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## **AWARD FORM**

**Bioinformatics contractor to assess applications for  
approval of GMOs**

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## Award Form

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

<b>1.</b>	<b>Buyer</b>	Food Standards Agency acting as part of the Crown (the Buyer).  Its offices are on: Foss House, Kings Pool 1-2 Peasholme Green York YO1 7PR
<b>2.</b>	<b>Supplier</b>	Name: Fera Science Ltd  Address: York Biotech Campus, Sand Hutton York YO41 1LZ  Registration number: 09413107
<b>3.</b>	<b>Contract</b>	This Contract between the Buyer and the Supplier is for the supply of Deliverables - see Schedule 2 (Specification) for full details.  This opportunity is advertised in this Contract Notice in Find A Tender, reference <b>2024/S 000-004785</b> (FTS Contract Notice).
<b>4.</b>	<b>Contract reference</b>	C246710
<b>5.</b>	<b>Buyer Cause</b>	[Any material breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier.]

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6.	<b>Collaborative working principles</b>	The Collaborative Working Principles do not apply to this Contract.
7.	<b>Financial Transparency Objectives</b>	The Financial Transparency Objectives do not apply to this Contract.
8.	<b>Start Date</b>	22nd April 2024
9.	<b>Expiry Date</b>	31st March 2027  <b>Break Clause</b> – A Break Clause is inserted into the Contract which can be implemented by the Buyer 18 months following the Start Date of this Contract on the 22 <sup>nd</sup> October 2025. We will confirm whether we wish to proceed with the remainder of the Contract by issuing a Variation to Contract confirming our intention and any changes to our requirements.
10.	<b>Extension Period</b>	Further period up to 6 months  Extension exercised where the Buyer gives the Supplier no less than 1 Months' written notice before this Contract expires
11.	<b>Ending this Contract without a reason</b>	The Buyer shall be able to terminate this Contract in accordance with Clause 14.3.  Provided that the amount of notice that the Buyer shall give to terminate in Clause 14.3 shall be <b>90 days</b> .
12.	<b>Incorporated Terms</b>  (together these documents form the " <b>this Contract</b> ")	The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:  (a) This Award Form (b) Any Special Terms (see <b>Section 14 (Special Terms)</b> in this Award Form) (c) Schedule 31 (Buyer Specific Terms) (d) Core Terms (e) Schedule 36 (Intellectual Property Rights) (f) Schedule 1 (Definitions)

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		<p>(g) Schedule 20 (Processing Data)</p> <p>(h) The following Schedules (in equal order of precedence):</p> <ul style="list-style-type: none"> <li>a. Schedule 2 (Specification)</li> <li>b. Schedule 3 (Charges)</li> <li>c. Schedule 5 (Commercially Sensitive Information)</li> <li>d. Schedule 13 (Contract Management)</li> <li>e. Schedule 16 (Security)</li> <li>f. Schedule 21 (Variation Form)</li> <li>g. Schedule 22 (Insurance Requirements)</li> <li>h. Schedule 26 (Sustainability)</li> <li>i. Schedule 27 (Key Subcontractors)</li> <li>j. Schedule 29 (Key Supplier Staff)</li> <li>k. Schedule 30 (Exit Management)</li> </ul> <p>(i) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above.</p>
13.	<b>Special Terms</b>	
14	<b>Buyer's Environmental Policy</b>	<p>For the purposes of the Contract the:</p> <p>The Buyer's additional sustainability requirements are: <a href="#">FSA Environmental Sustainability Strategy</a>.</p>
15	<b>Social Value Commitment</b>	<p>The Supplier agrees, in providing the Deliverables and performing its obligations under this Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and provide the Social Value Reports as set out in Schedule 26 (Sustainability)</p>

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<b>16</b>	<b>Buyer's Security Requirements and Security and ICT Policy</b>	As set out in Schedule 16 (Security) Part A.
<b>17</b>	<b>Charges</b>	As detailed in Schedule 3 (Charges)
<b>18</b>	<b>Estimated Year 1 Charges</b>	
<b>19</b>	<b>Reimbursable expenses</b>	None
<b>20</b>	<b>Payment method</b>	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p> <p>All invoices must be sent, quoting a valid Purchase Order Number (PO Number), to:</p> <p>Within [10] Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, item number (if applicable) and the details (name, email, and telephone number) of your Buyer contact (i.e. Buyer Authorised Representative). Non-compliant invoices may be sent back to you, which may lead to a delay in payment.</p>
<b>21</b>	<b>Service Levels</b>	Not applicable
<b>22</b>	<b>Liability</b>	<p>In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than</p>

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		In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the <span style="background-color: black; color: black;">[REDACTED]</span>
23	<b>Cyber Essentials Certification</b>	Not required
24	<b>Progress Meetings and Progress Reports</b>	The Supplier shall attend Progress Meetings with the Buyer as specified in Schedule 4 - Tender
25	<b>Guarantor</b>	Not applicable
26	<b>Virtual Library</b>	Not applicable
27	<b>Supplier's Contract Manager</b>	<span style="background-color: black; color: black;">[REDACTED]</span>
28	<b>Supplier Authorised Representative</b>	
29	<b>Supplier Compliance Officer</b>	<span style="background-color: black; color: black;">[REDACTED]</span>
30	<b>Supplier Data Protection Officer</b>	
31	<b>Supplier Marketing Contact</b>	

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32	Key Subcontractors		
33	Buyer Authorised Representative		

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For and on behalf of the Supplier:	For and on behalf of the Buyer
<div></div>	



## **CORE TERMS – MID-TIER**

### **1. Definitions used in the contract**

Interpret this Contract using Schedule 1 (Definitions).

### **2. How the contract works**

2.1. If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:

- 2.1.1. make changes to the Award Form;
- 2.1.2. create new Schedules;
- 2.1.3. exclude optional template Schedules; and
- 2.1.4. use Special Terms in the Award Form to add or change terms.

2.2. The Contract:

- 2.2.1. is between the Supplier and the Buyer; and
- 2.2.2. includes Core Terms, Schedules and any other changes or items in the completed Award Form.

2.3. The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.

2.4. The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:

- 2.4.1. the Buyer's requirements for the Deliverables;
- 2.4.2. the Buyer's operating processes and working methods; and
- 2.4.3. the ownership and fitness for purpose of the Buyer Assets,
- 2.4.4. and it has advised the Buyer in writing of:
- 2.4.5. each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
- 2.4.6. the actions needed to remedy each such unsuitable aspect; and
- 2.4.7. a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

2.4.8. and such actions, timetable and costs are fully reflected in this Contract.

2.5. The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

2.5.1. verify the accuracy of the Due Diligence Information; and

2.5.2. properly perform its own adequate checks.

2.6. The Buyer will not be liable for errors, omissions or misrepresentation of any information.

2.7. The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1. All deliverables**

3.1.1. The Supplier must provide Deliverables:

- a) that comply with the Specification, the Tender Response and this Contract;
- b) using reasonable skill and care;
- c) using Good Industry Practice;
- d) using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- e) on the dates agreed; and
- f) that comply with Law.

3.1.2. The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

3.1.3. Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;

- c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

### 3.2. Goods clauses

- 3.2.1. All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2. The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3. Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4. The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5. The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6. The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7. All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8. The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9. The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Re- call of the Goods.
- 3.2.10. The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.11. The Supplier must at its own cost repair, replace, refund or substitute

(at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause **Error! Reference source not found.** If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

3.2.12. The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### 3.3. **Services clauses**

3.3.1. Late Delivery of the Services will be a Default of this Contract.

3.3.2. The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.

3.3.3. The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.

3.3.4. The Supplier must allocate sufficient resources and appropriate expertise to this Contract.

3.3.5. The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

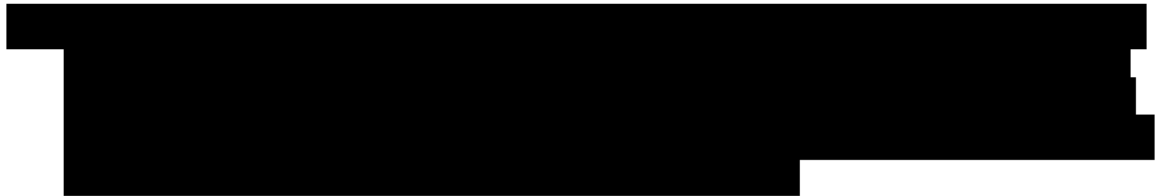
3.3.6. On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.

3.3.7. The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.8. The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

## 4. **Pricing and payments**

- 4.1. In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- 4.2. All Charges:
  - 4.2.1. exclude VAT, which is payable on provision of a valid VAT invoice; and
  - 4.2.2. include all costs connected with the Supply of Deliverables.
- 4.3. The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.
- 4.4. A Supplier invoice is only valid if it:
  - 4.4.1. includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
  - 4.4.2. includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5. Not Used
- 4.6. The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7. The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.



## 5. The buyer's obligations to the supplier

- 5.1. If Supplier Non-Performance arises from a Buyer Cause:
  - 5.1.1. the Buyer cannot terminate this Contract under Clause **Error! Reference source not found.**;
  - 5.1.2. the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
  - 5.1.3. the Supplier is entitled to additional time needed to make the Delivery;
  - 5.1.4. the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2. Clause **Error! Reference source not found.** only applies if the Supplier:

- 5.2.1. gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
- 5.2.2. demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
- 5.2.3. mitigated the impact of the Buyer Cause.

## **6. Record keeping and reporting**

- 6.1. The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2. The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.
- 6.3. Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
  - 6.3.1. on or before the Effective Date;
  - 6.3.2. at the end of each Contract Year; and
  - 6.3.3. within six (6) Months of the end of the Contract Period,
  - 6.3.4. and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.
- 6.4. If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
  - 6.4.1. Supplier's currently incurred or forecast future Costs; and
  - 6.4.2. forecast Charges for the remainder of this Contract,
  - 6.4.3. then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5. The Buyer or an Auditor can Audit the Supplier.

- 6.7. During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
- 6.7.1. all information within the permitted scope of the Audit;
  - 6.7.2. any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
  - 6.7.3. the Supplier Staff.
- 6.8. The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9. The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
- 6.9.1. correcting any identified Default;
  - 6.9.2. rectifying any error identified in a Financial Report; and
  - 6.9.3. repaying any Charges that the Buyer has overpaid.
- 6.10. If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- 6.10.1. tell the Buyer and give reasons;
  - 6.10.2. propose corrective action; and
  - 6.10.3. provide a deadline for completing the corrective action.
- 6.11. Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

## **7. Supplier staff**

- 7.1. The Supplier Staff involved in the performance of this Contract must:
- 7.9.1. be appropriately trained and qualified;
  - 7.9.2. be vetted using Good Industry Practice and the Security Policy (is used); and
  - 7.9.3. comply with all conduct requirements when on the Buyer's Premises.
- 7.2. Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3. The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.4. The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

7.5. The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

## **8. Supply chain**

### **8.1. Appointing Subcontractors**

8.9.1. The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

- a) manage Subcontractors in accordance with Good Industry Practice;
- b) comply with its obligations under this Contract; and
- c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

### **8.2. Mandatory provisions in Sub-Contracts**

8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

- a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
- b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
- c) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- d) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- e) allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

### **8.3. When Sub-Contracts can be ended**

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:



- a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause **Error! Reference source not found.**;
- c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.



#### 8.5. Ongoing responsibility of the Supplier

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

### 9. Rights and protection

#### 9.1. The Supplier warrants and represents that:

- 9.1.1 it has full capacity and authority to enter into and to perform this Contract;
- 9.1.1. this Contract is entered into by its authorised representative;
- 9.1.2. it is a legally valid and existing organisation incorporated in the place it was formed;
- 9.1.3. there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;
- 9.1.4. all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;
- 9.1.5. it doesn't have any contractual obligations which are likely to have a

material adverse effect on its ability to perform this Contract;

9.1.6. it is not impacted by an Insolvency Event or a Financial Distress Event; and

9.1.7. neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.

9.2. The warranties and representations in Clauses **Error! Reference source not found.** and **Error! Reference source not found.** are repeated each time the Supplier provides Deliverables under this Contract.

9.3. The Supplier indemnifies the Buyer against each of the following:

9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and

9.3.2 non-payment by the Supplier of any tax or National Insurance.

9.4. All claims indemnified under this Contract must use Clause **Error! Reference source not found.**

9.5. The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.

9.6. If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.

9.7. All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## 10. Intellectual Property Rights (IPRs)

10.1. The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.

10.2. If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

10.3. If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:

10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or

10.3.2. replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.

10.4. If the Buyer requires that the Supplier procures a licence in accordance

with Clause **Error! Reference source not found.** or to modify or replace an item pursuant to Clause **Error! Reference source not found.**, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses **Error! Reference source not found.** shall apply.

## 11. Rectifying issues

- 11.1. If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2. When the Buyer receives a requested Rectification Plan it can either:
  - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or
  - 11.2.1. accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 11.3. Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:
  - 11.3.1. will give reasonable grounds for its decision; and
  - 11.3.2. may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

## 12. Escalating issues

- 12.1. If the Supplier fails to:
  - 12.1.1. submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses **Error! Reference source not found.** or **Error! Reference source not found.**; and
  - 12.1.2. adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.
- 12.2. The Escalation Meeting(s) will continue until the Buyer is satisfied that the

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Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

- 12.3. If the Supplier is in Default of any of its obligations under this Clause **Error! Reference source not found.**, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses **Error! Reference source not found.** shall apply as if the contract were terminated under Clause **Error! Reference source not found.**.

### 13. Step-in rights

- 13.1. If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause **Error! Reference source not found.** and setting out:
- 13.1.1. whether it will be taking action itself or with the assistance of a third party;
  - 13.1.2. what Required Action the Buyer will take during the Step-In Process;
  - 13.1.3. when the Required Action will begin and how long it will continue for;
  - 13.1.4. whether the Buyer will require access to the Sites; and
  - 13.1.5. what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- 13.2. For as long as the Required Action is taking place:
- 13.2.1. the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
  - 13.2.2. no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
  - 13.2.3. the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.3. The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.
- 13.4. If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.

- 13.5. The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause **Error! Reference source not found.**, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:

13.5.1. limbs (f) or (g) of the definition of a Step-In Trigger Event; or

13.5.2. limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause **Error! Reference source not found.** is identified as not being the result of the Supplier's Default).

#### 14. Ending the contract

- 14.1. The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause **Error! Reference source not found.** or if required by Law.

- 14.2. The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.

##### 14.3. Ending the contract without a reason


The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause **Error! Reference source not found.** applies.

##### 14.4. When the Buyer can end this Contract

- 14.4.1. If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause **Error! Reference source not found.** shall apply:

- (a) there's a Supplier Insolvency Event;
- (b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
- (c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;

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- (d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- (e) there's any Material Default of this Contract;
- (f) there's any Material Default of any Joint Controller Agreement relating to this Contract;
- (g) there's a Default of Clauses 2.8, **Error! Reference source not found.**, **Error! Reference source not found.** or Schedule 28 (ICT Services) (where applicable);
- (h) the performance of the Supplier causes a Critical Service Level Failure to occur;
- (i) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- 
- (k) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- (l) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- (m) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- (n) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).

14.4.2. If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses **Error! Reference source not found.** to **Error! Reference source not found.** apply.

#### 14.5. What happens if the contract ends

Mid-Tier Contract

14.5.1. Where the Buyer terminates this Contract under Clauses **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.**, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- (a) Not Used
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
- (g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

14.5.2. If either Party terminates this Contract under Clause **Error! Reference source not found.**:

- (a) each party must cover its own Losses; and
- (b) Clauses **Error! Reference source not found.** to **Error! Reference source not found.** apply.

14.5.3. The following Clauses survive the termination or expiry of this Contract: **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**

found., **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

#### 14.6. **When the Supplier (and the Buyer) can end the contract**

14.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

14.6.2 The Supplier also has the right to terminate this Contract in accordance with Clauses **Error! Reference source not found.** and **Error! Reference source not found.**.

14.6.3 Where the Buyer terminates this Contract under Clause **Error! Reference source not found.** or the Supplier terminates this Contract under Clause **Error! Reference source not found.** or **Error! Reference source not found.**:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if this Contract had not been terminated; and
- (c) Clauses **Error! Reference source not found.** to **Error! Reference source not found.** apply.

#### 14.7. **Partially ending and suspending the contract**

14.7.1. Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.

14.7.2. The Buyer can only partially terminate or suspend this Contract



if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.

14.7.3. The Parties must agree any necessary Variation required by this Clause **Error! Reference source not found.** using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause **Error! Reference source not found.**

14.7.4. The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause **Error! Reference source not found.**

## 15. How much you can be held responsible for?

15.1. 

15.2. Neither Party is liable to the other for:

15.2.1. any indirect Losses; and/or

15.2.2. Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

15.3. In spite of Clause **Error! Reference source not found.**, neither Party limits or excludes any of the following:

15.3.1. or that of its employees, agents or Subcontractors;

15.3.2. its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and

15.3.3. any liability that cannot be excluded or limited by Law.

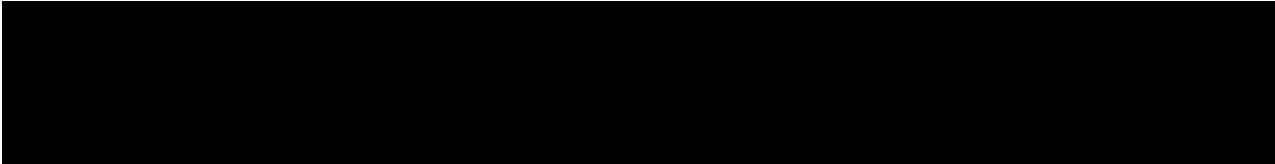
15.4. In spite of Clause **Error! Reference source not found.**, the Supplier does not limit or exclude its liability for any indemnity given under Clauses **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.** or Schedule 7 (Staff Transfer) of this Contract.

15.5. In spite of Clause **Error! Reference source not found.**, The Buyer does not limit or exclude its liability for any indemnity given under Clause **Error! Reference source not found.** or Schedule 7 (Staff Transfer) of this Contract.

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- 15.6. In spite of Clause **Error! Reference source not found.**, but subject to Clauses **Error! Reference source not found.** and **Error! Reference source not found.**, the Supplier's total aggregate liability in each Contract Year under Clause **Error! Reference source not found.** is no more than the Data Protection Liability Cap.
- 15.7. Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.
- 15.8. When calculating the Supplier's liability under Clause **Error! Reference source not found.** the following items will not be taken into consideration:
- 15.8.1. Deductions; and
- 15.8.2. any items specified in Clause **Error! Reference source not found.**
- 15.9. If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## 16. Obeying the law

- 16.1. The Supplier shall comply with the provisions of Schedule 26 (Sustainability).
- 16.2. The Supplier shall comply with the provisions of:
- 16.2.1. the Official Secrets Acts 1911 to 1989; and
- 16.2.2. section 182 of the Finance Act 1989.
- 16.3. The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.
- 16.4. The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause **Error! Reference source not found.** and Clauses **Error! Reference source not found.** to **Error! Reference source not found.**
- 

## 18. Data protection and security

- 18.1. The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).

- 18.2. The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 18.3. The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon reasonable request.
- 18.4. The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.
- 18.5. If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6. If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
  - 18.6.1. tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
  - 18.6.2. restore the Government Data itself or using a third party.
- 18.7. The Supplier must pay each Party's reasonable costs of complying with Clause **Error! Reference source not found.** unless the Buyer is at fault.
- 18.8. The Supplier:
  - 18.8.1. must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;
  - 18.8.2. must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - 18.8.3. must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;
  - 18.8.4. securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in

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relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and

18.8.5. indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause **Error! Reference source not found.** or any Data Protection Legislation.

## 19. What you must keep confidential

19.1. Each Party must:

19.1.1. keep all Confidential Information it receives confidential and secure;

19.1.2. not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and

19.1.3. immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

19.2. In spite of Clause **Error! Reference source not found.**, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

19.2.1. where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;

19.2.2. if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;

19.2.3. if the information was given to it by a third party without obligation of confidentiality;

19.2.4. if the information was in the public domain at the time of the disclosure;

19.2.5. if the information was independently developed without access to the Disclosing Party's Confidential Information;

19.2.6. on a confidential basis, to its auditors or for the purpose of regulatory requirements;

19.2.7. on a confidential basis, to its professional advisers on a need-to-know basis; and

19.2.8. to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

19.3. The Supplier may disclose Confidential Information on a confidential basis

to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

19.4. The Buyer may disclose Confidential Information in any of the following cases:

- 19.4.1. on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- 19.4.2. on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- 19.4.3. if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- 19.4.4. where requested by Parliament;
- 19.4.5. under Clauses **Error! Reference source not found.** and **Error! Reference source not found.**; and
- 19.4.6. on a confidential basis under the audit rights in Clauses **Error! Reference source not found.** to **Error! Reference source not found.** (inclusive), Clause **Error! Reference source not found.** (Step-in rights), Schedule 7 and Schedule 30 (if used).

19.5. For the purposes of Clauses **Error! Reference source not found.** to **Error! Reference source not found.** references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause **Error! Reference source not found.**.

19.6. Transparency Information and any information which is exempt from disclosure by Clause **Error! Reference source not found.** is not Confidential Information.

19.7. The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## 20. When you can share information

20.1. The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.

20.2. In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

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- 20.2.1. publish the Transparency Information; and
- 20.2.2. comply with any Request for Information.
- 20.3. To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause **Error! Reference source not found.** However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

## 21. Invalid parts of the contract

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

## 22. No other terms apply

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

## 23. Other people's rights in this Contract

- 23.1. The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").
- 23.2. Subject to Clause **Error! Reference source not found.**, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.
- 23.3. No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 23.4. Any amendments or modifications to this Contract may be made, and any rights created under Clause **Error! Reference source not found.** may be

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altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## **24. Circumstances beyond your control**

- 24.1. Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:
  - 24.1.1. provides a Force Majeure Notice to the other Party; and
  - 24.1.2. uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.2. Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.
- 24.3. Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

## **25. Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **26. Giving up contract rights**

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **27. Transferring responsibilities**

- 27.1. The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.
- 27.2. Subject to Schedule 27 (Key Subcontractors), the Supplier cannot subcontract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

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- 27.2.1. the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
- 27.2.2. the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- 27.2.3. the proposed Subcontractor employs unfit persons.
- 27.3. The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4. When the Buyer uses its rights under Clause **Error! Reference source not found.** the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5. The Supplier can terminate this Contract novated under Clause **Error! Reference source not found.** to a private sector body that is experiencing an Insolvency Event.
- 27.6. The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 27.7. If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
  - 27.7.1. their name;
  - 27.7.2. the scope of their appointment;
  - 27.7.3. the duration of their appointment; and
  - 27.7.4. a copy of the Sub-Contract.

## 28. Changing the contract

- 28.1. Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2. The Supplier must provide an Impact Assessment either:
  - 28.2.1. with the Variation Form, where the Supplier requests the Variation; and
  - 28.2.2. within the time limits included in a Variation Form requested by the Buyer.
- 28.3. If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
  - 28.3.1. agree that this Contract continues without the Variation; and



28.3.2. refer the Dispute to be resolved using Clause **Error! Reference source not found.** (Resolving Disputes).

28.4. The Buyer is not required to accept a Variation request made by the Supplier.

28.5. The Supplier may only reject a Variation requested by the Buyer if the Supplier:

28.5.1. reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or

28.5.2. demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.

28.6. If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

28.7. If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

28.7.1. that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

28.7.2. of how it has affected the Supplier's costs.

28.8. Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses **Error! Reference source not found.** to **Error! Reference source not found.**

## 29. How to communicate about the contract

29.1. All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

29.2. Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

29.3. This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

### **30. Dealing with claims**

- 30.1. If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.
- 30.2. At the Indemnifier's cost the Beneficiary must both:
  - 30.2.1. allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
  - 30.2.2. give the Indemnifier reasonable assistance with the claim if requested.
- 30.3. The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 30.4. The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- 30.5. The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 30.6. Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 30.7. If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
  - 30.7.1. the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
  - 30.7.2. the amount the Indemnifier paid the Beneficiary for the Claim.

### **31. Preventing fraud, bribery and corruption**

- 31.1. The Supplier must not during the Contract Period:
  - 31.1.1. commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
  - 31.1.2. do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.
- 31.2. The Supplier must during the Contract Period:
  - 31.2.1. create, maintain and enforce adequate policies and procedures

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- to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- 31.2.2. keep full records to show it has complied with its obligations under this Clause **Error! Reference source not found.** and give copies to the Buyer on request; and
- 31.2.3. if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause **Error! Reference source not found.**, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- 31.3. The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses **Error! Reference source not found.** or has any reason to think that it, or any of the Supplier Staff, have either:
- 31.3.1. been investigated or prosecuted for an alleged Prohibited Act;
- 31.3.2. been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
- 31.3.3. received a request or demand for any undue financial or other advantage of any kind related to this Contract; and
- 31.3.4. suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.
- 31.4. If the Supplier notifies the Buyer as required by Clause **Error! Reference source not found.**, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 31.5. If the Supplier is in Default under Clause **Error! Reference source not found.** the Buyer may:
- 31.5.1. require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
- 31.5.2. immediately terminate this agreement in accordance with Clause **Error! Reference source not found.** and the consequences of termination in Clauses **Error! Reference source not found.** shall apply.
- 31.6. In any notice the Supplier gives under Clause **Error! Reference source not found.** it must specify the:
- 31.6.1. Prohibited Act;
- 31.6.2. identity of the Party who it thinks has committed the Prohibited

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Act; and

31.6.3. action it has decided to take.

## **32. Equality, diversity and human rights**

32.1. The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:

32.1.1. protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and

32.1.2. any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

32.2. The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Contract.

## **33. Health and safety**

33.1. The Supplier must perform its obligations meeting the requirements of:

33.1.1. all applicable Law regarding health and safety; and

33.1.2. the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

33.2. The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of this Contract.

## **34. Environment**

34.1. When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

34.2. The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **35. Tax**

35.1. The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.

35.2. Where the Charges payable under this Contract are or are likely to exceed

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£5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:

- 35.2.1. the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - 35.2.2. other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3. Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:
- 35.3.1. comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
  - 35.3.2. indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 35.4. If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- 35.4.1. the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause **Error! Reference source not found.**, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
  - 35.4.2. the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
  - 35.4.3. the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause **Error! Reference source not found.** or confirms that the Worker is not complying with those requirements; and
  - 35.4.4. the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## 36. Conflict of interest

Mid-Tier Contract

- 36.1. The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.
- 36.2. The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.
- 36.3. The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses **Error! Reference source not found.** to **Error! Reference source not found.** shall apply.

### 37. Reporting a breach of the contract

- 37.1. As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:
  - 37.1.1. breach of Law;
  - 37.1.2. Default of Clause **Error! Reference source not found.**; and
  - 37.1.3. Default of Clauses **Error! Reference source not found.** to **Error! Reference source not found.**
- 37.2. The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause **Error! Reference source not found.** to the Buyer or a Prescribed Person.

### 38. Further Assurances

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### 39. Resolving disputes

- 39.1. If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.
- 39.2. If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be

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nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses **Error! Reference source not found.** to **Error! Reference source not found.**

- 39.3. Unless the Buyer refers the Dispute to arbitration using Clause **Error! Reference source not found.**, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 39.3.1. determine the Dispute;
  - 39.3.2. grant interim remedies; and
  - 39.3.3. grant any other provisional or protective relief.
- 39.4. The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5. The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause **Error! Reference source not found.**, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause **Error! Reference source not found.**
- 39.6. The Supplier cannot suspend the performance of this Contract during any Dispute.

#### **40. Which law applies**

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

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## Schedule 36 (Intellectual Property Rights)

### Part A: Intellectual Property Rights (no ICT Services)

#### Option 1

##### General Provisions and Ownership of IPR

Any New IPR created under this Contract is owned by the Buyer.

Each Party keeps ownership of its own Existing IPR.

Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with Paragraphs Any New IPR created under this Contract is owned by the Buyer. and Each Party keeps ownership of its own Existing IPR., it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).

Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.

Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.

Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex **Error! Reference source not found.** to this Schedule and keep this updated throughout the Contract Period.

If the Supplier becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Buyer has not received the licences to Supplier Existing IPRs or Third Party IPRs required by Paragraphs **Licences in respect of Supplier Existing IPR** and **Licences in respect of Third-party IPR**, the Supplier must, within 10 Working Days notify the Buyer:

the specific Intellectual Property Rights the Buyer has not received licences to; and



the Deliverables affected.

For the avoidance of doubt:

except as provided for in Paragraphs enters into a direct arrangement with the Supplier in the form set out in Annex **Error! Reference source not found.**; or or if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph The Third Party IPR licence referred to in Paragraph The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless: is the licence set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: as if:; all the following conditions are met: and the Buyer has provided authorisation to the use of the Third Party IPR in writing, with reference to the acts authorised and the specific IPR involved., the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs **Licences in respect of Supplier Existing IPR** and **Licences in respect of Third-party IPR**;

the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:

sections 55 and 56 of the Patents Act 1977;

section 12 of the Registered Designs Act 1949; or

sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

### **Licences in respect of Supplier Existing IPR**

The Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where:

the Supplier Existing IPR is embedded in the Deliverable;

the Supplier Existing IPR is necessary for the Buyer to use the Deliverable for its intended purpose; or

the Deliverable is a customisation or adaptation of Supplier Existing IPR.

The categories of Supplier Existing IPR described in Paragraph The Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: in respect of each Deliverable where: are mutually exclusive.

The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:

in the case of Supplier Existing IPR embedded in a Deliverable:

has no restriction on the identity of any transferee or sub-licensee;

allows the Buyer and any transferee or sub-licensee to use, copy and adapt the Supplier Existing IPR for any of the purposes set out in Paragraph For the purposes of Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:; and

is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph;

in the case of Supplier Existing IPR that is necessary for the Buyer to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:

allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Existing IPRs for any of the purposes set out in Paragraph For the purposes of Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:;

is transferrable to only:

a Crown Body;

any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or

a person or organisation that is not a direct competitor of the Supplier and that transferee either:

enters into a direct arrangement with the Supplier in the form set out in Annex **Error! Reference source not found.**; or

enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);

is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:

enters into a direct arrangement with the Supplier in the form set out in Annex **Error! Reference source not found.**; or

enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph.

For the purposes of Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:, the relevant purposes are:

to allow the Buyer or any End User to receive and use the Deliverables;

to allow the Buyer to commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items; and

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for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

### **Licences granted by the Buyer**

The Buyer grants the Supplier a licence to the New IPR and Buyer Existing IPR that:

is non-exclusive, royalty-free and non-transferable;

is sub-licensable to any Sub-contractor where:

the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential); and

the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;

allows the Supplier and any sub-licensee to use, copy and adapt any Buyer Existing IPR and New IPR for the purpose of fulfilling its obligations under this Contract; and

terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.

When the licence granted under Paragraph The Buyer grants the Supplier a licence to the New IPR and Buyer Existing IPR that: terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph is sub-licensable to any Sub-contractor where::

immediately cease all use of the Buyer Existing IPR and New IPR (including the Government Data within which the Buyer Existing IPR or New IPR may subsist);

either:

at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR, New IPR and the Government Data; or

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if the Buyer has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Buyer Existing IPR, the New IPR and the Government Data (as the case may be); and

ensure, so far as reasonably practicable, that any Buyer Existing IPR, New IPR and Government Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

### **Licences in respect of Third-party IPR**

The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless:

Approval is granted by the Buyer; and

one of the following conditions is met:

the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph The Third Party IPR licence referred to in Paragraph The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless: is the licence set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: as if;

if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph The Third Party IPR licence referred to in Paragraph The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless: is the licence set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: as if;; all the following conditions are met:

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the Supplier has notified the Buyer in writing giving details of:

what licence terms can be obtained from the relevant third party; and

whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;

the Buyer has agreed to accept the licence terms of one of those third parties; and

the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Buyer on those terms; or

the Buyer has provided authorisation to the use of the Third Party IPR in writing, with reference to the acts authorised and the specific IPR involved.

The Third Party IPR licence referred to in Paragraph The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless: is the licence set out in Paragraph The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that: as if:

the term Third Party IPR were substituted for the term Supplier Existing IPR; and

the term third party were substituted for the term Supplier,

in each place they occur.

## Patents

Where a patent owned by the Supplier is infringed by the use of the New IPR by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

# Schedule 1 (Definitions)

## 1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Contract, unless the context otherwise requires:
  - 1.3.1 reference to a gender includes the other gender and the neuter;
  - 1.3.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
  - 1.3.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023);
  - 1.3.4 the words **"including"**, **"other"**, **"in particular"**, **"for example"** and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words **"without limitation"**;
  - 1.3.5 references to **"writing"** include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.6 references to **"representations"** shall be construed as references to present facts, to **"warranties"** as references to present and future facts and to **"undertakings"** as references to obligations under this Contract;

- 1.3.7 references to **"Clauses"** and **"Schedules"** are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
- 1.3.8 references to **"Paragraphs"** are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
- 1.3.9 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
- 1.3.10 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole; and
- 1.3.11 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (**"EU References"**) which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.
- 1.4 In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and <b>"Achieved"</b> , <b>"Achieving"</b> and <b>"Achievement"</b> shall be construed accordingly;
<b>"Additional FDE Group Member"</b>	means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);
<b>"Affected Party"</b>	the party seeking to claim relief in respect of a Force Majeure Event;



<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Allowable Assumptions"</b>	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Approval"</b>	the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed accordingly;
<b>"Associates"</b>	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
<b>"Audit"</b>	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> <li>(a) verify the integrity and content of any Financial Report;</li> <li>(b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with this Contract);</li> <li>(c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>(d) verify the Open Book Data;</li> <li>(e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li> <li>(f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these</li> </ul>

circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;

- (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;
- (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
- (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
- (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;

**"Auditor"**

- (a) the Buyer's internal and external auditors;
- (b) the Buyer's statutory or regulatory auditors;
- (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- (d) HM Treasury or the Cabinet Office;
- (e) any party formally appointed by the Buyer to carry out audit or similar review functions; and
- (f) successors or assigns of any of the above;

<b>"Award Form"</b>	the document outlining the Incorporated Terms and crucial information required for this Contract, to be executed by the Supplier and the Buyer;
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer"</b>	the public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of this Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form;
<b>"Buyer Cause"</b>	has the meaning given to it in the Award Form;
<b>"Buyer Existing IPR"</b>	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Crown Body, any Crown IPR, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise) [but excluding Buyer Software];
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Buyer Property"</b>	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;
<b>"Buyer Software"</b>	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;

<b>"Buyer System"</b>	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;
<b>"Buyer Third Party"</b>	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
<b>"Buyer's Confidential Information"</b>	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with this Contract; and</p> <p>information derived from any of the above;</p>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of this Contract which comes into force after the Effective Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under this Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under this Contract less any Deductions;

<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in Schedule 5 (Commercially Sensitive Information (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " <b>confidential</b> ") or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
<b>"Contract Period"</b>	the term of this Contract from the earlier of the: <ul style="list-style-type: none"> <li>(a) Start Date; or</li> <li>(b) the Effective Date,</li> </ul> until the End Date;

<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under this Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Core Terms"</b>	the Buyer's terms and conditions which apply to and comprise one part of this Contract set out in the document called <b>"Core Terms"</b> ;
<b>"Costs"</b>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> <li>(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> <li>(i) base salary paid to the Supplier Staff;</li> <li>(ii) employer's National Insurance contributions;</li> <li>(iii) pension contributions;</li> <li>(iv) car allowances;</li> <li>(v) any other contractual employment benefits;</li> <li>(vi) staff training;</li> <li>(vii) work place accommodation;</li> <li>(viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items</li> </ul> </li> </ul>

included within limb costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; below); and

- (ix) reasonable recruitment costs, as agreed with the Buyer;
- (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
- (c) operational costs which are not included within the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: or costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; above, to the extent that such costs are necessary and

properly incurred by the Supplier in the provision of the Deliverables; and

- (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;

but excluding:

- (a) Overhead;
- (b) financing or similar costs;
- (c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;
- (d) taxation;
- (e) fines and penalties;
- (f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and
- (g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

**"COTS Software" or "Commercial off the shelf 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;

**"Critical Service Level Failure"**

has the meaning given to it in the Award Form;

**"Crown Body"**

the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;



<b>"Crown IPR"</b>	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
<b>"Data Protection Liability Cap"</b>	has the meaning given to it in the Award Form;
<b>"Data Protection Officer"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under this Contract;
<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of this Contract in breach of its terms) or any other default (including Material

Default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Buyer;

**"Defect"**

any of the following:

- (a) any error, damage or defect in the manufacturing of a Deliverable; or
- (b) 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 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;

**"Delay Payments"**

the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

**"Deliverables"**

Goods, Services or software that may be ordered and/or developed under this Contract including the Documentation;

<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of this Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Dependent Parent Undertaking"</b>	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;

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<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under this Contract as:</p> <ul style="list-style-type: none"> <li>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li> <li>(b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li>(c) has been or shall be generated for the purpose of providing the Deliverables;</li> </ul>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	The Data Protection Act 2018;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;
<b>"Effective Date"</b>	the date on which the final Party has signed this Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;

<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
<b>"End Date"</b>	the earlier of: <ul style="list-style-type: none"> <li>(a) the Expiry Date as extended by the Buyer under Clause 14.2; or</li> <li>(b) if this Contract is terminated before the date specified in (a) above, the date of termination of this Contract;</li> </ul>
<b>"End User"</b>	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Escalation Meeting"</b>	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
<b>"Estimated Yearly Charges"</b>	means for the purposes of calculating each Party's annual liability under Clause 15.1: <ul style="list-style-type: none"> <li>(a) in the first Contract Year, the Estimated Year 1 Charges; or</li> </ul>

	<ul style="list-style-type: none"> <li>(b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</li> <li>(c) after the end of this Contract, the Charges paid or payable in the last Contract Year during the Contract Period;</li> </ul>
<b>"EU GDPR"</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Start Date or otherwise);
<b>"Exit Plan"</b>	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
<b>"Expiry Date"</b>	the date of the end of this Contract as stated in the Award Form;
<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
<b>"FDE Group"</b>	the Supplier and any Additional FDE Group Member;
<b>"Financial Distress Event"</b>	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> <li>(a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;</li> <li>(b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;</li> </ul>

- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;
- (d) any FDE Group entity commits a material breach of covenant to its lenders;
- (e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- (i) any of the following:
  - (x) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit

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warning or ability to trade as a going concern;

- (xi) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
- (xii) non-payment by any FDE Group entity of any financial indebtedness;
- (xiii) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
- (xiv) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
- (xv) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with this Contract; or

- (j) any [one] of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold;

### **"Financial Report"**

a report provided by the Supplier to the Buyer that:

- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
- (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key



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Subcontractors (as requested by the Buyer);

- (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract; and
- (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;

**"Financial Transparency Objectives"**

means:

- (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;
- (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
- (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;
- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;

**"FOIA"**

the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information

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**"Force Majeure Event"**

Commissioner or relevant Government department in relation to such legislation;

any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:

- (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;
- (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;
- (c) acts of a Crown Body, local government or regulatory bodies;
- (d) fire, flood or any disaster; or
- (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:
  - (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;
  - (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and
  - (iii) any failure of delay caused by a lack of funds,

and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;

**"Force Majeure Notice"**

a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;

<b>"General Anti-Abuse Rule"</b>	<p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p>
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
<b>"Good Industry Practice"</b>	At any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:</p> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</p>

	<ul style="list-style-type: none"> <li>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</li> <li>(b) any Personal Data for which the Buyer is Controller;</li> </ul>
<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a> ;
<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	His Majesty's Revenue and Customs;
<b>"ICT Environment"</b>	the Buyer System and the Supplier System;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Award Form (if used), which is in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> <li>(a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract;</li> <li>(b) details of the cost of implementing the proposed Variation;</li> <li>(c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required</li> </ul>

	by either Party and any alteration to the working practices of either Party;
	(d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
	(e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Incorporated Terms"</b>	the contractual terms applicable to this Contract specified in the Award Form;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Controller"</b>	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with this Contract;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of this Contract specified in the Award Form;
<b>"Insolvency Event"</b>	with respect to any person, means: <ul style="list-style-type: none"> <li>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:               <ul style="list-style-type: none"> <li>(i) (being a company or an LLP) is deemed unable to pay its debts within</li> </ul> </li> </ul>

the meaning of section 123 of the Insolvency Act 1986, or

- (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
- (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where that person is a company, an LLP or a partnership:
  - (i) a petition is presented (which is not dismissed within fourteen (14) days of

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its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

- (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;
- (iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
- (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or
- (g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;

**"Installation Works"**

all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with this Contract;

**"Intellectual Property Rights" or "IPR"**

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade

marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;

- (b) applications for registration, and the right to apply for registration, for any of the rights listed at copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information; that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction;

**"IP Completion Day"**

has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;

**"IPR Claim"**

any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR (excluding COTS Software where Part B of Schedule 36 (Intellectual Property Rights) is used), used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;

**"IR35"**

the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at:

<https://www.gov.uk/guidance/ir35-find-out-if-it-applies>;



<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
<b>"Joint Control"</b>	where two (2) or more Controllers jointly determine the purposes and means of Processing;
<b>"Joint Controllers"</b>	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
<b>"Key Staff"</b>	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <ul style="list-style-type: none"> <li>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</li> <li>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</li> <li>(c) with a Sub-Contract with this Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract,</li> </ul> <p>and the Supplier shall list all such Key Subcontractors in the Award Form;</p>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Effective Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978,

	bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>"Law Enforcement Processing"</b>	processing under Part 3 of the DPA 2018;
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Malicious Software"</b>	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;
<b>"Material Default"</b>	a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)
<b>"Marketing Contact"</b>	shall be the person identified in the Award Form;
<b>"Milestone"</b>	an event or task described in the Implementation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;

<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>"New IPR Item"</b>	means a deliverable, document, product or other item within which New IPR subsists;
<b>"Notifiable Default"</b>	<p>means:</p> <p>(a) the Supplier commits a Material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
<b>"Object Code"</b>	software and/or data in machine-readable complied object code form;
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules</p>

or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

- (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;

**"Open Book Data"**

complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of this Contract, including details and all assumptions relating to:

- (a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;
- (b) operating expenditure relating to the provision of the Deliverables including an analysis showing:
  - (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;
  - (iii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of

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- agreed rates against each manpower grade;
- (iv) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and
- (v) Reimbursable Expenses, if allowed under the Award Form;
- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;
- (e) the Supplier Profit achieved over the Contract Period and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period;

**"Open Licence"**

means any material that is published for use, with rights to access, copy, modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at

<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> and the Open

Standards Principles documented at

<https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>,

and includes the Open Source publication of Software;

<b>"Open Source"</b>	computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;
<b>"Open Licence Publication Material"</b>	means items created pursuant to this Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: of the definition of "Costs";
<b>"Parent Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in "Whistleblowing: list of prescribed people and bodies", 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-</a>

[bodies--2/whistleblowing-list-of-prescribed-people-and-bodies;](#)

<b>"Processing"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Prohibited Acts"</b>	<ul style="list-style-type: none"> <li>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> <li>(i) induce that person to perform improperly a relevant function or activity; or</li> <li>(ii) reward that person for improper performance of a relevant function or activity;</li> </ul> </li> <li>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or</li> <li>(c) committing any offence: <ul style="list-style-type: none"> <li>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> </ul> </li> </ul>

- (ii) under legislation or common law concerning fraudulent acts; or
- (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under committing any offence: above if such activity, practice or conduct had been carried out in the UK;

**"Protective Measures"**

technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 16 (Security);

**"Public Sector Body "**

means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;

**"Recall"**

a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;

**"Recipient Party"**

the Party which receives or obtains directly or indirectly Confidential Information;

**"Rectification Plan"**

the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:

- (a) full details of the Notifiable Default that has occurred, including a root cause analysis;



	<ul style="list-style-type: none"> <li>(b) the actual or anticipated effect of the Notifiable Default; and</li> <li>(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);</li> </ul>
<b>"Rectification Plan Process"</b>	the process set out in Clause 11;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</li> <li>(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</li> </ul>
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;

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<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to this Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);

<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Award Form (if used), in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;
<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
<b>"Sites"</b>	<p>any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none"> <li>(a) the Deliverables are (or are to be) provided; or</li> <li>(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</li> <li>(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided);</li> </ul>

<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Social Value"</b>	the additional social benefits that can be achieved in the delivery of this Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
<b>"Social Value KPIs"</b>	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
<b>"Social Value Report"</b>	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used;
<b>"Software"</b>	any software including Specially Written Software, COTS Software and software that is not COTS Software;
<b>"Software Supporting Materials"</b>	has the meaning given to it in Schedule 36 (Intellectual Property Rights);
<b>"Source Code"</b>	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;
<b>"Special Terms"</b>	any additional terms and conditions set out in the Award Form incorporated into this Contract;

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<b>"Specially Written Software"</b>	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor 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;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Effective Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification);
<b>"Standards"</b>	any: <ul style="list-style-type: none"> <li>(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li> <li>(b) standards detailed in the specification in Schedule 2 (Specification);</li> <li>(c) standards agreed between the Parties from time to time;</li> <li>(d) relevant Government codes of practice and guidance applicable from time to time;</li> </ul>
<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;

**"Step-In Trigger Event"**

means:

- (a) the Supplier's level of performance constituting a Critical Service Level Failure;
- (b) the Supplier committing a Material Default which is irremediable;
- (c) where a right of termination is expressly reserved in this Contract;
- (d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;
- (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;
- (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;
- (g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;
- (h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or
- (i) a need by the Buyer to take action to discharge a statutory duty;

**"Step-Out Plan"**

means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under this Contract following the completion of the Step-In Process;

**"Storage Media"**

the part of any device that is capable of storing and retrieving data;

**"Sub-Contract"**

any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party:

- (a) provides the Deliverables (or any part of them);
- (b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or
- (c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);

<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
<b>"Subsidiary Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier"</b>	the person, firm or company identified in the Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Existing IPR"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);

<b>"Supplier Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
<b>"Supplier Group"</b>	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier New and Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the New IPR and Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>(c) comply with an obligation under this Contract;</li> </ul>
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of this Contract for the relevant period;
<b>"Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under this Contract;
<b>"Supplier System"</b>	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);
<b>"Supplier's Confidential Information"</b>	<p>(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract;</p> <p>(c) information derived from any of any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract; above;</p>
<b>"Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of this Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);

<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under this Contract detailed in the information are properly payable;
<b>"Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of Schedule 30 (Exit Management);
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in this Contract;
<b>"Test Plan"</b>	a plan: <ul style="list-style-type: none"> <li>(a) for the Testing of the Deliverables; and</li> <li>(b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>
<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to this Contract as set out in the Test Plan or

	elsewhere in this Contract and <b>"Tested"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Third Party IPR Licence"</b>	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36 (Intellectual Property Rights);
<b>"Transparency Information"</b>	the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> <li>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</li> <li>(b) Commercially Sensitive Information;</li> </ul>
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"UK GDPR"</b>	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
<b>"Variation"</b>	means a variation to this Contract;
<b>"Variation Form"</b>	the form set out in Schedule 21 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 28 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;

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<b>"Verification Period"</b>	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
<b>"Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

## Schedule 20 (Processing Data)

### 1. Status of the Controller

1.1 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:

- 1.1.1 "Controller" in respect of the other Party who is "Processor";
- 1.1.2 "Processor" in respect of the other Party who is "Controller";
- 1.1.3 "Joint Controller" with the other Party;
- 1.1.4 "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.

### 2. Where one Party is Controller and the other Party its Processor

- 2.1 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 be determined by the Processor.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 2.3 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:
  - 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
  - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
  - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:

2.4.1 process that Personal Data only in accordance with Annex **1** (Processing Personal Data) unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

nature of the data to be protected;

(a) harm that might result from a Data Loss Event;

(b) state of technological development; and

(c) cost of implementing any measures.

2.4.3 ensure that:

(a) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex **1** (Processing Personal Data));

(b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);

(ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;

(iii) 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 this Contract; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

- 2.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
  - (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:
    - (i) where the transfer is subject to UK GDPR:
      - (A) the International Data Transfer Agreement issued by the Information Commissioner under S119A(1) of the DPA 2018 (the "**IDTA**"); or
      - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
    - (ii) where the transfer is subject to EU GDPR, the EU SCCs,  
as well as any additional measures determined by the Controller being implemented by the importing party;
  - (c) the Data Subject has enforceable rights and effective legal remedies;
  - (d) 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
- (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.
- 2.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.
- 2.5 Subject to Paragraph The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available. of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:
  - 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 2.5.2 receives a request to rectify, block or erase any Personal Data;
  - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
  - 2.5.5 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
  - 2.5.6 becomes aware of a Data Loss Event.
- 2.6 The Processor's obligation to notify under Paragraph Subject to Paragraph The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available. of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it: of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph Subject to Paragraph The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available. of



- this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it: of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 2.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
  - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
  - 2.8.2 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
  - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to this Contract, the Processor must:
- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
  - 2.11.2 obtain the written consent of the Controller;

- 2.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
- 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

### **3. Where the Parties are Joint Controllers of Personal Data**

In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex **2** (Joint Controller Agreement) to this Schedule 20 (Processing Data).

### **4. Independent Controllers of Personal Data**

- 4.1 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 Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 4.2 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.
- 4.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 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. of this Schedule 20 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.
- 4.4 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 this Contract.

4.5 The Parties shall only provide Personal Data to each other:

- 4.5.1 to the extent necessary to perform their respective obligations under this Contract;
- 4.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
- 4.5.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
  - (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable); or
  - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
    - (i) where the transfer is subject to UK GDPR:
      - (A) the International Data Transfer Agreement (the "**IDTA**") ""as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
      - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
    - (ii) where the transfer is subject to EU GDPR, the EU SCCs,

as well as any additional measures determined by the Controller being implemented by the importing party;

- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the transferring Party 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 non-transferring Party in meeting its obligations); and
- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

4.5.4 where it has recorded it in Annex **1** (Processing Personal Data).

4.6 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.

4.7 A Party Processing Personal Data for the purposes of this 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.

4.8 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 this Contract ("**Request Recipient**"):

- 4.8.1 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

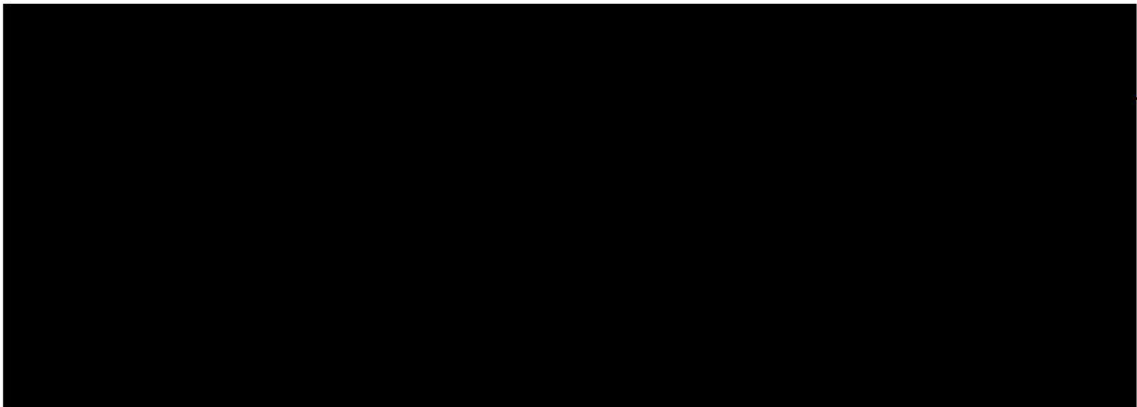
- 4.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
  - (b) 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.
- 4.9 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 this Contract and shall:
- 4.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
  - 4.9.2 implement any measures necessary to restore the security of any compromised Personal Data;
  - 4.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - 4.9.4 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.
- 4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex **1** (Processing Personal Data).
- 4.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex **1** (Processing Personal Data).
- 4.12 Notwithstanding the general application of Paragraphs 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 be determined by the Processor. to 2.14 of this Schedule 20 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 Each Party shall Process the Personal

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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. to **Error! Not a valid bookmark self-reference.** of this Schedule 20.

## Annex 1 - Processing Personal Data

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



Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p>
Subject matter of the Processing	<p>The processing is needed in order to ensure that the Supplier can effectively deliver the contract to provide bioinformatics assessments of third-party applications for approval of GMOs.</p>

Description	Details
Duration of the Processing	The full duration of the contract (22 <sup>nd</sup> April 2024 until either 31 <sup>st</sup> March 2027 or 22 <sup>nd</sup> October 2025, depending on break clause – see point 9).
Nature and purposes of the Processing	<p>When a third-party company ('Applicant') submits an application to the Buyer (FSA) for approval of GMOs in the food/feed chain, the Buyer will pass on a 'dossier' to the Supplier (Fera), consisting of a subset of the application documents and scientific data. The purpose of the contract is for the Supplier to provide expert scientific review of the dossier to the Buyer in a formal report.</p> <p>Personal data which potentially will be processed will include names and corporate affiliations of some Applicant staff, which may be stated regarding authorship and sign-off of some dossier documents, in some cases with associated job titles. Staff email addresses will generally not be present. Some dossiers may also contain report documents by external service providers contracted by the Applicant (e.g. DNA-sequencing service providers), and in the same way contractor staff names/affiliations may appear on some of those reports.</p> <p>There are no sub-contractors involved in providing services or processing personal data on behalf of the Supplier in relation to this contract.</p> <p>Thus processing will be limited to:</p> <ol style="list-style-type: none"> <li>1. visibility of the data, and</li> <li>2. in the text of the Supplier's report, the citing of dossier reports by author name/year, in the same way that they are cited within the Applicants' documents.</li> </ol>



Description	Details
Type of Personal Data being Processed	Name, Corporate affiliation, job title.
Categories of Data Subject	<p>Staff of third party (Applicant) companies.</p> <p>Staff of external service providers contracted by the Applicant.</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under law to preserve that type of data</p>	<p>All dossier data will be passed electronically from the Buyer (FSA) to Supplier (Fera). It will be confined to restricted storage locations accessible only by the Supplier's project team (these are subject to the Supplier's standard data backup regime).</p> <p>Following delivery of the Supplier's scientific review report to the Buyer, the dossier data will be deleted from the Supplier's IT systems within a period of several months. The precise time of deletion will depend on the dossier (some dossiers require later discussion if scientific issues have been flagged) and will be agreed with the Buyer in each case. Once deleted, the data will be retained in the Processor's backup system for a maximum of two years (unless otherwise instructed by the Buyer).</p>
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway	<p>The dossier material will be obtained electronically by the Supplier via the Buyer's secure portal. It will be stored in a restricted area on the Supplier's data storage facilities; access will be limited to the Supplier staff of the project team for this contract. This access-control is in place and a standard component of the Supplier's IT systems.</p> <p>There are no sub-contractors involved in providing services or processing personal data on behalf of the Supplier in relation to this contract.</p>

Description	Details
<p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event</p>	<p>The dossier material will be obtained electronically by the Supplier via the Buyer's secure portal. It will be stored in a restricted area on the Supplier's data storage facilities; access will be limited to the Supplier staff of the project team for this contract. This access-control is in place and a standard component of the Supplier's IT systems.</p> <p>There are no sub-contractors involved in providing services or processing personal data on behalf of the Supplier in relation to this contract.</p> <p>Fera (Supplier) will take all reasonable technical and organisational precautions to prevent the loss, misuse or alteration of the personal data. In order to do this, we have currently implemented the following measures:</p> <ul style="list-style-type: none"> <li>• Fera holds a Public Services Network ("PSN") compliance certificate which demonstrates that our security arrangements, policies and controls are sufficiently rigorous to allow us to interact with the PSN and those connected to it;</li> <li>• Fera limits access to personal data so that it is only seen by those who need access;</li> <li>• any personal data which is taken offsite is encrypted and Fera uses pseu-donymisation/anonymisation, where appropriate, when transferring/sharing data. Any personal data transferred by Fera will be transmitted via Fera's Se-cure Data Transfer facility or use of encryption technology;</li> <li>• when engaging sub-processors, we are fully compliant with Article 28(2) GDPR;</li> <li>• all credit and debit card details are stored in compliance with the Payment Card Industry Data Security Standards (PCI DSS);</li> <li>• Fera staff receive annual training in both 'Data Protection Awareness' and 'Cyber and Information Security Awareness'; and refresher training is given every 6 months</li> </ul>



Description	Details
	<ul style="list-style-type: none"> <li>• when personal data is no longer needed, it is removed from our servers and will be retained in our backup system for a maximum of two years (unless otherwise instructed by the client);</li> <li>• data protection is administered within Fera by the Data Protection Officer (DPO).</li> </ul> <p>Among others, Fera complies with the following processes in order to ensure compliance with both data protection and data security:</p> <ul style="list-style-type: none"> <li>• Fera Ltd Business Continuity Standard;</li> <li>• Fera Ltd Cyber and Information Security Policy;</li> <li>• Fera Ltd Security Standard: Acceptable Use;</li> <li>• Fera Ltd Security Standard: Data Security;</li> <li>• Fera Ltd Security Standard: Information Technology;</li> <li>• Fera Ltd Security Standard: Physical Security;</li> <li>• Fera Ltd Data Protection Policy;</li> <li>• Fera Ltd Data Retention Policy;</li> <li>• Fera Ltd Data Protection by Design and Default;</li> <li>• Fera Ltd Data Transfers Outside the EEA;</li> <li>• Fera Ltd Sharing Personal Data with Third Parties Procedure.</li> </ul> <p>Rights of data subjects: to comply with the rights of data subjects, Fera has a privacy notice, and this will be provided to data subjects at the time of data collection. This privacy notice will inform data subjects of their rights with respect to any data which Fera processes about them and how to exercise these rights. Fera has a procedure in place to respond to such requests and there is also a separate procedure for Subject Access Requests (SARs).</p> <p>Legal basis for processing:</p>

Description	Details
	<p>Fera will liaise with the FSA regarding the legal basis for processing the data. It is not expected that consent will be used in this instance. However, if this changes, Fera has relevant guidance documentation in place to ensure that the processing complies with GDPR.</p> <p>Data transfers: as a result of delivering this project, Fera does not expect to make restricted transfers of personal data outside the EU. However, if this does occur, Fera will ensure that legal safe-guards are in place prior to any data being transferred. Records of data processing: to meet our obligations under Article 30 (1) GDPR, Fera maintains an Information Asset Register (IAR) of all its processing activities as both a controller and a processor. This is regularly updated by Fera's Data Protection Officer.</p> <p>Fera has a number of processes in place to ensure that its data protection and data security processes/procedures are tested/complied with.</p> <ul style="list-style-type: none"> <li>• Fera's data protection and data security processes/procedures are made available to all staff. These processes and procedures are regularly reviewed and, where necessary, improved. To ensure that these policies and procedures are being adhered to, all staff are annually trained in both data protection and data security;</li> <li>• when undertaking any new data processing, Fera undertakes an analysis of the risks presented by the processing. This analysis will determine which measures need to be put in place;</li> <li>• to ensure that data can be restored in the event of an incident, we have an appropriate backup process. Our backups are stored on encrypted disk arrays with weekly and monthly encrypted copies made to tape which are stored off-premise and rotated accordingly;</li> </ul>

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Description	Details
	<ul style="list-style-type: none"><li>• we ensure that any data processors we use also implement appropriate technical and organisational measures;</li><li>• Fera has up-to-date anti-virus software in place and conducts regular Penetration Testing. If any issues are discovered as a result of this, they are resolved as soon as possible.</li><li>• we ensure that any data processors we use also implement appropriate technical and organisational measures;</li><li>• Fera has up-to-date anti-virus software in place and conducts regular Penetration Testing. If any issues are discovered as a result of this, they are re-solved as soon as possible.</li></ul>

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## **Annex 2 - Joint Controller Agreement**

Not Used



## Schedule 2 (Specification)

<b>Specification Reference</b>
<i>C246710</i>
<b>Specification Title</b>
<i>Bioinformatics contractor to assess applications for approval of GMOs</i>
<b>Contract Duration</b>
<i>Three years, subject to a Break Point after 18 months</i>

This specification, which forms part of the Invitation to Tender (ITT), comprises of three individual sections: -

- A. SPECIFICATION:** An outline of the requirement
- B. PROCUREMENT TIMETABLE:** An estimated timetable for the procurement of the proposed requirement
- C. TENDER REQUIREMENTS AND EVALUATION CRITERIA:** Provides guidance to applicants on the information that should be included within tenders and on the evaluation criteria and weightings used by appraisers when assessing and scoring tenders

Tenders for FSA funded projects must be submitted through the health-family single e-Commercial System (Atamis), using the following link: <https://health-family.force.com/s/Welcome>. Failure to do so may result in the tender response not being processed by the system or the response being automatically disqualified during the evaluation stage of the tender process.

## **THE SPECIFICATION, INCLUDING PROJECT TIMETABLE AND EVALUATION OF TENDERS**

### **GENERAL INTRODUCTION**

The Food Standards Agency is an independent Government department working across England, Wales and Northern Ireland to protect public health and consumers wider interest in food. We make sure food is safe and what it says it is.

The Agency is committed to openness, transparency and equality of treatment to all suppliers. As well as these principles, for science projects the final project report will be published on the Food Standards Agency website ([www.food.gov.uk](http://www.food.gov.uk)). For science projects we will encourage contractors to publish their work in peer reviewed scientific publications wherever possible. Also, in line with the Government's Transparency Agenda which aims to encourage more open access to data held by government, the Agency is developing a policy on the release of underpinning data from all of its science- and evidence-gathering projects. Data should be made freely available in an accessible format, as fully and as promptly as possible. Consideration should be given to data management as new contracts are being negotiated. Resource implications for this should be taken into account. The mechanism for publishing underpinning data should allow the widest opportunity for to enable its re-use. Where possible, underpinning data should be included in the final project report. Where data are included in the final report in pdf format, they should also be published separately in a format that can be used for further analysis. Large data sets can be provided separately in an annex to the report, and published, where possible, alongside the final report online. Where it is more appropriate to publish underpinning data in an existing database, archive, repository or other community resource, or for data to be saved in a specialist proprietary format, information will be provided on how the data can be accessed. There will be some circumstances where release of data may need to be restricted or anonymised for reasons of commercial and/or personal sensitivities.

- This project will enable the FSA to understand and subsequently protect public health from risks that may arise from the consumption of GM foods or feed and thus enable us to ensure that food is safe and what it says it is.
- Garnering bioinformatics expertise will enable us to support empowerment of consumers through improved expertise in GM risk assessment which will help ensure the public are able to make informed decisions on the foods they eat through greater choice of safe foods and a wider awareness of potential risks.
- Bioinformatics expertise for assessment of GMOs is required to fulfil the FSA's statutory requirement of assessing the safety of GMOs as a regulated product for food and feed use



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This work is being commissioned under the Novel Foods research programme. The scope of the programme is to understand the impact of novel and non-traditional foods, additives and processes on the UK consumer.

## **A. THE SPECIFICATION**

### **Background**

Following departure from the European Union, the UK is responsible for the approval of regulated products. These are products that require a pre-market safety assessment and include genetically modified food and feed.

Part of the legal requirement for applicants wishing to bring a food or feed containing genetically modified organisms to the UK market is to provide detailed information relating to the genes inserted/alterd in the organism, the flanking areas of that region, and any similarity between any resulting sequences and known genes/proteins linked to food and feed safety concerns. These data need to be interrogated to identify potential genes of concern within the GM organism such as those for anti-microbial resistance, toxins, or allergens. We wish to engage an external contractor with independent bioinformatic expertise in order to identify any risks associated with the GM event within the genome.

### **The Specification**

Tenders are invited to carry out analysis of genomic data for applications to the UK under the UK regulations on genetically modified food and feed to be costed on a per-dossier basis. The requirements of European regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed have been directly transcribed into UK law. These and their associated EFSA guidance require an applicant wishing to place a novel GM food or feed product on to the market in the UK to provide the nucleic acid(s) sequences (SANGER and/or NGS) for the inserted gene(s) and flanking regions, as well as *in silico* searches for similarity of the inserted sequences to known toxins, allergens, or other sequences of concern. The links to the relevant guidance for applicants can be found below. These will give an idea on the types of data the applicants will be submitting.

Technical note on the requirements for sequencing data (including specification of file types and requirements): <https://www.efsa.europa.eu/en/efsajournal/pub/5345>

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Application guidance: <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2013.3491>

Renewal guidance: <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/sp.efsa.2019.EN-1668>

Microorganism guidance: <https://www.efsa.europa.eu/en/efsajournal/pub/2193>

The contractor's role may include the following on a per application basis:

- Check the completeness of the sequencing data provided by the applicant
- Evaluate the analyses of Sanger and/or NGS sequence data for the insertion site, including both 5' and 3' flanking regions at each insertion site, with the aim of verifying the identity of the inserted sequence(s) and identifying interruptions of known genes including:-
  - Evaluate the parameters of bioinformatic searches of the flanking sequences
  - Evaluation of the data sources and software tools used by the applicant
  - Independent analyses of raw sequence data for both 5' and 3' flanking regions at each insertion site
- Evaluation of the analyses of Open Reading Frames (ORFs) present within the insert and spanning the junction sites and possible similarity of putative polypeptides with known toxins and allergens including:-
  - Evaluation of the parameters of bioinformatic methods used for analyses of ORFs
  - Evaluation of the data sources and software tools used by the applicant
  - Independent analysis of ORFs
  - Independent analysis of similarity between derived amino acid sequences resulting from detected ORFs and known toxins and allergens
  - Preparation of an analysis of the sequence similarity between GM plant DNA and microbial DNA for an evaluation of the potential for horizontal transfer of the GM sequence

In their tender, the Supplier must be able to demonstrate the following:

- Extensive experience in producing, and assessing sequencing data generated both with Sanger and NGS technologies; experience in bioinformatics for the analyses of complex sequencing data and use of relevant software for such

analyses; experience in understanding methodology and data in the fields of molecular and plant biology, such as GMOs. **A list of recently completed projects and an example of the type of report the supplier expects to deliver should be provided.**

- Ability to provide a team of at least 2 experts in Bioinformatics ideally along with molecular biology expertise including GM. **Detailed CV's of the project team must be provided.**
- Ability and capacity to meet the strict timelines enshrined in legislation by which risk assessment of GM food and feed products must be completed. Checks per application should be complete and the report available within 1 month of receipt from the FSA or details of missing documentation supplied as soon as possible to enable the FSA to “stop the clock” on an assessment and request further data from the applicant
- Experience in preparing scientific publications and technical reports, and extensive and demonstrable experience in the evaluation and elaboration of bio-informatic analyses
- How the team will keep up to date with the newest analytical methods and approaches. Potentially through a professional science body linked to chartership or other means.
- Availability of adequate technical equipment, software and databases with security in place to ensure commercially sensitive data is not released to third parties and data backups are secure. **A signed statement to this effect must be provided.**
- A commitment to confidentiality and no conflicts of interest (to be agreed on a per application basis) that may impact their ability to make impartial judgments. **A signed statement to this effect must be provided.**
- Must be open to feedback and willing to adapt their approach accordingly.

### Anticipated volumes

We currently anticipate around 10 assessments per year but we ask that potential contractors demonstrate flexibility to handle a higher or lower volume if required

### Length of Agreement

The Contract is for 3 years. It will be subject to a Break Point after 18 months. We will confirm whether we wish to proceed with the remainder of the Contract by issuing a Variation to Contract confirming our intention and any changes to our requirements.

### Data protection

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All data remains the property of the applicant and must be treated as sensitive data throughout. No distribution to third parties is permitted without the express permission of the applicant. The FSA will obtain permission from each applicant to share genomic data with the contractor.

'Please outline in your tender how you will comply with the GDPR, recognising the commissioning authority's role as the 'data controller' and the contractor's role as the 'data processor', and responding to the sections below. If successful you may also be asked to carry out a Privacy Impact Assessment (PIA), and a privacy notice may be required, which will be reviewed by the FSA data security team.

### Data security

Please confirm in your tender that you have in place, or that you will have in place by contract award, the human and technical resources to perform the contract to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects.

Please provide details of the technical facilities and measures (including systems and processes) you have in place, or will have in place by contract award, to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Your response should include, but should not be limited to facilities and measures:

- to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- to comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data;
- to ensure that any consent-based processing meets standards of active, informed consent, and that such consents are recorded and auditable;
- to ensure legal safeguards are in place to legitimise transfers of personal data outside the EU (if such transfers will take place);
- to maintain records of personal data processing activities; and
- to regularly test, assess and evaluate the effectiveness of the above measures.'

### Dissemination and exploitation

We wish to receive the conclusions of the analyses in a report format which should be distributed to the FSA only and not to any third party or made public in any way. The contractor will not be permitted to use the data provided to them for any other purpose than that stated in this specification document.

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The supplier should also demonstrate suitable provision for non-standard reports or examinations in cases where the analyses required or outcomes of said analyses preclude a standard report being produced.

### Quality

Reports will be peer-reviewed by our Scientific Advisory Committee and feedback may be given. Amendments may be requested and we would request that the contractor takes any suggestions on board for future work.

### Financial Template

Please complete and submit the financial template, providing a cost breakdown and total cost per assessment.

### Social Value

Social value has a lasting impact on individuals, communities and the environment. The Government has an opportunity and responsibility to maximise benefits effectively and comprehensively through its commercial activity. To be effective, it is essential that the FSA considers social value at all stages of the procurement life cycle. In order to do this, the FSA is applying the Government Commercial Functions social value model [PPN 06/20 Procurement Policy Note](#) from 1st January 2021. The complete set of documents can be found on the [Social Value webpage](#).

Using a maximum of 3000 characters, describe the commitment your organisation will make to ensure that opportunities under the contract deliver the Policy Outcome and Award Criteria.

The Policy Outcome selected for this tender is 'Wellbeing – Improve health and wellbeing'. Tenderers should describe how they will demonstrate action to support health and wellbeing, including physical and mental health, in the contract workforce (Award Criteria).

Please include:

- Your 'Method Statement', stating how you will achieve this and how your commitment meets the Award Criteria, and
- A timed project plan and process, including how you will implement your commitment and by when. Also, how you will monitor, measure and report on your commitments/the impact of your proposals. You should include but not be limited to:

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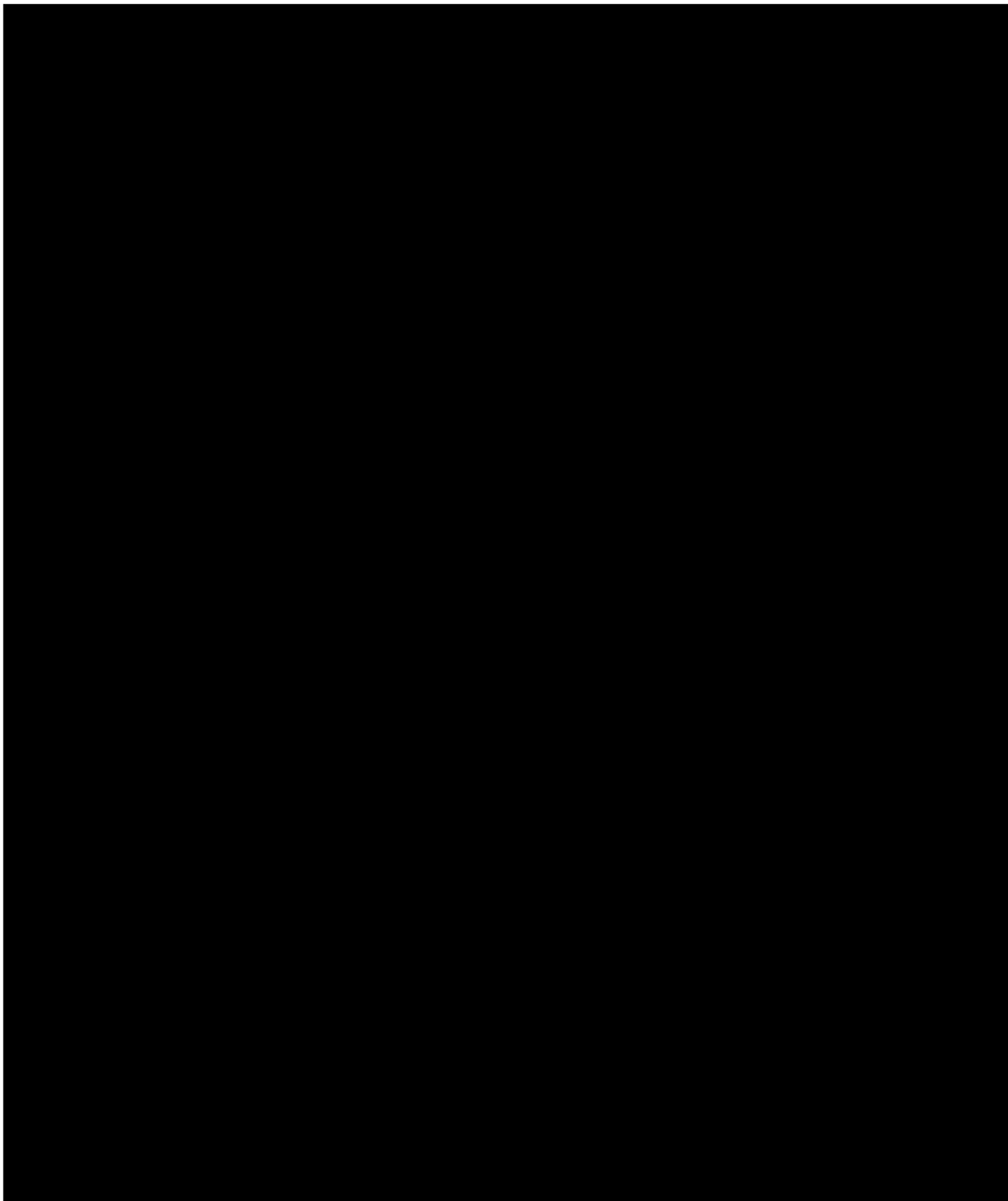
- Timed action plan
- Use of metrics
- Tools/processes used to gather data
- Reporting
- Feedback and improvement
- Transparency

Examples could include:

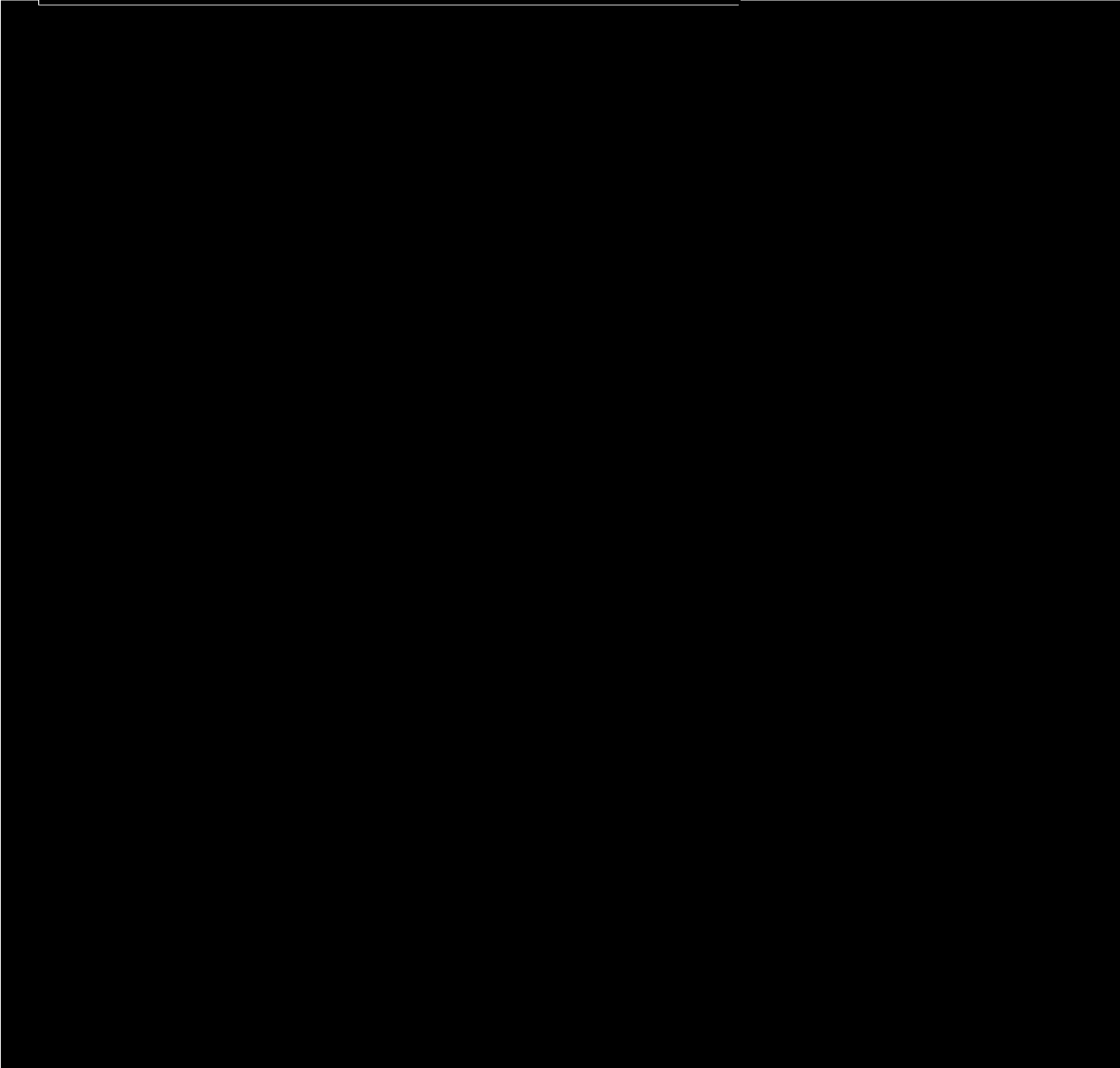
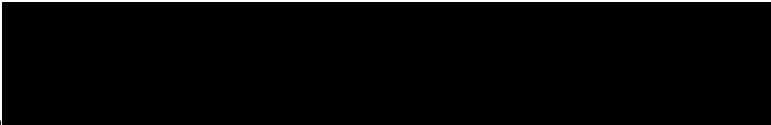
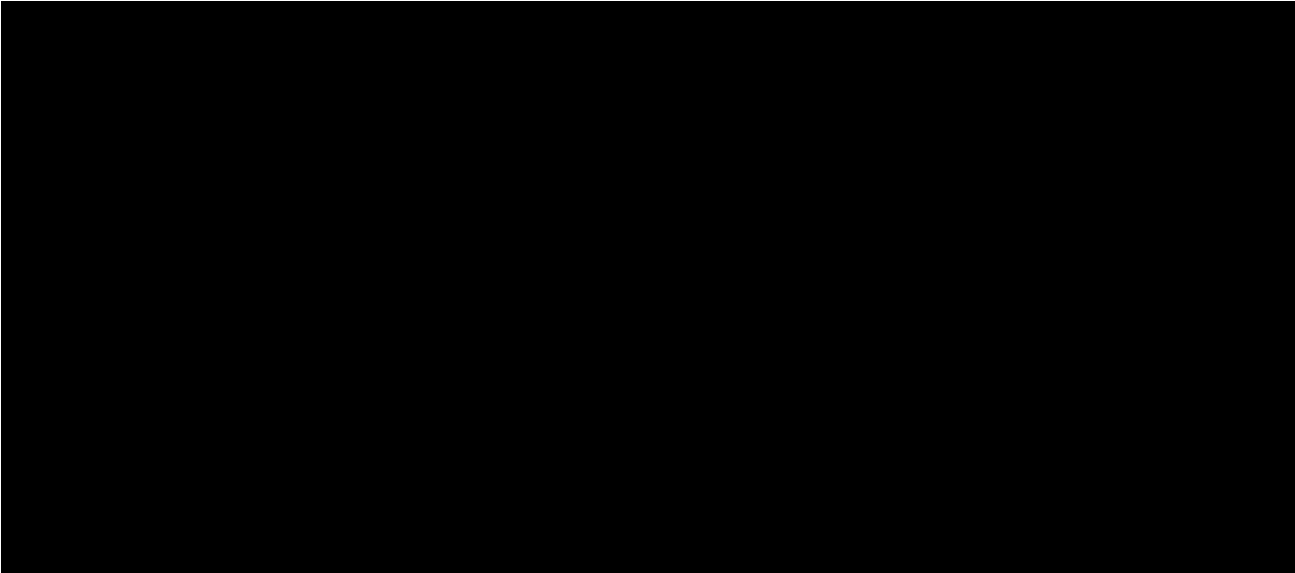
- Understanding of issues relating to health and wellbeing, including physical and mental health, in the contract workforce.
- Actions to invest in the physical and mental wellbeing of the contract workforce. Illustrative examples include
  - Implementing the 6 standards in the Mental Health at Work commitment and, where appropriate, the mental health enhanced standards for companies with more than 500 employees in Thriving at Work with respect to the contract workforce, not just 'following the recommendations'.
  - Public reporting by the tenderer and its supply chain on the health and wellbeing of staff comprising the contract workforce, following the recommendations in the Voluntary Reporting Framework.
  - Engagement plans to engage the contract workforce in deciding the most important issues to address.

A Social Value Key Performance Indicator (KPI) will be agreed in the Contract based on the Suppliers response regarding the percentage of all companies in the supply chain under the contract to have implemented measures to improve the physical and mental health and wellbeing of employees.

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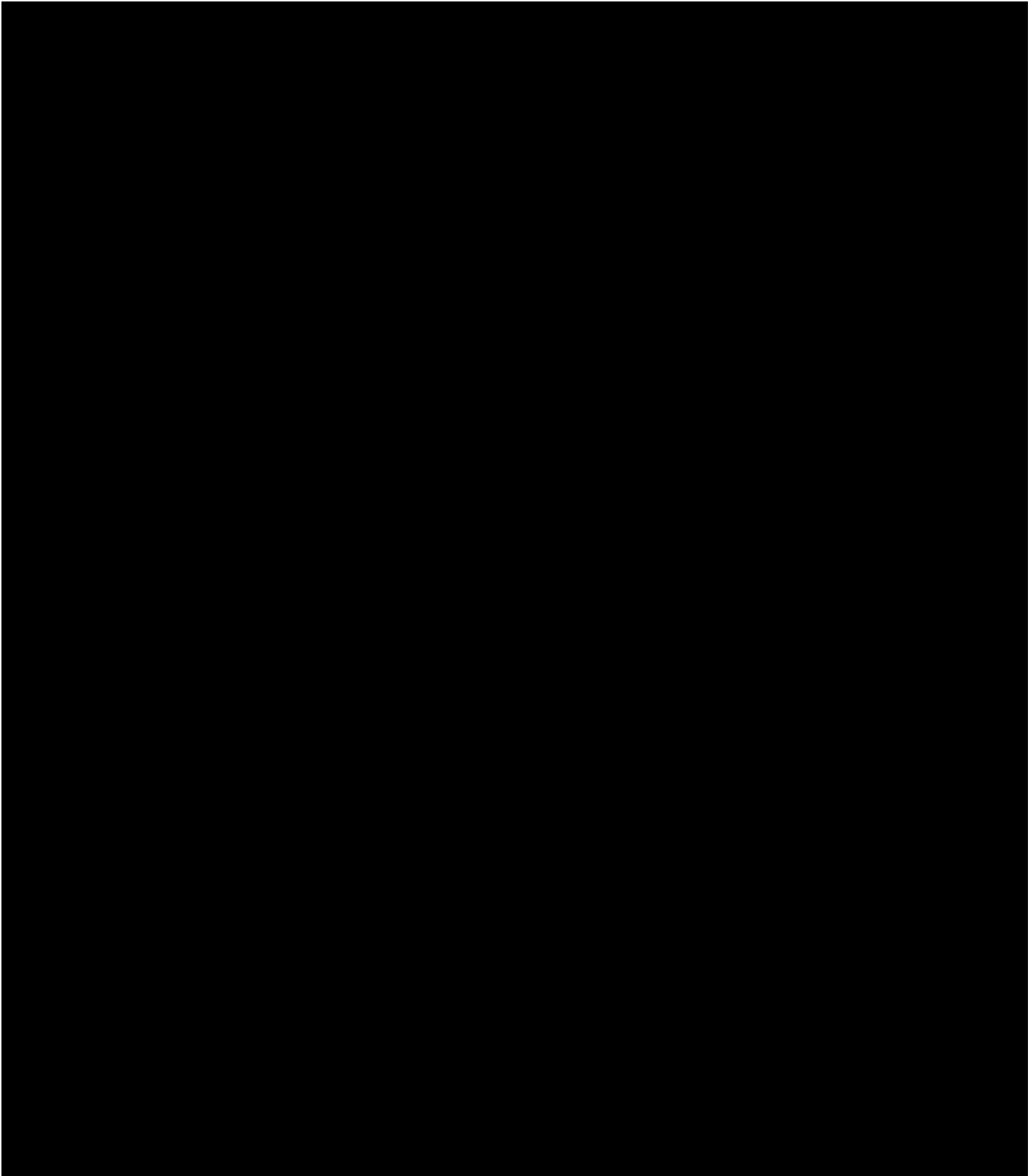


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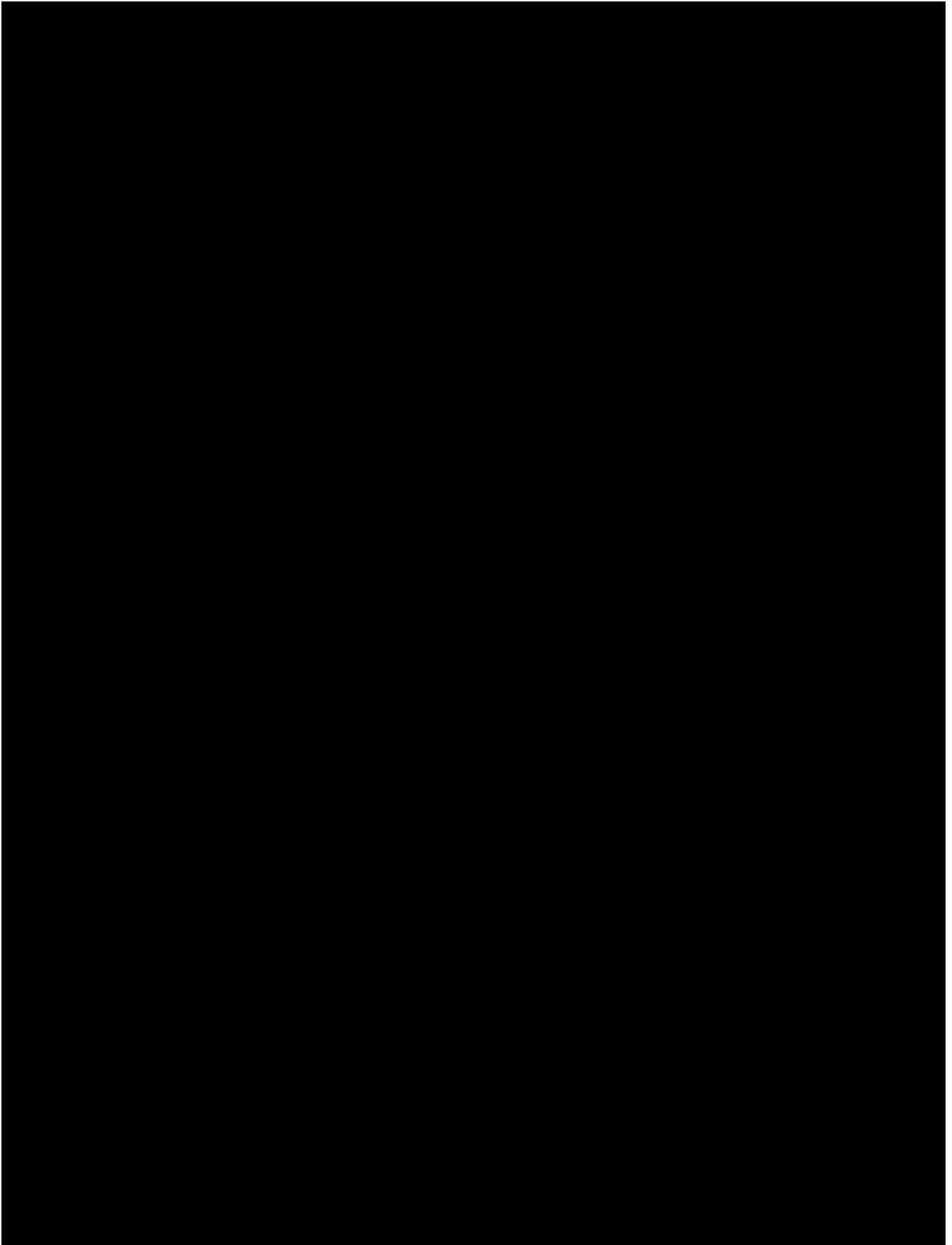




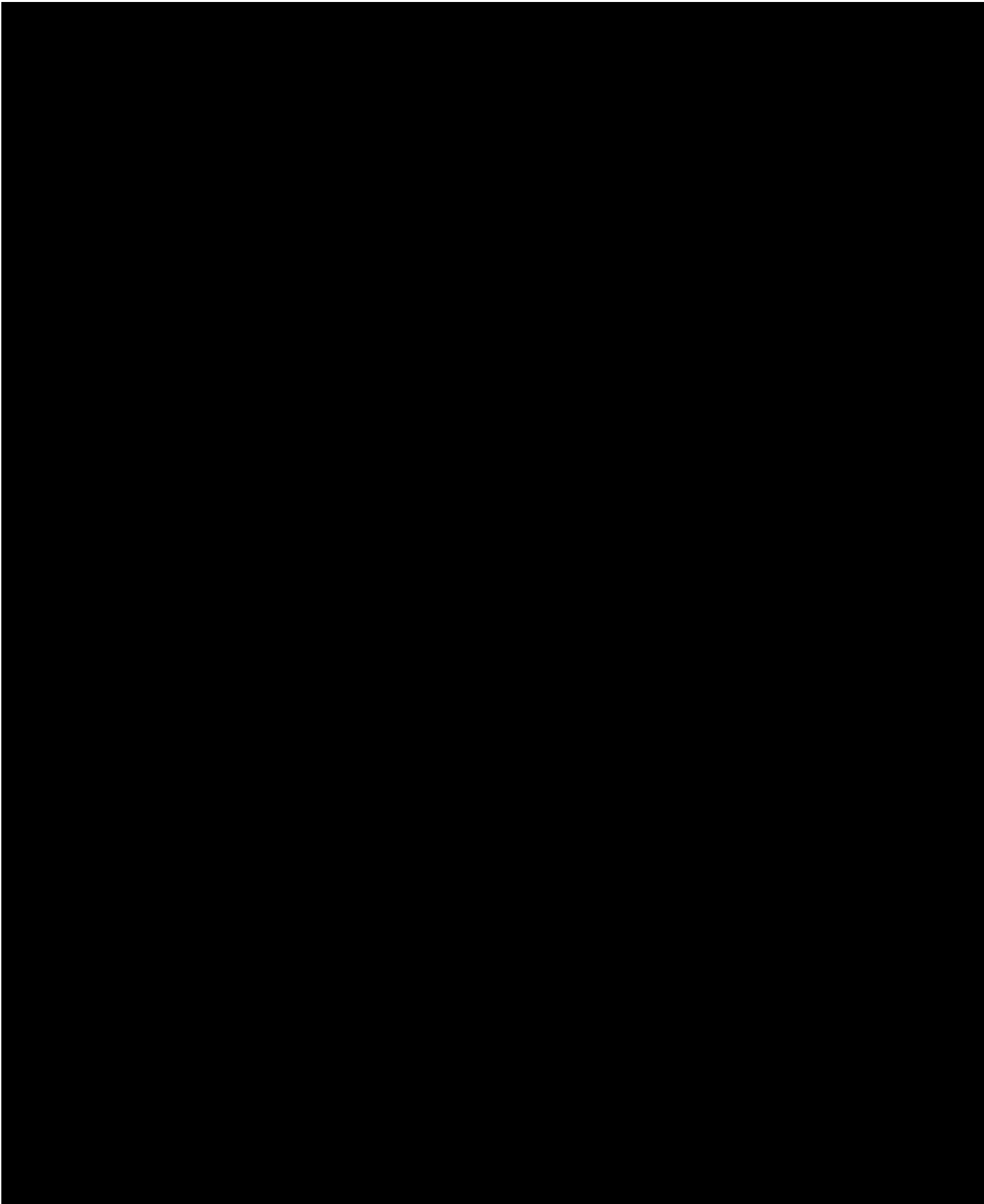
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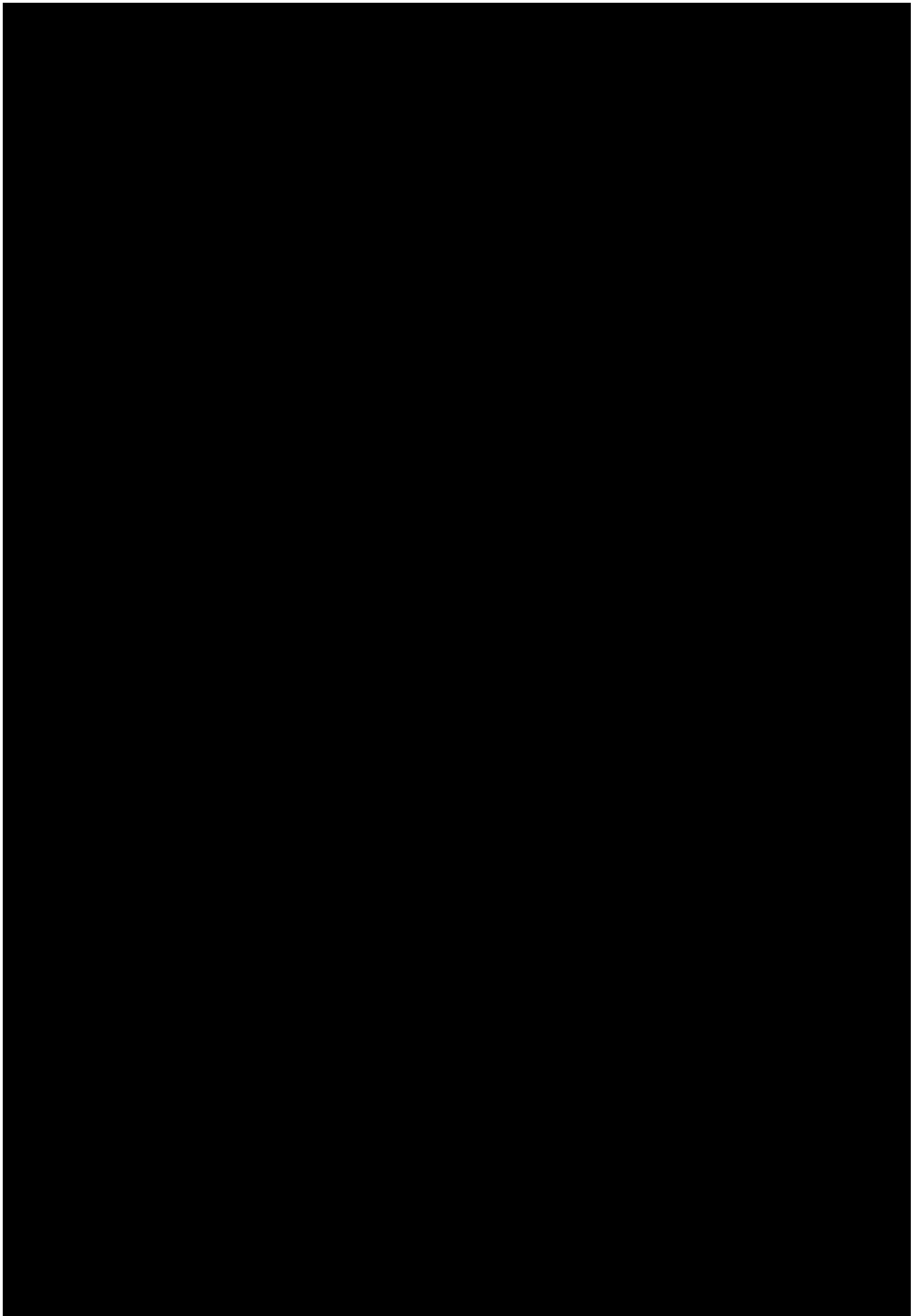
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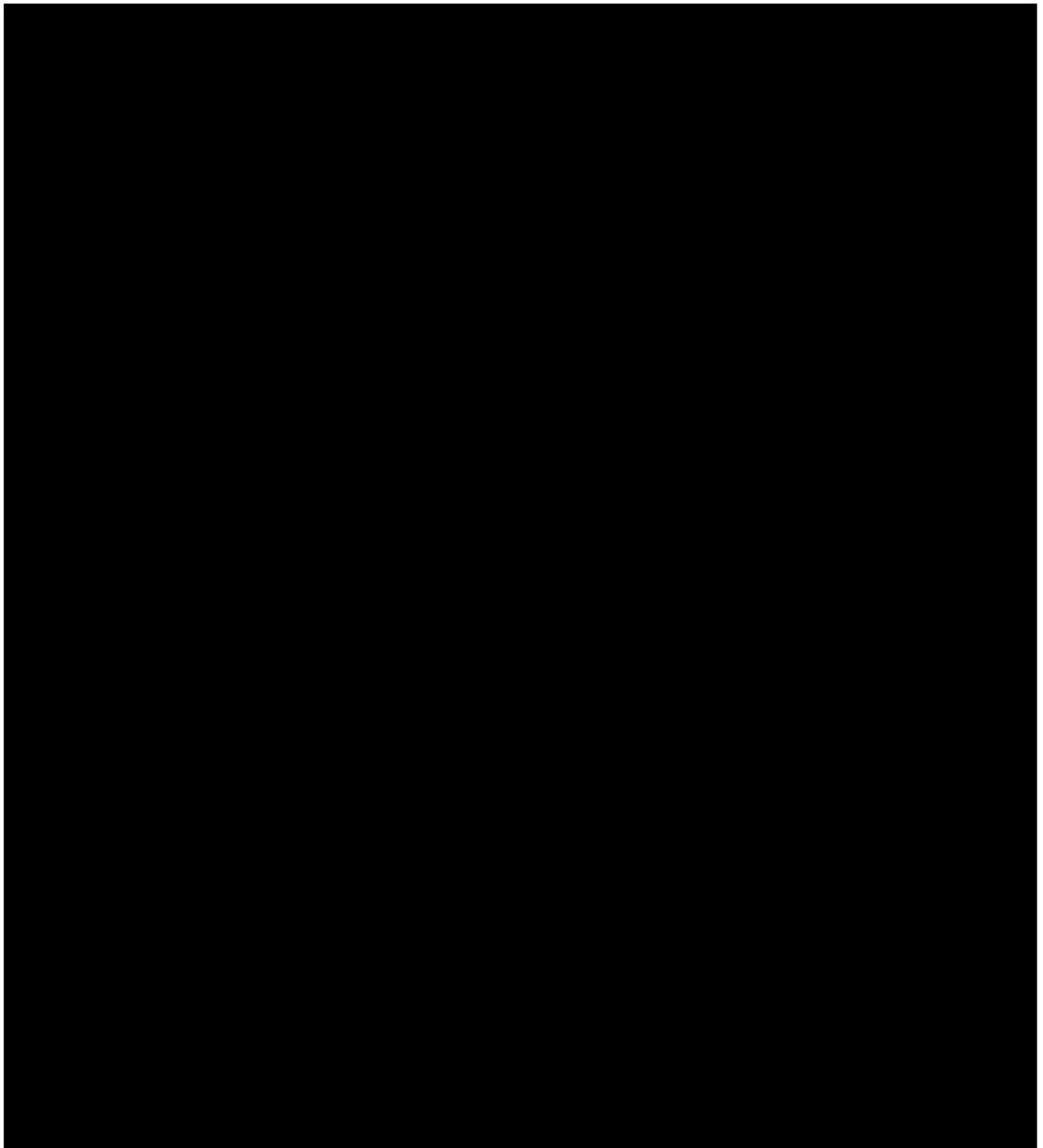
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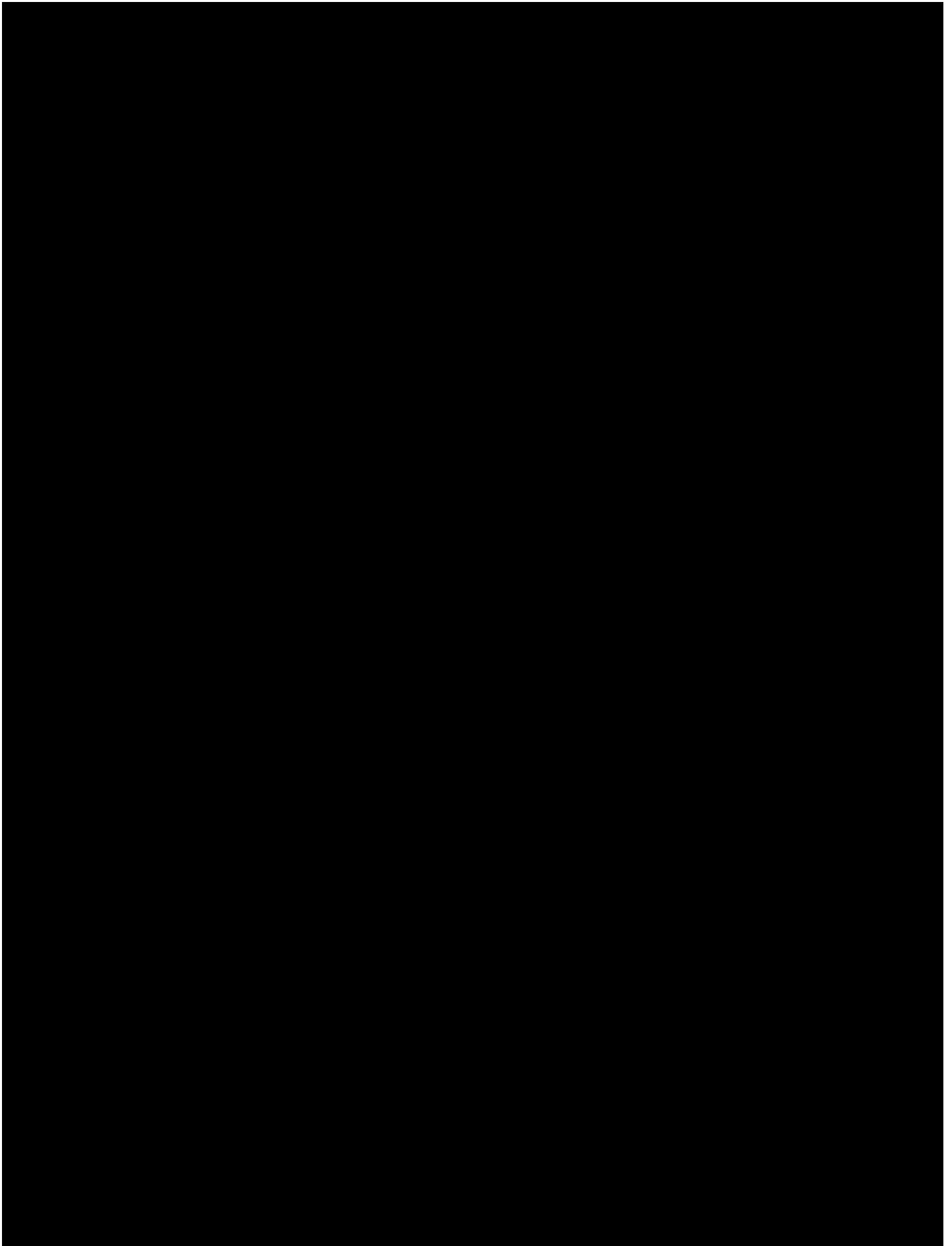
## **Schedule 4 (Tender)**



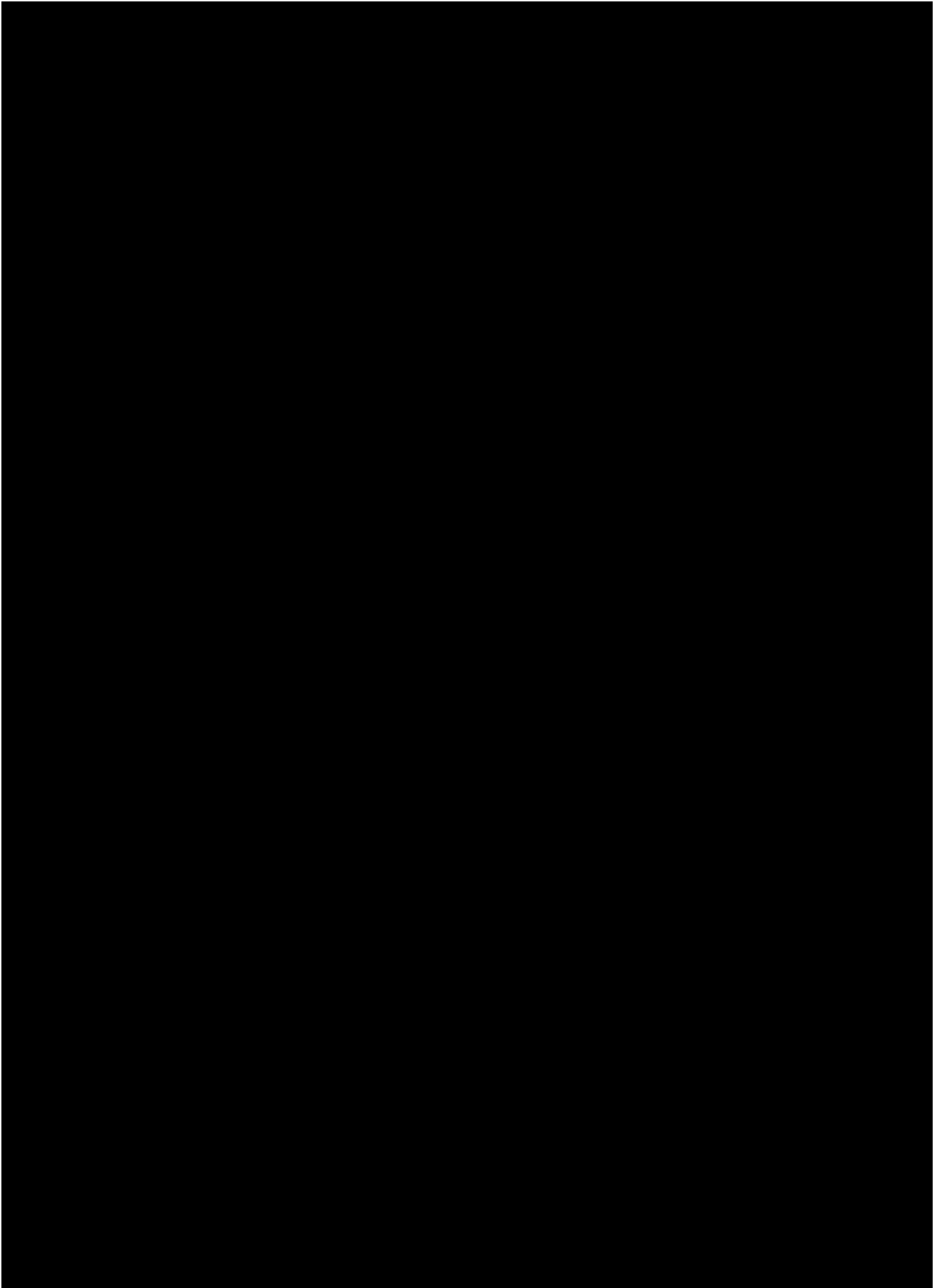
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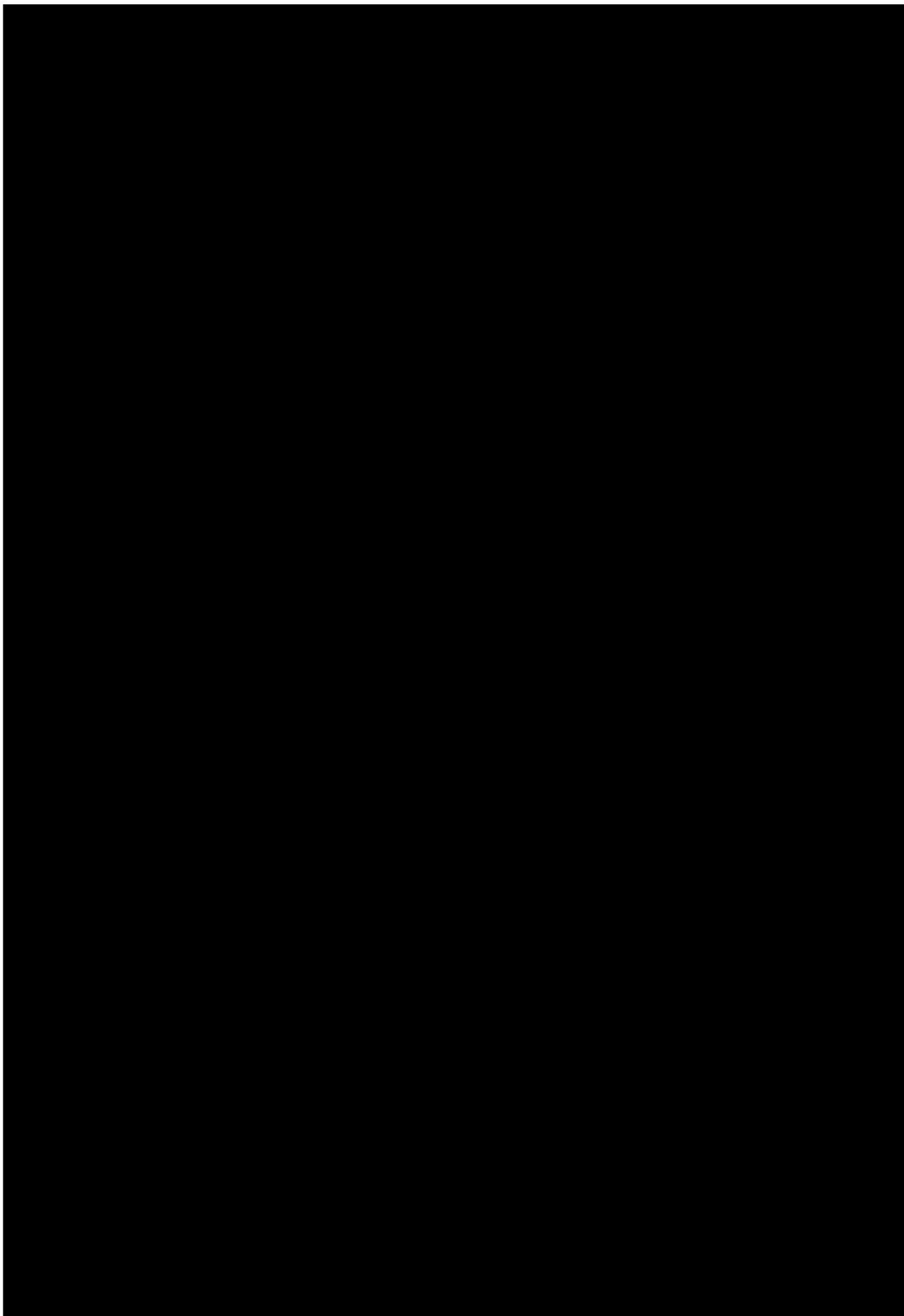


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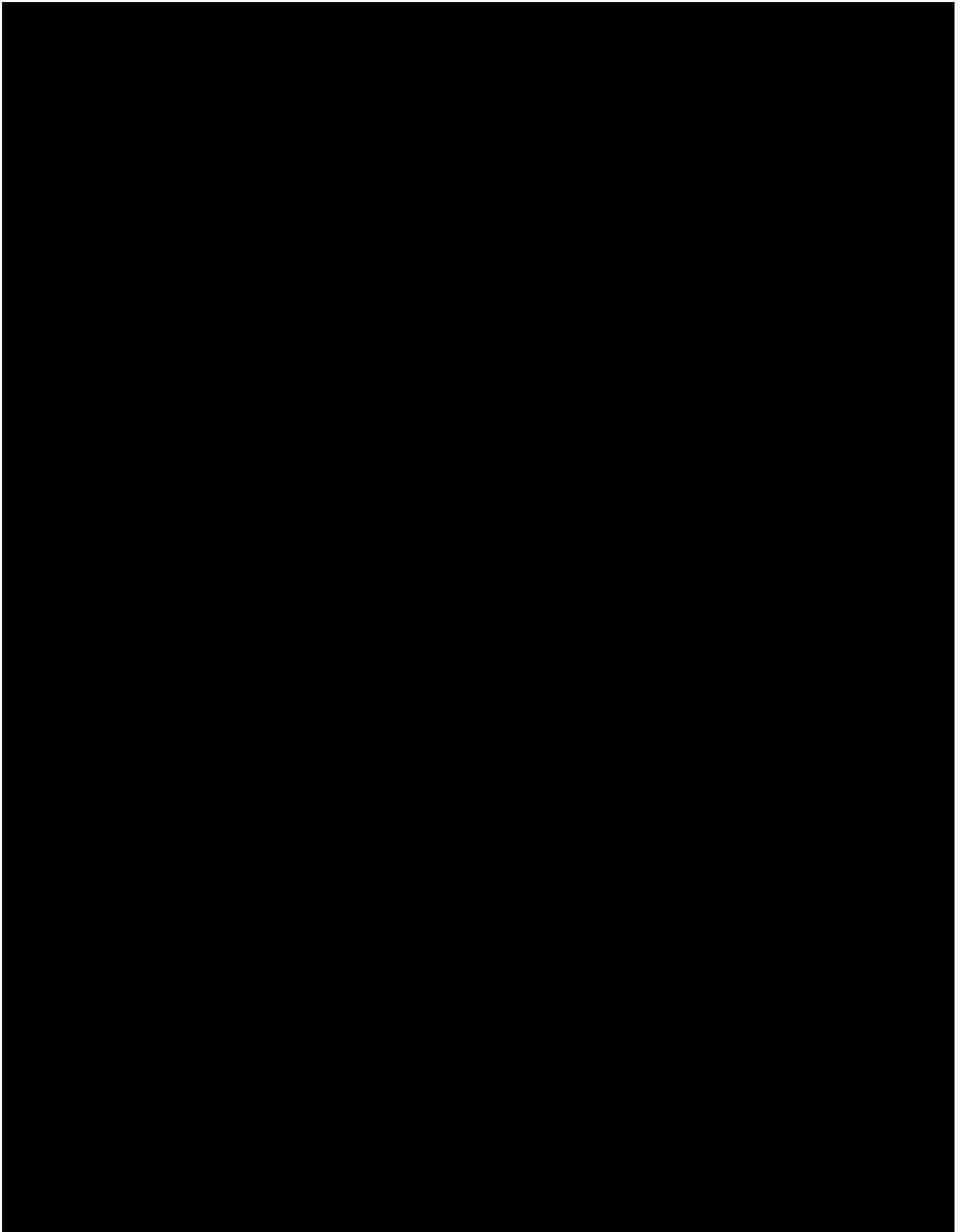




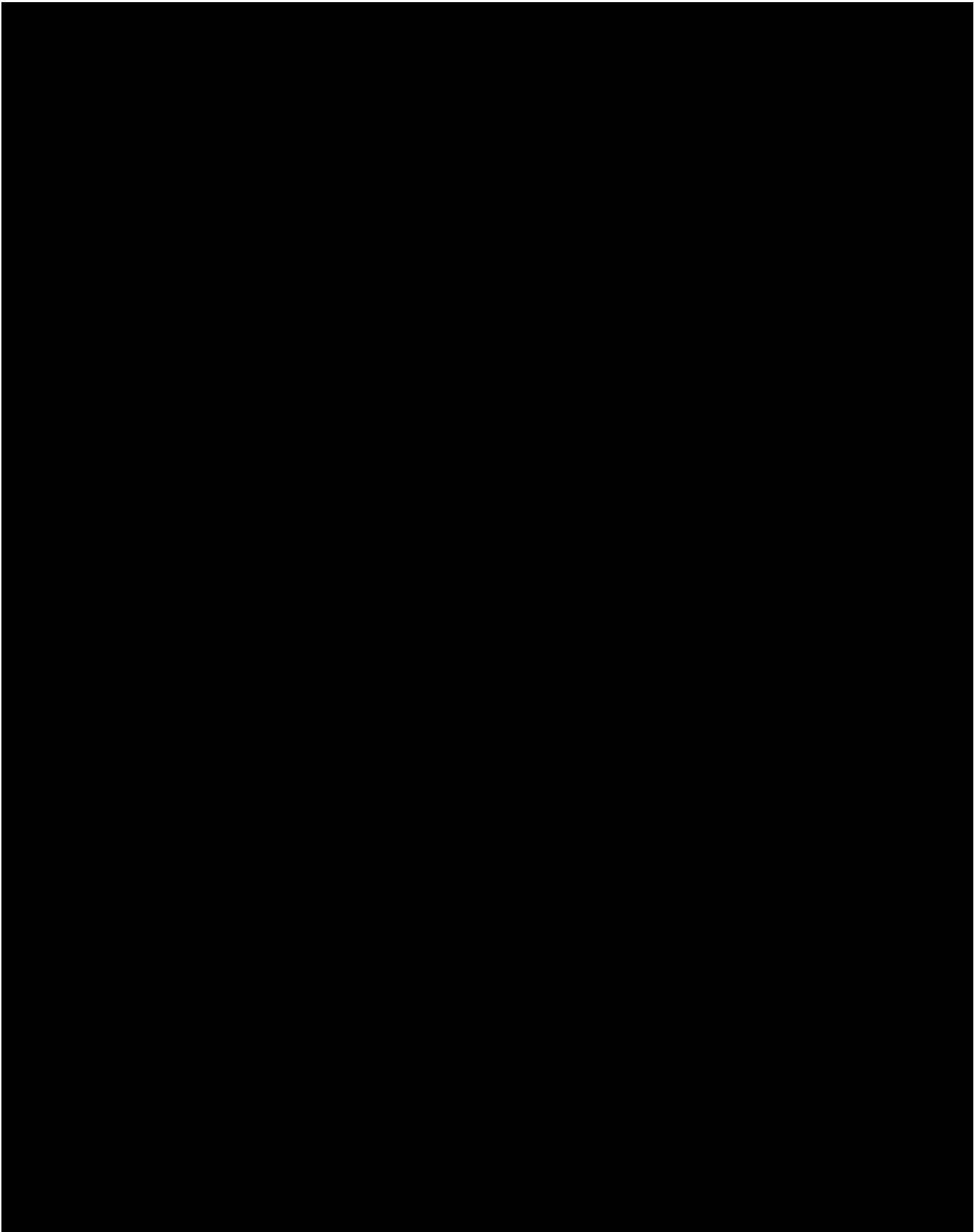
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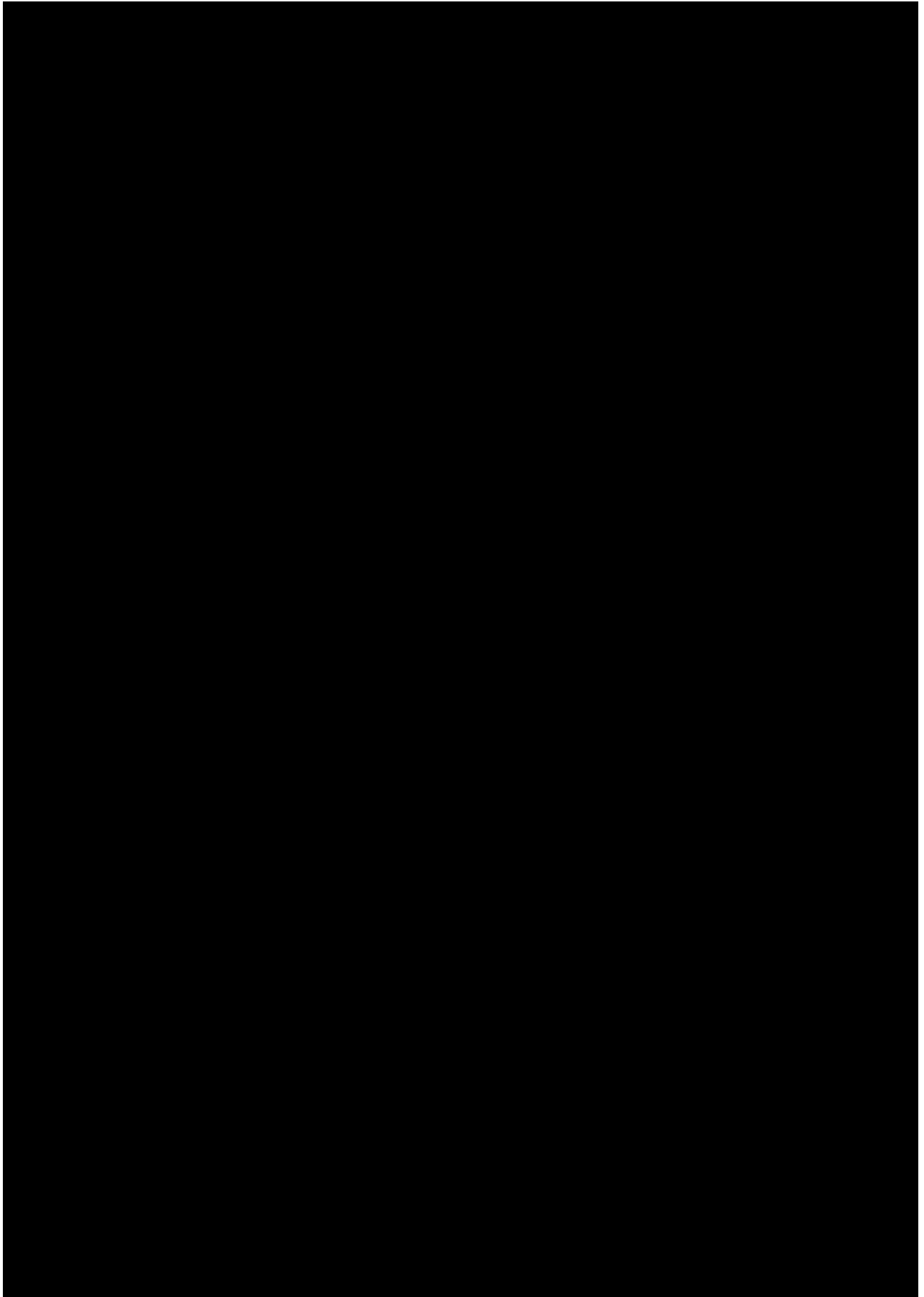
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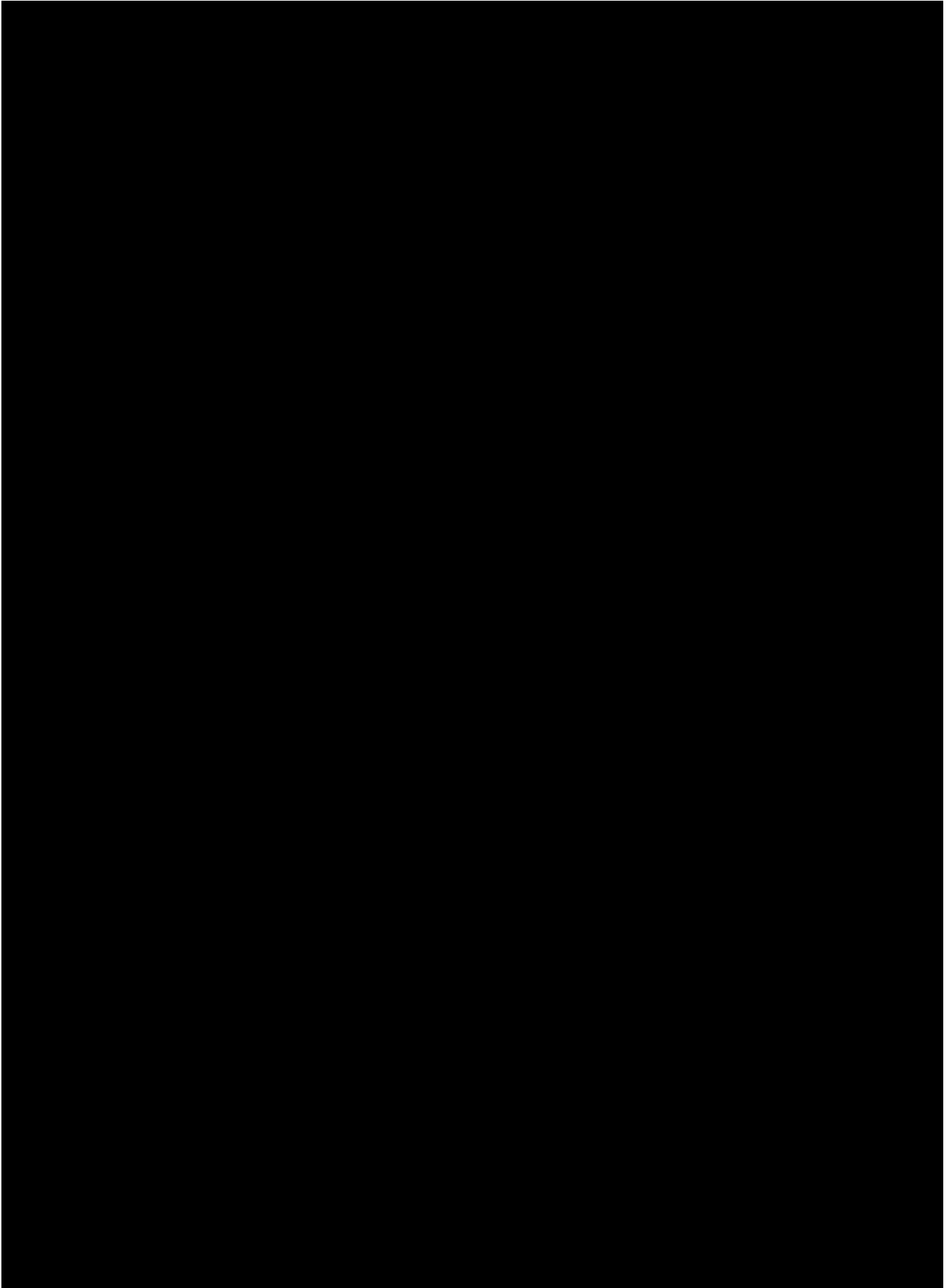
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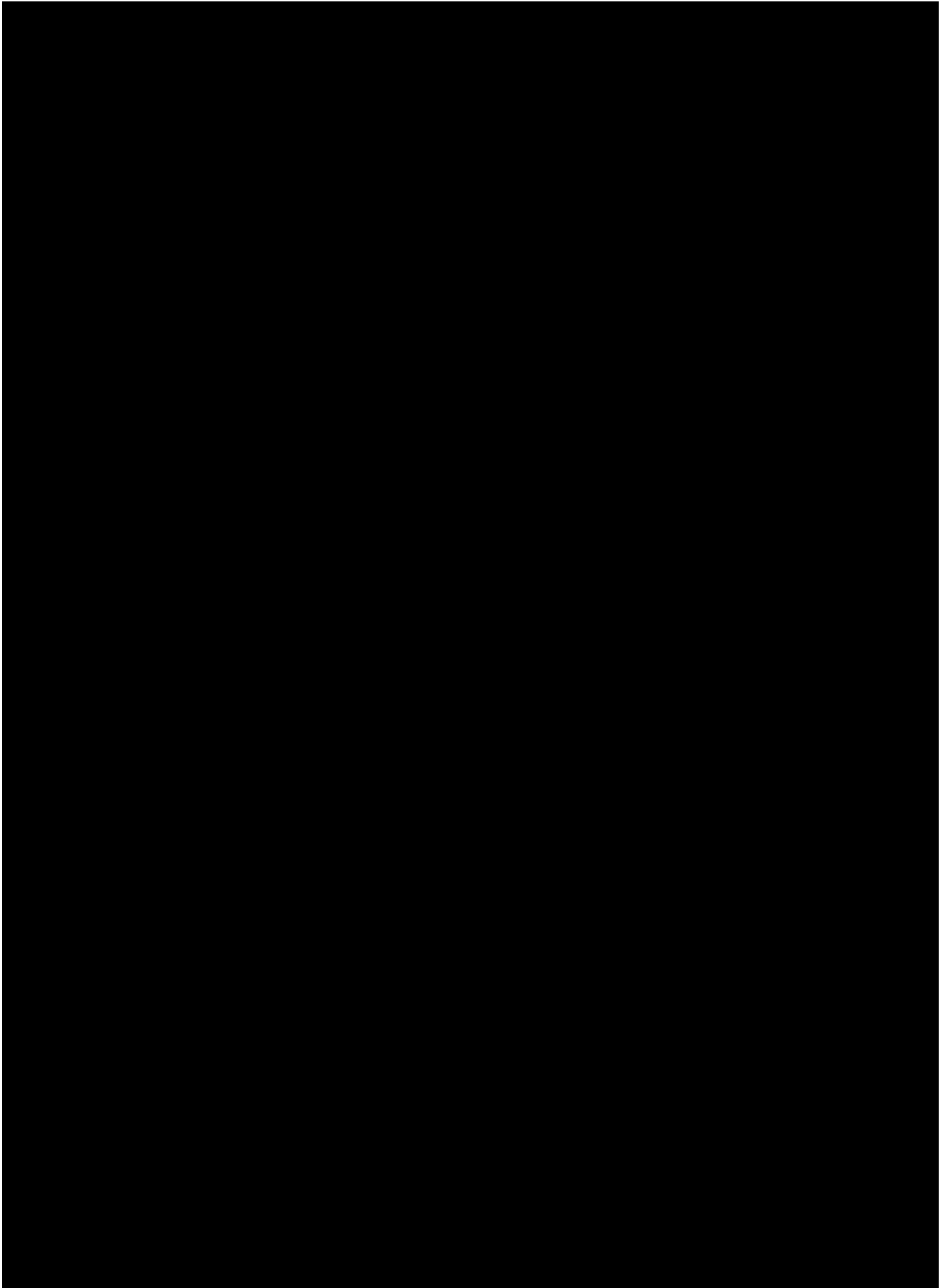
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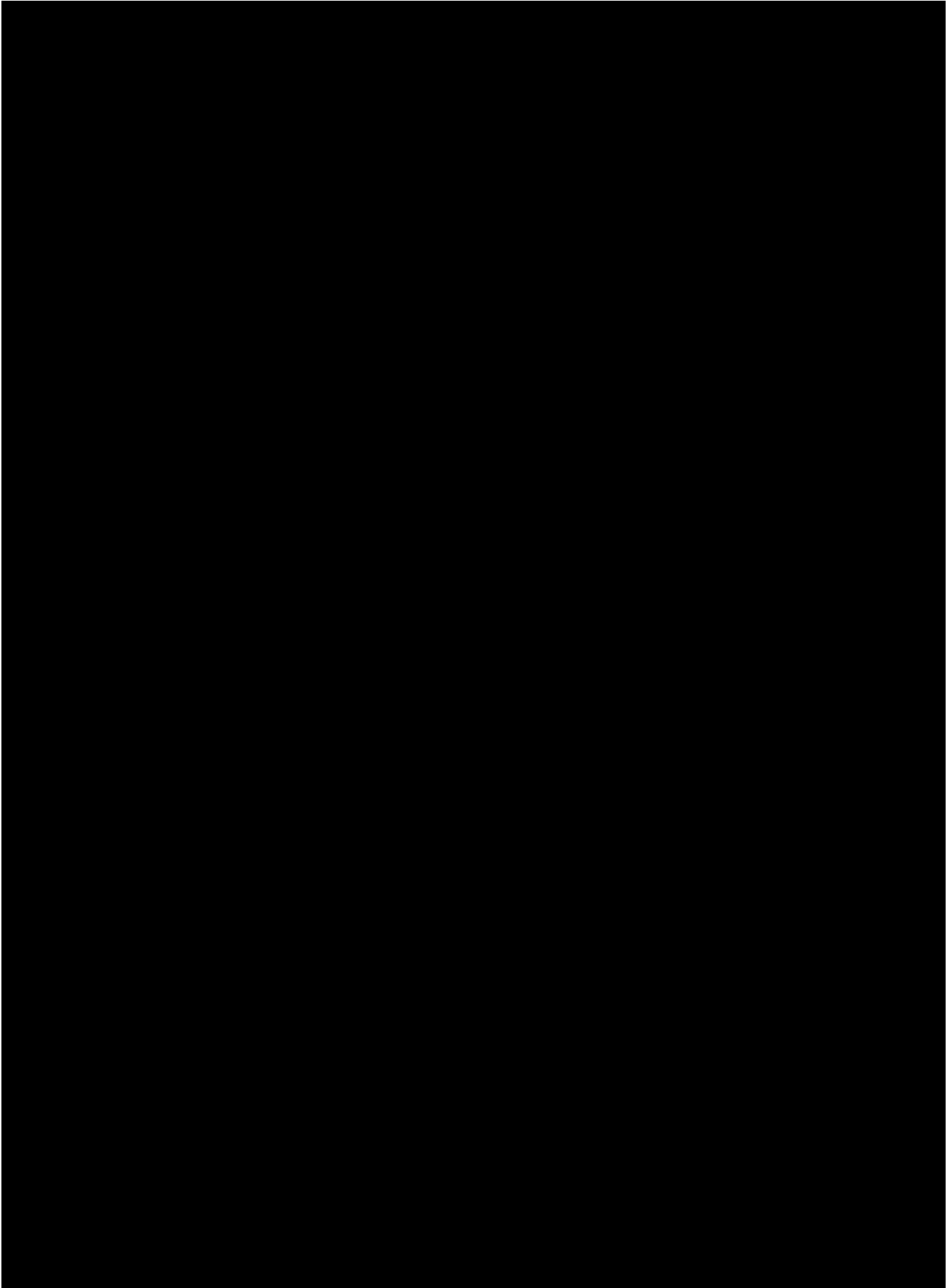
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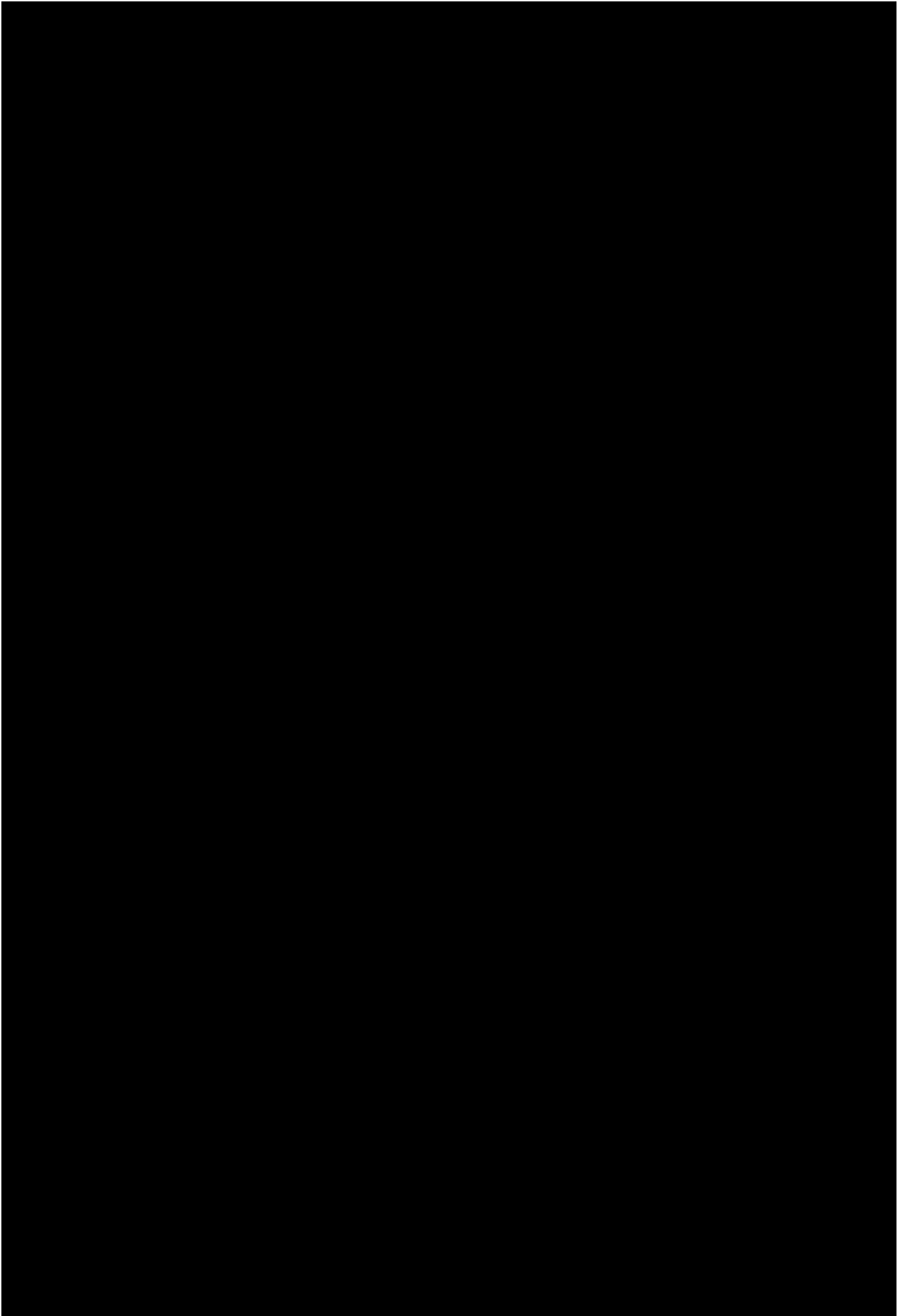
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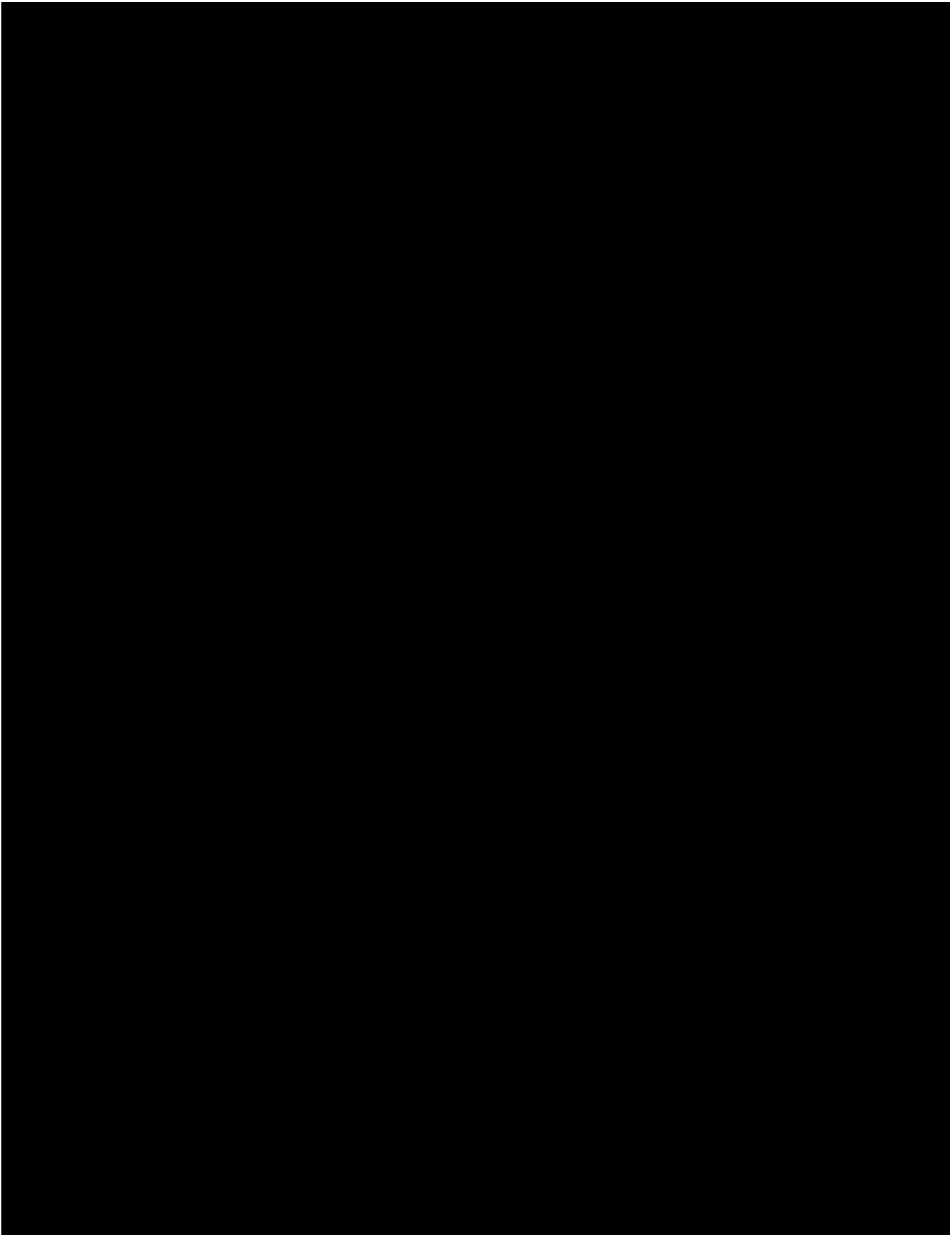


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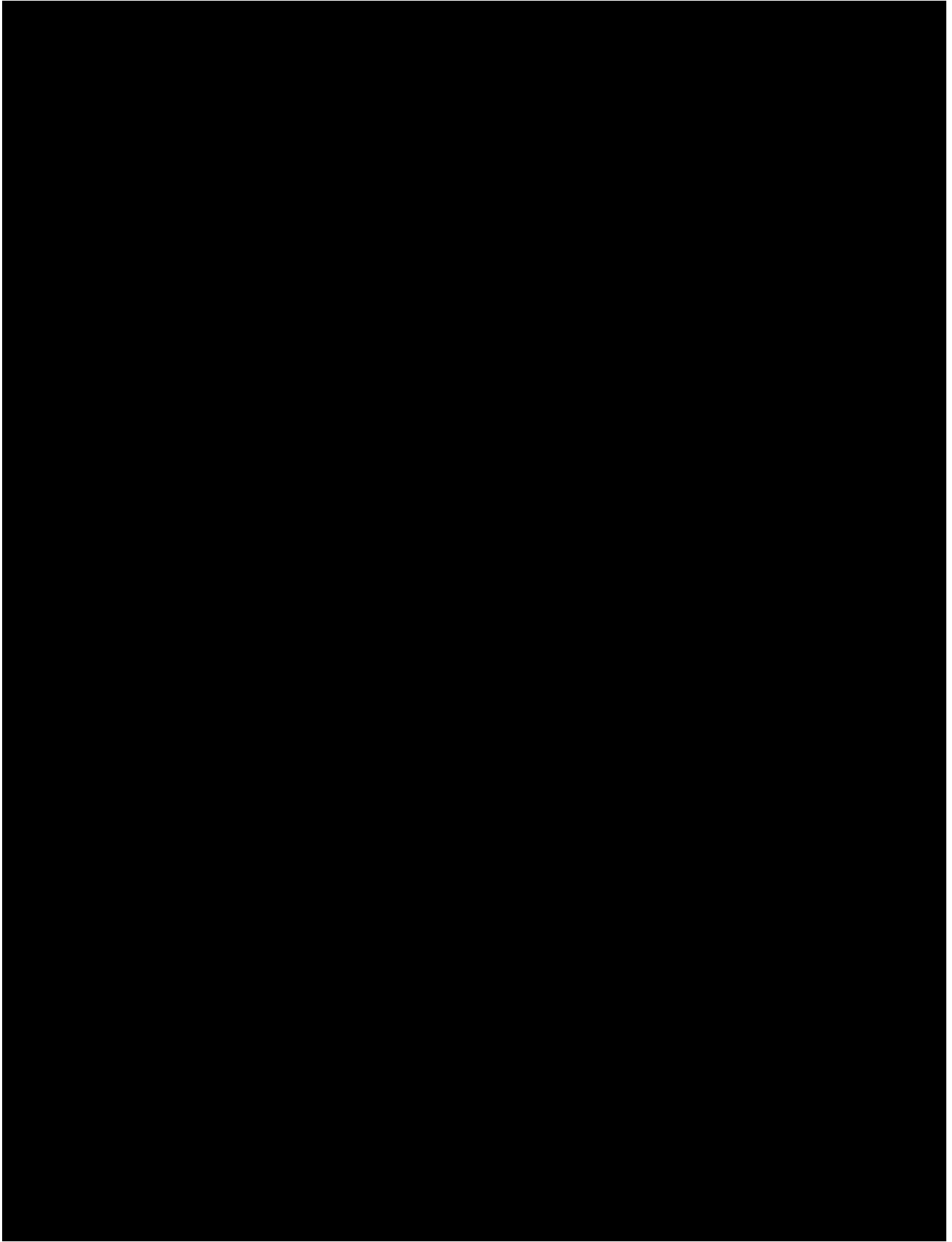




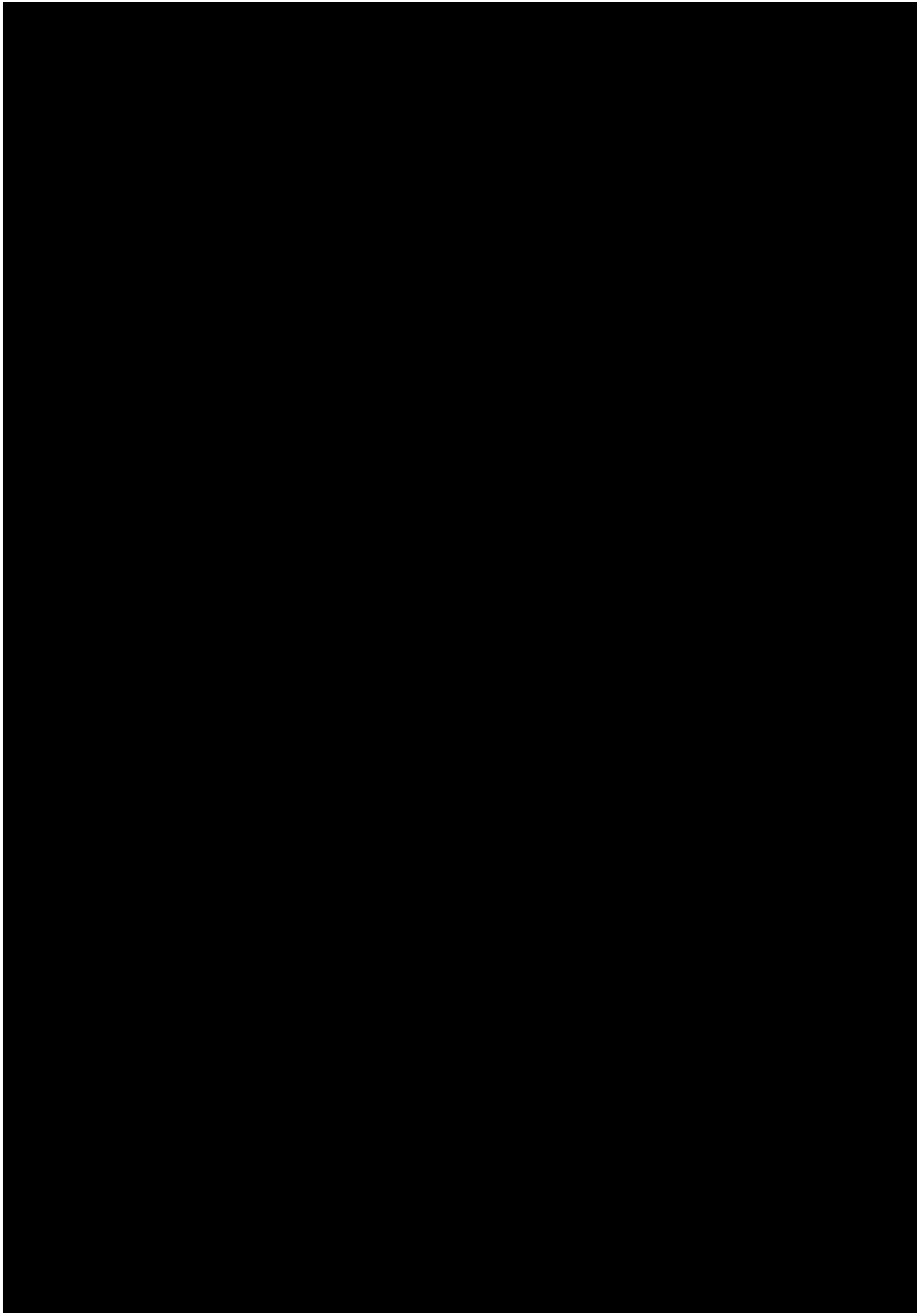
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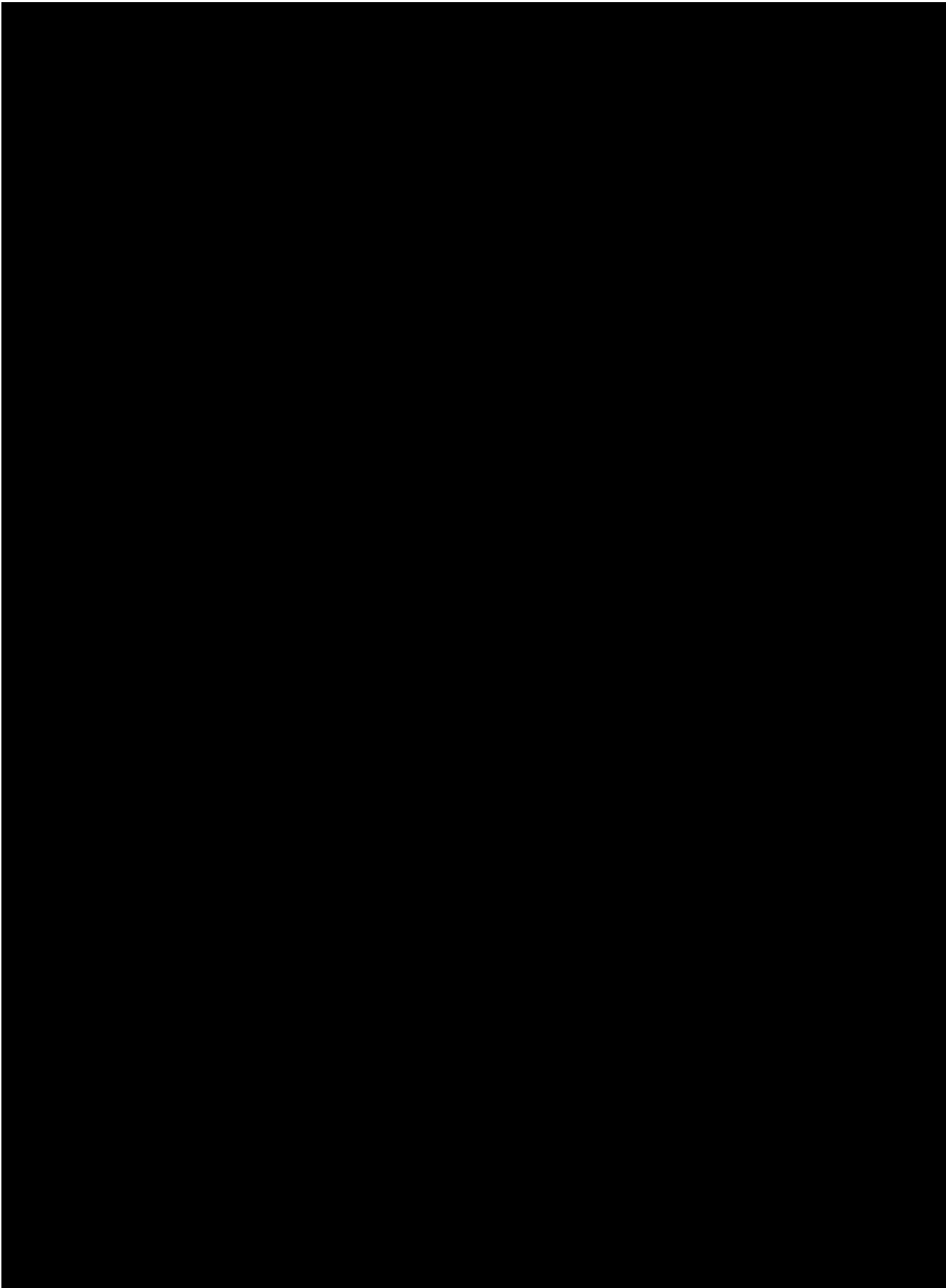
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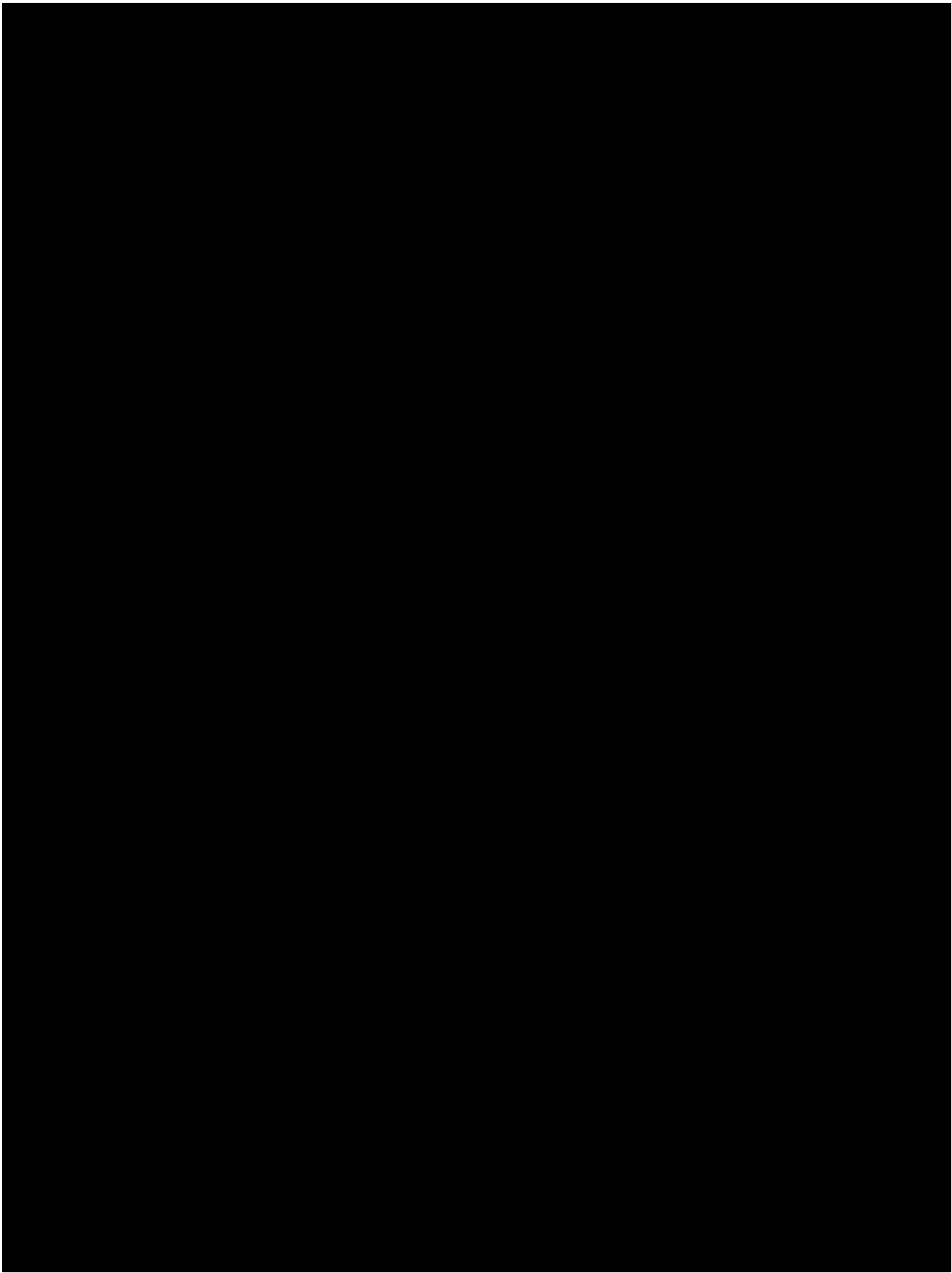
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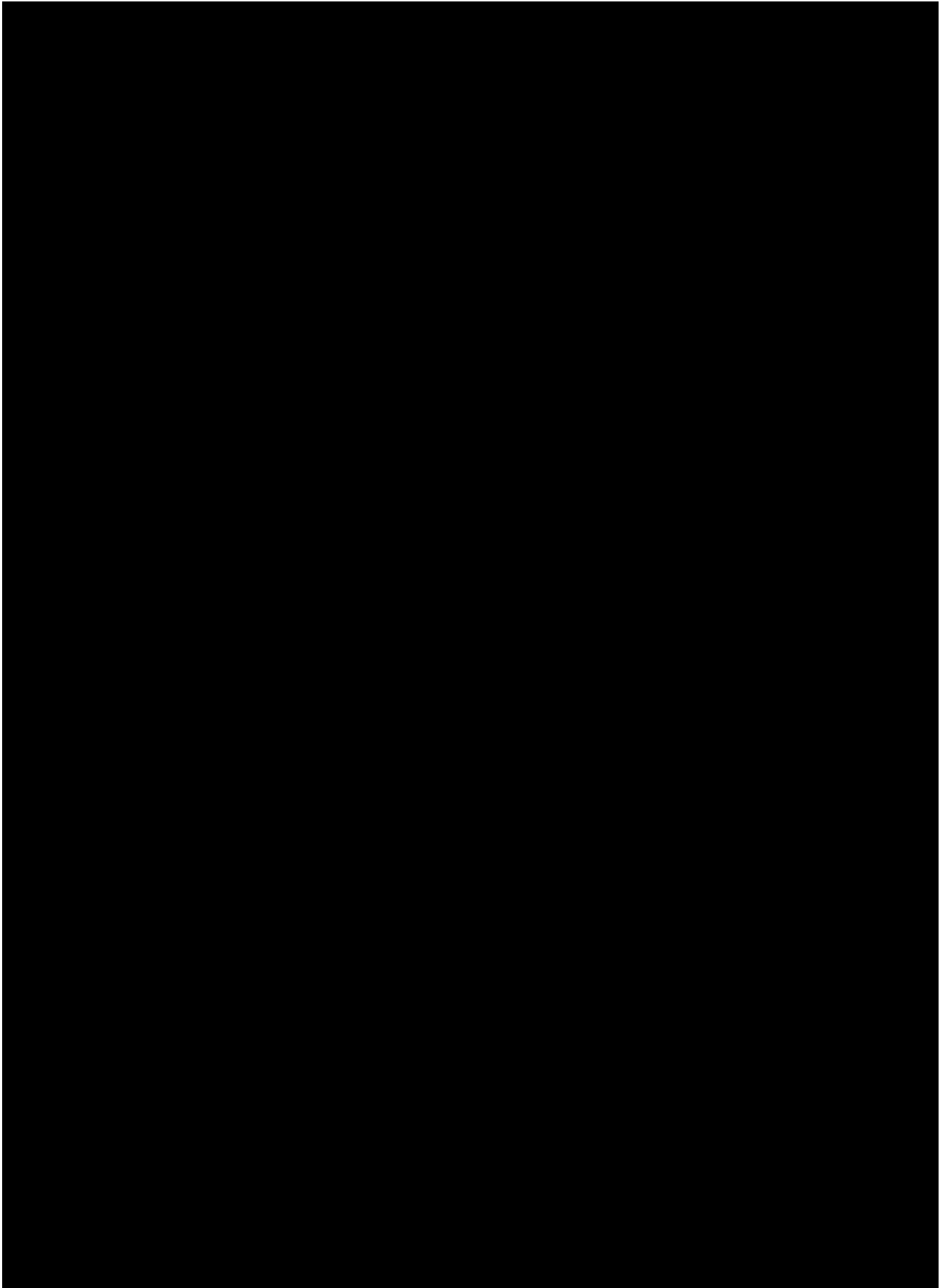
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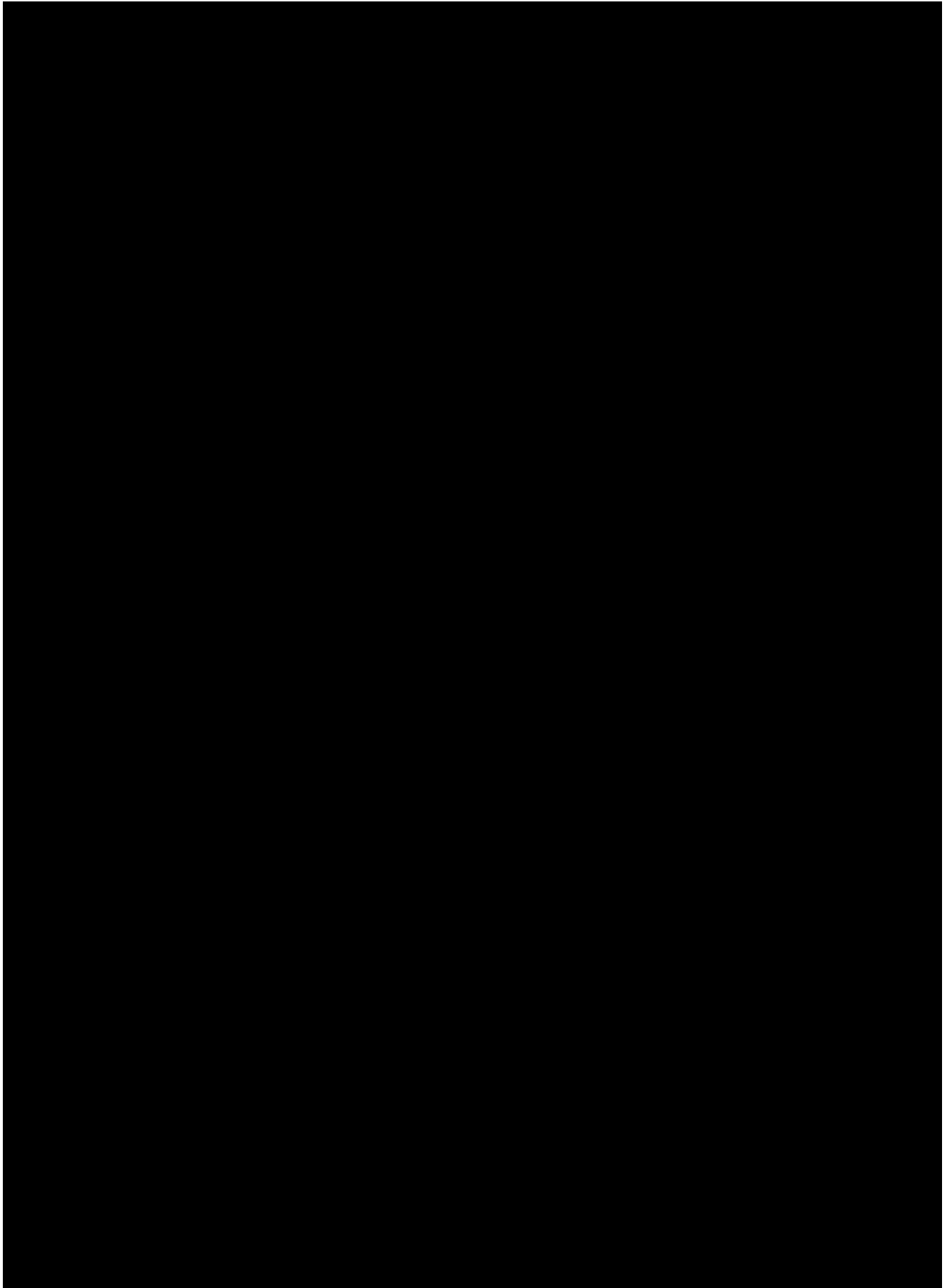
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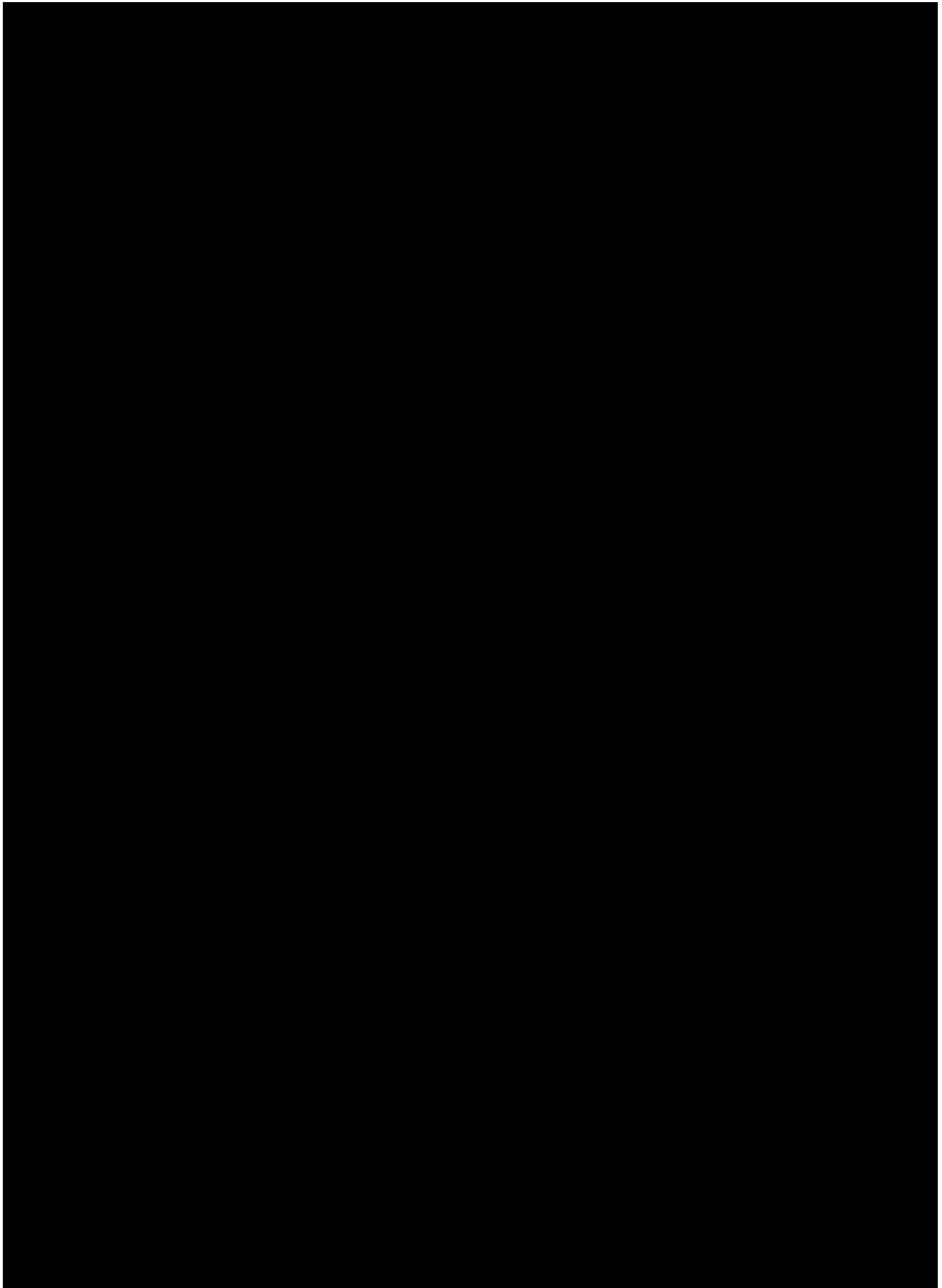
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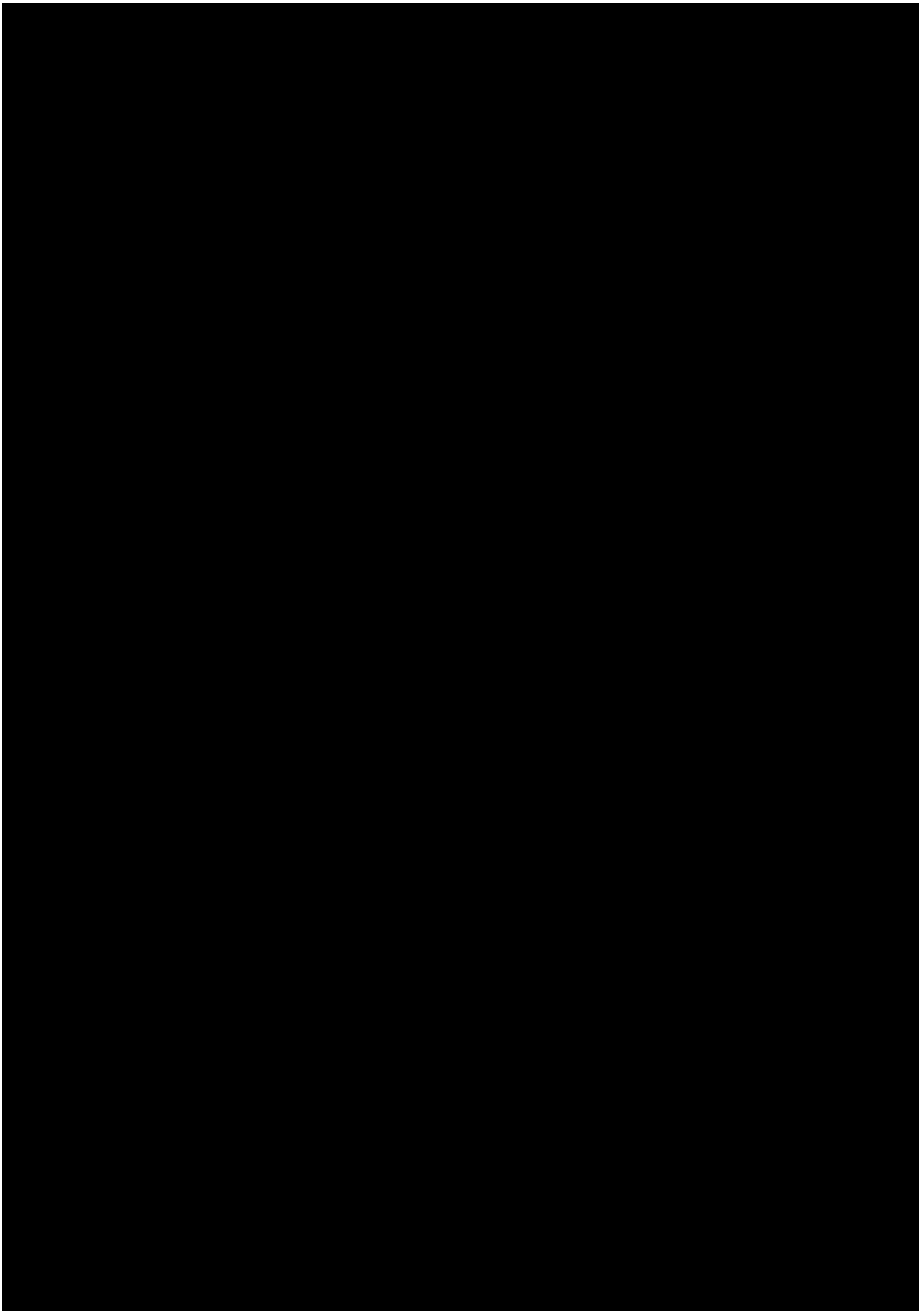


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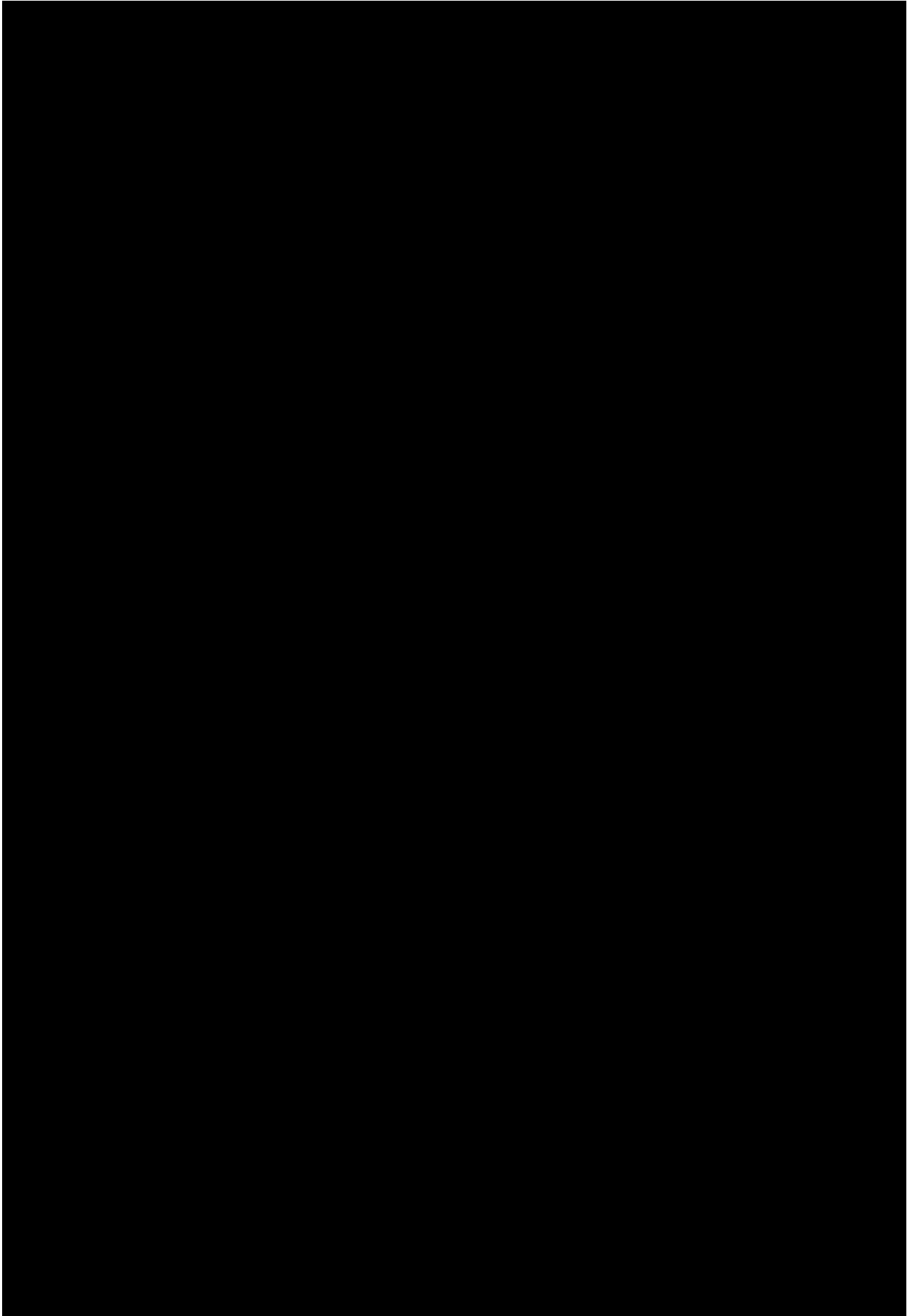




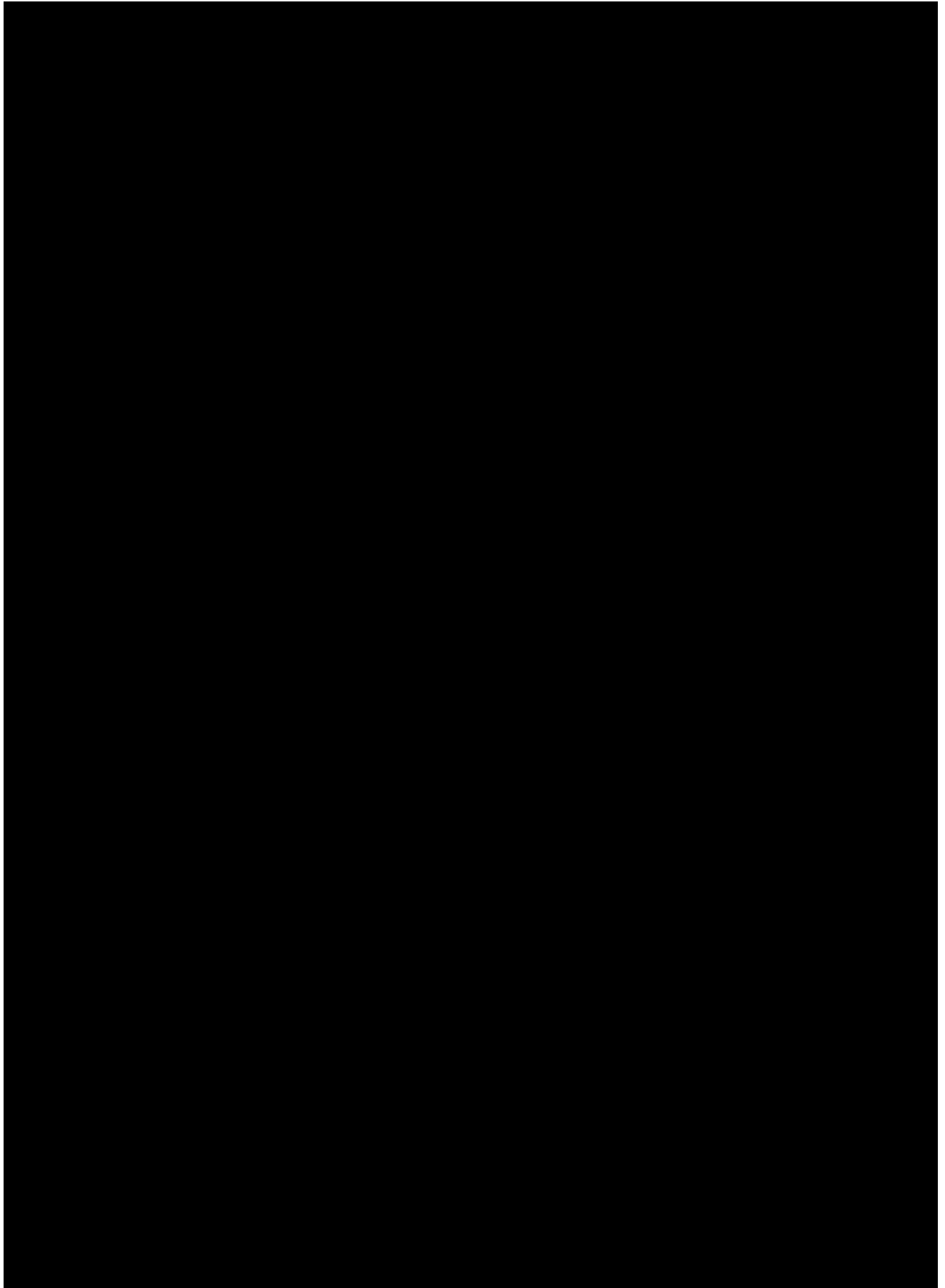
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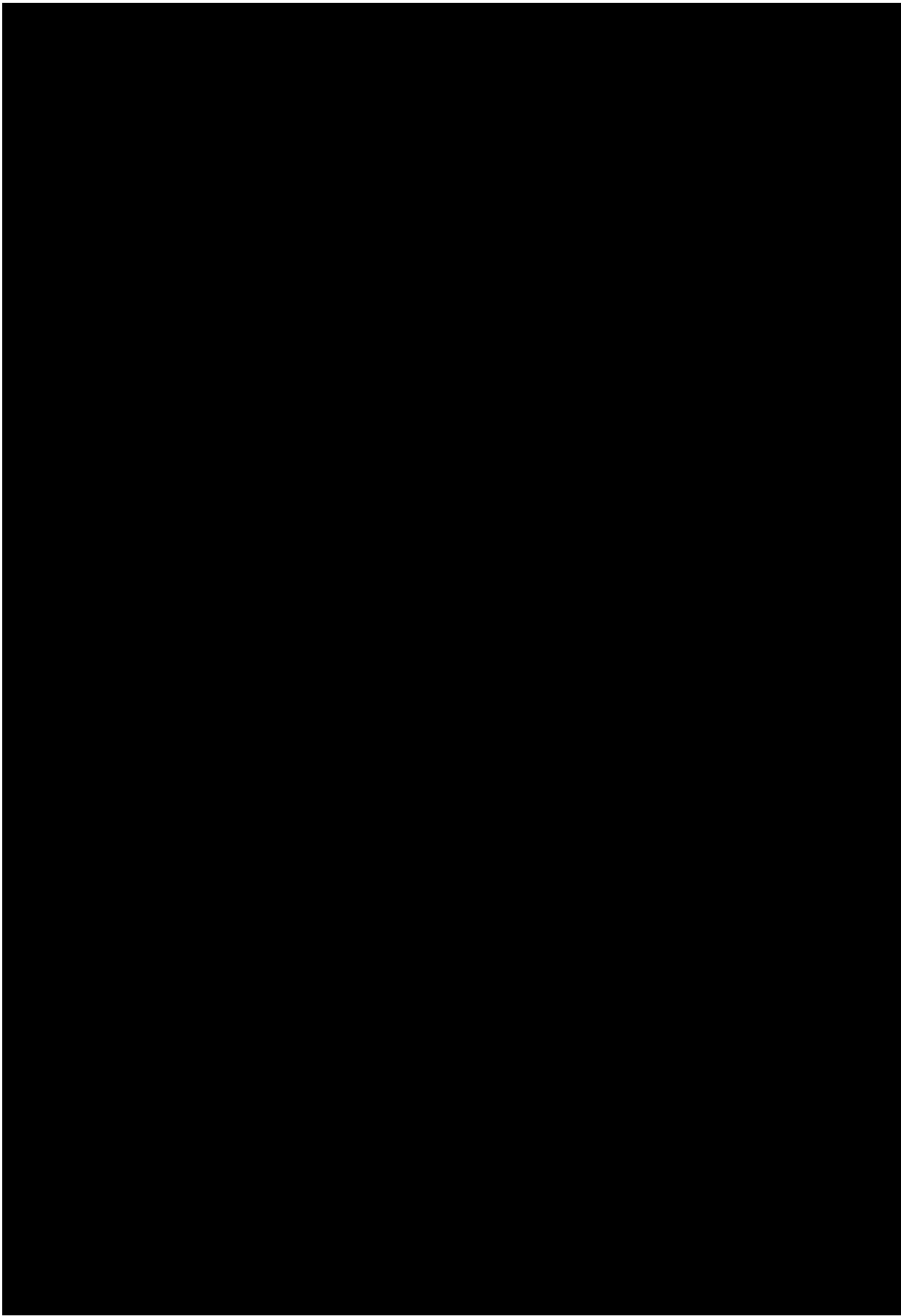
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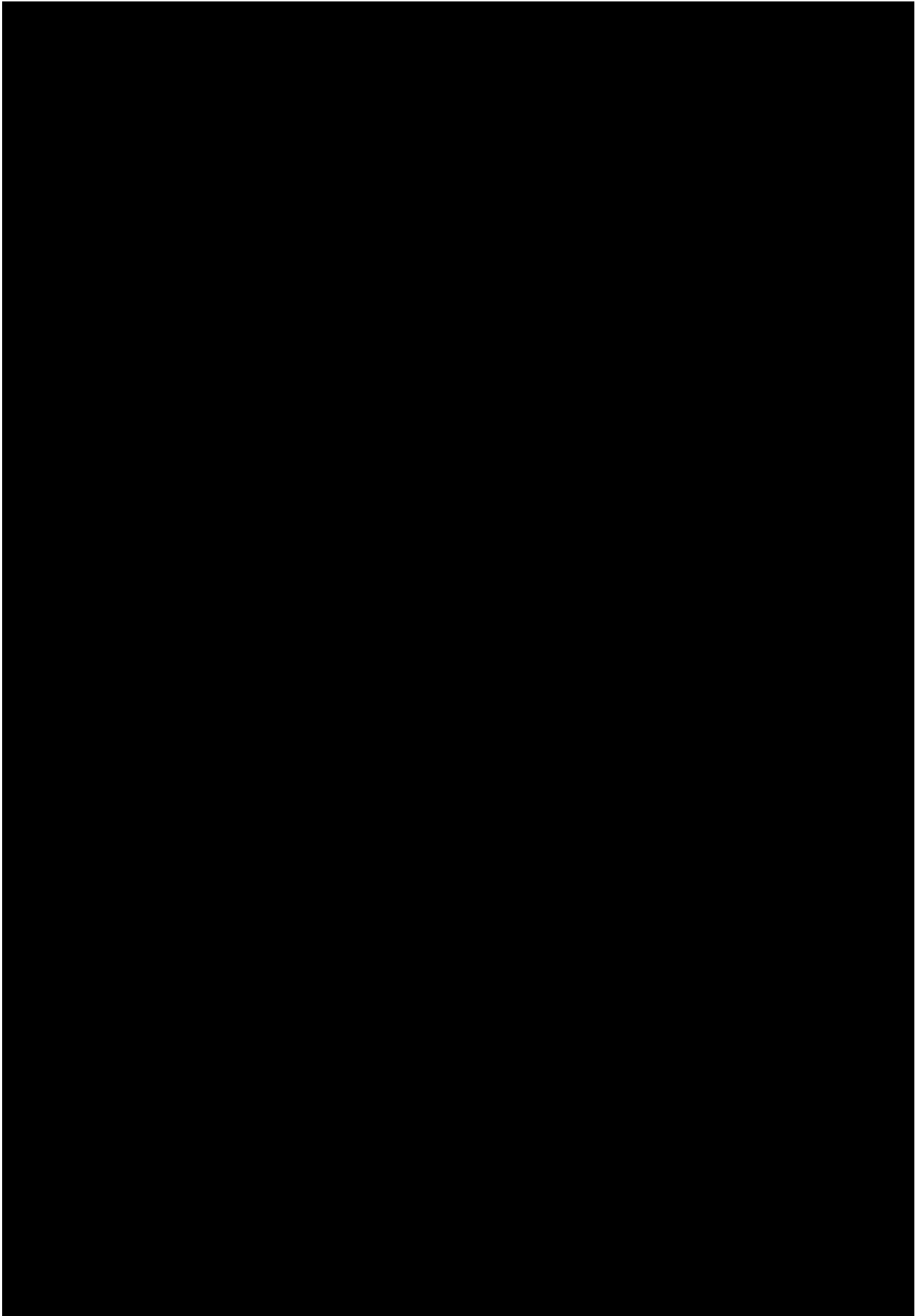
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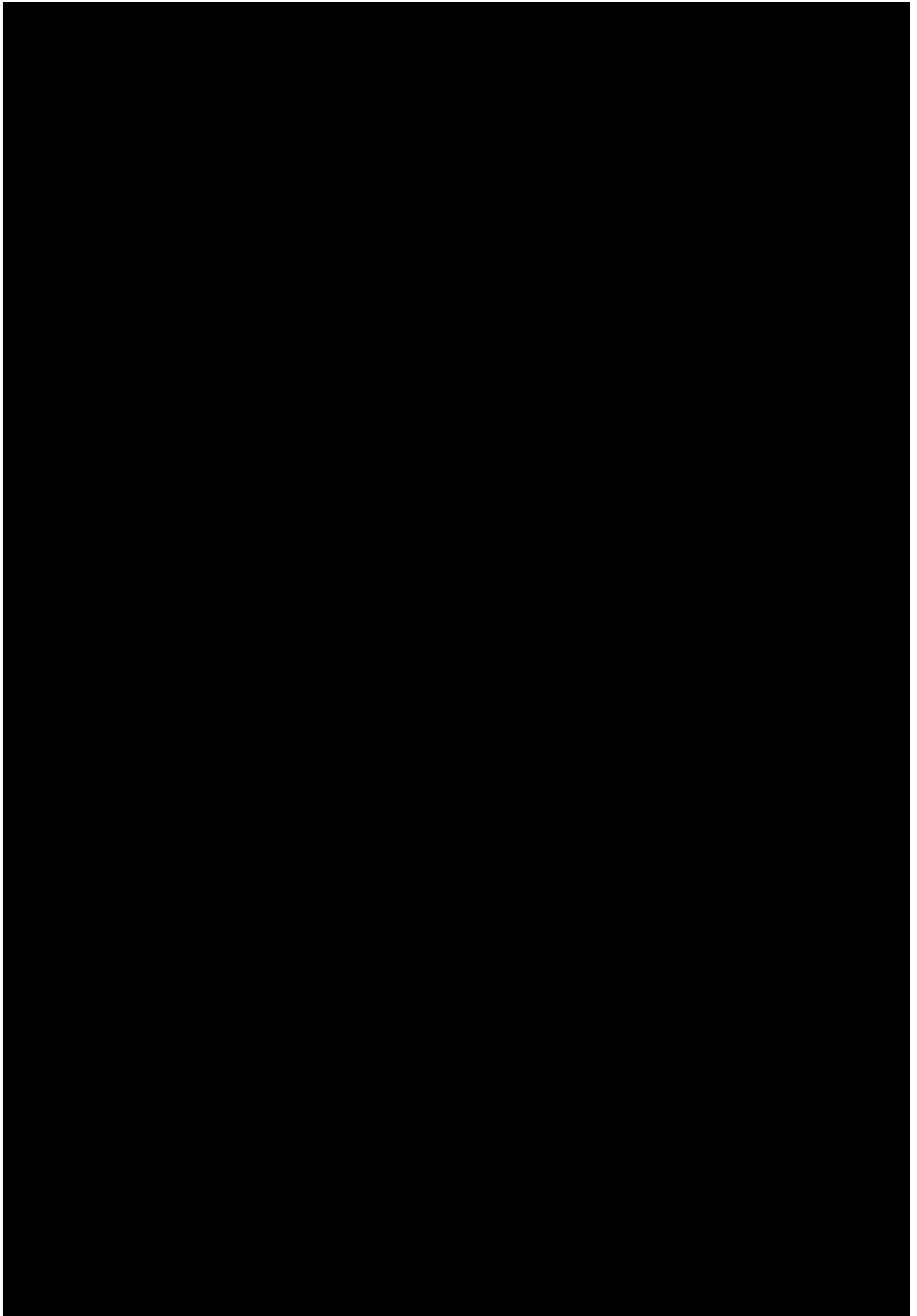
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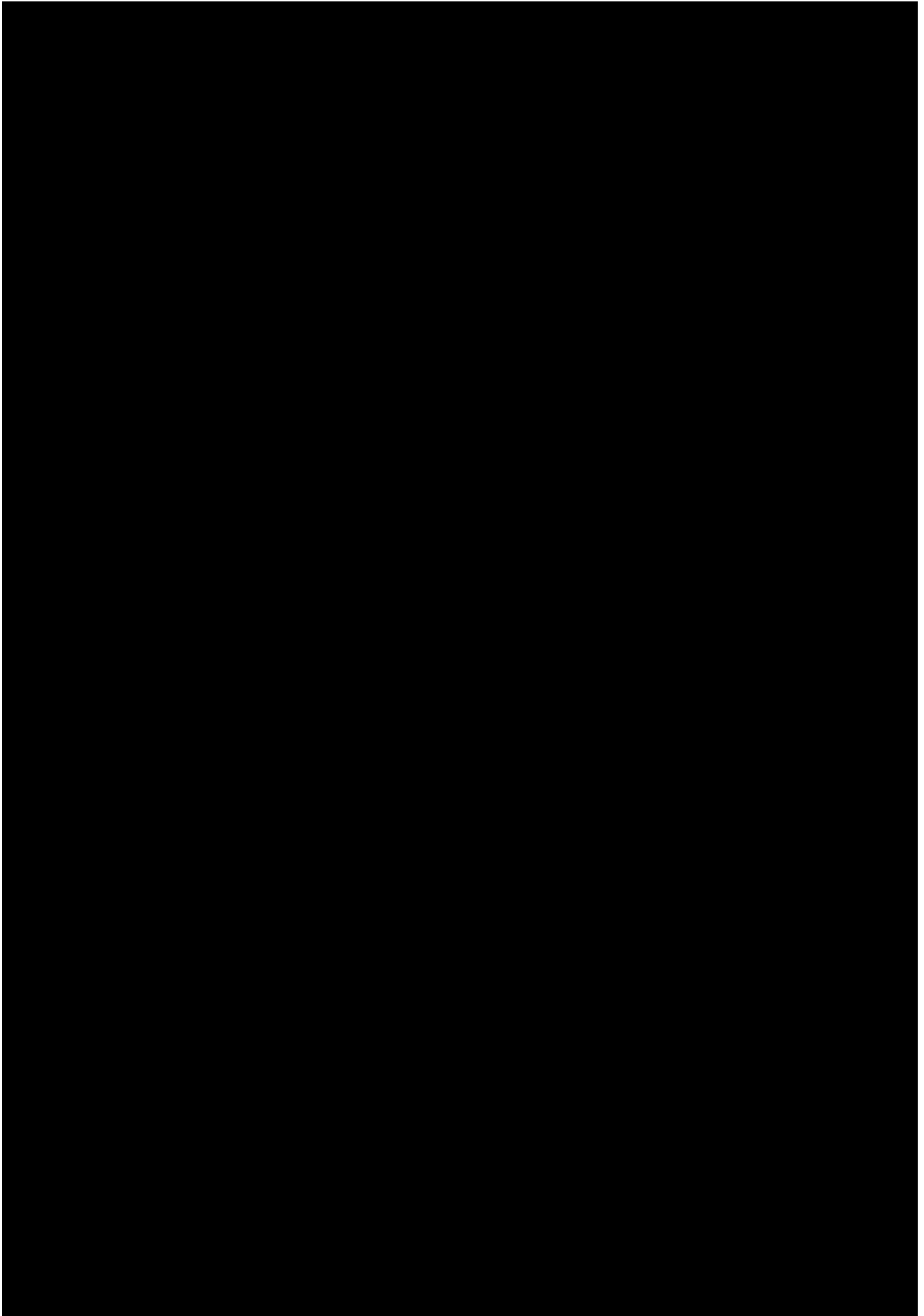
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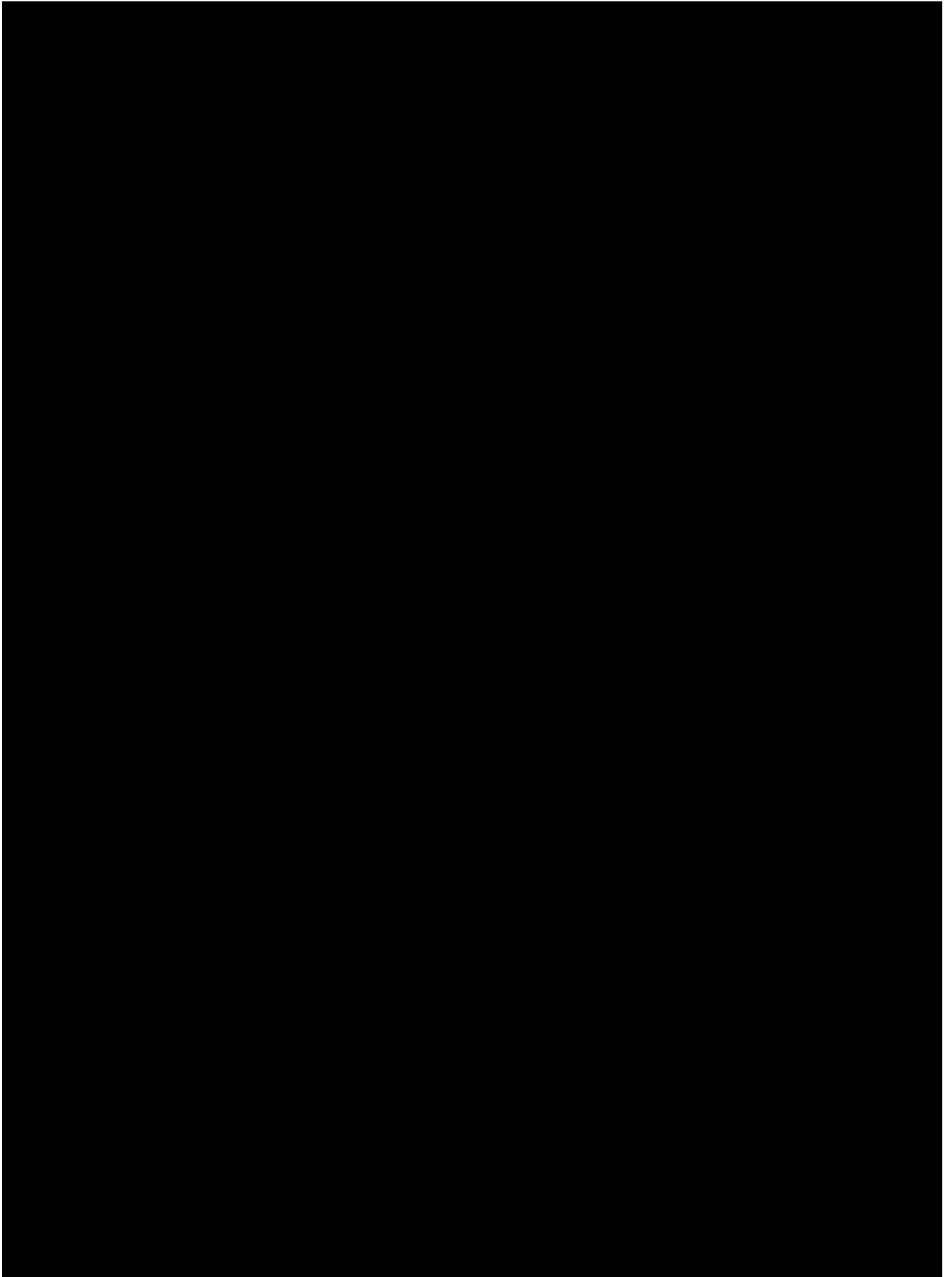
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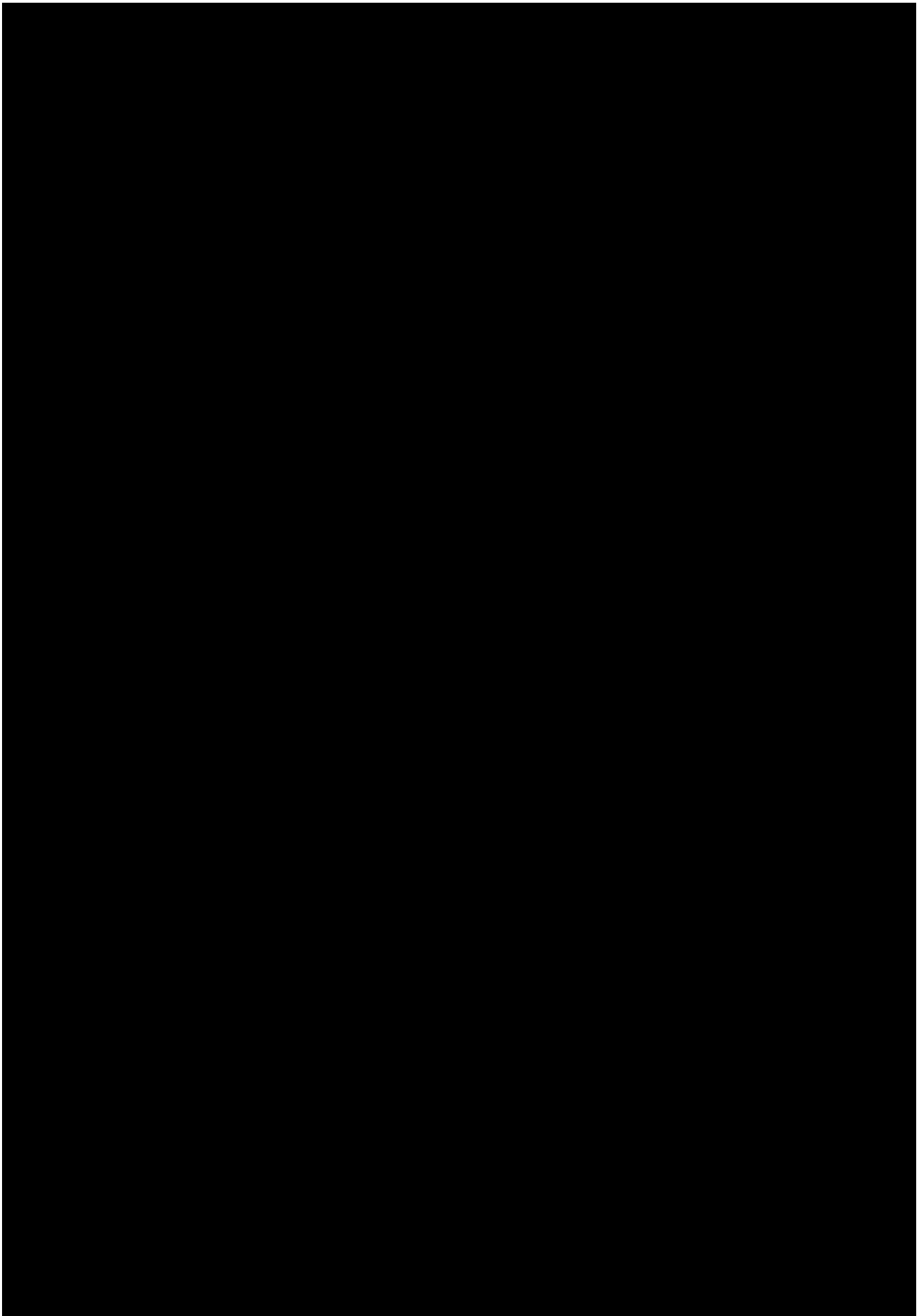


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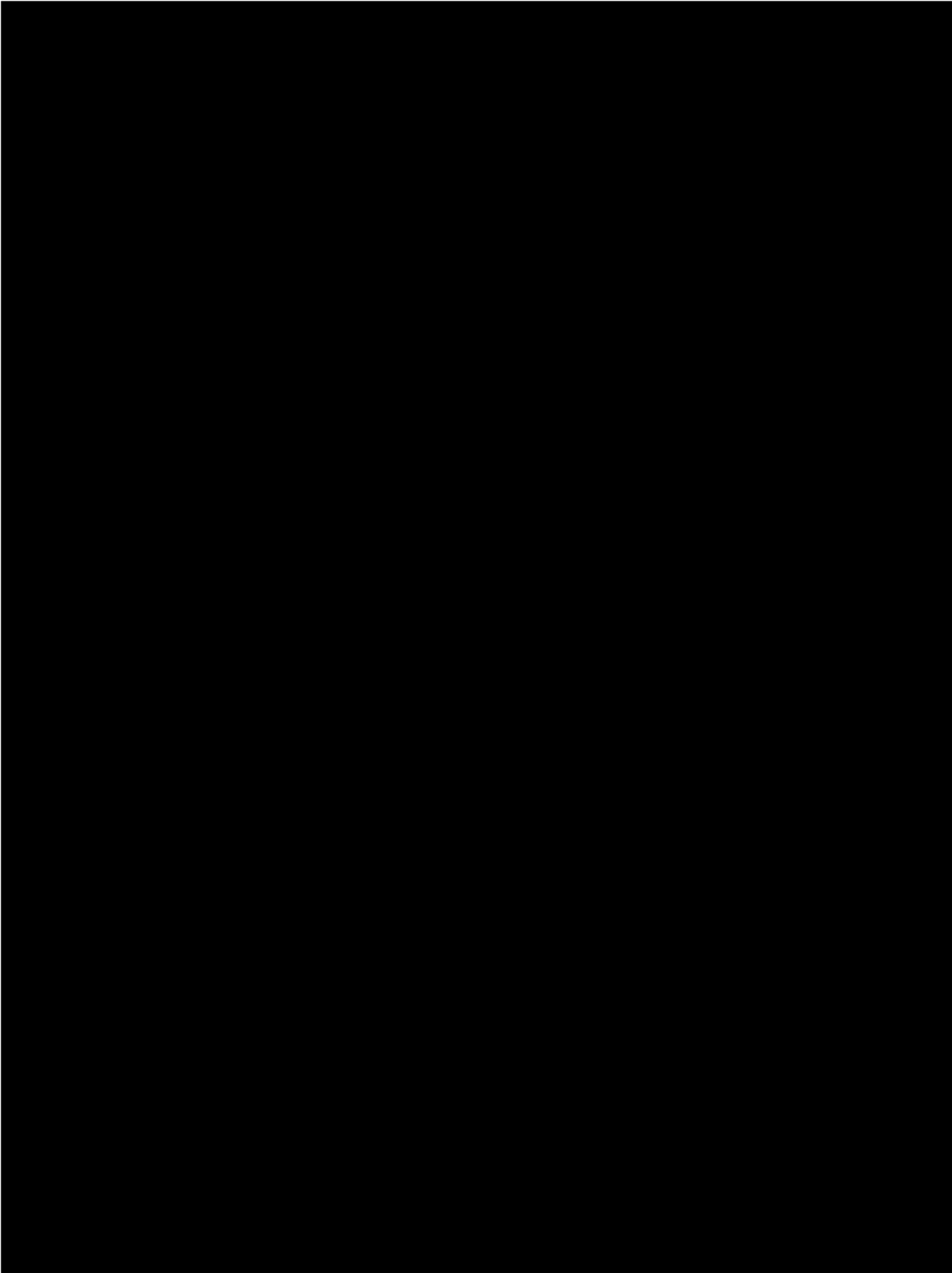




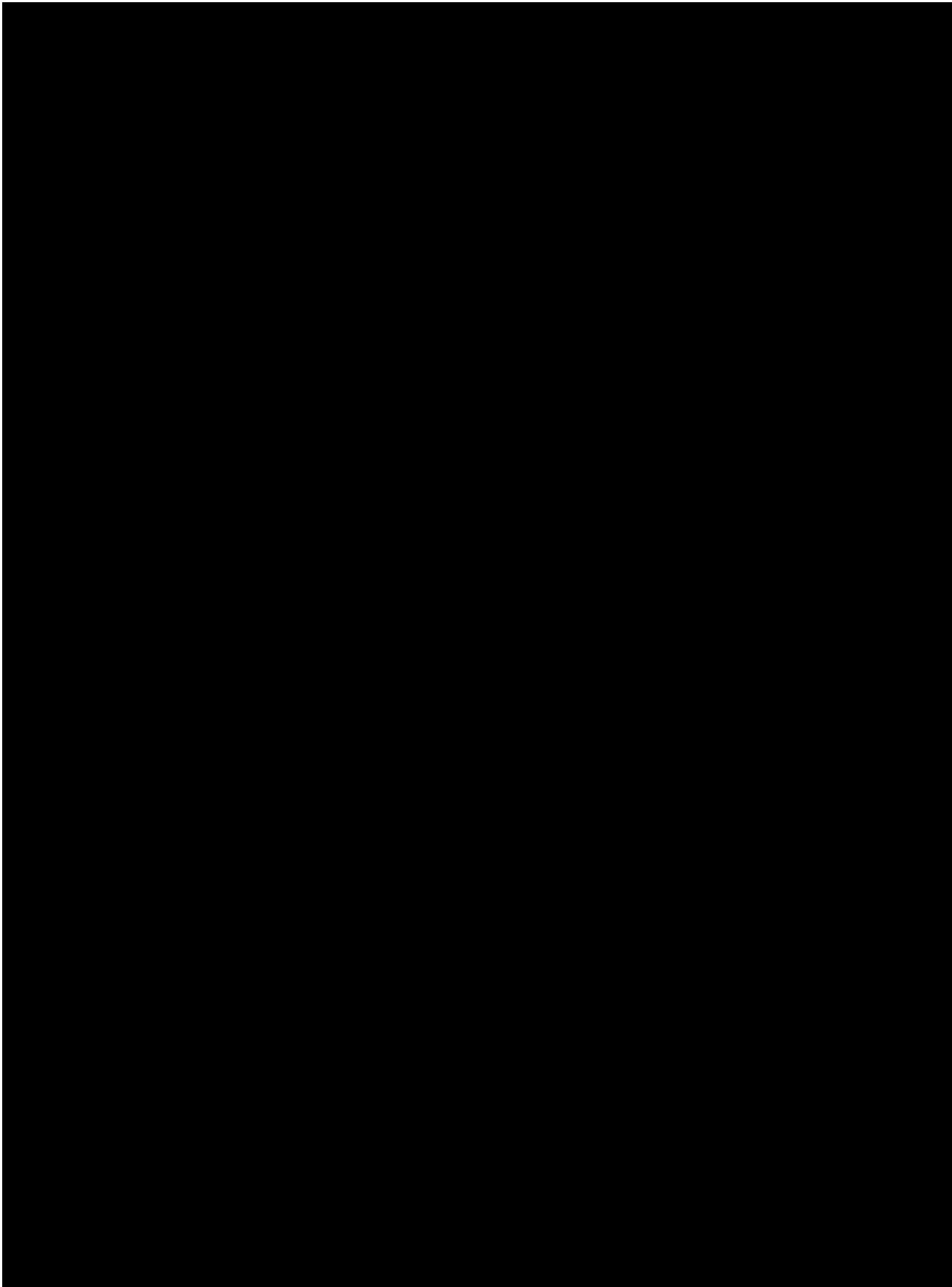
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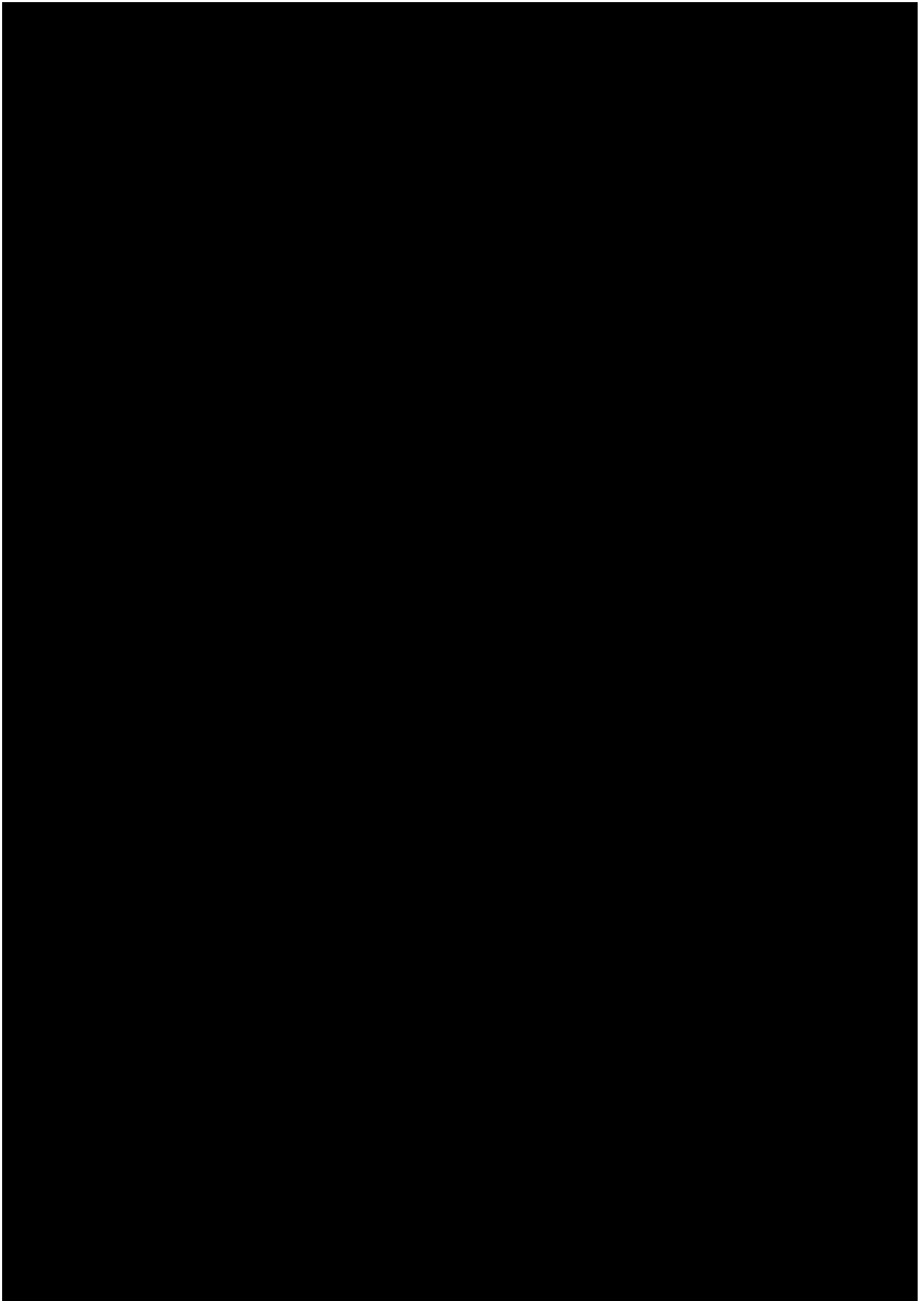
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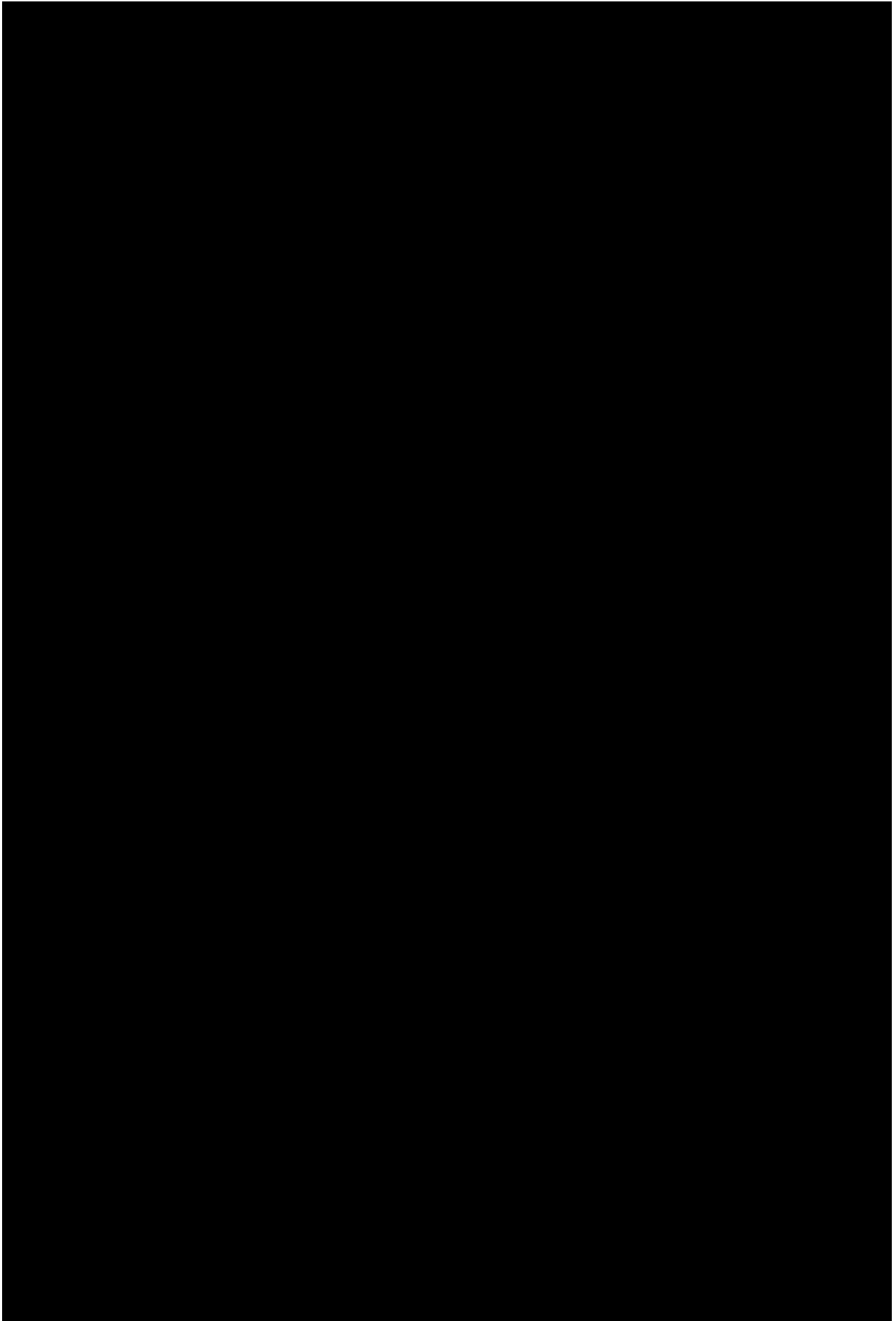
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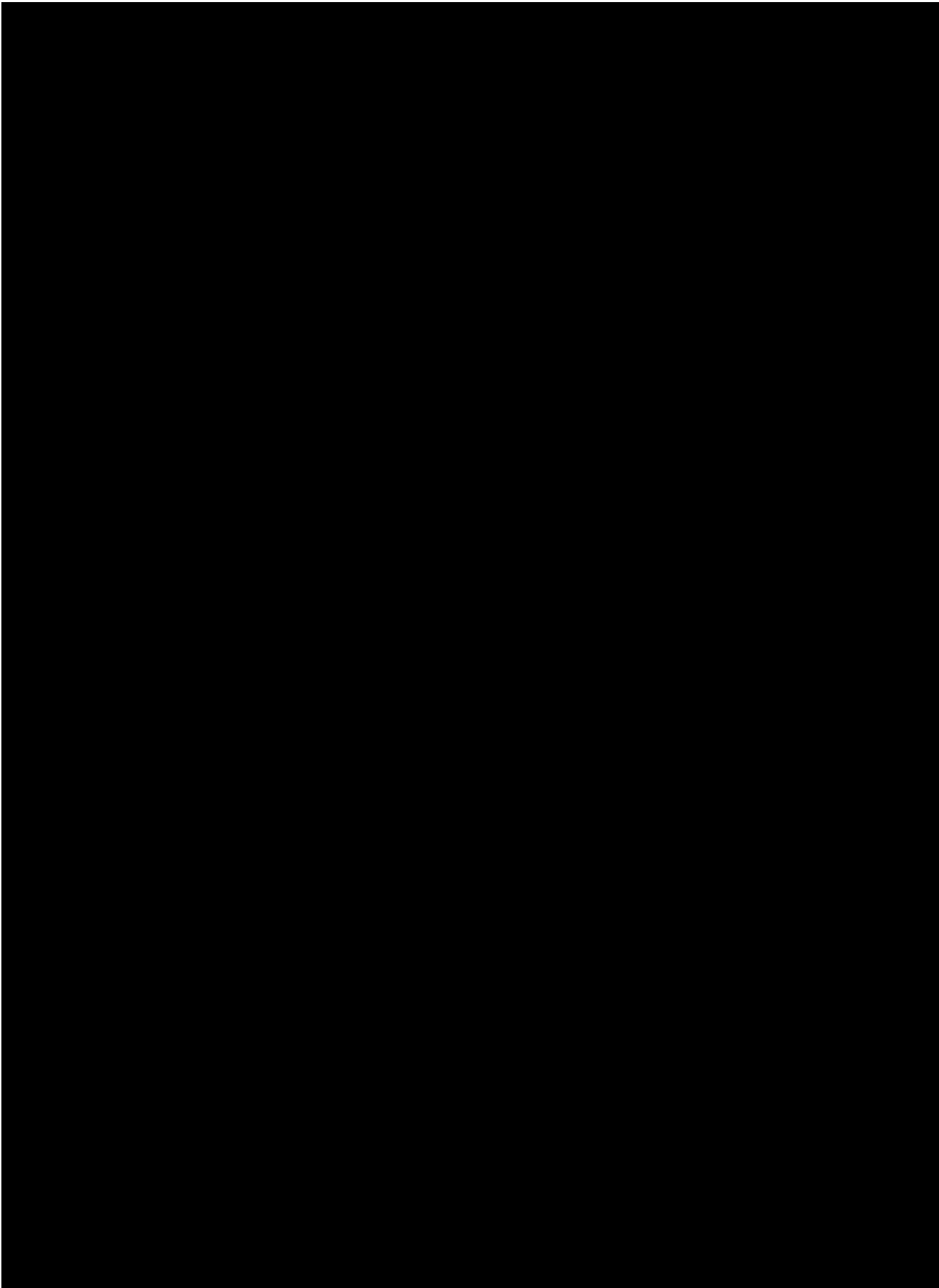
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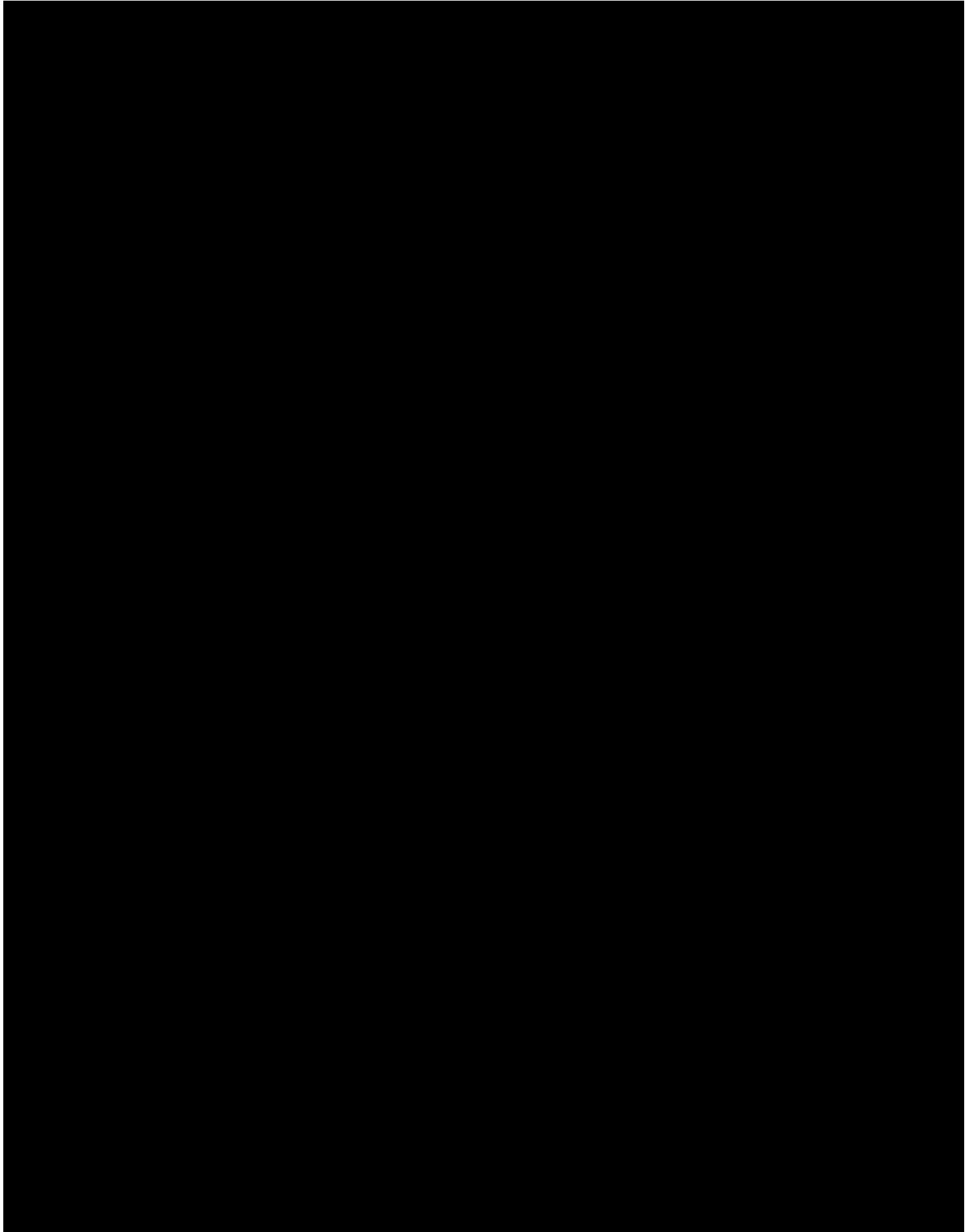
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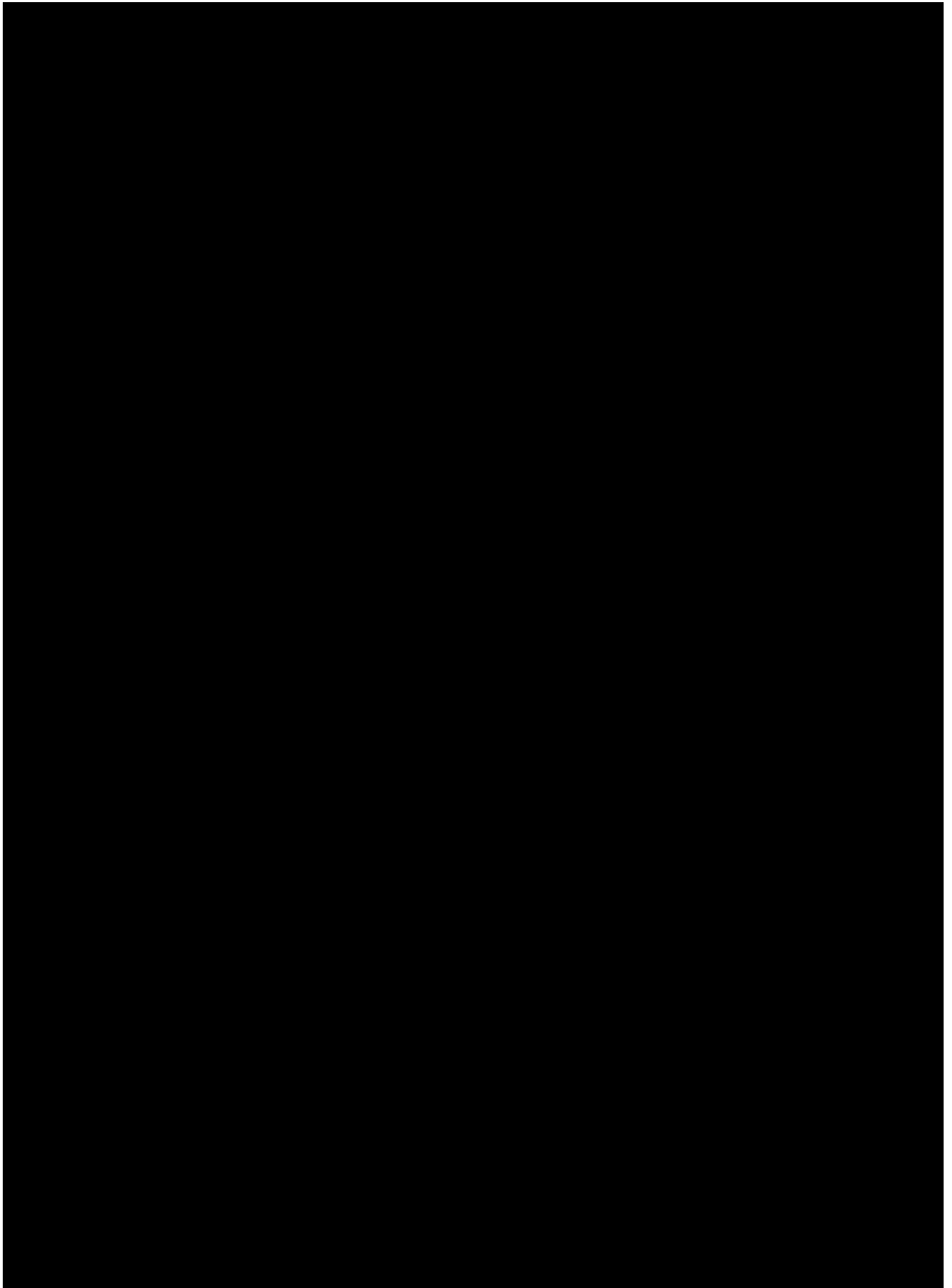
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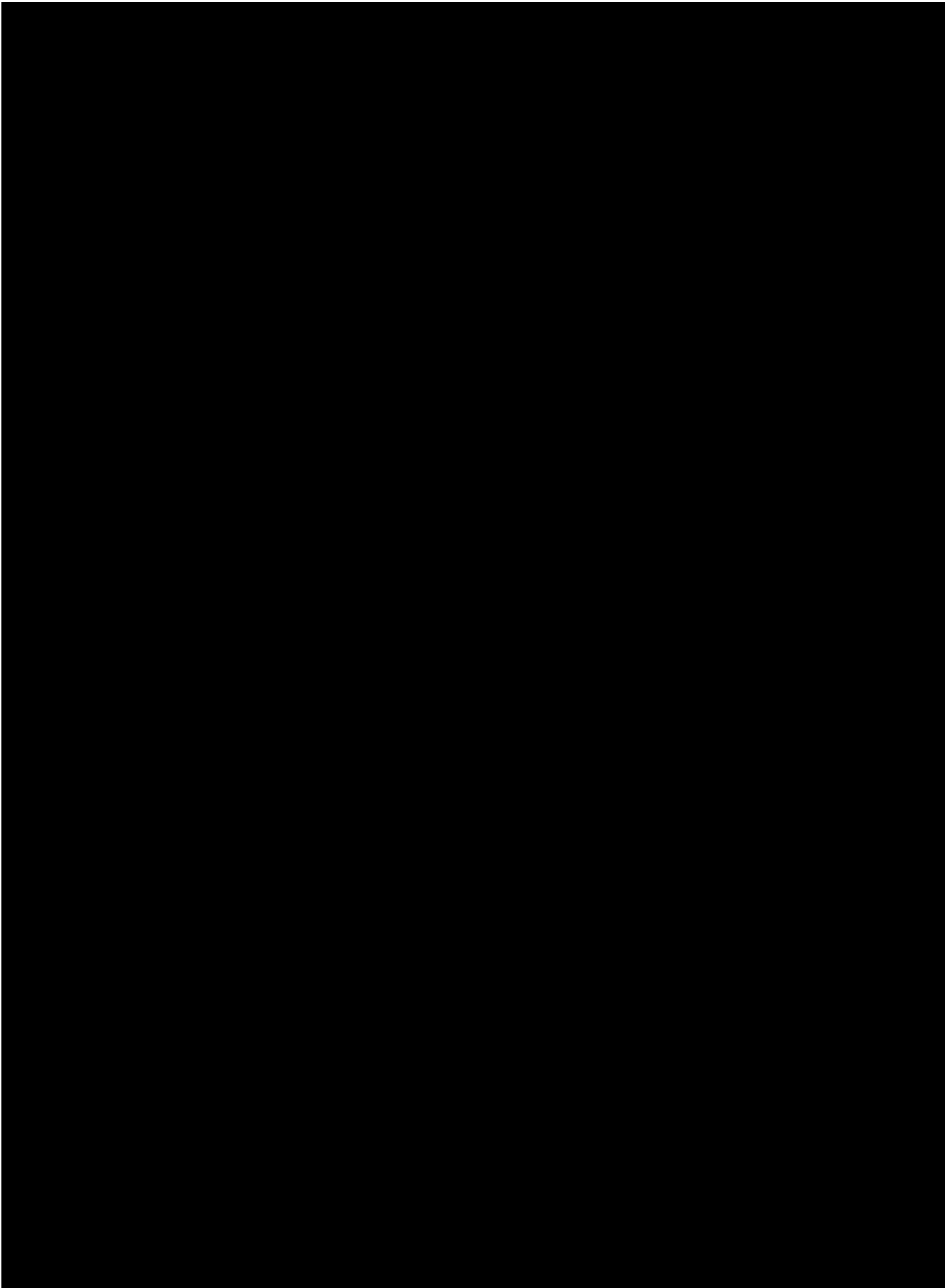


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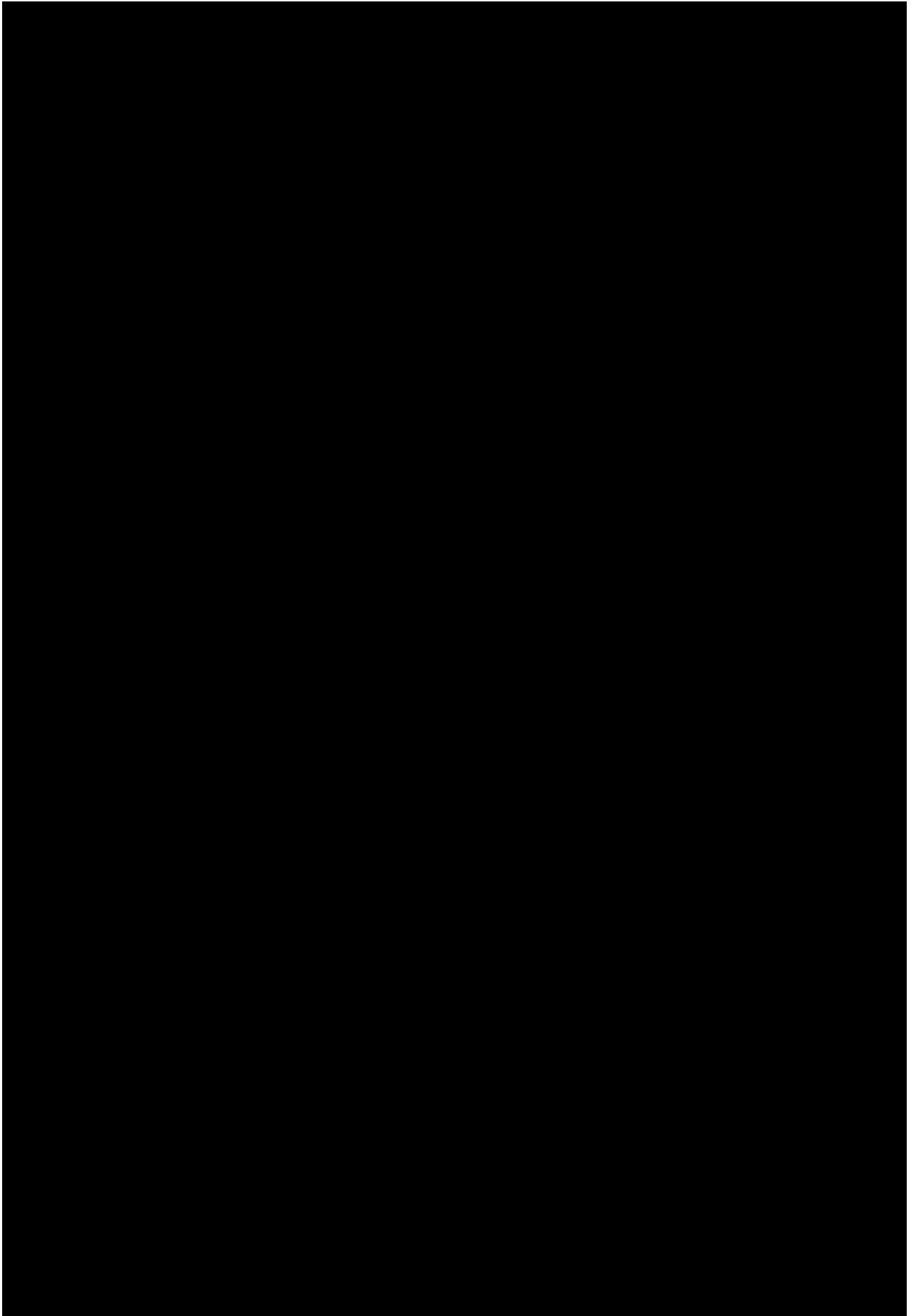




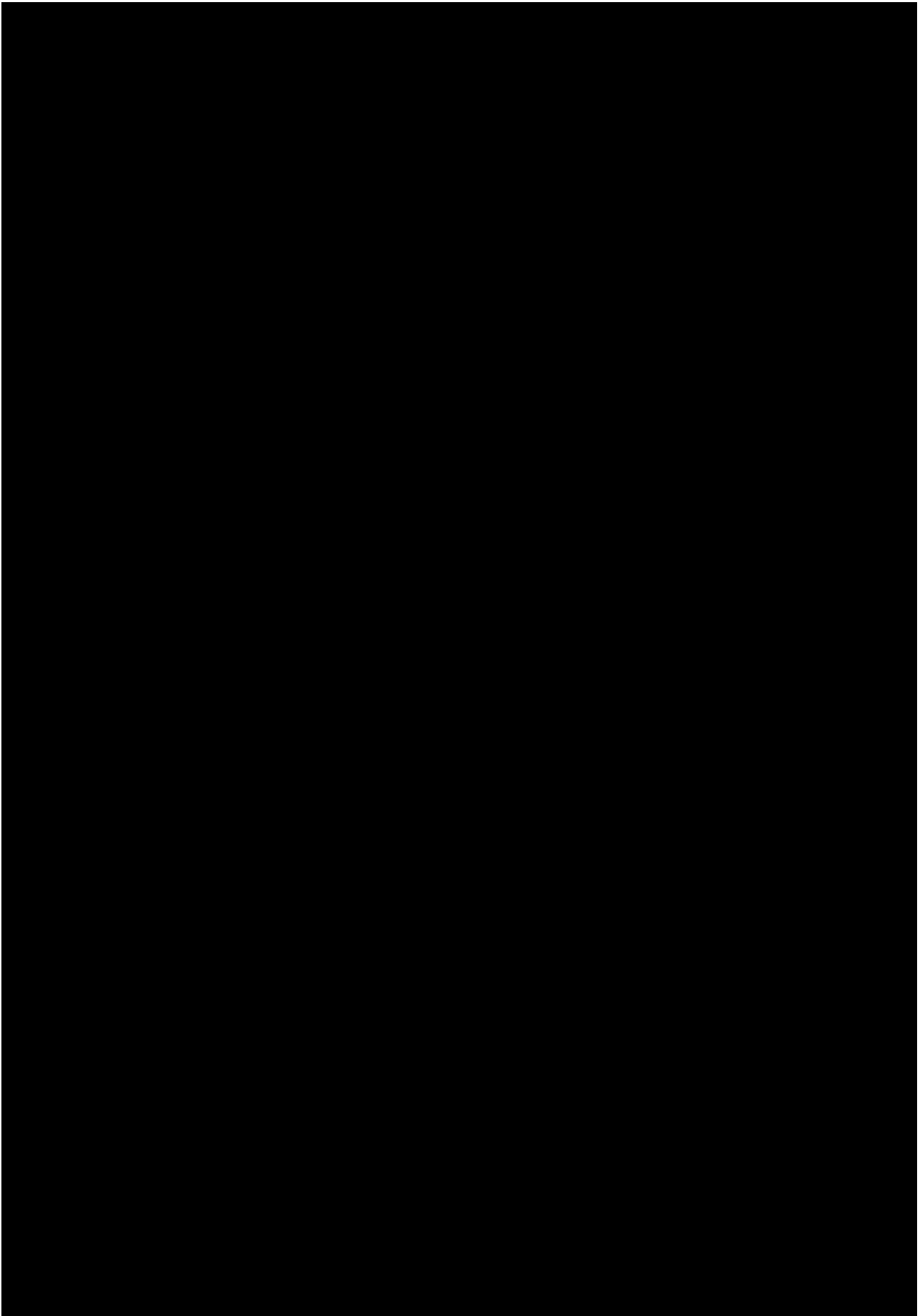
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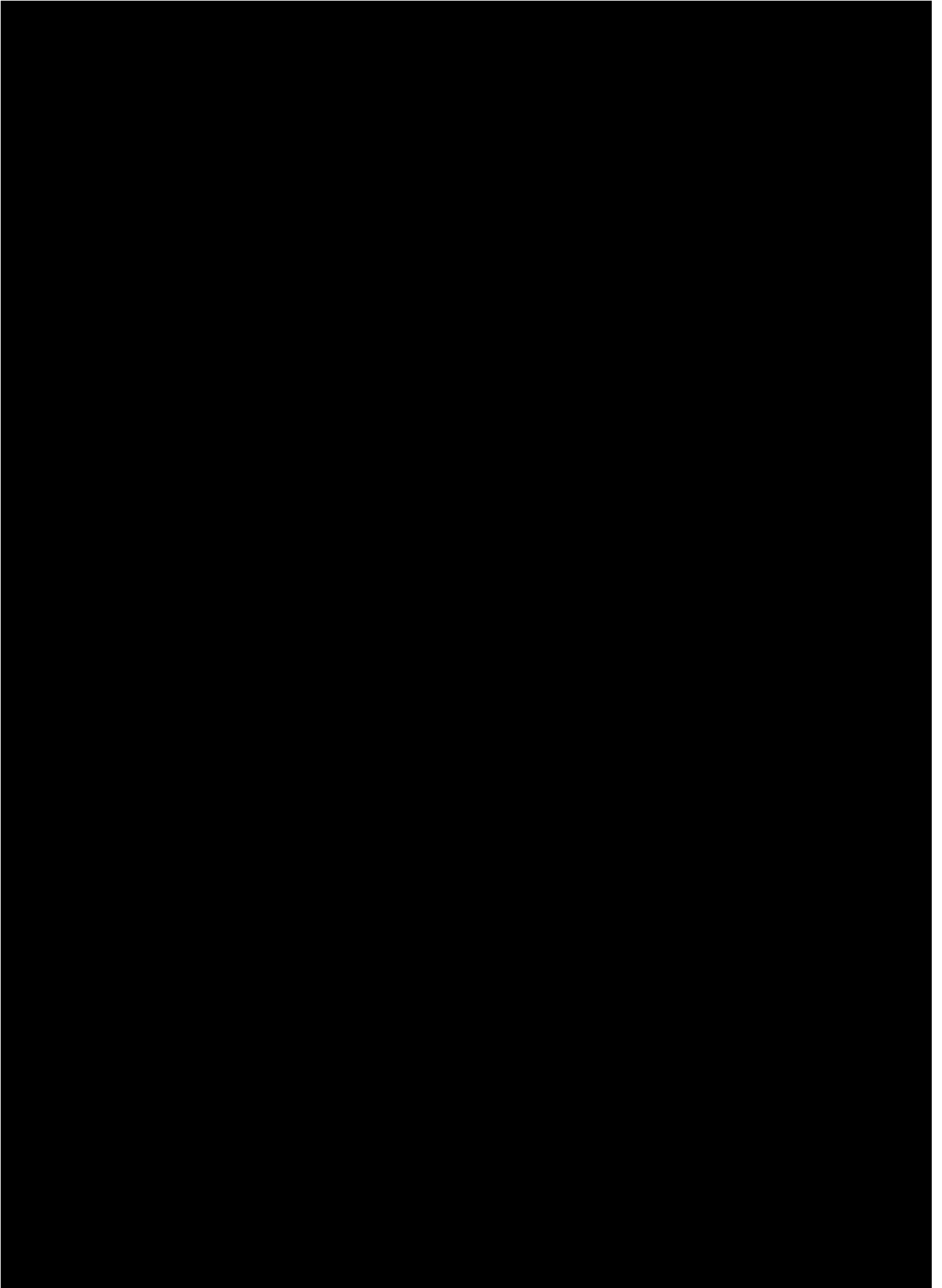
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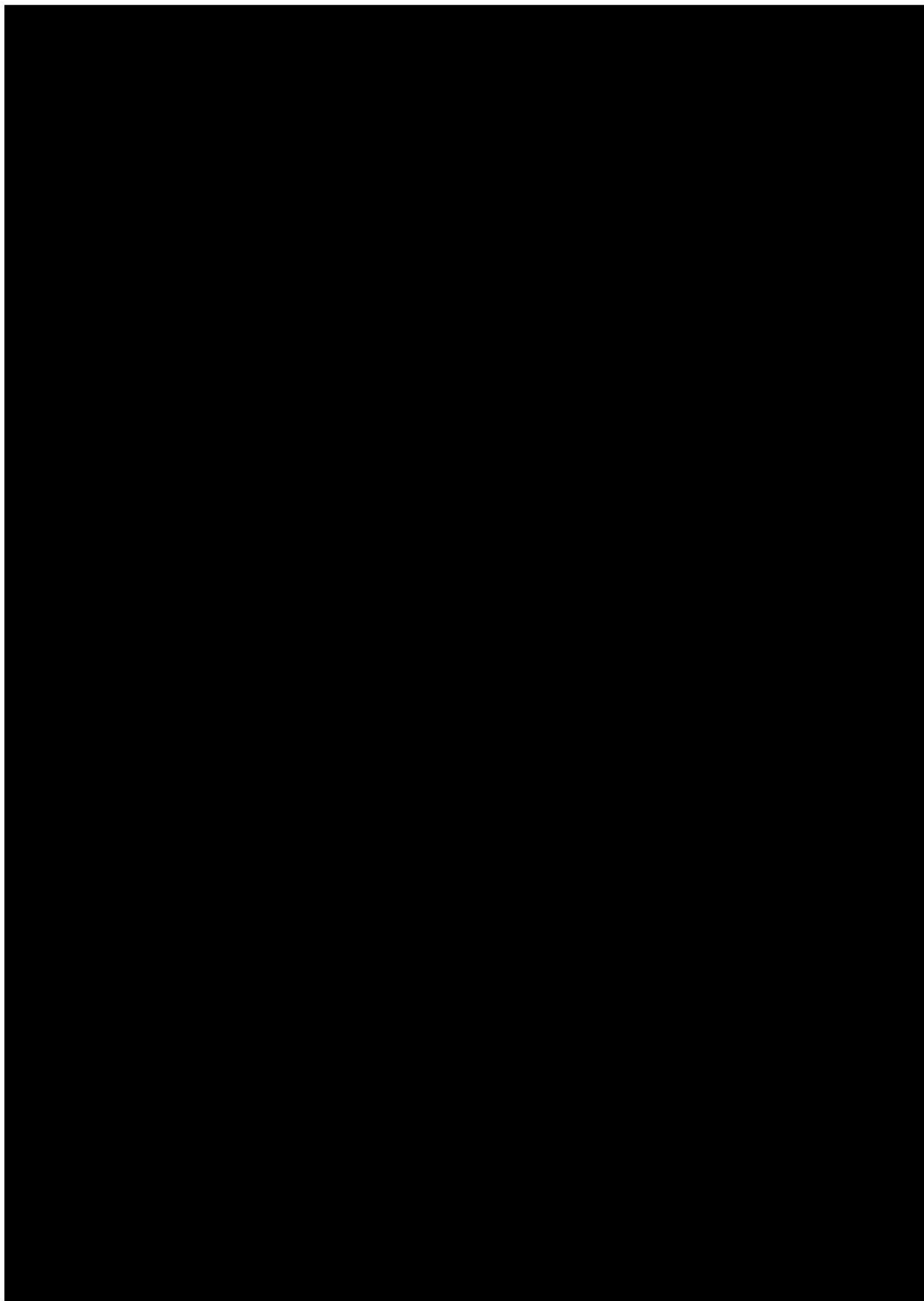
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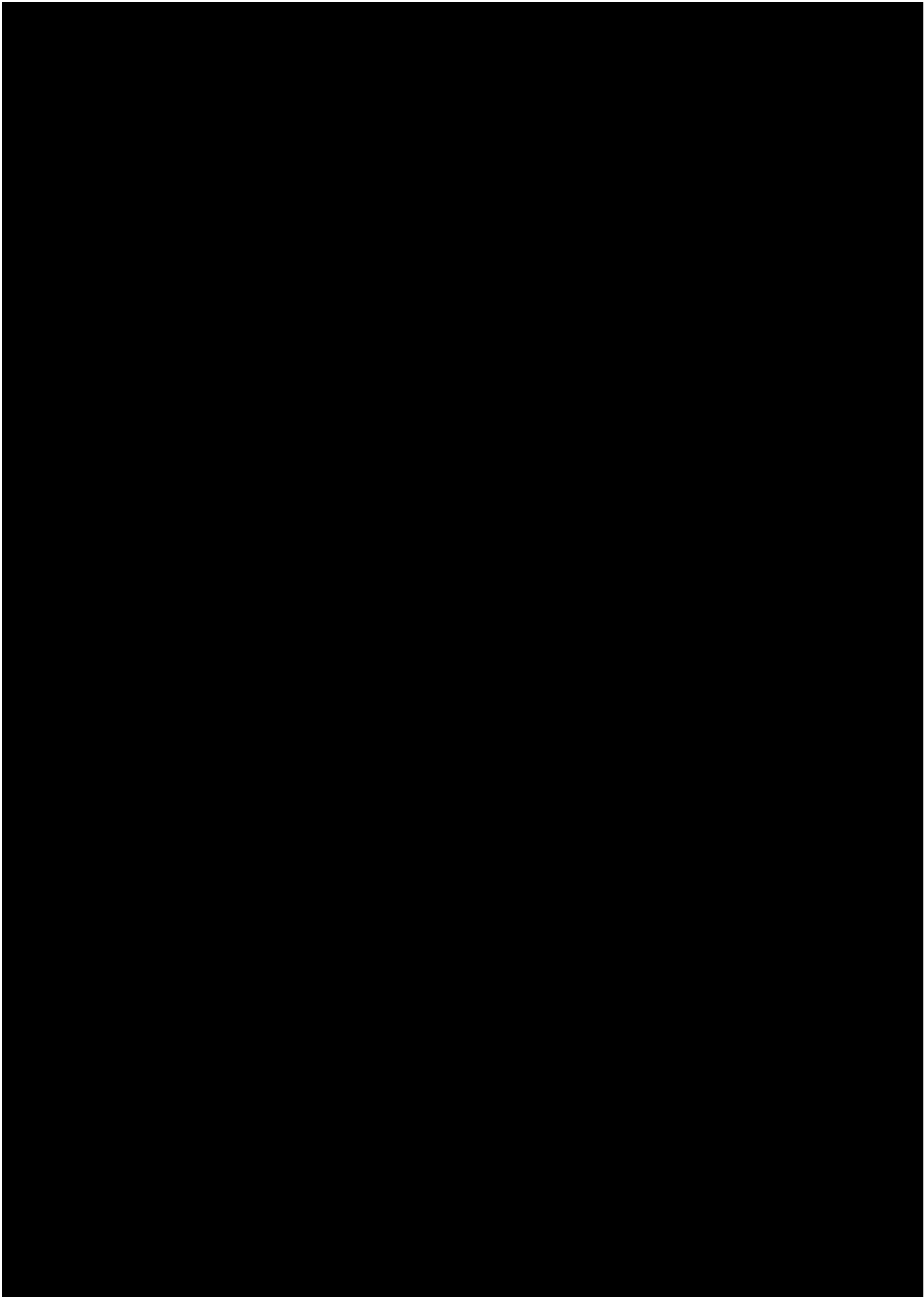
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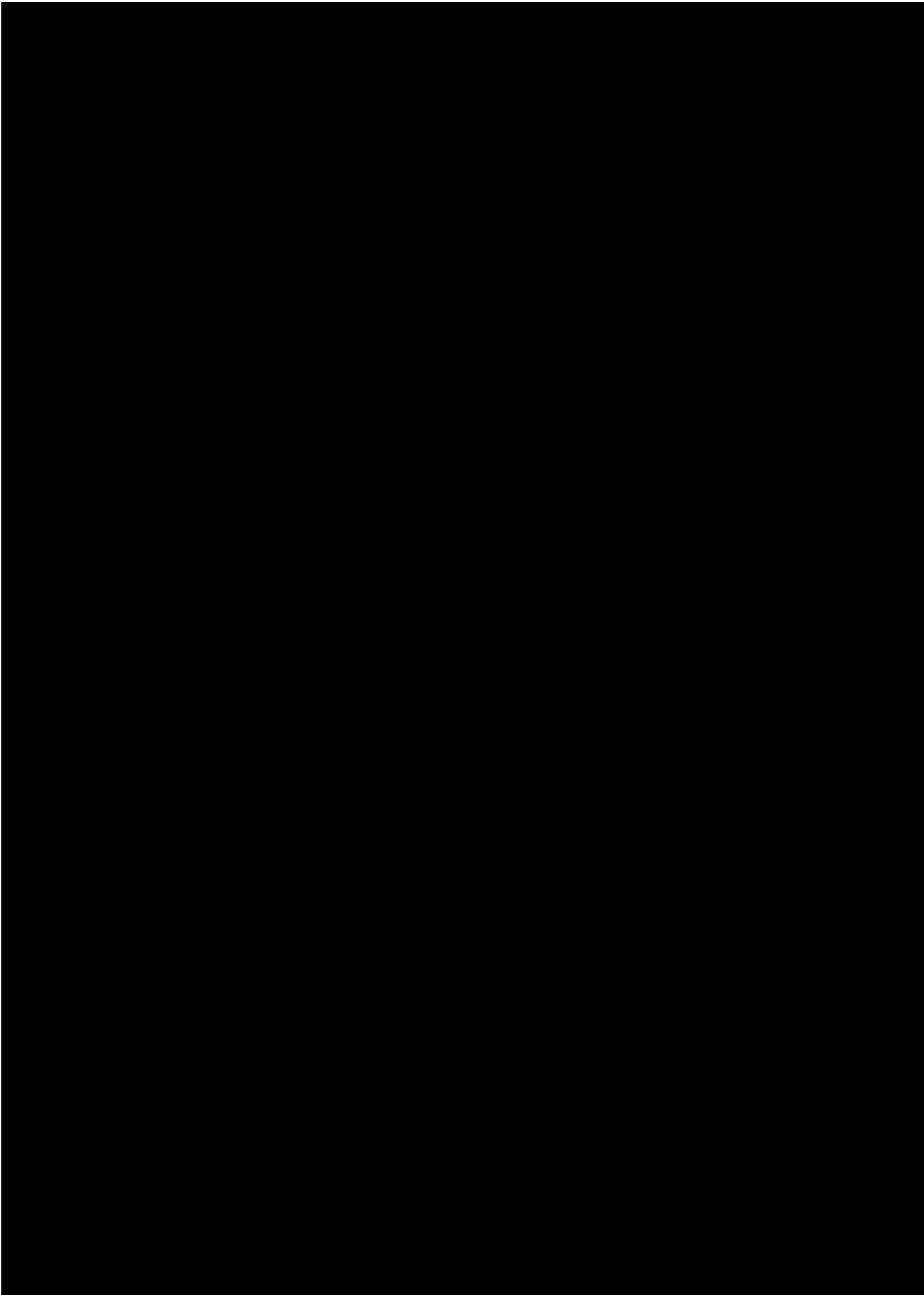
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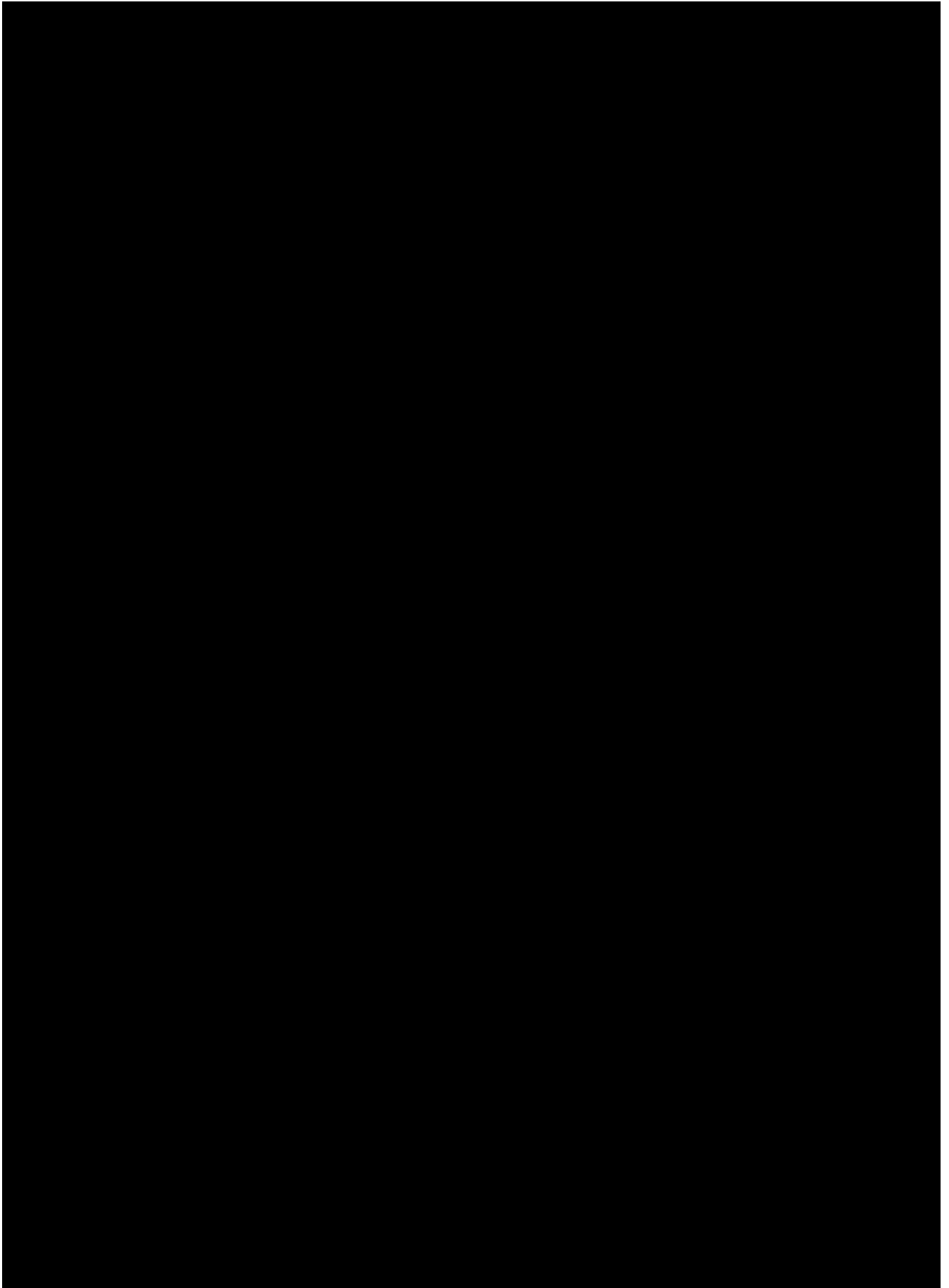
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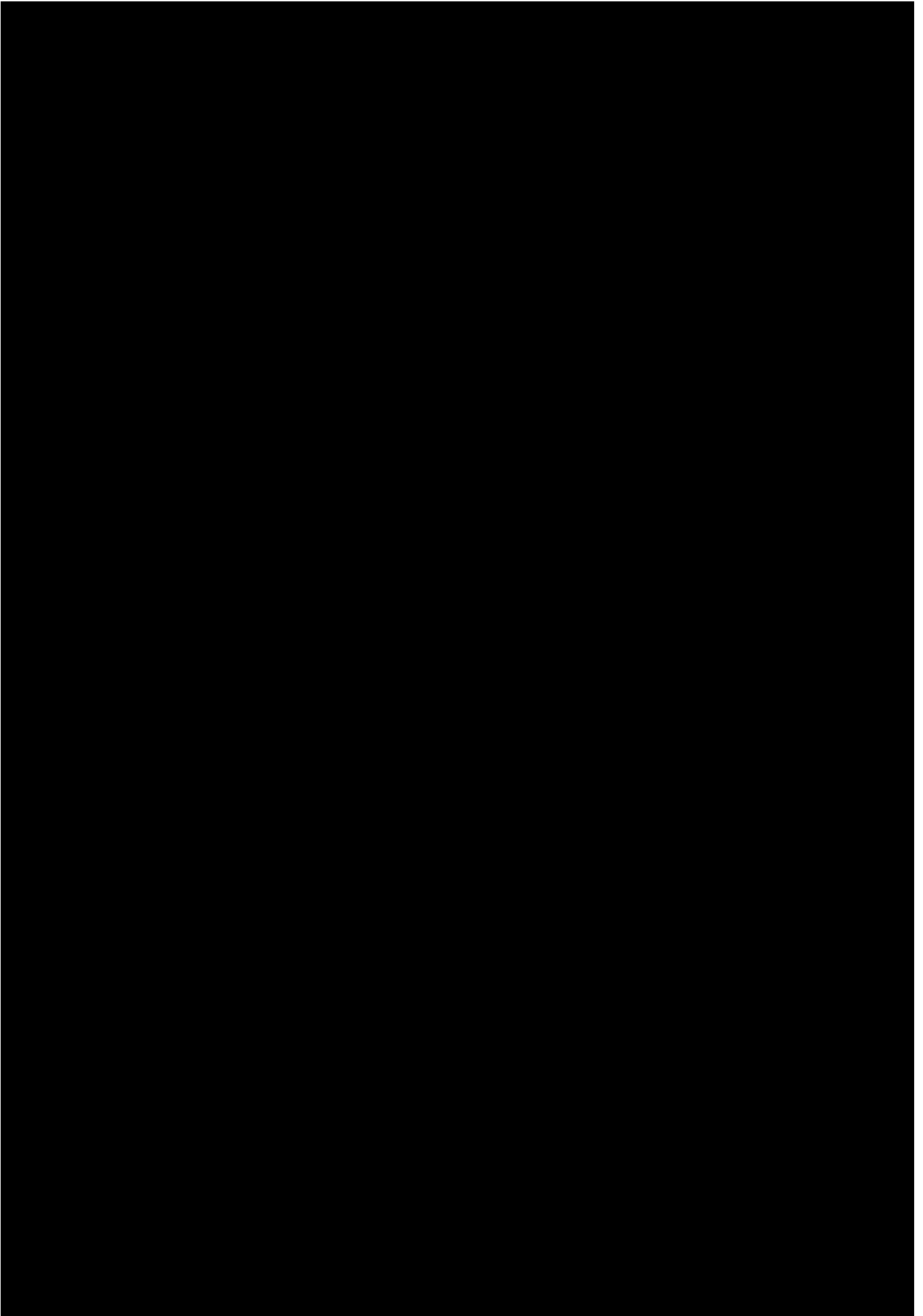


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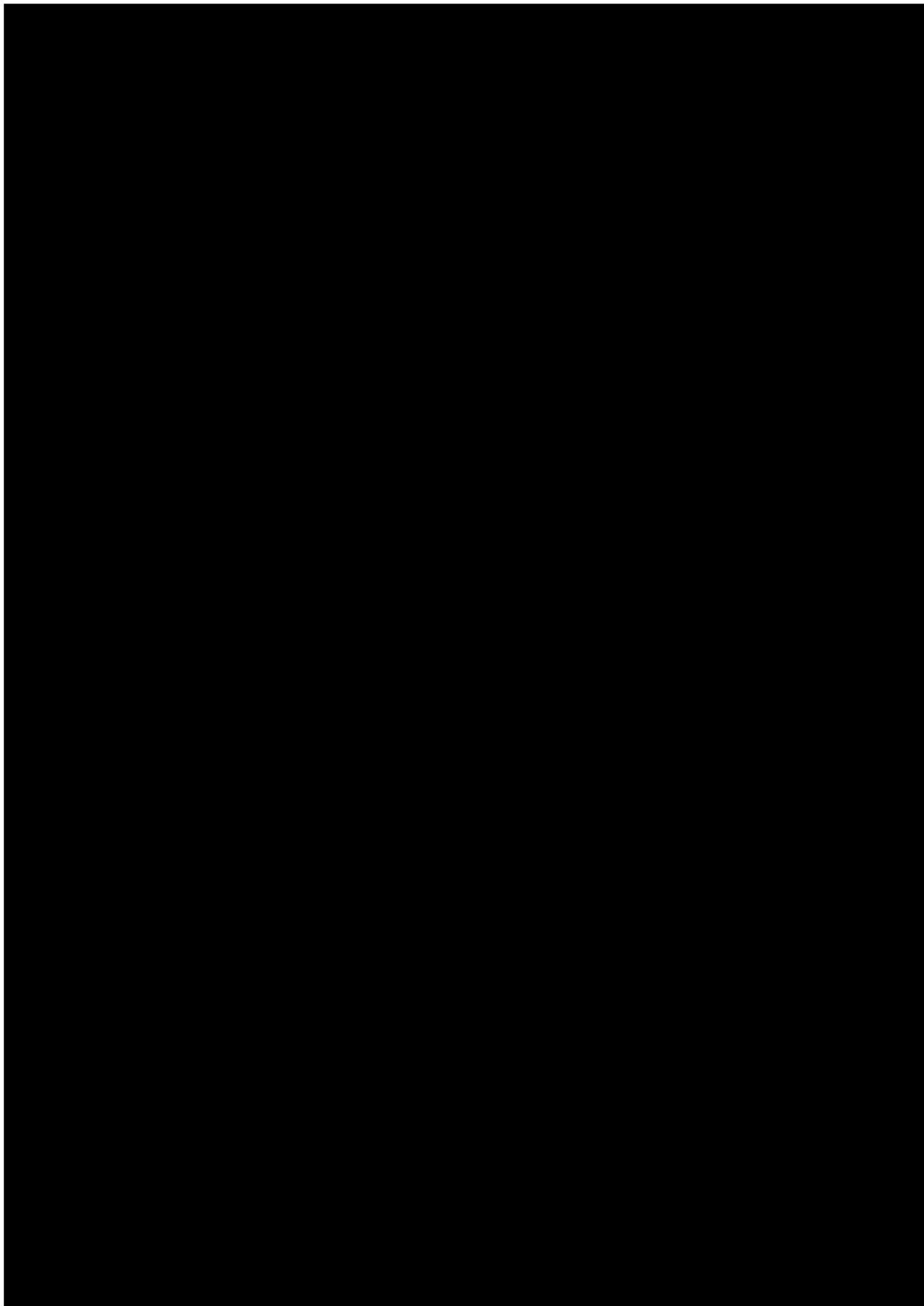




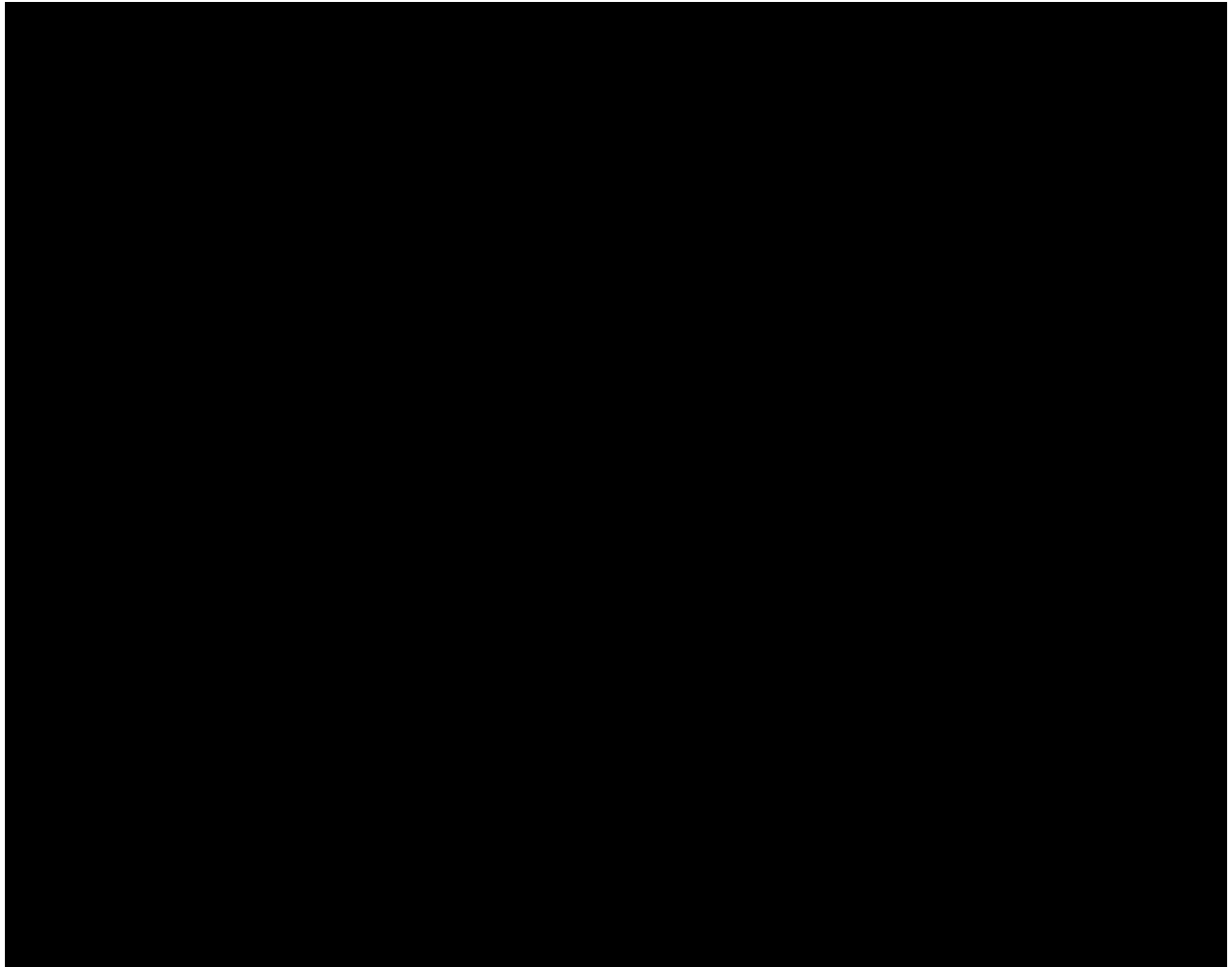
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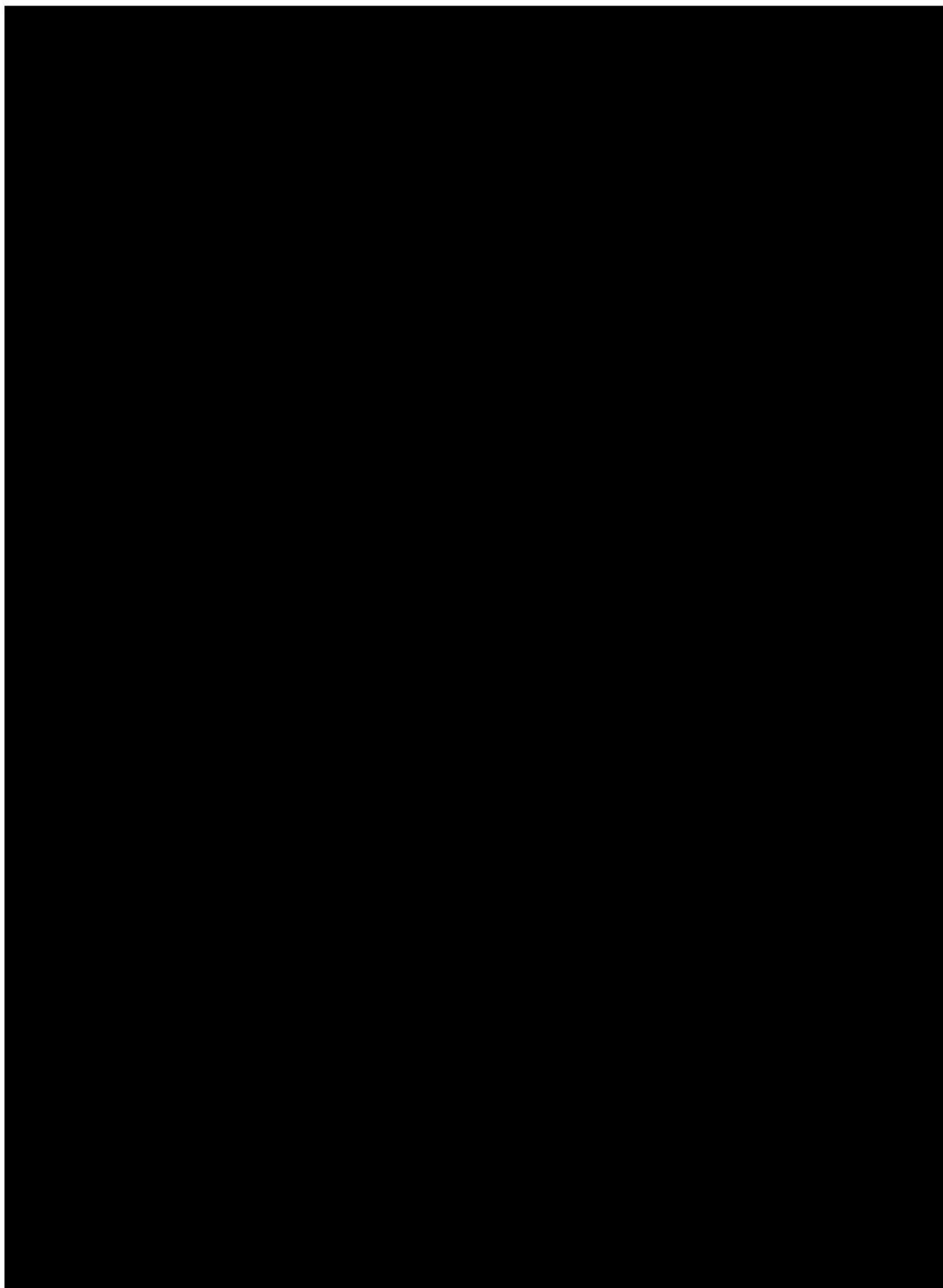
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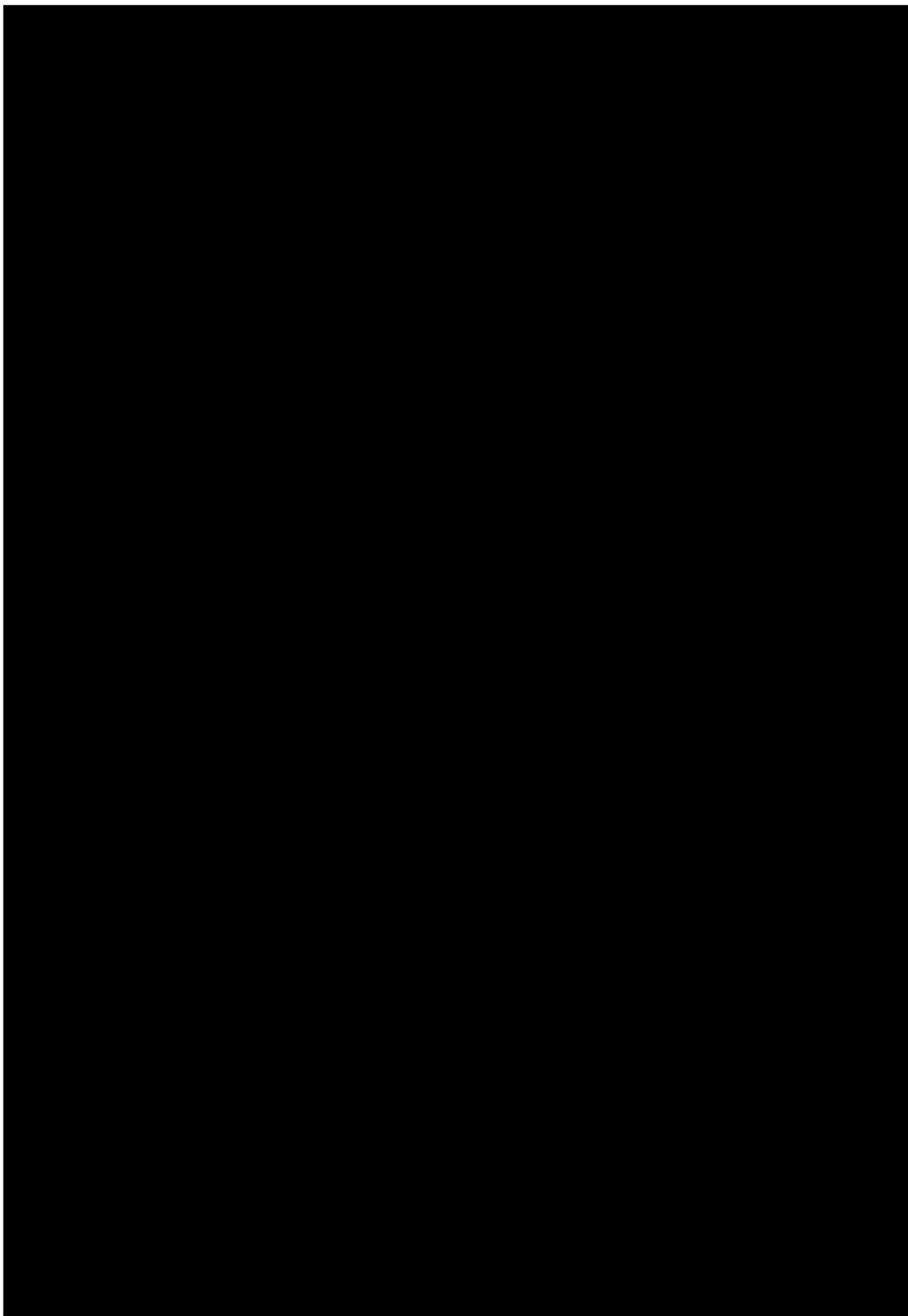
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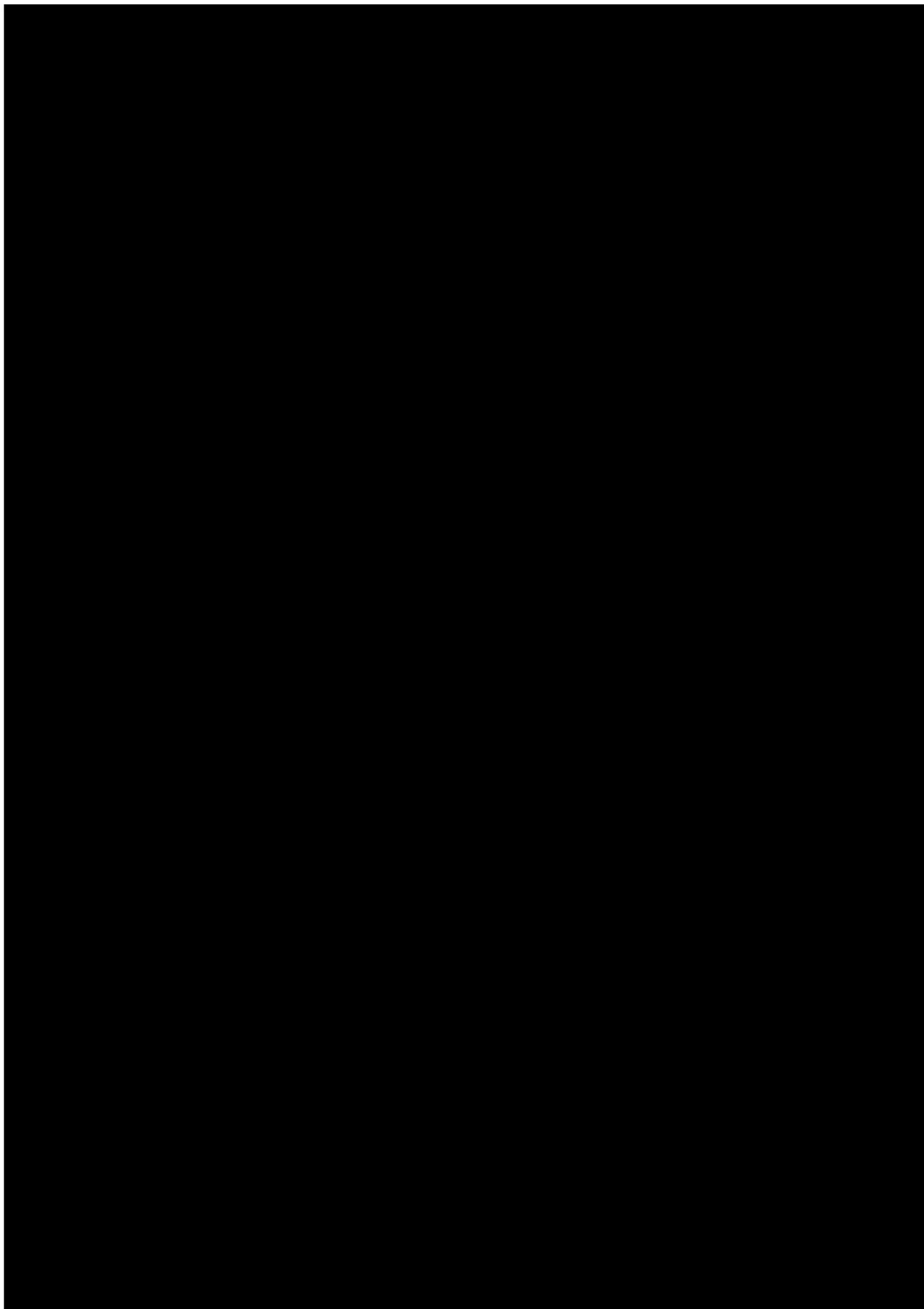
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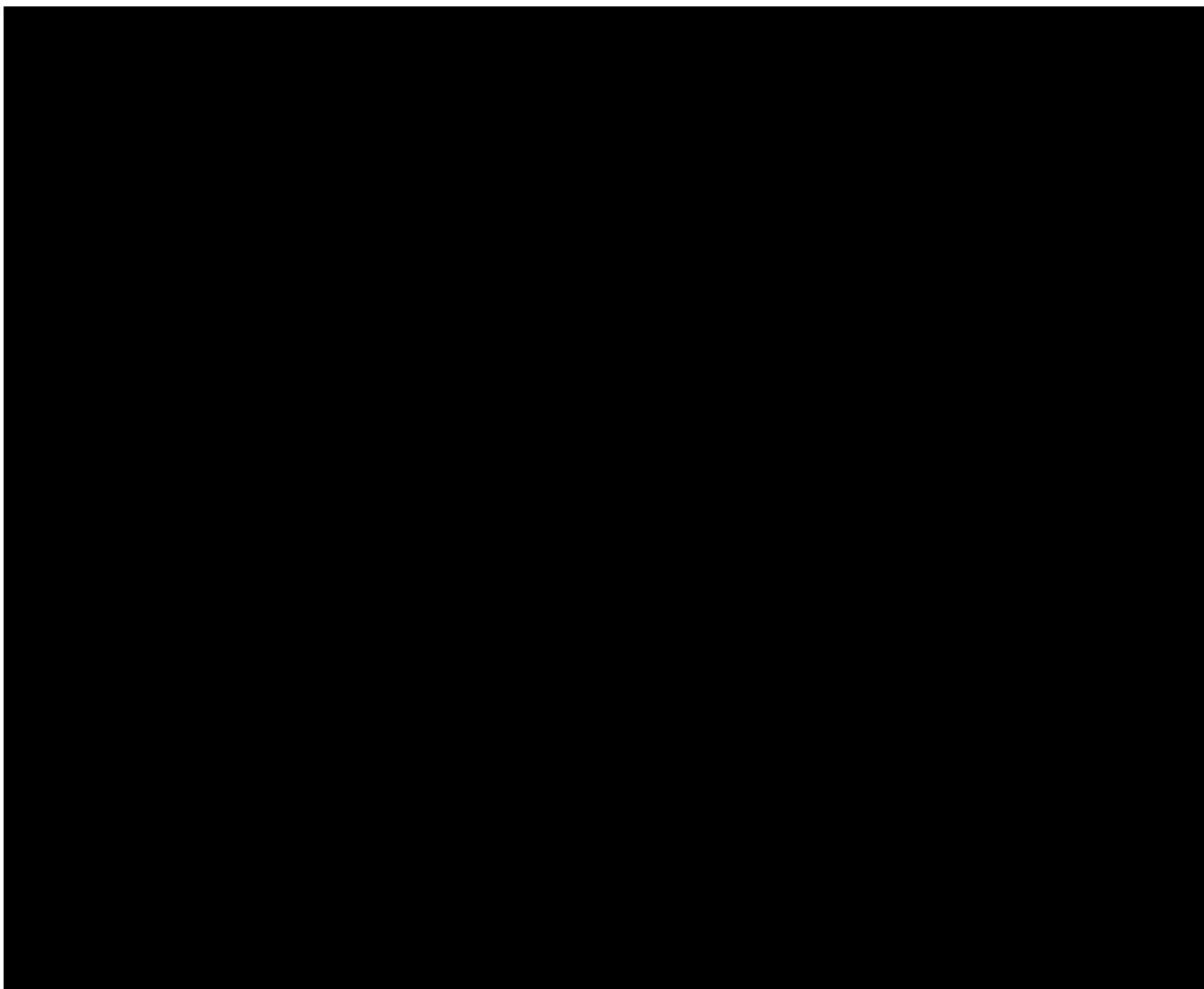
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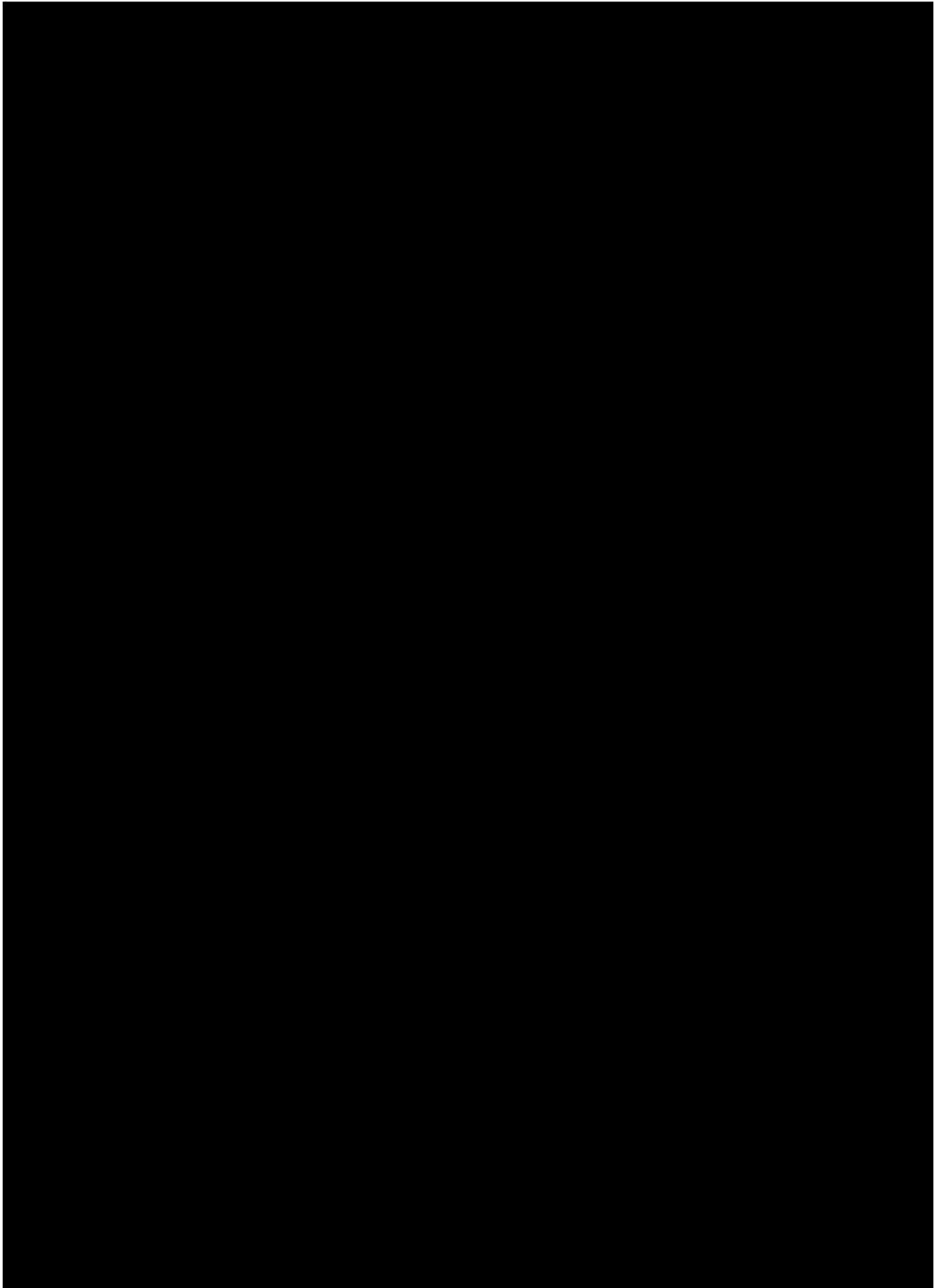
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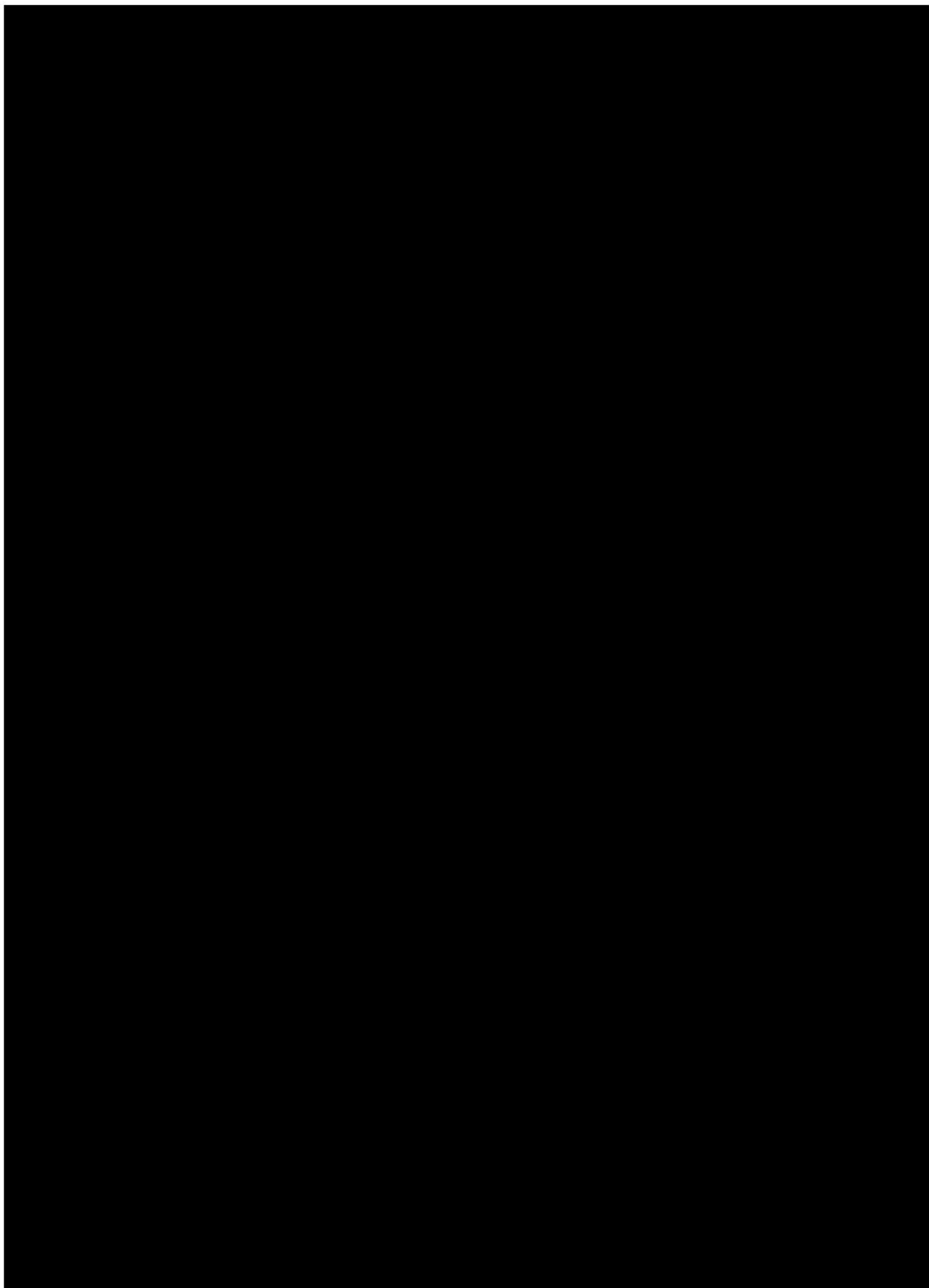


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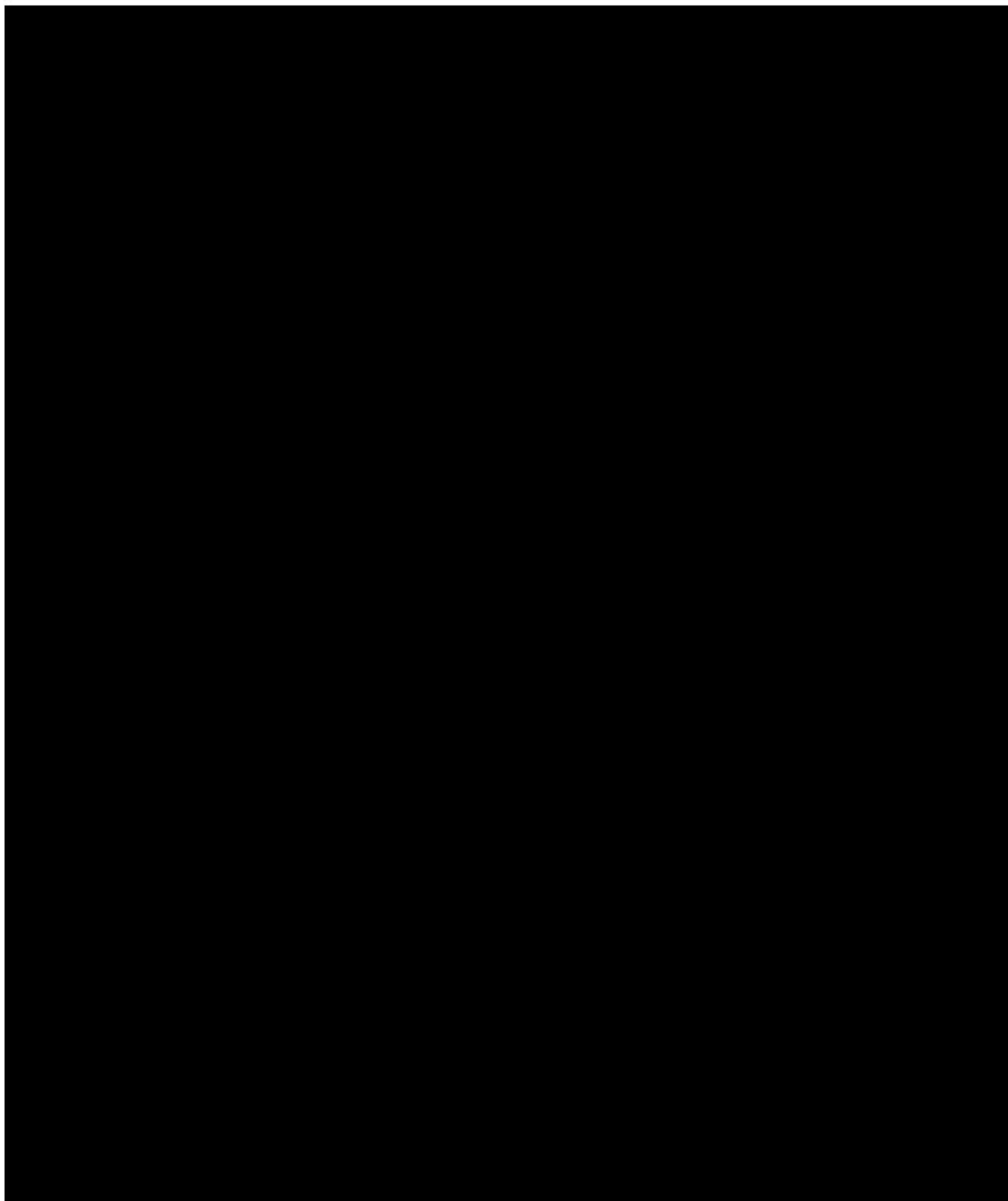




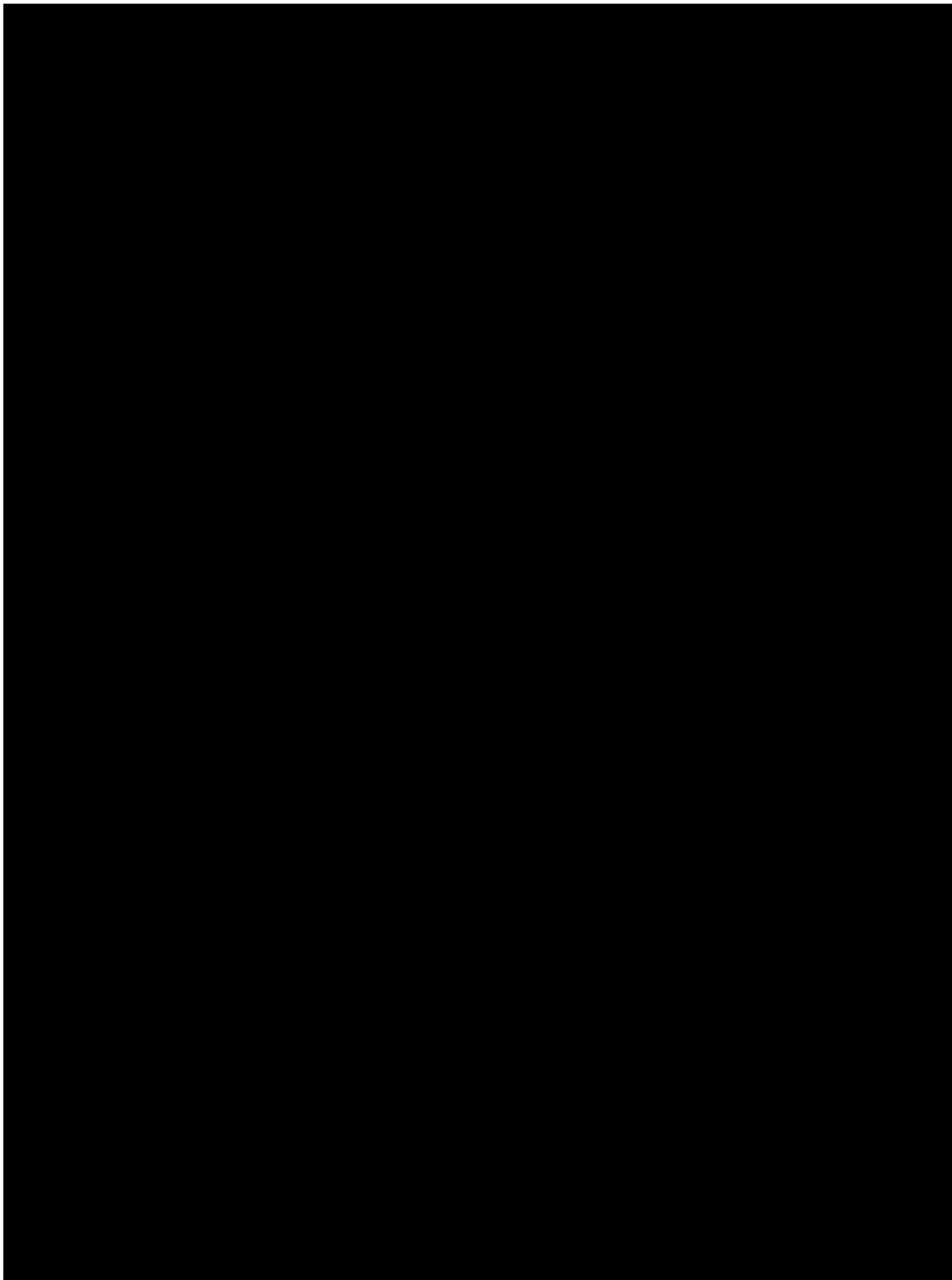
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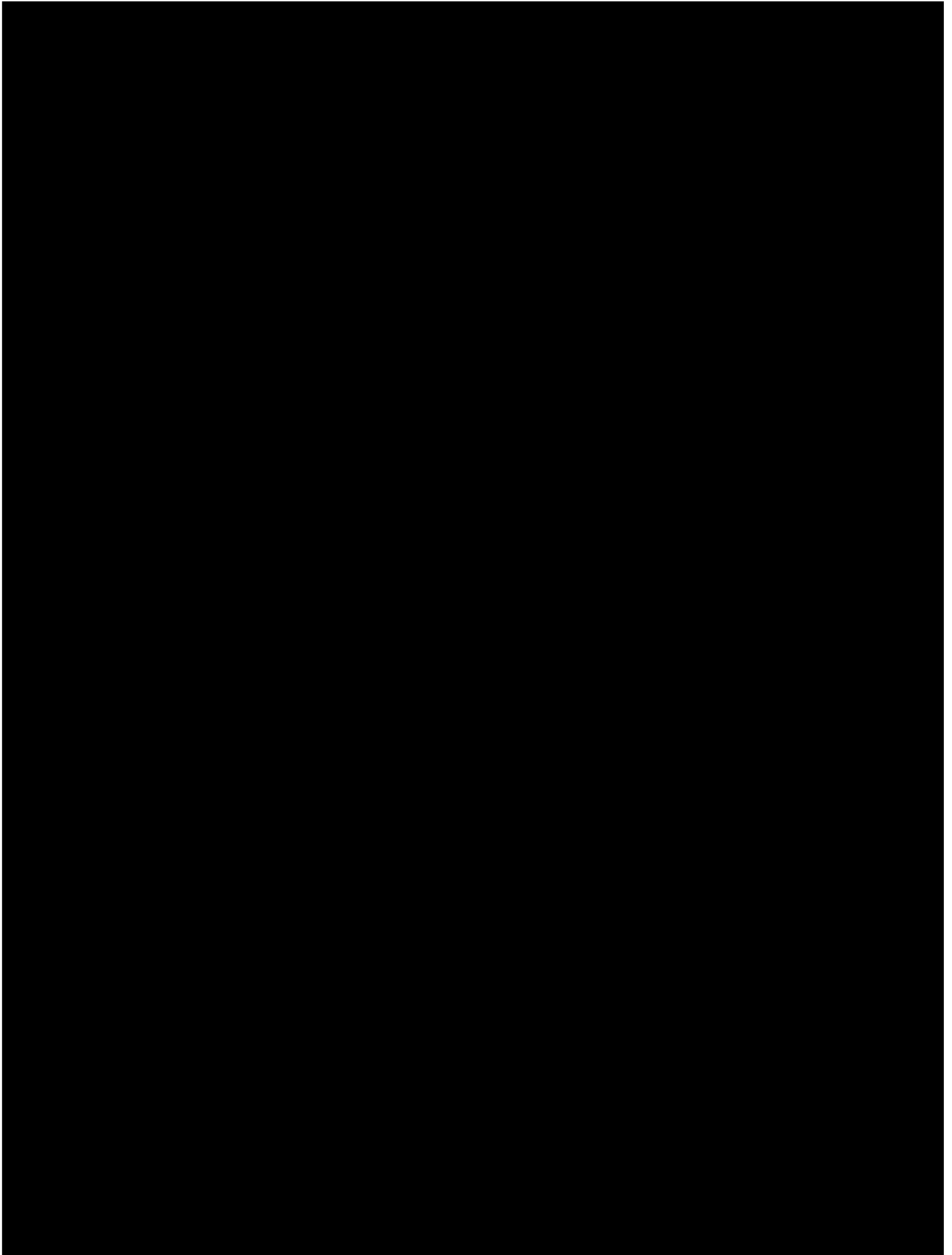
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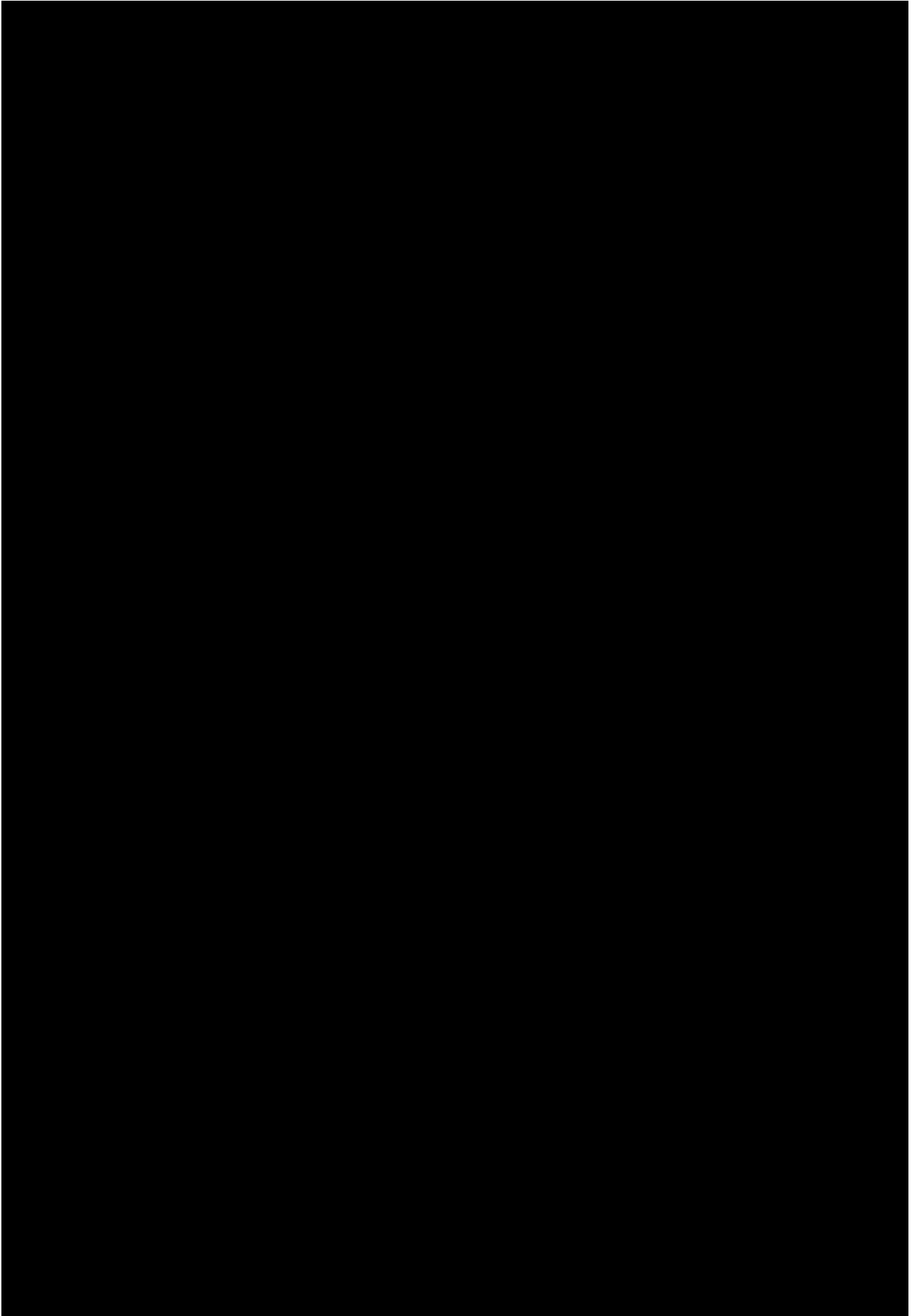
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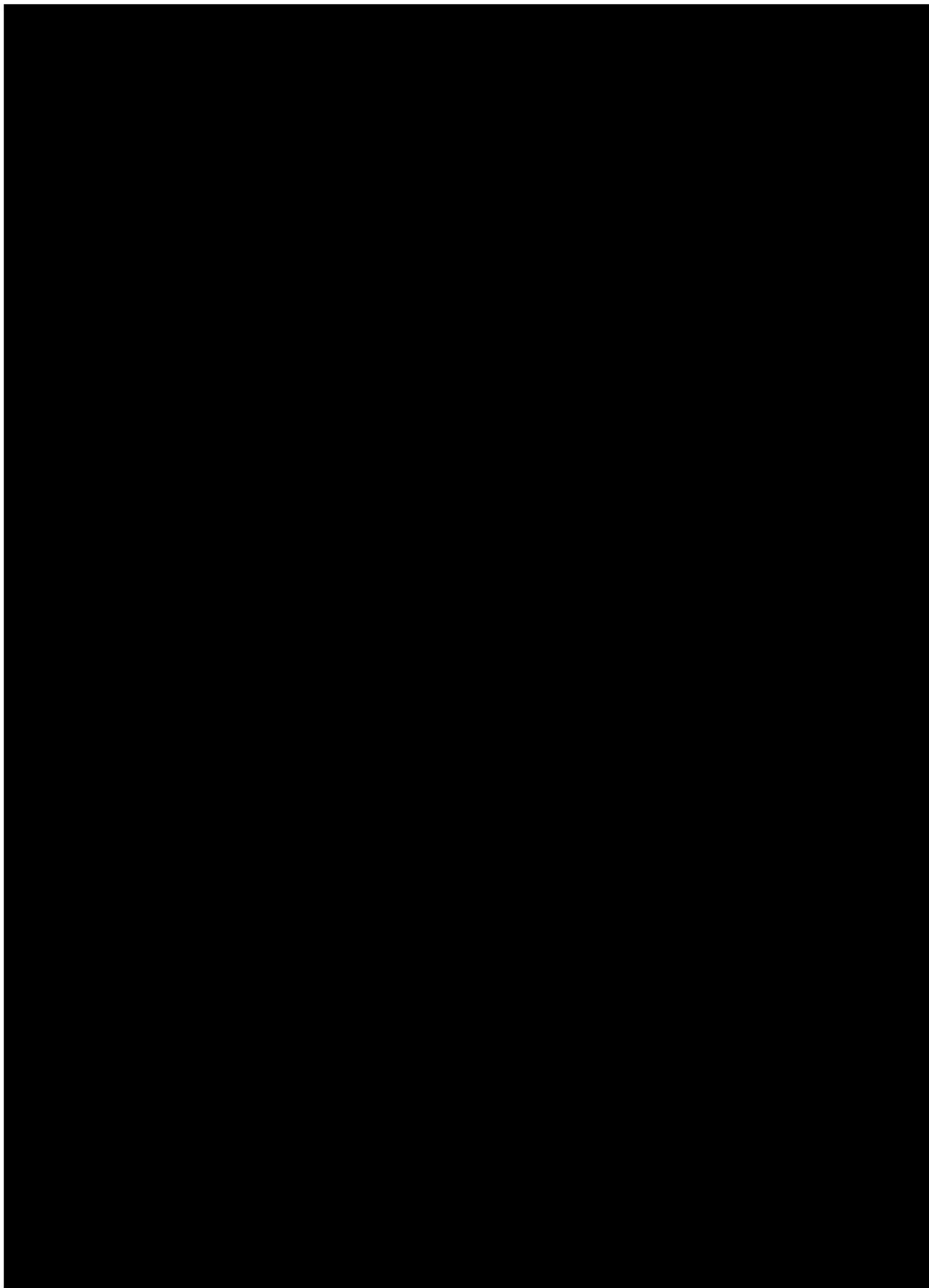
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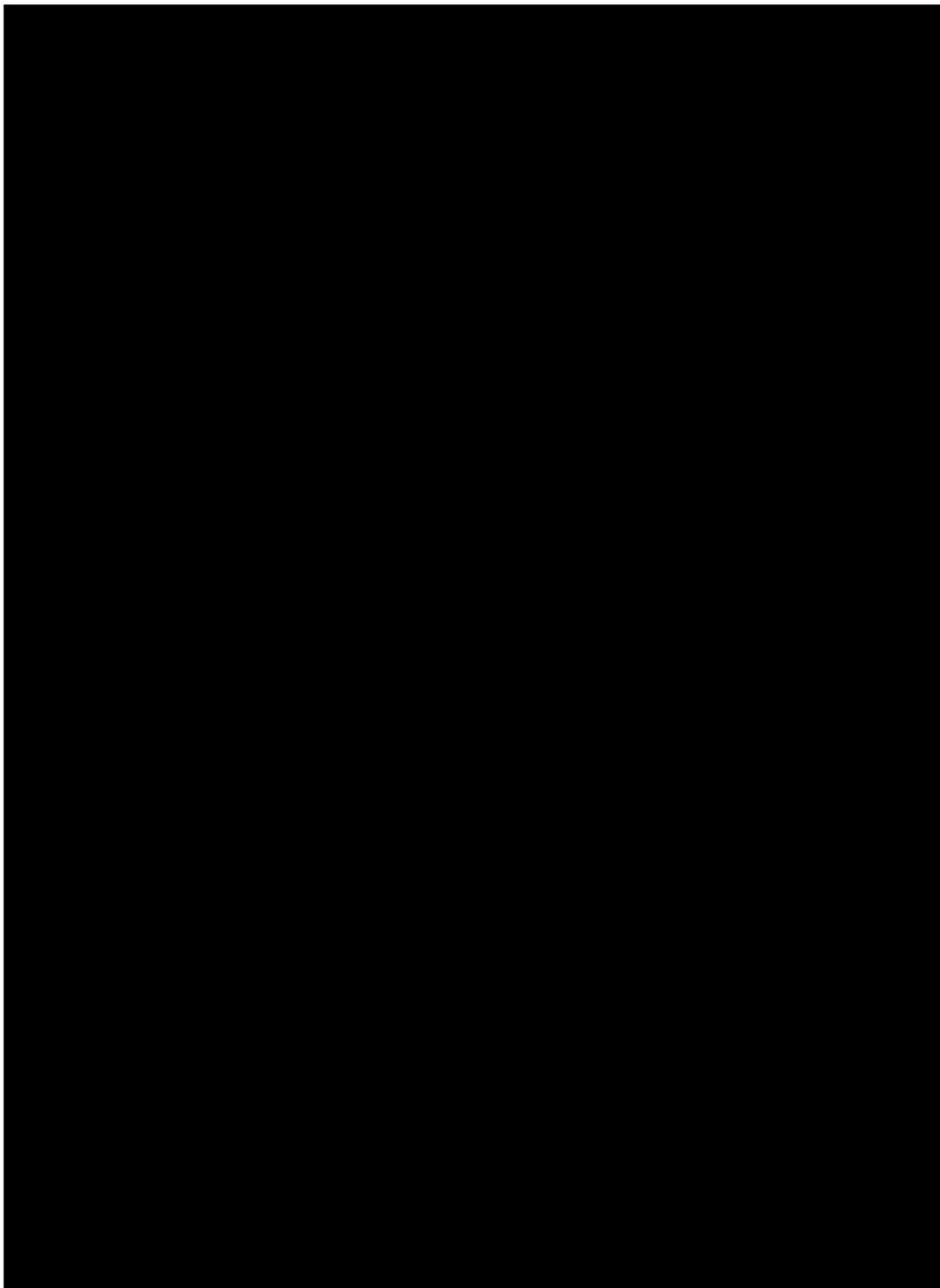
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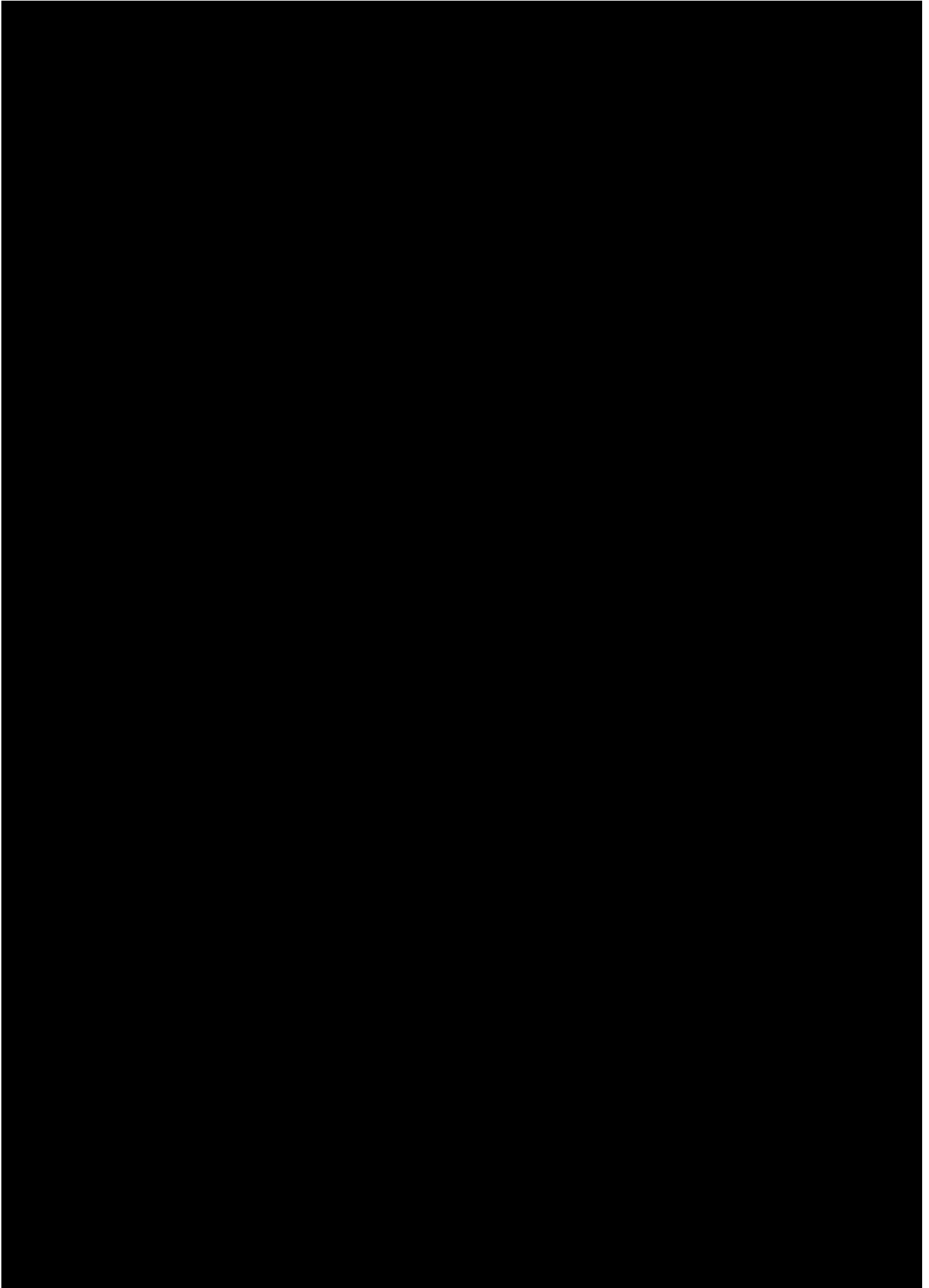
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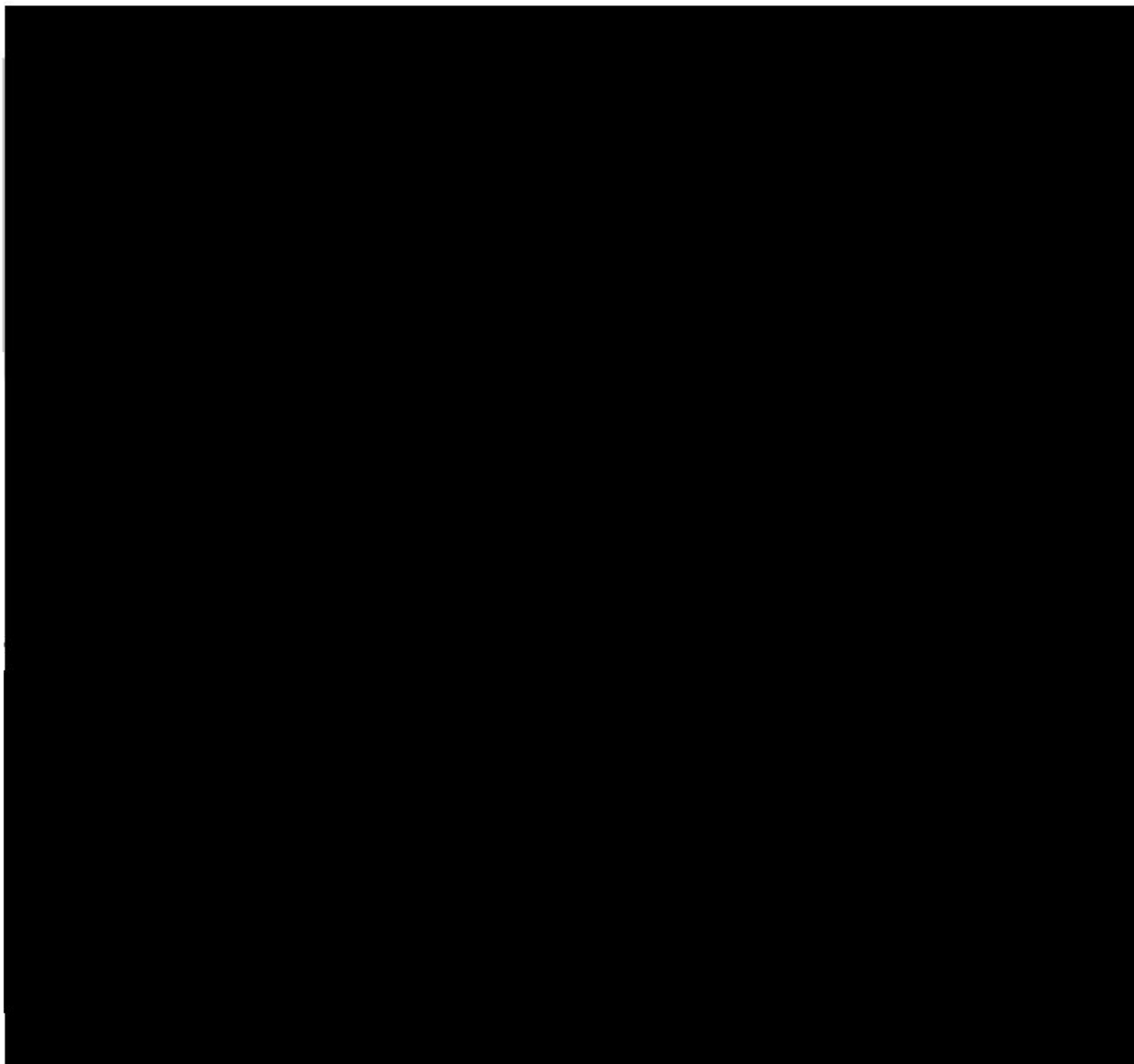


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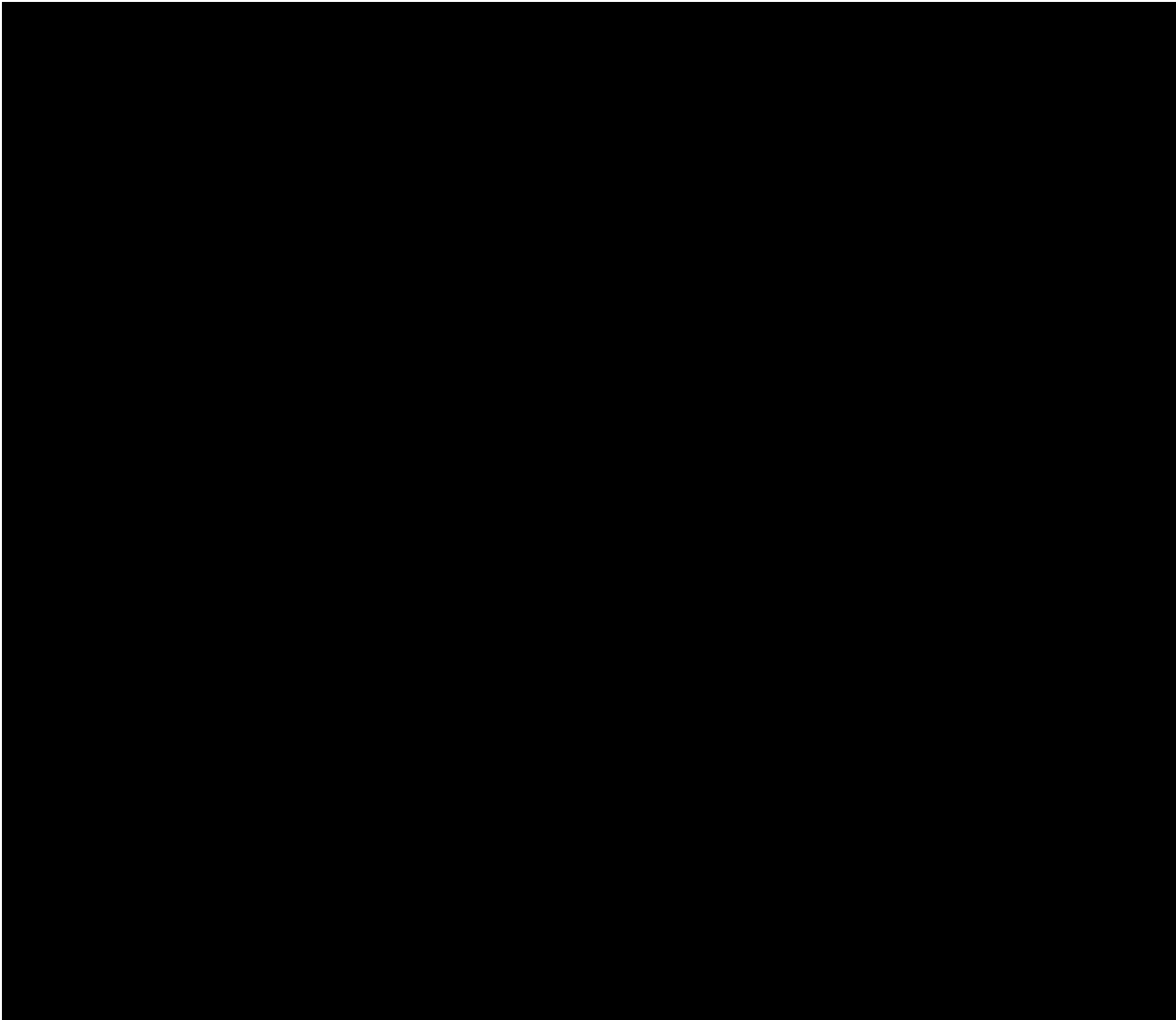




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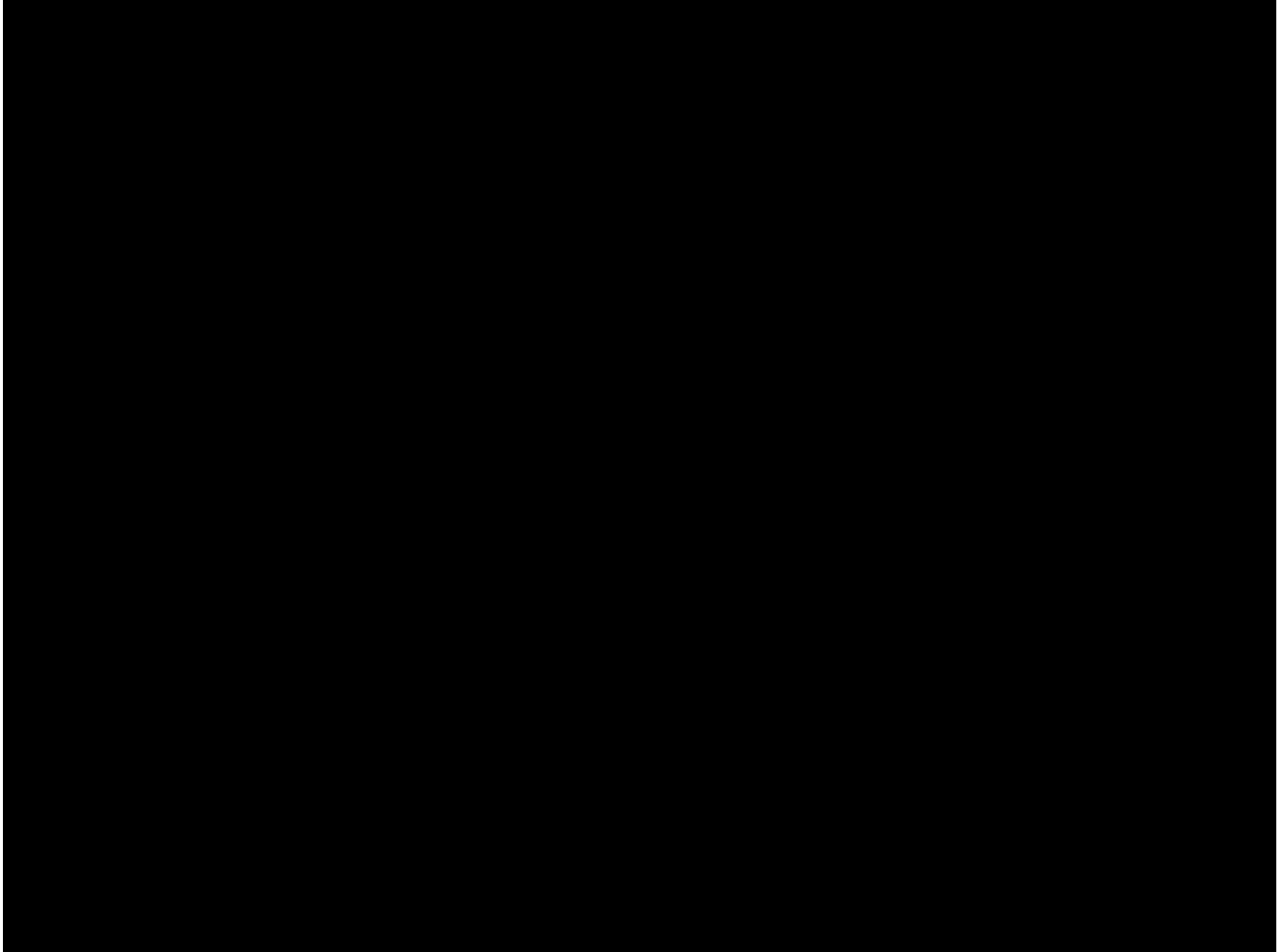
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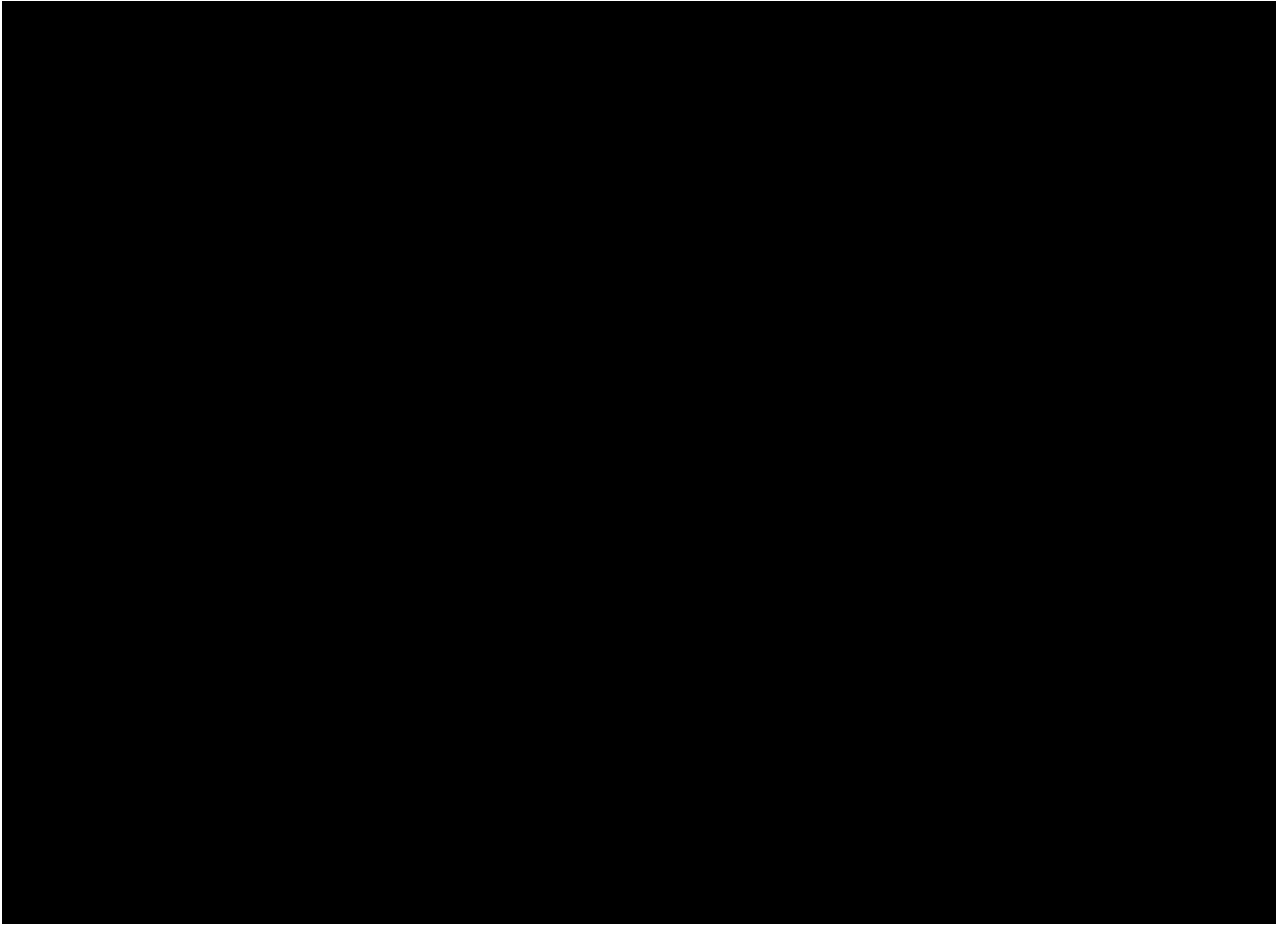
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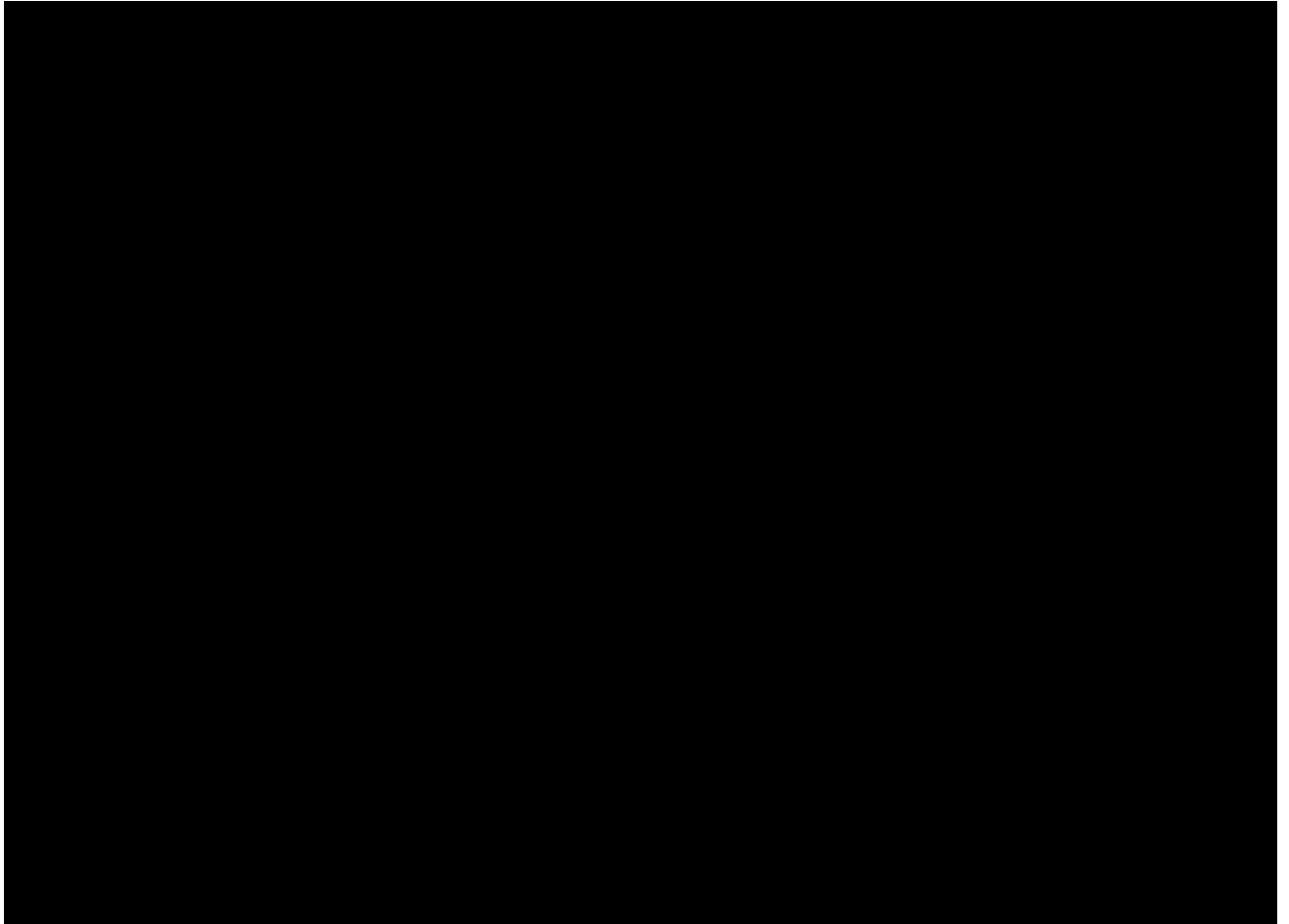
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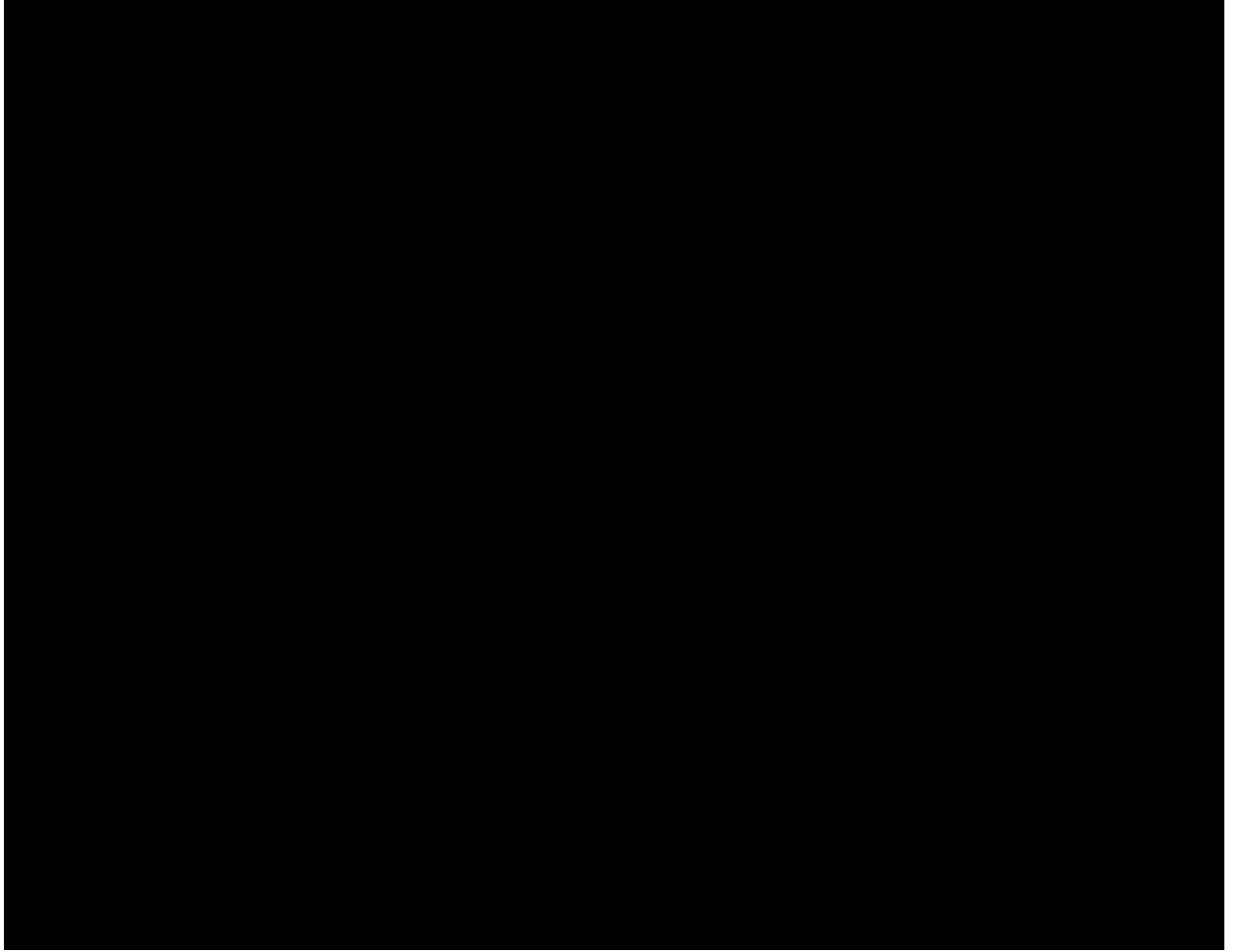
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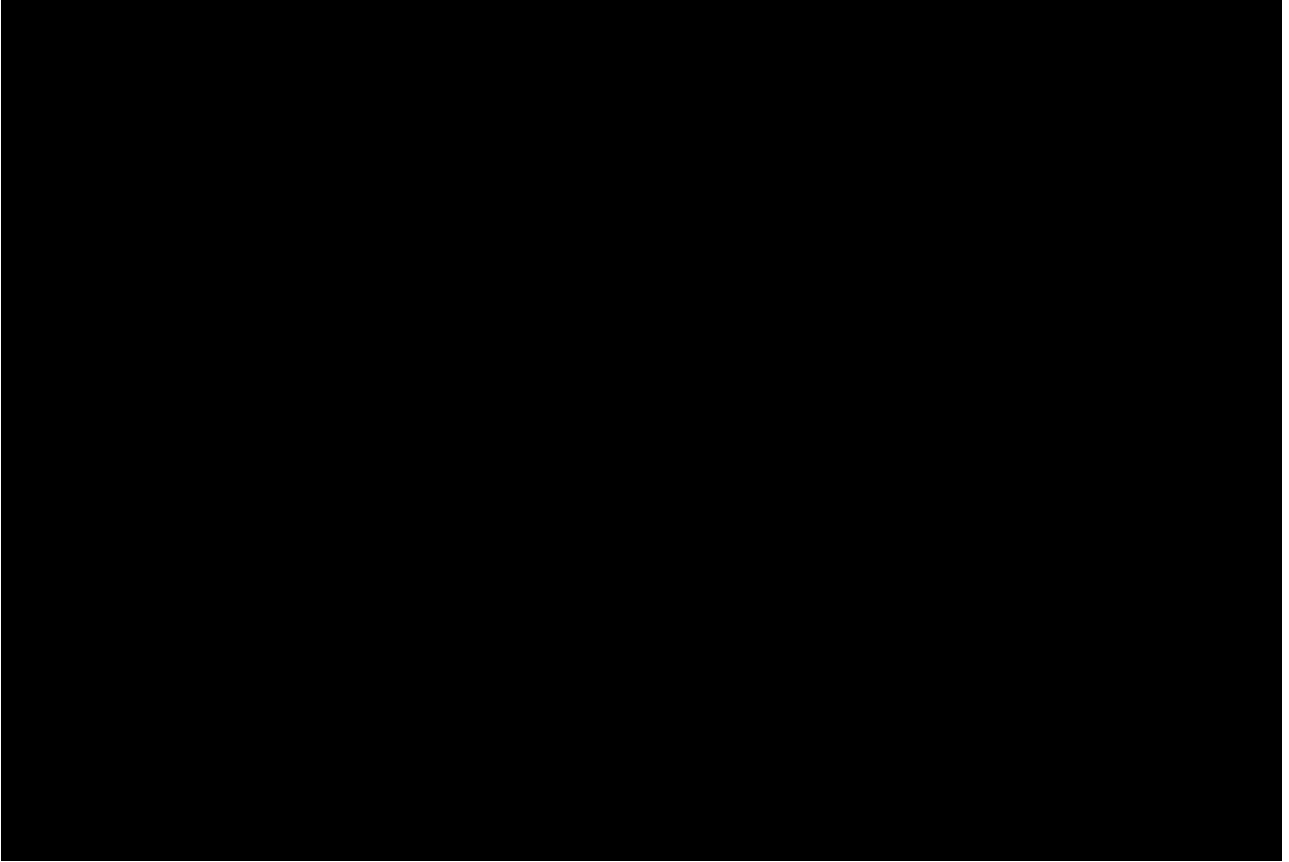
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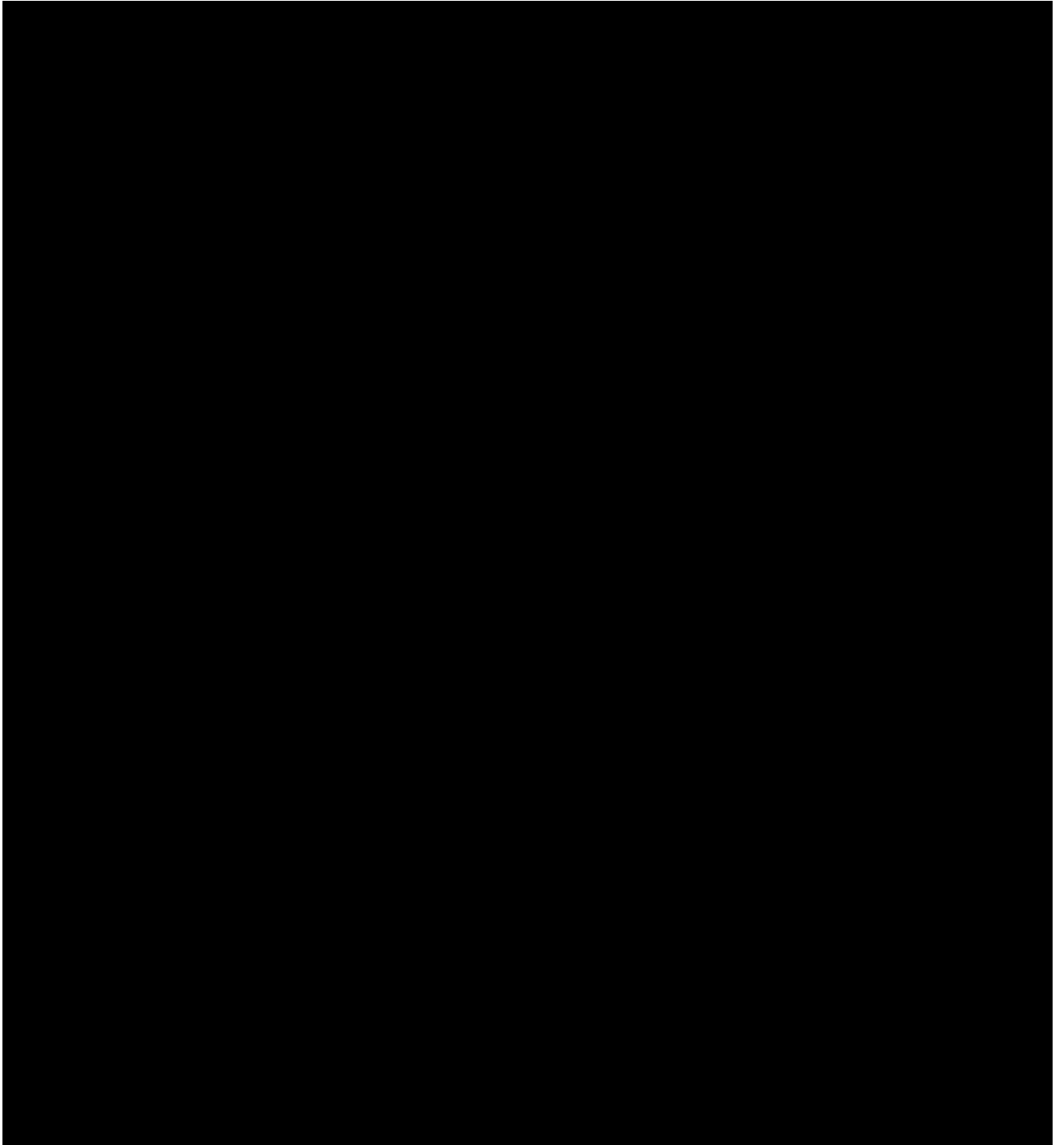


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## Schedule 5 (Commercially Sensitive Information)

### What is the Commercially Sensitive Information?

In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.

Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).

Without prejudice to the Buyer's obligation to disclose information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

No.	Date	Item(s)	Duration of Confidentiality
	[insert date]	[insert details]	[insert duration]

# Schedule 13 (Contract Management)

## Definitions

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

"Operational Board"	the board established in accordance with Paragraph The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented. of this Schedule;
"Project Manager"	the manager appointed in accordance with Paragraph The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day. of this Schedule;

## Project Management

- The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- Without prejudice to Paragraph **Role of The Operational Board** below, the Parties agree to operate the boards specified as set out in the **Annex** to this Schedule.

## Role of the Supplier Project Manager

- The Supplier Project Manager shall be:
  - the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;

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able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;

able to cancel any delegation and recommence the position himself; and replaced only after the Buyer has received notification of the proposed change.

The Buyer may provide revised instructions to the Supplier's Project Manager in regards to this Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under this Contract.

### **Role of The Operational Board**

The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.

The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in

**Annex** to the Schedule.

In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.

Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.

The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

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## **Contract Risk Management**

Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.

The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:

- the identification and management of risks;

- the identification and management of issues; and

- monitoring and controlling project plans.

The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.

The Supplier will maintain a risk register of the risks relating to this Contract which the Buyer and the Supplier have identified.

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## **Annex: Operational Boards**

Not Used

# Schedule 16 (Security)

## Part A: Short Form Security Requirements

### Definitions

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

<b>"Breach of Security"</b>	<p>the occurrence of:</p> <p>any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</p> <p>the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,</p> <p>in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy.; and</p>
<b>"Security Management Plan"</b>	<p>the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.</p>

### Complying with security requirements and updates to them

The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply

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with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy.

Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

### **Security Standards**

The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.

The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security for its own system and any cloud services used which:

is in accordance with the Law and this Contract;

as a minimum demonstrates Good Industry Practice;

meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data;

where specified by the Buyer in accordance with Paragraph The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy. complies with the Security Policy and the ICT Policy; and

complies with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>. The Supplier must document how it and any cloud service providers they use comply with these principles, and provide this documentation upon request by the Buyer.



The references to standards, guidance and policies contained or set out in Paragraph The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security for its own system and any cloud services used which: shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.

In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

## **Security Management Plan**

### **Introduction**

The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

### **Content of the Security Management Plan**

The Security Management Plan shall:

- comply with the principles of security set out in Paragraph **Security Standards** and any other provisions of this Contract relevant to security;
- identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes

associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;

set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy.; and

be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

#### **Development of the Security Management Plan**

Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph **Amendment of the Security Management Plan**, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.

If the Security Management Plan submitted to the Buyer in accordance with Paragraph Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph **Amendment of the Security Management Plan**, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan., or any subsequent revision to it in accordance with Paragraph **Amendment of the Security Management Plan**, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission,

the matter will be resolved in accordance with the Dispute Resolution Procedure.

The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph If the Security Management Plan submitted to the Buyer in accordance with Paragraph Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph **Amendment of the Security Management Plan**, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan., or any subsequent revision to it in accordance with Paragraph **Amendment of the Security Management Plan**, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph **Content of the Security Management Plan** shall be deemed to be reasonable.

Approval by the Buyer of the Security Management Plan pursuant to Paragraph The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph If the Security Management Plan submitted to the Buyer in accordance with Paragraph Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph **Amendment of the Security Management Plan**, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan., or any subsequent revision to it in accordance with Paragraph **Amendment of the Security Management Plan**, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to

the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph **Content of the Security Management Plan** shall be deemed to be reasonable. or of any change to the Security Management Plan in accordance with Paragraph **Amendment of the Security Management Plan** shall not relieve the Supplier of its obligations under this Schedule.

### **Amendment of the Security Management Plan**

The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

emerging changes in Good Industry Practice;

any change or proposed change to the Deliverables and/or associated processes;

where necessary in accordance with Paragraph Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy., any change to the Security Policy;

any new perceived or changed security threats; and

any reasonable change in requirements requested by the Buyer.

The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:

suggested improvements to the effectiveness of the Security Management Plan;

updates to the risk assessments; and

suggested improvements in measuring the effectiveness of controls.

Subject to Paragraph The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant

change or amendment., any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on time-scales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

### Security breach

Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph **Error! Reference source not found.**, the Supplier shall:

immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:

minimise the extent of actual or potential harm caused by any Breach of Security;

remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;

prevent an equivalent breach in the future exploiting the same cause failure; and

as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph The Supplier shall comply with the requirements in this

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Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy.) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

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## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing this Contract).

Contract Details		
This variation is between:	<b>[insert name of Buyer]</b> ("the Buyer") And <b>[insert name of Supplier]</b> ("the Supplier")	
Contract name:	<b>[insert name of contract to be changed]</b> ("this Contract")	
Contract reference number:	<b>[insert contract reference number]</b>	
Details of Proposed Variation		
Variation initiated by:	<b>[delete as applicable: Buyer/Supplier]</b>	
Variation number:	<b>[insert variation number]</b>	
Date variation is raised:	<b>[insert date]</b>	
Proposed variation		
Reason for the variation:	<b>[insert reason]</b>	
An Impact Assessment shall be provided within:	<b>[insert number]</b> days	
Impact of Variation		
Likely impact of the proposed variation:	<b>[Supplier to insert assessment of impact]</b>	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[Buyer to insert original Clauses or Paragraphs to be varied and the changed clause]</b></li> </ul>	
Financial variation:	Original Contract Value:	£ <b>[insert amount]</b>
	Additional cost due to variation:	£ <b>[insert amount]</b>

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	New Contract value:	£ <b>[insert amount]</b>
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- 1. This Variation must be agreed and signed by both Parties to this Contract and shall only be effective from the date it is signed by the Buyer.
- 2. Words and expressions in this Variation shall have the meanings given to them in this Contract.
- 3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.



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Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

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#### **4. Territorial limits**

United Kingdom

#### **5. Period of insurance**

From the date of this Contract for the period of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

#### **6. Cover features and extensions**

Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Supplier is legally liable.

#### **7. Principal exclusions**

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- 7.1 War and related perils.
- 7.2 Nuclear and radioactive risks.
- 7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.
- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

[Redacted]

[Redacted]

**PART B: UNITED KINGDOM COMPULSORY INSURANCES**

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

**PART C: ADDITIONAL INSURANCES**

Professional Indemnity Insurance	Where the Buyer requirement includes a potential breach of professional duty by the Supplier in connection with professional advice and /or professional services to be maintained for six (6) years after the End Date
Property Damage Insurance / Goods in Transit Insurance	Where the Buyer requirement necessitates primary perils insurance for relevant physical

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	property (e.g. Buyer physical property in the care, custody and control of the Supplier in delivering this Contract).
Cyber Liability Insurance	Where the Buyer requirement includes specific cyber risk exposures.
Environmental Liability Insurance or Contractors Pollution Liability Insurance	Where the Buyer requirement includes exposure to significant pollution / contamination risks.

# Schedule 26 (Sustainability)

## 1. Definitions

["Modern Slavery Assessment Tool"]	means the modern slavery risk identification and management tool which can be found online at: <a href="https://supplierregistration.cabinetoffice.gov.uk/msat">https://supplierregistration.cabinetoffice.gov.uk/msat</a>
["Supply Chain Map"]	means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least: <ul style="list-style-type: none"><li>(a) the name, registered office and company registration number of each entity in the supply chain;</li><li>(b) the function of each entity in the supply chain; and</li><li>(c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain; and]</li></ul>
["Waste Hierarchy"]	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: <ul style="list-style-type: none"><li>(a) Prevention;</li><li>(b) Preparing for re-use;</li><li>(c) Recycling;</li><li>(d) Other Recovery; and</li><li>(e) Disposal.</li></ul>

## Part A

### 1. Public Sector Equality Duty

- 1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the



Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:

- 1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and
- 1.1.2 advance:
  - (a) equality of opportunity; and
  - (b) good relations,between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

## **2. Employment Law**

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

## **3. Modern Slavery**

### **3.1 The Supplier:**

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;

- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph **Modern Slavery**;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies;
- 3.1.12 if the Supplier is in Default under Paragraphs shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour; to shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies; of this Part **Error! Reference source not found.** of Schedule **26** the Buyer may by notice:
  - (a) require the Supplier to remove from performance of this Contract any sub-contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
  - (b) immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply; and
- 3.1.13 shall, if the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains).

- 3.2 If the Supplier notifies the Buyer pursuant to Clause shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies; it shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with this Contract.
- 3.3 If the Supplier is in Default under Paragraph The Supplier: of this Part **Error! Reference source not found.** of Schedule **26** [Guidance: Include if Optional paragraph **Error! Reference source not found.** of Part **Error! Reference source not found.** of this Schedule is included or Paragraph **Error! Reference source not found.** of Part **Error! Reference source not found.** of Schedule **26**] the Buyer may by notice:
- 3.3.1 require the Supplier to remove from performance of this Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
- 3.3.2 immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

#### 4. Environmental Requirements

- 4.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 4.2 In performing its obligations under this Contract, the Supplier shall, where applicable to this Contract, to the reasonable satisfaction of the Buyer:
- 4.2.1 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
- 4.2.2 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and
- 4.2.3 ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.

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- 4.3 In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.
- 4.4 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.
- 4.5 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:  
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

## 5. Supplier Code of Conduct

- 5.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1163536/Supplier\\_Code\\_of\\_Conduct\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf)  
 The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

## 6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs **Public Sector Equality Duty-Supplier Code of Conduct** of this Part **Error! Reference source not found.** above within fourteen (14) days of such request, [provided that such requests are limited to [two (2)] per requirement per Contract Year].

## Part B

Not Used

## Part C

### 1. Social Value

- 1.1 The Supplier shall provide a Social Value Report to the Buyer as outlined in Table A.

### Table A: Social Value Report

Required Detail	Frequency
A high-level summary of the Supplier's performance against the Social Value priorities over the relevant period	Quarterly
Performance by the Supplier against each of the Social Value KPIs set out at Table B over the relevant period	Quarterly

Table B: Social Value KPIs

No.	Social Value Title	Description of Deliverable	Target	Frequency of Measurement	Publishable Performance Information
Social Value KPI1	Social Value Action Plan	The Supplier to implement and continue all activities listed in Schedule 4	90%	Quarterly	No

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		– Appendix 1 Social Value Action Plan			
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## Schedule 27 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under this Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Subcontract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:, the Supplier shall also provide:. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
  - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph The Supplier shall

provide the Buyer with the following information in respect of the proposed Key Subcontractor; the Supplier shall also provide:

- 1.4.1 a copy of the proposed Key Sub-Contract; and
- 1.4.2 any further information reasonably requested by the Buyer.
- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the this Contract;
  - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
  - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
  - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under this Contract in respect of:
    - (a) the data protection requirements set out in Clause 18 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
    - (c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this Contract) and 14.5 (What happens if this Contract ends) of this Contract;
  - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
  - 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).



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- 1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

## Schedule 29 (Key Supplier Staff)

### KEY SUPPLIER STAFF

- 1.1 The Annex **1** (Key Role) to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such

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change does not have an adverse impact on the provision of the Deliverables; and

- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

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Annex 1- Key Roles

Key Role	Key Staff
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## **Schedule 30 (Exit Management)**

Not Used