



**Environment
Agency**

Conditions of Contract Research & Development

Title - Solent Mapping and Modelling LUCT

Ecm_64002

February 2022

1. DEFINITIONS AND INTERPRETATION

- 1.1. In the Contract, unless the context otherwise requires the following words and expressions shall have the following meanings:
 - 1.1.1. Agency
Environment Agency, its successors and assigns.
 - 1.1.2. Agency's Prior Rights
All Intellectual Property Rights owned by, or lawfully used by the Agency, whether under licence or otherwise, before the date of this Contract.
 - 1.1.3. Appendix
The Appendix to these Conditions.
 - 1.1.4. Contractor
The person, firm, company or body that undertakes to provide the services to the Agency as set out in the Appendix.
 - 1.1.5. Contractor's Prior Rights
All Intellectual Property Rights owned by or lawfully used by the Contractor, whether under licence or otherwise before the date of this Contract.
 - 1.1.6. Contract
These Conditions including the Appendix, any Special Conditions, the Specification, Pricing Schedule, Contractor's tender, acceptance letter and any relevant documents agreeing modifications exchanged before the Contract is awarded, and any subsequent amendments or variations agreed in writing.
 - 1.1.7. Contract Period
The time period stated in the Appendix, or otherwise in the Contract, for the performance of the Services.
 - 1.1.8. Contractor Personnel
means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor engaged in the performance of its obligations under this Contract
 - 1.1.9. Contracting Authority
Means any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI 2015/102) (as amended).
 - 1.1.10. Contract Price
The price (exclusive of any VAT) set out in the Contract for which the Contractor has agreed to provide the services.
 - 1.1.11. Contract Supervisor
Any duly authorised representative of the Agency, notified in writing to the Contractor for all purposes connected with the Contract. Any notice or other

written communication given by or to the Contract Supervisor, shall be taken as given by or made to the Agency.

1.1.12. Data Protection Legislation

means: (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 ("DPA 1998") and/or the Data Protection Act 2018 ("DPA 2018") to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy

1.1.13. Data Protection Schedule

The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation.

1.1.14. Law

means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply

1.1.15. Notice

Any written instruction or notice given to the Contractor by the Contract Supervisor, delivered by:

- a) fax, or hand delivery to the Contractor's registered office or other address notified by the Contractor to the Agency for the purposes of the Contract and be deemed to have been served at the date and time of delivery; or
- b) first class post to the Contractor's registered office. Such notice shall be deemed to have been served 48 hours after posting.

1.1.16. Intellectual Property Rights

All Intellectual Property Rights including without limitation, patents, patent applications, design rights, registered designs, utility models, trade and service marks and applications for same, copyright, know-how, rights in semiconductor chip topography, and in each case whether protectable at law or not, and if protectable, whether an application has been made for such protection or not, and all similar industrial, commercial, monopoly or other intellectual property rights whether present or future, vested or contingent wherever protected.

1.1.17. Results

All things produced in performing the Services including maps, plans, photographs, drawings, tapes, statistical data, experimental results, field data, analysis of results, published and unpublished results and reports, inventions, computer programmes and user documentation.

1.1.18. Resulting Rights

All Intellectual Property Rights in the Results that are originated, conceived, written or made by the Contractor, whether alone or with others in the performance of the Services or otherwise resulting from the Contract.

1.1.19. Services

All Services detailed in the Specification including any additions or substitutions as may be requested by the Contract Supervisor.

1.1.20. PCR

Means the Public Contract Regulations 2015 (SI 2015/102) as amended.

1.2. Except as set out above and in the Data Protection Schedule, the Contract shall be interpreted in accordance with the Interpretation Act 1978.

1.3. All headings in these Conditions are for ease of reference only, and shall not affect the construction of the Contract.

1.4. Any reference in these Conditions to a statutory requirement this will include all subsequent modifications.

1.5. All undefined words and expressions are to be given their normal English meaning within the context of this Contract. Any dispute as to the interpretation of such undefined words and expressions shall be settled by reference to the definition in the Shorter Oxford English Dictionary.

2. PRECEDENCE

To the extent that the following documents form the Contract, in the case of conflict of content, they shall have the following order of precedence.

- ☐ Conditions of Contract including Appendix, Data Protection Schedule and any Special Conditions
- ☐ Specification
- ☐ Pricing Schedule
- ☐ Drawings, maps or other diagrams.

3. CONTRACT SUPERVISOR

The Contractor shall strictly comply with any instruction given by the Contract Supervisor concerning or about the Contract provided such instructions are reasonable and consistent with the nature, scope and value of the Contract. All such instructions shall be in writing. The Contractor is not obliged to comply with any verbal instruction from the Contract Supervisor, that is not confirmed in writing within seven working days.

4. SERVICES

- 4.1. The Contractor shall provide all staff, equipment, materials and any other requirements necessary for the performance of the Contract using reasonable skill, care and diligence, and to the reasonable satisfaction of the Contract Supervisor.
- 4.2. Where the Agency has indicated in writing, at or before the date of the Contract, that there will be a need to retain certain persons crucial to the successful provision of the Services, such persons ("Key Personnel") shall be identified from within the Contractor's business or staff and agreed in writing, and a list made of such persons ("the Key Personnel List").
- 4.3. The Contractor shall (subject to Condition 4.5) make Key Personnel available for the whole of the Contract Period, for the purposes of providing the Services.
- 4.4. Where the Contract Supervisor gives Notice that Key Personnel are associated with the provision of specific services, such services shall only be provided by such persons.
- 4.5. No changes of any kind shall be made to the Key Personnel List, without the prior written agreement of the Contract Supervisor.
- 4.6. The Contractor shall only employ in the execution and superintendence of the Contract, persons who are suitable, and appropriately skilled and experienced. The Contract Supervisor shall be at liberty to object to, and require the Contractor to remove any person employed in or about the Contract who is unsuitable, misconducts himself, is incompetent or negligent in the performance of his duties, or persists in conduct which could endanger the health or safety of others. Such persons shall not be employed again on the Contract without the express permission of the Contract Supervisor.
- 4.7. The Contractor shall provide the Agency with such progress reports at such intervals and in such form as is detailed in the Specification or otherwise as reasonably required by the Contract Supervisor.
- 4.8. The Contractor shall notify the Contract Supervisor immediately if any factors occur which give the Contractor reason to believe that the Contract could be completed more effectively or expeditiously by changing the programme or method of working in the Specification.
- 4.9. The Contractor shall not carry out any survey for the Agency (whether or not such survey forms part of the Services) which includes any interviews or the circulation of questionnaires or similar documents without the agreement of the Agency to the form and content of such interviews, questionnaires or other documents.
- 4.10. The Contractor shall promptly notify the Contract Supervisor, in writing of any situation, or event arising from circumstances beyond his control and which it could not have reasonably foreseen which makes it difficult for the Contractor to carry out in whole or in part the Contract in accordance with the Specification. On receipt of such notification, any revision to the Condition 6 (Contract Period)

in accordance with Condition 10 (Variations) and/or Condition 11 (Extensions of Time) shall be considered by the Contract Supervisor on its merits, and the Contractor notified in writing of the decision.

5. ASSIGNMENT

- 5.1. The Contractor shall not assign, transfer or sub-contract the Contract, or any part of it, without the prior written permission of Contract Supervisor.
- 5.2. Any assignment, transfer or sub-contract entered into, shall not relieve the Contractor of any of its obligations or duties under the Contract.
- 5.3. Nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of the Contract

6. CONTRACT PERIOD

The Contractor shall perform the Services within the time stated in the Appendix Appendix 2 subject to such amendments arising from Condition 10 (Variations), and/or Condition 11 (Extensions of Time.).

7. PROPERTY

- 7.1. All property issued by the Agency to the Contractor in connection with the Contract shall remain the property of the Agency, and shall be used in the execution of the Contract, and for no other purpose whatsoever without the prior approval of the Contract Supervisor.
- 7.2. The Contractor shall keep all property issued by the Agency in safe custody and good condition, set aside and clearly marked as the property of the Agency.
- 7.3. On expiry, or earlier termination of the Contract, the Contractor shall, if so required, either surrender such property to the Agency, or otherwise dispose of it, as instructed by the Contract Supervisor.

8. CONFIDENTIAL INFORMATION

- 8.1. Confidential Information shall comprise any information disclosed to, or made available to the Contractor and its agents and staff in connection with the Contract and the provision of the Services. This will include, but not be limited to the Agency's procedures, the Contract, the Results, any Intellectual Property of the Agency, or any other information which could reasonably be regarded as confidential.
- 8.2. The Contractor shall take all necessary precautions to ensure that all Confidential Information as in Condition 8.1:
 - 8.2.1. Is given only to the minimum number of staff and then only to the extent necessary for each member of staff's activities in the provision of the Services;

- 8.2.2. Is treated as confidential and not disclosed, without the prior approval of the Contract Supervisor, to any other person.
- 8.3. Where required by the Contract Supervisor, the Contractor will ensure that its staff sign a confidentiality undertaking before commencing work on the provision of the Services, and provide copies to the Contract Supervisor.
- 8.4. The Agency's remedies for breaches of Conditions 8.1, 8.2, and 8.3 shall not be limited to damages.
- 8.5. Nothing in this Condition shall prevent the Agency from disclosing such information relating to the outcome of the Contract procurement process as may be required to be published in the Supplement to the Official Journal of the European Communities in accordance with E.C. Directives, or elsewhere in accordance with requirements of United Kingdom law on the disclosure of information.

9. SECURITY

- 9.1. The Contractor shall be responsible for the security of all goods and equipment (i) belonging to the Agency and used by the Contractor in the provision of the Services, and (ii) belonging to the Contractor, or Contractor's staff, or sub-contractors whilst on Agency premises.
- 9.2. This Condition shall not prejudice the Agency's rights under Condition 15.

10. VARIATIONS

- 10.1. The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the Services to be supplied, by written order to the Contractor provided such variations are reasonable and consistent with the nature, scope and value of the Contract.
- 10.2. The value of any such variation, other than any variation arising out of Condition 10.3, shall be determined by reference to the rates contained in the Pricing Schedule. Where the Services so ordered are not covered in the Pricing Schedule, they shall be valued at a fair and reasonable rate agreed between the Contract Supervisor and the Contractor.
- 10.3. Where a variation is the result of some default or breach of the Contract by the Contractor, or for some other cause for which it is solely responsible, any additional cost attributable to the variation shall be borne by the Contractor.
- 10.4. The Contractor may also propose a variation to the Services, but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.
- 10.5. No variation shall have the effect of invalidating the Contract, if that variation is reasonably consistent with the nature, scope and value of the Contract. The

Contractor may also propose a variation to the Goods to be supplied but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.

- 10.6. No variation shall have the effect of invalidating the Contract, or placing the Contract at large, if that variation is reasonably consistent with the nature, scope and value of the Contract.
- 10.7. The Agency may vary the Contract to comply with a change in English Law. Such a change will be effected by the Contract Supervisor notifying the Contractor in writing.
- 10.8. The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
 - 10.8.1. any Contracting Authority; or
 - 10.8.2. any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Agency; or
 - 10.8.3. any private sector body which substantially performs the functions of the Agency, provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.
- 10.9. Any change in the legal status of the Agency such that it ceases to be a Contracting Authority shall not affect the validity of the Contract. In such circumstances the Contract shall bind and inure to the benefit of any successor body to the Agency.

11. EXTENSIONS OF TIME

- 11.1. Should the performance of the Contract be delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor shall first have given the Contract Supervisor written notice within five working days after becoming aware that such delay was likely to occur, then, the Contract Supervisor, if satisfied that this Condition applies:
 - 11.1.1. in the case of any delay of which the Agency is not the cause, may grant the Contractor such extension of time as in his opinion, is reasonable, having regard, without limitation, to any other delays or extensions of time that may have occurred or been granted under the Contract. The Contract Price shall not increase as a result of such an extension of time.
 - 11.1.2. in the case of any delay of which the Agency is the cause, shall grant the Contractor a reasonable extension of time to take account of the delay.
- 11.2. No extension of time shall be granted where in the opinion of the Agency, the Contractor has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.

- 11.3. Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 13 and 14 respectively.

12. DEFAULT

- 12.1. The Contractor shall be in default if it:
- 12.1.1. Fails to perform the Contract with due skill, care, diligence and timeliness; or
 - 12.1.2. Refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor; or
 - 12.1.3. Is otherwise in breach of Contract.
- 12.2. Where in the opinion of the Contract Supervisor, the Contractor is in default, the Contract Supervisor may serve a Notice, giving at least 5 working days in which to remedy the default.
- 12.3. If the Contractor fails to comply with such a Notice, the Contract Supervisor may without prejudice to any other rights or remedies under the Contract, take over for such a period as is necessary the performance of the relevant part of the Contract, and make other arrangements for its completion. Any extra costs arising from this action, will be paid by the Contractor or deducted from any monies owing to it.

13. TERMINATION

- 13.1. The Agency may immediately, without any liability on its part and without prejudice to any of its other rights and remedies under the Contract, terminate all, or any part of the Contract by Notice to the Contractor, or the Contractor's receiver, or the Contractor's liquidator or to any other person in whom the Contract may become vested, if the Contractor:
- 13.1.1. fails in the opinion of the Contract Supervisor to comply with (or take reasonable steps to comply with) a Notice under Condition 12.2; or
 - 13.1.2. becomes bankrupt or insolvent, or has a receiving order made against it, or makes an arrangement with its creditors, or (being a corporation) commences to be wound up, not being a voluntary winding up for the purpose of reconstruction or amalgamation, or has a receiver, administrator, or administrative receiver appointed by a Court.

'Termination under the Procurement PCR'

- 13.2. The Agency may terminate the Contract on written Notice to the Contractor if:
- 13.2.1. the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the PCR;

- 13.2.2. the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the PCR, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or
- 13.2.3. The Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the PCR that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

14. DETERMINATION

- 14.1. Without prejudice to any other rights or remedies under the Contract, the Agency reserves the right to determine the Contract at any time by giving not less than one month's Notice, (or such other time period as may be appropriate).
- 14.2. The Agency shall pay the Contractor such amounts as may be necessary to cover his reasonable costs and outstanding and unavoidable commitments necessarily and solely incurred in properly performing the Contract prior to determination.
- 14.3. The Agency will not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay those costs that the Agency has validated to its satisfaction. The Agency's total liability under this clause shall not in any circumstances exceed the Contract Price that would have been payable for the Services if the Contract had not been determined.

15. INDEMNITY

- 15.1. Subject always to Condition 15.2 without prejudice to the Agency's remedies for breach of Contract, the Contractor shall fully indemnify the Agency and its staff against any liability, loss, costs, expenses, claims or proceedings in respect of:
 - 15.1.1. Death or injury to any person, and/or
 - 15.1.2. Loss or damage to any property, excluding indirect and consequential loss, and/or
 - 15.1.3. Infringement of third-party Intellectual Property Rightswhich might arise as a consequence of the actions, omissions or negligence of the Contractor, its staff or agents in the execution of the Contract.
- 15.2. Nothing in this Condition 15 shall limit or exclude any liability of the Agency for personal injury or death arising from its negligence.

16. LIMIT OF CONTRACTOR'S LIABILITY

16.1. The limit of the Contractor's liability for each and every claim by the Agency, other than for death or personal injury, whether by way of indemnity or by reason of breach of Contract, or statutory duty, or by reason of any tort shall be-

16.1.1. The sum stated in the Appendix

16.1.2. If no sum is stated in the Appendix, or five million pounds whichever is the greater.

17. INSURANCE

17.1. The Contractor shall insure, and maintain insurance against the liabilities under Condition 15 (Indemnity), in the manner, and to the values listed in the Appendix to these Conditions. [If no sum is stated, the value insured shall be £5m, (five million pounds).

17.2. If required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.

17.3. The Contractor shall, upon request, produce to Contract Supervisor documentary evidence that the insurances required are fully paid up and valid for the duration of the Contract.

18. PREVENTION OF FRAUD AND CORRUPTION

18.1. The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.

18.2. The Contractor shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Contractor's staff and the Contractor (including its shareholders, members and directors) in connection with the Contract and shall notify the Agency immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3. If the Contractor or the Contractor's staff engages in conduct prohibited by this clause 18 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:

18.3.1. terminate the Contract and recover from the Contractor the amount of any loss suffered by the Agency resulting from the termination, including the cost reasonably incurred by the Agency of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Agency throughout the remainder of the Contract; or

- 18.3.2. recover in full from the Contractor any other loss sustained by the Agency in consequence of any breach of this clause.
- 18.4. The Contractor shall not, directly or indirectly through intermediaries commit any offence under the Bribery Act 2010 (as amended), in any of its dealings with the Agency.

19. MONITORING AND AUDIT

- 19.1. The Contract Supervisor may inspect and examine the Services being carried out on the Agency's premises or elsewhere at any reasonable time. Where the Services are being performed on other than the Agency's premises, reasonable notice to inspect shall be given to the Contractor. The Contractor shall give all such facilities as the Contract Supervisor may reasonably require for such inspection and examination.
- 19.2. The Contractor shall keep and maintain for six years following termination of the Contract, records of all expenses and expenditure which have been or are reimbursable by the Agency, and of the hours worked and costs incurred by the Contractor and its sub-contractors in the performance of the Contract, and the Contractor shall on request afford the Agency such access to those records as may be required to carry out audit checks or for any other legitimate reason.

20. CONTRACT PRICE

- 20.1. The Contract Price will be paid by the Agency to the Contractor, as amended by any variations ordered under Condition 10 (Variations).
- 20.2. Subject to receipt of a valid VAT invoice addressed to the Agency, in addition to the Contract Price, the Agency will pay to the Contractor such VAT (if any) as may properly be chargeable at rates ruling at the time of invoice.

21. INVOICING AND PAYMENT

- 21.1. Invoices shall only be submitted for work already satisfactorily completed, and accompanied by such information as the Contract Supervisor may reasonably require to verify the Contractor's entitlement to payment. Such invoices will be paid within 30 days of receipt by the Agency.
- 21.2. If any sum shall become payable under the Contract by the Contractor to the Agency, whether by deduction from the Contract Price, or otherwise, it will be deducted by the Contractor from the Contract Price and such deduction reflected in the next available invoice.
- 21.3. If the Contractor enters into a sub-contract with a supplier for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in the sub-contract which requires payment to be made of all sums due from it to the sub-contractor within 30 days from the receipt of a valid invoice.

22. INTELLECTUAL PROPERTY RIGHTS

- 22.1. All Prior Rights used in connection with the Services shall remain the property of the party introducing them. Details of each party's Prior Rights are set out in the Prior Rights Schedule to this contract.
- 22.2. All Results shall be the property of the Agency.
- 22.3. The Resulting Rights in any Results, and any interim results shall, from the time they arise, be the property of the Agency and the Agency shall be free, should it so wish, to apply at its own expense for patent or other protection in respect of the Results or any interim results. The Agency's intention to apply for such patent or other protection shall be notified to the Contractor. Such applications for patents or other registered intellectual property rights shall be filed in the name of the Agency.
- 22.4. Unless otherwise agreed in writing between the Contractor and the Agency, the Contractor hereby:
 - 22.4.1. assigns to the Agency all Resulting Rights
 - 22.4.2. grants the Agency a non-exclusive, non-transferable (save for the purposes of sub-licensing, reorganisation or transfer to a successor body, for the purposes of all the successor body's normal business use), irrevocable, royalty free, perpetual licence to the Agency in respect of all the Contractor's Prior Rights necessary in order for the Agency to use or exploit the Resulting Rights.
- 22.5. The Contractor undertakes to the Agency not to use, exploit or deal with any of the Agency's Prior Rights, other than in the performance of the Contract unless the Contractor has first obtained a written licence from the Agency, in specific terms to do so.
- 22.6. The Agency undertakes to the Contractor not to use or exploit the Contractor's Prior Rights, save as provided in Condition 22.3.
- 22.7. The Contractor warrants to the Agency that the performance of the Services, the Contractor's Prior Rights and the Results shall not in any way infringe any Intellectual Property Rights of any third party.
- 22.8. If the Contractor is prevented from carrying out his obligations under the Contract due to any infringement or alleged infringement of any Intellectual Property Rights, the Agency may without prejudice to any other rights and remedies under the Contract, exercise the powers and remedies available to it under Conditions 13 and 14, Termination and Determination respectively.
- 22.9. The Contractor shall not be liable if such infringement arises from the use of any design, technique or method of working provided by or specified by the Agency.

22.10. The Contractor waives in favour of the Agency its rights to object to derogatory treatment of the Results and the Contractor also agrees that it will not assert or seek to enforce against the Agency and/or any other person, firm or company any of its moral rights as defined in the Copyright Designs and Patents Act 1988 without the prior agreement of the Agency.

22.11. The Contractor shall not be liable for any consequential losses, damage or injuries arising from third party misuse of the Results, of which the Contractor is not aware.

23. WARRANTIES

The Contractor warrants that the Services supplied by him will be discharged with reasonable skill, care and diligence.

24. PUBLICATION OF RESULTS

24.1. Without prejudice to the generality of Condition 22, the Contractor shall not, without the prior written agreement of Contract Supervisor, use, disclose or permit any person or organisation to use or disclose the Results or Confidential Information for any thesis, degree, research or other educational purpose. Any such use or disclosure may only be made subject to such terms as the Agency shall require.

24.2. The Contractor shall not publish any other information related to the Contract without agreeing the text to be published, and the publication or transmission service in or on which it is to appear with Contract Supervisor. Such agreement shall not be unreasonably withheld or delayed.

24.3. Any agreed publication shall contain an acknowledgement that the Services were carried out under contract to the Agency, and is published with the Agency's agreement.

24.4. Any publication by the Contractor shall be entirely at the Contractor's own cost and the Contractor shall, within ten days of publication, supply the Agency free of charge with a reasonable number of copies of any publication.

25. STATUTORY REQUIREMENTS

The Contractor shall at all times comply with (i) all relevant legislation and all applicable codes of practice and other similar codes or recommendations and (ii) the Health and Safety at Work etc. Act 1974 (as amended) and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working directly or indirectly in the provision of the Services.

26. ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

- 26.1. The Contractor in the performance of this Contract should adopt a sound proactive environmental approach, designed to minimise harm to the environment, to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of single-use plastic, ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and/or the environment, and be able to provide proof of so doing to the Agency on demand.
- 26.2. The Agency is committed to ensuring that workers employed within its supply chains are treated fairly, humanely and equitably. The Agency expects the Contractor to share this commitment and to understand any areas of risk associated with this and work to ensure they are meeting International Labour Standards. The Contractor ensures that it and its sub-contractors and its supply chain:
 - 26.2.1. comply with the provisions of the Modern Slavery Act 2015;
 - 26.2.2. pay staff fair wages (and pays its staff in the UK not less than the Foundation Living Wage Rate); and
 - 26.2.3. implement fair shift arrangements, providing sufficient gaps between shifts, adequate rest breaks and reasonable shift length, and other best practices for staff welfare and performance.
- 26.3. The Contractor should support the Agency to achieve its Public Sector Equality Duty by complying with the Agency's policies (as amended from time to time) on Equality, Diversity and Inclusion (EDI). This includes ensuring that the Contractor (and their sub-contractors) in the delivery of its obligations under this Contract:
 - 26.3.1. eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - 26.3.2. advances equality of opportunity between people who share a protected characteristic and those who do not; and
 - 26.3.3. fosters good relations between people who share a protected characteristic and those who do not.

27. LAW

This Contract shall be governed and construed in accordance with the Law, and subject to the exclusive jurisdiction of the courts of England.

28. WAIVER

- 28.1. No delay, neglect or forbearance by the Agency in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the Agency under the Contract.
- 28.2. No waiver by the Agency shall be effective unless made in writing.
- 28.3. No waiver by the Agency of a breach of Contract shall constitute a waiver of any subsequent breach of Contract.

29. ENFORCEABILITY AND SURVIVORSHIP

- 29.1. If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or legally unenforceable, then that part will be severed from the remainder of the Contract which will continue to be valid and enforceable to the fullest extent permitted by law.
- 29.2. The following clauses shall survive termination of the Contract, howsoever caused: 8, 13, 14, 15, 22, 23, 24, 25, 27, 29, 30, 31, 32 and 33.

30. DISPUTE RESOLUTION

- 30.1. All disputes under or in connection with this Contract shall be referred first to negotiators nominated at a suitable and appropriate working level by the Agency and the Contractor.
- 30.2. If the parties' negotiators are unable to resolve the dispute within a period of forty-five days from its being referred to them, the dispute shall be referred at the instance of either party to the parties respective senior managers or directors (supported as necessary by their advisors)
- 30.3. If the parties respective senior managers or directors are unable to resolve the dispute within forty five days, the dispute shall be referred to the Centre for Dispute Resolution who shall appoint a mediator and the parties shall then submit to the mediators supervision of the resolution of the dispute.
- 30.4. Recourse to this dispute resolution procedure shall be binding on the parties as to submission to the medium but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts, or any other form of arbitration until forty-five days after the appointment of the mediator.
- 30.5. If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be put in writing and, once signed by a duly authorised representative of each of the parties, shall remain binding on the parties.

- 30.6. The parties shall bear their own legal costs of this dispute resolution procedure, but the costs and expenses of mediation shall be borne by the parties equally.
- 30.7. Any of the time limits in Condition 30 may be extended by mutual agreement between the parties. Such agreed extension shall not prejudice the right of either party to proceed to the next stage of resolution.

31. GENERAL

- 31.1. Neither party to the Contract will be liable to the other for any delay in performing or failing to perform its obligations under the Contract because of any cause outside its reasonable control. Such delay or failure will not constitute a breach of the Contract and the time for performance of the affected obligation will be extended by a reasonable period.
- 31.2. The Contract contains the whole agreement between the parties and supersedes all previous communications, representations and arrangements, written or oral. It is accepted that the Contract has not been entered into on the basis of any representations that are not expressly contained in the Contract.

32. FREEDOM OF INFORMATION ACT

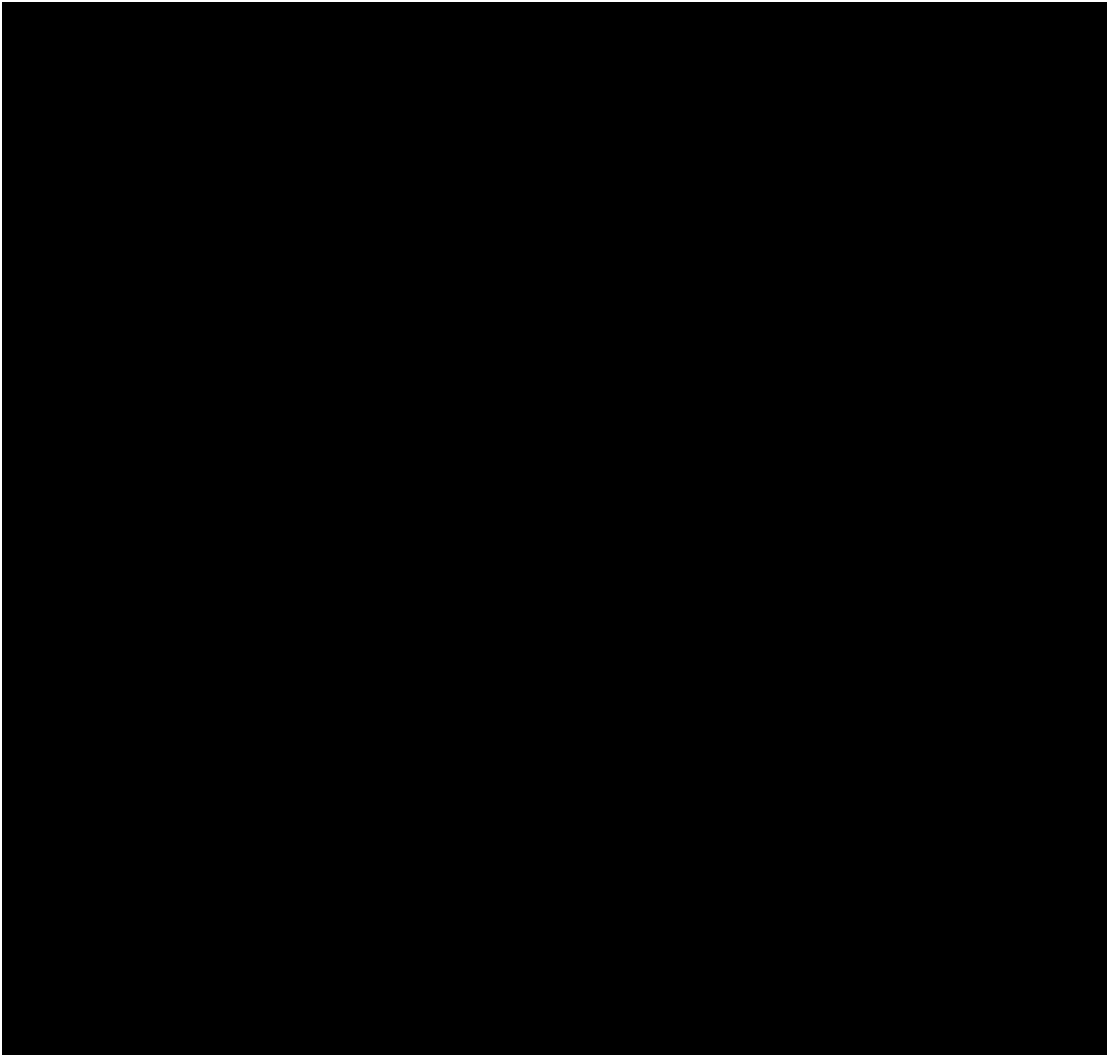
- 32.1. The Agency is committed to open government and to meeting its responsibilities under the Freedom of Information Act 2000 (as amended) ('Act') and the Environmental Information Regulations 2004 (as amended) (Regulations').
- 32.2. The Contractor agrees that:
- 32.2.1. All information submitted to the Agency may need to be disclosed by the Agency in response to a request under the Act or the Regulations; and
- 32.2.2. The Agency may include information submitted (in whole or in part) in the publication scheme which it maintains under the Act or publish the Contract, including from time-to-time agreed changes to the Contract, to the public.
- 32.3. If the Contractor considers that any of the information included in its tender, or that it has submitted to the Agency or that is otherwise contained in the Contract, is commercially sensitive, it shall identify and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. The Contractor acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the Agency under the Act or the Regulations. The receipt of any material stated to be or marked 'confidential' or equivalent by the Agency shall not be deemed to infer that the Agency agrees any duty of confidentiality by virtue of that marking.

33. DATA PROTECTION

- 33.1. In the event that the Contract requires data to be processed within the meaning of the Data Protection Legislation the Data Protection Schedule shall be completed by the Parties and provisions and definitions therein shall apply and bind the Parties as part of this Contract.

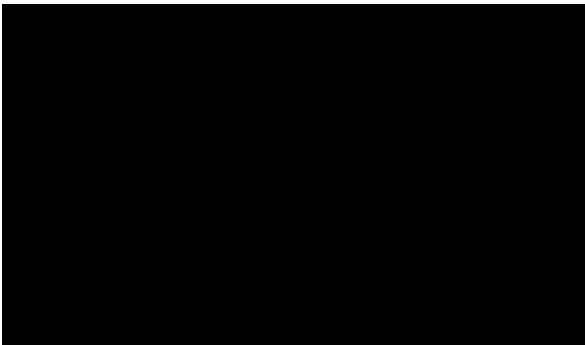
Appendix to Conditions Research and Development

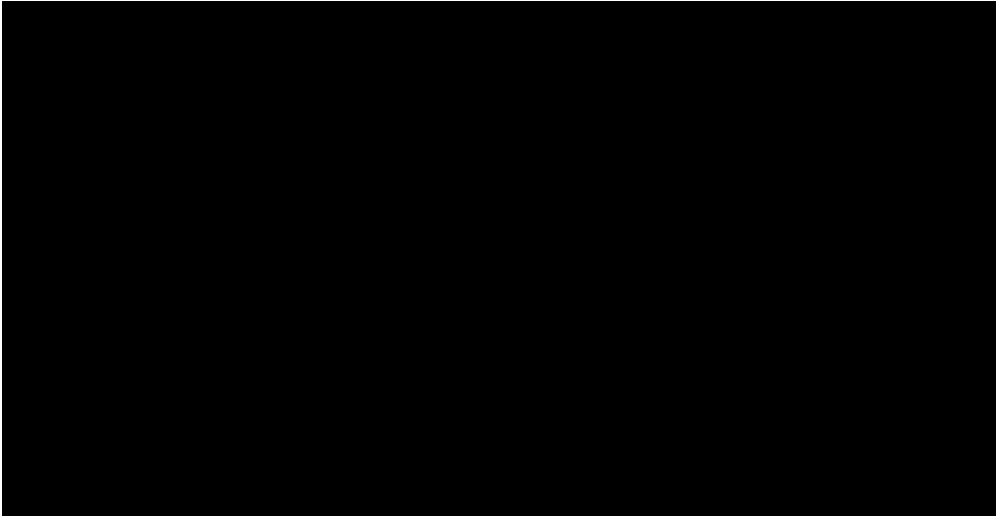
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Title: Solent Mapping and Modelling LUCT

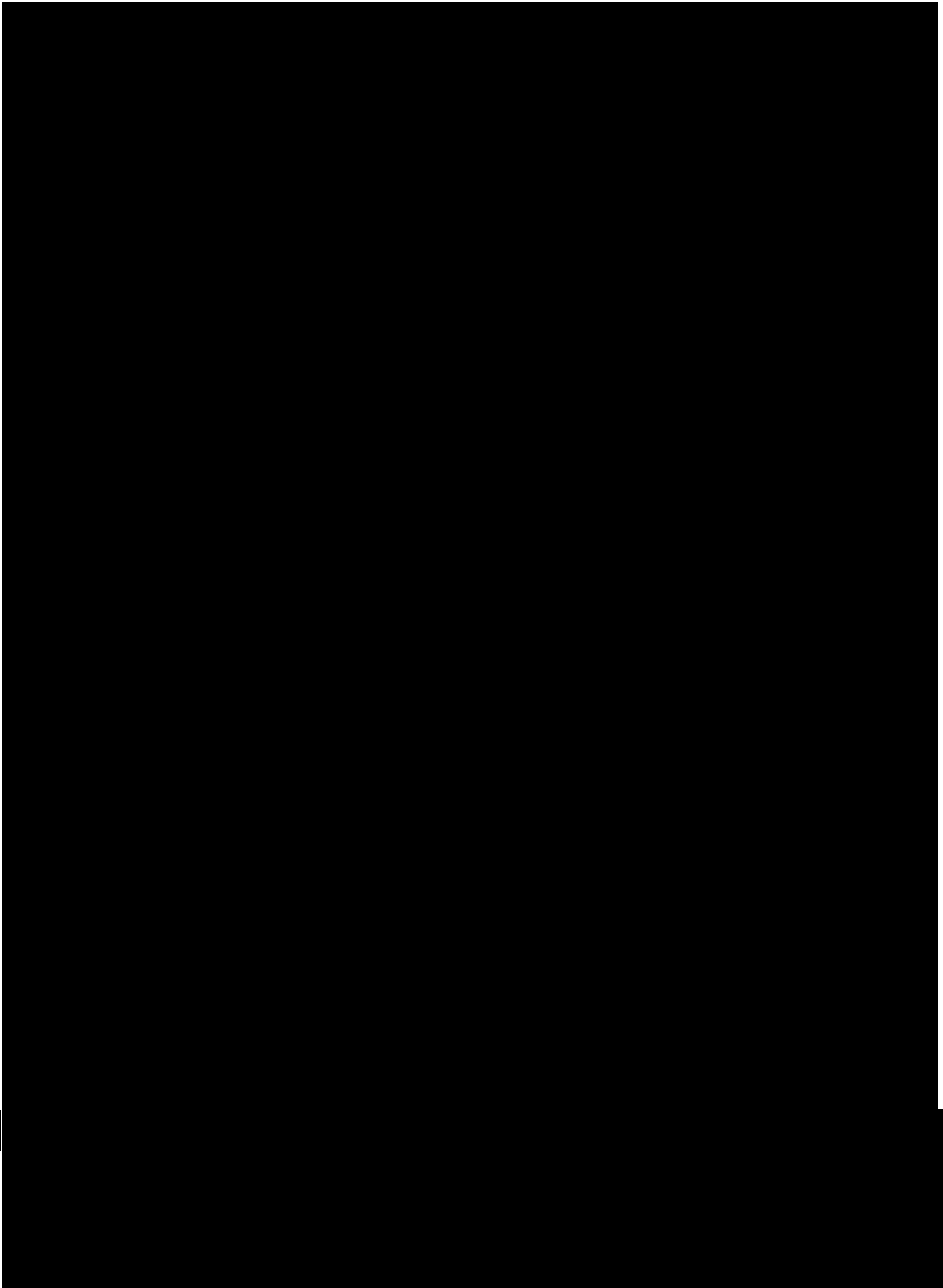


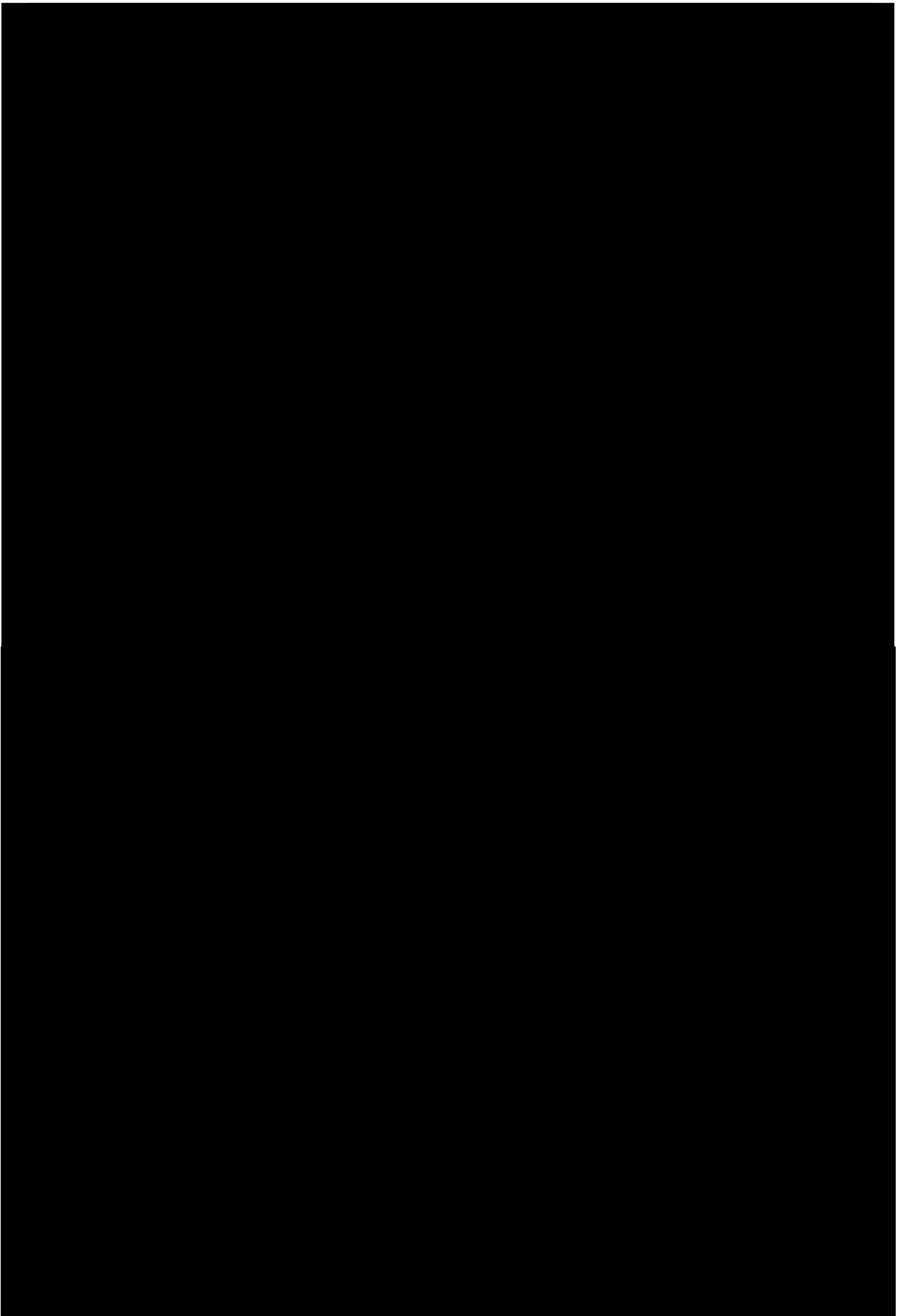
3 Completion

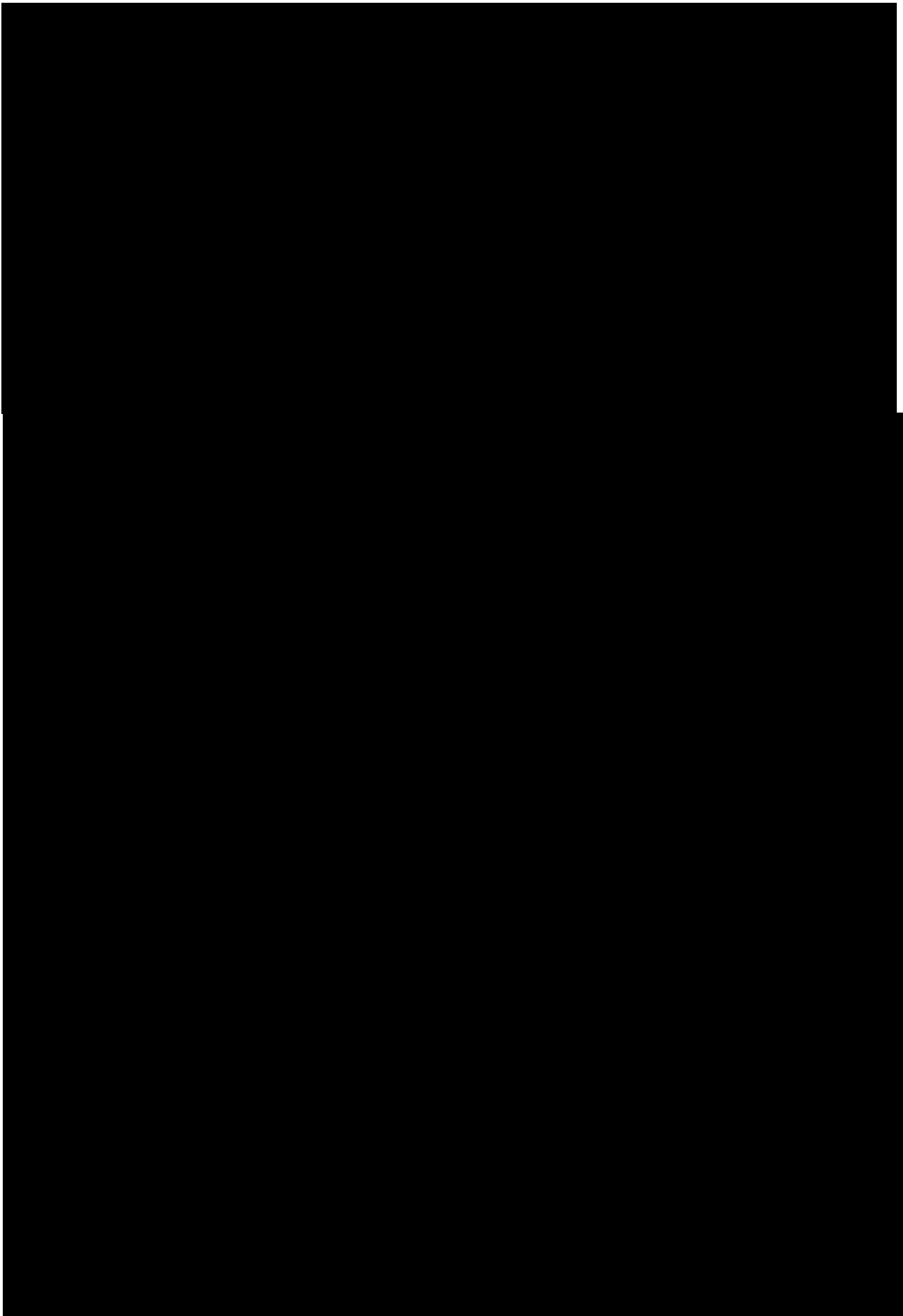
Contract Start Date	03 rd February 2022
Contract End Date	31 st December 2022

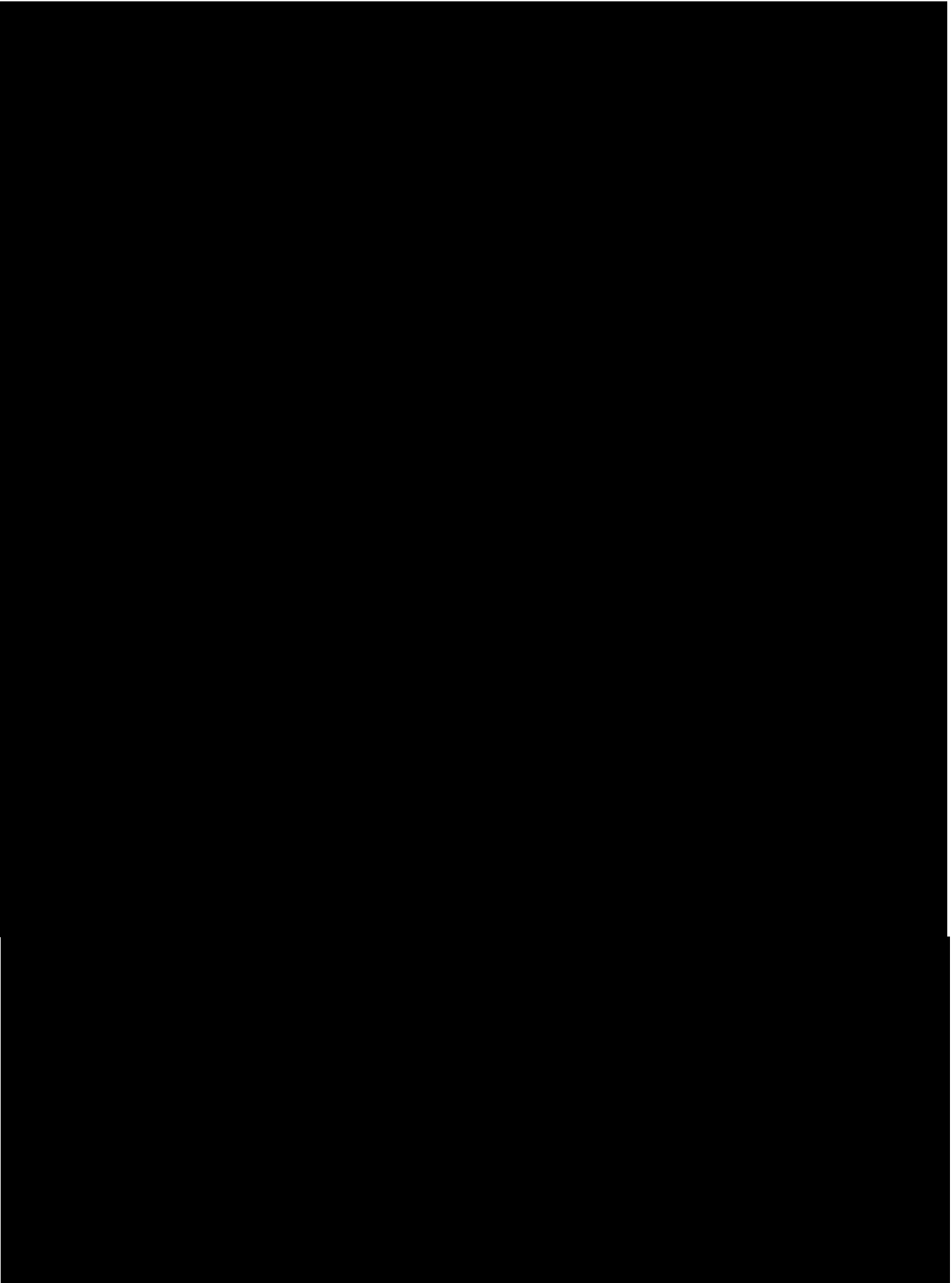


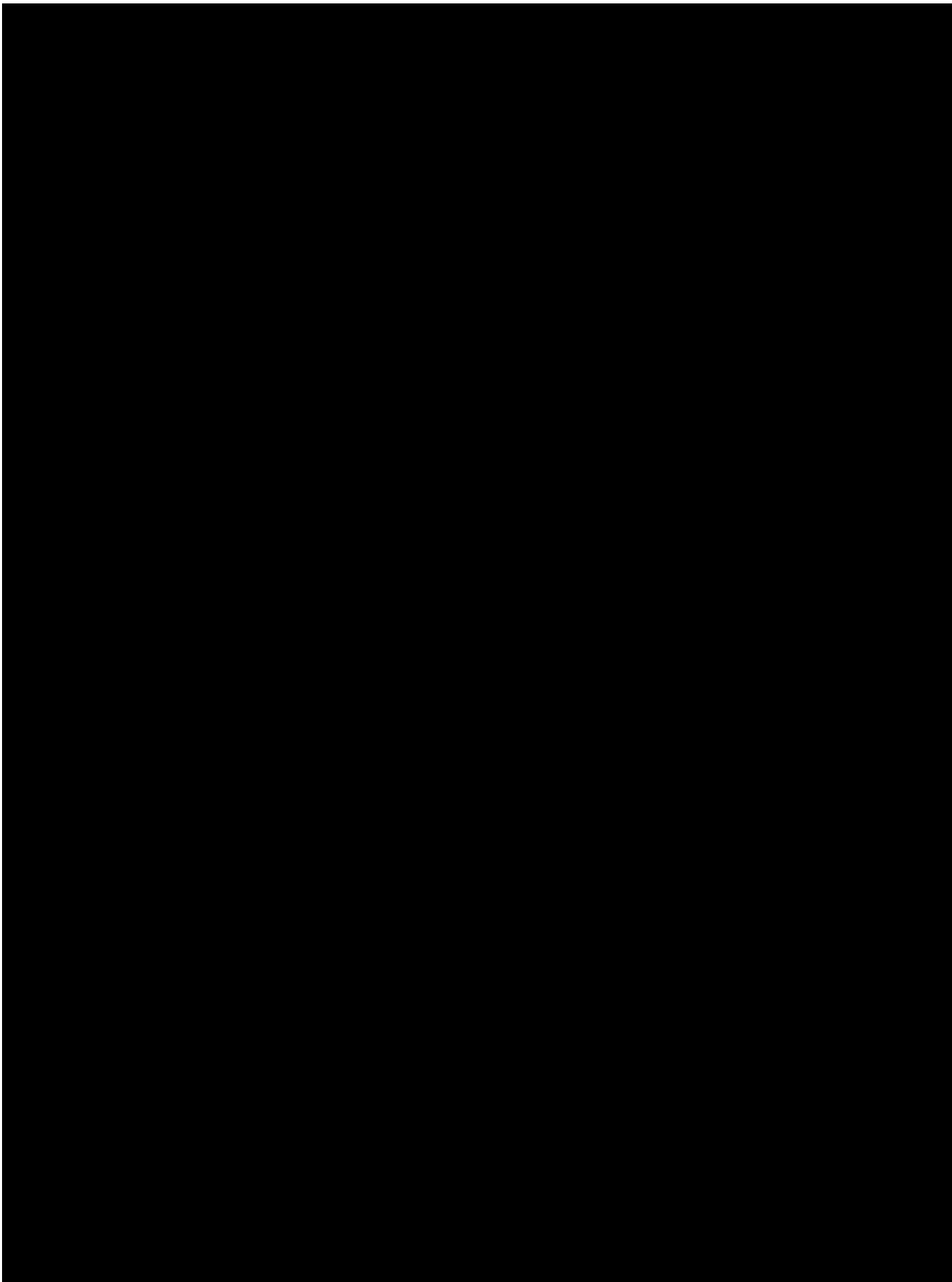


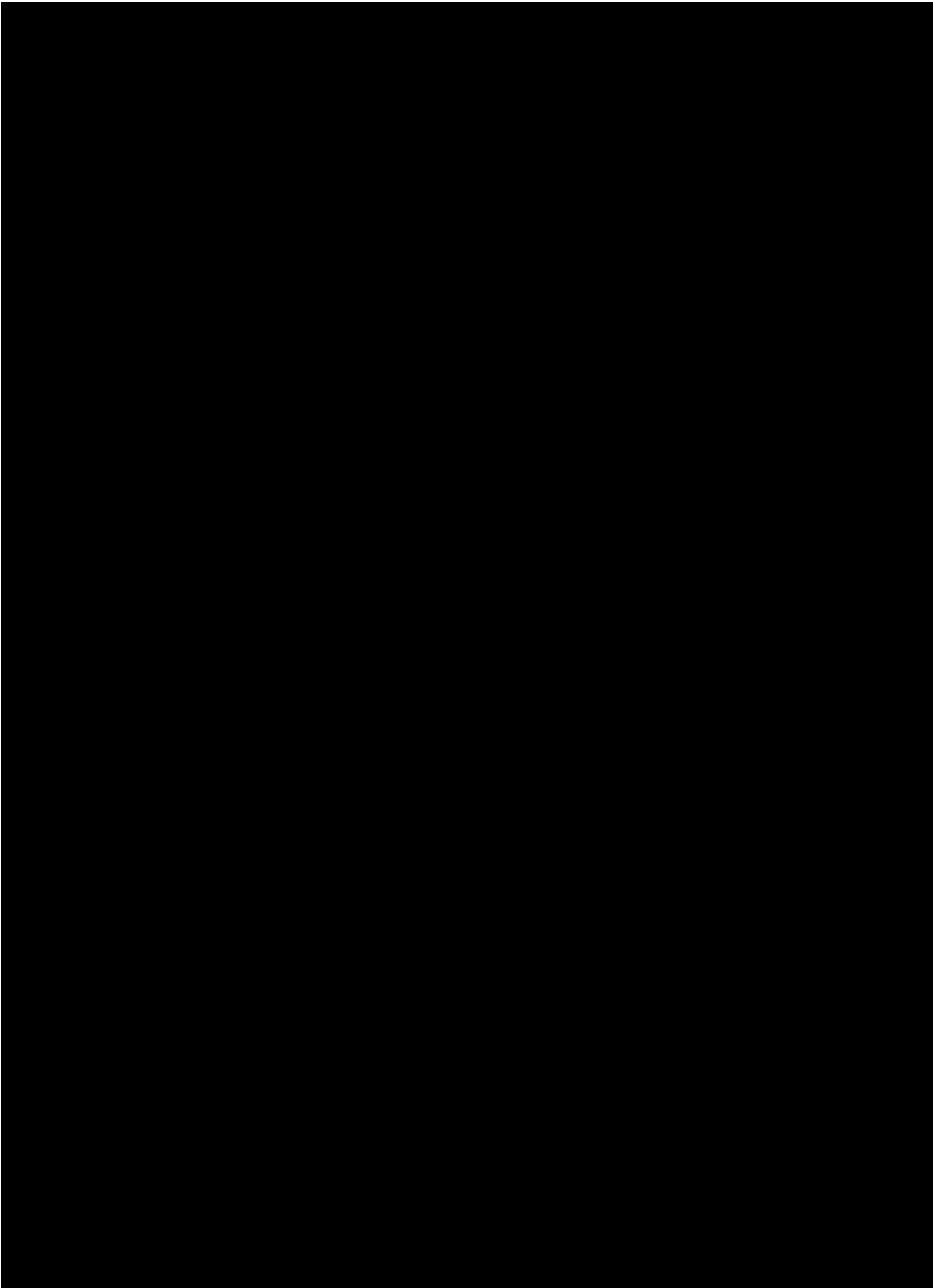


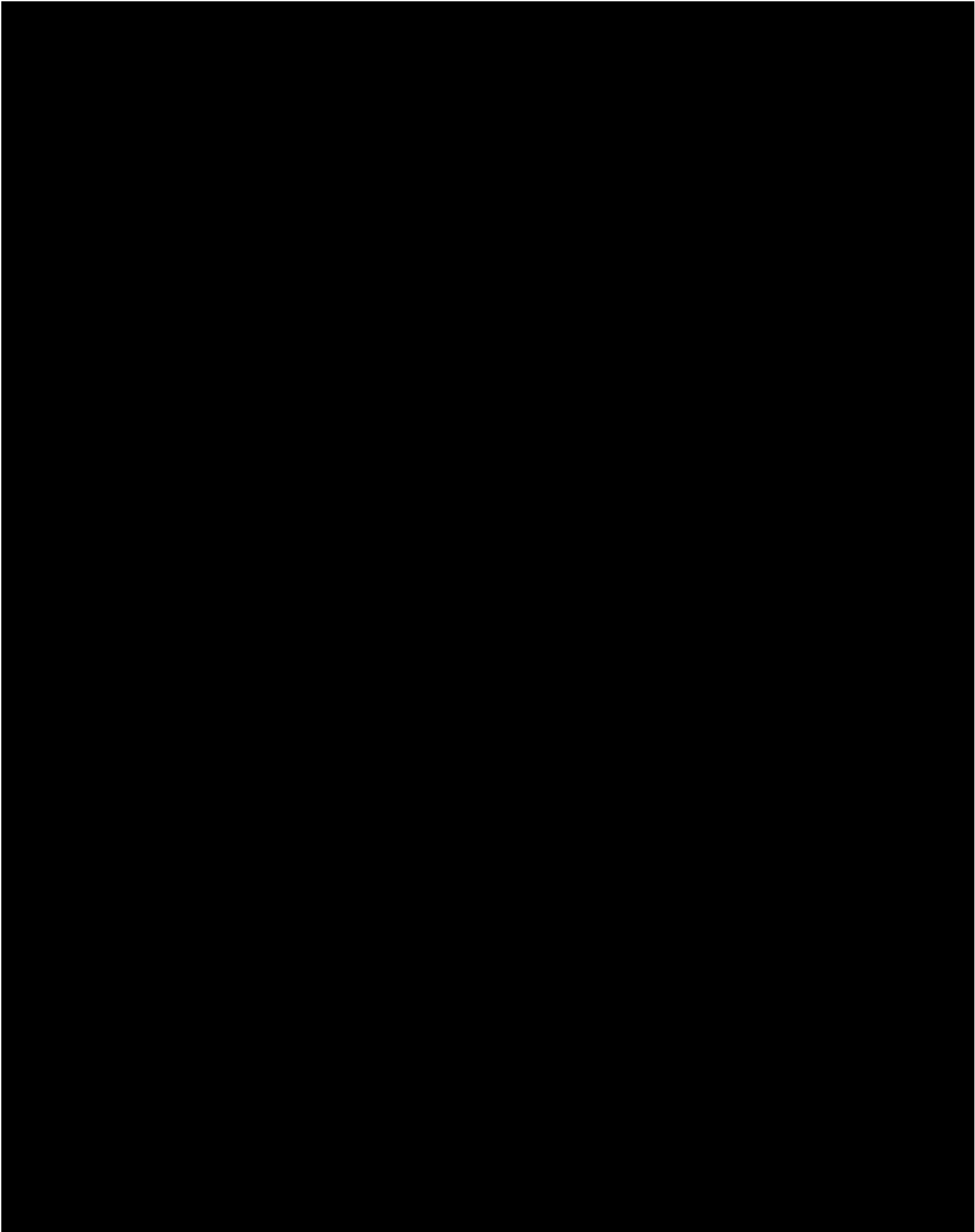


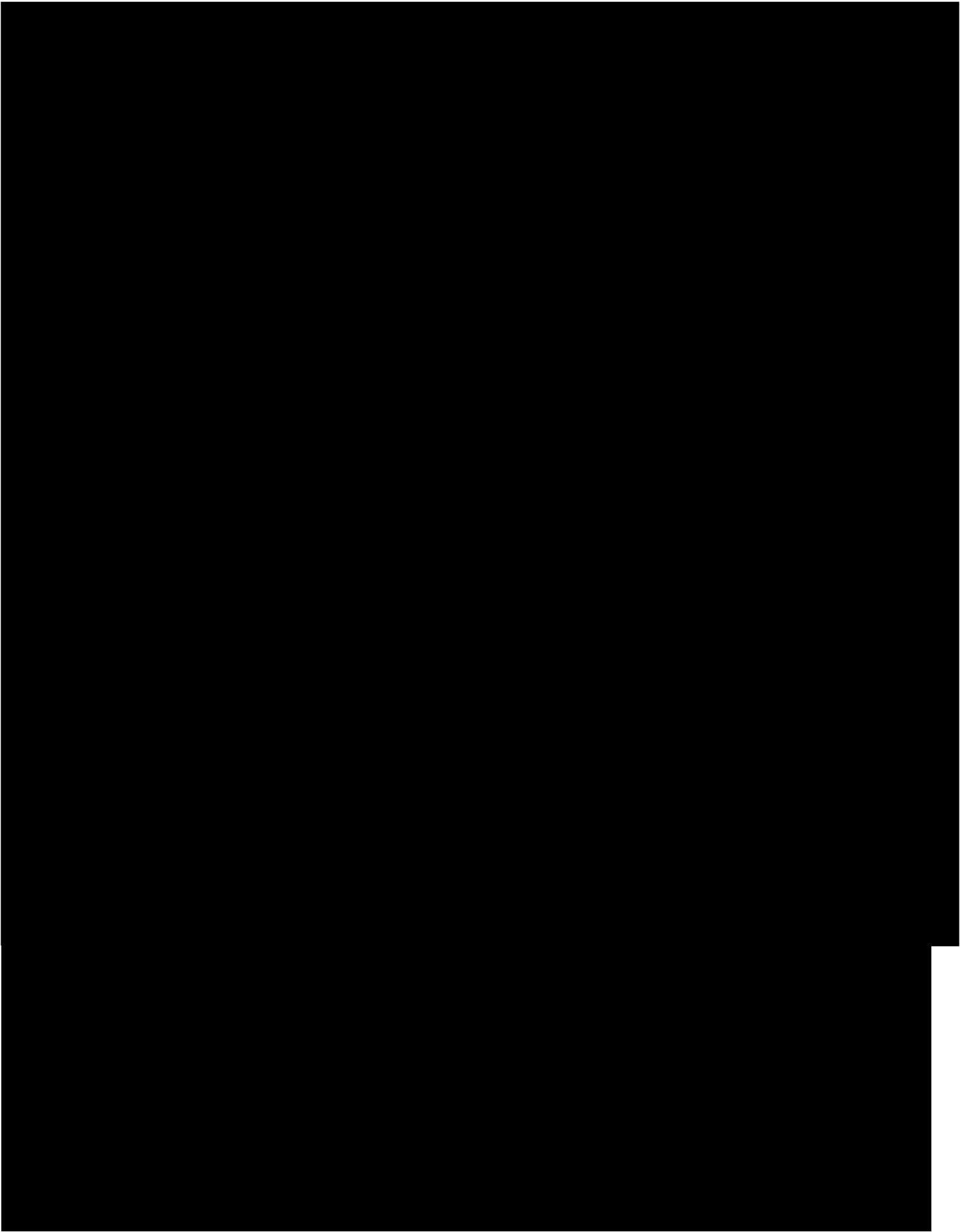


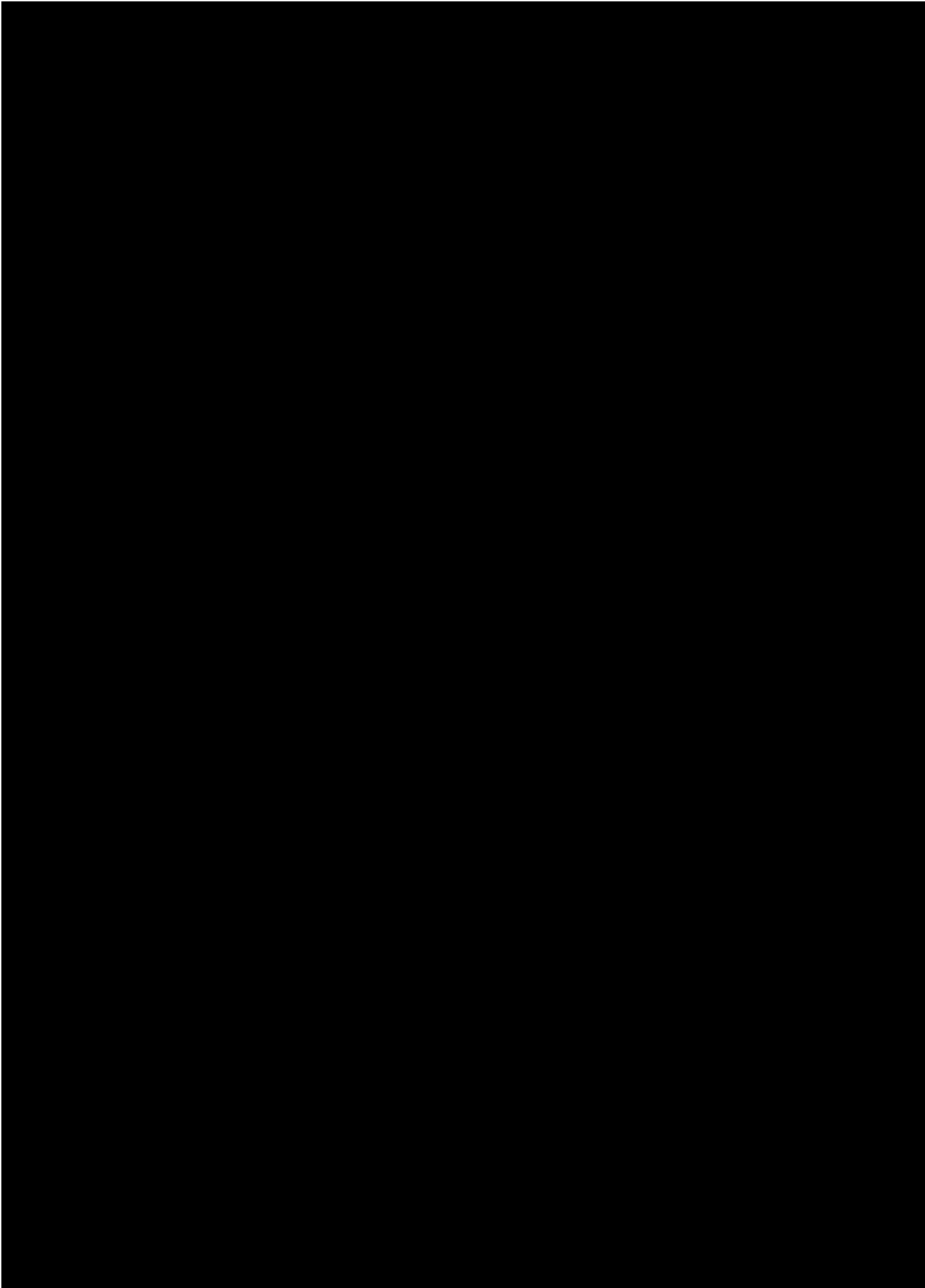


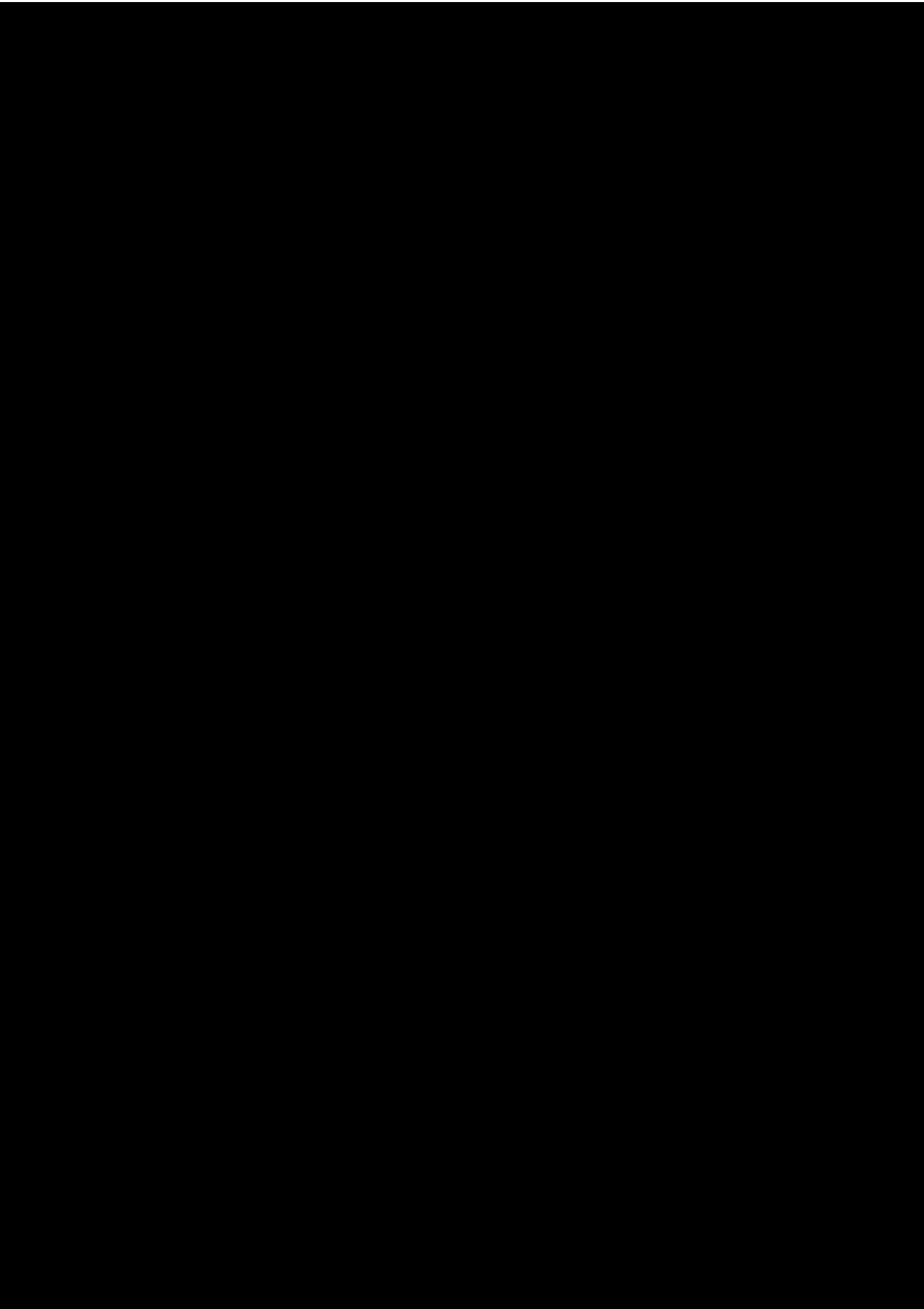


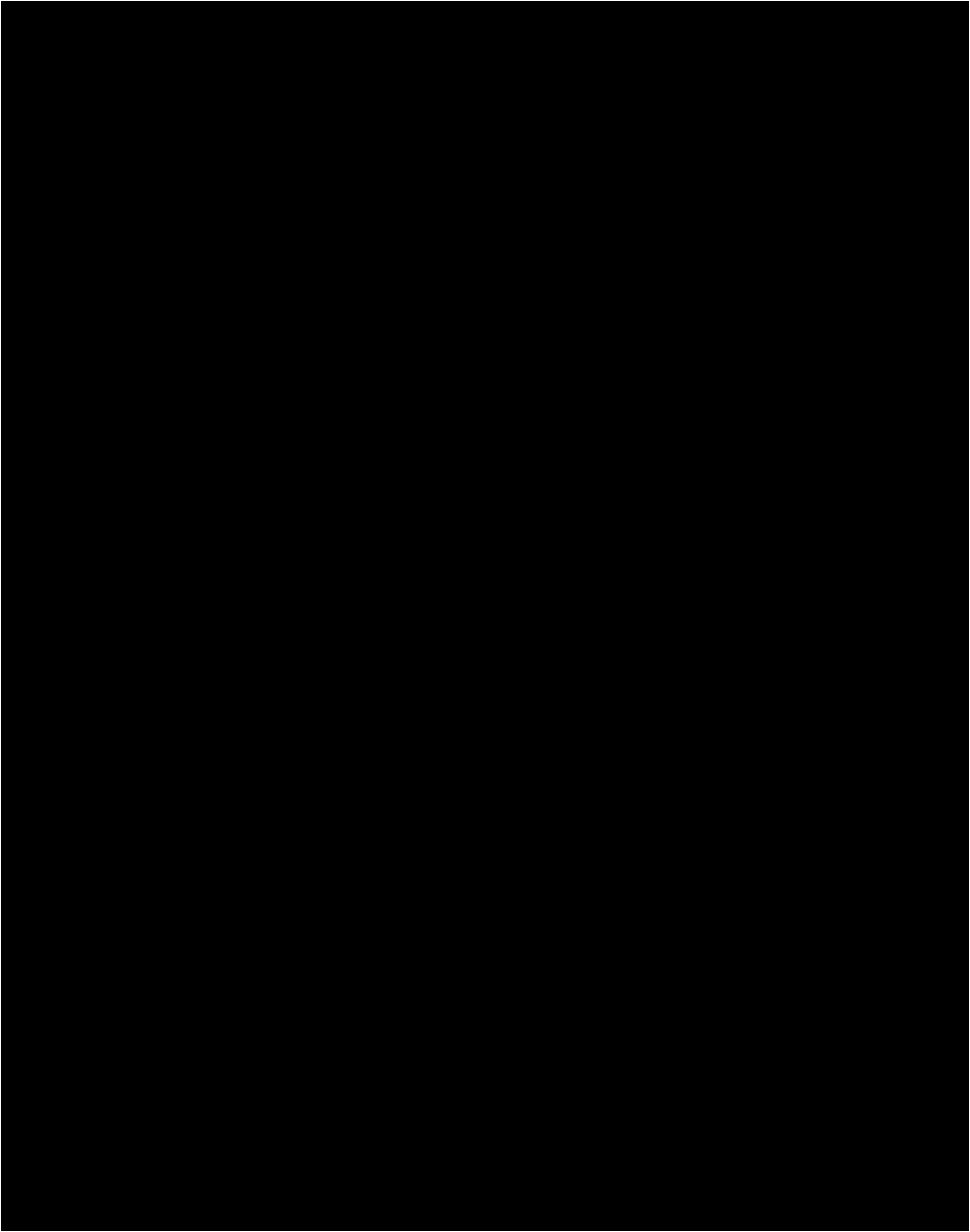


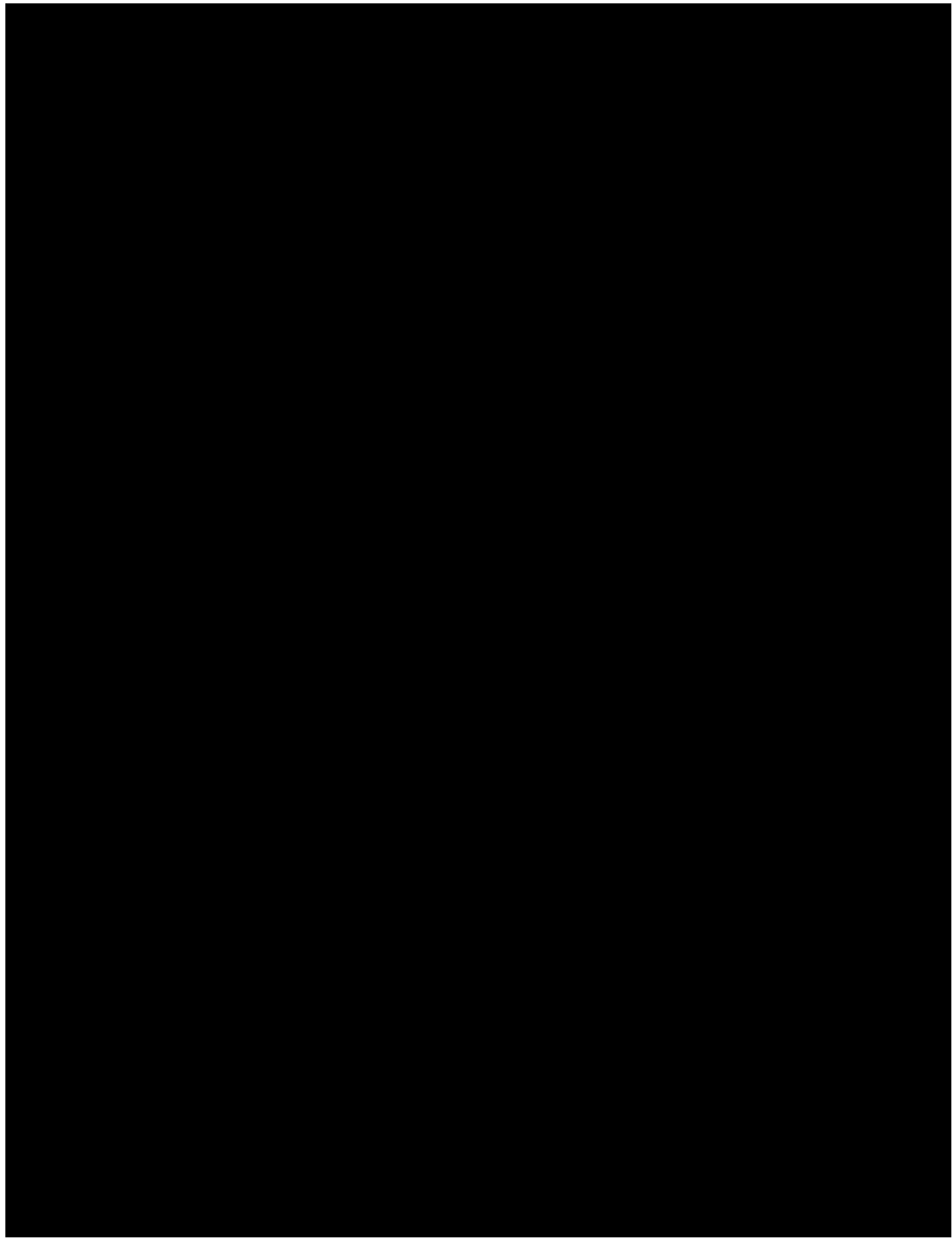


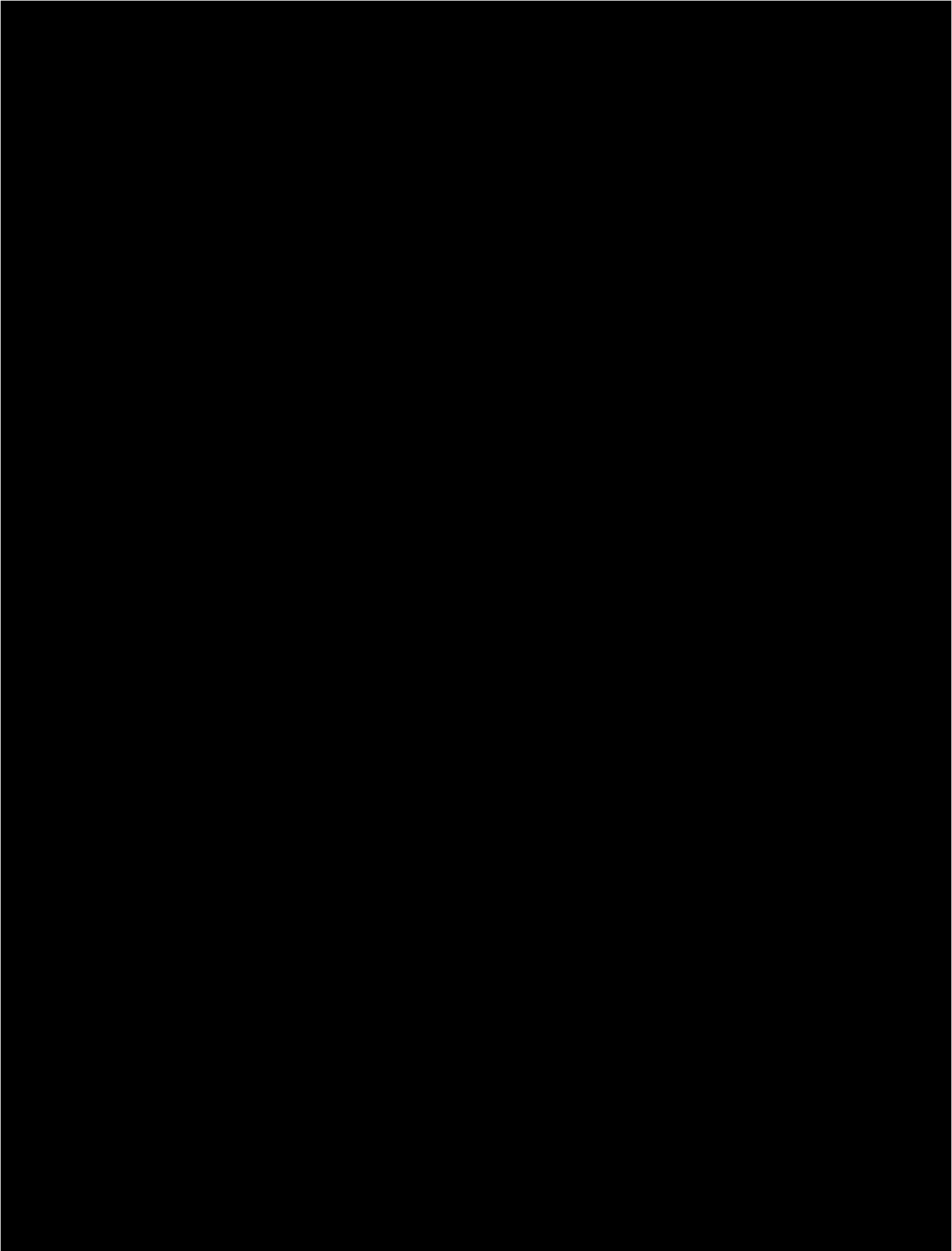


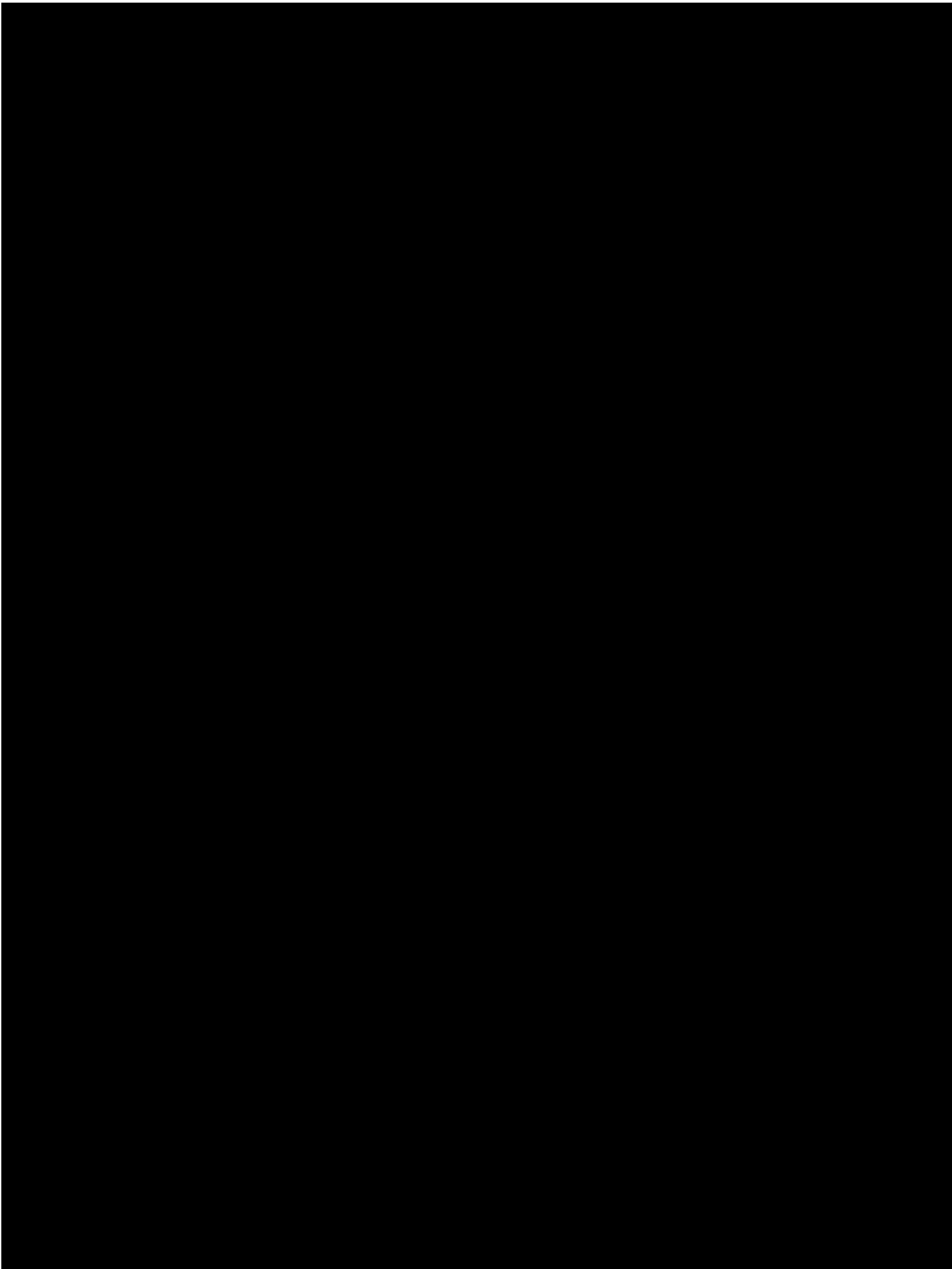


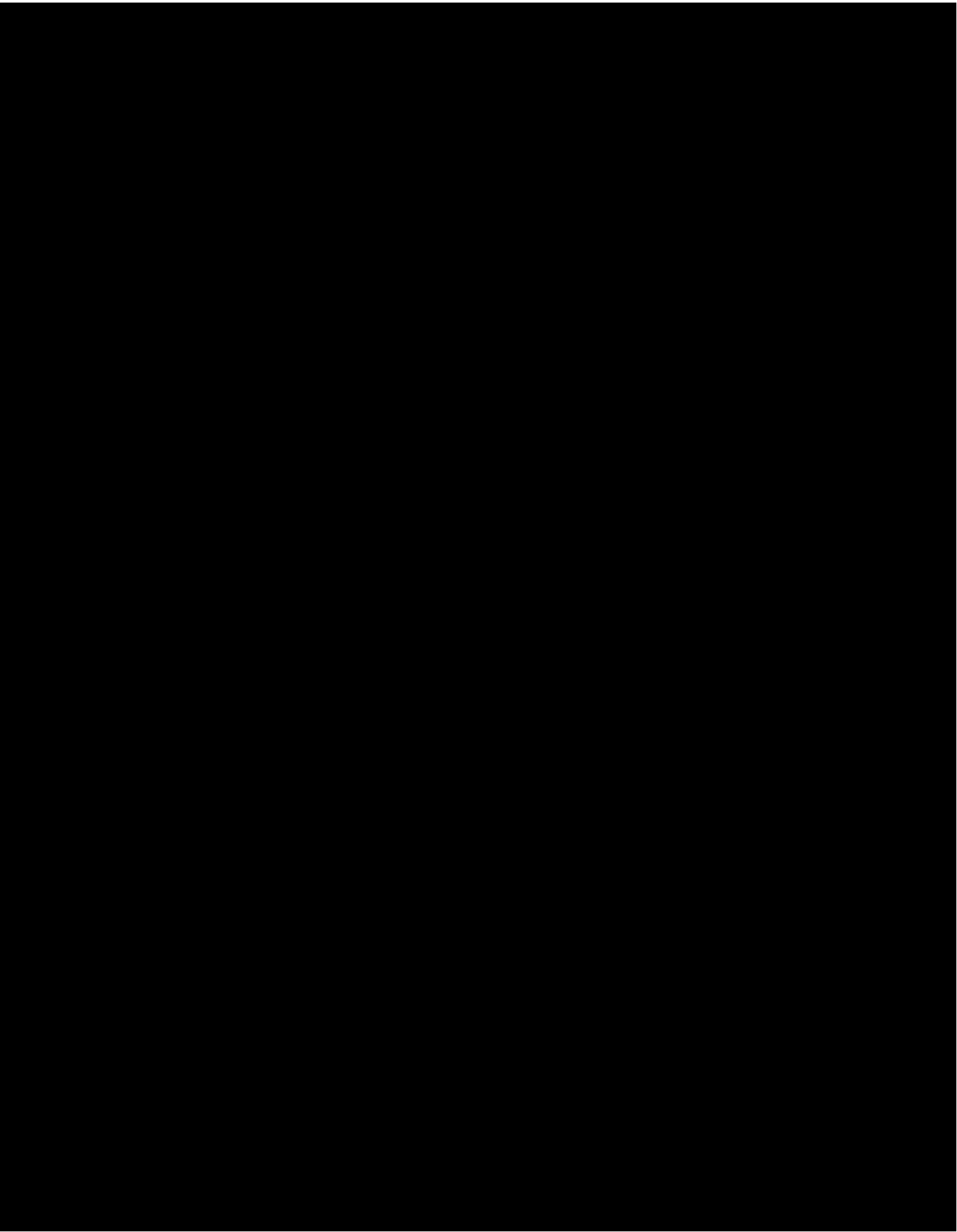


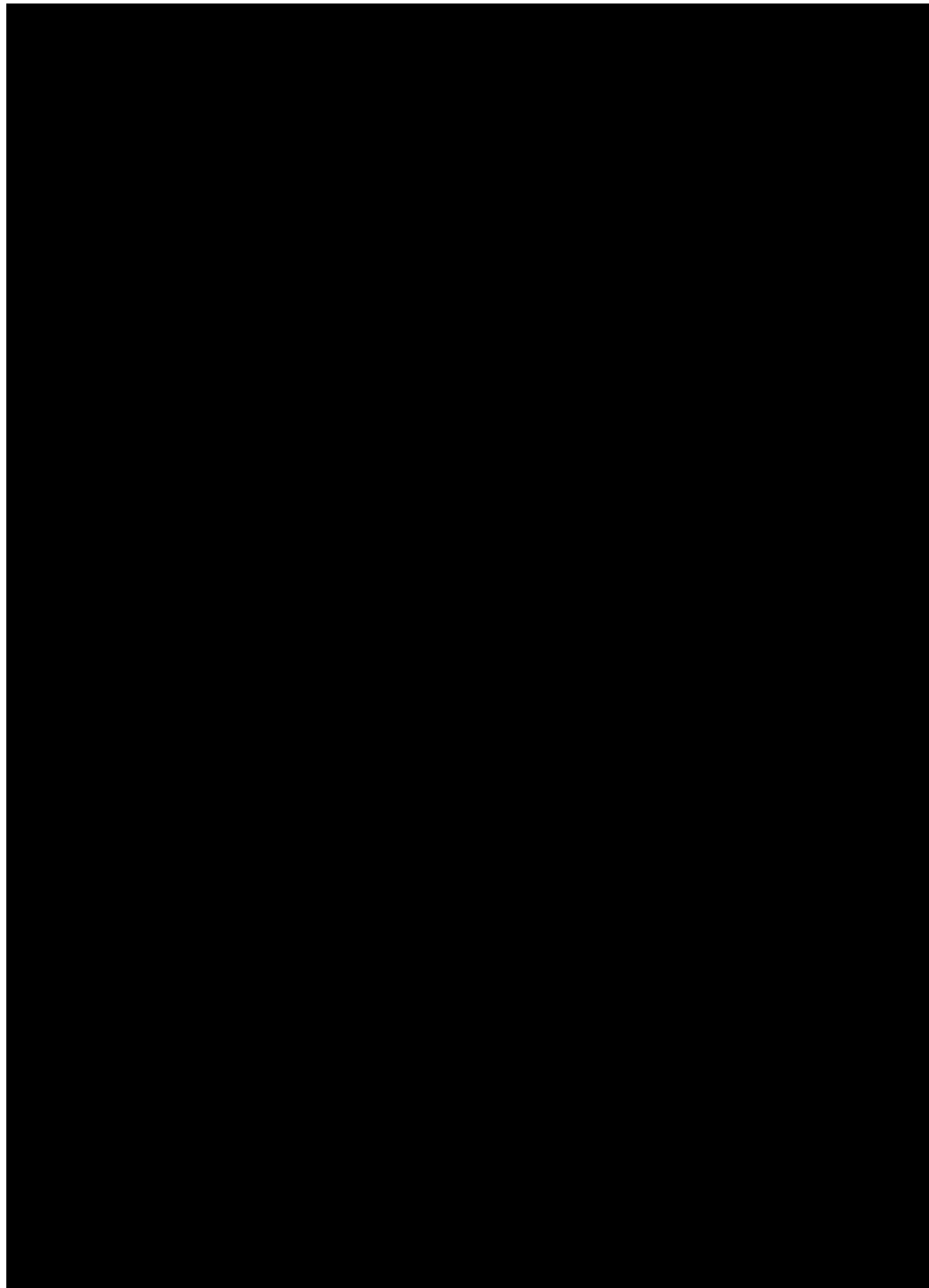


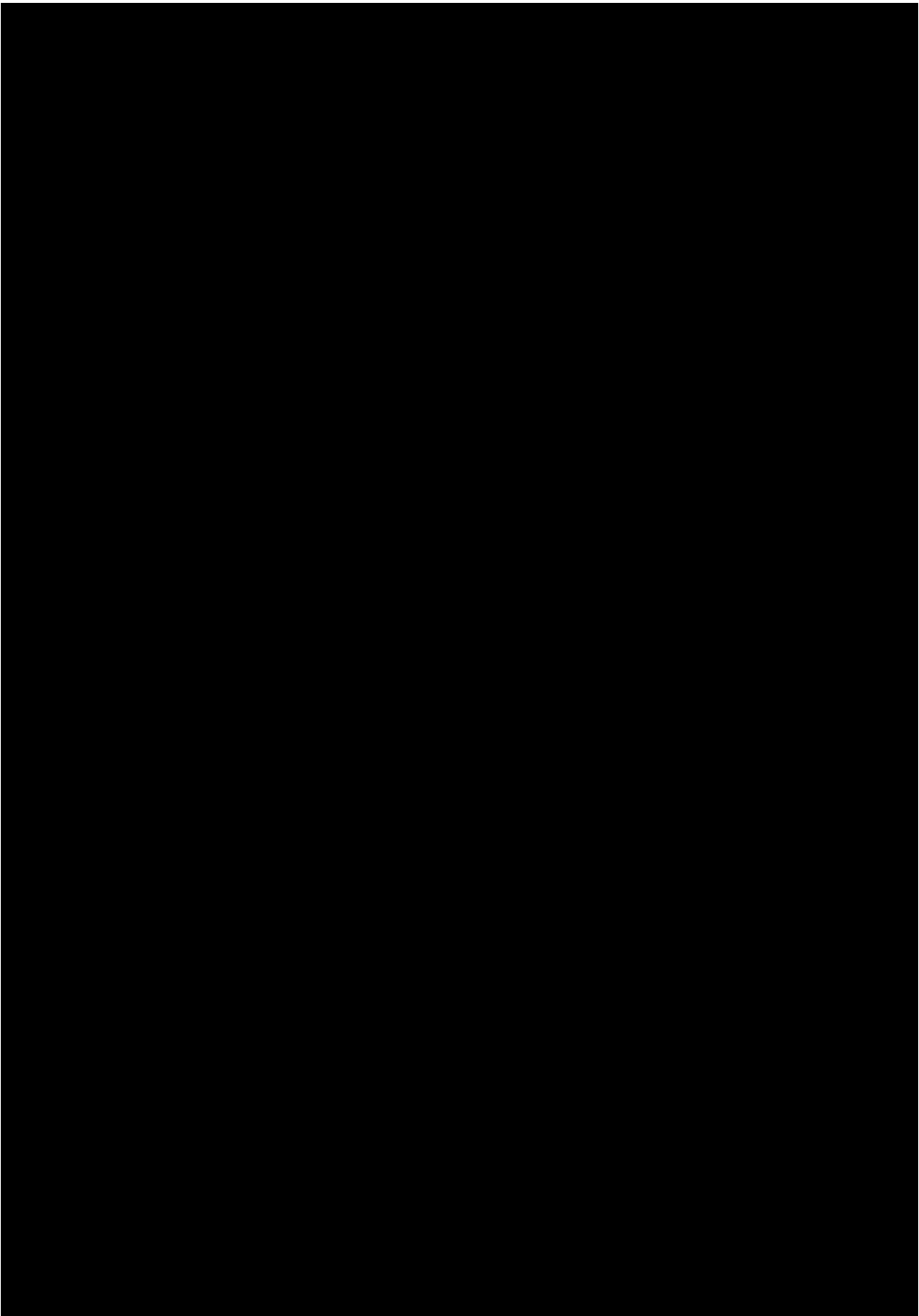


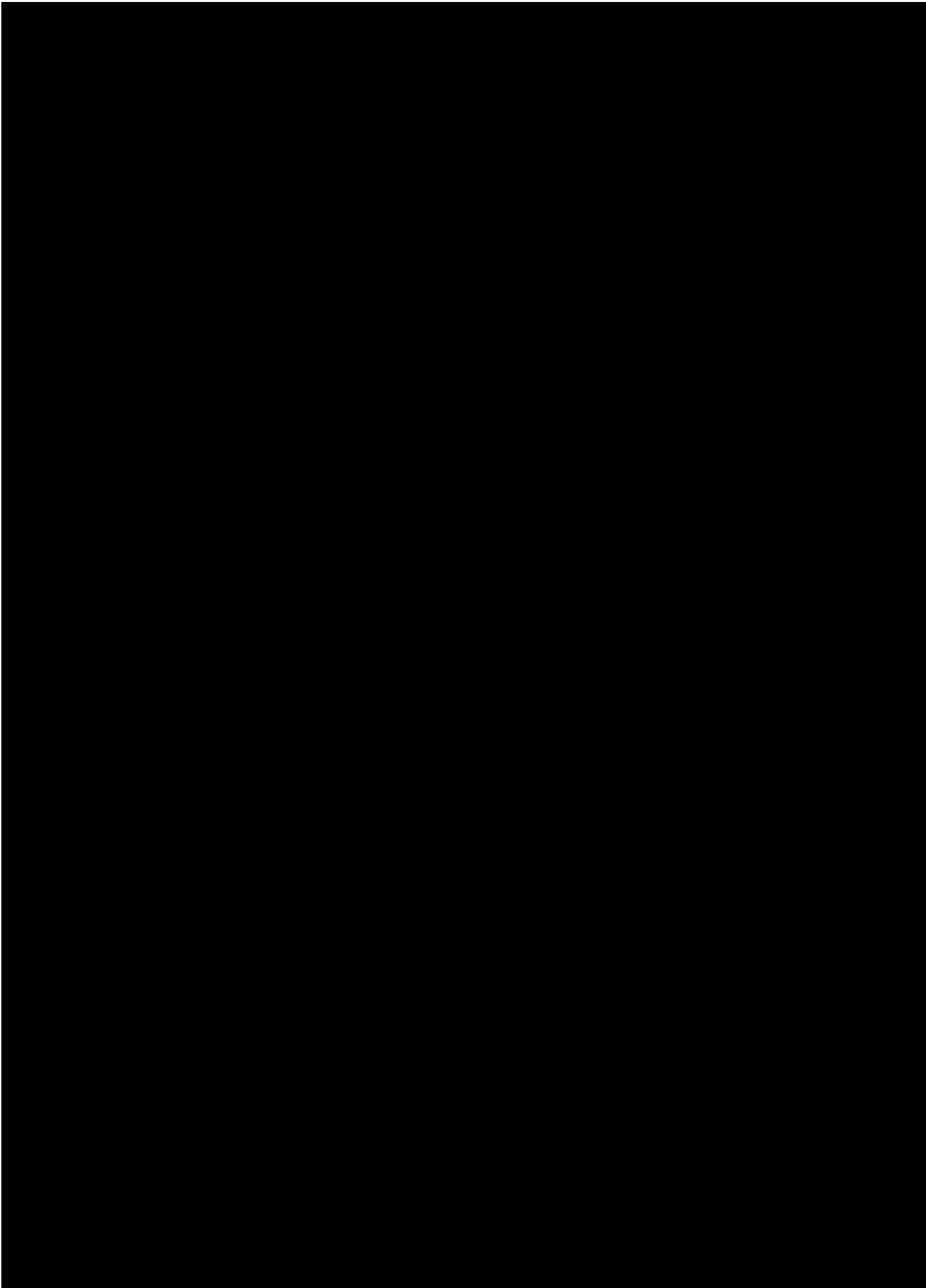


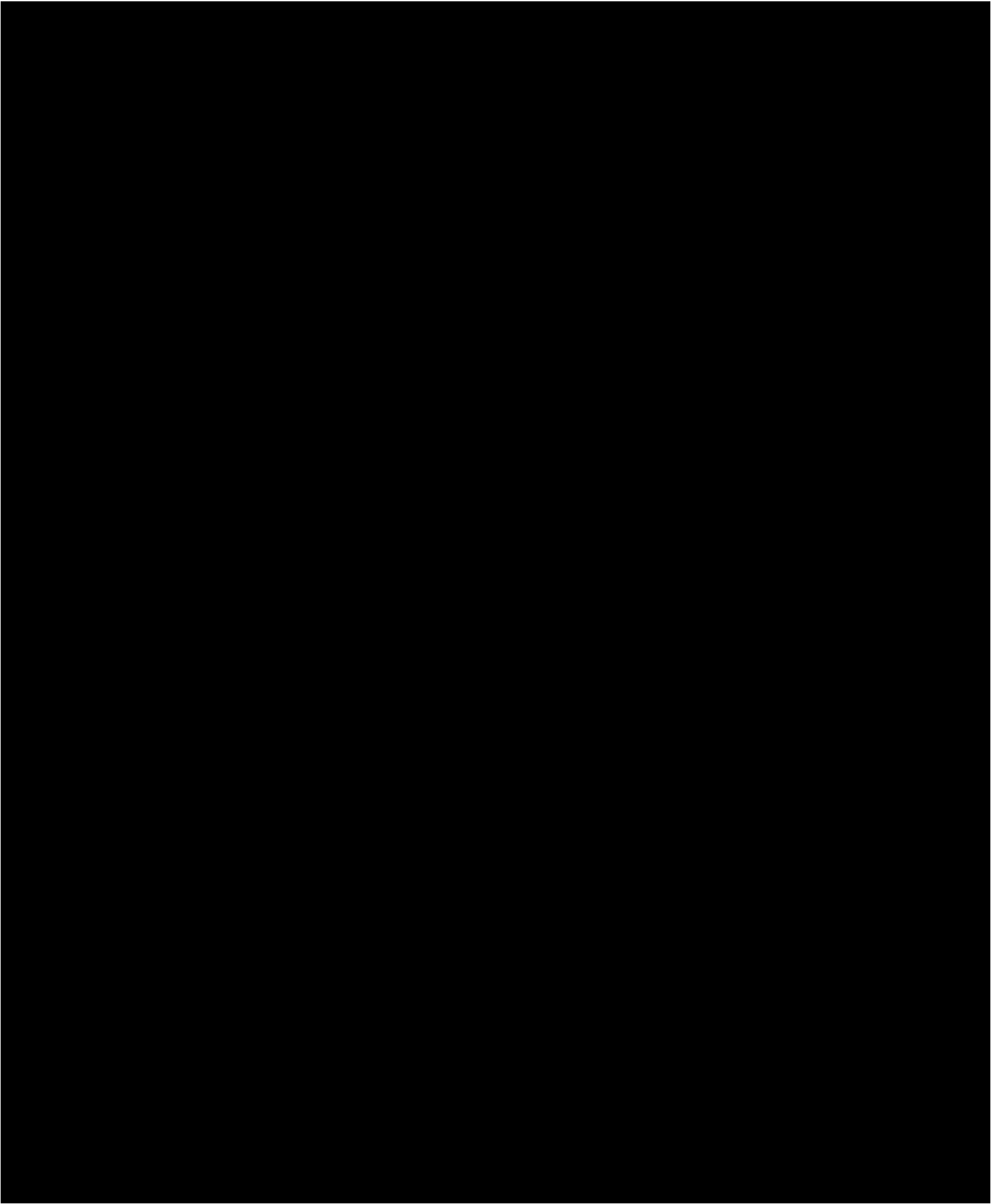


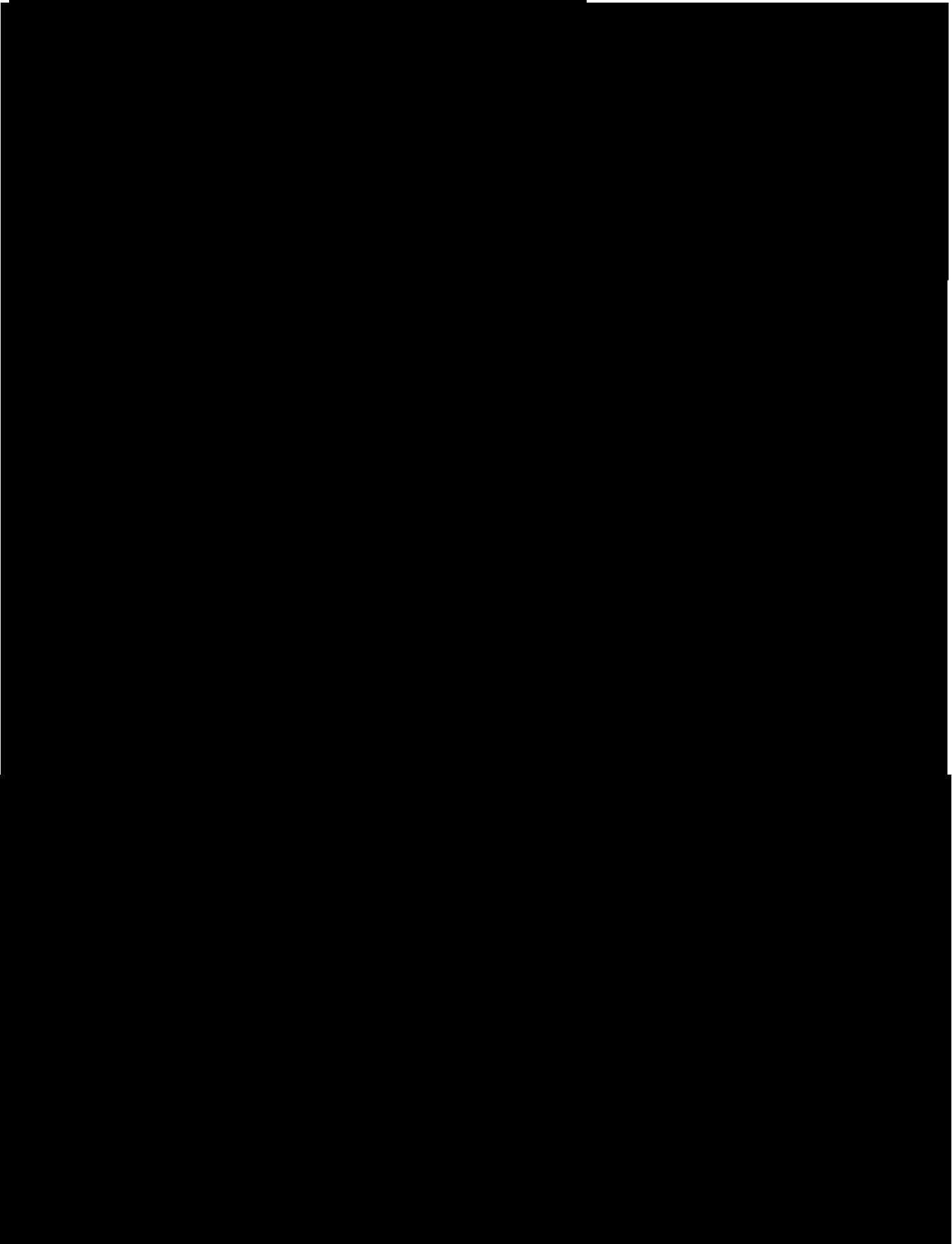


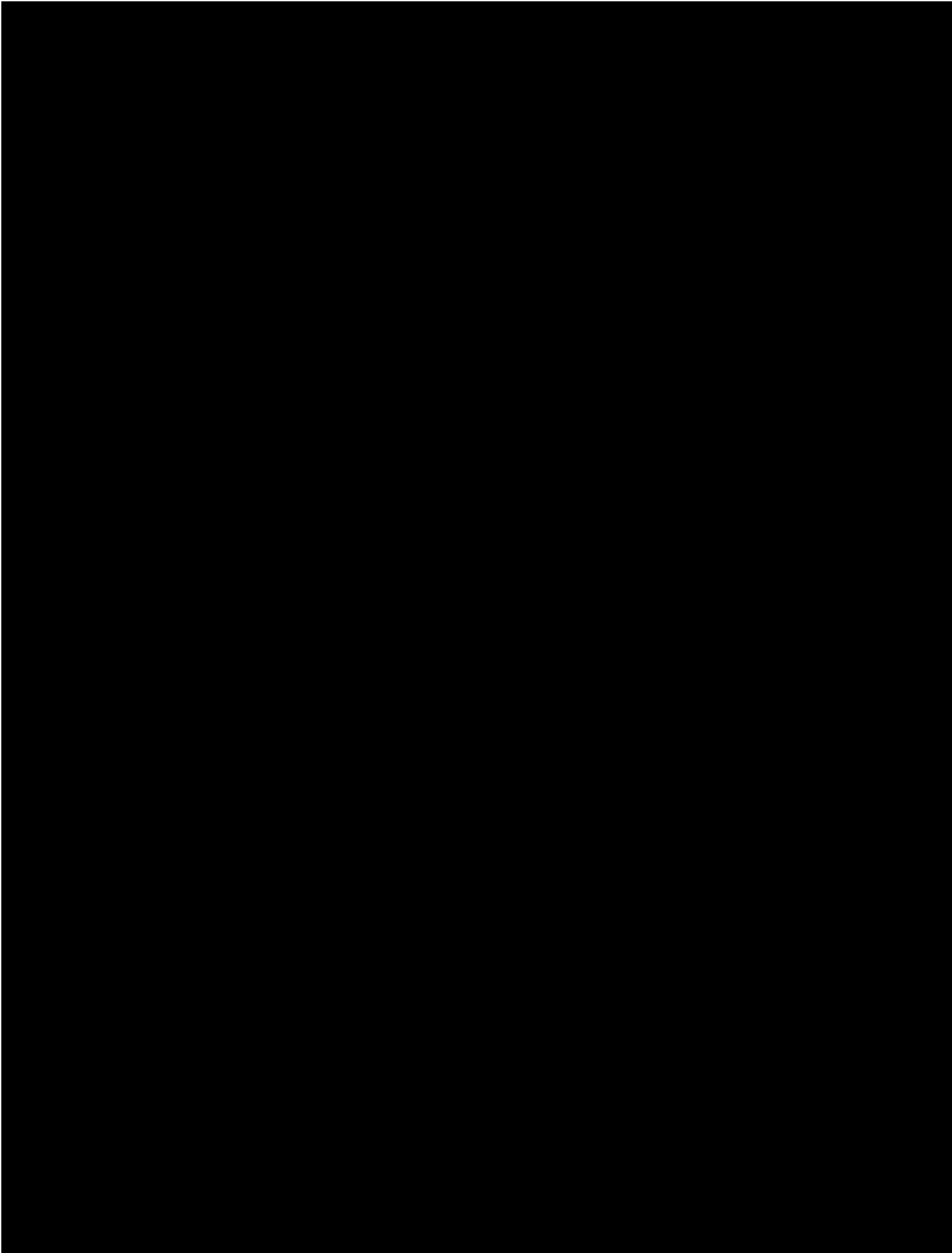


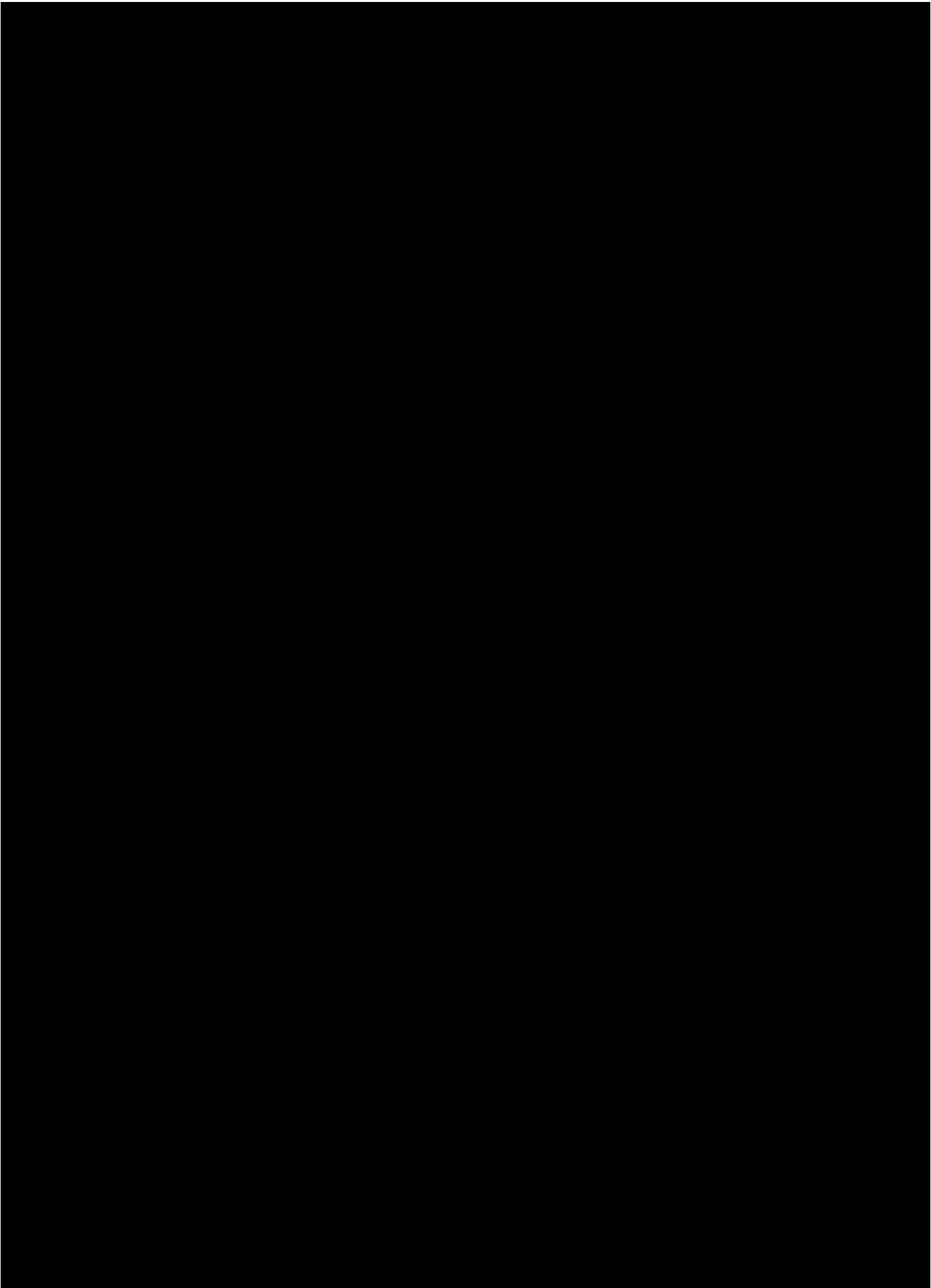


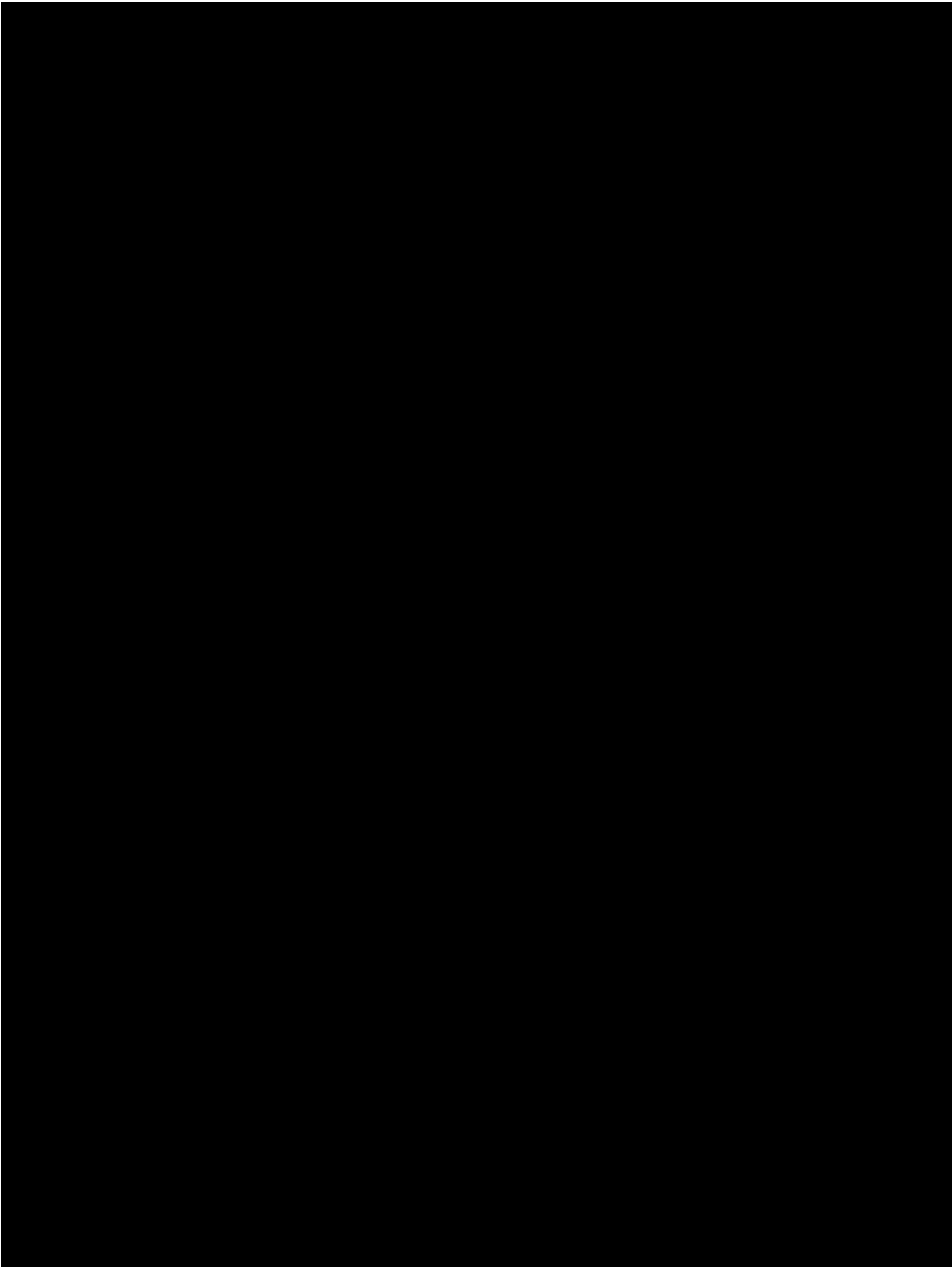


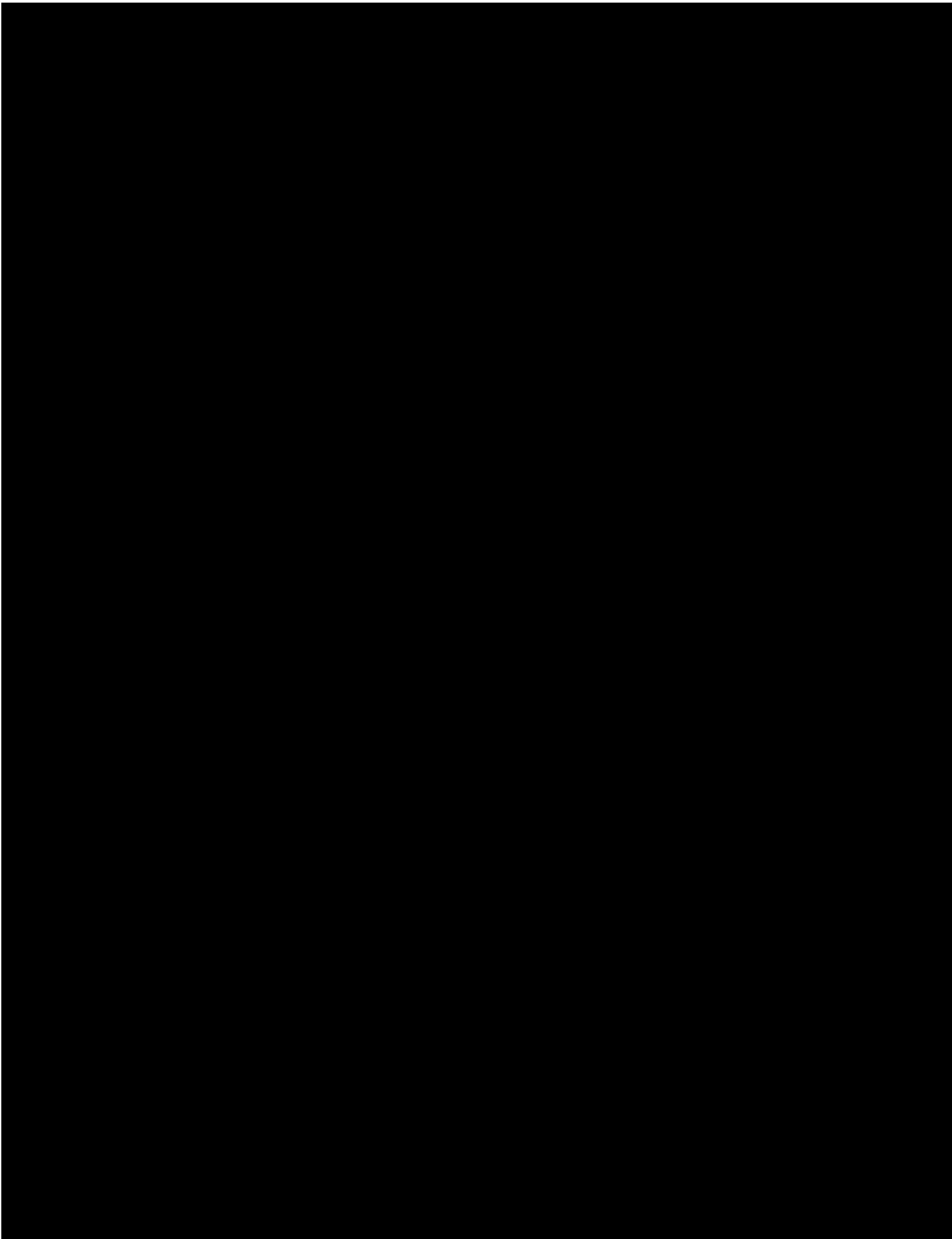


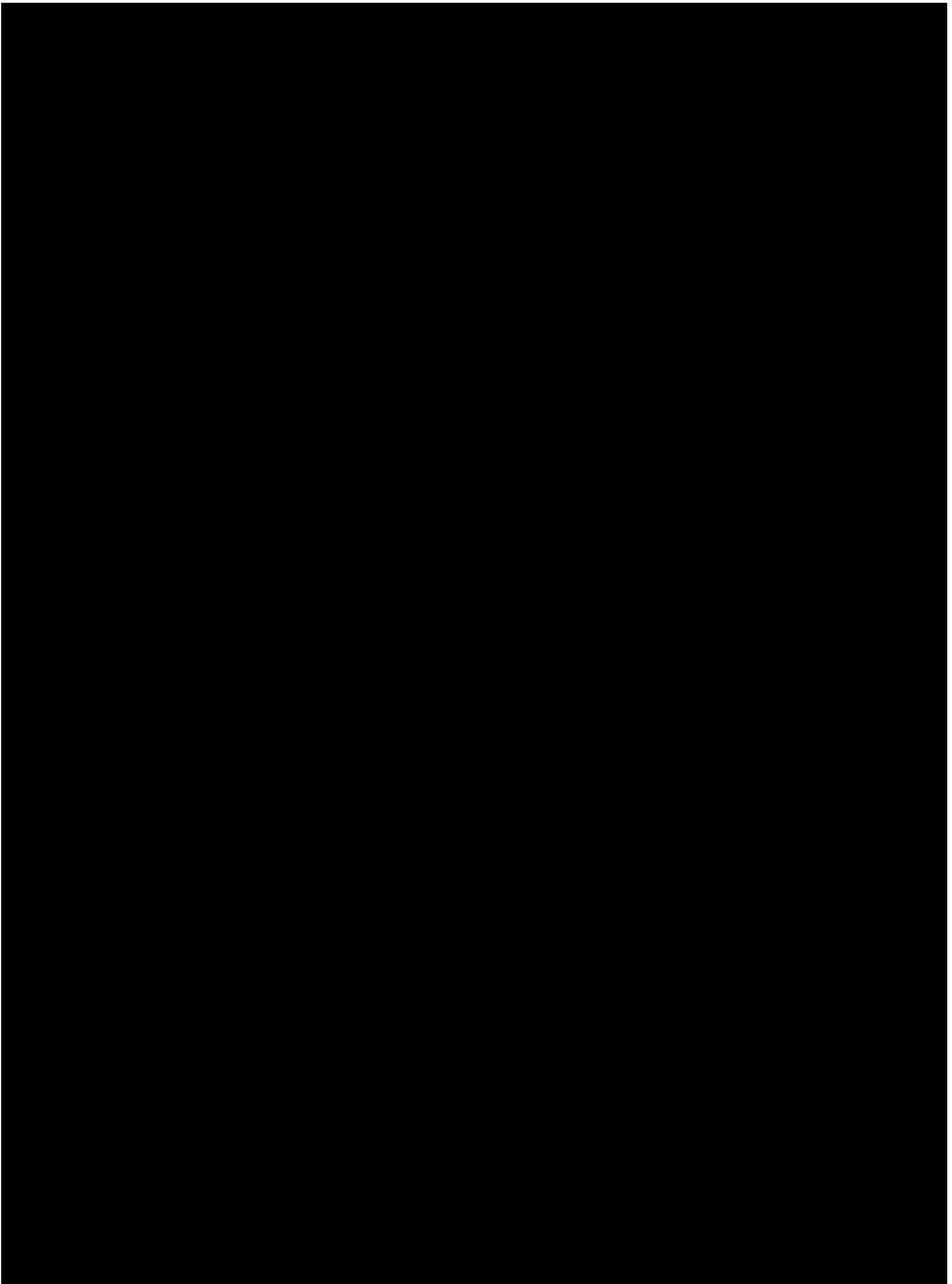


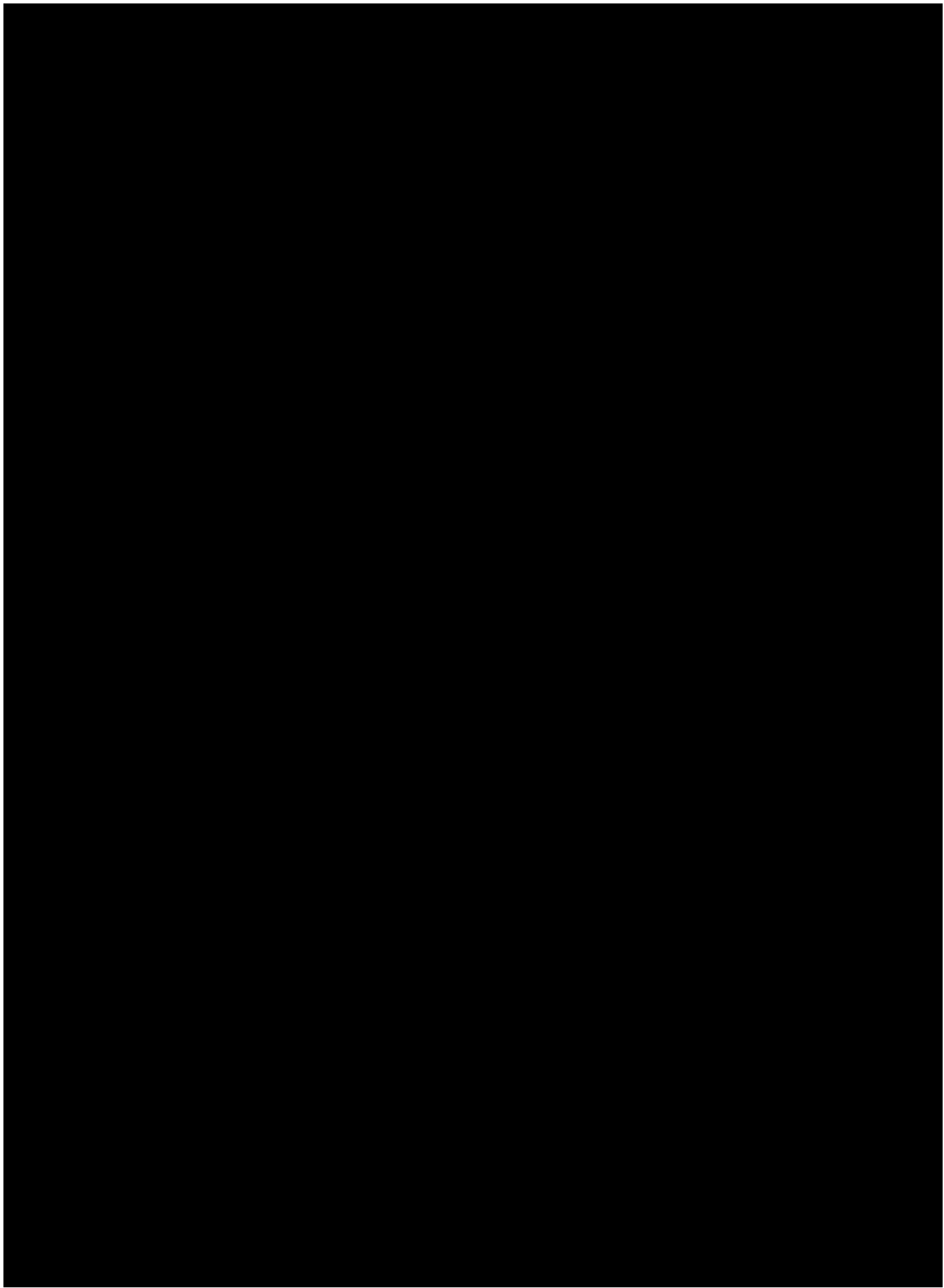


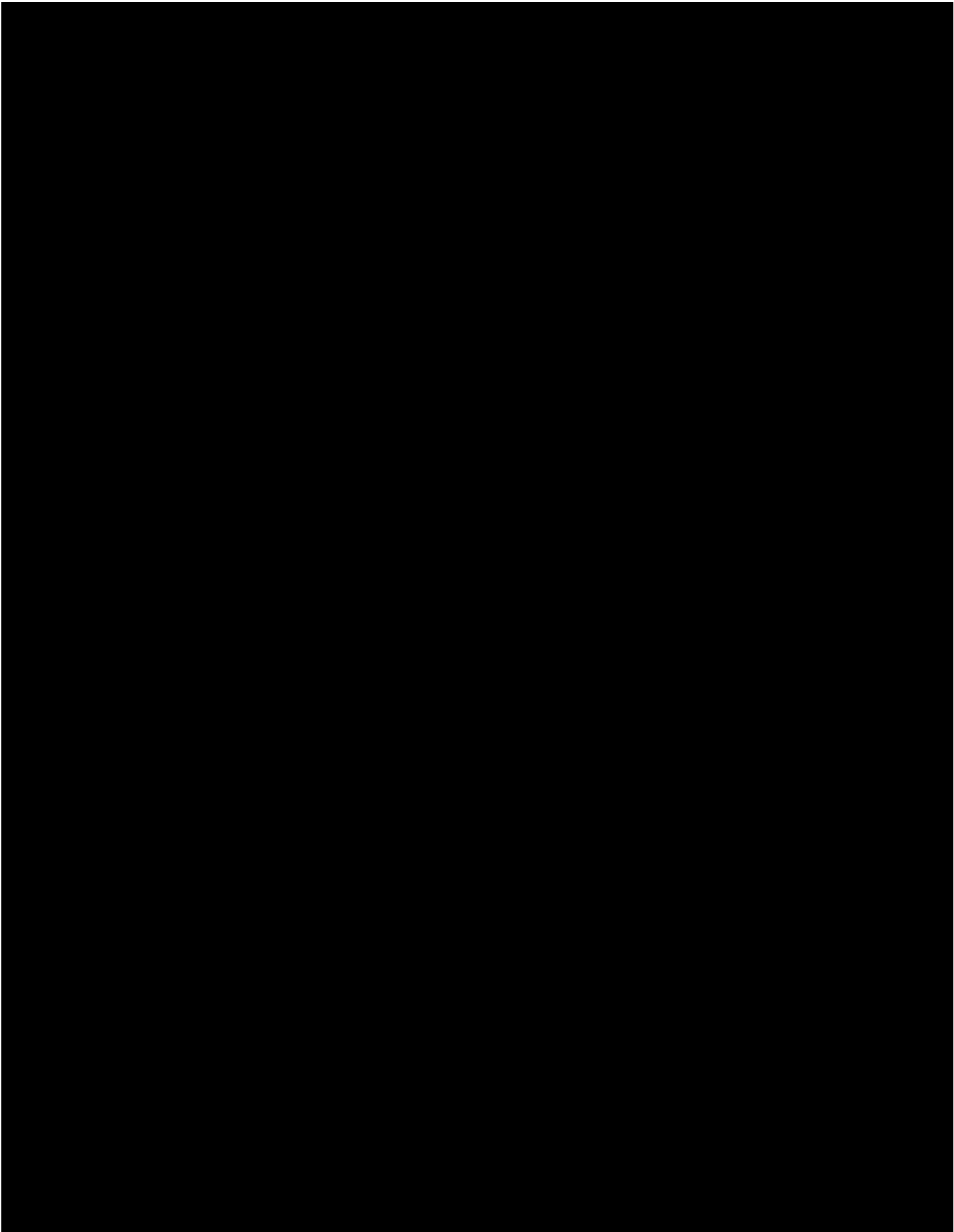


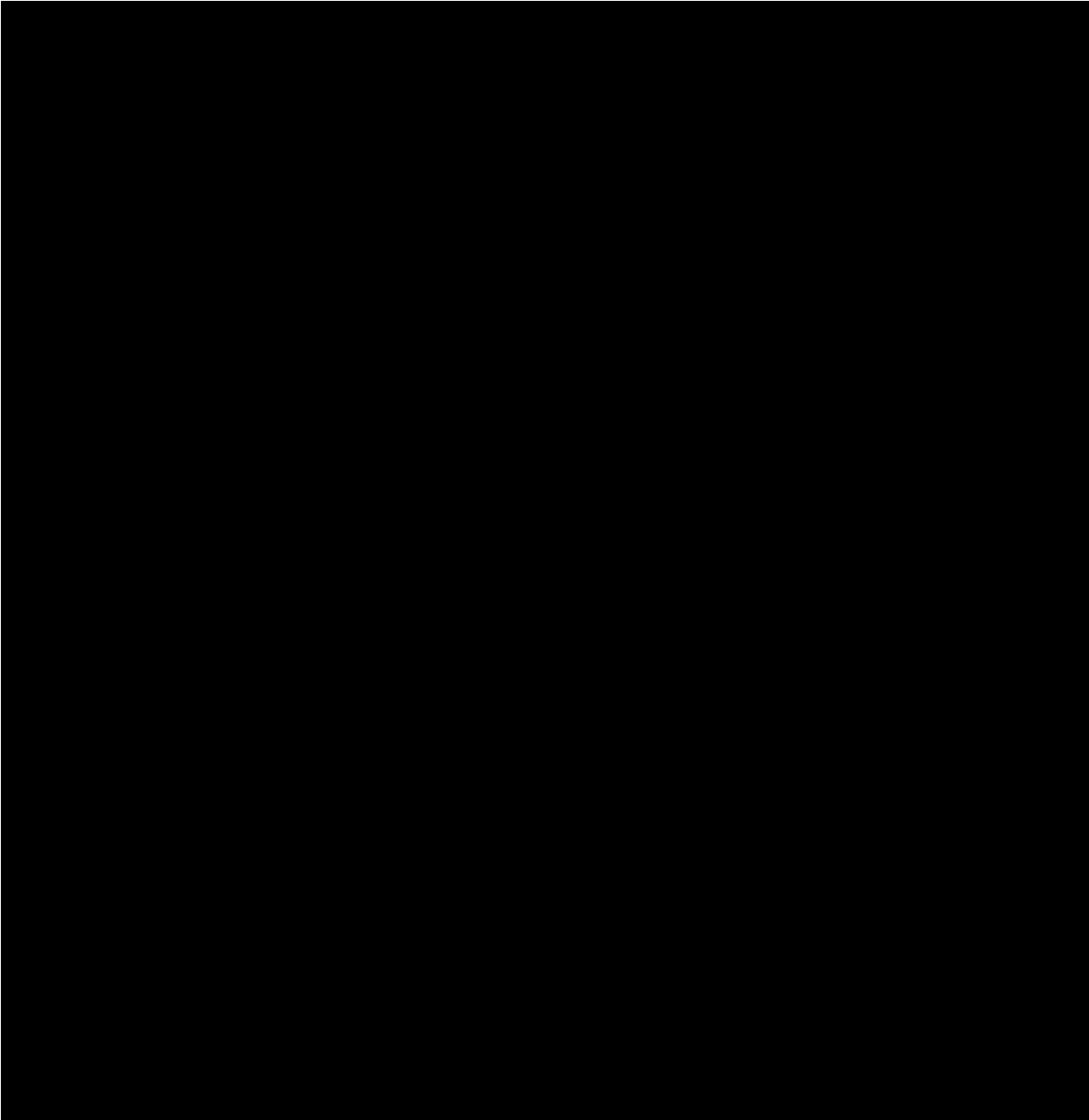




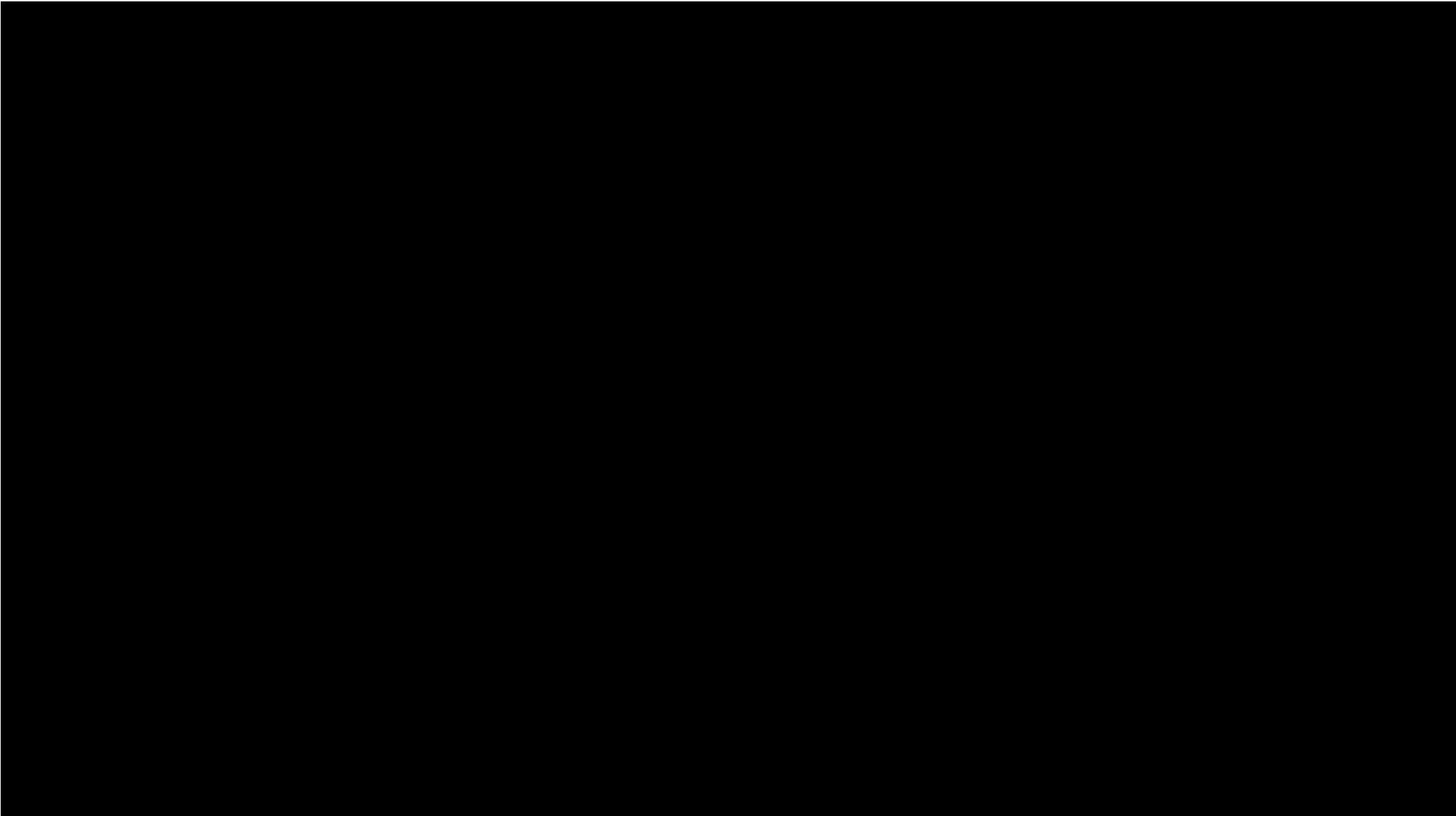


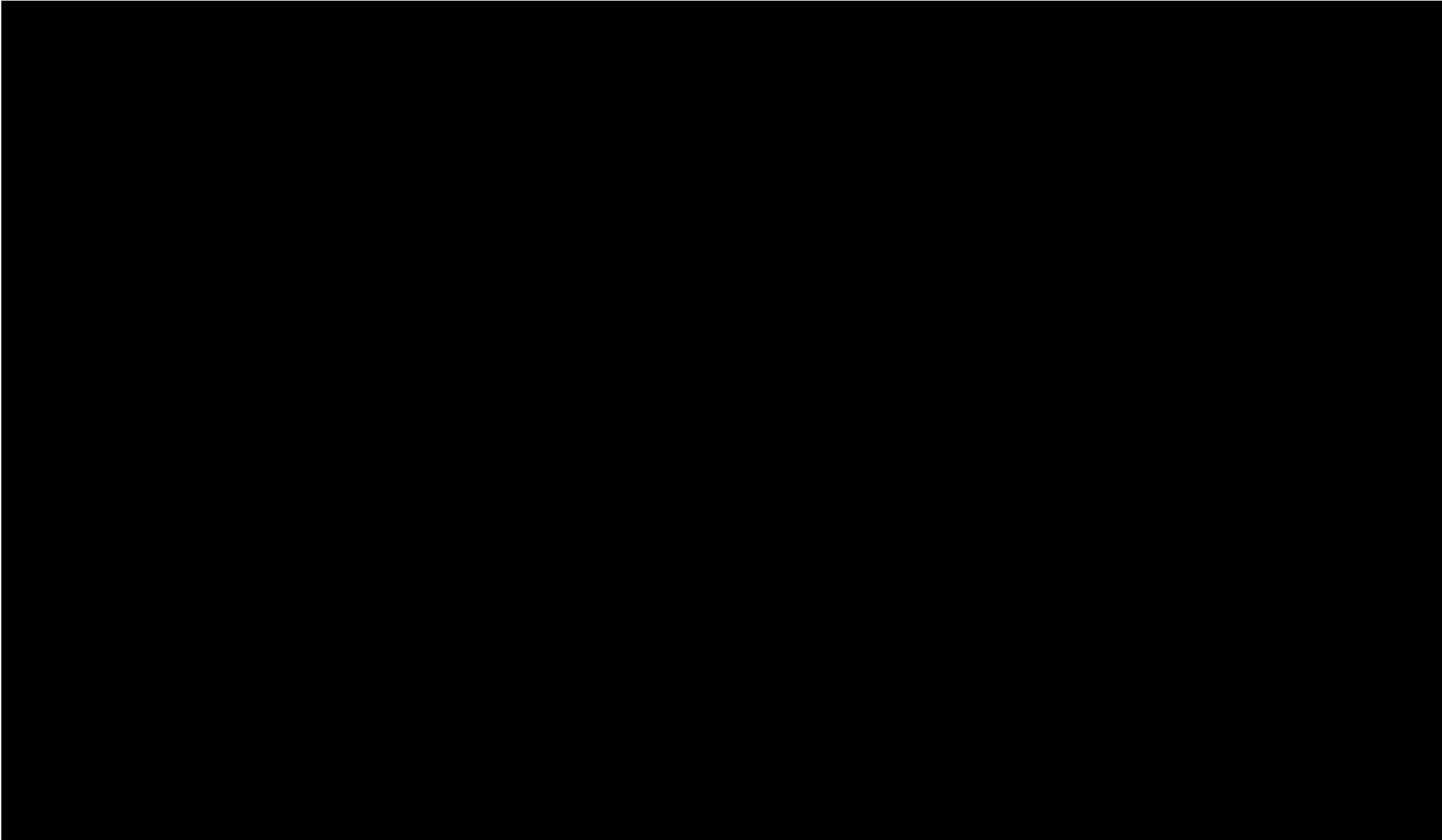


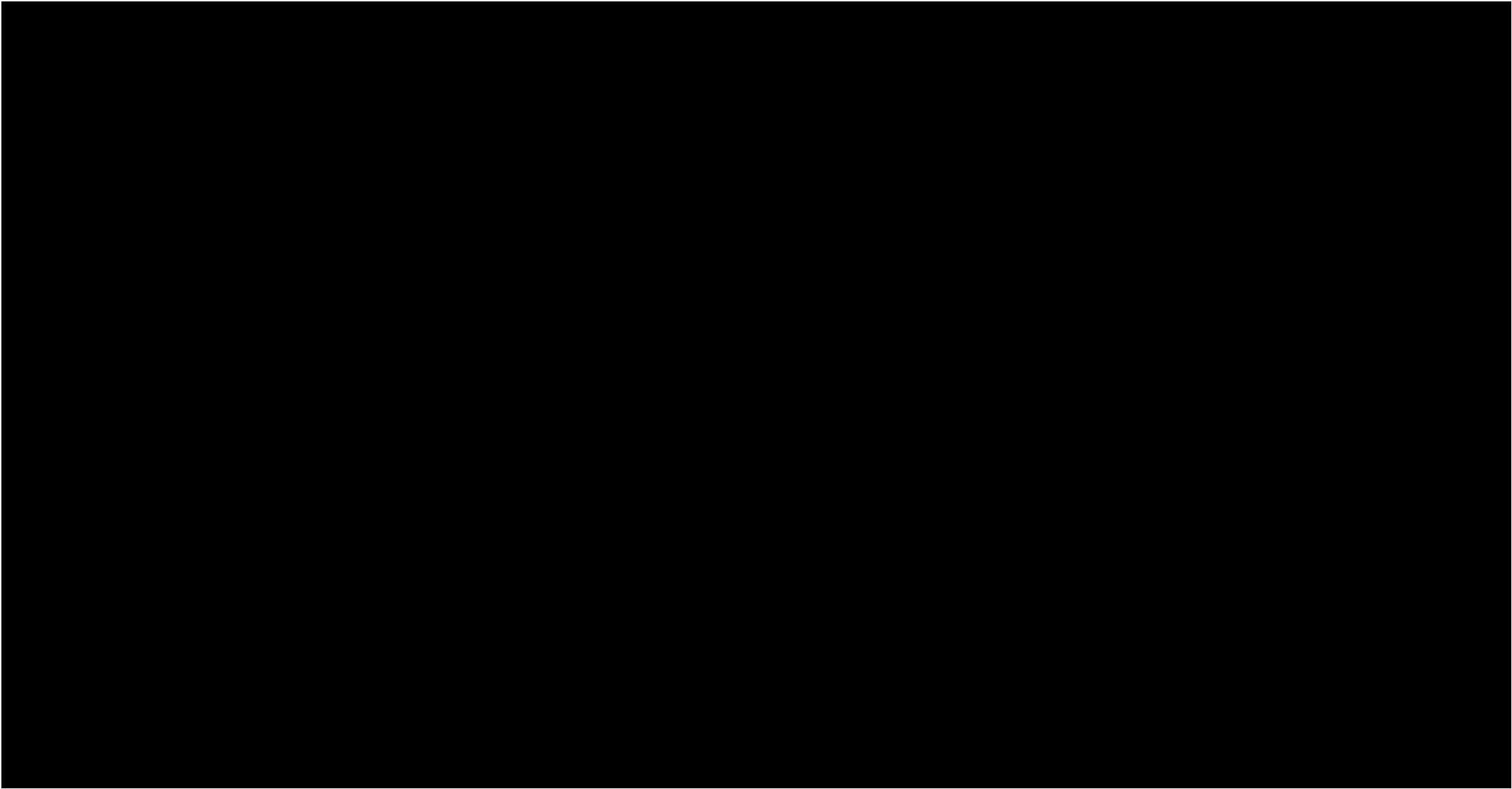


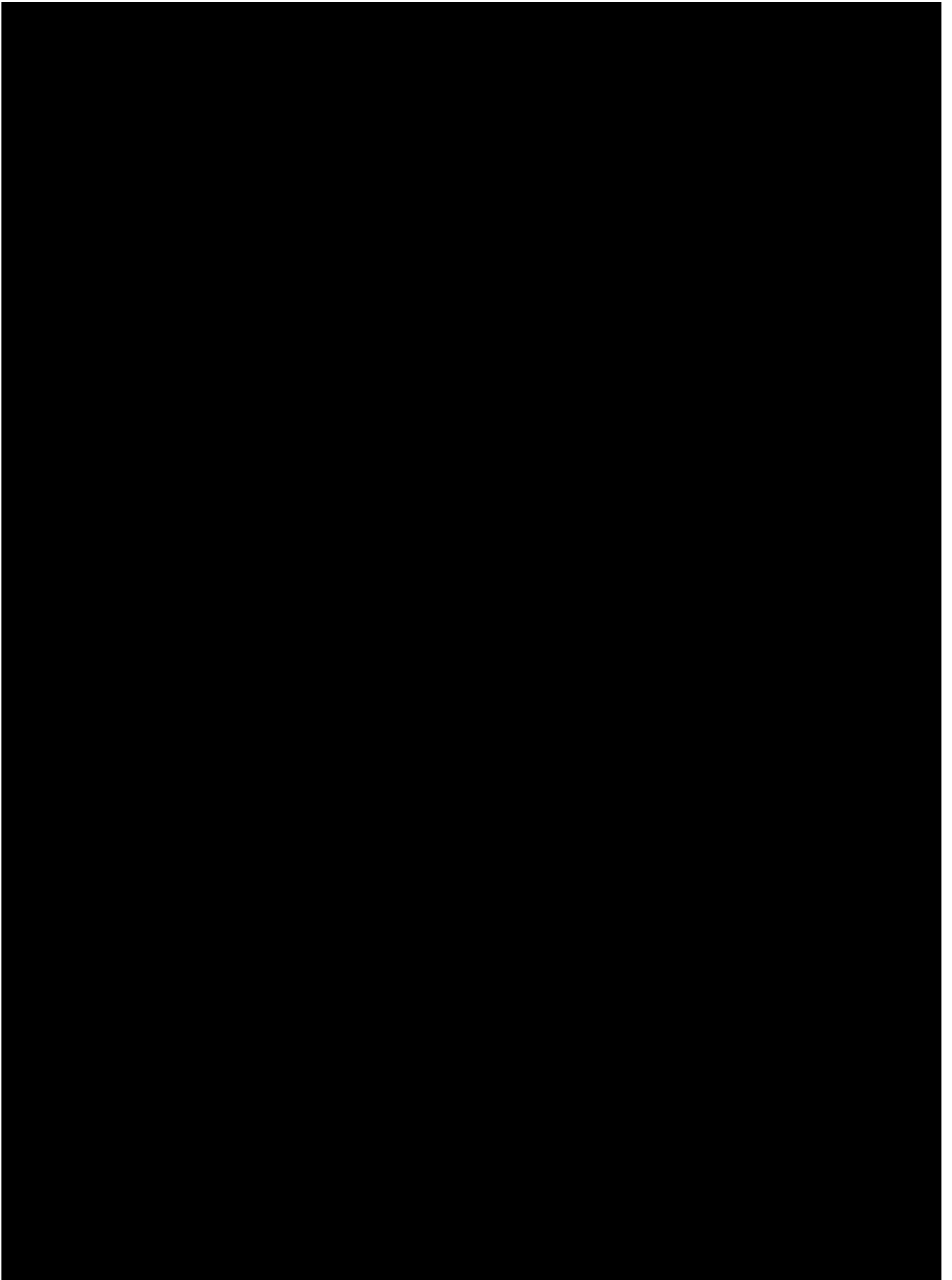


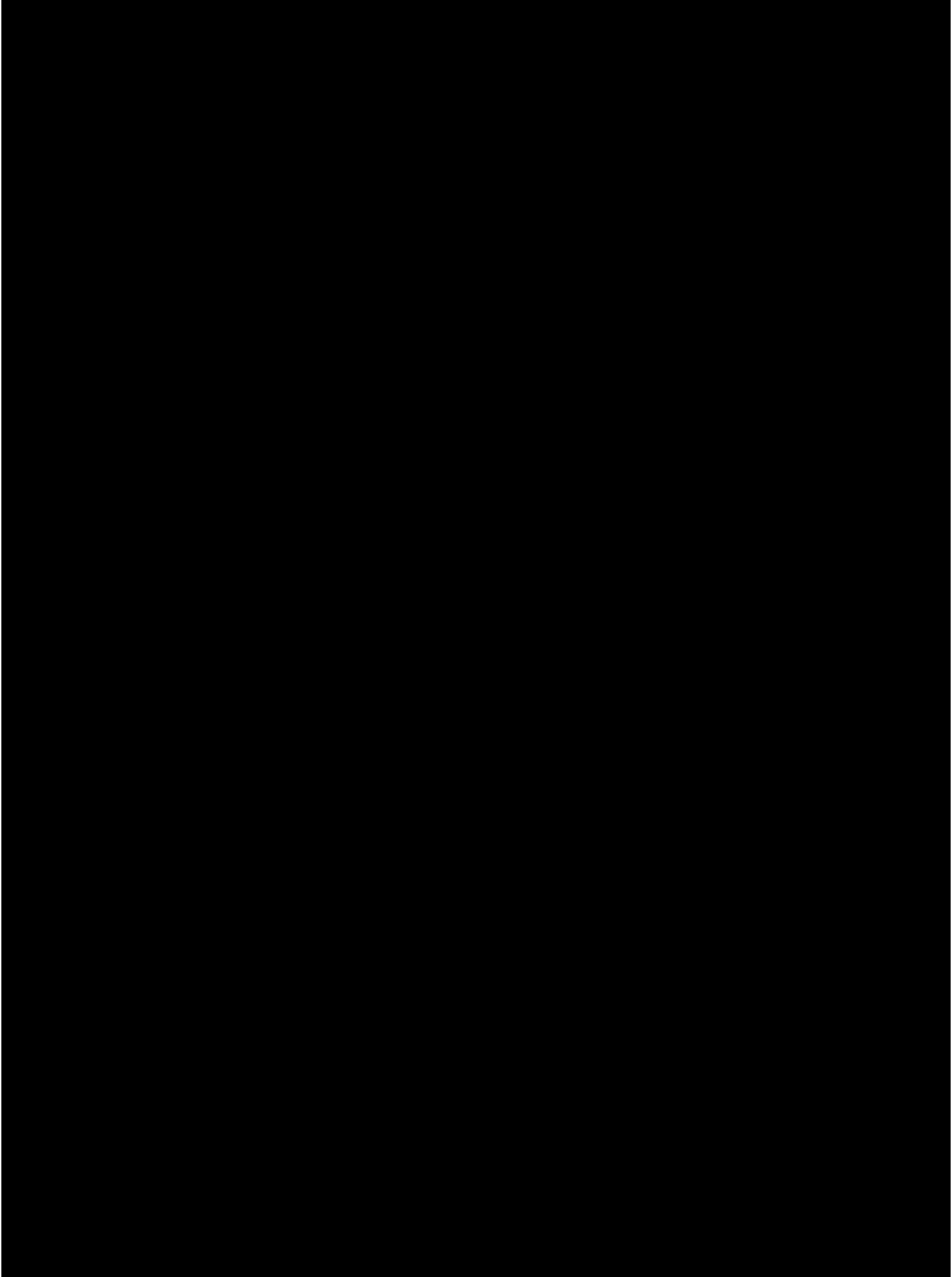


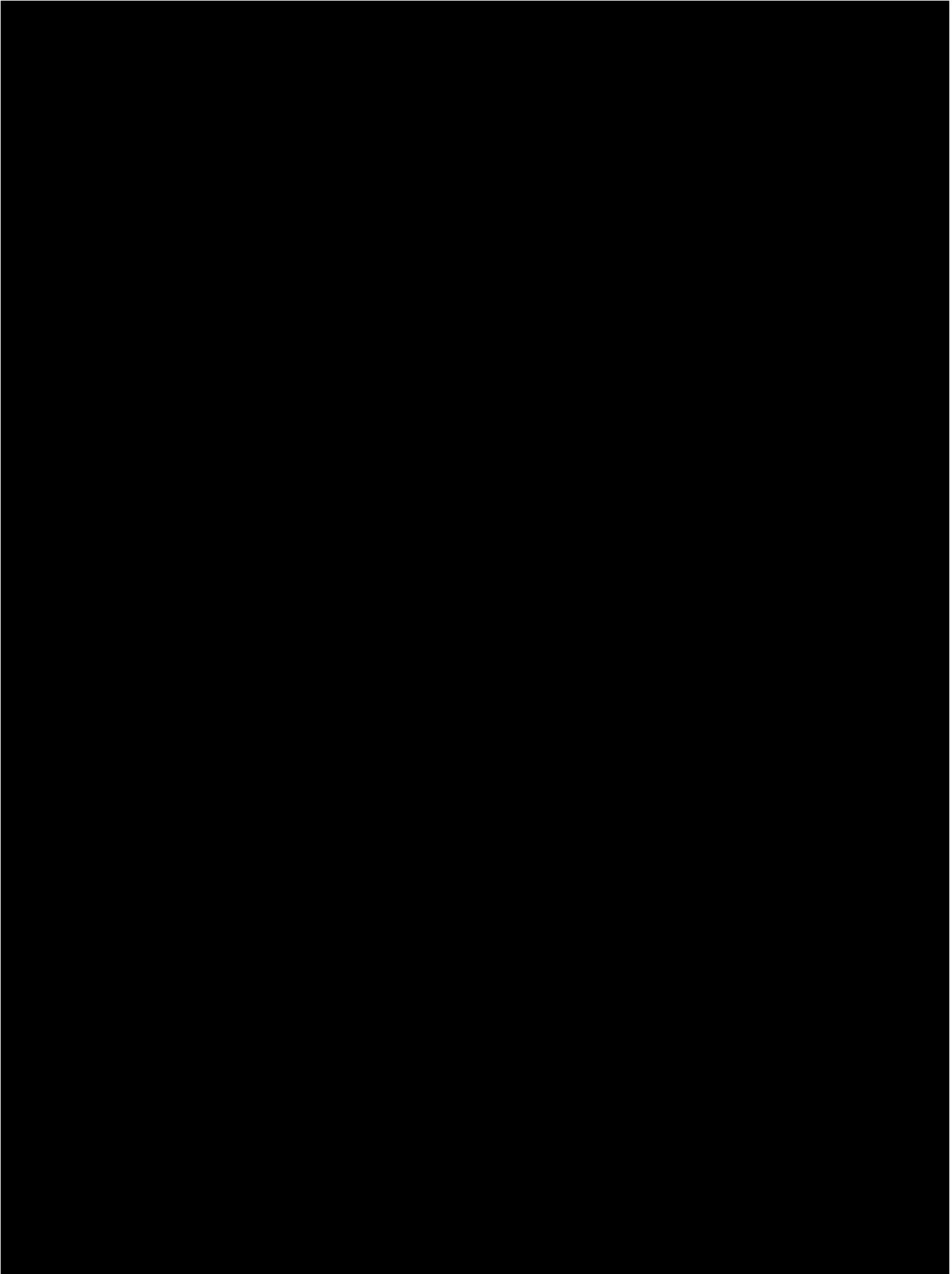








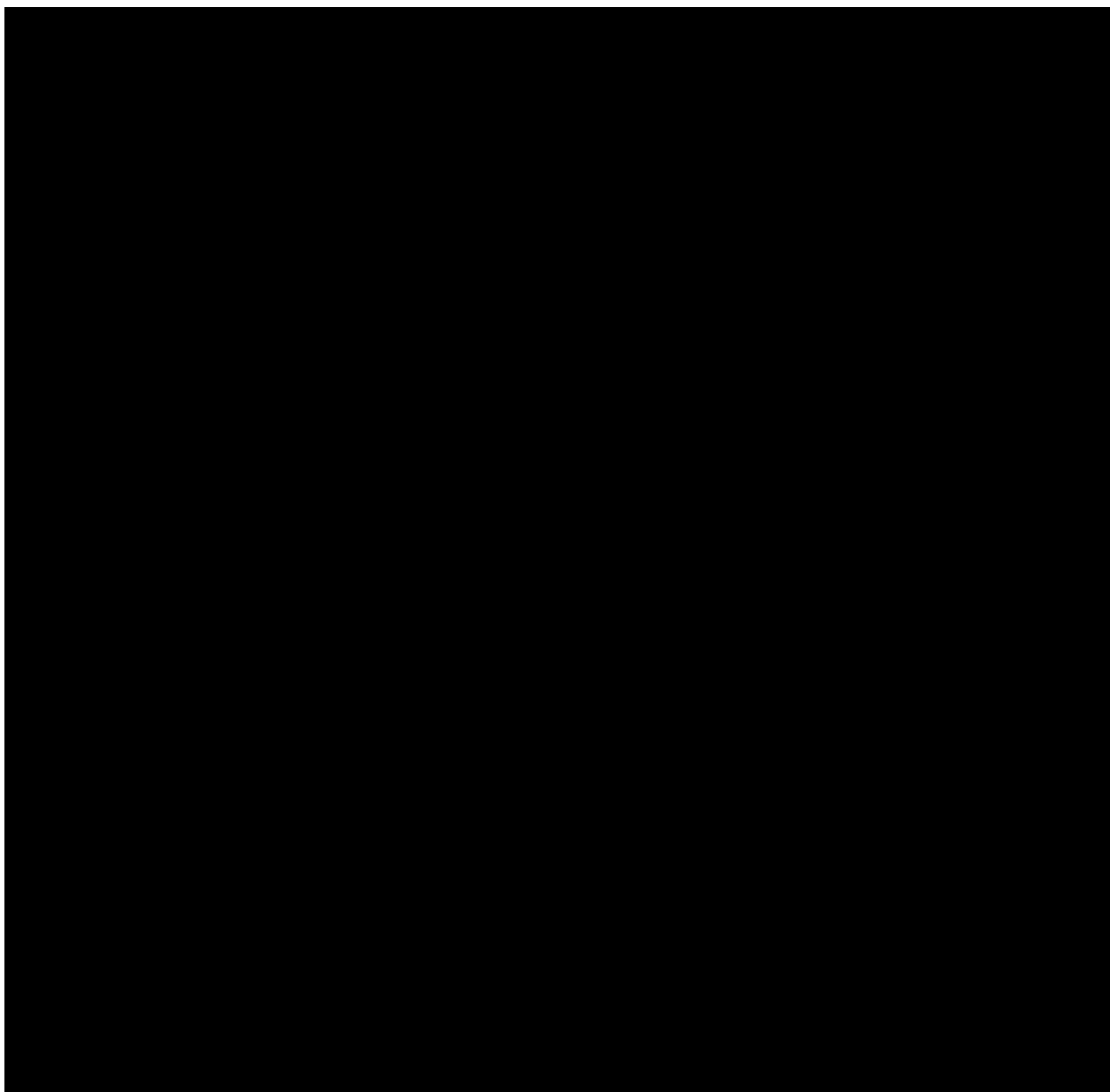


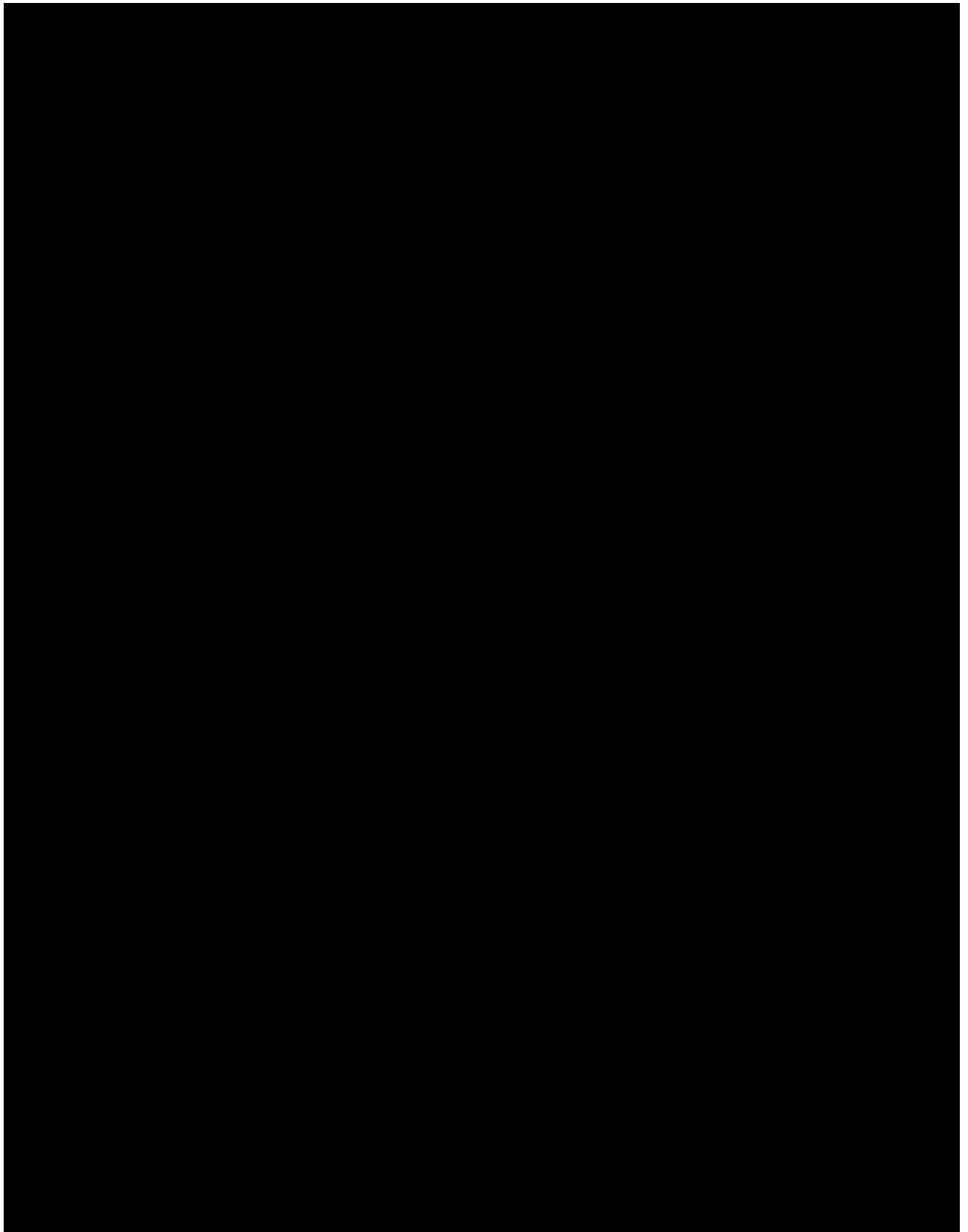


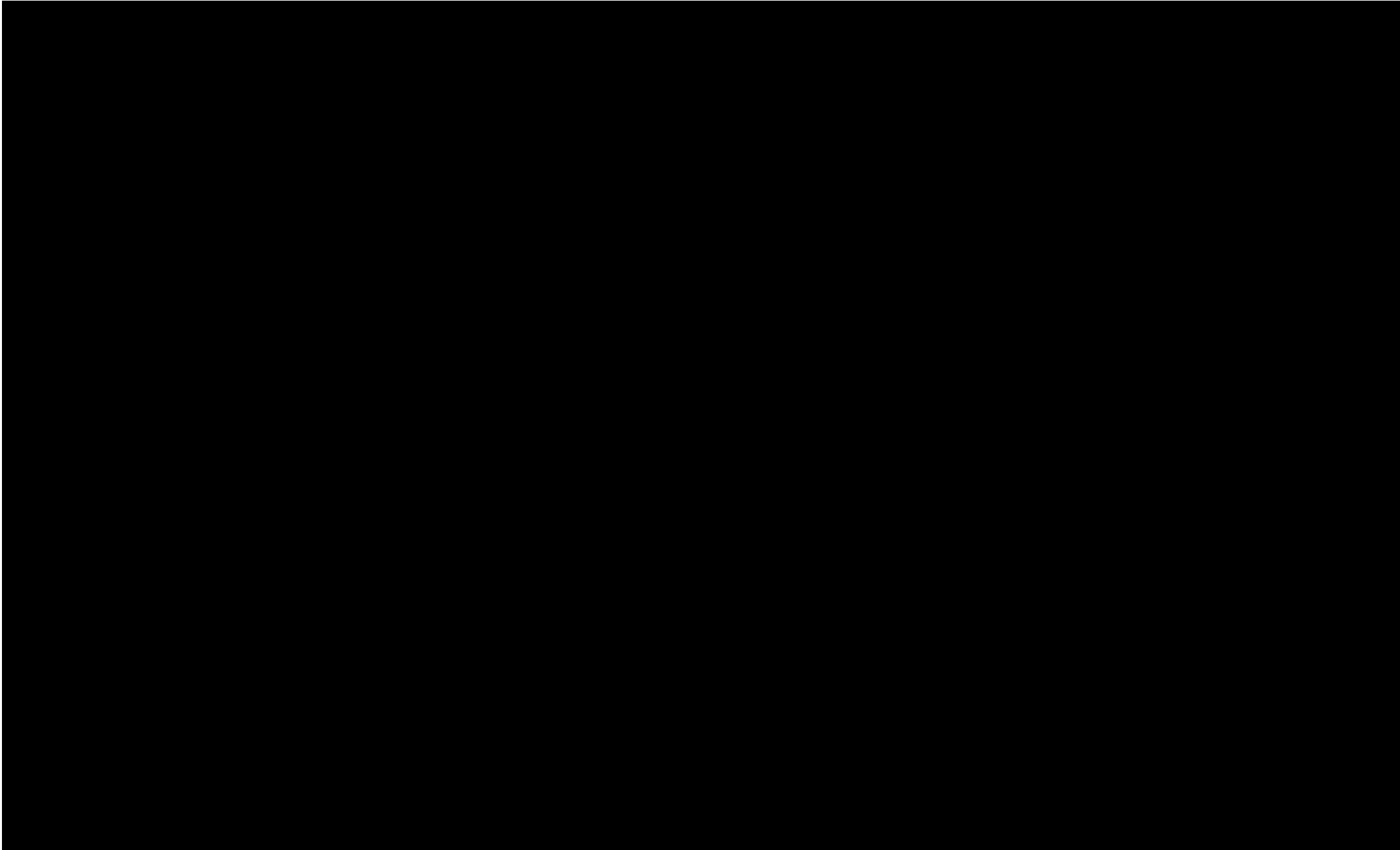


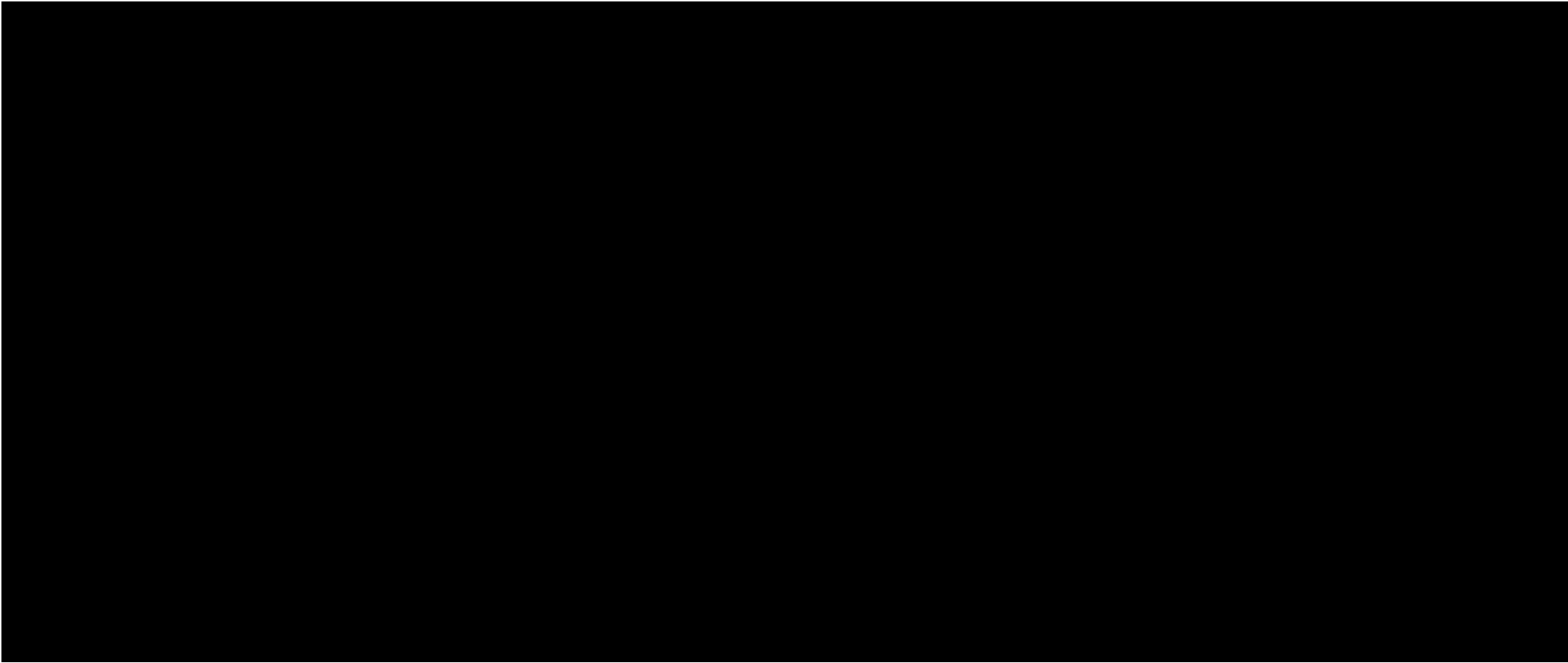
Appendix 3 – Pricing Schedule and Payment Schedule

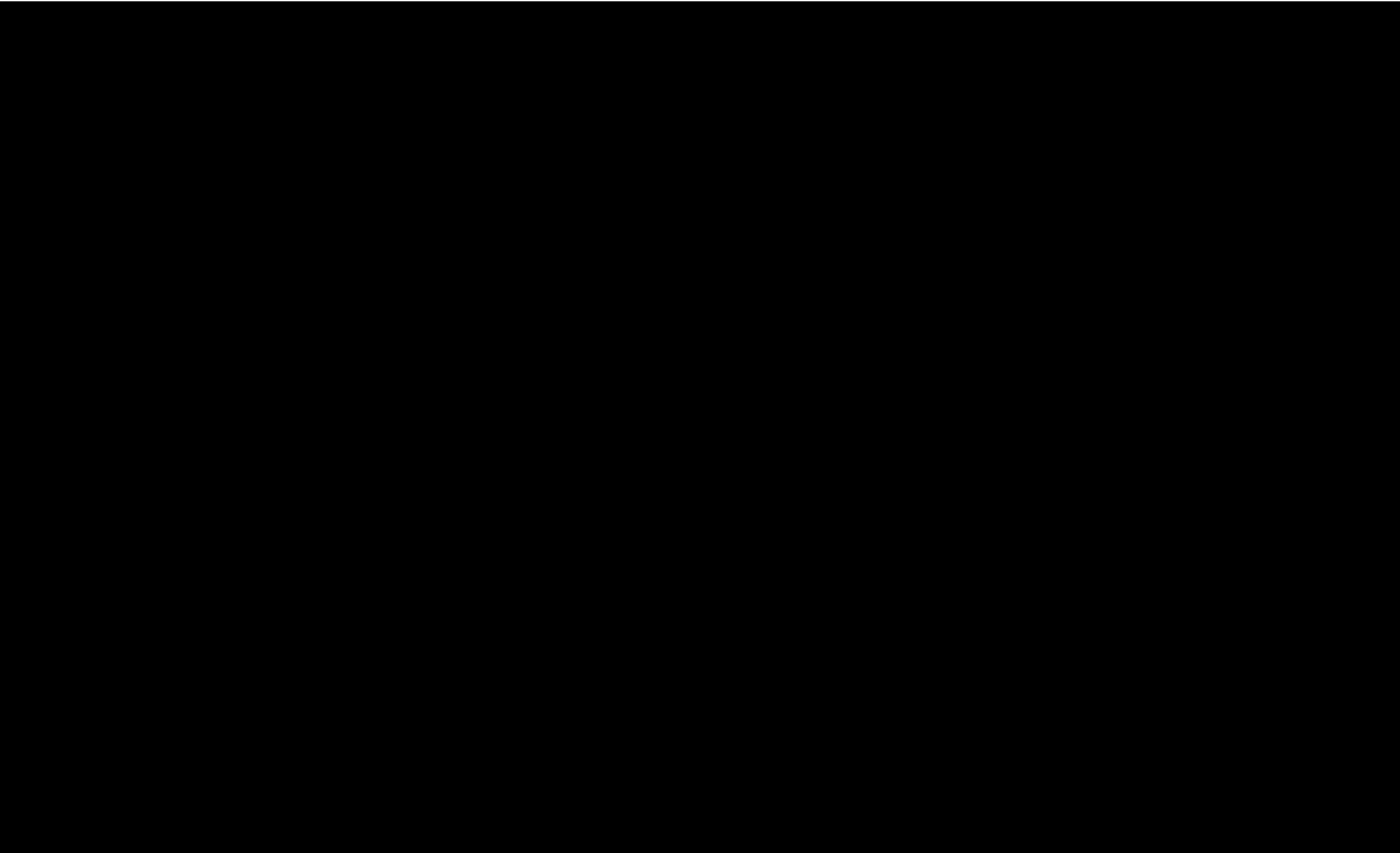
1. The Authority shall pay to the Contractor no more than the fixed sum identified in Table 1: GBP **£248,980** as the Price excl VAT.













Appendix 5 – CHANGE CONTROL

Contract Change Note	
CCN Number	
Contract Reference Number and Title	
Variation Title	
Number of Pages	

WHEREAS the Contractor and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Contract Change Details		
Change Requestor/Originator	[x]	
Summary of Change	[x]	
Reason for Change	[x]	
Revised Contract Value	Original contract value	[£x]
	Previous contract change values	[£x]
	Contract Change Note [x] value	[£x]
	New revised contract value	[£x]
Revised Payment Schedule	[x]	
Revised Specification	[x]	
Revised Contract Period	[x]	
Change in Contract Manager	[x]	
Other Changes	[x]	

2. Save as amended all other terms of the Original Contract shall remain effective.
3. This CCN takes effect from the date on which both Parties communicate acceptance of its terms via Bravo.

Authorised Authority Representative

Name:

Date:

Defra Commercial Officer

(FSOD Sign off up to £500k)

Name

Date.....

Authorised Contractor Representative.....

Name.....

Date.....

Appendix 6 – Data Protection Schedule

Definitions – the definitions in this Schedule and the Contract shall apply:

Annex 1: the Schedule of Processing, Personal Data and Data Subjects attached to this Data Protection Schedule.

Party: a Party to this Contract.

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data

Protection Officer: takes the meaning given in the GDPR.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing. **Protective Measures:** appropriate technical and organisational measures which may include: the use of pseudonyms and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Annex 1 (Security).

Sub-processor: any third Party appointed to process Personal Data on behalf of the Processor related to this Contract.

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Agency is the Controller and the Contractor is the Processor unless otherwise specified in Annex 1. The only processing that the Processor is authorised to do is listed in Annex 1 by the Controller and may not be determined by the Processor.
- 1.2 The Processor shall notify the Controller immediately, if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing

any processing. Such assistance may, at the discretion of the Controller, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with Annex 1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Contractor Personnel do not process Personal Data except in accordance with this Contract (and in particular Annex 1);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

- (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

- 1.6 The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.
- 1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:

- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Schedule such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.15 Where the Parties include two or more Joint Controllers as identified in Annex 1 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex 2 in replacement of Clauses 1.1-1.14 for the Personal Data under Joint Control.

Annex 1 - Schedule of Processing, Personal Data and Data Subjects Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are:
, Data Protection Officer

Horizon House, Deanery Road, Bristol BS1 5AH
2. The contact details of the Processor's Data Protection Officer are: [Insert Contact details]
3. The Processor shall comply with any further written instructions with respect
4. Any such further instructions shall be incorporated into this Annex 1.

