written consent to an alternative arrangement.
- The Supplier shall ensure that any device which is used to Process Authority/Buyer Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

Testing e.g. The Supplier shall at their own cost and expense, procure a CHECK or CREST Certified Supplier to perform an ITHC or Penetration Test prior to any live Authority/Buyer data being transferred into their systems. The ITHC scope must be agreed with the Authority/Buyer to ensure it covers all the relevant parts of the system that processes, stores or hosts Authority/Buyer data.

Networking e.g. The Supplier shall ensure that any Authority/Buyer Data which it causes to be transmitted over any public network (including the Internet, mobile

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networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

Personnel Security e.g. All Supplier Personnel shall be subject to a pre-employment check before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard or equivalent including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record. The Supplier maybe required to implement additional security vetting for some roles.

Identity, Authentication and Access Control e.g. The Supplier must operate an appropriate access control regime to ensure that users and administrators of the service are uniquely identified. The Supplier must retain records of access to the physical sites and to the service.

Data Destruction/Deletion e.g. The Supplier must be able to demonstrate they can supply a copy of all data on request or at termination of the service, and must be able to securely erase or destroy all data and media that the Authority/Buyer data has been stored and processed on.

Audit and Protective Monitoring e.g. The Supplier shall collect audit records which relate to security events in delivery of the service or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the service, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority/Buyer Data. The retention periods for audit records and event logs must be agreed with the Authority/Buyer and documented.

Location of Authority/Buyer Data e.g. The Supplier shall not, and shall procure that none of its Sub-contractors, process Authority/Buyer Data outside the EEA without the prior written consent of the Authority/Buyer and the Supplier shall not change where it or any of its Sub-contractors process Authority/Buyer Data without the Authority/Buyer's prior written consent which may be subject to conditions.

Vulnerabilities and Corrective Action e.g. Suppliers shall procure and implement security patches to vulnerabilities in accordance with the timescales specified in the NCSC Cloud Security Principle 5.

Suppliers must ensure that all COTS Software and Third Party COTS Software be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support.

Secure Architecture e.g. Suppliers should design the service in accordance with:

- NCSC "[Security Design Principles for Digital Services](#)"
- NCSC "[Bulk Data Principles](#)"

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- NSCS "Cloud Security Principles"

Annex 3 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 3 (Joint Controller Agreement) in replacement of paragraphs 3-16 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 18-28 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the [Supplier/Relevant Authority]:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Deliverables where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Relevant Authority's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Relevant Authority each undertake that they shall:

- (a) report to the other Party every [x] months on:

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- (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Deliverables and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Deliverables and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;

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- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (i) are aware of and comply with their duties under this Annex 3 (Joint Controller Agreement) and those in respect of Confidential Information;
 - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
- (j) ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

3. Data Protection Breach

- 3.1 Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Data Loss Event or circumstances that are likely to give rise to a Data Loss Event, providing the other Party and its advisors with:

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- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Data Loss Event under the Data Protection Legislation; and
- (b) all reasonable assistance, including:
 - (i) co-operation with the other Party and the Information Commissioner investigating the Data Loss Event and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Data Loss Event;
 - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Data Loss Event; and/or
 - (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Data Loss Event, with complete information relating to the Data Loss Event, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within 48 hours of the Data Loss Event relating to the Data Loss Event, in particular:

- (a) the nature of the Data Loss Event;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Data Loss Event; and
- (f) describe the likely consequences of the Data Loss Event.

4. Audit

4.1 The Supplier shall permit:

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- (a) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 3 and the Data Protection Legislation; and/or
- (b) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Deliverables.

4.2 The Relevant Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

5.1 The Parties shall:

- (a) provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

[Guidance: This clause represents a risk share, you may wish to reconsider the apportionment of liability and whether recoverability of losses are likely to be hindered by the contractual limitation of liability provisions]

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- 7.1 If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Data Loss Event ("**Financial Penalties**") then the following shall occur:
- (a) if in the view of the Information Commissioner, the Relevant Authority is responsible for the Data Loss Event, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Data Loss Event. The Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Data Loss Event;
 - (b) if in the view of the Information Commissioner, the Supplier is responsible for the Data Loss Event, in that it is not a Data Loss Event that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Data Loss Event; or
 - (c) if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Data Loss Event and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Data Loss Event can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
- 7.2 If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such Data Loss Event. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the "Claim Losses"):
- (a) if the Relevant Authority is responsible for the relevant Data Loss Event, then the Relevant Authority shall be responsible for the Claim Losses;
 - (b) if the Supplier is responsible for the relevant Data Loss Event, then the Supplier shall be responsible for the Claim Losses: and

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- (c) if responsibility for the relevant Data Loss Event is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Data Loss Event, having regard to all the circumstances of the Data Loss Event and the legal and financial obligations of the Relevant Authority.

8. Termination

If the Supplier is in material Default under any of its obligations under this Annex 3 (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

9. Sub-Processing

9.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.