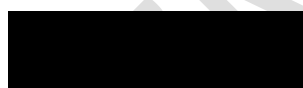


CONTRACT FOR THE PROVISION OF GOODS AND/OR SERVICES

Agriculture and Horticulture Development Board

and



**Contract for the
PROVISION OF ON-FARM ULTRASOUND SCANNING FOR
FAT AND MUSCLE DEPTH FOR SHEEP AND CATTLE**

Ref: 2021-531

AHDB
Stoneleigh Park
Kenilworth
Warwickshire
CV8 2TL

T 024 7669 2051
E info@ahdb.org.uk
W ahdb.org.uk

FORM OF AGREEMENT

THIS CONTRACT IS MADE ON, 20....

BETWEEN

Agriculture and Horticulture Development Board, of Stoneleigh Park,
Kenilworth, Warwickshire CV8 2TL ('**AHDB**')
AND

AND

[REDACTED]

AHDB and the Supplier are the Parties to the Contract.

WHEREAS

- A. AHDB wishes to acquire general description of goods or services (see Schedule A).
- B. The Supplier is willing to supply the Goods and/or Services in accordance with this Contract.

IT IS HEREBY AGREED

- 1. The Supplier agrees to supply the Goods and/or Services in accordance with this Contract, including Schedule A and the Appendix.
 - 1.1. Unless otherwise specified, the Supplier shall supply the Goods and/or Services to the Principal Office.
- 2. Subject to the Supplier's compliance with this Contract including any milestones, AHDB agrees to make payments in accordance with Schedule B.
- 3. The Parties agree to comply with AHDB's Terms and Conditions for the Purchase of Goods and Services version 2018A ('AHDB Terms' - see Annex), which are incorporated into this Contract.
- 4. This Contract consists of:
 - this Form of Agreement;
 - Schedule A (Specification, Service Delivery, page 5), including the Appendix (Specification Details, page 44);
 - Schedule B (Payment and Invoicing, page 7);
 - Schedule C (Contacts, page 9);
 - Annex (AHDB Terms, page 10); and
 - Annex 2 (Data Processing and Protection of Personal Data, page 37,

each of which together with any documents specified therein including the Appendix is incorporated into and forms part of the Contract.

- 4.1. In the case of any conflict or inconsistency, documents shall take precedence in the order in which they appear in Clause 4 above.
- 4.2. Subject to public procurement law, this Contract including the Specification may be amended. Any amendment shall be agreed by the Parties in Writing and shall have no effect unless it has been so agreed.
- 4.3. This Contract and any amendment to it may be executed in counterpart and by the Parties on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

5.

- 5.2. Any date in this Contract may be amended in advance by agreement in Writing and any dates that are consequently to be amended shall be similarly agreed.

- 5.2.1. Any amendment to this Contract shall be compliant with the public procurement principles underlying the Public Contracts Regulations 2015.

- 5.3. Notwithstanding any act of termination or the achievement of the Completion Date, the relevant provisions of this Contract shall remain in effect insofar as is necessary to ensure the performance of all obligations and the satisfaction of all liabilities and to enable the exercise of all rights under the Contract in each case as such shall exist at the time of such act or the Completion Date as appropriate.

6. Subject to Clause 6.4:

- 6.1. The maximum total liability of each Party under this Contract shall be three times the amount set out in relation to that Party in Clause 6.2.

- 6.2. In respect of any claim or series of connected claims arising out of the same cause in any year whether arising from negligence, breach of contract or otherwise:

- (a) the maximum aggregate liability of AHDB shall be the greater of £100,000 or 125% of the cumulative total of the payments identified in Schedule B.

- (b) the maximum aggregate liability of the Supplier shall be the greater of £1,000,000 or 125% of the cumulative total of the payments identified in Schedule B.

- 6.3. The amounts above may only be amended in Writing and prior to the event in relation to which a claim is made.

- 6.4. Nothing in this Contract shall limit either Party's liability for death or personal injury which may arise as a direct result of that Party's negligent act or

omission, or for fraud or fraudulent misrepresentation, or arising as a result of any breach of Data Protection Legislation.

7. For the avoidance of doubt:

7.1. The Supplier's standard terms and conditions for the supply of goods or services do not apply to this Contract except as may be specifically agreed in Writing.

7.2. In the event that the Contract applies only to the provision of Goods, the provisions in the Contract relating only to Services shall not apply.

7.3. In the event that the Contract applies only to the provision of Services, the provisions in the Contract relating only to Goods shall not apply.

7.4. Subject to any specific provision to the contrary, this Contract shall not apply to Research.

8. Any amendments to the Annex to this Contract shall be made as sub-clauses below

8.1. There are no amendments to the Annex.

9. Special Conditions

9.1. Any conditions specified in this Form of Agreement as Special Conditions shall have precedence over any other provision in this Contract.

9.2. AHDB have agreed to Innovis Professional indemnity insurance for £250K.

Signed for and on behalf of the Agriculture and Horticulture Development Board

Signature:

Name of signatory:

Date:, 20....

Signed for and on behalf of the Supplier:

Signature:

Name of signatory:

Date:, 20....

Schedule A Specification, Service Delivery

1. Specification

1.1. The Specification is detailed in the Appendix, page 44.

[REDACTED]

[REDACTED]

1.3. [REDACTED]

1.4. The Specification is based on:

- the invitation and/or acceptance by AHDB for the supply of the Goods and/or Services, whether by tender or otherwise, and
- the Supplier's offer but excluding any of the Supplier's terms and conditions indicated to be imposed thereby except insofar as such terms and conditions do not conflict with any other provision of this Contract.

1.5. Any amendment to the Specification agreed in accordance with this Contract shall be deemed to be included in the Appendix.

[REDACTED]

[REDACTED]

[REDACTED]

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Schedule B Payment and Invoicing

1. AHDB shall raise a Purchase Order following its receipt of this Contract signed by the Supplier, the serial number of which shall be notified to the Supplier.
2. The Supplier shall invoice clients directly the Service charges as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Subject to Condition 11.3.1 and any agreed amendment of this Contract in Writing, AHDB will pay the [REDACTED]

[REDACTED]

- 4.1. If the Contract is amended, any payment schedule relating to this Contract may be adjusted appropriately.
- 4.2. The final claim for payment shall be made within four months of the Completion Date.

5. Invoices

- 5.1. An invoice shall be deemed to be proper if it is submitted in compliance with this Schedule, paragraph 3.2 below is satisfied, and it includes:
 - (a) the serial number of AHDB's Purchase Order;
 - (b) any AHDB reference code notified to the Supplier;
- 5.2. The following information shall be provided contemporaneously with the invoice:
 - (a) A description of the relevant period and activities to which the claim relates as per paragraph 3;
 - (b) a breakdown of the Goods and Services supplied and any other documentation reasonably required by AHDB to substantiate the invoice.
- 5.3. Unless otherwise agreed, the information required by paragraph 5.2 and a copy of each invoice shall be provided to AHDB's Primary Contact (electronic provision is acceptable).

- 5.4. VAT will only be paid if a proper VAT invoice is submitted. The Supplier must exercise due care not to charge VAT on claims which are not chargeable to VAT.
- 5.5. AHDB's address for submission of invoices will be:
Accounts Payable, AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL.
- 5.5.1. Unless otherwise agreed, invoices relating to sums payable by AHDB may be sent by electronic mail in pdf format to APTeam@ahdb.org.uk.

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Schedule C Contacts

1. Contact information provided by the Parties shall be deemed to be appropriately inserted below.
2. Unless otherwise agreed, the Primary Contact nominated by a Party shall represent the Party for the purposes of this Contract.

AHDB

3. AHDB's address for correspondence and service (excluding invoices, see Schedule B) will be:
AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL
- 3.1. Communications with AHDB shall be marked for the attention of the person named below as AHDB's Primary Contact.
4. AHDB's Primary Contact will be:
[REDACTED]
or such other person as AHDB may nominate.
- 4.1. AHDB's Primary Contact will accept communications by electronic mail [REDACTED] and (except for notices and other matters required to be in Writing) by telephone [REDACTED]

Supplier

5. The Supplier's address for correspondence and service will be:
[REDACTED]
- 5.1. Communications shall be marked for the attention of the person named below as the Supplier's Primary Contact.
6. The Supplier's Primary Contact will be:
[REDACTED]
or such other person as the Supplier may nominate.
- 6.1. The Supplier's Primary Contact will accept communications by electronic mail [REDACTED] and (except for notices and other matters required to be in Writing) by telephone [REDACTED]
7. The Key Personnel if any in relation to the supply of the Goods and/or Services will be:
...
or such other person as the Supplier may nominate.

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Annex AHDB Terms

Agriculture and Horticulture Development Board Terms and Conditions for the Purchase of Goods and Services version 2018A

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1. DEFINITIONS

- 1.1. In this Contract the following words and expressions shall have the meanings given to them below, unless the context otherwise requires:

<i>Word Expression</i>	<i>or</i>	<i>Meaning</i>
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Academic Institution		A body recognised by an EU member state within which it is situated as being constituted for the principal purposes of academic research and tertiary education. Unless otherwise specified any employee, Student, agent and consultant thereof relevant to the supply of the Goods and Services shall be deemed to be part of the Academic Institution.
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For the avoidance of doubt a subsidiary company or other affiliate of an Academic Institution shall not be an Academic Institution for the purposes of this Contract unless it is a body constituted *per se* for the principal purposes of academic research and tertiary education;

AHDB		The Agriculture and Horticulture Development Board or any subsidiary thereof;
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AHDB Stores		AHDB Stores, Avenue M, Stoneleigh Park, Kenilworth CV8 2LG
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AHDB Terms		AHDB's Terms and Conditions for the Purchase of Goods and Services (the content of this Annex);
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Annex		This annex incorporated into this Contract under Clause 4;
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Appendix		The appendix incorporated into this Contract under Clause 4;
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Bribery Act		The Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any relevant guidance or codes of practice issued by a government department concerning the legislation.
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Business Hours		Monday to Friday between 9am and 5pm excluding Public and Bank holidays in the UK;
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Commencement Date		The date set out in Clause 5 as it may have been amended;
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Completion Date		The date set out in Clause 5.1 as it may have been amended;
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Confidential Information		Any information which has been designated as confidential by a Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of a Party and all personal data and sensitive data within the meaning of the Data Protection Legislation.
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Confidential Information does not include information which:

- (a) is public knowledge at the time of disclosure (otherwise than by breach of any obligation of confidentiality);

		(b) is in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (c) is received from a third party who lawfully acquired it without restriction as to its disclosure; or (d) is independently developed without access to the Confidential Information;
Contract		This written contract between AHDB and the Supplier as described in Clause 4;
Contracted Worker		A person complying with the criteria set out in Condition 6.1;
Contractor's Confidential Information		For the purposes of Condition 16.2.1 only, any information, which has been designated as confidential by AHDB or the Supplier in Writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Supplier, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
DDP		'Delivered Duty Paid' (as defined in the Incoterms® rules 2010);
Data Protection Legislation(DPL)		The Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any laws or regulations implementing Directive 95/46/EC (Data Protection Directive) or Directive 2002/58/EC (ePrivacy Directive) and/or the General Data Protection Regulation (EU) 2016/679 (GDPR) and/or any corresponding or equivalent national laws or regulations, including any amendment or update thereof and/or any new or updated laws and regulations relating to data protection including any judicial or administrative interpretation thereof and any guidance, guidelines, recommendations, codes of practice, approved codes of conduct or approved certification mechanisms issued by the Information Commissioner, any replacement body or other relevant government department or supervisory authority in relation to such legislation from time to time;
Due Date		Has the meaning given to it in Condition 11.3;
FOI Legislation		The Freedom of Information Act 2000 and similar legislation, as set out in Condition 16.1;
Form Agreement	of	The agreement on the supply of goods and/or services, to which the Schedules, Annex, Appendix and other documents are attached;
Goods		Any goods, being tangible moveable items, as described in the Specification that are agreed by this Contract to be purchased by AHDB from the Supplier whether or not in relation to the supply of Services;

Industry	The beef and sheep industry in England; the cereal industry in the United Kingdom; the horticulture industry in Great Britain; the milk industry in Great Britain; the oilseed industry in the United Kingdom; the pig industry in England or the potato industry in Great Britain, in each case as defined in the Agriculture and Horticulture Development Board Order 2008;
Intellectual Property Right	Any patent, utility model, invention, trade mark, service mark, logo, design right (whether registrable or otherwise), application for any of the foregoing, copyright, database right, domain name, Know-How, trade or business name, moral right and other similar right or obligation whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
Key Personnel	Any person identified by name or job title as Key Personnel by the Supplier in Schedule C. If no Key Personnel is identified therein, all references to Key Personnel in this Contract shall have no effect;
Know-How	All information not in the public domain held in any form (including that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods);
Latent Defect	Any hidden flaw, weakness or imperfection in the Goods which AHDB could not discover by reasonable inspection at the time of its receipt of the Goods other than any such defect that had been made known to AHDB by the Supplier in Writing prior to the delivery of the Goods;
Party	Each of AHDB and the Supplier;
Primary Contact	A person nominated as such from time to time by a Party in accordance with Schedule C;
Principal Office	AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL;
Purchase Order	AHDB's order for the supply of Goods and/or Services under the Contract;
Research	Any experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts and/or any planned research or critical investigation (including any critical topic review) aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services;
Schedule	A schedule incorporated into this Contract under Clause 4;
Services	Any services as described in the Specification that are agreed by this Contract to be purchased by AHDB from the Supplier whether or not in relation to the supply of Goods;
Special Condition	Any provision so specified in the Form of Agreement;

Specification	The specification provided in Schedule A and the Appendix, as it may have been amended;
Supplier	The natural or legal person named in the Form of Agreement as the Supplier. For the avoidance of doubt: • the Supplier may comprise more than one person, and • a person undertaking activities on behalf of the Supplier shall not comprise part of the Supplier unless he is named as such in the Form of Agreement;
Writing	Writing on paper, electronic mail, or any other medium that (a) allows information to be addressed to the recipient, (b) enables the recipient to store the information in a way accessible for future reference, and (c) allows the unchanged reproduction of the information stored.

1.2. Unless the context otherwise requires, references in the Contract:

- 1.2.1. to the Supplier or to AHDB shall, where appropriate, be references to any lawful successor, assignee or transferee;
- 1.2.2. to the Supplier shall refer to each person constituting the Supplier and where the Supplier consists of more than one person, subject to any allocation of specific work concerning any part(s) of the Contract to a person or any agreement otherwise, the obligations and liabilities of those persons in relation to the Contract shall be joint and several;
- 1.2.3. to Clauses are references to the clauses of the Form of Agreement, to Conditions are references to the terms and conditions of the AHDB Terms and to paragraphs are references to paragraphs in the referring Appendix or Schedule unless otherwise indicated.
- 1.2.4. to 'person' or 'third party' include any individual, body corporate, unincorporated association, company, corporation, firm, partnership, joint venture, public authority, organisation, institution, trust or agency and any other person whether or not having a separate legal personality and shall include subject to these Conditions the successors, transferees and assigns of such a person;
- 1.2.5. to one gender include all genders;
- 1.2.6. to the singular include the plural and vice versa;
- 1.2.7. to 'includes' or 'including' shall mean without limitation;
- 1.2.8. to 'contract' includes any relevant contract however described therein;
- 1.2.9. to any statute, statutory provision or other instrument, is a reference to it as from time to time amended, extended, consolidated or re-enacted and includes all instruments, orders or regulations made under, or deriving validity from such instrument and any instrument having a similar purpose in the relevant part of the United Kingdom.
- 1.3. Any undertaking by a Party not to do an act or thing shall be deemed to include an undertaking not to permit or suffer such act or thing to be done by another person.
- 1.4. The headings and indexes in this Contract are inserted for convenience only and shall be ignored in construing the Contract.

2. TERMS AND CONDITIONS

- 2.1. Subject to the operation of law, these AHDB Terms read with the other provisions of this Contract as any such may be amended shall govern the Contract to the entire exclusion of all other terms or conditions.
 - 2.1.1. Any amendment to this Contract shall have effect only in relation to this Contract and only if agreed in Writing.
 - 2.1.2. These AHDB Terms as they may be amended from time to time apply to all purchases by AHDB of Goods and Services from the Supplier.
 - 2.1.3. The terms of this Contract shall take precedence over all other terms relating to the undertaking of the Project, including those in any Purchase Order. The Parties agree that any terms in any Purchase Order inconsistent with the terms of this Contract will not amend the terms of the Contract.

3. UNDERTAKINGS BY THE SUPPLIER

- 3.1. The Supplier undertakes that:
 - 3.1.1. it has taken reasonable care in developing and/or assessing the Specification, and believes after due consideration that it together with any of its agents and sub-contractors can fully carry out the necessary work;
 - 3.1.2. to the best of its knowledge and belief, the following shall not constitute an infringement of the Intellectual Property Rights of any third party:
 - (a) the supply of the Goods and Services;
 - (b) appropriate use by AHDB of the Goods and Services, which shall take into due consideration any relevant advice on such use that the Supplier may provide.
 - 3.1.3. it shall take reasonable steps to ensure that there is no conflict of interest as would be likely to prejudice its impartiality and objectivity in supplying the Goods and Services and that upon becoming aware of any such conflict of interest it shall promptly (and in any case within seven days) inform AHDB in Writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as AHDB may reasonably require.
 - 3.1.4. the Goods and the Services shall:
 - (a) not be changed without the prior consent in Writing of AHDB; and
 - (b) conform to the Specification, which the Supplier confirms to be accurate, complete in all material respects and not misleading.
 - 3.1.5. the Goods shall:
 - (a) be of the best available design, of the best quality and workmanship subject to the Specification and in any case without fault or defect (including Latent Defect);
 - (b) conform with all Laws applicable to such Goods as regards the design, manufacture, quality, packaging, storage, transportation, delivery, labelling, health, safety and environmental standards and use of such Goods which are in force at the time of supply;
 - (c) be complete and fully operational and shall be delivered within the agreed contract price with all parts (including all parts that are not specified in the Specification but which are required for proper operation and also the usual guards, safety devices, special tools etc.);

- (d) be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consuming, transportation and disposal of any Goods or parts or materials including paper and/or electronic operation manuals or those available via functioning web link, in particular in relation to hazardous materials which will be clearly identified to AHDB;
 - (e) be free from chlorofluorocarbons, asbestos, dioxins, halons and radiation above natural background levels and any other similarly hazardous substances unless specifically agreed by AHDB; and
 - (f) comply with any applicable national and international quality assurance standards from time to time published under which the Supplier is approved; and/or as reasonably requested by AHDB.
- 3.1.6. the Services shall be performed with all reasonable care, skill and due diligence and in accordance with best professional, technical and scientific knowledge and practice; legislative requirements; generally recognised commercial practices and standards for similar services; and any agreed service levels.
- 3.1.7. it shall at all times during the duration of this Contract and at its own expense:
- (a) maintain all licences and consents necessary for the performance of its obligations under the Contract;
 - (b) adopt safe working practices and shall not in the performance of the Contract in any manner endanger the safety of or unlawfully or unreasonably interfere with the convenience of any other person, including employees and/or contractors of AHDB;
 - (c) ensure that, in performing its obligations under the Contract, it does not cause any disturbance or damage to the operations and property at the relevant site;
 - (d) comply with AHDB's conditions and policies in relation to any site under the control of AHDB and any code of conduct and code of ethics that AHDB may provide to the Supplier from time to time;
 - (e) assist AHDB (and any person nominated by AHDB) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records and providing information reasonably requested by AHDB;
 - (f) notify AHDB as soon as it becomes aware of any breach of laws or any health and safety incident which arises in relation to the Goods or Services (which notification shall not release the Supplier from any liability and/or obligations in respect of such breach, hazard or issue); and
 - (g) co-operate with AHDB in all matters relating to the Goods and Services.
- 3.2. The undertakings given under this Condition 3 shall survive any performance, acceptance or payment pursuant to, or any expiry or termination of, the Contract and shall be extended to any repaired or replacement Goods or substituted or remedial Services provided by the Supplier.

4. PERSONNEL

4.1. The Supplier shall:

- 4.1.1. deploy sufficient personnel of appropriate qualifications, competence and experience to supply the Goods and Services to time and ensure that they are properly managed and supervised;
- 4.1.2. carry out and ensure that its employees, agents and sub-contractors supply the Goods and Services with reasonable skill, care and due diligence, in accordance with best professional, technical and scientific knowledge and practice, any legislative requirements and applying an appropriate level of integrity.
- 4.1.3. take reasonable steps to avoid any changes of Key Personnel, but where the Supplier considers it necessary to do so or such Key Personnel withdraw from or become unavailable for any reason, the Supplier shall promptly inform AHDB and shall take appropriate steps to replace the Key Personnel.
- 4.2. All persons employed by the Supplier in the supply of the Goods and Services shall be its responsibility as employer. The Supplier shall be liable to AHDB for any loss AHDB may suffer arising out of the relationship of the Supplier with any person employed by it or its sub-contractors except (i) where this arises as a direct result of any breach of contract, breach of statutory duty and/or negligence on the part of AHDB or (ii) where the Supplier could not reasonably have prevented the act or failure to act leading to the loss.
- 4.3. The Supplier shall on request and subject to any requirements or limitations of the DPL, give AHDB such particulars as it may reasonably require of all persons who are or may be at any time employed in the supply of the Goods and Services.

5. TUPE

- 5.1. The Supplier shall indemnify AHDB for itself and any future provider of services to AHDB against all and any costs, expenses, liabilities, damages and losses arising out of any claim, action, demand or proceeding which arises or is alleged to arise by virtue of the operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the termination of the provision of any of the Services (including without limitation in relation to any dismissal or alleged dismissal of any individual employed or engaged or formerly employed or engaged in the provision of the Services).
- 5.2. The Supplier shall not:
 - (a) at any time during the Contract, including any extension, move any staff into the undertaking or relevant part of the undertaking, who do not meet the standards of skill and experience or who are in excess of the number required for the purposes of the Contract; or
 - (b) make any substantial change in the terms and conditions of employment of any staff engaged in supplying the Goods and Services that is inconsistent with the Supplier's established employment and remuneration policies.
- 5.2.1. Where, in the reasonable opinion of AHDB, any change or proposed change in the staff employed in the undertaking or relevant part of the undertaking, or any change in the terms and conditions of employment of such staff would be a material breach of Condition 5.2, AHDB shall have the right:
 - (a) to make representations to the Supplier against the change or proposed change;
 - (b) to give notice to the Supplier in accordance with Condition 7 requiring it to remedy the breach within 30 days; and

- (c) if the Supplier has not remedied the breach by the end of the period of 30 days to the satisfaction of AHDB acting reasonably, to terminate the Contract in accordance with Condition 14.4.
- 5.2.2. If, after due consultation with the Supplier, AHDB reasonably requires and gives the Supplier notice in accordance with Condition 7 that any person is to be removed from involvement in the supply of the Goods and Services, the Supplier shall take reasonable steps to comply with such notice.
- 5.3. Where, in the reasonable opinion of AHDB, the Transfer of Undertakings (Protection of Employment) Regulations 2006 are likely to apply on the termination or expiry of the Contract, the Supplier shall promptly provide on request accurate information relating to the staff who would be transferred under the same terms of employment under those Regulations, including in particular:
 - (a) the number of staff who would be transferred, but with no obligation on the Supplier to specify their names;
 - (b) in respect of each of those members of staff their age, sex, salary, length of service, hours of work, overtime hours and rates, any other factors affecting redundancy entitlement and any outstanding claims arising from their employment;
 - (c) the general terms and conditions applicable to those members of staff, including probationary periods, retirement age, periods of notice, current pay agreements, working hours, entitlement to annual leave, sick leave, maternity and special leave, terms of mobility, any loan or leasing schemes, any relevant collective agreements, facility time arrangements and additional employment benefits.
- 5.3.1. The Supplier shall indemnify AHDB against any claim made against AHDB at any time by any person in respect of any liability incurred by AHDB arising from any deficiency or inaccuracy in information which the Supplier is required to provide under Condition 5.3.
- 5.3.2. AHDB shall take reasonable precautions to ensure that the information referred to in Condition 5.3 is given only to suppliers who have qualified to tender for the future provision of the supply of the Goods and Services and similar goods and services.
- 5.3.3. AHDB shall require any supplier to whom such information is given:
 - (a) to treat the information in confidence,
 - (b) not to communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by AHDB, and
 - (c) not to use it for any other purpose.

6. CONTRACTED WORKERS

- 6.1. This Condition 6 applies in relation to and only in relation to a person satisfying all of the following criteria (a 'Contracted Worker'):
 - 6.1.1. The person must be contracted to undertake Research for or supply goods or services to AHDB for six months or more, directly by this Contract or consequent upon an obligation in this Contract upon the Supplier;
 - 6.1.2. The person must not be on the payroll of AHDB or Meat and Livestock Commercial Services Limited or any UK government department (including a devolved administration) or any agency thereof;

- 6.1.3. The person must be or have been liable to pay UK income tax and/or national insurance contributions at the appropriate time;
- 6.1.4. The rate of payment (calculated based on a 7.5 hours working day, and excluding reimbursement of expenses necessarily incurred and VAT) for the provision of such services must be £220 or more per day.
- 6.2. Insofar as the Contracted Worker is liable to be taxed in the UK in respect of consideration received in relation to this Contract, he shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- 6.3. Insofar as the Contracted Worker is liable to National Insurance Contributions (NICs) in respect of consideration received in relation to this Contract, he shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- 6.4. AHDB may, at any time during the term of this Contract, request the Contracted Worker to provide within a specified period information which demonstrates how he complies with Conditions 6.2 and 6.3 above or why those Conditions do not apply to him. For the avoidance of doubt, this does not oblige the Contracted Worker to disclose the amount of income tax or NICs paid.
- 6.4.1. AHDB may supply any information which it receives under this Condition 6.4 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 6.5. Insofar as the Supplier is a Contracted Worker or the Supplier contracts directly or through any other person with any Contracted Worker for the supply of Research or goods or services in relation to the satisfaction of its obligations under this Contract, this Condition 6 shall apply in relation to each Contracted Worker.
- 6.5.1. The Supplier shall ensure that such contracts:
 - (a) contain obligations and other provisions equivalent to those in this Condition 6 so that AHDB is able to take action in relation to each Contracted Worker; and
 - (b) ensure that any information provided by a Contracted Worker to any other person in relation to the operation of this Condition 6 may lawfully be provided to AHDB and be provided by AHDB to the Commissioners of Her Majesty's Revenue and Customs.
- 6.6. Subject to Condition 14.12, AHDB may terminate this Contract if:
 - (a) in the case of a request mentioned in Condition 6.4, the Contracted Worker:
 - (i) fails to provide information in response to the request within any specified period or, if no period is specified, within a reasonable time, or
 - (ii) provides information which is inadequate to demonstrate either how he complies with Conditions 6.2 and 6.3 above or why those Conditions do not apply to him; or
 - (b) AHDB receives information which demonstrates that, at any time when Conditions 6.2 and 6.3 apply to the Contracted Worker, he is not complying with those Conditions.
- 6.6.1. Amendments to the Contract under Condition 14.12 may exclude the Contracted Worker but AHDB shall have no liability to the Supplier in relation to any liability thereby falling upon the Supplier.

7. CONTACTS AND COMMUNICATION

- 7.1. AHDB and the Supplier shall each nominate a Primary Contact as its principal point of contact.
 - 7.1.1. The Supplier shall nominate any Key Personnel.
 - 7.1.2. Any such nomination shall be in Writing to the other Party.
- 7.2. The Primary Contacts and the Key Personnel shall communicate as necessary to facilitate the performance of this Contract.
- 7.3. Contact and communication information relating to each Party is set out or deemed to be set out in Schedule C.
 - 7.3.1. Unless otherwise agreed, any communication between the Parties concerning the Contract shall be in English.

Notices

- 7.4. Any notice required to be given shall:
 - 7.4.1. be in permanent written form and signed by or on behalf of a duly authorised officer of the Party giving notice;
 - 7.4.2. be deemed duly served if:
 - (a) given to the Representative of the Party to be served with the notice (the 'receiving Party'), or
 - (b) left at, or sent by pre-paid first class post (or by air mail if one Party is outside the UK) or by facsimile transmission to, the address of the receiving Party specified in Schedule C.
 - 7.4.3. be deemed to have been received by the receiving Party:
 - (a) on the first Working Day after the day on which it is given to the Representative of, or left at the address of, that Party;
 - (b) on the third Working Day after the day on which it is posted save that if the notice is sent by air mail, it shall be deemed to have been so received on the fifth Working Day after the day on which it is posted;
 - (c) on the first Working Day after the day on which a facsimile is transmitted.
- 7.5. In proving the serving and receipt of a notice it shall be sufficient to prove that:
 - (a) the notice was given or left in accordance with Condition 7.4.2; or
 - (b) the envelope containing the notice was correctly addressed and was posted; or
 - (c) the facsimile was correctly addressed and was confirmed by the recipient equipment as having been received with all pages successfully transmitted.

8. OPERATION OF THE CONTRACT

- 8.1. The Supplier shall properly manage and monitor the supply of the Goods and Services and inform AHDB in Writing without undue delay if any aspect of the Contract is not being or is unable to be performed.
 - 8.1.1. The Supplier shall provide all the facilities necessary to supply the Goods and Services.
 - 8.1.2. Any materials or processes used in connection with the supply of the Goods and Services shall be in accordance with standards set out in the Contract.

- 8.2. The Supplier shall supply the Goods and Services to AHDB in accordance with the Specification and ensure that its employees, agents and sub-contractors act with reasonable skill, care and diligence.
- 8.3. The Supplier shall take reasonable steps to follow best professional or good industry practice and ensure compliance with all applicable laws, codes of practice, guidelines and any Standards set out in the Specification, by itself and its servants, employees, agents and sub-contractors.
- 8.4. The Supplier confirms that:
 - 8.4.1. it will comply with best practice and relevant provisions, whether statutory or otherwise, relating to health and safety at work;
 - 8.4.2. it will comply with the DPL;
 - 8.4.3. it will not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010;
 - 8.4.4. it will comply with the Bribery Act.
- 8.5. The Supplier confirms that in entering into the Contract it has not:
 - 8.5.1. colluded with any competitor in formulating its offer to supply the Goods and Services except insofar as any such competitor is a named participant in a consortium in relation to supply of the Goods and Services of which the Supplier is also a participant;
 - 8.5.2. canvassed any person associated with AHDB or otherwise sought improperly to improve its competitive position in relation to this Contract;
 - 8.5.3. done or omitted to do anything that would result in a breach of the Bribery Act 2010.
- 8.6. Except to the extent permitted in this Contract, the Supplier shall treat all Confidential Information belonging to AHDB as confidential and shall not disclose any such Confidential Information to any other person without the prior consent in Writing of AHDB, except under an obligation of confidentiality upon such persons and to such extent as may be necessary for the performance of the Supplier's obligations under the Contract.
 - 8.6.1. Each Party may discuss the Contract and its performance with any adviser or consultant subject to appropriate conditions of confidentiality.
- 8.7. The Supplier shall promptly and in any case not later than one week of its becoming aware of any circumstances likely to adversely affect the supply of the Goods and Services bring these matters to the attention of AHDB in Writing and the Primary Contacts shall reasonably agree any consequential action that shall be taken.
- 8.8. Each Party shall, subject to being informed reasonably in advance, attend all meetings specified in the Contract or otherwise reasonably arranged by either Party for the discussion of matters concerned with the supply of the Goods and Services.
- 8.9. At any time prior to delivery of the Goods to AHDB or completion of the Services AHDB (or its nominee) shall have the right to inspect and test the Goods or inspect the work being carried out in performance of the Services. If at the date of the inspection the Goods are located or the Services are being performed at the premises of the Supplier or its associated companies or sub-contractors, the Supplier shall procure that AHDB or its nominees have access on reasonable notice and shall ensure that the inspectors shall receive such information and

assistance as they reasonably request in relation to their inspection or testing of the Goods or Services.

- 8.9.1. If the results of such inspection or testing cause AHDB to be of the opinion (acting reasonably) that the Goods and/or Services do not conform or are unlikely to conform to the Specification, or that the Goods and/or Services may not be delivered to time, AHDB may at its option:
- (a) inform the Supplier in Writing, following which the Supplier shall immediately take such action as is necessary to ensure conformity or timely delivery as the case may be;
 - (b) reject the Goods or Services; or
 - (c) require and witness further testing and inspection.
- 8.9.2. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and the Services and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

9. SUB-CONTRACTING

- 9.1. Without prejudice to the provisions of Annex 2, where a Supplier enters into a Sub-Contract for the purpose of performing its obligations under the Contract, it shall ensure that provisions are included *mutatis mutandis* in the Sub-Contract which:
- (a) have the same effect as Conditions 11.3, 11.3.1 and 11.3.2; and
 - (b) require the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect *mutatis mutandis* as Conditions 11.3, 11.3.1 and 11.3.2.

In this Condition 9.1, 'Sub-Contract' means a contract between two or more suppliers, at any stage of remoteness from AHDB in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

- 9.2. The Supplier shall ensure that any sub-contractor complies with the terms and conditions of this Contract insofar as they are applicable and shall provide AHDB on request with a copy of any sub-contract.
- 9.2.1. Where the Supplier becomes liable to pay interest payments to a sub-contractor, AHDB will not reimburse those costs unless they are incurred due to the negligence or default of AHDB.
- 9.3. The appointment of sub-contractors shall be subject to the prior approval of AHDB which shall not be unreasonably delayed or refused.
- 9.3.1. Any sub-contract shall not relieve the Supplier of its obligations under the Contract and the Supplier shall remain liable to AHDB for any performance or non-performance of such obligations.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. Unless otherwise agreed, all Intellectual Property Rights arising from the supply of the Goods and Services to AHDB together with any other information, knowledge, idea, design, material, or invention and any expression of any idea created by the Supplier (or its agents or employees) shall be the exclusive property of AHDB.

- 10.2. The Supplier shall fully disclose all such arising Intellectual Property Rights to AHDB and shall not use them for its own purposes or those of any third party nor disclose them without the prior written consent of AHDB. The Supplier at the request and expense of AHDB will take all measures which may be necessary to vest ownership of such Intellectual Property Rights in AHDB or its nominee and shall assist AHDB in establishing and protecting such Intellectual Property Rights, including if necessary doing all such acts and executing all such documents as AHDB reasonably deems necessary. To the extent permitted by applicable Laws, the Supplier shall waive or shall procure the waiver of moral rights in such Intellectual Property Rights.
- 10.3. The Supplier shall:
- 10.3.1. ensure that each person who is engaged in relation to the Contract is engaged on terms which do not entitle him to copyright or any other arising Intellectual Property Rights;
- 10.3.2. ensure that it is and remains entitled to transfer free from any encumbrances any title and/or rights necessary to effect any vesting required by this Contract;
- 10.3.3. co-operate with and assist AHDB in obtaining and/or enforcing any and all rights in such Intellectual Property.
- 10.4. If a claim is made that the possession or use by AHDB of any Goods or Services supplied under this Contract infringes the Intellectual Property Rights of a third party, or in the Supplier's reasonable opinion such a claim is likely to be made, the Supplier shall promptly and at its cost either:
- 10.4.1. obtain for AHDB the right to continue using the materials which were the subject of the claim; or
- 10.4.2. modify or replace the infringing part of the materials so as to avoid the infringement or alleged infringement but in such a way that it complies with the representations and warranties in this Contract.
- 10.5. If the Supplier becomes aware that any person alleges that any Intellectual Property Rights owned by or to be vested in AHDB are invalid or that use of such Intellectual Property Rights infringes any Intellectual Property Rights of another party then it shall as soon as reasonably practicable give AHDB particulars thereof in Writing and shall make no comment or admission to any third party in respect thereof.
- 10.6. All AHDB's Intellectual Property Rights and all materials, products, samples, documents and information provided by AHDB to the Supplier (including copyright therein) shall remain the property of AHDB. Their use by the Supplier shall be allowed only within the limits of the purpose of this Contract or another written contract between the Parties.
- 10.7. This Contract shall not affect the ownership of any Intellectual Property Rights in existence before the Commencement Date.
- 10.7.1. For the avoidance of doubt, Condition 10.1 shall not apply in relation to pre-existing Intellectual Property Rights in software that has been modified at AHDB's expense to enable the performance of this Contract. Any use of such modified software by the Supplier other than at the request of AHDB shall be subject to the prior agreement of AHDB in Writing.

11. PAYMENT

- 11.1. AHDB will not reimburse any increase in the Supplier's costs (including increases in pay rates, national insurance and other employment costs) unless agreed in writing prior to the Supplier incurring such an increase.
- 11.2. All payments shall be paid to the Supplier, which shall hold in trust for AHDB any monies due therefrom to any other person until they are received by that person. The Supplier shall comply with instructions from AHDB in Writing to withhold part or all of any such payment to such a person and AHDB shall reimburse the Supplier for any damages awarded judicially against the Supplier consequent upon the Supplier's compliance with any such instructions.
- 11.3. AHDB shall pay all undisputed amounts within 30 days of the day when it has determined that a received invoice is valid and undisputed (the 'Due Date'). Such determination shall include establishing that it is proper (as described in Schedule B). Time for payment shall not be of the essence of the Contract.
 - 11.3.1. AHDB will consider and verify invoices in a timely manner.
 - 11.3.2. If AHDB fails to comply with paragraph 11.3.1 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of Condition 11.3 after a reasonable time has passed, taking into consideration all relevant circumstances.
 - 11.3.3. If any sum due under the Contract is not paid within 30 days of the Due Date then, without prejudice to the Parties' other rights under the Contract, that sum shall bear simple interest from the Due Date until payment is made in full, both before and after any judgment, at 2 per cent per annum over the official dealing rate in force on the day on which such interest starts to run, where the official dealing rate is the rate announced from time to time by the Monetary Policy Committee of the Bank of England and for the time being in force as the official dealing rate.
 - 11.3.4. The Supplier is not entitled to suspend deliveries of Goods or Services as a result of any sum being outstanding.
 - 11.3.5. In the event that an agreed milestone is not achieved or the final claim is not made as agreed, AHDB reserves the right to withhold all or part of the relevant monies otherwise due to the Supplier.
 - 11.3.6. AHDB reserves the right to audit any payment for which reimbursement is claimed and the Supplier agrees to co-operate fully in relation to any such audit.
- 11.4. Notwithstanding any other provision in this Contract and without prejudice to its other rights and remedies, no part of the final scheduled payment shall be due from or payable by AHDB until the performance of the Contract by the Supplier has been completed to AHDB's satisfaction acting reasonably.
 - 11.4.1. In the event that no final payment is scheduled, such final scheduled payment shall be deemed to be 20% of the total payment due under this Contract if performed in full.
 - 11.4.2. In the event that the Supplier fails to complete such performance on or before the Completion Date through no fault of AHDB:
 - (a) the Parties shall agree a date and the performance shall be completed no later than such date;
 - (b) without prejudice to any other rights and remedies available to AHDB, AHDB shall be entitled to receive from the Supplier an amount equal to 10% of the total sum payable by AHDB to the Supplier under the Contract, such payment being a debt

due from the Supplier to AHDB and representing the reasonable estimate by the Parties of the losses or damages likely to arise to or be incurred by AHDB as a result of such breach, and not by way of a penalty or similar charge; and

- (c) the Supplier shall pay such payment to AHDB within 30 days of receiving a proper invoice from AHDB.

- 11.5. Without prejudice to any other right or remedy, AHDB shall have the right to set off any amount owed by the Supplier to AHDB for any reason including any overpayment by AHDB to the Supplier against any amount payable by AHDB to the Supplier under the Contract or any other contract.

12. LIABILITY

- 12.1. Neither Party shall be responsible to the other Party (including any person forming part of the Supplier) for any special, exemplary, indirect or consequential loss or damage, loss of profit, loss of revenue or anticipated savings, loss of business opportunity or loss of goodwill arising under or pursuant to this Contract, whether arising from negligence, breach of contract or otherwise, whether or not that Party has been advised of the possibility of, should have known of, or could reasonably have prevented, such loss or damage.

- 12.2. The Supplier shall indemnify AHDB, its employees, agents and contractors from and against liability for:

- (a) death or personal injury;
- (b) loss of or damage to property (including property belonging to AHDB for which it is responsible);
- (c) any losses arising from a breach of Data Protection Legislation; and
- (d) actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis)

which arises out of or in connection with the supply of the Goods and Services or a breach of this Contract.

- 12.3. The indemnities contained in Condition 12.2 shall not apply to the extent that:

- (a) any loss, damage injury, cost and expense is caused by the negligent or wilful act or omission of AHDB, its employees, agents or contractors, or by the breach by AHDB of its obligations under the Contract; or
- (b) the Supplier is able to demonstrate that the loss, damage or injury arose as a direct result of the Supplier acting on specific instructions in Writing from AHDB.

- 12.4. Each Party shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations under Condition 12, take out and maintain (and shall require any sub-contractor to take out and maintain) with a reputable insurance company an appropriate level of insurance covering appropriate risks.

- 12.4.1. The insuring Party shall responsibly and reasonably determine the appropriateness of the level of insurance and risks to be covered and shall take into consideration any views reasonably expressed by the other Party. That other Party shall not unreasonably refuse to assist the insuring Party when it is making such determination. Failure to insure adequately shall not relieve a Party of its liability to the other Party.

- 12.4.2. Satisfactory evidence of the level of insurance and the payment of premiums in relation to the policy or policies of insurance referred to in Condition 12.4 shall be shown by the insuring Party to the other Party on request.
- 12.4.3. No Party to the Contract shall take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under any insurance policy in which that Party is an insured, a co-insured or additional insured person.
- 12.4.4. AHDB may waive the requirement for indemnity and/or insurance, in whole or part, where the Supplier is able to provide adequate assurance that it can meet any liabilities for which indemnities are provided for under Condition 12.2.
- 12.5. In relation to any Supplier that is an Academic Institution (or is deemed to be such by this Contract), the following shall not apply:
- (a) any requirement for an indemnity and any consequential requirement for insurance and evidence thereof;
 - (b) Condition 11.5.
- For the avoidance of doubt, such non-application shall not relieve the Supplier of any liability to AHDB.
- 12.6. Neither Party shall be responsible for any failure to perform its obligations hereunder due to an event of force majeure, including any circumstances beyond its reasonable control, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either Party's workforce).
- 12.6.1. In the case of an event of force majeure, the Parties shall seek to minimise any adverse effect on the Contract, including adjusting milestones where appropriate
- 12.6.2. If an event of force majeure delays the supply of any Goods or Services by more than thirty days and this event could reasonably be envisaged to jeopardise the interests of a Party or the Contract, the Parties shall consider and agree on appropriate action including whether the Contract and its performance should be amended, postponed or terminated and subject to the agreement of AHDB shall take appropriate action.

13. DELIVERY, ACCEPTANCE AND REJECTION

- 13.1. Subject to Conditions 13.1.1 and 13.1.2, the Goods shall be delivered DDP to the AHDB Stores and the Services performed at the place specified in the Contract. Delivery shall take place at the entrance to the relevant building or such other building as may be specified and not roadside unless otherwise agreed in writing prior to delivery.
- 13.1.1. Supplies of Goods by letter post may be addressed to the Principal Office.
- 13.1.2. A different place of delivery or performance may be agreed:
- (a) in Writing prior to delivery of the Goods or the performance of the Services;
or
 - (b) orally prior to such delivery or performance and where appropriate subsequently confirmed in Writing.
- 13.1.3. The Supplier shall unload the Goods at its own risk as directed by AHDB. Unless otherwise stipulated by AHDB, deliveries shall only be accepted by AHDB in Business Hours.

- 13.1.4. The date for delivery shall be specified, or if no such date is specified then unless otherwise agreed delivery shall take place within 28 days of the order.
- 13.1.5. The Goods shall remain at the risk of the Supplier until delivery in accordance with the Contract to AHDB is complete (including unloading and stacking) when ownership of the Goods shall pass to AHDB.
- 13.2. In respect of Goods, the Supplier shall invoice AHDB upon, but separately from, despatch of the Goods to AHDB. In respect of Services, the Supplier shall invoice AHDB monthly in arrears (or at such other frequency as may be agreed between the Parties).
- 13.3. The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which shows, among other things, the Purchase Order number, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 13.4. Time shall be of the essence of the Contract in relation to the Supplier's obligation to supply the Goods and Services unless otherwise specifically agreed in Writing.
- 13.5. If the Goods are not delivered on the due date, the Services are not provided in accordance with the agreed timetable or if the Goods or Services (in the reasonable opinion of AHDB) do not comply with the Purchase Order, the Specification or any other standards stipulated by AHDB then, without prejudice to any other rights which it may have, subject to Condition 14.12 AHDB reserves the right to terminate the Contract.
- 13.6. All Goods shall be packaged by the Supplier so as to ensure that they will be in good condition upon arrival at their destination. If the Supplier requires AHDB to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to AHDB and any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 13.7. Where AHDB agrees in Writing to accept delivery of Goods or Services by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Supplier to properly deliver any one instalment shall entitle AHDB at its option to treat the whole Contract as repudiated.
- 13.8. If the Goods are delivered to AHDB in excess of the quantities ordered AHDB shall be entitled to reject the excess Goods and shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be available for collection at the Supplier's expense within 3 months. Thereafter AHDB may dispose of such excess Goods at the Supplier's expense.
- 13.9. AHDB shall not be deemed to have accepted the Goods until it has had 7 days to inspect them following delivery. AHDB shall also have the right to reject the Goods as though they had not been accepted for 14 days after any Latent Defect in the Goods has become apparent.
- 13.10. The Supplier agrees that AHDB or AHDB's representative shall be entitled to monitor the performance of the Contract at any reasonable time and, save where AHDB has good reason not to give any notice, on reasonable notice and to inspect and take copies of any relevant records of the Supplier.
- 13.11. The Supplier shall promptly, and in any case within one week of its becoming aware of any circumstances likely to adversely affect the supply of the Goods and Services or the time in which this will be completed, bring these matters to the attention of AHDB's Primary Contact in Writing and the Primary Contacts shall reasonably agree any consequential action that shall be taken.

14. TERMINATION

- 14.1. This Contract may be terminated by agreement in Writing between the Parties at any time.
- 14.2. Where AHDB is reasonably of the opinion that the Supplier has a significant conflict of interest relating to the Contract, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if any such conflict of interest is capable of being avoided or removed and the Supplier promptly and successfully takes steps at its expense to avoid or remove the conflict.
- 14.3. Where in the reasonable opinion of AHDB the Supplier has failed to:
- (a) progress the supply of the Goods and Services in accordance with the Specification unless otherwise reasonably agreed between AHDB and the Supplier in Writing, including any agreement under Condition 13.11; or
 - (b) otherwise fulfil its obligations under this Contract,
- AHDB may give the Supplier notice in accordance with Condition 7 specifying the way in which its performance falls short of the requirements of the Contract, or is otherwise unsatisfactory. Such notice may:
- (a) direct the Supplier to remedy the fault at the Supplier's expense within such time as may be reasonably specified by AHDB; and/or
 - (b) withhold or reduce payments to the Supplier, in such amount as AHDB reasonably deems appropriate in the circumstances.
- 14.3.1. In relation to any significant failure described in Condition 14.3:
- (a) If the failure is not reasonably remediable, AHDB may treat the failure as a material breach of the Contract.
 - (b) If the failure is reasonably remediable and the Supplier fails to remedy it reasonably promptly or in accordance with any direction given by notice under that Condition, AHDB may then treat the failure as a material breach of the Contract.
- 14.4. In the event that the Supplier has committed a material breach of the Contract, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if such breach is capable of remedy and the Supplier has remedied such breach at its own expense within 30 days (or such other period as may reasonably be agreed) of being required by AHDB in Writing to do so.
- 14.5. If any distress, execution or other process is levied upon any of the assets of the Supplier intended to be used for the purposes of the supply of the Goods and Services, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if the Supplier is able to properly undertake such supply by other means at no additional cost to AHDB.
- 14.6. If the Supplier being an individual dies or is judged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983, AHDB may terminate the Contract.
- 14.7. The Supplier shall promptly inform AHDB in Writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or change of status and of the completion of any such matter. For the purposes of this Condition 14.7, 'control' has the meaning set out in section 1124 of the Corporation Tax Act 2010.

- 14.7.1. AHDB shall respect any reasonable request by the Supplier to treat information provided under Condition 14.7 as Confidential Information for an appropriate specified period.
- 14.7.2. Upon completion of any of the matters described in Condition 14.7, AHDB shall consider in the context of the Public Contracts Regulations 2015 whether the continuation of the Contract with or without reasonable amendment is unlawful and shall take appropriate action which subject to Condition 14.12 may include terminating the Contract.
- 14.8. The Supplier shall inform AHDB in Writing immediately upon the occurrence of any of the following events:
- (a) being an individual:
 - is the subject of a bankruptcy order, or
 - has made a composition or arrangement with his creditors;
 - (b) being a company:
 - goes into compulsory winding up;
 - passes a resolution for voluntary winding up;
 - suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets;
 - has entered into a voluntary arrangement with its creditors under Part I of the Insolvency Act 1986;
 - has proposed or entered into any scheme of arrangement or composition with its creditors under Part 26 of the Companies Act 2006; or
 - has been dissolved;
 - (c) being a partnership or unregistered company:
 - goes into compulsory winding up;
 - is dissolved;
 - suffers an administrator or receiver and manager to be appointed over the whole or any part of its assets;
 - has entered into a composition or voluntary arrangement with its creditors; or
 - any individual member of the partnership falls within Condition 14.8(a);
 - (d) or is in any case affected by any similar occurrence to any of the above in any jurisdiction,
- and subject to Condition 14.12 AHDB may terminate the Contract.
- 14.9. If:
- (a) the Supplier has failed to make satisfactory progress with the supply of the Goods and Services and AHDB reasonably believes that such supply is unlikely to be completed by the Completion Date;
 - (b) AHDB's powers to impose a levy upon any Industry relevant to the Goods and Services are reduced or discontinued; or

subject to Condition 14.12 AHDB may terminate the Contract by giving the Supplier not less than 30 days' notice.

- 14.10. AHDB shall have the right at any time and for any reason to terminate the Contract by giving not less than 60 days' notice, whereupon all work on the Contract shall be discontinued.
- 14.11. Subject to Condition 14.12 and pursuant to regulation 73 of the Public Contracts Regulations 2015, AHDB may terminate the contract by giving the Supplier not less than 30 days' notice if:
- (a) the contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of those Regulations;
 - (b) the Supplier has, at the time of contract award, been in one of the situations referred to in regulation 57(1), including as a result of the application of regulation 57(2) of those Regulations, and should therefore have been excluded from the procurement procedure; or
 - (c) the contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty of the Functioning of the European Union.
- 14.12. Before giving notice of termination under Conditions 6.6, 13.5, 14.2, 14.4, 14.5, 14.7.2, 14.8, 14.9, 14.10 or 14.11, AHDB shall consult the Supplier and the Parties shall promptly consider whether any part of the supply of the Goods and Services could reasonably and usefully continue to be undertaken as an alternative to termination and if so whether the Contract should consequently be amended. If AHDB agrees to such continuation, notice of termination shall not be given and appropriate amendments shall be made to the Contract, which may include amendments to the Specification and the payments due.
- 14.12.1. In the event that no agreement is reached to continue the supply of any or all of the Goods and Services within 10 days of AHDB consulting the Supplier under Condition 14.12, AHDB may terminate the Contract.
- 14.13. Notice of termination of this Contract shall be given by AHDB to the Supplier in accordance with Condition 7.
- 14.14. AHDB may, during any notice period direct the Supplier:
- (a) to refrain from performing the Contract or any part thereof;
 - (b) to cease work immediately; or
 - (c) to complete, in accordance with this Contract, any part of the supply of Goods or Services, which shall be paid at the agreed price or, where no agreement exists as to price, a fair and reasonable price, and such of the Contract as is relevant to the completion of such part shall continue to have effect until such part is completed or discontinued.
- 14.15. Termination of this Contract by AHDB may (unless otherwise specified) have immediate effect.
- 14.16. Except as expressly provided in this Contract, termination of the Contract shall not affect:
- (a) any right, obligation or liability of any Party which has accrued at the date of termination;

- (b) any provision of this Contract which is expressly or impliedly intended to continue to have effect after the Contract has been terminated.
- 14.17. If the Contract is terminated by AHDB otherwise than as a consequence of a material breach by the Supplier, the Supplier shall be entitled to claim from AHDB reimbursement of expenditure incurred or irrevocably committed by the Supplier necessarily and properly in relation to the performance of this Contract including expenditure unavoidably incurred as a result of such termination but excluding loss of profits and any compensation or consequential or indirect loss. The liability of AHDB under this Condition together with any other payments made or to be made to the Supplier shall not exceed the total sum payable for the supply of the Goods and Services as set out in Schedule B.
- 14.17.1. Any such reimbursement shall be conditional upon the Supplier complying with a duty to mitigate such costs as far as is reasonably practicable.
- 14.18. In the event of termination of this Contract as a consequence of a material breach by the Supplier:
- (a) AHDB shall not be under any obligation to make any payment to the Supplier for such period as is reasonable for AHDB to assess the loss and/or damage suffered as a result of the termination. After such period and discussion with the Supplier, AHDB may recover the amount of such loss and/or damage including by set off against any sums due to the Supplier in relation to this Contract;
 - (b) the Supplier shall promptly refund to AHDB any funds paid by AHDB to the Supplier in accordance with this Contract and not in the reasonable opinion of AHDB properly spent or properly committed for the purposes of the Contract;
 - (c) all rights granted to AHDB by the Supplier including any licence to use any Intellectual Property Rights in relation to the Goods and Services shall reasonably continue until the supply of the Goods and Services has been discontinued or completed in relation to the Goods and Services or similar goods and services with a replacement supplier;
 - (d) all rights acquired during the period of the Contract by the Supplier to use any Intellectual Property Rights provided by AHDB shall cease upon termination;
- 14.19. In the case of termination of this Contract pursuant to Conditions 5.2.1(c), 6.6, 13.5, 14.2, 14.4, 14.5, 14.6, 14.7.2, 14.8, 14.9 or 14.10, without prejudice to any other rights which it may have AHDB reserves the right to:
- 14.19.1. refuse to accept any subsequent delivery of the Goods or Services which the Supplier attempts to make;
 - 14.19.2. purchase from a third party Goods and Services of similar nature and scope to those that were to be supplied under this Contract;
 - 14.19.3. recover from the Supplier any excess cost incurred by AHDB over the price agreed in this Contract together with all charges and expenses arising from the purchase of such Goods or Services from the third party; and
 - 14.19.4. claim damages for any additional costs, loss or expenses incurred by AHDB which are in any way attributable to the Supplier's failure to perform the Contract.
- 14.20. Subject to Condition 14.20.1, to the extent that the Contract is declared wholly ineffective or otherwise invalid, void, voidable or unenforceable by any court, tribunal or administrative body of competent jurisdiction pursuant to law (including any law which implements or gives effect to the EU Remedies Directive

[2007/66/EC]), the Contract shall terminate with immediate effect and Condition 14.17 shall apply. The Supplier acknowledges that, other than as set out in this Condition 14.20 (or Condition 14.20.1 if applicable), it shall be entitled to no other payment from AHDB in the event of any such termination.

14.20.1. Where a declaration of the type described in Condition 14.20 (a 'Declaration') is stayed or otherwise suspended pending an appeal by AHDB or for any other reason, the Contract shall continue in full force and effect for such period of stay or suspension (the 'Relevant Period'). If the Declaration is upheld at the end of the Relevant Period the Contract shall be deemed to have terminated on the date the original Declaration was made (or such other date as may be determined by the court, tribunal or administrative body of competent jurisdiction) and the provisions of Condition 14.20 shall apply with effect therefrom (provided that the amounts being reimbursed to the Supplier thereunder shall include those reasonably incurred by it in respect of work-in-progress or Services performed during the Relevant Period). If the Declaration is overturned at the end of the Relevant Period the Contract shall continue in full force and effect for the remainder of the Term. The Supplier agrees to provide all reasonable assistance to AHDB in connection with any Declaration or appeal against a Declaration and in mitigating the effect of such.

14.21. The Supplier shall co-operate fully with AHDB following the termination of the Contract as a consequence of its expiry or otherwise. This co-operation shall extend to allowing full access to, and providing copies of, all documents, reports, summaries and any other information relating to the supply of the Goods and Services. Upon the termination of the Contract, the Supplier shall:

- (a) forthwith return to AHDB the originals and any copies of all documents and materials provided in relation to the Contract and destroy any electronic copies thereof;
- (b) transfer to AHDB, or any person designated by AHDB, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the supply of the Goods and Services;
- (c) permit AHDB to enter premises and recover any documents, equipment and materials which are the property of AHDB provided AHDB reasonably informs the Supplier in advance of its intention so to do,

so however that such documents, equipment and materials may be retained insofar as they are required by the Supplier for the purposes of another contract with AHDB.

14.21.1. Following termination or expiry of the Contract otherwise than as a result of a material breach by the Supplier, the Supplier shall be entitled to invoice AHDB for a reasonable fee in respect of the Supplier's time spent on assisting AHDB with any requests for information.

15. TRANSFER OF RIGHTS AND OBLIGATIONS

15.1. The Supplier shall not sub-contract, transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior consent of AHDB in Writing, which may be conditional but shall not be unreasonably withheld, denied or delayed.

15.1.1. The Supplier shall ensure, if so requested by AHDB, that an assignee enters into a novation agreement with AHDB to perform the Contract as if the assignee were a Party to the Contract in lieu of the Supplier.

- 15.2. AHDB may at any time by giving 30 days' notice to the Supplier in accordance with Condition 7, transfer or assign all or any rights and/or obligations under the Contract.

16. FREEDOM OF INFORMATION AND DATA PROTECTION

- 16.1. The Parties acknowledge that, in order to be compliant with the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or any other legislation governing access to information (the 'FOI Legislation'), there may be an obligation to provide information that relates to this Contract, which may include Confidential Information, on request to third parties.
- 16.1.1. In the event that either Party receives a request for information relating to the Contract falling within the scope of the FOI Legislation, that Party (the 'Disclosing Party') shall be entitled to disclose such information as is necessary to comply with the FOI Legislation. The Parties shall co-operate in order to enable the Disclosing Party to comply with its obligations under the FOI Legislation. Where Confidential Information relating to the Contract is exempt from disclosure, it shall not be disclosed without the agreement in Writing of the owning Party.
- 16.1.2. The Disclosing Party shall not be liable for any loss, damage, harm or other detriment suffered by the other Party arising from the disclosure of any information required by the FOI Legislation to be disclosed.
- 16.2. AHDB maintains a database of its contracts including all those likely to have a value of £25,000 or more. AHDB recognises the importance of transparency in its procurement and contracting, and subject to any confidentiality obligations the contents of these contracts will be made available to interested persons on request.
- 16.2.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOI Legislation, the content of this Contract is not Contractor's Confidential Information. The Disclosing Party shall be responsible for determining whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOI Legislation.
- (a) Notwithstanding any other term of this Contract, the Supplier hereby gives its consent for AHDB to provide or publish to the general public the Contract in whole or part, as it may be amended.
- (b) The Supplier shall assist and co-operate with AHDB to enable AHDB to provide or publish this Contract, including by identifying any matters which it considers to be confidential or otherwise exempt from disclosure under the FOI Legislation. AHDB will take any representation from the Supplier into fair and proper account.
- 16.3. The Supplier shall not publicise or permit any other person to publicise the procurement, award, existence or content of this Contract without the prior written permission of AHDB's Director of Communications and Legal Services, which may be conditional and which shall not be unreasonably denied, delayed or withheld.
- 16.3.1. For the avoidance of doubt, Condition 16.3 does not prevent:
- (a) The disclosure by any Party of this Contract or a draft thereof to a supplier or sub-contractor that is expected to act with the Supplier in relation to the supply of the Goods and Services so that it is aware of the terms under which the Supplier will contract with AHDB. Commercially sensitive matter

may be redacted. Similar conditions to those imposed on the Supplier under Condition 16.3 shall be imposed on the recipient.

(b) the disclosure of the AHDB Terms to any person.

- 16.4. The Parties shall comply with the obligations contained in Annex 2 in respect of data processing and the protection of personal data within the meaning of the DPL.
- 16.5. Insofar as the Supplier is subject to the FOI Legislation or is the data controller pursuant to the DPL, this Condition 16 and Annex 2 shall have mutual effect mutatis mutandis.

17. DISPUTE RESOLUTION

- 17.1. The Parties shall in good faith attempt to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.
 - 17.1.1. If any such dispute is not resolved by such negotiation within 42 days from notification that a dispute exists or such longer period as may be agreed, including escalation to senior executives if appropriate, the Parties shall consider referring the matter to mediation in accordance with Conditions 17.2 and 17.3.
 - 17.1.2. Each Party agrees to pay due consideration to Conditions 17.1 and 17.3 before commencing proceedings to settle a dispute relating to this Contract.
- 17.2. The procedure for mediation shall be as follows:
 - 17.2.1. a neutral person ('the Mediator') shall be chosen by agreement between the Parties, alternatively, any Party may within 14 days from the date of the proposal to appoint a mediator, or within 14 days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to the Centre for Dispute Resolution ('CEDR') to appoint a mediator;
 - 17.2.2. the Parties shall within 14 days of the appointment of the Mediator meet with him to agree a timetable for the exchange of all relevant and necessary information and the procedure to be adopted for the mediation. If appropriate, the Parties may at any stage seek from CEDR guidance on a suitable procedure;
 - 17.2.3. unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;
 - 17.2.4. if the Parties reach agreement on the resolution of the dispute, that agreement shall be put in Writing and shall be binding upon the Parties;
 - 17.2.5. failing agreement, any Party may invite the Mediator to provide a non-binding but informative opinion in Writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior consent of the Parties in Writing.
- 17.3. For a period of 60 days from the date of the appointment of the Mediator, or such other period as the Parties may agree, none of the Parties may commence any proceedings in relation to the matters referred to the Mediator.

18. GENERAL

- 18.1. Subject to any fraudulent misrepresentation, the Contract including any documents referred to herein and any properly made amendment sets out the entire agreement relating to the supply of the Goods and Services and supersedes any prior agreement, contract, understanding, proposal, statement

or other communication relating to the Goods and Services whether oral or written.

- 18.1.1. In entering into this Contract, each Party acknowledges that it does not do so on the basis of and does not rely on any representation, warranty or other provision except as expressly provided in this Contract.
- 18.1.2. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement of an Order, specification, delivery note, invoice, proposal or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- 18.2. Nothing in this Contract shall be taken as limiting or excluding AHDB's or the Supplier's rights or obligations pursuant to law.
- 18.3. In carrying out the supply of the Goods and Services, the Supplier shall be acting as principal and not as agent or employee of AHDB. Accordingly:
 - 18.3.1. Nothing in this Contract shall be construed so as to create a partnership or joint venture between the Parties or have the effect of making any employee of any Party a servant of another Party;
 - 18.3.2. No Party shall act or describe itself as the agent of another Party nor shall it make or represent that it has authority to make any commitments on the other's behalf;
 - 18.3.3. The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent or employee of AHDB, and
 - 18.3.4. Nothing in the Contract shall impose any liability of AHDB in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of AHDB to the Supplier that may arise by virtue of either a breach of the Contract or any negligence on the part of AHDB, its staff or agents.
- 18.4. The following requirements shall not apply as between AHDB and a Party who is part of the Crown and the Supplier shall not require any sub-contractor that is part of the Crown to comply with provisions similar to those requirements:
 - (a) Conditions 3.1.2, 12.2, 12.4 (excluding the requirement in relation to sub-contractors) and 14 (to the extent that it relates to Condition 3.1.2);
 - (b) Any other requirement for an indemnity or insurance.
- 18.4.1. The provisions in Condition 18.4 shall apply *mutatis mutandis* in relation to a state department of a member state of the European Union, including any executive agency thereof.
- 18.4.2. For the avoidance of doubt the existence, continuation or size of any liability to AHDB shall not be affected by the operation of this Condition 18.4.
- 18.5. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be severed and the remaining provisions of the Contract shall continue in full force and effect.
- 18.6. Each right or remedy of AHDB under the Contract is without prejudice to any other right or remedy of AHDB whether under the Contract or not and is in addition to any conditions implied in favour of AHDB by Law.

- 18.7. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.
- 18.7.1. The delay, failure or neglect of any Party to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- 18.7.2. No waiver shall be effective unless it is communicated in Writing.
- 18.8. The Supplier agrees to permit any competent authority to perform such checks as it may lawfully require for the purpose of establishing the compliance of AHDB with regulatory or contractual requirements.
- 18.9. This Contract does not give any person who is not a Party to it any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions. This does not affect any right of a third party which exists other than pursuant to that Act.
- 18.10. The Contract shall be governed by and construed in accordance with the law of England and Wales.
- 18.10.1. Without prejudice to Condition 17, each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

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Annex 2 – Data Protection Addendum

1. Processing of Data

- 1.1 AHDB takes a positive attitude towards data sharing providing it is appropriate, undertaken within the scope of the Data Protection Legislation (“DPL”) and there are adequate and proportionate data security arrangements in place.
- 1.2 AHDB has agreed to provide the personal data described in Part 1 (the “Data”) for the purpose specified therein (“Purpose”) and the Data Protection Officer (“DPO”) has authorised its release for the Purpose in accordance with this Agreement. All Data shall be transmitted securely in accordance with Part 1.
- 1.3 The Data may include confidential information about companies and/or individuals. These data subjects were informed at the time the Data was collected that AHDB might or would transfer it to other persons. The Supplier accepts that AHDB bears no legal responsibility for the accuracy or comprehensiveness of the Data supplied.
- 1.4 The Data provided under this Agreement may only be used for the Purpose and must not be published in any form.

2. Data Access, Supplier Personnel and Sub-contractors

- 2.1 The Data is to be shared with the Supplier solely for the Purpose on a strictly need to know basis, and must not be used for any other purpose. Access to the Data must be limited by the Supplier to those personnel, who need to have such access for the Purpose (“Permitted Persons”).
- 2.2 For the purpose of this agreement Permitted Persons shall mean all employees, officers, staff, other workers, agents and consultants of the Supplier who are engaged in the performance of the Purpose.
- 2.3 The Supplier shall on request and subject to any requirements or limitations of the DPL, give AHDB such particulars as it may reasonably require of all persons who are or may be at any time employed in the supply of the Goods and Services.
- 2.4 The Supplier shall take all reasonable steps to ensure the reliability and integrity of any Permitted Persons who have access to the Data and ensure that they:
 - 2.4.1 are aware of and comply with the Supplier’s duties under this agreement;
 - 2.4.2 are subject to appropriate confidentiality undertakings with the Supplier;
 - 2.4.3 are informed of the confidential nature of the Data and do not publish, disclose or divulge any of the Data to any third party unless directed in writing to do so by AHDB or as permitted by this Agreement; and
 - 2.4.4 have undergone adequate training in the use, care, protection and handling of personal data.
- 2.5 The Data must not be provided in whole or in part to any other natural or legal person.
- 2.6 The Supplier is responsible for ensuring that all Permitted Persons fully comply with all obligations and requirements of this Agreement. Failure to do so shall be considered a breach of this Agreement.
- 2.7 The Supplier must ensure that all Permitted Persons and any approved sub-contractor, are subject to a duty of confidence and binding written contractual obligations in respect of the Data no less onerous than those contained in this Agreement.

- 2.8 The Supplier shall not appoint any sub-contractor without AHDB's prior written consent, which consent shall not be unreasonably withheld. The Supplier shall remain fully liable for the sub-contractor's compliance with this Agreement and for all its acts or omissions. The Supplier shall provide AHDB with such information regarding the sub-contractor as AHDB may reasonably require.

3. Storage and Protection of Data

- 3.1 To the extent that the undertaking of this Agreement requires the Supplier to process the Data on behalf of AHDB, the Parties agree that AHDB shall be the data controller and the Supplier shall be the data processor (as such terms are defined in the DPL) and the Supplier agrees to:
- 3.1.1 comply with all applicable DPL in respect of the performance of its obligations under this Agreement and shall not by any act or omission cause AHDB (or any other person) to be in breach of any DPL;
 - 3.1.2 store all data in accordance with Part 1;
 - 3.1.3 process the Data only on and in accordance with AHDB's written and documented instructions as set out in this Annex 2 and provided from time to time, unless the processing is prohibited by any applicable laws and the Supplier has informed AHDB of such applicable laws;
 - 3.1.4 notify AHDB immediately at Data.Protection@ahdb.org.uk if it believes that it has been given an instruction which does not comply with the DPL;
 - 3.1.5 not transfer or permit the transfer of the Data outside the European Economic Area without AHDB's prior written consent; and
 - 3.1.6 implement and maintain appropriate technical authorised measures in accordance with this Annex 2 and in such a manner that the processing will:
 - 3.1.6.1 meet the requirements of the DPL;
 - 3.1.6.2 ensure the protection of the rights of data subjects within the meaning of the DPL; and
 - 3.1.6.3 preserve the integrity of the Data and ensure a level of physical and technical security in respect of the Data at all times that is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, damage or alteration, or unauthorised disclosure of or access to the Data transmitted, stored or otherwise processed;
- 3.2 As a minimum level of protection for the Data, and without prejudice to any other provision of this Annex 2, the Supplier shall:
- 3.2.1 assess risks to the confidentiality, integrity and availability of the Data at least quarterly;
 - 3.2.2 verify its Information and Communication Technology (ICT) systems handling the Data to the extent necessary to give confidence in the security of the data; and
 - 3.2.3 perform secure back-ups of all Data and ensure that up-to-date back-ups are stored in accordance with a recovery plan. The back-ups shall be made available to AHDB on request.

4. Data Subject Rights

- 4.1 The Supplier may inform any enquirer that it is conditionally authorised by AHDB to have and to use the Data and that the Data is being held and used in confidence under

its control. Any such enquiries shall be reported promptly to the DPO in writing at Data.Protection@ahdb.org.uk.

4.2 Subject to clause 5.1, the Supplier shall notify AHDB immediately if it:

- 4.2.1 receives a Data subject access request (or purported Data subject access request);
 - 4.2.2 receives a request to rectify, block or erase any Data;
 - 4.2.3 receives any other request, complaint or communication relating to either Party's obligations under the DPL;
 - 4.2.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Data processed under this Agreement;
 - 4.2.5 receives a request from any third party for disclosure of Data where compliance with such request is required or purported to be required by Law.
- 4.3 Assist AHDB, insofar as is possible, in the fulfilment of its obligations to respond to requests made by data subjects to exercise any of their rights under DPL.

5. Data Loss or Breach

- 5.1 The Supplier shall notify AHDB immediately if it becomes aware of any event that results, or may result, in unauthorised access to Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Data in any breach of this Agreement, including any Data breach. The Supplier's obligation to notify under clause 4.2 shall include the provision of further information to AHDB in phases, as details become available.
- 5.2 Notify AHDB's DPO at Data.Protection@ahdb.org.uk of any suspected or actual breaches of security without undue delay (but in no event later than twelve (12) hours after becoming aware of the breach) and provide such details as may be reasonably required regarding the nature and likely consequences of the breach.
- 5.3 Notify AHDB's DPO at Data.Protection@ahdb.org.uk without undue delay (but in no event later than twelve (12) hours) if the Supplier becomes aware that AHDB Data in its possession has or may have become corrupted, lost or degraded and inform AHDB of the remedial action the Supplier proposes to take. The Supplier shall restore or procure the restoration at its expense of such data that has become corrupted, lost or degraded wholly or partially as a result of the Supplier's default as soon as practicable but not later than four (4) weeks from the date on which the possibility of such corruption, loss or deterioration comes to the Supplier's attention. Subject to the Supplier having been given a reasonable opportunity to undertake such restoration, if such restoration is performed by or on behalf of AHDB otherwise than by the Supplier, the Supplier shall promptly reimburse the reasonable costs thereby Incurred by AHDB.

6. Liability

- 6.1 The Supplier shall comply with all applicable DPL in respect of the performance of its obligations under this Agreement and shall not by any act or omission cause AHDB (or any other person) to be in breach of any DPL. The Supplier accepts and acknowledges that nothing in this Agreement shall relieve the Supplier of its own direct responsibilities and liabilities pursuant to the DPL.

7. Deletion or Return of Data

- 7.1 On the earlier of the completion of the use of the Data for the Purpose or at the written request of AHDB for return or destruction of information or the date given in Part 1 **Completion Date**), all copies of the Data must be returned or destroyed in accordance with Part 1 and the return or destruction must be confirmed in writing within seven (7) days of the Completion Date to AHDB's DPO at Data.Protection@ahdb.org.uk using the Data Disposal Form (a copy of which is attached at Part 2). Failure to do so shall be considered to be a breach of this contract.

8. Audit Rights

- 8.1 Provide such information, co-operation and other assistance to AHDB as AHDB reasonably requires (taking into account the nature of processing and the information available) to ensure compliance with the DPL, including with respect to security of processing, data protection impact assessments, prior consultation with a supervisory authority regarding high risk processing and any remedial action and/or notifications to be taken in response to any Data breach or request from a data subject (as such terms are defined in the DPL).
- 8.2 Maintain complete, accurate and up to date written records of all categories of processing activities carried out on behalf of AHDB including such information as AHDB may reasonably require, and make such records available to AHDB on request in a timely manner (and in any event within three (3) business days) and provide such other information or allow such inspections as AHDB reasonably requires to audit the Supplier's compliance with its obligations under the DPL and this Agreement and demonstrate its own compliance with the DPL.

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Part 1

1 Subject-matter of processing:

[REDACTED]

2 Nature and Purpose of the processing:

[REDACTED]

3 Type of personal data:

[REDACTED]

4 Categories of data subjects if relevant:

[REDACTED]

5 Timelines for use of Data

[REDACTED]

6 Any other processing instructions:

Data Transmission:

Data shall be transmitted securely as follows:

Fax

No Data will be sent by fax.

Email

Data sent by email must be encrypted if possible. If encryption is not possible, the data file will be password protected using at least 13 character alpha-numeric passwords. Passwords will only be supplied once data receipt is confirmed.

The Data Managers use FIPS 140-2 compliant AES256 'zip' compression and encryption software. Data files will be encrypted using public keys or as a 'zipped' file with pass-phrases as appropriate to the encryption capabilities of the data recipient.

The word '**CONFIDENTIAL**' must be entered in the subject field of the email in front of the email title in all instances.

Post

Hard copy Data may be transmitted by post, courier or messenger.

If Data must be put on CD/DVD it should be encrypted (see details of encryption above). If the data recipient is unable to collect the CD/DVD by hand, encrypted CD/DVD's may be transmitted by post (Recorded Delivery or better), courier or messenger. If encryption is not possible the CD/DVD will be password protected using at least 13 character alpha-numeric passwords. If the data recipient is unable to collect the CD/DVD by hand it will be dispatched by Royal Mail Special Delivery service with tracking of transit or by courier.

In all cases when sending Data by post, a single sealed cover addressed to an individual by name or appointment will be used. The cover must not attract attention. Therefore, it must not be marked with any protective marking and only the descriptors 'Personal' or 'Addressee Only' may be used.

In all cases Data will be sent only to a named individual, agreed in advance, and must be accessed only by Permitted Persons.

Data Storage:

Hard copies of Data must be stored in a secure building and/or in a locked cabinet, and destroyed in accordance with the below.

When held on ICT systems on secure premises, password policies must be in place that ensure only those listed can access data. The ICT infrastructure should be certified to the Cyber Essentials standard as a minimum.

Full back-up policies must be in place for servers.

Data destruction must include all backup copies of data as well as live.

All access to standalone machines must be protected by username/password.

All data users must avoid transferring Data onto removable media (including laptop hard-drives, removable discs, CD's, USB memory Sticks, PDA's and media card formats), except when this is essential and only as agreed in writing with the Data Manager setting out the controls to be put in place. If taken outside the organisation's secure premises, laptop hard drives, CD/DVD, USB devices or any other removable media must be fully encrypted using FIPS 140-2 compliant AES256 encryption or better

Data Destruction:

Protectively marked waste is a potential source of information and prior to its secure destruction it should be held in an appropriate secure container under lock and key separate from other waste.

Methods of Destruction:

Protectively marked paper-based waste, such as, paper and card, must be securely destroyed by incineration, pulping or shredding. Waste may be shredded on any shredder or torn into four pieces and placed in a confidential waste sack. The waste sack must be kept under lock and key until it has been collected for onward transmission to the contractor who destroys it.

Electronic media containing Data must be disposed of by overwriting, erasure or degaussing for re- use.

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Part 2

DISPOSAL OF DATA FORM

It is a condition of this Agreement that the Supplier shall return this form duly completed within 7 days of the Completion Date. It may be returned as hard copy or in pdf format by electronic mail to Data.Protection@ahdb.org.uk.

In the event that the destruction and notification requirements are not satisfied, the Supplier must immediately notify AHDB's DPO (Tel: 024 76 69 2051; Email: Data.Protection@ahdb.org.uk), specifying the reason for such failure.

Failure to do so shall be considered to be a breach of this contract.
I confirm that all Data provided under this Agreement and all copies thereof have been destroyed in accordance with this Agreement.

Signed:

Name (Block Capitals):

Date:

Organisation:

Please return the completed form within 7 days of data destruction to:

DPO, AHDB, Stoneleigh Park, Kenilworth, Warwickshire, CV8 2TL

Email: Data.Protection@ahdb.org.uk

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Appendix Specification Details

The information in this Appendix is to be read as having been amended by any amendments agreed in accordance with this Contract.

The Specification is based on: The invitation and acceptance by AHDB for PROVISION OF ON-FARM ULTRASOUND SCANNING FOR FAT AND MUSCLE DEPTH FOR SHEEP AND CATTLE.

Ref: 2021-531

as published on Bravo – DEFRA's e sourcing portal
<https://defra.bravosolution.co.uk>

Project title: On-Farm Ultrasound Scanning for fat & muscle depth sheep & cattle

Bravo project reference: 34333

Invitation to tender published on: 11 October 2021

Supplier's tender proposal dated 22 November 2021 and all Bravo messaging/clarifications to the award of the contract.

Please see Addendum 1 which contains:

- AHDB tender specification
- AHDB Pricing schedule template
- Innovis Technical questionnaire response submission
- Innovis Pricing response

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Addendum 1

INVITATION TO TENDER FOR THE PROVISION OF ON-FARM ULTRASOUND SCANNING FOR FAT AND MUSCLE DEPTH FOR SHEEP AND CATTLE

Ref: 2021-531

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INTRODUCTION

AHDB is seeking tenders from suppliers interested in providing on-farm ultrasound scanning for fat and muscle depth of sheep and a small number of beef cattle

Our aim is to secure the provision of services starting by 17th January 2022 to 31 March 2025 with the potential to extend for a further three x 12 month periods (as from 1 April 2025).

The initial contract period includes a mobilisation period of approximately 3 months from the start date (in January 2022) to the end March 2022 to allow for potential staff recruitment and training. Actual delivery of on farm scanning to commence no later than 1 April 2022.

AHDB's intention is to award a contract to one or more providers to roll out these services across England and Wales. Further details are outlined under: 'Evaluation of submissions and options to tender' on page 11.

Background

At present, AHDB, through its Signet Breeding Service, undertakes ultrasound scanning of sheep and beef cattle for fat and muscle depth. These measurements are collected and fed into genetic evaluations undertaken by SRUC to provide breeders and commercial producers with objective assessment of the breeding merit of animals.

Current operation

AHDB (Signet) receives 30-35,000 scans in a normal year, primarily from our own small team of scanning technicians, as detailed in the tables below.

In 2021 the service was delivered by:

- Two members of AHDB staff. One based in Yorkshire (covering the North of England and North Wales) and one in Warwickshire (covering the East Midlands, East Anglia and South Coast (Please refer to TUPE section of this document on page 9)
- Two freelance technicians operating in Scotland
- A freelance operator in Northern Ireland (a small numbers of flocks)
- An external service provider covering Wales and the South West on a temporary basis for the 2021 season
- Innovis for new hill flocks within the Welsh Hill Sheep Breeding Project (under a separate contract with HCC, work that is not included within this tender)

There are a number of challenges associated with the current service model, the work:

- Is technically challenging with a significant training, accreditation and reaccréditation process
- Is increasingly seasonal (high summer workload), with very long working hours (weekends/bank holidays) at certain periods
- Is physically demanding
- Requires specialist equipment – and a vehicle suited to transport it

In a normal year (i.e. not limited by Covid restrictions) 300-350 flocks are scanned in England and Wales. The distribution of scanning visits by the AHDB-employed team across GB is as follows:

Table 1. Distribution of scanning visits in a typical year

Region	Approx. Number of scanning visits	% of scanning visits
East Midlands	29	8.0
East of England	23	6.2
North East England	40	11.0
North West England	22	6.1
Scotland	1	*0.3
South East England	35	9.8
South West England	74	20.4
Wales	68	18.8
West Midlands	58	15.9

Yorkshire and the
Humber

12

3.5

Grand Total	362	100.0
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Note: * This excludes scanning undertaken by free-lance scanners in Scotland, and only includes the small amount of scanning in the Scottish borders undertaken by the AHDB team.

For allocation of English counties to regions see Appendix 1.

Sheep Scanned in England and Wales, 2017-2020

	2017	2018	2019*	2020**
Jan		320	255	837
Feb	685	1057	254	690
Mar	262	339	164	371
Apr	1516	1978	1557	822
May	1718	2106	1218	858
Jun	3306	2897	1185	2988
Jul	4599	4904	2772	5223
Aug	6897	6984	5073	3603
Sep	3842	3473	3664	107
Oct	46	358		
Nov		142		
Dec			84	
	22871	24558	16226	15499

Scanning Visits in England and Wales

Month	2017	2018	2019*	2020**
Jan	1	4	3	6
Feb	12	9	3	9
Mar	4	5	4	9
Apr	33	46	38	15
May	40	39	24	18
Jun	64	57	21	37

Jul	88	84	36	47
Aug	73	76	55	22
Sep	33	37	31	1
Oct	1	5		
Nov		1		
Dec			1	
	349	363	216	164

Proportion of the lamb crop scanned by month

	2017	2018	2019*	2020**
Jan	0%	1%	2%	5%
Feb	3%	4%	2%	4%
Mar	1%	1%	1%	2%
Apr	7%	8%	10%	5%
May	8%	9%	8%	6%
Jun	14%	12%	7%	19%
Jul	20%	20%	17%	34%
Aug	30%	28%	31%	23%
Sep	17%	14%	23%	1%
Oct	0%	1%	0%	0%
Nov	0%	1%	0%	0%
Dec	0%	0%	1%	0%

* Texel flocks not included as record of visits was not held in the database.

** Covid limited early farm visits and caused later ones to be cancelled

Plus, approximately 25 beef scanning visits, predominantly in the South East.

At present the majority of scanning visits are undertaken as one per day, with a maximum of 20% of days covering two scanning visits.

Future value of ultrasound scanning

As the future model of genetic evaluations may well include direct use of carcase data, the future value of ultrasound scanning could be questioned. It is true that one of the

values of ultrasound scanning is the provision of measurements correlated with carcass traits (although those correlations are lower than might be expected) and there has been a reduction in beef scanning as carcass traits have been directly used in some breeds. In sheep, the individual recording of carcass data is not yet routine, and ultrasound scanning is the best routine measure available. Furthermore, ultrasound scanning provides an assessment of early muscle growth and hence growth rate which is a valuable trait in its own right.

Overall objectives

We are interested in developing an alternative to directly employing the scanning technicians, by delivering this service in partnership with one or more service providers to address the issues described above, particularly around the seasonal nature of the workload, by dovetailing with other services with different seasonal patterns.

The overall objective of this tender is to deliver a fat and muscle depth scanning service to sheep farmers in England and Wales, scanning 25-35,000 animals per annum through a team of technicians travelling to client breeders' farms, with the geographical distribution being broadly as outlined in the introduction above.

For clarity, service provision in Scotland and Northern Ireland is not included in this tender.

SERVICE REQUIREMENTS

The required service will deliver a trained team of technicians who can undertake the on-farm scanning service to breeder clients identified by AHDB. The scanning requirement is highly seasonal and the team must be available to deliver the measurements in a timely manner to meet the technical requirements of animal age, etc., as well as accommodating breeders' availability.

Breeding evaluation deadlines are published at <https://www.signetdata.com/technical/sheep-recording/when-do-i-submit-data/>. The analyses are now performed monthly and anyone expecting to be scanned within the timeframe of a specific monthly window should be scanned accordingly. Some flocks will have tighter deadlines and less flexibility, meaning they need to be scanned within a specific week. An appointment needs to be agreed with the client within 48 hours of them requesting a scanning visit.

Lambs have historically been scanned at around 20 weeks of age, but in recent years many terminal sire breeds have been scanned from 15 weeks of age onwards. RamCompare flocks are scanned earlier still at around 13 weeks of age.

The important point being that lambs need to be at least ~35-40kg liveweight before being scanned, though for hill flocks lighter lambs will be scanned.

It is expected that the provider will source (and / or own) the specified scanning equipment at their own cost.

Service model for Signet clients

AHDB primarily supports the ultrasound scanning for flocks that undertake their performance recording and genetic evaluations through Signet. We therefore hold the client details for the target audience for scanning.

Currently, for breeds that have direct breeder membership of Signet, the Signet Bureau team (based at AHDB HQ) generates a list of member flocks (and herds) and allocates these to the scanning technicians who make direct contact to make appointments with the breeders. For any future arrangement involving a third party we would need to ensure we are GDPR compliant, but expect to be able to pass a list to the supplier(s) for them to organise the individual scanning visits against deadlines.

To arrange for scanning to take place, on 1st April each year (or earlier on request), AHDB (Signet) will provide the service provider/s with a list of flocks that it believes are interested in scanning (and an indication of when they scanned in previous seasons). Details of new clients signing up to use the service will be passed to the service provider on a weekly basis. The service provider will ring them and either book a visit or provide feedback to AHDB if the client didn't wish to use the service. AHDB will ensure GDPR provisions are in place to share the required information with the service provider.

Service model for clients of the scanning service that are otherwise not Signet members

Currently, for breeds that no longer have direct breeder membership of Signet but use our scanning team (particularly Texel and Limousin), breeders make direct contact with the scanning team to request a scanning visit. For clarity, we wish to see ongoing service provision for these clients, but AHDB will not financially support this. We expect the service provider to provide an equivalent scanning service to these other (non-Signet recording) flocks. This would include, but is not limited to, a significant number of Texel sheep (around 6000-8000 lambs which are thought to be in around 80 flocks in England and Wales) which are scanned on behalf of the Texel Sheep Society.

Other non-Signet clients would include members of the Limousin Cattle Society, clients with sheep recorded with SIL (a New Zealand performance recording service), Innovis (on request) and the occasional research project.

For information the equipment and methodology described here would not be suitable for providing a beef scanning service to clients that use Breedplan (an Australian performance recording service), where different machines are required and different measures taken.

For clarity, the contractual arrangements associated with the provision of these services to non-Signet clients will sit outside of the service provider/AHDB relationship. We propose that the non-Signet clients contract directly with the service provider at the rate agreed by the service provider, with no direct financial support or contractual involvement provided by AHDB to either the service provider or the

non-Signet client. Whilst the provision of these services is not a mandatory requirement of the tender, their provision is highly desirable to AHDB with a view to ensuring continuity of service to these breeders in future years.

Expertise required

The service provider will have a team of technicians with livestock handling experience, and experience of ultrasound scanning for fat and muscle depth, or the ability to develop the required skills.

The technician team will be supported by a management and administrative infrastructure to ensure the quality, timeliness, and efficiency of the service delivery.

Training will be provided by the service provider, by bringing in people with the expertise to measure sheep and cattle in the manner proscribed by AHDB for (click on links for further information) [sheep](#) and [cattle](#) and ensuring they have (as a minimum) several days of practice prior to sitting the AHDB accreditation test.

AHDB will provide an annual accreditation of sheep and beef technicians as outlined in Appendix 2. We expect this to take place in February or March. Those technicians that pass, will be allowed to provide scanning services under this contract. Those that fail will be allowed to re-sit the test once, a month later, subject to obtaining more experience prior to the re-test, to see if they can meet the standard required.

Roles and responsibilities

The service provider/s will be responsible for:

- Provision of a team of technicians able to cover on-farm scanning in the geographical area agreed
- Management of the team
- Training of technicians to a required standard (supported by AHDB, where staff resources exist). Details of the accreditation process and required standard are listed in Appendix 2.
- Provision of the ultrasound scanning equipment and portable handling crates. Any associated maintenance and storage will be the responsibility of the service provider.
- Transfer of electronic data to an agreed quality standard to AHDB – See **Appendix 3.**
- Delivery of service to clients in a timely (stated further above, see page 6) and professional manner, leaving a paper (printed) or electronic copy of the flock data with the client at all times. Experienced technicians should be capable of capturing the data single handed, without the need for administrative support from the farm. It is a reasonable expectation to receive the assistance of one member of farm staff to move and weigh lambs.
- Measurement of animals at an appropriate speed. Sheep should be scanned at 50/hr when using the crate and 75/hr when using a conveyor. When using a conveyor, a flock of 400 lambs should be scanned within a single visit. With a good set up it should be straightforward to scan 20-25 cattle an hour.
- Ensuring continuity of service for the duration of the contract period
- Avoiding any conflicts of interest (e.g. scanning of sheep belonging to a family member would be avoided)

- Attending ad hoc Technical events (between 5 – 10 per annum), by mutual agreement. This may include support to AHDB technical staff or demonstration activities.

AHDB will be responsible for:

- Provision of contact details for Signet clients to be serviced
- Provision of regular (annual) accreditation testing of technicians
- Data analysis and genetic evaluation

For the avoidance of doubt, the service provider will be responsible for provision of data of the required quality from scanning visits, but not for the use to which that data is put either by AHDB or third parties. AHDB (Signet) will separately contract with members to cover the extent of liability arising from the information produced and published (including that resulting from ultrasound scanning).

Financial arrangements

It is anticipated that AHDB will manage the relationship with the individual Signet clients, this may include charging for visits. The service provider will charge either the client or AHDB for services supplied at agreed rates. Different charging mechanisms have been foreseen and each will be considered.

These may include:-

- The service provider charging the client directly
- The service provider charging AHDB and AHDB charging the client

Invoices would need to be received within 30 days of the service provision and give details of the client or clients that have been serviced and the number of sheep/cattle scanned. Payment by AHDB would be subject to receipt of the raw data.

Note that the charges levied on Signet clients may not be the full fee charged by the service provider. It is envisaged that where the service provider charges more than the cost AHDB wishes to pass on to the clients, AHDB will make up the difference.

Charging of clients that are not Signet-recording members will be the responsibility of the Service provider.

Insurance

Service providers will need to have appropriate accidental damage, public and professional liability insurance, including cover for cover accidental damage or injury (to equipment, people or stock).

Sub-contracting

If service providers aim to sub-contract any aspect of the work, this must be set out within the proposal. Please clearly outline the basis upon which you will award the sub-contract and how you will monitor the quality and performance to ensure it meets the required standards and timelines;

AHDB's terms and conditions apply.

Biosecurity

We take biosecurity very seriously, and it is essential that service provider/s fully clean down equipment and change clothes between farms. If two farms wish to have their flocks scanned on the same holding this should be undertaken explicitly at their own risk.

In the region of 65-80% of the flocks serviced are Maedi Visna accredited.

Additional information: existing AHDB employees potentially covered by Transfer of Undertakings (Protection of Employment) regulations (TUPE)

Please be aware that we have two employees who currently deliver this service therefore any tender submission may need to consider that these employees may be protected under the Transfer of Undertakings (Protection of Employment) regulations (TUPE). Therefore we request that you seek legal advice before any submission.

EQUIPMENT REQUIREMENTS

Specification and cost of the ultrasound scanning equipment to be used

The equipment currently accredited for use by AHDB for measuring sheep and cattle includes:

- The Dynamic Imaging Machine – The Concept portable B&W scanner
- The Sonoscape provided by Vet Image Solutions with dedicated sheep and beef probes for backfat and muscle scanning.
- The Apogee 2300, also provided by Vet Image Solutions.

We believe the only machine currently available to source from new is the Apogee 2300. The scanning unit costs £9-10,000 in total, equipped with a probe for sheep scanning. The additional cost of a probe for beef scanning is around £2,000. Please note the Apogee unit and probe is not approved for Breedplan beef scanning services, as it is not capable of measuring intramuscular fat percentage.

It should be noted that relatively few ultrasound scanning machines are suitable for measuring muscle and backfat, which requires a linear probe and relatively wide screen. Most pregnancy scanners are not be suitable for measuring muscle and backfat. In general very few ultrasound scanning machines are able to export high

volumes of individual animal measurements into a format that is database ready, hence the relatively short list of accredited machines

Other equipment needed

The main significant piece of equipment required is a portable handling crate for sheep. This needs to provide the user with access to the side of the animal (thus a squeeze clamp cannot be used). It needs to be strong enough to hold the animal securely – while being both portable and fully “disinfectable.” The head of the crate needs to be able to hold both horned and polled lambs, varying between 25kg and 85kg in weight.

An EID stick reader is useful when scanning and essential when trying to capture data automatically using the Apogee 2300. This EID reader can be obtained directly from Border Software, amongst other equipment providers.

Over the last 5 years Signet has used a conveyor to scan the sheep in large flocks, this helps the scanning service to hit desired targets for scanning speed and makes the scanning operation less physically demanding for the technician, so it has a number of health and safety benefits. Please note that the use of a conveyor requires specialist transport to move it across the country and is more challenging to keep clean from a biosecurity perspective. The machine used by Signet was obtained from <https://www.dmhandlingsystems.com/>. Other makes of conveyor may be suitable, but would need to be assessed to ensure they hold sheep in the correct position for scanning, provide good access to the correct point on the spine and most importantly, do not distort the shape of the muscle being measured.

Data transfer from the scanner to AHDB Signet Breeding Services

At present, data is captured on a linked laptop using extremely old and outdated Access-based software that we will not support in the future. The new Apogee machines have the facility for data capture directly onto the scanning machine with the generation of an exportable file in a readily readable format from within the machine.

In the existing Access based software, there is the facility to run a report on-farm to facilitate the breeder’s selection of elite animals for CT scanning. We expect to phase out this facility, and are encouraging clients to make their own selection based on the latest EBVs from the monthly run using new online reports.

Accreditation and training

We would want to ensure consistency of measurements with those taken by the existing team to-date, and to have assurance in place of the quality of data being generated by the scanning team, however comprised. We therefore expect that AHDB will retain some responsibility for the oversight of the accreditation of scanning technicians (regardless, to a greater extent, of their qualifications or experience) for

data to be accepted into the Signet evaluations. **See Appendix 2** for details of our accreditation process.

TENDER TIMETABLE

Closing date for submission of Tenders	22 November 2021 by 12 noon
Closing date for submission of queries to AHDB's Authorised Officer	10 November 2021
Target Date for supplier presentations if required	9 and 10 December 2021
Target date for AHDB's notification of the successful Tenderer(s)	15 December 2021
Standstill Period	16 December to midnight ending on 29 December 2021
Target Contract commencement date	17 January 2022

Please note that this timetable is indicative only and may be subject to change.

Note: Please direct any **clarifications** regarding this tender through the BRAVO portal. All Tenderers will be provided simultaneously with the answers to any queries that may be received by AHDB in relation to this ITT except where the nature of a query or answer is deemed by AHDB in its reasonable opinion to be confidential or proprietary to a particular Tenderer, in which case an anonymised summary of the response will be generally circulated insofar as it is practicable in the circumstances.

EVALUATION OF SUBMISSIONS INCLUDING OPTIONS TO TENDER

While AHDB is committed to providing a service across England and Wales, it is recognised that not all potential service providers can cover the entire geographical area as per the table in **Appendix 1**. We are willing to consider tenders that present different potential solutions to geographical coverage:

1. Single service provider who has, or will develop, a technician team with full coverage of the geographical area
2. A consortium of two or more service providers who collectively have, or will develop, a technician team with full coverage of the geographical area
3. A single service provider with a limited geographical coverage offering to provide a service that offers partial coverage of the geographical area.

As specified in this tender, AHDB is prepared for the service provider to use sub-contractors to help fulfil its service obligations, however we are not looking for a service solely based on the co-ordination of sub-contractors and would thus limit the use of sub-contractors to **a maximum of 50%** of the service provision.

As with any change of directly employed staff that are providing the service, the service provider is to notify AHDB of any changes to the use of sub-contractors; with AHDB being allowed to veto the use of such sub-contractors that it believes won't deliver the service to the standard required, have an unmanageable conflict of interests or are unable to demonstrate their ability to pass the accreditation tests set by AHDB.

AHDB reserves the right to appoint one or more service providers to deliver all or part of the scanning requirements.

Please note: **Further breakdown of our requirements are detailed within the Questionnaire**. Each section of the questionnaire will be assessed using the 5 point scoring methodology, the value of which will be multiplied by the weighting shown to provide an overall score.

Technical Section = 70%

Pricing = 30%

	Weighting %
Technical Content	
1. Technical Skills	15
2. Service provision and staffing to provide national coverage.	26
Scoring for geographical coverage Out of the 26% weighting, 10% will be allocated to evaluate as follows: 51 counties = 10% 40-50 counties = 7.5% 30-39 counties = 5.0% 20-29 counties = 2.5% 10-19 counties = 1.0% Less than 10 counties = 0%	
3. AHDB staff - Transfer of Undertakings (Protection of Employment)	For information only
4. Equipment	5

5. Managerial support and contract management	7
6. Training and data quality	10
7. Biosecurity	2
8. Contingency planning	2
9. Project implementation	3
10. Charging Mechanism	For information only
Price	
1. Rate for on-farm scanning services	17
2. Comparative: 250 sheep scanning visits + 25 cattle scanning visits	10
3. Ad-Hoc services for technical events	3
	Total Weighting = 100%

1.2 Scoring Methodology to be applied

Score	Explanation
5	Excellent submission that addresses and meets all of, the requirements outlined in the ITT including supporting information for that question, with full details (and full and relevant evidence) provided; provides full confidence with no reservations whatsoever as to the relevant ability, understanding, expertise, skills and / or resources to deliver the requirements.
4	Good submission that addresses and meets the majority of, the requirements outlined in the ITT and supporting information for that question, with detail (and reasonable evidence) provided. Minor reservations or weaknesses exist in a few areas in respect of relevant ability, understanding, expertise, skills and / or resources to deliver the requirements.
3	Reasonable submission that meets many of the requirements outlined in the ITT and supporting information for that question, with some detail (and limited evidence) provided. Reservations or weaknesses exist in some areas in respect of relevant ability, understanding, expertise, skills and / or resources to deliver the requirements.

2	Basic submission which fails to meet a number of requirements outlined in the ITT and supporting information for that question. Limited detail (and little evidence) provided to demonstrate that the Applicant will be able to provide the Services. Reservations or weaknesses exist in several areas in respect of relevant ability, understanding, expertise, skills and/or resources to deliver the requirements.
1	Substantially unacceptable submission which fails to meet the majority of the requirements outlined in the ITT and supporting information for that question, with little or no detail (and no evidence) provided to support and demonstrate that the Applicant will be able to provide the Services. Significant reservations or weaknesses exist in respect of relevant ability, understanding, expertise, skills and/or resources to deliver the requirements.
0	No response at all, or insufficient information provided in the response such that the solution is totally un-assessable and/or incomprehensible.

Please note that you may be required to present to a selection panel as part of the tenderer presentation phase of this procurement. Indicative dates are the 9th and the 10th of December 2021.

The two top ranking suppliers may be invited to present. The third ranked supplier shall be invited in the event their bid scores within 5% of the top two suppliers. Scoring shall be adjusted in accordance with the findings of the presentation and a preferred supplier chosen.

Proposals must be submitted through the Bravo eProcurement system
<https://defra.bravosolution.co.uk>

Within BRAVO, you will have access to the following documents:

- Pricing Schedule – This schedule is under the Commercial in BRAVO, click on paperclip icon to access and download. Upload to return in the same section.
- Specification
- Technical Questionnaire – please populate and upload to return in the Technical section. **Please note that brochures, other additional marketing literature or links is not accepted as part of your submission.**

Terms / Conditions of Participation

AHDB Terms and Conditions for the supply of goods and services shall apply to any contract awarded as a result of this request for quote. A copy of these will be available on the BRAVO portal under this project. Please read through these before you submit your proposal. If you submit a bid, it is on the proviso that you are agreeing to them.

Submissions must be uploaded onto the portal by midday on the date of closing, late submissions will not be accepted, so please ensure you give yourself plenty of time to upload your proposal.

The AHDB evaluation panel will review tenders following the closing date, and may ask for further clarification in relation to any submission if required.

APPENDIX 1. ALLOCATION OF COUNTIES IN WHICH SCANNING HAS BEEN CONDUCTED BY SIGNET TO REGIONS

Region	Counties	
East Midlands	Derbyshire Leicestershire Lincolnshire	Northamptonshire Rutland
East of England	Bedfordshire Cambridgeshire Essex	Hertfordshire Norfolk Suffolk
North East England	County Durham North Yorkshire	Northumberland Tyne And Wear
North West England	Cheshire Cumbria	Lancashire
South East England	Buckinghamshire East Sussex Hampshire Isle Of Wight	Kent Oxfordshire Surrey West Sussex
South West England	Avon Cornwall Devon Dorset	Gloucestershire Somerset Wiltshire
West Midlands	Herefordshire Shropshire Staffordshire	Warwickshire West Midlands Worcestershire
Yorkshire and the Humber	East Yorkshire North Lincolnshire	South Yorkshire West Yorkshire
Wales (preserved counties)	Clwyd Dyfed Gwent Gwynedd	Mid Glamorgan South Glamorgan West Glamorgan Powys

51 counties in total

Appendix 2 – AHDB Accreditation Process

Acceptance of AHDB's Accreditation Process is a mandatory requirement of this tender.

A proficiency test for ultrasound scanning technicians for sheep and beef cattle will be organised by AHDB.

The Scanning Test

The assessment takes into account the performance of a technician on a specific machine and it is recommended that they use a machine they are familiar with and are likely to be using in the future.

For sheep, 30 lambs will be scanned twice by each technician being assessed and at least one experienced technician, with whom the measurements of less experienced technicians can be compared. The experienced technician will go first and thus be responsible for “splitting the wool”*, effectively highlighting the point that corresponds with the third vertebrae. Lambs should be between 35kg and 55kg, with some variability in their overall conformation and fat cover.

The cattle, 20 cattle will be scanned twice in a similar approach to that described above.

Statistical assessment

The test is designed to assess both the repeatability of the scanner and the quality of the measures relative to an experienced scanner or scanners.

The criteria used for accreditation will be

- Correlation of repeatability (i.e. comparison of first scan results with their second scan)
- Root Mean Standard Error (SE) of repeat measures
- Correlation of accuracy to experienced scanner (or scanners)
- Root Mean Standard Error of Accuracy of measures relative to an experienced scanner (or scanners)

Adjustments are made to pass criteria according to the range of sheep/cattle provided for each test and the observed difficulty in picking out differences in measurements for individual animals based on the results obtained by the experienced technician.

Typically correlation values >0.9 are expected for fat depth and 0.85 for muscle depth, with low standard errors (to be determined with statistical advice and based on the dataset of animals provided). These thresholds for accreditation may be reduced where less variability is observed between animals.

* Experience shows that some technicians will require additional support in finding the ideal scanning spot on the animal and an assessment of this may be considered separately.

Live-to-dead test

AHDB reserves the right to supplement the accreditation exercise with a test involving the ultrasound scanning of live sheep or cattle prior to slaughter and comparison of the results with direct carcase measurements.

APPENDIX 3 DATA FORMAT REQUIRED BY AHDB

Sheep Scanning Data

Sheep scanning data should be provided in the following format as a csv or xls file, with the following headings.

- IDENTIFIER
- SEX
- SCAN WEIGHT
- MUSCLE DEPTH
- AVERAGE FAT DEPTH
- WEIGHT DATE
- MANAGEMENT GROUP
- TECHNICIAN
- NOTES
- For "Identifier" the service provided must use either the Flockbook number held on the Signet database (which can be observed online) or the UK ministry number in the format "UK 0 XXXXXX YYYY". Signet can provide the service provider with a list of sheep eligible for scanning in advance if this is helpful.
- Sex must be in the format M, C, or F
- Scan weight must be in kg
- Muscle depth and fat depth must be in mm
- Date should be in the format dd/mm/yyyy
- Management group is a numeric value 1-9

Beef scanning data

Beef scanning data should be in the following format

- IDENTIFIER
- SEX
- SCAN WEIGHT
- MUSCLE DEPTH
- AVERAGE FAT DEPTH
- WEIGHT DATE
- MANAGEMENT GROUP
- TECHNICIAN
- NOTES
- The identifier should be the UK Ministry number
- The muscle depth, should be the image taken at the third lumbar vertebrae
- The fat depth should be the average of the 8 fat depth measurements taken across the two scanning sites
- Management group should reflect the 400 day group codes that exist for cattle (see below)

Bulls (370 days of age or more)
441 = commercial management

442 = standard pedigree management
443 = show management

Steers (370 days of age or more)
461 = commercial management
462 = standard pedigree management

- Heifers (370 days of age or more)
451 = commercial management
452 = standard pedigree management
453 = show management

In addition to this it is important to feed back to the bureau:

- Animals that were scanned, but are not believed to be on the Signet database.
- Animals that appear to have the wrong sex recorded on the Signet database
- Animals that are a different breed on the Signet database

Data Quality Assurance

All electronic data provided to Signet must be subject to quality assurance by the provider.

This means:-

Measurement values should be within an expected range.

- Sheep muscle depth <50mm and check those 40-50mm
- Sheep fat depth <15mm and check those 10-15mm
- Beef muscle depth <90mm and check those 80-90mm
- Beef fat depth <20mm and check those 15-20mm

Systems must be in place to prevent “duplicates”, this means the avoidance of:

- Having two sets of differing results for the same sheep i.e. a problem with identifying the correct animal
- Submitting data that contains duplicate records – showing the same measures, for the same sheep twice

***ULTRASOUND SCANNING TECHNICIAN SERVICES SUBMISSION QUESTIONNAIRE template is further below which has been populated as part of the submission.**

Pricing Schedule

Please complete, upload and return under the Commercial section.

Please provide **fixed prices** for the first 3 core years of this project.

On farm scanning service delivery	Weighting	Average Cost (£) Year 1 Excluding VAT	Average Cost (£) Year 2 Excluding VAT	Average Cost (£) Year 3 Excluding VAT
		per Farm	per Farm	per Farm
Technician day rate for service delivery To include overheads, management time, travelling time, training/accreditation costs and travel/subsistence costs¹. • Full day scanning visit – up to 8 hours scanning time (not including travelling time to and from the farm) and typically scanning ~400 lambs • Half day scanning visit – up to 4 hours scanning time (not including travelling time to and from the farm) and typically scanning ~200 lambs NOTE: Scoring will be based on a comparison of the cost of a full day scanning visit where the lowest price will be awarded the full score and higher prices given proportionally lower scores Please state any variances on the above, such as but not limited to:- • Weekend work • Bank holidays • An extended working day beyond 8 hours of scanning Please indicate and provide further details if the half and full day charges can be broken down further to provide either an hourly rate or a scanning charge calculated on a headage basis. Where there is an hourly rate provided, an indication of the scanning speed should be stated.	17%			
		Annual cost	Annual cost	Annual cost
For comparison purposes please provide an indicative total cost for running the service across England and Wales with 250 sheep scanning visits + 25 cattle scanning visits For information please also provide the indicative total cost for running the service across England and Wales with:- 150 sheep scanning visits 150 sheep scanning visits + 25 cattle scanning visits 350 sheep scanning visits + 25 cattle scanning visits NOTE: Scoring will be based on a comparison of the cost of running the service with 250 sheep scanning visits + 25 cattle scanning visits where the lowest price	10%			

<i>will be awarded the full score and higher prices given proportionally lower scores</i>				
Ad-Hoc Services (e.g. for occasions when AHDB may wish to hire staff to support AHDB at technical events)	(£) Excluding VAT	Per person	Per person	Per person
Half day rate	3%			
Day rate				

Please note any costs not included within the submission will not be considered after award of contract.

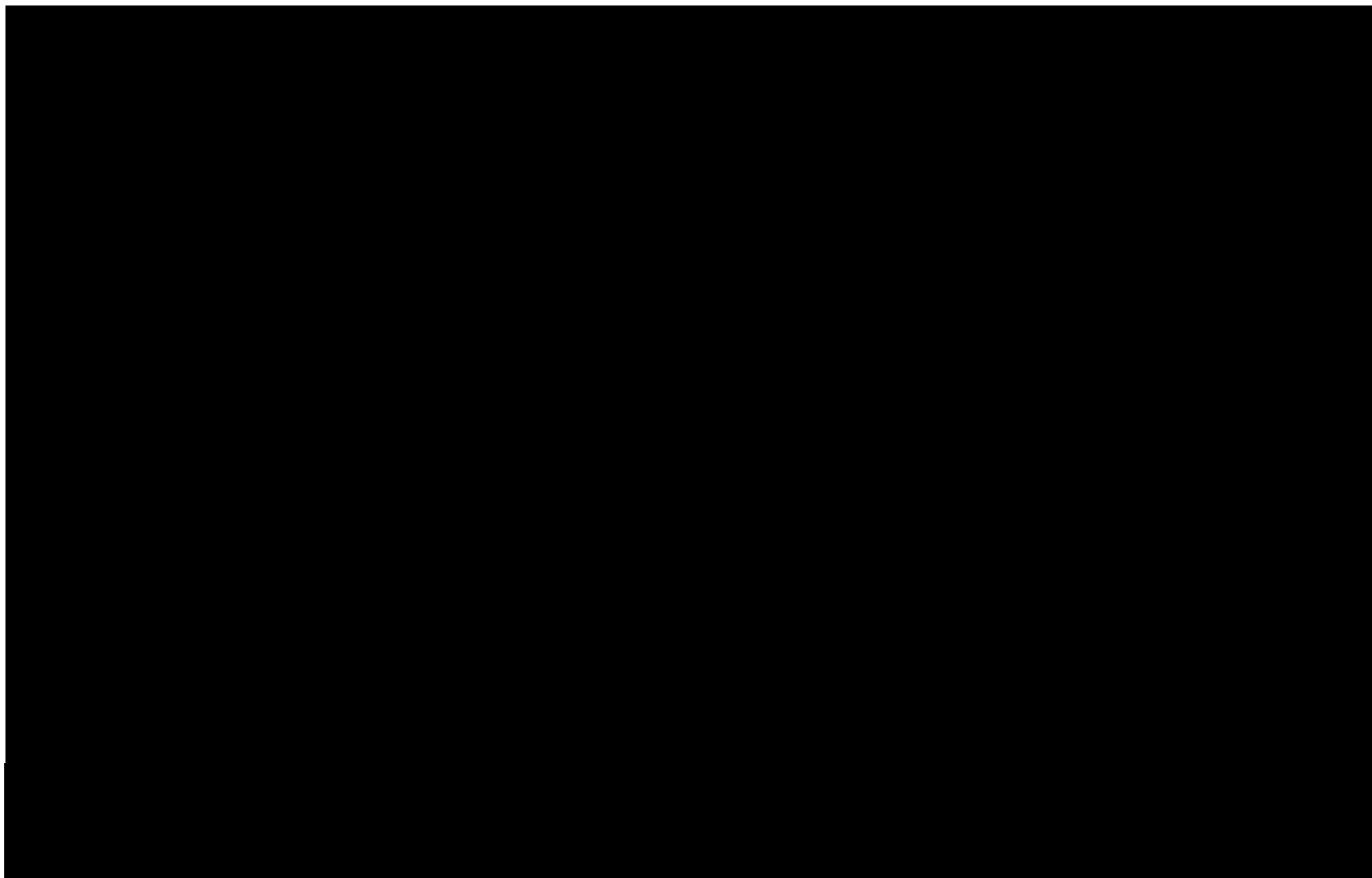
1. There is an assumption that travel and subsistence would be costed in line with AHDB Terms and Conditions.

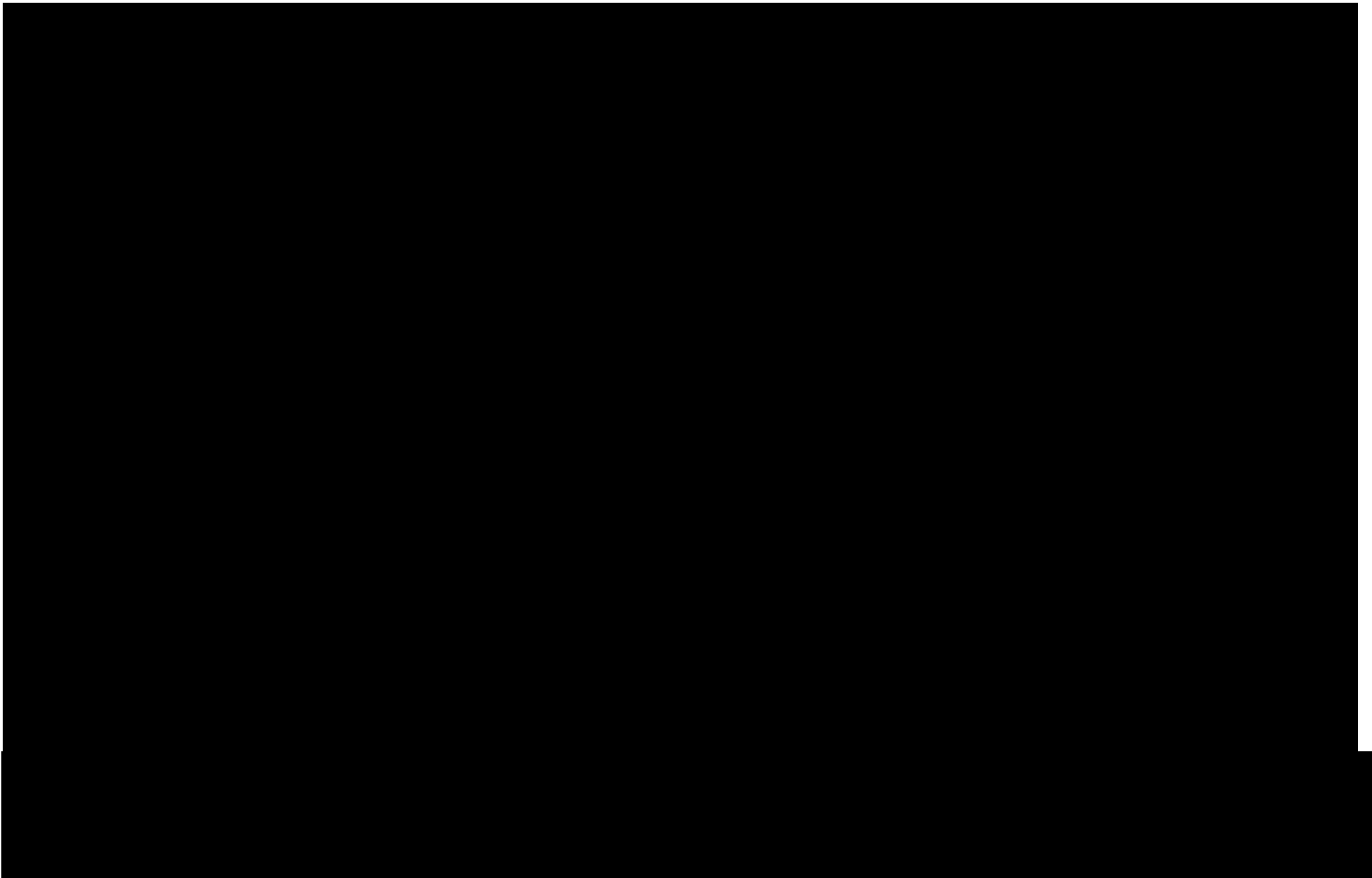
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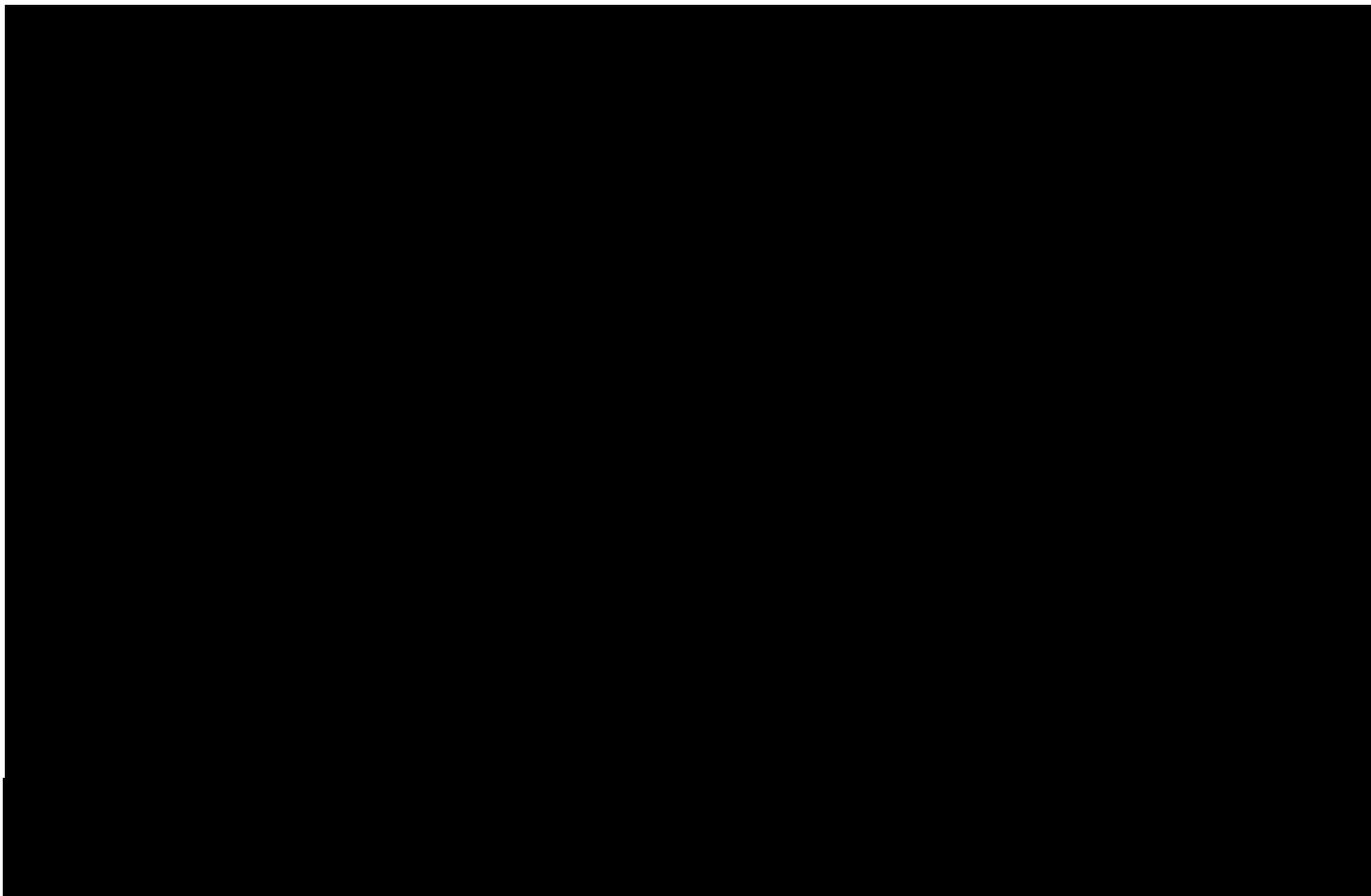
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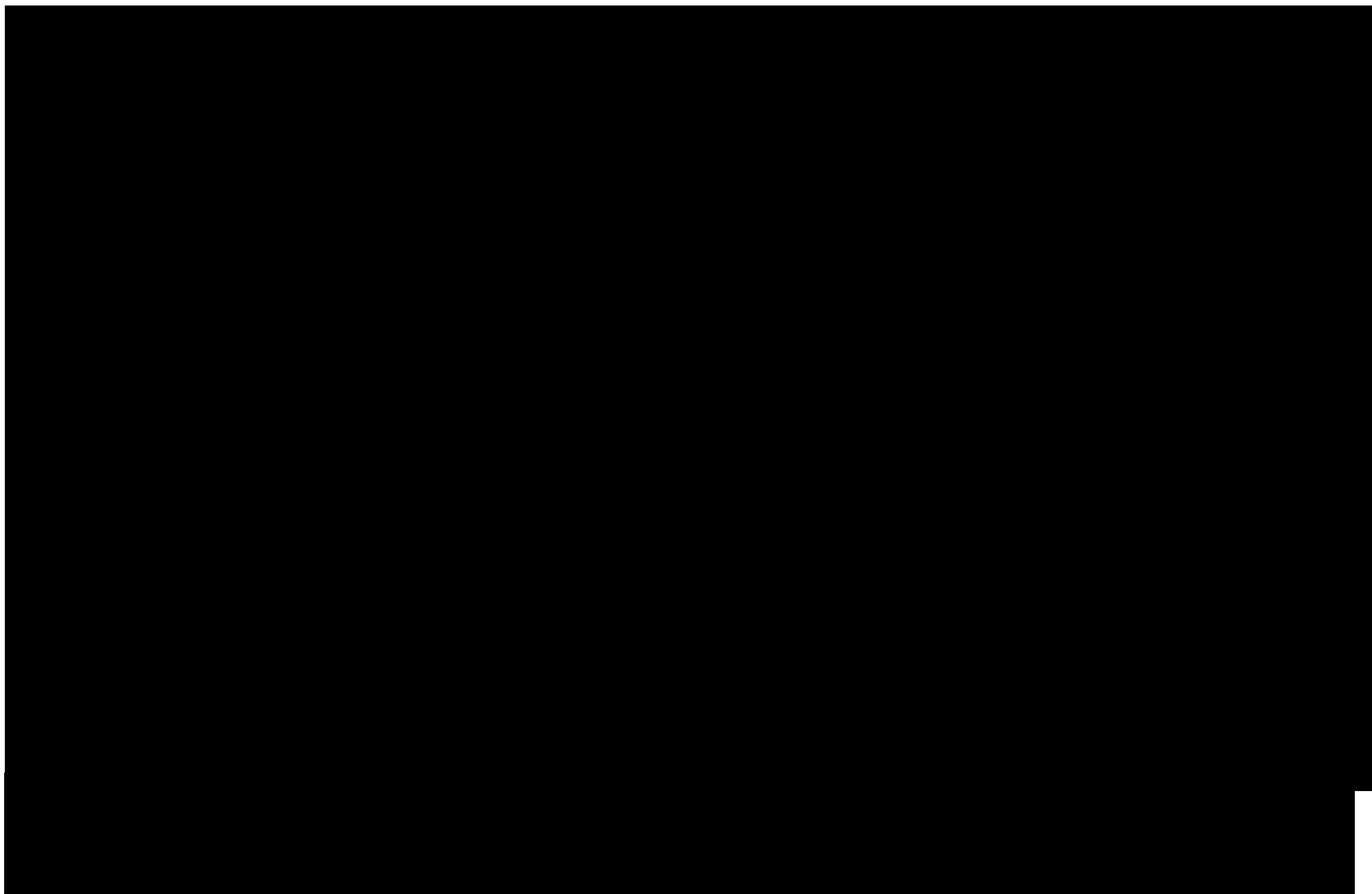
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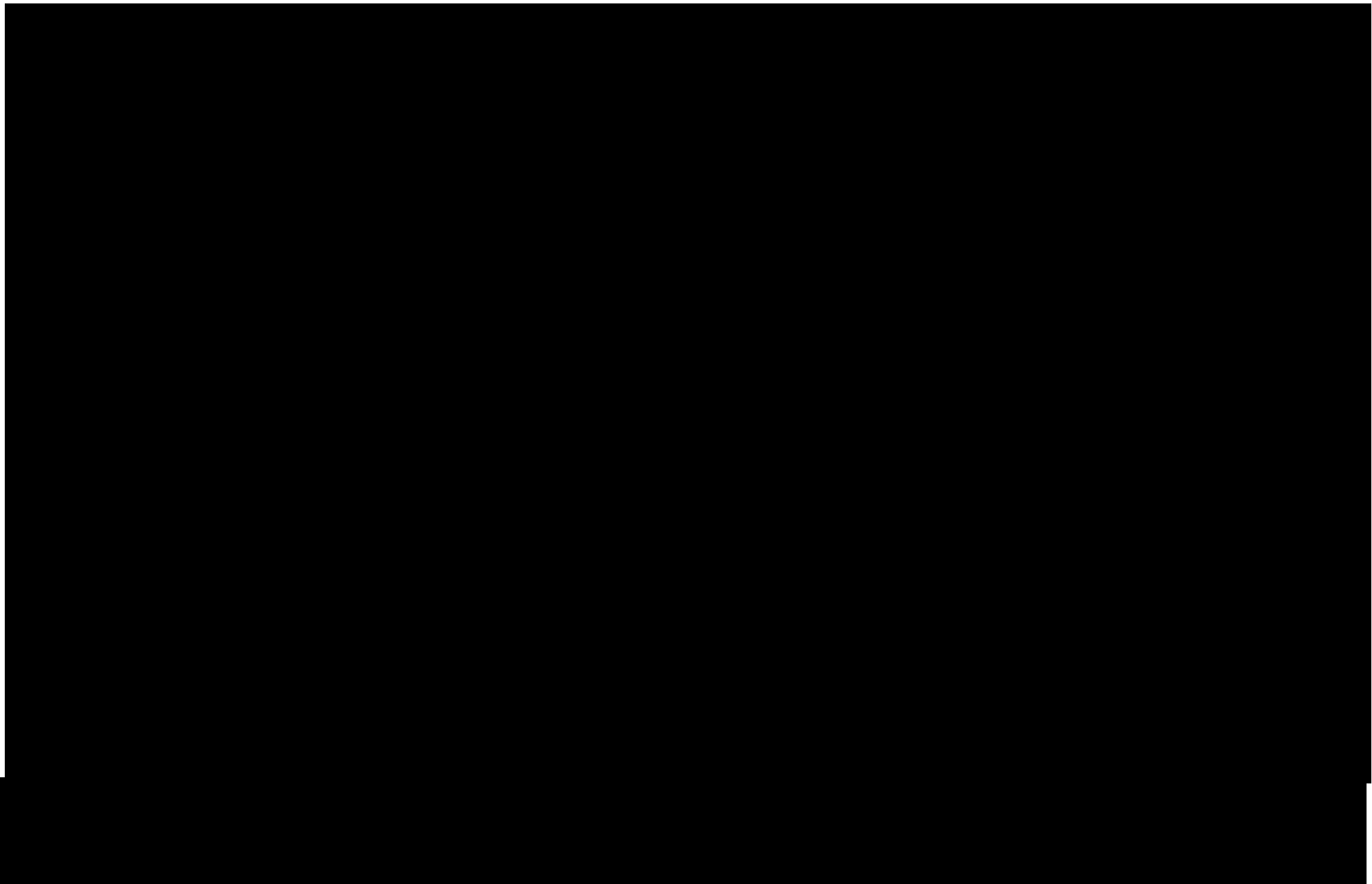
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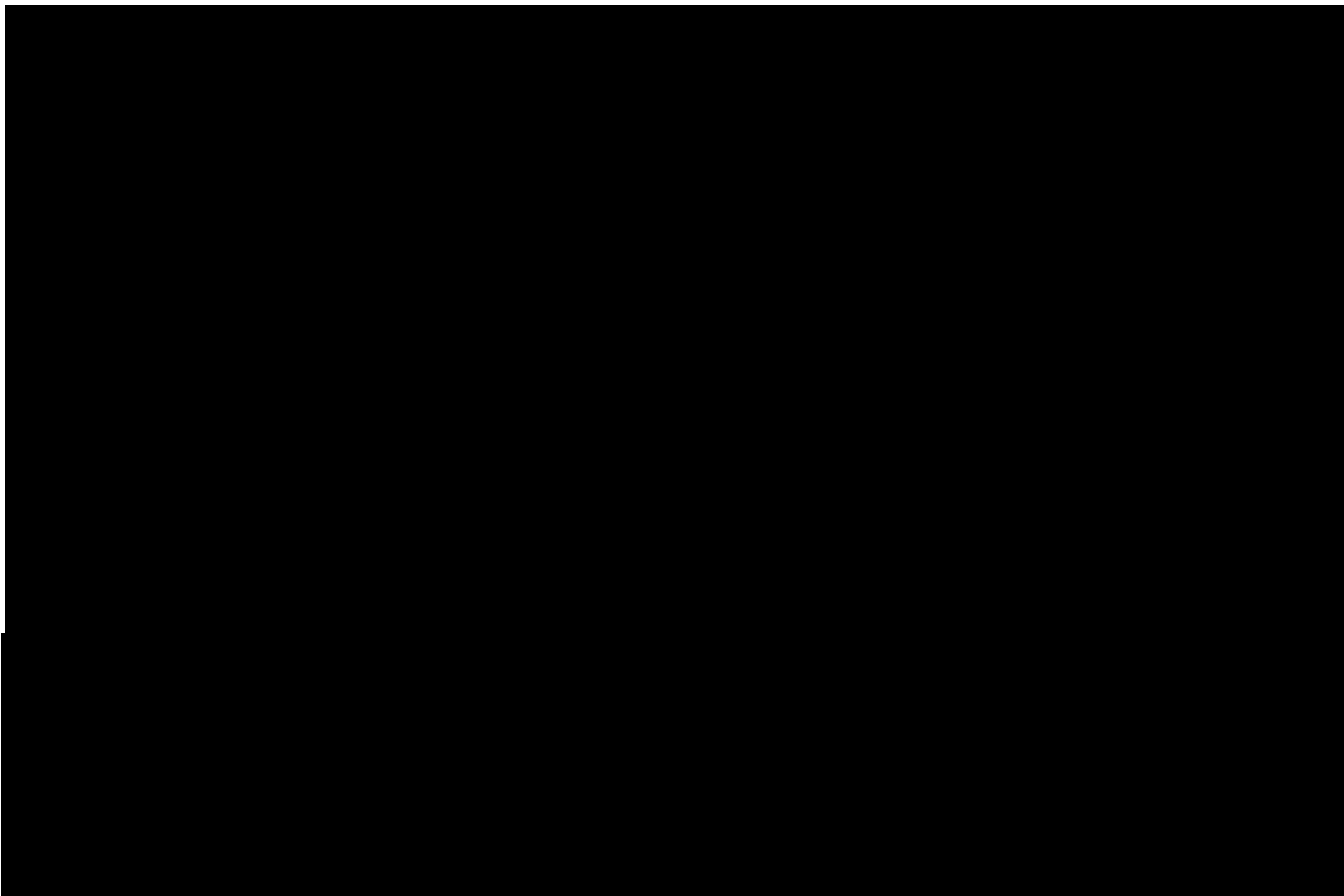


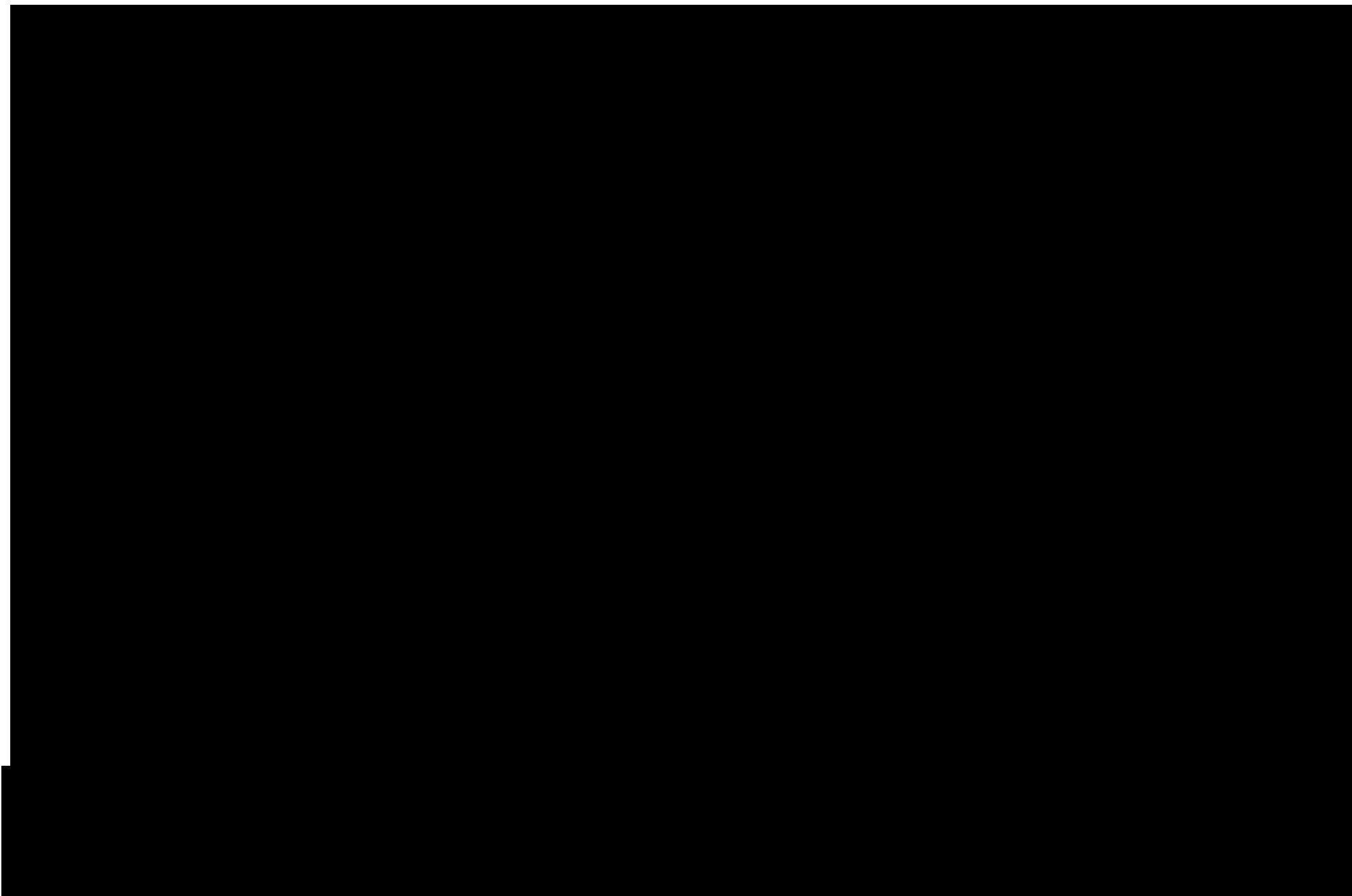


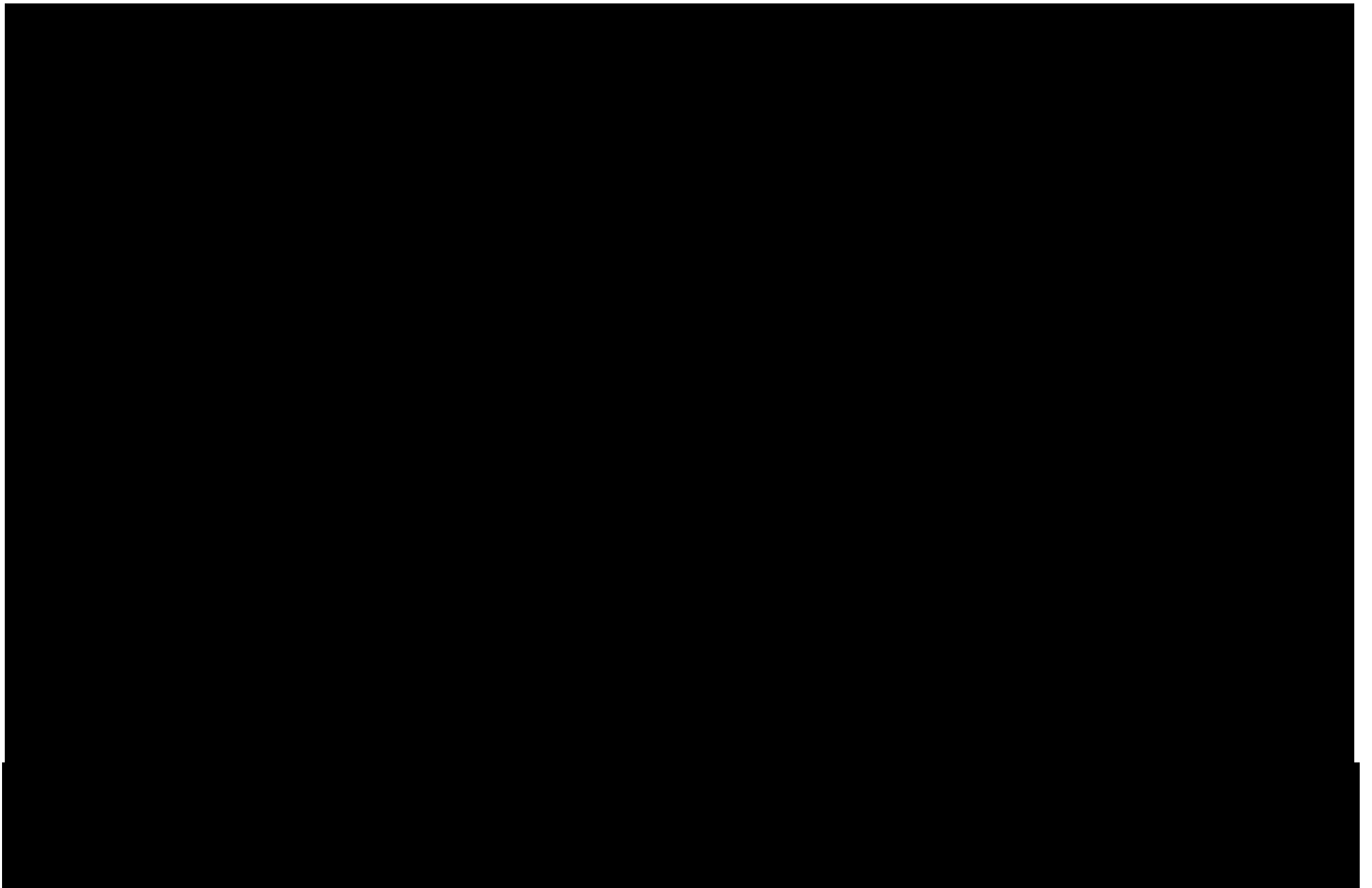




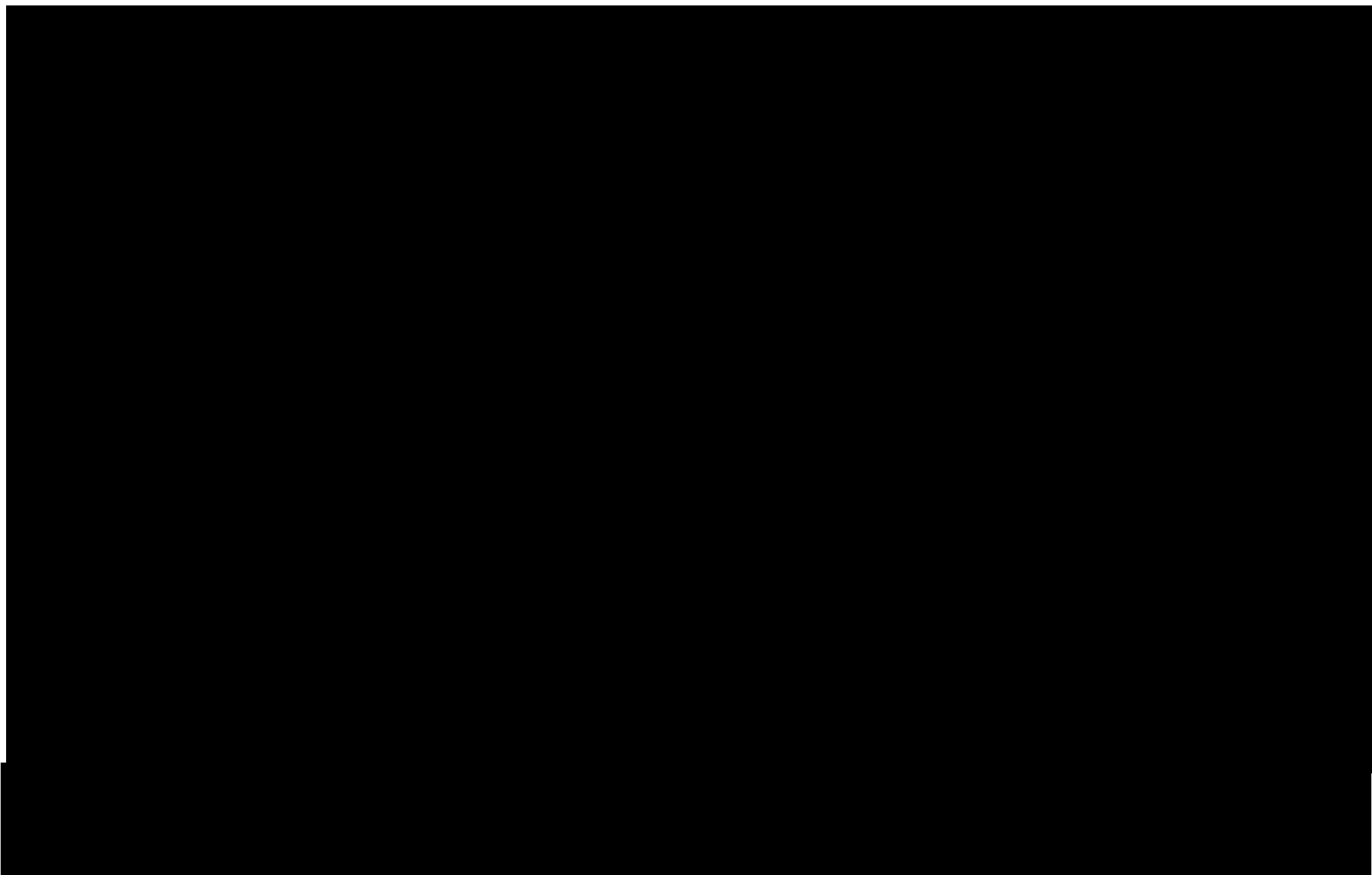


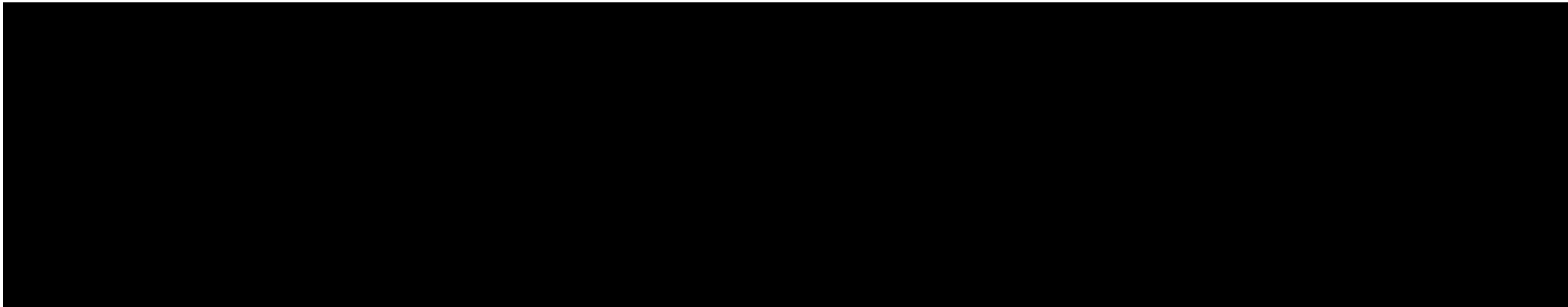


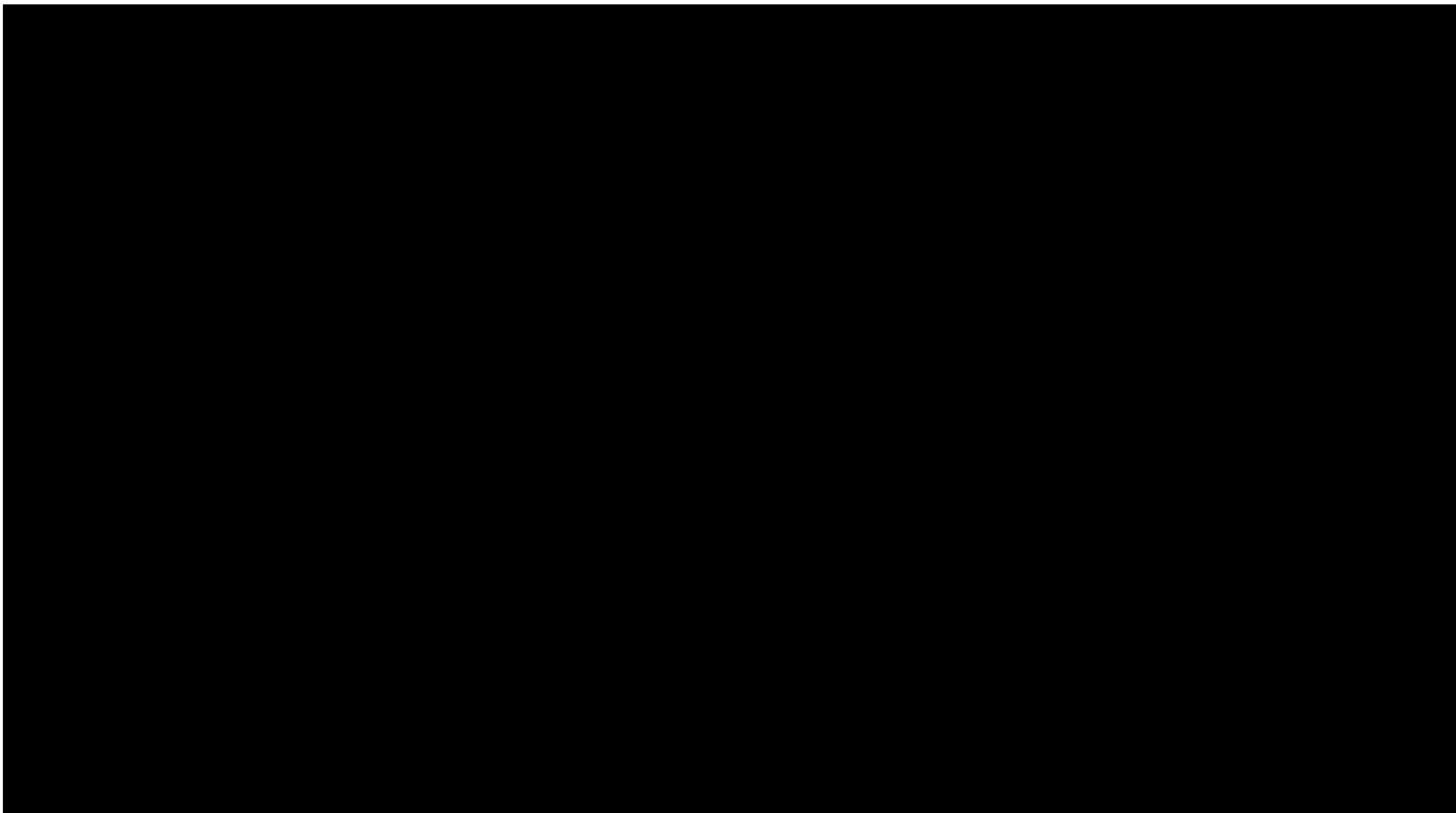


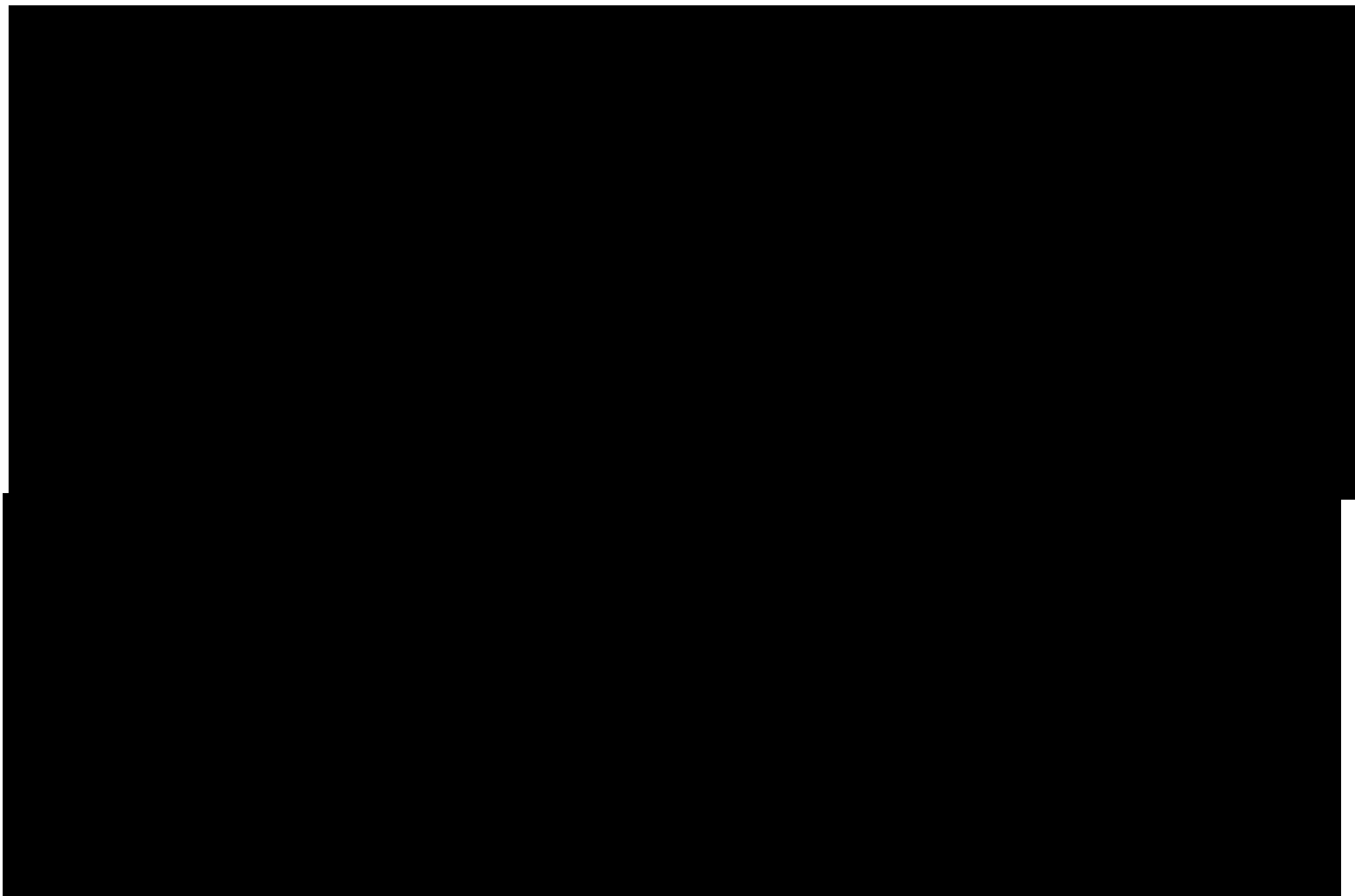


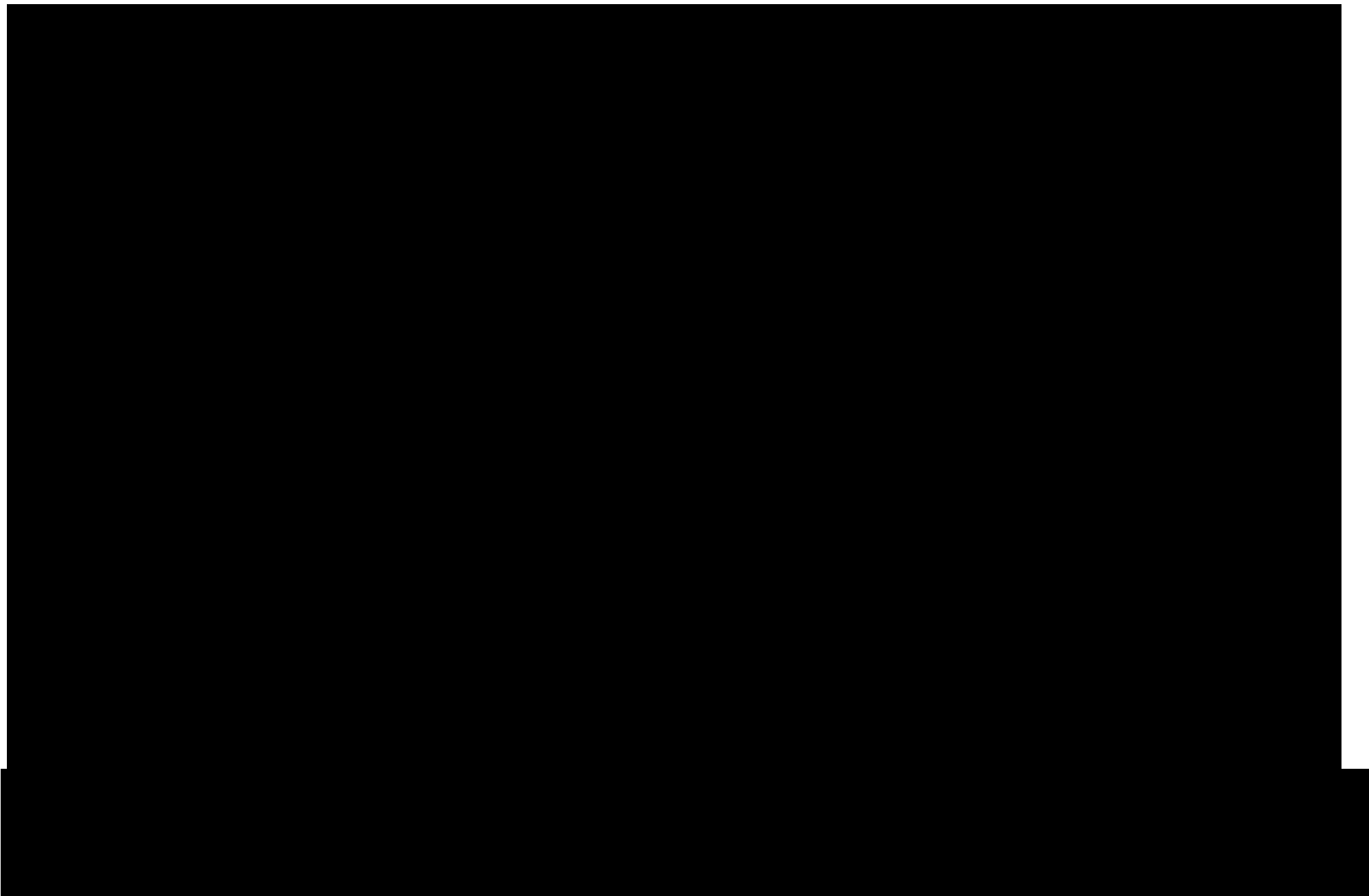


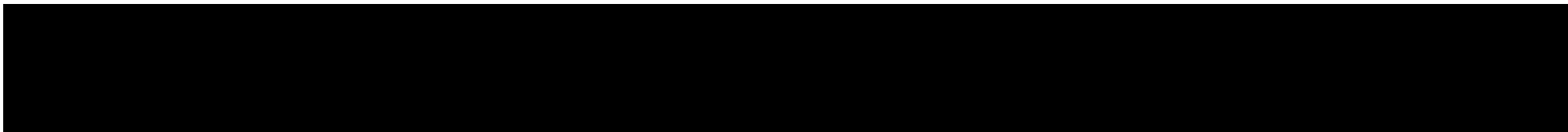
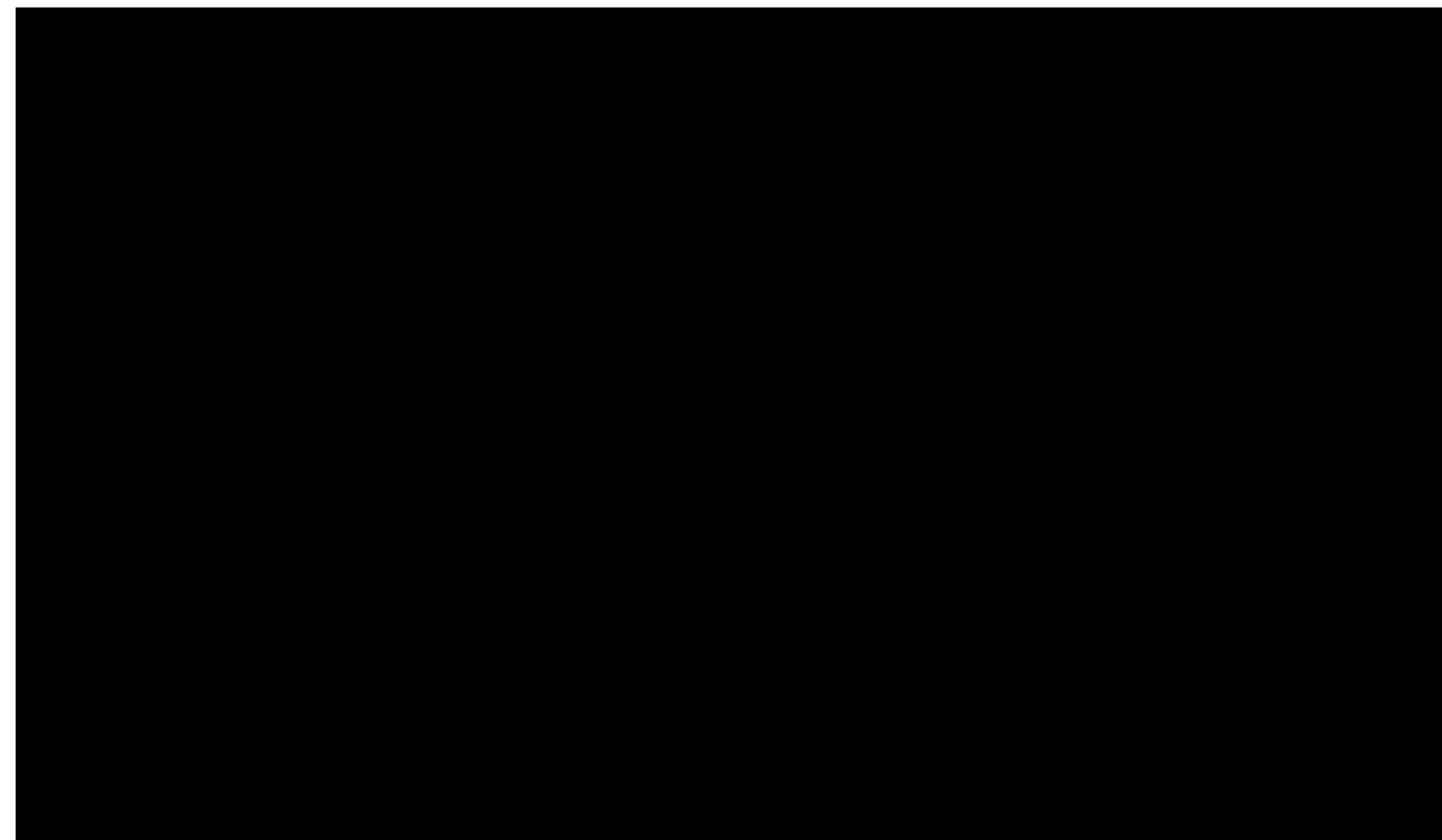


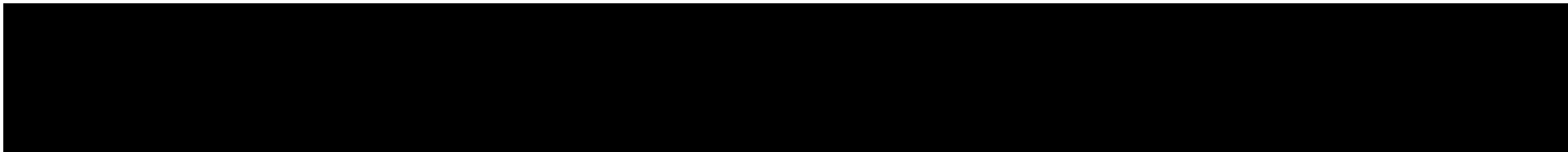
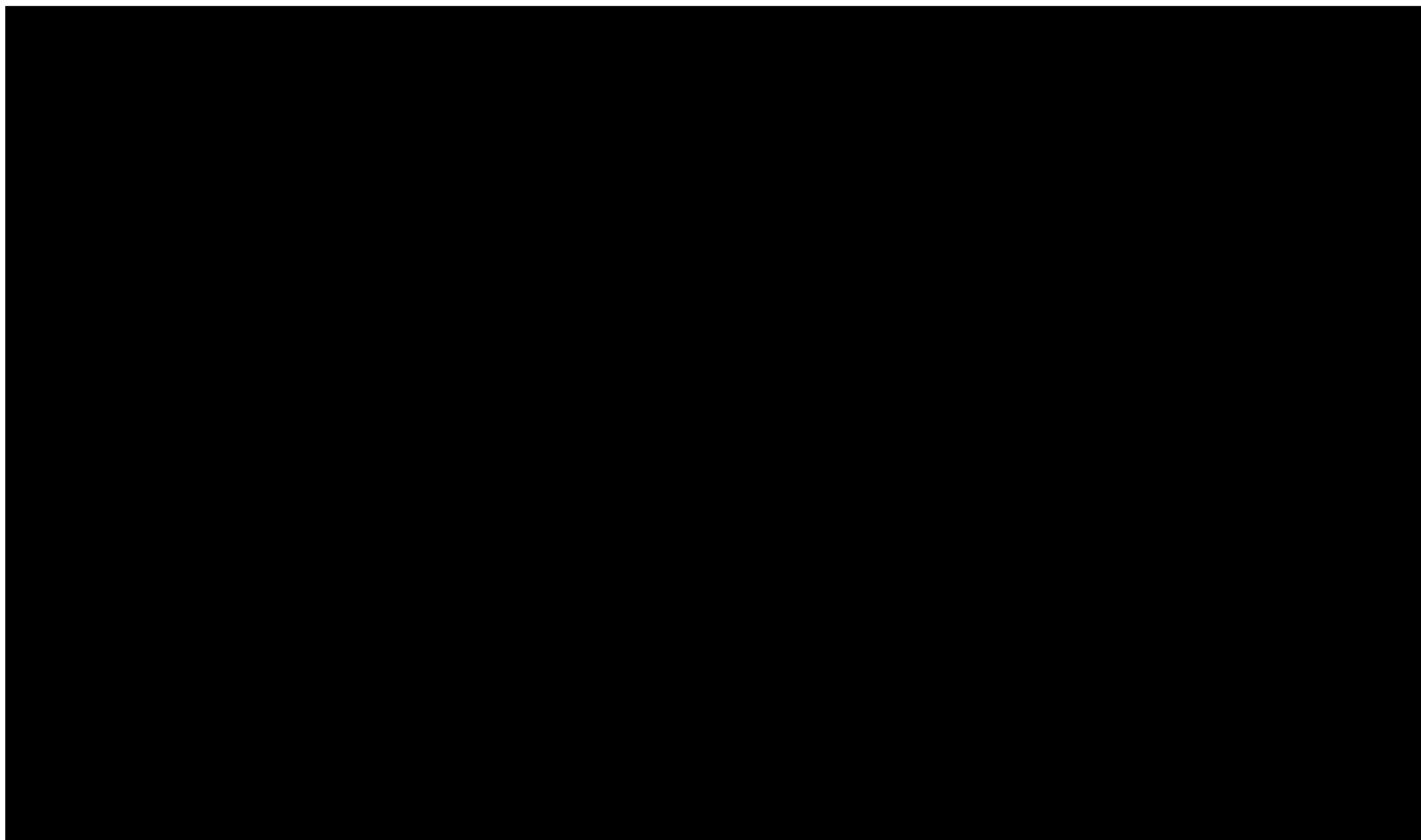


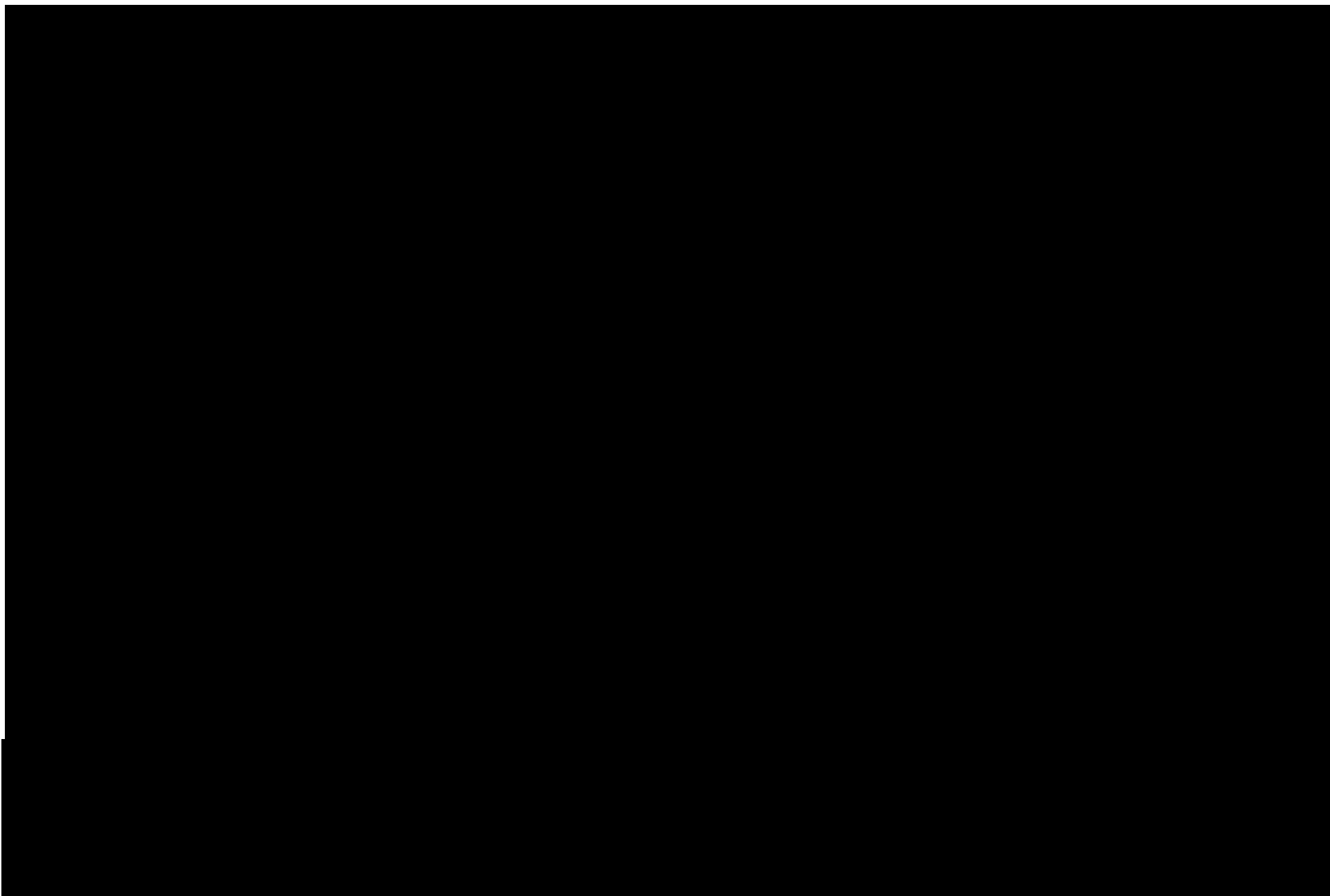


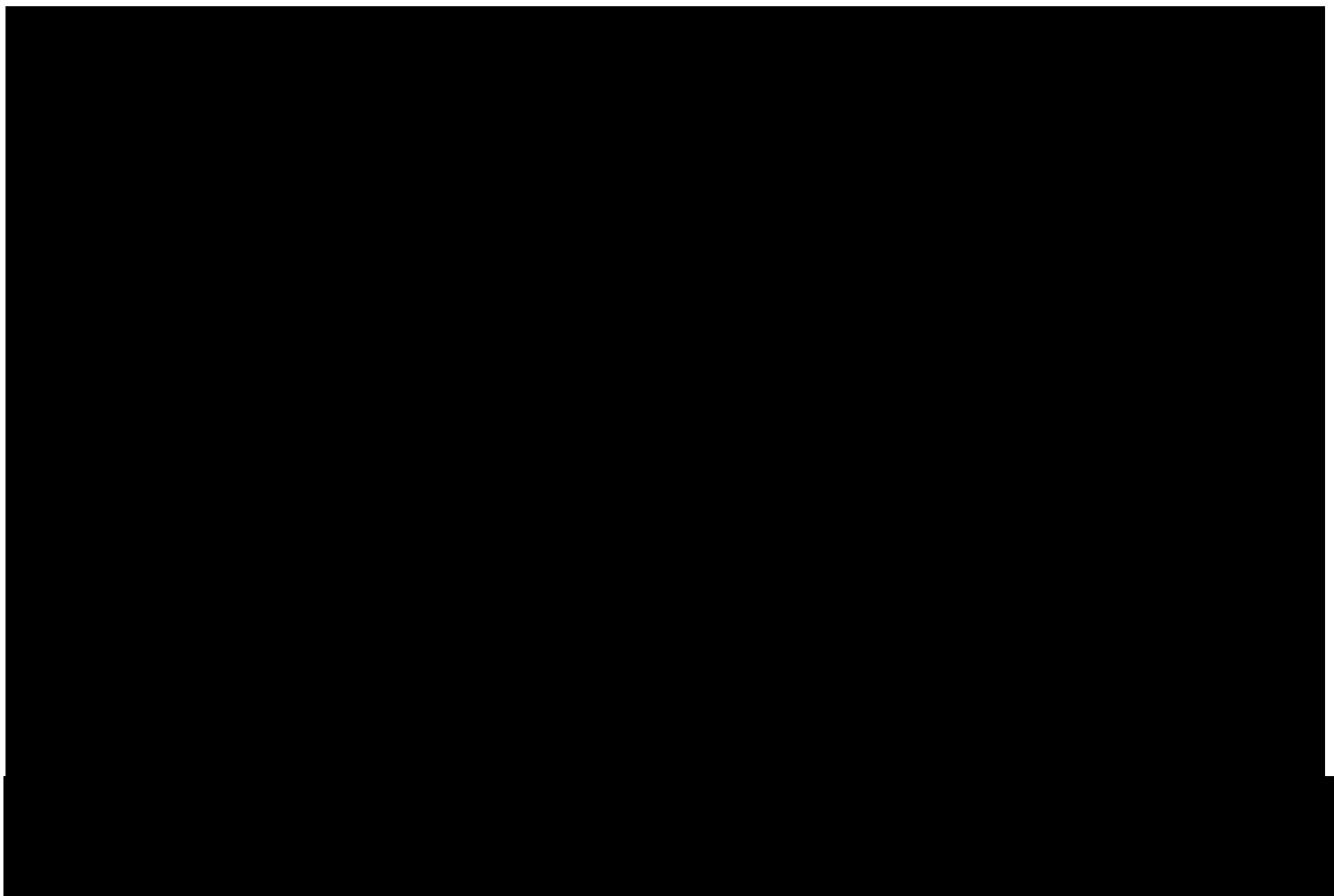


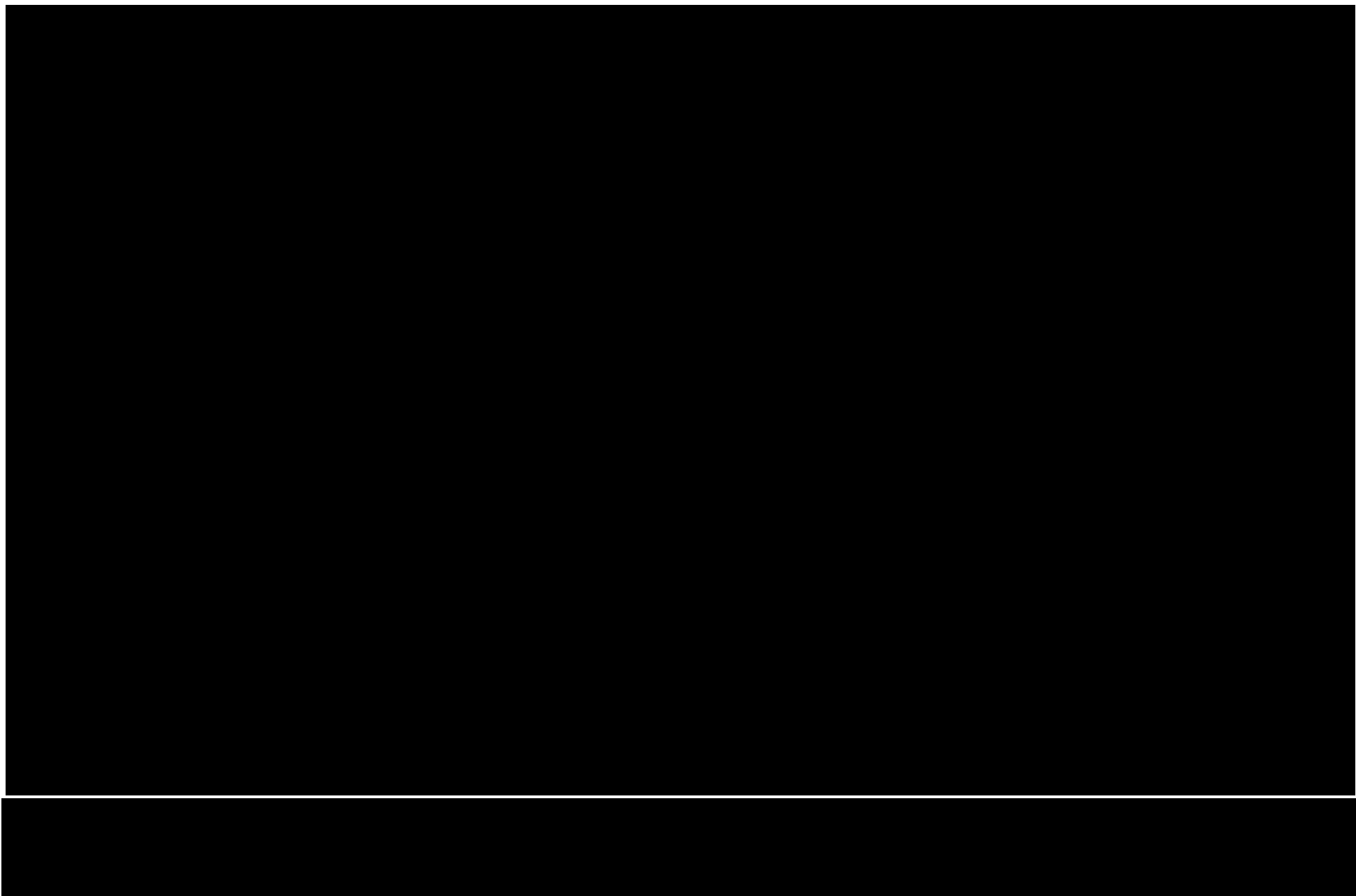


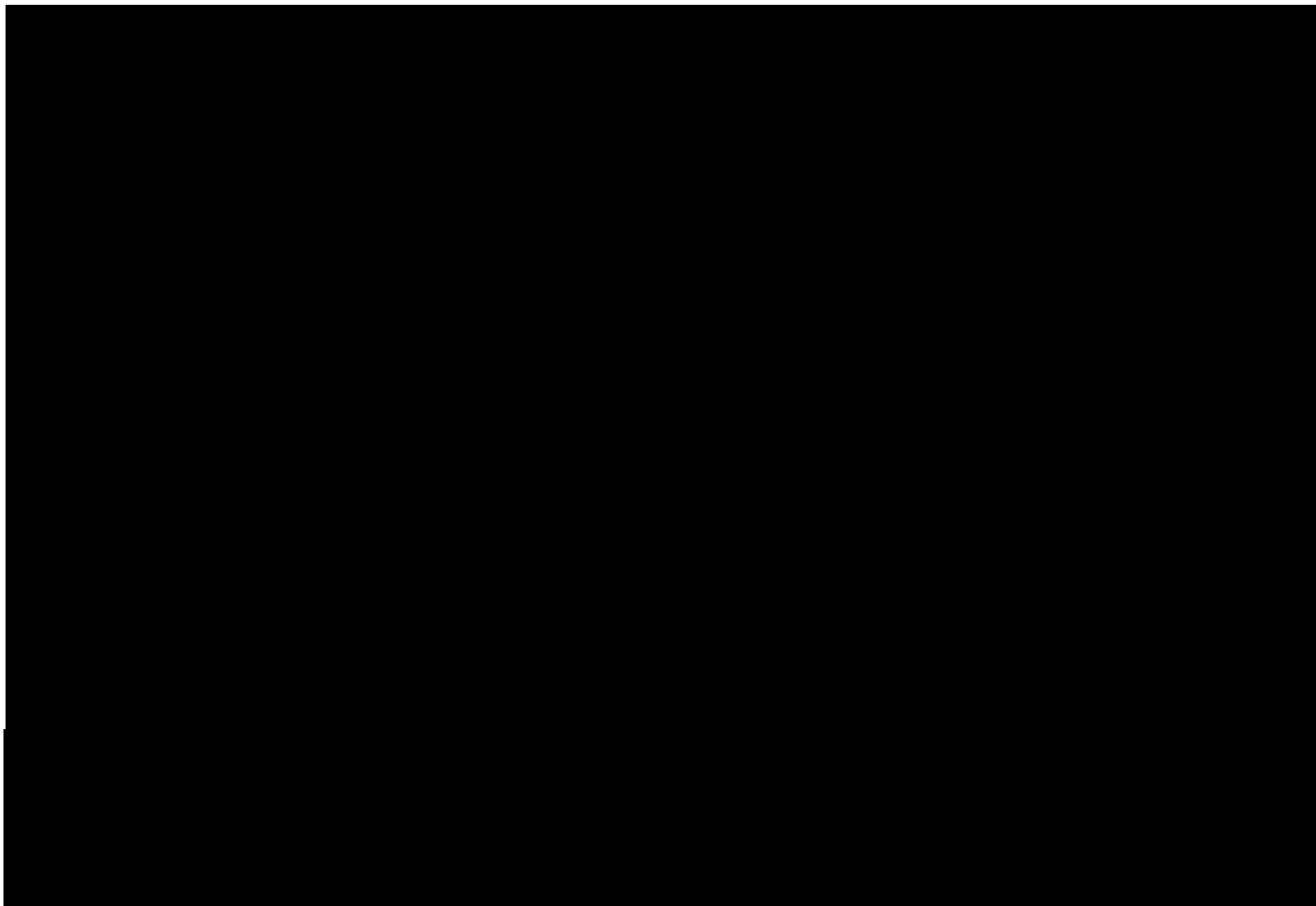


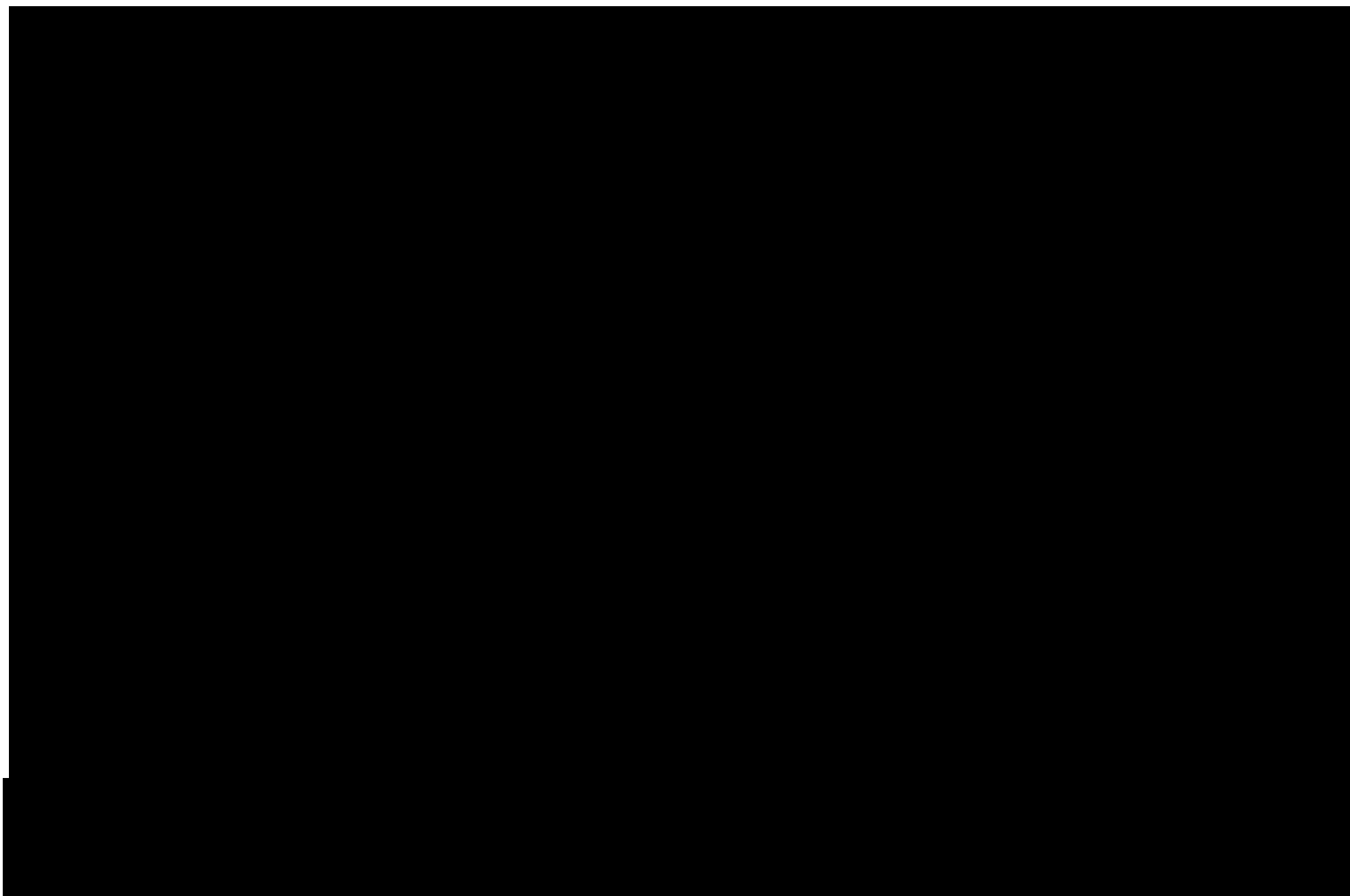


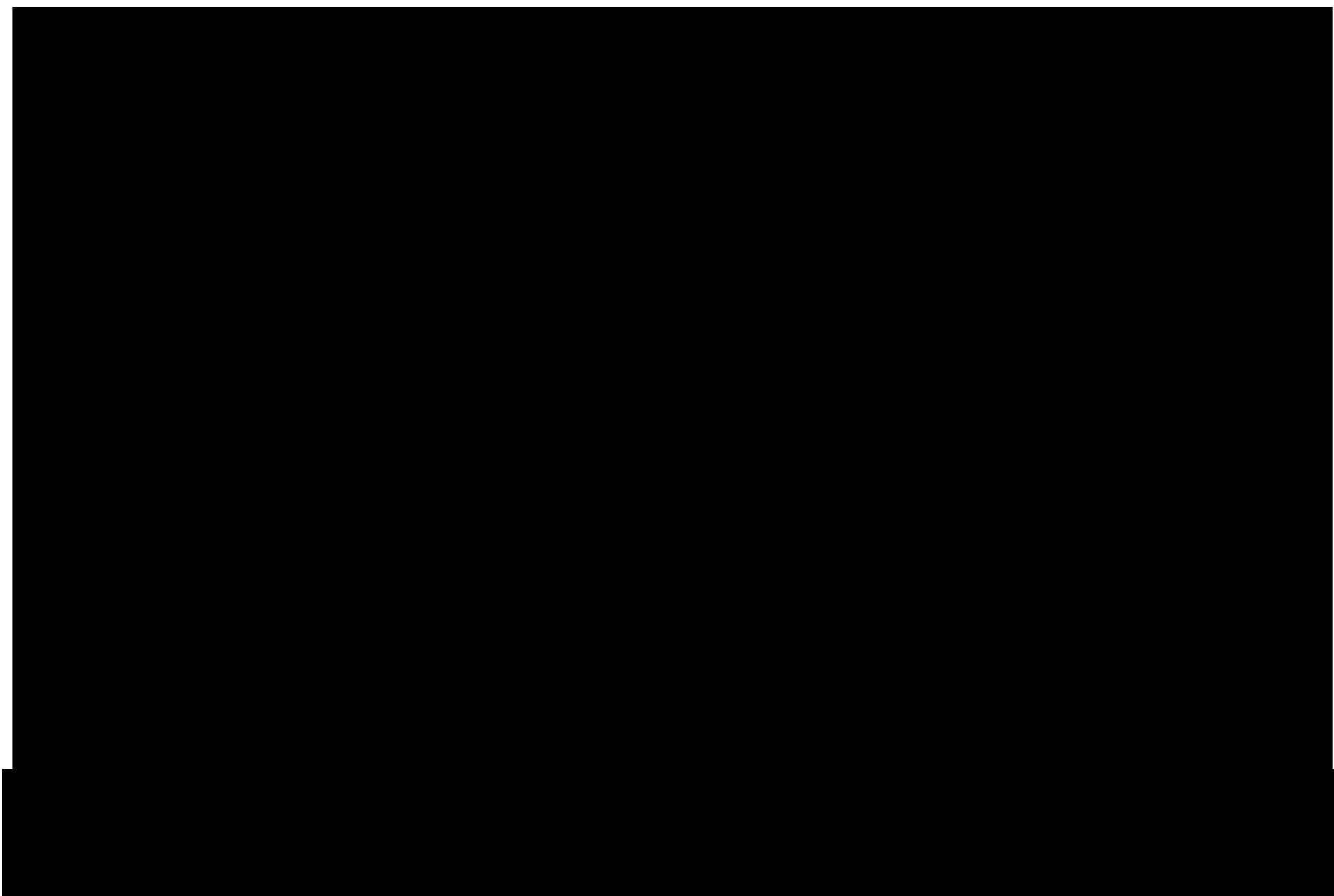


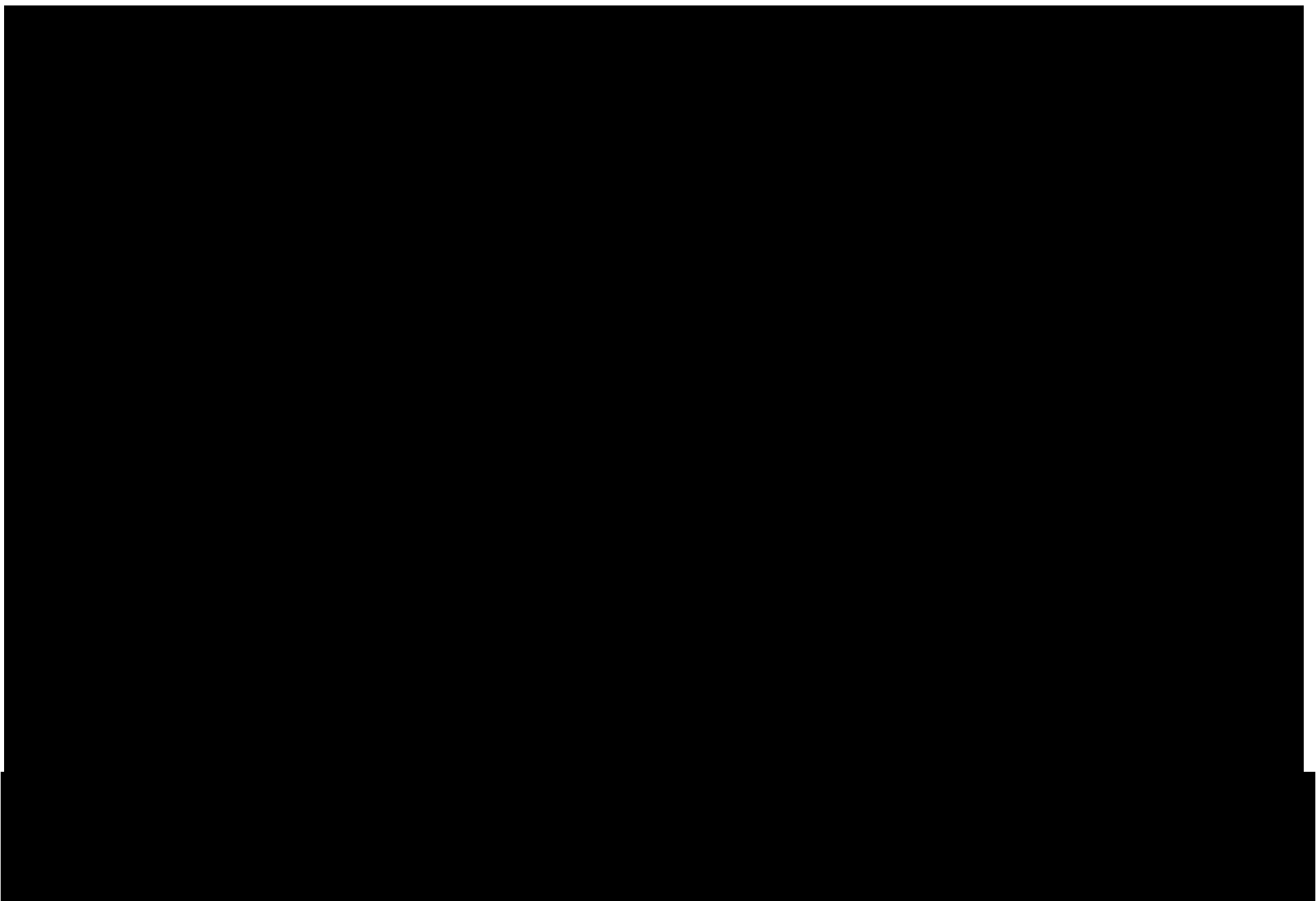


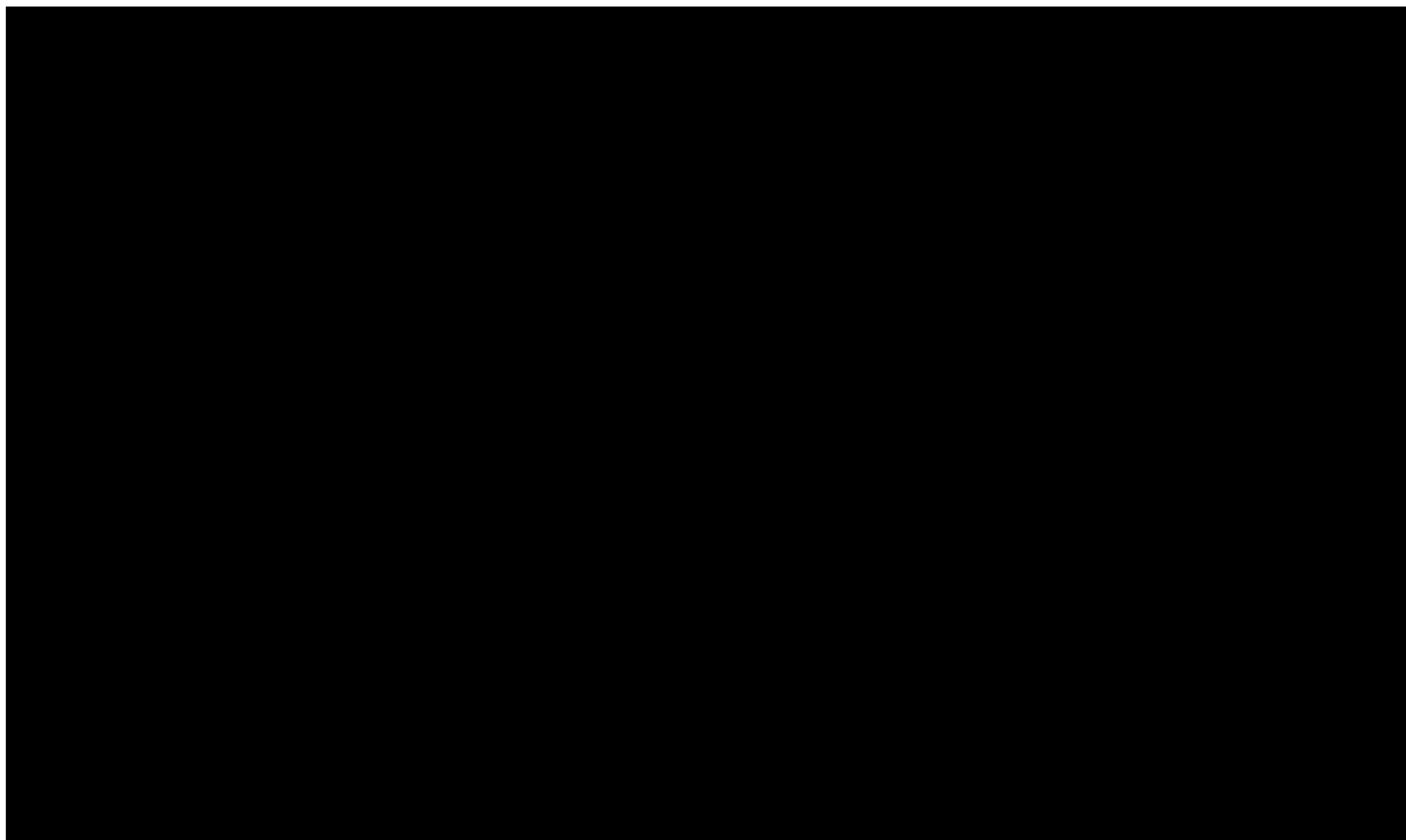


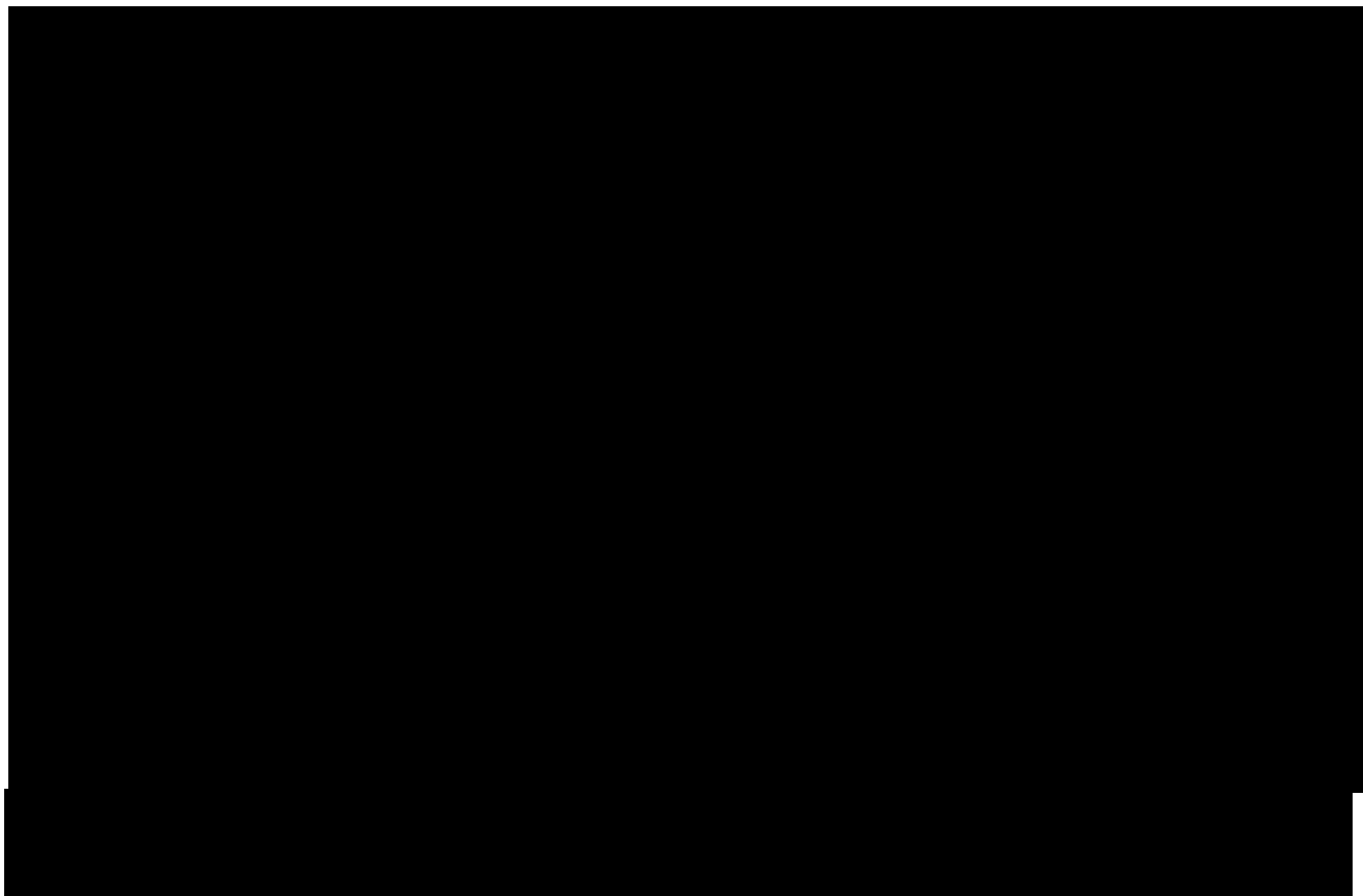


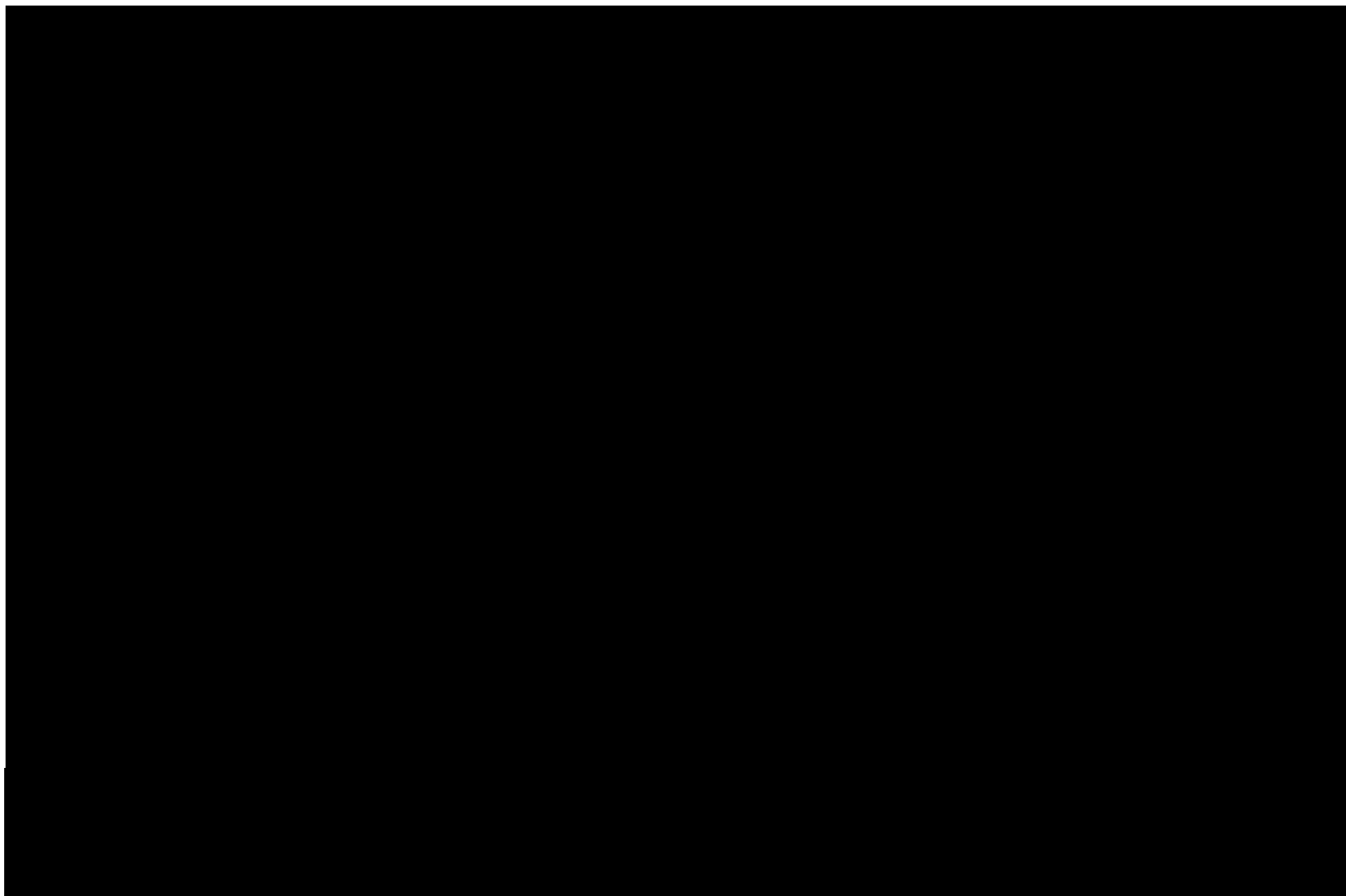


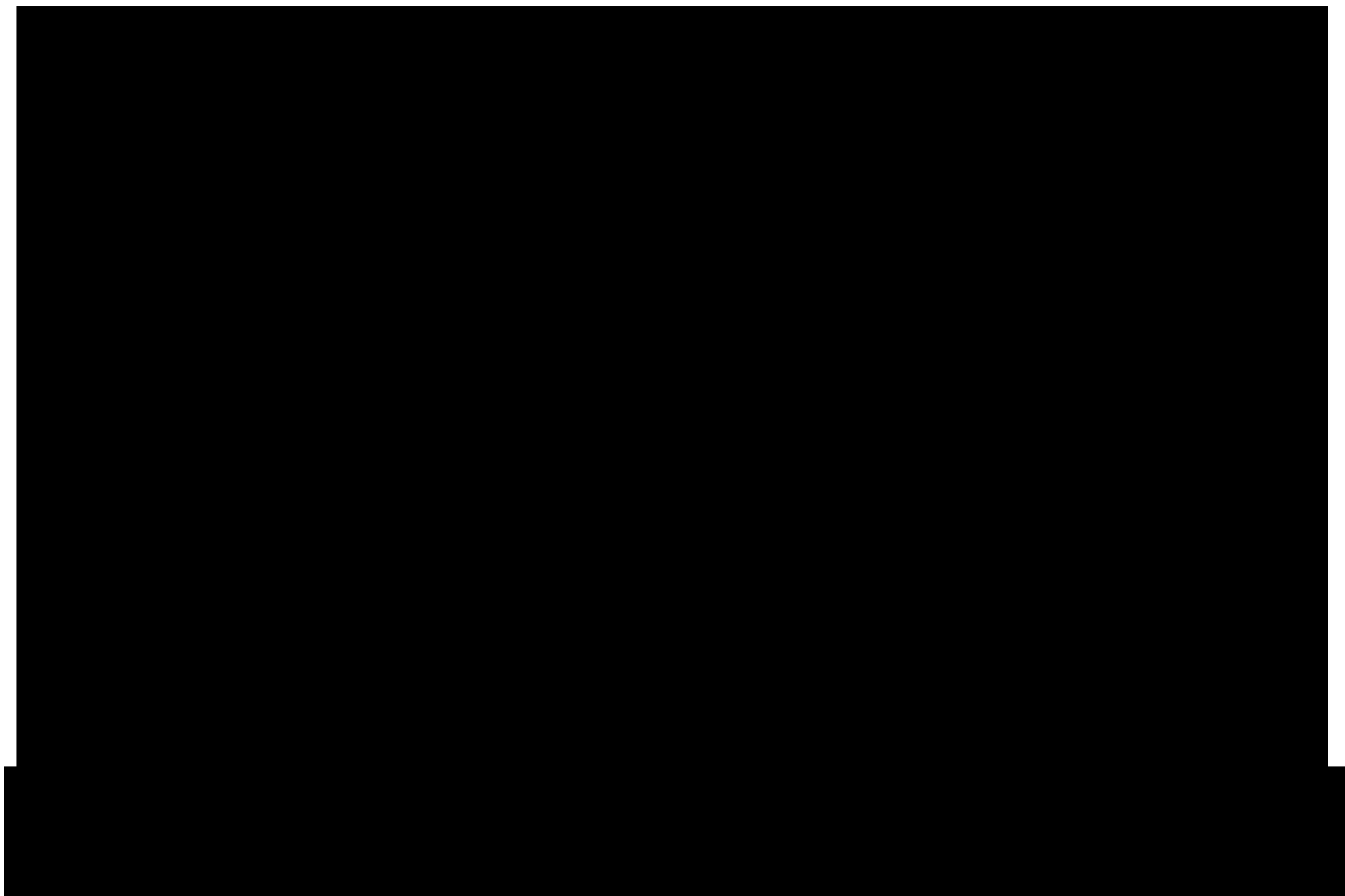


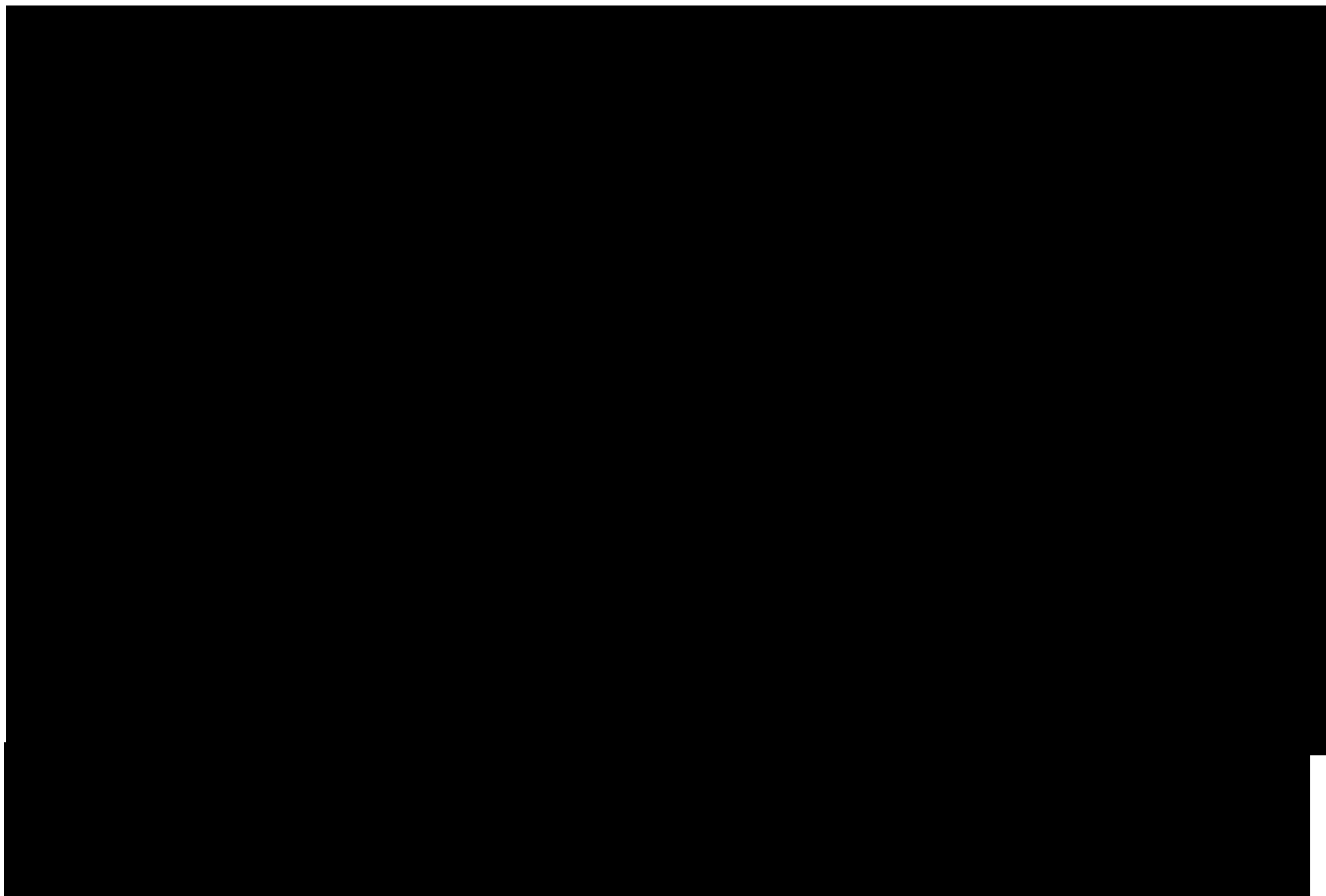


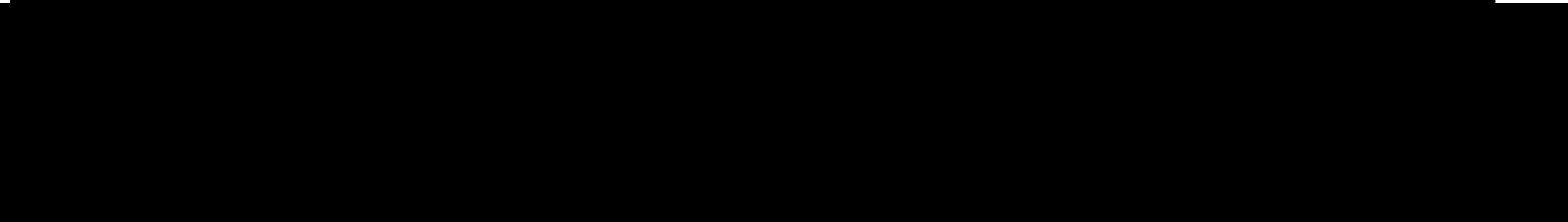
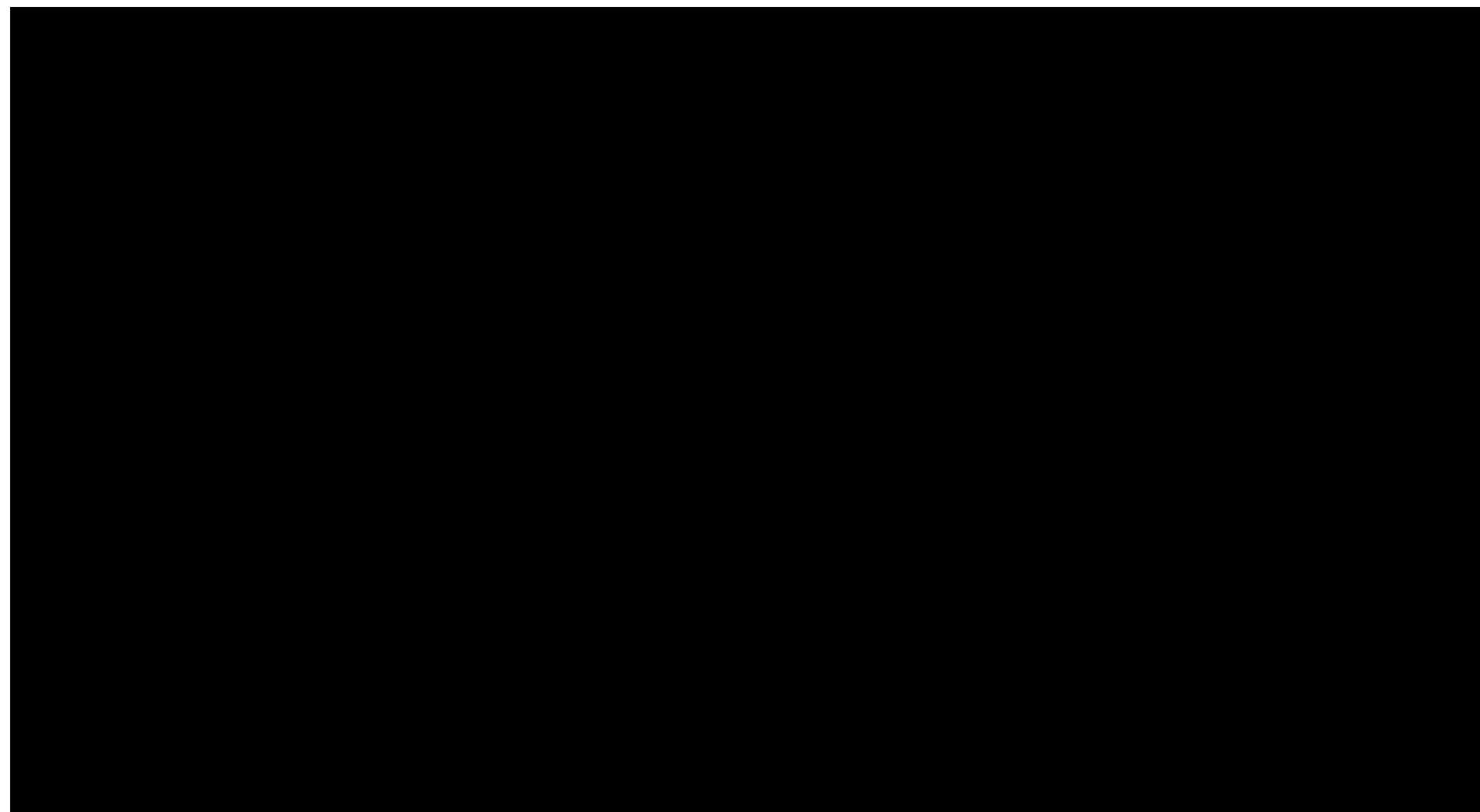


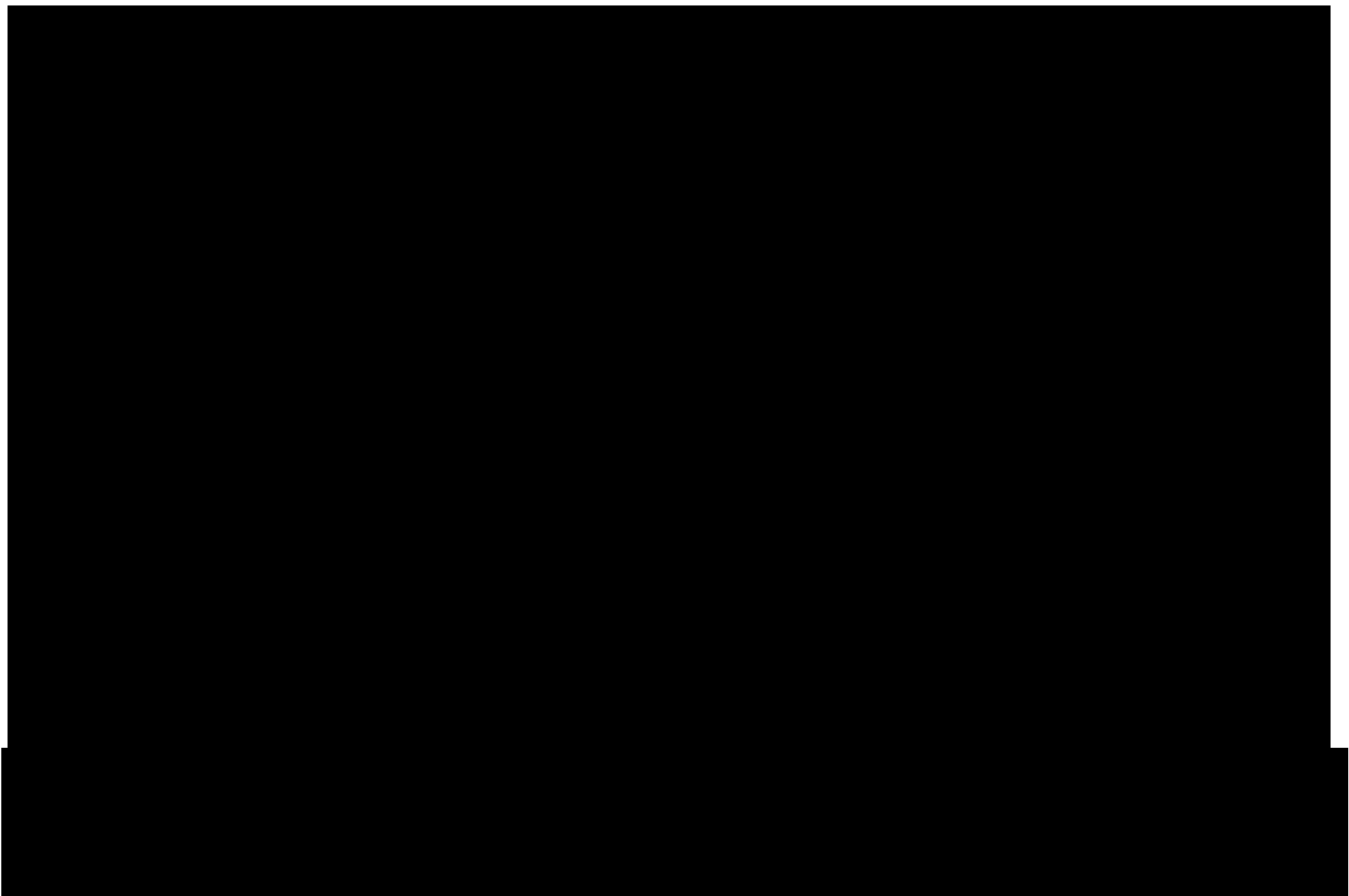


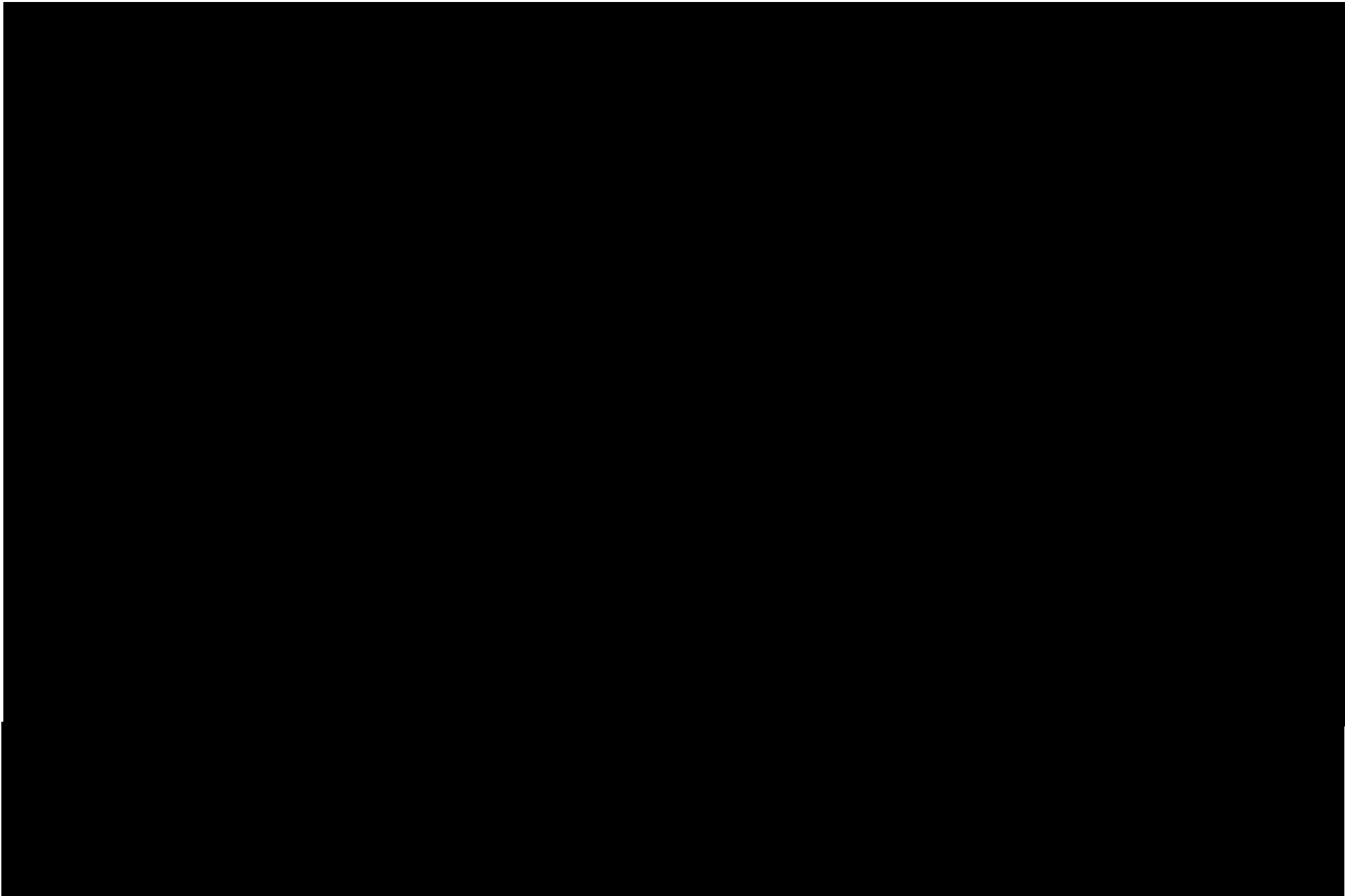


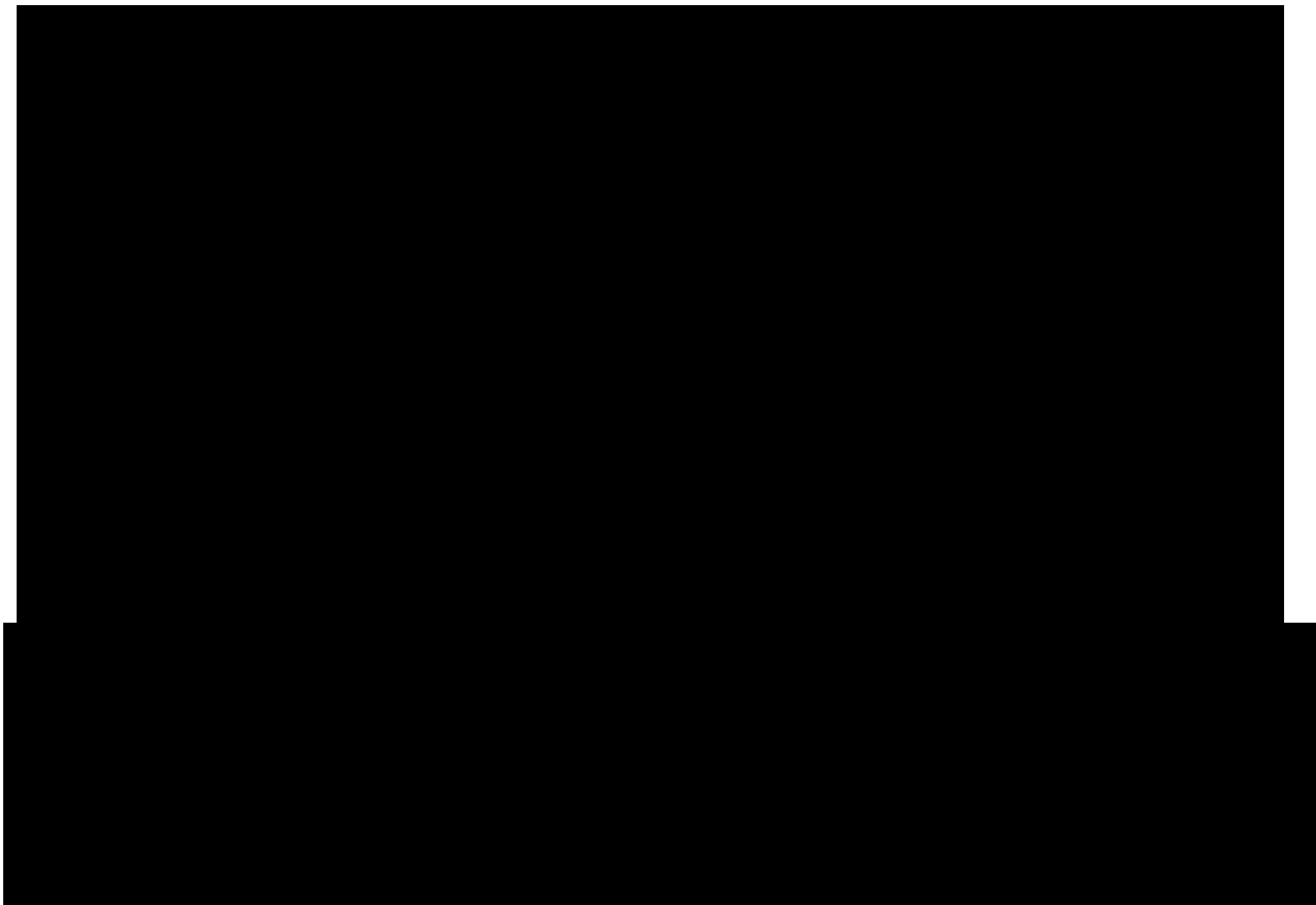


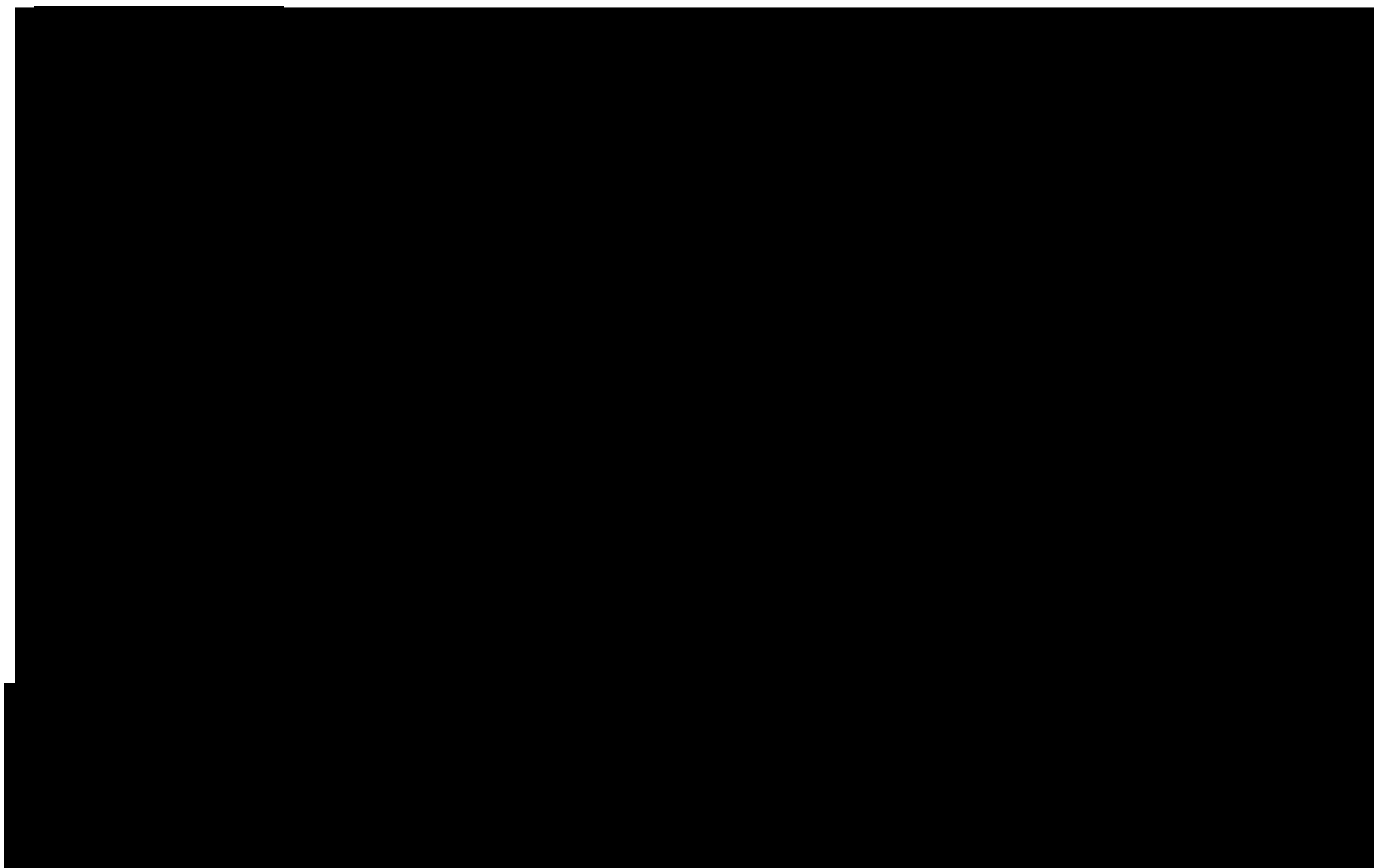


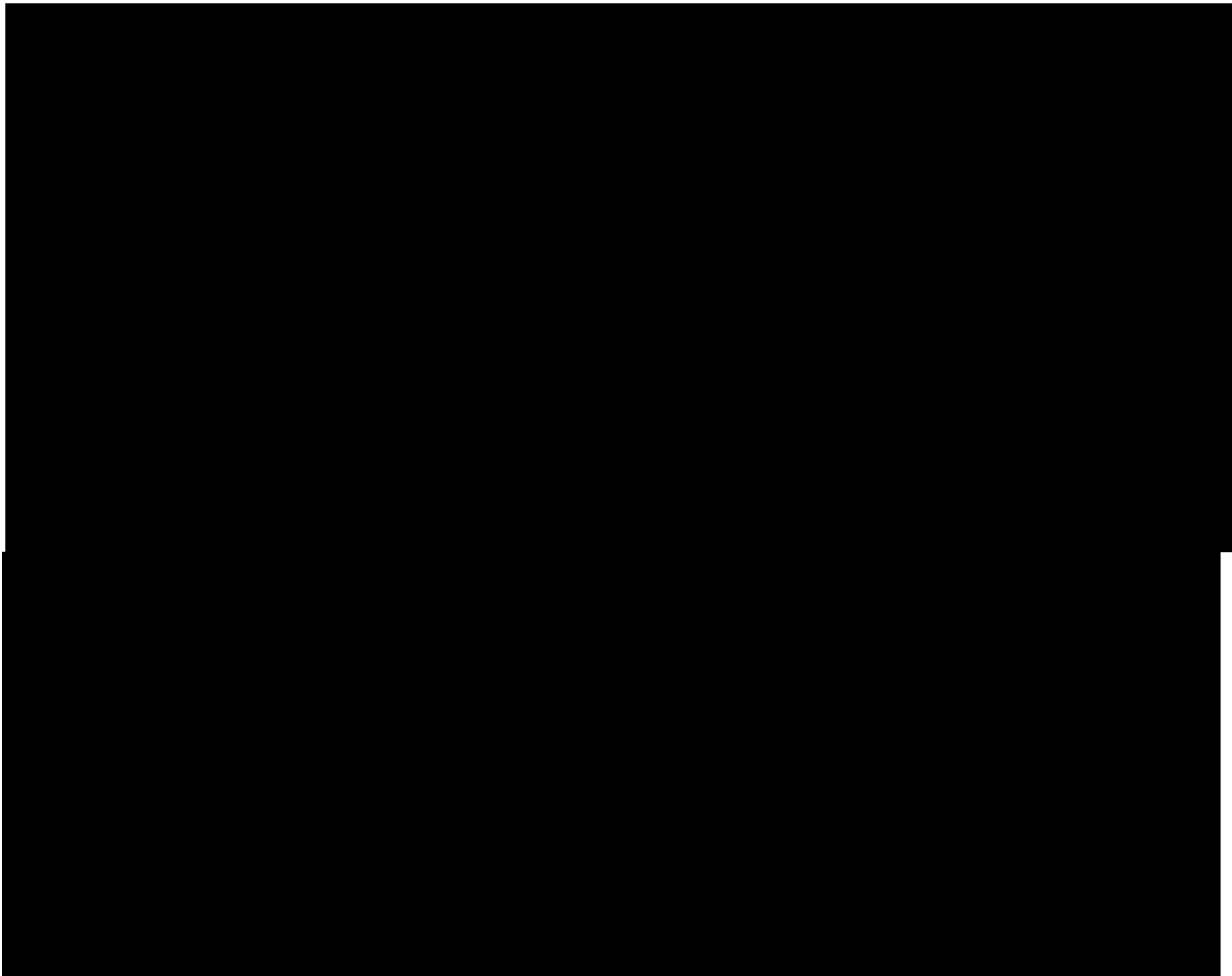


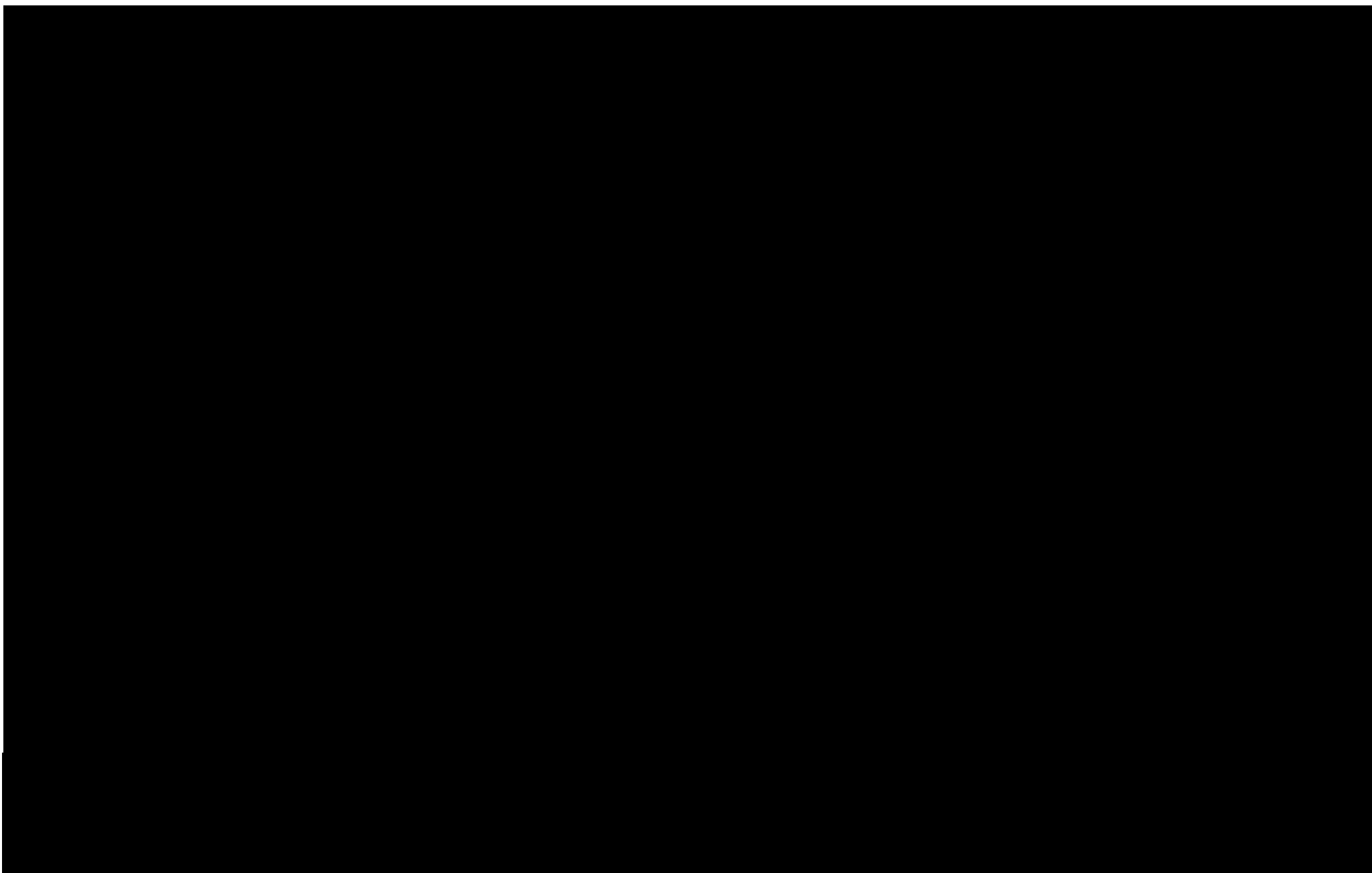


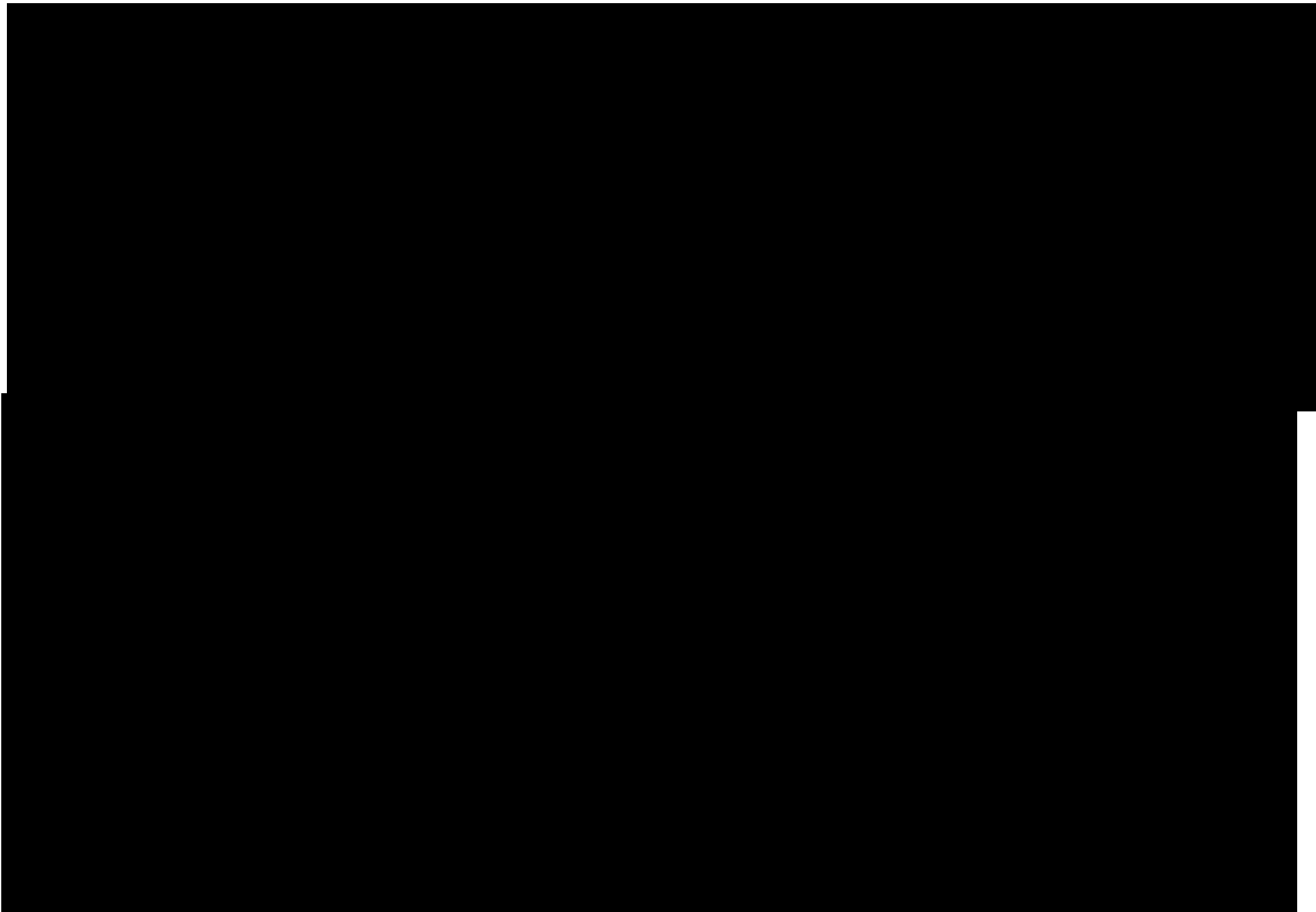


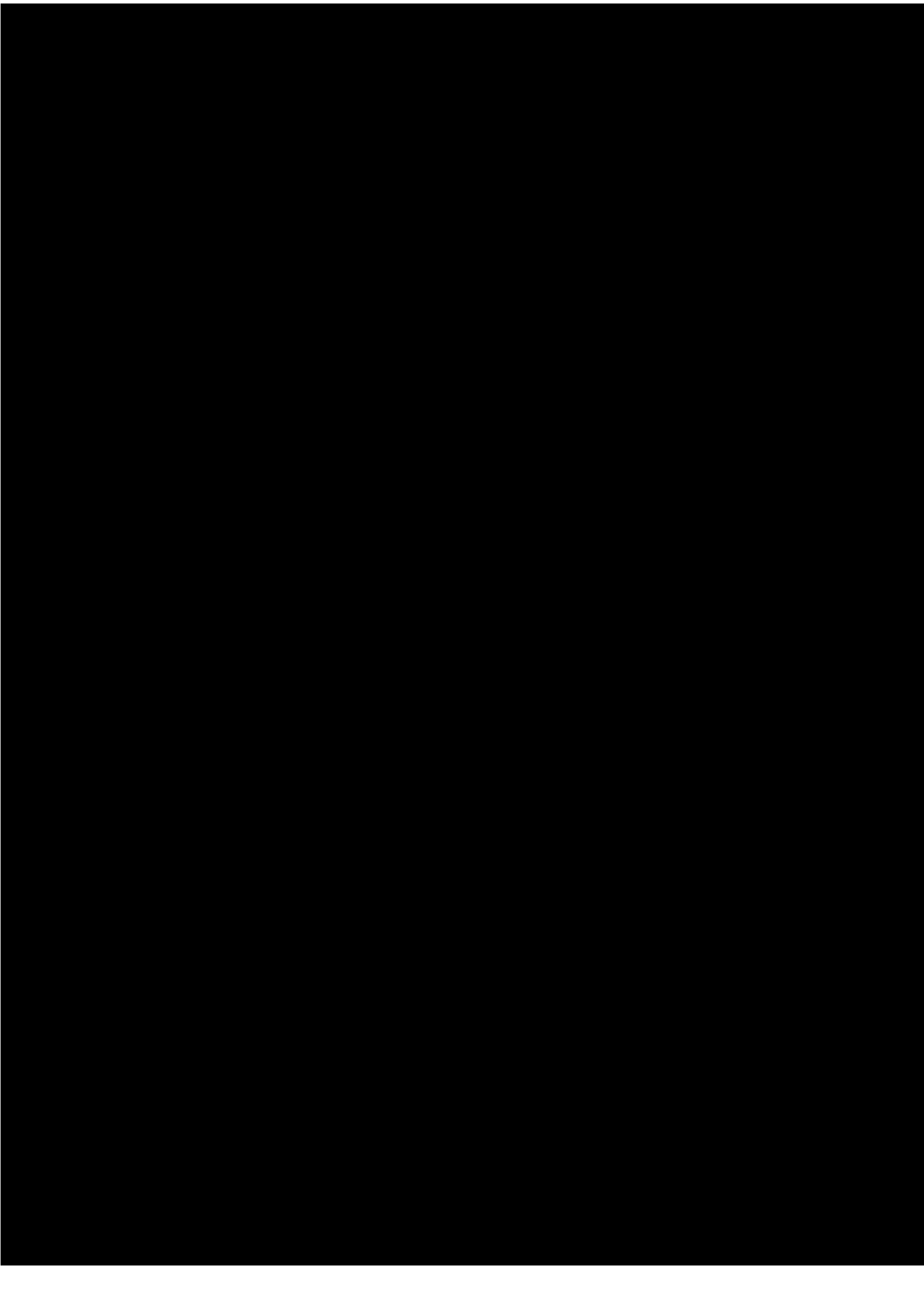












[REDACTED]

[REDACTED]