

FILED / PRODUIT

Date: August 3, 2022

CT- 2022-002

Sara Pelletier for / pour
REGISTRAR / REGISTRAIRE

CT-2022-002

OTTAWA, ONT.

Doc. # 108

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. of Shaw Communications Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

- and -

ROGERS COMMUNICATIONS INC. AND SHAW COMMUNICATIONS INC.

Respondents

MOTION RECORD OF VIDEOTRON LTD.
(Response to the Commissioner's Motion for an Order Varying the
Scheduling Order)

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PUBLIC

TAB 1

CT-2022-002

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. of Shaw Communications Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

- and -

ROGERS COMMUNICATIONS INC. AND SHAW COMMUNICATIONS INC.

Respondents

**VIDEOTRON'S RESPONSE TO THE COMMISSIONER'S MOTION FOR AN ORDER
VARYING THE SCHEDULING ORDER**

1. Videotron Ltd. ("**Videotron**") agrees to produce documents and submit to oral discovery as part of its intervention. It proposes to deliver its affidavit of documents on August 29, 2022 (or earlier if the Commissioner's requested discovery is more modest than anticipated), which is an appropriate deadline given the work involved and given that the Commissioner has not yet provided a promised list of topics for which he requests document production.

2. Videotron submits that its oral examinations can occur for one day during the week of September 3, 2022.

3. The hearing of the Commissioner's s. 92 application does not need to be adjourned given that (i) the proposed divestiture to Videotron likely significantly narrows the issues in dispute at the hearing meaning fewer hearing weeks will be required and (ii) the Commissioner has had significant information from Videotron for some time, including information with respect to Videotron's growth plans, historical market position in Quebec and in Ottawa, and its business plans with respect to the acquisition of spectrum and the proposed divestiture.

4. Videotron is willing to consider and participate in discussions regarding other minor adjustments to the hearing schedule so long as they do not require an adjournment of the hearing.

5. Videotron will rely on the following documentary evidence:

- (a) The affidavit of Jean-Francois Lescadres, sworn July 28, 2022;
- (b) the pleadings; and
- (c) such further and other material as counsel may advise and the Tribunal may permit.

TO: COMMISSIONER OF COMPETITION

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Counsel for the Intervenor
Attorney General of Alberta

THE COMPETITION TRIBUNAL

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. or an affiliate thereof of Shaw Communications Inc.; and

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the Competition Act.

BETWEEN:

THE COMMISSIONER OF COMPETITION
Applicant

– and –

ROGERS COMMUNICATIONS INC.
SHAW COMMUNICATIONS INC.
Respondents

**VIDEOTRON'S RESPONSE TO THE
COMMISSIONER'S MOTION FOR AN ORDER
VARYING THE SCHEDULING ORDER**

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Counsel for Videotron Ltd.

PUBLIC

TAB 2

CT-2022-002

THE COMPETITION TRIBUNAL

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, as amended

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. of Shaw Communications Inc.; and

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the Competition Act;

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

– and –

ROGERS COMMUNICATIONS INC. AND SHAW COMMUNICATIONS INC.

Respondents

AFFIDAVIT OF JEAN-FRANCOIS LESCADRES

I, Jean-Francois Lescadres, of the city of Montréal, in the Province of Québec state as follows:

1. I am the Vice-President Finance at Videotron Ltd. Except where otherwise indicated, I have personal knowledge of the information in this affidavit. Where I do not have personal knowledge, I have indicated the grounds for my belief.

TIMELINE OF CORRESPONDENCE BETWEEN THE COMPETITION BUREAU AND VIDEOTRON

2. Videotron and its counsel, Bennett Jones LLP ("**Bennett Jones**"), had communications with the Competition Bureau (the "**Bureau**") starting as early as April 9, 2021 about Rogers Communications Inc.'s ("**Rogers**") proposed acquisition of Shaw Communications Inc. ("**Shaw**") (the "**Proposed Transaction**") and Videotron's interest in acquiring Shaw's wireless business in the event that the Bureau required Rogers to divest Shaw's wireless business.

3. On April 9, 2021, John Rook, Videotron's counsel, wrote to the Commissioner. Attached as **Exhibit "A"** is a copy of Mr. Rook's letter dated April 9, 2021.

4. I am advised by Jonathan Lee Hickey, Senior Vice President of Legal Affairs and Corporate Secretary of Québecor Media Inc., Videotron's immediate parent company, and believe, that on May 12, 2021, the Bureau case team reviewing the Proposed Transaction met with Mr. Hickey and other senior executives from Videotron and its Videotron's broadcasting and production affiliate (TVA Group Inc.), as well as Bennett Jones to gather information on: the telecommunications sector, Videotron and the TVA Group's operations, and their views on the Proposed Transaction.

5. On September 27, 2021, Videotron and its parent Quebecor Inc. fully complied with an order obtained under section 11 of the *Competition Act*. Attached as **Exhibit "B"** is a copy of the order. Attached as **Exhibit "C"** is a letter from Emrys Davis, Videotron's counsel, dated September 27, 2021 covering Videotron's response.

6. On August 31, 2021, Mr. Rook wrote to the Commissioner on behalf of Videotron. Attached as **Exhibit "D"** is a copy of Mr. Rook's letter dated August 31, 2021.

7. The following day, on September 1, 2021, Mr. Rook again wrote to the Commissioner on behalf of Videotron. Mr. Rook advises me and I believe that the Commissioner has asserted litigation privilege over this letter.

8. On December 17, 2021, Mr. Rook wrote to the Commissioner on behalf of Videotron. Attached as **Exhibit "E"** is a copy of Mr. Rook's December 17, 2021 letter.

9. I along with other Videotron executives and lawyers from Bennett Jones met with the Bureau case team on January 13, 2022 to discuss the Bureau's questions arising from the December 17, 2021 letter. Prior to the meeting, Mr. Rook provided partial written responses to the case team's questions, which he advises and I believe the Commissioner has claimed litigation privilege over.

10. During the January 13, 2022 meeting, among other topics, Videotron provided information concerning Videotron's intentions in the event of a divestiture of Shaw's mobile assets with respect to (i) its Fizz brand, (ii) Shaw's retail sites, (iii) the deployment of 5G service, and (iv) prices for bundled products via third-party-internet-access services.

11. On February 8, 2022, Mr. Rook provided further written responses to the Bureau's questions arising from his December 17, 2021 letter and the parties' January 13, 2022 meeting, which he advises and I believe the Commissioner has claimed litigation privilege over.

12. On March 11, 2022, Mr. Rook wrote to the Commissioner on behalf of Videotron. Attached as **Exhibit "F"** is a copy of Mr. Rook's letter dated March 11, 2022.

13. Four days later on March 15, 2022, Mr. Rook wrote again. Attached as **Exhibit "G"** is a copy of Mr. Rook's letter to the Commissioner dated March 15, 2022.

14. On April 7, 2022, Mr. Rook wrote to the Commissioner. Attached as **Exhibit "H"** is a copy of Mr. Rook's letter dated April 7, 2022.

15. On April 15, 2022, Mr. Rook wrote to the Commissioner. Mr. Rook advises me and I believe that the Commissioner has made a claim of settlement privilege over this letter. Mr. Rook further advises me and I believe that Laura Sonley responded to Mr. Rook's letter on April 27, 2022.

16. On June 15, 2022, I along with other senior executives from Videotron met with the Bureau case team to discuss Videotron's potential acquisition of the Freedom mobile business.

17. On June 24, 2022, Mr. Rook wrote to the Commissioner to request an advanced ruling certificate in respect of Videotron's proposed acquisition of the Freedom mobile business from Shaw (the "**Divestiture**").

18. On June 30, 2022, I along with other senior executives from Videotron met with the Bureau case team for an hour and a half to discuss the Divestiture and to answer any questions that the case team had regarding the Divestiture and Videotron's business plans.

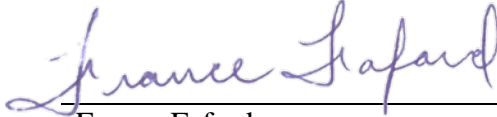

19. On July 28, 2022, Mr. Rook wrote to the Commissioner to answer the case team's few outstanding questions from the June 30, 2022 meeting. Attached as **Exhibit "I"** is a copy of Mr. Rook's letter dated July 28, 2022 without appendices.

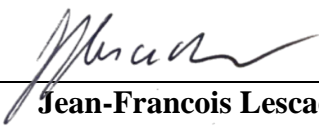
20. Mr. Rook advises and I believe that he periodically spoke with the Commissioner's counsel about issues connected with Videotron's submissions to the Bureau. In particular, on July 25, 2022, the Commissioner's counsel advised Mr. Rook that he intended to deliver a list of topics on which

the Commissioner sought discovery of Videotron. As of the date of this affidavit, Videotron has not received that list.

21. Since Mr. Rook's April 9, 2021 letter, Videotron has consistently expressed to the Bureau its willingness to be available to answer questions and provide more information as necessary.

SWORN REMOTELY BEFORE ME at)
the City of Montréal, in the Province of)
Québec, this 28th day of July, 2022.)

)
)
_____)
France Fafard)
A commissioner, etc.)
in and for the Province of Québec)

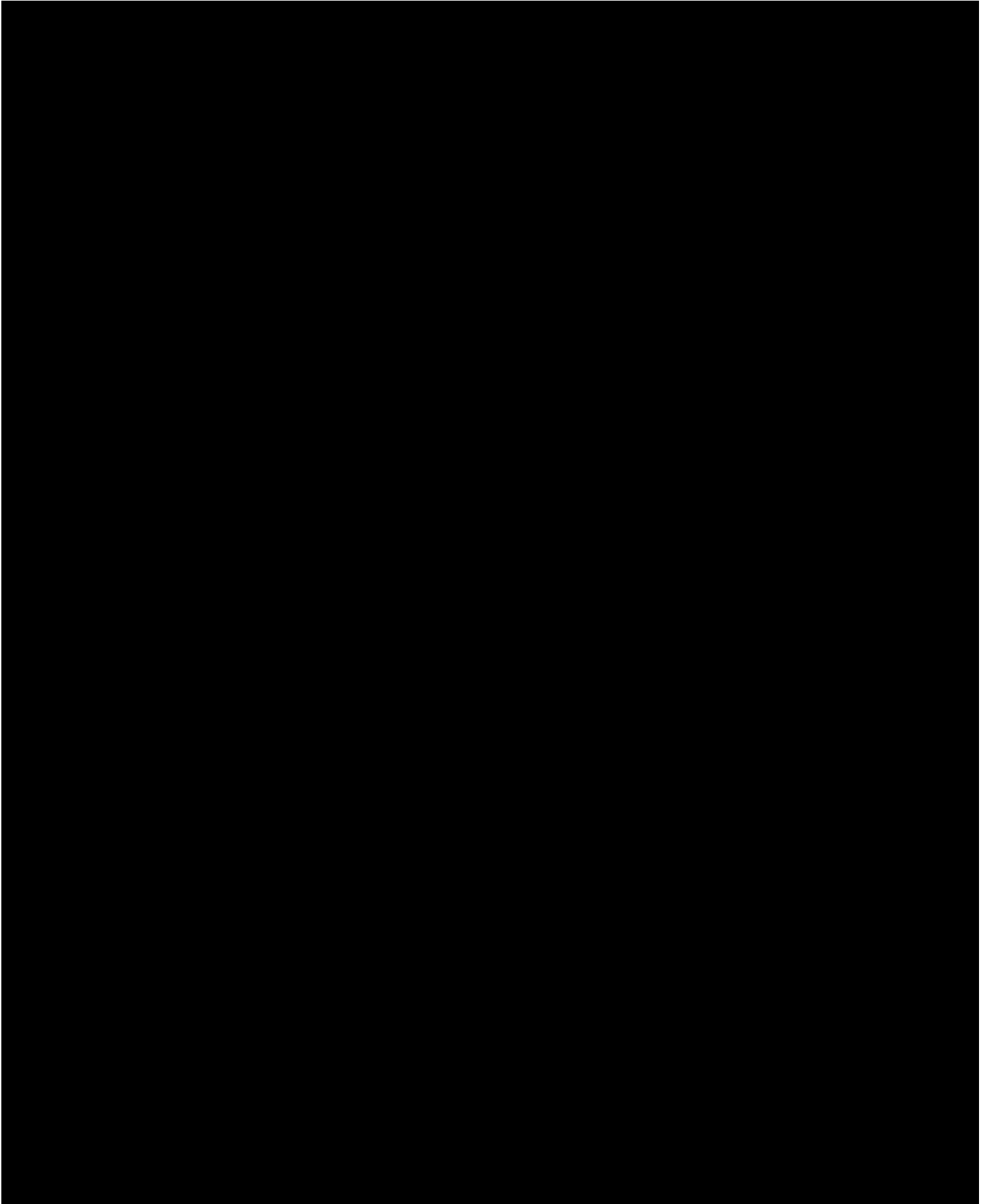

_____)
Jean-Francois Lescadres

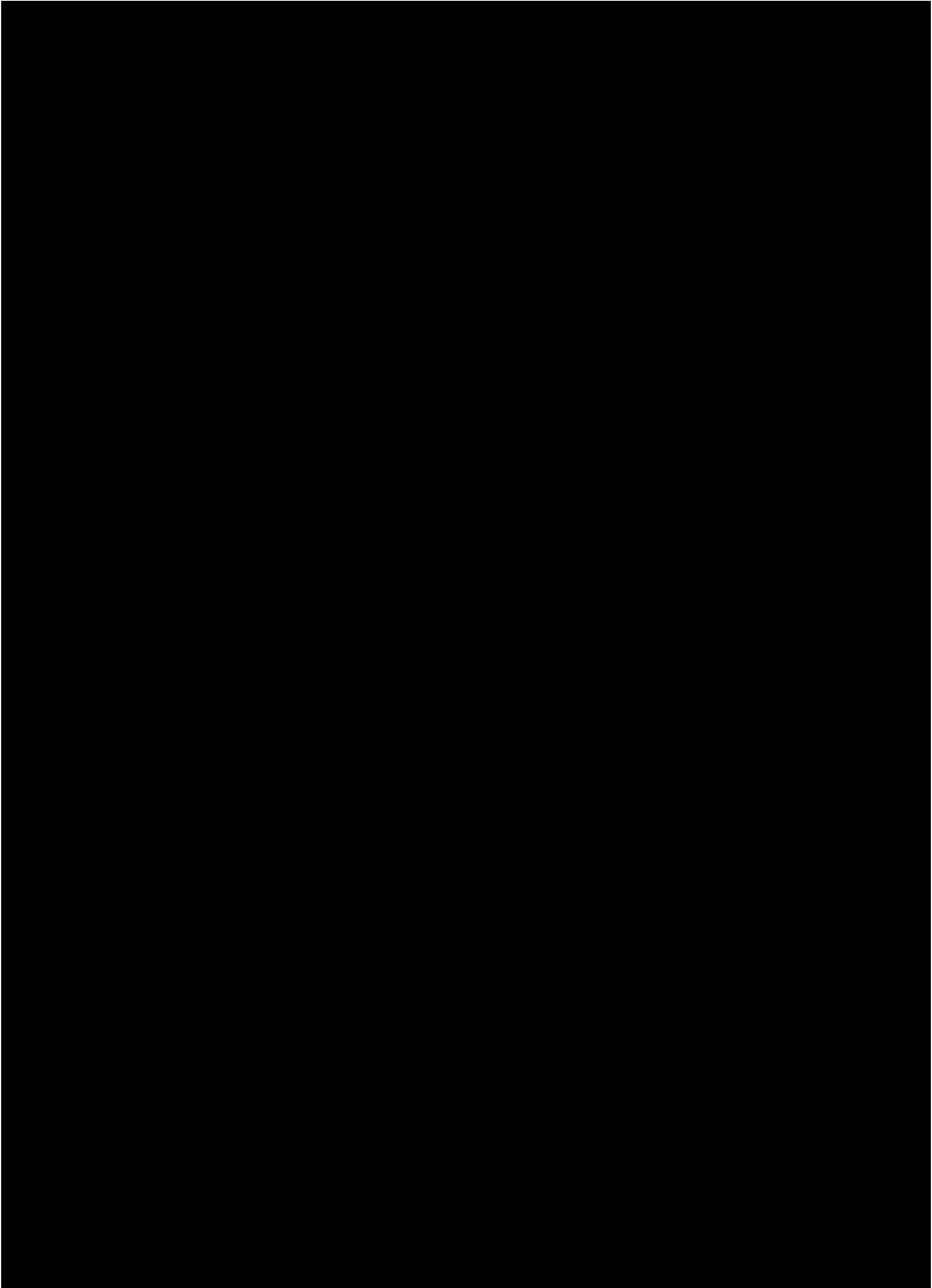
THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF JEAN-FRANCOIS LESCADRES
SWORN BEFORE ME THIS 28TH DAY OF JULY, 2022

France Lafard



A Commissioner for Taking Affidavits
in and for the Province of Quebec





THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF JEAN-FRANCOIS LESCADRES
SWORN BEFORE ME THIS 28TH DAY OF JULY, 2022

France Lafard



A Commissioner for Taking Affidavits
in and for the Province of Quebec

Federal Court



Cour fédérale

Date: 20210729

Docket: T-1160-21

Ottawa, Ontario, July 29, 2021

PRESENT: THE CHIEF JUSTICE**IN THE MATTER OF** the *Competition Act*, RSC 1985, c C-34;**AND IN THE MATTER OF** an inquiry under section 10 of the *Competition Act* into the proposed acquisition of Shaw Communications Inc. by Rogers Communications Inc., reviewable under Part VIII of the *Competition Act*;**AND IN THE MATTER OF** an *ex parte* application by the Commissioner of Competition for an Order requiring Quebecor Inc. to produce records pursuant to paragraph 11(1)(b) of the *Competition Act*; and**AND IN THE MATTER OF** an *ex parte* application by the Commissioner of Competition for an Order requiring Quebecor Inc. to make and deliver written returns of information pursuant to paragraph 11(1)(c) of the *Competition Act*.**BETWEEN:****THE COMMISSIONER OF COMPETITION****Applicant****and****QUEBECOR INC.****Respondent****ORDER TO
PRODUCE RECORDS AND WRITTEN RETURNS OF INFORMATION**

UPON the *ex parte* application made by the Commissioner of Competition (“**Commissioner**”) for an Order pursuant to paragraphs 11(1)(b) and 11(1)(c) of the *Competition Act*, RSC, 1985, c C-34, as amended (“**Act**”), which was heard this day at the Federal Court, Ottawa, Ontario;

AND UPON reading the affidavit of Laura Sonley affirmed on July 21, 2021;

AND UPON being satisfied that an inquiry is being made under section 10 of the Act relating to the proposed acquisition of Shaw Communications Inc. by Rogers Communications Inc., reviewable under Part VIII of the *Competition Act* (“**Inquiry**”);

AND UPON being satisfied that the Respondent has, or is likely to have, information that is relevant to the Inquiry;

1. **THIS COURT ORDERS** that the Respondent, Quebecor Inc., shall produce to the Commissioner all records and any other things specified in this Order, in accordance with the terms of this Order.
2. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver to the Commissioner all written returns of information specified in this Order, in accordance with the terms of this Order.
3. **THIS COURT FURTHER ORDERS** that in order to facilitate the handling, use, and orderly maintenance of records and to ensure the accurate and expeditious return of records, other things specified in this Order and written returns of information produced pursuant to this Order, the Respondent, Quebecor Inc., shall comply with the following requirements:
 - a. the Respondent, Quebecor Inc., shall produce records, other things and information in its possession, control or power;
 - b. the Respondent, Quebecor Inc., shall make and deliver a written return of information in such detail as is required to disclose all facts relevant to the corresponding specification in this Order;

- c. unless otherwise specified, the Respondent, Quebecor Inc., shall produce (i) records created or received during the period from 1 January 2019; and (ii) written returns of information in respect of the period from 1 January 2017;
- d. the Respondent, Quebecor Inc., shall produce all records and written returns of information in accordance with the Bureau's Guidelines for the Production of Electronically Stored Information ("**E-Production Guidelines**") attached at Schedule III of this Order;
- e. the Respondent, Quebecor Inc., shall scan each paper record into a separate electronic record and produce that copy in lieu of the original record unless making this copy would compromise the integrity of the original, render the copy difficult to read, or the original record size exceeds 216 mm x 356 mm (8½ in x 14 in); and a duly authorized representative of the Respondent, Quebecor Inc., shall certify by affidavit the copy is a true copy of the original record;
- f. a duly authorized representative of the Respondent, Quebecor Inc., shall certify by affidavit that all electronic records produced by the Respondent, Quebecor Inc., pursuant to this Order are true copies of the electronic records in their possession, control or power;
- g. each written return of information made by the Respondent, Quebecor Inc., shall be sworn or solemnly affirmed by a duly authorized representative of the Respondent, Quebecor Inc., as having been examined by that person and as being, to the best of his or her knowledge and belief, correct and complete in all material respects;
- h. if a record contains information that the Respondent, Quebecor Inc., claims is privileged, the Respondent, Quebecor Inc., shall produce the record with the privileged information redacted and in accordance with paragraph 6 of this Order;

- i. the Respondent, Quebecor Inc., shall make all written returns of information, including those relating to revenues, costs and margins, in accordance with generally accepted accounting principles (“GAAP”), International Financial Reporting Standards (“IFRS”), or other accounting principles that the Respondent, Quebecor Inc., uses in its financial statements. Where the Respondent, Quebecor Inc., produces a record or makes and delivers a written return of information using accounting principles other than GAAP or IFRS, the Respondent, Quebecor Inc., shall explain the meaning of all such accounting terms;
- j. the Respondent, Quebecor Inc., shall define, explain, interpret or clarify any record or written return of information whose meaning is not self-evident;
- k. the Respondent, Quebecor Inc., shall identify all calendars, appointment books, telephone logs, planners, diaries, and items of a similar nature that are produced in response to this Order with the name of the person or persons by whom they were used and the dates during which they were used;
- l. before producing records pursuant to this Order, a duly authorized representative of the Respondent, Quebecor Inc., responsible for producing electronic records in accordance with the E-Production Guidelines attached at Schedule III of this Order shall contact a person identified in paragraph 15 of this Order and provide particulars regarding how the Respondent, Quebecor Inc., will comply with the E-Production Guidelines. The Respondent, Quebecor Inc., shall make reasonable efforts to address any additional technical requirements the Commissioner may have relating to the production of electronic records in accordance with the E-Production Guidelines;
- m. use of the singular or the plural in the Schedules of this Order shall not be deemed a limitation, and the use of the singular shall be construed to include, where appropriate, the plural and vice versa; and

- n. use of a verb in the present or past tense in the Schedules of this Order shall not be deemed a limitation, and the use of either the present or past tense shall be construed to include both the present and past tense.
4. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver, in a written return of information, an index in which the Respondent, Quebecor Inc., identifies all records (or parts of records) responsive to the Specifications in Schedule I of this Order for which privilege is claimed. The index shall include the title of the record, the date of the record, the name of each author, the title or position of each author, the name of each addressee and recipient, the title or position of each addressee and recipient, and the paragraphs or subparagraphs of Schedule I of the Order to which the record is responsive. In lieu of listing the title or position of an author, addressee or recipient for each record, the Respondent, Quebecor Inc., may make and deliver a written return of information listing such persons and their titles or positions.
5. **THIS COURT FURTHER ORDERS** that where the Respondent, Quebecor Inc., asserts a legal privilege in respect of all or part of a record, the Respondent, Quebecor Inc., shall, in a written return of information:
- a. produce, for each record, a description of the privilege claimed and the factual basis for the claim in sufficient detail to allow the Commissioner to assess the validity of the claim; and
 - b. identify by name, title and address, all persons to whom the record or its contents, or any part thereof, have been disclosed.

Without restricting any other remedy he may seek, the Commissioner may, by written notice to the Respondent, Quebecor Inc., at any time require the Respondent, Quebecor Inc., to produce records for which solicitor-client privilege is claimed to a person identified in subsection 19(3) of the Act.

6. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information confirming that the records or things produced pursuant to this Order were either in the possession of or on the premises used or occupied by the Respondent, Quebecor Inc., or in the possession of an officer, agent, servant, employee or representative of the Respondent, Quebecor Inc.. If a record or thing produced by the Respondent, Quebecor Inc., pursuant to this Order does not meet the above conditions, the Respondent, Quebecor Inc., shall make and deliver a written return of information explaining the factual circumstances about the possession, power, control and location of such record or thing.

7. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information stating whether, upon having conducted a diligent search and made appropriate enquiries, it has reason to believe that it is not producing pursuant to this Order a record, thing, type of record or type of thing that was formerly in the possession, control or power of the Respondent, Quebecor Inc., and that the record, thing, type of record or type of thing would be responsive to a Specification of this Order if the Respondent, Quebecor Inc., had continued to have possession, control or power over the record, thing, type of record or type of thing. The Respondent, Quebecor Inc., shall state in this written return of information (a) when and how the Respondent, Quebecor Inc., lost possession, control and power over a record, thing, type of record or type of thing; and (b) the Respondent's, Quebecor Inc.'s, best information about the present location of the record, thing, type of record or type of thing.

8. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information stating whether, upon having conducted a diligent search and made appropriate enquiries, it has reason to believe that it never had possession, control or power over a record, thing, type of record or type of thing responsive to a Specification in this Order, that another person not otherwise subject to this Order has possession, control or power over the record, thing, type of record or type of thing, and that the record, thing, type of record or

type of thing would be responsive to a Specification of this Order if the Respondent, Quebecor Inc., possessed the record, thing, type of record or type of thing. The Respondent, Quebecor Inc., shall state in this written return of information its best information about (a) the Specification to which the record, thing, type of record or type of thing is responsive, (b) the identity of the person who has possession, control or power of the record, thing, type of record or type of thing, and (c) that person's last known address.

9. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information stating whether, upon having conducted a diligent search and made appropriate enquiries, it has reason to believe that a record, thing, type of record or type of thing responsive to this Order has been destroyed and that the record, thing, type of record or type of thing would have been responsive to a Specification of this Order if it had not been destroyed. The Respondent, Quebecor Inc., shall in this written return of information state whether the record, thing, type of record or type of thing was destroyed pursuant to a record destruction or retention policy, instruction or authorization and shall produce that policy, instruction or authorization.
10. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information stating whether, upon having conducted a diligent search and made appropriate enquiries, it has reason to believe it does not have records, things or information responsive to a Specification in this Order because the record, thing or information never existed. The Respondent, Quebecor Inc., shall, upon request of the Commissioner, make and deliver a further written return of information explaining why the record, thing or information never existed.
11. **THIS COURT FURTHER ORDERS** that where the Respondent, Quebecor Inc., previously produced a record or thing to the Commissioner the Respondent, Quebecor Inc., is not required to produce an additional copy of the record or thing provided that the Respondent, Quebecor Inc.: (1) identifies the previously produced

record or thing to the Commissioner's satisfaction; (2) makes and delivers a written return of information in which it agrees and confirms that the record or thing was either in the possession of the Respondent, Quebecor Inc., on premises used or occupied by the Respondent, Quebecor Inc., or was in the possession of an officer, agent, servant, employee or representative of the Respondent, Quebecor Inc.; and where this is not the case, the Respondent, Quebecor Inc., shall make and deliver a written return of information explaining the factual circumstances about the possession, power, control and location of such record or thing; and (3) receives confirmation from the Commissioner that such record or thing need not be produced.

12. **THIS COURT FURTHER ORDERS** that where the Respondent, Quebecor Inc., produces records or things or delivers written returns of information that are, in the opinion of the Commissioner, adequate for the purposes of the Inquiry, the Commissioner may, by written notice, waive production of any additional records, things or information that would have otherwise been responsive to the Order.
13. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall make and deliver a written return of information that:
 - a. describes the authority of the person to make the written return of information on behalf of the Respondent, Quebecor Inc.;
 - b. includes a statement that, in order to comply with this Order, the person has made or caused to be made:
 - i. a thorough and diligent search of the records, things and information in the possession, control or power of the Respondent, Quebecor Inc.;
 - ii. appropriate enquiries of the Respondent's, Quebecor Inc.'s, personnel; and

- c. states the person has examined the records and things produced and written returns made and delivered pursuant to the Order and that those records, things and written returns are, to the best of his or her knowledge and belief, correct and complete in all material respects.
14. **THIS COURT FURTHER ORDERS** that the returns of records shall be completed within 60 days of the service of this Order, and written returns of information shall be completed within 30 calendar days of the service of this Order.
15. **THIS COURT FURTHER ORDERS** that the Respondent, Quebecor Inc., shall produce all records and things and deliver all written returns of information to the Commissioner at the following address:

Competition Bureau
Mergers Directorate
Place du Portage Phase I
50 Victoria Street
Gatineau, Quebec K1A 0C9

Attention: Laura Sonley, Sorina Sam, Marie-Hélène Brière

- a. communications or inquiries regarding this Order shall be addressed to:

Department of Justice
Competition Bureau Legal Services
Place du Portage Phase I
50 Victoria Street
Gatineau, Quebec K1A 0C9

Attention: Derek Leschinsky, Steve Sansom, Katherine Rydel

16. **THIS COURT FURTHER ORDERS** that this Order may be served in person or by means of facsimile machine, electronic mail (with acknowledgement of receipt) or registered mail on a duly authorized representative of the Respondent(s) or on counsel for the Respondent(s) who have agreed to accept such service.

“Paul S. Crampton”
Chief Justice

SCHEDULES I AND II

Notice Concerning Obstruction

Any person who in any manner impedes or prevents, or attempts to impede or prevent, any inquiry or examination under the Act, or who destroys or alters or causes to be destroyed or altered, any record or thing that is required to be produced under section 11 of the Act may be subject to criminal prosecution for obstruction of justice, contempt of court or other federal criminal violation. Where a corporation commits such an offence, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in the commission of the offence, may also be prosecuted. Conviction of any of these offences is punishable by fine or imprisonment, or both.

Relevant Period

For the purpose of Schedules I and II, the Respondent, Quebecor Inc., shall unless otherwise specified: (i) produce records created or modified during the period from 1 January 2019 to 1 July 2021; and (ii) make and deliver written returns of information for the period from 1 January 2017 to 1 July 2021.

Definitions

For the purpose of Schedules I and II, the following terms shall have the respective meanings set out below and any grammatical variations of those terms shall also have the corresponding meanings:

“**5G**” means 5th generation technology;

“**Act**” means the Competition Act, R.S.C., 1985, c. C-34, as amended;

“**Affiliate**” has the same meaning as in subsection 2(2) of the Act;

“**Backhaul**” means the infrastructure used to connect wireless cell sites to one another and the core network, including but not limited to fibre and microwave connections;

“**Bureau**” means the Competition Bureau;

“**Company**” means Quebecor Inc., its domestic and foreign parents, predecessors, divisions, Affiliates, and all directors, officers, and employees of the foregoing;

“**MVNO**” a wireless communications service provider that does not own the Wireless Network over which it provides Wireless Services;

“**Person**” means any individual, partnership, limited partnership, firm, corporation, association, trust, unincorporated organization, or other entity, including Company;

“**Proposed Transaction**” means the proposed acquisition of Shaw Communications Inc. by Rogers Communications Inc. as described in Rogers and Shaw news releases dated March 15, 2021;¹

“**Record**” has the same meaning as in subsection 2(1) of the Act and, for greater certainty, includes any email or other correspondence, mobile phone text messages, messages using third party messaging applications, memorandum, pictorial or graphic work, spreadsheet or other machine readable record and any other documentary material, regardless of physical form or characteristics;

“**Relevant Area**” means (unless otherwise specified in a particular paragraph or subparagraph of this order) Canada;

“**Senior Officer**” means the chairperson, president, chief executive officer, vice-president, secretary, treasurer, chief financial officer, chief operating officer, general manager, managing director, or any individual who performs their functions;

“**Wireless Network**” means any infrastructure used to provide Wireless Services; and

“**Wireless Services**” means the provision of mobile communication services including voice, text, data, mobile broadband internet, and applications to consumers and business users of mobile devices excluding tablets and internet of things devices.

¹ Rogers (2021). [Rogers and Shaw to come together in \\$26 billion transaction, creating new jobs and investment in Western Canada and accelerating Canada's 5G rollout.](#)
Shaw (2021). [Rogers and Shaw to come together in \\$26 billion transaction, creating new jobs and investment in Western Canada and accelerating Canada's 5G rollout.](#)

SCHEDULE I**RECORDS TO BE PRODUCED PURSUANT TO PARAGRAPH 11(1)(b) OF THE ACT**

1. Provide all Records, prepared or received by a Senior Officer relating to the Company's assessment of the Proposed Transaction with respect to competition, competitors, market shares, markets, pricing strategies, and investment relating to Wireless Services, including related to 5G, implications for pre-existing or potential future network sharing agreements, the potential for sales growth or expansion into new products or geographies, and alternative transactions involving either of the merging parties.
2. Provide all reports, studies, surveys, analyses, strategic, business, and marketing plans prepared or received by a Senior Officer with respect to Wireless Services in the Relevant Area relating to the entry by the Company into any new geographic area outside of Quebec.
3. Provide all Records prepared or received by a Senior Officer, with respect to Wireless Services in the Relevant Area (excluding Quebec except in relation to Records relating to Rogers) relating to negotiations with any Person regarding actual or potential agreements, including agreement renewals, to share or access any Wireless Network including but not limited to MVNO access, spectrum, towers, Backhaul, or roaming.
4. Provide a copy of all agreements in force at any time during the Relevant Period with respect to Wireless Services relating to:
 - (a) actual or potential sharing of any component of a Person's Wireless Network;
 - (b) resale of Company's Wireless Network; and/or
 - (c) jointly building or expanding a Wireless Network.

SCHEDULE II

**WRITTEN RETURNS OF INFORMATION TO BE PRODUCED PURSUANT TO
PARAGRAPH 11(1)(c) OF THE ACT**

5. For Wireless Services, provide a current organizational chart and identify the individuals from Quebecor Inc. or Vidéotron Ltée. who are at the Director level or above and will be searched for the purpose of responding to this Order, including their name, title, and a description of their roles and responsibilities.
6. Provide the following annual data related to Wireless Services in the Relevant Area for each wireless service plan offered by the Company and by customer postal code:
 - (a) average number of subscriber lines over the year;
 - (b) total gross subscriber line additions for the year;
 - (c) total net subscriber line additions for the year;
 - (d) total wireless service revenue for the year; and
 - (e) total wireless service data usage in gigabytes for the year.
7. Provide the following data related to Wireless Services in the Relevant Area for each wireless service plan offered by the Company:
 - (a) plan ID to link with subscriber data (requested in Specification #6);
 - (b) plan provider brand (e.g. Fizz, Videotron)
 - (c) plan description;
 - (d) device category (e.g. mobile phone, tablet)
 - (e) pre-paid or post-paid indicator;
 - (f) shared plan indicator;
 - (g) first or additional line indicator;

- (h) whether the plan includes a device or device subsidy;
- (i) Plan limits for each included service (e.g. voice minutes, data);
- (j) Plan speed limits (e.g. “3G” plans); and
- (k) Additional plan restrictions (e.g. data throttled when roaming or over plan limit).

SCHEDULE III

E-PRODUCTION GUIDELINES



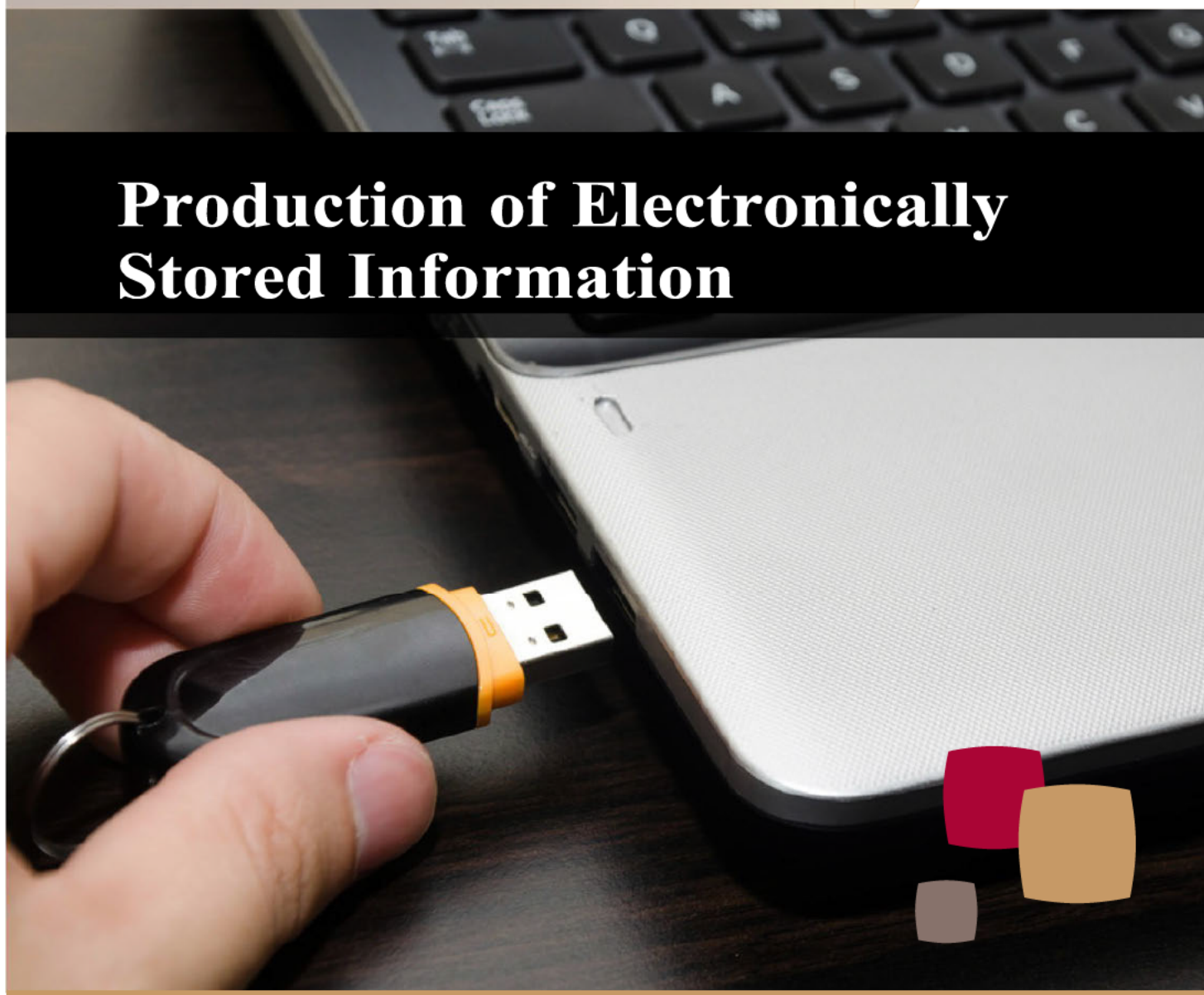
Competition Bureau
Canada

Bureau de la concurrence
Canada



Enforcement Guidelines

**Production of Electronically
Stored Information**



This publication is not a legal document. It contains general information and is provided for convenience and guidance in applying the *Competition Act*.

For information on the Competition Bureau's activities, please contact:

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Competition Bureau
50 Victoria Street
Gatineau QC K1A 0C9

Tel.: 819-997-4282
Toll free: 1-800-348-5358
TTY (for hearing impaired): 1-800-642-3844
Fax: 819-997-0324
Website: www.competitionbureau.gc.ca

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Cat. No. Iu54-54/2015E-PDF
ISBN 978-0-660-01970-3

2015-04-28

Aussi offert en français sous le titre Production de renseignements stockés électroniquement.

PREFACE

The Competition Bureau (the “Bureau”), as an independent law enforcement agency, ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace. The Bureau investigates anti-competitive practices and promotes compliance with the laws under its jurisdiction, namely the *Competition Act* (the “Act”), the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act*.

The Bureau has issued these guidelines for the Production of Electronically Stored Information (“ESI”) to promote the efficient processing and review of any electronic production received by the Bureau and to resolve any details before parties collect and produce responsive records. Transparency regarding the Bureau’s preferences for receiving ESI improves predictability and helps producing parties make informed decisions. These guidelines reflect the Bureau’s current preferences based on existing technologies used by the Bureau to process and review ESI and will be updated, as required, where the Bureau adopts new or different technologies.

John Pecman

Commissioner of Competition

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- SCHEDULE B6




 1. INTRODUCTION

These guidelines for the production of electronically stored information (“ESI”) set out the Competition Bureau’s (the “Bureau”) preferred formats for receiving ESI produced in response to compulsory processes and, in certain instances, produced voluntarily in the course of an inquiry or investigation under the *Competition Act* (the “Act”).

The Bureau continuously strives to carry out its mandate in the most efficient and effective means possible. The receipt of ESI in a format set out below will assist the Bureau in achieving that objective through the reduction of processing and reviewing times and will avoid unnecessary costs and delays associated with unusable productions. Early and regular communication among the Bureau, producing parties and their counsel regarding production methodologies and formats is encouraged. Given the technical nature of the subject matter, it is also beneficial to involve persons with the requisite technical expertise, whether in-house or those of a third-party service provider, when using these guidelines, including participating in discussions with Bureau representatives regarding the production of ESI.

These guidelines reflect the Bureau’s current preferences based on existing technologies used by the Bureau to process and review ESI and will be updated, as required, where the Bureau adopts new or different technologies.

These guidelines do not address the type or scope of information that may be required or requested by the Bureau in the course of an inquiry or an investigation, nor do they address the Bureau’s preferred practices regarding the production of non-electronic records or other things, except where those records are converted to ESI.

 2. APPLICABILITY OF THE GUIDELINES

The Bureau generally seeks production in accordance with these guidelines when seeking a court order under section 11 of the Act or under the *Criminal Code*. Further, the Bureau expects that producing parties will adhere to these guidelines in the following instances:

- responding to a supplementary information request issued under subsection 114(2) of the Act;
- submitting a production pursuant to participation in the Bureau’s Immunity or Leniency Programs; and
- submitting information voluntarily.

In this regard, a copy of the guidelines will generally be incorporated in or appended to an order or request for information.



3. ONGOING COMMUNICATION

Bureau staff will contact producing parties shortly following the issuance of an order or request for information to which these guidelines apply and will be available for ongoing dialogue regarding the production of ESI.

Producing parties, together with their technical staff and/or third-party service provider, are strongly encouraged to speak with Bureau staff (case officers and technical staff) prior to collecting and prior to producing ESI to discuss production details, including the manner in which ESI is stored, the types of information that are available on the electronic source and the format of production.



4. TECHNICAL INSTRUCTIONS

- 4.1 All ESI (i.e., information readable in a computer system) should be produced free of computer viruses or malware, be accessible, readable and printable, and be devoid of passwords or encryption.
- 4.2 All ESI should be produced in its original electronic format (i.e., native format), except where near-native format is required by subsections 4.3.2 or 4.6 or where an image production is produced as per subsection 4.8. Detailed instructions are set out in Schedule A for production using computer systems without application export capabilities and in Schedule B for production using litigation application exports. The Bureau's preference is to receive ESI in accordance with Schedule B.
- 4.3 Where a record being produced is part of a family, all parent and child records should be produced and the parent/child relationship should be preserved. A family is a collection of pages or files produced manually or by a software application, constituting a logical single communication of information, but consisting of more than one single stand-alone record. Examples include:
 - 4.3.1 a fax cover, the faxed letter, and an attachment to the letter, where the fax cover is the parent and the letter and attachment are each a child.
 - 4.3.2 email repositories (e.g., Outlook .PST, Lotus .NSF) can contain a variety of records, including messages, calendars, contacts, and tasks. For purposes of production, all parent records, both native (e.g., documents, spreadsheets, presentations) and near-native email, calendar, contacts, tasks, notes and child records (e.g., object linking and embedding items and attachments of files to



emails or to other parent records) should be produced, with the parent/child relationship preserved. Similar items found and collected outside an email repository (e.g., .MSG, .EML, .HTM, .MHT) should be produced in the same manner; and

4.3.3 archive file types (e.g., .zip, .rar) should be uncompressed for processing. Each file contained within an archive file should be produced as a child to the parent archive file. If the archive file is itself an attachment, that parent/child relationship should also be preserved.

4.4 Hard copy or paper records produced as ESI should be produced as single page TIFF images with a resolution of 300 dpi (dots per inch) and OCR generated text. The records should be produced as they are kept, reflecting attachment relationships between records and information about the file folders within which the record is found. Where colour is required to interpret the record, such as hard copy photos, and certain charts, that image should be produced in colour. These colour images are to be produced as .jpg format. Hard copy photographs should be produced as colour .jpg, if originally in colour, or greyscale .tif files if originally in black and white.

The following bibliographic information, if it is available, should also be provided for each record:

- a. document ID
- b. date
- c. author / author organization
- d. recipient / recipient organization

4.5 The records produced should be indexed as being responsive to the applicable paragraphs or subparagraphs in the [Order/Request].

4.6 Each database record submitted in response to a paragraph or subparagraph of the [Order/Request]:

4.6.1 should be produced whole, in a flat file, in a non-relational format and exported as a delimited text file where fields are separated by the pipe character (|) and a caret (^) is used as the text qualifier (e.g. ^Field1|^Field2|^Field3^ etc.); and

4.6.2 should include a list of field names; a definition for each field as it is used by the producing party, including the meanings of all codes that can appear as field values; the format, including variable type and length, of each field; and the primary key in a given table that defines a unique observation.



- 4.7 With regard to de-duplication:
- 4.7.1 for investigations relating to Part VI of the Act, all copies of records should be provided; and
 - 4.7.2 for investigations relating to Parts VII.1 and VIII of the Act, the producing party may use de-duplication or email threading software if the producing party provides the Bureau with a written description of the proposed process to be used, including what is considered a duplicate, and the Bureau confirms that the deployment of such process permits the producing party to comply fully with the [Order/Request].
- 4.8 Documents requiring redaction pursuant to any claim of privilege should be produced as single-page TIFF or multi-page PDF images and designated “Redacted” in the field as described in Schedule B. Appropriately redacted searchable text (OCR of the redacted images is acceptable), metadata, and bibliographic information must also be provided. All documents that are part of a document family that includes a document withheld pursuant to any claim of privilege will be designated “Family Member of Privileged Doc” in the field as described in Schedule B for all other documents in its family. Placeholder images with BEGDOC#, FILENAME, FILEPATH and reason withheld (e.g., “Privileged”) should be provided in place of the document images of the privileged document.
- 4.9 All ESI should be provided on portable storage media appropriate to the volume of data (e.g., USB/flash drive, CD, DVD, hard drive) and should be identified with a label setting out the matter name, the contents and the date of production. Each medium should contain no more than 250,000 files (e.g., native ESI or images or a combination of both).
- 4.10 In the event that ESI is delivered in a format that is not one of the formats set out in Schedule A or Schedule B, the ESI should be provided along with all available instructions and other materials, including software, as necessary for the retrieval and use of the ESI (subject to any software licensing restrictions, which the producing party and the Bureau should discuss in advance of production).



HOW TO CONTACT THE COMPETITION BUREAU

Anyone wishing to obtain additional information about the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, the *Precious Metals Marking Act* or the program of written opinions, or to file a complaint under any of these acts should contact the Competition Bureau’s Information Centre:



Website

[www.competitionbureau.gc.ca]

Address

[Information Centre
Competition Bureau
50 Victoria Street
Gatineau, Quebec K1A 0C9]

Telephone

[Toll-free: 1-800-348-5358
National Capital Region: 819-997-4282
TTY (for hearing impaired) 1-800-642-3844]

Facsimile

[819-997-0324]

**SCHEDULE A****Computer Systems with No Application Export Capabilities**

1. ESI generated by office productivity suite software should be produced in its native format.
2. Emails should be produced in their near-native format. Where an email has attachments, the attachments should be left embedded in the native file and not extracted separately.

**SCHEDULE B****Litigation Application Exports**

1. A load file (e.g., Opticon (OPT), IPRO (LFP), Summation (DII) or Ringtail (MDB)) and all related ESI should be produced in native format except where near-native format is required by subsections 4.3.2 and 4.6.
2. Within the delimited metadata file where fields are separated by the pipe character (|) and a caret (^) is used as the text qualifier (e.g. ^Field1|^Field2|^Field3^ etc.), and depending on the nature of the ESI, the following fields should be provided:

DOCID
BEGDOC
ENDDOC



BEGATTACH
ENDATTACH
FILEPATH
PARENTBATES (bates number of parent record)
CHILDBATES (bates number(s) of any child records)
MD5HASH (MD5HASH of the native format ESI)
TEXTPATH (link to extracted text on the production media for tiffs only)
NATIVEPATH (link to any files produced in native or near-native format on the production media)
CUSTODIAN
ALLCUSTODIAN
TO
FROM
AUTHOR
CC
BCC
SUBJECT/TITLE
FILENAME
DOCDATE
DATESENT
TIMESENT
DATECREATED
TIMECREATED
DATELASTMOD
TIMELASTMOD
DATEACCESSED
TIMEACCESSED
SPECIFICATION
FILEEXTENSION
REDACTED
FAMILYMEMBERPRIVILEGEDDOC

3. The ESI produced should be indexed by using the 'SPECIFICATION' field as being responsive to the paragraphs or subparagraphs in the [Order/Request]. If multiple values exist for the specification, they should be separated by a semi-colon (e.g. 1a;1b;2a, etc.).

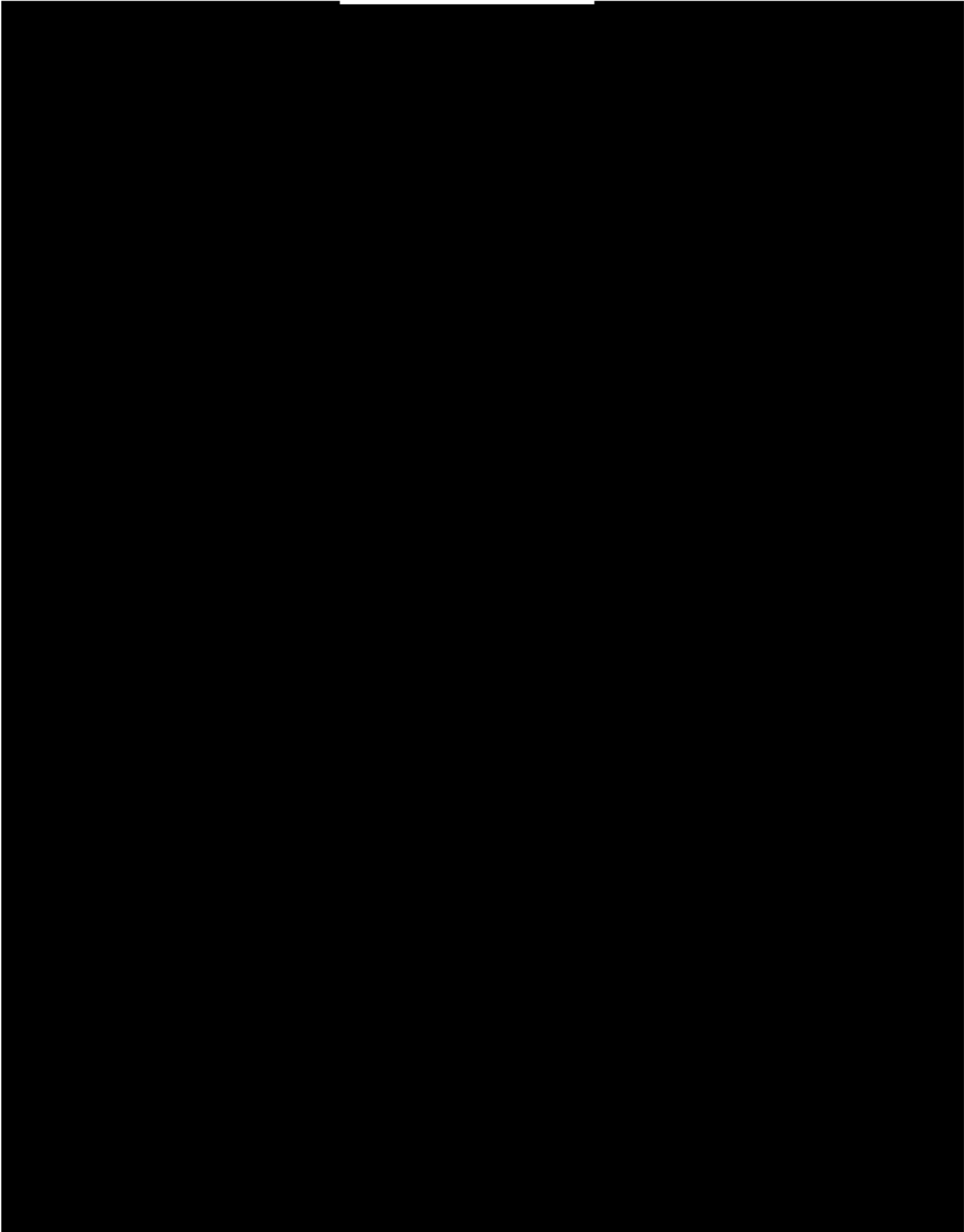


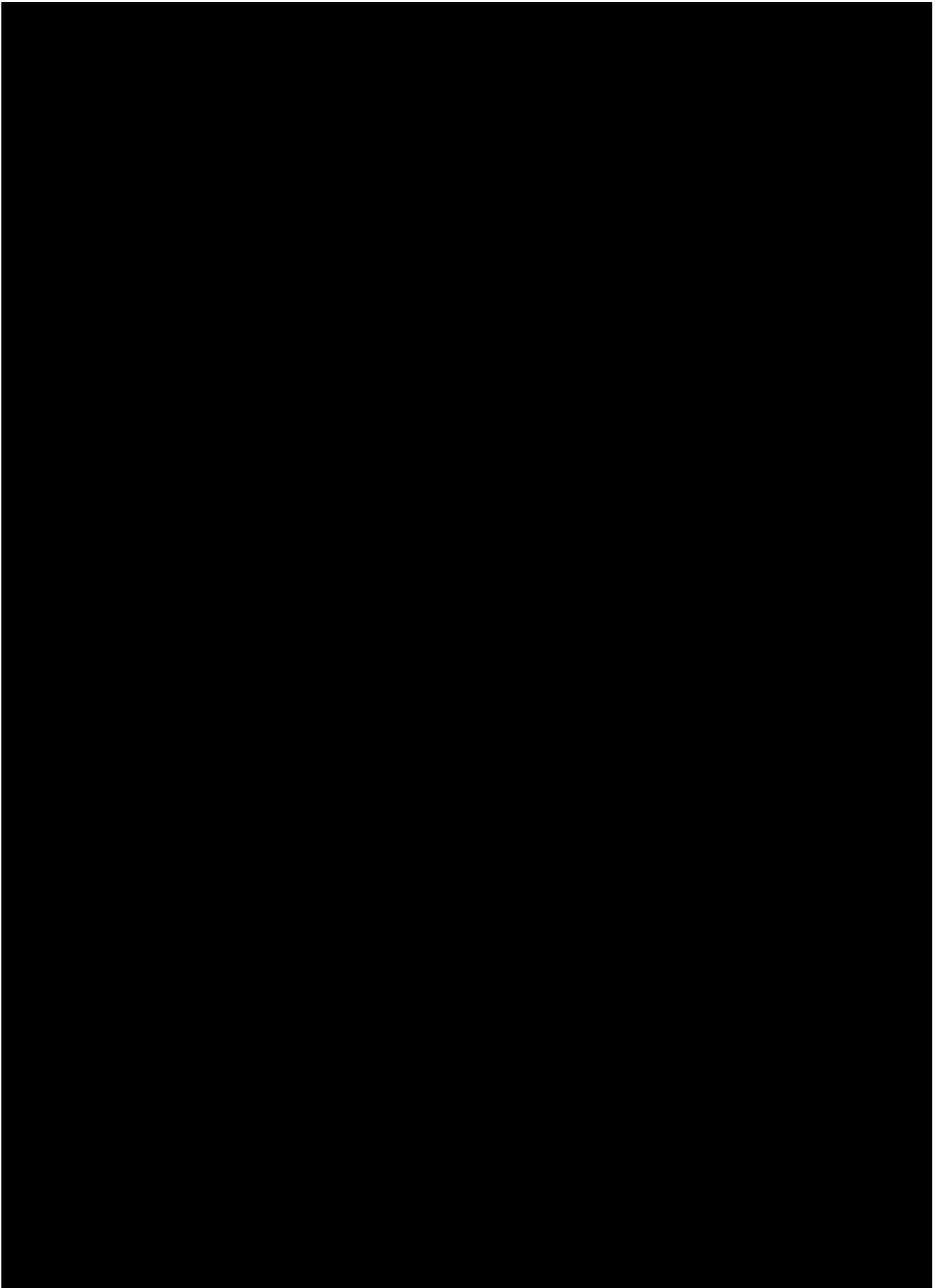
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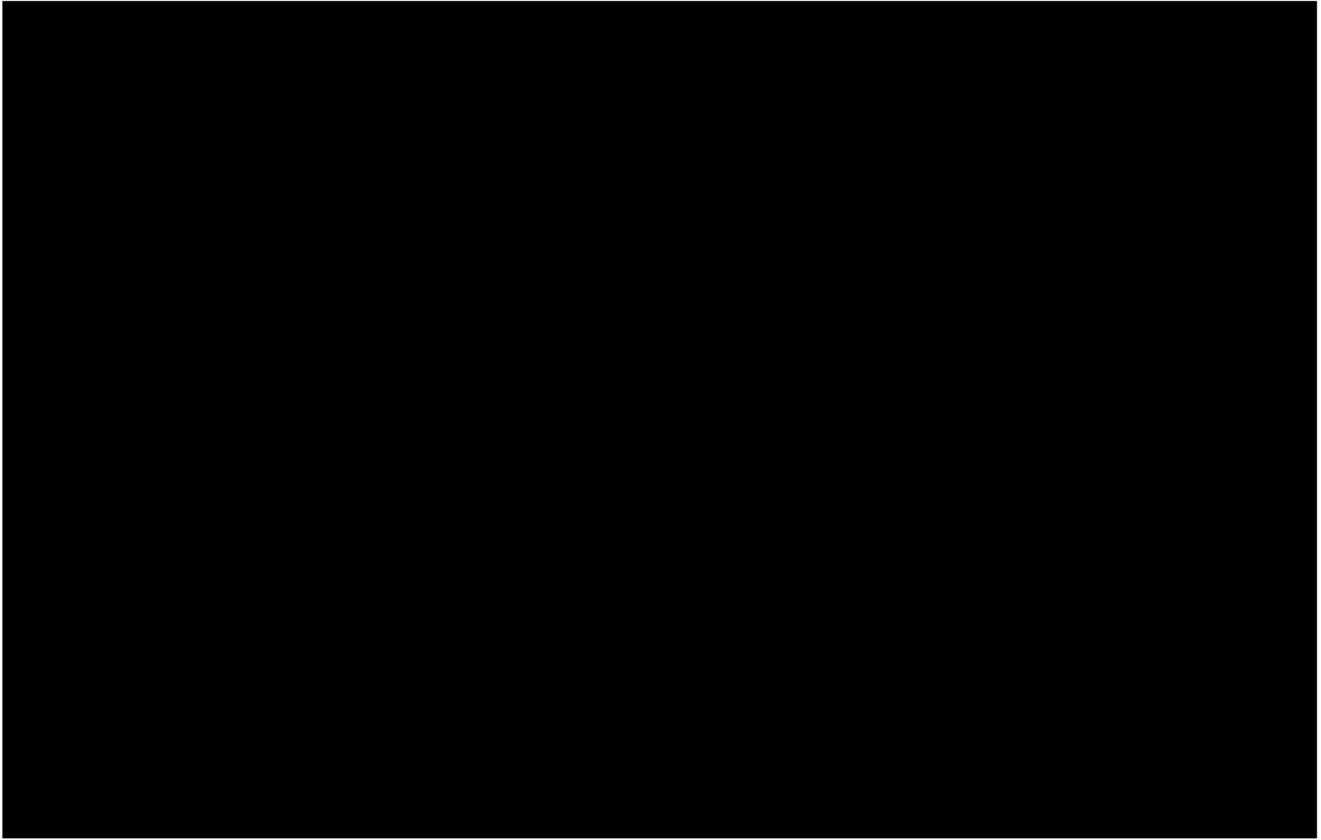
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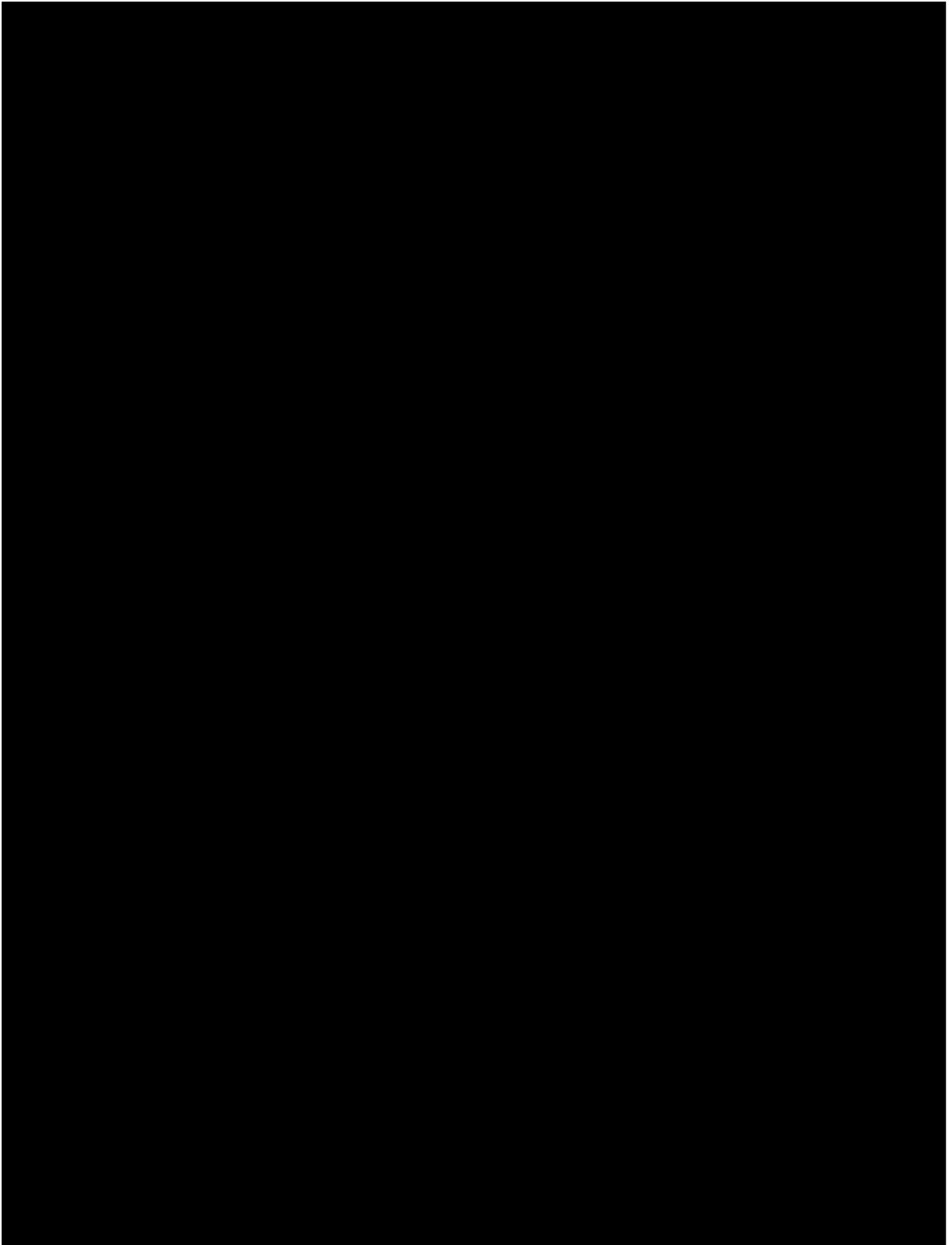


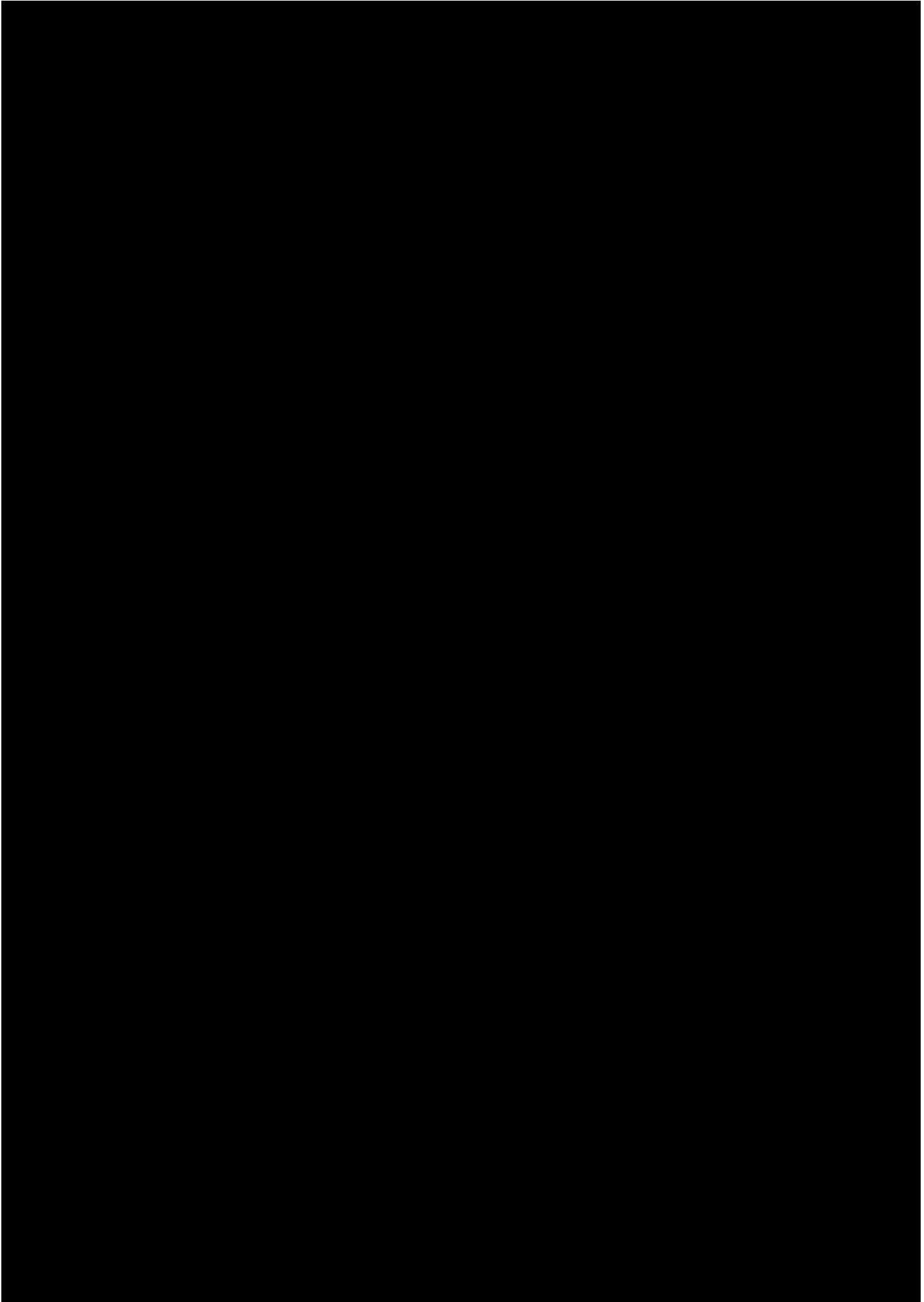
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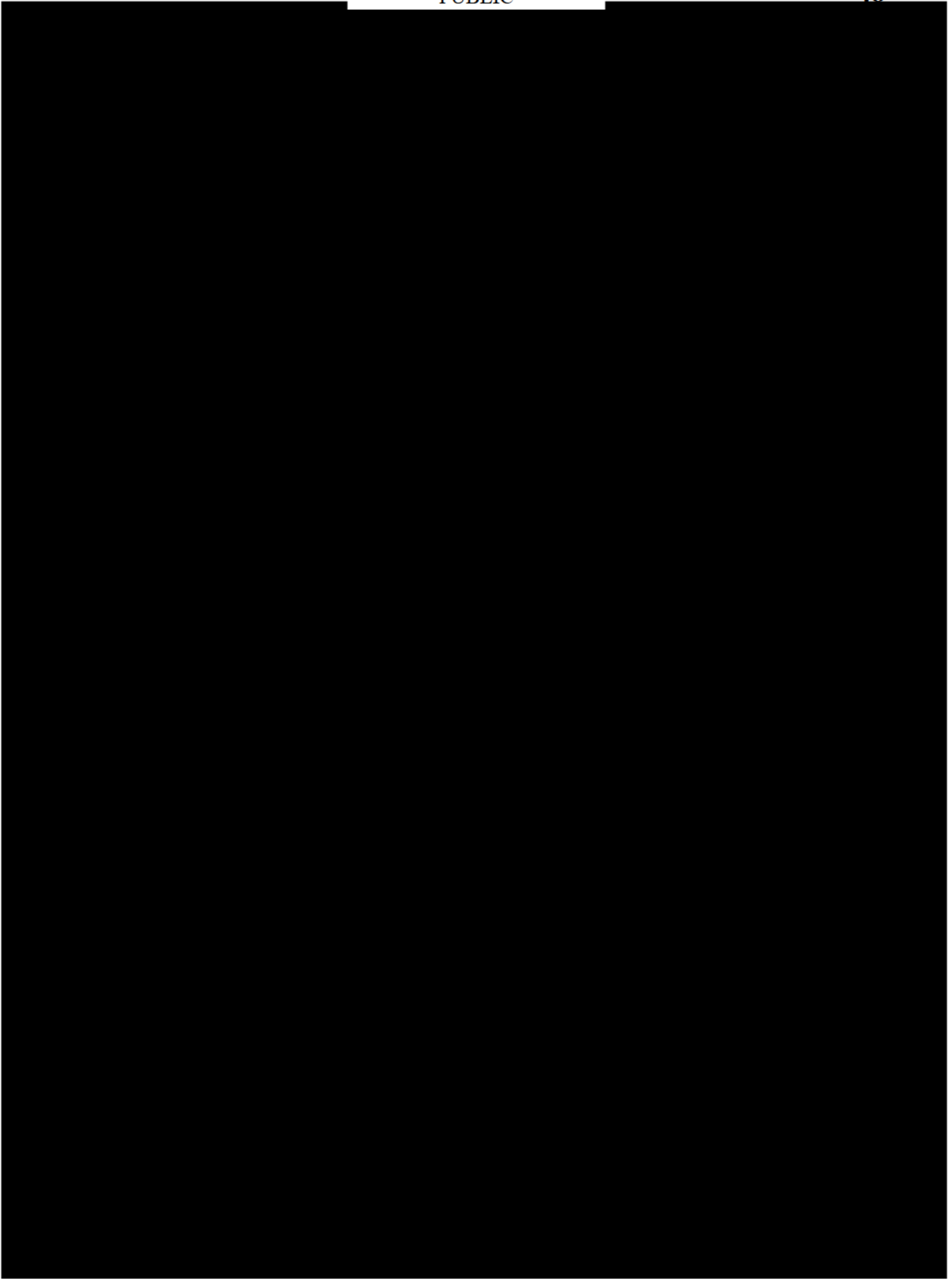


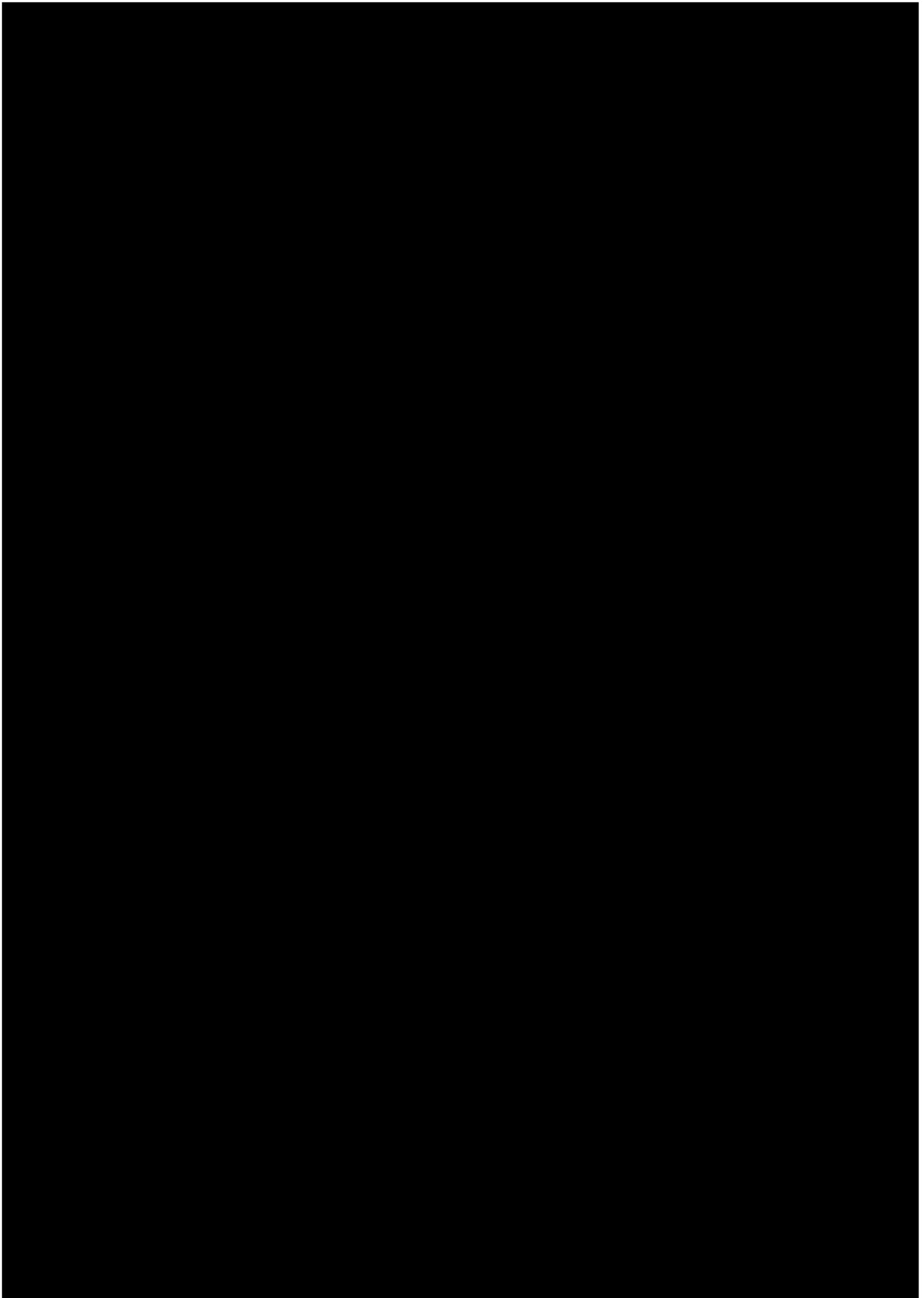
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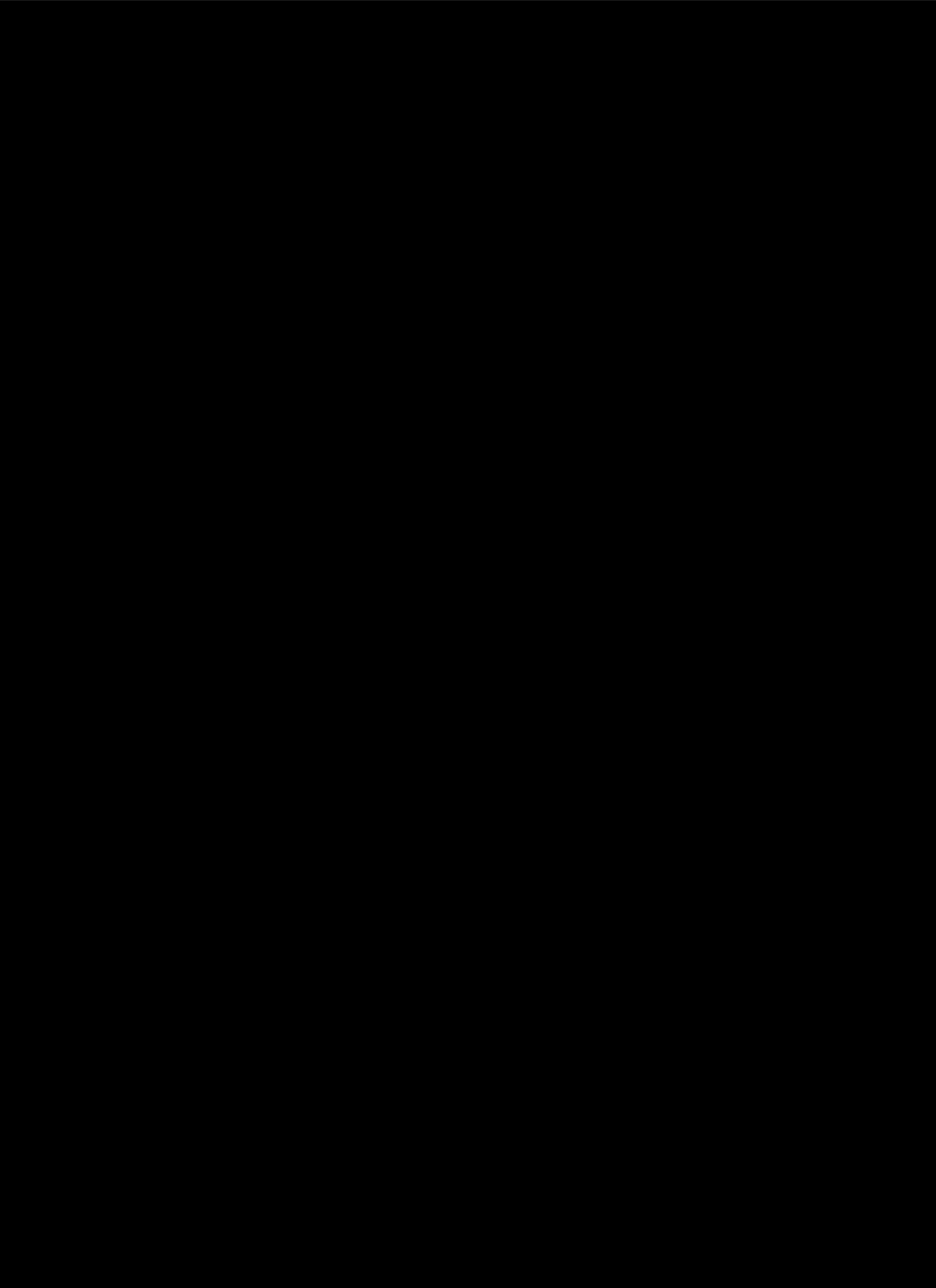
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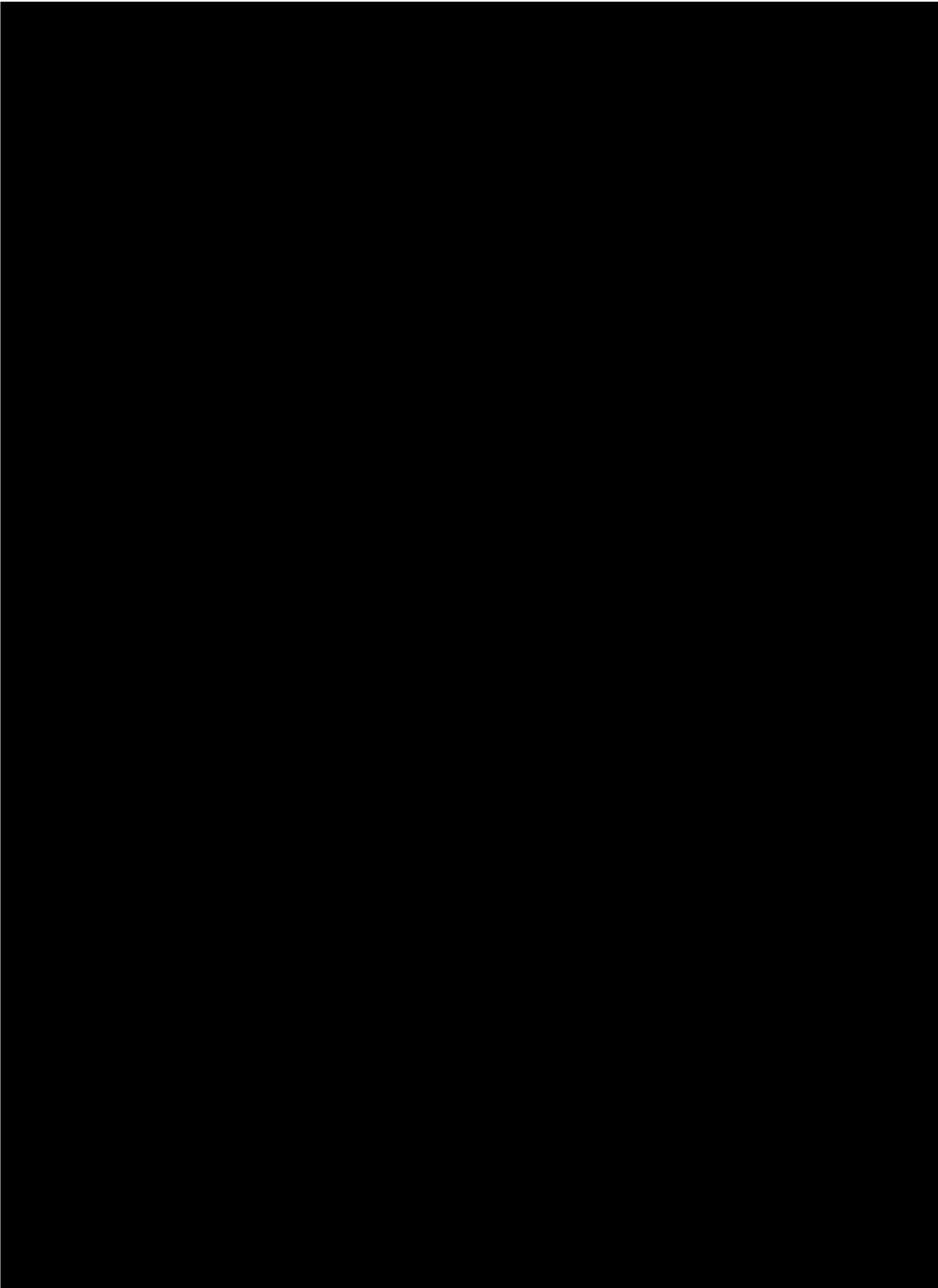


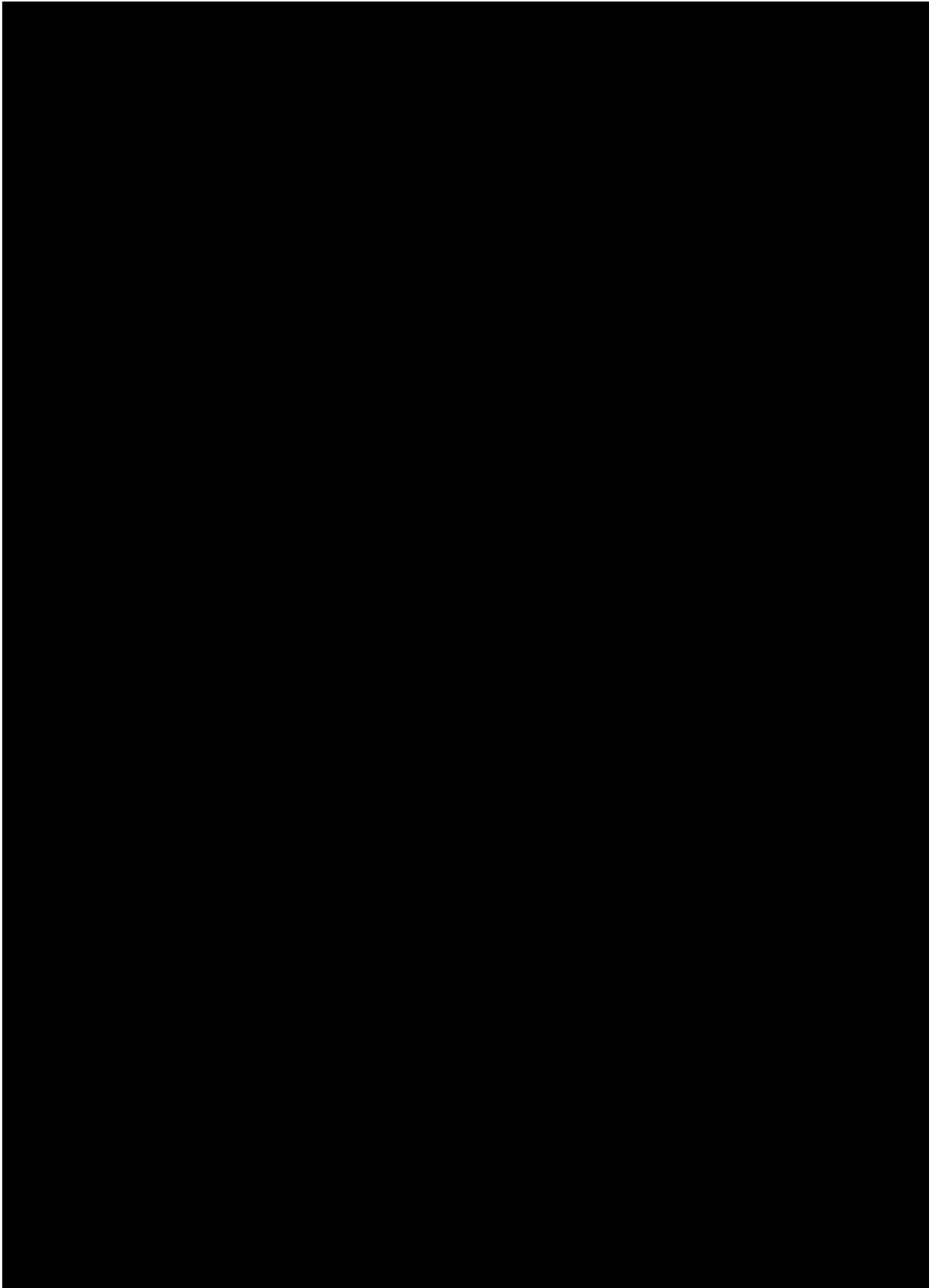
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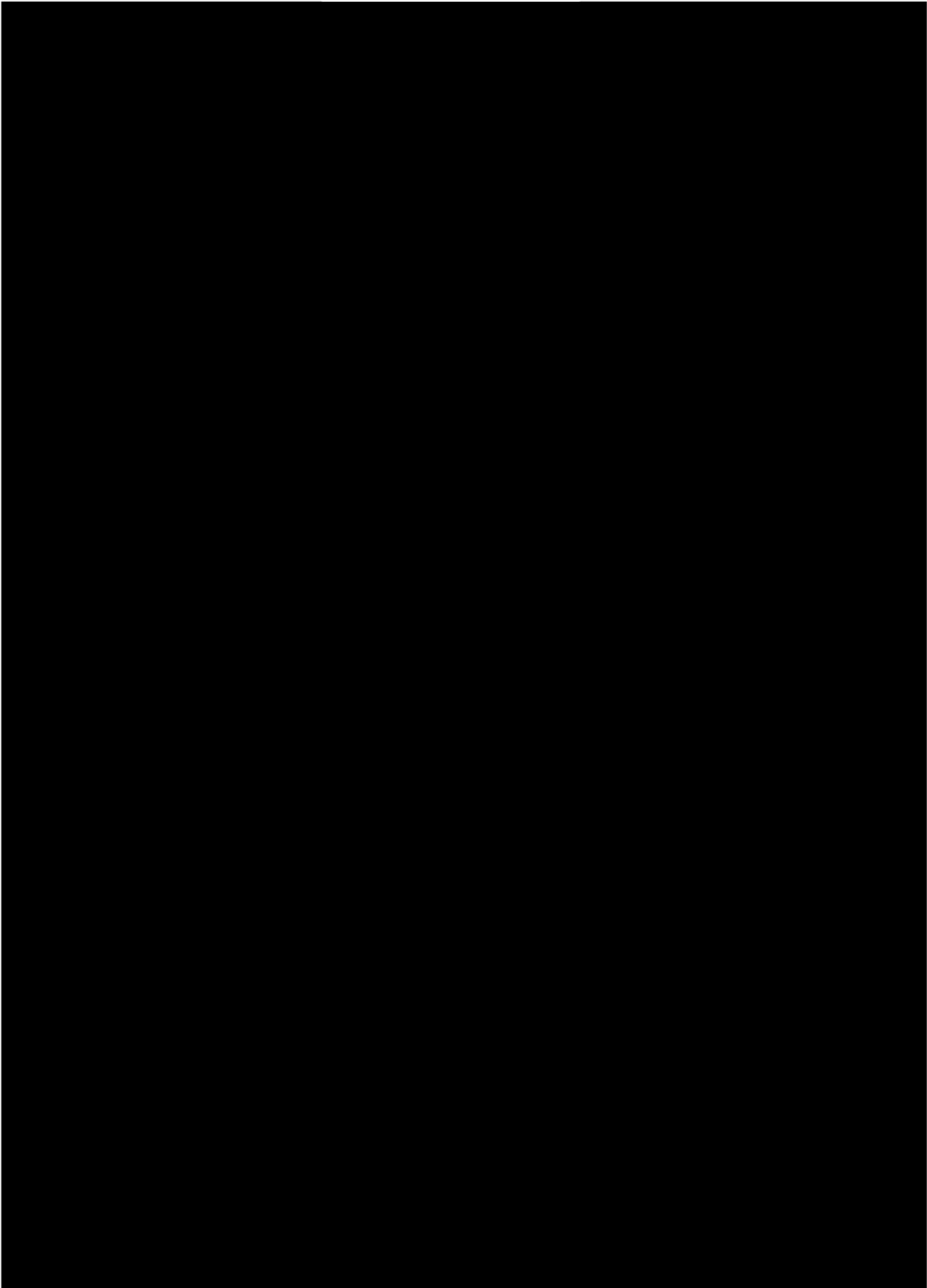


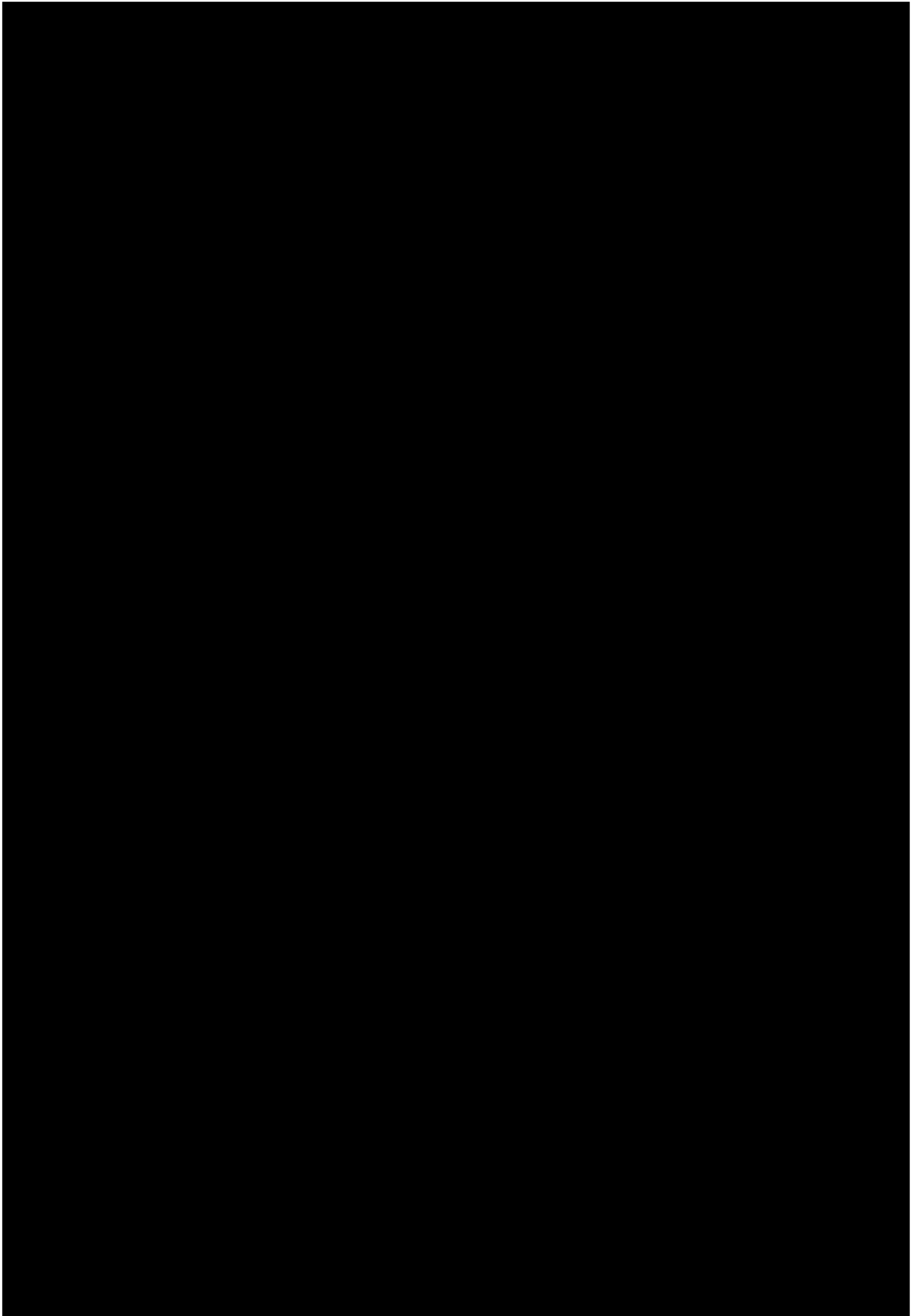


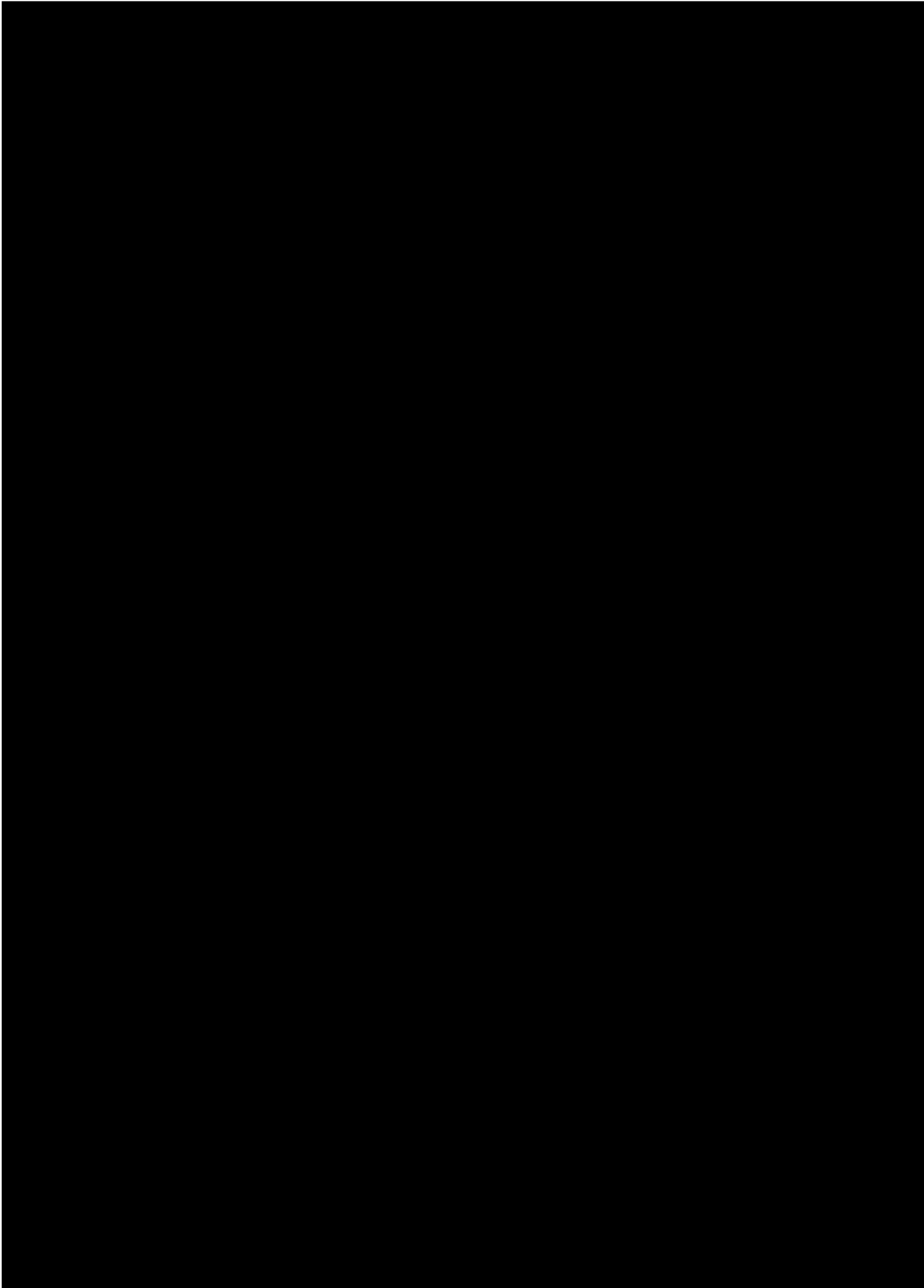


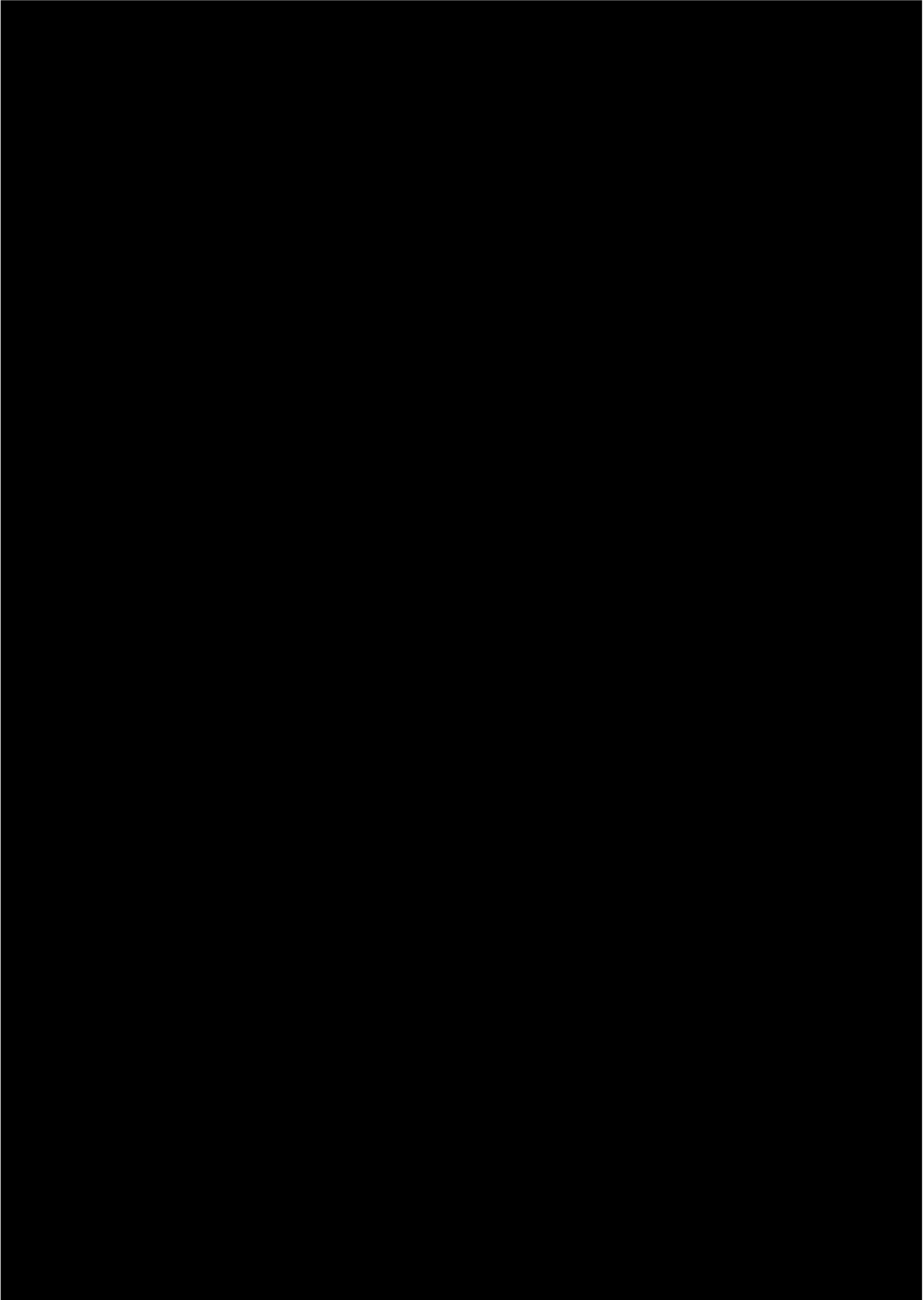


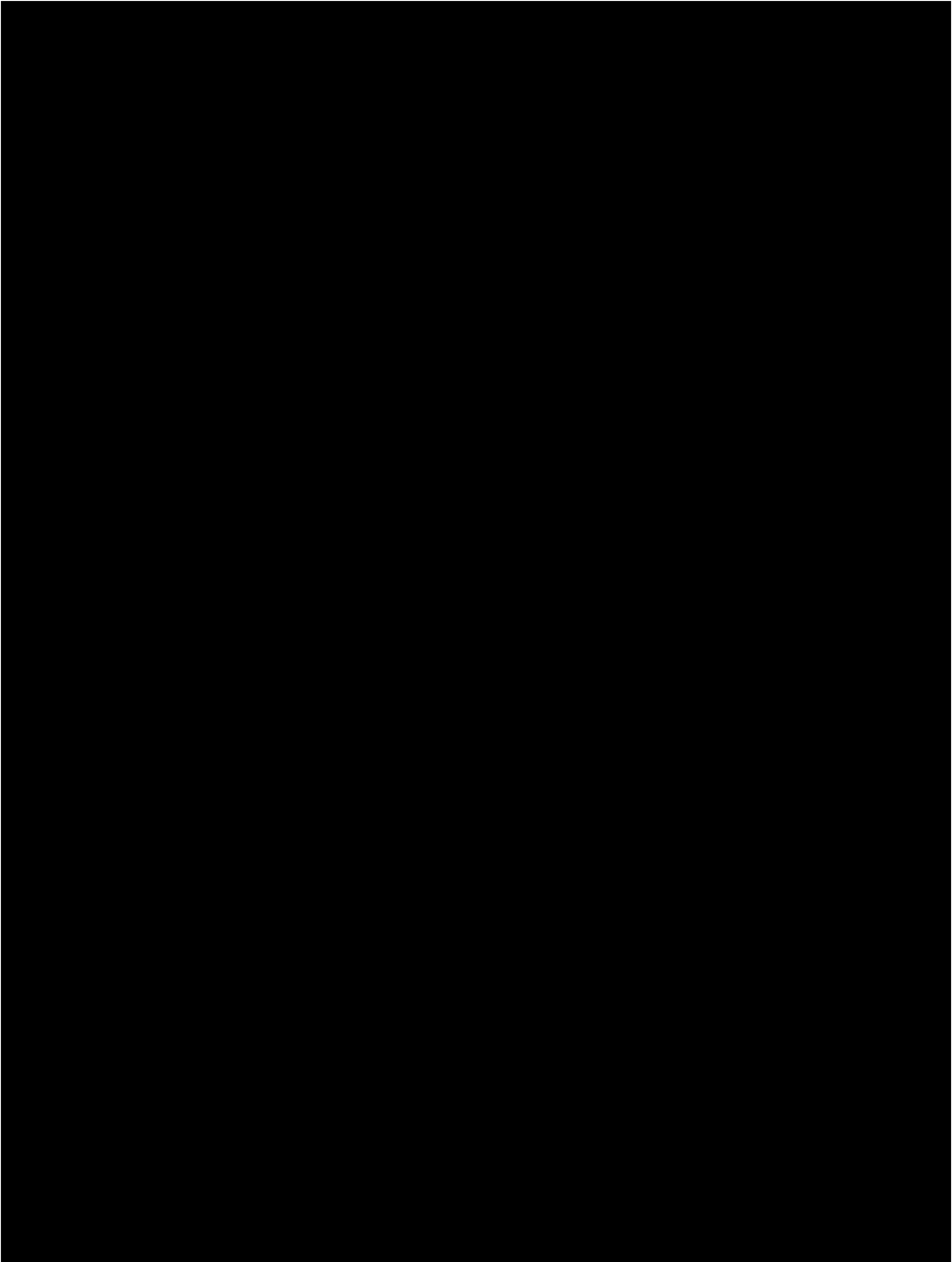


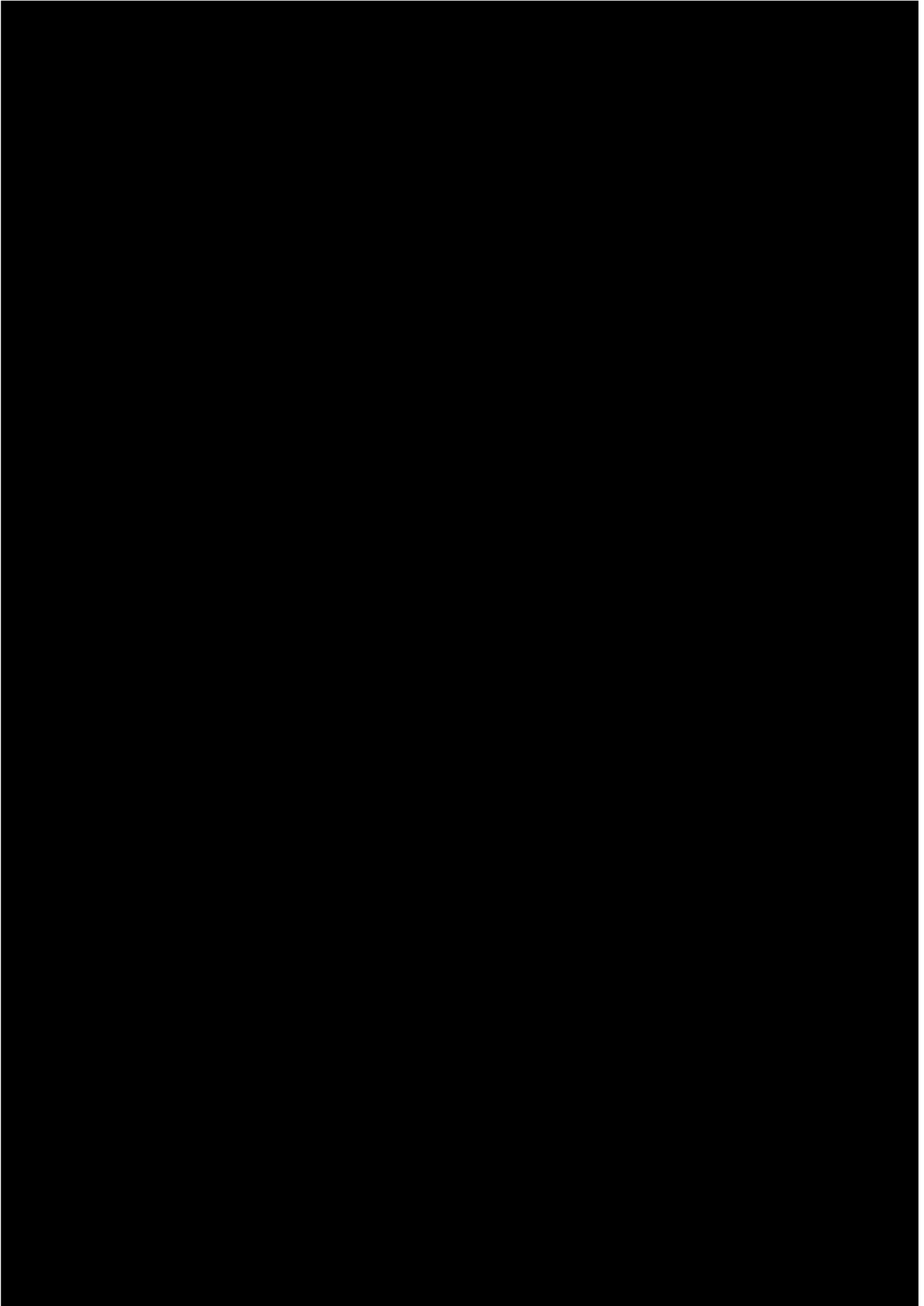


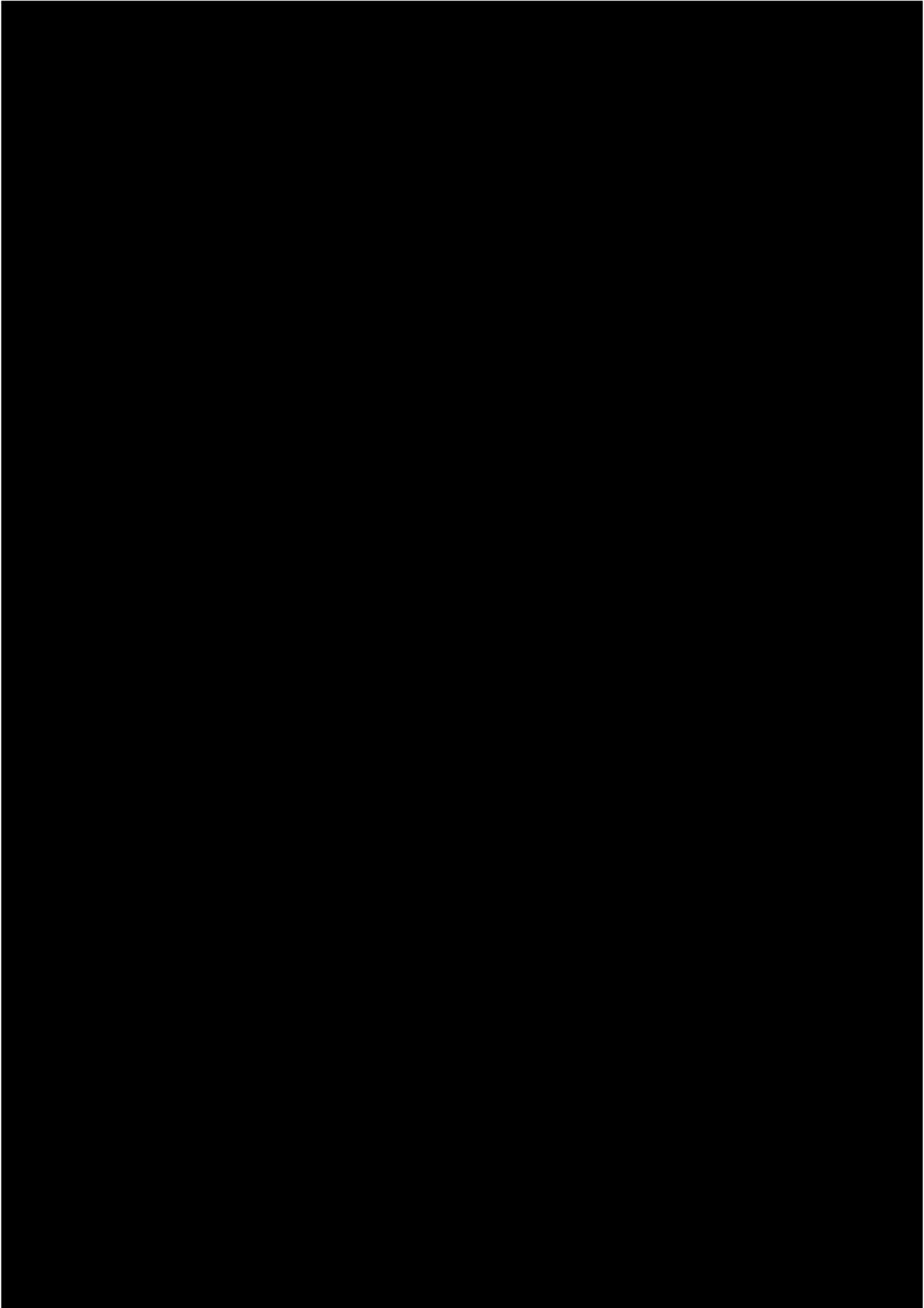


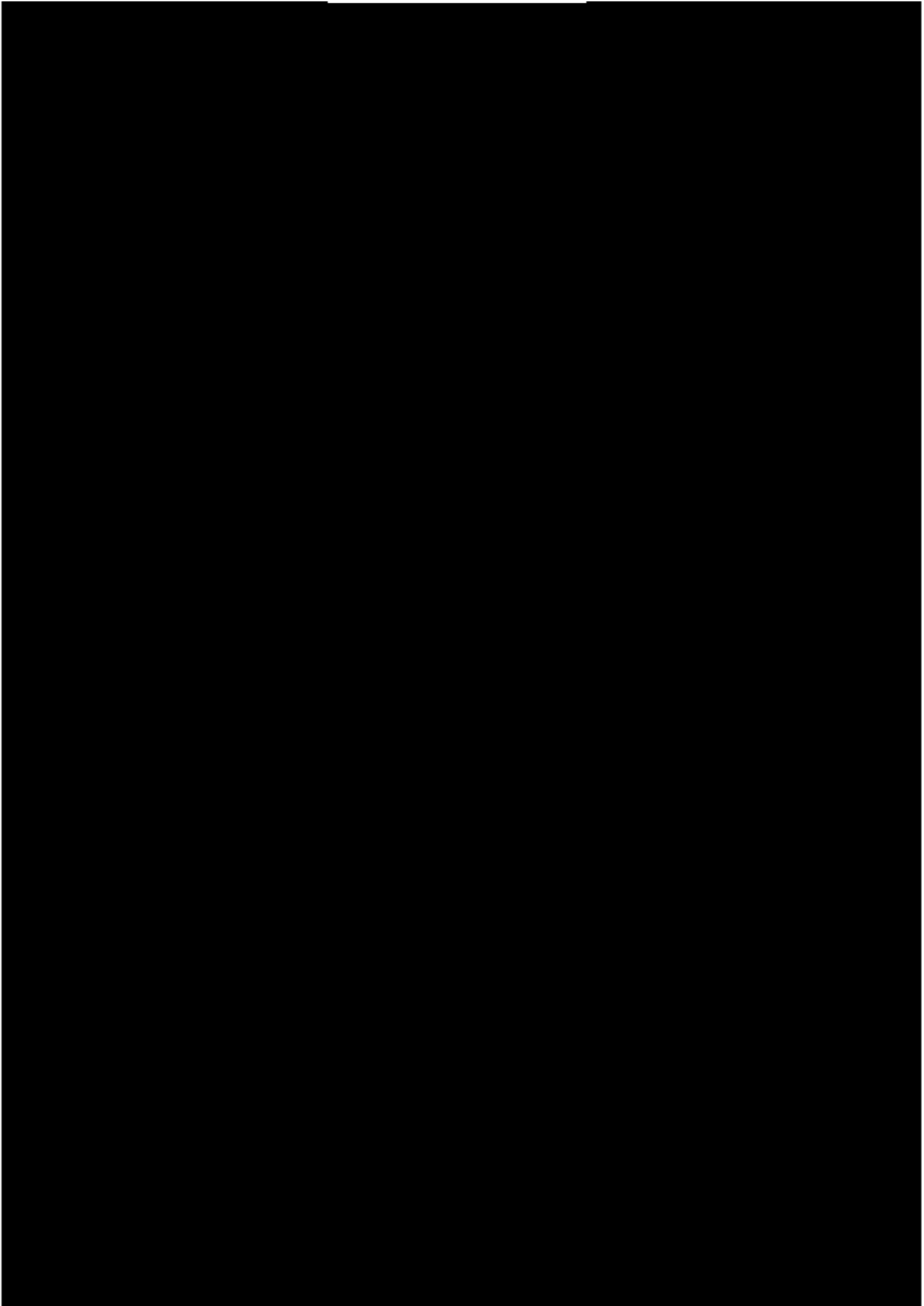


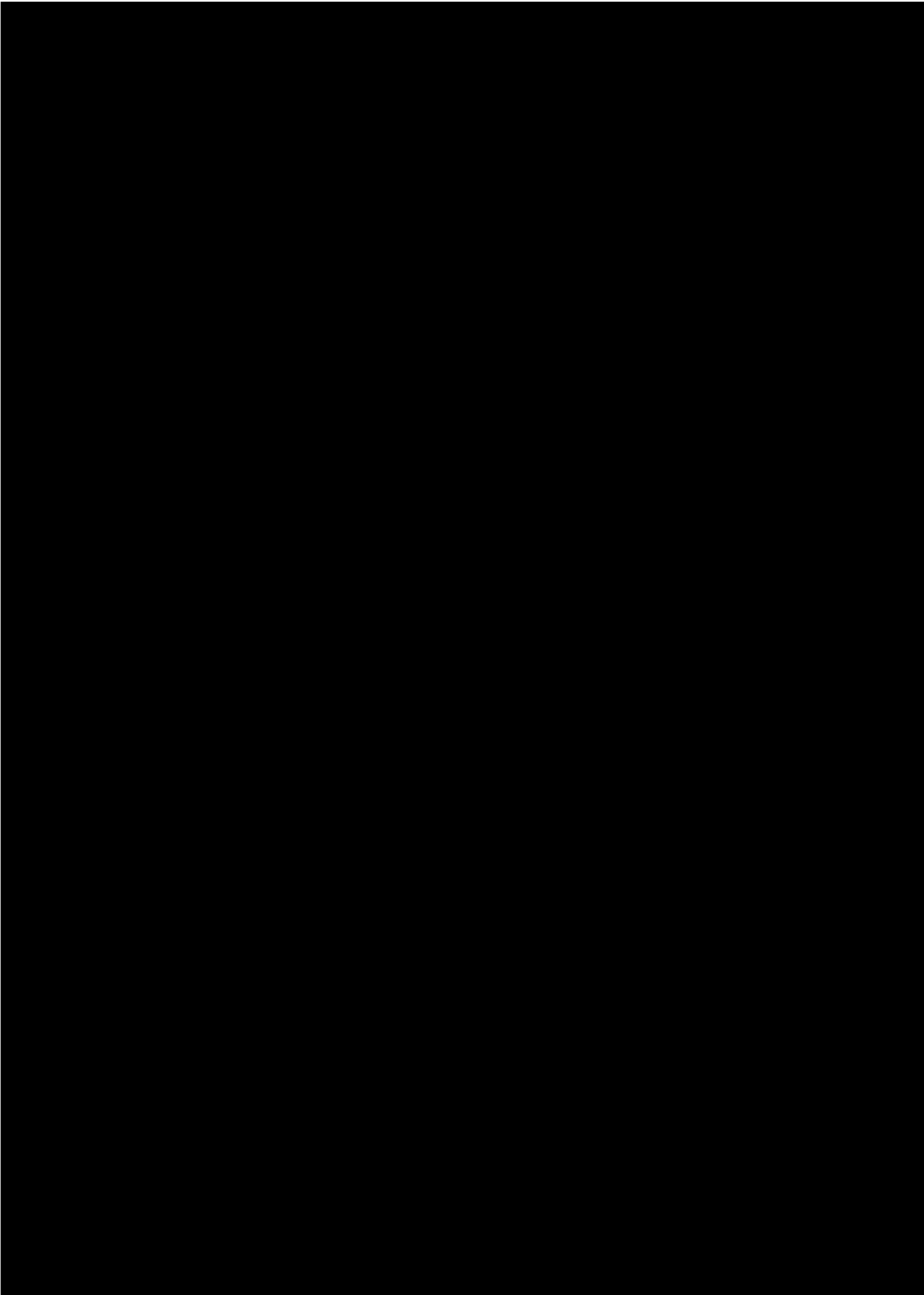


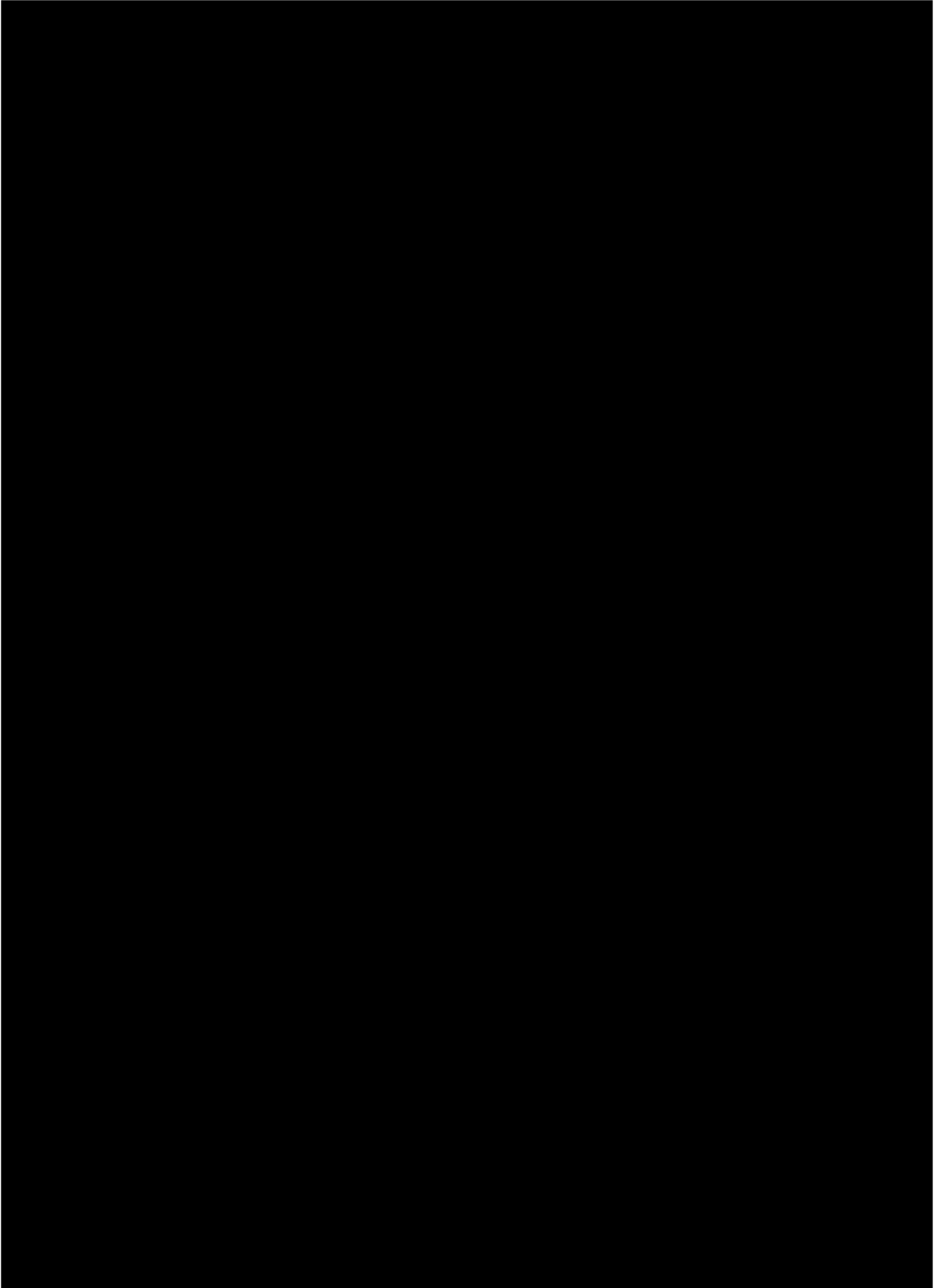


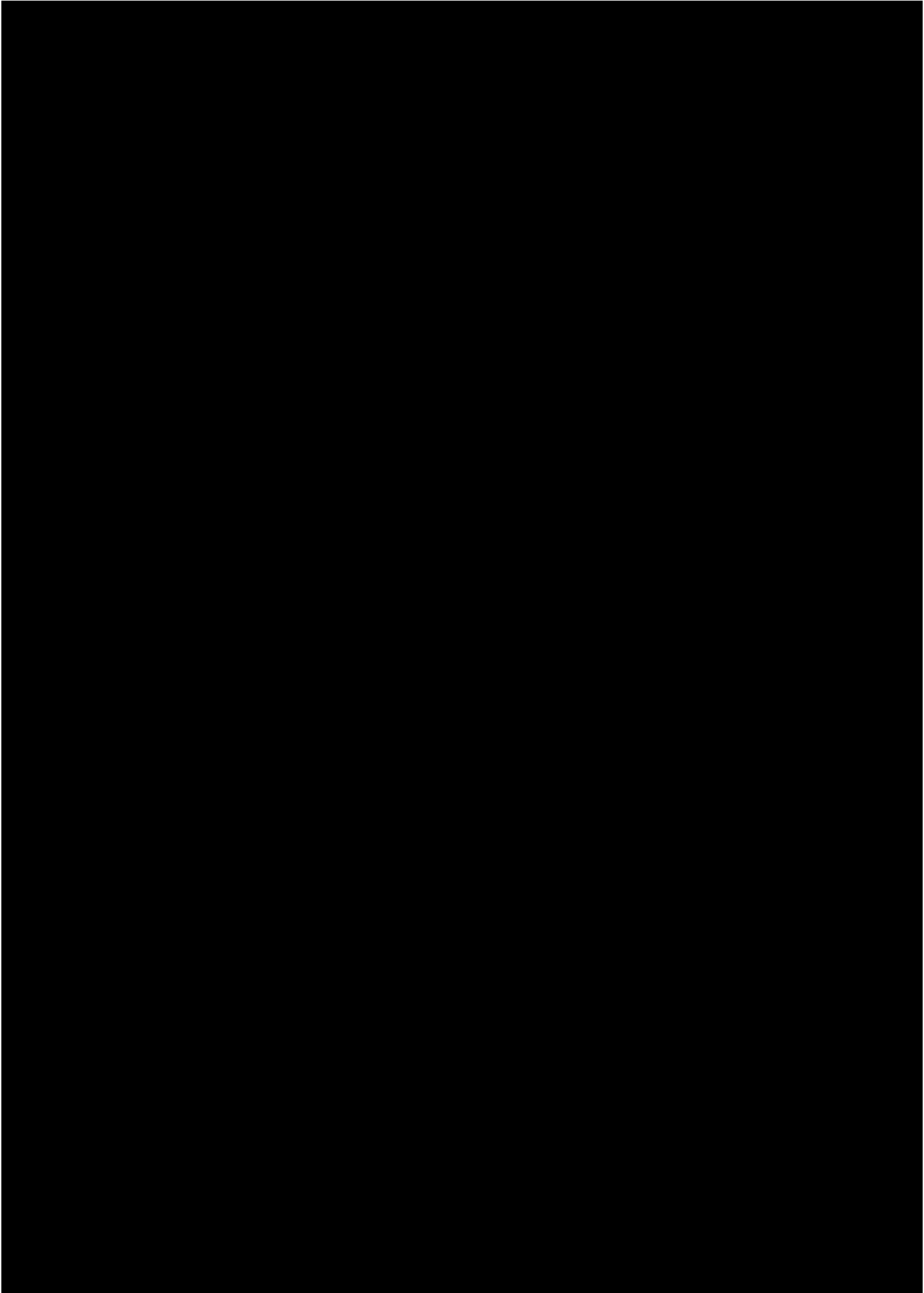


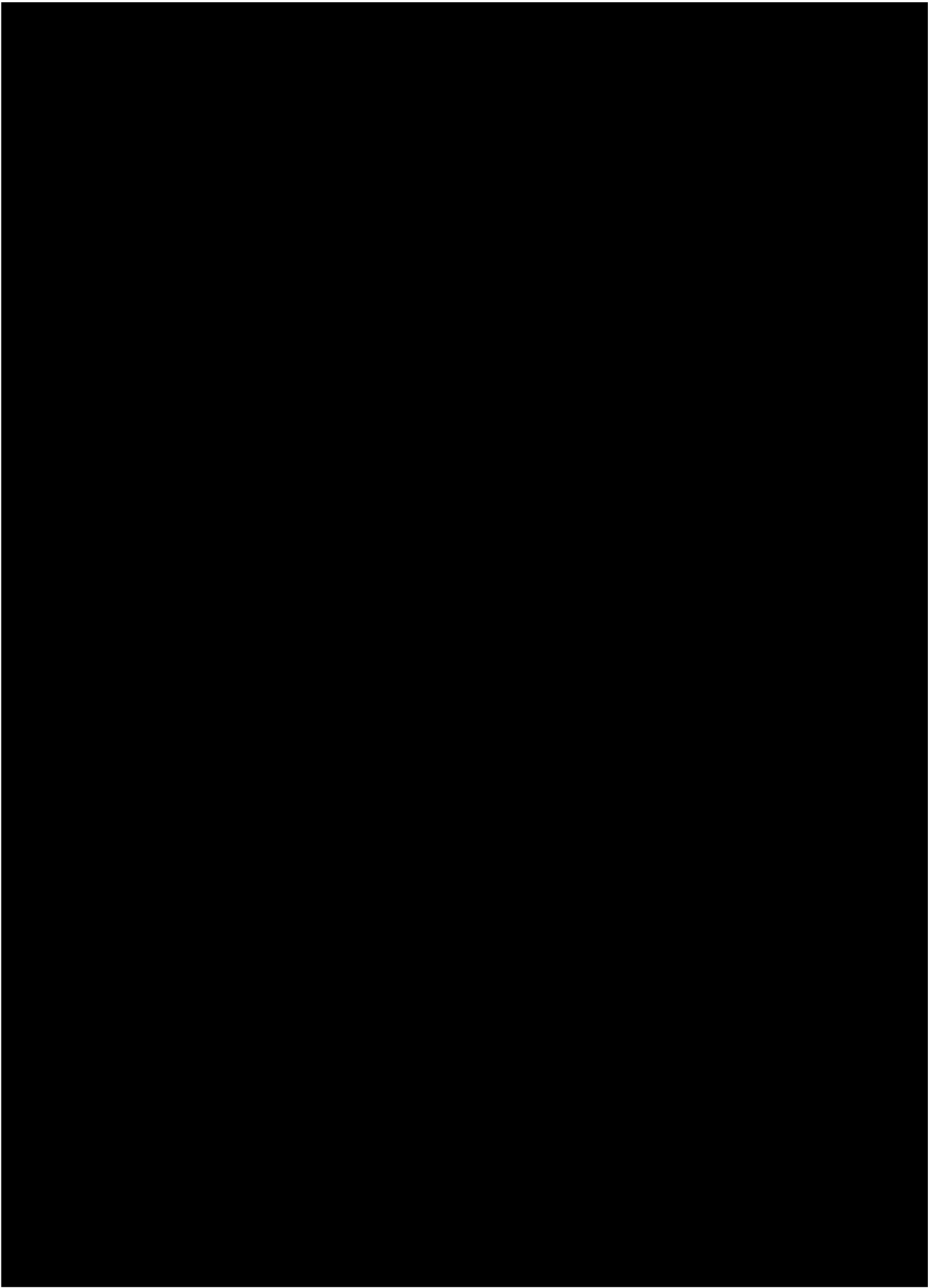


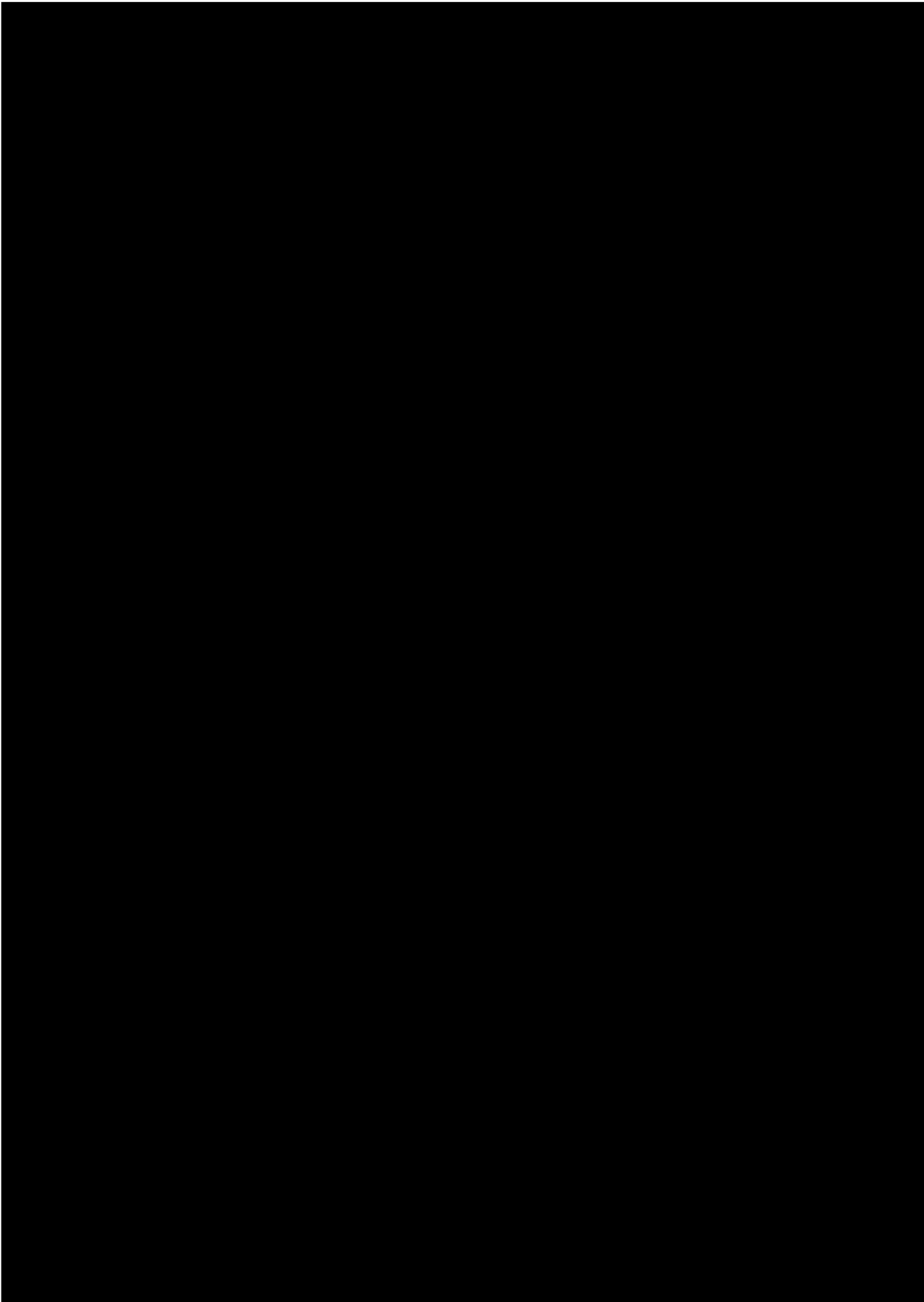


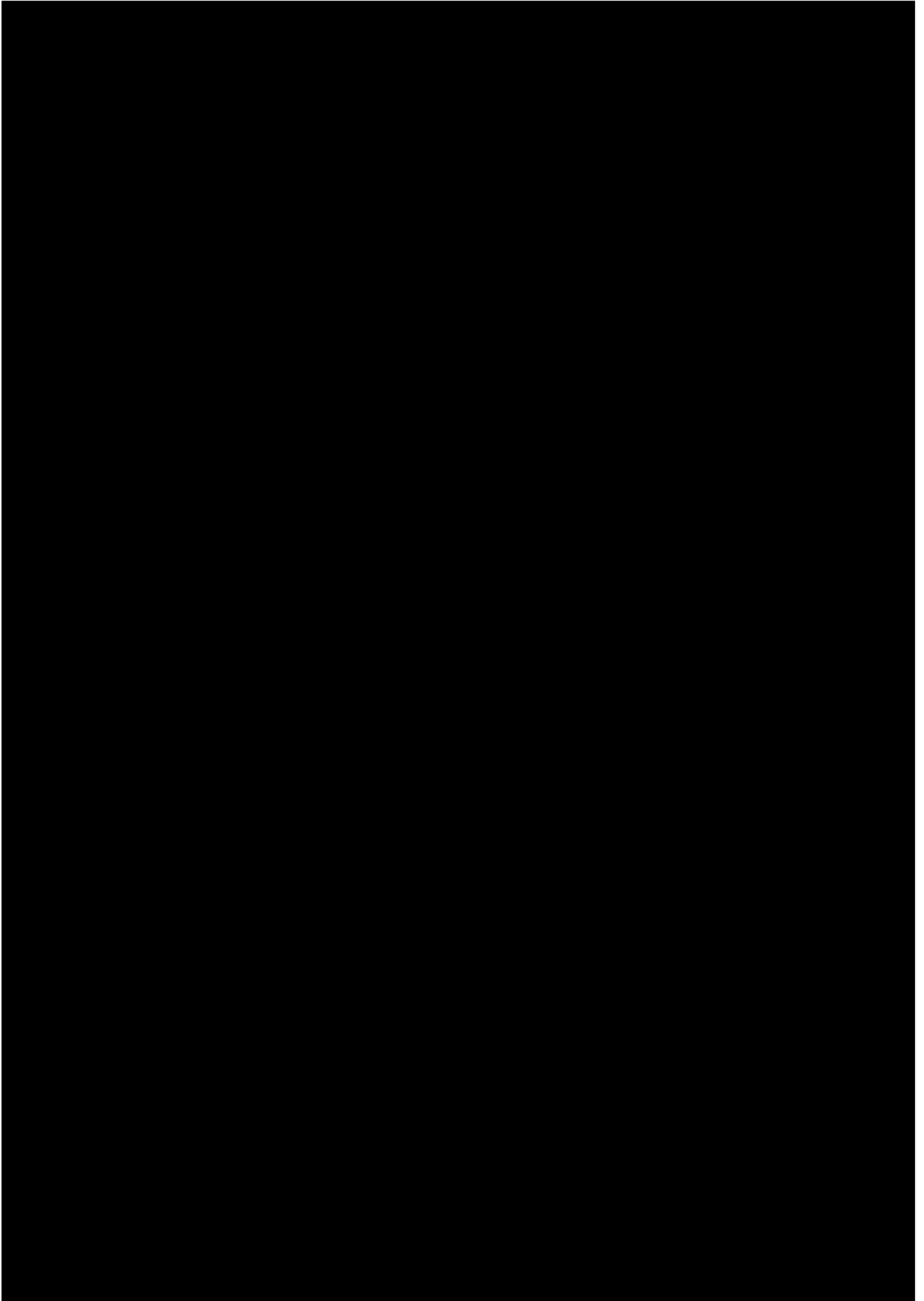


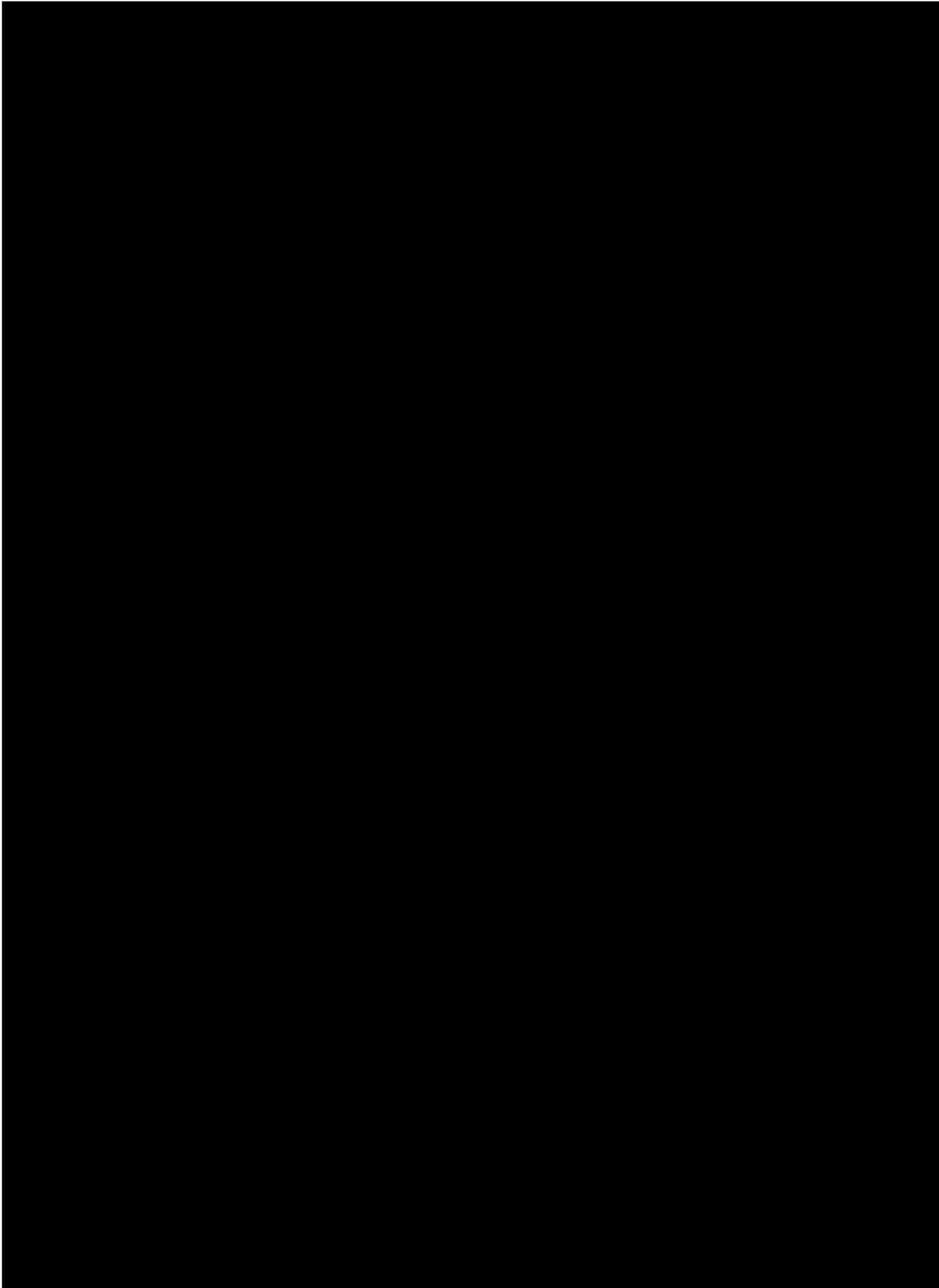


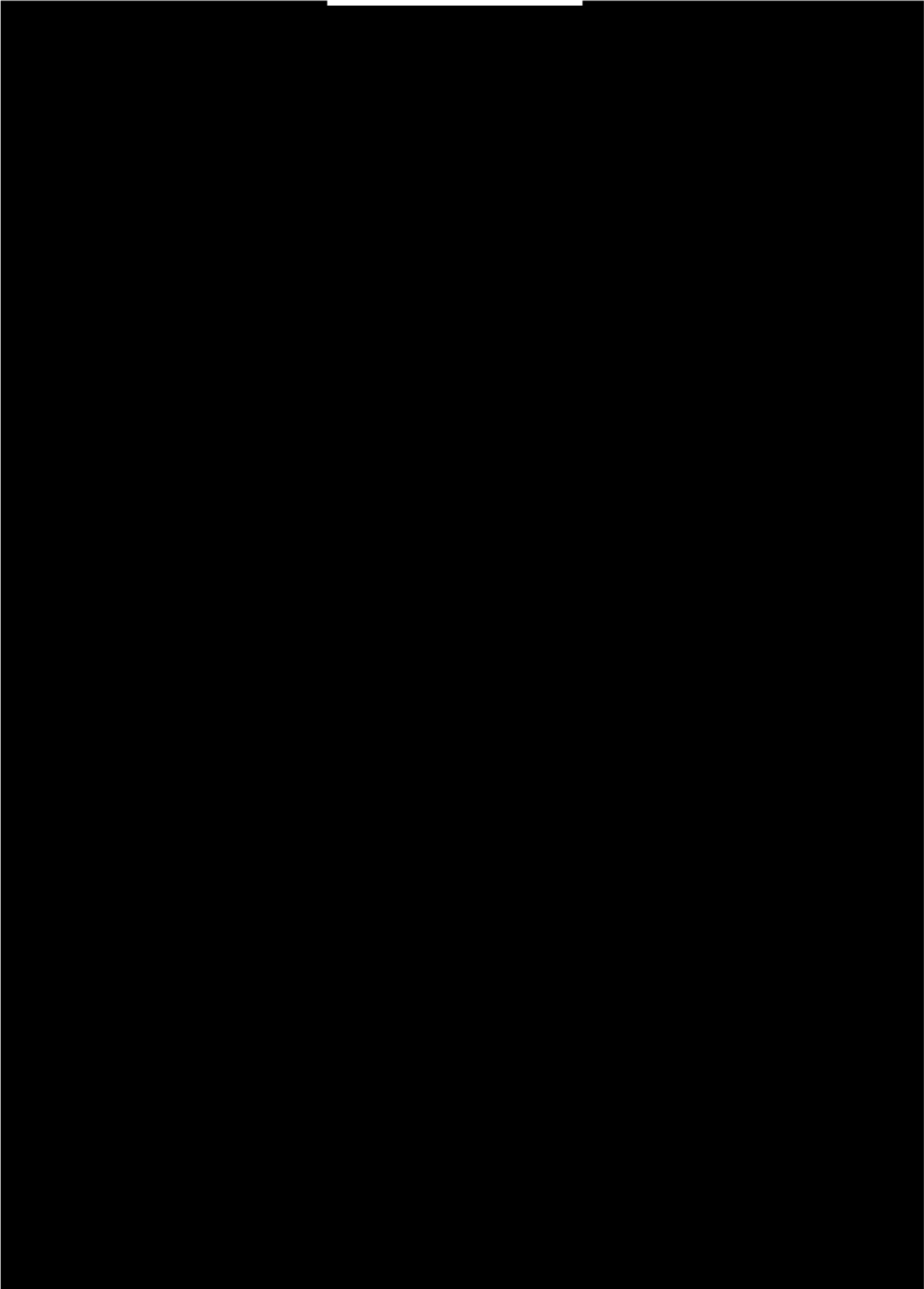


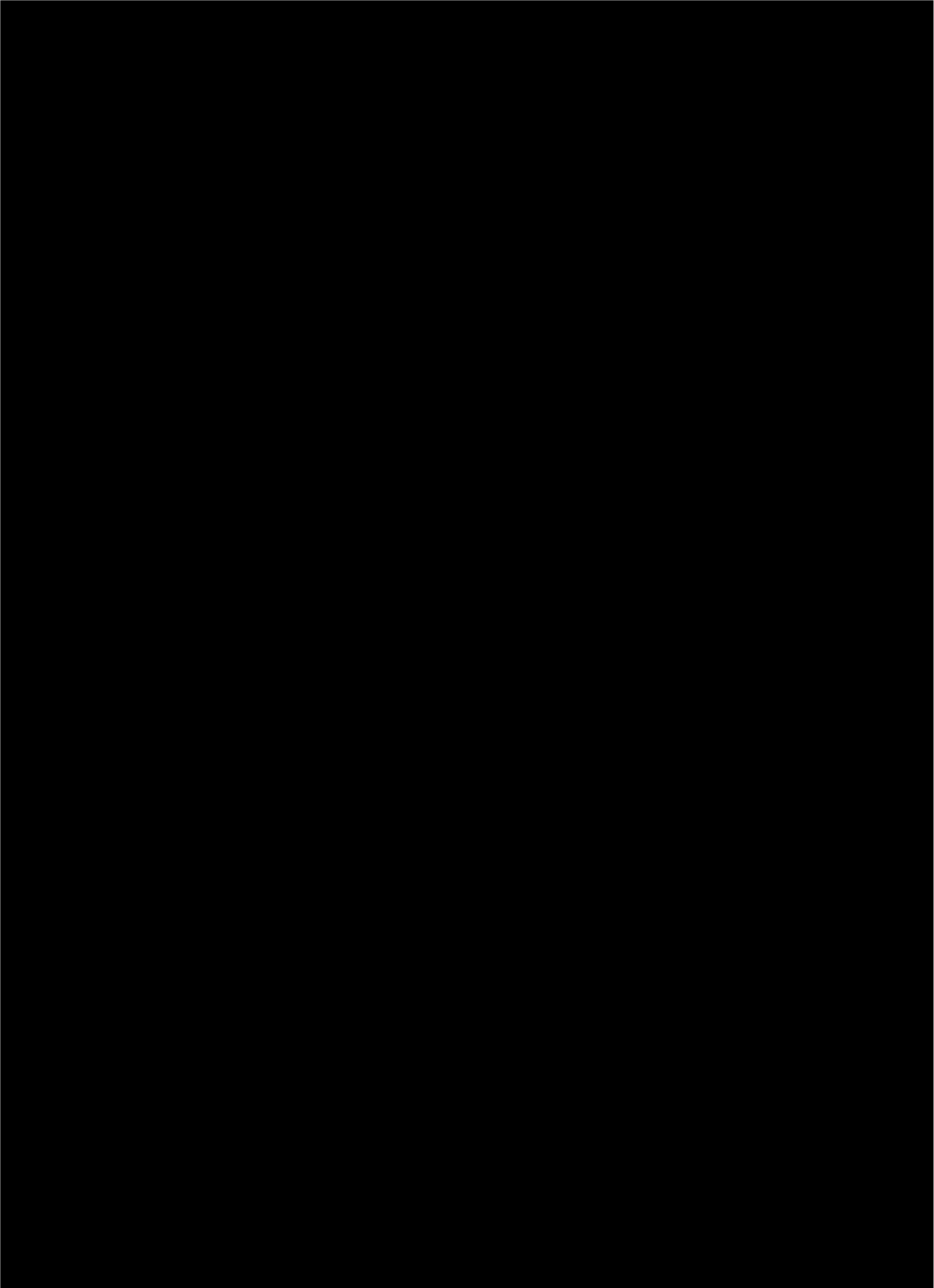


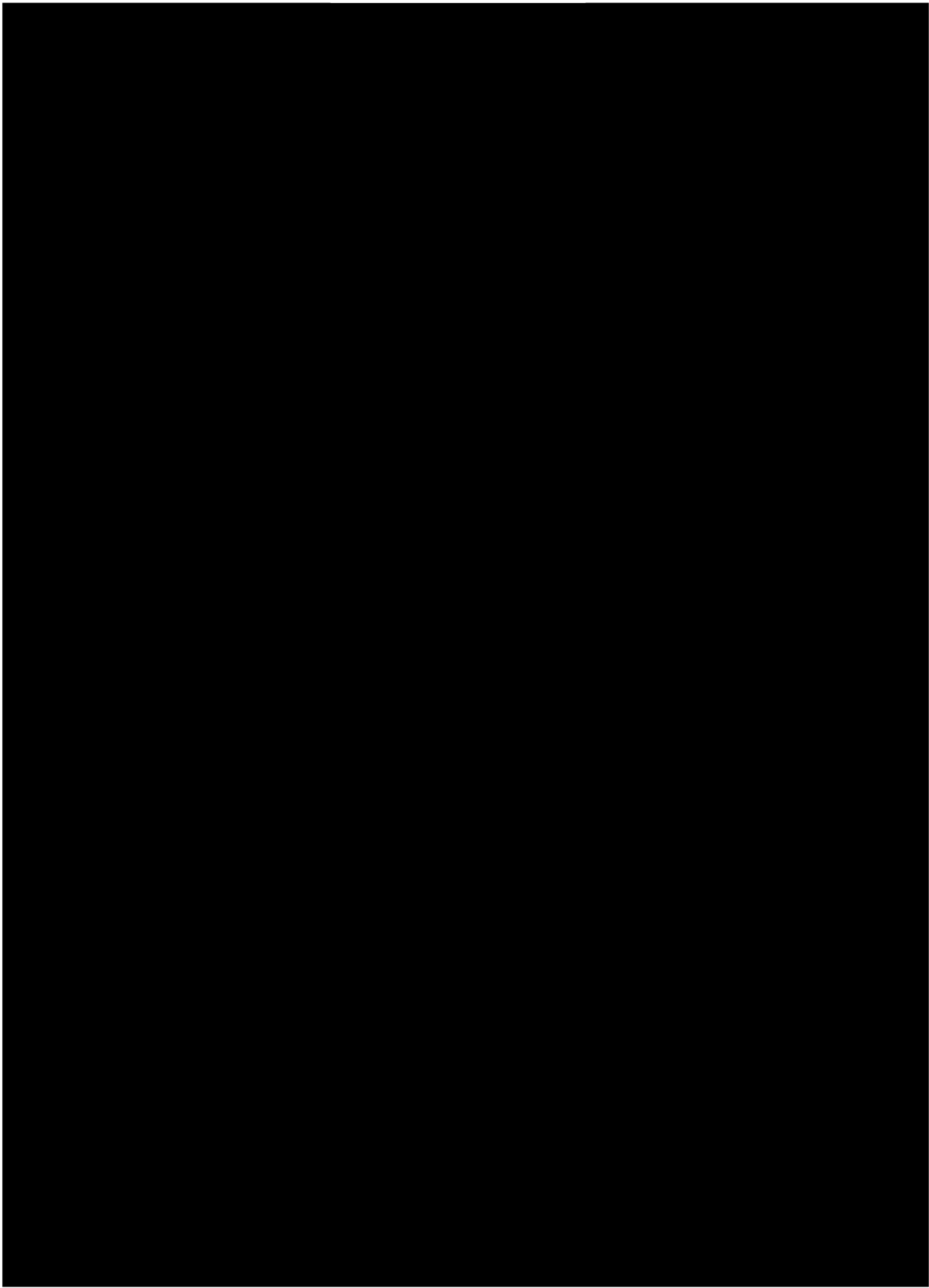


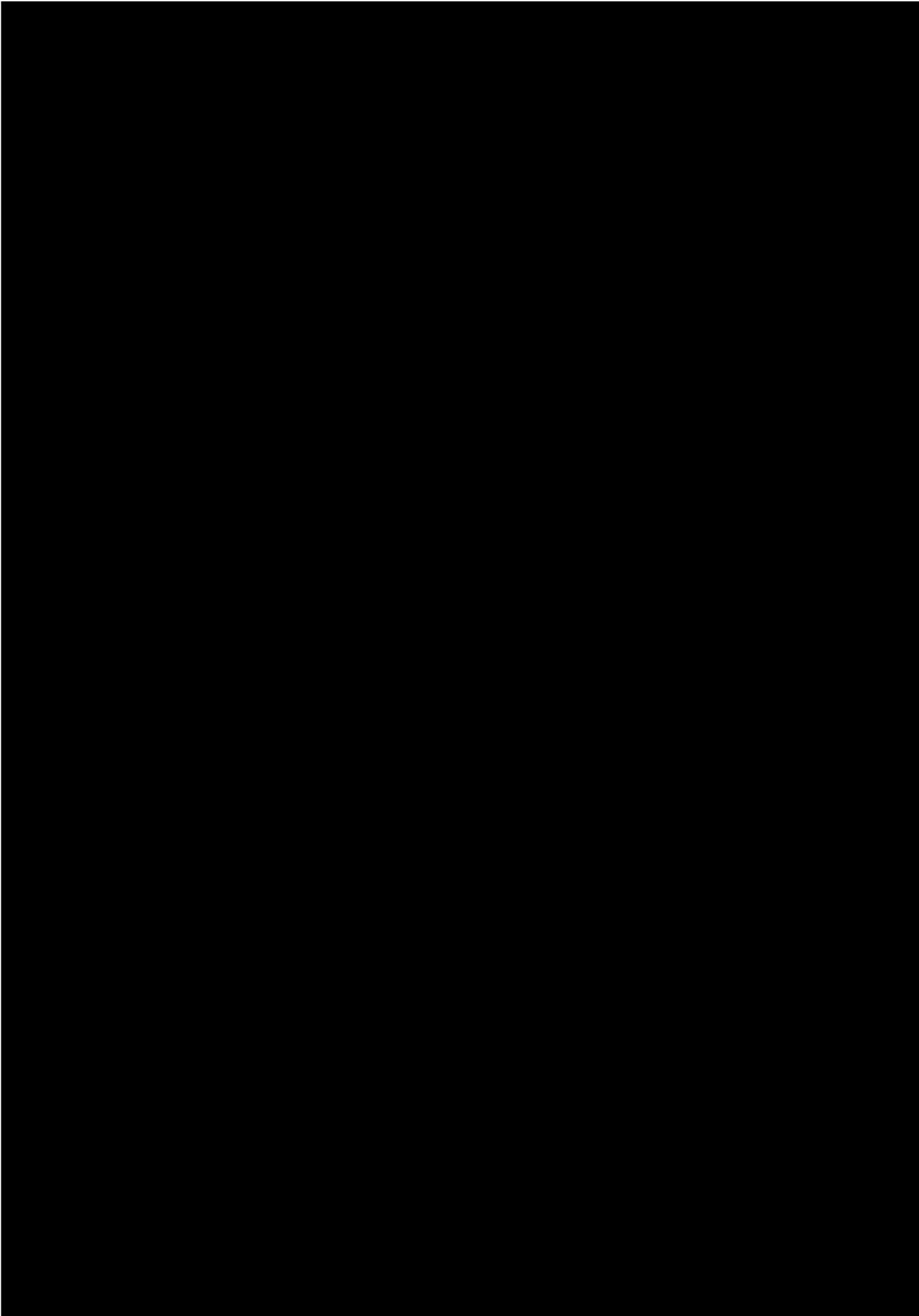


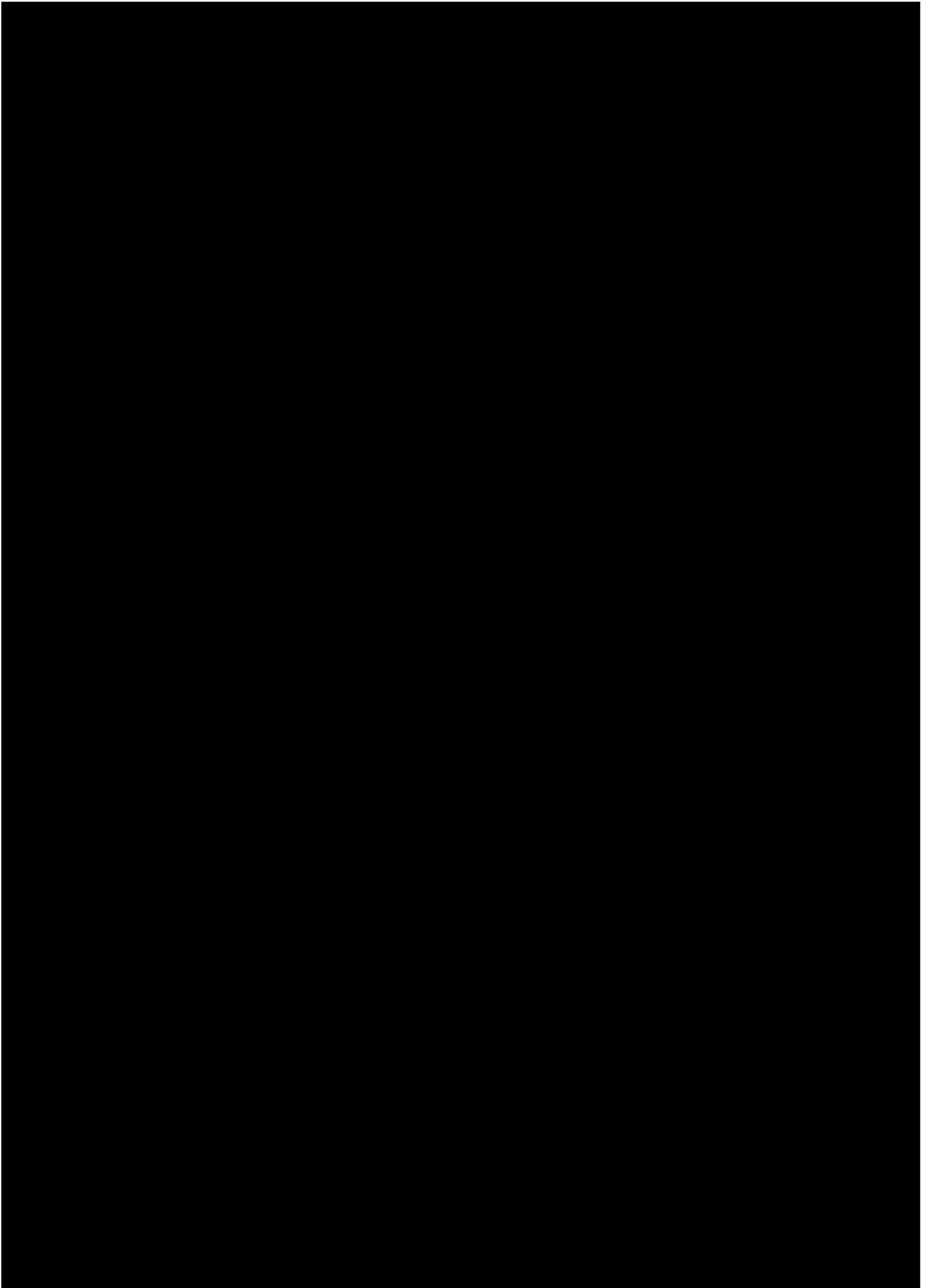










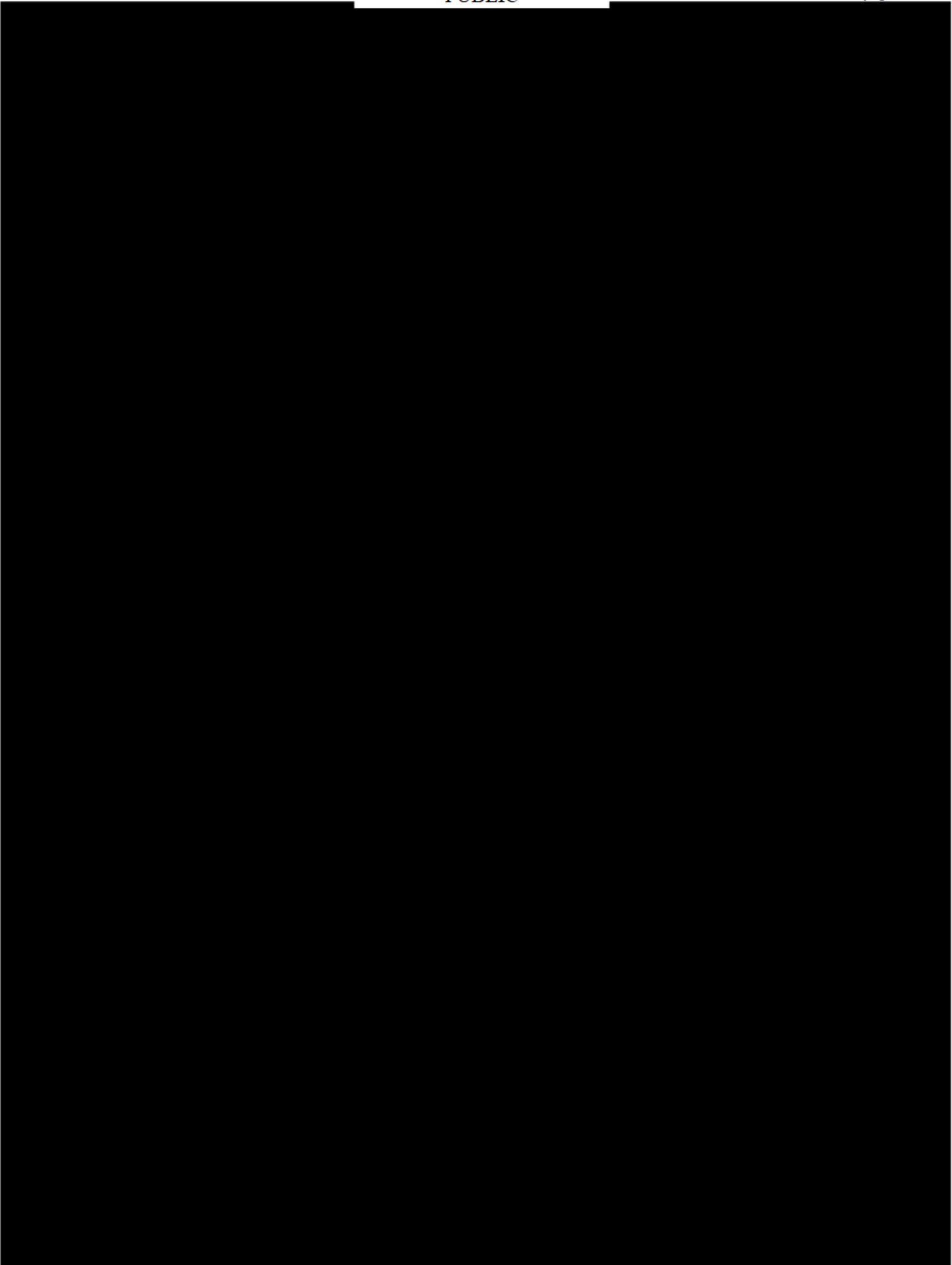


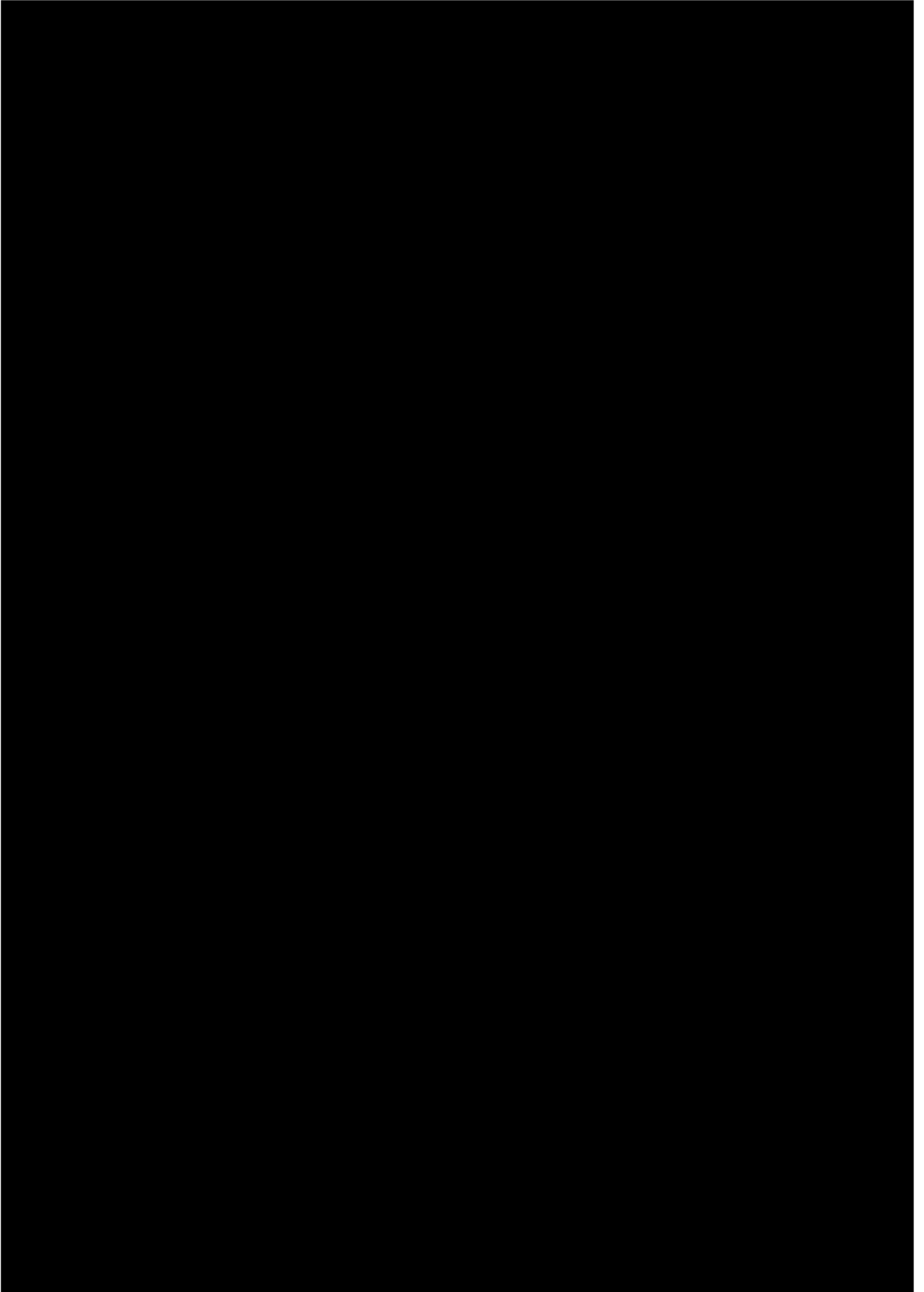
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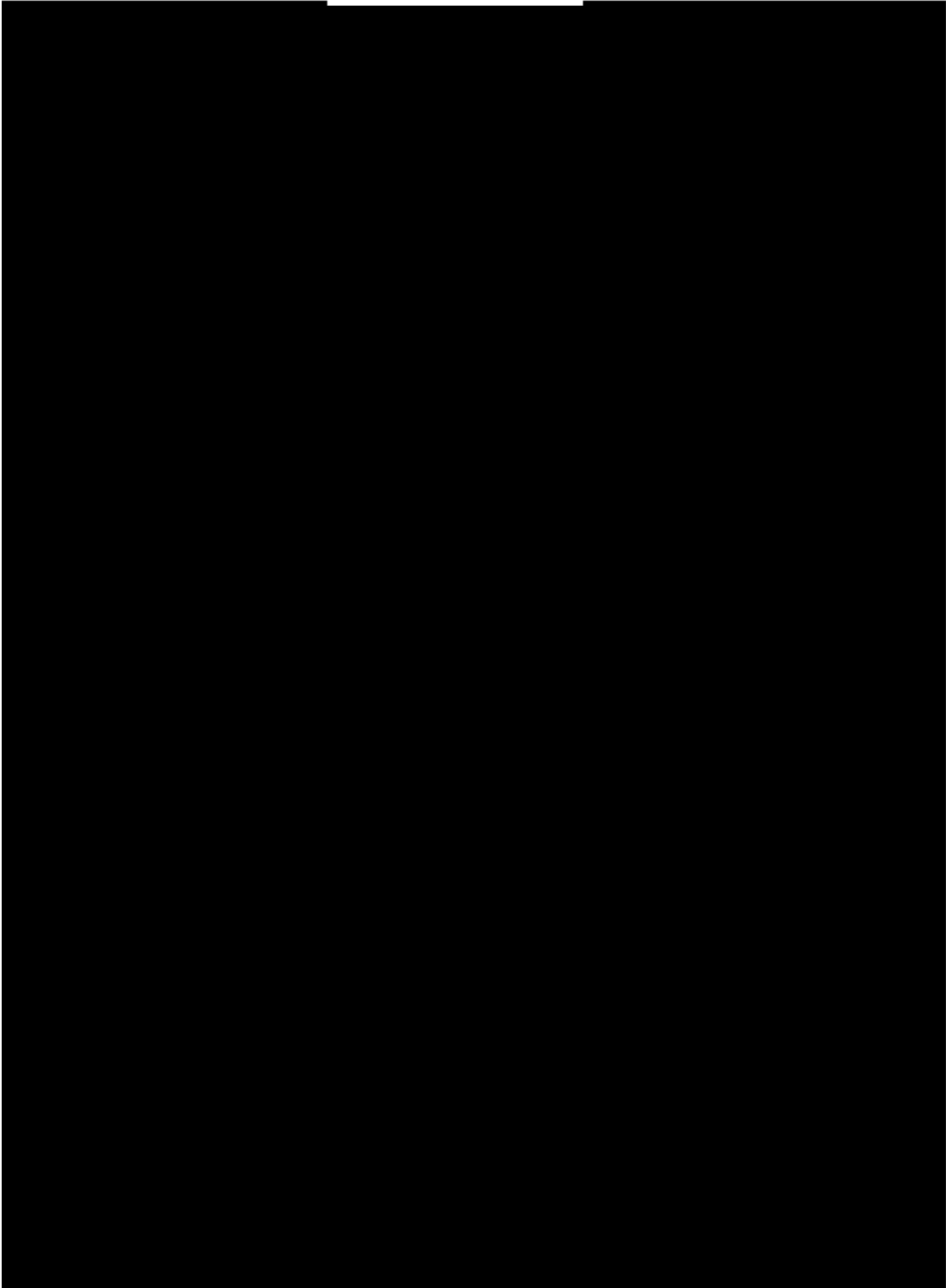
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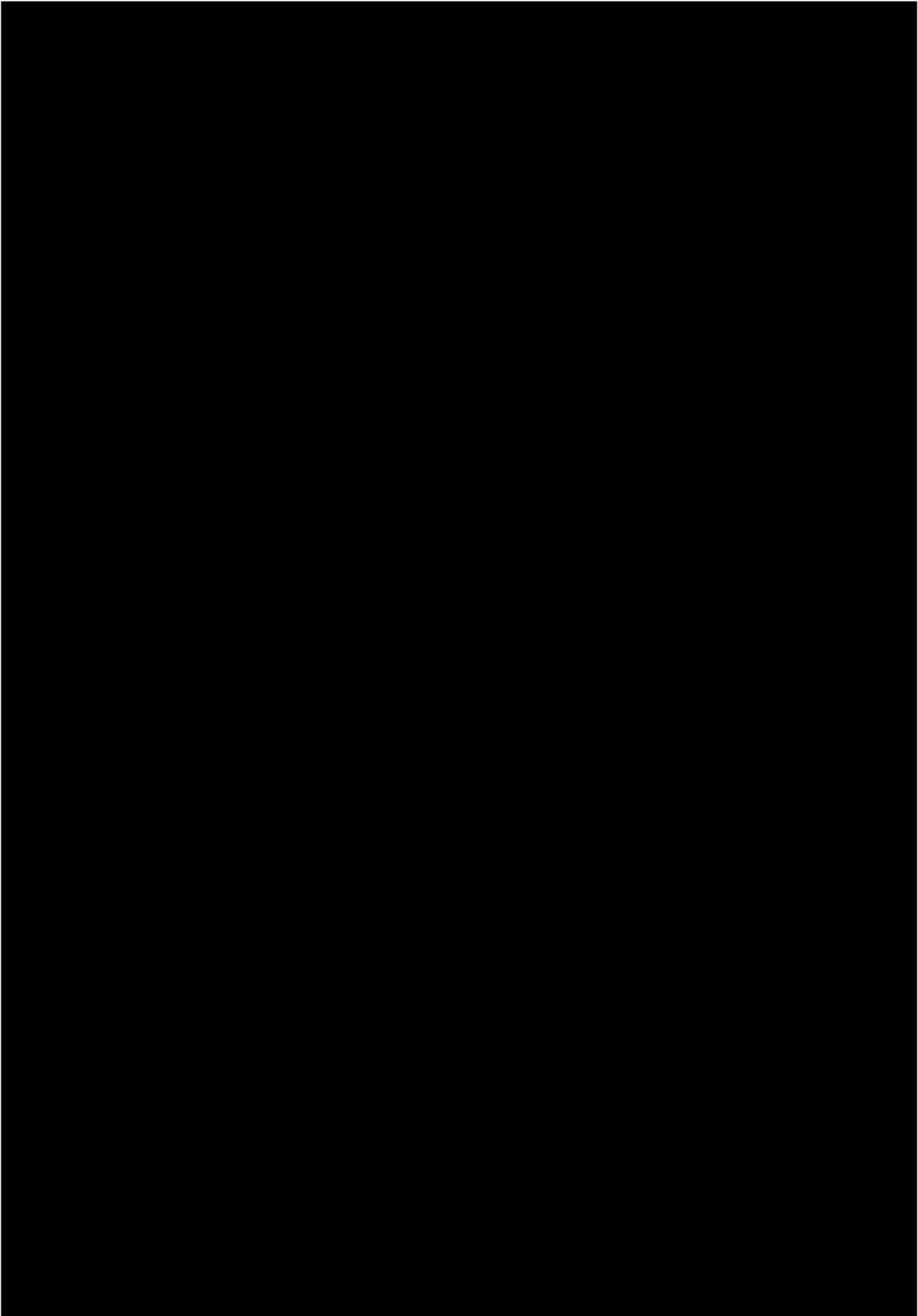


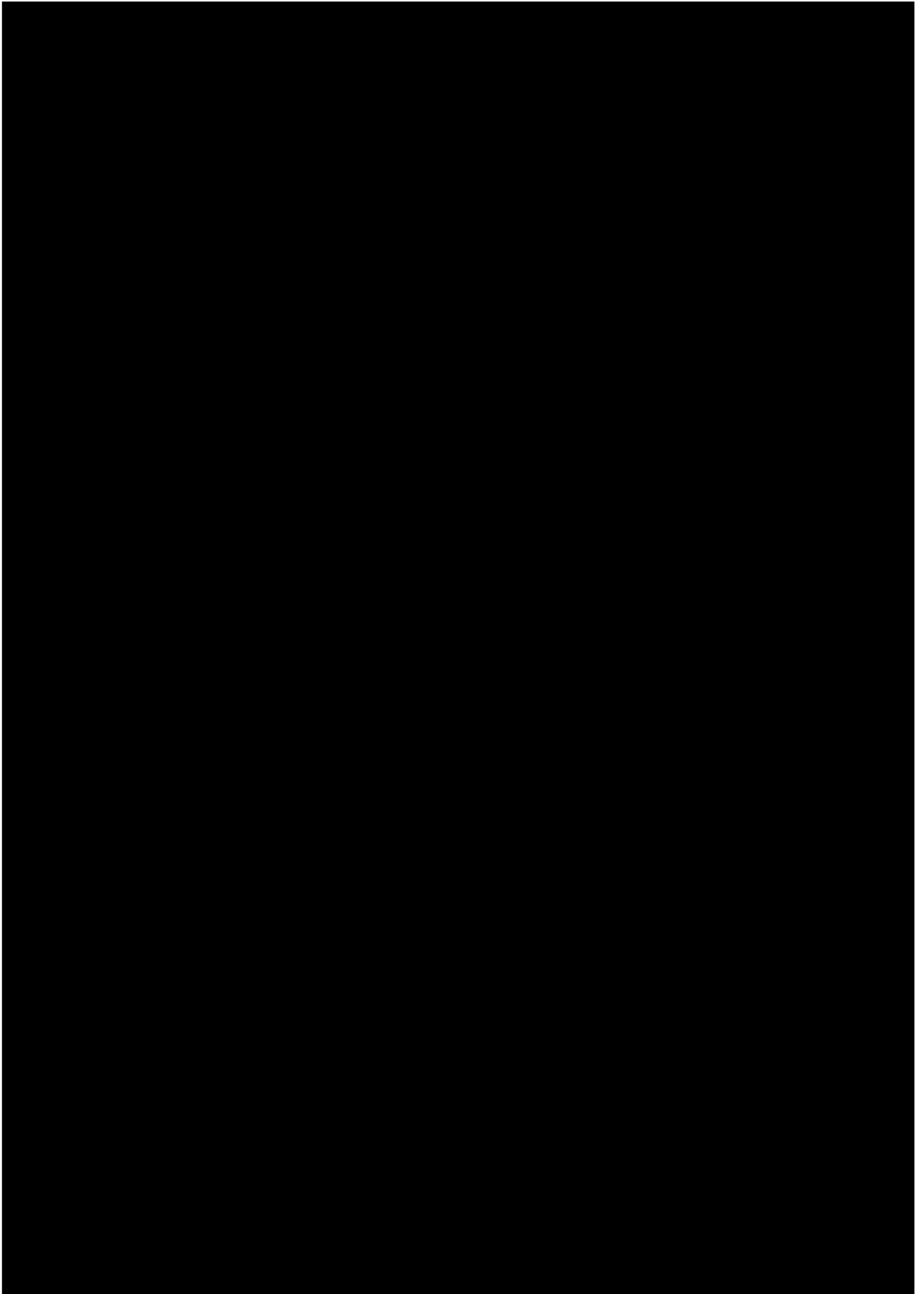
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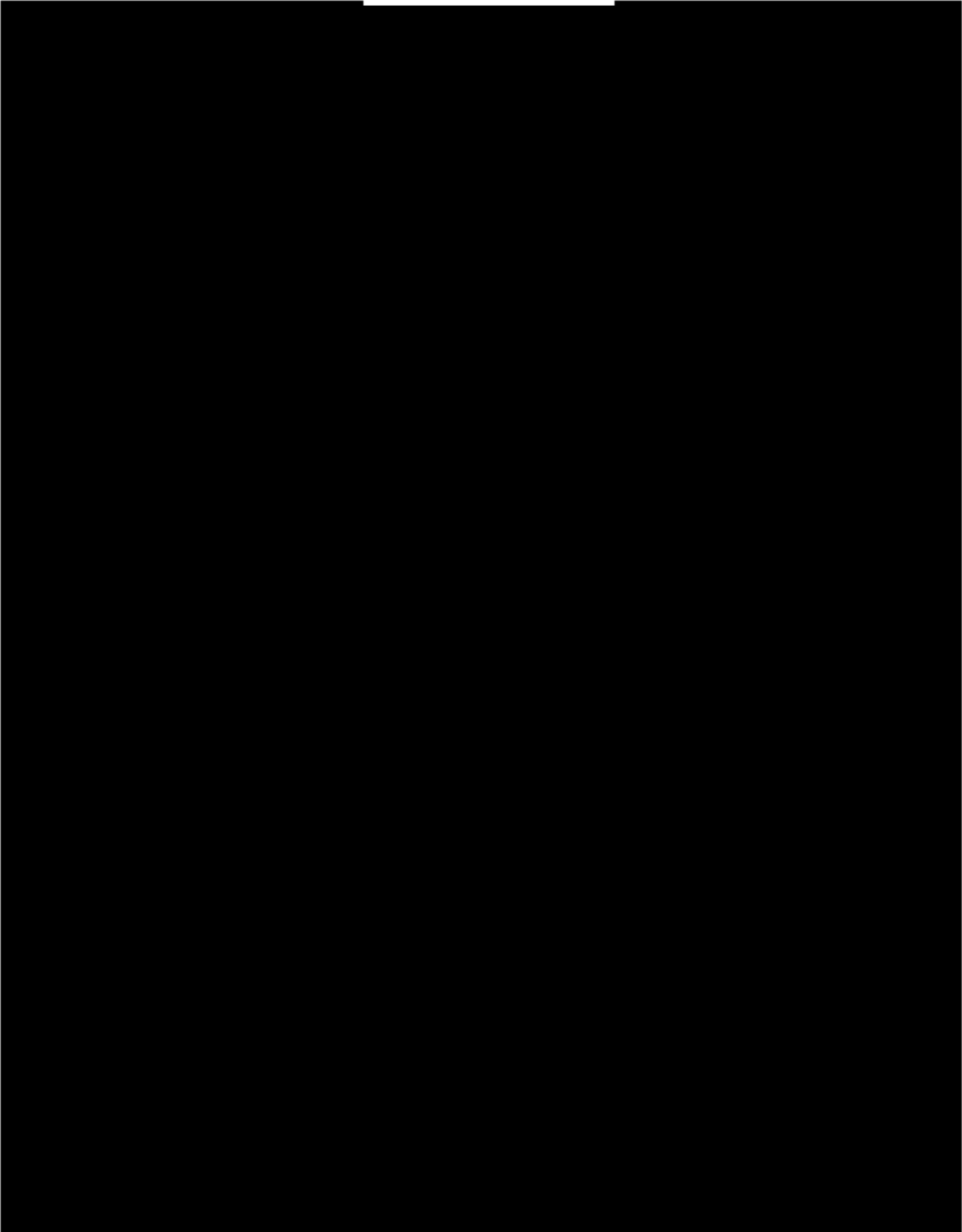


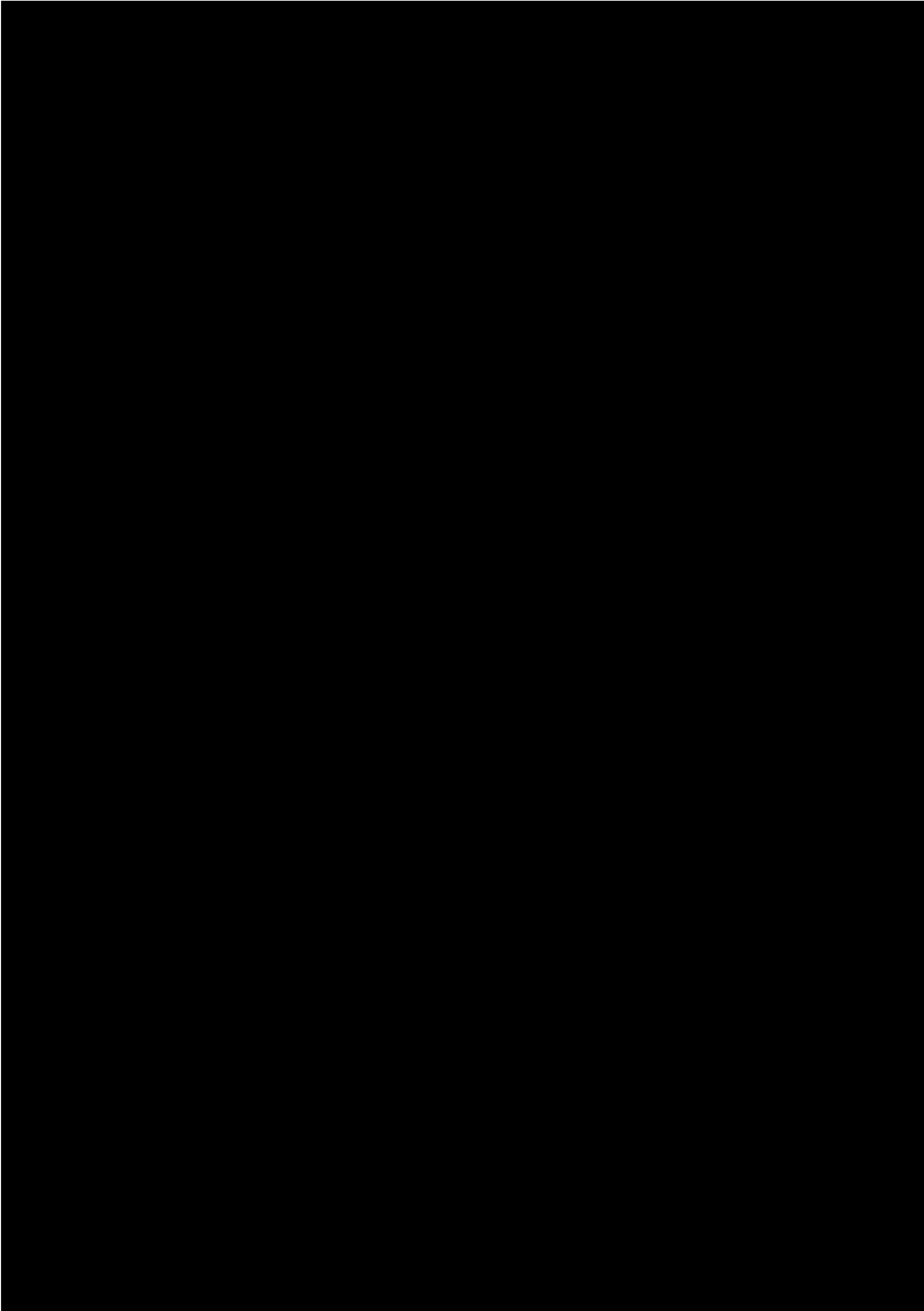
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AFFIDAVIT OF JEAN-FRANCOIS LESCADRES
SWORN BEFORE ME THIS 28TH DAY OF JULY, 2022

France Fafard



A Commissioner for Taking Affidavits
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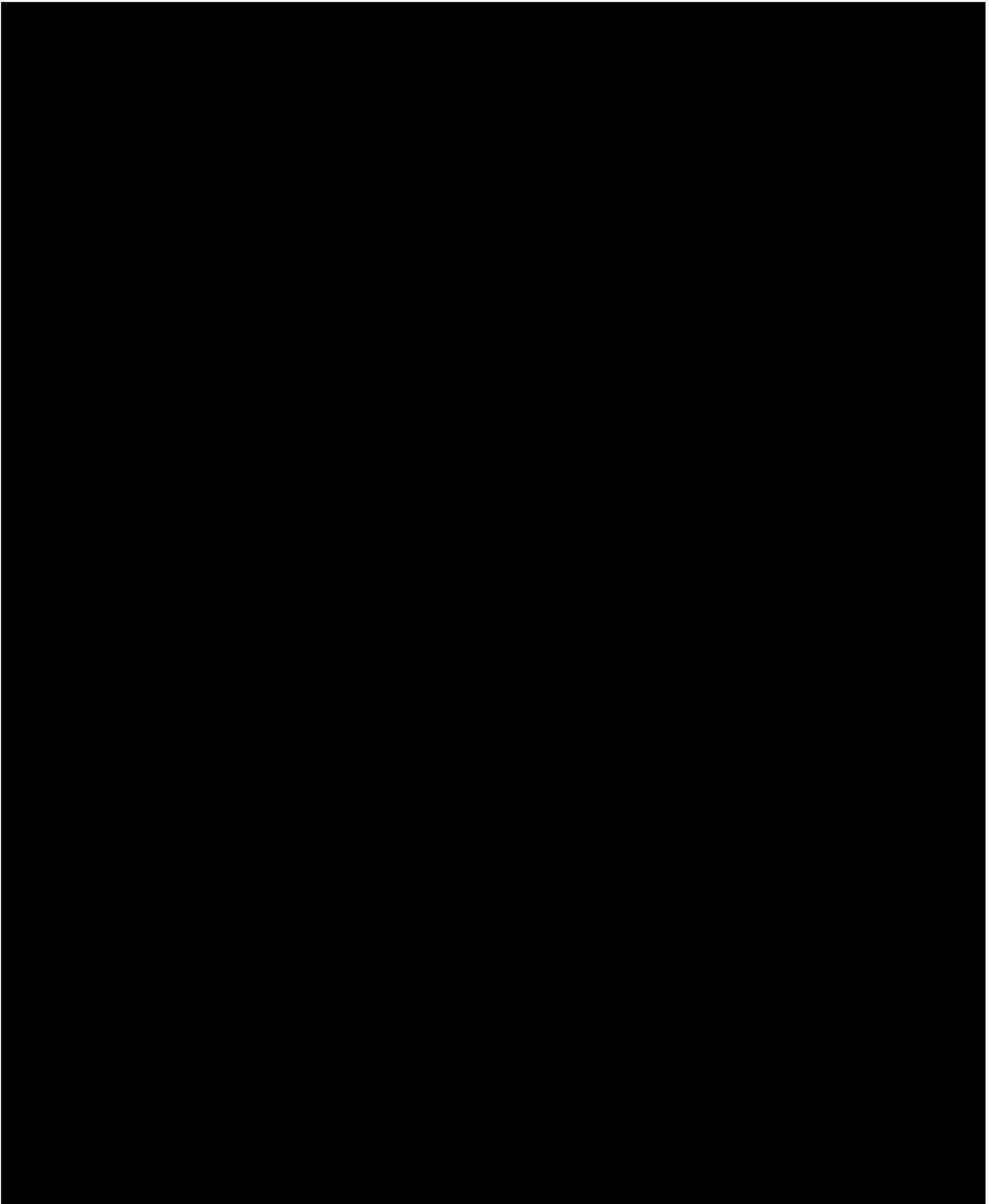


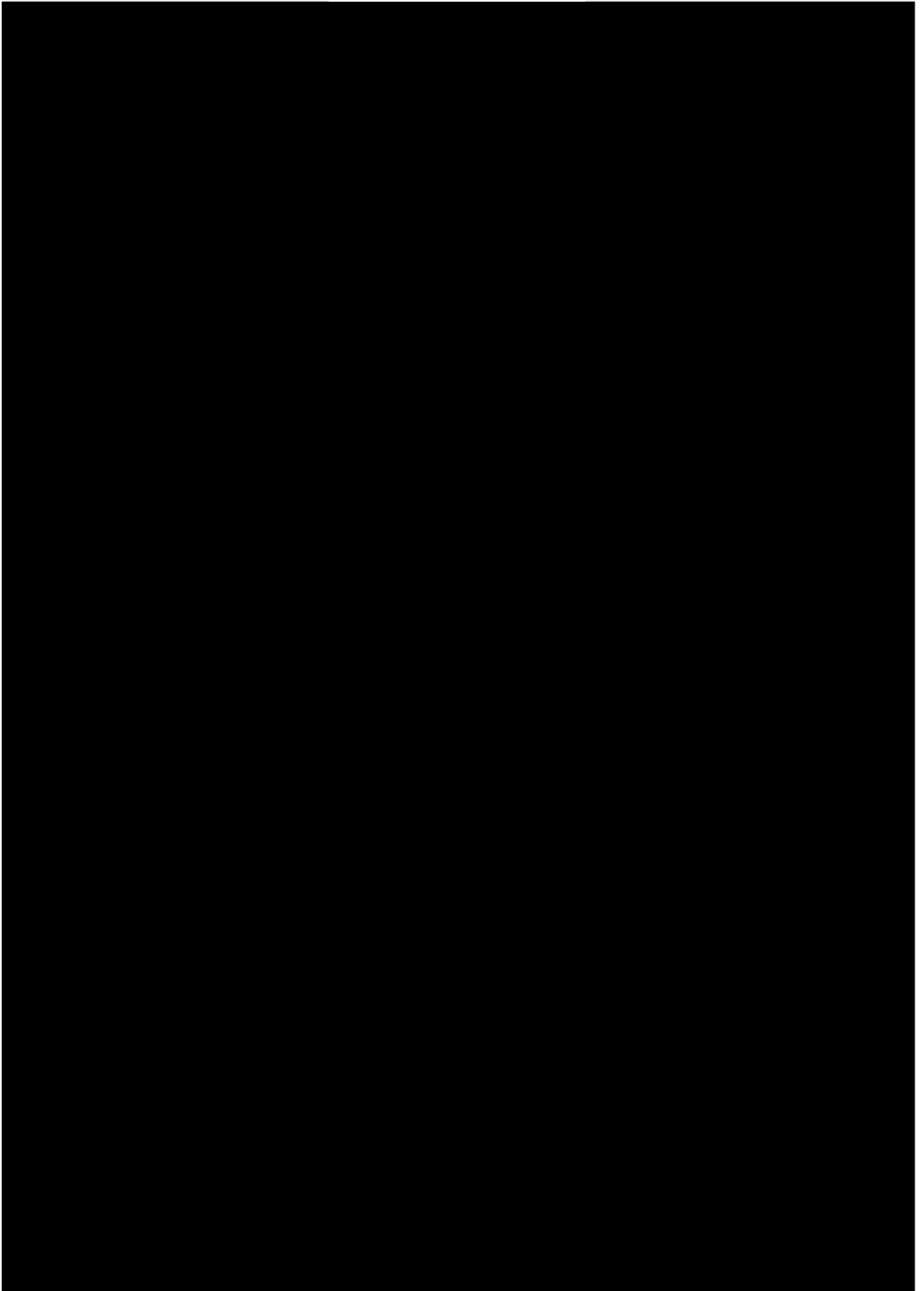
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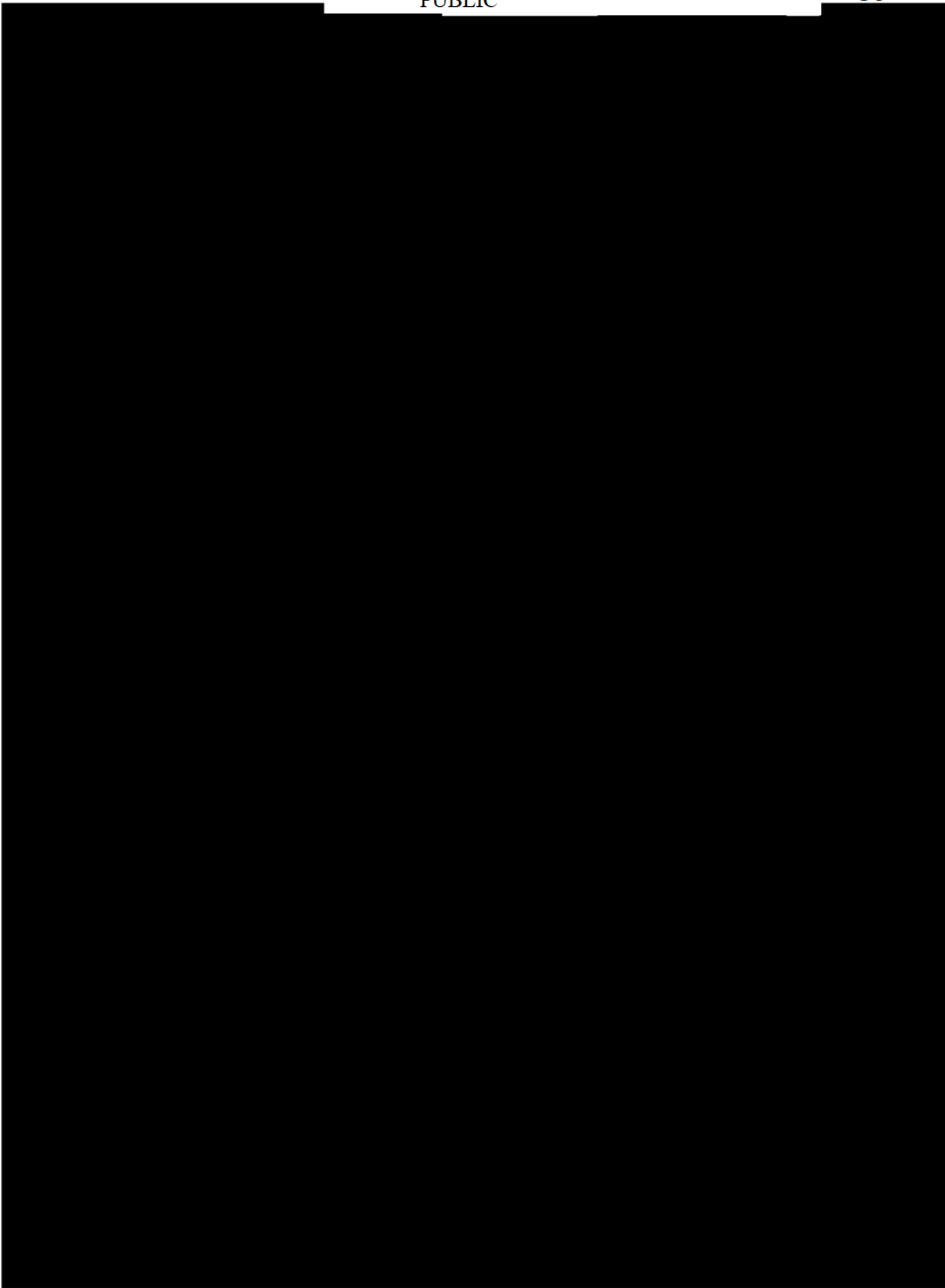


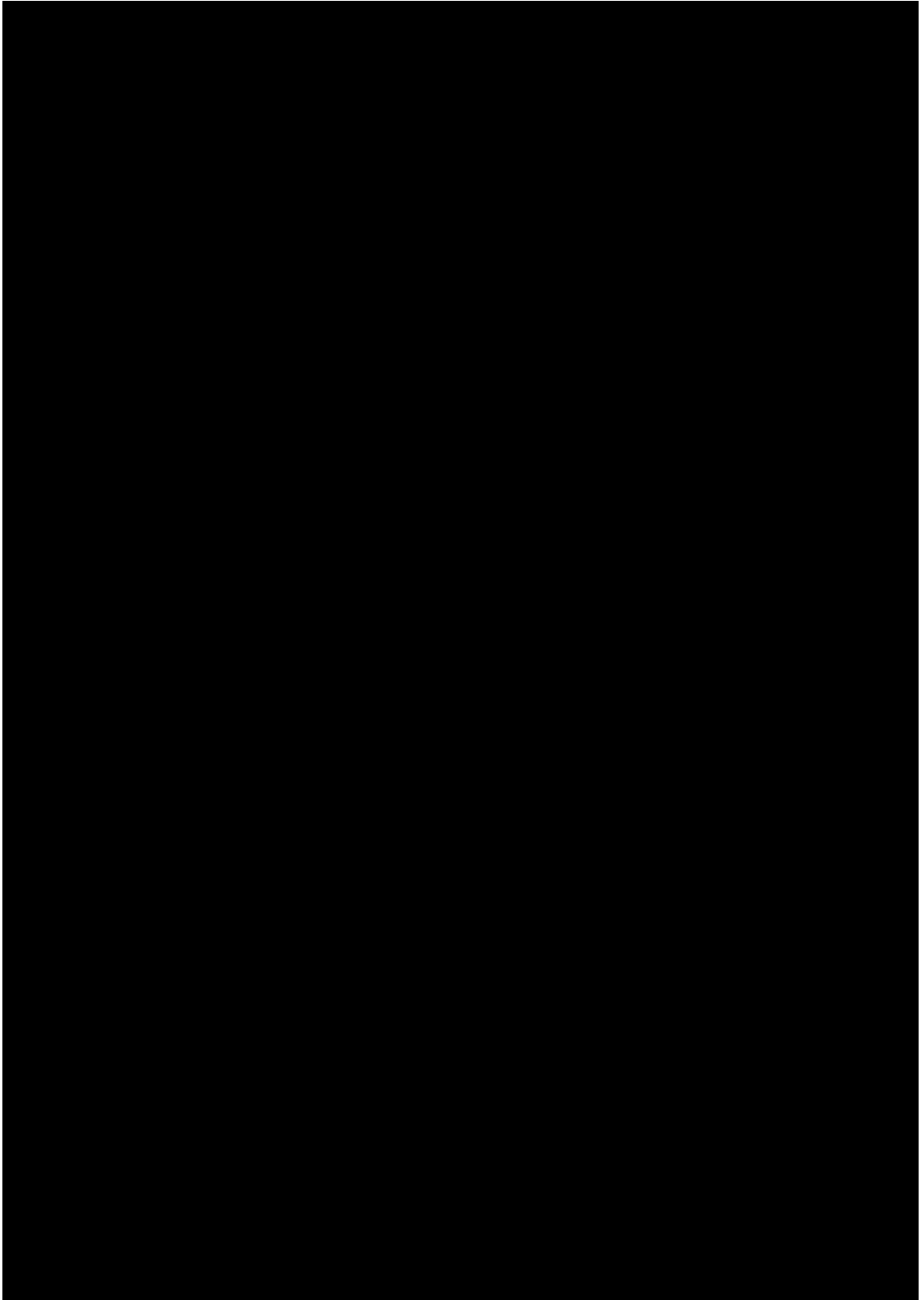
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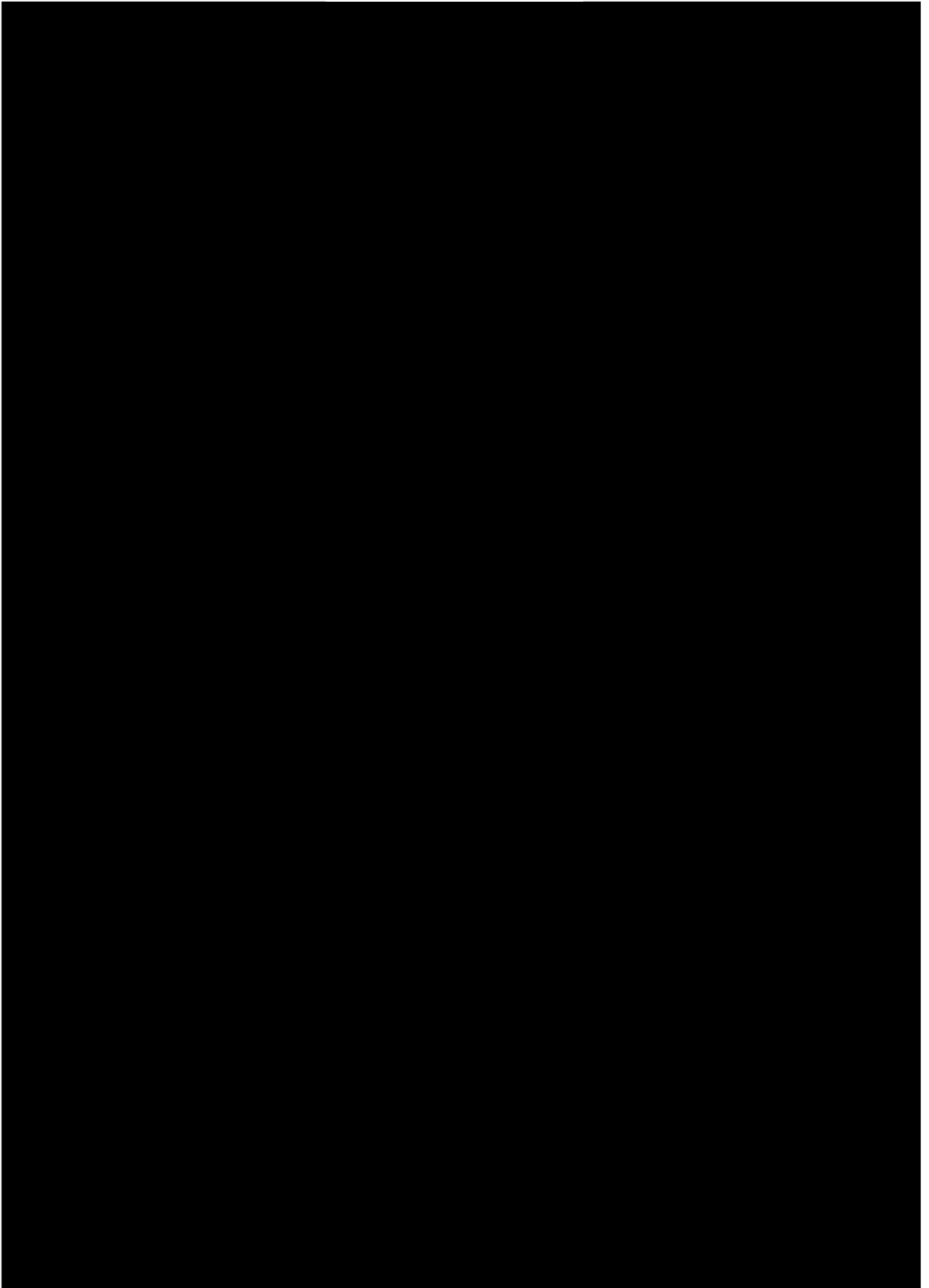
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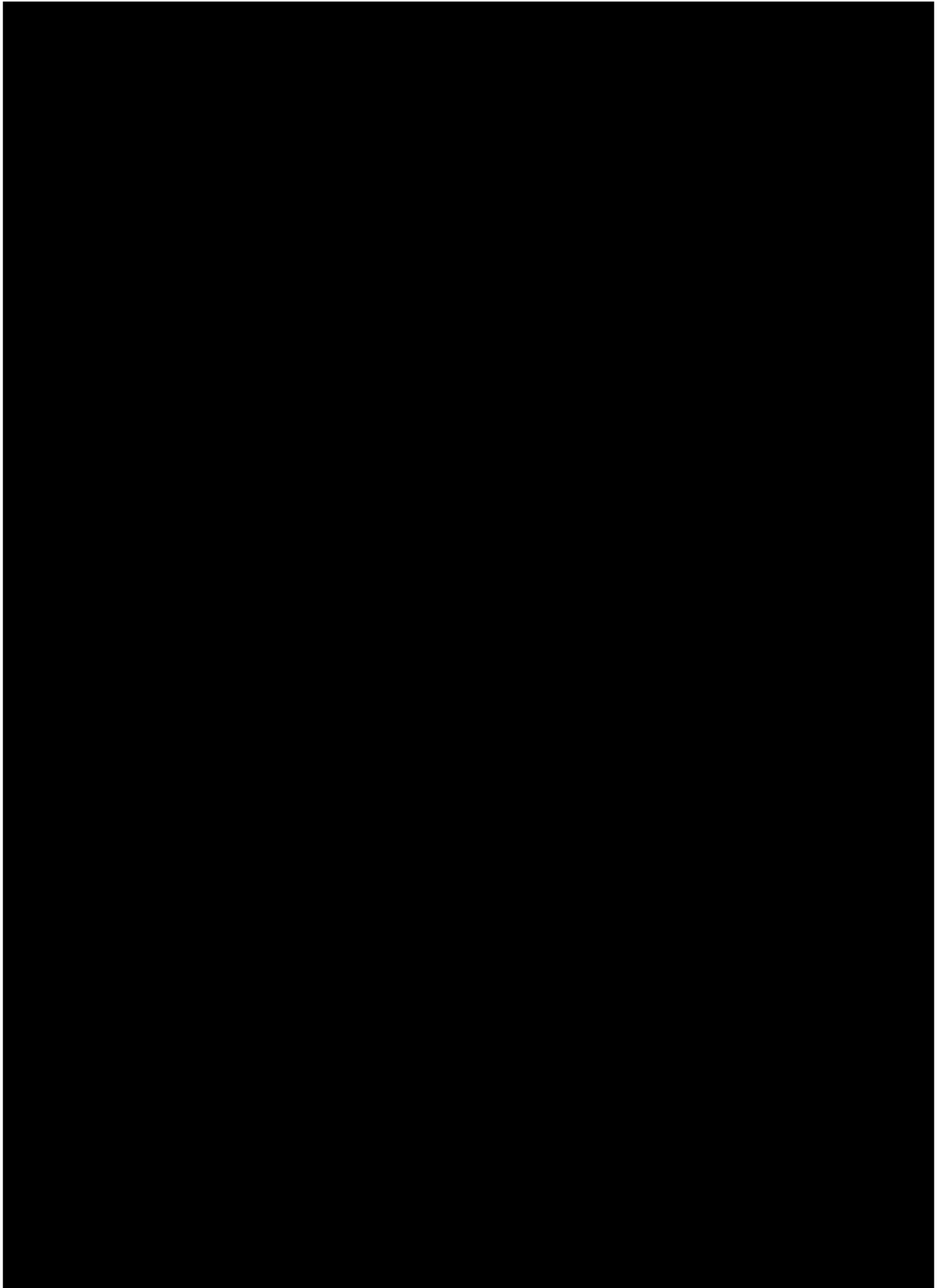


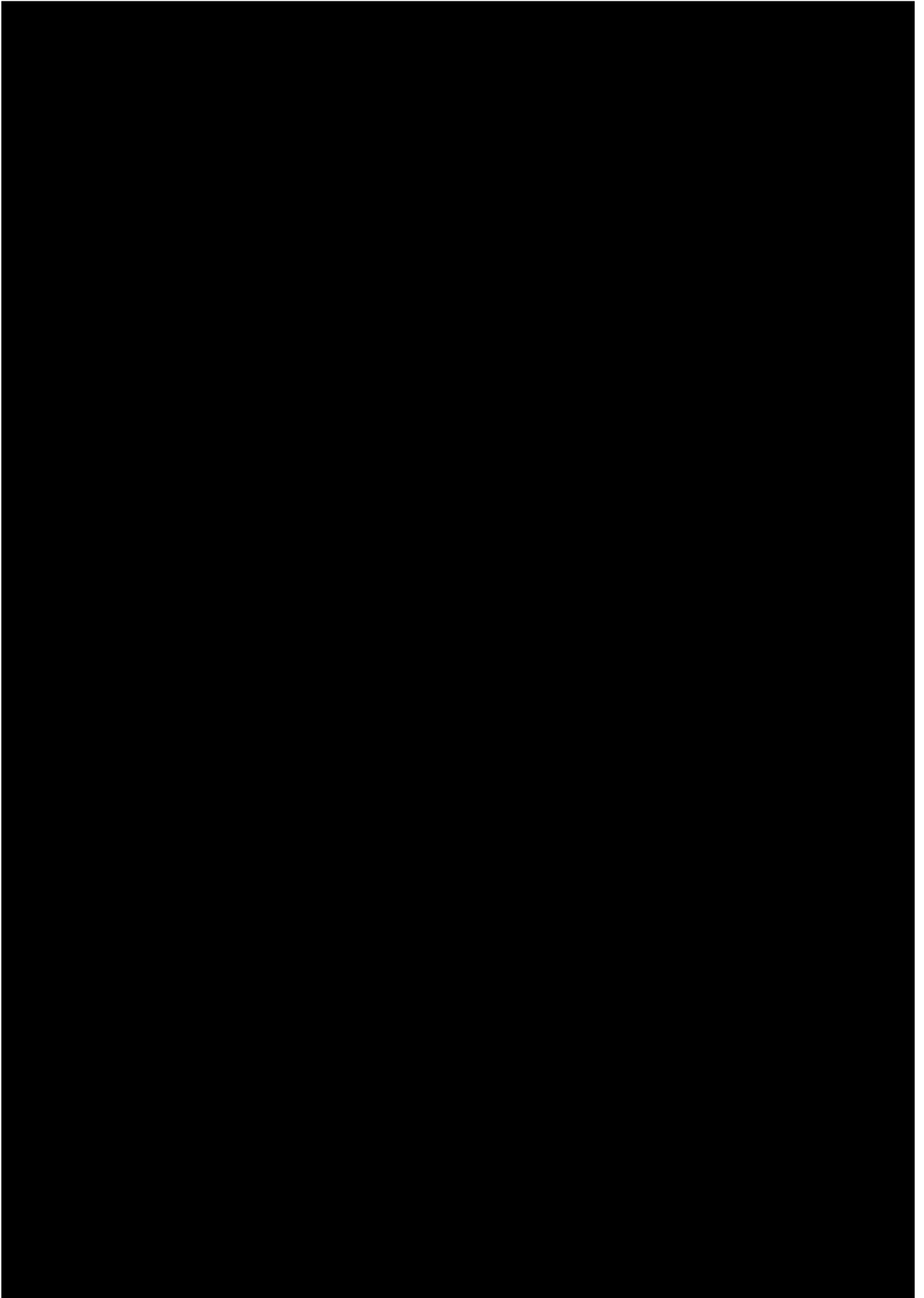
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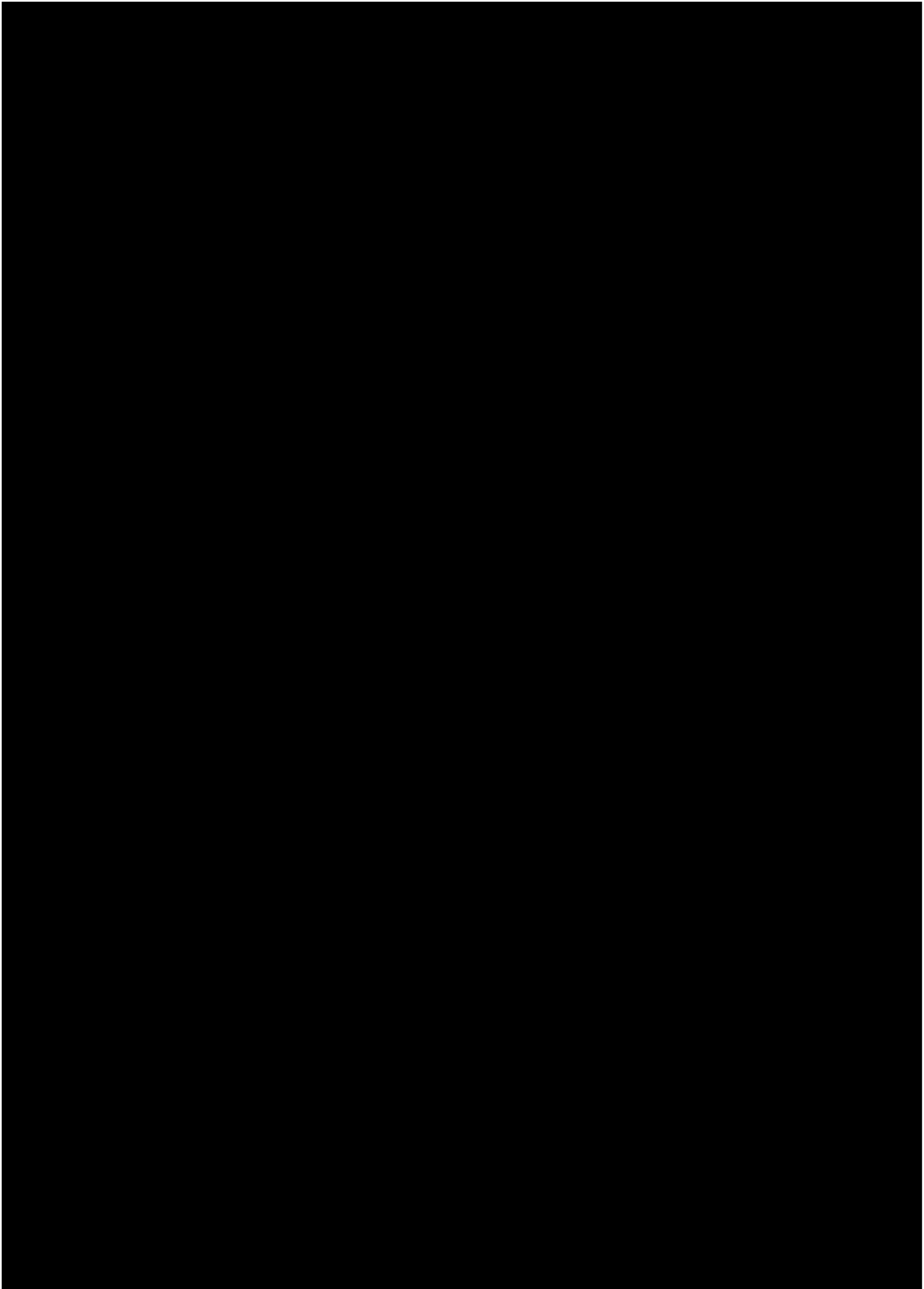


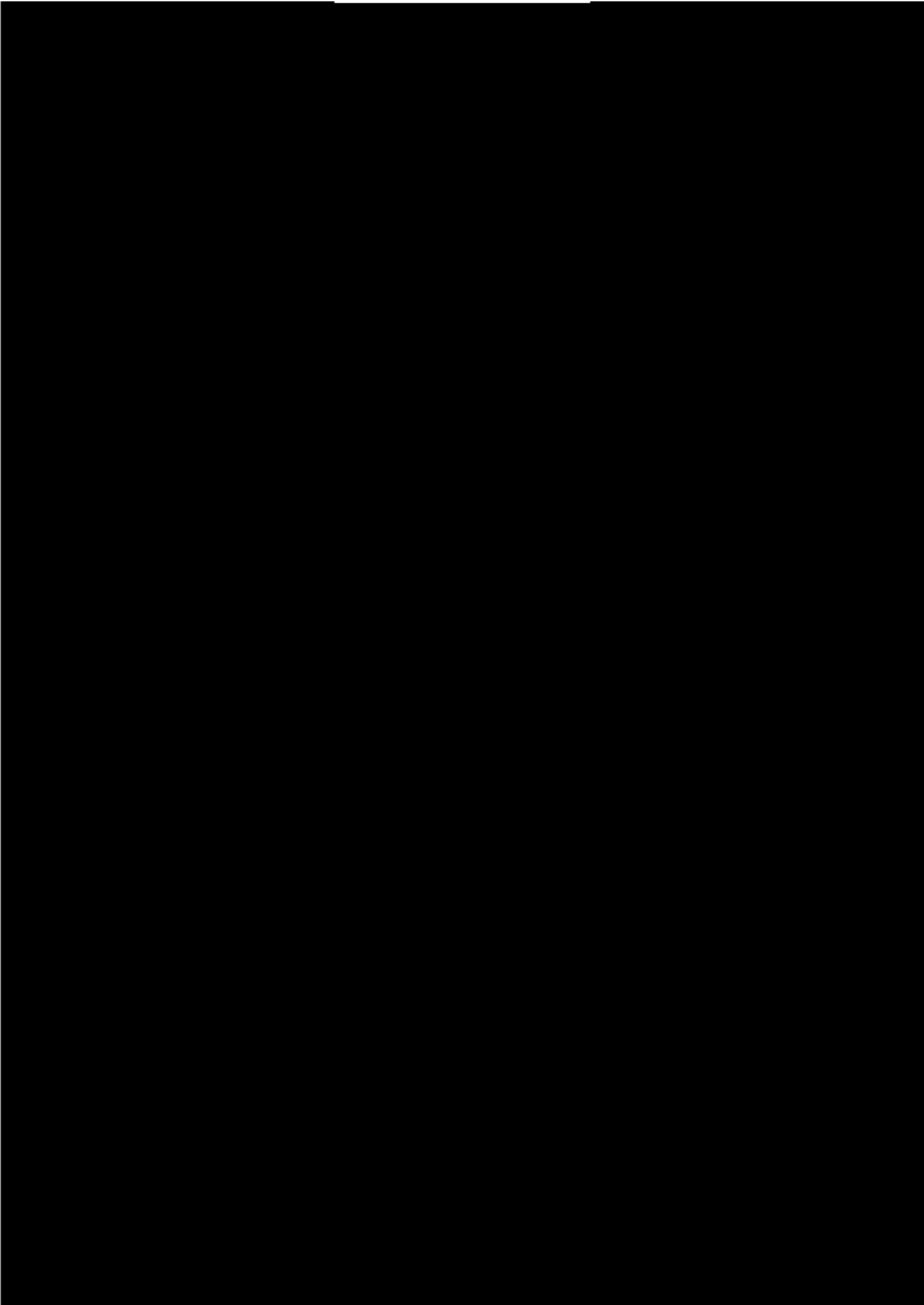


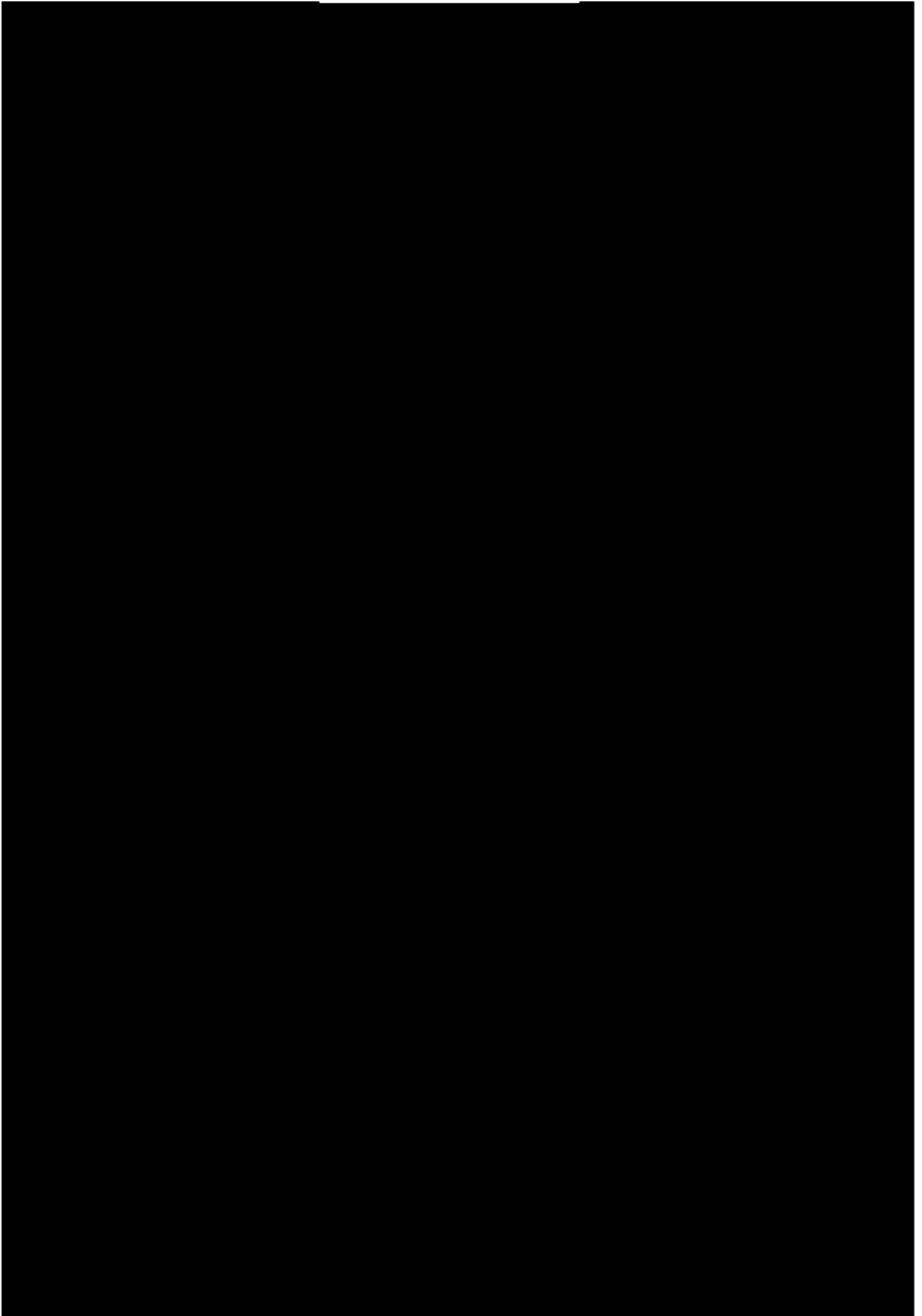


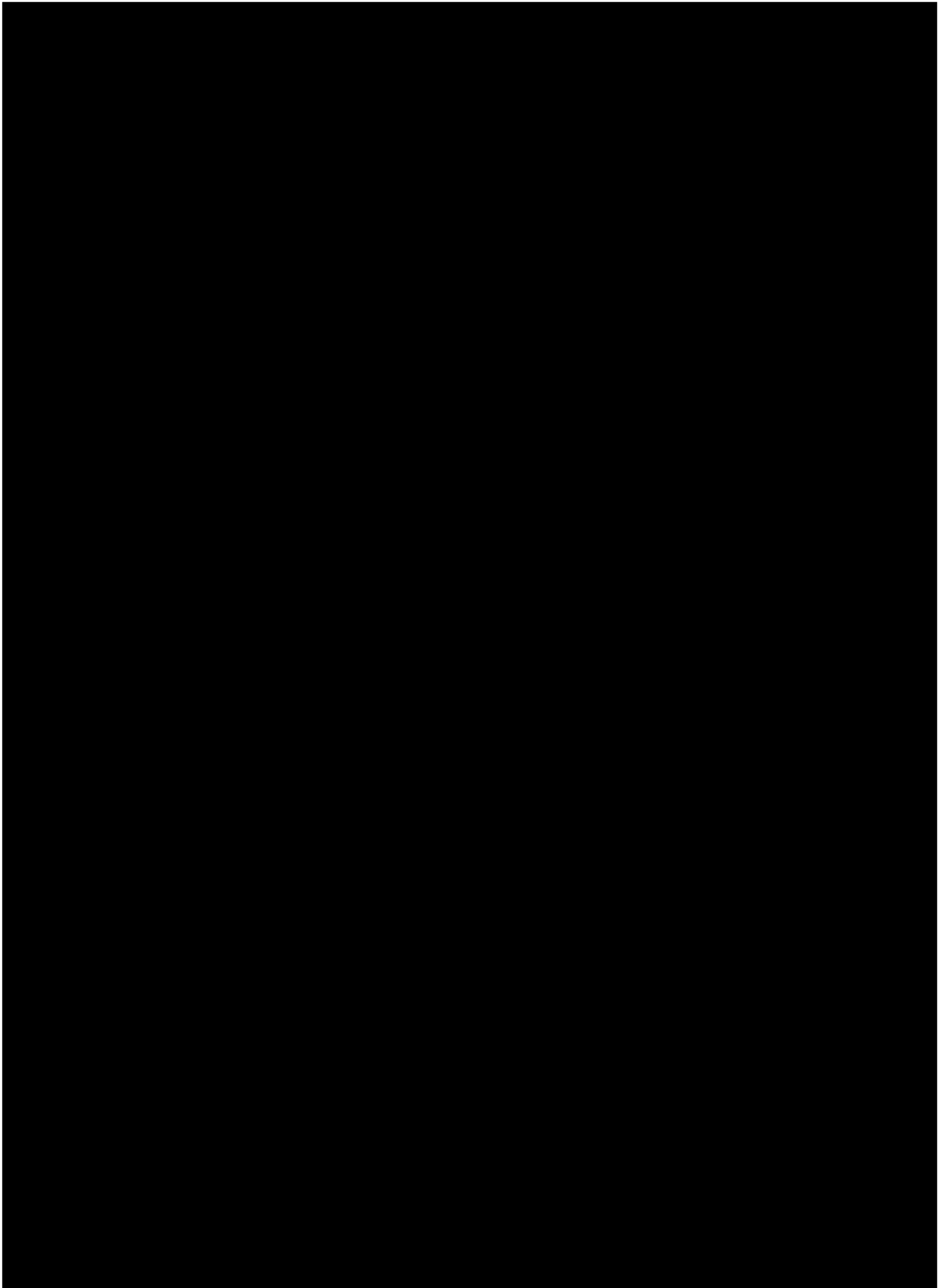












THE COMPETITION TRIBUNAL

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF the proposed acquisition by Rogers Communications Inc. or an affiliate thereof of Shaw Communications Inc.;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 92 of the Competition Act; and

AND IN THE MATTER OF an application by the Commissioner of Competition for an interim order pursuant to section 104 of the Competition Act.

BETWEEN:

THE COMMISSIONER OF COMPETITION
Applicant

– and –

ROGERS COMMUNICATIONS INC.
SHAW COMMUNICATIONS INC.
Respondent

**MOTION RECORD
OF VIDEOTRON LTD.**

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