



STEVEN L. BESHEAR  
Governor

FINANCE AND ADMINISTRATION CABINET  
DEPARTMENT OF REVENUE  
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LORI HUDSON FLANERY  
Secretary

THOMAS B. MILLER  
Commissioner

In the matter of:

[REDACTED] LTD

Contact: [REDACTED] LTD  
C/O [REDACTED] CPA  
[REDACTED] CPA

FINAL RULING NO. 2012-40  
June 7, 2012

Assessment of Corporation Income Tax  
Taxable Period 2008

FINAL RULING

The Kentucky Department of Revenue (the "Department") issued a 2008 corporation income tax assessment against [REDACTED] LTD (hereafter "[REDACTED]") for the calendar year ended December 31, 2008 as a result of the reclassification of interest and rental income from nonbusiness income to business income. The following table provides a breakdown of the amount of tax due as well as accrued interest as of the date of this letter:

Period	Tax	Interest	Penalty	Total
2008	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

At issue in this dispute is whether the interest and rental income deducted from Kentucky net income on the Schedule A, Form 720 was proper. [REDACTED] owns and operates an airport in [REDACTED]. In 2008, [REDACTED] sold a piece of the airport property to [REDACTED] in an IRC 1031 like kind exchange for investment property held by [REDACTED]. The investment property included a tenancy in common interest in rental real property in Kentucky. The IRC 1031 exchange

was designed to minimize the income tax burden of ██████████. The Department made several attempts by correspondence with ██████████ to gather all facts needed in order to make the correct determination.

The Department's review of available materials indicates that ██████████ received a grant from the FAA for \$ ██████████ to purchase the property development rights of ██████████ from ██████████. This grant was the difference in the property value of the airport as it had currently operated versus the value of the airport property for other commercial or industrial purposes. With the purchase of these property rights, ██████████ agreed to ensure that the property would remain open to the public as an airport in perpetuity.

It is ██████████'s position that the interest and rental income is nonbusiness income. ██████████ asserts their integral business is running the airport and the rental and interest income at issue is non business income, although no additional information has been provided in support of this claim.

It is the Department's position that the income was properly reclassified as business income.

KRS 141.120(1)(a) states:

"Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations.

The Department's view is that the sale of the property in question was integral to the continual operations of ██████████ in perpetuity.

Interest on the assessment has been calculated in accordance with KRS 131.183(1). That statutory provision states:

All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The commissioner of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by

banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

As indicated above, a late filing penalty has been applied pursuant to KRS 131.180(1). This provision states:

“Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).”

Also, a penalty has been applied pursuant to KRS 131.180(2), by virtue of the ██████████'s failure to have timely paid at least 75% of the income tax determined by the Department to be due for the taxable year 2008. This provision states:

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).

See also KRS 141.990(1).

This letter is the final ruling of the Department of Revenue.

**APPEAL**

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
3. Any party appealing a final ruling to the Board other than an individual, such as a corporation, limited liability company, partnership, joint venture, estate or other legal entity, shall be represented by an attorney in all proceedings before the Board, including the filing of the petition of appeal; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

██████████ Ltd.

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You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

FINANCE AND ADMINISTRATION CABINET



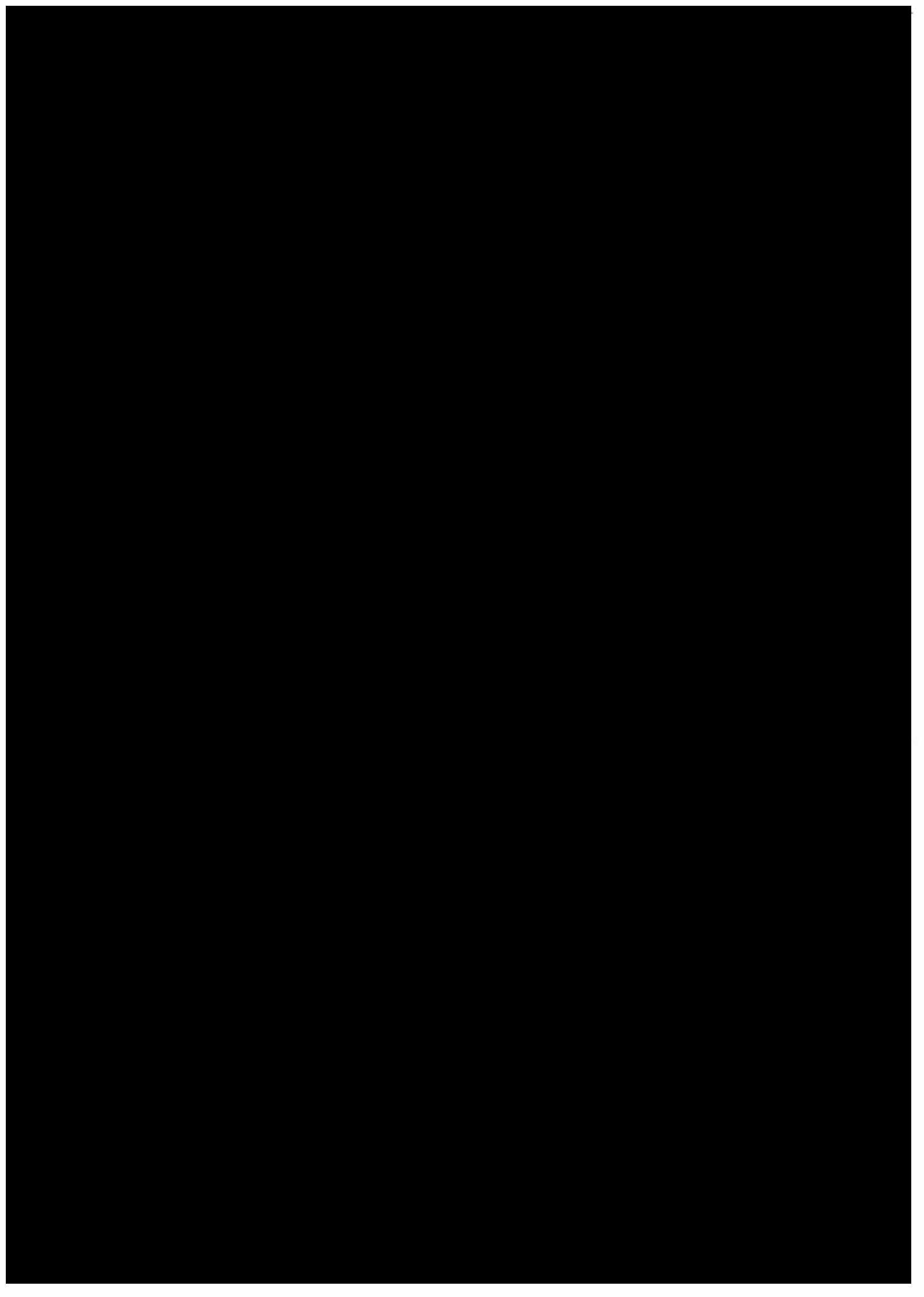
E. Jeffrey Mosley

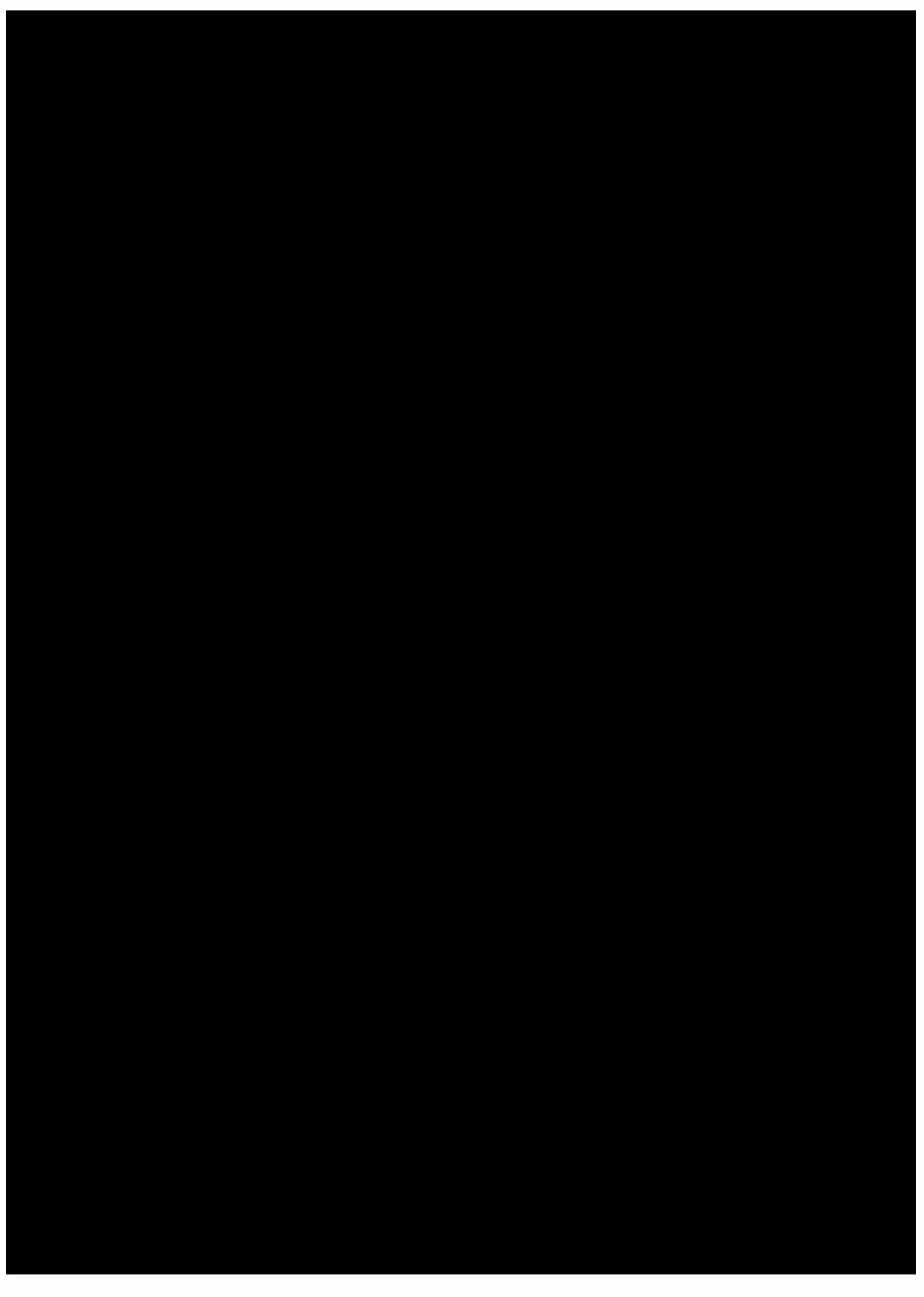
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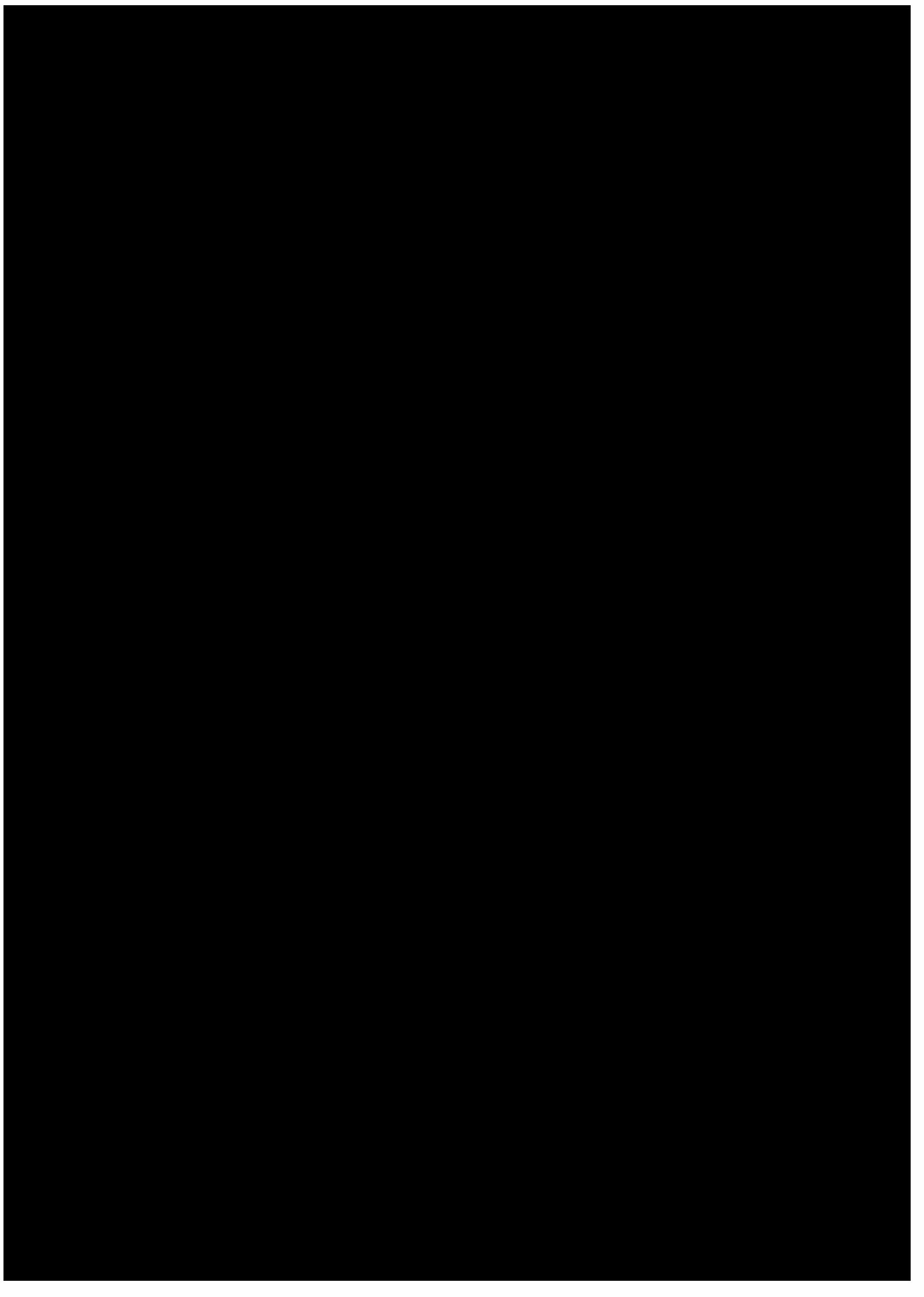
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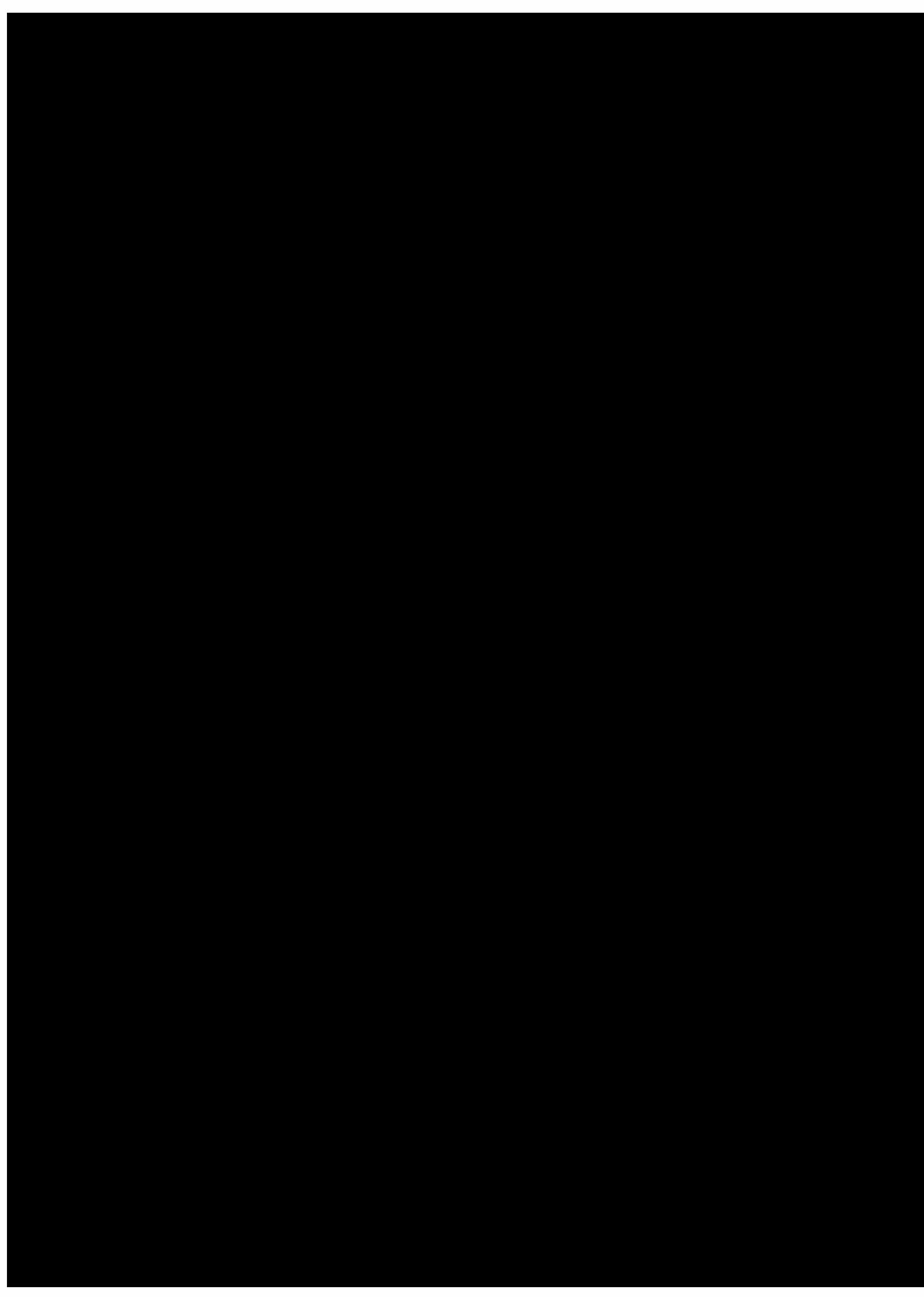
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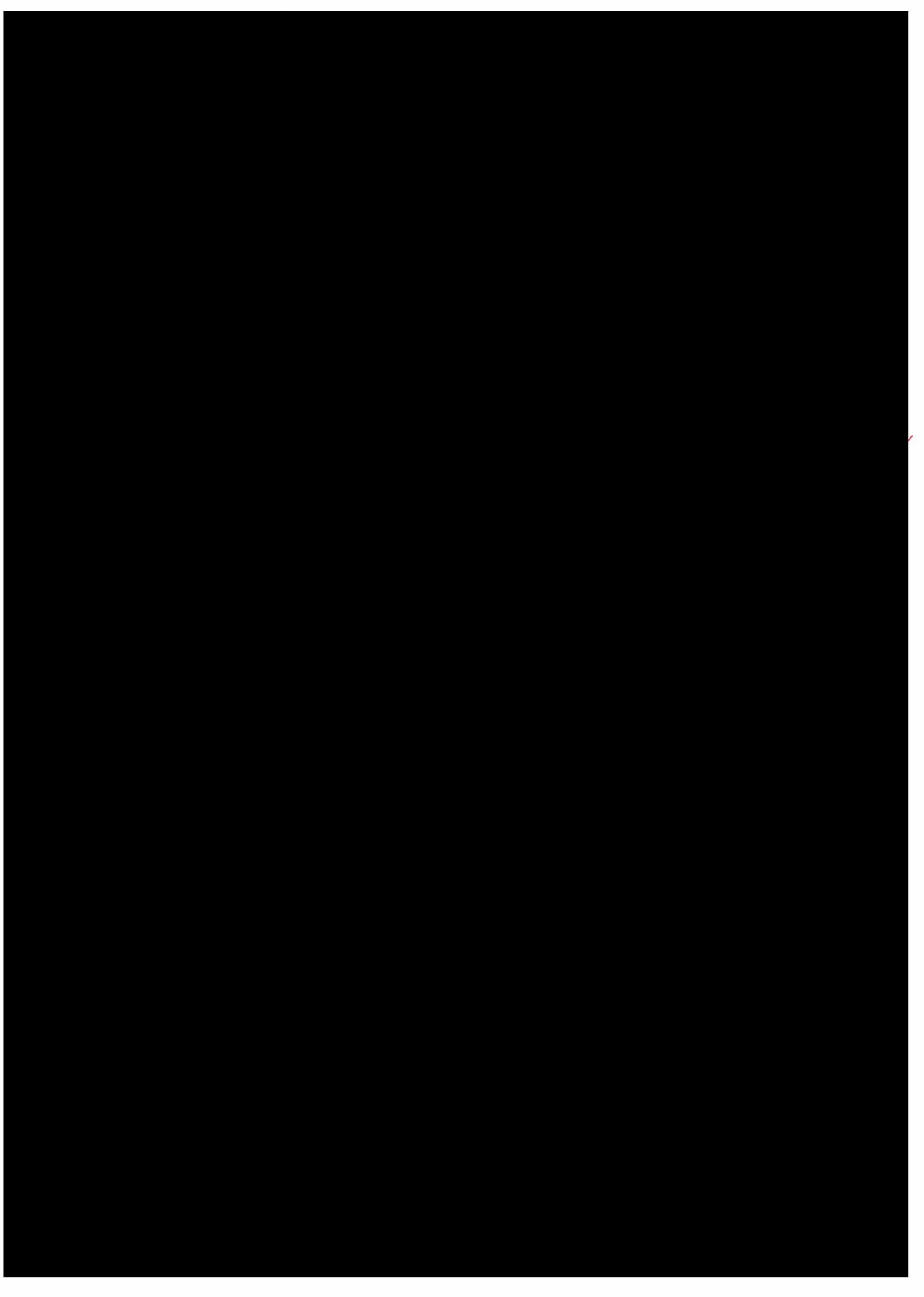
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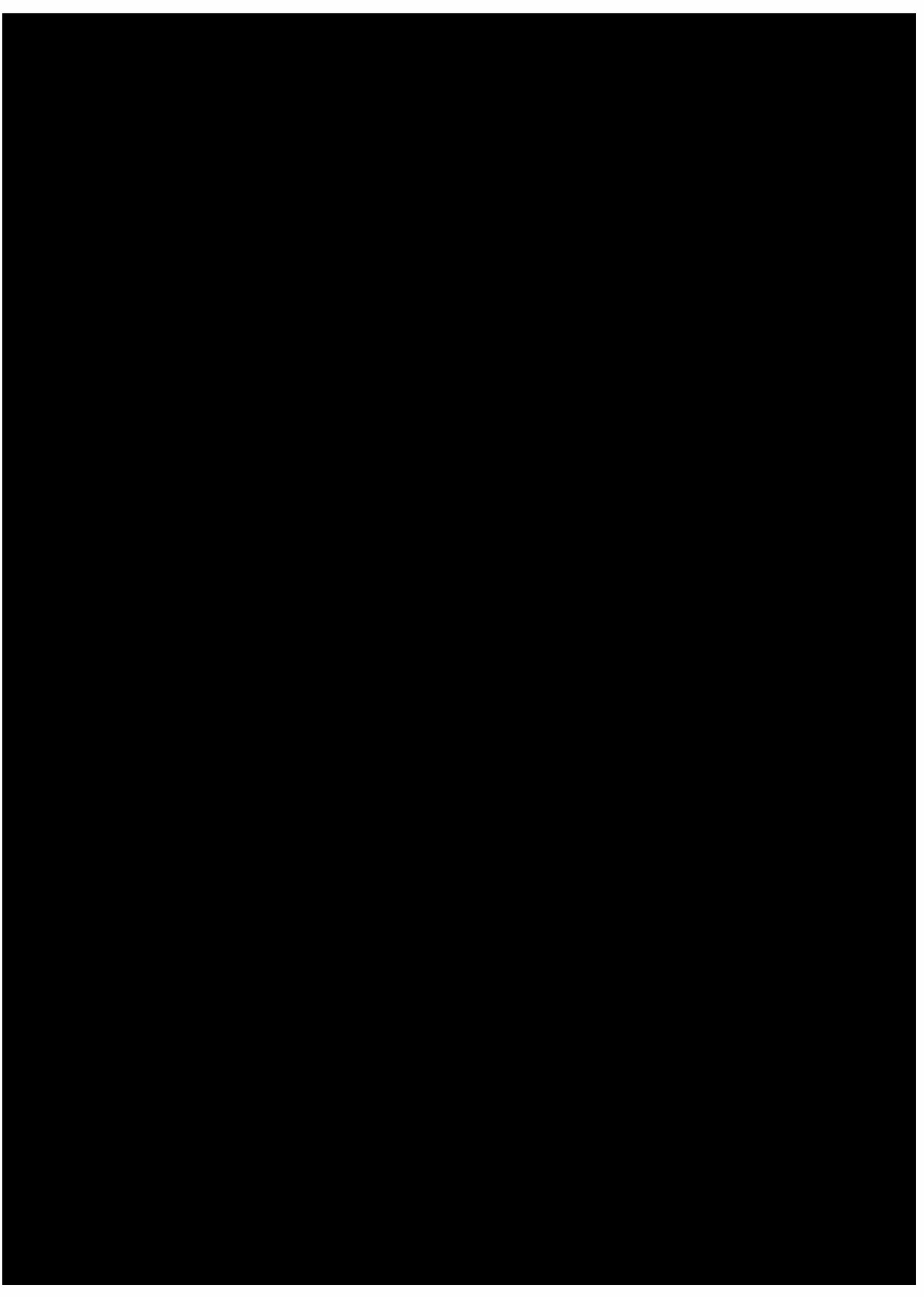


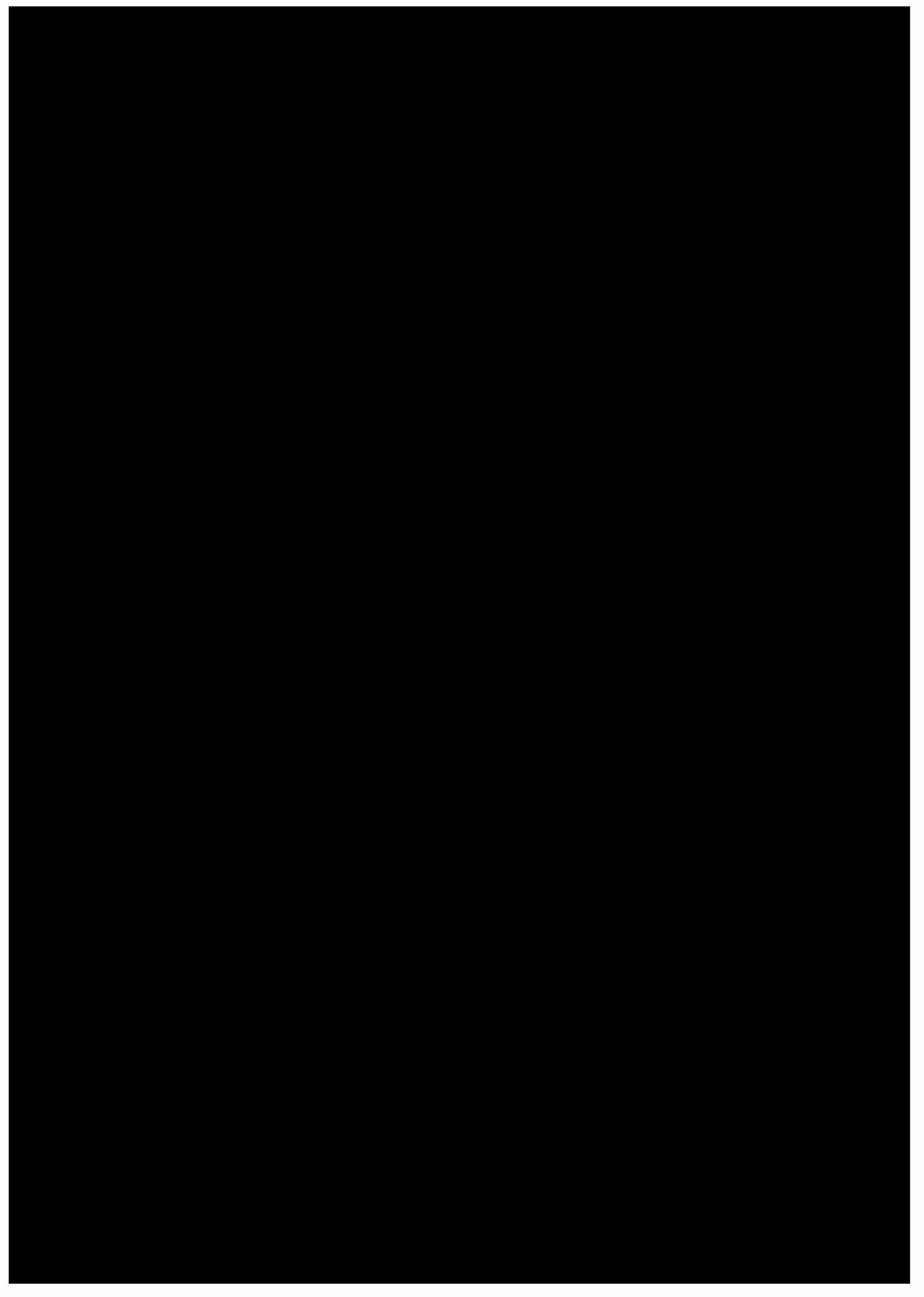


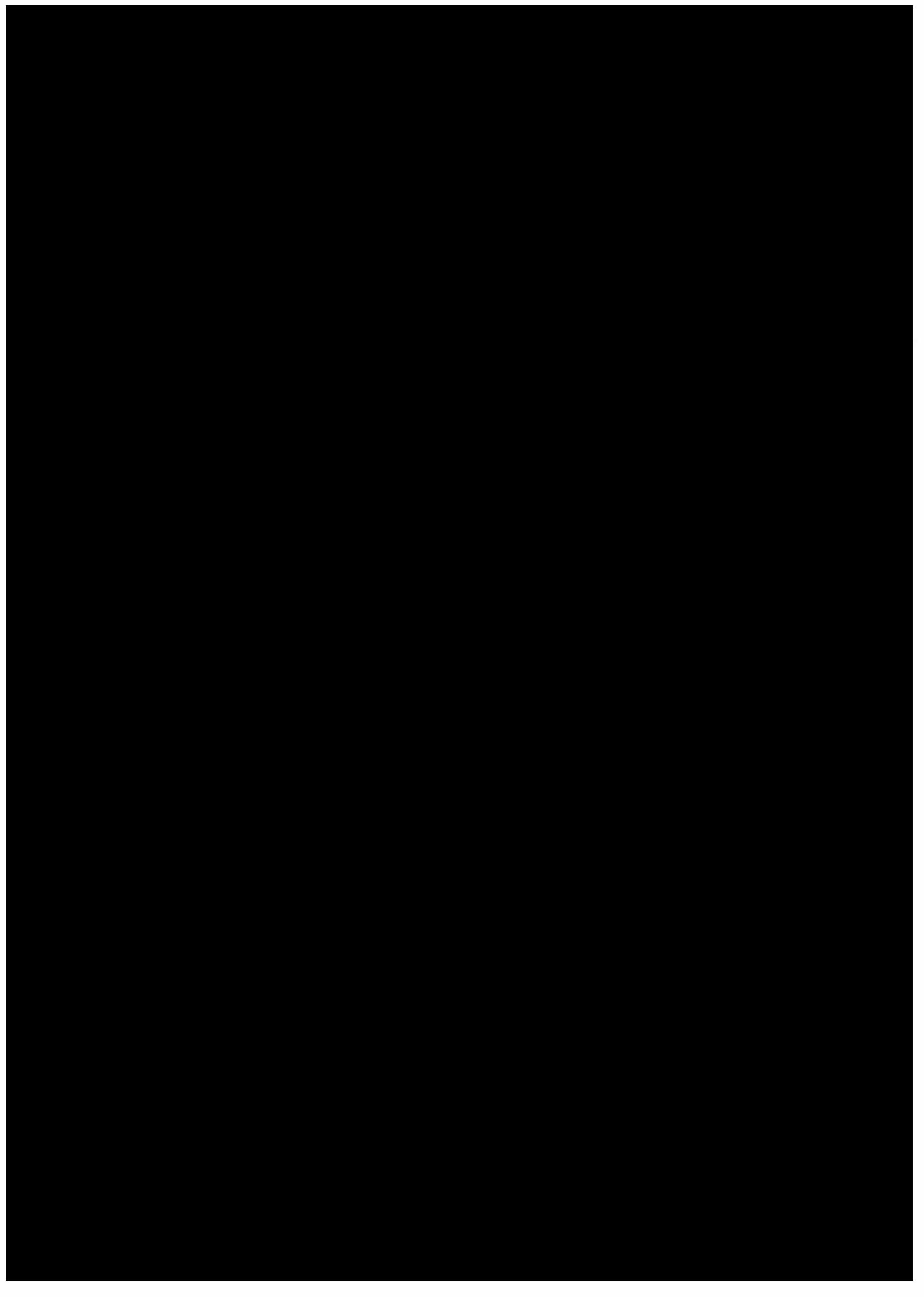


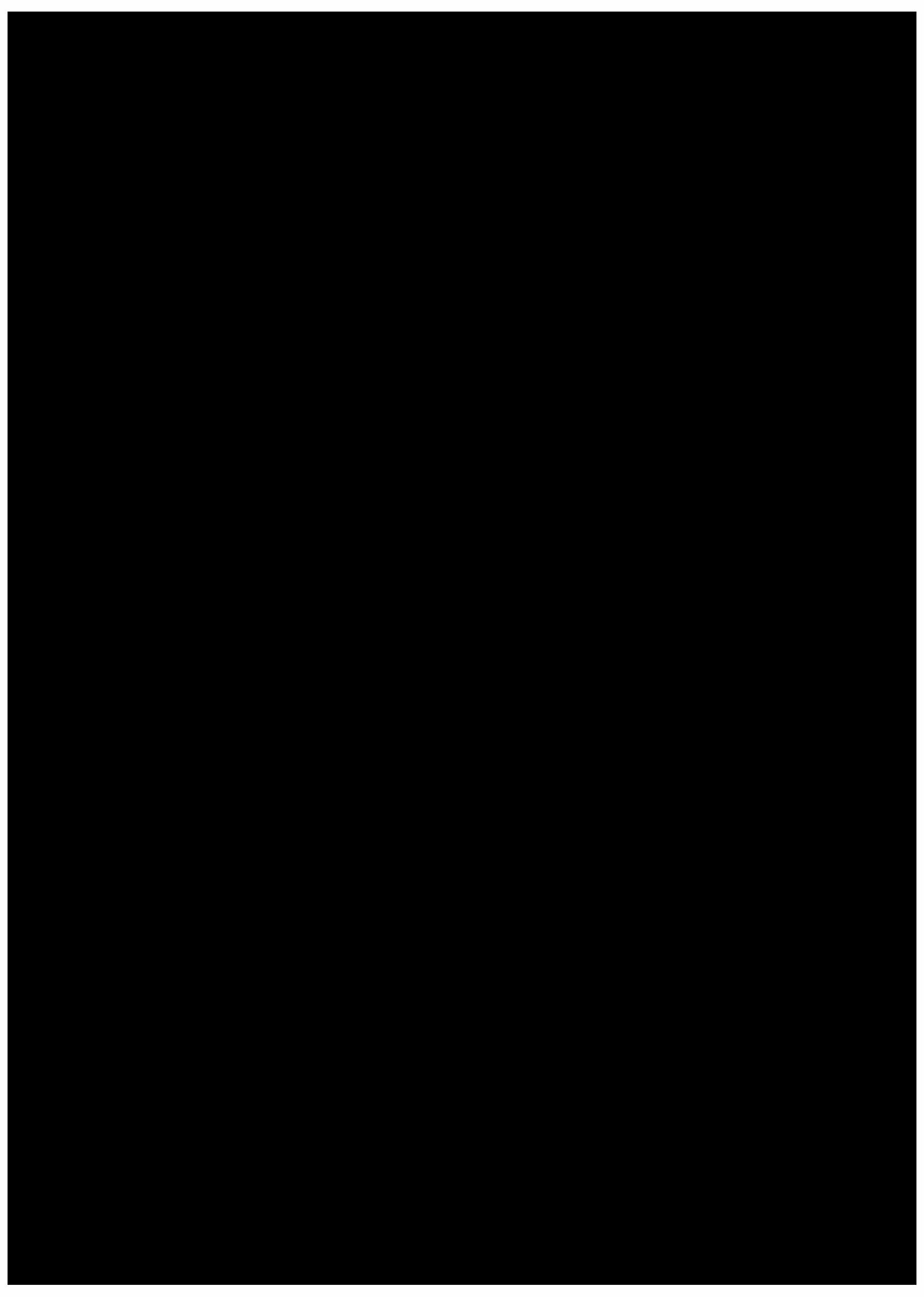












The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every receipt, invoice, and bill should be properly filed and dated. This not only helps in tracking expenses but also provides a clear audit trail for tax purposes. The text suggests using a systematic approach, such as the envelope system, to ensure that no financial activity goes unrecorded.

Next, the document addresses the issue of budgeting. It argues that a well-defined budget is essential for controlling spending and achieving financial goals. By allocating funds to specific categories, individuals can avoid unnecessary purchases and ensure that their income covers all necessary expenses. The text provides several tips for creating a realistic budget, including tracking current spending patterns and setting achievable targets.

The third section focuses on debt management. It highlights the dangers of accumulating high-interest debt and offers strategies for reducing and eliminating it. Key advice includes prioritizing payments on high-interest loans, negotiating better terms with creditors, and avoiding new debt until existing obligations are under control. The document also discusses the benefits of debt consolidation and the importance of staying on top of payment schedules to avoid penalties and damage to credit ratings.

Finally, the document touches upon investment and long-term financial planning. It encourages individuals to start saving early and to diversify their investments to maximize growth over time. The text provides an overview of different investment options, such as stocks, bonds, and mutual funds, and discusses the role of retirement accounts in building wealth. It also emphasizes the need for regular reviews and adjustments to the investment strategy as life circumstances change.

