

Central West Orana - REZ

RNI Independent Certifier Deed



Independent Certifier of the RNI Works

Energy Corporation of New South Wales
(ABN 13 495 767 706)

GHD Pty Ltd
(ABN 39 008 488 373)

Jacobs Group (Australia) Pty Ltd
(ABN 37 001 024 095)

and

On and from the Accession Date, the Network Operator

Execution Version

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11 December 2023

THIS INDEPENDENT CERTIFIER DEED is made on

BETWEEN:

- (1) **Energy Corporation of New South Wales** ABN 13 495 767 706, constituted by section 7 of the *Energy and Utilities Administration Act 1987* (NSW), in its capacity as the infrastructure planner under the EII Act for the Central-West Orana renewable energy zone (**Infrastructure Planner**);
- (2) **GHD Pty Ltd** ABN 39 008 488 373 of 133 Castlereagh Street, Sydney NSW 2000; and
Jacobs Group (Australia) Pty Ltd ABN 37 001 024 095 of Level 7, 177 Pacific Highway, North Sydney NSW 2060,

(together, **Independent Certifier**); and
- (3) On and from the Accession Date, the Network Operator.

RECITALS:

- A The Proponent Parties will enter into the Executed RNI Commitment Deed with the Infrastructure Planner for the delivery of the Early Activities.
- B The Network Operator will enter into the RNI Project Deed with the Infrastructure Planner for the delivery of the RNI Project.
- C Before the Executed RNI Commitment Deed is entered into, the Infrastructure Planner wishes to engage the Independent Certifier to perform the functions contemplated by the Draft RNI Commitment Deed.
- D The Independent Certifier represents that it is experienced providing engineering, review, monitoring and certification services for works similar to the RNI Works and Temporary Works, and offers its expertise in those fields.
- E The IC Project Agreements contemplate that the Independent Certifier will discharge those functions set out in Schedule 1.
- F The Independent Certifier will perform its obligations on the terms of this deed.
- G This deed will commence when executed by the Infrastructure Planner and the Independent Certifier, and the Network Operator will subsequently become a party to this deed.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

In this deed:

Aboriginal Business means a business that has at least 50 per cent Aboriginal or Torres Strait Islander ownership and that is recognised as such by Supply Nation, the NSW Indigenous Chamber of Commerce or a similar acceptable Indigenous business verification organisation.

Aboriginal Employee means an employee of the Independent Certifier, who is a person of Aboriginal or Torres Strait Islander descent as verified by the Independent Certifier in accordance with guidance provided under the Aboriginal Procurement Policy.

Aboriginal Participation Plan means a plan that satisfies the requirements for an 'Aboriginal Participation Plan' described in the Aboriginal Procurement Policy.

Aboriginal Procurement Policy means the 'NSW Aboriginal Procurement Policy' dated January 2021, as updated from time to time.

Aboriginal Participation Report means a report that satisfies the reporting requirements in the Aboriginal Procurement Policy.

Accession Date means the date the Network Operator becomes a party to this deed in accordance with the Accession Deed.

Accession Deed means a deed in substantially the form set out in Schedule 7 to be entered into by the Independent Certifier, the Infrastructure Planner and the Network Operator.

Additional Services means any additional services requested by the Infrastructure Planner from the Independent Certifier from time to time by the issue of an Additional Services Order, as those services are described in each Additional Services Order.

Additional Services Fee means the fee specified in any Additional Services Order for the Additional Services set out in that Additional Services Order, calculated in accordance with clause 7.1(b)(ii).

Additional Services Order means a written request from the Infrastructure Planner to the Independent Certifier to carry out Additional Services issued under clause 7.1(d)(iii).

Additional Services Proposal means a proposal submitted by the Independent Certifier under clause 7.1(b).

Additional Services Request has the meaning given to that term in clause 7.1(a).

Additional Third Party Agreement has the meaning given to that term in clause 3.18(d)(i).

AS Upper Limiting Fee means each upper limiting fee for an Additional Service that is agreed or determined in accordance with clause 7.1.

Certification and Monitoring Plan means the plan that the Independent Certifier is required to prepare in accordance with clause 3.10 (as that plan is updated from time to time in accordance with clause 3.11 of this deed). The initial Certification and Monitoring Plan is set out in Attachment 1 of Schedule 1.

Change in Control means, in respect of an entity, any event occurs such that a change occurs in the Control of that entity.

Claim means any claim, action, demand or proceeding for payment of money (including damages), for relief from or suspension of obligations:

- (a) under, arising out of, or in any way in connection with, this deed;
- (b) arising out of, or in any way in connection with, any task, fact, matter, thing or relationship connected with the Services or either party's conduct prior to the date of this deed; or
- (c) otherwise at Law including:
 - (i) under or for breach of any statute;

- (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
- (iii) for restitution, including restitution based on unjust enrichment.

Completion Phase Services means all Core Services related to:

- (a) Test Procedures and Tests and the performance by the Network Operator of its obligations in respect of the Test Procedures and Tests, including such Test required in respect of First Energisation Requirements;
- (b) Infrastructure Completion, Operational Completion and Final Completion;
- (c) the performance by the Network Operator of its obligations in respect of Infrastructure Completion, Operational Completion and Final Completion;
- (d) the construction and completion of the RNI Works and Temporary Works; and
- (e) the performance by the Network Operator of its construction obligations in respect of the RNI Works and Temporary Works,

as described in Schedule 1.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Control has the meaning given to that term in the Corporations Act.

Core Services means the services set out in Schedule 1 to this deed, and includes the Design Phase Services and the Completion Phase Services.

Core Services Fee means the amount payable to the Independent Certifier for the performance of the Core Services, as calculated in accordance with paragraph 1(b) of the Payment Schedule.

Corporations Act means the *Corporations Act 2001* (Cth).

[REDACTED]

Deed Poll / Deed Beneficiary has the meaning given in clause 3.17.

Design Phase Services means all Core Services related to:

- (a) the review of IC Project Plans in accordance with the RNI Commitment Deed or RNI Project Deed (as applicable);

- (b) the design of the RNI Works; and
- (c) the performance by the Network Operator of its design obligations in respect of the RNI Works and Temporary Works,

as described in Schedule 1.

Dispute Representatives has the meaning given to that term in clause 9.2(c).

Draft Third Party Agreement means the draft memorandum of understanding or the draft third party agreements set out in Schedule 4 to be entered into with the parties identified in paragraphs 1(a) and 2(a) of Schedule 4.

Draft Deed Poll / Deed means a deed poll or deed in the form required by Schedule 5.

Draft RNI Commitment Deed has the meaning given in Schedule 8.

Draft RNI Project Deed means the "Offer RNI Project Deed" as defined in the RNI Commitment Deed.

D&C Contractor has the meaning given in the RNI Commitment Deed.

D&C IC Deed means any independent certifier deed entered into by the Independent Certifier, the Network Operator, the D&C Contractor and the M&L Contractor for the purposes of the design and construct and maintenance and lifecycle contracts between those parties.

Executed RNI Commitment Deed means the deed titled "*Central West Orana REZ Network Infrastructure* Commitment Deed" to be entered into between the Infrastructure Planner, the Network Operator and others, a copy of which will be provided to the Independent Certifier under clause 6.1(a).

[REDACTED]

Fee means the amount payable to the Independent Certifier for the performance of the Services in accordance with the Payment Schedule.

[REDACTED]

[REDACTED]

GST, GST law and other terms used in clause 11 have the meanings used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time) or any replacement or other relevant legislation and regulations, except that **GST law** also includes any applicable rulings. Any reference to GST payable by the Supplier (as defined in clause 11) includes any GST payable by the representative member of any GST group of which the Supplier is a member.

Health and Safety Management Plan means the management plan prepared by the Independent Certifier under clause 3.19(a).

IC Project Agreements means:

- (a) for the period commencing on the date of this deed until the date of Financial Close, the RNI Commitment Deed;
- (b) for the period commencing on the date of Financial Close, the RNI Project Deed;
- (c) the Third Party Agreements; and
- (d) any other agreement that the Infrastructure Planner and Network Operator informs the Independent Certifier constitutes an "IC Project Agreement".

Independent Certifier's Project Director means the relevant person referred to in Schedule 1 or any other person holding that position in accordance with clause 3.6(b)(ii).

Independent Certifier's Representative means the relevant person referred to in Schedule 1 or any other person holding that position in accordance with clause 3.6(b)(ii).

Infrastructure Planner's Representative means [REDACTED]

Insolvency Event means:

- (a) an application is made (other than for a frivolous or vexatious reason) for the winding up or deregistration of a person and, where an application has been made for the dismissal or withdrawal of the application for winding up within 10 Business Days, and the application is not dismissed or withdrawn within 30 Business Days;
- (b) an order is made for the winding up of a person, except for the purpose of a reconstruction, amalgamation, merger or consolidation on terms approved by the Other Parties before that order is made where the reconstruction, amalgamation, merger or consolidation is implemented in accordance with the terms of the approval;
- (c) a person passes a resolution for its winding up or deregistration, except for the purpose of a reconstruction, amalgamation, merger or consolidation on terms approved by the Infrastructure Planner before that resolution is passed where the reconstruction, amalgamation, merger or consolidation is implemented in accordance with the terms of that approval;
- (d) a receiver, receiver and manager, liquidator, provisional liquidator, compulsory manager trustee for creditors or in bankruptcy or analogous person is appointed to take possession of any property of a person;
- (e) in the case of the Independent Certifier, the holder of a Security Interest takes (or appoints an agent to take) possession of any property of the Independent Certifier that is used for the performance of the Services or otherwise enforces its Security Interest in respect of any such property;
- (f) a person or any other person appoints an administrator to the person, or takes any step to do so;
- (g) a person:

- (i) suspends payment of its debts (other than as the result of a failure to pay a debt or Claim which is the subject of a good faith dispute);
 - (ii) ceases or threatens to cease to carry on all or a material part of its business;
 - (iii) is or states that it is unable to pay its debts; or
 - (iv) is deemed insolvent by virtue of its failure to comply with a statutory demand, which is not withdrawn or set aside within 10 Business Days;
- (h) a person enters into a readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition with its creditors, without the prior consent of the Infrastructure Planner, except for the purposes of a solvent reconstruction or amalgamation permitted by this deed; or
- (i) any act is done or event occurs which has an analogous or similar effect to any of the events in paragraphs (a) to (h) (inclusive) of this definition.



Loss means any cost, expense, loss, damage, liability or other amount whether present, future, fixed, unascertained, actual or contingent.

M&L Contractor has the meaning given in the RNI Commitment Deed.

Minimum Aboriginal Participation Requirements means one or a combination of the following:

- (a) at least [REDACTED] of the value of the Fee as at the date of this deed is subcontracted to Aboriginal Businesses;
- (b) at least [REDACTED] of the Independent Certifier's Australian based workforce (full time equivalent) directly contributing to the Services are Aboriginal Employees; or
- (c) at least [REDACTED] of the value of the Fee as at the date of this deed is applied to the cost of education, training or capability building for Aboriginal Employees or Aboriginal Businesses directly contributing to the Services.

Minimum Surveillance Commitment means the resources committed to surveillance set out in paragraph 2.2(d) of Schedule 1.

Network Operator means the person or persons specified by the Infrastructure Planner as the Network Operator under clause 1.12(b).

Other Parties means the Infrastructure Planner and the Network Operator, or each, an **Other Party** (as applicable).

Pandemic Management Plan means the plan prepared by the Independent Certifier in accordance with clause 3.19(a)(ii).

Parent Company (IC) means Jacobs Solutions Inc and GHD Group Limited.

Payment Schedule means Schedule 2 to this deed.

PDCS means the Infrastructure Planner's web based TeamBinder project data and collaboration system, or such other electronic project data and collaboration system notified by the Infrastructure Planner's Representative under clause 12.1(b).



Proponent Parties means:

- (a) ACEREZ Partnership, a partnership consisting of Cobra CWO NO Pty Limited (ACN 670 780 631) in its capacity as trustee of the Cobra CWO NO Trust, Concesiones CWO REZ NO Pty Limited (ACN 670 755 521) in its capacity as trustee of the Concesiones CWO REZ NO Trust and the Endeavour Energy REZ NO Partnership;
- (b) D&C Contractor; and
- (c) M&L Contractor.

Reputable Insurer means an insurance company having the Required Rating.

Required Rating means a credit rating of at least A- by Standard and Poor's (Australia) Pty Limited or A3 by Moody's Investor Service, Inc (or such other credit rating as the Infrastructure Planner may approve in writing from time to time) or, if no rating is provided by Standard and Poor's (Australia) Pty Limited or by Moody's Investor Services, Inc, an equivalent rating with another reputable rating agency.

Restructure Event means where there is one or more asset transfer or corporate restructure that results in a Parent Company (IC) having a materially diminished financial capacity.

RNI CD Execution Date means the date the Executed RNI Commitment Deed has been executed by the last party so to do so and the Independent Certifier has received a copy of the Executed RNI Commitment Deed under clause 6.1(a).

RNI Commitment Deed means:

- (a) prior to the RNI CD Execution Date, the Draft RNI Commitment Deed; and
- (b) on and from the RNI CD Execution Date, the Executed RNI Commitment Deed.

RNI Project Agreements has the meaning given to the term of "Project Agreements" in the RNI Project Deed.

RNI Project Deed means the deed titled "*Centra West Orana Renewable Energy Zone REZ Network Infrastructure Project Deed*" to be entered into between the Infrastructure Planner and the Network Operator.

[REDACTED]

[REDACTED]

[REDACTED]

Services means:

- (a) the Core Services; and
- (b) any Additional Services,

and includes all things necessary for, or incidental to, the proper and professional performance of those services.

SME and Local Participation Plan means a plan that satisfies the requirements for an 'SME and Local Participation Plan' described in the SME and Regional Procurement Policy.

SME and Local Participation Report a report that satisfies the reporting requirements in the SME and Regional Procurement Policy.

SME and Regional Procurement Policy means the 'NSW Government Small to Medium Enterprise and Regional Procurement Policy' dated July 2021, as updated from time to time.

Stage 1 means the Services performed before the date of Financial Close.

Stage 2 means the Services performed on or after the date of Financial Close.

State means the Crown in right of the State of New South Wales.

State Indemnified Party means:

- (a) the Infrastructure Planner; and
- (b) the State.

Substitute Certifier has the same meaning as in clause 7.4(a).

Term means the term of this deed as set out in clause 2.2.

Third Party means a party to a Third Party Agreement other than the Infrastructure Planner.

Third Party Agreement means an execution version of a Draft Third Party Agreement or Additional Third Party Agreement (as applicable) provided to the Independent Certifier under clauses 3.18(a)(ii) or 3.18(d)(ii).

Upper Limiting Fee means each upper limiting fee specified in paragraph 1(b) of the Payment Schedule, as adjusted in accordance with this deed.

Validity Period has the meaning given to that term in clause 7.1(c).



1.2 Definitions in RNI Commitment Deed and RNI Project Deed

- (a) Except as otherwise defined in clause 1.1, prior to the date of Financial Close, capitalised terms used in this deed that are defined in the RNI Commitment Deed have the same meaning.
- (b) Except as otherwise defined in clause 1.1, on and from the date of Financial Close, capitalised terms used in this deed that are defined in the RNI Project Deed have the same meaning.

1.3 Interpretation

The following rules apply in interpreting this deed unless the context makes it clear that a rule is not intended to apply:

- (a) headings and subheadings are for convenience only and do not affect interpretation;
- (b) person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a party includes that party's executors, administrators, successors and permitted substitutes and assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (d) a reference to a person, entity or contractor includes that person, entity or contractor's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document, contract or agreement (including this deed or an IC Project Agreement) is to that document, contract or agreement as varied, novated, ratified or replaced from time to time;
- (f) a reference to any Authority, institute, association or body is:
 - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
 - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or object as that Authority, institute, association or body;
- (g) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:

- (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
 - (ii) any consolidations, amendments, re-enactments and replacements;
- (h) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (i) a reference to:
 - (i) a part, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a part, clause, paragraph, schedule, exhibit, attachment or annexure to or of this deed; and
 - (ii) this deed includes all schedules, exhibits, attachments and annexures to it;
- (j) if a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) includes in any form is not a word of limitation;
- (l) a reference to \$ or dollar is to Australian currency;
- (m) a reference to construction includes development, manufacture, supply, installation, integration, testing and commissioning;
- (n) any reference to an RNI Asset includes any part, item, component or element of that RNI Asset;
- (o) any reference to information will be read as including information, representations, statements, data, samples, bore logs, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;
- (p) any obligation of the Independent Certifier under this deed with respect to a plan, will be read as an obligation with respect to the version of the relevant plan last submitted by the Independent Certifier to the Other Parties under clause 3 in respect of which:
 - (i) where it relates to the Certification and Monitoring Plan, no Other Party has given a notice under clause 3.11(c);
 - (ii) where it relates to the Health and Safety Management Plan (including the Pandemic Management Plan), each of the Other Parties have approved under clause 3.19(a); and
 - (iii) where it relates to the Aboriginal Participation Plan and the SME and Local Participation Plan, the Infrastructure Planner has approved under clause 3.20(c)(i).

1.4 Business Day

Unless the context otherwise requires, if the day on or by which is to be made under this deed is not a Business Day, that payment must be no later than the next Business Day.

1.5 Ambiguous terms

- (a) If the Infrastructure Planner considers, or if any of the Independent Certifier or the Network Operator notifies the Infrastructure Planner's Representative in writing that it considers that there is an ambiguity, discrepancy, or inconsistency in, or between, the documents comprising this deed (including in any schedules), subject to clauses 2.4(a)(ii), 3.9(d) and 3.10(a), the Infrastructure Planner's Representative must (acting reasonably) direct the interpretation of this deed which the parties must follow.
- (b) The Infrastructure Planner's Representative, in giving a direction in accordance with clause 1.5(a), is not required to determine whether or not there is an ambiguity, discrepancy, or inconsistency in, or between, the documents comprising this deed.
- (c) Any direction which the Infrastructure Planner's Representative gives in accordance with clause 1.5(a):
 - (i) will not relieve the Independent Certifier or the Network Operator from or alter its liabilities or obligations under this deed or otherwise according to Law;
 - (ii) will not limit or otherwise affect the Infrastructure Planner's rights against any of the Independent Certifier or the Network Operator whether under this deed or otherwise according to Law; and
 - (iii) must, in respect of a notice given under clause 1.5(a) by the Independent Certifier or the Network Operator be given within 20 Business Days of receipt of that notice.

1.6 No bias against drafter

In the interpretation of this deed, no rule of construction applies to the disadvantage of one party on the basis that the party or its representative put forward or drafted this deed or any provision in it.

1.7 Excluding liability

Any provision of this deed which seeks to limit or exclude a liability of a party is to be construed as doing so only to the extent permitted by Law.

1.8 Network Operator bound

Clause 1.19 (*Network Operator bound*) of the RNI Project Deed applies to this deed as if set out in full in this deed and as if references to 'any Infrastructure Planner Project Agreement' were a reference to 'this deed'.

1.9 Network Operator's partnership

- (a) The obligations, undertakings, representations, warranties, indemnities and liabilities of, and any appointment by:
 - (i) the Network Operator under this deed bind all Network Operator Partners jointly and severally as partners; and
 - (ii) the Endeavour REZ NO Partnership (including in its capacity as a Network Operator Partner) under this deed bind all Endeavour REZ NO Partners jointly and severally as partners,

in either case notwithstanding that the Relevant Partnership ceases to carry on business.

- (b) The rights and entitlements of:
 - (i) the Network Operator under this deed benefit all Network Operator Partners jointly as partners; and
 - (ii) the Endeavour REZ NO Partnership (including in its capacity as a Network Operator Partner) under this deed benefit all Endeavour REZ NO Partners jointly as partners.

1.10 Trustee Limitation of liability

Clause 1.21 (*Trustee limitation of liability*) of the RNI Project Deed applies to this deed as if set out in full in this deed.

1.11 Independent Certifier joint and several

- (a) The obligations of the entities constituting the Independent Certifier under this deed are joint and several and each such entity acknowledges and agrees that it will be responsible for the acts and omissions (including breaches of this deed) of each other such entity as if those acts or omissions were its own.
- (b) The rights of the entities constituting the Independent Certifier under this deed are joint.
- (c) A reference to the Independent Certifier in this deed is a reference to each entity constituting the Independent Certifier separately and any 2 or more of them together, for example:
 - (i) a representation, warranty or undertaking given by the Independent Certifier relates to each such entity separately and any 2 or more of them together; and
 - (ii) an act or omission of the Independent Certifier includes an act or omission taken or made by each such entity separately and any 2 or more of them together.

1.12 Accession by Network Operator

- (a) The Network Operator may become a party to this deed in accordance with the Accession Deed.
- (b) The Infrastructure Planner may give the Independent Certifier a written request to execute the Accession Deed. The Infrastructure Planner's request must specify the Network Operator and the number of original copies required.
- (c) The Independent Certifier must promptly execute the Accession Deed in accordance with the Infrastructure Planner's request under clause 1.12(b) and provide the original executed copies to the Infrastructure Planner.
- (d) The Infrastructure Planner must give the Independent Certifier an original copy of the Accession Deed executed by the Infrastructure Planner and the Network Operator promptly after the Accession Deed is executed by them.
- (e) Before the Accession Date, the Independent Certifier performs the Services for the benefit of the Infrastructure Planner only, and has no obligation or duty of care to any person acting in the role of a Proponent Party under the Draft RNI Commitment Deed.

- (f) Without limiting clause 1.12(e), before the Accession Date, all certificates issued by the Independent Certifier in the performance of the Services that are otherwise required to be addressed to the Network Operator will be addressed to the Infrastructure Planner instead.
- (g) On and from the Accession Date, the Network Operator will receive the benefit of all Services performed by the Independent Certifier, including all certificates issued by the Independent Certifier in the performance of the Services which otherwise would have been required to be addressed to the Network Operator, as if the Network Operator had originally been a party to this deed.
- (h) The Infrastructure Planner may select the Network Operator in its discretion.

2. APPOINTMENT OF THE INDEPENDENT CERTIFIER

2.1 Appointment

- (a) Each of the Other Parties appoint the Independent Certifier under this deed to perform the Services.
- (b) The Independent Certifier confirms its acceptance of the appointment referred to in clause 2.1(a).
- (c) Subject to clause 2.4(a), the Independent Certifier must carry out the Services in accordance with:
 - (i) the requirements of this deed (including making available for the performance of the Services, as a minimum, the levels of resources specified in Schedule 1) and the IC Project Agreements; and
 - (ii) the Certification and Monitoring Plan.

2.2 Term

- (a) Subject to clause 2.2(b), the Term of this deed commences on the date of this deed and continues until the earlier of:
 - (i) completion of the Services; or
 - (ii) termination in accordance with clause 10.
- (b) The rights and obligations of the Network Operator under this deed will not commence until the Accession Date.

2.3 Payment

- (a) Subject to clause 2.3(b), each of the Other Parties will pay the Independent Certifier the Fee subject to and in accordance with the Payment Schedule.
- (b) The Infrastructure Planner will be solely responsible for paying the Independent Certifier the Fee for Stage 1.

2.4 Nature of Services

- (a) The Independent Certifier and each of the Other Parties acknowledge and agree that:

- (i) the Certification and Monitoring Plan is incidental to, and does not limit or otherwise affect the Services or the Independent Certifier's obligations under this deed; and
 - (ii) to the extent that any part of the Certification and Monitoring Plan is inconsistent with or seeks to limit or otherwise affect the Services or the Independent Certifier's obligations under this deed:
 - A. the highest scope, quantum, quality, standard or other requirement on the Independent Certifier or the more onerous obligation specified will prevail; and
 - B. otherwise the Services or the Independent Certifier's obligations under this deed (as applicable) prevails over such part of the Certification and Monitoring Plan.
- (b) Where this deed expressly contemplates an action, agreement, decision, direction, exercise of a right or the like by the Other Parties jointly:
- (i) before the Accession Date, the Infrastructure Planner may determine (in its discretion) the action, agreement, decision, direction, exercise of a right or the like; and
 - (ii) on and from the Accession Date, the action, agreement, decision, direction, exercise of a right or the like must be agreed by the Other Parties, and except to the extent this deed expressly states otherwise, the Other Parties must, acting reasonably, endeavour to reach agreement.
- (c) Where the Other Parties have not been able to reach agreement on a joint action, agreement, decision, direction, exercise of a right or the like in accordance with clause 2.4(b)(ii):
- (i) the Other Parties' failure to reach agreement will not be a dispute to which clause 9 of this deed or clause 55 of the RNI Project Deed applies; and
 - (ii) this deed will continue to apply, and the Services under this deed continue to be provided, on the basis that action, agreement, decision, direction, exercise of a right or the like by the Other Parties has not been taken, made or given.
- (d) The Independent Certifier acknowledges and agrees that where this deed or an IC Project Agreement requires the Independent Certifier to interact with the Network Operator or a relevant Third Party, such obligation includes interacting with the Network Operator Contractor's or Third Party's (as applicable) subcontractors where the Network Operator or the Third Party has subcontracted that interaction or works relating to it.
- (e) Interactions referred to in clause 2.4(d) include interacting with the D&C Contractor, M&L Contractor and relevant designers associated with the RNI Works and Temporary Works where the Network Operator has subcontracted the relevant Delivery Activities to them.

2.5 Rights under the IC Project Agreements

The Independent Certifier may exercise any of the rights granted to it under the IC Project Agreements for the purpose of performing the Services.

3. INDEPENDENT CERTIFIER'S OBLIGATIONS

3.1 Acknowledgement

The Independent Certifier acknowledges that:

- (a) it has received a copy of the execution version of each IC Project Agreement (other than the Draft Third Party Agreements, Draft RNI Commitment Deed and the Draft RNI Project Deed) and that it has read, and is familiar with, the terms of these documents to the extent they relate to the Services;
- (b) it has received copies of the Draft Third Party Agreements (including the Draft Deed Poll / Deed), Draft RNI Commitment Deed and the Draft RNI Project Deed, and that it has read, and is familiar with, the terms of these documents;
- (c) it must continue performing the Core Services notwithstanding that the relevant Upper Limiting Fee may have been reached; and
- (d) it will not be entitled to payment of any amount in addition to the relevant Upper Limiting Fee (as adjusted in accordance with paragraph 4 of the Payment Schedule) for the performance of the Core Services.

3.2 Stage 1

- (a) The Independent Certifier acknowledges and agrees that, from the date of this deed until the date of Financial Close:
 - (i) the Proponent Parties will perform the Early Activities in accordance with the RNI Commitment Deed, including the Incorporated Provisions; and
 - (ii) the Independent Certifier must carry out its obligations under this deed on the basis of the RNI Commitment Deed, including the Incorporated Provisions.
- (b) The Independent Certifier acknowledges and agrees that:
 - (i) it has taken into account in its Upper Limiting Fee the possibility that Stage 2 does not proceed; and
 - (ii) nothing in this deed obliges an Other Party to proceed with Stage 2 or restricts an Other Party from appointing another person to carry out Stage 2.
- (c) The Independent Certifier will have no Claim against an Other Party, and releases and waives any entitlement it may have to such a Claim, arising out of or in connection with Stage 2 not proceeding or the Other Parties appointing another person to carry out Stage 2.

3.3 Stage 2

- (a) The Independent Certifier acknowledges that on the date of Financial Close the RNI Commitment Deed will terminate in accordance with its terms.
- (b) Subject to clause 3.2(b), the Independent Certifier acknowledges that on and from the date of Financial Close:
 - (i) the Network Operator will perform the Network Operator's Activities in accordance with the RNI Project Deed; and

- (ii) the Independent Certifier must carry out its obligations under this deed on the basis of the RNI Project Deed.
- (c) Subject to clause 3.3(d), on and from the date of Financial Close:
 - (i) The RNI Project Deed will retrospectively apply to the acts and omissions of each of the Other Parties and the Independent Certifier under or in relation to the Incorporated Provisions of the RNI Commitment Deed as if they were acts or omissions of the Other Party or the Independent Certifier (as applicable) under or in relation to the RNI Project Deed; and
 - (ii) the rights, entitlements, obligations and liabilities of each of the Other Parties and the Independent Certifier against or to each other under or in relation to the Incorporated Provisions of the RNI Commitment Deed will be as set out in the RNI Project Deed and not the RNI Commitment Deed.
- (d) On and from the date of Financial Close, the acts and omissions of each of the Other Parties and the Independent Certifier under or in relation to the Incorporated Provisions of the RNI Commitment Deed will apply for the purposes of the RNI Project Deed, which will include:
 - (i) the results of any review process undertaken for Project Documentation under the Incorporated Provisions of the RNI Commitment Deed;
 - (ii) any approval, consent or agreement given by an Other Party or the Independent Certifier under the Incorporated Provisions of the RNI Commitment Deed;
 - (iii) any determination made by the Independent Certifier under the Incorporated Provisions of the RNI Commitment Deed;
 - (iv) any notice or Claim given by an Other Party or the Independent Certifier under the Incorporated Provisions of the RNI Commitment Deed; and
 - (v) any agreement or determination of the rights or entitlements of an Other Party under the Incorporated Provisions of the RNI Commitment Deed.

3.4 General representations and warranties

The Independent Certifier represents and warrants that:

- (a) it is a company duly incorporated and existing under Law and has the power to execute, deliver and perform its obligations under this deed and that all necessary corporate and other action has been taken to authorise that execution, delivery and performance;
- (b) the information provided by it in connection with this deed is true, accurate and complete in all material respects and not misleading in any material respect (including by omission);
- (c) its obligations under this deed are valid, legal and binding obligations enforceable against it in accordance with its terms, subject to equitable remedies and Laws in respect of the enforcement of creditor's rights;

- (d) the execution, delivery and performance of this deed by it will not contravene any Law to which it is subject or any deed or arrangement binding on it;
- (e) it does not (in any capacity) have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and
- (f) no litigation, arbitration, tax Claim, dispute or administrative or other proceeding has been commenced or threatened against it which is likely to have a material adverse effect upon its ability to perform its obligations under this deed.

3.5 Further acknowledgements and warranties

The Independent Certifier:

- (a) acknowledges that each of the Other Parties:
 - (i) is relying upon the skill, expertise and experience of the Independent Certifier in the performance of its obligations under this deed; and
 - (ii) may suffer loss if the Independent Certifier does not perform its obligations in accordance with the requirements of this deed;
- (b) warrants to each of the Other Parties that, in performing the Services, it will comply with all Law and act honestly, diligently, reasonably, impartially and with the degree of professional care, knowledge, skill, expertise, experience and care which would be reasonably expected of a professional providing services similar to the Services, with the objective of the successful delivery of the Project;
- (c) must, at all times, act within the time requirements for the performance of its obligations under this deed and within the times prescribed under the IC Project Agreements (and, where no time is prescribed, within a reasonable time) and will comply with the requirements of the Payment Schedule;
- (d) without limiting clauses 3.5(a) and 3.5(b), acknowledges that each of the Other Parties are entitled to and will rely on any certificate or other document signed or given by the Independent Certifier under or pursuant to this deed or any IC Project Agreement;
- (e) will provide transport on site for the use of its site personnel;
- (f) will, in carrying out the Services, carry out physical inspections of the RNI Site, any Extra Land, the RNI Works, the Temporary Works and the Network Operator's Activities:
 - (i) when appropriate or necessary to do so in order to perform the Core Services, including for the purpose of determining whether:
 - A. the Tests have been passed; and
 - B. Infrastructure Completion, Operational Completion or Final Completion has been achieved;
 - (ii) when otherwise reasonably requested by the Infrastructure Planner; and
 - (iii) in a manner which satisfies the requirements of the Certification and Monitoring Plan,

and will, by reasonable advance notice, invite and permit the Infrastructure Planner and the Network Operator to accompany it on all such inspections;

- (g) will carry out the Services in a manner which does not prevent, hinder, disrupt, delay or otherwise interfere with any work or services performed by any person (including the Network Operator) except where, acting reasonably, it is the unavoidable consequence of performing the Services; and
- (h) in undertaking the Services, will comply with all the safe working requirements of the Network Operator including the instructions of the Network Operator in relation to safety and site security while on the RNI Site and Extra Land, and other land under the control of the Network Operator or a Network Operator Contractor and on which Network Operator's Activities are being performed.

3.6 Personnel

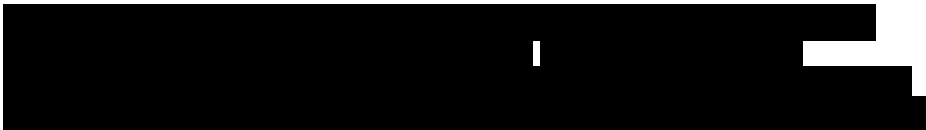
- (a) The Independent Certifier must provide experienced and skilled personnel to perform its obligations under this deed.
- (b) The Independent Certifier must ensure that the nominated people referred to in Schedule 1 (and any replacements of them):
 - (i) perform the services required of their respective positions;
 - (ii) are not removed without the prior written consent of the Other Parties (jointly) (which consent must not be unreasonably withheld or delayed), and if any of the people are removed:
 - A. they must be replaced by people of at least equivalent skill, expertise and experience, having regard to the indicative requirements set out in paragraph 5 of Schedule 1;
 - B. they must be approved in writing by the Other Parties (jointly), having regard to the indicative requirements set out in paragraph 5 of Schedule 1; and
 - C. there must be, prior to their removal and replacement, a proper handover to ensure that the new personnel have a reasonable understanding of the IC Project Agreements and the Services.
- (c) The Independent Certifier must ensure that the "key personnel" described in Schedule 1 (and any replacements of them) are primarily located in Sydney, and:
 - (i) attend the relevant Project Design Office (as identified in Appendix C.2 of the Technical Requirements to the RNI Project Deed) (**Project Facilities**) in accordance with the requirements of Schedule 1 (and on those days generally work from the Project Facilities, subject to compliance with any Laws relating to COVID-19 or other pandemic); and
 - (ii) work from the Project Facilities as the Services require or as is appropriate in the circumstances.
- (d) The Other Parties (jointly) may direct the Independent Certifier to remove from the performance of the Services any of the people referred to in Schedule 1 (and any replacements of them) and the Independent Certifier must comply

promptly with any such direction and nominate a replacement in accordance with clauses 3.6(b)(ii) and 3.6(c).

- (e) Without limiting clause 3.6(d), an Other Party may, by notice to the Independent Certifier and the other Other Party, raise a concern or concerns in relation to any of the Independent Certifier's personnel referred to in Schedule 1 (and any replacements of them) (**Personnel Notice**). The Independent Certifier must respond to a Personnel Notice, in writing, within 5 Business Days of receiving the relevant Personnel Notice, setting out:
 - (i) the Independent Certifier's detailed response in respect to the concerns set out in the relevant Personnel Notice; and
 - (ii) if relevant, identifying proposed steps to address the concerns specified in the relevant Personnel Notice.

The Other Parties (jointly) may decide whether to issue a direction under clause 3.6(d) in respect of such Personnel Notice.

- (f) The Independent Certifier must notify each of the Other Parties in writing of the names of the person or persons that are authorised to sign the certificates and documents referred to in Schedule 1 which the Independent Certifier is required to execute as part of the Services, and must ensure that these certificates and documents are signed by the person or persons so notified.

- (g) 

- (h) The Independent Certifier must ensure that the persons appointed to the positions of:

- (i) the Independent Certifier's Project Director; and
- (ii) the Independent Certifier's Representative,

including any replacements, at all times:

- (iii) have the authority to act on behalf of and to bind the Independent Certifier in respect of the Services;
- (iv) have full authority to promptly execute documents (including any certifications) and to promptly make decisions in relation to the Services; and
- (v) have authority to bind the Independent Certifier in relation to any matter arising out of or in connection with the Services.

3.7 Subcontracting

- (a) Subject to clause 3.7(c), the Independent Certifier may not subcontract the performance of any of the Services without the prior written consent of the Other Parties (jointly) (which consent must not be unreasonably withheld or delayed).
- (b) The Independent Certifier remains responsible for the performance of the Services in accordance with this deed, notwithstanding any such subcontracting and will be liable for the acts and omissions of any subcontractor as if they were acts or omissions of the Independent Certifier.

- (c) Unless the Other Parties (jointly) otherwise approve in writing, the Independent Certifier must contract with the subcontractors set out in Schedule 3 for the performance of the relevant parts of the Services.

3.8 Quality Assurance

- (a) The Independent Certifier must implement a quality system in accordance with AS/NZS ISO9000 and AS/NZS ISO9001, and otherwise in a form reasonably acceptable to each of the Other Parties to ensure compliance of the Services with the requirements of this deed.
- (b) The Independent Certifier will not be relieved of any requirement to perform any obligation under this deed as a result of:
- (i) compliance with the quality assurance requirements of this deed; or
 - (ii) any acts or omissions of an Other Party with respect to the quality assurance requirements of this deed, including any review of, comments upon, or notice in respect of, the Certification and Monitoring Plan or any audit under clause 3.13.

3.9 Information provided to Independent Certifier

- (a) Subject to clause 3.9(b), the Independent Certifier is entitled to rely on information provided to it in accordance with the RNI Project Deed by either of the Infrastructure Planner or the Network Operator as being true and correct in all material respects except to the extent:
- (i) the Services involve the Independent Certifier determining the truth or correctness of the information;
 - (ii) such information is:
 - A. manifestly incorrect;
 - B. provided on a qualified basis; or
 - C. actually known or ought to reasonably have been known by the Independent Certifier to be untrue or incorrect as a result of it carrying out the Services in accordance with, and to the standards acknowledged, required by, or warranted in this deed; or
 - (iii) the Infrastructure Planner or the Network Operator (as the case may be) subsequently informs the Independent Certifier of any change to the information provided to it.
- (b) The Independent Certifier agrees that:
- (i) the Infrastructure Planner may (but is not obliged to) provide the Independent Certifier with information in relation to any surveillance of the Network Operator's Activities carried out by the Infrastructure Planner; and
 - (ii) any information provided to the Independent Certifier under clause 3.9(b)(i) is provided on a 'for information only' basis, is not entitled to be relied upon as true and correct in all material respects, and does not reduce or limit the surveillance activities the Independent Certifier must undertake under paragraph 3.3(b) of Schedule 1.

- (v) be consistent with timeframes prescribed under the IC Project Agreements or as anticipated by the Delivery Program, or such other programs that become relevant to the performance of the Services during the Term.
- (c) Each of the Other Parties may review the Certification and Monitoring Plan submitted under clause 3.10(b).
- (d) An Other Party may, if the Certification and Monitoring Plan does not comply with this deed or does not provide the information required by paragraph 2.3 of Schedule 1, notify the Independent Certifier of the non-compliance.
- (e) If the Independent Certifier receives a notice under clause 3.10(d), the Independent Certifier must promptly (and in any event within 5 Business Days) submit an amended Certification and Monitoring Plan to each of the Other Parties, after which clause 3.10(c) will reapply.
- (f) If the Independent Certifier does not receive a notice under clause 3.10(d) within 20 Business Days after the submission of the relevant Certification and Monitoring Plan under clause 3.10(b) or 3.10(e), the relevant Certification and Monitoring Plan submitted by the Independent Certifier will be the Certification and Monitoring Plan with which the Independent Certifier must comply (as it is updated under clause 3.11).

3.11 Revisions to Certification and Monitoring Plan

- (a) The Independent Certifier must:
 - (i) progressively amend, update and develop the Certification and Monitoring Plan throughout the performance of the Services as necessary to reflect the commencement of new stages of the RNI Works (including in relation to Stage 2), any Changes or Pre-Agreed Changes and any changes in the manner of performing the Services;
 - (ii) ensure that any amendments, updates or developments of the Certification and Monitoring Plan under clause 3.11(a)(i) are consistent with, and provide, the information set out in paragraph 2.3 of Schedule 1; and
 - (iii) submit each revision of the Certification and Monitoring Plan to each of the Other Parties for their review and comment.
- (b) Each of the Other Parties may review the Certification and Monitoring Plan submitted under clause 3.11(a)(iii).
- (c) An Other Party may, if the Certification and Monitoring Plan does not comply with this deed or the revised Certification and Monitoring Plan will lead to a reduction in the effectiveness, methodology, scope, effort, resources or expertise contained in the Certification and Monitoring Plan (except as permitted by clause 3.11(f)), notify the Independent Certifier of that non-compliance, reduction or effect.
- (d) If the Independent Certifier receives a notice under clause 3.11(c), the Independent Certifier must promptly (and in any event within 5 Business Days) submit an amended Certification and Monitoring Plan to each of the Other Parties after which clause 3.11(b) will reapply.
- (e) Each of the Other Parties:

- (i) owes no duty to the Independent Certifier to review the Certification and Monitoring Plan for errors, omissions or compliance with this deed; and
 - (ii) is not responsible for the accuracy, completeness or the contents of, and makes no representation and assume no duty of care in respect of, the Certification and Monitoring Plan.
- (f) Without limiting clause 2.1(c), the Independent Certifier must not, either in the preparation of the Certification and Monitoring Plan required by clause 3.10 or the amending, updating and development of the Certification and Monitoring Plan required by clauses 3.11(a) and 3.11(d), decrease or otherwise reduce the effectiveness, methodology, performance and timing requirements, scope, effort, resources or expertise from that set out in the then existing Certification and Monitoring Plan without the written approval of the Other Parties (jointly).
- (g) The Independent Certifier may not amend the Certification and Monitoring Plan other than in accordance with this clause 3.11.

3.12 Progress Reports by the Independent Certifier

The Independent Certifier must provide a monthly progress report to the Infrastructure Planner's Representative and the Network Operator, that complies with paragraph 2.2 of Schedule 1, no later than 5 Business Days after the end of the month and in such format (if any) as is required by the Other Parties (jointly), containing, identifying or setting out:

- (a) an executive summary of the Services undertaken by the Independent Certifier during the reporting period, which must include a summary and status of the key issues identified by the Independent Certifier in connection with the performance of the Network Operator's Activities by the Network Operator, including actions taken to address the issues in the reporting period and proposed future actions;
- (b) a high level summary of the Services proposed to be undertaken by the Independent Certifier in the forthcoming reporting period;
- (c) the Independent Certifier's current and predicted resourcing structure for the performance of the Services;
- (d) a summary of the Fees paid to date;
- (e) the forecast effort to complete the Design Phase Services and the Completion Phase Services (as applicable) and the estimated Core Services Fee that would be payable in respect of that effort based on the assumption that there is no applicable Upper Limiting Fee;
- (f) an estimated accrual amount (both with respect to the Design Phase Services and the Completion Phase Services) for the next reporting period;
- (g) details of any actual or potential Defects or other non-compliances in the RNI Works and Temporary Works that it has identified during the reporting period;
- (h) the progress made by the Network Operator in the development of the Design Documentation in reference to the current Delivery Program;
- (i) the progress made by the Network Operator in the development of the construction of the RNI Works with reference to the Delivery Program;
- (j) the visits made by the Independent Certifier to the Construction Site and elsewhere in connection with the RNI Project during that month;

- (k) tests attended by the Independent Certifier during that month and the result of those tests; and
- (l) any additional information reasonably requested by an Other Party from time to time.

3.13 Audit and surveillance

- (a) The Independent Certifier must:
 - (i) allow any audit of its quality assurance system under this deed by the Infrastructure Planner or a third party at, in the case of a third party, the request of an Other Party; and
 - (ii) fully co-operate with the Infrastructure Planner or the relevant third party in respect of the carrying out of the quality assurance audit.
- (b) Without limiting clause 3.13(a), the Independent Certifier must, at all times:
 - (i) give to the Infrastructure Planner or the third party access to premises occupied by the Independent Certifier where the Services are being undertaken; and
 - (ii) permit the Infrastructure Planner or the third party to inspect applicable information relevant to the quality assurance audit.
- (c) The Infrastructure Planner must provide the Network Operator with updates in relation to, and the results of, any audit under this clause 3.13.
- (d) The Infrastructure Planner and the Independent Certifier must permit representatives of the Network Operator to attend premises and inspect information that the Infrastructure Planner or third party attends or inspects under clause 3.13.

3.14 Access to records

The Independent Certifier must, within a reasonable time of any request, give an Other Party access to any records or other documents received, prepared or generated by the Independent Certifier in the course of carrying out the Services.

3.15 Copies of notices and documents

All notices and documents:

- (a) provided by the Independent Certifier to an Other Party, must be copied to the other parties (and if the Independent Certifier is required to provide a notice or document to an Other Party within a specified time period, that notice or document must be provided to the other parties within the same time period); and
- (b) provided by an Other Party to the Independent Certifier, must be provided by the Independent Certifier to the other parties.

3.16 Document management and transmission

- (a) Without limiting clause 12.1, the Independent Certifier must manage and transmit documents, including using the PDCS where required by the Infrastructure Planner's Representative, in accordance with the processes,

procedures and systems in the Technical Requirements or as otherwise required by the Infrastructure Planner's Representative.

- (b) Documents supplied to the Independent Certifier by an Other Party will remain the property of the Other Party and must be returned by the Independent Certifier to the Other Party on demand in writing. The documents must not, without the prior written approval of the relevant Other Party, be used, copied or reproduced for any purpose other than the execution of the Services.
- (c) The Independent Certifier must keep all the Independent Certifier's records relating to the Services in a secure and fire proof storage.
- (d) The Independent Certifier will not be entitled to make, and the Infrastructure Planner or the Network Operator will not be liable upon, any Claim arising out of or in any way in connection with complying with its obligations under this clause 3.16.
- (e) The Independent Certifier must ensure that any documentation that it provides to the Infrastructure Planner or the Network Operator in computer readable form contains no virus or computer software code which is intended or designed to:
 - (i) permit access to or use of a computer system by a third person not authorised by the Infrastructure Planner; or
 - (ii) disable, damage or erase, or disrupt or impair the normal operation of any other software or data on a computer system.

3.17 Independent Certifier deed polls and deeds

- (a) Where a Third Party Agreement requires the Independent Certifier to execute a deed poll in favour of a relevant Third Party (**Deed Poll / Deed Beneficiary**), the Independent Certifier must deliver to the Infrastructure Planner's Representative such deed polls in favour of any applicable Deed Poll / Deed Beneficiary as may be required under the terms of any Third Party Agreement within 5 Business Days of being provided with a copy of any Third Party Agreement.
- (b) The Independent Certifier must, on the date of the Accession Deed is executed by the parties to it, provide to the Network Operator 3 original copies of a completed and executed deed in the form of the Draft Deed Poll / Deed, subject to the D&C Contractor and M&L Contractor (each also a **Deed Poll / Deed Beneficiary**) executing the deed at or around the same time.

3.18 Draft and Additional Third Party Agreements

- (a) The Independent Certifier acknowledges and agrees that:
 - (i) as at the date of this deed, the terms of the Draft Third Party Agreements have not been finalised between the Infrastructure Planner and the relevant parties to those Draft Third Party Agreements; and
 - (ii) following execution of any Draft Third Party Agreement after the date of this deed, the Infrastructure Planner must promptly give the Independent Certifier a copy of the execution version of the Draft Third Party Agreement.

- (b) The Independent Certifier must carry out its obligations under this deed on the basis of the execution version of the Draft Third Party Agreement provided under clause 3.18(a)(ii).
- (c) If compliance with the terms of the execution version of any Draft Third Party Agreement provided under clause 3.18(a)(ii), including any material change to a Draft Deed Poll / Deed contemplated by clause 3.17(a), will cause the Independent Certifier to incur costs which are additional to those that it would otherwise have incurred in complying with the terms of this deed, the Independent Certifier must notify the Infrastructure Planner's Representative of such additional costs and the Infrastructure Planner's Representative will then determine the amount of additional costs in accordance with paragraph 4.2 of the Payment Schedule.
- (d) The parties acknowledge and agree that:
 - (i) as at the date of this deed there may be additional Third Party Agreements which the Infrastructure Planner may, in its absolute discretion, enter into (each an **Additional Third Party Agreement**); and
 - (ii) following execution of any Additional Third Party Agreement after the date of this deed, the Infrastructure Planner must promptly give the Independent Certifier a copy of the execution version of the Additional Third Party Agreement.
- (e) The Independent Certifier must carry out its obligations under this deed on the basis of any Additional Third Party Agreement provided under clause 3.18(d)(ii).
- (f) If compliance with the terms of the Additional Third Party Agreement, including any obligation to provide an additional deed poll contemplated by clause 3.17(a), will cause the Independent Certifier to incur costs which are additional to that it would otherwise have incurred in complying with the terms of this deed, the Infrastructure Planner may direct a change under clause 7.2 to comply with the terms of the Additional Third Party Agreement.

3.19 Health and Safety Management Plan

- (a) The Independent Certifier must prepare and submit within 25 Business Days of the date of this deed, for approval by each of the Other Parties, a Health and Safety Management Plan which must:
 - (i) identify all inherent and introduced health and safety risks for all phases of the Services;
 - (ii) include a Pandemic Management Plan that complies with guidance as published by both state and federal departments of health and health and safety regulatory authorities;
 - (iii) address:
 - A. the requirements of AS/NZS ISO4801 and ISO 45001;
 - B. the Network Operator's safe working requirements; and
 - C. any other requirements of the Infrastructure Planner which are relevant to the Services; and
 - (iv) comply with any other requirements of the Other Parties (jointly).

An Other Party must only withhold its approval to the Health and Safety Management Plan to the extent it does not comply with the requirements of this deed.

- (b) The Independent Certifier must comply with and implement the strategies set out in the Health and Safety Management Plan at no additional cost to the Other Parties.

3.20 NSW Government Policy on Aboriginal, Small to Medium Enterprise and Regional Participation

- (a) The Independent Certifier acknowledges and agrees that, prior to the date of this deed, it prepared and submitted to the Infrastructure Planner a draft Aboriginal Participation Plan and draft SME and Regional Participation Plan which have not been approved by the Infrastructure Planner as at the date of this deed.
- (b) The Independent Certifier acknowledges that it must prepare and submit within 20 Business Days of the date of this deed:
 - (i) an updated Aboriginal Participation Plan prepared in accordance with the Aboriginal Procurement Policy and in the format prescribed by the NSW Procurement Board (as defined in the Aboriginal Procurement Policy) which shows how the Independent Certifier intends to meet the Minimum Aboriginal Participation Requirements for the Infrastructure Planner's review and approval; and
 - (ii) an updated SME and Local Participation Plan prepared in accordance with SME and Regional Procurement Policy.
- (c) The Infrastructure Planner will review the Aboriginal Participation Plan and SME and Local Participation Plan submitted under clause 3.20(b) and either:
 - (i) approve the relevant updated plan; or
 - (ii) if the relevant updated plan does not comply with the requirements of clause 3.20(b), notify the Independent Certifier of that non-compliance.
- (d) If the Independent Certifier receives a notice under clause 3.20(c)(ii), the Independent Certifier must promptly amend the relevant updated plan to resolve the issues identified by the Infrastructure Planner and submit such revised updated plan to the Infrastructure Planner, after which clause 3.20(c) will reapply.
- (e) The Independent Certifier must comply with the Aboriginal Participation Plan and SME and Local Participation Plan approved by the Infrastructure Planner under clause 3.20(c)(i).
- (f) The Independent Certifier must prepare and submit to the Infrastructure Planner:
 - (i) each quarter:
 - A. an Aboriginal Participation Report, providing details of the implementation of the Aboriginal Procurement Policy and achievement targets; and

- B. a SME and Local Participation Report, providing details of the implementation of, and the progress on, the agreed SME and Local Participation Plan; and
- (ii) prior to the completion of Services:
- A. the final Aboriginal Participation Report, describing and explaining:
 - 1) how the Aboriginal Participation Plan has been implemented within the specified period;
 - 2) what actual outcomes have been achieved; and
 - 3) whether the Minimum Aboriginal Participation Requirements have been met; and
 - B. the final SME and Local Participation Report, either:
 - 1) confirming compliance with the commitments made in the SME and Local Participation Plan; or
 - 2) if the Independent Certifier can't confirm compliance with the SME and Local Participation Plan, an explanation (in reasonable detail) as to why compliance with the SME and Local Participation Plan as not achieved.
- (g) If the Minimum Aboriginal Participation Requirements have not been met by the Independent Certifier prior to the Independent Certifier's final payment claim, the Infrastructure Planner may retain the remaining balance of the required spend or direct the remaining balance of the required spend to Training Services NSW.

4. INDEPENDENCE, CONFIDENTIALITY AND EXCLUSIVITY

4.1 Independent Certifier to be independent

- (a) The Independent Certifier warrants to each of the Other Parties that in performing the Services, it will act:
- (i) independently of each of the Other Parties, Network Operator Contractors and any beneficiary to a deed poll executed by the Independent Certifier in accordance with clause 3.17;
 - (ii) honestly and reasonably;
 - (iii) with the degree of professional care, knowledge, skill, expertise, experience and diligence which would be reasonably expected of a professional providing services similar to the Services; and
 - (iv) within the times prescribed under the IC Project Agreements or as anticipated by the Delivery Program, or such other programs that become relevant to the performance of the Services during the Term.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. OBLIGATIONS OF THE OTHER PARTIES

5.1 No interference or influence

- (a) Each Other Party must not interfere with or attempt to improperly influence the Independent Certifier in the performance of any of the Services. The parties acknowledge that any communication allowed by this deed will not of itself constitute a breach of this clause.

- (b) Clause 5.1(a) will not prevent each Other Party from providing written comments in accordance with or in relation to the IC Project Agreements to the Independent Certifier (copied to the other Other Party) in respect of the Design Documentation, IC Project Plans or any other aspect of the Network Operator's Activities (including in connection with the Independent Certifier's determination of whether a Test Procedure complies with the RNI Project Deed, whether a Test has been passed or whether Infrastructure Completion, Operational Completion and Final Completion has been achieved by the Network Operator) and the Independent Certifier must consider any such comments received from an Other Party and provide a written explanation to the relevant Other Party in response to such comments.

5.2 Co-operation

- (a) Without limiting or otherwise affecting any of the Network Operator's obligations under this deed or the IC Project Agreements, the Network Operator must:
- (i) co-operate with and provide the Independent Certifier with all information and documents necessary or reasonably required by the Independent Certifier, or otherwise reasonably requested by the Independent Certifier or reasonably directed by the Infrastructure Planner;
 - (ii) allow the Independent Certifier to attend all meetings and procure for the Independent Certifier access to all premises as may be reasonably necessary to enable the Independent Certifier to perform the Services or as reasonably requested by the Independent Certifier or reasonably directed by the Infrastructure Planner, including allowing the Independent Certifier to have safe, convenient and unimpeded access to the RNI Site and any Extra Land and all areas where the Network Operator's Activities are being performed, from the date on which the Network Operator is provided with access under the RNI Commitment Deed and RNI Project Deed (as applicable); and
 - (iii) ensure that Hold Points and Witness Points are included in the Delivery Program as reasonably required by the Independent Certifier to enable the Independent Certifier to perform the Services.
- (b) An Other Party (**Submitting Party**) must ensure that the other Other Party is provided with a copy of any written communication given by the Submitting Party to the Independent Certifier within 2 Business Days of providing the same to the Independent Certifier.

5.3 Other Parties to have no liability

Each party acknowledges that each of the Other Parties is not liable, nor will be taken to have a liability, or to have assumed a liability or become (on enforcement of any of their powers or otherwise) liable for the performance of any obligation of the Independent Certifier under this deed or under any IC Project Agreement.

6. Changes to RNI Commitment Deed and RNI Project Deed

6.1 Changes to RNI Commitment Deed

- (a) The Infrastructure Planner must, following execution of the RNI Commitment Deed, promptly give the Independent Certifier a copy of the execution version of the RNI Commitment Deed.
- (b) Within 10 Business Days of the Independent Certifier receiving a copy of the execution version of the RNI Commitment Deed under clause 6.1(a), the Independent Certifier must review the execution version of the RNI Commitment Deed and give each of the Other Parties a notice either:
- (i) stating that compliance with the terms of the execution version of the RNI Commitment Deed will cause the Independent Certifier to incur costs which are additional to those that it would otherwise have incurred in complying with the terms of the Draft RNI Commitment Deed (including any costs required to comply with clause 6.1(f)) and setting out:

- A. the proposed differences to the Services to comply with the execution version of the RNI Commitment Deed, providing reasonable details of how such differences result in additional costs; and
 - B. any proposed adjustments to the Upper Limiting Fee (up or down); or
- (ii) stating that compliance with the terms of the execution version of the RNI Commitment Deed will not cause the Independent Certifier to incur additional costs.
- (c) The Other Parties (jointly) must direct a change under clause 7.2 requiring the Independent Certifier to comply with the execution version of the RNI Commitment Deed and the Independent Certifier must comply with that direction.
- (d) A direction given under clause 6.1(c) must identify the changes to the Core Services to allow the Independent Certifier to comply with the execution version of the RNI Commitment Deed.
- (e) The Independent Certifier must commence a change directed pursuant clause 6.1(c) regardless of whether the adjustments to the Upper Limiting Fee have been determined in accordance with paragraph 4.2 of the Payment Schedule.
- (f) Subject to clause 6.1(g), the Independent Certifier must re-certify or otherwise re-perform the relevant Services to ensure that Services performed prior to the RNI CD Execution Date comply with the terms of the execution version of the RNI Commitment Deed.
- (g) Clause 6.1(f) does not require the Independent Certifier to re-review or re-certify Design Documentation for Developed Concept Design Stage or Substantial Detailed Design Stage.

6.2 Changes to RNI Project Deed

- (a) The Infrastructure Planner must, following execution of the RNI Project Deed, promptly give the Independent Certifier a copy of the execution version of the RNI Project Deed.
- (b) Within 10 Business Days of the Independent Certifier receiving a copy of the execution version of the RNI Project Deed under clause 6.2(a), the Independent Certifier must review the execution version of the RNI Project Deed and give each of the Other Parties a notice either:
- (i) stating that compliance with the terms of the execution version of the RNI Project Deed, will cause the Independent Certifier to incur costs which are additional to those that it would otherwise have incurred in complying with the terms of the Draft RNI Project Deed, and providing reasonable details of how such differences result in additional costs; or
 - (ii) stating that compliance with the terms of the execution version of the RNI Project Deed will not cause the Independent Certifier to incur additional costs.
- (c) Within 5 Business Days of the Independent Certifier providing a notice under clause 6.2(b)(i), the Independent Certifier must provide each of the Other Parties a written proposal stating:

- (i) the proposed differences to the Services to comply with the execution version of the RNI Project Deed; and
 - (ii) any proposed adjustments to the Upper Limiting Fee (up or down).
- (d) The Independent Certifier must promptly provide any further information reasonably requested by an Other Party for the purposes of assessing a proposal provided under clause 6.2(c).
- (e) The Other Parties (jointly) must direct a change under clause 7.2 requiring the Independent Certifier to comply with the execution version of the RNI Project Deed and the Independent Certifier must comply with that direction.
- (f) A direction given under clause 6.2(e) must identify the changes to the Core Services to allow the Independent Certifier comply with the execution version of the RNI Project Deed.
- (g) The Independent Certifier must commence a change directed pursuant clause 6.2(e) regardless of whether the adjustments to the Upper Limiting Fee have been determined in accordance with paragraph 4.2 of the Payment Schedule.
- (h) Subject to clause 6.2(i), the Independent Certifier must re-certify or otherwise re-perform the relevant Services to ensure that Services performed prior to Financial Close comply with the terms of the execution version of the RNI Project Deed.
- (i) Clause 6.2(h) does not require the Independent Certifier to re-review or re-certify Design Documentation for Developed Concept Design Stage or Substantial Detailed Design Stage.


6.3 Changes to Draft RNI Project Deed

Where there is a new “Relevant RNI Project Deed” (as defined the RNI Commitment Deed), the Other Parties (jointly) may replace the Draft RNI Project Deed with the new “Relevant RNI Project Deed” by directing a change under clause 7.2 requiring the Independent Certifier to comply with the new “Relevant RNI Project Deed” and the Independent Certifier must comply with that direction.

7. ADDITIONAL SERVICES, CHANGES TO CORE SERVICES, SUSPENSION OF SERVICES AND APPOINTMENT OF SUBSTITUTE CERTIFIER

7.1 Additional Services

- (a) The Infrastructure Planner may at any time during the Term, issue a notice to the Independent Certifier setting out details of a proposed Additional Services Order that the Infrastructure Planner is considering (**Additional Services Request**), [REDACTED]
- (b) As soon as practicable, and in any event within 10 Business Days after the issue of the Additional Services Request, the Independent Certifier must provide the Infrastructure Planner with an Additional Services Proposal setting out:
- (i) a description of the Additional Services to be performed by the Independent Certifier under the Additional Services Request, including:

- A. the program for carrying out the Additional Services;
 - B. the personnel required to perform the Additional Services; and
 - C. the estimated number of hours or days (as applicable) required to be performed by each personnel; and
- (ii) the proposed Additional Services Fee and the AS Upper Limiting Fee for the performance of the Additional Services the subject of the Additional Services Request, which must be:
- A. calculated by reference to the schedule of rates set out in the Payment Schedule; or
 - B. if the nature of the services are such that the schedule of rates set out in the Payment Schedule is not applicable, based on reasonable rates and prices.
- (c) The Additional Services Proposal must remain valid for acceptance by the Infrastructure Planner for the period stated in the proposal which must be not less than 30 Business Days after the date of the proposal (**Validity Period**).
- (d) Within the Validity Period, the Infrastructure Planner may by written notice to the Independent Certifier, do one of the following:
- (i) advise the Independent Certifier that the Infrastructure Planner:
 - A. requires further information or clarification with respect to the Additional Services Proposal; or
 - B. has altered the scope of the Additional Services Request,in which case the Independent Certifier must provide the Infrastructure Planner with an updated Additional Services Proposal within 5 Business Days of receiving the Infrastructure Planner's notice under this clause 7.1(d)(i) and this clause 7.1(d) will reapply to the updated Additional Services Proposal;
 - (ii) withdraw the proposed Additional Services Request, in which case the Independent Certifier must not carry out the Additional Services; or
 - (iii) 
issue an Additional Services Order setting out:
 - A. a description of the Additional Services to be performed by the Independent Certifier; and
 - B. the AS Upper Limiting Fee for the performance of the Additional Services.
- (e) The Independent Certifier must, within 5 Business Days of receipt of the Additional Services Order, provide the Infrastructure Planner with a notice either:
- (i) accepting the Additional Services Order; or

- (ii) subject to clauses 7.1(f) and 7.1(g), containing detailed written reasons why it cannot accept the Additional Services Order (acting reasonably).
- (f) For the purpose of clause 7.1(e), the Independent Certifier must accept and comply with any Additional Services Order issued by the Infrastructure Planner in accordance with clause 7.1(a), unless the Independent Certifier can demonstrate, to the Infrastructure Planner's reasonable satisfaction, that the Independent Certifier:
 - (i) would be in breach of this deed as a consequence of performing the Additional Services contemplated under the Additional Services Order; or
 - (ii) does not have the expertise or experience required to perform the Additional Services contemplated under the Additional Services Order in accordance with this deed.
- (g) Without limiting clause 7.1(f), the Independent Certifier acknowledges and agrees that it would be acting unreasonably by not accepting an Additional Services Order due to a disagreement in relation to the proposed AS Upper Limiting Fee for the performance of Additional Services subject to an Additional Services Order, and in these circumstances the Independent Certifier must:
 - (i) accept the Additional Services Order in accordance with clause 7.1(e)(i);
 - (ii) provide a written notice of disagreement to the Infrastructure Planner with respect to the proposed AS Upper Limiting Fee; and
 - (iii) perform the Additional Services in accordance with the Additional Services Order.
- (h) If the Infrastructure Planner and the Independent Certifier do not agree to the applicable AS Upper Limiting Fee within 5 Business Days after the issue of the Independent Certifier's written notice under clause 7.1(g)(ii), the Infrastructure Planner's Representative (acting reasonably and independently) must determine the dispute. Any determination by the Infrastructure Planner's Representative in respect of the amount payable must be given effect to by the parties unless and until it is reversed or overturned in accordance with clause 9 and/or any subsequent court proceedings.
- (i) An Additional Services Order is deemed accepted for all purposes under this deed if no notice is received by the Infrastructure Planner from the Independent Certifier in accordance with clause 7.1(e).
- (j) If an Additional Services Order is accepted or deemed to be accepted by the Independent Certifier under this clause 7.1:
 - (i) the Additional Services set out in that Additional Services Order become part of the Services and must be performed in accordance with this deed; and
 - (ii) the Additional Services Fee (if any) set out in that Additional Services Order becomes part of the Fee and must be paid in accordance with this deed.
- (k) The Infrastructure Planner is not obliged to:

- (i) issue any Additional Services Request to the Independent Certifier under clause 7.1(a); or
 - (ii) proceed with any Additional Services Proposal issued under clause 7.1(b).
- (l) The Independent Certifier acknowledges that:
- (i) the Infrastructure Planner has made no representations as to the amount of work (if any) which the Infrastructure Planner may request the Independent Certifier to perform under Additional Services Orders;
 - (ii) the Independent Certifier may not make any Claim against the Infrastructure Planner on the basis that the Infrastructure Planner has not requested or engaged the Independent Certifier to perform any or sufficient work under Additional Services Orders; and
 - (iii) the Infrastructure Planner is entitled to engage other contractors to perform services similar to the Services.



7.2 Change to Core Services

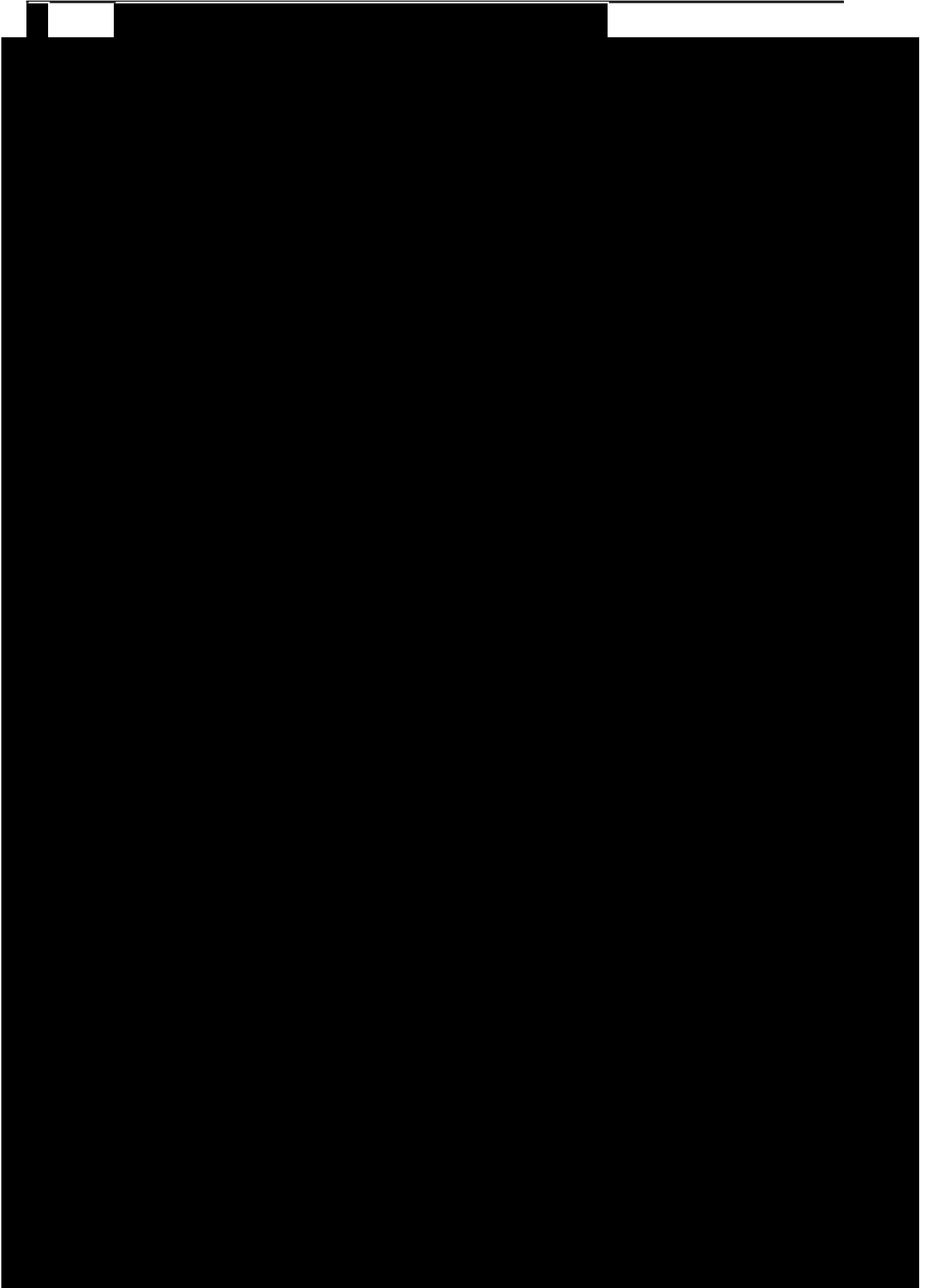
Without limiting clauses 6 and 7.1, the Other Parties (jointly) may, by written notice to the Independent Certifier, direct the Independent Certifier to carry out a change to the Core Services (including an addition or omission) and the Independent Certifier must comply with that direction. The Upper Limiting Fee will be adjusted in accordance with paragraph 4.2 of the Payment Schedule.

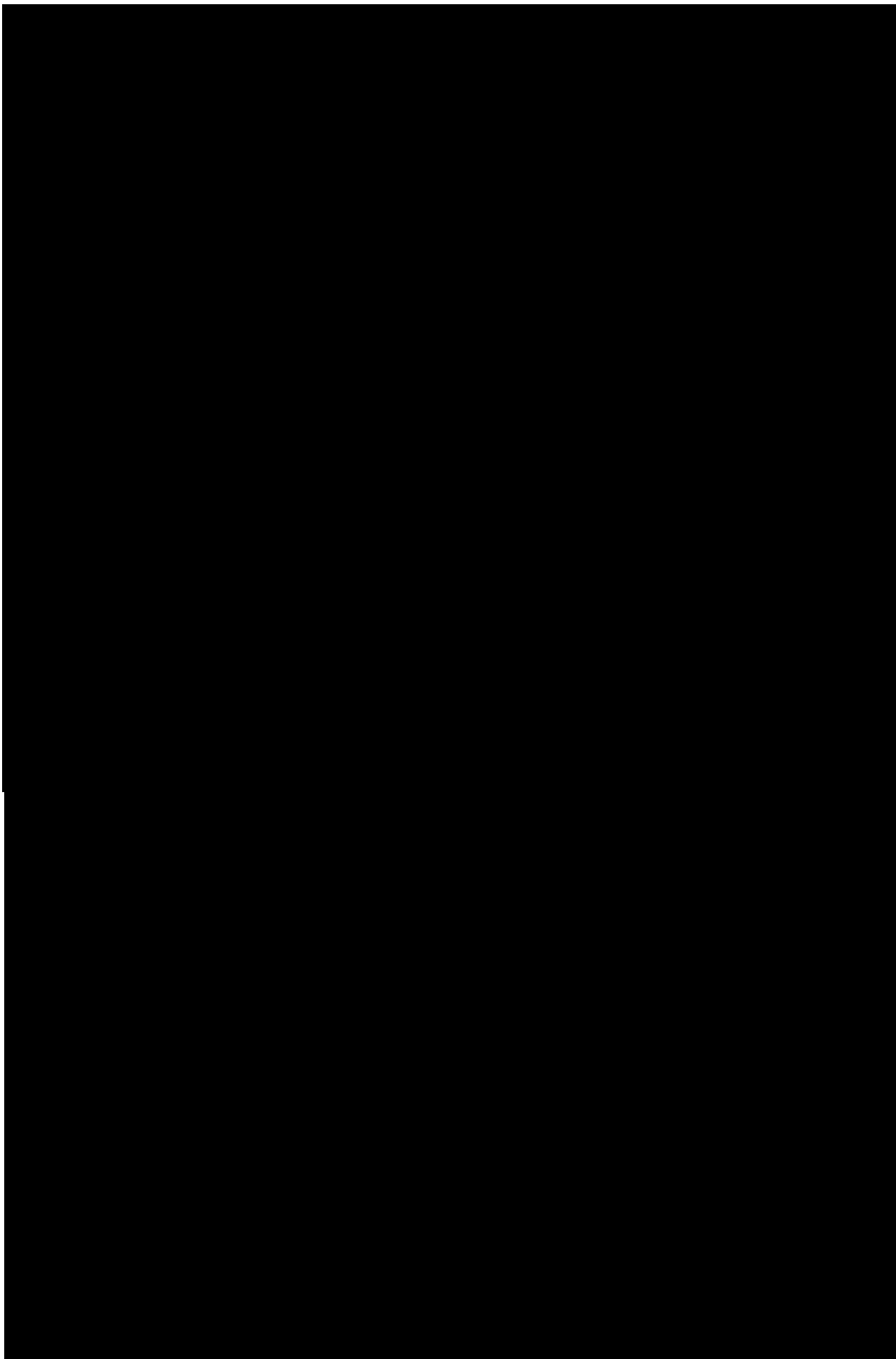
7.3 Suspension of Services

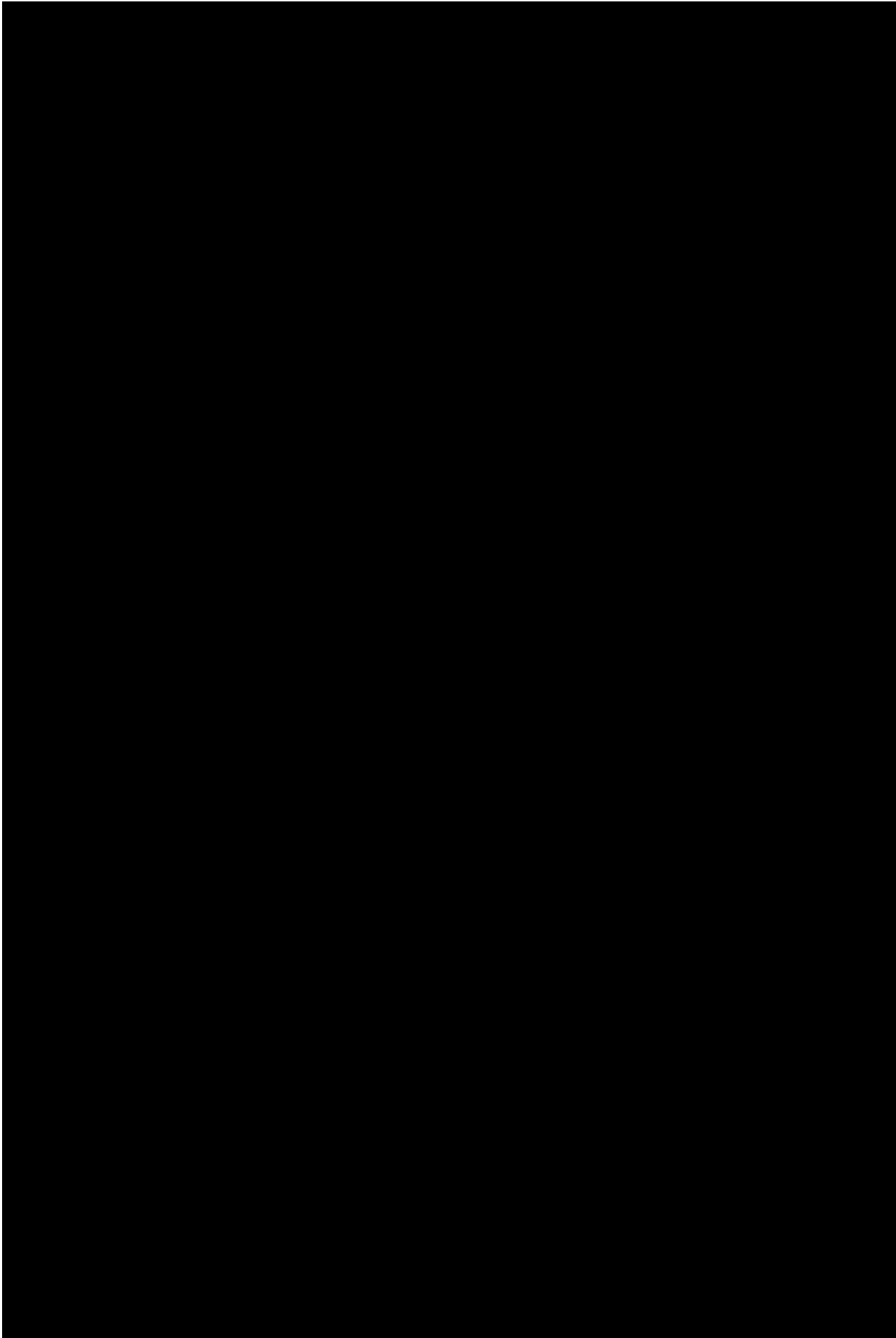
The Other Parties (jointly) may, by written notice to the Independent Certifier, direct the Independent Certifier to suspend any or all of the Services for the period of time specified in the notice.

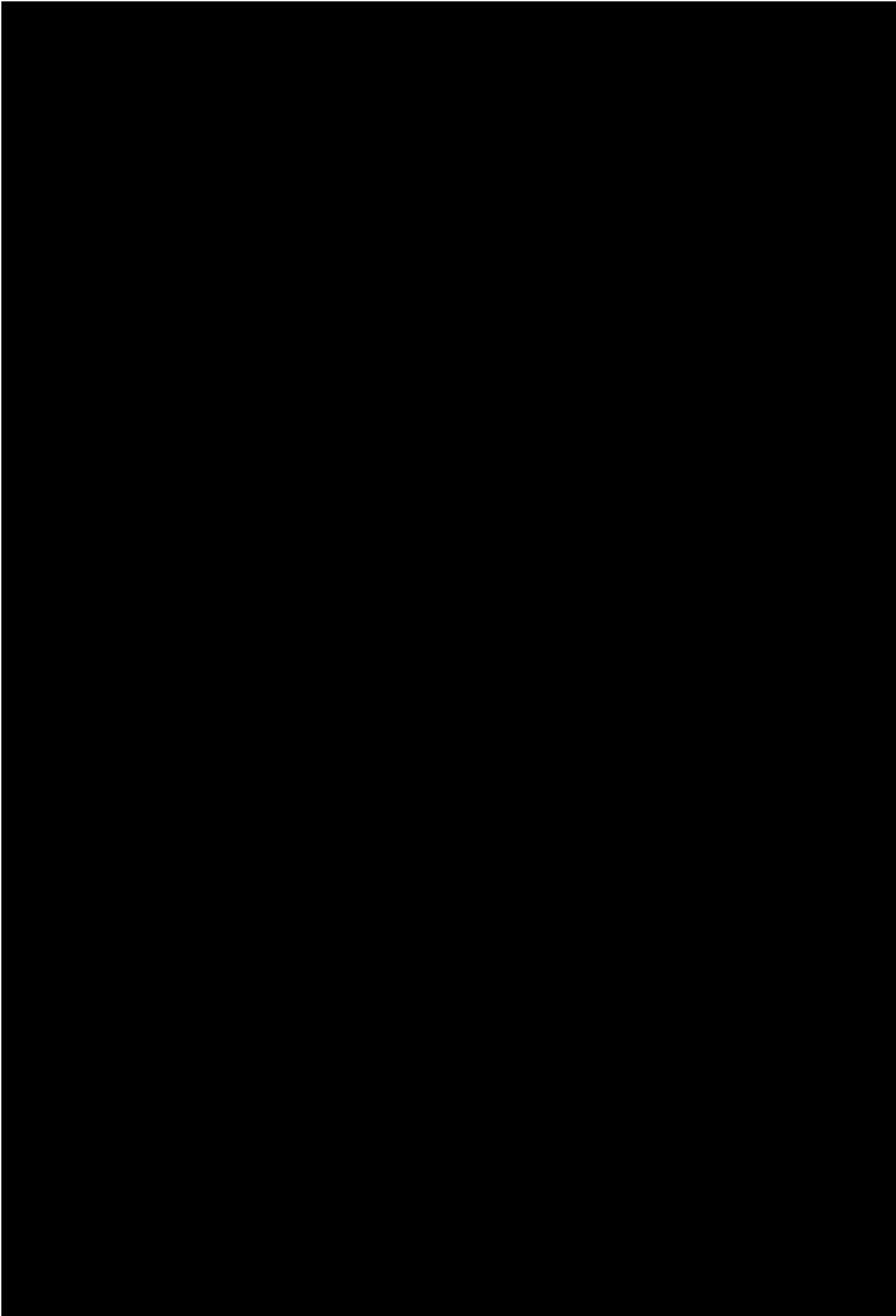
7.4 Appointment of Substitute Certifier

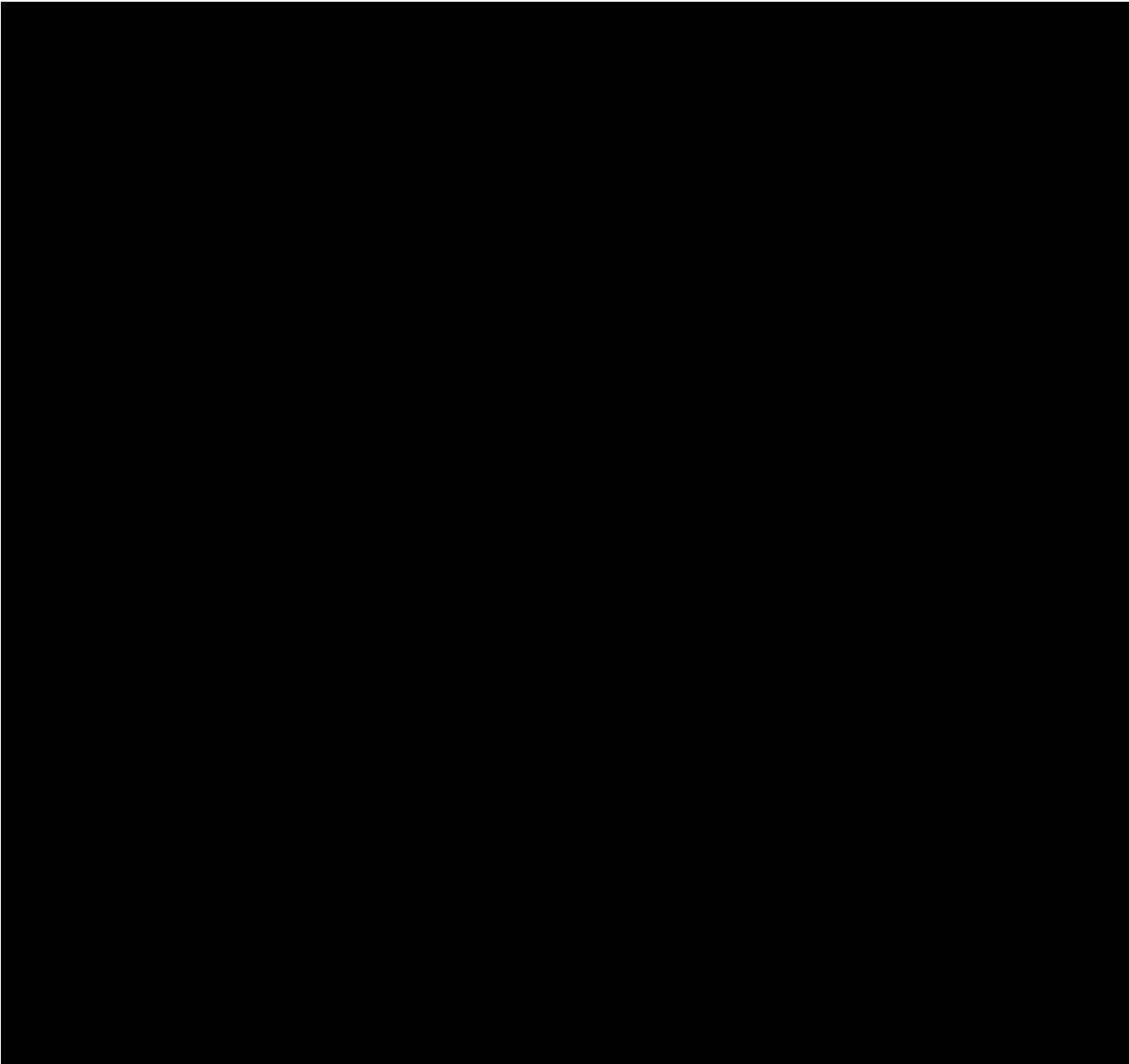
- (a) The Independent Certifier acknowledges and agrees that the Other Parties (jointly) may appoint another certifier (**Substitute Certifier**) to carry out those Services which are omitted as a result of a change to the Core Services directed under clause 7.2, and any decision of a Substitute Certifier appointed will be treated (between the Infrastructure Planner, the Network Operator and the Independent Certifier) as if it is a decision of the Independent Certifier, and the Substitute Certifier will have all of the rights, powers and obligations of the Independent Certifier under the IC Project Agreements in connection with those Services.
- (b) Notwithstanding a change to the Core Services or the appointment of a Substitute Certifier, the Independent Certifier must continue to perform the Services, as varied in accordance with this clause 6, in accordance with this deed. Without prejudice to any Claim in respect of the performance of the Independent Certifier, the Independent Certifier is not responsible for the performance of the Substitute Certifier.











9. DISPUTE RESOLUTION

9.1 Procedure for resolving disputes

- (a) The parties agree that they will attempt to resolve all disputes in accordance with the procedures set out in this clause 9.
- (b) It is a condition precedent to the referral of a dispute to litigation that a party first exhausts the procedures referred to in clause 9.2.

9.2 Negotiation

- (a) If a dispute arises, then a party to the dispute may give notice to the other parties to the dispute, requesting that the dispute be referred for resolution to the respective chief executive officers (or equivalent) of those parties to the dispute.
- (b) A notice under clause 9.2(a) must:
 - (i) be in writing;

- (ii) state that it is a notice under this clause 9.2; and
 - (iii) include, or be accompanied by, reasonable particulars of the matters in dispute.
- (c) If a dispute is referred to the persons referred to in clause 9.2(a) (**Dispute Representatives**), then the Dispute Representatives (or the persons for the time being acting in those positions) must meet and use reasonable endeavours acting in good faith to resolve the dispute (in whole or in part) within 10 Business Days of the date on which the notice under clause 9.2(a) is received. The joint decisions (if any) of the Dispute Representatives must be reduced to writing within the 10 Business Days referred to in this clause 9.2(c) and will be contractually binding on the parties to the dispute.
- (d) The 10 Business Days referred to in clause 9.2(c) may be extended by agreement of the parties to the dispute in writing.

9.3 Continue to perform

Notwithstanding the existence of a dispute, each of the Other Parties and the Independent Certifier must continue to perform their obligations under this deed.

10. TERMINATION OF APPOINTMENT

10.1 Termination for Independent Certifier breach or default

- (a) The Other Parties (jointly) in the case of clauses 10.1(a)(i), 10.1(a)(ii), 10.1(a)(iv) and 10.1(a)(v), and an Other Party in the case of clause 10.1(a)(iii), may terminate the appointment of the Independent Certifier under this deed by notice in writing served on the Independent Certifier if:
- (i) the Independent Certifier is in breach of this deed and the breach is not remediable in the reasonable opinion of the Other Parties (jointly);
 - (ii) the Independent Certifier is in breach of this deed and the breach, being remediable in the reasonable opinion of the Other Parties (jointly), has not been remedied within 7 days of the service by the Other Parties of a notice specifying the breach and requiring the breach to be remedied;
 - (iii) an Insolvency Event occurs in relation to the Independent Certifier;
 - (iv) a Change in Control of any entity that comprises the Independent Certifier or a Parent Company (IC) occurs without the prior written consent of the Other Parties (jointly); or
 - (v) a Restructure Event occurs without the prior written consent of the Other Parties (jointly).
- (b) Where a notice is served on the Independent Certifier under clause 10.1(a), the appointment of the Independent Certifier will terminate upon the earlier of:
- (i) the date specified in the notice issued under clause 10.1(a); or
 - (ii) the appointment of a replacement for the Independent Certifier.

10.2 Termination for other reasons

- (a) The Other Parties (jointly) in the case of clauses 10.2(a)(iii) and 10.2(a)(iv), and an Other Party in the case of clauses 10.2(a)(i) and 10.2(a)(ii), may terminate the appointment of the Independent Certifier under this deed by notice in writing served on the Independent Certifier if:
- (i) the RNI Commitment Deed is terminated for any reason other than in accordance with clause 9.1(a) of the RNI Commitment Deed where Financial Close has occurred;
 - (ii) the RNI Project Deed is terminated for any reason;
 - (iii) the Other Parties (jointly) do not wish for the Independent Certifier to proceed with Stage 2; or
 - (iv) the Other Parties (jointly) in their absolute discretion for any reason whatsoever serves on the Independent Certifier a notice of termination of the appointment of the Independent Certifier in respect of the Services, on a date specified in the notice, being not less than 20 Business Days after the date of issue of the notice.
- (b) Where:
- (i) a notice is served on the Independent Certifier under clause 10.2(a)(a)(i), 10.2(a)(ii) or 10.2(a)(iv), the appointment of the Independent Certifier will terminate upon the date specified in the notice issued under clause 10.2(a); and
 - (ii) a notice is served on the Independent Certifier under clause 10.2(a)(iii), the appointment of the Independent Certifier will terminate upon the date of Financial Close.

10.3 Delivery of documents

- (a) The Independent Certifier must, not less than:
- (i) 3 months prior to the date on which it expects completion of the Services to occur; or
 - (ii) where the Independent Certifier is given a notice under clause 10.1 or 10.2, the relevant notice period notified in such notice,
- meet with the Other Parties (and such other parties notified by the Other Parties (jointly)) to discuss the delivery of all books, records, drawings, specifications and other documents in the possession, custody or control of the Independent Certifier relating to the Services (**IC Documents**) to ensure the smooth and orderly transfer of the IC Documents.
- (b) Upon the earlier of the date of termination of the appointment of the Independent Certifier and the date of completion of the Services, the Independent Certifier:
- (i) must deliver up to each of the Other Parties, or to such other person as the Other Parties (jointly) may direct, all IC Documents;
 - (ii) may retain a copy of the IC Documents for the sole purpose of business record keeping, insurance and quality assurance, subject to the Independent Certifier complying with its confidentiality obligations under clause 4.2; and

- (iii) acknowledges that each of the Other Parties have the right to use all IC Documents for any purposes in connection with the RNI Project, the Network Operator's Activities or the RNI Project Agreements, provided that the Independent Certifier will have no liability to an Other Party in relation to any IC Document unless such documents have been formally issued and marked as final by the Independent Certifier.

10.4 Reasonable assistance

- (a) If this deed is terminated for any reason, the Other Parties (jointly) may thereafter appoint a replacement for the Independent Certifier to perform the remainder of the Services.
- (b) The Independent Certifier must, if requested by the Other Parties (jointly), provide full assistance to the Other Parties and any appointed replacement for the Independent Certifier in order to enable such replacement to be in a position to perform the Services with effect from the appointment of such replacement.

10.5 Payment until date of termination

Where the appointment of the Independent Certifier is terminated under clause 10.2, the Independent Certifier is only entitled to be paid by the Infrastructure Planner the proportion of the Fee for Services performed up to the date of the termination.

10.6 Termination without prejudice

Termination of the appointment of the Independent Certifier will be without prejudice to any Claim which any of the Other Parties may have in respect of any breach of the terms of this deed which occurred prior to the date of termination.

10.7 Survive termination

This clause 10 will survive the termination of this deed by the Other Parties or an Other Party under clause 10.1.

10.8 Rights upon termination

If the appointment of the Independent Certifier is terminated pursuant to clause 10.1, the parties' remedies, rights and liabilities will be the same as they would have been under the Law governing the deed had the Independent Certifier repudiated the deed and each of the Other Parties elected to treat the deed as at an end and recover damages.

11. GST

- (a) Except where the context suggests otherwise, terms used in this clause 11 have the meaning given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 11.
- (c) Unless otherwise expressly stated, all consideration to be provided under this deed (other than under this clause 11) is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 11.

- (d) Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense or other amount paid or incurred will be limited to the total costs, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.
- (e) If GST is payable in relation to a supply made under or in connection with this deed, then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the amount of that GST at the same time as any other consideration is to be first provided for that supply.
- (f) The Supplier must provide a tax invoice to the Recipient at the same time as any consideration is to be first provided for that supply.
- (g) If the GST payable in relation to a supply made under or in connection with this deed varies from the additional amount paid by the Recipient under clause 11(e), then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 11(g) is deemed to be a payment, credit or refund of the additional amount payable under clause 11(e). If any adjustment event occurs in relation to a supply, the Supplier must give the Recipient an adjustment note event within 7 days after the date of the adjustment event.

12. GENERAL

12.1 Notices

- (a) Wherever referred to in this clause 12.1, "**Notice**" means each communication (including each notice, consent, approval, request and demand) under or in connection with this deed.
- (b) At any time and from time to time the Infrastructure Planner's Representative may notify the Independent Certifier that a PDCS will be used for giving Notices under or in connection with this deed. The Infrastructure Planner's Representative's notice will set out:
 - (i) the name of the relevant PDCS;
 - (ii) the commencement date for use of the PDCS;
 - (iii) any password, login details or similar information required for the Independent Certifier to use the PDCS; and
 - (iv) any other information reasonably necessary for the use and service of Notices via the PDCS.
- (c) Each Notice must:
 - (i) before the date referred to in clause 12.1(b):
 - A. be in writing;
 - B. be addressed as follows (or as otherwise notified by that party to each other party from time to time):

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (ii) on and from the commencement date for use of the PDCS referred to in clause 12.1(b):
 - A. be sent through the PDCS in accordance with the requirements set out in clause 12.1(c)(i)B.2); and
 - B. in circumstances where the PDCS is temporarily disabled or not operating for a period in excess of 2 hours, be issued in accordance with clause 12.1(c)(i).
- (d) A communication is taken to be received by the addressee:
 - (i) (in the case of a Notice sent through the PDCS) at the time recorded on the PDCS as being the time at which the Notice was sent;
 - (ii) (in the case of prepaid post sent to an address in the same country) 2 Business Days after the date of posting;
 - (iii) (in the case of international post) 7 Business Days after the date of posting;
 - (iv) (in the case of delivery by hand) on delivery; and
 - (v) (in the case of email):

- A. if it is transmitted by 5:00 pm (Sydney time) on a Business Day – on that Business Day; or
 - B. if it is transmitted after 5:00 pm (Sydney time) on a Business Day, or on a day that is not a Business Day – on the next Business Day.
- (e) With respect to Notices sent through the PDCS:
 - (i) all Notices must be submitted by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
 - (ii) only the text in any Notice, or subject to clause 12.1(e)(iii), any attachments to such Notice which are referred to in the Notice, will form part of the Notice. Any text in the subject line will not form part of the Notice; and
 - (iii) an attachment to a Notice will only form part of a Notice if it is uploaded to the PDCS in:
 - A. pdf format;
 - B. a format compatible with Microsoft Office; or
 - C. such other format as may be agreed between the parties in writing from time to time.
- (f) The Independent Certifier warrants that it will:
 - (i) ensure that it has internet access which is sufficient to facilitate use of the full functionality of the PDCS;
 - (ii) ensure that relevant personnel log on and use the PDCS and check whether Notices have been received on each Business Day;
 - (iii) comply with any user guide and protocol with respect to the PDCS provided by the Infrastructure Planner to the Independent Certifier from time to time;
 - (iv) ensure all relevant personnel attend all necessary training required by the Infrastructure Planner's Representative;
 - (v) advise the Infrastructure Planner's Representative of which personnel require access to the PDCS;
 - (vi) at all times, ensure that it has access to personnel trained in the use of the PDCS so as to be able to view, receive and submit communications (including Notices) using the PDCS; and
 - (vii) as soon as practicable, at the first available opportunity following any period of time during which the PDCS is temporarily disabled or not operating, send all communications which have been issued pursuant to clause 12.1(c)(i)B to the Infrastructure Planner's Representative through the PDCS.
- (g) The Infrastructure Planner has no liability for any losses the Independent Certifier may suffer or incur arising out of or in connection with its access to or use of the PDCS or any failure of the PDCS, and the Independent Certifier will not be entitled to make, and the Infrastructure Planner will not be liable upon,

any Claim against the Infrastructure Planner arising out of or in connection with the Independent Certifier's access to or use of the PDCS or any failure of the PDCS.

12.2 Governing Law

This deed is governed by and must be construed according to the law applying in New South Wales.

12.3 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any action or proceedings which may be brought at any time relating in any way to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any action or proceedings, and any Claim it may now or in the future have that any action or proceedings have been brought in an inconvenient forum, if that venue falls within clause 12.3(a).

12.4 Infrastructure Planner as a public authority

- (a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Infrastructure Planner to exercise any of its functions and powers pursuant to any Law.
- (b) Each of the Independent Certifier and the Network Operator acknowledges and agrees that, without limiting clause 12.4(a), anything which the Infrastructure Planner does, fails to do or purports to do pursuant to its functions and powers under any Law will be deemed not to be an act or omission by the Infrastructure Planner under this deed and will not entitle any of the Independent Certifier or the Network Operator to make any Claim against the Infrastructure Planner.
- (c) The parties agree that clauses 12.4(a) and 12.4(b) are taken not to limit any liability which the Infrastructure Planner would have had to the Independent Certifier or the Network Operator under this deed as a result of a breach by the Infrastructure Planner of a term of this deed but for clauses 12.4(a) and 12.4(b) of this deed.

12.5 Amendments

This deed may only be varied by a deed executed by or on behalf of each of the parties.

12.6 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by Law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by Law or under this deed.
- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

12.7 Cost of performing obligations

Each party must, unless this deed expressly provides otherwise, pay its own costs and expenses in connection with performing its obligations under this deed.

12.8 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by Law or reasonably requested by another party to give effect to this deed.

12.9 Consents

A consent required under this deed from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this deed expressly provides otherwise.

12.10 Assignment

(a) Assignment by the Independent Certifier

The Independent Certifier must not assign, novate, transfer, mortgage, charge or otherwise deal with its rights or obligations under this deed without the prior approval of the Other Parties (jointly) and except on such terms as are determined in writing by the Other Parties (jointly).

(b) Assignment by the Network Operator

Except as expressly permitted by this deed, the RNI Project Deed, the Financiers Tripartite Deed or the Network Operator General Security Deed, the Network Operator must not assign, novate, transfer, mortgage, charge or otherwise deal with its rights or obligations under this deed without the Infrastructure Planner's prior approval.

(c) Assignment and novation by the Infrastructure Planner

(i) The Infrastructure Planner may:

A. assign, novate, transfer or otherwise deal with its rights or obligations under this deed without either of the Network Operator's or the Independent Certifier's prior approval, provided:

- 1) the assignee, novatee or transferee (as applicable) is an authority of the State, a Minister or a government entity (including a State owned entity, any entity that is wholly owned or controlled by the State or a 'GSF agency' (as that term is defined in the *Government Sector Finance Act 2018 (NSW)*); and
- 2) the assignee, novatee or transferee (as applicable) is also the party to whom the Infrastructure Planner is assigning, novating, or transferring its rights under the under the RNI Commitment Deed and RNI Project Deed (as applicable) in accordance with the terms of

the RNI Commitment Deed and RNI Project Deed (as applicable); or

B. assign, novate, transfer or otherwise deal with its rights or obligations under this deed, provided that the Network Operator and the Independent Certifier have given their prior approval in writing (approval of which will not be unreasonably withheld or delayed).

(ii) The Infrastructure Planner may disclose to a proposed assignee, novatee or transferee any information in the possession of the Infrastructure Planner relating to the Independent Certifier or the Network Operator.

12.11 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.
- (b) Either party may electronically sign a soft copy of this deed through DocuSign and in doing so will bind itself to the terms and conditions of this deed. The parties agree that electronic signing of this deed by a party to it will satisfy any statutory or other requirements for this deed to be in writing and signed by that party.

12.12 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this deed.

12.13 Expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with negotiating and preparing this deed.

12.14 Entire agreement

To the extent permitted by Law, in relation to its subject matter, this deed:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

12.15 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this deed.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this deed.

- (c) A party must pay on demand any amount it must pay under an indemnity in this deed.

12.16 No agency, partnership, joint venture or other fiduciary relationship

Subject to clause 1.8, nothing in this deed will be construed or interpreted as:

- (a) conferring a right in favour of any party to enter into any commitment on behalf of another party or otherwise to act as agent of another party; or
- (b) constituting the relationship between any two or more of the parties (or all of the parties) as that of partners, joint venturers or any other fiduciary relationship.

12.17 Severance

If at any time any provision of this deed is or becomes void, illegal, invalid or unenforceable in any respect under the law of any jurisdiction, then that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed.

12.18 Moratorium legislation

To the fullest extent permitted by Law, the provisions of all Laws which at any time operate directly or indirectly to lessen or affect in favour of a party any obligation under this deed, or to delay or otherwise prevent or prejudicially affect the exercise by a party of any right, power or remedy under this deed or otherwise, are expressly waived.

Schedule 1 – Services

Schedule 1: Scope of Services

1. GENERAL

1.1 General Obligations

- (a) The Independent Certifier acknowledges and agrees that nothing in this Schedule 1 is intended to limit any other provision of the RNI Project Deed under which the Independent Certifier will or may receive documents or comments provided that this Schedule 1 is to be interpreted harmoniously to and not conflict with, nor shall it derogate from the terms of the RNI Project Deed. In the event of any conflict or inconsistency between the terms of the RNI Project Deed and this Schedule 1, the terms of the RNI Project Deed prevail to the extent of the conflict or inconsistency. This Schedule 1 will not be inconsistent solely because it includes requirements which are additional to those in the Project Deed.
- (b) Notwithstanding paragraph 1.1(a), unless expressly stated otherwise in the Independent Certifier Deed, the nature and extent of the scope of Services that the Independent Certifier is required to undertake in relation to:
 - (i) the review and comment on the Project Plans submitted in the Delivery Phase is as expressly stated in paragraph 3.2(a)(i) of this Schedule 1;
 - (ii) the certification of Project Plans is as expressly stated in paragraph 3.2(a)(ii) of this Schedule 1;
 - (iii) the review and comment of the Network Operator's design standard manuals and construction standard manuals is as expressly stated in paragraph 3.2(a)(iv) of this Schedule 1; and
 - (iv) power system modelling is as expressly stated in paragraph 3.3A of this Schedule 1.
- (c) The Independent Certifier is engaged to certify that the Network Operator has designed and constructed the RNI Works and Temporary Works in accordance with the requirements of the RNI Project Deed.
- (d) The Services must be as a minimum, conducted in accordance with the Certification and Monitoring Plan.
- (e) The Independent Certifier carrying out the Services must satisfy itself that the design and construction of the RNI Works and Temporary Works are in accordance with the RNI Project Deed, including by:
 - (i) attending meetings of the design team and any other meetings at which design issues are discussed;
 - (ii) meetings with the Network Operator as required; and
 - (iii) conducting audits of the Network Operator's compliance with the Project Plans.
- (f) In carrying out its obligations under this deed, the Independent Certifier must review and have regard to all:

- (i) subject to clause 3.9(b) of this deed, documents and information made available to the Independent Certifier by the Infrastructure Planner and the Network Operator; and
 - (ii) comments provided by the Infrastructure Planner's Representative and any Third Party in respect of the Network Operator's Activities relating to actual or potential non-compliances with the RNI Project Deed or relevant Third Party Agreement.
- (g) Without limiting paragraph 1.1(f)(i) of this Schedule 1, the documents and information that the Independent Certifier may review and have regard to, with respect to carrying out its obligations under this deed include:
- (i) Design Documentation, including design packages including design drawings, design reports and associated specifications;
 - (ii) Project Plans including IC Project Plans;
 - (iii) requirements verification and traceability matrices;
 - (iv) minutes in respect to technical meetings;
 - (v) monthly reports submitted by the Network Operator;
 - (vi) reports submitted by the Network Operator in relation to any Defects that it detects (including all action proposed to correct that Defect);
 - (vii) reports or results of any on-site or off-site inspection, testing and audits regarding quality or compliance; and
 - (viii) any other reports, notices, correspondence and other documents in relation to any actual or potential non-compliance with the RNI Project Deed.
- (h) The Independent Certifier must:
- (i) at all times act independently of the Other Parties, the Network Operator Contractors and any beneficiary to a deed poll executed by the Independent Certifier in accordance with clause 3.17 of this deed; and
 - (ii) be familiar with its role, functions, obligations, duties and Services (express or implied) under this deed.

2. INDEPENDENT CERTIFIER SERVICES

2.1 General

- (a) The Services include:
- (i) all the functions, obligations, duties and services set out in paragraphs 2, 3 and 4 of this Schedule 1; and
 - (ii) all things which would be reasonably expected of a professional performing those functions, obligations, duties and services.
- (b) The Independent Certifier will be provided with information and documents by the Infrastructure Planner and the Network Operator and will be allowed:
- (i) to attend meetings (including any Senior Project Group meetings); and

- (ii) access to all premises,

as may be necessary or reasonably required by the Independent Certifier to allow the Independent Certifier to perform its obligations under this deed.
- (c) The Independent Certifier must, throughout the Term, ensure that the Independent Certifier's Representative attends:
 - (i) a monthly progress meeting with the Other Parties within 5 Business Days of the submission of each monthly progress report to each of the Other Parties in accordance with clause 3.12 of this deed; and
 - (ii) design presentation workshops as required by the Other Parties, following submission of Design Documentation.
- (d) The Independent Certifier must, throughout the Term:
 - (i) promptly notify the Other Parties of:
 - (A) elements of the Design Documentation that do not (or may not) comply with the RNI Project Deed;
 - (B) actual or potential Defects no later than 2 Business Days after the end of the month; and
 - (C) other non-compliances with the RNI Project Deed,

that it identifies when attending meetings and performing its surveillance and other functions.
- (e) The Independent Certifier must conduct all the functions, obligations, duties and services which the IC Project Agreements contemplate will be discharged by the Independent Certifier, including but not limited to the items in paragraphs 3.7 and 3.8 of this Schedule 1.
- (f) The Independent Certifier must conduct all the functions, obligations, duties and services required by the Network Operator to the extent such function, obligation, duty or service is set out in a RNI Project Agreement.
- (g) Without limiting paragraphs 2.1(a) to 2.1(f) of this Schedule 1, the Services will include all other things and tasks not described in this deed or the IC Project Agreements, if those things and tasks should have been reasonably anticipated by an experienced and competent professional provider of the Services.
- (h) The Independent Certifier must utilise shared facilities with the Other Parties including the Infrastructure Planner's Administration Office and site facilities provided by the Network Operator as defined in Appendix C.2 of Part 3 of the Technical Requirements to the RNI Project Deed.
- (i) The Independent Certifier should utilise the bedding and accommodation provided by the Network Operator for staff based within the Central West Orana region. Utilisation of other accommodation within the region must be minimised.

2.2 Reporting

- (a) The Independent Certifier must prepare a monthly progress report of a maximum of 8 A4 pages (plus attachments, as necessary) that details the items clause 3.12 of this deed.

2.3 Certification and Monitoring Plan

- (a) The Independent Certifier must produce a Certification and Monitoring Plan and sub-plans for the Services to the satisfaction of the Infrastructure Planner and Network Operator.
- (b) The Certification and Monitoring Plan and sub-plans must be produced so that the Services are to no lesser effort, quality or standard than that detailed in the Initial Certification and Monitoring Plan included as Attachment 1 to this Schedule 1 and any updated Certification and Monitoring Plan certified in accordance with clause 3.11 of this deed.
- (c) The development and progressive updating of the Certification and Monitoring Plan and sub-plans must be conducted in accordance with clause 3.11 of this deed.
- (d) The Certification and Monitoring Plan must permit a level of supervision and surveillance that will permit ultimate certification of the Network Operator's Activities to the RNI Project Deed.
- (e) The Certification and Monitoring Plan must, at a minimum, address and detail:
 - (i) the detailed schedule of functions, obligations, duties and services which the IC Project Agreements contemplate will be discharged by the Independent Certifier;
 - (ii) the management team structures, positions, nominated personnel and subcontractors to be engaged on and off the Construction Site and the roles and tasks of the nominated personnel and subcontractors;
 - (iii) the minimum skill, expertise and experience levels of each position and details of personnel resource levels;
 - (iv) the Independent Certifier's internal and external lines of authority, communication and reporting, including those with the Other Parties and the removal of any duplicated comments from parties;
 - (v) the identification of delegated authorities of the Independent Certifier's personnel, including identification of personnel with delegated authority to execute certificates on behalf of the Independent Certifier;
 - (vi) the Independent Certifier's internal processes for ensuring all documents and supporting evidence have been completed and approved (where required) by persons with appropriate delegated authority and competency and are available as supporting evidence;
 - (vii) all compliance records to be maintained;
 - (viii) how the Independent Certifier will address the reporting requirements set out in clause 3.12 of this deed and otherwise advise each of the Other Parties of issues that it identifies in carrying out the Services, and considers may impact on or delay the ability of the Network Operator to design and construct the RNI Works in accordance with the requirements of the RNI Project Deed; and
 - (ix) any additional strategies, processes, methodologies and procedures for the Services that are not covered in paragraphs 2.3(e)(i) to 2.3(e)(viii) (inclusive) of this Schedule 1 or in the Sub-Plans as described in paragraph 2.3(f) of this Schedule 1.

- (f) The Certification and Monitoring Plan must, include Sub-Plans as per the below:
 - (i) a 'Procurement Sub-Plan' which must include:
 - (A) the Independent Certifier's strategy, process and methodology for:
 - (aa) the observation, monitoring, auditing, reviewing, assessment and testing of the Network Operator's Activities;
 - (bb) without limiting paragraph 2.3(f)(i)(A)(aa) of this Schedule 1, observation, monitoring, auditing, reviewing, assessment and testing of the quality and durability of the RNI Works to determine and ensure the Network Operator's compliance with the requirements of the RNI Project Deed;
 - (cc) audit and surveillance of the Network Operator's Activities, including identification of resources, methodology, scope, levels of surveillance, inspection, testing and survey; and
 - (dd) off-site surveillance of critical activities including original equipment manufacturer equipment manufacturing and testing, steel fabrication, provision of other equipment items and the testing, storage, packaging for shipping and transport to site of such equipment and equipment items;
 - (B) details of any other process required to conduct the Services related to procurement;
 - (ii) a 'Design Certification Sub-Plan' which must include:
 - (A) the Independent Certifier's strategies, processes, methodologies and procedures for:
 - (aa) administering and complying with the Design Review Process;
 - (bb) managing the Independent Certifier's resources and responsibilities associated with the Design Review Process;
 - (cc) ensuring that the Network Operator has addressed all issues of review, comment and consultation with the Infrastructure Planner in respect of the Design Documentation and the Network Operator's Activities;
 - (dd) document control requirements for the Design Review Process;
 - (ee) the certification process for Design Documentation;
 - (ff) the review process for Project Plans and IC Project Plans;
 - (gg) the certification process for IC Project Plans;
 - (hh) the Minor AFC Design Documentation Amendments process;
 - (ii) the Temporary Works process and assignment of categories as set out in Appendix C.5 of the Technical Requirements to the RNI Project Deed;
 - (jj) addressing design items associated with the Planning Approvals and environmental monitoring and protection;

- (kk) processing and categorisation of comments, closure of comments and process for closure of comments on behalf of Other Parties or Third Parties;
 - (ll) the roles and responsibilities with respect to the Design Review Process and approvals from Third Parties;
 - (mm) safety in the Design Process and involvement by the Independent Certifier; and
 - (nn) managing probity in relation to the Services;
- (B) the basis of the sub-plan in terms of the assumptions relating to the Network Operator's Activities including:
- (aa) number of design lots developed;
 - (bb) number of Project Plans for review; and
 - (cc) program durations;
- (C) a description of the risk based assessment process that the Independent Certifier will apply in accordance with paragraph 3.2(c) of this Schedule 1 to determine the extent of design review of the Design Documentation required. The Independent Certifier is also required to provide a table documenting its initial risk rating for each design package; and
- (D) details of any other process required to conduct the Services related to design certification.
- (iii) a 'Construction Monitoring Sub Plan' which must include:
- (A) the Independent Certifier's strategies, processes, methodologies and procedures for:
 - (aa) addressing environmental monitoring and protection;
 - (bb) audit, surveillance and monitoring of the Network Operator's Delivery Activities including design and construction, including the processes used for determining the levels and scope of surveillance of construction activities;
 - (cc) identifying and managing the Services to be subcontracted, including quality, reporting and communication aspects of the Services;
 - (dd) providing comments to the Network Operator in respect of its performance of the Network Operator's Activities, whether by participation in design workshops, monitoring of design progress or otherwise;
 - (ee) ensuring that the Network Operator has addressed all issues of review, comment and consultation with the Infrastructure Planner in respect of the Design Documentation and the Network Operator's Activities; and

- (ff) risk management of the work covered by paragraphs 2.3(f)(ii)(A)(aa), 2.3(f)(ii)(A)(bb) and 2.3(f)(ii)(A)(ee) of this Schedule 1;
 - (B) the Independent Certifier's proposed standards including:
 - (aa) committed surveillance activities that, at a minimum, meet the minimum surveillance requirements in paragraph 3.3(b) of this Schedule 1; and
 - (bb) committed resources to achieve the surveillance activities;
 - (C) Hold Points and Witness Point requirements in accordance with the RNI Project Deed (including clause 10.3(g) of the RNI Project Deed), in the form of a schedule, including the identification of all Witness Points and Hold Points required by the Independent Certifier;
 - (D) the proposed timing of progressive performance of discrete elements of the Services including the timing for conducting reviews of aspects of the Network Operator's Activities;
 - (E) the process to determine if a Defect is a Minor Defect;
 - (F) the process to determine if a non-compliance is a Minor Non-Compliance; and
 - (G) details of any other process required to conduct the Services related to construction monitoring.
- (iv) an 'Operational Readiness Sub Plan' which must include:
- (A) the Independent Certifier's strategy, process and methodology for:
 - (aa) observing, monitoring, auditing, reviewing, assessing and testing the Network Operator's Activities to achieve operational readiness;
 - (bb) reviewing Delivery Activities, Project Plans and Operations Activities Project Plans; and
 - (cc) reviewing and if required, certifying Operations Plans as part of the Design Documentation;
 - (B) the roles and responsibilities required for certifying the achievement of operational readiness by the Network Operator; and
 - (C) details of any other process required to conduct the Services related to operational readiness.
- (v) a 'Testing and Commissioning Sub Plan' which must include:
- (A) the Independent Certifier's strategy, process and methodology for:
 - (aa) observing, monitoring, auditing, reviewing, assessing and testing the Network Operator's Activities performing in relation to the Testing and Commissioning Plan;
 - (bb) monitoring activities to achieve First Energisation, Infrastructure Completion and Final Completion;

- (cc) reviewing Testing and Commissioning Plans;
- (B) audit and surveillance, including identification of resources, methodology, scope, levels of surveillance, inspection, testing and survey;
- (C) off-site surveillance of critical activities and Tests;
- (D) the roles and responsibilities required for certifying the achievement of Operational Completion of a Foundation Energy Supplier Facility connecting to a RNI Separable Portion;
- (E) the Independent Certifier's strategy in respect of overseas testing and inspections undertaken as part of the Services, including travel and accommodation; and
- (F) details of any other process required to conduct the Services related to testing and commissioning.

3. INDEPENDENT CERTIFIER CORE SERVICES

3.1 Procurement

- (a) The Independent Certifier is required to conduct the following Core Services:
 - (i) reviewing and verifying the procurement of original equipment manufacturer and material items procured by the Network Operator including:
 - (A) power transformers and synchronous condensers;
 - (B) circuit breakers, current transformers, voltage transformers;
 - (C) shunt reactors, capacitor banks, filters;
 - (D) protection relays and communications hardware;
 - (E) tower steel, substation steelwork;
 - (F) conductors, insulators and line hardware; and
 - (G) EMS Energy Management System (SCADA system);
 - (ii) attendance at tests as required to certify compliance of the proprietary items and overseas supplied items to the RNI Project Deed; and
 - (iii) review and certification that the procurement, packaging, transport and delivery process followed is in accordance with the Network Operators quality management systems.

3.2 Design Certification

- (a) The Independent Certifier is required to conduct the following Core Services in relation to design certification:
 - (i) Reviewing and commenting regarding compliance of the Project Plans submitted in the Delivery Phase;
 - (ii) Certification of the following Project Plans known as the IC Project Plans

- (A) Delivery Phase Plans under Appendix C.4 of Part 3 of the Technical Requirements under the RNI Project Deed:
 - (aa) Quality Management Plan;
 - (bb) Project Management Plan;
 - (cc) Construction Environmental Management Plan;
 - (dd) Construction Management Plan;
 - (ee) Risk Management Plan;
 - (ff) Communications and Engagement Management Plan;
 - (gg) Work Health Safety Management Plan;
 - (hh) Traffic Management and Transport Plan;
 - (ii) Chain of Responsibility Management Plan; and
 - (jj) Design Management Plan.
- (B) Operations Phase Plans under Appendix D.3 of Part 3 of the Technical Requirements under the RNI Project Deed:
 - (aa) Operations Plan.
- (iii) managing the comments process arising from the review of the Project Plans;
- (iv) Conducting one round of review to provide comments identifying any non-compliances with the RNI Project Deed of the Network Operator's seven Design Standards Manuals and six Construction Standard Manuals.
- (v) reviewing and commenting on documentation provided by the Network Operator under the Project Approvals including but not limited to the Construction Environmental Management Plan and Sub Plans and procedures for compliance with the Environmental Documents for the Delivery Phase and Operational Phase;
- (vi) reviewing and certification of the Network Operator's Design Documentation for the RNI Works and Temporary Works;
- (vii) reviewing and certification of Design Documentation against the REZ Network Connection Agreement, including the interface specification, for any interfaces with the NSW Shared Transmission Network;
- (viii) reviewing Developed Concept Design Stage (DCD Stage) and Substantial Detailed Design Stage (SDD Stage) Documentation and notifying any actual or potential non-compliance with the RNI Project Deed or observations raised by any Authorities;
- (ix) reviewing the design of the Interfaces between the RNI Works and the Temporary Works and the NSW Transmission Network required for the RNI protection and control schemes, SCADA systems and transfer ratings, against the requirements of the RNI Project Deed;
- (x) reviewing FDD Stage Design Documentation whilst considering any comments received from the Infrastructure Planner's Representative and any relevant

- Third Parties; and determining whether the Design Documentation complies with the RNI Project Deed and accordingly certifying the Design Documentation;
- (xi) managing the comments process arising from the Design Review Process including review of comments for potential and actual non-compliance, administration of design review process between parties and closure of comments;
 - (xii) providing mediation between parties in relation to disputes regarding potential and actual non-conformances to the RNI Project Deed;
 - (xiii) determining whether the RNI Works or Temporary Works which will be constructed in accordance with the Design Documentation will comply with the RNI Project Deed;
 - (xiv) exercising its discretion to request information if any of the Design Documentation is incomplete or missing information and it does not have a material impact on the Independent Certifier's ability to commence its review of the Design Documentation in accordance with clause 3.1(g) of Schedule 14 of the RNI Project Deed;
 - (xv) requesting the Network Operator, upon each submission of Design Documentation to deliver a design presentation workshop to explain the design documentation and provide information that the Independent Certifier requests as required;
 - (xvi) considering any comments or items issued by the Infrastructure Planner's Representative or relevant Third Parties of any actual or potential non-compliance with the RNI Project Deed following the Network Operator's submission of the DCD Stage Design Documentation, SDD Stage Design Documentation, and FDD Stage Design Documentation in its capacity to certify the Design Documentation; and
 - (xvii) certifying the completion of Local Area Works.
- (b) In performing the Services set out in paragraphs 3.2(a) and 3.7 of this Schedule 1:
- (i) the Independent Certifier is not required to carry out "first principles" calculations or "proof engineering" in connection with the Design Documentation;
 - (ii) to the extent it is required to review and comment on Design Documentation, the Independent Certifier will limit its comments to whether the Design Documentation is compliant, potentially non-compliant or non-compliant with the requirements of the RNI Project Deed;
 - (iii) to the extent it is required to review comments from the Infrastructure Planner and Third Parties on Design Documentation, take reasonable steps to:
 - (A) rationalise and reconcile those comments (including any potential inconsistencies between them);
 - (B) differentiate between comments in respect of compliance with the requirements of the RNI Project Deed and other extraneous comments; and

- (C) only have regard to comments in respect of compliance with the RNI Project Deed (subject to the Independent Certifier's obligations to consider comments from Third Parties under the Third Party Agreements); and
- (iv) the Independent Certifier must, in performing the Design Phase Services for Third Party Design Documentation, comply with the specific requirements of the relevant Third Party Agreement.
- (c) The Independent Certifier will determine the required extent of review applied to the Design Documentation using a risk based approach that considers factors including:
 - (i) the quality of evidence provided;
 - (ii) complexity of the design;
 - (iii) the assessed credible risk and consequence of failure;
 - (iv) potential impact to system wide engineering outcomes and operational performance of the REZ Project; and
 - (v) the degree of standardisation or industry experience with the design.

3.3 Construction Monitoring

- (a) The Independent Certifier is required to conduct the following Core Services:
 - (i) reviewing and certifying the Network Operator's Delivery Program and monitoring progress against the Delivery Program;
 - (ii) carrying out a monthly review and report of the Delivery Program, with the report including the following as a minimum:
 - (A) compliance against the RNI Project Deed;
 - (B) an independent assessment of the Network Operator's progress against the Delivery Program;
 - (C) a review of any changes against the Delivery Program;

information on monitoring the process for and management of environmental approvals across the RNI Works and the Temporary Works;
 - (D) information on conducting verification, monitoring and surveillance in line with the Certification and Monitoring Plan;
 - (E) the administration and the determination of defects and managing the NCR process for review and release by the Infrastructure Planner;
 - (F) the certification of Defect correction or rectification;
 - (G) a review and comments on the Network Operator's compliance with quality management systems, environmental management systems and safety management systems;
 - (H) information on monitoring and inspecting the Network Operator's processes for the release of Hold Points and Witness Points (including

- the specific role of releasing Hold Points and Witness Points) as nominated under the RNI Project Deed;
- (I) the certification of milestone achievement of various completion stages, including Works completion, Third Party Works, Local Area Works, First Energisation, Infrastructure Completion and Operational Completion of each RNI Separable Portion as relevant and Operational Completion of a Foundation Energy Supplier Facility connecting to a RNI Separable Portion;
 - (J) the development of Hold Points and Witness Points in accordance with the RNI Project Deed (including clause 10.3(g) of the RNI Project Deed) and in association with the Network Operator and release of Hold Point and Witness Points to enable the Independent Certifier to ultimately certify milestone achievements under the RNI Project Deed; and
 - (K) information on monitoring and surveillance so as to satisfy itself that the RNI Works and Temporary Works have been constructed in accordance with the Final Design Documentation as defined in the RNI Project Deed.
- (b) The Independent Certifier has the obligation to carry out all surveillance activities necessary to perform the Services in accordance with the RNI Project Deed, including to undertake the surveillance and provide the surveillance resources set out in:
- (i) the Certification and Monitoring Plan; and
 - (ii) the Minimum Surveillance Commitment.
- (c) The Independent Certifier must, throughout the Term:
- (i) make a determination as to whether:
 - (A) a Defect is a Minor Defect and the Network Operator has reasonable grounds for not promptly rectifying;
 - (B) the level of priority of a Defect; or
 - (C) a minor error, minor omission or minor non-compliance is an error, omission or non-compliance that the Network Operator has reasonable grounds for not promptly correcting prior to the certification required to be obtained under the RNI Project Deed and is therefore a Minor Non-Compliance; and
 - (ii) if it makes a determination under paragraph 3.3(c)(i) of this Schedule 1 notify the Other Parties of the existence of any Minor Defect or Minor Non-Compliance.
- (d) The Independent Certifier must provide a level of surveillance that includes a minimum as per the below table (Minimum Surveillance Commitment).

TASK	Minimum Surveillance
Monitor the traffic and transport management and control provisions for compliance with the relevant Project Plans.	Weekly.
Work Health and Safety Observation In conjunction with provision of the other Services, advise the Other Parties of issues that the Independent Certifier becomes aware of which may affect the safety of persons or property.	As required.
Quality Management Surveillance Inspect the Network Operator's Activities compliance with the requirements of the RNI Project Deed.	Twice weekly.
Inspect circumstances where significant non- conformances are or will be reported.	As required.
Check compliance with the quality plans, process control plans and work processes.	Each method statement.
Check implementation of inspection and test plans, including: <ul style="list-style-type: none"> • testing frequencies; • test methods; • test result verifications; and • the release of Hold Points. 	Weekly.
Release of Hold Points specifically for the Independent Certifier.	Per Hold Point.
Monitor the Network Operator's obligations to inform the local community of planned investigations and construction operations and changes that affect properties, residences and businesses.	Monthly.
Check that the RNI Works are within each relevant design tolerance.	Weekly.
Check that RNI Works and Temporary Works are being constructed using Final Design Documentation in compliance with the RNI Project Deed.	Weekly.
Check that durability requirements of the RNI Works are being addressed and applied.	Weekly.
Witness construction trials and commissioning tests, including: <ul style="list-style-type: none"> - use of any materials, plant and equipment that differs from accepted industry standards; - concrete including in-situ concrete and precast elements; - water collection, treatment and discharge systems; - rock bolts/ground anchors; - blasting; and -Utility Service diversions. 	For each trial and commissioning test.
Record photographically and catalogue general and detailed work in progress.	20 photographs per day.
Witness the construction of the RNI Works and Temporary Works.	Daily.
Monitor concreting and associated works including: <ul style="list-style-type: none"> • preparation; • form work; • bracing; • reinforcement; • placing; • stressing; • finishing; • curing; and • stripping form work. 	For initial activities and twice weekly thereafter.

Monitor steel fabrication, including: <ul style="list-style-type: none"> • conducting reviews of welding procedures; and • monitoring the fabrication and welding processes for major members (off-site). 	Each procedure
Monitor ground movement equipment monitors including: <ul style="list-style-type: none"> • audits of equipment; and • conducting a review of results. 	Twice weekly
Major equipment procurement and delivery.	As per the procurement services and including representative attendance for each major equipment item including in person attendance.

3.3A Power System Modelling

- (a) The Independent Certifier is required to conduct the following Services:
- (i) certify that the REZ Network Infrastructure power system models (excluding Foundation Generator Models and Wide Area Models, but including OEM Syncon Models), RNI modelling assumptions and databooks and reports prepared by the Network Operator as part of the Network Operator RNI design validation process comply with RNI Project Deed, and that the reports demonstrate that the REZ Network Infrastructure complies with the applicable power system performance standards and obligations under the NER, including those in Chapter 4 and schedules S5.1 and S5.1a of Chapter 5 of the NER, which apply to the Network Operator and the power system performance obligations of the Project Deed;
 - (ii) periodically review, and report on, progress and development of Generator Connection processes, models and connections studies;
 - (iii) certify that AEMO has provided approval for connection and registration of each Foundation Energy Supplier that has obtained a CWO REZ Access Right;
 - (iv) review, and report on, power system modelling assumptions and databooks associated with the REZ Connection Agreement for the REZ Network Infrastructure to connect to the NSW Transmission Network for consistency and appropriateness; and
 - (v) certify that AEMO has provided approval for connection and Registration of the REZ Network Infrastructure to the NEM.
- (b) Notwithstanding the scope of the Services described above, the Independent Certifier is not required to certify Foundation Energy Supplier compliance with the CWO REZ Access Standards.
- (c) In performing the Services set out in paragraph 3.3A (a) the Independent Certifier is not required to undertake independent power system modelling or power system model development.

3.4 Operational Readiness

- (a) The Independent Certifier is required to conduct the following Services:
- (i) reviewing and certifying Operations Activities Project Plans; and

- (ii) providing a review of operational readiness of the Network Operator, D&C Contractor and O&M Contractor.

3.5 Testing and commissioning

- (a) The Independent Certifier is required to conduct the following Services:
 - (i) certifying that the Test Procedures comply with the requirements of the RNI Project Deed;
 - (ii) certifying the outcome of the Tests, which includes certifying that the Barrigan Creek Substation has passed the Tests and pre-commissioning referred to in the Technical Requirements (as required by clause 13.1(d) of the RNI Project for the First Energisation Requirements);
 - (iii) certifying the Foundation Energy Supplier Commissioned Capacity and any adjustment in accordance with the RNI Project Deed;
 - (iv) certifying milestone achievement of Operational Completion of a Foundation Energy Supplier Facility connection to a RNI Separable Portion;
 - (v) monitoring Network Operator's Activities to achieve Final Completion and certifying milestone achievement of Final Completion; and
 - (vi) certifying the Test Results.

3.6 RNI Project Deed Independent Certifier references

- (a) Paragraphs 3.7 and 3.8 of this Schedule 1 indicate the functions, obligations, duties and services which the RNI Project Deed contemplates will be discharged by the Independent Certifier.
- (b) Paragraphs 3.7 and 3.8 of this Schedule 1 will not limit the scope of the Services to be performed by the Independent Certifier as detailed in this Schedule 1.
- (c) In the case of any discrepancy, the RNI Project Deed takes precedence over the functions, obligations, duties and services set out in paragraphs 3.7 and 3.8 of this Schedule 1.

3.7 Design Phase Services

The Independent Certifier must discharge the functions, obligations, duties and services relating to 'design' which the RNI Project Deed contemplates will be discharged by the Independent Certifier, which include the following:

- (a) **Clause 1.18(b):** The Independent Certifier must perform all relevant Services under or in relation to the Incorporated Provisions of the RNI Commitment Deed.
- (b) **Clause 10.2(b):** The Independent Certifier to receive initial versions of the remaining Project Plans that were not included in the Technical Requirements.
- (c) **Clause 10.3(d):** The Independent Certifier to receive updated versions of the Project Plans from the Network Operator.
- (d) **Clause 10.3(g):** The Independent Certifier may, during the Delivery Phase only, acting reasonably, (including having regard to impact or progress against the Delivery Program) insert Hold Points or Witness Points in the Project Plans and designate the Authority to release the Hold Points.

- (e) **Clause 10.4(a):** During the Delivery Phase, in relation to the Project Plans including plans under Appendix C.4 and Appendix D.3 of Part 3 of the Technical Requirements the Project Deed, the Independent Certifier must:
- (i) review and provide comment on each Project Plan submitted under clause 10 of the RNI Project Deed;
 - (ii) within 15 Business Days following submission of the Project Plan to the Infrastructure Planner's Representative and Independent Certifier by the Network Operator and taking into account any comments received from the Infrastructure Planner's Representative in accordance with clause 10.4(a)(iii) of the RNI Project Deed, determine whether the Project Plan complies with the requirements of the RNI Project Deed and either:
 - (A) if the Independent Certifier considers that the Project Plan does not comply with the requirements of the RNI Project Deed, notify the Network Operator of the non-compliances (with detailed reasons);
 - (B) if the Independent Certifier considers that one or more sub-plans comprising the Project Plan does not comply with the requirements of the RNI Project Deed:
 - (aa) if the Project Plan is an IC Project Plan certify the compliant sub-plans in the IC Project Plan by providing to the Network Operator a certificate (with a copy to the Infrastructure Planner's Representative) in the form of Part A of Schedule 30 (*Certificates*) of the RNI Project Deed;
 - (bb) if the Project Plan is not an IC Project Plan, notify the Network Operator that the compliant sub-plan in the Project Plan has no non-compliances; and
 - (cc) notify the Network Operator (with a copy to the Infrastructure Planner's Representative) of the non-compliances in the sub-plans in the Project Plan (with detailed reasons); or
 - (C) if the Independent Certifier considers that the Project Plan complies with the requirements of the RNI Project Deed:
 - (aa) certify the Project Plan if this is an IC Project Plan by providing to the Network Operator a certificate in the form of Part A of Schedule 30 (*Certificates*); or
 - (bb) notify the Network Operator that the Project Plan has no non-compliances if it is not an IC Project Plan.
- (f) Not used;
- (g) **Clause 10.4(e):** If the certificate provided by the Independent Certifier pursuant to clauses 10.4(a)(iii)B.1 or 10.4(a)(iii)(C) of the RNI Project Deed lists any Minor Non-Compliance the Independent Certifier determines that the Network Operator has reasonable grounds for not promptly correcting prior to the certification, the Independent Certifier:
- (i) may, in the certificate, identify the action that must be taken by the Network Operator to address the Minor Non-Compliance and specify a time frame within which the Network Operator must complete the required action; and

- (ii) will, following receipt from the Network Operator of a copy of the corrected IC Project Plan or other reasonable evidence in such detail that the Independent Certifier may require to confirm that the Minor Non-Compliance has been addressed, determine if the Minor Non-Compliance has been addressed.
- (h) **Clause 10.5:** If any IC Project Plan does not comply with the requirements of the RNI Project Deed or the Network Operator has not updated any IC Project Plan in accordance with the requirements of clause 10.3(b) of the RNI Project Deed, the Independent Certifier may by written notice request that the Network Operator amend or update the IC Project Plan specifying:
 - (i) the reasons why such updating is required (or why the IC Project Plan does not comply with the RNI Project Deed); and
 - (ii) the time within which such updating must occur (which must be reasonable, having regard to the amount of work required).
- (i) **Schedule 14, Clause 2.1(c):** The Independent Certifier may consult with relevant Third Parties in accordance with this deed and any relevant Third Party Agreements in considering Design Documentation submitted by the Network Operator in accordance with this deed and the relevant Third Party Agreement.
- (j) **Schedule 14, Clause 3.1(c):** The Independent Certifier to receive from the Network Operator all Design Documentation (not including any Design Documentation to the extent that it relates solely to Non-Reviewable Temporary Works).
- (k) **Schedule 14, Clause 3.1(e):** The Independent Certifier to receive from the Infrastructure Planner's Representative notice of any actual or potential non-compliances in the Network Operator's submissions of any DCD Stage Design Documentation, SDD Stage Design Documentation or FDD Stage Design Documentation with the RNI Project Deed.
- (l) **Schedule 14, Clause 3.1(f):** The Independent Certifier to determine if the Design Documentation complies with the RNI Project Deed and the RNI Works or Temporary Works which will be constructed in accordance with the Design Documentation will comply with the RNI Project Deed.
- (m) **Schedule 14, Clause 3.1(g):** The Independent Certifier may request any such information it considers that the Network Operator's submission of any DCD Stage Design Documentation, SDD Stage Design Documentation or FDD Stage Design Documentation is incomplete or missing information and it does not have a material impact on the Independent Certifier's ability to commence its review of the Design Documentation.
- (n) **Schedule 14, Clause 3.3:** Whenever the Network Operator submits DCD Stage Design Documentation, SDD Stage Design Documentation or FDD Stage Design Documentation pursuant to clause 3.1 of Schedule 14:
 - (i) the Independent Certifier must attend the design presentation workshop, along with the Infrastructure Planner's Representative and any nominees of the Infrastructure Planner, delivered by the Network Operator within 5 Business Days of being requested to do so; and
 - (ii) the Independent Certifier may require the Network Operator to make available the appropriate design personnel to:
 - (A) explain the Design Documentation; and

- (B) provide such information regarding the Design Documentation as the Independent Certifier reasonably requests.
- (o) **Schedule 14, Clause 3.4(a)** The Independent Certifier must, within 20 Business Days of the Network Operator's submission of DCD Stage Design Documentation or SDD Stage Design Documentation in accordance with clause 3.1(c) of Schedule 14:
 - (i) review the DCD Stage Design Documentation or SDD Stage Design Documentation, as applicable, and, in so doing consider any actual or potential non-compliances with the RNI Project Deed or observations raised by any Authorities;
 - (ii) address the comments (if any) received by it from the Infrastructure Planner's Representative under clause 3.1(e) of Schedule 14 and any Third Party; and
 - (iii) notify the Network Operator in writing of any actual or potential non-compliances with the RNI Project Deed or observations (with detailed reasons).
- (p) **Schedule 14, Clauses 3.4(b) and 3.4(ba)**: If the Independent Certifier provides a notice to the Network Operator under clause 3.4(a)(iii) of Schedule 14, and the Network Operator disagrees with the Independent Certifier's opinion, the Network Operator must, within 20 Business Days of the Network Operator receiving that notice, give the Infrastructure Planner's Representative a written response, and] following the receipt of such notice from the Network Operator under clause 3.4(b)(i)(A) of Schedule 14, the Independent Certifier, the Infrastructure Planner and the Network Operator may meet to discuss and attempt, in good faith, to resolve the difference of opinion in accordance with clause 3.4(ba) of Schedule 14.
- (q) **Schedule 14, Clause 3.4(c)**: The Independent Certifier must, within 20 Business Days of the Network Operator's submission of FDD Stage Design Documentation in accordance with clause 3.1(c) of Schedule 1:
 - (i) review that FDD Stage Design Documentation, and in doing so consider the comments received by it from the Infrastructure Planner's Representative and any relevant Third Parties; and:
 - (ii) determine whether or not that Design Documentation complies with the requirements of the RNI Project Deed and either:
 - (A) reject the Design Documentation (which rejection must be in writing, with detailed reasons, to the Network Operator with a copy to the Infrastructure Planner's Representative) if the Independent Certifier considers that the Design Documentation:
 - (aa) does not comply with the requirements of the RNI Project Deed; or
 - (bb) is not sufficiently complete to enable the Independent Certifier to form a view on whether the Design Documentation is compliant,and if the Independent Certifier considers that some elements of the Design Documentation are not compliant and some elements of the Design Documentation are compliant, the Independent Certifier must specifically identify those elements that it considers are not compliant; or

- (B) if the Independent Certifier considers that the Design Documentation complies with the requirements of the RNI Project Deed, certify the Design Documentation by:
 - (aa) including a notation on each document forming part of the Design Documentation;
 - (bb) providing to the Infrastructure Planner's Representative and the Network Operator a certificate in the form of Part P of Schedule 30 of the RNI Project Deed (Certificates); and
 - (cc) if the Design Documentation is Third Party Design Documentation, providing any certification required by the relevant Third Party Agreement for such Third Party Design Documentation.

- (r) **Schedule 14, Clause 3.4(d):** If the Independent Certifier rejects any element of the FDD Stage Design Documentation under clause 3.4(c)(ii)(A) of Schedule 14, and the Network Operator amends and re-submits the FDD Stage Design Documentation in accordance with clause 3.4(d) of Schedule, then the process in clause 3.4(c) of Schedule 14 of the RNI Project Deed will reapply to the re-submitted FDD Stage Design Documentation, except that that the period for the Independent Certifier under clause 3.4(c) will be 10 Business Days (or such longer period, not to exceed 20 Business Days, as is required by the Independent Certifier, acting reasonably taking into account the extent and nature of the non-compliances, and notified by the Independent Certifier to the Parties within 5 Business Days of receiving the FDD Stage Design Documentation).

- (s) **Schedule 14, Clause 3.4(f):** If the Network Operator exercises its right under clause 3.4(d) of Schedule 14 and either:
 - (i) in relation to FDD Stage Design Documentation that is re-submitted as required by clause 3.4(d)(i) of Schedule 14, the Independent Certifier makes a determination under clause 3.4(c)(ii)(A) of Schedule 14 that, as a consequence of the amendments made by the Network Operator to the non-compliant elements of the FDD Stage Design Documentation prior to re-submission, any part of the Proceed at Own Risk Elements are now non-compliant;
 - (ii) amendments are subsequently required to any part of the Proceed at Own Risk Elements in connection with the non-compliant elements of the relevant Design Documentation referred to in clause 3.4(e)(ii)(C) of Schedule 14 of the RNI Project Deed; or
 - (iii) there has been any non-compliance with the requirements of clause 3.6(a) of Schedule 14 of the RNI Project Deed other than clause 3.6(a)(iii) of Schedule 14,
 then, (unless otherwise approved in writing by the Infrastructure Planner):
 - (iv) the Network Operator must immediately cease any construction being carried out in respect of that part of the Proceed at Own Risk Elements; and
 - (v) the process in clause 3.4(d) of Schedule 14 will apply in relation to that part as though it was a non-compliant element.

- (t) **Schedule 14, Clause 3.4(g):** If the Network Operator gives a notice under clause 3.4(d)(ii) of Schedule 14, the Independent Certifier:

- (i) must meet in good faith with the Infrastructure Planner and the Network Operator to seek to resolve the disagreement within 10 Business Days of the date of the notice;
- (ii) may, in considering the Network Operator's notice given under clause 3.4(d)(ii) of Schedule 14, consult further with the Infrastructure Planner's Representative and any relevant Third Party on the matter which is the subject of the disagreement; and
- (iii) must, within 10 Business Days of the Network Operator's notice, determine and notify the parties as to whether or not that notice satisfactorily addresses its concerns together with its reasons for forming that opinion and:
 - (A) if the Independent Certifier considers that the Network Operator's notice satisfactorily addresses the Independent Certifier's concerns, the Independent Certifier must provide the certification under clause 3.4(c)(ii)(B) of Schedule 14 as part of its notice; or
 - (B) if the Independent Certifier considers that the notice does not satisfactorily address the Independent Certifier's concerns, the Network Operator must amend and re-submit the relevant element of the Design Documentation in accordance with clause 3.4(d)(i) of Schedule 14 and the process in clause 3.4(c) of Schedule 14 will be reapplied to the amended element of the Design Documentation.
- (u) **Schedule 14, Clause 3.4(j):** If the certificate provided by the Independent Certifier pursuant to clause 3.4(c)(ii)(B)(II) of Schedule 14 lists any Minor Non-Compliances, the Independent Certifier:
 - (i) may, in the certificate, recommend the action that could be taken by the Network Operator to address the Minor Non-Compliance and specify a time frame within which the Network Operator must complete the recommended action; and
 - (ii) must, following receipt from the Network Operator of a copy of the corrected Design Documentation or a statement in such detail that the Independent Certifier may require to confirm to the Network Operator and the Infrastructure Planner's Representative that the Minor Non-Compliance has been addressed, determine if the Minor Non-Compliance has been addressed.
- (v) **Schedule 14, Clause 3.4(k):** Within 5 Business Days of the Independent Certifier taking the action referred to in clause 3.4(k)(i), 3.4(k)(ii) or 3.4(k)(iii) of Schedule 14 (as applicable), the Independent Certifier must provide the Infrastructure Planner's Representative with detailed written reasons as to why it did not include the actual non-compliances or potential non-compliances identified by the Infrastructure Planner's Representative, or changed the categorisation of those non-compliances from that provided by the Infrastructure Planner's Representative, in the comments, rejection or certification (as applicable).
- (w) **Schedule 14, Clause 3.6(a):** If the Network Operator wishes to amend AFC Design Documentation prior to the Date of Final Completion and submits the amended Design Documentation to the Independent Certifier in accordance with clause 3.6(a) of Schedule 14, the process in clause 3.4 of Schedule 14 will apply as if the Design Documentation is FDD Stage Design Documentation.
- (x) **Schedule 14, Clause 3.6(b):** The Independent Certifier must, within 5 Business Days of receipt of the details referred to in clause 3.6(a) of Schedule 14, notify the Network Operator (with a copy to the Infrastructure Planner's Representative) if it

considers that the amendments to the AFC Design Documentation are not Minor AFC Design Documentation Amendments.

- (y) **Schedule 14, Clause 3.6(c):** The Independent Certifier must certify the amended AFC Design Documentation submitted by the Network Operator in accordance with clause 3.6(a) of Schedule 14 under clause 3.4(c)(ii)(B) of Schedule 14.
- (z) **Schedule 14, Clause 3.6(d):** If the Network Operator exercises its right under clause 3.6(b) of Schedule 14, the Independent Certifier may reject the amended AFC Design Documentation in accordance with clause 3.4(c)(ii)(A) of Schedule 14 (and regardless of whether the relevant amendments are Minor AFC Design Documentation Amendments), then (unless otherwise approved in writing by the Infrastructure Planner's Representative):
 - (i) the Network Operator must immediately cease any construction being carried out in accordance with the relevant non-compliant element of the amended AFC Design Documentation, but the Network Operator may commence or continue construction in accordance with any element of the amended AFC Design Documentation that the Independent Certifier has not identified as being non-compliant with the RNI Project Deed; and
 - (ii) the processes in clauses 3.4(c) and 3.4(d) of Schedule 14 will reapply in relation to the non-compliant element of the amended AFC Design Documentation, except that the period for the Independent Certifier under clause 3.4(c) will be 10 Business Days (or such longer period, not to exceed 20 Business Days, as is required by the Independent Certifier, acting reasonably taking into account the extent and nature of the non-compliances, and notified by the Independent Certifier to the Parties within 5 Business Days of receiving the AFC Design Documentation).
- (aa) **Schedule 14, Clause 3.6(e):** Notwithstanding clause 3.6(b) of Schedule 14, the Independent Certifier must certify the AFC Design Documentation (including any amended AFC Design Documentation) which is directly related to the conduct of testing and commissioning prior to the Network Operator commencing any part of that testing and commissioning.

3.8 Completion Phase Services

The Independent Certifier must discharge the functions, obligations, duties and services relating to 'completion' which the RNI Project Deed contemplates will be discharged by the Independent Certifier, which include the following:

- (a) **Clause 11.5(b)(i):** The Independent Certifier must certify in accordance with clause 10.4 of the RNI Project Deed, each of the IC Project Plans that are required to be certified prior to the Network Operator commencing any work upon the Construction Site as required in Appendix C.4 of the Technical Requirements.
- (b) **Clause 12.2(b):** The Independent Certifier is to receive the Test Procedure from the Network Operator.
- (c) **Clause 12.2(c):** The Independent Certifier is to receive from the Infrastructure Planner's Representative notice of any actual or potential non-compliances in the Test Procedure with the RNI Project Deed.
- (d) **Clause 12.2(d):** The Independent Certifier must, within 20 Business Days of the date on which it receives the Test Procedure under clause 12.2(b) of the RNI Project Deed:

- (i) review each Test Procedure and, in doing so, must consider any comments received from the Infrastructure Planner's Representative under clause 12.2(i)(ii) of the RNI Project Deed; and
 - (ii) determine whether such Test Procedure complies with the requirements of the RNI Project Deed and either:
 - (A) if the Independent Certifier considers that the Test Procedure does not comply with the requirements of the RNI Project Deed, notify the Network Operator and the Infrastructure Planner of the non-compliances (with detailed reasons); or
 - (B) certify the Test Procedure by providing to the Network Operator and the Infrastructure Planner's Representative a certificate in the form of Part C of Schedule 30 (*Certificates*) of the RNI Project Deed.
- (e) **Clause 12.2(e):** If the Network Operator receives a notice from the Independent Certifier in accordance with clause 12.2(d)(ii)(A) and re-submits a revised Test Procedure to the Independent Certifier, the Independent Certifier must satisfy its obligations under clause 12.2 of the RNI Project Deed.
- (f) **Clause 12.2(h):** The Independent Certifier must, within 5 Business Days of:
 - (i) giving a notice under clause 12.2(d)(ii)(A) of the RNI Project Deed, to the extent that the Independent Certifier did not include in its notice to the Network Operator any comments received from the Infrastructure Planner's Representative under clause 12.2(c)(ii) of the RNI Project Deed regarding actual or potential non-compliances in the Network Operator's Test Procedure, provide the Infrastructure Planner with detailed written reasons of why it did not include such comments; and
 - (ii) certifying a Test Procedure under clause 12.2(d)(ii)(B) of the RNI Project Deed, to the extent that the Independent Certifier received comments from the Infrastructure Planner under clause 12.2(c)(ii) of the RNI Project Deed regarding non-compliances in the Network Operator's Test Procedure, provide the Infrastructure Planner with detailed written reasons of why it certified the Test Procedure despite the Infrastructure Planner's comments.
- (g) **Clause 12.2(i):** If the certificate provided by the Independent Certifier pursuant to clause 12.2(d)(ii)(B) of the RNI Project Deed lists any Minor Non-Compliances, the Independent Certifier:
 - (i) may, in the certificate, recommend the action that could be taken by the Network Operator to address the Minor Non-Compliance and specify a time frame within which the Network Operator must complete the recommended action; and
 - (ii) will, following receipt from the Network Operator of a statement or other reasonable evidence in such detail that the Independent Certifier will be required to determine whether the Minor Non-Compliance has been addressed.
- (h) **Clause 12.3(a):** The Independent Certifier is to receive from the Network Operator notice of the date, time and place of each Test (in accordance with clause 12.3(a) of the RNI Project Deed.
- (i) **Clause 12.3(c):** The Independent Certifier is to receive from the Network Operator notice of the date, time and place of a rescheduled Test (in accordance with clause 12.3(c) of the RNI Project Deed.

- (j) **Clause 12.3(d):** The Independent Certifier is to receive from the Network Operator a program of the date, time and place of each Test and any updated Test Program.
- (k) **Clause 12.4(b):** The Independent Certifier may (but is not obliged to) attend and witness the conduct of all Tests.
- (l) **Clause 12.5(b):** The Independent Certifier is to receive from the Network Operator a Test Report in respect of each Test, irrespective of the result of the Test within 10 Business Days of the Test being carried out.
- (m) **Clause 12.5(c):** The Independent Certifier may receive from the Infrastructure Planner's Representative notice of any actual or potential non-compliances in a Test Report with the RNI Project Deed.
- (n) **Clause 12.5(d):** The Independent Certifier must, within 10 Business Days of the date on which it receives the Test Report, determine (including with consideration of any comments received from the Infrastructure Planner's Representative under clause 12.5(c) of the RNI Project Deed) whether or not the Test has been passed or failed and either:
 - (i) certify that the Test has been passed in accordance with the Test Procedure by issuing a certificate in the form of Part D of Schedule 30 (Certificates) of the RNI Project Deed; or
 - (ii) notify the Network Operator and the Infrastructure Planner that:
 - (A) the Test has been failed; and / or
 - (B) the Test Report does not comply with the requirements of the RNI Project Deed (Minor Non-Compliances excepted).
- (o) **Clause 12.5(e):** The Independent Certifier must, within 10 Business Days of the date on which the action referred to in clause 12.5(d) of the RNI Project Deed was undertaken, provide detailed reasons to the Infrastructure Planner (with a copy to the Network Operator) as to why those comments were not adopted, if:
 - (i) the comments provided under clause 12.5(c)(ii) of the RNI Project Deed identify one or more actual or potential non-compliances; and
 - (ii) the Independent Certifier's decision under clause 12.5(d) of the RNI Project Deed has not adopted those comments (to the extent they identify actual or potential non-compliances).
- (p) **Clause 12.5(f):** If the certificate provided by the Independent Certifier pursuant to clause 12.5(d)(i) of the RNI Project Deed lists any Minor Non-Compliance, the Independent Certifier may, in the certificate, recommend the action that could be taken by the Network Operator to address the Minor Non-Compliance and specify a time frame within which the Network Operator must complete the recommended action.
- (q) **Clause 12.6:** If the Independent Certifier notifies the Network Operator that a Test has been failed (or that a Test has been failed and the Test Report is non-compliant), the Network Operator must carry out all necessary rectification work and when it believes it has completed all necessary rectification work, the Independent Certifier will receive from the Network Operator a notice of the date, time and place of each Test in accordance with clause 12.3(a) of the RNI Project Deed and the Independent Certifier must satisfy its obligations under clauses 12.4 and 12.5 of the RNI Project Deed.

- (r) **Clause 12.7:** If the Independent Certifier notifies the Network Operator that a Test Report is non-compliant (Minor Non-Compliances excepted), and the Network Operator re-submits an amended Test Report, the Independent Certifier must satisfy its obligations under clause 12.5 of the RNI Project Deed.
- (s) **Clause 12.8(d):** The Independent Certifier is to receive from the Network Operator a Test Report in respect of any additional Testing carried out under clause 12.8 of the RNI Project Deed.
- (t) **Clause 13.1(b) and 13.1(c):** The Independent Certifier is to receive from the Network Operator copies of all Approvals required for the Network Operator to obtain First Energisation and all certificates required by clause 13.1(c).
- (u) **Clause 13.1(d):** The Independent Certifier must certify that Barrigan Creek Substation has passed the Tests and pre-commissioning referred to in the Technical Requirements.
- (v) **Clause 13.2(e) and 13.2(f):** The Independent Certifier is to receive from the Network Operator copies of all Approvals required for the Network Operator to obtain Infrastructure Completion of a RNI Separable Portion and all certificates required by clause 13.2(f).
- (w) **Clause 13.2(g):** The Independent Certifier must certify the relevant RNI Separable Portion has passed the Tests referred to in the Technical Requirements.
- (x) **Clause 13.3(a):** The Independent Certifier is to receive from the Network Operator written notices at least 20 Business Days and 5 Business Days before the date on which the Network Operator expects to satisfy the requirements for Infrastructure Completion of a RNI Separable Portion.
- (y) **Clause 13.3(b):** The Independent Certifier is to receive from the Network Operator a written request for a Certificate of Infrastructure Completion for a RNI Separable Portion.:
- (z) **Clause 13.4(a):** The Independent Certifier must, within 5 Business Days of receipt of a request under clause 13.3(b) of the RNI Project Deed, determine whether or not the requirements for Infrastructure Completion referred to in clause 13.2 of the RNI Project Deed have been satisfied and either:
 - (i) if the requirements for Infrastructure Completion referred to in clause 13.2 of the RNI Project Deed have been satisfied, issue a Certificate of Readiness for Infrastructure Completion to the Network Operator and the Infrastructure Planner; or
 - (ii) if the requirements for Infrastructure Completion referred to in clause 13.2 of the RNI Project Deed have not been satisfied, issue a notice to the Network Operator and the Infrastructure Planner which:
 - (A) lists the items which remain to be completed to satisfy the requirements for Infrastructure Completion; or
 - (B) states that the Network Operator is so far from satisfying the requirements for Infrastructure Completion that it is not practicable to provide the list referred to in clause 13.4(a)(ii)(A) of the RNI Project Deed.
- (aa) **Clause 13.4(b):** If the Independent Certifier issues a notice under clause 13.4(a)(ii) of the RNI Project Deed, the Network Operator must continue to satisfy the Delivery Activities under clause 13.1, 13.2 and clause 13.3 of the RNI Project Deed and the

Independent Certifier must satisfy its obligations under clause 13.4 of the RNI Project Deed.

- (bb) **Clause 13.5(b):** The Independent Certifier must, within 5 Business Days of receipt from the Network Operator of a notice under clause 13.5(b) of the RNI Project Deed, jointly with the Infrastructure Planner's Representative the representative of any relevant Authority, inspect the relevant Local Area Works at a mutually convenient time.
- (cc) **Clause 13.5(c):** Following the joint inspection under clause 13.5(b) of the RNI Project Deed and subject to clause 13.5(d) of the RNI Project Deed, the Independent Certifier must determine whether the discrete part of the Local Area Works has been completed in accordance with the RNI Project Deed and the relevant Third Party Agreements (as that term is defined under the RNI Project Deed) referred to in clauses of Schedule 19 (*Requirements of Third Party Agreements*) (if applicable) and must, within 5 Business Days of the date of the inspection either:
 - (i) if the discrete part is complete, execute and provide a certificate in the form of Part G of Schedule 30 (Certificates) of the RNI Project Deed to the Infrastructure Planner's Representative and the Network Operator stating the date on which the Network Operator has completed the discrete part of the Local Area Works in accordance with the RNI Project Deed, which, subject to clause 13.5(e) of the RNI Project Deed, will be the relevant date for the purposes of clause 13.5(f)(i) of the RNI Project Deed; or
 - (ii) if the discrete part is not complete, notify the Network Operator and the Infrastructure Planner in writing of the items which remain to be completed (after which the procedure in clauses 13.5(b) and 13.5(c) of the RNI Project Deed will reapply).
- (dd) **Clause 13.5(d):** The Independent Certifier must execute and provide to the Infrastructure Planner's Representative a certificate in the form of Part G of Schedule 30 (Certificates) of the RNI Project Deed with respect to the discrete part of the Local Area Works and each discrete part of the Local Area Works will not be regarded as complete unless this has occurred.
- (ee) **Clause 13.8(b):** The Independent Certifier is to receive from the Network Operator a written notice stating Operational Completion of a Foundation Energy Supplier Facility has been achieved and requesting for a Certificate of Operational Completion
- (ff) **Clause 13.8(c):** The Independent Certifier must, within 5 Business Days of receipt of the request under clause 13.8(b) of the RNI Project Deed, determine whether Operational Completion of a Foundation Energy Supplier Facility has been achieved and either:
 - (i) if Operational Completion of a Foundation Energy Supplier Facility has been achieved, issue a Certificate of Operational Completion to the Network Operator and the Infrastructure Planner stating as the Date of Operational Completion, the date on which Operational Completion was achieved; or
 - (ii) if Operational Completion of a Foundation Energy Supplier Facility has not been achieved, issue a notice to the Network Operator and the Infrastructure Planner which states the reasons why it was not achieved.
- (gg) **Clause 13.8(f):** The Independent Certifier must accept a notice received under clause 13.8(f) of the RNI Project Deed.
- (hh) **Clause 13.9(c):** The Independent Certifier is to receive from the Network Operator a written notice stating Final Completion of a RNI Separable Portion has been

achieved and requesting for a Certificate of Final Completion of a RNI Separable Portion.

- (ii) **Clause 13.9(d):** The Independent Certifier must, within 15 Business Days of the Network Operator's request under clause 13.9(c) of the RNI Project Deed, determine whether Final Completion has been achieved and either:
 - (i) if Final Completion has been achieved, issue to the Infrastructure Planner and the Network Operator a Certificate of Final Completion stating as the Date of Final Completion the date on which Final Completion was achieved; or
 - (ii) if Final Completion has not been achieved, issue a notice to the Infrastructure Planner and the Network Operator listing the work remaining to be performed to achieve Final Completion.
- (jj) **Clause 13.9(e):** If the Independent Certifier issues a notice to the Network Operator under clause 13.9(d)(ii) of the RNI Project Deed, the Network Operator must continue with the Delivery Activities to achieve Final Completion and the Independent Certifier must satisfy its obligations under clause 13.9(d) of the RNI Project Deed.
- (kk) **Clause 13.9(f):** The Independent Certifier, in making a determination as to whether Final Completion has been achieved:
 - (i) will not be restricted by any:
 - (A) certification, notice, list or opinion already provided under the RNI Project Deed; or
 - (B) obligation of the Network Operator under the RNI Project Deed to correct any Defects which may be discovered after Final Completion; and
 - (ii) will be entitled to raise any items of work as a ground for determining that Final Completion has not been achieved.
- (ll) **Clause 14.3(b)(ii)(C)(3):** The Independent Certifier may request the Network Operator to update the Delivery Program at any time.
- (mm) **Clause 14.3(b)(vi) and clause 14.3(b)(vii):** The Independent Certifier is to receive from the Network Operator an updated Delivery Program.

4. CORE SERVICES UNDER THE THIRD PARTY AGREEMENTS

4.1 Defined terms

Defined terms in this paragraph 4 have the meaning set out in clause 1 of the relevant Third Party Agreement, unless otherwise defined in clause 1.1 of this deed.

4.2 Services

- (a) In certifying the RNI Works and Temporary Works, the Independent Certifier must have regard to issues and items raised by Third Parties relating to actual or potential non-compliances with the RNI Project Deed and relevant Third Party Agreement.
- (b) The Independent Certifier must carry out the Services in accordance with the Third Party Agreements (or a Draft Third Party Agreement until the relevant Third Party Agreement is executed).

- (c) The Third Parties for the RNI Works and Temporary Works include but are not limited to the below:
 - (i) Transgrid;
 - (ii) Australian Energy Market Operator;
 - (iii) AEMO Services;
 - (iv) Renewable Energy Sector Board;
 - (v) The Australian Energy Regulator;
 - (vi) Local Councils:
 - (A) Mid Western Regional Council;
 - (B) Dubbo Regional Council;
 - (C) Warrumbungle Shire Council; and
 - (D) Upper Hunter Regional Council;
 - (vii) Aboriginal Land Councils;
 - (viii) Mining Corporations:
 - (A) Peabody Wilpinjong;
 - (B) Glencore Ulan; and
 - (C) Yancoal Moolarben;
 - (ix) Foundation Generators;
 - (x) Authorities; and
 - (xi) NSW Farmers.

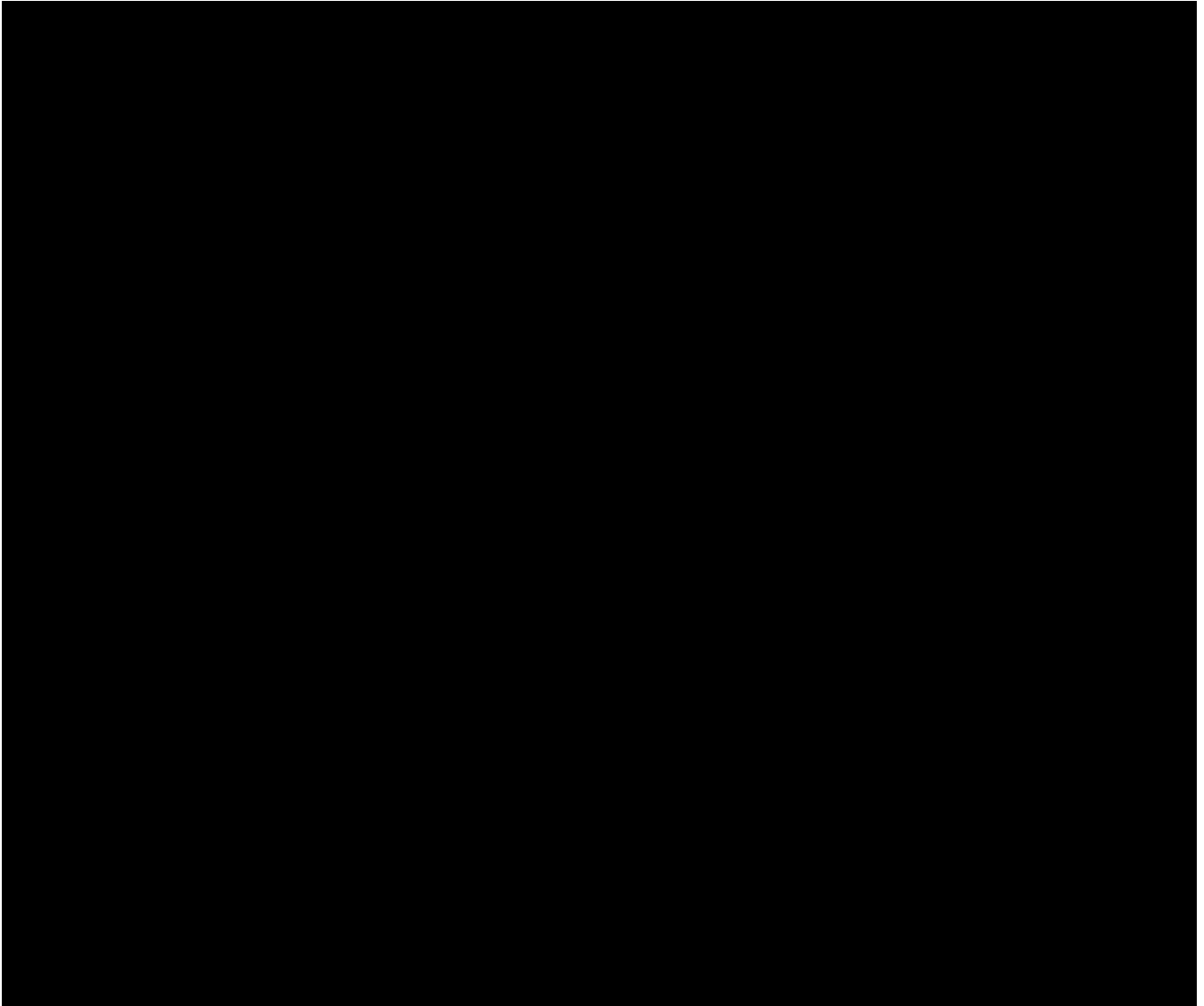
5. Key Personnel and Minimum Skill requirements

5.1 General

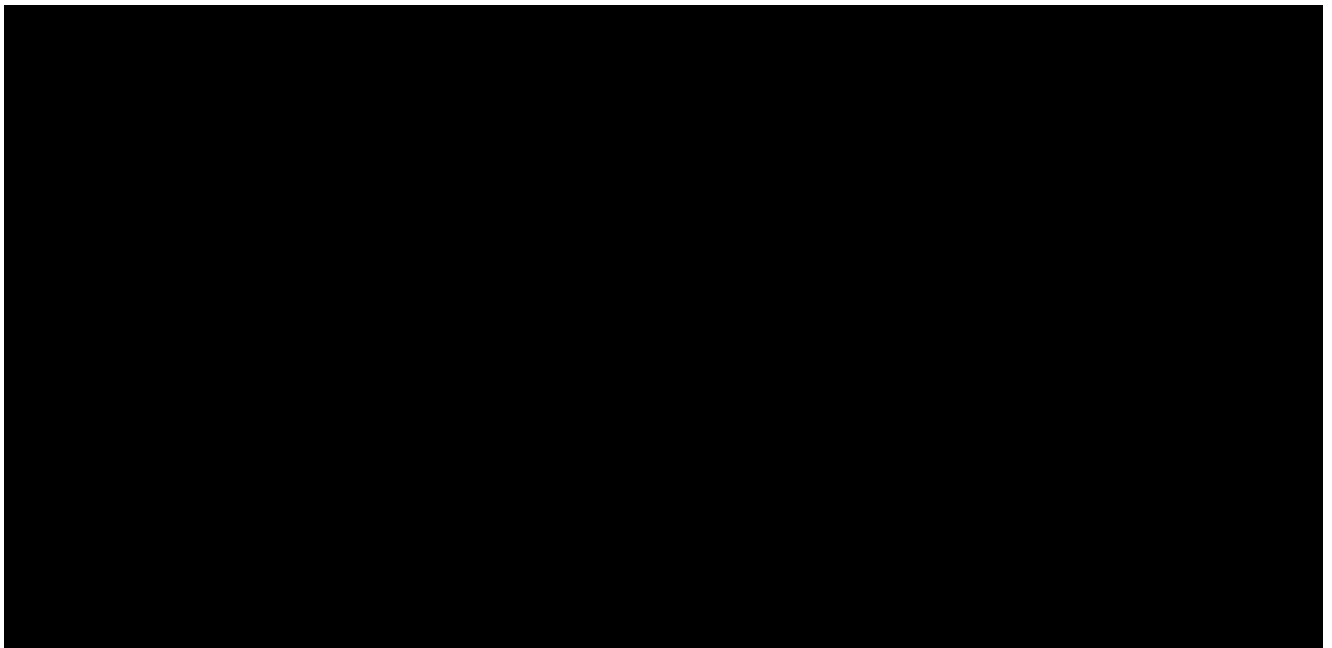
The Independent Certifier acknowledges and agrees that the minimum levels of resources set out in this Schedule 1 are minimum requirements only and do not in any way limit or otherwise affect the obligations of the Independent Certifier to perform the Services in accordance with this deed.

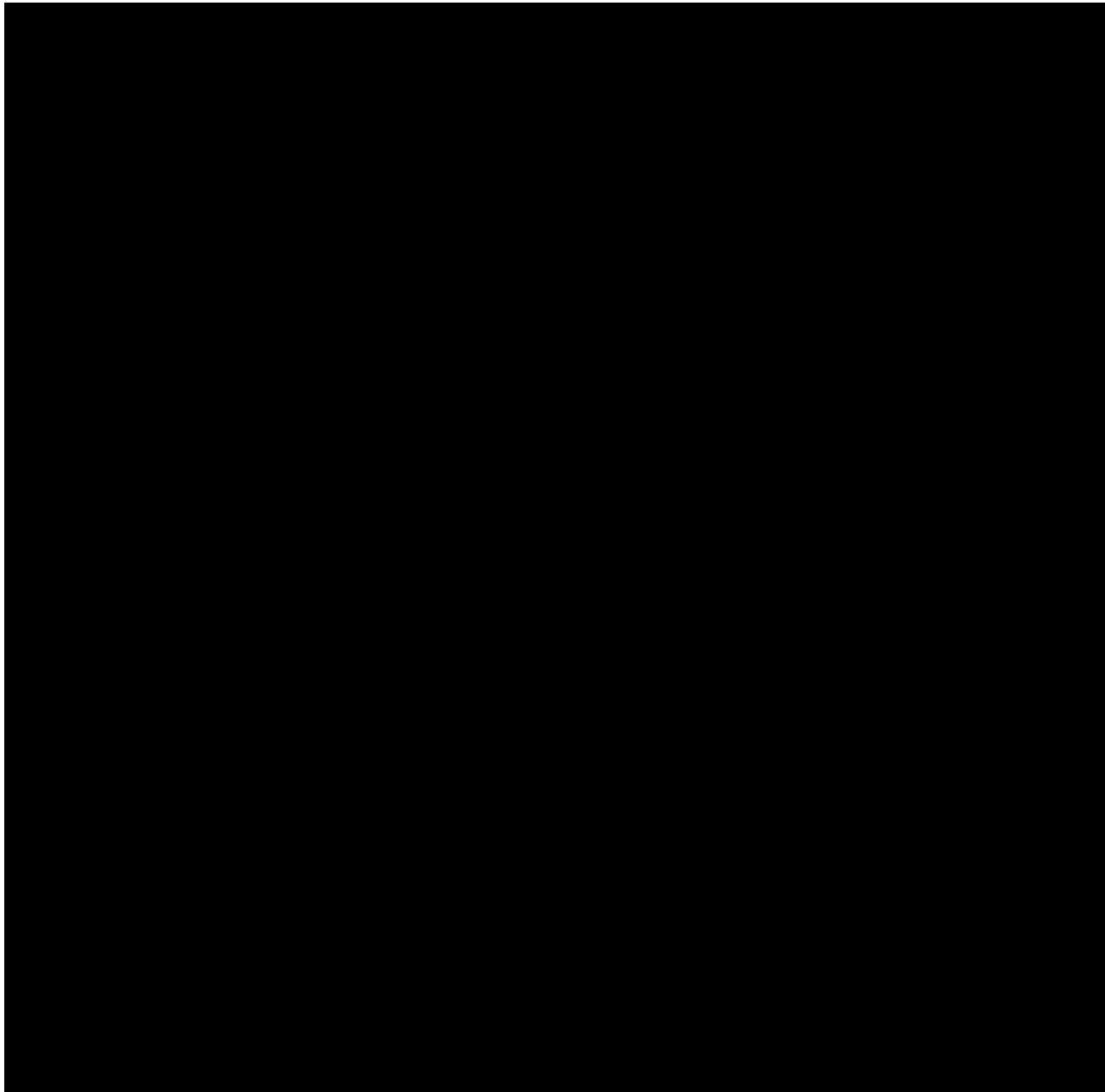
The Independent Certifier must provide at least the following key personnel to perform the Core Services, with the minimum days to be committed at each phase as set out below (**Minimum Resources Commitment**):

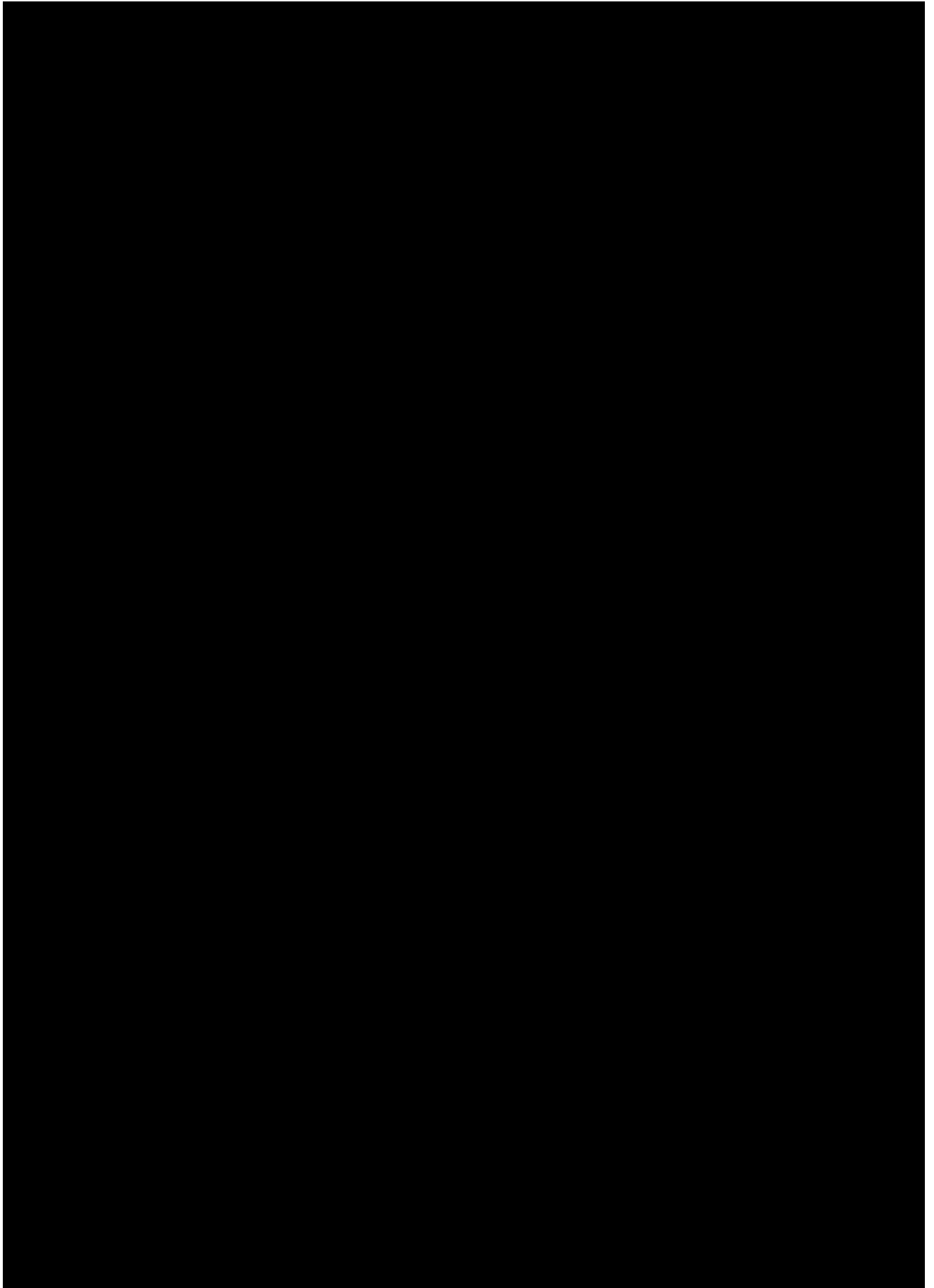
Design Phase Services Key Personnel

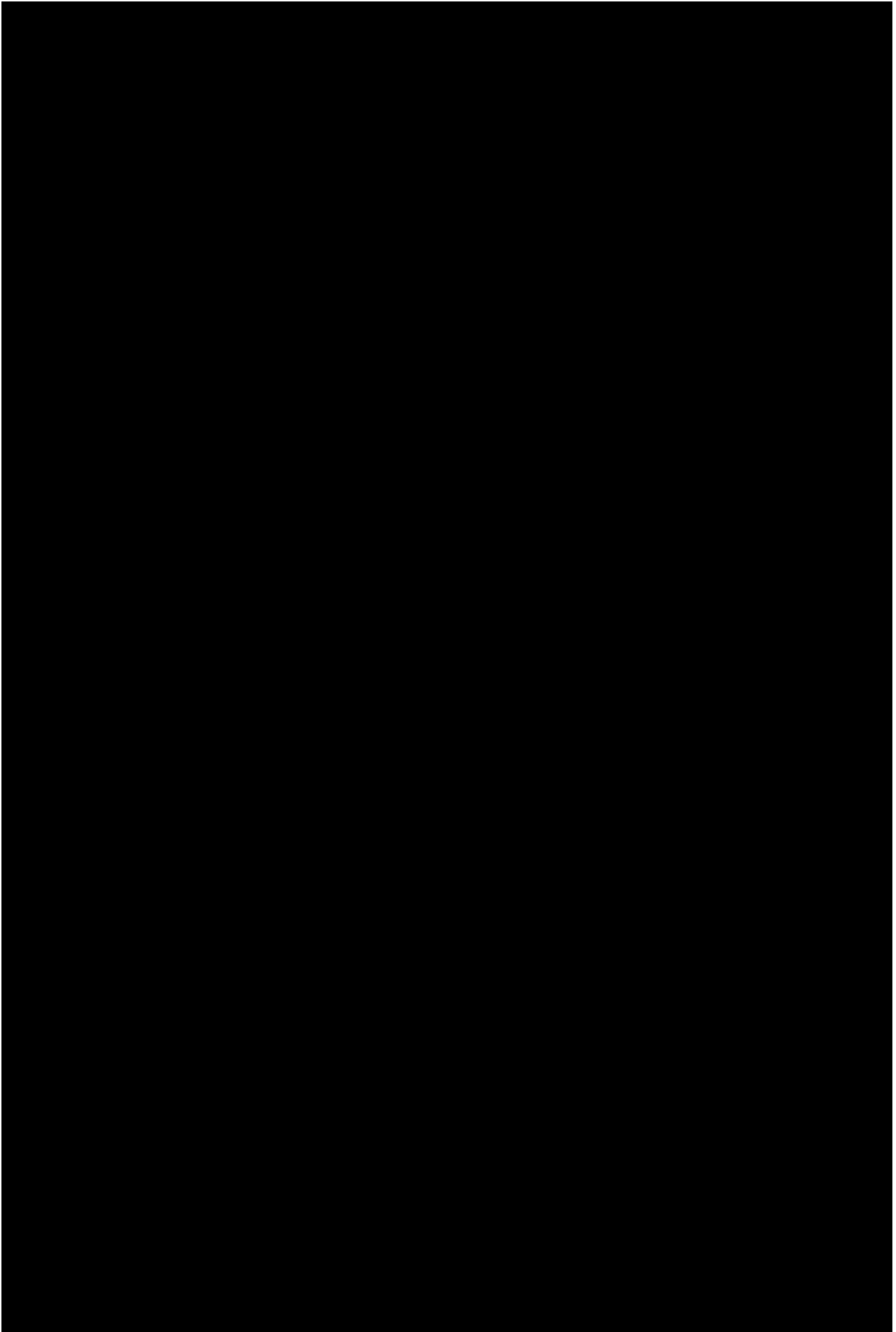


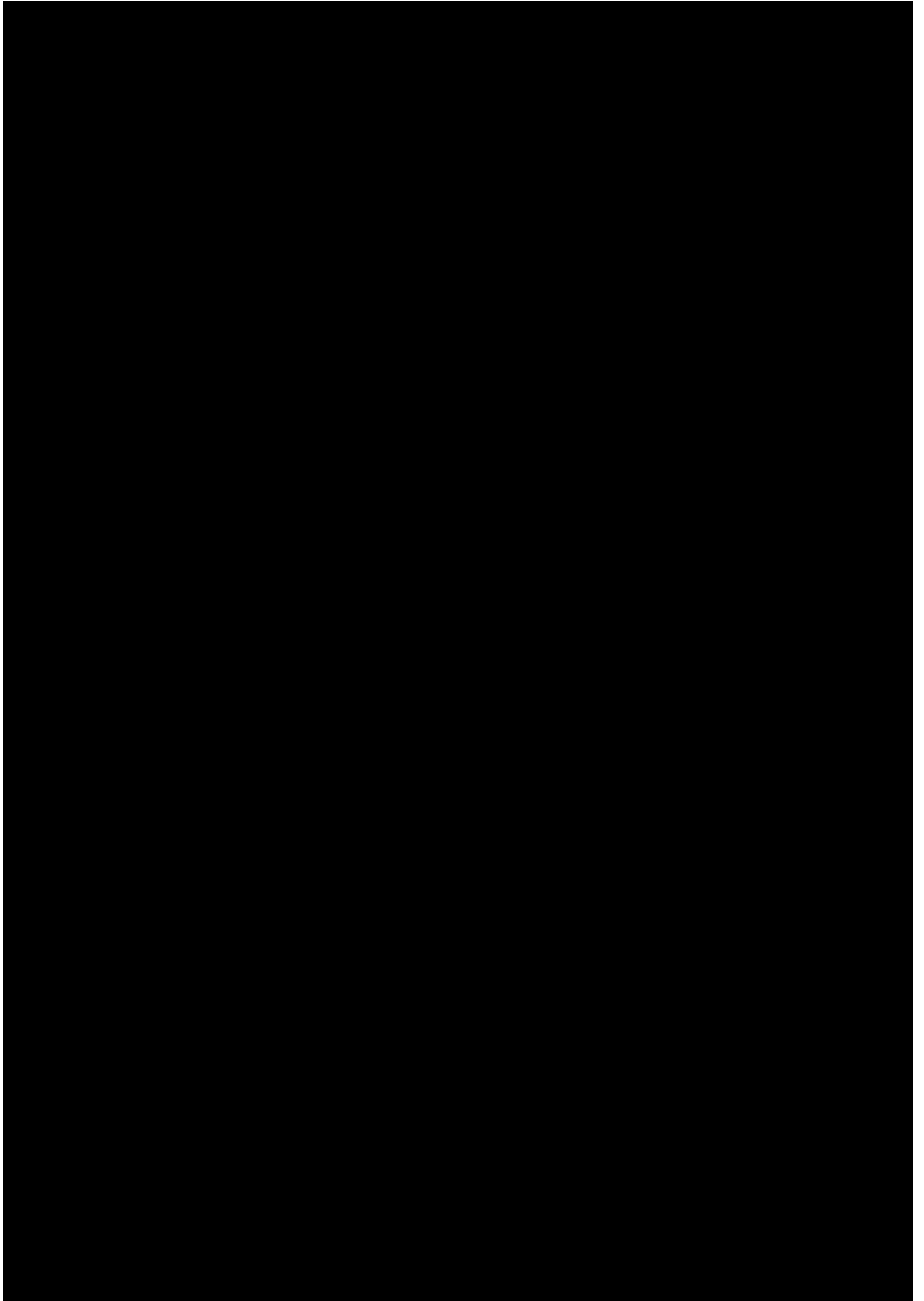
Completion Phase Services Key Personnel

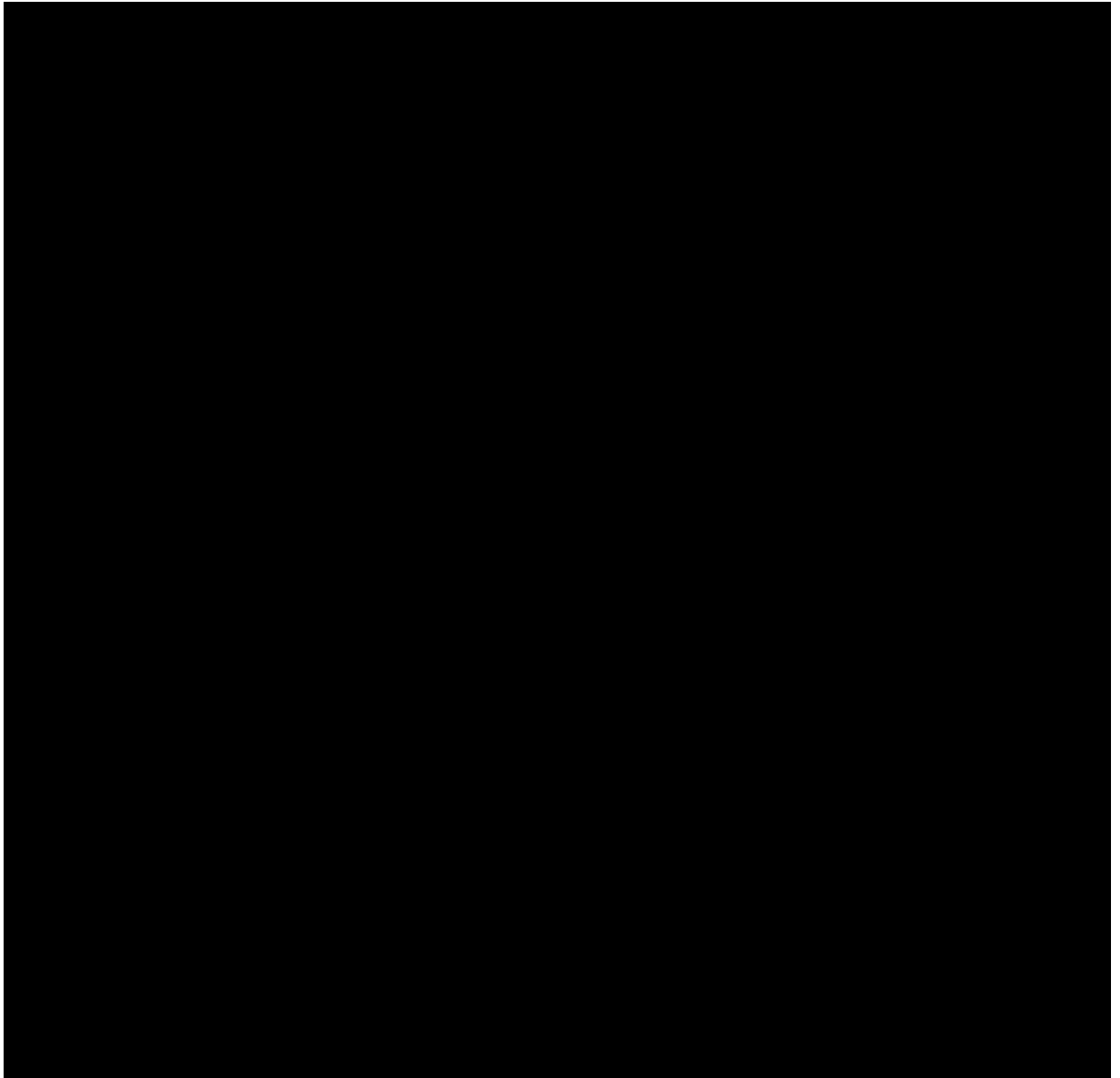




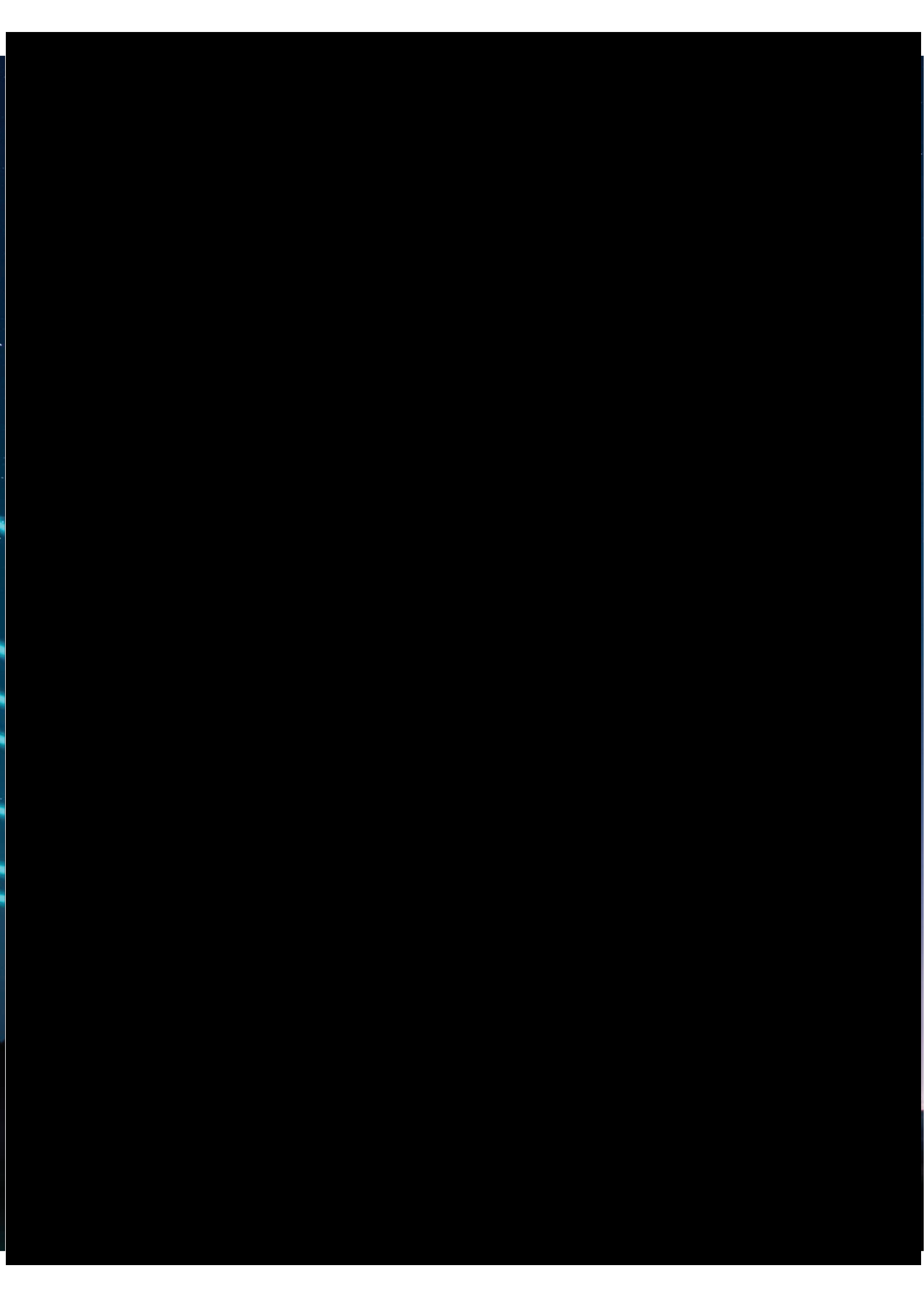




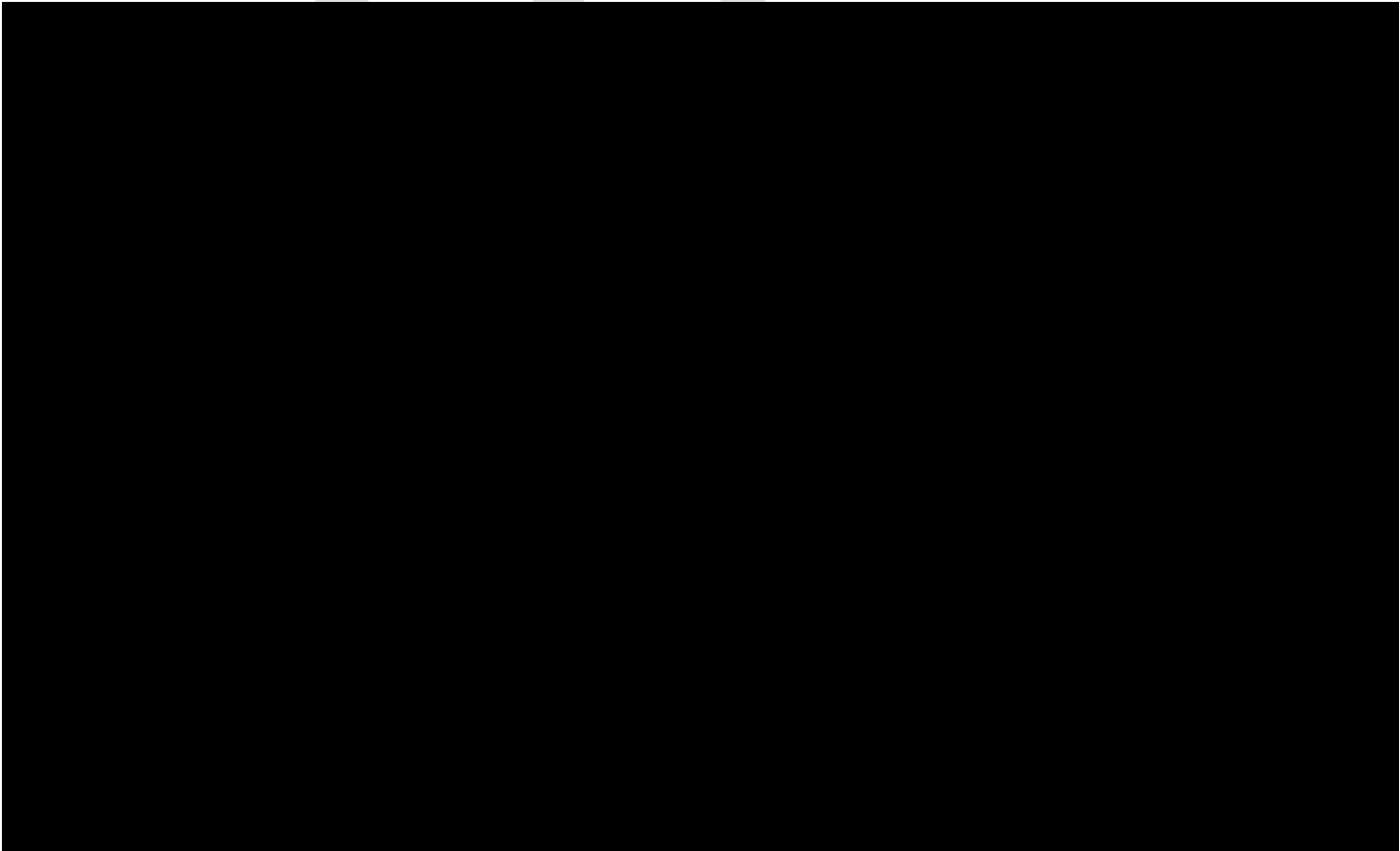




Attachment 1 – Initial Certification and Monitoring Plan



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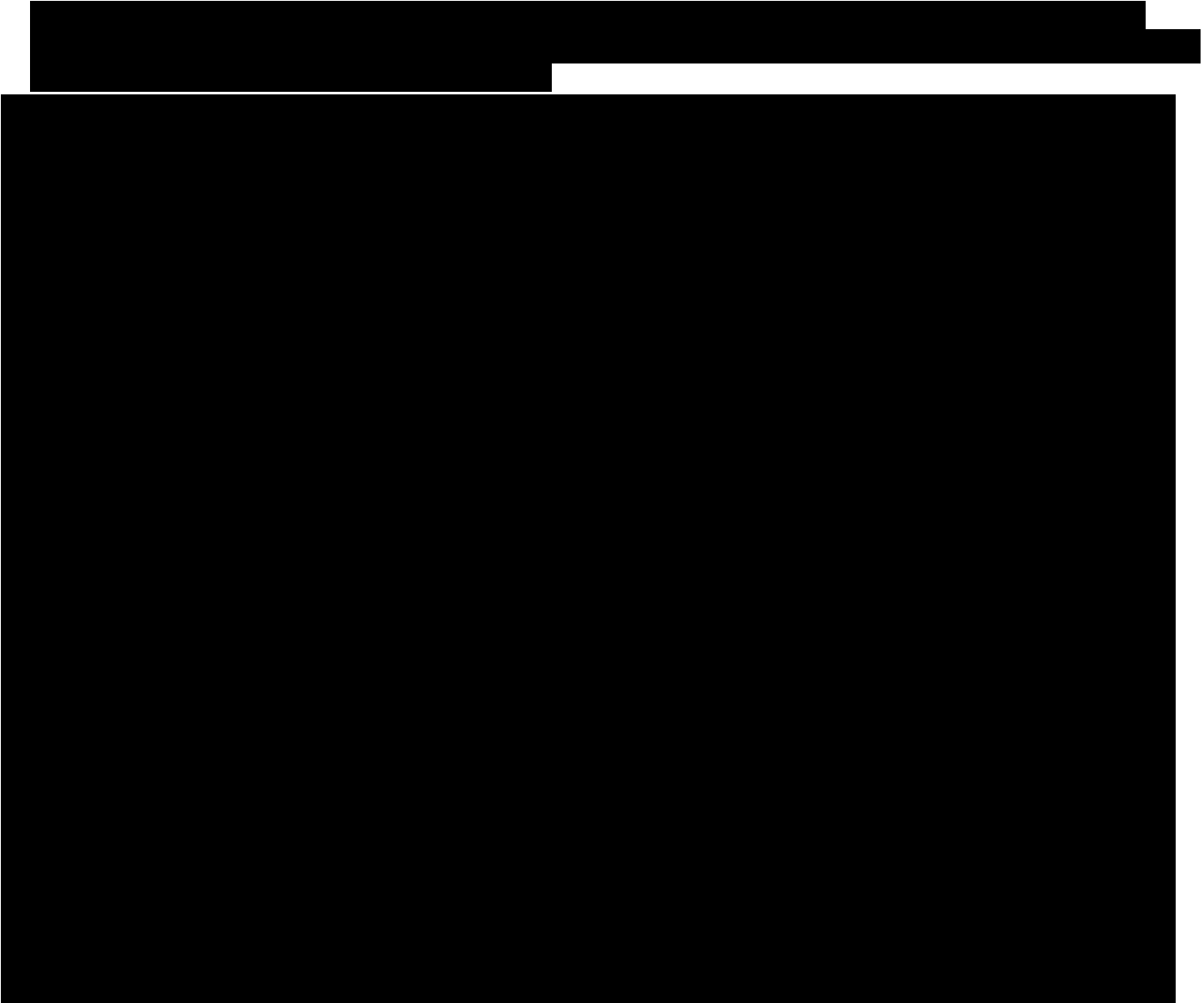


Figure 3 Project Plan Review Process



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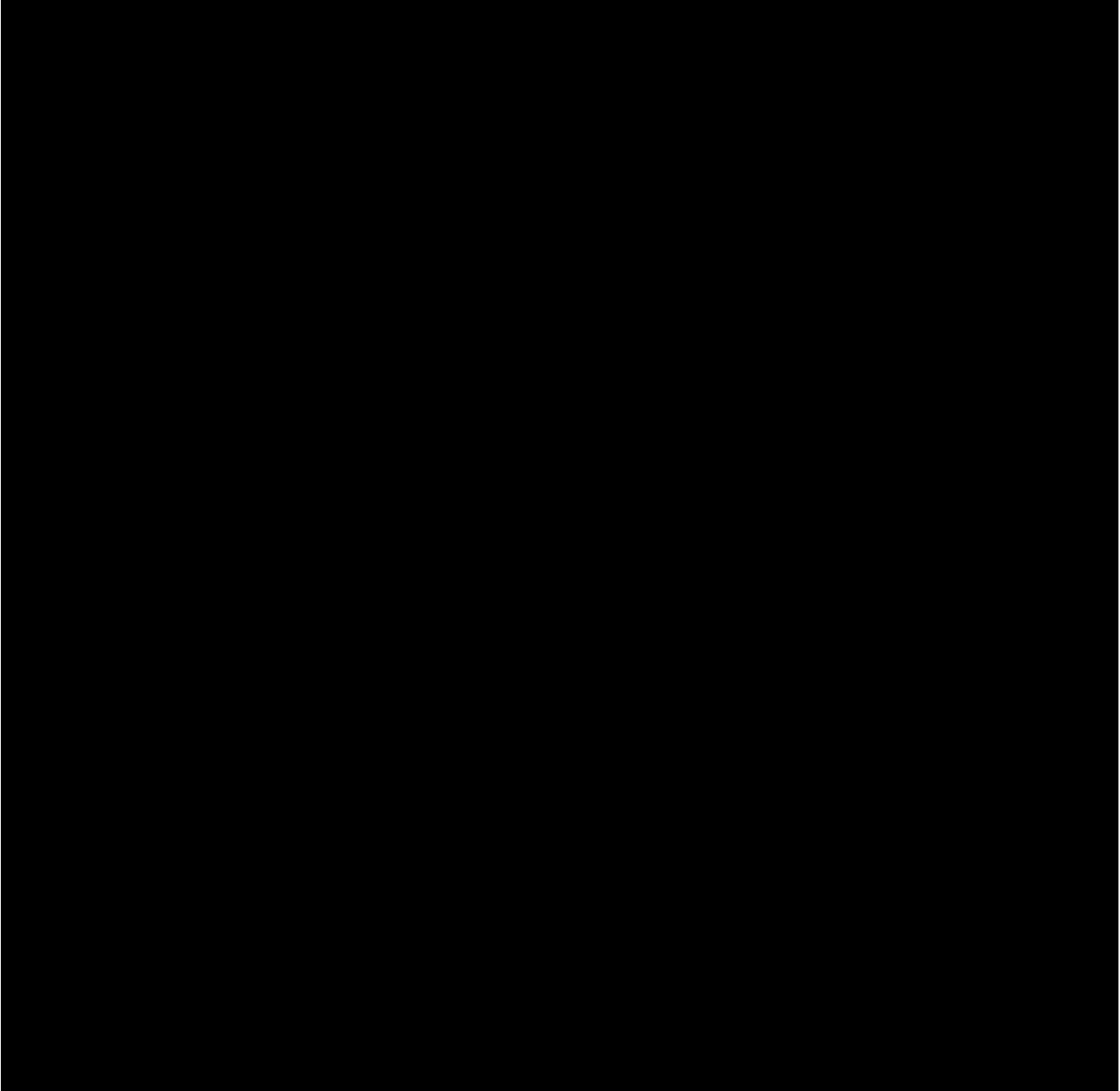
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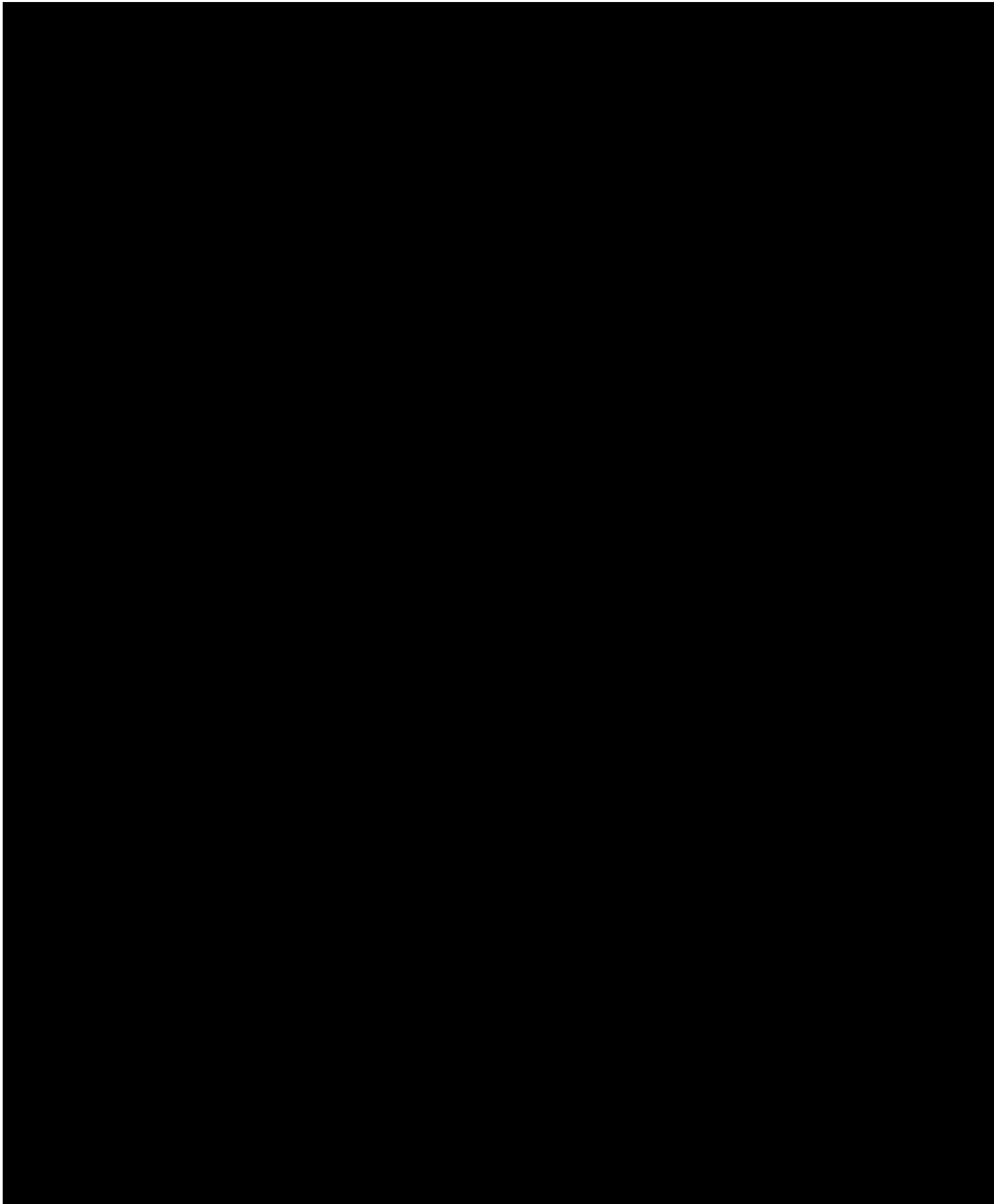
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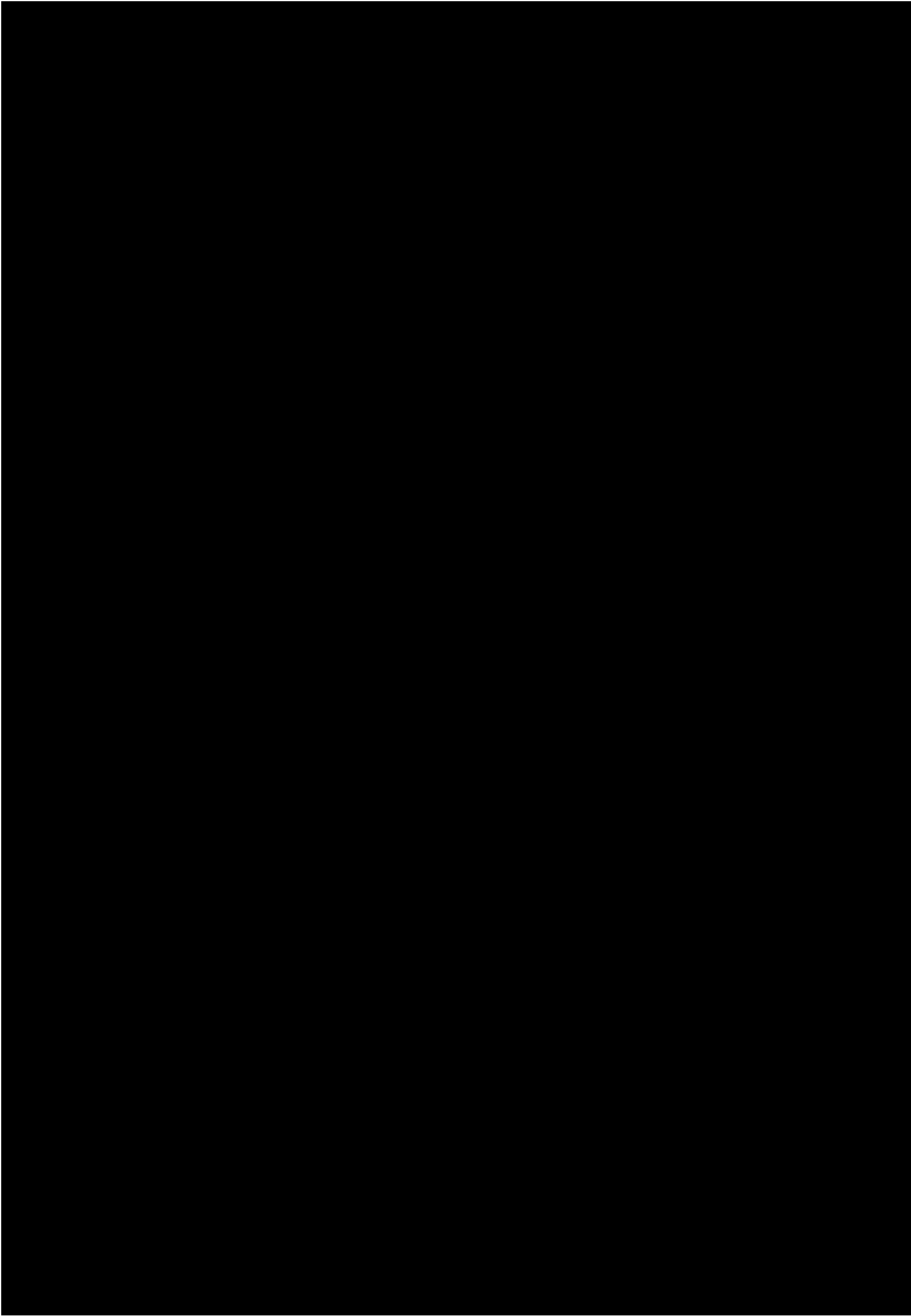
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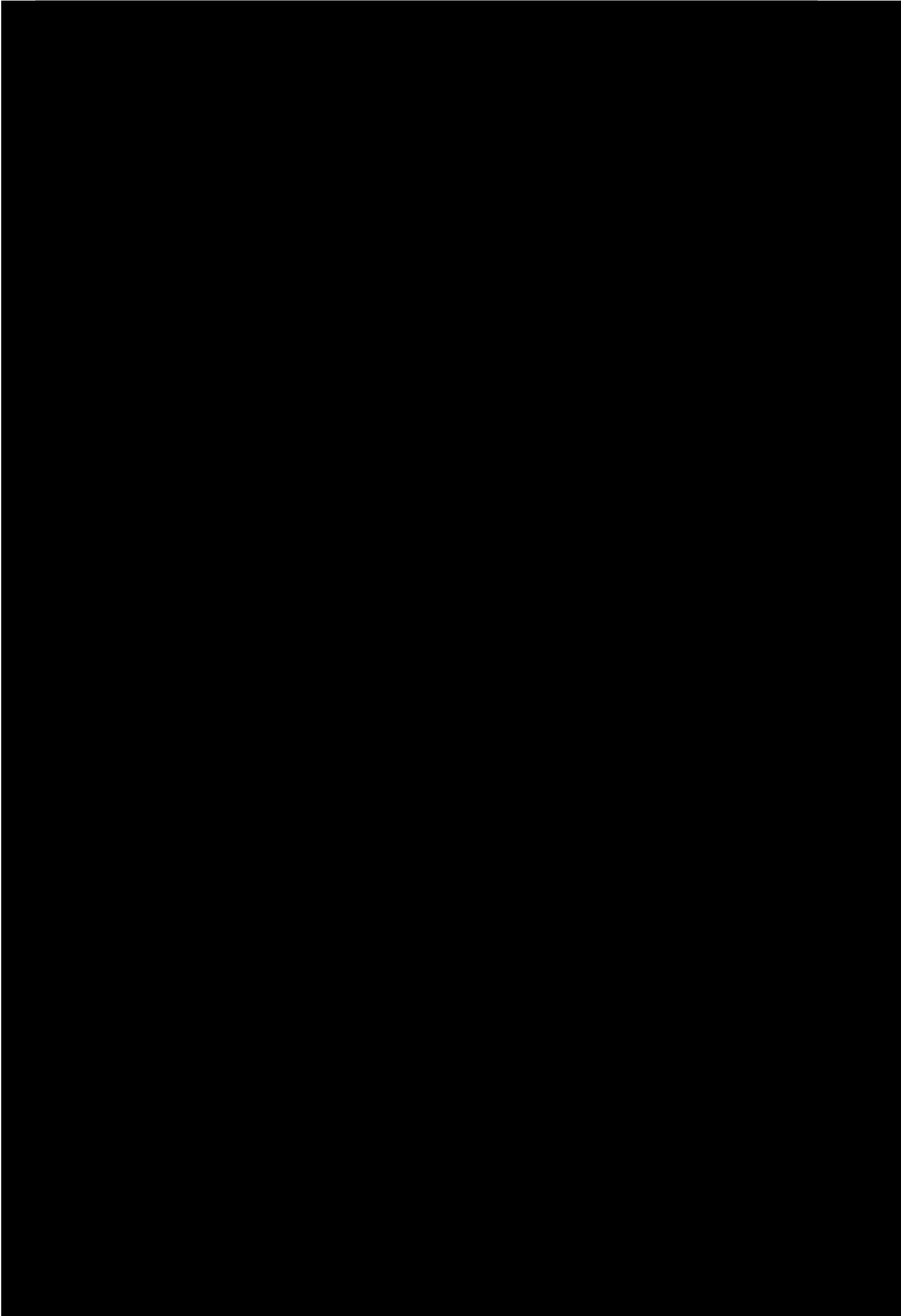
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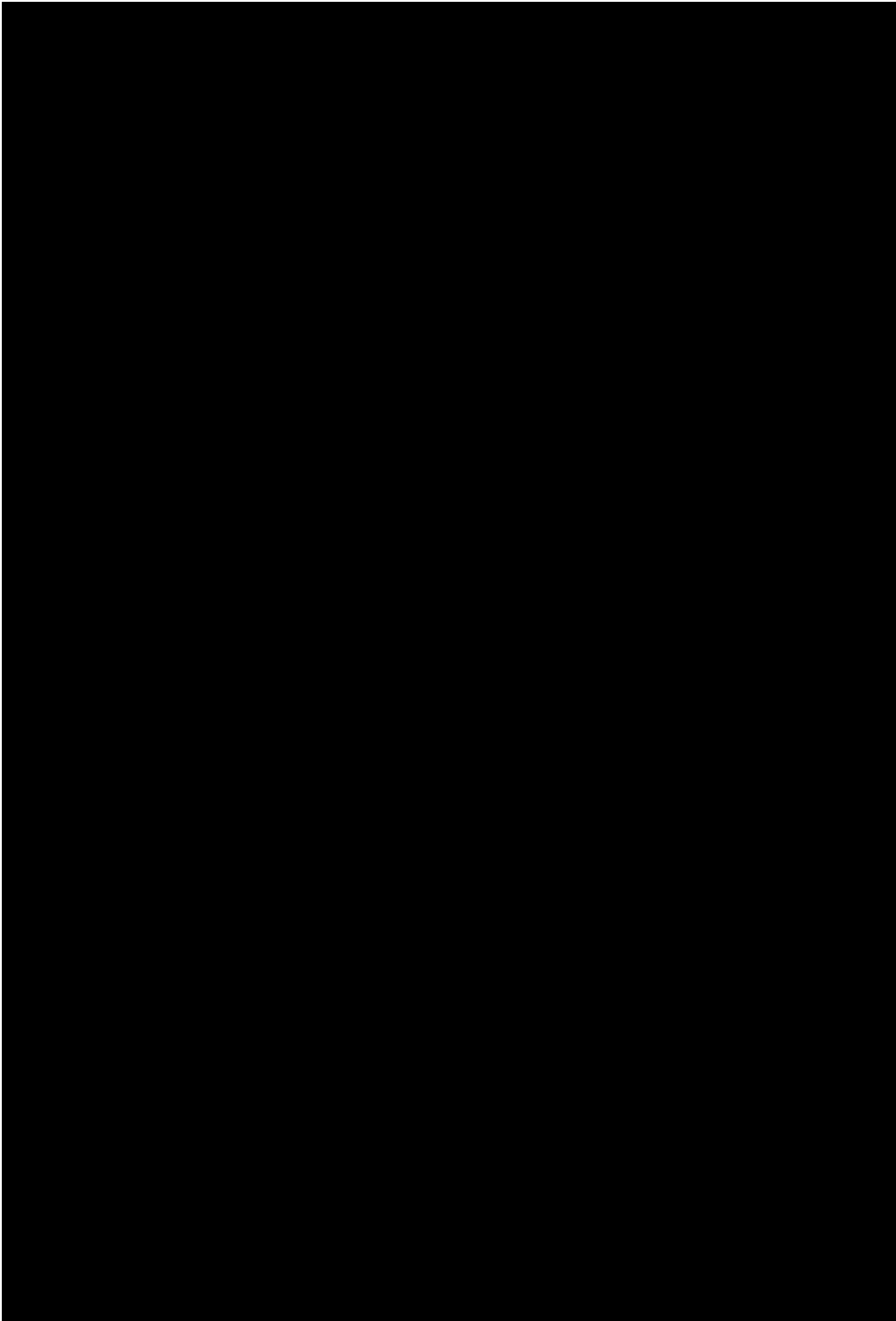
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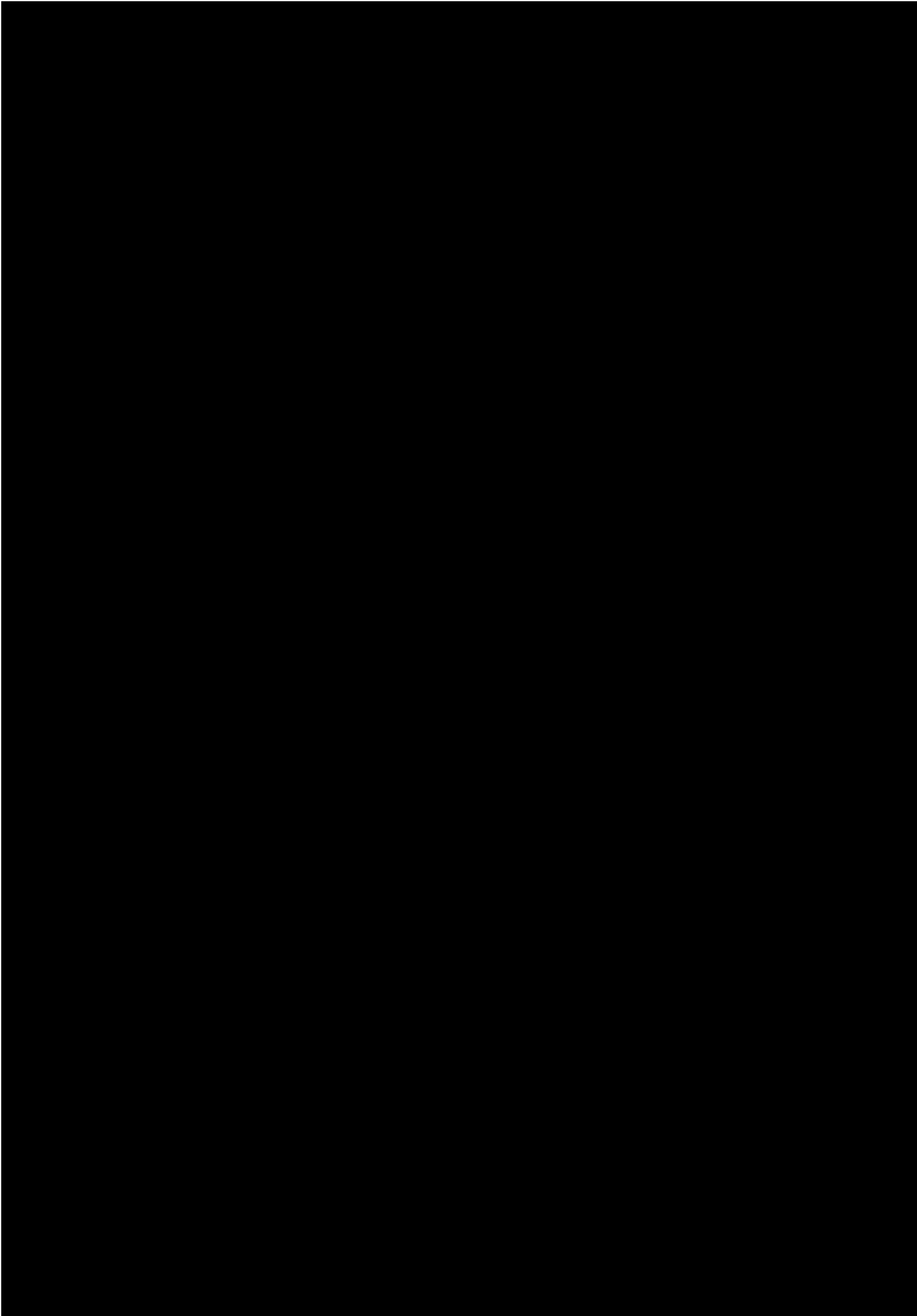
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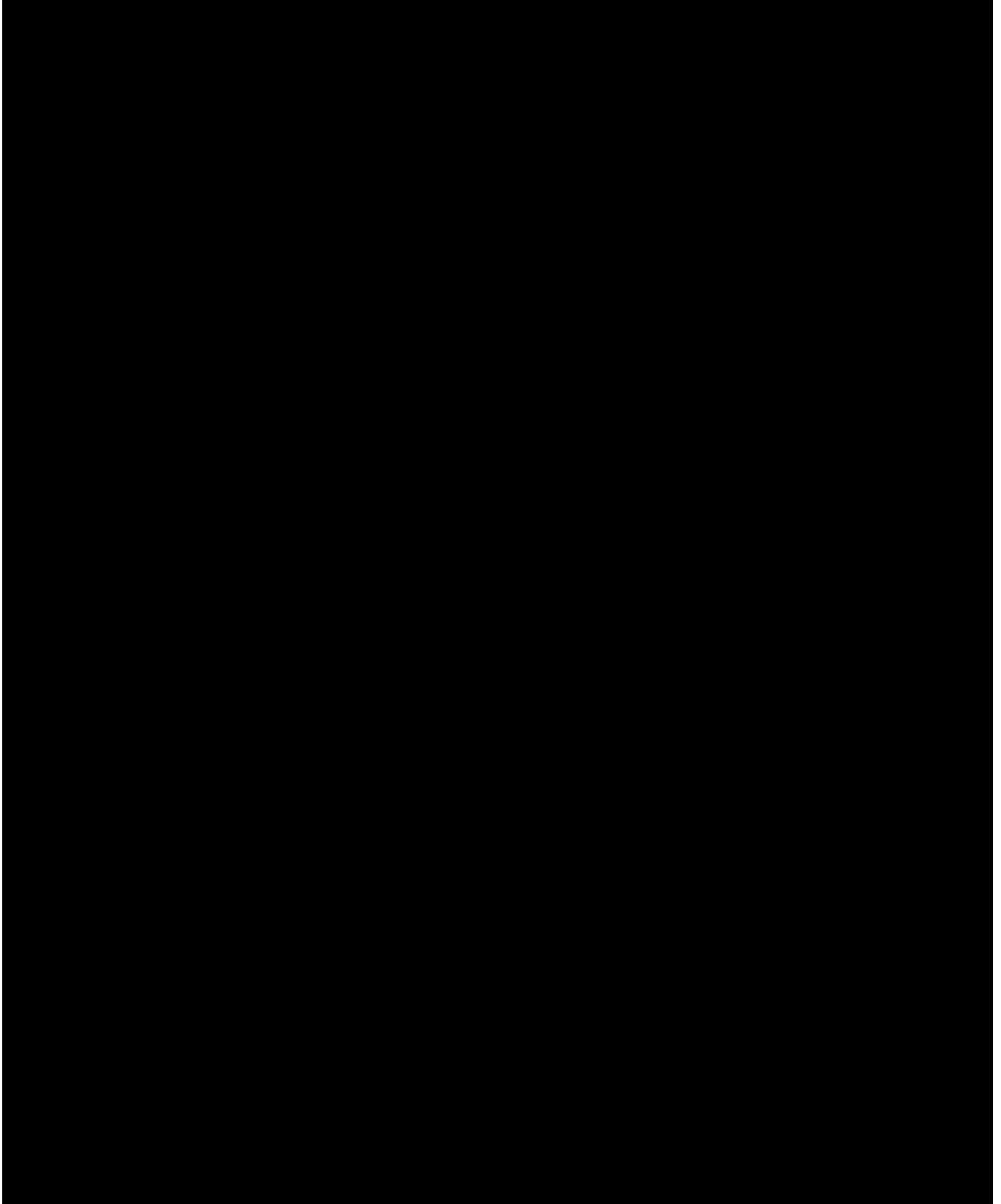
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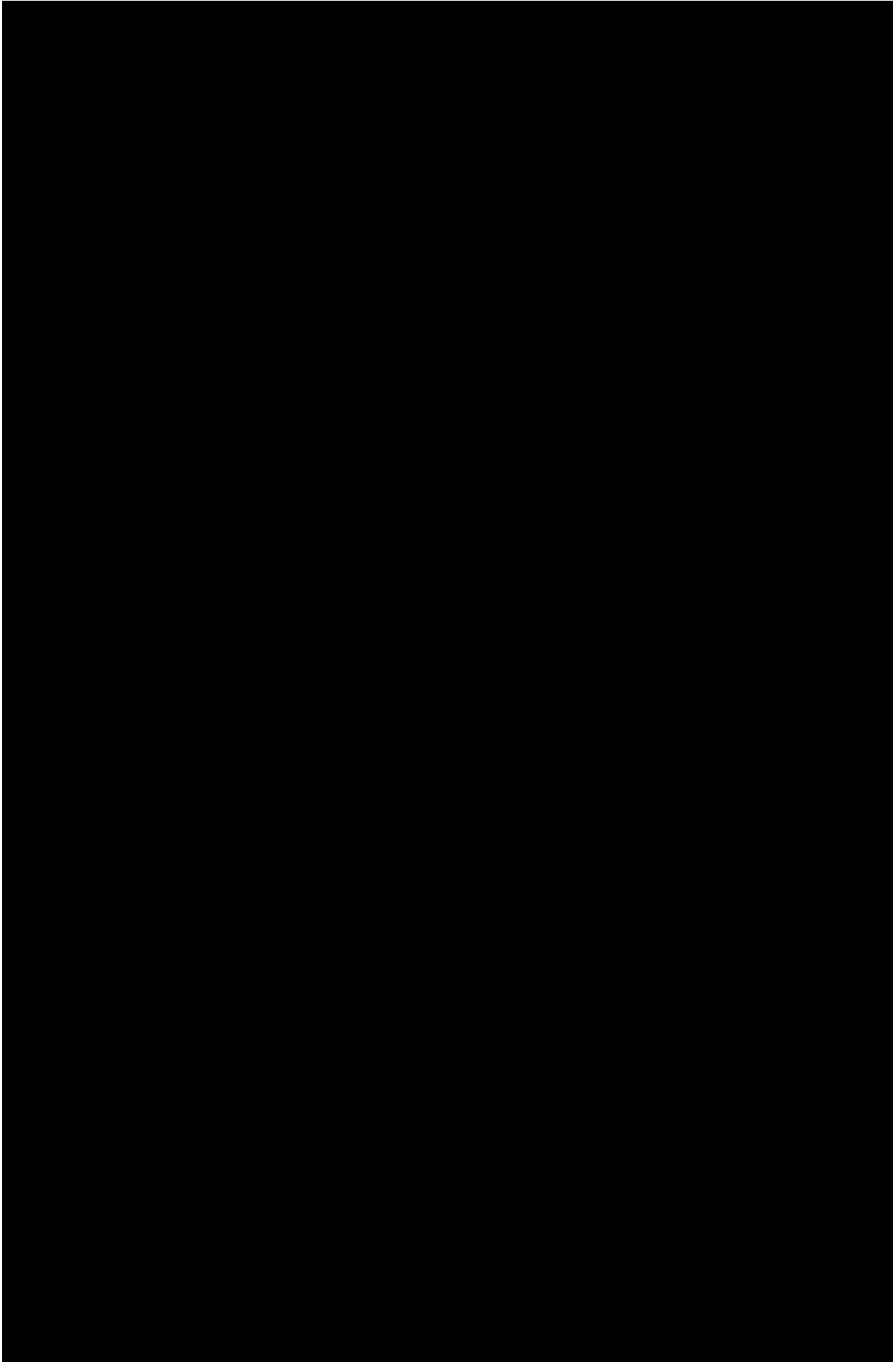
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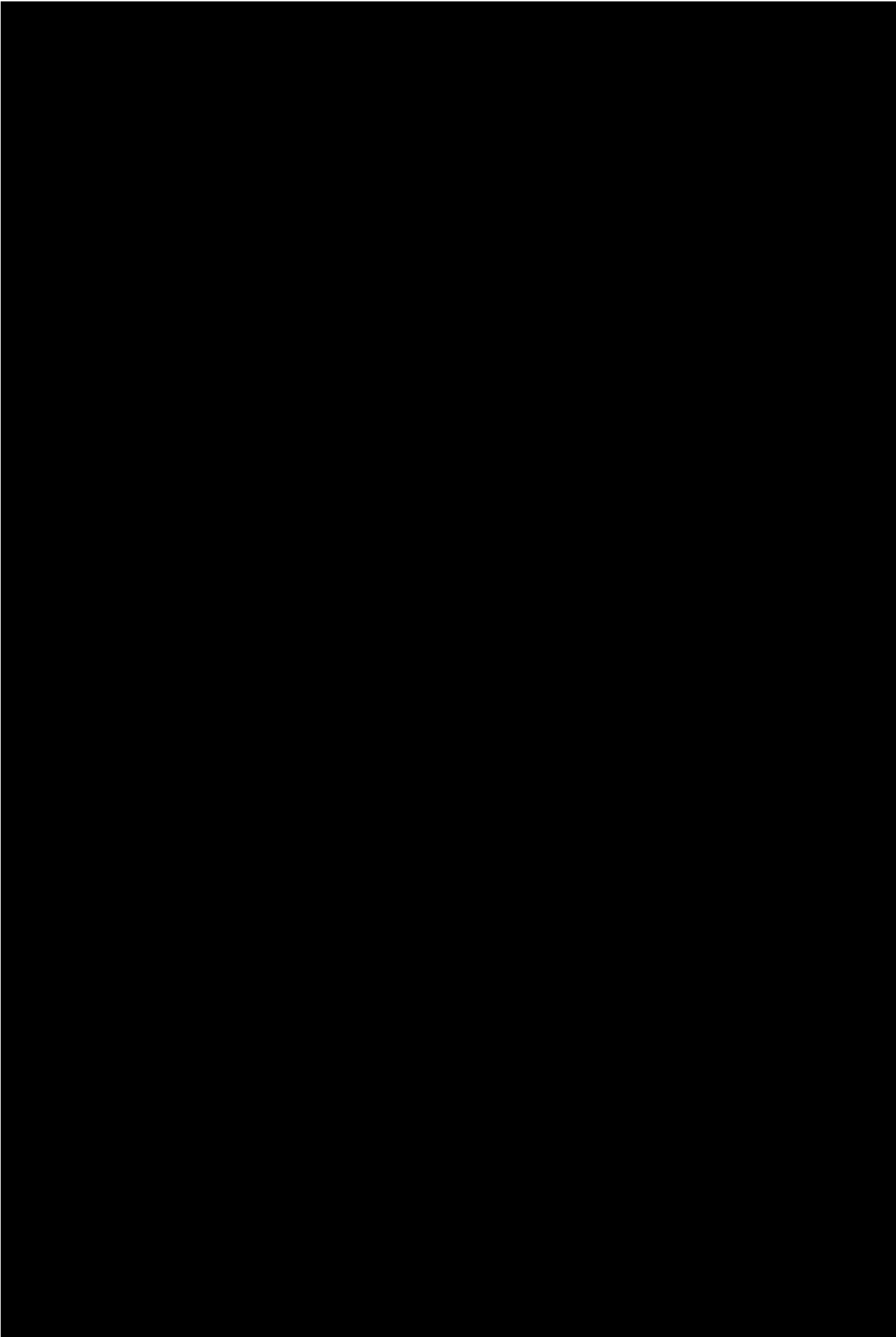
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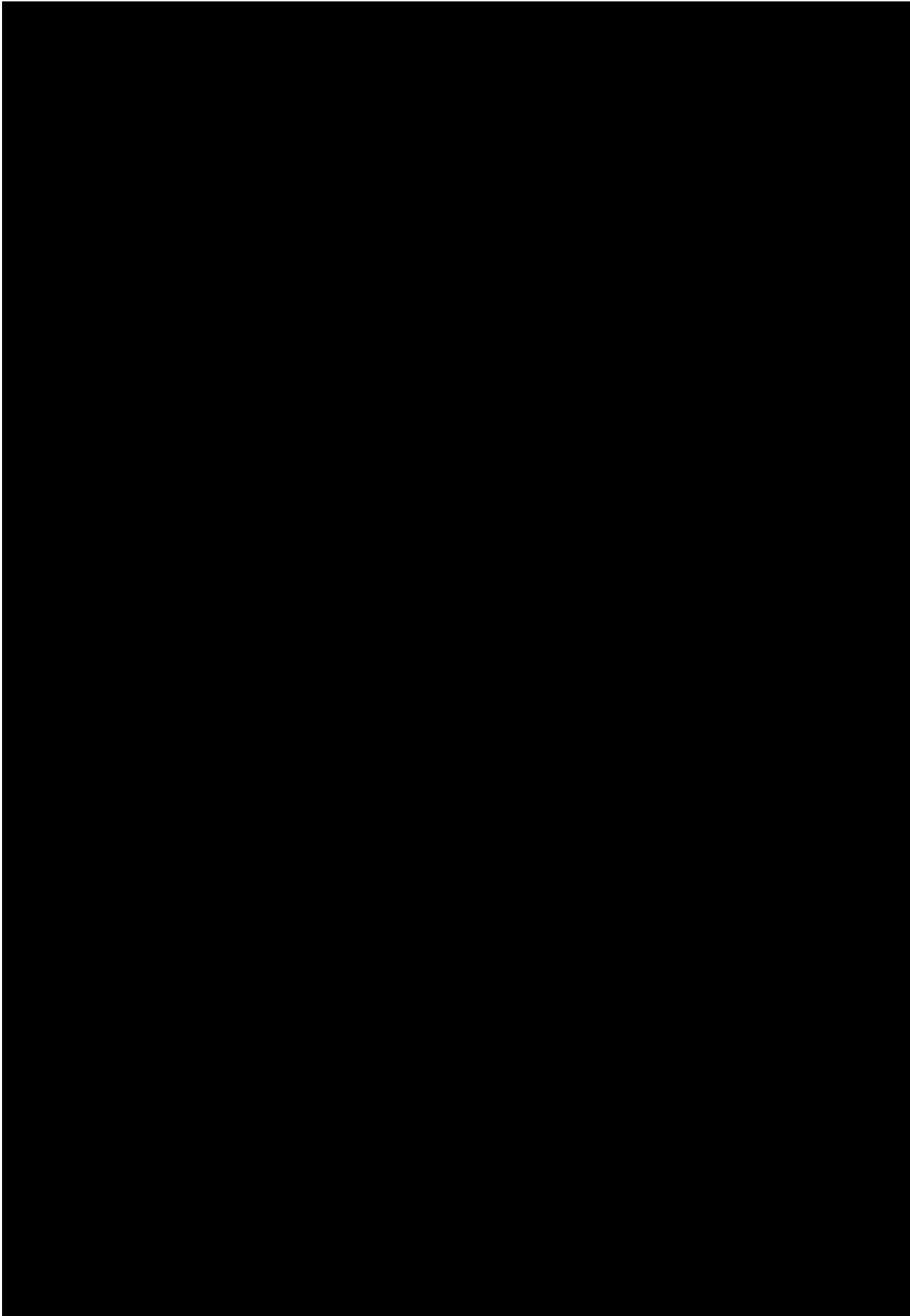


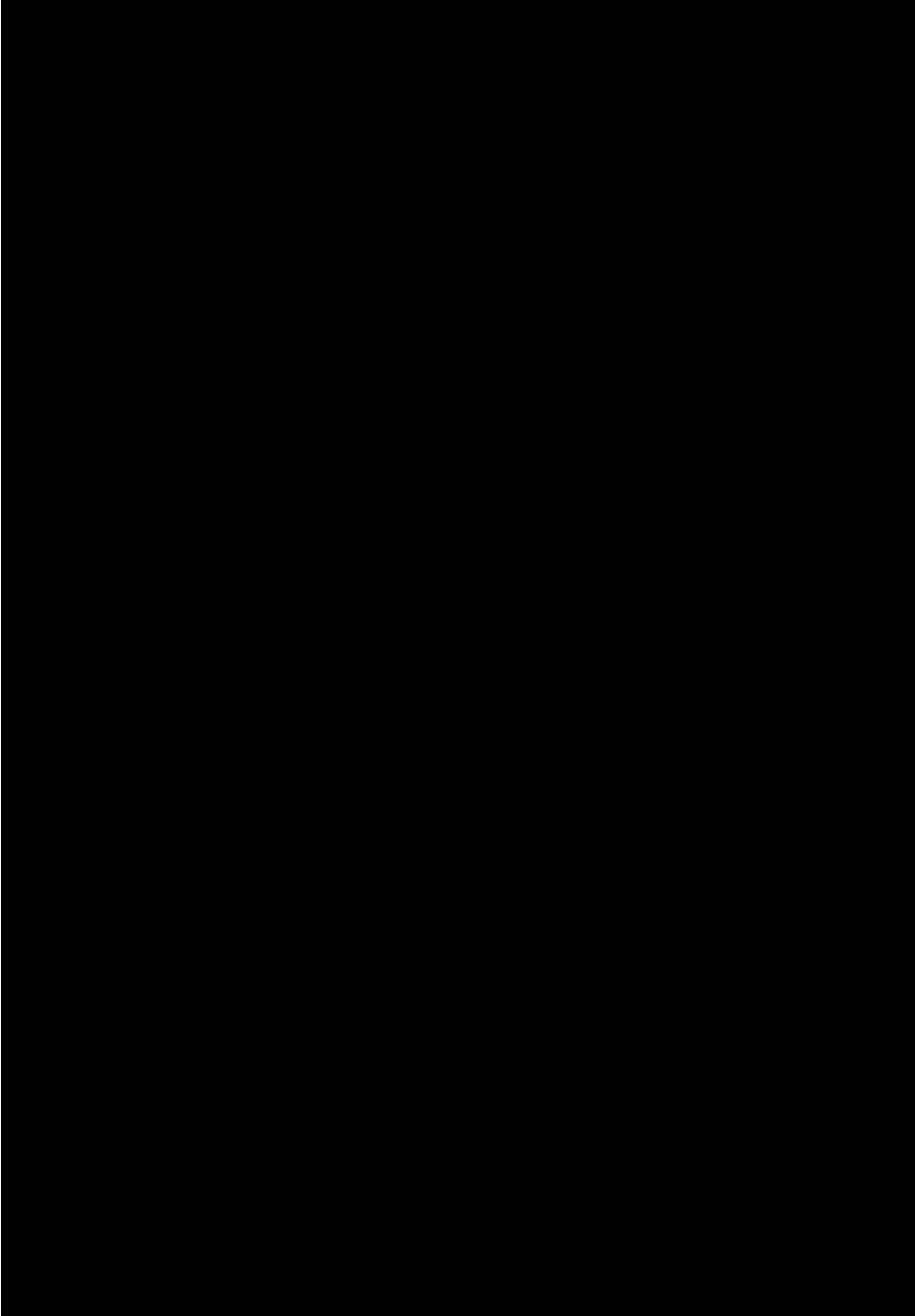
Schedule 2 – Payment Schedule

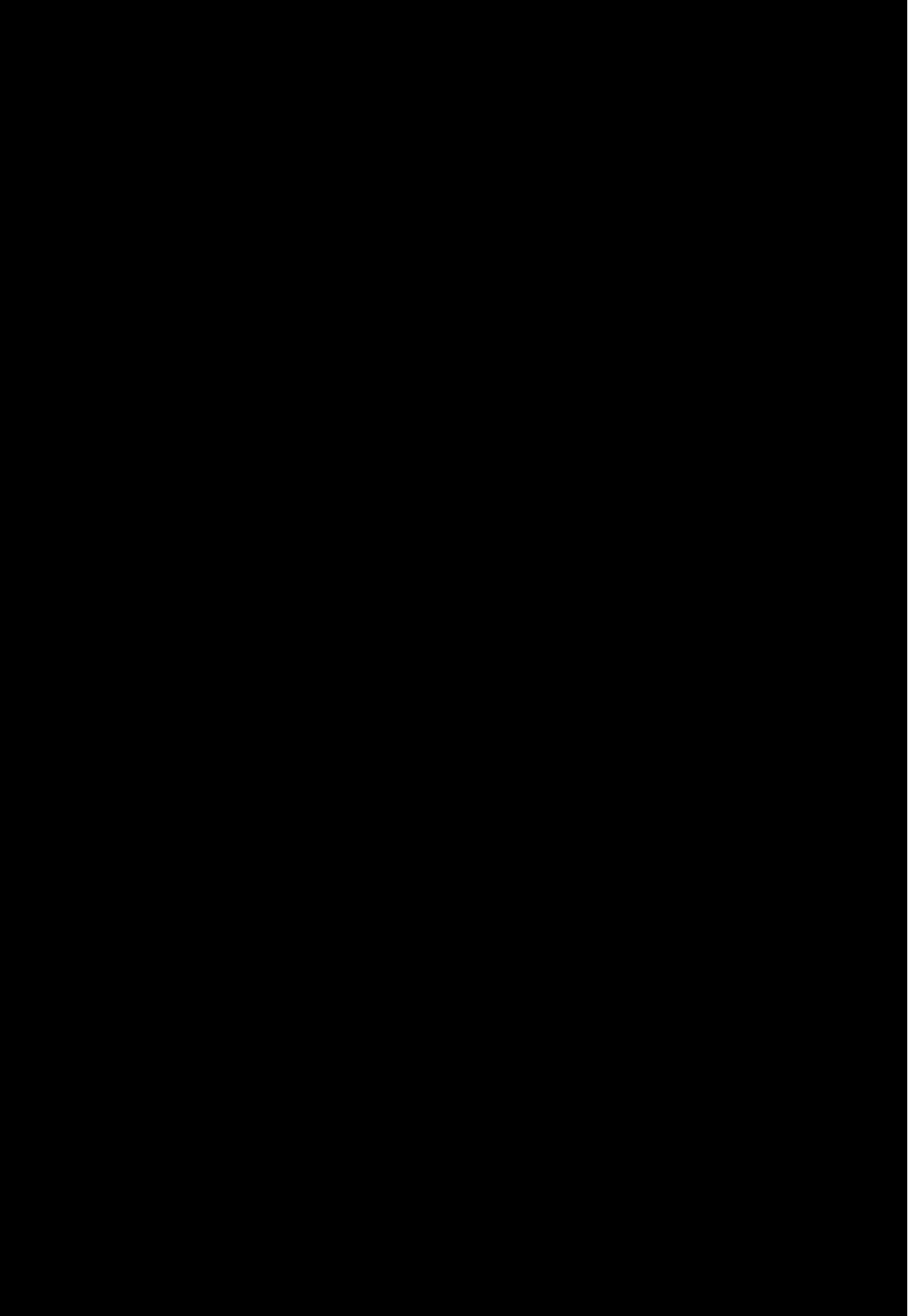


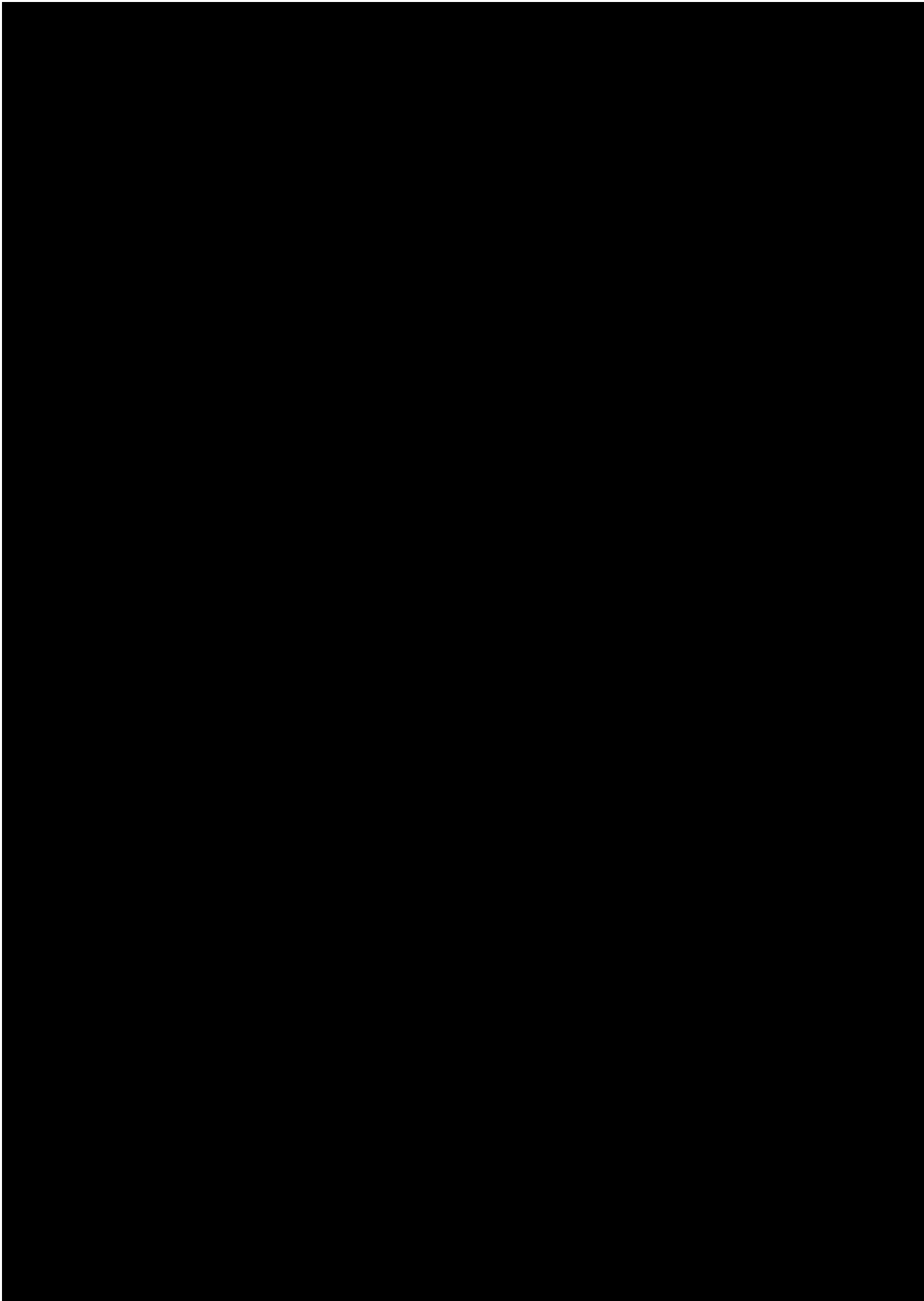


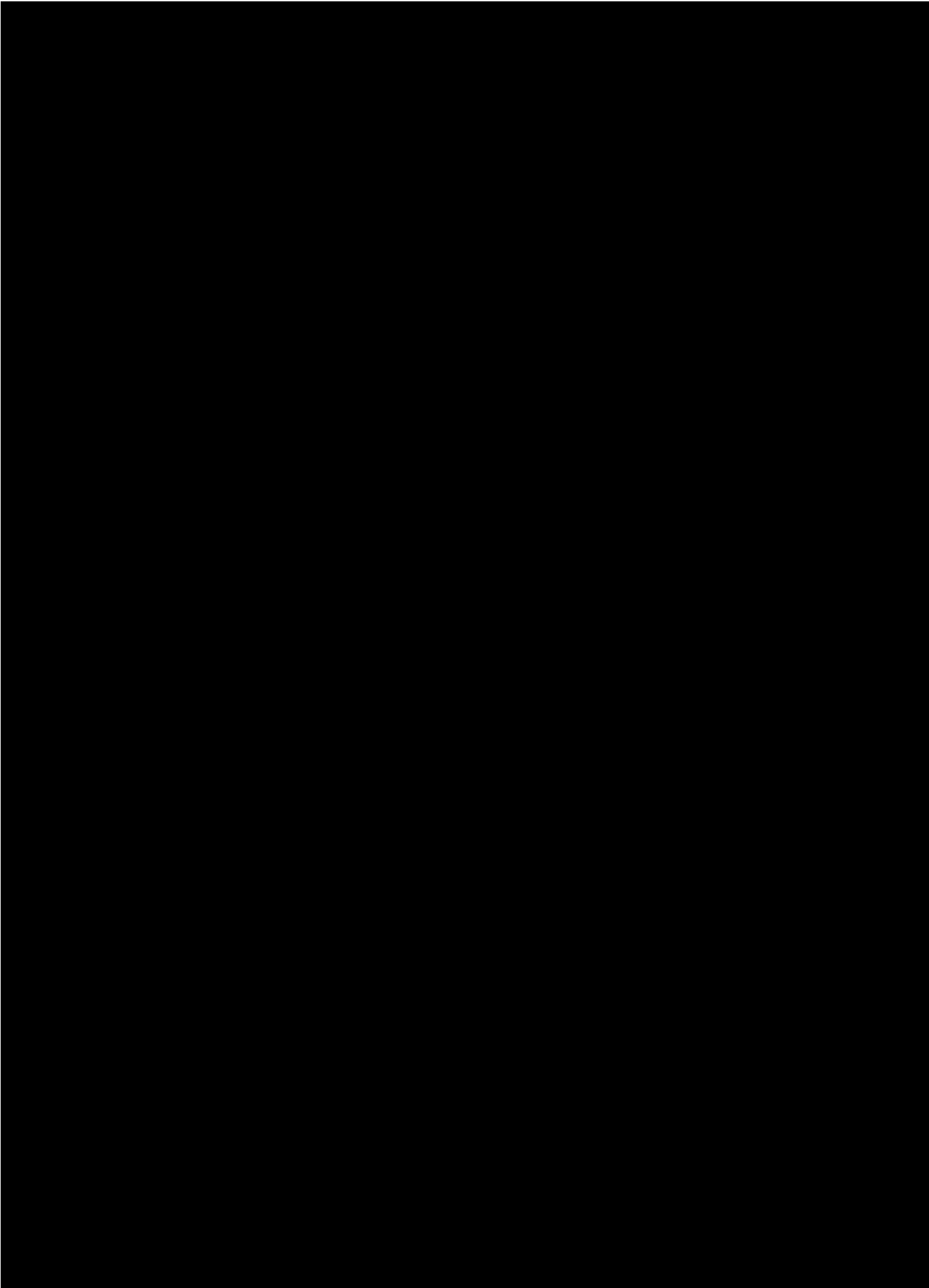


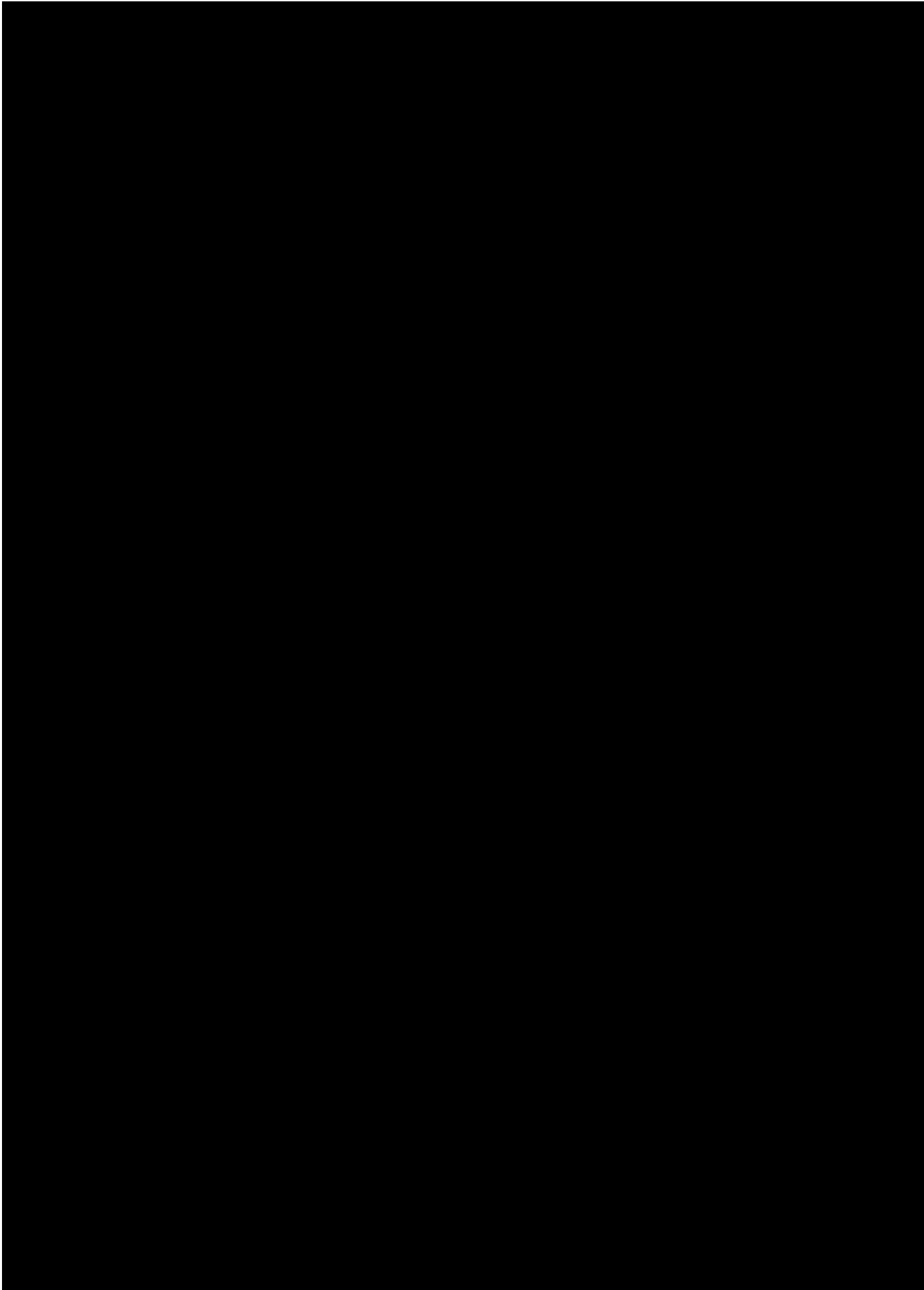


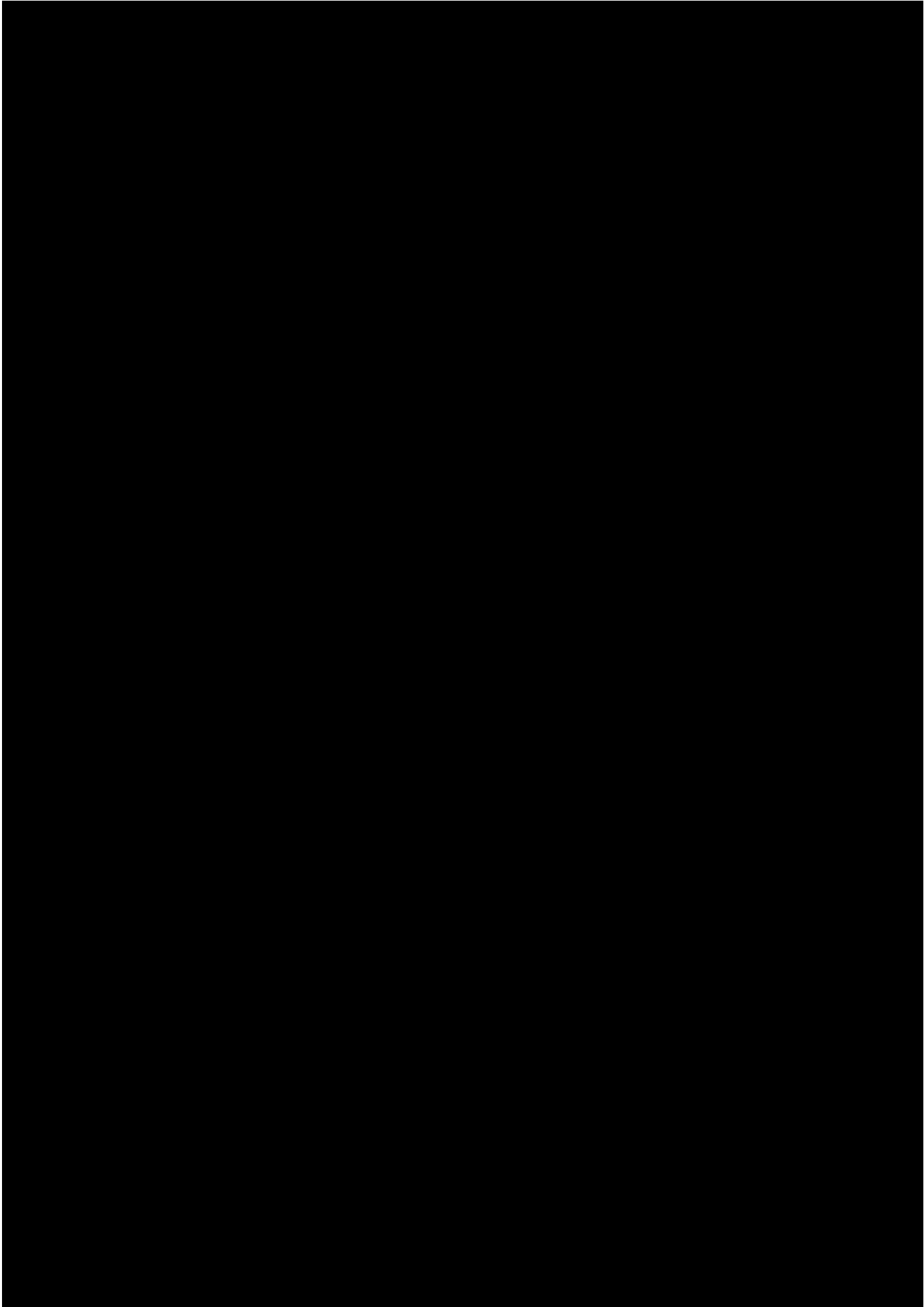


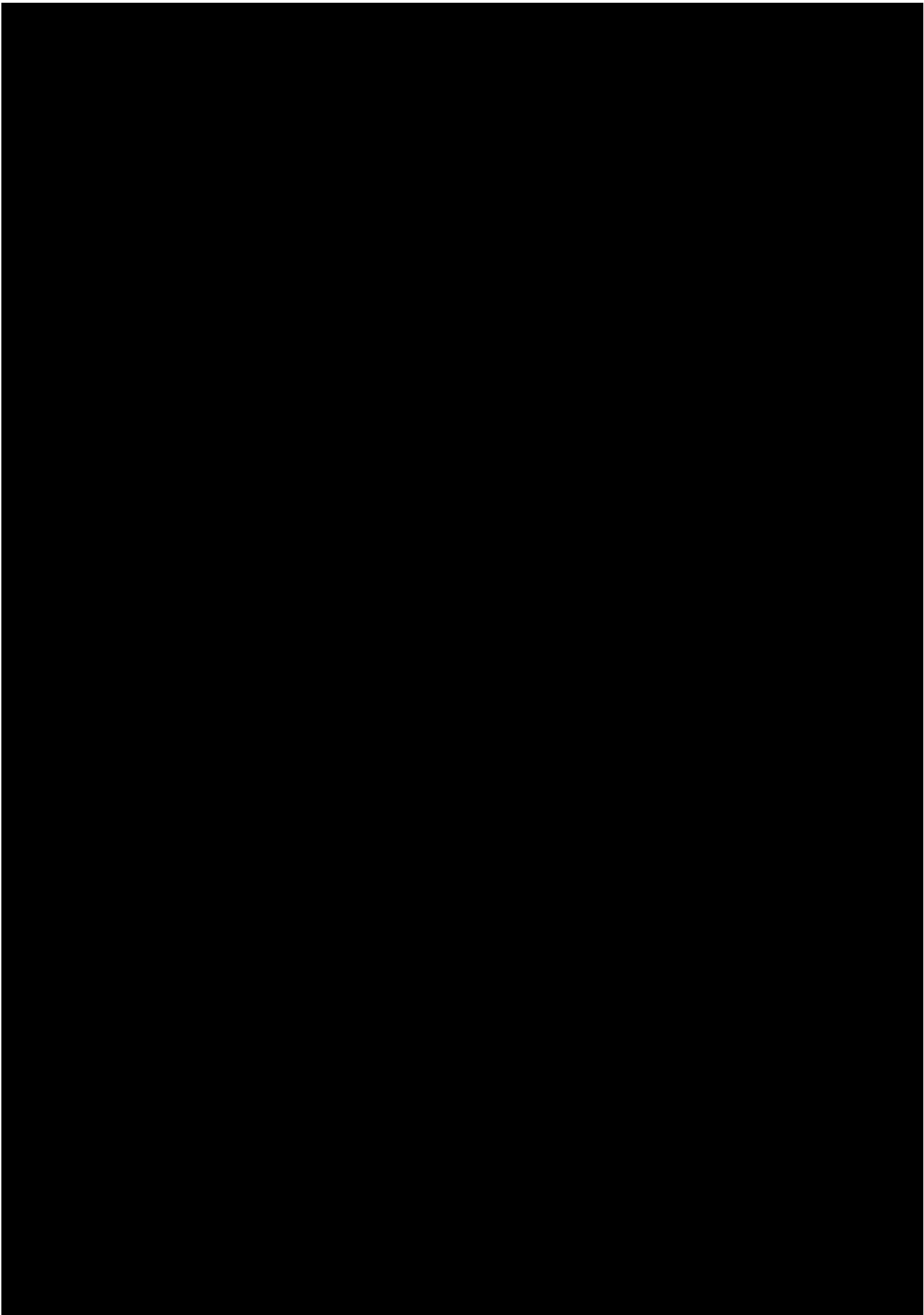


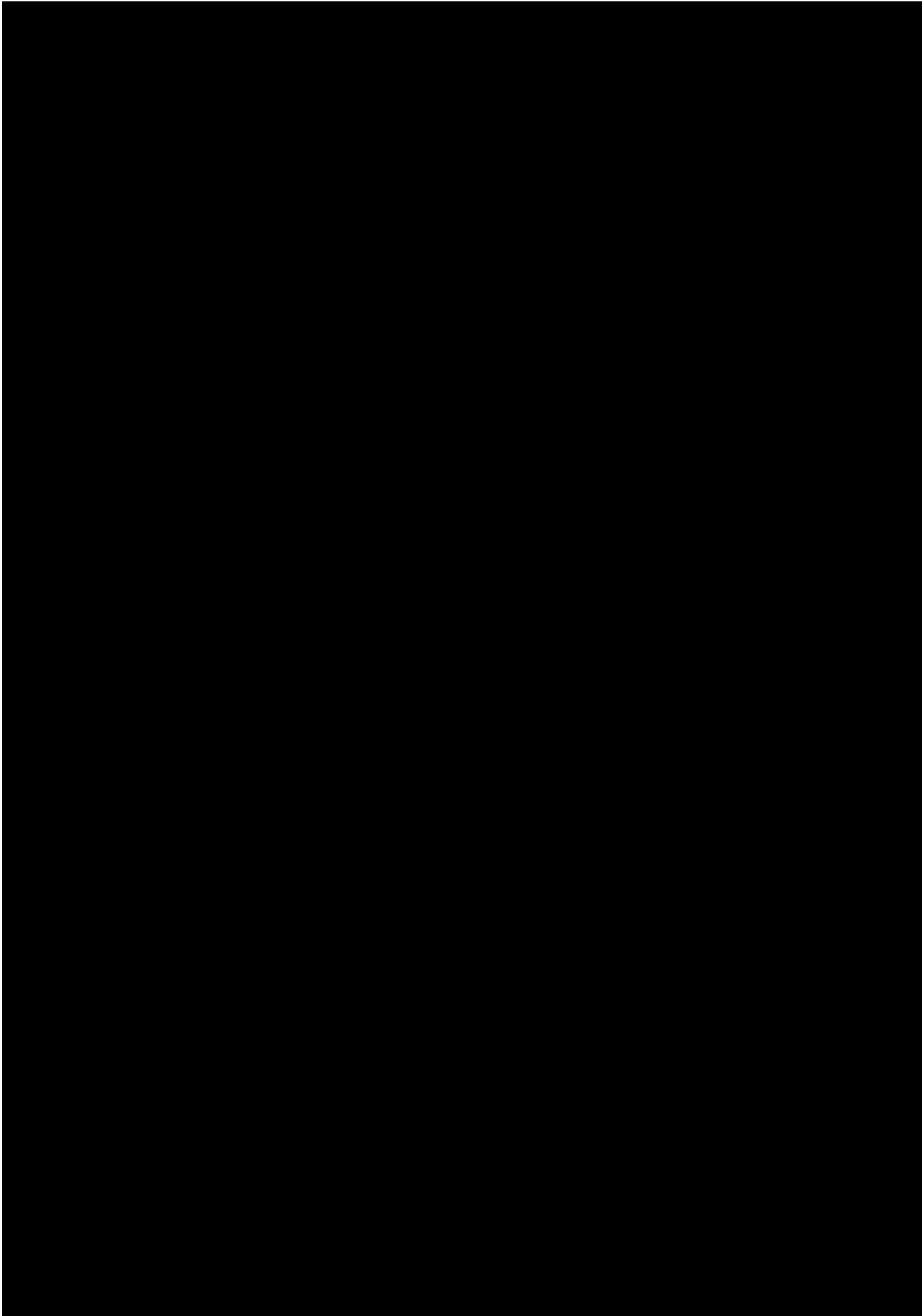


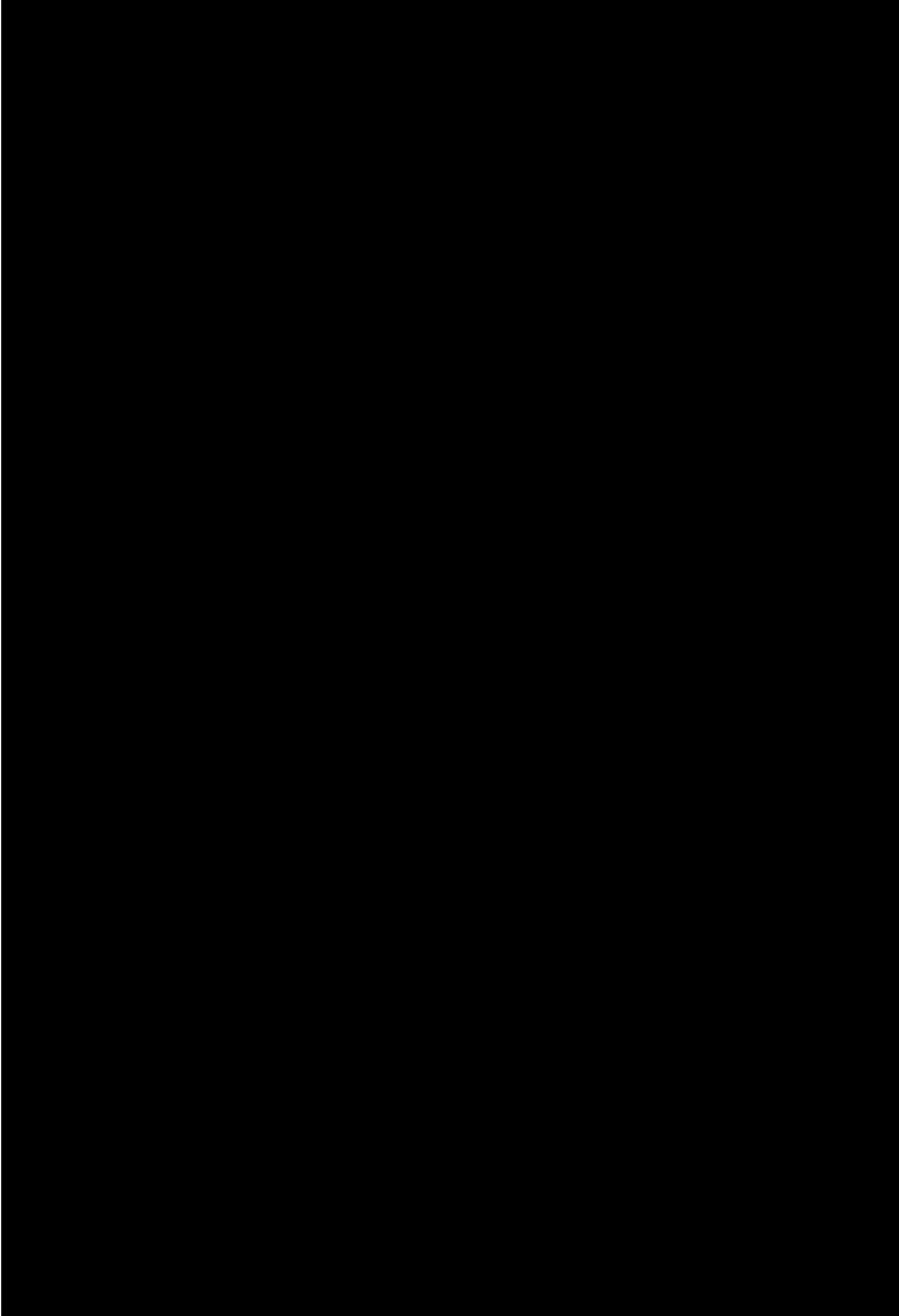


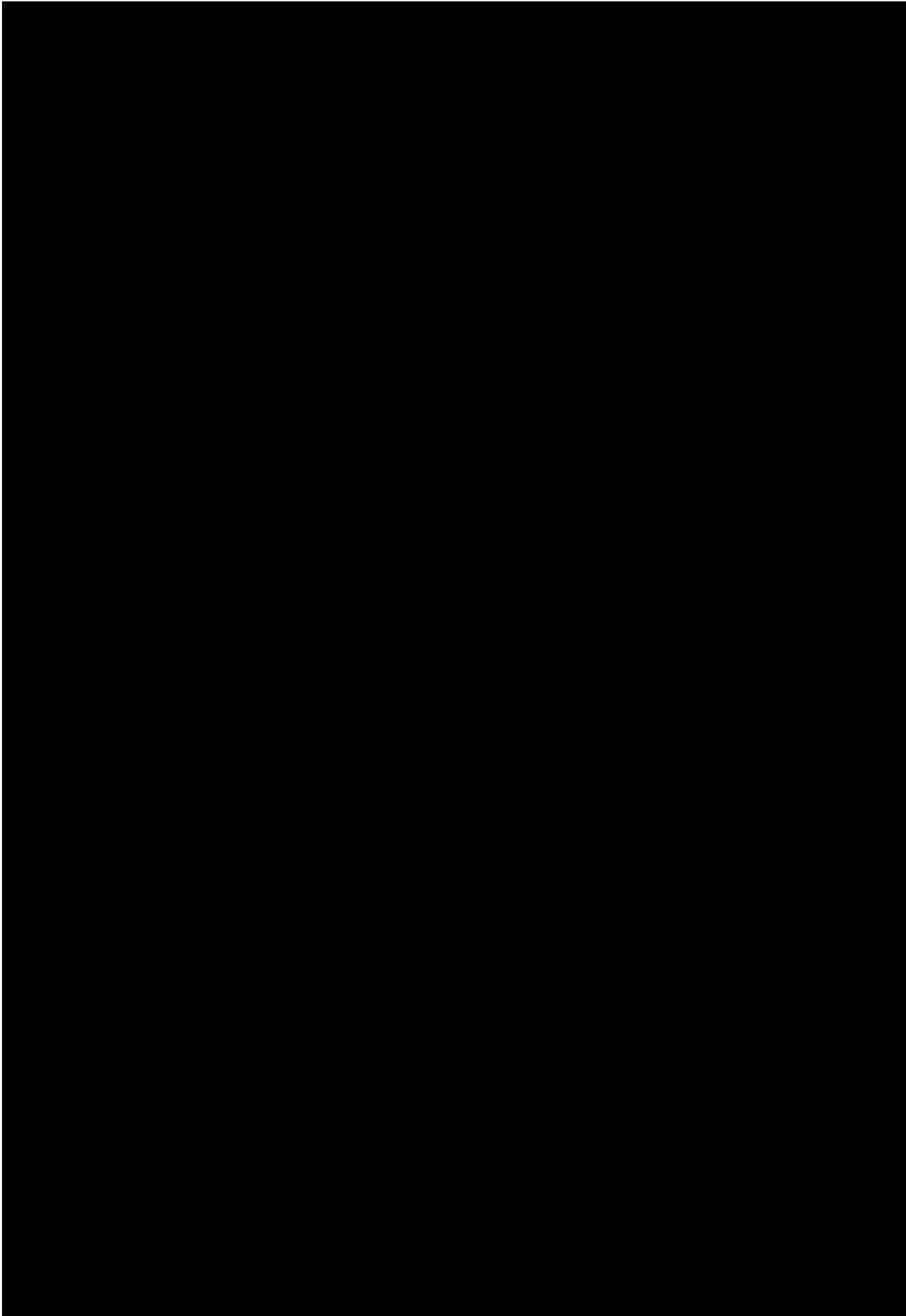








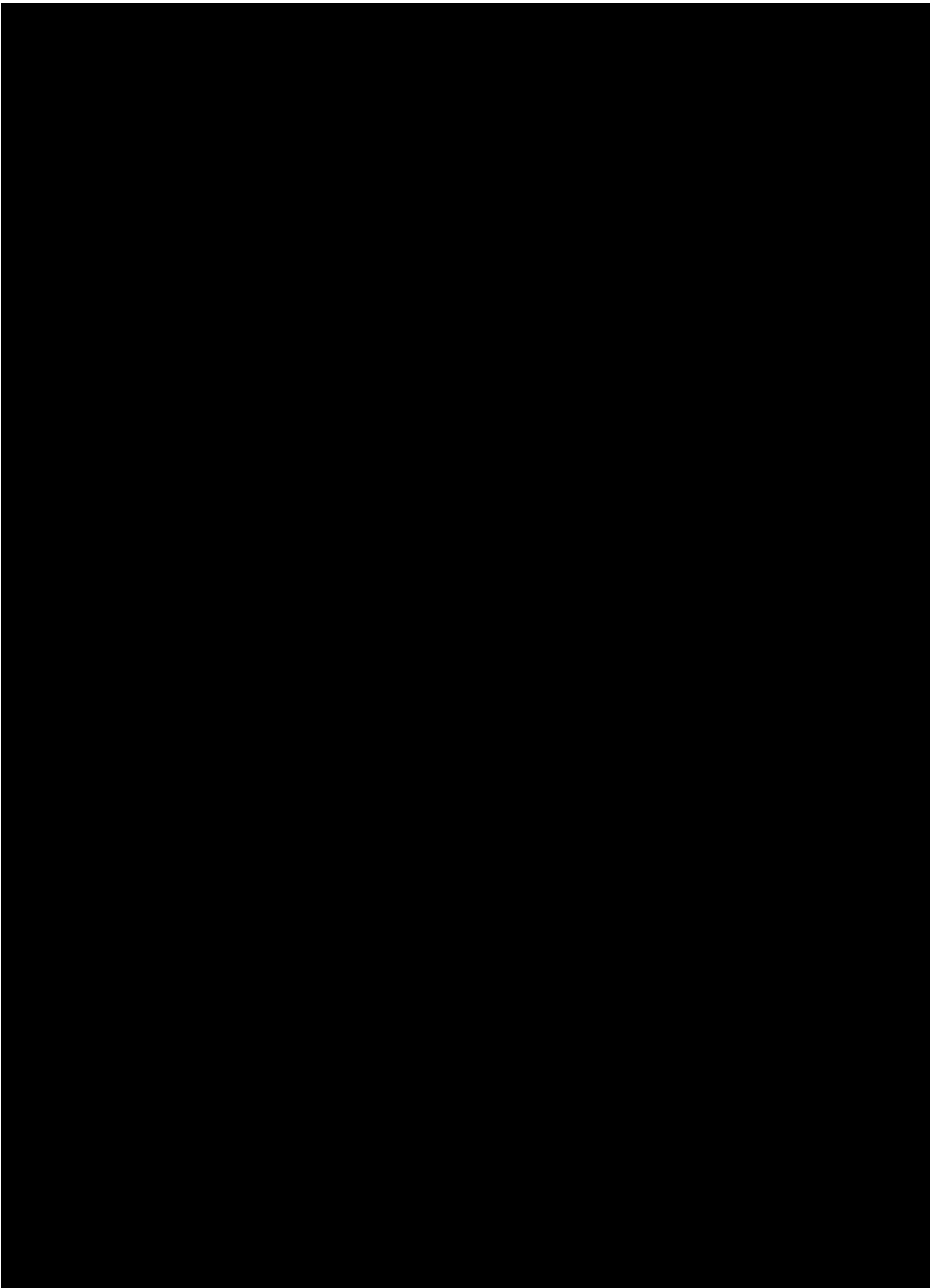






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Schedule 3 – Subcontractors

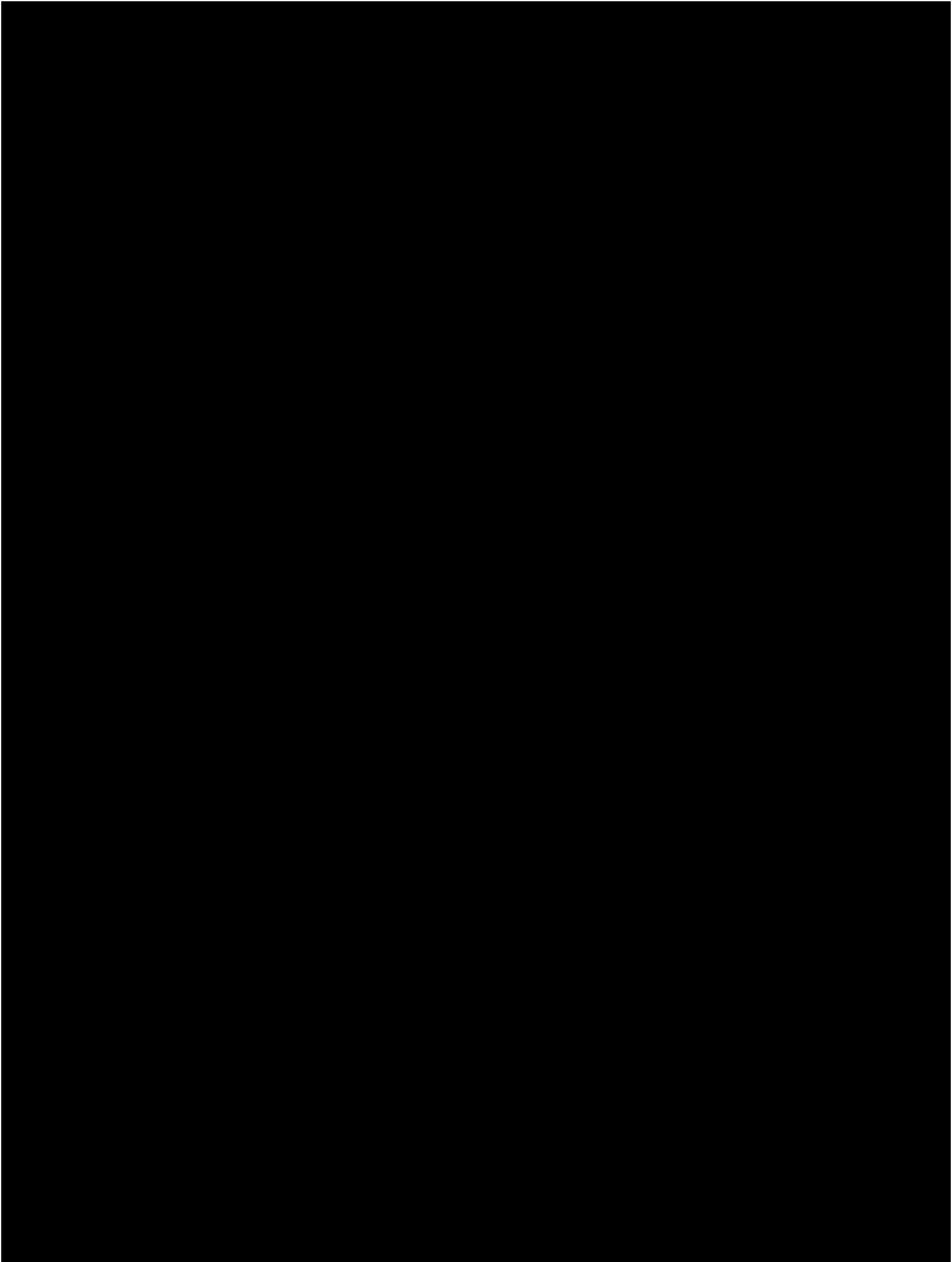
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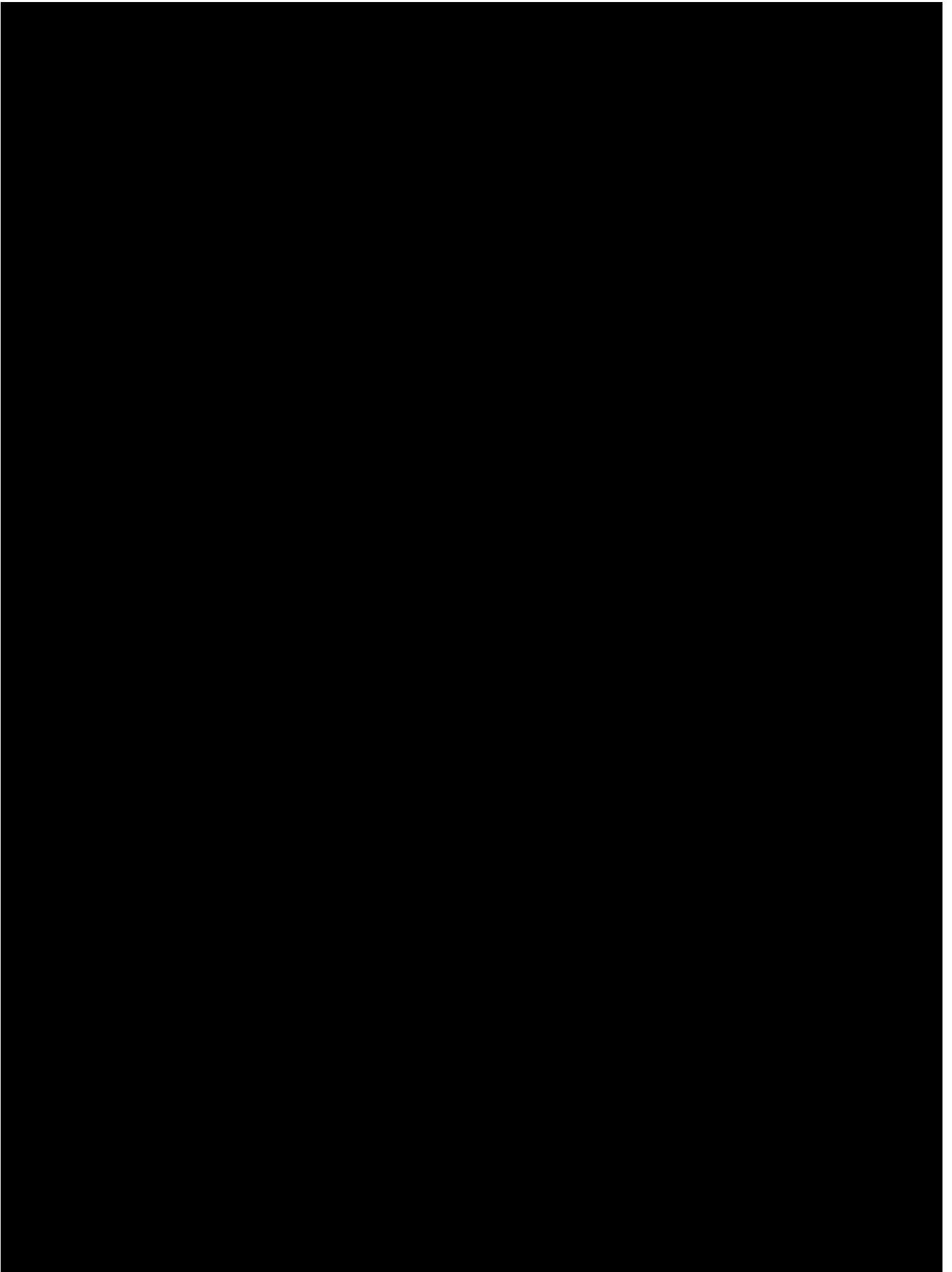
Schedule 4 – Draft Third Party Agreements

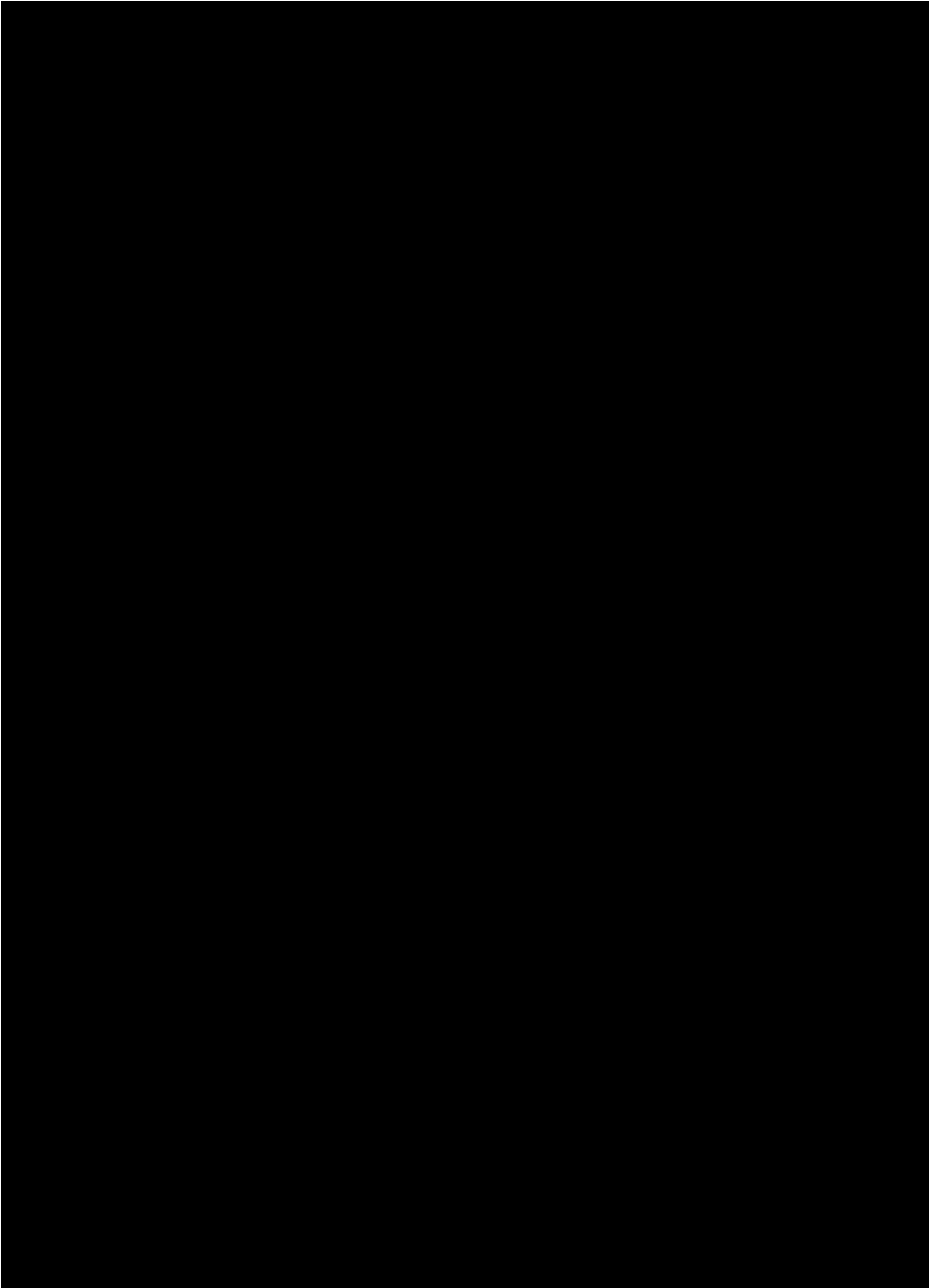
1. MEMORANDUM OF UNDERSTANDING

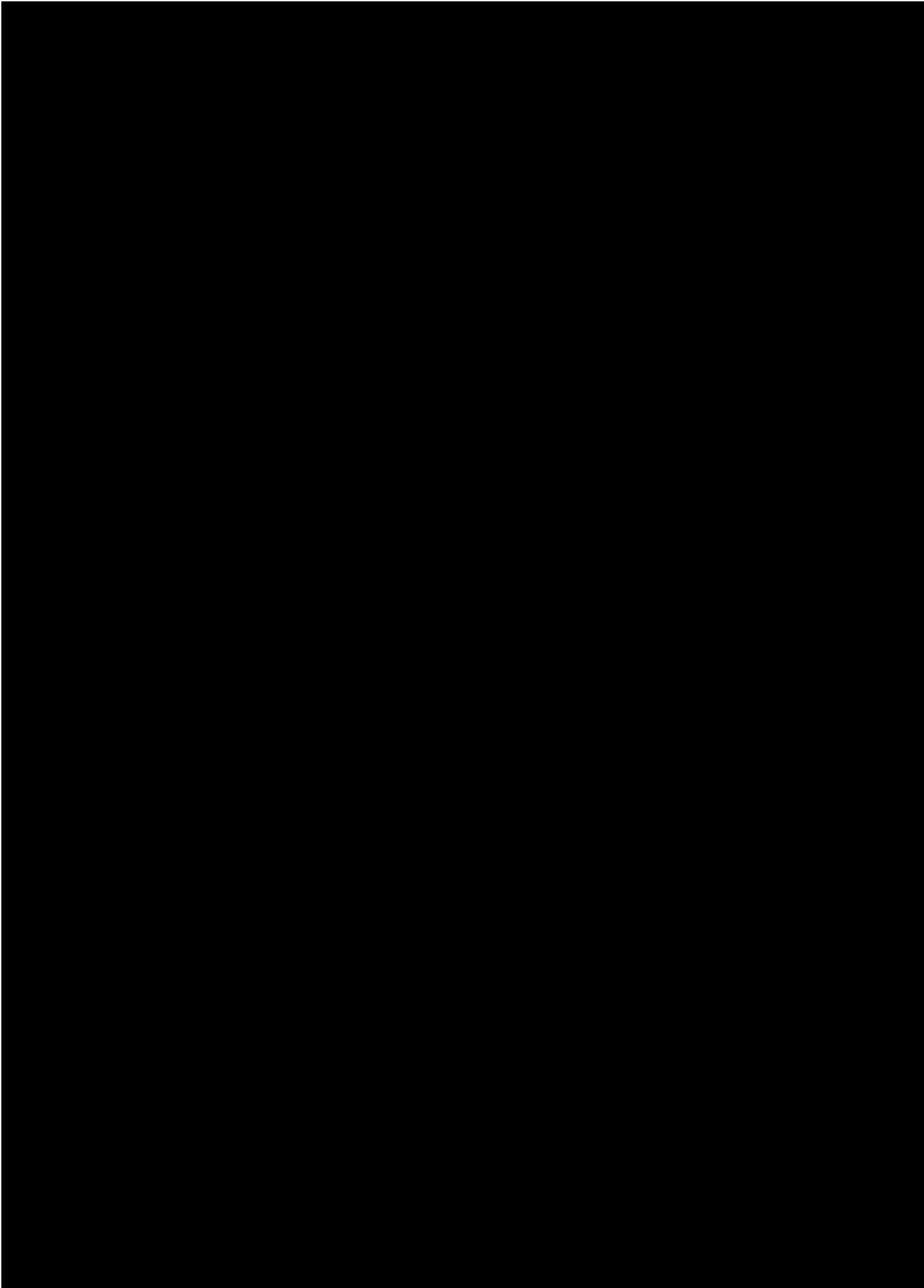
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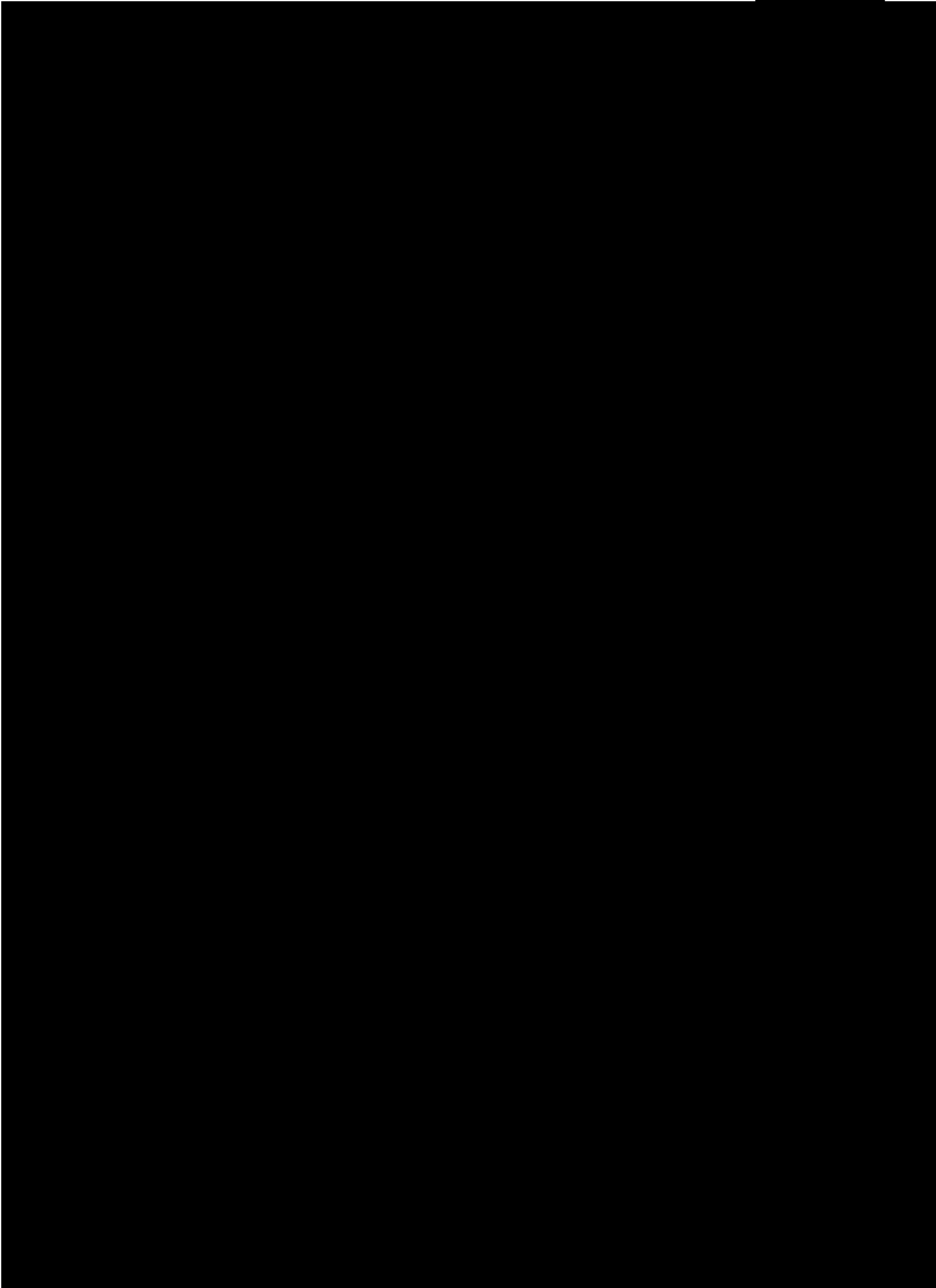


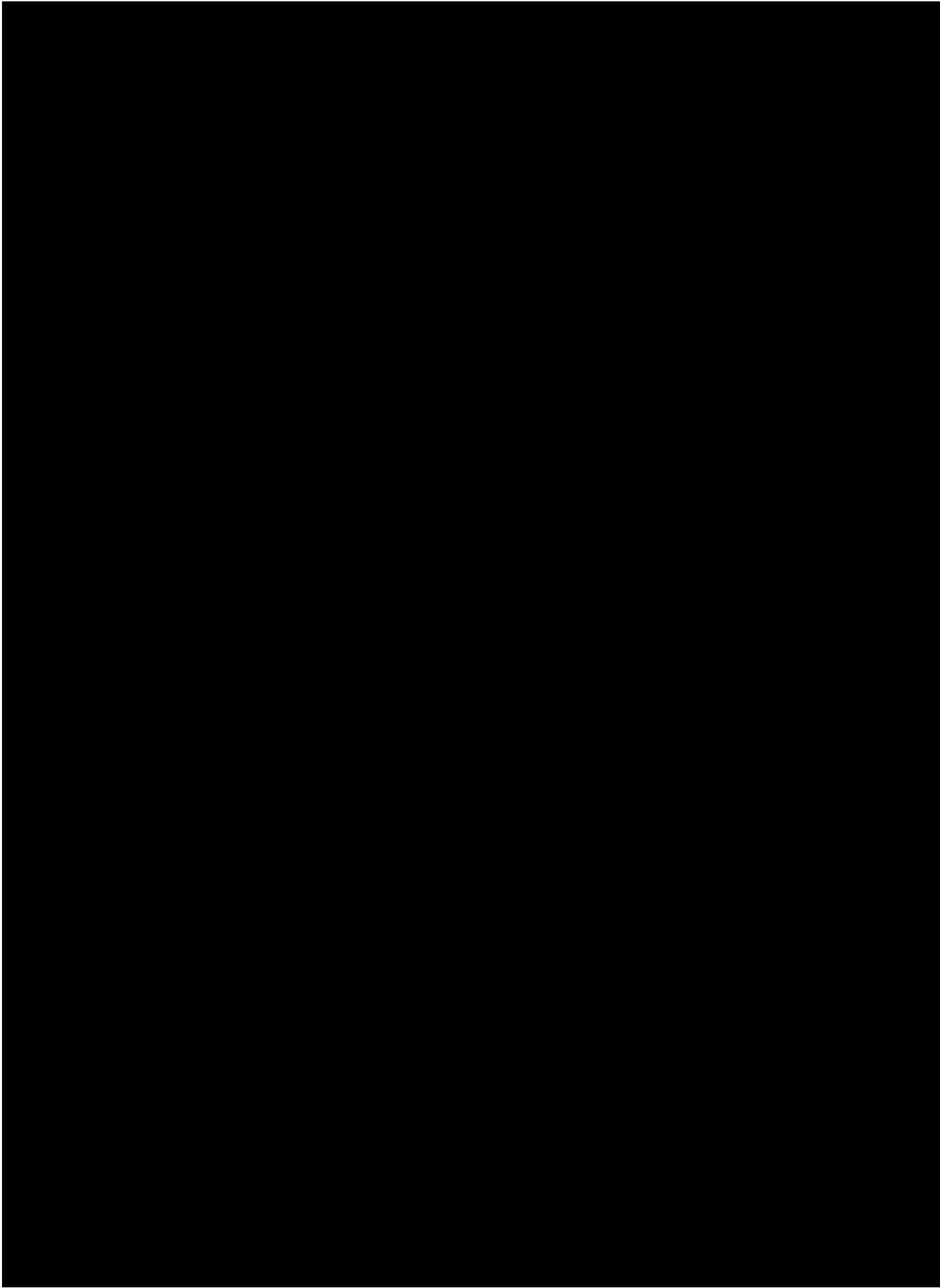


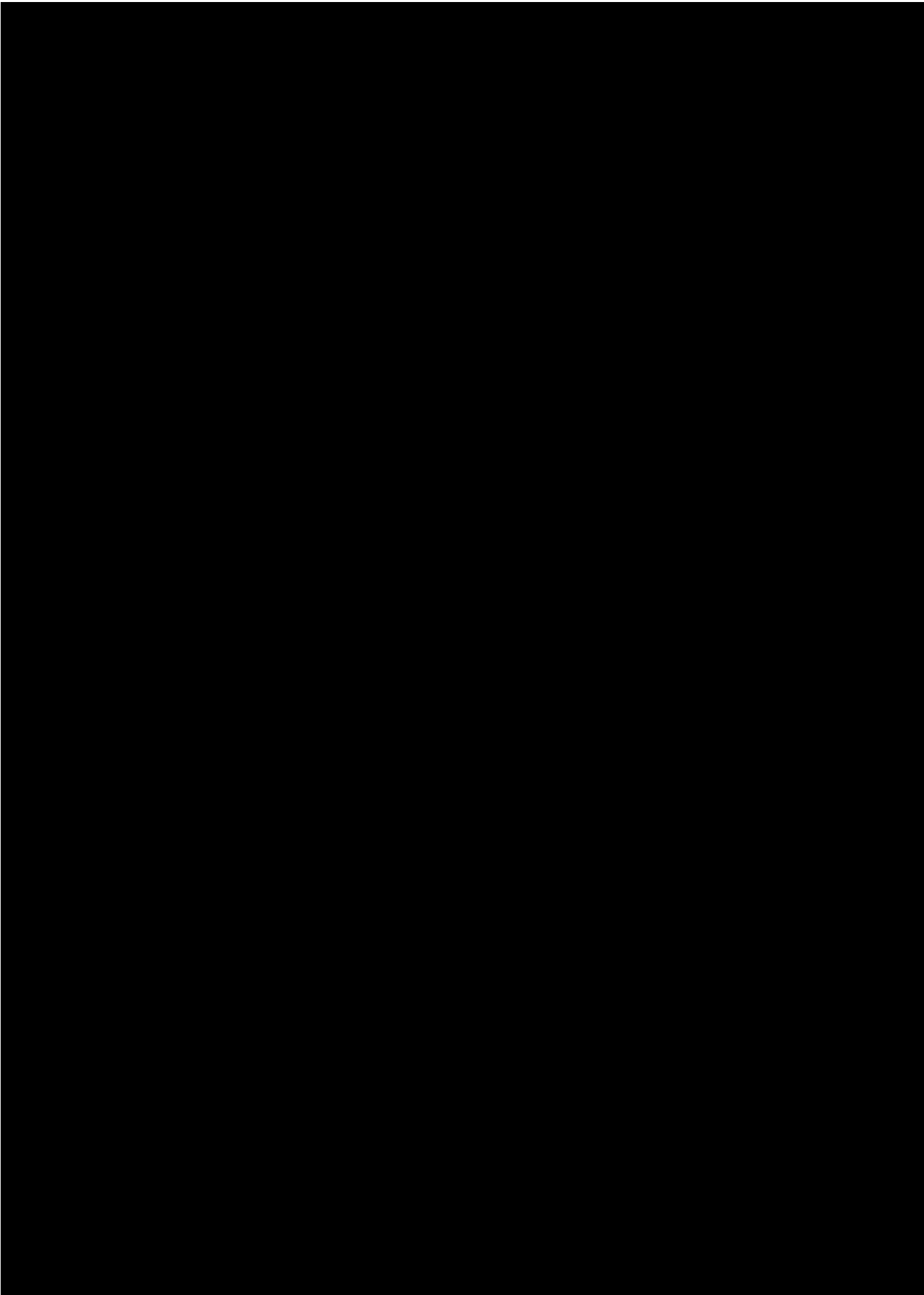


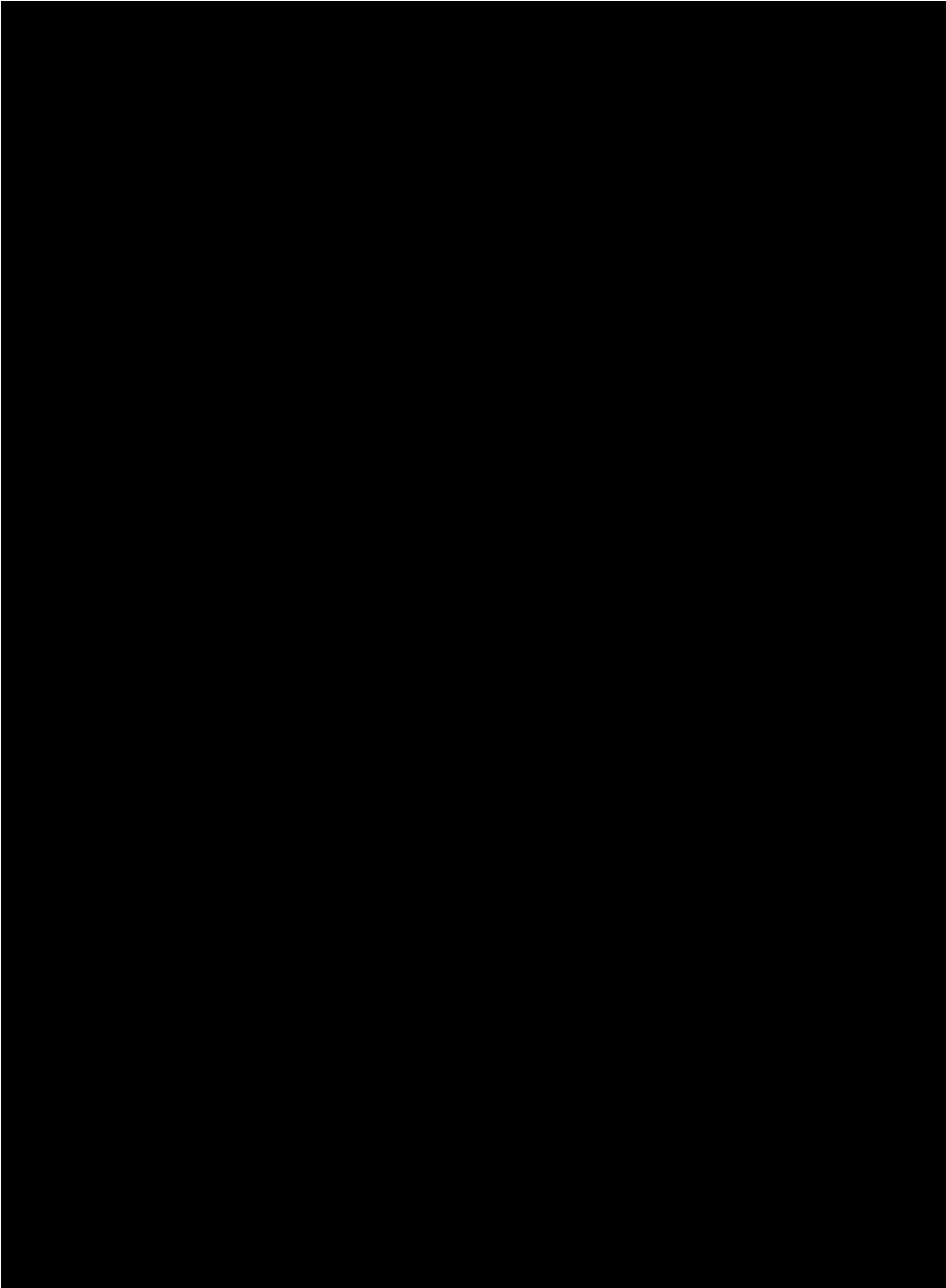


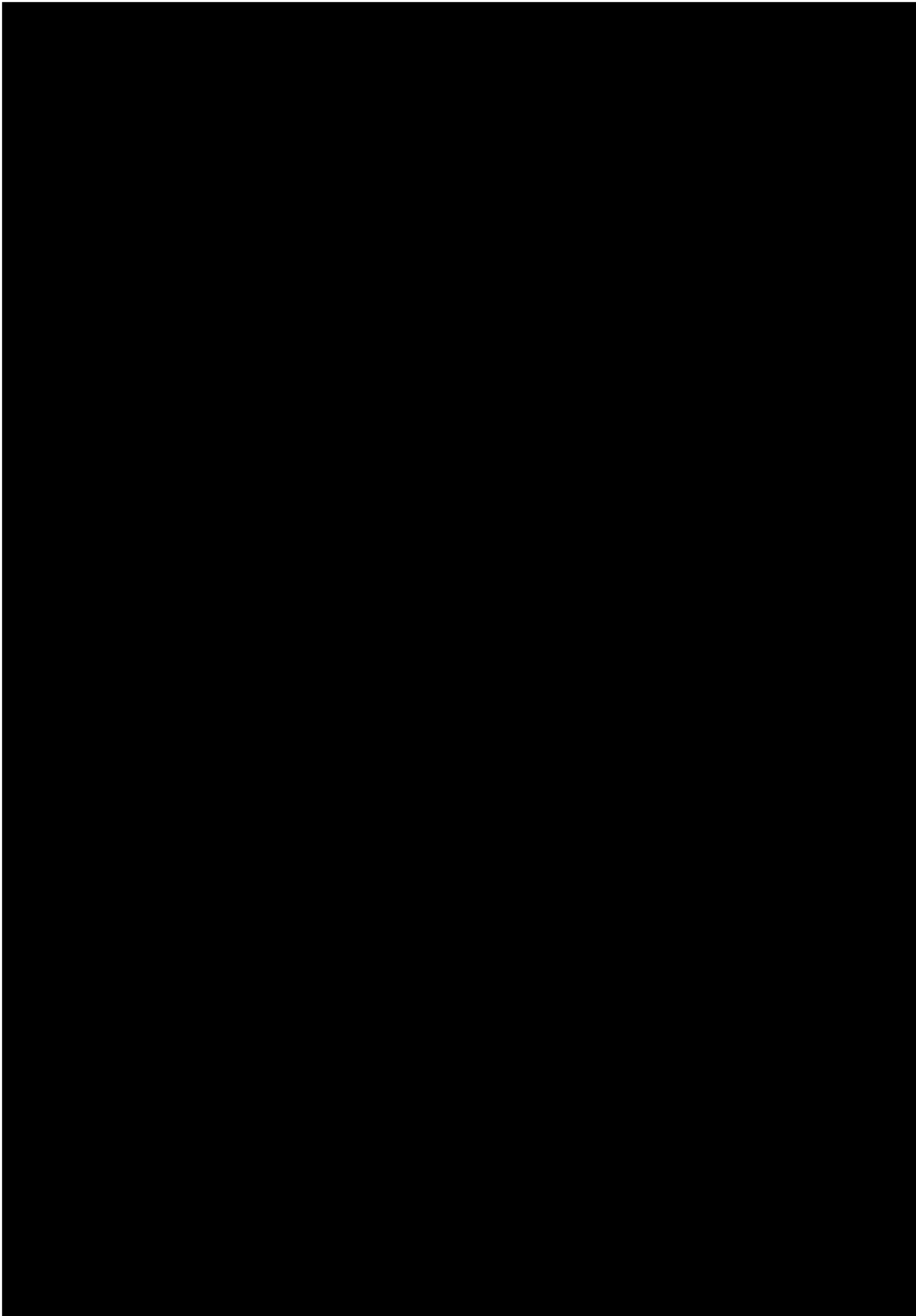








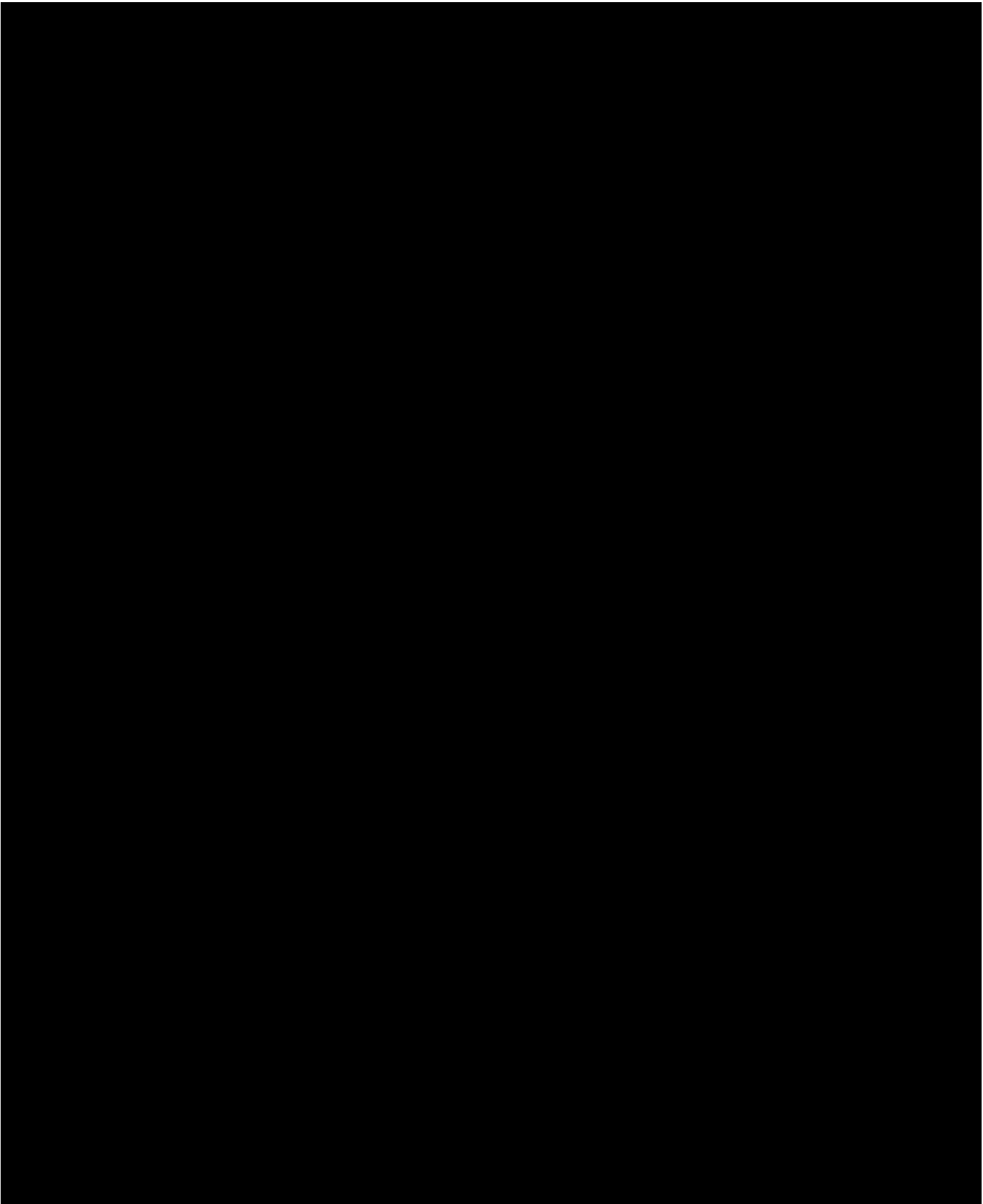


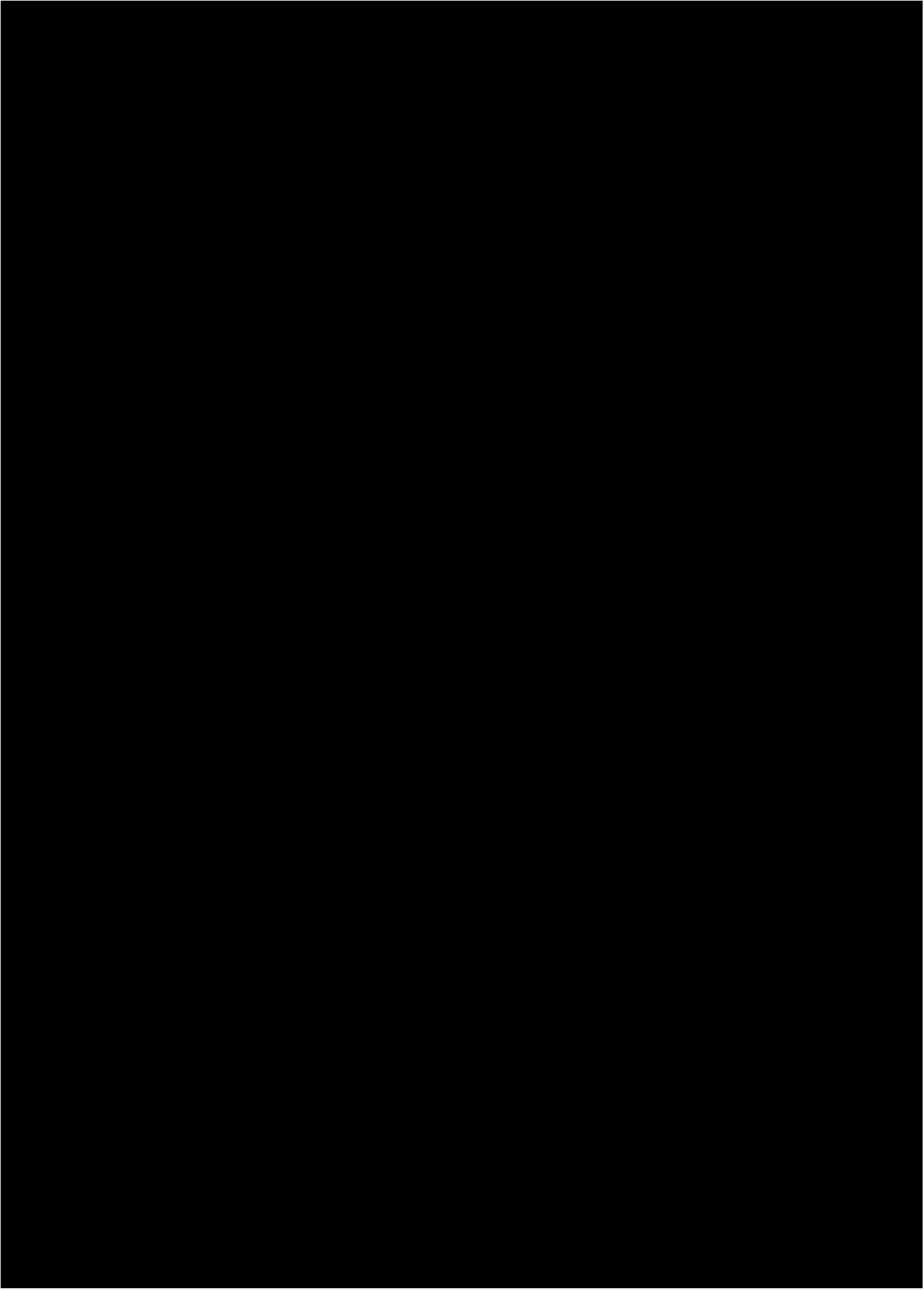


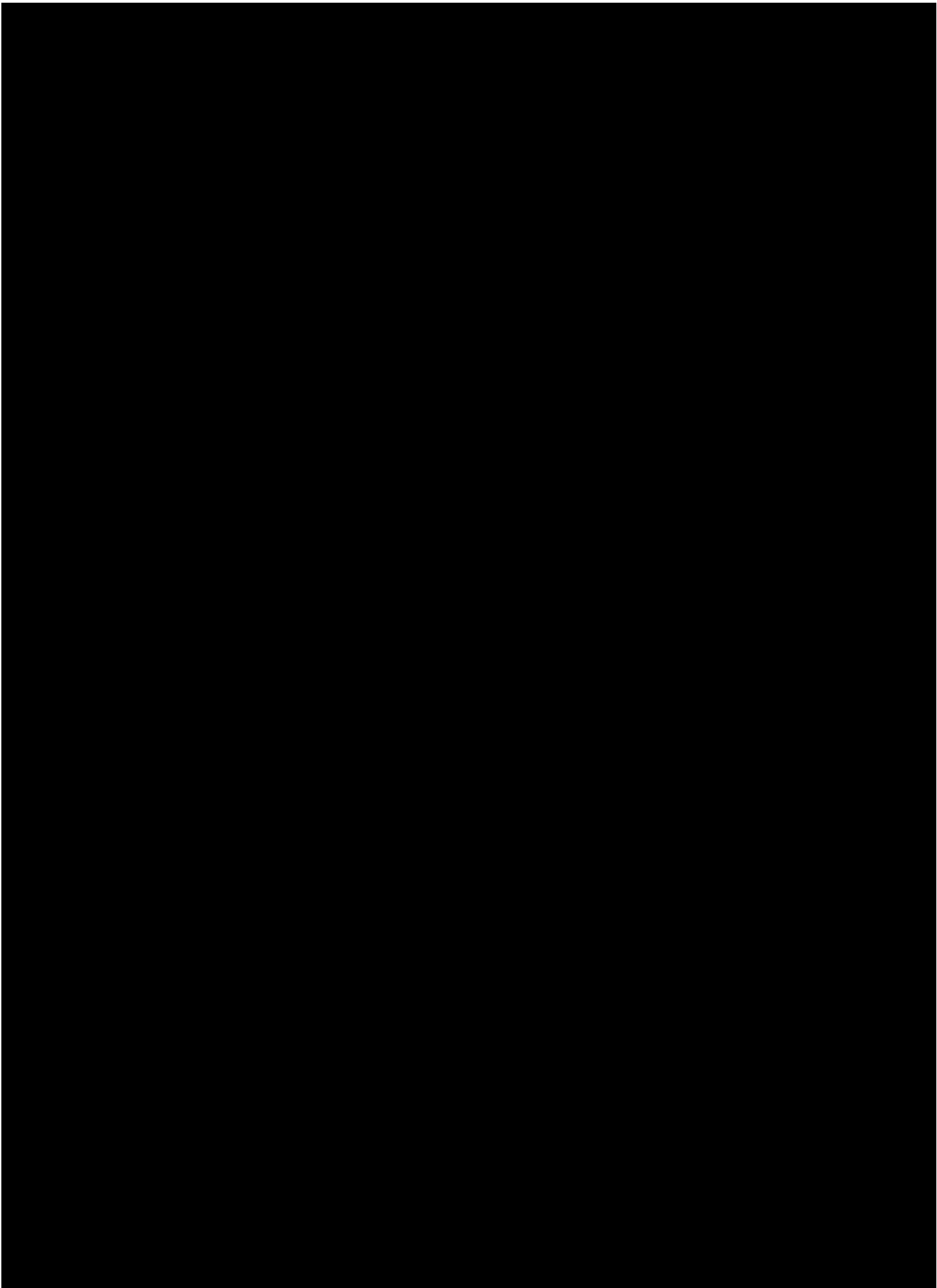


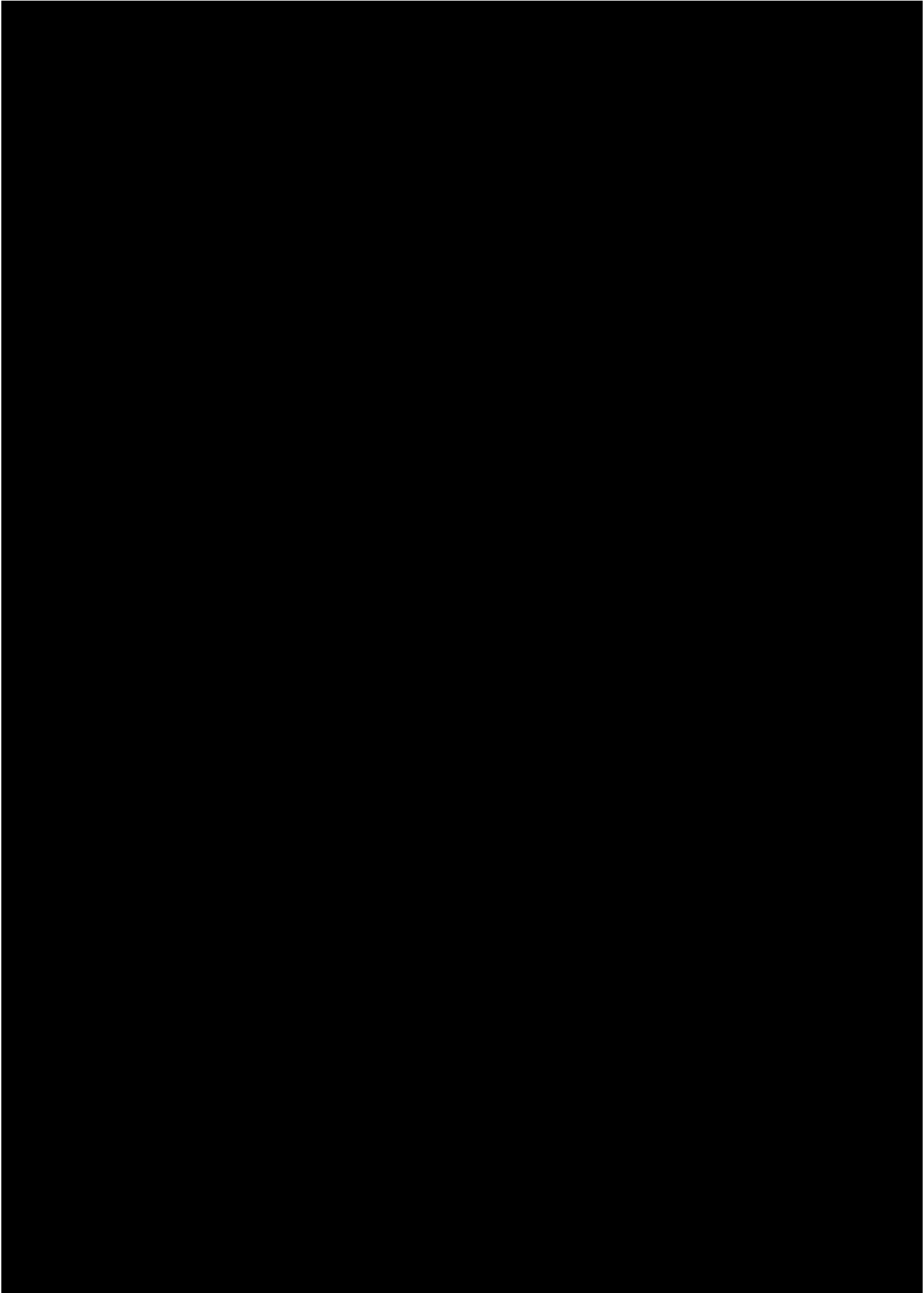
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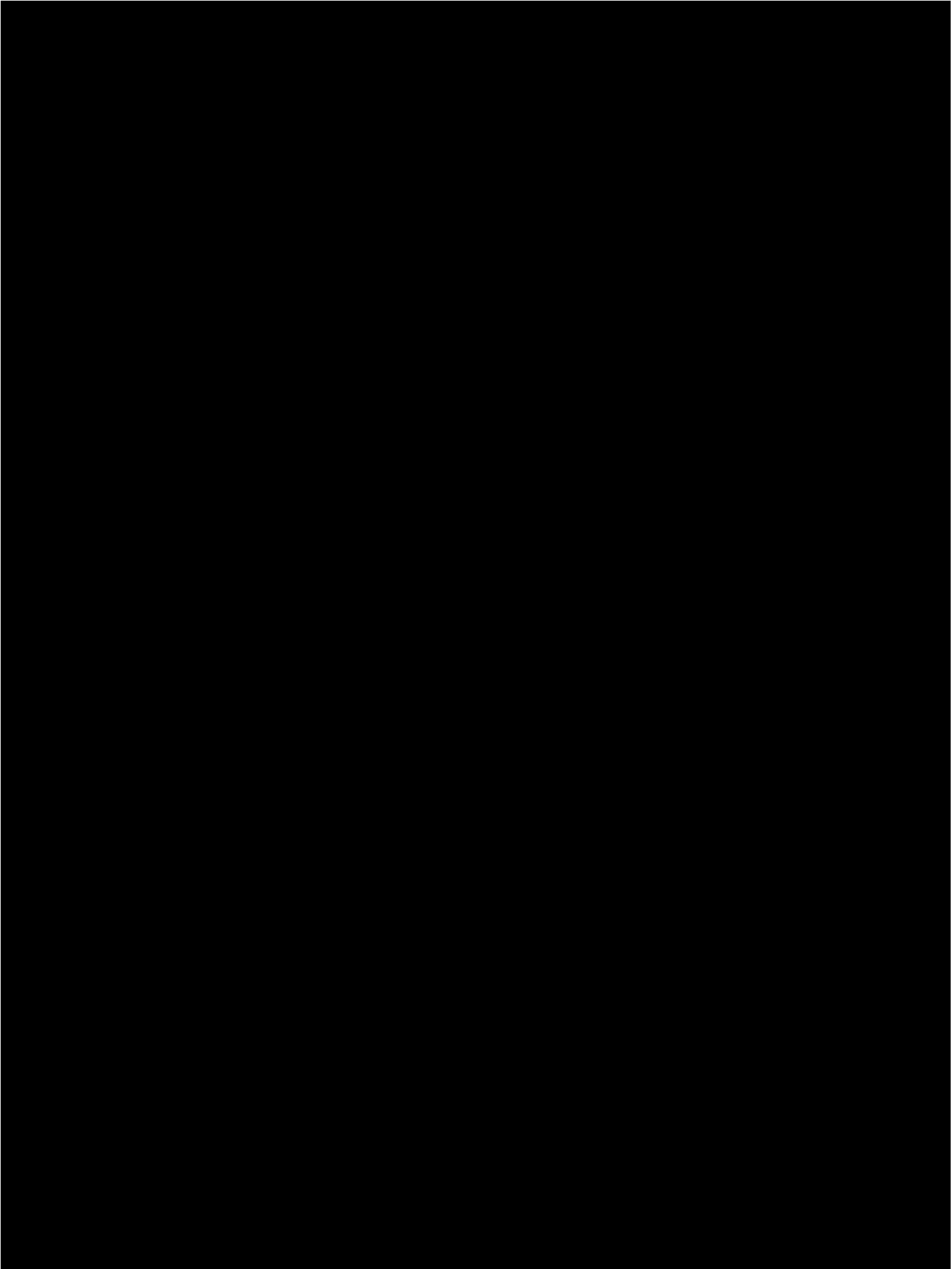


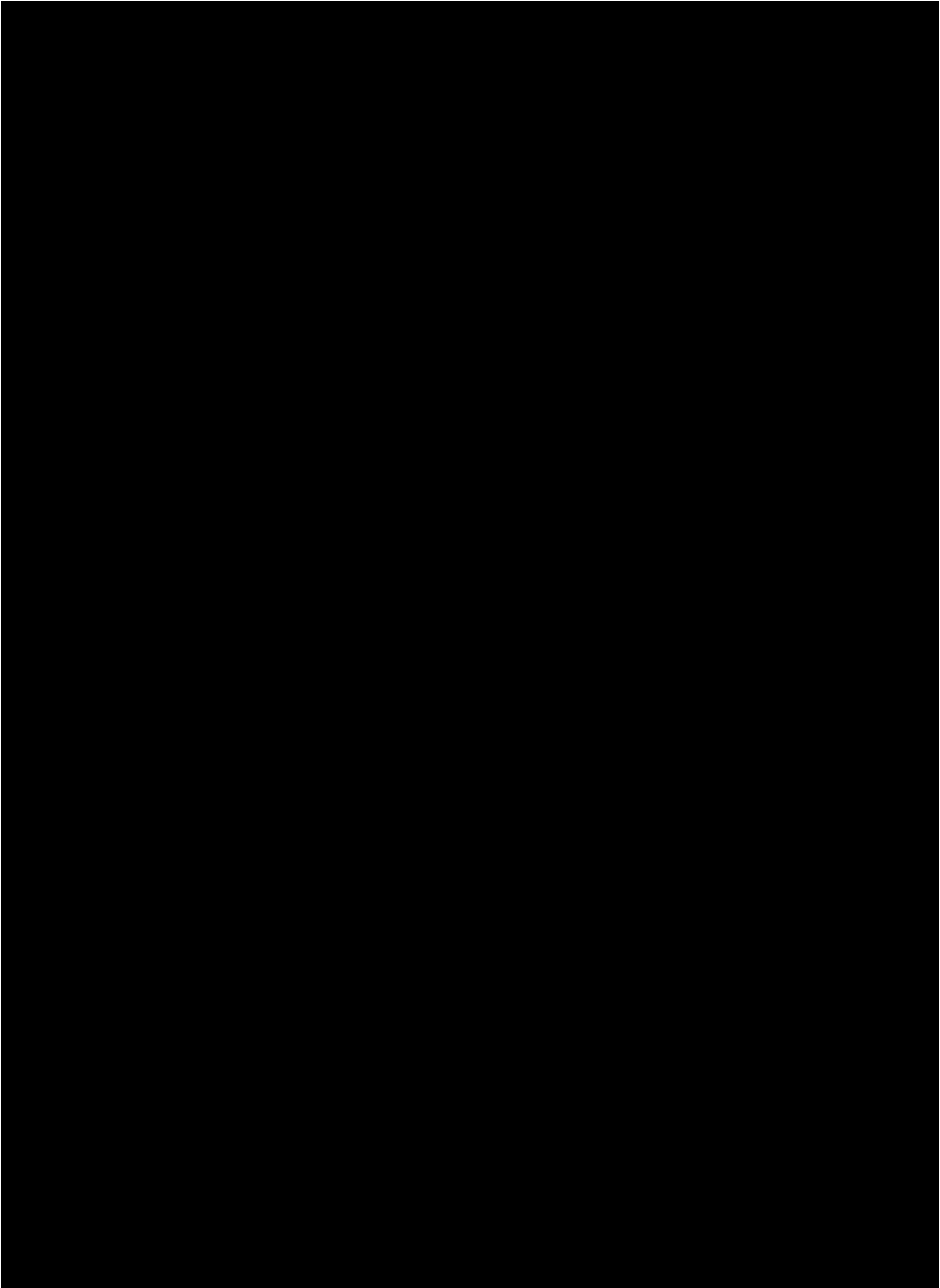


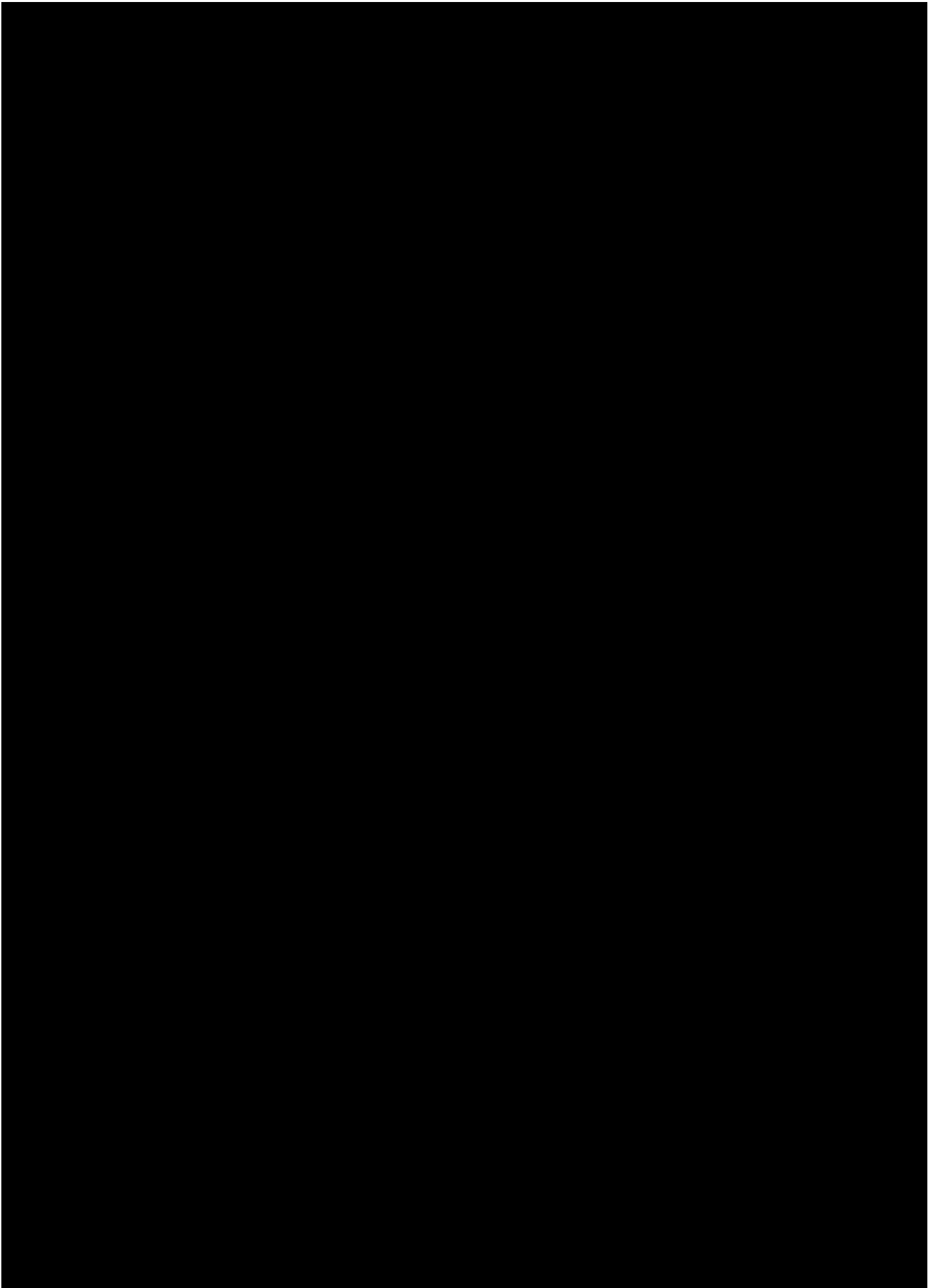


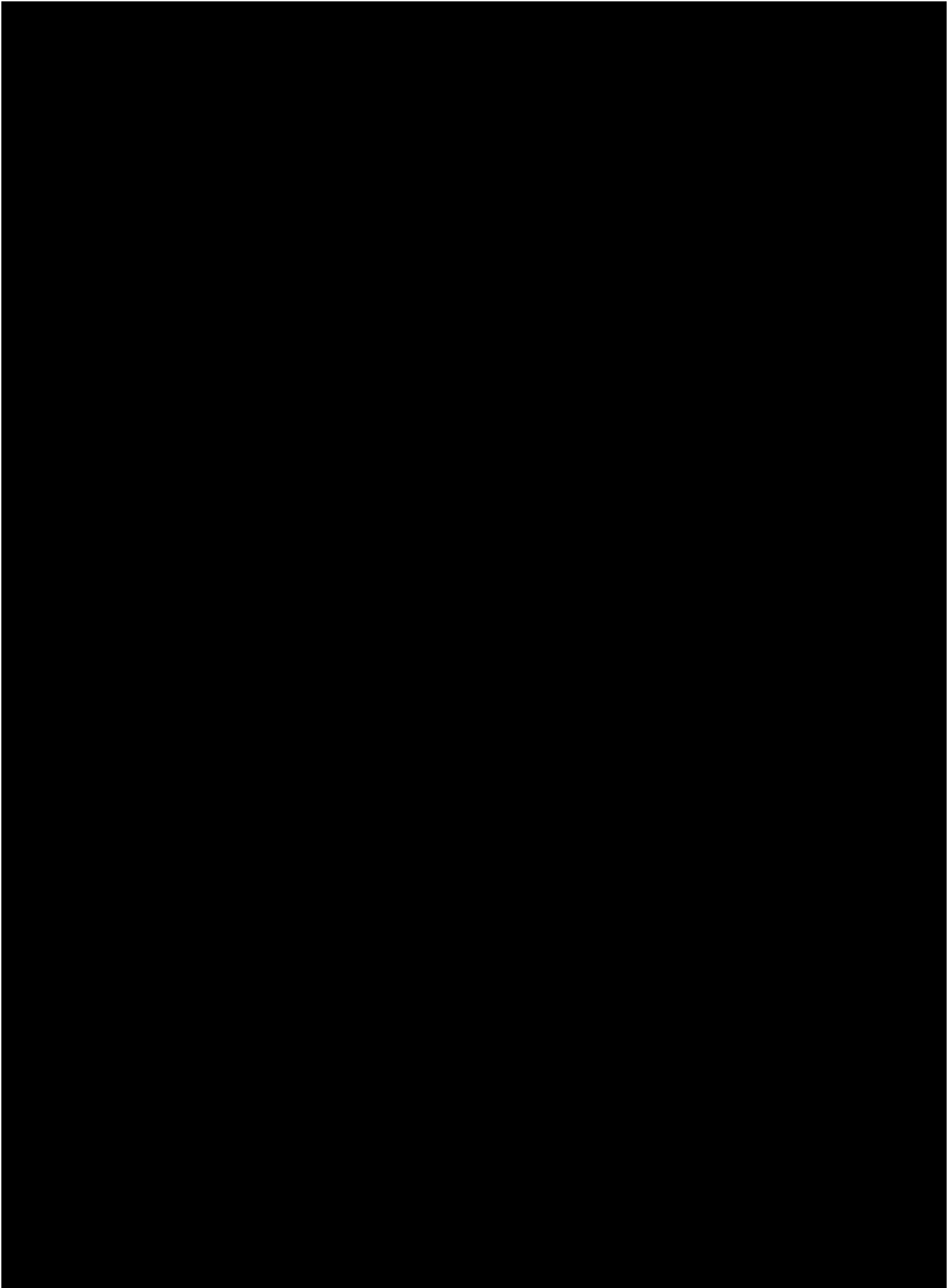


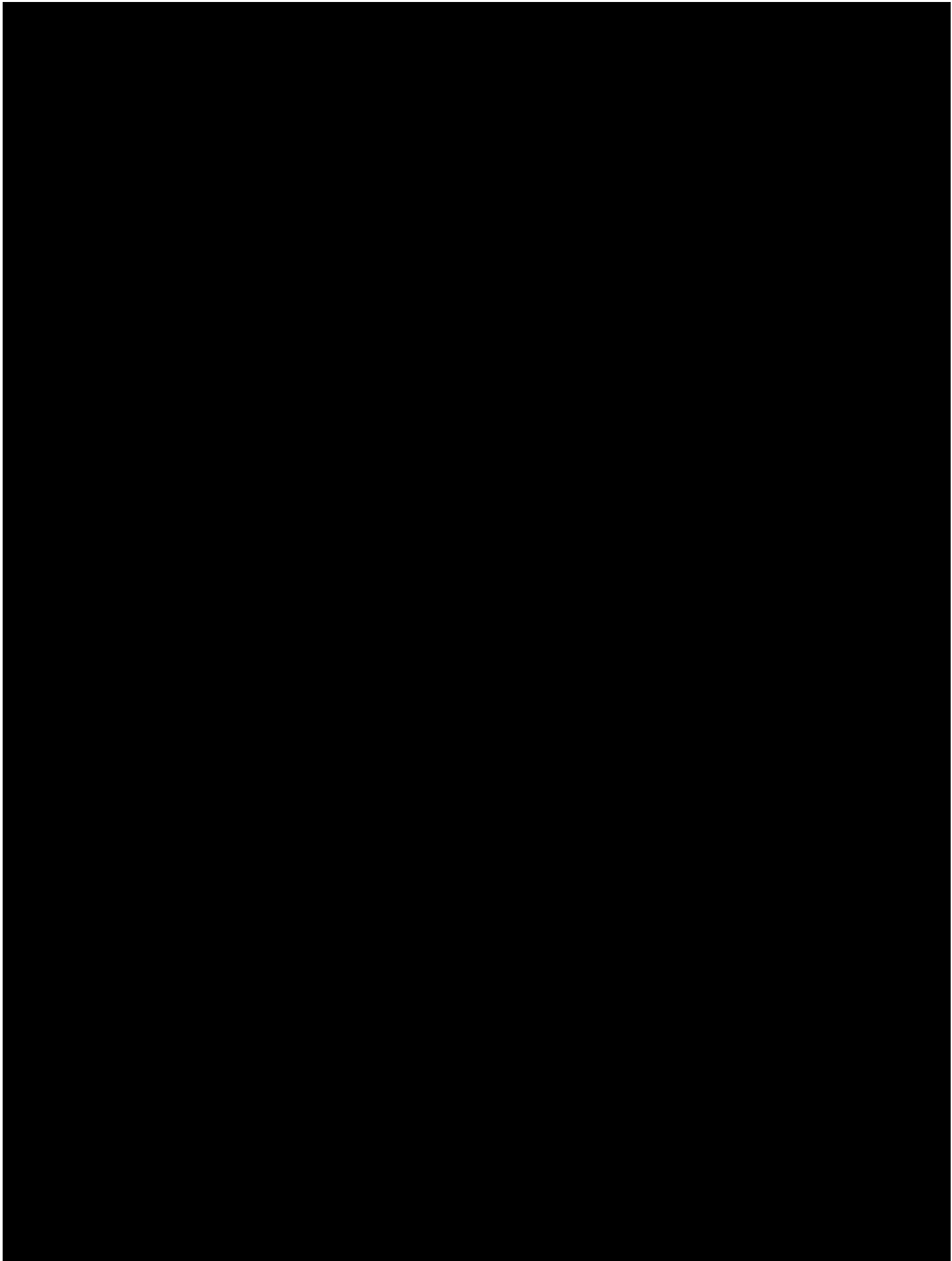


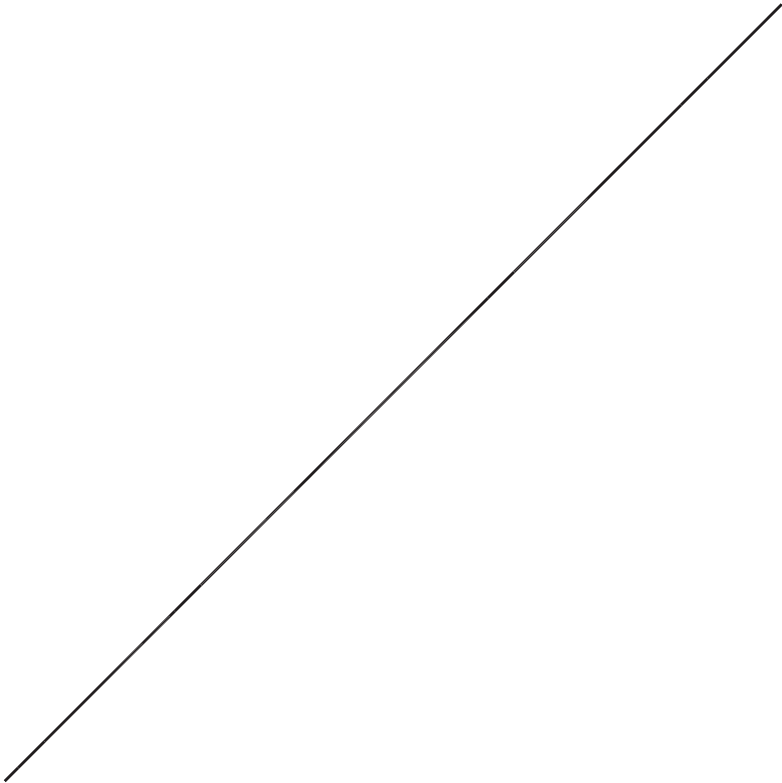




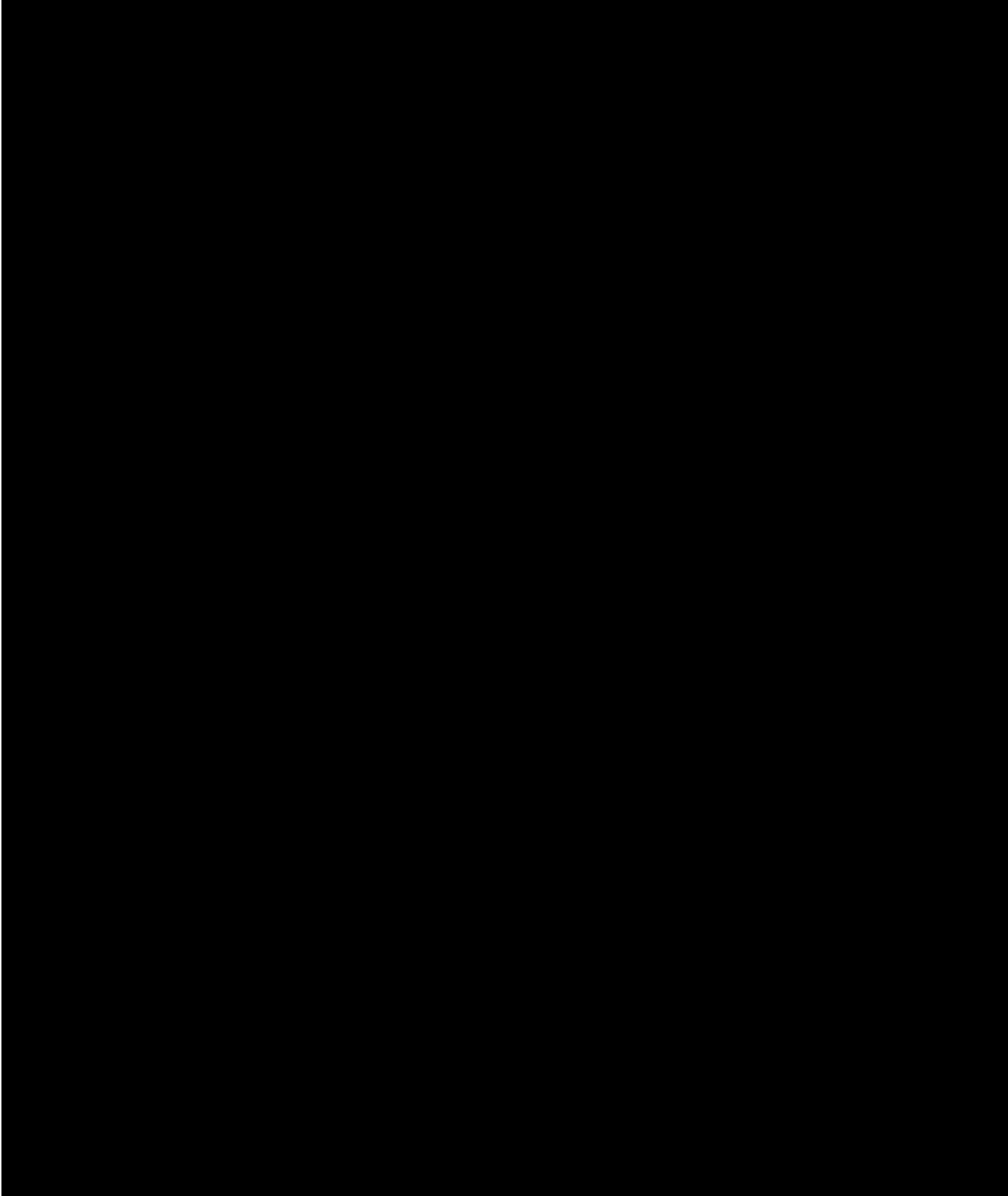


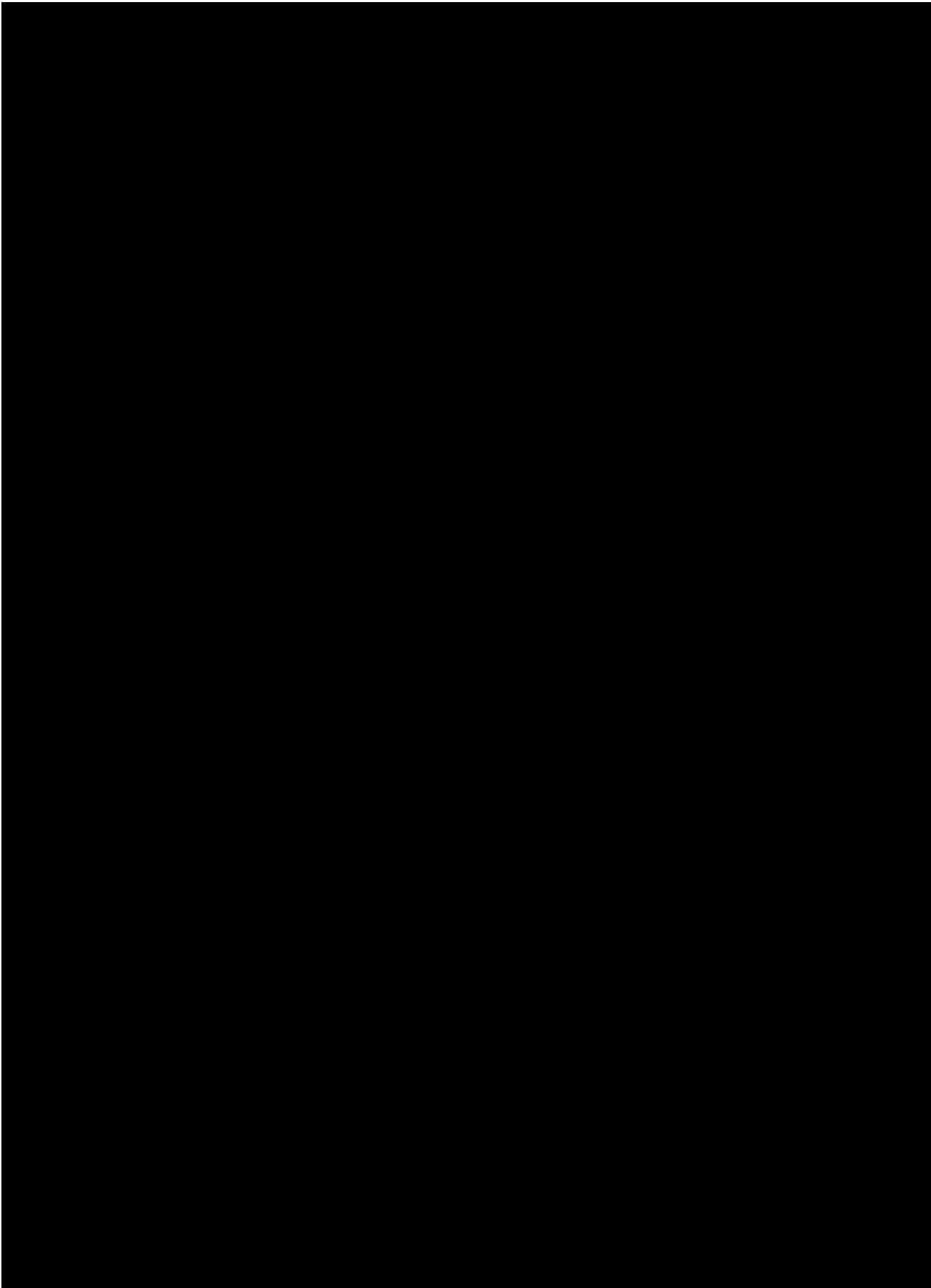


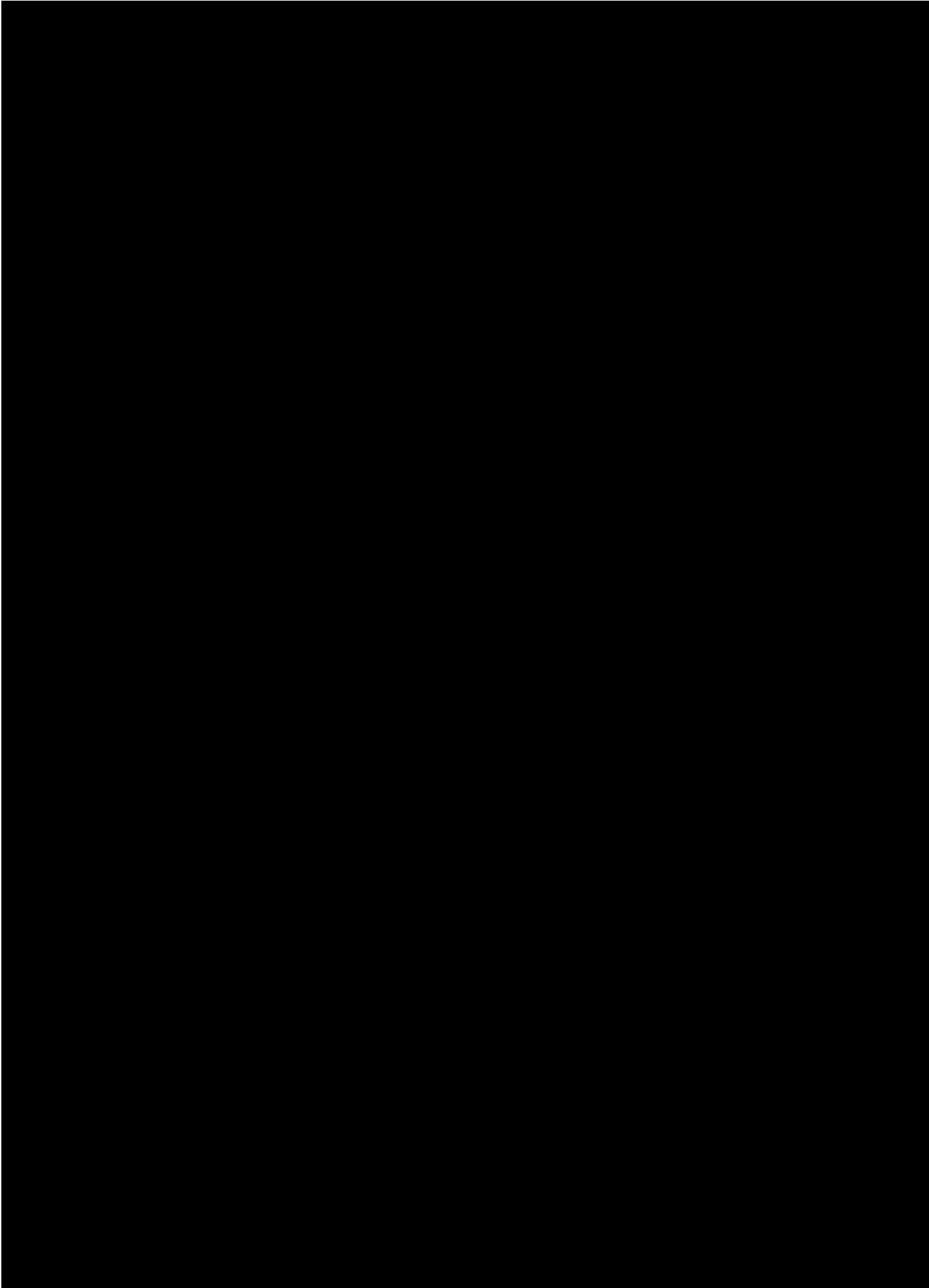


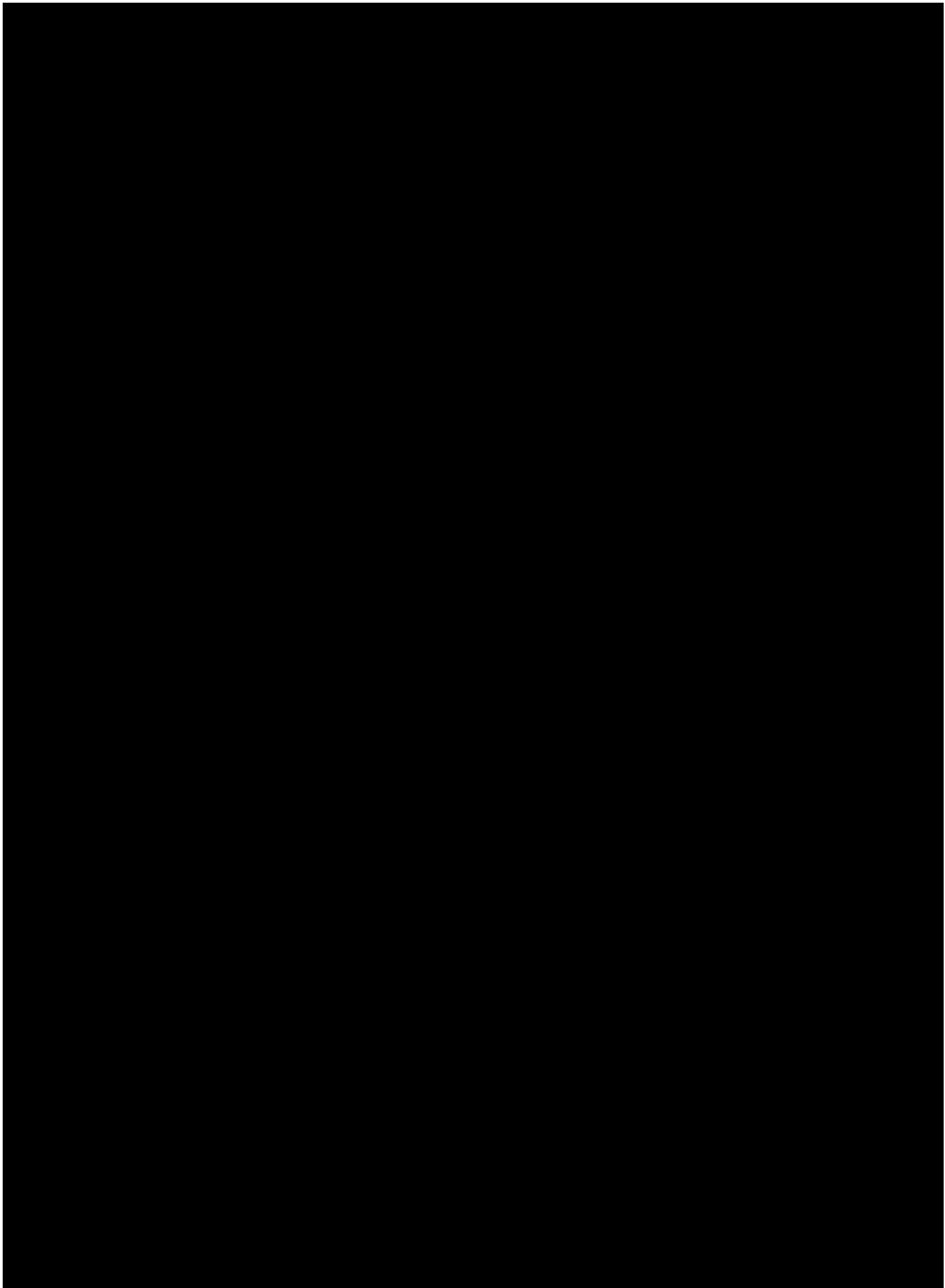


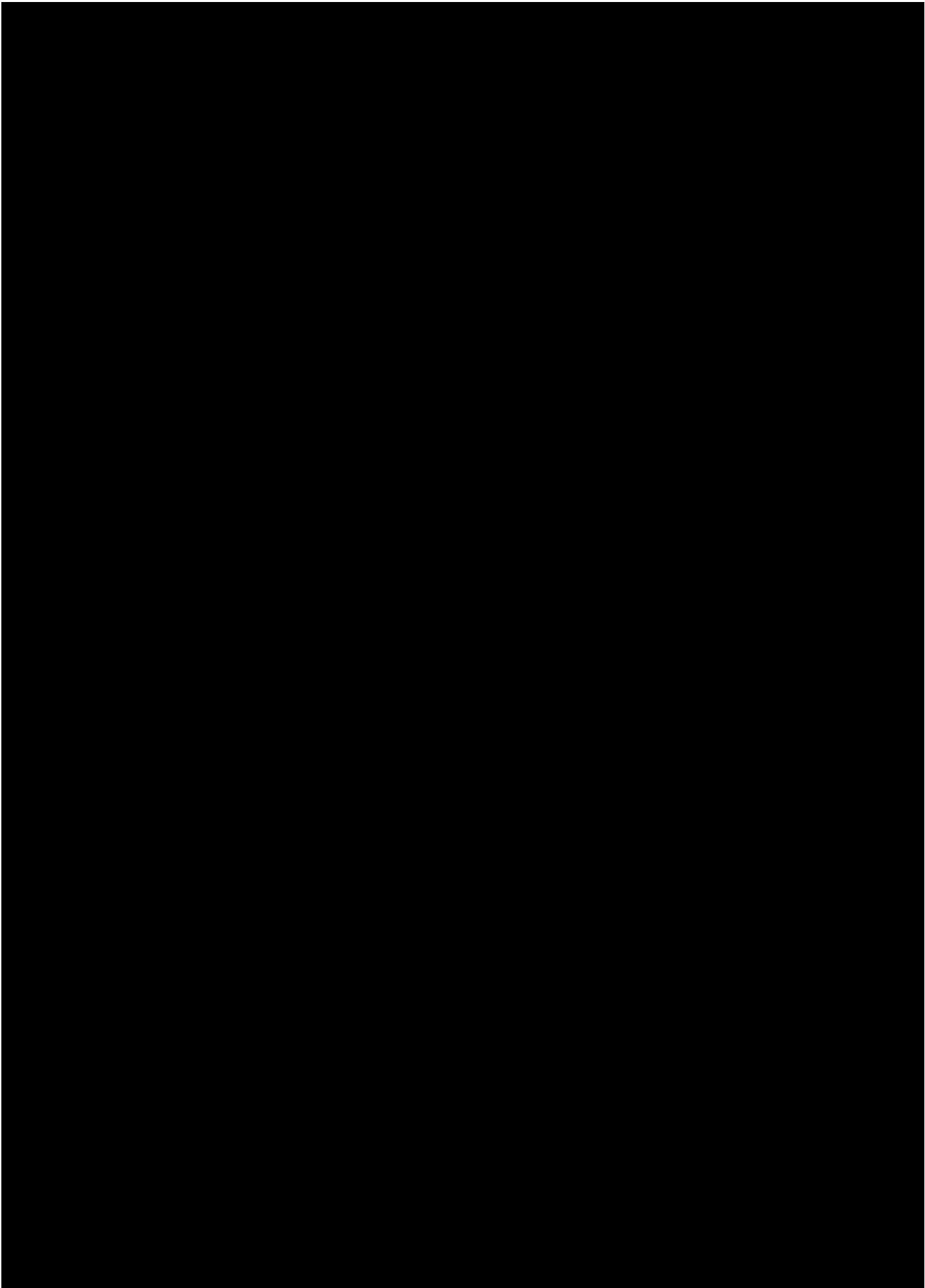


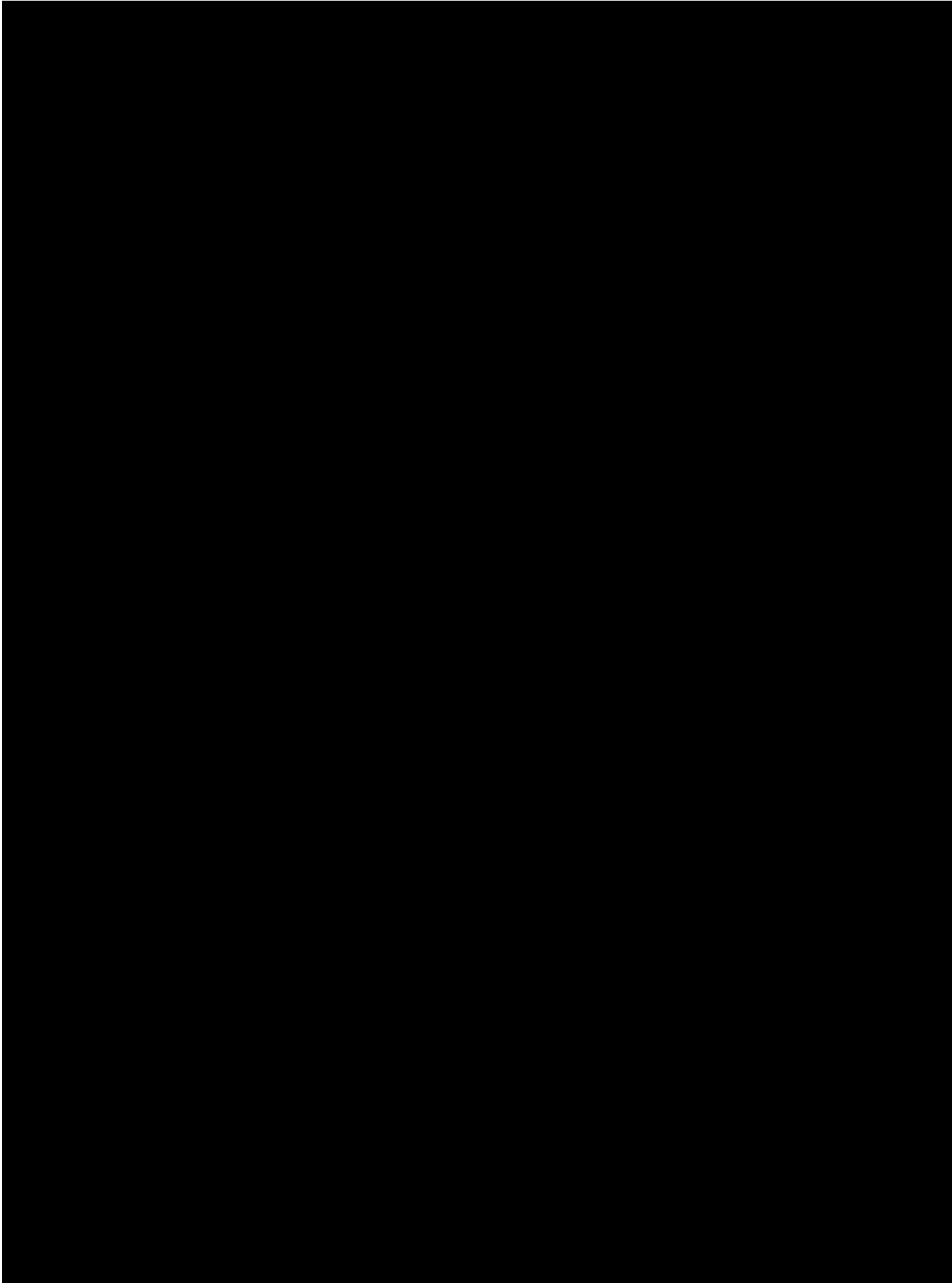


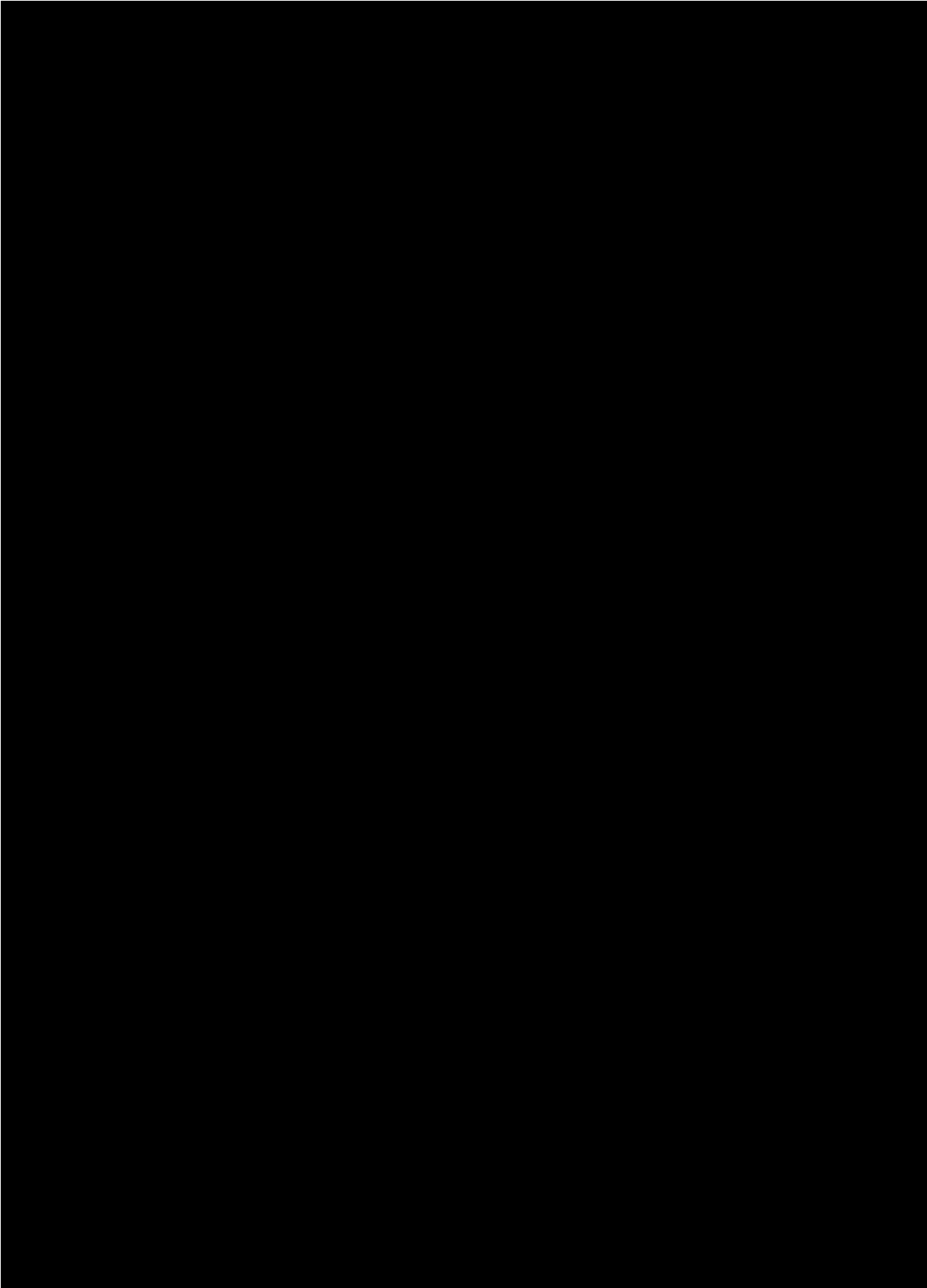


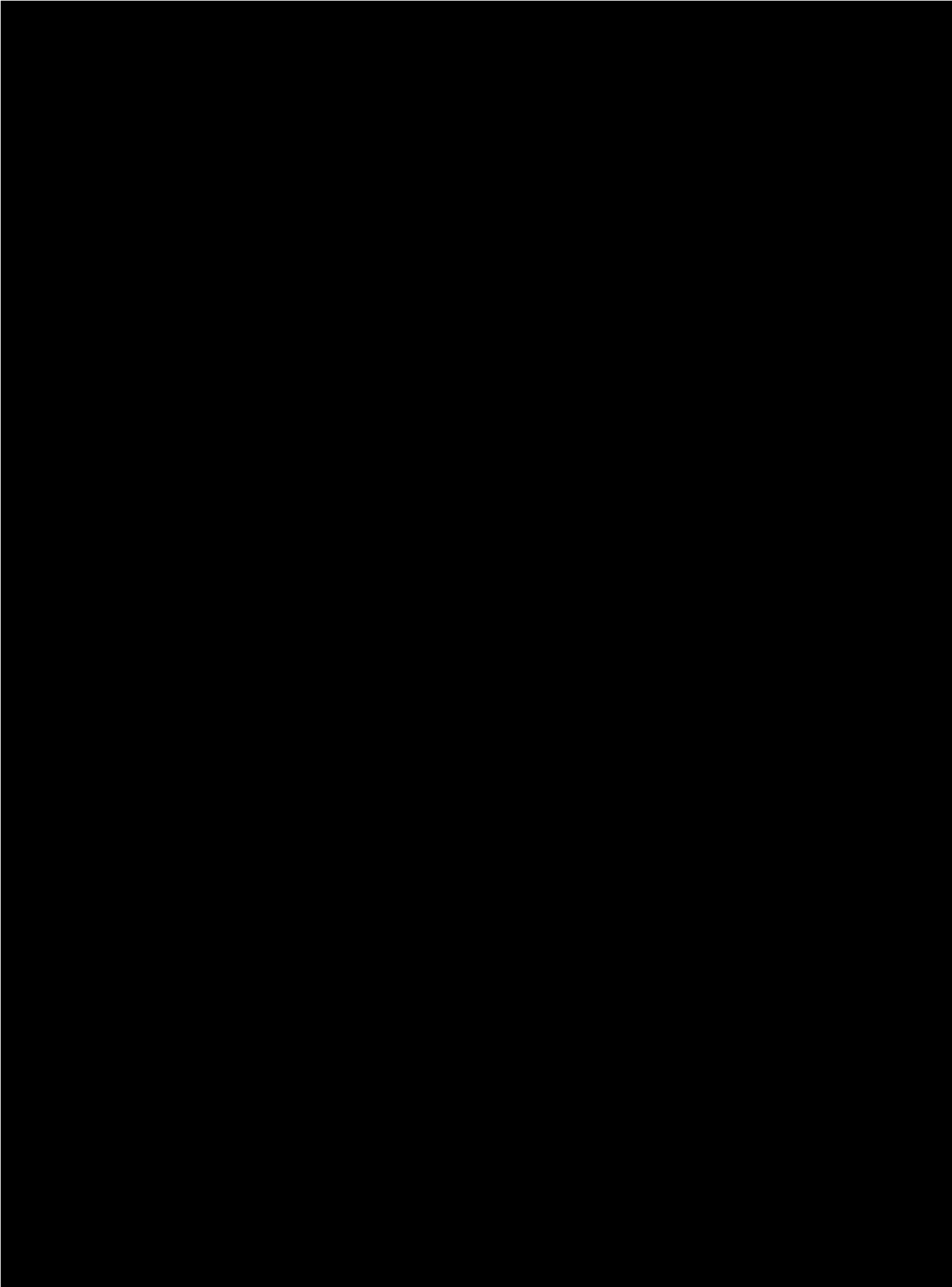


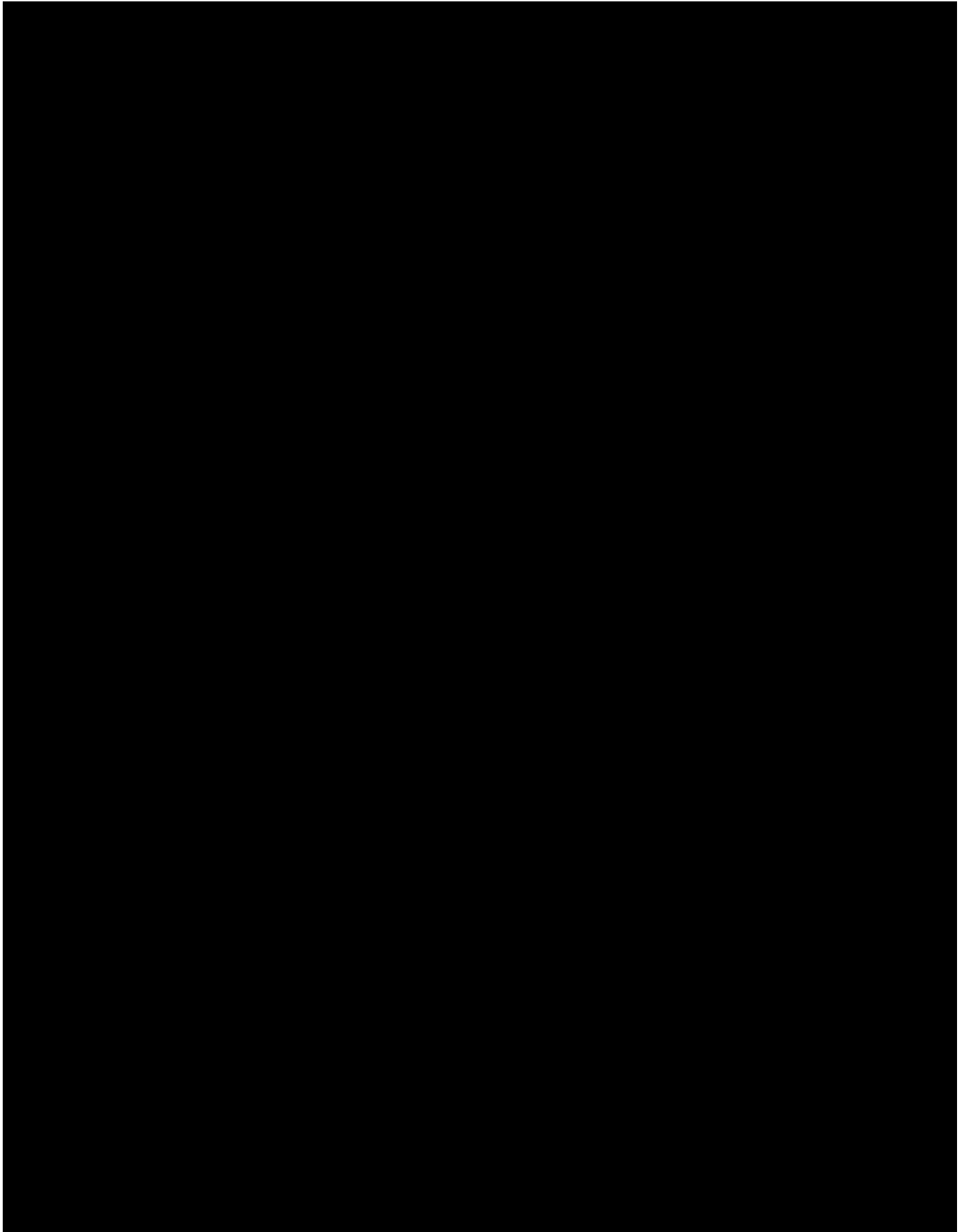












2. THIRD PARTY AGREEMENT

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
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Agreement

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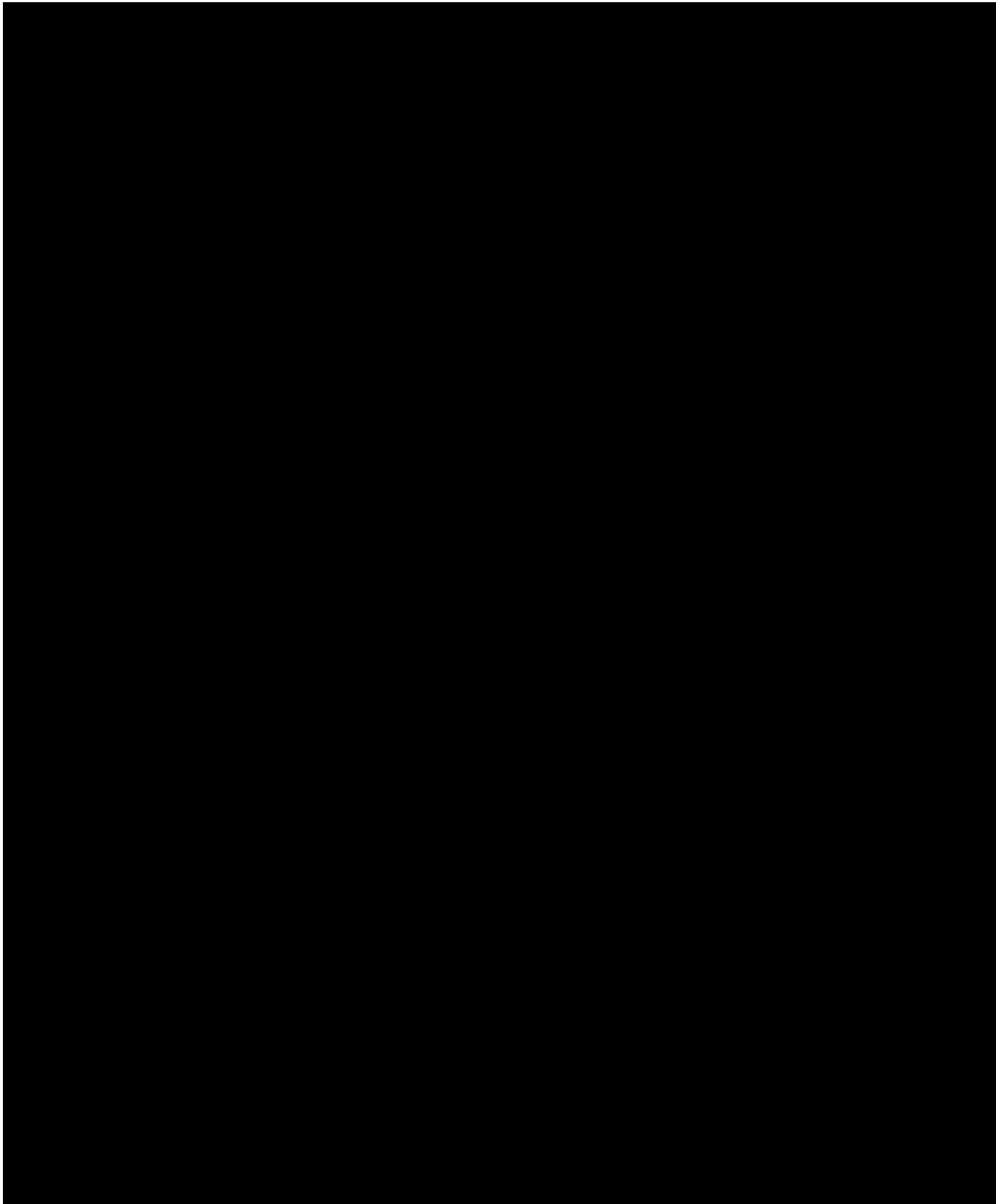
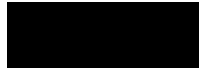
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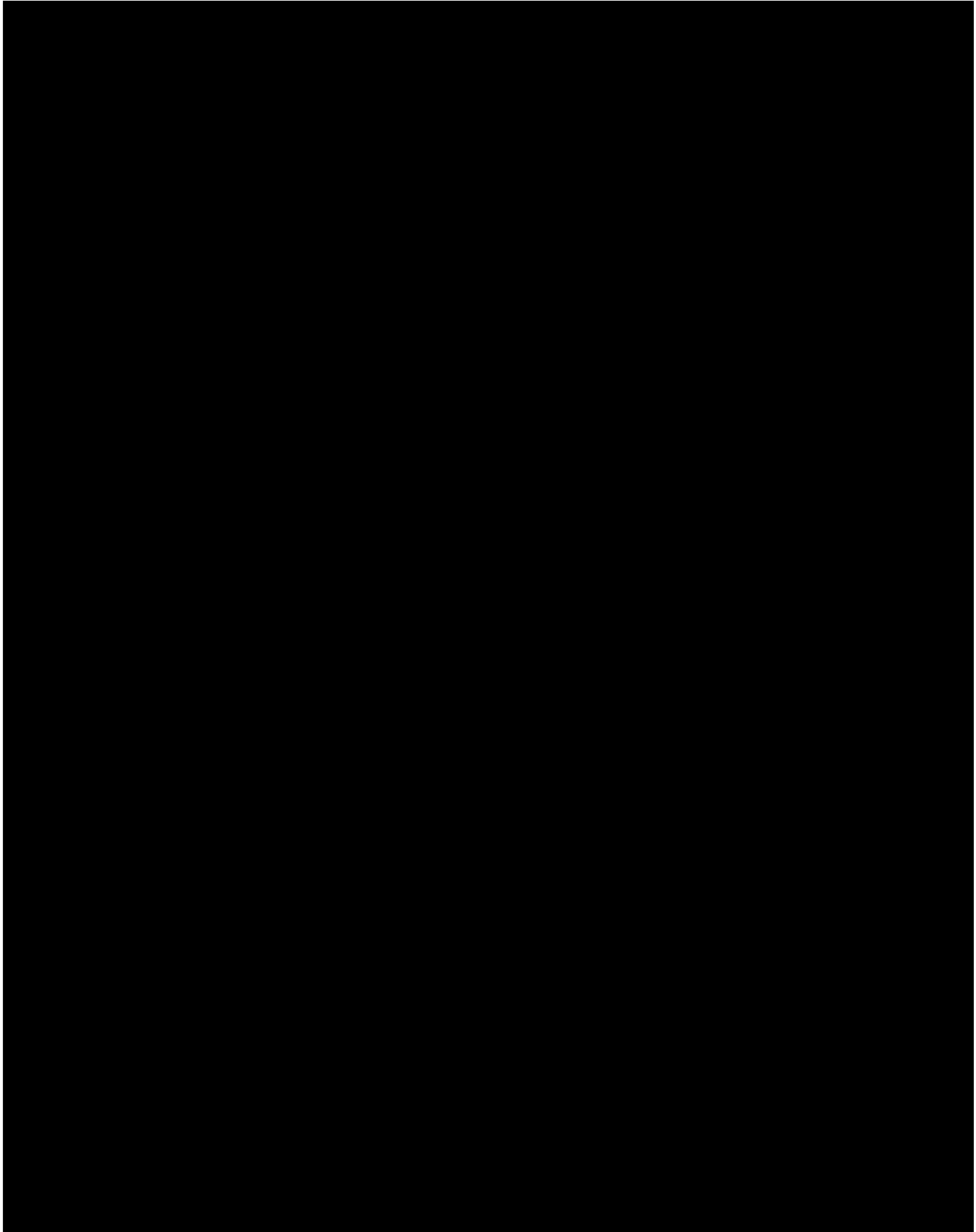


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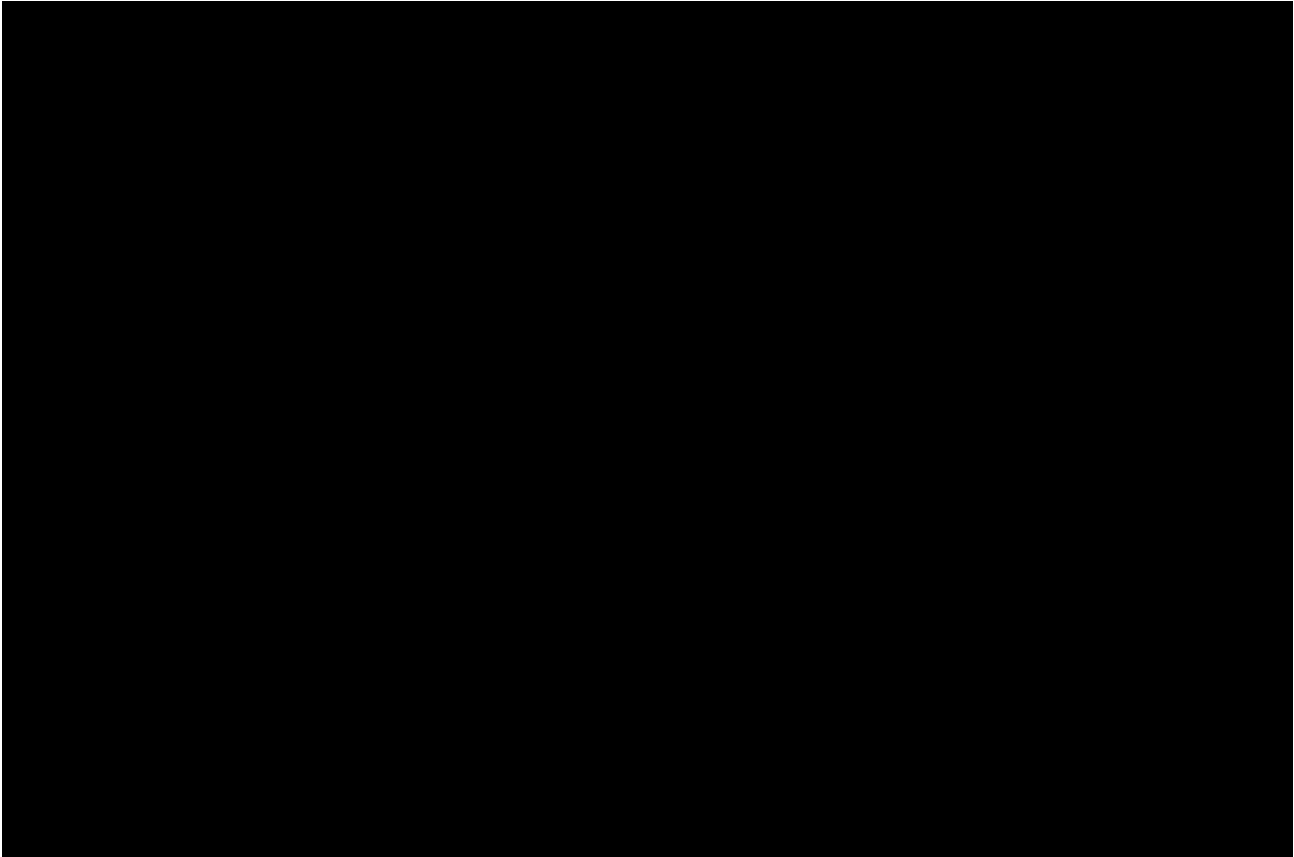


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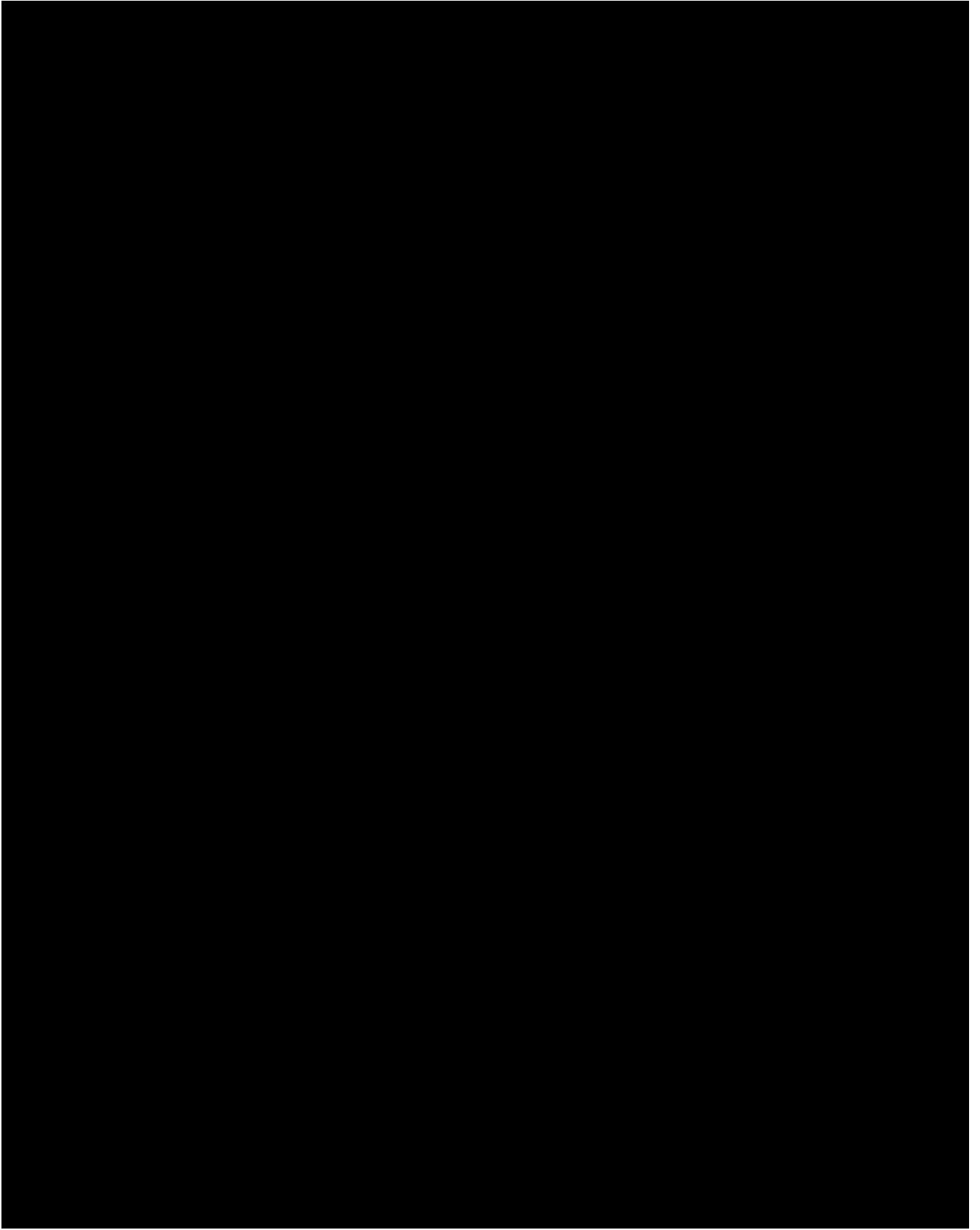


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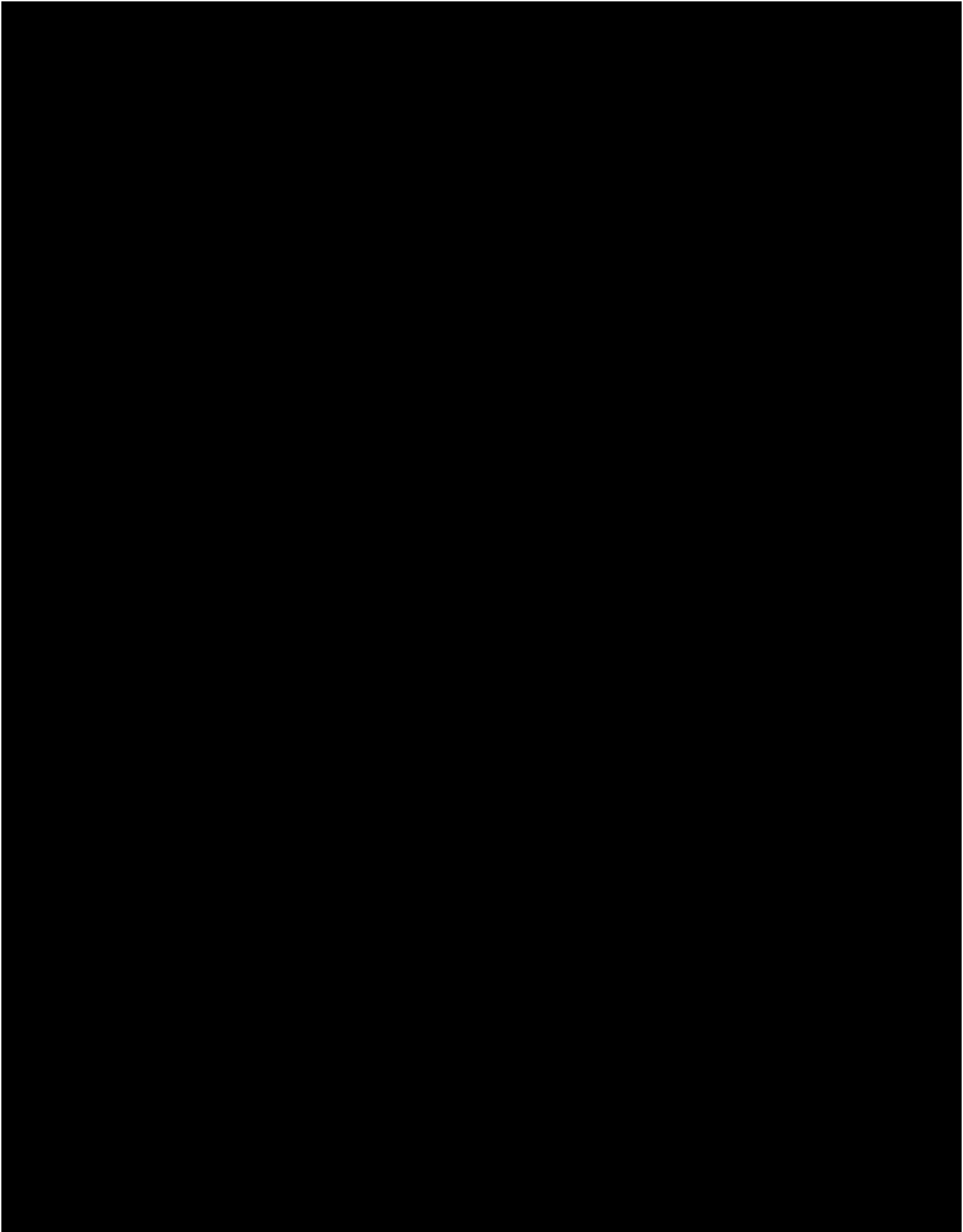


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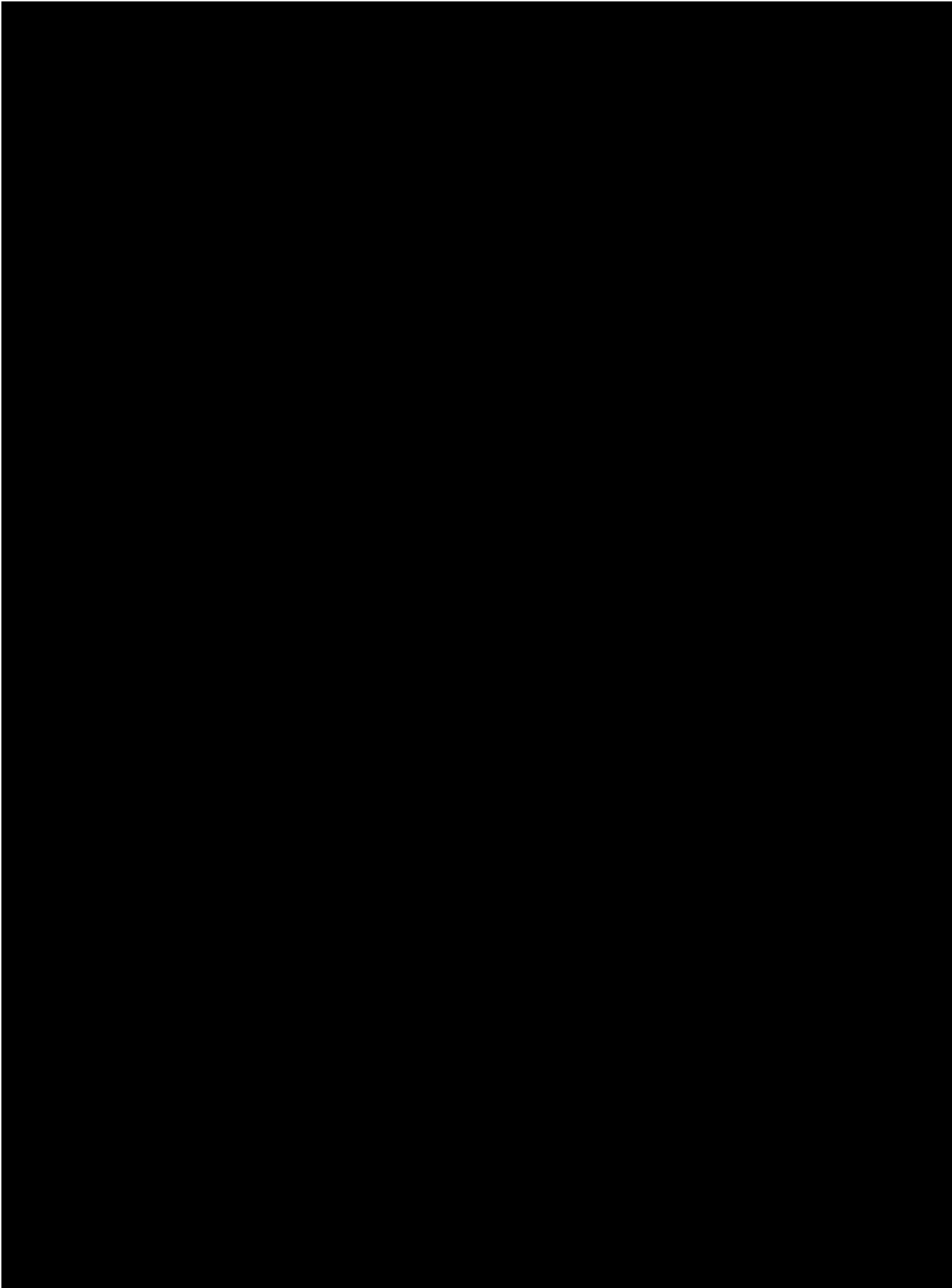


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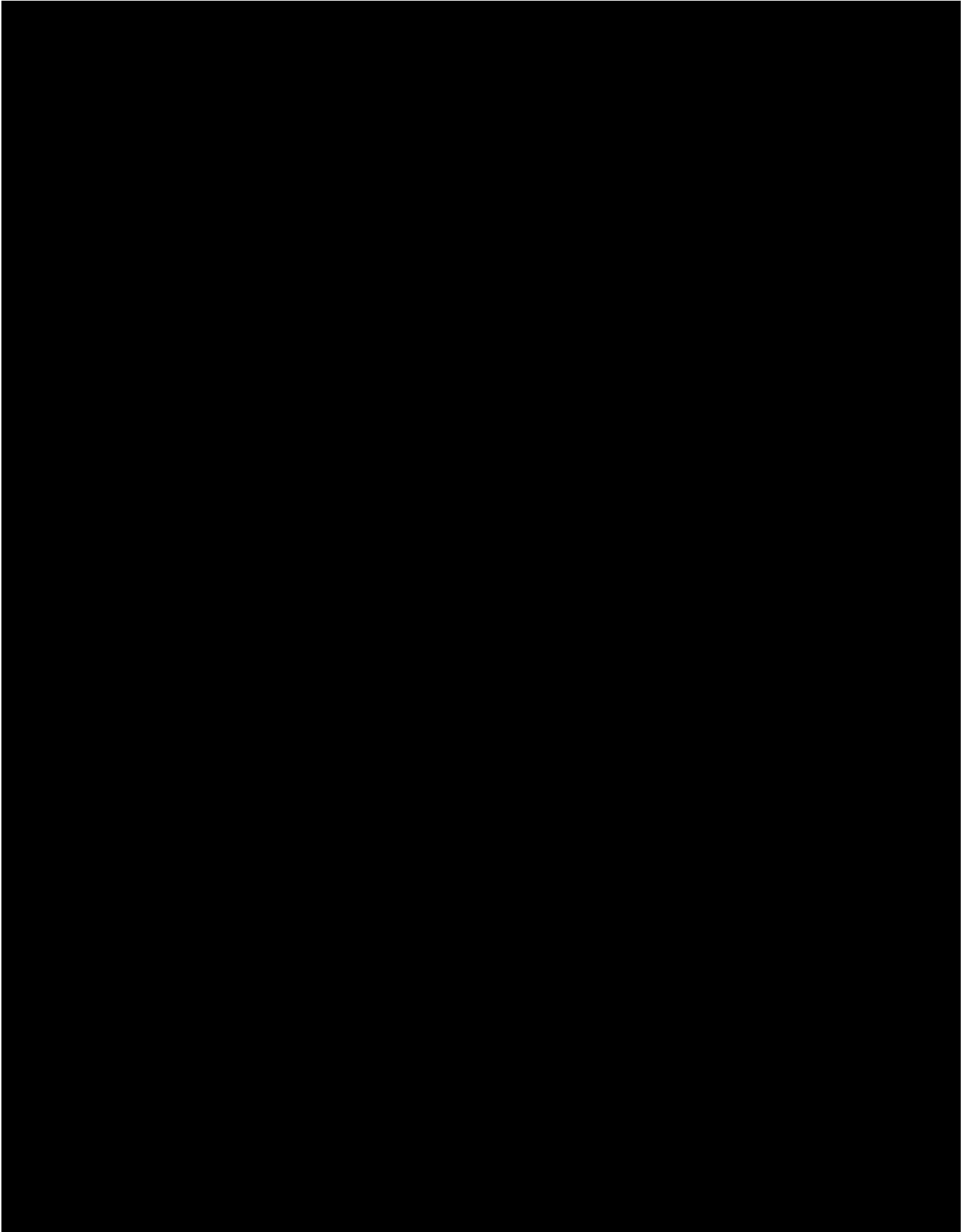


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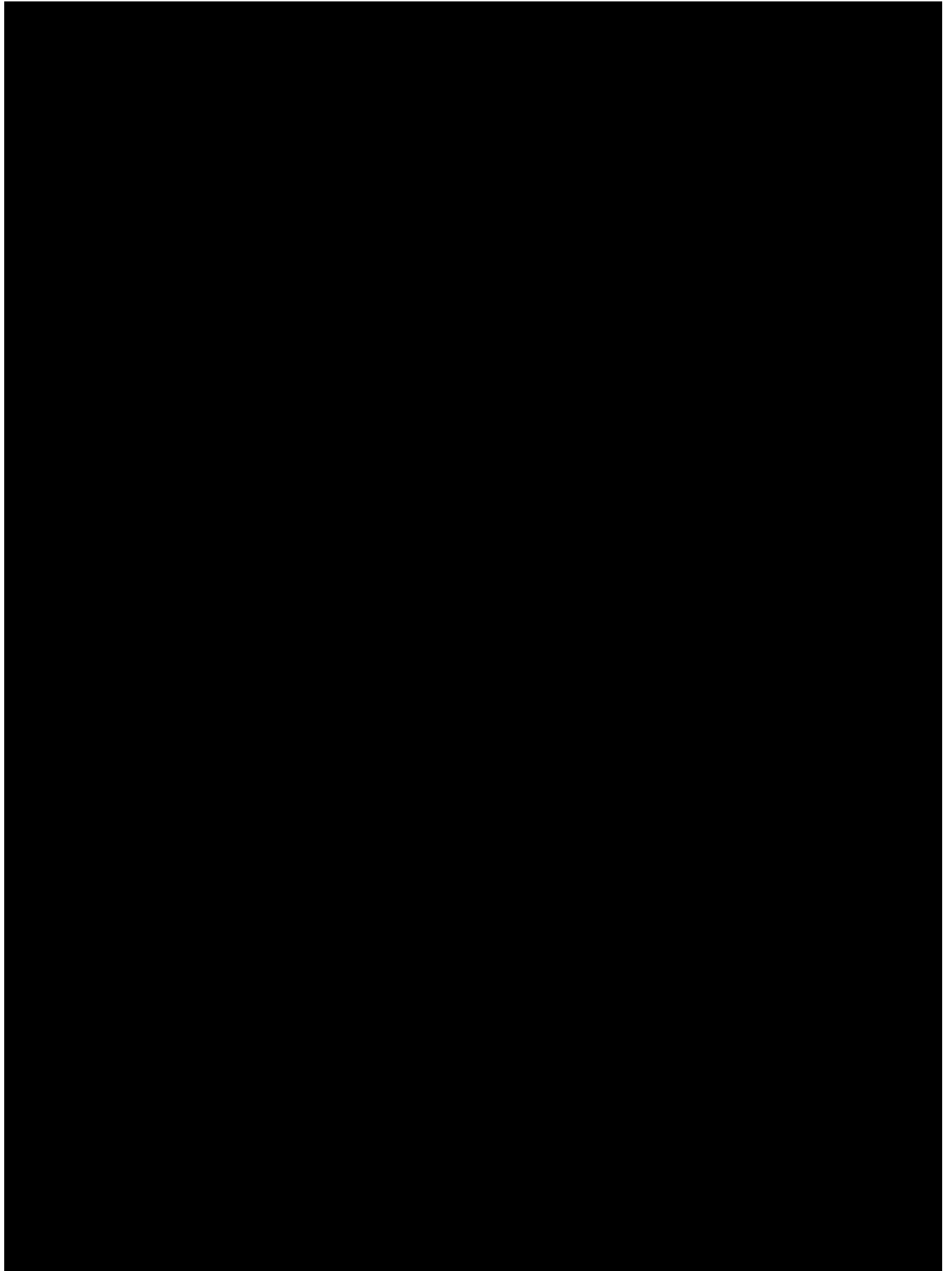


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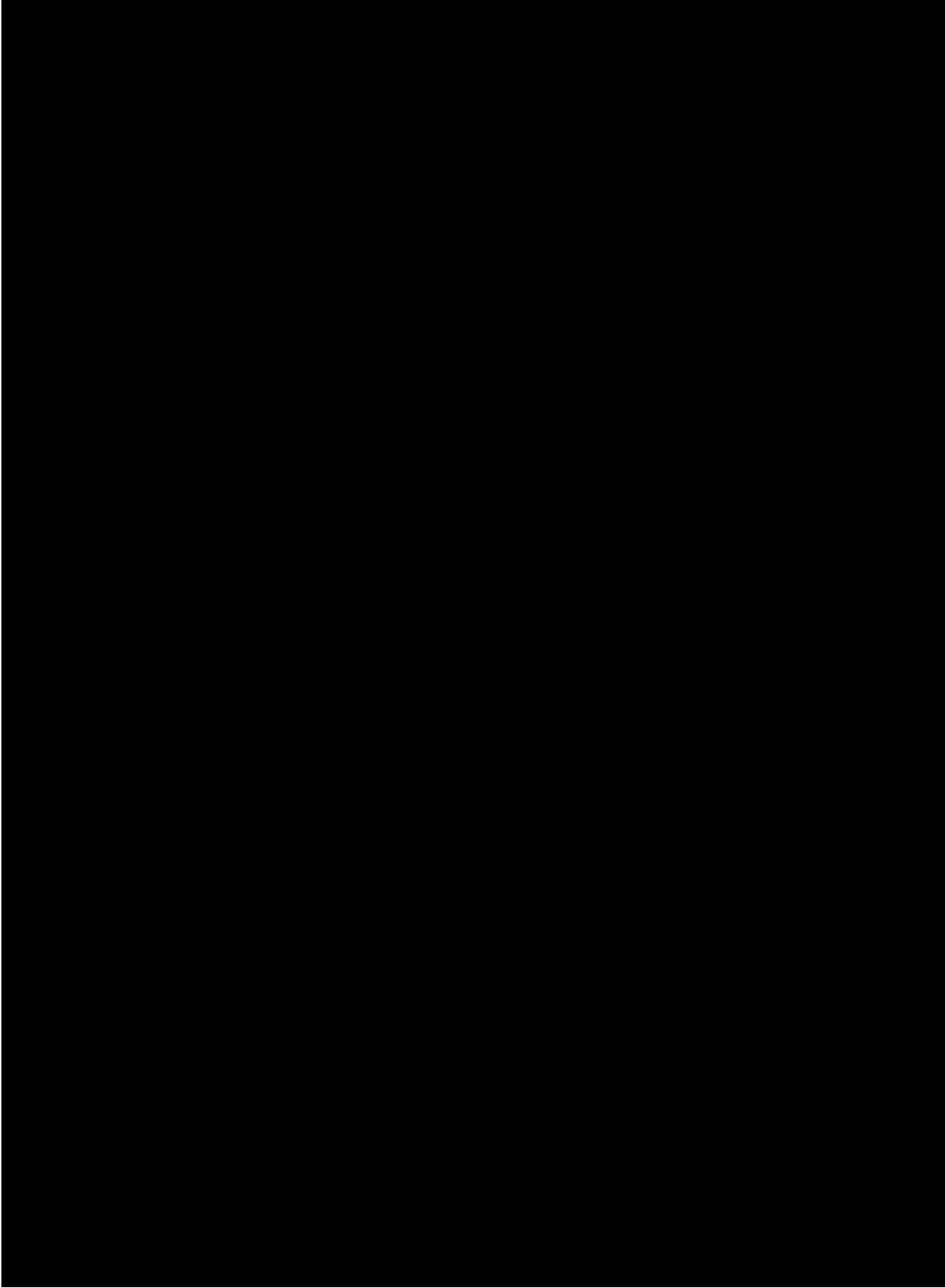


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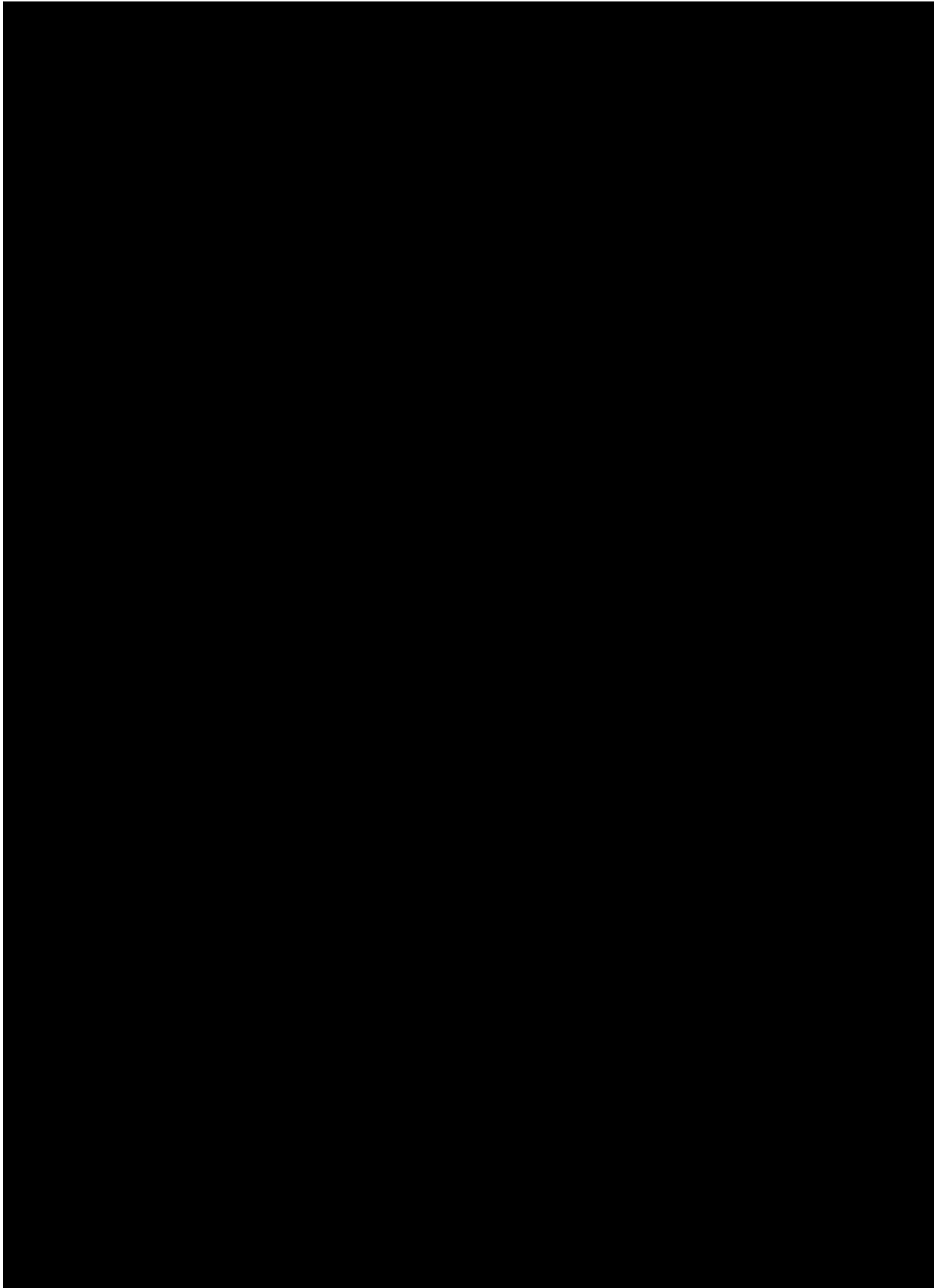


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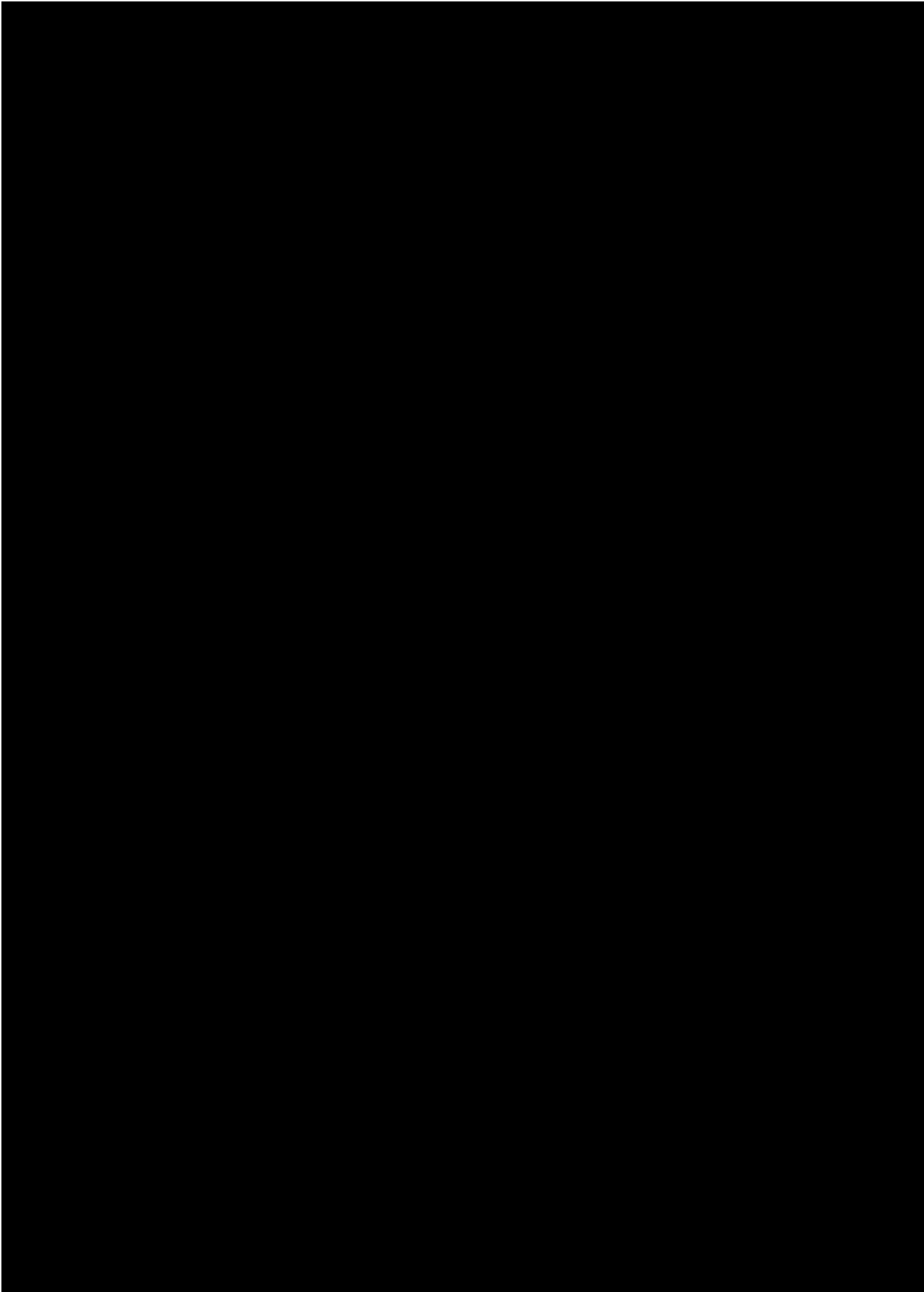


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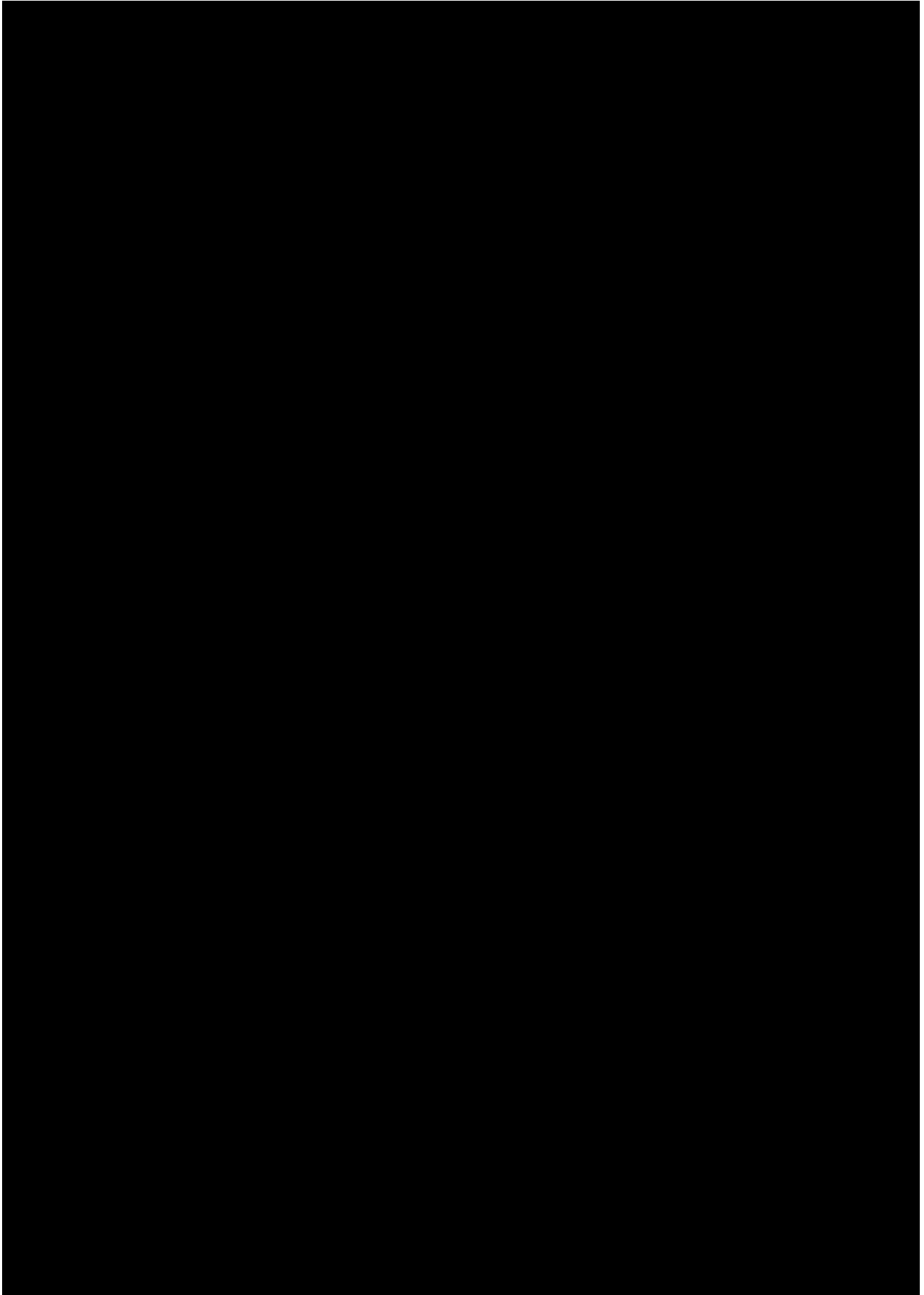


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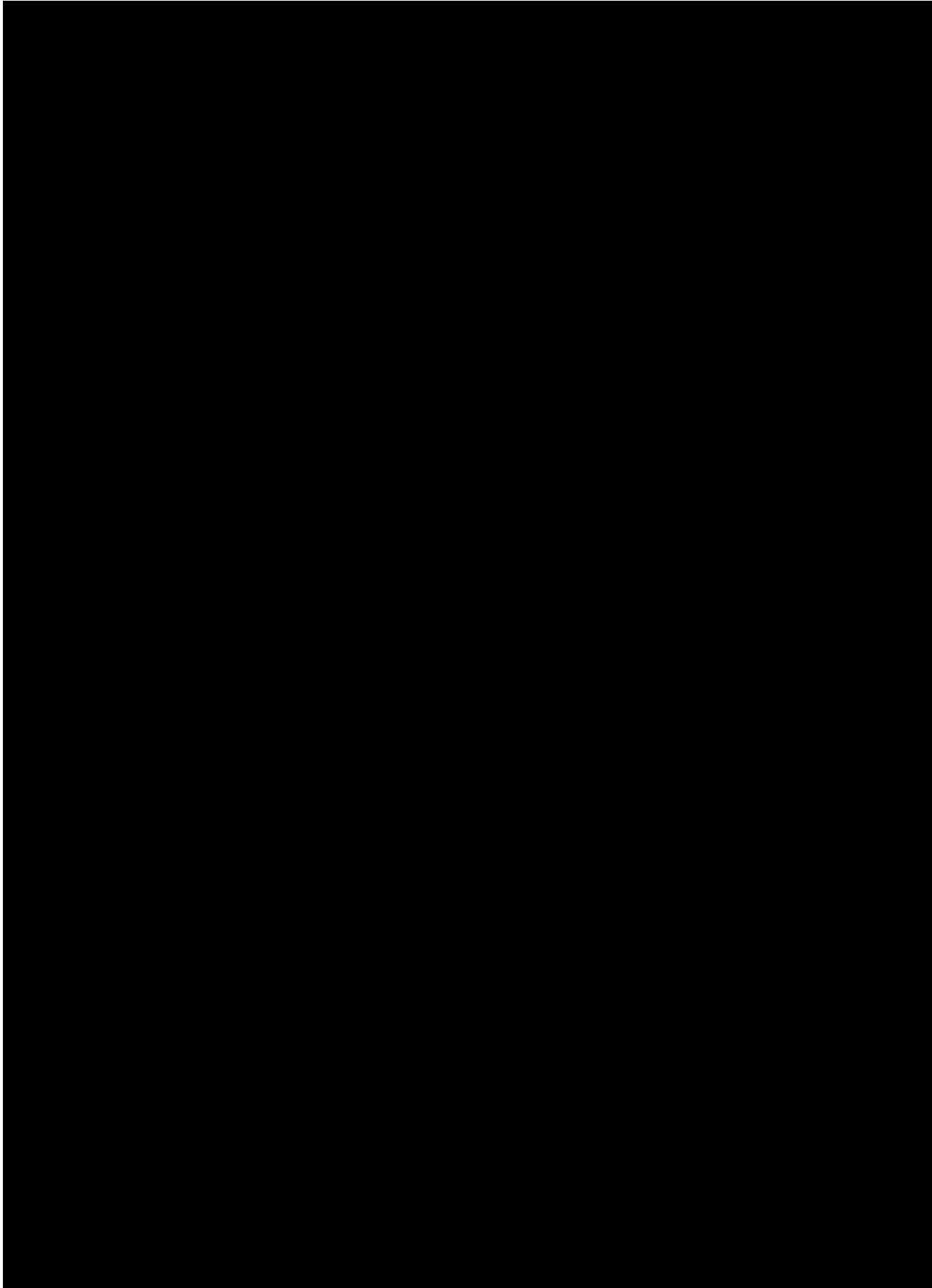


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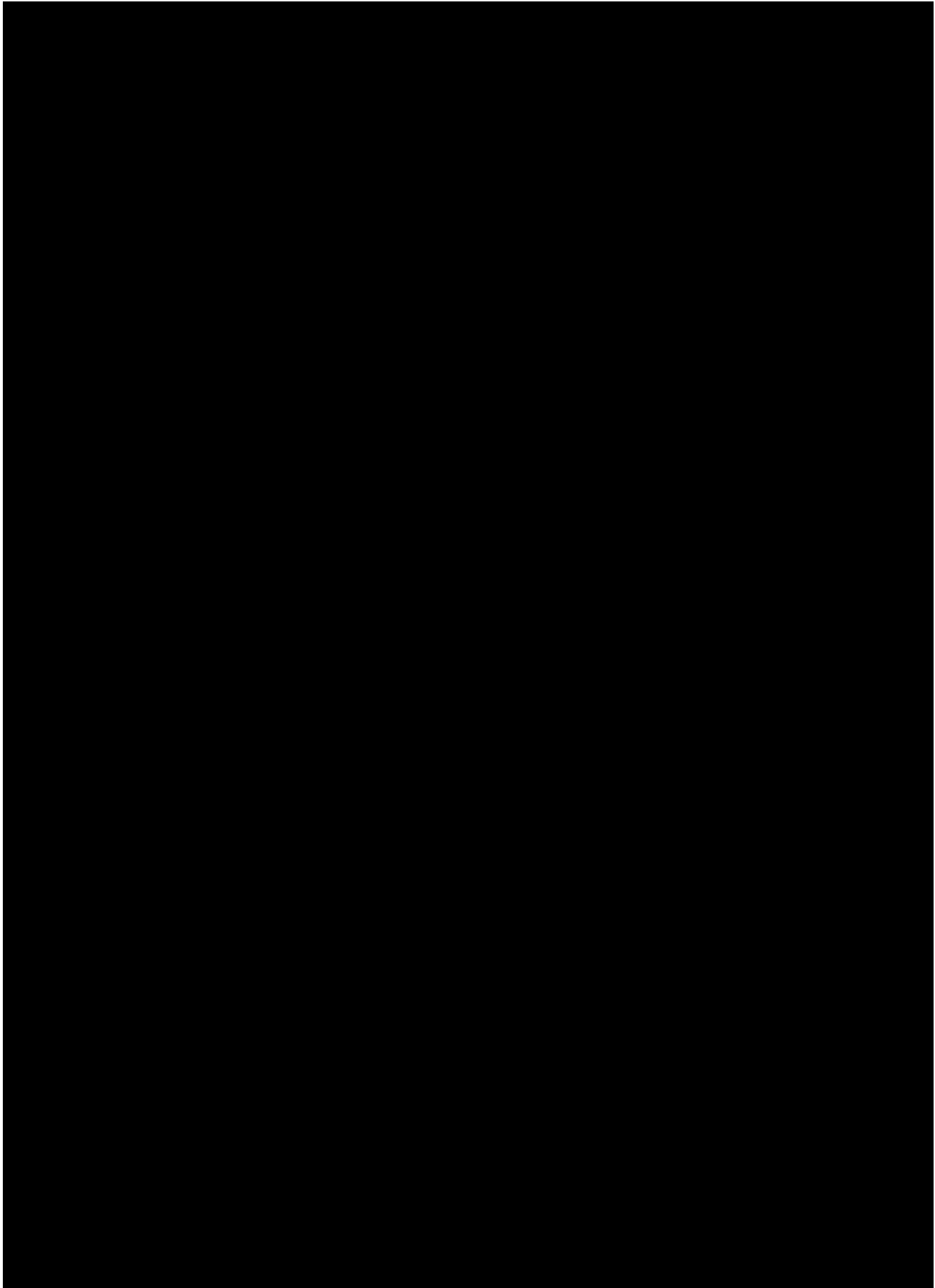


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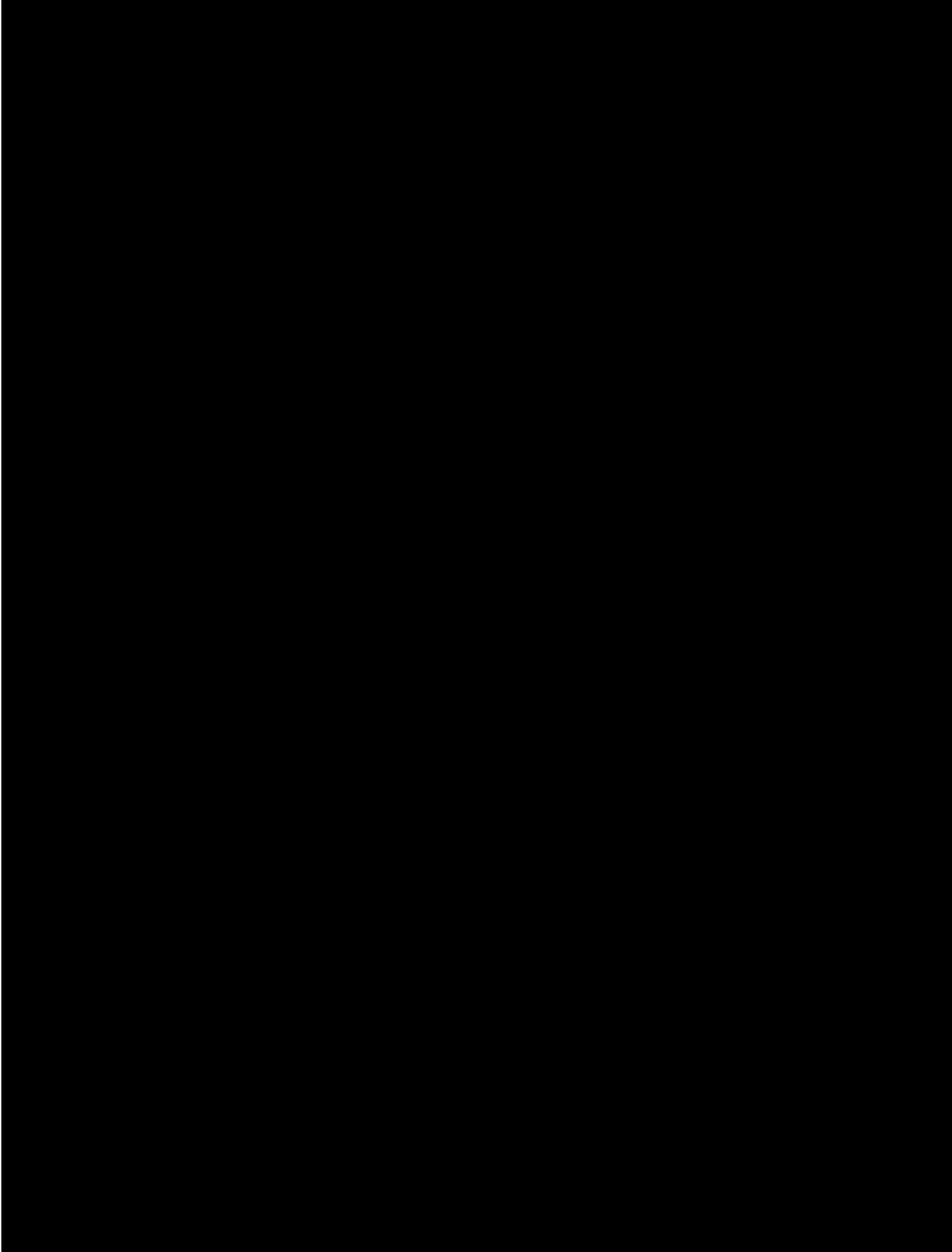


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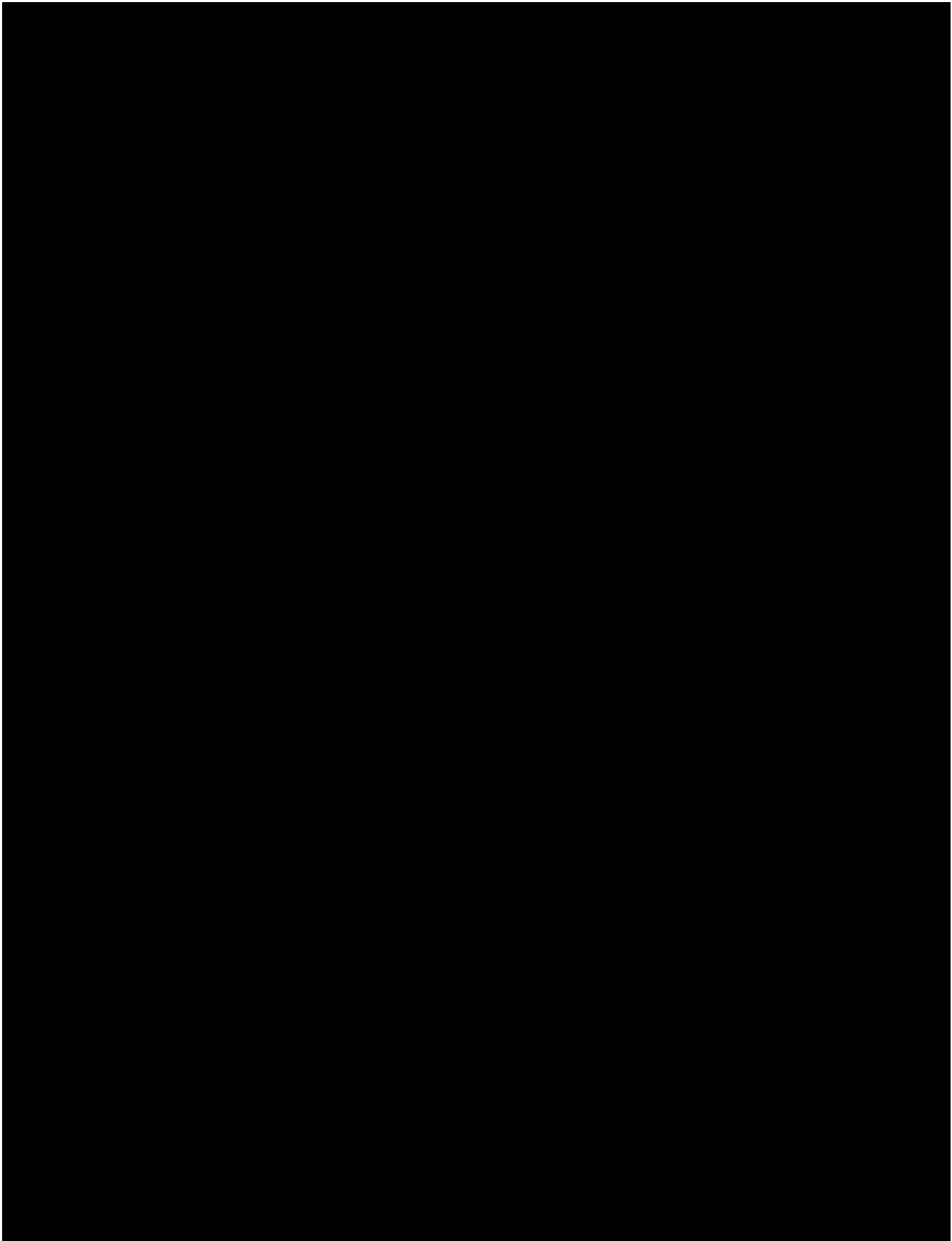


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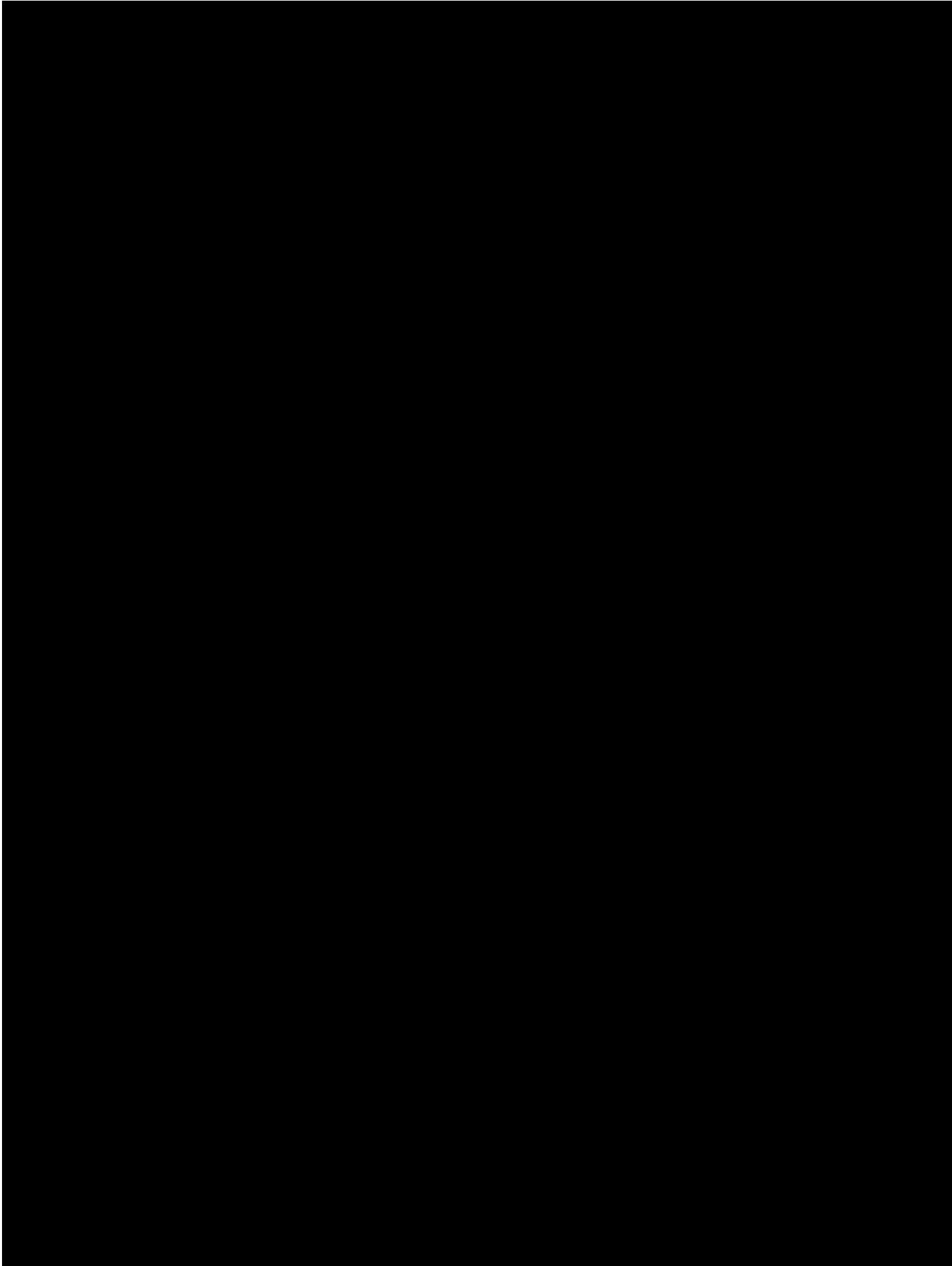


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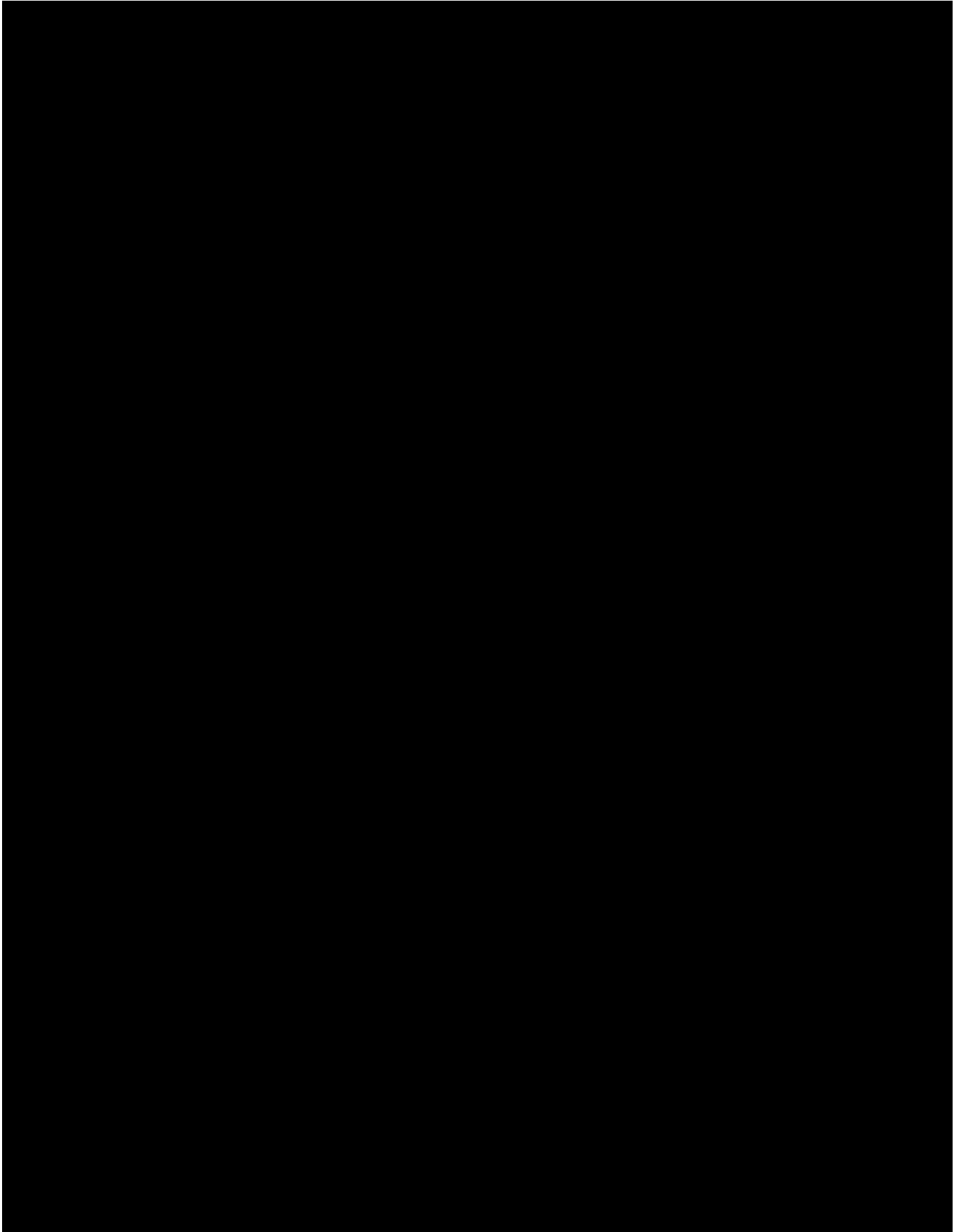


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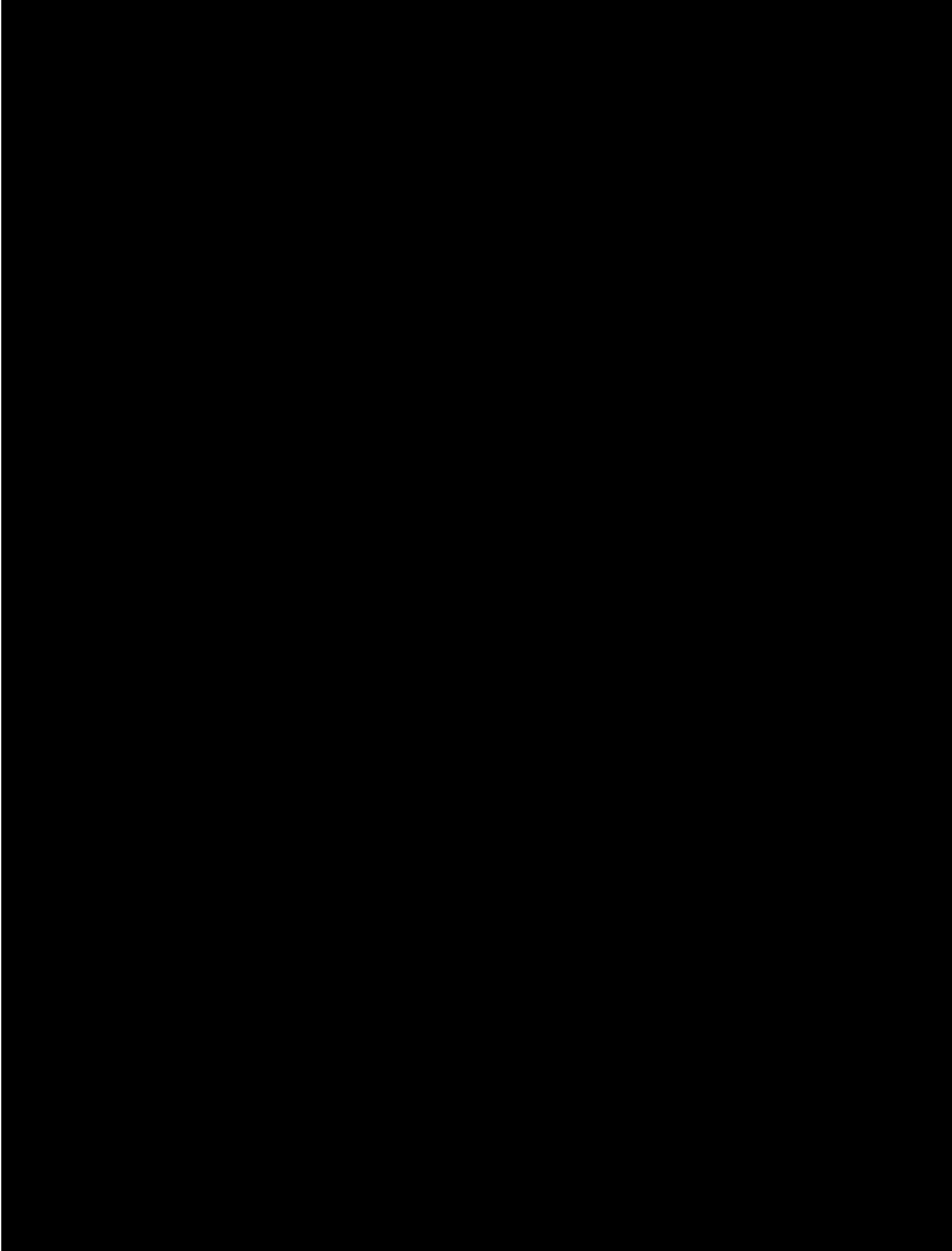


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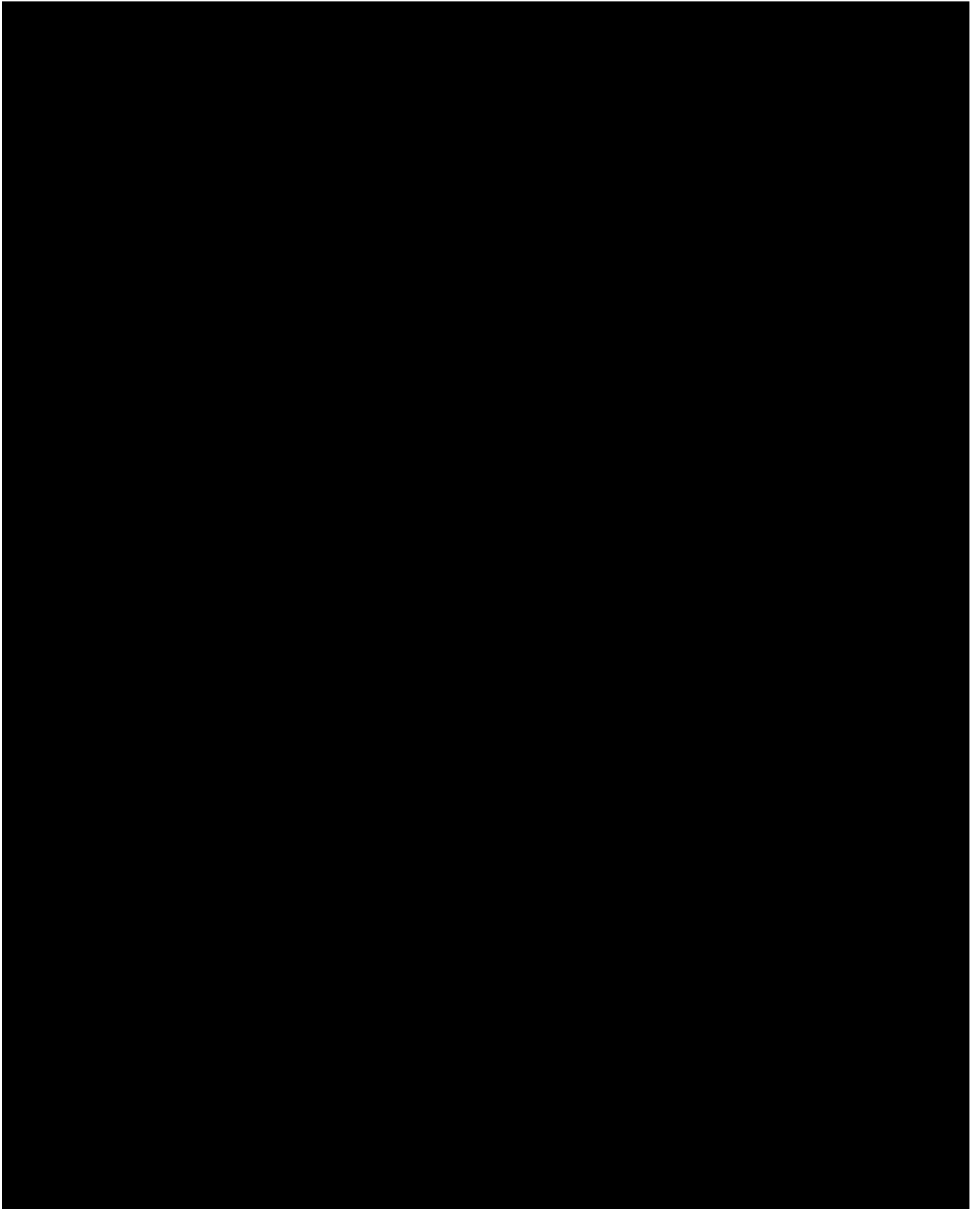


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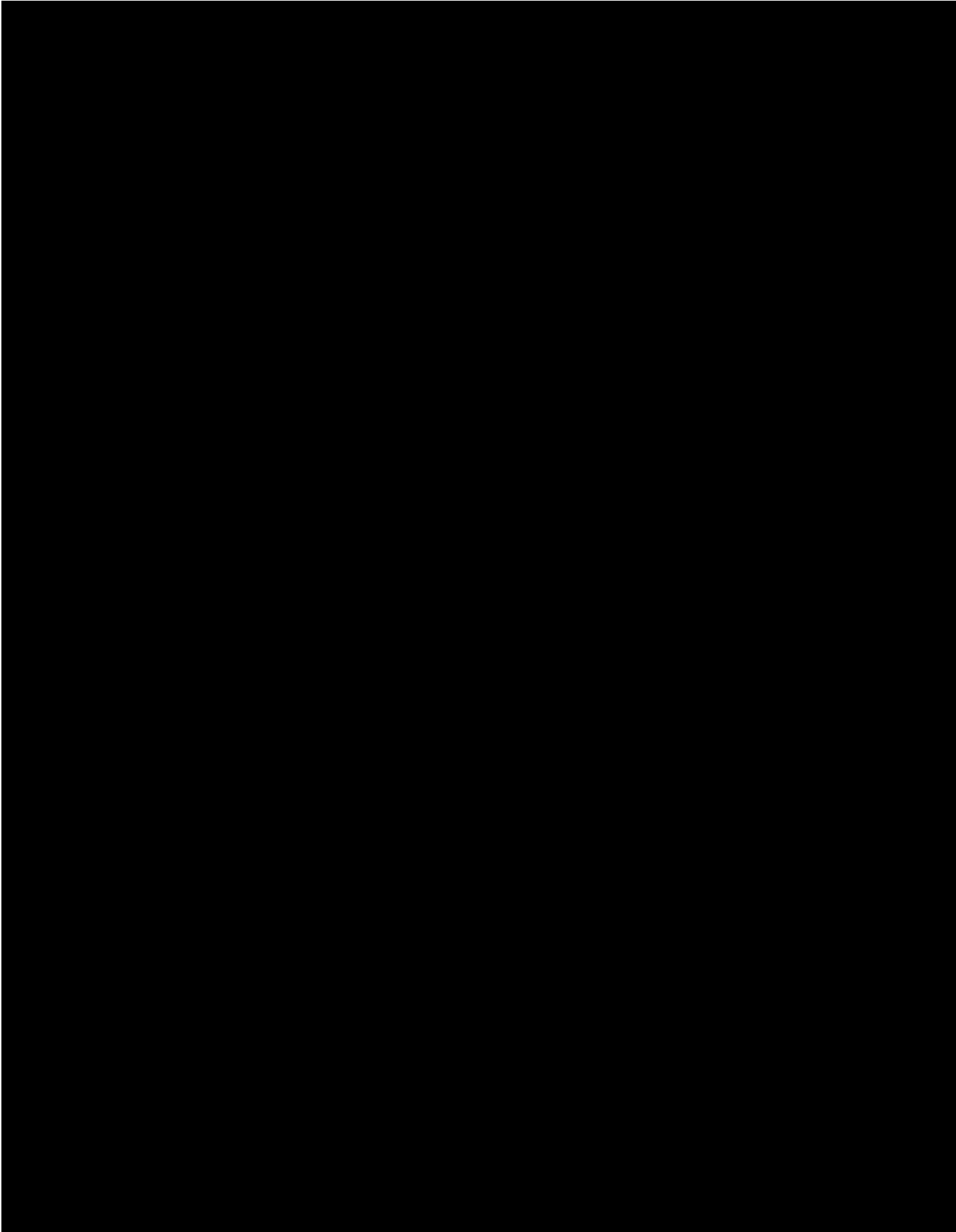


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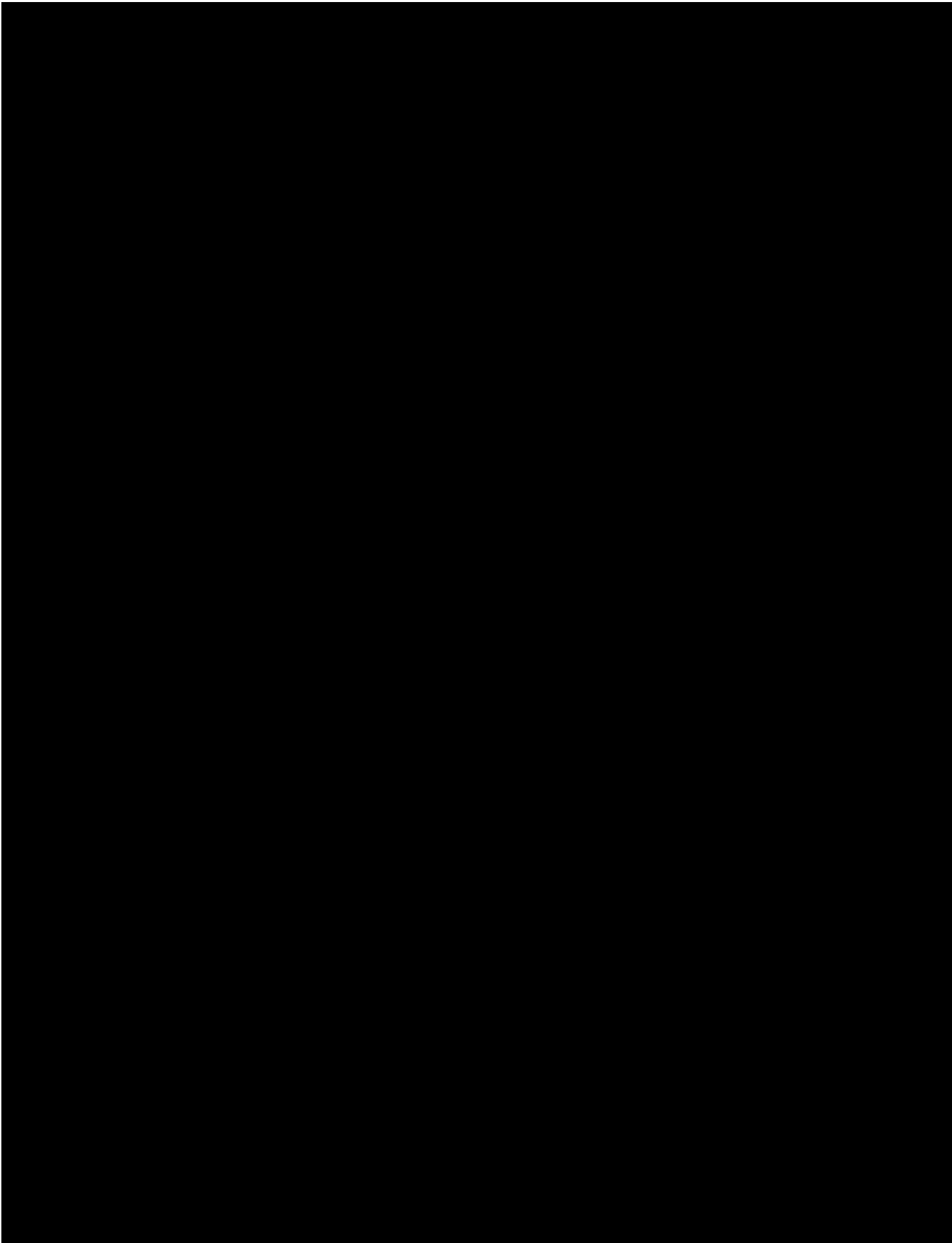


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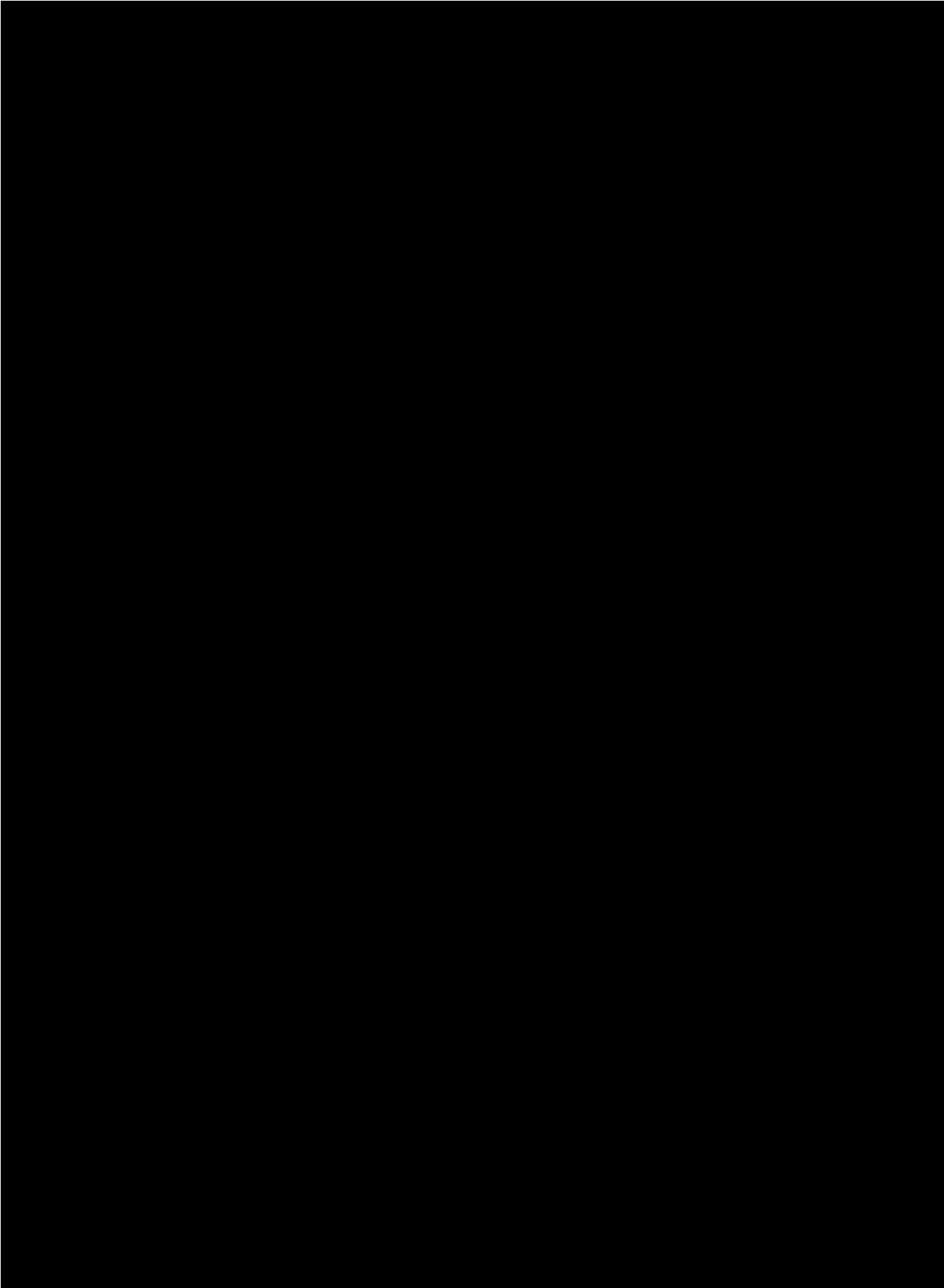


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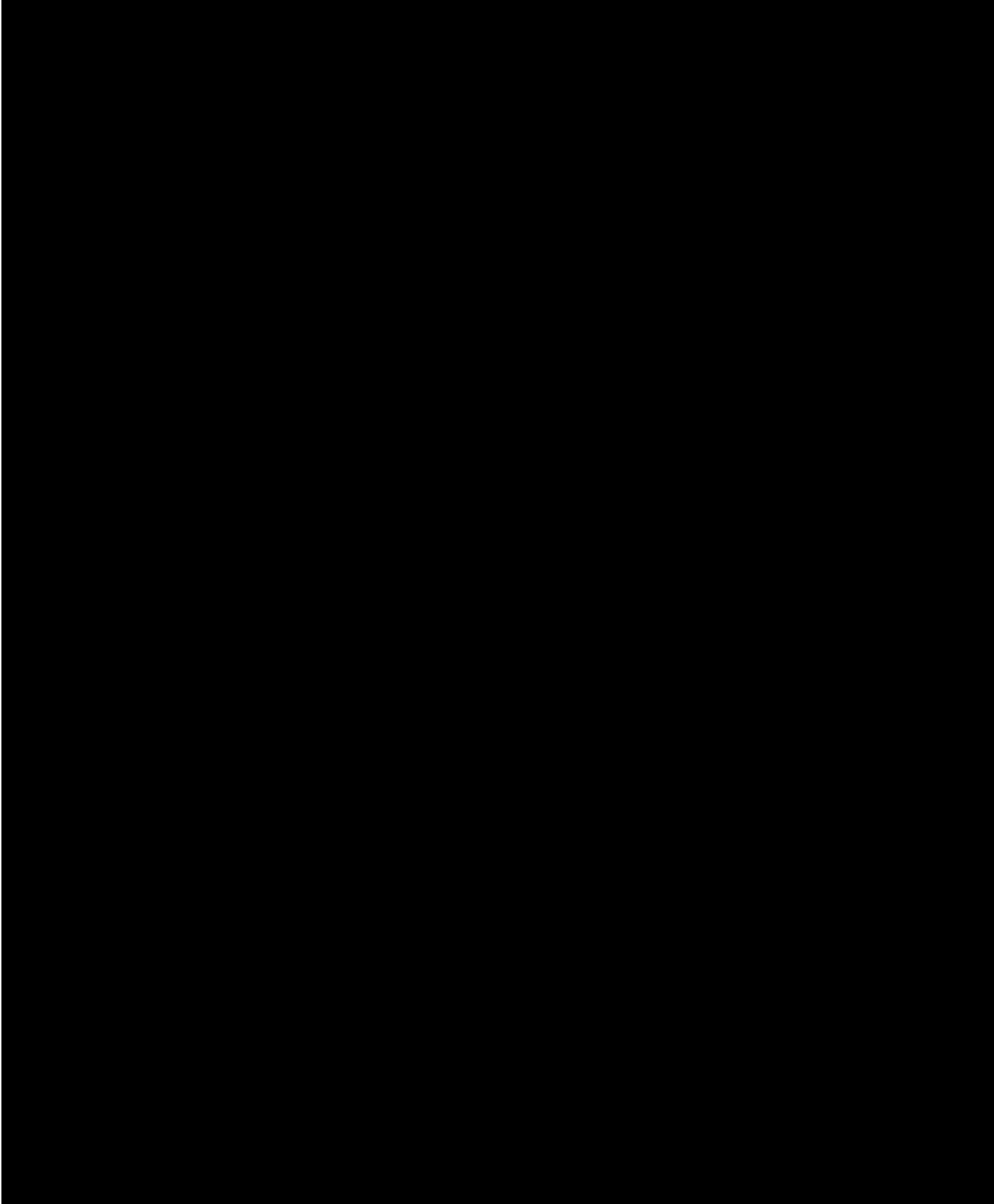


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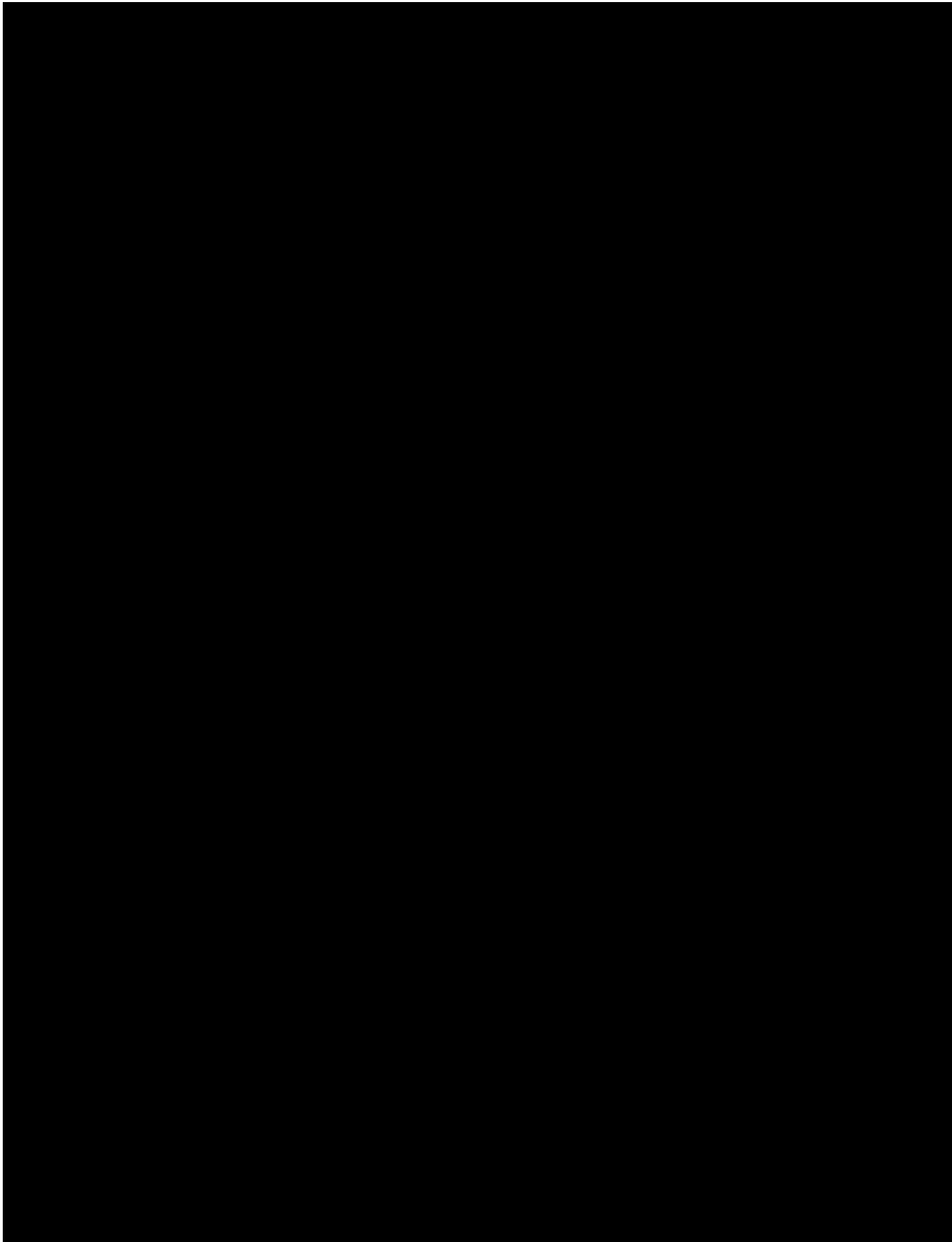


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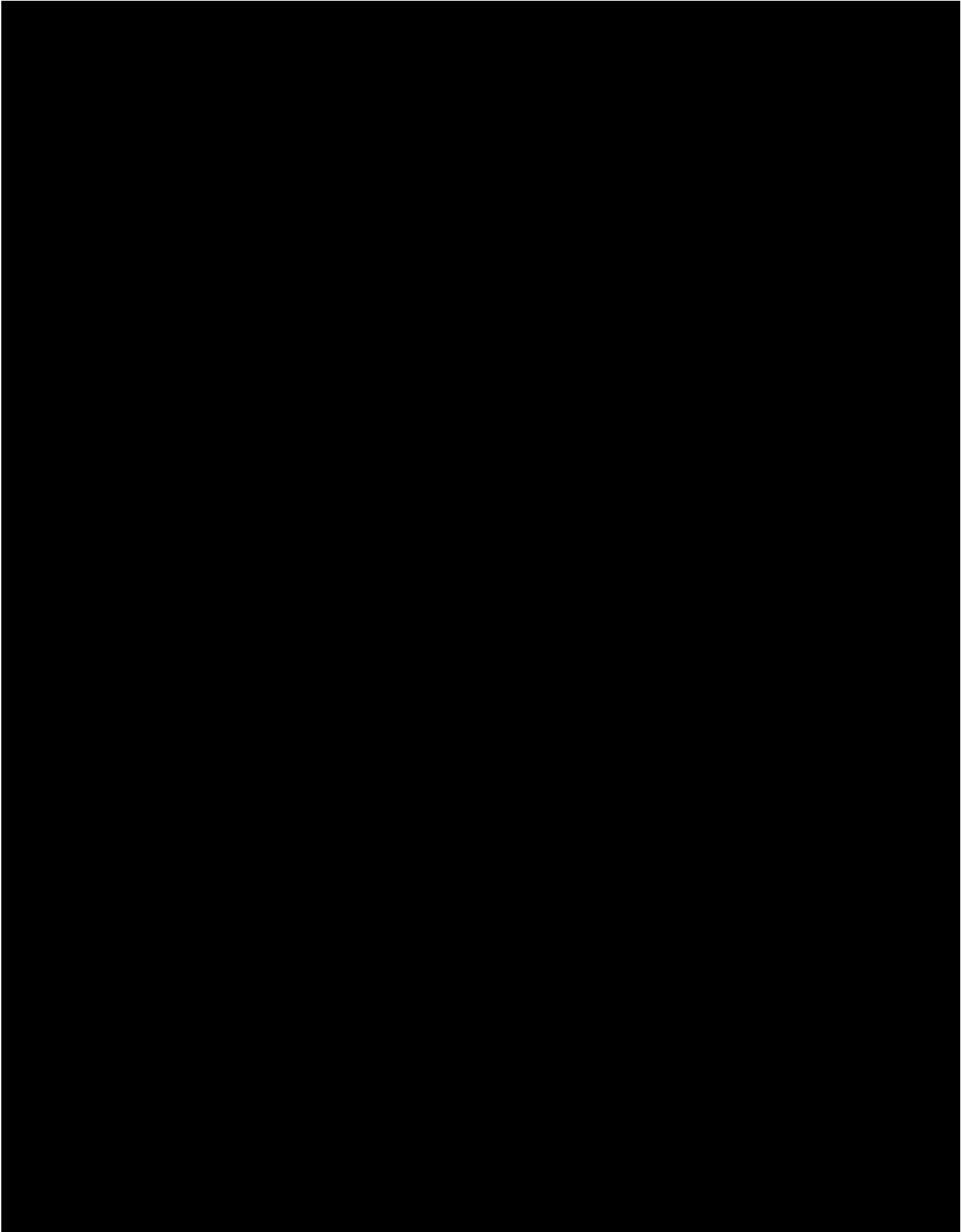


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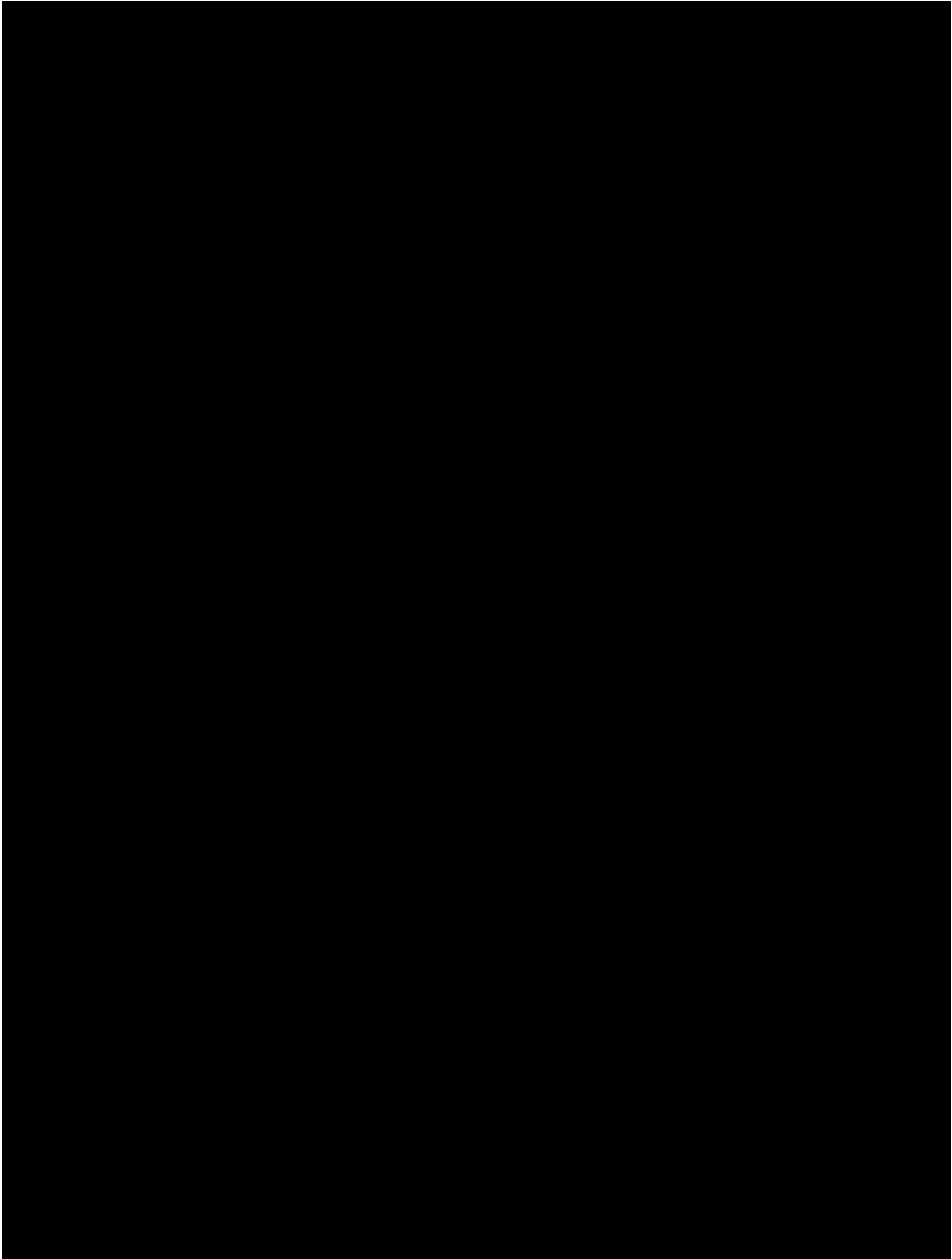


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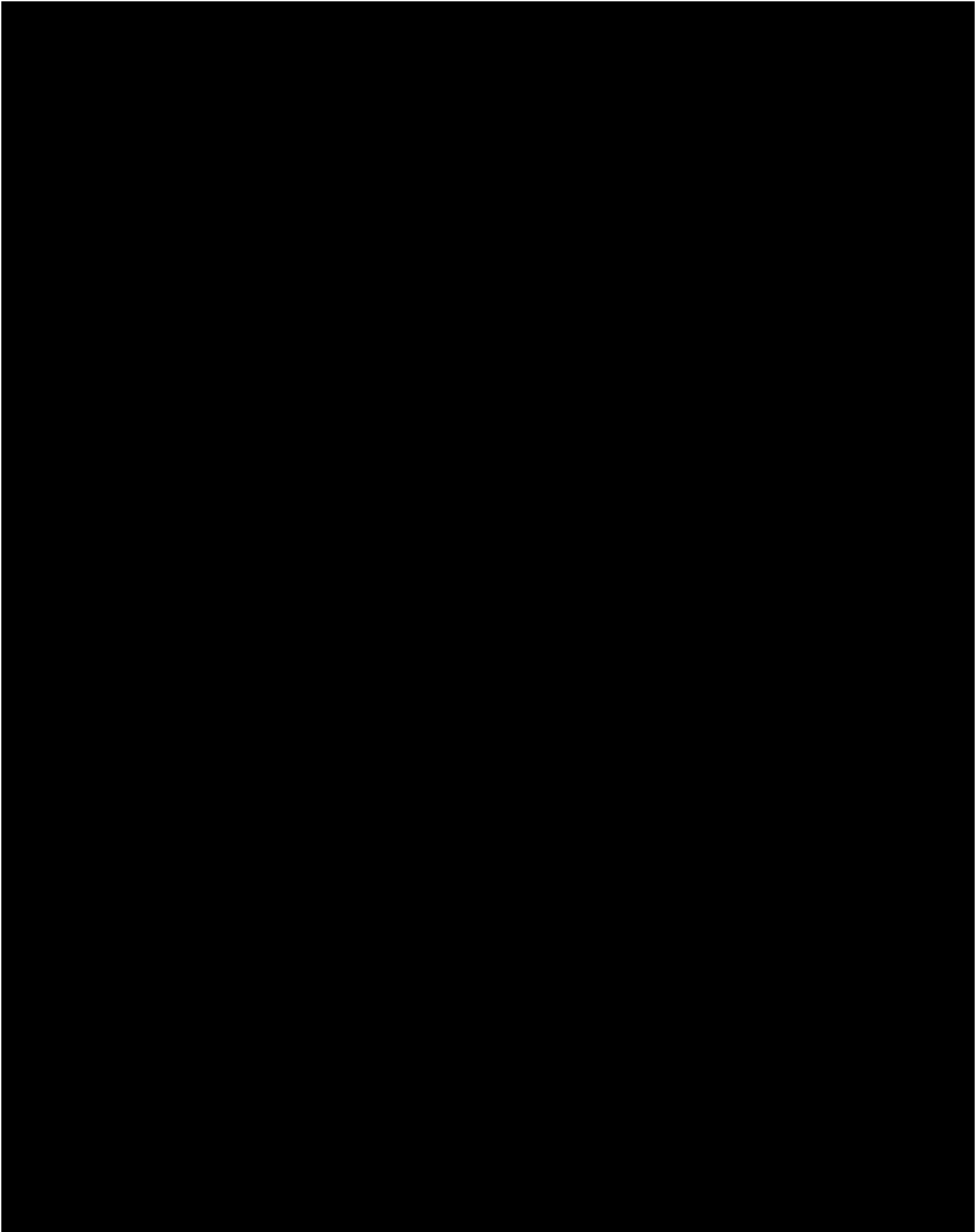


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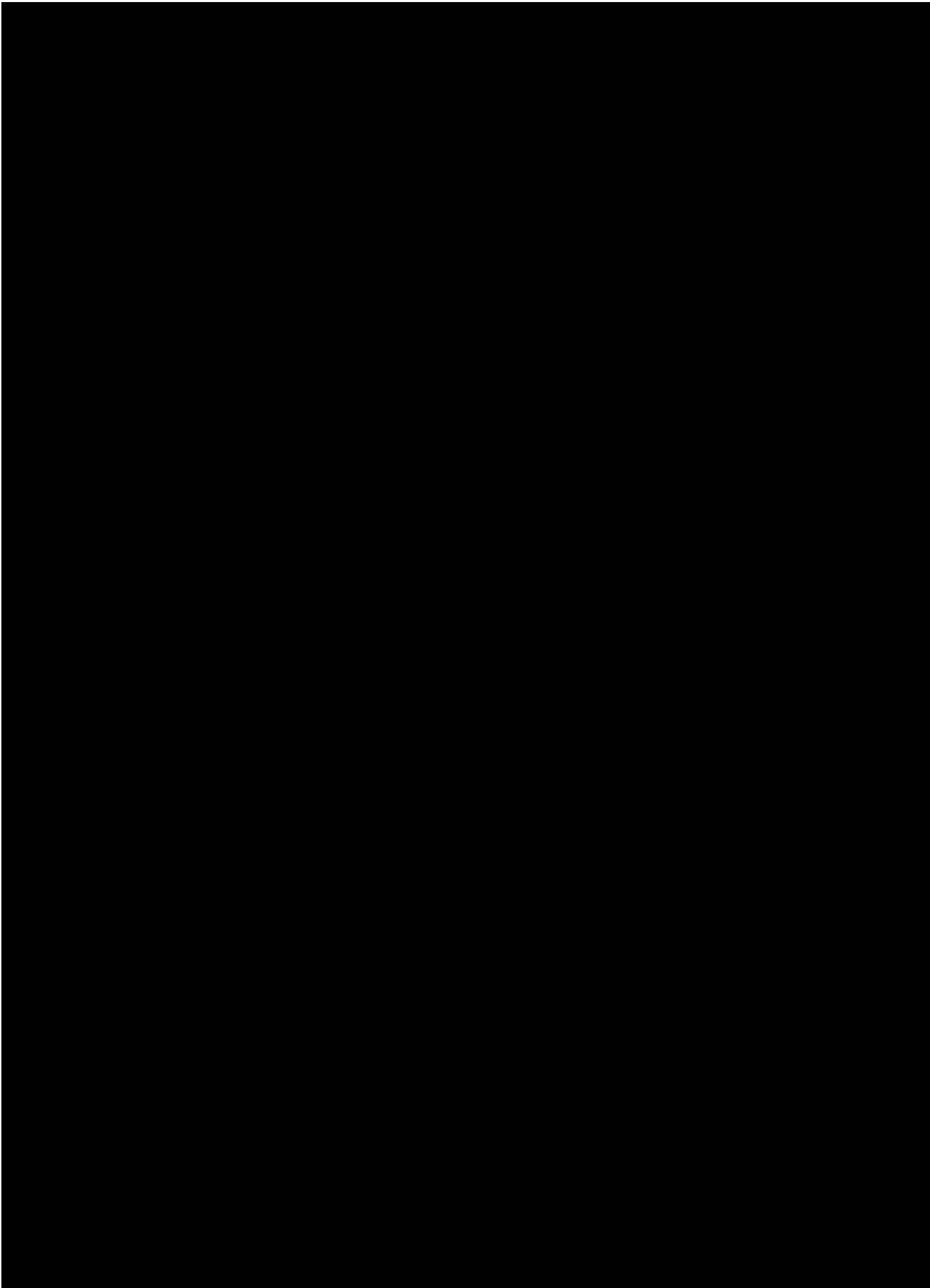


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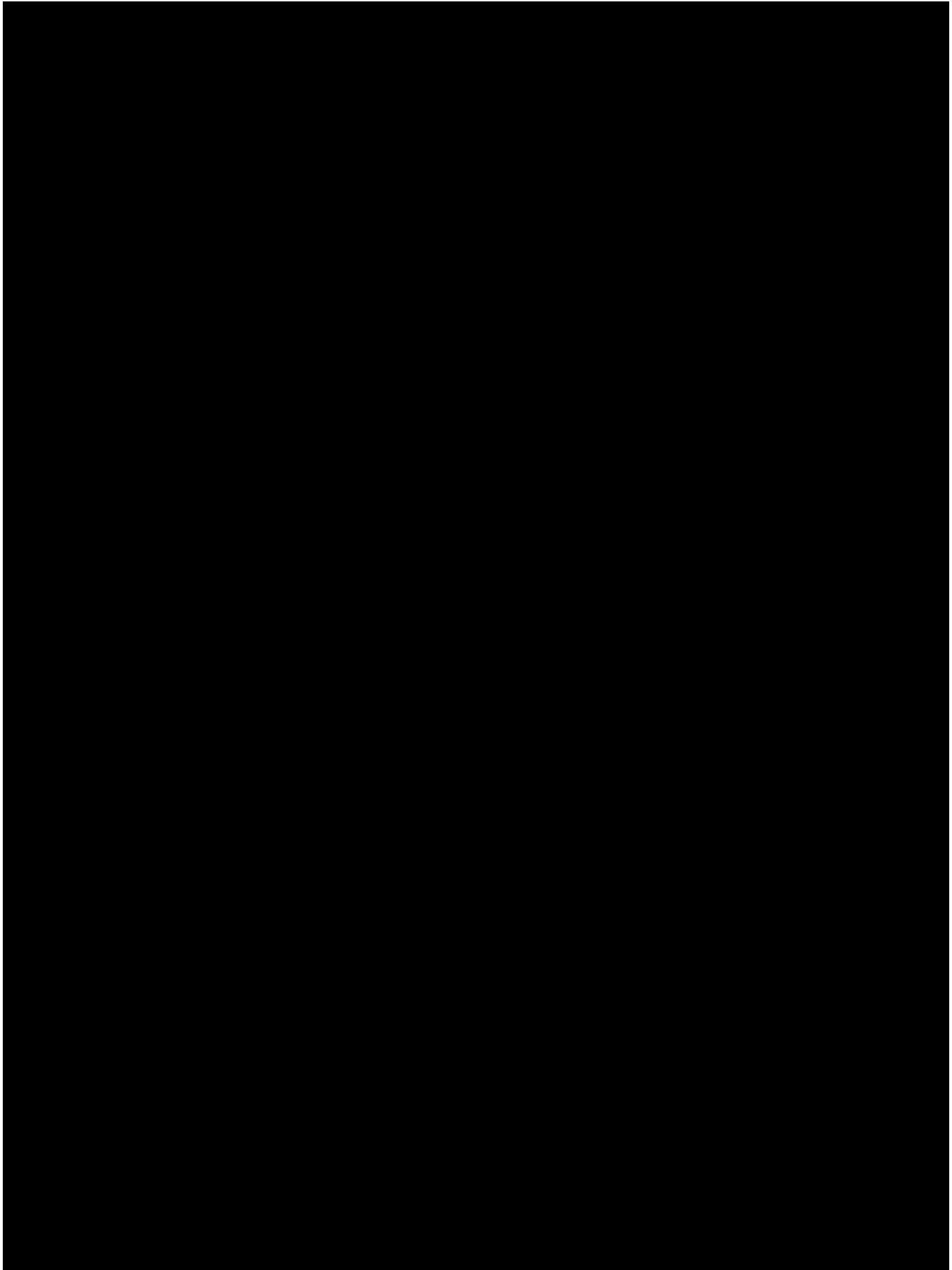


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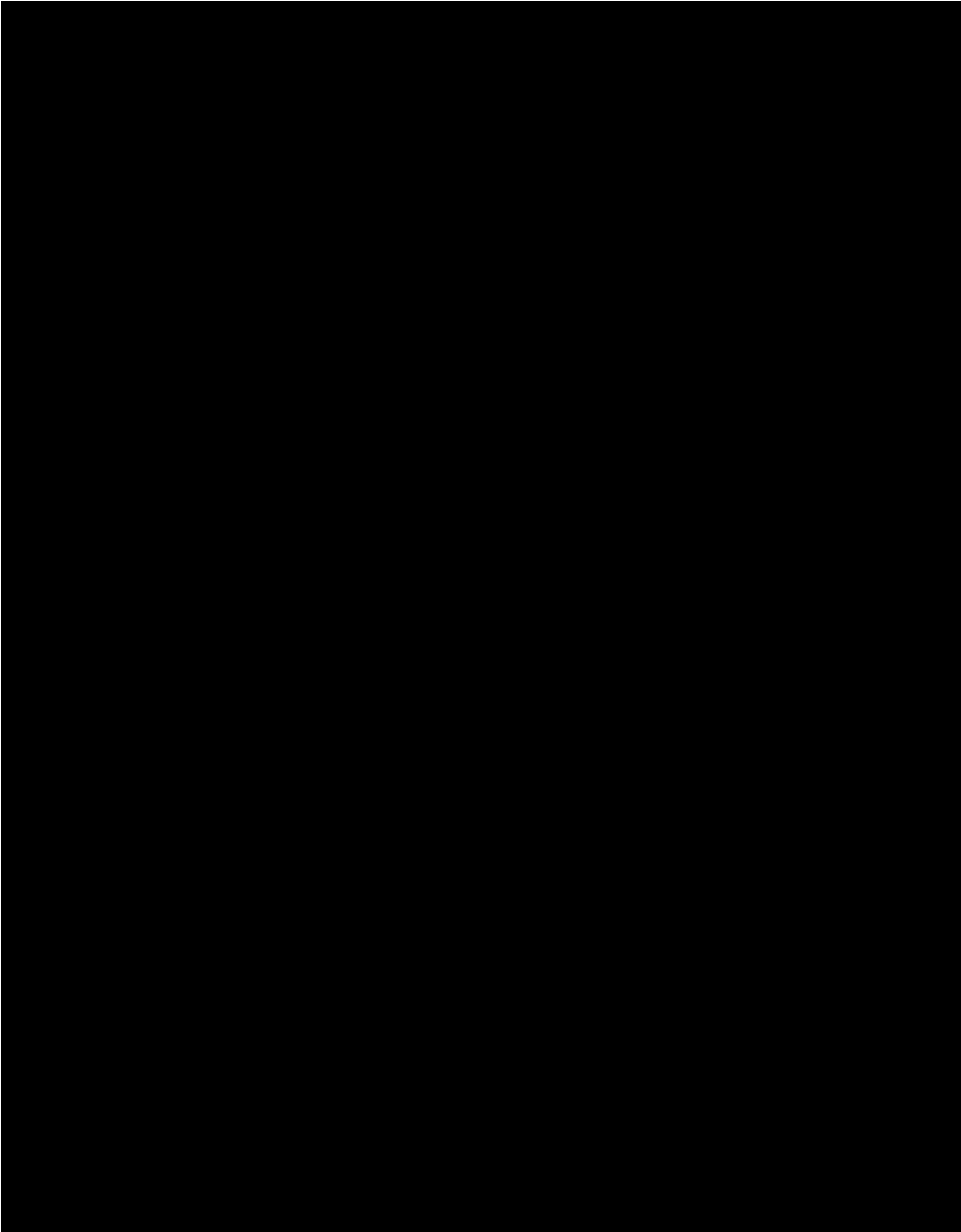


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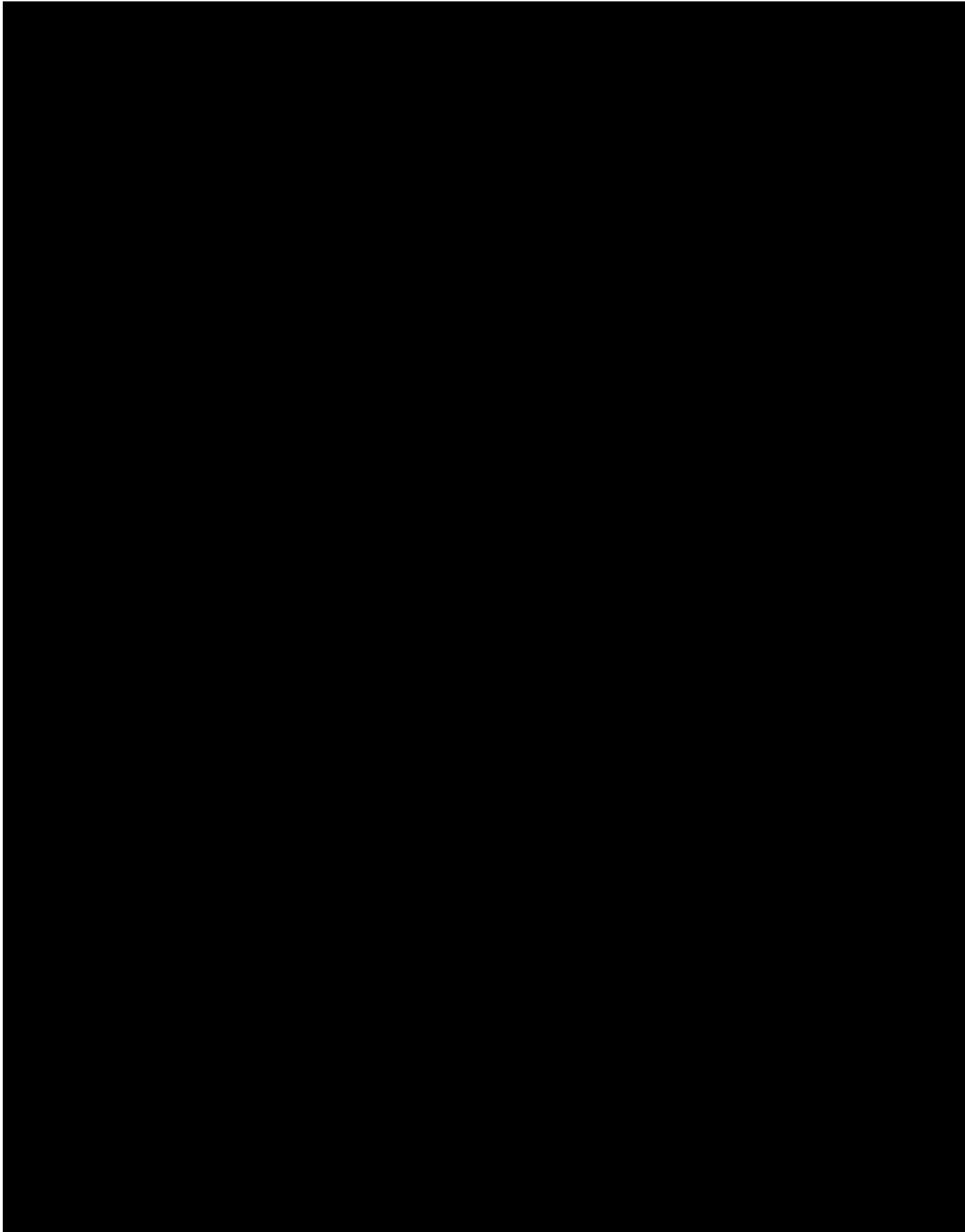


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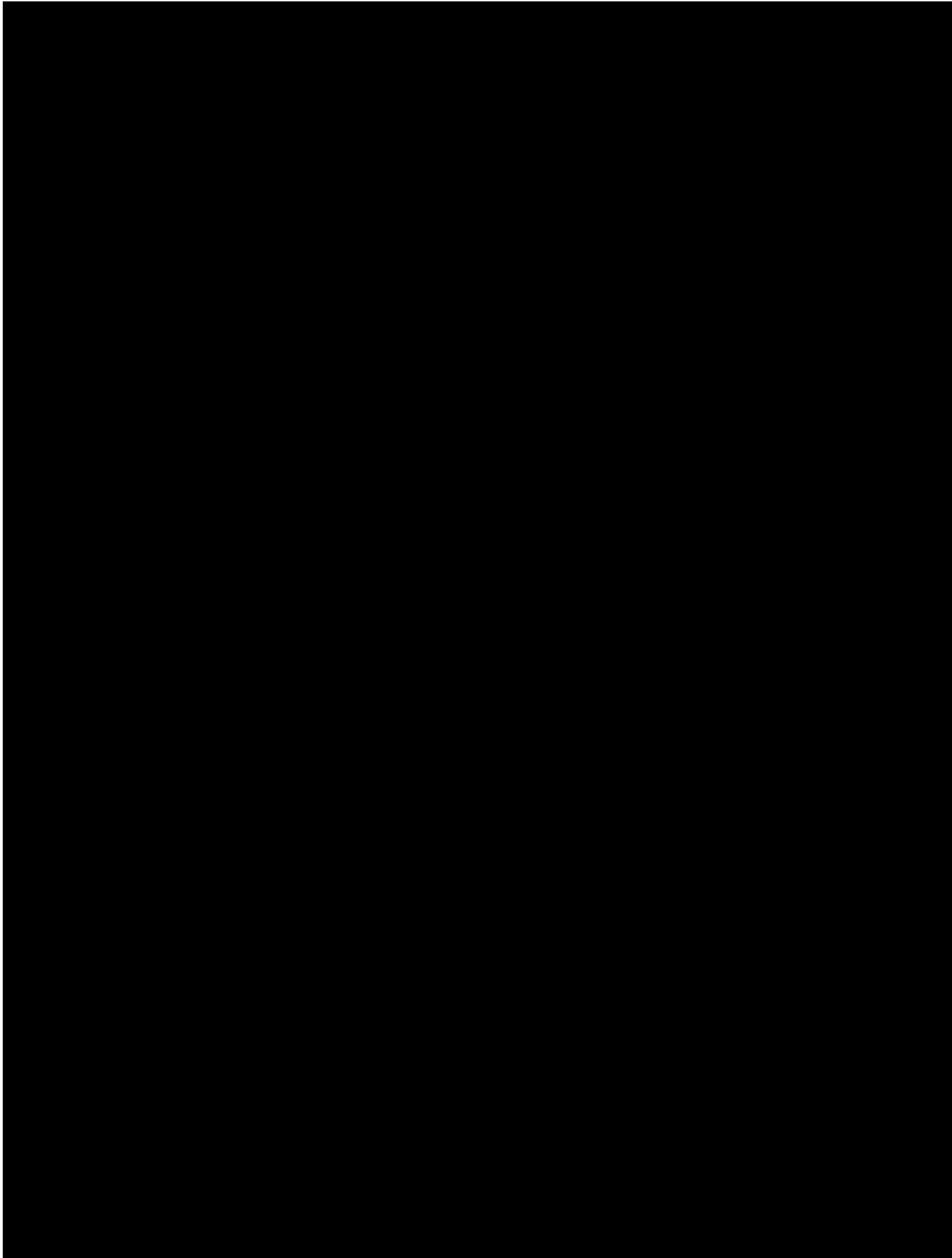


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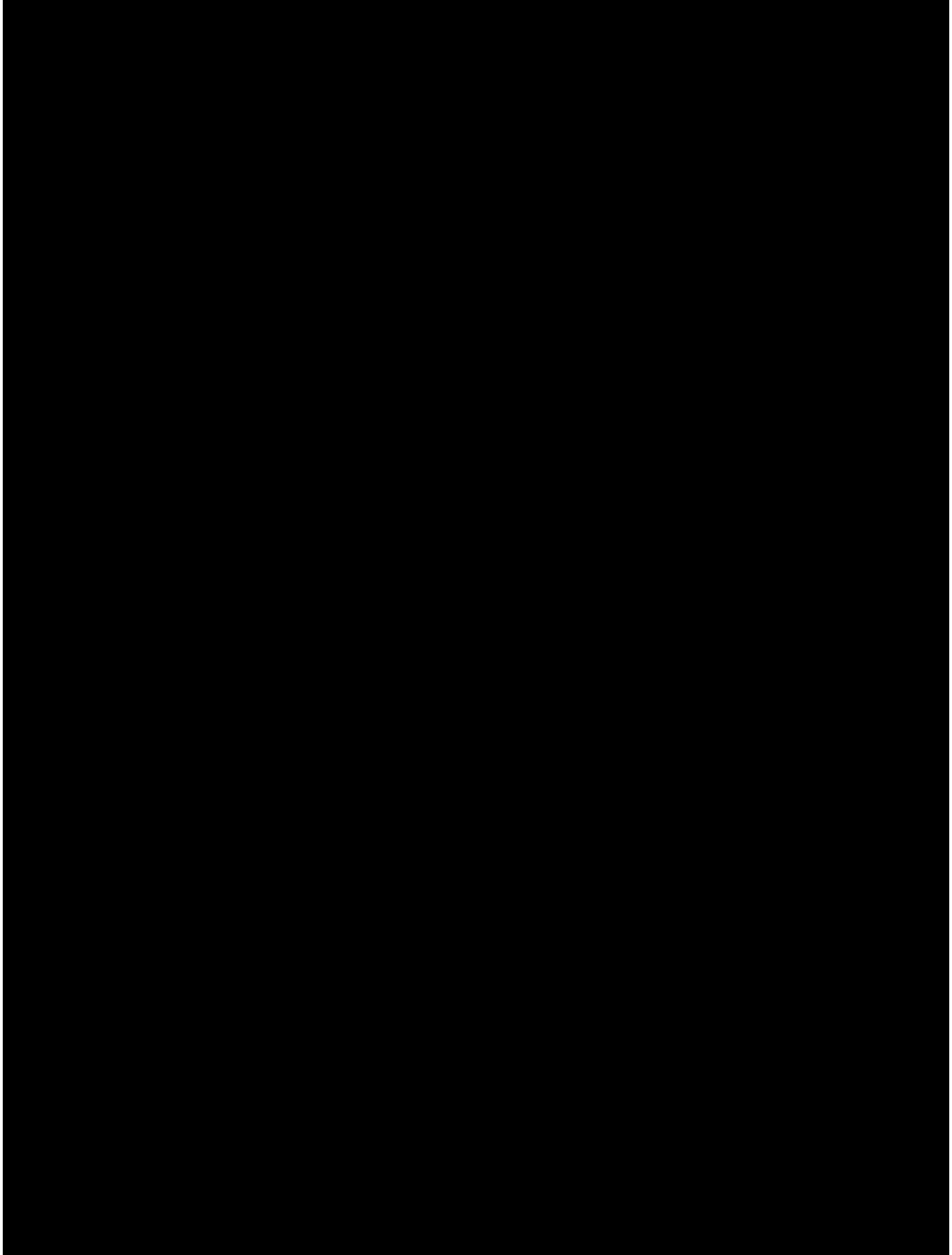


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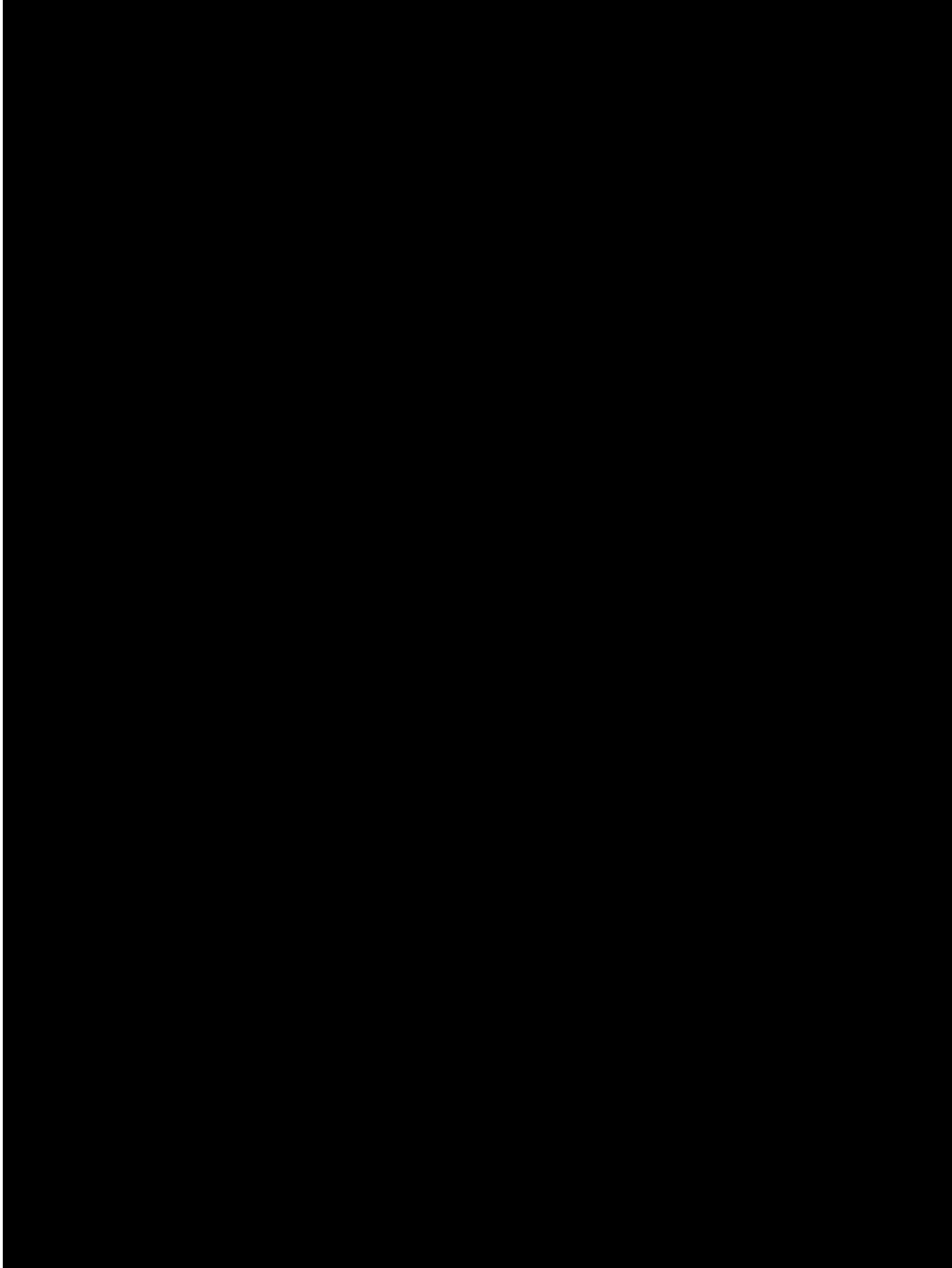


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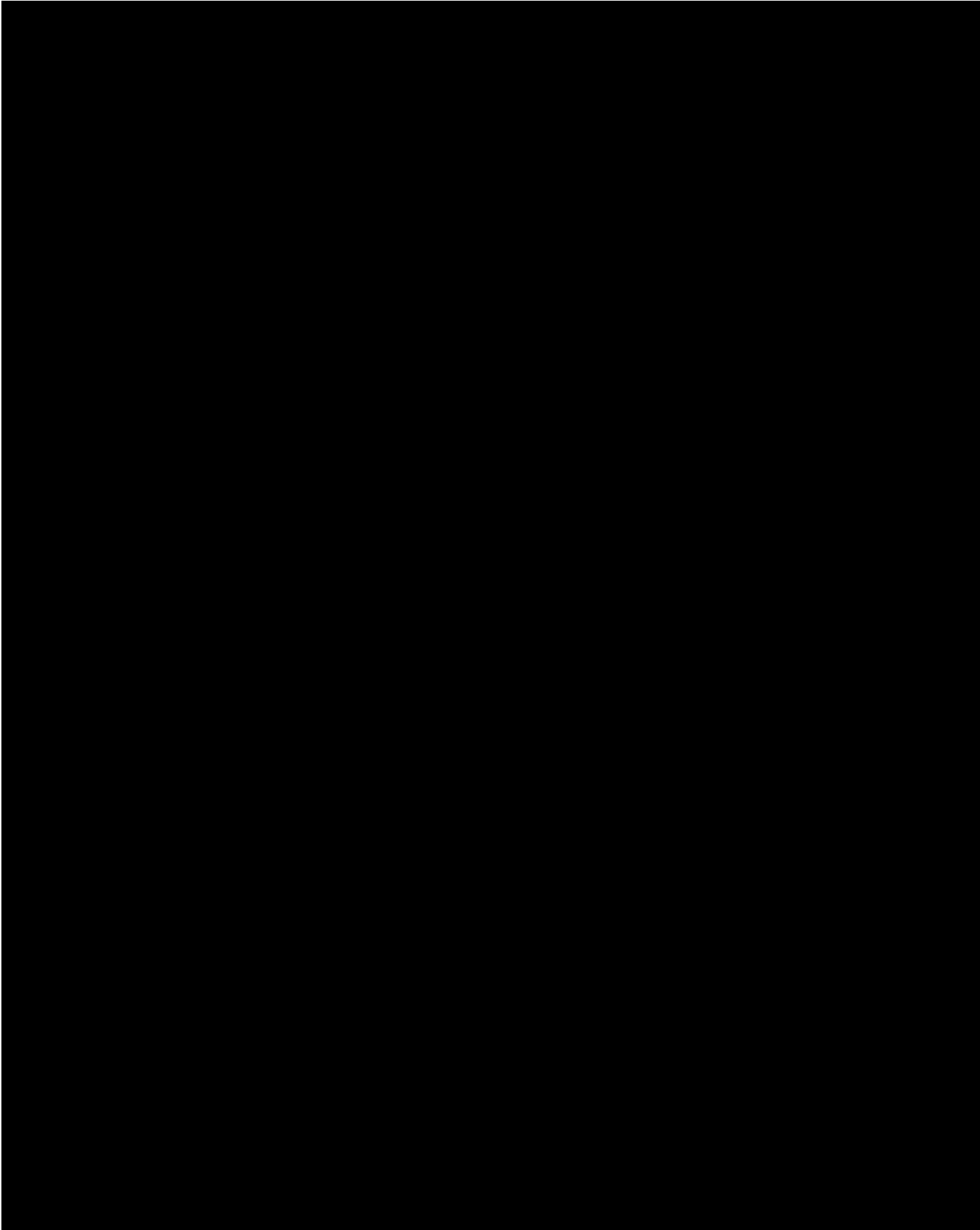


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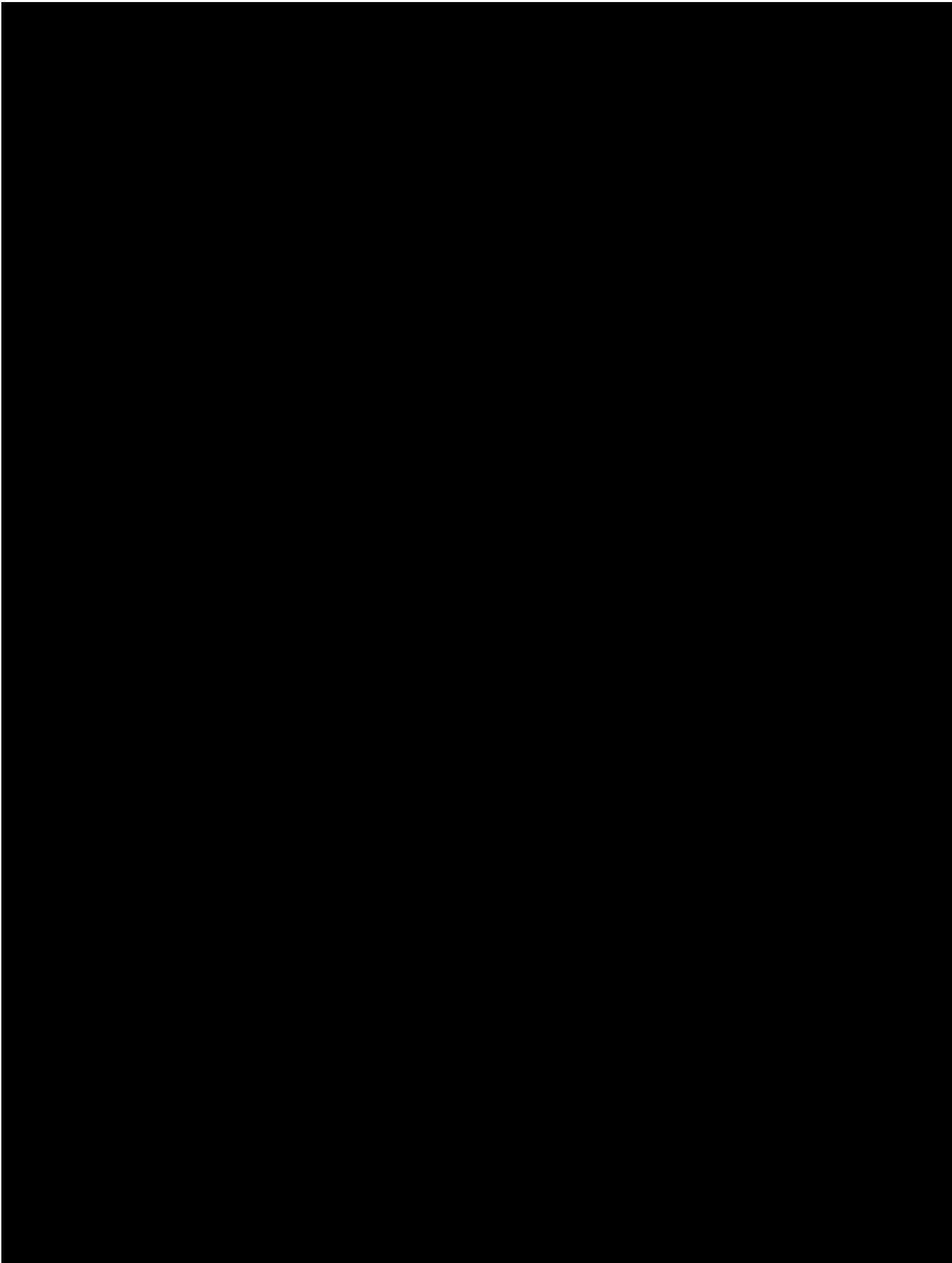


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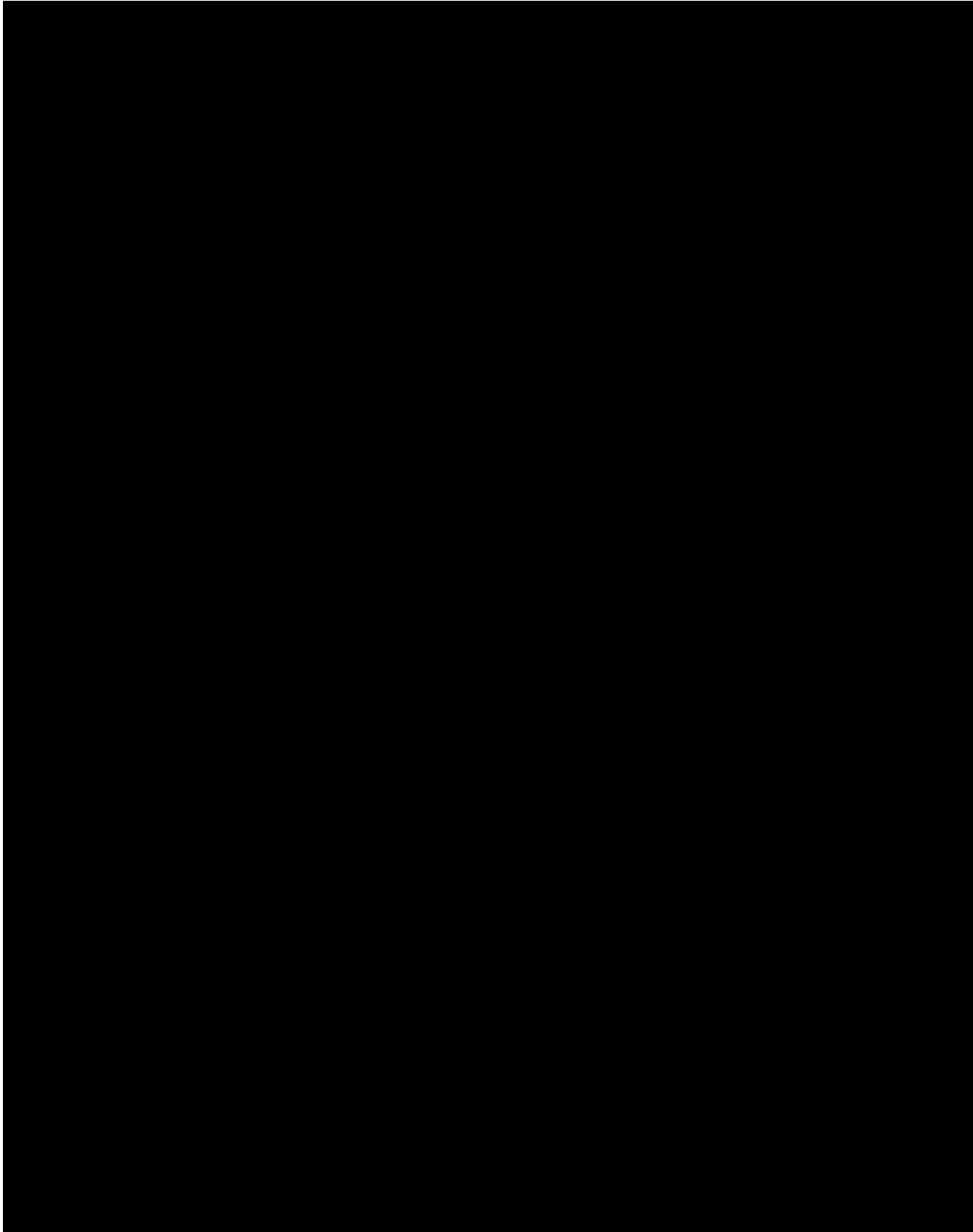


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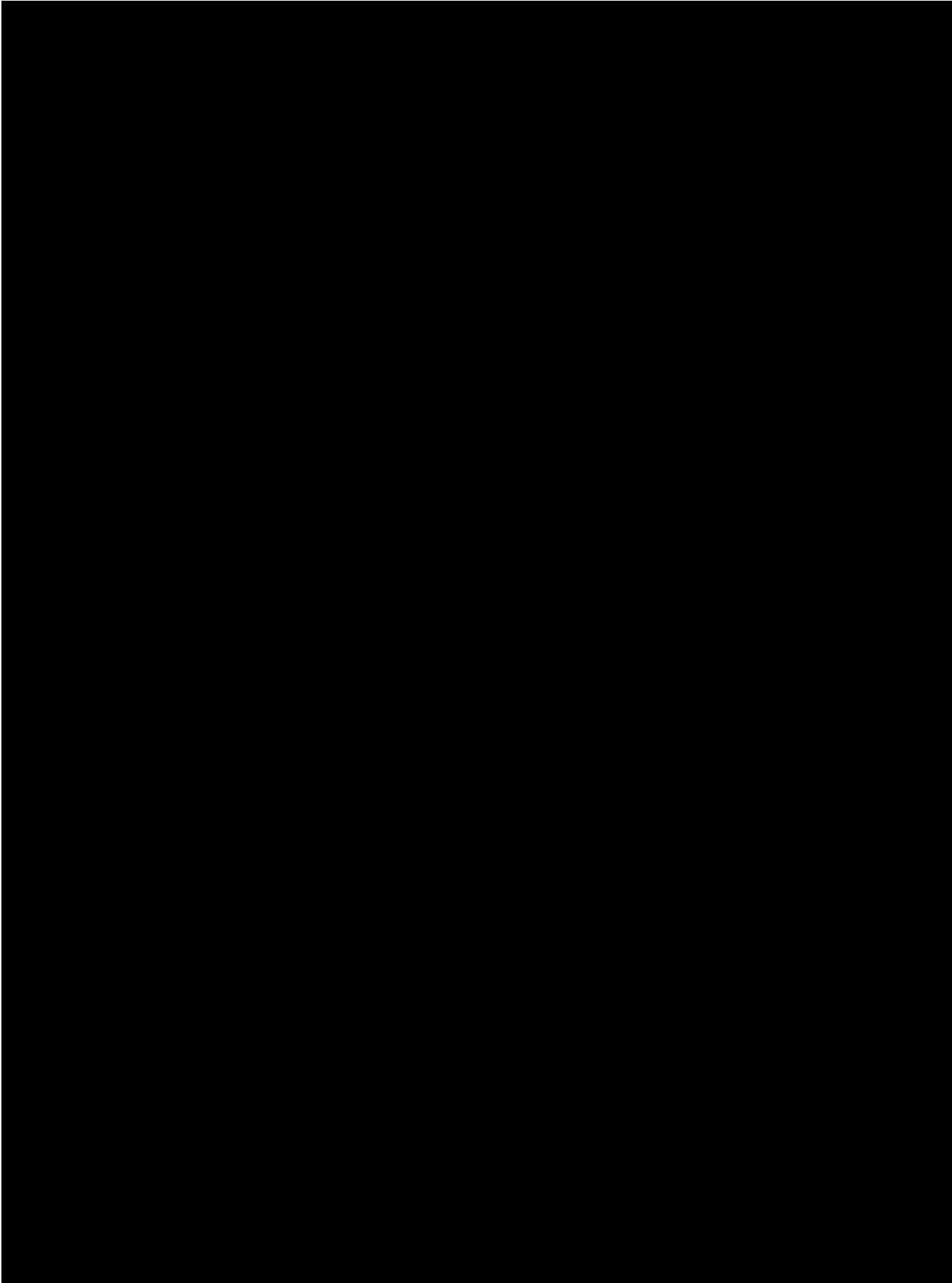


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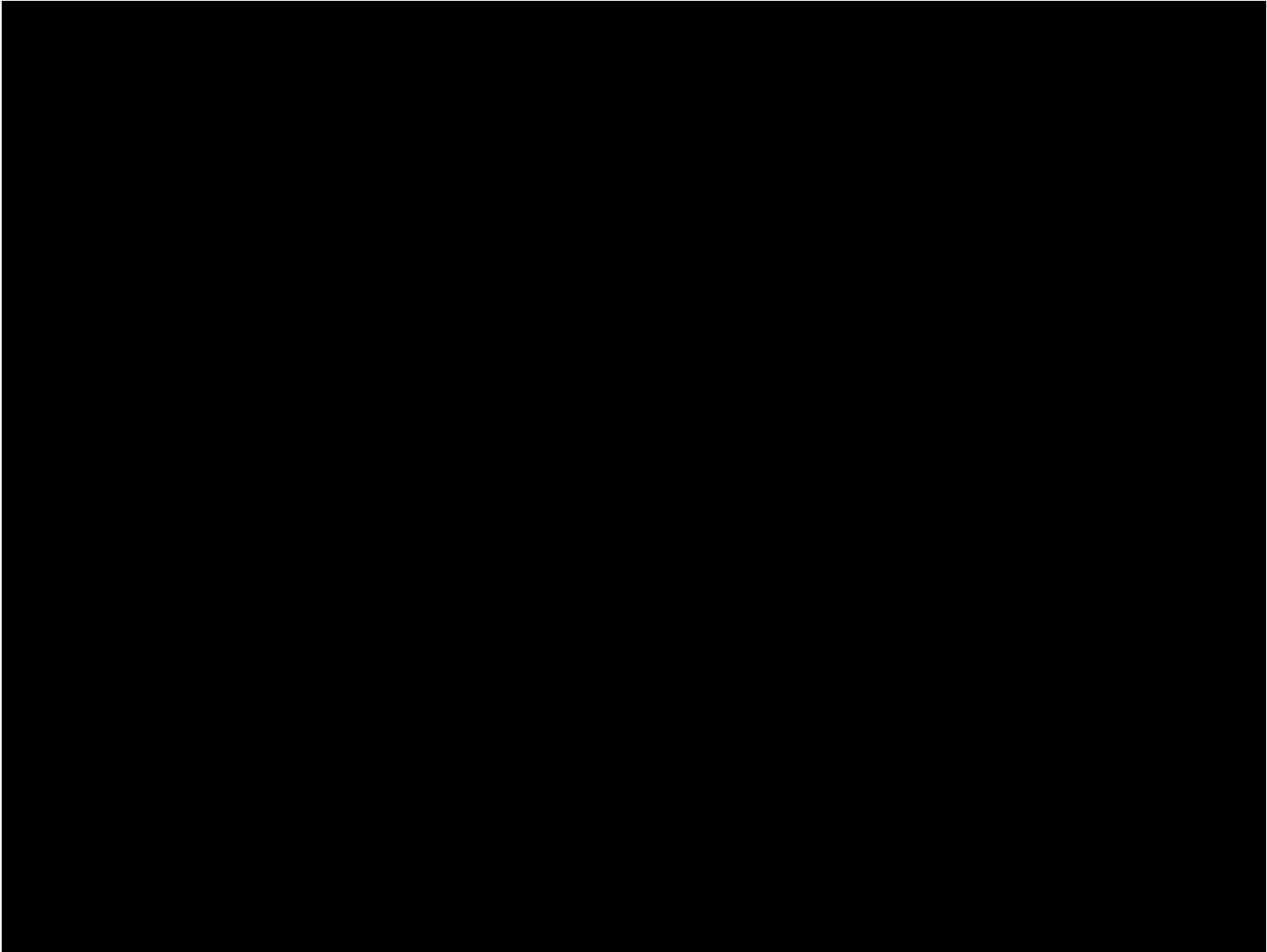


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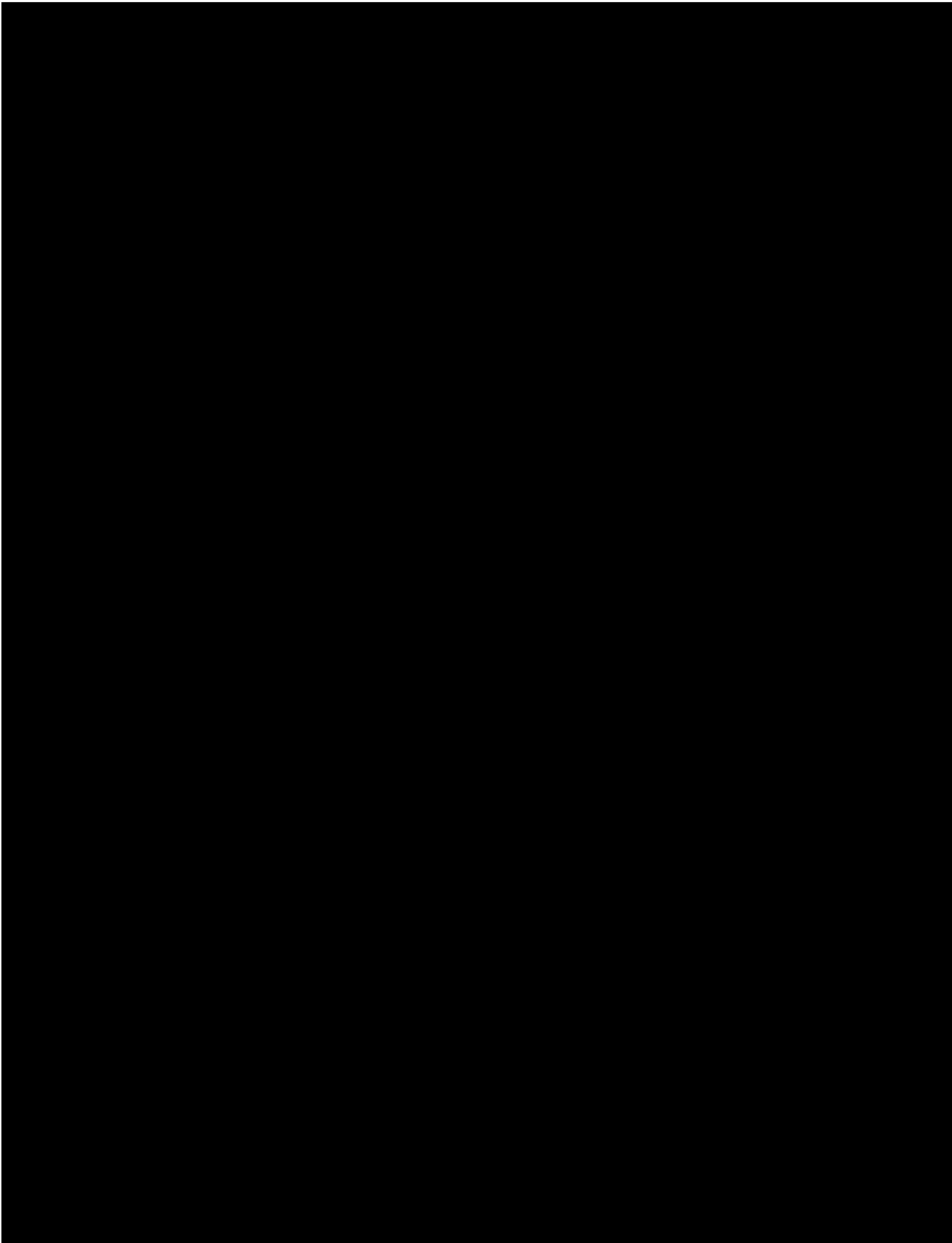


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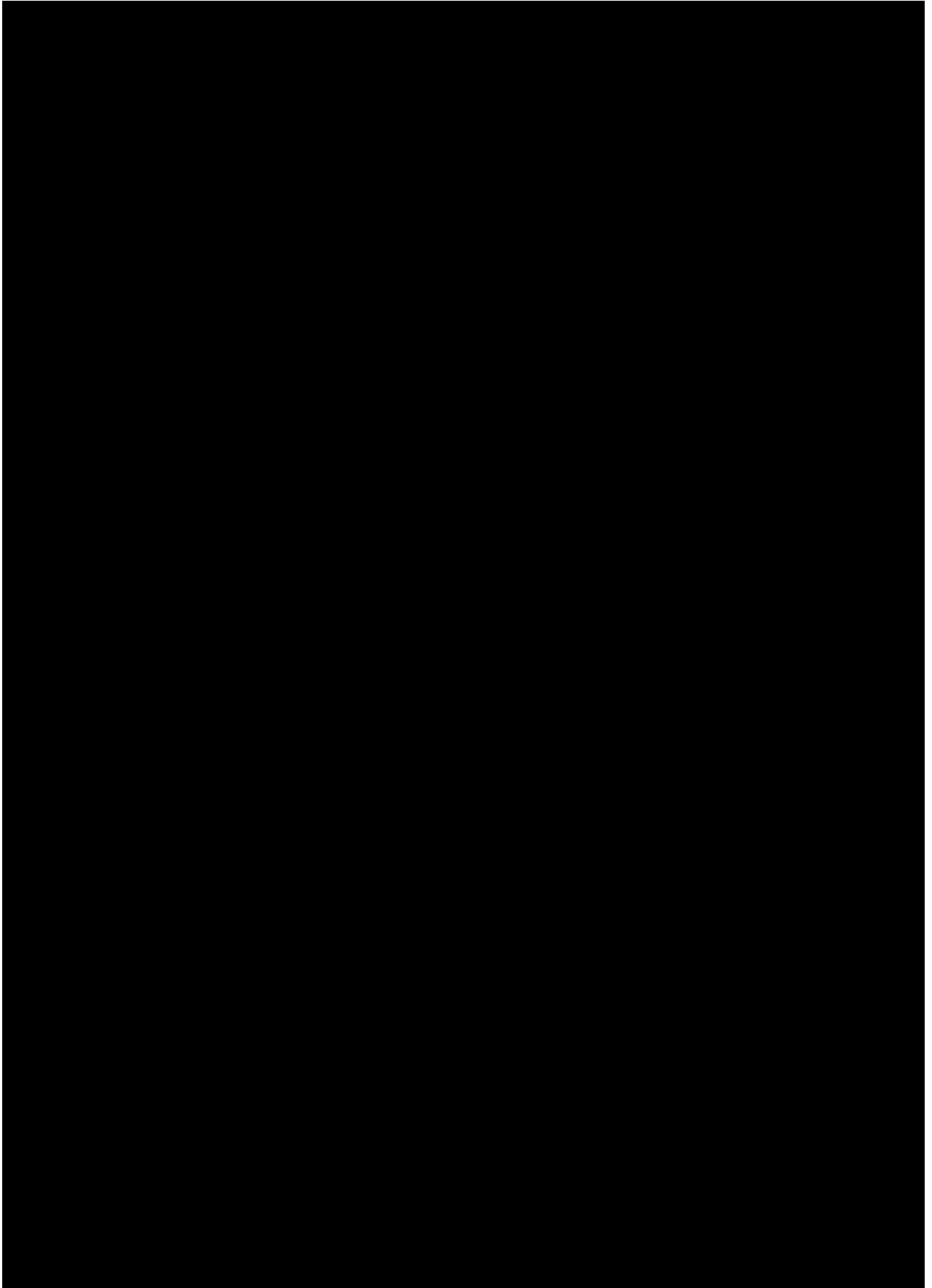


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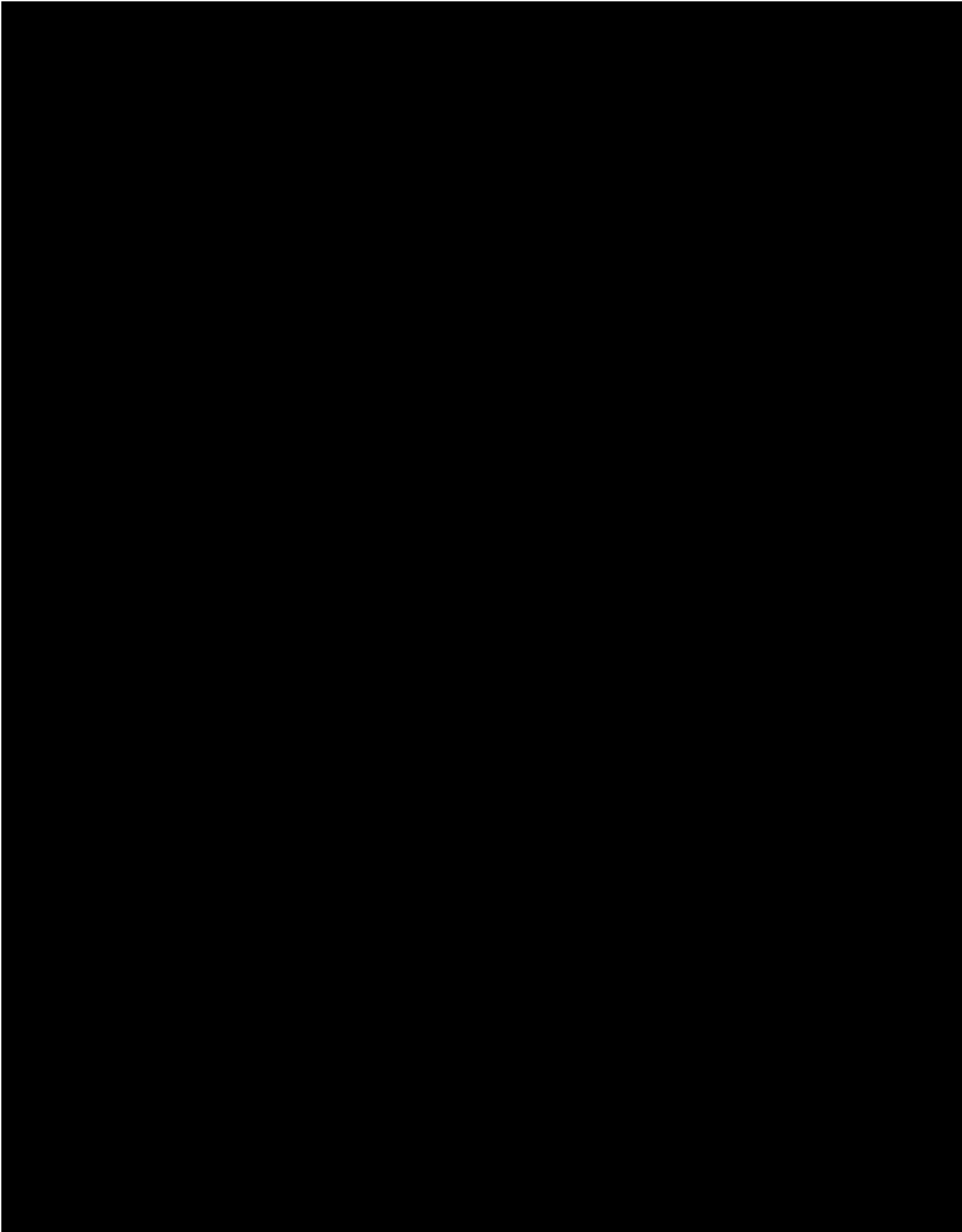


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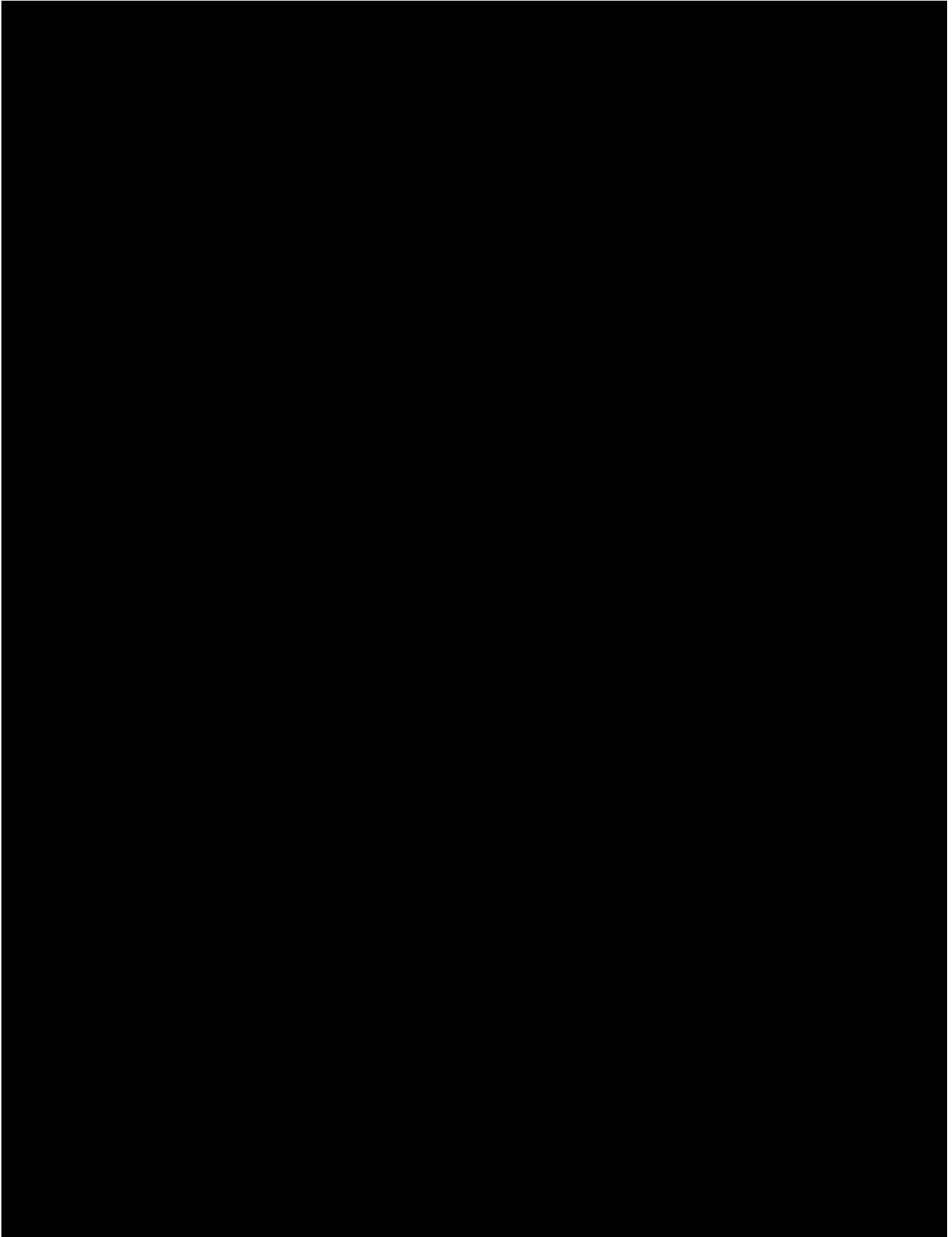


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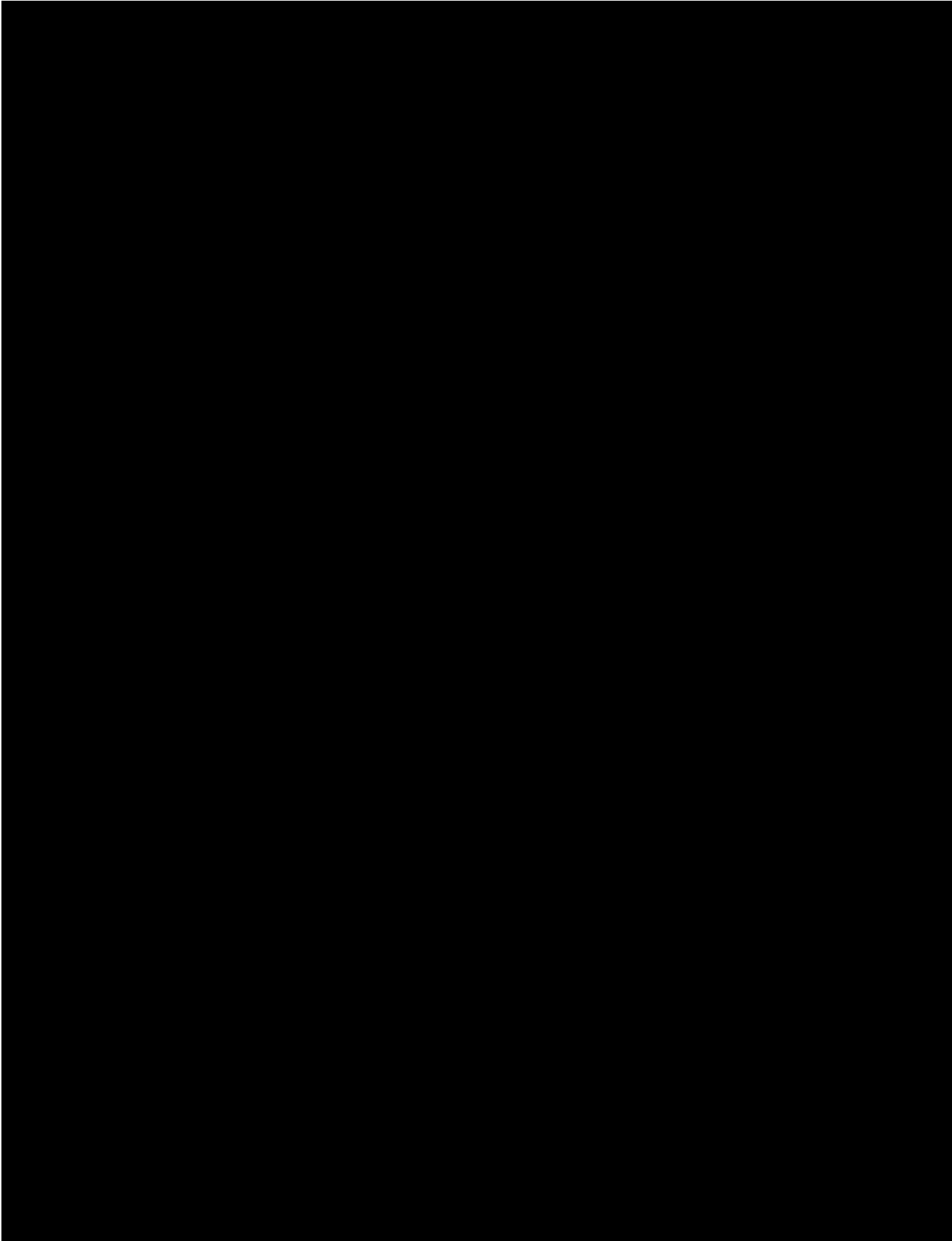


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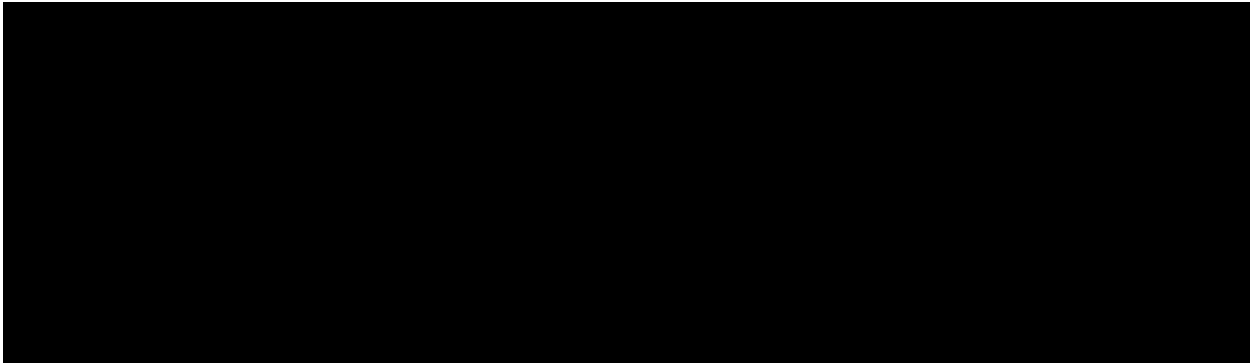
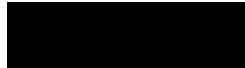


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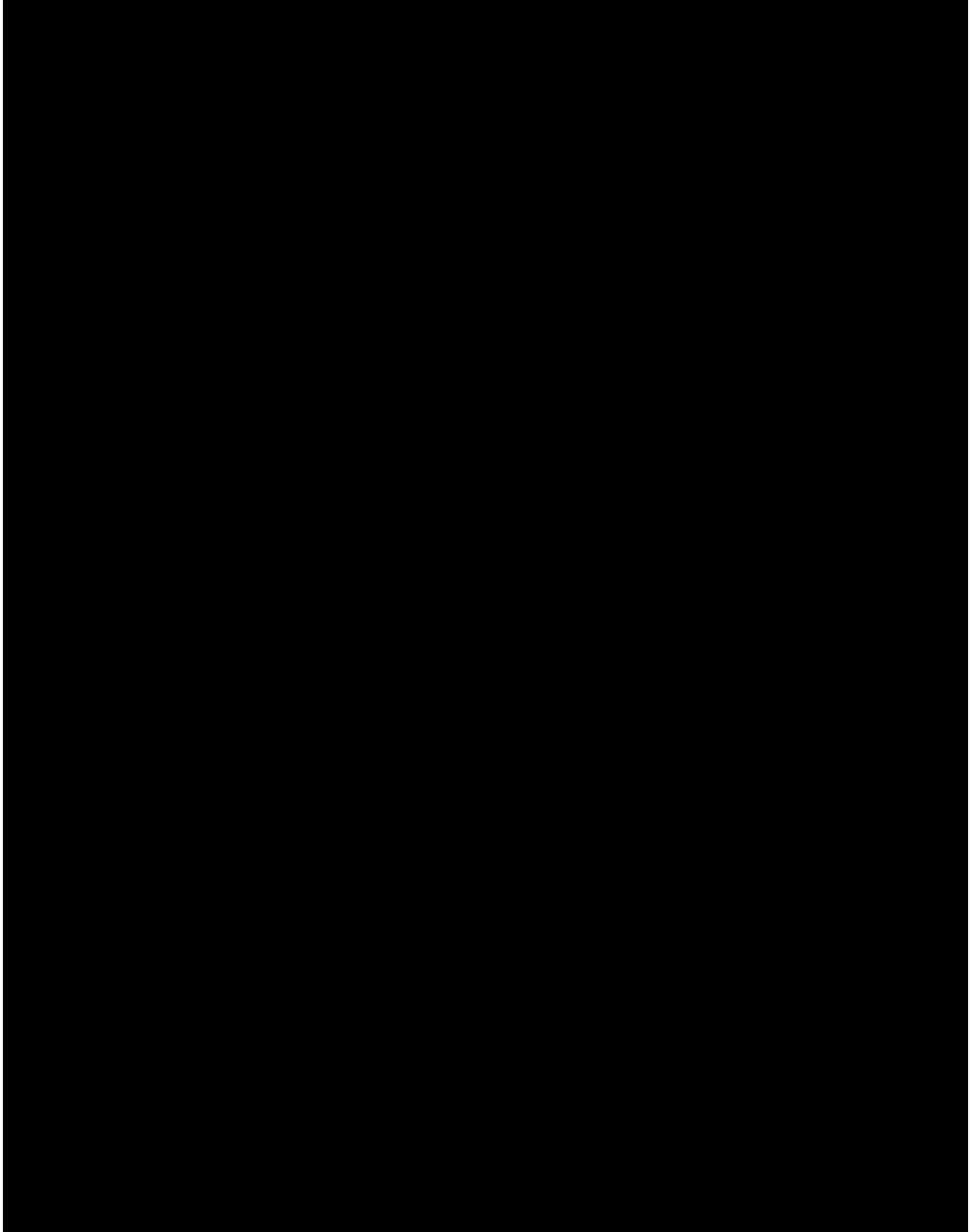


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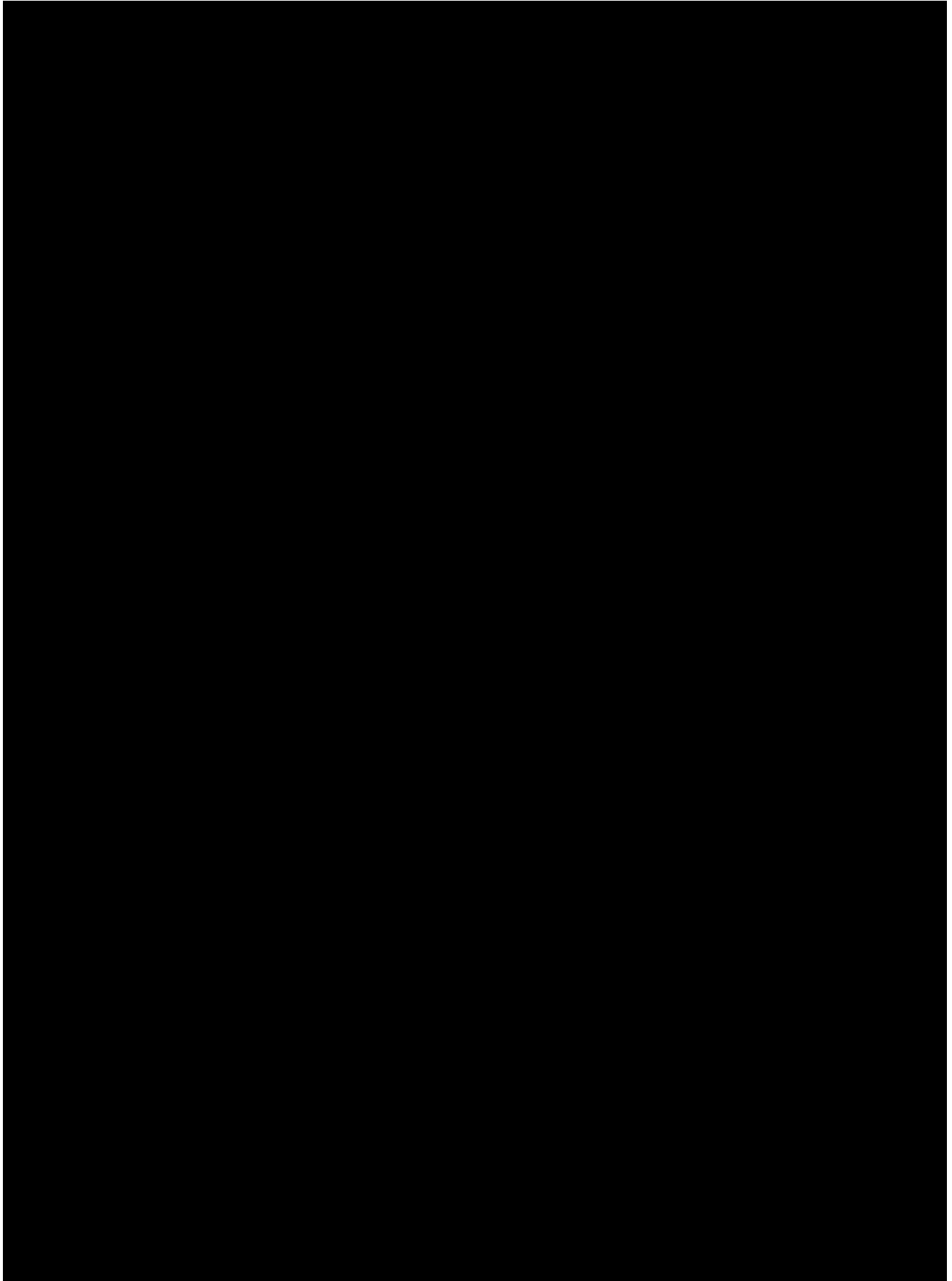


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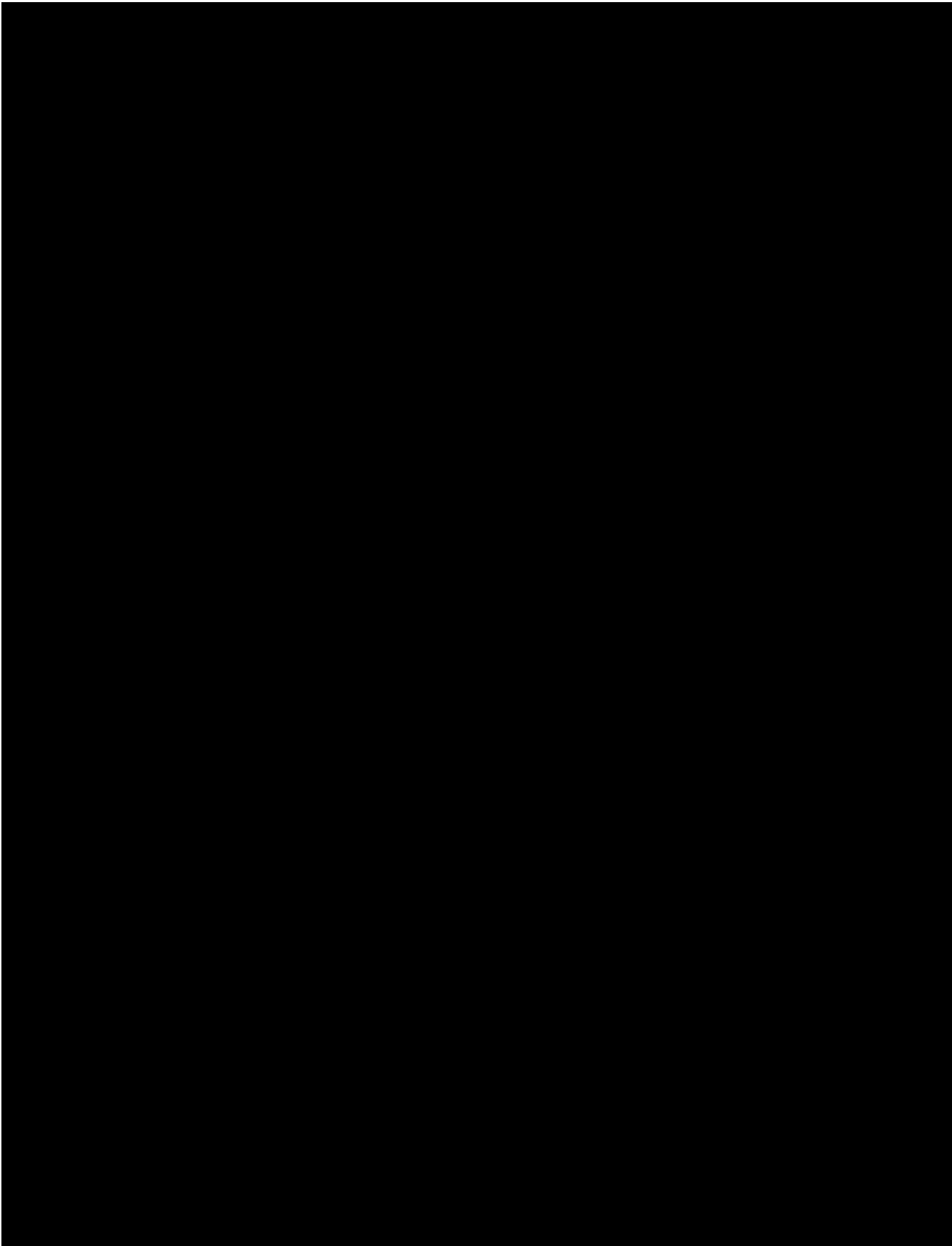


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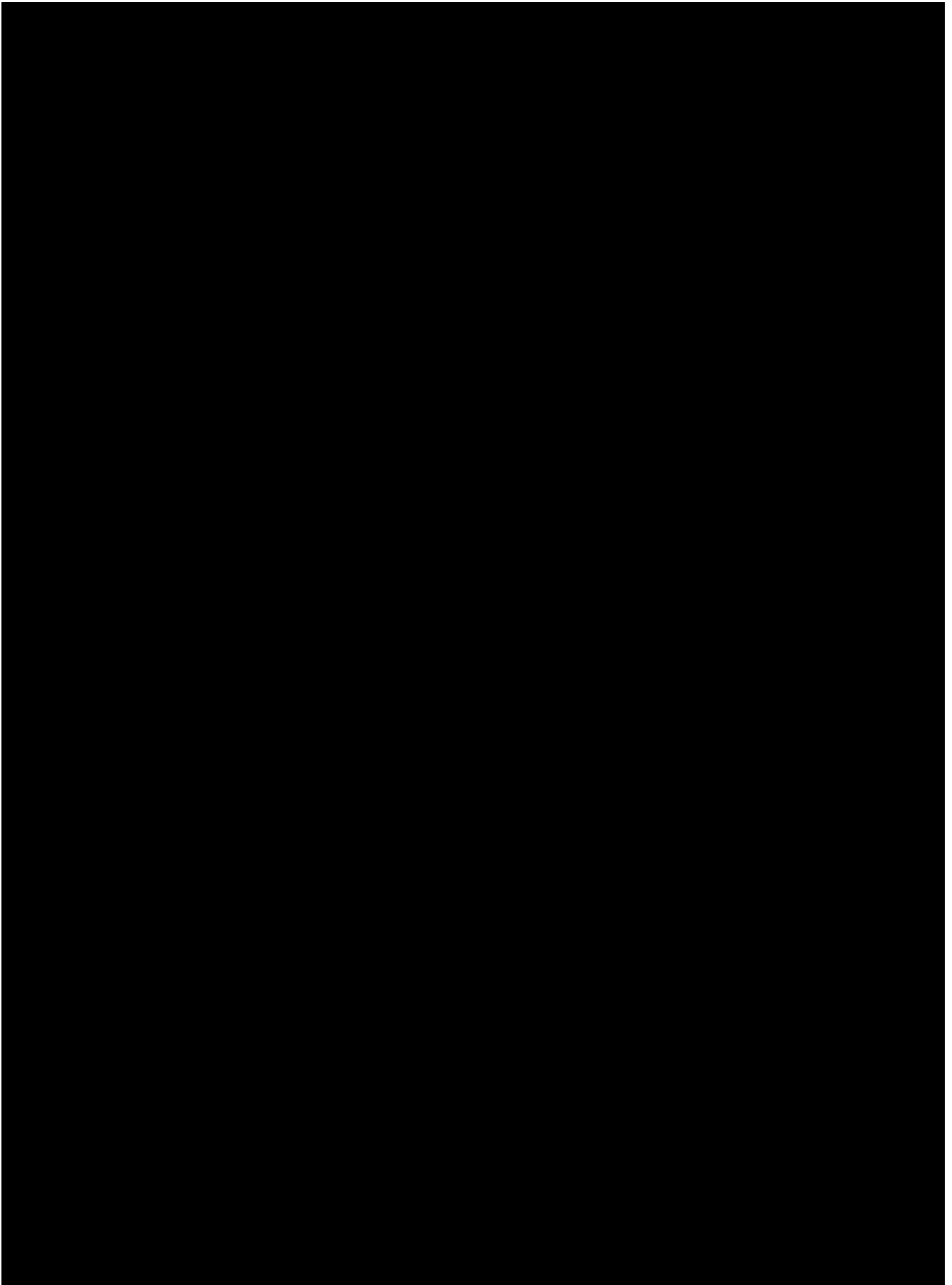


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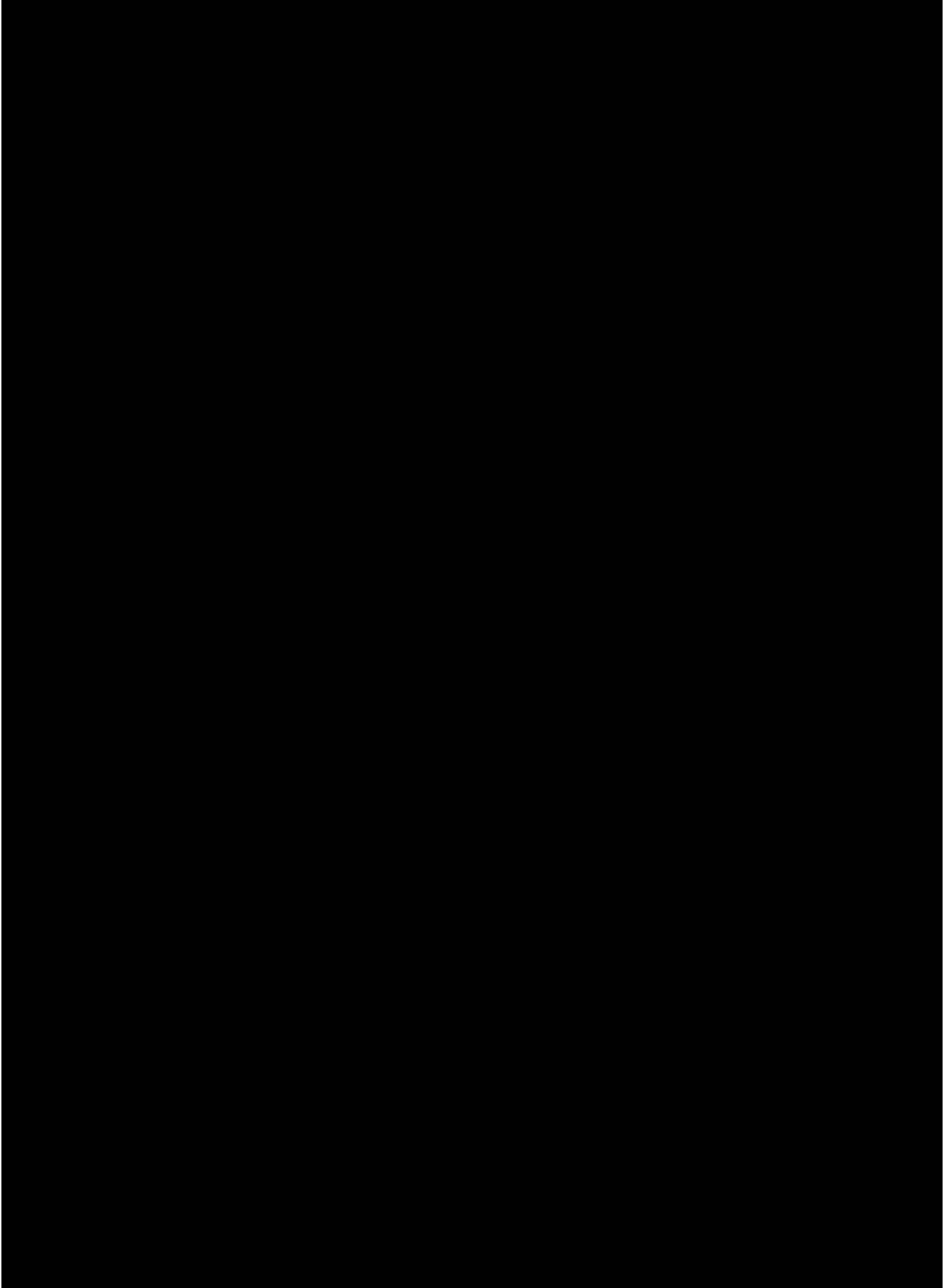


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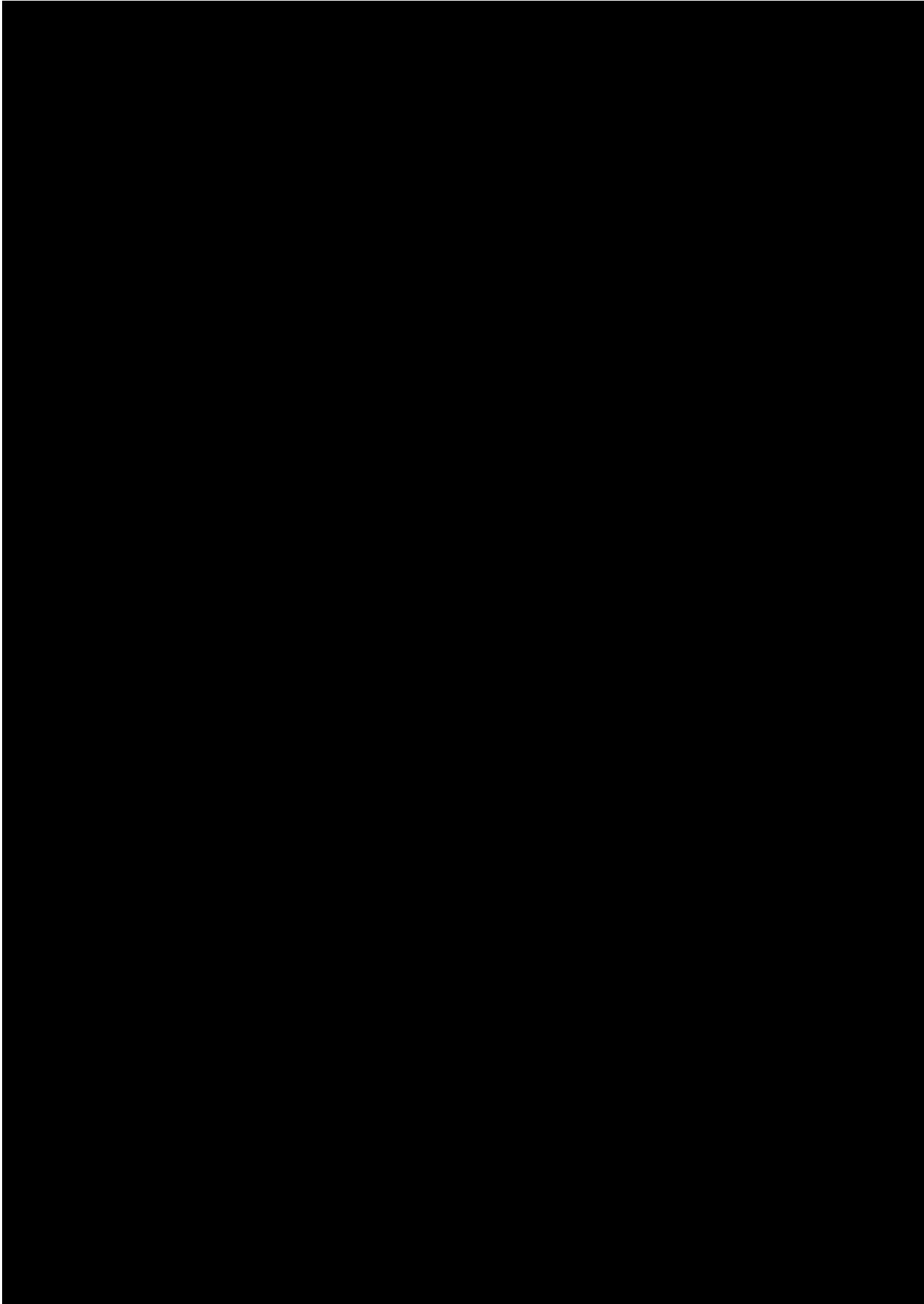


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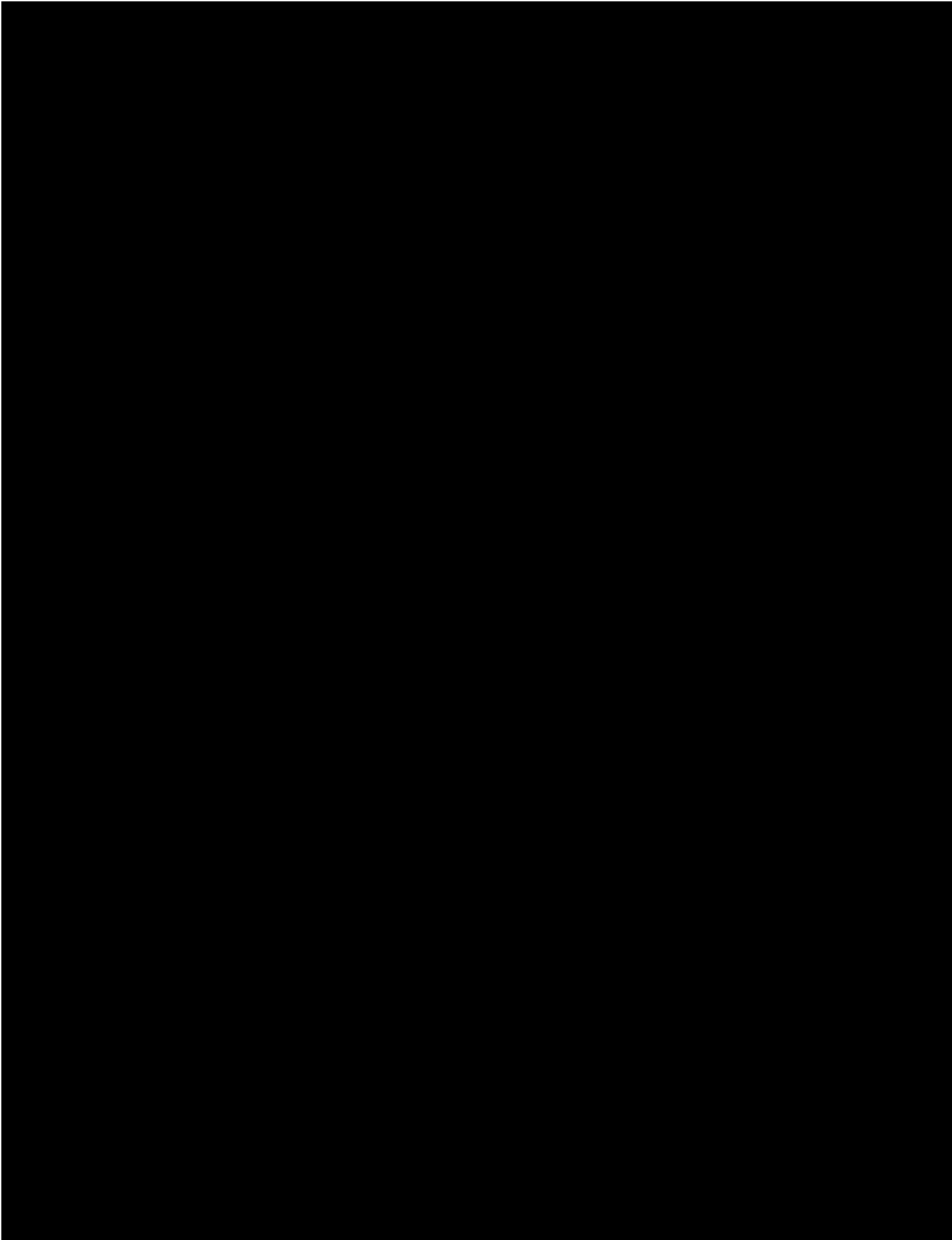


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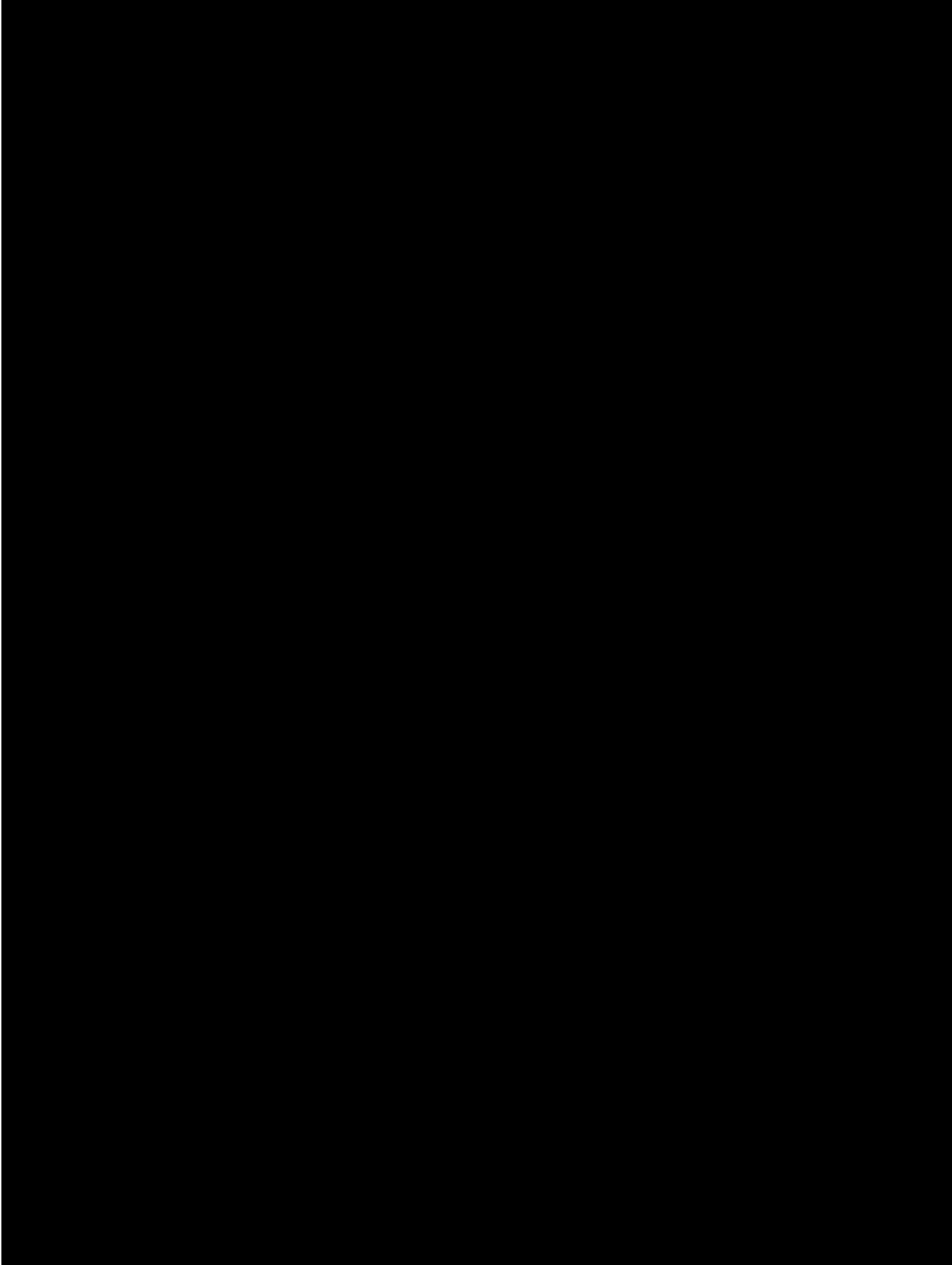


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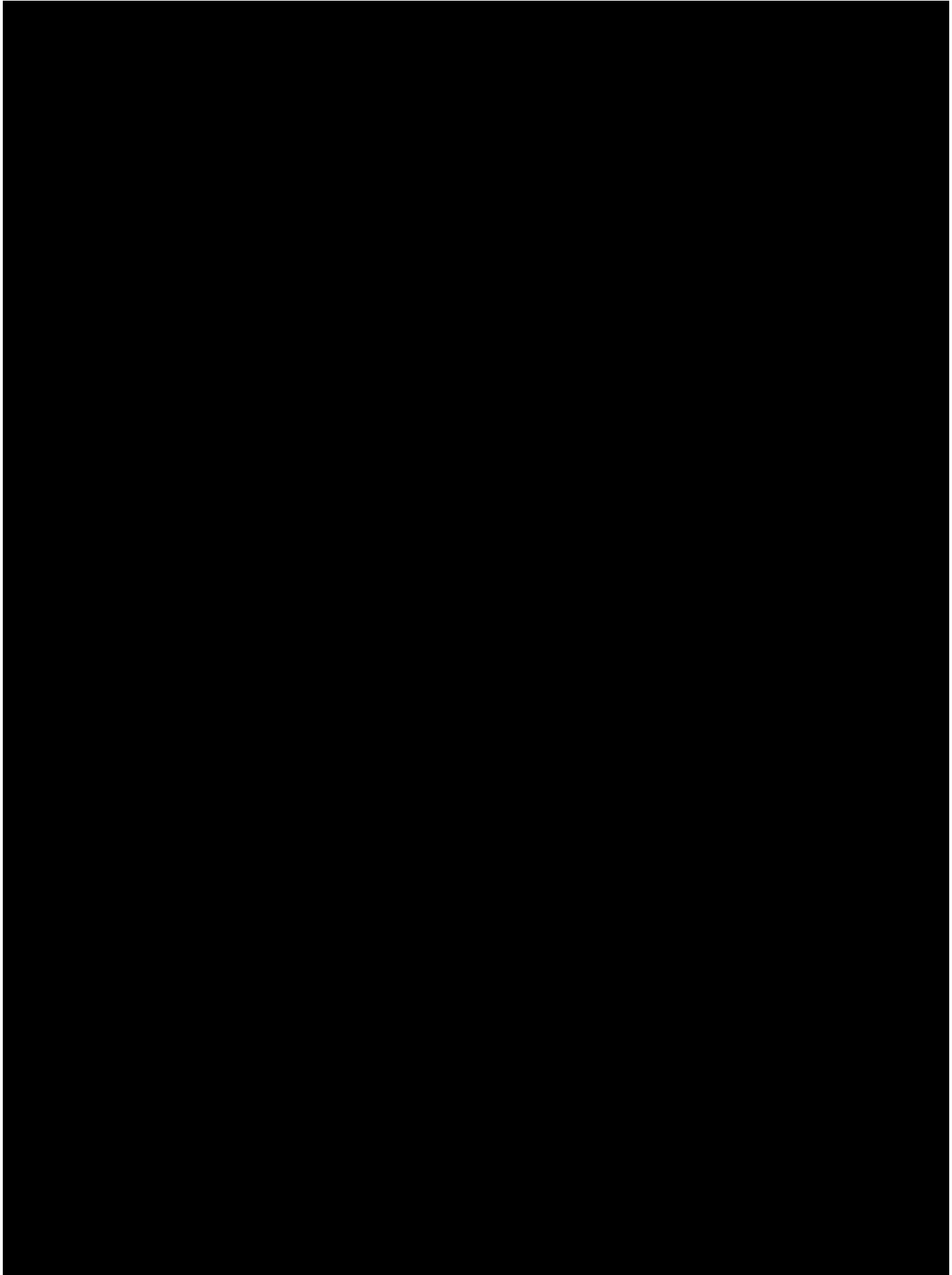


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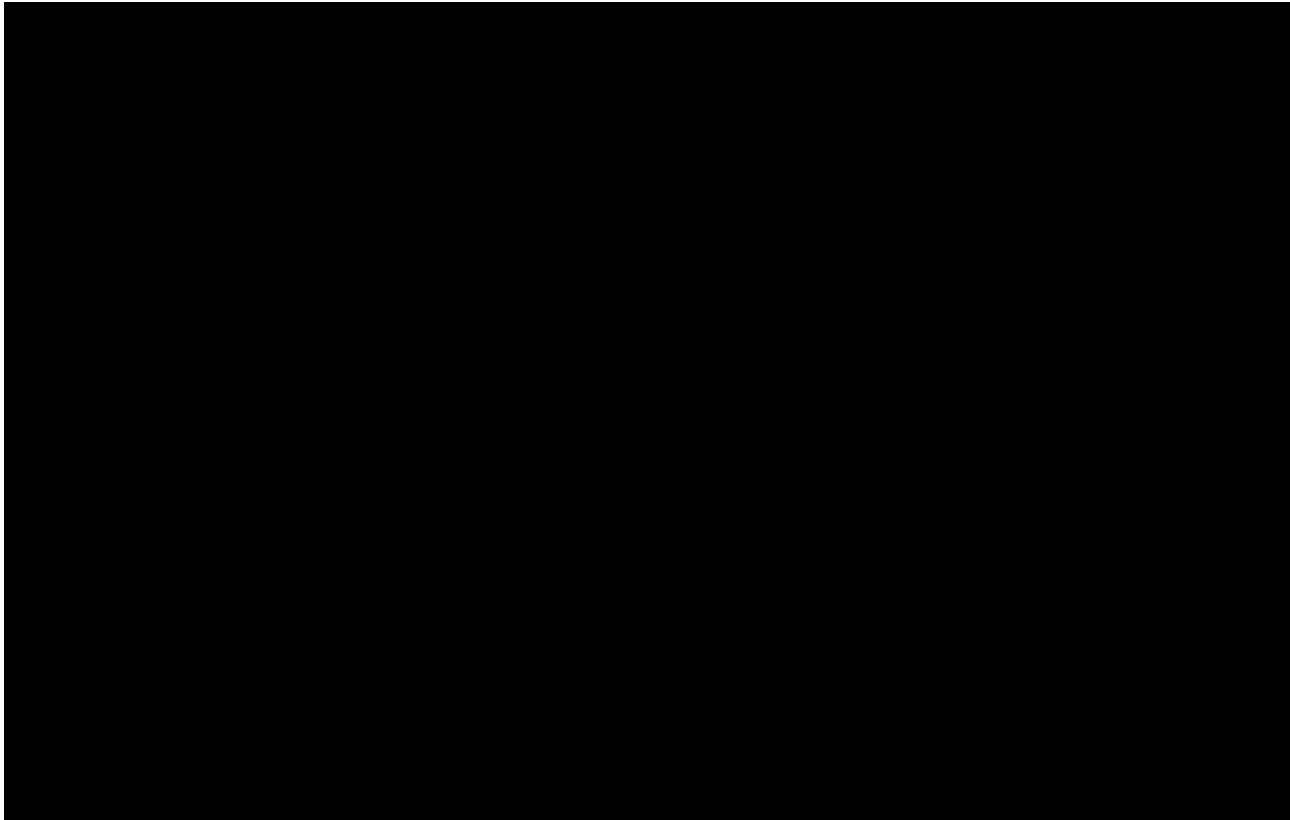


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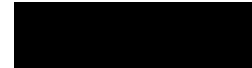


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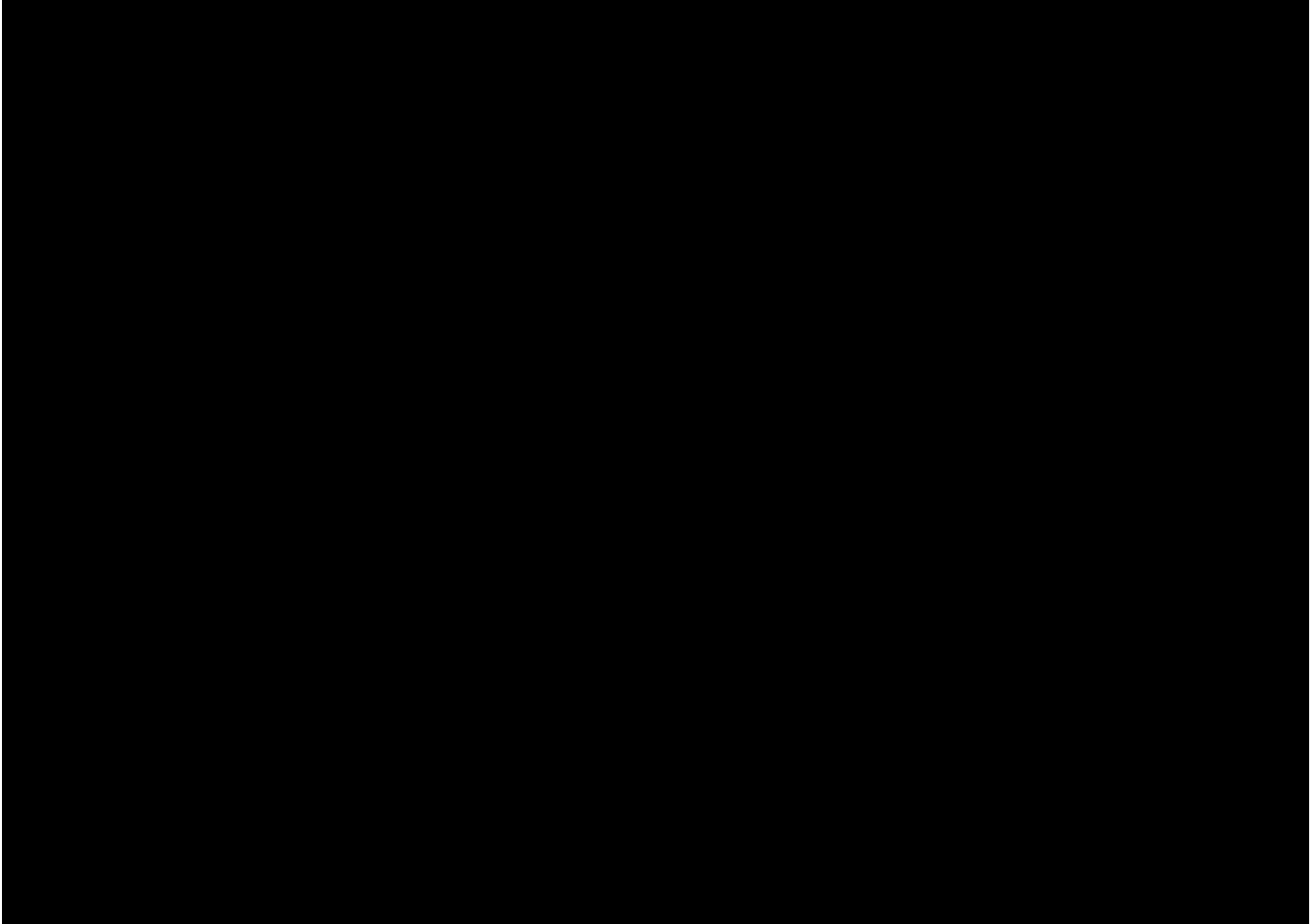
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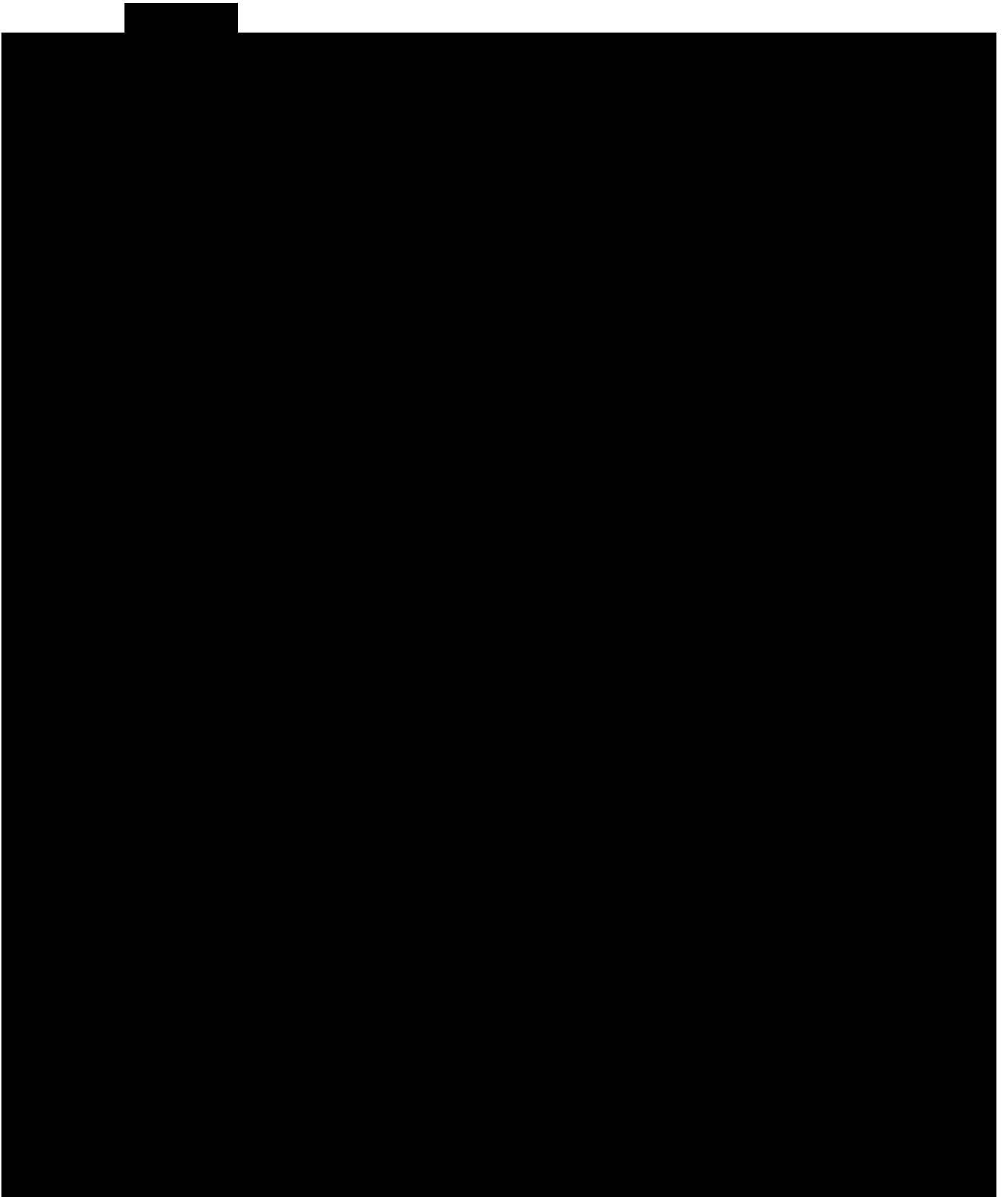
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Signing page





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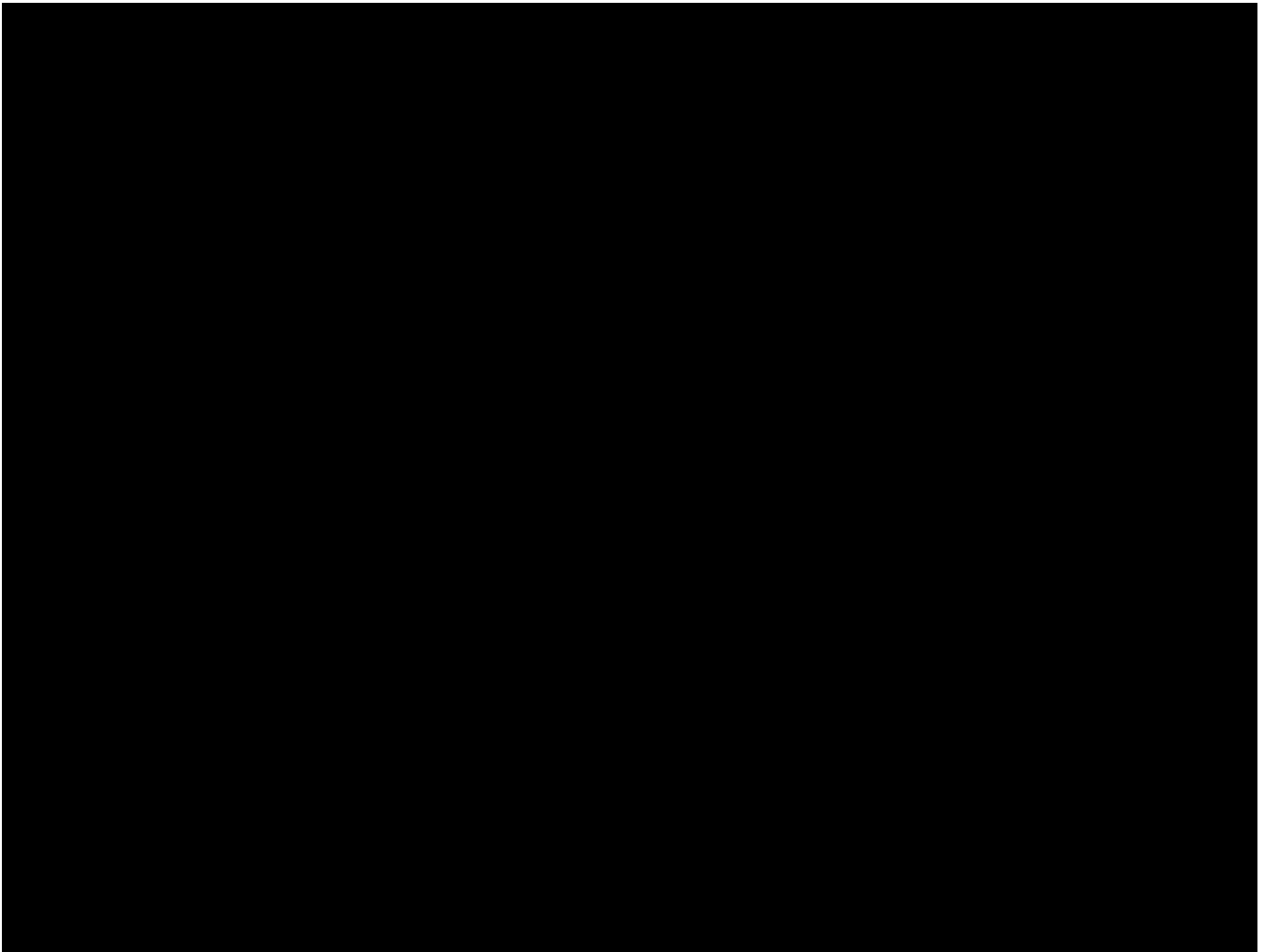
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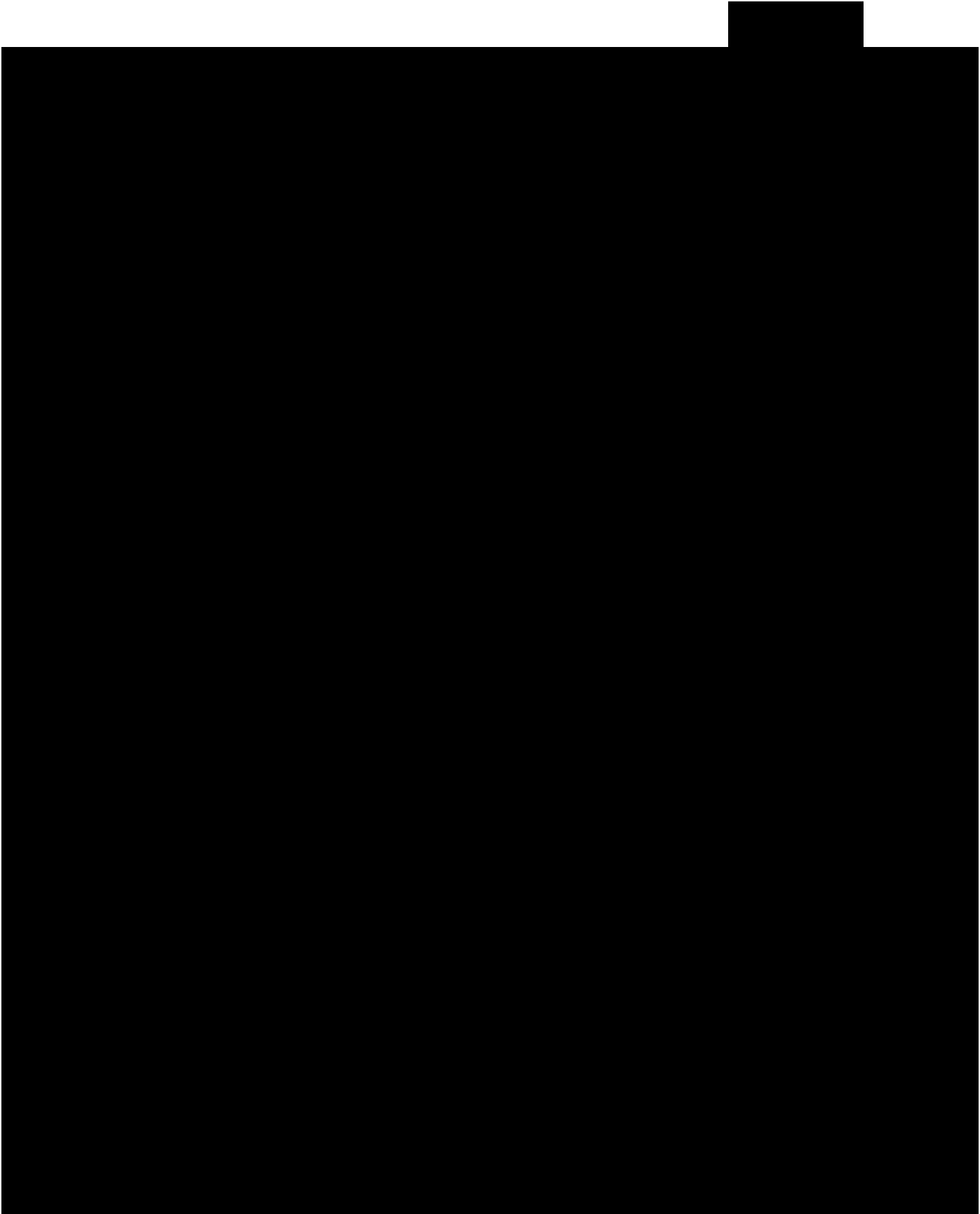
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Agreement



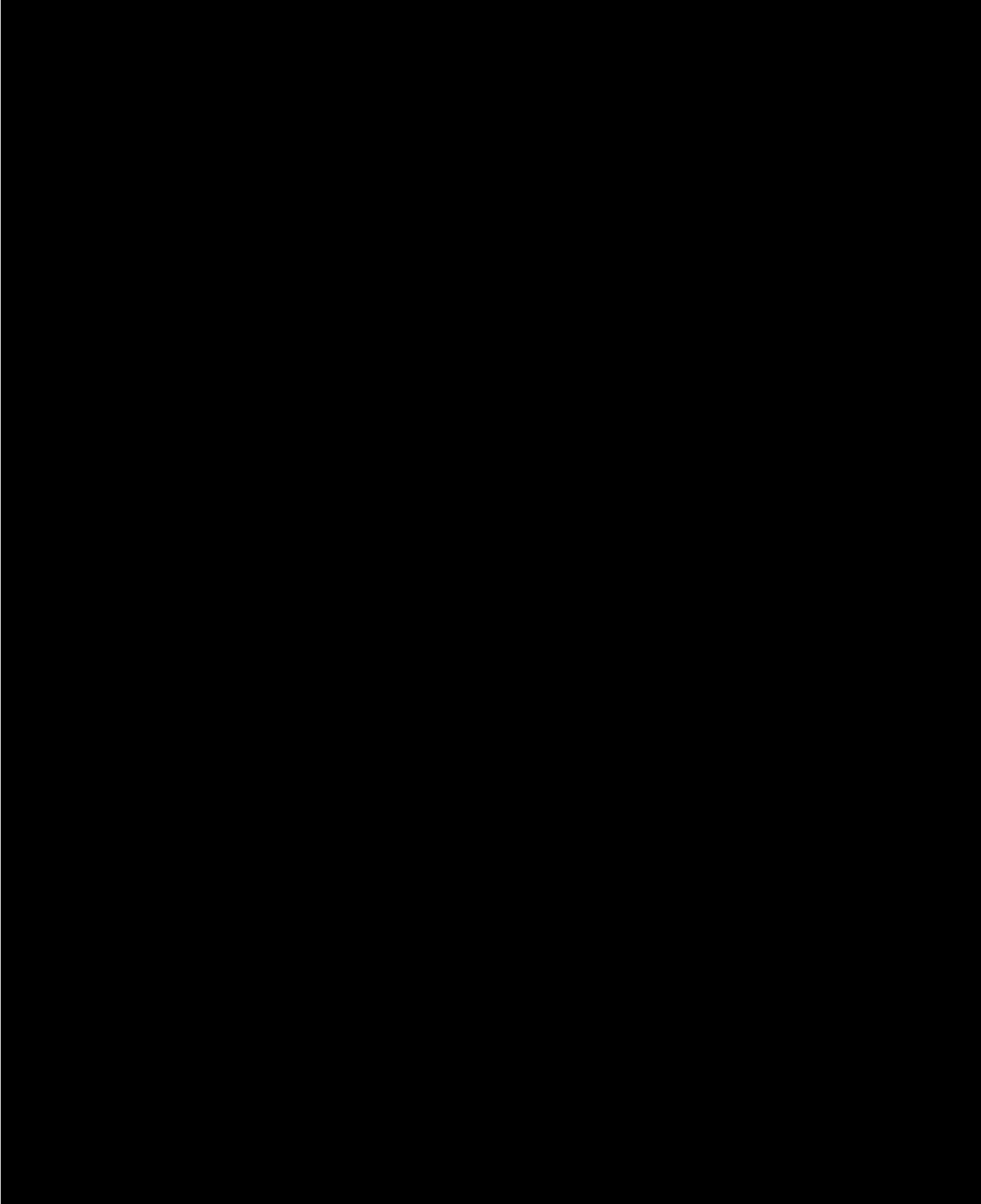


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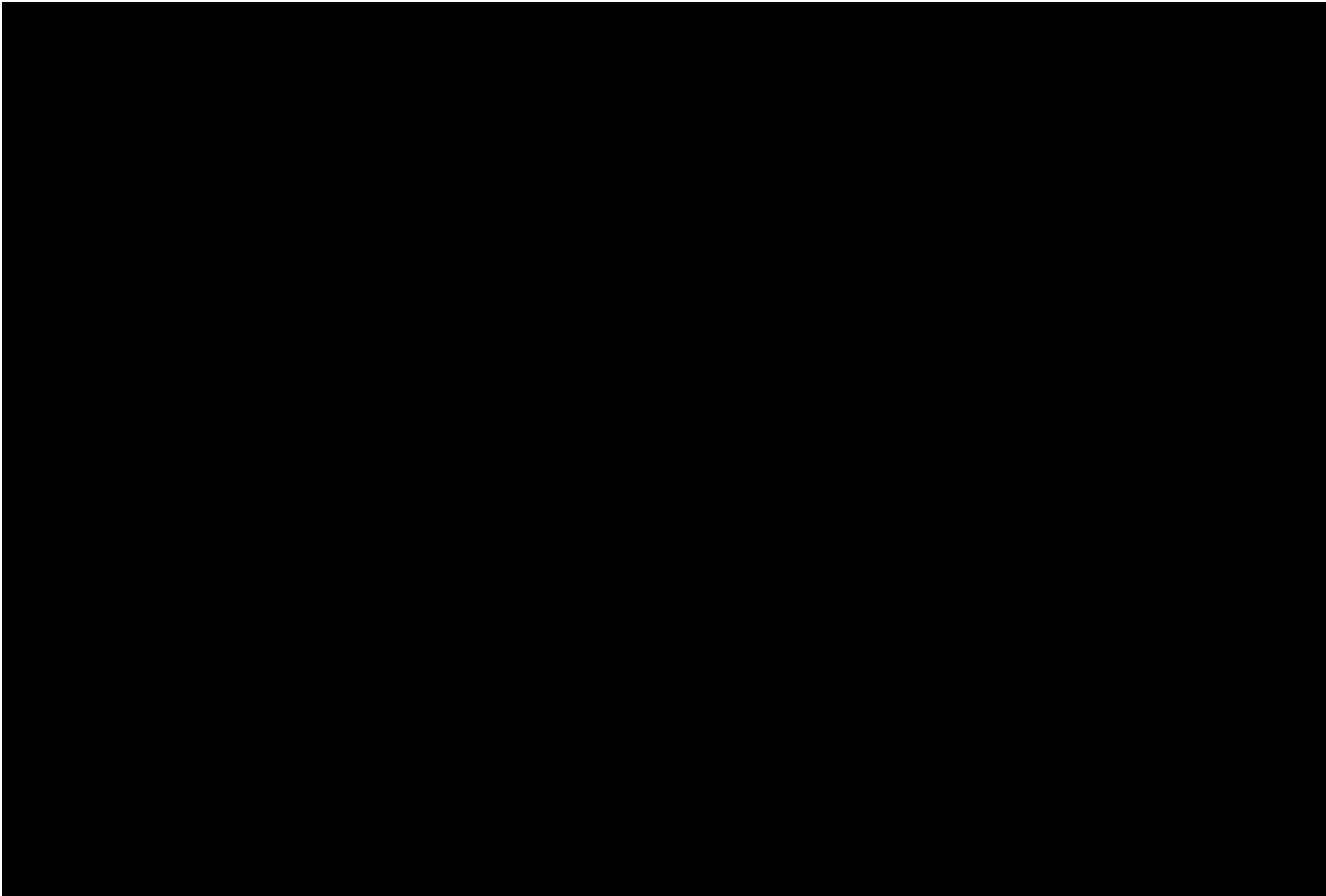


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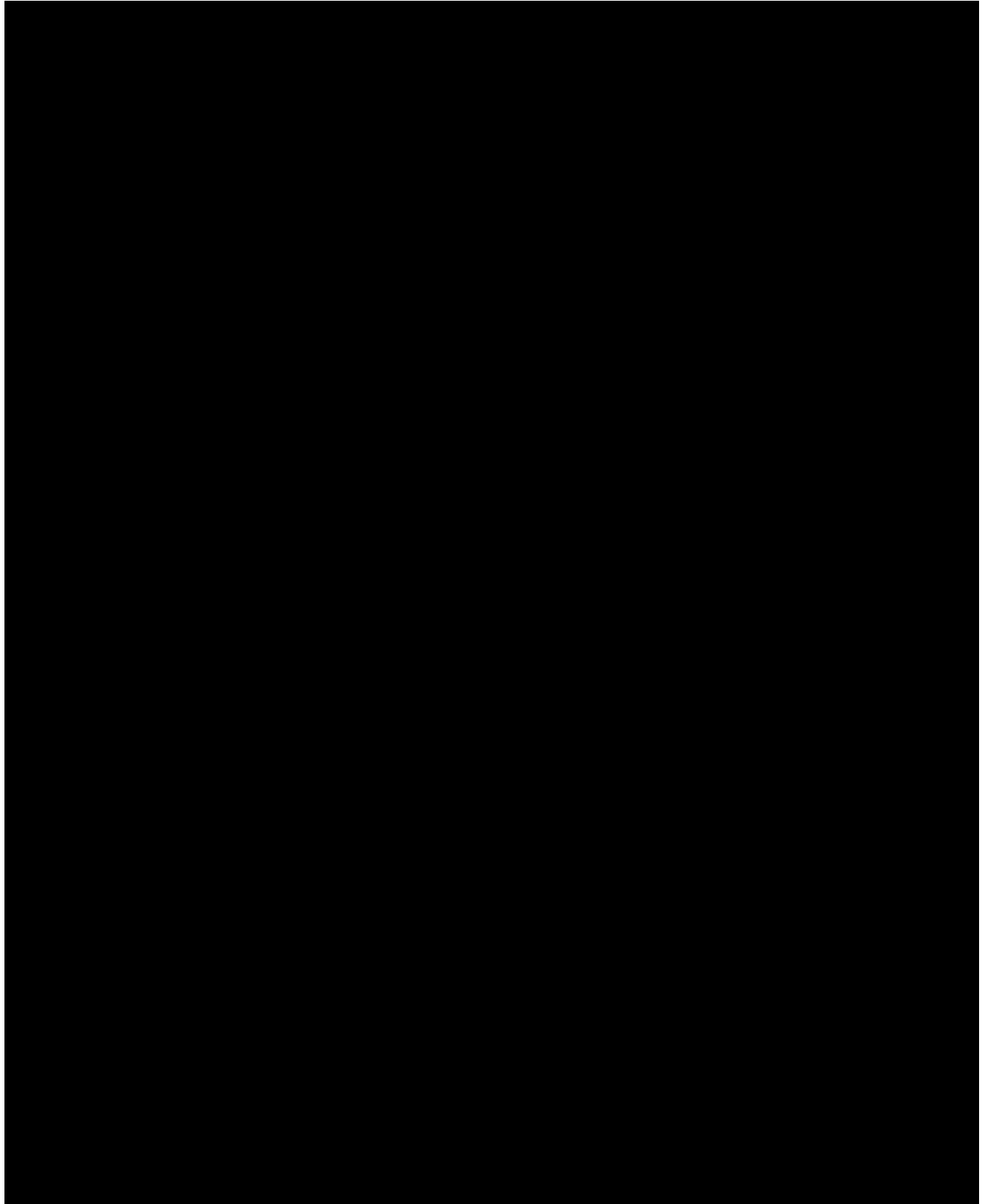


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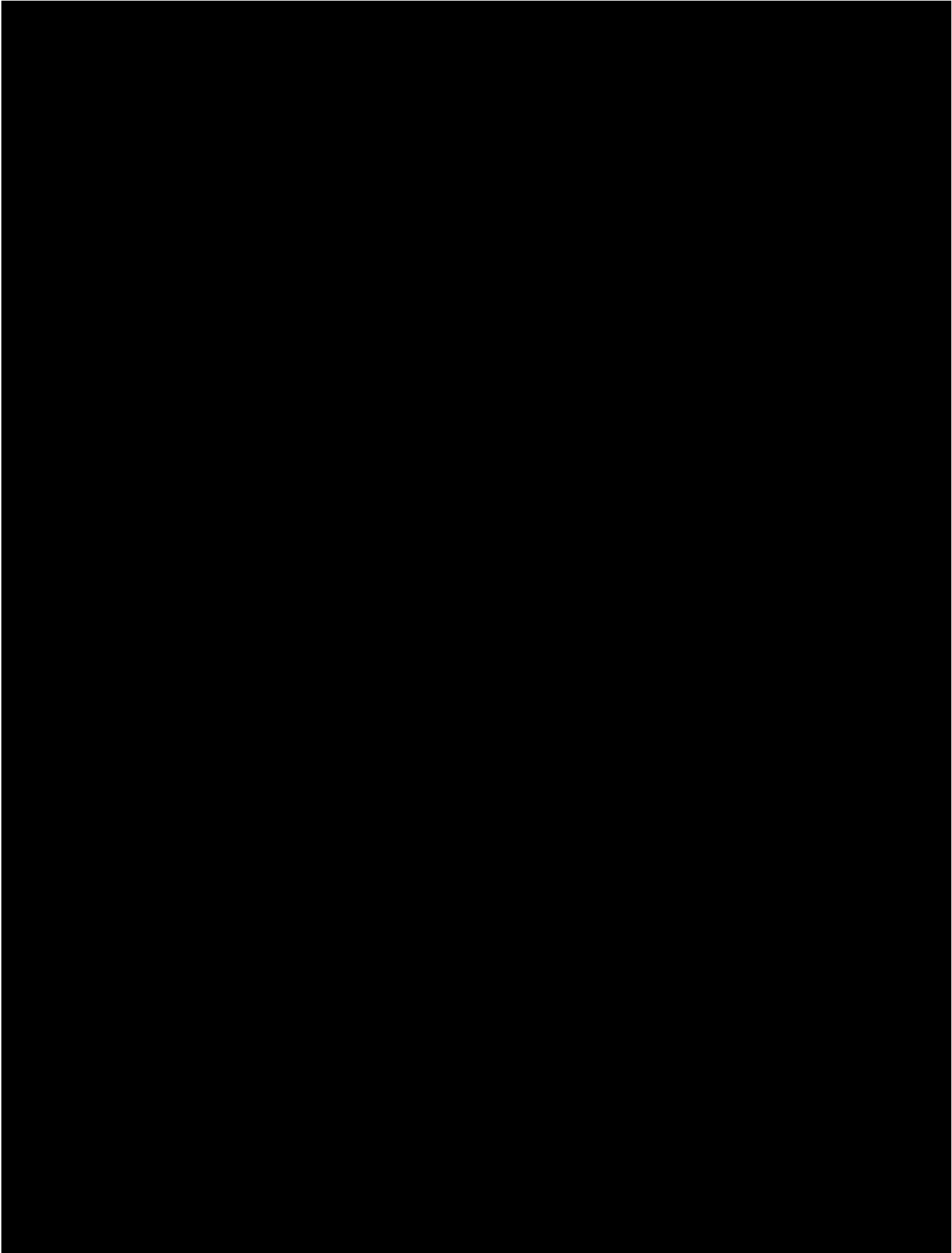


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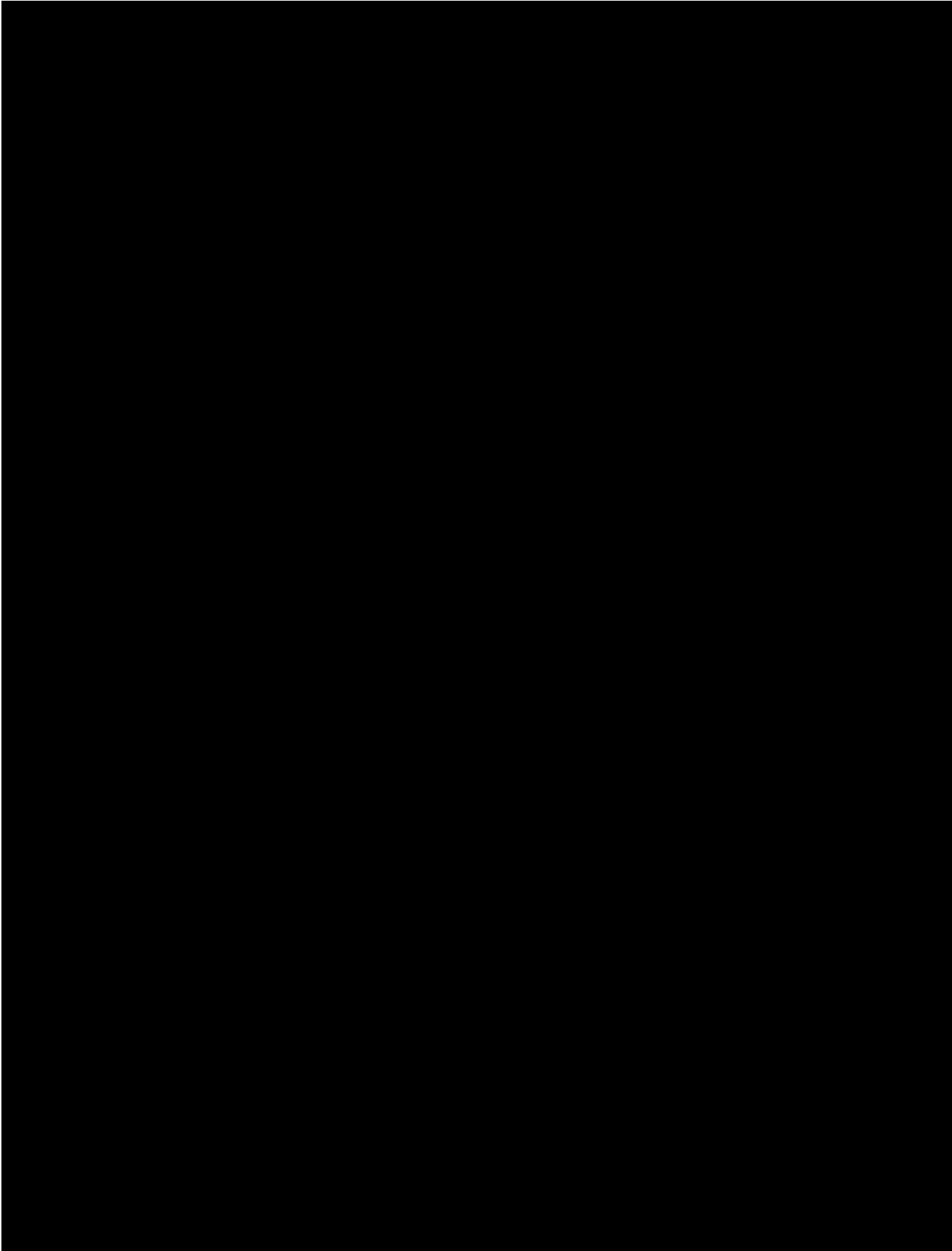


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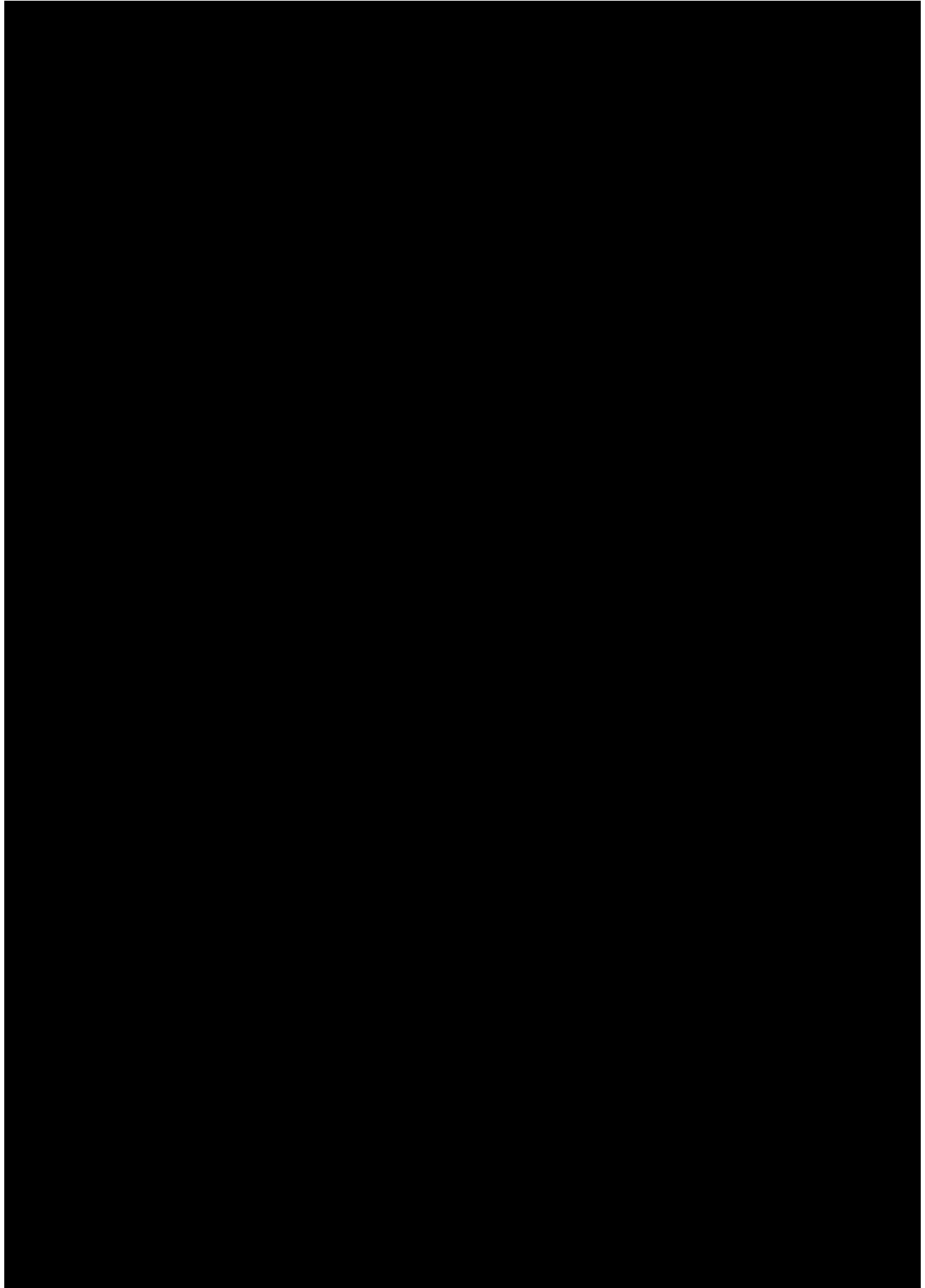


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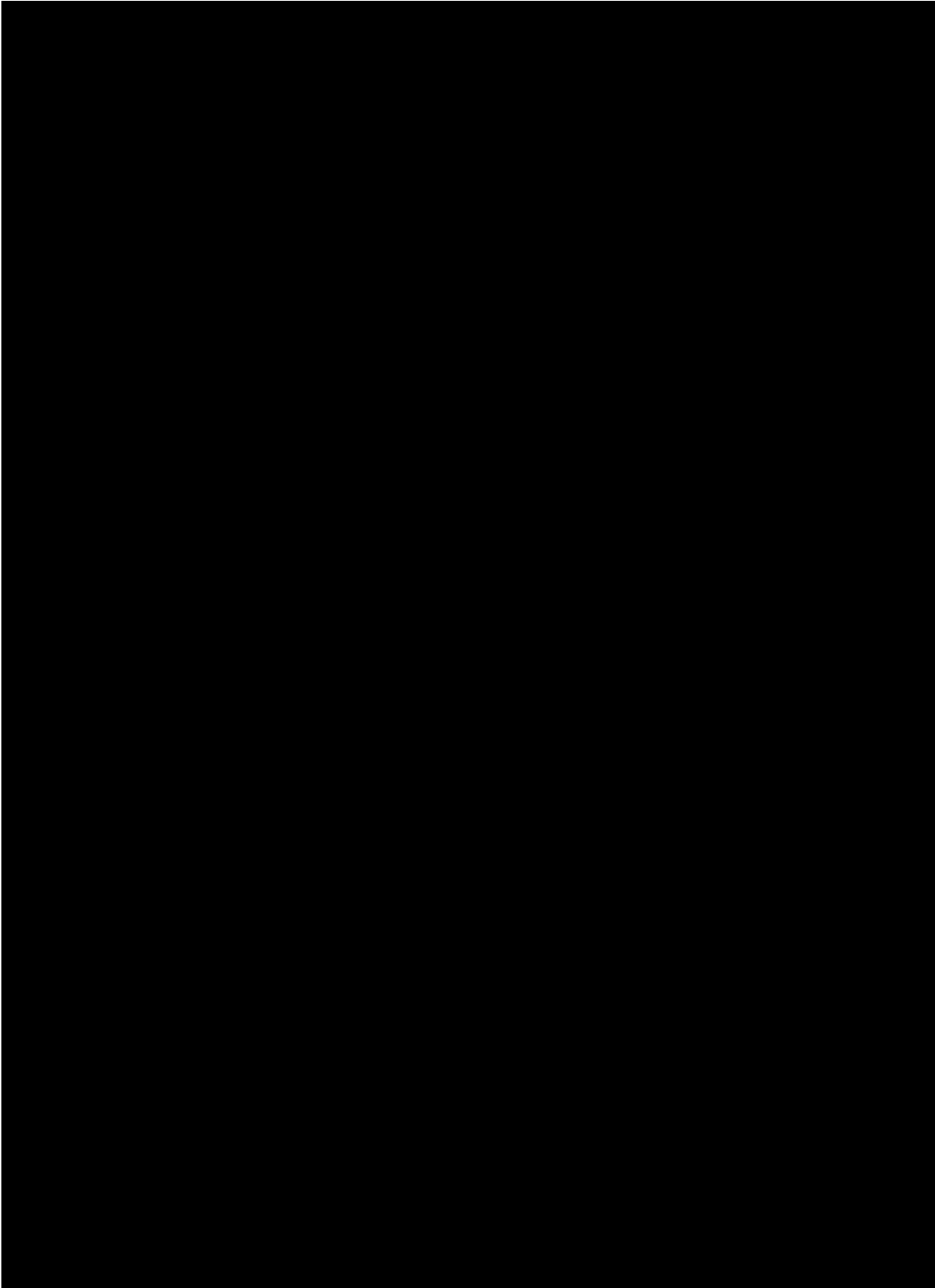


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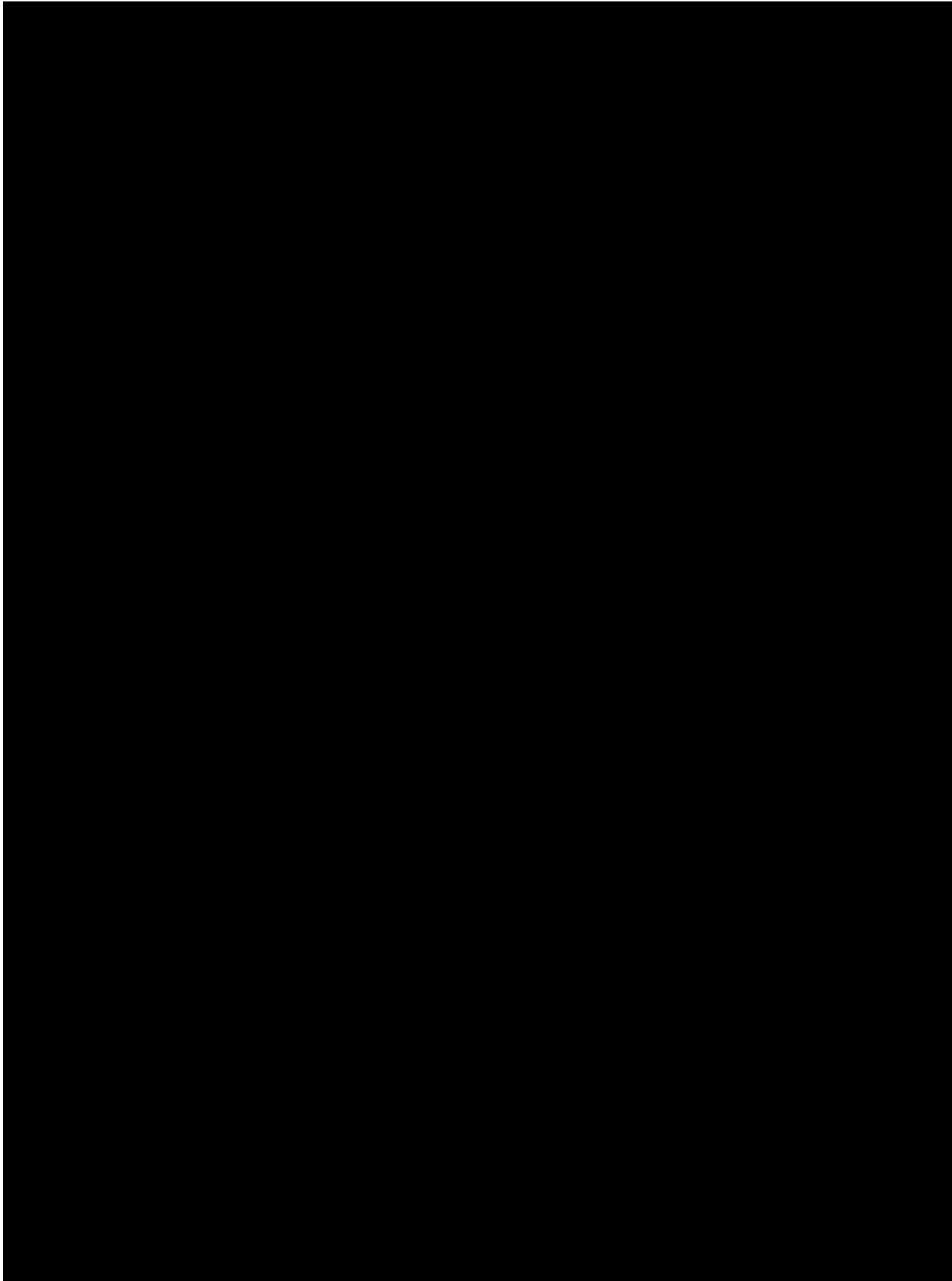


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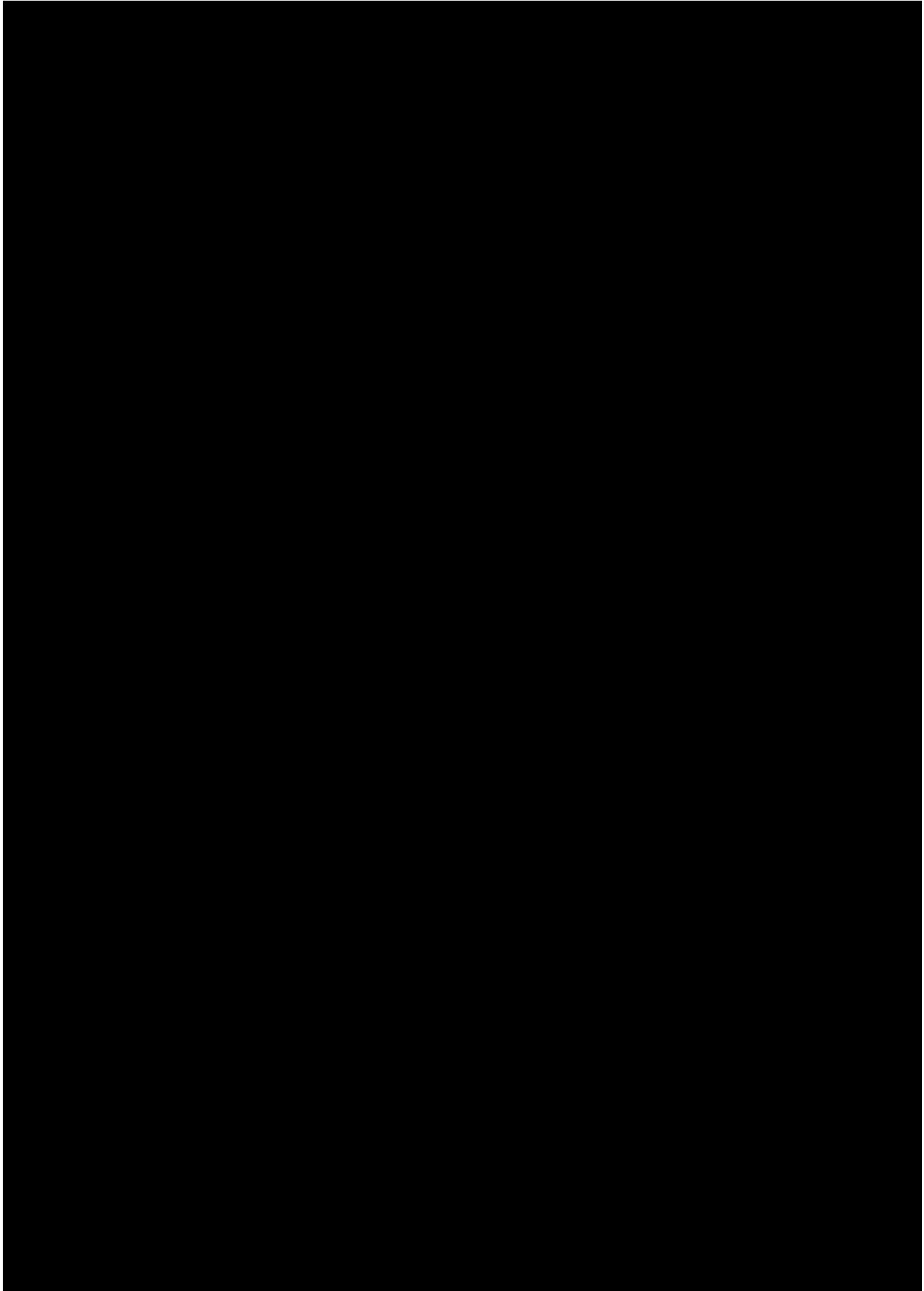


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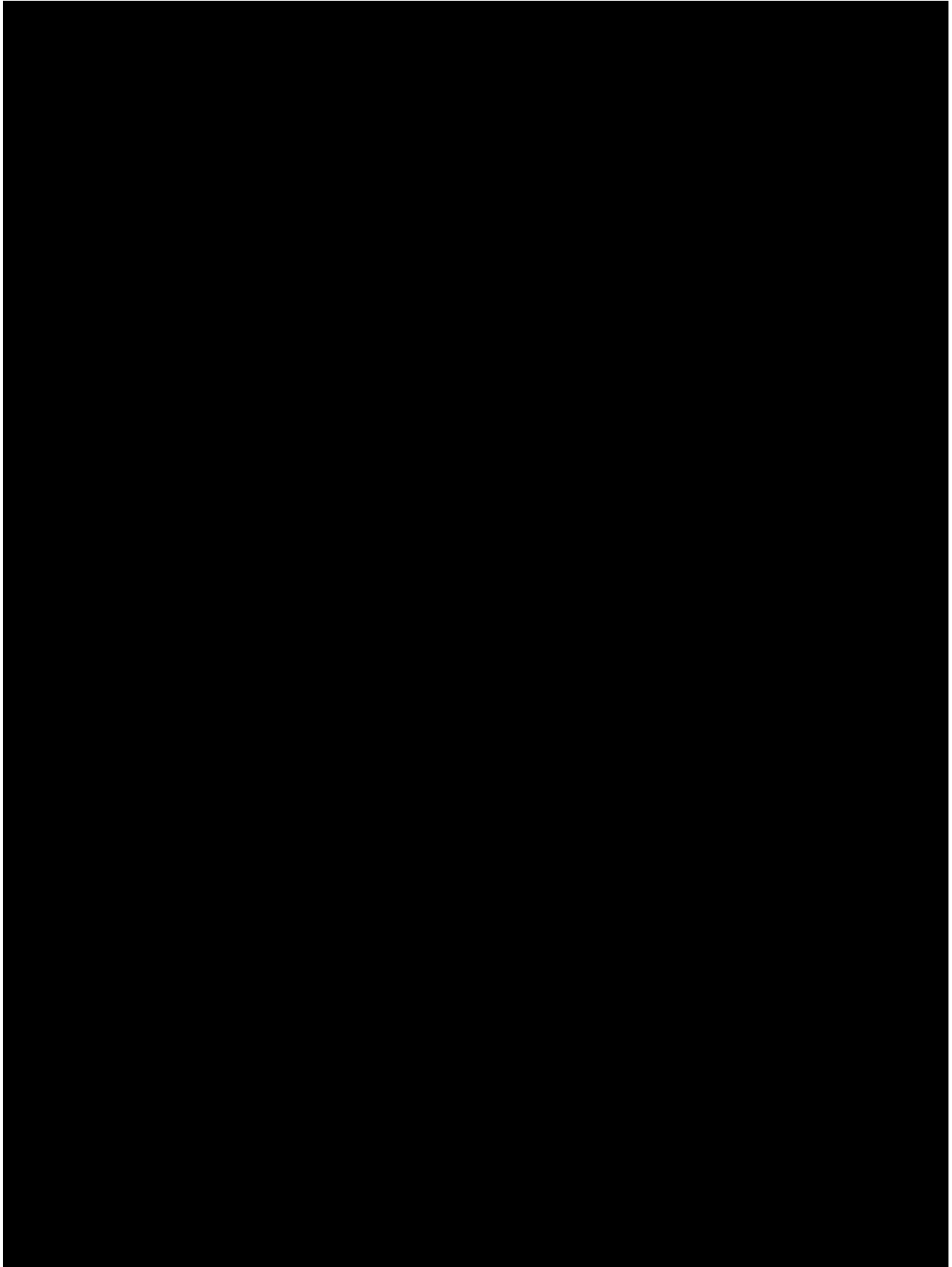


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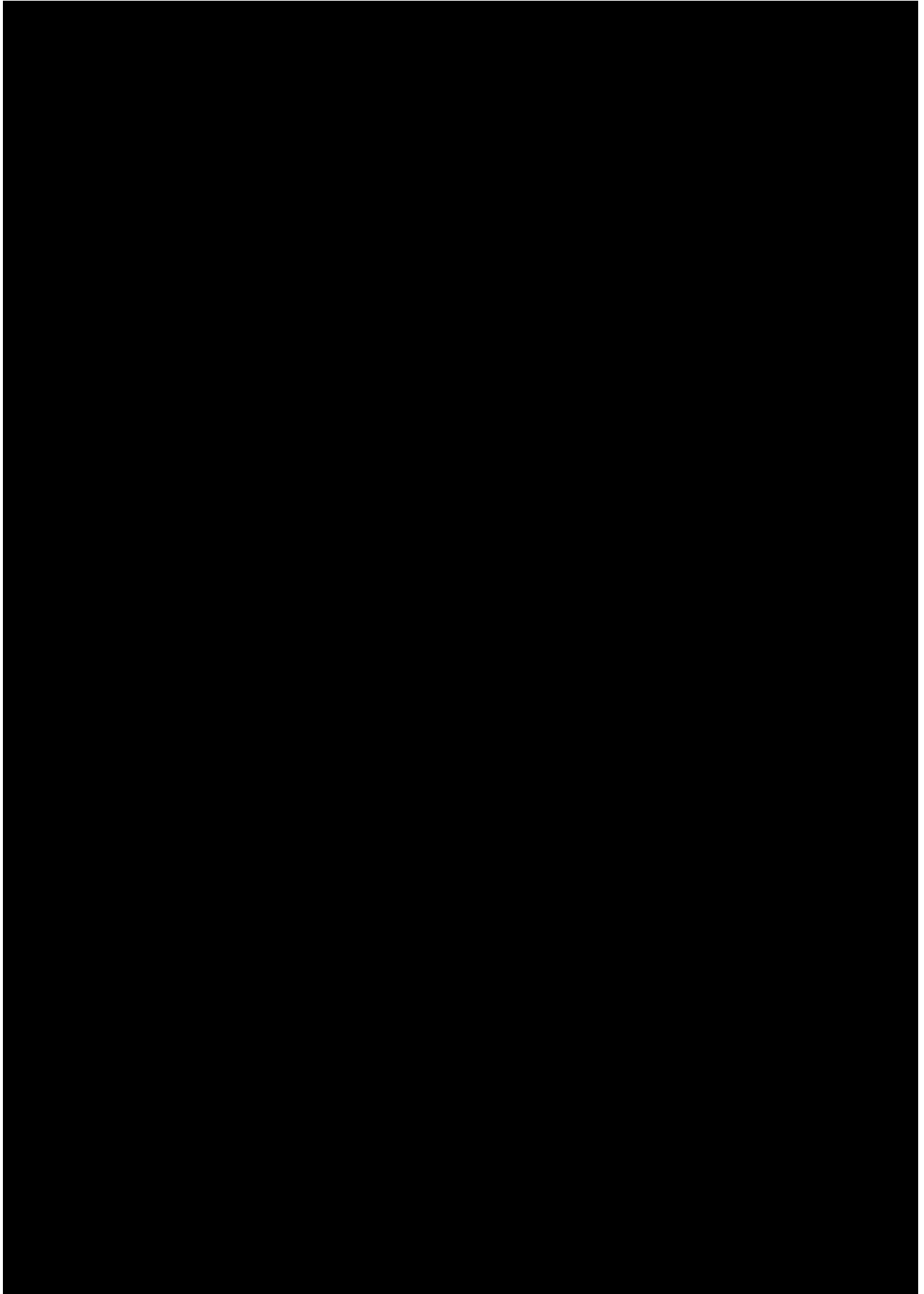


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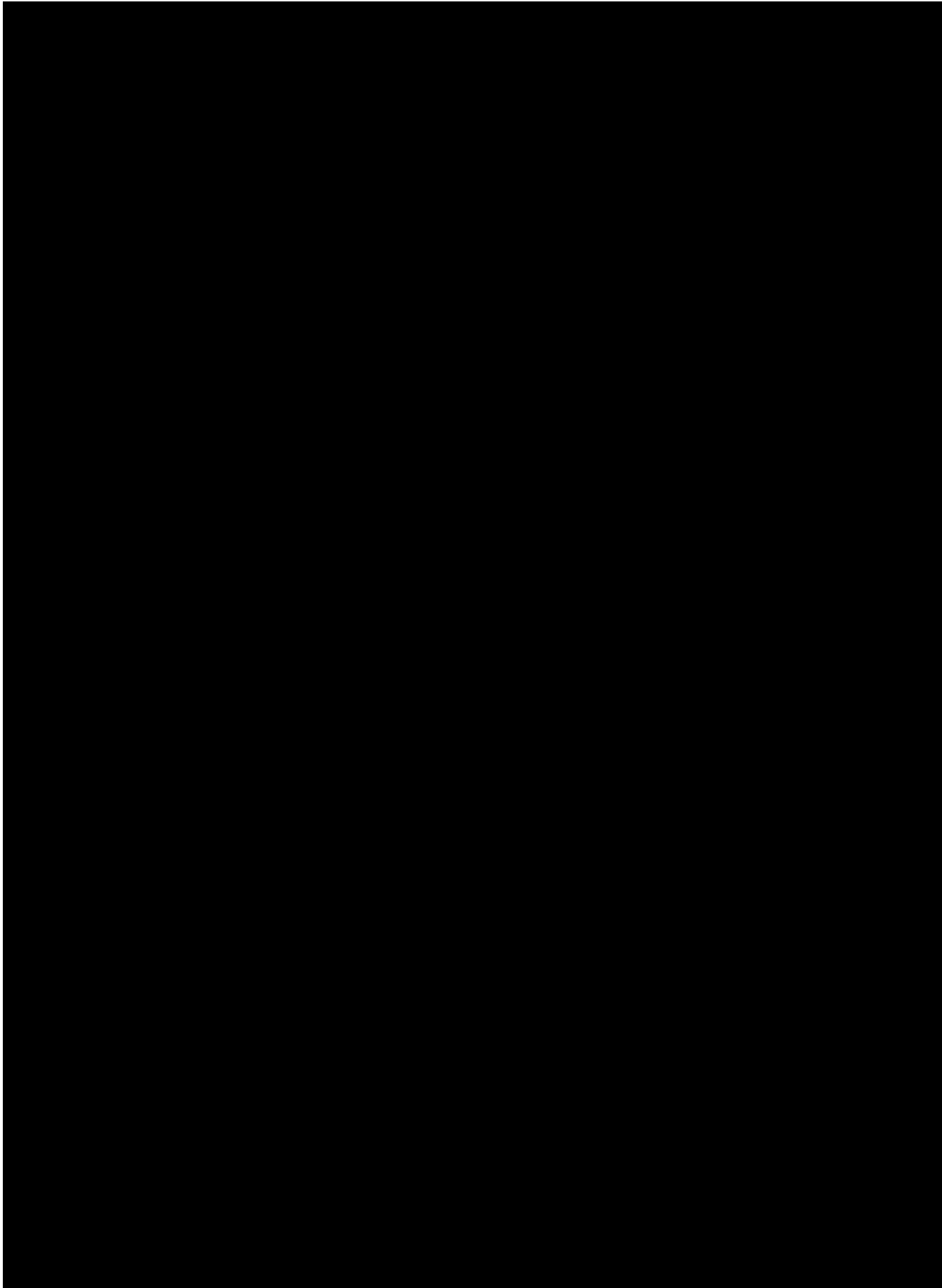


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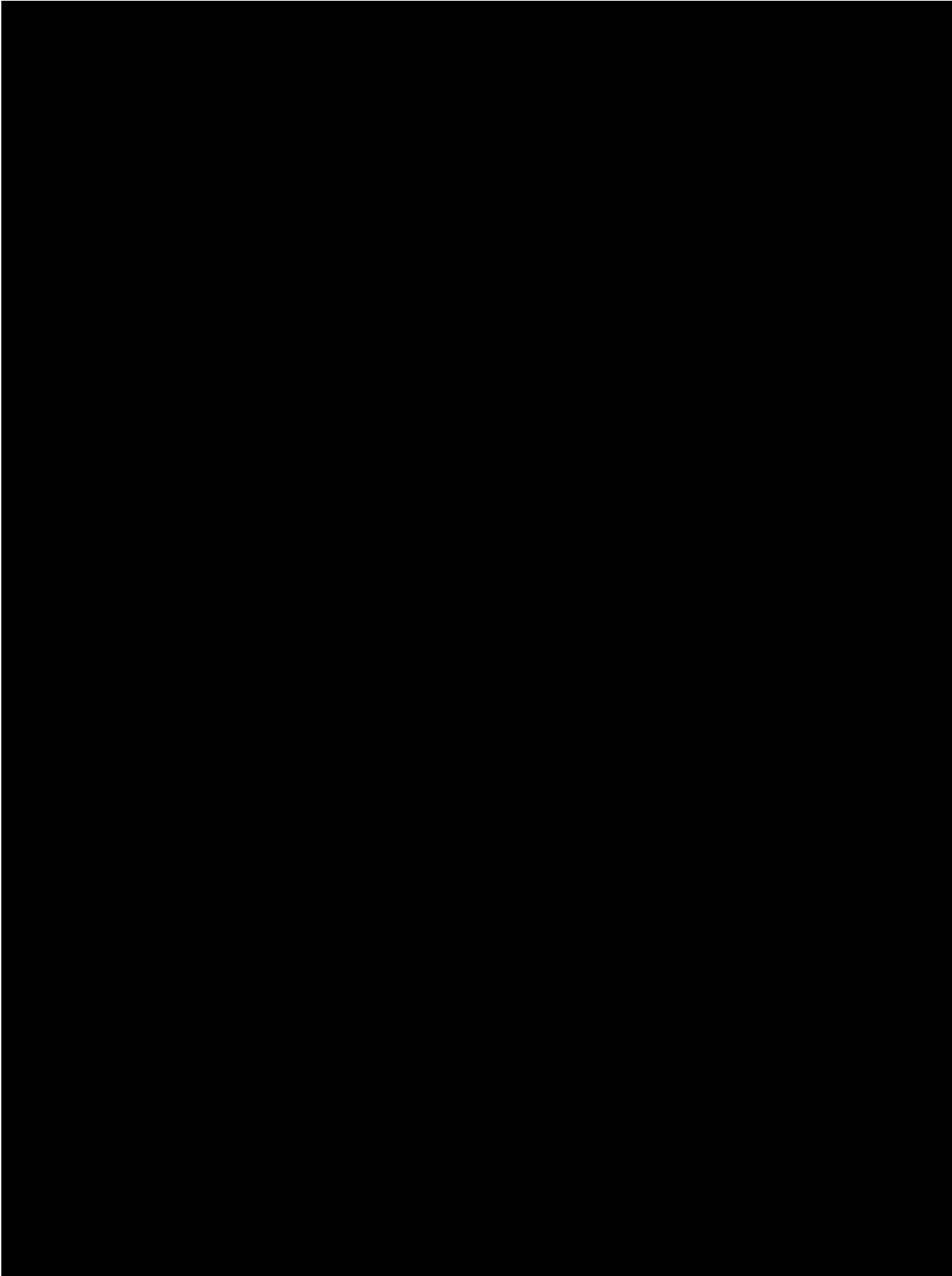


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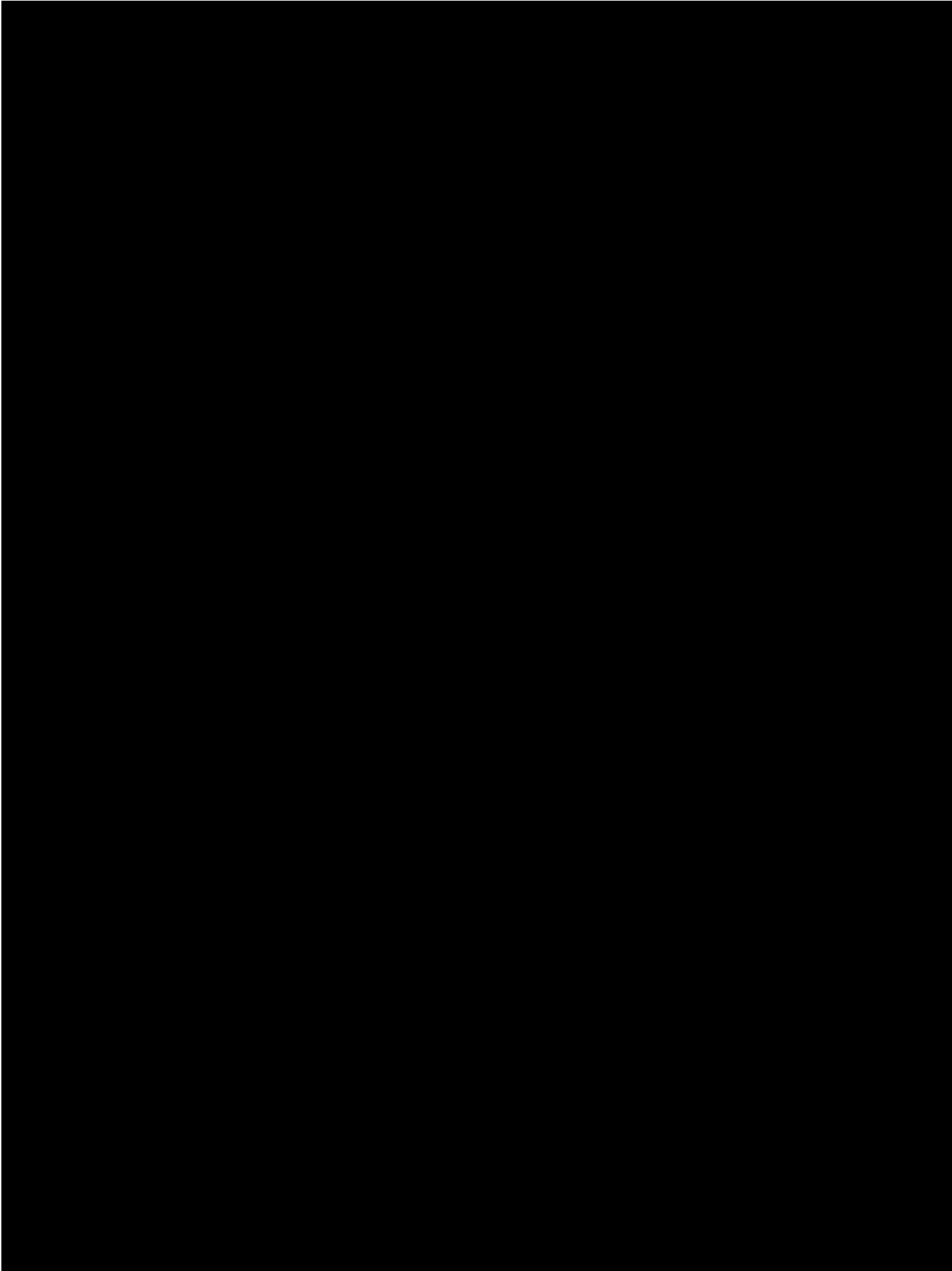


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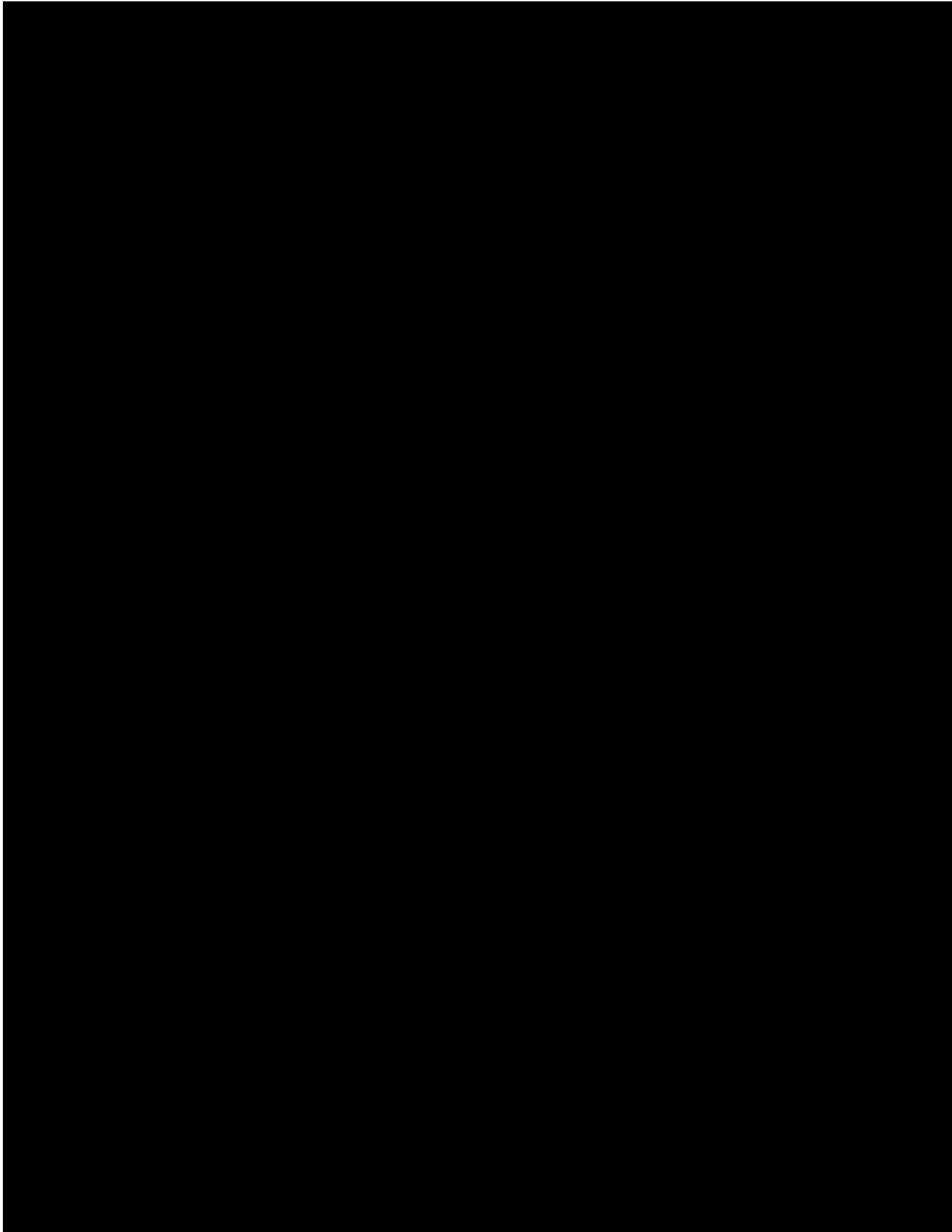


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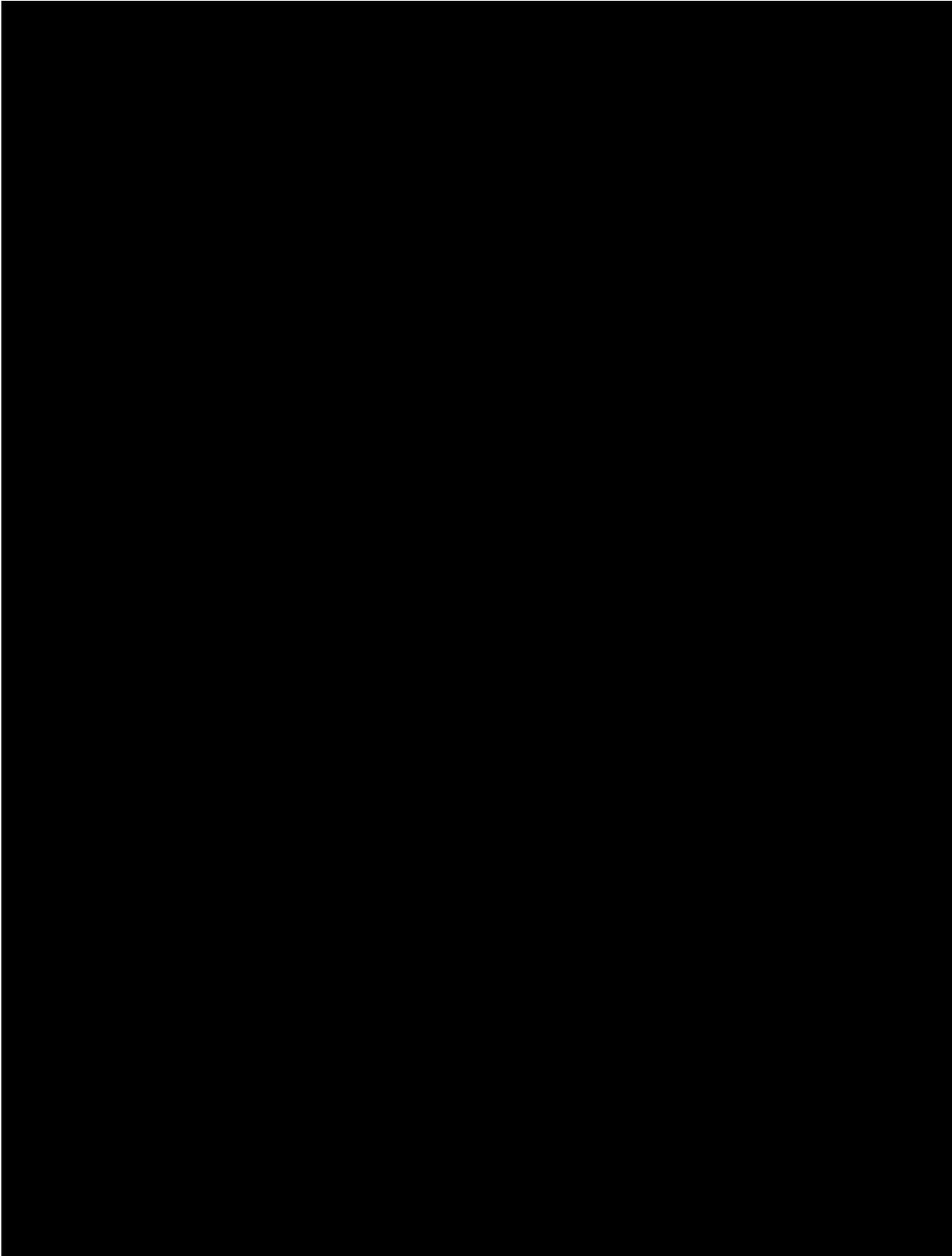


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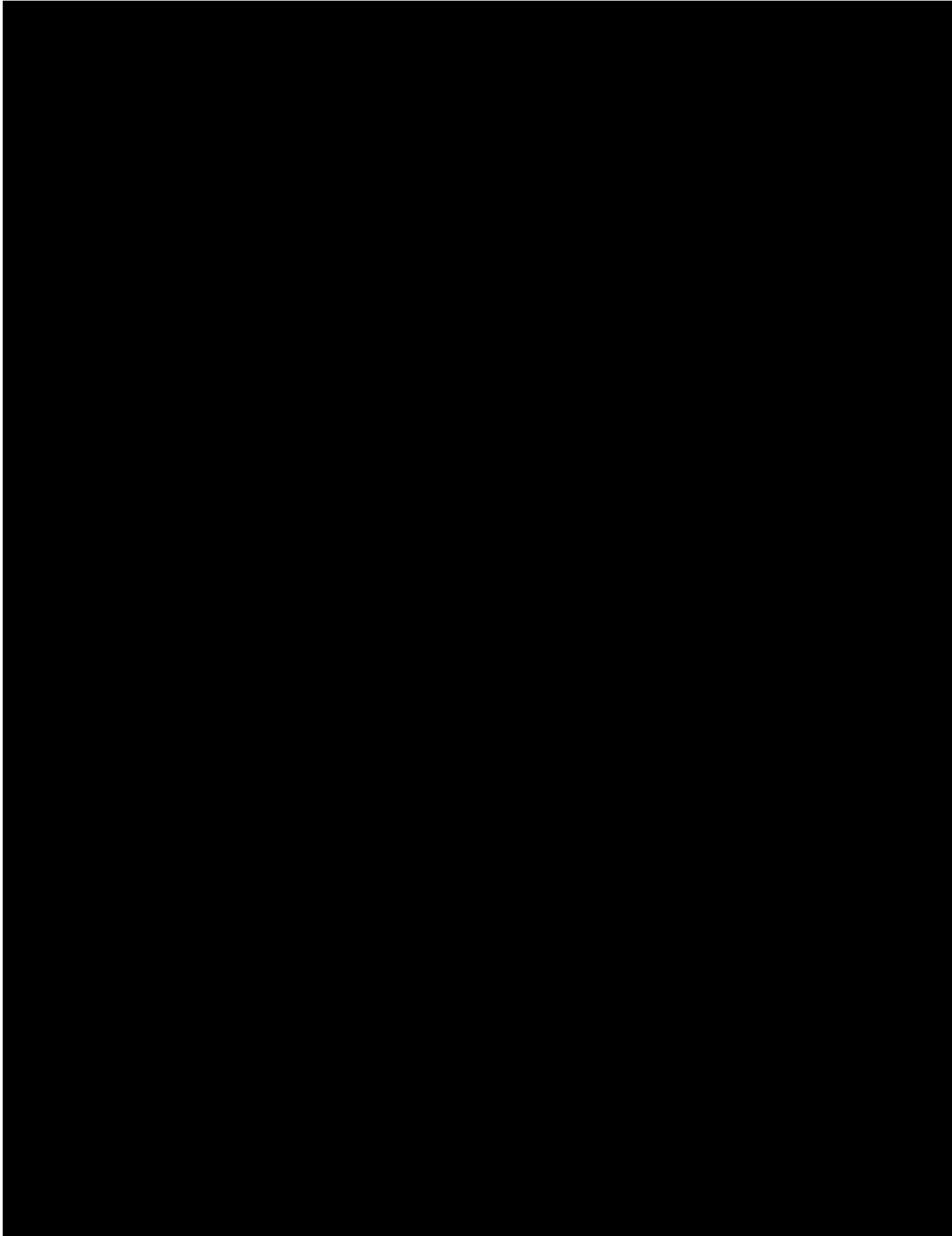


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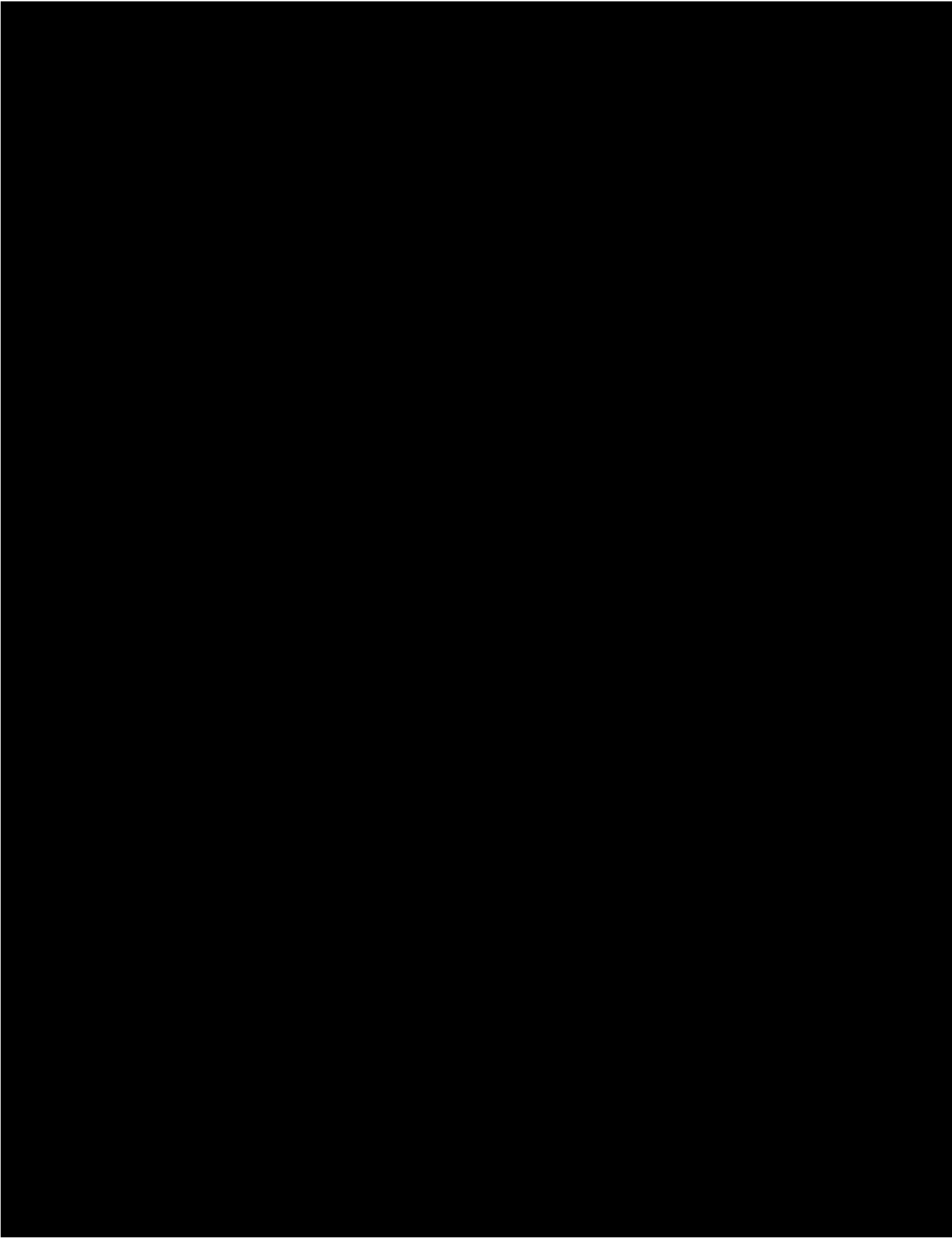


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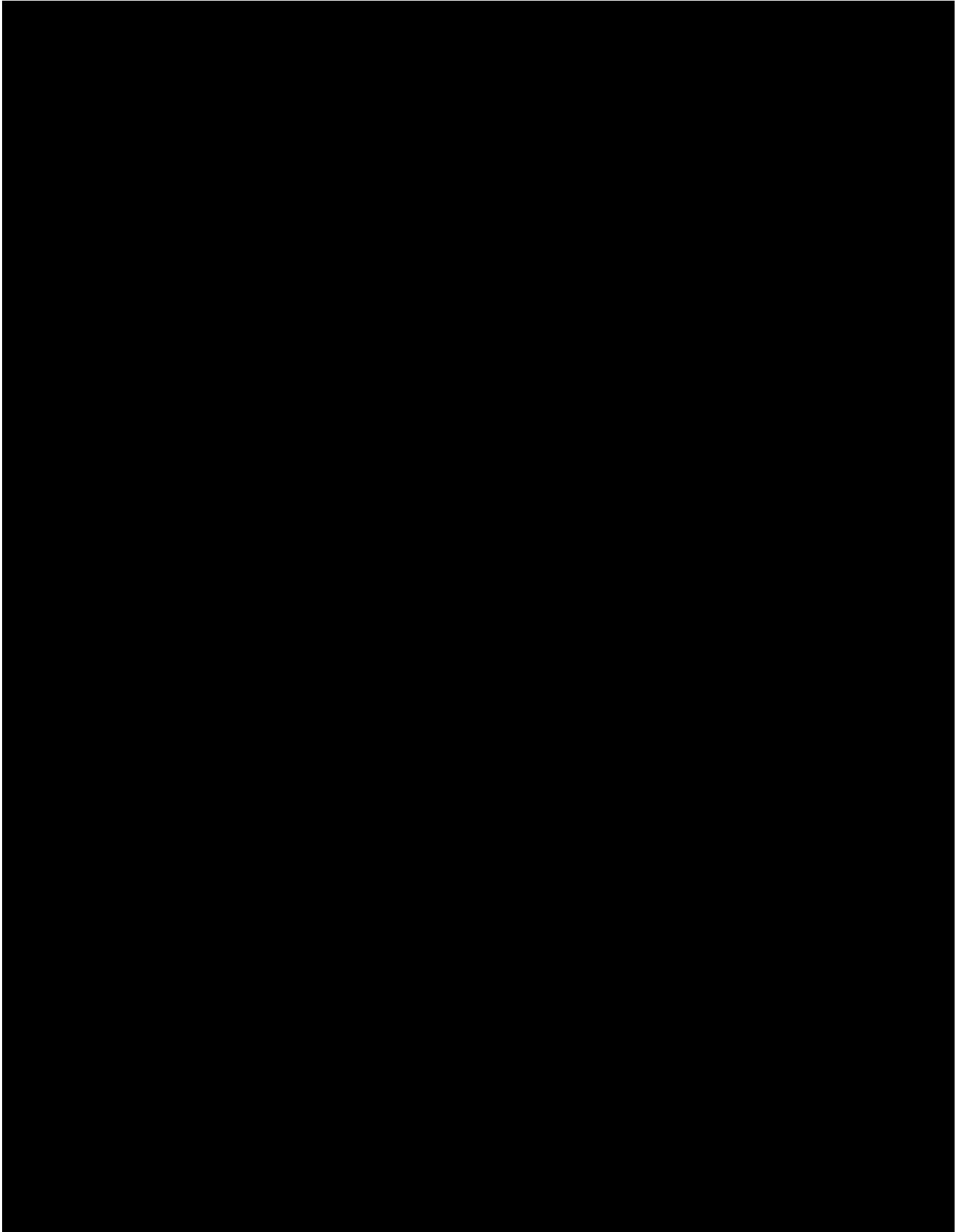


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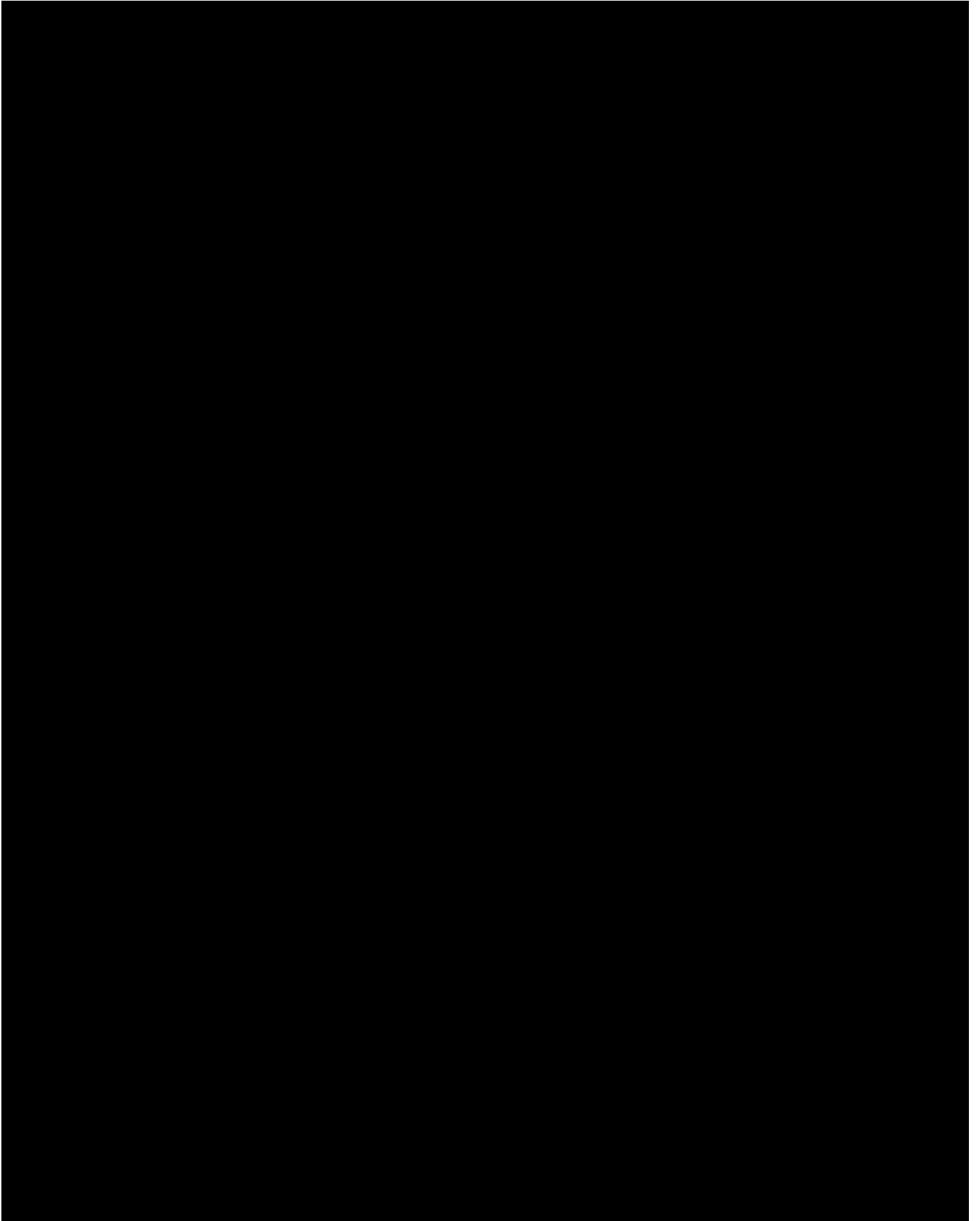


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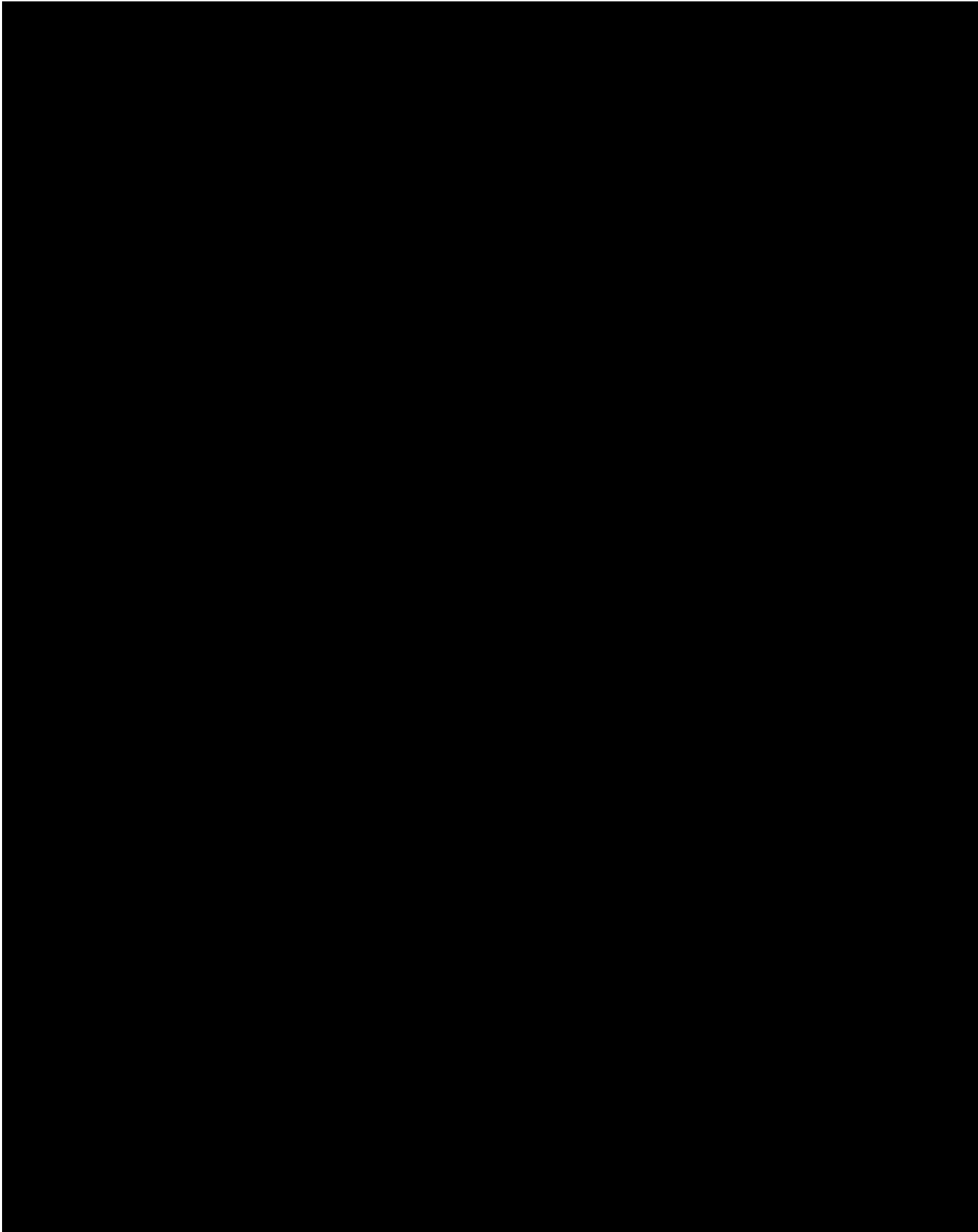


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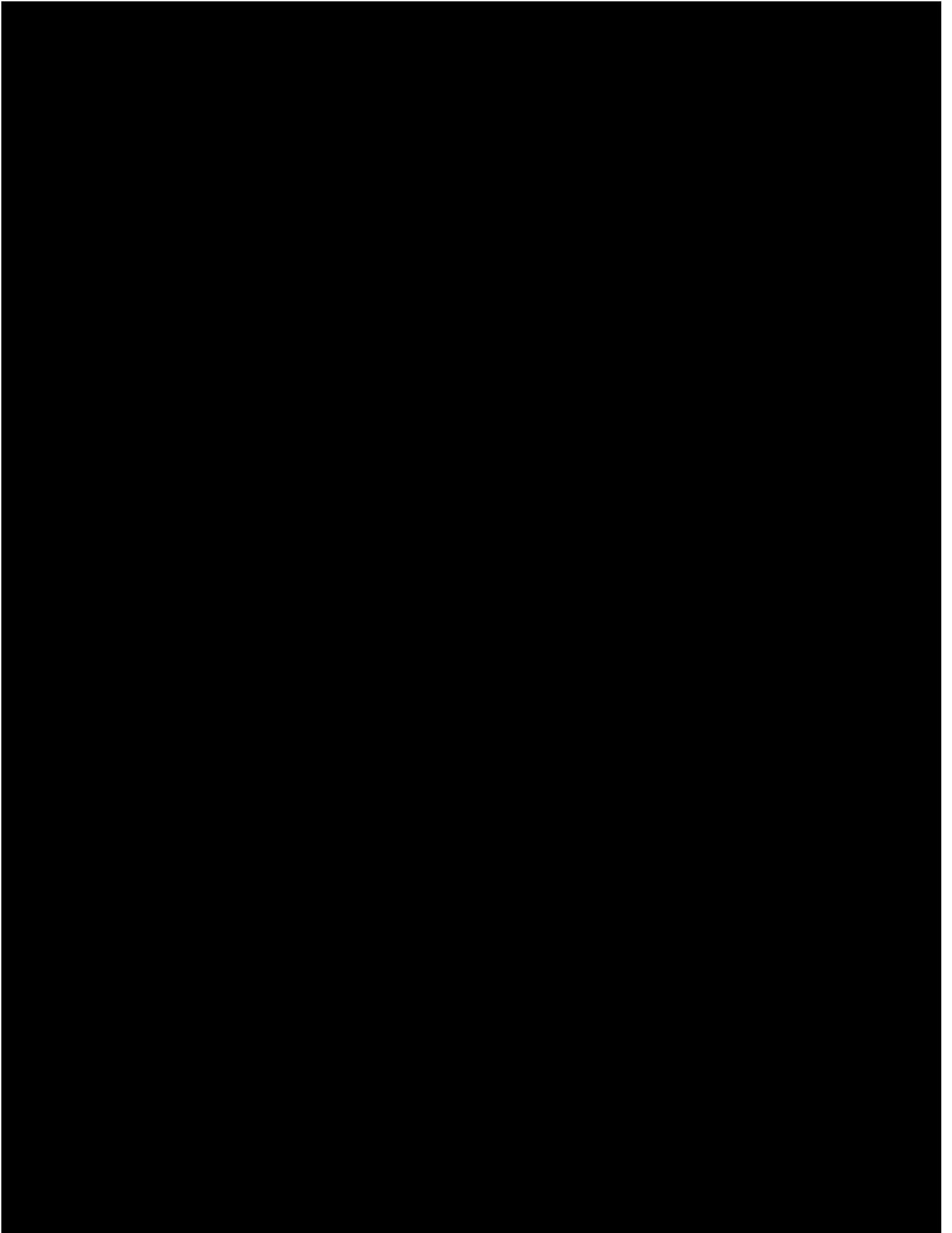


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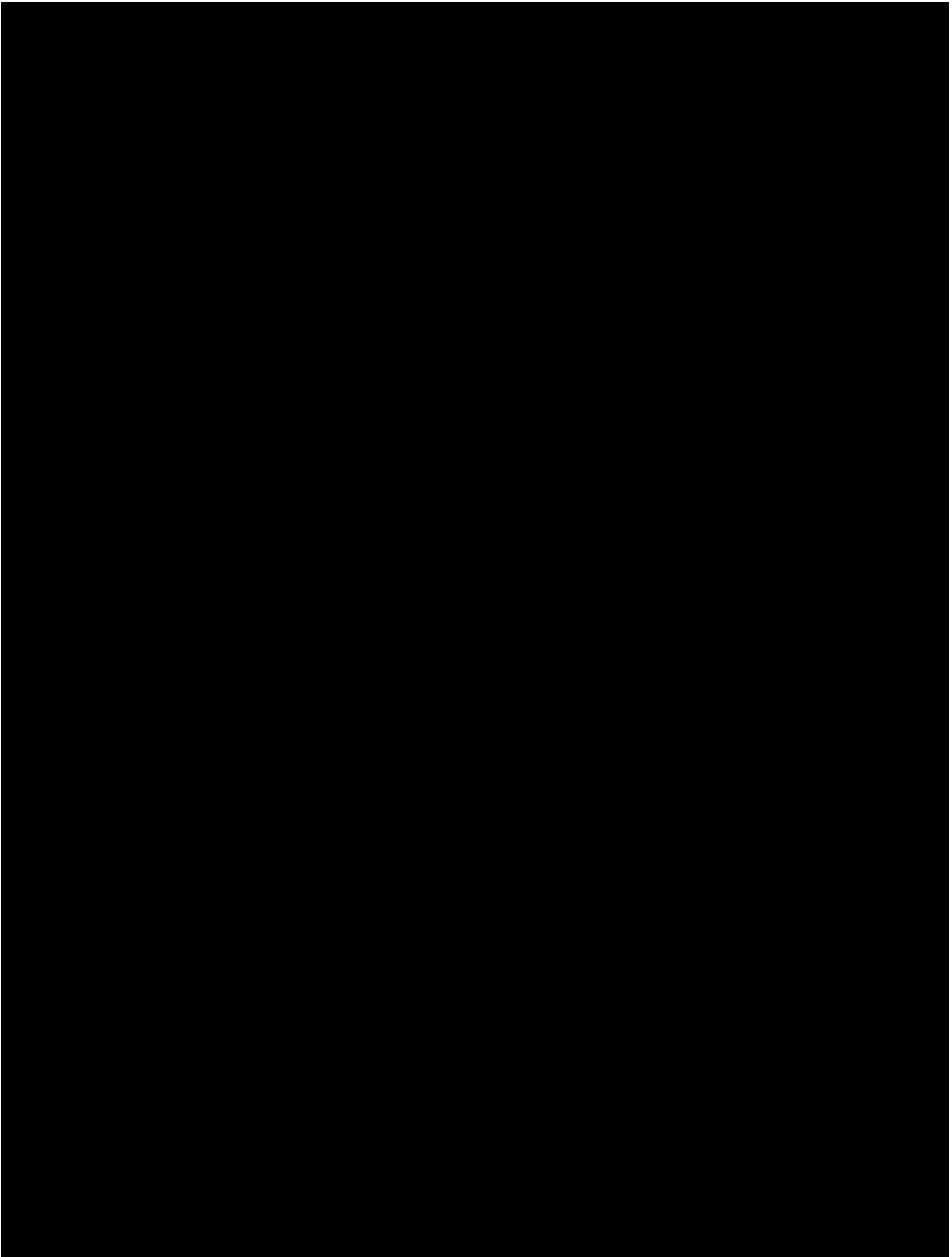


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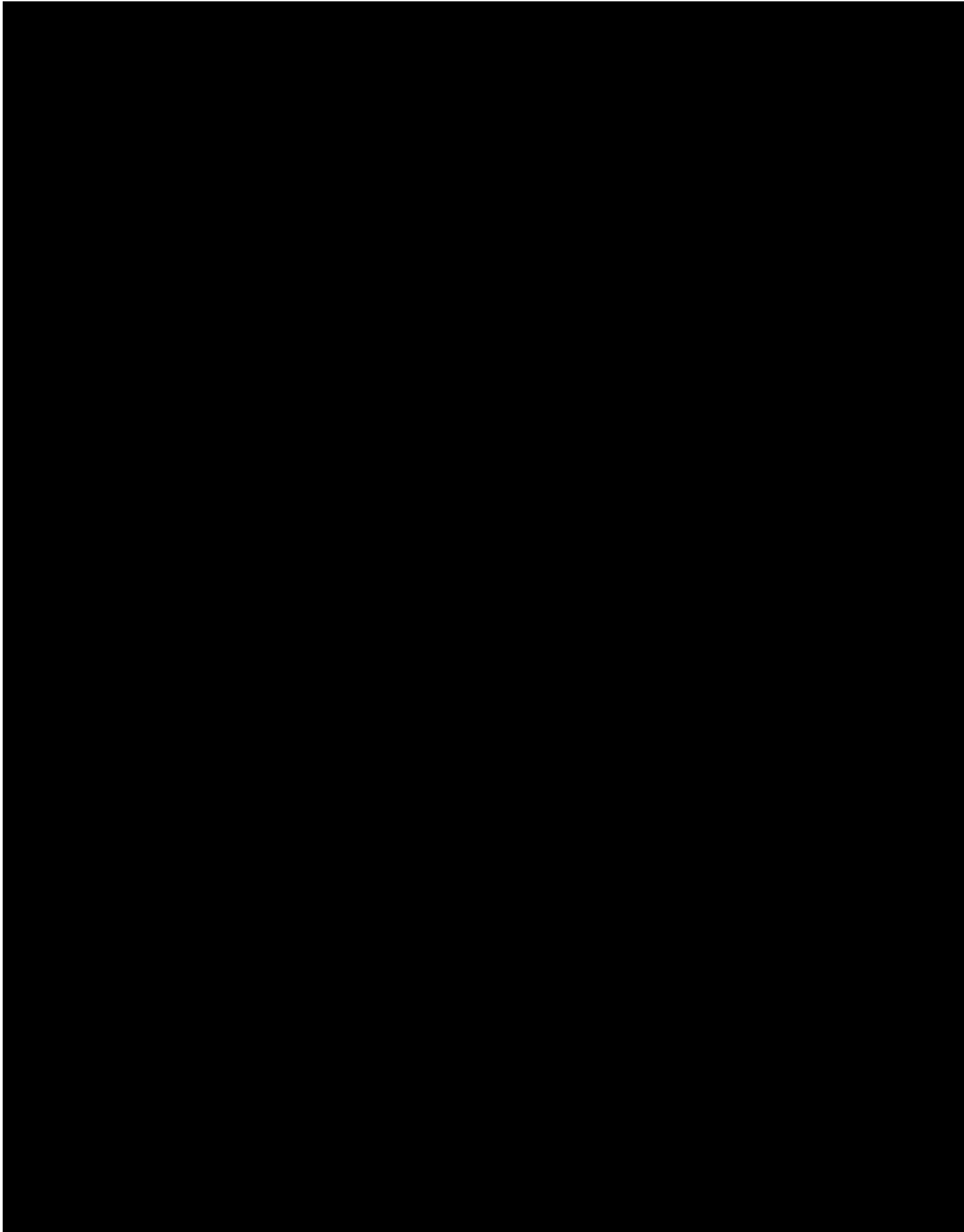


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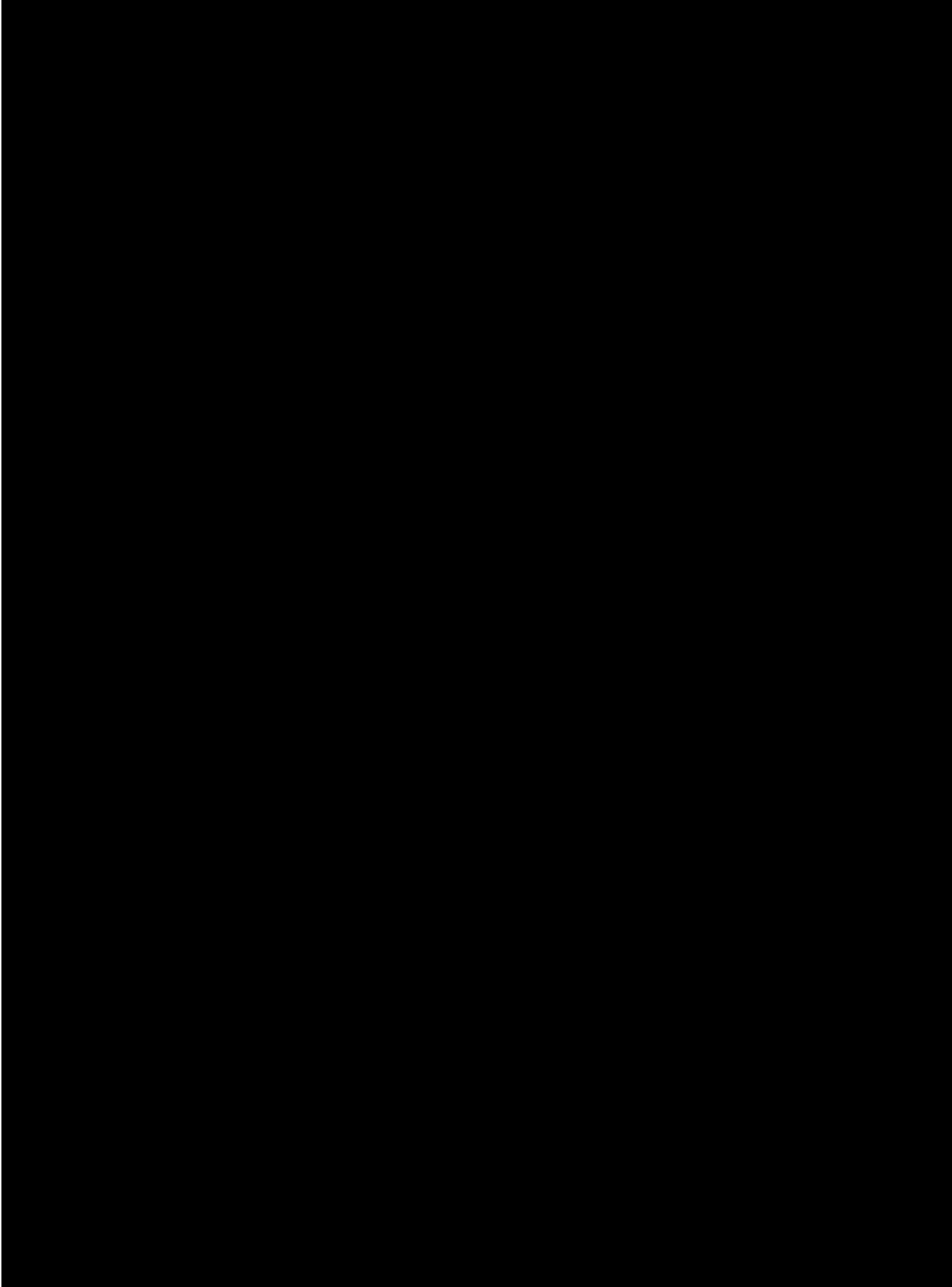


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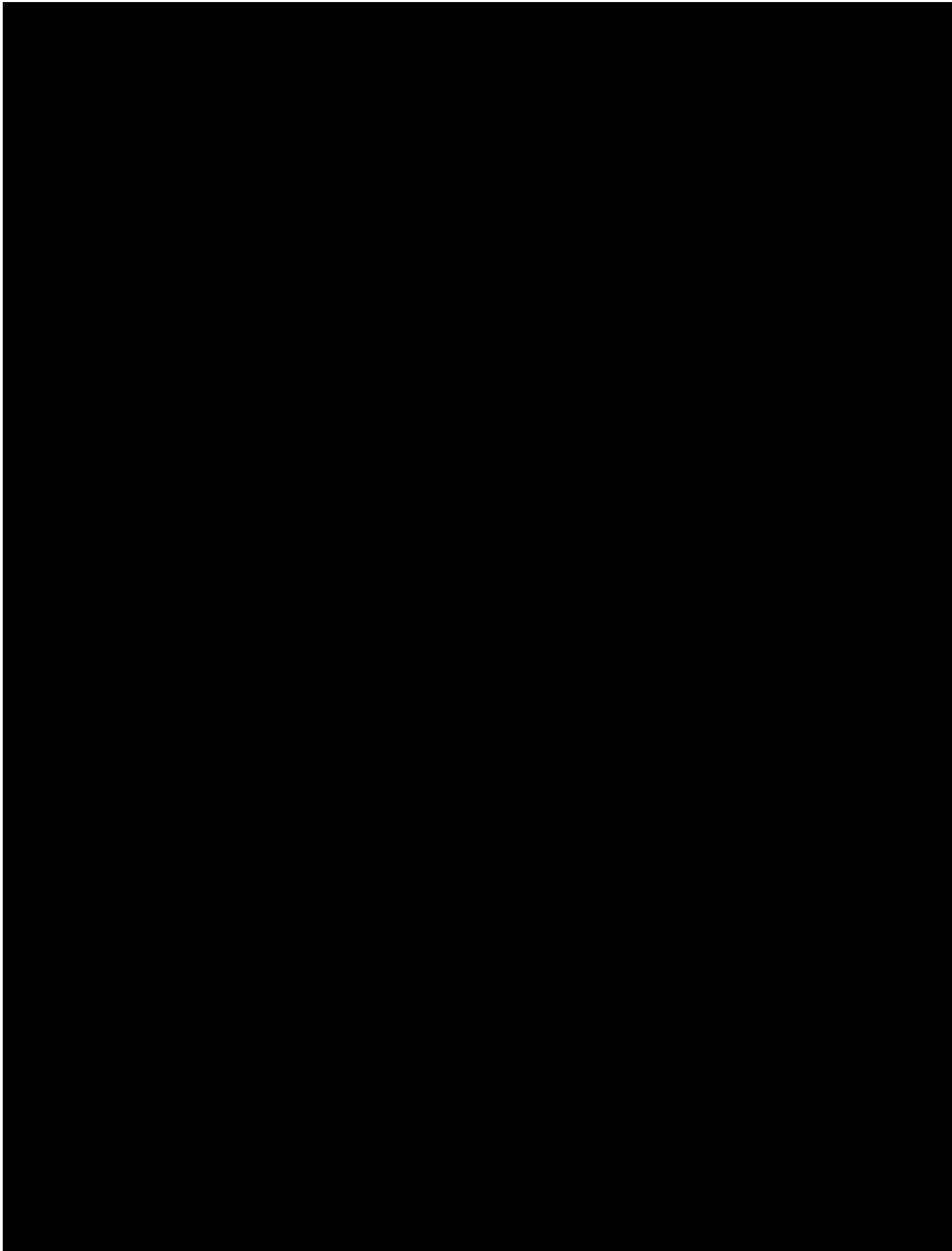


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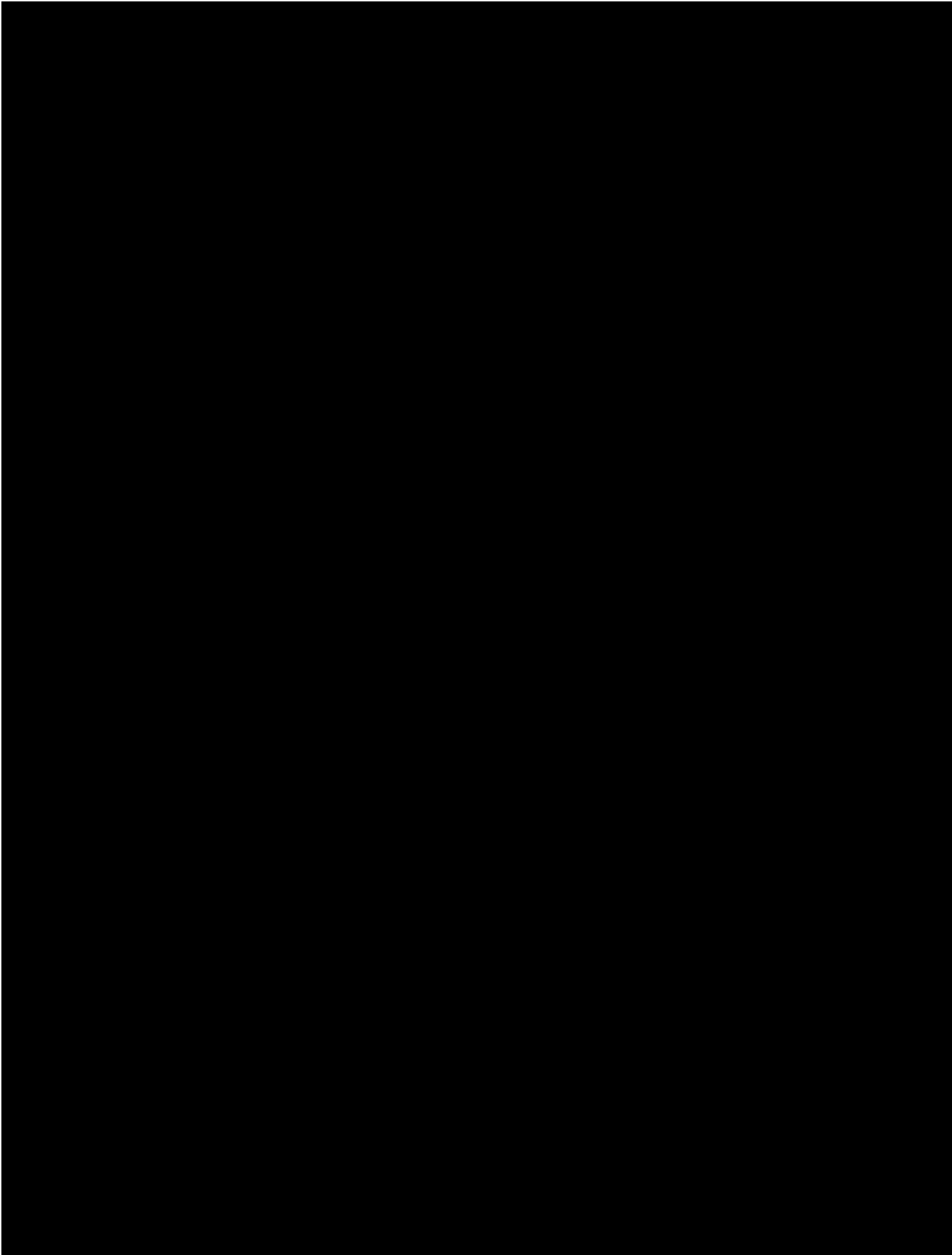


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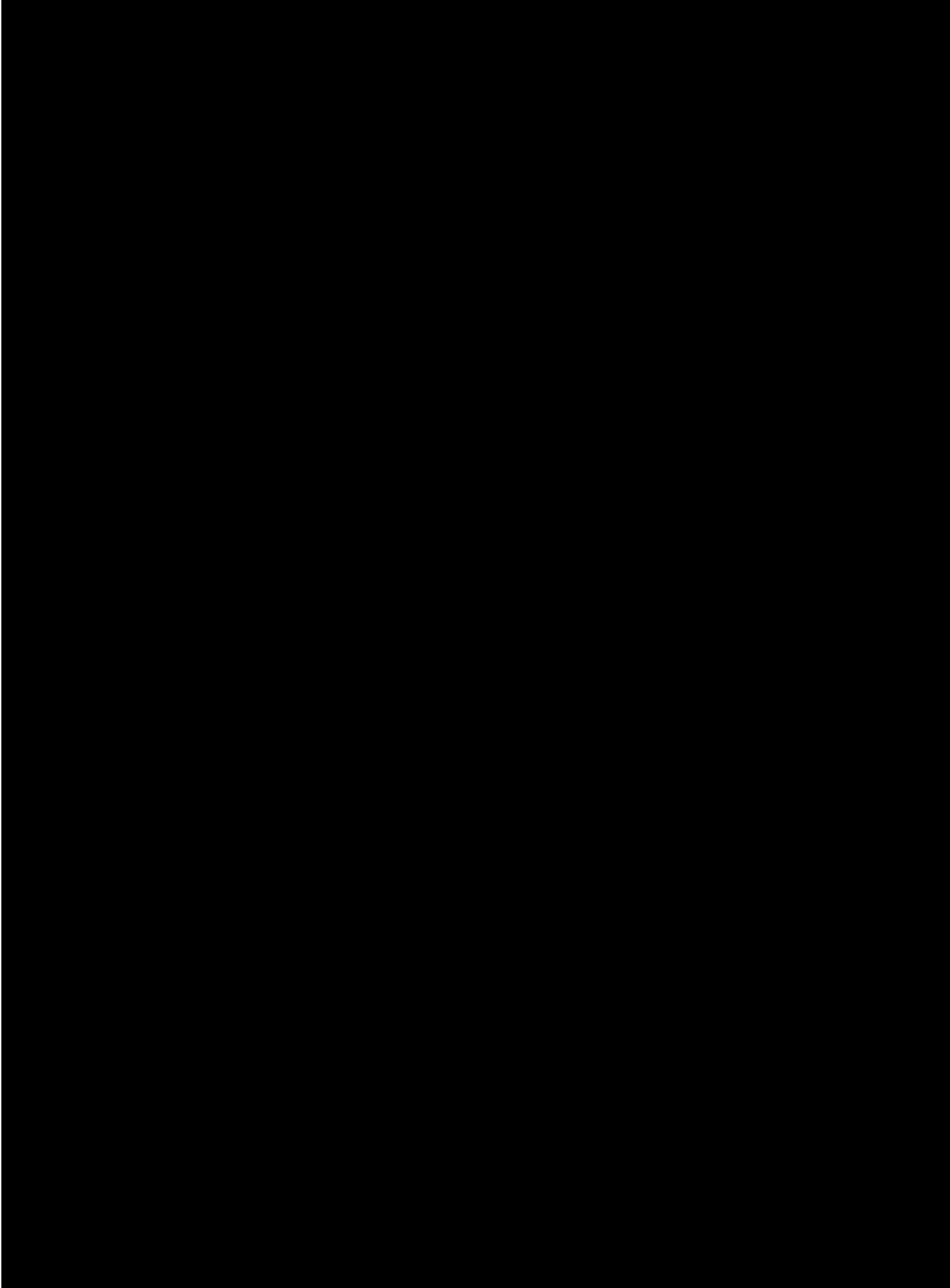


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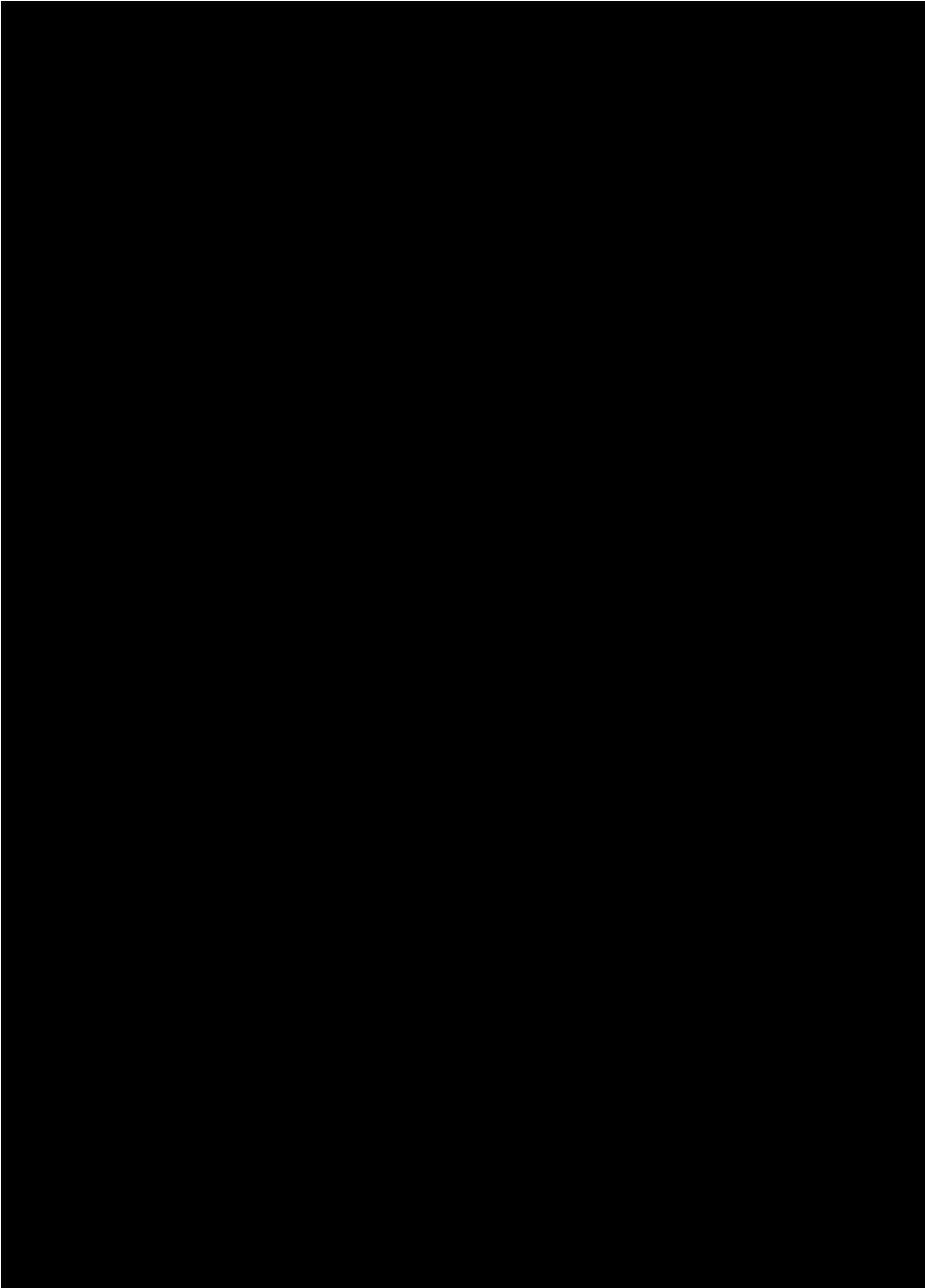


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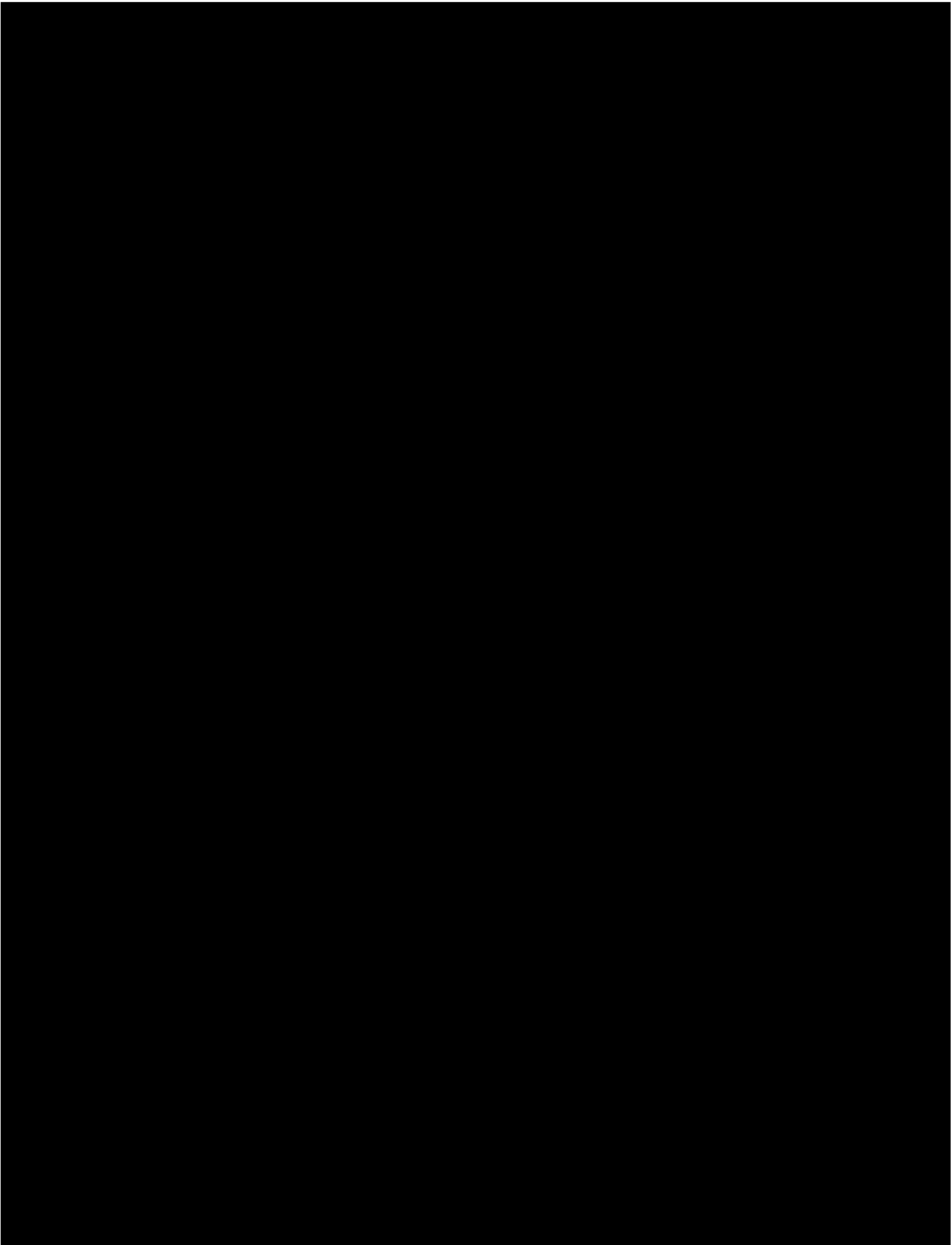


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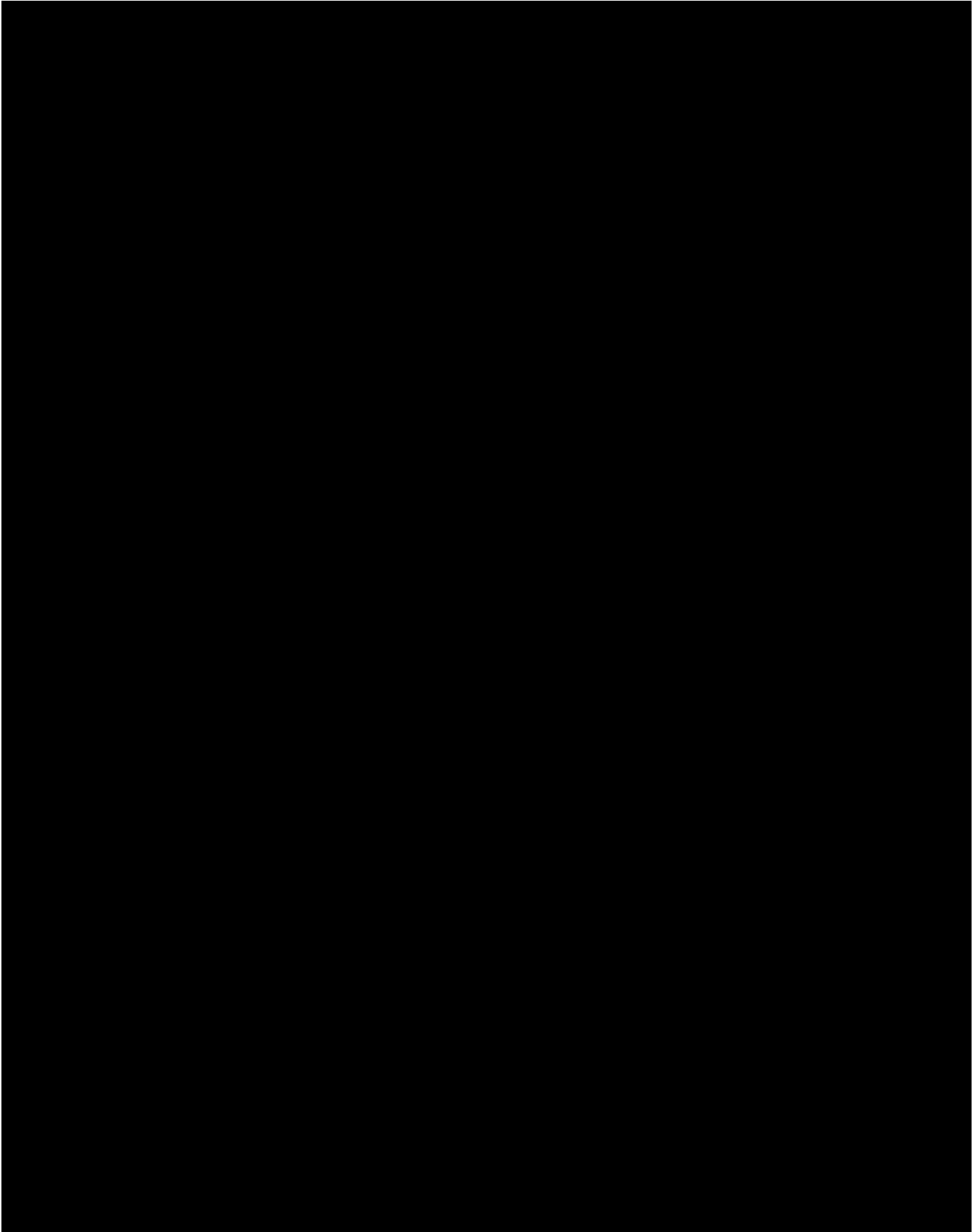


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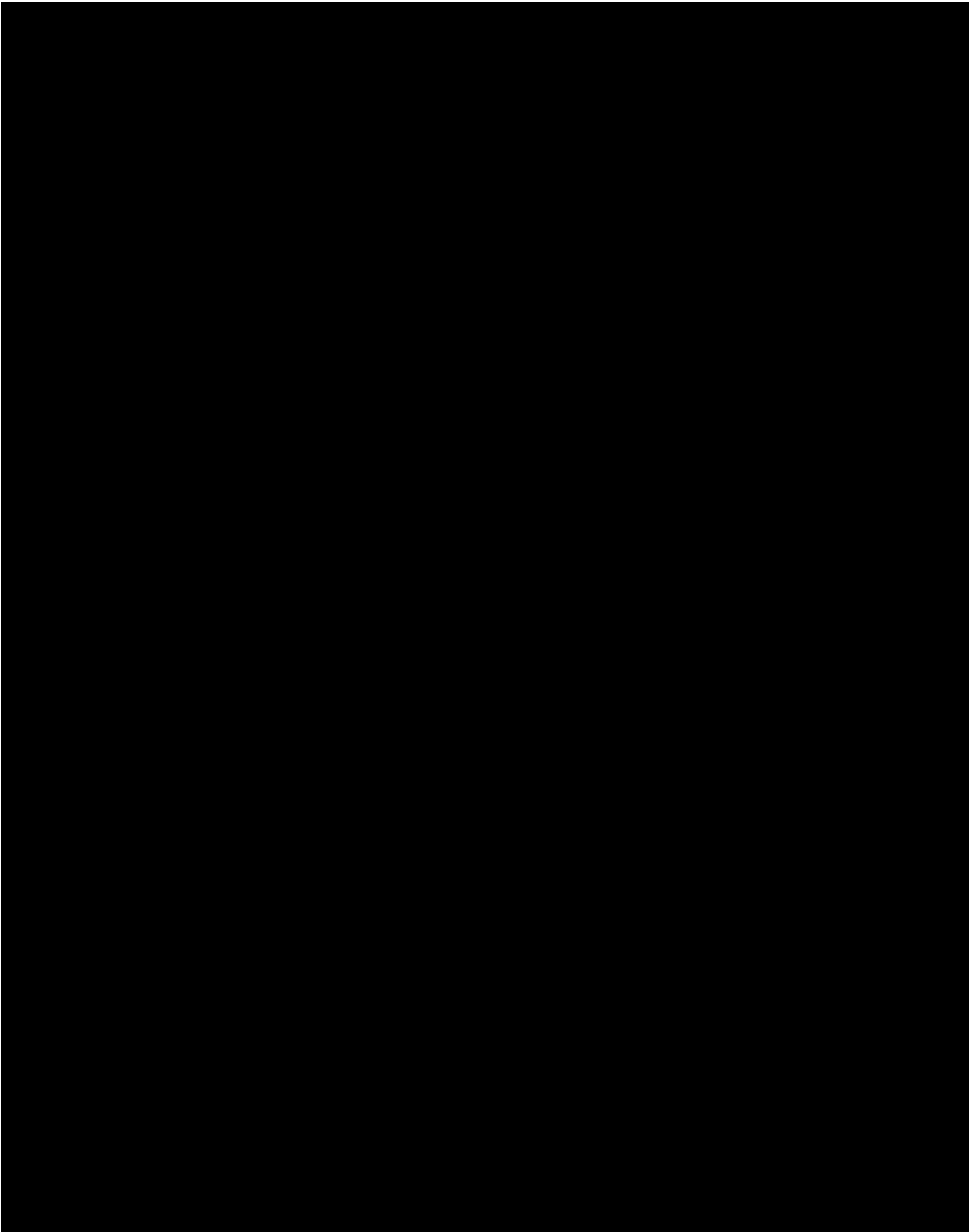


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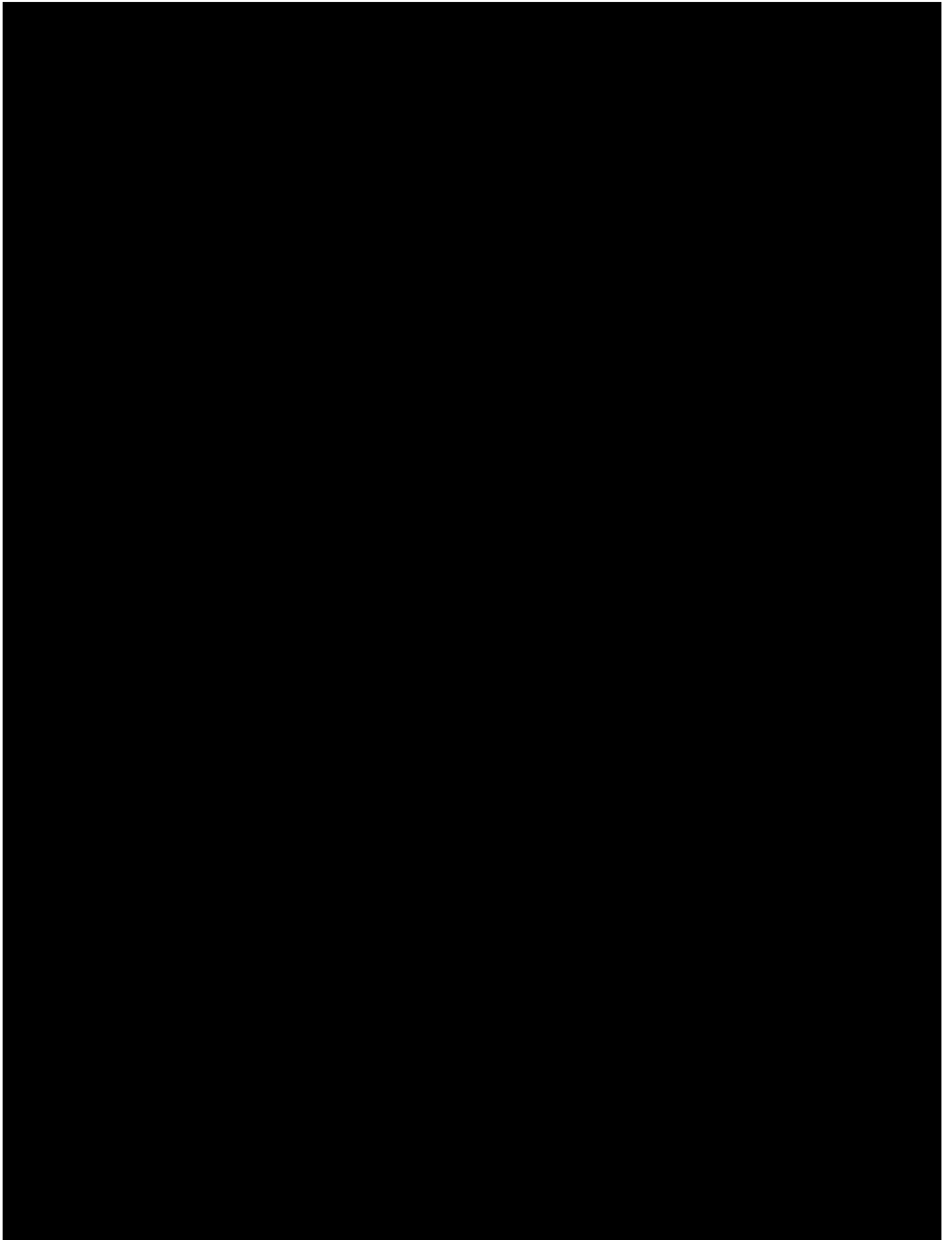


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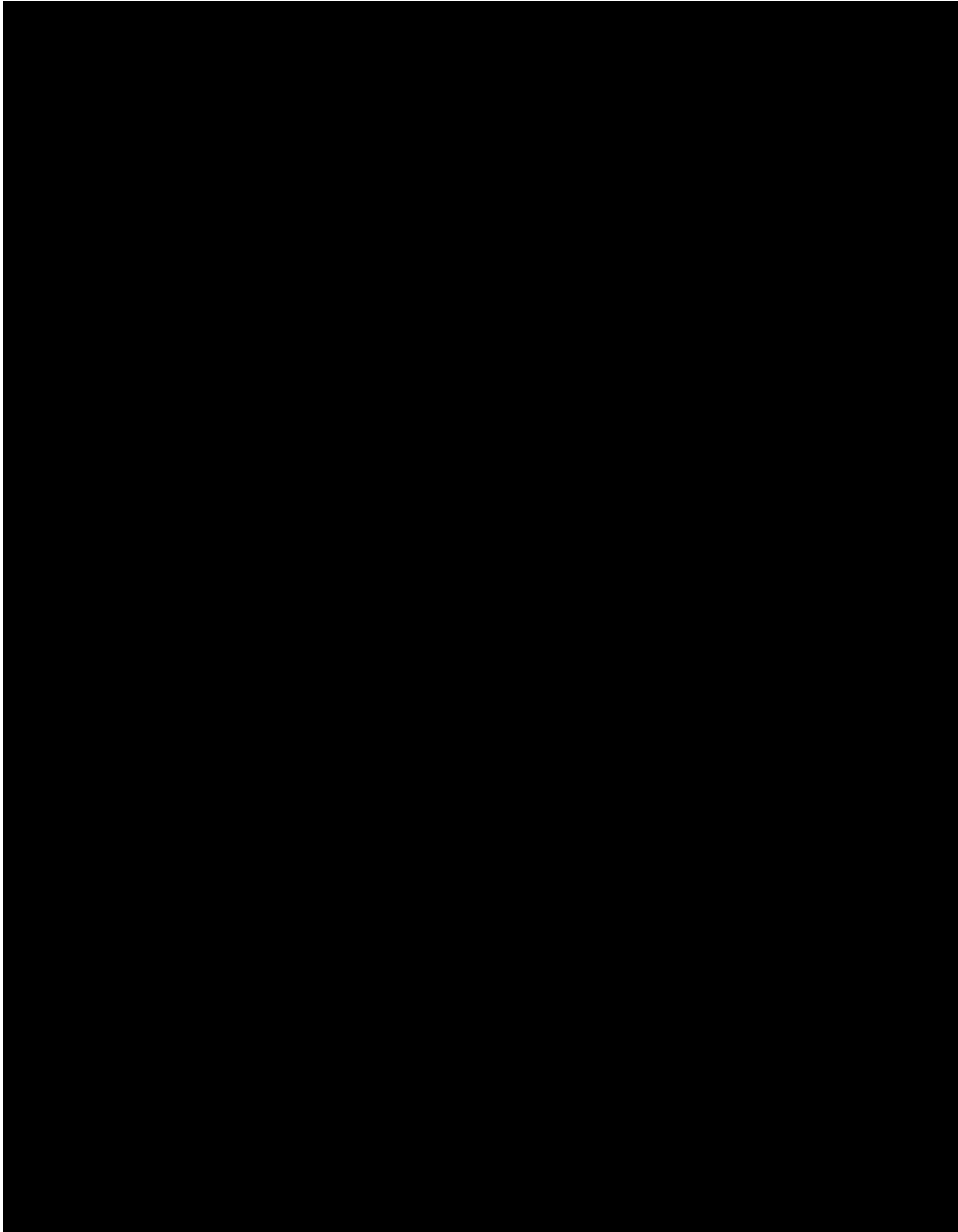


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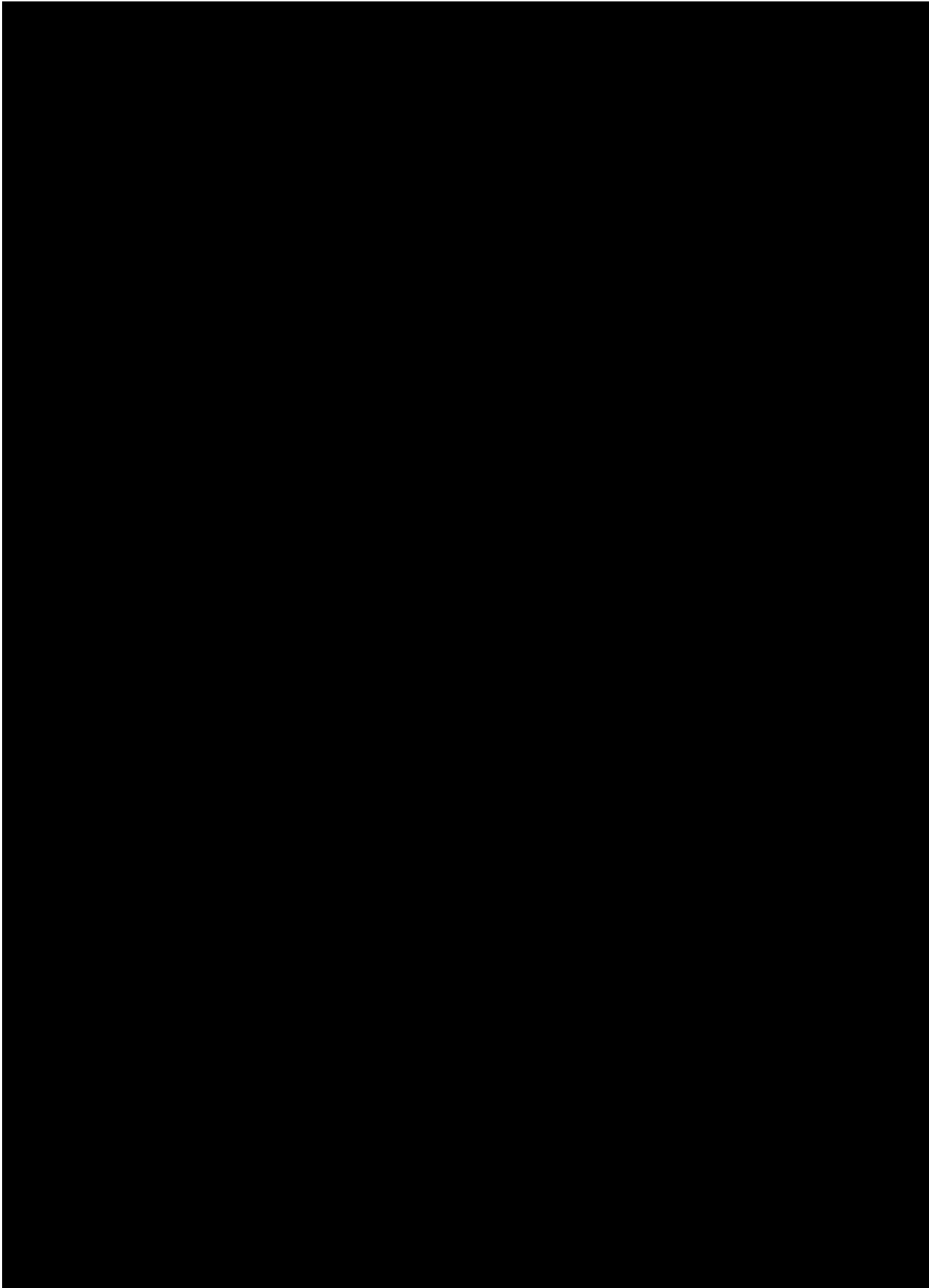


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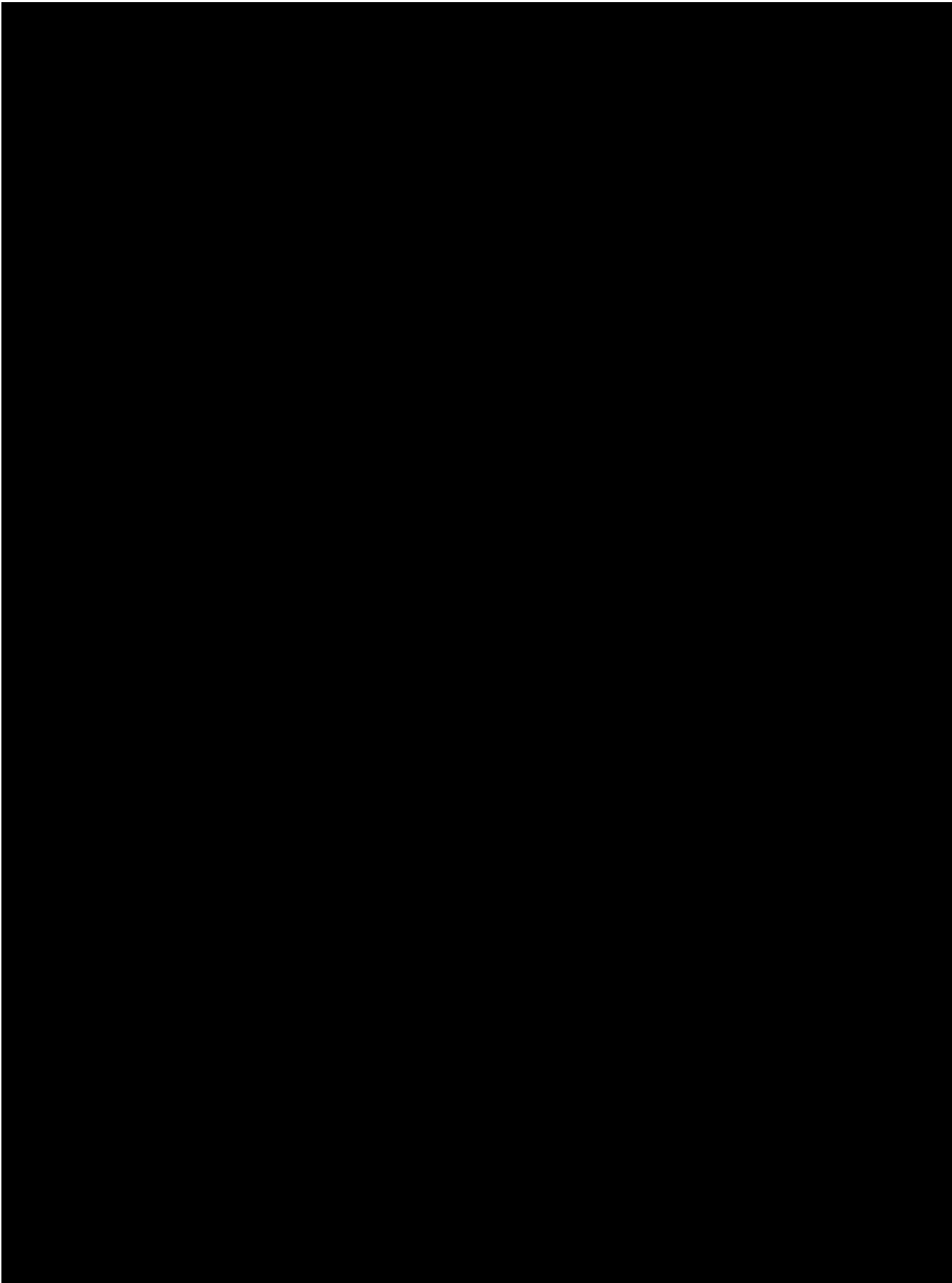


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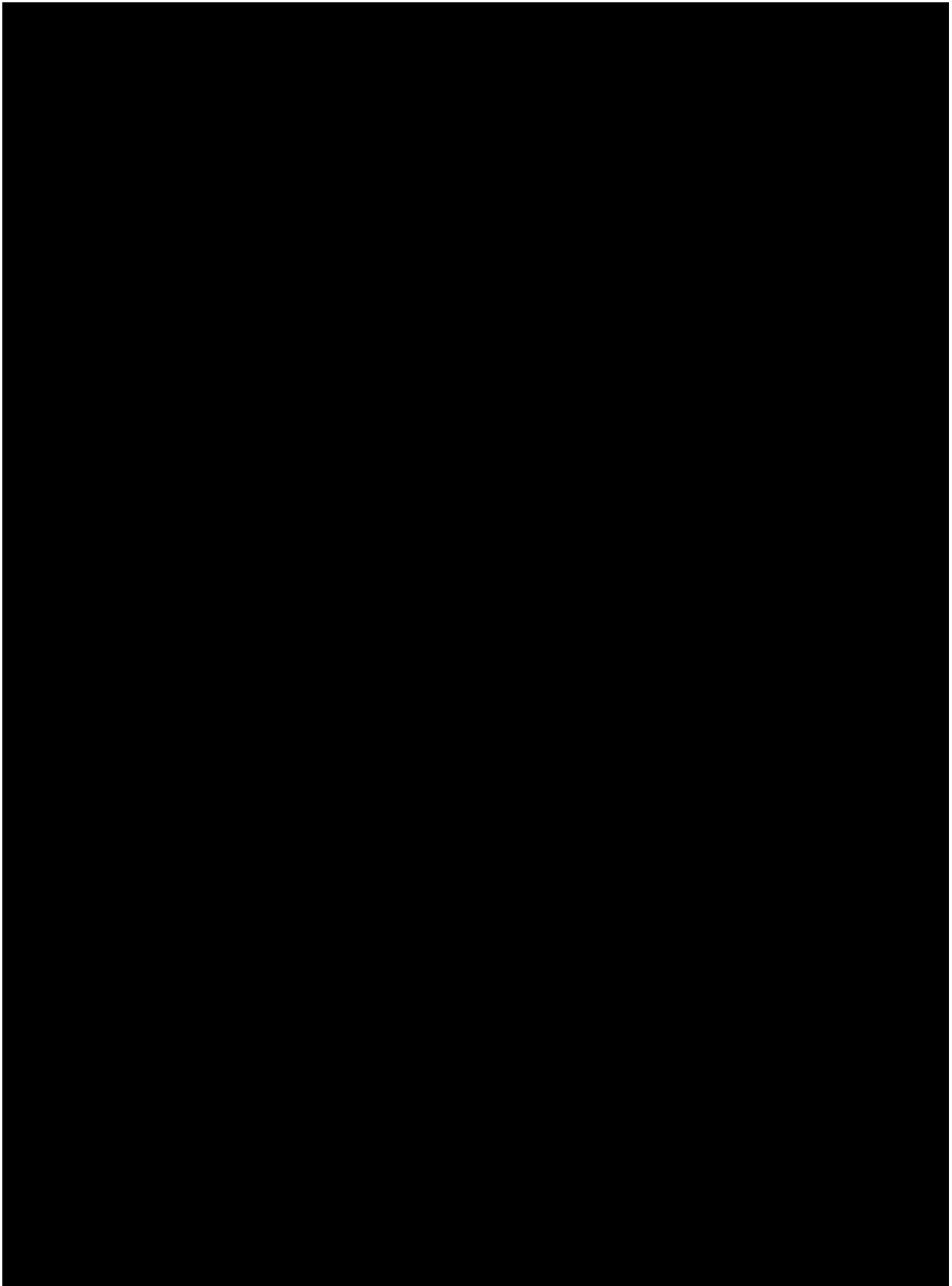
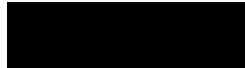


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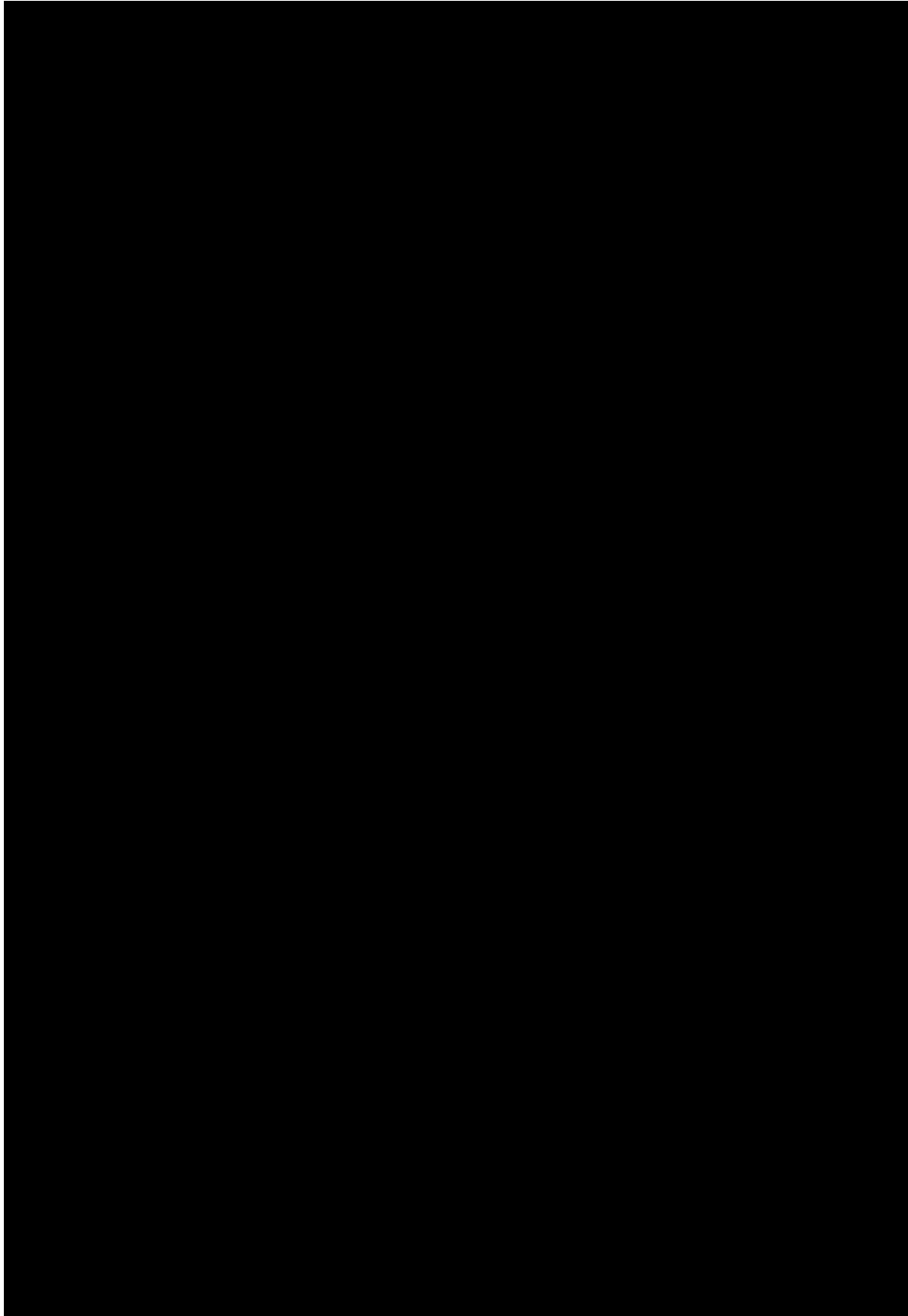


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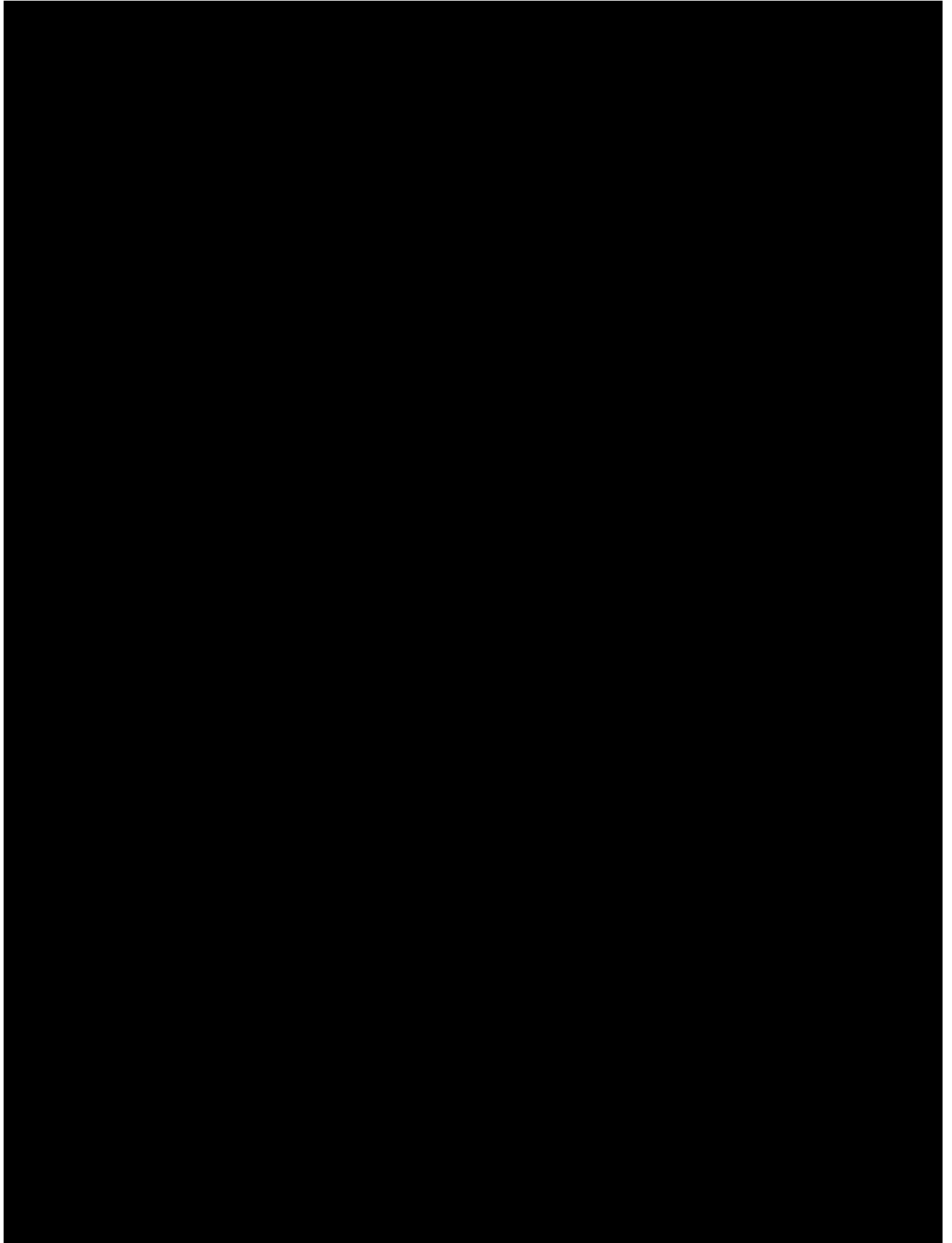


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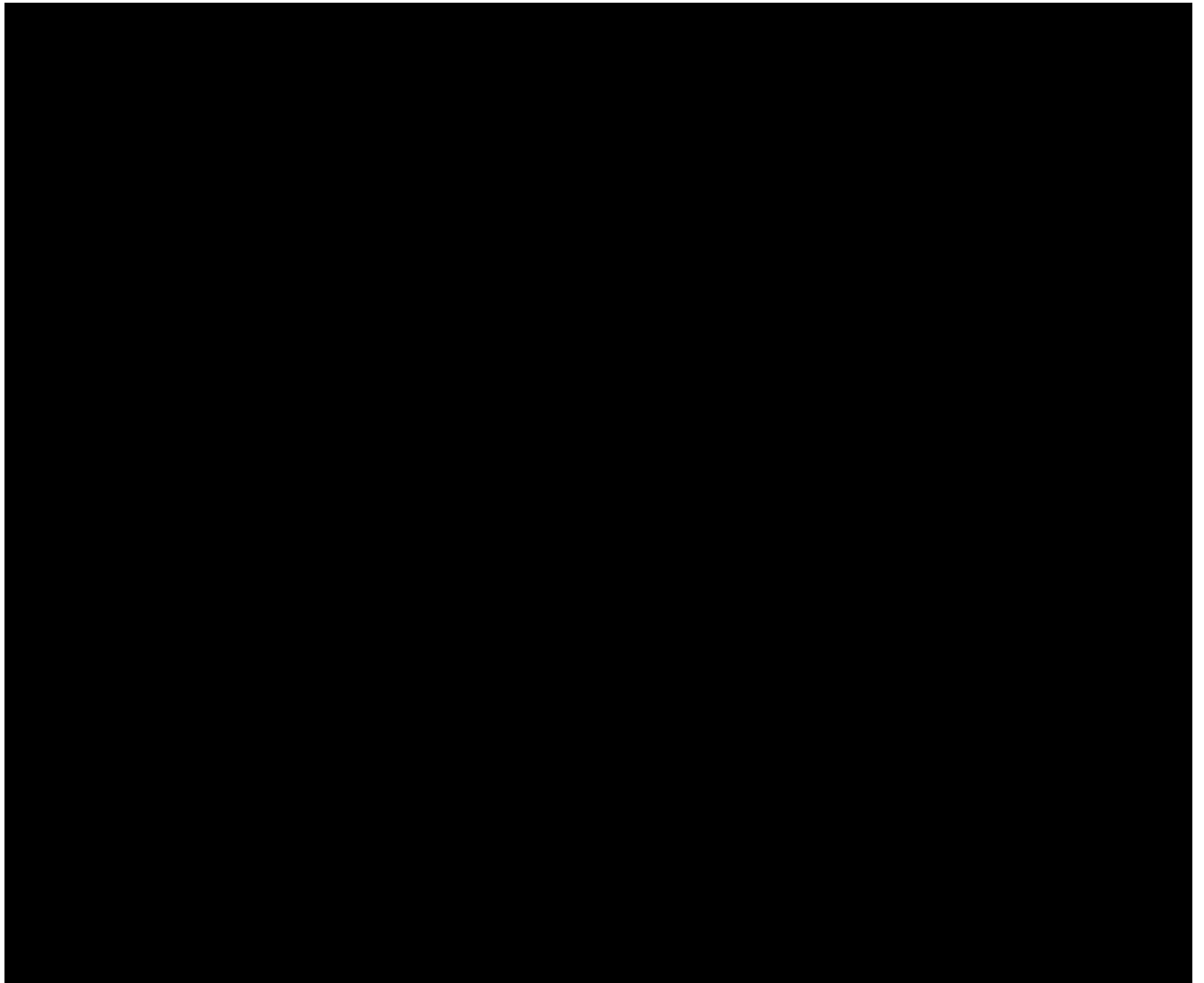


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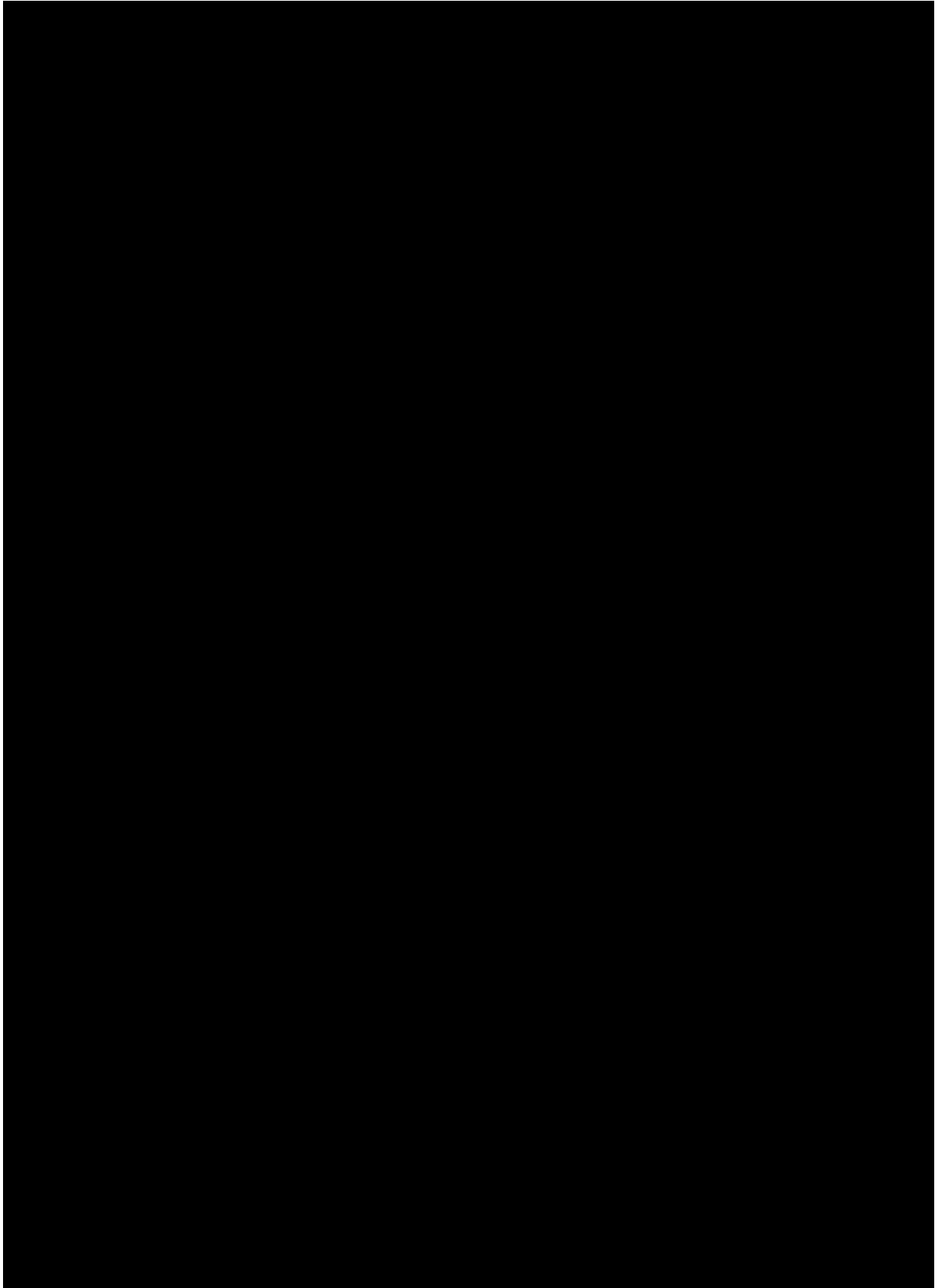


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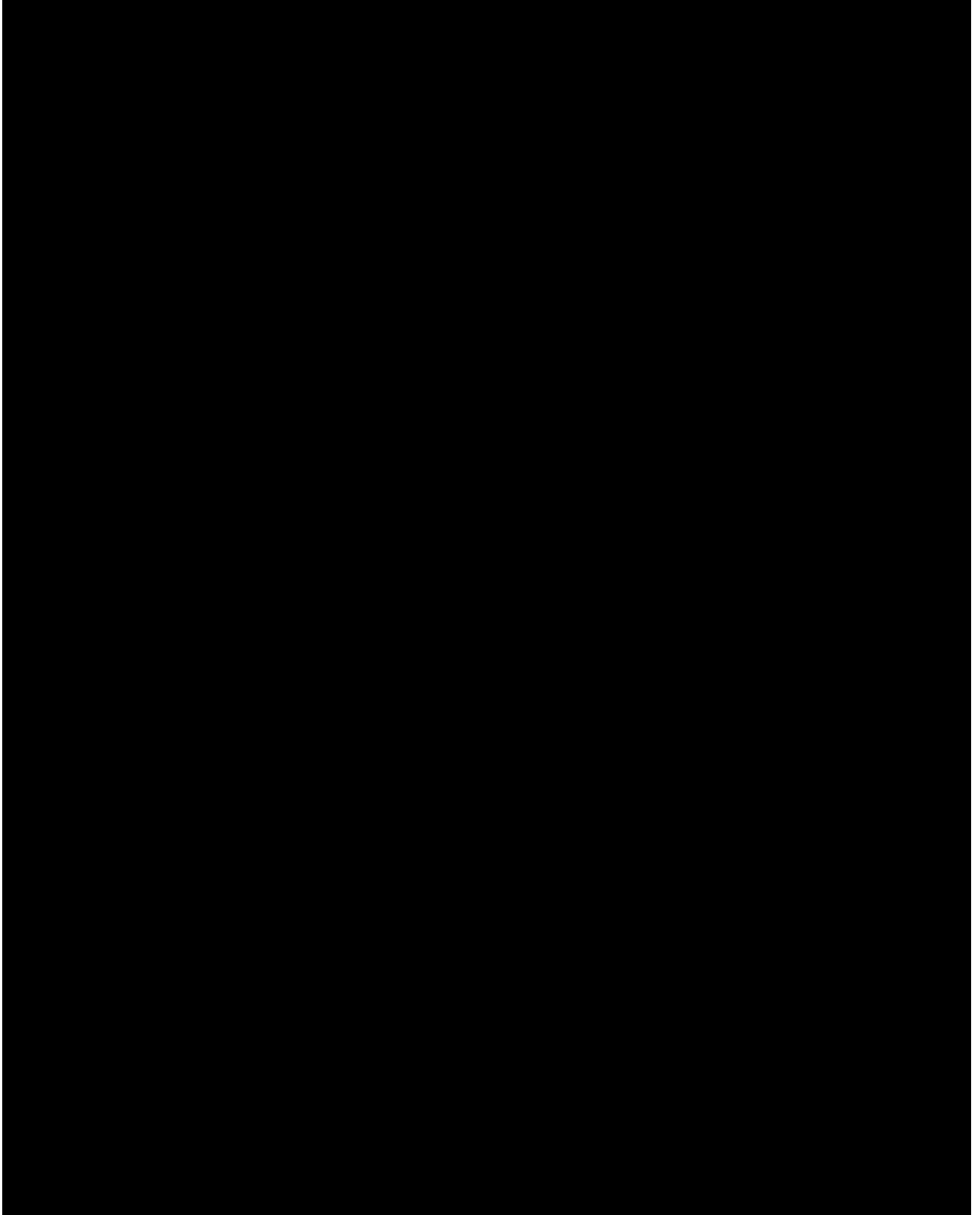


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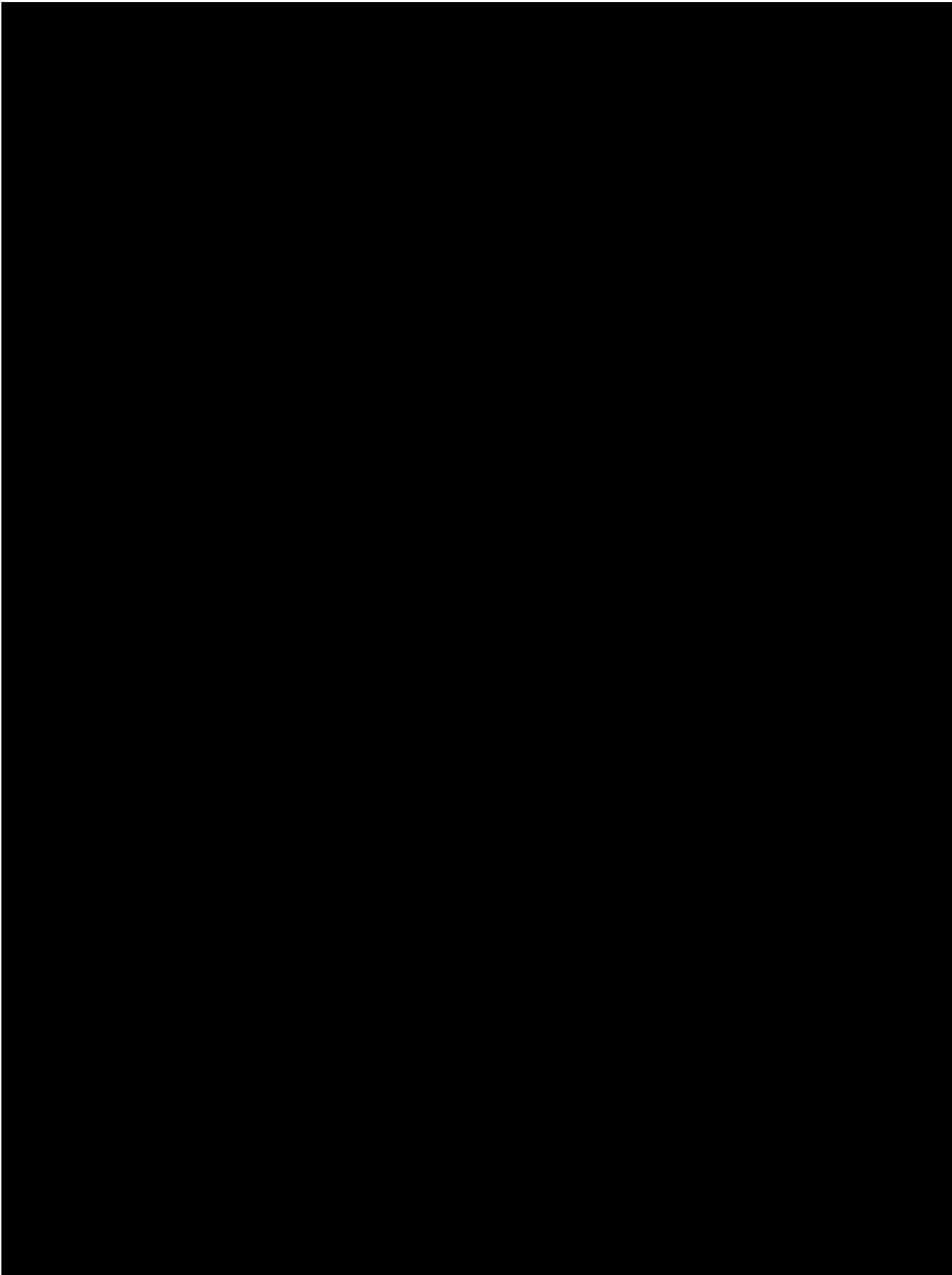


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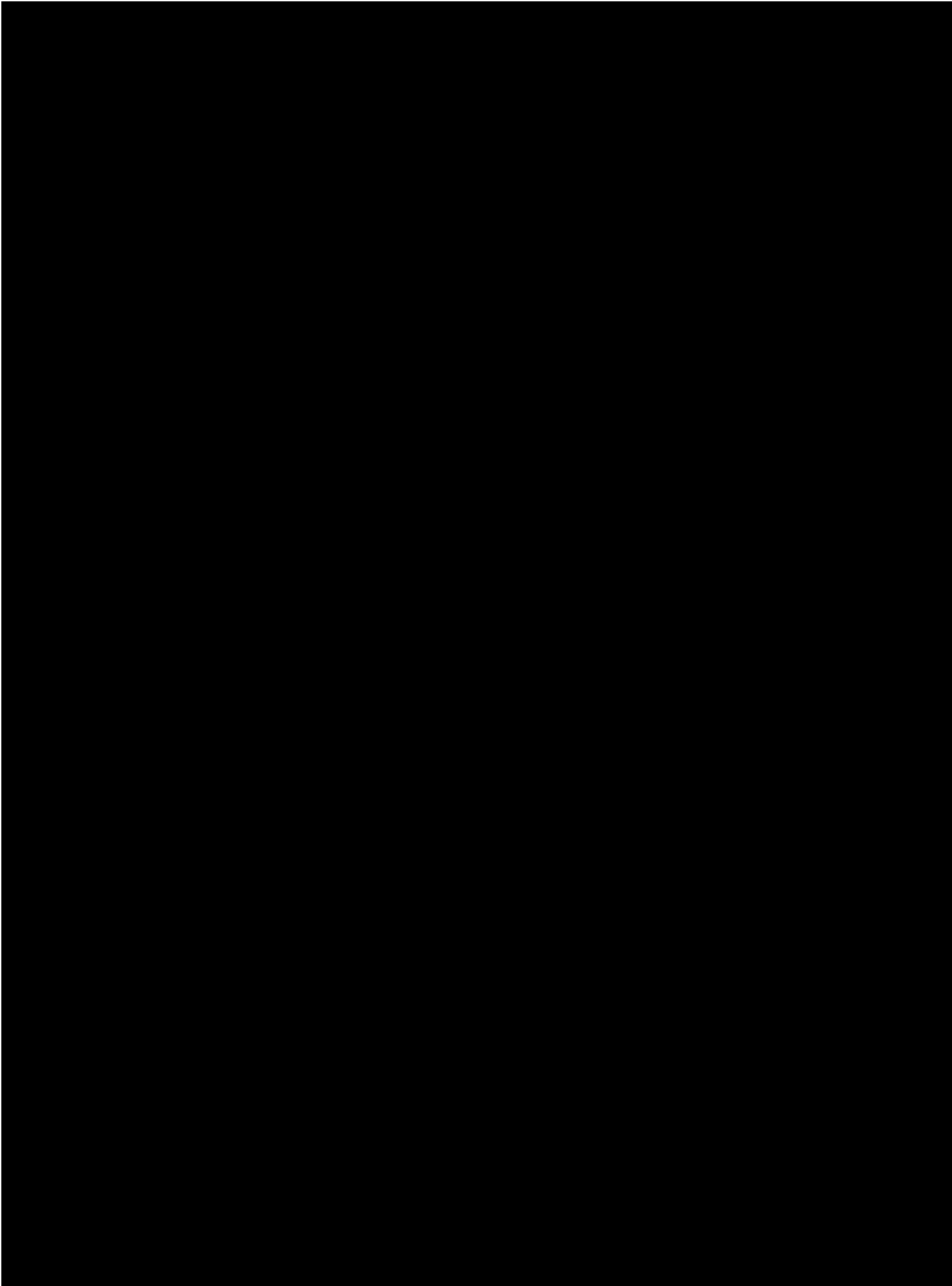


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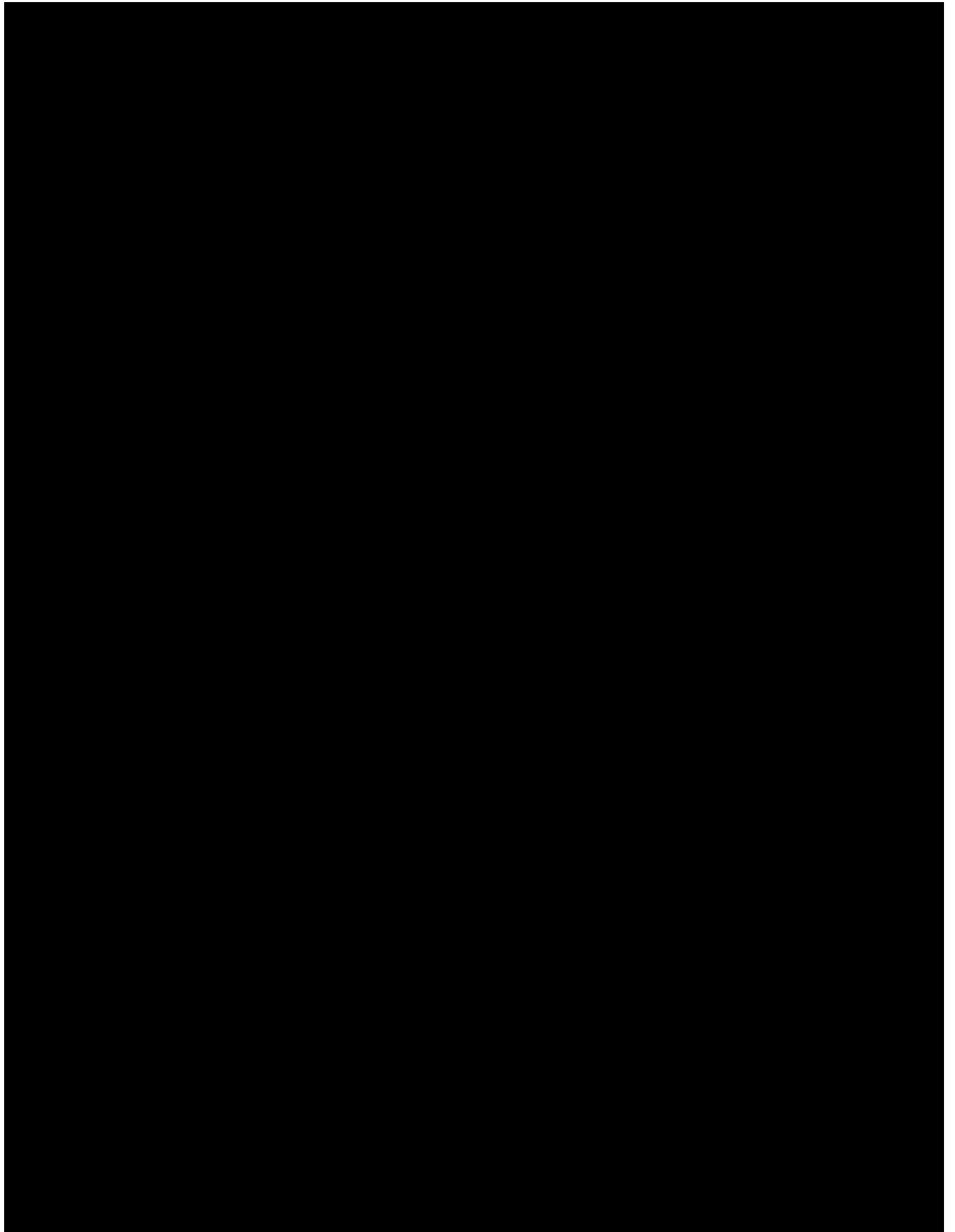


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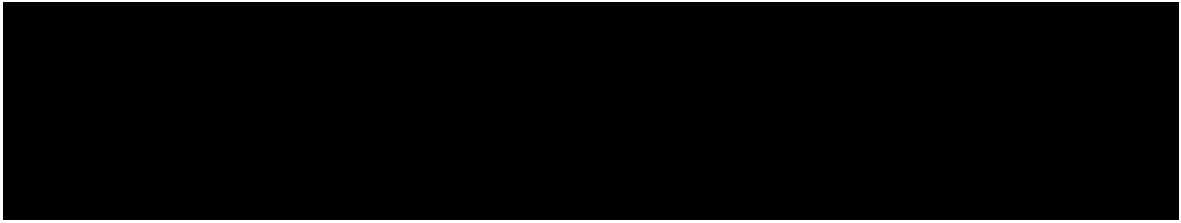


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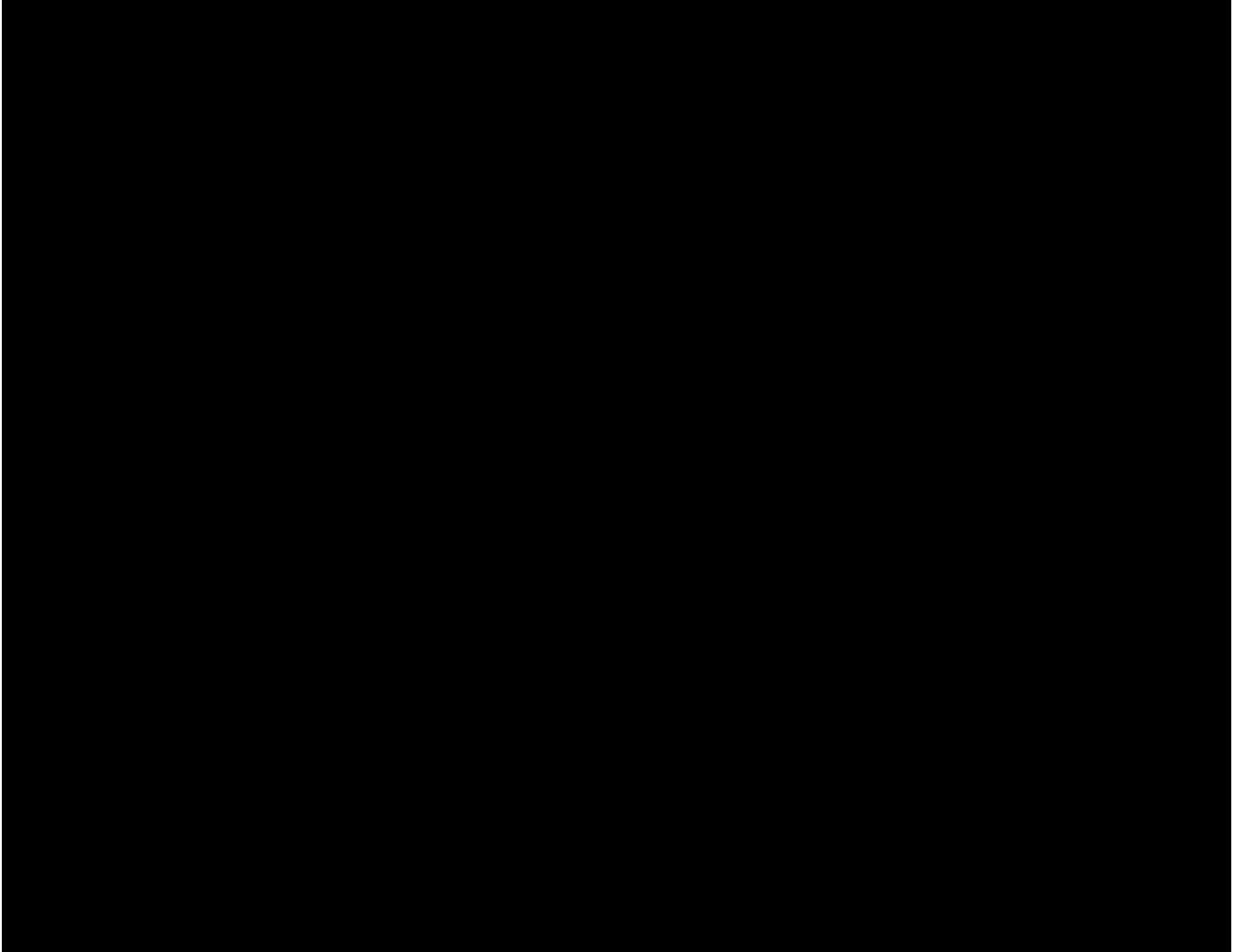
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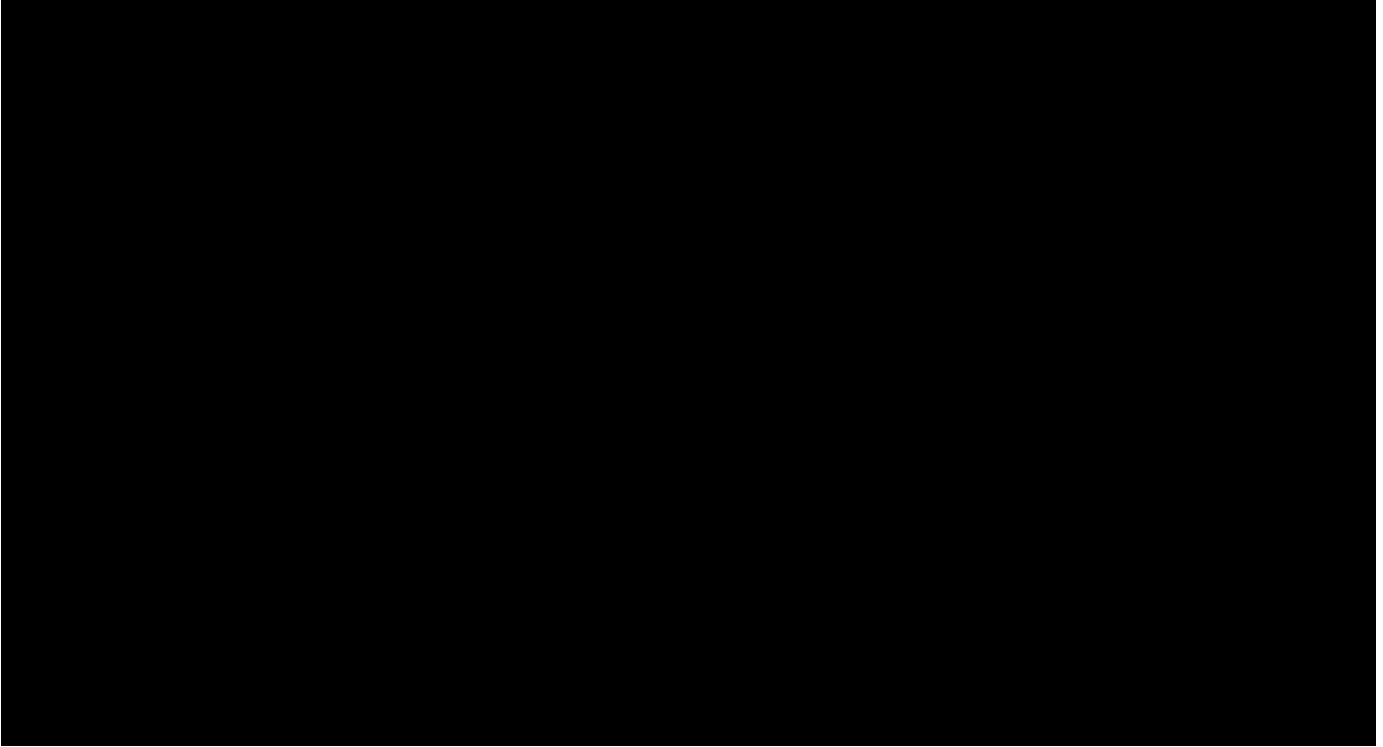
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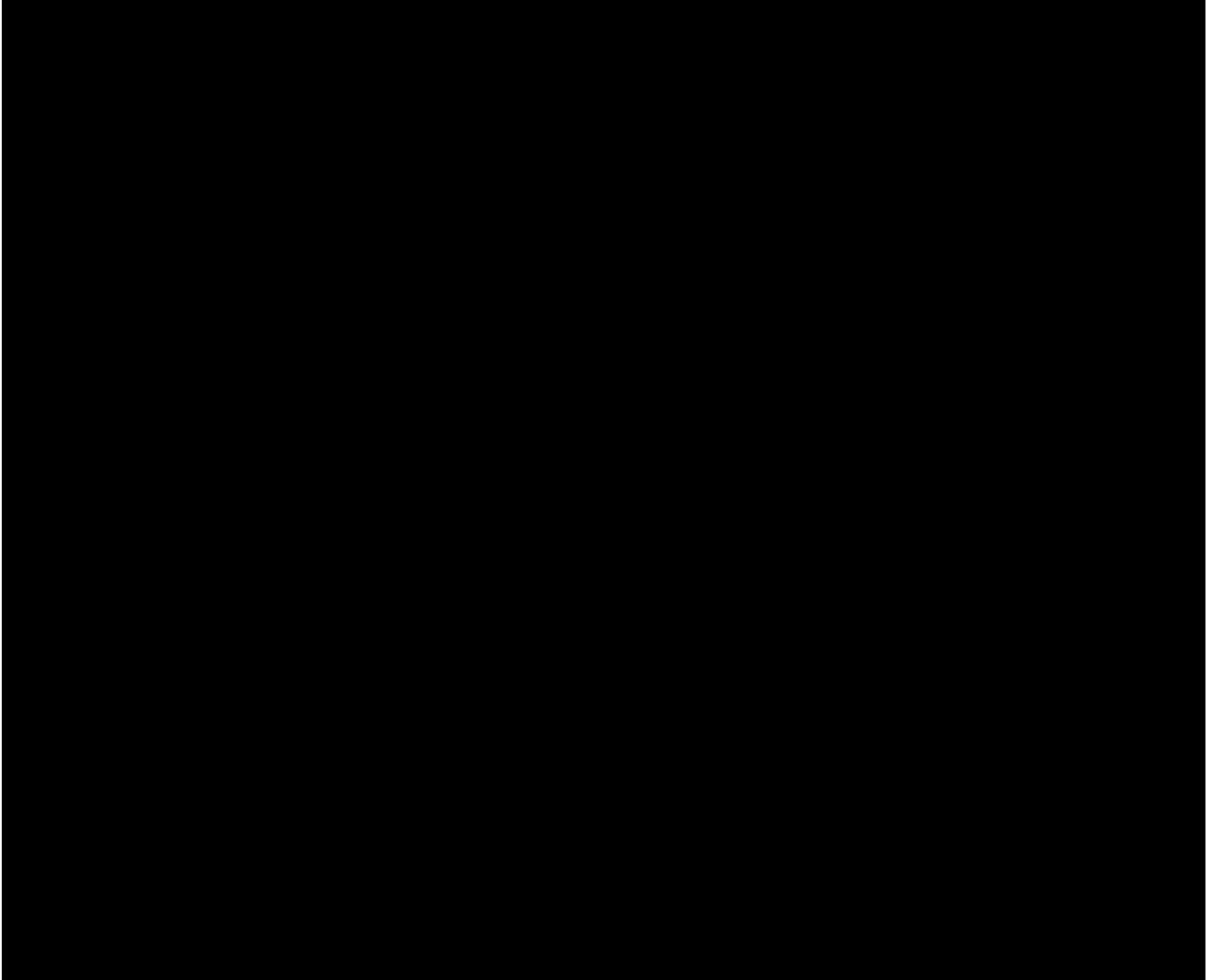
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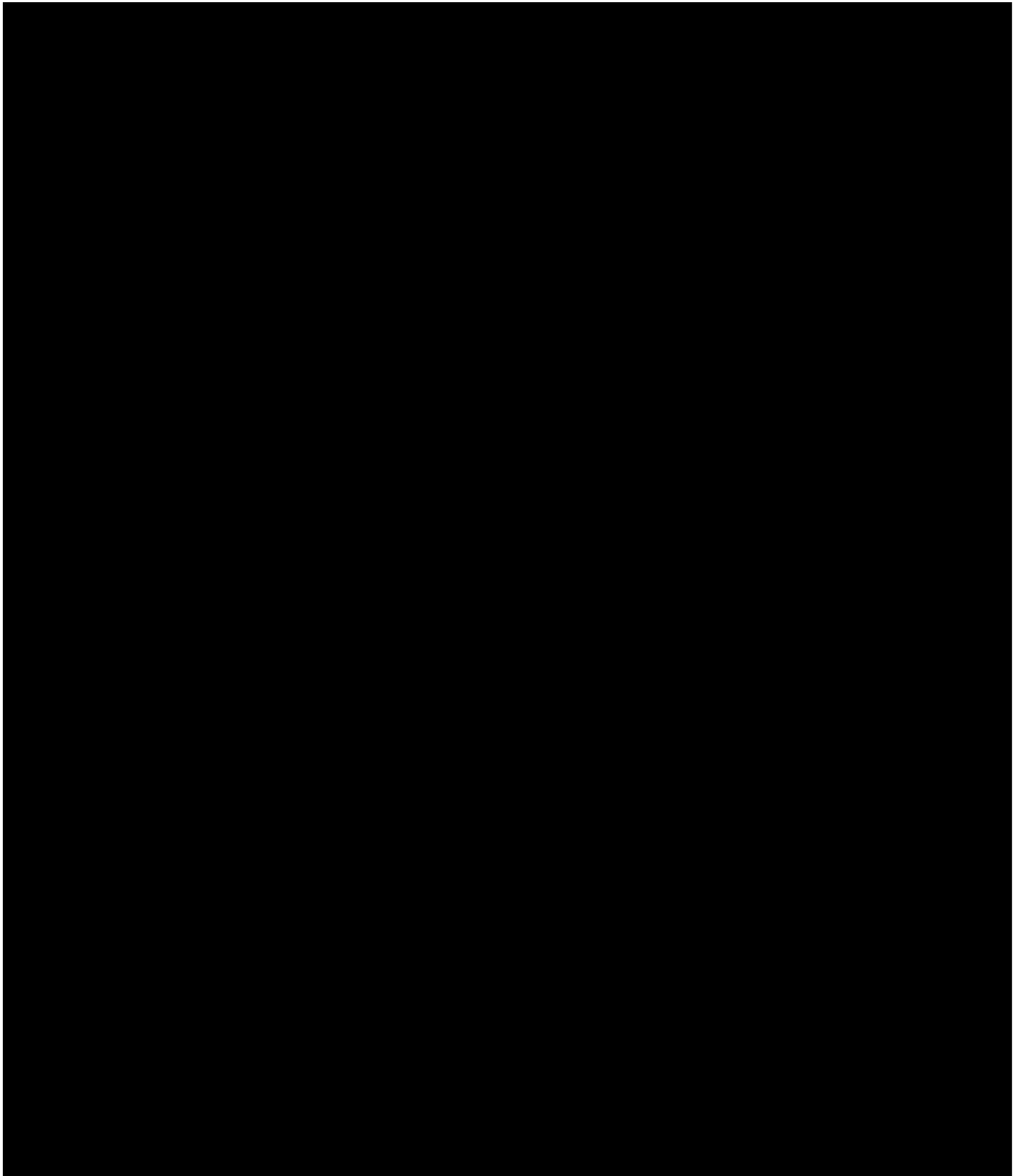


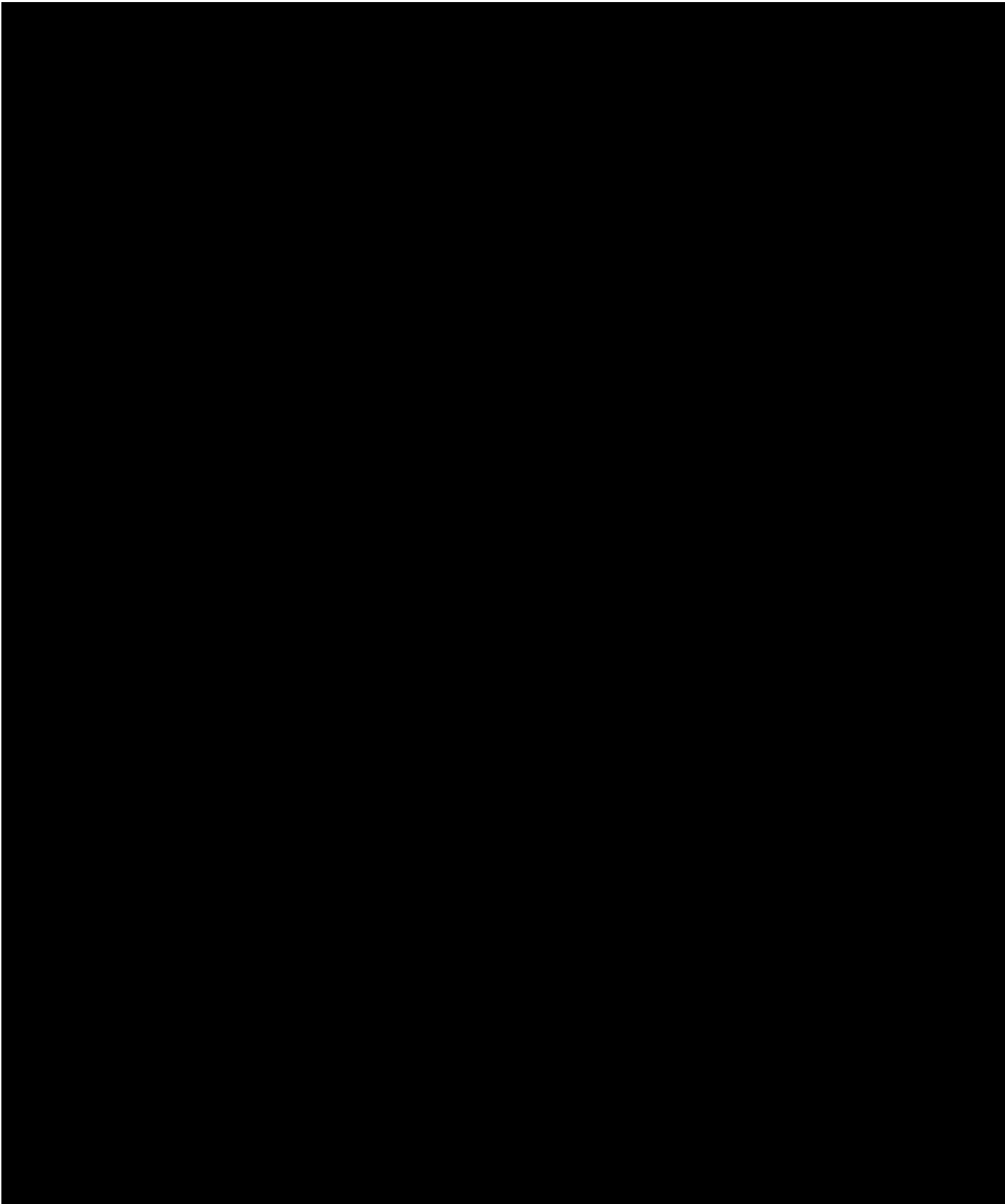


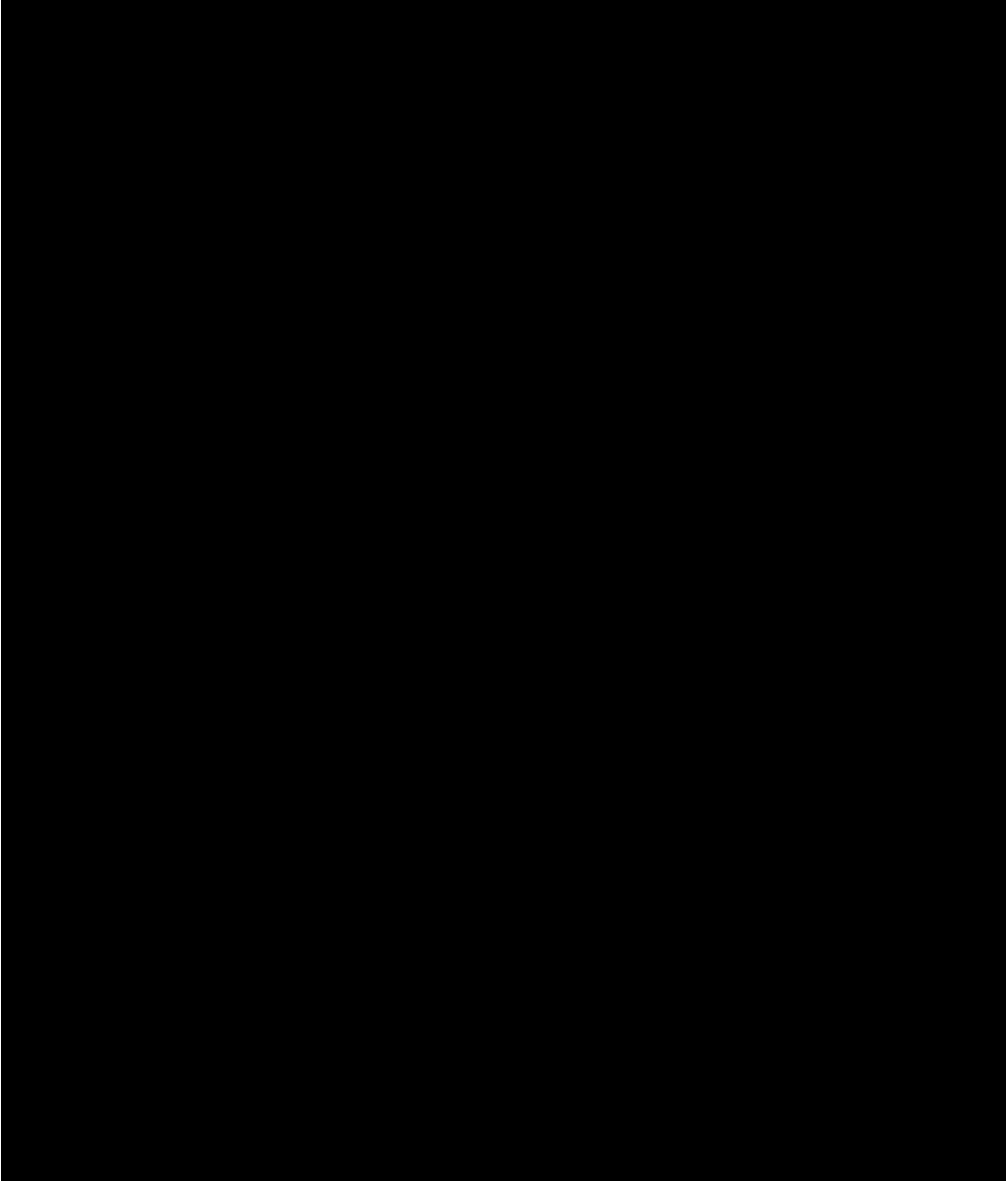
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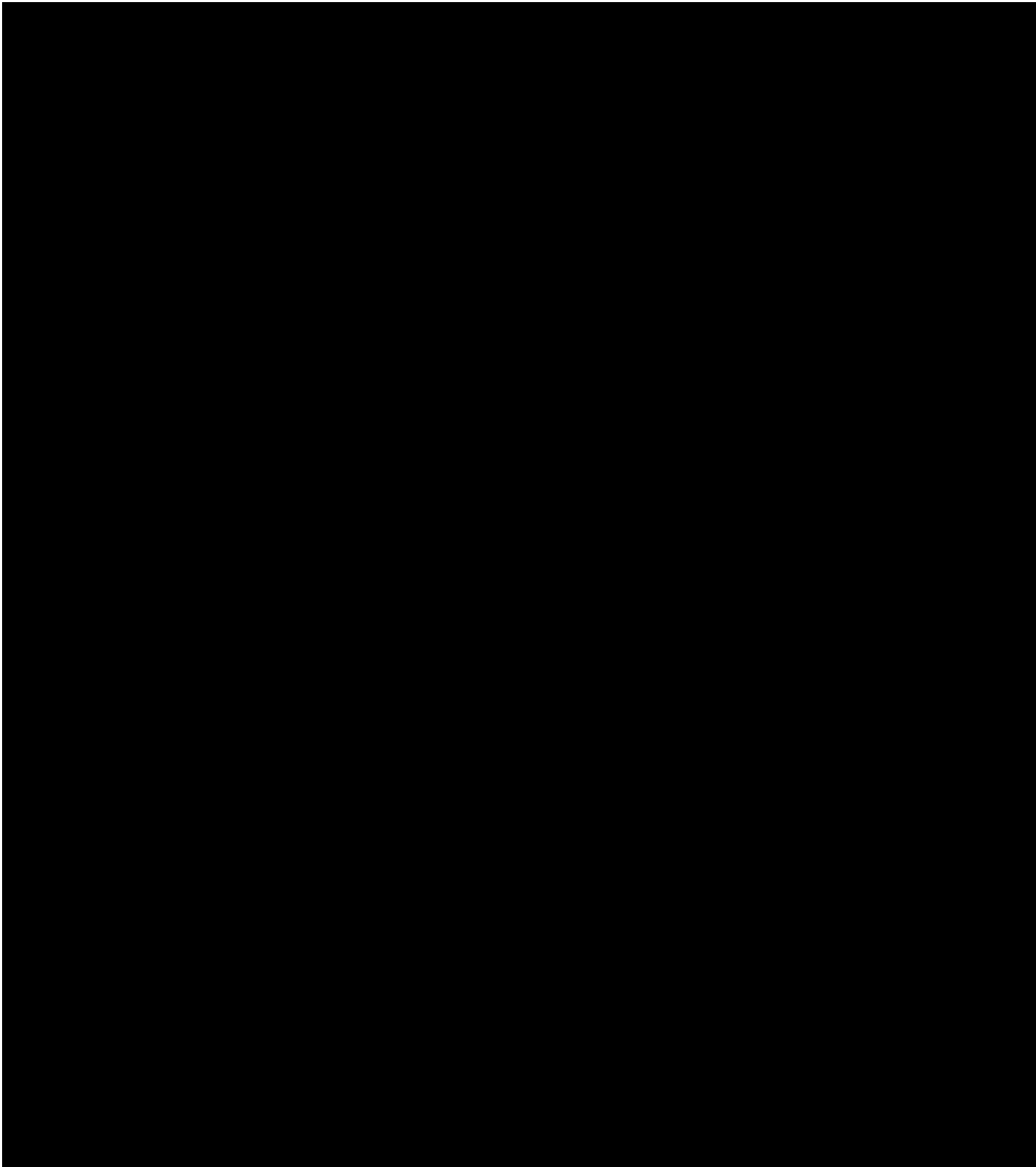
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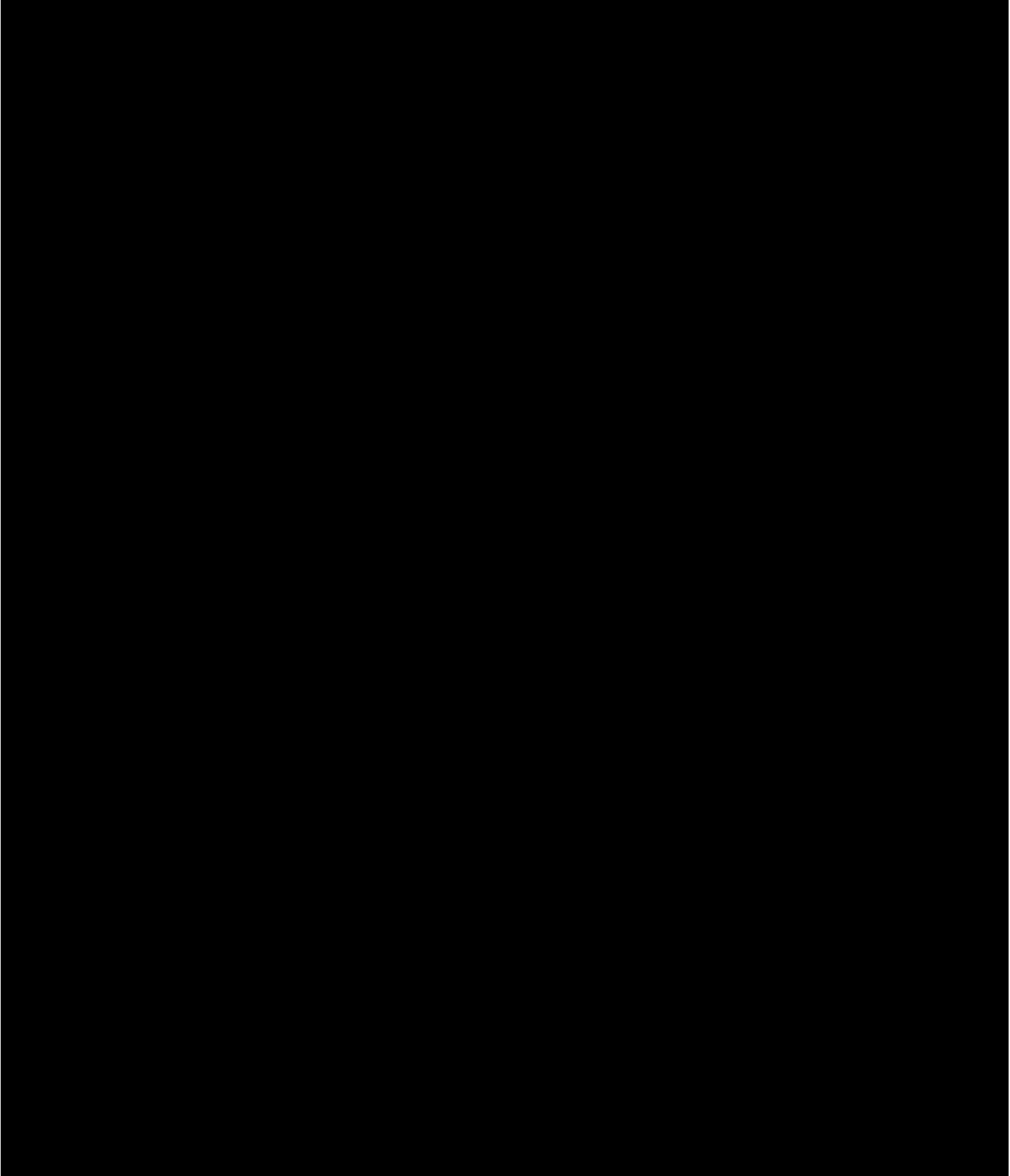


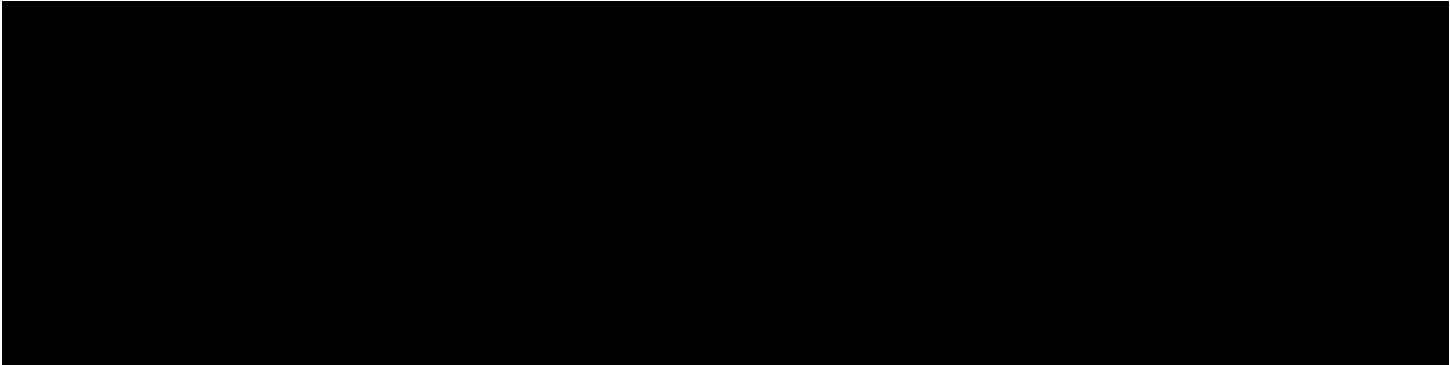
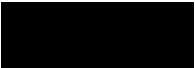


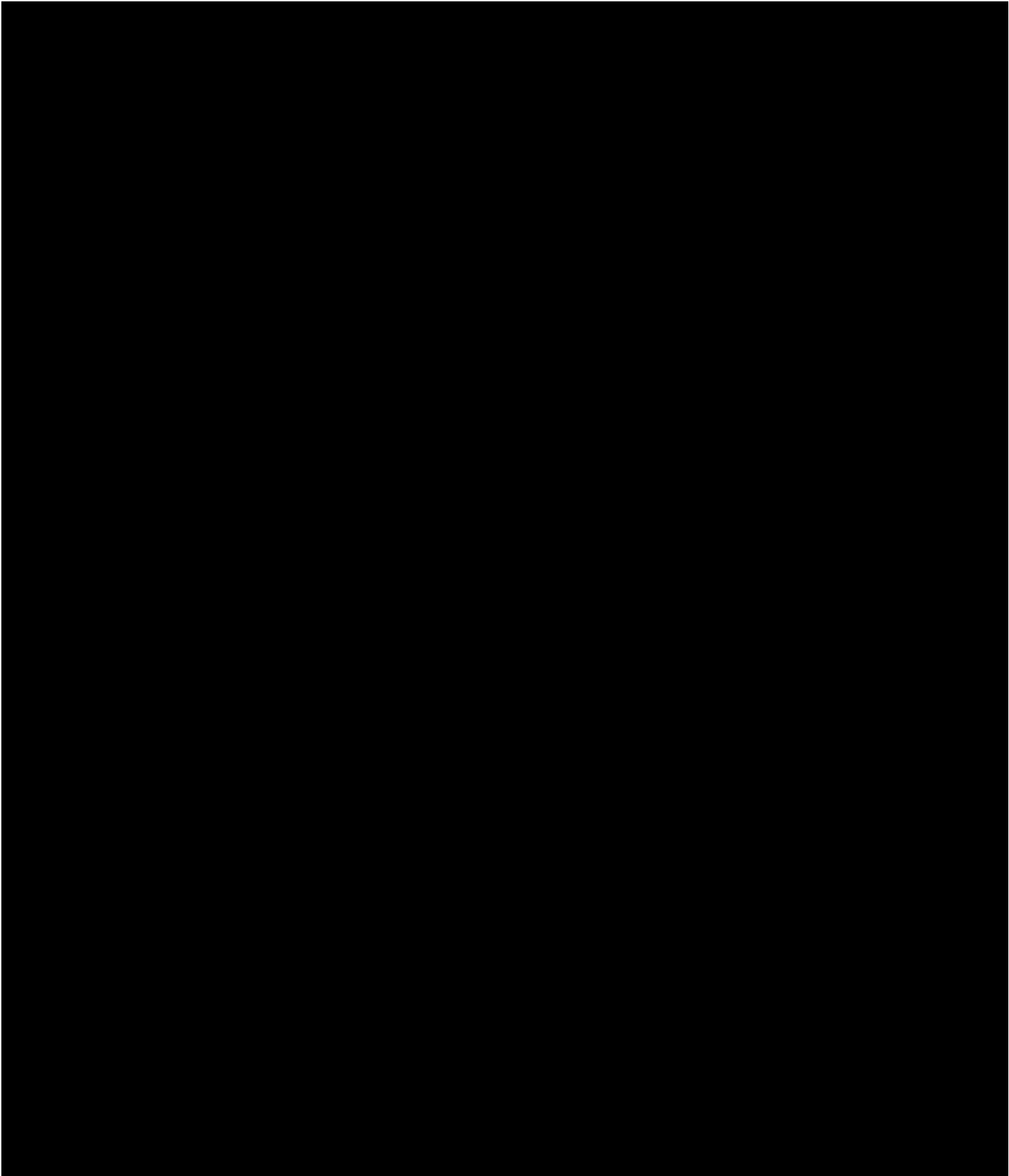


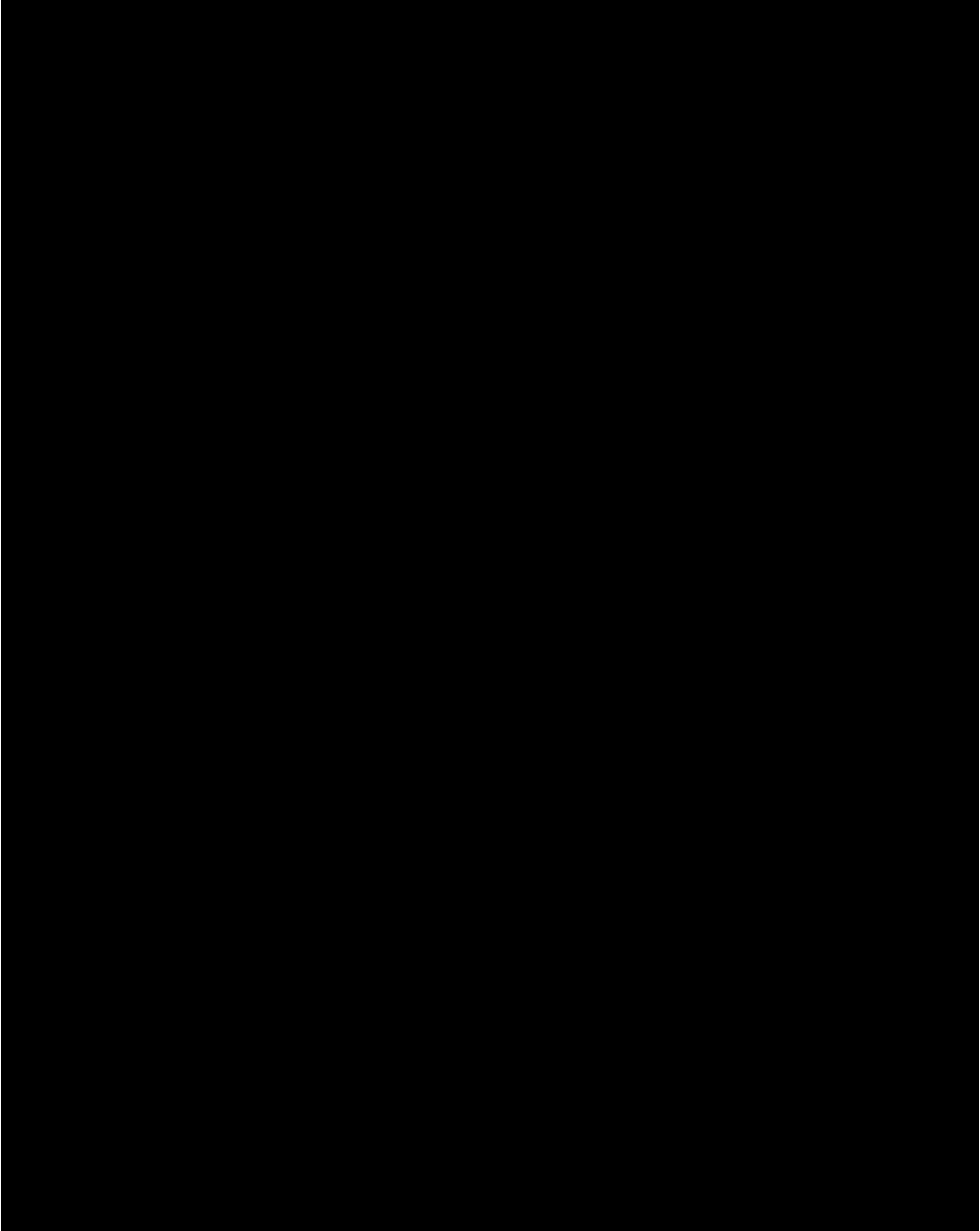


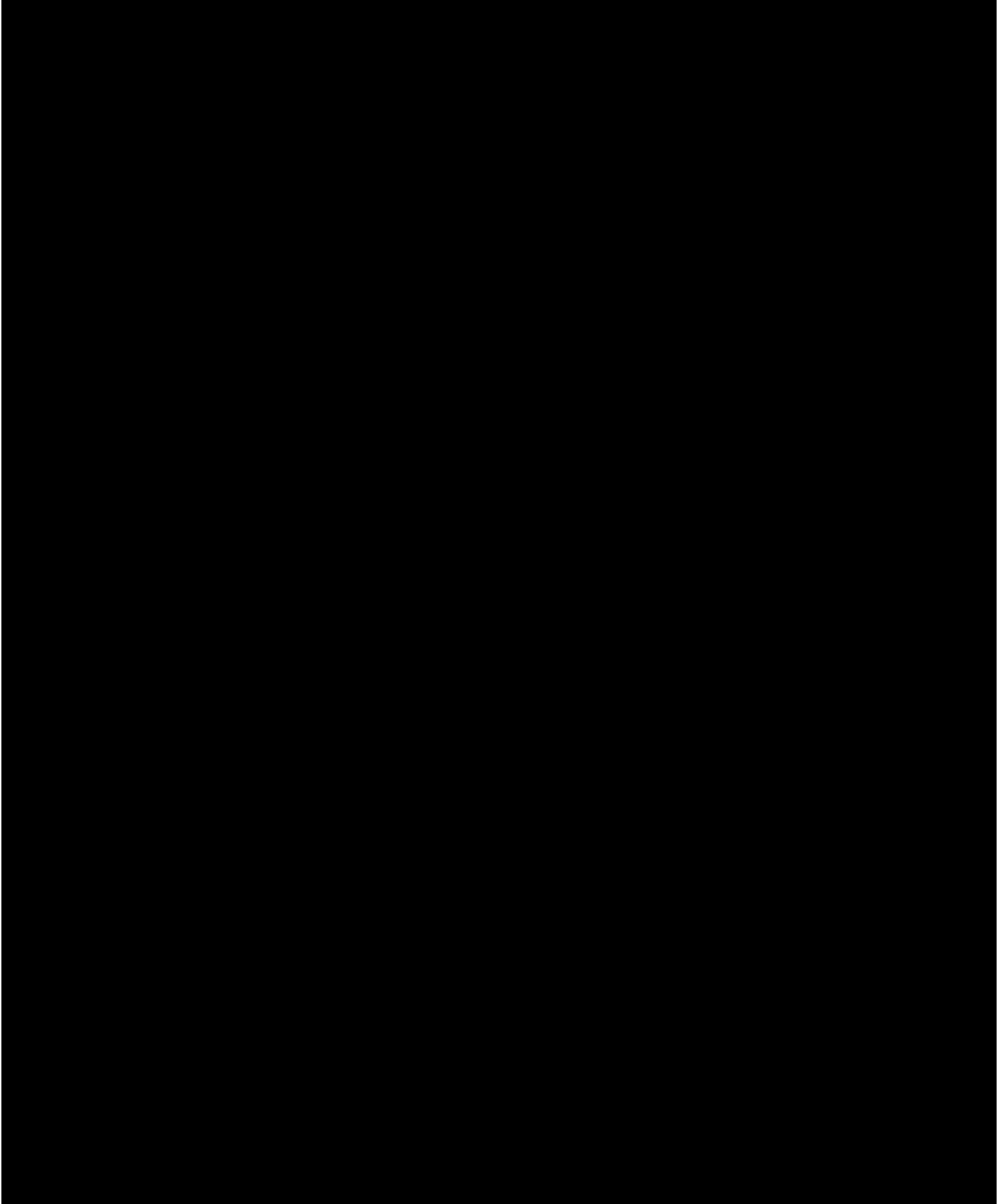


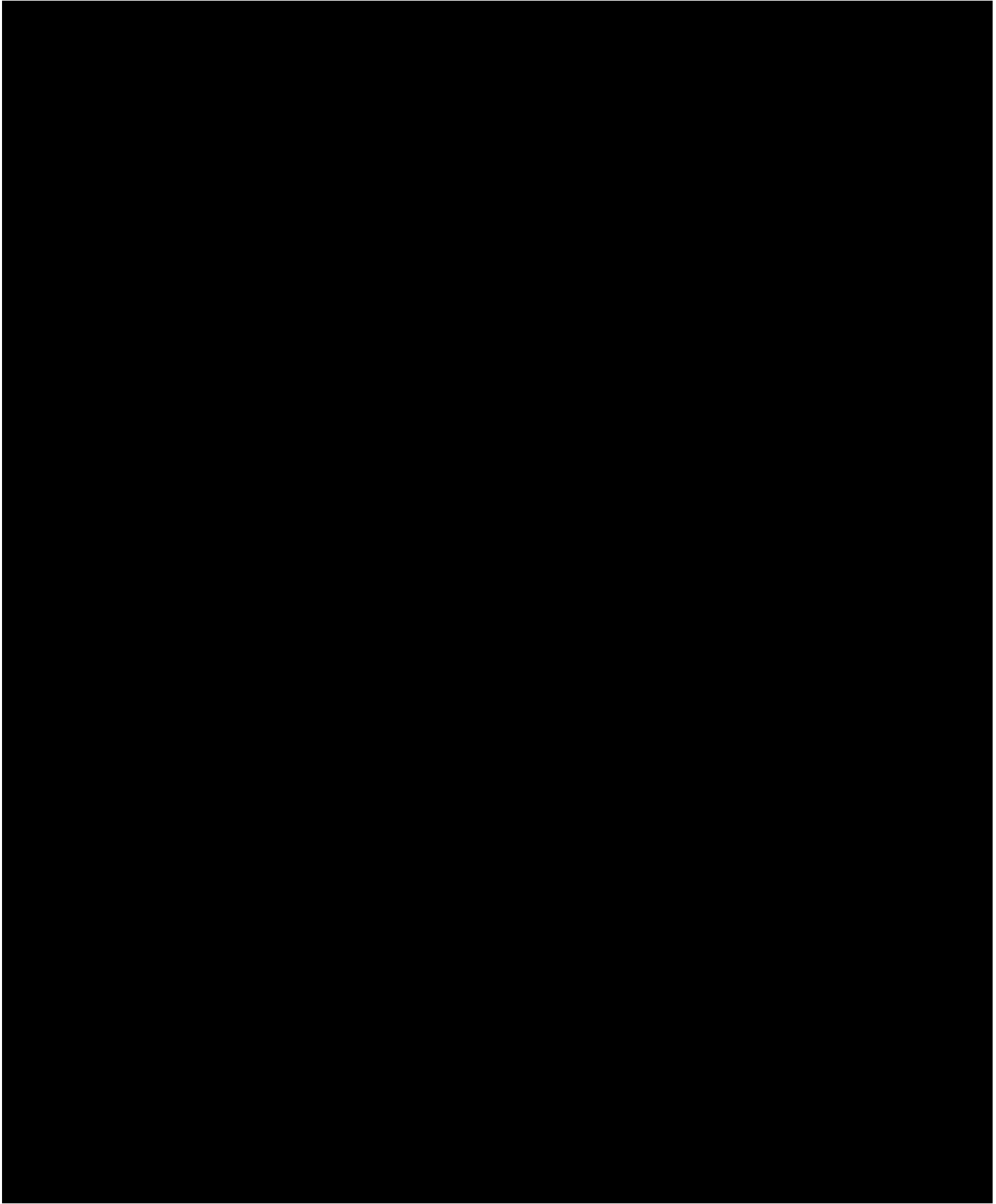


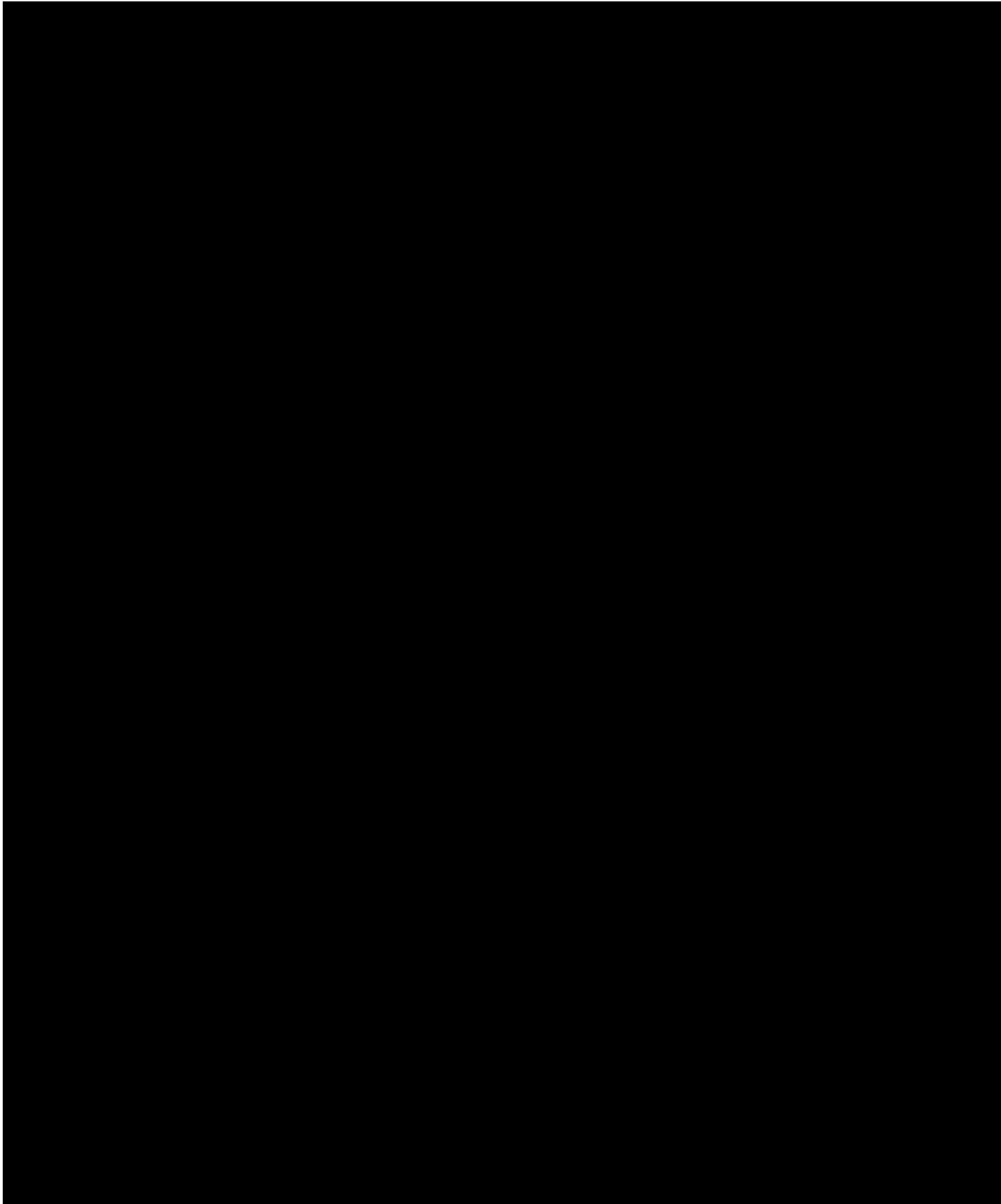


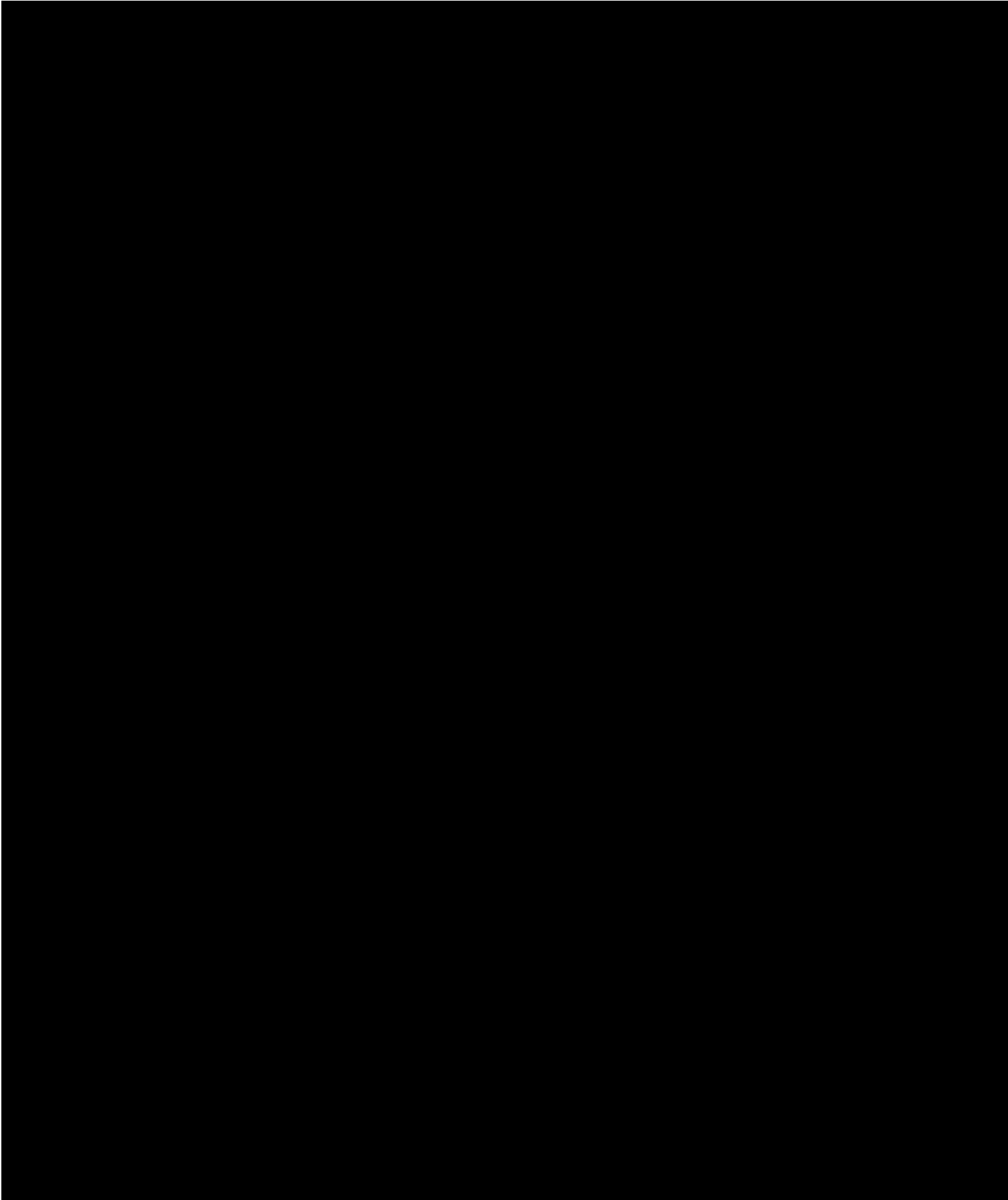


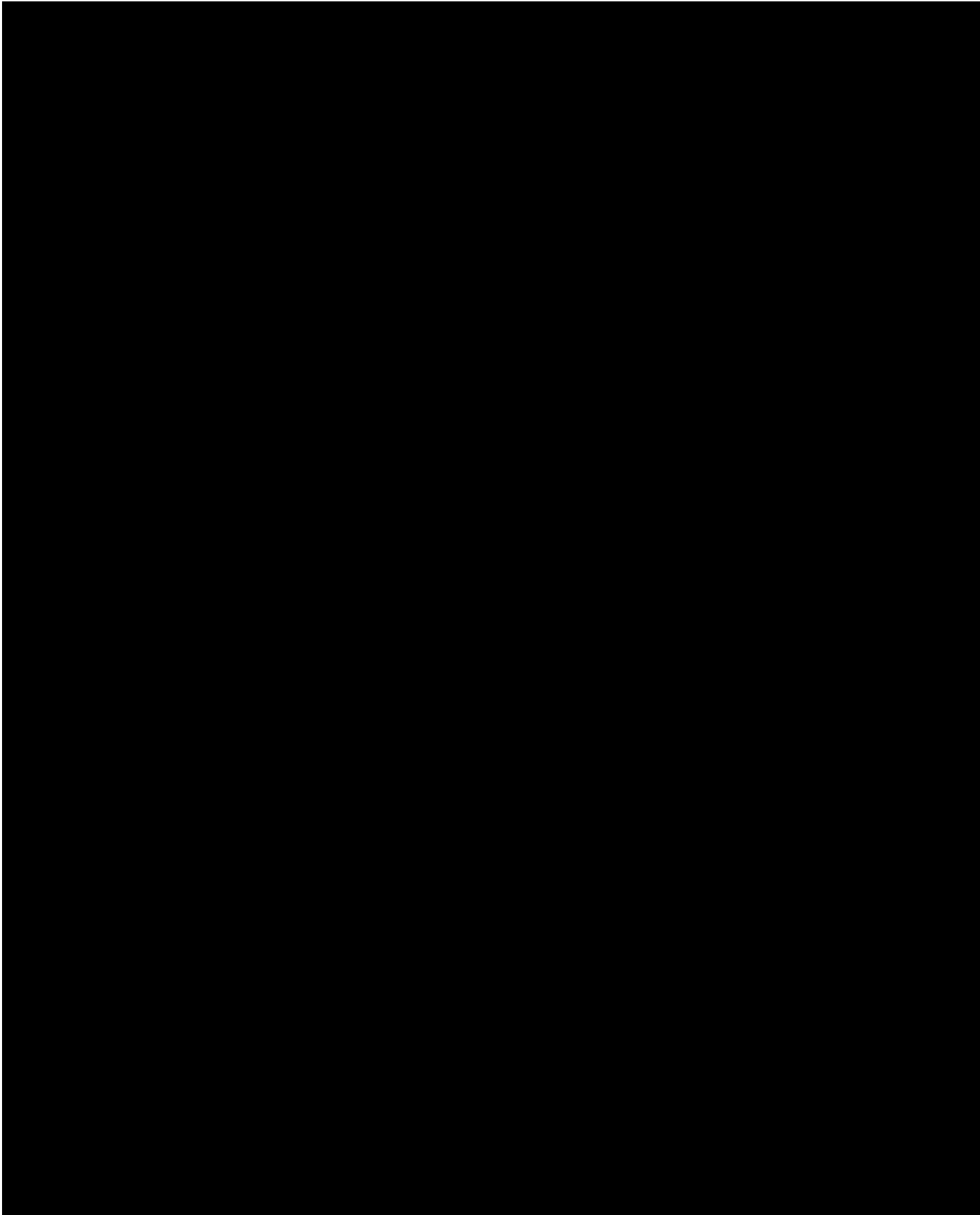


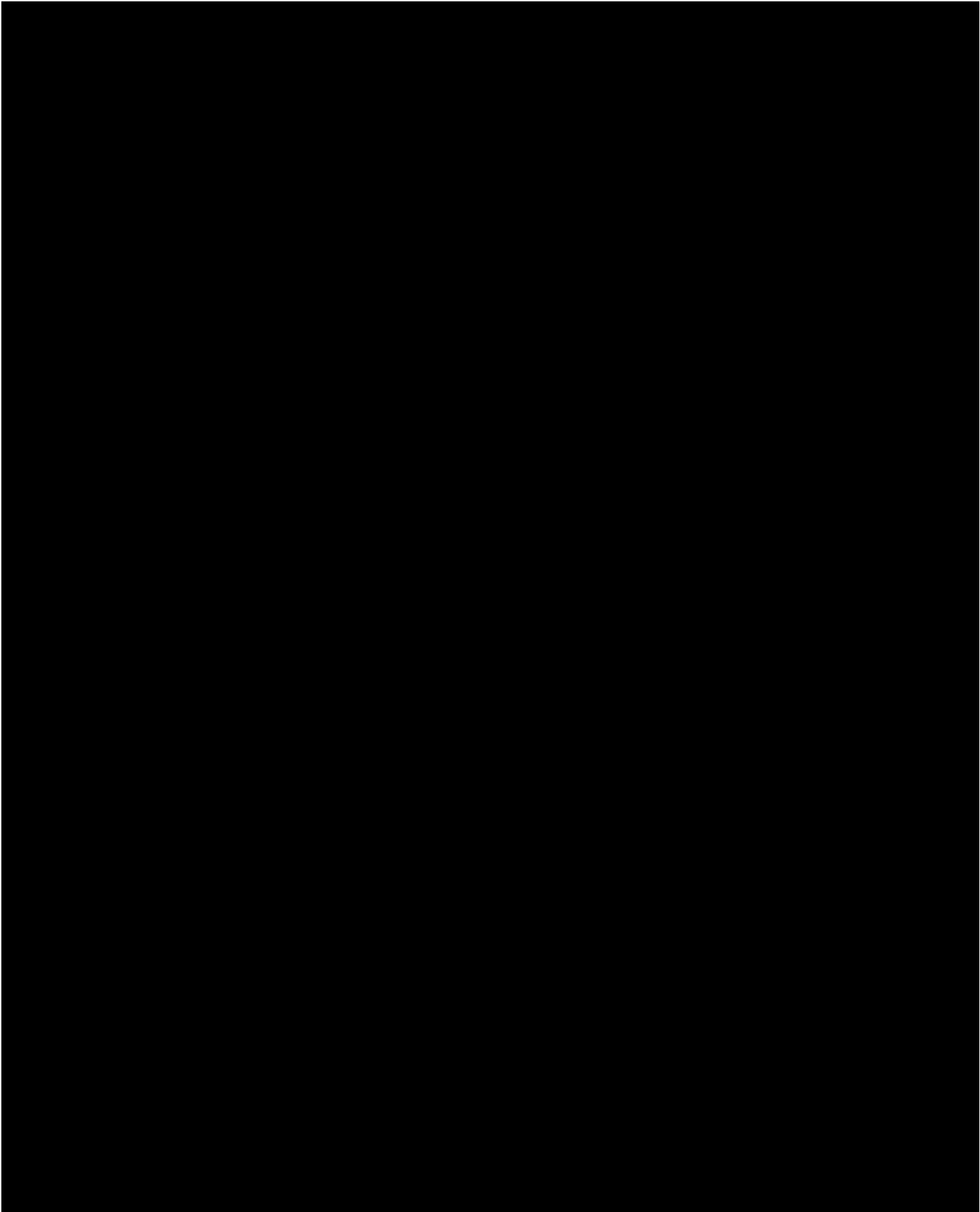


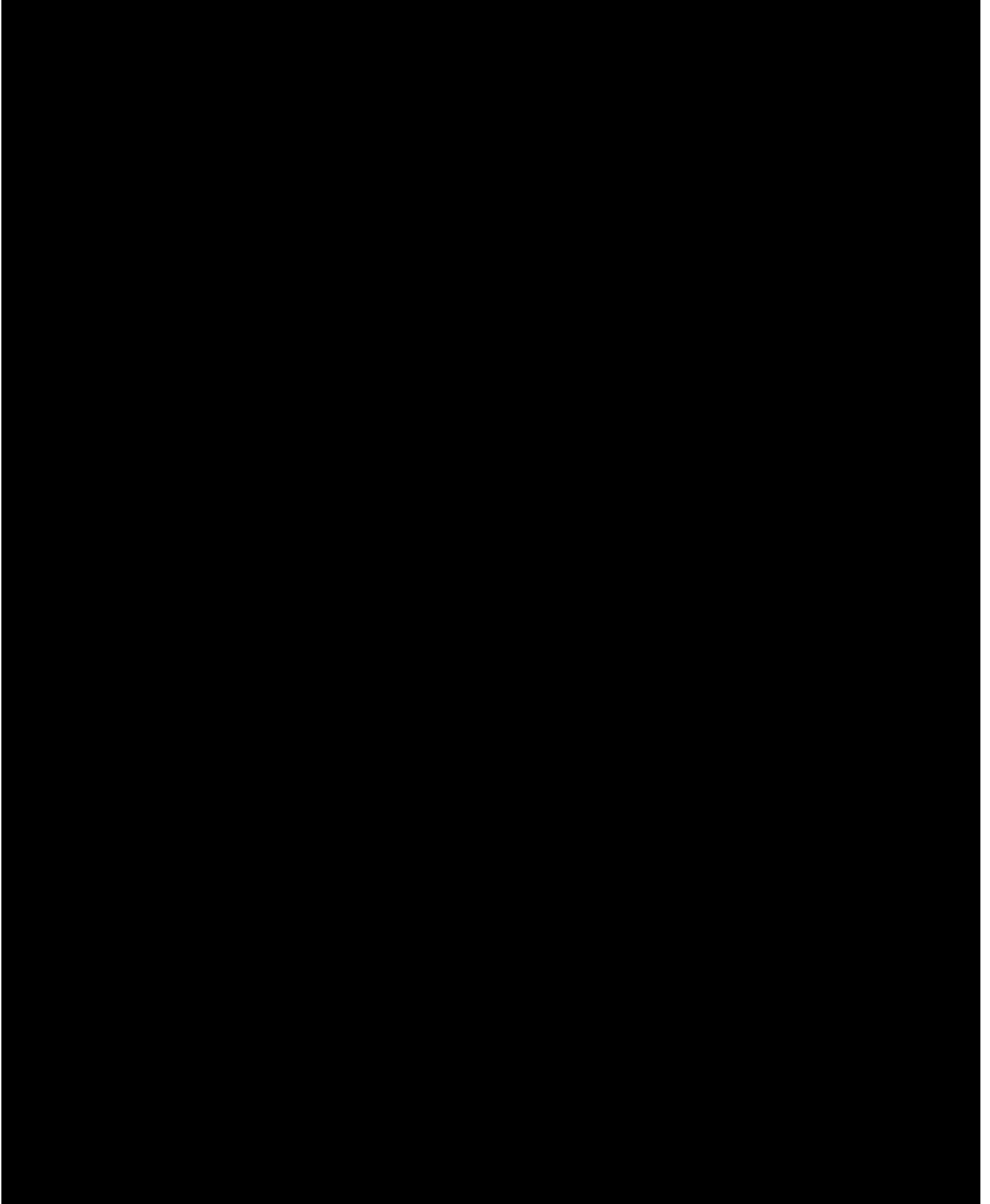


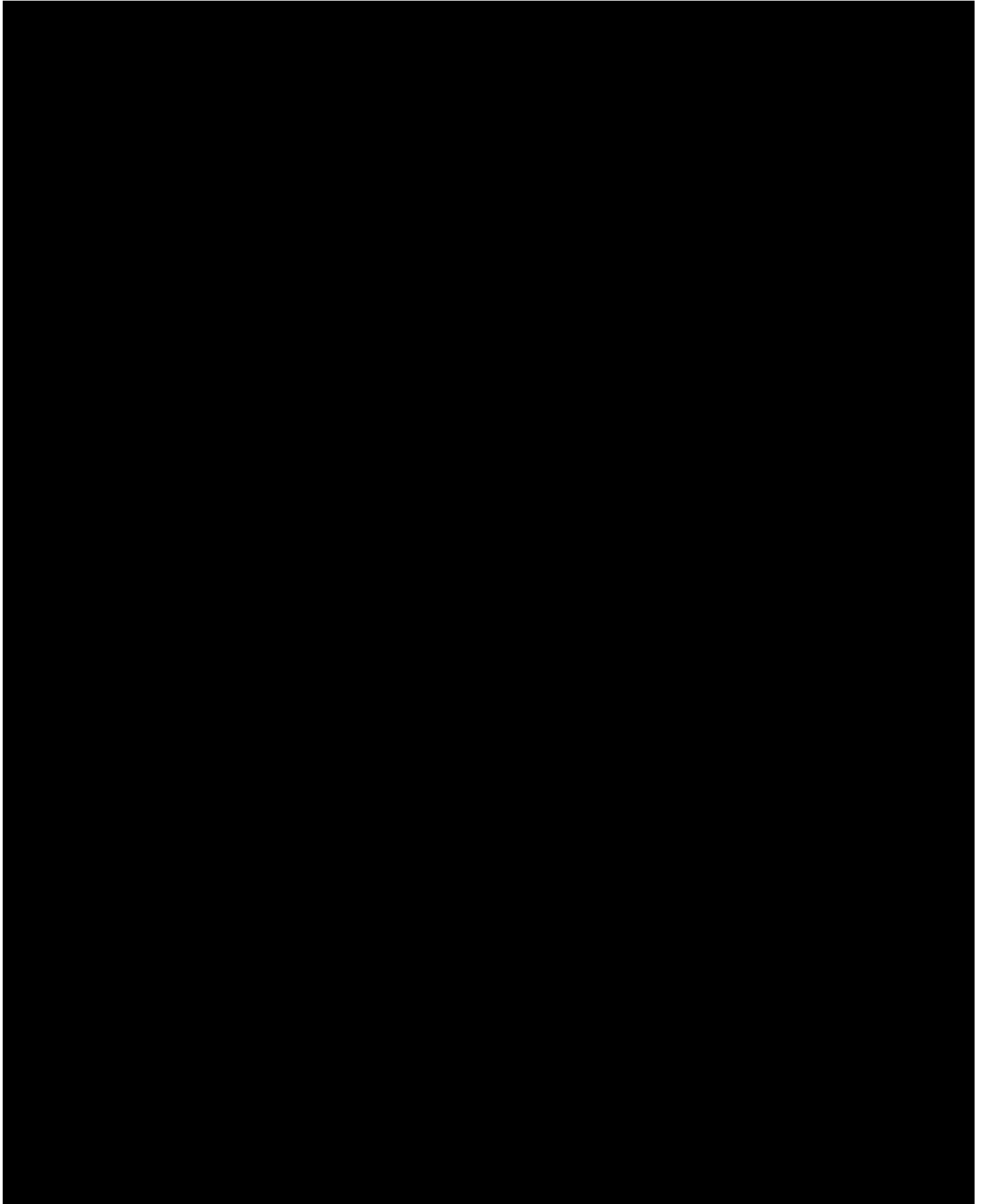


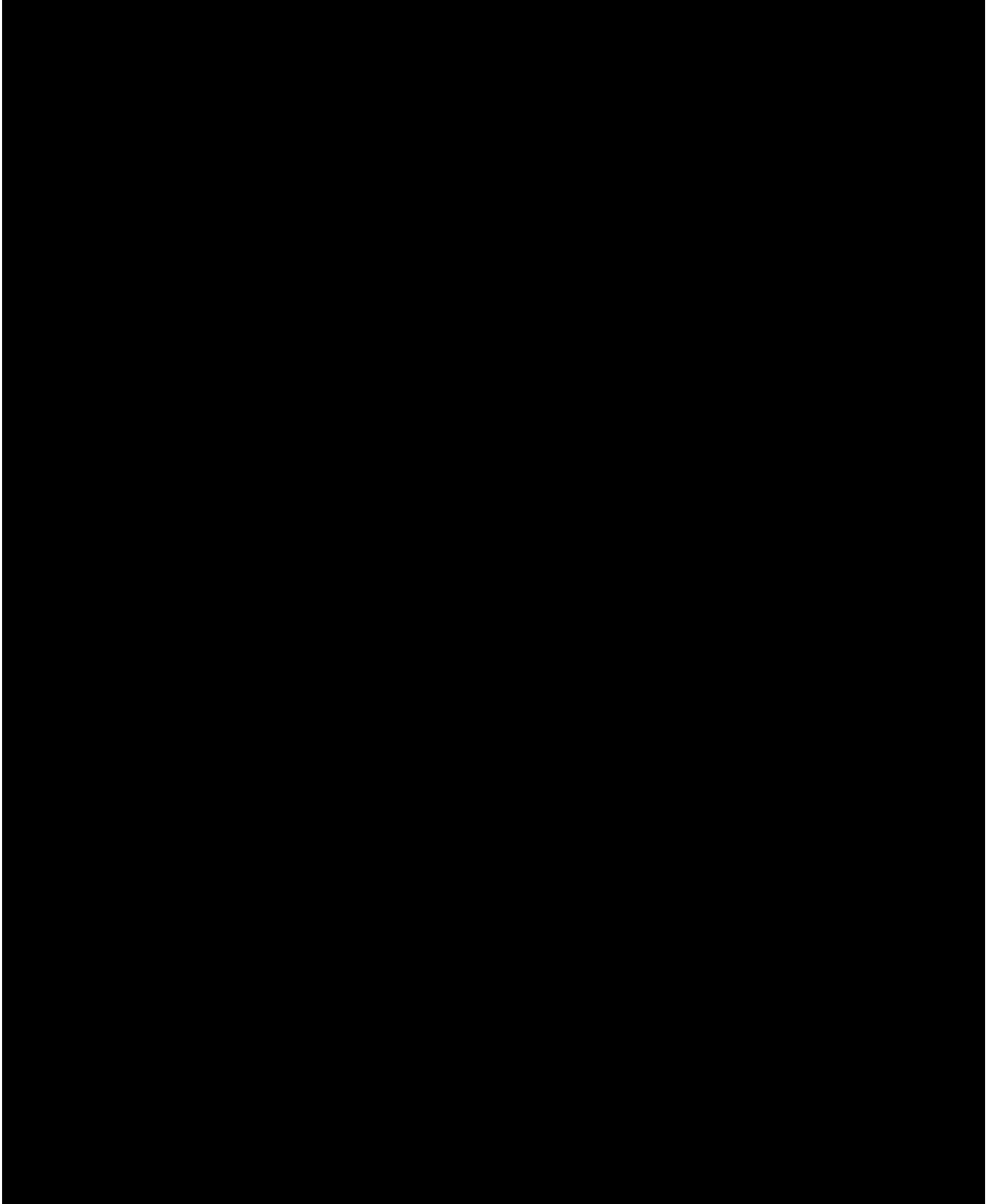


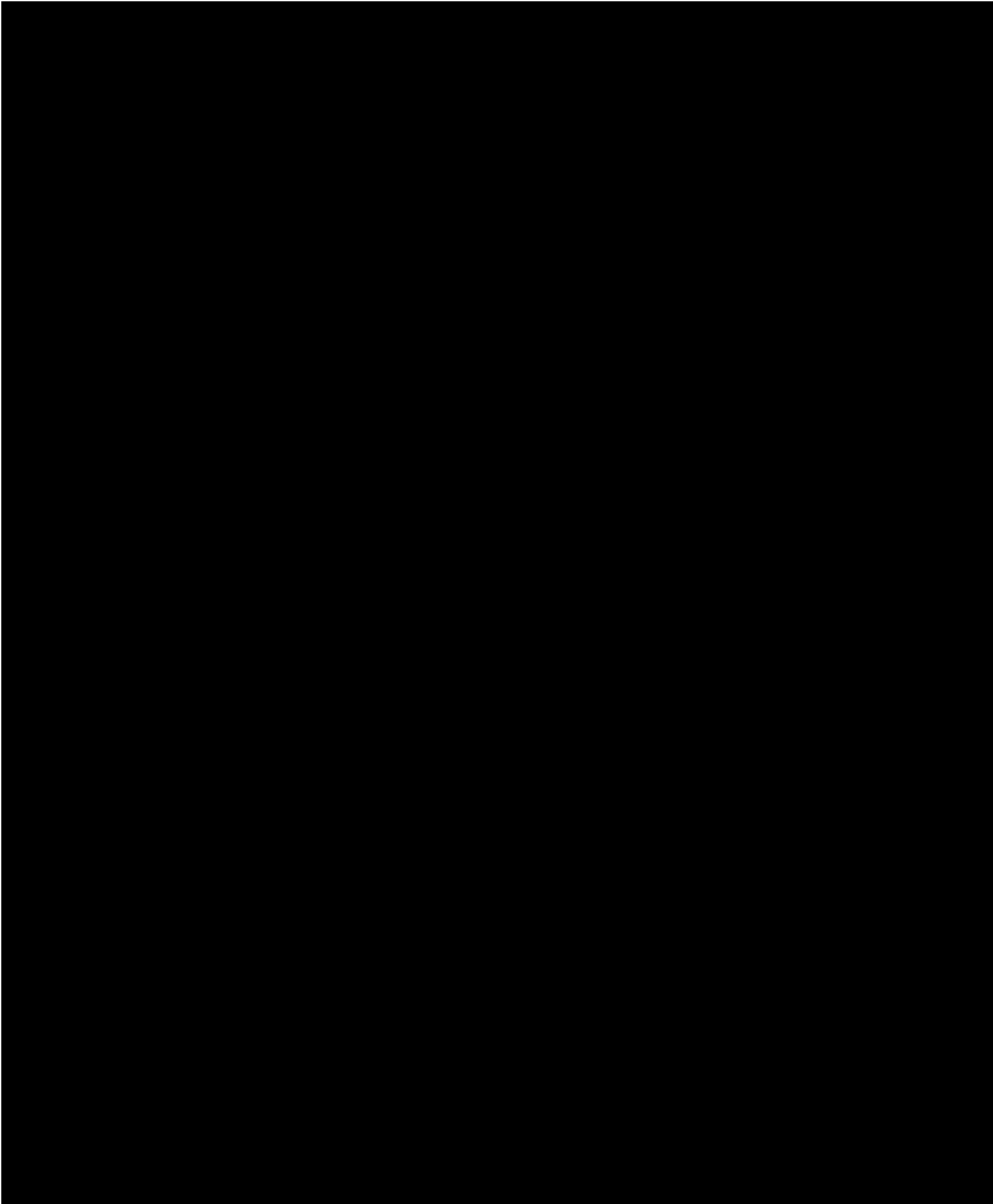


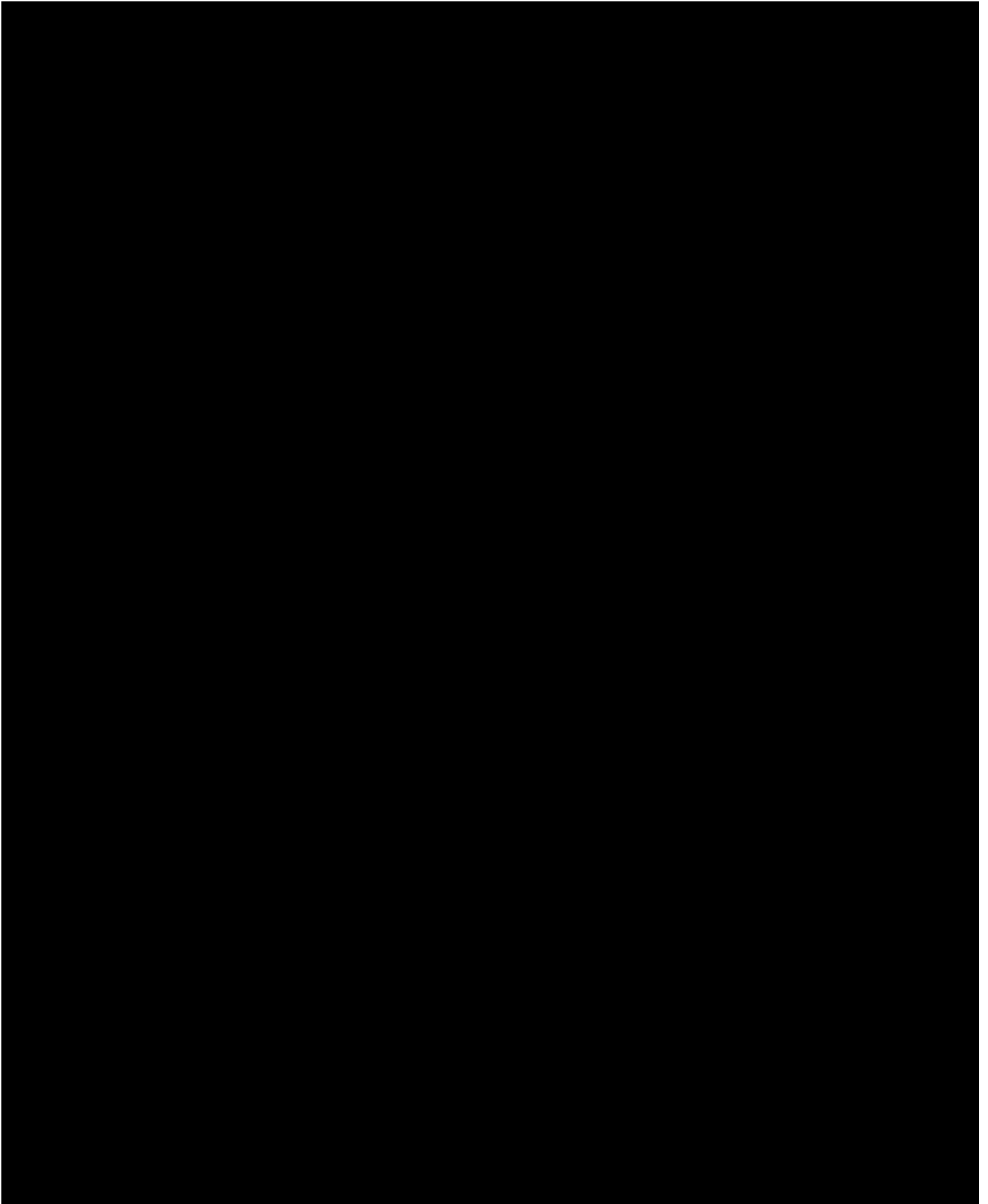


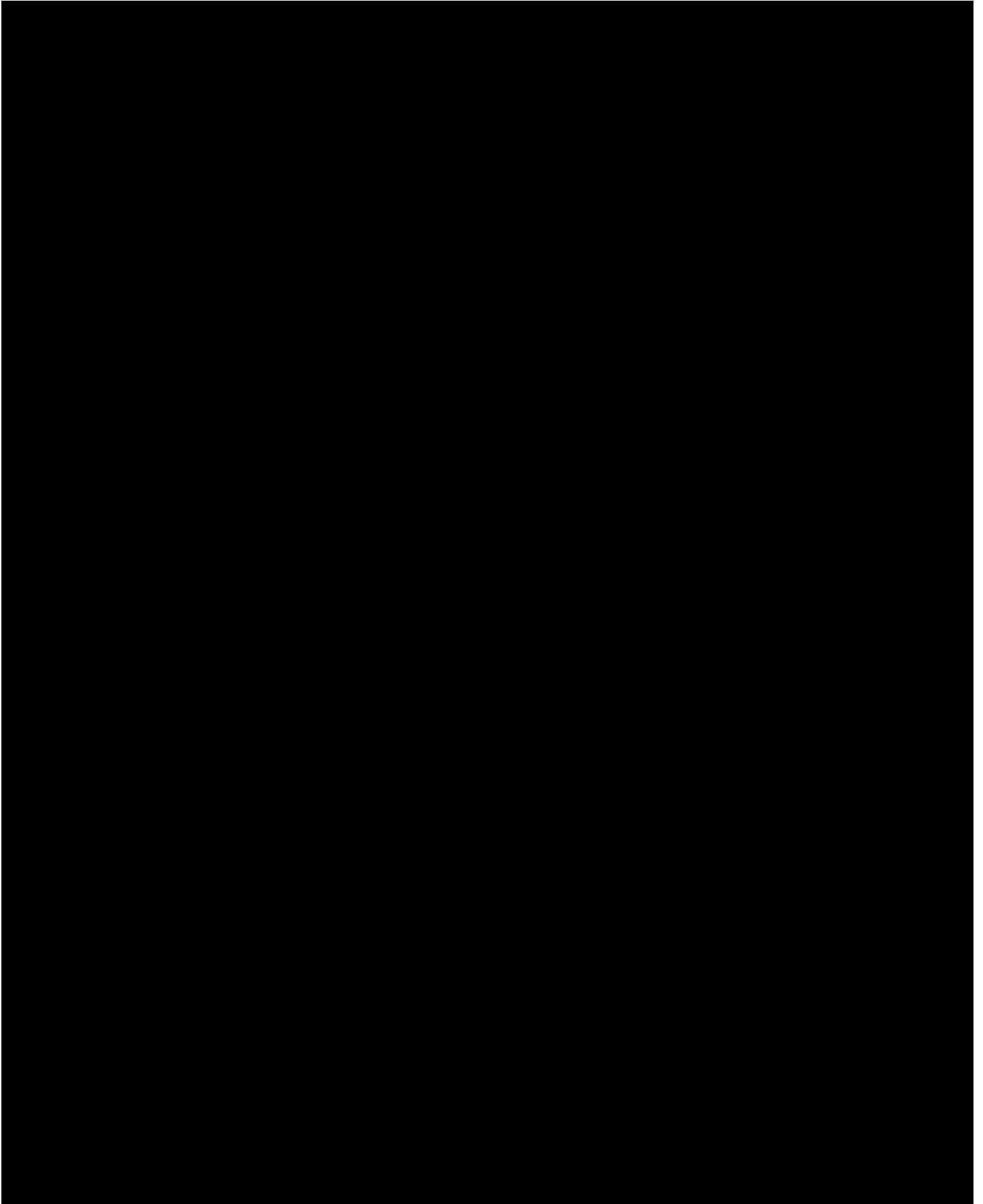


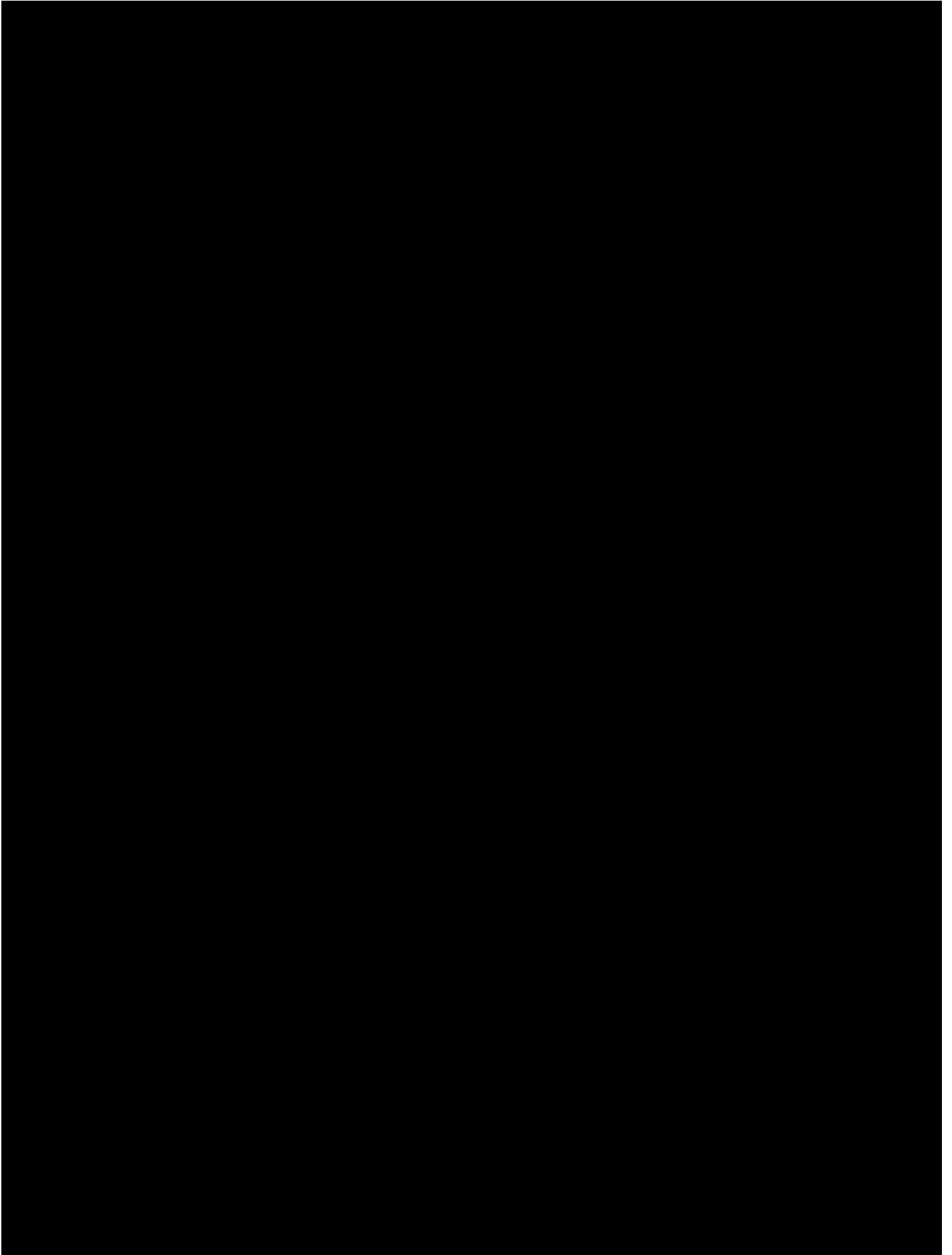


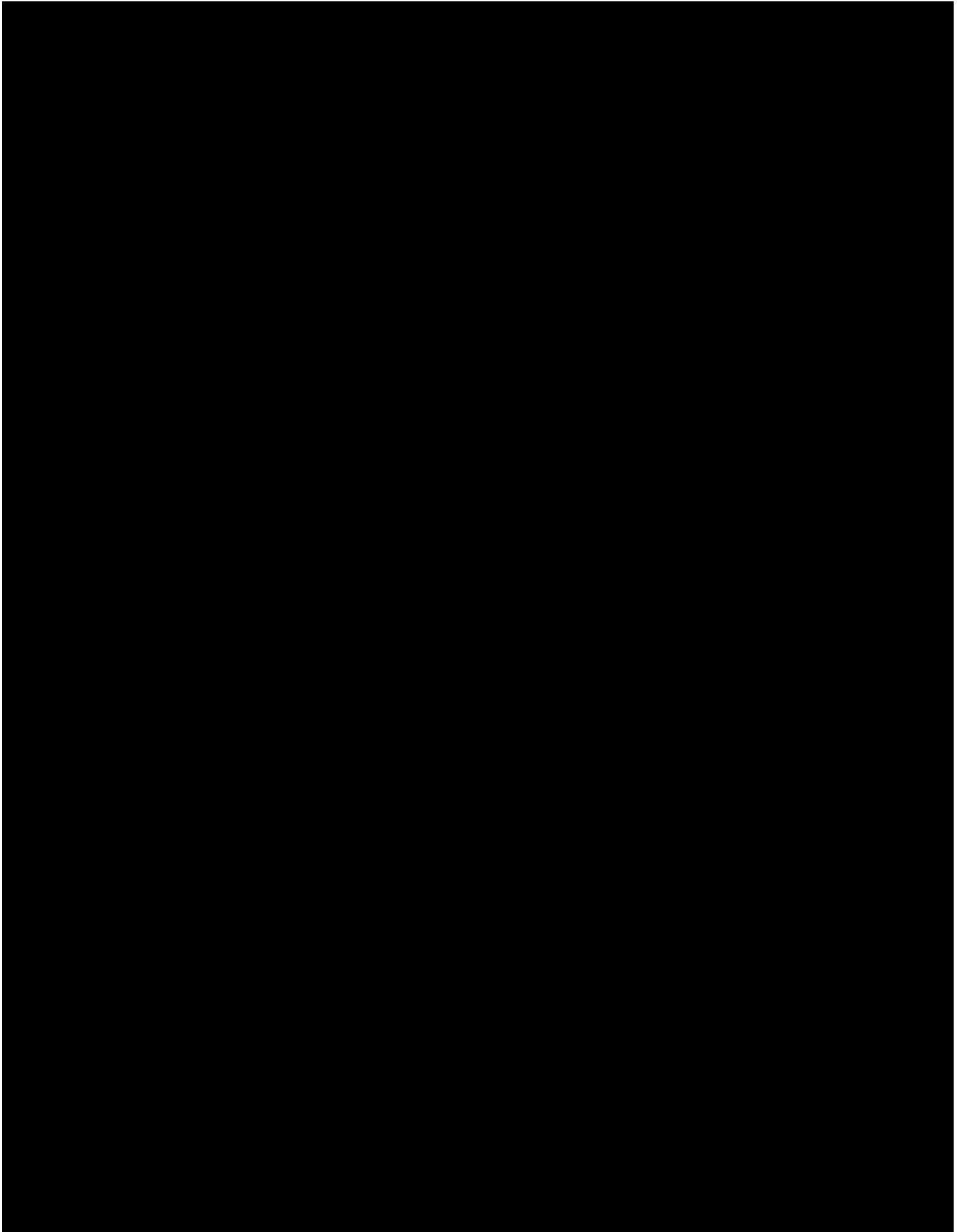


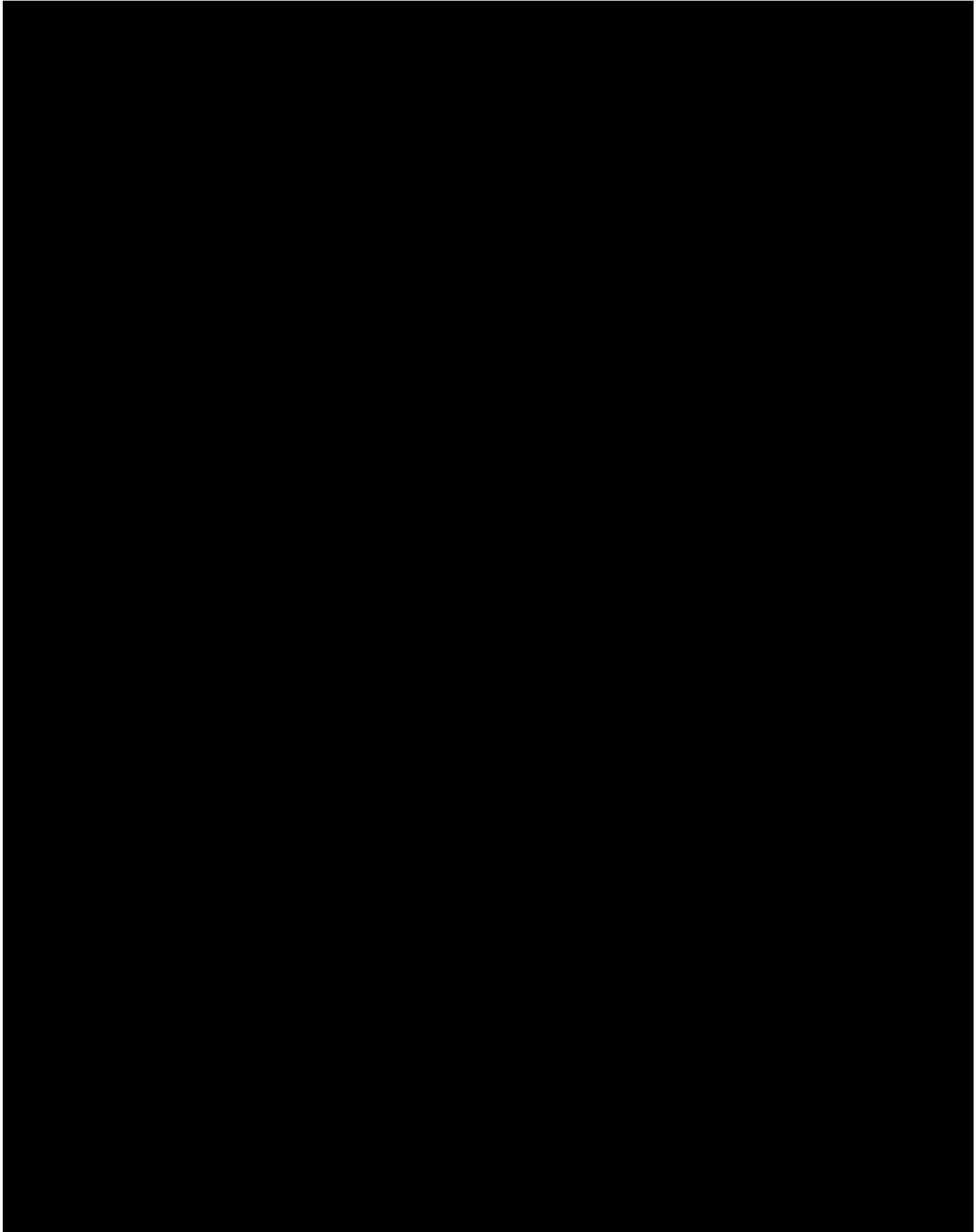


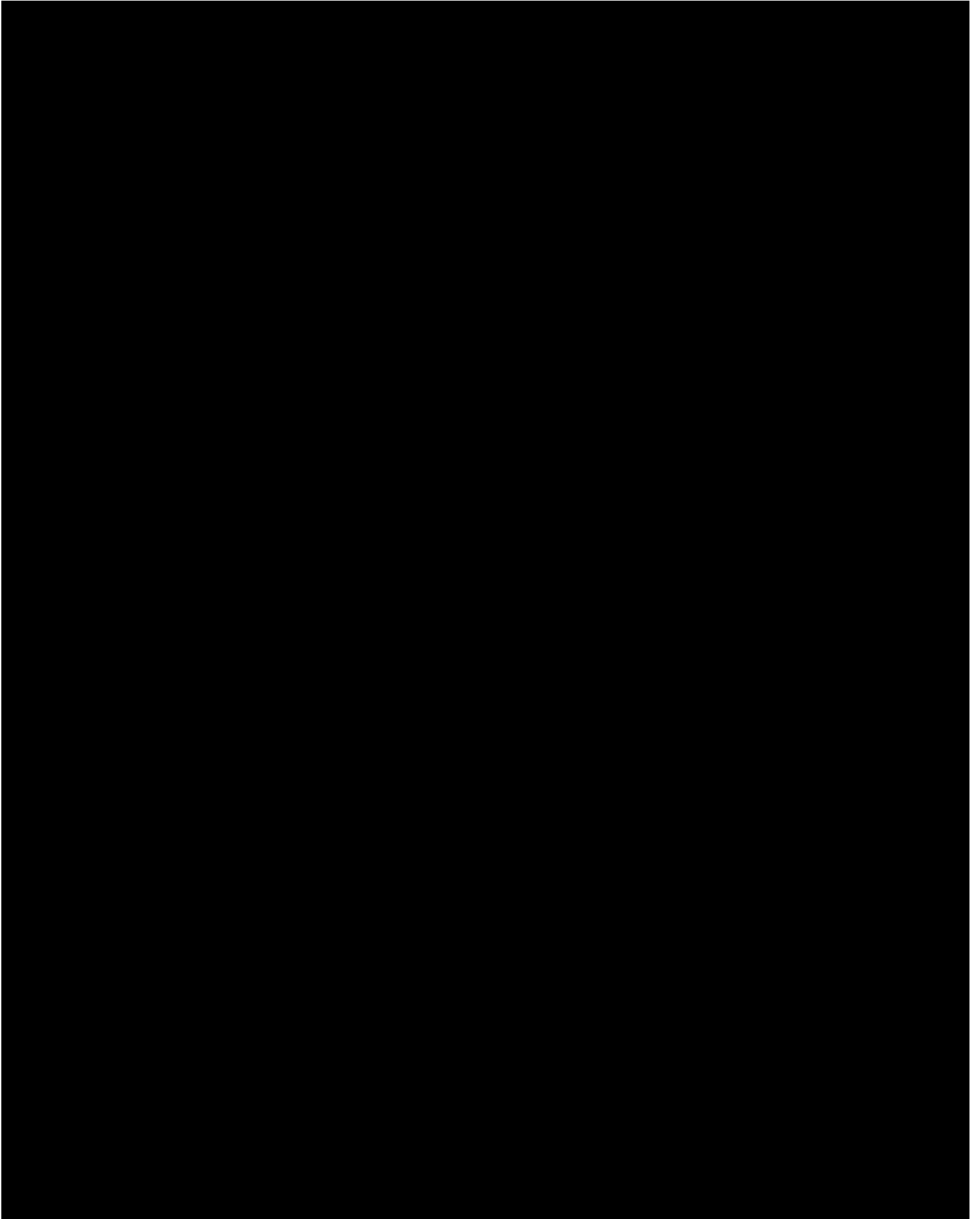


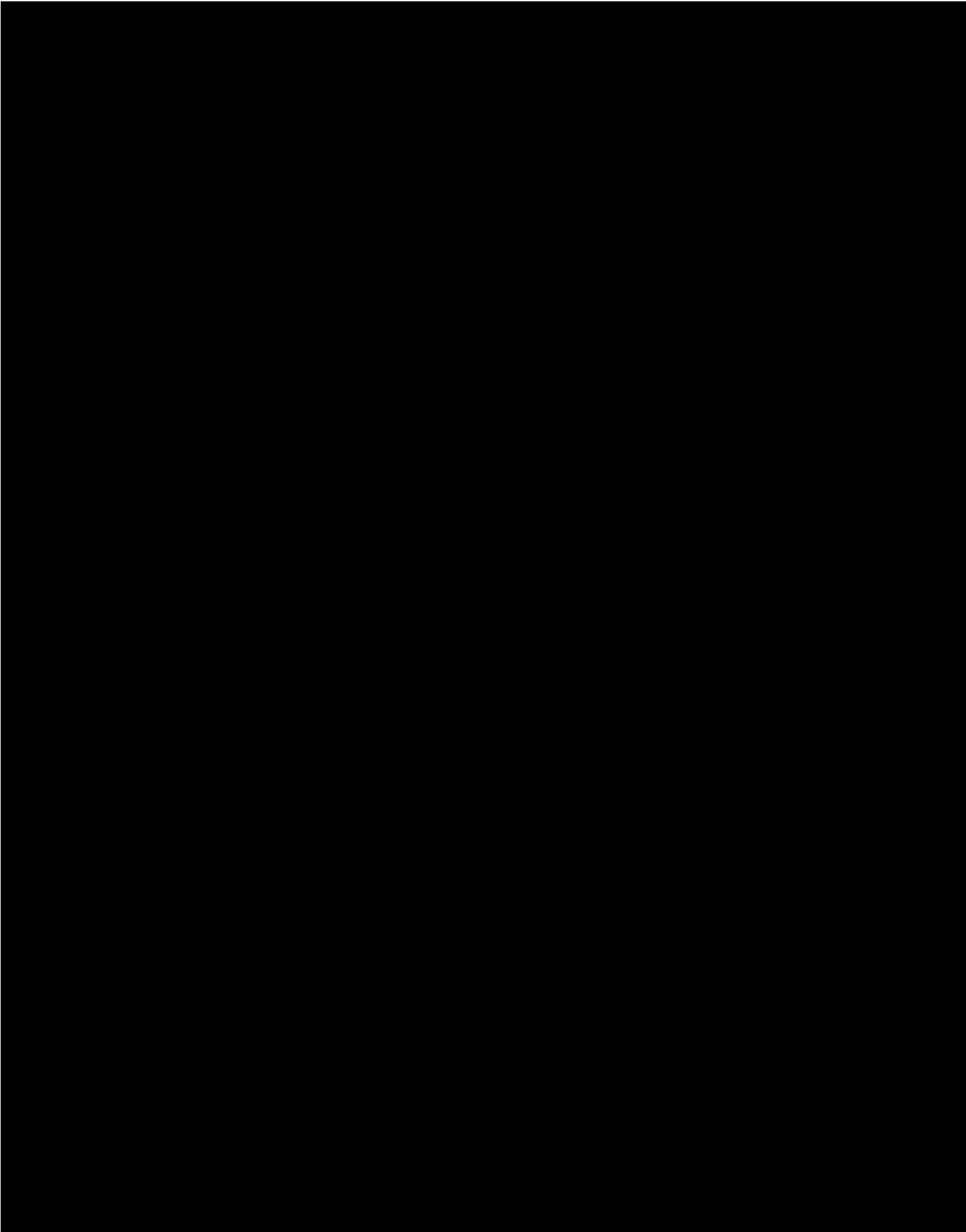


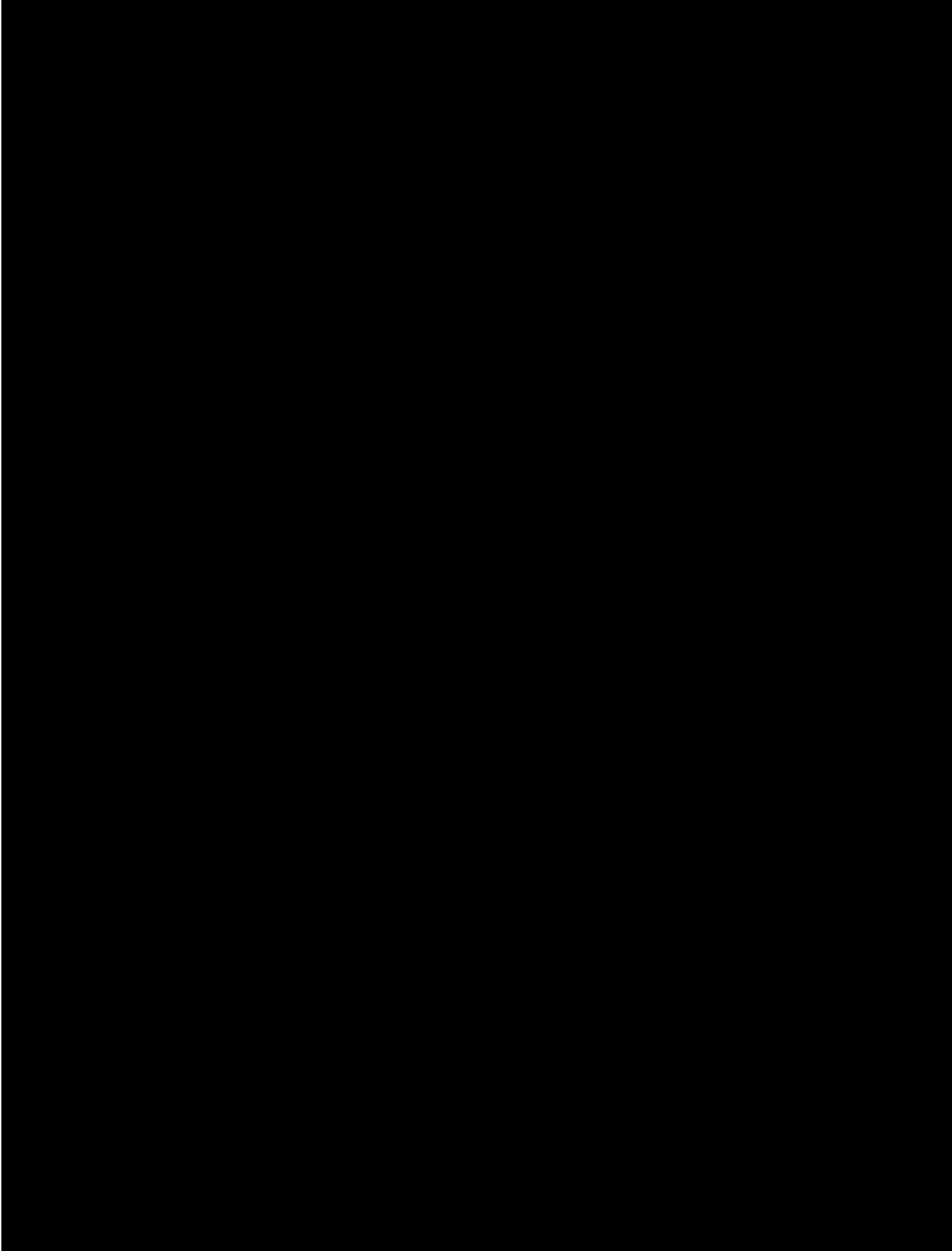


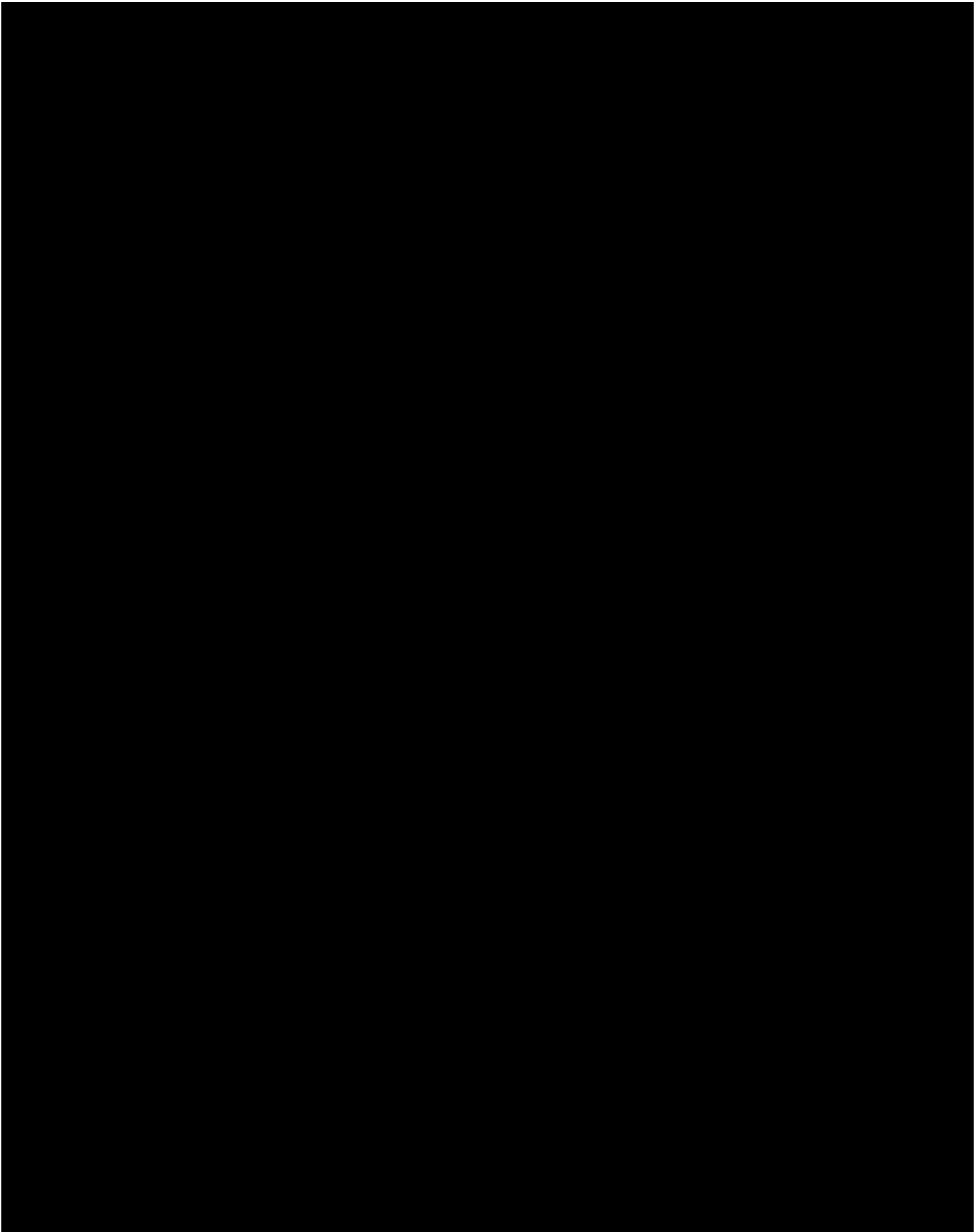


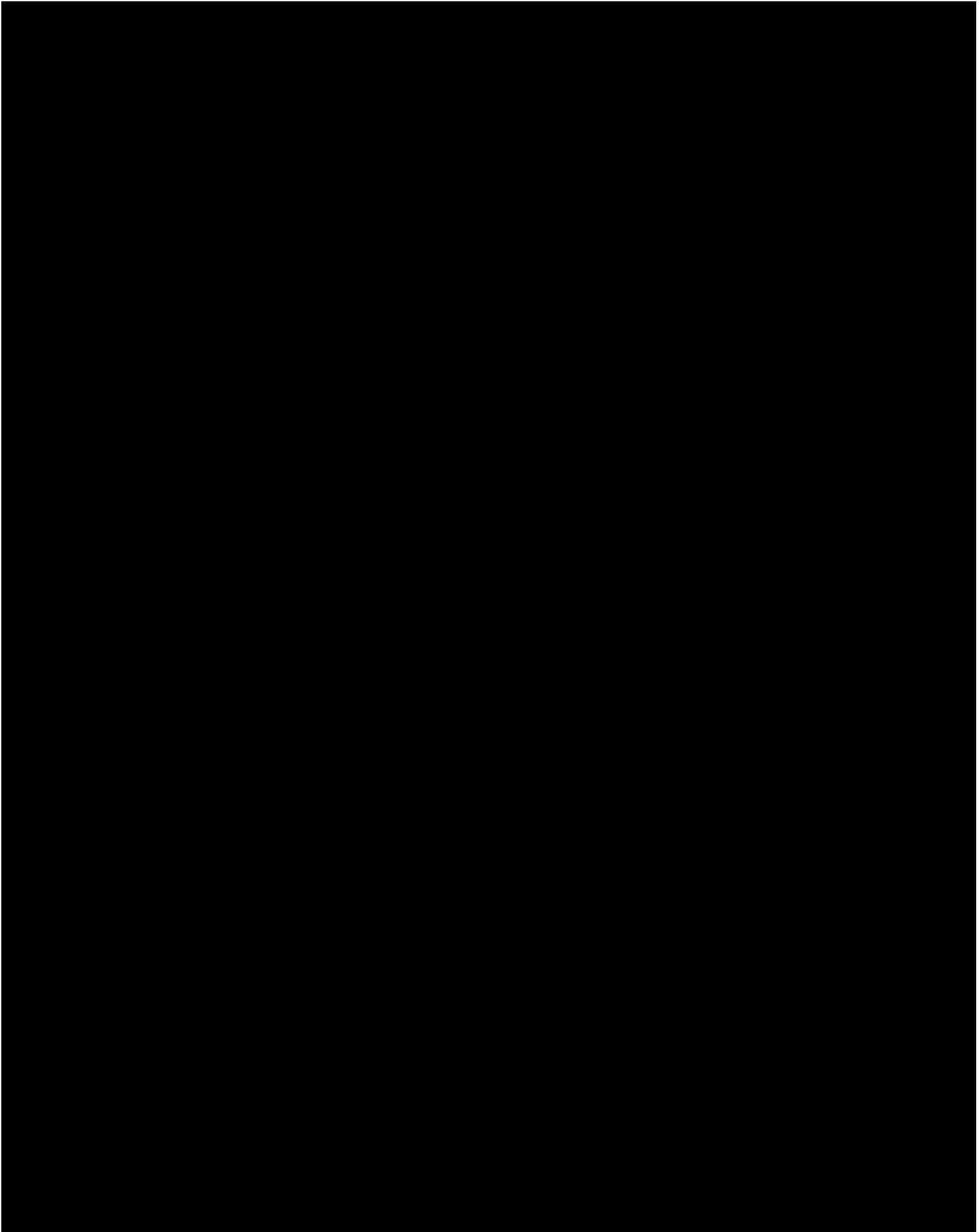


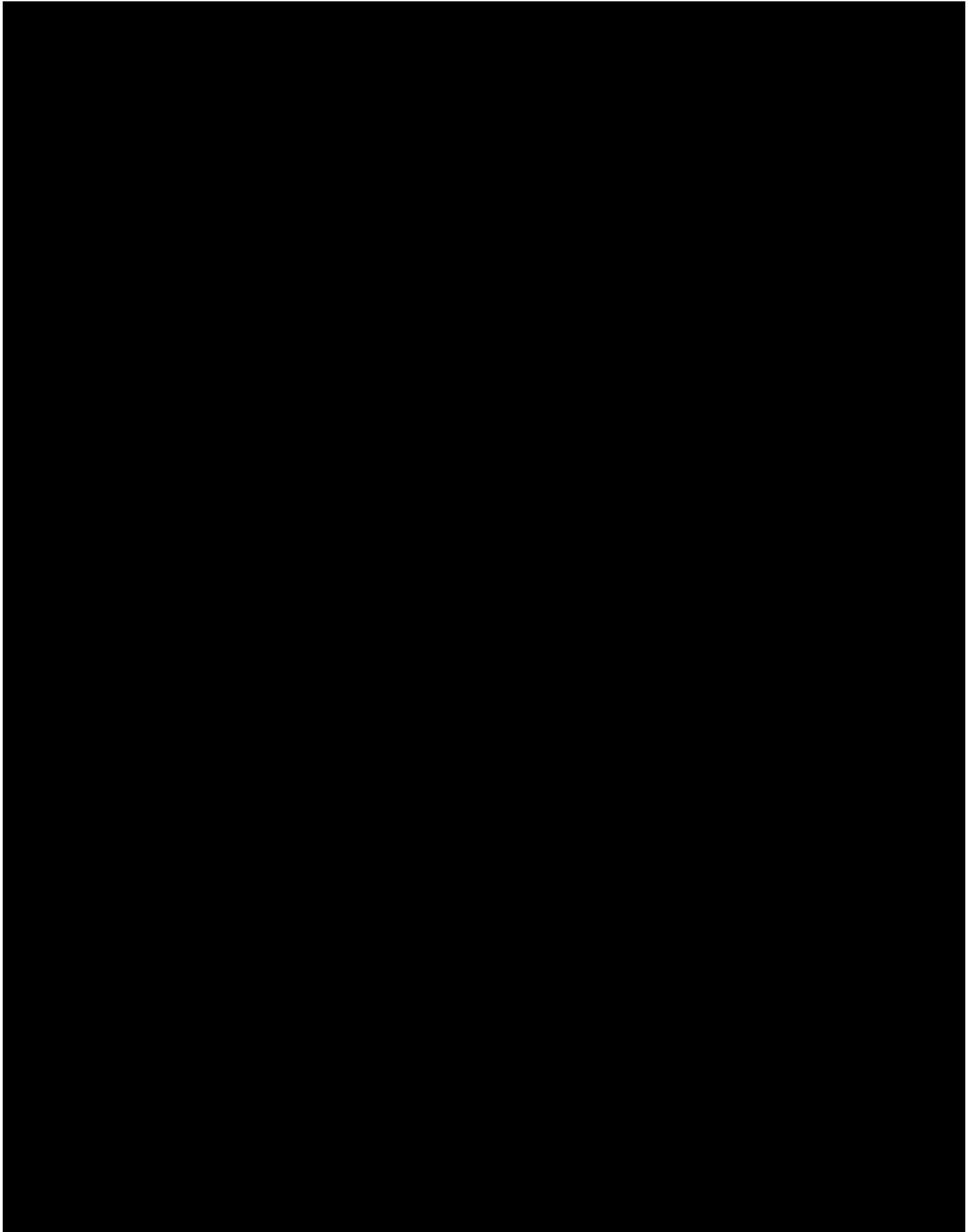


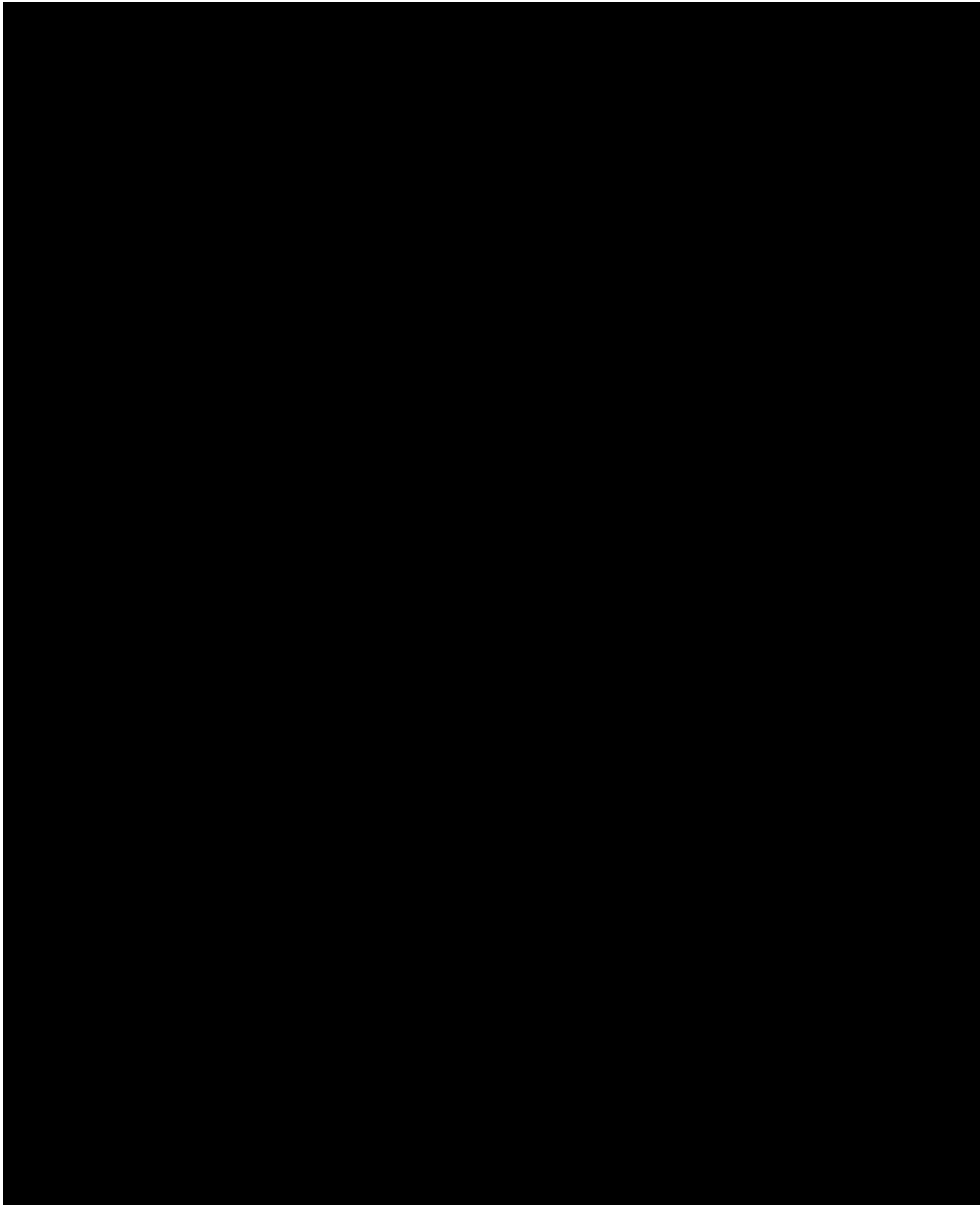


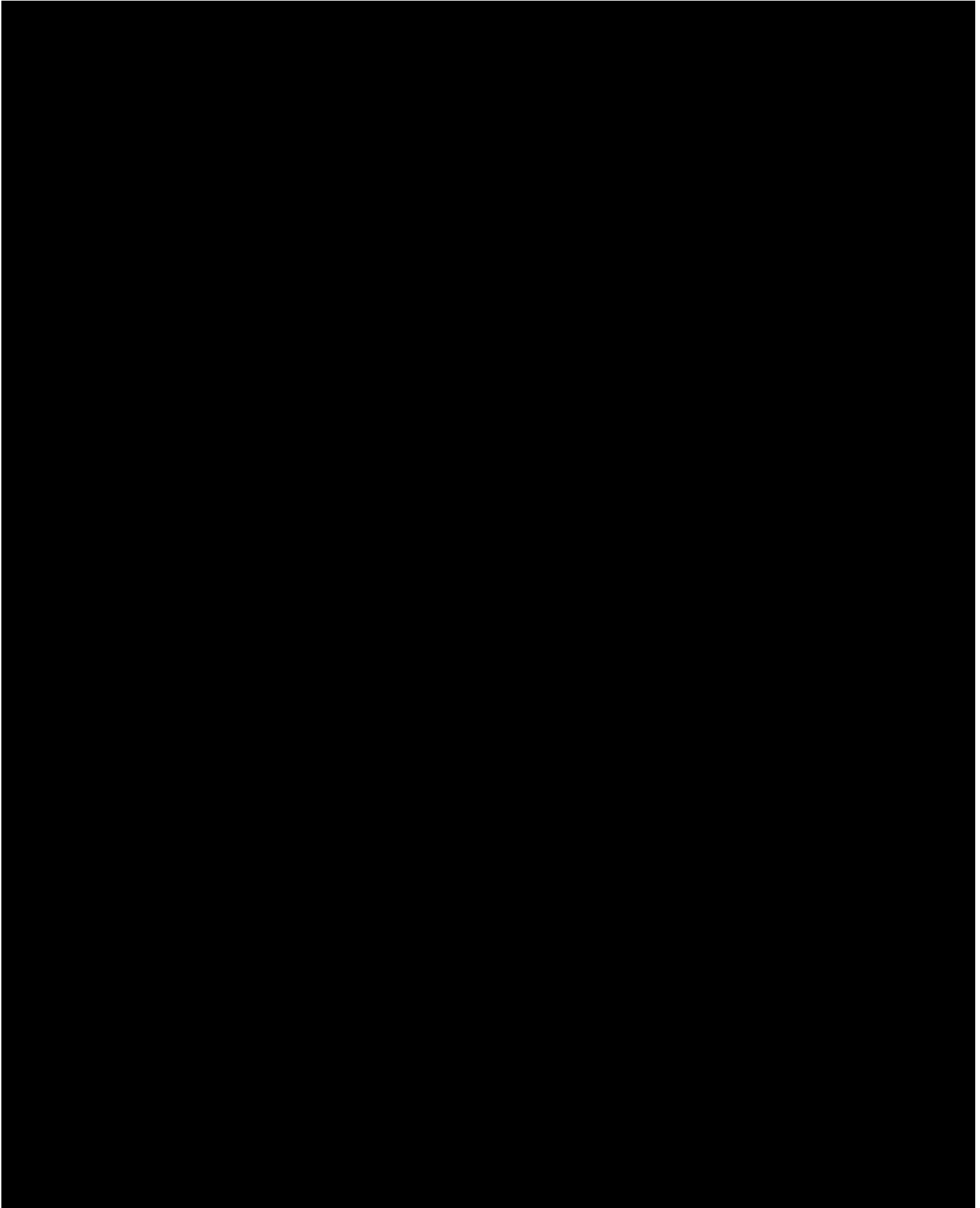


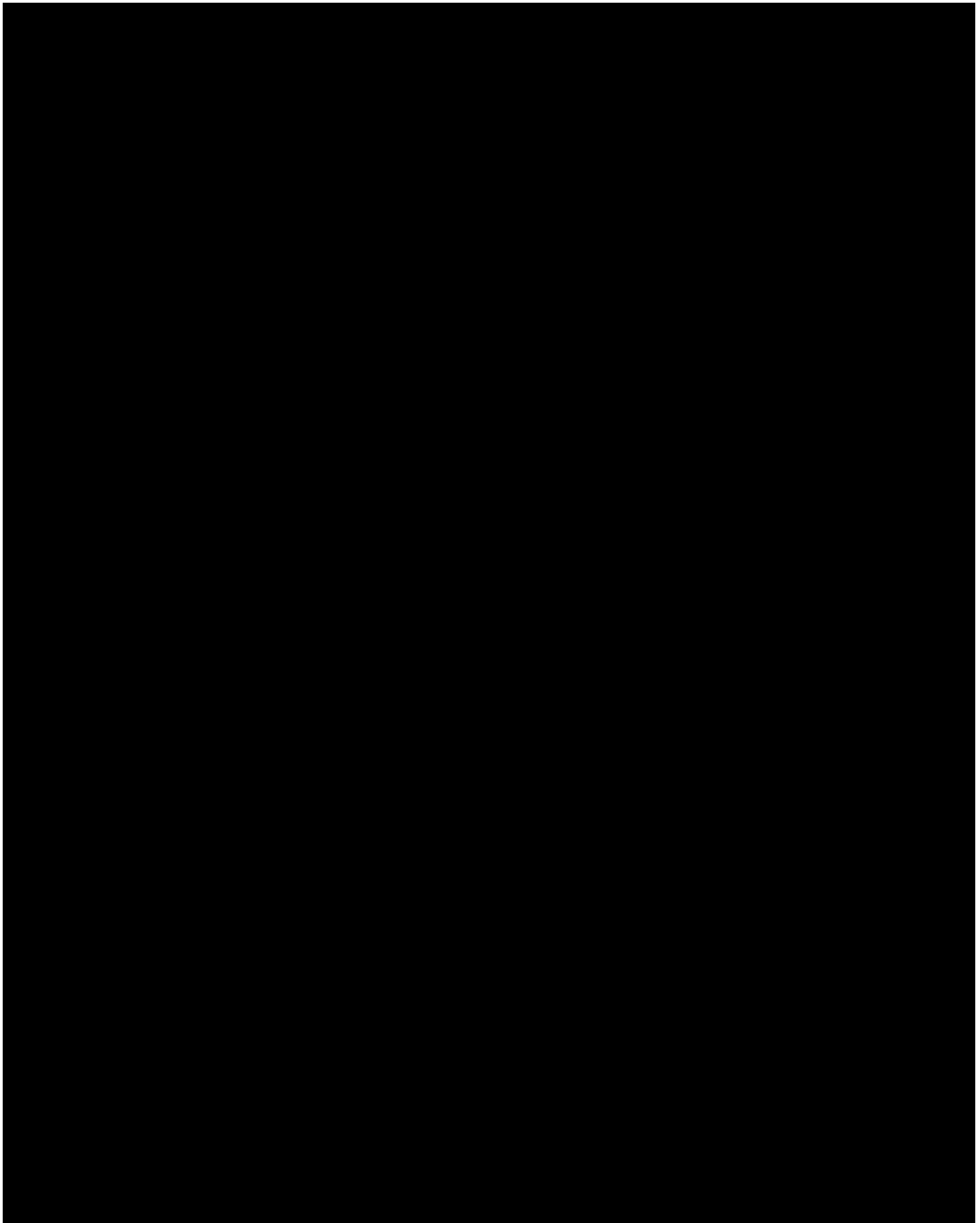


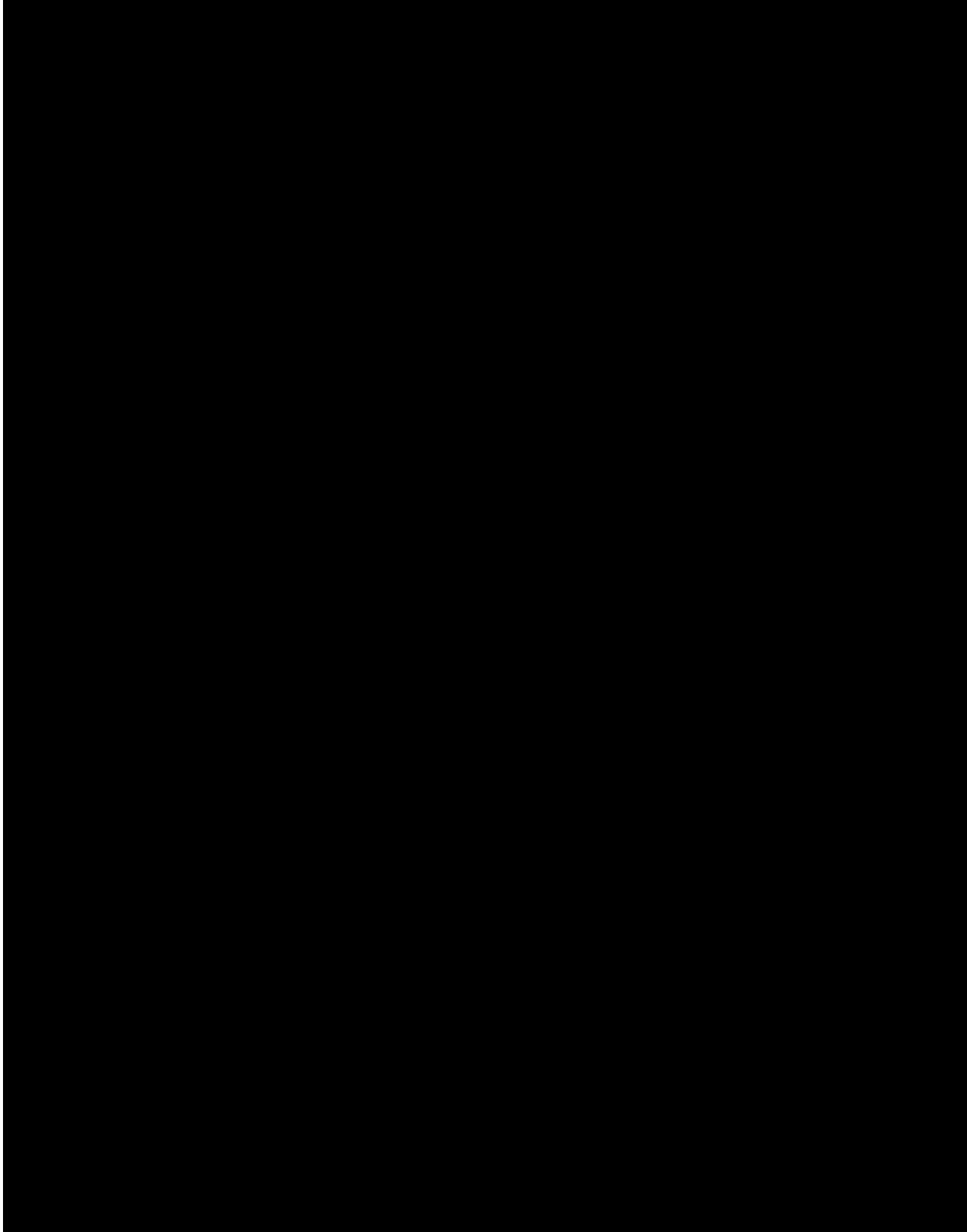


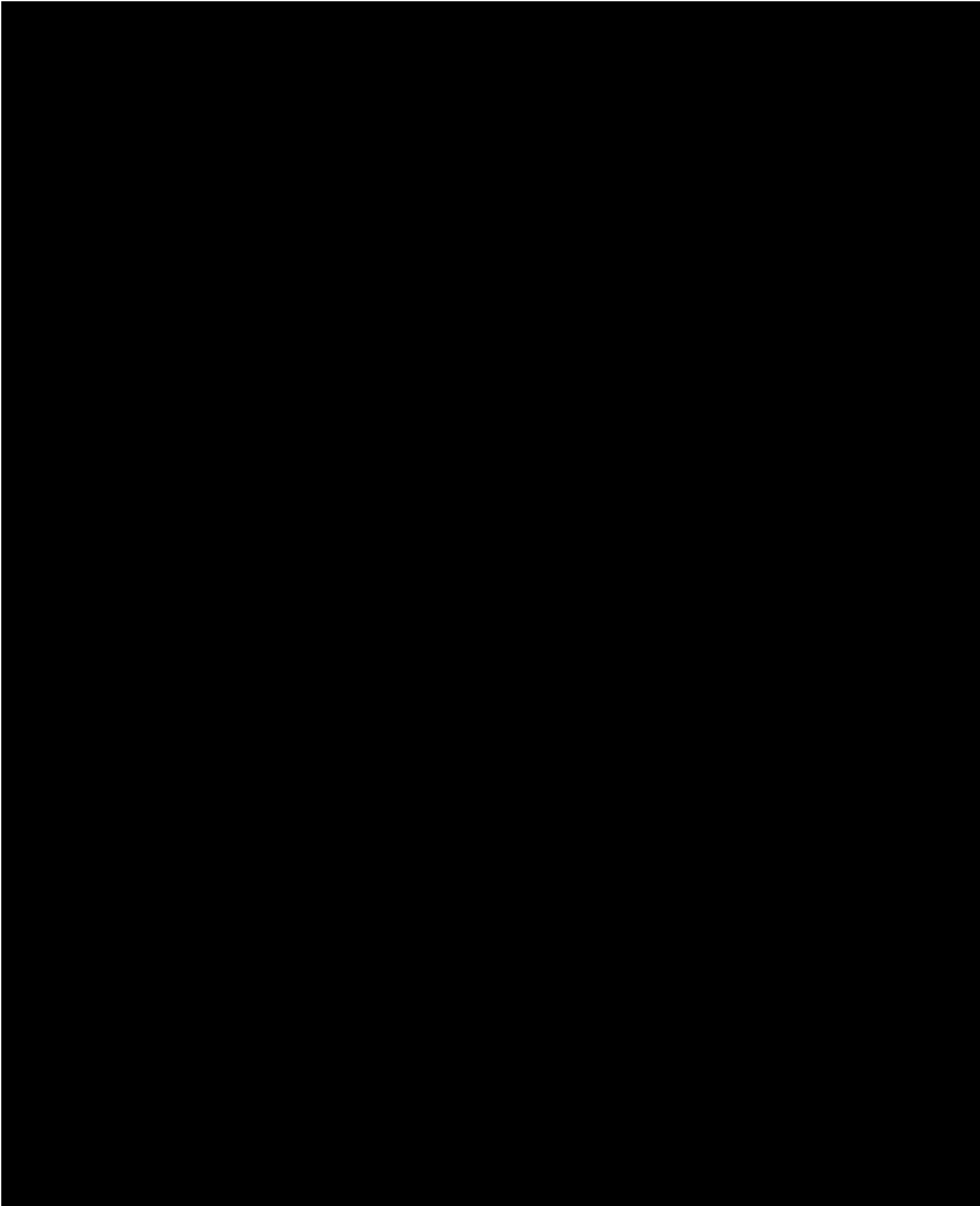


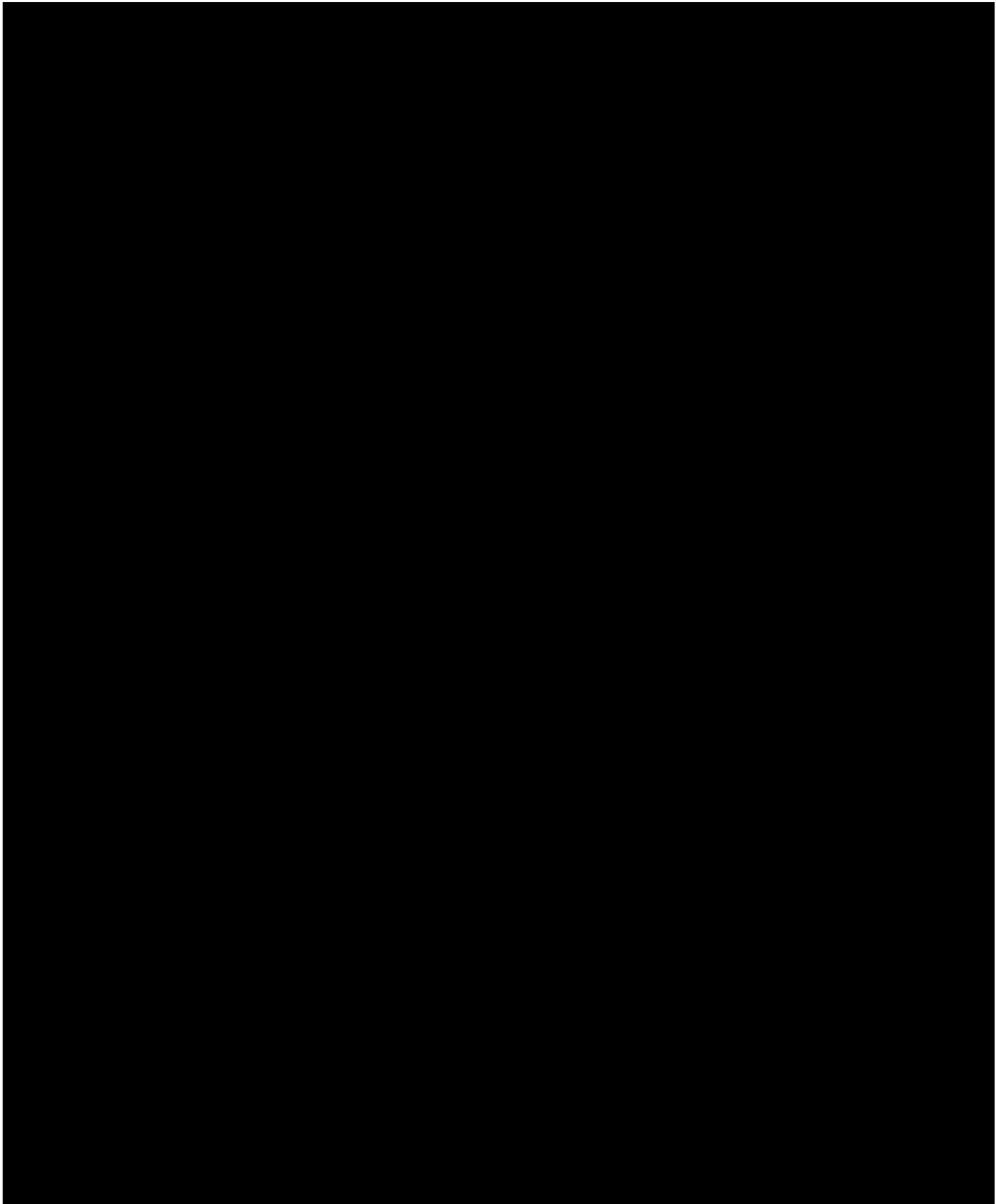


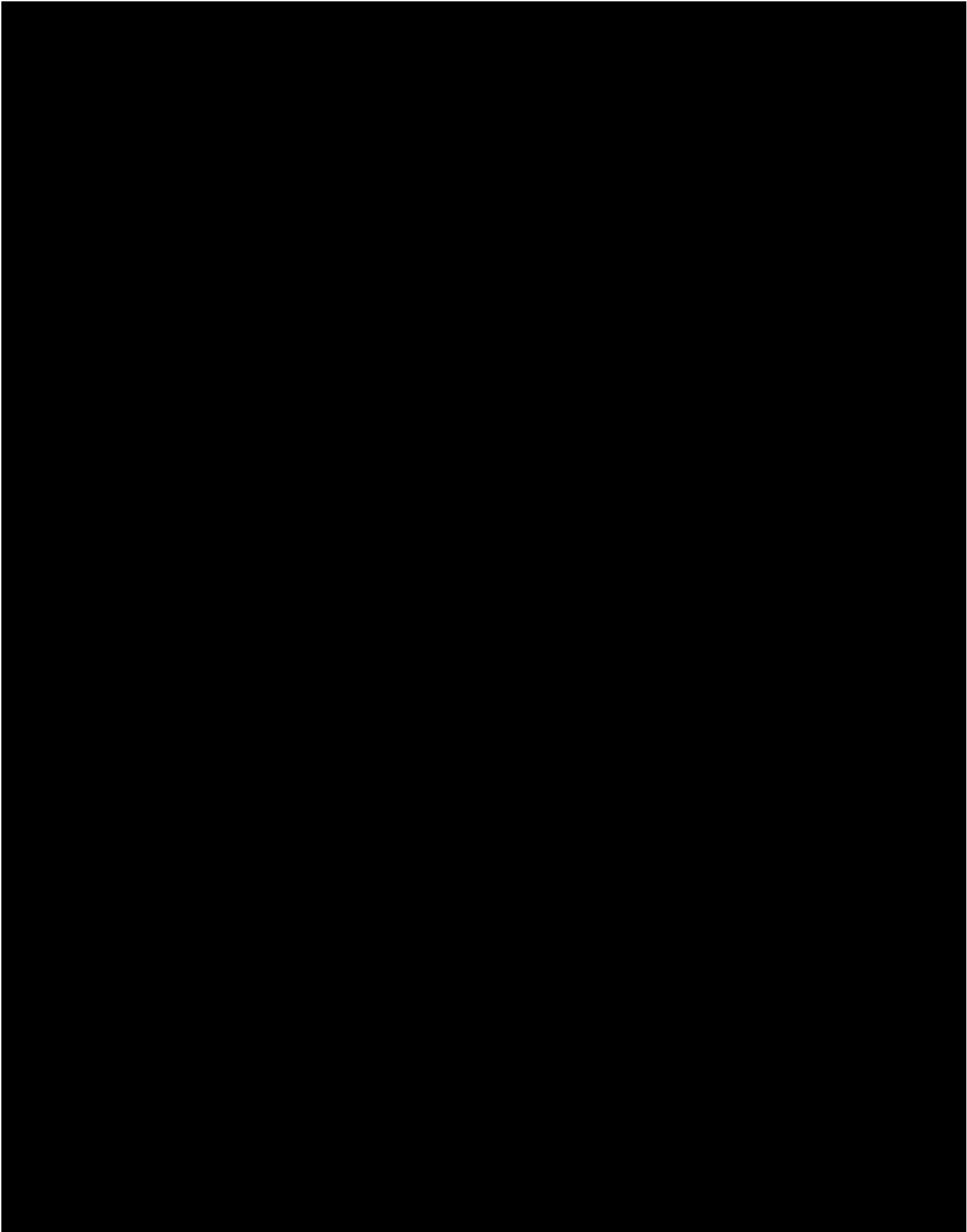


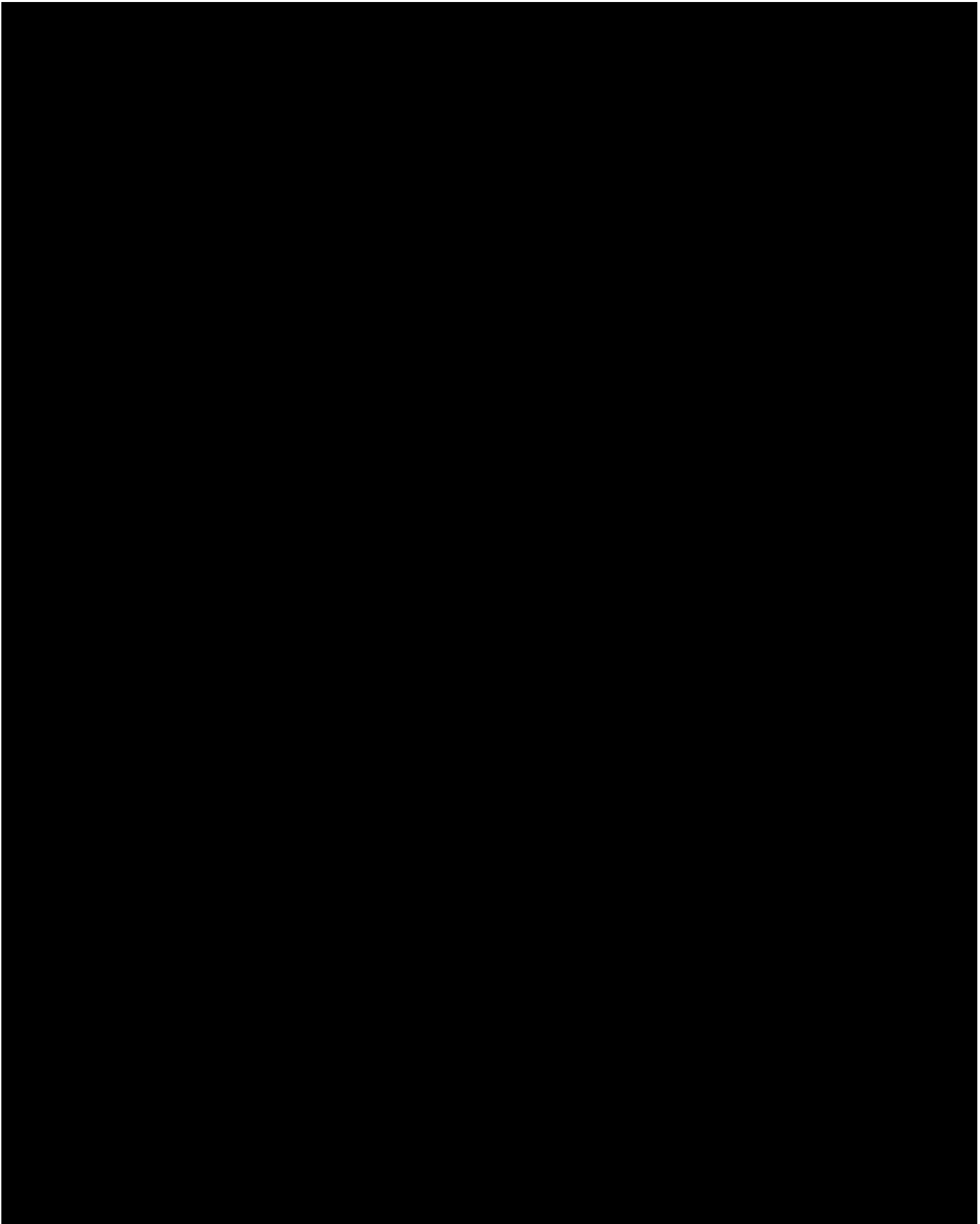


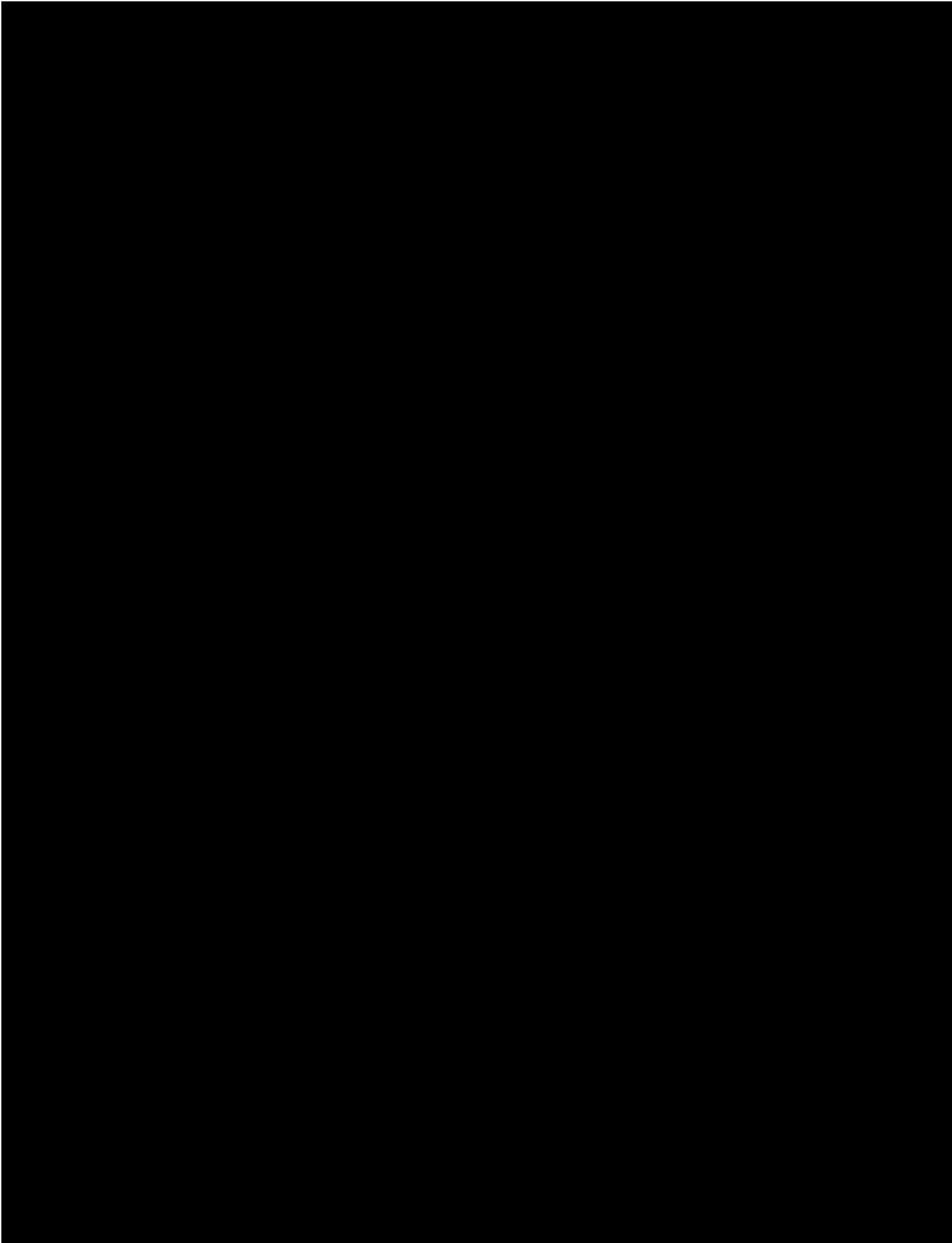


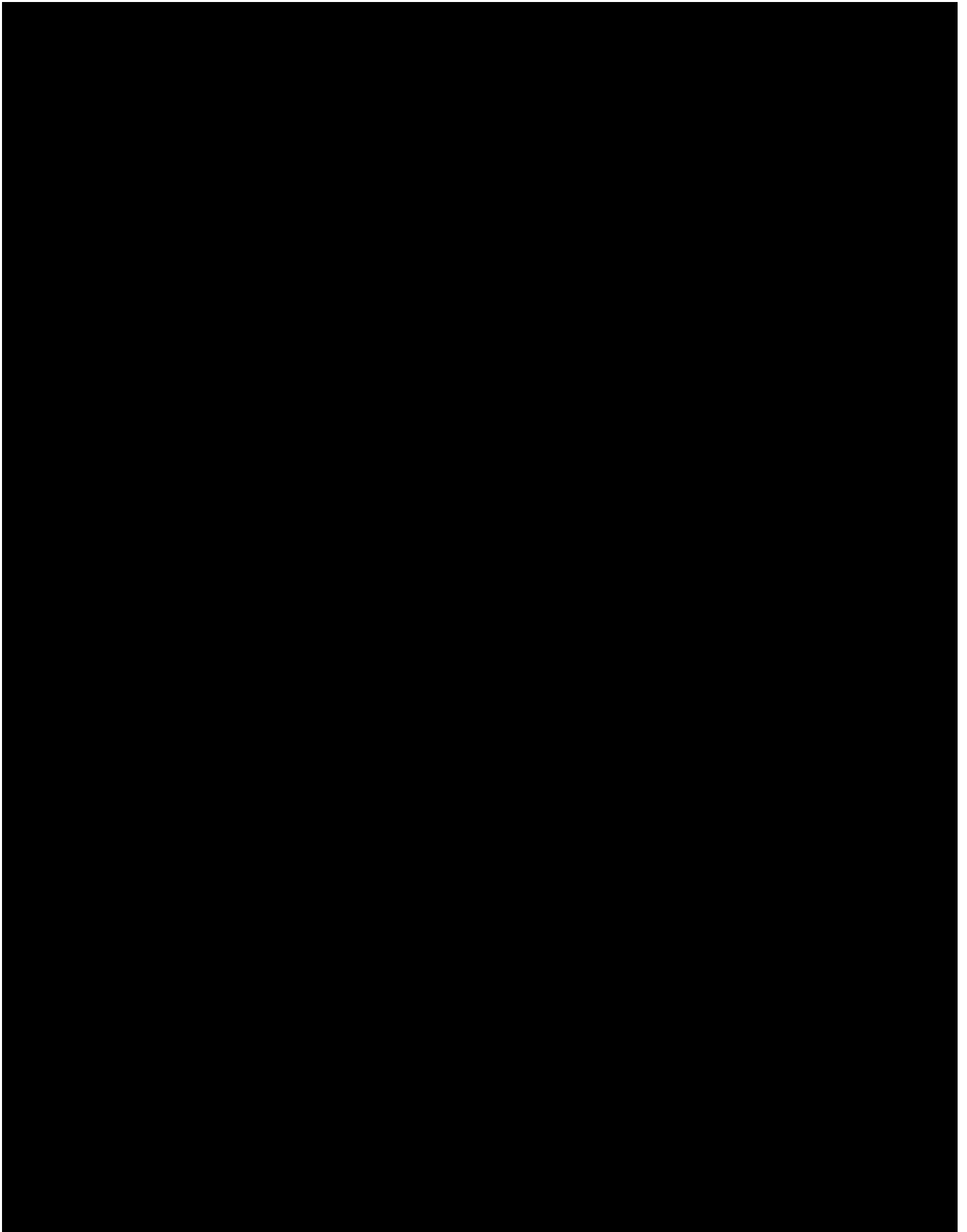


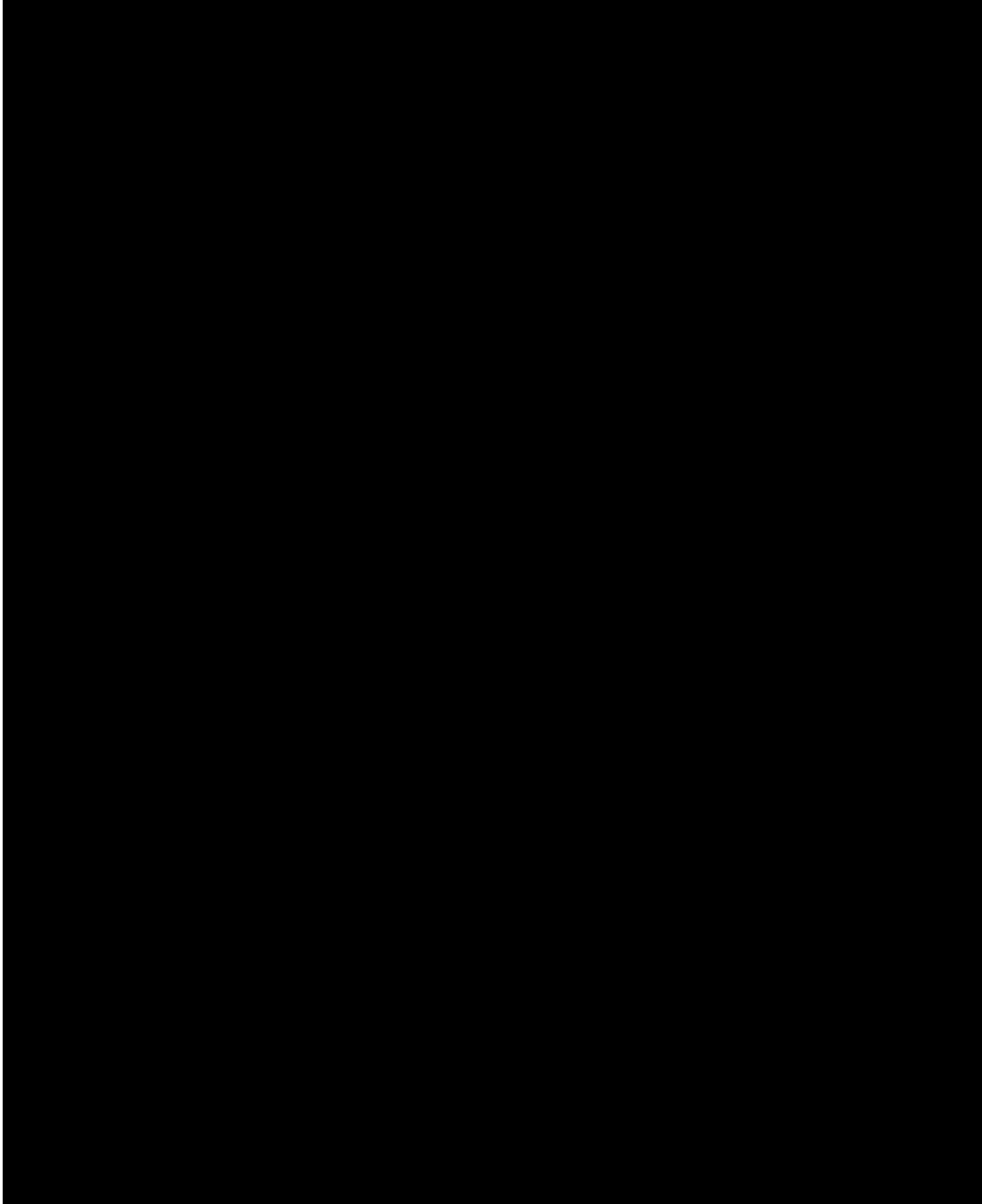


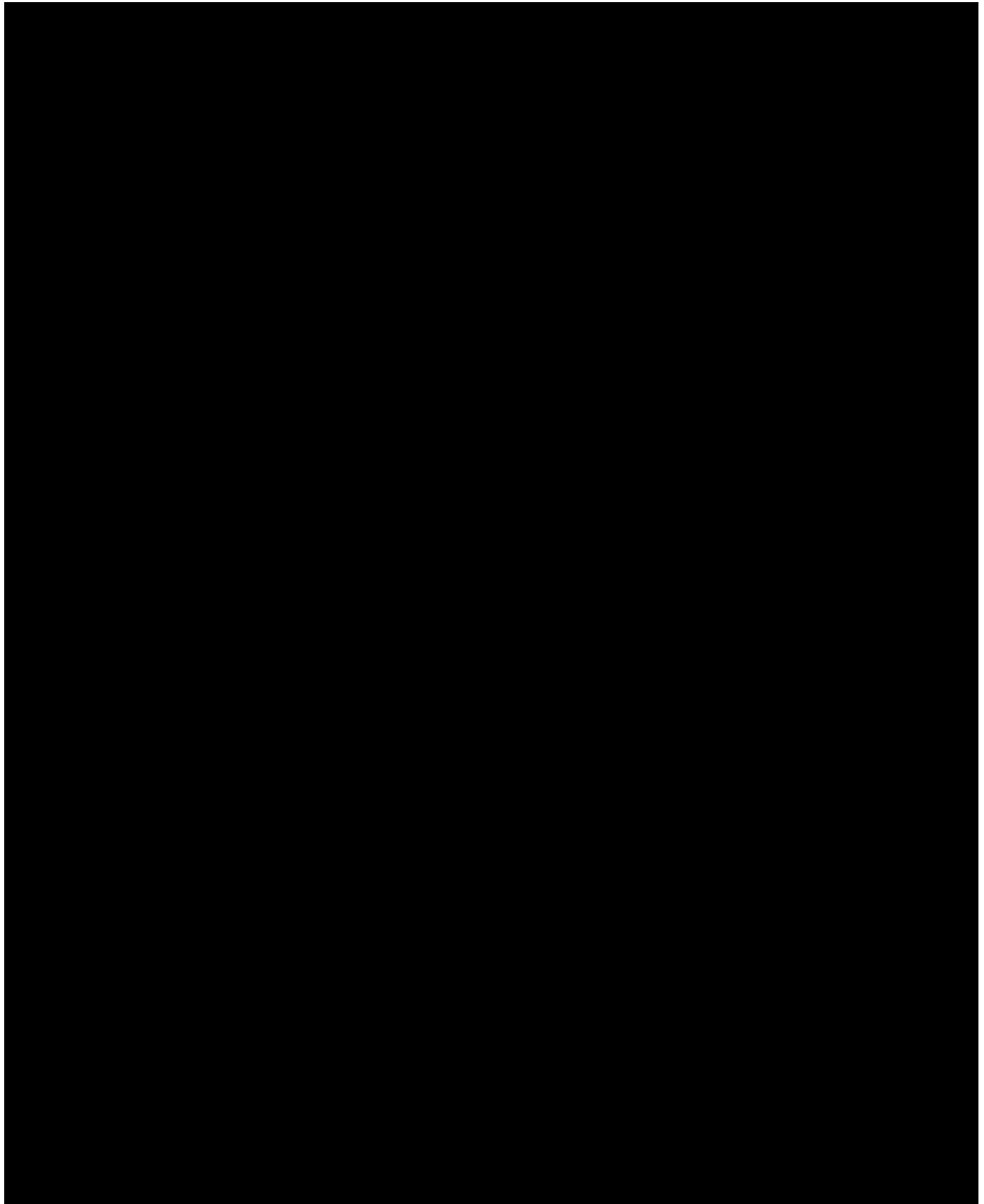


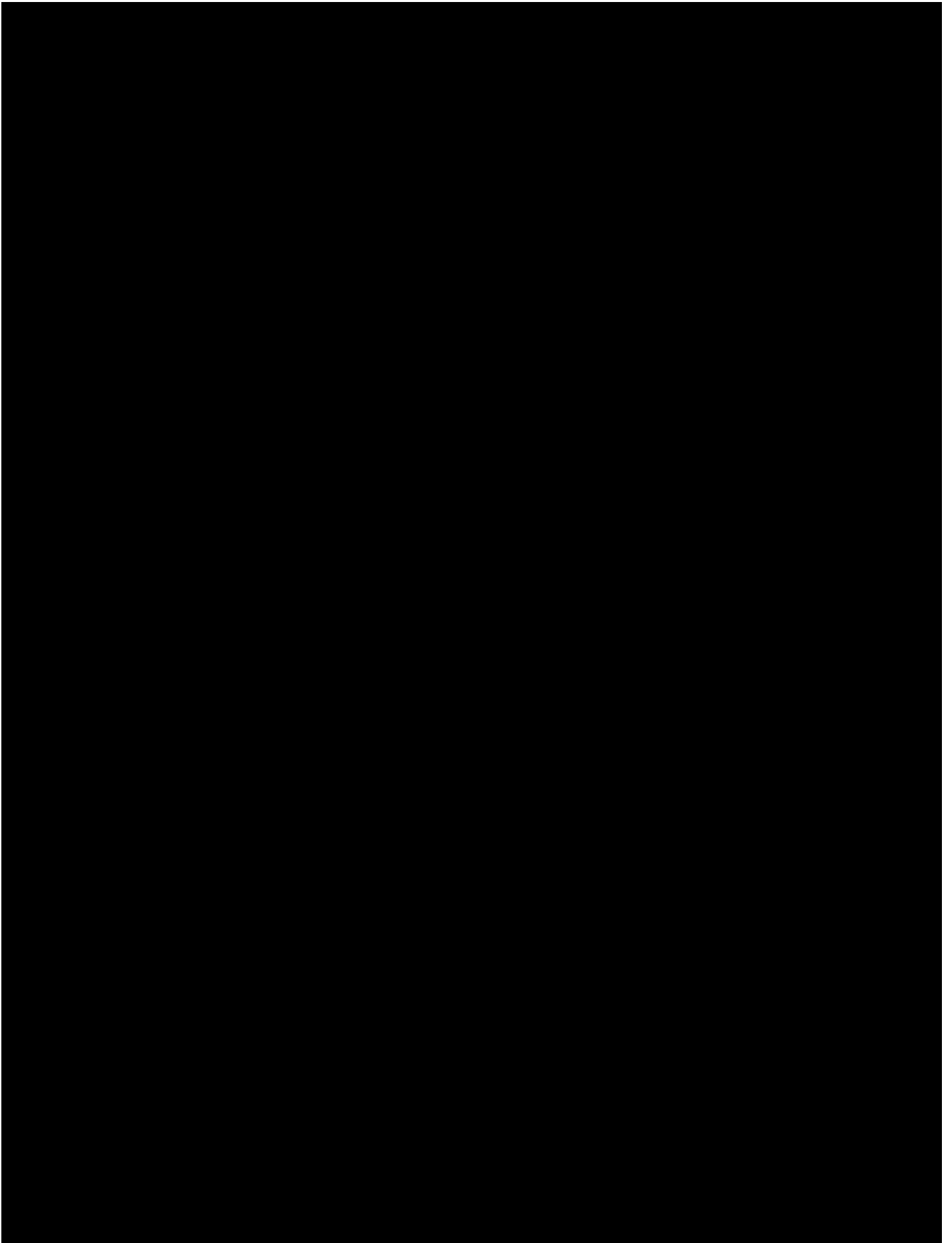


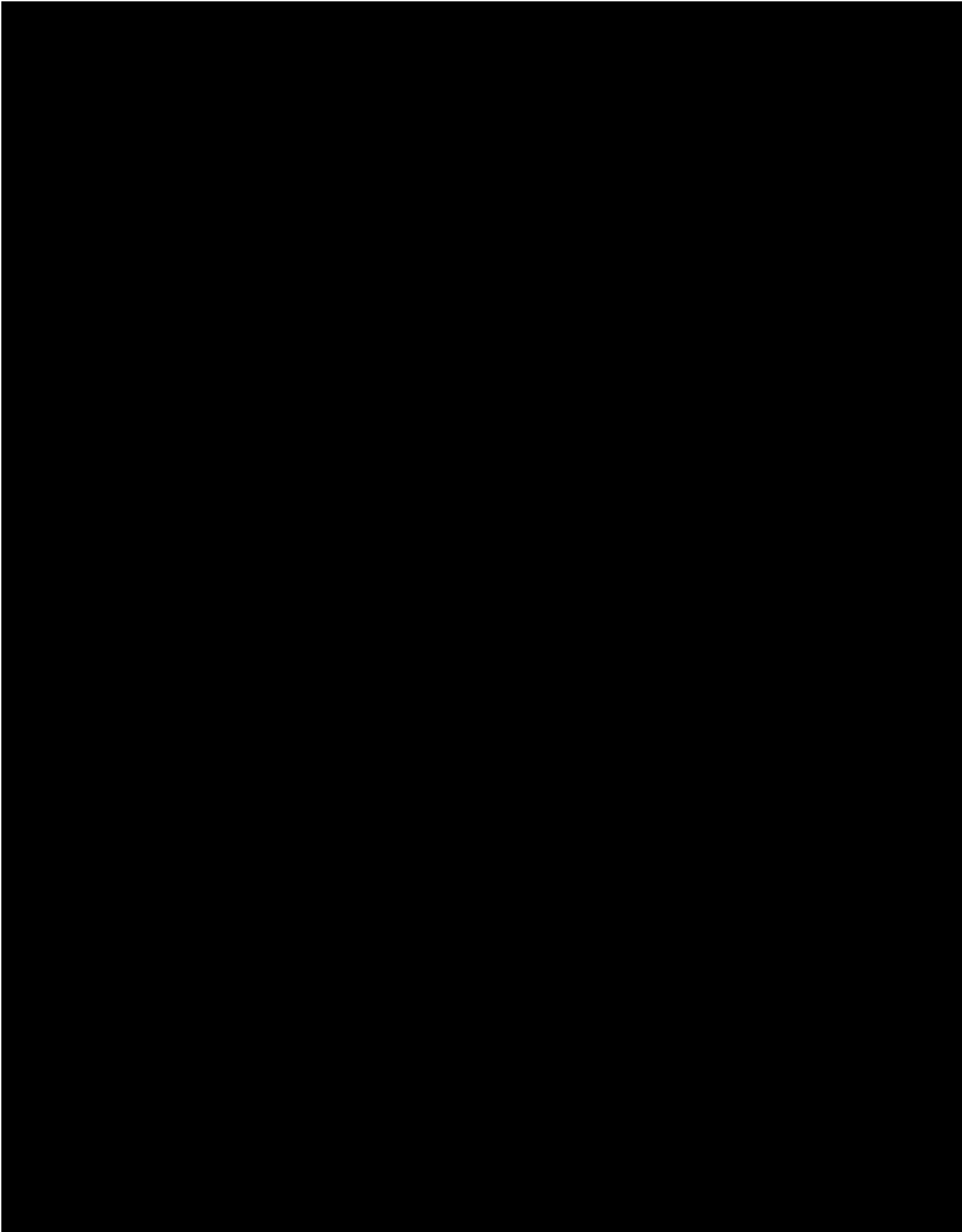


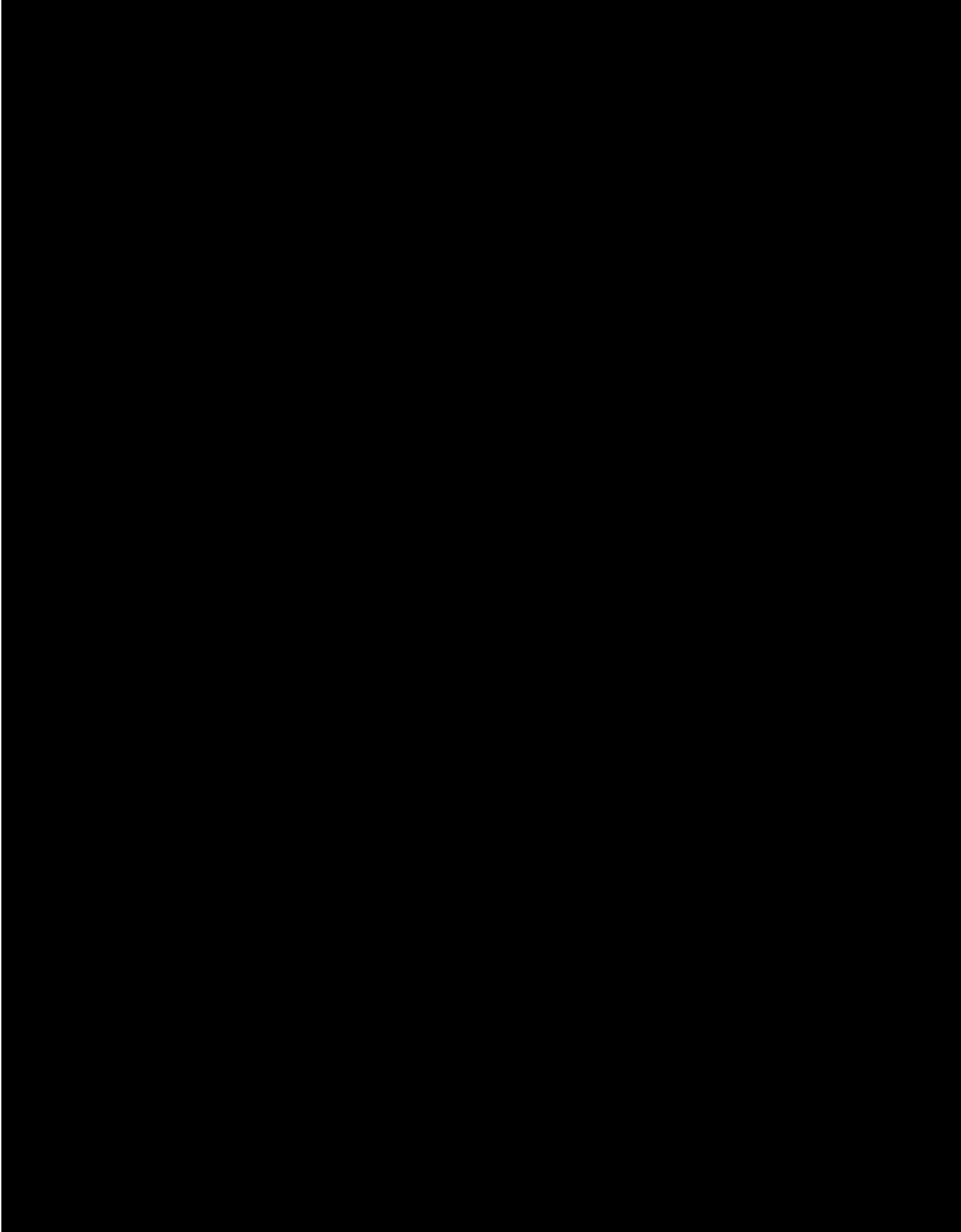


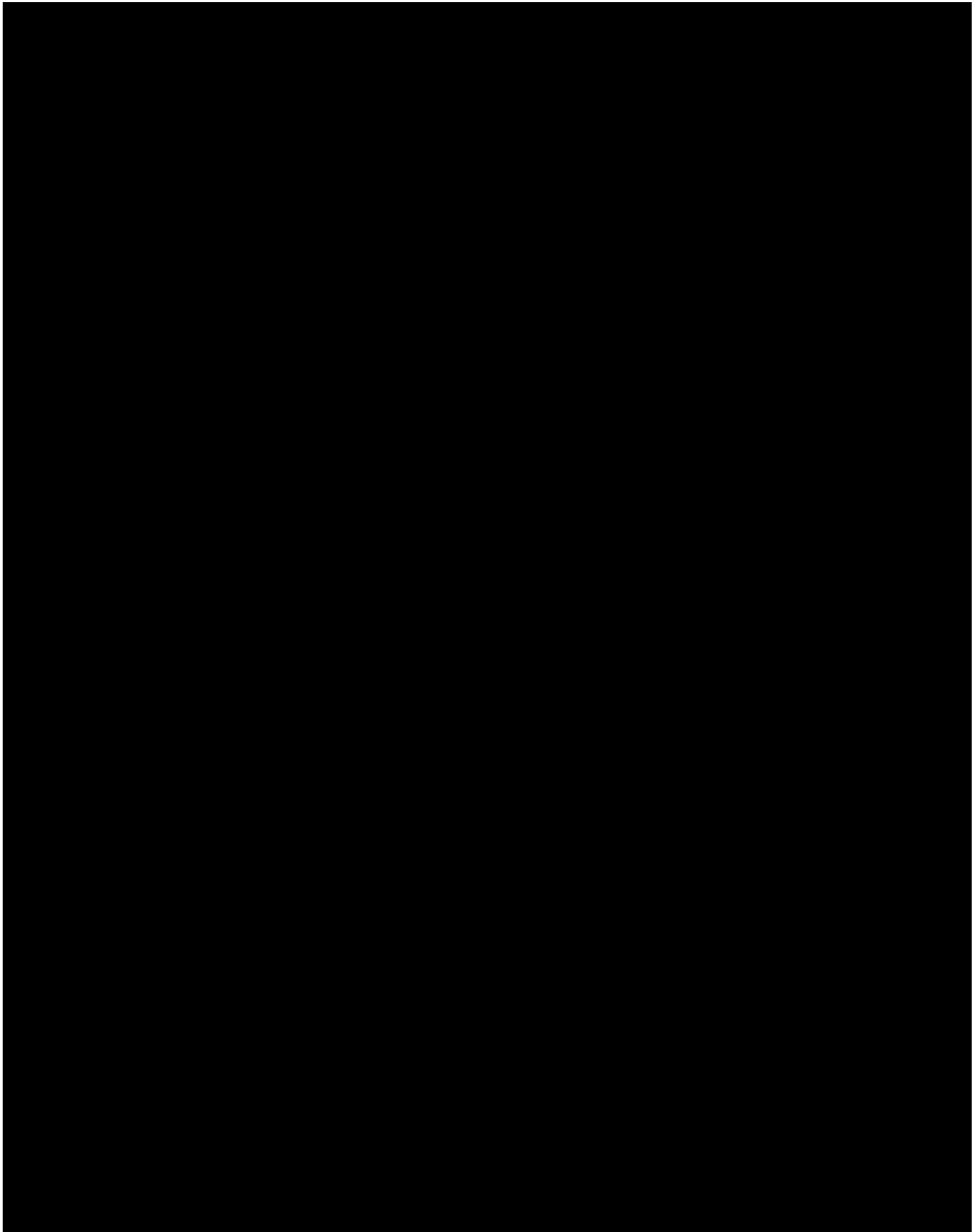


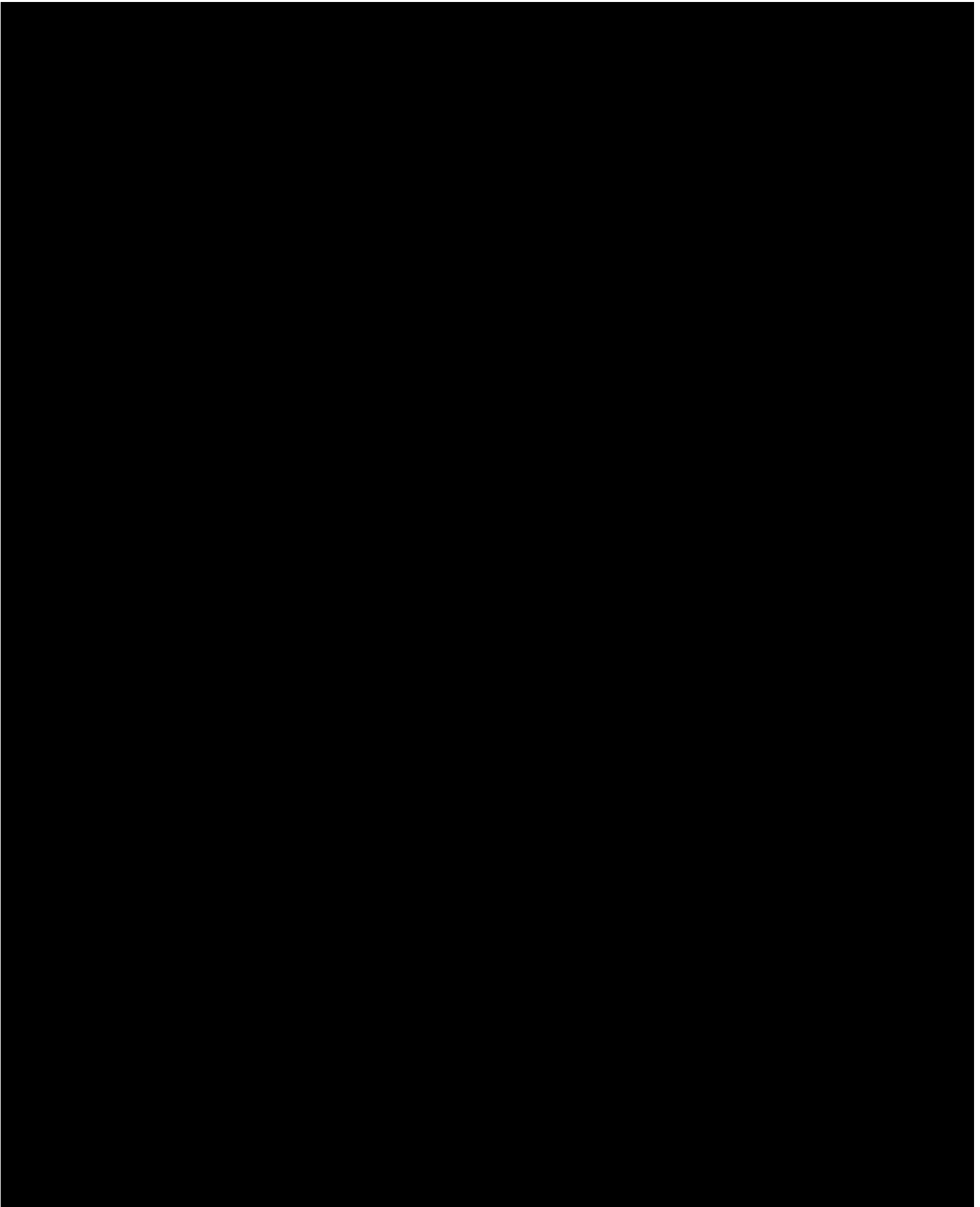


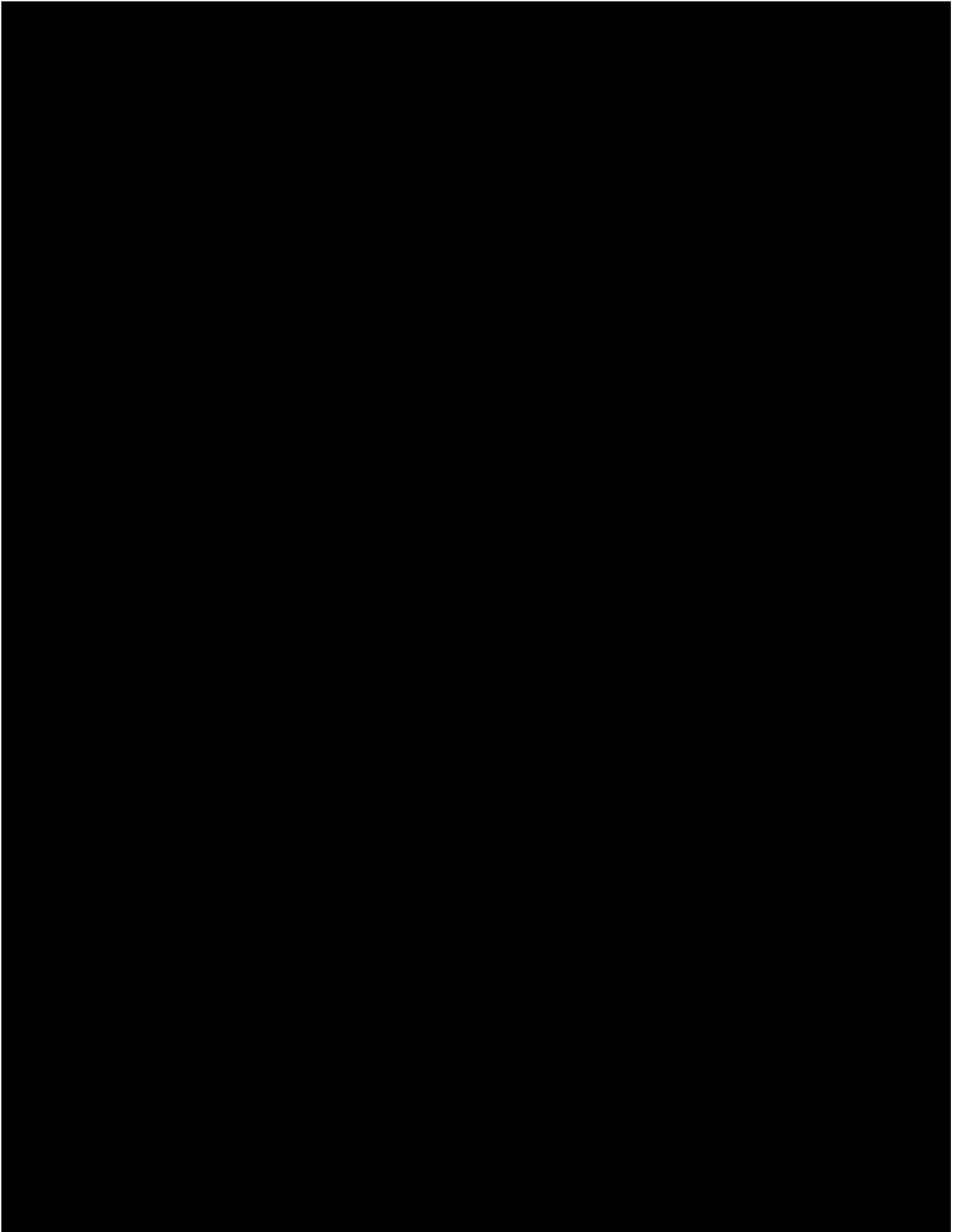


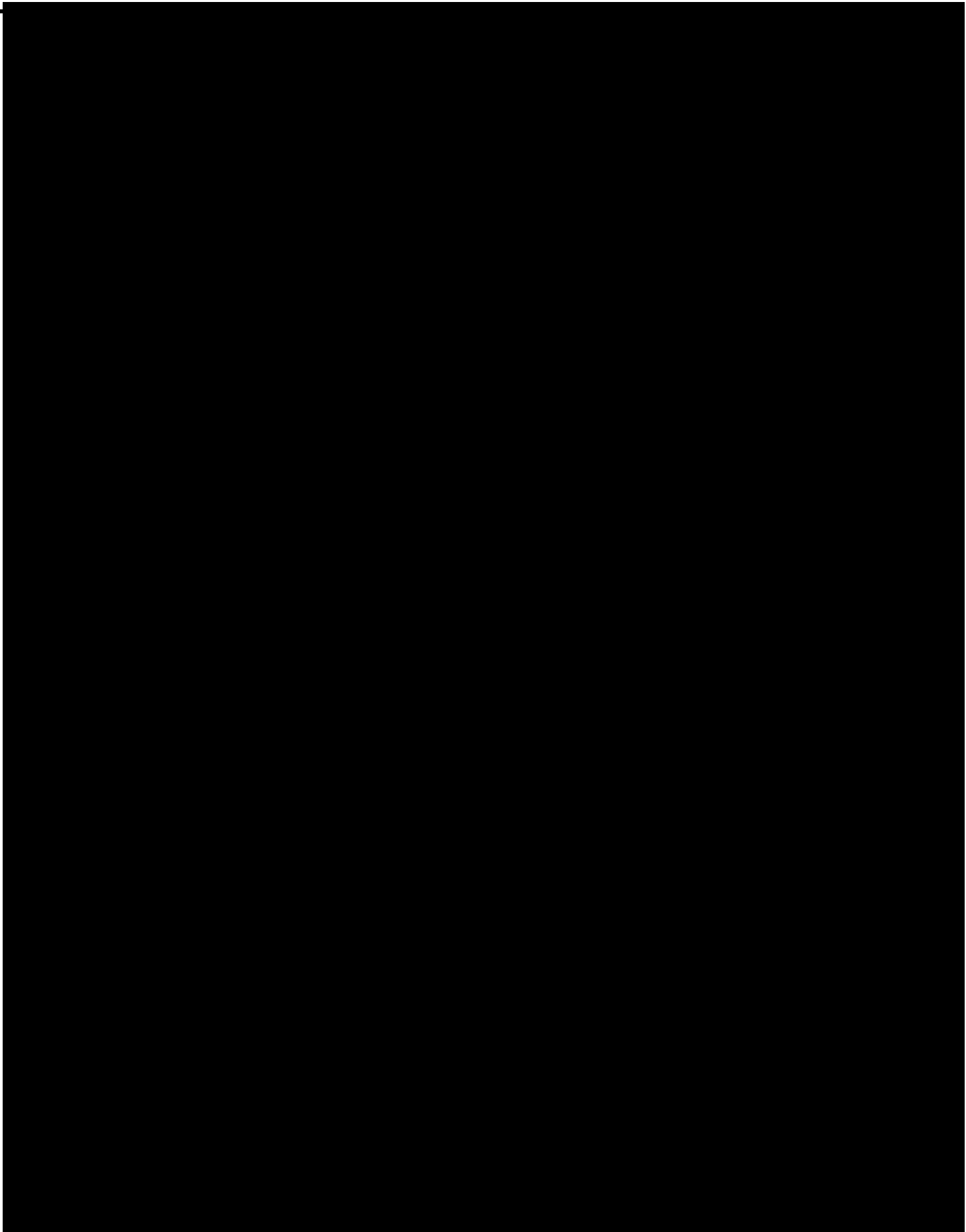


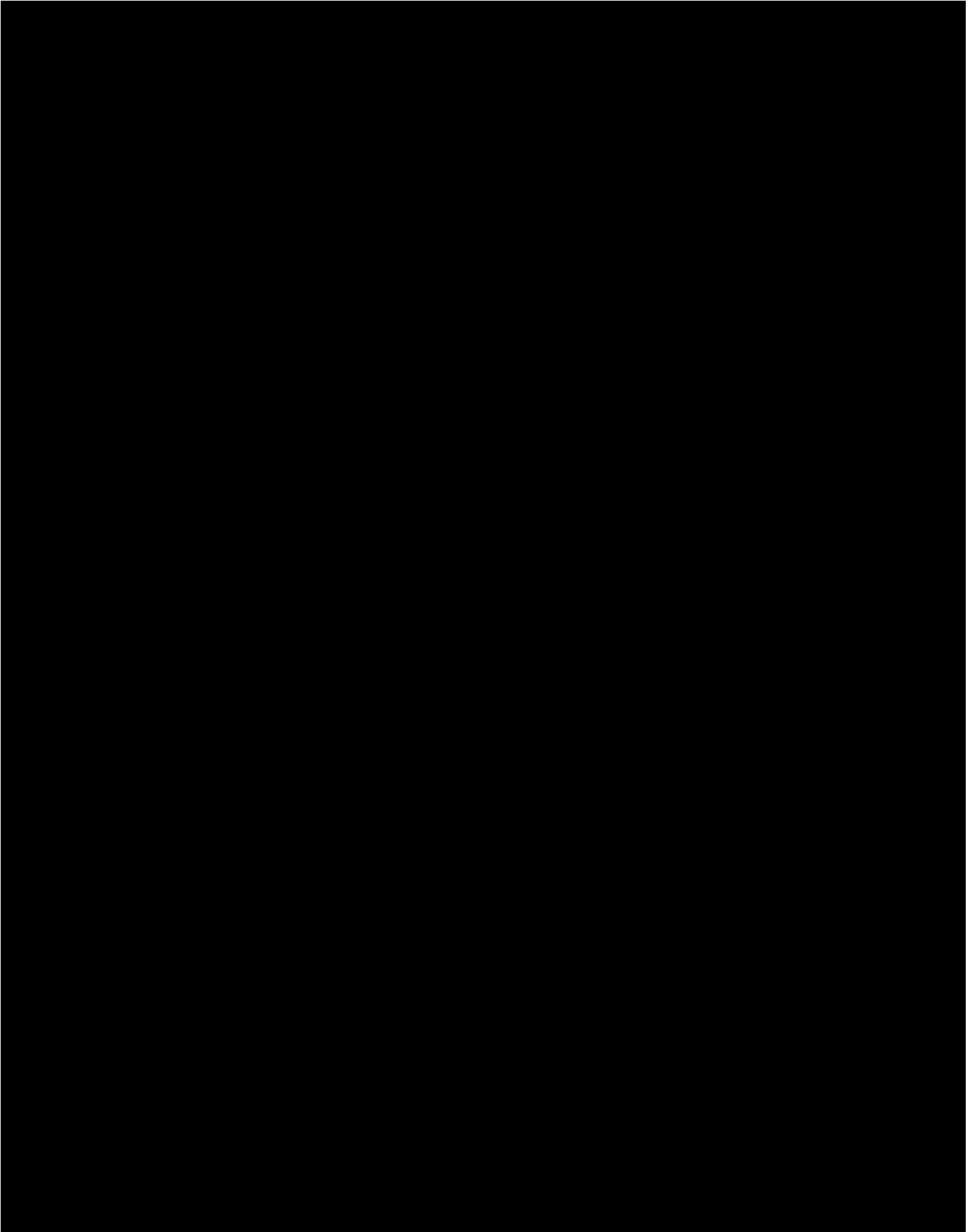


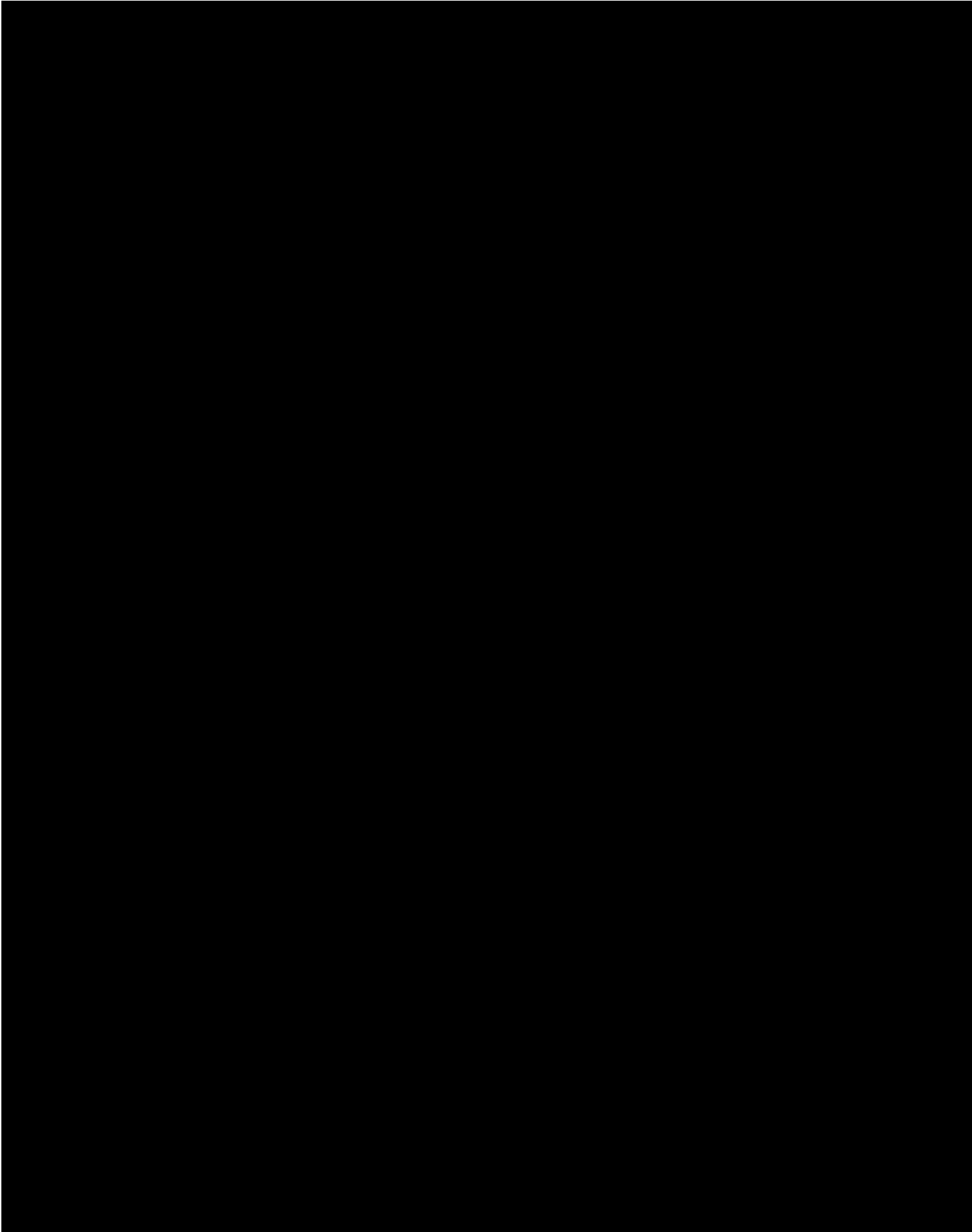


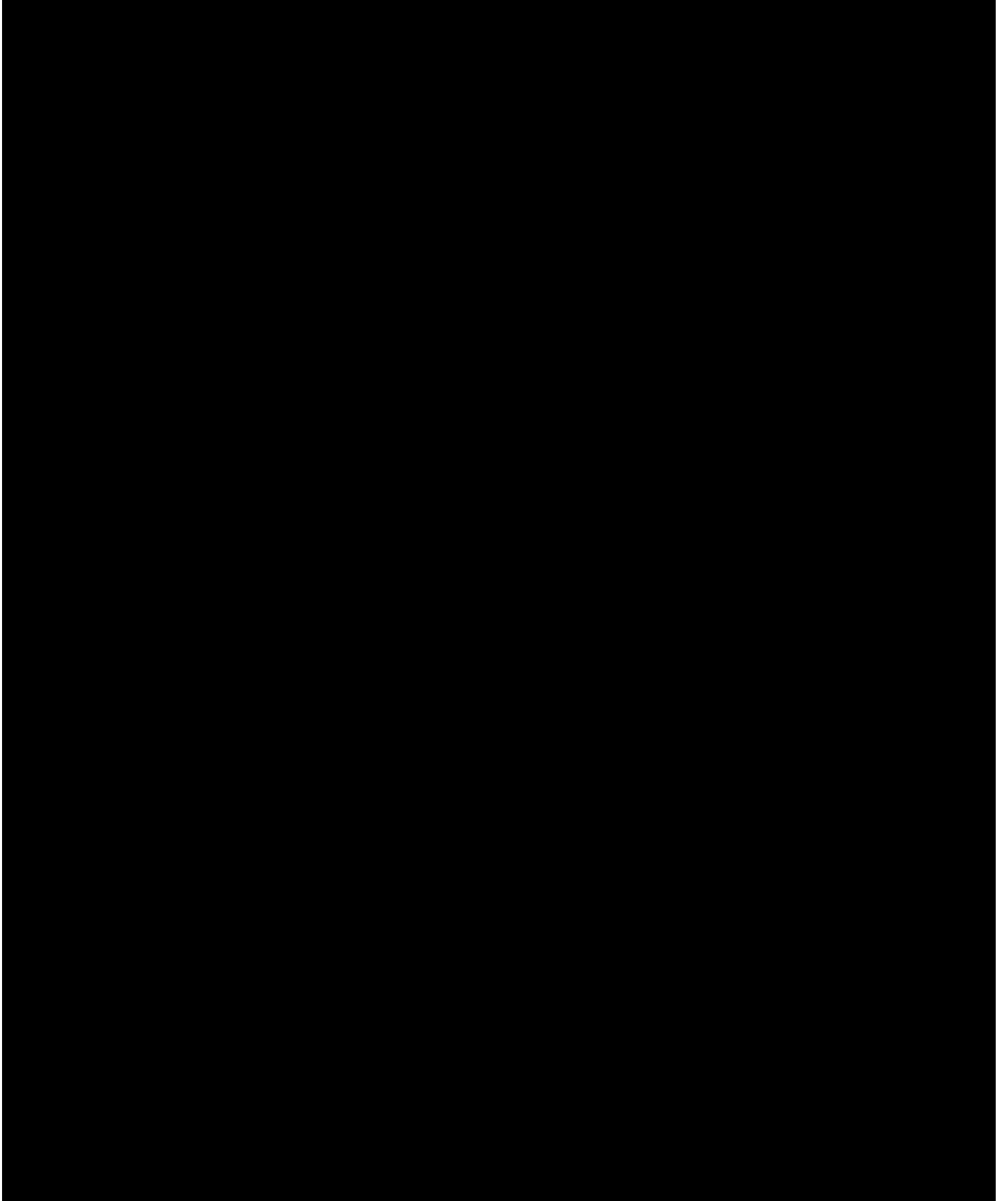


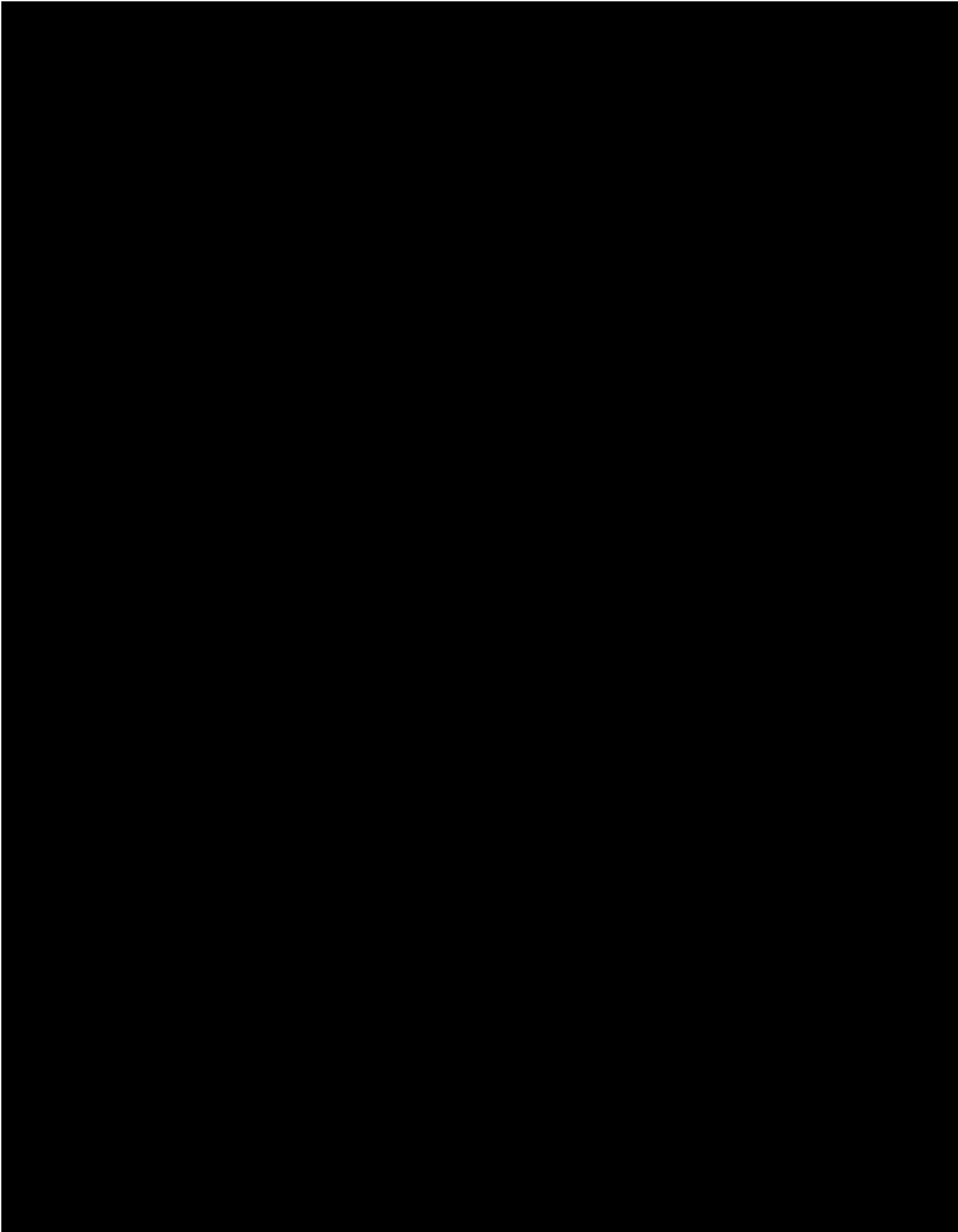


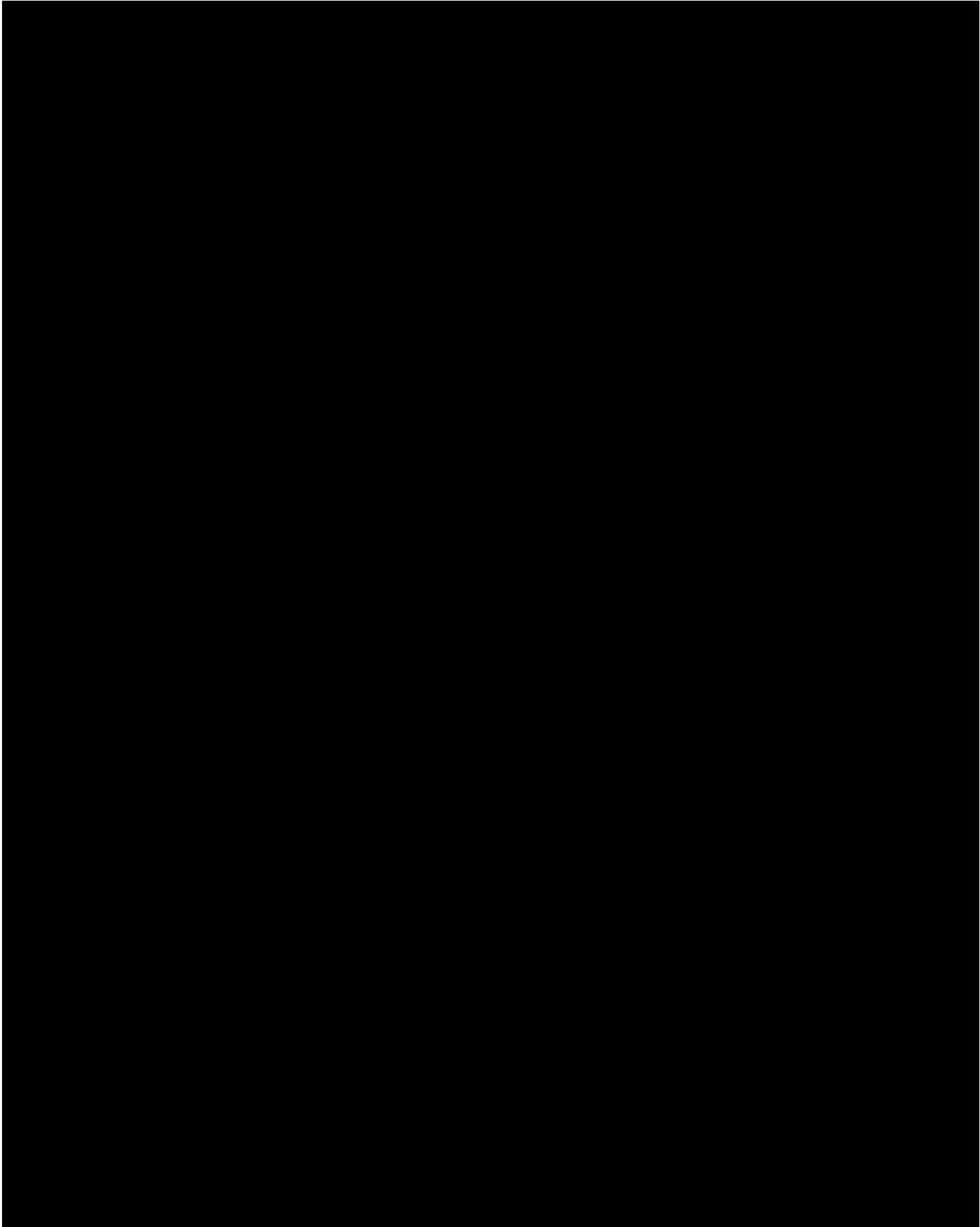


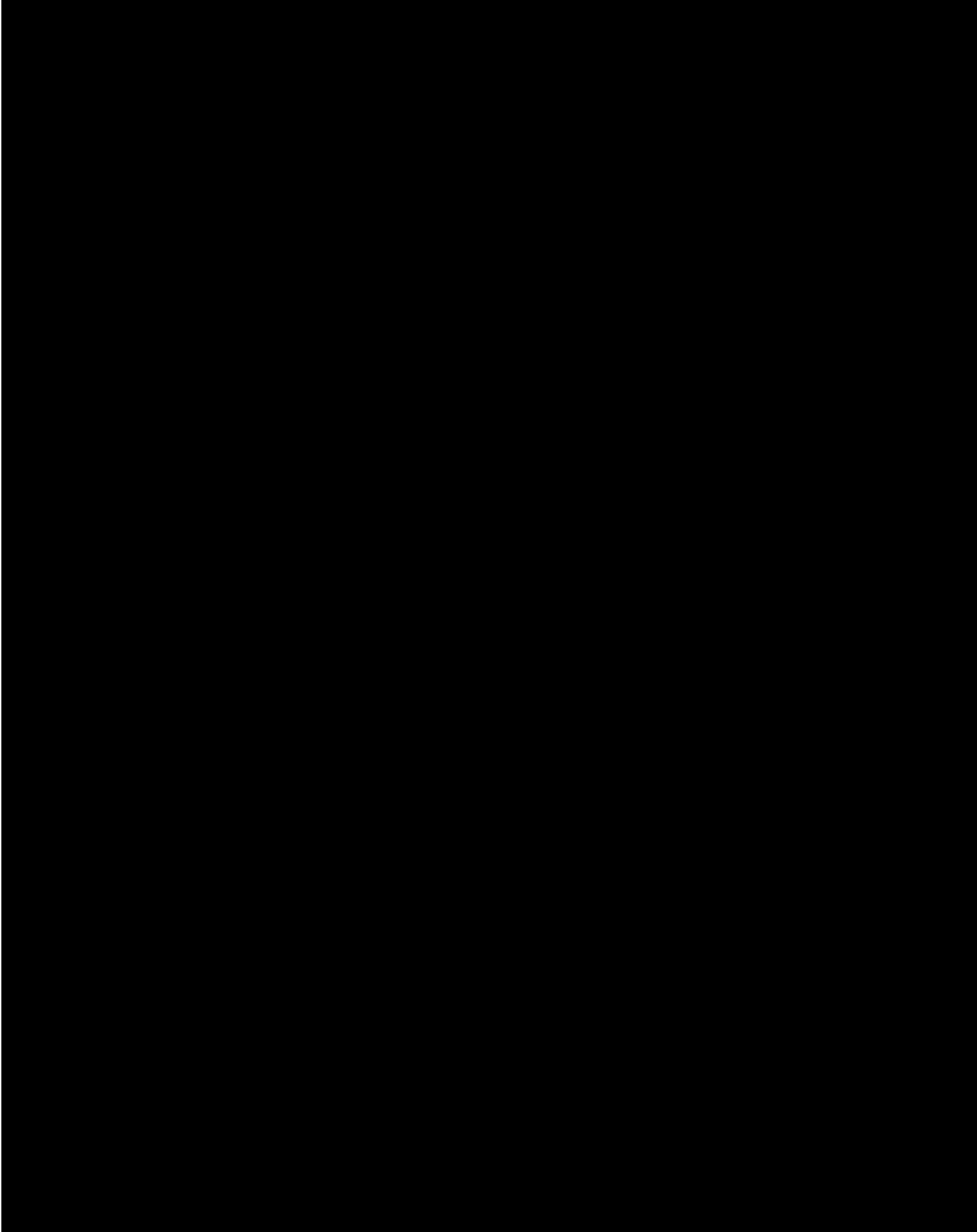


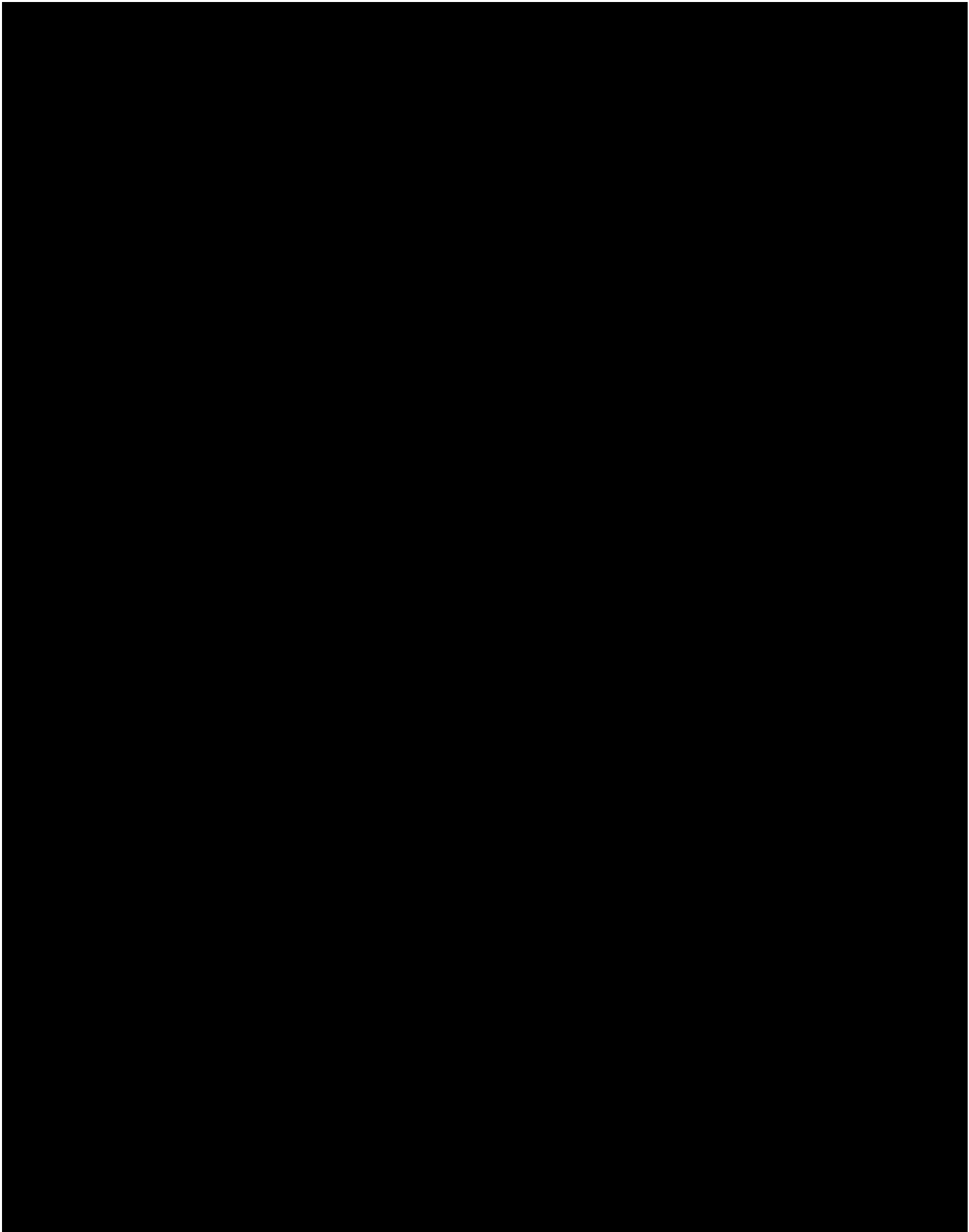


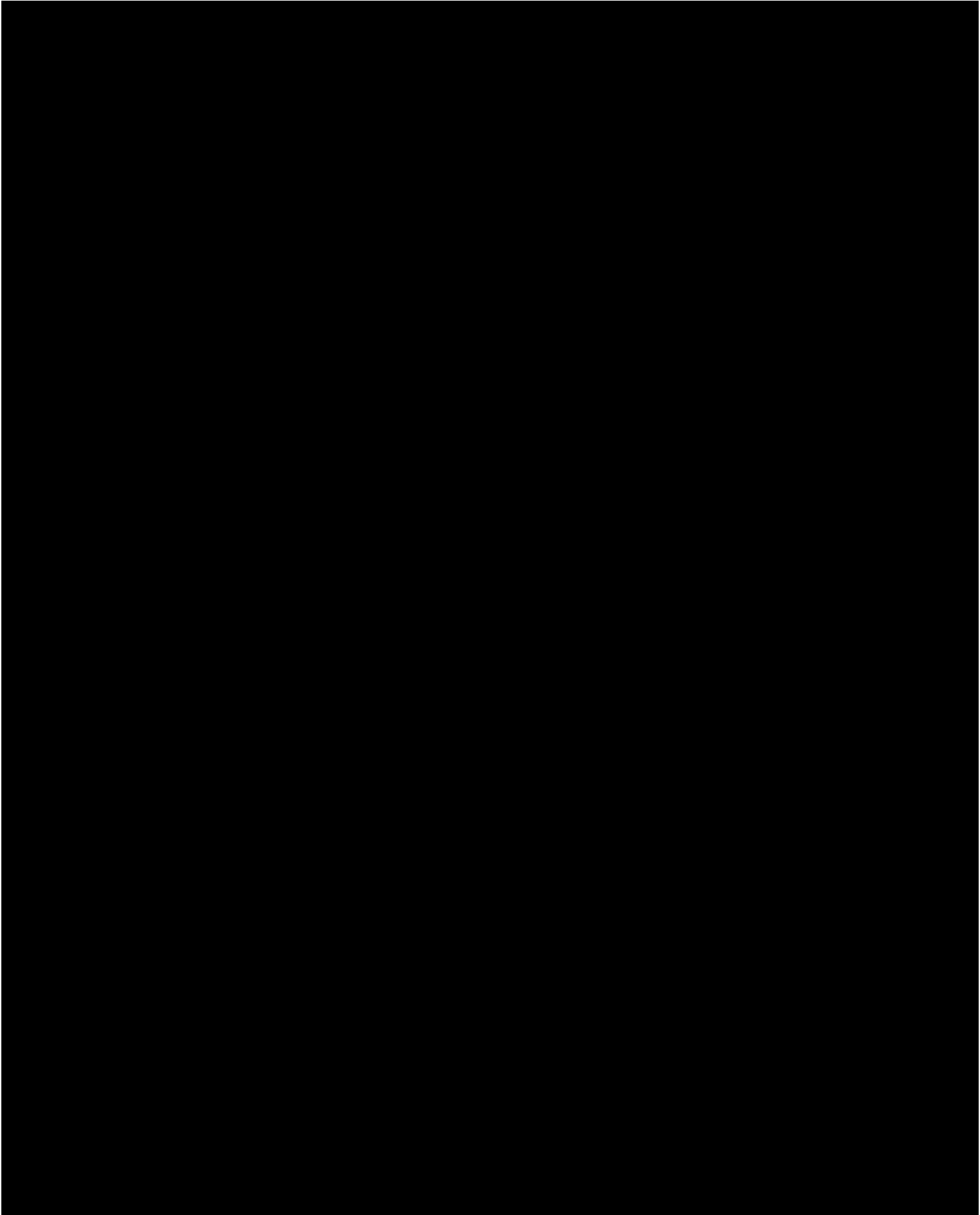


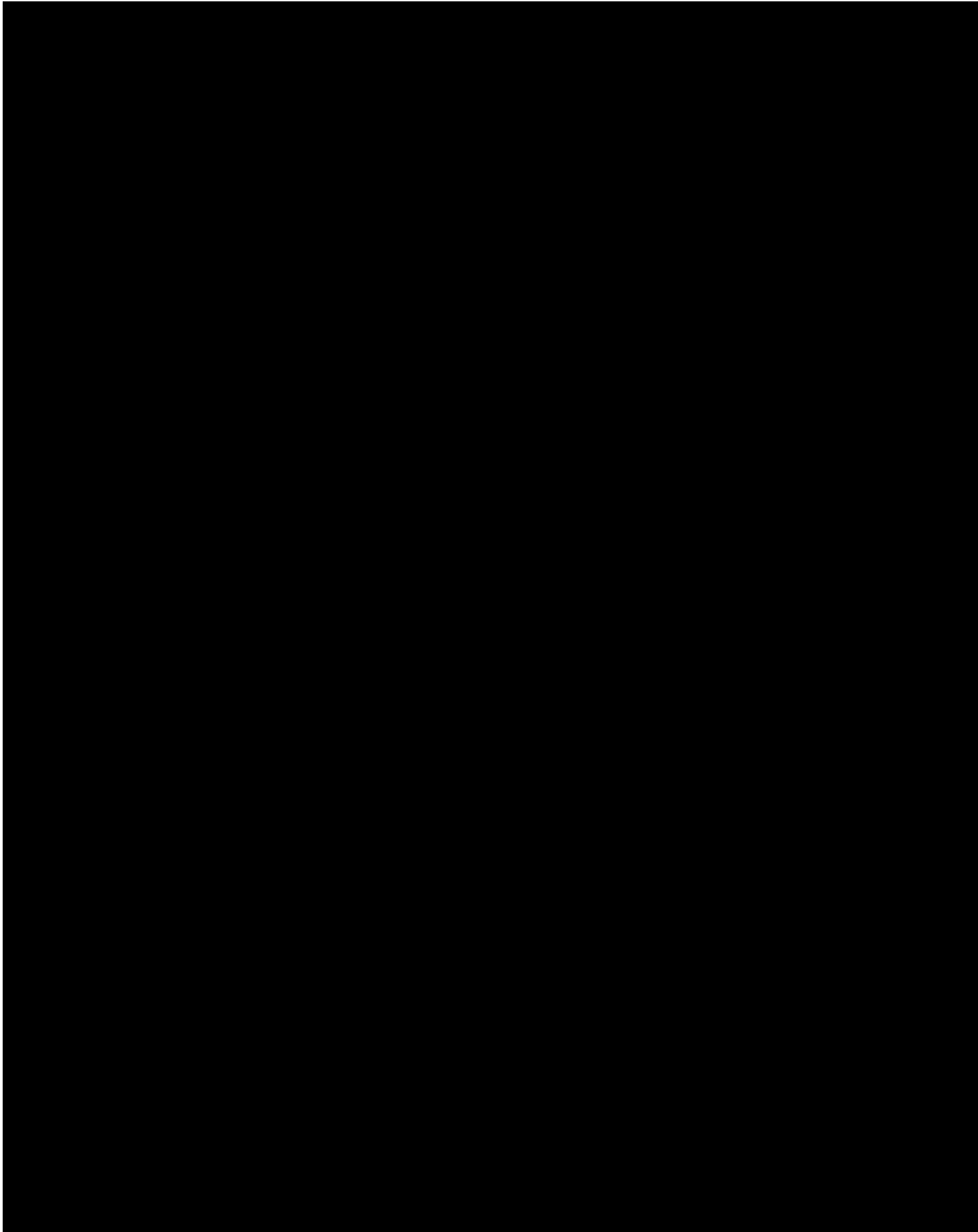


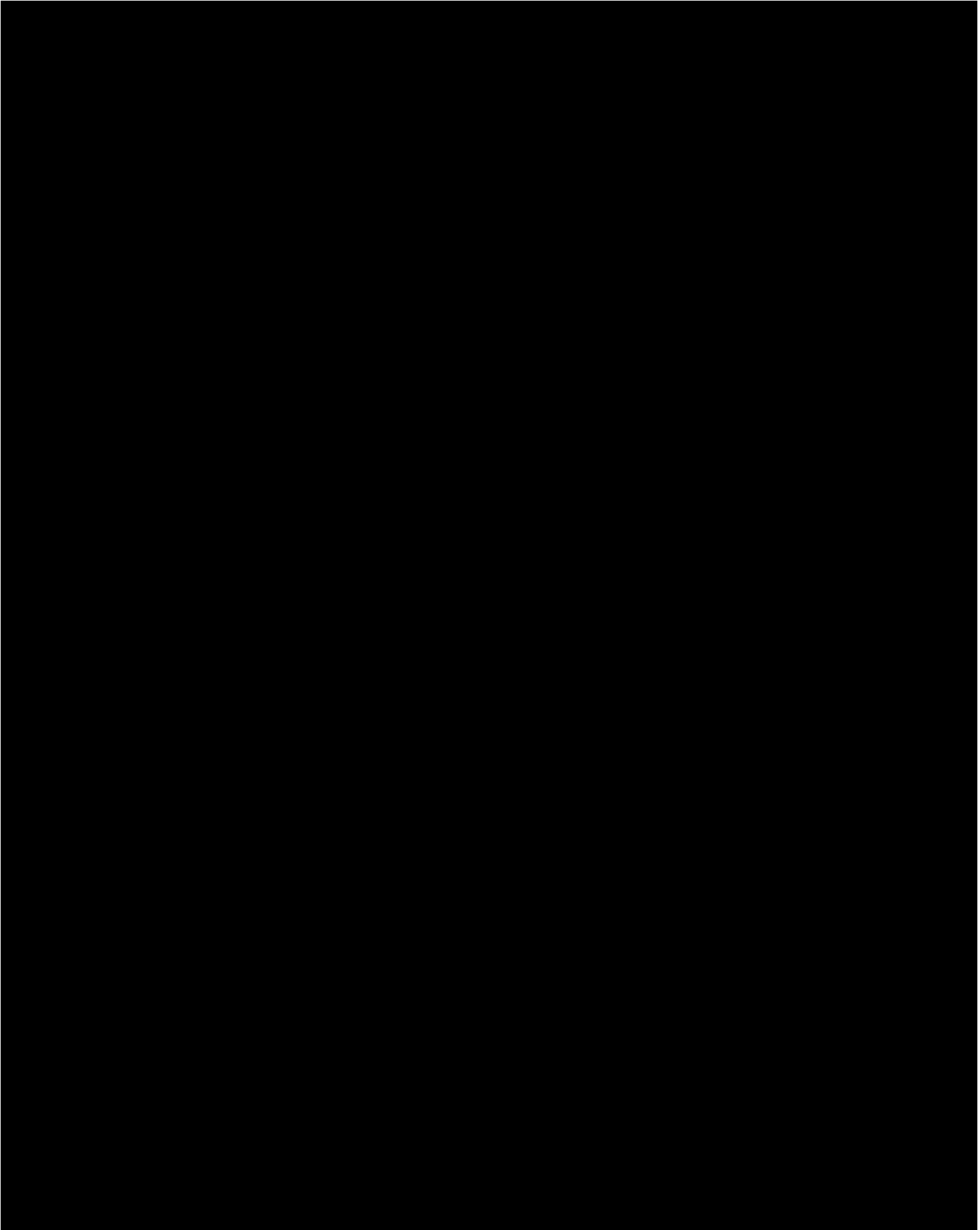


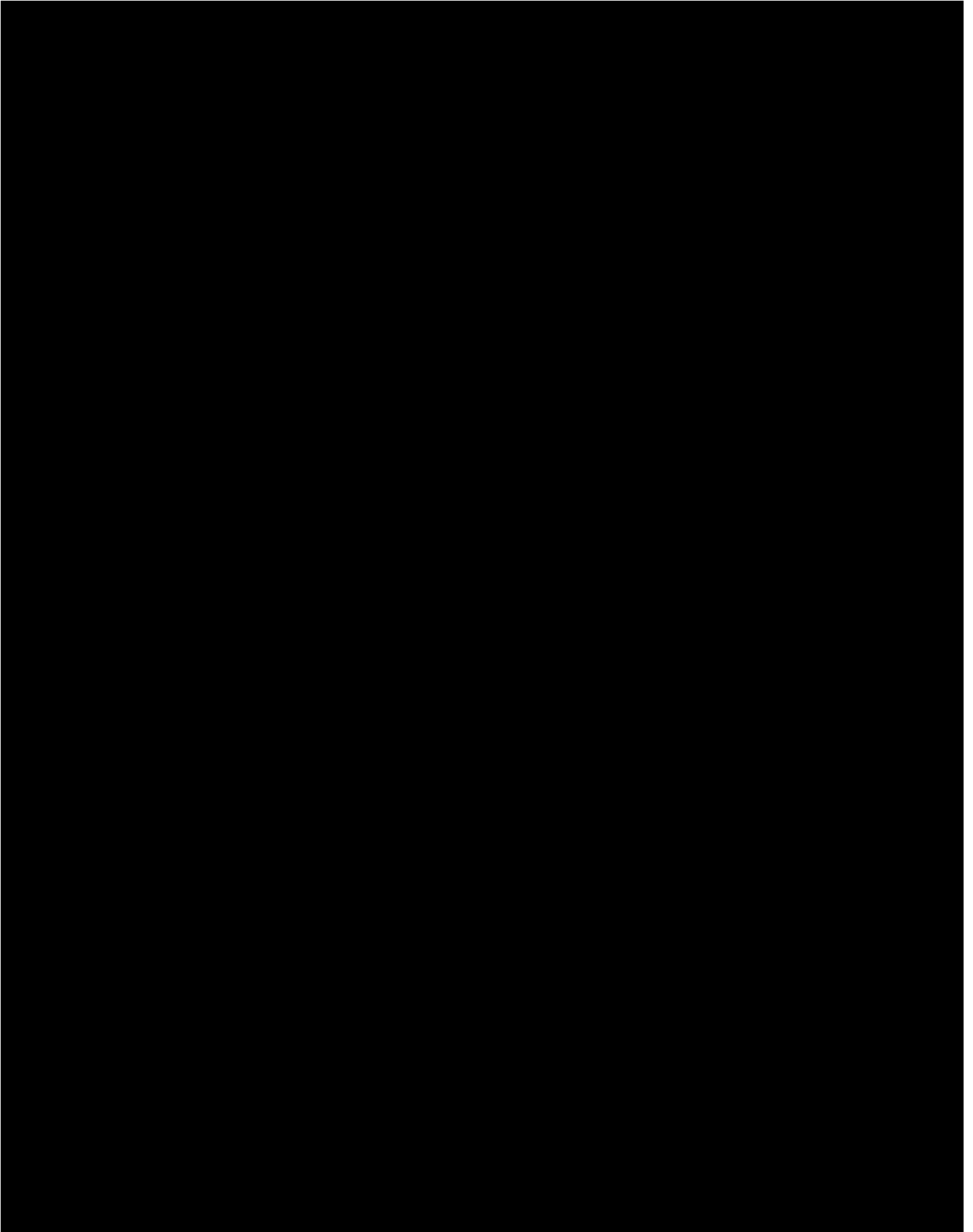


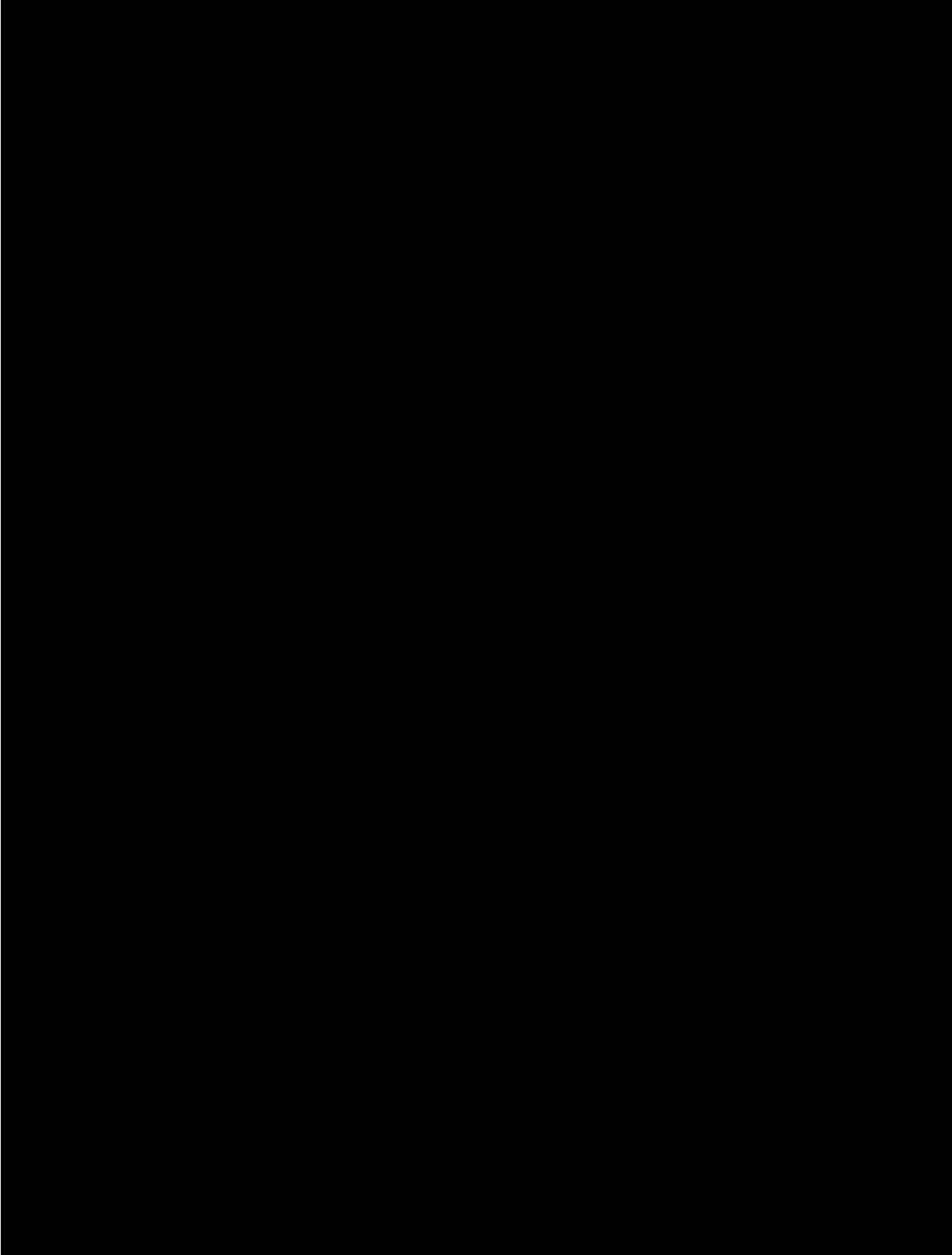


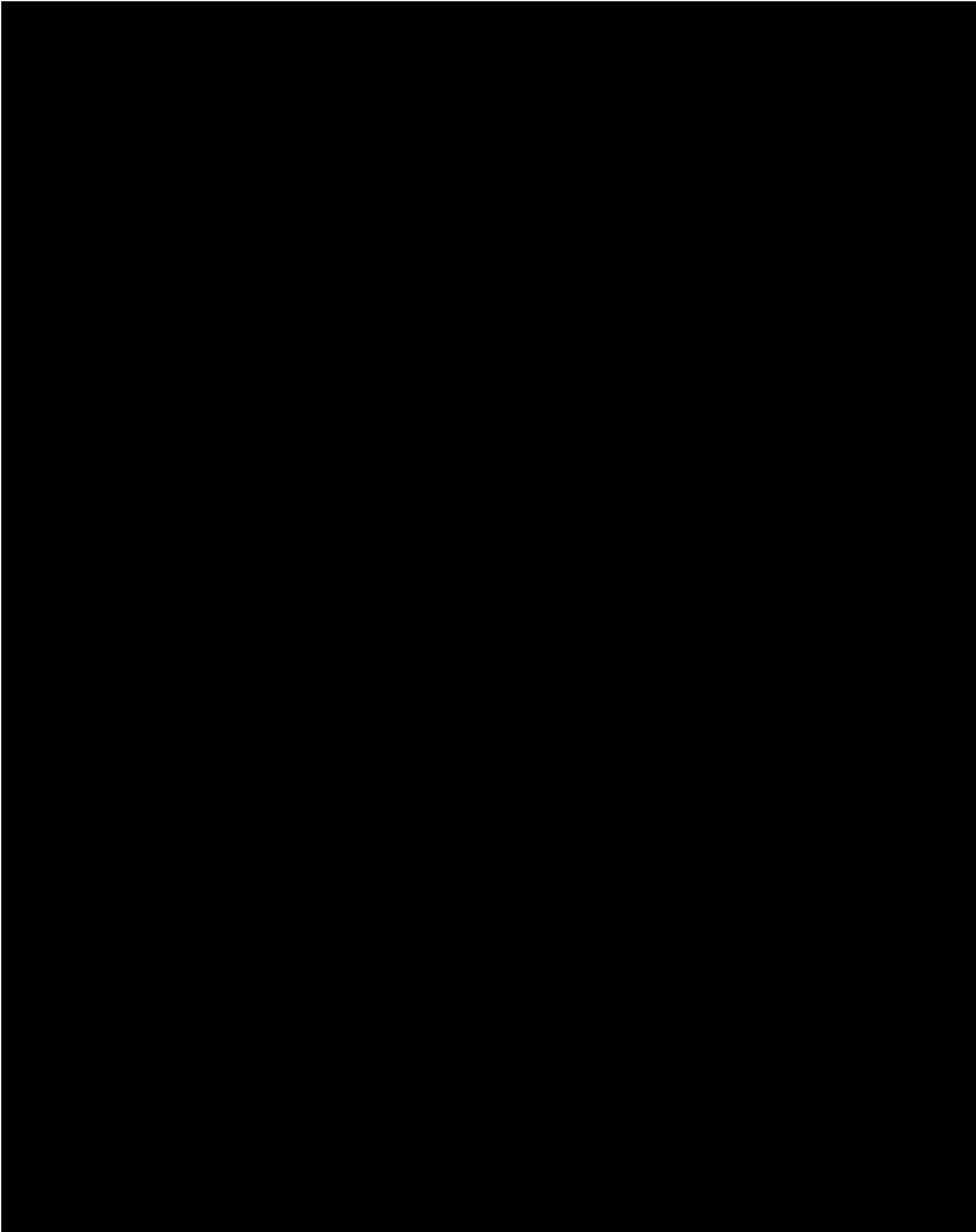


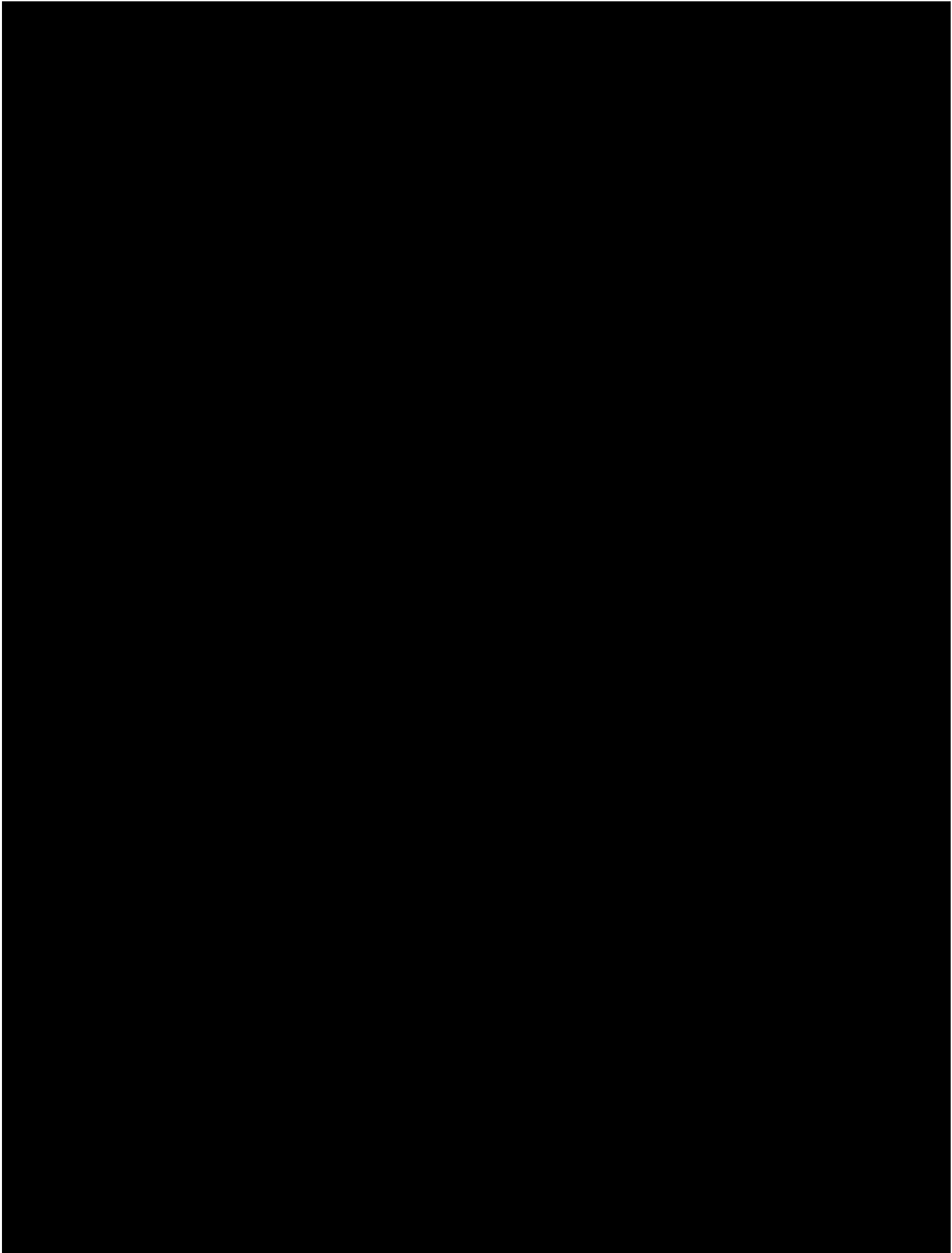


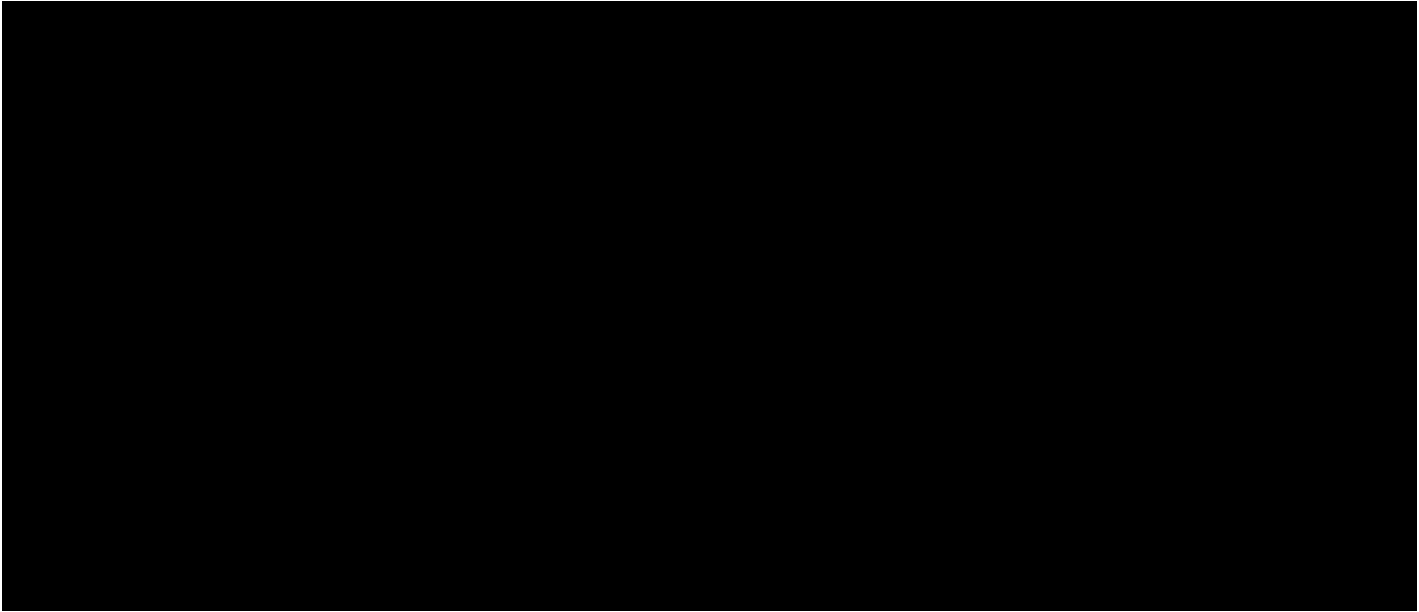


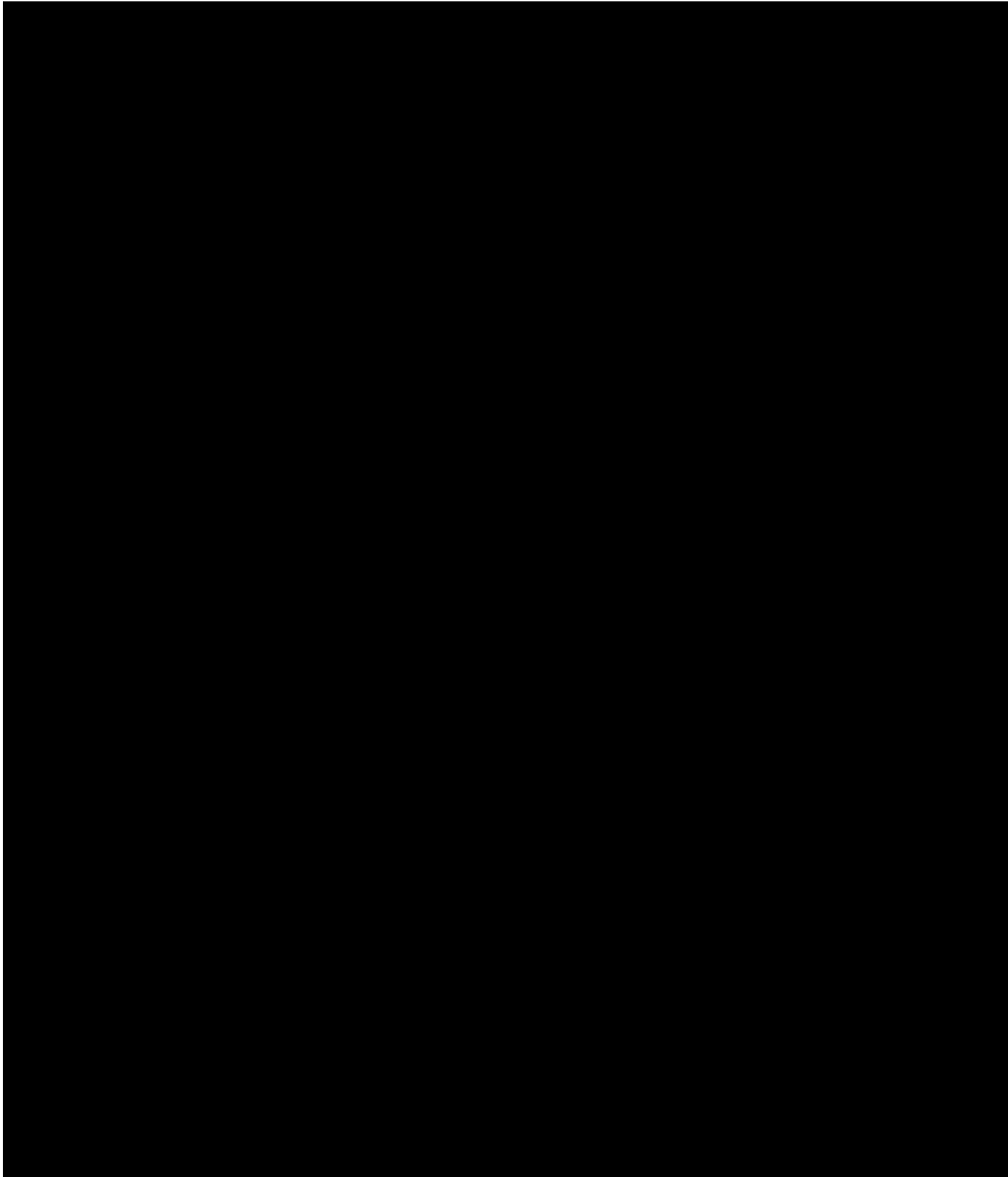
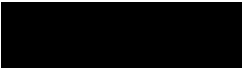


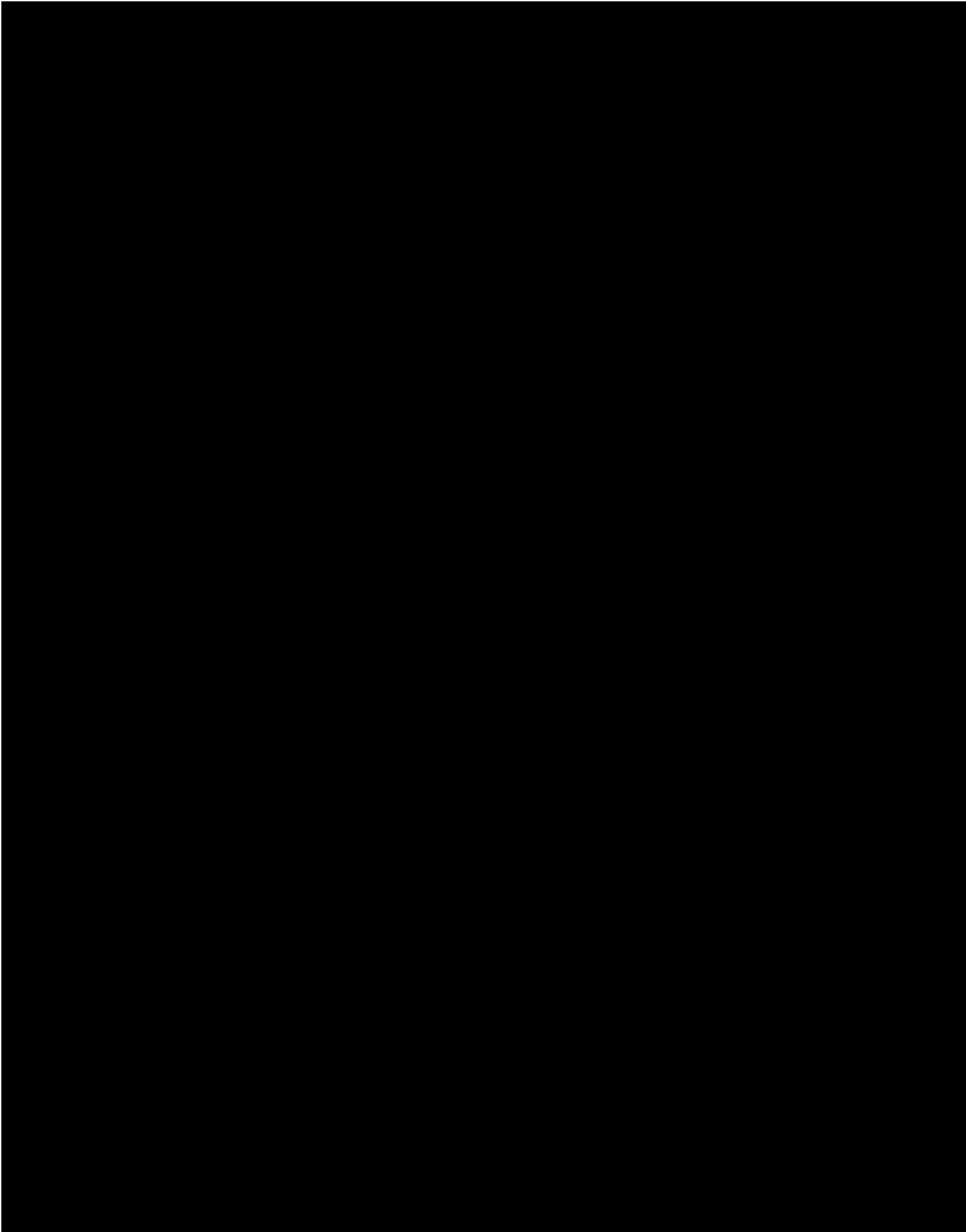


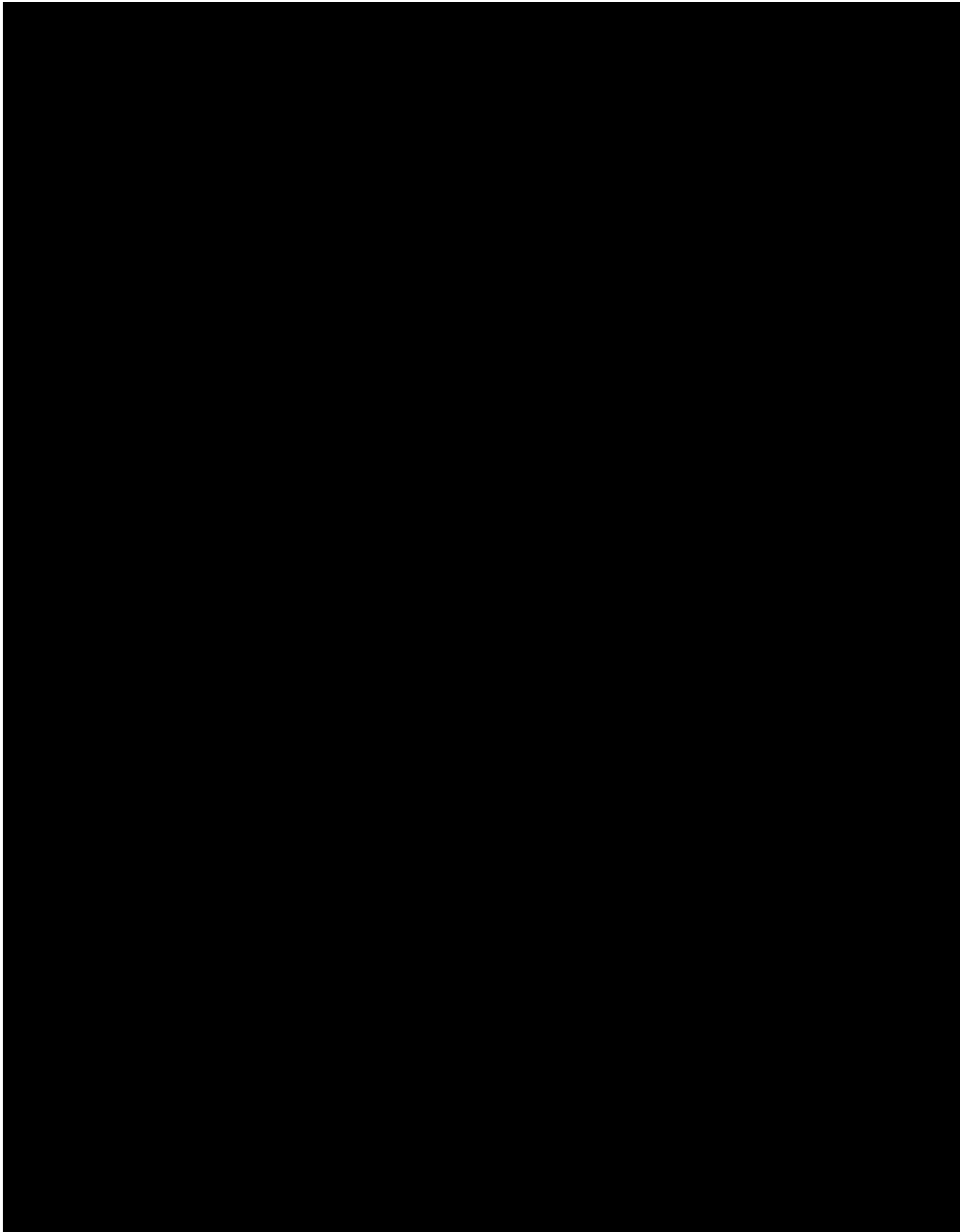


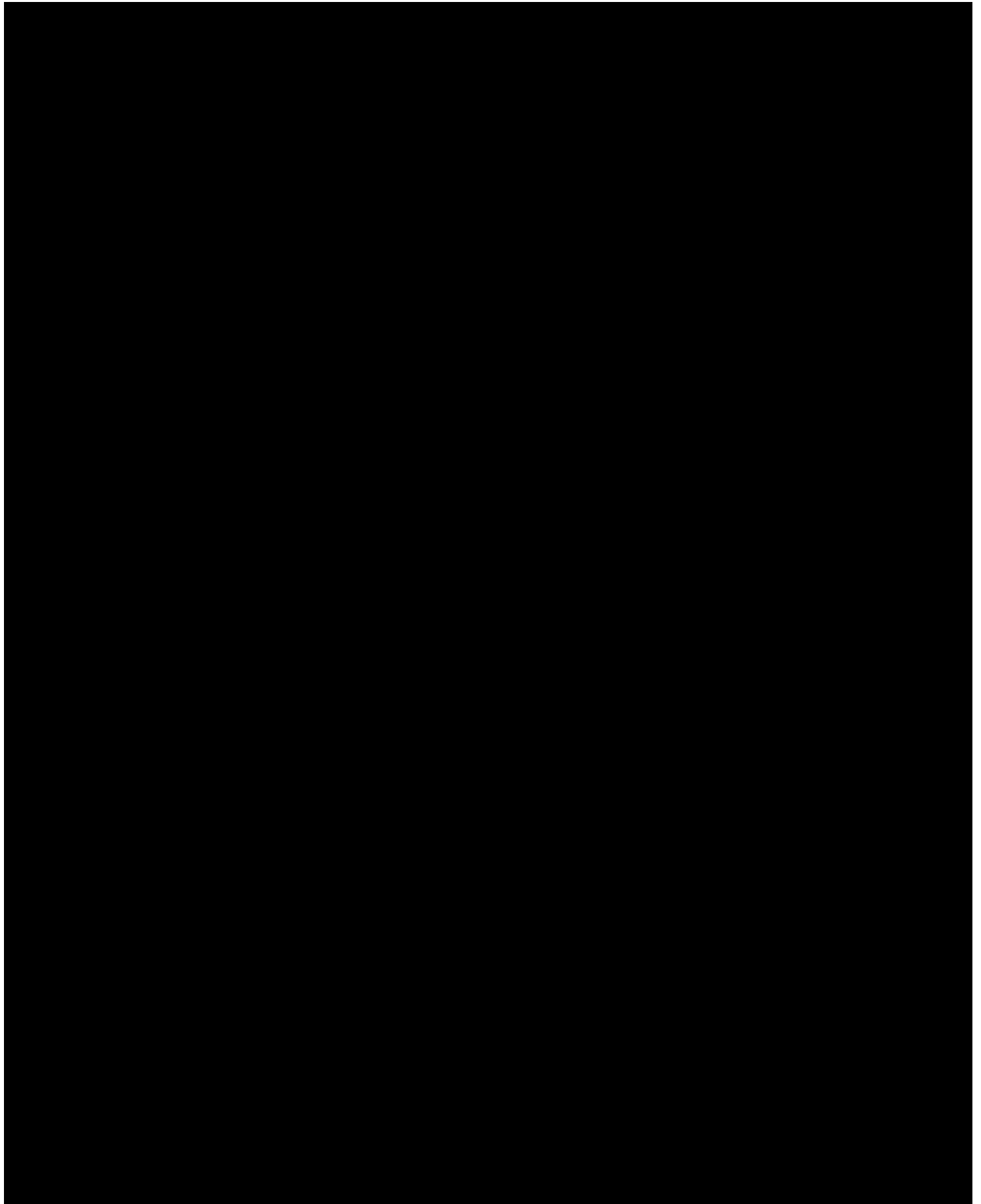


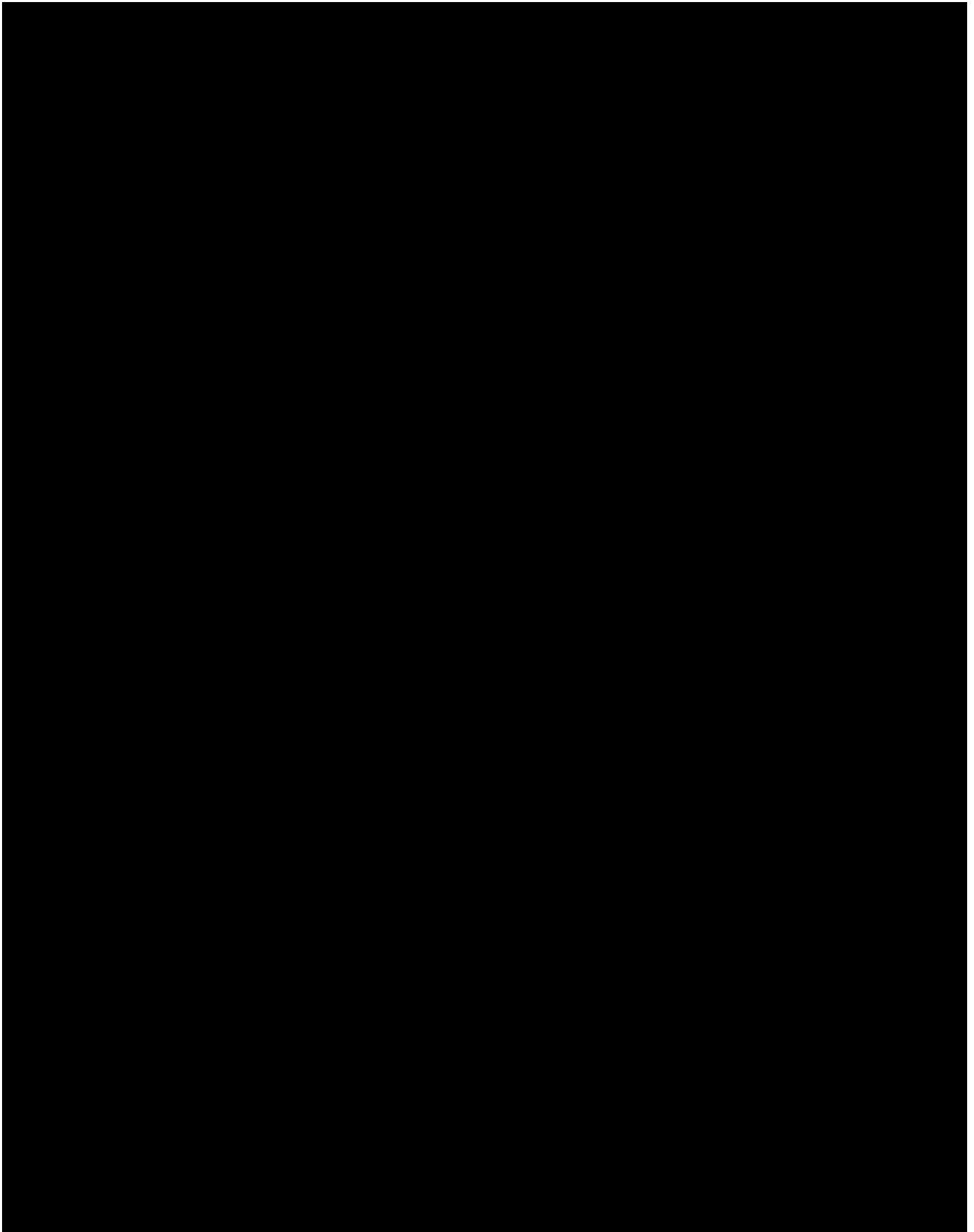


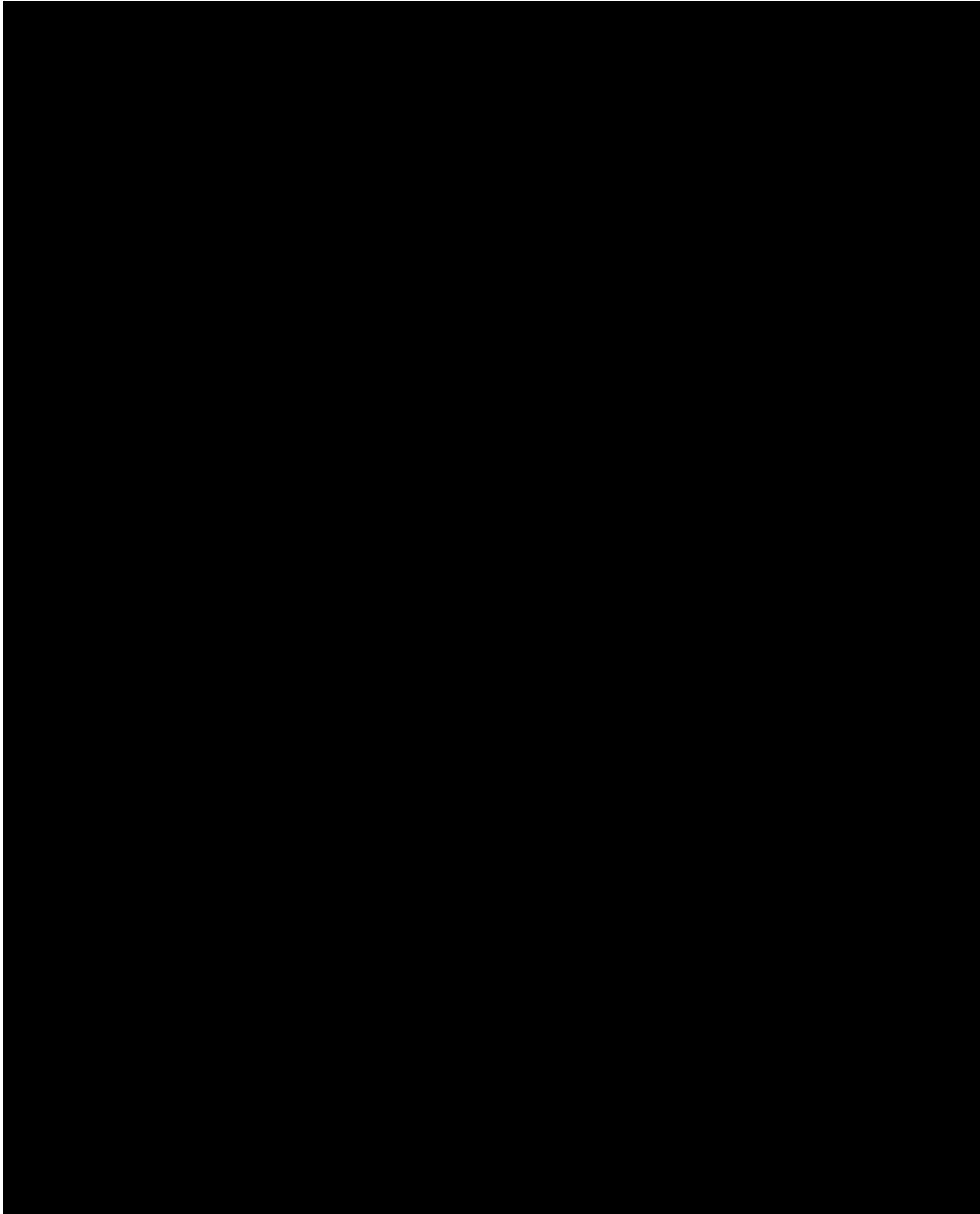


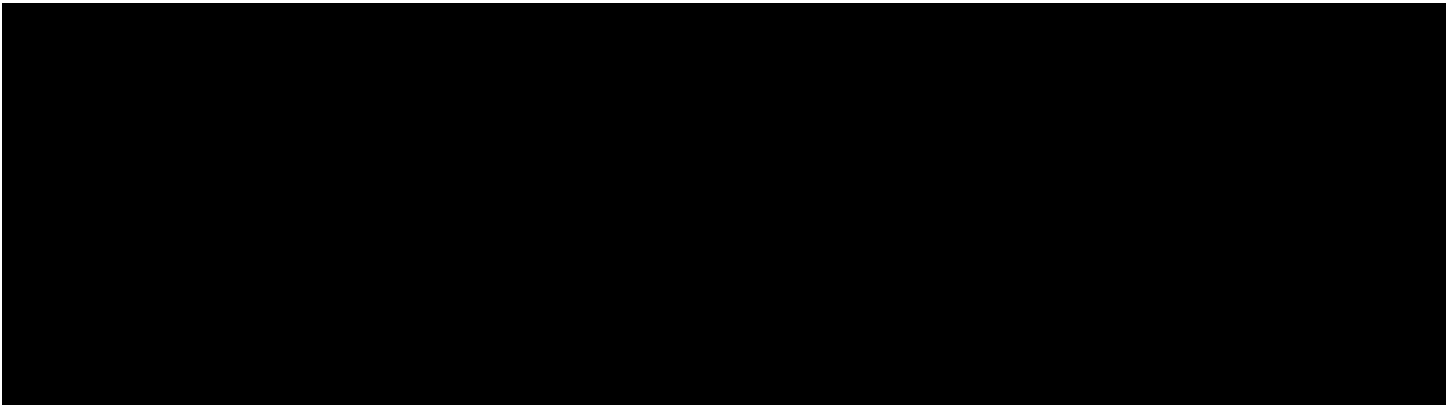


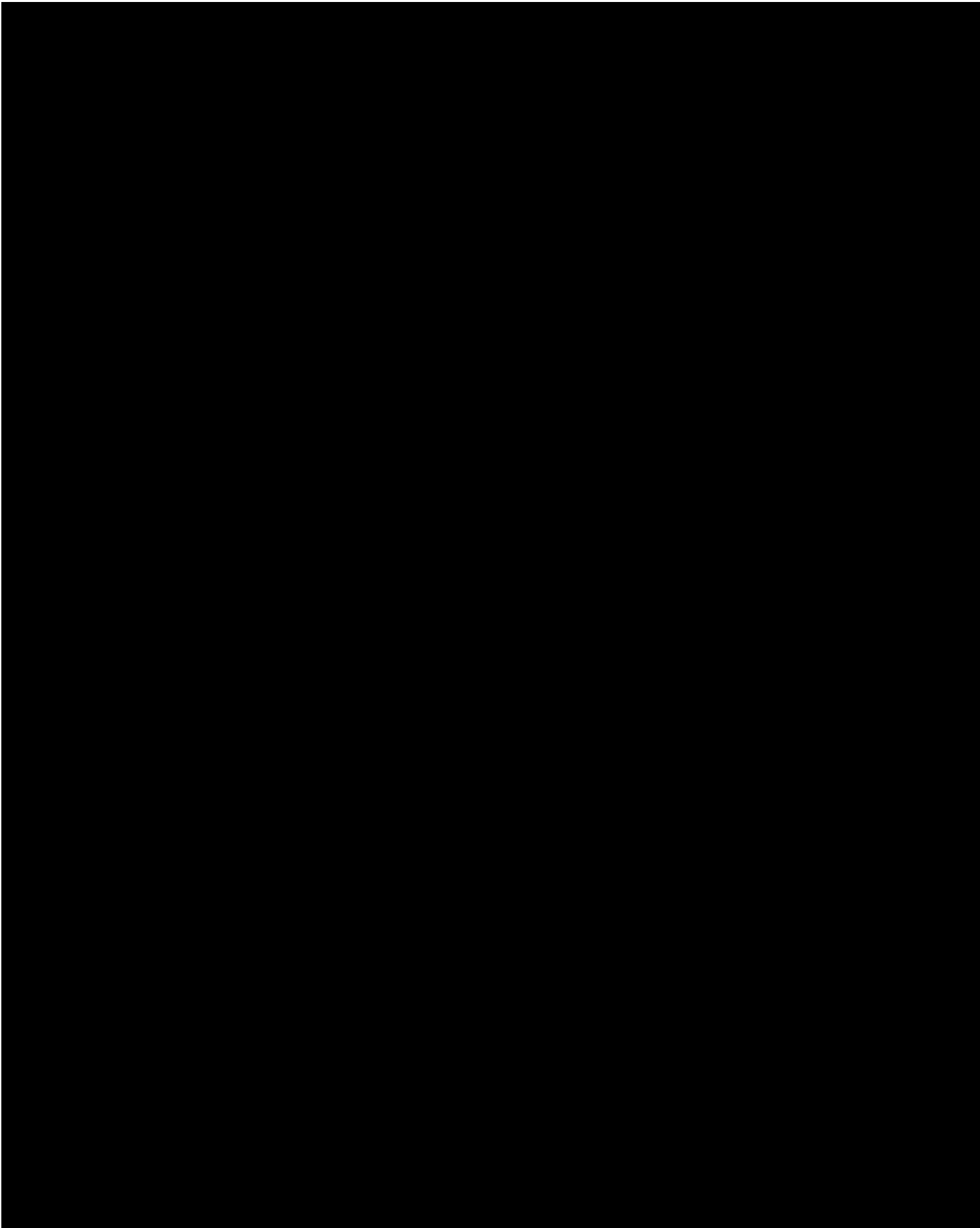


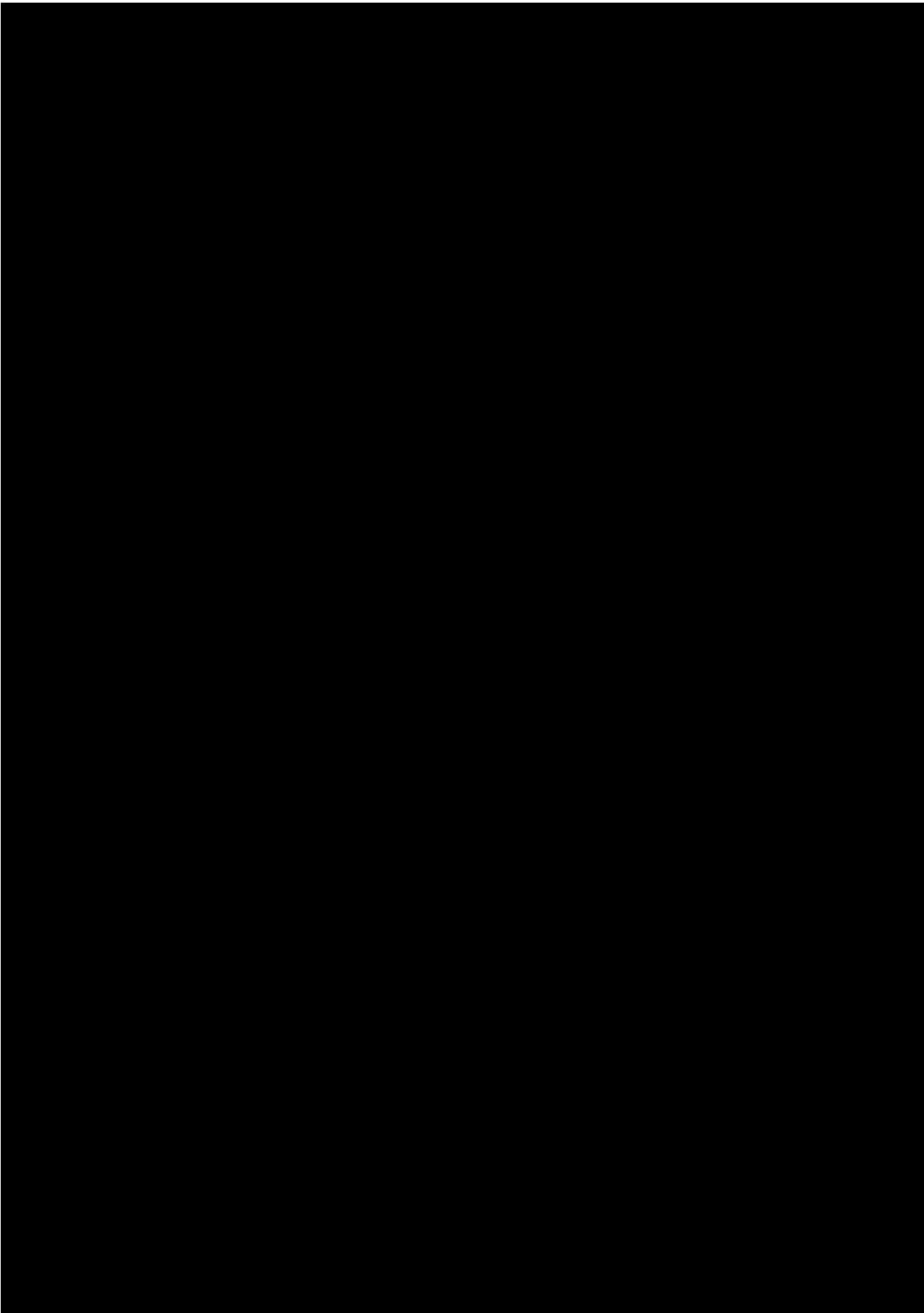


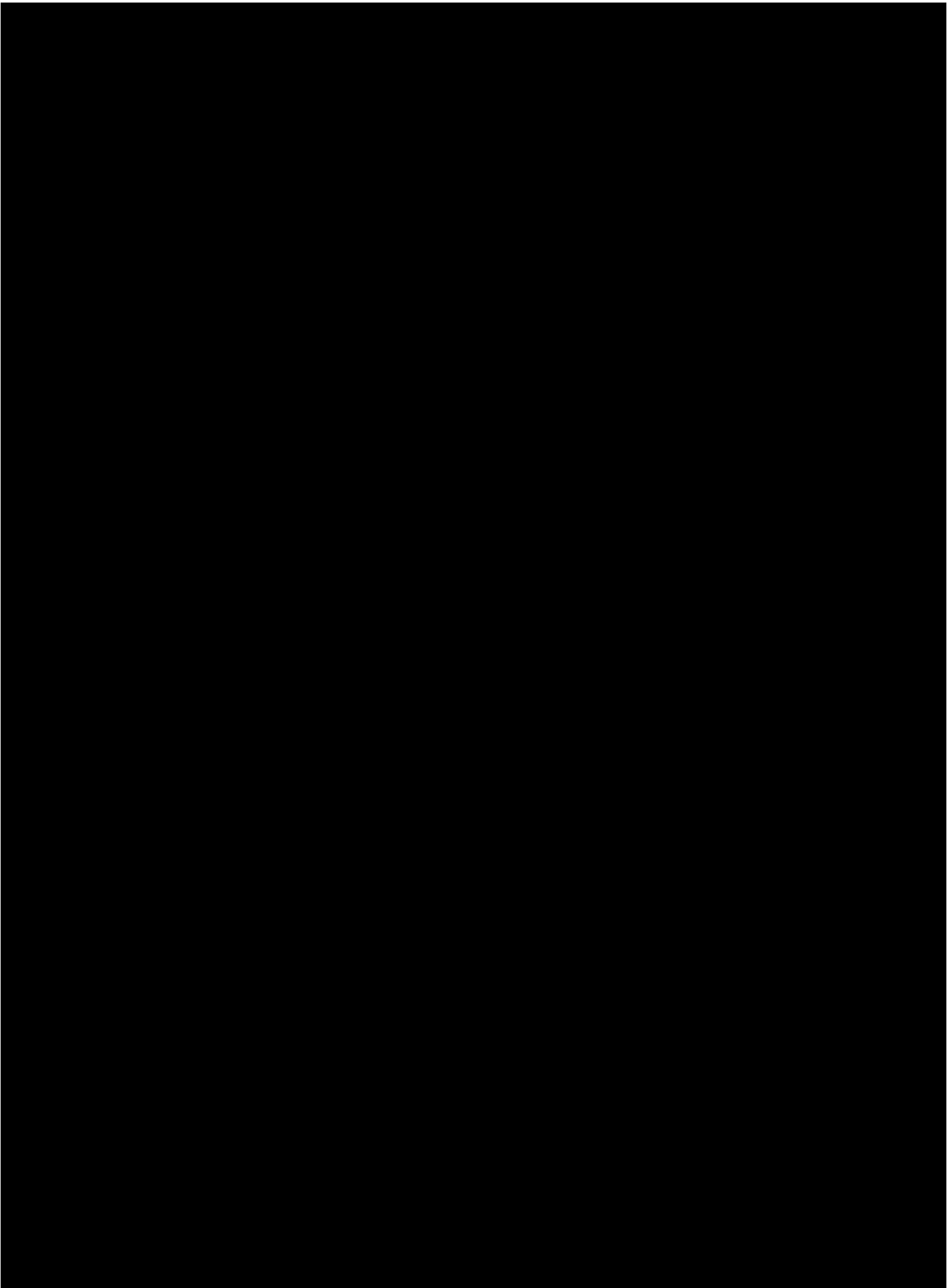


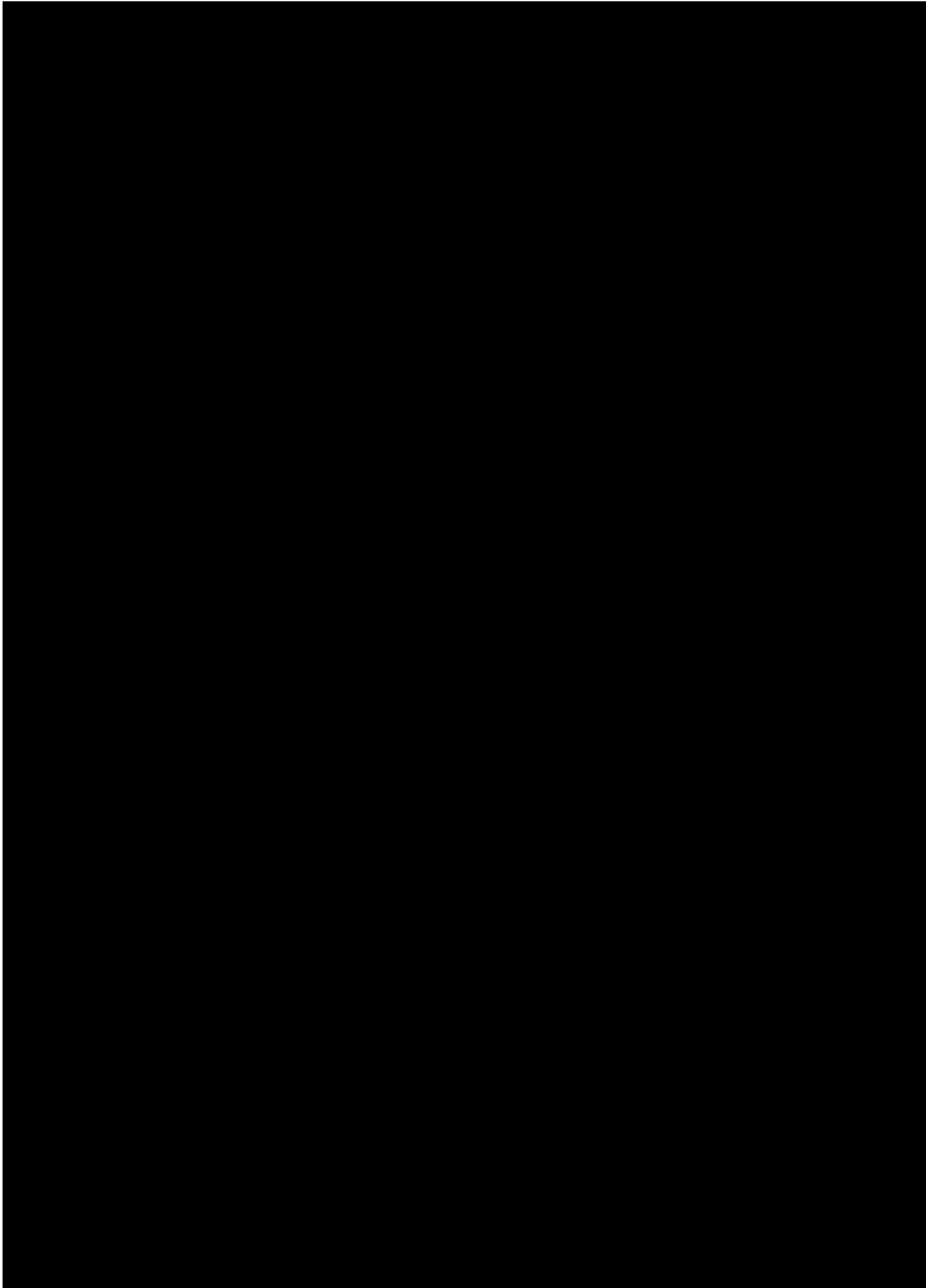


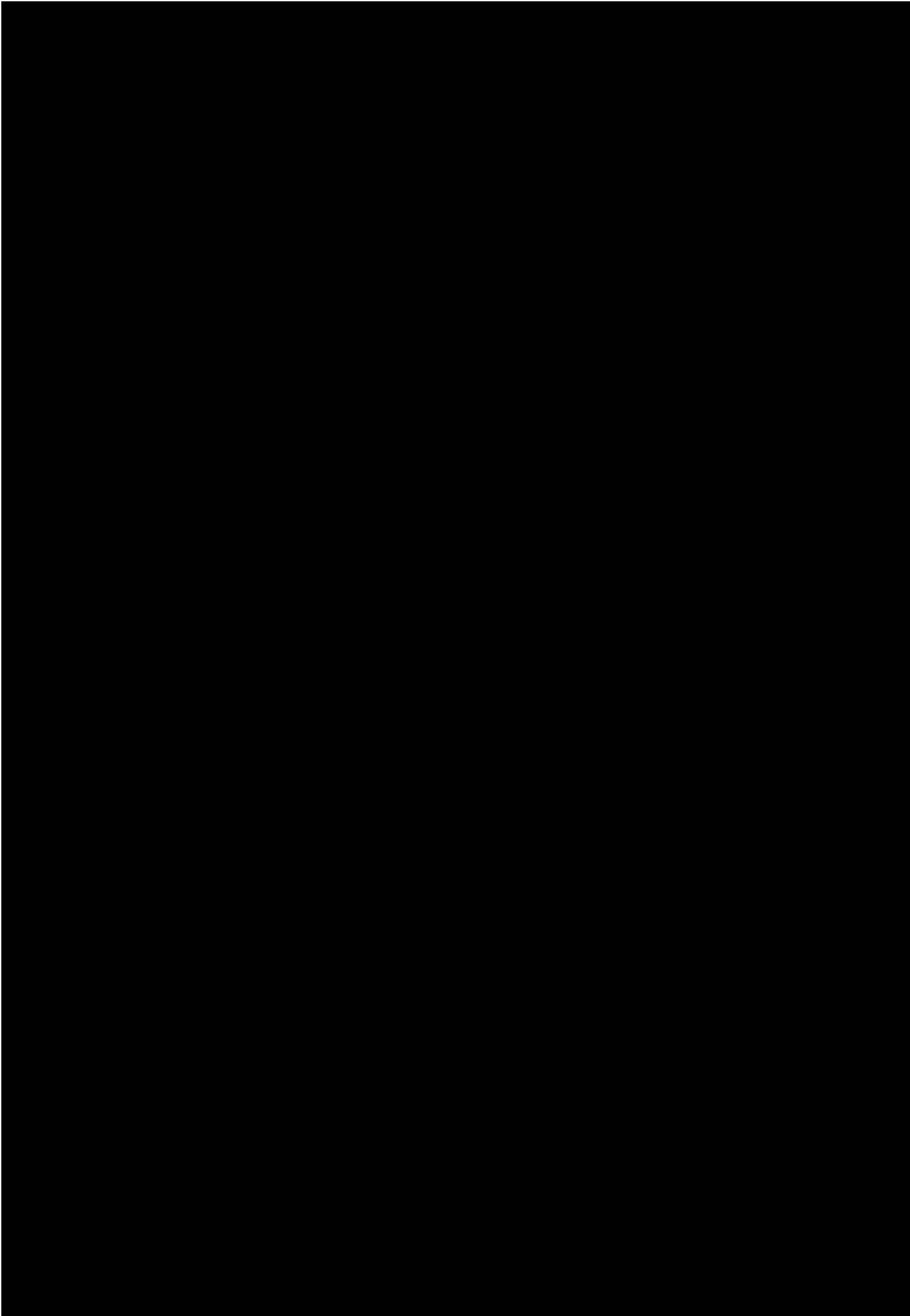


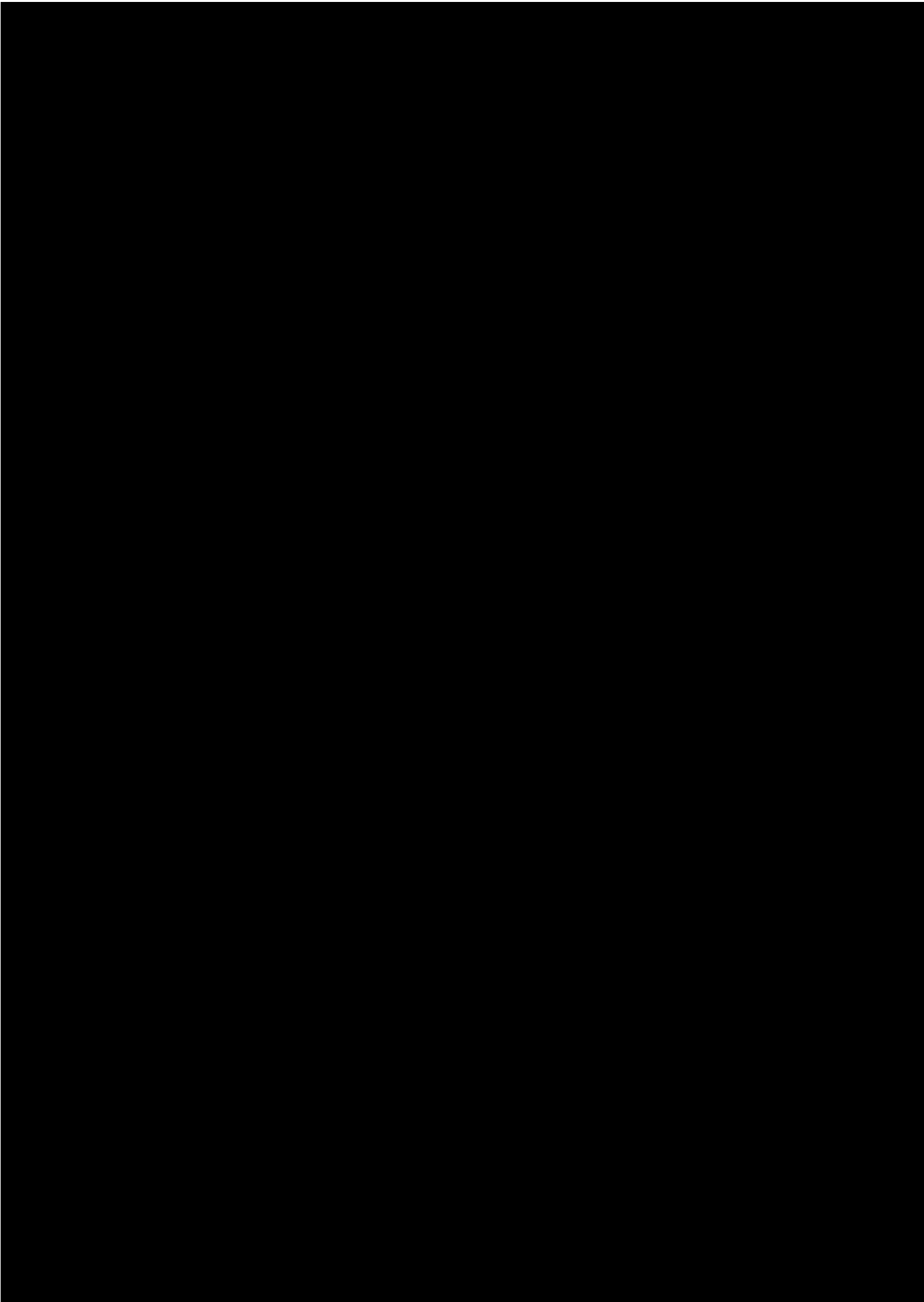


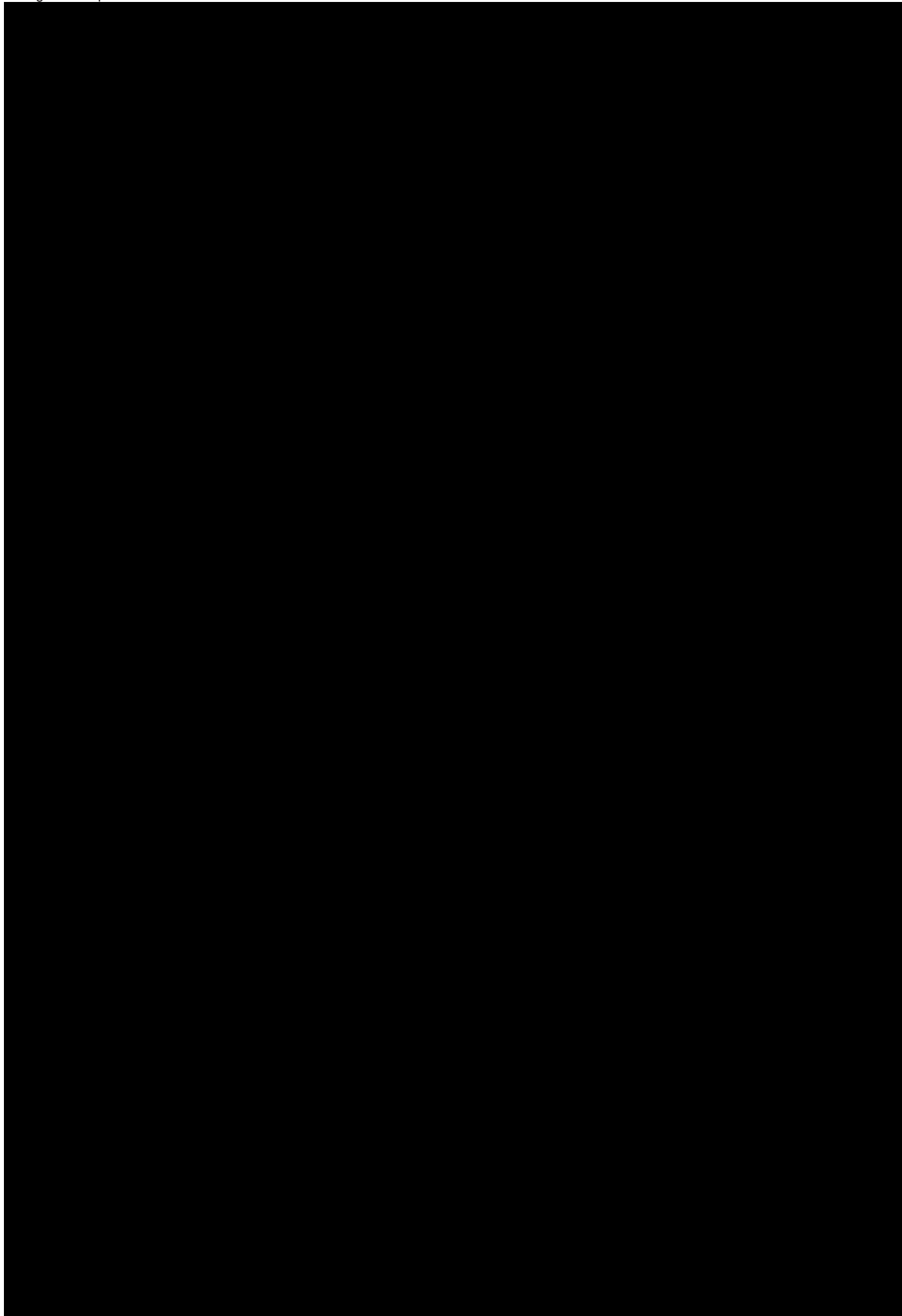


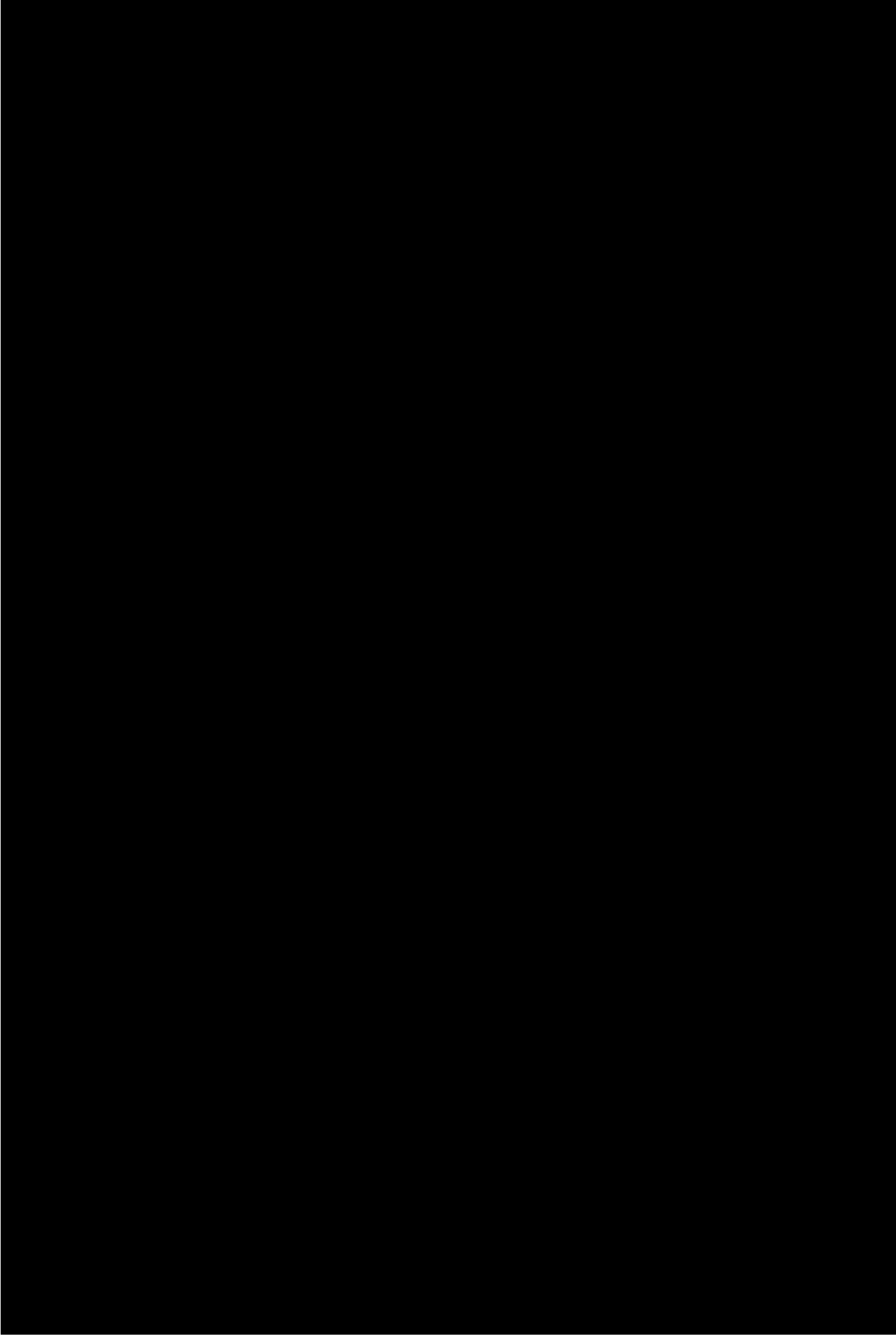


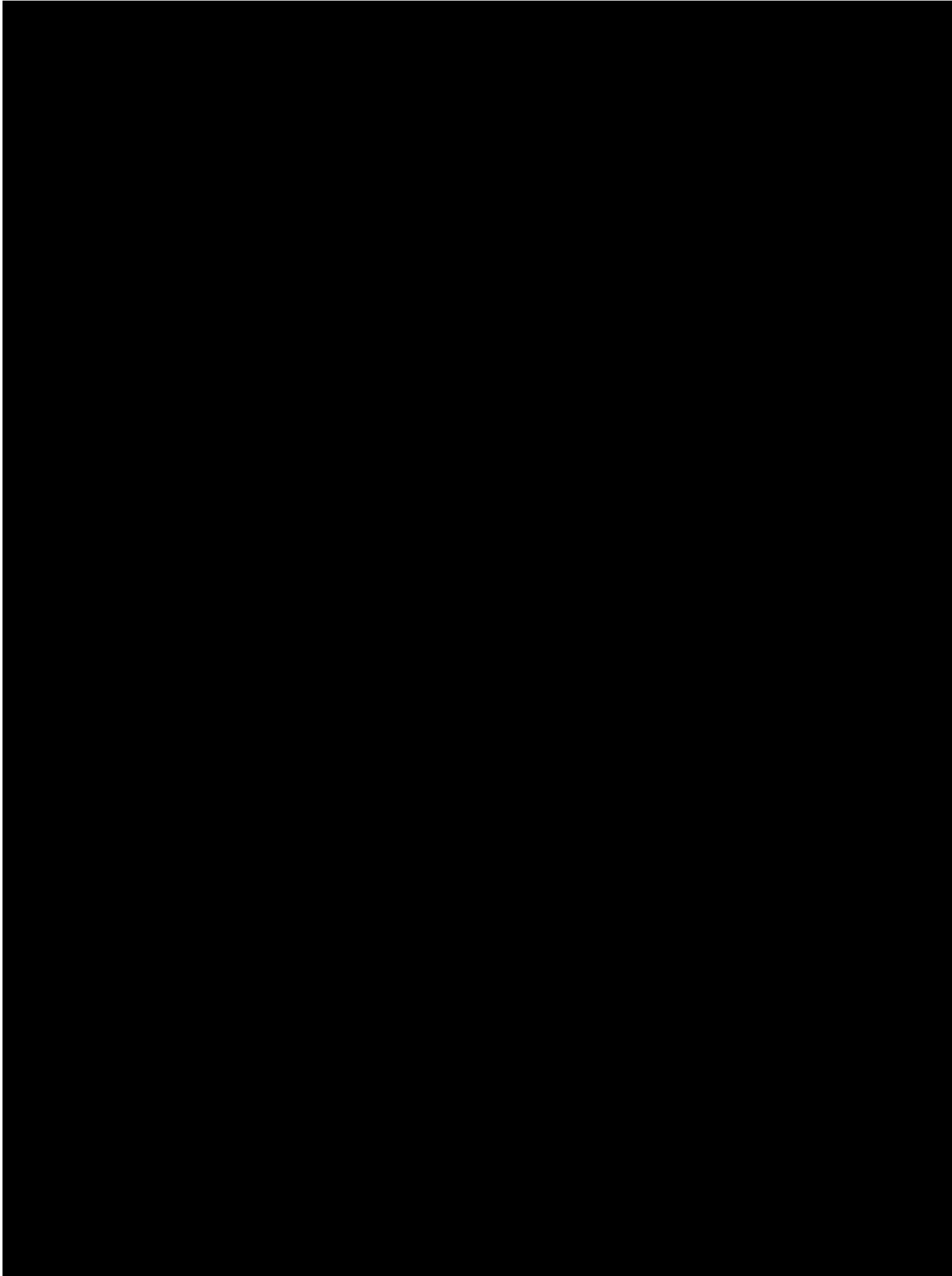


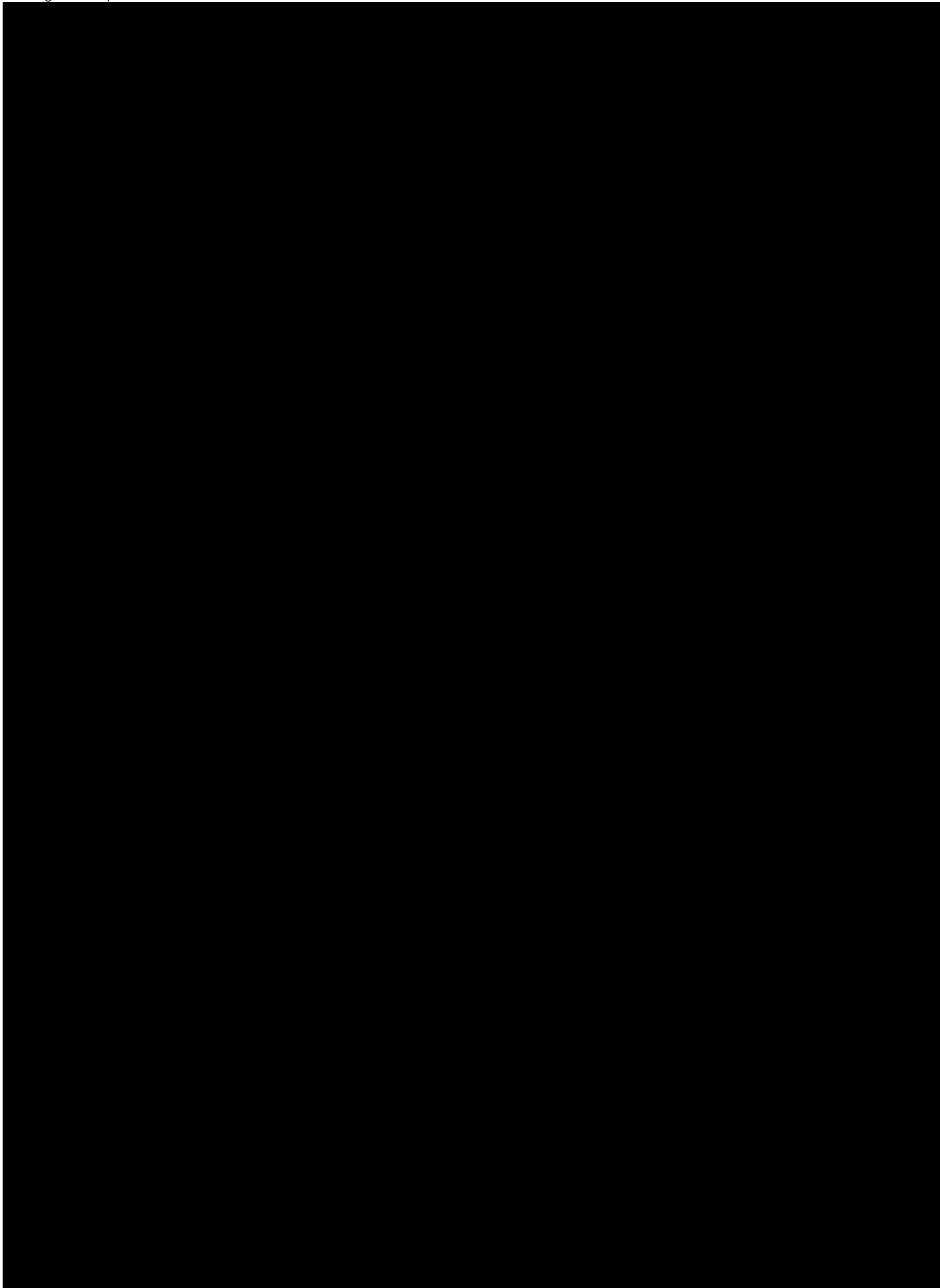


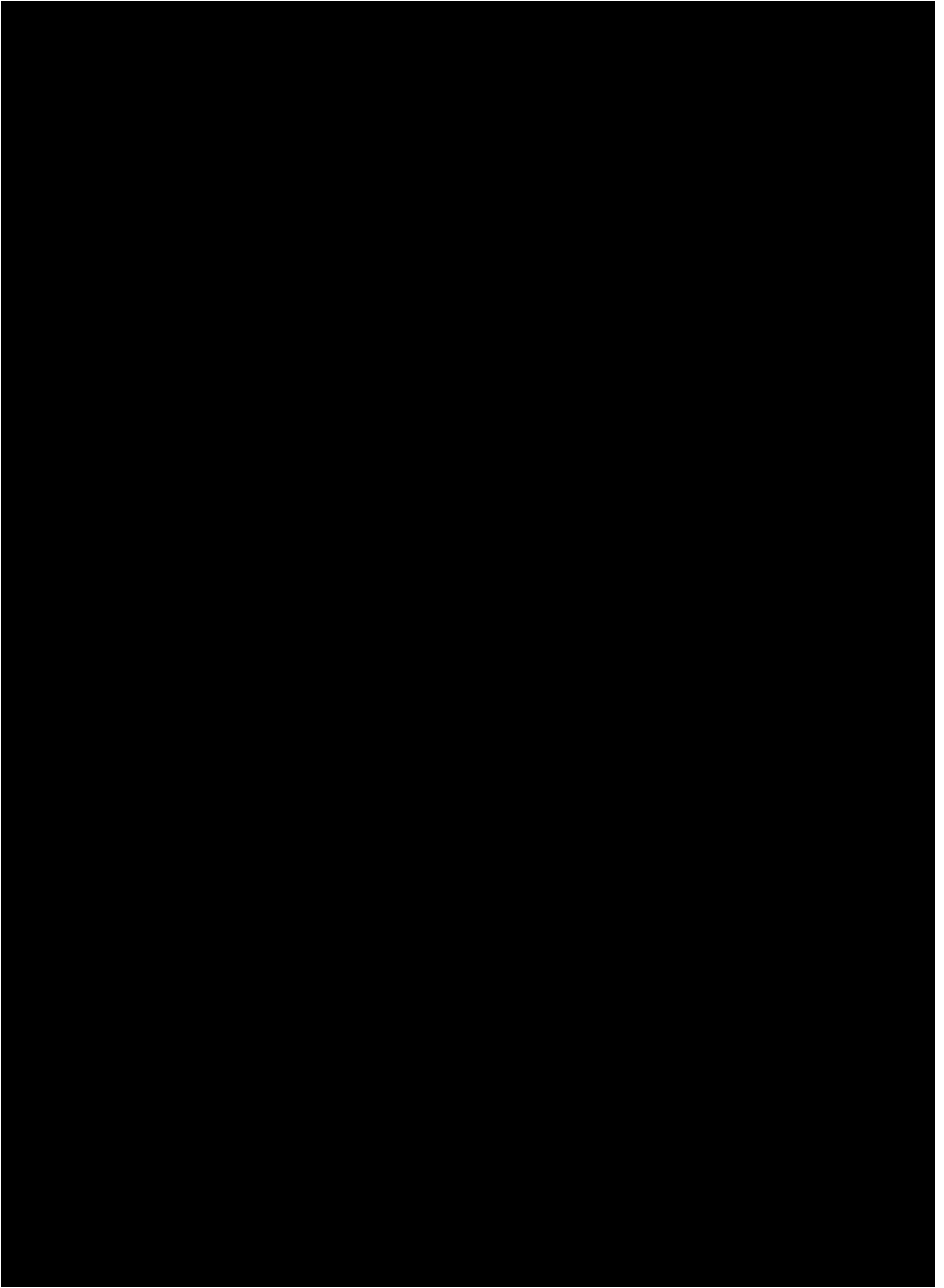


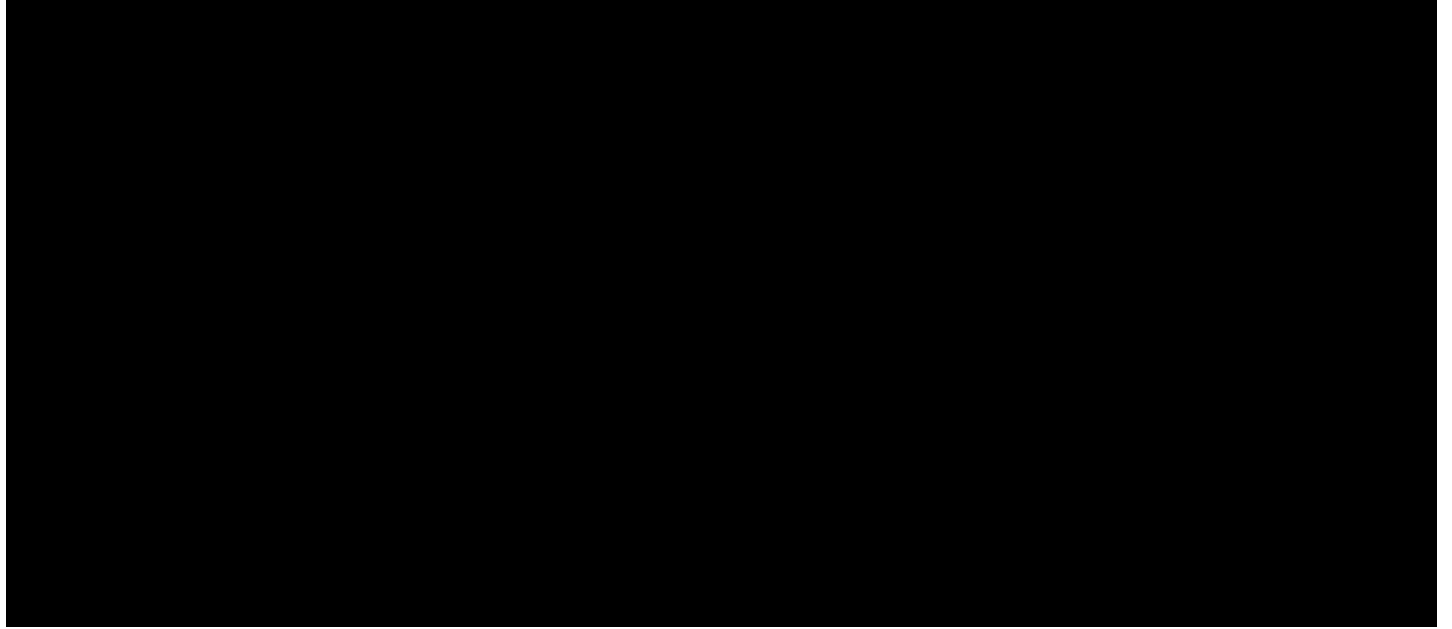


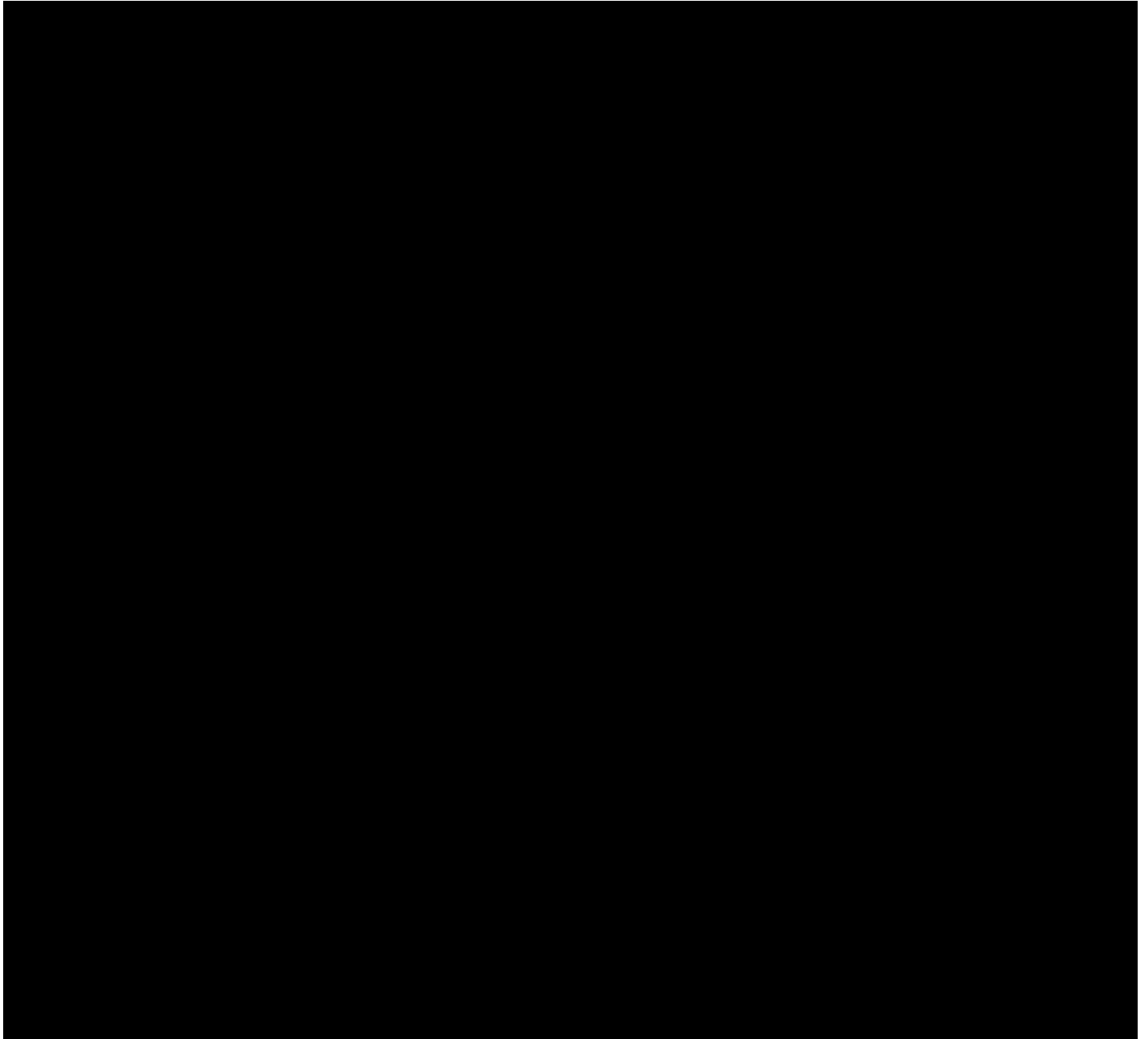




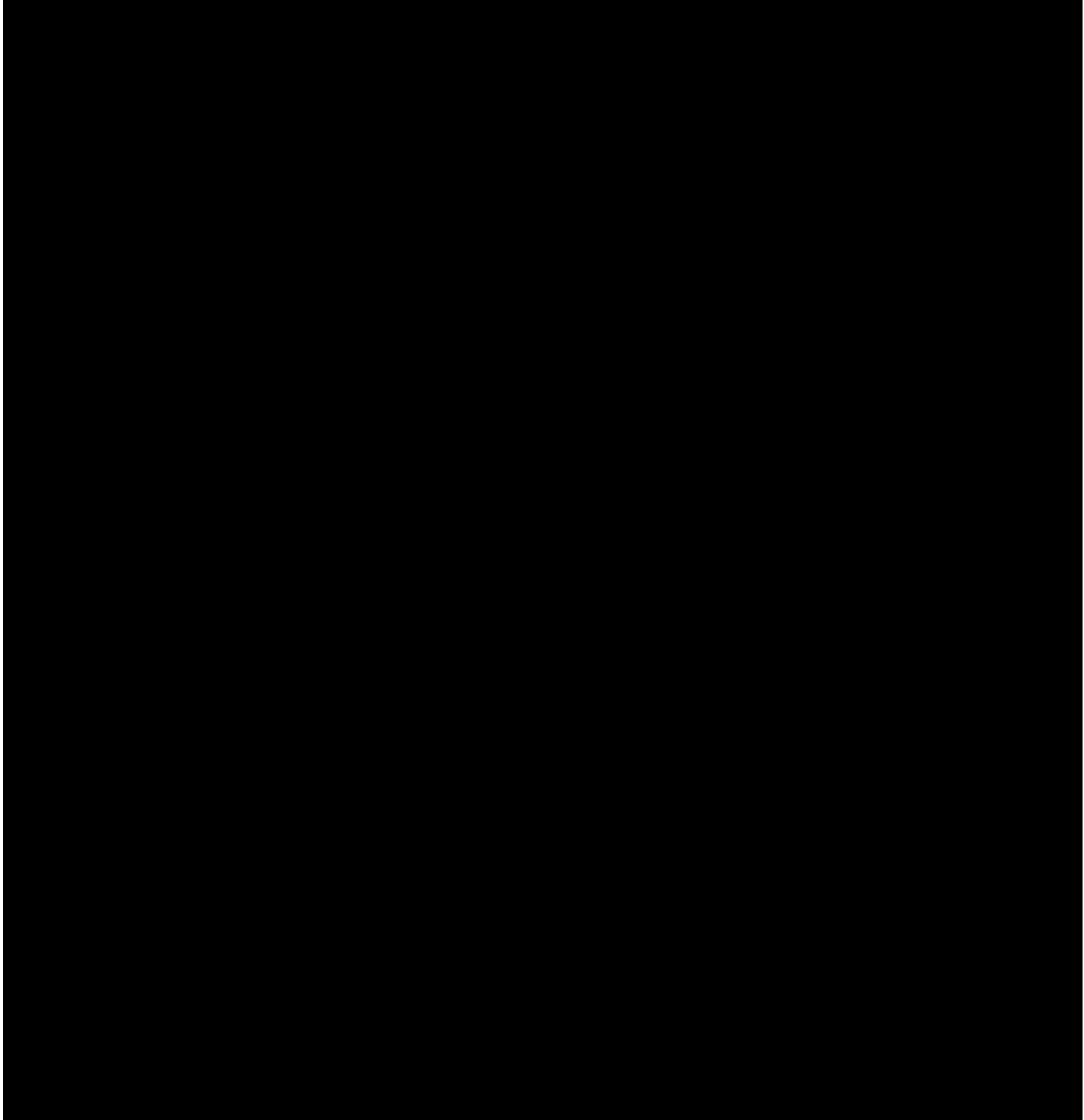






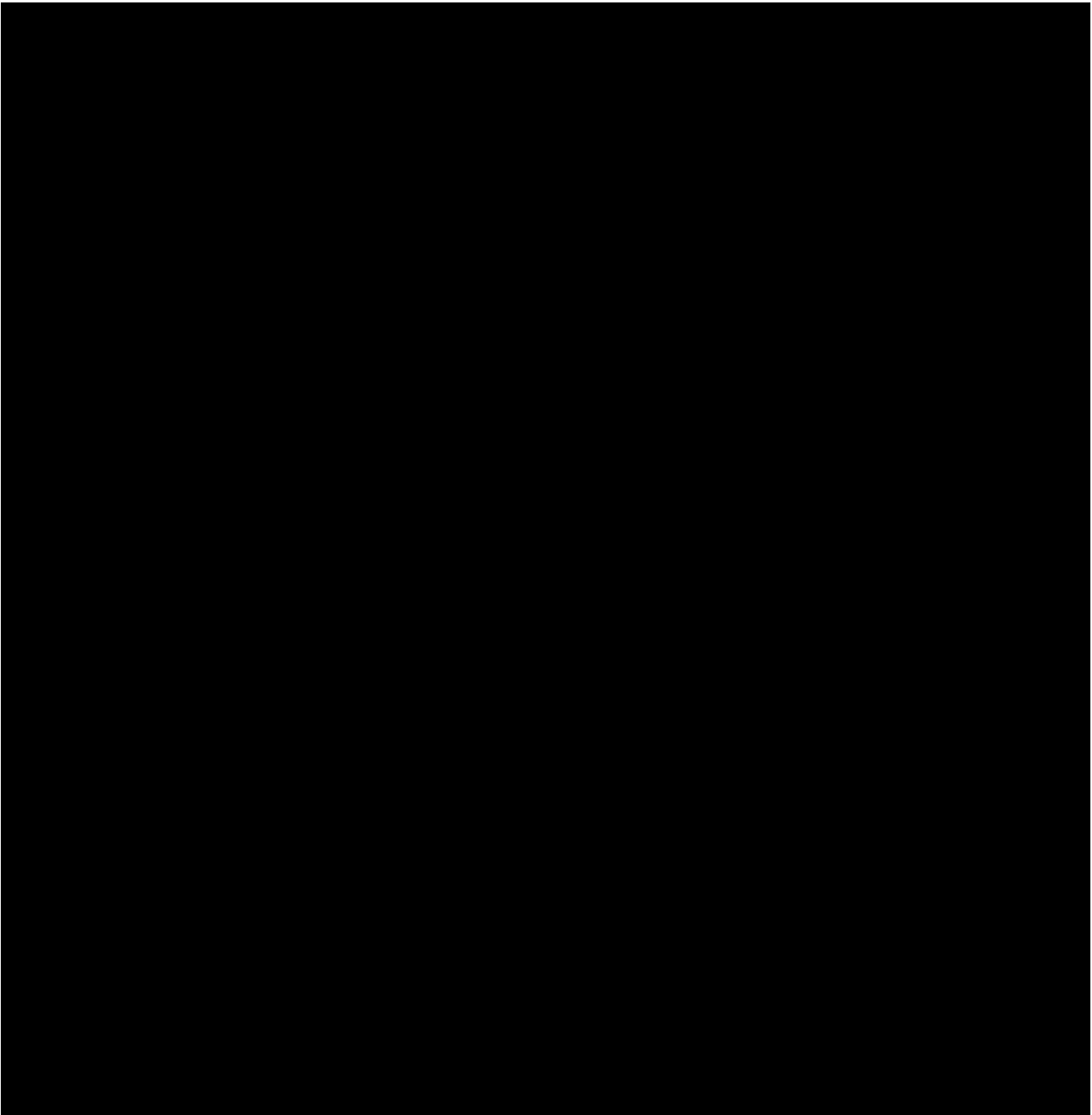


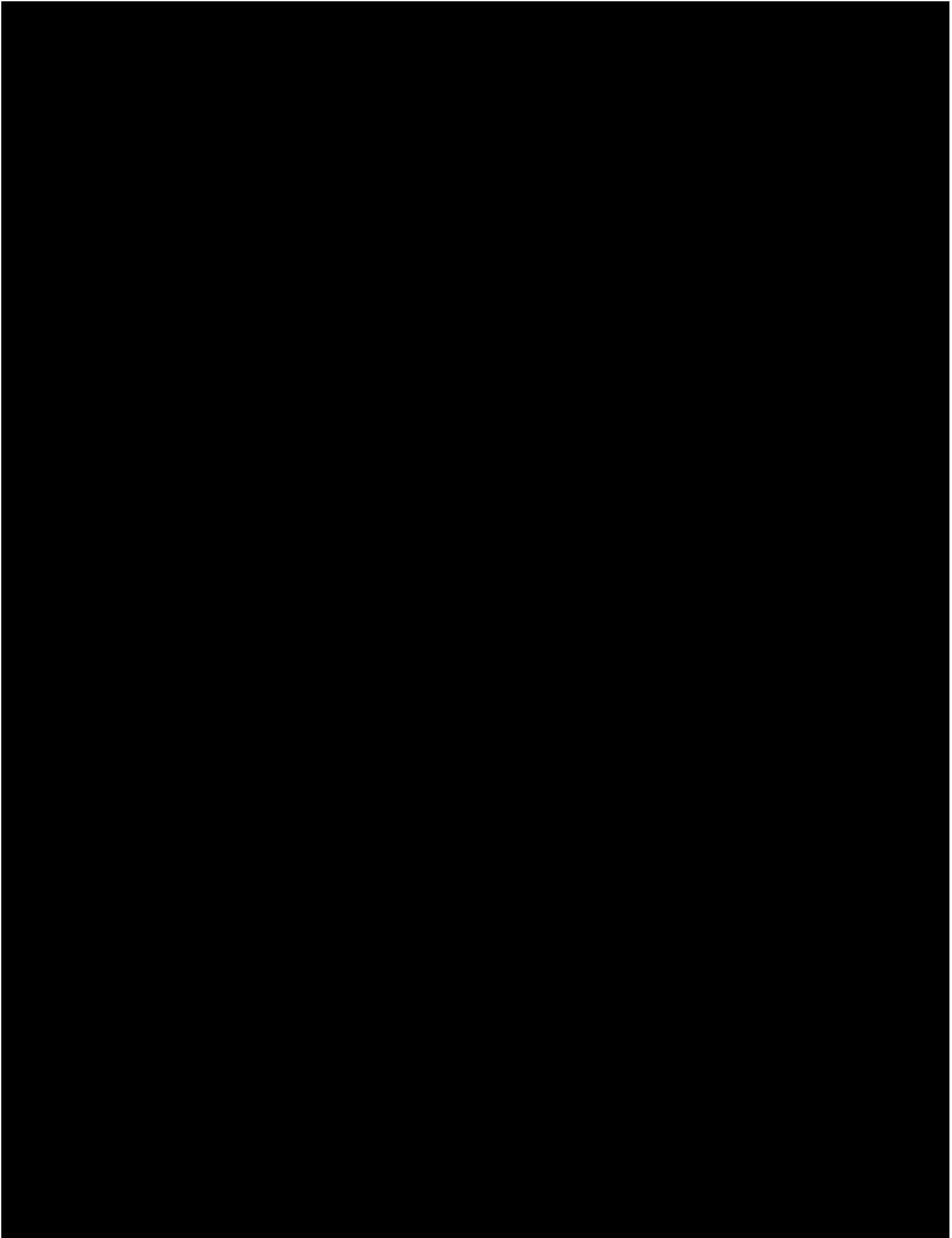
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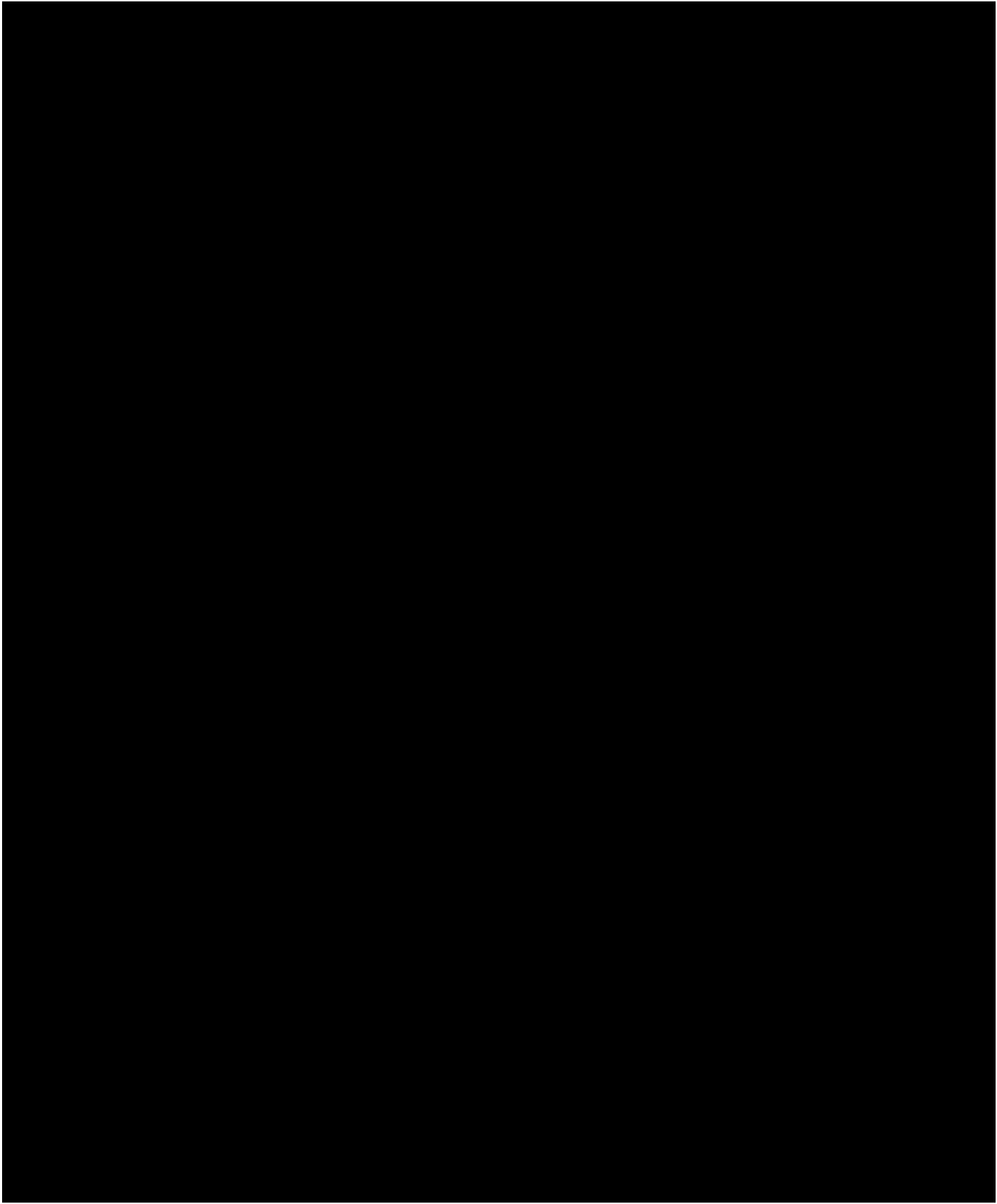
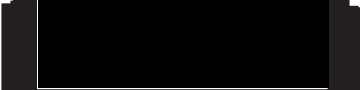


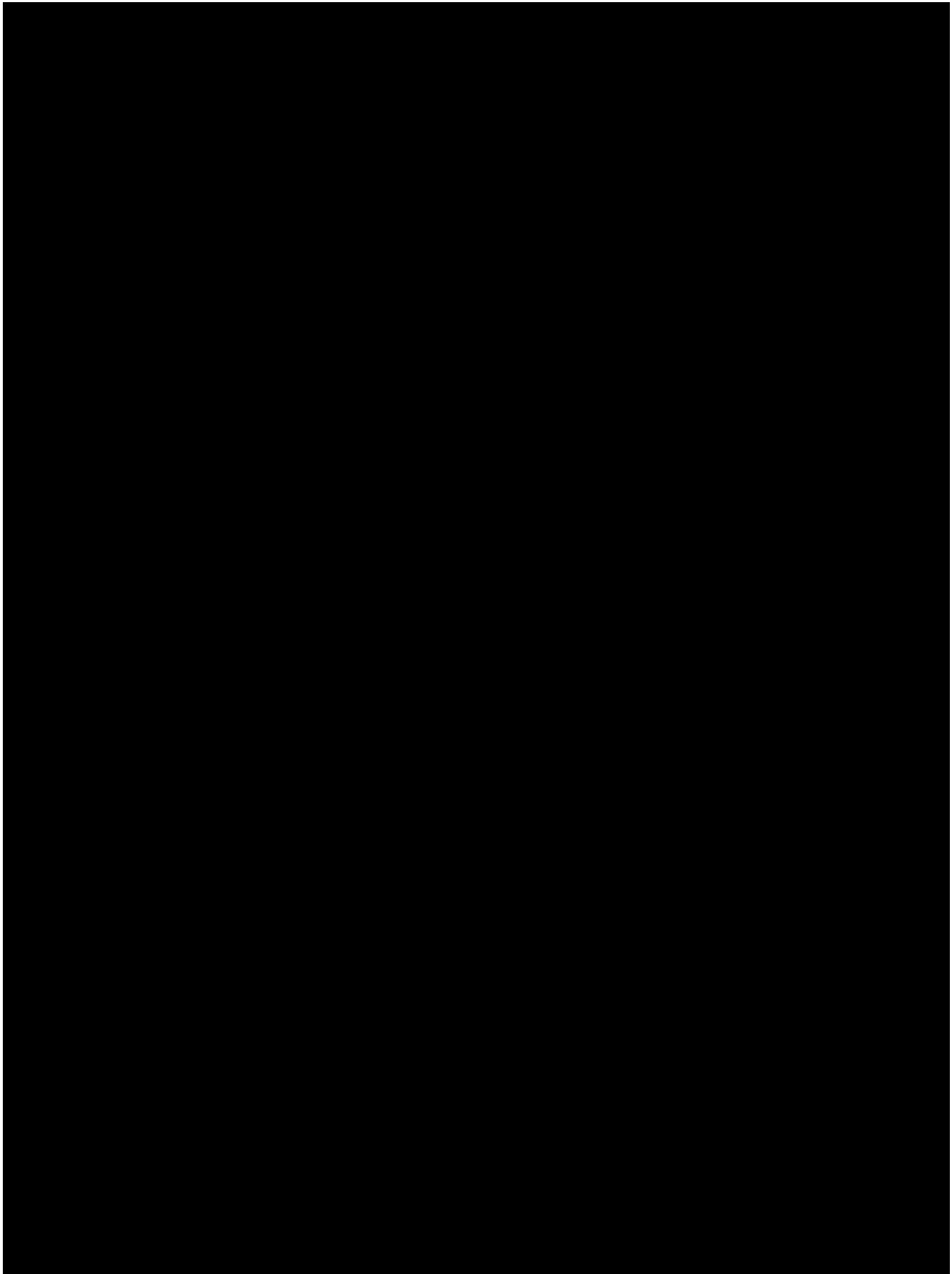


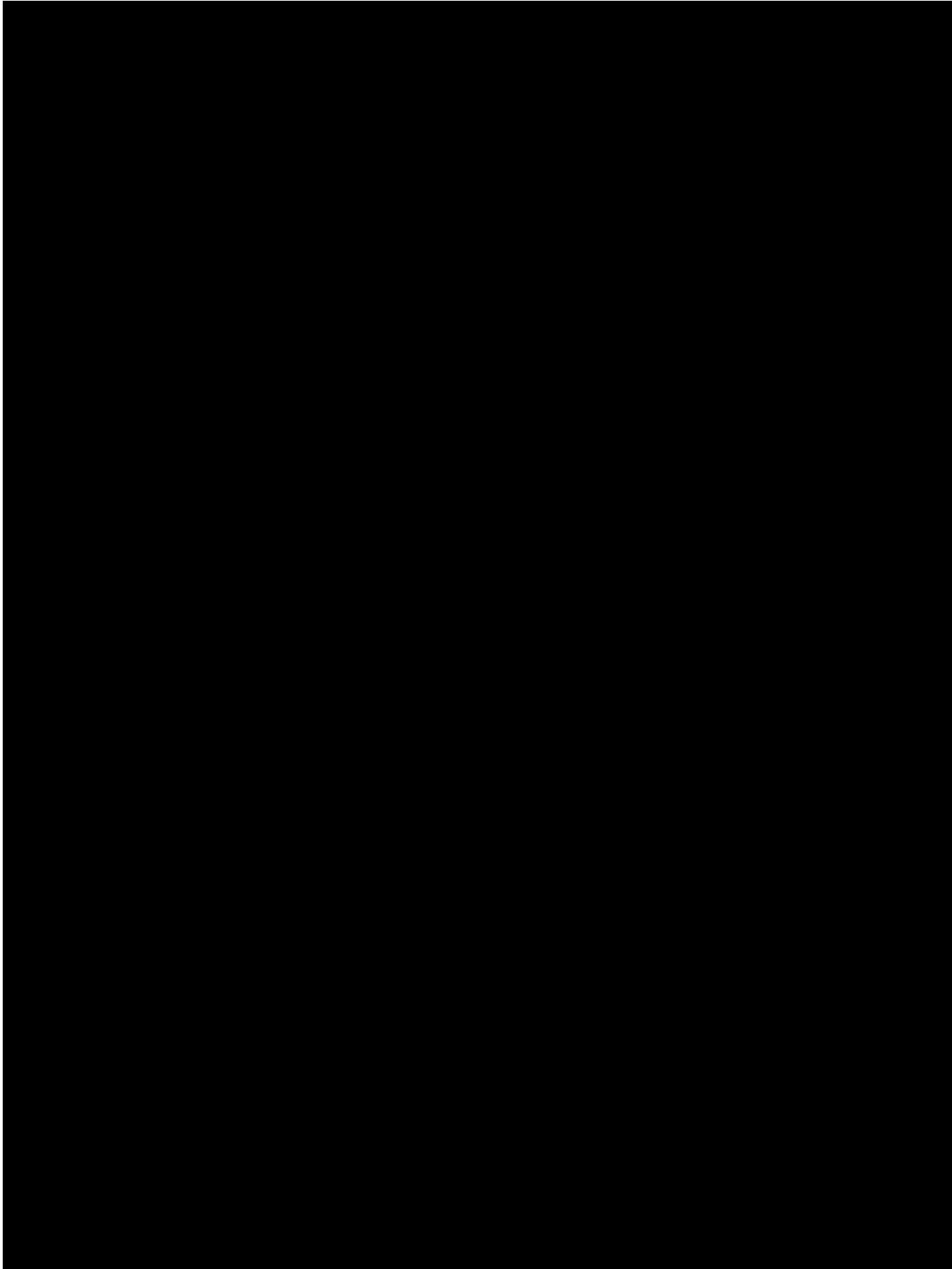


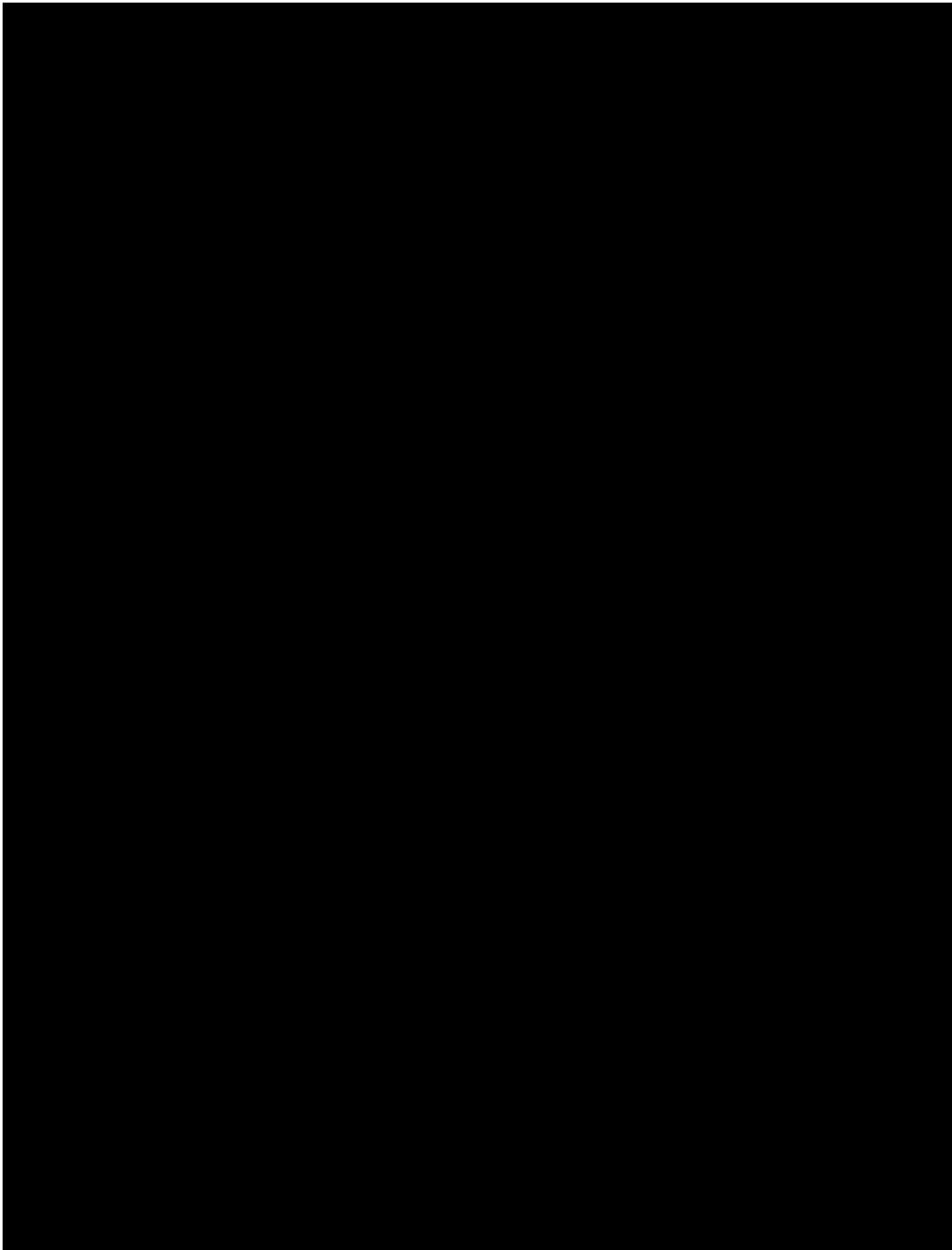


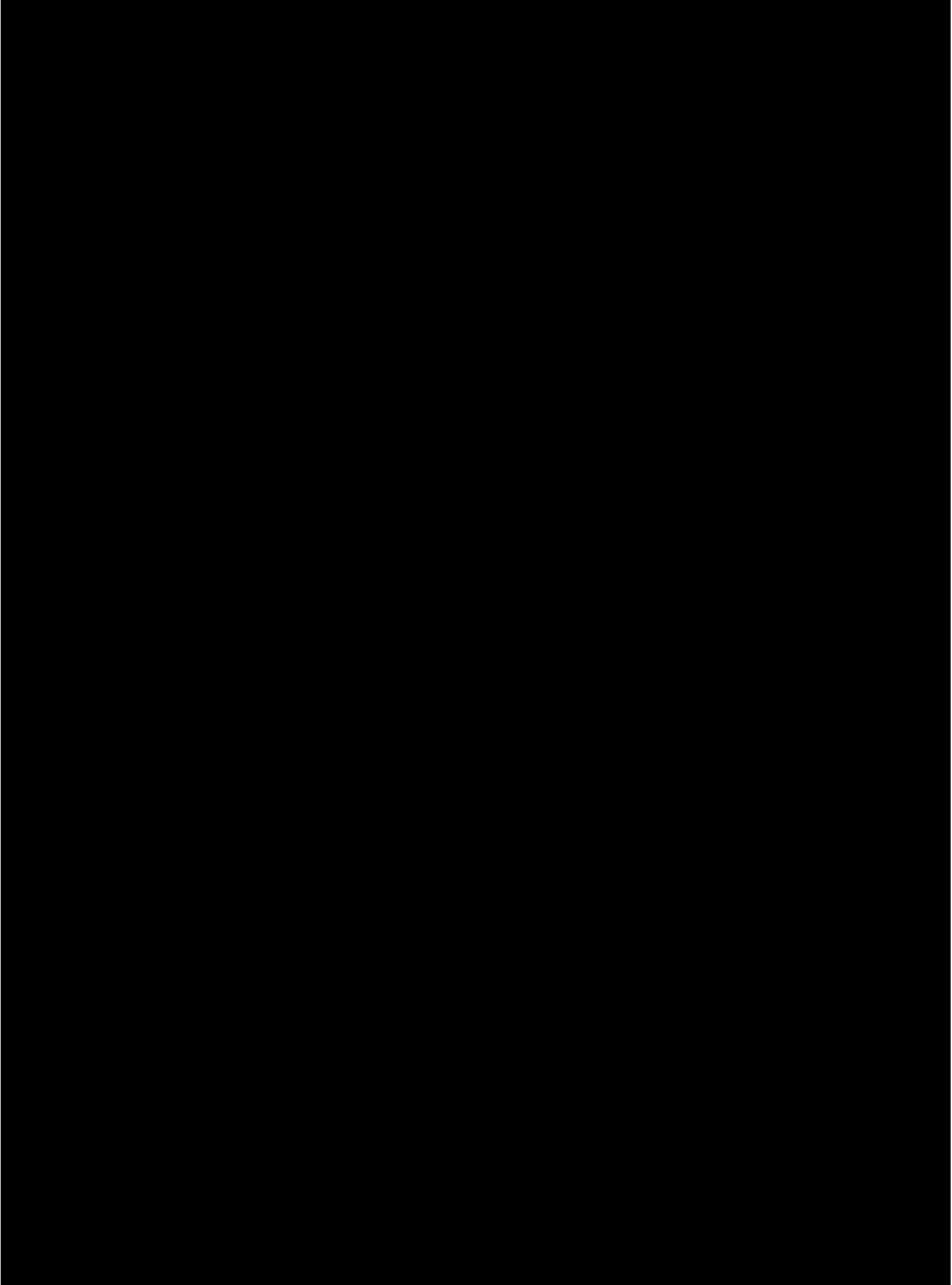
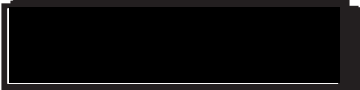


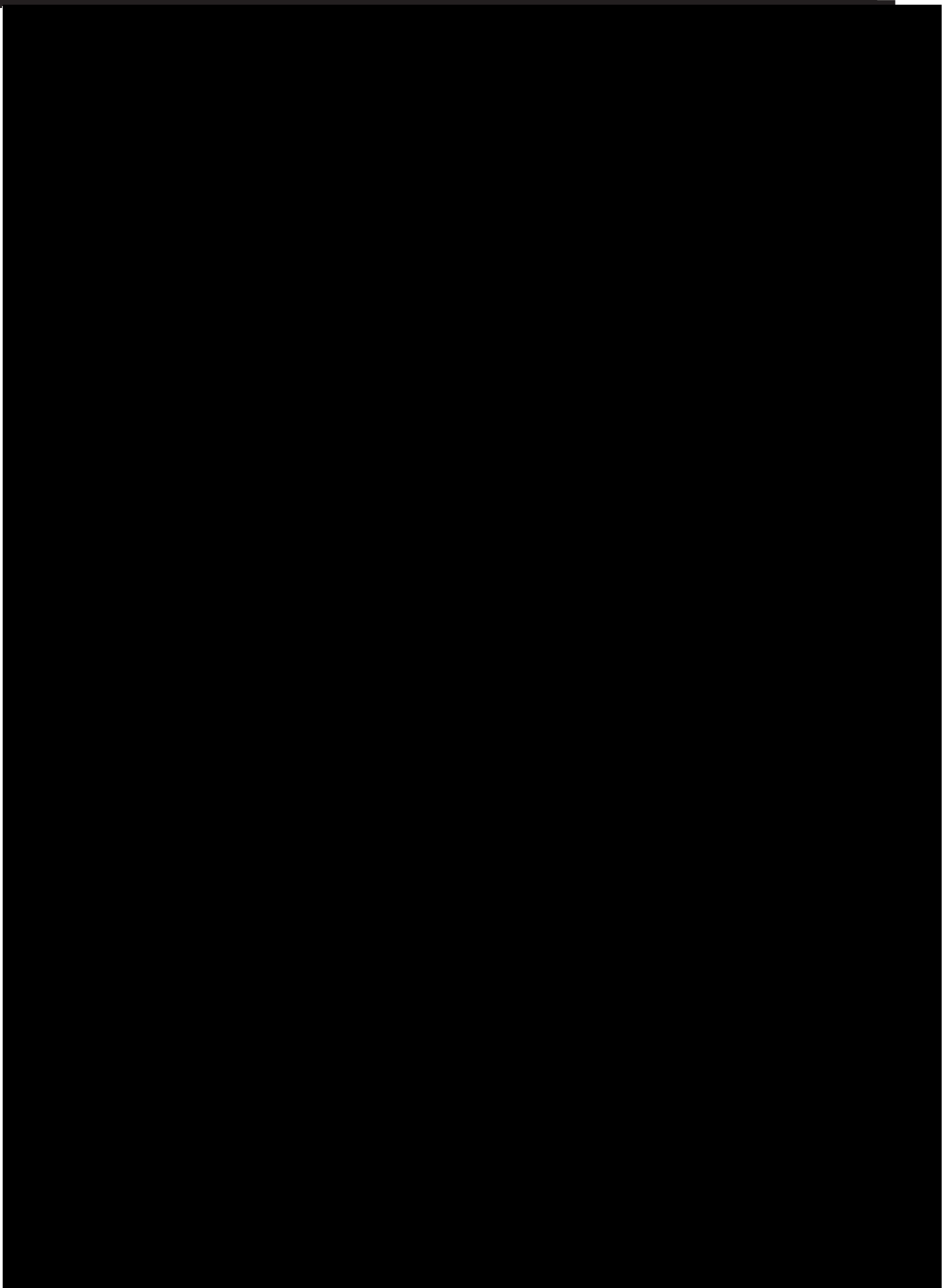
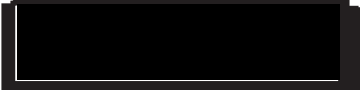


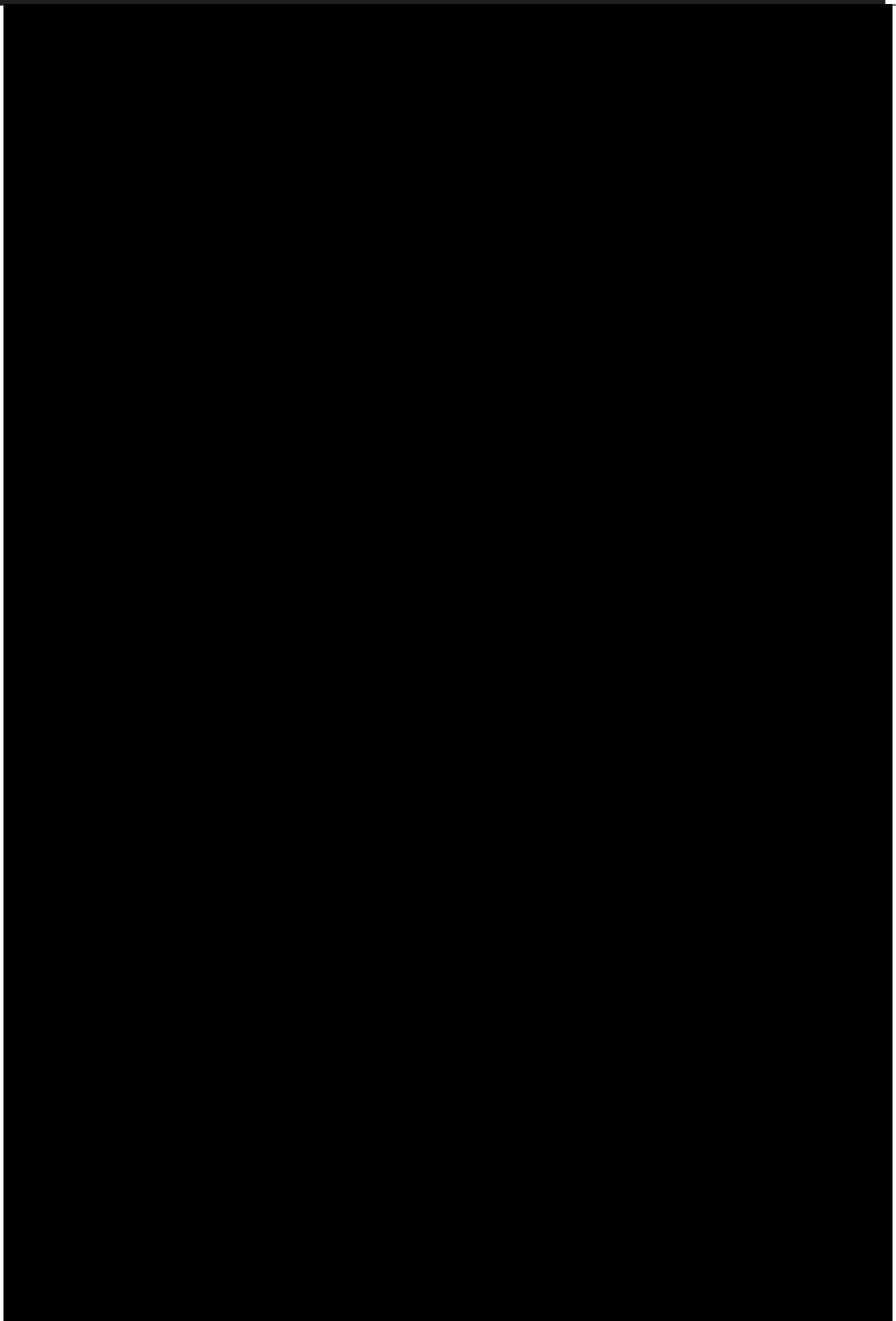


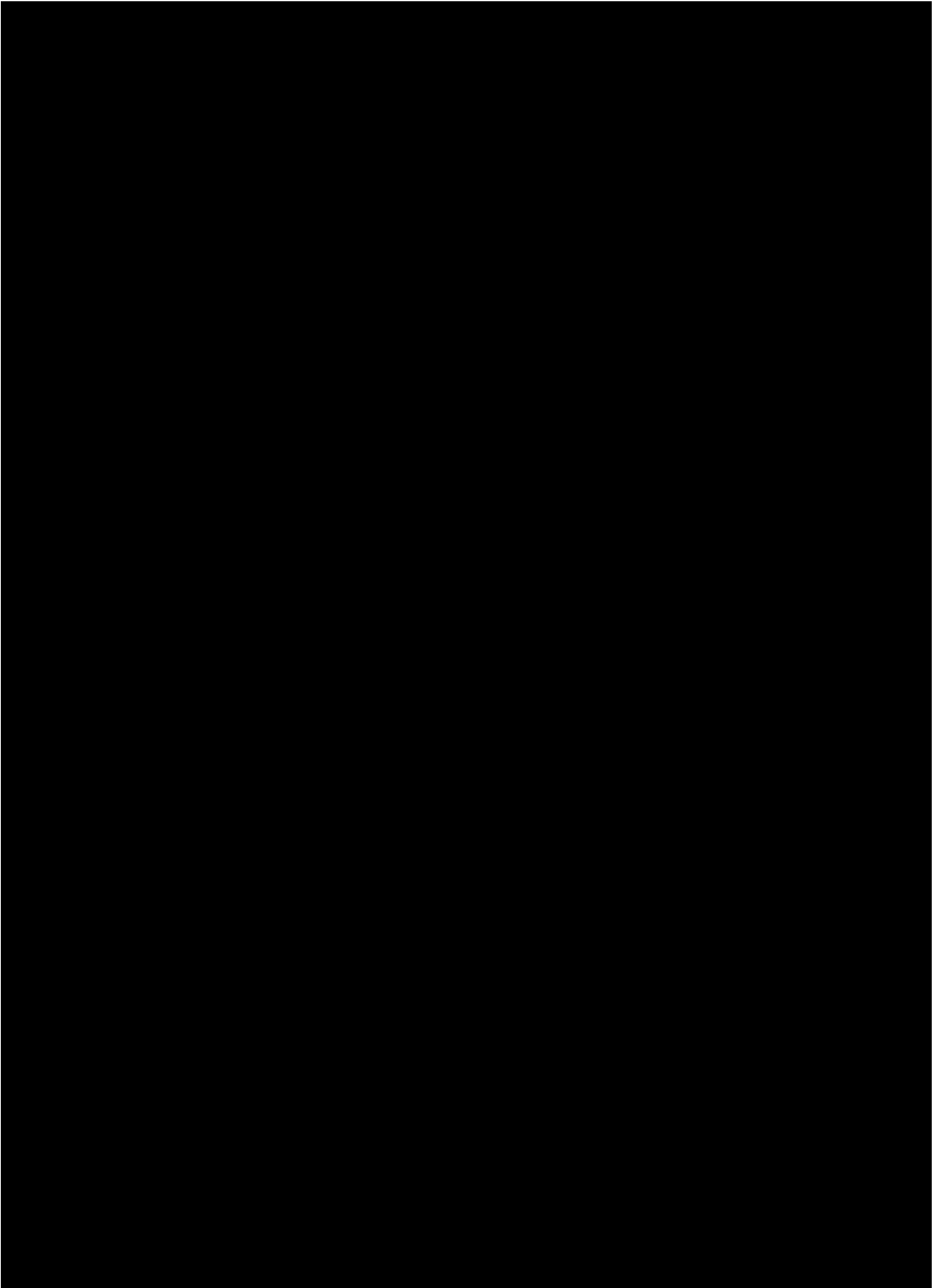


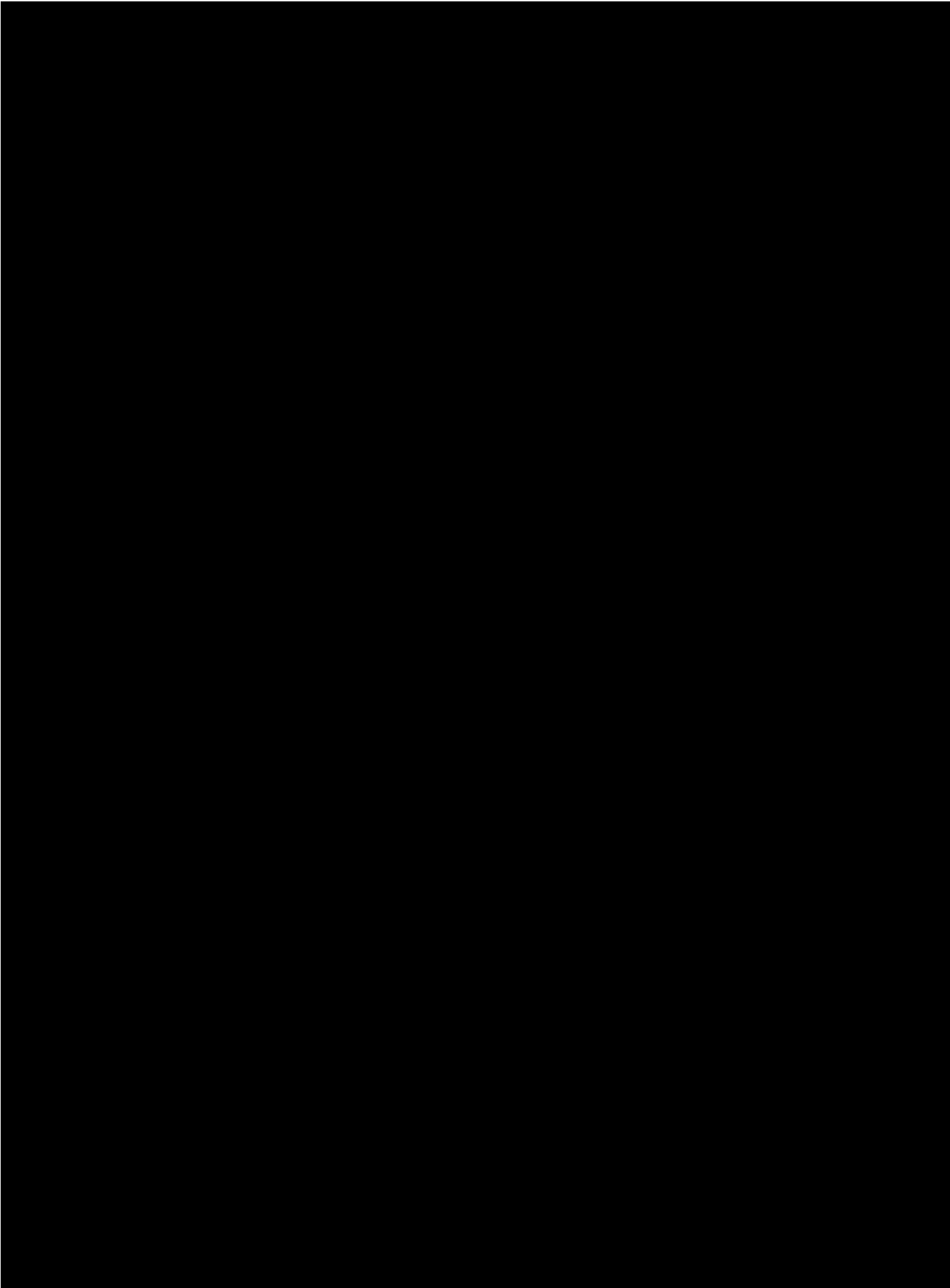
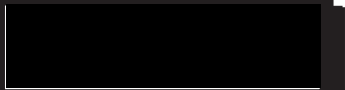


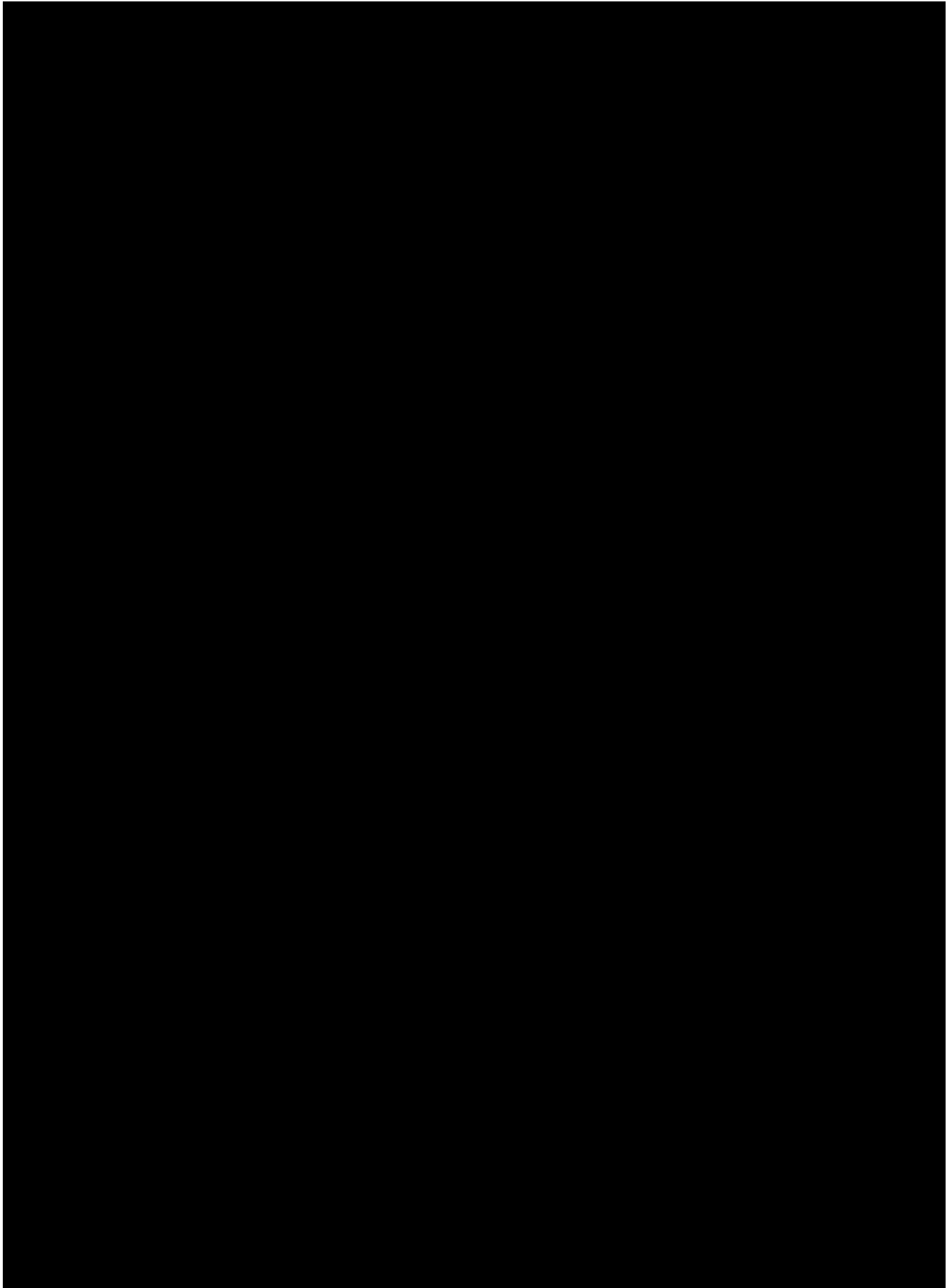
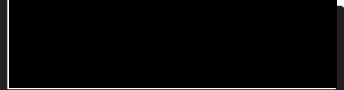


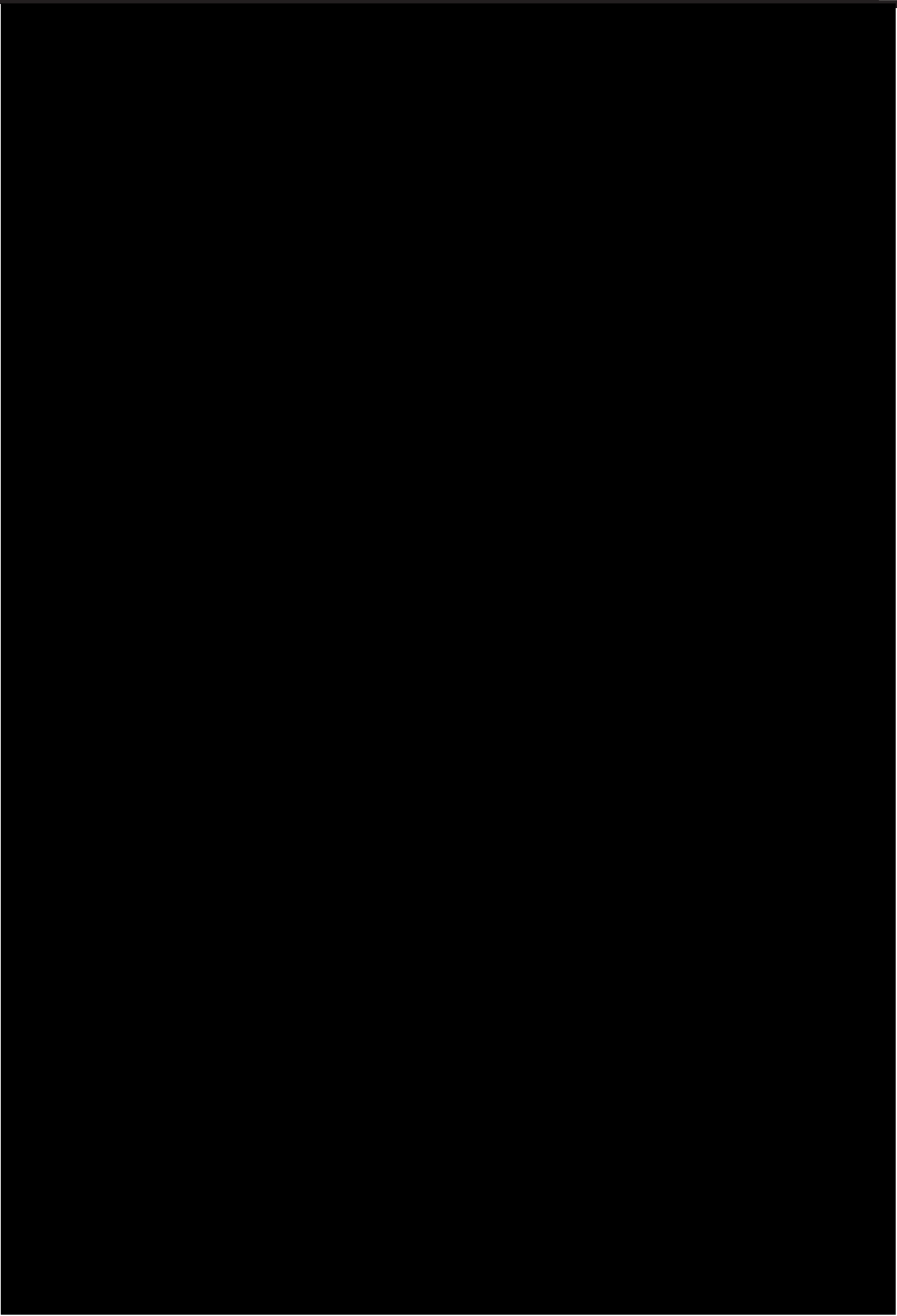
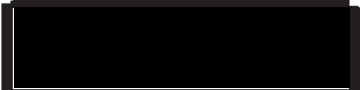


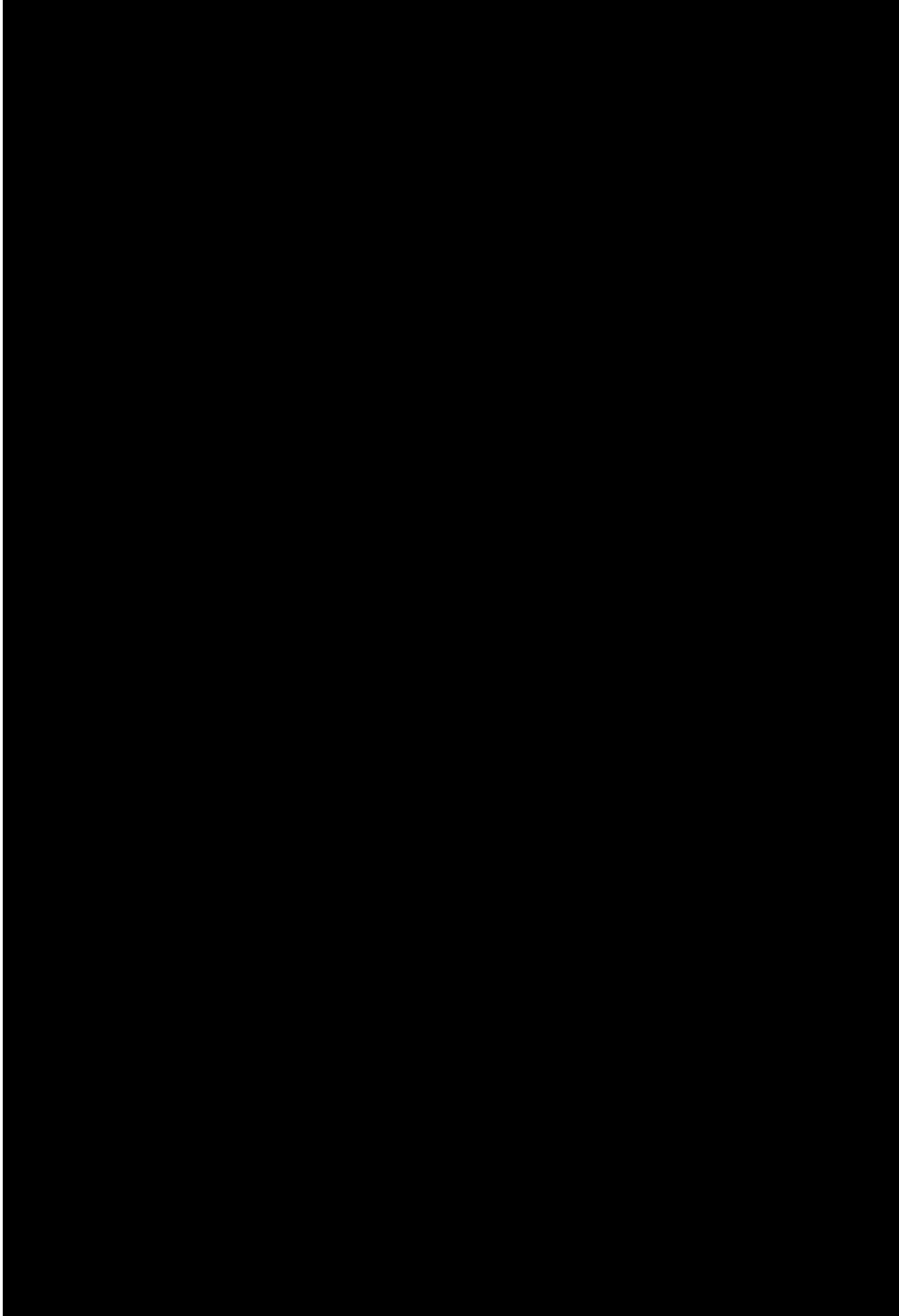


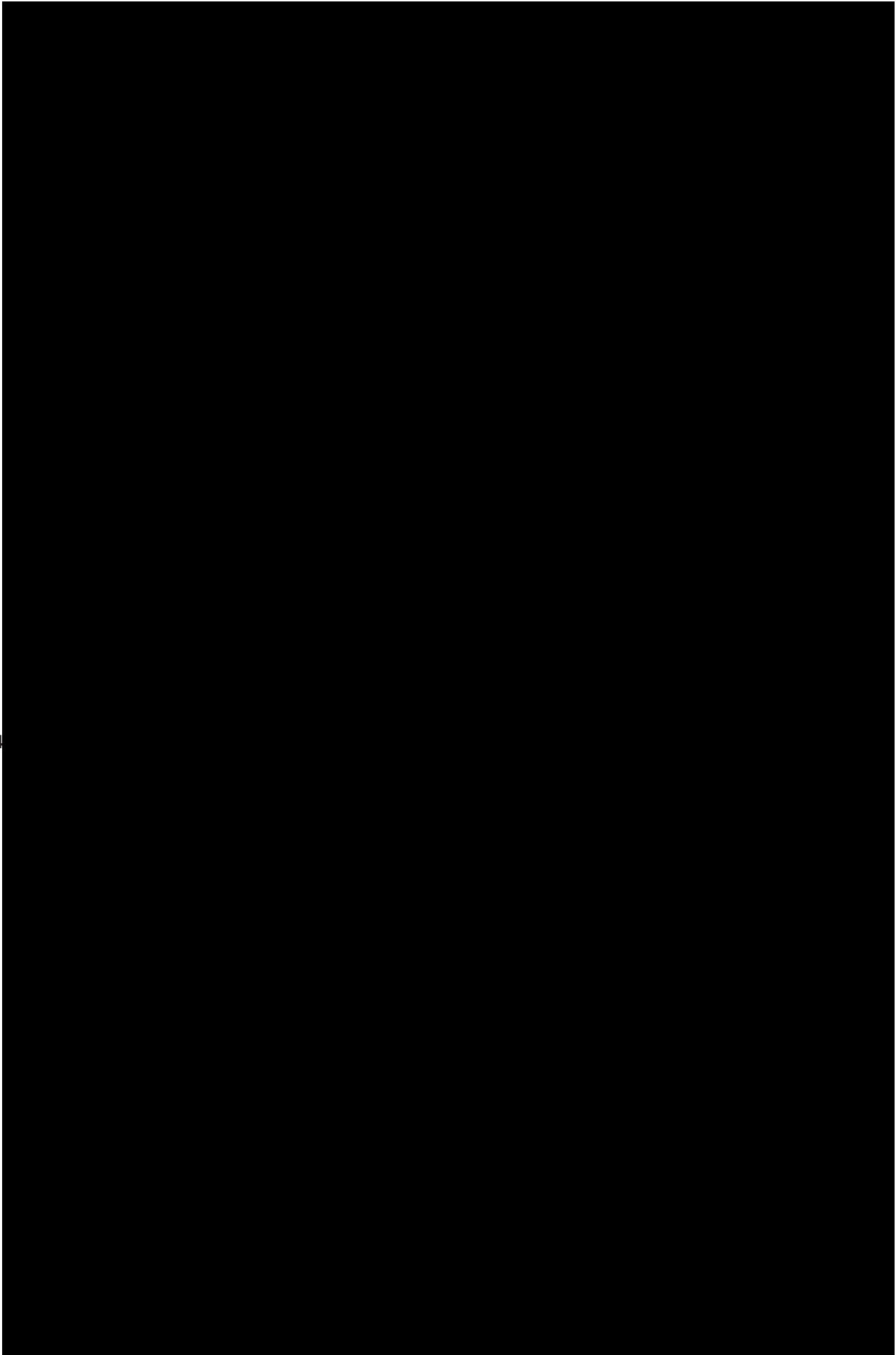
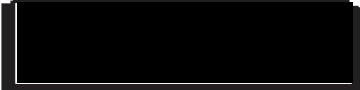




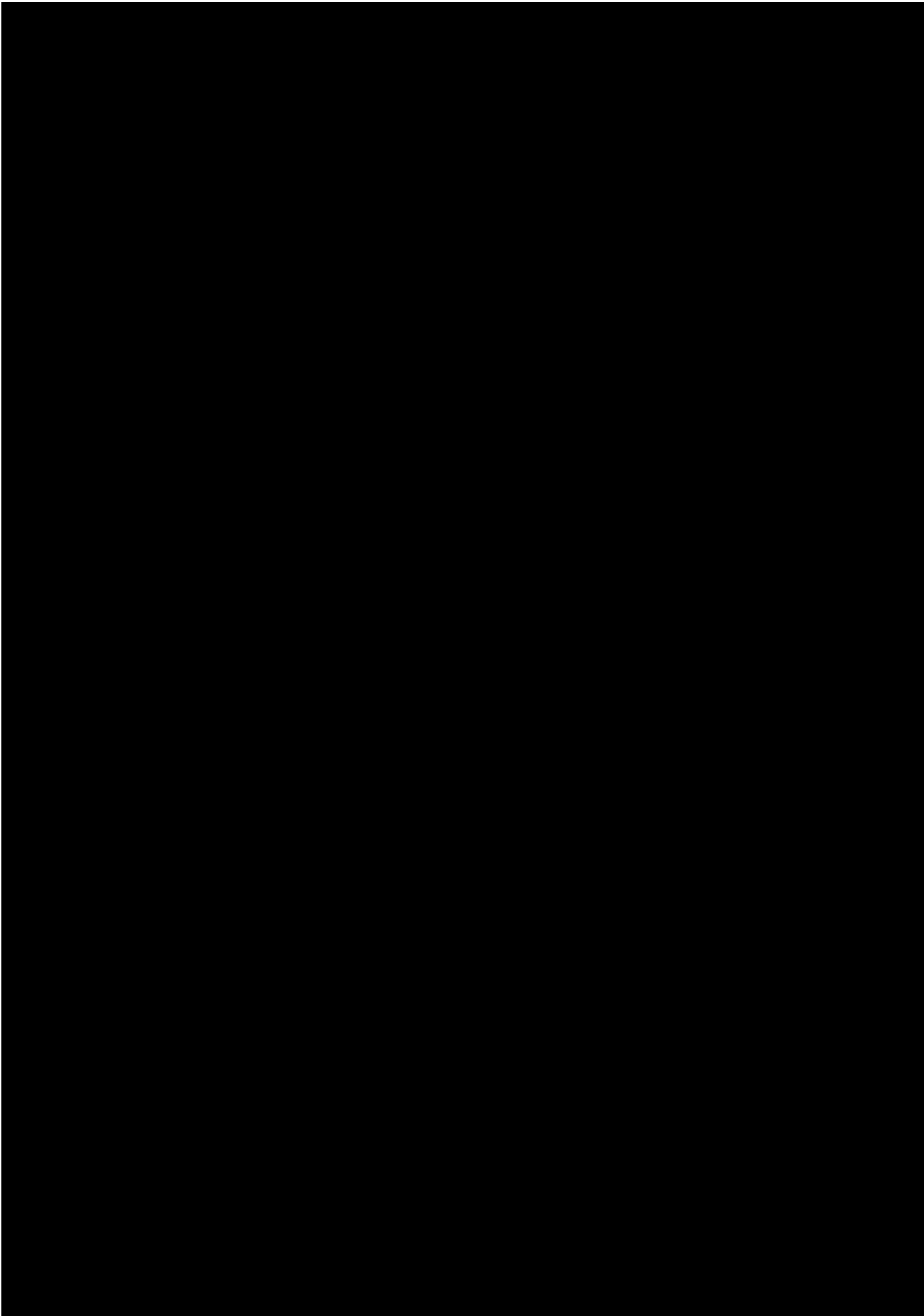


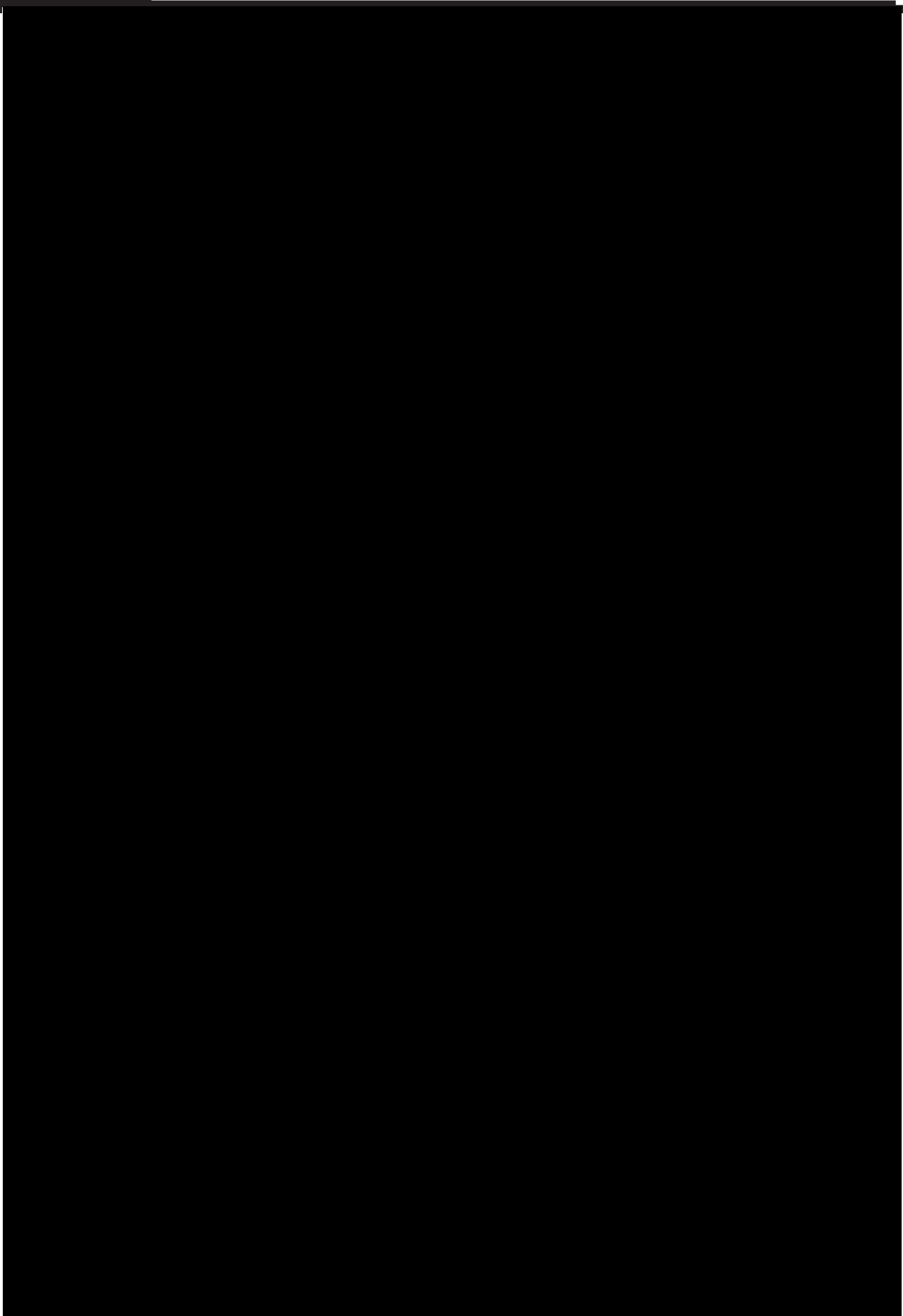


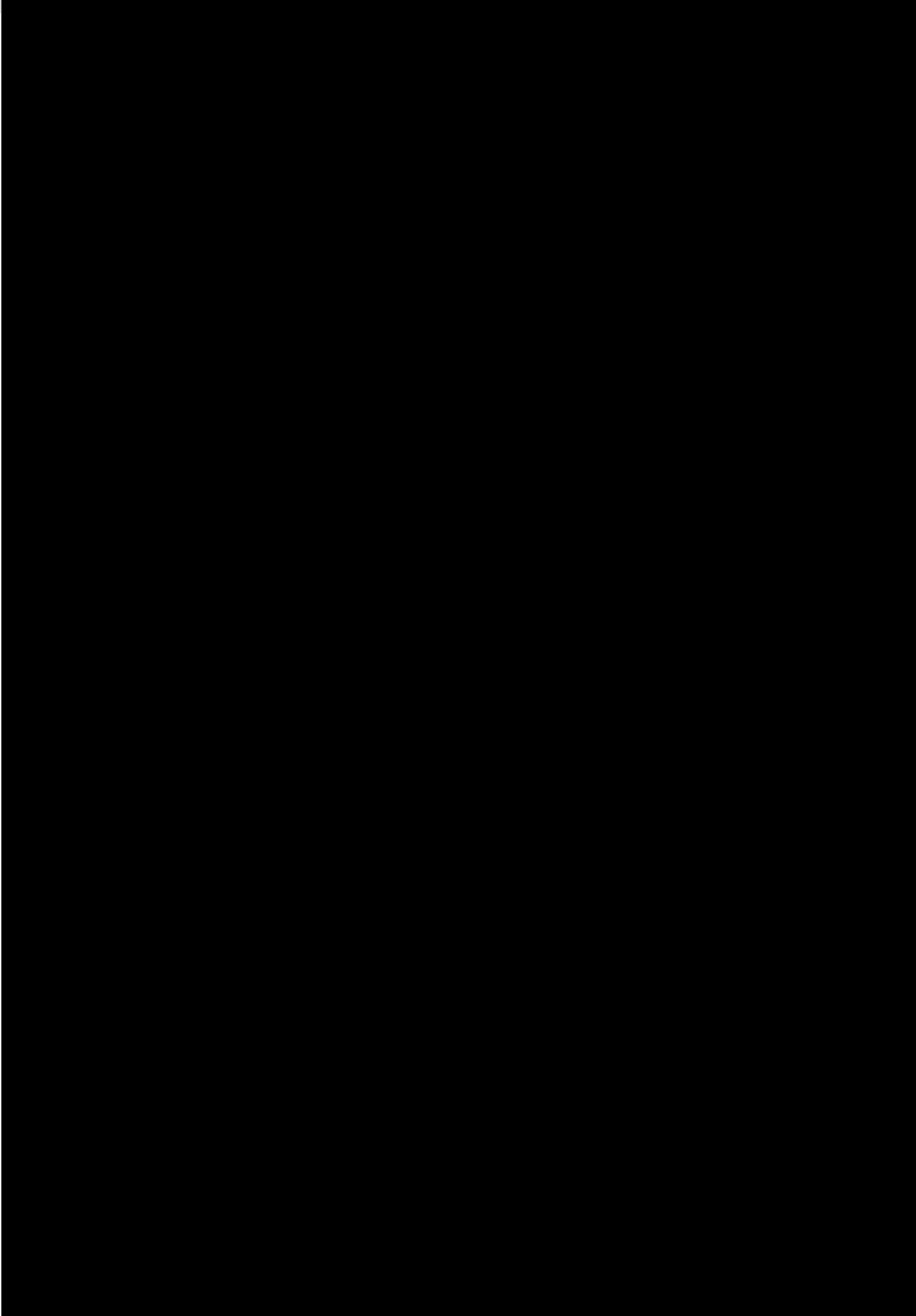
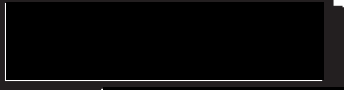


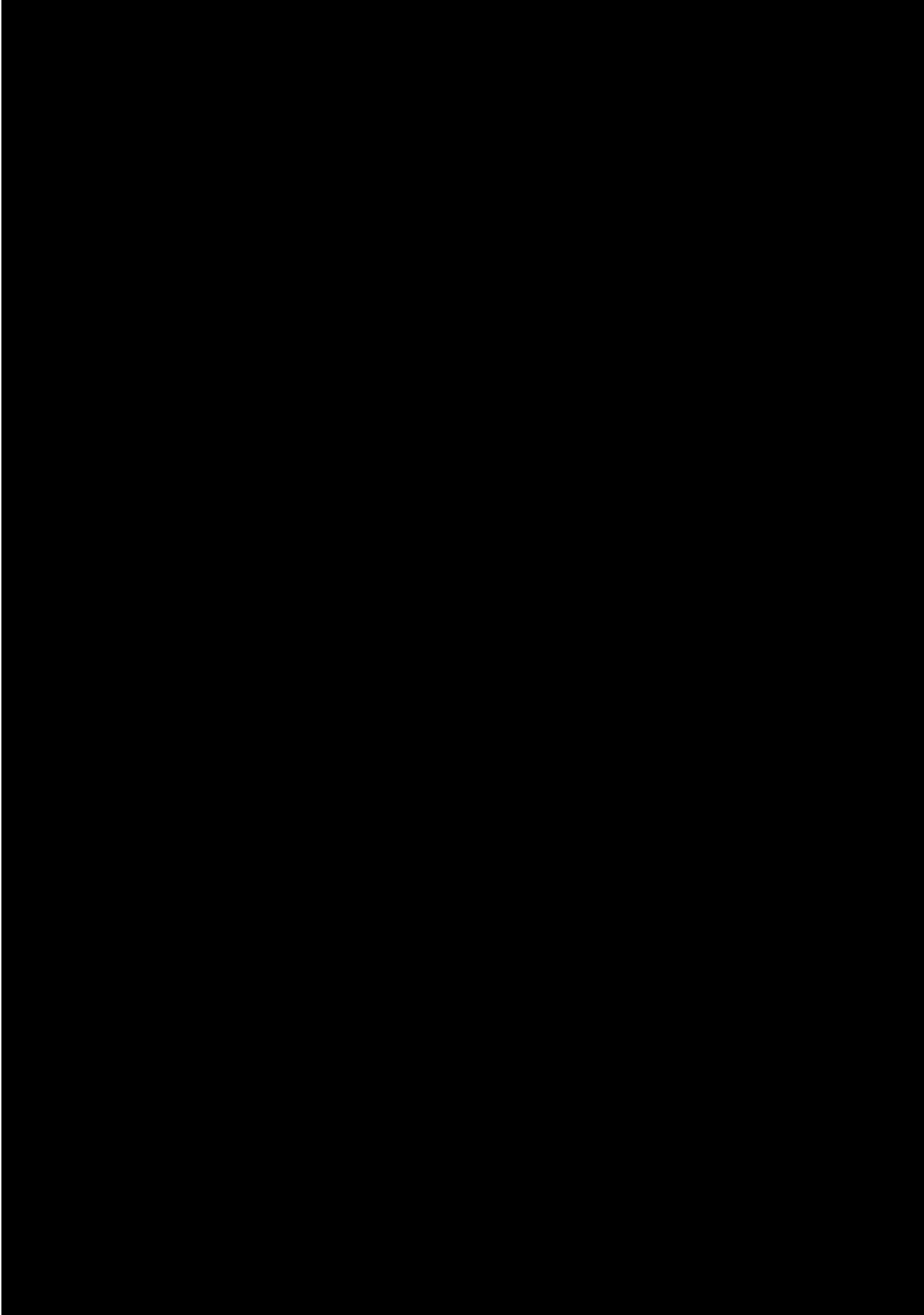


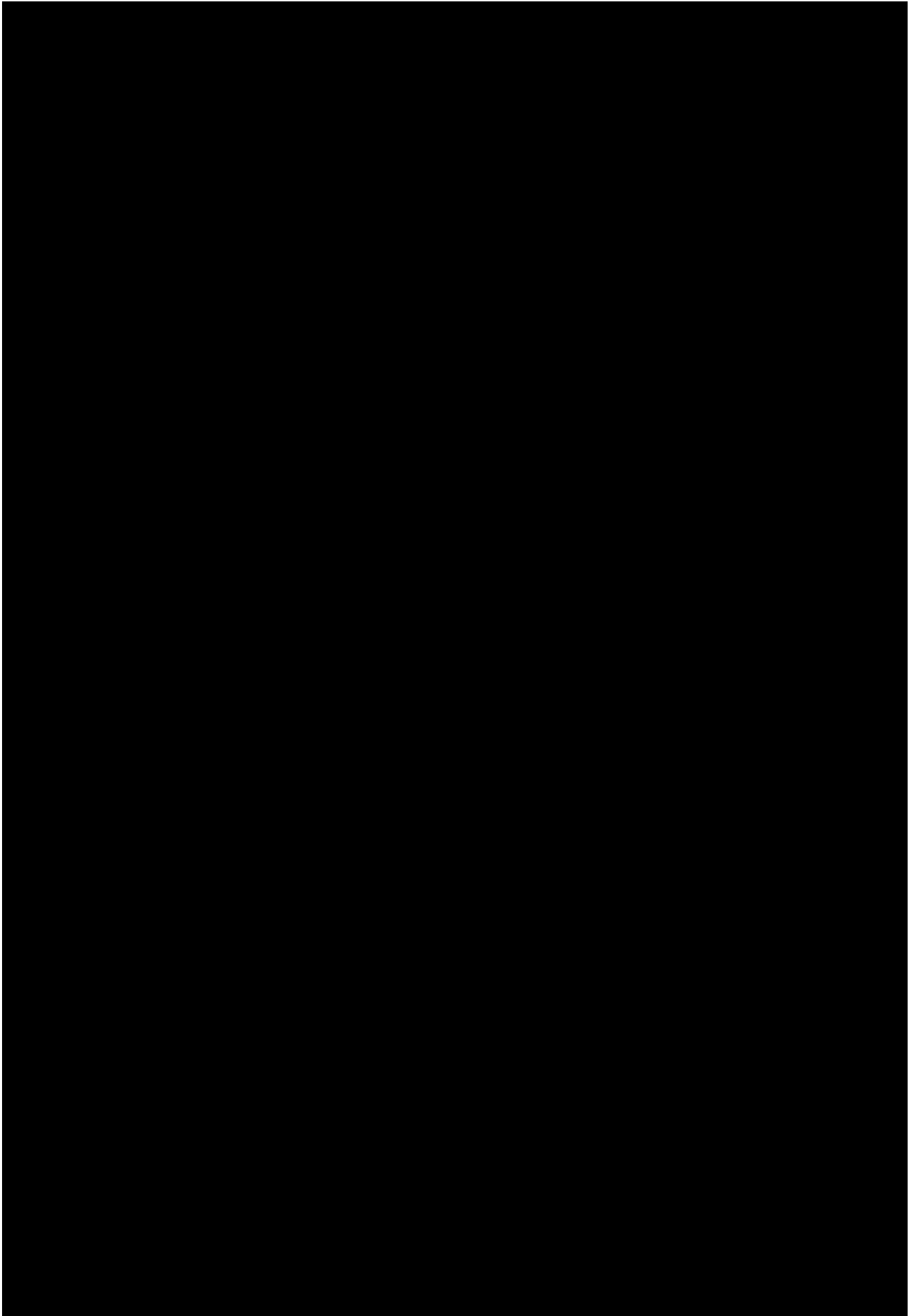
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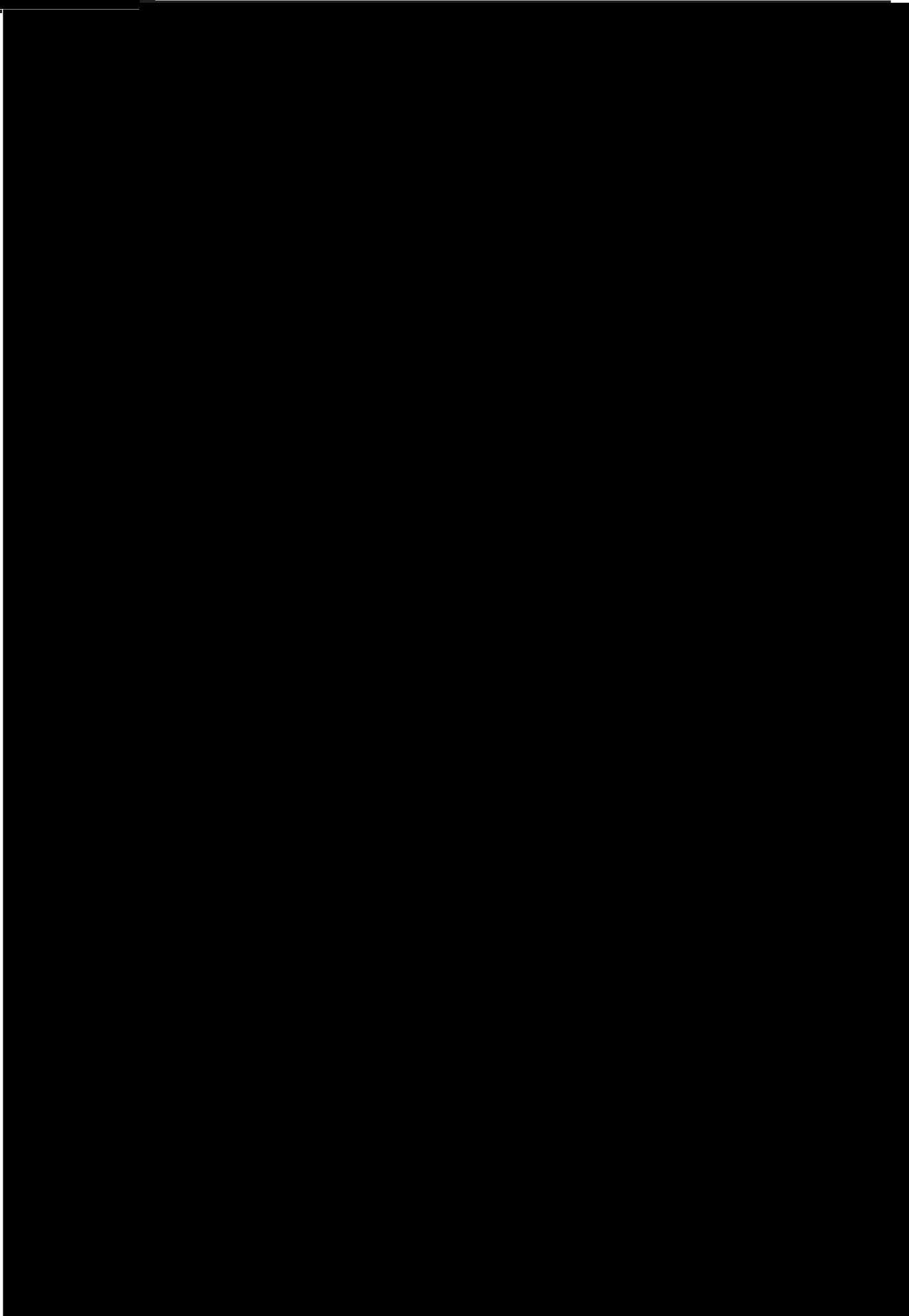
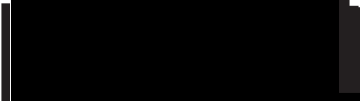


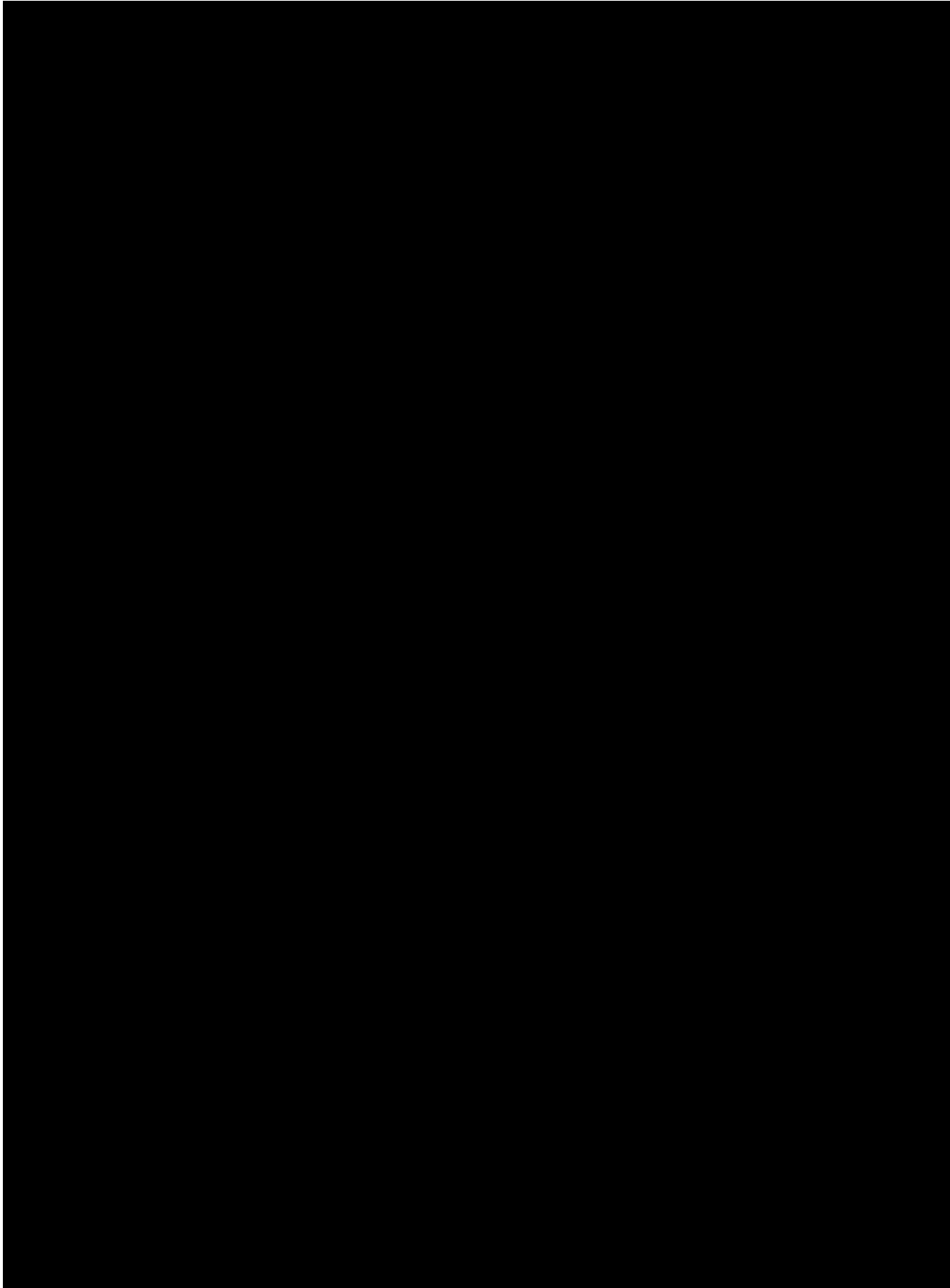
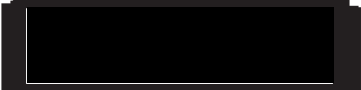


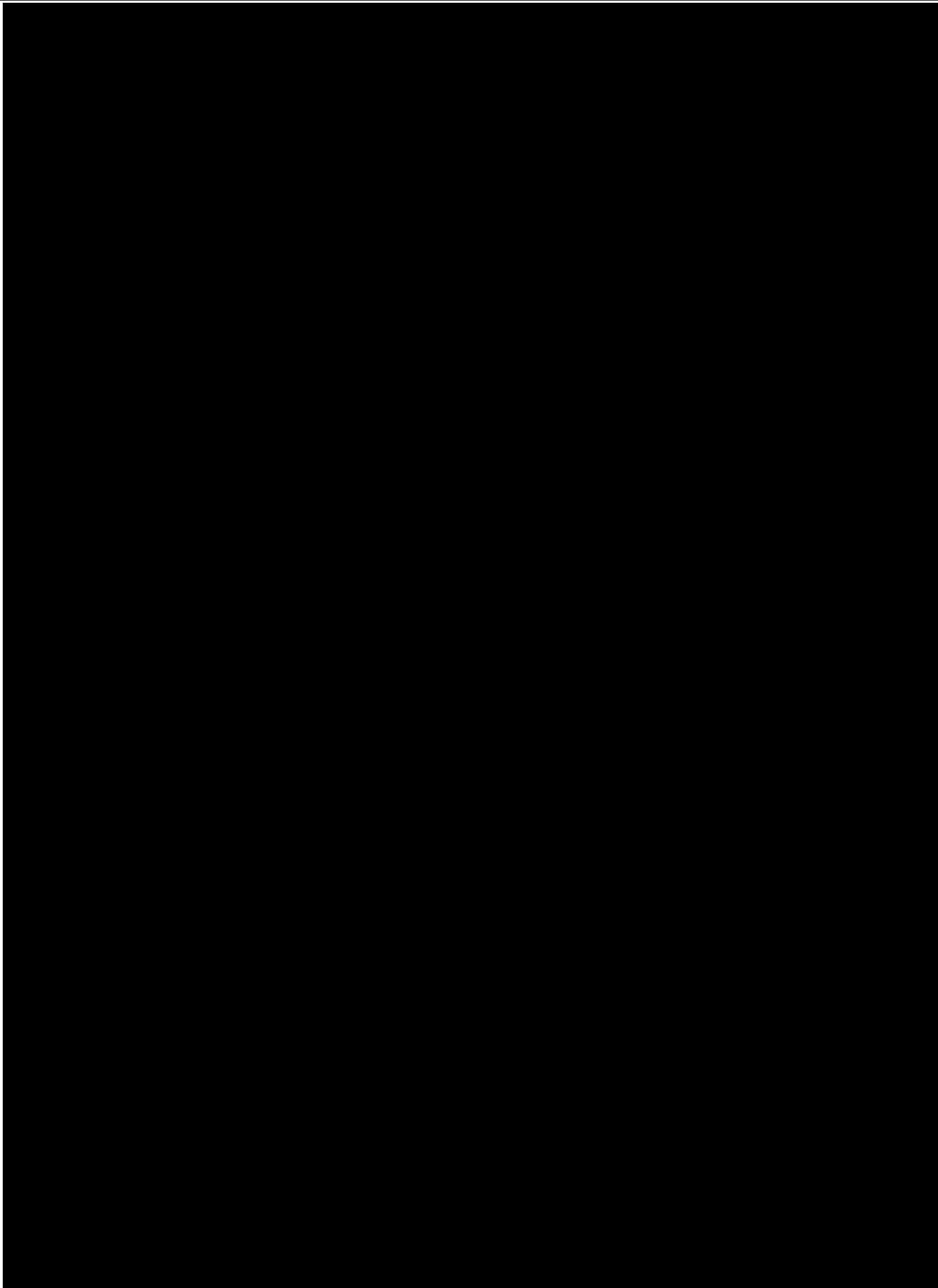


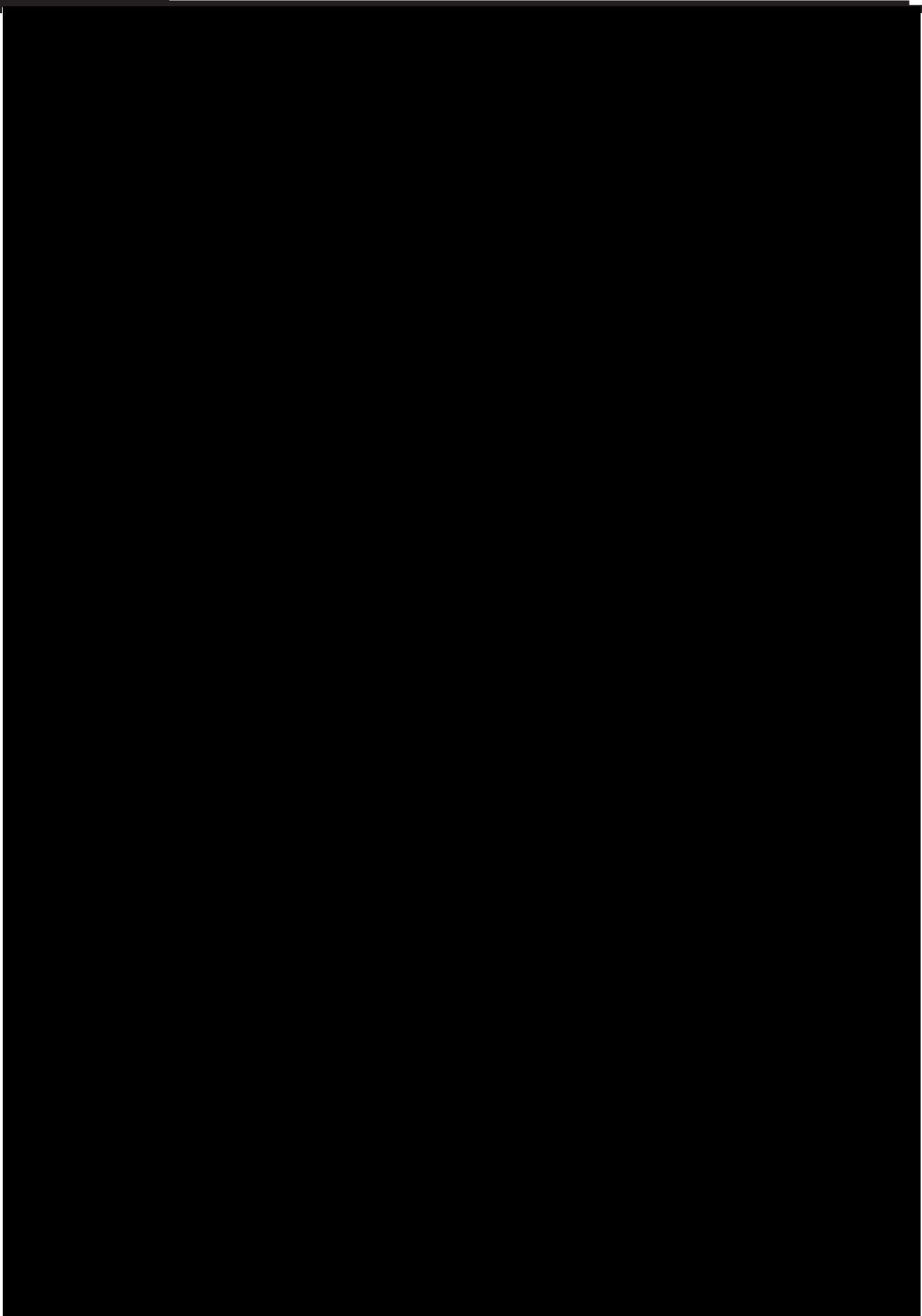


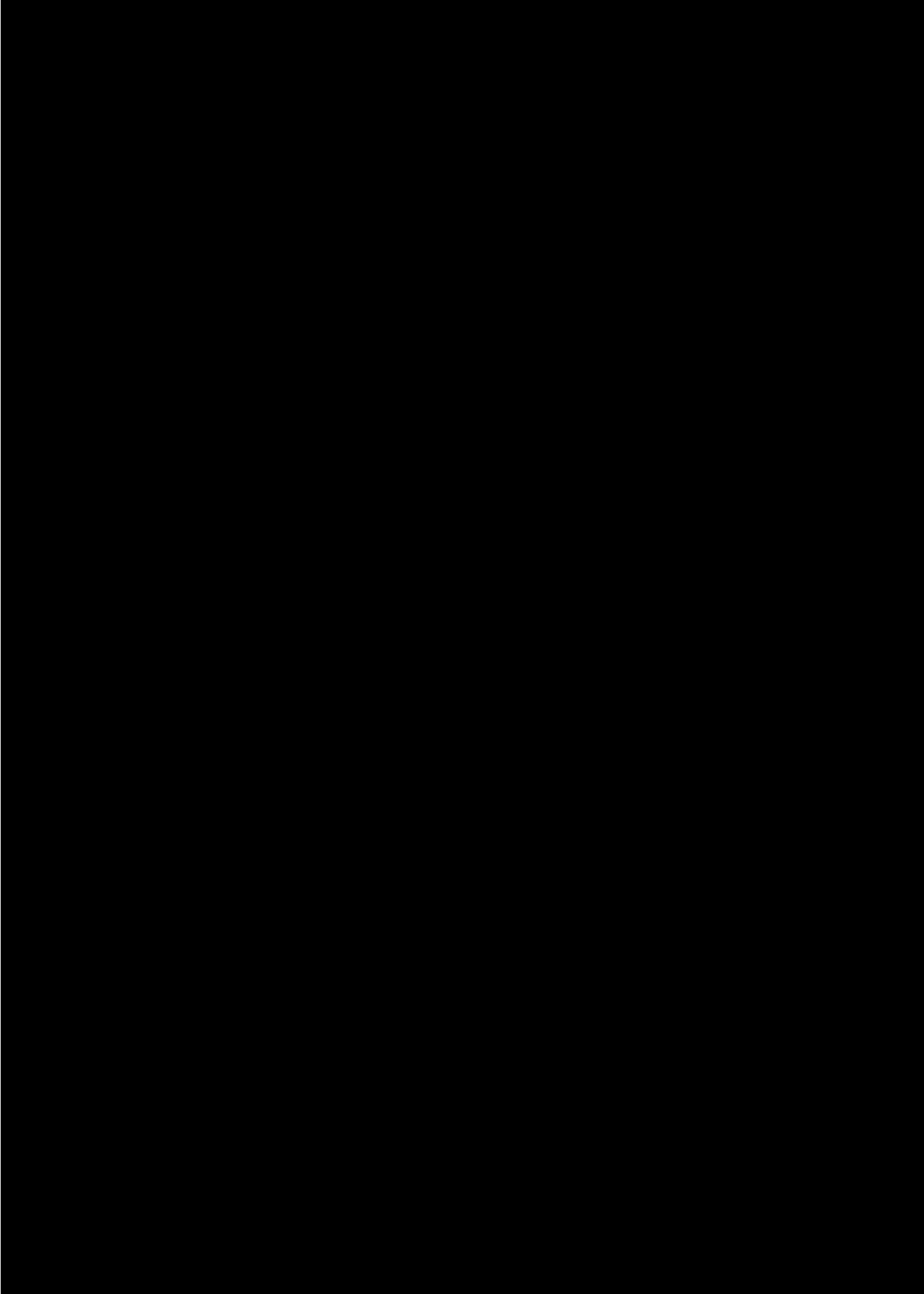
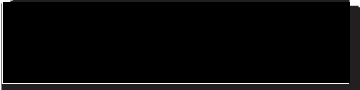


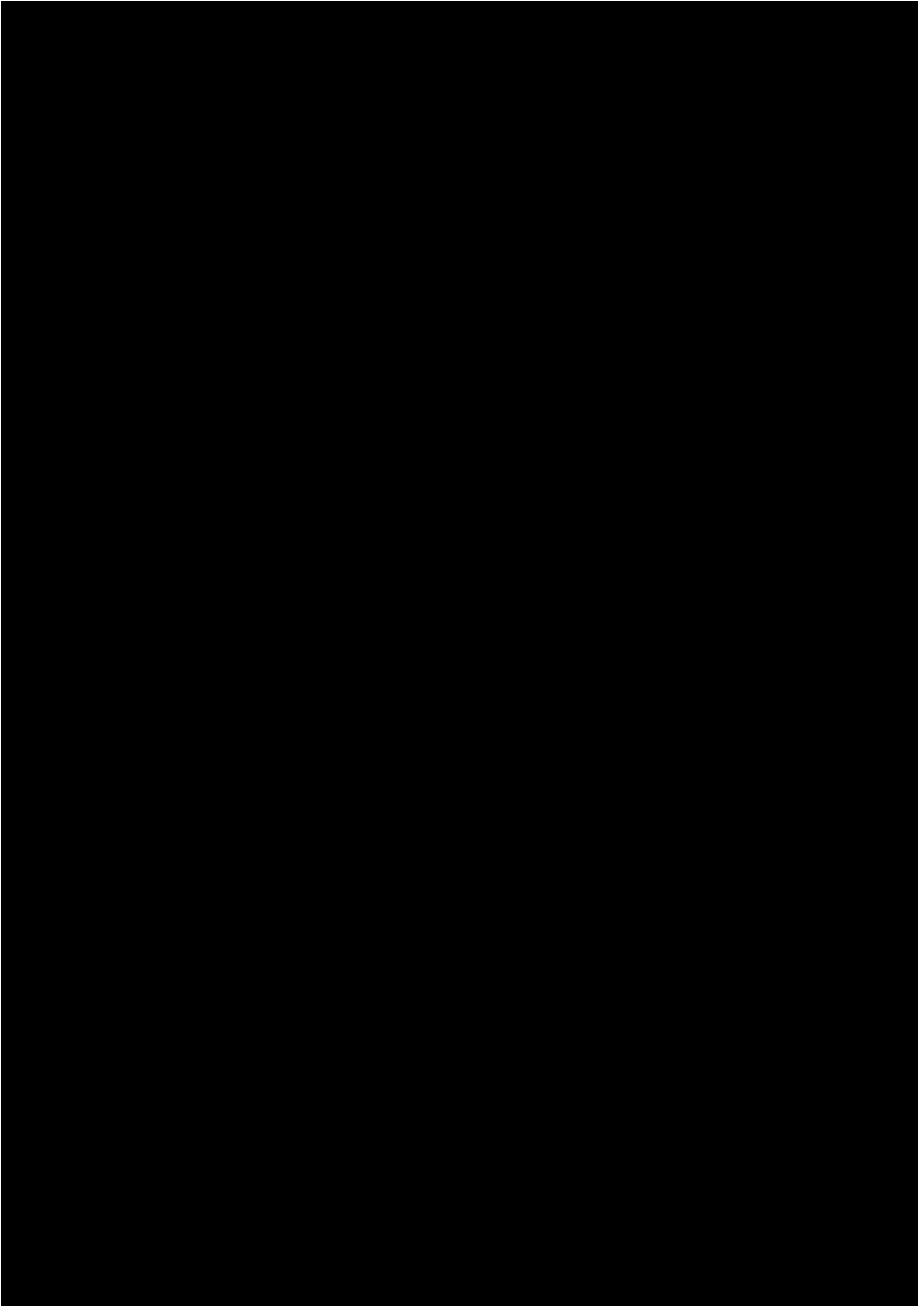
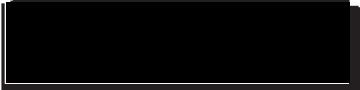


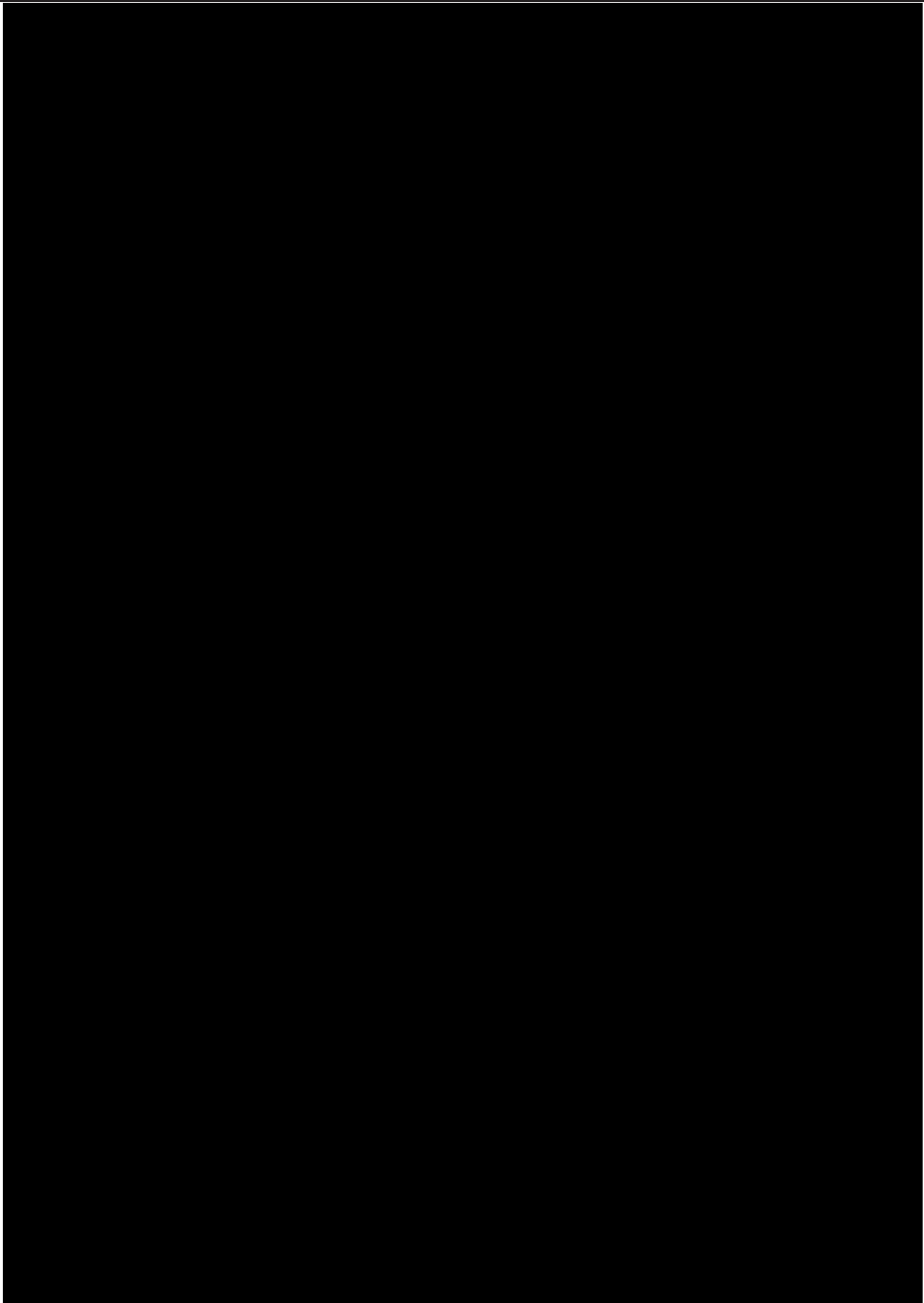
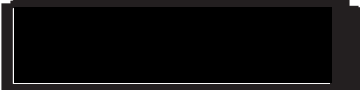


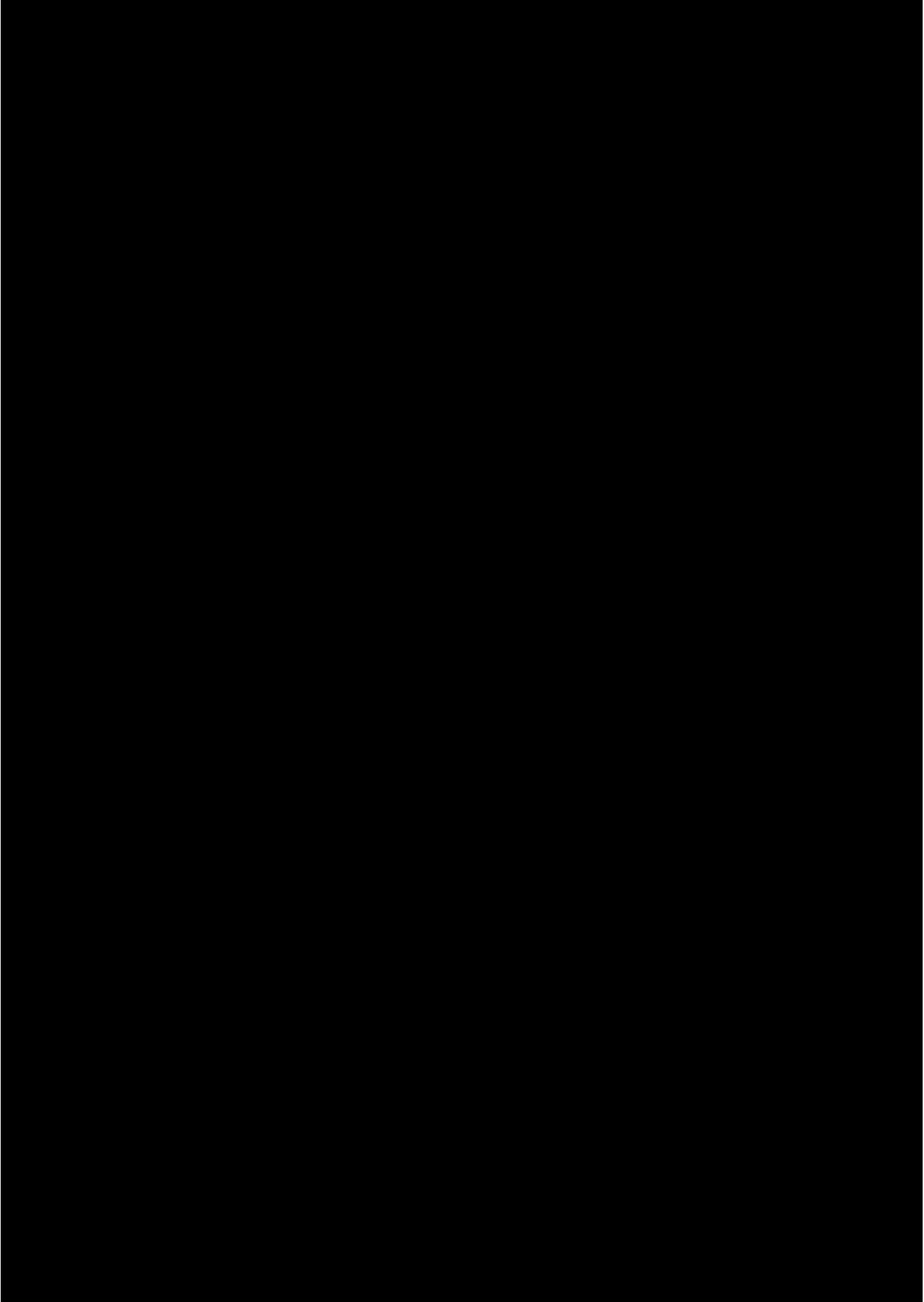
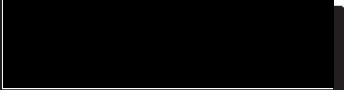


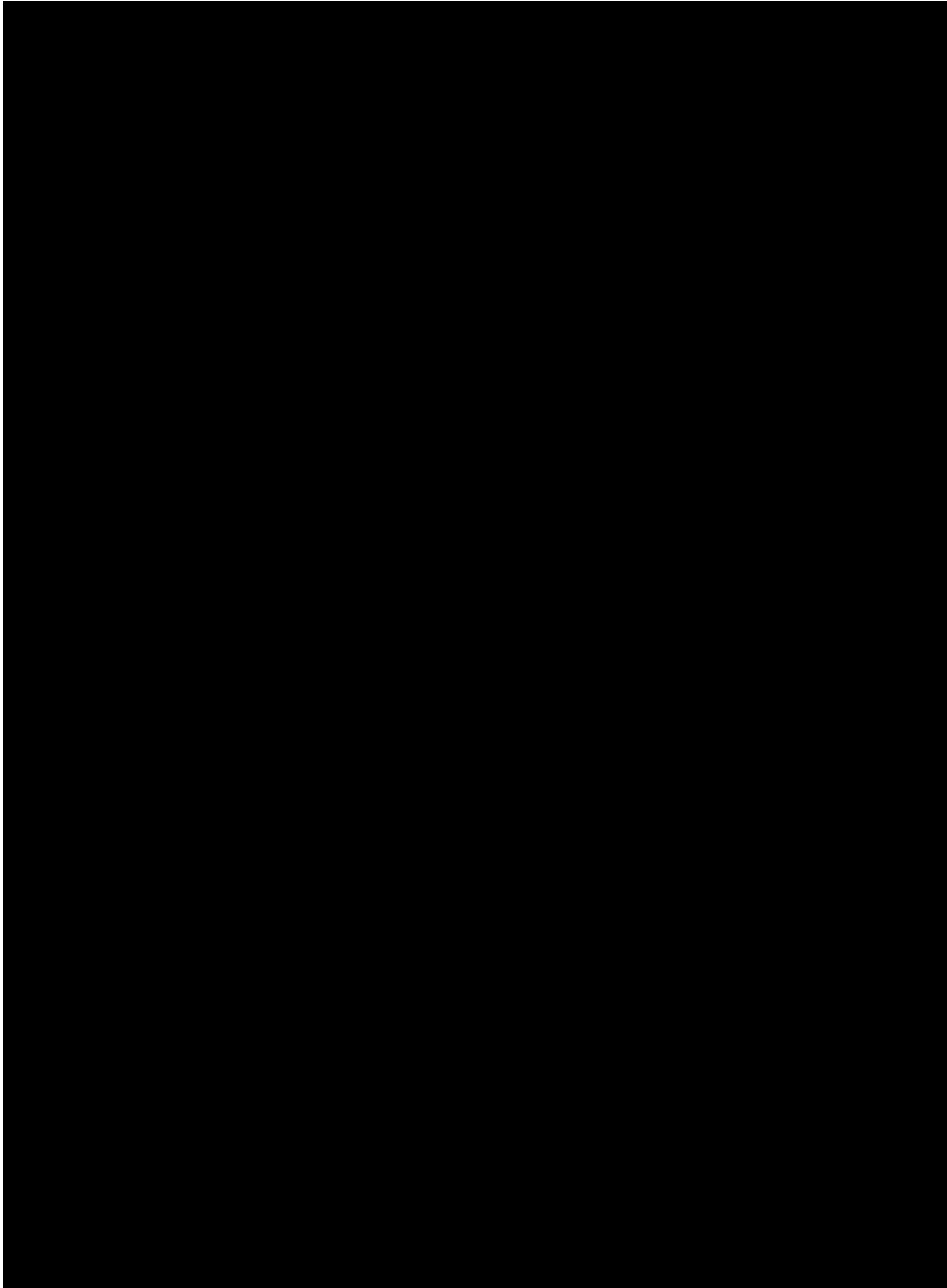






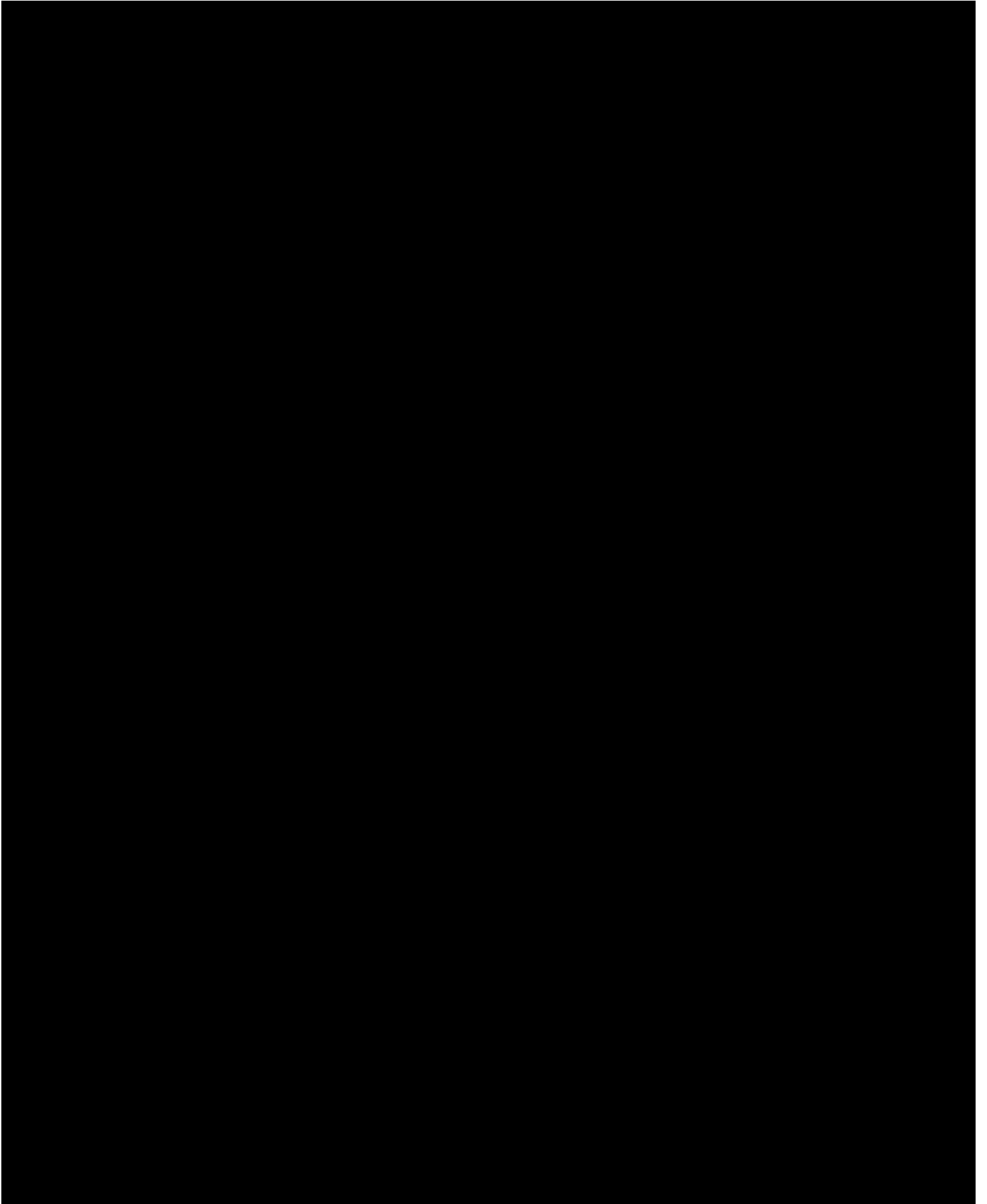


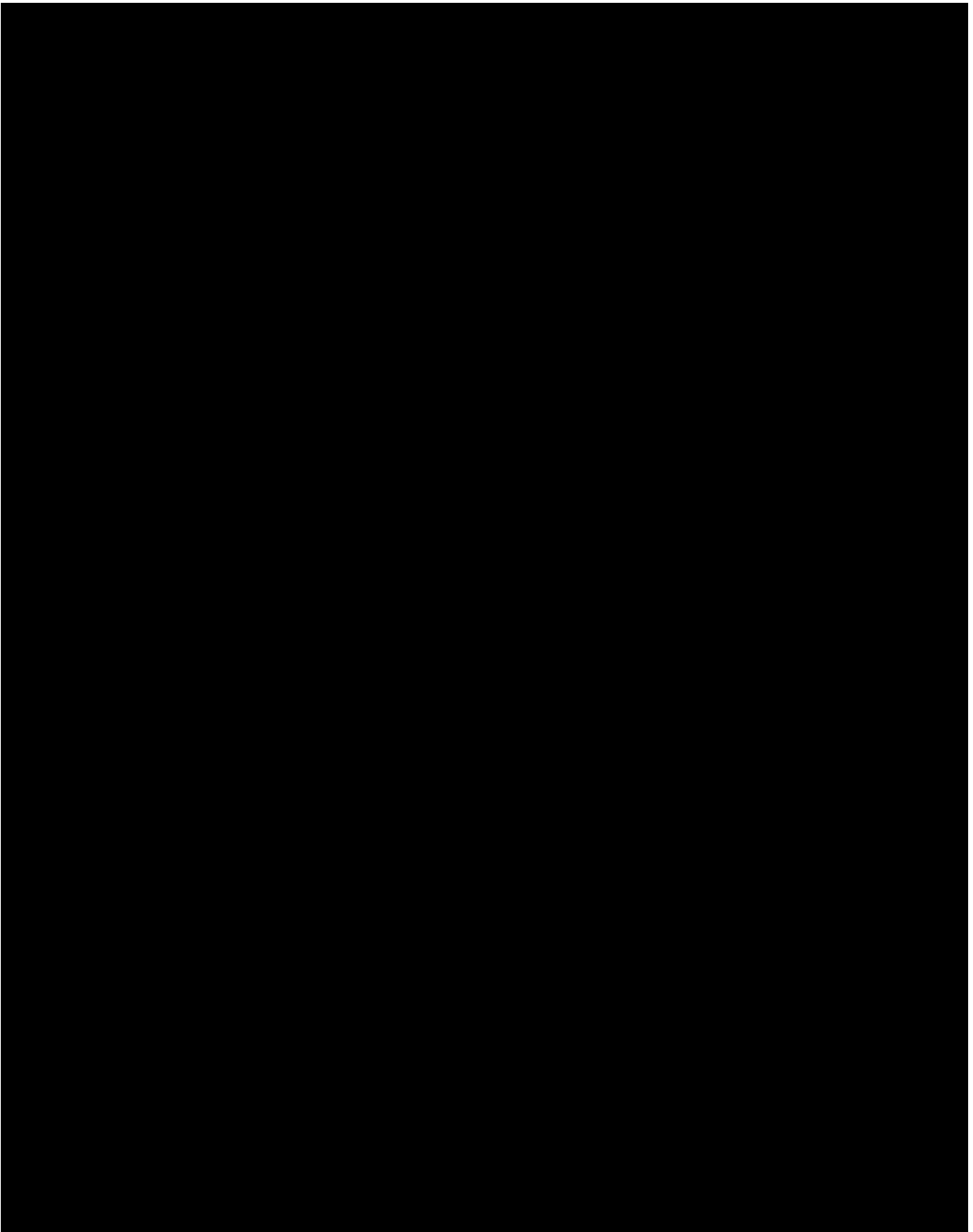
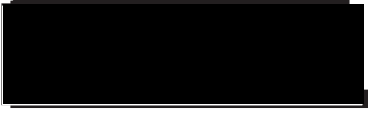


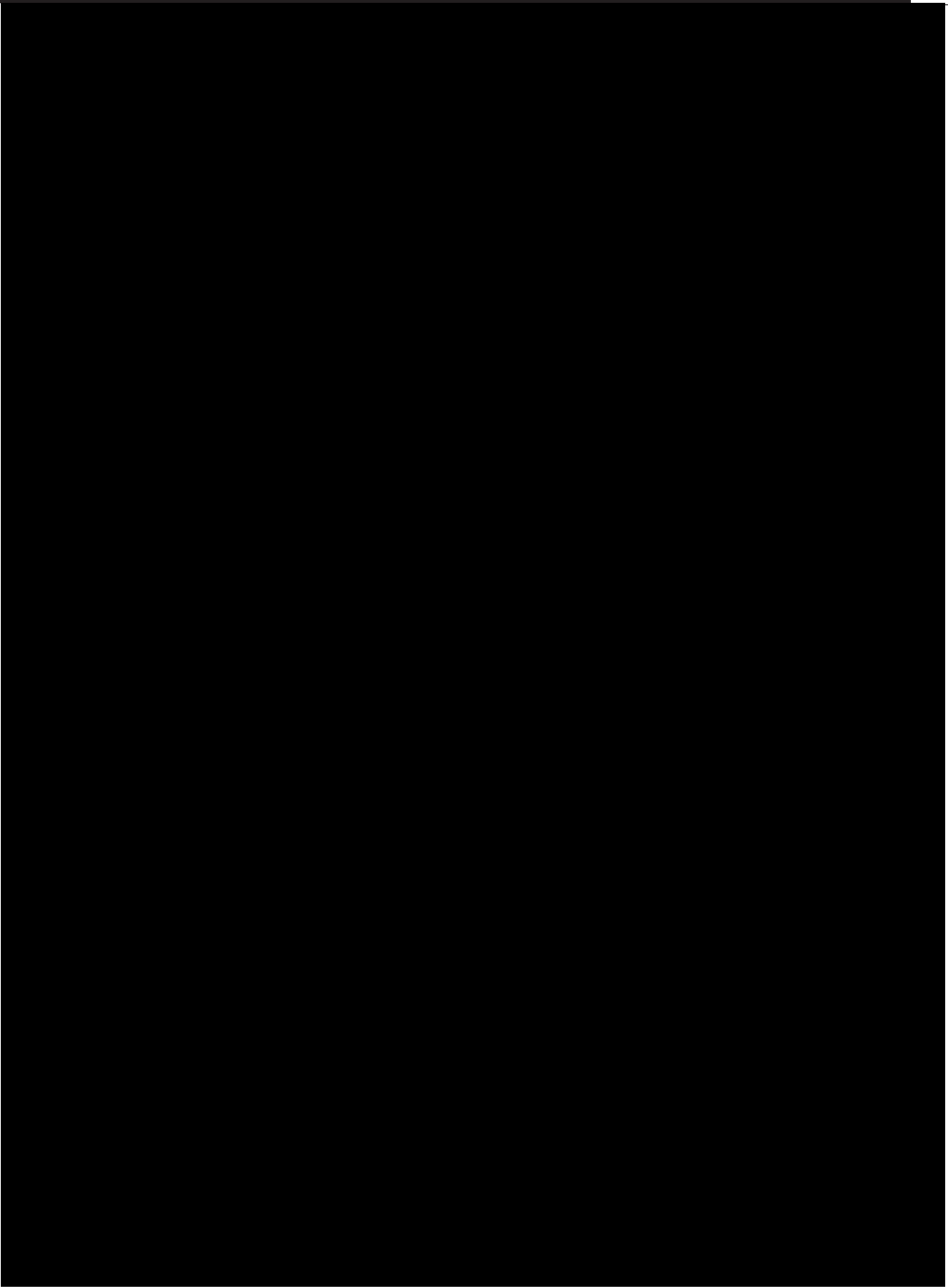
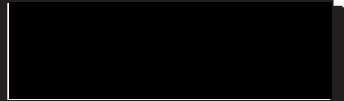




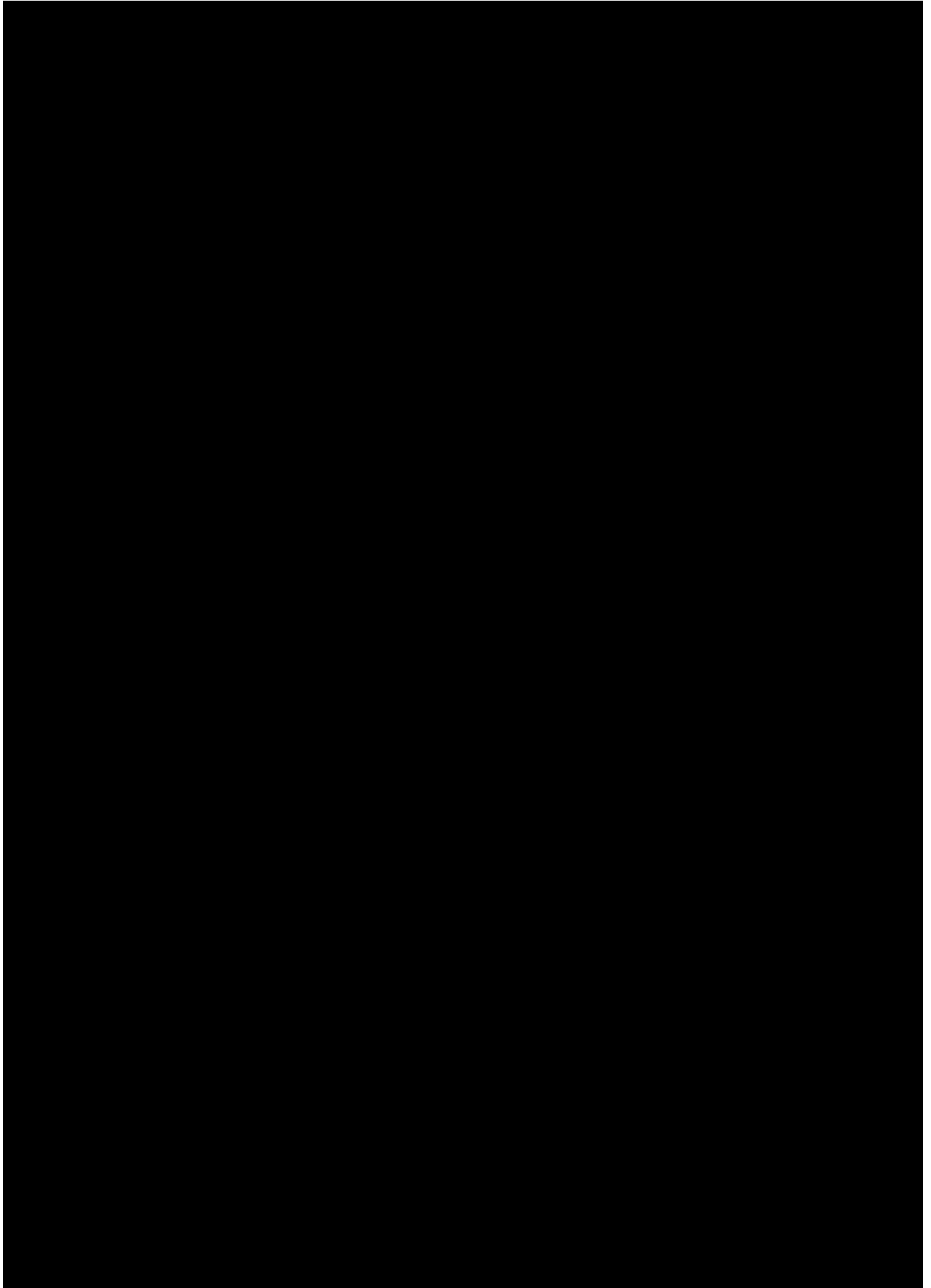
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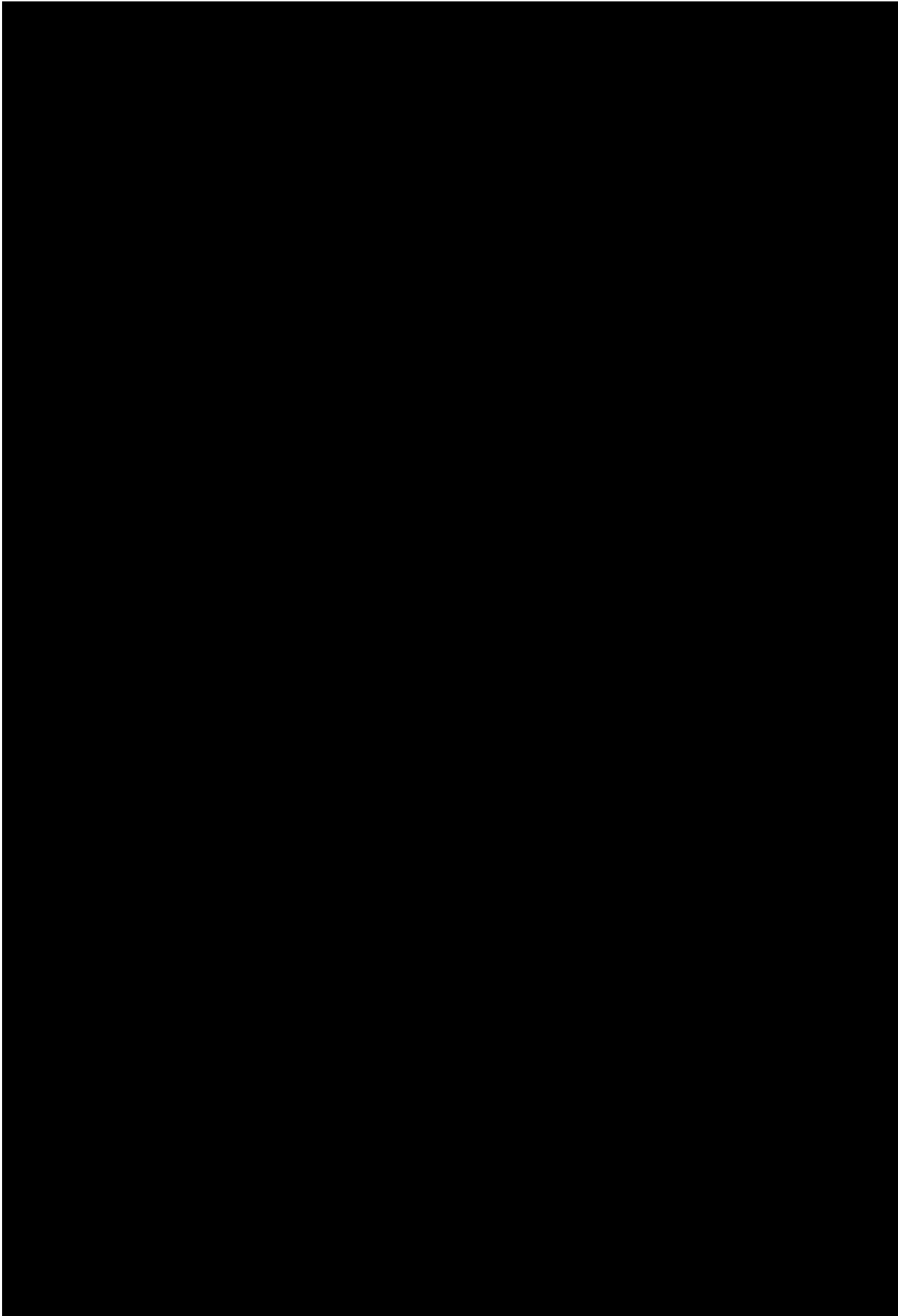


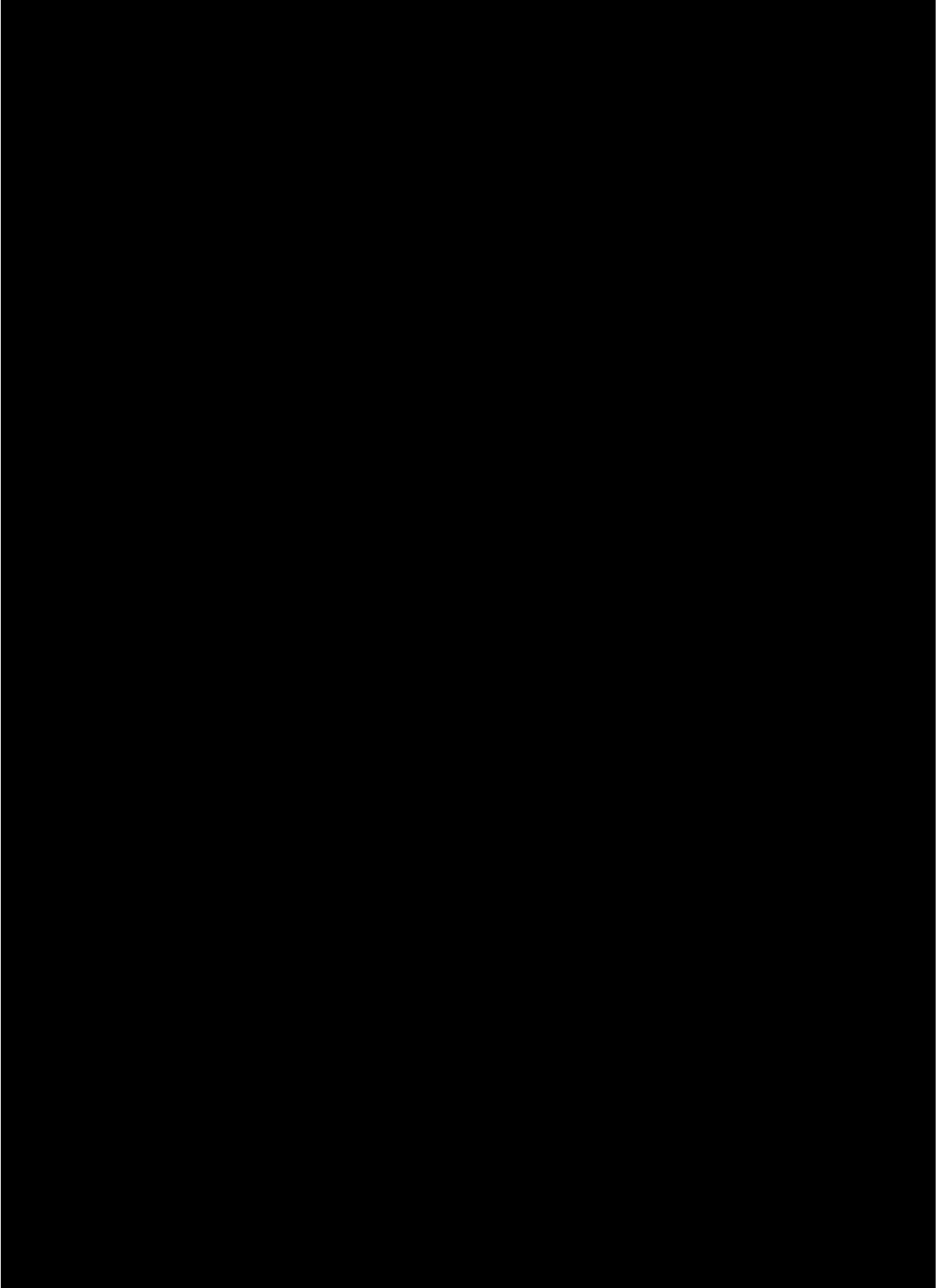


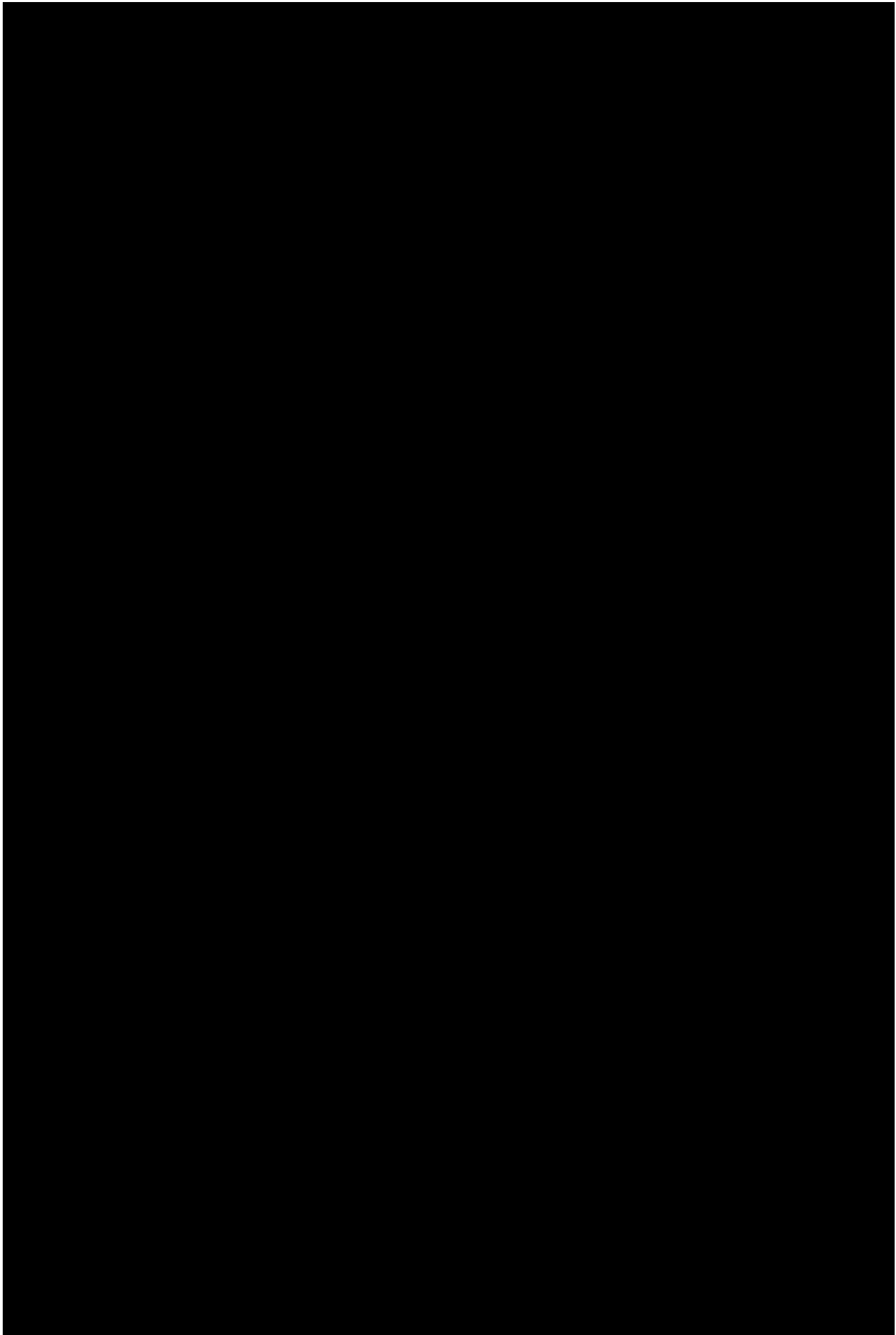


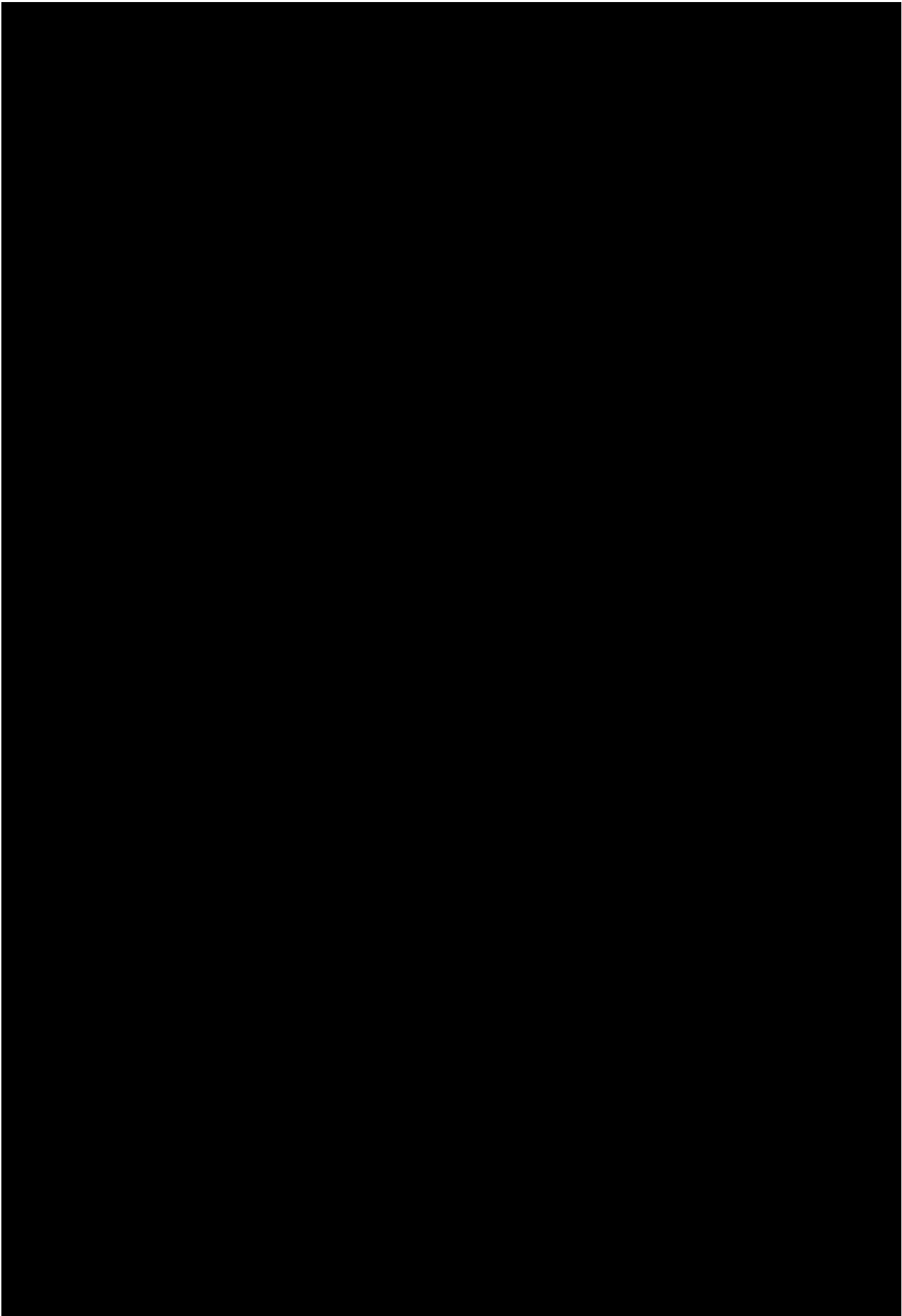
Schedule 5– Draft Deed Poll / Deed

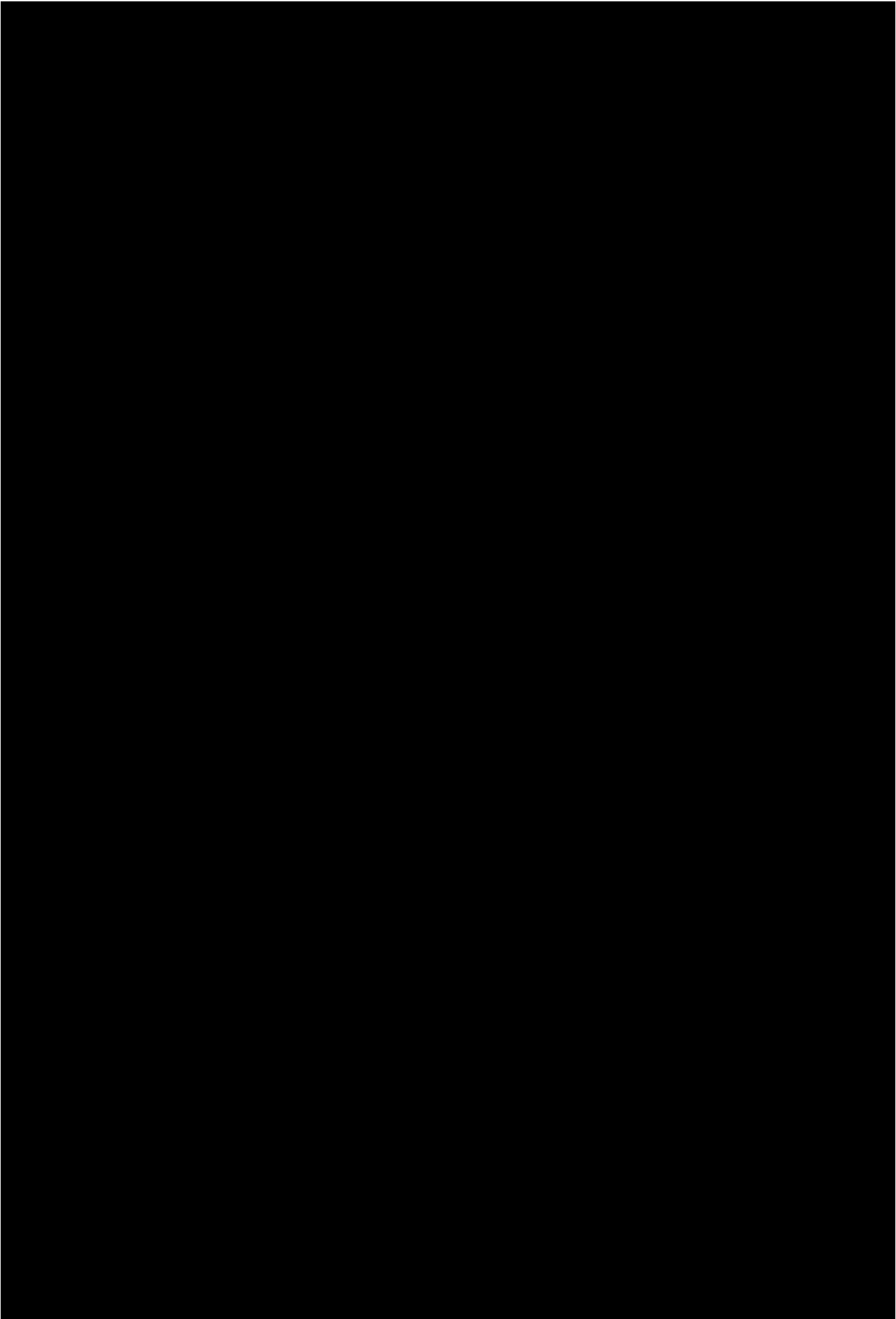


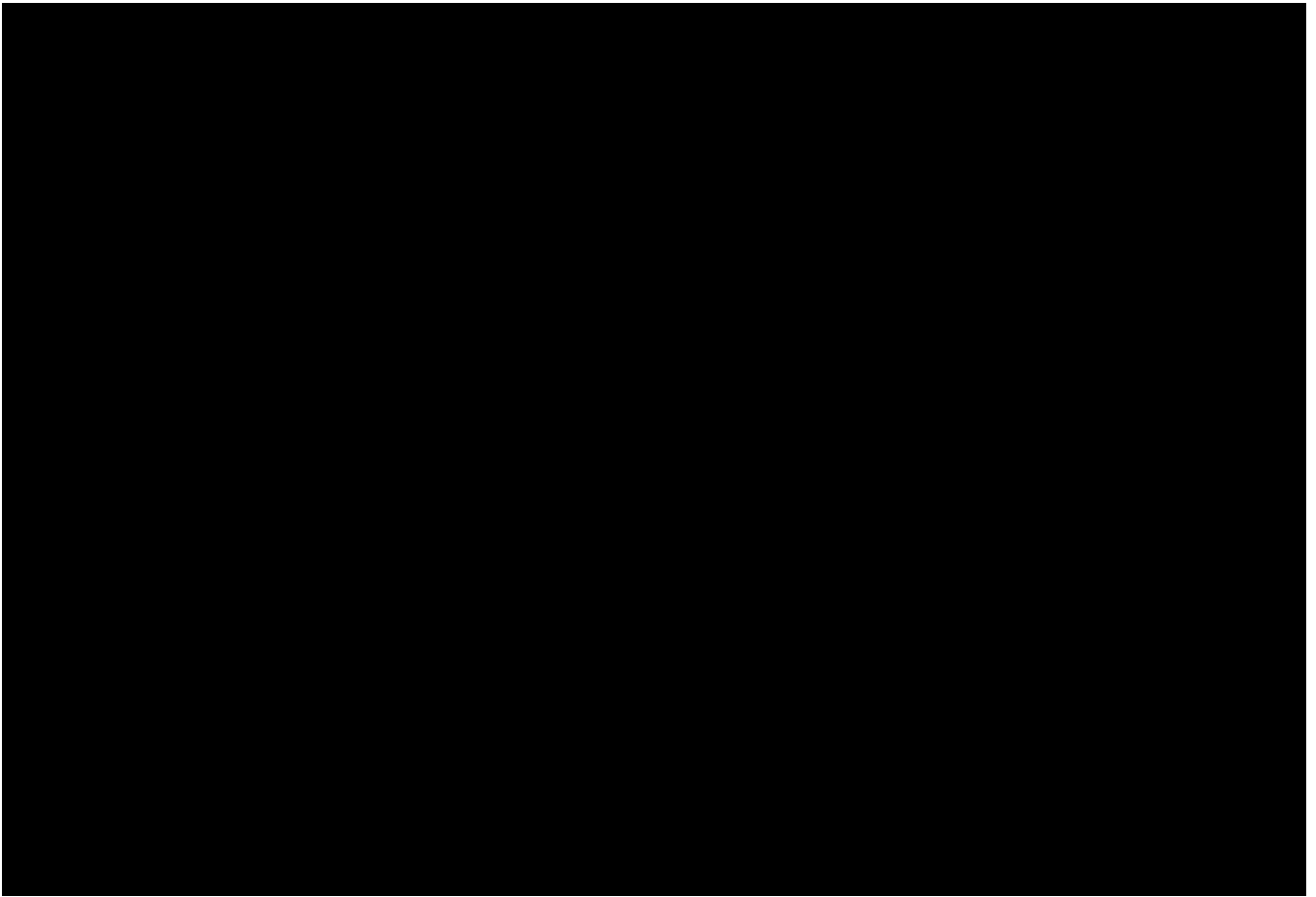












Schedule 6 – Form of Certification –Third Party Agreements

1. FORM OF CERTIFICATE FOR DESIGN DOCUMENTATION

[Insert Project] ("Project")
Design Documents Certification
[Concept Design Documentation / FDD Stage Design Documentation]

To: EnergyCo and **[Counterparty]**

From: [] (ABN [])

This certificate is given in accordance with the agreement between **[Counterparty]** and EnergyCo entitled the "[Third Party Agreement]" dated **[insert date]** with respect to the Project (**Third Party Agreement**). Words defined in the Third Party Agreement have the same meaning when used in this certificate.

In accordance with the terms of clause **[insert]** of the Third Party Agreement, we hereby certify that, having performed all relevant Services (as defined in the Independent Certifier Deed) in accordance with the requirements of the Independent Certifier Deed, the attached Design Documents comply with all the requirements of the Third Party Agreement except for the Minor **[Non-Compliances/Omissions/Defects]** identified in the attached list.

.....

Signed for and on behalf of

[Insert name of Independent Certifier]

[Design Documents to be attached]

ATTACHMENT A

List of Minor [Non-Compliances/Omissions/Defects]

No.	Minor [Non-Compliance /Omissions/Defects]	Recommended action to be taken by EnergyCo to address Minor [Non-Compliance/Omissions/Defects]

2. FORM OF CERTIFICATE OF PRACTICAL COMPLETION

[Insert Project] ("Project")

Certificate of Practical Completion - Interface Works

To: EnergyCo and **[Counterparty]**

From: [] (ABN [])

This certificate is given in accordance with the agreement between **[Counterparty]** and EnergyCo entitled the "**[Third Party Agreement]**" dated **[insert date]** with respect to the Project (**Third Party Agreement**). Words defined in the Third Party Agreement have the same meaning when used in this certificate.

In accordance with the terms of clause **[insert]** of the Third Party Agreement, we hereby certify that, in relation to the part of the Interface Works described in Schedule 1, having performed all relevant Services (as defined in the Independent Certifier Deed) in accordance with the requirements of the Independent Certifier Deed, as at **[insert date]** (**Date of Practical Completion**):

- (a) EnergyCo has achieved Practical Completion on **[insert date]** in accordance with the Design Documents, except for the Minor **[Non-Compliances/Omissions/Defects]** listed in Schedule 2 of this certificate; and
- (b) the construction complies with all requirements of the Third Party Agreement.

Schedule 1

[Insert description of Interface Works as relevant]

Schedule 2

[Insert list of Minor [Non-Compliances/Omissions/Defects] and time for rectification]

.....

Signed for and on behalf of

[Insert name of Independent Certifier]

3. FORM OF CERTIFICATE OF COMPLETION OF REHABILITATION WORKS

[Insert Project] ("Project")

Certificate of completion – Rehabilitation Works

To: EnergyCo and **[Counterparty]**

From: [] (ABN [])

This certificate is given in accordance with the agreement between **[Counterparty]** and EnergyCo entitled the "**[Third Party Agreement]**" dated **[insert date]** with respect to the Project (**Third Party Agreement**). Words defined in the Third Party Agreement have the same meaning when used in this certificate.

In accordance with the terms of clause **[insert]** of the Third Party Agreement, we hereby certify that, in relation to the part of the Rehabilitation Works described in Schedule 1, having performed all relevant Services (as defined in the Independent Certifier Deed) in accordance with the requirements of the Independent Certifier Deed, a Satisfactory Condition has been achieved in respect of those Rehabilitation Works.

Schedule 1

[Insert description of Rehabilitation Works as relevant]

.....

Signed for and on behalf of

[Insert name of Independent Certifier]

Schedule 7 – Form of Accession Deed

ACCESSION DEED

This deed is made on 2023

BETWEEN:

- (1) **Energy Corporation of New South Wales** ABN 13 495 767 706, constituted by section 7 of the *Energy and Utilities Administration Act 1987* (NSW), in its capacity as the infrastructure planner under the EII Act for the Central-West Orana renewable energy zone (**Infrastructure Planner**);
- (2) **GHD Pty Ltd** ABN 39 008 488 373 of Level 2, 29-57 Christie Street, St Leonards NSW 2065 and **Jacobs Group (Australia) Pty Ltd** ABN 37 001 024 095 of Level 17, 570 Bourke Street Melbourne VIC 3000 (together, the **Independent Certifier**); and
- (3) [Insert name of Network Operator] (ABN [insert]) of [insert address] (**Acceding Party**).

Recitals

- A. The Continuing Parties are parties to the Independent Certifier Deed.
- B. The Independent Certifier Deed allows the Acceding Party to become a party to the Independent Certifier Deed as the "Network Operator" in accordance with this deed.
- C. The Continuing Parties and the Acceding Party wish the Acceding Party to become a party to the Independent Certifier Deed as the "Network Operator" in accordance with this deed.

This deed witnesses as follows:

1. Interpretation

1.1 Definitions

Accession Date means the date this deed is executed by the last party to do so.

Continuing Parties means the Infrastructure Planner and the Independent Certifier.

Independent Certifier Deed means the deed titled "*Central West Orana – REZ, RNI Independent Certifier Deed, Independent Certifier of the RNI Works*" entered into by the Continuing Parties on [insert date].

1.2 Definitions in Independent Certifier Deed

Except as otherwise defined in clause 1.1, terms used in this deed that are defined in the Independent Certifier Deed have the same meaning.

1.3 Incorporated provisions

Clauses 1.3, 1.6, 1.8, 1.9, 1.10 and 1.11 of the Independent Certifier Deed apply to this deed as if set out in full.

2. Accession

- (a) With effect on and from the Accession Date, the Acceding Party:
- (i) becomes a party to the Independent Certifier Deed as the “Network Operator”;
 - (i) obtains the rights and entitlements of the “Network Operator” under the Independent Certifier Deed; and
 - (ii) assumes the obligations and liabilities of the “Network Operator” under the Independent Certifier Deed,
- as if the Acceding Party had originally been a party to the Independent Certifier Deed as the “Network Operator”.
- (b) With effect on and from the Accession Date, each Continuing Party must comply with the Independent Certifier Deed on the basis the Acceding Party has become a party to the Independent Certifier Deed as the “Network Operator”.
- (c) Nothing in this deed affects any rights, entitlements, obligations or liabilities of each Continuing Party which arose before the Accession Date.

3. Copy of Independent Certifier Deed

The Acceding Party confirms that it has been provided with a copy of the Independent Certifier Deed as originally executed by the Continuing Parties.

4. Notice details for Network Operator

For the purposes of clause 12.1(c)(i)B.3) (*Notices*) of the Independent Certifier Deed, the notice details of the “Network Operator” are:

Address: [insert]

Email: [insert]

Attention: [insert]

4. General

Clauses 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10, 12.11, 12.12, 12.13, 12.14, 12.16, 12.17 and 12.18 of the Independent Certifier Deed are incorporated into this deed by reference as if set out in full.

Executed as a deed

[Execution blocks for each party are to be inserted]

Schedule 8 – Draft RNI Commitment Deed

[Redacted text block]

[Redacted text block]

EXECUTED as a deed.

