

INTERNATIONAL CENTRE FOR THE SETTLEMENT OF
INVESTMENT DISPUTES

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 In the Matter of Arbitration :
 Between: :
 :
 GABRIEL RESOURCES LTD. and GABRIEL :
 RESOURCES (JERSEY) LTD., :
 : Case No.
 Claimants, : ARB/15/31
 :
 and :
 :
 ROMANIA, :
 :
 Respondent. :
 -----x Volume 5

HEARING ON THE MERITS

Friday, December 6, 2019

The World Bank Group
1225 Connecticut Avenue, N.W.
C Building
Conference Room C3-150
Washington, D.C.

The hearing in the above-entitled matter came on
at 9:00 a.m. before:

PROF. PIERRE TERCIER, President of the Tribunal

DR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

PROF. ZACHARY DOUGLAS, Co-Arbitrator

ALSO PRESENT:

MS. SARA MARZAL YETANO
Secretary to the Tribunal

MS. MARIA ATHANASIOU
Tribunal Assistant

Court Reporters:

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Interpreters:

MS. MARLIENA FILIP

MS. ALEXANDRA IULIANA MLADEN

MS. ALEXANDRA DOBRIN

ALSO PRESENT:

Attending on behalf of the Claimants:

MS. ABBY COHEN SMUTNY
MR. DARRYL LEW
MR. BRODY GREENWALD
MR. PETR POLÁŠEK
MR. HANSEL PHAM
MR. FRANCIS VASQUEZ JR.
MR. ANDREI POPOVICI
MS. GABRIELA LOPEZ
MR. FRANCIS LEVESQUE
MR. WILLIAM STROUPE
MS. NATALIA TCHOUKLEVA
MR. JACOB TRUMM
MS. DARA BROWN
MS. ALYSSA HOWARD
White & Case, LLP
701 13th Street, N.W.
Washington, D.C. 20005
United States of America

MR. FLORENTIN TUCA
MS. IDA-LEVANA ZIGMUND
MS. ANCA DIANA PUSCASU
MS. OANA-MIRUNA URECHE
MS. RUXANDRA NIȚĂ
MS. ANGELICA-IULIANA HOGAȘ-PINTILIE
MR. CORNEL POPA (via video for Prof. Birsan)
Țuca Zbârcea & Asociații
Sos. Nicolae Titulescu nr. 4-8
America House, Aripa de Vest, et. 8
Sector 1, 011141, Bucuresti
Romania

APPEARANCES:

Represent Gabriel Resources Ltd.:

MR. SIMON LUSTY

MR. RICHARD BROWN

MR. DANIEL KOCHAV

MS. RUTH TEITELBAUM

Representing Roşia Montană Gold Corporation:

MR. MIHAI BOTEA

APPEARANCES: (Continued)

Attending on behalf of the Respondent:

DR. VEIJO HEISKANEN
MR. MATTHIAS SCHERER
MS. NORADÈLE RADJAI
MS. LORRAINE de GERMINY
MR. CHRISTOPHE GUIBERT de BRUET
MR. DAVID BONIFACIO
MR. BAPTISTE RIGAUDEAU
MS. EMILIE McCONAUGHEY
MS. NICOLE CHALIKOPOULOU
MR. PATRICIO GRANE
MS. STELA NEGRAN
Lalive
35, rue de la Mairie
CH - 1207 Geneva
Switzerland

DR. CRENGUȚA LEAUA
MS. ANDREEA SIMULESCU
MS. MIHAELA MARAVELA
MS. LILIANA DEACONESCU
MS. ANDREEA PIȚURCĂ
MS. ANDRA SOARE FILATOV
Leaua Damcali Deaconu Paunescu
10 Zborului Street, sector 3
030595, Bucharest
Romania

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P R O C E E D I N G S

1
2 PRESIDENT TERCIER: If everybody is ready, we
3 can start.

4 Good morning, ladies and gentlemen. It is my
5 honor to open the fifth day in the Hearing, First
6 Session of the Hearings in the ICSID Arbitration
7 Case 15/31 between Gabriel Resources Limited and
8 Gabriel Resources (Jersey) Limited versus Romania.
9 Again, I wish we'll have a very constructive and
10 interesting day.

11 I will start with a few points--not many.

12 First, thanks again for our Court Reporters
13 for the Transcript.

14 Secondly, thanks to our Secretary for having
15 sent the Report of the time used.

16 Third point, today, the program, we will
17 continue with Mrs. Lorincz's cross-examination, and
18 probably--you will have to make a break somewhere,
19 coffee break somewhere, depending on the time you
20 need, but if we follow the time you're given, and I
21 think it should be possible already to start with
22 Mr. Găman this morning. We'll see, depending on the

1 time that will be spent, we'll see. And then, in any
2 case, we can start also. We have this afternoon
3 Mr. Găman and Mr. Ariton. If we're not able to finish
4 the cross, and the redirect of Mr. Ariton, we suggest
5 to take it tomorrow morning so that we can comply with
6 it. Is this agreeable with you?

7 MR. LEW: Yes.

8 PRESIDENT TERCIER: Okay. On your side?

9 DR. HEISKANEN: Fine, fine with us as well.

10 Thank you.

11 PRESIDENT TERCIER: Thank you very much.

12 And the fourth point would be for us probably
13 to discuss during the course of the day the program
14 for next week. We will first discuss it internally
15 between the draft proposed by our Secretary, and we
16 will then send it to you to give you an opportunity to
17 comment if necessary.

18 Are there other points, or another point that
19 you would like to raise, Mr. Pham?

20 MR. PHAM: None for me. Thank you.

21 PRESIDENT TERCIER: Okay. And your side?

22 DR. HEISKANEN: Not from us, either.

1 PRESIDENT TERCIER: Okay. In that case, we
2 may continue with the cross-examination of
3 Ms. Lorincz.

4 ELENA LORINCZ, CLAIMANTS' WITNESS, RESUMED

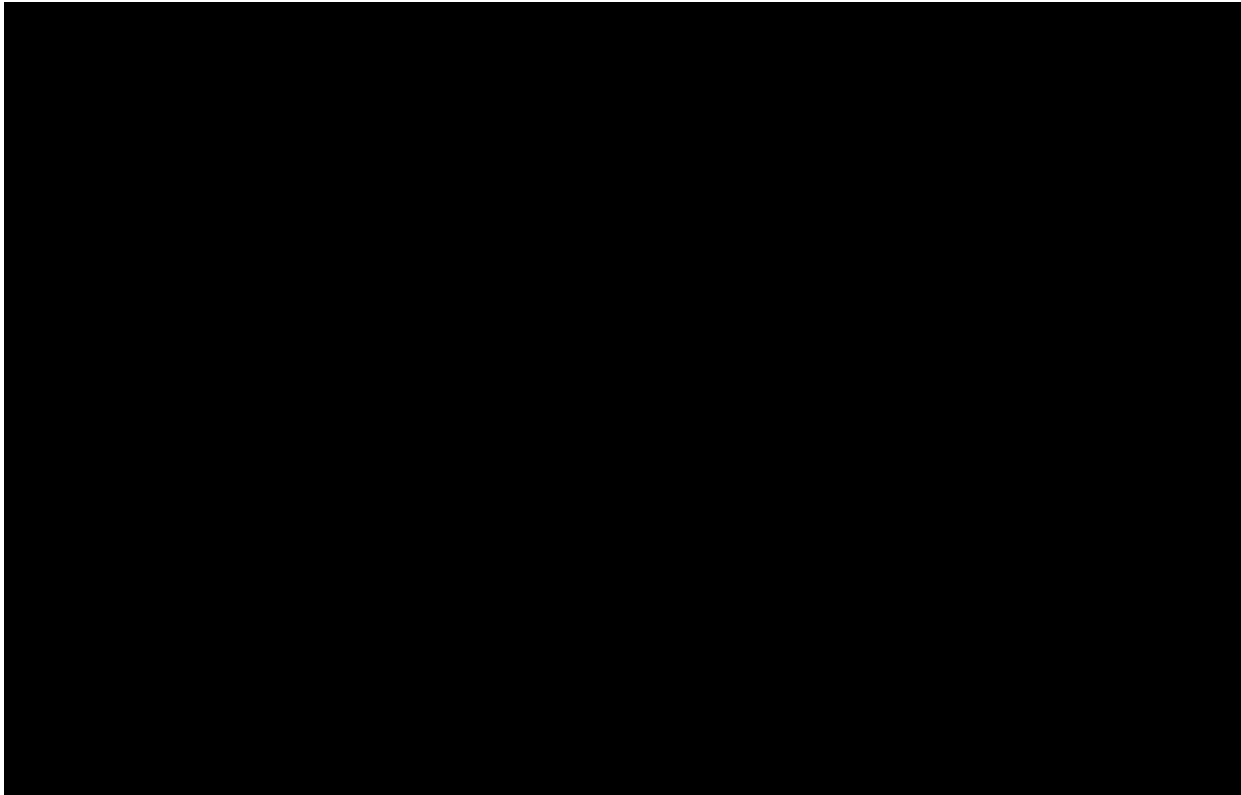
5 PRESIDENT TERCIER: Good morning,
6 Ms. Lorincz.

7 THE WITNESS: Good morning.

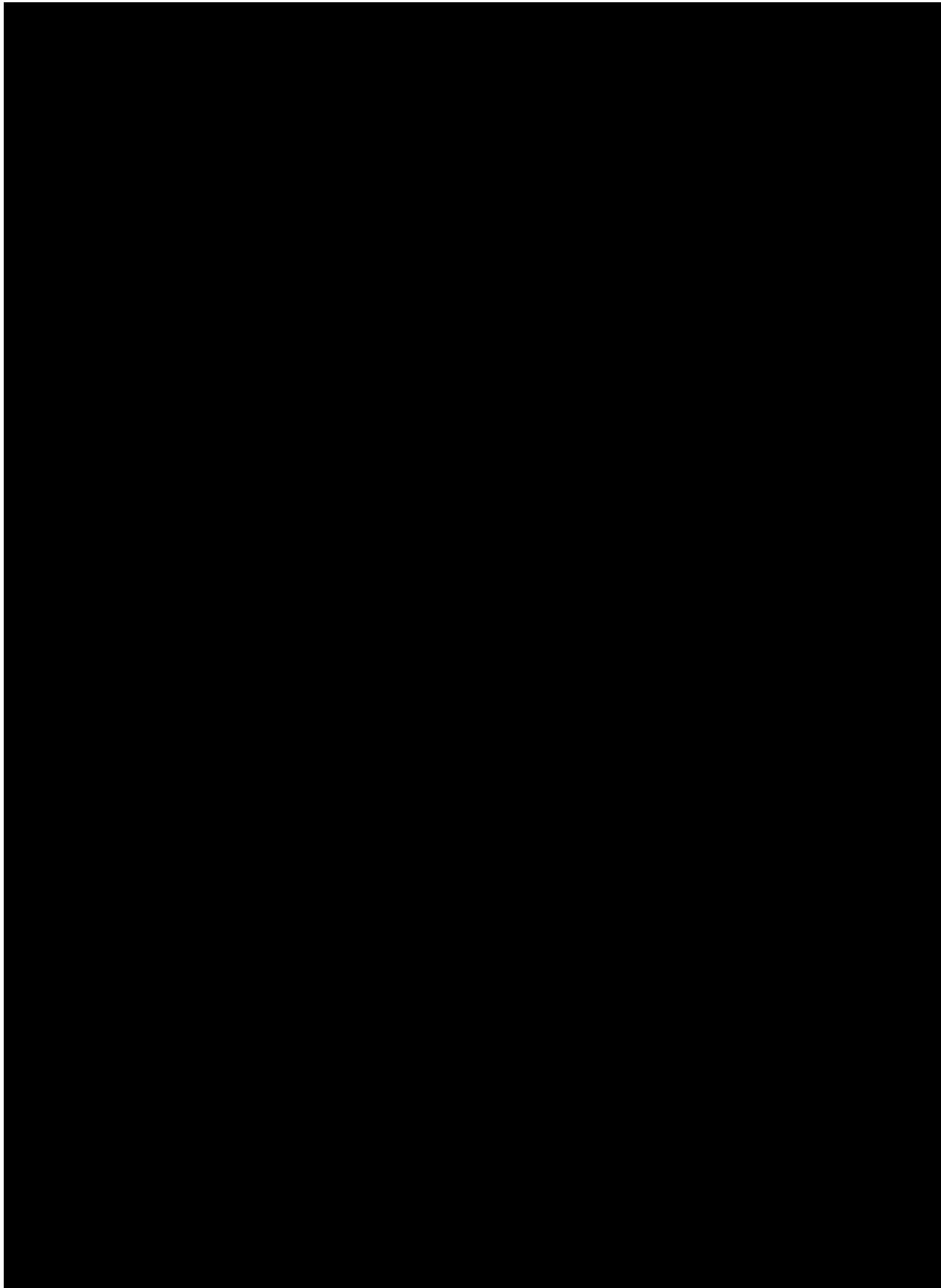
8 PRESIDENT TERCIER: You know where we are. I
9 do not need to recall everything that I said
10 yesterday, and I think without any delay, I will pass
11 the floor to Mrs. de Germiny.

12 CONTINUED CROSS-EXAMINATION

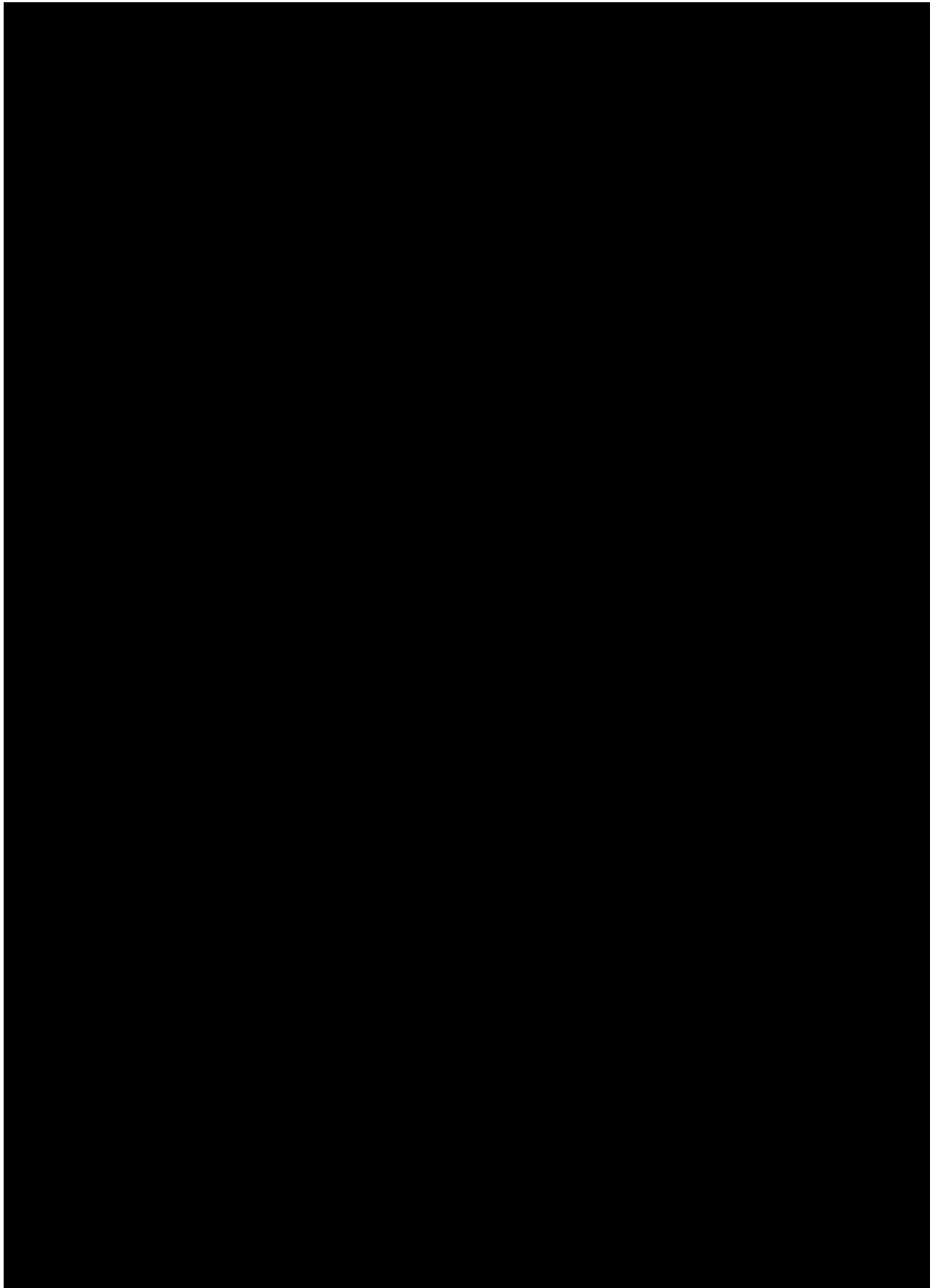
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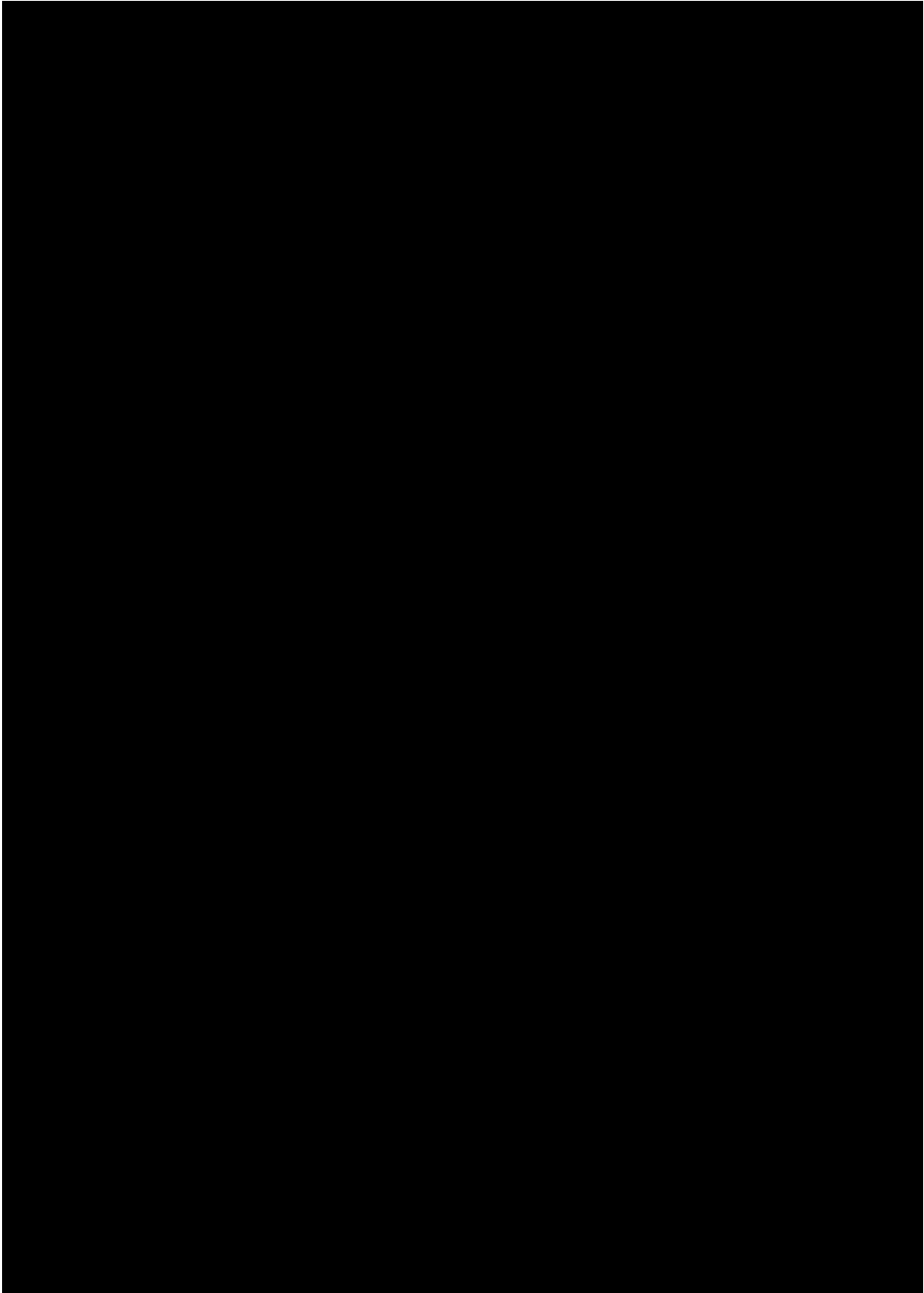
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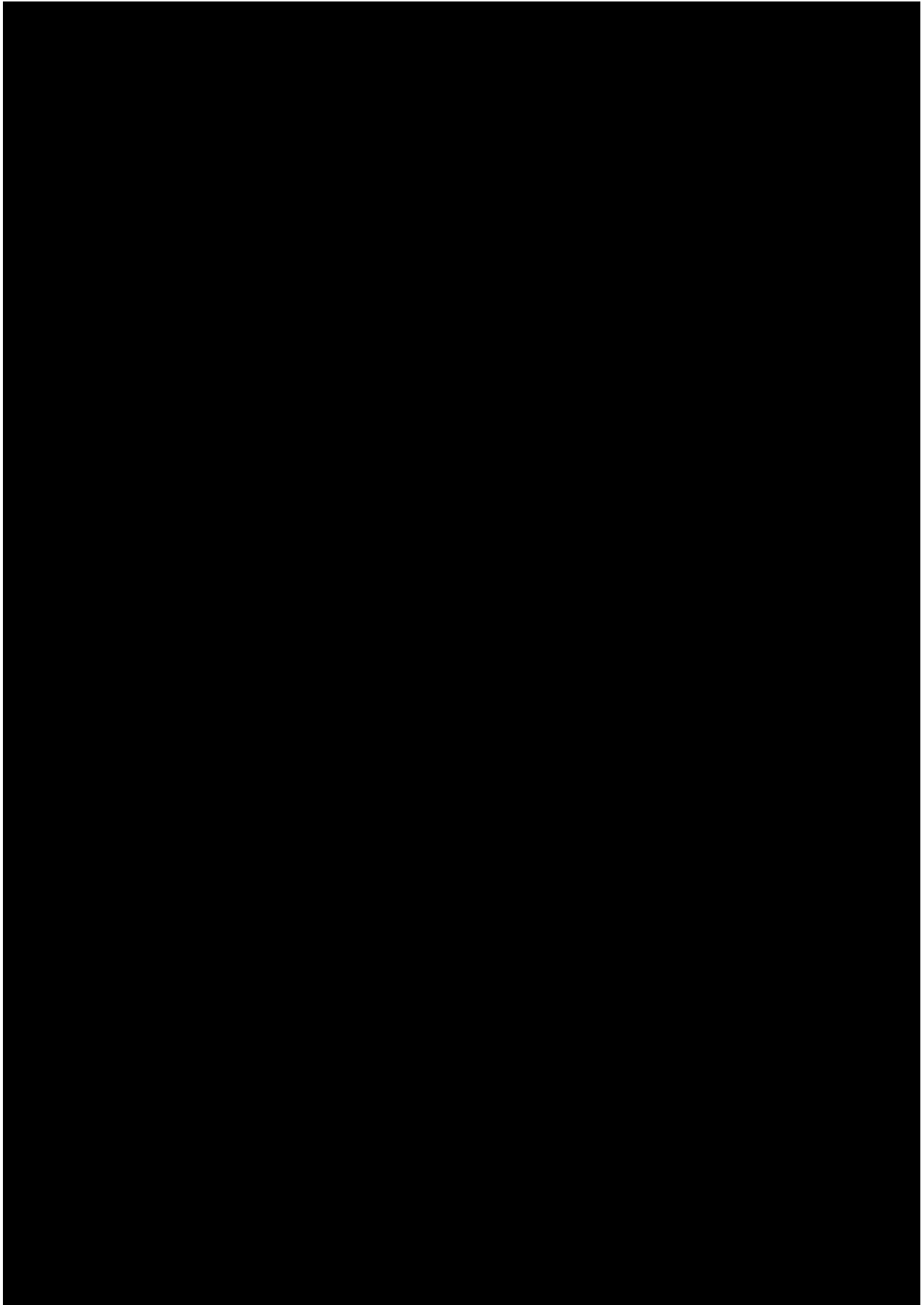
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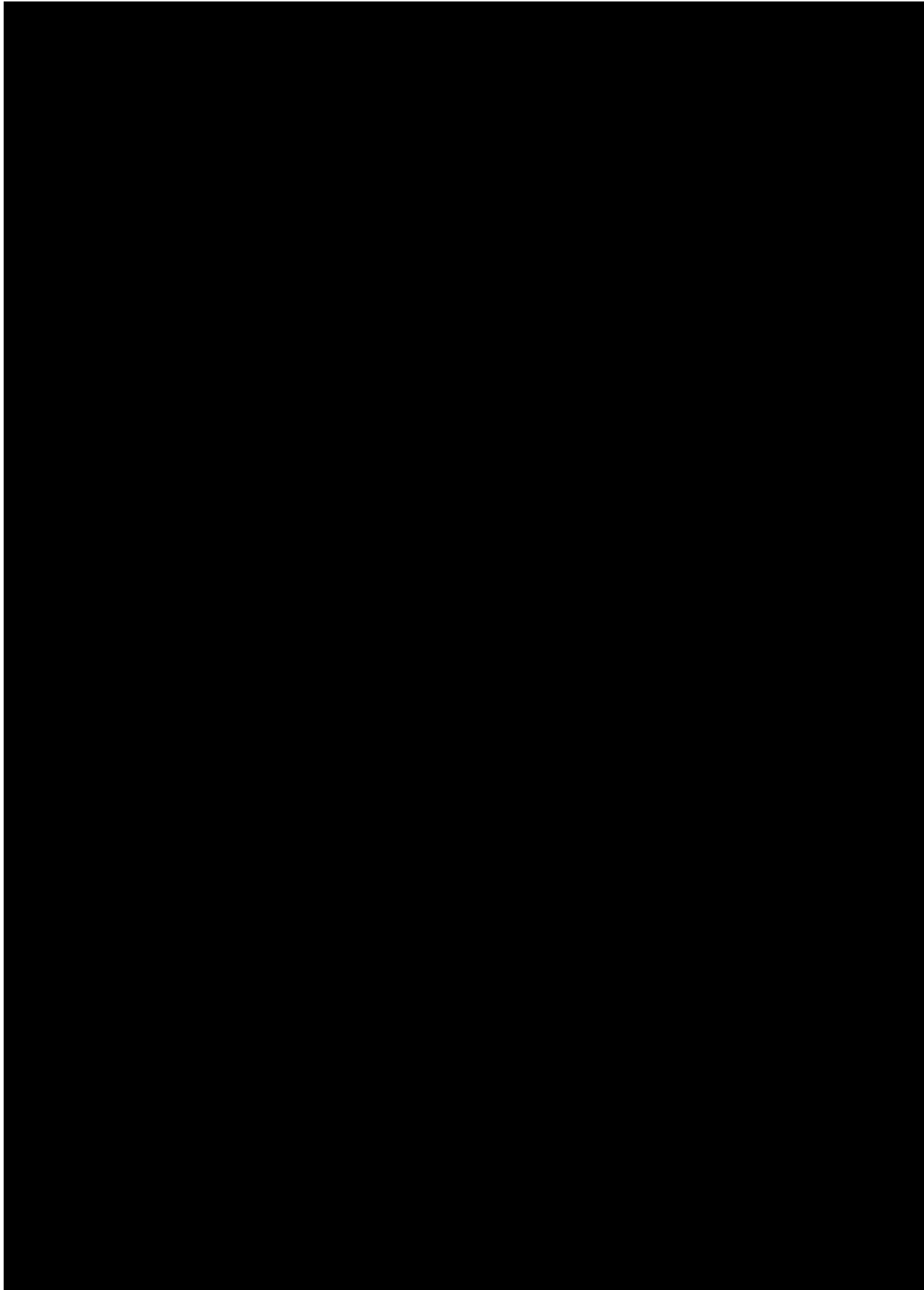
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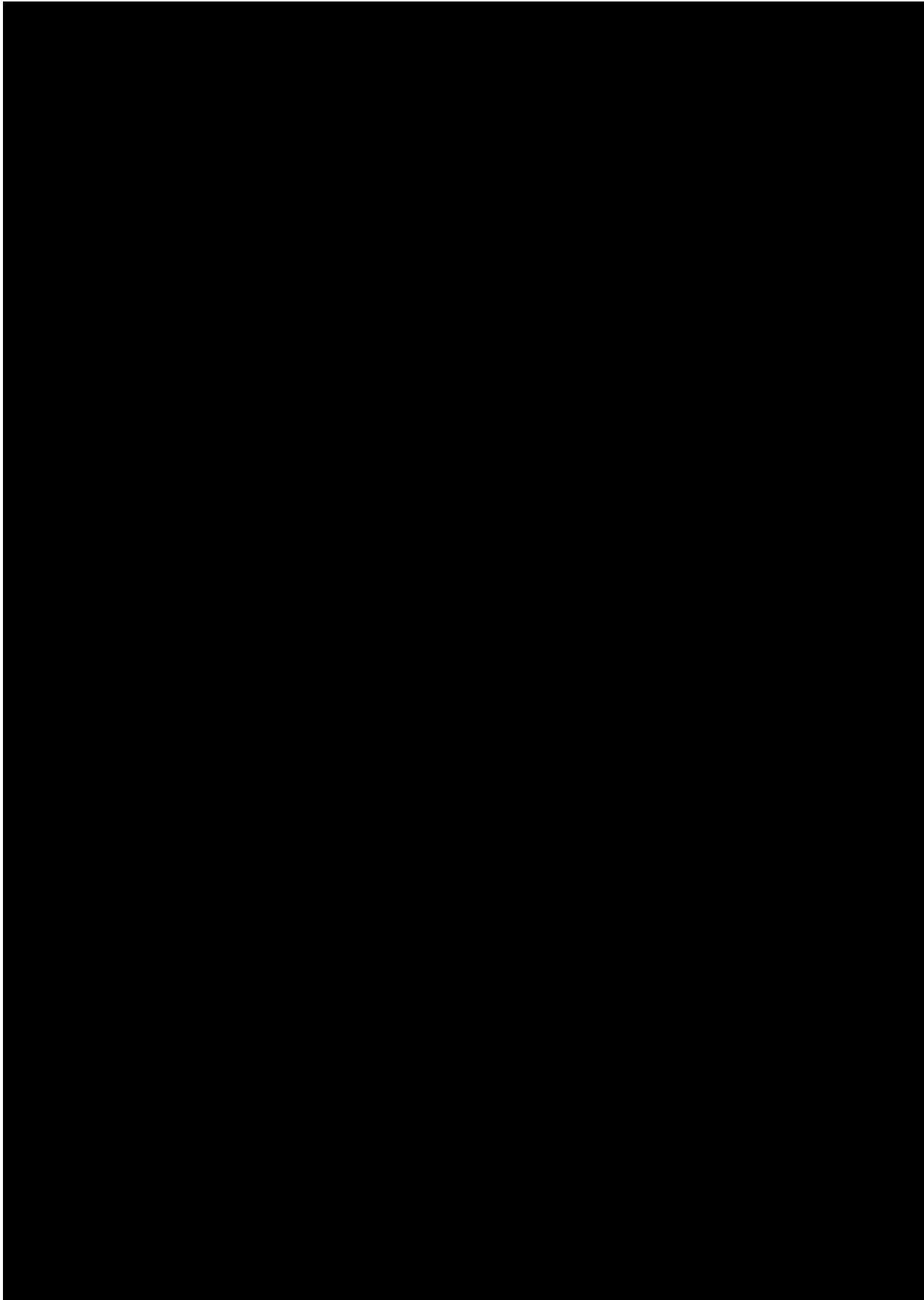
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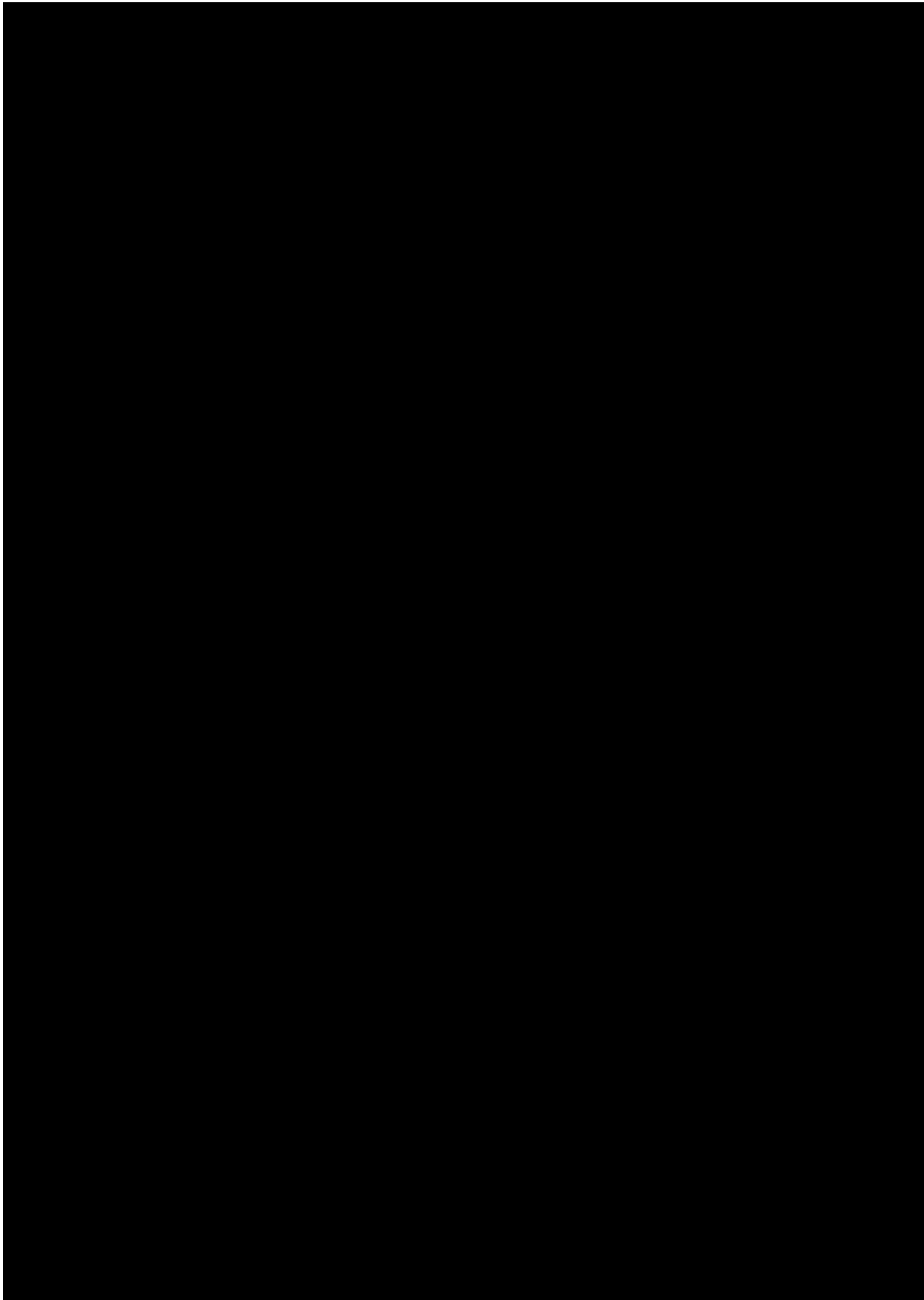
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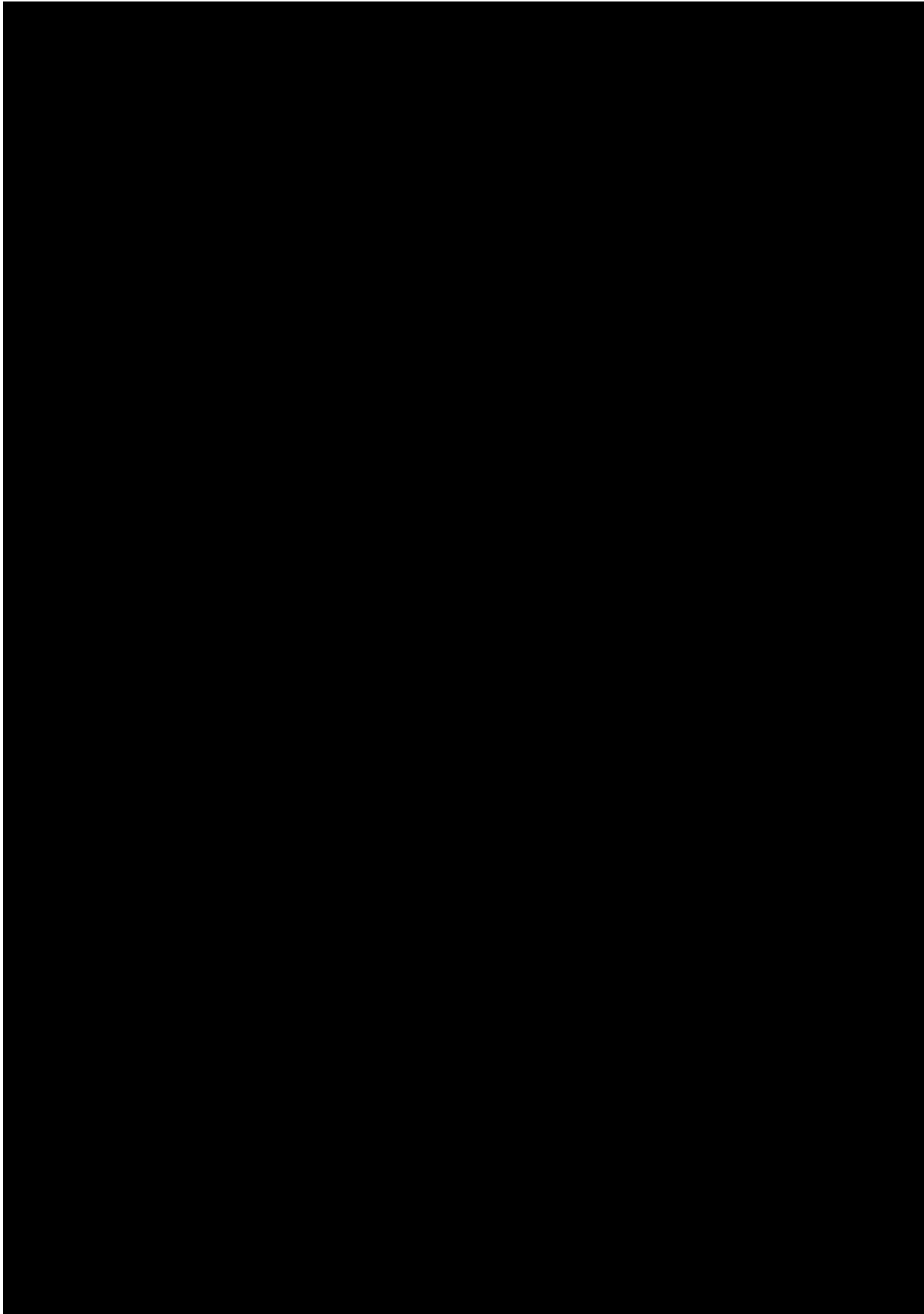
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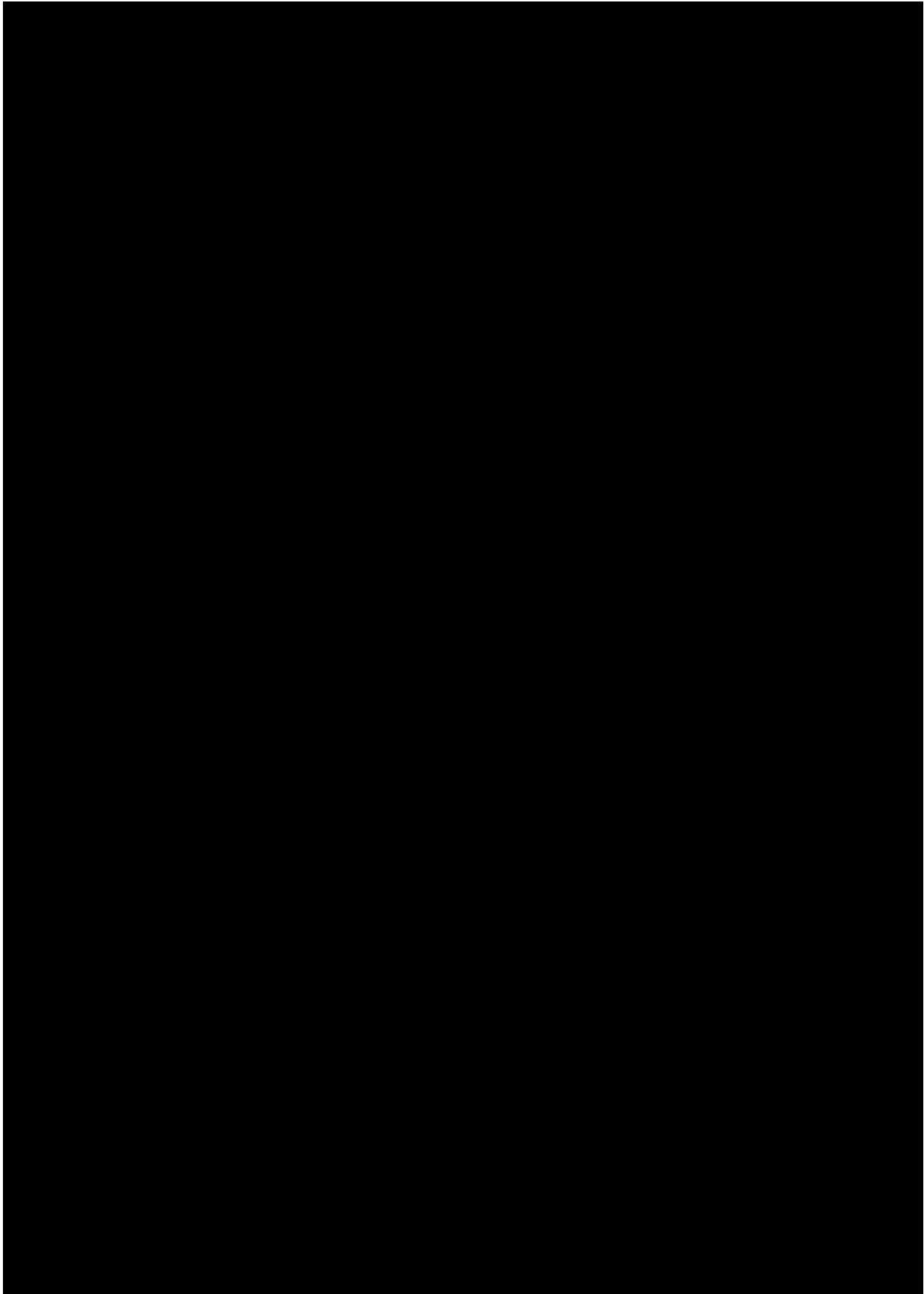
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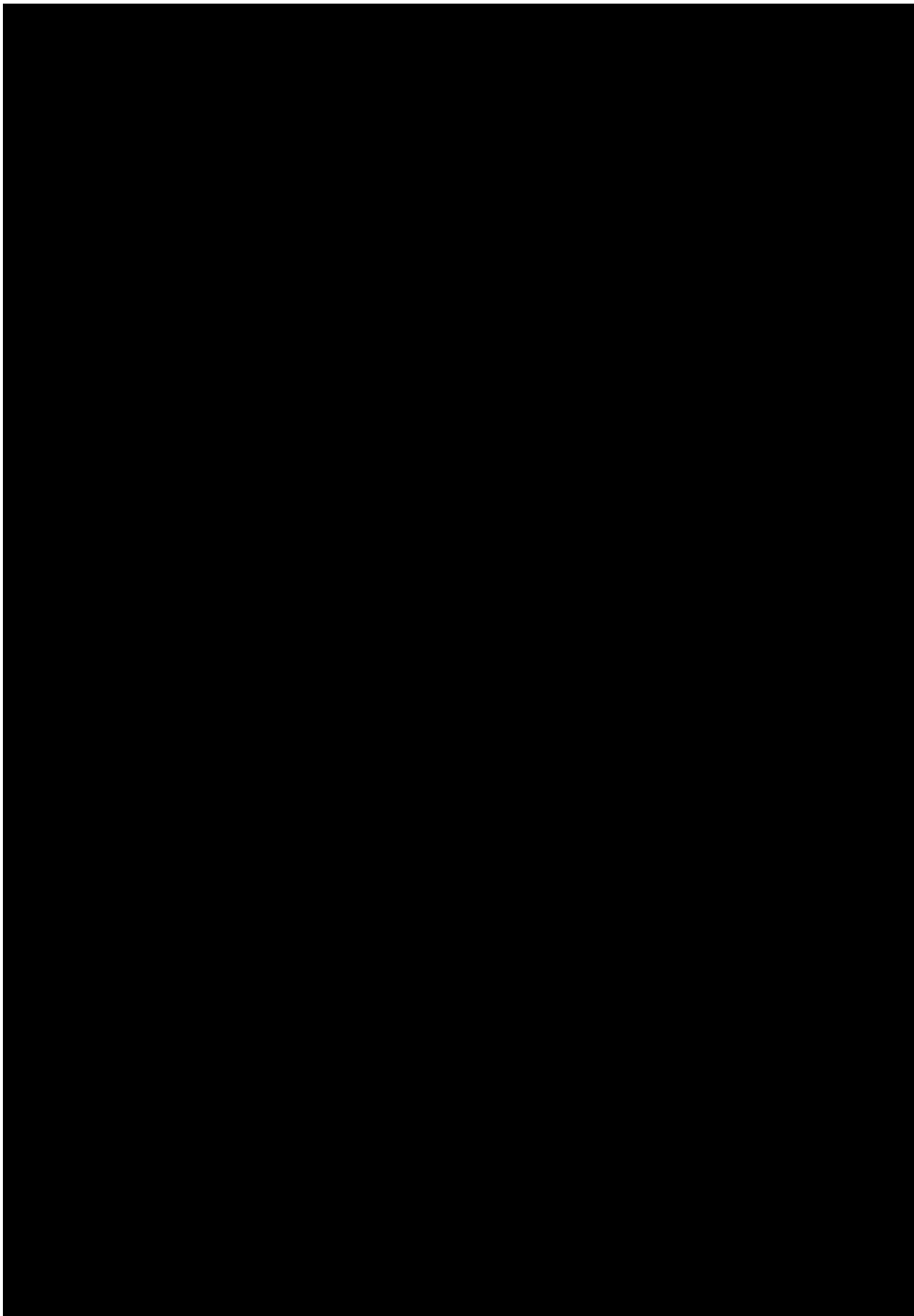
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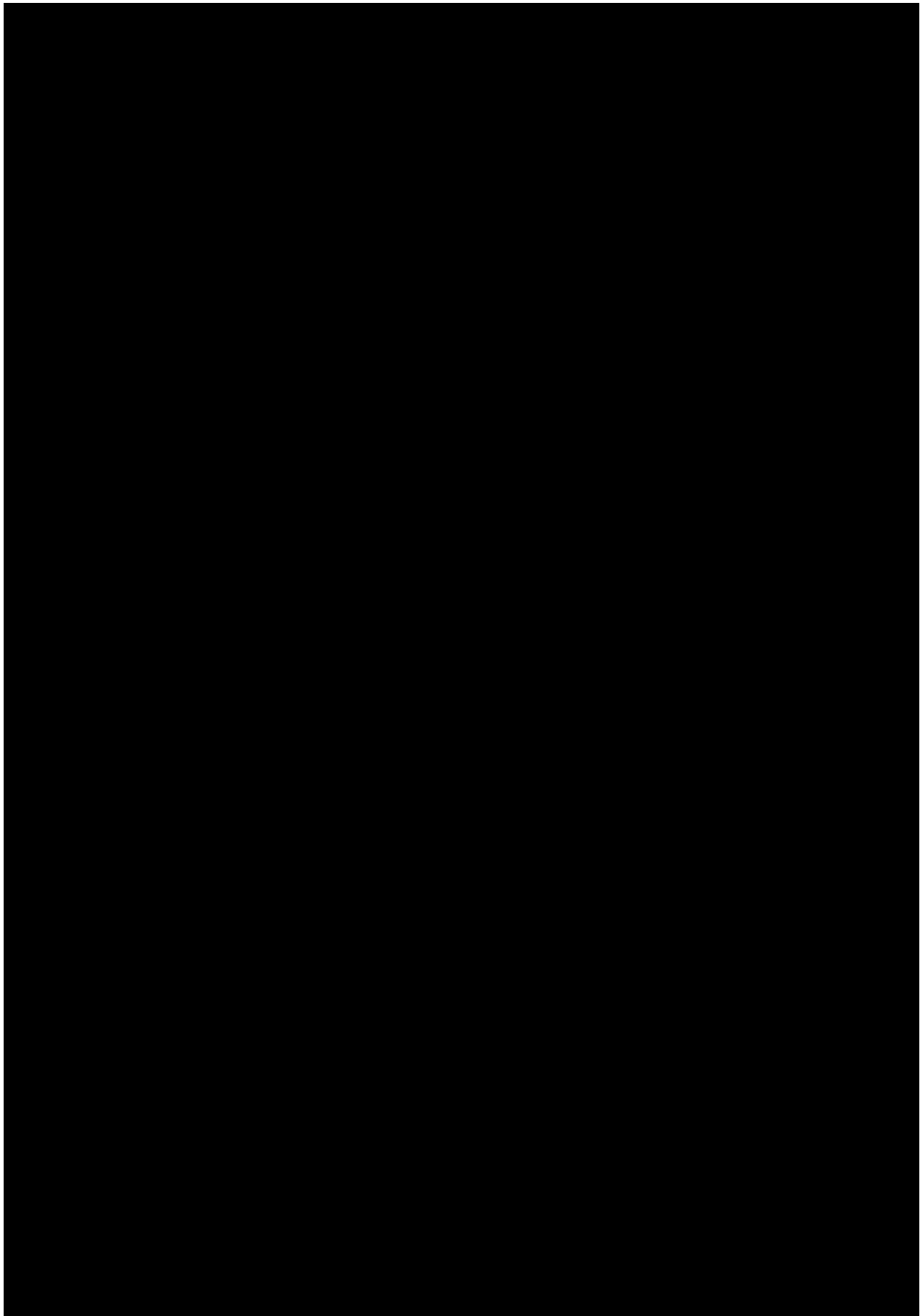
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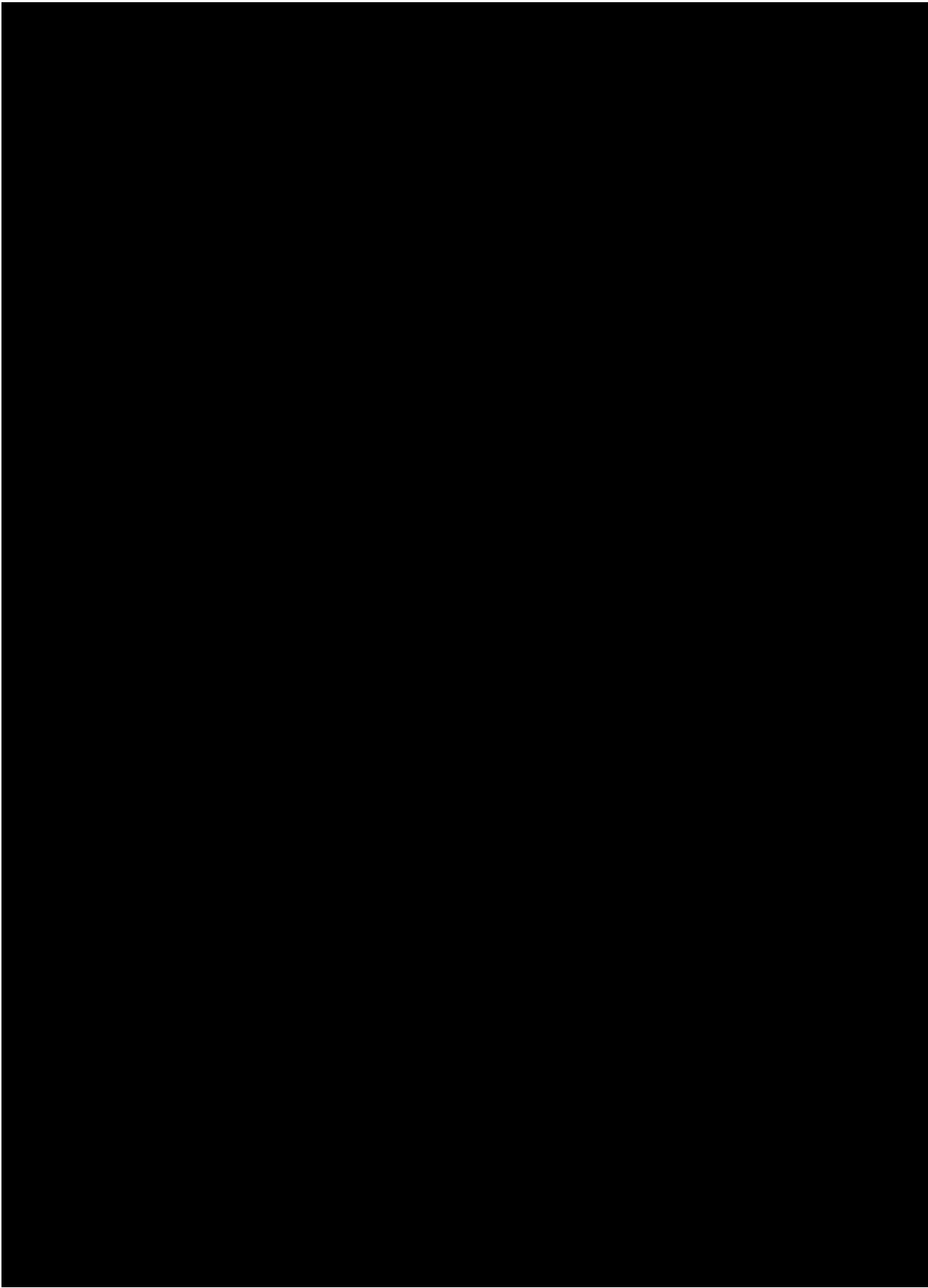
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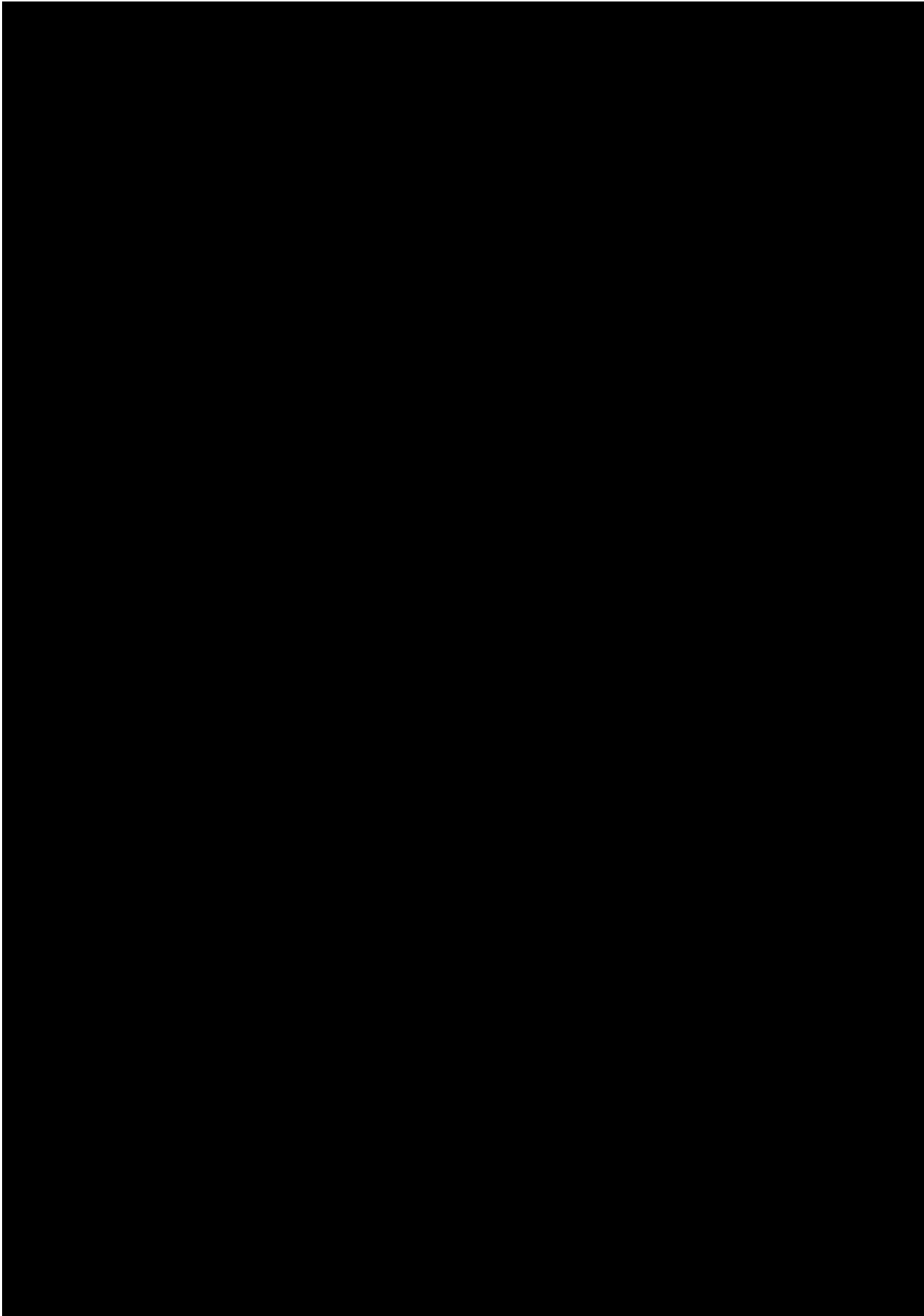
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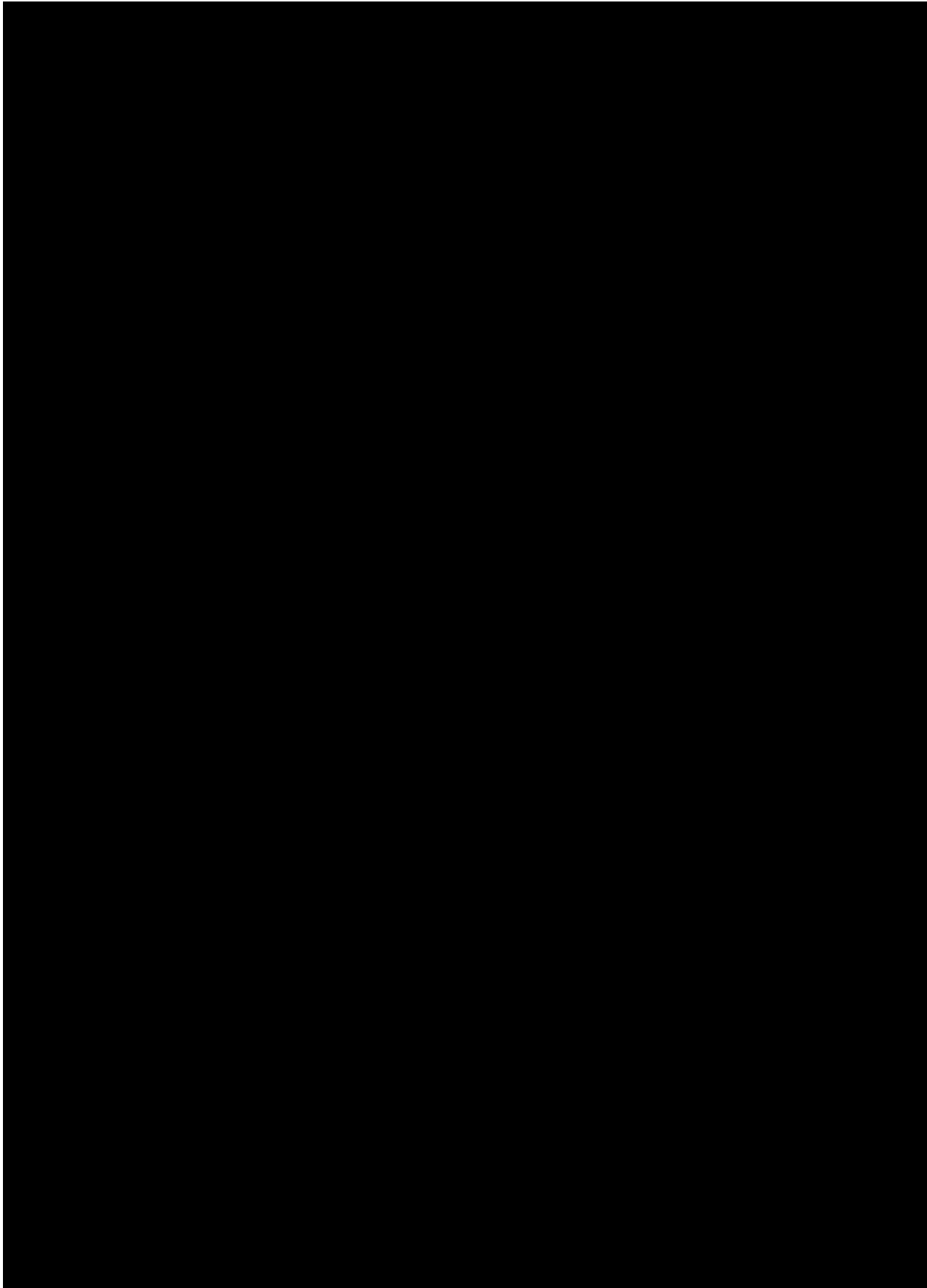
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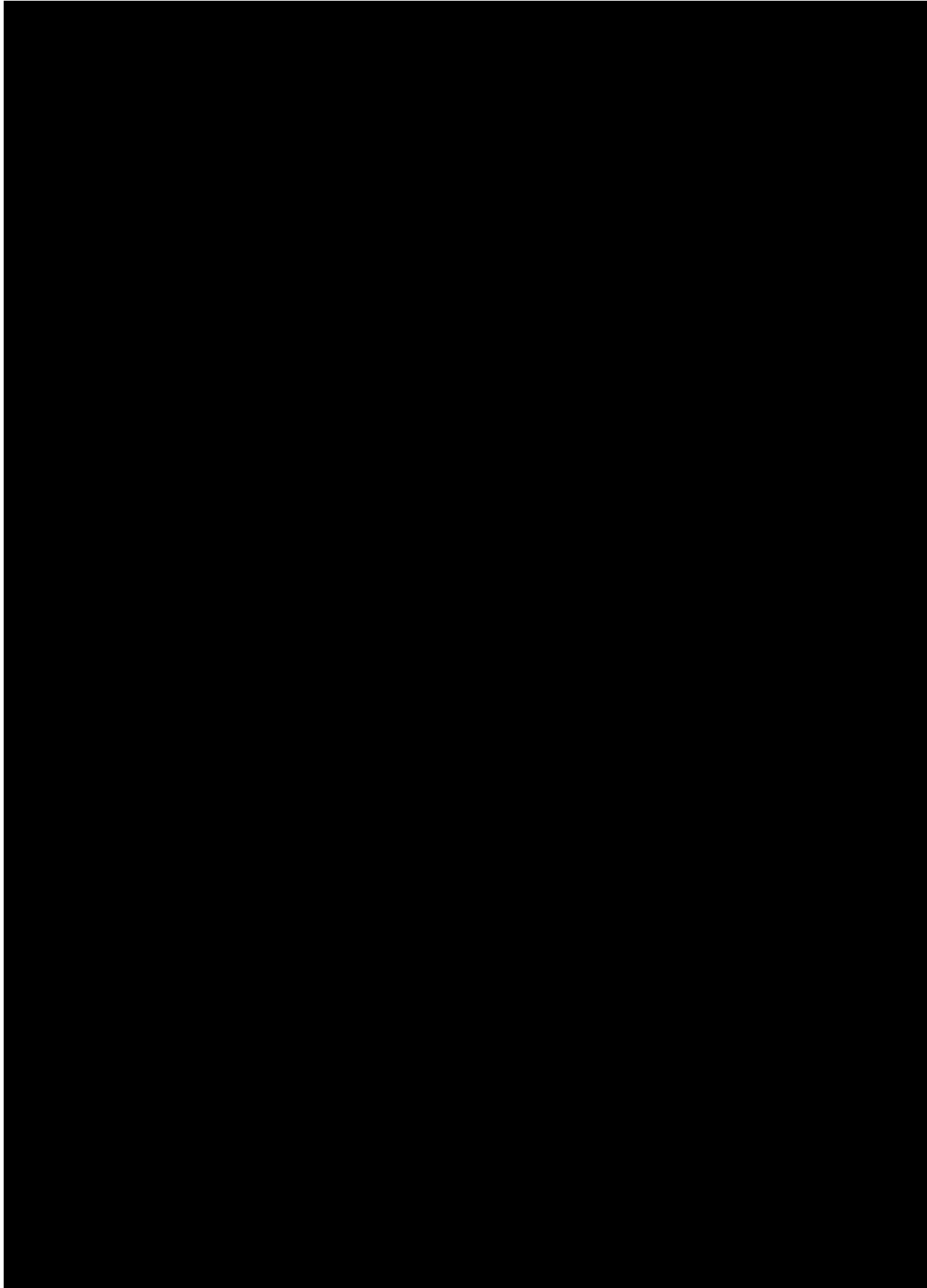
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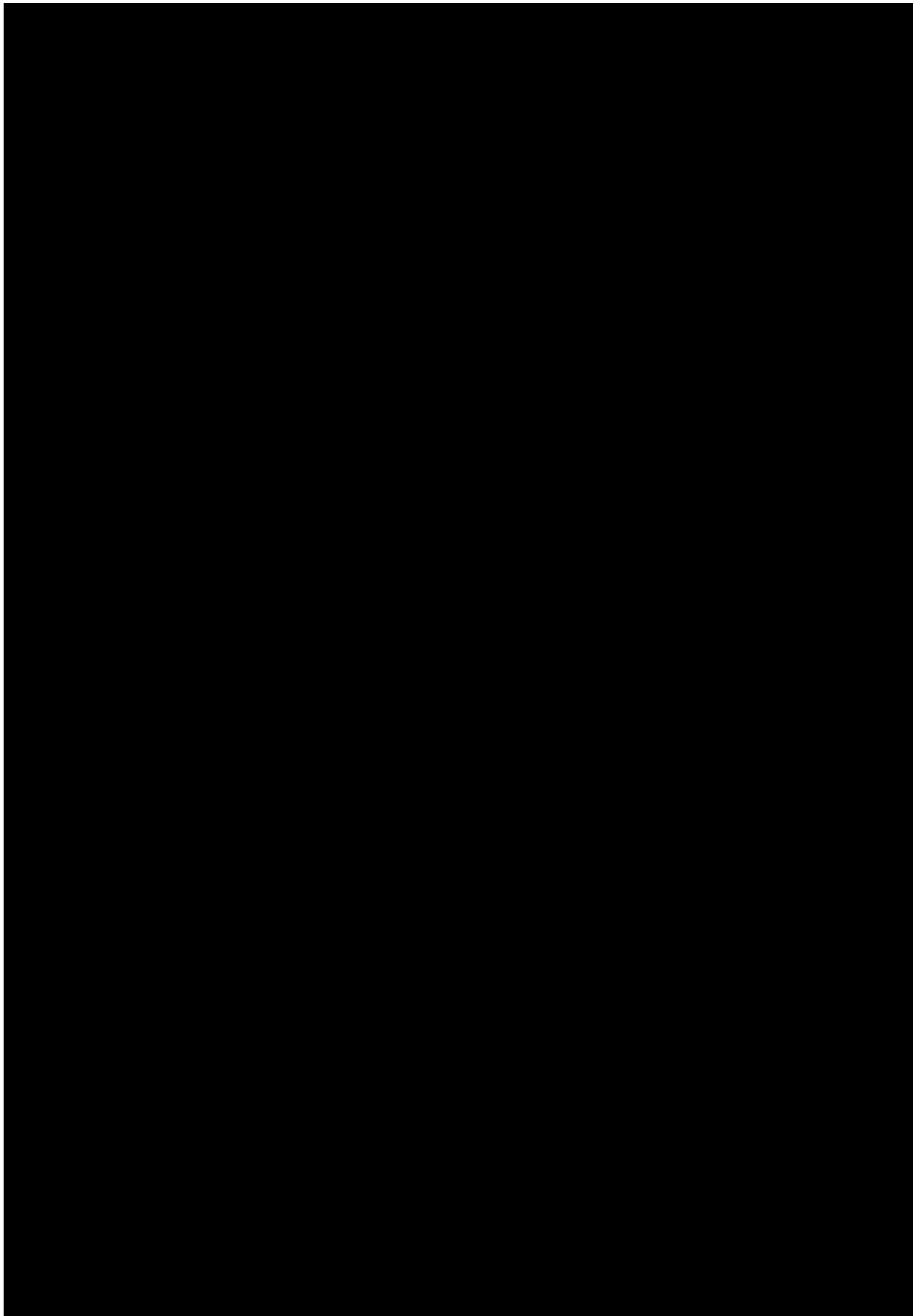
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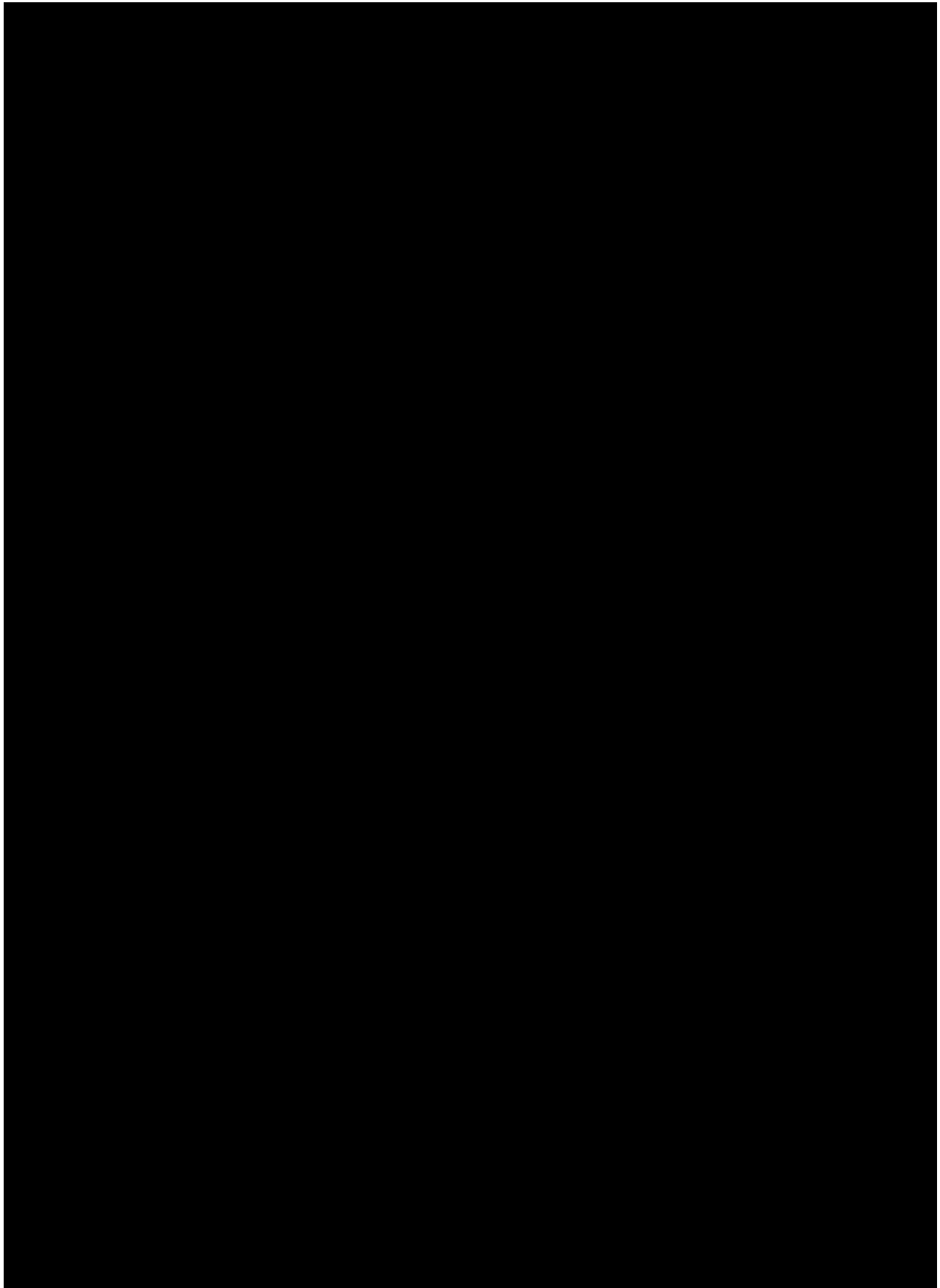
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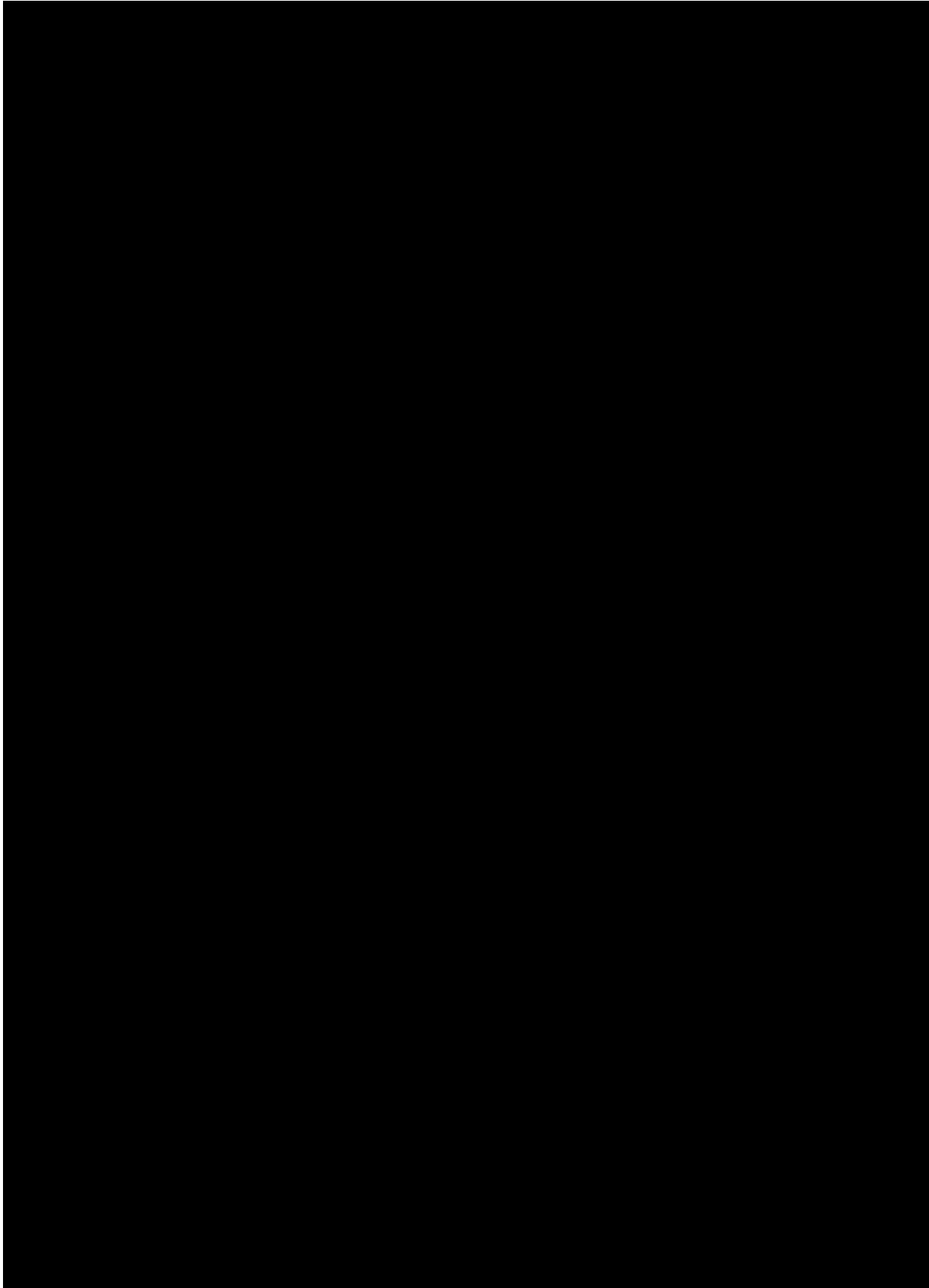
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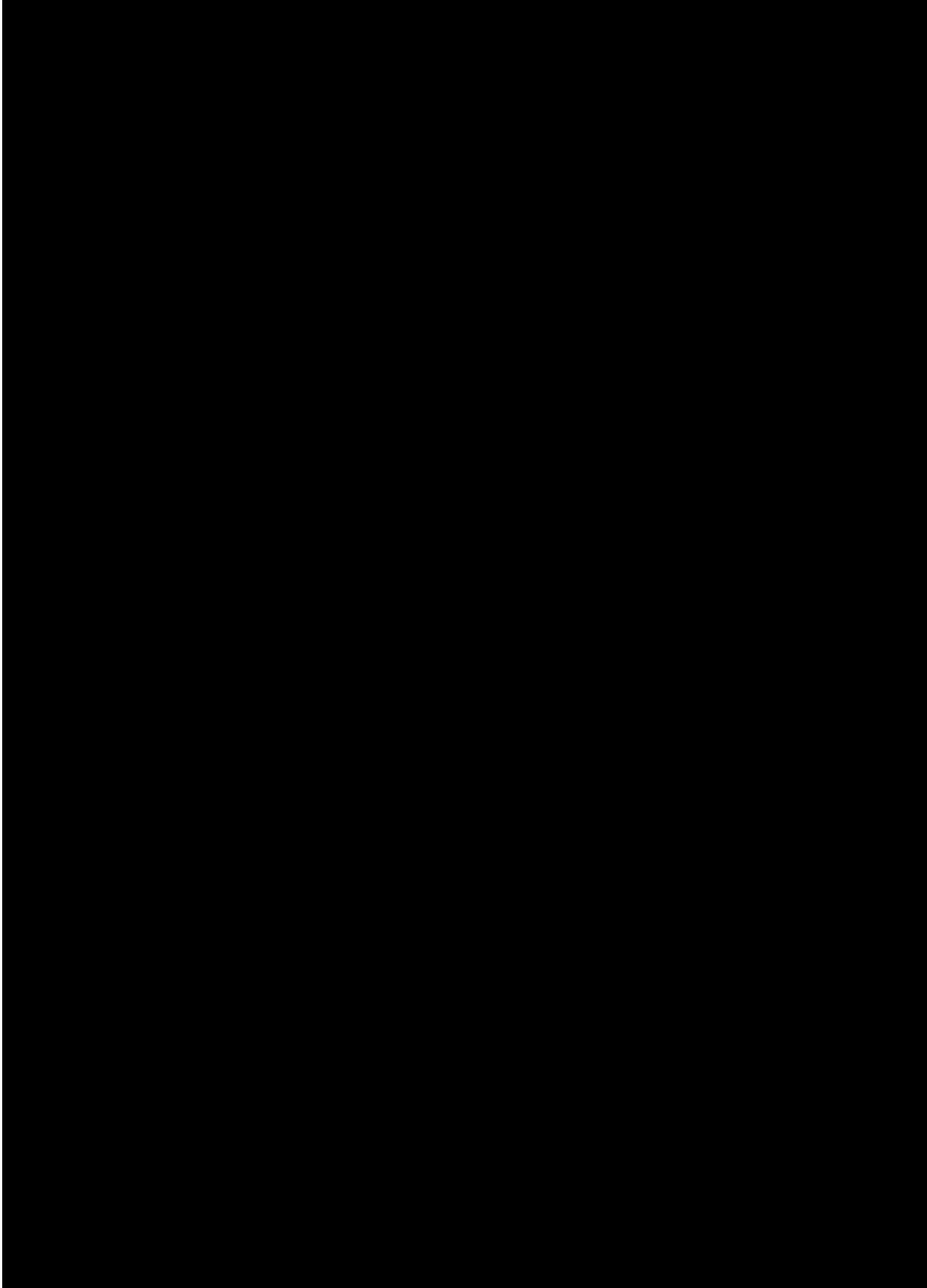
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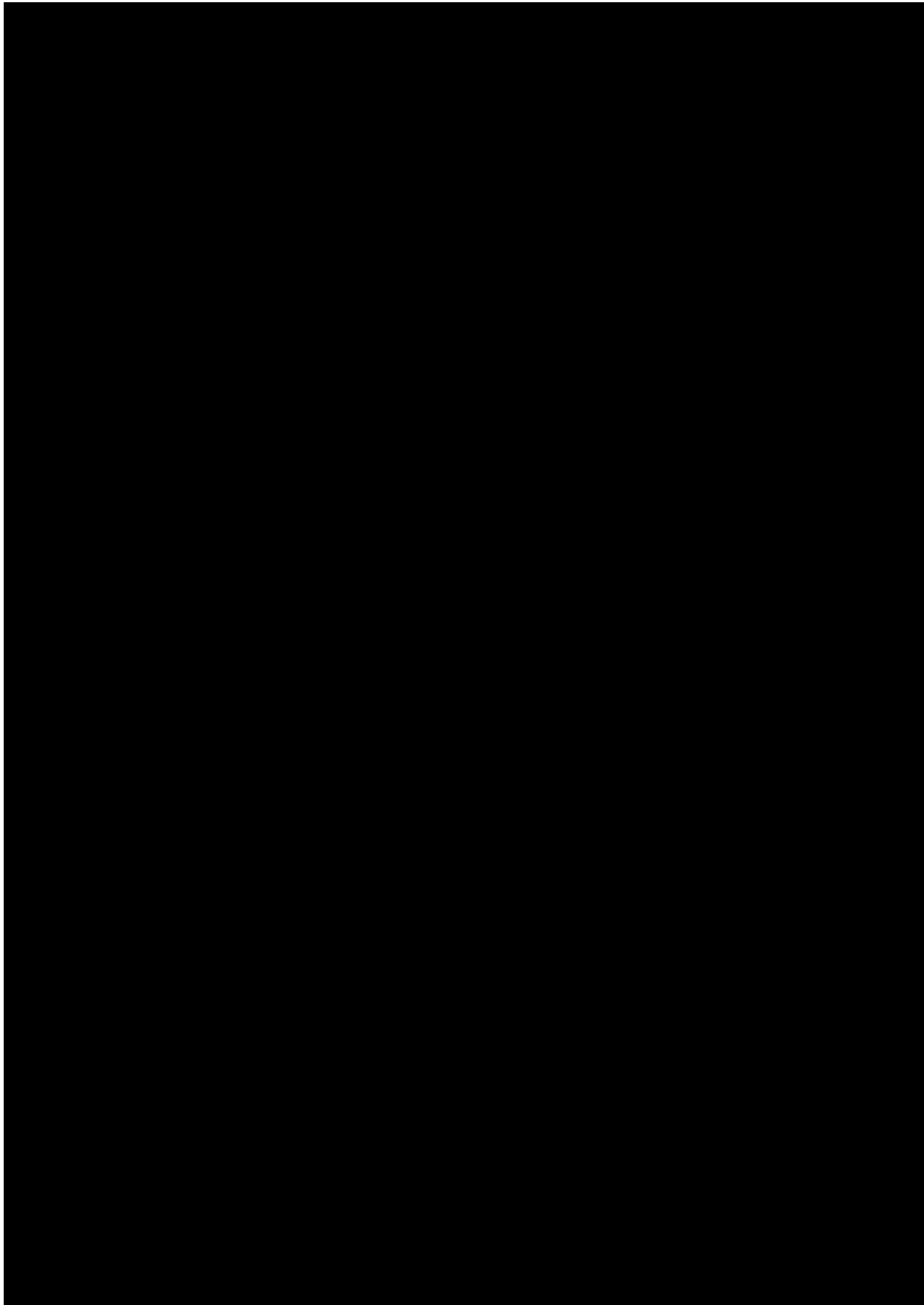
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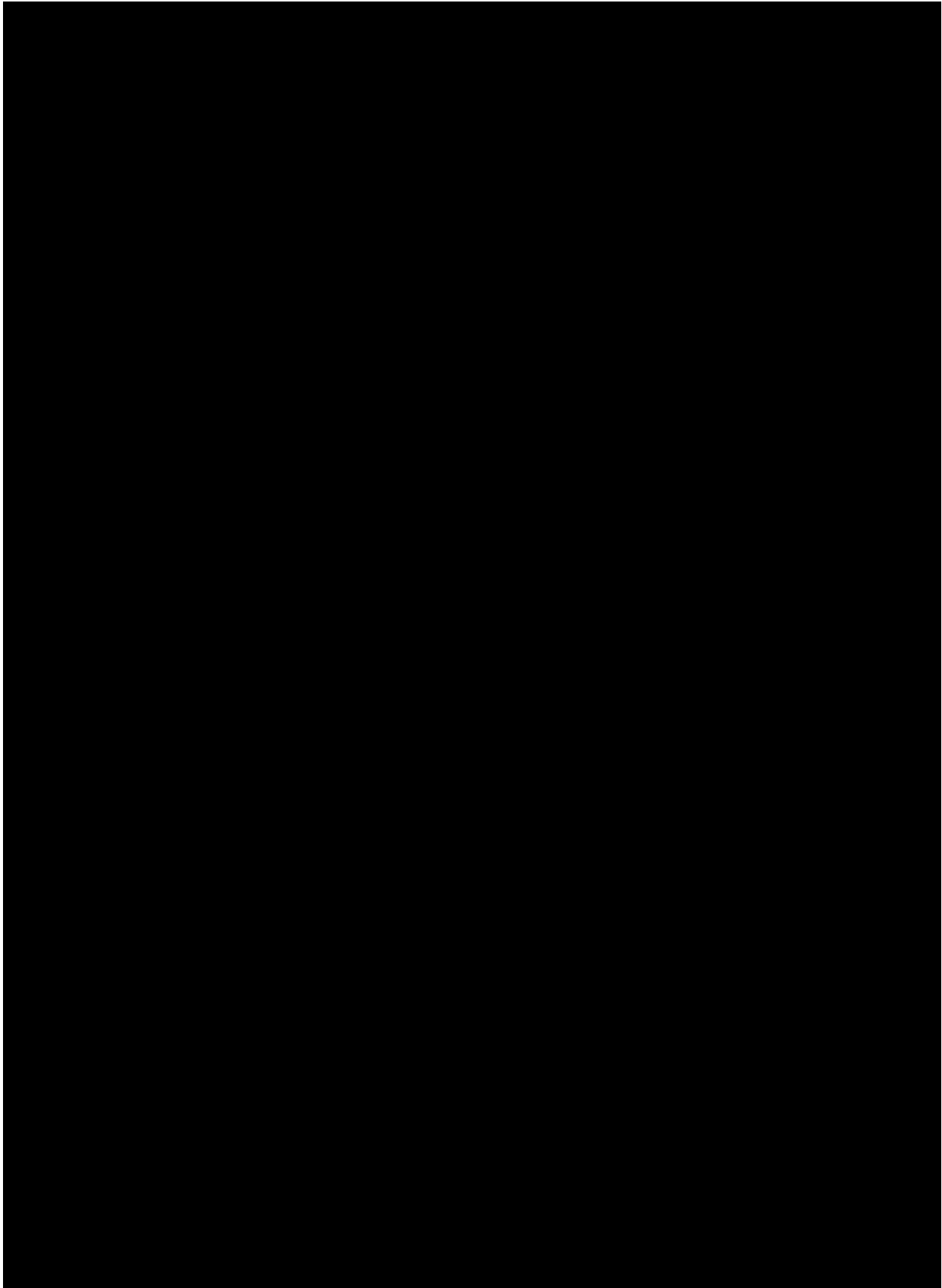
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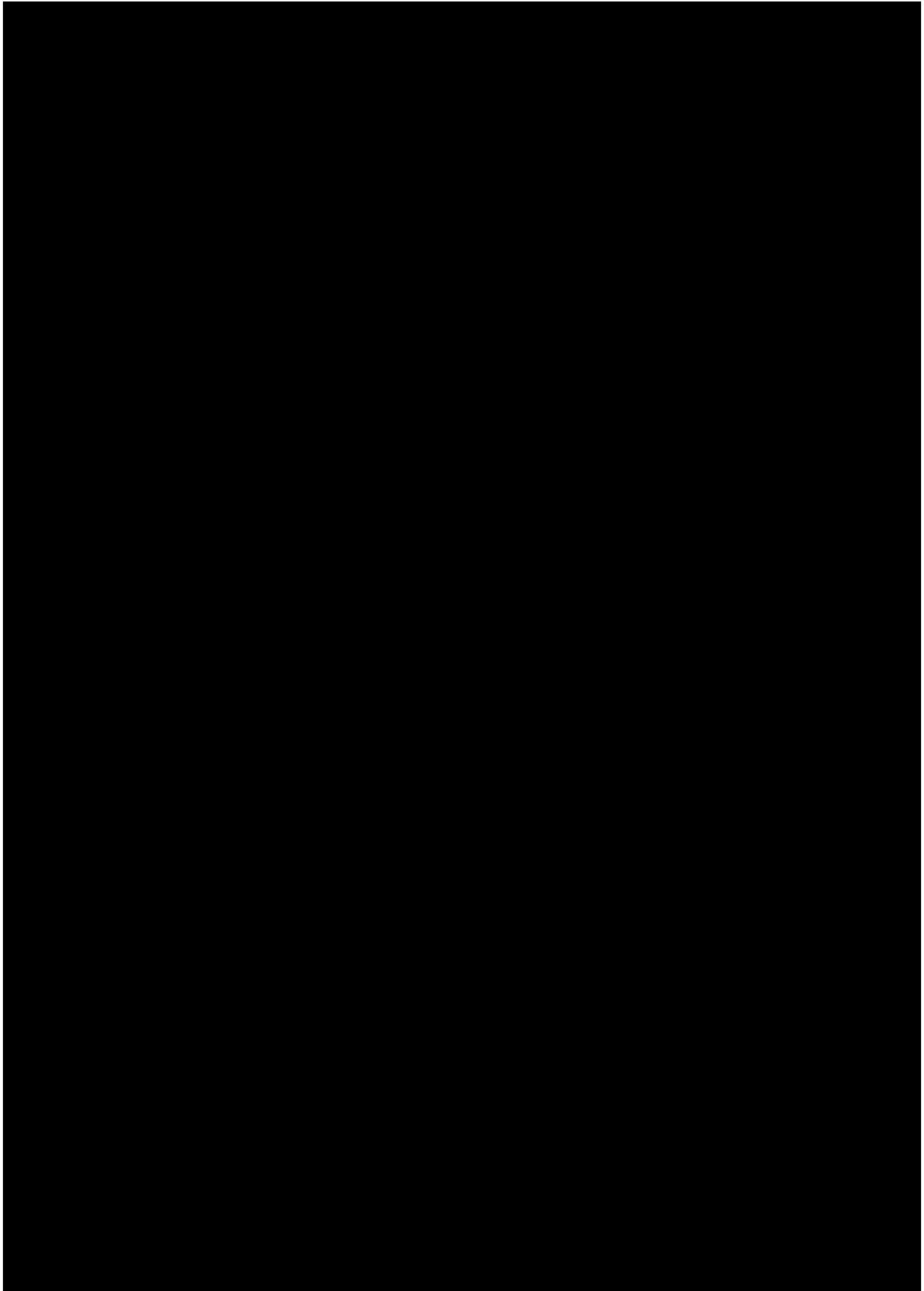
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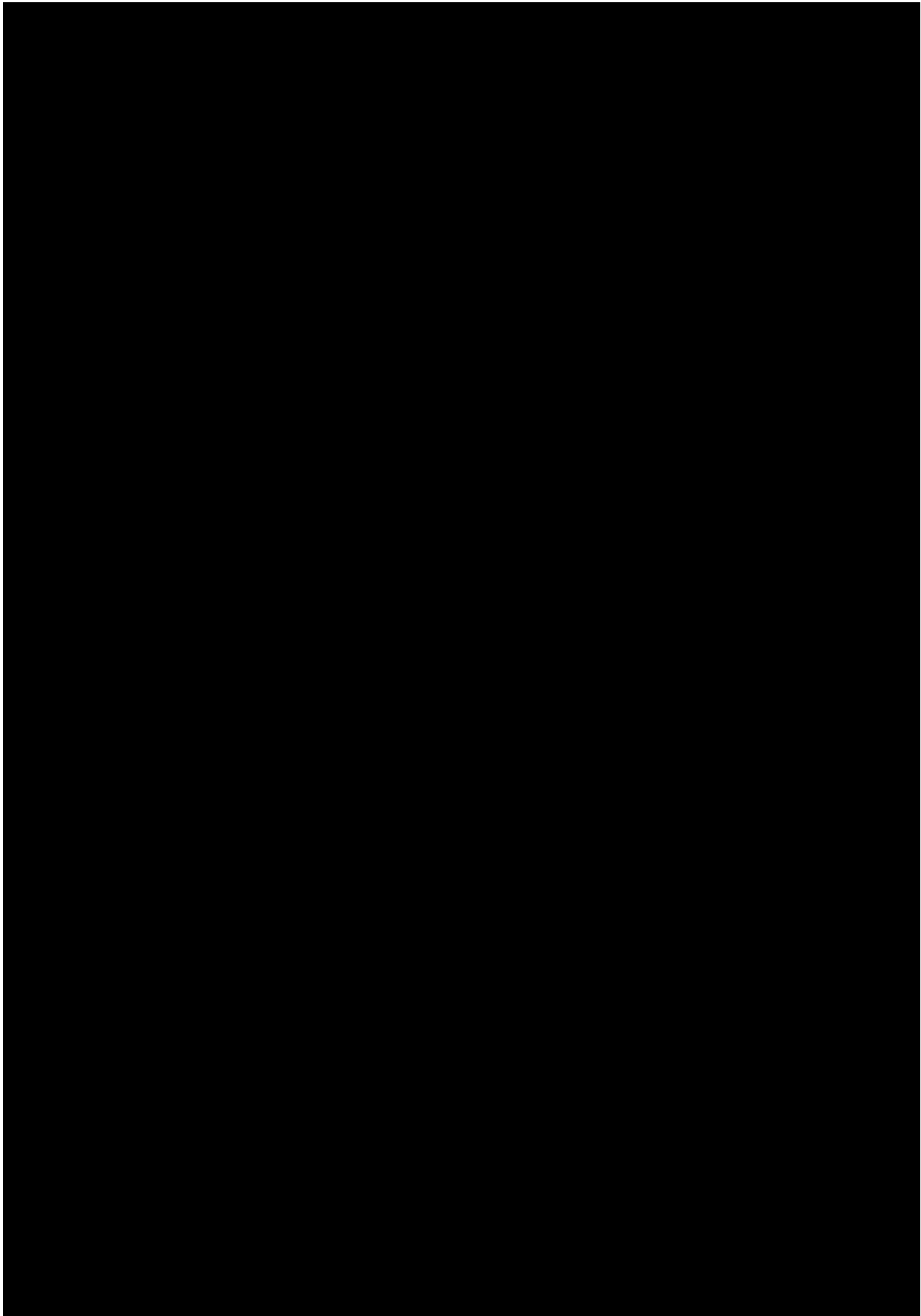
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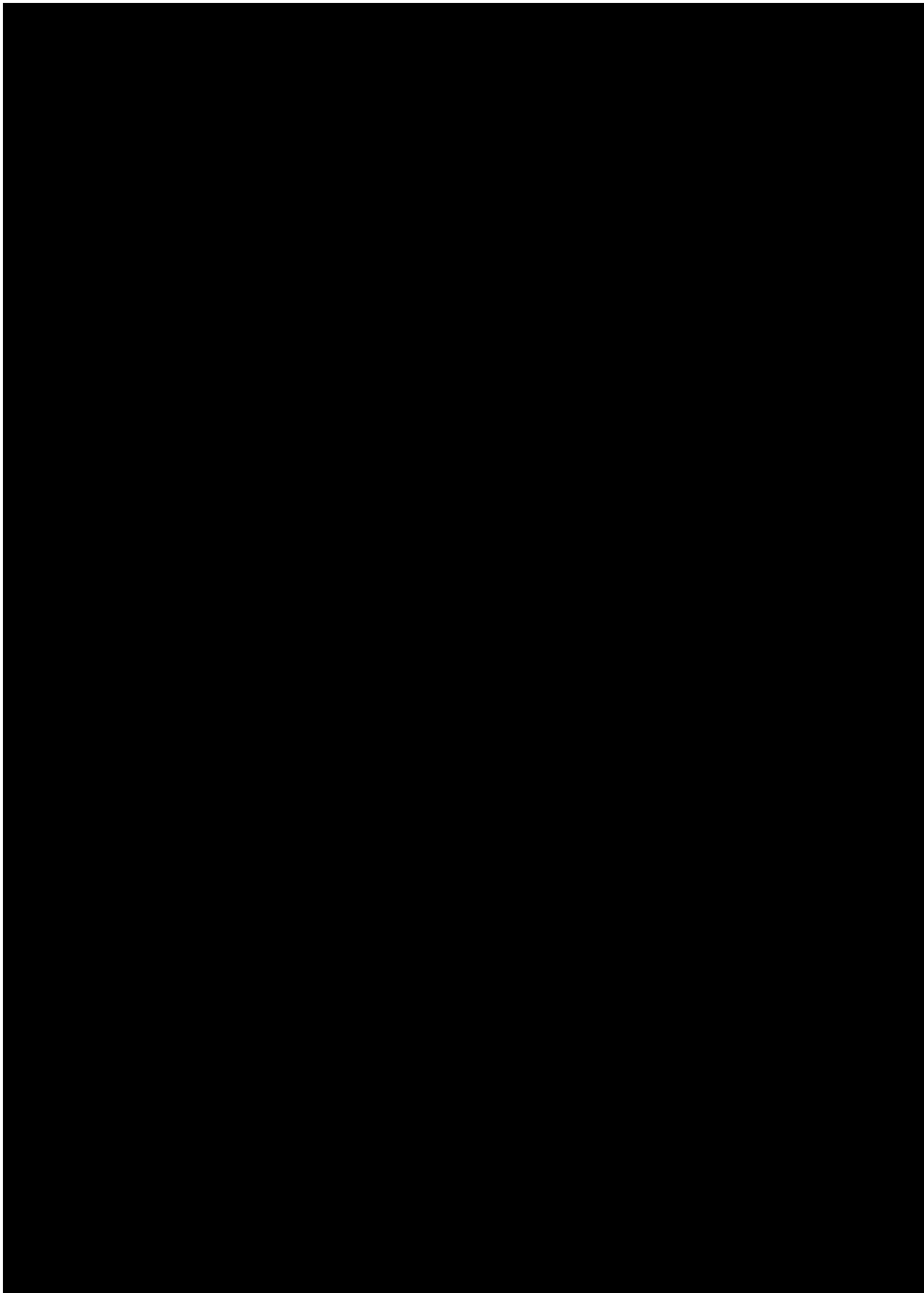
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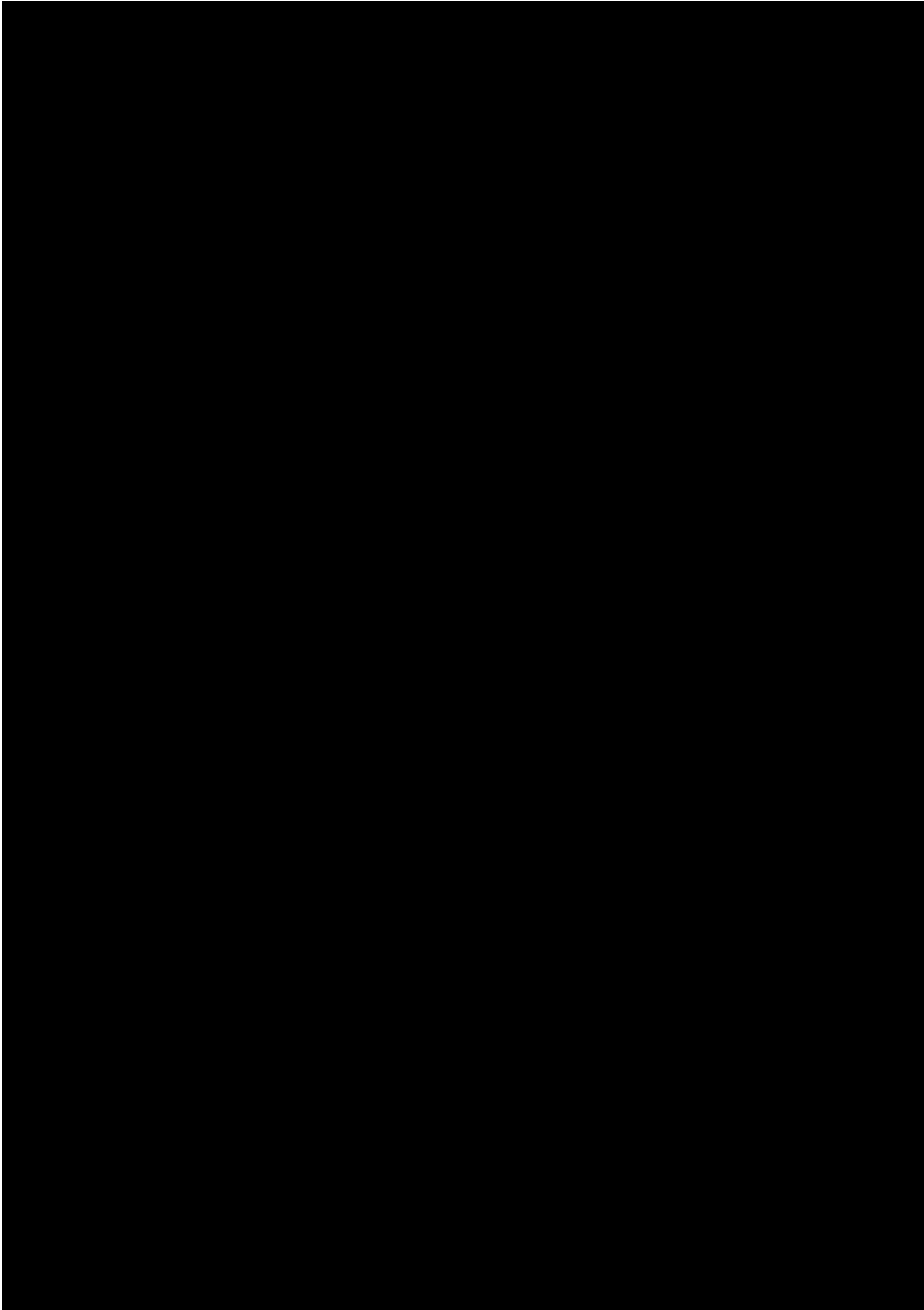
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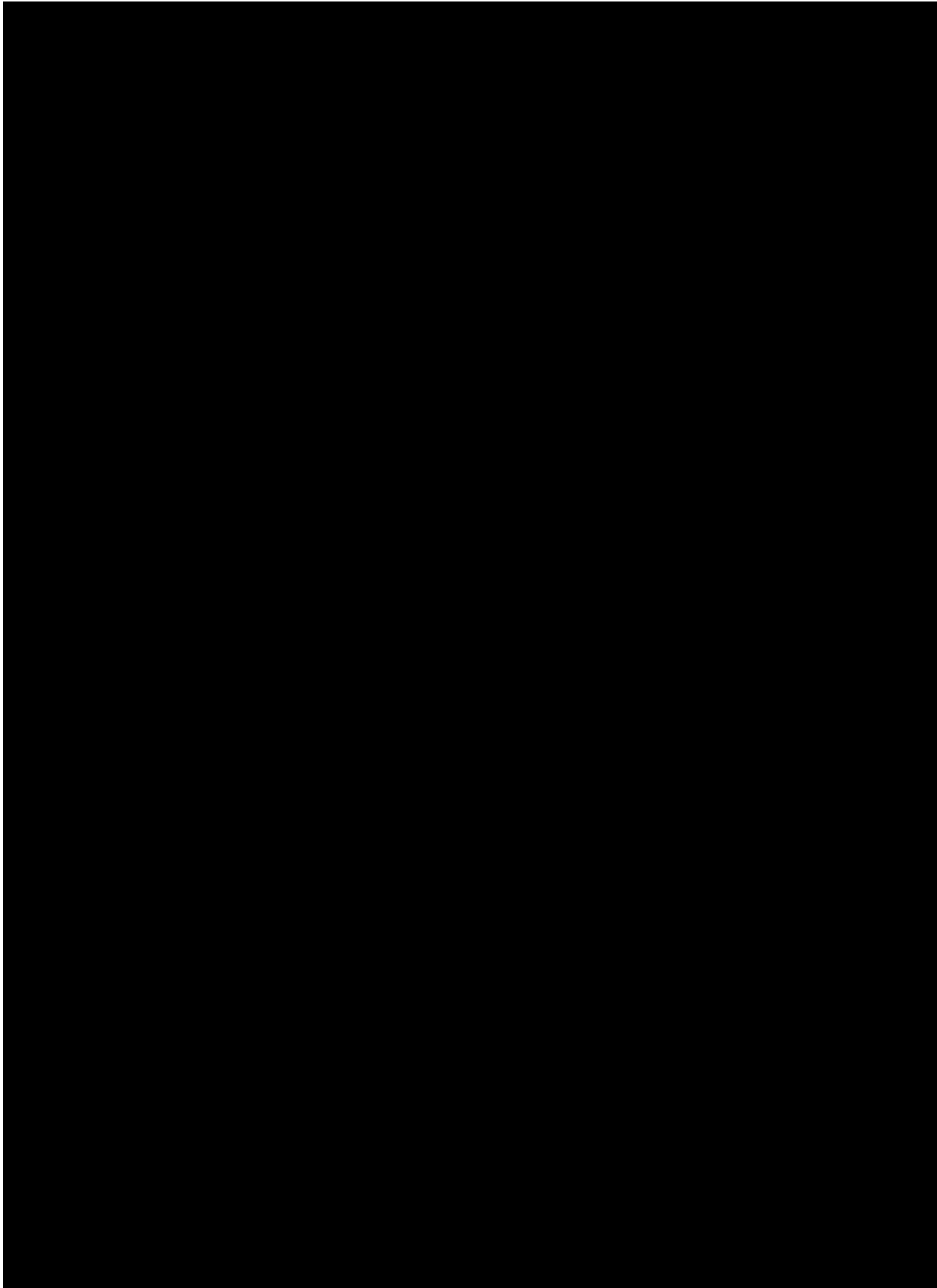
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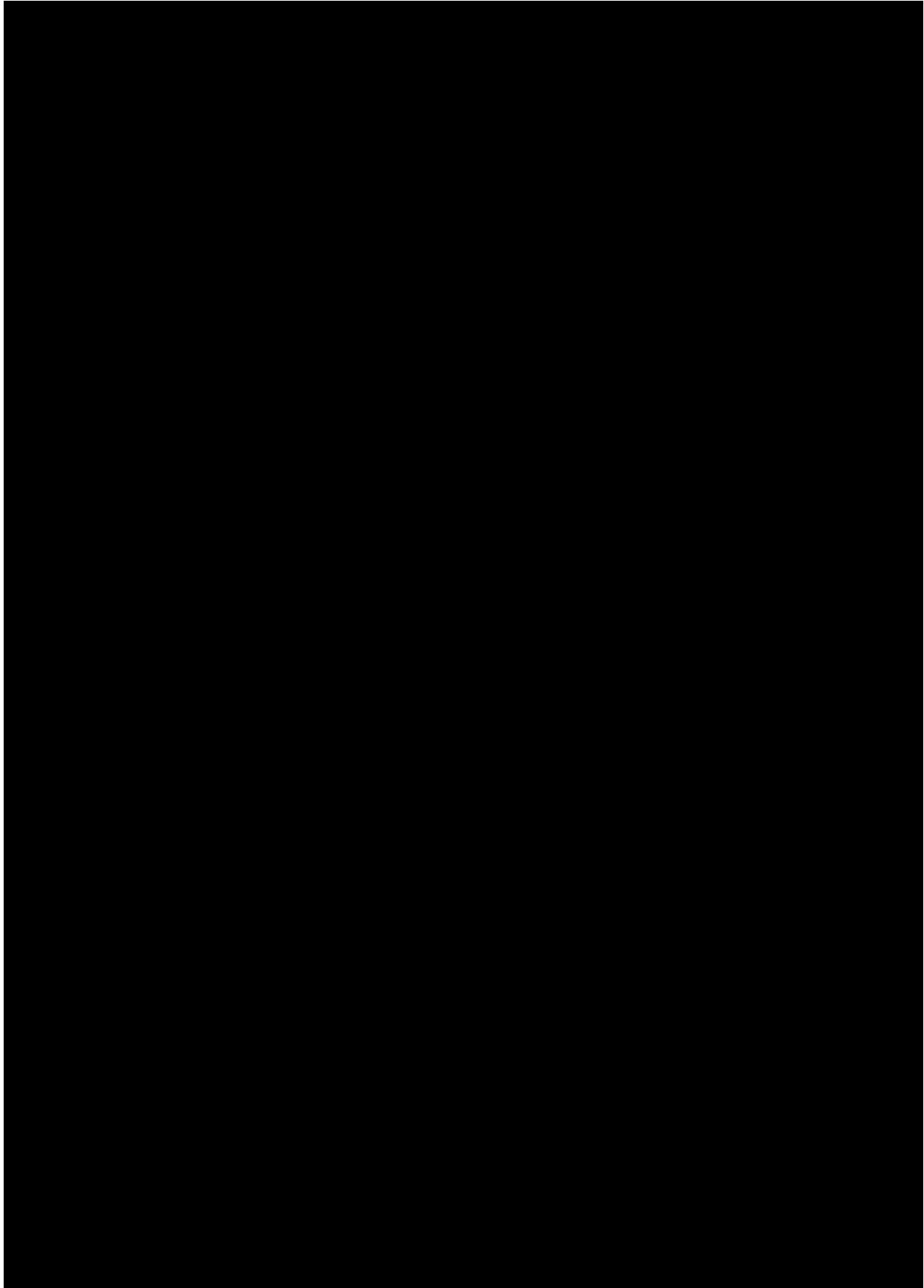
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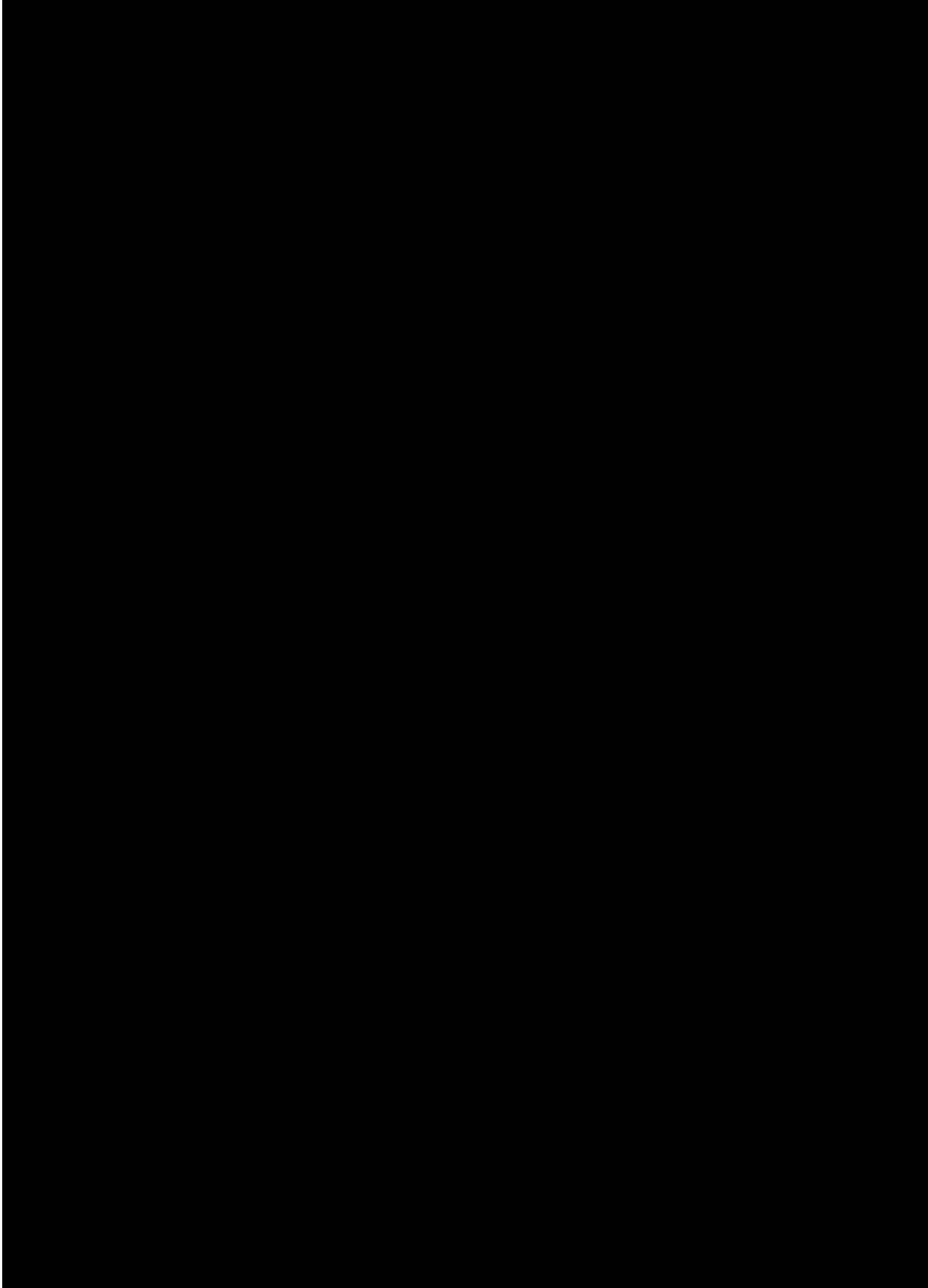
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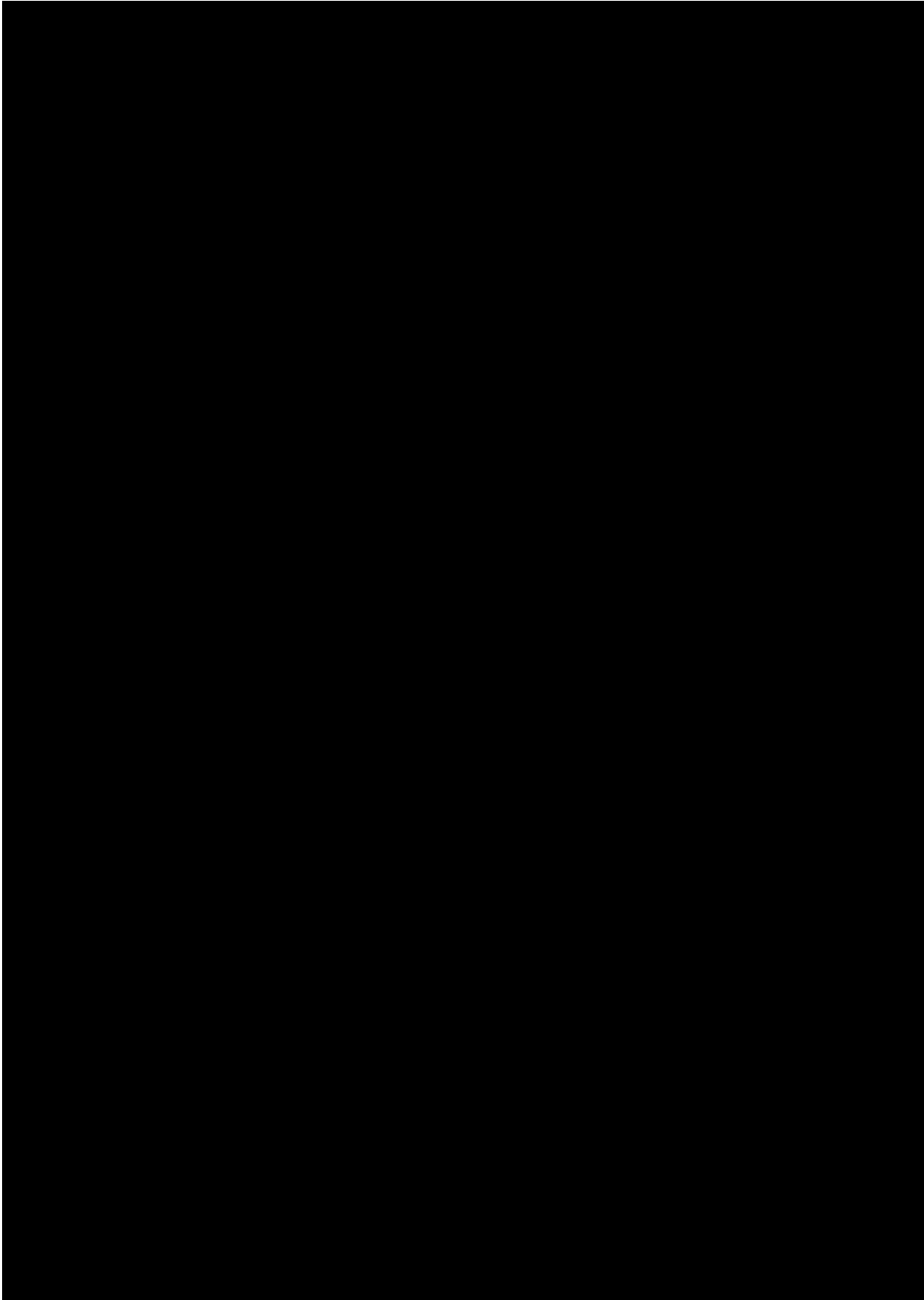
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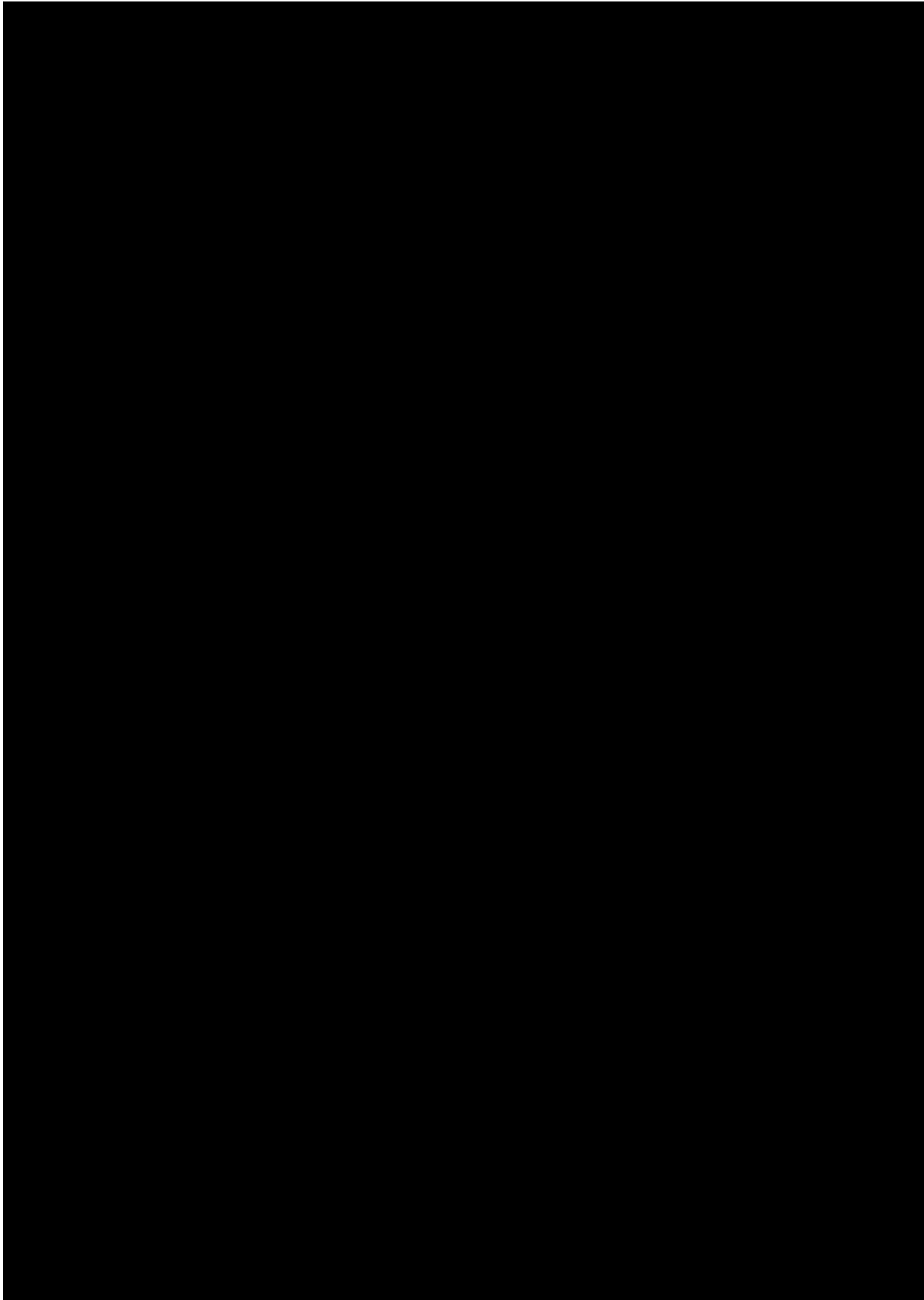
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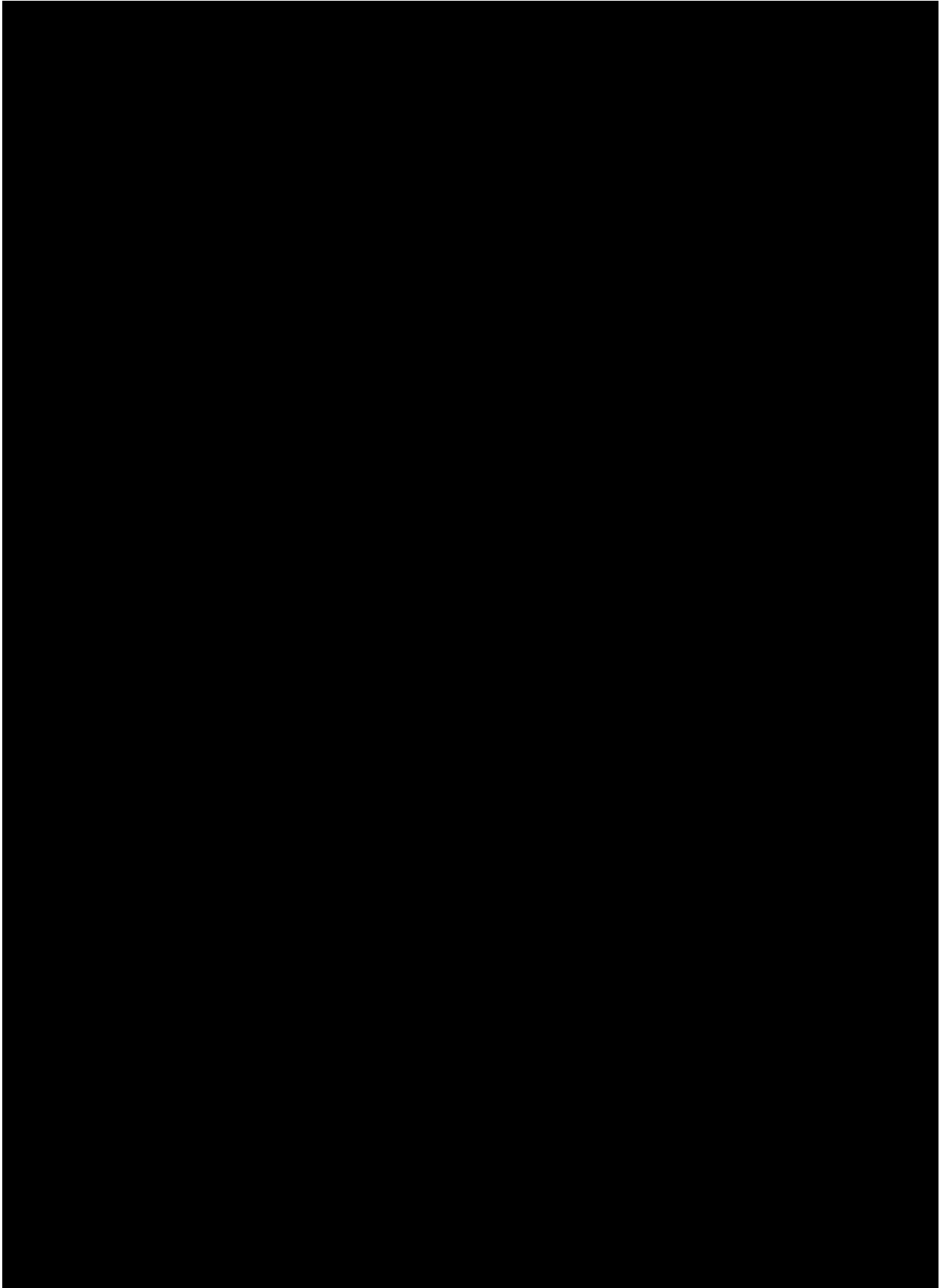
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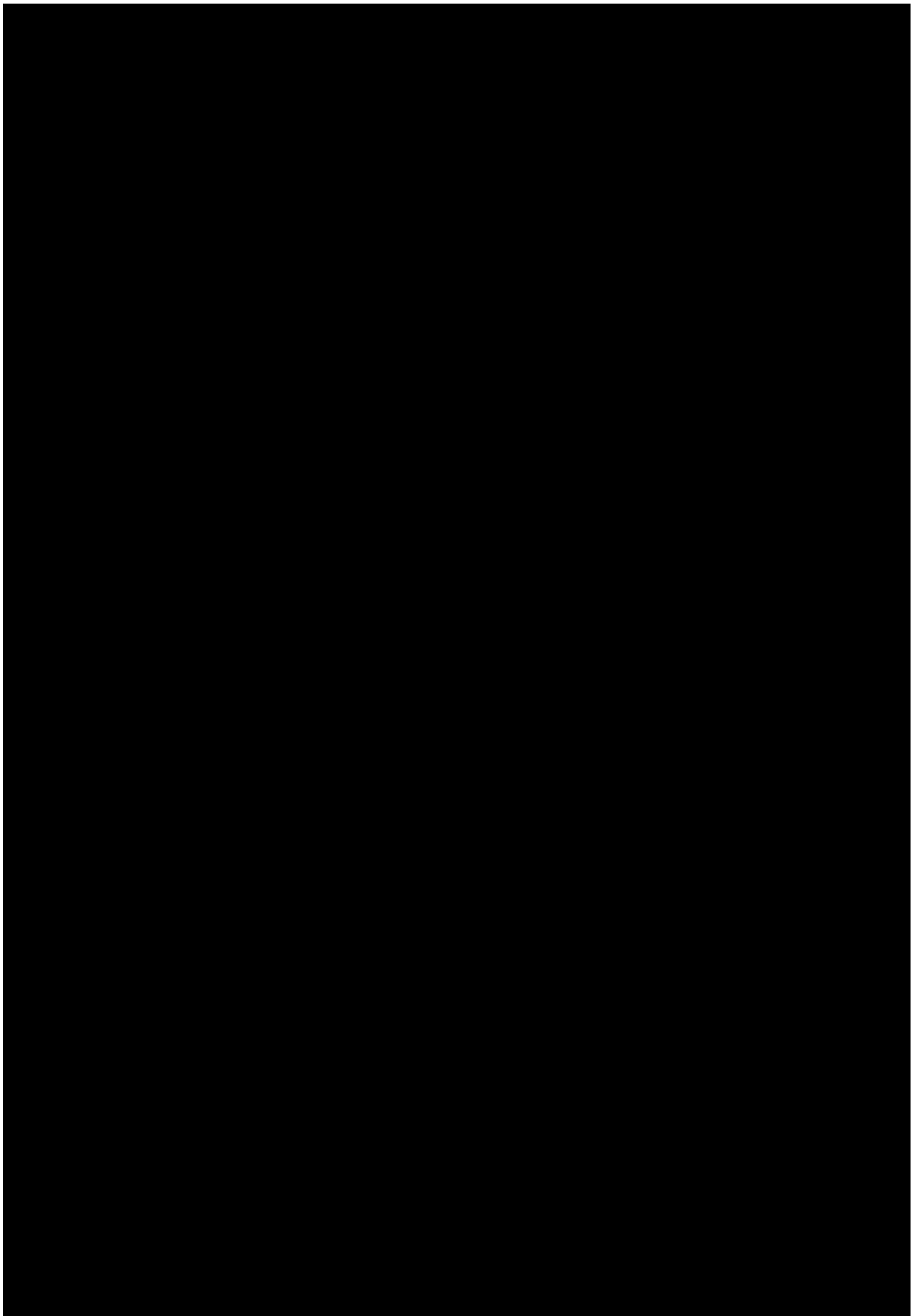
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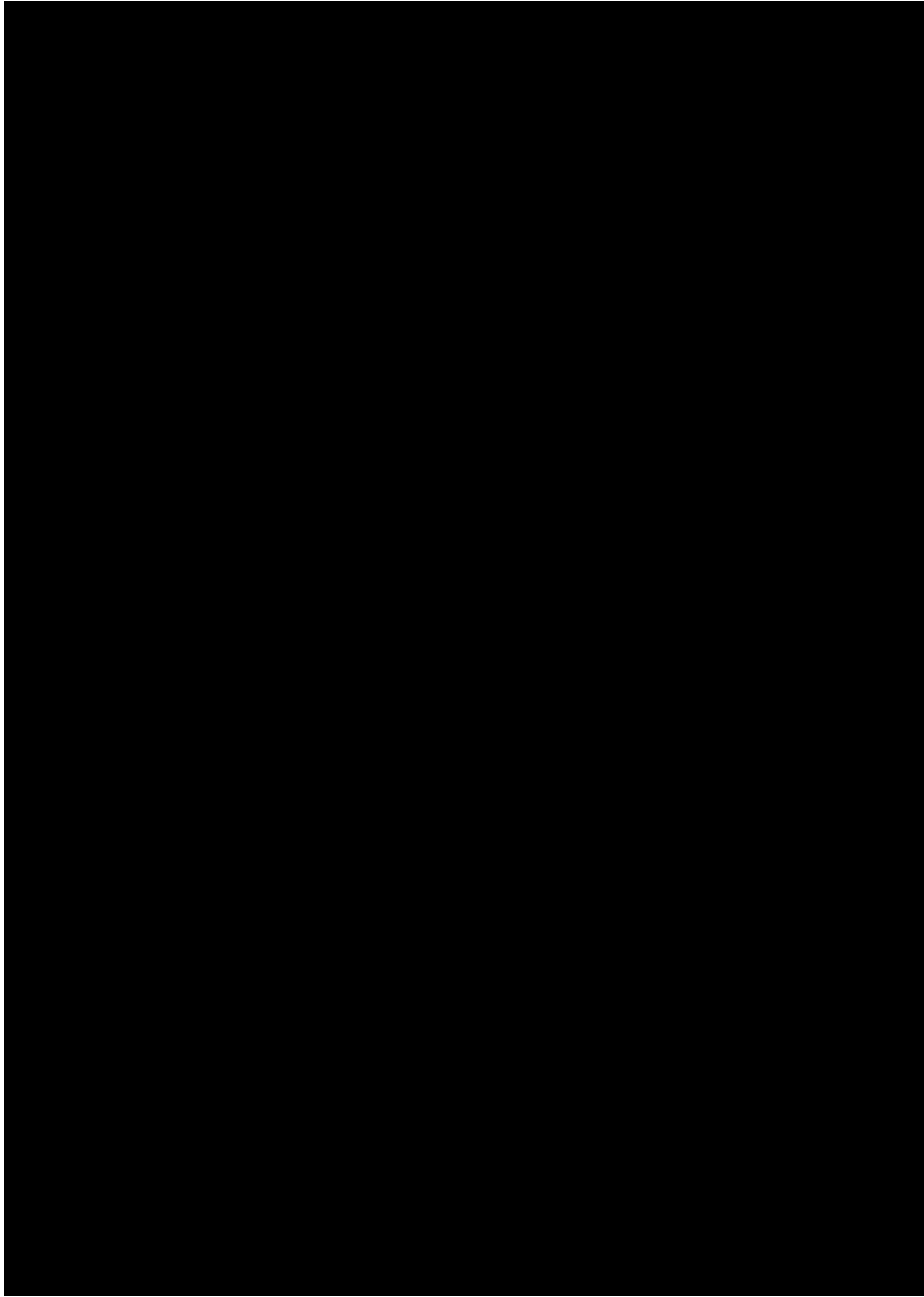
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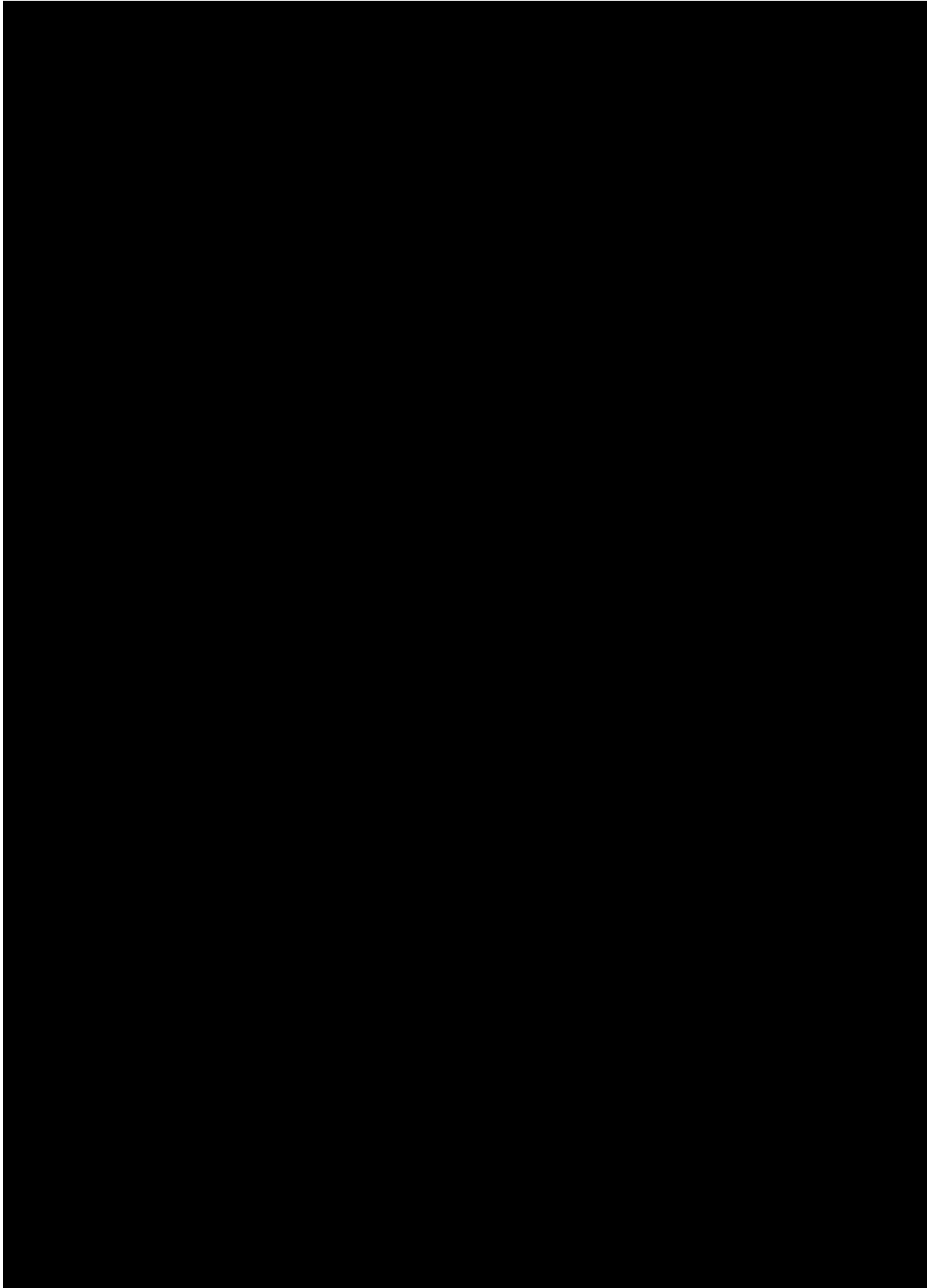
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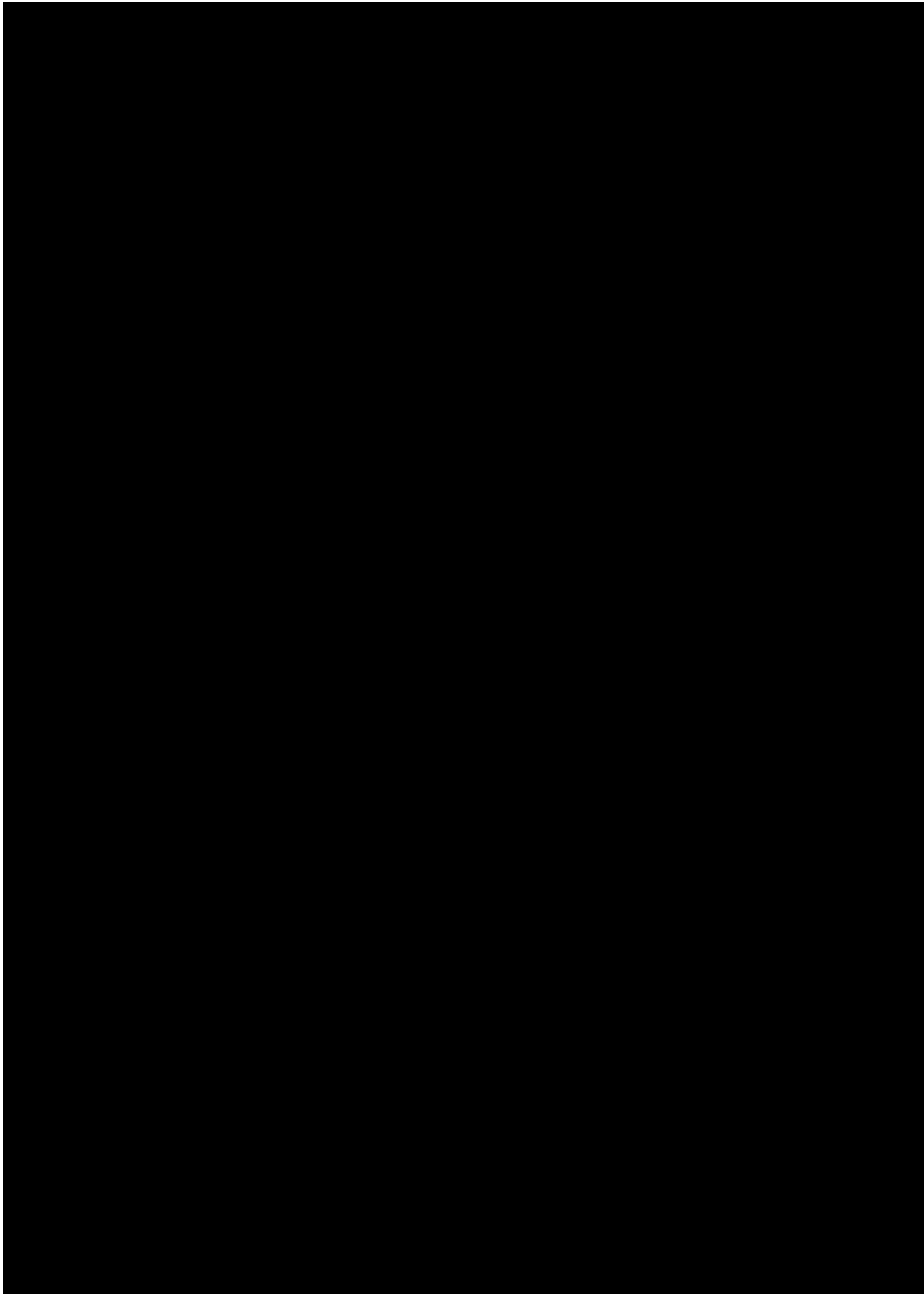
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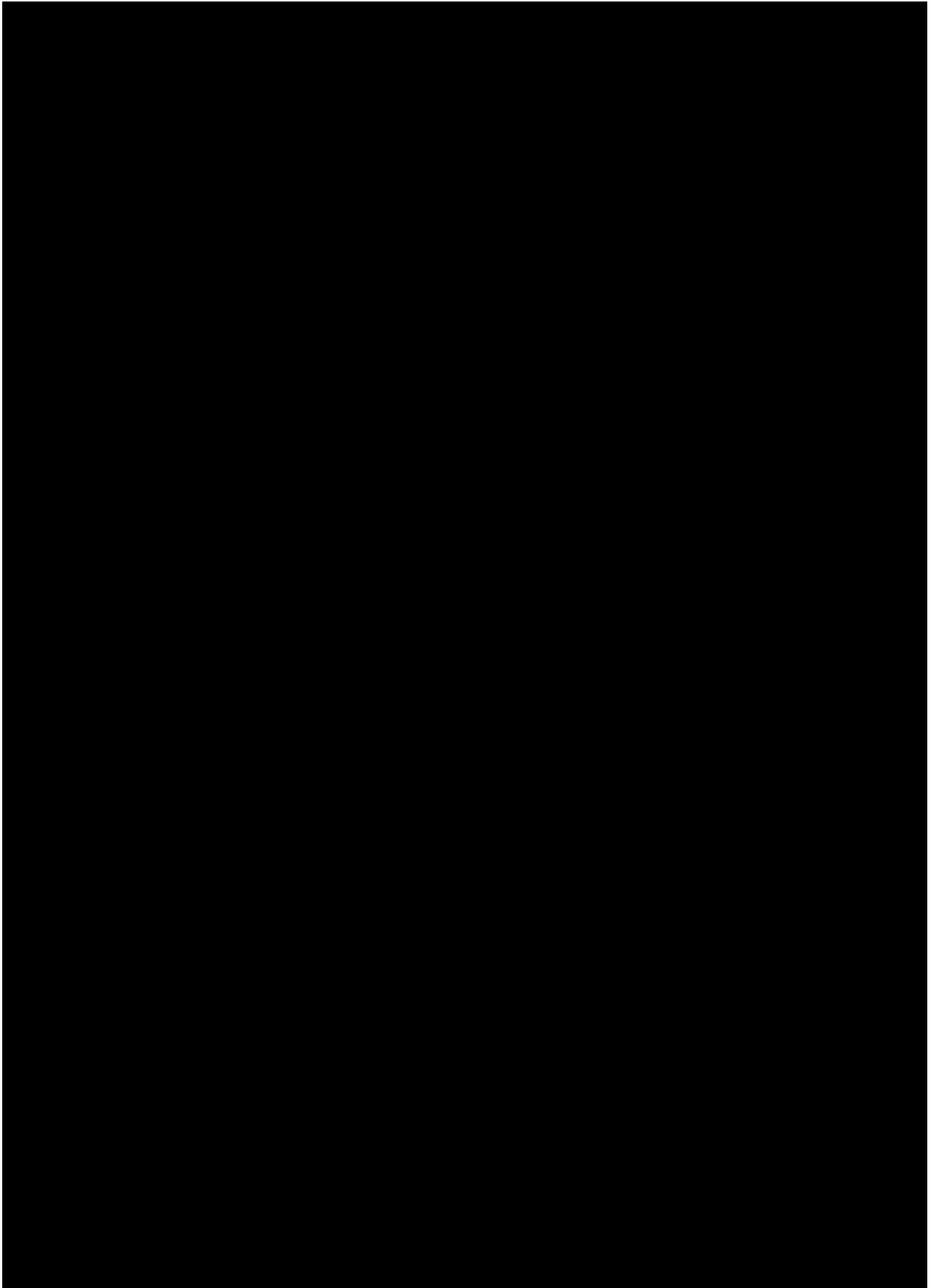
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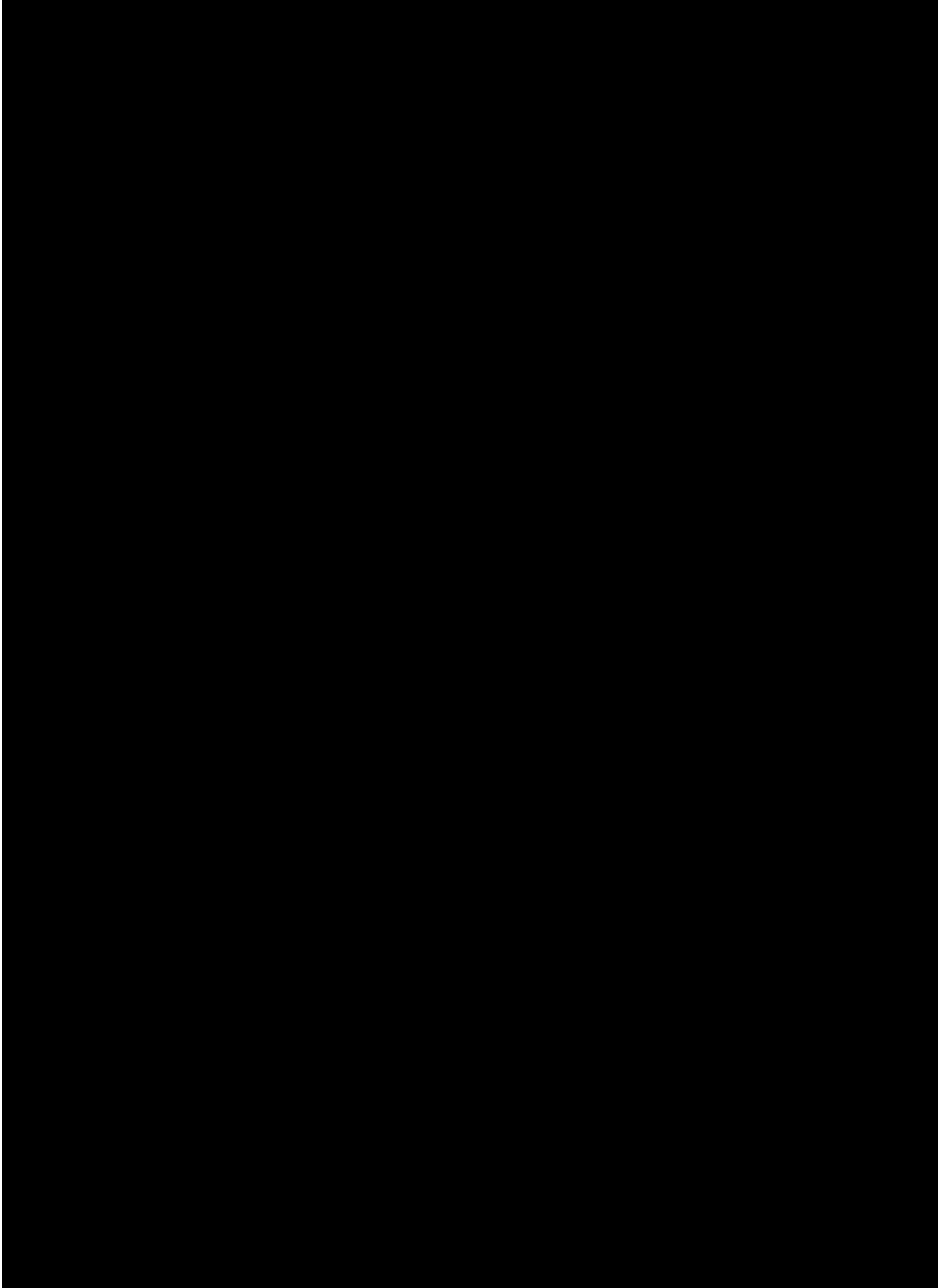
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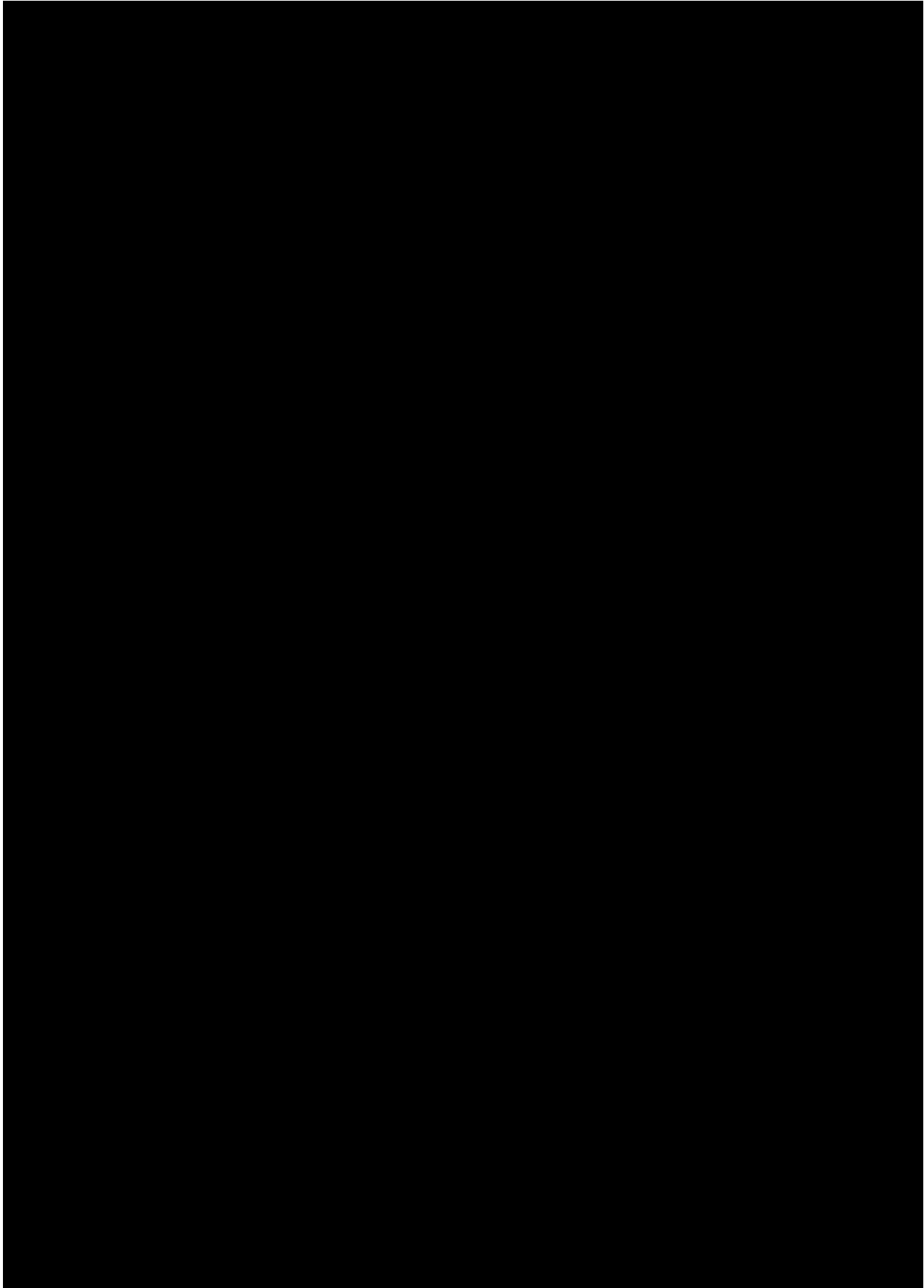
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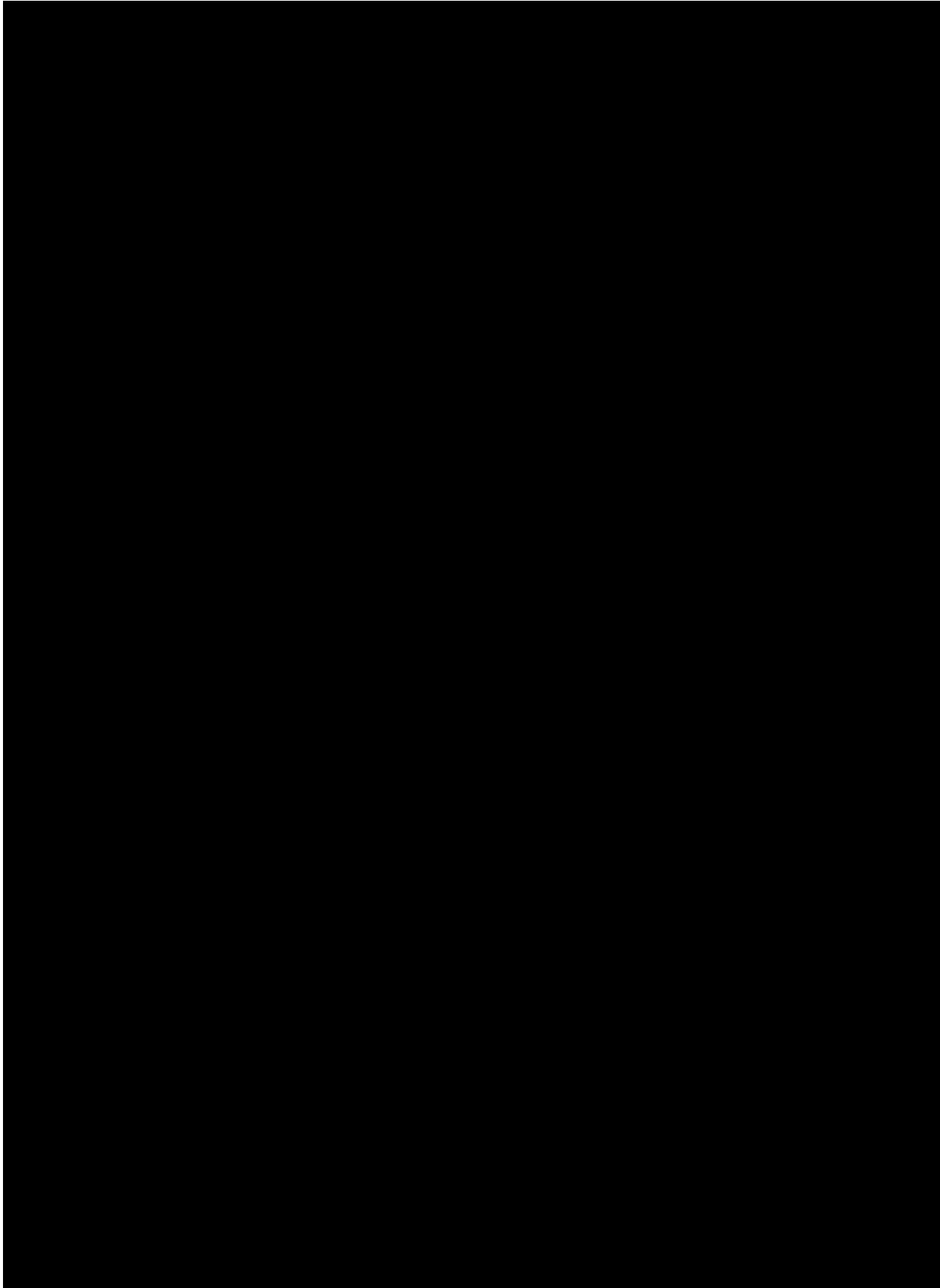
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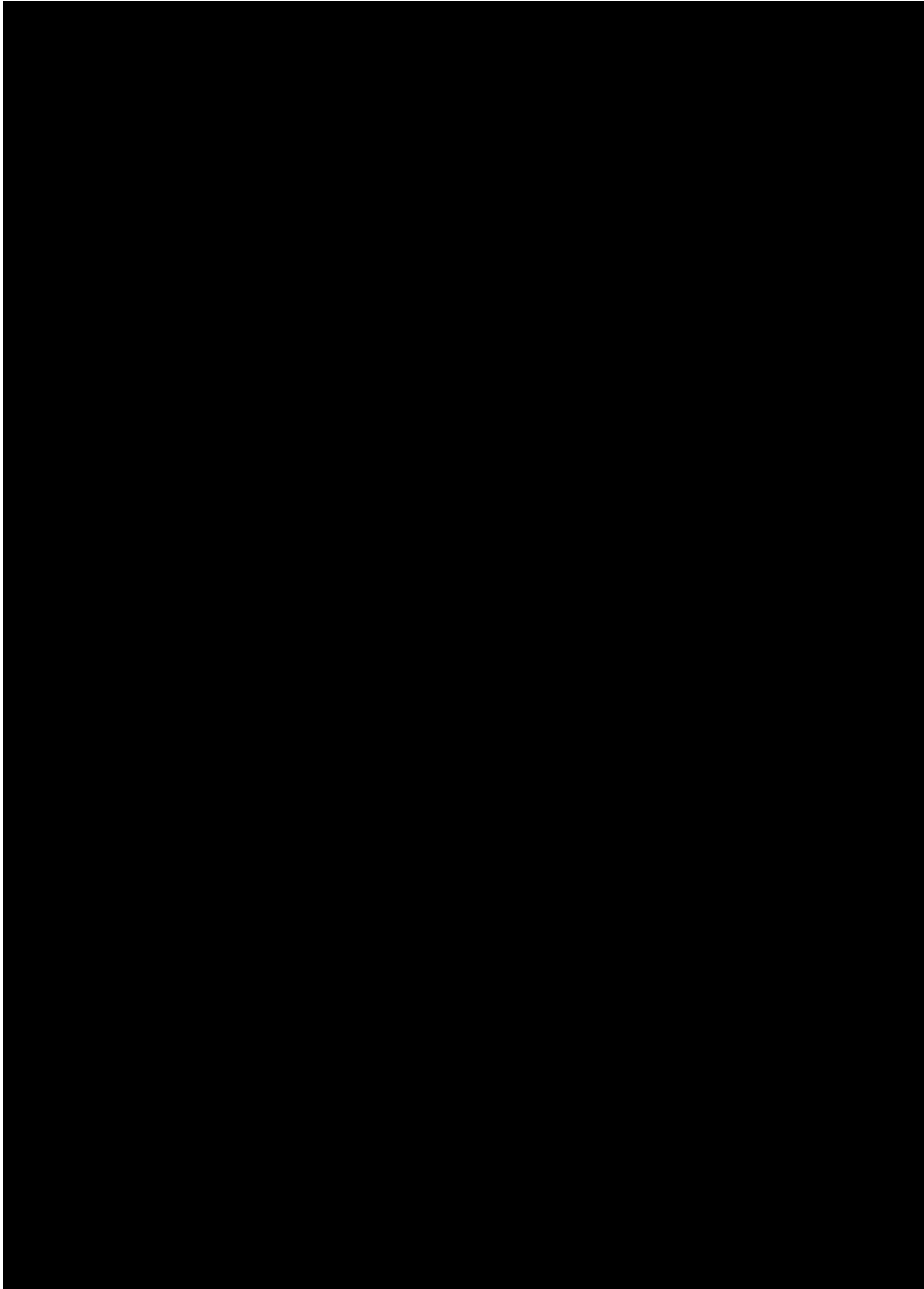
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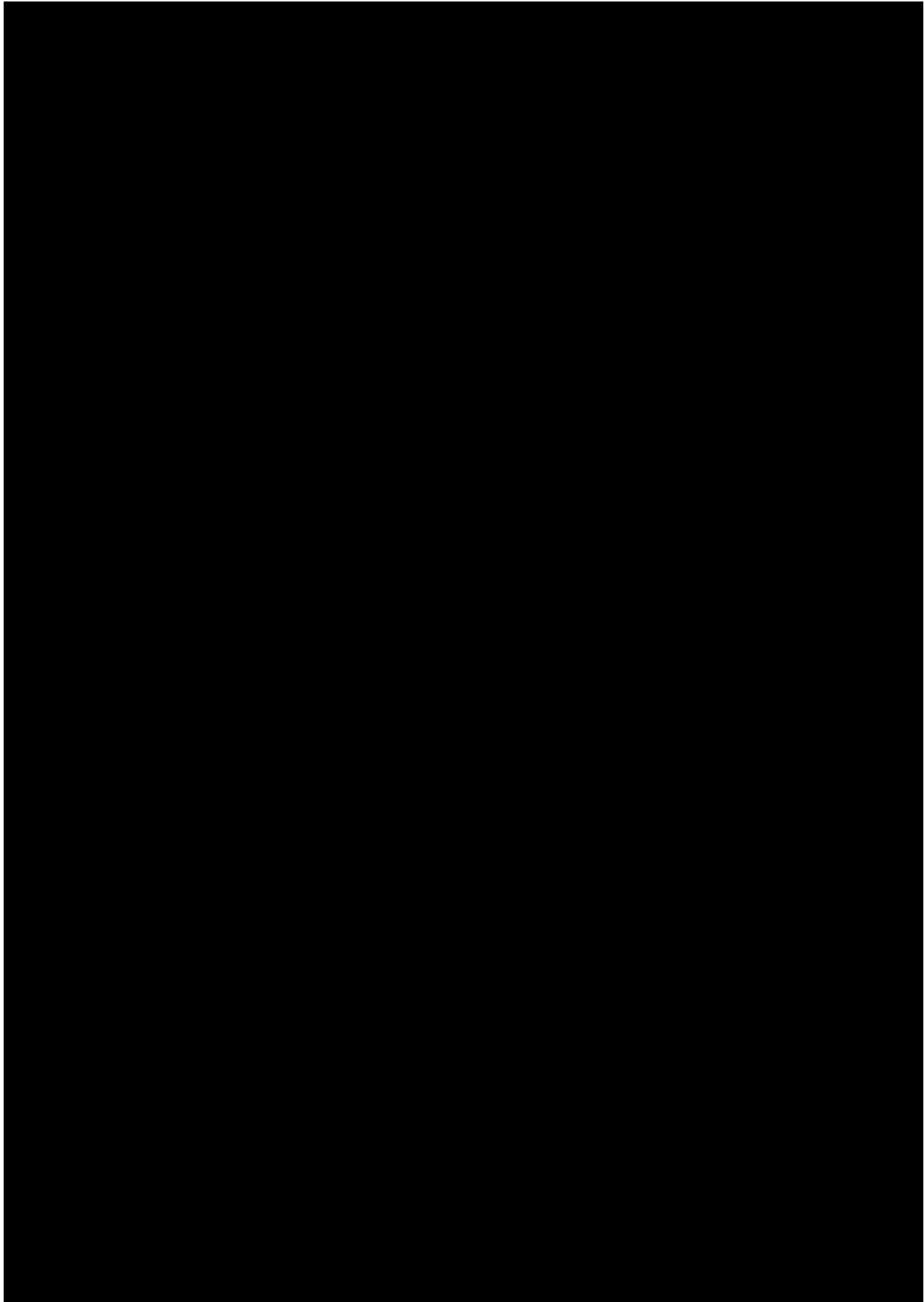
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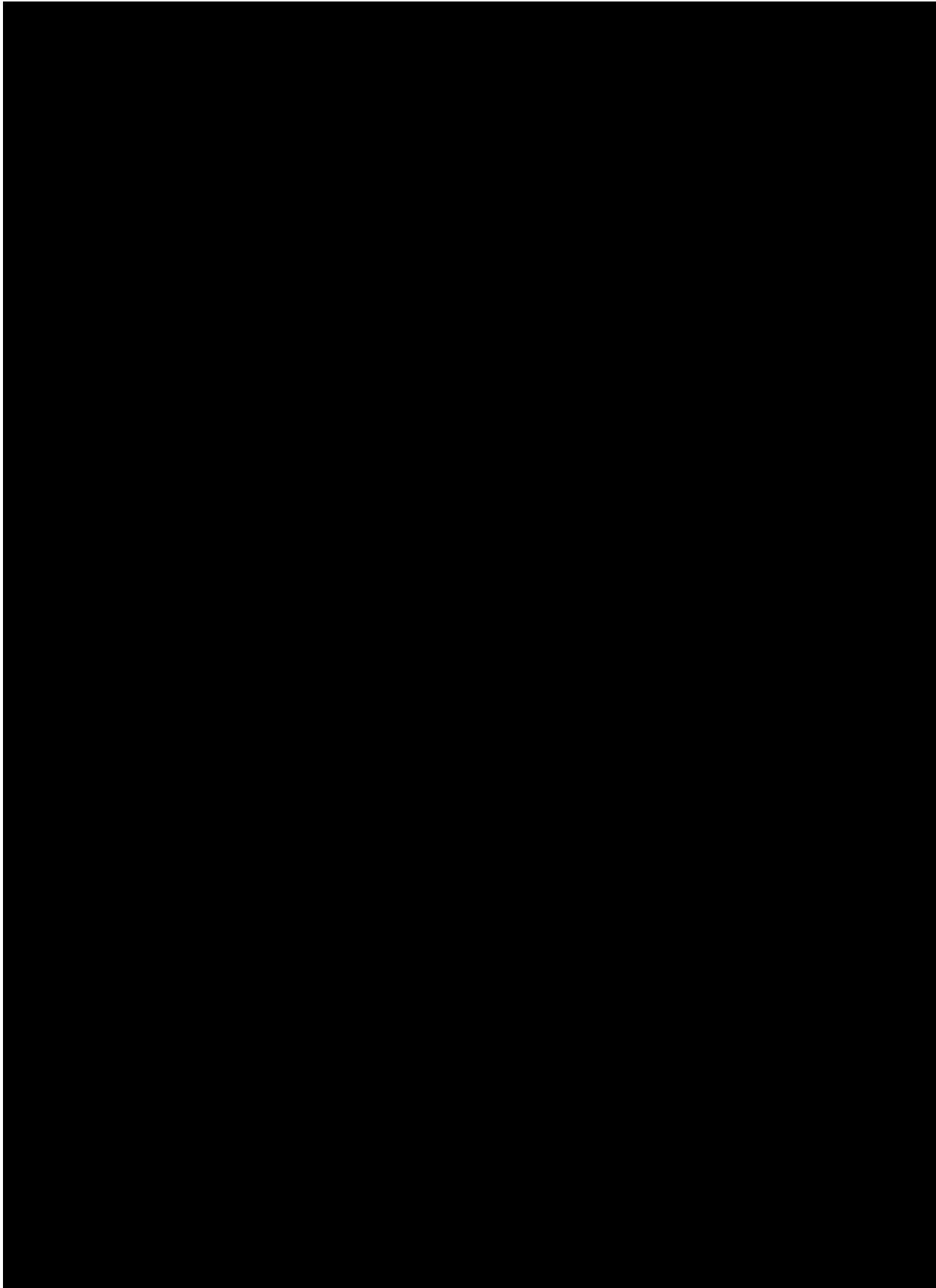
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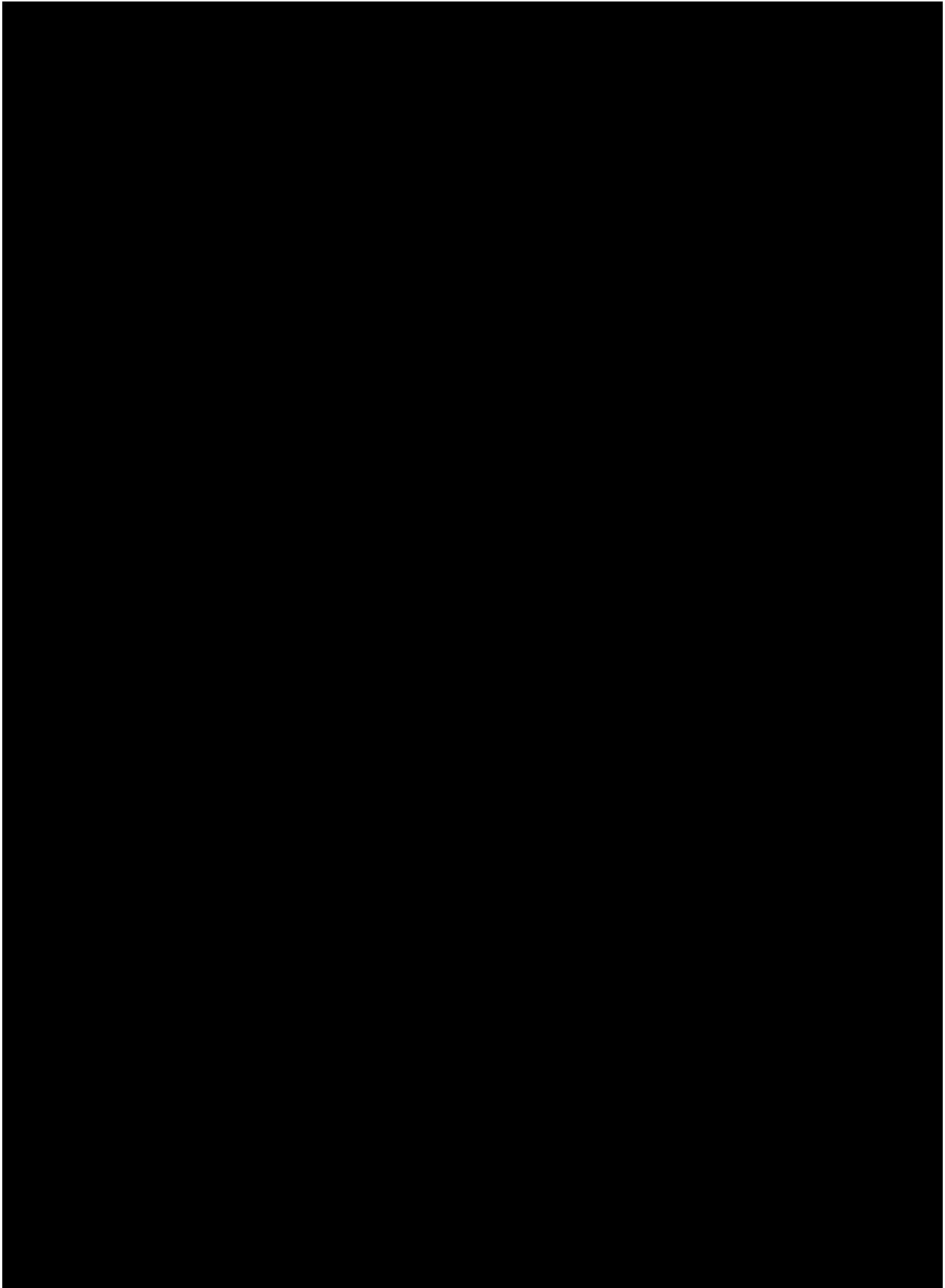
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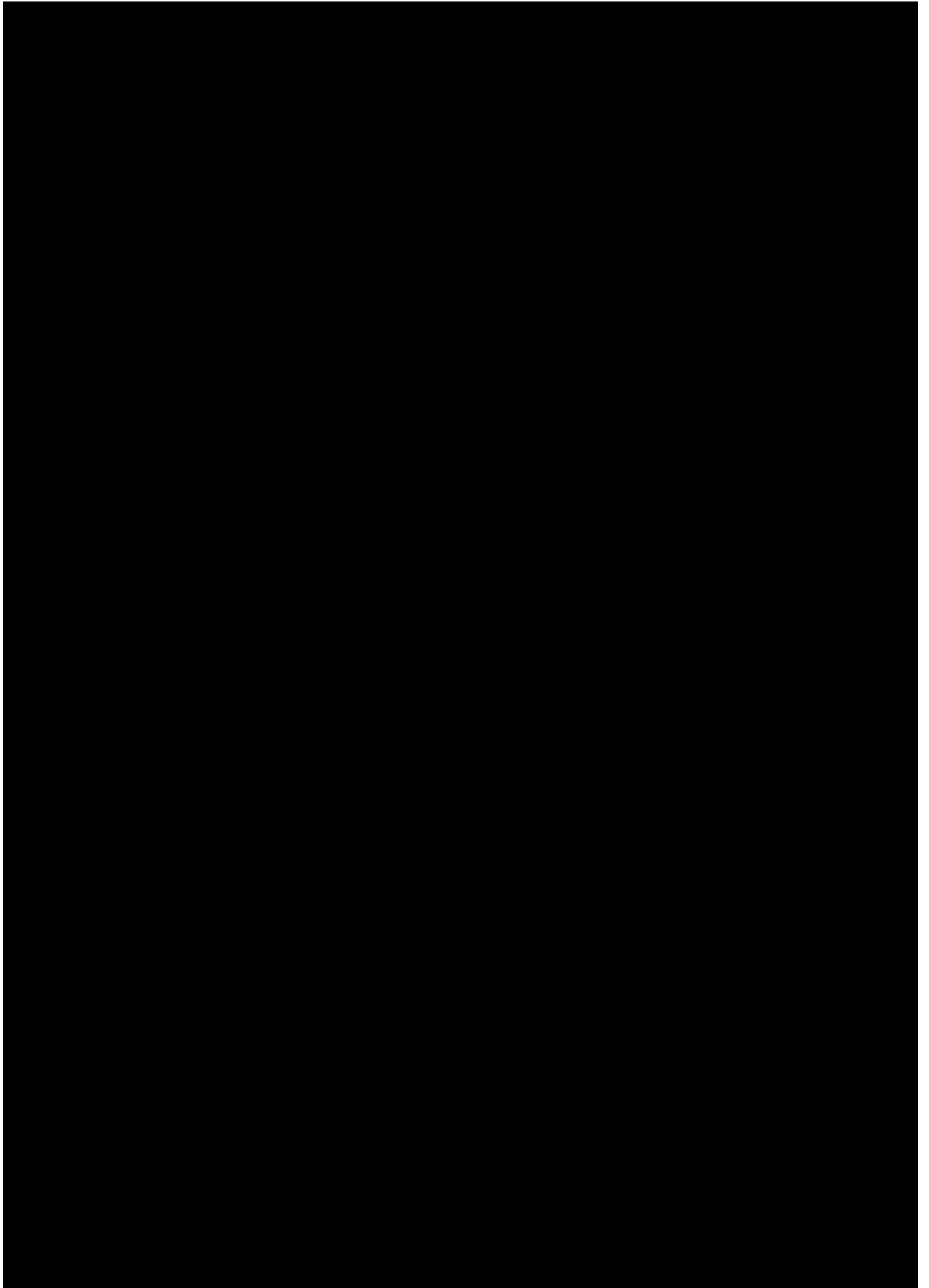
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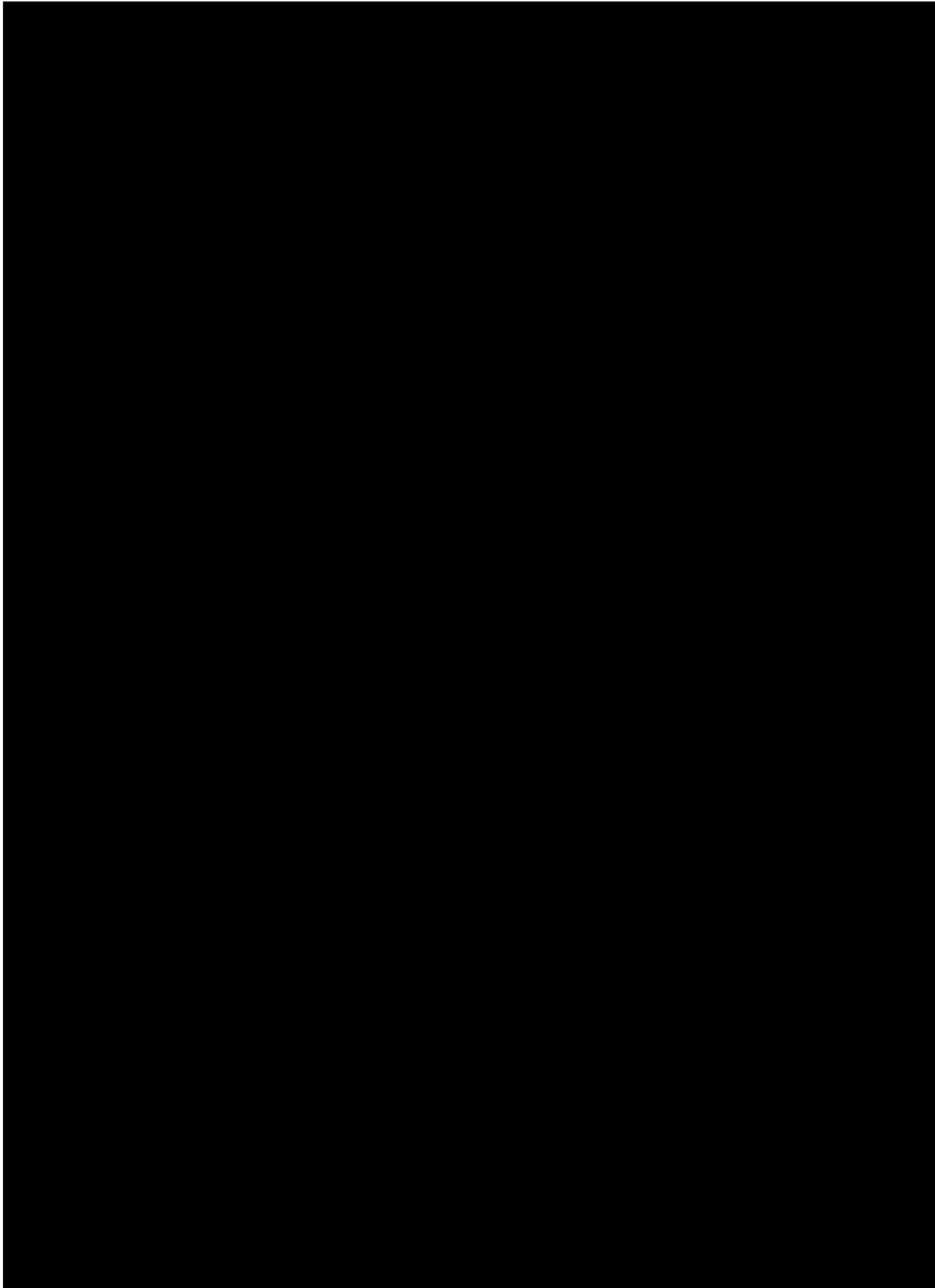
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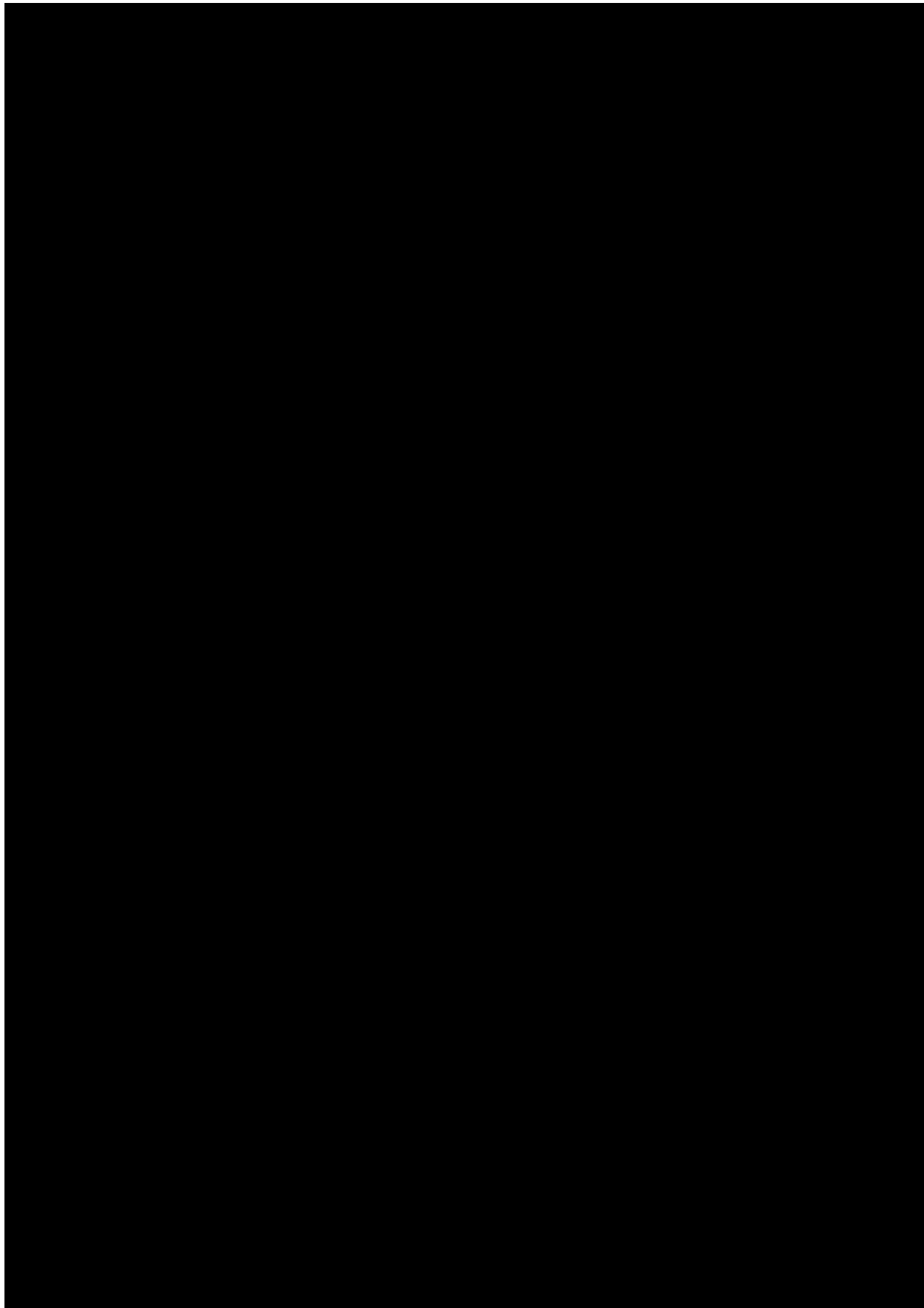
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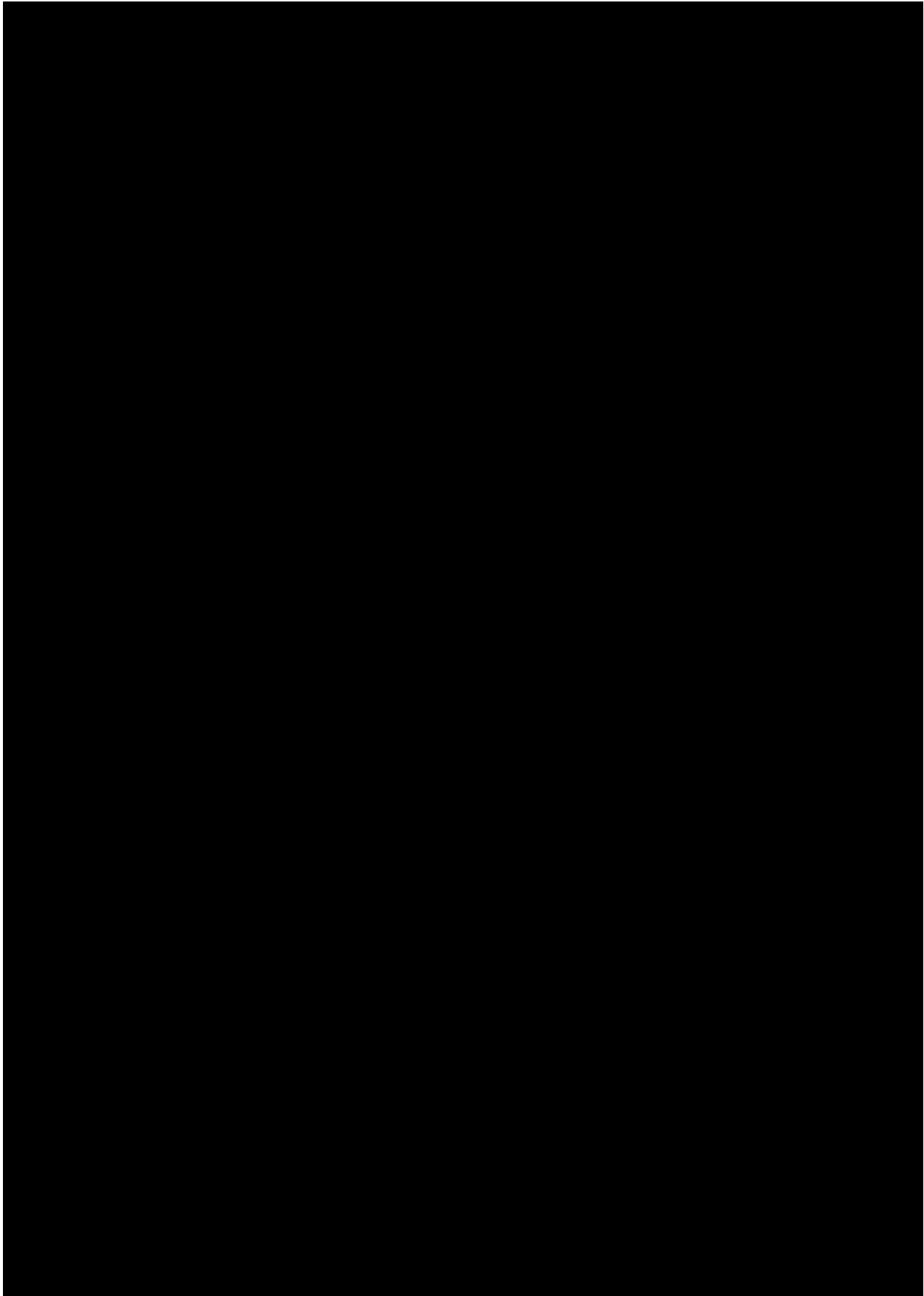
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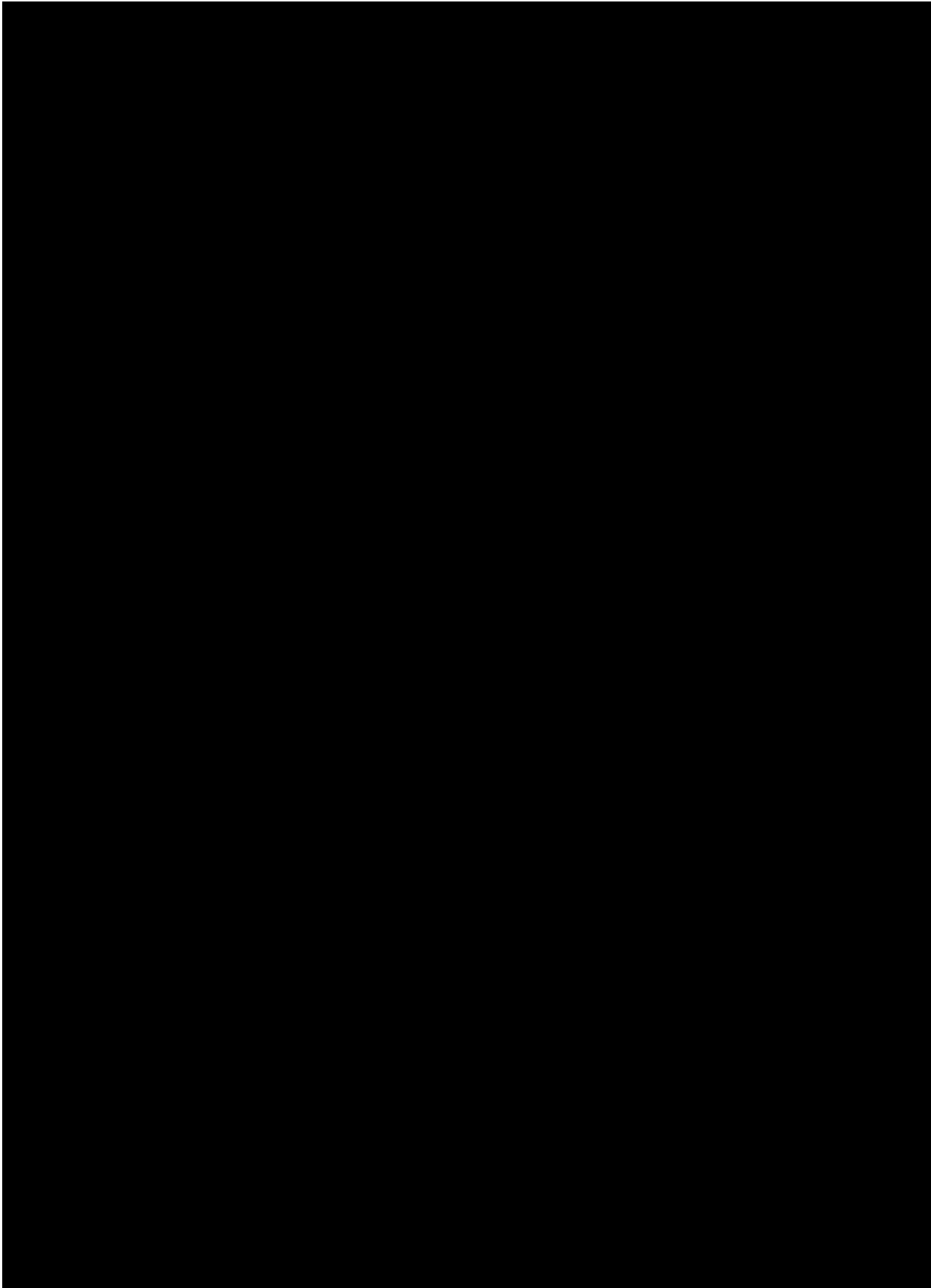
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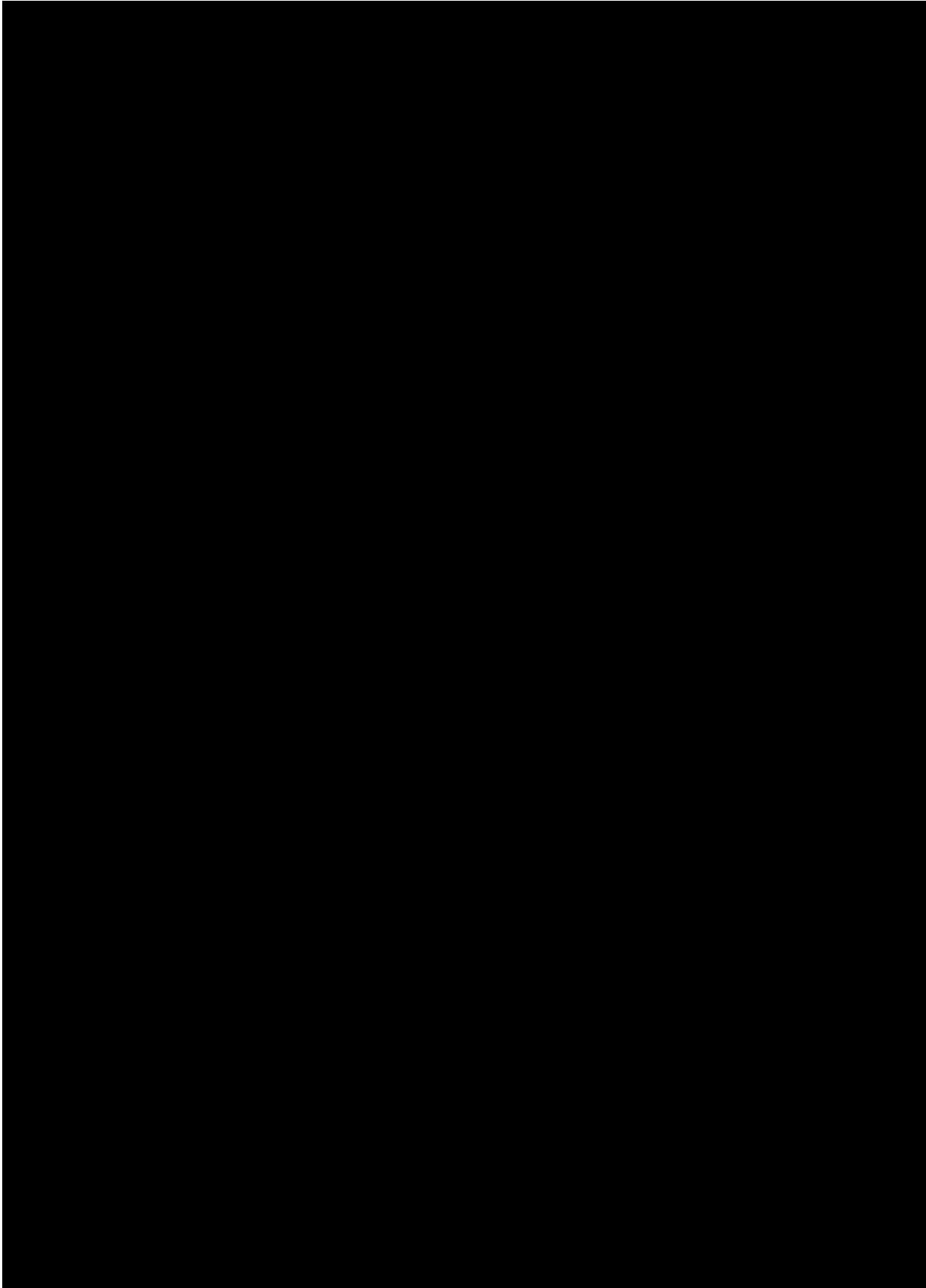
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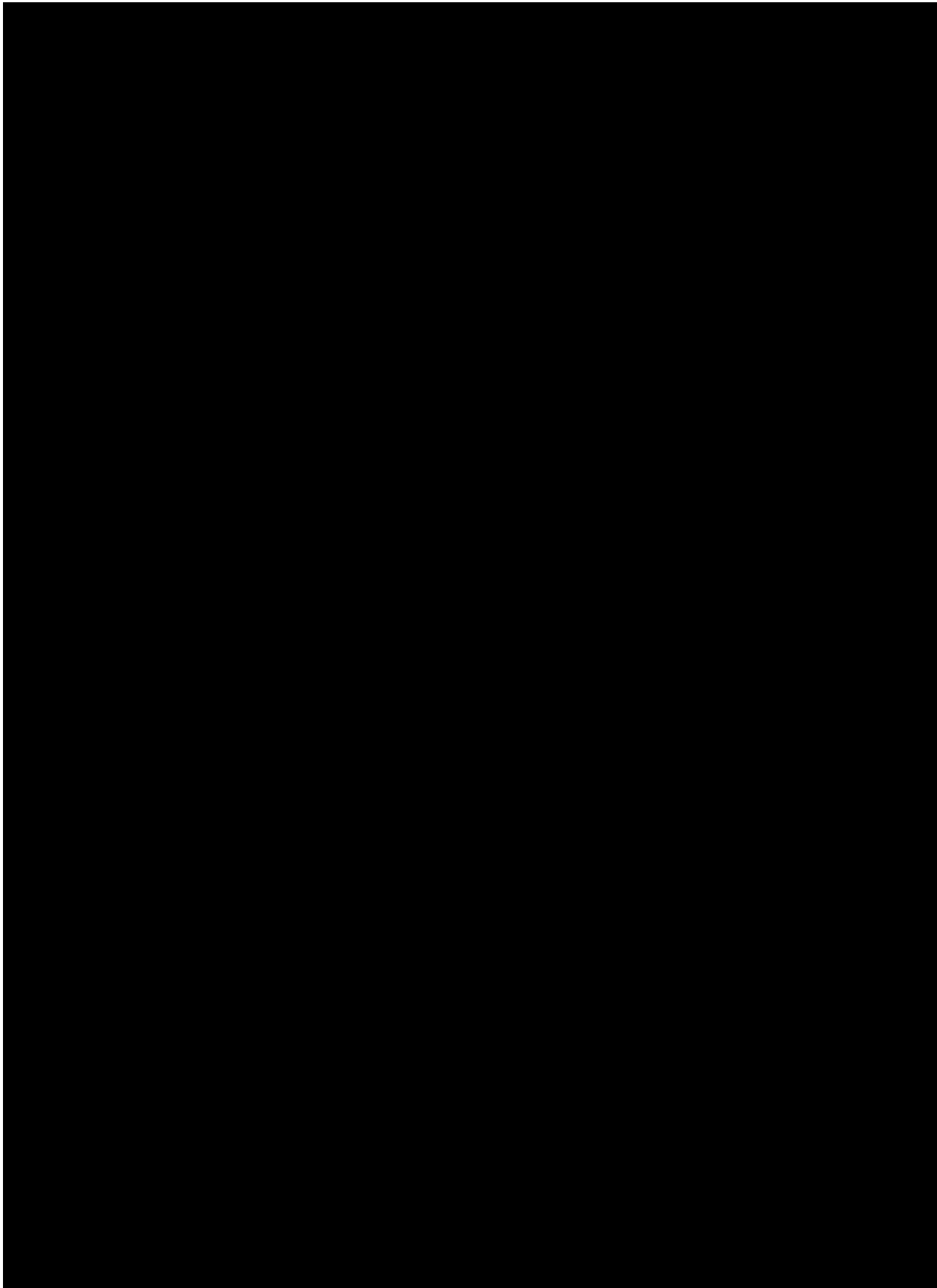
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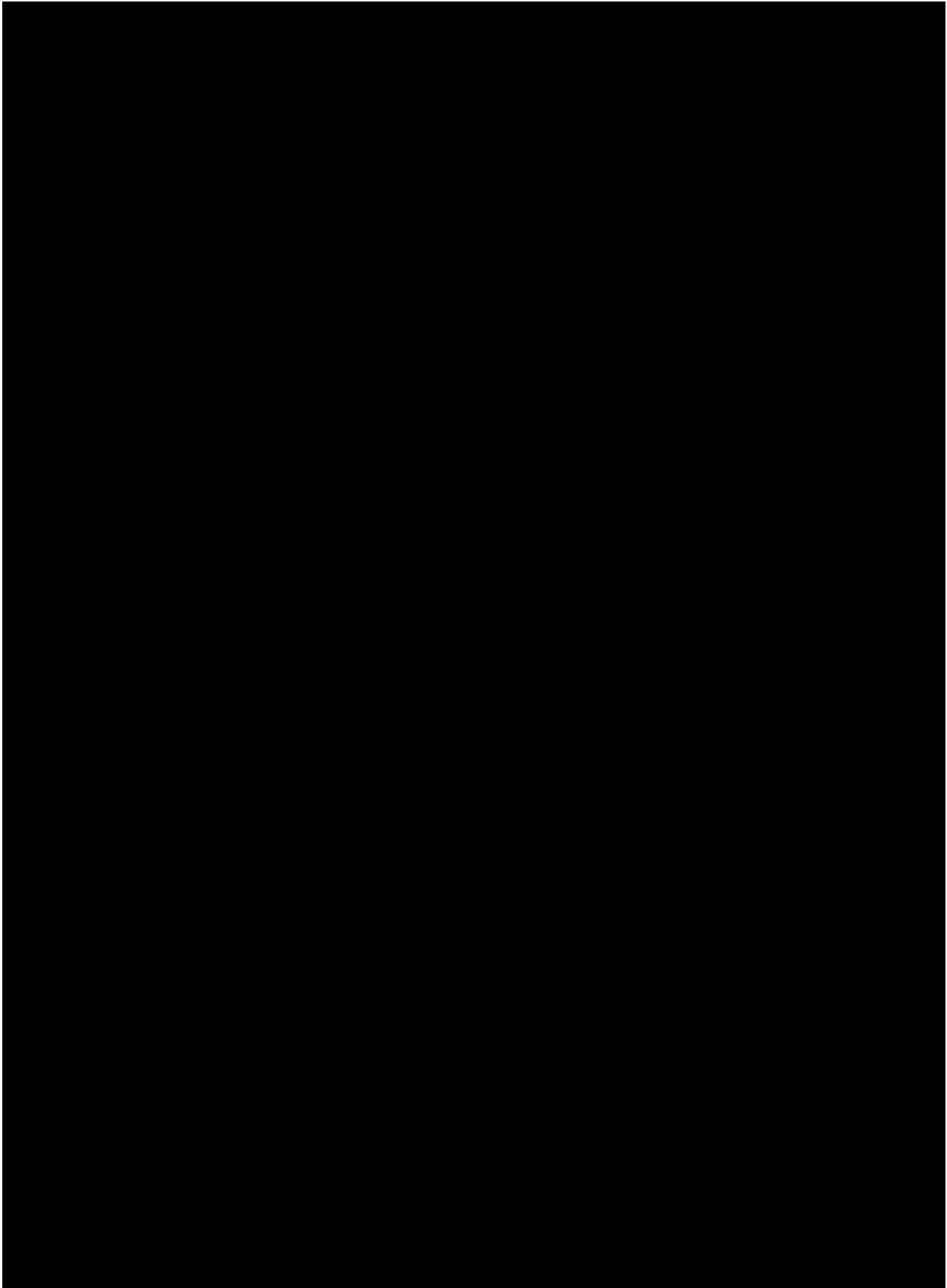
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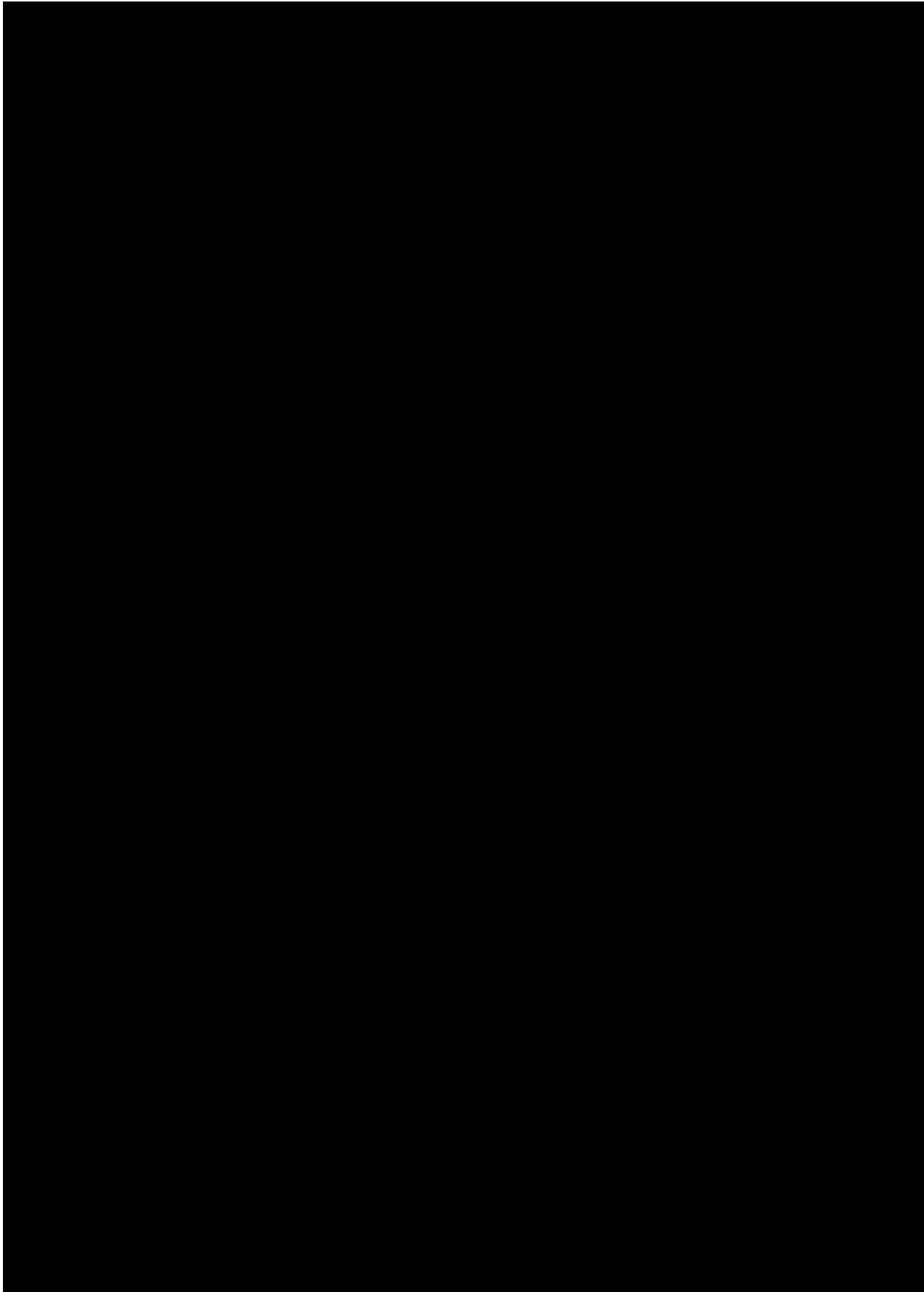
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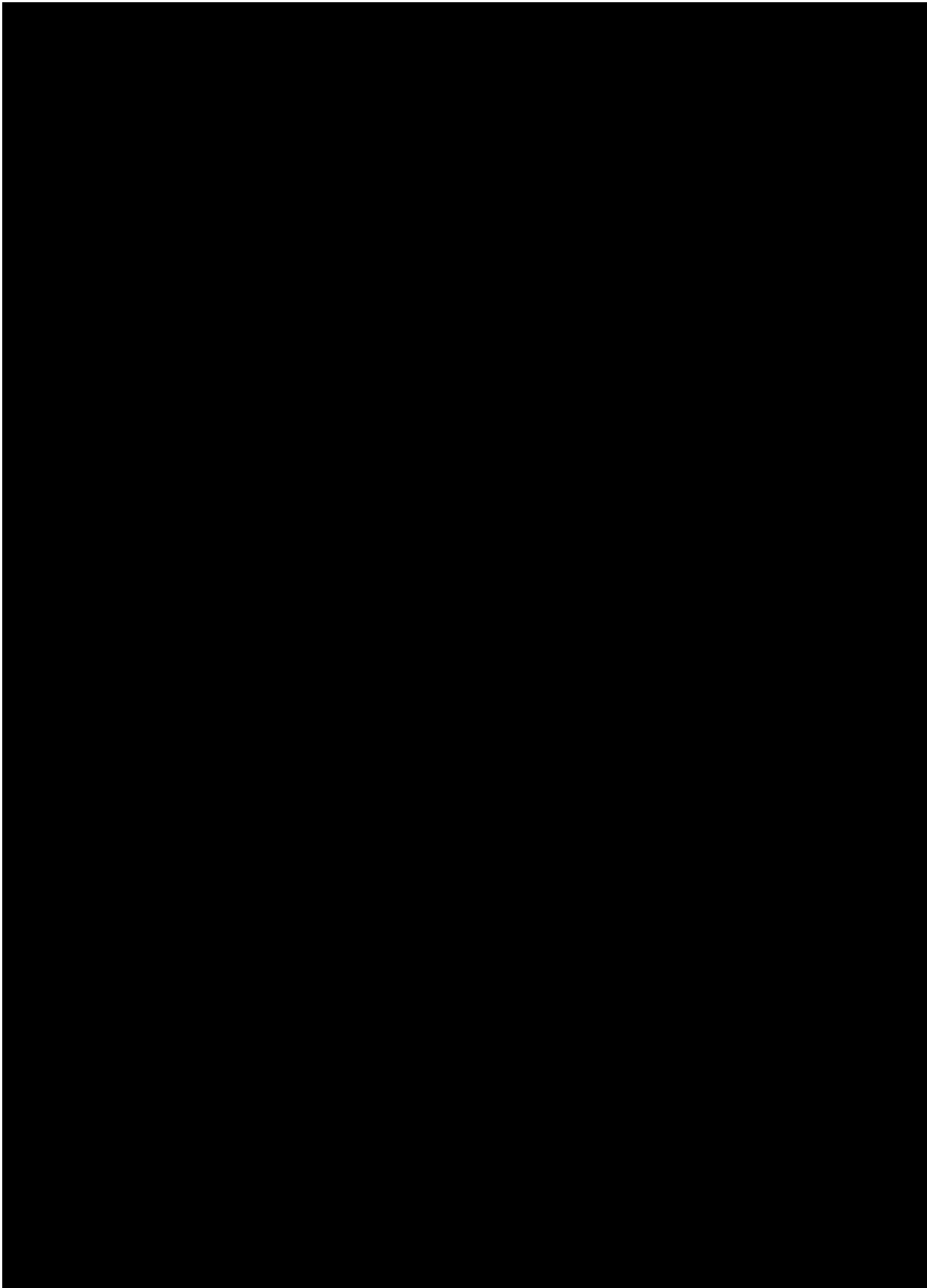
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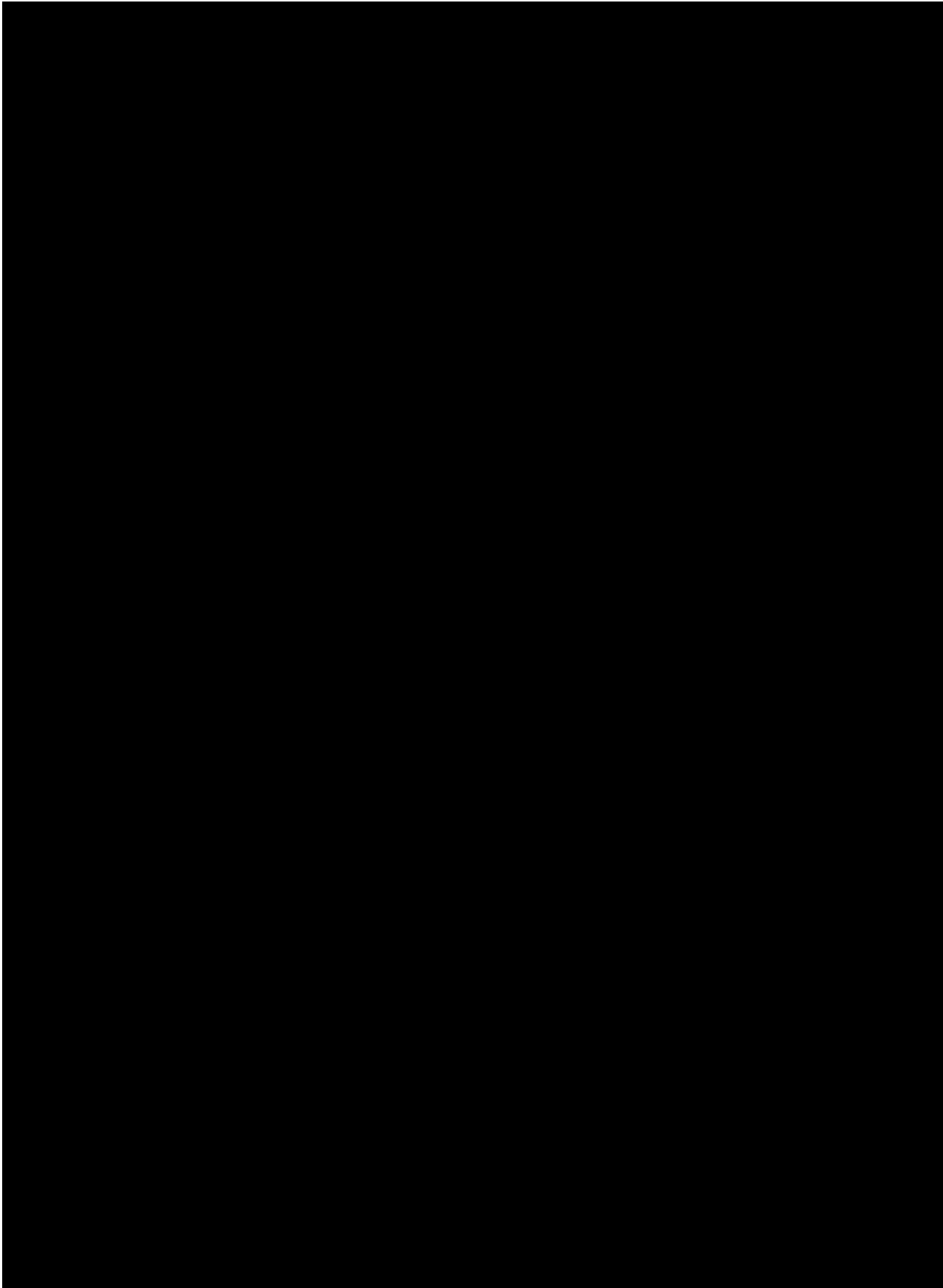
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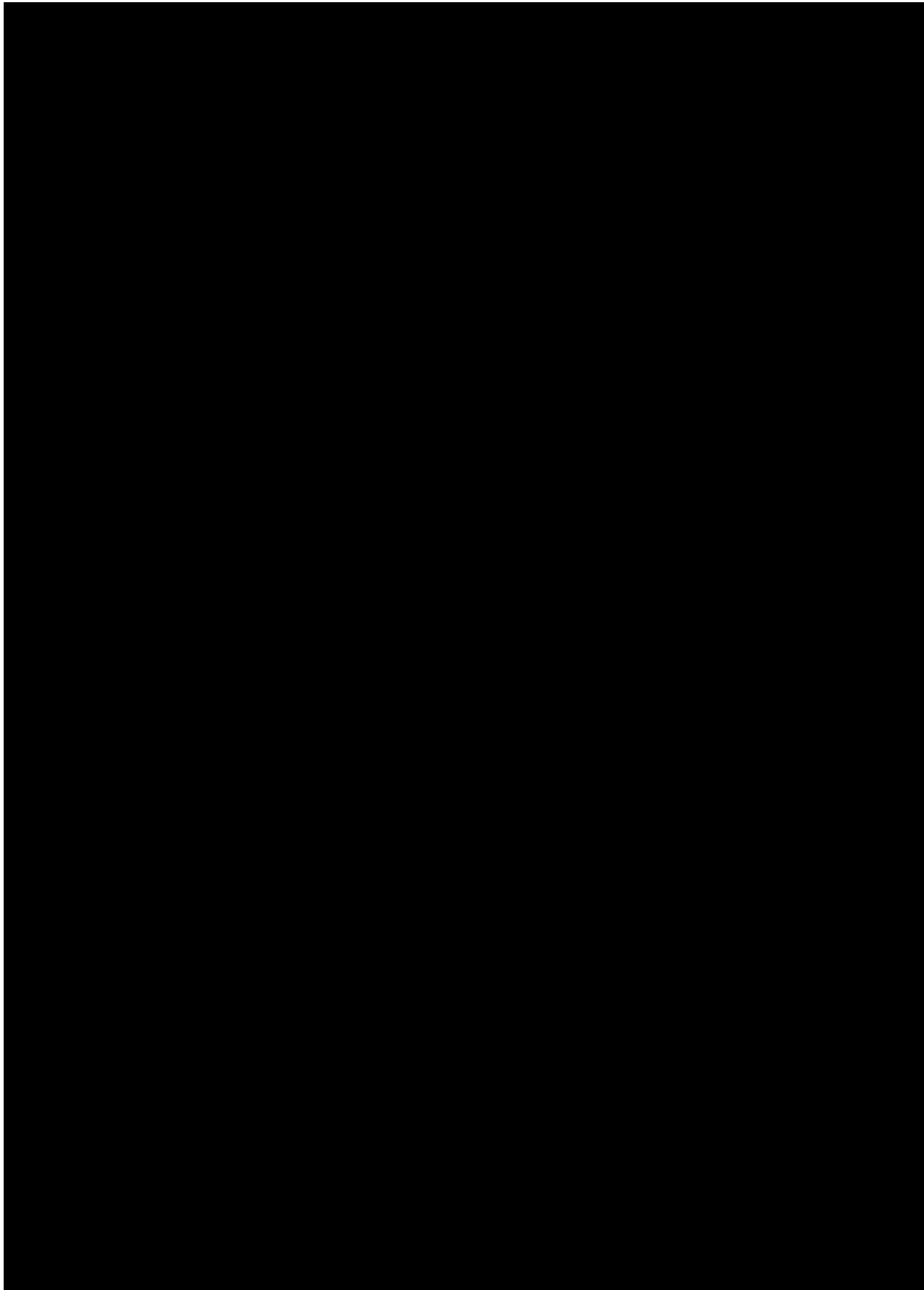
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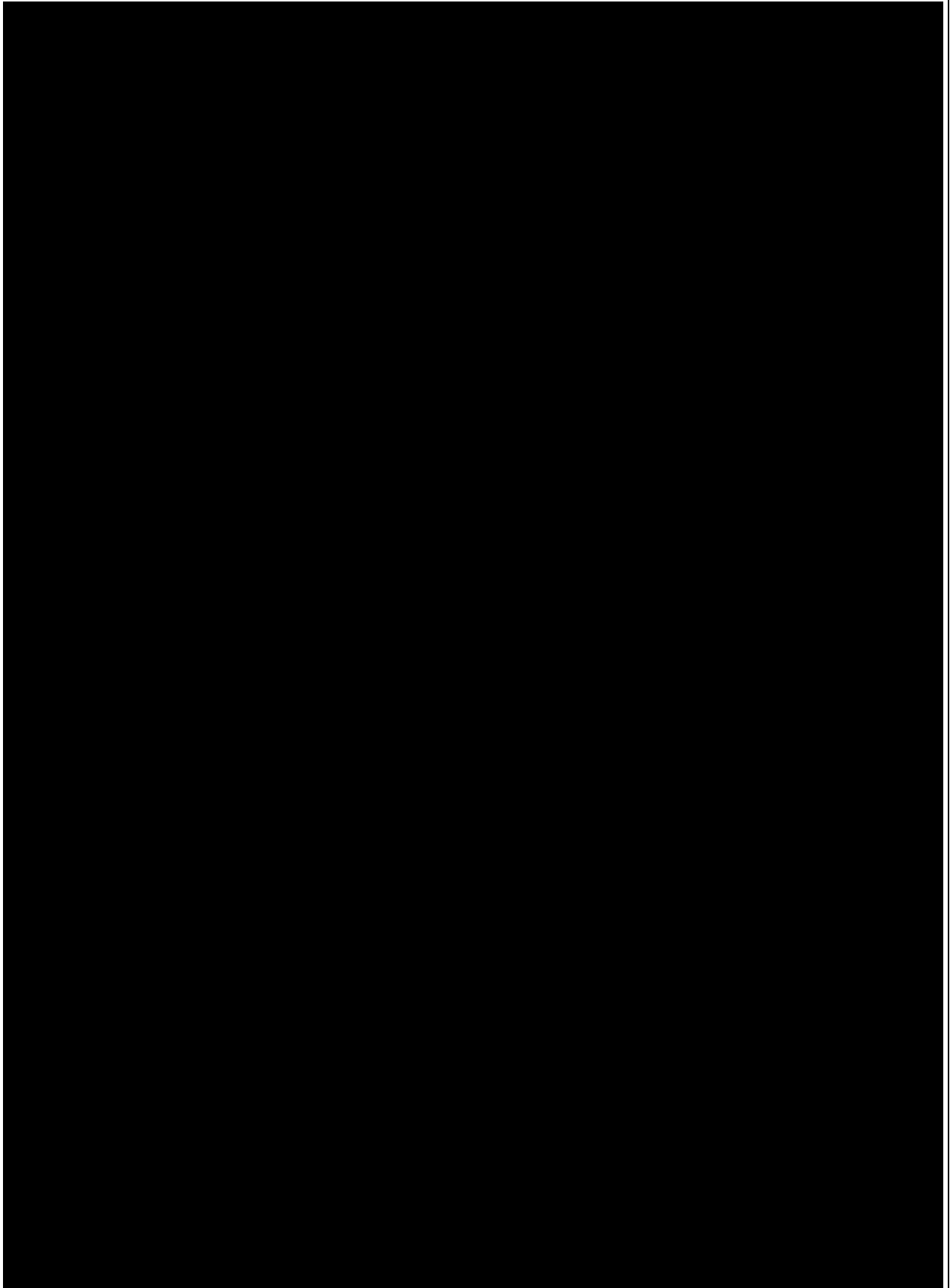
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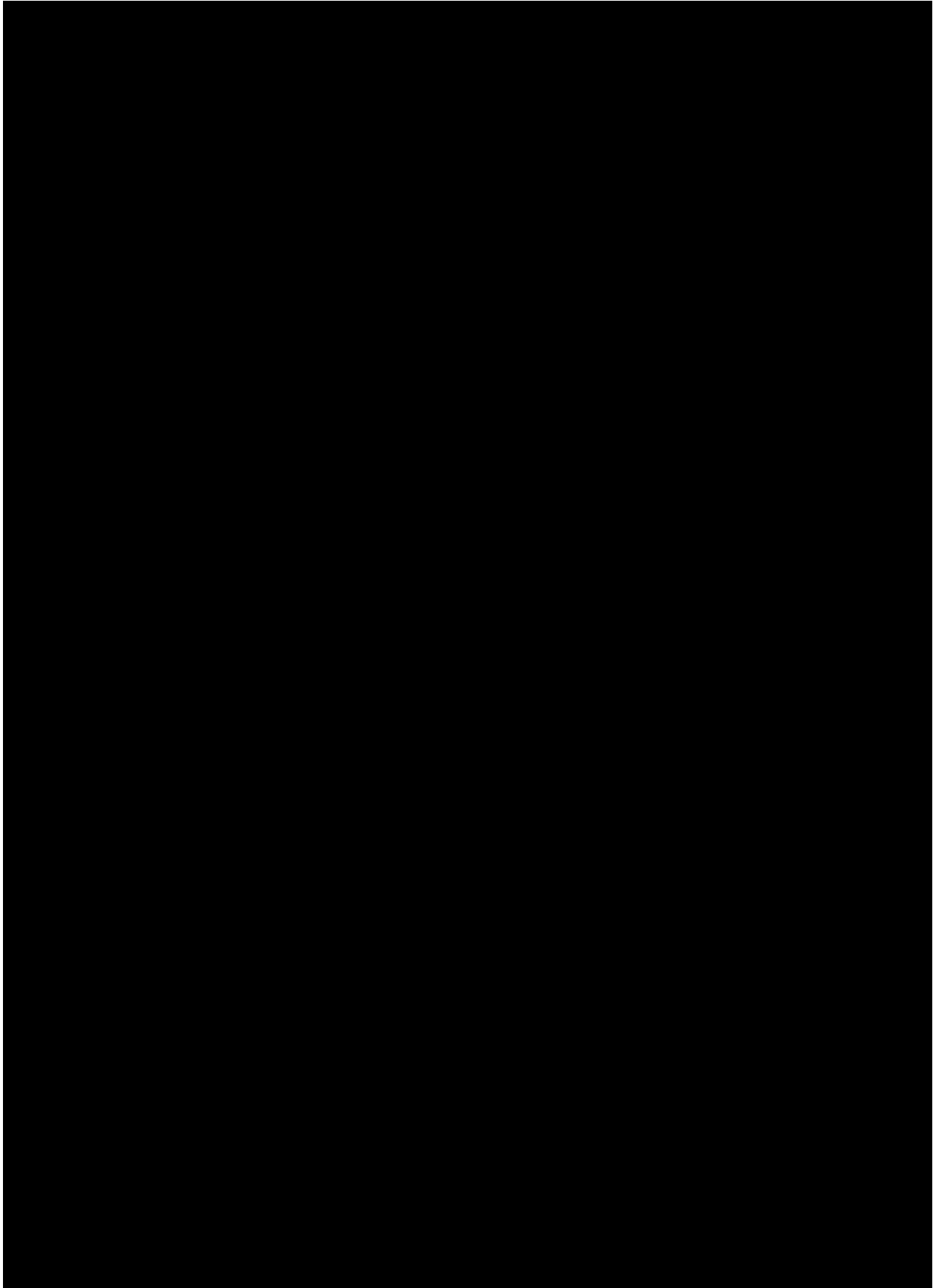
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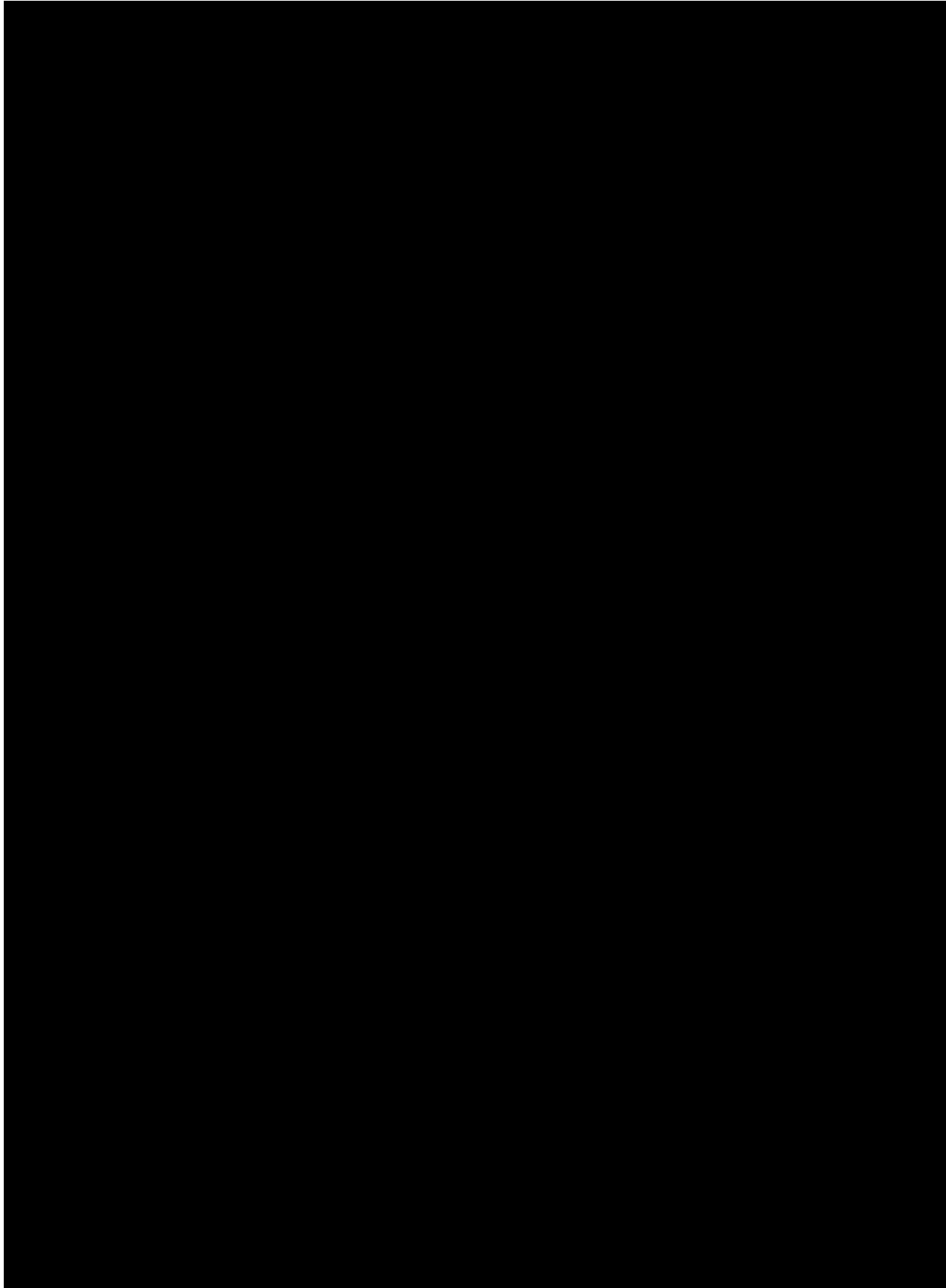
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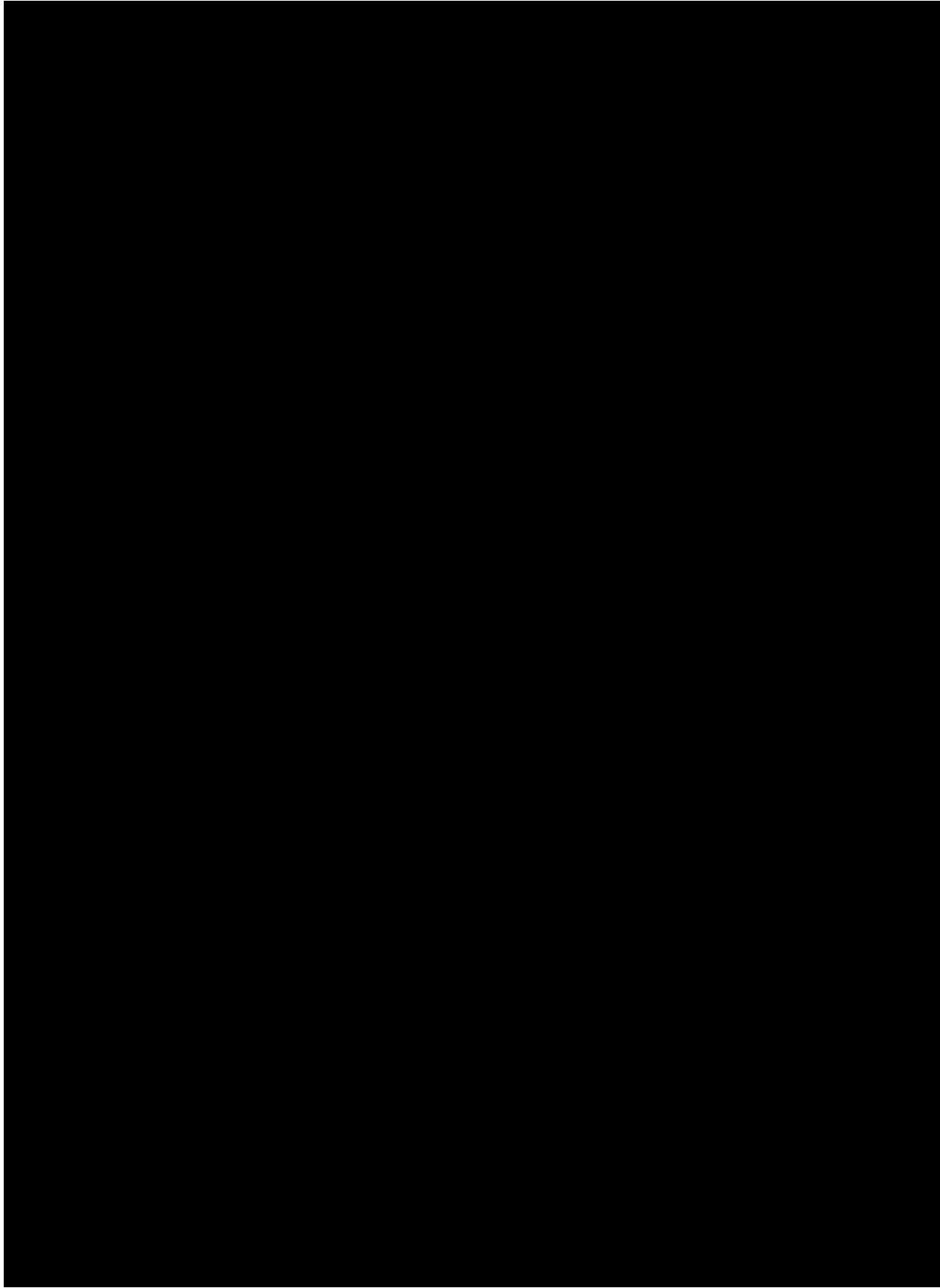
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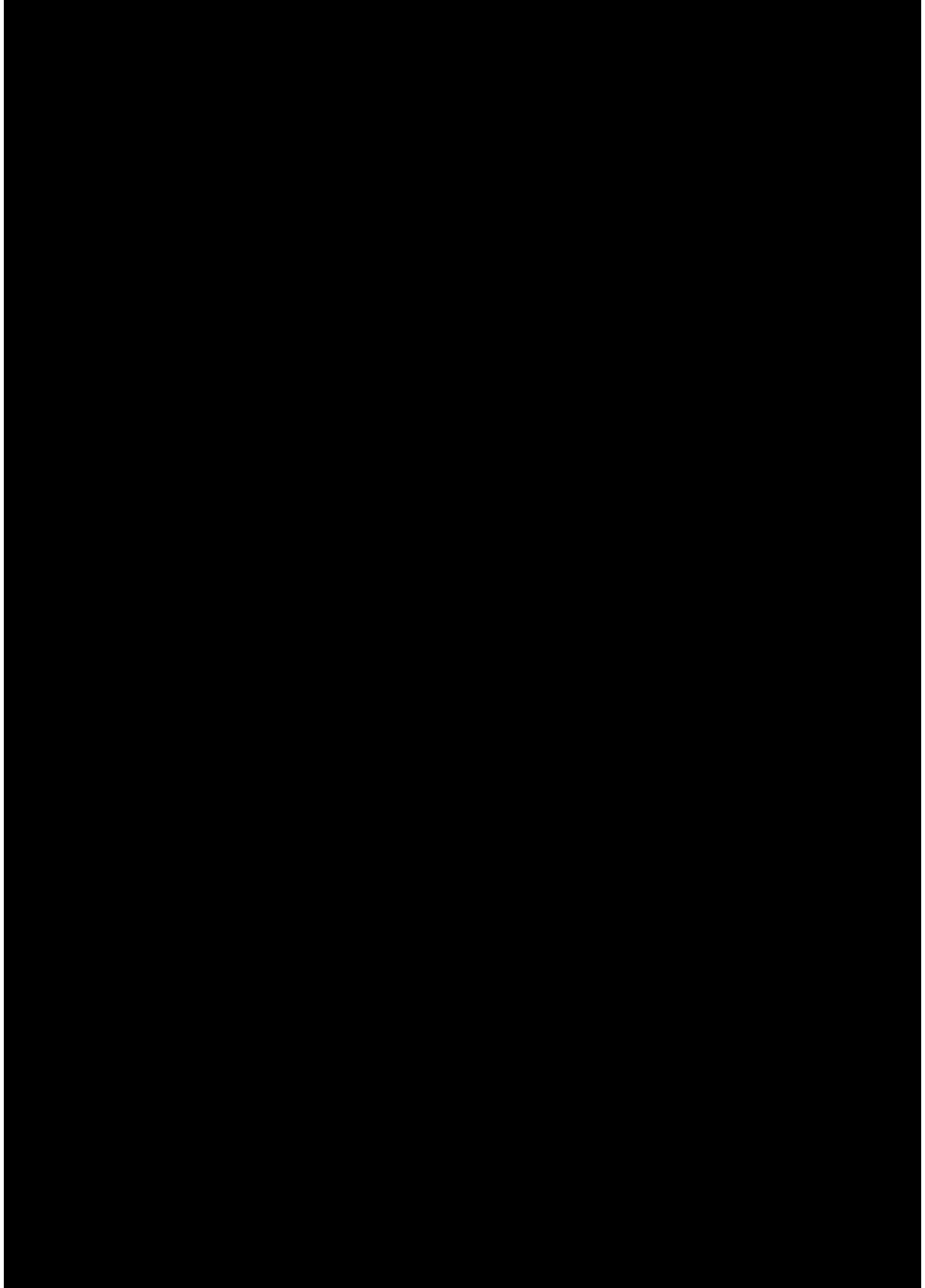
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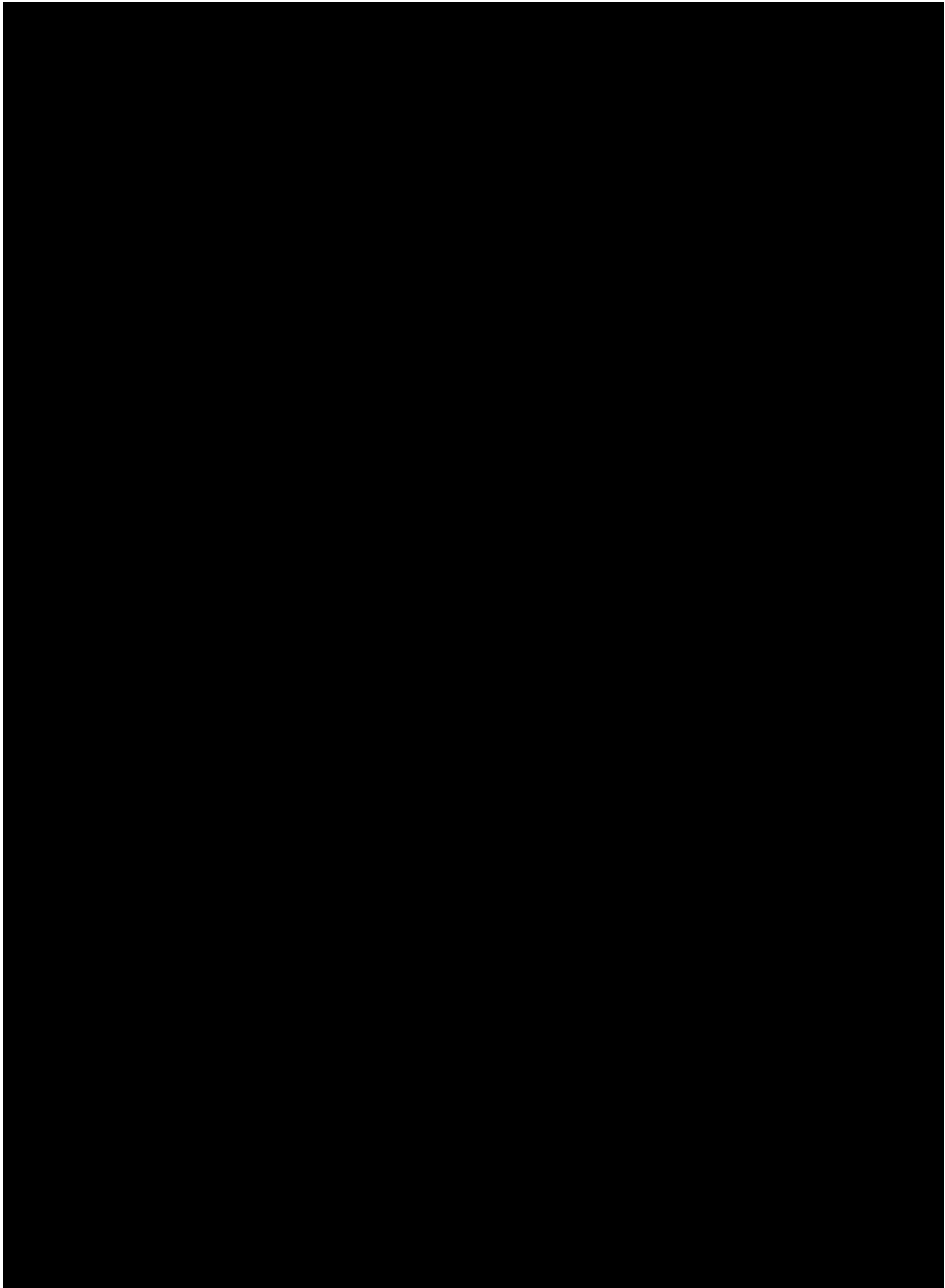
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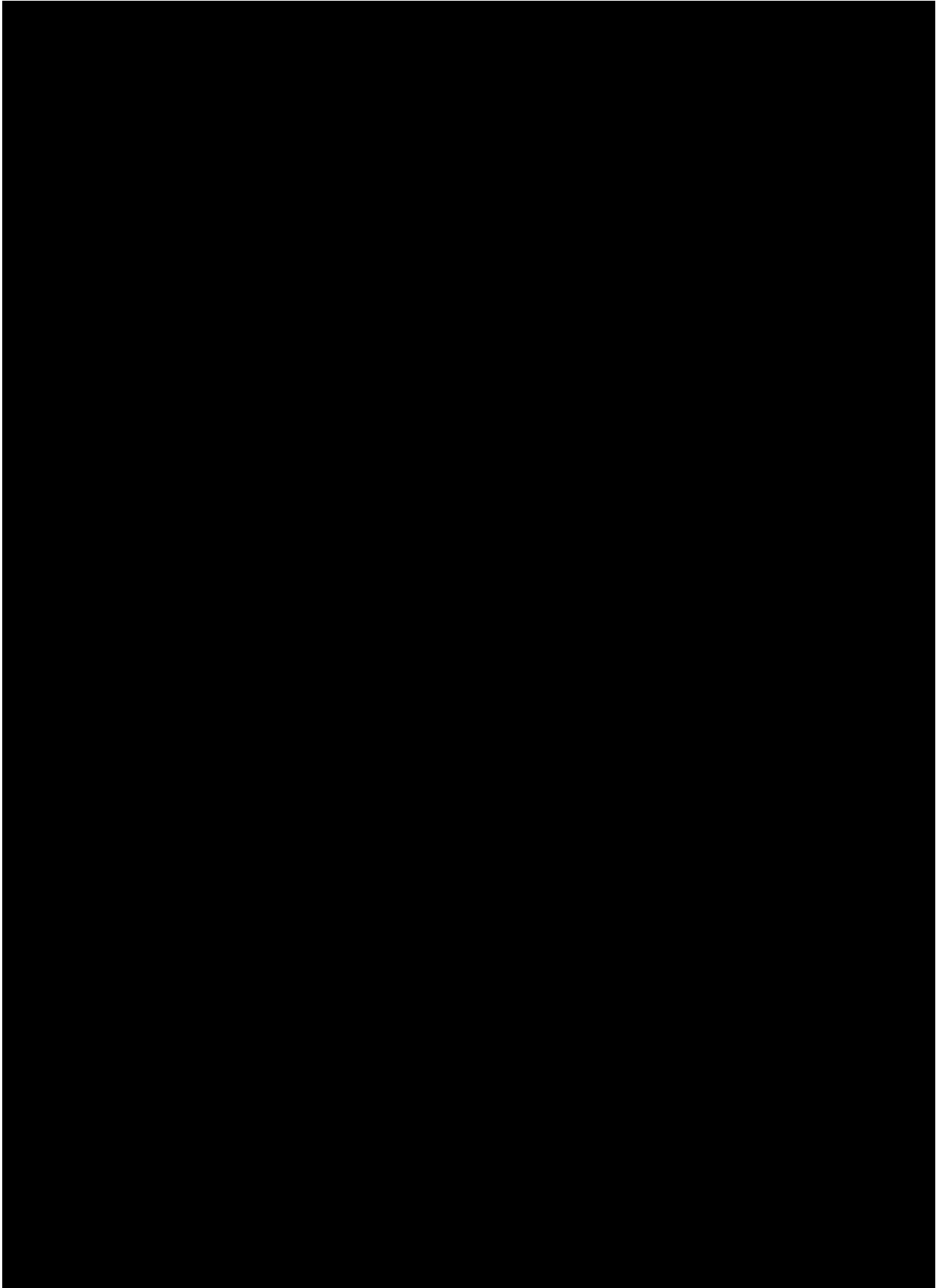
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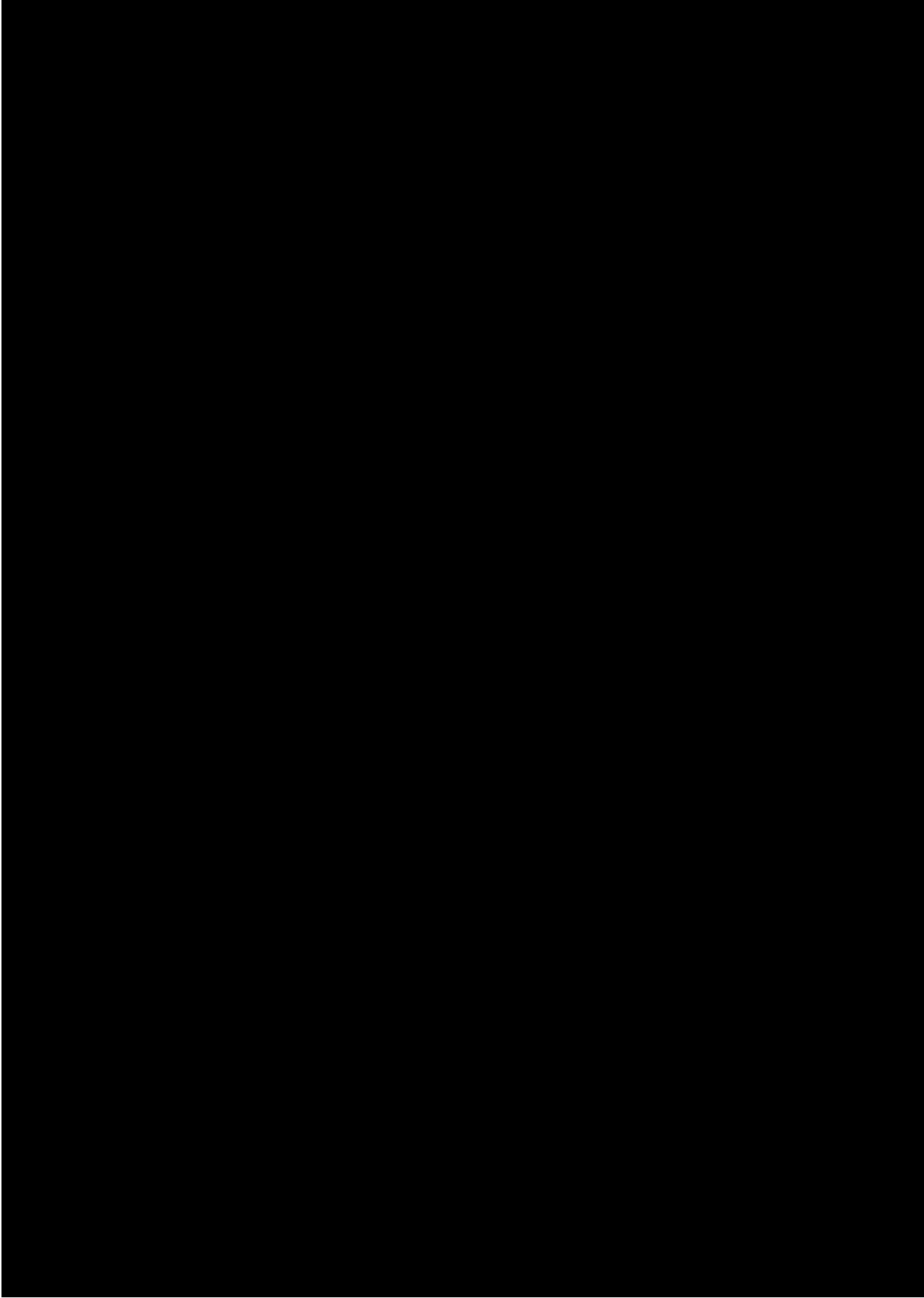
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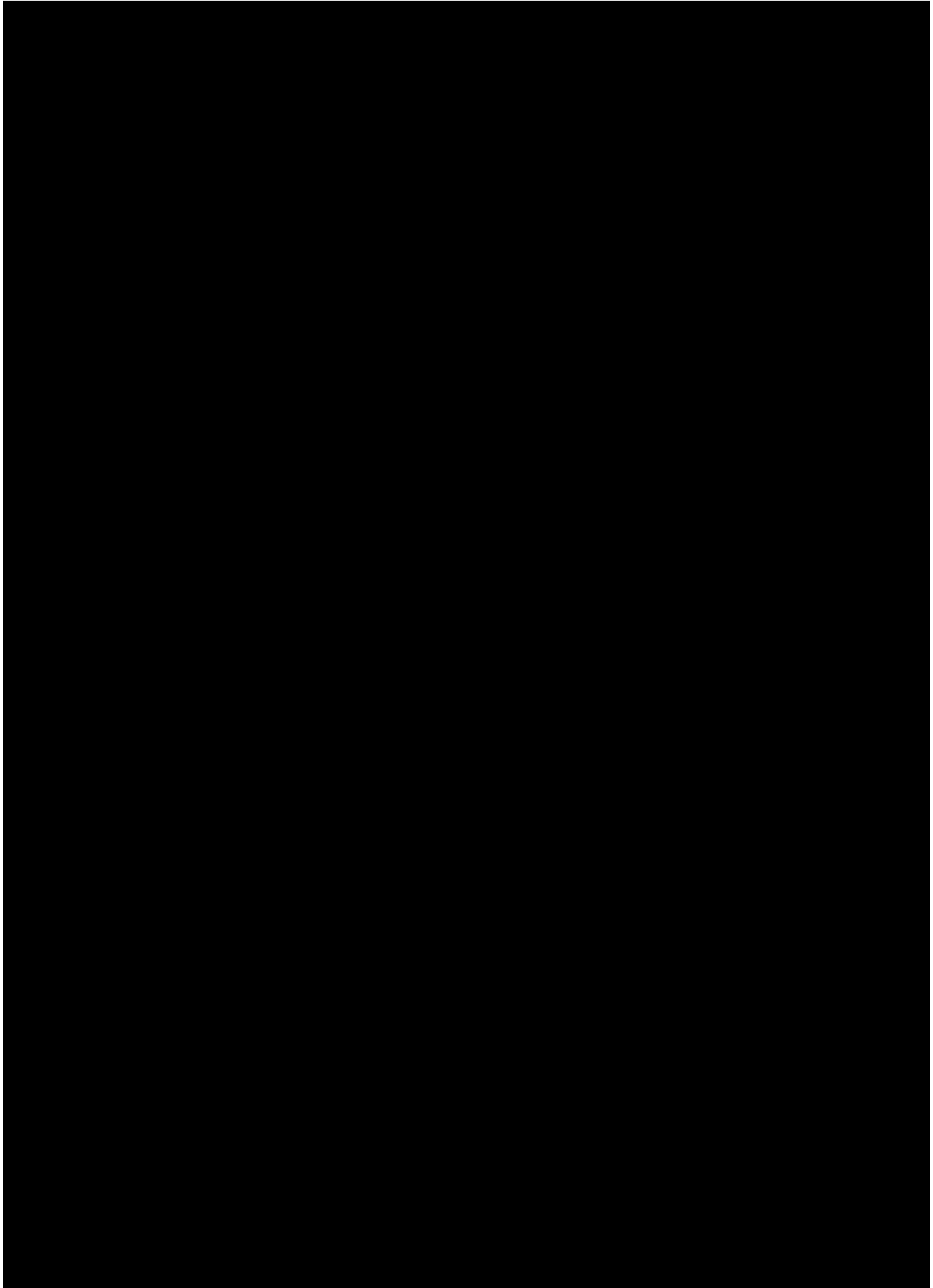
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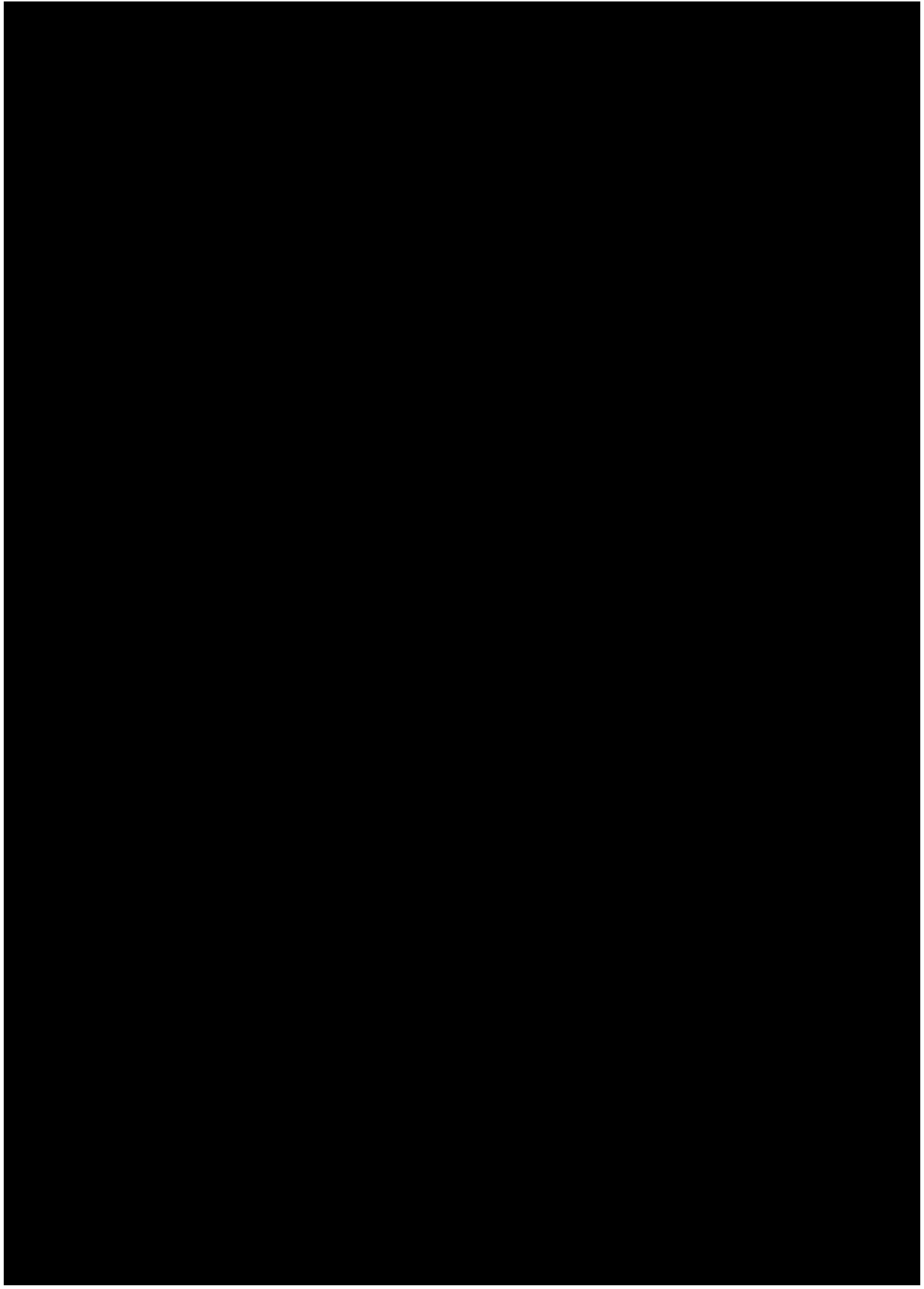
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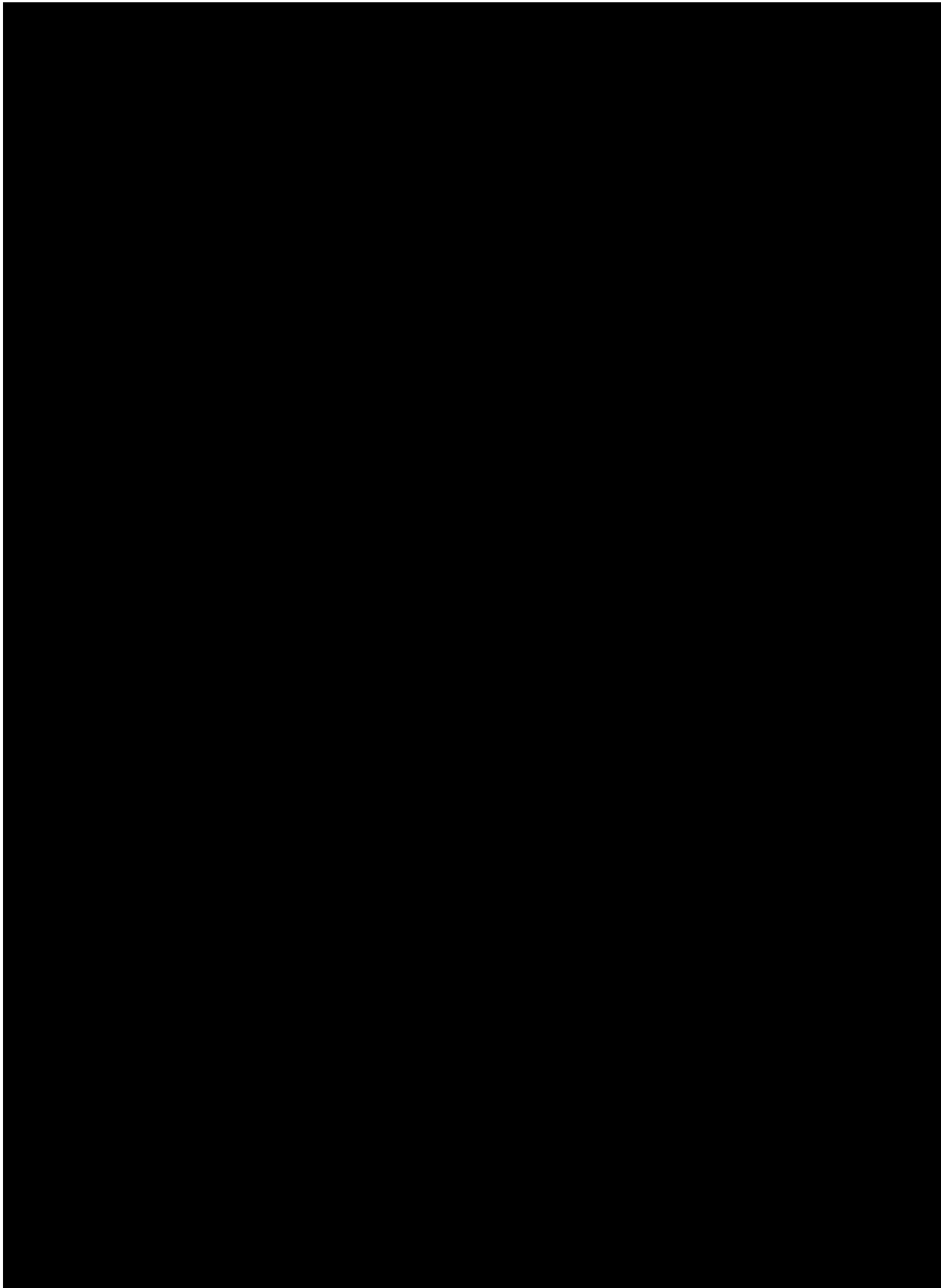
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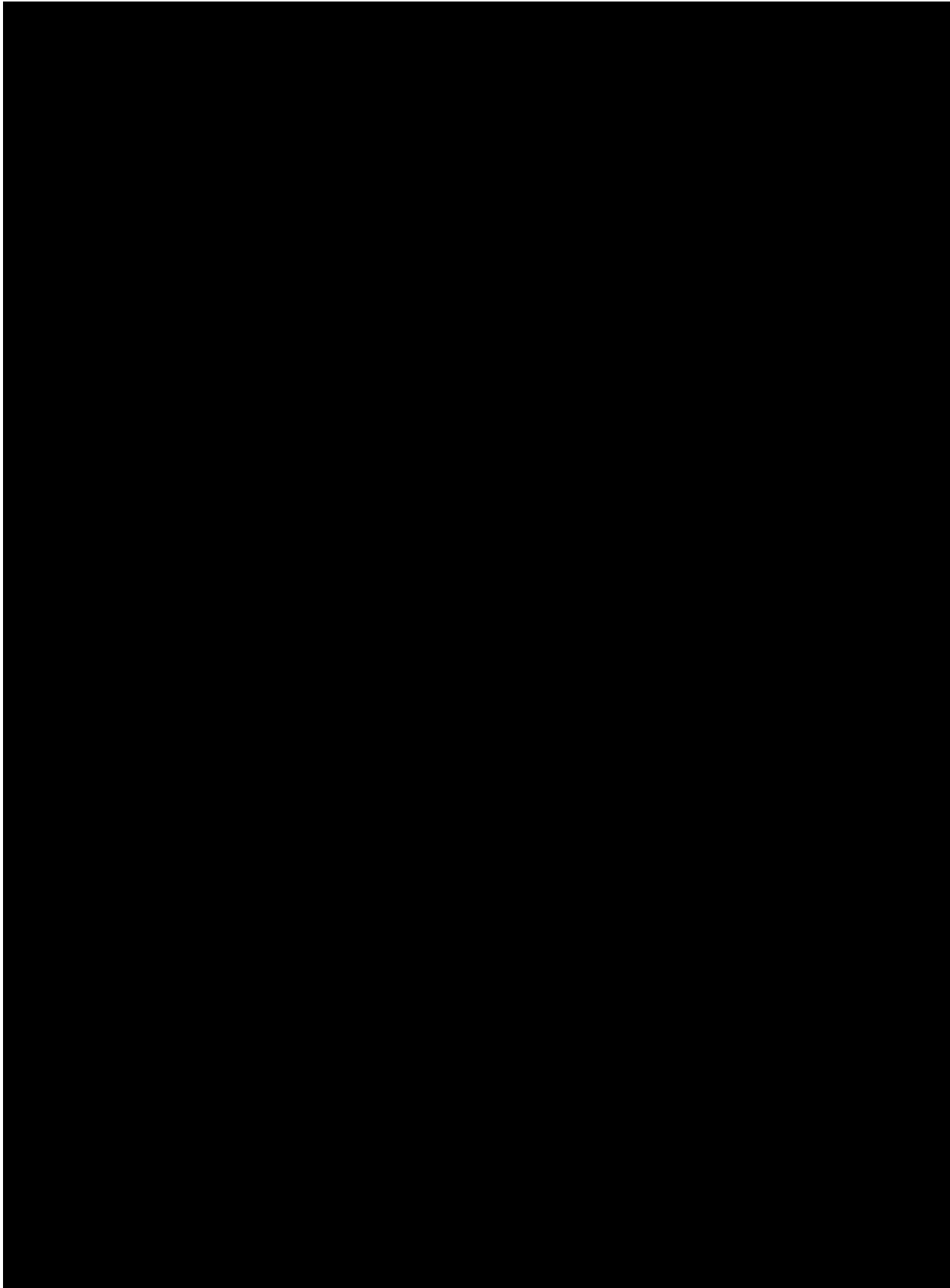
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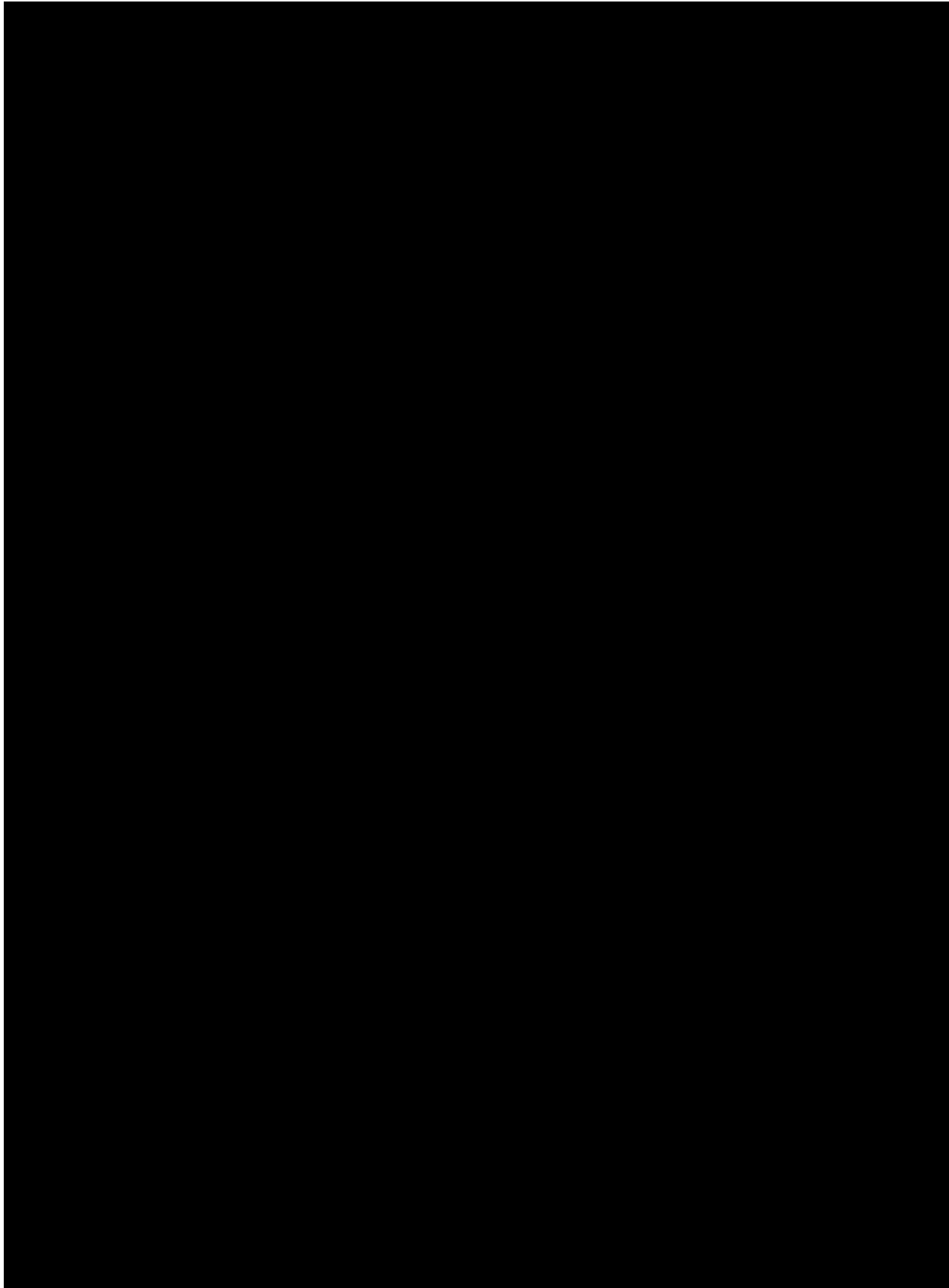
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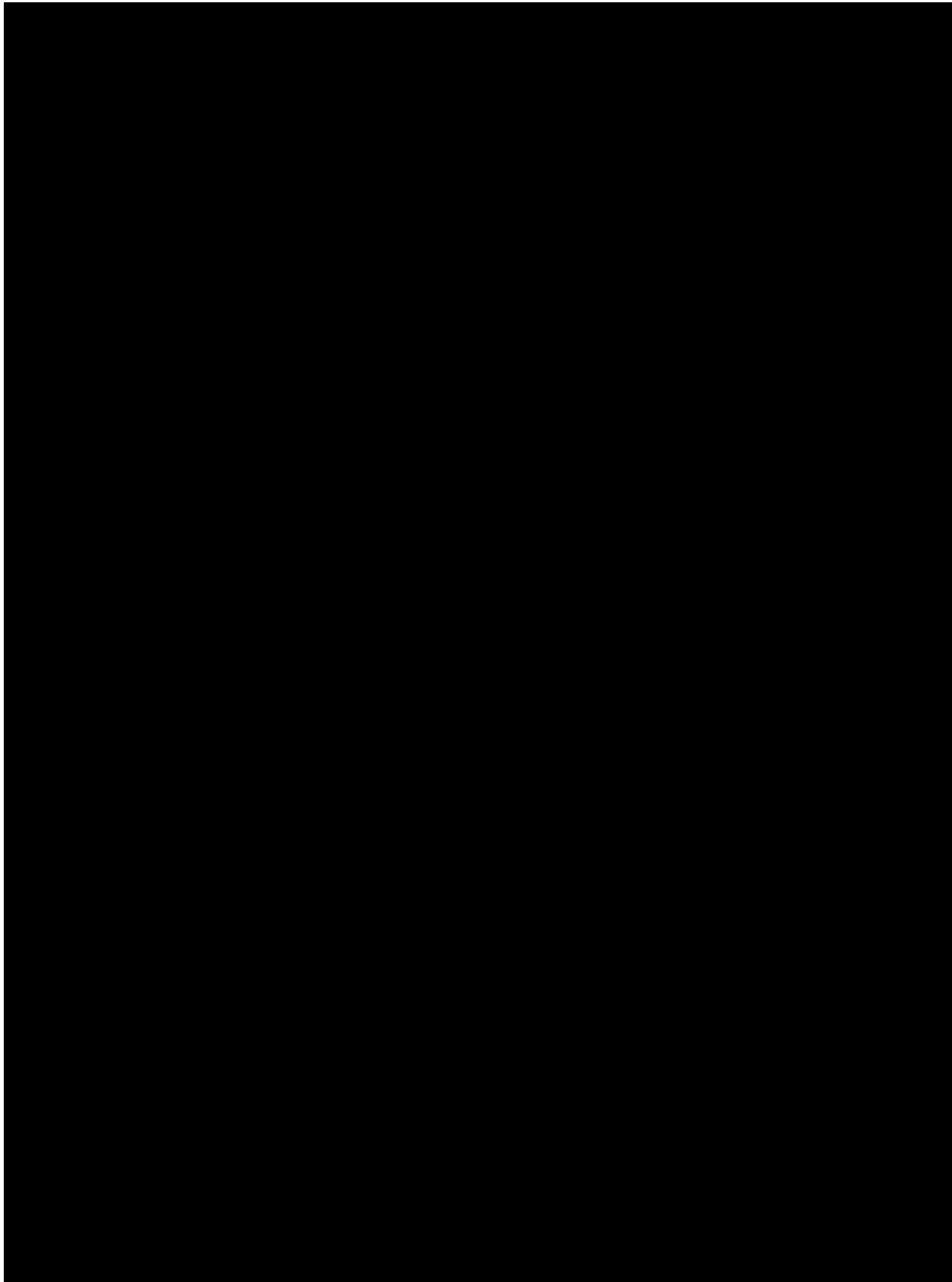
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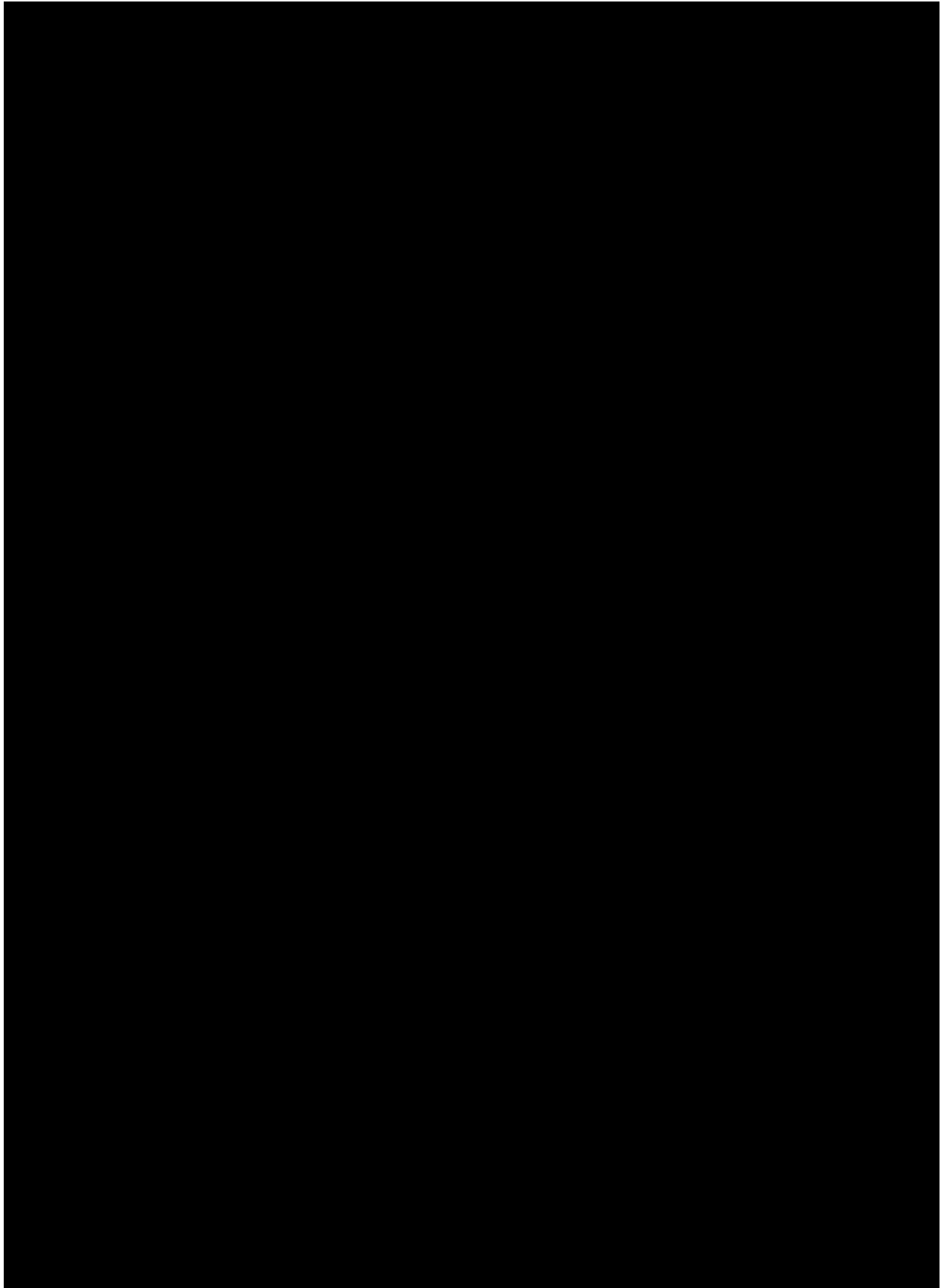
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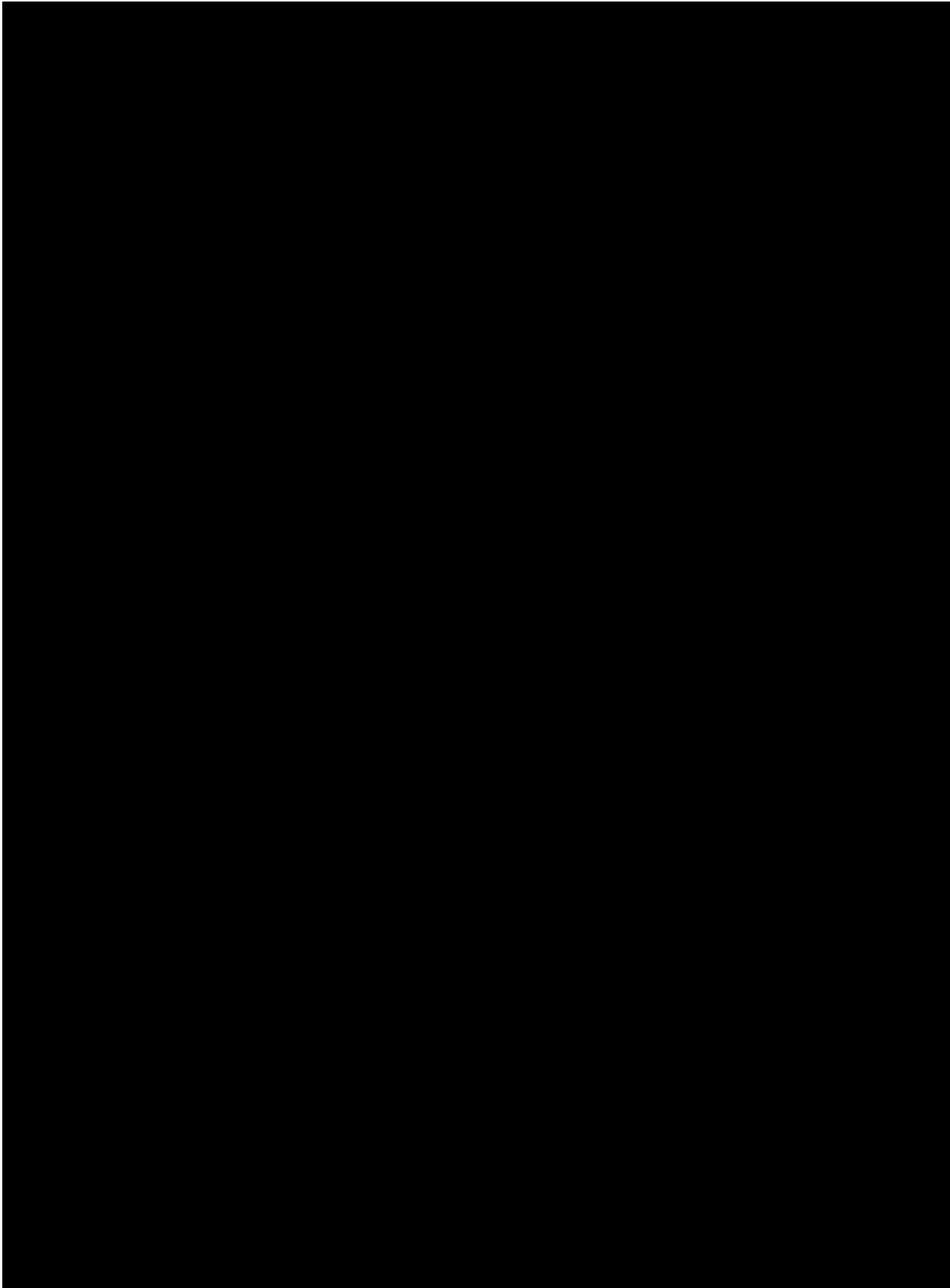
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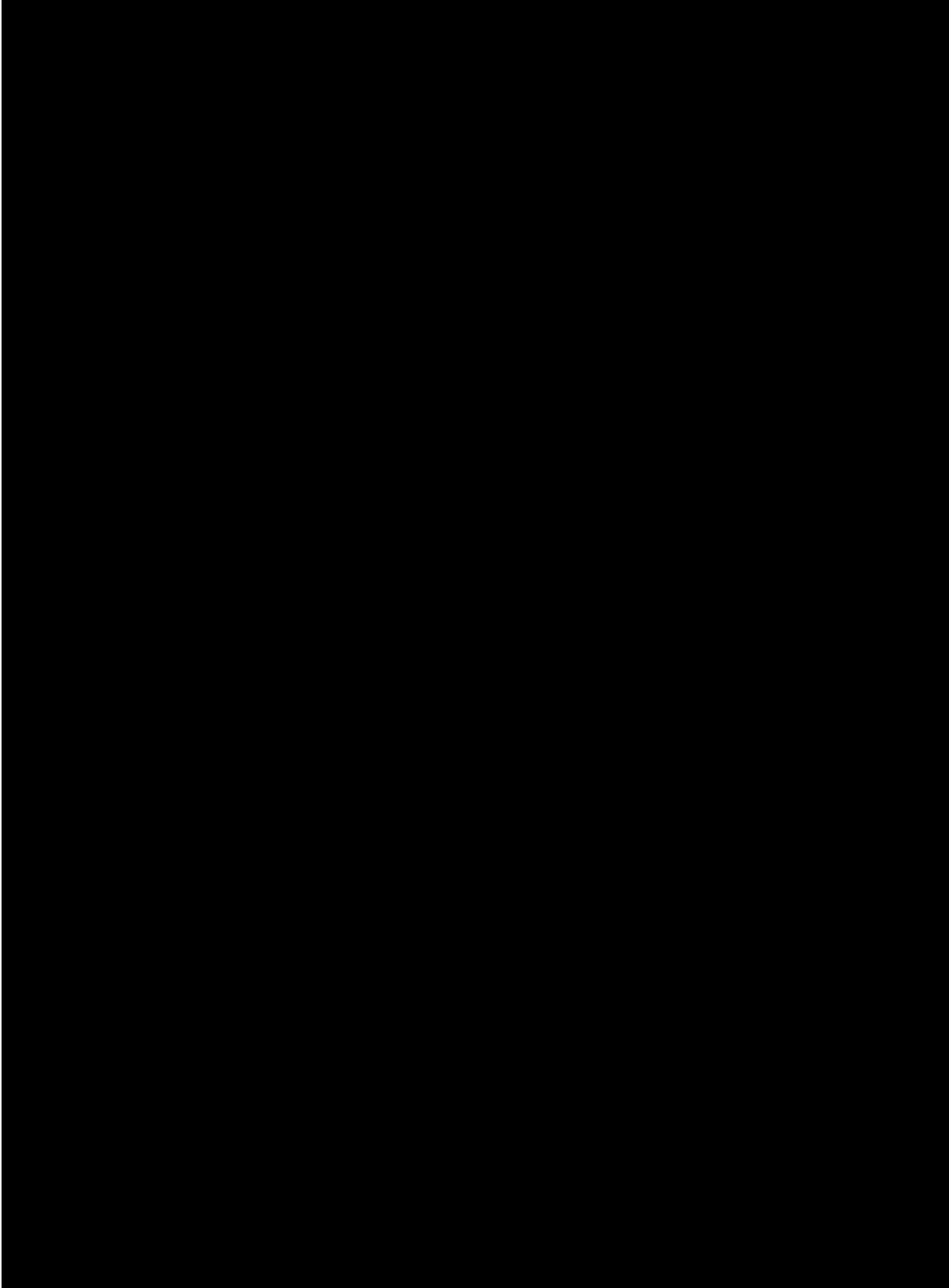
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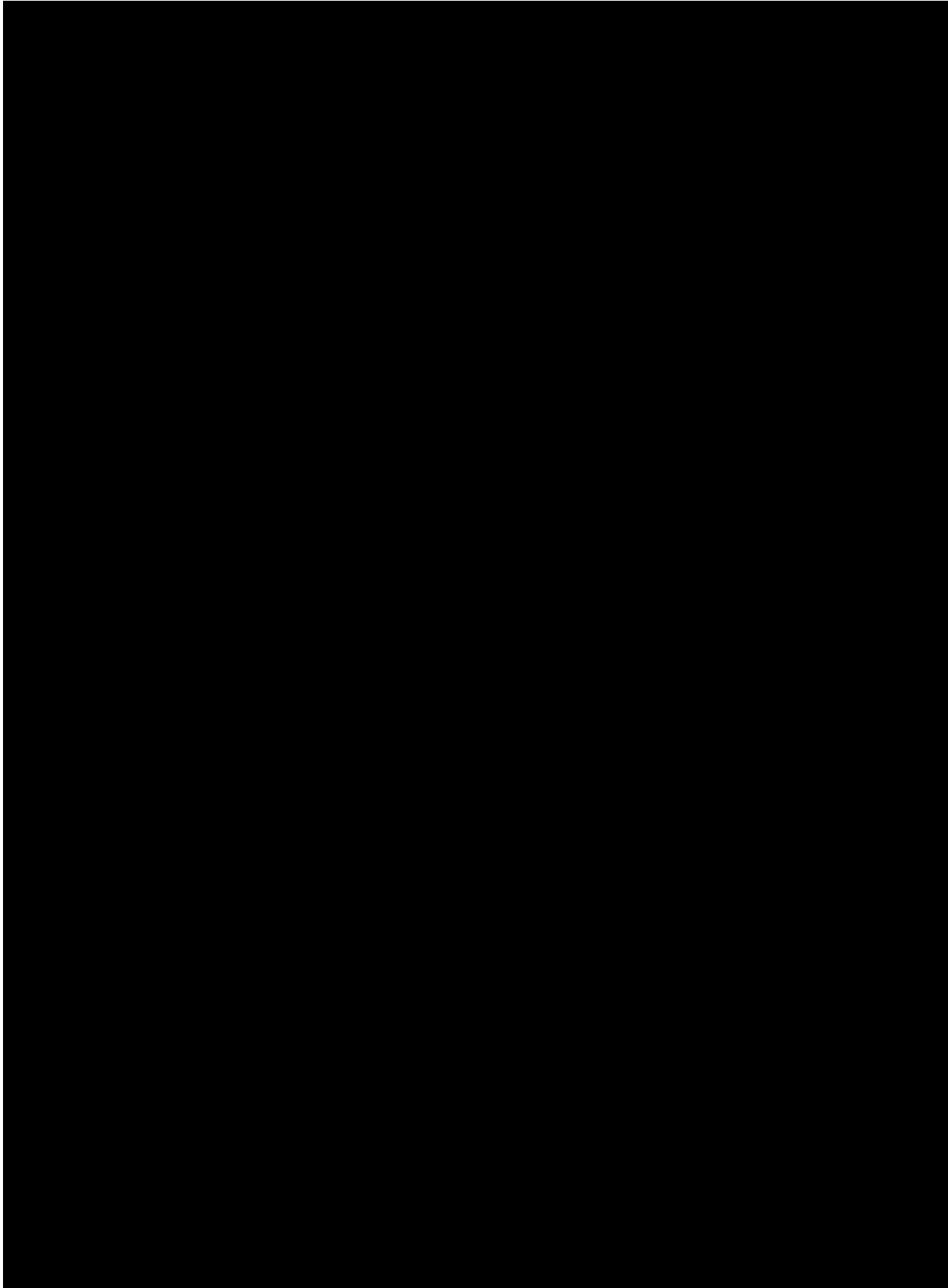
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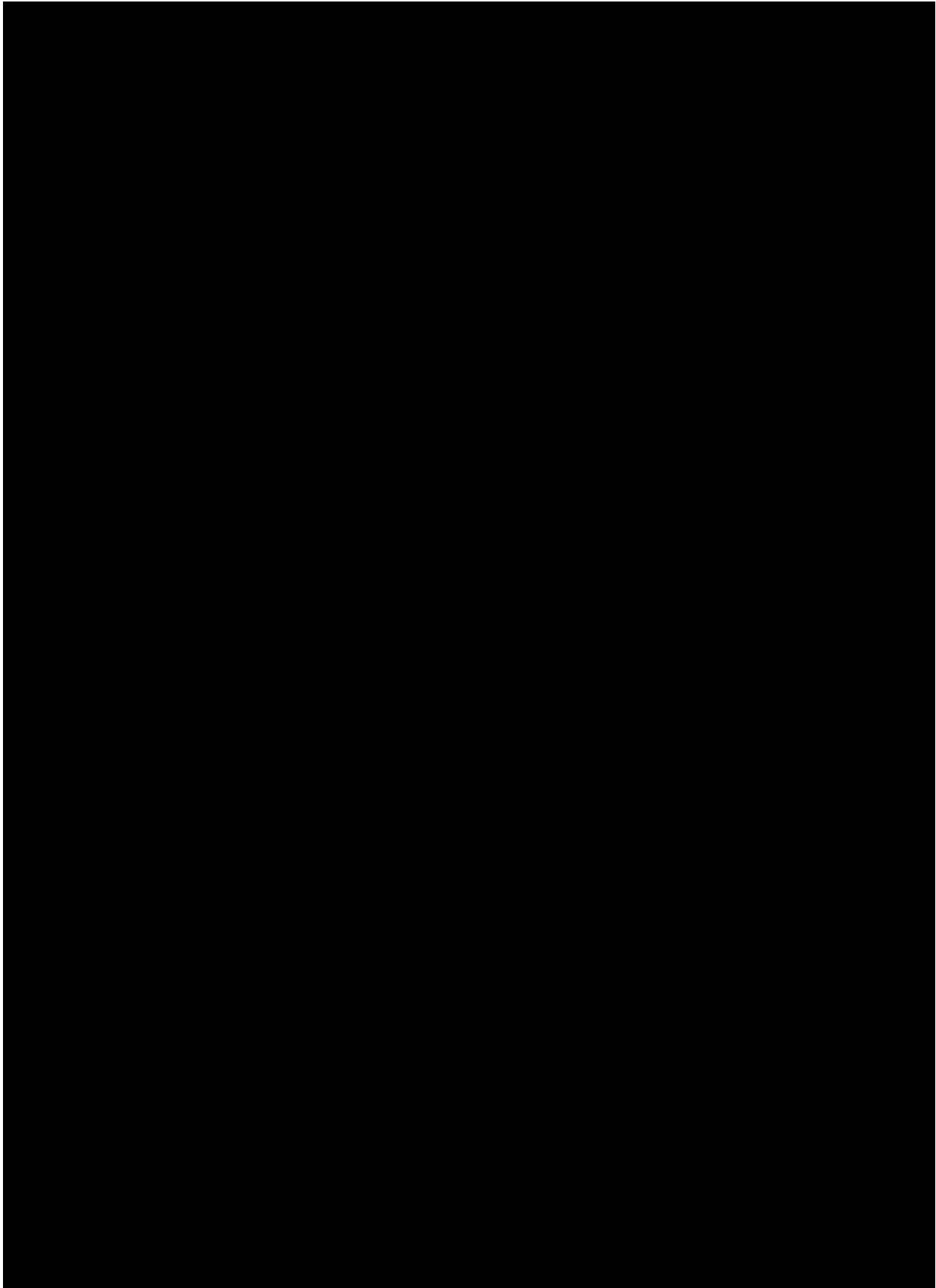
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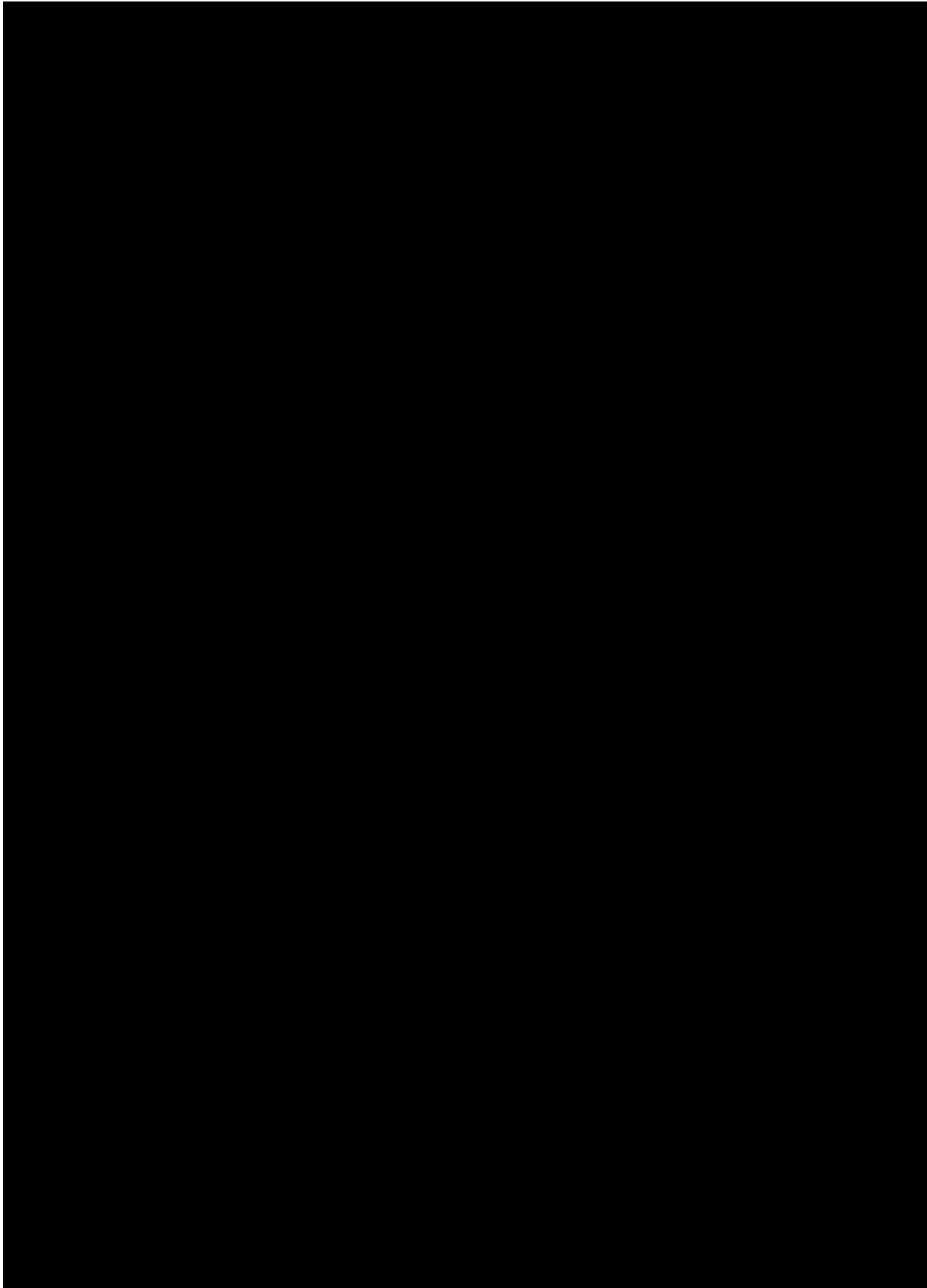
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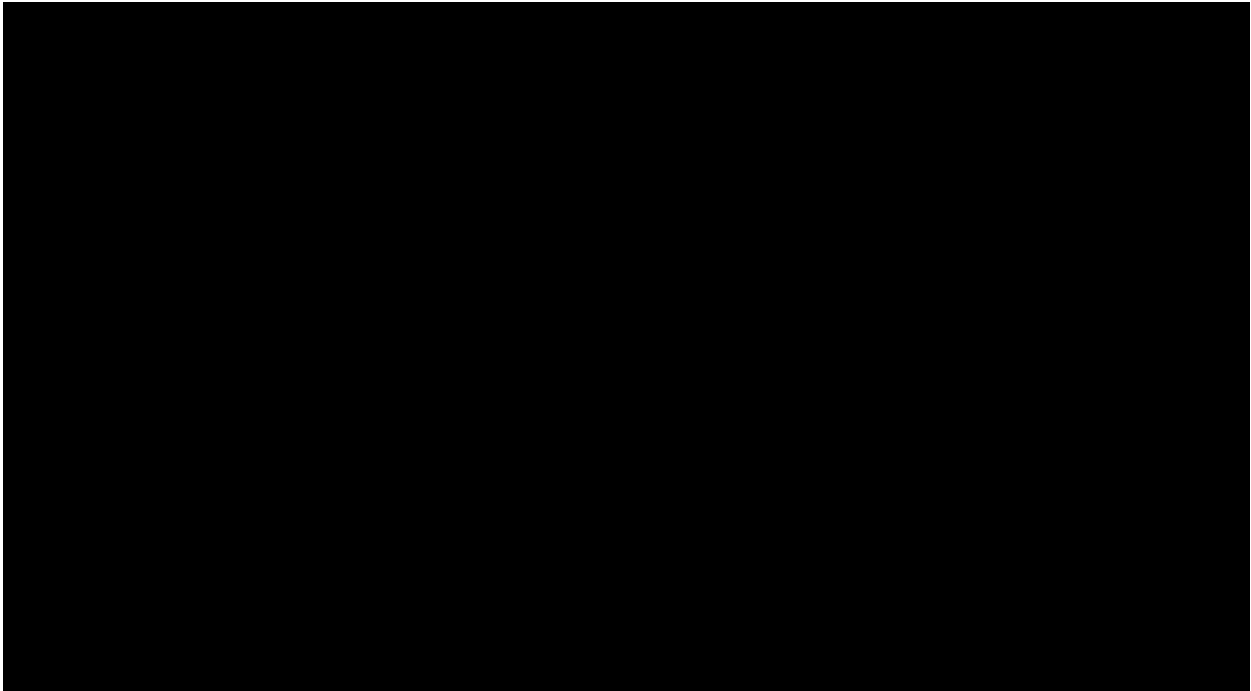
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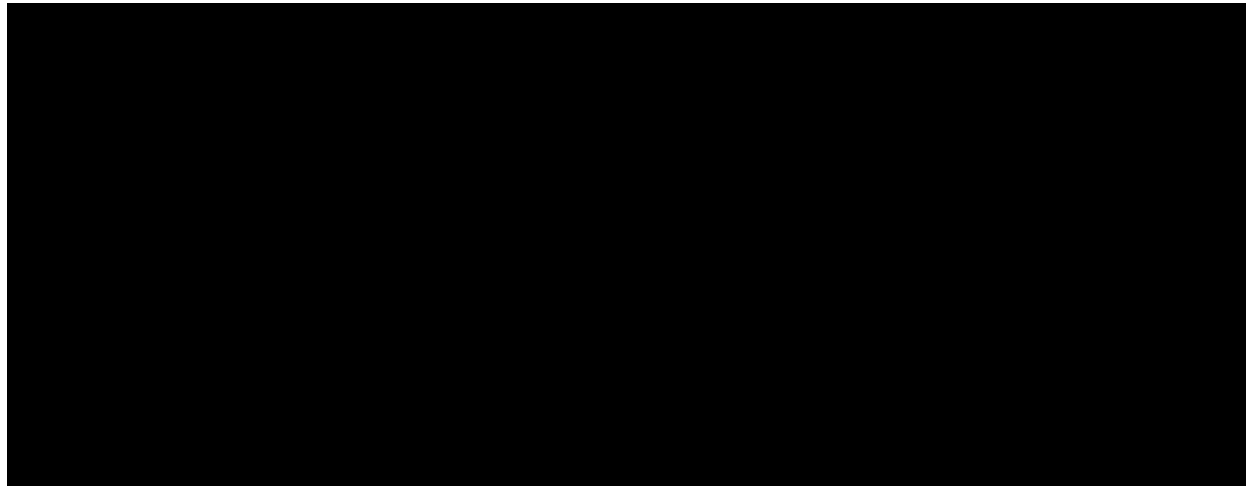
(Brief recess.)

PRESIDENT TERCIER: Okay. I suppose everybody is ready. That seems to be the case.

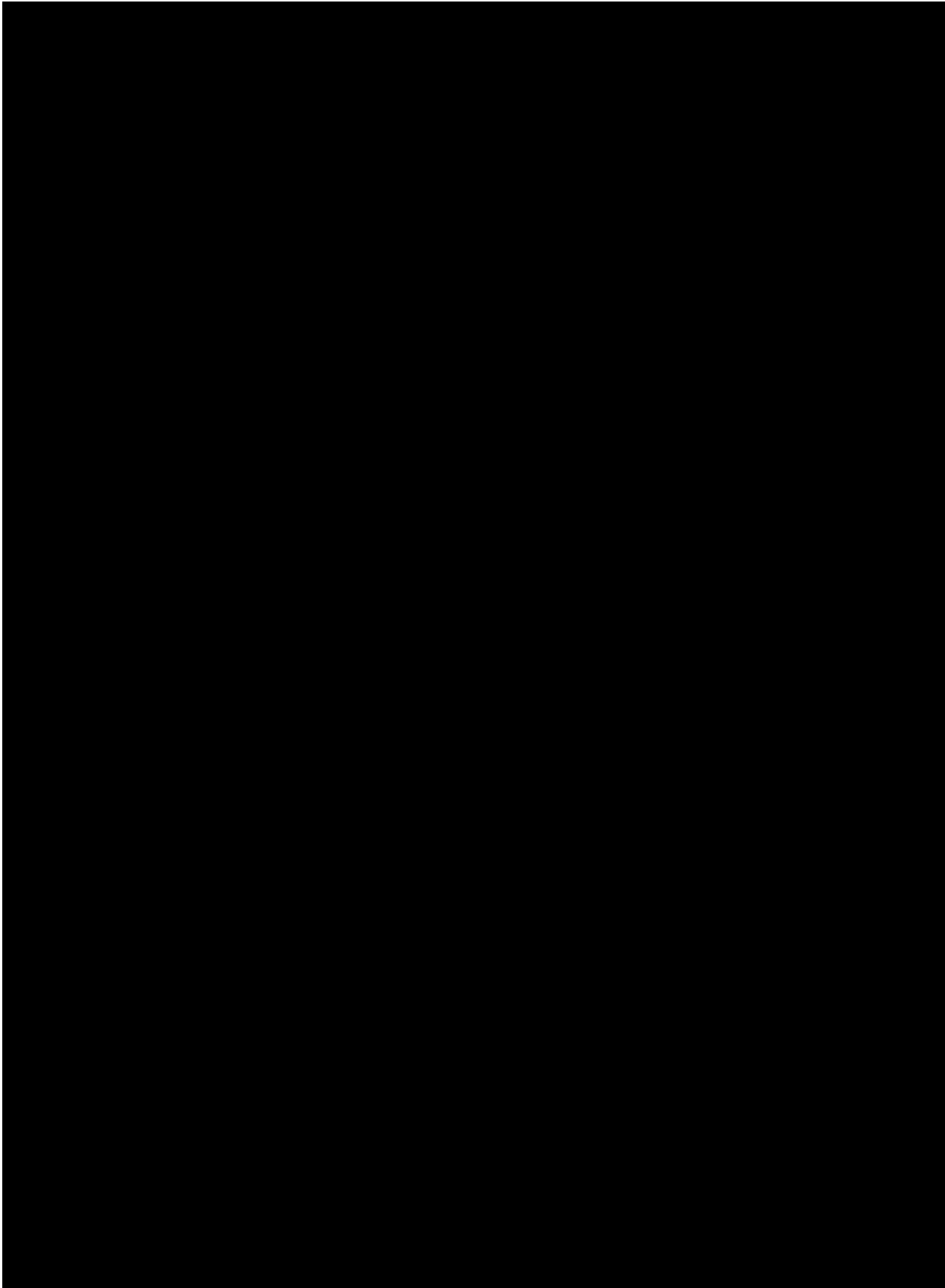
In that case, Mr. Pham, you have the floor for the redirect.

MR. PHAM: Thank you.

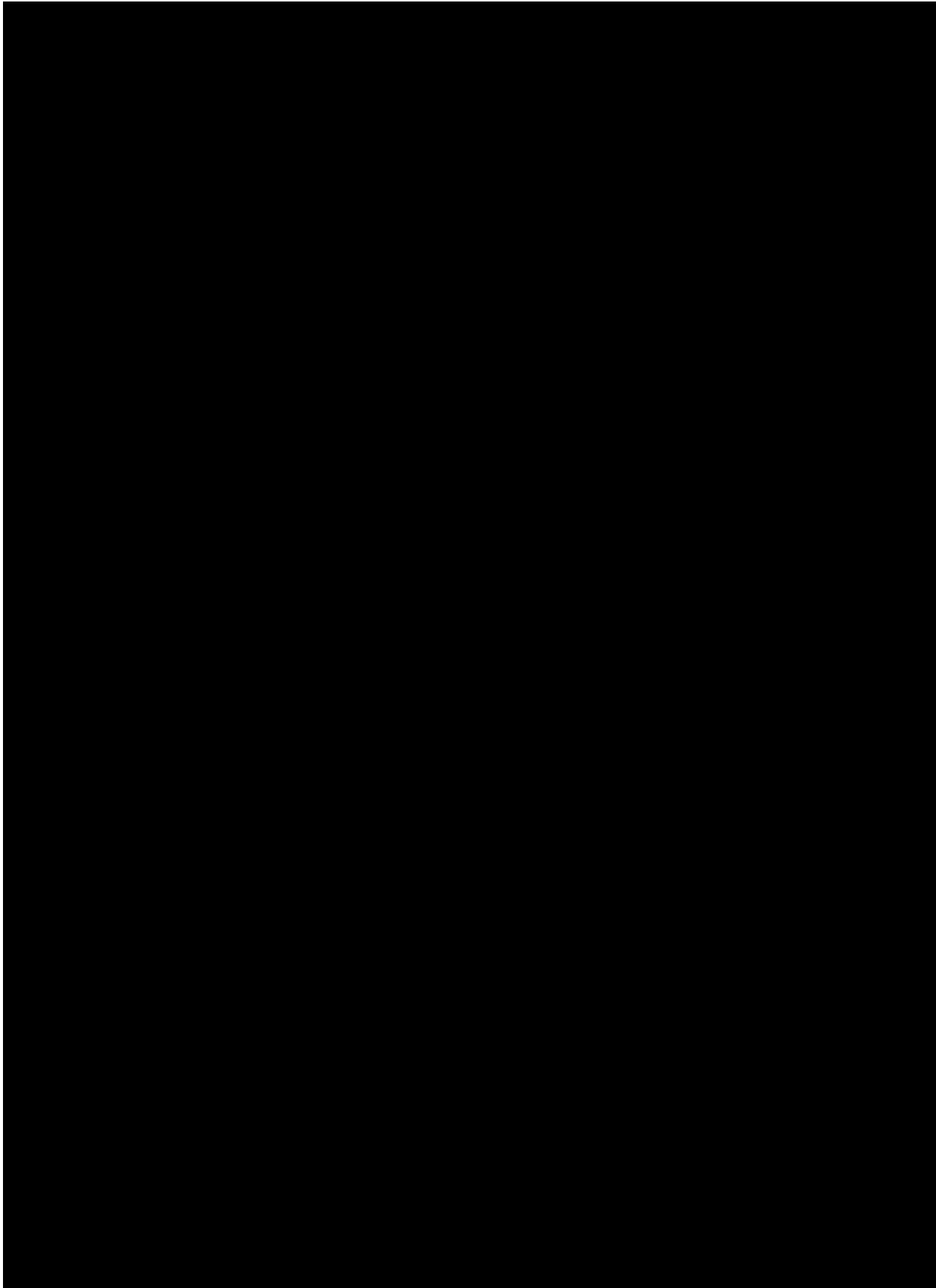
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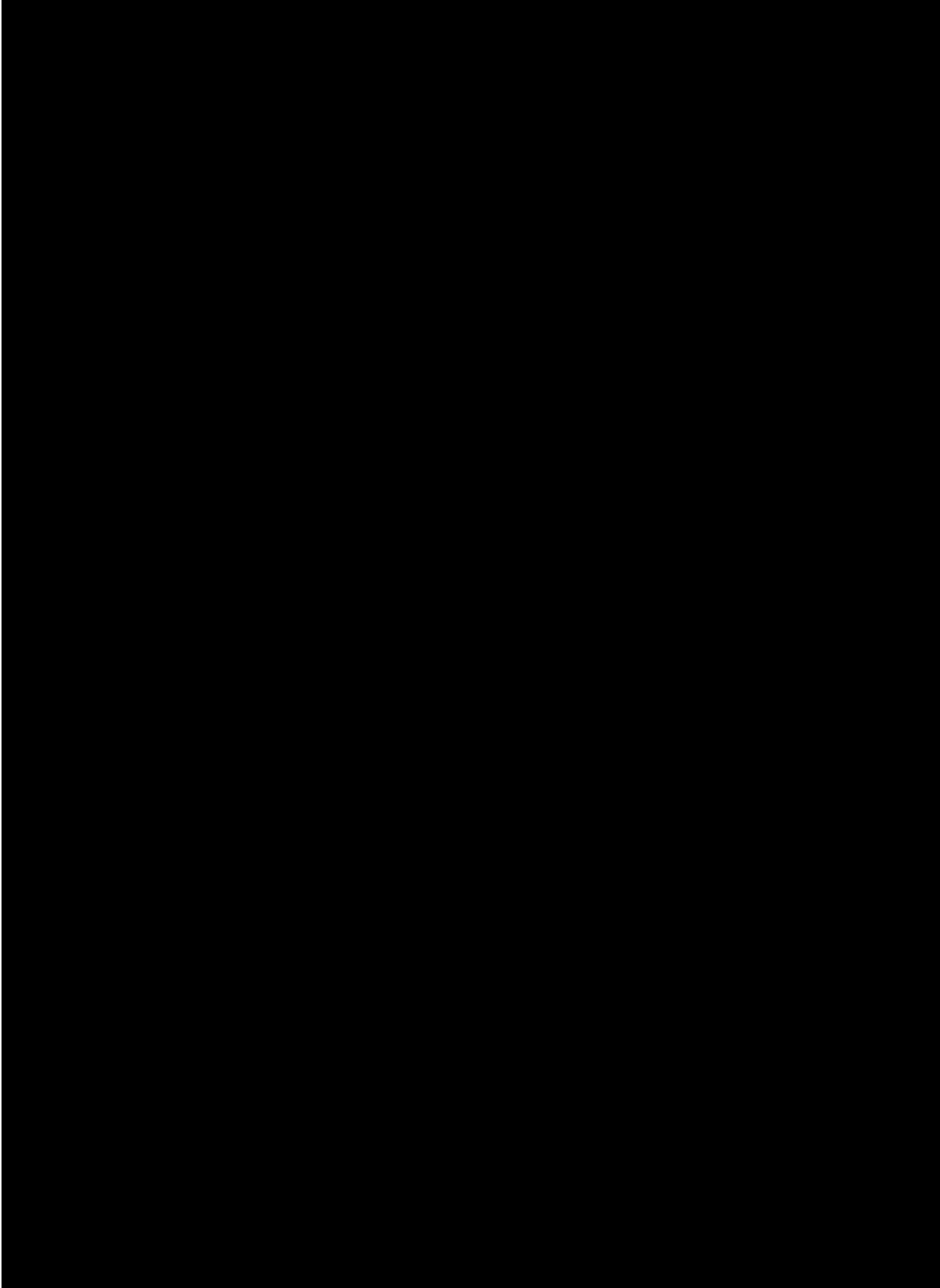
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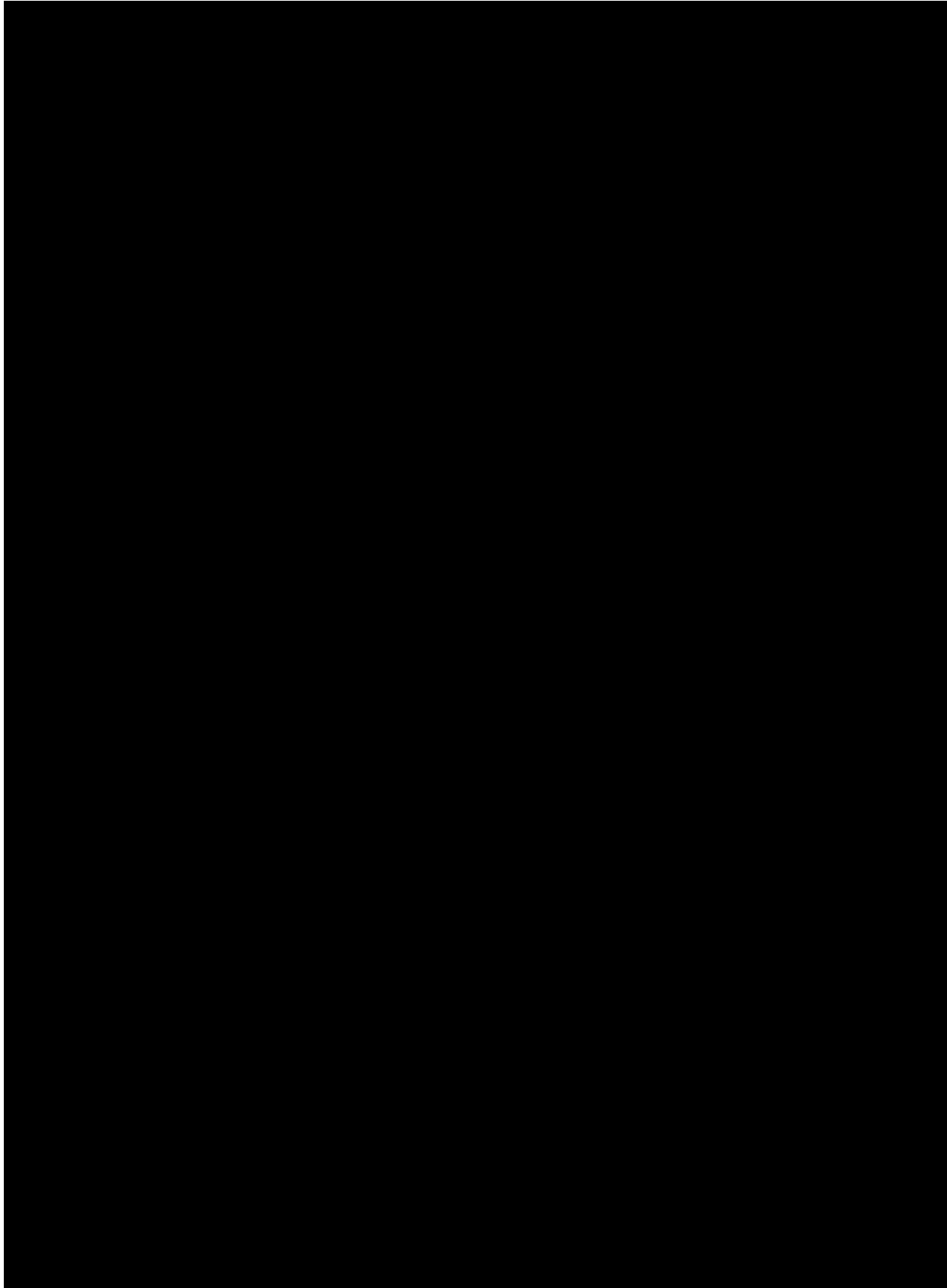
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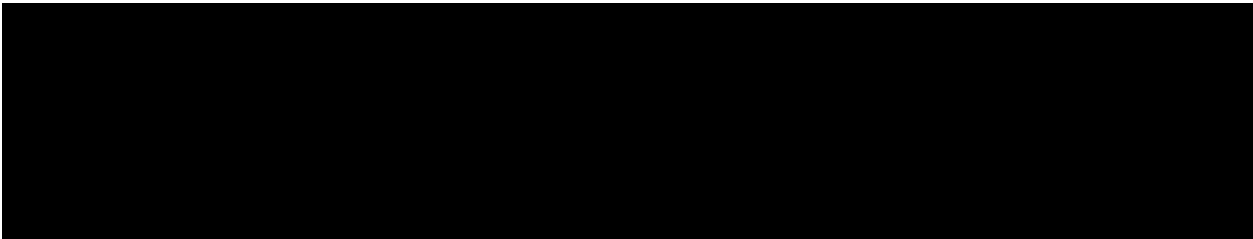
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(Brief recess.)

MS. RADJAI: Good morning, Mr. President, members of the Tribunal. So, as I mentioned, we have a couple of housekeeping matters we would like to raise whenever you are ready before we bring in Mr. Găman.

PRESIDENT TERCIER: Okay. All right.

MS. RADJAI: Okay.

PRESIDENT TERCIER: Fine. Good. I think we can start again. And you have the floor--

MS. RADJAI: Thank you.

PRESIDENT TERCIER: --Ms. Radjai.

MS. RADJAI: So, this--we--this may be quick. We've noticed a translation issue with one of the Claimants' rebuttal documents which we--which were submitted on 25 November, as you know, just days before this hearing. We've noticed this only in our preparation, and we raise it now because it may be relevant to the testimony that you're going to hear

1 today.

2 There's a document which was submitted,
3 C-2920, with a translation on the 25th of November.
4 And the translation that was submitted with that
5 document is inconsistent with a translation that the
6 Claimant submitted and which has been on the record
7 since their Reply of 2 November, 2018. So since more
8 than a year. And that's the document at C-2157.

9 So, it may be that we can fix this now
10 without too much fuss. So, at C-2920--if we can bring
11 that up--it's the fifth bullet point.

12 PRESIDENT TERCIER: Can we have it on the
13 screen? You are excellent in dealing with this.

14 MS. RADJAI: So, it's the fifth bullet point
15 up. So, this is the email from Ms. Tudorancea to
16 Mr. Găman on the 6th of October attaching Draft
17 Minutes of the 6th October meeting that took place
18 that day, 6 October 2011.

19 And in this Draft Minute, in the fifth bullet
20 point in the last sentence, which says:
21 "Consequently, the investors are more willing to
22 increase the state's shares within reasonable limits."

1 The "more" is the addition which came only
2 with the rebuttal version of this document and which
3 is inconsistent with both the Romanian and with the
4 prior translation that had come with a--with a
5 slightly different document that the Claimant
6 submitted, which is C-2157. And if we can go to that
7 to compare, if you like.

8 PRESIDENT TERCIER: Okay. Before, I would
9 like to ask Claimant whether--

10 MS. COHEN SMUTNY: Well, I'm not--we're
11 not--I'm not an expert Romanian translator. So
12 before--we're certainly not going to agree and verify
13 anything before we look at the original.

14 And, actually, translation should not be much
15 of an issue. The English is really not the key;
16 it's--it's Romanian. If this is translation--

17 PRESIDENT TERCIER: Is it--

18 MS. COHEN SMUTNY: --we should be looking at
19 the original. We'll look at the two original
20 documents, and we'll see if there is an actual
21 disagreement among those who are expert in translation
22 what the word should be.

1 PRESIDENT TERCIER: Is it--

2 MS. COHEN SMUTNY: So, we'll take a look at
3 this. We'll take a look at the original. And,
4 certainly, we can't comment just looking at the
5 language on the screen in English.

6 PRESIDENT TERCIER: Isn't it possible for
7 somebody from your team that knows Romanian to do
8 that?

9 MS. COHEN SMUTNY: Of course we're going to
10 look at it. But we're working on pulling those
11 documents up, and we'll consult with our co-counsel,
12 and we'll then be able to respond. Maybe not in the
13 moment because I think we weren't expecting this.
14 This wasn't mentioned to us before this moment so--

15 MS. RADJAI: As I said--

16 MS. COHEN SMUTNY: --we might need--we might
17 need a few minutes to take a look.

18 PRESIDENT TERCIER: Do you wish that this
19 should be clarified before the start? Or can we when
20 we come to the river, when you come there, to other
21 questions?

22 MS. RADJAI: We would have preferred to

1 clarify this now because the word is important,
2 whether the investors are willing or more willing.
3 It's not a huge difference, but it's inconsistent with
4 the Romanian so--excuse me. Can I--I'll finish.

5 We would have preferred to clarify this
6 before the testimony of these witnesses that you will
7 hear now, a series of witnesses talking about exactly
8 what these commercial negotiations entail.

9 We take note that the Claimants are unwilling
10 to look at this one word at this time, would like to
11 do it later. But that means that we reserve the right
12 to raise that, if need be, with the witness on the
13 moment when this document comes up.

14 PRESIDENT TERCIER: I'm not especially--I'm
15 not especially up on Romanian, though. But is it
16 really so difficult to just check it on the document
17 that you have on the screen?

18 MR. GREENWALD: The witness is not going to
19 be cross-examined on the translation in any event, so
20 this is really irrelevant.

21 The witness is going to be looking at the
22 Romanian version of these documents. So I don't--

1 PRESIDENT TERCIER: Okay.

2 MR. GREENWALD: --even see the point to this
3 intervention at this point, which was just made now
4 and not brought to us sooner. So...

5 PRESIDENT TERCIER: Okay. We will not lose
6 much time on it. If we come to this passage, we will.
7 In the meantime, I would be really very grateful if
8 you could check it. Because it doesn't seem to me so
9 complicated to see whether one word is in the original
10 version. Yes, I know.

11 MR. LEW: Since this was just announced and
12 I--they must have known about it sooner. But since
13 they just presented it, may we just take a few minutes
14 to just talk to a Romanian speaker and confirm it?

15 MS. RADJAI: It--it might be helpful if I can
16 refer the Claimants to their own translation at
17 C-2157.

18 MR. LEW: No. We understand what the
19 documents are, ma'am.

20 PRESIDENT TERCIER: Okay. I think the only
21 question now that should be sorted out--two questions.
22 The first is we want to have, on the point, an answer

1 whether there is a "more" or no "more." And the
2 second question: How long does it take to check it?

3 MR. LEW: I'm not in a position to say that.
4 I just have to figure out who we can speak to to
5 confirm it. So, if we could just take a few minutes.

6 PRESIDENT TERCIER: Ah. Here we have it.

7 MS. RADJAI: Yes. So, that's C-2--C-2920 and
8 C-2--there's the Romanian and the English. And if we
9 can have C-2157 as well, which is the previous
10 translation that was submitted at--

11 PRESIDENT TERCIER: I think I'm progressing
12 in Romanian.

13 MS. RADJAI: --at Page 3.

14 So, in the English version, it's the top of
15 Page 4. "As a result the investors would be willing
16 to increase the state's participation."

17 PRESIDENT TERCIER: Yep.

18 MS. RADJAI: And the Romanian is on
19 Page--Page 4 as well of C-2157. If--

20 PRESIDENT TERCIER: It's okay. I think they
21 are looking at the document, and we will have an
22 answer in a few seconds. Could we have, again, the

1 Romanian version, please.

2 So, the word, if I understand it
3 correctly--my pronunciation being not a problem--"fi
4 dispuși," no? It's in the "fi."

5 I don't know what "fi" means.

6 (Pause in the proceedings.)

7 MR. GREENWALD: So, I think there's agreement
8 that 2157 has the preferred translation.

9 PRESIDENT TERCIER: Okay. Good.

10 MS. RADJAI: For the record, then, from
11 C-2920 translation, we can remove the word "more"--

12 PRESIDENT TERCIER: Yeah.

13 MS. RADJAI: --from the sentence "The
14 investors would be willing to increase the state's
15 participation in the project within reasonable
16 limits."

17 PRESIDENT TERCIER: Absolutely.

18 MS. RADJAI: Thank you.

19 PRESIDENT TERCIER: Good. So--do you have
20 another?

21 MS. RADJAI: Just--yes. The other one is
22 that the Tribunal is now about to hear the set of

1 Respondent's witnesses on the topic of the commercial
2 negotiations that took place between the Parties,
3 between the shareholders, in 2011 and then in 2013.

4 There are matters of dispute between the
5 Parties' witnesses as to the content and nature of
6 some of those discussions, as the Tribunal knows.

7 We're in the Tribunal's hands. We would just
8 like to preserve the Tribunal's possible option of
9 having witness conferencing, if it would consider it
10 helpful on some of these points, if it deems it
11 determinative.

12 So as such, our proposal would be that the
13 sequestration of witnesses continue to apply just for
14 this portion of the taking of evidence. Not the
15 direct examination, which we have all agreed will not
16 be subject to sequestration, but only for the
17 cross-examination of these witnesses. And we--that
18 would apply, of course, to our own witnesses as well.

19 MR. GREENWALD: No. This should have been
20 raised before any of the testimony. Were this to be
21 desired by the Respondent, it's not right to be raised
22 now after all of Claimants' witnesses have testified.

1 They are free to be here in the hearing room.
2 That's what was agreed in the procedural discussions
3 and decided by the Tribunal. It's not appropriate to
4 raise this now.

5 PRESIDENT TERCIER: Okay. First--sorry. I'm
6 trying to go forward in taking the decision when,
7 really, we cross a bridge--or we cross a river.
8 Sorry.

9 So, I think we're going to start with the
10 direct in any case because your request does not
11 concern the request. We'll see whether it is
12 the--where we are so far to have the break--the lunch
13 break. If not, we will discuss it.

14 So, the two points are, first, whether it
15 could be appropriate to have a conferencing. And for
16 that hypothesis or that opportunity, you would like to
17 have sequestration of the witnesses. Am I correct?

18 MS. RADJAI: We think the Tribunal should be
19 free to take the decision on conferencing whenever it
20 deems fit.

21 PRESIDENT TERCIER: Okay.

22 MS. RADJAI: We don't think that decision

1 need be taken now. It's only to preserve the option
2 that--

3 PRESIDENT TERCIER: Yes.

4 MS. RADJAI: --you may wish to do that, that
5 we may want to apply the sequestration for
6 cross-examination already now, to leave that option
7 open.

8 PRESIDENT TERCIER: Yes.

9 MS. RADJAI: The only Claimants' witness that
10 has testified on these matters is Mr. Tănase, and we
11 have not had any witnesses yet. So, they would all be
12 sequestered for the cross-examinations going forward
13 as well.

14 MR. GREENWALD: Well, that wasn't even an
15 accurate statement. Obviously, Mr. Henry also
16 provided testimony on this--

17 PRESIDENT TERCIER: Yes.

18 MR. GREENWALD: --topic, and he's not even
19 here. He left. So, he's not available to testify for
20 the rest of the day.

21 PRESIDENT TERCIER: I think we have now
22 the--we have the--the argument made by both Parties,

1 and I suggest--unless have you a third point to raise.

2 So, could you invite Mr. Găman to come in.

3 (Pause.)

4 MS. RADJAI: So, to the Claimants' query
5 earlier, we will be distributing binders for the
6 direct examination of Mr. Găman.

7 To make the work of everybody easier, we have
8 consolidated the direct binders for our next--for our
9 four witnesses who deal with this subject, so that is
10 Mr. Găman, Mr. Arifton, Prime Minister Boc and
11 Mr. Bode, so this is one set of binders which will
12 apply for the direct examination for those witnesses,
13 at least as far as we can foresee at the current time.

14 We have a set for the witness. We have a set
15 for the Claimants. If the Tribunal would like a set,
16 of course, we are happy to have one prepared for the
17 time being. We have prepared an index to those
18 binders which we are distributing to everybody,
19 including the Members of the Tribunal.

20 The Tribunal will see that these binders have
21 been prepared in chronological order, so you will see
22 the exhibits in a slightly different sequence than

1 what you have seen so far. These are what we consider
2 to be the relevant exhibits for the direct
3 examinations on this topic.

4 PRESIDENT TERCIER: Okay. Thank you very
5 much.

6 MR. GREENWALD: Which are obviously well
7 beyond the two exhibits that were described as
8 "rebuttal," so to the extent that they're not those
9 two rebuttal documents that Mr. Găman was notified he
10 would be speaking about, the rest should be
11 summarizing what's already in his statement.

12 MS. RADJAI: That's correct.

13 ARBITRATOR GRIGERA NAÓN: I would like to
14 have the Witness Statements in our copy, of course.

15 PRESIDENT TERCIER: Okay. It would be a
16 happy situation to have one?

17 MS. RADJAI: We will arrange for that to be
18 printed. Only for Mr. Găman or for all these next
19 witnesses?

20 ARBITRATOR GRIGERA NAÓN: For all the
21 witnesses that are going to be referred today--

22 MS. RADJAI: And Mr. Ariton. And then we'll

1 have to see how we go on.

2 Mr. Bode is by video conference next week.

3 ARBITRATOR GRIGERA NAÓN: Mr. Găman. Just
4 these statements.

5 MS. RADJAI: Yes. We will arrange that at
6 the earliest.

7 SORIN MIHAI GĂMAN, RESPONDENT'S WITNESS, CALLED

8 PRESIDENT TERCIER: Okay. Good morning,
9 Mr. Găman.

10 I would like first to ask you a question
11 concerning the language in which you will testify.
12 That's the first question. In your Witness Statement
13 you wrote: I provide this Witness Statement in
14 Romanian. And I understand that Romania's counsel
15 will provide an English translation.

16 You wish to testify in Romanian, wouldn't
17 you?

18 THE WITNESS: It is correct.

19 PRESIDENT TERCIER: Okay. Good.

20 Mr. Găman, you will be heard in this
21 procedure as a witness. I would like to introduce you
22 the Members of the Arbitral Tribunal: On my left-hand

1 side, Professor Horacio Grigera Naón; on my right-hand
2 side is Professor Zachary Douglas. My name is Pierre
3 Tercier, and we have the Secretary of the Tribunal and
4 the Assistant to the Tribunal.

5 You will be heard as a witness. As such, I
6 would like to invite you to read the Declaration that
7 must be on the table.

8 You know sufficient English to do it and to
9 read it and understand what it's in.

10 THE WITNESS: It would be quite difficult for
11 me to do that, and I would like someone to read it for
12 me, and I would just confirm that this is the case.

13 PRESIDENT TERCIER: Okay. Who is ready to
14 become the reader?

15 DR. LEAUA: So, to make sure that I
16 understood--

17 PRESIDENT TERCIER: You read it in Romanian?

18 DR. LEAUA: I will read it in Romanian. So,
19 I will be the one making the translation, and not the
20 official Interpreter in this arbitration.

21 "I hereby solemnly declare upon my honor and
22 conscience that I will speak the truth, the whole

1 truth, and nothing but the truth."

2 PRESIDENT TERCIER: Can you confirm this?

3 THE WITNESS: Yes, I can.

4 PRESIDENT TERCIER: Good.

5 Mr. Găman, you have prepared for this
6 proceeding a witness statement dated the 21st of
7 February 2018.

8 Have you this document before you?

9 THE WITNESS: It is correct.

10 PRESIDENT TERCIER: Can you confirm the
11 content of this document, or do you want to make
12 amendments?

13 THE WITNESS: The content of my First Witness
14 Statement of the 21st of February was put together and
15 modified on the 10th of May 2019.

16 I would just like to make one amendment to my
17 last statement; namely, that in the statement, I am
18 referring at some point to a meeting in March 2019.
19 That happened, indeed, in March 2019, but the note
20 transmitted by Mr. Suciú by e-mail to me concerning
21 the status of the Project was dated 5th of April.

22 PRESIDENT TERCIER: Just a moment, please.

1 Okay. For the first--sorry, I have to check
2 here.

3 And the second, so that I can follow you.

4 Okay. Second, 10 May 2019.

5 And now if you can repeat what is the
6 correction that you propose.

7 THE WITNESS: The correction I want to
8 propose is that the note of 2012 requested by Minister
9 Bode was drafted by me in March, and the amendment is
10 April because the discussions on the drafting of the
11 note with Mr. Suciu, happened in March and the outcome
12 of the discussions was on 5 April .

13 PRESIDENT TERCIER: Could you be more
14 specific and tell us exactly where it is, where we
15 have to change it.

16 ARBITRATOR GRIGERA NAÓN: The second.

17 THE WITNESS: 185, one-eight-five.

18 And 186. This is the note requested by
19 Mr. Bode.

20 And it was completed in April, not in March.

21 PRESIDENT TERCIER: Okay. Good.

22 You know how the testimony will be conducted.

1 Probably you have been informed. I will ask you one
2 or two questions, and then I will give the floor to
3 counsel for Respondent for direct, then
4 cross-examination and then a redirect.

5 Just in order to have a clear Transcript, I
6 would like first to mention the fact that you should
7 avoid to speak at the same time as somebody else in
8 order to avoid any overlapping; and, secondly, that
9 you, because of the translation, you should wait a few
10 seconds before starting to speak.

11 Is that clear?

12 THE WITNESS: Yes.

13 PRESIDENT TERCIER: Good.

14 Can you, in a few words, tell us what was,
15 what has been, and what is your position in connection
16 with the entities involved in this case?

17 THE WITNESS: Starting in 2005 until 2017, I
18 was the Director of the Department for Mineral
19 Resources within the Ministry of the Economy. I held
20 several positions, depending on how the Ministry was
21 organized. I was Director General, Deputy Director
22 General.

1 And in the same period of time, starting from
2 2006 until 2009, with an interruption between 2009 and
3 2010, in June, and then from 2010 until this year in
4 June, I was a member of the Rosia Montana Gold
5 Corporation Board.

6 In both my capacities, I was charged with the
7 mining sector, which meant that I was aware of the
8 mining Project.

9 PRESIDENT TERCIER: Okay. And what is now
10 your position?

11 THE WITNESS: Currently, I'm Head of the
12 Investment Department in the County Council of
13 Hunedoara because I moved with my family out of
14 Bucharest and to Deva town.

15 PRESIDENT TERCIER: Okay. And I will
16 certainly come back to that in a moment.

17 My second question is to ask you to describe
18 in broad terms the way you have prepared your Witness
19 Statement.

20 THE WITNESS: My Witness Statement was
21 prepared during many meetings with the counsels who
22 presented to me many documents that were not available

1 to me since I was not working in the Ministry of the
2 Economy. I reviewed the documents; and, based on what
3 I knew and from what I saw in the documents, the two
4 statements were drafted. I reviewed them, confirmed
5 and signed them.

6 PRESIDENT TERCIER: But you wrote them in
7 Romanian?

8 THE WITNESS: In Romanian, as this is the
9 language that I fluently speak.

10 PRESIDENT TERCIER: Did you have an
11 opportunity to check the translation into English?

12 THE WITNESS: Taking into account that I
13 worked with a team of counsels, I checked, to the best
14 of my abilities, and I believed I can fully trust the
15 counsels in order to confirm that what I said is also
16 reflected in my statement.

17 PRESIDENT TERCIER: Okay. Thank you.

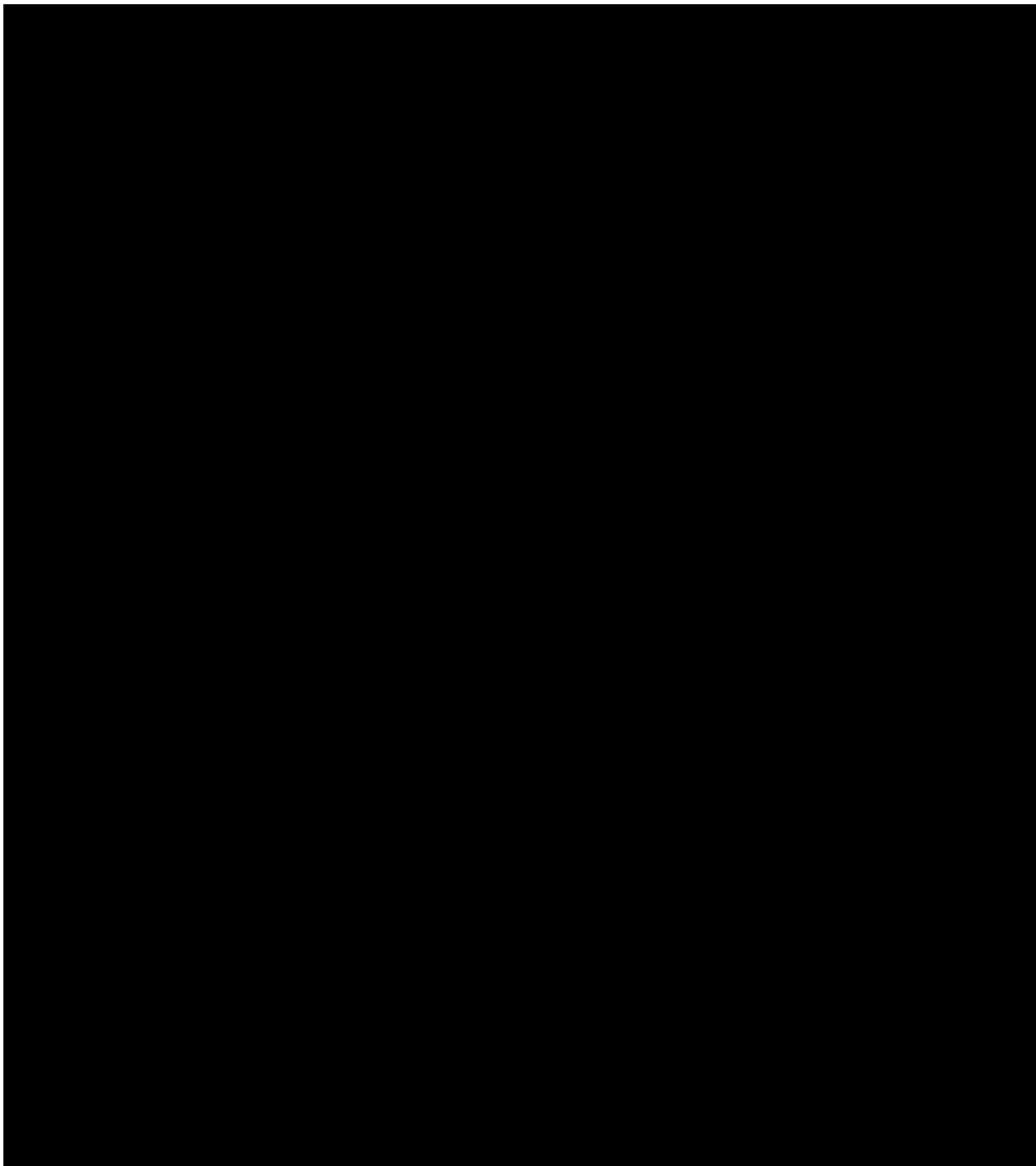
18 So, Ms. Radjai, I give you the floor.

19 MS. RADJAI: Thank you, Mr. President. It
20 will be Mr. Bonifacio leading the direct examination
21 today. We had estimated 15 minutes, I believe, in our
22 last summary for Mr. Găman and Mr. Ariton. We may be

1 slightly more, maybe 20, 30 minutes with each of them.
2 We'll see how it goes.

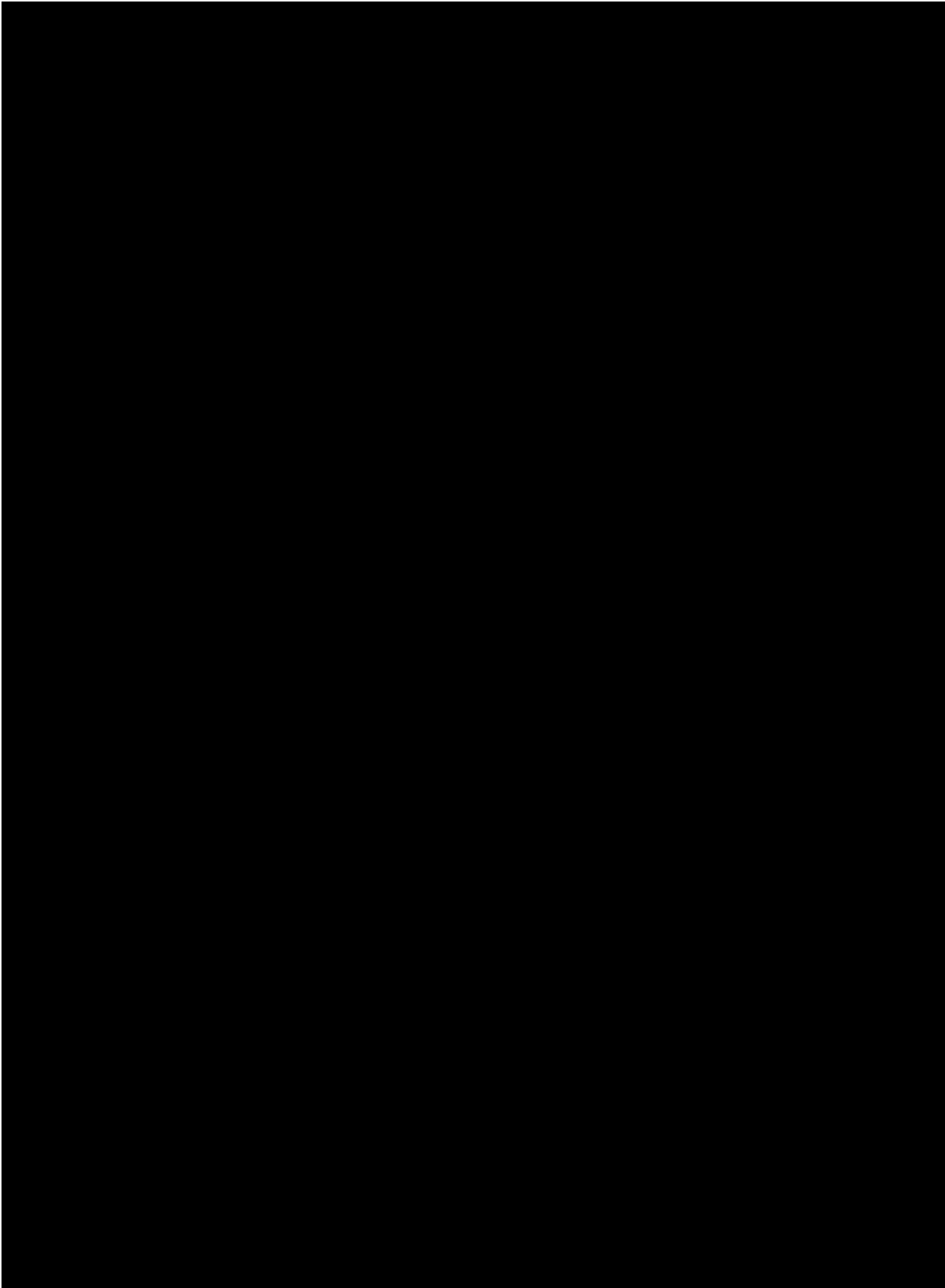
3 PRESIDENT TERCIER: Please, Mr. Bonifacio.

4 DIRECT EXAMINATION

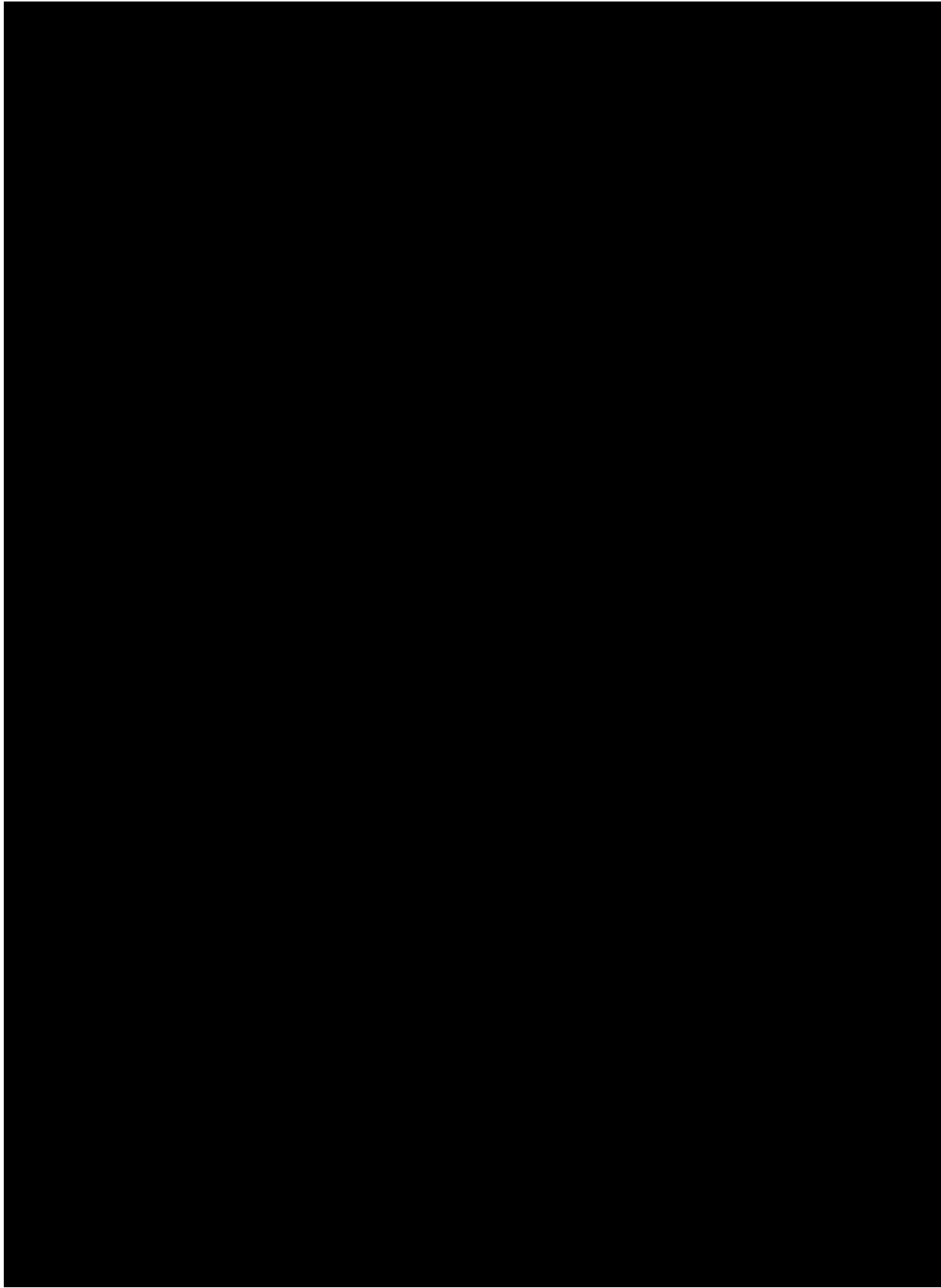


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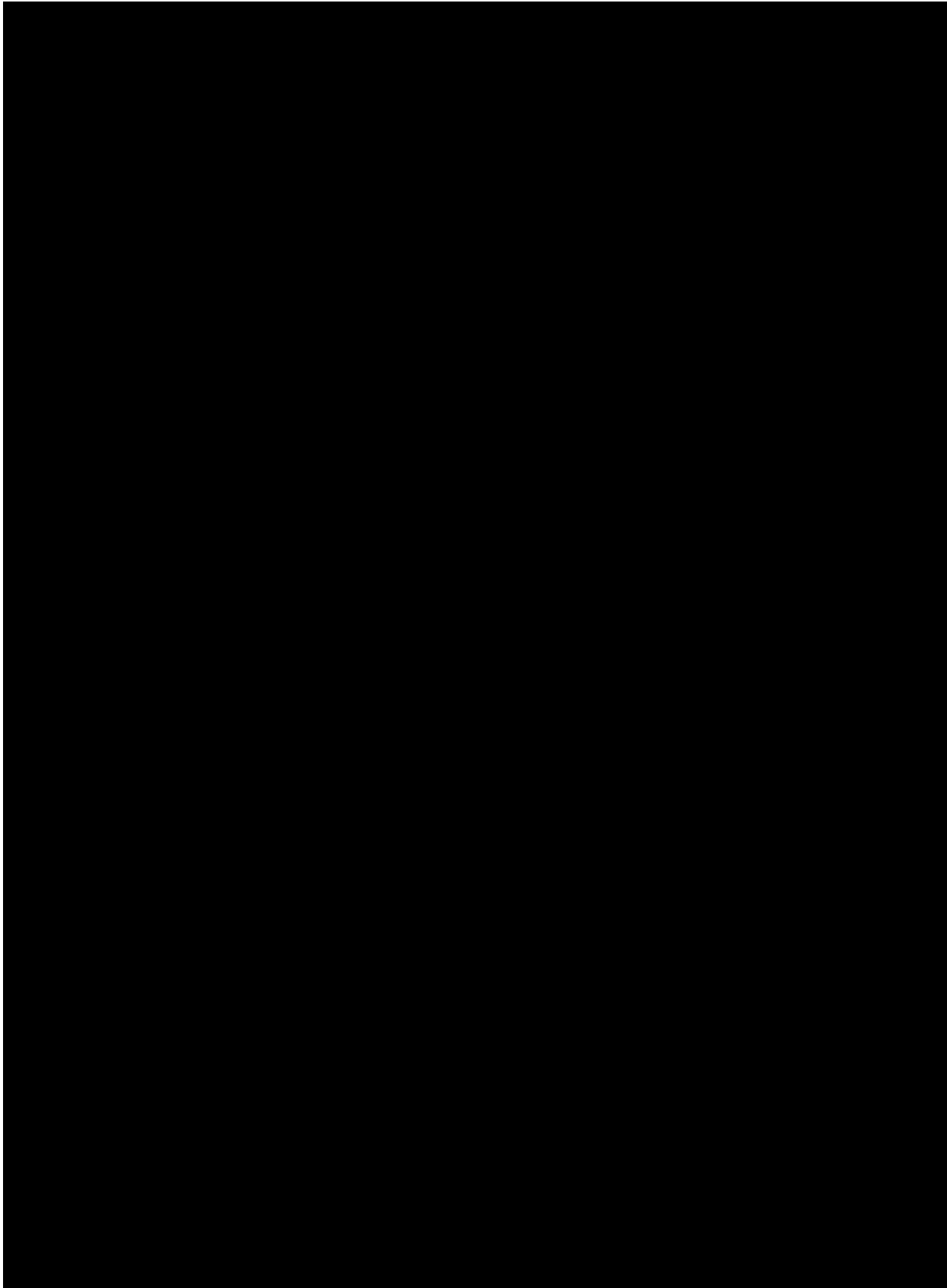
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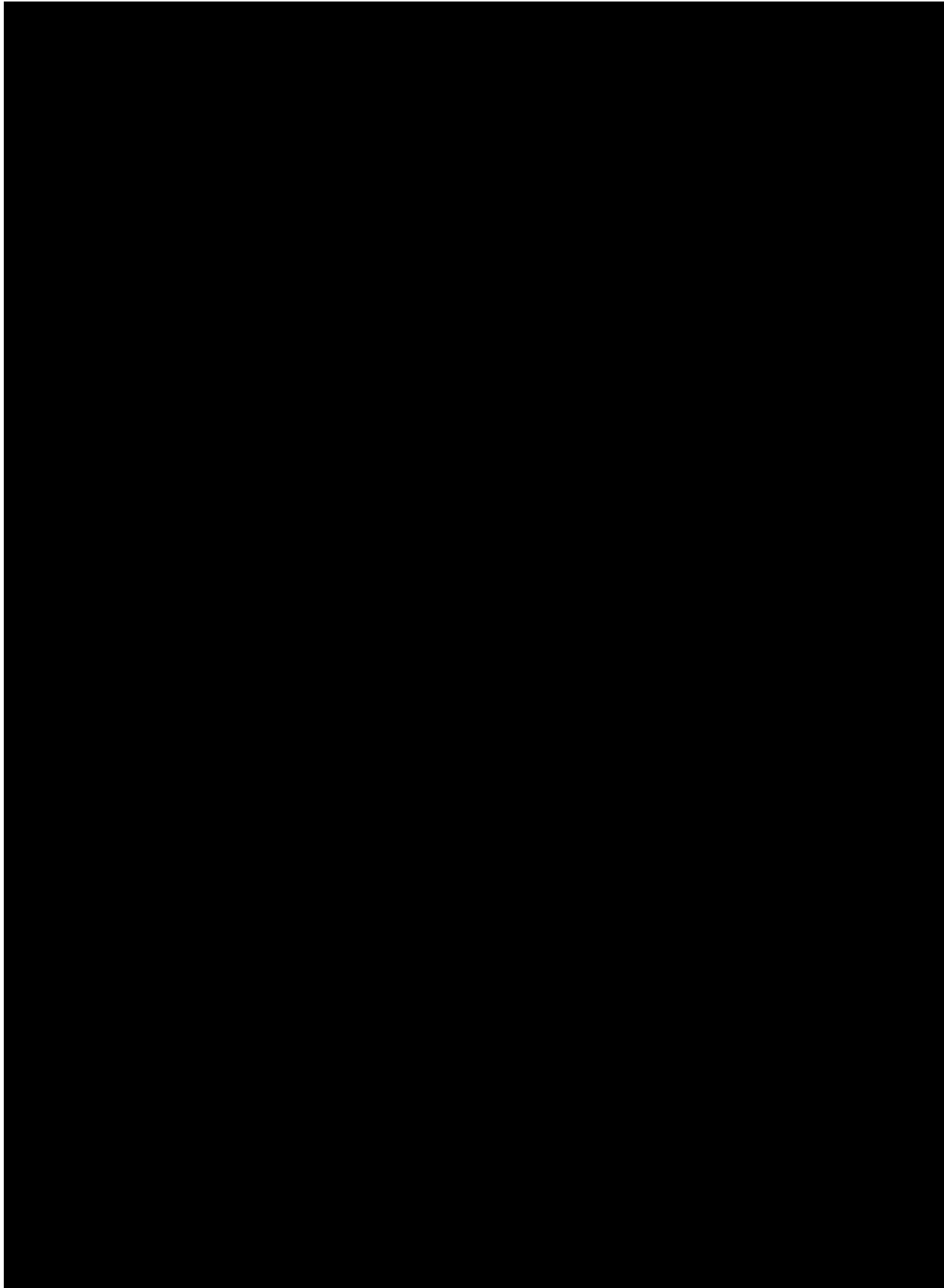
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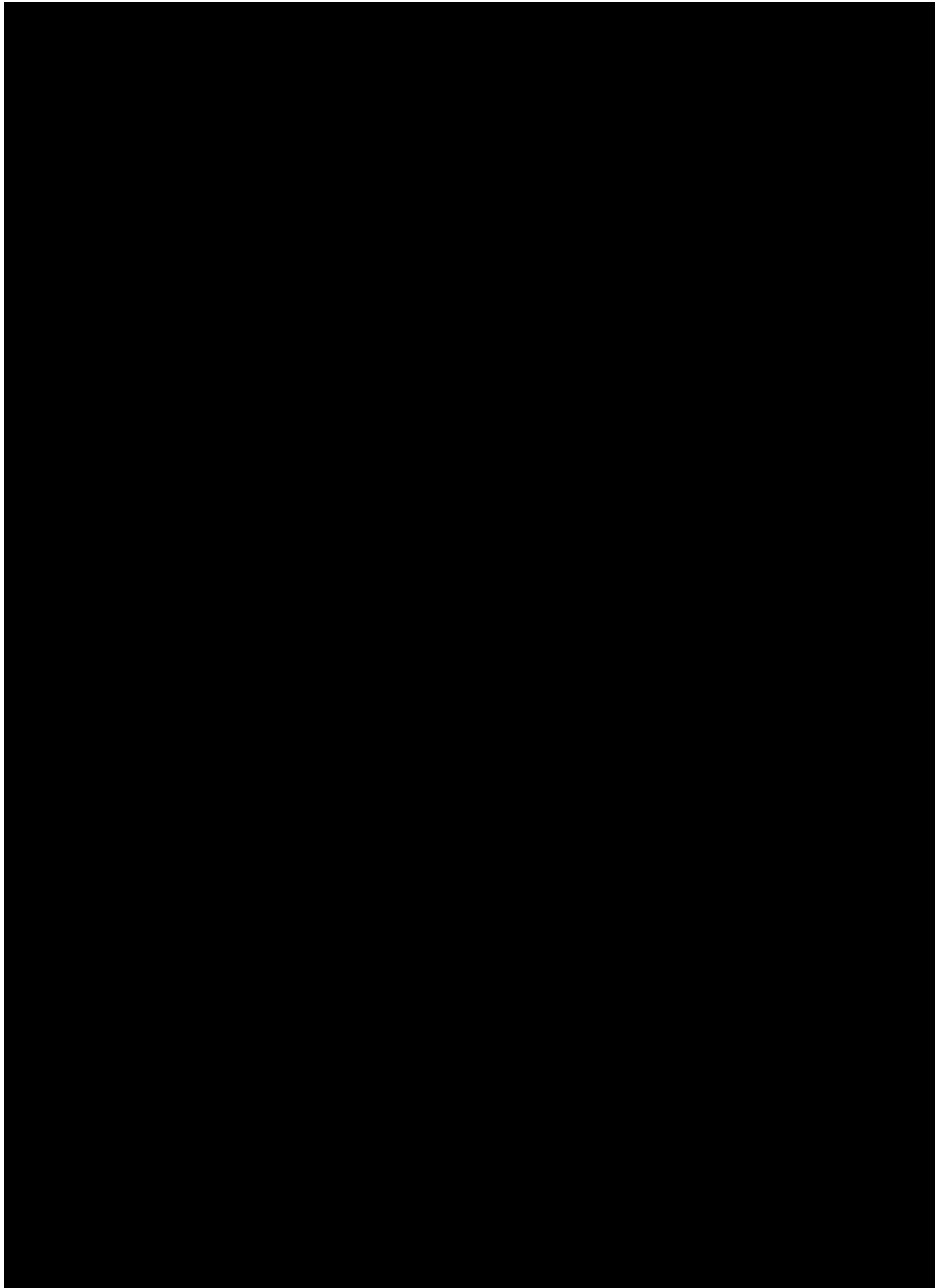
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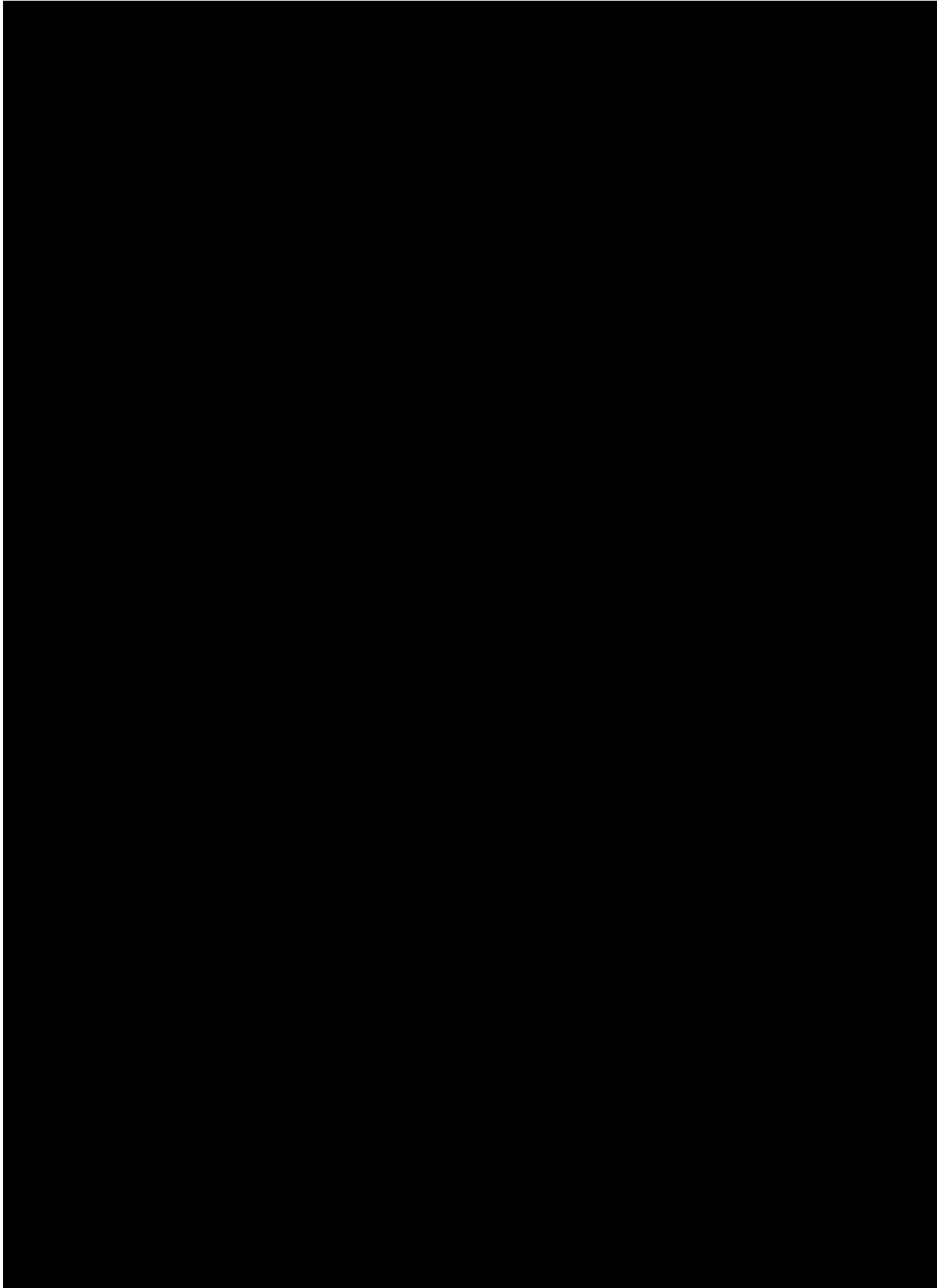
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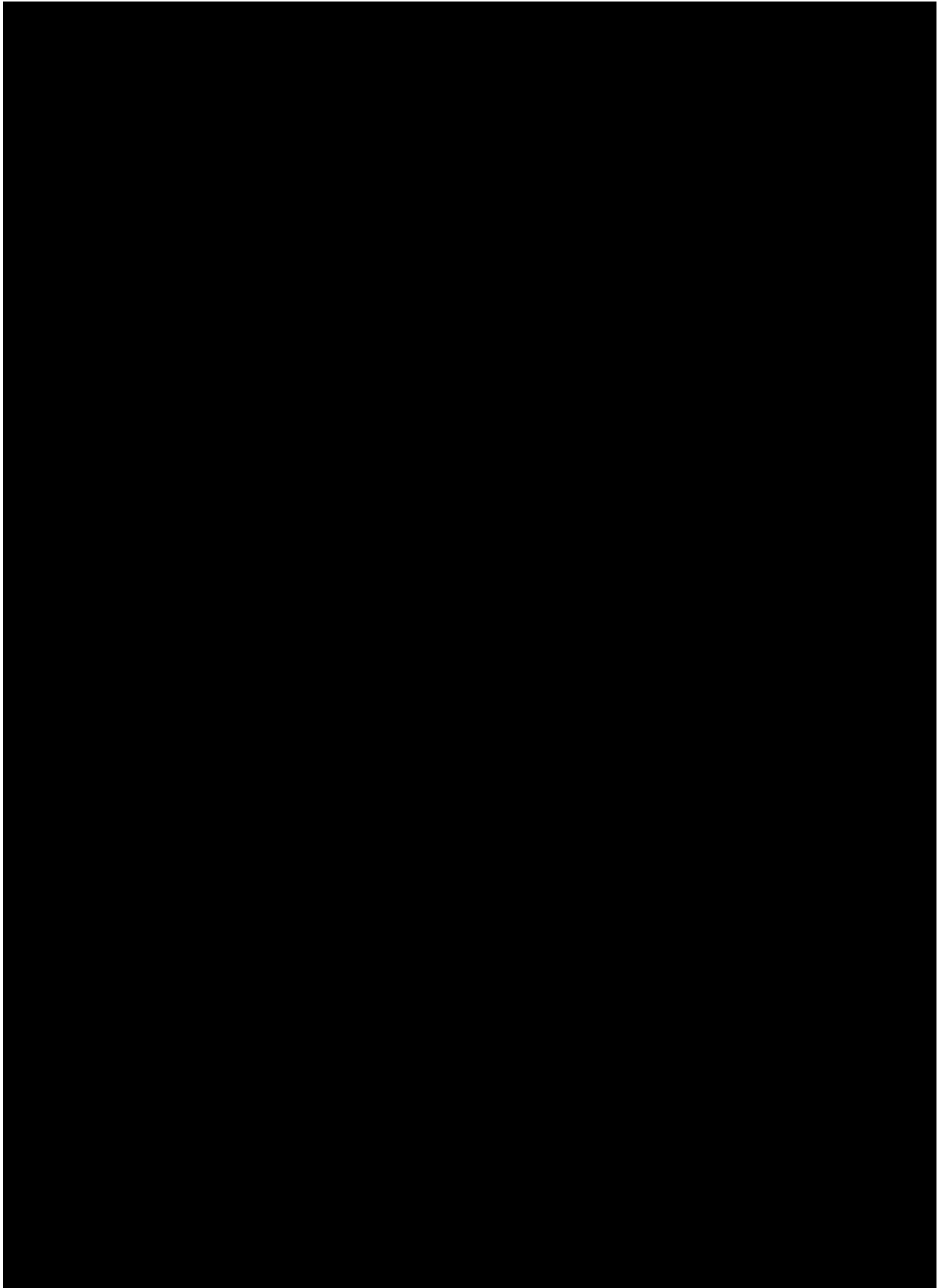
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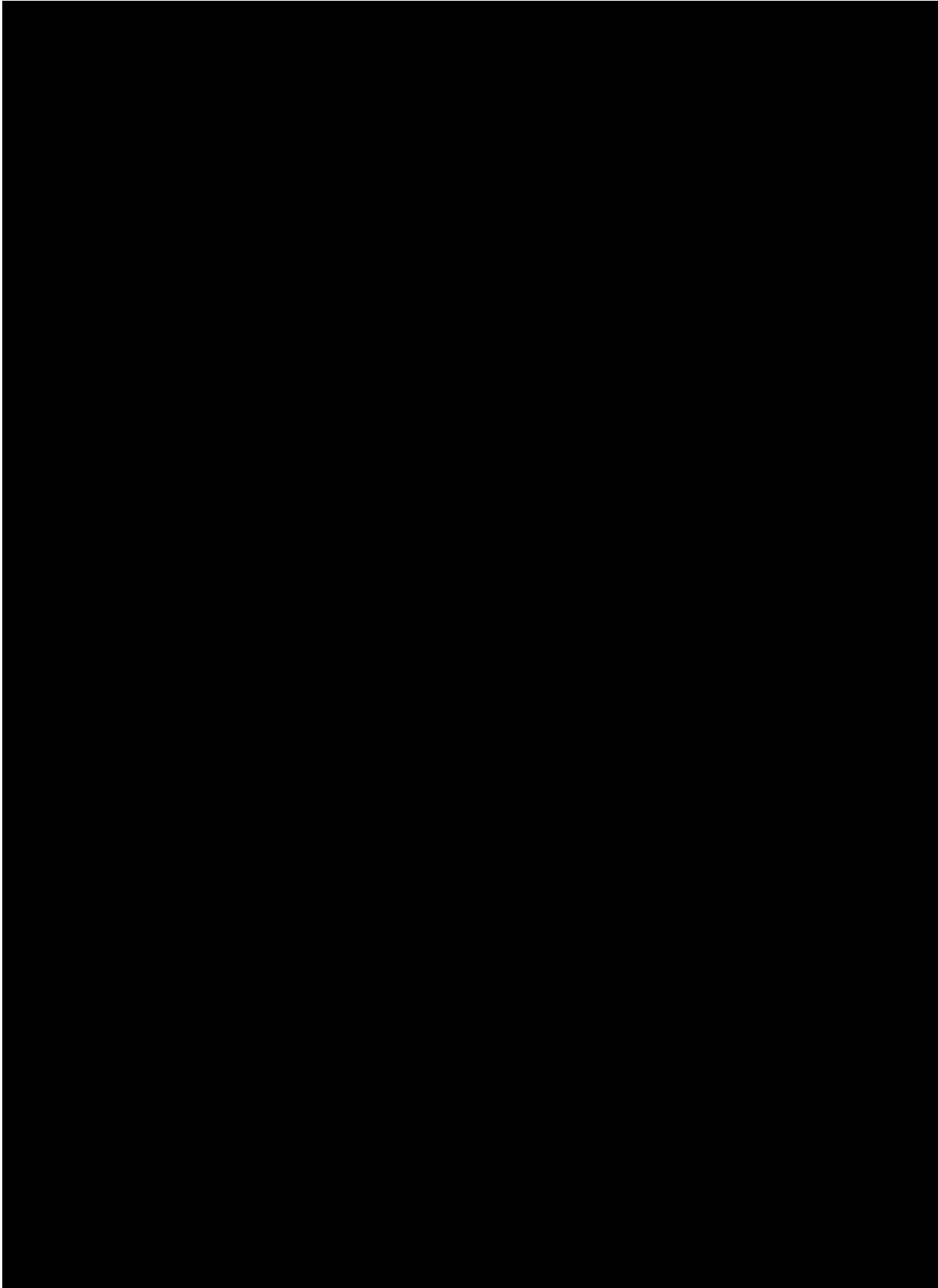
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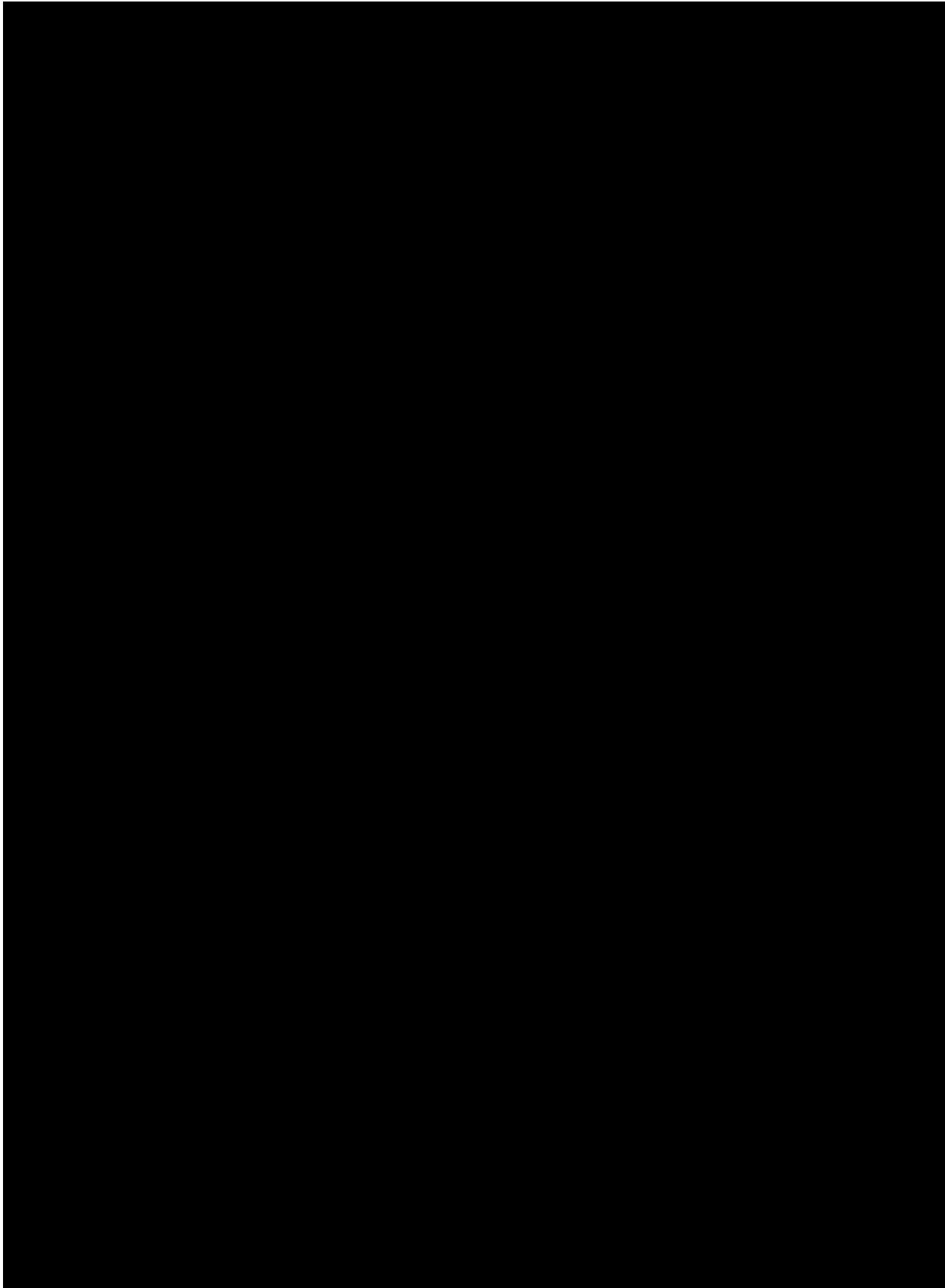
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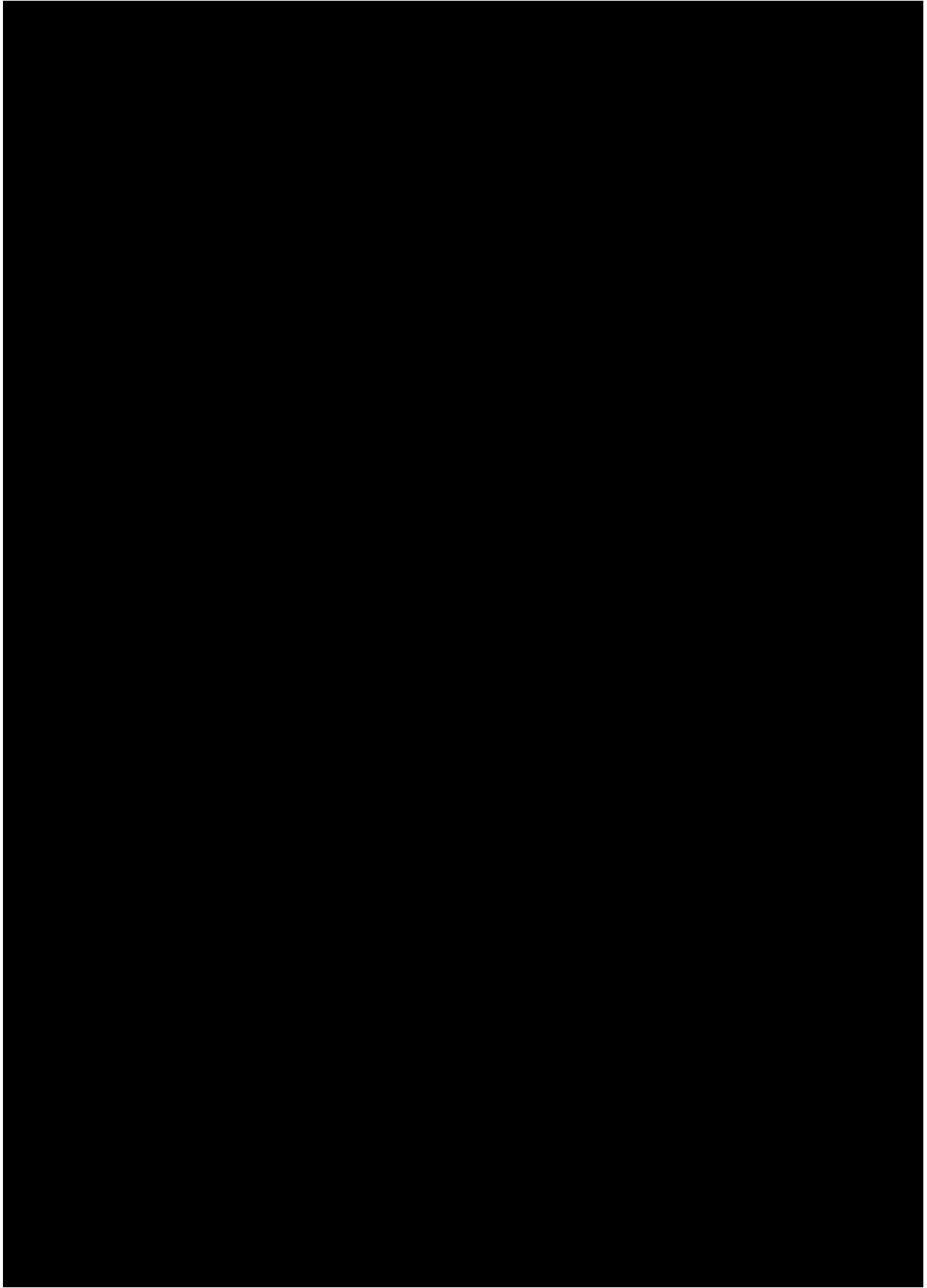
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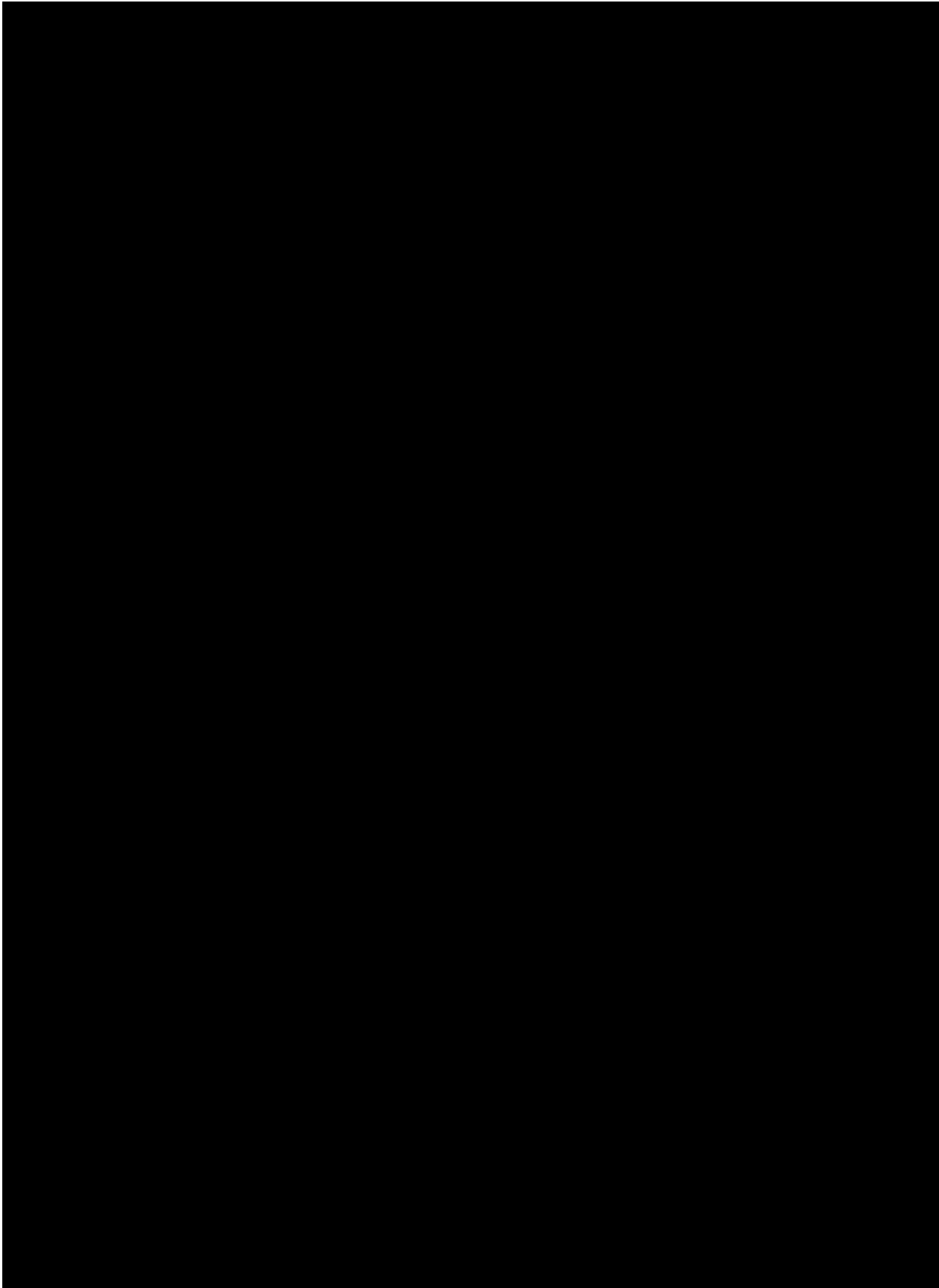
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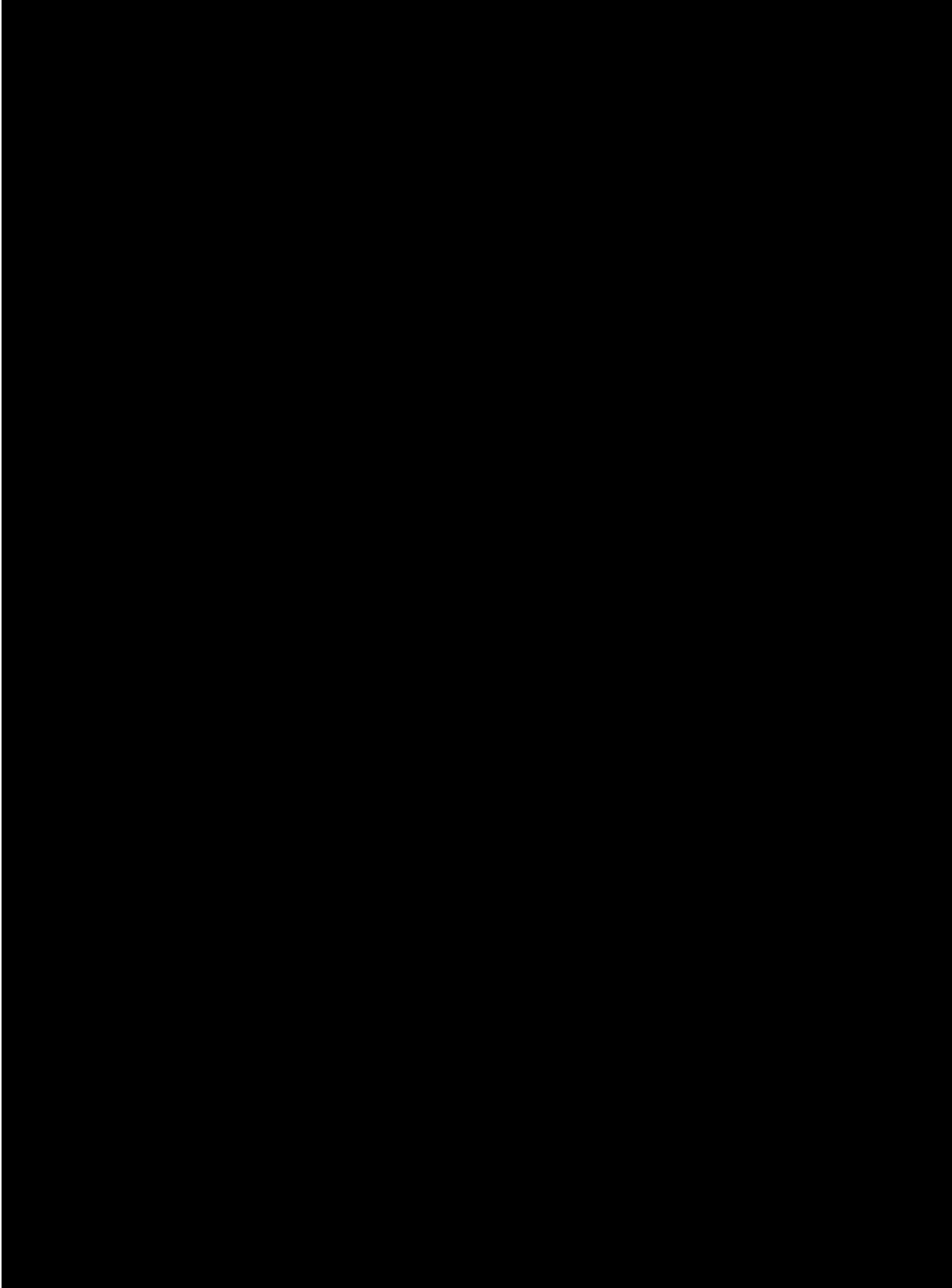
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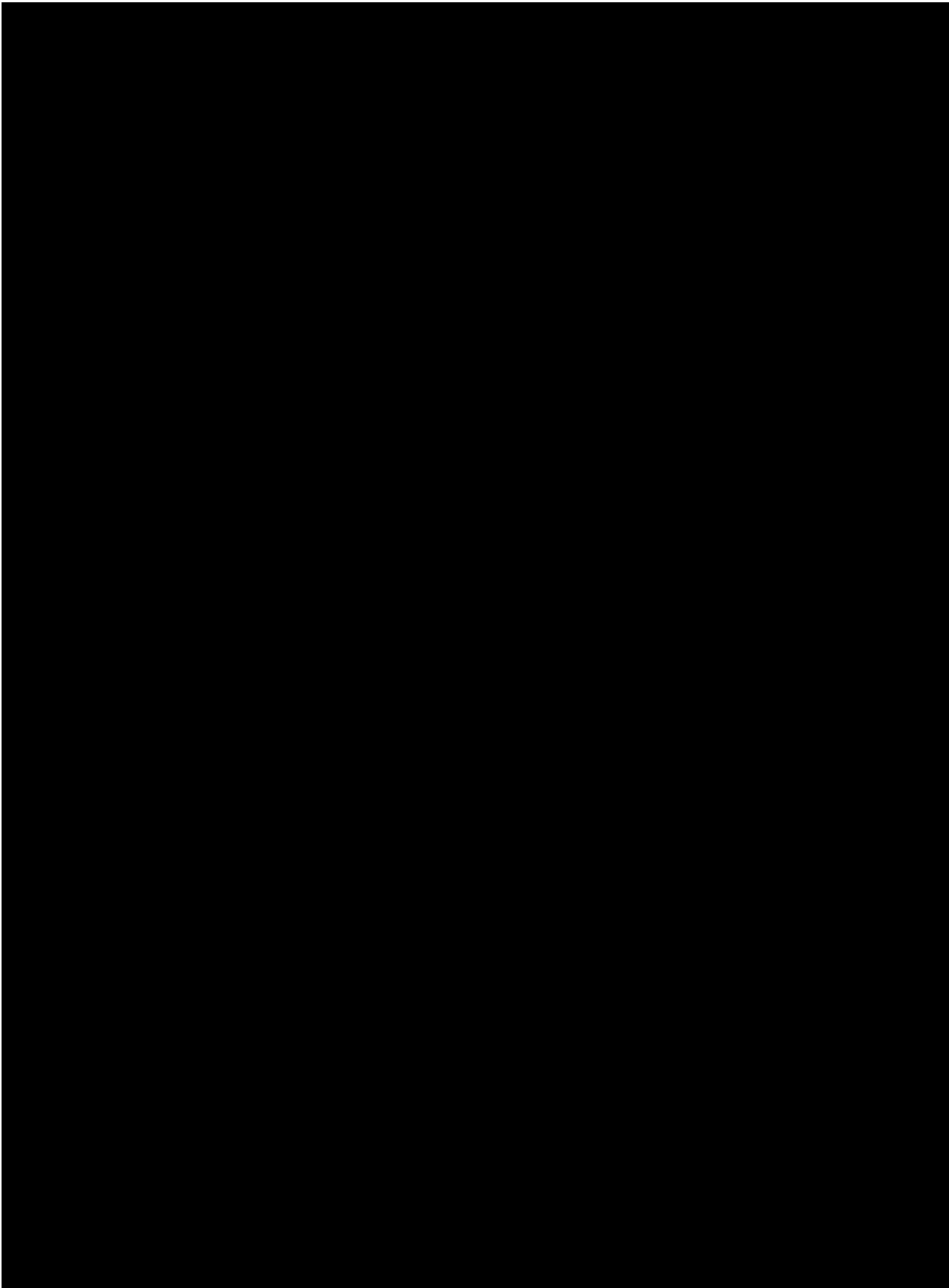
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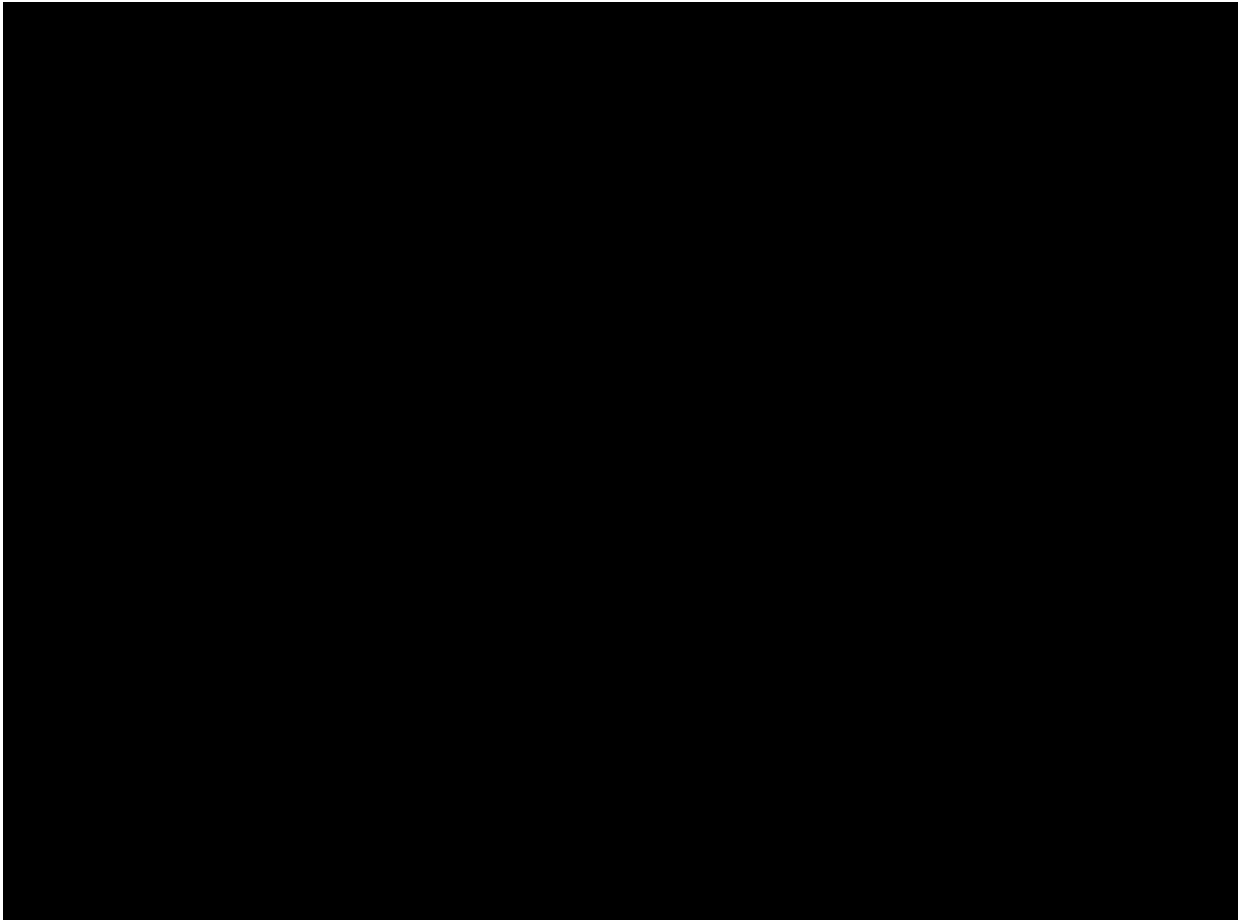
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13 PRESIDENT TERCIER: Thank you, Mr. Bonifacio.

14 And now the question, if we start with the
15 cross right now, we have to decide on the request made
16 by counsel for Respondent concerning the sequestration
17 of the witnesses, only one.

18 Do you want to start right now, in which case
19 we'll have to decide? After you.

20 MR. GREENWALD: Well, I think that maybe then
21 in the circumstances it makes sense if the
22 Tribunal--well, if the Tribunal can decide quickly,

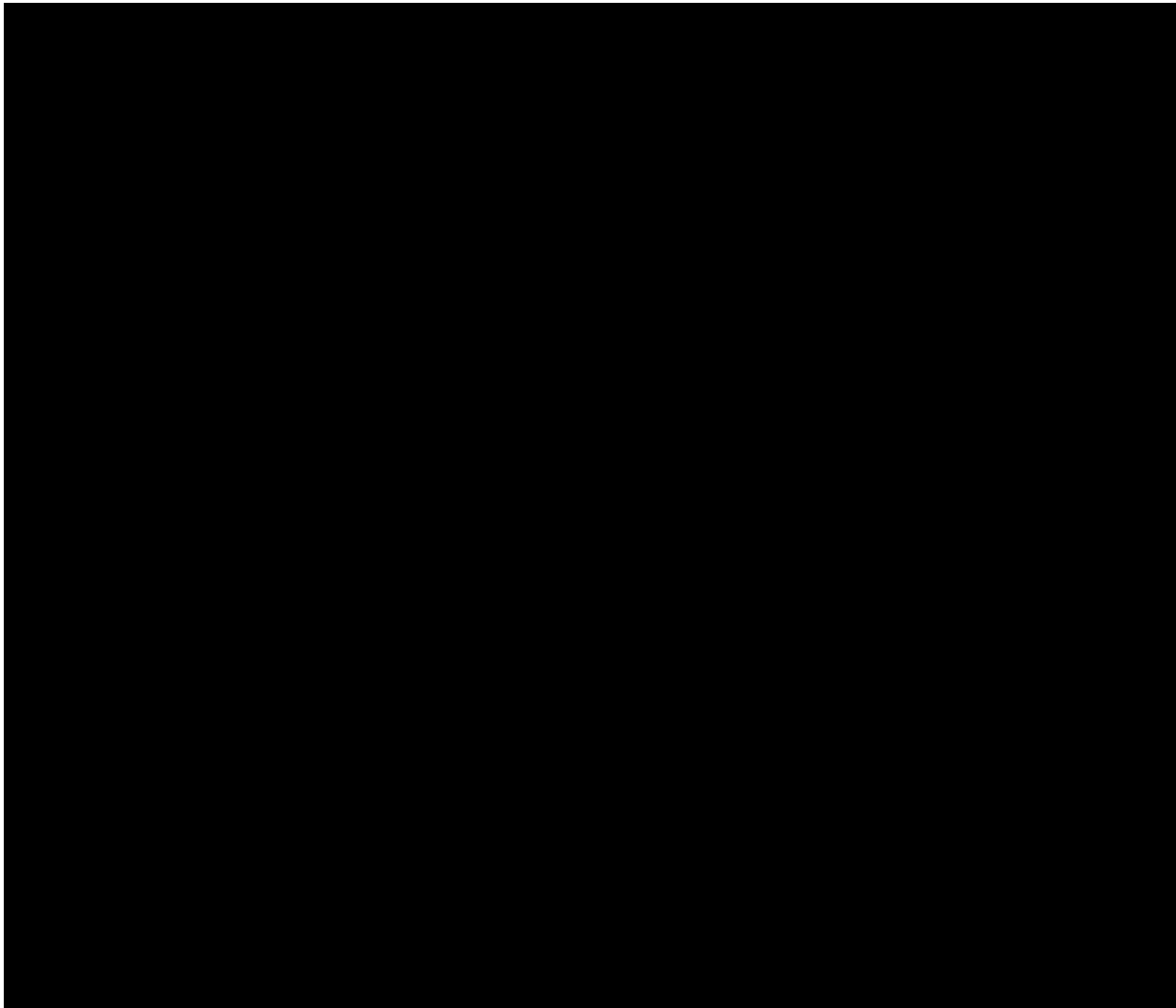
1 then we could do a short amount of cross, and if it
2 would prefer to confer, we could break now from 12:30
3 to 1:30 and resume at 1:30.

4 PRESIDENT TERCIER: Okay. The Tribunal
5 rejects the proposal made by counsel for Respondent,
6 and we may proceed.

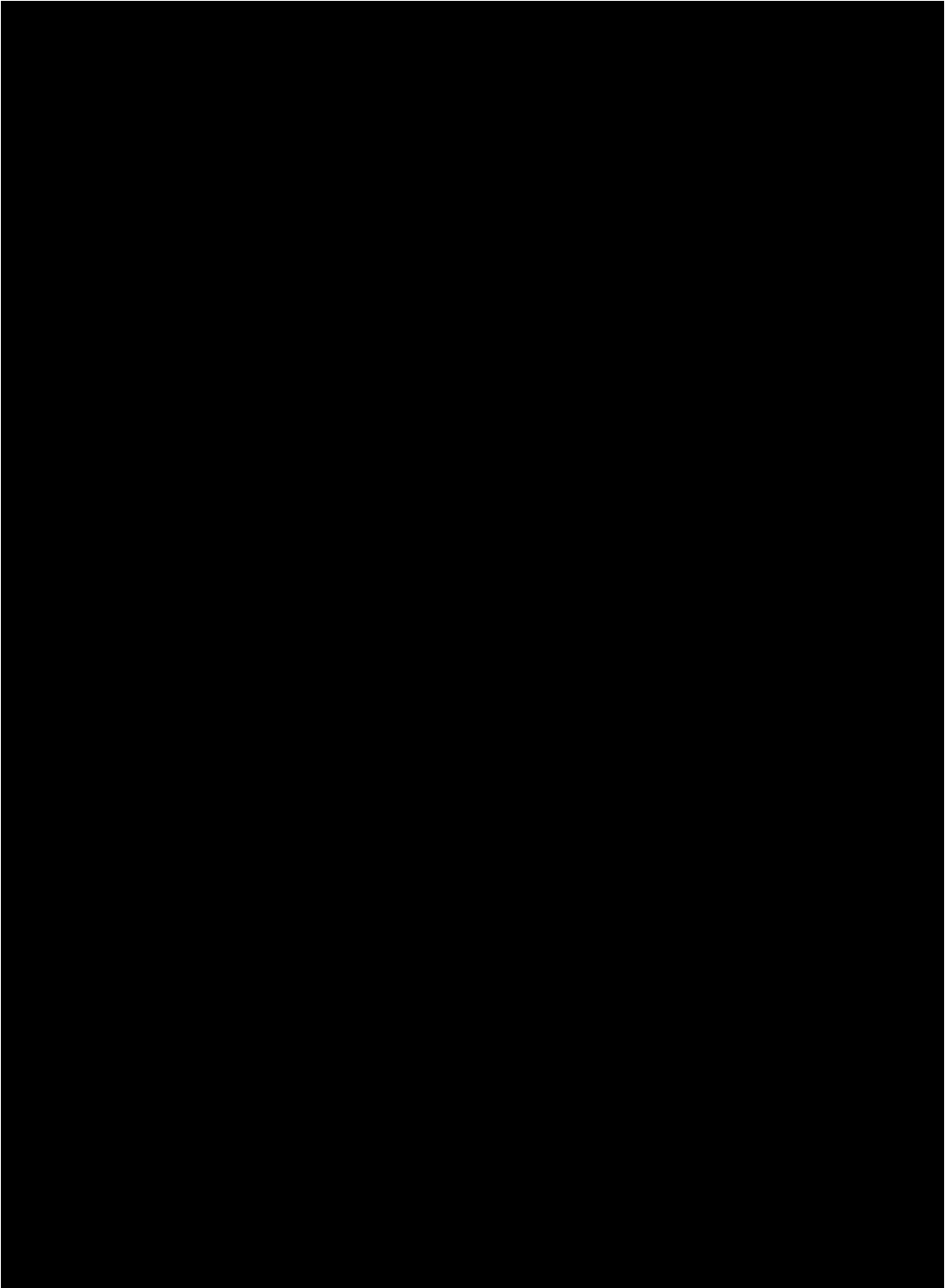
7 MR. GREENWALD: Thank you, Mr. President.

8 CROSS-EXAMINATION

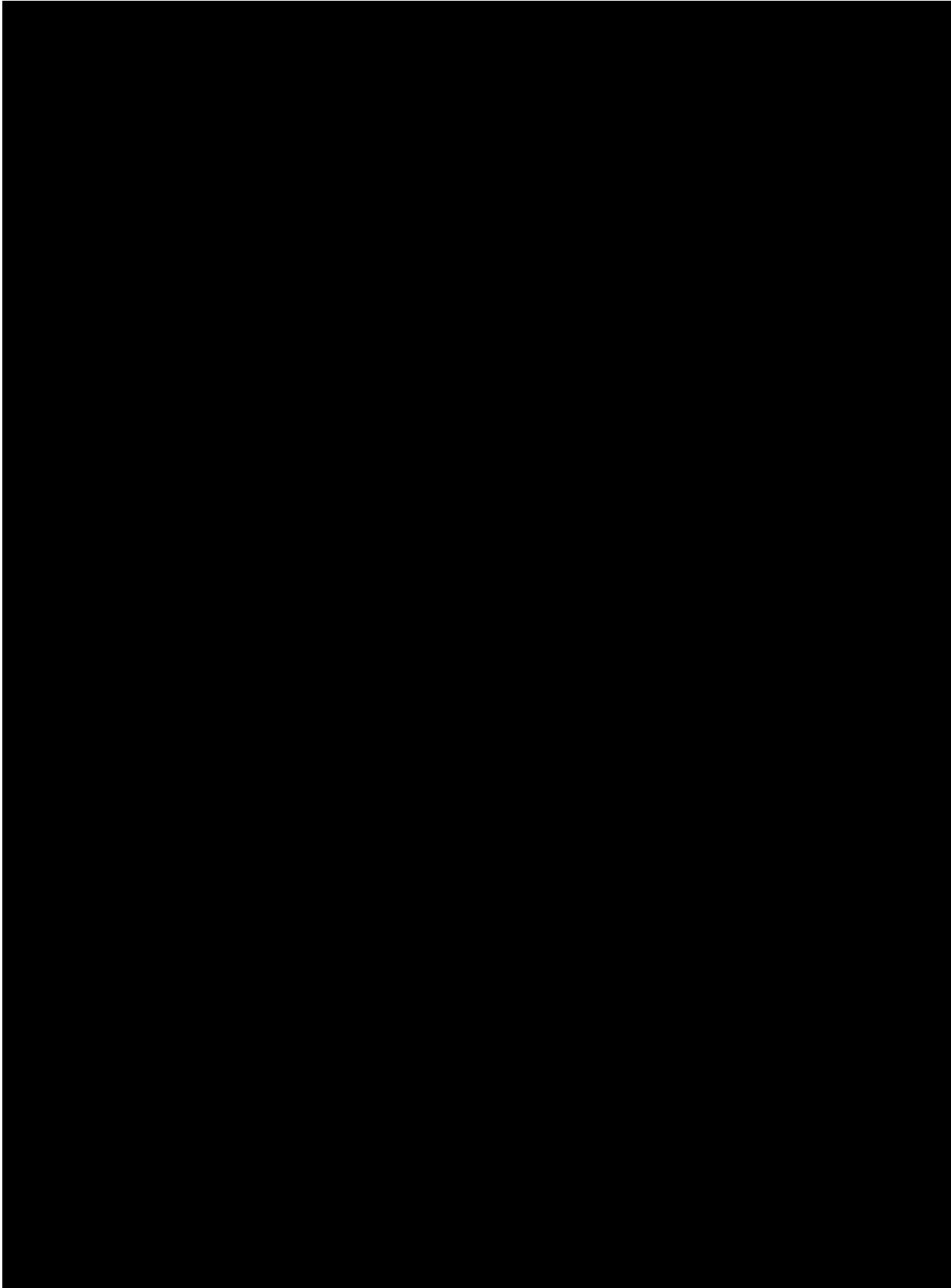
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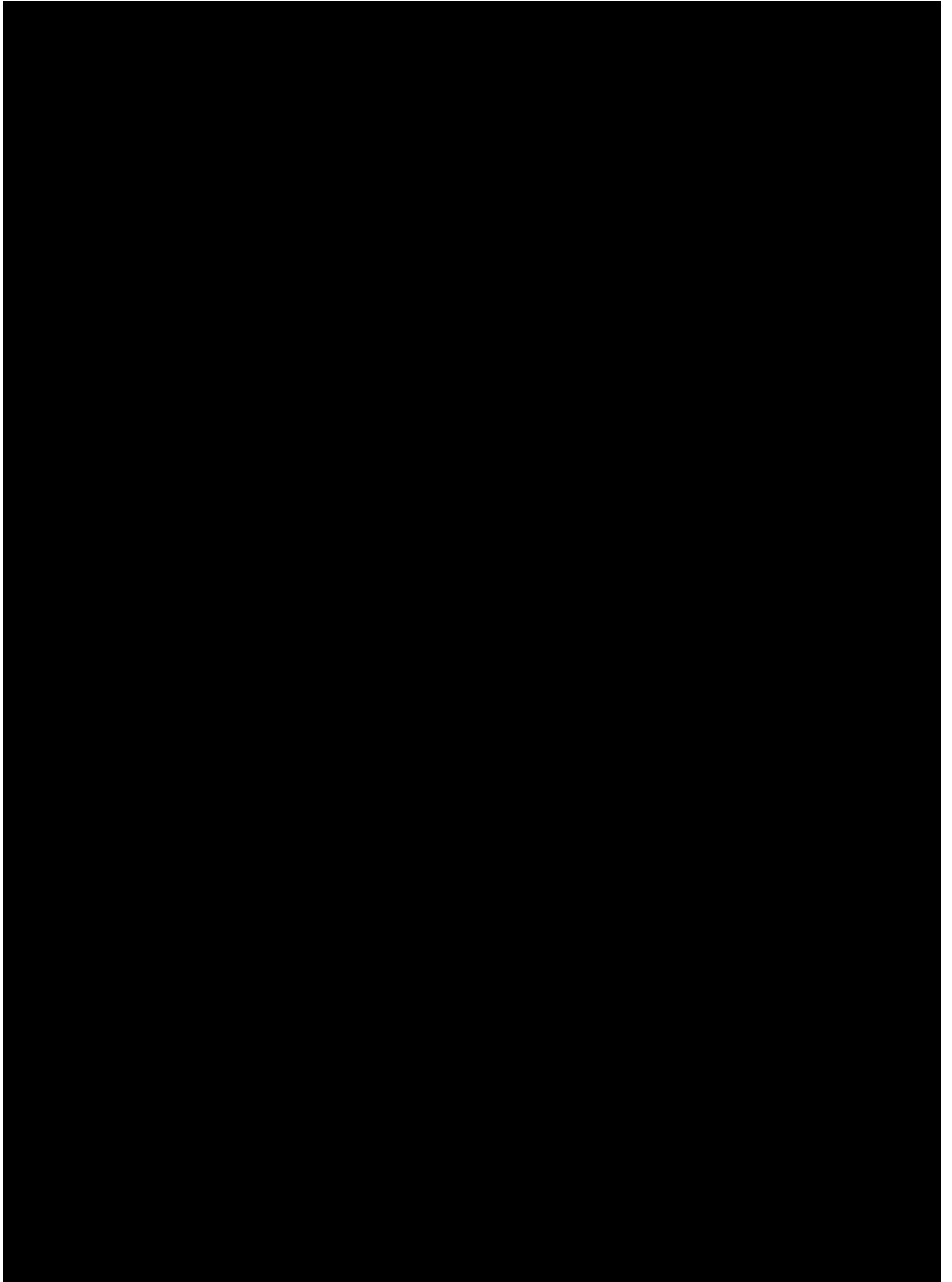
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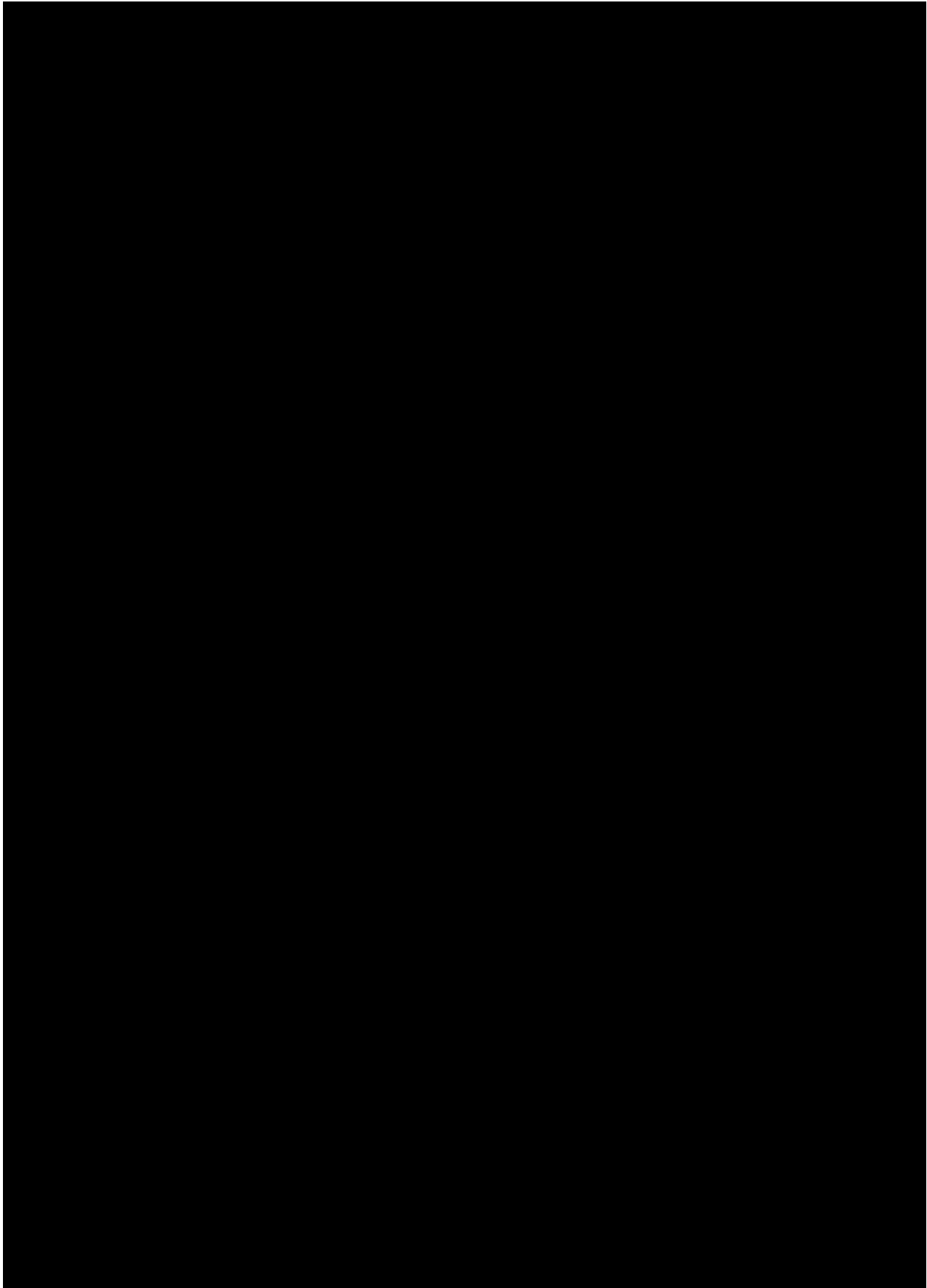
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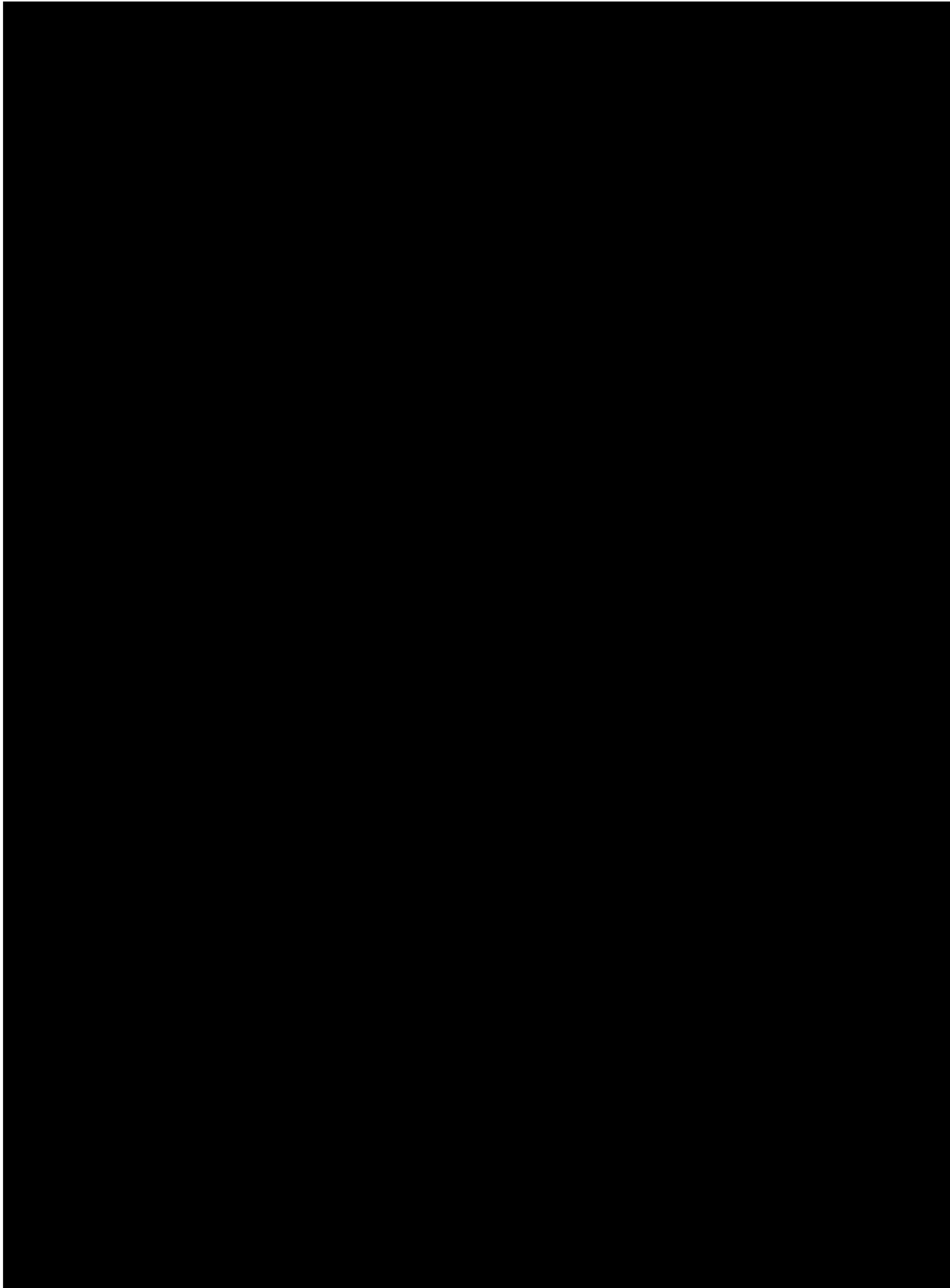
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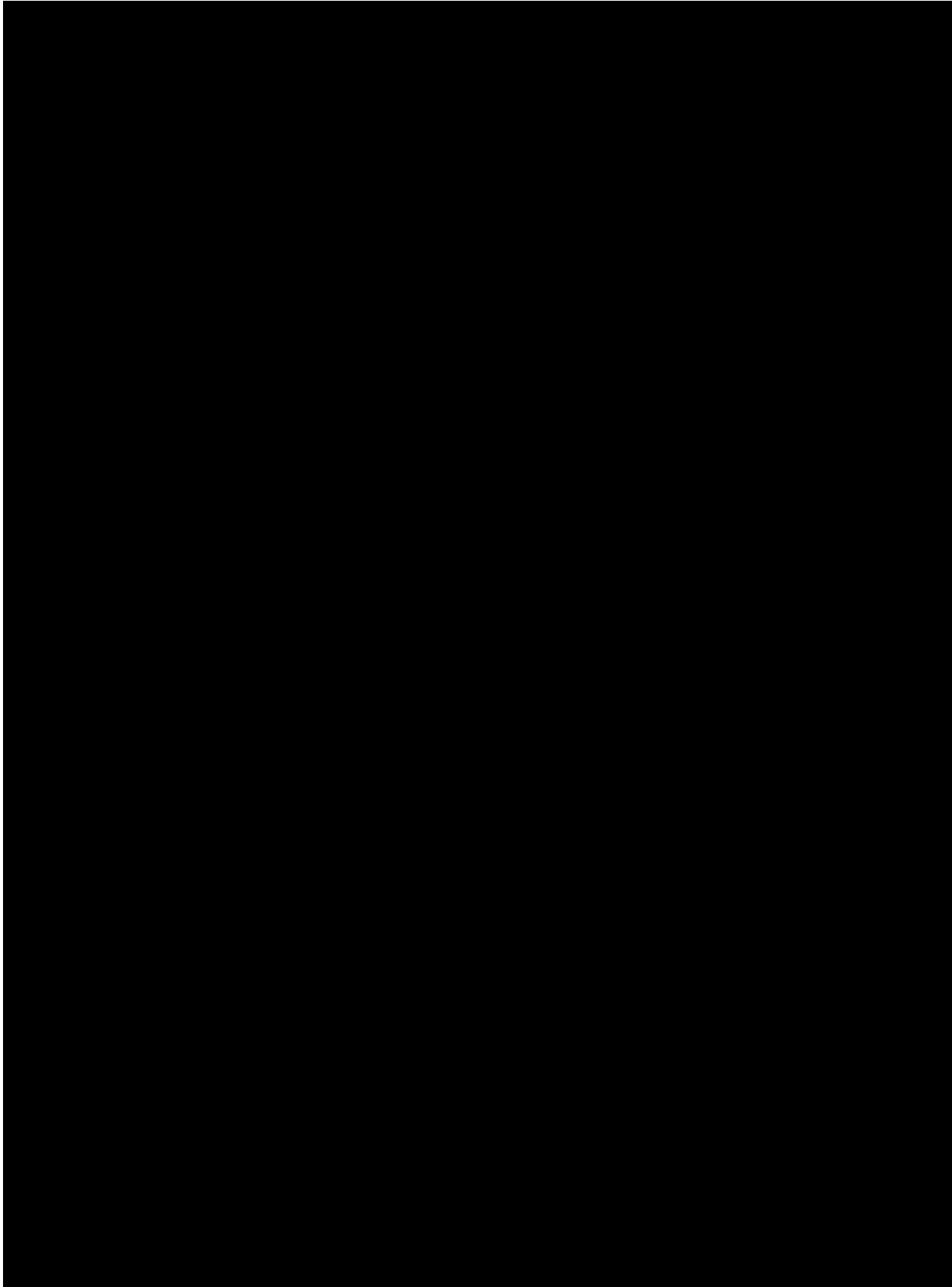
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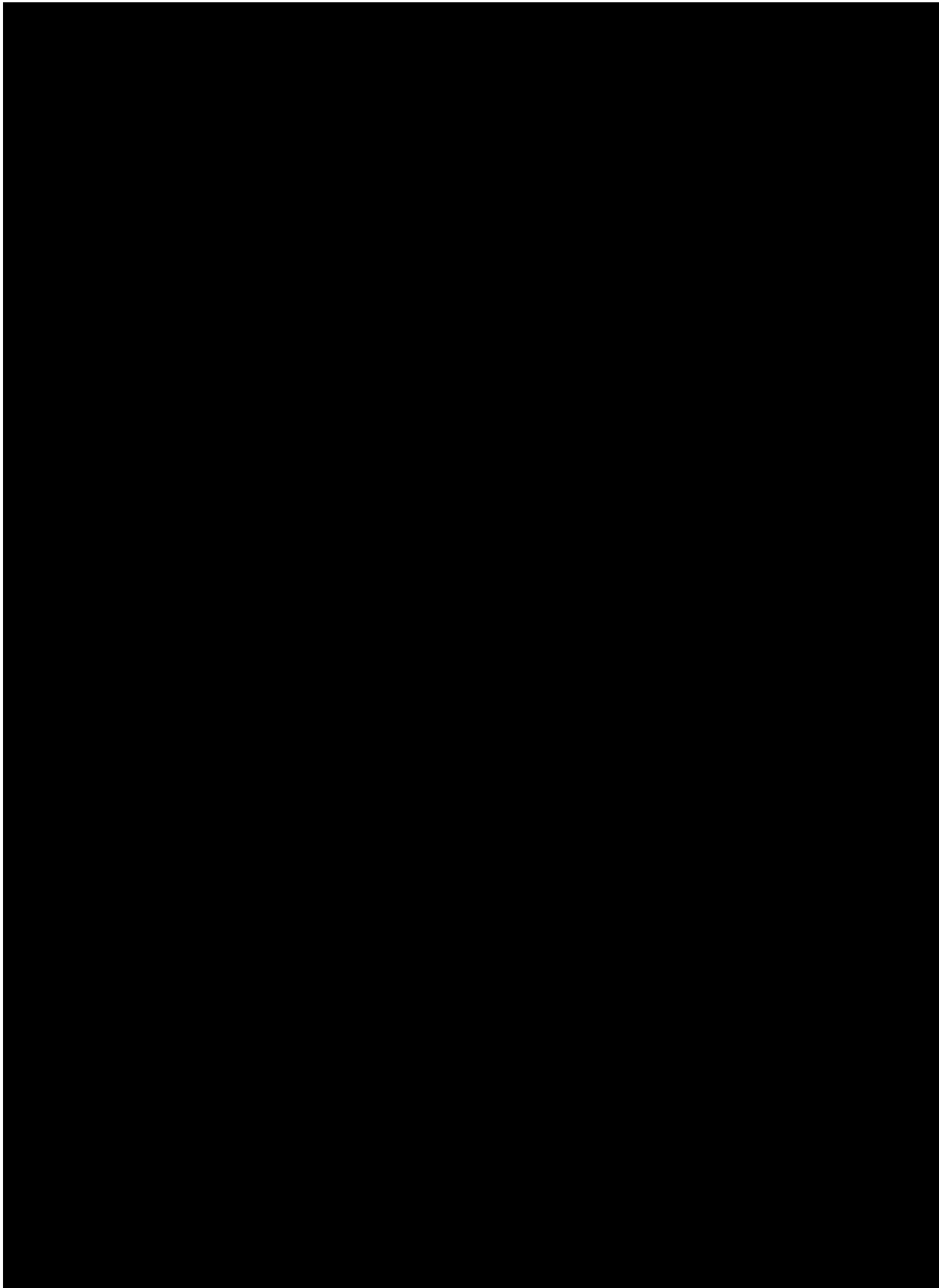
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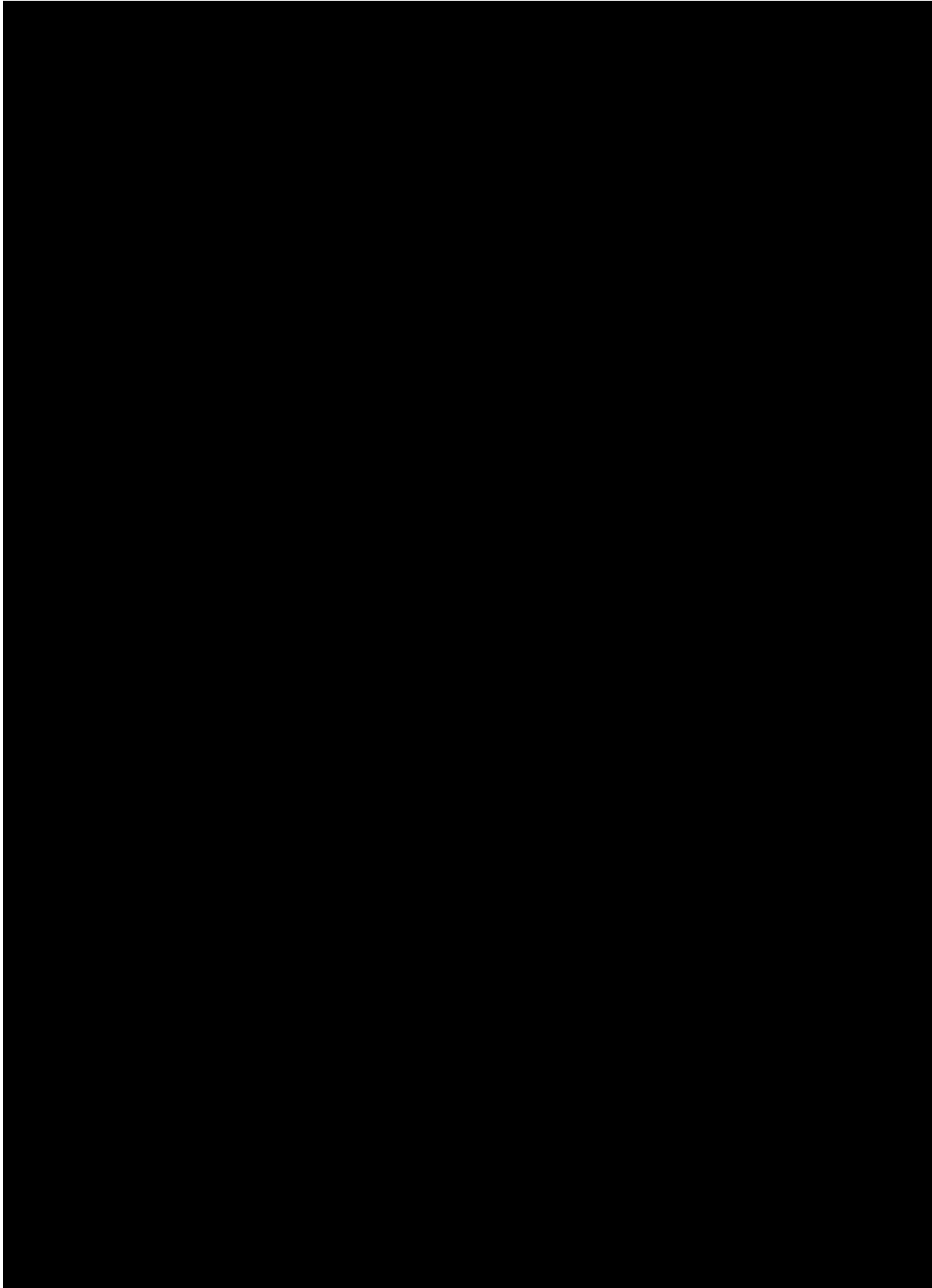
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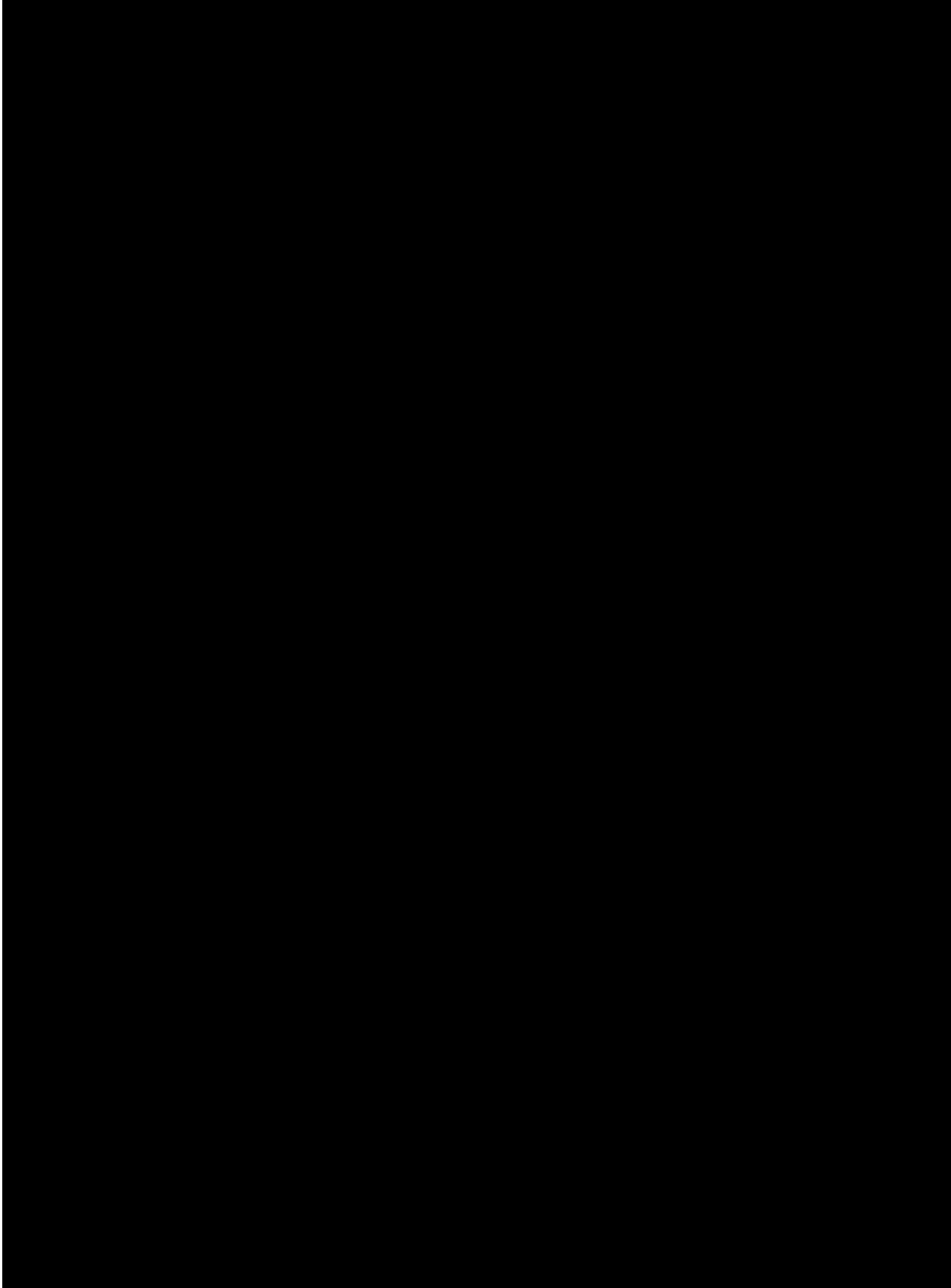
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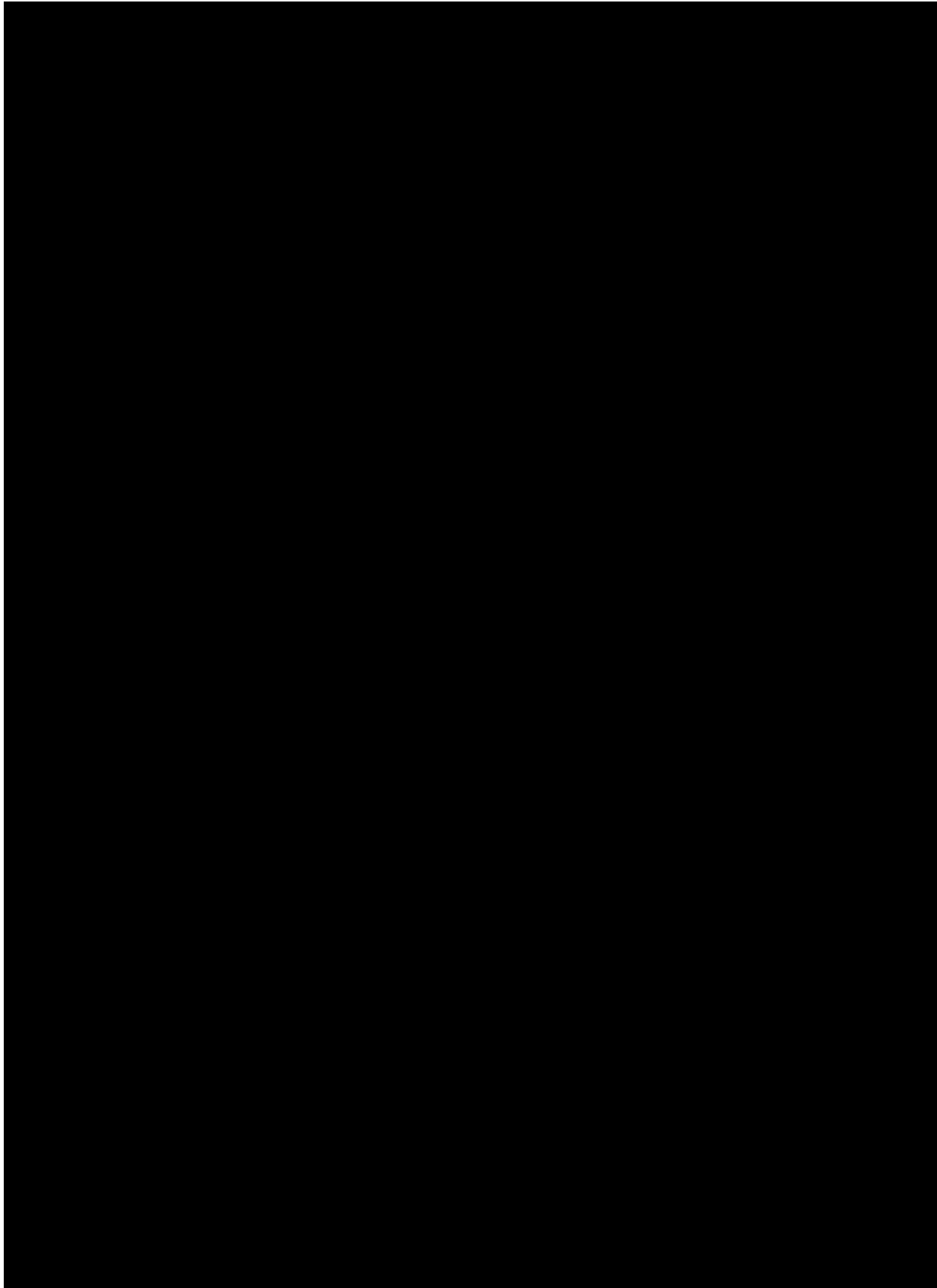
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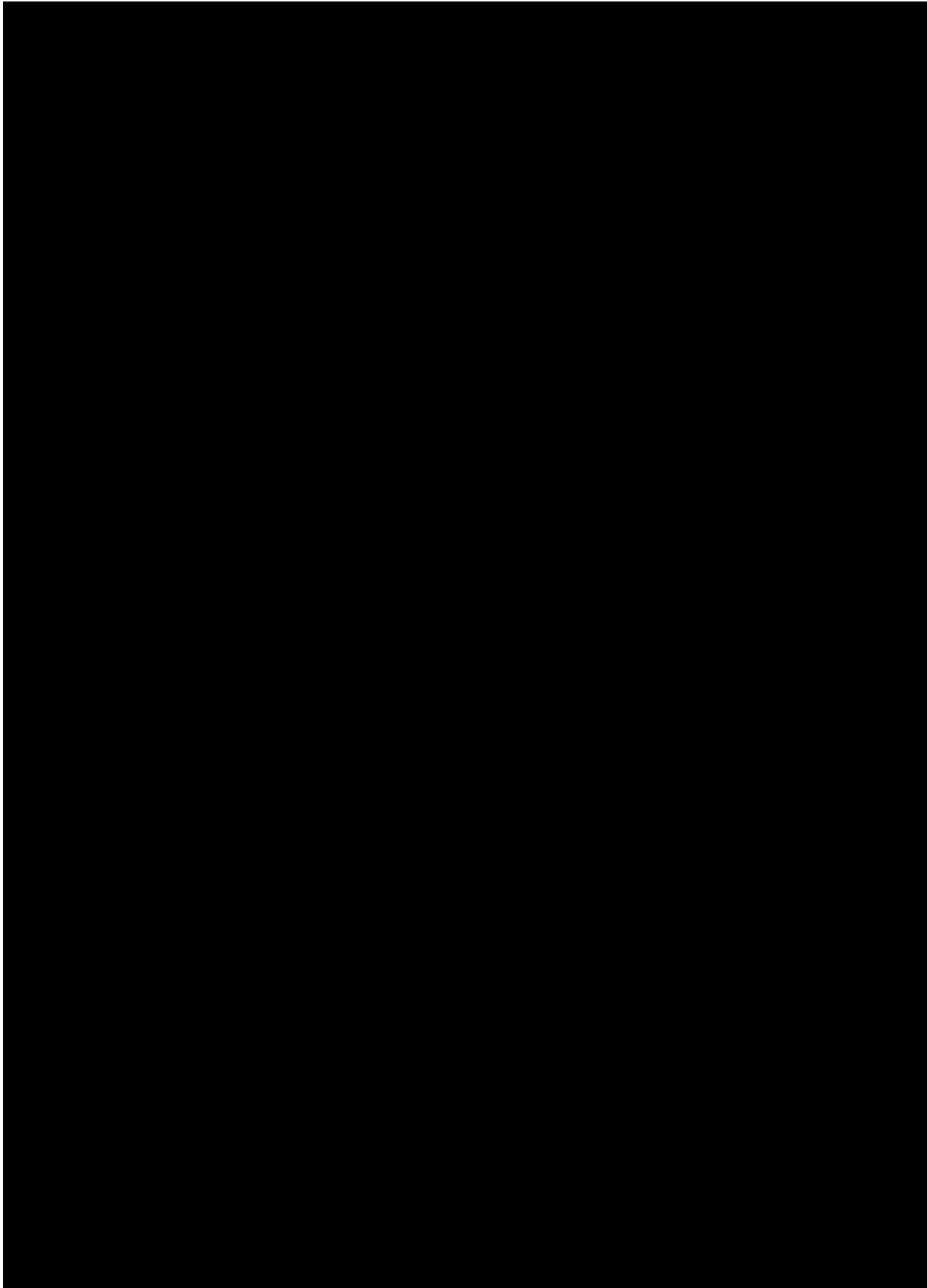
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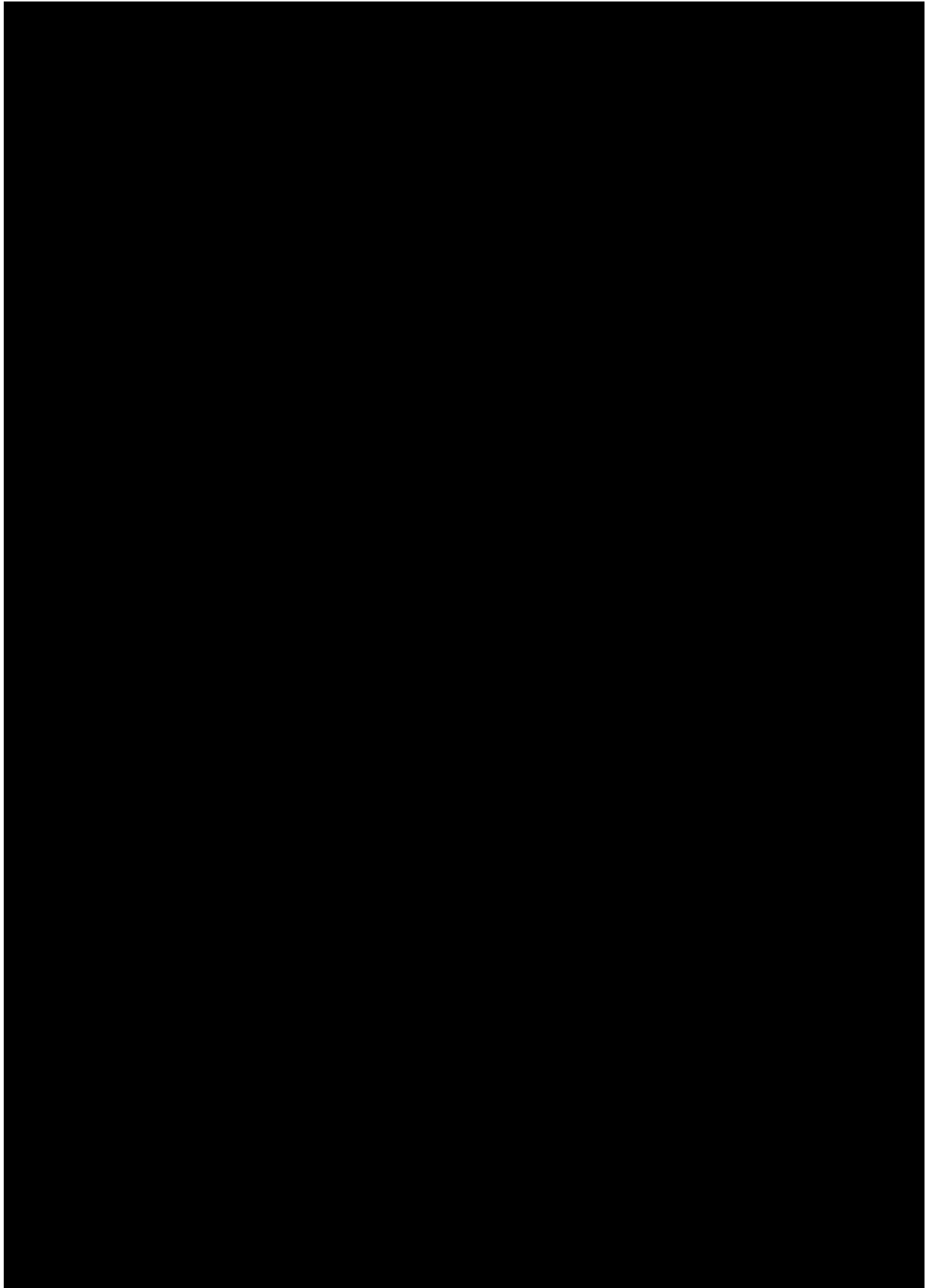
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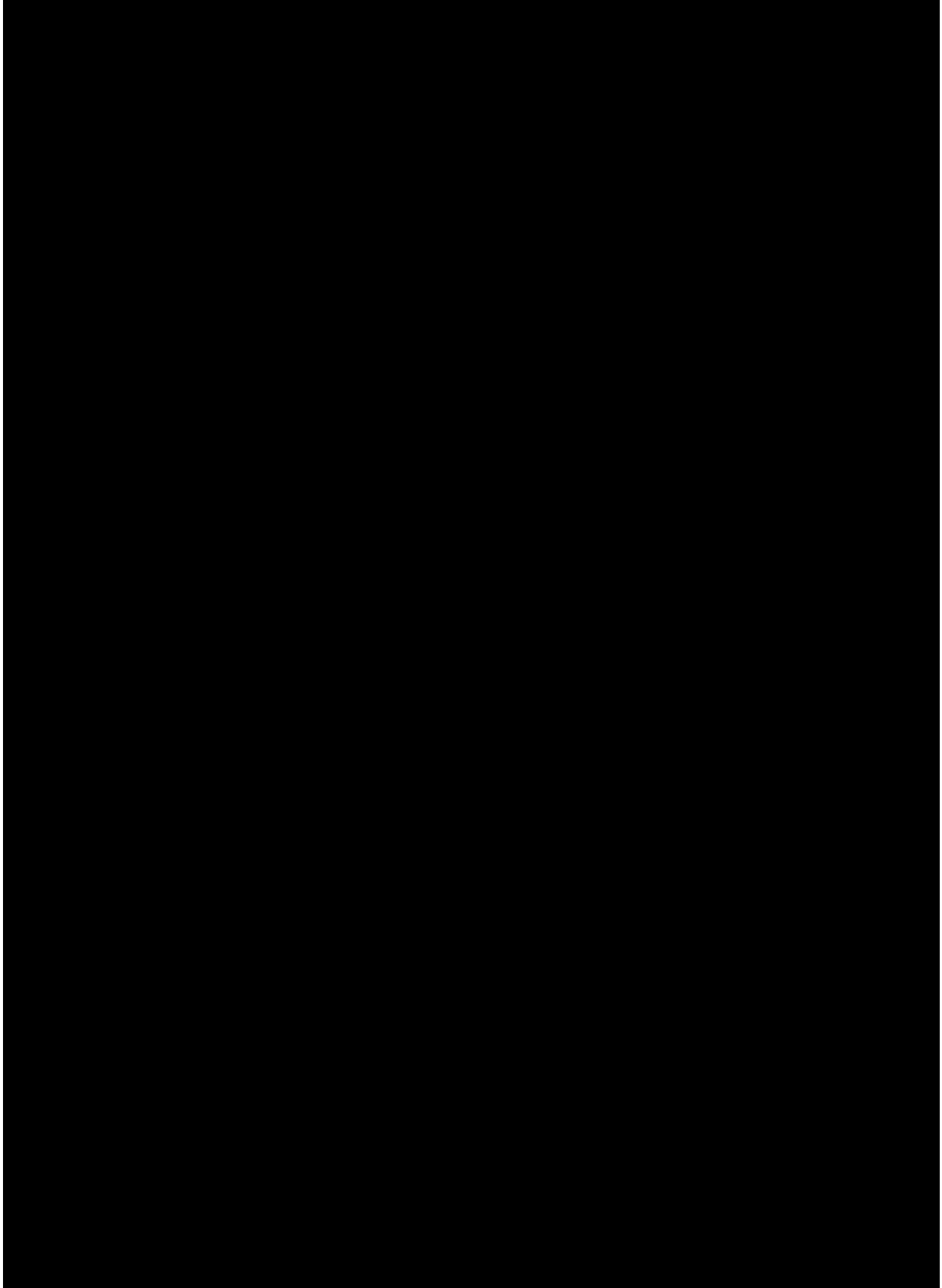
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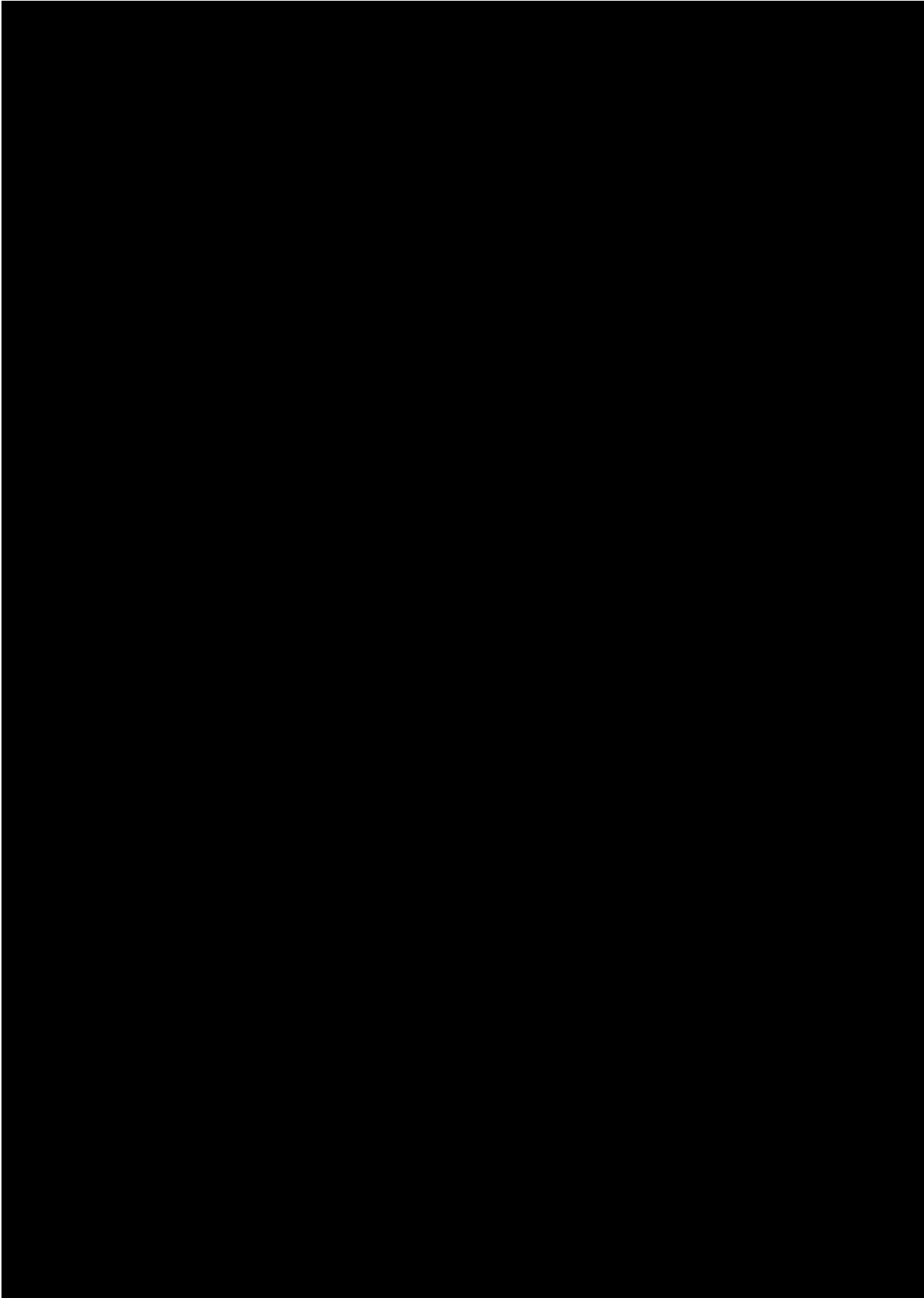
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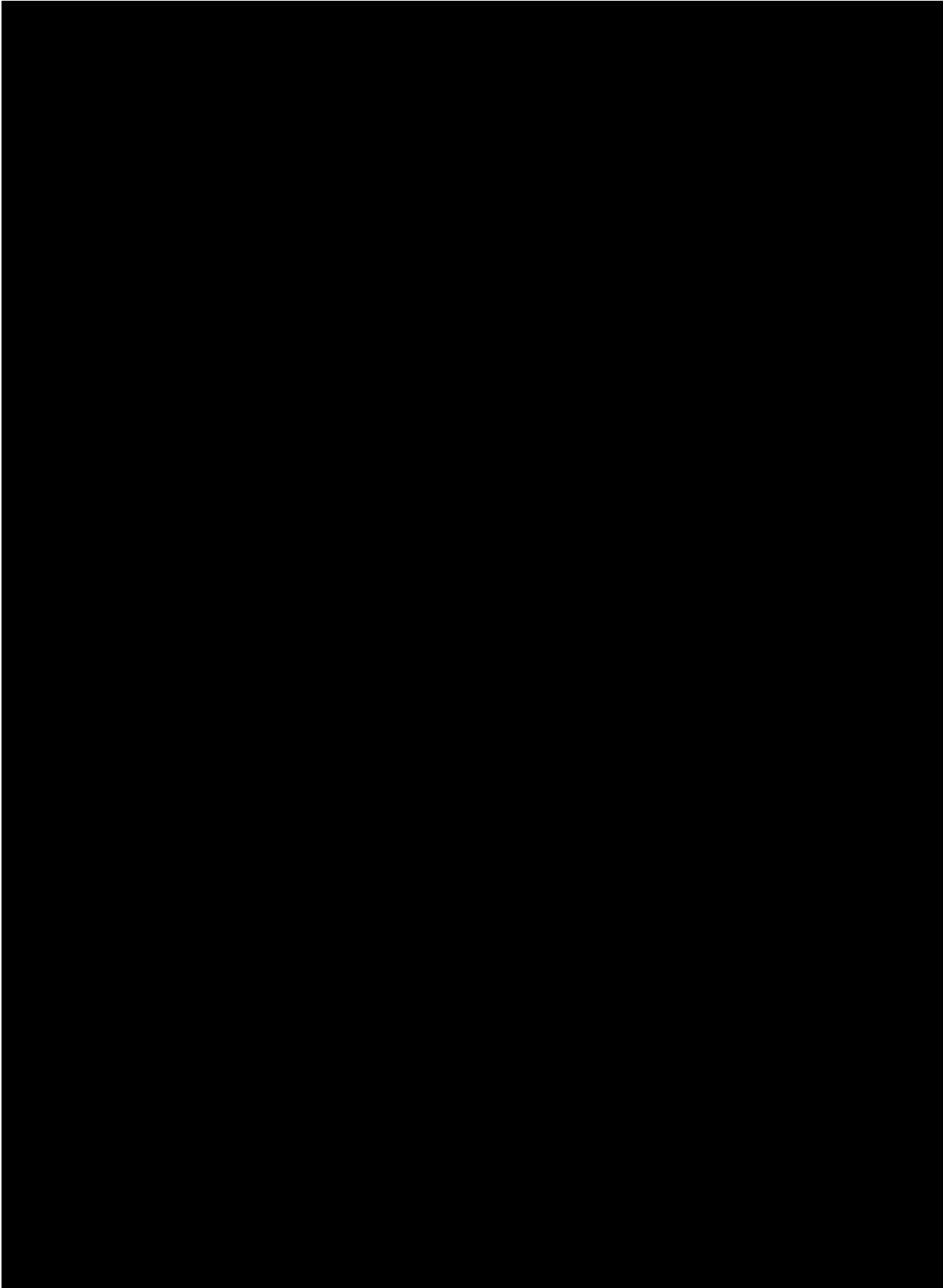
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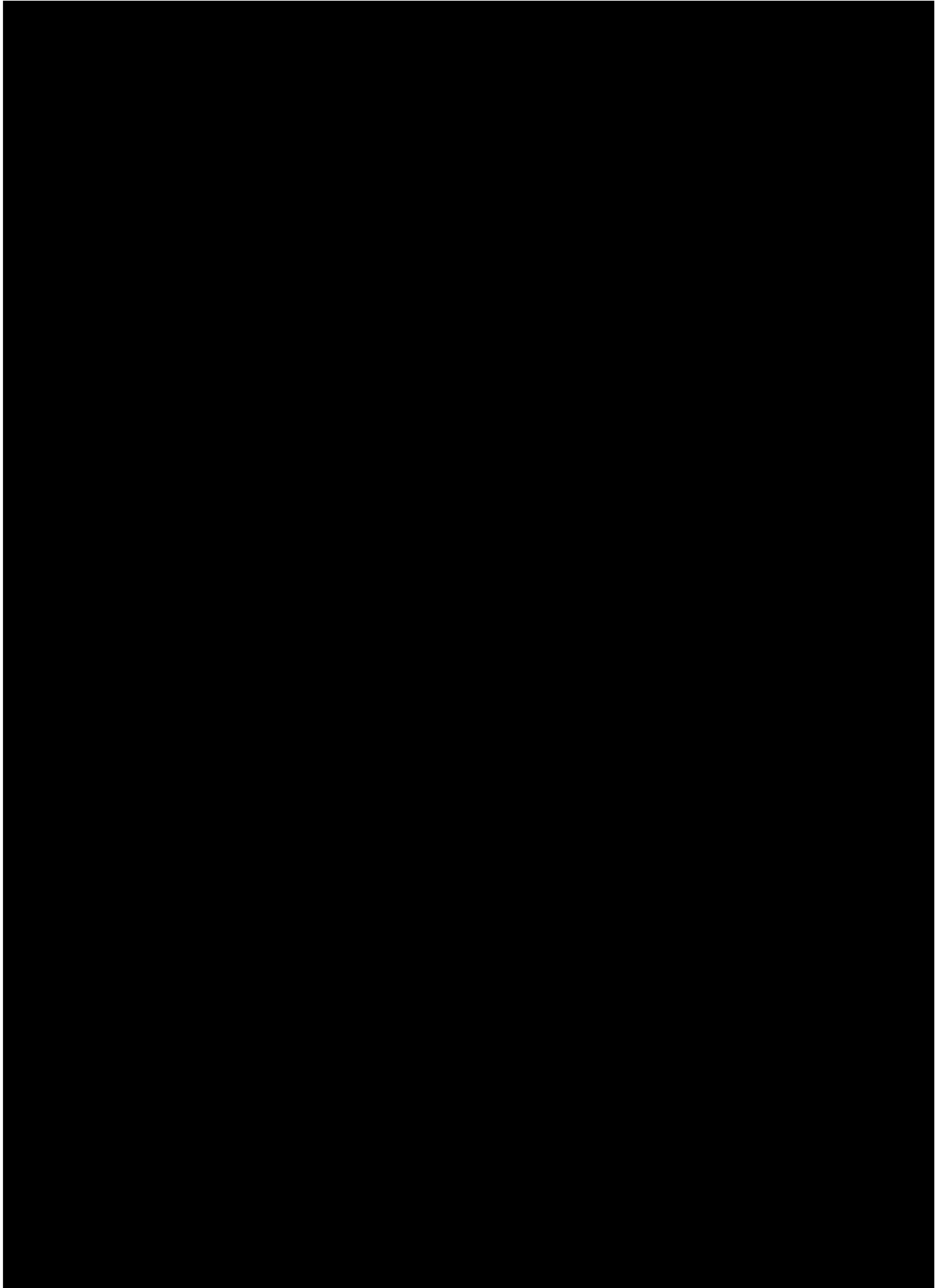
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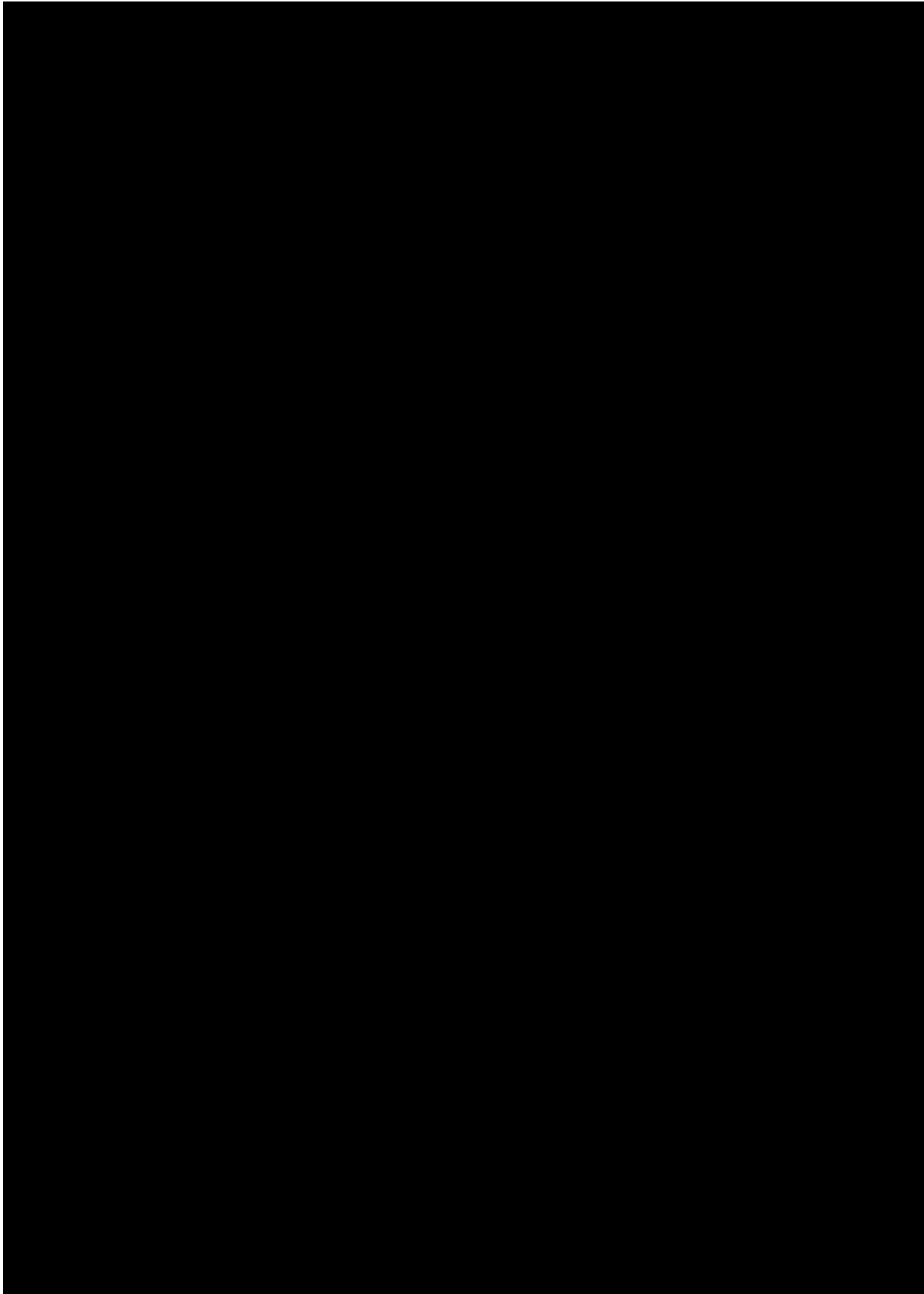
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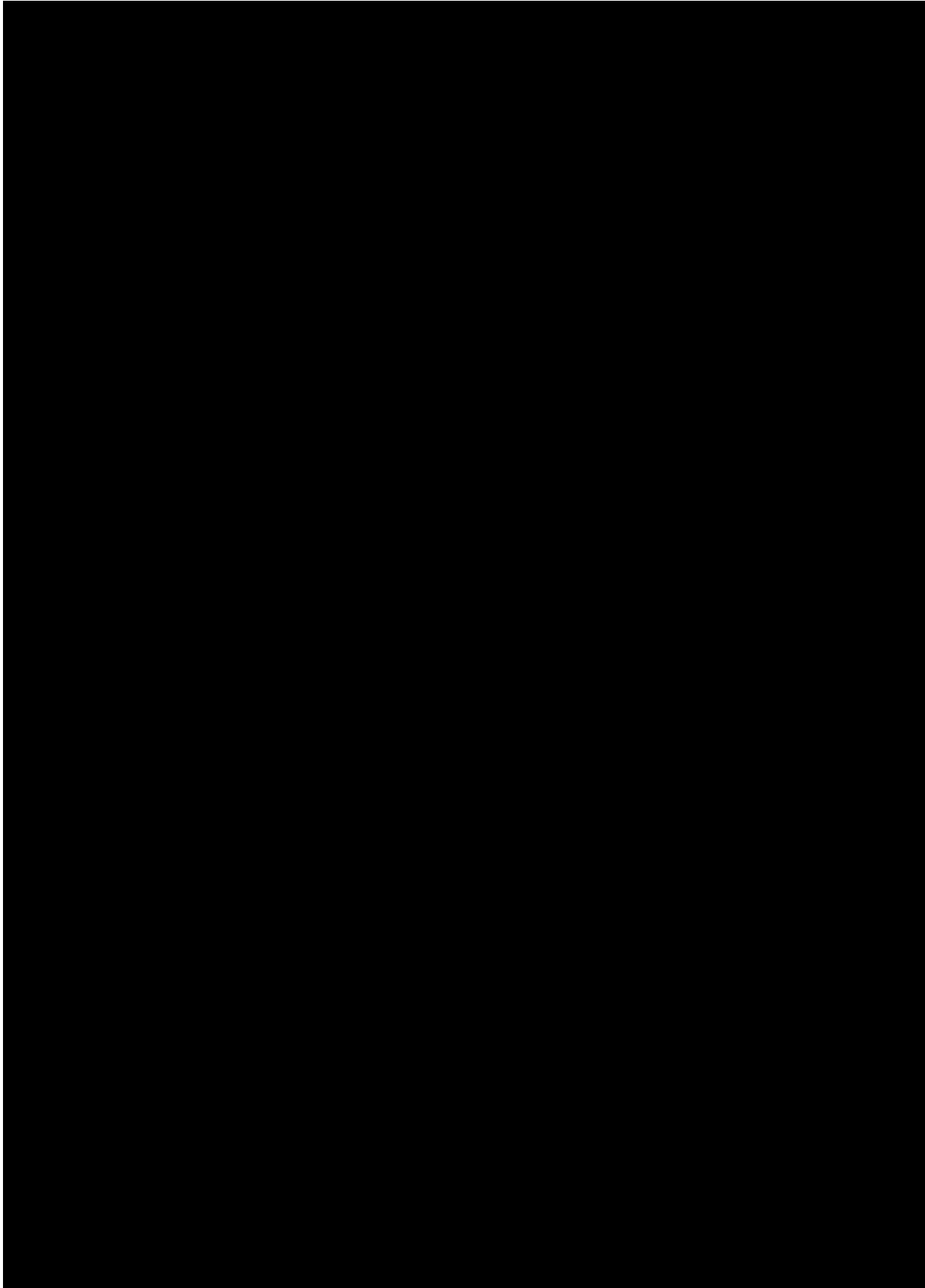
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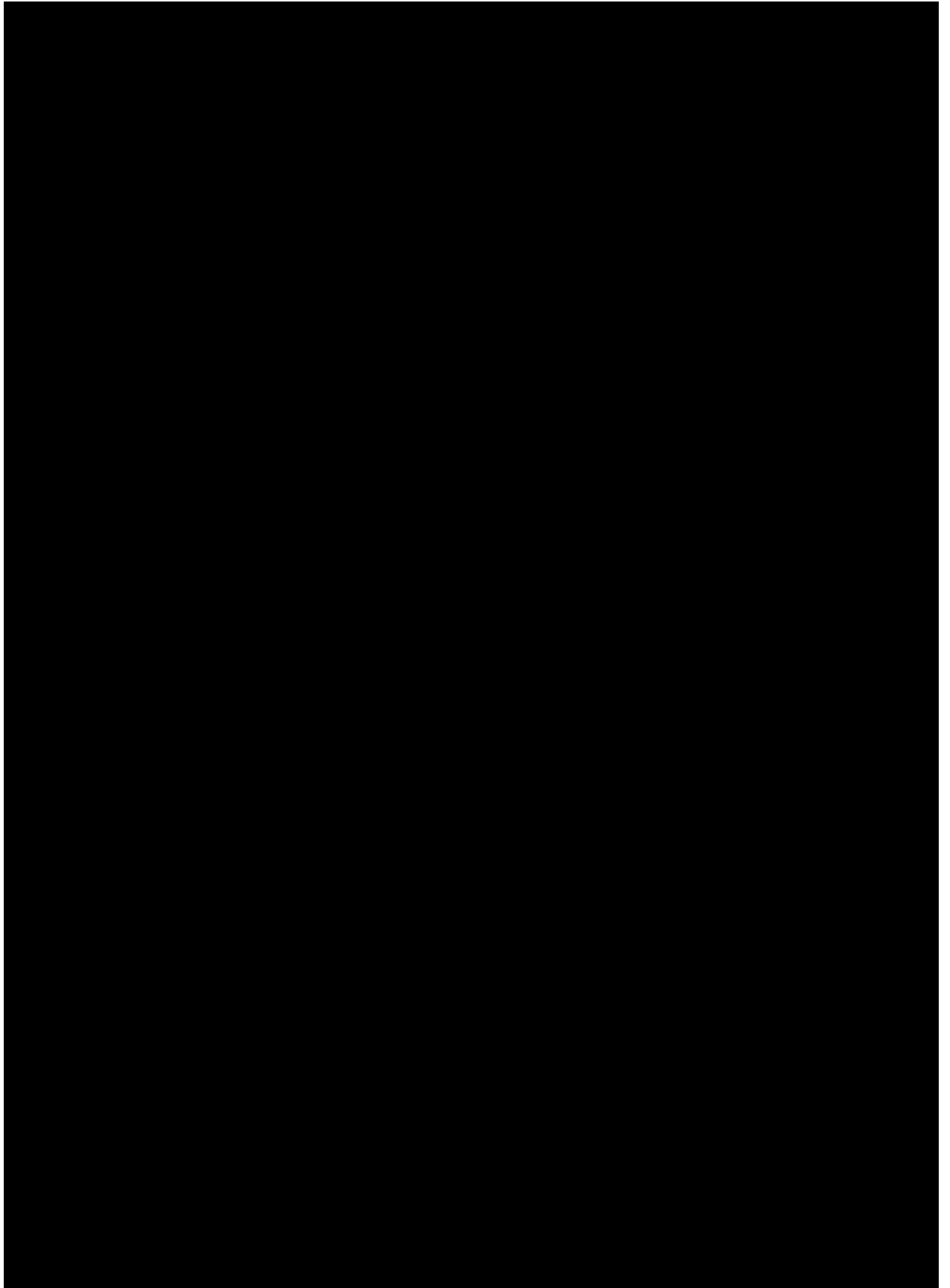
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16 PRESIDENT TERCIER: Okay. A lot of good
17 reason to make a break here.

18 Okay. So, we start again in one hour.

19 (Whereupon, at 12:53 p.m., the Hearing was
20 adjourned until 1:53 p.m., the same day.)

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AFTERNOON SESSION

PRESIDENT TERCIER: We may proceed.

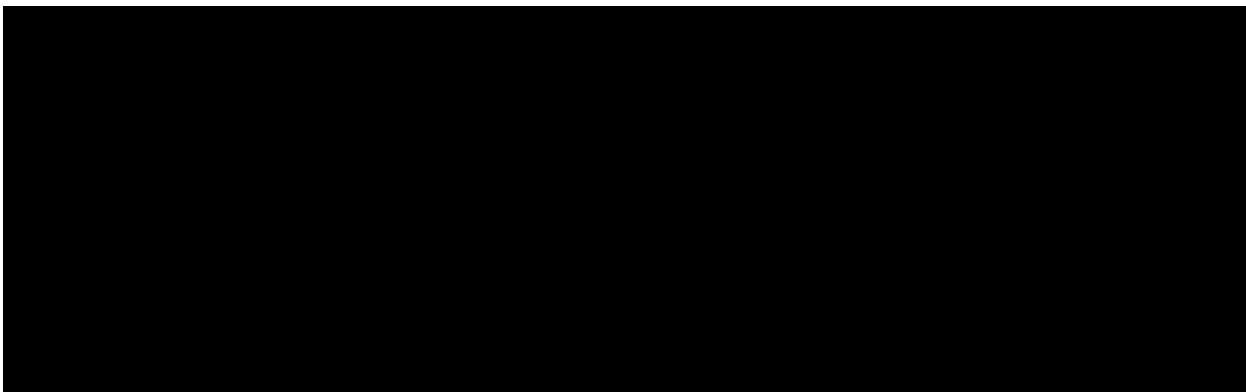
Good afternoon, ladies and gentlemen. Before going further, I would like to make two points.

The first point, for the second time in this Hearing, I forgot to mention to one of the witnesses that he was under testimony. We did it specially, in the presence of our Secretary, just right after he had left the room. My apologies.

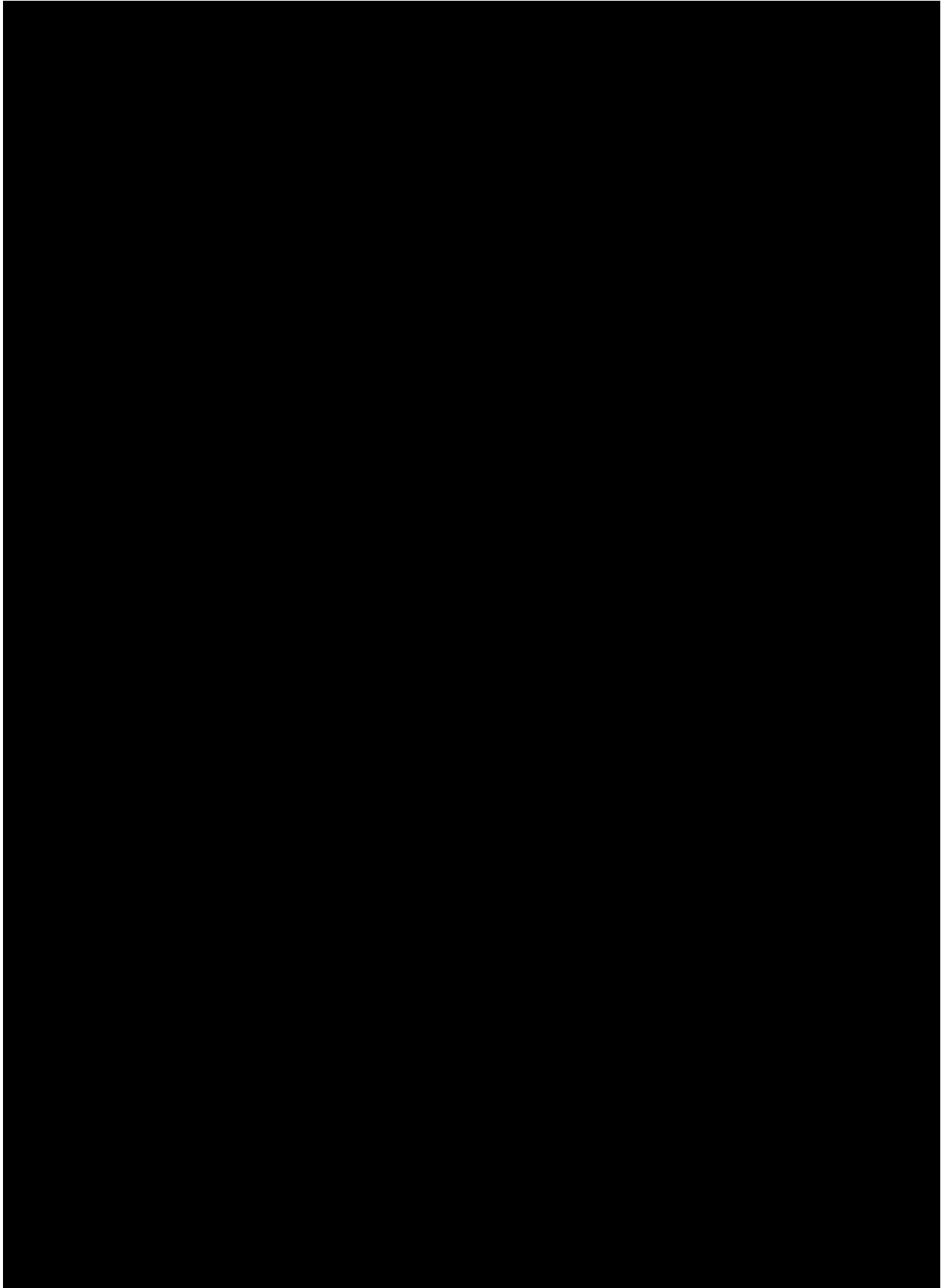
The second point is Ms. de Germiny made a request. We, therefore, seek permission to show him--that is, Mr. Jurca--the transcript from what we just heard on redirect.

To show it before is not allowed. But this does not exclude you to show him when you are in direct. Okay? Good.

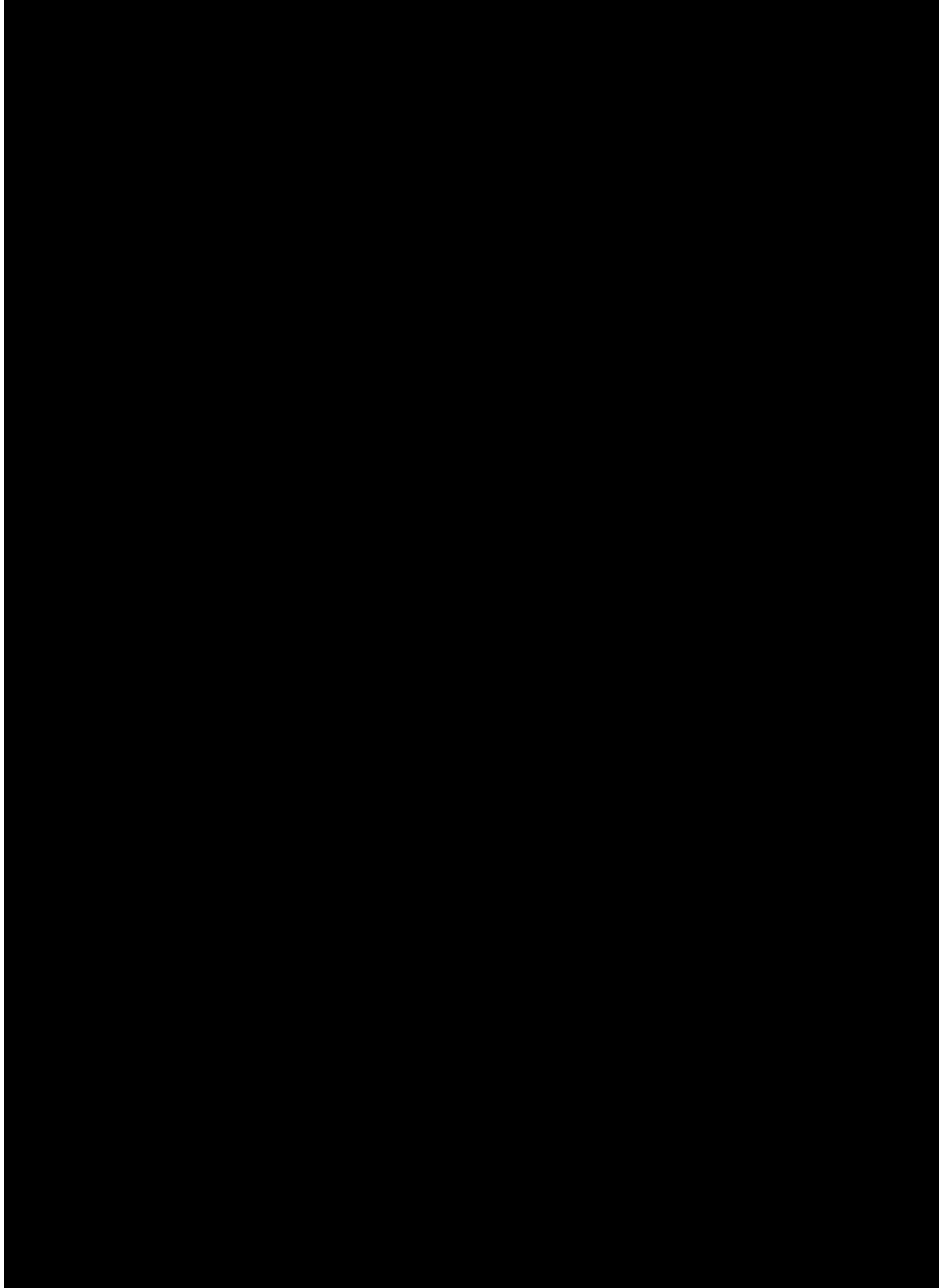
So, Mr. Greenwald, you have the floor.



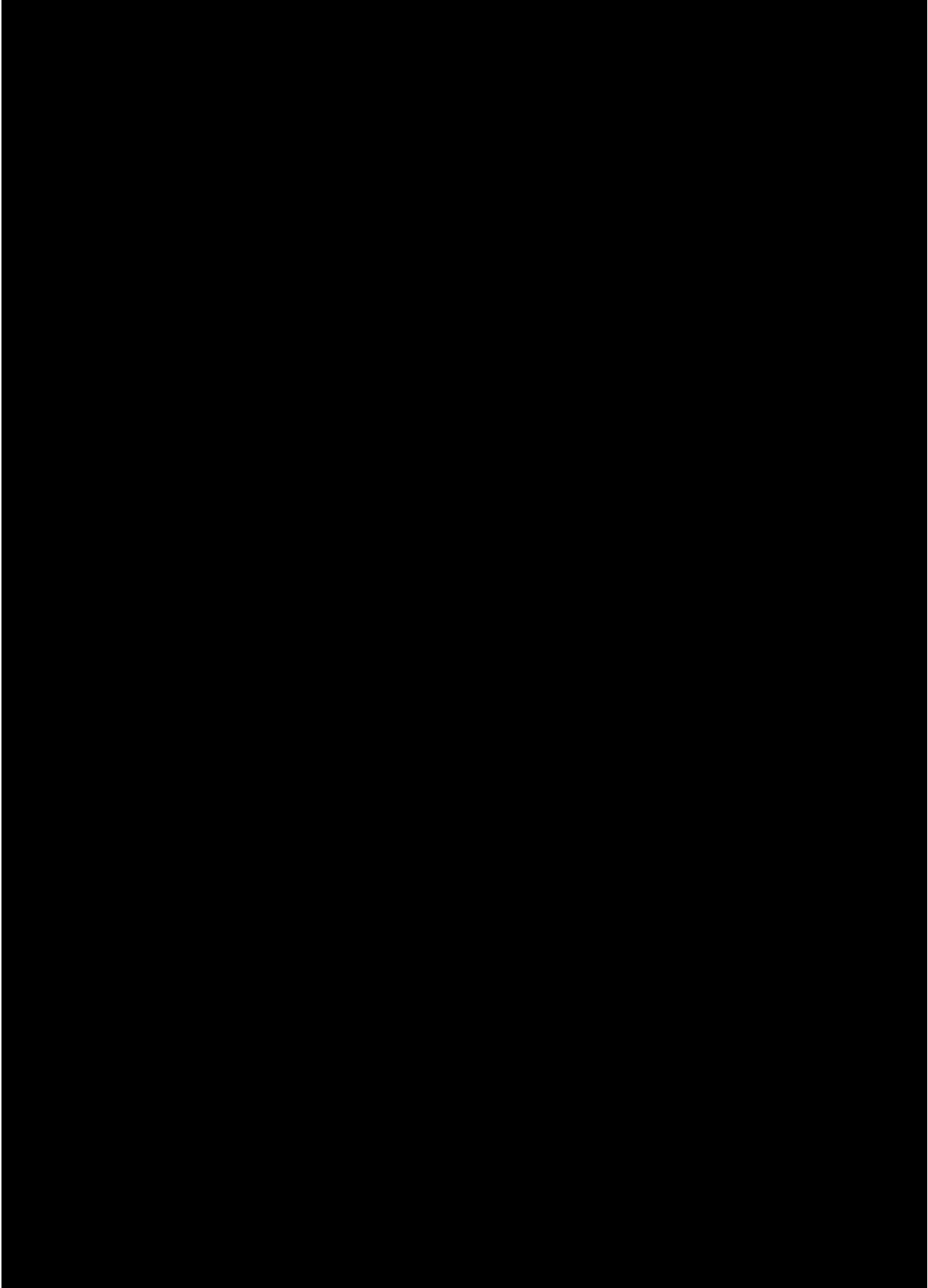
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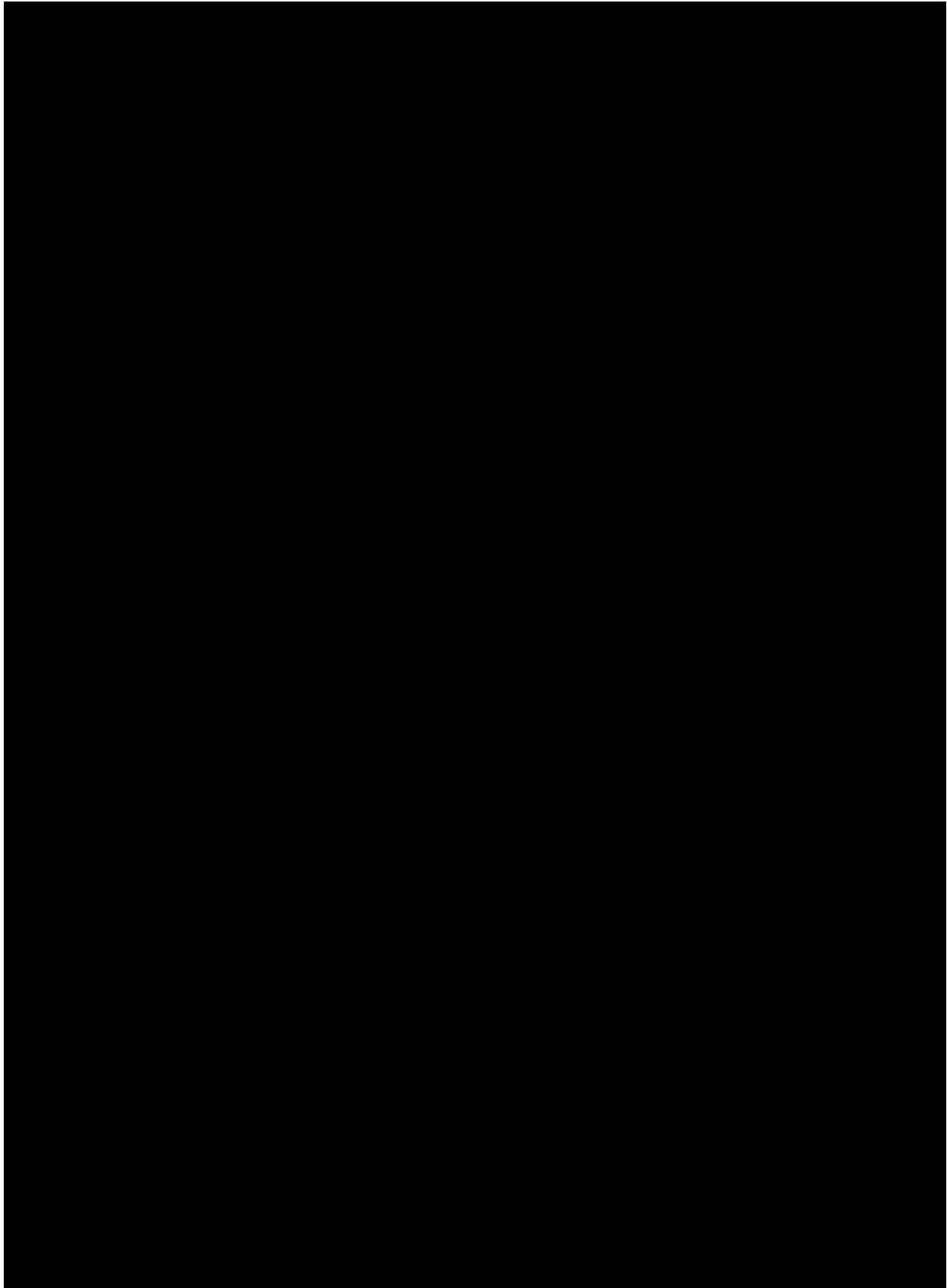
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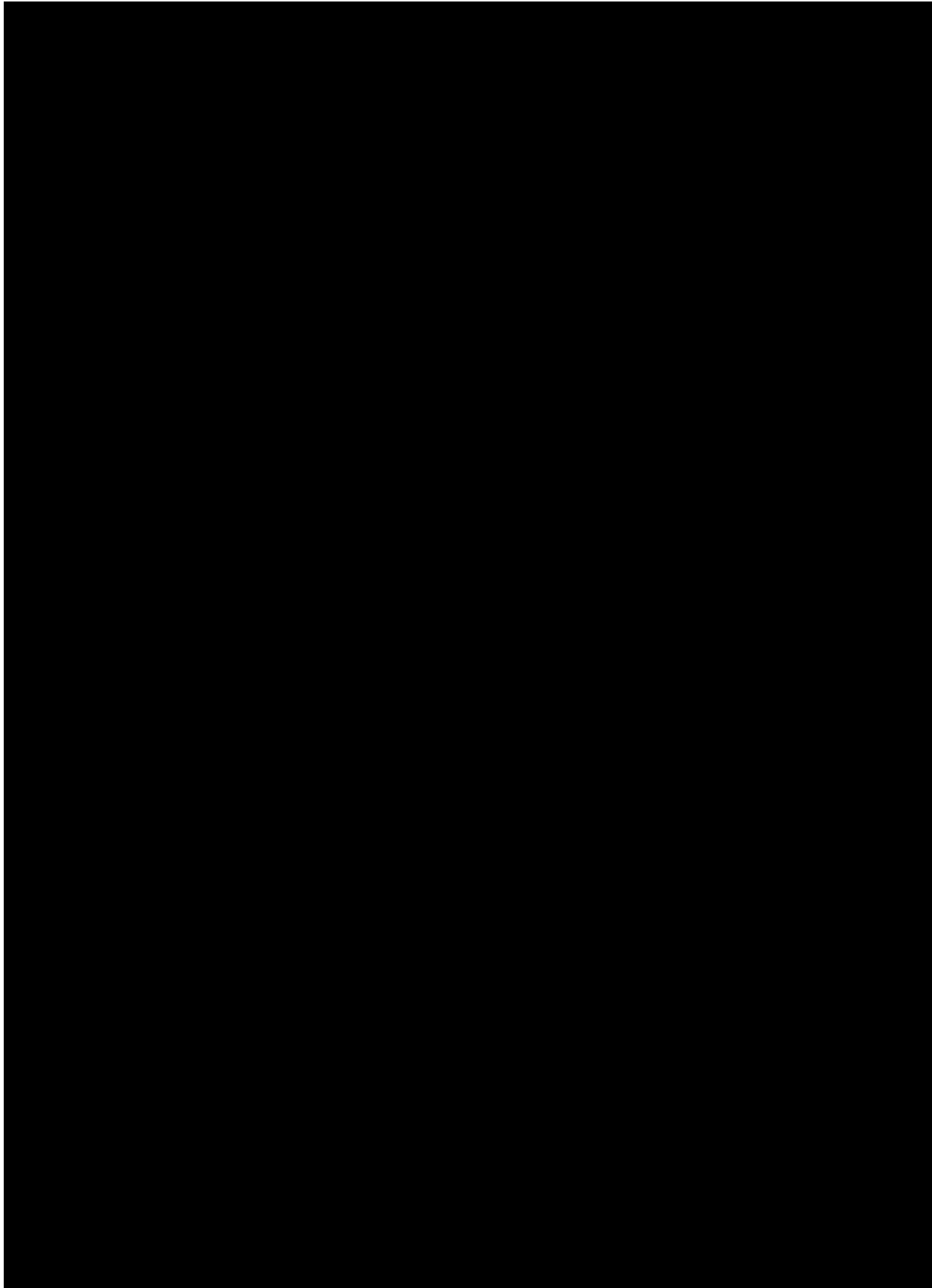
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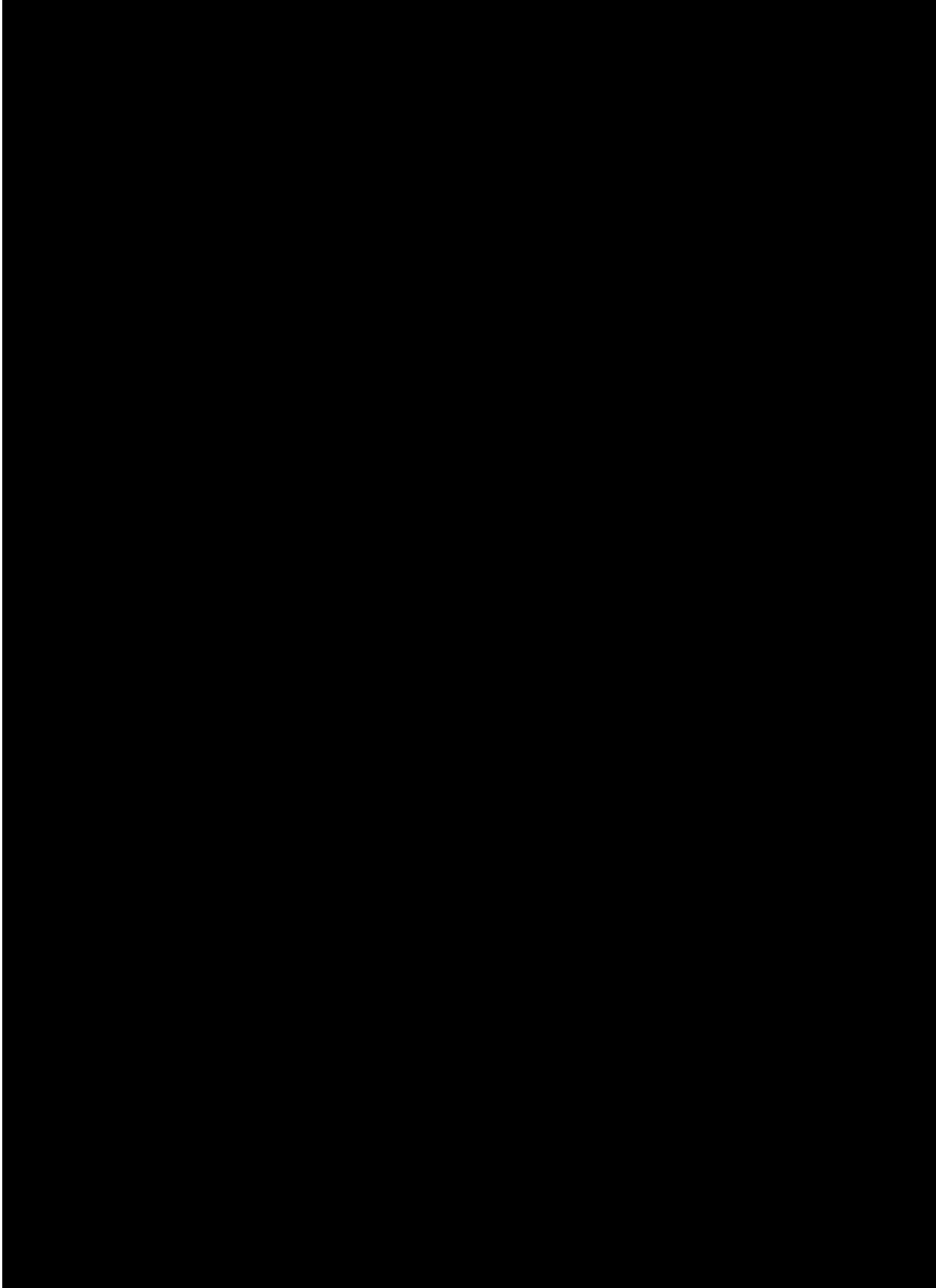
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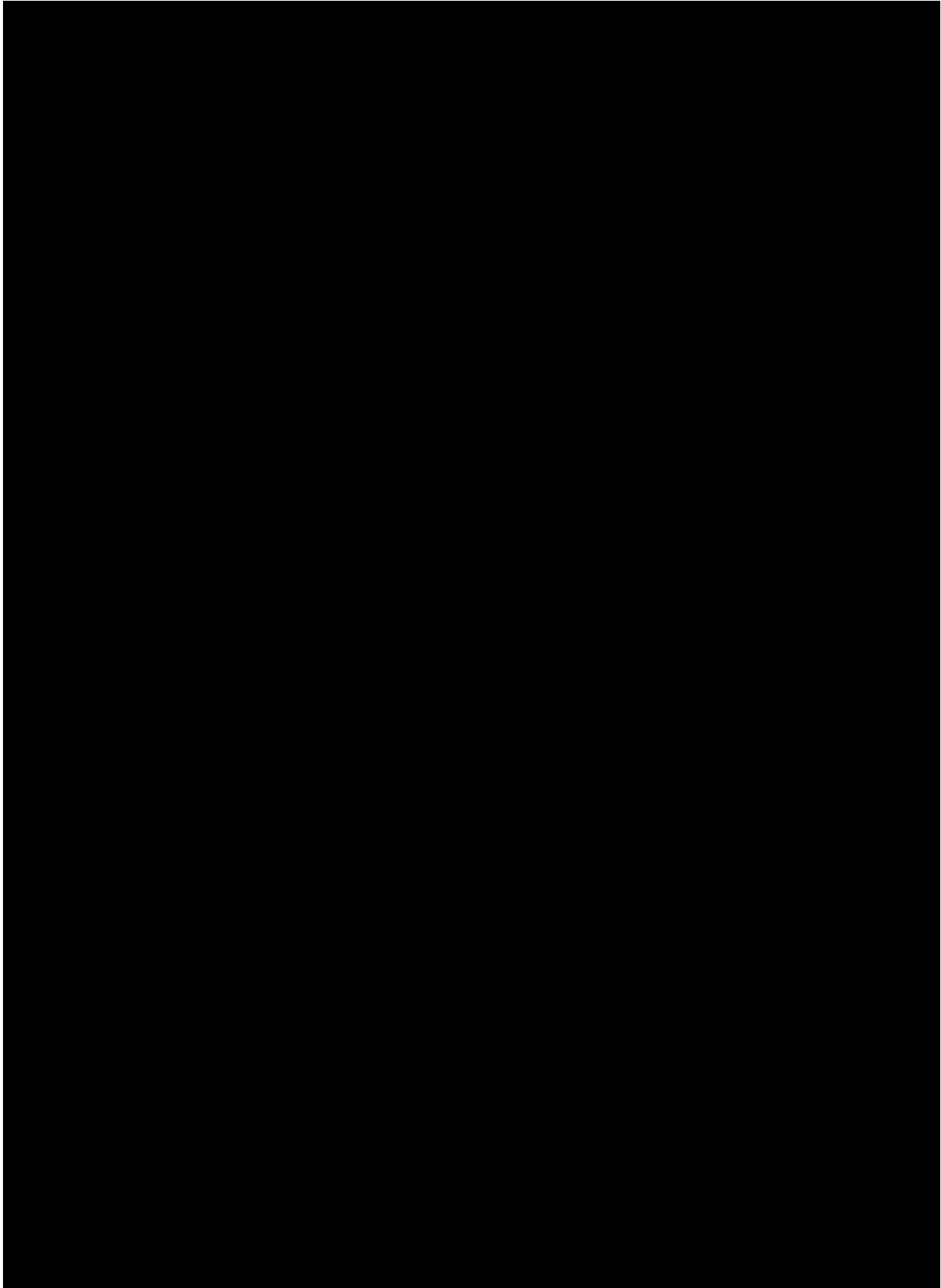
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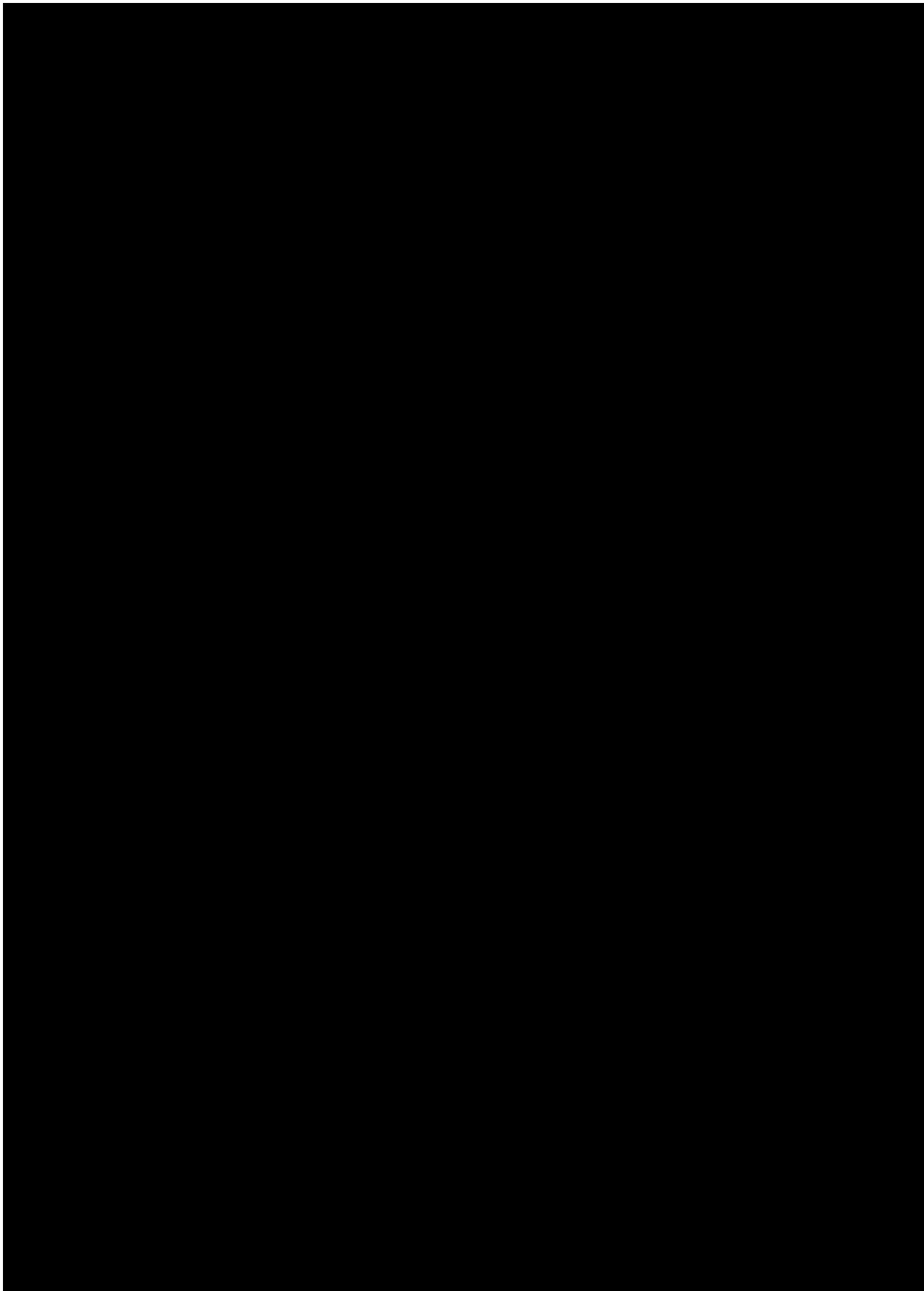
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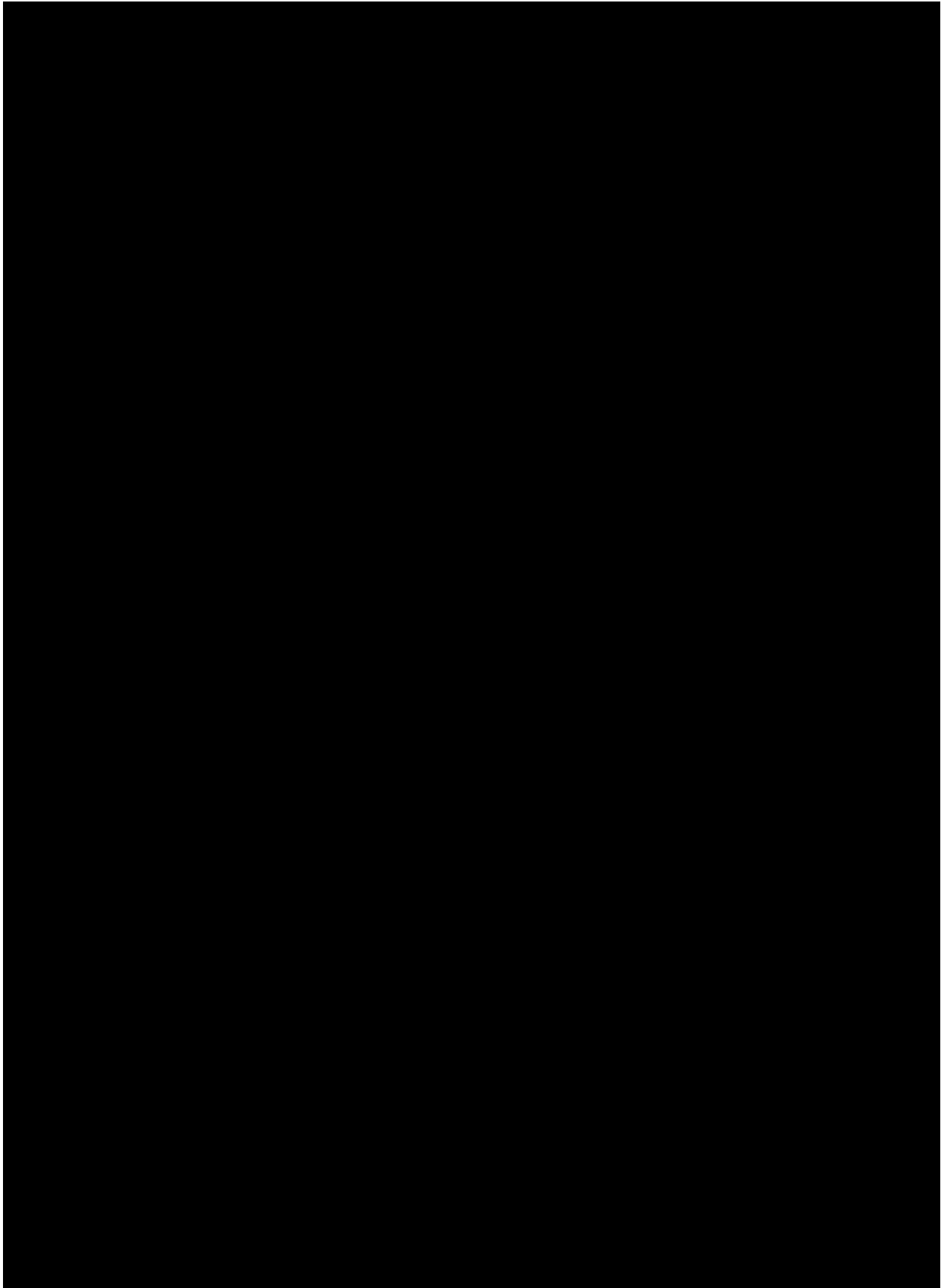
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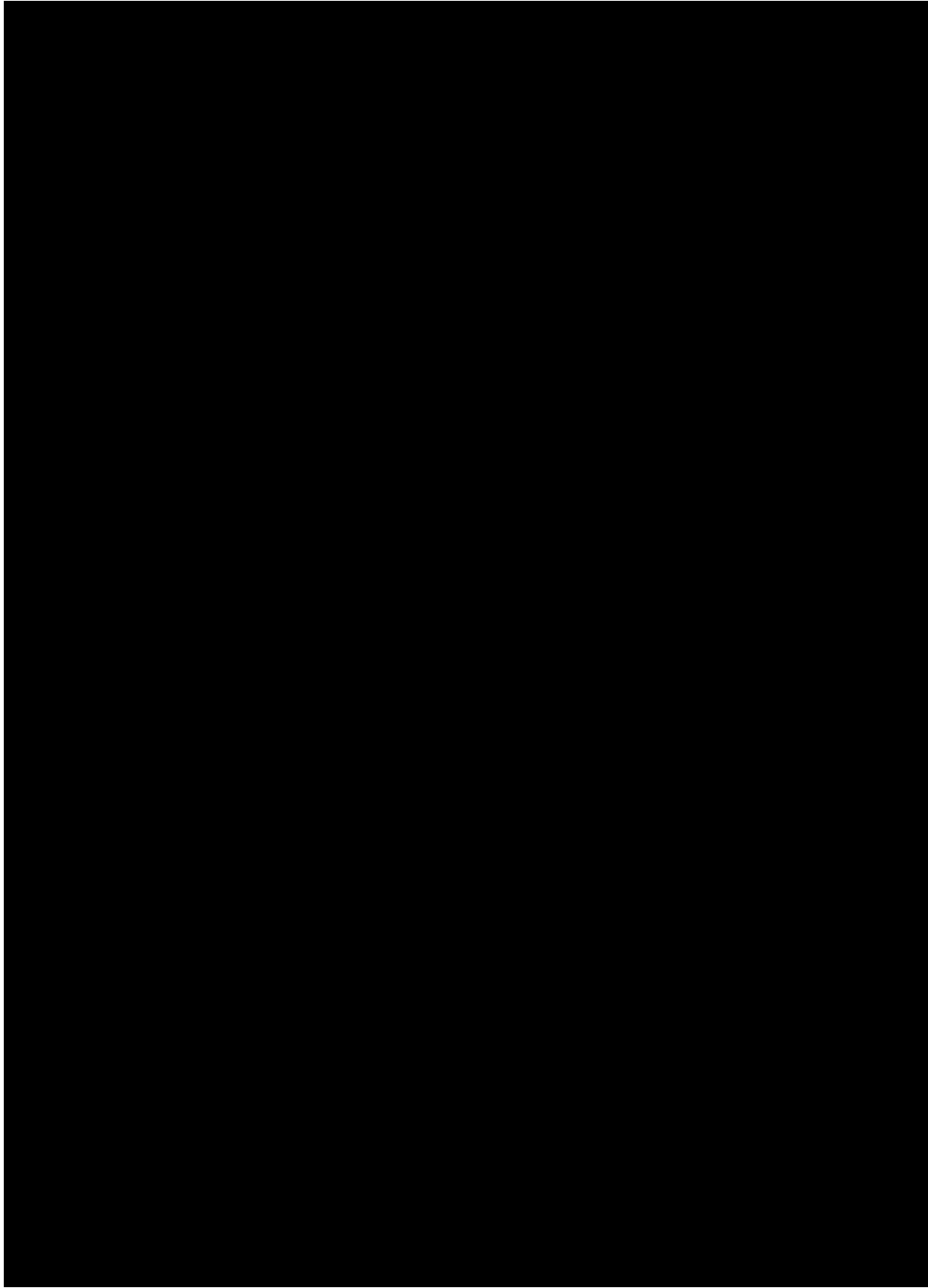
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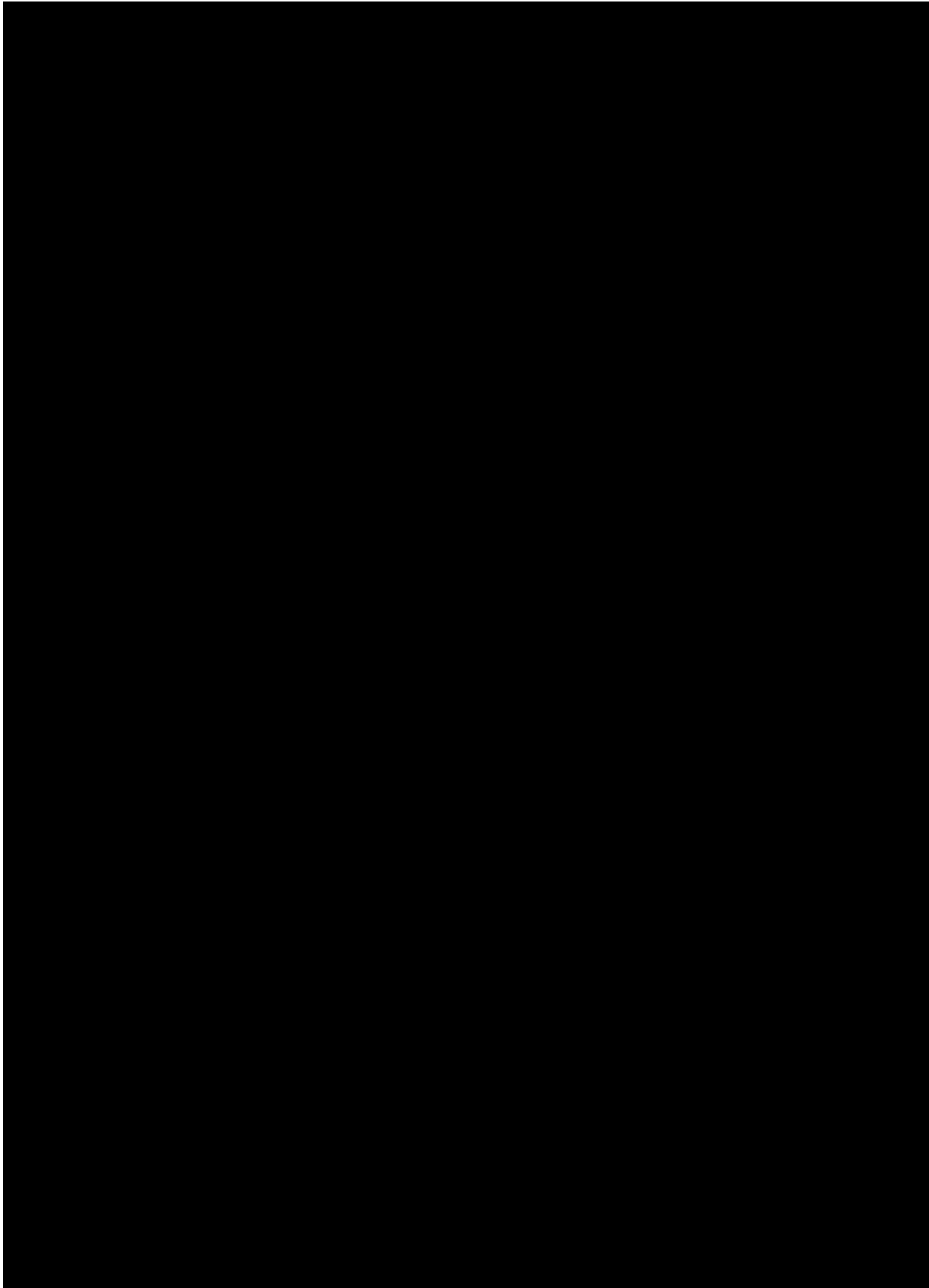
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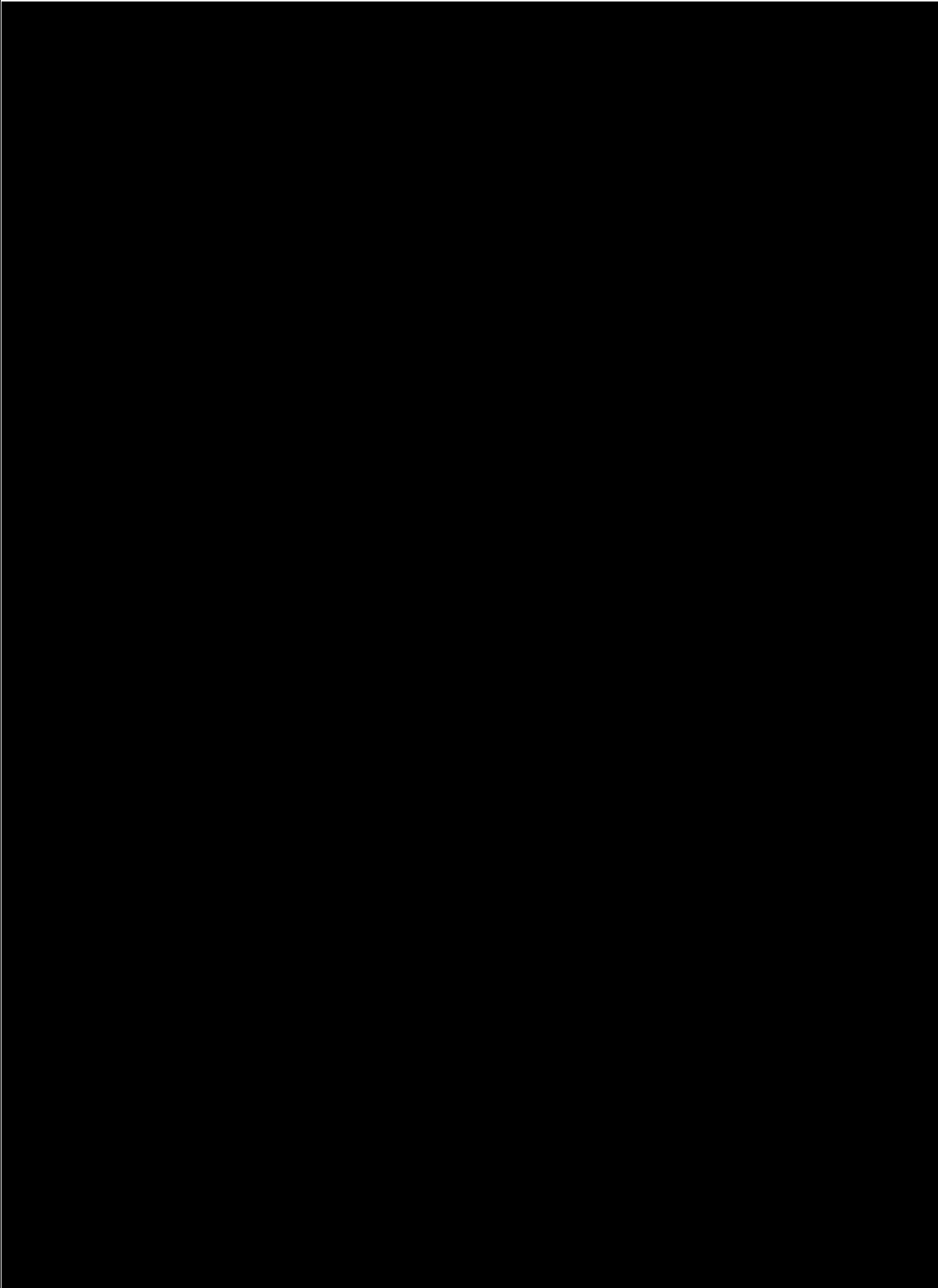
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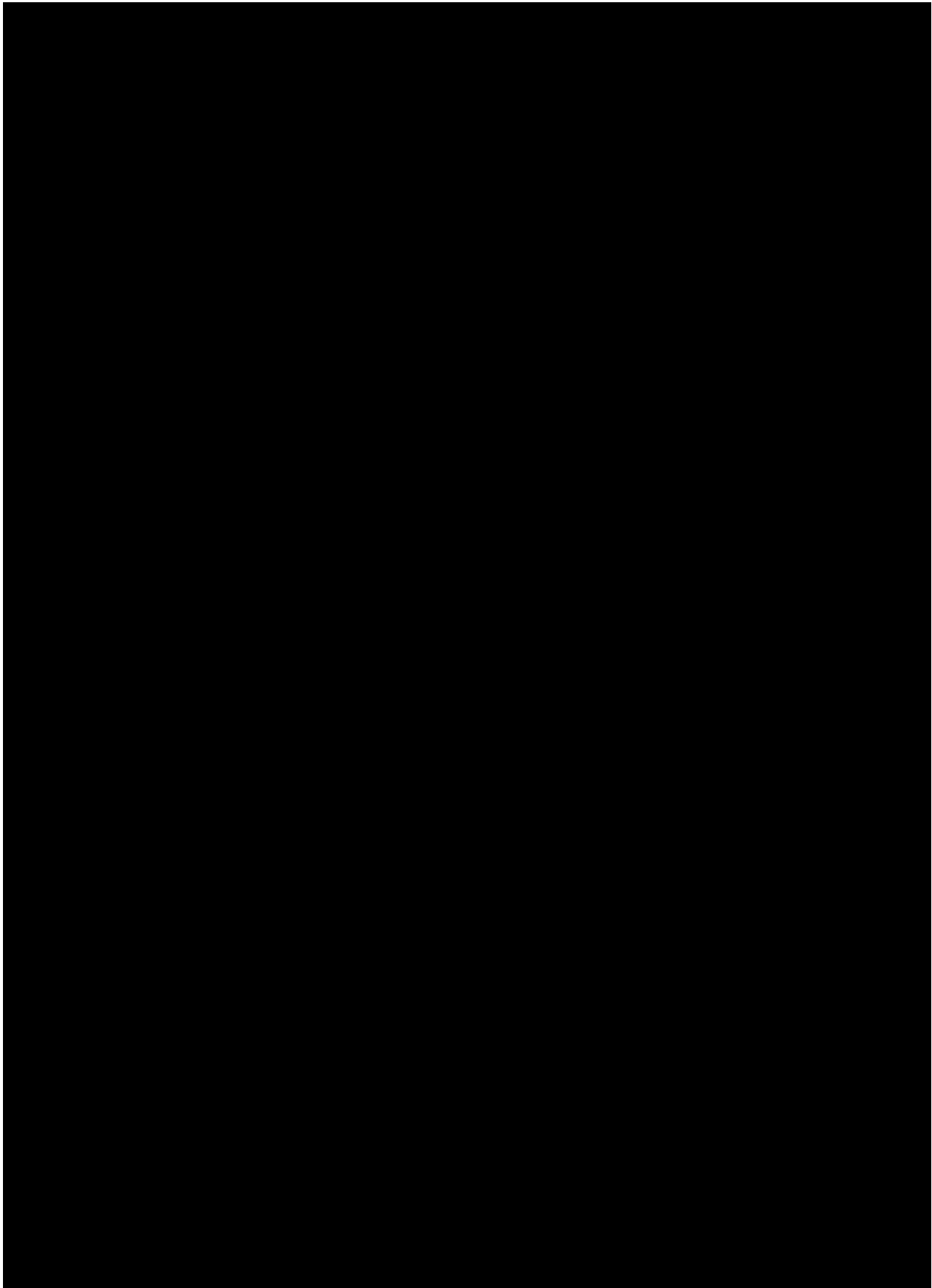
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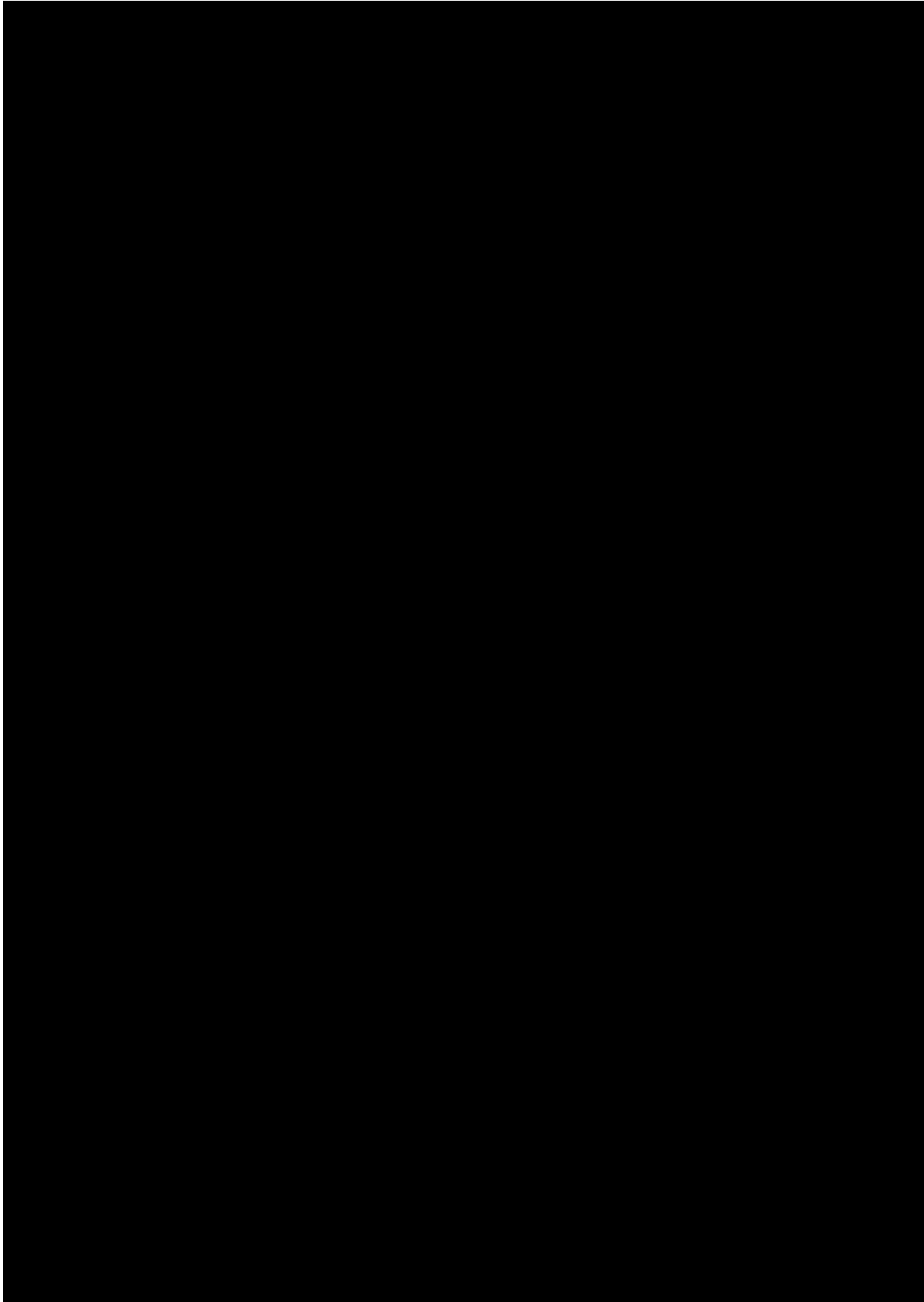
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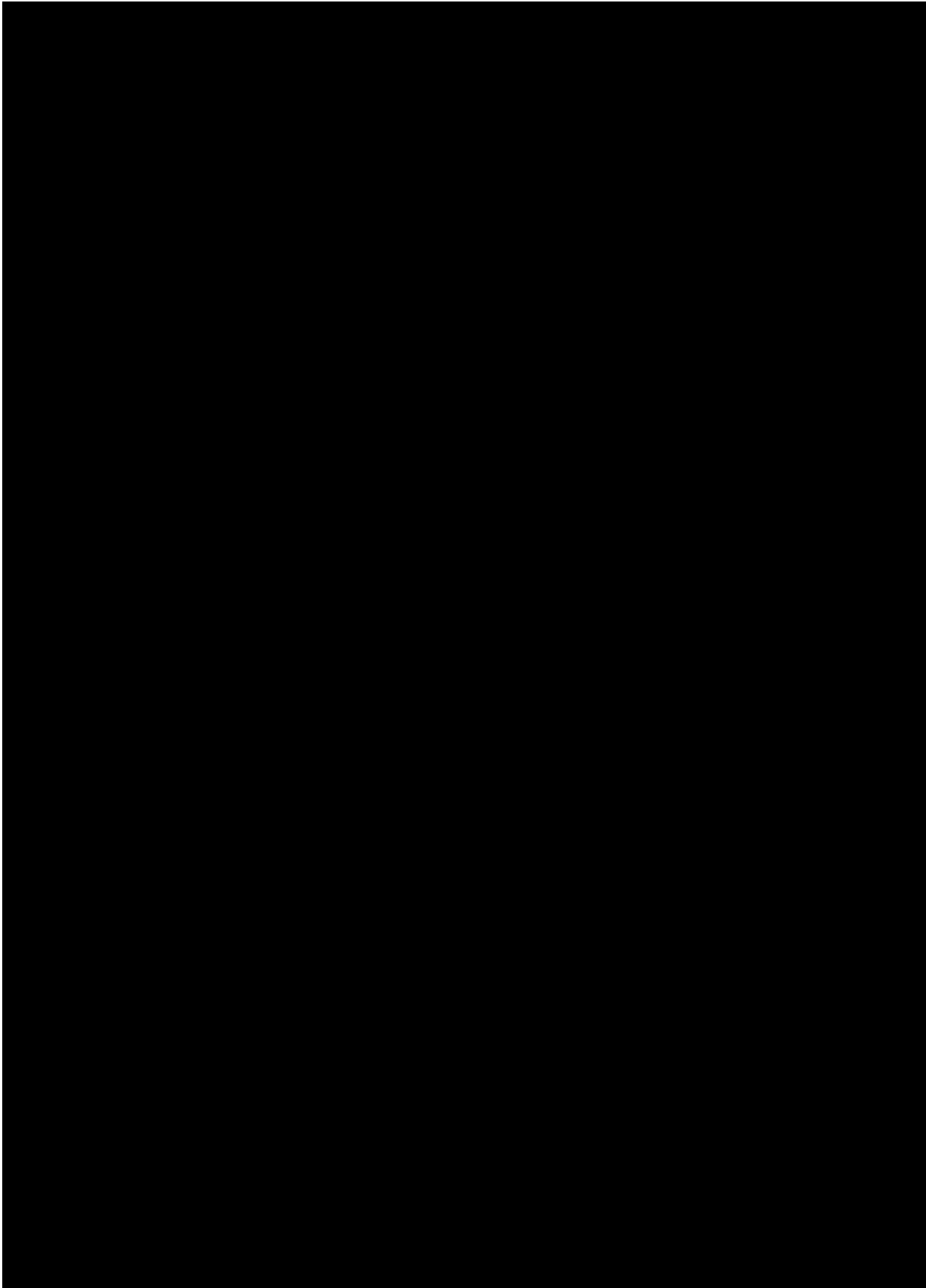
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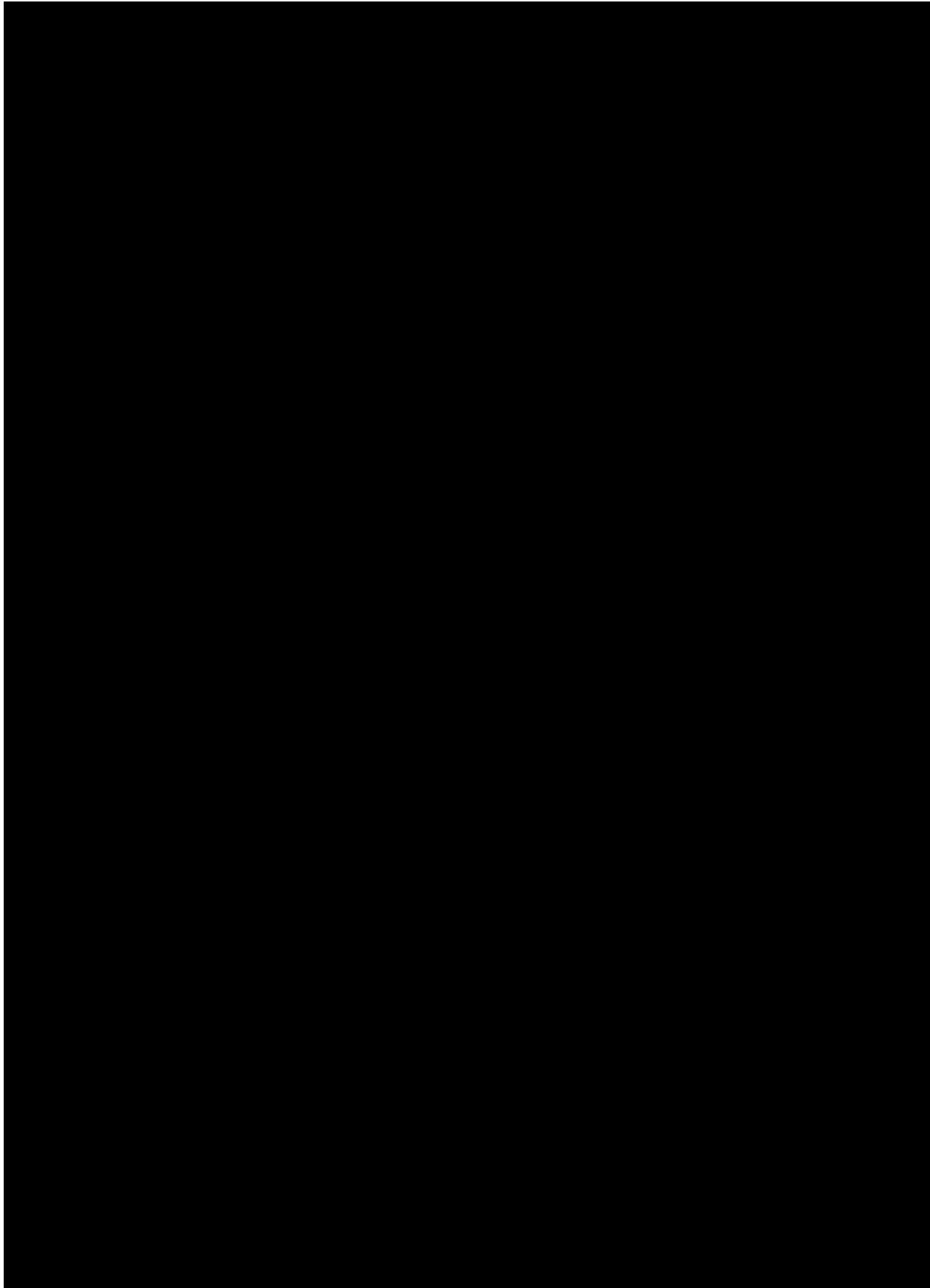
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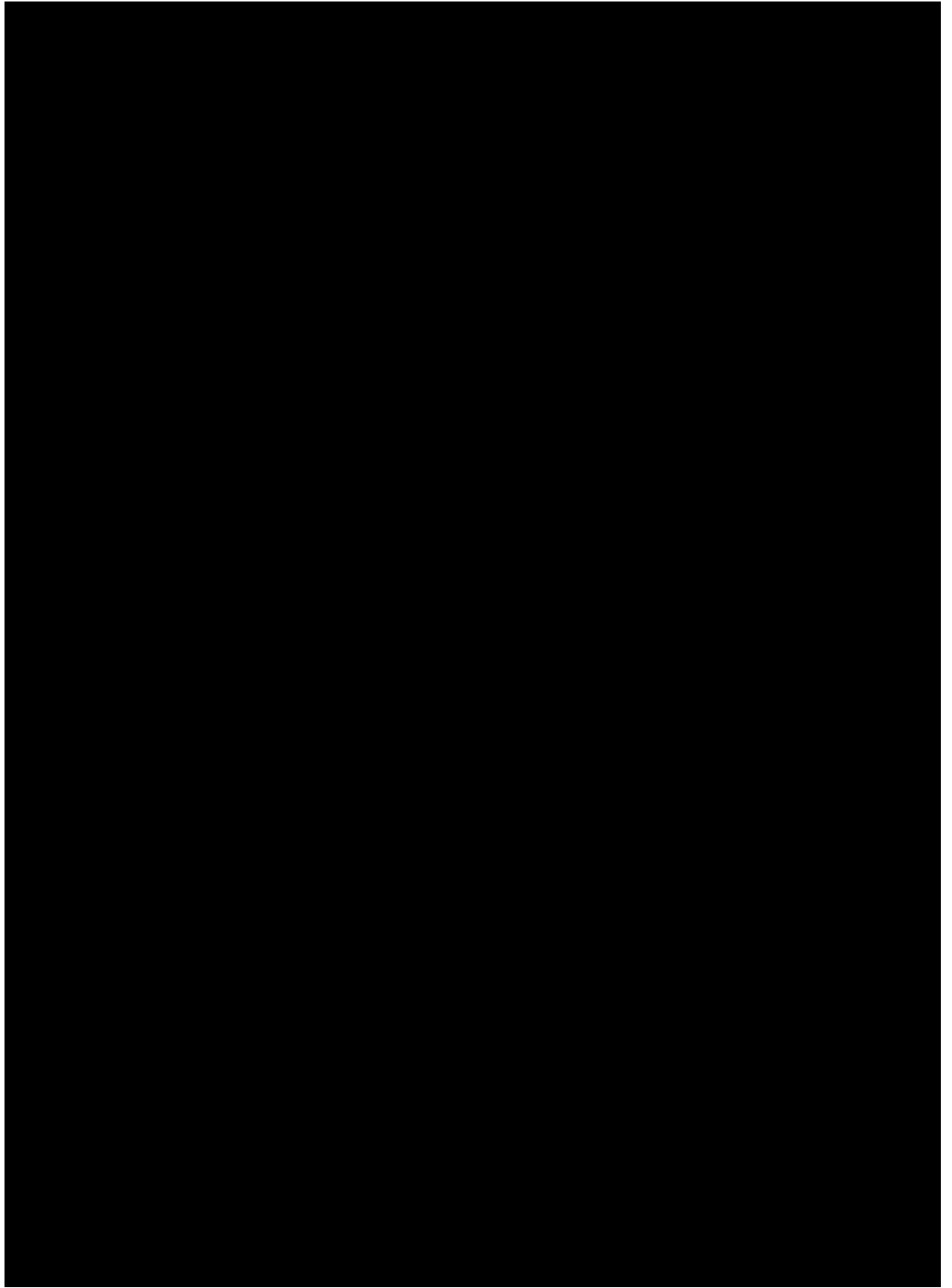
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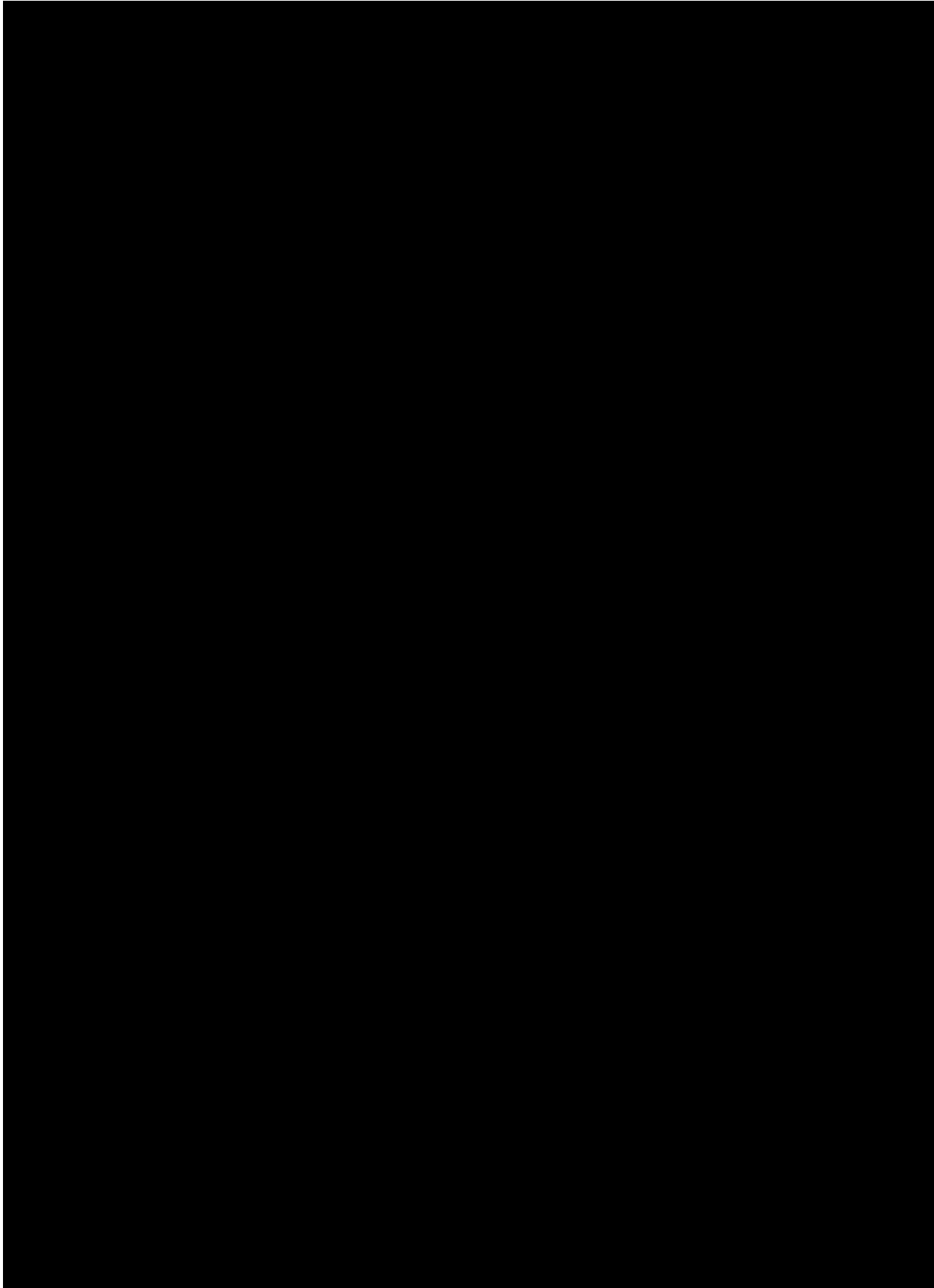
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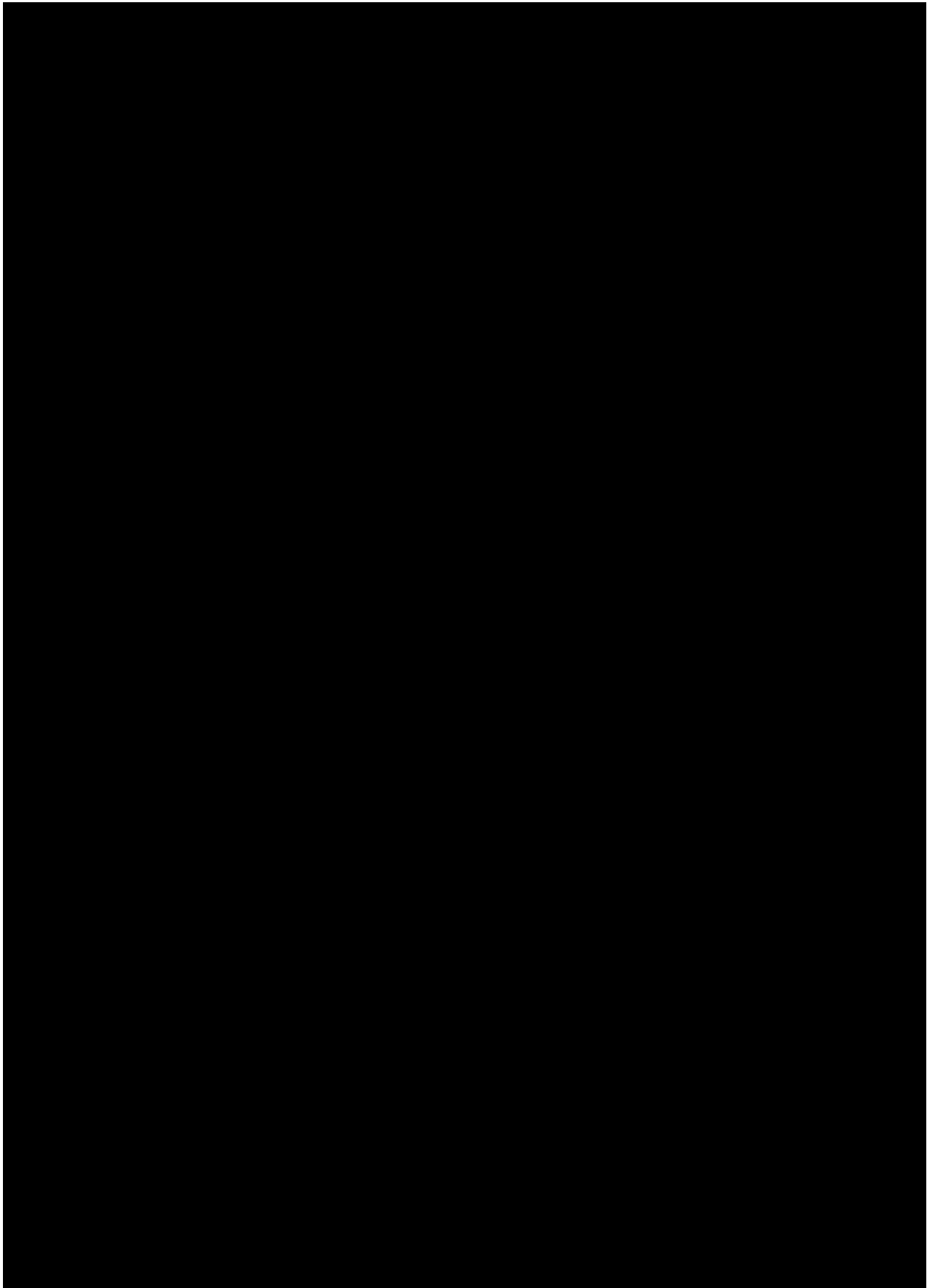
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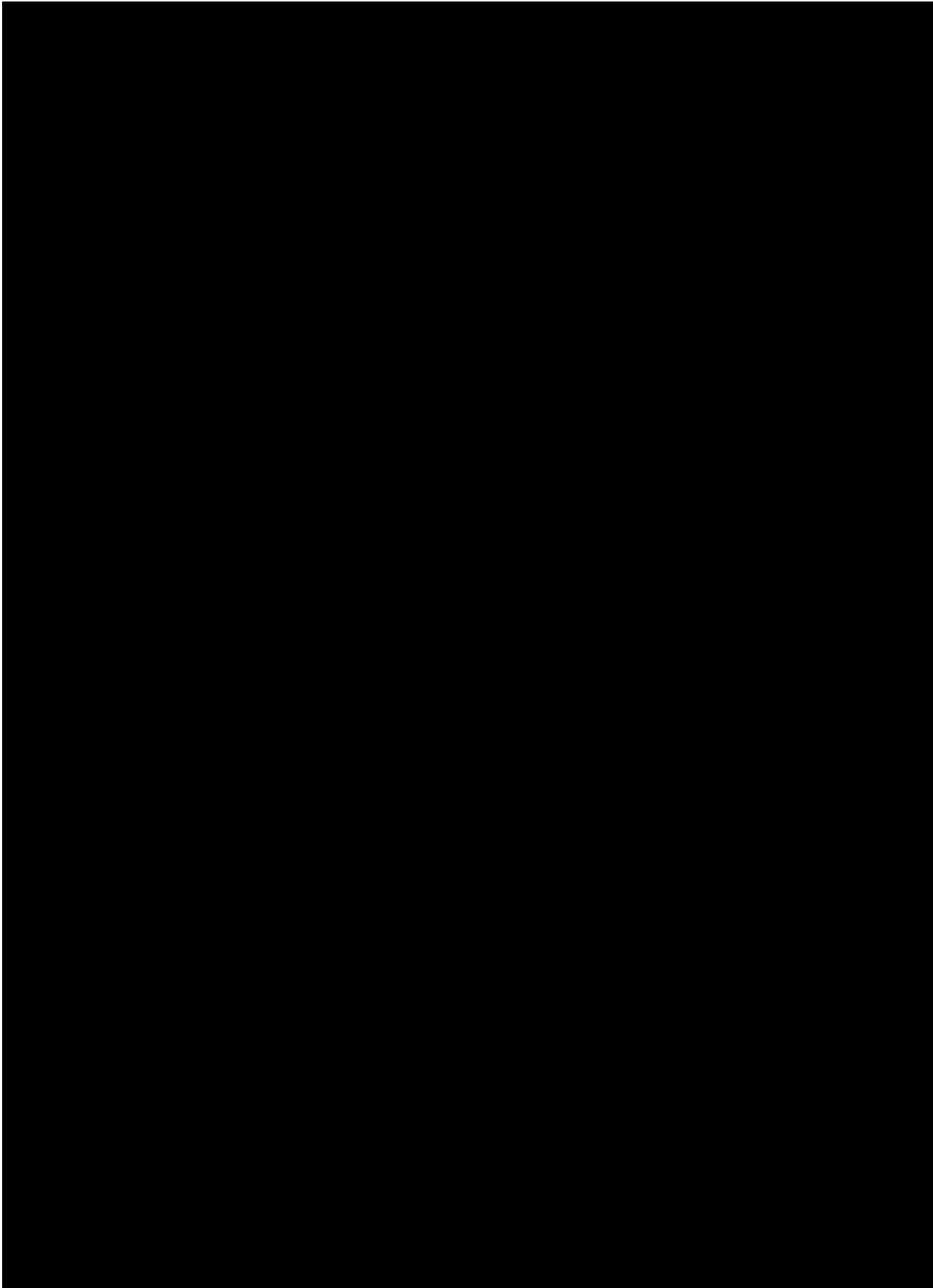
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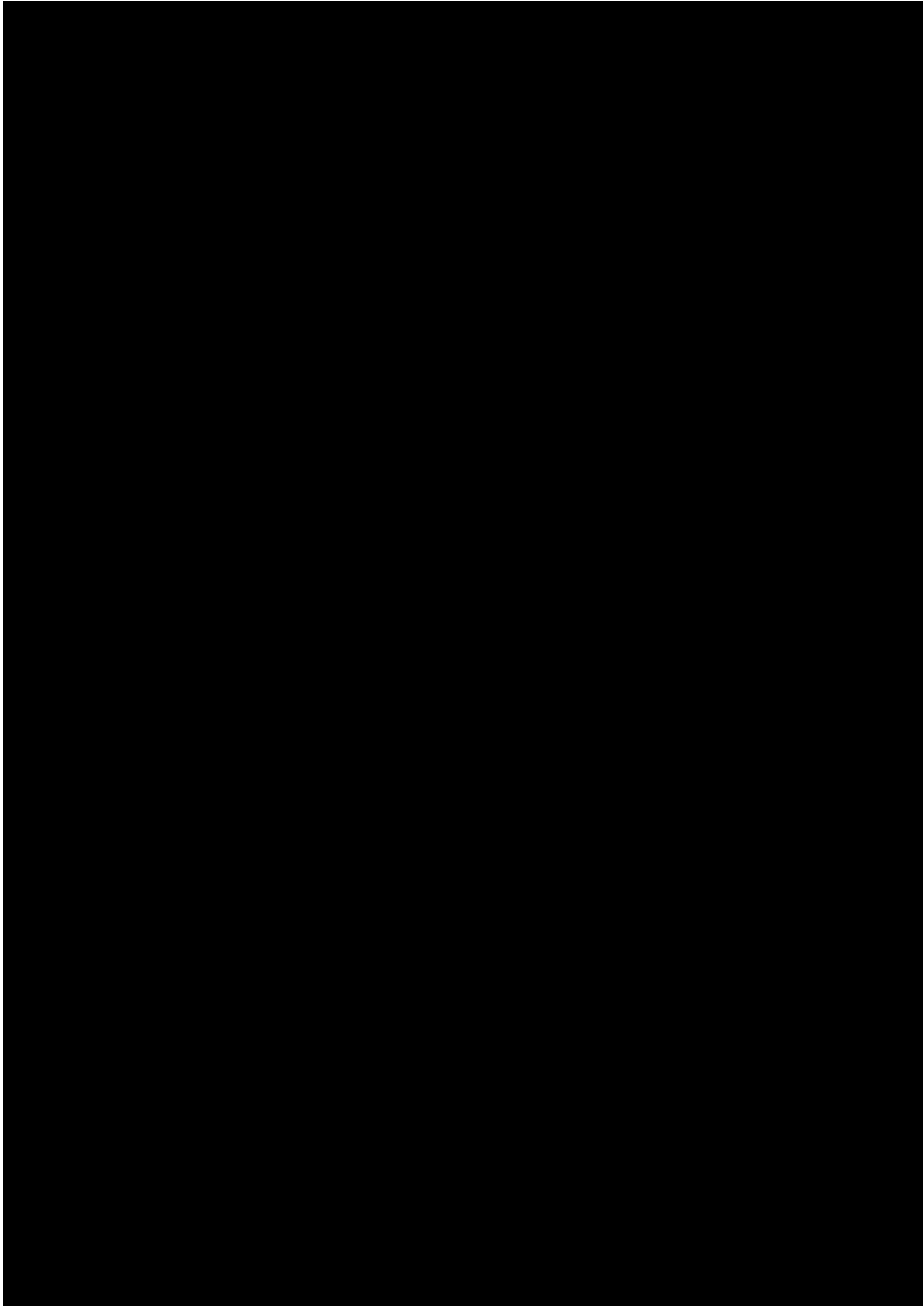
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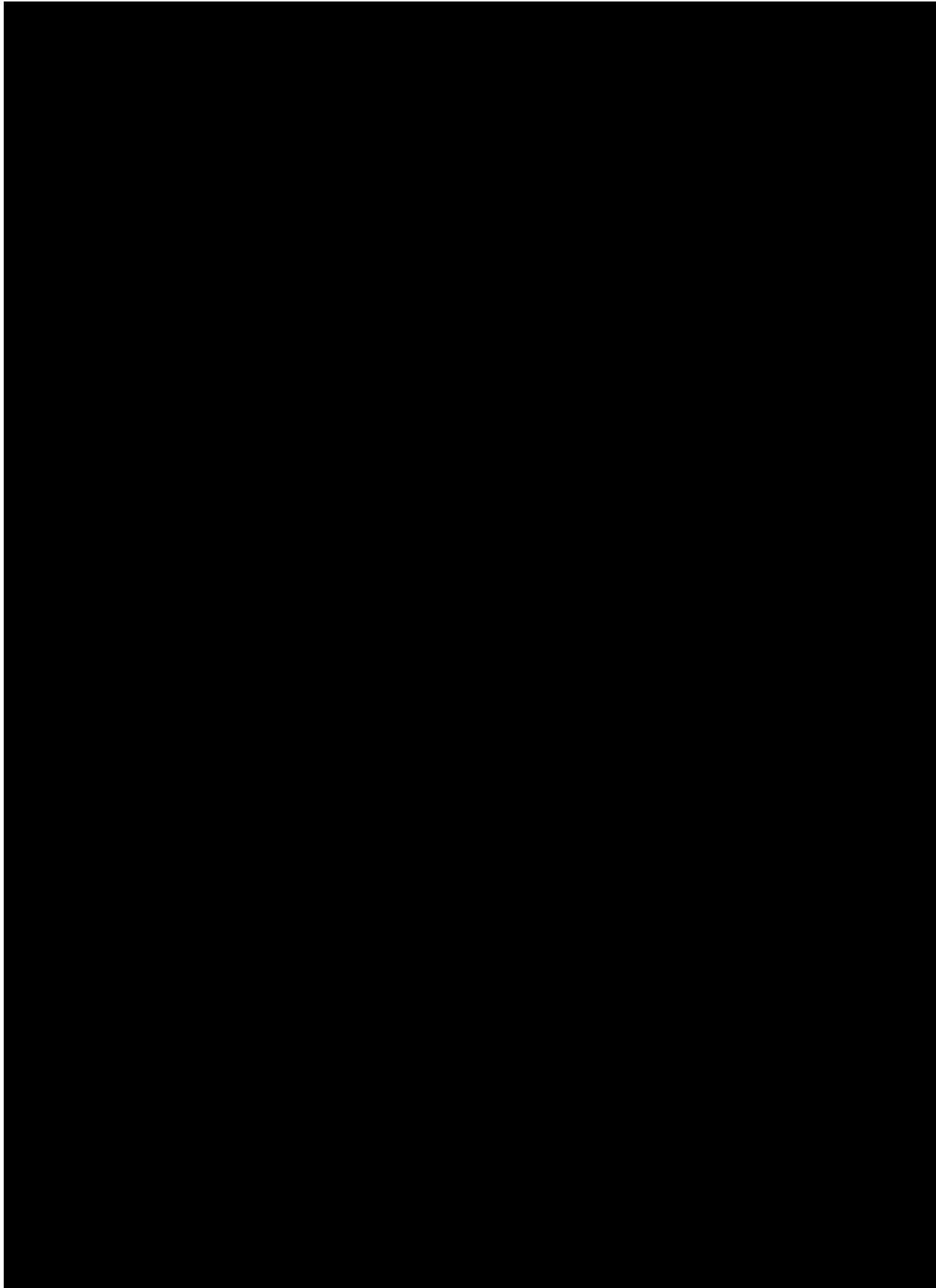
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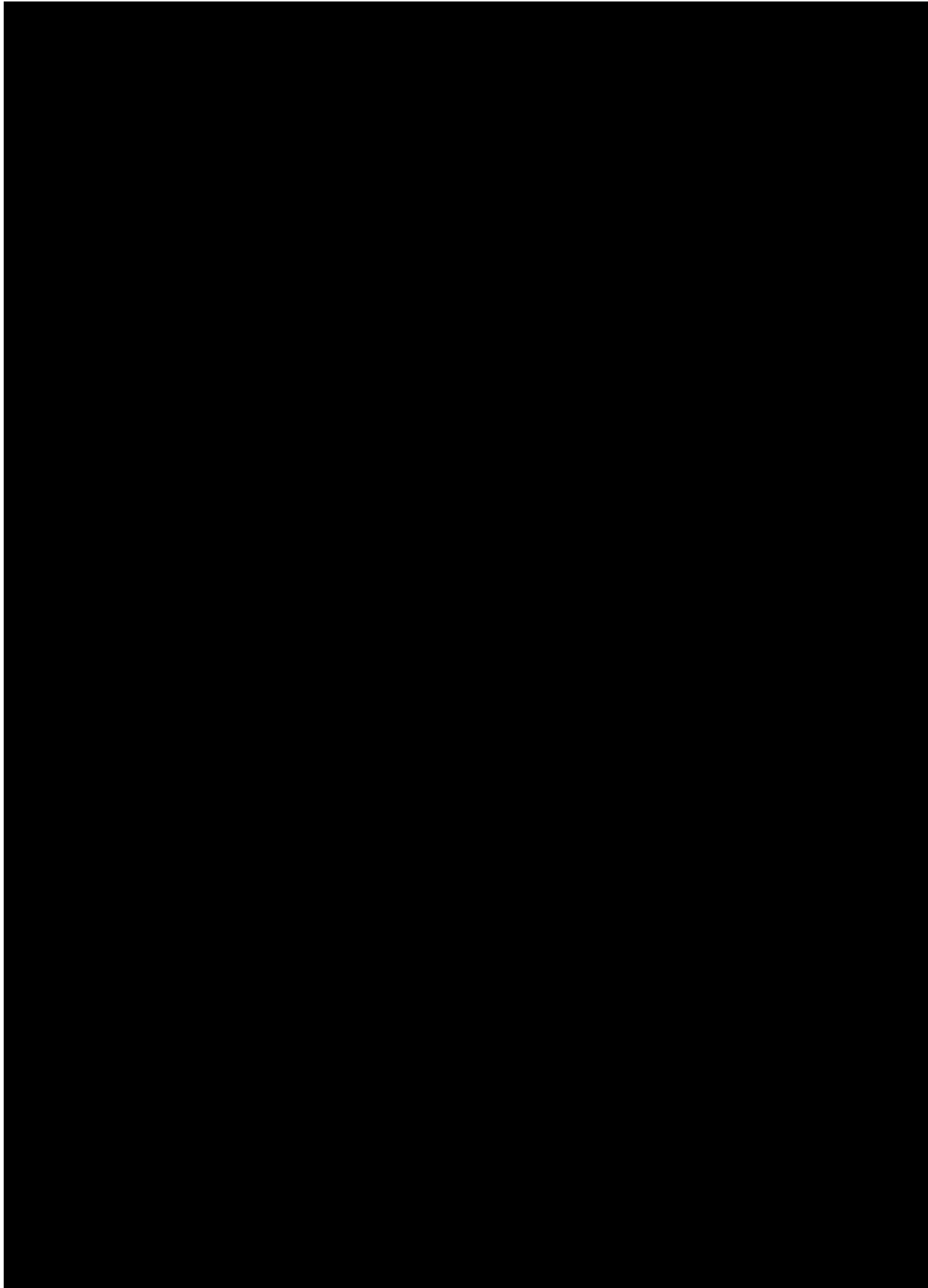
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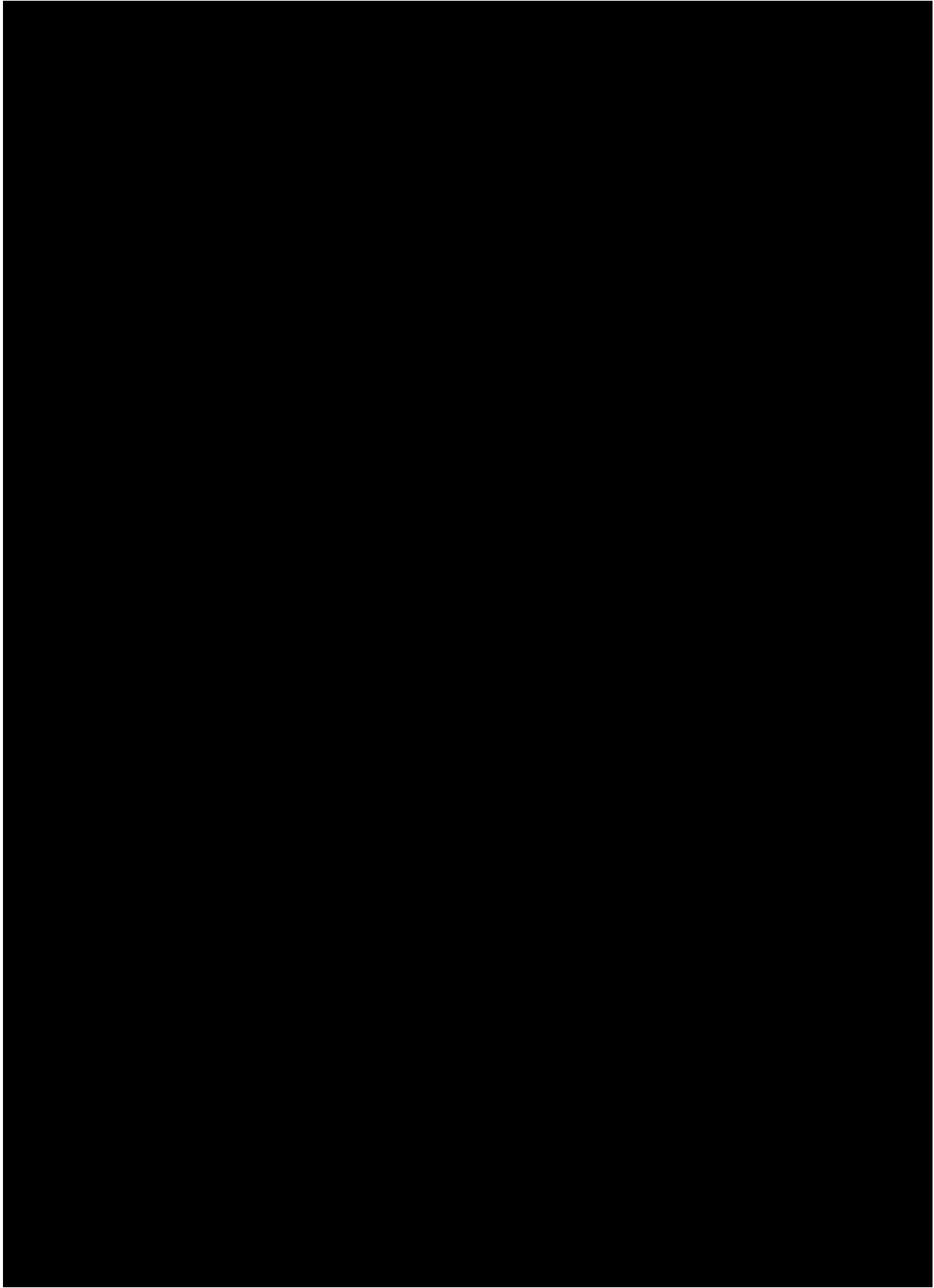
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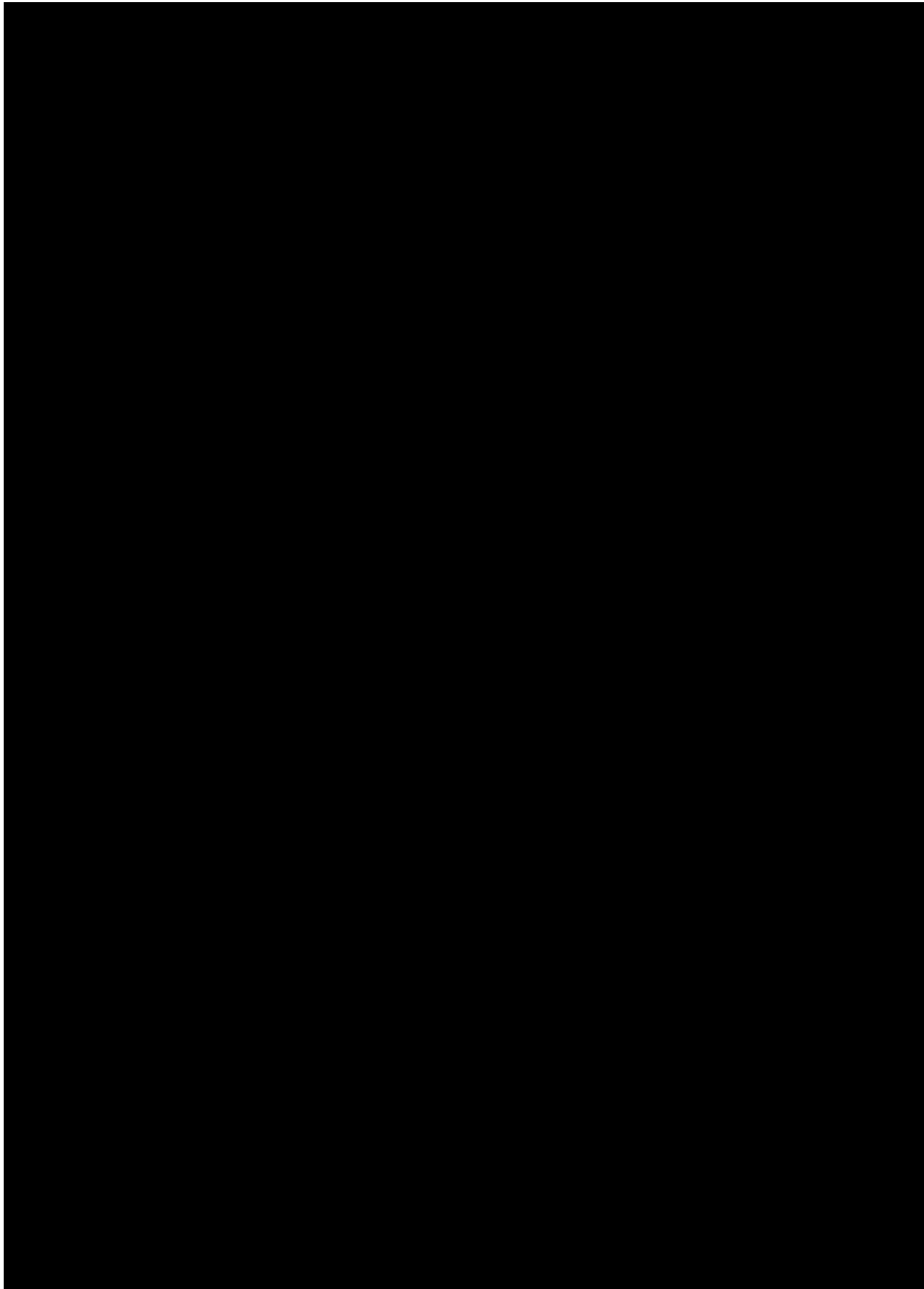
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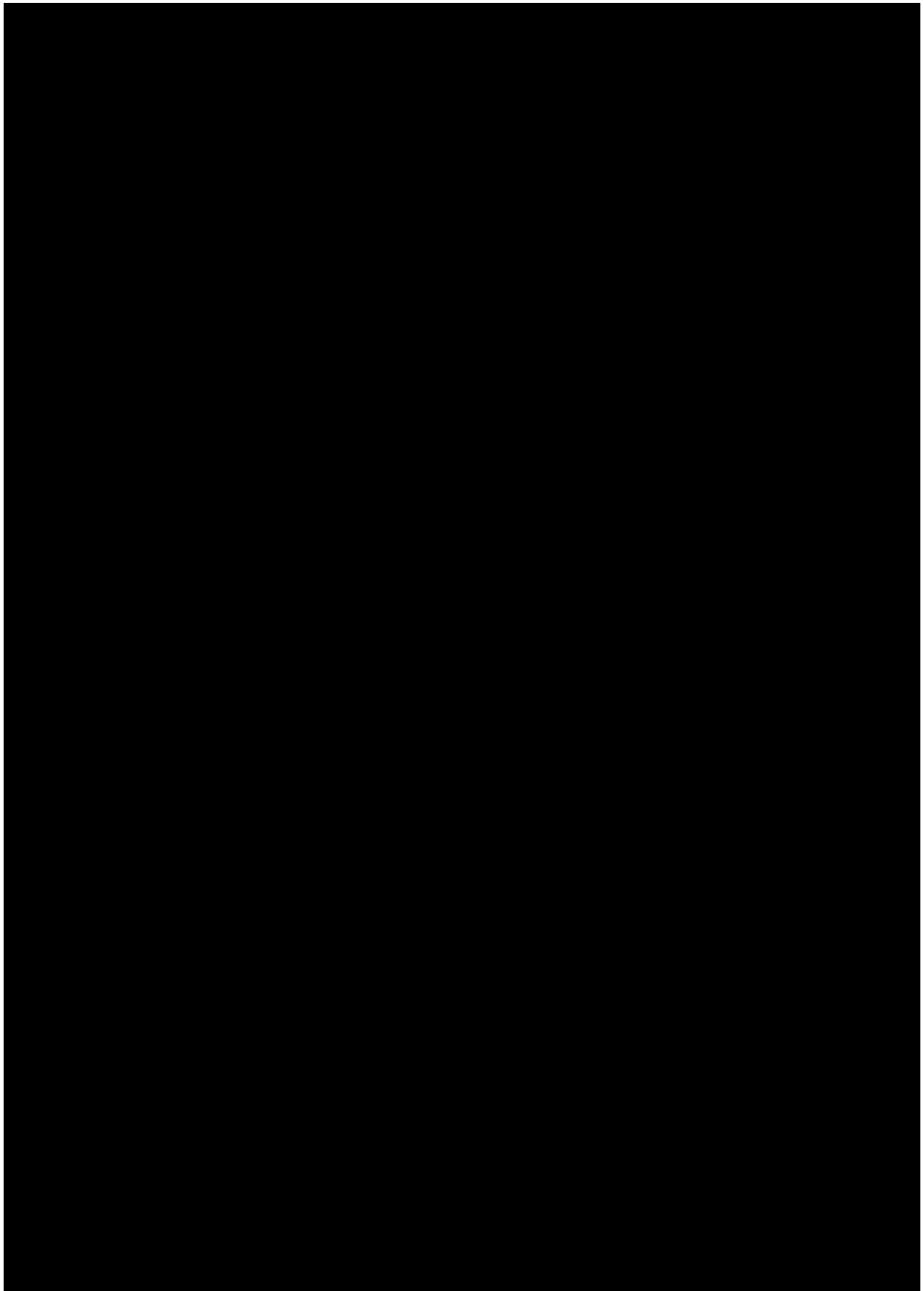
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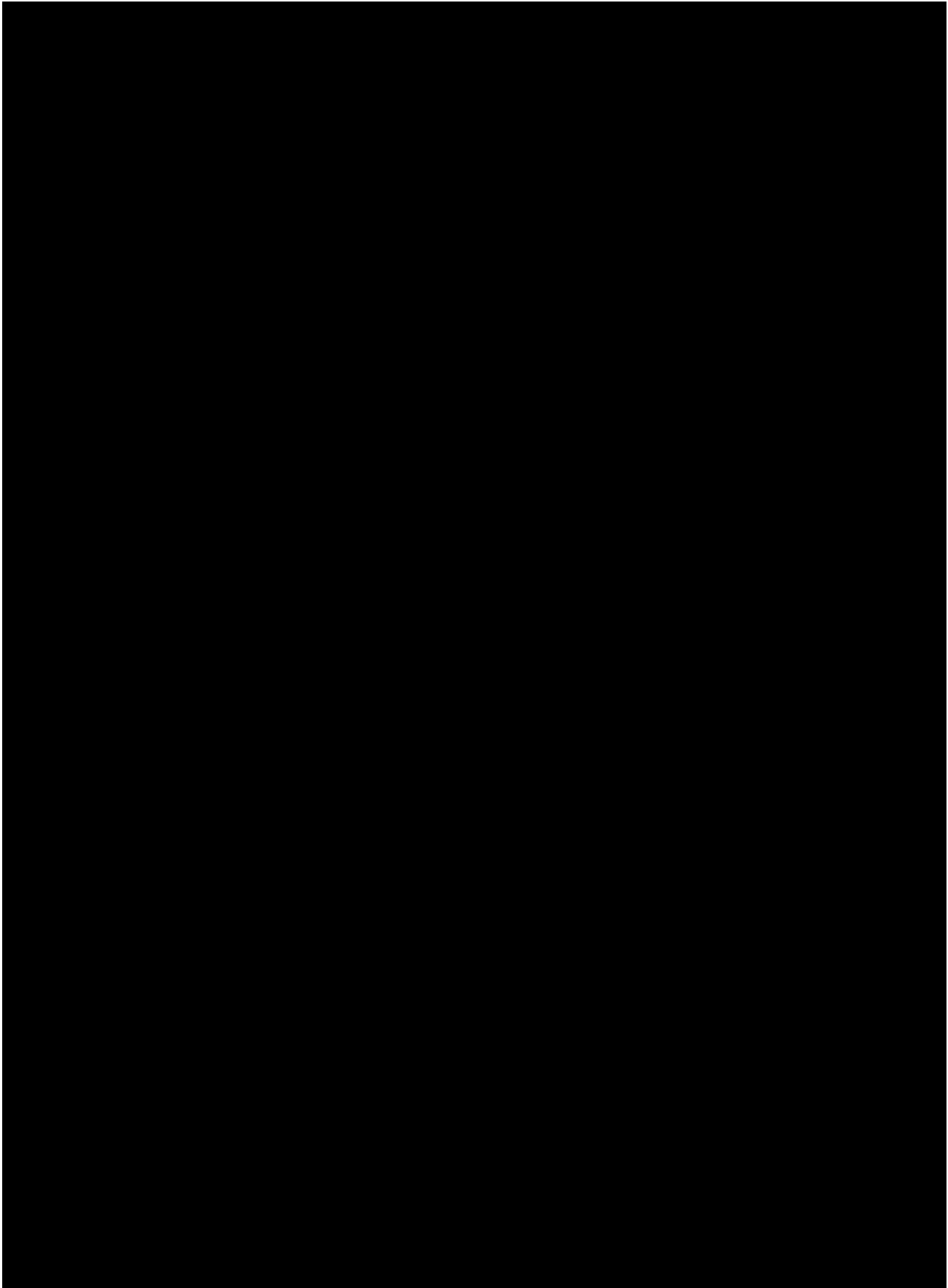
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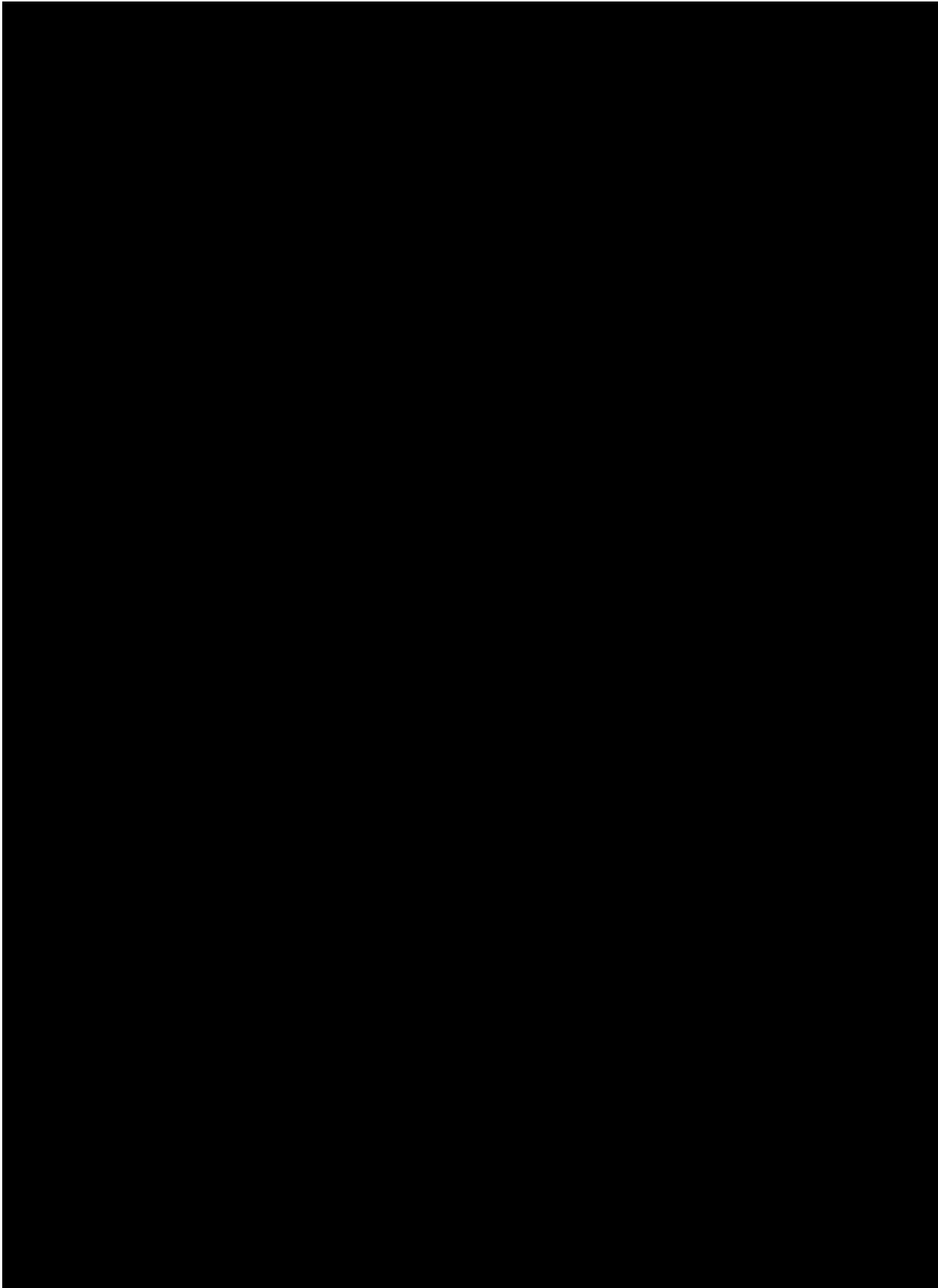
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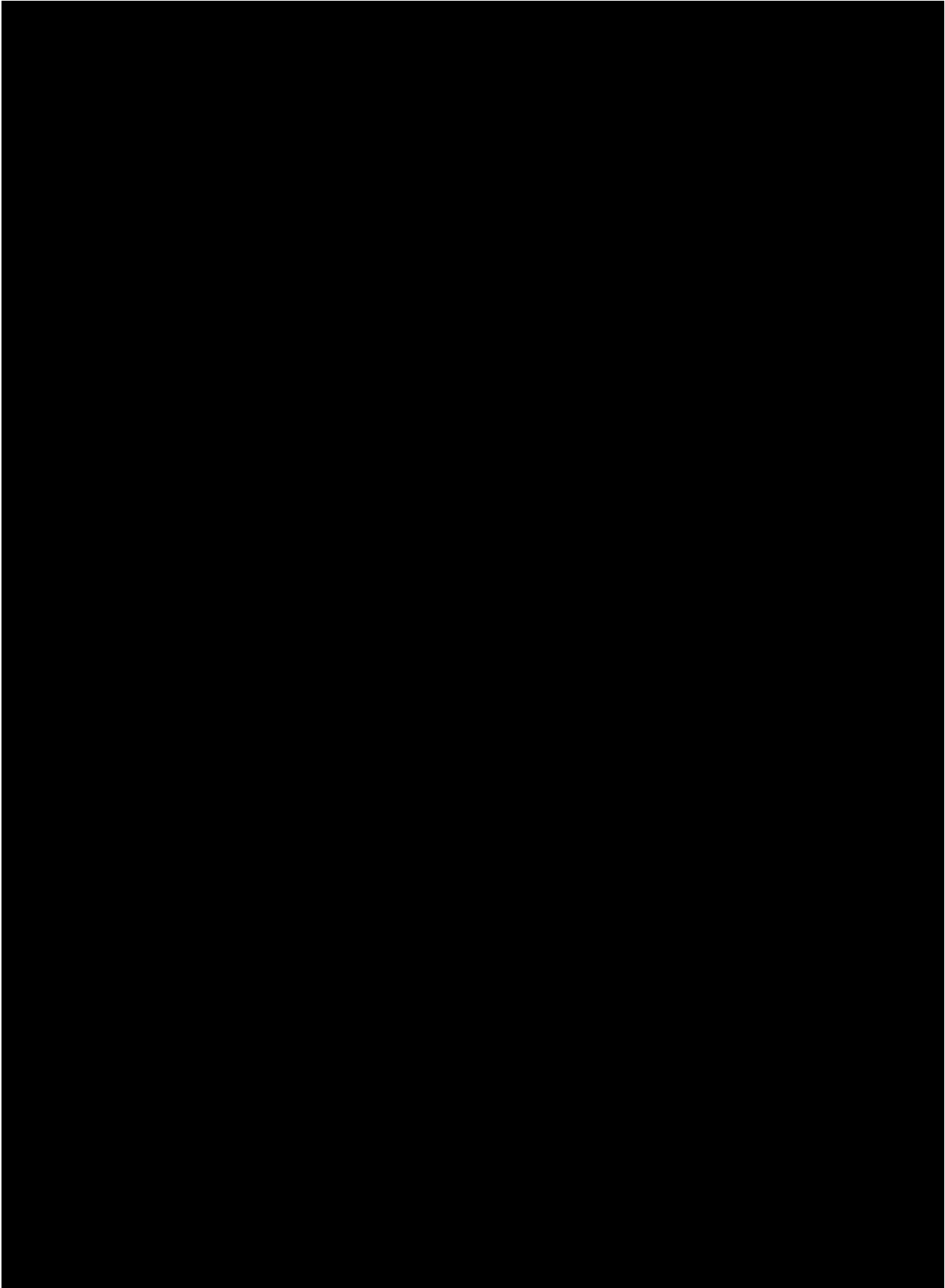
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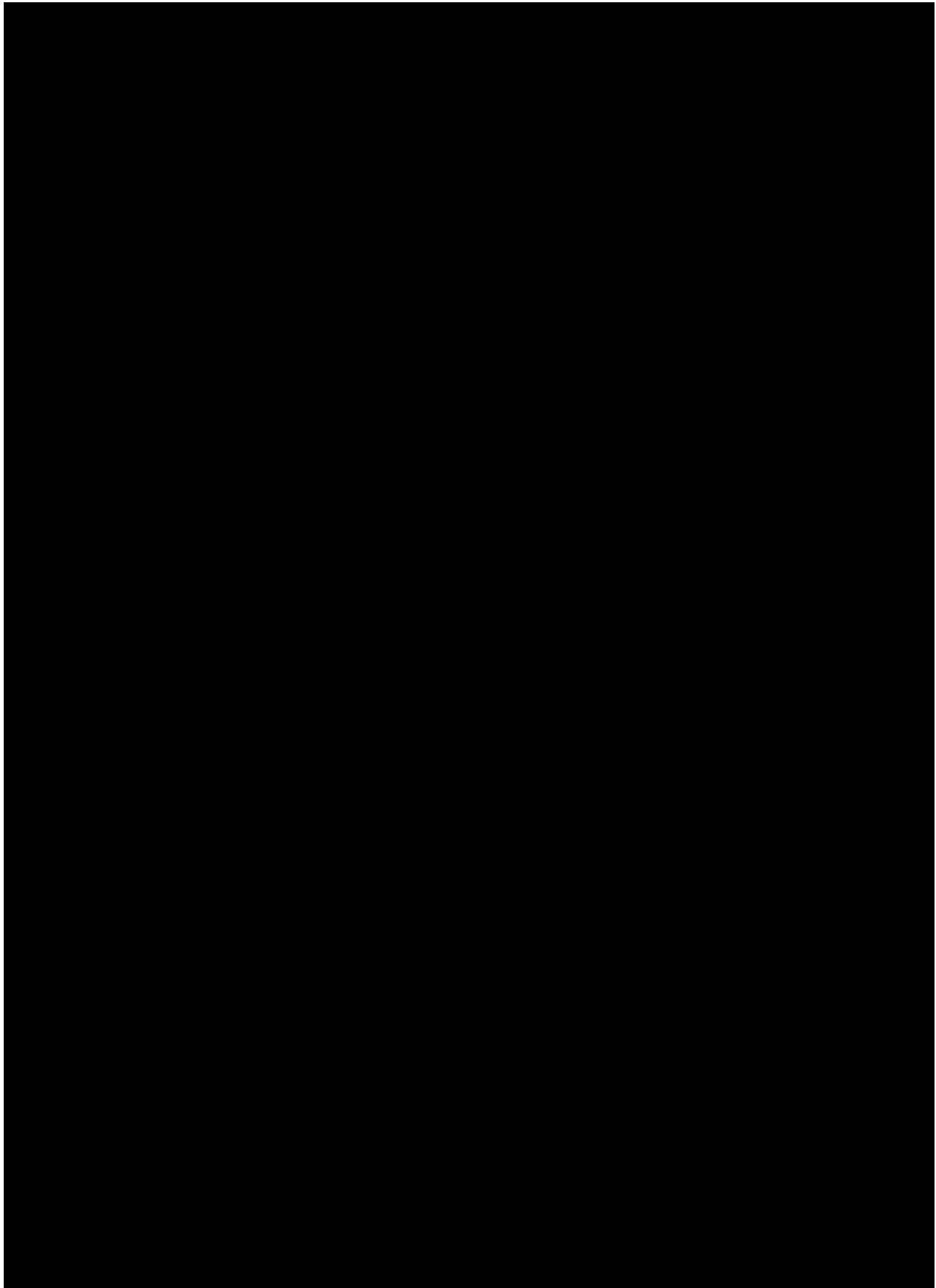
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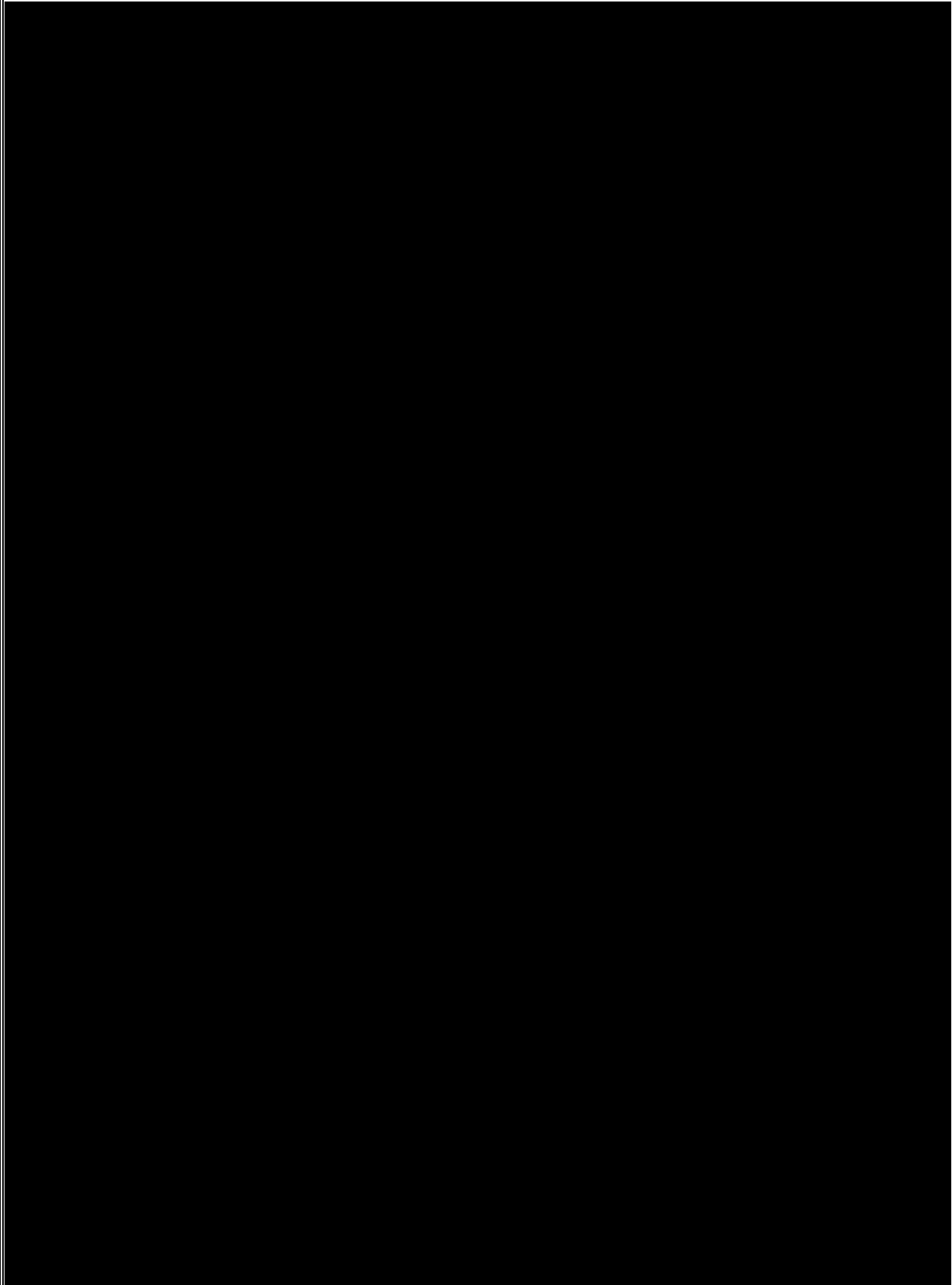
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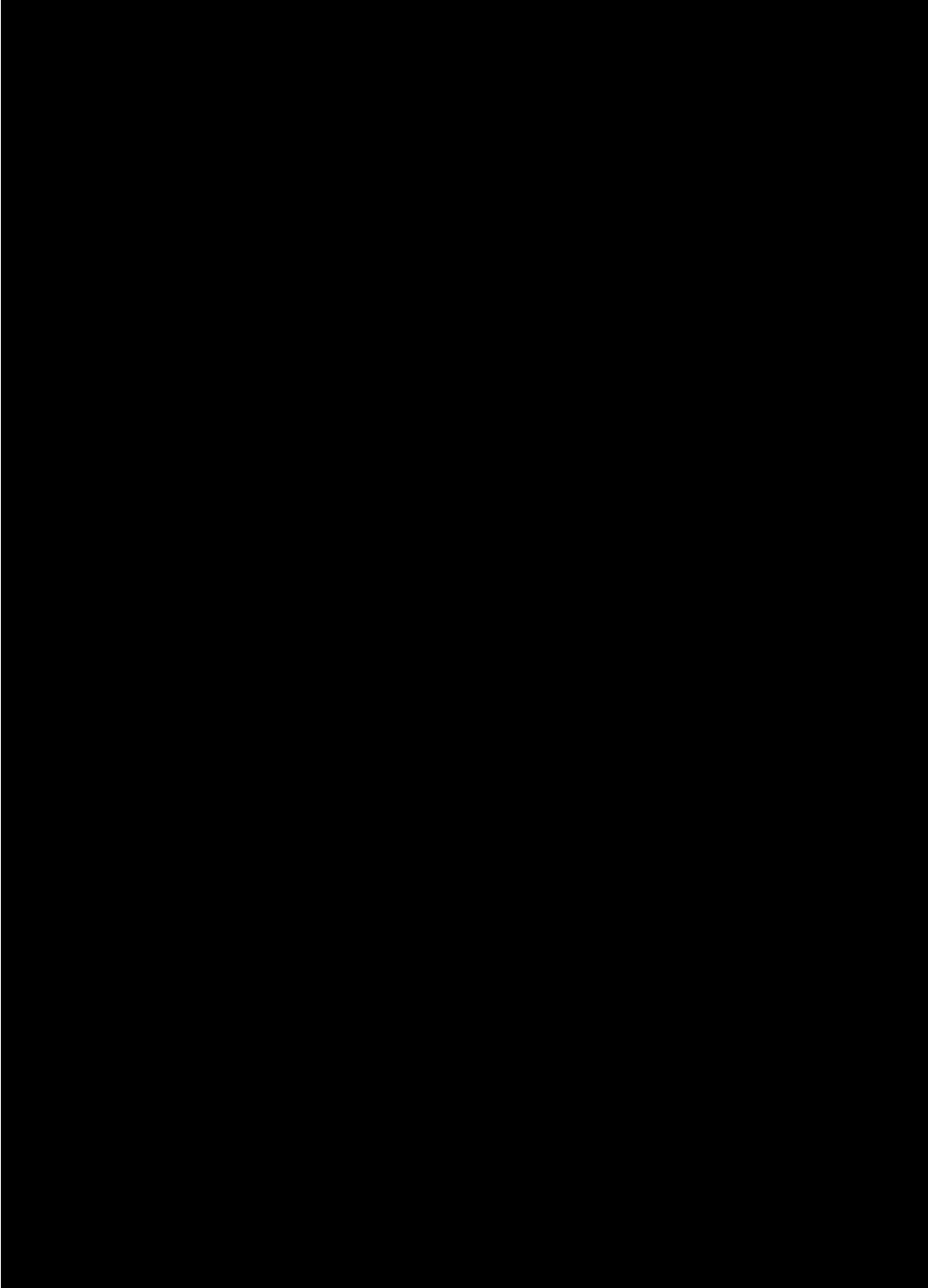
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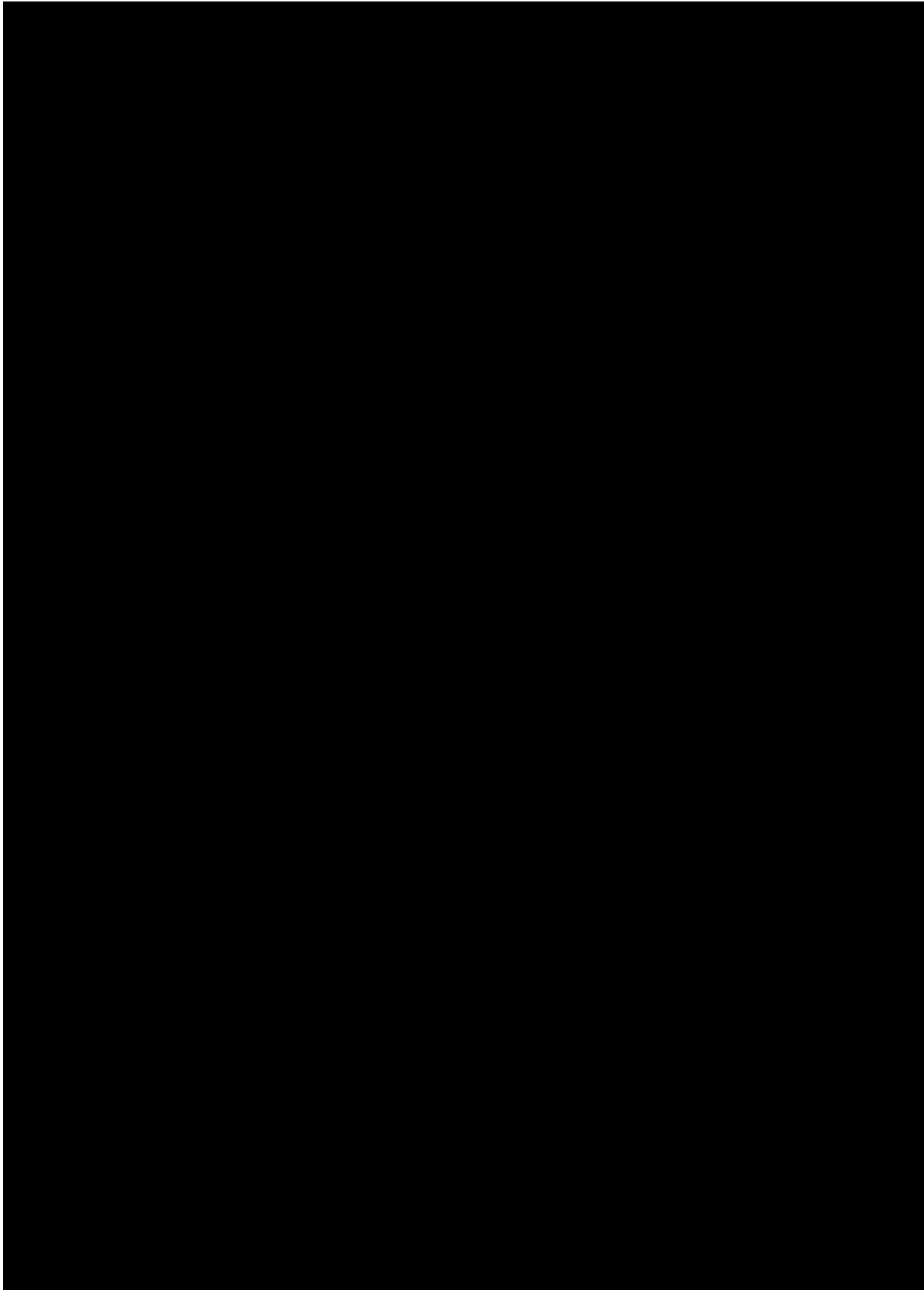
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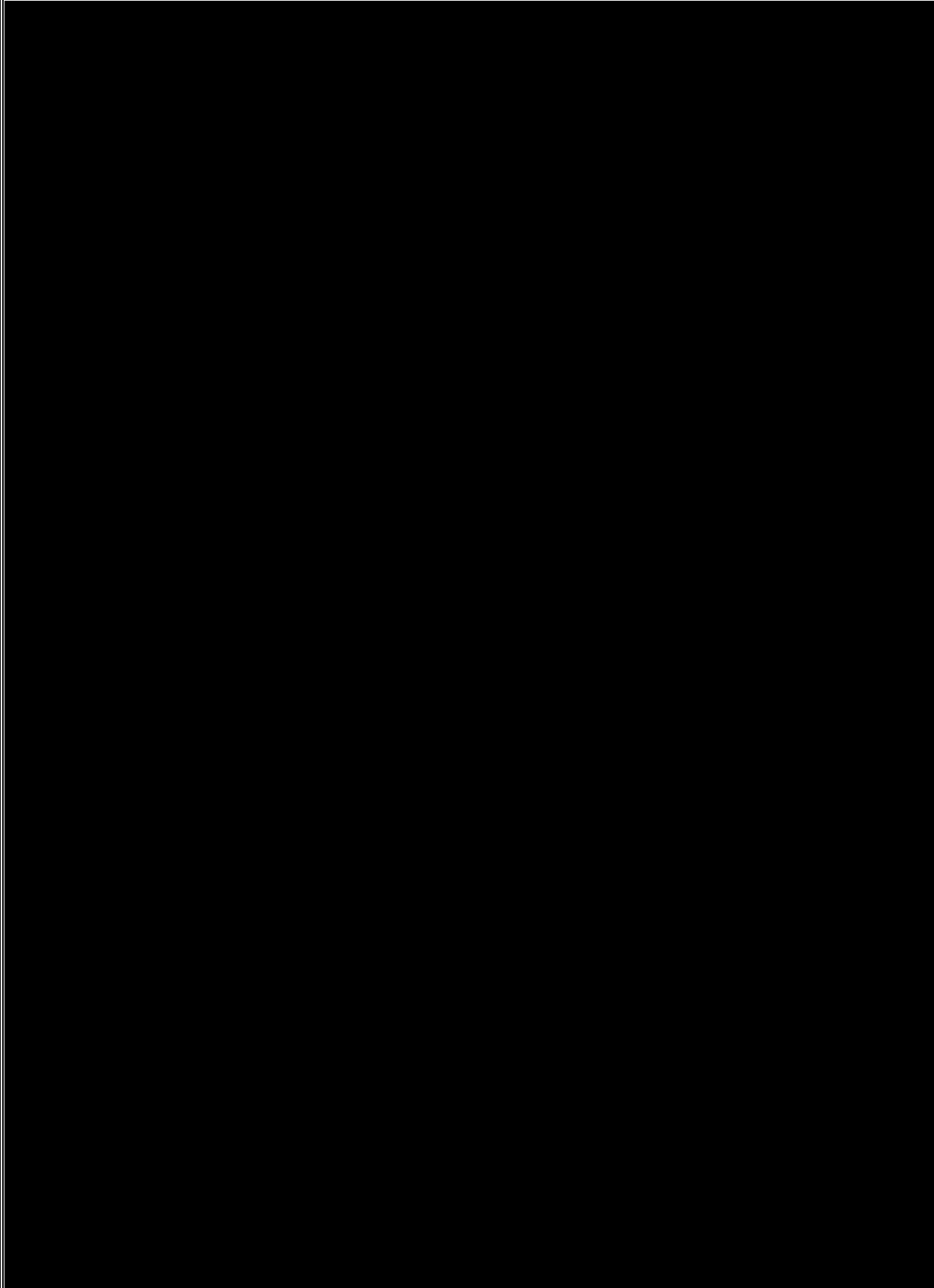
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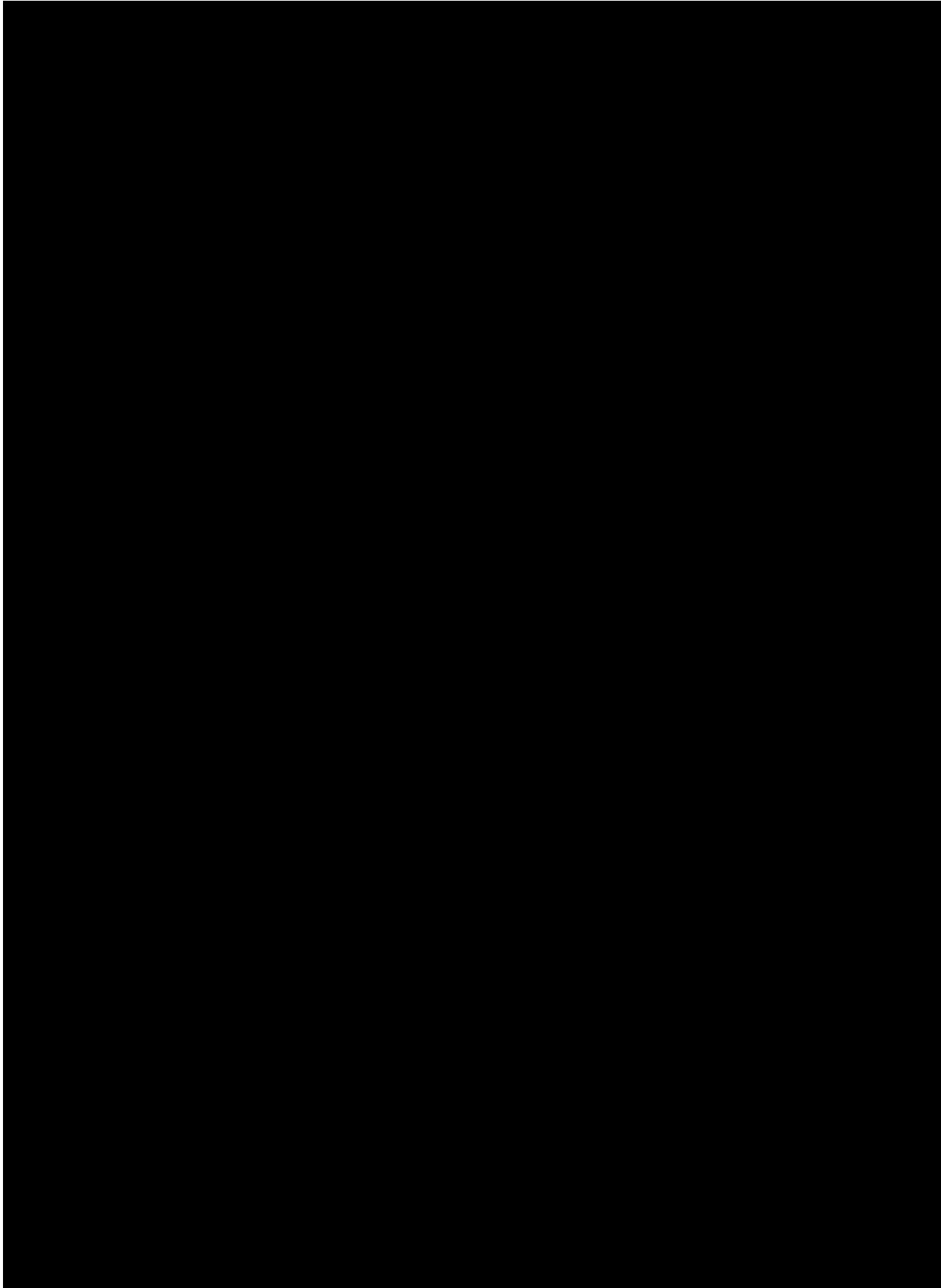
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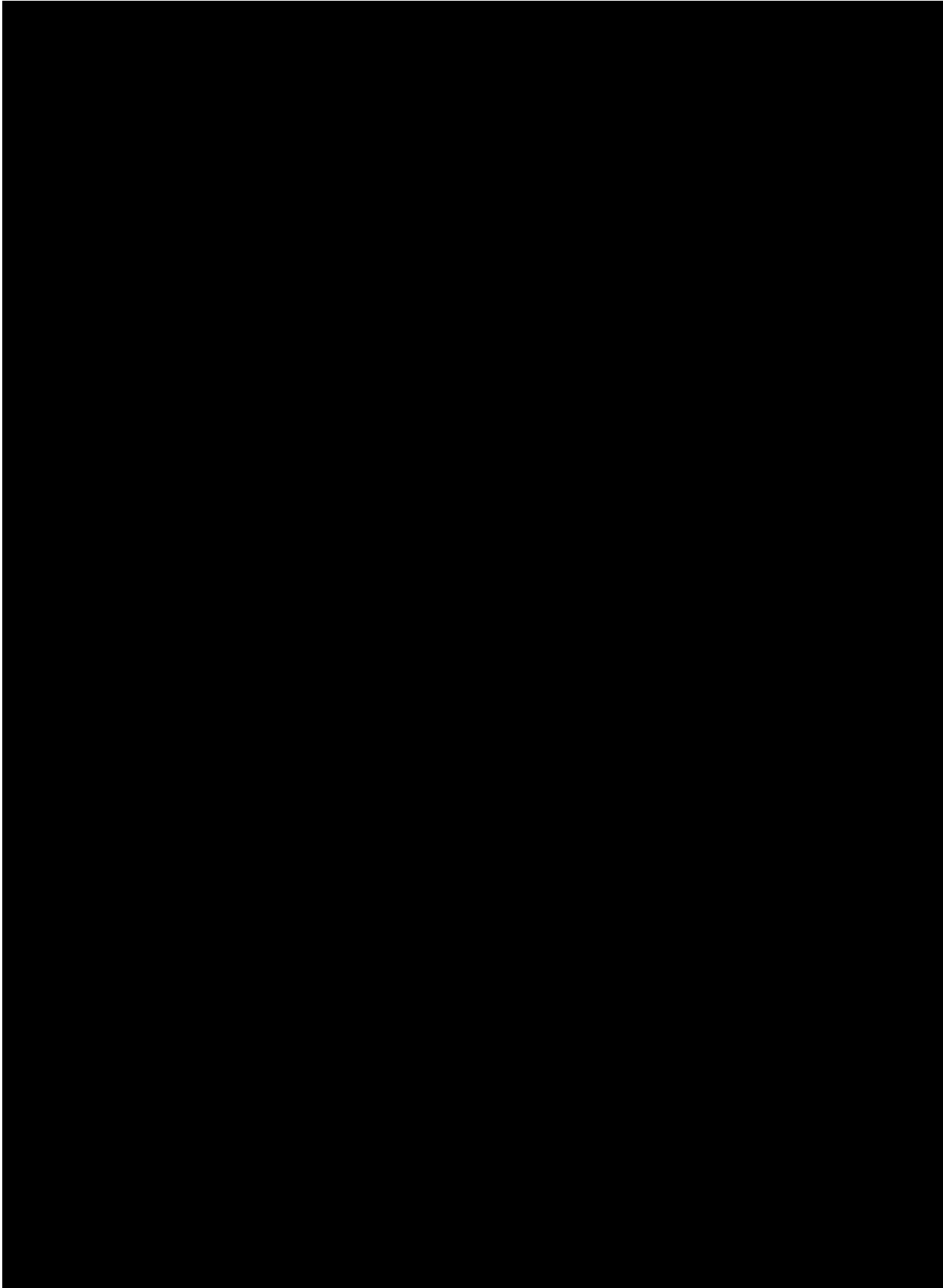
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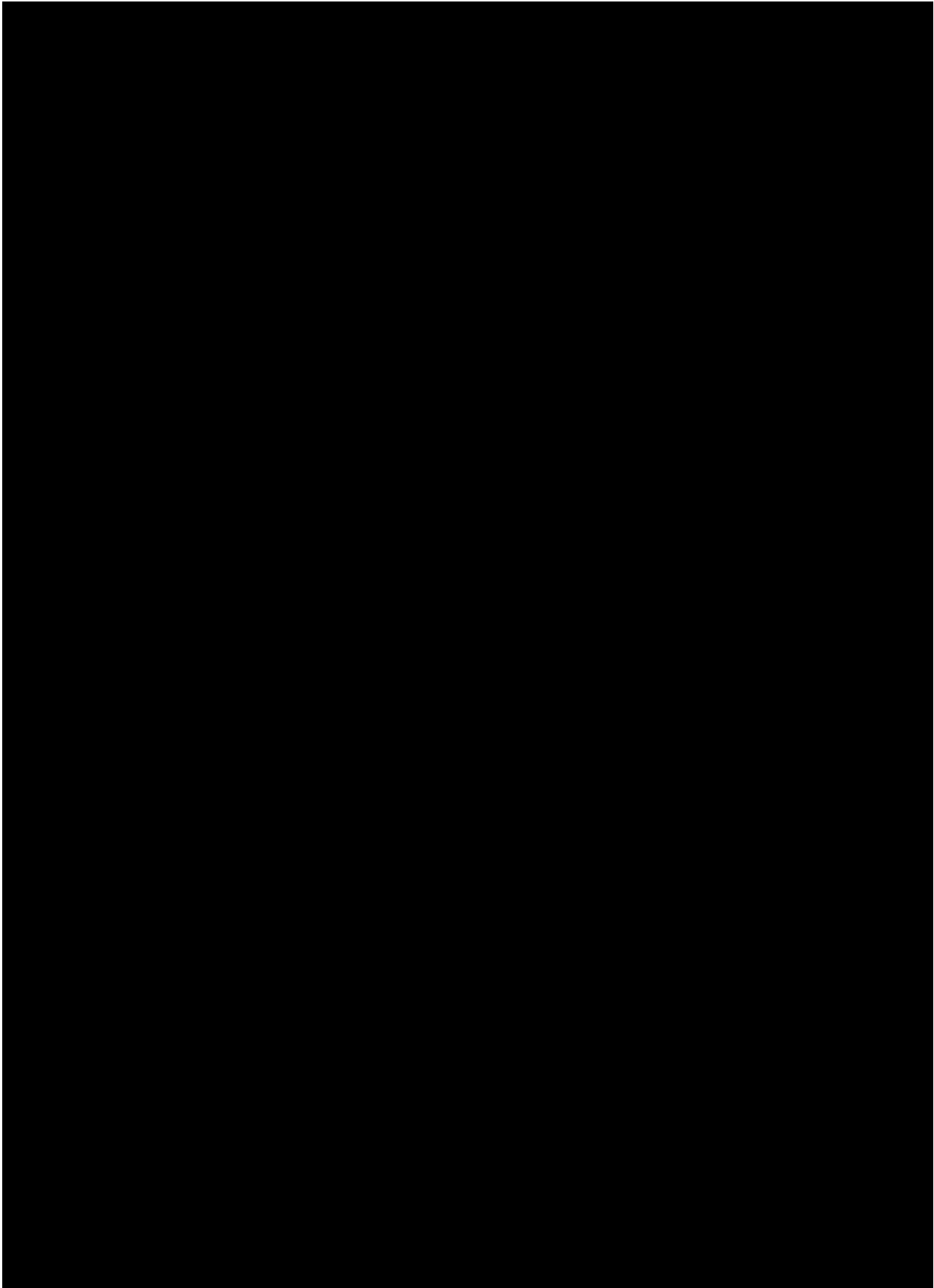
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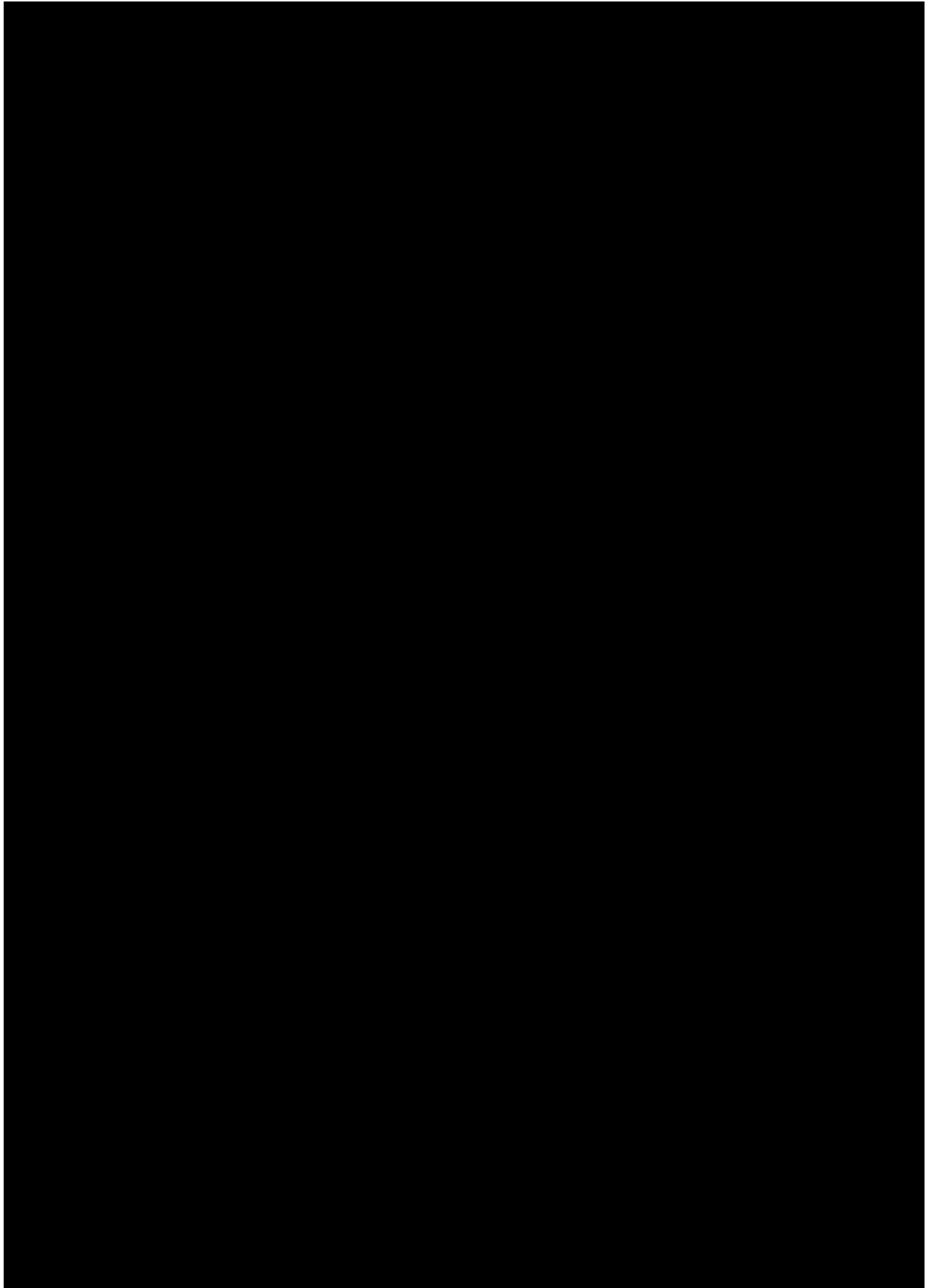
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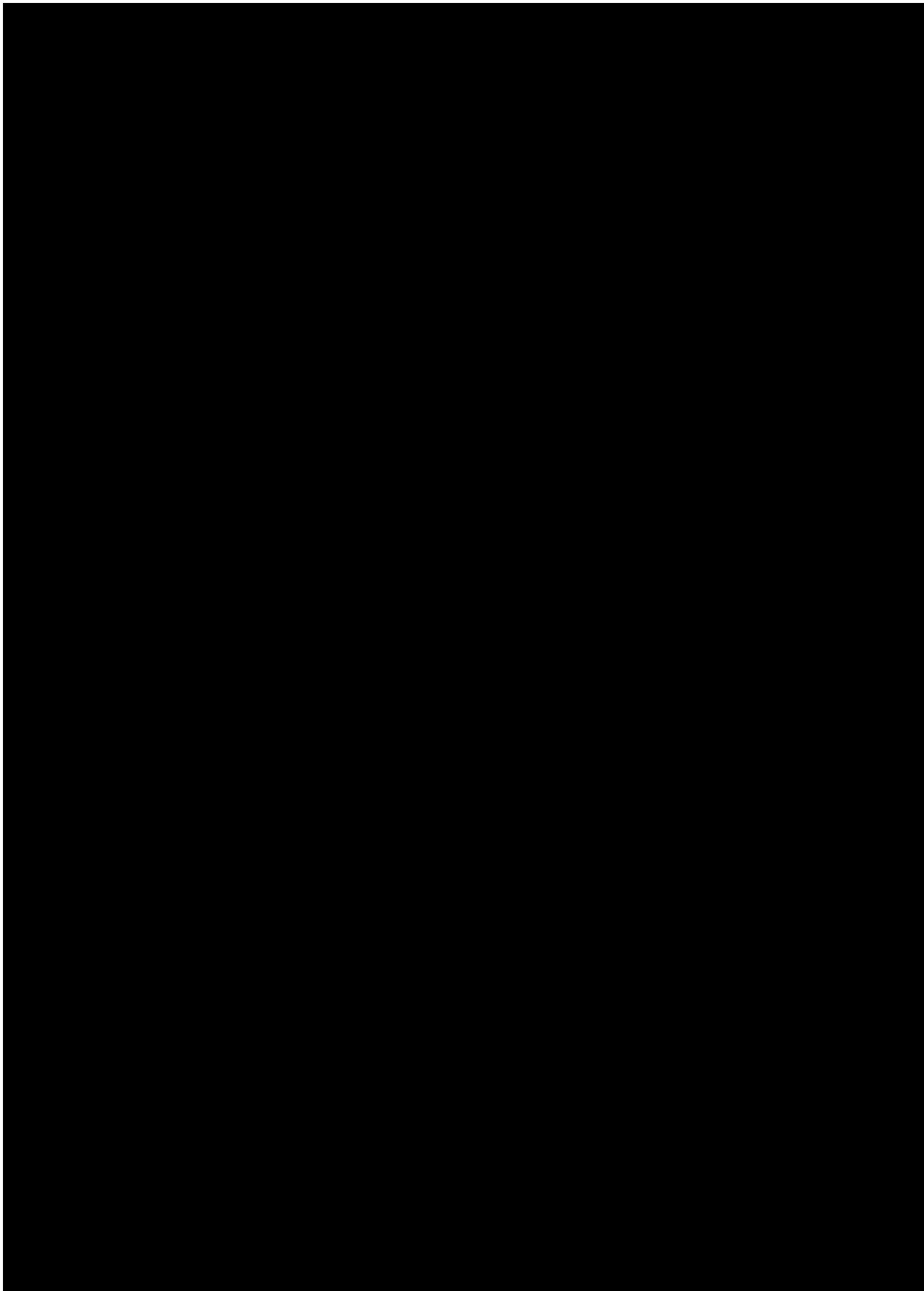
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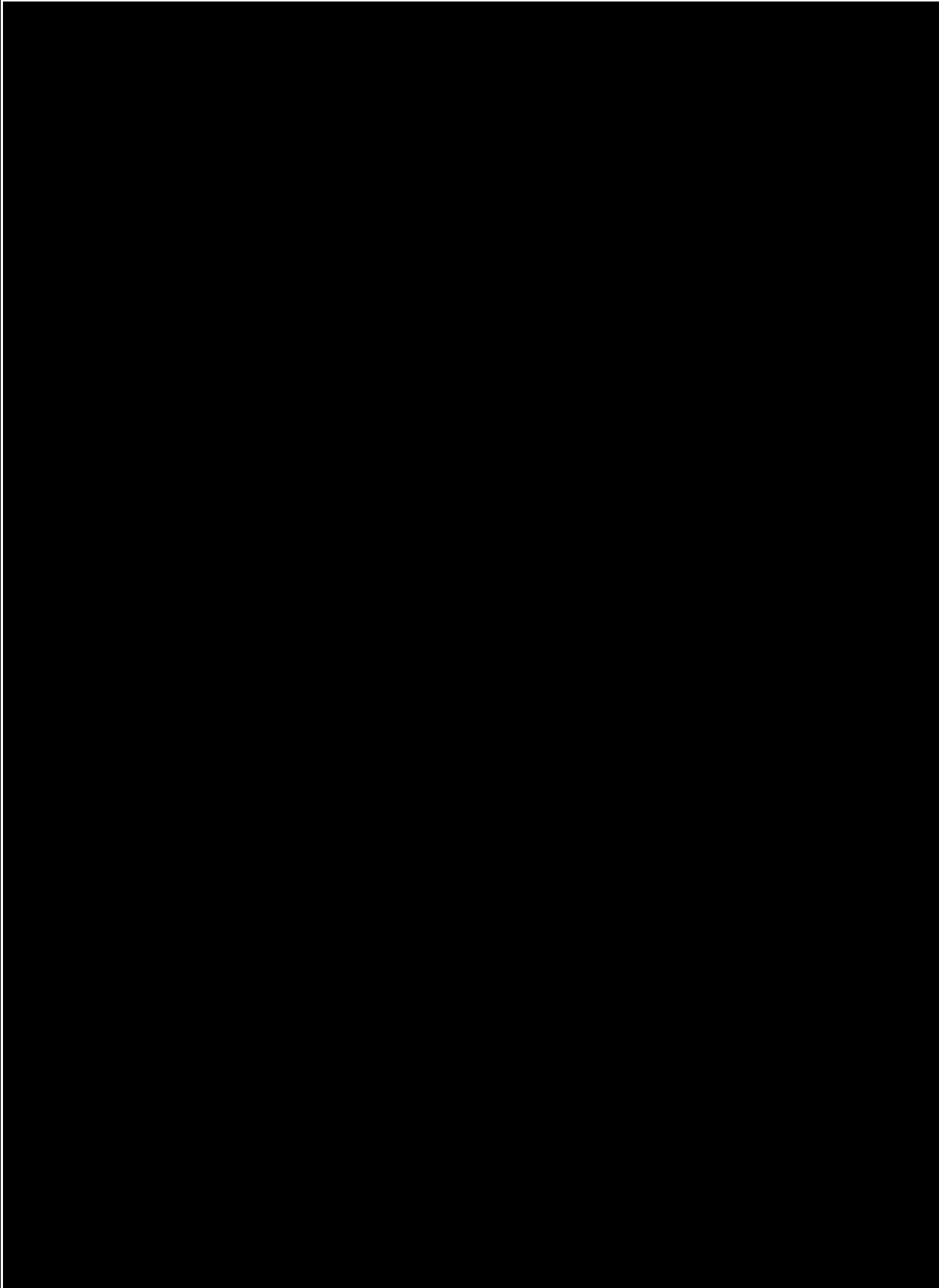
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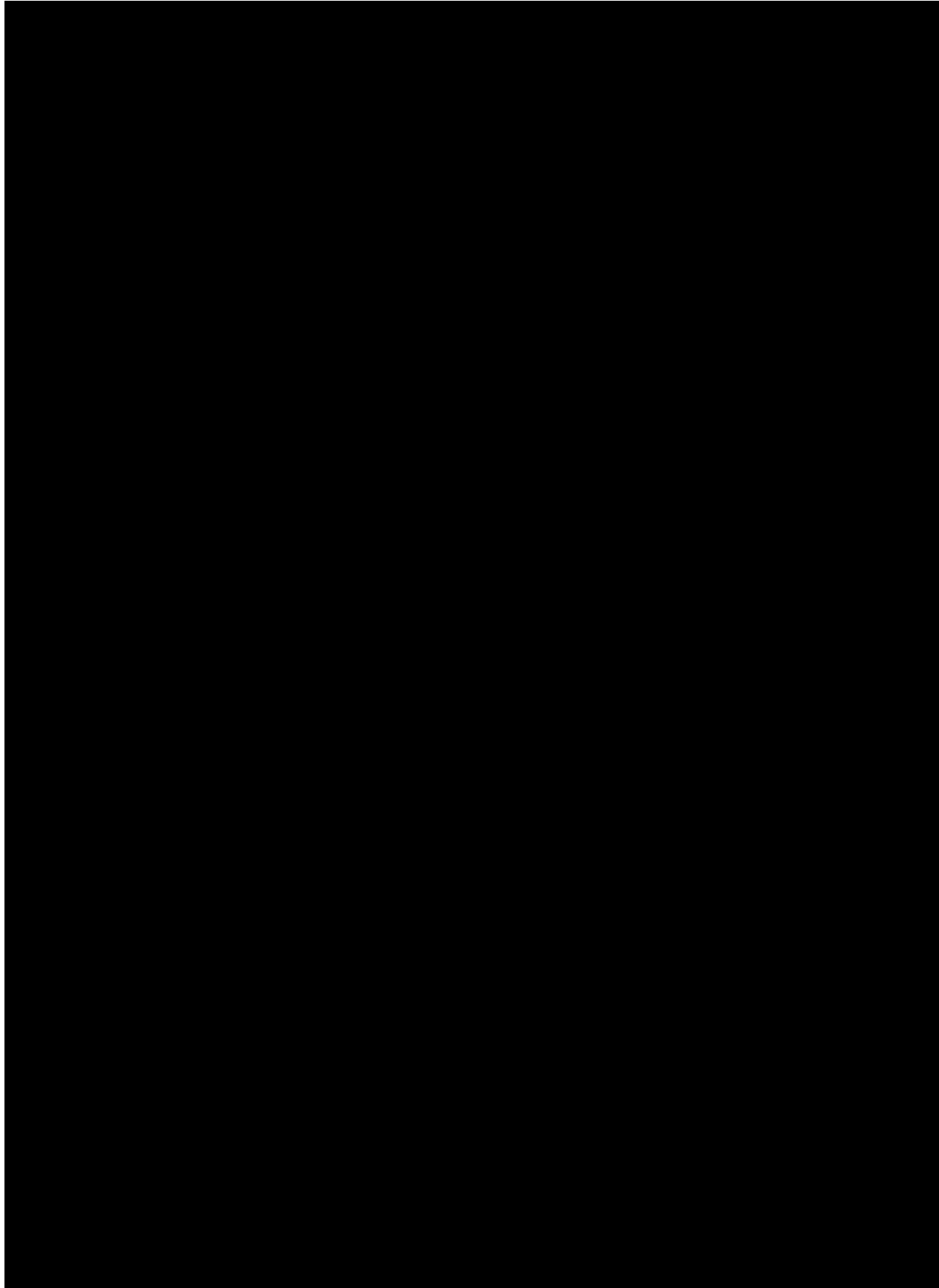
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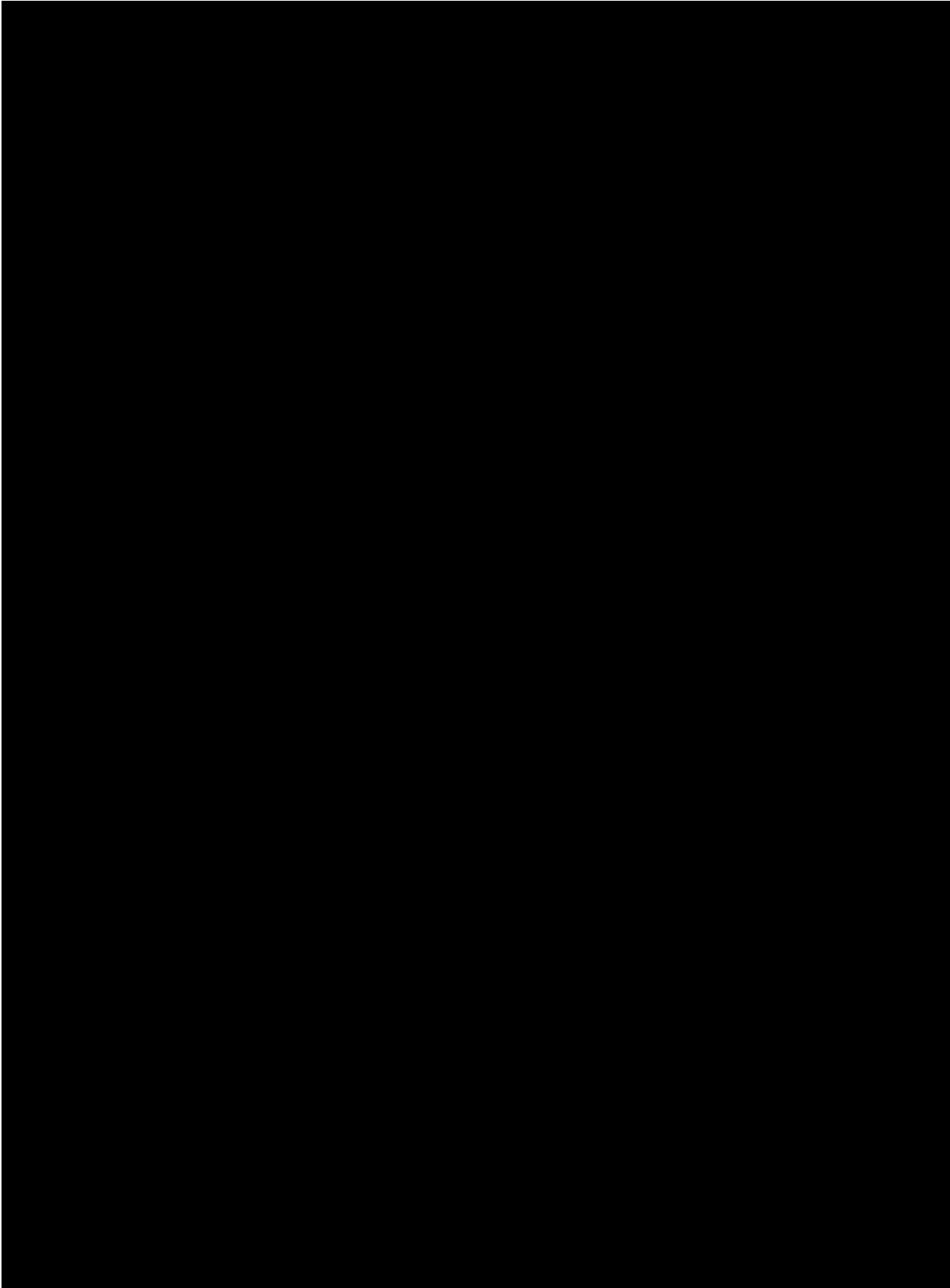
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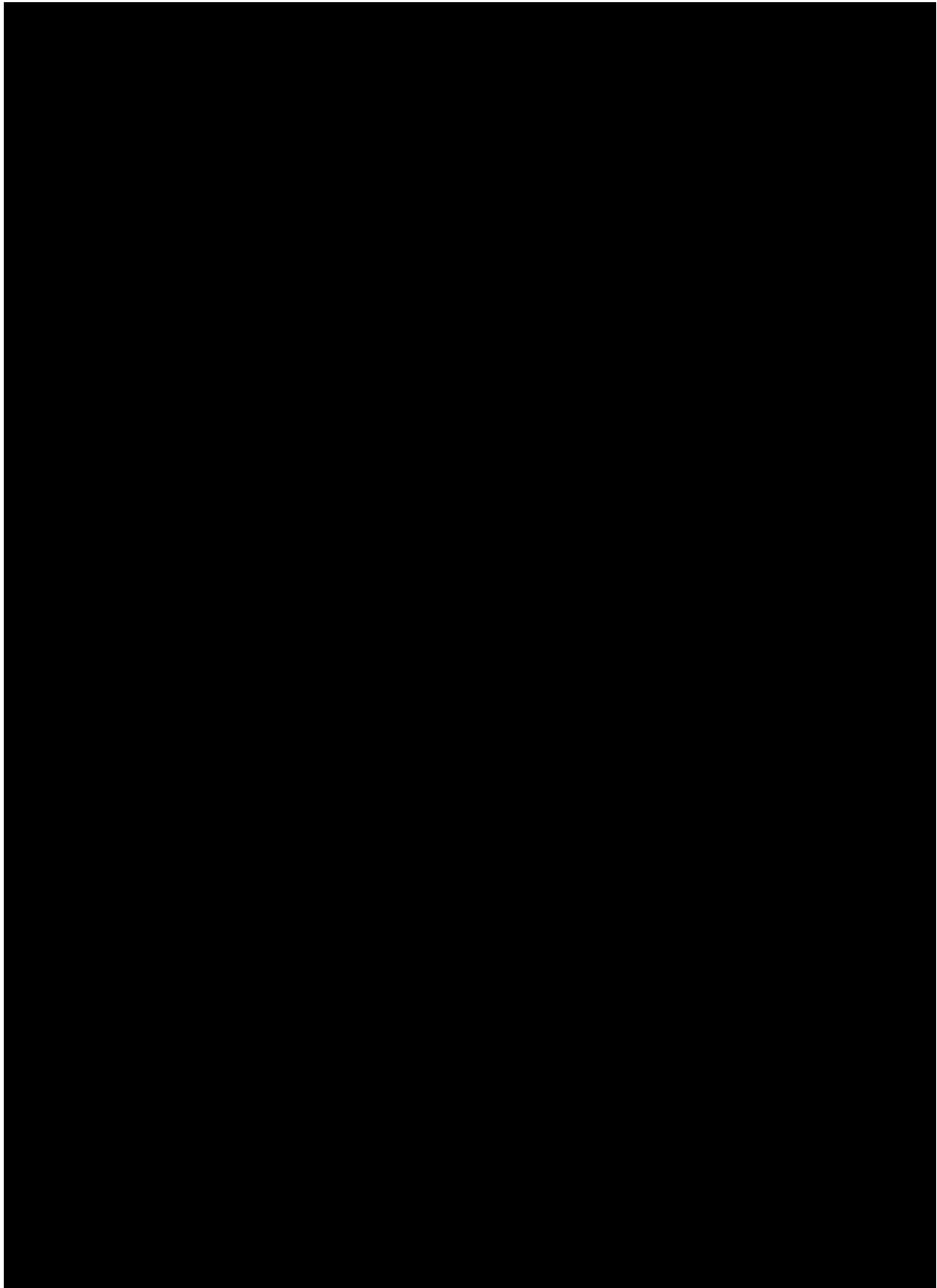
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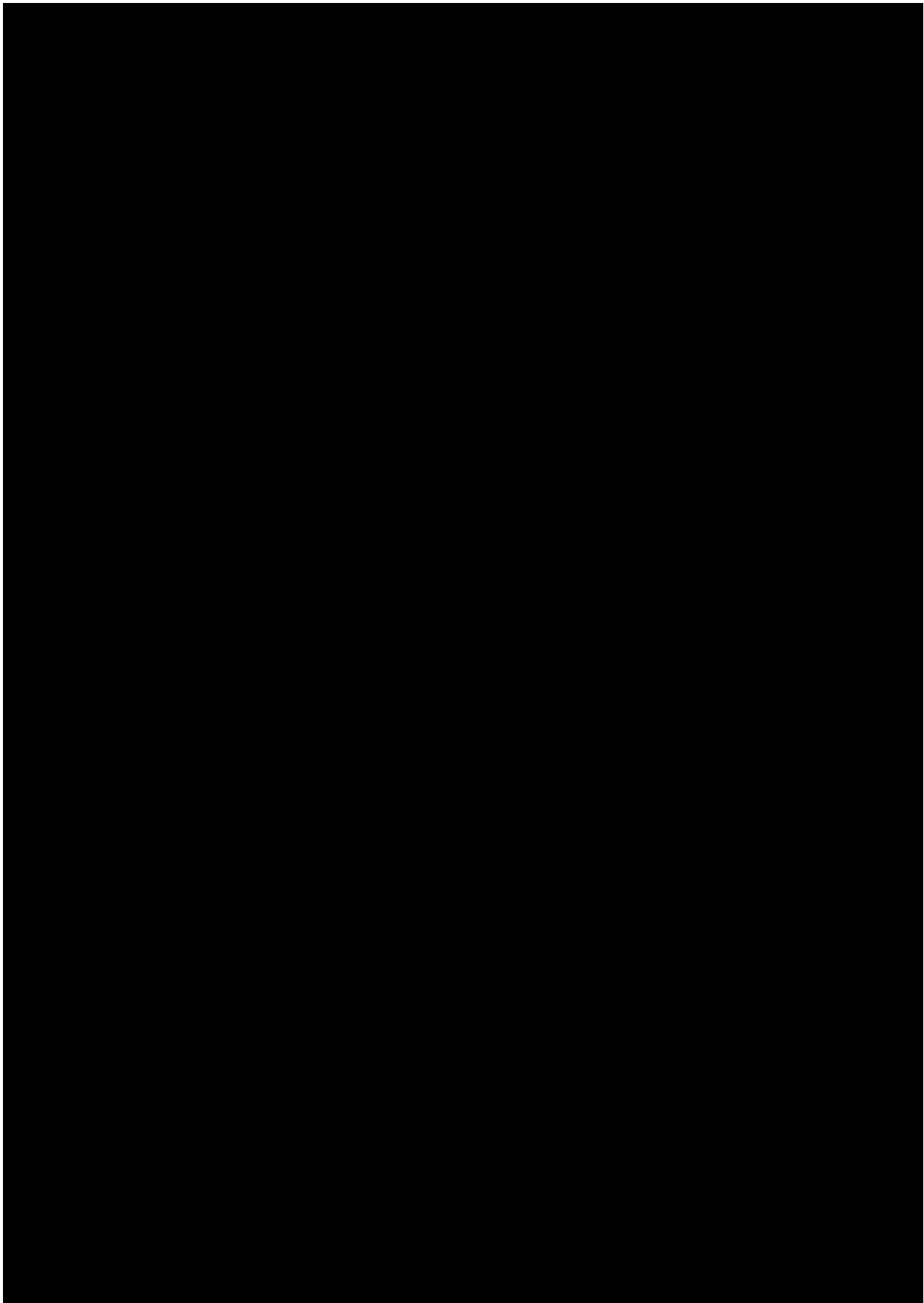
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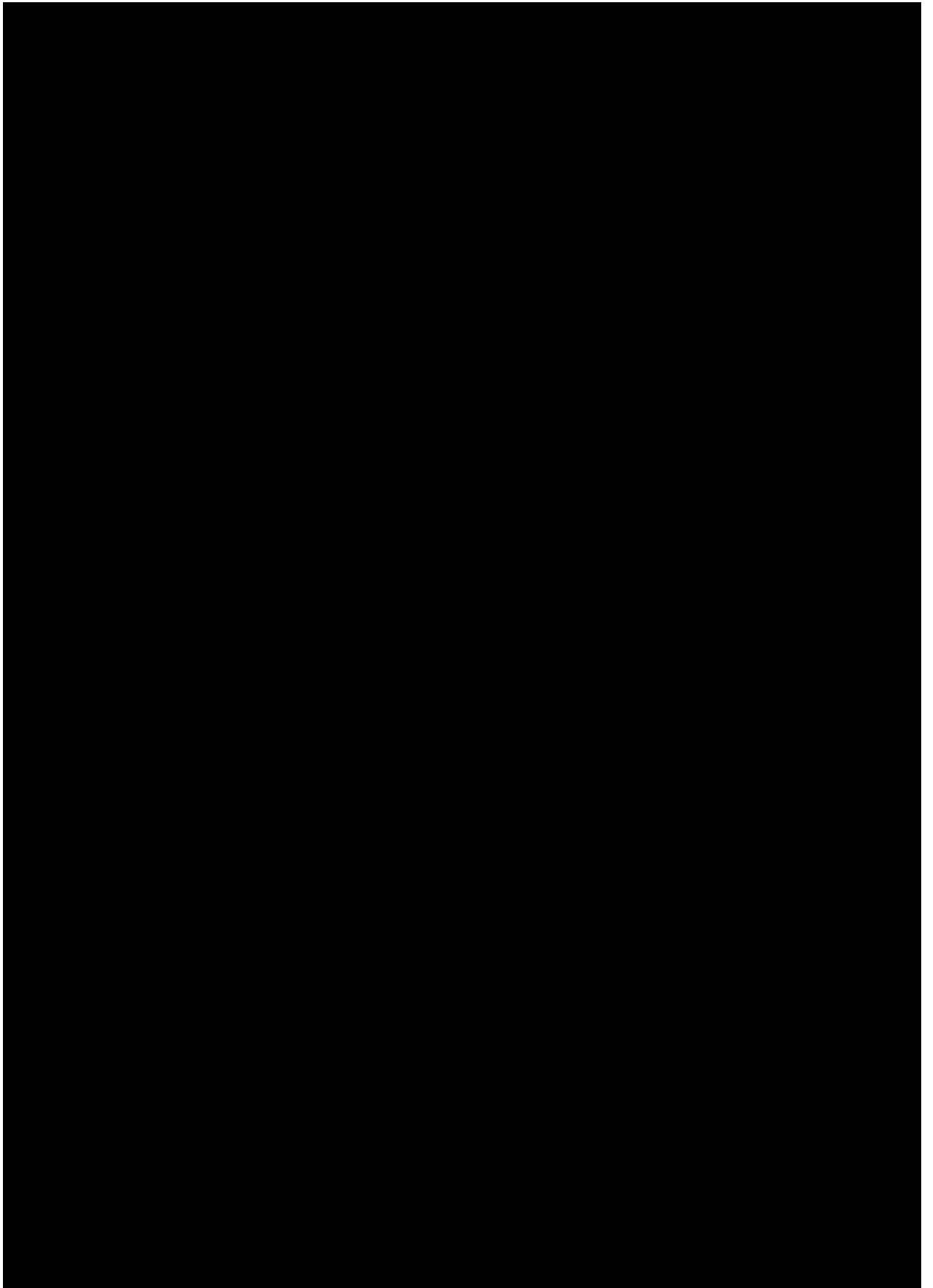
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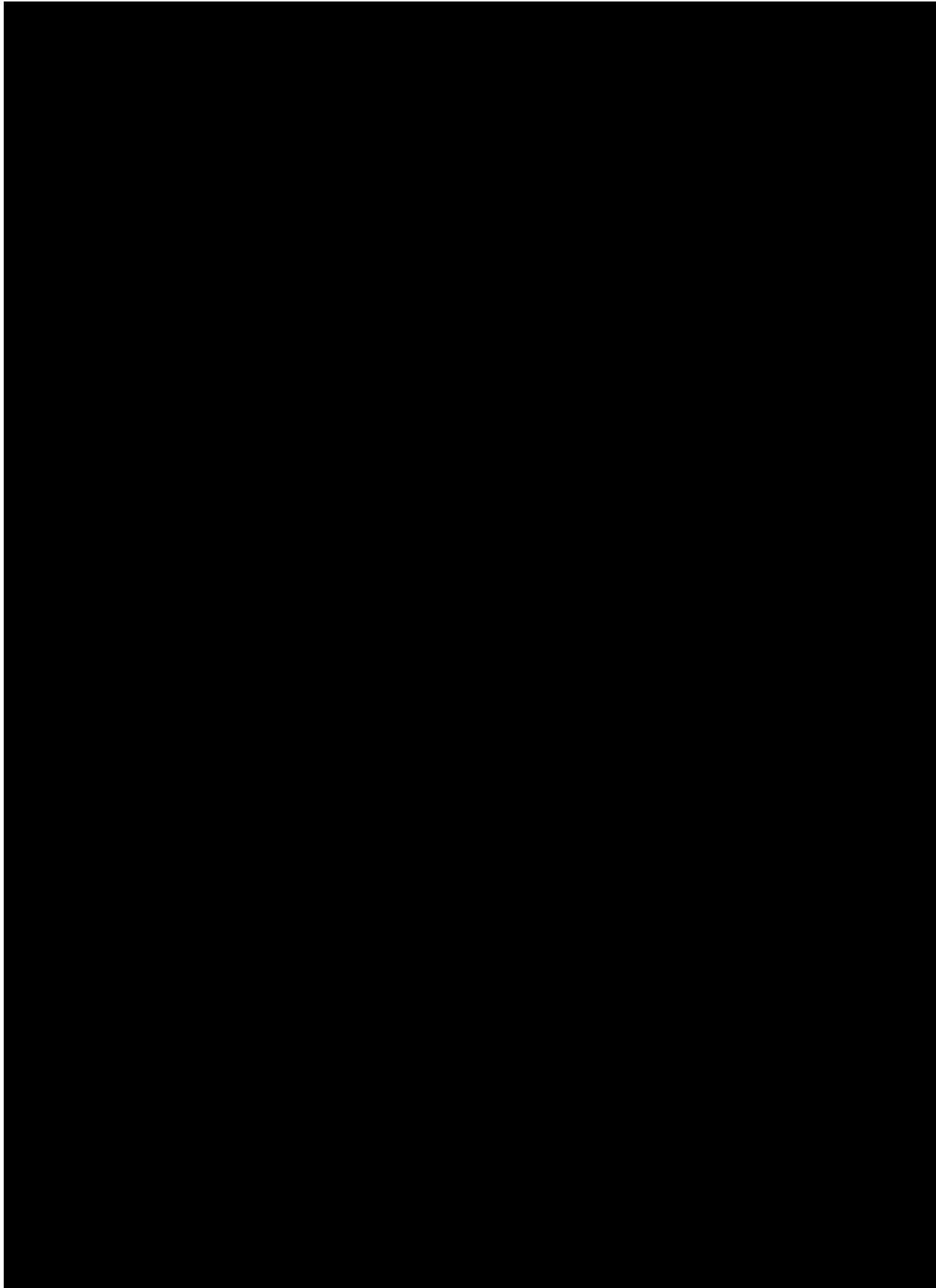
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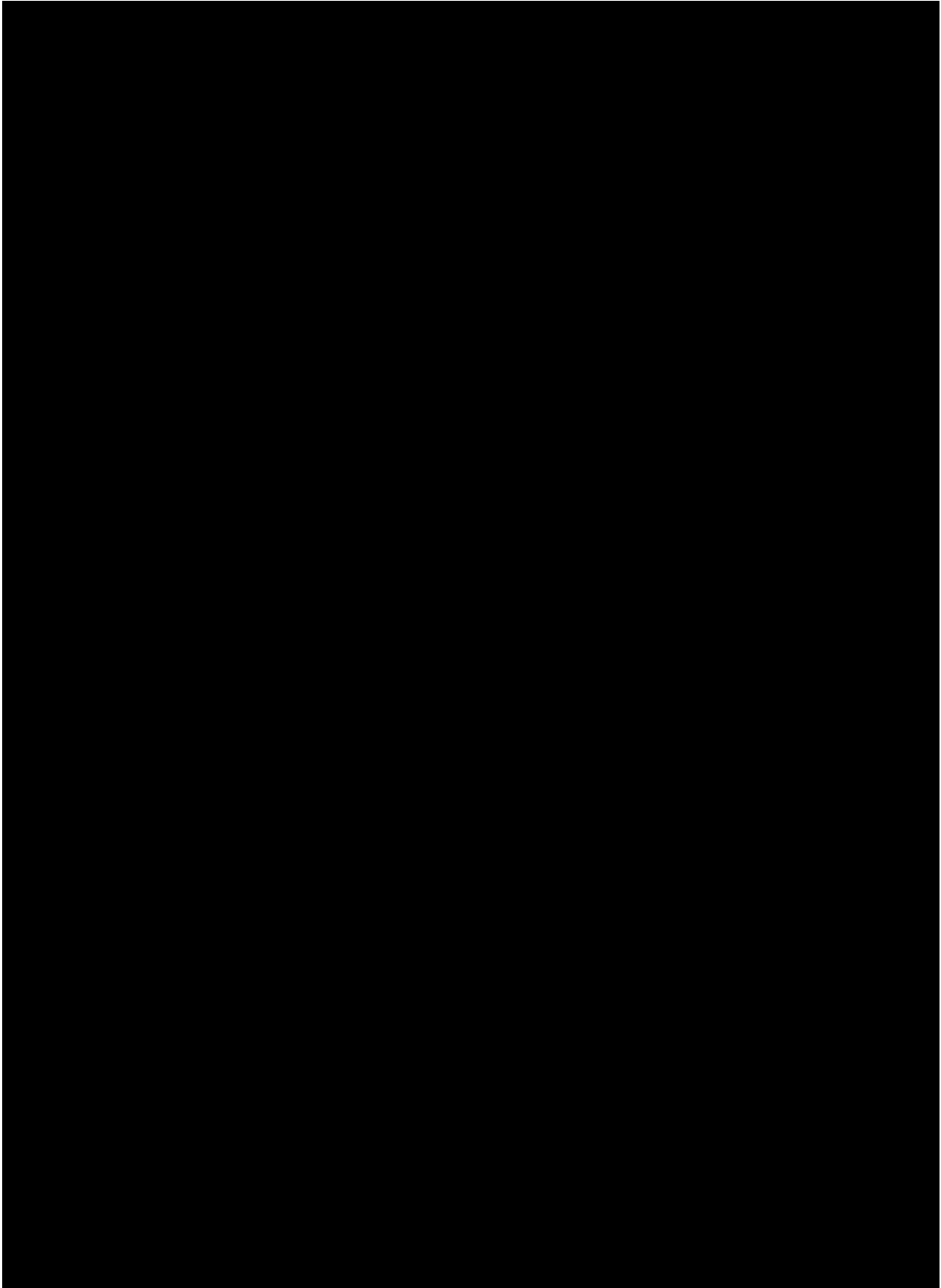
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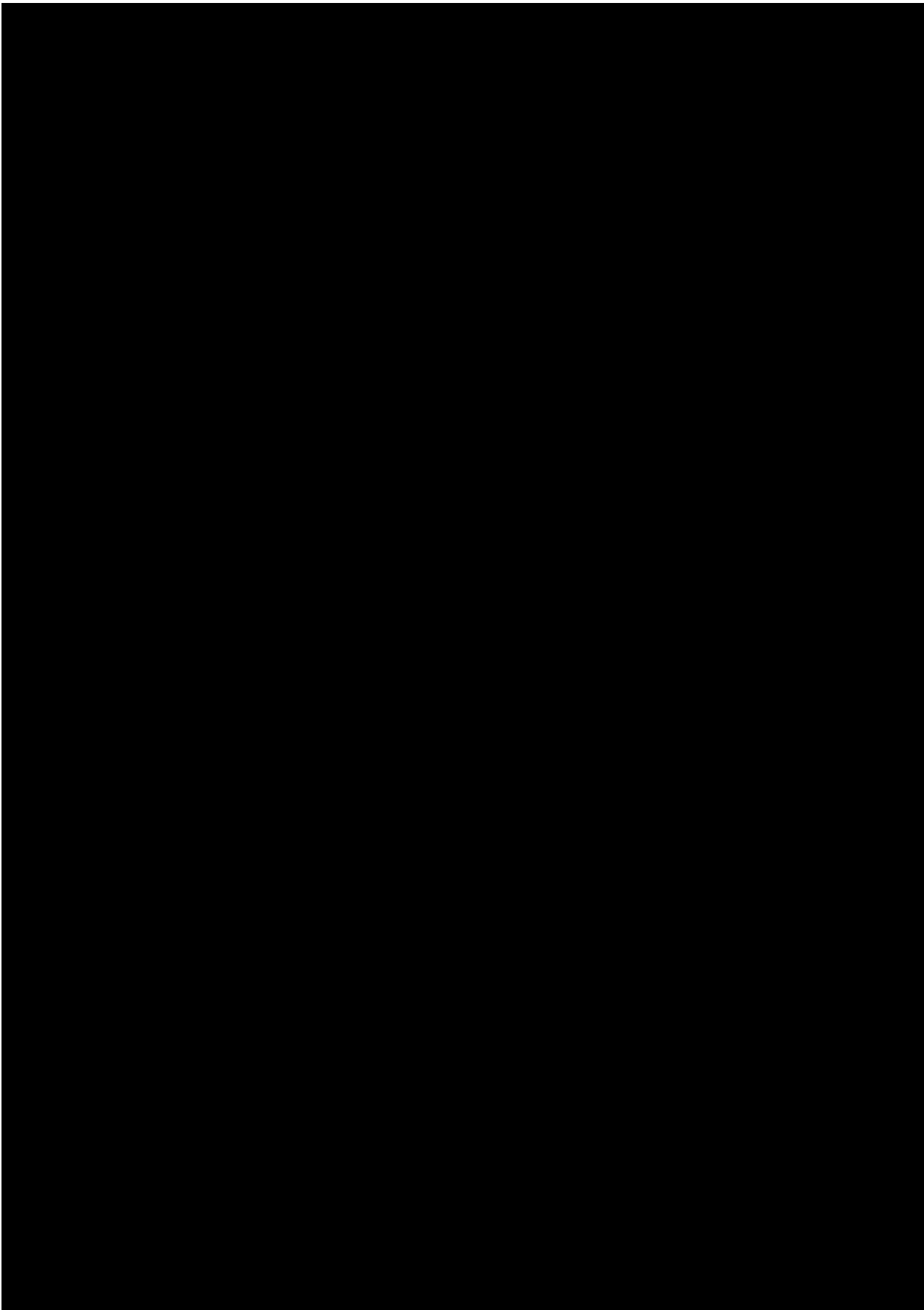
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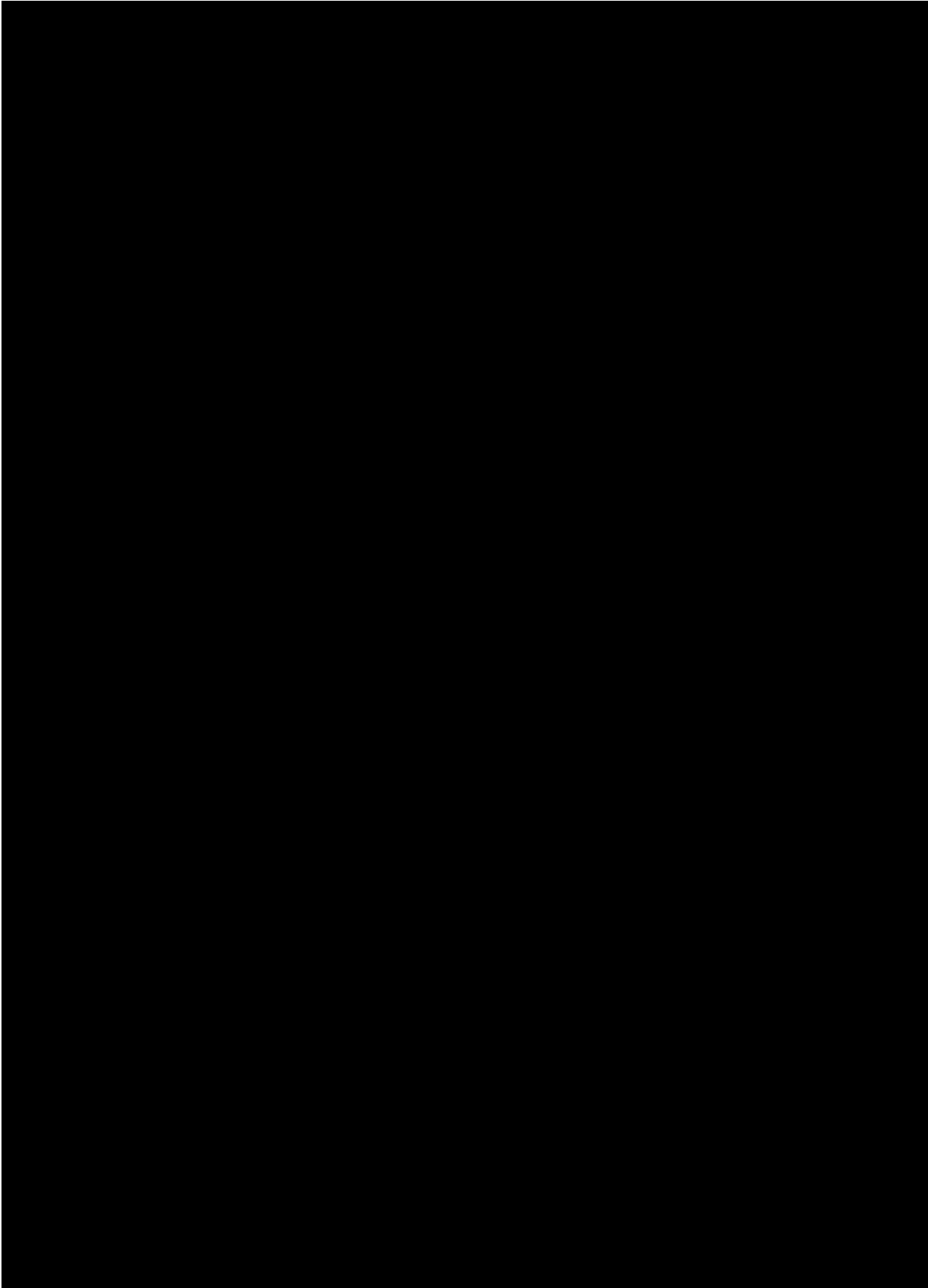
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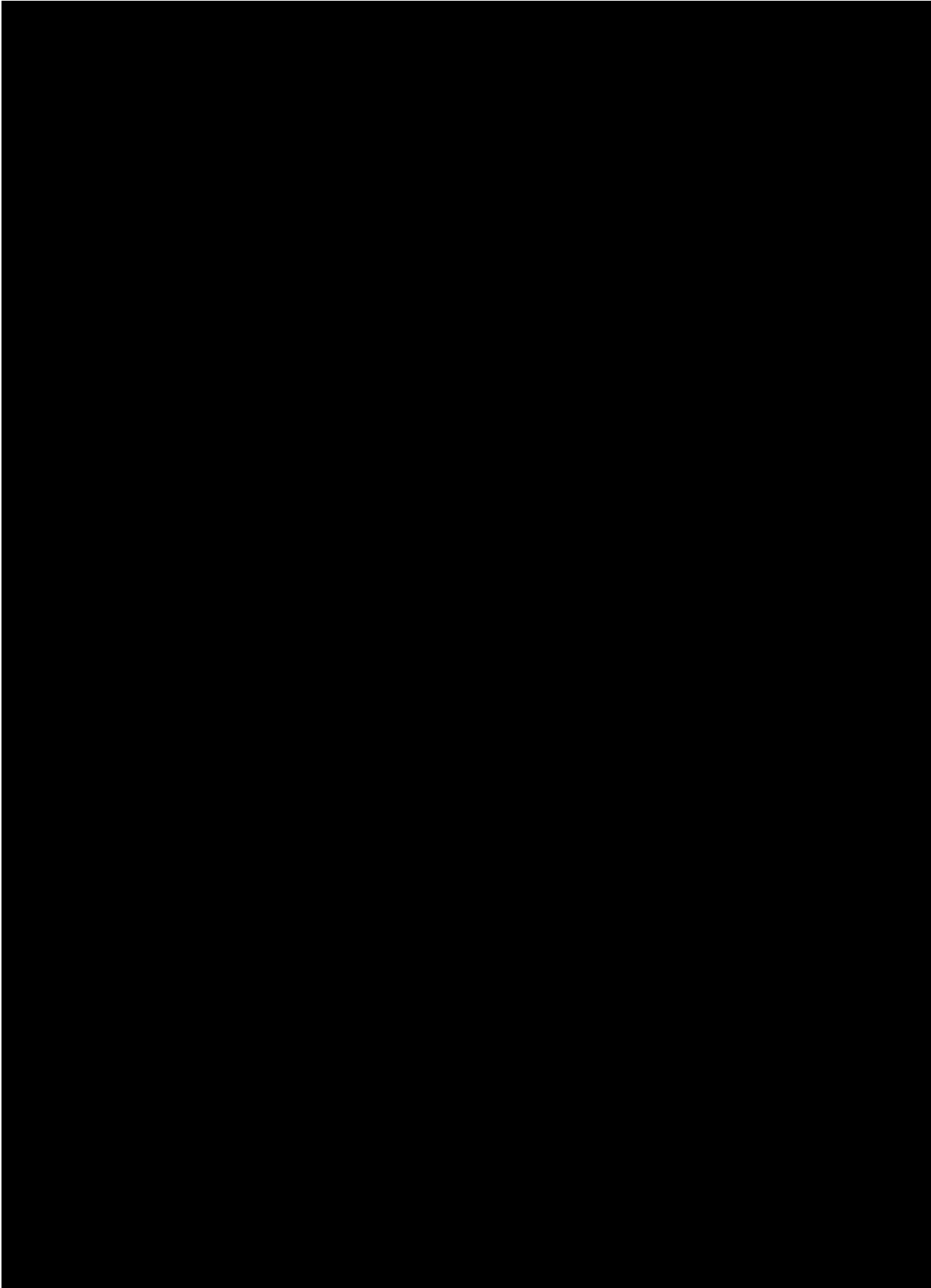
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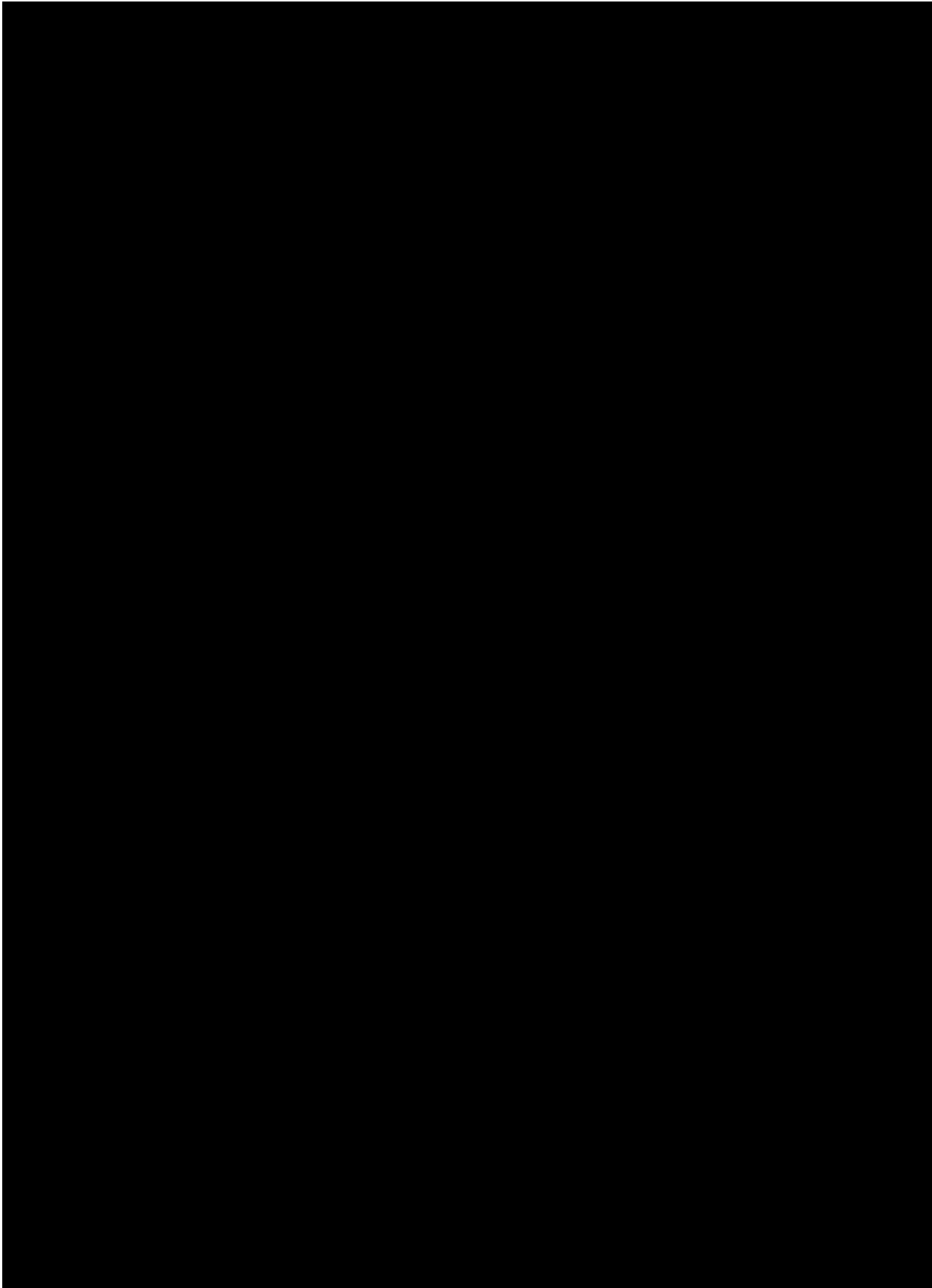
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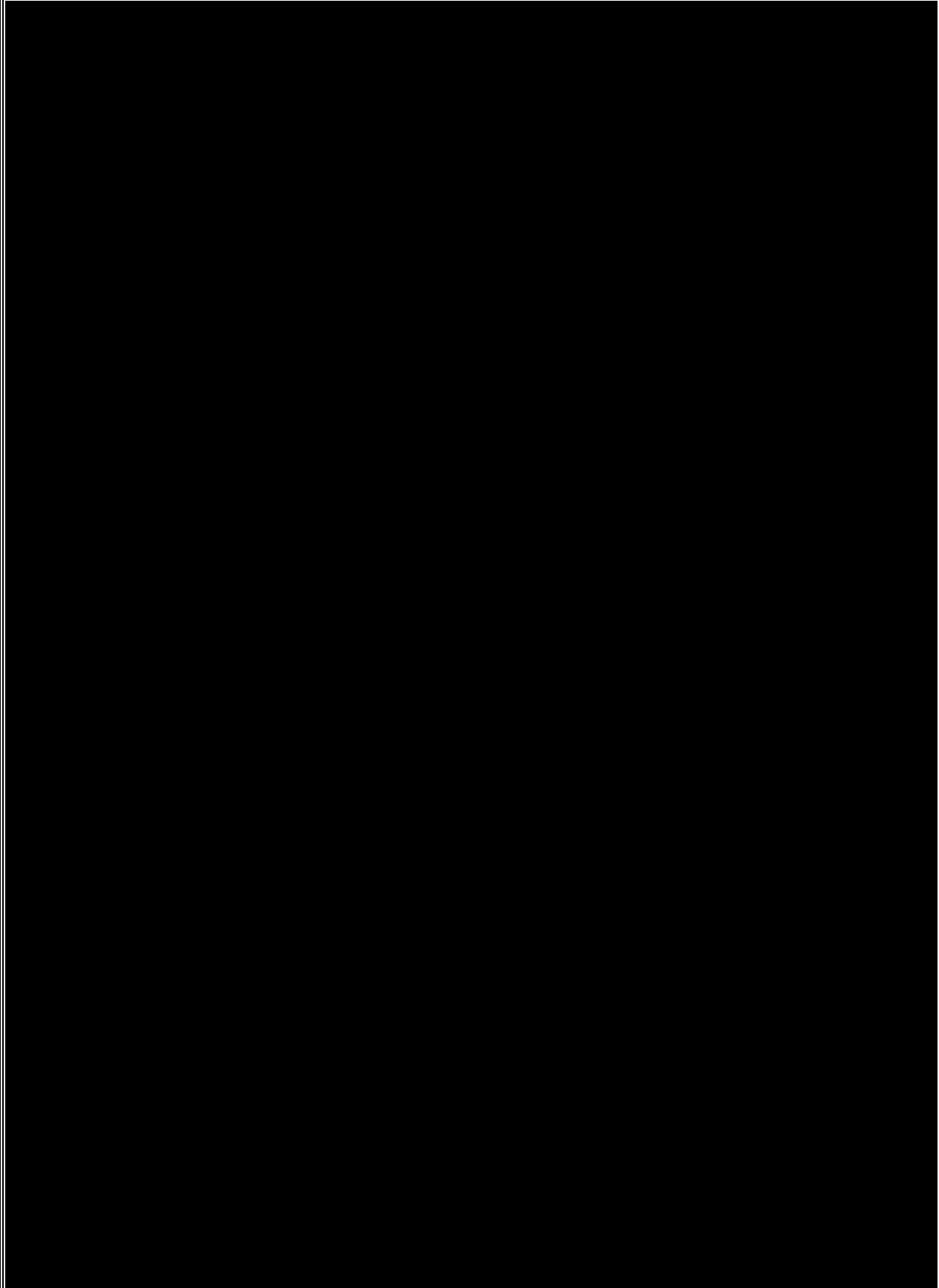
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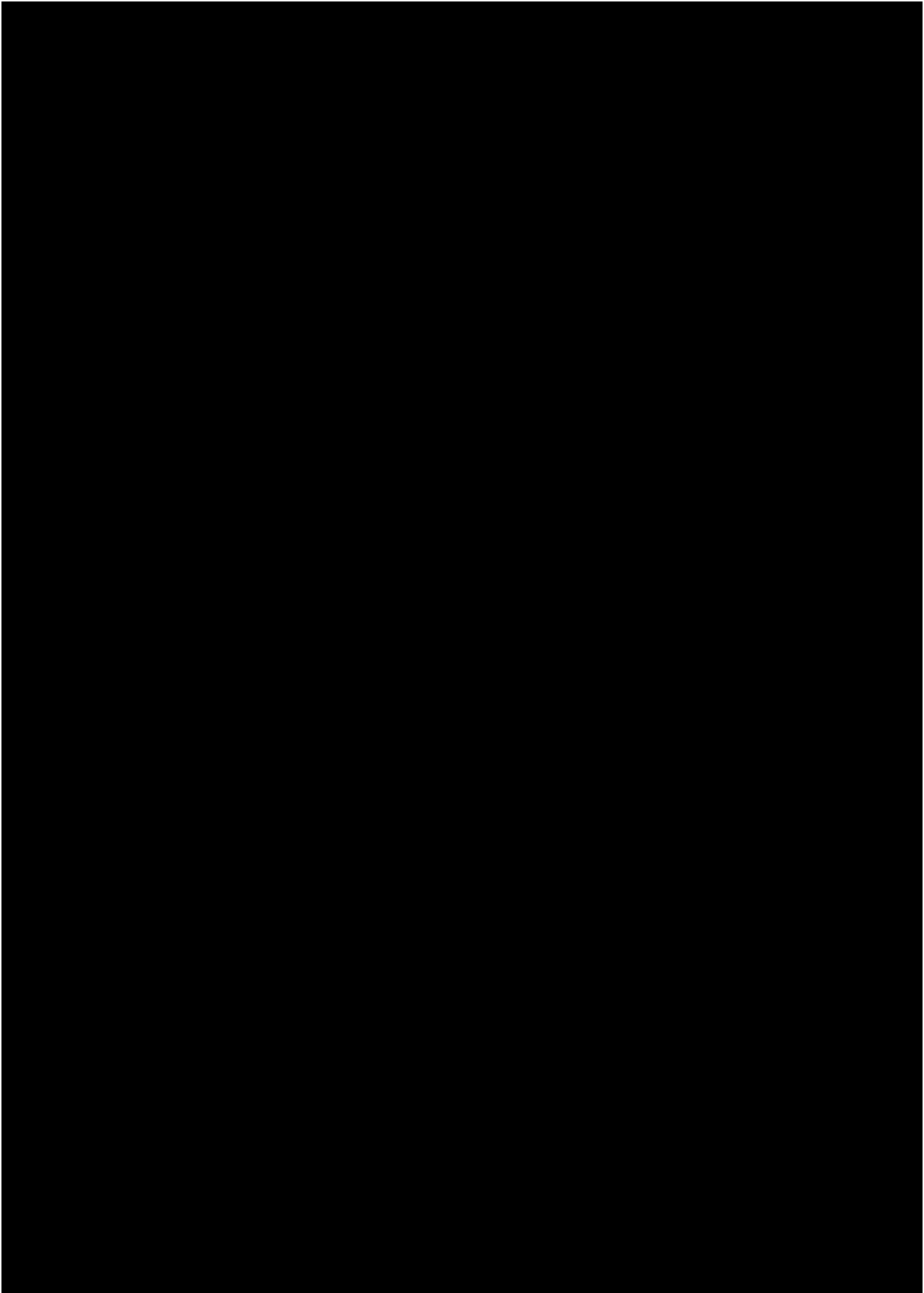
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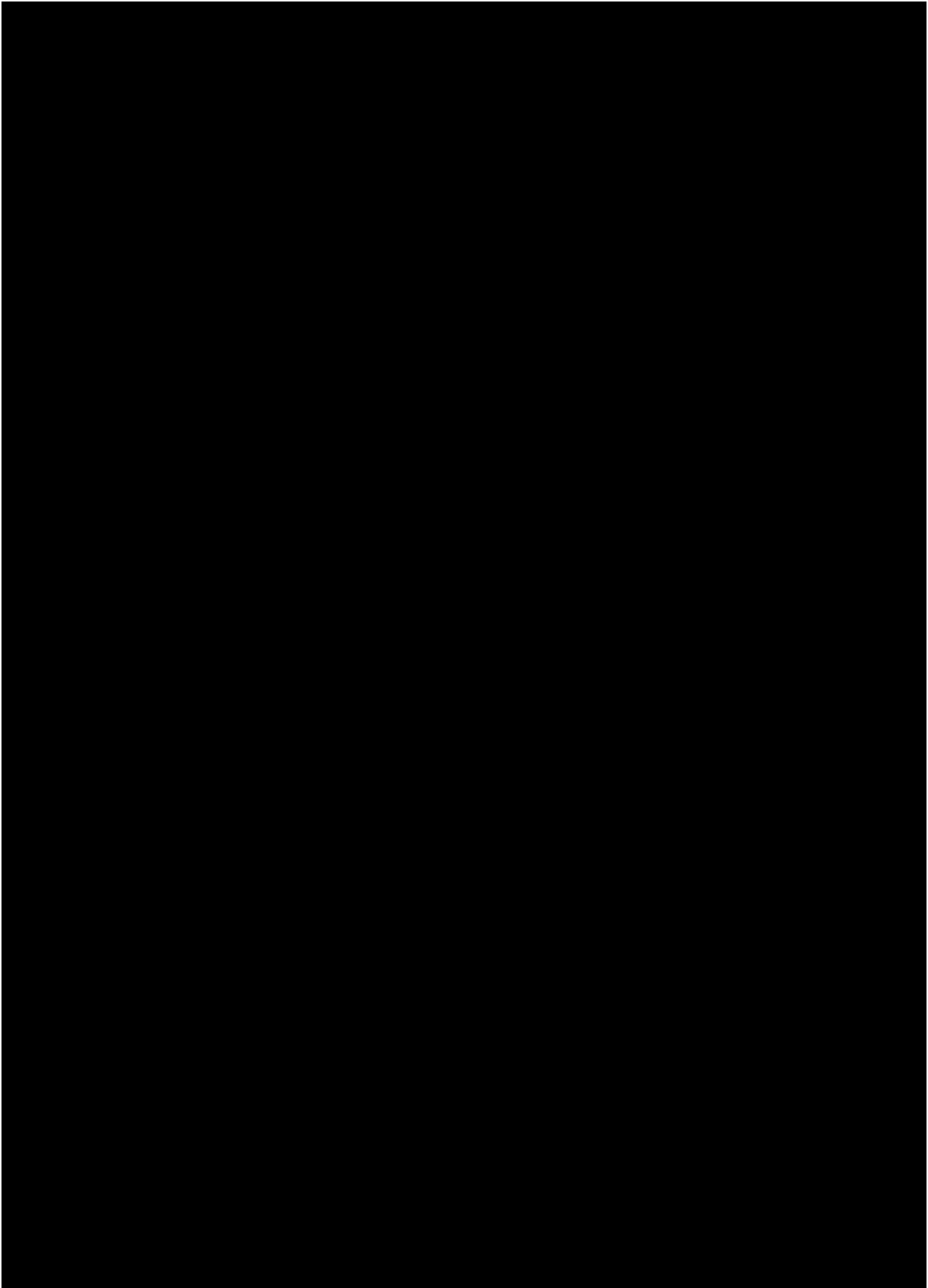
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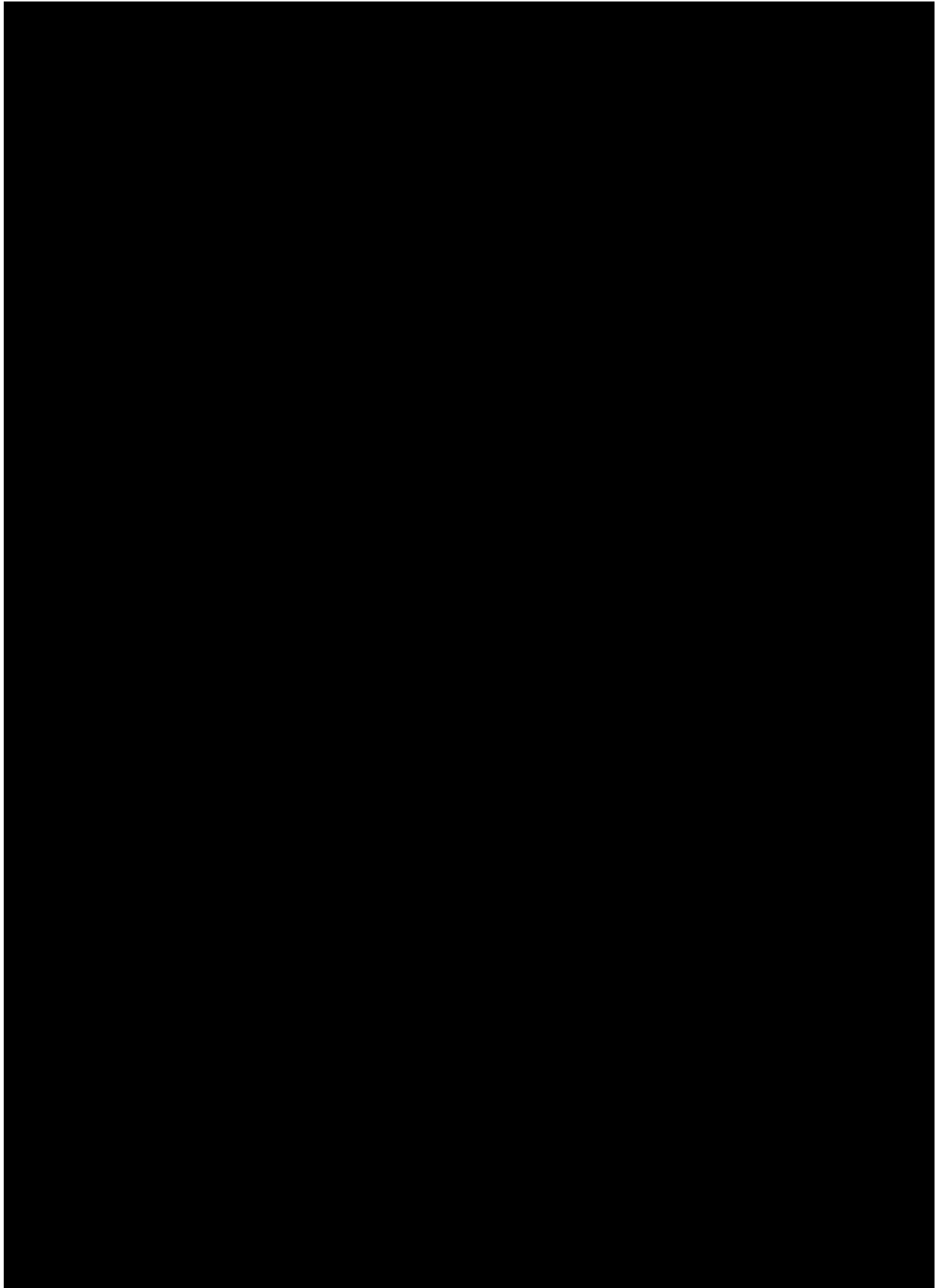
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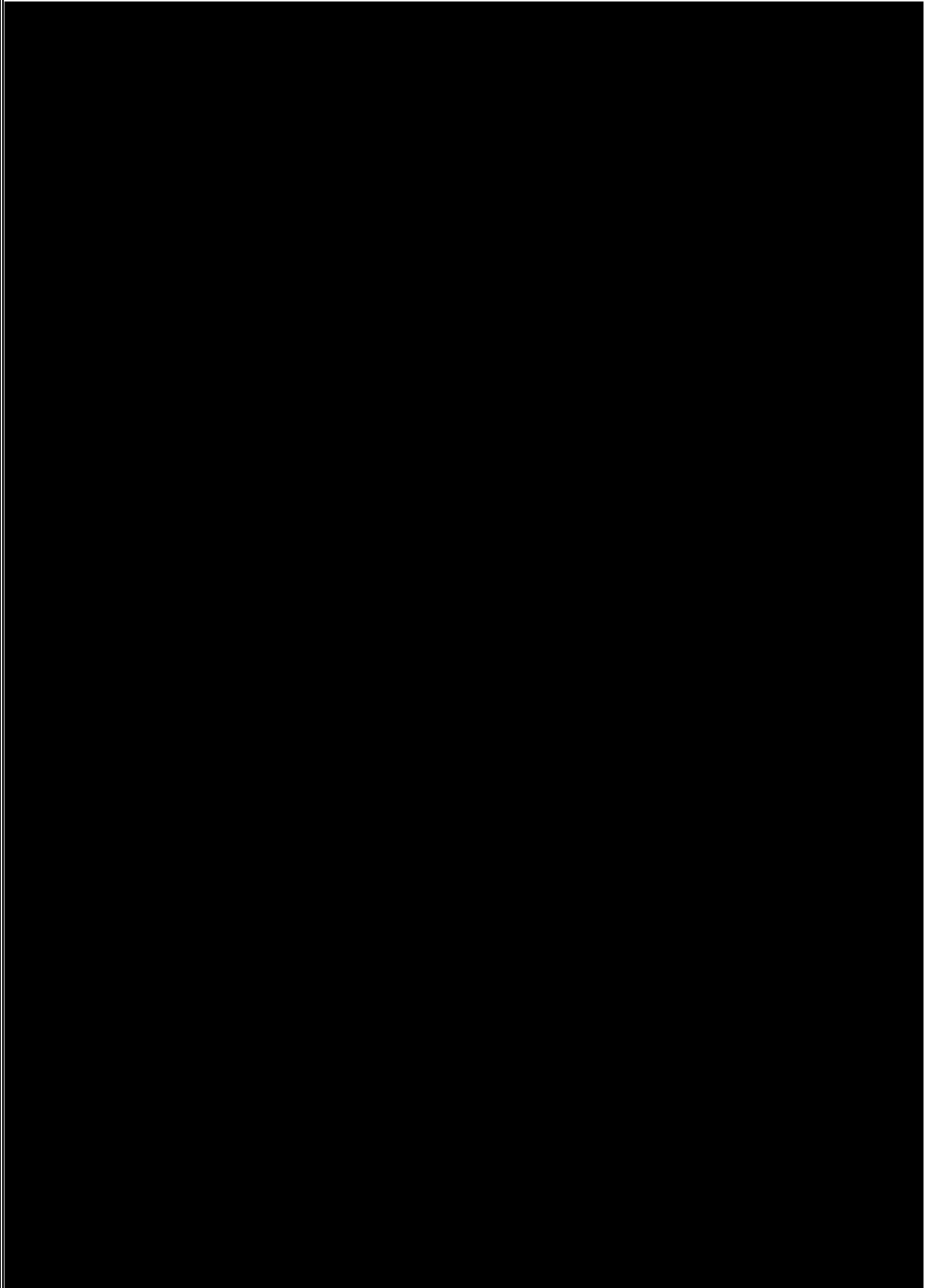
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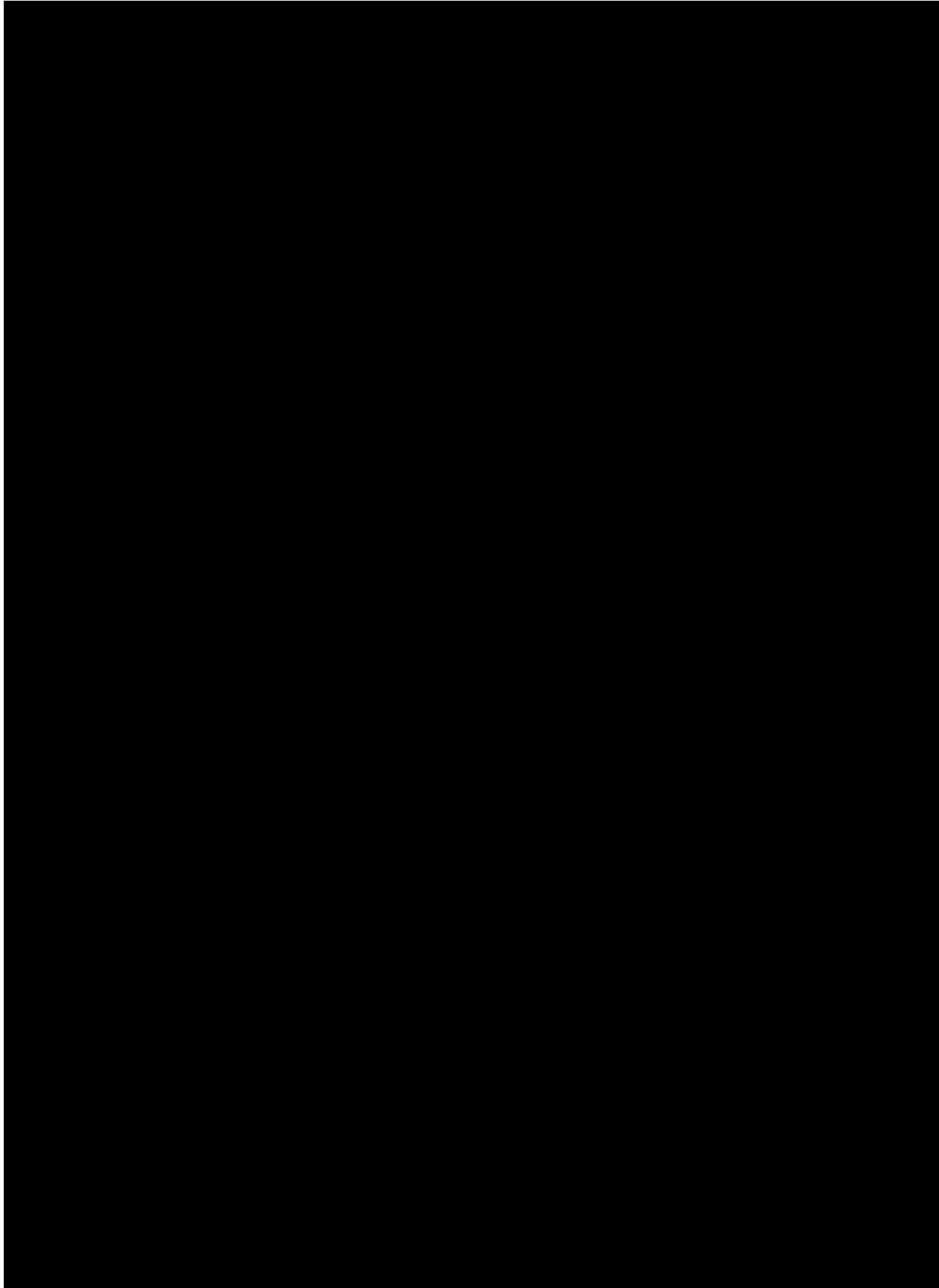
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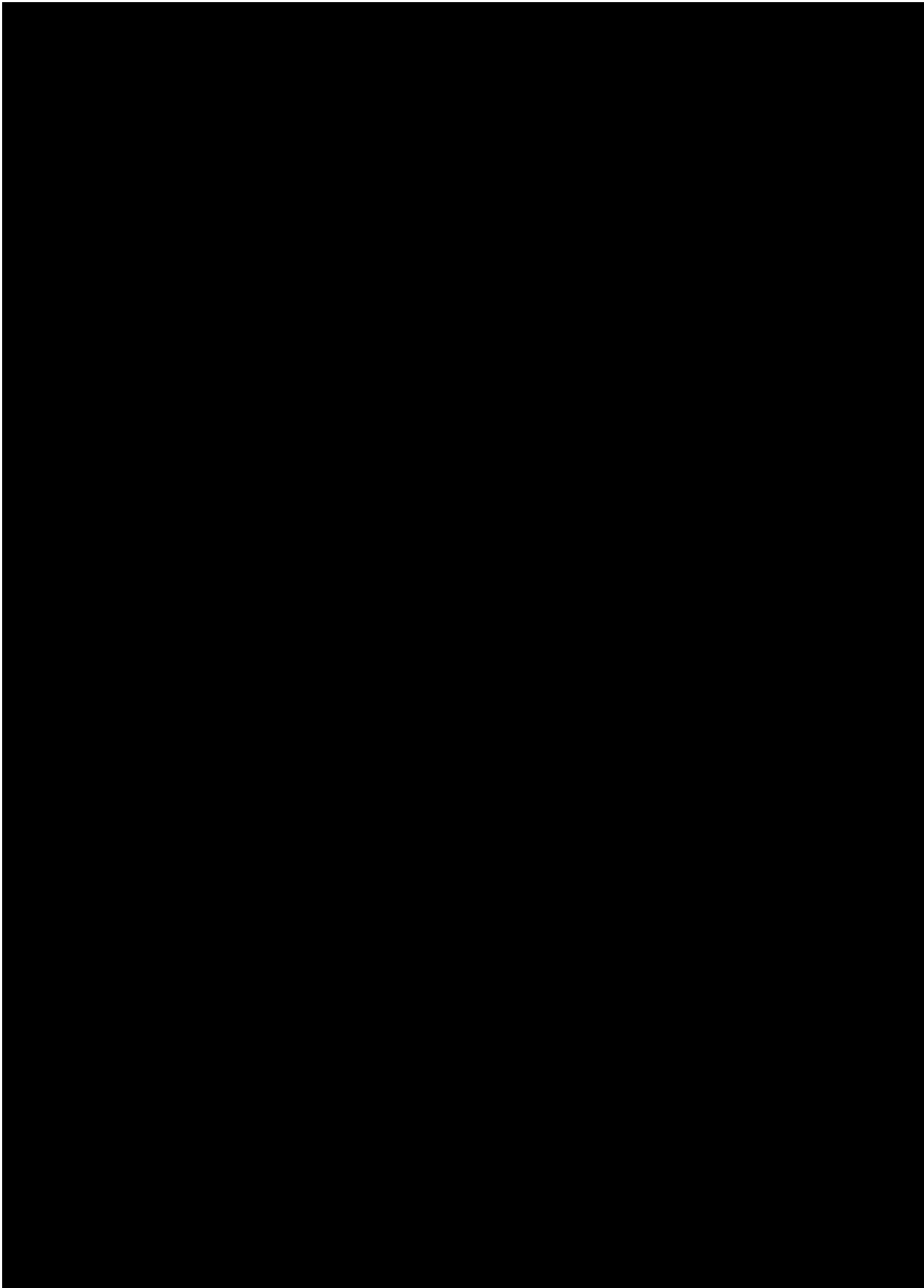
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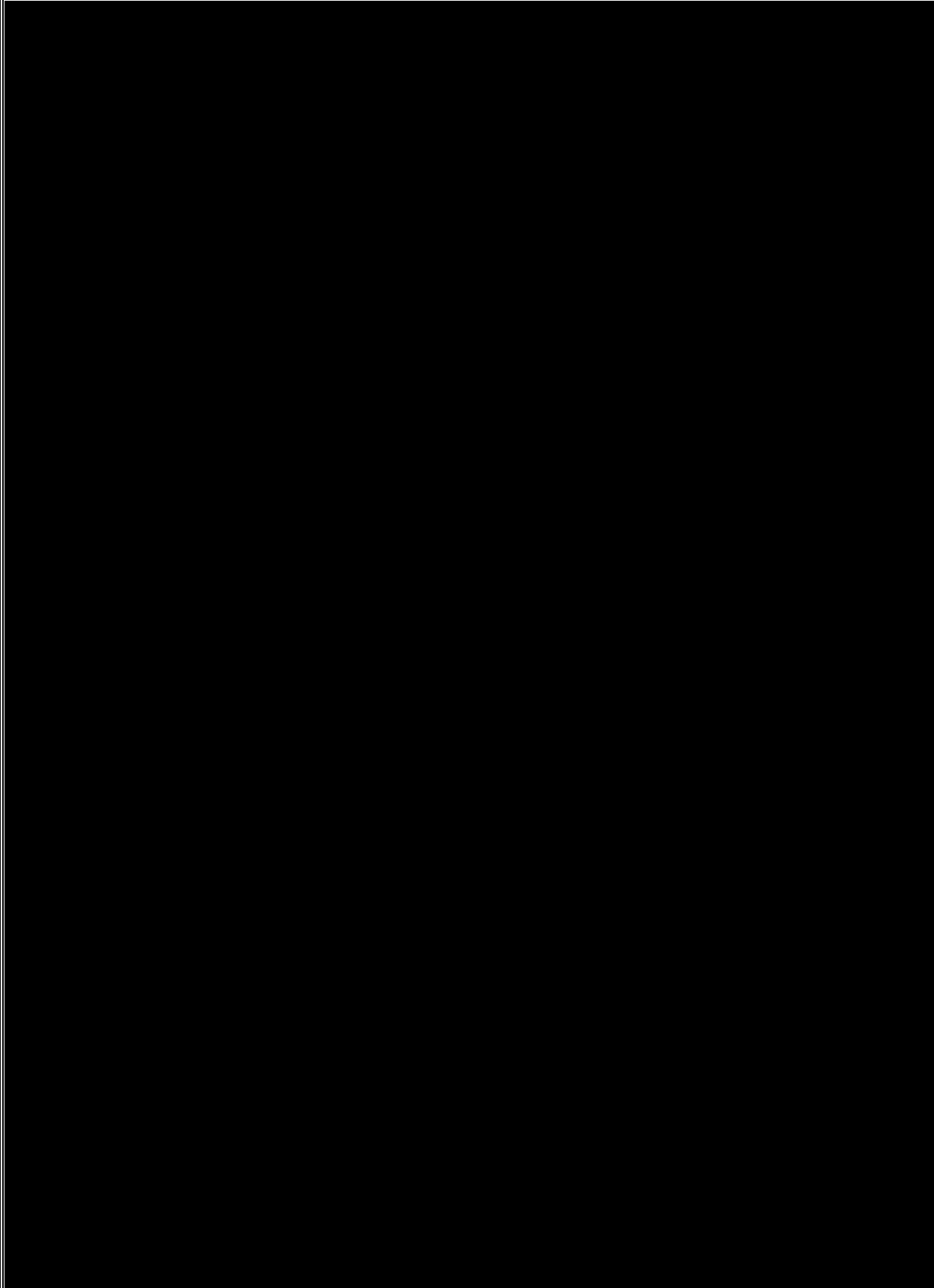
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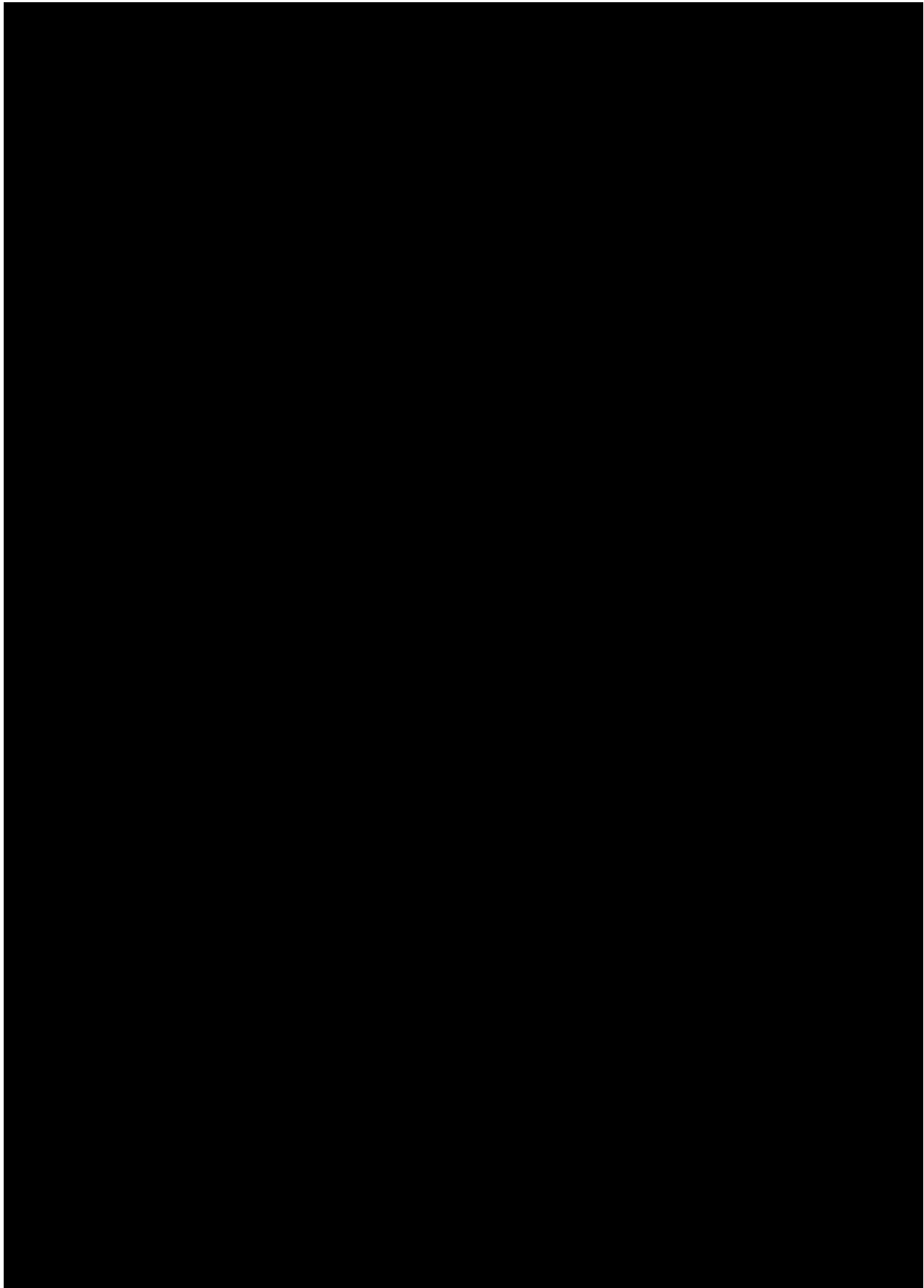
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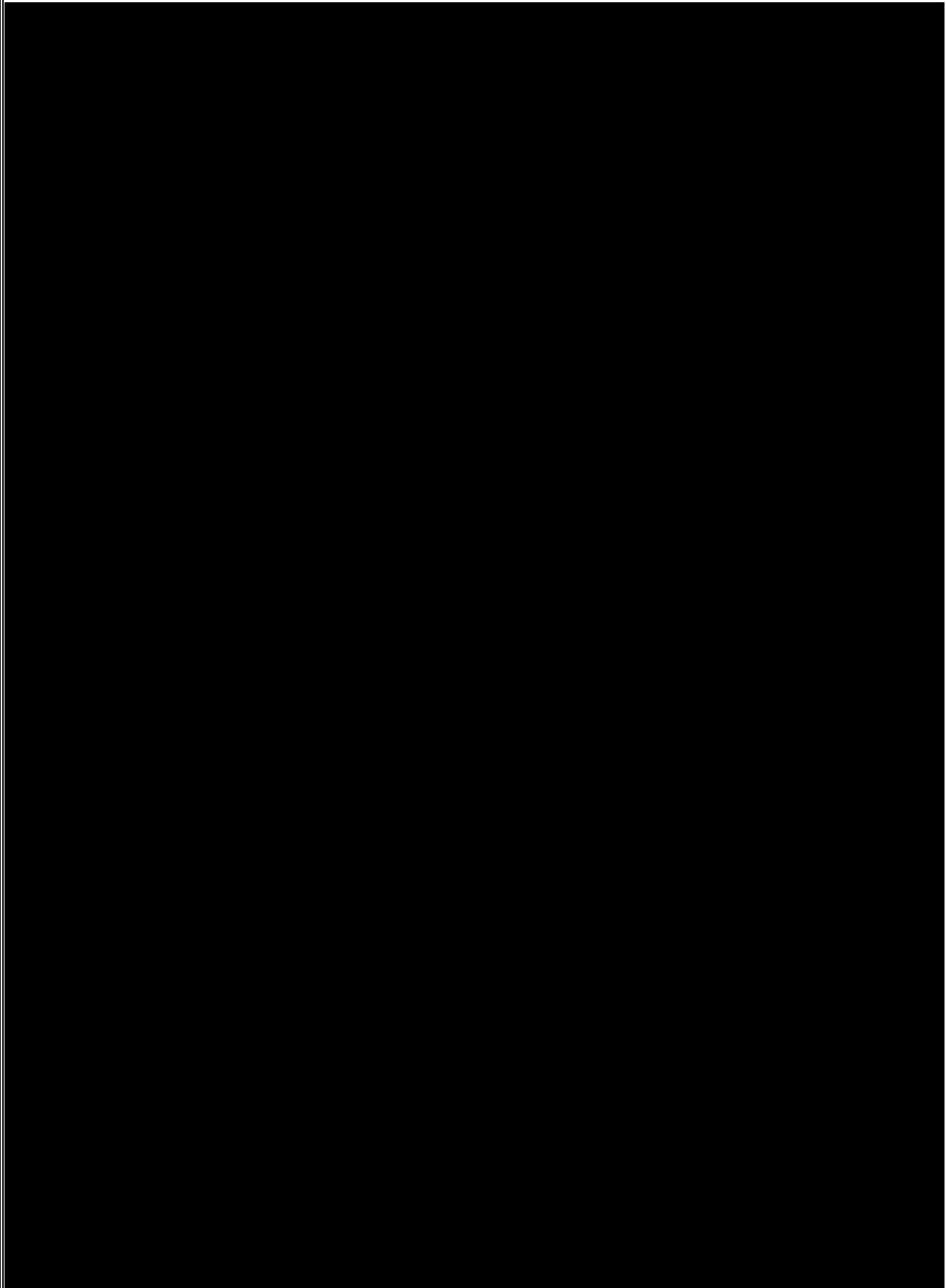
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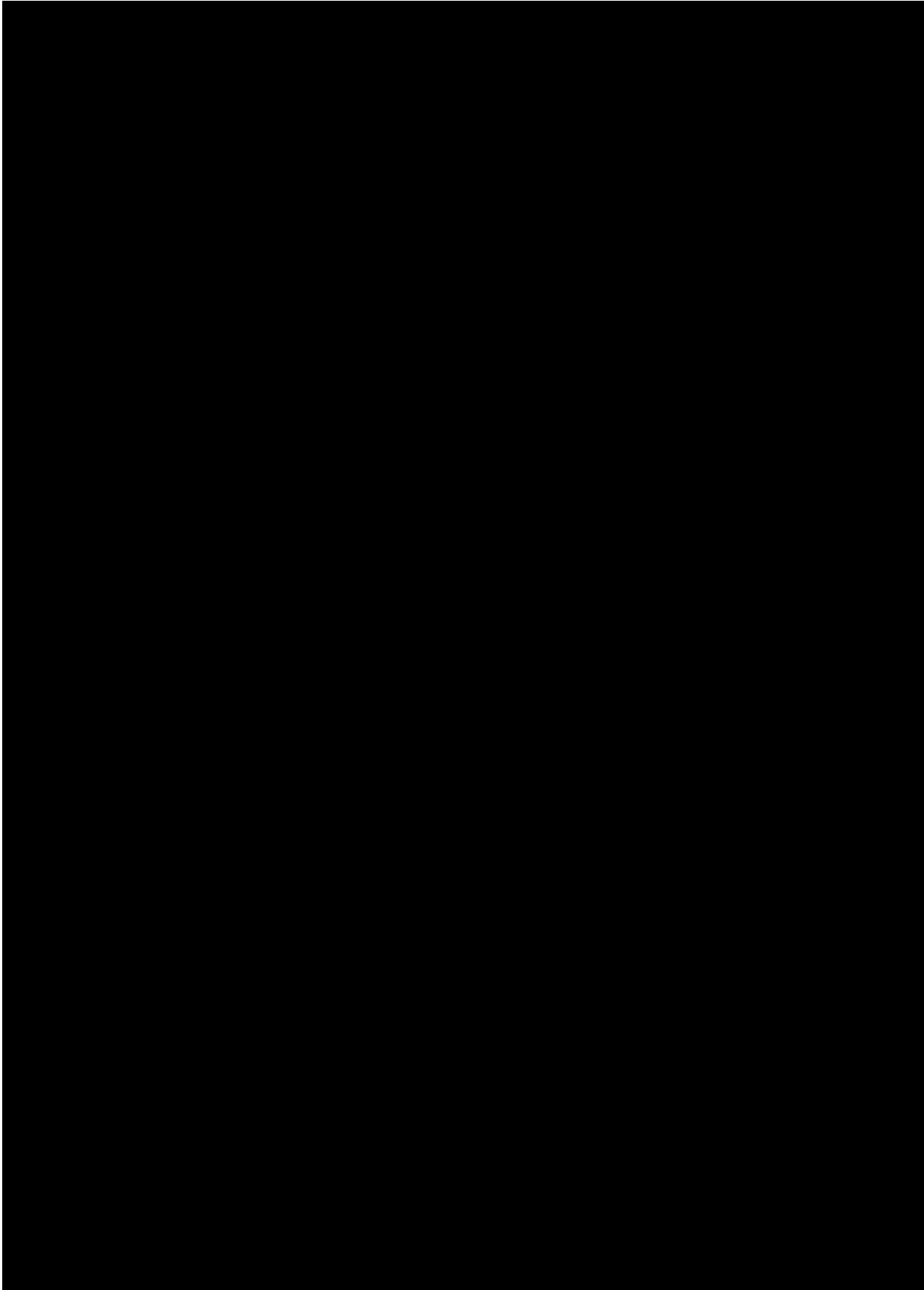
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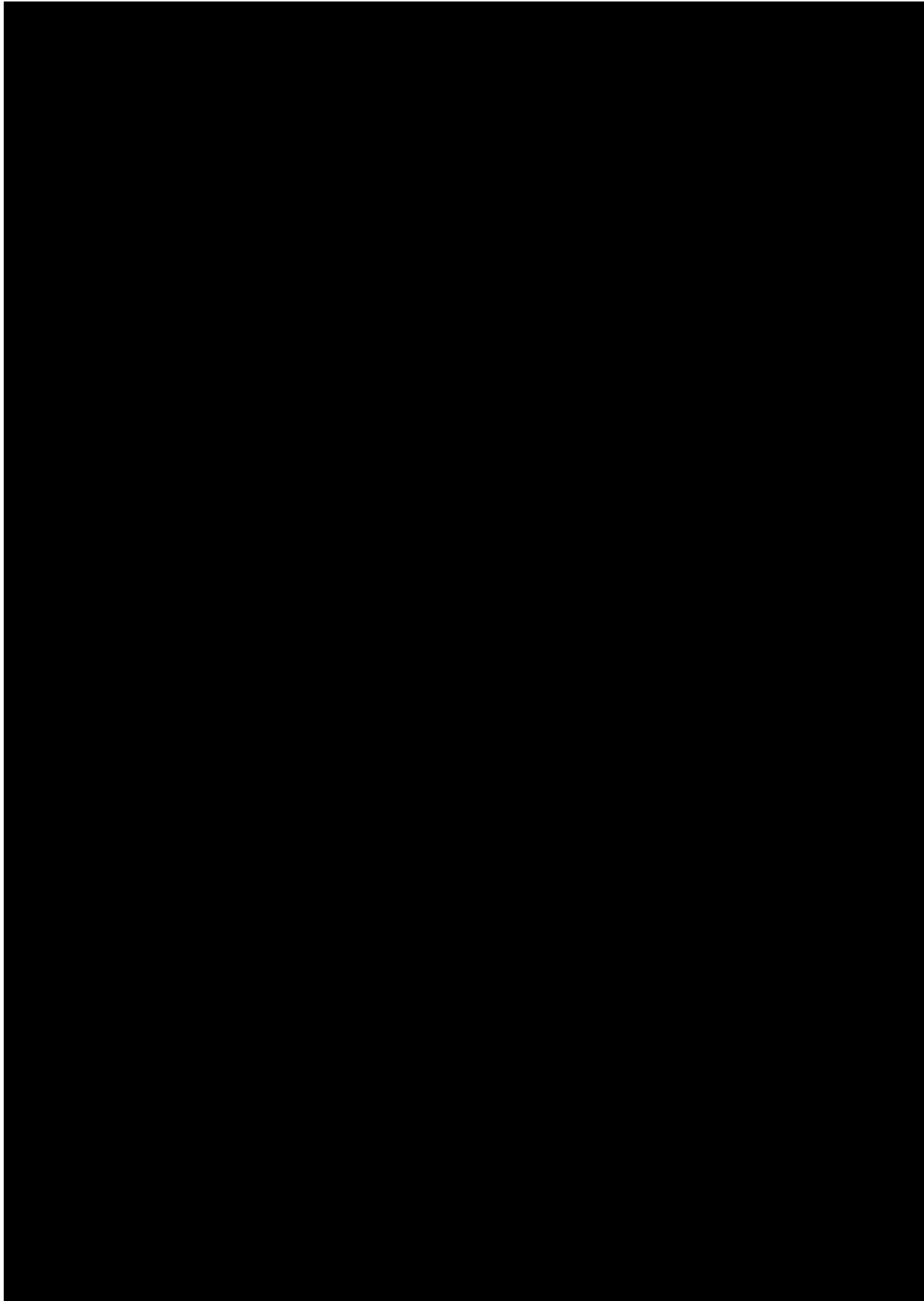
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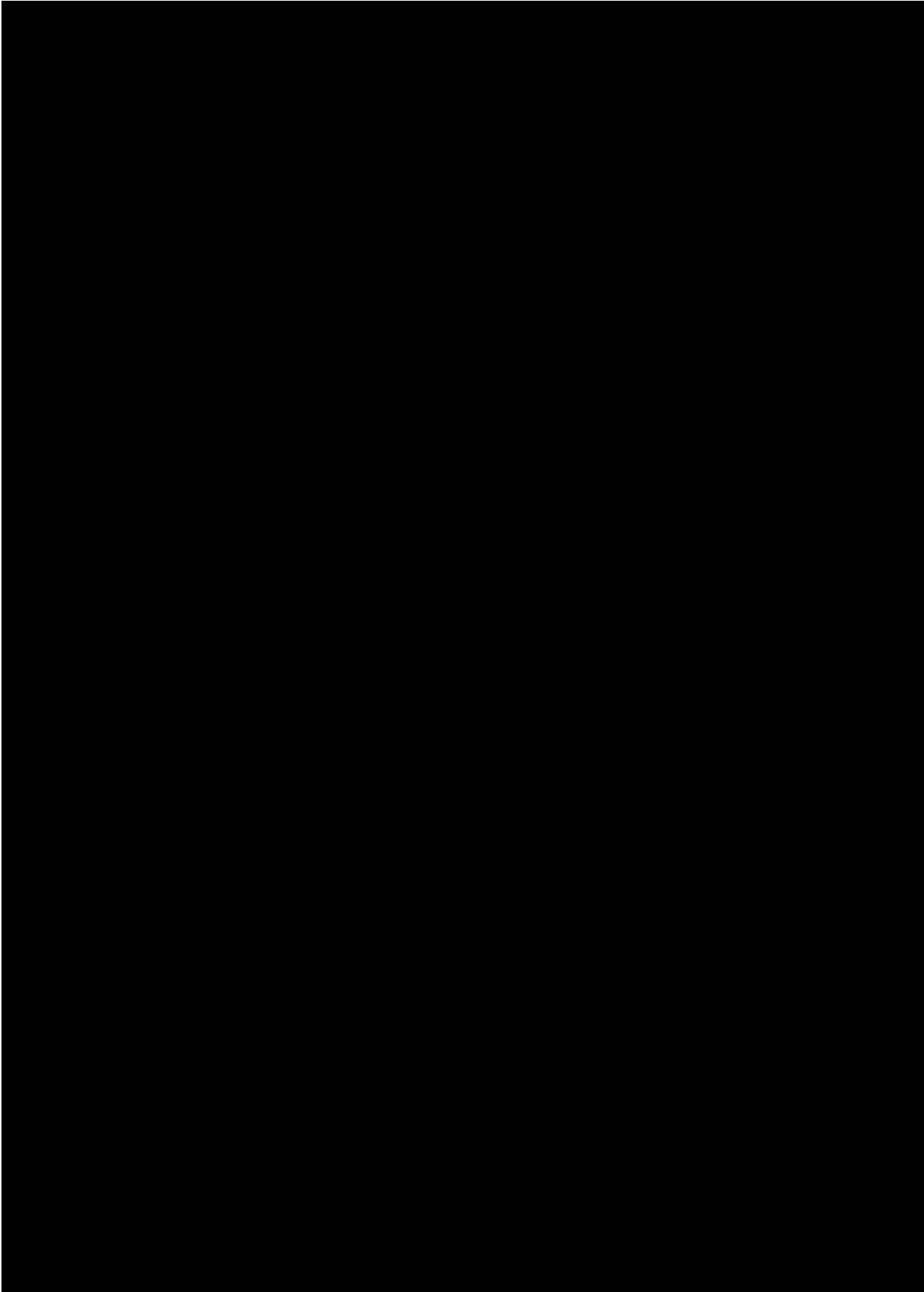
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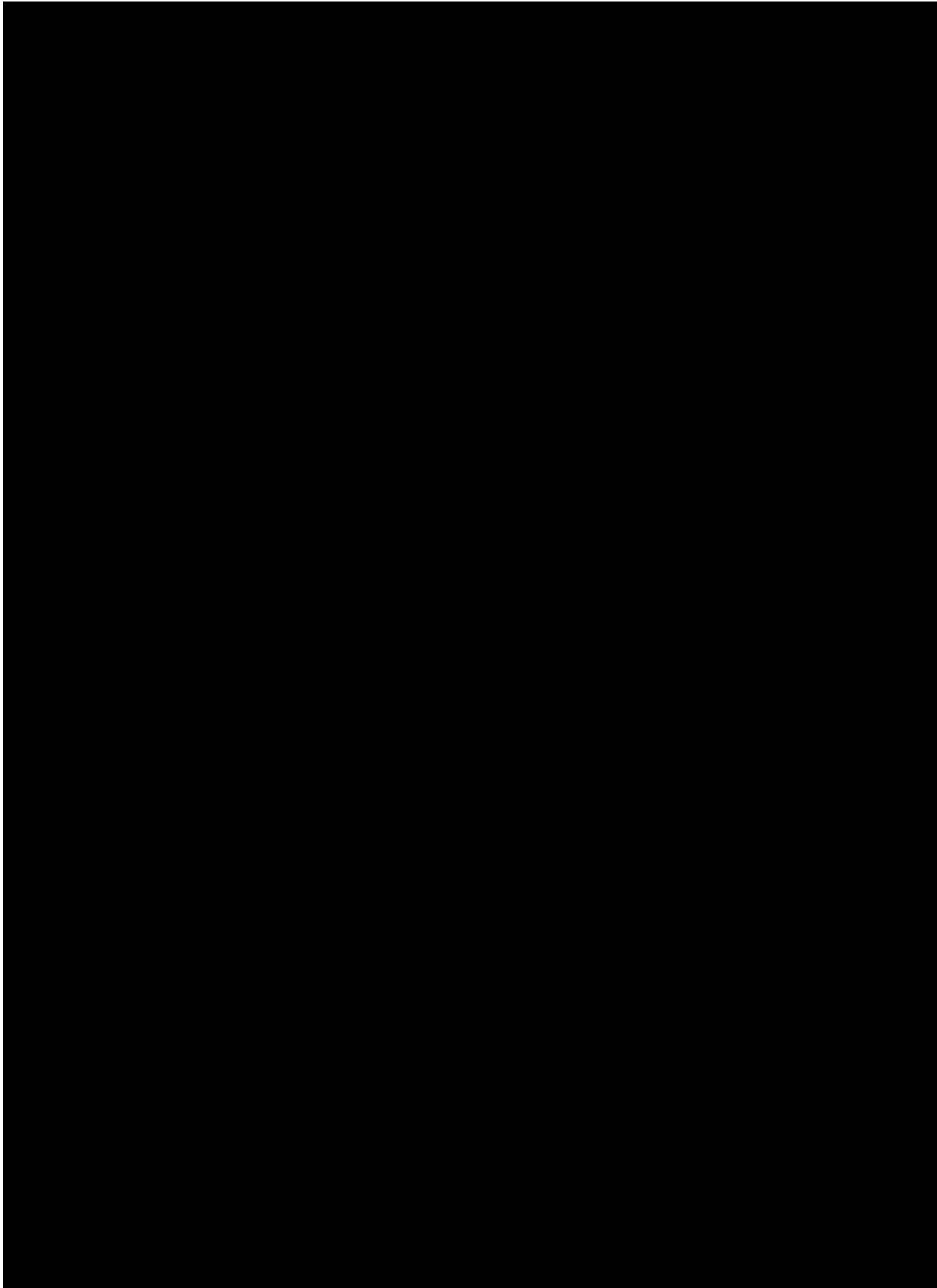
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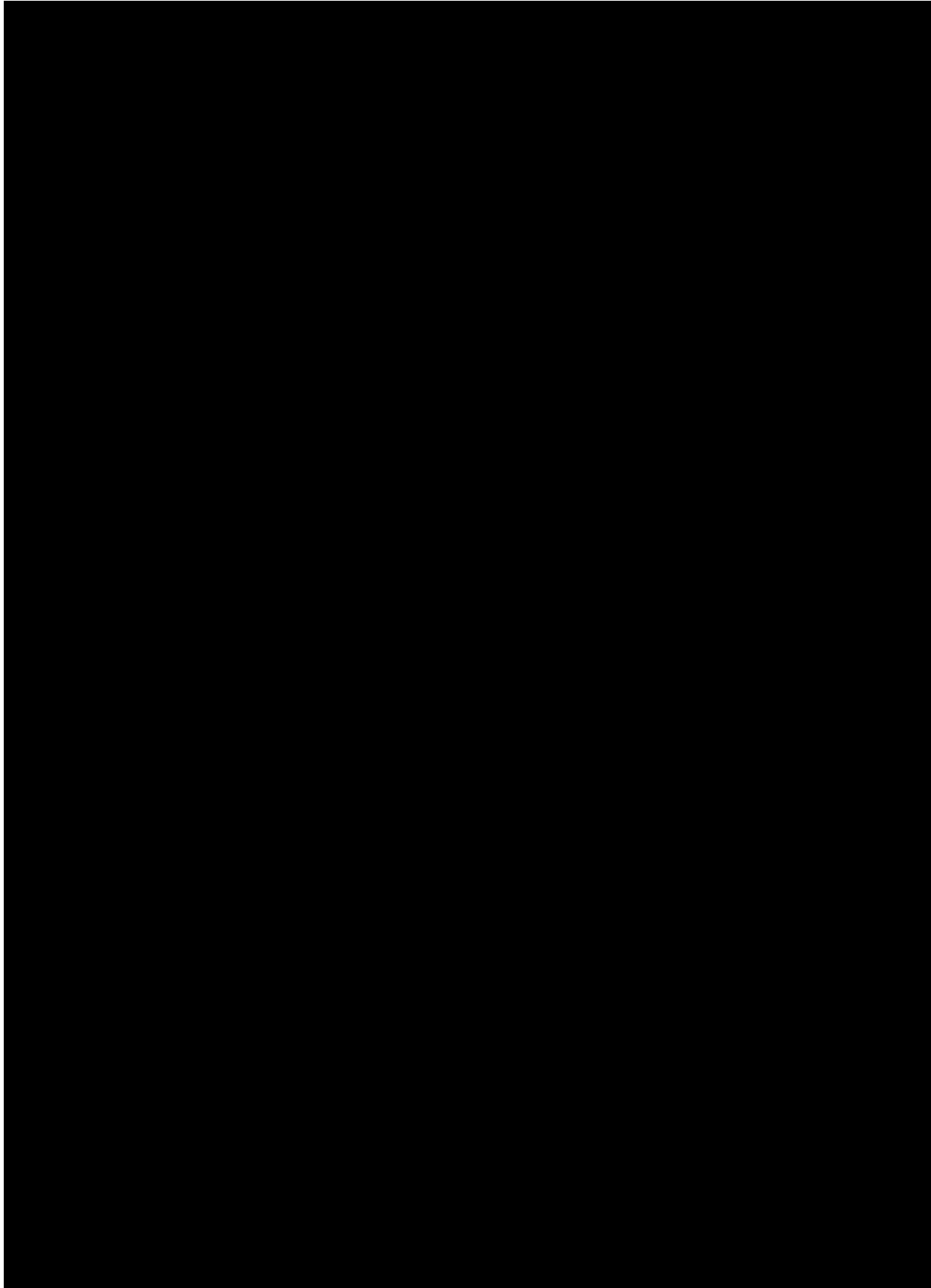
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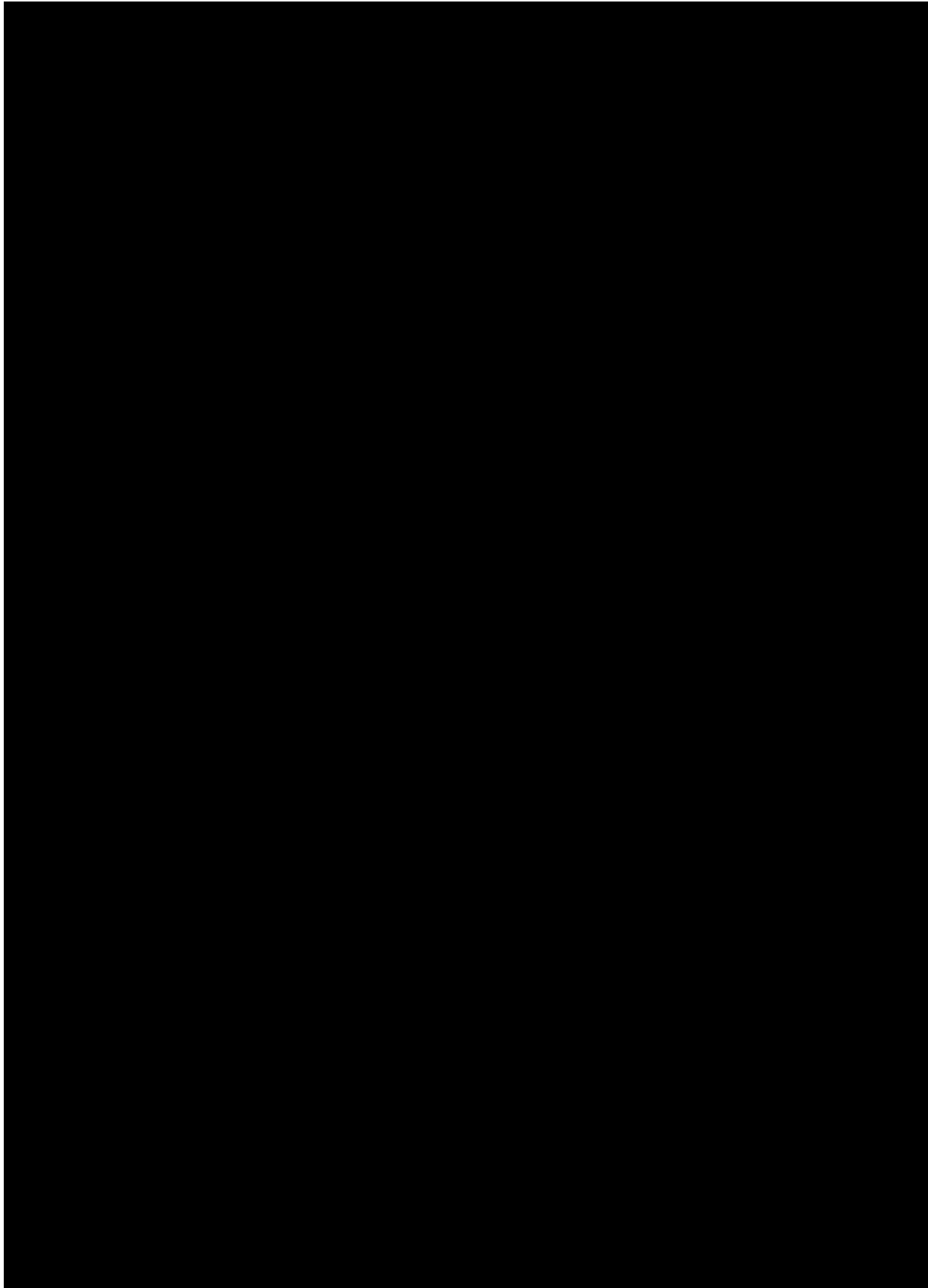
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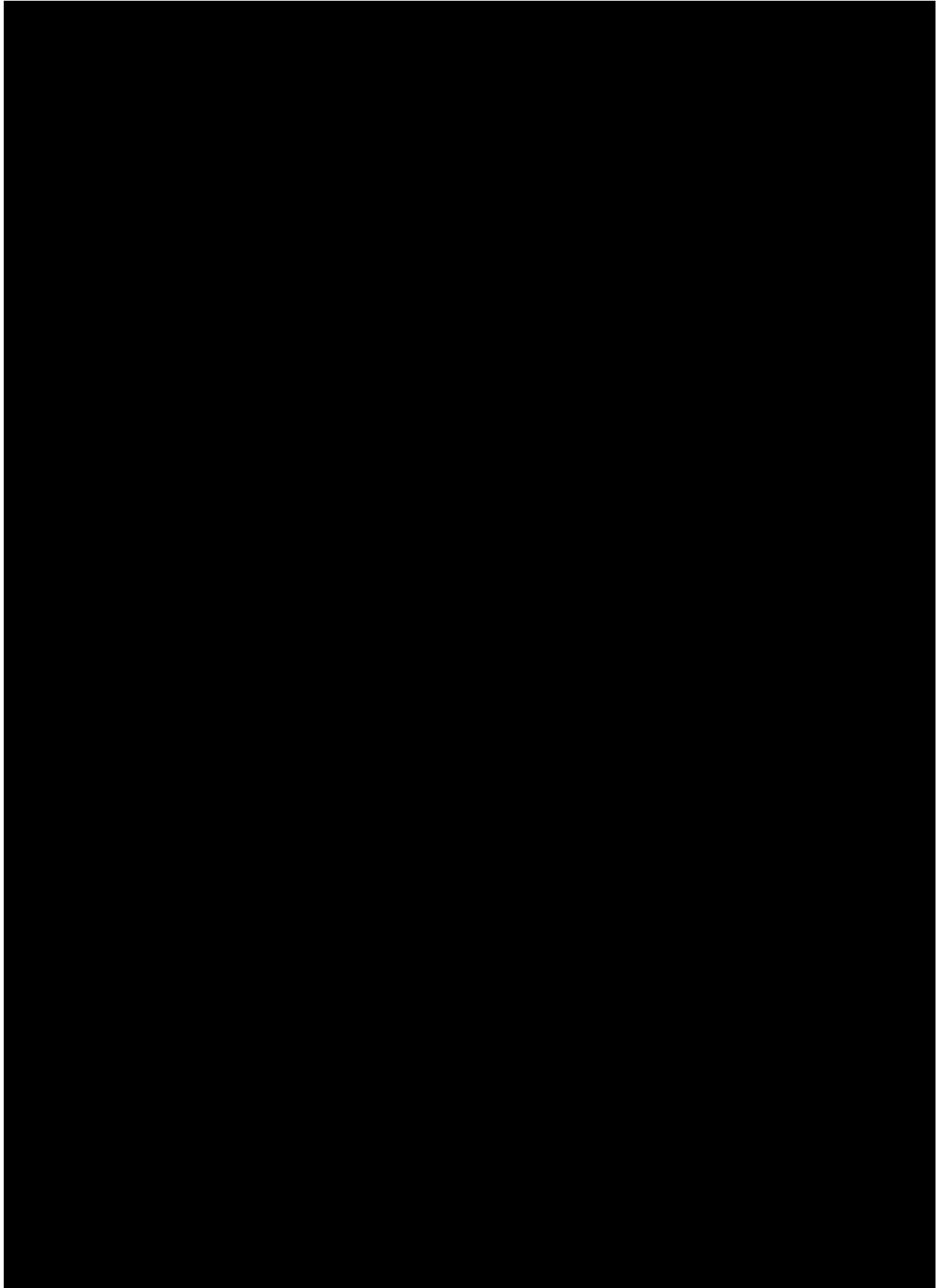
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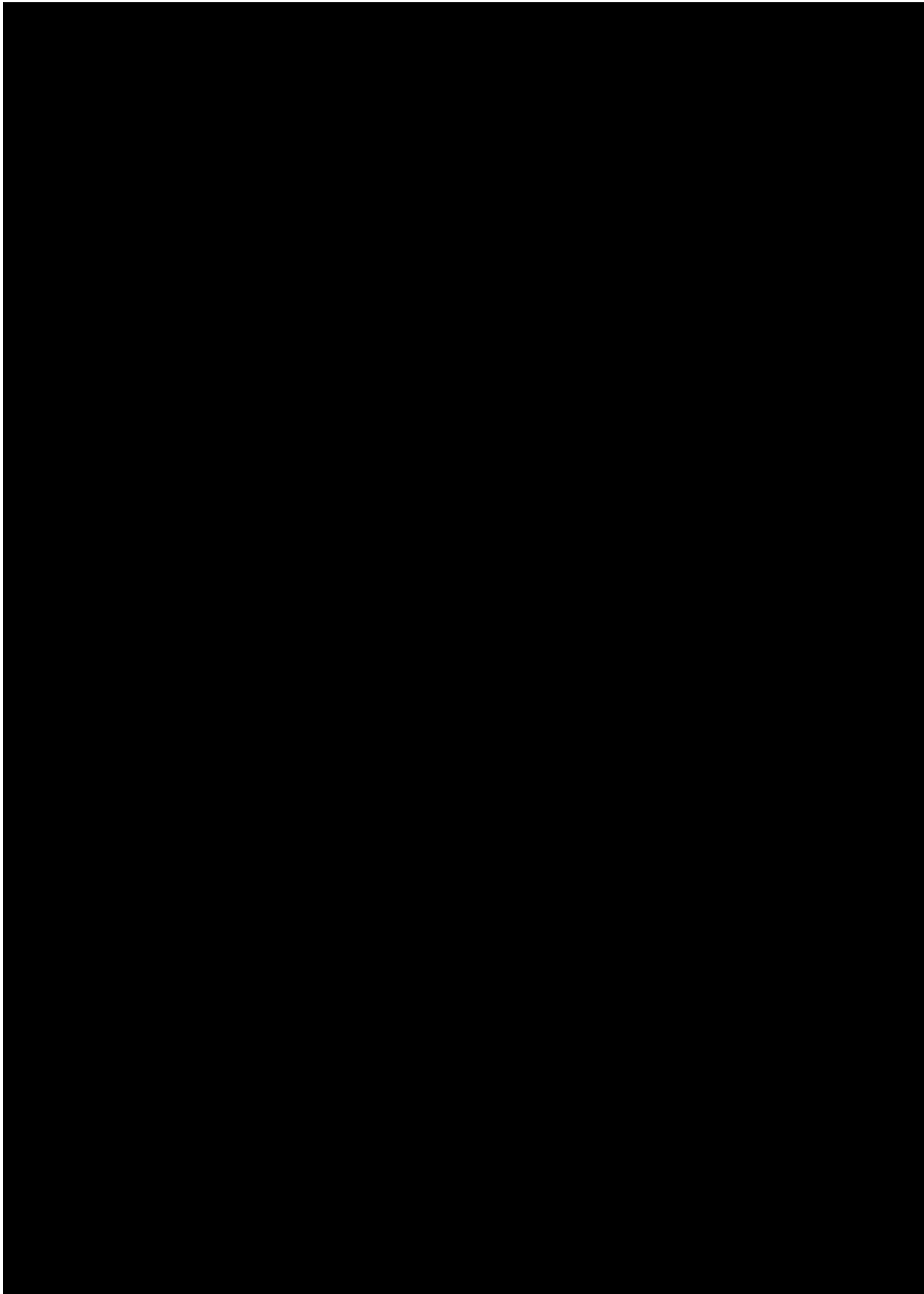
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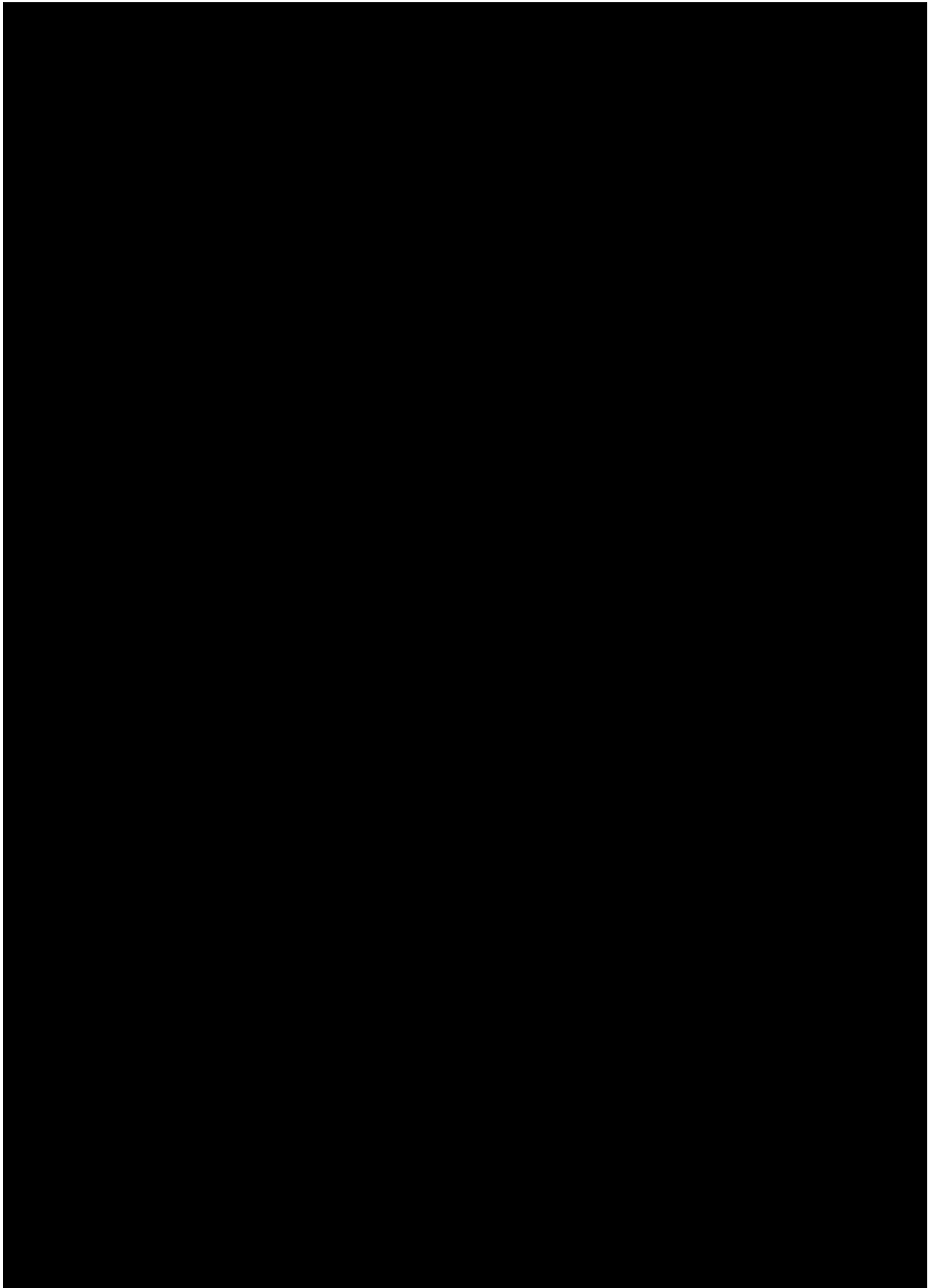
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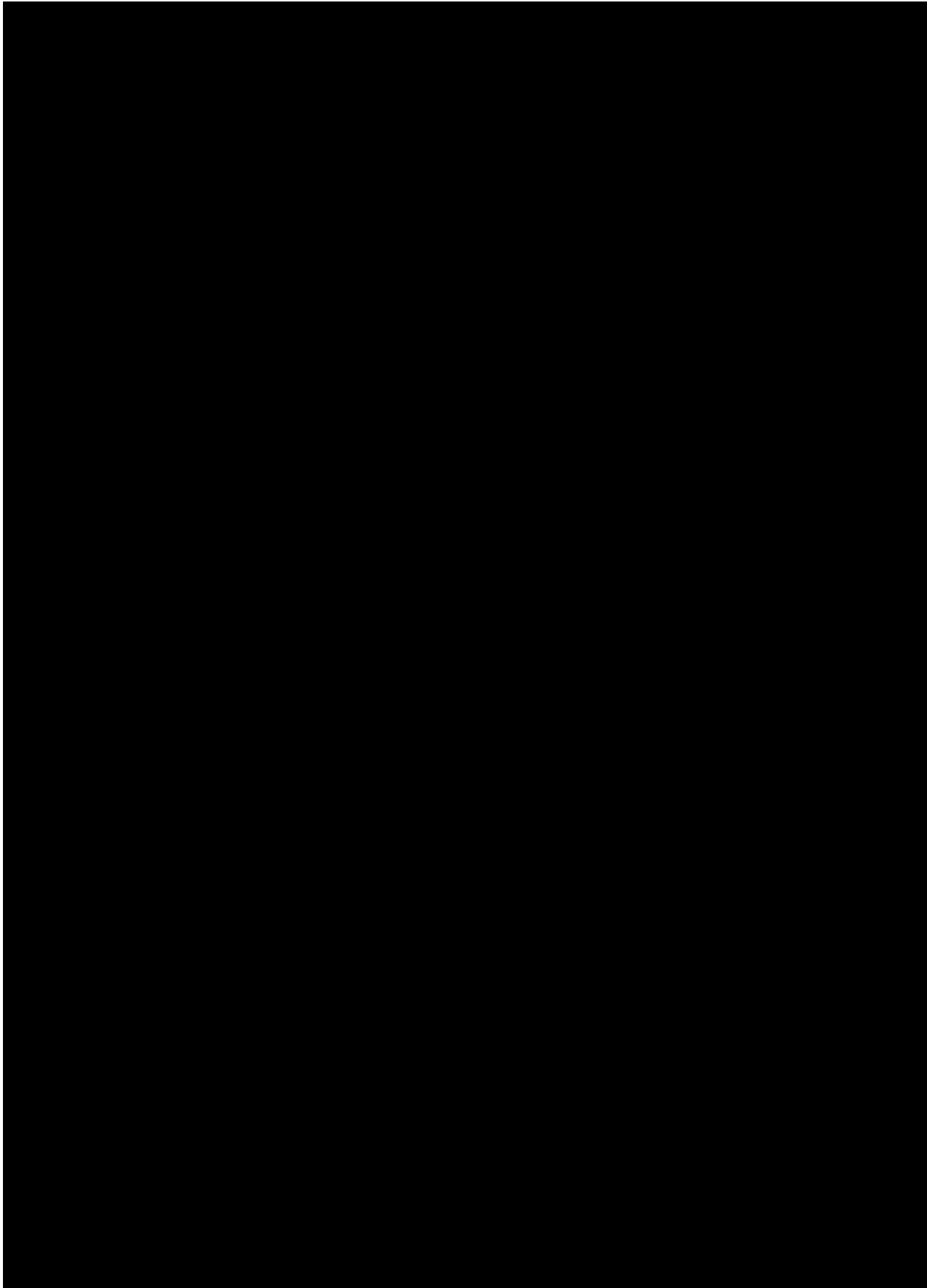
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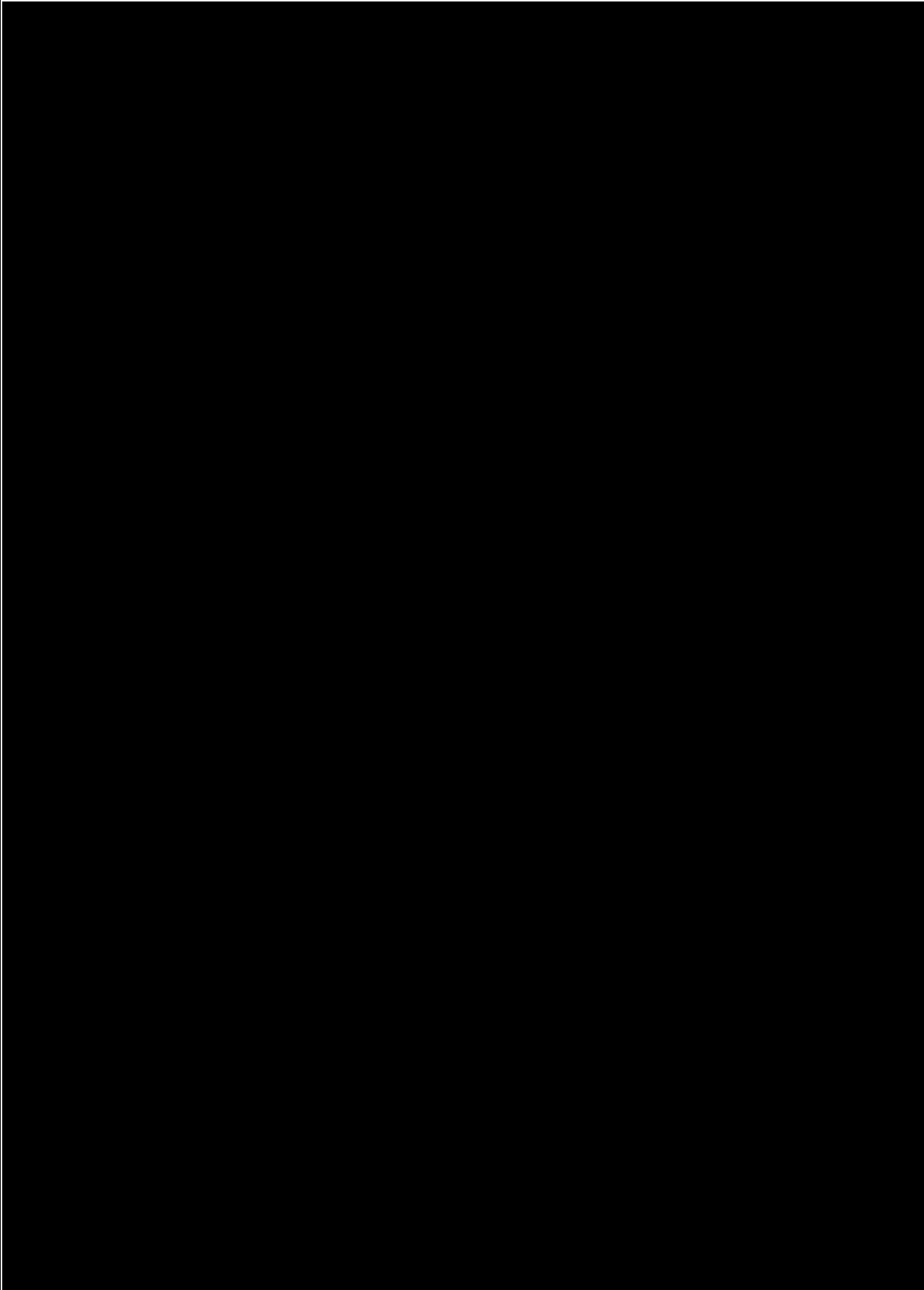
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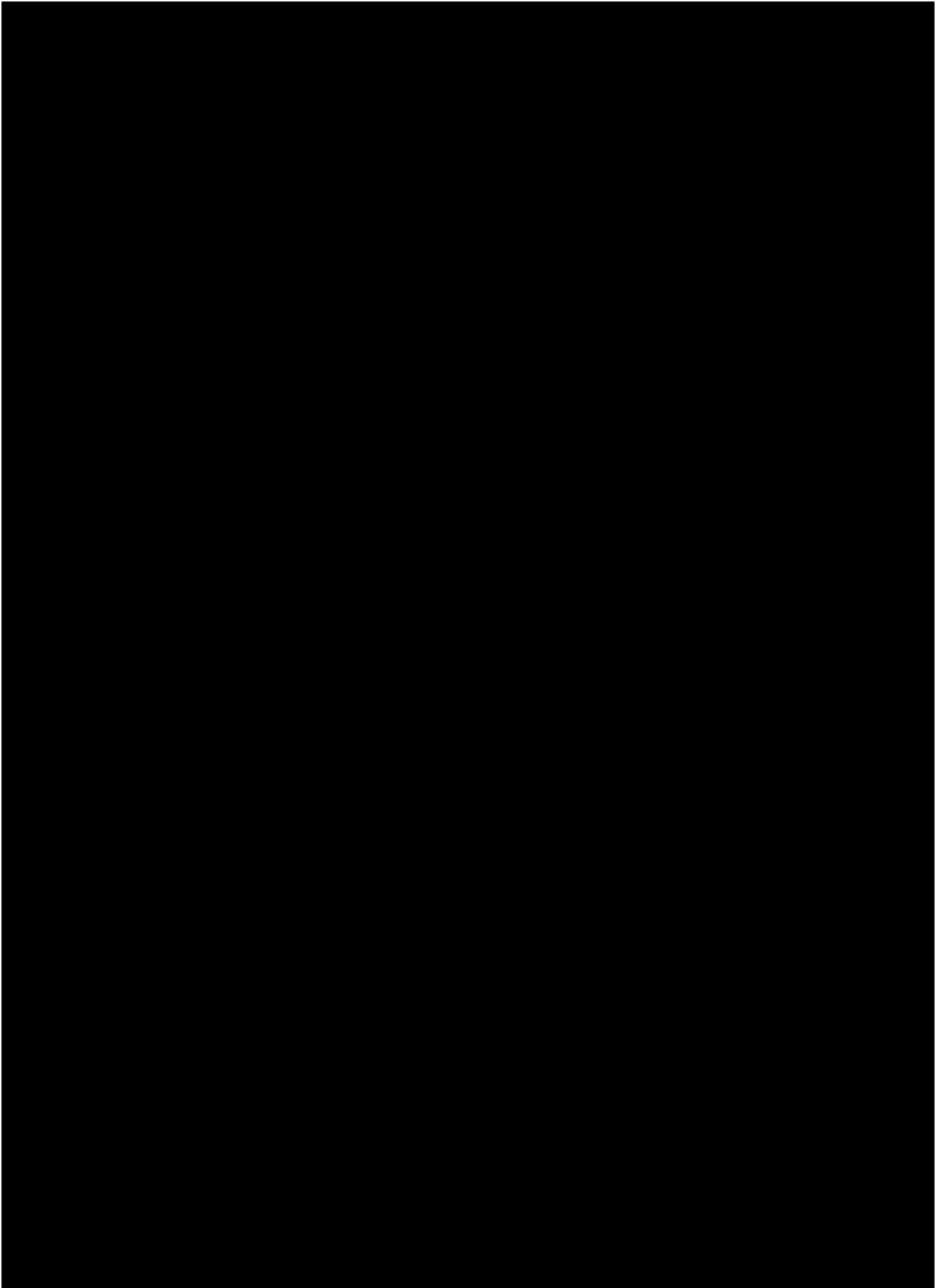
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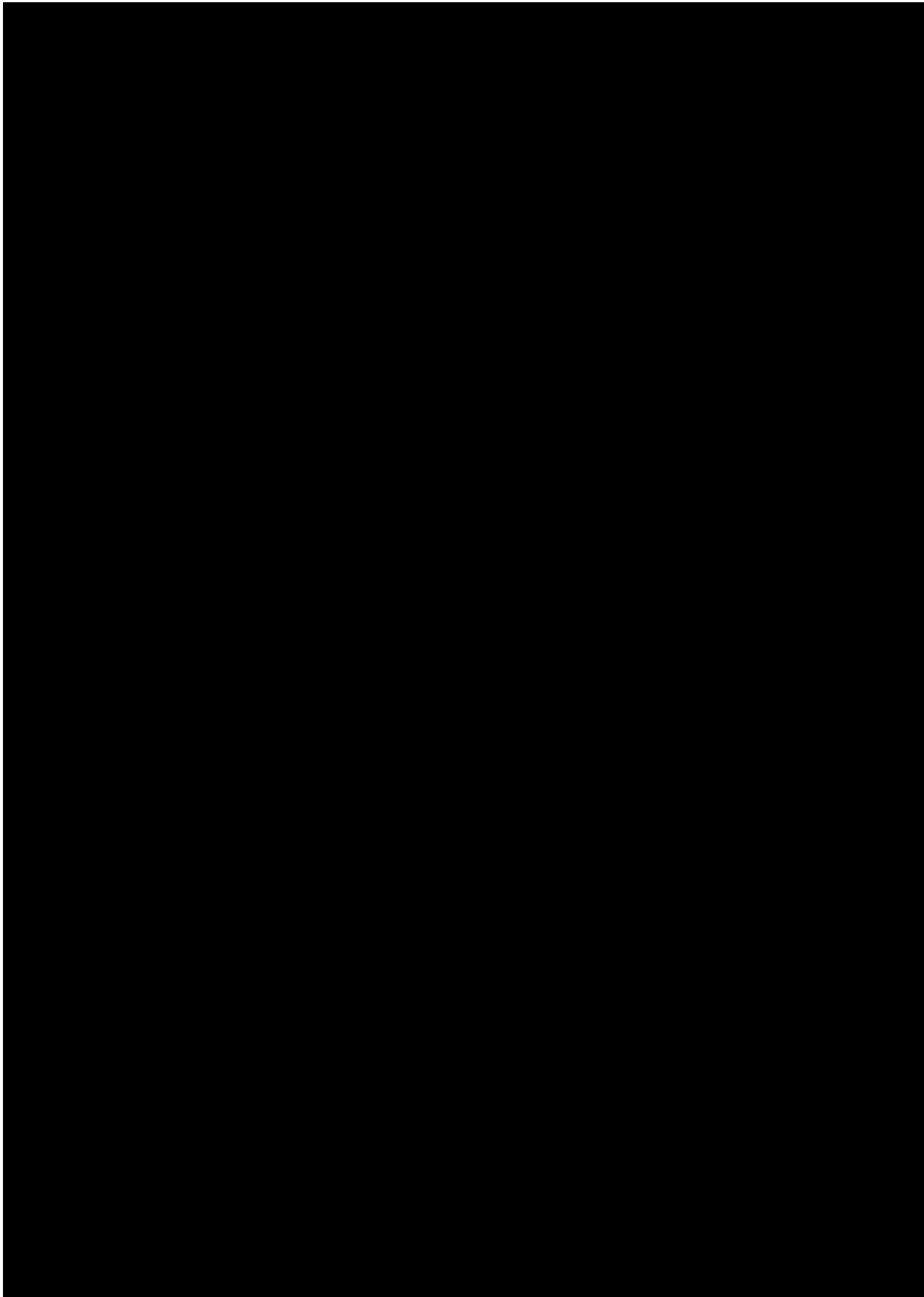
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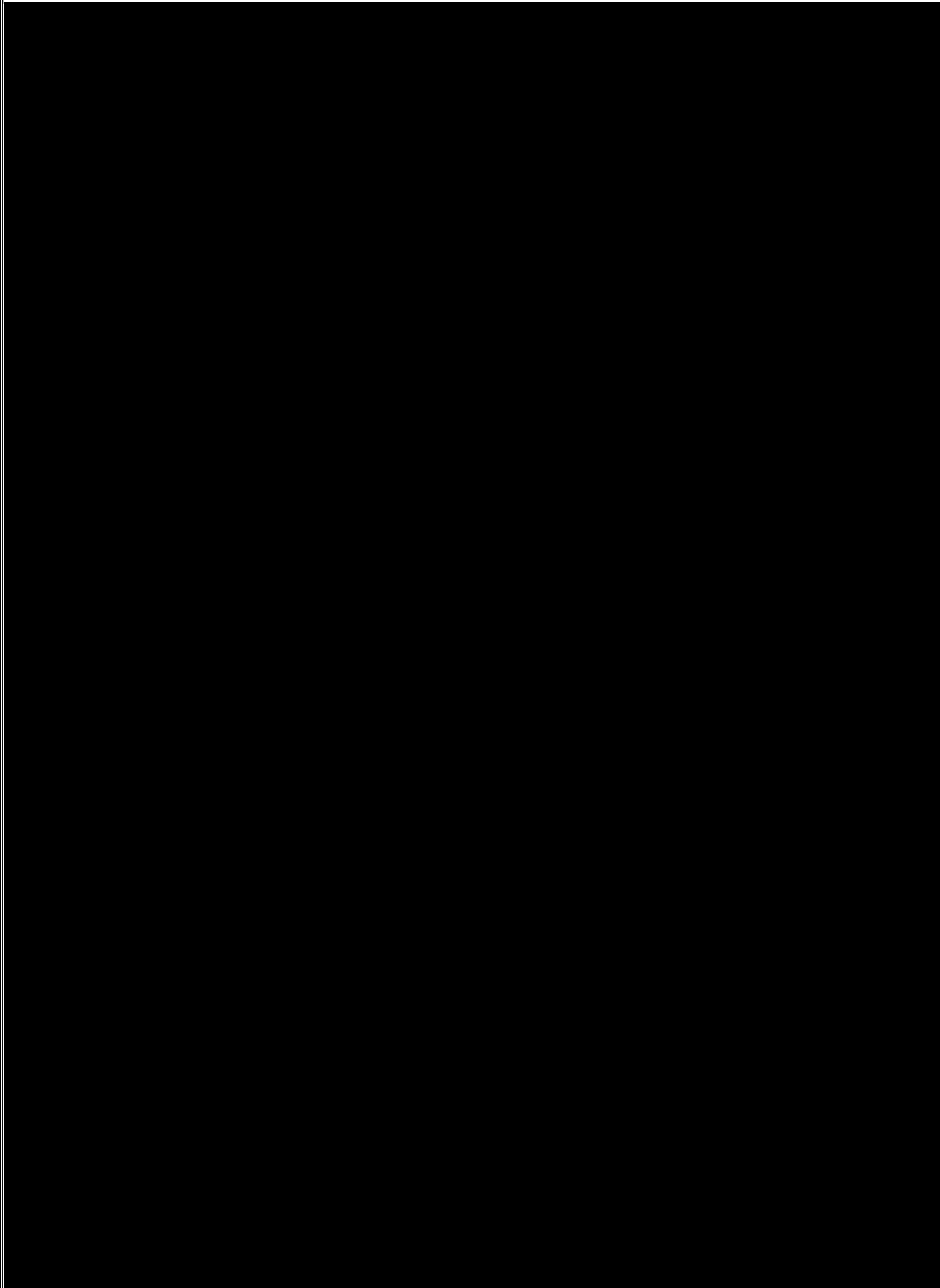
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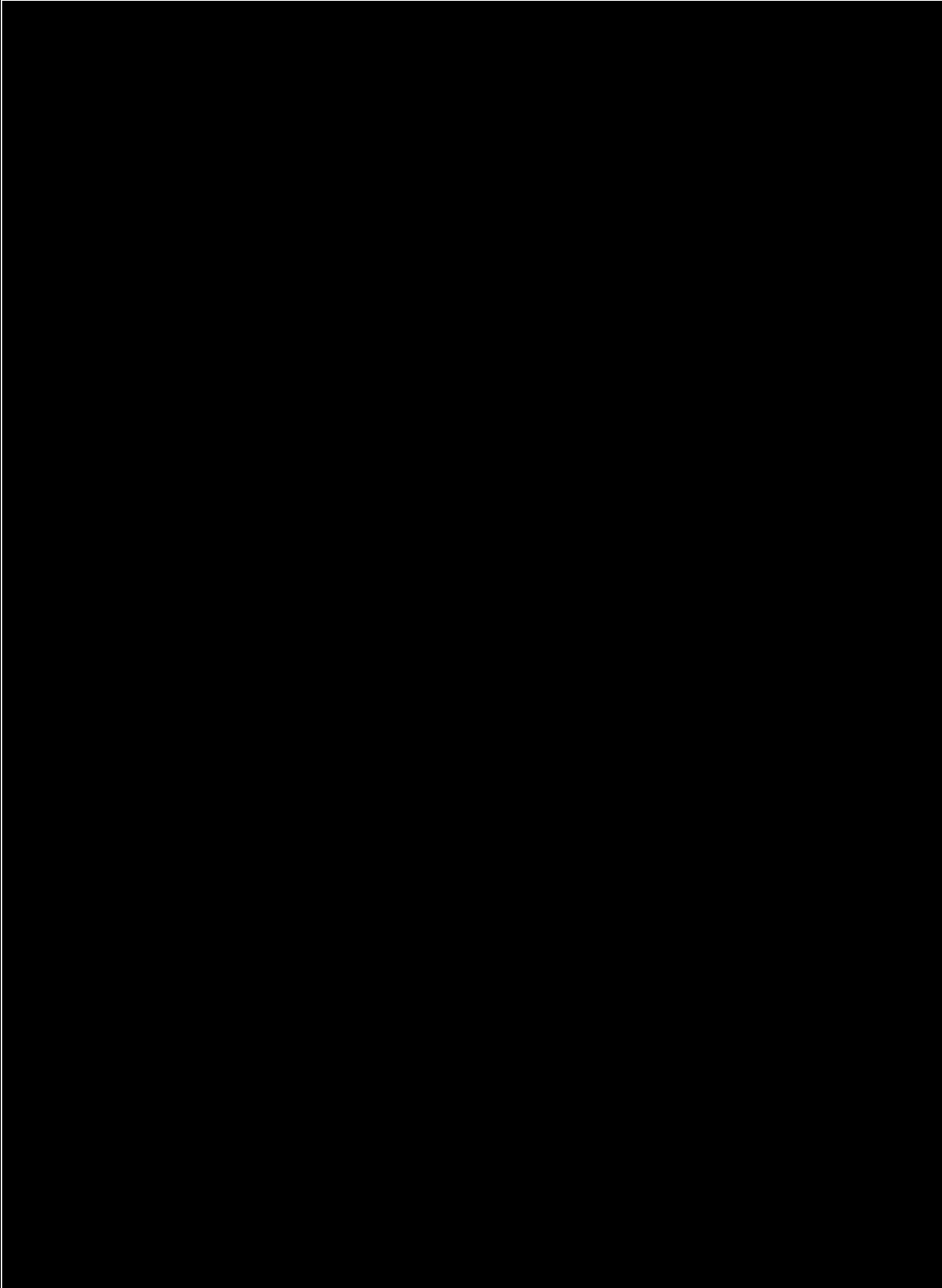
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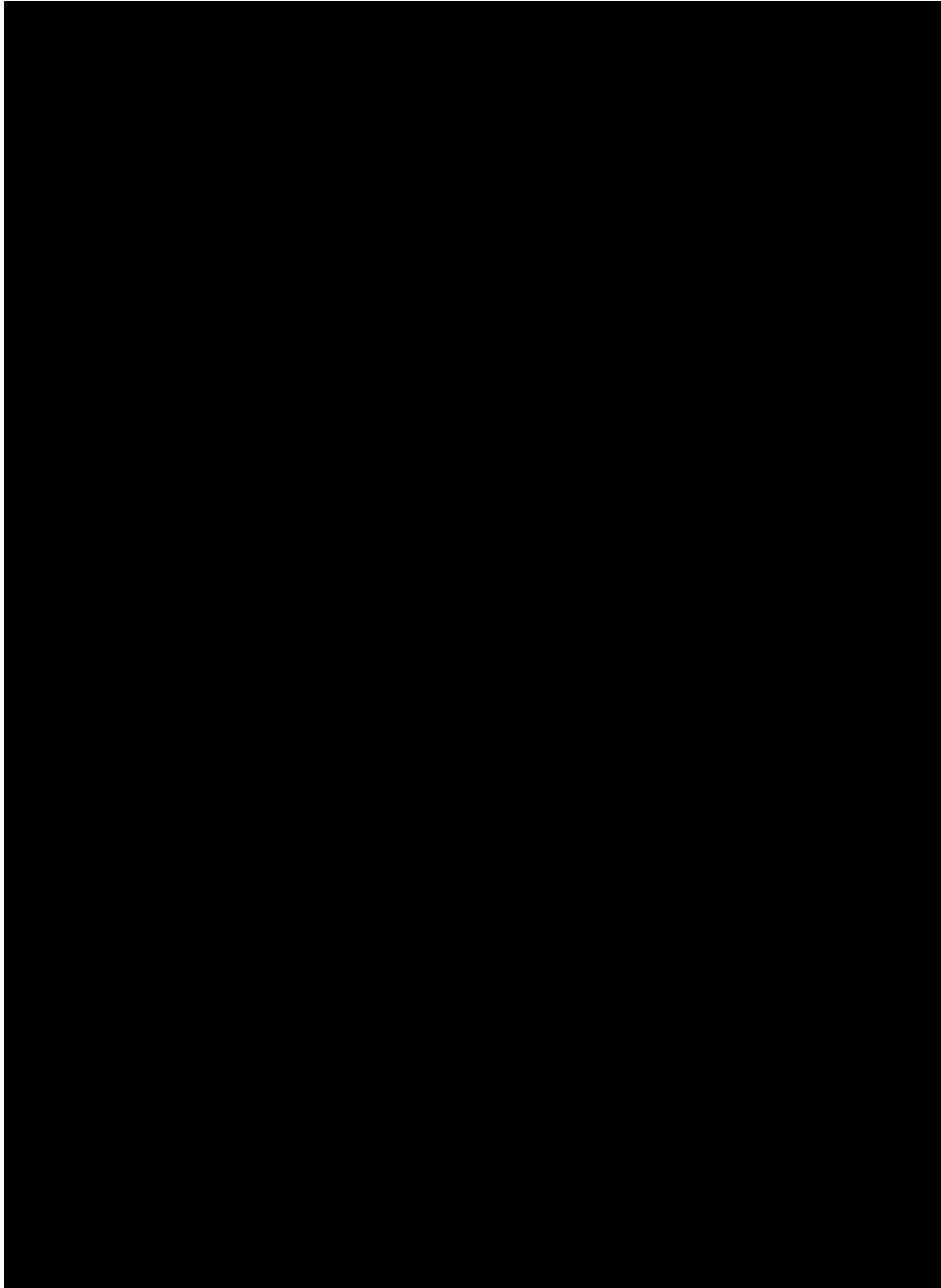
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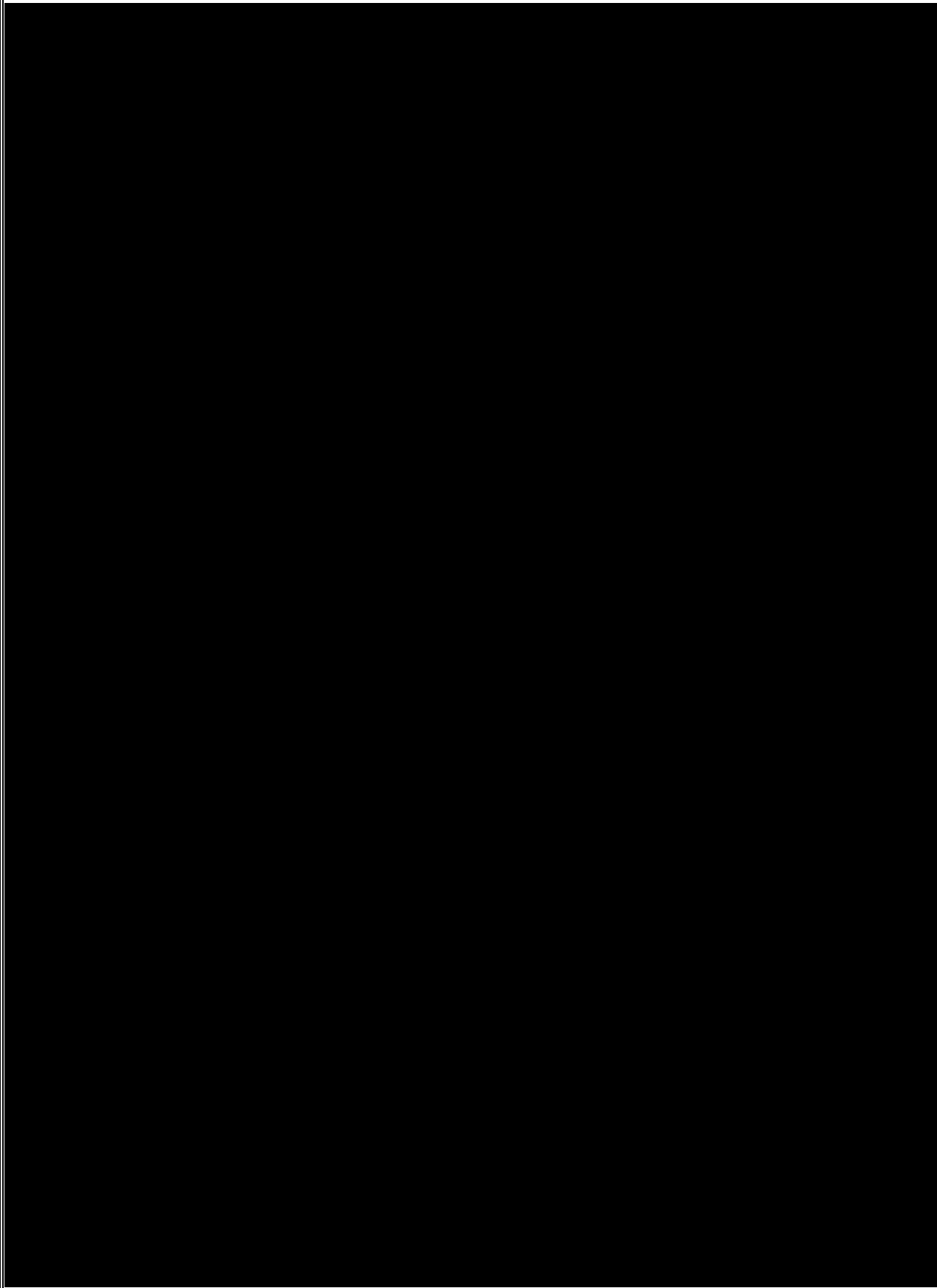
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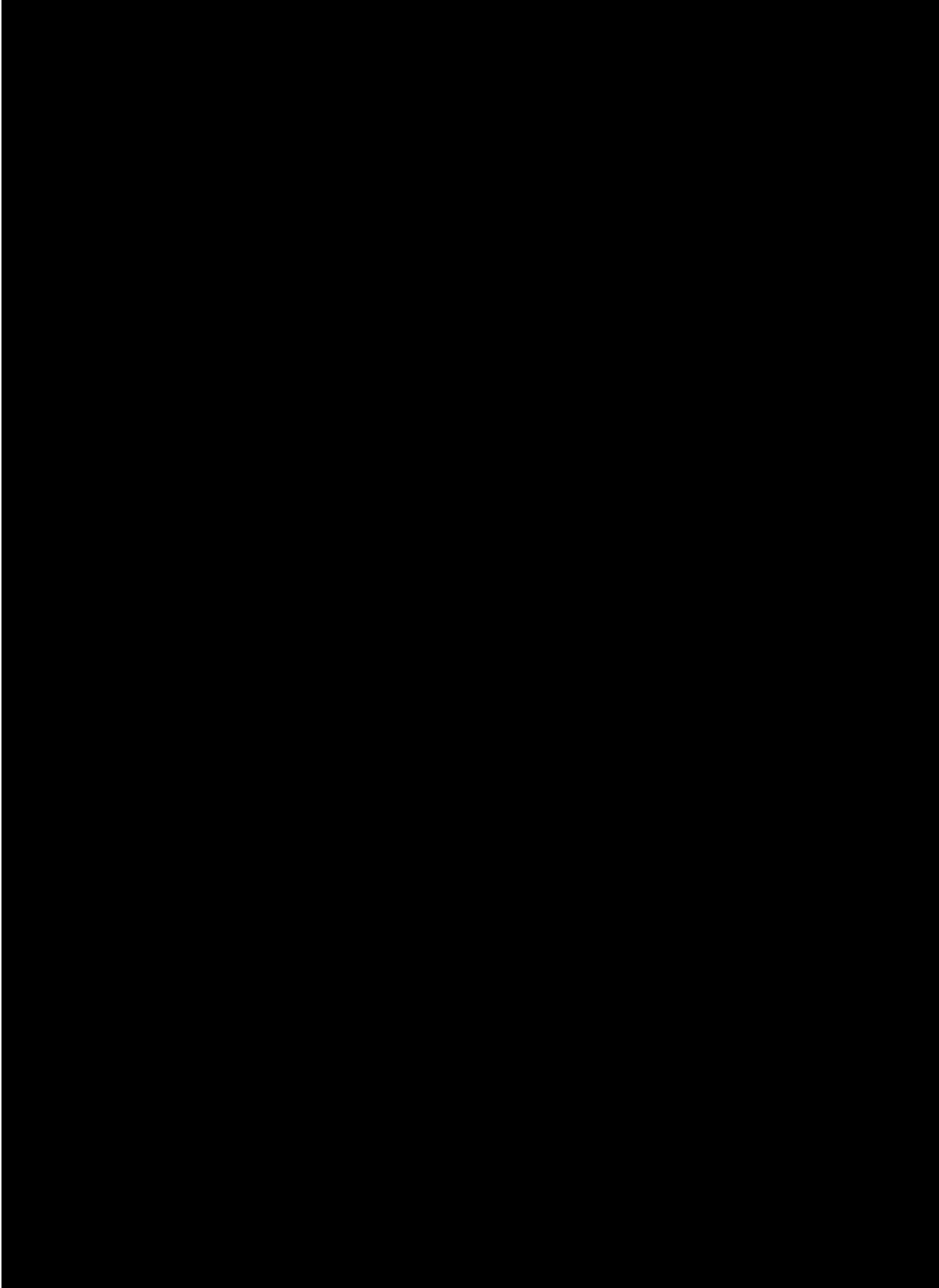
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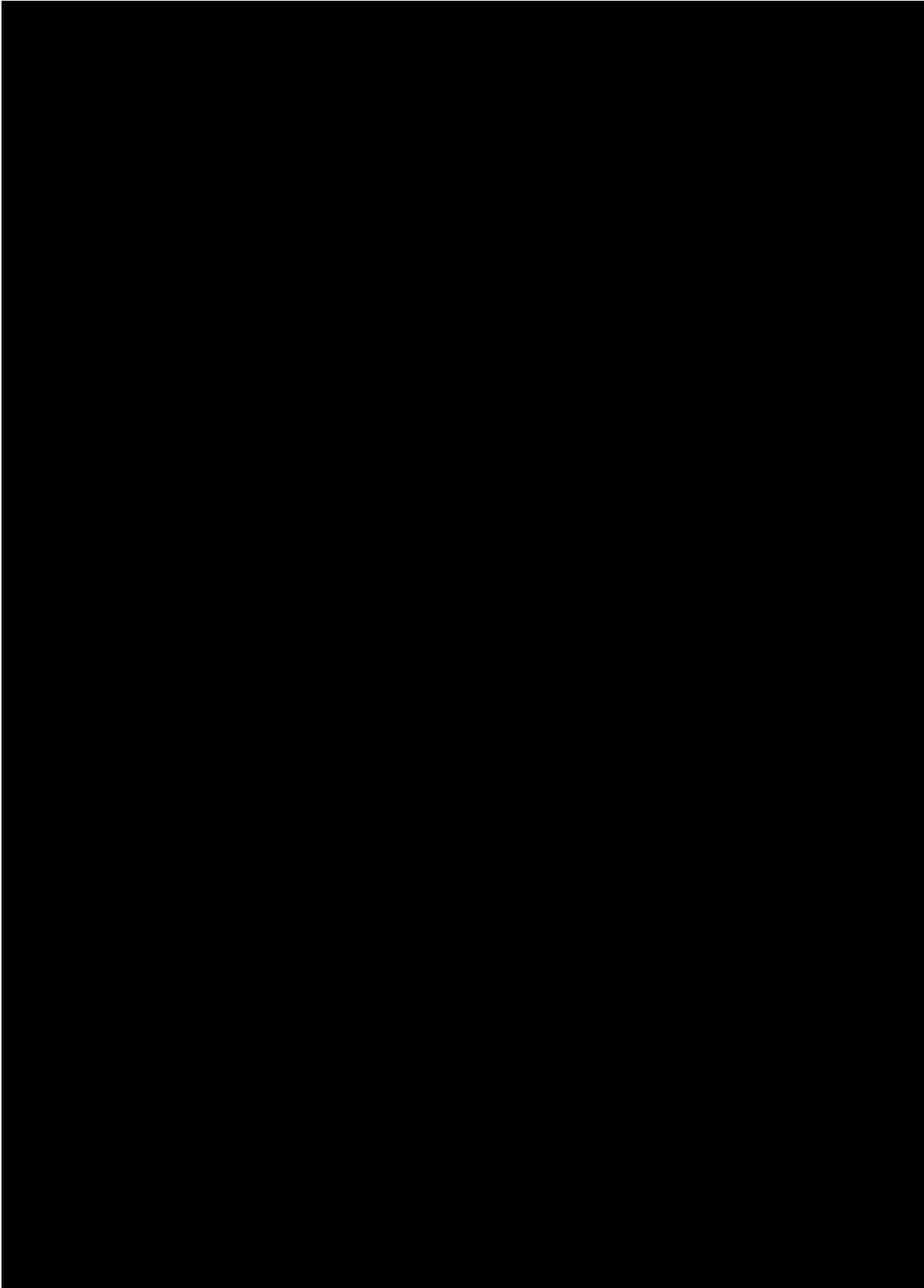
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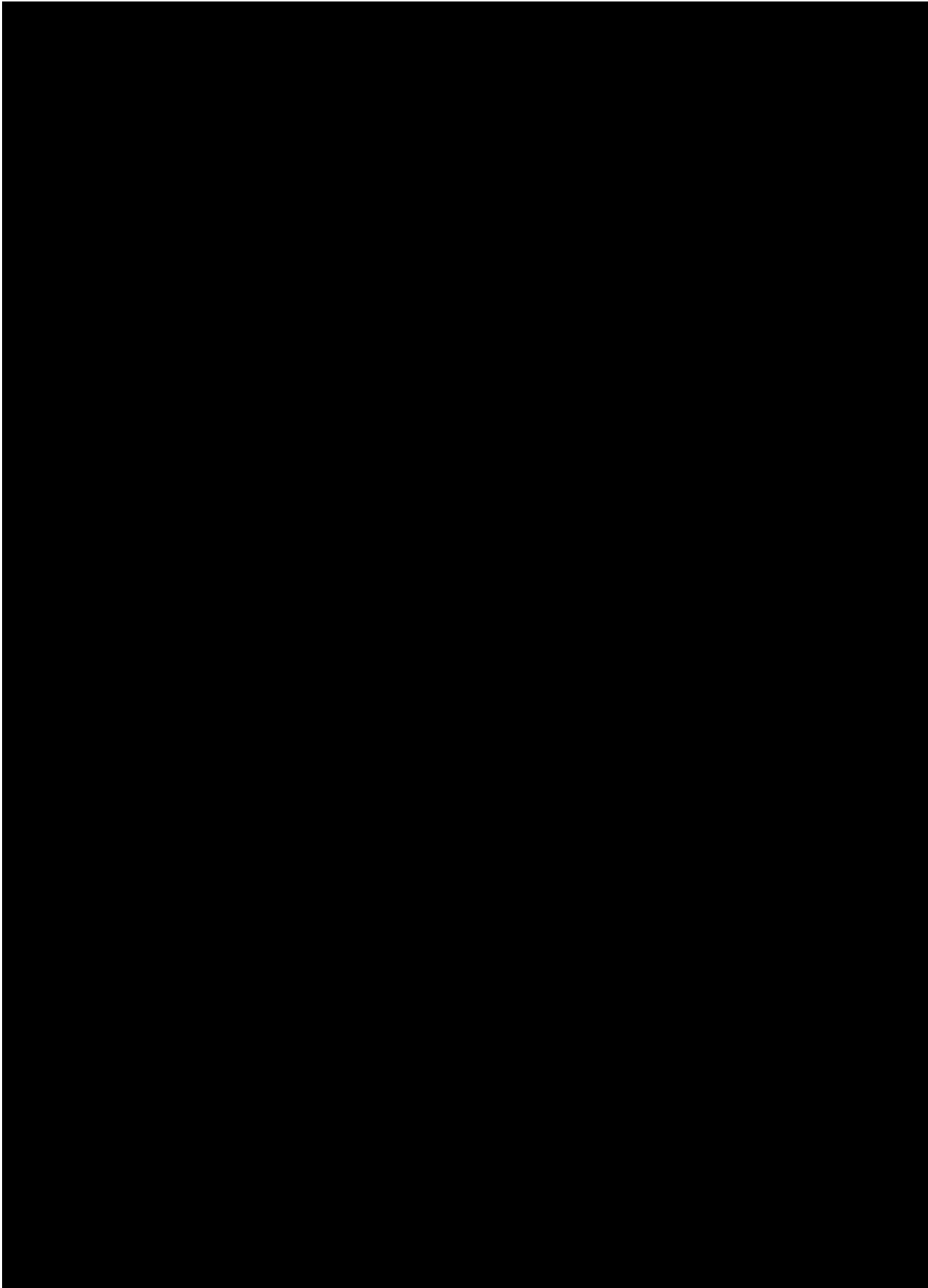
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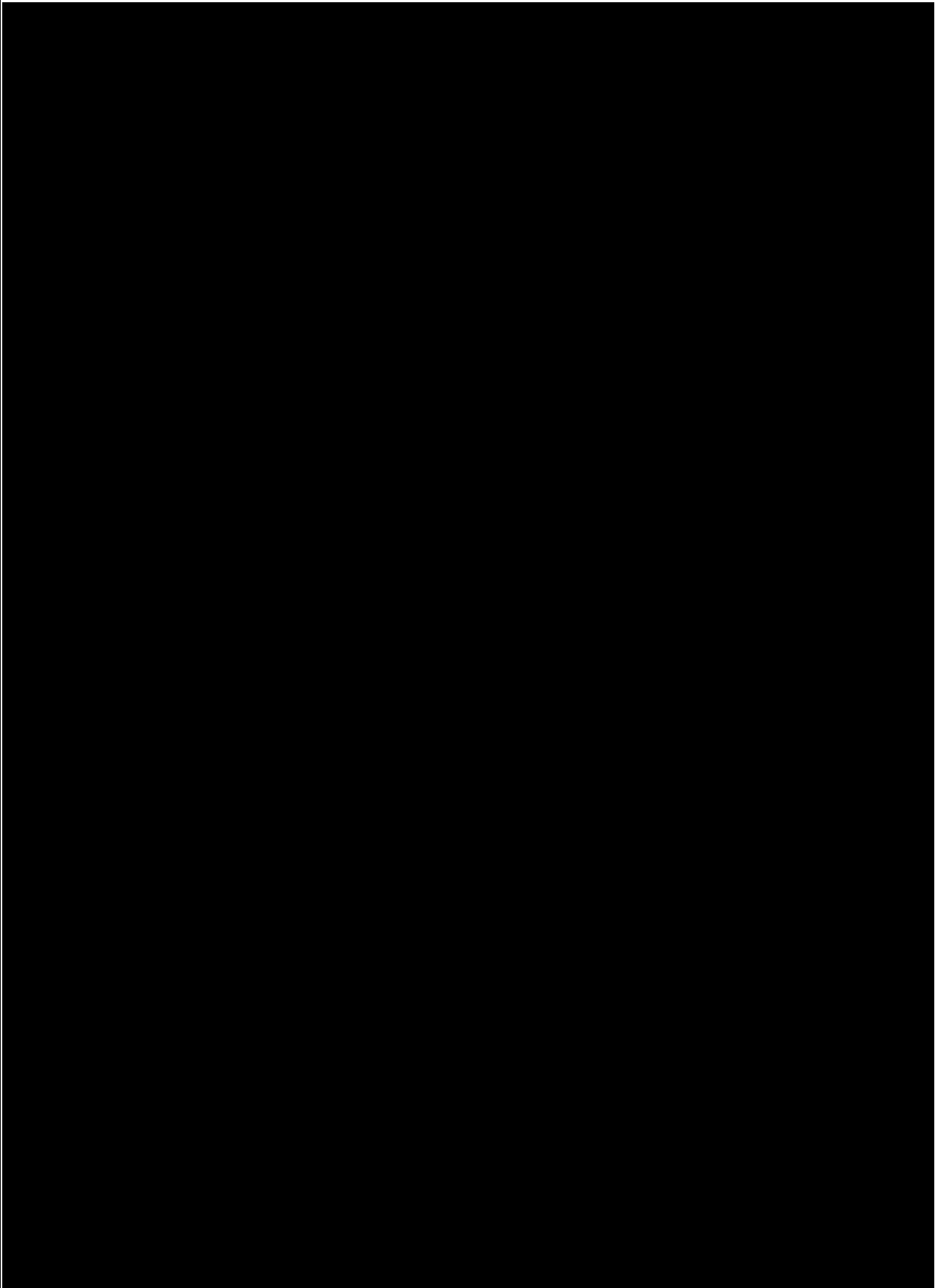
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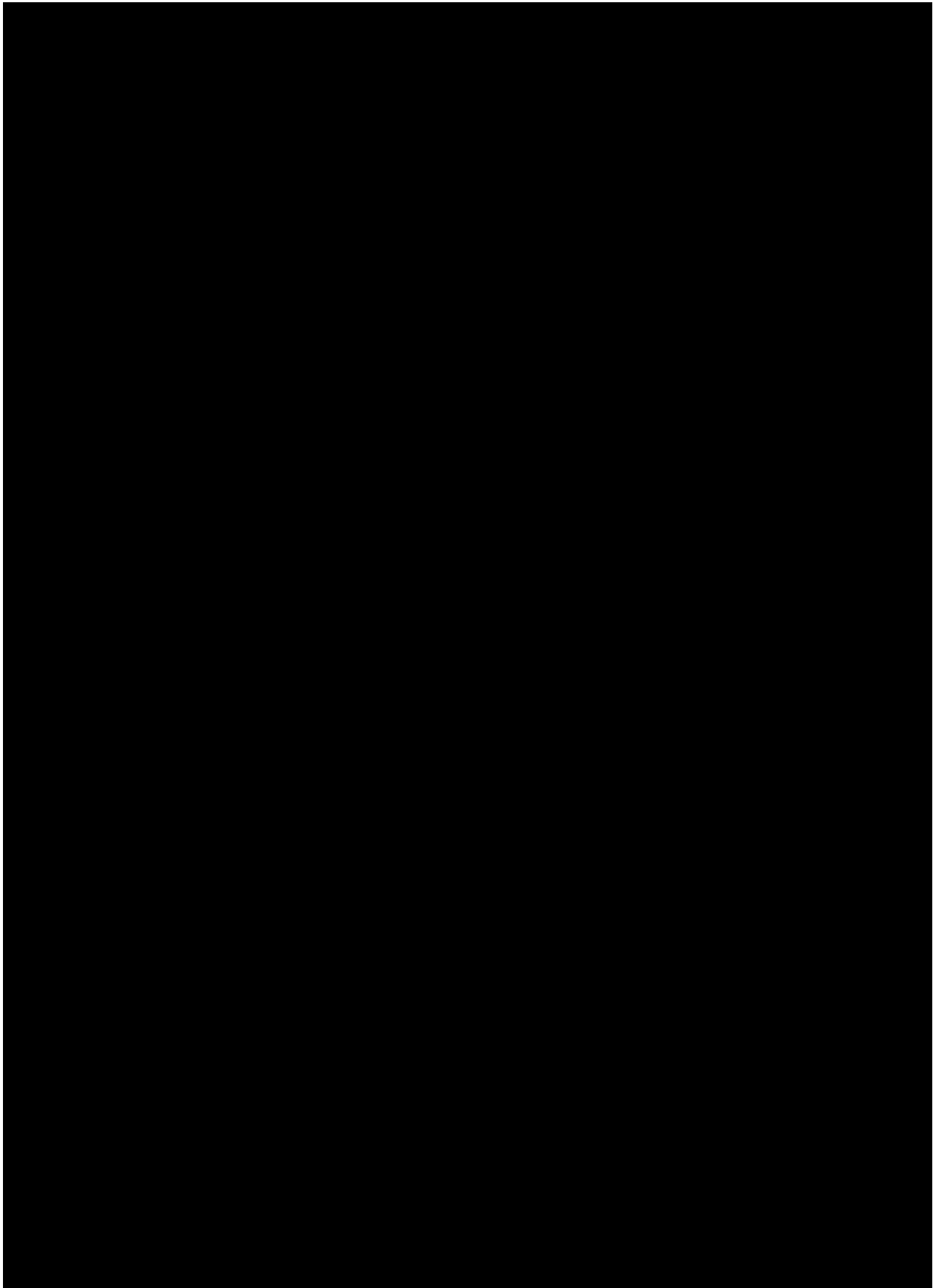
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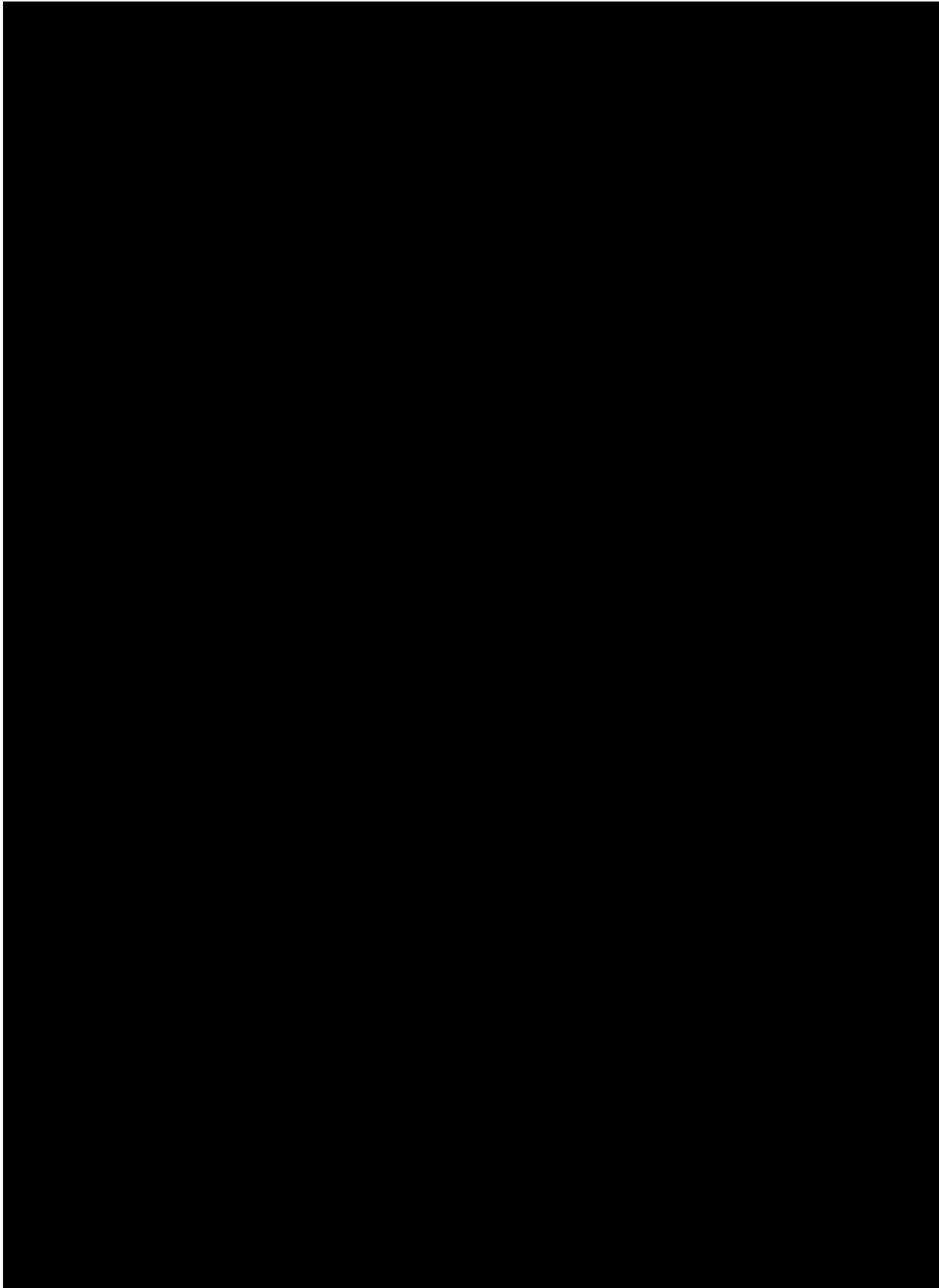
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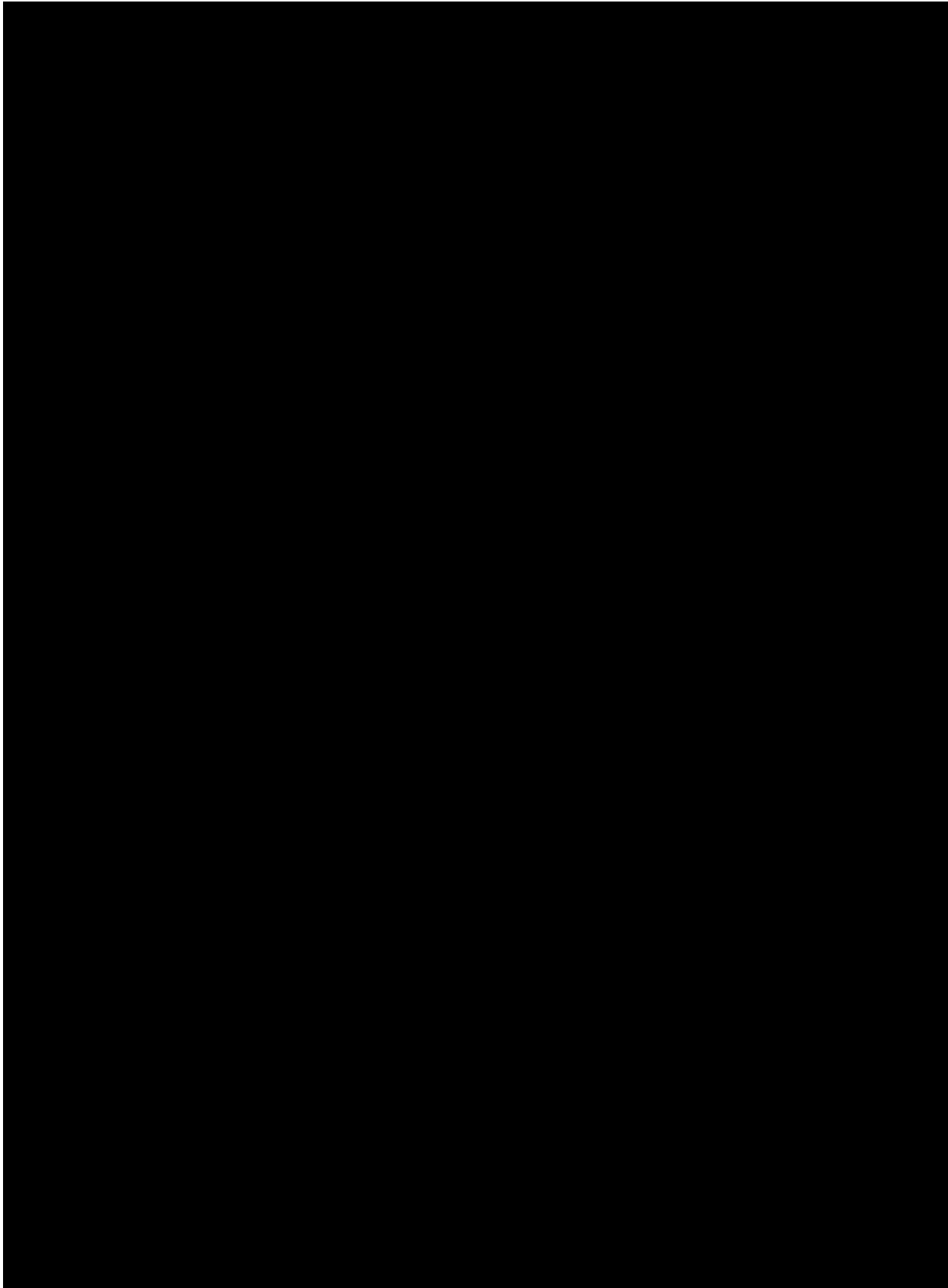
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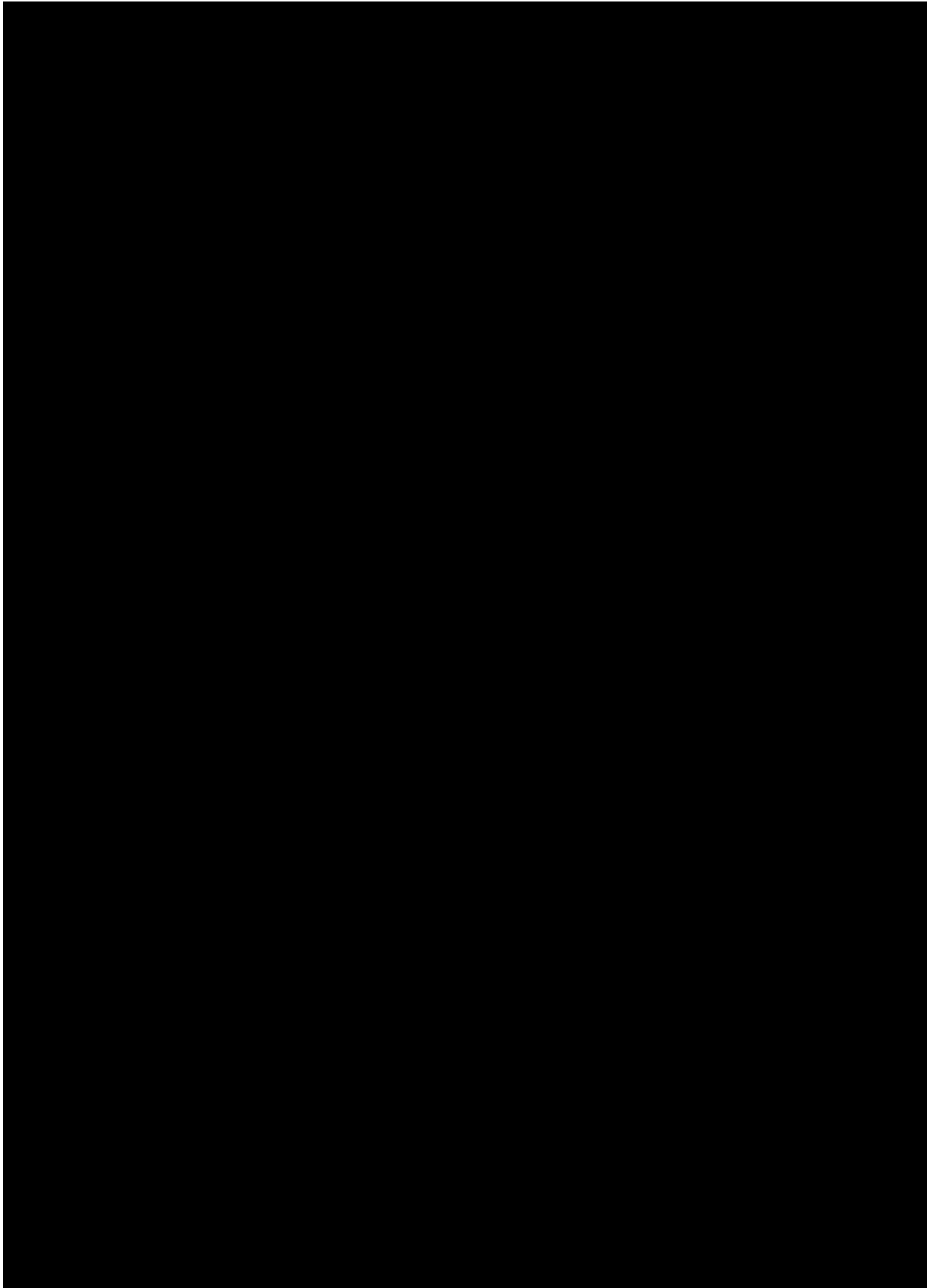
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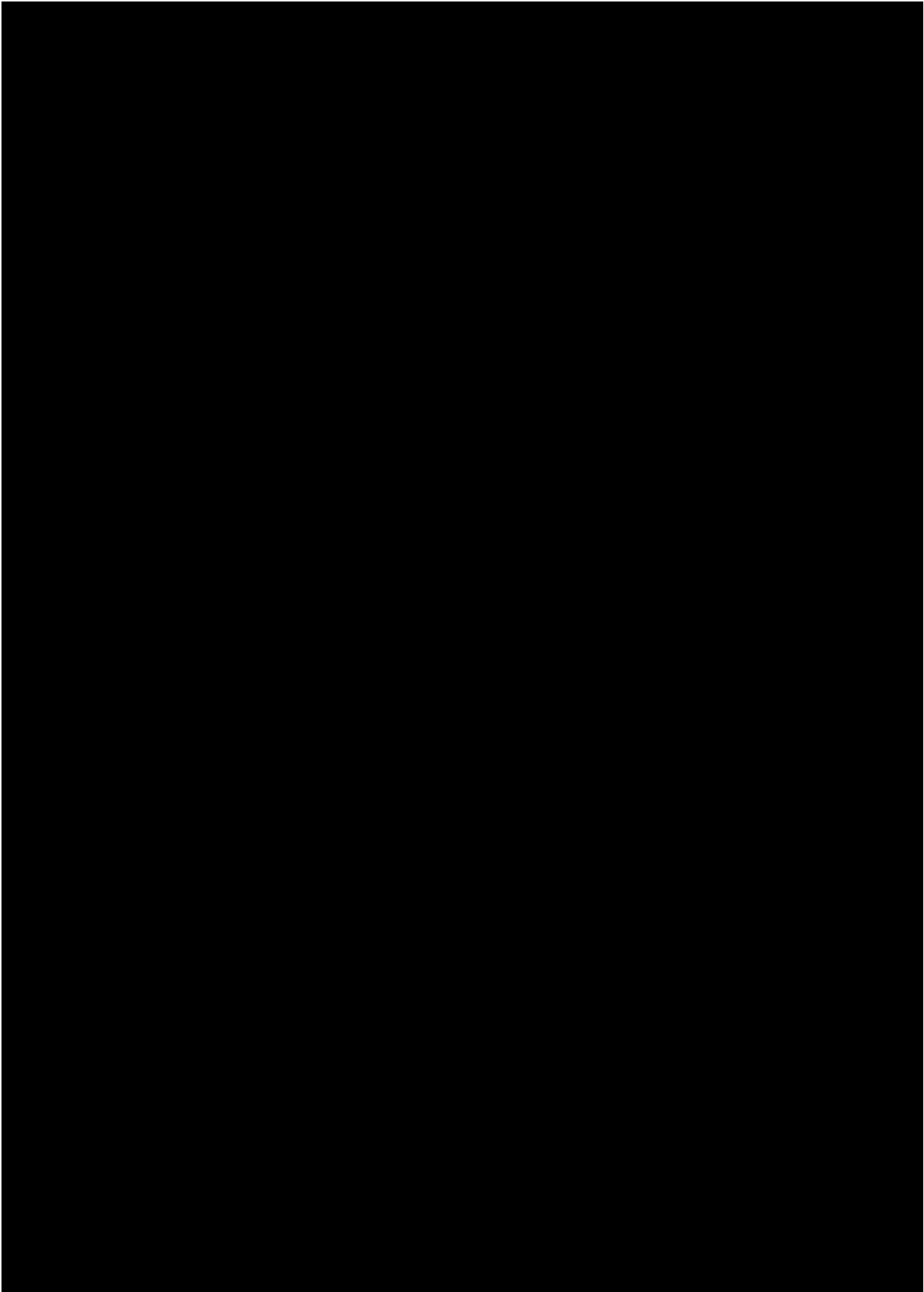
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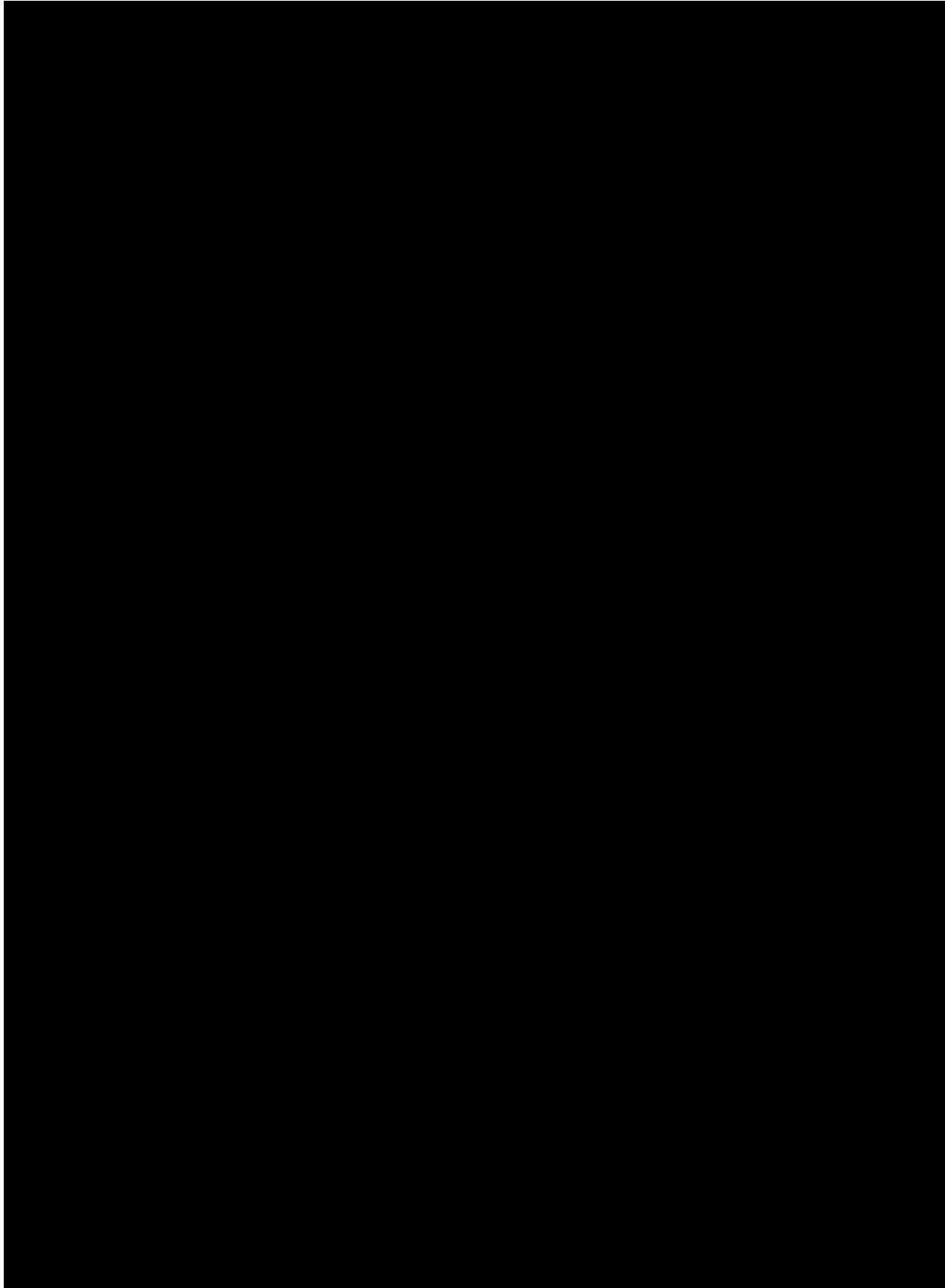
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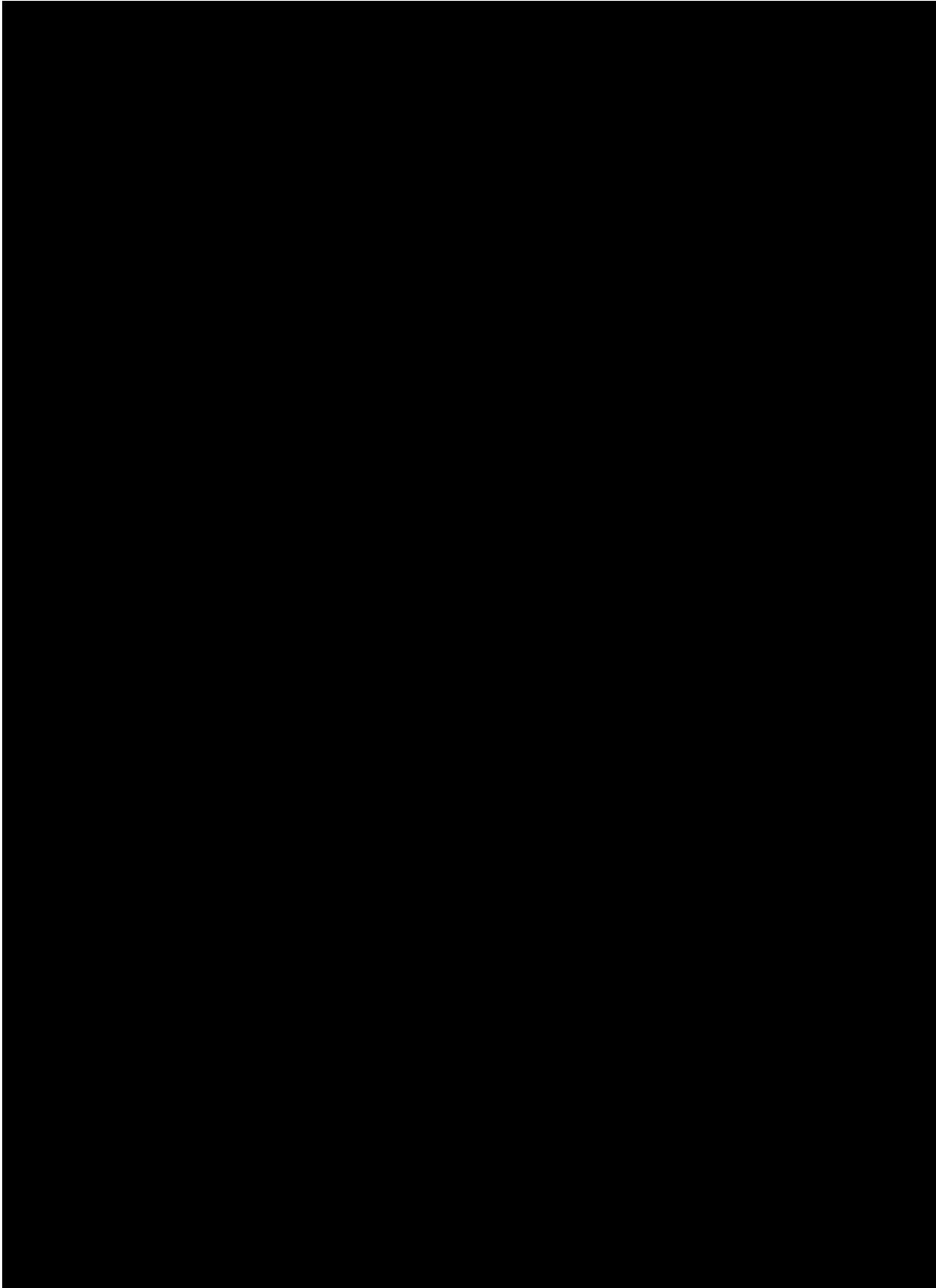
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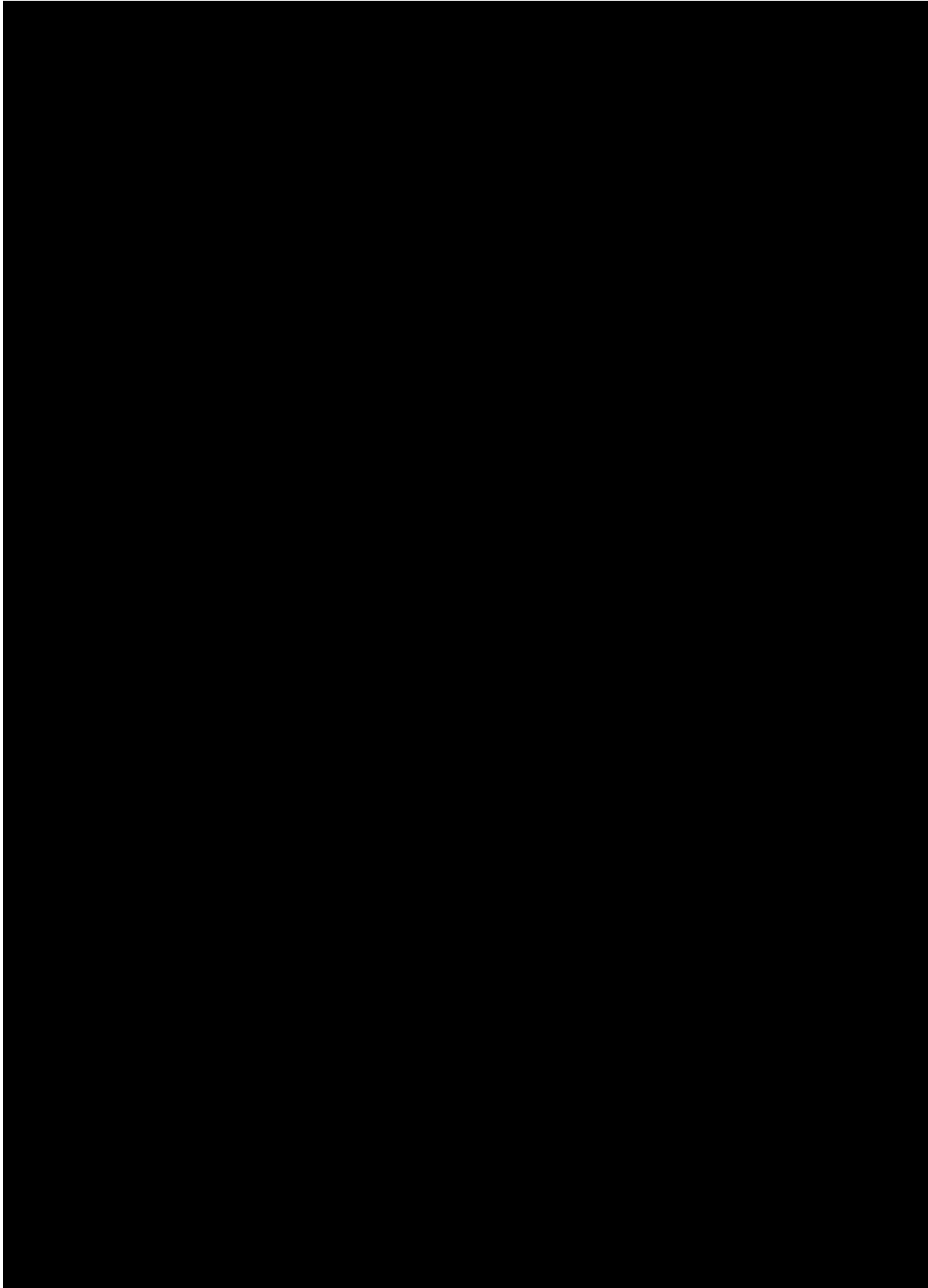
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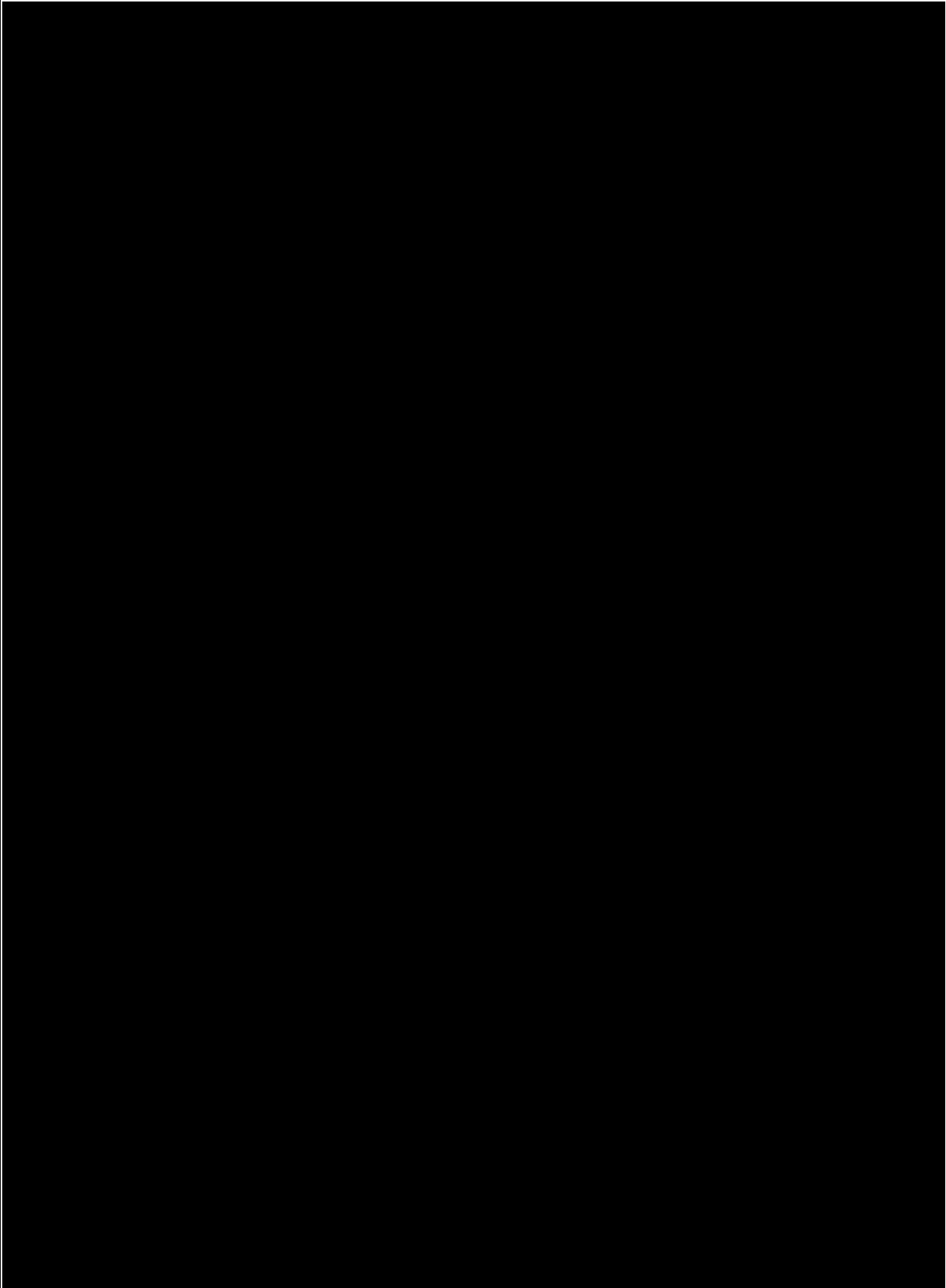
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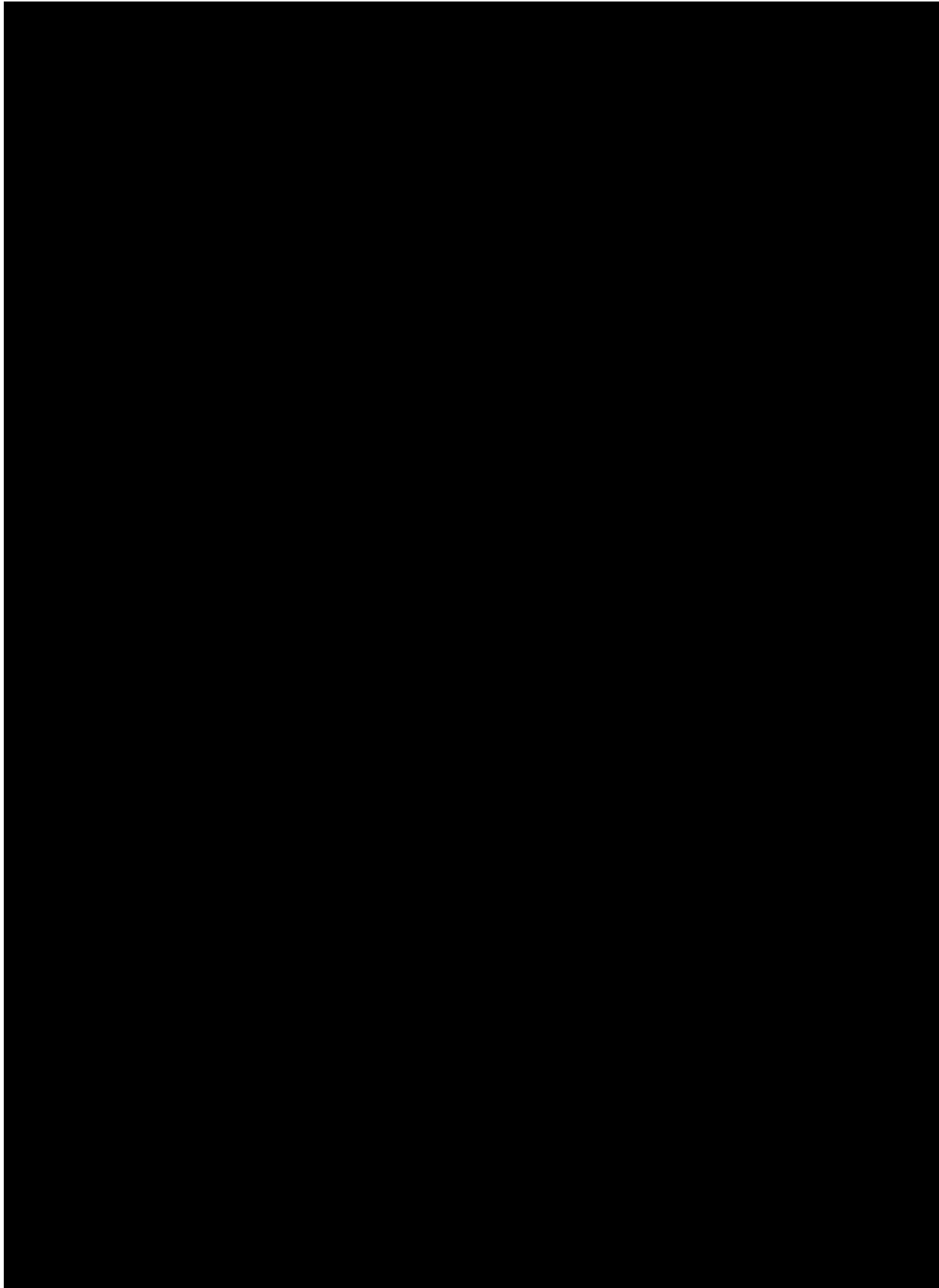
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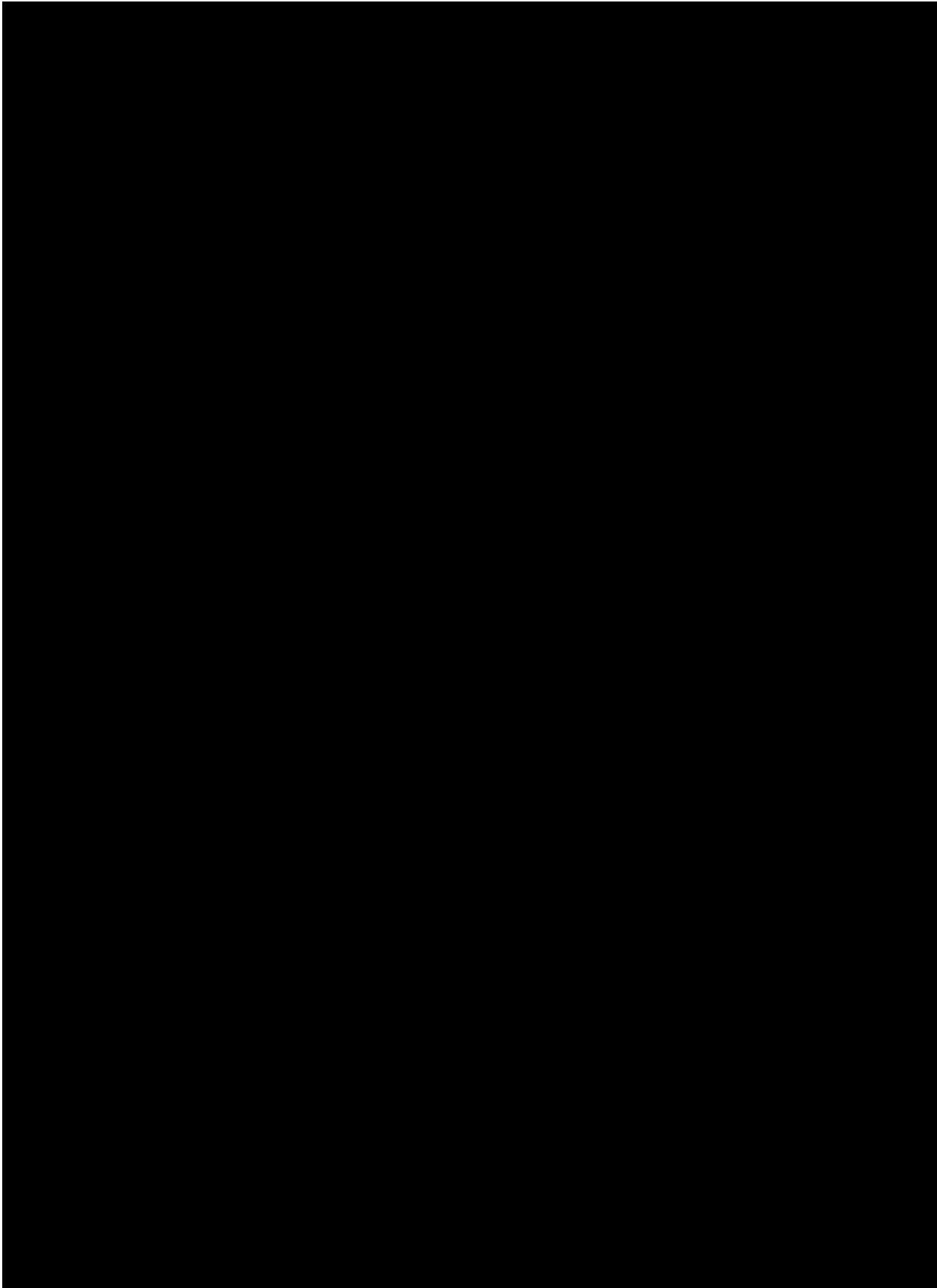
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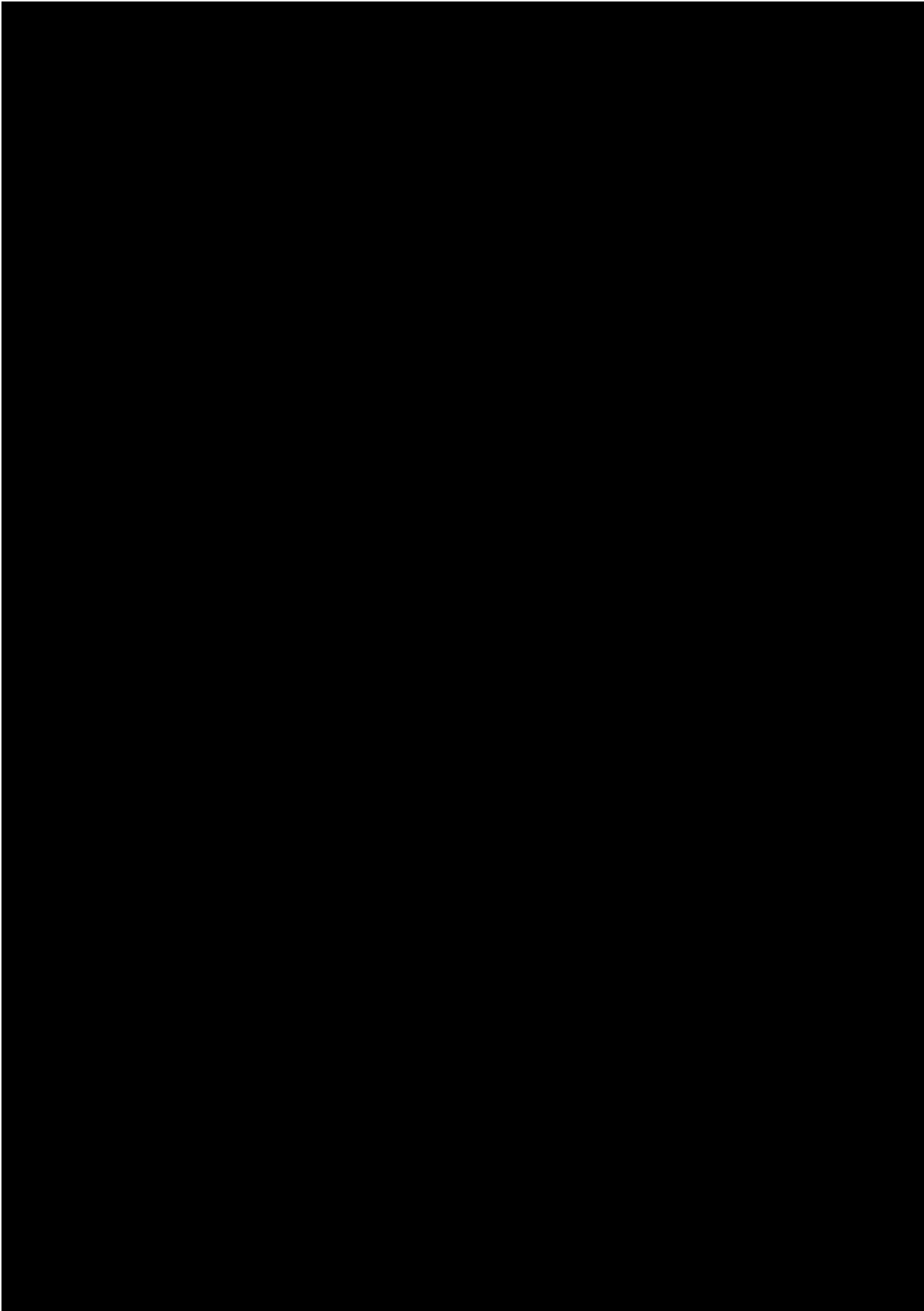
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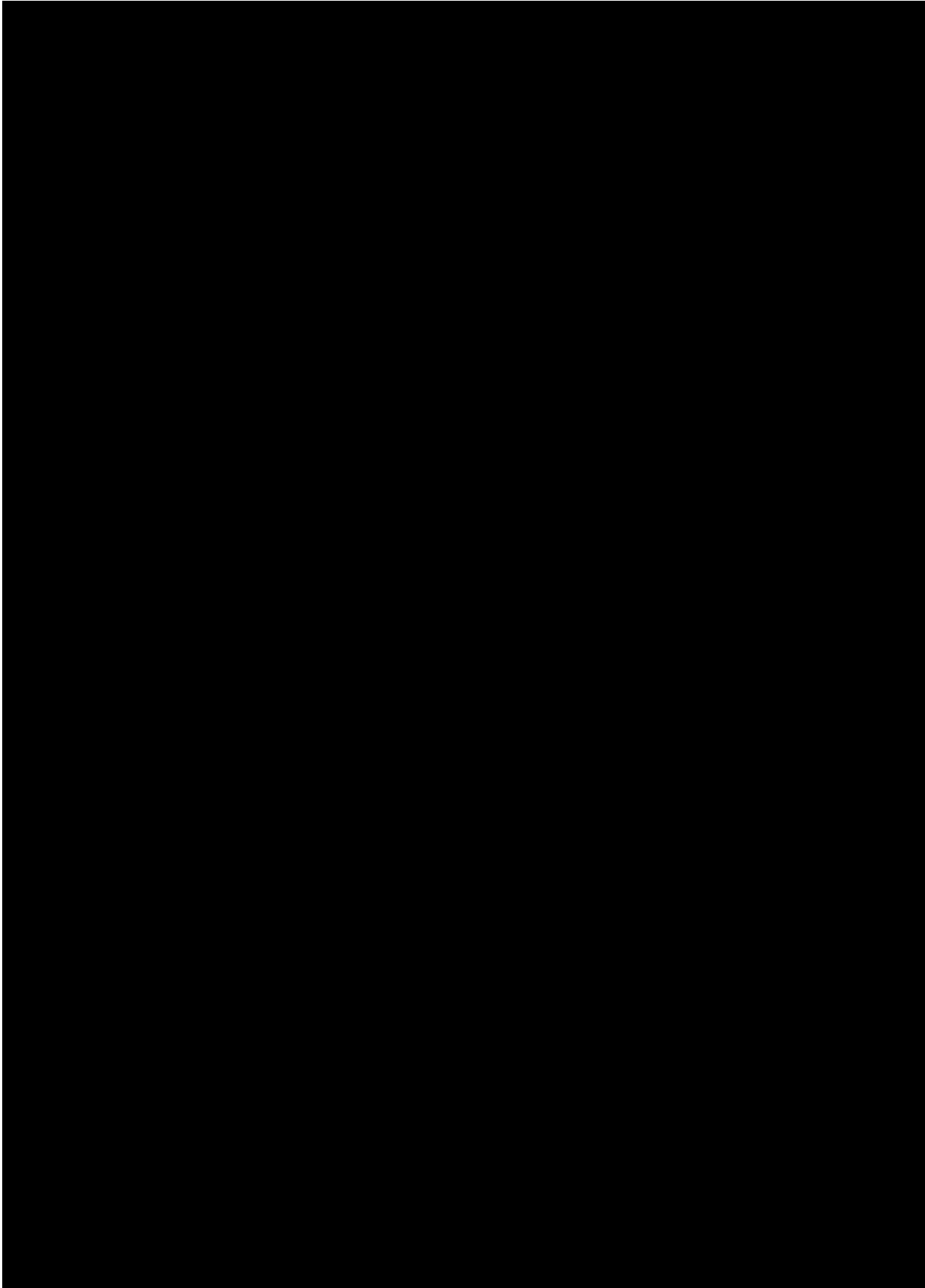
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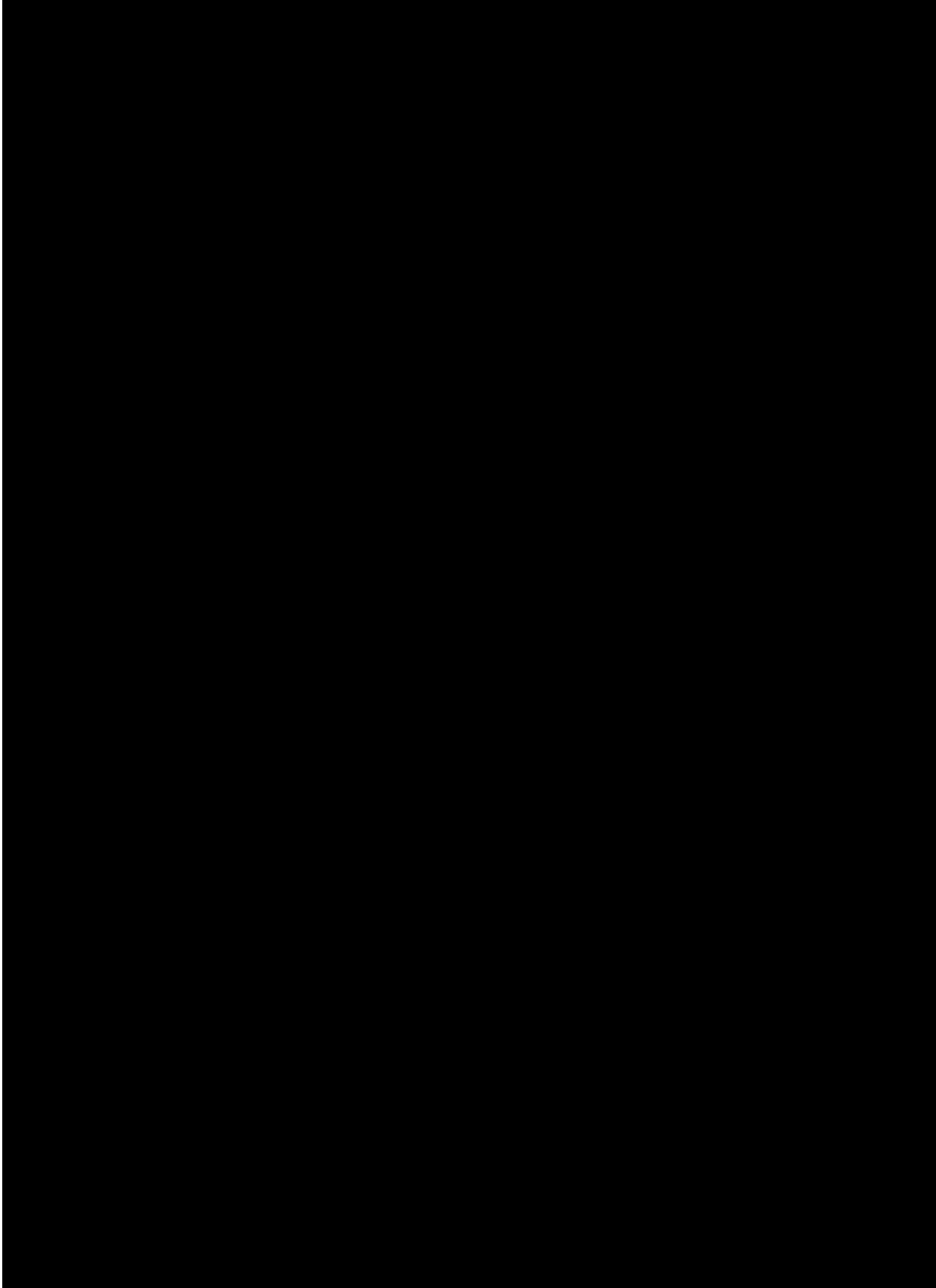
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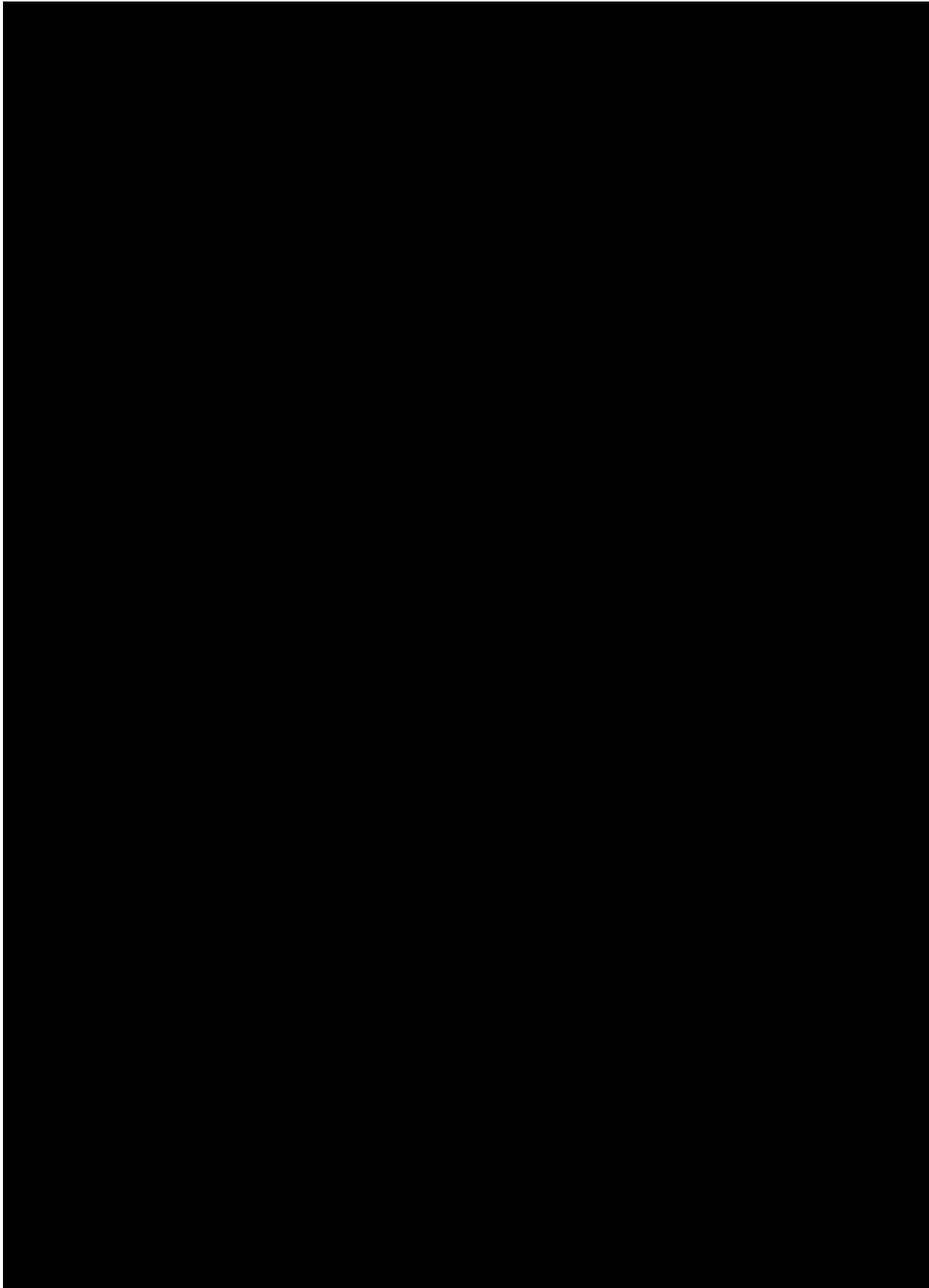
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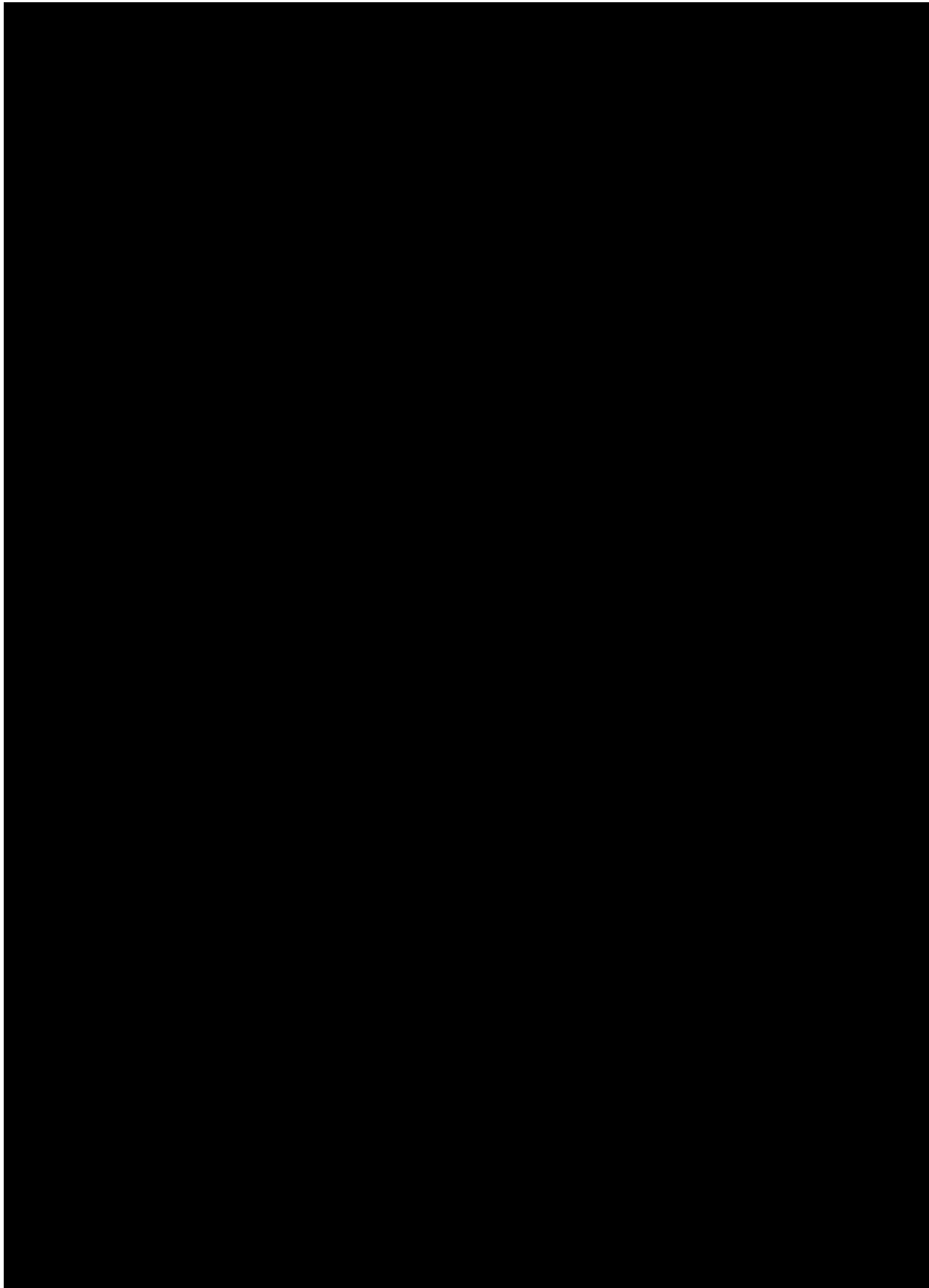
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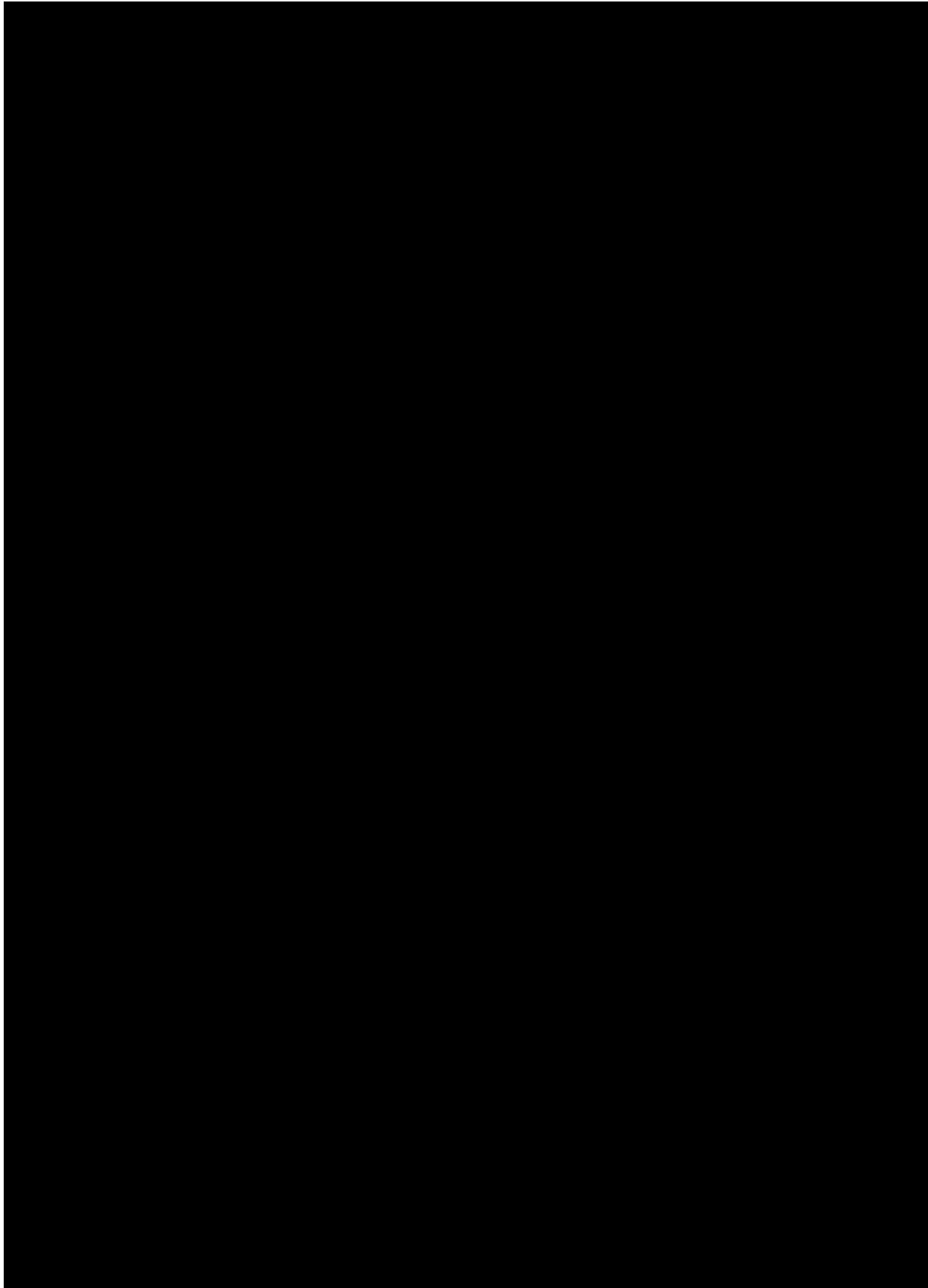
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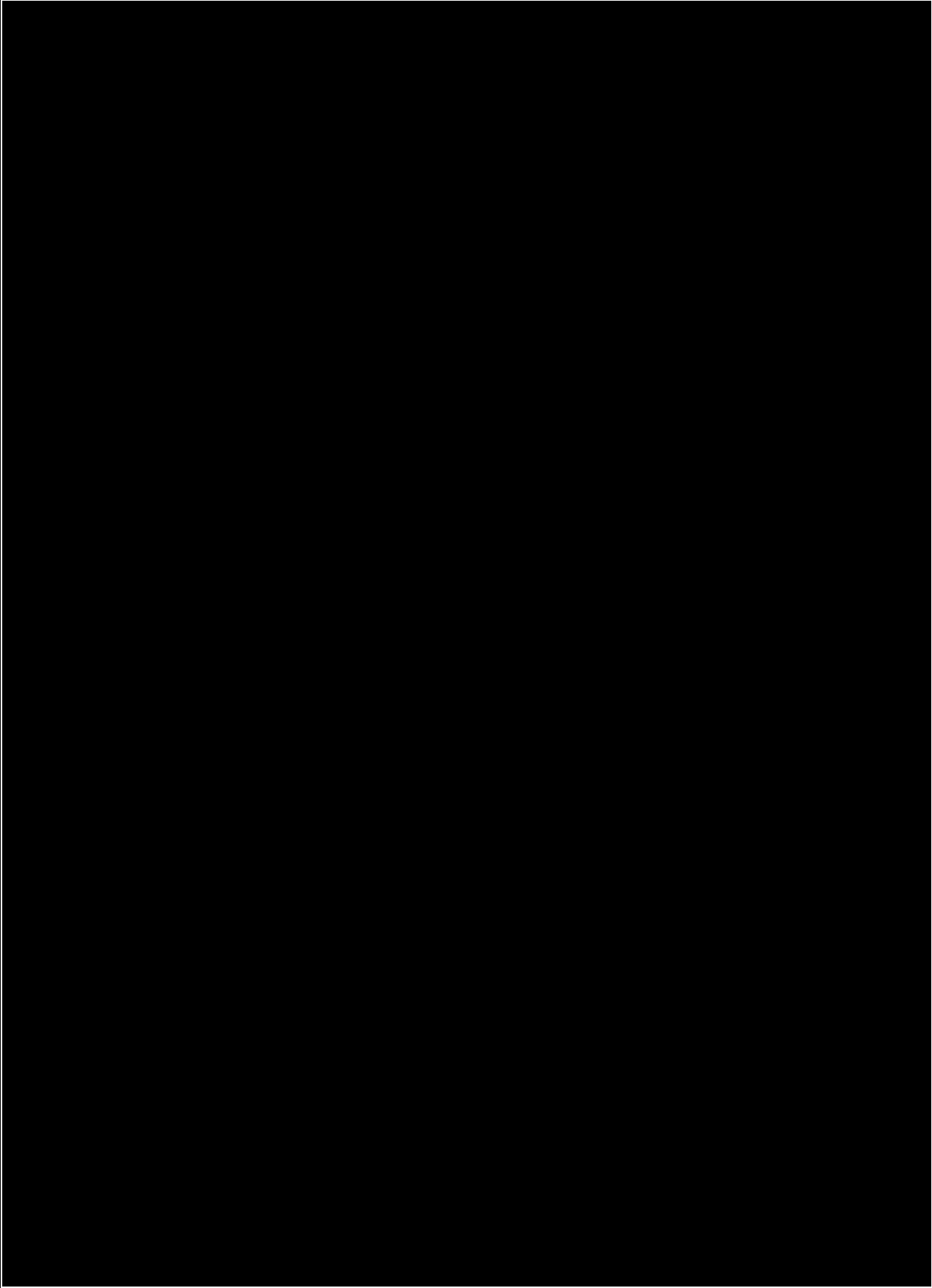
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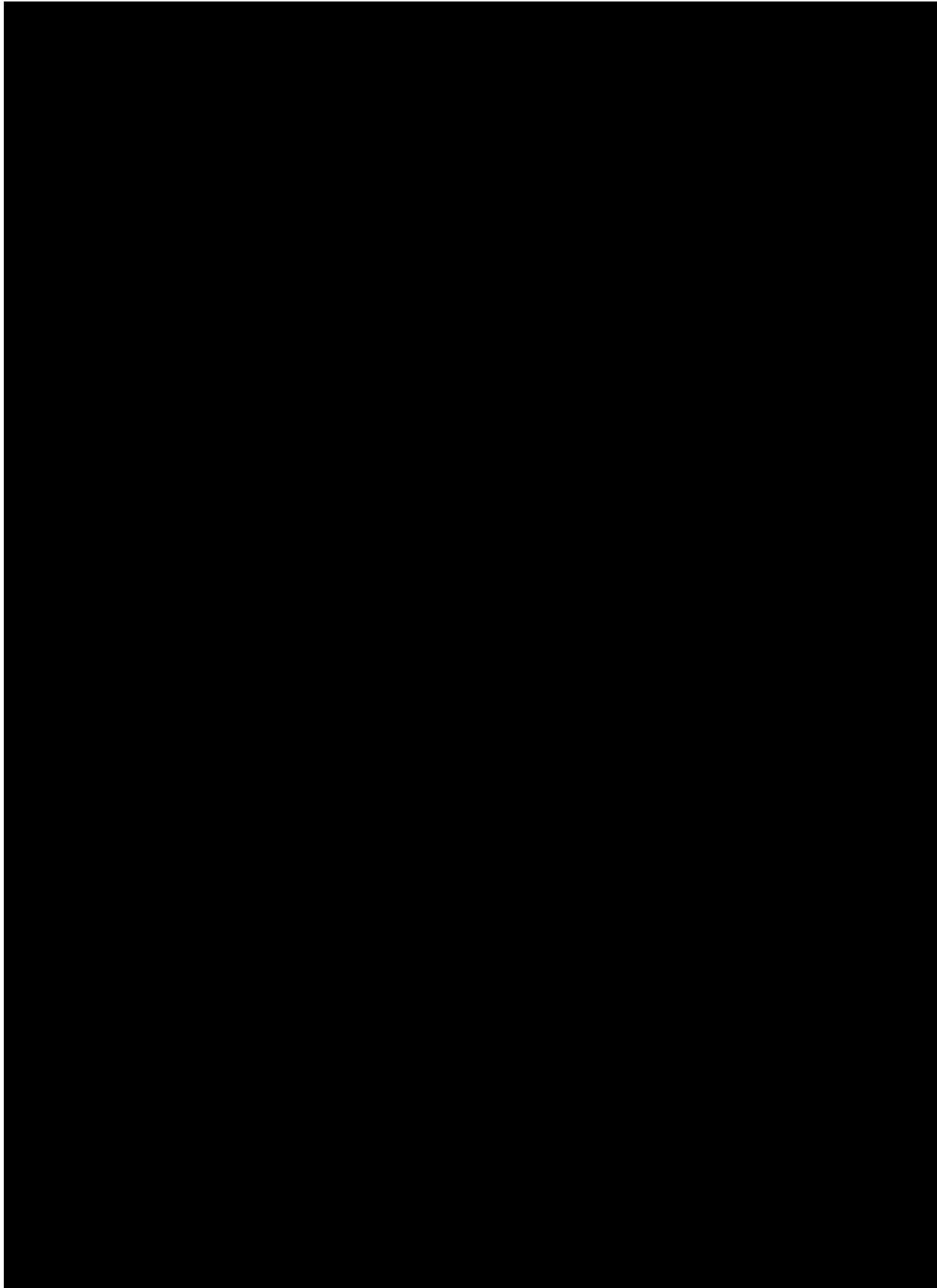
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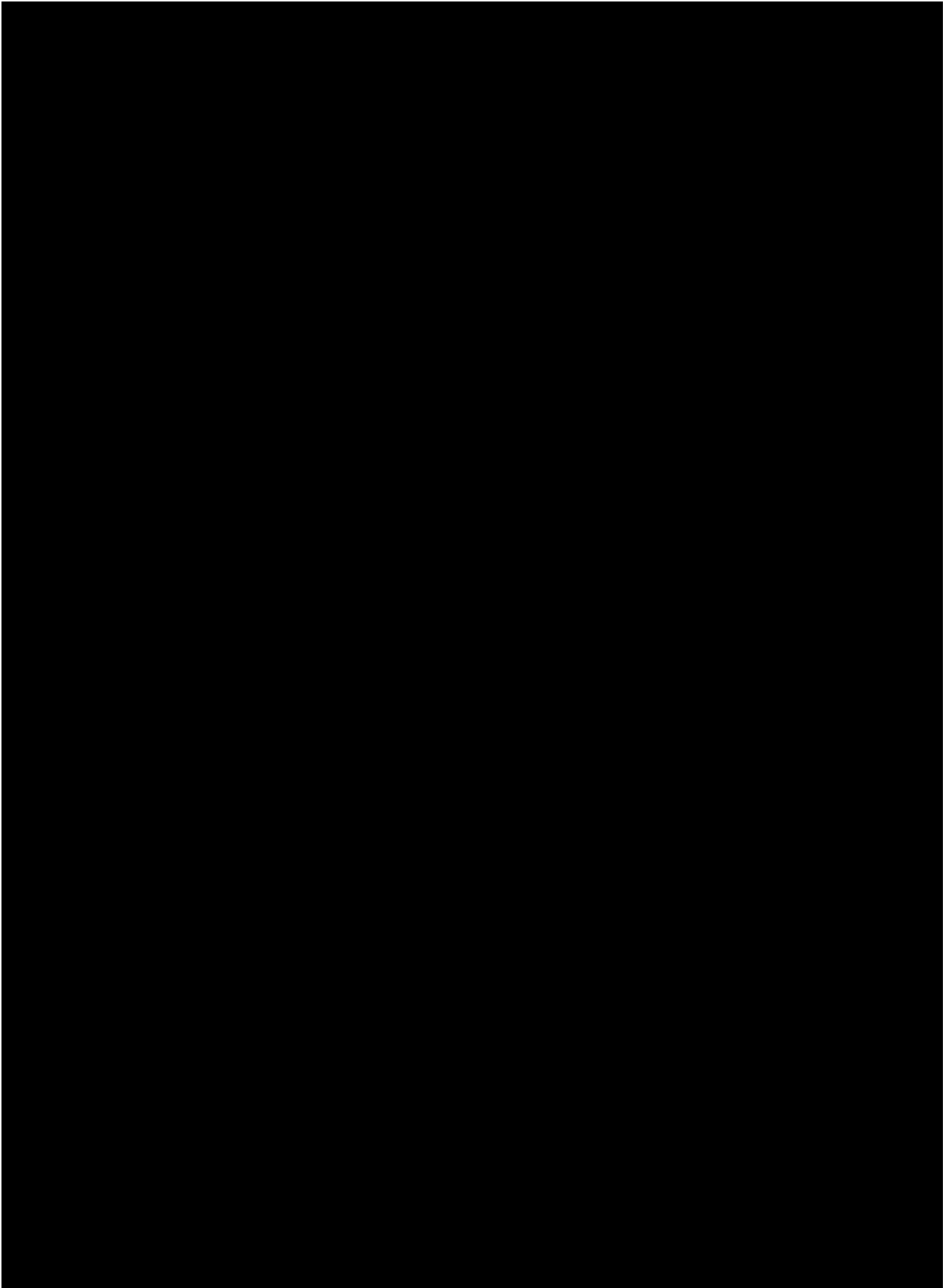
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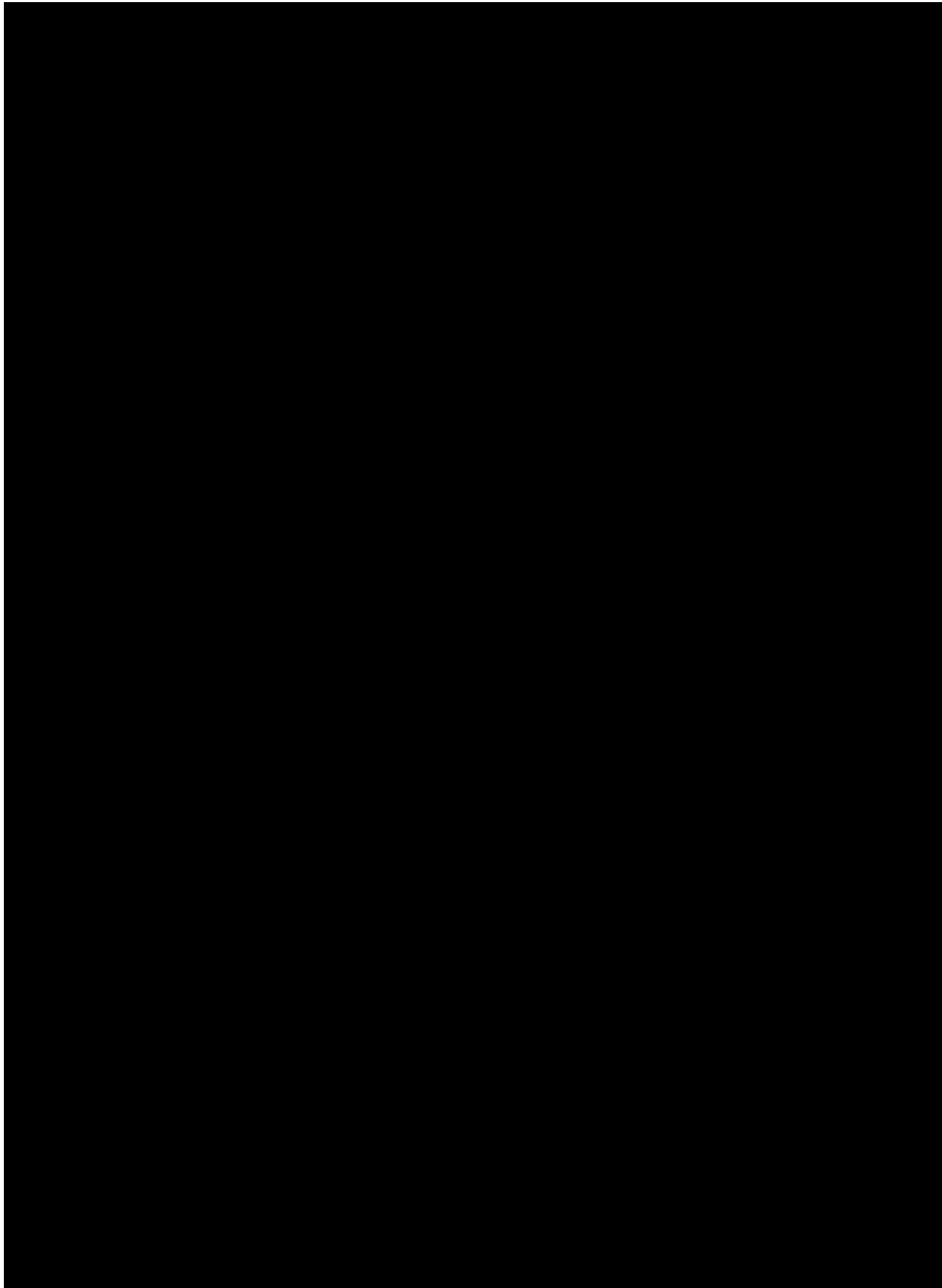
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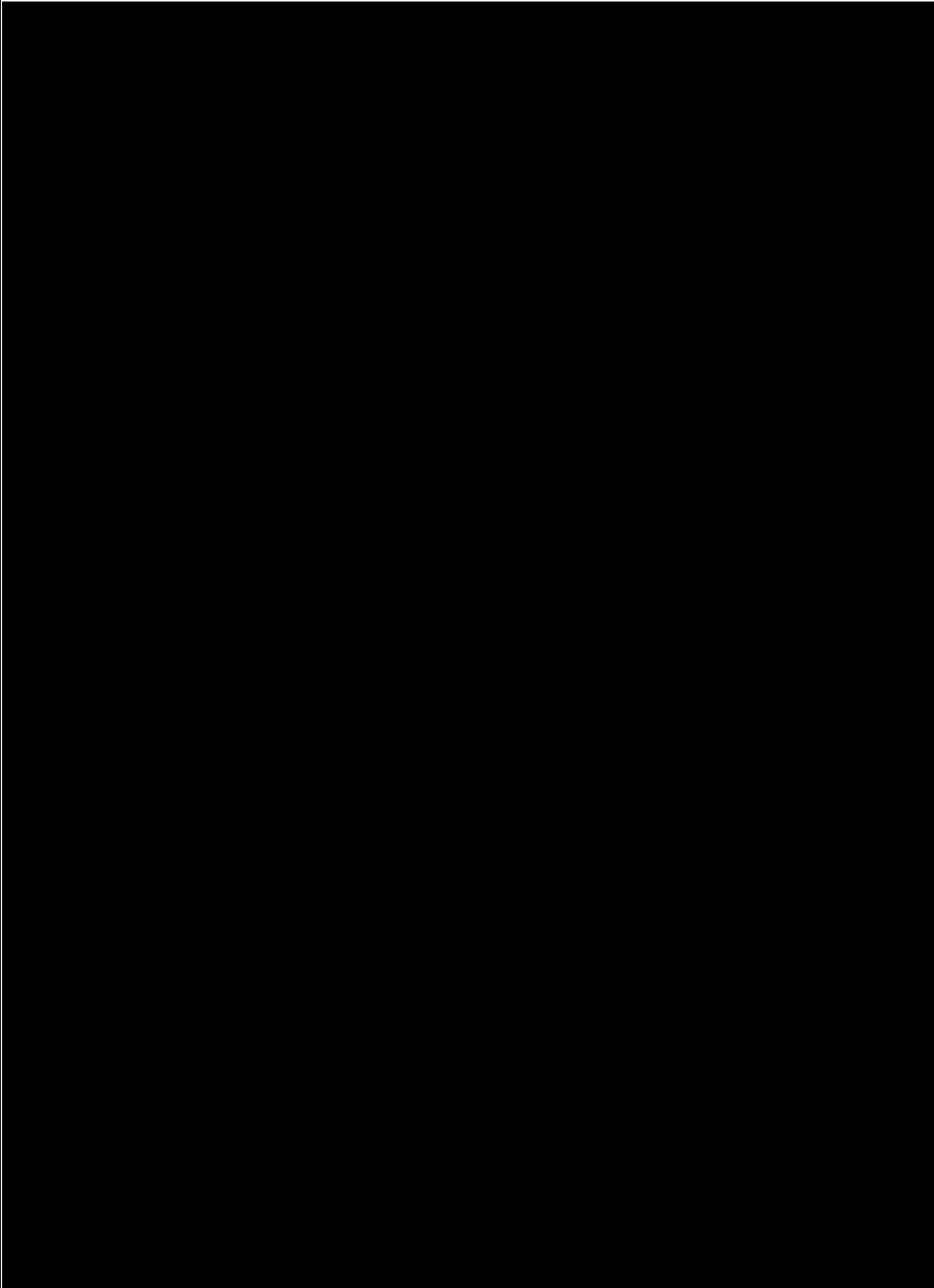
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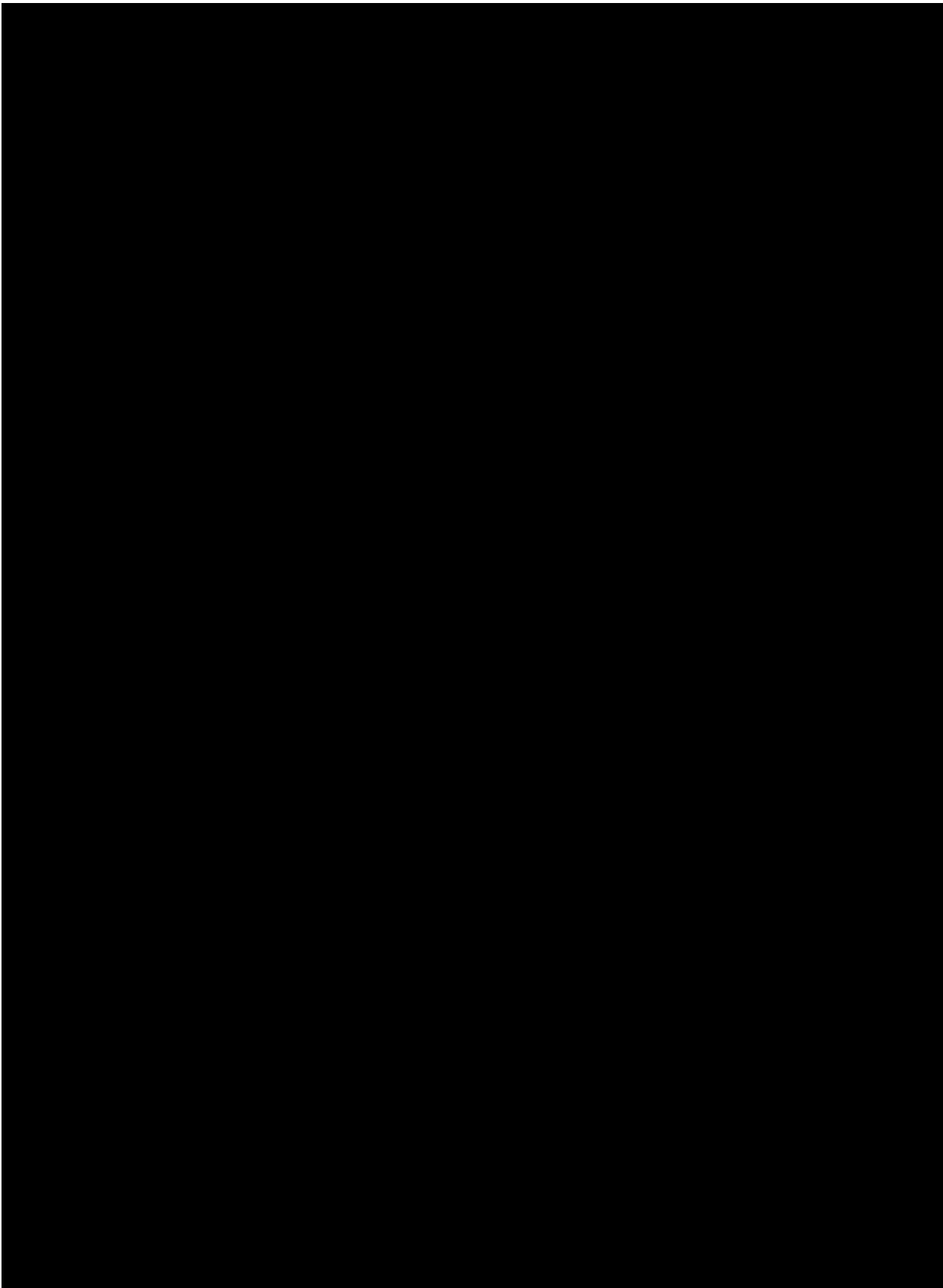
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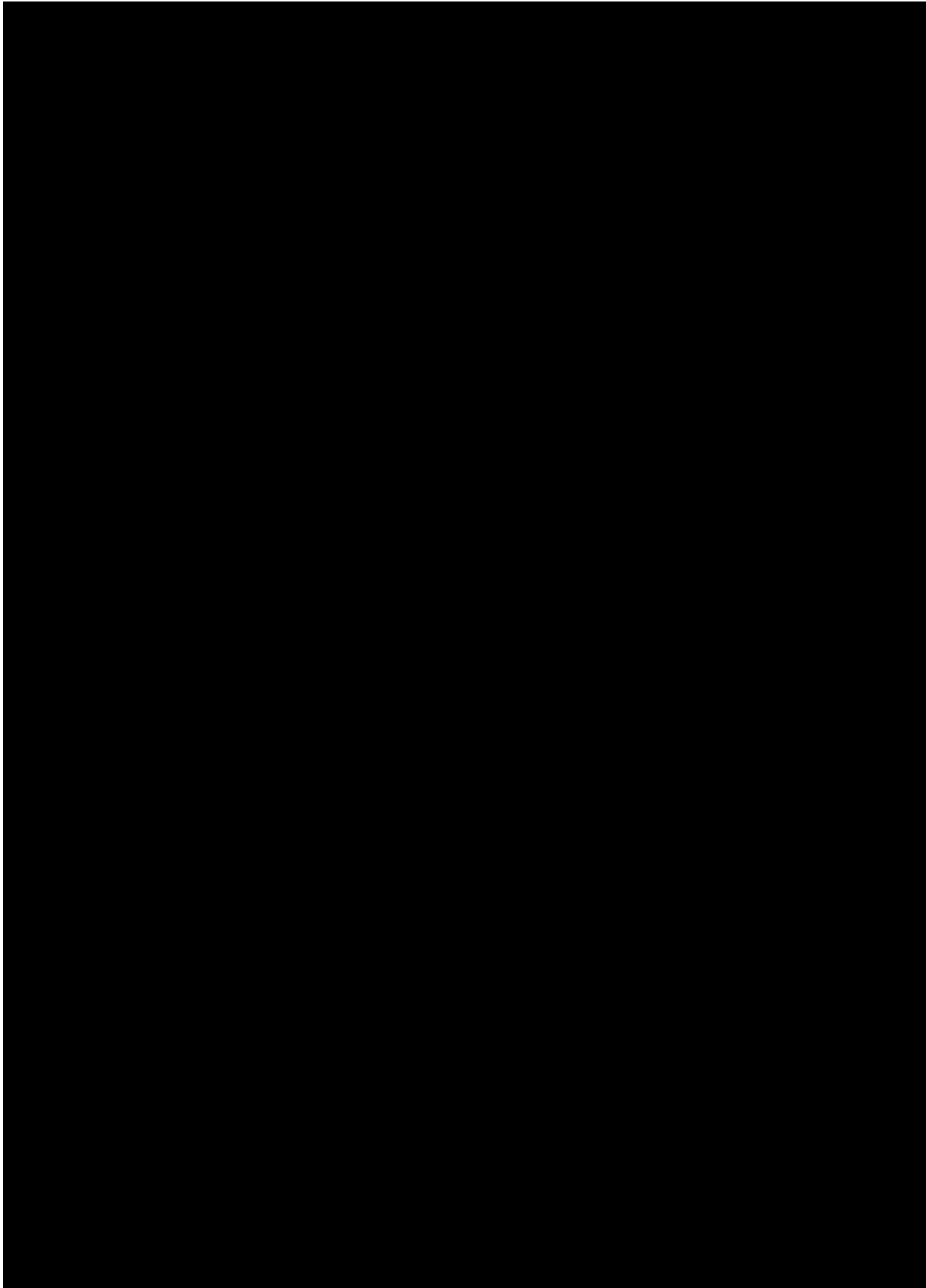
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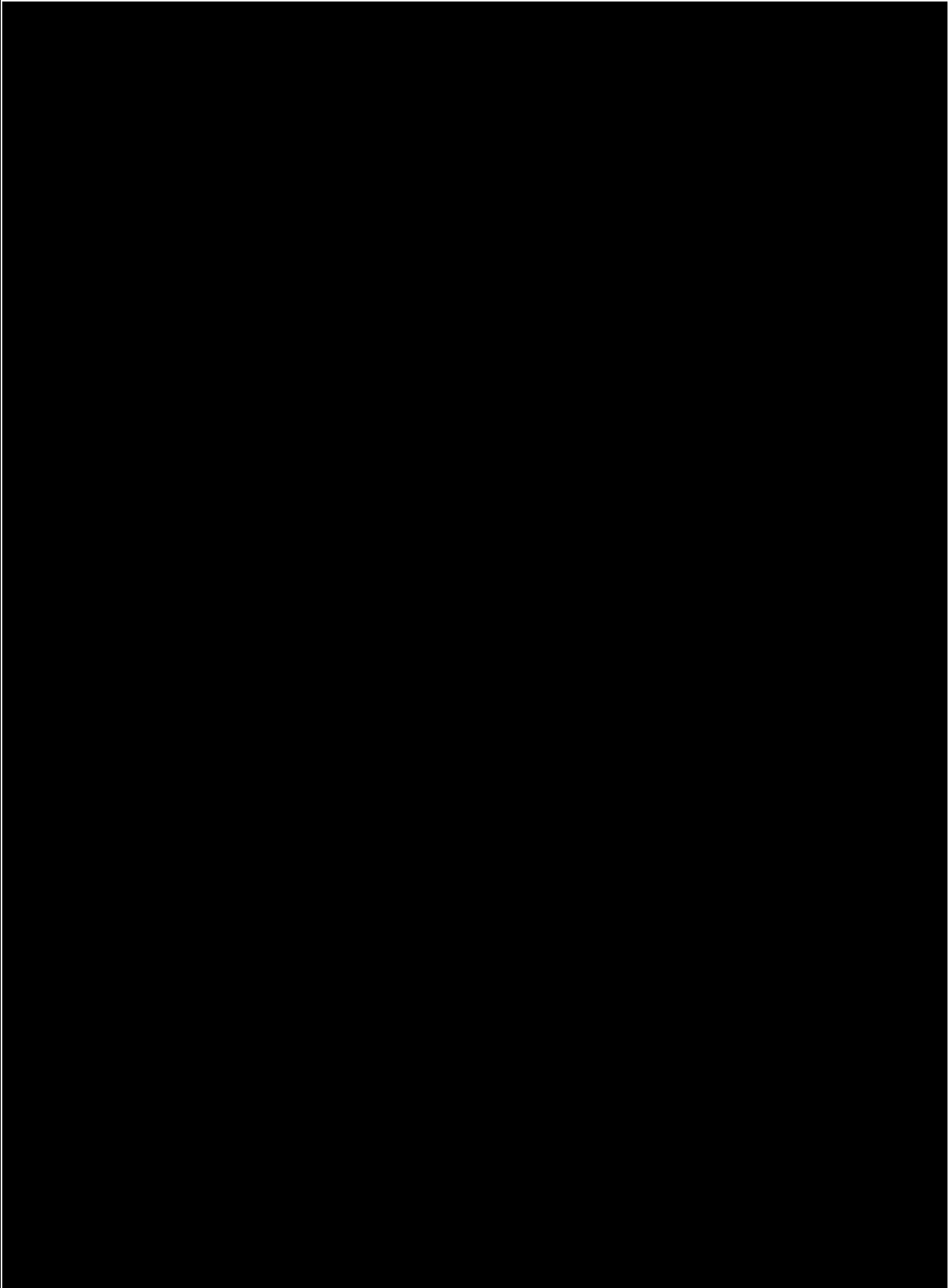
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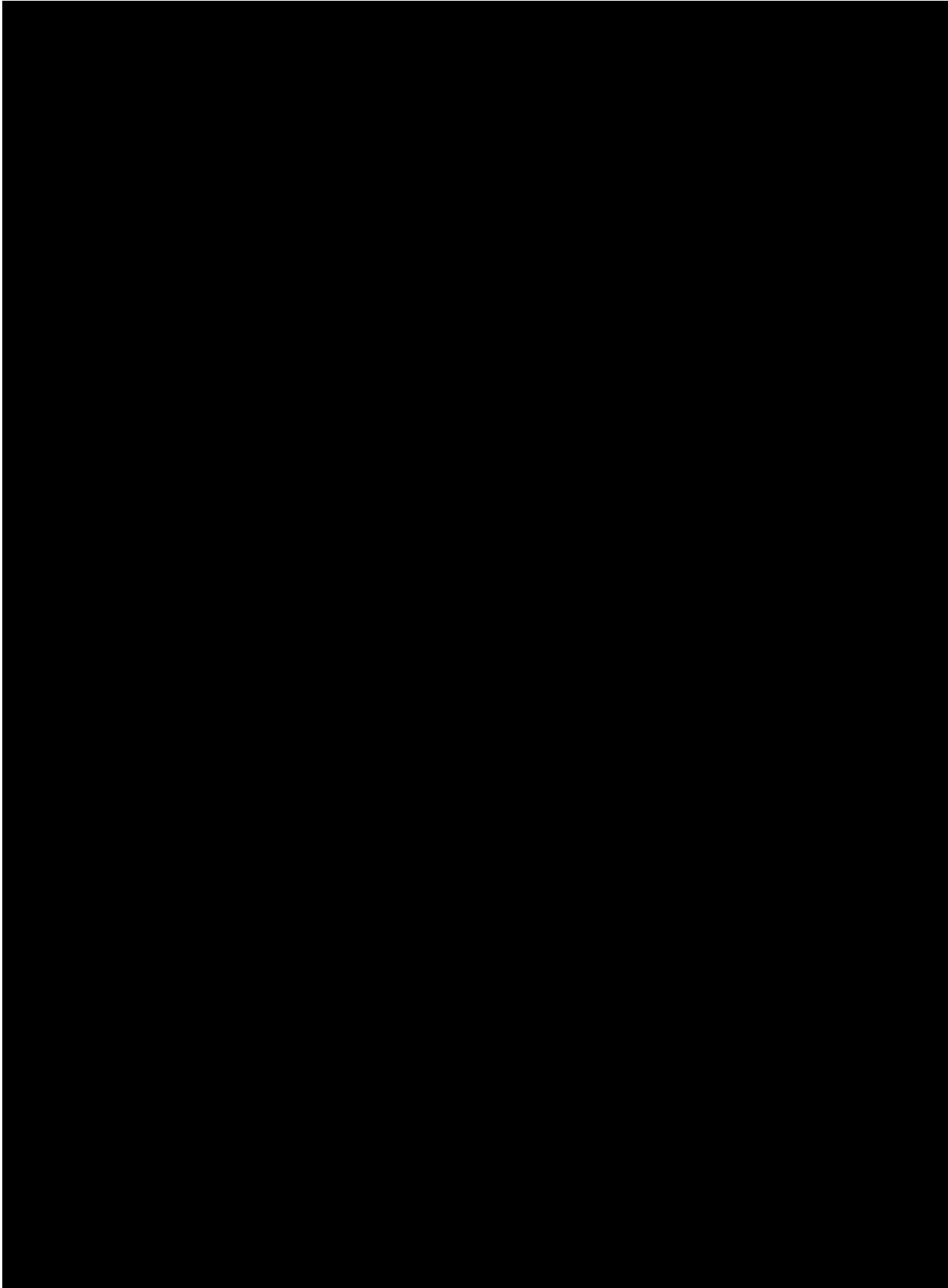
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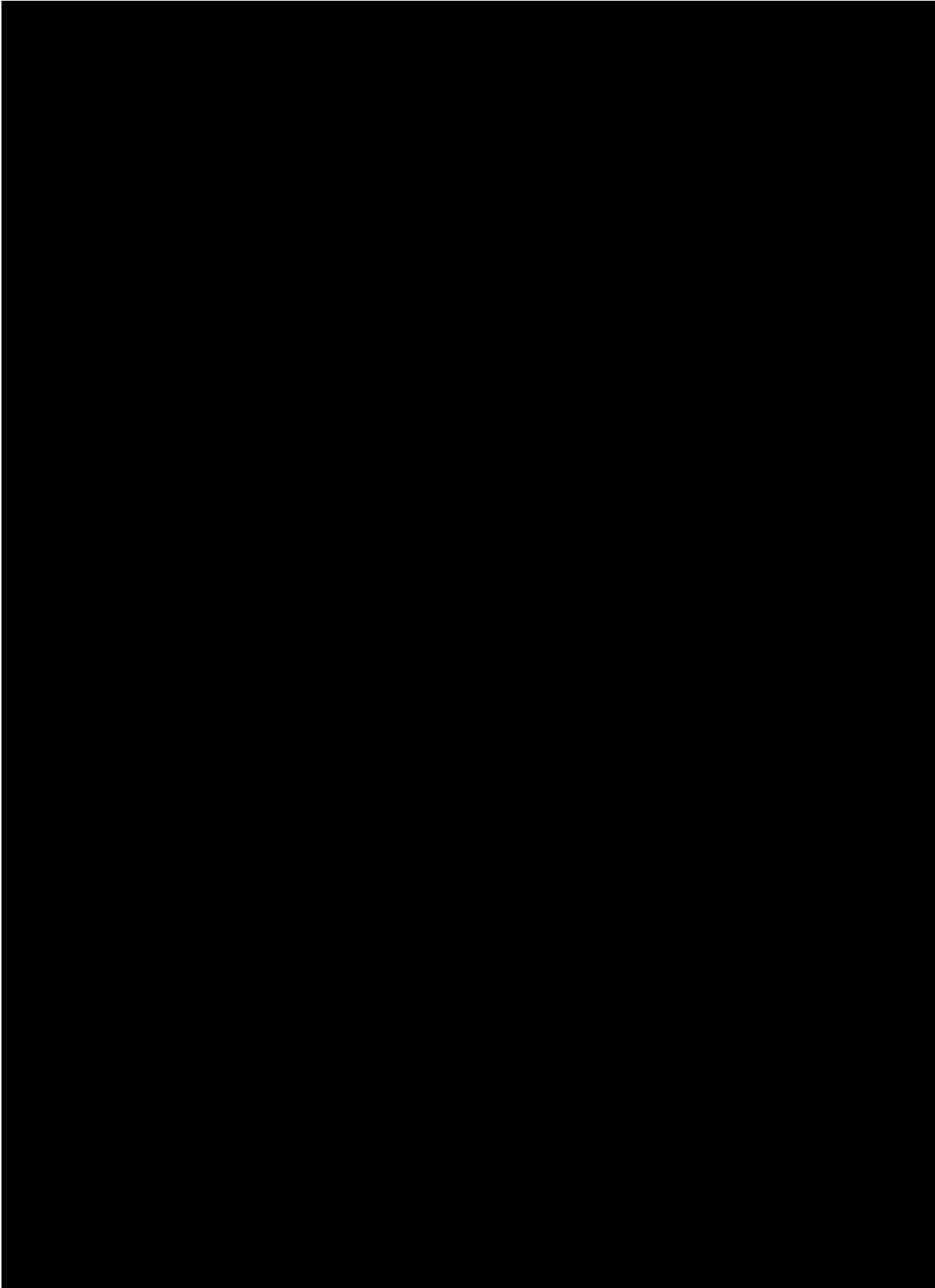
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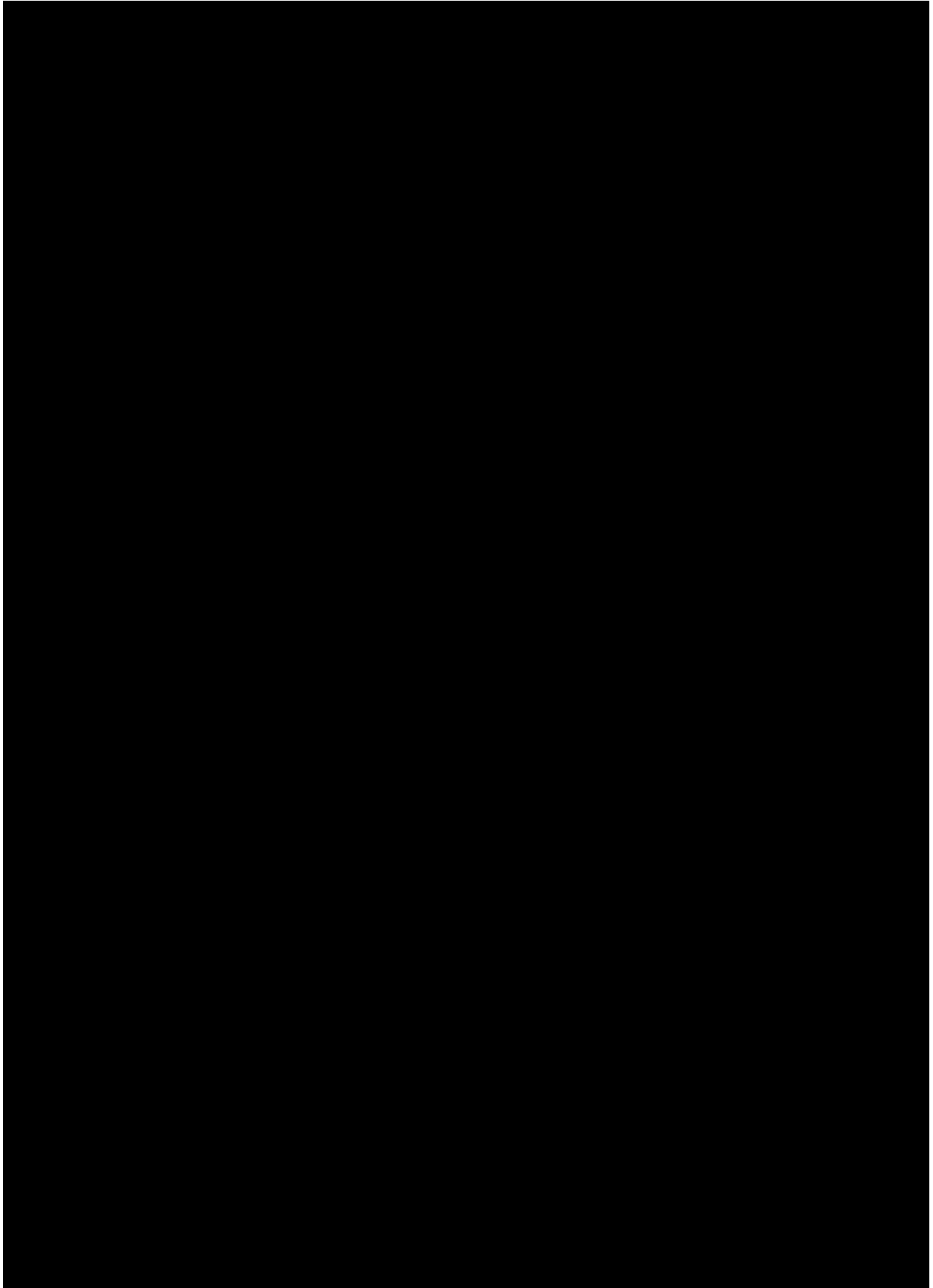
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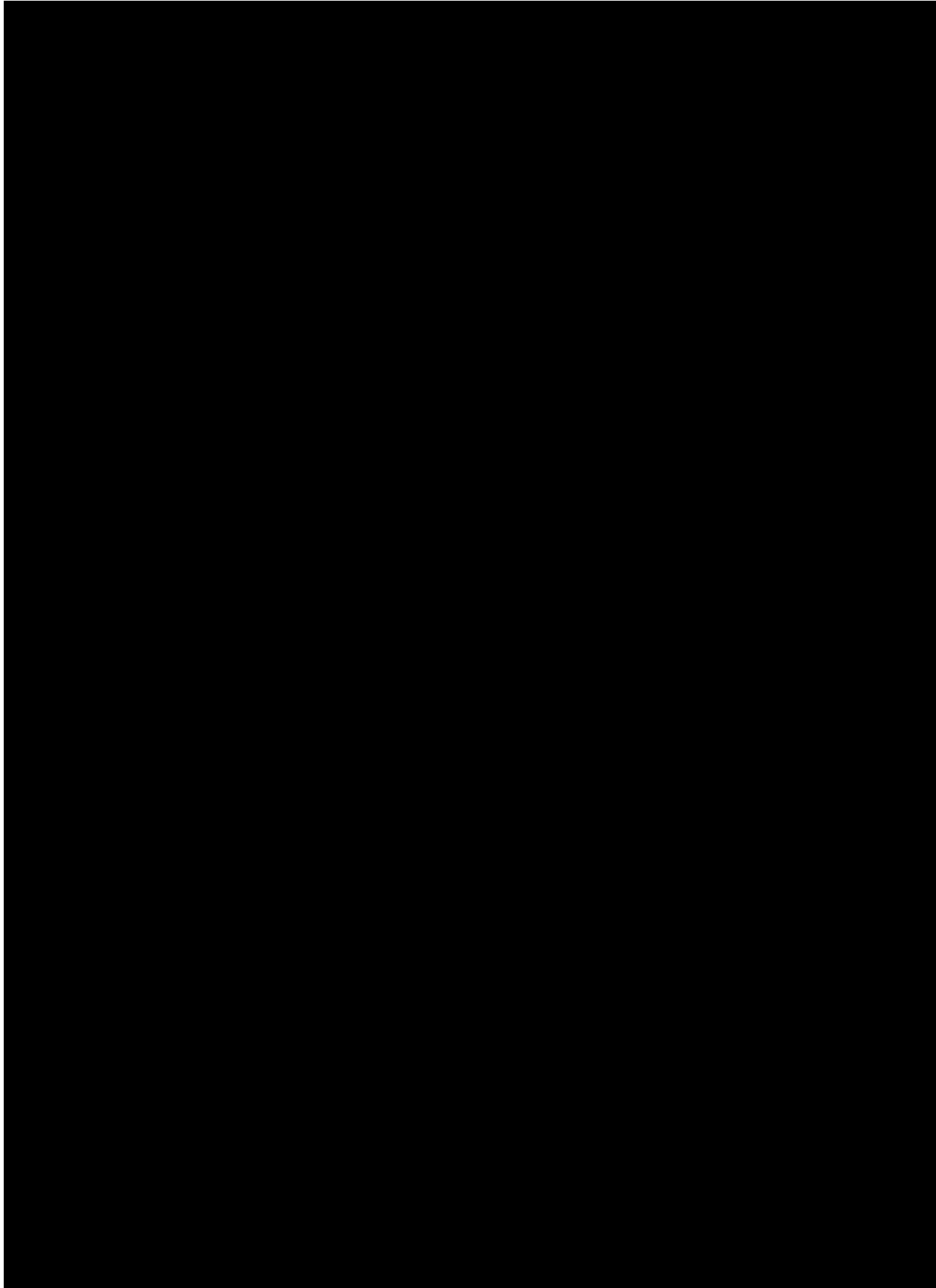
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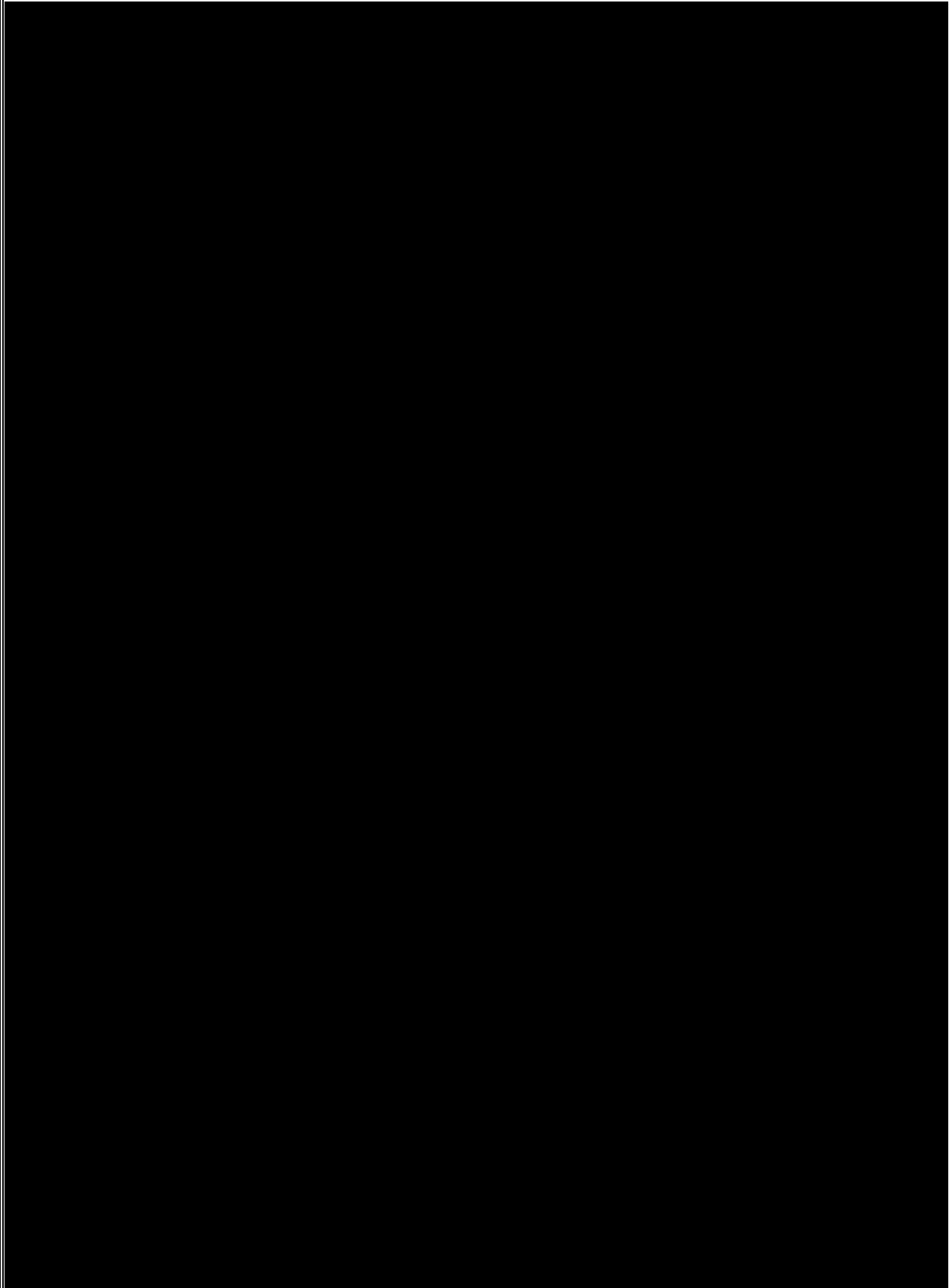
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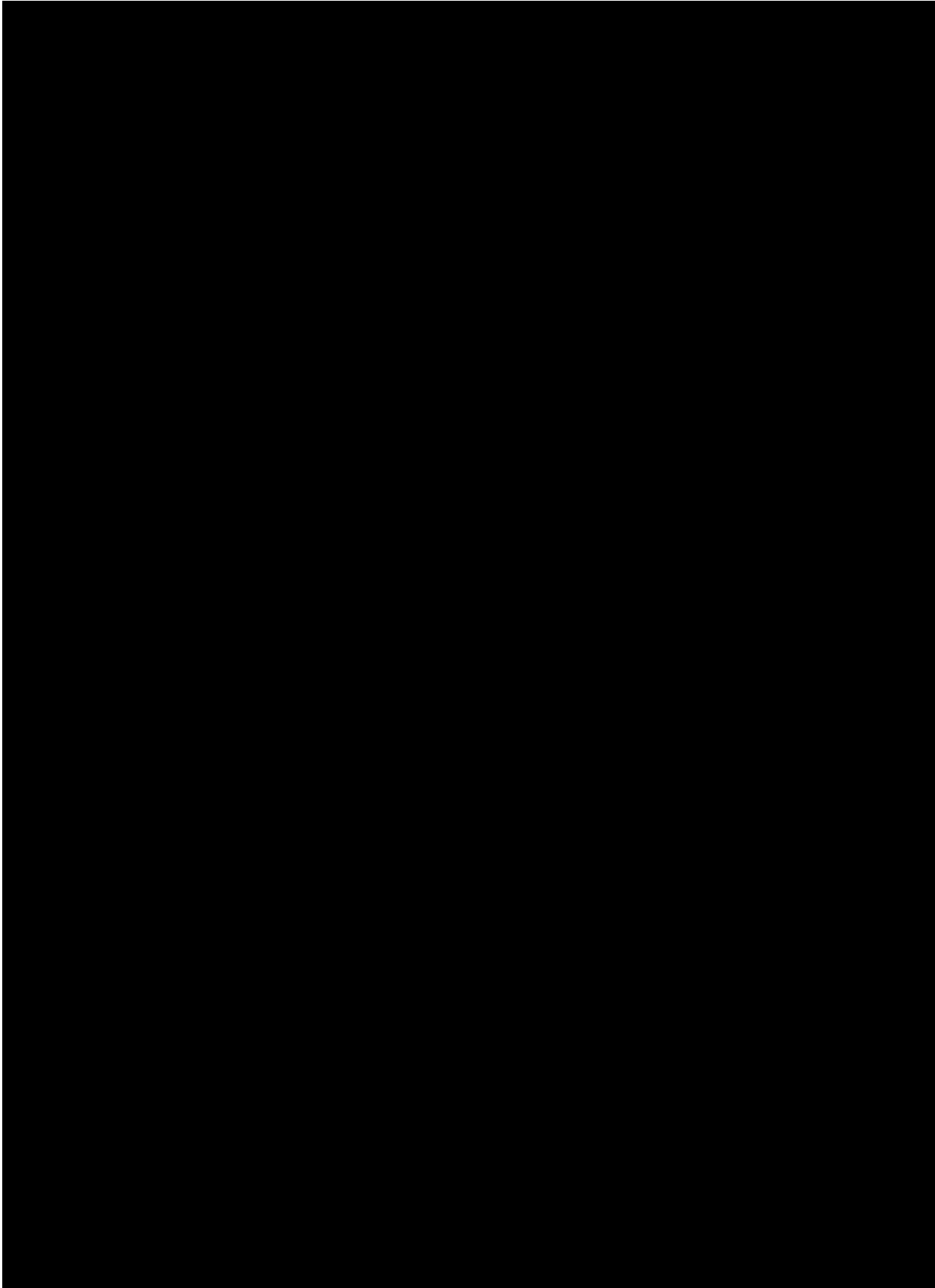
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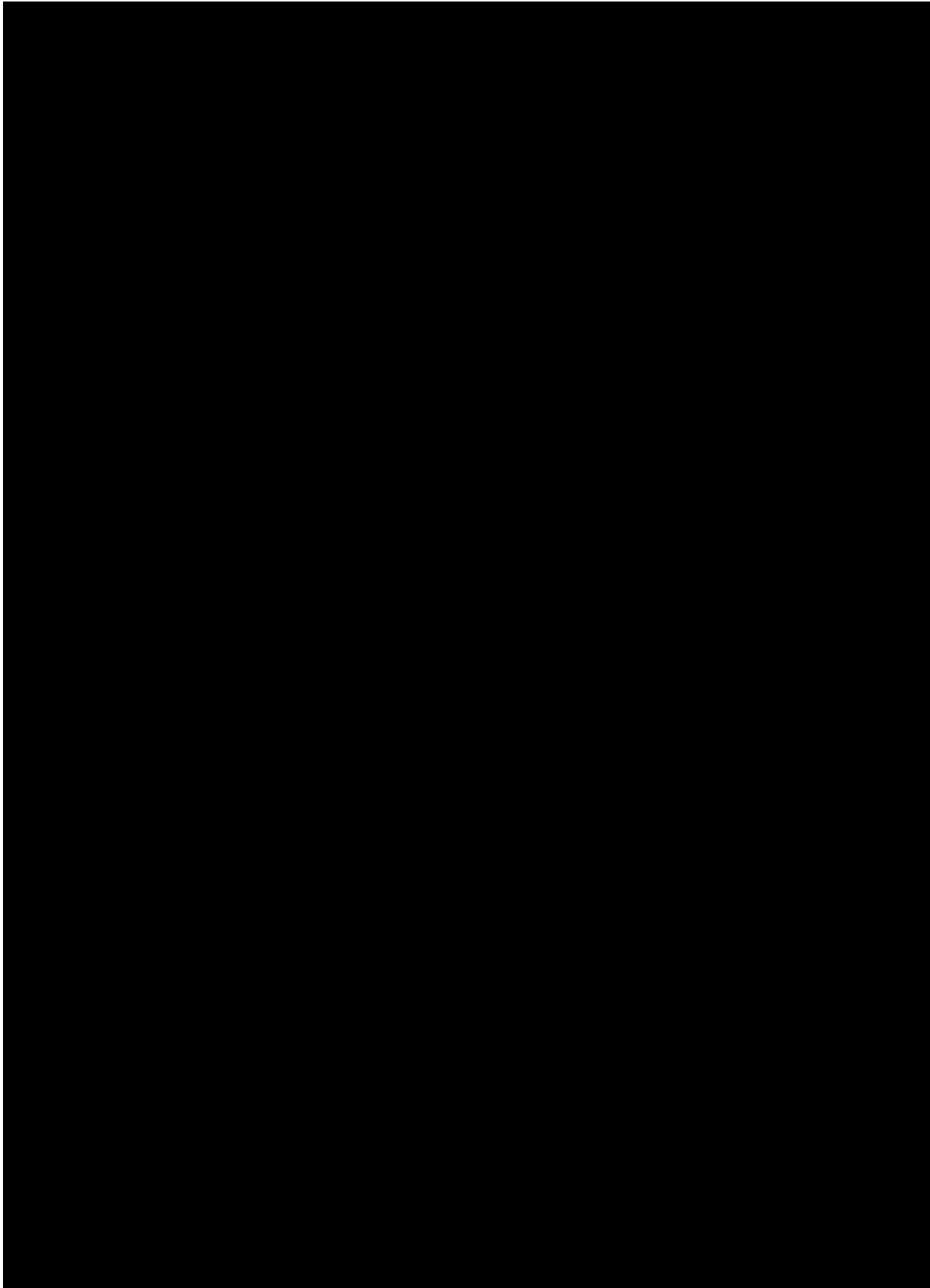
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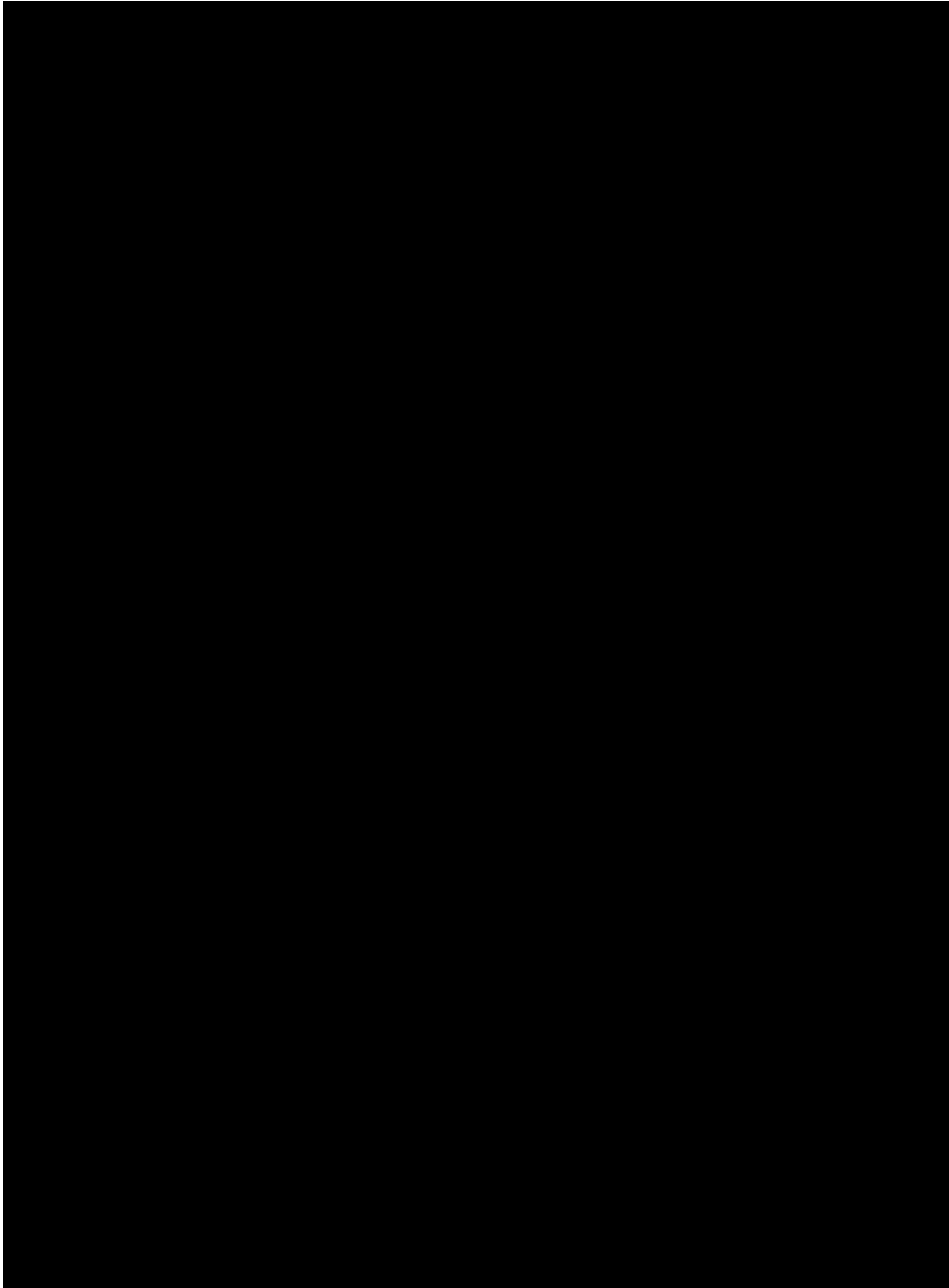
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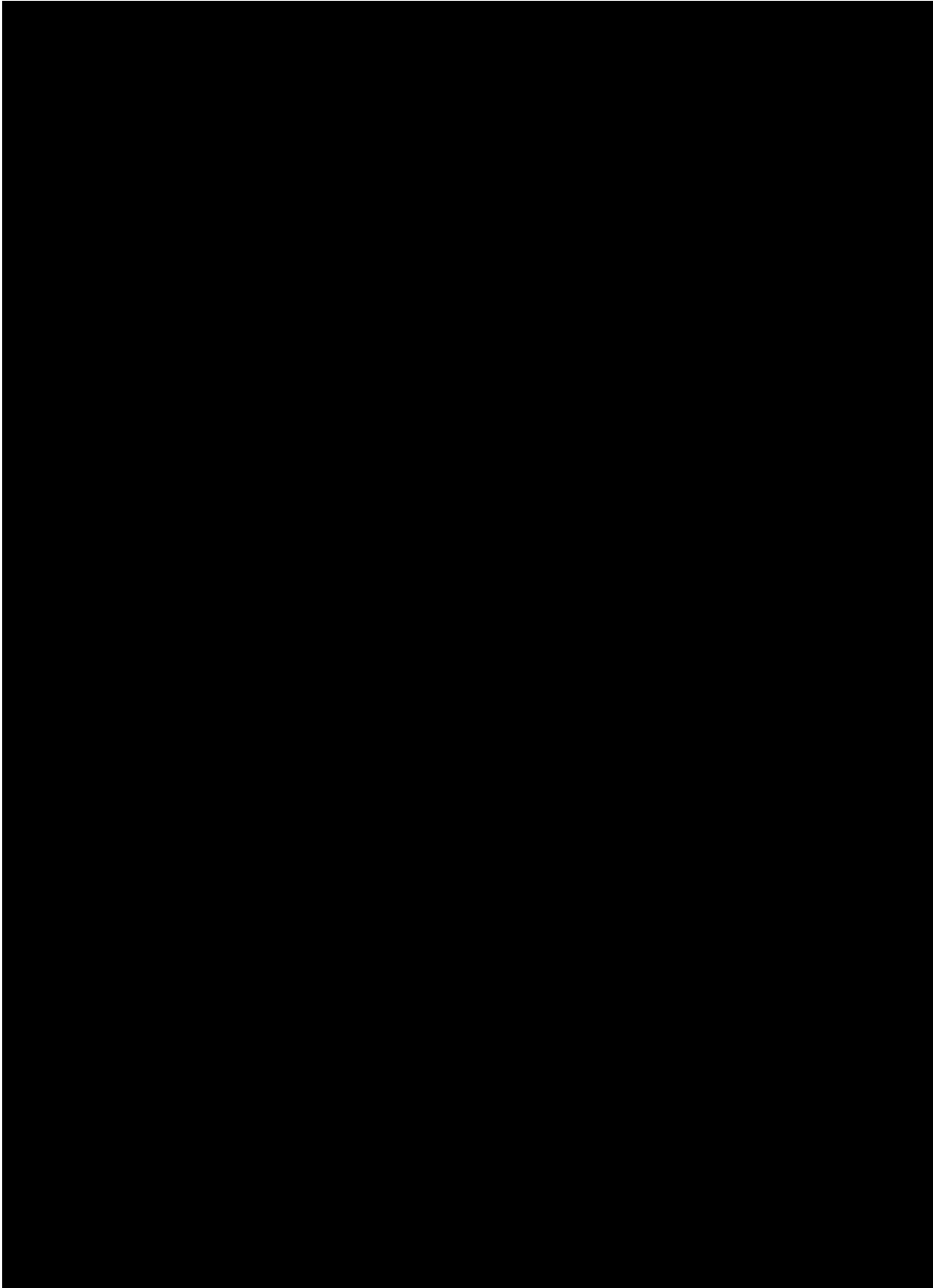
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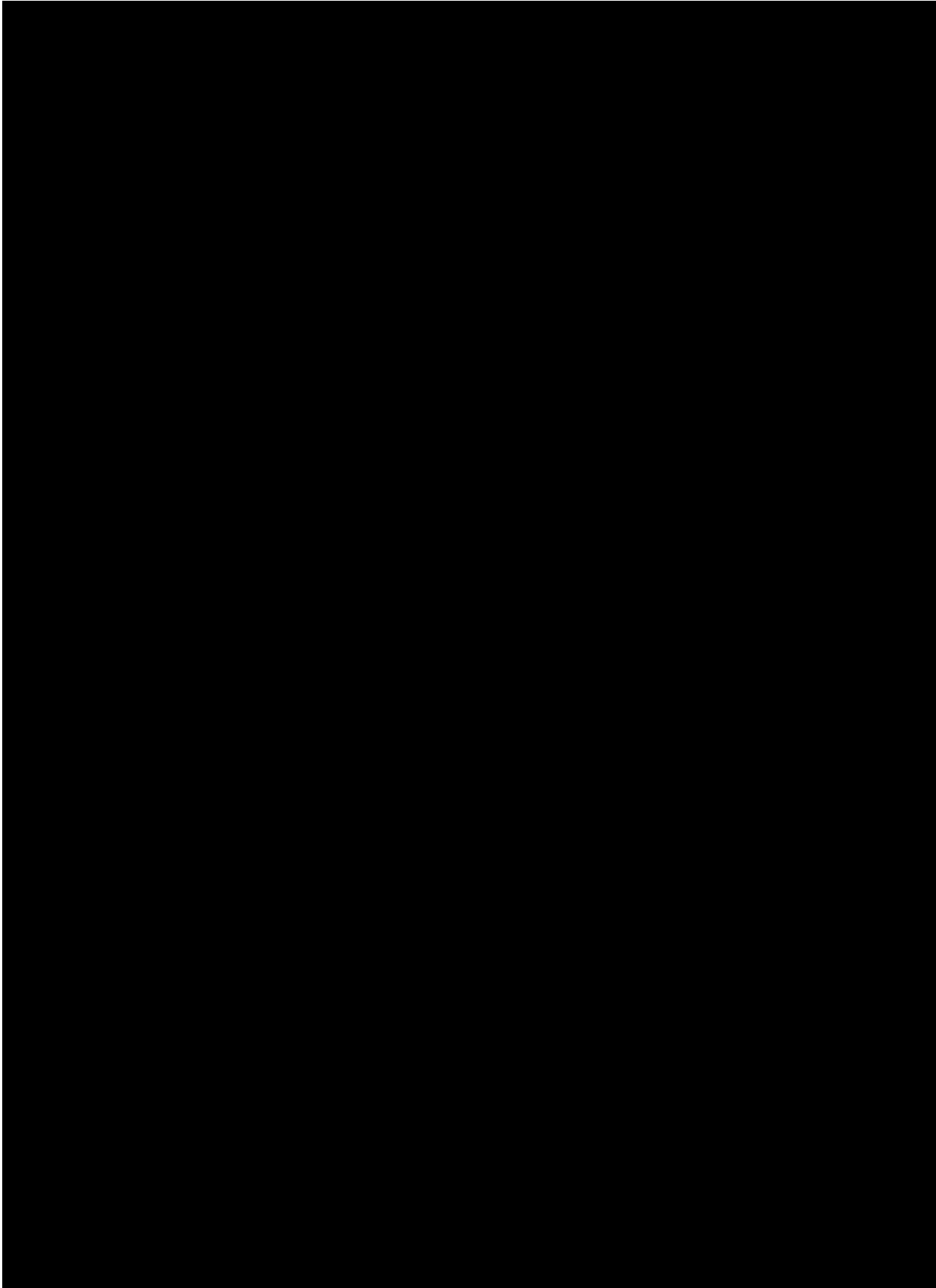
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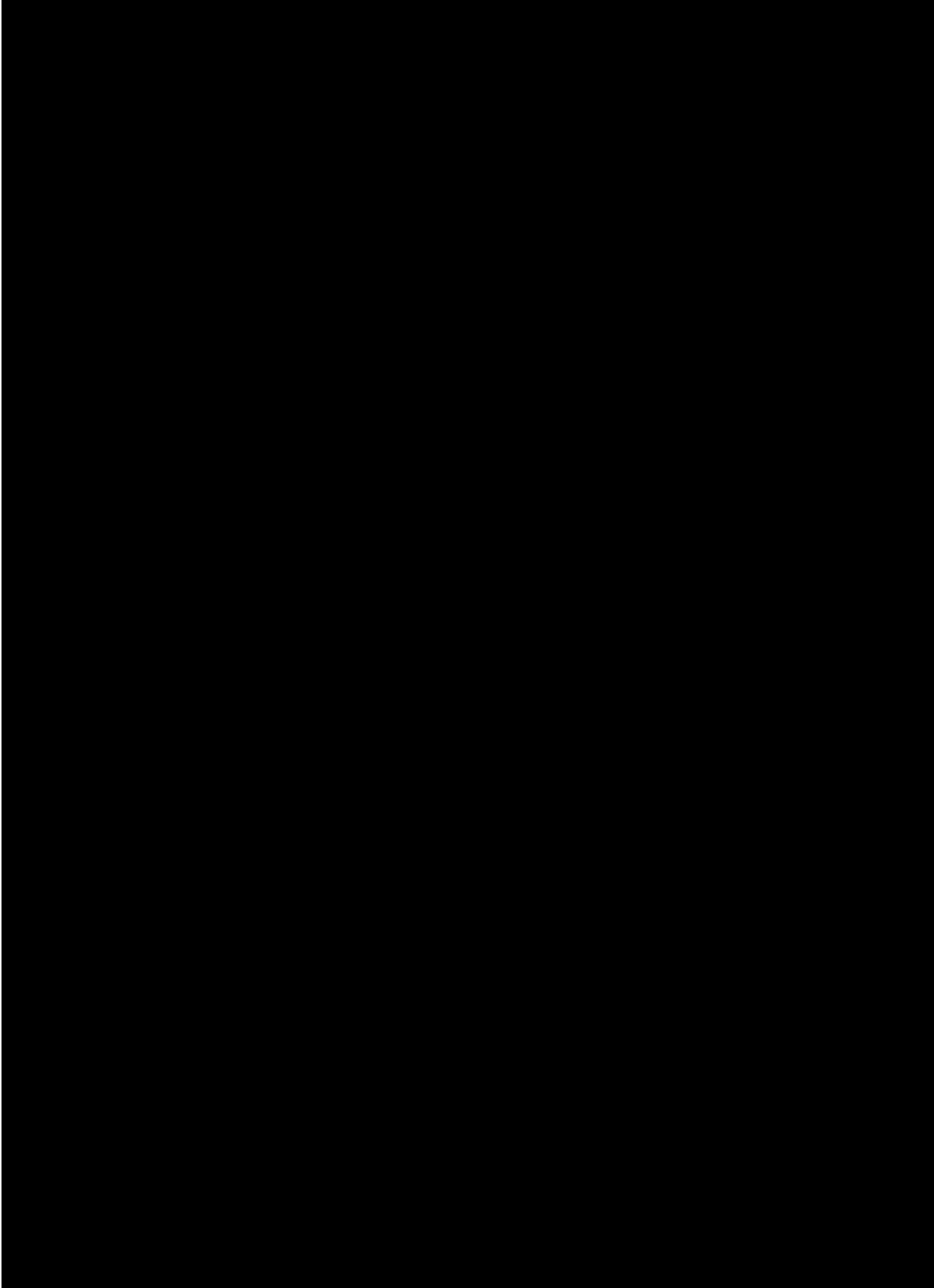
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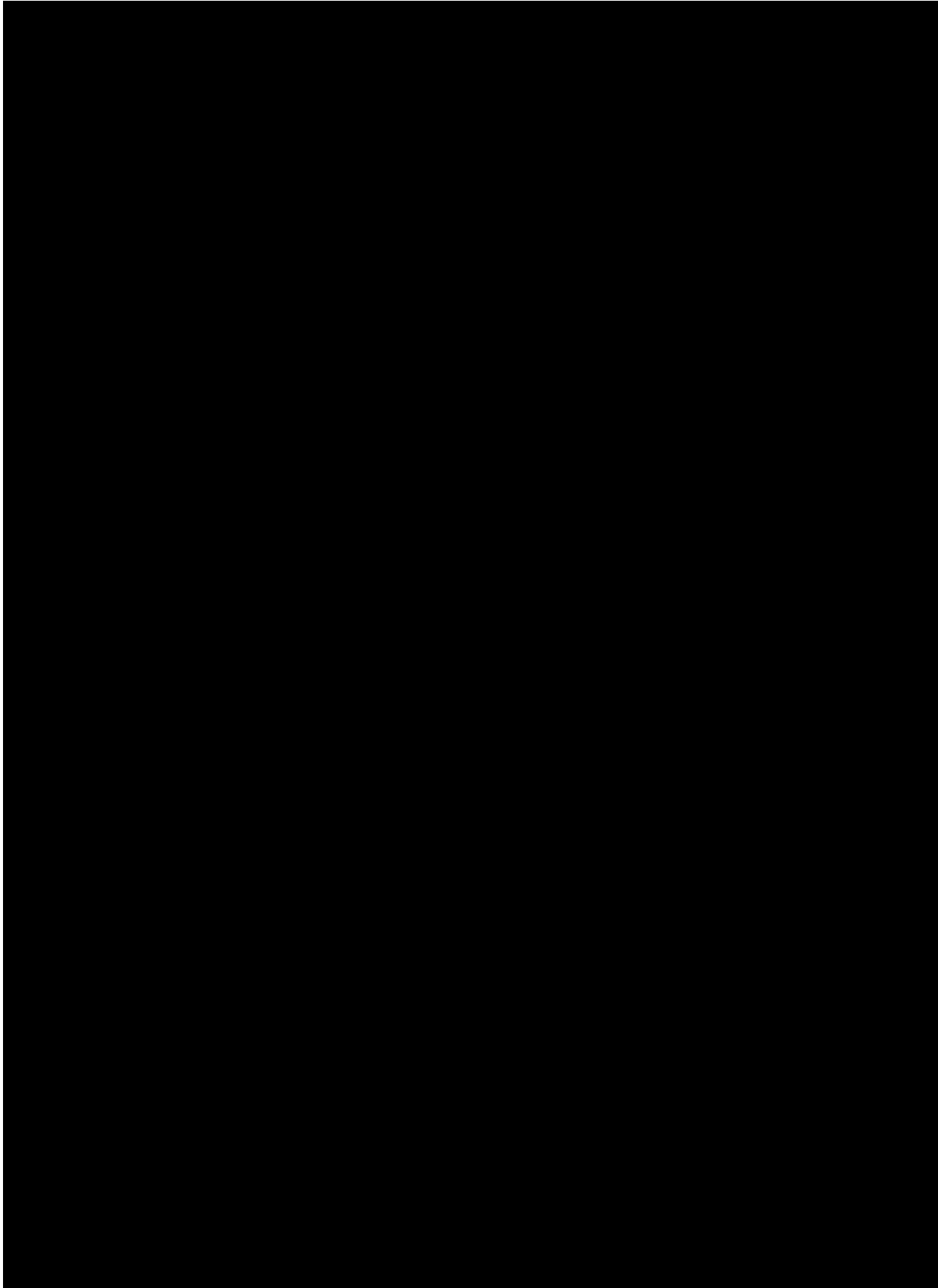
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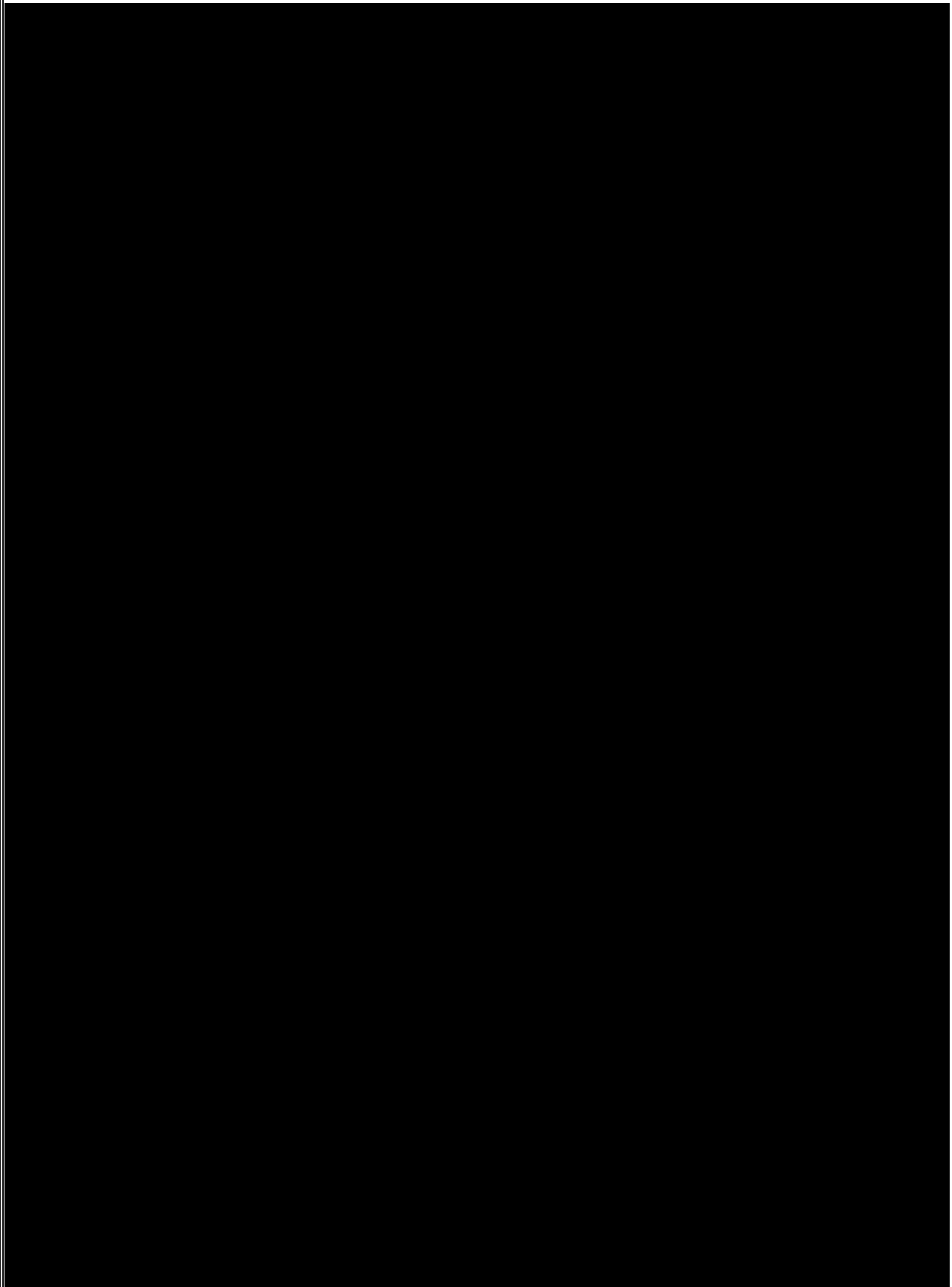
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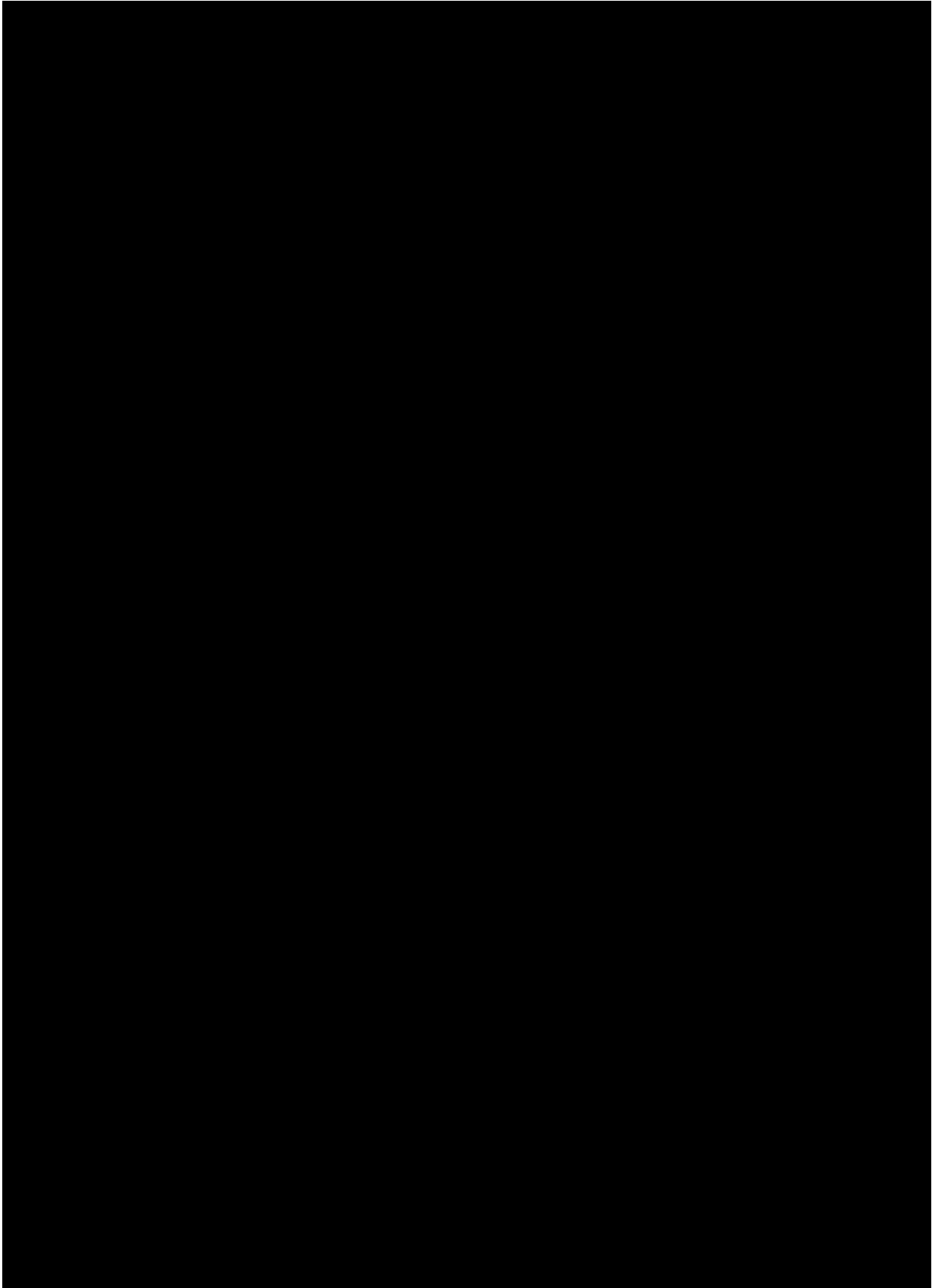
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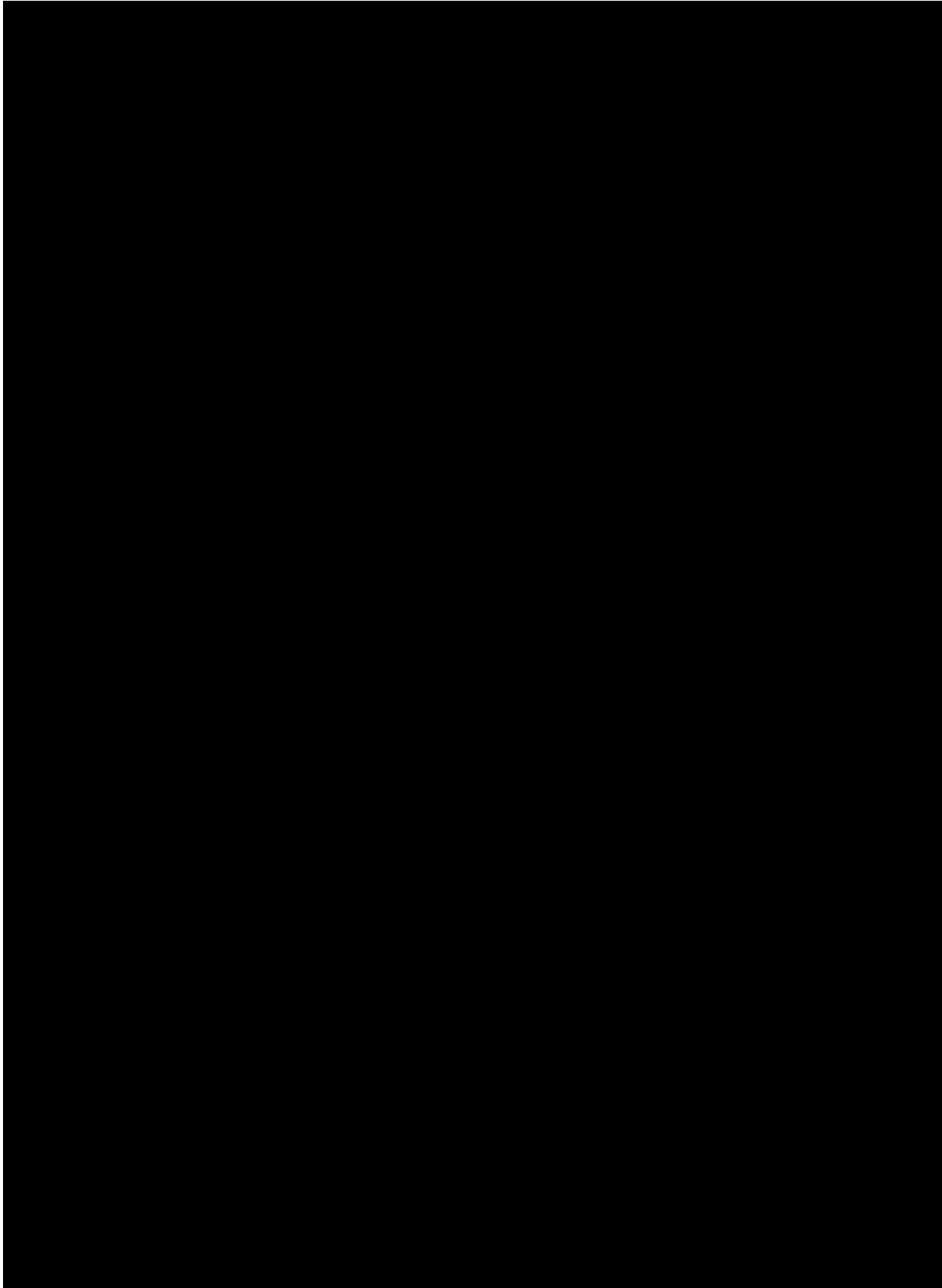
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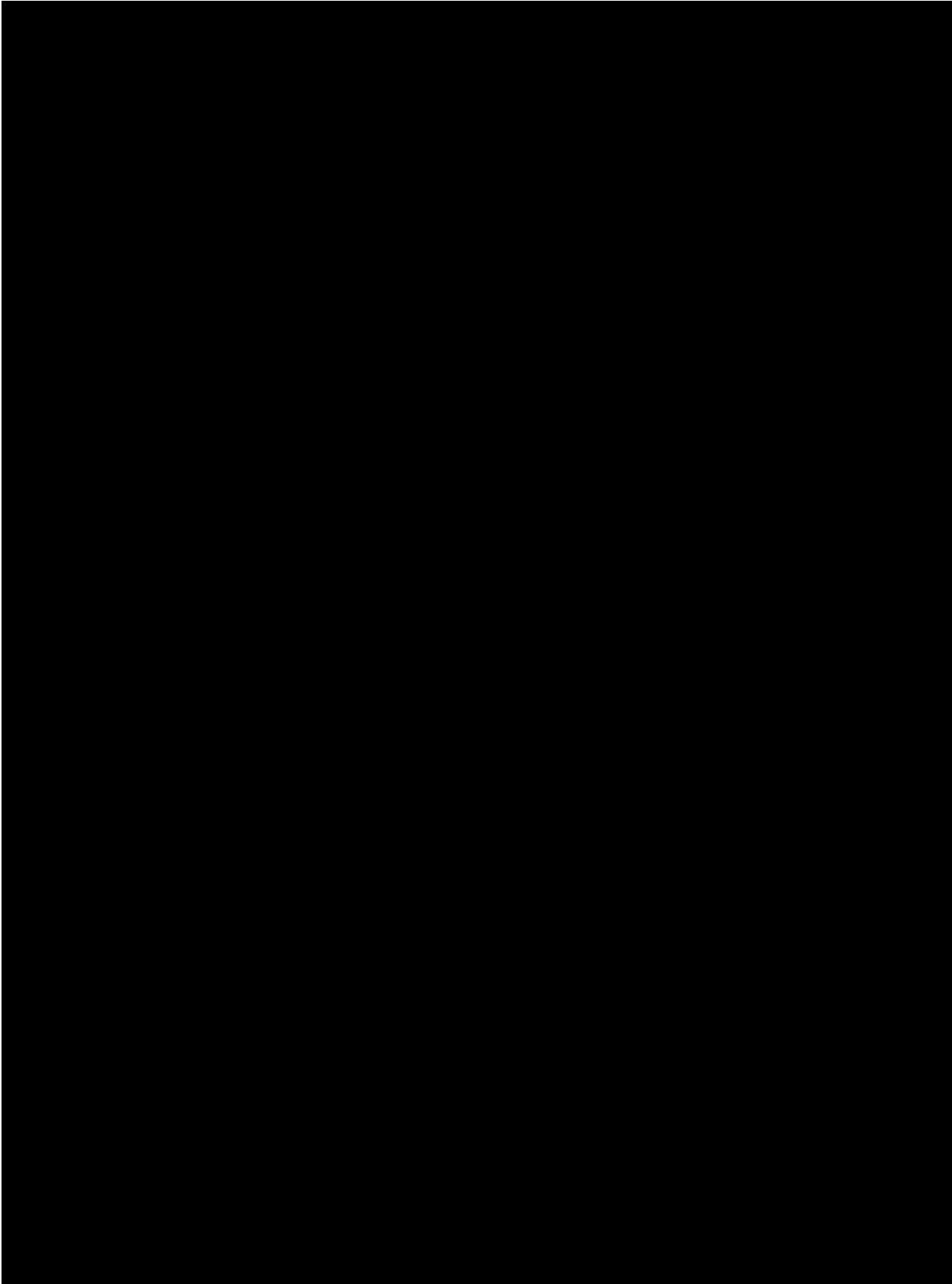
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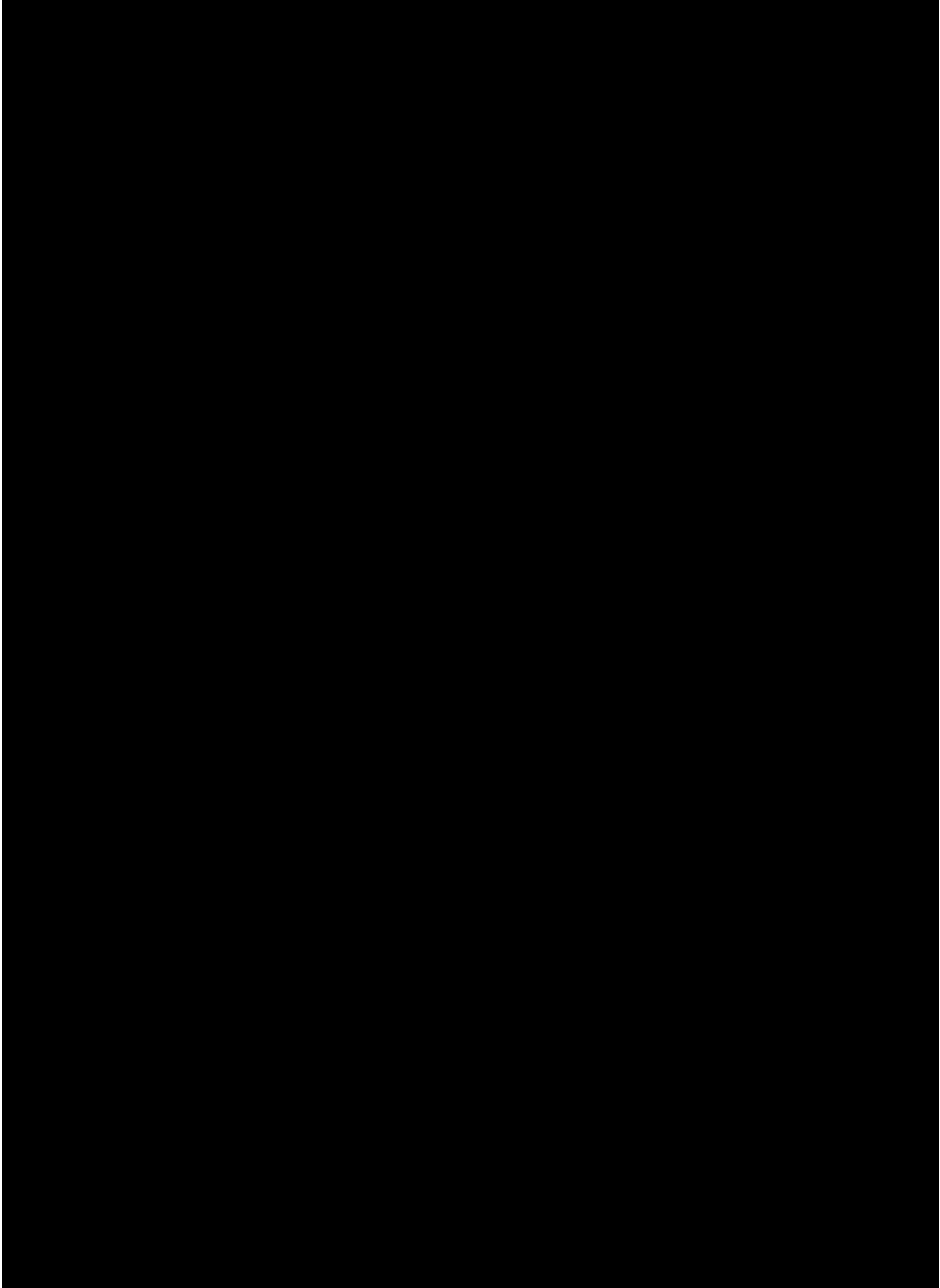
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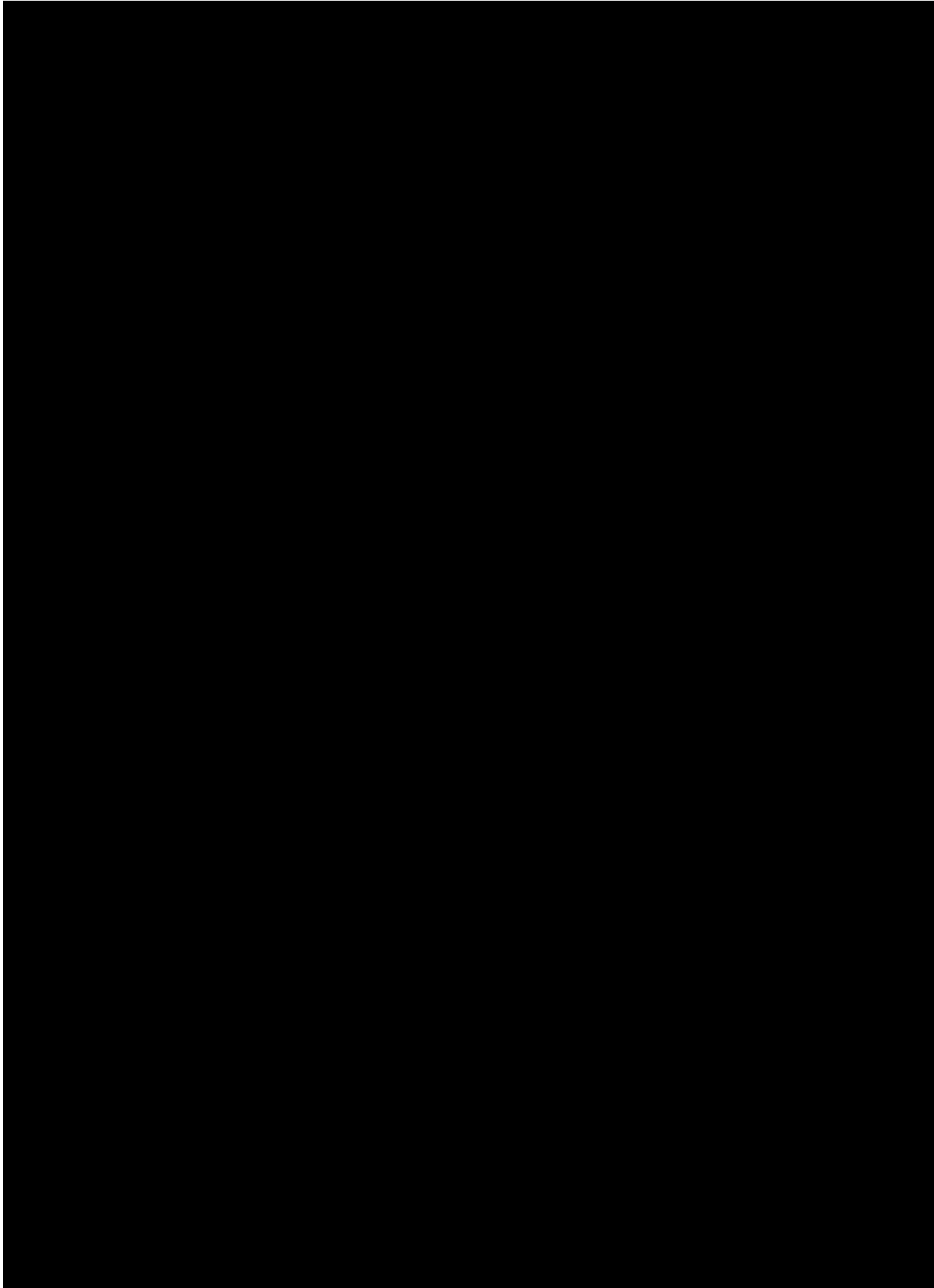
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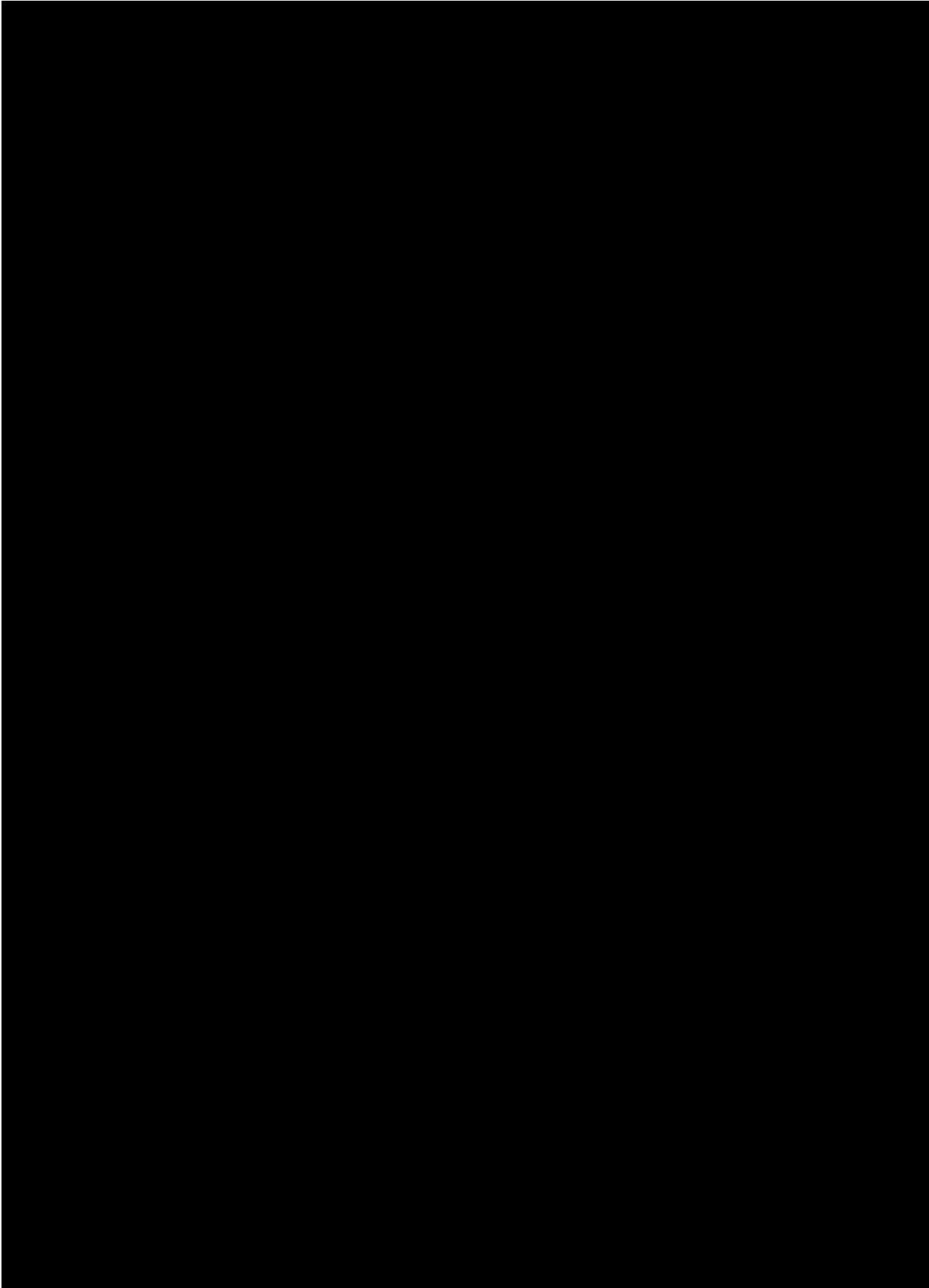
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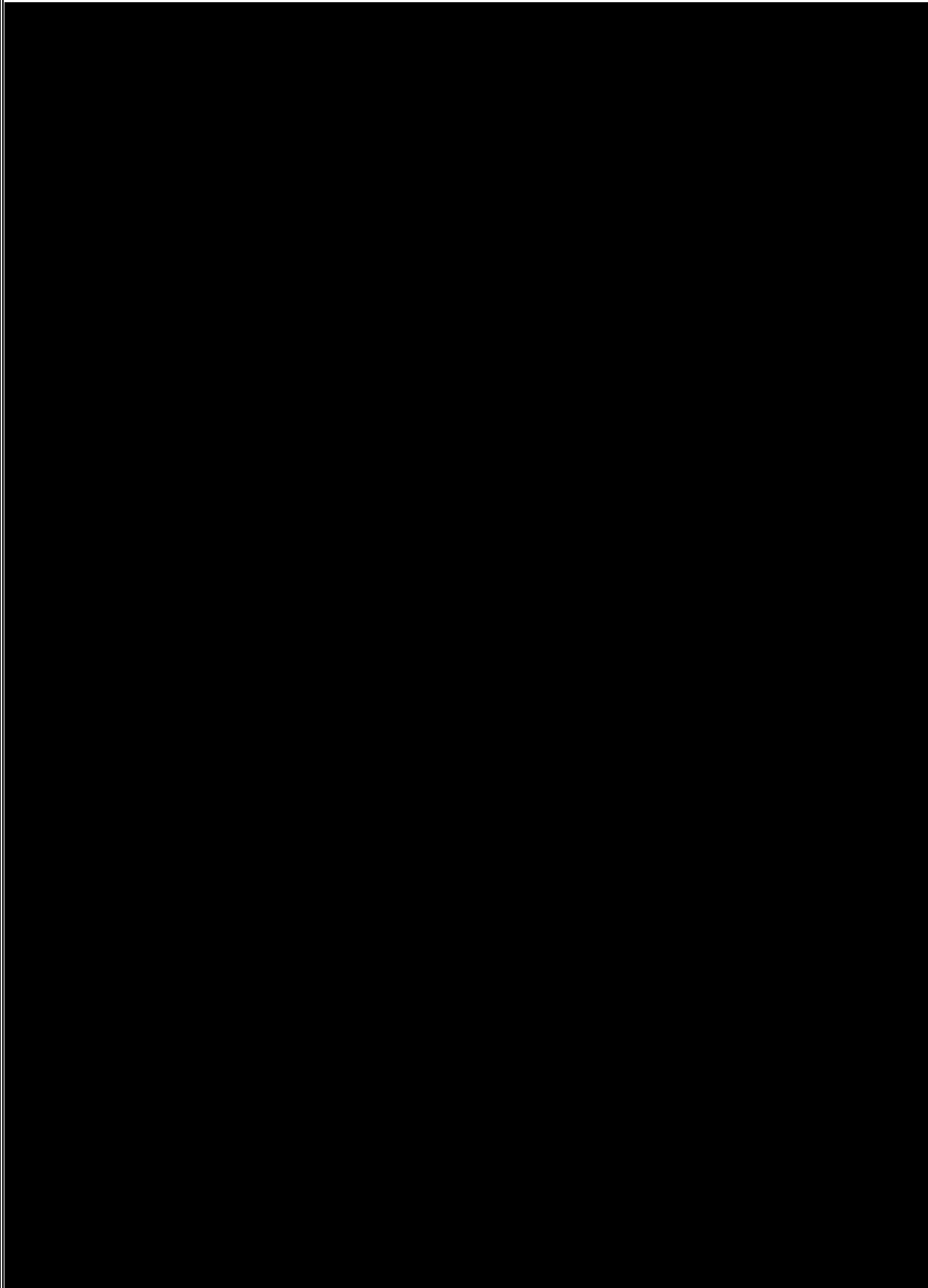
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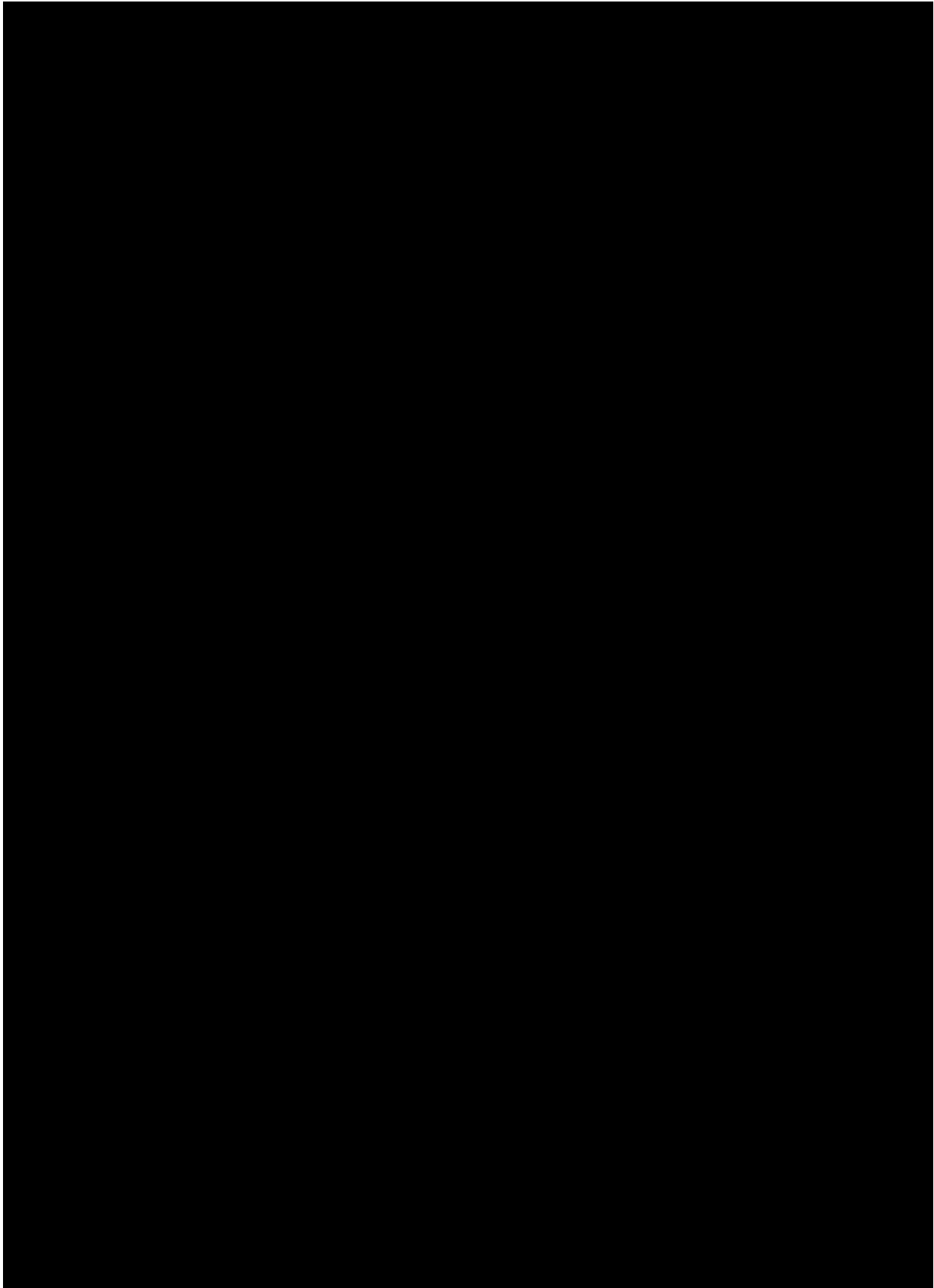
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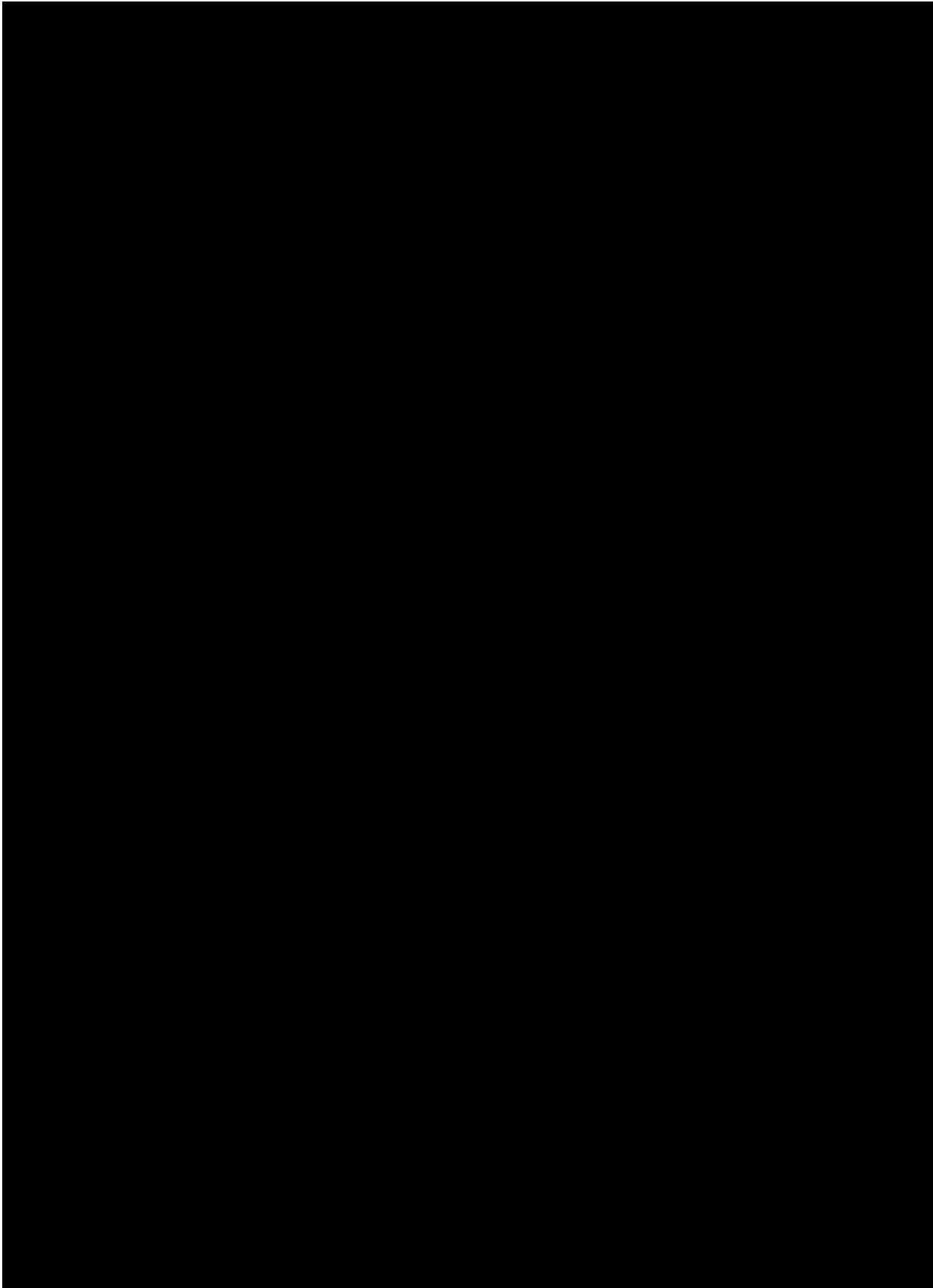
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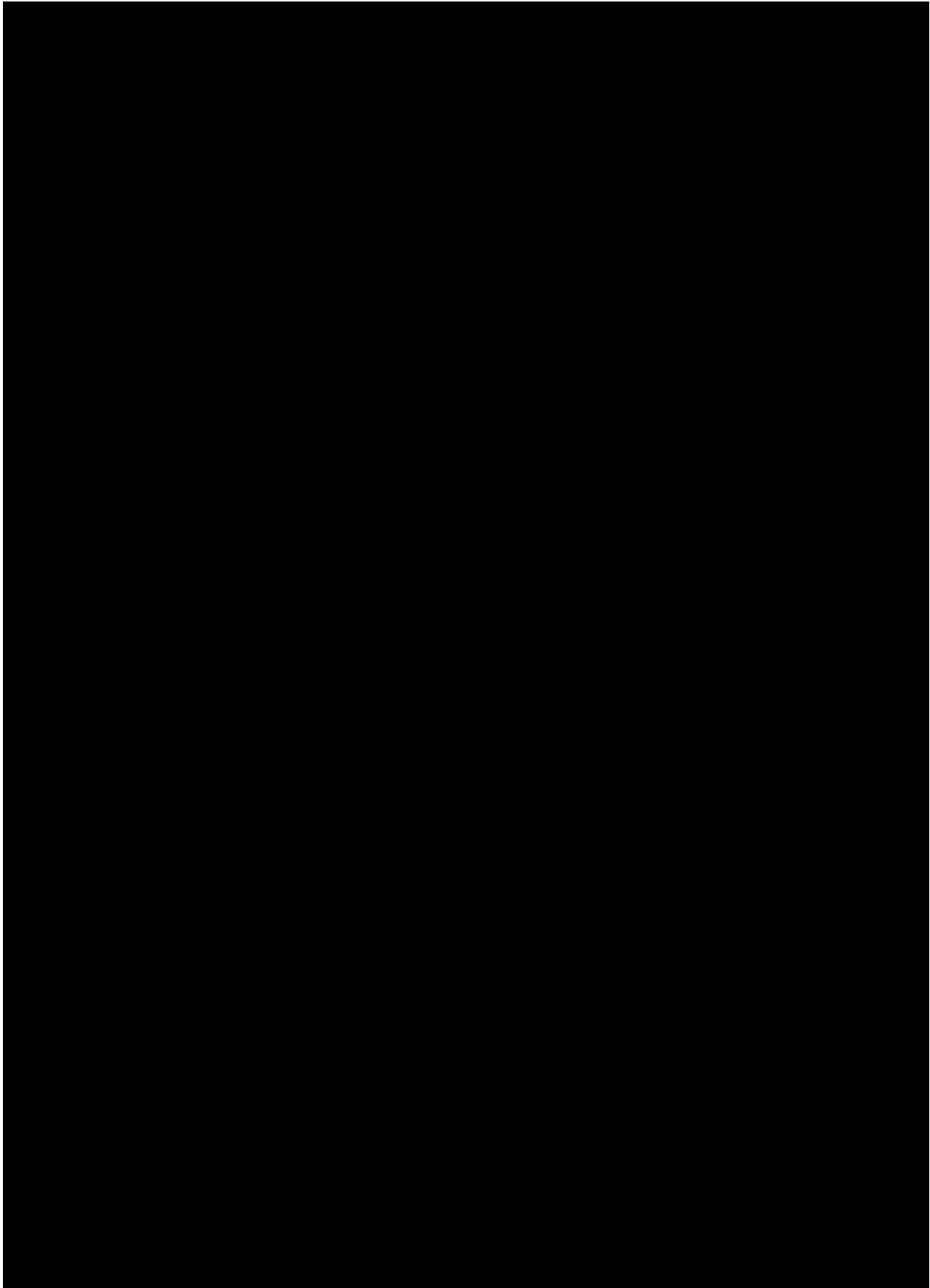
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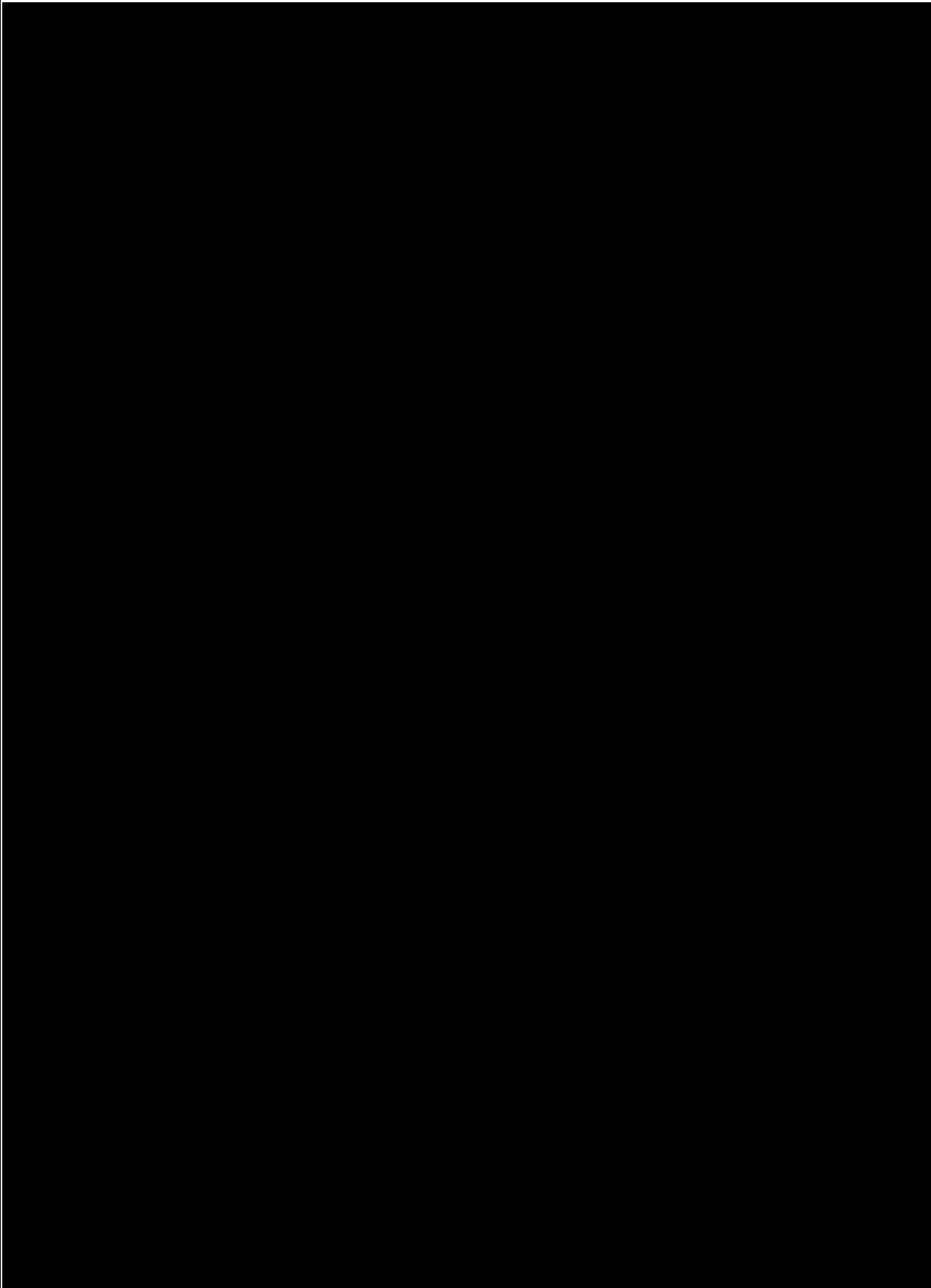
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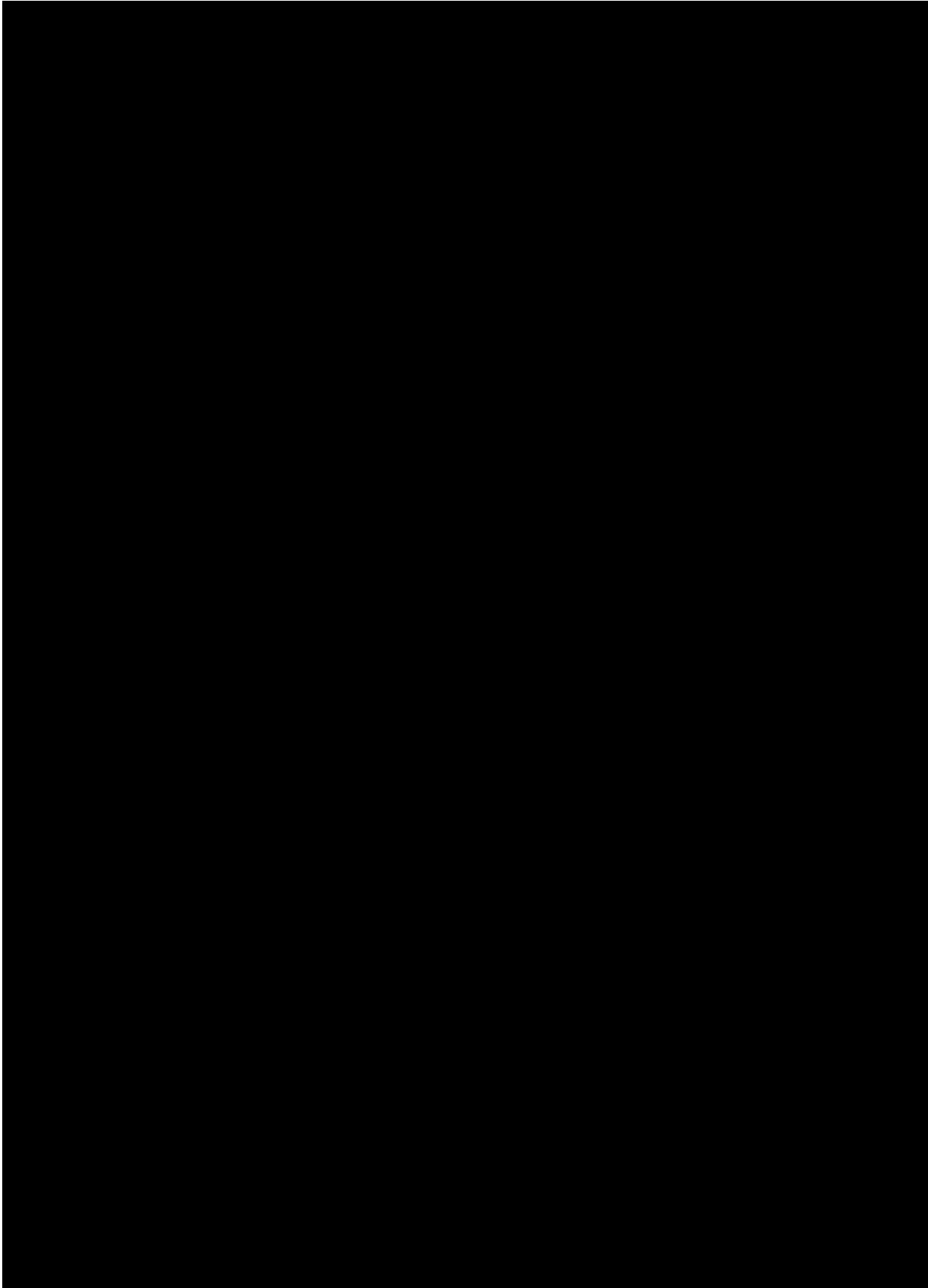
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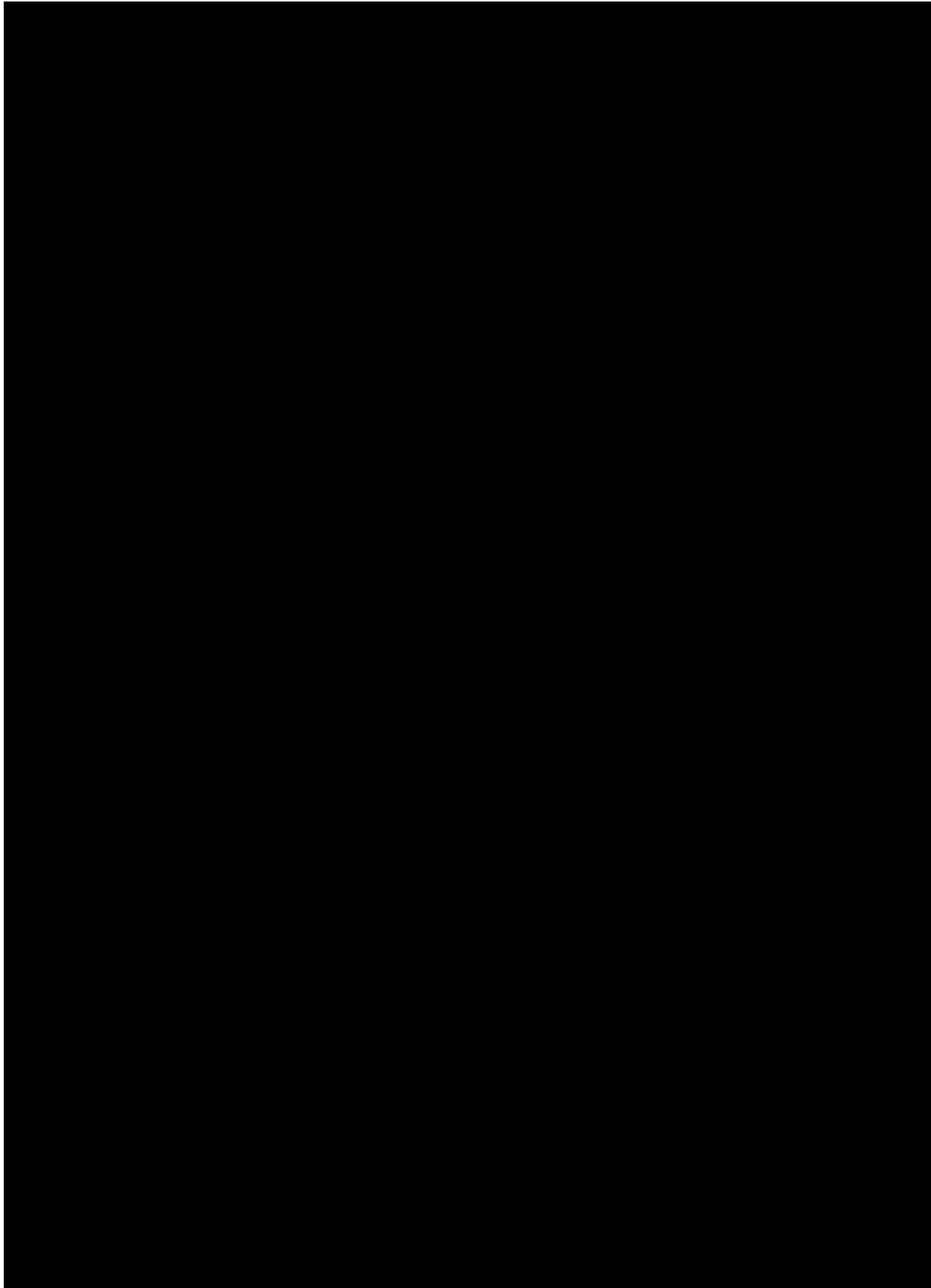
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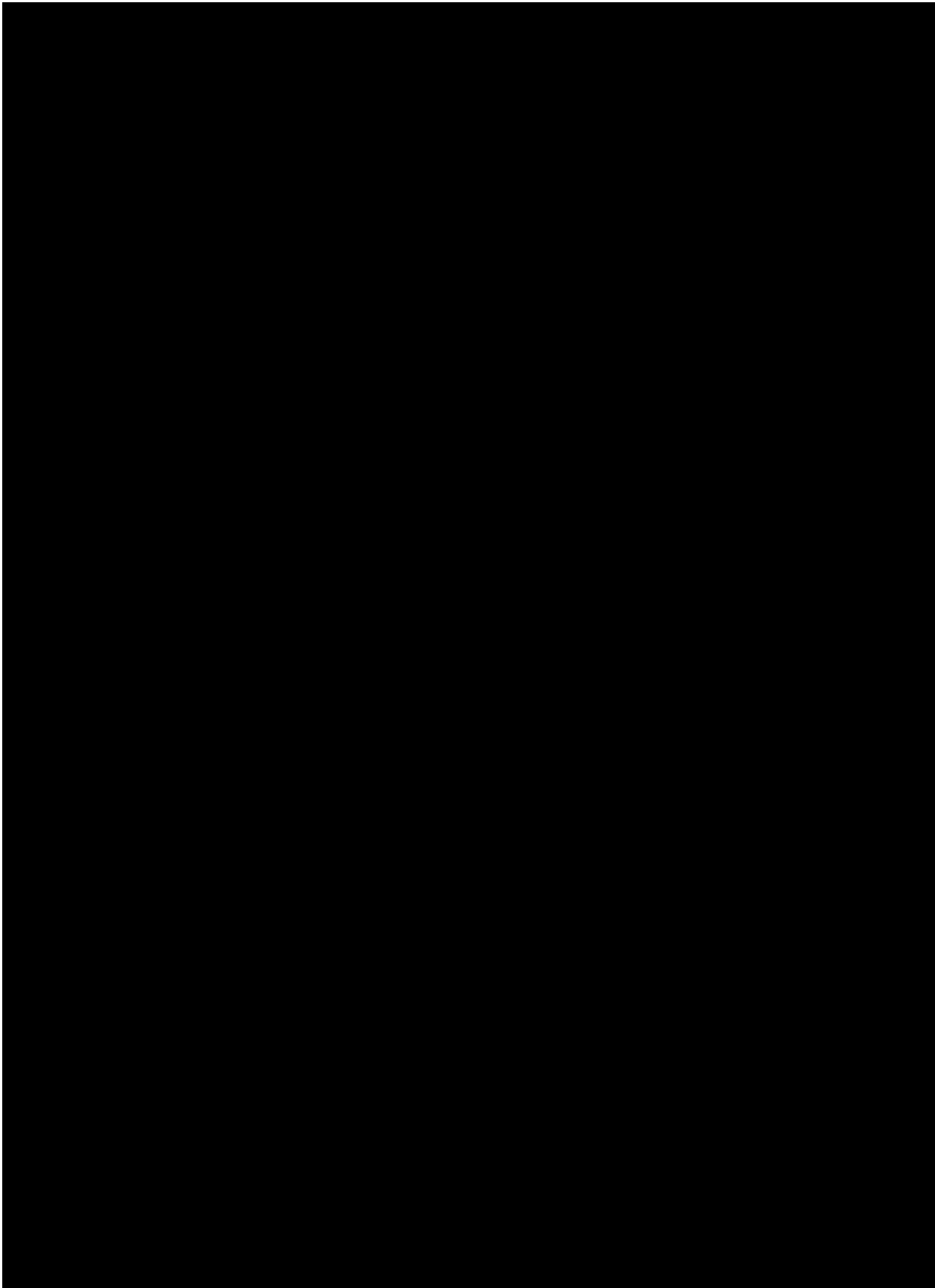
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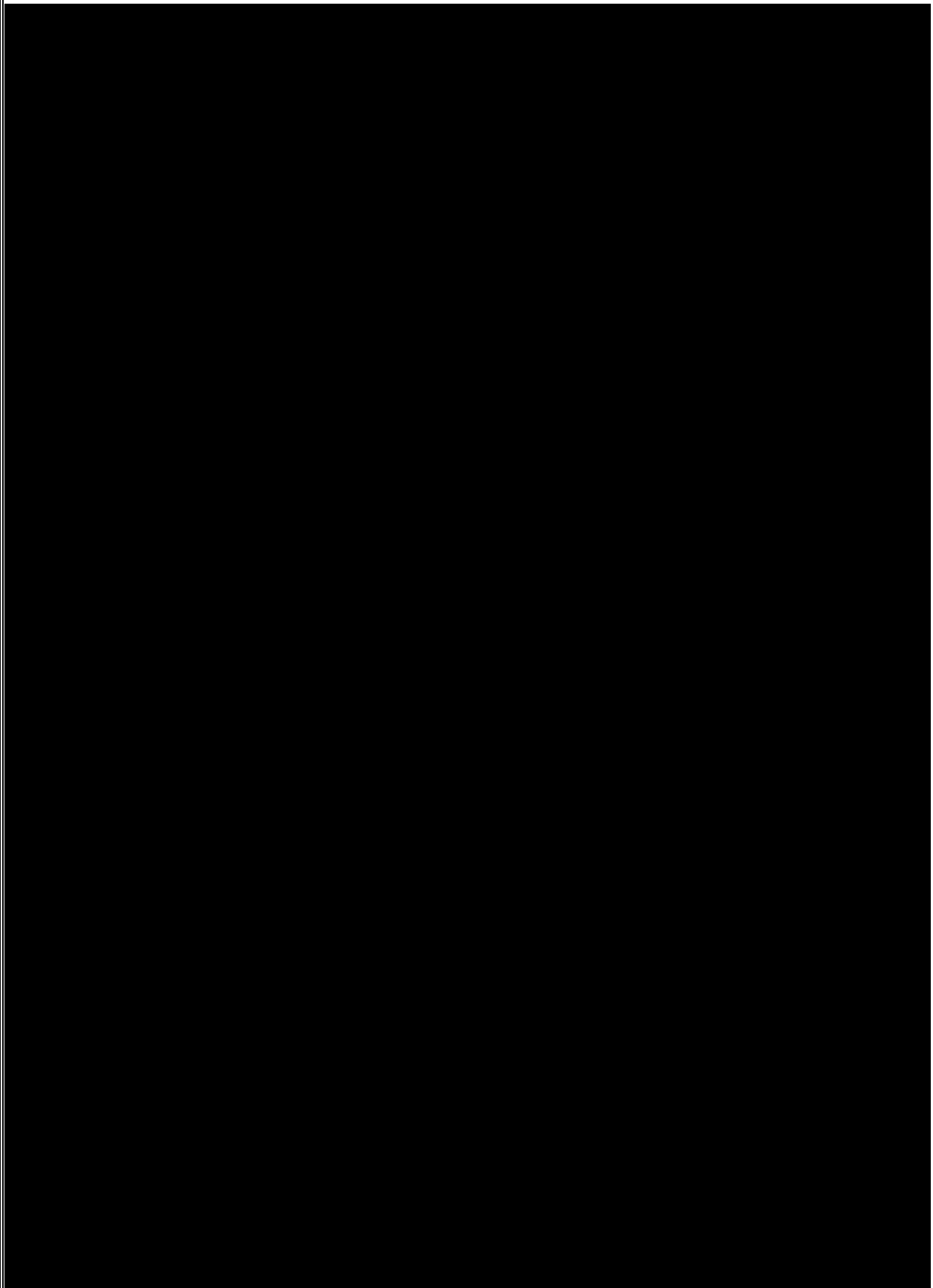
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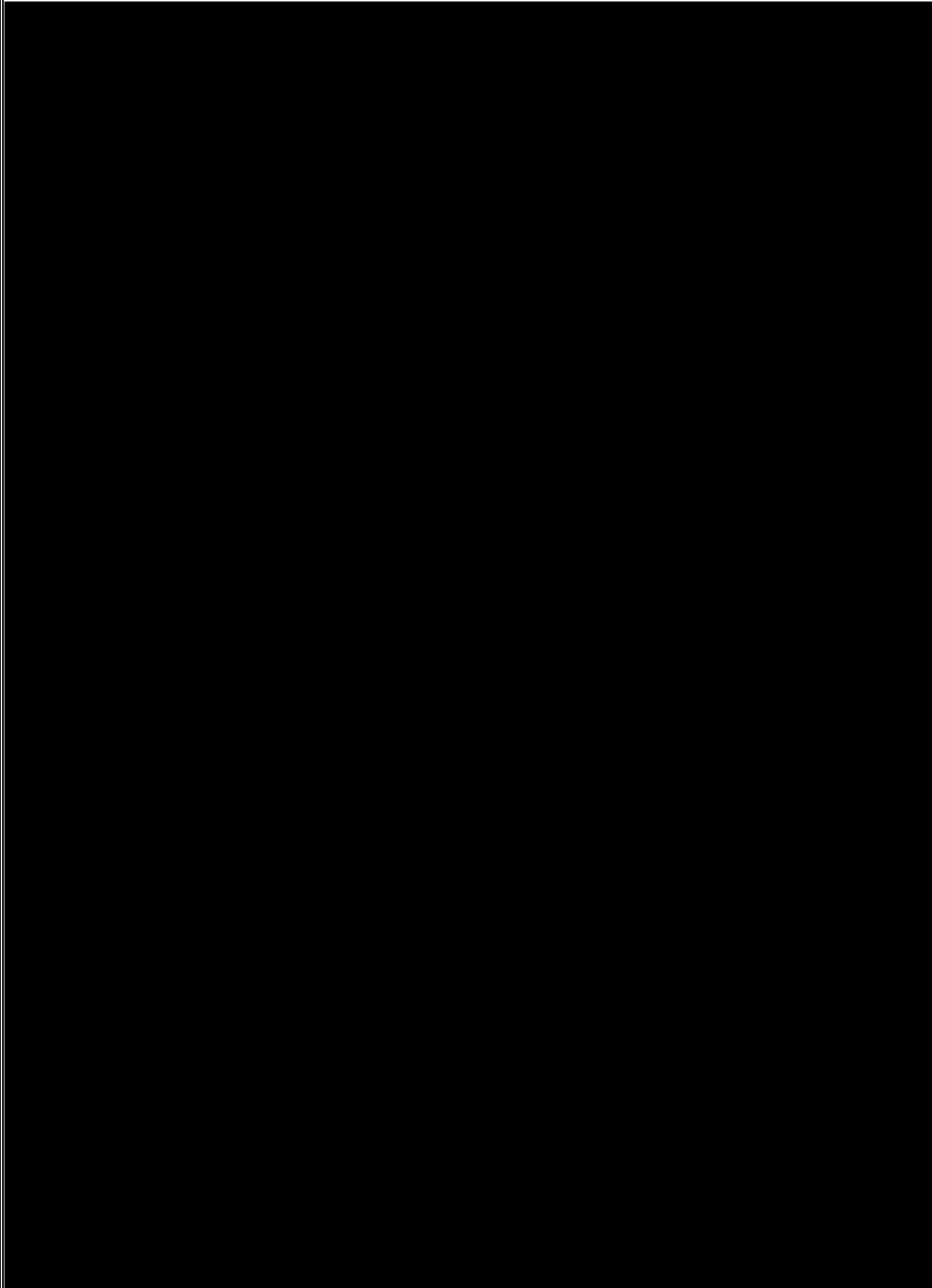
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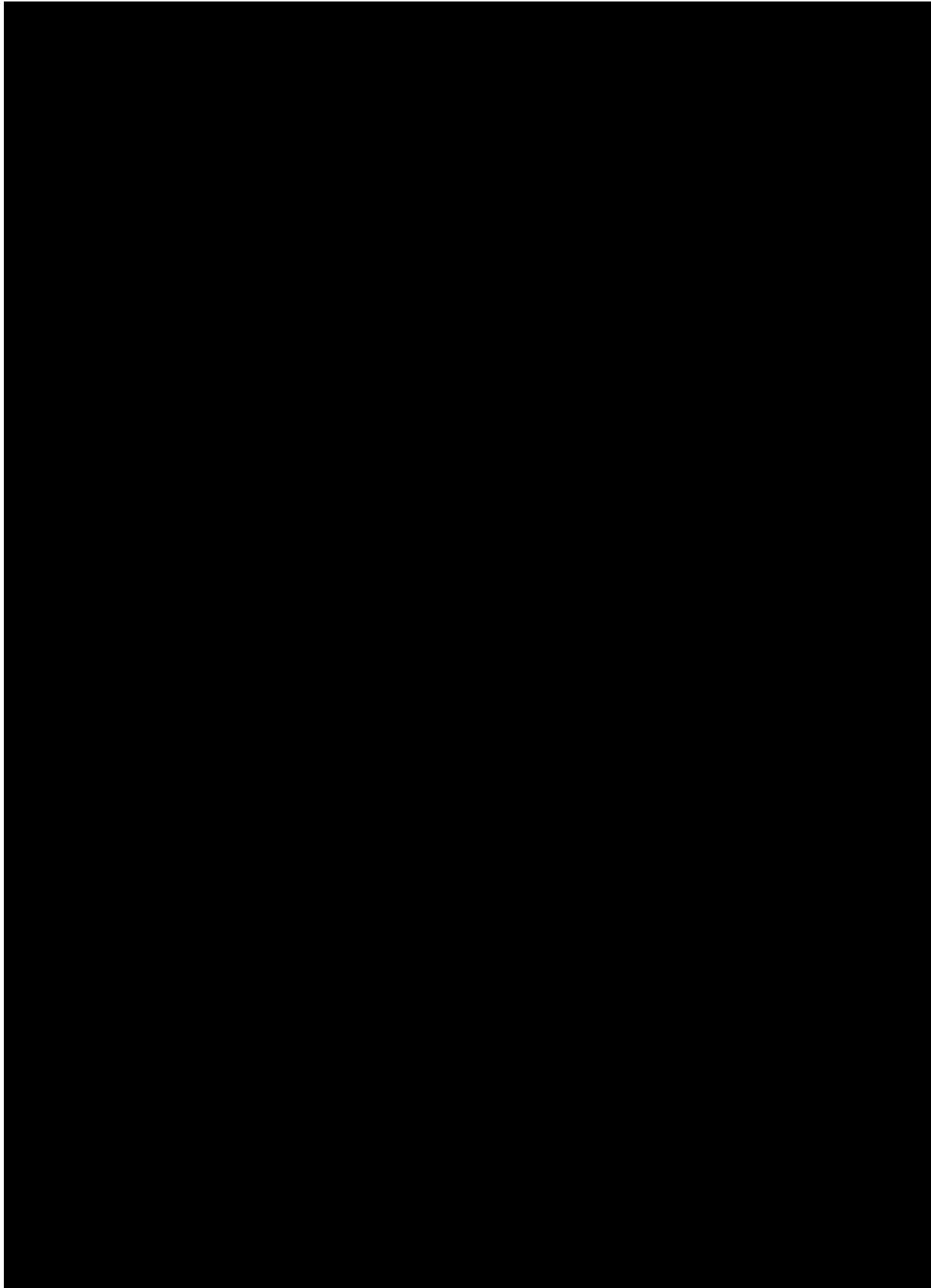
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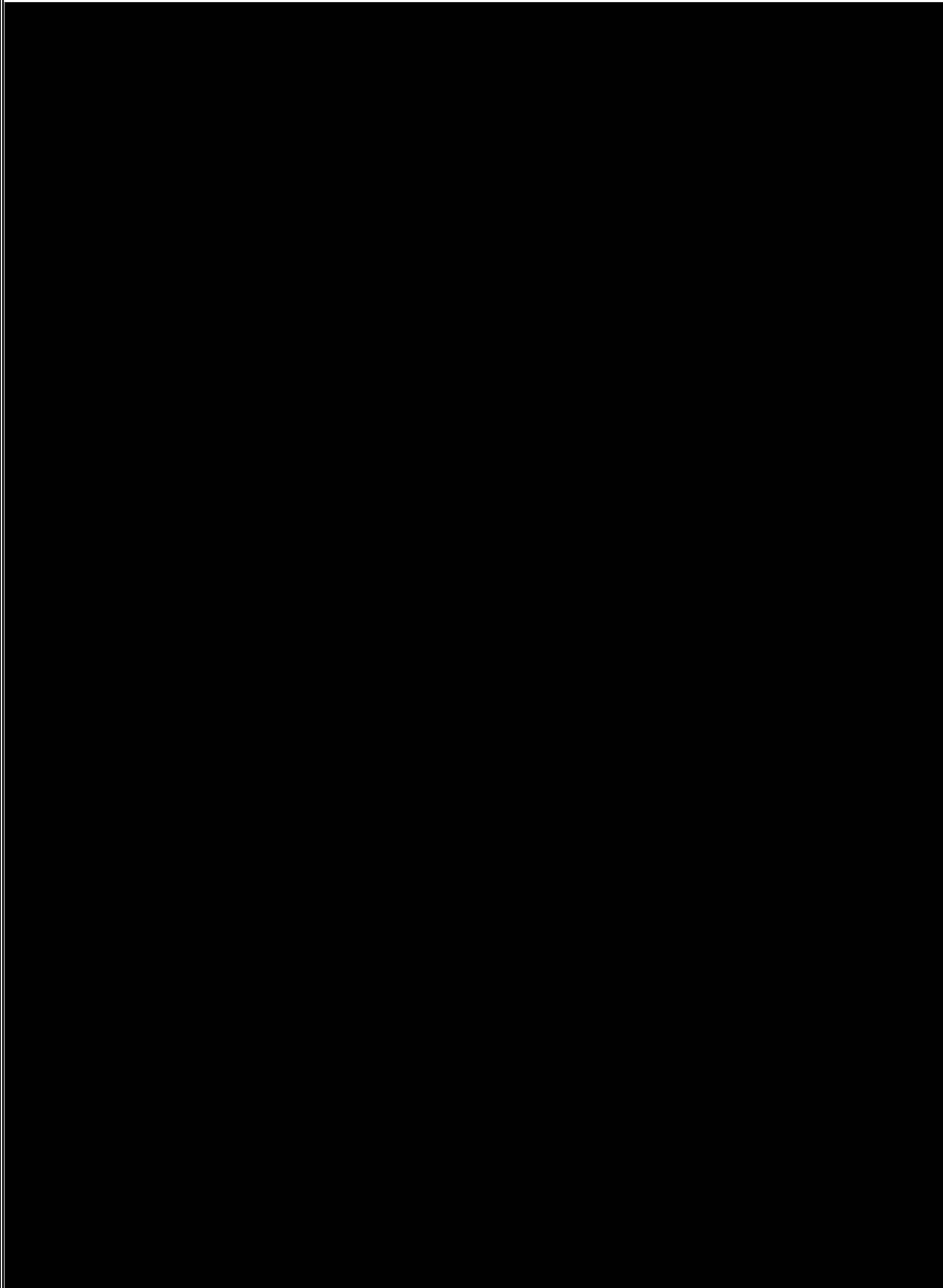
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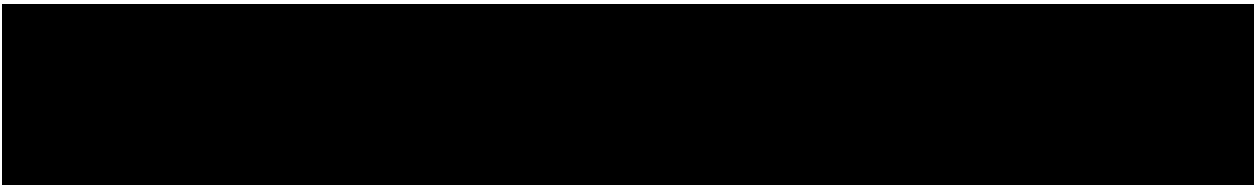
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(Brief recess.)

(Discussion off the record.)

PRESIDENT TERCIER: I can make sure the
Interpreters are with us.

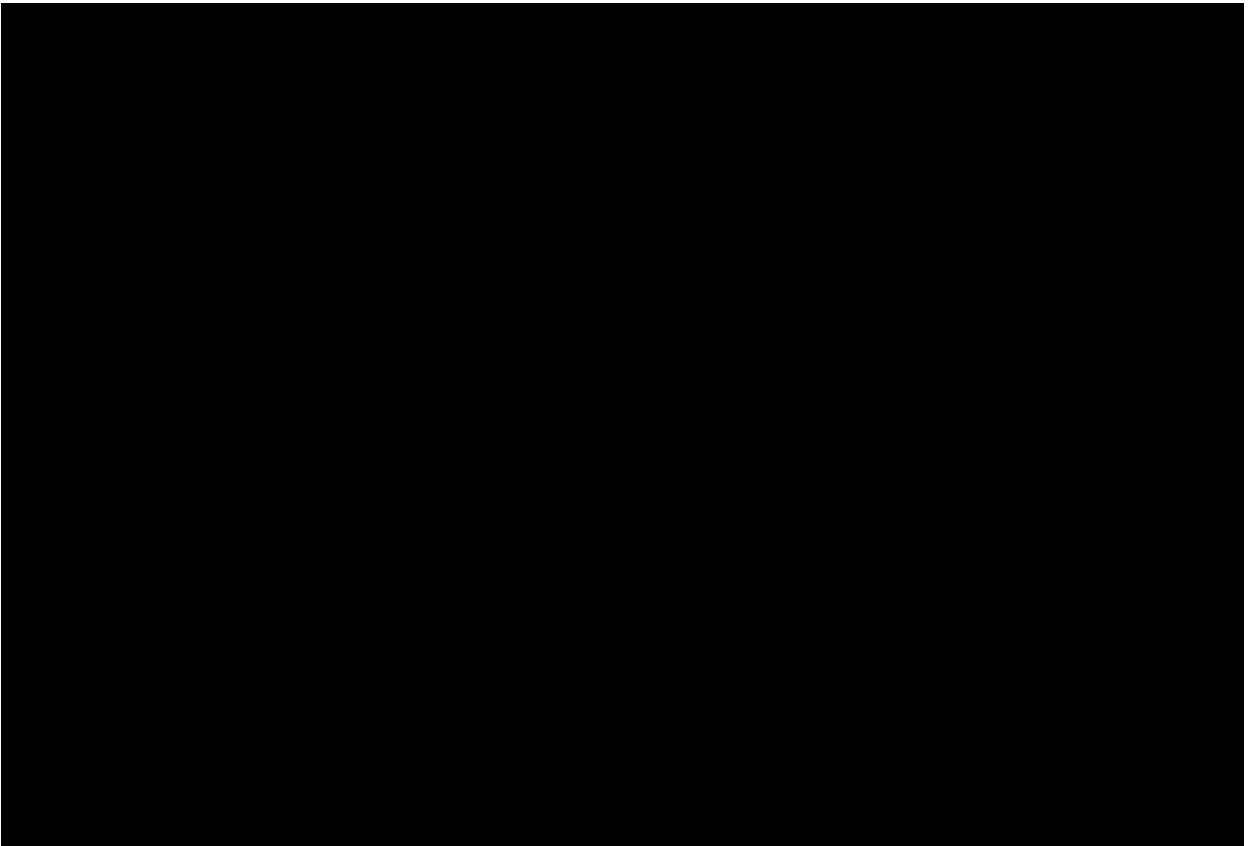
I'm sorry. I don't see you.

THE INTERPRETER: Yes, we are with you.

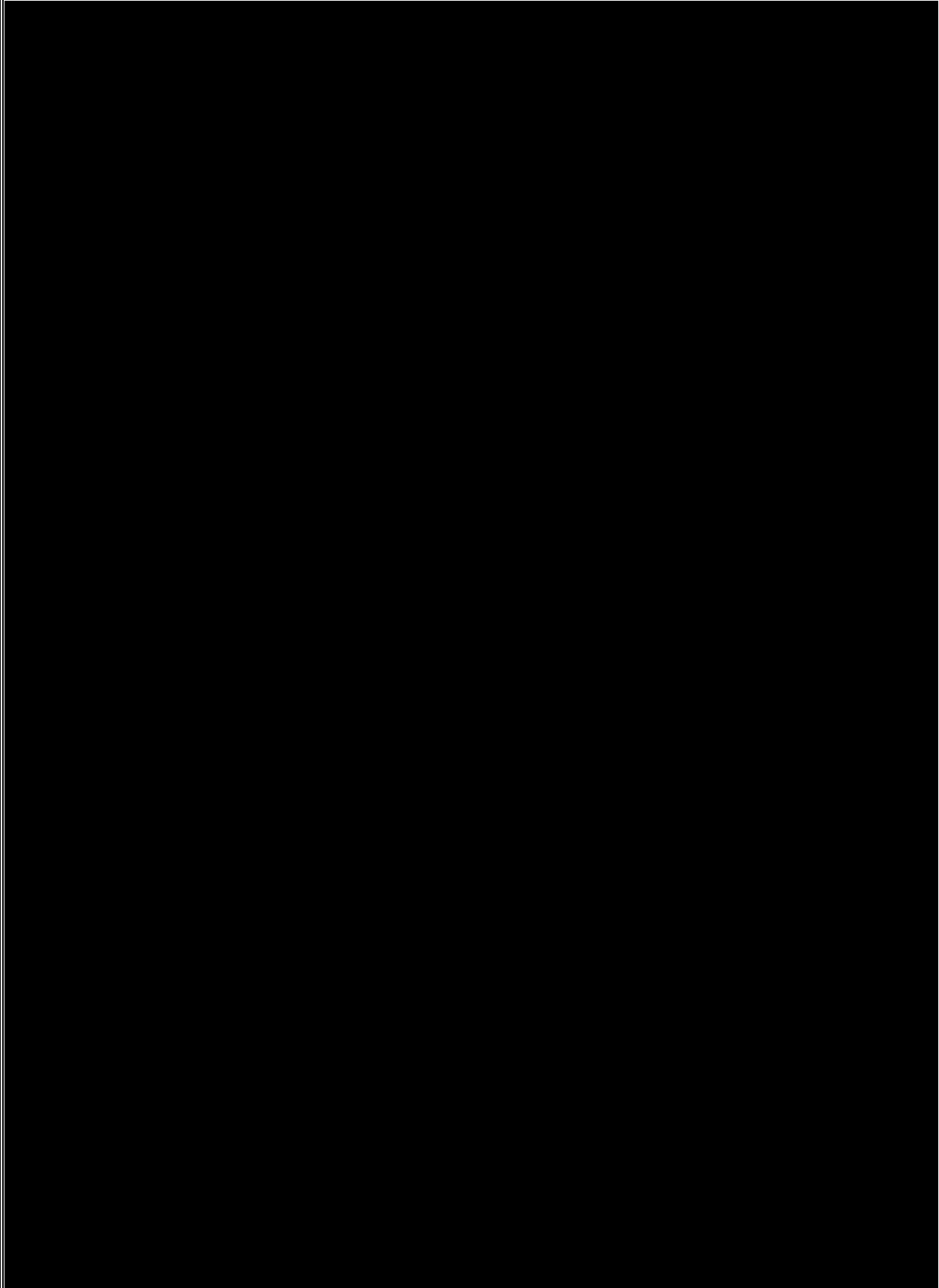
PRESIDENT TERCIER: Good.

So, please, Mr. Bonifacio.

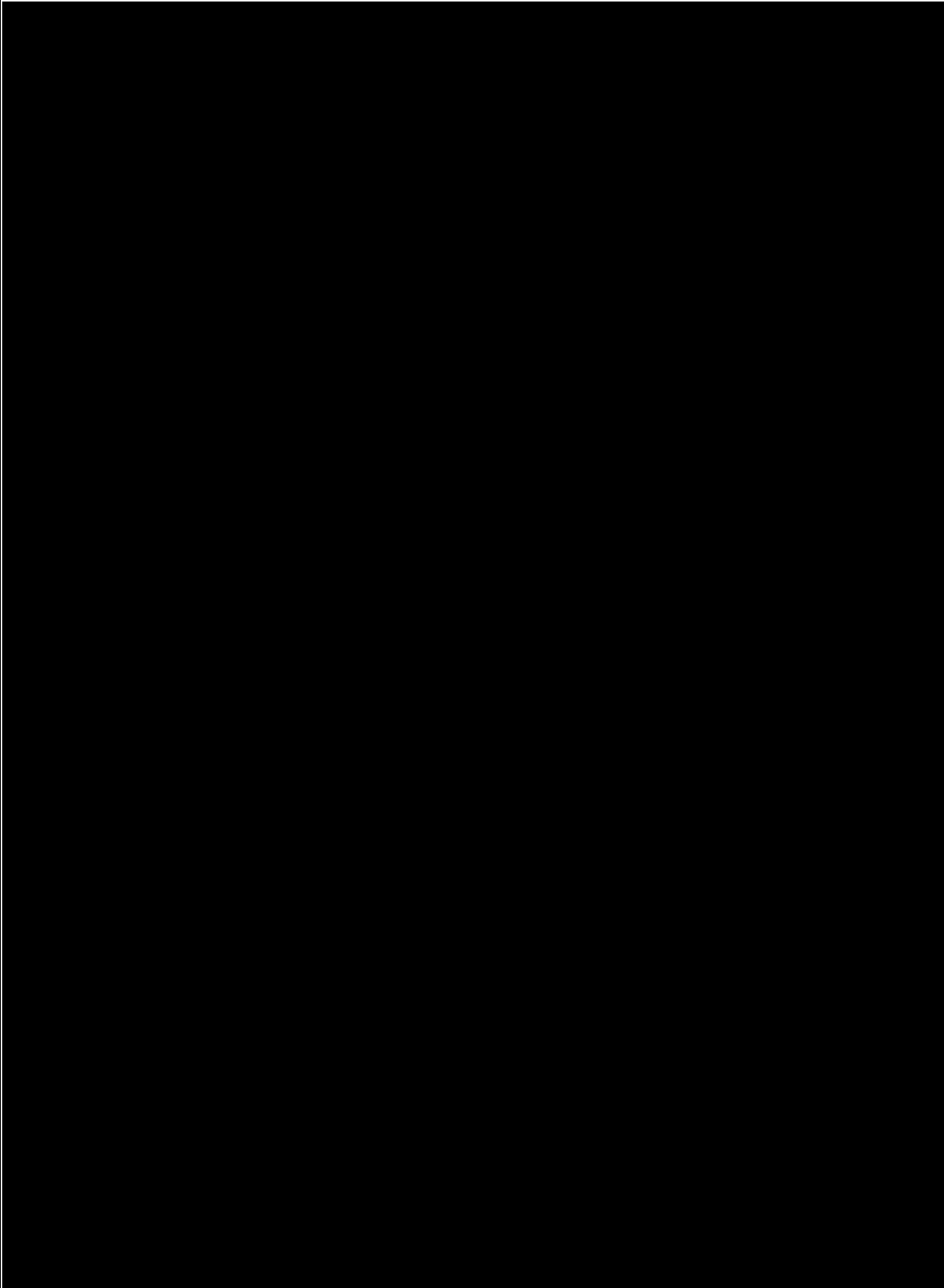
REDIRECT EXAMINATION



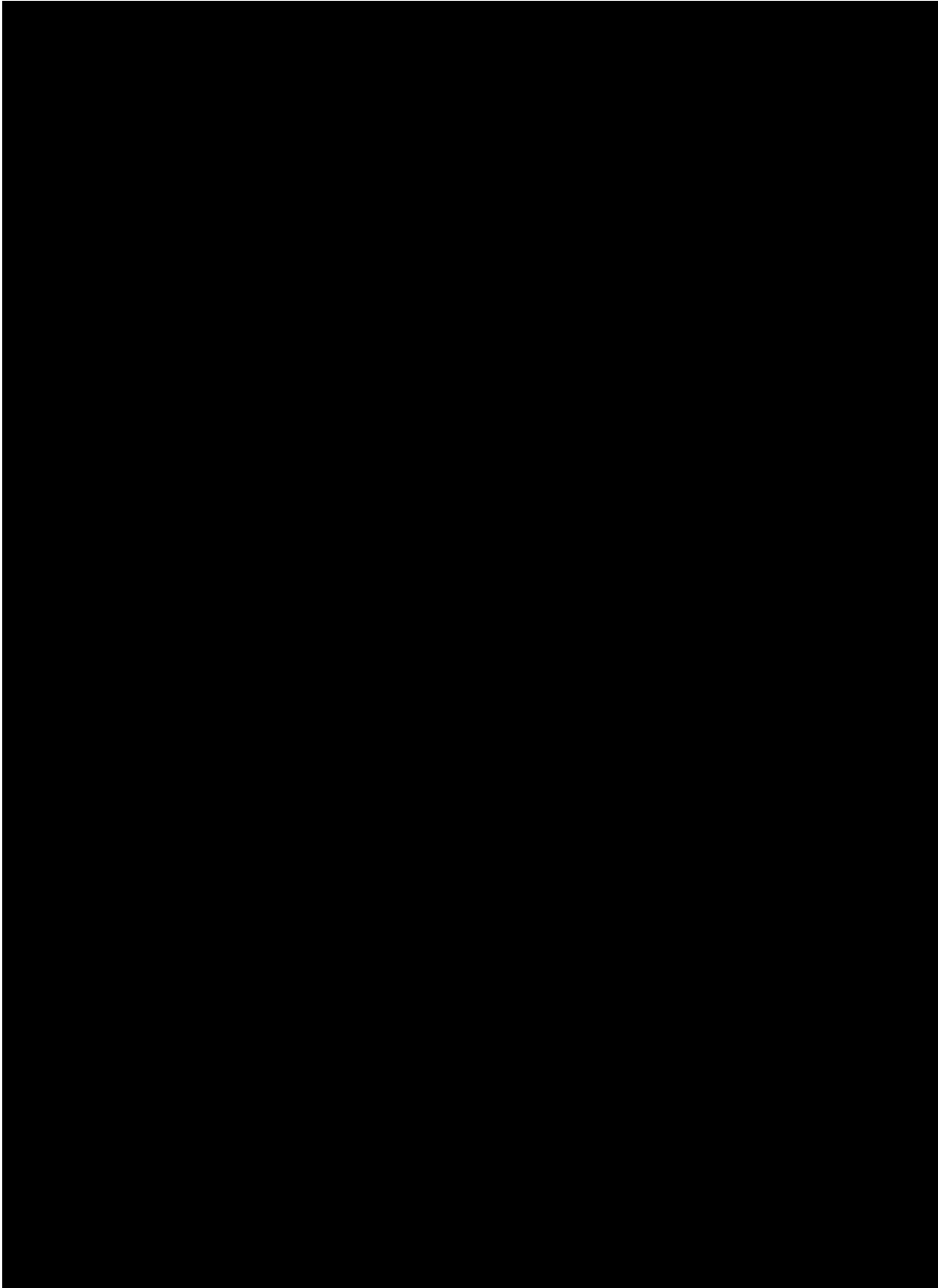
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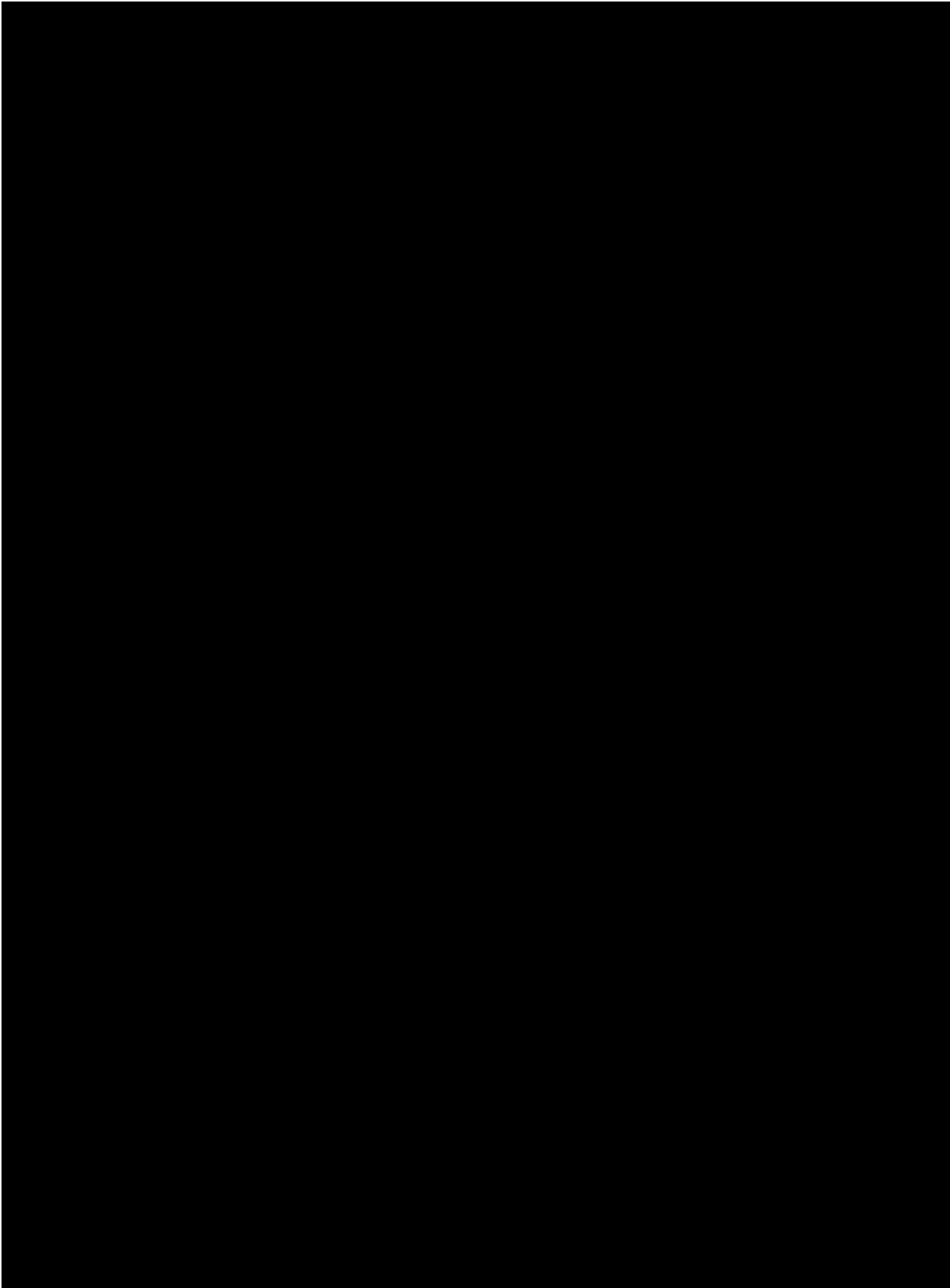
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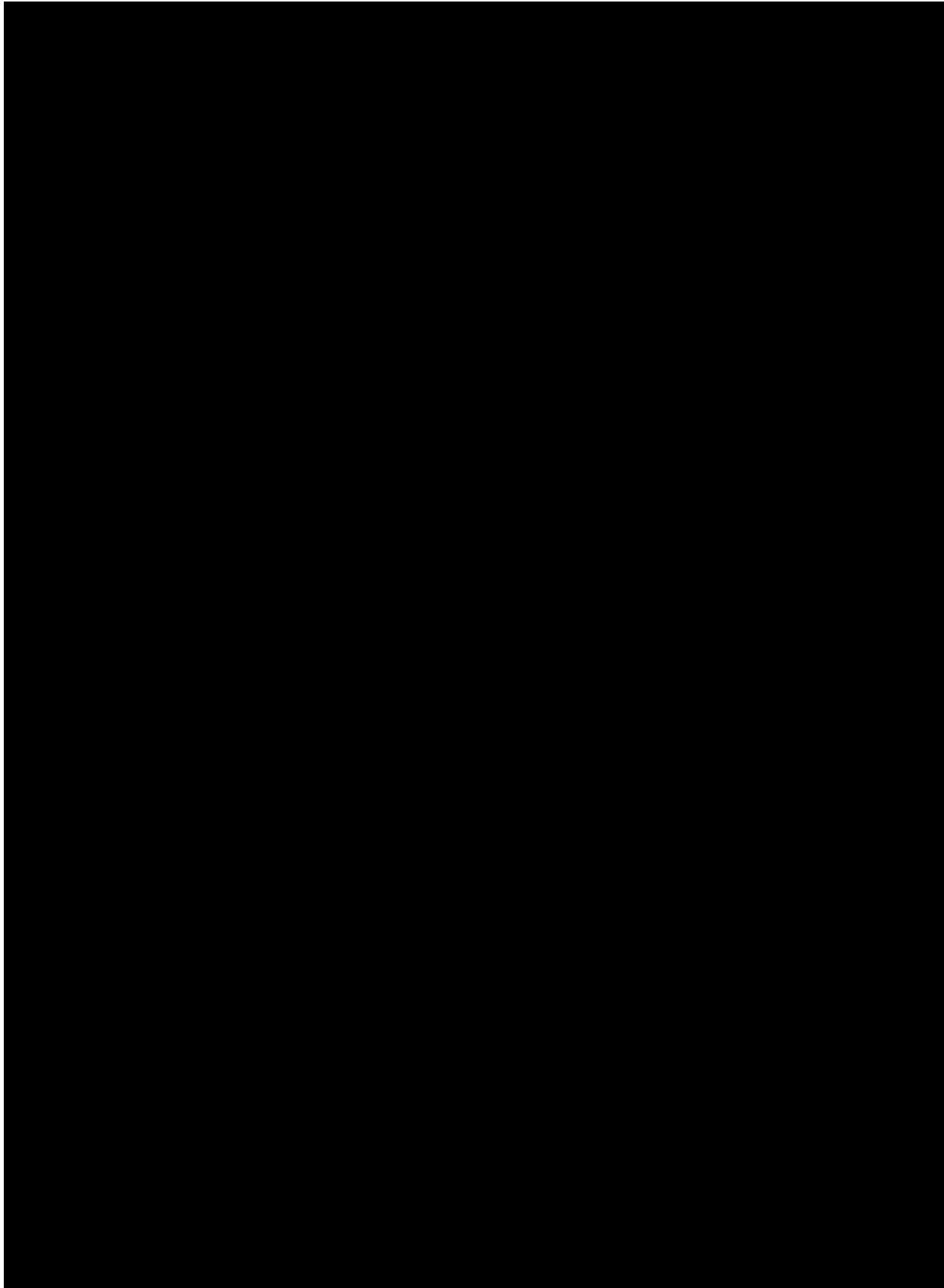
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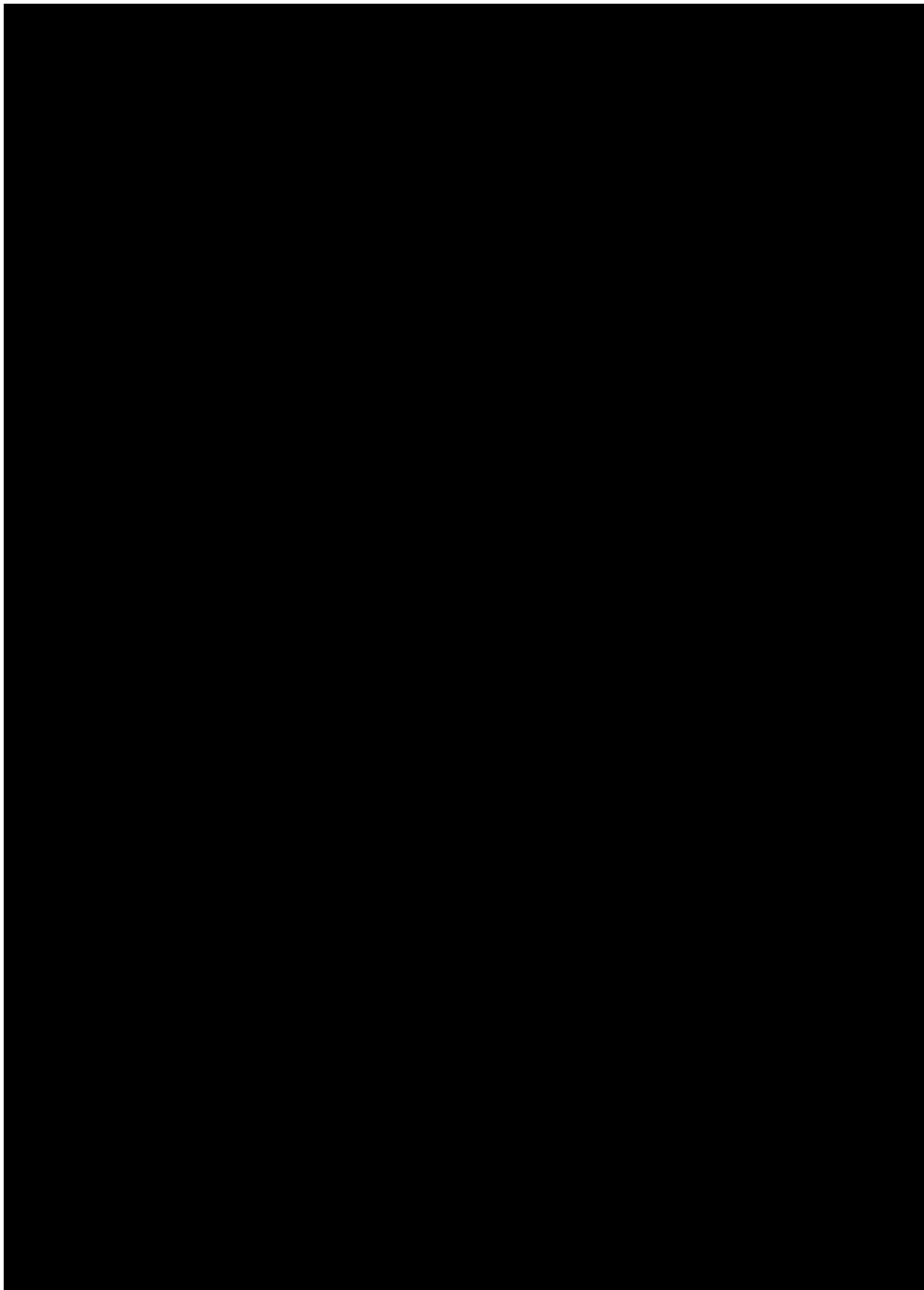
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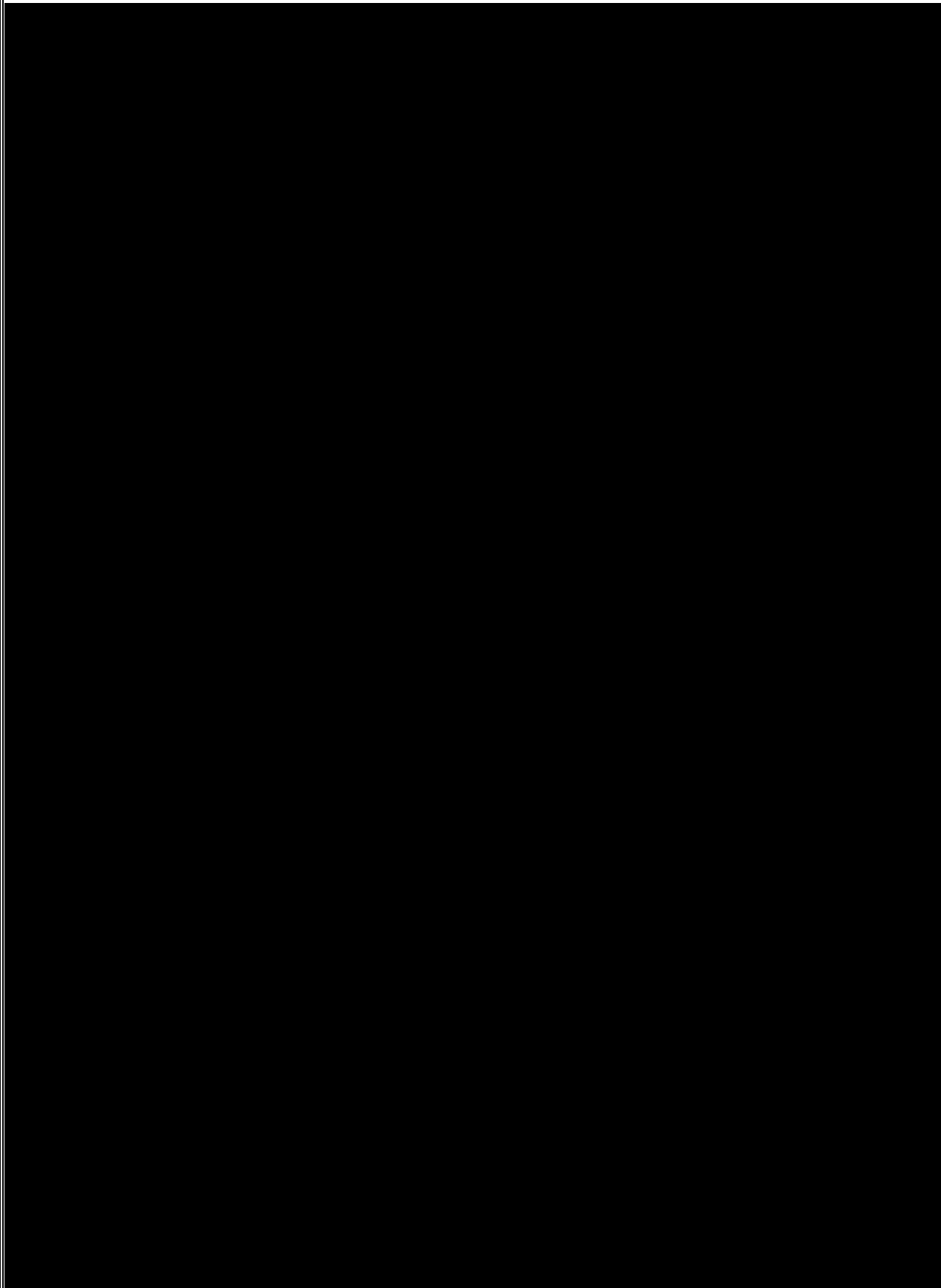
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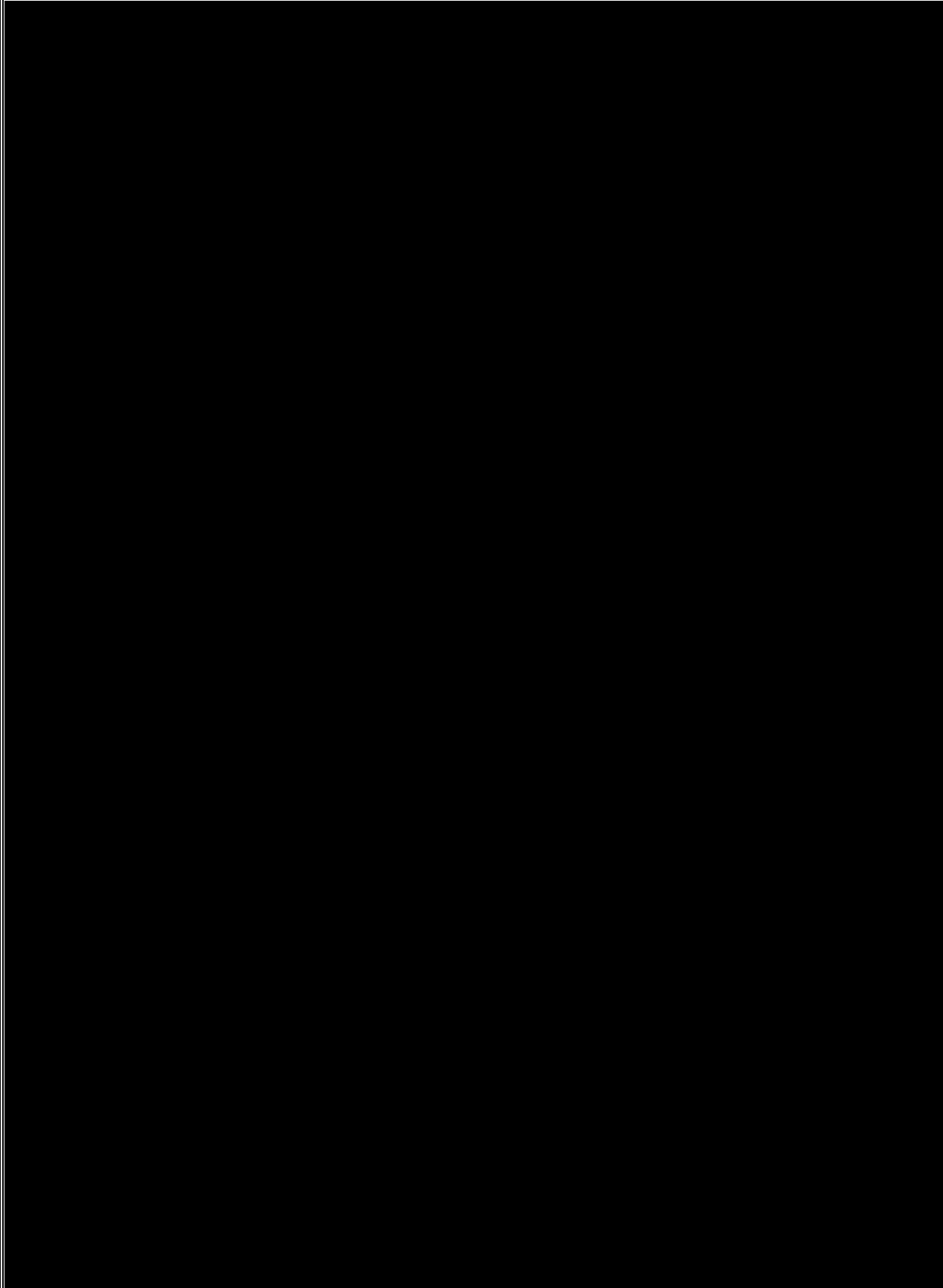
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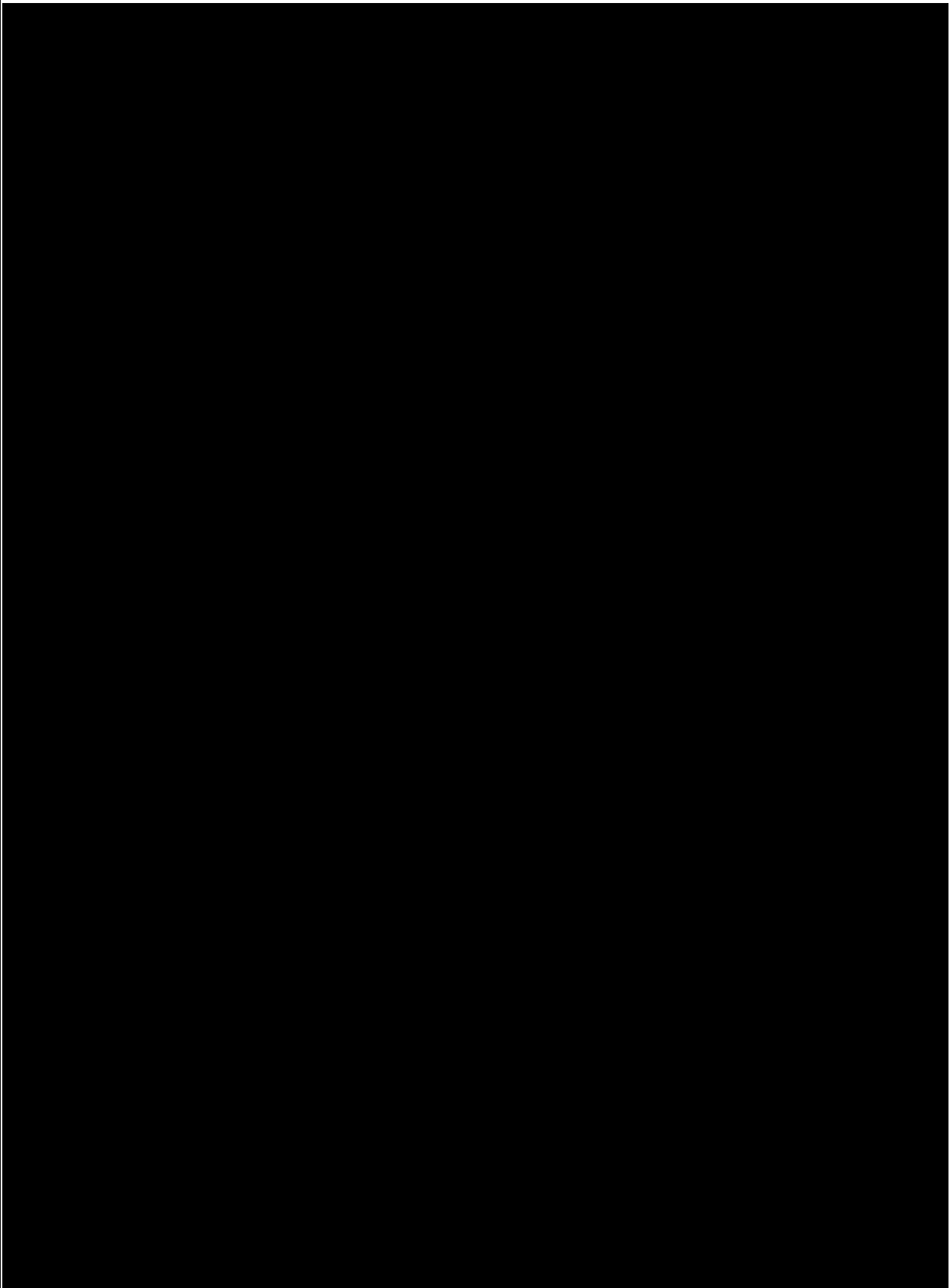
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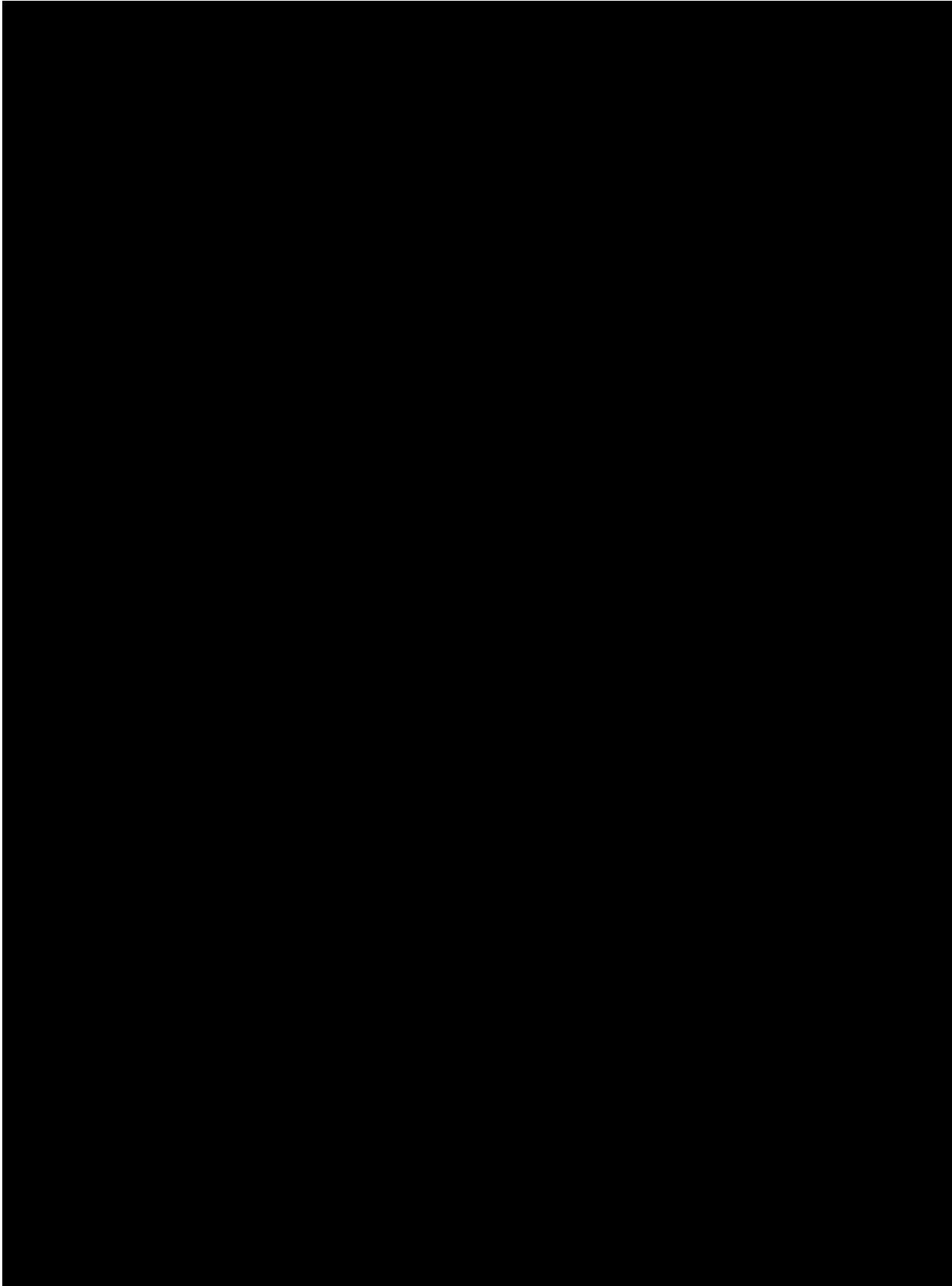
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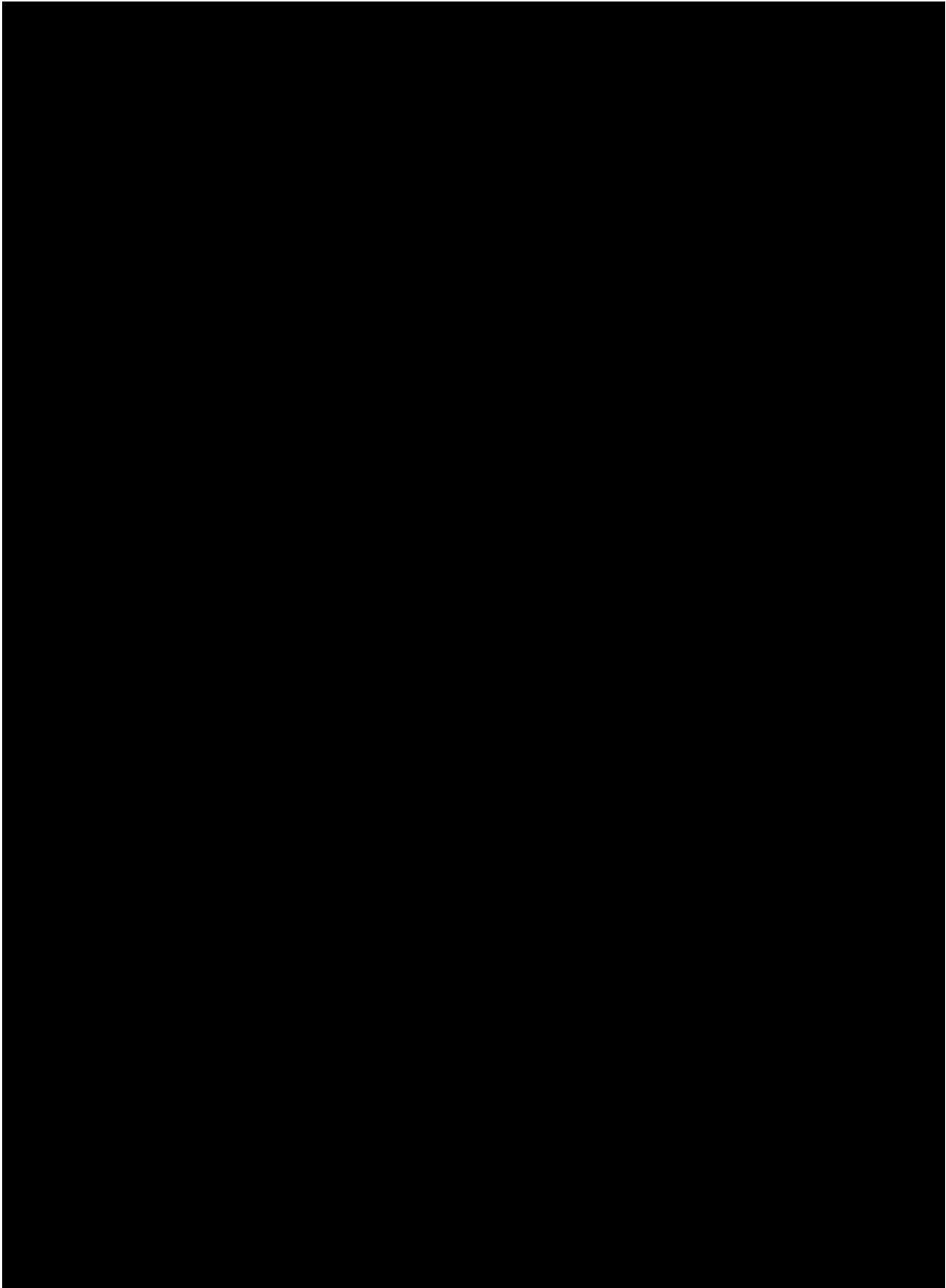
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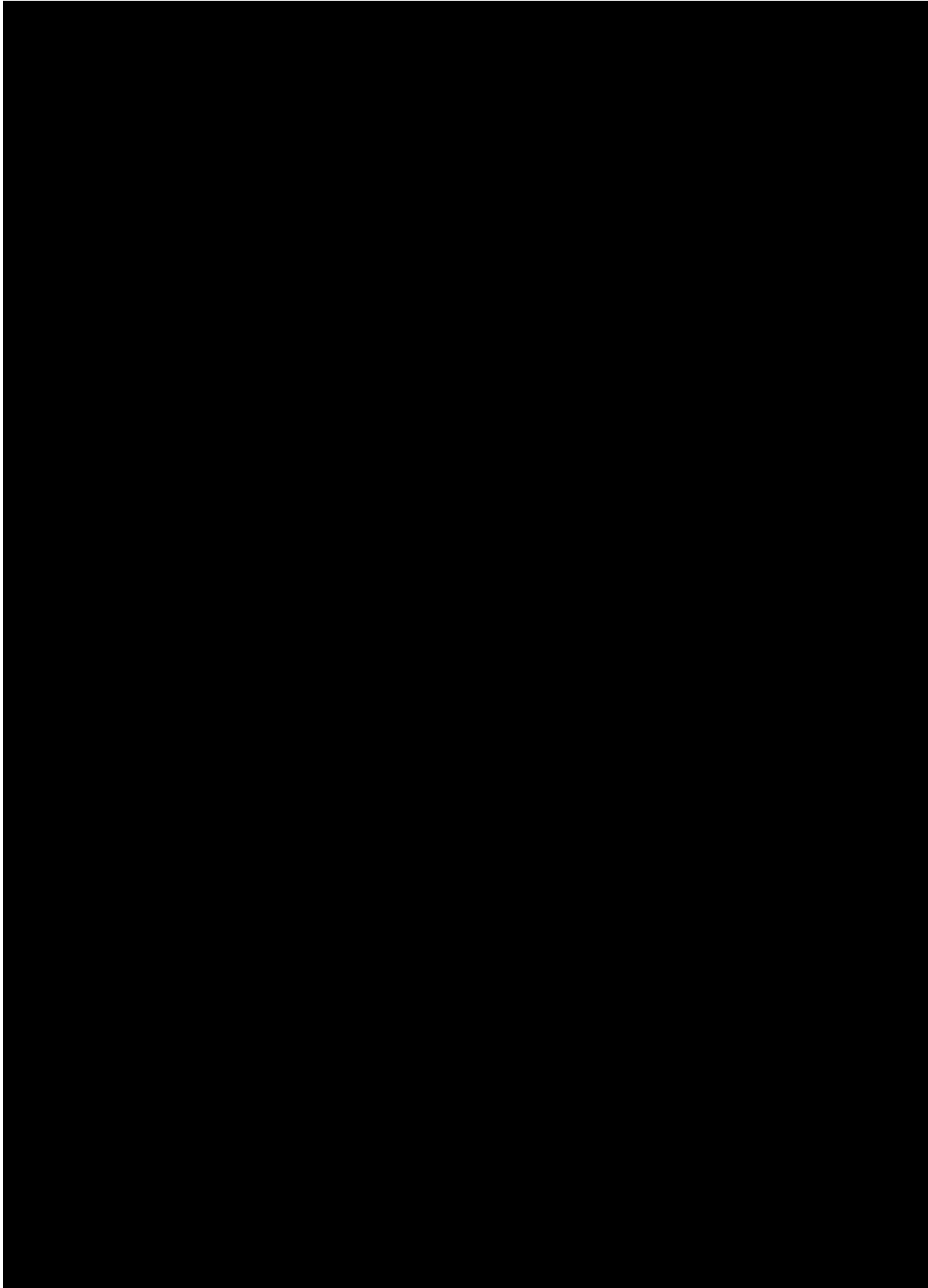
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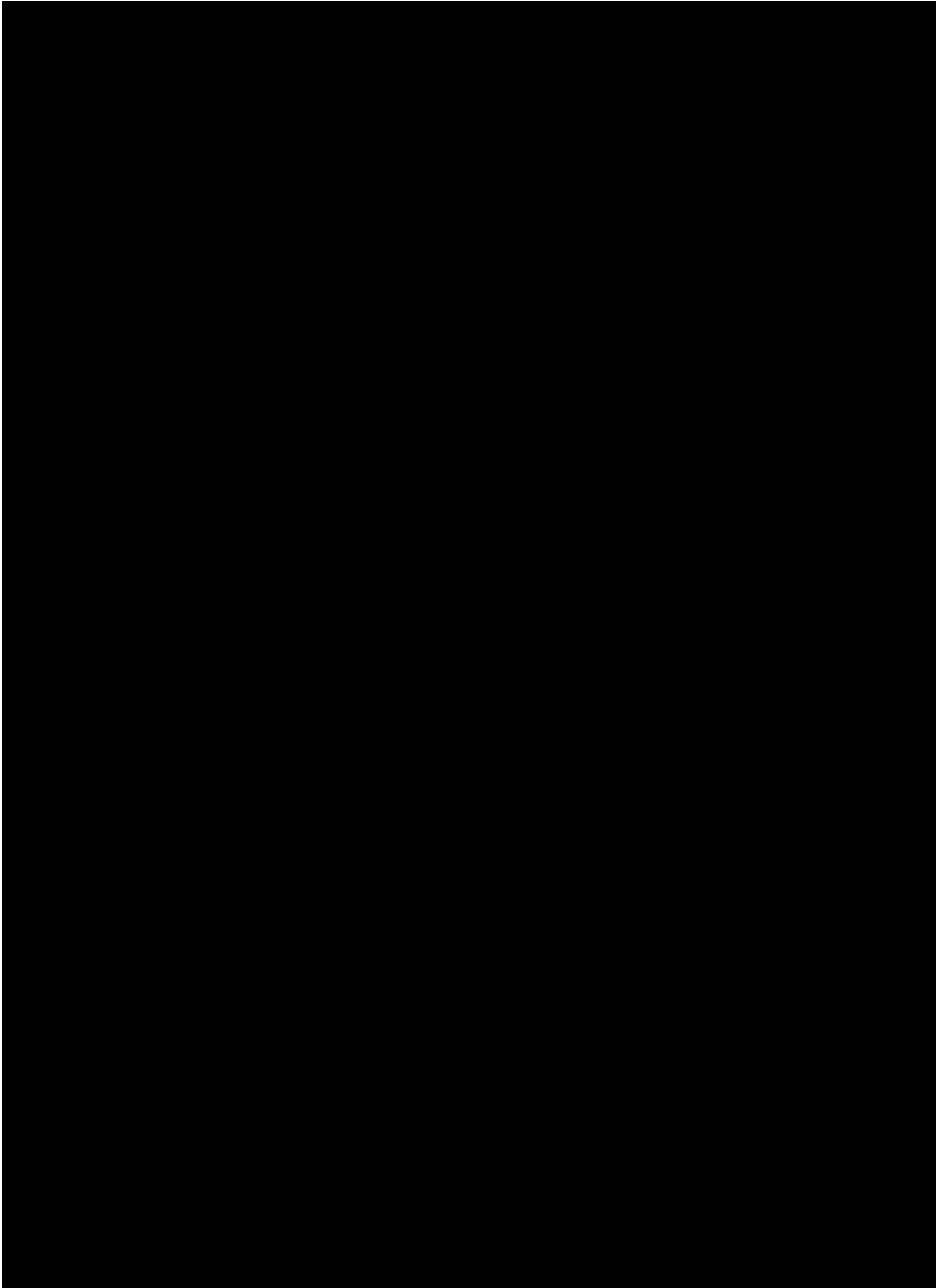
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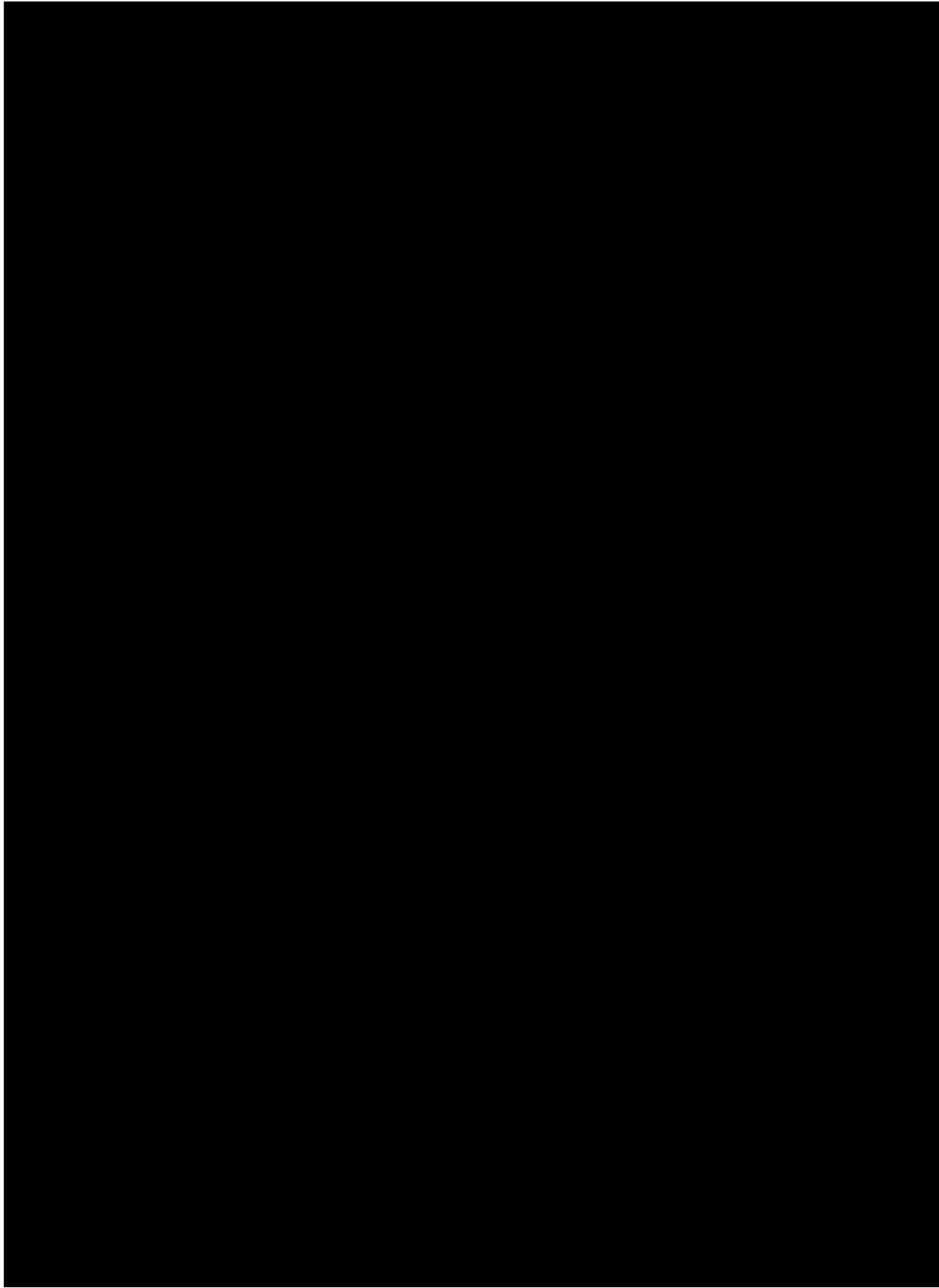
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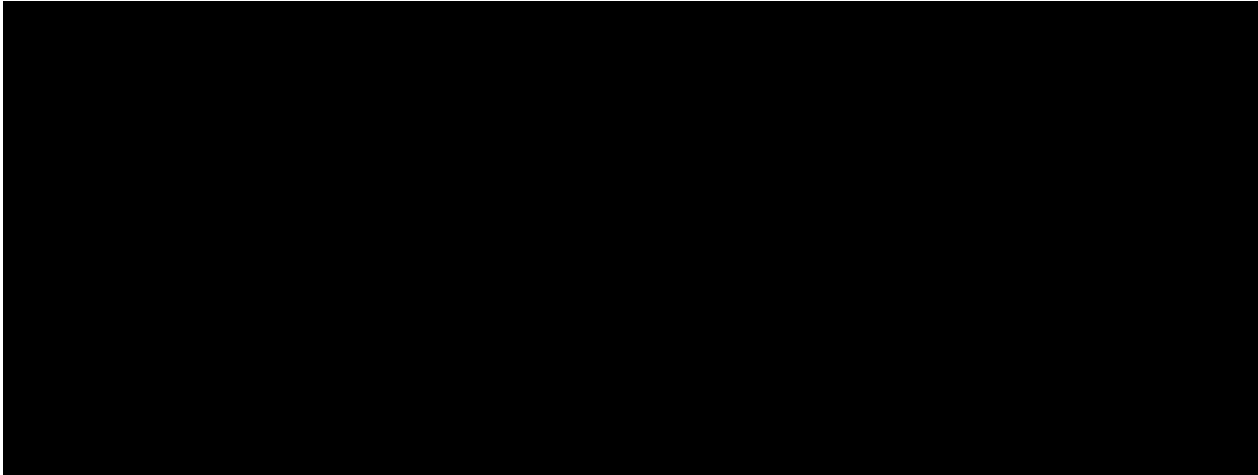
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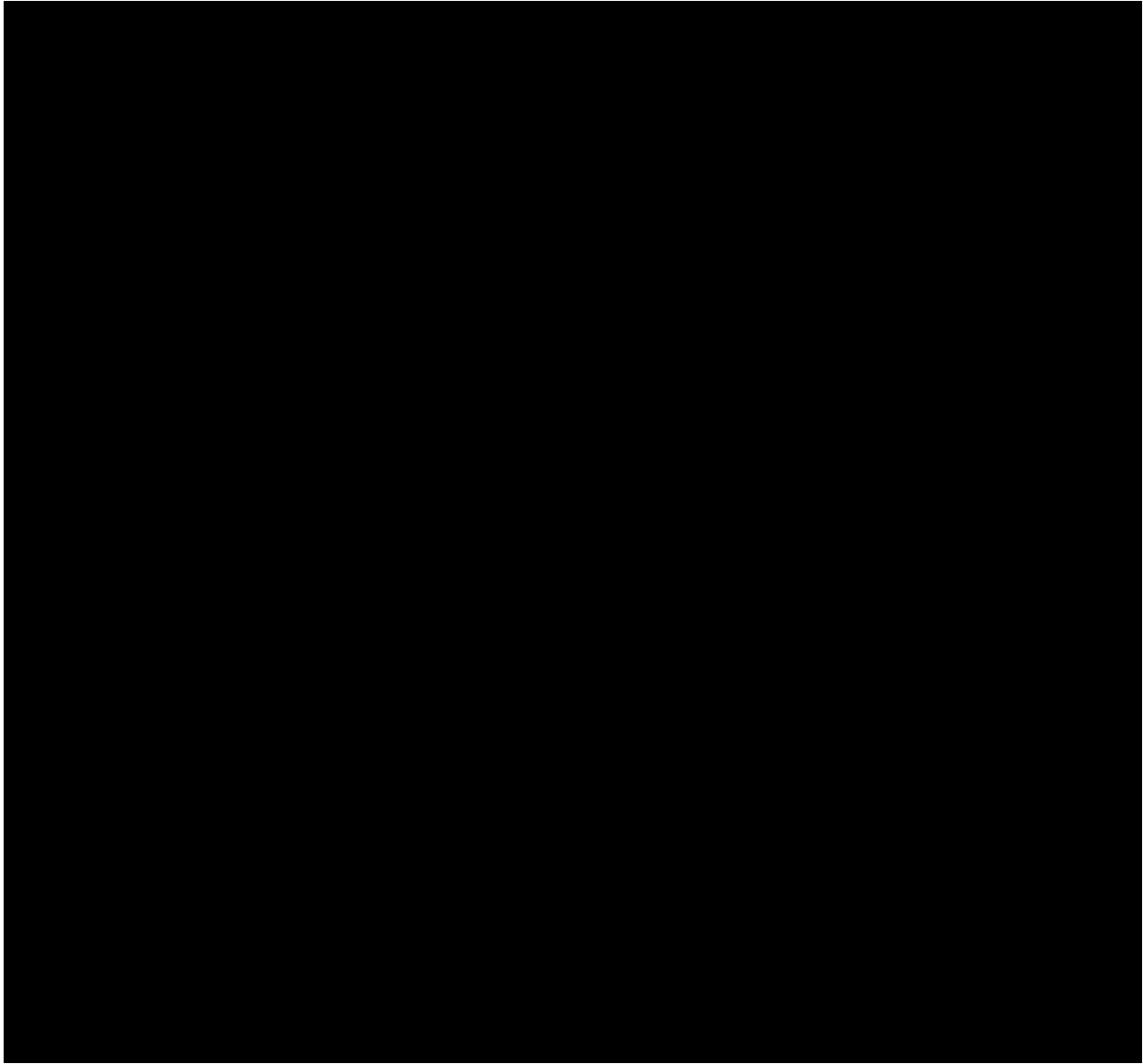
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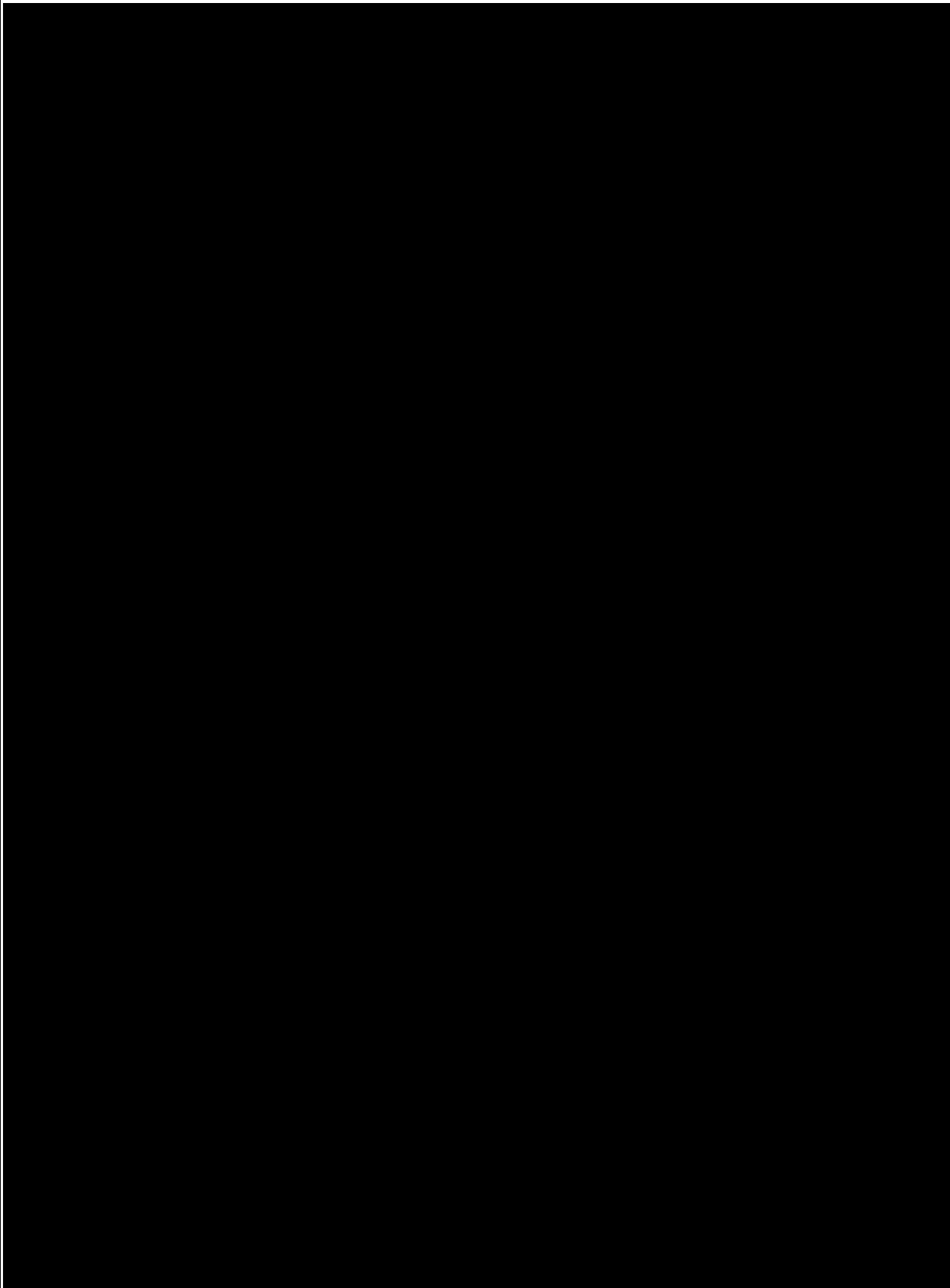
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QUESTIONS FROM THE TRIBUNAL



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(Witness steps down.)

14

PRESIDENT TERCIER: But the Hearing is not over. We have to deal with one or two points.

16

The first point, may I ask the Secretary to give the time used by each Party.

18

SECRETARY YETANO: Claimants have 22 hours and 59 minutes; Respondent, 15 hours and 21 minutes; Tribunal, 2 hours and 50 minutes.

21

PRESIDENT TERCIER: Okay. And this will be confirmed in writing.

22

1 Secondly, tomorrow morning we will have the
2 examination of Mr. Boc, and we start at 9:30,
3 exceptionally, on a Saturday.

4 And the third point will be for us, tomorrow
5 morning, to try to adapt again our schedule for the
6 Hearing. It will not be easy. We'll have to
7 make--yeah, it will not be easy, especially because we
8 have some fixed points. Mr. Bîrsan, if I'm not
9 mistaken, will be heard at a certain time, as well as
10 Mr. Bode.

11 But I think we will have a new version that
12 we will try to submit to you and, if possible, with
13 your agreement, that you will be able to hear all the
14 witnesses and experts in time.

15 Good. Have you another point you would like
16 to raise? No other point on your side?

17 Thank you very much. I wish you a very
18 pleasant evening.

19 (Whereupon, at 6:34 p.m., the Hearing was
20 adjourned until 9:30 a.m. the following day.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

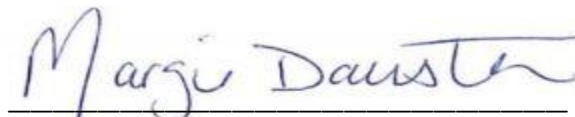


DAVID A. KASDAN

CERTIFICATE OF REPORTER

I, Margie Dauster, RMR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.


MARGIE DAUSTER