

# ***Government Information (Public Access) Act 2009***

## **Explanatory Table**

### **Martin Place Metro Station Project Over Station Development Project Delivery Agreement**

#### **Contract Number: 507**

Capitalised terms in this table have the meanings given to them in the Martin Place Metro Station Project Over Station Development Project Delivery Agreement (**OSD PDA**), unless the context indicates otherwise.

In preparing this explanatory table, the Principal has:

- (a) identified the reason(s) under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) for each redaction; and
- (b) weighed each redaction against the following key public interest considerations for disclosure:
  - (i) promoting open discussion of public affairs, enhancing government accountability or contributing to positive and informed debate on issues of public importance;
  - (ii) creating public awareness and understanding on issues of public importance;
  - (iii) enhancing government transparency and accountability;
  - (iv) informing the public about the operations of the agency;
  - (v) ensuring effective oversight of the expenditure of public funds and the best use of public resources; and
  - (vi) ensuring fair commercial competition within the economy.

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
1.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the type of cost and margin for which Macquarie is entitled for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the risk that Macquarie was willing to price and accept in relation to the OSD Works. It may also provide insight on Macquarie's capabilities, which would prejudice its legitimate business and commercial interests; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
2.	Clause 1.1, Definition of 'Binding Offer'	The information redacted is a date.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information describes commercially sensitive information regarding Macquarie's commercial offer to the Principal and the date of submission; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore, the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
3.	Clause 1.1, Definition of 'Condition Precedent Deadline Date'	The information redacted is a date.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the date by which all Conditions Precedent are to be met;</li> <li>b) exposing the redacted information would reveal the level of risk that the Principal and Macquarie were willing to accept in relation to the termination rights associated with not satisfying</li> </ul>

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			<p>competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>the Conditions Precedent; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore, the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial and financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
4.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out Macquarie's entitlement for certain events arising under the OSD PDA and therefore, exposing the information would reveal the apportionment of risk between the Principal and Macquarie; and</p> <p>b) revealing the information would also place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>interests.</p> <p>There is an overriding public interest against disclosure.</p>	
5.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
6.	Clause 1.1, Definition of 'D&C Guarantor'	The information redacted is the name of the guarantor.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:</p> <ul style="list-style-type: none"> <li>a) the redacted information is commercially sensitive and, if</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>disclosed, may provide a unique insight into Macquarie's cost structures;</p> <p>b) the disclosure of the redacted information may also provide insight into Macquarie's views on the likelihood of Macquarie having a right against the D&amp;C Guarantor; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
7.	Clause 1.1, Definition of 'D&C Margin'	The information redacted is the percentage number.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information discloses Macquarie's cost structure or profit margins and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and provide visibility on the Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b),</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information relates to the profit margins of the D&amp;C Contractor;</p> <p>b) the disclosure of the redacted information may provide insight into Macquarie's cost structure and profit margins; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
8.	Clause 1.1, Definition of 'Defect'	The information redacted is certain limitations on what constitutes a Defect.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information relates to Macquarie's obligations to repair certain Defects under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore, the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
9.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's entitlement for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
10.	Clause 1.1, Definition	The information redacted is a	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest</p>



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		definition.	<p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's entitlement for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
11.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's entitlement for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a</li> </ul>

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			<p>information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore, the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial and financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
12.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's entitlement for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the OSD Works; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

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			There is an overriding public interest against disclosure.	
13.	Clause 1.1, Definition of 'Executive Negotiator'	The information redacted is the position of the executive negotiator for Macquarie.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information is the position of an individual person.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
14.	Clause 1.1, Definition of 'General Liability Cap'	The information redacted is a definition.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the capped amount of Macquarie's general liability under the OSD PDA;</li> <li>b) the disclosure of the redacted information would provide insight on Macquarie's cost structure by revealing the maximum liability accepted by Macquarie under or in connection with the OSD PDA and the apportionment of risk between the Principal and Macquarie; and</li> <li>c) revealing the information would indicate to potential competitors, contractors and clients what Macquarie and the Principal are willing to accept as a general liability cap relative to the value of the OSD PDA and thereby place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible</li> </ul>

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			<p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
15.	Clause 1.1, Definition of 'Information Disclaimer'	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out details concerning disclaimers regarding the use and reliance on information exchanged between the parties, which may provide an insight into the apportionment of risk between the Principal and Macquarie; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>events and circumstances change.</p>
16.	<p>Clause 1.1, Definition of 'Key Plant and Equipment'</p>	<p>The information redacted is the list of specific items of Key Plant and Equipment.</p>	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the definition of Key Plant and Equipment indirectly provides visibility on the Key Plant and Equipment Manufacturing Countries, which is relevant to determining the scope of events that may give rise to a Force Majeure Event;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to a Force Majeure Event within and outside of Key Plant and Equipment Manufacturing Countries, and therefore the level of risk that Macquarie was willing to price and accept. Exposing this information may provide insight into Macquarie's views on the likelihood of certain Force Majeure Events arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interest against disclosure.	
17.	Clause 1.1, Definition of 'Key Plant and Equipment Manufacturing Country'	The information redacted is the countries named in the definition.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the definition of Key Plant and Equipment Manufacturing Countries is relevant to determining the scope of events that may give rise to a Force Majeure Event under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to a Force Majeure Event within and outside of Key Plant and Equipment Manufacturing Countries, and therefore the level of risk that Macquarie was willing to price and accept. Exposing this information may provide insight into Macquarie's views on the likelihood of certain Force Majeure Events arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

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18.	Clause 1.1, Definition of 'Macquarie Design Non-compliance Notice'	The information redacted is paragraph (a) of the definition and certain references in paragraphs (c), (d), (e) and (f) of the definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
19.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
20.	Clause 1.1, Definition of 'Macquarie's Representative'	The information redacted is the name of the representative.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information is the name of an individual person.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
21.	Clause 1.1, Definition of 'Metro Impact'	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the information redacted describes the scope of which forms Metro Impact;</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information would reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
22.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <p>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations, and therefore the level of risk that Macquarie was willing to price and accept; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>functions.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
23.	Clause 1.1, Definition of 'Optional Pending Changes'	The information redacted is a definition.	<p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <p>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
24.	Clause 1.1, Definition	The information redacted is a	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
		definition.	<p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
25.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
26.	Clause 1.1, Definition of 'Pending Change'	The information redacted is a definition.	<p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
27.	Clause 1.1, Definition of 'Principal Design Non-compliance Notice'	The information redacted is part of the definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
28.	Clause 1.1, Definition of 'Principal's Representative Statement'	The information redacted is part of paragraphs (g) and (h) of the definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
29.	Clause 1.1, Definition	The information redacted is a definition.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>events and circumstances change.</p>
30.	<p>Clause 1.1, Definition of 'Time Relief Cap'</p>	<p>The information redacted is a definition.</p>	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information discloses Macquarie's cost structure or profit margins and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>b) revealing the information would indicate to potential competitors, contractors and clients what level of delay risk the parties are prepared to accept and thereby place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interest against disclosure.	
31.	Clause 1.1, Definition of 'Total Delay'	The information redacted is a definition.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information discloses Macquarie's cost structure or profit margins and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>c) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>d) revealing the information would indicate to potential competitors, contractors and clients what level of delay risk the parties are prepared to accept and thereby place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
32.	Clause 1.1, Definition of 'Variation Cost'	The information redacted is information relating to the types of Variation to which the definition applies.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the risk allocation between the Principal and Macquarie in relation to certain Variations under the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
33.	Clause 3.7,	The information redacted is the	<i>Section 32(1)(d), item 1(f) of</i>	The Principal weighed the competing public interest considerations and determined that there was an overriding public interest

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
	'Project risks'	entire clause.	<p><i>the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out sensitive information regarding the project risks;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the parties in relation to key risks, and therefore the risk that Macquarie was willing to price and accept. Exposing this information may also provide insight into the parties' views on their respective potential capabilities and the likelihood of key events arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
34.	Clause 5.1(f)(iii), 'Compliance with Laws'	The information redacted is part of the clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <ul style="list-style-type: none"> <li>c) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to certain obligations under the OSD PDA, and therefore the level of risk that Macquarie was willing to price and accept; and</li> <li>d) revealing the information would place the parties at a</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
35.	Clause 8.6(a), (b) and (c), 'Rail Safety'	The information redacted is entire clauses.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the parameters of rail safety within the Project;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in respect of rail safety, and therefore the level of risk that Macquarie was willing to accept; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>interests.</p> <p>There is an overriding public interest against disclosure.</p>	
36.	Clause 11.3, 'Risk and liability in relation to Martin Place Metro Station interface'	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the parameters and apportionment of interface risk between carrying out the OSD Works and the Station Developer's Activities; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
37.	Clauses 14.1(f)-(g), 'Principal's Land' and 14.2(a)(iii), (b)(iii) and (c),	The information redacted is entire clauses.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's entitlement for</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
	'Redundant Encumbrances'.		<p><i>Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>certain events with respect to certain Encumbrances over the Principal's Land;</p> <p>b) the disclosure of the redacted information would reveal the apportionment of risk between the Principal and Macquarie with respect to the creation and compliance of certain Encumbrances; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
38.	Clauses 15.3(d)(i)(B)-(C), 15.3(e), 15.3(e)(ii) and	The information redacted is part of the clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information for the following reasons:</p> <p>a) exposing the redacted information would reveal the</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
	15.3(f) - 15.3(h), 15.4(e)(i)(B)-(C), 15.4(g) 15.4(g)(ii) and 15.4(i) - 15.4(k), 'Design and Design Documentation'		<p>effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>apportionment of risk between the Principal and Macquarie in relation to the preparation and reliance on the OSD Design Documentation; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
39.	Clause 18.2(a)(iii) and (b)(ii), 'Approved Engineer'	The information redacted is dollar amounts.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors and provide</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <p>a) the redacted information sets out the minimum limits of the Approved Engineer's liability and insurance for professional indemnity; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
40.	Clauses 19.6(b)(ii)-(b)(iv) and (b)(vi), 'Delay Events'	The information redacted is specific types of Delay Events.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out a number of project-specific grounds under which Macquarie will be entitled to an extension of time under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to key delay risks, and therefore the risk that Macquarie was willing to price and accept. Exposing this information may also provide insight into Macquarie's views on its potential capabilities and the likelihood of key Delay Events</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>arising; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
41.	Clause 20.1, 'Entitlement to claim compensation'	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <p>a) the redacted information sets out the Delay Events which will entitle Macquarie to also claim Delay Costs;</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to key delay risks, and therefore the risk that, Macquarie willing to price and accept. Exposing this information may also provide insight into Macquarie's views on its potential capabilities and the likelihood of key Delay Events arising; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
42.	Clauses 20.2(a), 20.3(a)(i)(B), 20.3(b), 20.4, 20.6, 'Delay Costs'	The information redacted is certain references throughout the clauses.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the type of cost and margin for which Macquarie is entitled for certain events under the OSD PDA;</li> <li>b) exposing the redacted information would reveal the risk that Macquarie was willing to price and accept in relation to the OSD Works. It may also provide insight on Macquarie's capabilities, which would prejudice its legitimate business and commercial interests; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
43.	Clause 24, 'Transfer of freehold title'	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential contractors and competitors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out sensitive information regarding the options, time periods and commercial terms for transferring freehold title to the Development Lots;</li> <li>b) exposing the redacted information would also reveal the apportionment of risk between the Principal and Macquarie in relation to the Development Lots; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
44.	Clauses 25.2 – 25.7, 'Macquarie Payments'	The information redacted is entire clauses.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the details and arrangements in relation to Macquarie's payments to the Principal under the OSD PDA;</li> <li>b) the disclosure of the redacted information would provide insight into the level of risk that Macquarie was willing to price and accept and may also provide insights into Macquarie's underlying cost structure; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
45.	<p>Clauses 26.1(b), 26.1(c), 26.1(e), 26.2(a), 26.2(b), 26.2(c)(vi), 26.3(c), 26.4(a), 26.4(c), 26.6A, 26.12(a)(ii)-(iii), 26.15, 26.16 and 26.17, 'Principal Initiated Variations'</p>	<p>The information redacted is the entire clause.</p>	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out particular circumstances for which the Principal must issue a Variation Impact Request to Macquarie and the procedure, timeframe and entitlement applicable to those specific circumstances;</li> <li>b) exposing the redacted information would reveal the apportionment of risk that the Principal and Macquarie were willing to accept with respect to Variations under the OSD PDA. It may also provide insight on Macquarie's views on its potential capabilities and the likelihood of certain risks arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
46.	<p>Clauses 27.1(a)(i)(A)(aa), 27.1(b), 27.1(c)(ii)(B), 27.1(e)(ii)(B) and 27.1(k), 'Variations proposed by Macquarie – Principal consent required'</p>	<p>The information redacted is parts of the clause.</p>	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out particular circumstances for which require the Principal's consent for a Macquarie Initiated Variations, including the particular procedure, timeframe and entitlement applicable to those specific circumstances;</li> <li>b) exposing the redacted information would reveal the apportionment of risk that the parties were willing to accept with respect to Variations under the OSD PDA. It may also provide insight on Macquarie's views on its potential capabilities and the likelihood of certain risks arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>parties' legitimate business, commercial or financial interests.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
47.	<p>Clauses 30.5, 'Professional indemnity insurance', Clause 30.6, 'Construction plant insurance', Clause 30.7, 'Motor vehicle insurance', Clause 30.8, Periods of insurance, Clause 30.9, 'Evidence of policies', Clause</p>	<p>The information redacted is entire clauses.</p>	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information concerns the insurance policies that Macquarie is required to effect and maintain, and includes information on the scope and cover to be provided by the policies;</li> <li>b) exposing the redacted information would reveal the apportionment of insurance risk between the Principal and Macquarie in relation to its insurance obligations and insurance risk, and the level of insurance risk that Macquarie was willing to price and accept;</li> <li>c) the scope of the insurance that the Principal requires</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
	30.10, 'Provisions of policies', Clause 30.11, 'Premiums', Clause 30.12, 'Undertaking to inform'		<p>Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Macquarie to effect may be taken as an indication of the risk levels involved with Macquarie's obligation under the OSD PDA. This may have signalling effects to the market and provide insight into Macquarie's financial arrangements; and</p> <p>d) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
48.	Clause 30.15, 'Risk of deductibles or excesses'	The information redacted is the entire clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <p>a) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to the insurance deductibles, excesses or retentions and therefore expose the level of insurance risk that</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>"commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Macquarie was willing to price and accept; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests, and also prejudice the effective exercise of the Principal's functions.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
49.	Clause 30.16	The information redacted is the entire clause.	<i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence</i>	The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p><i>provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>a) the redacted information sets out the limits and scope of the DSU Insurance policy;</p> <p>b) exposing the redacted information would reveal the apportionment of insurance risk between the Principal and Macquarie in relation to its insurance obligations and insurance risk, and the level of insurance risk that Macquarie was willing to price and accept; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
50.	Clauses 31.1(b), 31.1(c), 31.1(e)(vii) - (ix), 31.1(e)(xi) -	The information redacted is parts of the clause.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure because:</p> <p>a) the redacted information sets out commercially sensitive</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
	31.1(e)(xii), 31.1(e)(xiv), 31.1(e)(xvi), 31.2(b), 31.3, 31.4, 31.5, 31.6 and 31.7, 'Indemnity and Liability Exclusions'		<p>effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 1(f), 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public</p>	<p>information regarding Macquarie's total aggregate liability, including limits on Macquarie's liability;</p> <p>b) exposing the redacted information would reveal the apportionment of risk between the Principal and Macquarie in relation to liability under the OSD PDA. Exposing this information may provide insight into Macquarie's views on its potential capabilities and likelihood of Macquarie being held liable for the events identified in clause 31;</p> <p>c) the redacted information sets out a unique arrangement to apportion and manage liability risk. Revealing this information may diminish the value of that information; and</p> <p>d) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interest against disclosure.	
51.	Clause 32.3, 'Cure Plan'	The information redacted is the time periods.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out details regarding the time by which Macquarie must prepare a Draft Cure Plan, the Principal must respond in relation to a Draft Cure Plan and a Macquarie Termination Event will occur;</p> <p>b) exposing the information would reveal the level of risk that the Principal was willing to accept in relation to its termination rights against Macquarie. Exposing this information may also provide insight into Macquarie's views on its potential capabilities and likelihood of certain risks arising; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
52.	Clause 32.4, 'Prevention Plan'	The information redacted is the time periods.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out details regarding the time by which Macquarie must prepare a Draft Prevention Plan, the Principal must respond in relation to a Draft Prevention Plan</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>and a Macquarie Termination Event will occur;</p> <p>b) the redacted information would reveal the level of risk that the Principal was willing to accept in relation to its termination rights against Macquarie. Exposing this information may also provide insight into Macquarie's views on its potential capabilities and likelihood of certain risks arising; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
53.	Clauses 34.1(a), 34.7(a) and 34.7(d)(ii), 'Termination'	The information redacted is a defined date and termination rights in paragraph (a) and all of paragraph (d)(ii).	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) exposing the redacted information would reveal the level of risk the Principal and Macquarie were willing to accept in relation to certain termination rights; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>events and circumstances change.</p>
54.	<p>Clause 34.11, 'Termination payment'</p>	<p>The information redacted is the entire clause.</p>	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out sensitive information concerning the Termination Payment regime;</li> <li>b) exposing the redacted information would reveal the level of risk that Macquarie was willing to price and accept in relation to its liability to make a Termination Payment. It may also provide insight on Macquarie's views on its capabilities and the likelihood of certain risks arising; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
55.	Clause 39.1, 'Change in Ownership'	The information redacted is the names of the entities subject to the change in ownership restriction.	<p><i>Section 32(1)(d), items 4(b) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information would reveal the extent to which the parties were willing to agree that related entities of Macquarie would be subject to change in ownership restrictions as part of the Sydney Metro Project.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the extent to which Macquarie and its related entities were willing to accept a change in ownership restriction as part of the Sydney Metro Project and may also provide lucidity on Macquarie's corporate structure; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
56.	Clause 40.13(b)(iii)(B) (bb), 'Executive negotiation'	The information redacted is part of the clause.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the redacted information would reveal the type of cost and margin for which Macquarie is entitled for certain</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>The disclosure of this information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>events under the OSD PDA;</p> <p>b) exposing the redacted information would reveal the risk that Macquarie was willing to price and accept in relation to the OSD Works. It may also provide insight on Macquarie's capabilities, which would prejudice its legitimate business and commercial interests; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
57.	Clause 42.2(b)(iv), 'Notices of other claims'	The information redacted is part of the clause.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) exposing the redacted information would reveal the type of cost and margin for which Macquarie is entitled for certain events under the OSD PDA;</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information would reveal Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>b) exposing the redacted information would reveal the risk that Macquarie was willing to price and accept in relation to the OSD Works. It may also provide insight on Macquarie's capabilities, which would prejudice its legitimate business and commercial interests; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
58.	Clauses 46.7, 46.8 and 46.9, 'General Payment Requirements'	The information redacted is the percentage number.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out the interest rate on overdue money under the OSD PDA;</p> <p>b) exposing the redacted information would reveal risk that the parties were willing to price and accept in relation to amounts</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>unpaid, damages or amounts to be paid after resolution of a Dispute;</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
59.	Clause 48(d)(i)(D)(aa)-(bb), 'Notices'	The information redacted is the name of the representatives and the representatives' email addresses.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information is the names and contact details of two individual persons.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interest against disclosure.	disclosure as identified above.
60.	Execution page	The information redacted is the names and signatures of the signatories.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information would disclose personal information of individuals, including names and signatures.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p>
61.	Schedule A2, 'Agreed OSD Program Dates'	The information redacted is the dates.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out details regarding the time periods of the agreed OSD program dates;</li> <li>b) exposing the redacted information would provide insight into Macquarie's and its Subcontractors' capabilities and would veii an insight to the risk that Macquarie had priced and accepted in relation to the agreed OSD program dates; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors.</li> </ul> <p>Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
62.	Schedule A3, 'Macquarie Group Structure'	The information redacted is the entire schedule.	<p><i>Section 32(1)(a) (paragraph (a) of the definition of "commercial-in-confidence provisions" at clause 1 of schedule 4)</i></p> <p>The disclosure of this information could reveal the contractor's financing arrangements.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c) and 4(d) of the table in section 14)</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out Macquarie's corporate structure for the purpose of delivering the Martin Place Metro Station project;</li> <li>b) revealing the information could disclose the financing arrangements Macquarie has implemented for the delivery of the Martin Place Metro Station project, and would make this information readily accessible to Macquarie's future clients, competitors and other contractors and would accordingly reduce this information's competitive commercial value to Macquarie; and</li> <li>c) therefore the disclosure of this information would reveal a commercial-in-confidence provision of a government contract, and would prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>interests.</p> <p>There is an overriding public interest against disclosure.</p>	
63.	Schedule A7, 'Early Occupation Licence', Definition of 'Licence Fee'	The information redacted is the dollar amount.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the fee to be paid for the Licence, which directly impacts on the costs borne by Macquarie under the OSD PDA;</li> <li>b) the disclosure of the redacted information would provide visibility on Macquarie's cost structure and therefore the level of risk it was prepared to accept and price; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			There is an overriding public interest against disclosure.	
64.	Schedule A7, 'Early Occupation Licence', Clause 4.4, 'Public and products liability insurance'	The information redacted is the minimum limit of Macquarie's public and product liability insurance policy or Macquarie's global insurance policy.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the minimum amount which the insurance policy (for the Term of the Licence) will need to cover for a single claim;</li> <li>b) the disclosure of the redacted information would provide visibility on Macquarie's cost structure and therefore the level of risk it was prepared to accept and price; and</li> <li>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interest against disclosure.	
65.	Schedule A10, 'Follow-on Contractor Cooperation and Integration Deed'	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the form of the interface agreements that Macquarie is to enter into with the Follow-On Contractor;</li> <li>b) the disclosure of the redacted information would reveal the level of interface risk Macquarie was willing to price and accept in relation to interface of the OSD Works with the works to be performed by the Follow-On Contractor;</li> <li>c) the redacted information is based on forms of the interface agreements to be used across a number of procurement packages on the Sydney Metro City &amp; Southwest and which remain subject to ongoing negotiation by the Principal and other contractors, and the redacted information reflects the Principal's negotiated position with Macquarie in relation to the interface agreements to which Macquarie will be a counterparty;</li> <li>d) therefore the disclosure of this information would: <ul style="list-style-type: none"> <li>a. place the Principal at a commercial disadvantage in future negotiations with other contractors on the Sydney Metro City &amp; Southwest project; and</li> <li>b. make readily accessible to future clients, competitors and contractors information which may place the parties at a substantial commercial disadvantage on future projects of a similar nature and accordingly diminish the competitive commercial value of information to a person and prejudice a person's</li> </ul> </li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
				<p>legitimate business, commercial, professional or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
66.	Schedule A11, 'IDAR Panel Agreement', Form of Fees and Disbursements Letter	The information redacted is the dollar amounts in the 'Fee' column of the table.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the fees payable to the Members of the IDAR Panel under the IDAR Panel Agreement; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
67.	Schedule A13, 'Terms of occupation of 50 Martin Place Ancillary Amenities Lot', Definition of 'Licence Fee'	The information redacted is the dollar amount.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the fee to be paid for the Licence, which directly impacts on the costs borne by Macquarie under the OSD PDA;</li> <li>b) the disclosure of the redacted information would provide visibility on Macquarie's cost structure and therefore the level</li> </ul>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>of risk it was prepared to accept and price; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
68.	Schedule A13, 'Terms of occupation of 50 Martin Place Ancillary Amenities Lot', Clause 4.4, 'Public and products liability insurance'	The information redacted is the minimum limit of Macquarie's public and product liability insurance policy or Macquarie's global insurance policy.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the Macquarie's cost structure and would place Macquarie at a substantial commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure for the following reasons:</p> <p>a) the redacted information sets out the minimum amount which the insurance policy (for the Term of the Licence) will need to cover for a single claim;</p> <p>b) the disclosure of the redacted information would provide visibility on Macquarie's cost structure and therefore the level of risk it was prepared to accept and price; and</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
69.	Schedule B1, 'Commercially Sensitive Information'	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information identifies clause, schedule and annexure references in the contract documents and particularises the aspects which Macquarie considers to be its commercially sensitive information; and</p> <p>b) revealing the information would provide an insight into sensitive commercial points for Macquarie and otherwise diminish the competitive commercial value of this information to Macquarie and prejudice its legitimate business, commercial</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			business and commercial interests. There is an overriding public interest against disclosure.	or financial interests. <b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.
70.	Schedule B4, 'Variation Impact Request and Proposal'	The redacted information is a section from the pro forma table	<i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i> The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests. There is an overriding public interest against disclosure.	The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because: a) the redacted information sets out the time period of which the Principal must respond after receiving Macquarie's Variation Impact Proposal for certain Variations under the OSD PDA; b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests. <b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.
71.	Schedule C1, 'OSD Design Parameters'	The information redacted is the diagrams contained in the schedules.	<i>Section 32(1)(c)</i> The disclosure of this information could reasonably be expected to affect public safety or security. <i>Section 32(1)(d), item 2(e) of the table in section 14</i> The disclosure of this information could endanger the	The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of the information because: a) the information redacted sets out floor plans and other design schematics used in the construction of the OSD; b) the redacted information includes information, the disclosure of which may expose security vulnerabilities in the OSD. Revealing the redacted information is therefore expected to endanger the security of, and prejudice the system developer

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>security of, or prejudice any system or procedure for protecting, any place, property or vehicle.</p> <p>There is an overriding public interest against disclosure.</p>	<p>for protecting, the OSD; and</p> <p>c) while there is a public interest in revealing the redacted information, this consideration is outweighed by the concerns above.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
72.	Schedule E1, 'Payment Schedule'	The information redacted is the entire schedule.	<p><i>Section 32(1)(a) (paragraphs (b), (c) and (e) of the definition of "commercial-in-confidence provisions" at section 1 of Schedule 4)</i></p> <p>The disclosure of this information would provide visibility on Macquarie's cost structure, profit margins or full base case financial model and would place Macquarie at a substantial commercial disadvantage in relation to other contractors or potential contractors.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information details the breakdown of the payments to be made under the OSD PDA and is commercial-in-confidence as its disclosure would provide visibility on Macquarie's profit margins in relation to the OSD Works;</p> <p>b) the itemisation of work may also reveal a program which Macquarie has invested a significant amount of time developing, and which Macquarie may want to use in future bids to gain a competitive advantage; and</p> <p>c) disclosure of the redacted information may provide insight on how Macquarie priced and accepted the work for the project. If this information were revealed, it could place Macquarie at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to other contractors who Macquarie may have to negotiate or bid against. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice Macquarie's legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>events and circumstances change.</p>
73.	Schedule E2, 'Termination Payment Schedule'	The information redacted is the entire schedule.	<p><i>Section 32(1)(a) (paragraphs (a), (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4)</i></p> <p>The disclosure of the information could disclose Macquarie's financing arrangements, cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c) and 4(d) of the table in section 14)</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the mechanism for determining termination payments in relation to the Project which has been prepared to reflect unique commercial issues to be accounted for upon termination of the SDD and/or OSD PDA;</li> <li>b) revealing the redacted information would: <ul style="list-style-type: none"> <li>a. provide insight into unique commercial issues affecting the parties as a consequence of termination of the SDD and/or OSD PDA and the parties' apportionment of risk in relation to these issues;</li> <li>b. provide insight into Macquarie's views on its potential capabilities and likelihood of the SDD and/or OSD PDA being terminated; and</li> <li>c. would make readily accessible a unique mechanism developed by the parties to apportion and manage risk in the event of termination, and revealing this information may diminish the value of that information;</li> </ul> </li> <li>c) consequently, revealing the information would place the</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
74.	Schedule E3, 'Insurance policies'	The information redacted is a date.	<p><i>Section 32(1)(d) (items 4(b), 4(c) and 4(d) of the table in section 14)</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information includes the date a Memorandum of Insurance was issued to the Principal, the disclosure of which may prejudice the parties' legitimate business or commercial interests. The public interest has been served by revealing the existence of these documents. In light of this disclosure, there is an overriding public interest against the disclosure of the aforementioned date.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
75.	Schedule E4, 'Value Sharing Payment Schedule'	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out the Value Sharing Payments (and the mechanism for calculation) to be made as part of the</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Sydney Metro Project;</p> <p>b) exposing the redacted information would ultimately reveal the apportionment of risk between the Principal and Macquarie under the OSD PDA; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
76.	Schedule E5, 'Delay Costs'	The information redacted is the entire schedule.	<p><i>Section 32(1)(a) (paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4)</i></p> <p>The disclosure of this information would provide visibility on Macquarie's cost structure or profit margins and would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors.</p> <p><i>Section 32(1)(d) (items 4(b), 4(c) and 4(d) of the table in section 14)</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the mechanism and rates for calculating delay costs under the OSD PDA;</li> <li>b) revealing the redacted information would provide insight into Macquarie's assessment of the risk and commercial impact of delays arising in the course of performing its work, and would also reveal a bespoke mechanism negotiated by the parties;</li> <li>c) if this information were revealed, it could place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the competitive commercial value of the information and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
77.	Schedule E6	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the information redacted would disclose commercially sensitive information on formulas, calculations and entitlements for specific circumstances relating to payment under the OSD PDA and would ultimately expose risk allocation between the Principal and Macquarie under the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
78.	Schedule E7	The information redacted is the entire schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors and contractors and provide visibility on Macquarie's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) exposing the information redacted would disclose commercially sensitive information on formulas, calculations and entitlements for certain Variations under the OSD PDA, and would ultimately expose the risk allocation between the Principal and Macquarie under the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	
79.	Schedule F1, 'Electronic Files'	The information redacted is parts of the Schedule.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(a) (paragraphs (a), (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4)</i></p> <p>The disclosure of the information could disclose Macquarie's financing arrangements, cost structure or profit margins, and would place the contractor at a substantial commercial disadvantage in relation to other contractors or</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information includes:</p> <ul style="list-style-type: none"> <li>a) the date a Memorandum of Insurance was issued to the Principal and the date of Macquarie's 'OSD Program', the disclosure of which may prejudice the parties' legitimate business or commercial interests. The public interest has been served by revealing the existence of these documents. In light of this disclosure, there is an overriding public interest against the disclosure of the aforementioned date;</li> <li>b) documents that form part of Schedule E3, being copies of insurance policies. Revealing the information would make available the terms of the insurance policies for the project, and if the redacted information were to be disclosed, potential contractors/insurance providers may be able to use that information to their advantage in negotiations with the Principal, thereby prejudicing the Principal's negotiating position. Therefore the disclosure of the information could</li> </ul>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>potential contractors.</p> <p><i>Section 32(1)(d) (item 4(d) of the table in section 14)</i></p> <p>The disclosure of the information may prejudice a person's legitimate business or commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>reduce the information's competitive commercial value and prejudice the Principal's legitimate business, commercial or financial interests; and</p> <p>c) documents that form part of Annexure F, being the initial programme. Disclosing the redacted information would provide insight into the level of risk that Macquarie was willing to price and accept in respect of achieving completion of the works by the relevant dates for completion and may provide insight into Macquarie's views on its potential capabilities. Further, it could place Macquarie at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to other contractors who Macquarie may have to negotiate or bid against.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
80.	Annexure B, 'Site access schedule'	The information redacted is the dates and the restrictions upon access, possession, use and the type of work to be carried out.	<p><i>Section 32(1)(d) (paragraph (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4)</i></p> <p>The disclosure of the information may place Macquarie at a substantial commercial disadvantage in relation to other contractors or potential contractors.</p> <p><i>Section 32(1)(d) (items 4(c) and 4(d) of the table in section 14)</i></p> <p>The disclosure of the information may diminish the</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out, in respect of each Area of Construction Site:</p> <ul style="list-style-type: none"> <li>a. Site Access Date;</li> <li>b. restrictions upon access, possession and use; and</li> <li>c. restrictions on type of work.</li> </ul> <p>b) Macquarie has obligations under the OSD PDA with respect to accessing the relevant Construction Site, and other contractors are required to perform works by reference to the redacted dates;</p> <p>c) revealing the redacted information would provide insight into</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>competitive commercial value of information to a person and prejudice a person's legitimate business or financial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Macquarie's programme and the level of risk Macquarie was willing to price and accept. If this information were revealed, it could place Macquarie at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to other contractors who Macquarie may have to negotiate or bid against. Therefore the disclosure of the information could reduce the competitive commercial value of the information to Macquarie and prejudice its legitimate business, commercial or financial interests; and</p> <p>d) the public interest has been served by revealing the remaining balance of the Site Access Schedule.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
81.	Annexure E, 'Expert Determination Agreement – Martin Place Metro Station Project', Clause 11	The information redacted is the names and contact details of individual persons.	<p><i>Section 32(1)(d), item 3(a) of the table in section 14</i></p> <p>The disclosure of this information would reveal an individual's personal information.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because the redacted information is the name and contact details of individual persons.</p> <p>The Principal considers that any public interest in favour of the disclosure is not significantly advanced by the disclosure of this information, and is outweighed by the public interest against the disclosure as identified above.</p>
82.	Annexure F, 'Initial OSD PDA Program'	The information redacted is the dates.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out details regarding the initial OSD PDA program;</p> <p>b) exposing the redacted information would reveal Macquarie's</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>Macquarie's cost structure and would place the parties at a substantial commercial disadvantage in relation to potential competitors.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>work methodology and sequencing for the delivery of the OSD Works which are proprietary to Macquarie; and</p> <p>c) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
83.	Annexure H, 'Sydney Metro Principal Contractor Health & Safety Requirements'	The information redacted is the specific health and safety requirements for the Over Station Development.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <p>a) the redacted information sets out key elements of the risk allocation for health and safety under the OSD PDA; and</p> <p>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
84.	Annexure I, 'Sydney Metro Principal Contractor Health & Safety Standard'	The information redacted is the entire annexure.	<p><i>Section 32(1)(d), item 1(f) of the table in section 14</i></p> <p>The disclosure of this information could prejudice the effective exercise by an agency of the agency's functions.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out key elements of the risk allocation for health and safety under the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors.</li> </ul> <p>Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			interests. There is an overriding public interest against disclosure.	
85.	Annexure J, 'Call Option Deed (North Tower Lot)'	The information redacted is the entire annexure.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out all of the negotiated positions under the Call Option Deed (North Tower Lot) which is specific to the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>
86.	Annexure K, 'Call Option Deed (South Tower Lot)'	The information redacted is the entire annexure.	<p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and</p>	<p>The Principal weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out all of the negotiated positions under the Call Option Deed (South Tower Lot) which is specific to the OSD PDA; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors.</li> </ul>



Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
			<p>prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</p> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>

# ***Government Information (Public Access) Act 2009***

## **Explanatory Table**

### **Contract for the sale and purchase of land – 9-19 Elizabeth Street, Sydney**

In preparing this explanatory table, Sydney Metro ABN 12 354 063 515 (**Purchaser**) has:

- (a) identified the reason(s) under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) for each redaction; and
- (b) weighed each redaction against the following key public interest considerations for disclosure:
  - (i) promoting open discussion of public affairs, enhancing government accountability or contributing to positive and informed debate on issues of public importance;
  - (ii) creating public awareness and understanding on issues of public importance;
  - (iii) enhancing government transparency and accountability;
  - (iv) informing the public about the operations of the agency;
  - (v) ensuring effective oversight of the expenditure of public funds and the best use of public resources; and
  - (vi) ensuring fair commercial competition within the economy.

Item	Clause (and general description)	Information redacted	Reason(s) for redaction under GIPA Act	Public interest considerations
1.	Contract for the sale and purchase of land	The information redacted is the entire contract.	<p><i>Section 32(1)(a), paragraphs (b) and (e) of the definition of "commercial-in-confidence provisions" at clause 1 of Schedule 4</i></p> <p>The disclosure of this information would reveal the vendor's cost structure and would place the vendor at a substantial commercial disadvantage in relation to potential competitors and other contractors and provide visibility on the vendor's profit margins.</p> <p><i>Section 32(1)(d), items 4(b), 4(c) and 4(d) of the table in section 14</i></p> <p>The disclosure of this information could reveal commercial-in-confidence provisions of a government contract, diminish the competitive commercial value of information to a person and prejudice a person's legitimate business and commercial interests.</p> <p>There is an overriding public interest against disclosure.</p>	<p>The purchaser weighed the competing public interest considerations and determined that there was an overriding public interest against disclosure of this information because:</p> <ul style="list-style-type: none"> <li>a) the redacted information sets out the terms on which the vendor was willing to sell the real property the subject of the contract; and</li> <li>b) revealing the information would place the parties at a substantial commercial disadvantage in future projects of a similar nature, as the information would be readily accessible to potential future clients, competitors and contractors. Therefore the disclosure of the information could reduce the information's competitive commercial value and prejudice the parties' legitimate business, commercial or financial interests.</li> </ul> <p><b>Review:</b> This information would be reviewed for disclosure as events and circumstances change.</p>



*Execution version*

# Martin Place Metro Station Project Over Station Development Project Delivery Agreement

Contract No: 507

Sydney Metro

ABN 12 354 063 515

and

Macquarie Group Limited

ABN 94 122 169 279

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**THIS DEED** is made on **12 SEPTEMBER** 2018

**BETWEEN:**

- (1) Sydney Metro ABN 12 354 063 515, a NSW Government agency constituted by section 38 of the Transport Administration Act 1988 (NSW) and located at Level 43, 680 George Street, Sydney NSW 2000 (**Principal**); and
- (2) Macquarie Group Limited ABN 94 122 169 279 of Level 6, 50 Martin Place, Sydney NSW 2000 (**Macquarie**).

**RECITALS:**

- (A) On 16 February 2017, MCH submitted an unsolicited proposal to the NSW Government for the design, construction and completion of:
  - (1) Martin Place Metro Station; and
  - (2) two commercial towers above Martin Place Metro Station.
- (B) On 15 March 2017, the NSW Government invited MCH to enter into negotiations to finalise all outstanding issues in relation to MCH's unsolicited proposal and to enable MCH to submit the Binding Offer.
- (C) On the Commencement Date, the NSW Government accepted the Binding Offer.
- (D) The Principal and Macquarie now wish to enter into this deed to set out the terms and conditions on which Macquarie will:
  - (1) investigate, finance, plan, design, construct, commission and complete the OSD Works;
  - (2) make payments to the Principal as consideration for the rights and benefits granted to Macquarie under this deed; and
  - (3) interface and coordinate its works and activities with the Rail Contractors' Activities and the Station Developer's Activities.
- (E) As between the Principal and Macquarie, the Principal will:
  - (1) grant to Macquarie the right to undertake the Over Station Development;
  - (2) grant to Macquarie a licence over the Construction Site for the purpose of carrying out the OSD Works; and
  - (3) grant call options under each of the Call Option Deed (North Tower Lot) and the Call Option Deed (South Tower Lot), which upon exercise, will result in the transfer of the freehold interest in the Development Lots to the Development Lot Purchaser in accordance with this deed and the Call Option Deed (North Tower Lot) and the Call Option Deed (South Tower Lot).
- (F) The Principal and the Station Developer will separately enter into the Station Delivery Deed in respect of the Martin Place Metro Station.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this deed.

**50 Martin Place Ancillary Amenities Lot** means the stratum lot shown as Lot 2 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed and in which the end of trip facilities for 50 Martin Place, Sydney and the north south concourse link will sit.

**Abandon** means Macquarie ceases to:

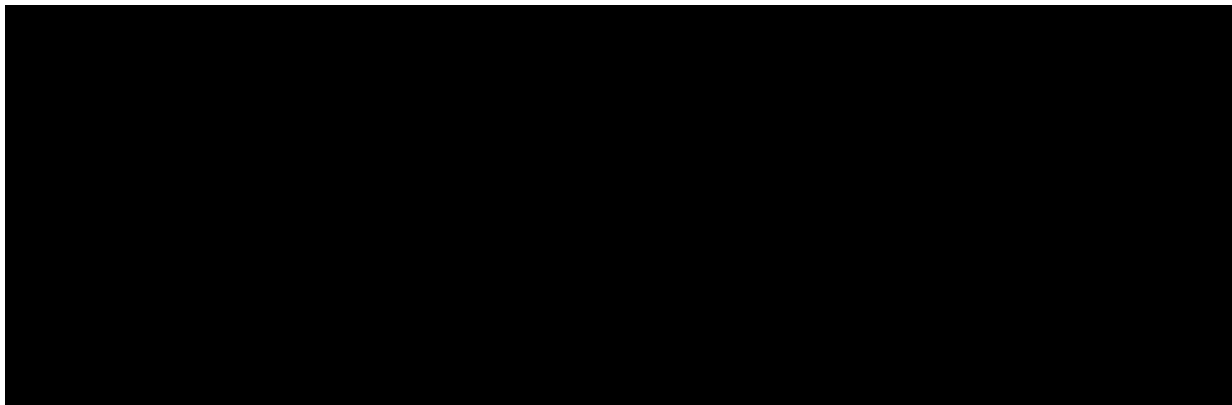
- (a) diligently proceed with procuring the Acceptable Development Consent; or
- (b) proceed with or to have the ability to proceed with:
  - (i) that part of the OSD Works for Separable Portion 1, for 120 consecutive Business Days or a total of 120 Business Days (whether consecutive or not) in any 12 month period (provided that such 12 month period has wholly occurred after the Construction Licence (North Site 2) Commencement Date); and
  - (ii) that part of the OSD Works for Separable Portion 2, for 120 consecutive Business Days or a total of 120 Business Days (whether consecutive or not) in any 12 month period (provided that such 12 month period has wholly occurred after the Construction Licence (South Site) Commencement Date),

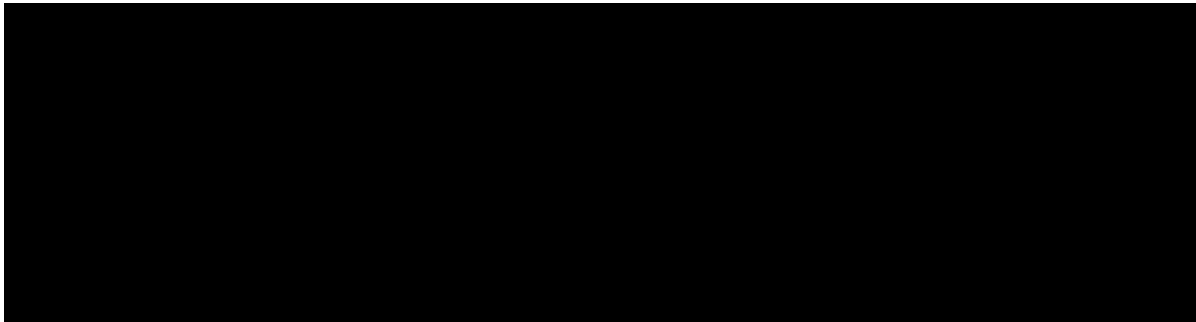
except to the extent that Macquarie is relieved (including by way of an extension of time) of the obligation to do so by the express provisions of this deed. If Macquarie ceases, or is unable, to proceed with the OSD Works in respect of a Separable Portion (as contemplated under paragraph (b) of this definition) due solely to an Insolvency Event of the D&C Contractor, Macquarie cannot be taken to have Abandoned the OSD Works in respect of that Separable Portion provided that Macquarie complies with clause 17.8.

**Acceptable Development Consent** means a Development Consent which does not contain any Unacceptable Consent Conditions, as agreed by the parties or determined in accordance with this deed.

**Accreditation** means accreditation (including provisional accreditation, conditions or restrictions in respect of accreditation or any variation to the accreditation) under Part 3 of the Rail Safety National Law (or an exemption from the same).

**ACICA** means the Australian Centre for International Commercial Arbitration.





**AEO or Authorised Engineering Organisation** means an organisation providing a defined engineering service or product that has been assessed and granted authorised engineering status for Sydney Metro City & Southwest.

**Agreed OSD Program Dates Schedule** means the agreed OSD program schedule set out in Schedule A2.

**Anticipated Date of Practical Completion** has the meaning given to that term in clause 21.1.

**Applicable Cure Period** has the meaning given to that term in clause 32.3(c)(i).

**Application** means an application for any Approval or, if the relevant Authority in respect of that Approval does not require a particular form of application in order to grant that Approval, the plans, specifications or other documents to be submitted to the Authority in connection with any Approval.

**Appointed Principal Contractor** means the D&C Contractor.

**Approval** means any licence, permit, consent, approval, determination, exemption, certificate or permission from any Authority or under any Law, or any requirement made under any Law, which must be obtained or satisfied (as the case may be):

- (a) to perform the obligations of Macquarie under this deed, including to carry out the OSD Works;
- (b) in connection with the Construction Site or the Extra Land;
- (c) for the use and occupation of the OSD Works; and
- (d) otherwise to comply with any relevant Law,

and includes:

- (e) the Planning Approval;
- (f) approvals under the EP&A Act (including any Development Consents, Construction Certificates and Occupation Certificates); and
- (g) any Environment Protection Licence which applies to the OSD Works, if required,

but does not include:

- (h) any Direction given by the Principal or the Principal's Representative pursuant to this deed; or
- (i) the exercise by the Principal of its rights under this deed or any other Project Document.

**Approved Cure Plan** has the meaning given to that term in clause 32.3(c).

**Approved Engineer** means the person or persons engaged from time to time in accordance with clause 18.2 to perform the role set out in clause 18.2(c).

**Approved Engineer's Certificate (Post Completion)** means, in respect of a Separable Portion, a certificate issued by the Approved Engineer under clause 18.2(c)(ii), in the form set out in part C of Schedule A8.

**Approved Engineer's Certificate (Pre Commencement)** means, in respect of a Separable Portion, a certificate issued by the Approved Engineer under clause 18.2(c)(i), in the form set out in part B of Schedule A8.

**Artefact** means any fossils, bones, artefacts, coins, articles of antiquity, structures or other remains or things of scientific, geological, historical or archaeological interest.

**ASA Authorisation** means an authorisation issued by the ASA to a legal entity which verifies that it has the relevant systems in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any specified conditions of the authorisations.

**ASA Charter** means the document which identifies the ASA's objectives, functions, powers and governance and the duties of Public Transport Agencies and AEOs in relation to the ASA (as amended from time to time), a copy of which can be found on [www.asa.transport.nsw.gov.au](http://www.asa.transport.nsw.gov.au).

**ASA Requirements** has the meaning given to that term in the ASA Charter.

**Asset Lifecycle** has the meaning assigned to it in the ASA Charter.

**Asset Lifecycle Services** means the aspects of the OSD Works, if any, which relate to the Asset Lifecycle of Transport Assets.

**Asset Standards Authority** or **ASA** means the independent unit of that name established within TfNSW, the functions of which include setting, controlling, maintaining, owning and publishing the network and asset standards for Transport Assets for the Asset Lifecycle.

**Associate** means:

- (a) in respect of the Principal, the Principal's Representative and any of the employees, agents, contractors or officers of the Principal or the Principal's Representative, but excludes:
  - (i) Macquarie and each person listed in paragraph (b) of this definition;
  - (ii) any Rail Contractor;
  - (iii) the Operator; and
  - (iv) employees, agents, consultants and officers of the persons listed in paragraphs (a)(i) to (a)(iii) (inclusive) of this definition;
- (b) in respect of Macquarie:
  - (i) DevCo;
  - (ii) Macquarie Bank Limited;



- (iii) Macquarie's Subcontractors;
- (iv) the D&C Guarantor;
- (v) the Station Developer and the Station Developer's Associates;
- (vi) the Development Lot Purchaser; and
- (vii) each of the employees, agents, contractors, officers, licensees and invitees of Macquarie and the persons listed in paragraphs (b)(i) to (b)(vi) (inclusive) of this definition,

but excludes any Rail Contractor and its employees, agents, consultants and officers; and

- (c) in respect of a Step-in Party, the Step-in Party's representative and any of the employees, agents, contractors or officers of the Step-in Party or the Step-in Party's representative.

**Assumption Impact Amount** has the meaning given to that term in the Station Delivery Deed.

**Authority** means:

- (a) any governmental, semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality;
- (b) any other person having a right to impose a requirement, or whose consent is required, under Law with respect to any part of the performance of the obligations or the exercise of any right of Macquarie under this deed; or
- (c) any other person having jurisdiction over, or ownership of, any Services or Service Works.

**Bank Bill** means a bill of exchange (under the *Bills of Exchange Act 1909* (Cth)) which has been accepted by any bank authorised under a Law of the Commonwealth or any State to carry on banking business.

**Bank Bill Rate** is, for the relevant period:

- (a) the rate, expressed as a yield percent per annum (rounded downwards to 2 decimal places) quoted as the average bid rate on the Reuters monitor system page BBSY (or any page which replaces that page) at about 10:30am (Sydney time) on the first day of the relevant period, for Bank Bills having a tenor of approximately 90 days; or
- (b) if there is a manifest error in the calculation of the average bid rate under paragraph (a) of this definition or if no average bid rate is published for Bank Bills of that tenor in accordance with paragraph (a) of this definition, the bid rate agreed in good faith by the parties having regard to the rates otherwise bid for Bank Bills having a tenor as described above at or around that time.

**Binding Offer** means the binding offer submitted by Macquarie to the NSW Government on or about [REDACTED] in accordance with the NSW Government's Unsolicited Proposals: Guide for Submission and Assessment dated February 2014.

**Building Management Statement** has the meaning given to that term in the Station Delivery Deed.

**Business Day** means a day on which banks are open for general banking business in Sydney (not being a Saturday, Sunday, public holiday or 27, 28, 29, 30 or 31 December).

**Call Option Deed** means each of the following:

- (a) the Call Option Deed (North Tower Lot);
- (b) the Call Option Deed (South Tower Lot);
- (c) the Call Option Deed (Retail Lot North); and
- (d) the Call Option Deed (Retail Lot South).

**Call Option Deed (North Tower Lot)** means the deed titled "Call Option Deed (North Tower Lot)" between the Principal as grantor and the Development Lot Purchaser (North Tower Lot) as grantee, in substantially the same form as Annexure J.

**Call Option Deed (Retail Lot North)** has the meaning given to that term in the Station Delivery Deed.

**Call Option Deed (Retail Lot South)** has the meaning given to that term in the Station Delivery Deed.

**Call Option Deed (South Tower Lot)** means the deed titled "Call Option Deed (South Tower Lot)" between the Principal as grantor and the Development Lot Purchaser (South Tower Lot) as grantee, in substantially the same form as Annexure K.

**Certificate of Early Occupation Area Practical Completion** means, in respect of a Separable Portion, a certificate issued by Macquarie under clause 22(c)(i) certifying that Early Occupation Area Practical Completion has been achieved.

**Certificate of Practical Completion** means, in respect of a Separable Portion, a certificate issued by the Principal's Representative under clause 21.3(b), or deemed to have been issued under clause 21.3(c)(ii), certifying that Practical Completion of that Separable Portion has been achieved.

**Certificate of Practical Completion (OSD Design Parameters)** means, in respect of a Separable Portion, a certificate issued by the Principal's Representative under clause 21.2(b)(i) certifying that every item shown in the Final Plans and Specifications in respect of the OSD Works comprising the elements of the OSD Design Parameters in that Separable Portion has been completed or installed.

**Chain of Responsibility Provisions** refers to any section of the Heavy Vehicle National Law under which Macquarie is "a party in the chain of responsibility" (within the meaning given to that term under the Heavy Vehicle National Law).

**Chair** means the chairperson of the IDAR Panel as appointed under the IDAR Panel Agreement from time to time.

**Change in Law** means any of the following to take effect on or after the Commencement Date:

- (a) the amendment, repeal or change of an existing Law (other than an Approval);
- (b) a new Law (other than an Approval); or
- (c) a judgment of a court of law which changes a binding precedent.

**Claim** means a claim, action, proceeding or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Clean Energy Regulator** means the Clean Energy Regulator established under the Clean Energy Regulator Act 2011 (Cth).

**Codes of Practice** means a code of practice which has been approved as a code of practice for the purposes of the WHS Legislation.

**Commencement Date** means the date of this deed.

**Commercially Sensitive Information** means the information:

- (a) relating to Macquarie's cost structure or profit margins;
- (b) relating to any of Macquarie's Intellectual Property Rights; or
- (c) which is commercially sensitive in that it provides a competitive advantage or has a unique characteristic to Macquarie or its shareholders or Subcontractors,

and which is described in Schedule B1.

**Commonwealth** means the Commonwealth of Australia.

**Compensation Event** has the meaning given to that term in the Station Delivery Deed.

**Community Communications Strategy** means the Project Plan of that name, as updated from time to time in accordance with clause 6.

**Condition Precedent** means a condition precedent set out in part A of Schedule A1.

**Condition Precedent Deadline Date** means [REDACTED] or such other date as the parties may agree.

**Consent Authority** means, in relation to an Application, the Authority having the function to determine that Application pursuant to Part 4 of the EP&A Act.

**Consequential Loss** means any:

- (a) loss of income, loss of revenue, loss of profit, loss of rent, loss of financial opportunity, loss of business or loss of business opportunity, loss of contract, loss of goodwill, loss of use or loss of production (whether the loss is direct or indirect); or
- (b) direct or indirect financing costs,

whether present or future, fixed or unascertained, actual or contingent.

**Construction and Site Management Plan** means the Project Plan of that name, as updated from time to time in accordance with clause 6.

**Construction Certificate** means, in respect of a Separable Portion, a certificate under section 6.4 of the EP&A Act.

**Construction Completion** has the meaning given to that term in the Station Delivery Deed.

**Construction Licence** means, with respect to each part of the Construction Site, the licence granted by the Principal to Macquarie pursuant to clause 13.1.

**Construction Licence Commencement Date** means, with respect to each part of the Construction Site, the date on which access to that part of the Construction Site is given to Macquarie.

**Construction Licence (North Site 2) Commencement Date** means the date that access to Construction Licence (North Site 2) is given to Macquarie.

**Construction Licence (South Site) Commencement Date** means the date that access to Construction Licence (South Site) is given to Macquarie.

**Construction Materials** means any equipment, plant, materials, fixtures, fittings, furniture, machinery, goods, parts, components and other items incorporated or to be incorporated into the OSD Works.

**Construction Plant** means plant, equipment (including hand-held tools), machinery, apparatus, vehicles, appliances and things used in the carrying out of the OSD Works but not forming part of the OSD Works.

**Construction Site** means:

- (a) from the Commencement Date up to and including the Station Date of Completion, the:
  - (i) Construction Site (North Site 1);
  - (ii) Construction Site (North Site 2); and
  - (iii) Construction Site (South Site); and
- (b) from the day after the Station Date of Completion, the:
  - (i) 50 Martin Place Ancillary Amenities Lot (but only during that period when the Principal is the registered proprietor of that lot);
  - (ii) Construction Site (North Tower Lot); and
  - (iii) Construction Site (South Tower Lot).

**Construction Site (North Site 1)** means the areas identified in section 2 of the Site Access Schedule.

**Construction Site (North Site 2)** means the areas identified in section 3 of the Site Access Schedule.

**Construction Site (South Site)** means the areas identified in section 4 of the Site Access Schedule.

**Construction Site (North Tower Lot)** means the areas identified in section 5 of the Site Access Schedule.

**Construction Site (South Tower Lot)** means the areas identified in section 6 of the Site Access Schedule.

**Construction Site Interface Work** has the meaning given to that term in clause 8.2(a)(ii).

**Consultation** has the meaning given in clause 40.3(e).

**Contamination** means the presence in, on or under land or any other aspect of the Environment of:

- (a) a substance (whether occurring naturally or otherwise) which is at a concentration above the concentration at which the substance (whether occurring naturally or otherwise) is normally present in, on or under land or any other aspect of the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment; or
- (b) a Hazardous Chemical.

**Core Payment 1** means the amount set out in part A.1 of the Payment Schedule.

**Core Payment 1 Instalment 1** means the amount payable by Macquarie to the Principal on the Core Payment 1 Instalment 1 Date as set out in part A.2 of the Payment Schedule.

**Core Payment 1 Instalment 1 Date** means the date referred to as the "Core Payment 1 Instalment 1 Date" set out in item 1 of the Agreed OSD Program Dates Schedule.

**Core Payment 1 Instalment 2** means the amount payable by Macquarie to the Principal on the Core Payment 1 Instalment 2 Date as set out in part A.3 of the Payment Schedule.

**Core Payment 1 Instalment 2 Date** means the date referred to as the "Core Payment 1 Instalment 2 Date" set out in item 2 of the Agreed OSD Program Dates Schedule.

**Core Payment 1 Instalment 3** means the amount payable by Macquarie to the Principal on the Core Payment 1 Instalment 3 Date as set out in part A.4 of the Payment Schedule.

**Core Payment 1 Instalment 3 Date** means the date referred to as the "Core Payment 1 Instalment 3 Date" set out in item 3 of the Agreed OSD Program Dates Schedule.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Corresponding Variation** has the meaning given to that term in clause 26.1(a).

[REDACTED]

**Costs** means all costs, charges and expenses, including those incurred in connection with advisers.

[REDACTED]

**Customers** means all users and potential users of:

- (a) Sydney Metro City & Southwest; and/or
- (b) services associated with Sydney Metro City & Southwest.

**D&C Contract** means each of the D&C Contract (North Tower OSD) and D&C Contract (South Tower OSD).

**D&C Contract (North Tower OSD)** means the document titled "Martin Place Metro Station Project North Tower Over Station Development D&C Contract" entered into between Macquarie Bank Limited and the D&C Contractor on or about the Commencement Date in relation to the North Tower OSD.

**D&C Contract (South Tower OSD)** means the document titled "Martin Place Metro Station Project South Tower Over Station Development D&C Contract" entered into

between DevCo and the D&C Contractor on or about the Commencement Date in relation to the South Tower OSD.

**D&C Contractor** means Lendlease Building Pty Limited ABN 97 000 098 162.

**D&C Delay Cost Cap** has the meaning given to that term in Schedule E5.

**D&C Costs** means:

- (a) the direct costs of the D&C Contractor; and
  - (b) with respect to the D&C Contractor:
    - (i) a reasonable amount on account of the off-site overheads and preliminaries (including administration costs, site supervision, establishment costs, attendance and insurance costs) of the D&C Contractor; and
    - (ii) an amount on account of the profit margin of the D&C Contractor (which must be equal to the D&C Margin),
- not including an amount on account of the off-site overheads, preliminaries and profit margin of Macquarie.

**D&C Delay Costs** means, in respect of a Separable Portion, the net incremental costs of the D&C Contractor that are directly attributable to the delay caused by the Delay Event excluding any direct costs saved or which will be saved or which ought reasonably to have been saved in connection with the delay and excluding any finance costs.

**D&C Guarantor** means [REDACTED]

**D&C Margin** means [REDACTED] of the direct costs.

**D&C Side Deed** means each of the D&C Side Deed (North Tower OSD) and D&C Side Deed (South Tower OSD).

**D&C Side Deed (North Tower OSD)** means the document titled "Martin Place Metro Station Project D&C Side Deed (North Tower OSD)" dated on or about the Commencement Date between the Principal, Macquarie, Macquarie Bank Limited, DevCo, the D&C Contractor and the D&C Guarantor.

**D&C Side Deed (South Tower OSD)** means the document titled "Martin Place Metro Station Project D&C Side Deed (South Tower OSD)" dated on or about the Commencement Date between the Principal, Macquarie, DevCo, Macquarie Bank Limited, the D&C Contractor and the D&C Guarantor.

**Date for Practical Completion** means, in respect of a Separable Portion, the date referred to as the "Date for Practical Completion" set out in item 4 of the Agreed OSD Program Dates Schedule for that Separable Portion, as extended in accordance with this deed or as determined in any dispute resolution proceedings.

**Date for Practical Completion (Payment)** means, in respect of each Separable Portion, the date referred to as the "Date for Practical Completion (Payment)" set out in item 6 of the Agreed OSD PDA Dates Schedule, as extended in accordance with clause 25.2(b).

**Date of Practical Completion** means, in respect of a Separable Portion, the date certified in a Certificate of Practical Completion for that Separable Portion as the date that Practical Completion was achieved or, where another date is determined in any dispute

resolution proceedings as the date upon which Practical Completion of that Separable Portion was achieved, that date.

**Day 1 Clause** means:

- (a) subject to paragraph (b) of this definition, each of clauses 1, 2, 3.2, 3.4, 5, 7, 12.2, 14, 15.1, 15.2, 15.3, 15.3A, 15.8, 15.10, 30.1(a), 30.3-30.8, 30.10-30.11, 31, 34.2, 34.11, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 and any other clauses or schedules required to have commenced in order to give effect to those clauses; and
- (b) in relation to Construction Site (North Site 1) only, any clauses required in order for the parties to exercise their rights and perform their obligations in respect of Construction Site (North Site 1) between the Commencement Date and Financial Close.

**Defect** means any:

- (a) defect, deficiency, fault, error or omission in the OSD Works [REDACTED];
  - (b) cracking, shrinking, movement or subsidence in the OSD Works [REDACTED];
- or
- [REDACTED]

but does not include any damage caused to a Separable Portion after the Date of Practical Completion of that Separable Portion other than damage to the extent caused or contributed to by Macquarie or its Associates.

**Defects Correction Period** means a period of 12 months commencing on:

- (a) in respect of the relevant part of the OSD Works for a Separable Portion, the Date of Practical Completion of that Separable Portion; and
- (b) in respect of any rectification works carried out under clause 23.3(b), the date of completion of those rectification works.

**Defects Notice** has the meaning given to that term in clause 23.2(a).

**Delay Costs** means the aggregate of:

- (a) the D&C Delay Costs; and
- (b) the Delay Costs (Macquarie).

**Delay Costs (Macquarie)** means Macquarie's costs (excluding finance costs) to the extent such costs are additional and reasonable, arm's length third party costs that are directly attributable to the delay caused by the Delay Event, excluding any direct costs saved or which will be saved or which ought reasonably to have been saved in connection with the delay.

**Delay Costs (Macquarie) Cap** has the meaning given to that term in Schedule E5

**Delay Event** means an event referred to in clause 19.6(b).

**Design Documentation** means all:

- (a) design documentation (including design standards, concrete mix designs, design reports, durability reports, specifications, models, samples, prototypes, calculations, drawings, shop drawings, digital records, business rules, system processes and all other relevant data) in electronic, computer readable and written or physical forms, or stored by any other means; and
- (b) computer software (including both source code and object code versions),

which are required for the performance of the OSD Works, or which Macquarie or any other person on behalf of Macquarie creates in relation to the OSD Works.

**Design Review Panel** means the architectural and urban design review panel established as an advisory body to the Principal in relation to Sydney Metro City & Southwest, including any relevant over station development.

**DevCo** means Skylight Dev Co Pty Limited ABN 43 627 172 445.

**Development Application** means an Application for Development Consent to carry out the OSD Works, and any other document submitted by Macquarie to a Consent Authority or to any person acting on behalf of a Consent Authority in connection with that Application or in connection with the process leading to the grant of a Development Consent to carry out the OSD Works.

**Development Consent** means any consent issued under Part 4 of the EP&A Act to carry out the OSD Works and includes:

- (a) the Stage 1 Consent; and
- (b) the Stage 2 Consent.

**Development Lot** means each of the North Tower Lot and the South Tower Lot.

**Development Lot Purchaser** means each of:

- (a) the Development Lot Purchaser (North Tower Lot); and
- (b) the Development Lot Purchaser (South Tower Lot).

**Development Lot Purchaser (North Tower Lot)** means the party defined as the "Investor" in the Call Option Deed (North Tower Lot).

**Development Lot Purchaser (South Tower Lot)** means the party defined as the "Investor" in the Call Option Deed (South Tower Lot).

**Development Lot Sale Contract** means the contract for the sale of a Development Lot between the Principal as vendor and the relevant Development Lot Purchaser as purchaser, in the form attached to the relevant Call Option Deed.

**Development Lots Title Transfer Date** means the date set out in item 5 of the table in the Agreed OSD Program Dates Schedule.

**Direction** means any certificate, decision, demand, determination, direction, instruction, notice, order, rejection, request, requirement or Principal's Representative Statement.

**Dispute** has the meaning given to that term in clause 40.1.

**Draft BMS** has the meaning given to that term in the Station Delivery Deed.

**Draft Cure Plan** has the meaning given to that term in clause 32.3(a)(viii).



**Draft Prevention Plan** has the meaning given to that term in clause 32.4(a).

**Draft Subdivision Plan** has the meaning given to that term in the Station Delivery Deed.

**Early Occupation Area** has the meaning given to that term in clause 22(b)(iii).

**Early Occupation Area Practical Completion** means, in respect of the Early Occupation Works, the point in time at which Macquarie has provided an Occupation Certificate for that part of the Early Occupation Works which has issued and is in force to enable occupation of the Early Occupation Area.

**Early Occupation Works** means any part of the OSD Works to be undertaken in an Early Occupation Area.

**Early Transfer Acknowledgment (Post Completion)** has the meaning given to that term in clause 24.6(d)(ii).

**Early Transfer Notice (Pre Completion)** has the meaning given to that term in clause 24.4(d)(i)(A).

**Emissions and Energy Data** means any data, information, records and reports:

- (a) of the type that a registered corporation or any other person is required by the NGER Legislation to keep or to provide to the Clean Energy Regulator concerning greenhouse gas emissions, energy production or energy consumption;
- (b) of the type that a registered corporation or any other person is entitled to provide to the Clean Energy Regulator under the NGER Legislation concerning reduction of greenhouse gas emissions, removal of greenhouse gases or offsets of greenhouse gas emissions from any greenhouse gas project; and
- (c) concerning environmental emissions or energy production, use, consumption or efficiency of the type that any person is required by any other Law to keep or to provide to any Authority.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Encumbrance** means any interest, right, licence, lease, affectation, encumbrance, easement, covenant or restriction on use registered on title or otherwise created and validly existing from time to time.

**Environment** means components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter and any living organism;
- (d) human-made or modified structures and areas; and

- (e) interacting natural ecosystems that include components referred to in paragraphs (a) to (c) (inclusive) of this definition.

**Environment Protection Licence** or **EPL** means an environment protection licence issued under the Protection of the Environment Operations Act 1997 (NSW).

**Environmental Hazard** means a state of danger to human beings or the Environment whether imminent or otherwise resulting from the location, storage, handling or release of any substance having toxic, corrosive, flammable, explosive, infectious or otherwise dangerous characteristics.

**Environmental Law** means any Law concerning the Environment and includes Laws concerning:

- (a) the carrying out of uses, works or development, the erection of a building or the subdivision of land (including the EP&A Act);
- (b) emissions of substances into the atmosphere and land;
- (c) Pollution and Contamination of the atmosphere and land; and
- (d) production, use, handling, storage, transportation and disposal of:
  - (i) waste;
  - (ii) hazardous substances;
  - (iii) dangerous goods;
  - (iv) threatened, endangered and other flora and fauna species;
  - (v) conservation, heritage and natural resources; and
  - (vi) the health and safety of people,

whether made or in force before or after the Commencement Date.

**Environmental Liability** means any of the following liabilities arising before the expiration or termination of this deed:

- (a) all Costs associated with undertaking the remediation of any Contamination ordered or required by any Authority or court of any land or building;
- (b) any compensation or other monies that an Authority or court requires to be paid to any person under an Environmental Law for any reason;
- (c) any fines or penalties incurred under an Environmental Law;
- (d) all Costs incurred in complying with an Environmental Law; and
- (e) all other Claims or Loss payable under in respect of an Environmental Law.

**Environmental Notice** means any notice (including any notice of an intention to issue an order under the EP&A Act), order or request for information and/or documents issued by an Authority in respect of a matter concerning the Environment.

**EP&A Act** means the Environmental Planning and Assessment Act 1979 (NSW).

**ETS Contractor** has the meaning given to that term in the Station Delivery Deed.

**Event of Default** has the meaning given to that term in clause 32.1.

**Executive Negotiator** means:

- (a) for Macquarie [REDACTED] and [REDACTED]
- (b) for the Principal, the person holding the title of "Chief Executive, Sydney Metro" within Sydney Metro,

(or his or her delegate, who must not be a member of the Project Control Group).

**Existing Encumbrances** means the Encumbrances registered on the title of the Principal's Land and set out in Schedule D1.

**Existing Operations** means:

- (a) all infrastructure (including existing infrastructure, but in respect of infrastructure that is under construction, is limited to infrastructure that is under construction as at the Commencement Date) and Services which:
  - (i) do not form part of any Rail Contractors' Activities or infrastructure that is the subject of a Project Cooperation and Integration Deed (as that term is defined in the Station Delivery Deed); and
  - (ii) are owned, operated or under the control of an Existing Operator; and
- (b) the businesses and operations undertaken by an Existing Operator, on or in the vicinity of the Construction Site.

**Existing Operator** means:

- (a) RailCorp;
- (b) Sydney Trains;
- (c) NSW Trains;
- (d) Ausgrid, being the statutory State owned corporation of that name established under the Energy Services Corporations Act 1995 (NSW);
- (e) Jemena Limited ABN 95 052 167 405;
- (f) Sydney Water Corporation ABN 49 776 225 038;
- (g) State Transit Authority, being the operating agency of TfNSW responsible for, amongst other things, buses in the Sydney CBD;
- (h) Roads and Maritime Services, being the NSW Government agency constituted by section 56 of the Transport Administration Act;
- (i) the Council of the City of Sydney;
- (j) Telstra Corporation Limited ABN 33 051 775 556 and other telecommunication operators;
- (k) owners and occupiers of adjoining properties; or
- (l) any other person:

- (i) who owns, operates or controls any infrastructure (including existing infrastructure, but in respect of infrastructure that is under construction, is limited to infrastructure that is under construction as at the Commencement Date) and Services, which does not form part of any Rail Contractors' Activities or infrastructure that is the subject of a Project Cooperation and Integration Deed (as that term is defined in the Station Delivery Deed); or
- (ii) undertakes any business or operation on or in the vicinity of the Construction Site,

and any of their Related Entities.

**Expert** means the person appointed to determine a Dispute pursuant to clause 40.5.

**Extra Land** means the land and buildings referred to in clause 13.6.

**Final Plans and Specifications** has the meaning given to that term in clause 15.4.

**Financial Close** occurs when the last Condition Precedent to be satisfied (or waived under clause 2.3) has been satisfied (or waived under clause 2.3).

**Financiers** means the providers of any facilities, financial arrangements or accommodation provided from time to time for the purposes of the Project and may, where the context permits, include any agent or trustee of such Financiers.

**Financiers' Side Deed** means:

- (a) the Financiers' Side Deed D&C; and
- (b) the Financiers' Side Deed OSD.

**Financiers' Side Deed D&C** means:

- (a) in respect of Separable Portion 1, a deed to be entered into between the Principal, Macquarie, the Development Lot Purchaser (North Tower Lot), Macquarie Bank Limited, the D&C Contractor, the Financiers and others (if required); and
- (b) in respect of Separable Portion 2, a deed to be entered into between the Principal, Macquarie, the Development Lot Purchaser (South Tower Lot), DevCo, the D&C Contractor, the Financiers and others (if required),

in accordance with clause 38.2.

**Financiers' Side Deed OSD** means:

- (a) in respect of Separable Portion 1, a deed to be entered into between the Principal, Macquarie, the Development Lot Purchaser (North Tower Lot), Macquarie Bank Limited, the Financiers and others (if required); and
- (b) in respect of Separable Portion 2, a deed to be entered into between the Principal, Macquarie, the Development Lot Purchaser (South Tower Lot), DevCo, the Financiers and others (if required),

in accordance with clause 38.2.

**FIRB Act** means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

**Follow-on Contractor** means any entity engaged by the Principal or the Operator to perform one or more of the design, construction, supply, installation, testing or

commissioning of any Follow-on Works on or adjacent to the Martin Place Metro Station Construction Site or Martin Place Metro Station, including the Operator, the Line-wide Contractors and the ETS Contractors.

**Follow-on Contractor Cooperation and Integration Deed** means:

- (a) in relation to the Operator, a deed to be entered into between the Principal, Macquarie, the D&C Contractor and the Operator substantially in the form of part 1 of Schedule A10;
- (b) in relation to any other Line-wide Contractor, a deed to be entered into between the Principal, Macquarie, the D&C Contractor and a Line-wide Contractor (other than the TSE Contractor and the ETS Contractor) substantially in the form of part 2 of Schedule A10; and
- (c) in relation to any other Follow-on Contractor, a deed to be entered into between the Principal, Macquarie, the D&C Contractor and a Follow-on Contractor (as applicable) substantially in the form of the part of Schedule A10 directed by the Principal,

in each case subject to any amendments required to reflect party details, appropriate clause cross-references and other similar changes.

**Follow-on Works** means any works or the provision of any material, plant, equipment, machinery or other infrastructure required for Sydney Metro City & Southwest, other than the TSE Contractor's Activities (as that term is defined in the Station Delivery Deed), the carrying out of the OSD Works and the Station Developer's Activities.

**Force Majeure Event** means any of the following:

- (a) war (declared or undeclared), revolution, insurrection, civil commotion, military action, an act of public enemy or an act of sabotage, in each case occurring within Australia or a Key Plant and Equipment Manufacturing Country;
- (b) a terrorist act as defined in section 3 of the *Terrorism Insurance Act 2003* (Cth) or a declared terrorist incident as defined in section 3 of the *Terrorism Insurance Act 2003* (Cth) occurring within Australia or a Key Plant and Equipment Manufacturing Country;
- (c) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, in each case occurring within Australia and only to the extent not caused by Macquarie or its Associates;
- (d) an earthquake occurring within Australia or a Key Plant and Equipment Manufacturing Country;
- (e) a flood occurring within Australia or a Key Plant and Equipment Manufacturing Country;
- (f) a fire or explosion in each case occurring within Australia or a Key Plant and Equipment Manufacturing Country; or
- (g) a storm, lightning or natural disaster,

which:

- (h) is beyond the reasonable control of Macquarie and its Associates; and

- (i) prevents or delays Macquarie from performing an obligation under this deed, where that event or the consequence of that event does not arise from any act or omission of Macquarie or Macquarie's Associates (including from any breach by Macquarie or its Associates of a Project Document).

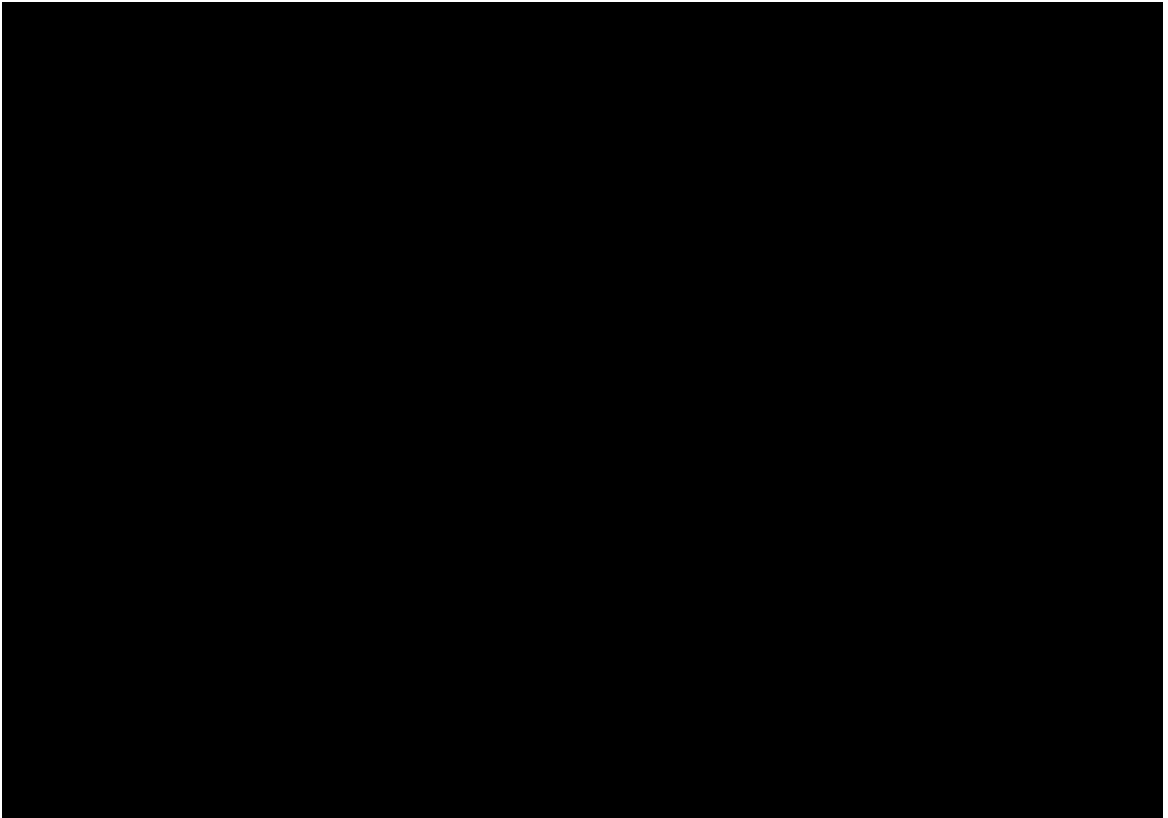
**Freehold Transfer Option 1** has the meaning given to that term in clause 24.1(a).

**Freehold Transfer Option 2** has the meaning given to that term in clause 24.1(b).

**Freehold Transfer Option 3** has the meaning given to that term in clause 24.1(c).

**Functional Design Layout** has the meaning given to that term in the Station Delivery Deed.

**General Liability Cap** means:



**GIPA Act** means the Government Information (Public Access) Act 2009 (NSW).

**Good Industry Practice** means that degree of skill, care, prudence, foresight and practice which would reasonably be expected of a skilled and experienced person, engaged in the same or a similar type of undertaking as that of Macquarie or its Associates, as the case may be, under the same or similar circumstances as the delivery of the OSD Works.

**Green Star Requirements** means the requirements set out in Schedule A4.

**GST** has the meaning it has in the GST Law.

**GST Law** means the same as "GST law" in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Hazardous Chemical** means any substance which would or might reasonably be expected to cause damage or injury to human beings, any property or the Environment and includes any "Hazardous Chemical" as defined in the WHS Legislation.

**Heavy Vehicle National Law** means the Heavy Vehicle National Law (NSW) No. 42a and all associated regulations.

**Heritage Floor Space** has the meaning given to that term in Part 6 of the Sydney LEP.

**IDAR Panel** means the Independent Dispute Avoidance and Resolution Panel constituted under the IDAR Panel Agreement.

**IDAR Panel Agreement** means the agreement in Schedule A11.

**IDAR Panel Agreement Accession Deed Poll** means an accession deed poll substantially in the form of Schedule 1 of the IDAR Panel Agreement.

**Incident** means any of the following incidents or events arising out of or in connection with the carrying out of the OSD Works:

- (a) any work health and safety, environmental or security incident including:
  - (i) a fatality or injury to any person including any incident which must be reported to SafeWork NSW, ONRSR or other work health and safety regulator;
  - (ii) an occurrence or set of circumstances as a consequence of which Pollution to air, noise or land, or an adverse environmental impact, has occurred or is likely to occur;
  - (iii) any fire or dangerous event on the Construction Site or Extra Land;
  - (iv) a security breach;
  - (v) any incident involving the community;
  - (vi) any accidents involving damage to persons or property occurring on or in the vicinity of the Construction Site or any Extra Land or in the supply chain where the Chain of Responsibility Provisions apply;
  - (vii) a non-compliance with an Approval;
  - (viii) any public complaint; or
  - (ix) any incident defined in the Sydney Metro Principal Contractor Health and Safety Standard; or
- (b) any unplanned and/or undesired event which results in or has the potential to result in injury, ill-health, damage to or loss of property, interruption to operations or environmental impairment,

and includes:

- (c) a near miss, breach of procedure, quality failure and/or injuries to contractors and members of the public;
- (d) a "notifiable incident" under the WHS Legislation; and
- (e) a "notifiable occurrence" under the Rail Safety National Law.

## Information Disclaimer

**Information Documents** means any information, data, document or material (in any format or medium including any electronic form and whether oral or written) which is:

- (a) referred to in Annexure B of the Station Delivery Deed;
- (b) issued or made available by, or on behalf of, the Principal, TfNSW or the State to MCH, Macquarie Bank Limited, Macquarie, DevCo or the Station Developer in connection with the Binding Offer, the OSD Works or the Project regardless of whether at the time of issue (or being made available) was expressly classified or stated to be an "Information Document"; or
- (c) referred to, or incorporated by reference, in an Information Document unless such information, data, document or material is otherwise expressly stated to form part of this deed,

whether issued or made available on, before or after the date of execution of this deed, other than any information, data, document or material which the Principal is obliged by the terms of a Project Document to provide to Macquarie and Macquarie is expressly permitted by the terms of a Project Document to rely on.

**Insolvency Event** means, in relation to a person, the occurrence of any of the following events:

- (a) an application is made (other than for a frivolous or vexatious reason) for the winding up or deregistration of a person and, where an application has been made for the dismissal or withdrawal of the application for winding up within 10 Business Days, and the application is not dismissed or withdrawn within 30 Business Days;
- (b) an order is made and not set aside within 10 Business Days for the winding up of a person, except for the purpose of a reconstruction, amalgamation, merger or consolidation where that person is solvent or on terms approved by the Principal before that order is made where the reconstruction, amalgamation, merger or consolidation is implemented in accordance with the terms of the approval;
- (c) a person passes a resolution for its winding up or deregistration, except for the purpose of a reconstruction, amalgamation, merger or consolidation where that person is solvent or on terms approved by the Principal before that resolution is passed where the reconstruction, amalgamation, merger or consolidation is implemented in accordance with the terms of that approval;
- (d) a receiver, receiver and manager, liquidator, provisional liquidator, compulsory manager trustee for creditors or in bankruptcy or analogous person is appointed to take possession of any property of a person and the appointment is not set aside within 10 Business Days;
- (e) the holder of a Security Interest or its agent takes possession of any property of the person or otherwise enforces its Security Interest and is not set aside within 30 Business Days where that enforcement has or is reasonably likely to have a material adverse effect on its ability to perform its obligations under the Project Documents;



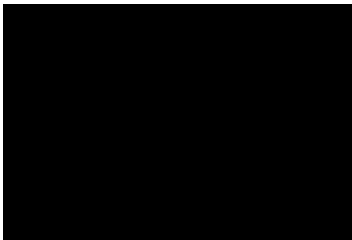
- (f) a person or any other person appoints an administrator to the person and the appointment is not set aside within 10 Business Days;
- (g) a person:
  - (i) suspends payment of its debts (other than as the result of a failure to pay a debt or Claim which is the subject of a good faith dispute);
  - (ii) ceases or threatens to cease to carry on all or a material part of its business where, in the case Macquarie only, that has or is reasonably likely to have a material adverse effect on its ability to perform its obligations under the Project Documents;
  - (iii) is or states that it is unable to pay its debts; or
  - (iv) is deemed insolvent by virtue of its failure to comply with a statutory demand, which is not withdrawn or set aside within 10 Business Days;
- (h) a person enters into a readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition or arrangement with its creditors or members, without the prior consent of the Principal, except for the purposes of a solvent reconstruction or amalgamation; or
- (i) any act is done or event occurs which has an analogous or similar effect to any of the events in paragraphs (a) to (h) of this definition (inclusive) including under any laws of any applicable jurisdiction.

**Insurances** means the insurances required to be effected and maintained under any Project Document.

**Intellectual Property Right** means any statutory and other proprietary right in respect of inventions, innovations, patents, utility models, registered and registrable designs, circuit layouts, mask rights, copyright (including future copyright), confidential information, trade secrets, technical data and know-how, trademarks and any other right in respect of intellectual property as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

**Interim Design and Presentation Plan** means the Project Plan of that name, as updated from time to time in accordance with clause 6.

**Key Plant and Equipment** means the following key plant and equipment required for the construction of the OSD:



**Key Plant and Equipment Manufacturing Country** means [redacted] being the principal countries where Macquarie or its Associates is manufacturing the Key Plant and Equipment.

**Last Date of Practical Completion** means the Date of Practical Completion of the last Separable Portion to achieve Practical Completion.

**Last Date for Practical Completion (Payment)** means the date which is the last Date for Practical Completion (Payment) to occur.

**Law** means common law, principles of equity, and laws made by parliament (and laws made by parliament include state, territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them) and includes any notice issued by, and any requirements of, an Authority.

**Liability** includes any liability of any kind, whether for debt, cost (including legal costs, deductibles or increased premiums), expense, loss, damage, compensation or charge and whether:

- (a) liquidated or not;
- (b) arising from or in connection with any obligation (whether as a principal obligation, a surety or an indemnity);
- (c) legal or equitable, and whether arising under or for breach of contract, in tort (including negligence), restitution or at Law;
- (d) present, prospective or contingent; or
- (e) owed, incurred or imposed by or to or on account of or for the account of any person alone or severally or jointly with another or others.

**Line-wide Contractor** has the meaning given to that term in the Station Delivery Deed.

**Loss** means:

- (a) any Cost, expense, loss, damage, Liability or other amount; and
- (b) without being limited by paragraph (a) of this definition and only to the extent not prohibited by Law, any fine or penalty,

whether direct, indirect, consequential, present, future, fixed, unascertained, actual or contingent.

**Macquarie Bank Limited** means Macquarie Bank Limited ABN 46 008 583 542.

**Macquarie Design Non-compliance Notice** means a notice in writing to the Principal's Representative if Macquarie is of the opinion (acting reasonably and in a bona fide manner) that any aspect of the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs (as applicable):

[REDACTED]

- (b) will not comply with the OSD Design Parameters,

together with:

- (c) such details reasonably necessary for the Principal to consider [REDACTED] or non-compliance with the OSD Design Parameters;
- (d) the relevant aspects of the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs (as applicable) that [REDACTED] will give rise to a non-compliance with the OSD Design Parameters;

- (e) explanations as to how the relevant aspects of the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs (as applicable) [REDACTED] or will give rise to a non-compliance with the OSD Design Parameters; and
- (f) to the extent possible, any proposed amendments required to the relevant aspects of the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs (as applicable) to remove such [REDACTED] non-compliance with the OSD Design Parameters, together with reasons for those amendments.

**Macquarie Financial Holdings** means Macquarie Financial Holdings Pty Limited ABN 63 124 071 398.

**Macquarie Group** means Macquarie and any Related Entity identified in the Macquarie Group Structure as a subsidiary (as defined in section 46 of the Corporations Act) of Macquarie, and any Related Entity which becomes a member of Macquarie Group pursuant to a consent given in accordance with clause 39.2.

**Macquarie Group Structure** means the structure of Macquarie Group as set out in Schedule A3 as at the Commencement Date.

**Macquarie Land** means Lot 1 in Deposited Plan 182023, known as 50 Martin Place, Sydney.

[REDACTED]

**Macquarie OSD Termination Payment** has the meaning given to that term in the Termination Payment Schedule.

**Macquarie Payments** means each of the payments to be made by Macquarie to the Principal in accordance with clauses 25.1 to 25.4 (inclusive).

**Macquarie Termination Event** means any event specified in clause 34.1.

**Macquarie Termination Payment** has the meaning given to that term in the Termination Payment Schedule.

**Macquarie's Representative** means [REDACTED] Project Director or any person appointed by Macquarie as a replacement from time to time, as notified by Macquarie to the Principal in writing.

**Martin Place Metro Station** has the meaning given to that term in the Station Delivery Deed.

**Martin Place Metro Station Construction Site** has the meaning given to the term "Construction Site" in the Station Delivery Deed.

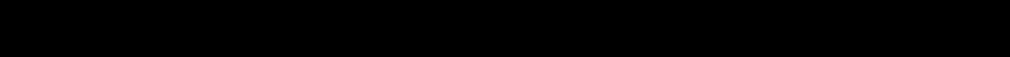

**Martin Place Metro Station Lot** means the stratum lot shown as Lot 5 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed.

**Martin Place Metro Station Works** has the meaning given to the term "Project Works" in the Station Delivery Deed.

**Material** means material in any form (whether visible or not) including documents, recordings on disc or any other form of storage, reports, information, data and includes all releases, updates and amendments to the original material.

**MCH** means Macquarie Corporate Holdings Pty Limited ABN 54 096 705 109.

**Metro Impact**



**Minor Non-Compliances** means a minor error, minor omission or minor non-compliance:

- (a) which:
  - (i) does not:
    - (A) prevent the OSD Works from being fit for their intended purpose; or
    - (B) affect the safety and operation of the Sydney Metro City & Southwest; and
  - (ii) the Principal's Representative determines (acting reasonably) that Macquarie has reasonable grounds for not promptly correcting prior to the certification required to be obtained under this deed; or
- (b) which the parties agree is a Minor Non-Compliance.

**Moral Rights** means any of the rights described in Article 6b is of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under any Law (including the Copyright Act 1968 (Cth) or any Law outside Australia), that exists now or in the future anywhere in the world.

**Native Title Application** means any application made pursuant to the Native Title Act 1993 (Cth) or the Native Title (New South Wales) Act 1994 (NSW).

**NGER Legislation** means the National Greenhouse and Energy Reporting Act 2007 (Cth) and the regulations and any other legislative instruments under that Act.

**Nominated Member** has the meaning given to that term in clause 40.3(b).

**Notice of Dispute (IDAR)** has the meaning given to that term in clause 40.4(b).

**Notice of Dispute (OSD)** means a notice given under clause 40.11.

**Notice of Issue** means a notice given under clause 40.3(a).

**North Tower Lot** means the stratum lot shown as Lot 4 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed and in which the completed North Tower OSD (and any ancillary retail areas, excluding the retail areas within the Retail Lot North) will sit, currently being part of the land described in paragraphs (a), (b), (c), (d) and (g) of the definition of "Principal's Land".

**North Tower OSD** means the development in the North Tower Lot, to be carried out and completed in accordance with this deed.

**NSW Trains** means the body corporate constituted by Part 2B of the Transport Administration (General) Regulation 2005 (NSW).

**Occupation Certificate** means a certificate referred to in section 6.9(1)(a) of the EP&A Act.

**ONRSR** means the Office of the National Rail Safety Regulator constituted under the Rail Safety National Law.

**Operator** means any entity, from time to time, that the Principal engages to perform the OTS2 Project Works (as that term is defined in the Station Delivery Deed).

**Optional Pending Changes** [REDACTED]

**OSD Design Documentation** means each of the following:

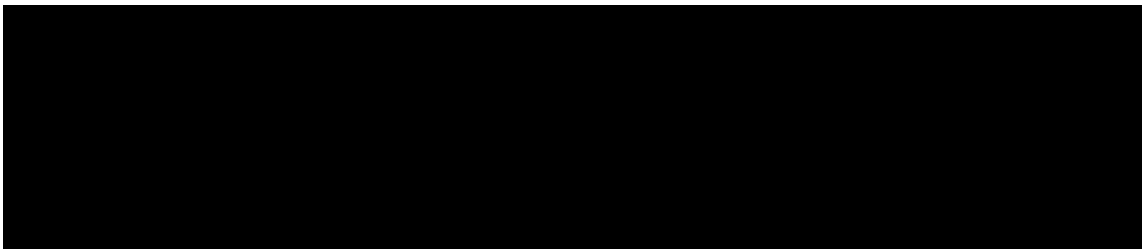
- (a) OSD Design Documentation (CC);
- (b) OSD Design Documentation (FC); and
- (c) Final Plans and Specifications,

and any updates to those documents.

**OSD Design Documentation (CC)** means the Design Documentation in the form attached to this agreement in Annexure G.

**OSD Design Documentation (FC)** has the meaning given to that term in clause 15.3(g)(ii).

**OSD Design Parameters** means, in respect of a Separable Portion, the over station development design parameters relevant to that Separable Portion as set out in Schedule C1.



**OSD Program** means, in respect of a Separable Portion, the detailed program for the design and construction of the OSD Works, as updated from time to time in accordance with clause 19.2(b).

**OSD Support Works** means the works designed and constructed by the Station Developer pursuant to the Station Delivery Deed to provide structural support, services and utilities to each OSD.

**OSD Works** means all works and other activities required to be performed or carried out by Macquarie (or procured by Macquarie) to complete the OSD:

- (a) in accordance with the OSD Works Documents; and
- (b) as required by this deed.

**OSD Works Commencement Date** means, with respect to a Separable Portion, the date specified in Macquarie's notice under clause 17.4(a) for the commencement of the OSD Works for that Separable Portion.

**OSD Works Documents** means each of the following:

- (a) the Approvals; and
- (b) the Final Plans and Specifications.

**Outgoings** means all amounts of any kind whatsoever assessed, incurred or levied on land, including:

- (a) Rates, Taxes and other charges imposed by any Authority;
- (b) Costs for Services and upgrading those Services to comply with any Law; and
- (c) any other Costs necessarily incurred because of ownership of land.

**Over Station Development** or **OSD** means each of the following:

- (a) North Tower OSD; and
- (b) South Tower OSD.

**Payment Schedule** means Schedule E1.

**PDCS** means the Principal's web based TeamBinder project data and collaboration system including any of its functionalities as required by the Principal, or such other electronic project data and collaboration system notified by the Principal's Representative under clause 48(b). For the avoidance of doubt, Macquarie and its Associates will not be responsible for any licensing fee in relation to access to or the use of PDCS.

**Pending Change** [REDACTED]

**Planning Approval** means:

- (a) the SSI Approval, to the extent that the SSI Approval relates to the OSD Works or the Martin Place Metro Station;
- (b) the Development Consents; and
- (c) any other consent, concurrence approval or determination of satisfaction with any matter, which is made, given or issued by an Authority under the Planning

Approvals from time to time in respect of the OSD Works or the Martin Place Metro Station and all conditions of any such consent, concurrence, approval or determination of satisfaction, and includes all documents incorporated by reference to that consent, concurrence, approval or determination as may be modified from time to time.

**Planning Proposal Application** means Macquarie's Application number PP\_2017\_SYDNE\_007\_00 to amend the Sydney LEP to change the maximum building height and maximum floor space ratio development standards and controls applying to the OSD in accordance with Division 3.4 and Division 3.5 of the EP&A Act and amendment 46 to planning proposal – PP\_2017\_SYDNE\_007\_00 to include 50 Martin Place, Sydney in the determination to Application number PP\_2017\_SYDNE\_007\_00.

**Pollution** has the meaning given to that term in the Protection of the Environment Operations Act 1997 (NSW).

**Portion** has the meaning given to that term in the Station Delivery Deed.

**PPS Act** means the *Personal Property Securities Act 2009* (Cth) and the *Personal Property Securities Regulations 2010* (Cth).

**Practical Completion** means, in respect of each Separable Portion, the point in time at which:

- (a) the Principal's Representative has issued the Certificate of Practical Completion (OSD Design Parameters) for that Separable Portion;
- (b) Macquarie has provided the Approved Engineer's Certificate (Post Completion) for that Separable Portion; and
- (c) an Occupation Certificate for all of the OSD Works for that Separable Portion has been issued and is in force to enable occupation of the OSD relevant to that Separable Portion.

**Principal Design Non-compliance Notice** means a notice in writing by the Principal's Representative to Macquarie of a [REDACTED] non-compliance with the OSD Design Parameters, together with the Principal's reasons and any proposed recommendations.

**Principal OSD Termination Payment** has the meaning given to that term in the Termination Payment Schedule.

**Principal Project Documents** means those Project Documents to which the Principal is a party.

**Principal Termination Event** means any event specified in clause 34.4.

**Principal Termination Payment** has the meaning given to that term in the Termination Payment Schedule.

**Principal's Insurances** means a policy or the policies of insurance which the Principal has obtained under clause 30.2(a).

**Principal's Land** means each of the following parcels of land:

- (a) Lot 1 in Deposited Plan 222356, known as 55 Hunter Street, Sydney;
- (b) Lot 1 in Deposited Plan 173027 and Lots 1 and 2 in Deposited Plan 929277, known as 8-12 Castlereagh Street, Sydney;

- (c) Lot 2 in Deposited Plan 548142, known as 5 Elizabeth Street, Sydney;
- (d) all lots comprising Strata Plan 13171, known as 7 Elizabeth Street, Sydney;
- (e) Lot 1 in Deposited Plan 260232, known as Martin Place Shopping Circle, Sydney;
- (f) Lots 1 and 2 in Deposited Plan 1103195, known as 39 Martin Place, Sydney;
- (g) Lot 1 in Deposited Plan 526161, known as 9-19 Elizabeth Street, Sydney;
- (h) Lot 131 in pre-allocated plan number Deposited Plan 1232469; and
- (i) Lot 132 in pre-allocated plan number Deposited Plan 1232469.

**Principal's Representative** means any person appointed by the Principal as the Principal's representative or any replacement from time to time, as notified by the Principal to Macquarie in accordance with clause 4.

**Principal's Representative Statement** means any one of the following statements by the Principal's Representative:

- (a) pursuant to clause 1.2(f) of Schedule A6, a determination as to whether the Project Plan complies with this deed;
- (b) pursuant to clause 19.9, the reasonable period for extension to the Date for Practical Completion of a Separable Portion;
- (c) pursuant to clause 1.2(j) of Schedule A6, a determination of any Minor Non-Compliance and the recommended action (if included in the notice);
- (d) pursuant to clause 1.2(g) of Schedule A6, a request to amend or update a Project Plan;
- (e) a direction issued by the Principal's Representative under clause 18.2(e)(iv);
- (f) a notice issued pursuant to clause 21.2(b)(ii) stating the reasons for not issuing a Certificate of Practical Completion (OSD Design Parameters);
- (g) pursuant to clause 26.1(b), the issuing of a Variation Impact Request [REDACTED]
- (h) a notice issued under clause 27.1(b) [REDACTED] and [REDACTED]
- (i) pursuant to clause 30.9(a)(i), the details required in relation to certificates of currency of the Insurances.

**Progress Report** means each progress report to be submitted by Macquarie under clause 19.12.

**Project** means:

- (a) the financing, planning, design and construction and completion of the OSD by Macquarie; and
- (b) the performance, carrying out, exercise or provision of the obligations and rights of Macquarie under and in accordance with the Project Documents.

**Project Control Group** means the group established in accordance with clause 4.4.



**Project Documents** means:

- (a) this deed;
- (b) the D&C Contract;
- (c) the D&C Side Deed;
- (d) the Sub-OSD PDA;
- (e) each Follow-on Contractor Cooperation and Integration Deed;
- (f) the Master Interface Protocols Deed Poll (as that term is defined in the Station Delivery Deed);
- (g) the IDAR Panel Agreement;
- (h) each of the Call Option Deed (North Tower Lot) and Call Option Deed (South Tower Lot);
- (i) each Development Lot Sale Contract; and
- (j) any document which the Principal and Macquarie agree in writing to be a Project Document,

but does not include the Station Project Documents.

**Project Health and Safety Management Plan** or **PHSMP** means the Project Plan of that name, as updated from time to time in accordance with clause 6.

**Project Plan** has the meaning given to that term in clause 6.1.

**Project Plan Requirements** means the requirements set out in Schedule A6.

**Project Trust** means Skylight Project Trust created by trust deed dated 10 July 2018.

**Project Values** means the values that will guide the delivery of the Project, being:

- (a) safety and wellbeing;
- (b) collaboration;
- (c) integrity;
- (d) innovation;
- (e) excellence; and
- (f) achievement.

**Public Transport Agency** means TfNSW (and each of its divisions), RailCorp, the Principal, Sydney Trains and NSW Trains.

**RailCorp** means Rail Corporation New South Wales, a corporation constituted by section 4(1) of the Transport Administration Act.

**Rail Contractor** has the meaning given to that term in the Station Delivery Deed.

**Rail Contractors' Activities** has the meaning given to that term in the Station Delivery Deed.

**Rail Contractors' Work** has the meaning given to that term in the Station Delivery Deed.

**Rail Infrastructure** means all railway track, railway stations, civil works, associated track structures, over track structures, signalling systems, train control systems, communication systems, equipment, nodes, conduits, ducting, cable, cable support structures and other plant, equipment, buildings or facilities owned, leased or used by the Principal in respect of Sydney Metro City & Southwest.

**Rail Safety National Law** means the Rail Safety National Law (NSW), as defined in the Rail Safety (Adoption of National Law) Act 2012 (NSW), and any associated regulations.

**Rail Safety Regulations** means the regulations made under the Rail Safety National Law or the Rail Safety (Adoption of National Law) Act 2012 (NSW).

**Rail Safety Requirements** has the meaning given to that term in clause 8.6(a).

**Railway Operations** has the meaning given to that term in the Rail Safety National Law.

**Rates** means rates, land taxes, assessments and other charges (including charges for consumption and garbage and waste removal) imposed by any Authority, in respect of land together with any interest, fines and penalties in connection with them.

**Recommendation** has the meaning given in clause 40.4(a).

**Redundant Encumbrances** means the Encumbrances set out in Schedule D4, as updated by the Principal in accordance with clause 14.2(a)(ii)(B).

**Related Body Corporate** means:

- (a) in relation to the Principal, any Public Transport Agency and any other entity controlled by the Secretary of Transport; and
- (b) in relation to any other person, has the same meaning as in the Corporations Act.

**Related Entity** of a corporation means:

- (a) a related body corporate of that corporation within the meaning of section 50 of the Corporations Act; and
- (b) a unit trust in relation to which that corporation directly or indirectly:
  - (i) controls the right to appoint the trustee;
  - (ii) is in a position to control the casting of, more than one half of the maximum number of votes that might be cast at a meeting of holders of units in the trust; or
  - (iii) holds or is in a position to control the disposal of more than one half of the issued units of the trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

**Relevant Plans and Specifications** means, in respect of a Separable Portion, at any relevant time:

- (a) the Final Plans and Specifications;

- (b) if the Final Plans and Specifications are yet to be finalised pursuant to the process in clause 15.3, the OSD Design Documentation (FC); or
- (c) if the Final Plans and Specifications and the OSD Design Documentation (FC) are yet to be finalised pursuant to the process in clause 15, the OSD Design Documentation (CC).

**Remedy** means, in respect of an Event of Default, to remedy or cure the Event of Default or otherwise overcome the consequences of the Event of Default.

**Resolution Institute** means the Resolution Institute Australia.

**Retail Lessee** has the meaning given to that term in the Station Delivery Deed.

**Retail Lot North** means the stratum lot shown as Lot 1 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed.

**Retail Lot South** means the stratum lot shown as Lot 6 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed.

**Retail (North) Lessee** has the meaning given to that term in the Station Delivery Deed.

**Retail (South) Lessee** has the meaning given to that term in the Station Delivery Deed.

**Risk Register** means a register of risks of which Macquarie has notified to the Principal in accordance with clause 36.2.

**Roads Act** means the *Roads Act 1993* (NSW).

**SDD Step-in Event** has the meaning given to the term "Step-in Event" in the Station Delivery Deed.

**SDD Step-in Party** has the meaning given to the term "Step-in Party" in the Station Delivery Deed.

**SDD Step-in Powers** has the meaning given to the term "Step-in Powers" in the Station Delivery Deed.

**SDD Variation** has the meaning given to the term "Variation" in the Station Delivery Deed.

**Security Interest** means any mortgage, charge, pledge, lien, encumbrance, assignment, hypothecation, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person or any interest in relation to personal property provided for by a transaction that in substance secures payment or performance of an obligation or otherwise would be considered to be a "security interest" under section 12(1) of the PPS Act.

**Separable Portion** means either Separable Portion 1 or Separable Portion 2, as the context requires, and "Separable Portions" includes both of them.

**Separable Portion 1** means the OSD Works in relation to the North Tower OSD.

**Separable Portion 2** means the OSD Works in relation to the South Tower OSD.

**Service** means any service utility, service facility or item of public or private infrastructure, including for the provision or measurement of water, electricity, gas, fuel, telephone, drainage, stormwater, sewerage, industrial waste disposal and electronic communications service (including power, electricity, gas, water, sewerage and telecommunications and all pipes, wires, cables, ducts and other conduits in connection with them).

**Service Works** means the construction, modification, or relocation of Services designed and constructed by Macquarie and handed over to an Authority or any other person.

**Signage, Branding and Marketing Guidelines** means the guidelines to be prepared by Macquarie in accordance with clause 29.2.

**Significant Subcontract** means:

- (a) the D&C Contract; and
- (b) any other contract that the parties agree in writing from time to time is a Significant Subcontract.

**Significant Subcontractor** means a party (other than Macquarie) to a Significant Subcontract.

**Site Access Date** means, in respect of a part of the Construction Site, the date specified as a "Site Access Date" for that part of the Construction Site in the Site Access Schedule.

**Site Access Schedule** means Annexure B.

**Site Conditions** are any physical conditions and characteristics of, on, above, below or over the surface, or in the vicinity, of the Construction Site and any Extra Land or their surroundings including:

- (a) Artefacts and any other natural and artificial conditions;
- (b) physical and structural conditions, including old footings, underground structures, buildings, improvements, partially completed structures and in-ground works;
- (c) the OSD Support Works;
- (d) all improvements, including any artificial things, foundations, retaining walls and other structures installed by or on behalf of the Principal or others;
- (e) surface water, ground water, ground water hydrology and the effects of any dewatering;
- (f) any Contamination, Hazardous Chemical or other spoil or waste;
- (g) topography of the Construction Site and any Extra Land, ground surface conditions and geology, including rock and sub-surface conditions or other materials encountered at the Construction Site or Extra Land;
- (h) geological, geotechnical and subsurface conditions or characteristics;
- (i) any underground strata;
- (j) all Services, systems and facilities, above or below ground level and all facilities with which such Services and systems are connected;

- (k) the Environment, water, weather or climatic conditions, or the effects of the Environment, water, weather or climatic conditions, including rain, surface water runoff and drainage, water seepage, wind-blown dust and sand, seasons and physical conditions that are a consequence of weather or climatic conditions;
- (l) any adjoining property; and
- (m) any latent conditions.

**Site Establishment** means site establishment on the Construction Site including installation of site amenities, connection of temporary services and erection of fences.

**South Tower Lot** means the stratum lot shown as Lot 3 in the Draft Subdivision Plan which will be created by way of subdivision pursuant to the Station Delivery Deed and in which the completed South Tower OSD (and any ancillary retail areas, excluding the retail areas within the Retail Lot South) will sit, currently being part of the land described in paragraph (f) of the definition of "Principal's Land".

**South Tower OSD** means the development in the South Tower Lot, to be carried out and completed in accordance with this deed.

**SSI Approval** has the meaning given to the term "Project Planning Approval" in the Station Delivery Deed.

**Stage 1** means the concept design for determining the envelope for the OSD Works and defining the permitted use of the OSD Works.

**Stage 1 Amending Development Application** means application number SSD 18\_9347 lodged on behalf of Macquarie with the Consent Authority in relation to which the environmental impact statement is dated 14 August 2018, and which seeks an amended Stage 1 Consent to align the South Tower OSD's building envelope and floor space ratio with the Sydney LEP published 4 May 2018.

**Stage 1 Consent** means the determination for development application number SSD 17\_8351 granted on 22 March 2018 in respect of Stage 1 in accordance with Part 4 of the EP&A Act, and any Approval for any modification or amendment to it.

**Stage 2** means the detailed design resolution for the OSD Works and to authorise the construction of the OSD Works.

**Stage 2 Application** means an Application lodged by Macquarie with the Consent Authority, seeking a Stage 2 Consent.

**Stage 2 Consent** means a consent granted in respect of Stage 2 in accordance with Part 4 of the EP&A Act, and any modification to it.

**State** means the Crown in right of the State of New South Wales.

**State Indemnified Party** has the meaning given to that term in clause 31.1.

**Station Date of Completion** has the meaning given to the term "Last Date of Completion" in the Station Delivery Deed.

**Station Date of Construction Completion** has the meaning given to the term "Date of Construction Completion" in respect of the last Portion to achieve Construction Completion (as that term is defined in the Station Delivery Deed) in the Station Delivery Deed.

**Station Delivery Deed** means the deed titled "Martin Place Metro Station Project - Station Delivery Deed" (Contract No: 507) entered into between the Principal and the Station Developer on or about the Commencement Date.

**Station Developer** means Macquarie Group Limited ABN 94 122 169 279 at Macquarie Bank, Level 6, 50 Martin Place, Sydney NSW 2000.

**Station Developer's Activities** has the meaning given to the term "Macquarie's Activities" in the Station Delivery Deed.

**Station Developer's Associates** means each person referred to in paragraph (b) of the definition of "Associates" in the Station Delivery Deed.

**Station Project Documents** means each "Project Document" as defined in the Station Delivery Deed.

**Step-in Event** has the meaning given to that term in clause 33.1.

**Step-in Party** means an agent, attorney or nominee of the Principal, and may be more than one person appointed to act jointly.

**Step-in Powers** has the meaning given to that term in clause 33.3.

**Step-in Rights** has the meaning given to that term in clause 33.2(a).

**Sub-OSD PDA** means each of the following:

- (a) Sub-OSD PDA (North Tower OSD); and
- (b) Sub-OSD PDA (South Tower OSD).

**Sub-OSD PDA (North Tower OSD)** means the document titled "Martin Place Metro Station Project Sub PDA (North)" entered into between Macquarie and Macquarie Bank Limited on or about the Commencement Date.

**Sub-OSD PDA (South Tower OSD)** means the document titled "Martin Place Metro Station Project Sub PDA (South)" entered into between Macquarie and DevCo on or about the Commencement Date.

**Subcontract** means an agreement for supply of goods or services (including professional services and plant hire) or both and includes the D&C Contract.

**Subcontractor** means:

- (a) for the purposes of clauses 35.3 and 37.1(c), any person who enters into a contract in connection with the carrying out of the OSD Works with Macquarie, Macquarie Bank Limited or DevCo; and
- (b) otherwise, any person who enters into a contract in connection with the carrying out of the OSD Works with Macquarie, Macquarie Bank Limited or DevCo or whose subcontract is in connection with the carrying out of the OSD Works and is in a chain of contracts where the ultimate contract is with Macquarie, Macquarie Bank Limited or DevCo.

**Surplus Additional Duty** has the meaning given to that term in Schedule E4.

**SWTC** has the meaning given to that term in the Station Delivery Deed.

**SWTC Reliance Provisions** has the meaning given to that term in the Station Delivery Deed.

**Sydney LEP** means the Sydney Local Environmental Plan 2012.

**Sydney Metro** means Sydney Metro ABN 12 354 063 515, a NSW Government agency constituted by section 38 of the Transport Administration Act.

**Sydney Metro City & Southwest** means the railway line from Bankstown to Chatswood, including:

- (a) the upgrade and conversion of the existing Bankstown line to metro standard, the stabling yard and maintenance depot at Marrickville, stations, tunnels, viaduct, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure; and
- (b) the integration of Sydney Metro Northwest to form a single end to end metro system from Cudgegong Road to Bankstown.

**Sydney Metro Northwest** means the railway line from Chatswood to Cudgegong Road, including the stabling yard and maintenance depot at Tallawong Road, the stations, tunnels, viaducts, bridges, earthworks, landscaping, equipment, systems, trackwork and support structures, rolling stock and ancillary infrastructure.

**Sydney Metro Principal Contractor Health & Safety Requirements** means Annexure H.

**Sydney Metro Principal Contractor Health and Safety Standard** means the document referred to as the "Sydney Metro Principal Contractor Health and Safety Standard (SM-PS-ST-221)" annexed as Annexure I, as amended from time to time.

**Sydney Trains** means Sydney Trains, the body corporate constituted by Part 2A of the Transport Administration (General) Regulations 2005 (NSW).

**Taxes** means taxes, levies, imposts, deductions, charges and duties (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them.

**Temporary Works** has the meaning given to that term in the Station Delivery Deed.

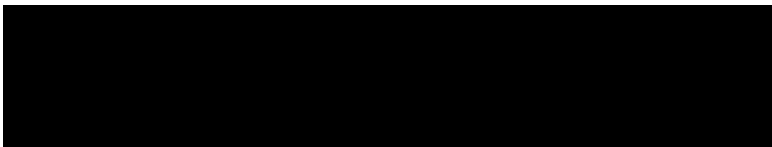
**Termination Payment** has the meaning given to that term in the Termination Payment Schedule.

**Termination Payment Schedule** means Schedule E2.

**Threatened Species** means a threatened species, population or ecological community or the habitat of a threatened species, population or ecological community as regulated by the Threatened Species Conservation Act 1995 (NSW), the National Parks and Wildlife Act 1974 (NSW) or the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

**Threatened Species Claim** means a claim made or legal proceedings commenced in connection with the existence of a Threatened Species.

**Time Relief Cap** means:



[REDACTED]

**Total Delay** means [REDACTED]

**Transport Administration Act** means the *Transport Administration Act 1988* (NSW).

**Transport Assets** has the meaning assigned to it in the ASA Charter.

**Transport for NSW** or **TfNSW** means Transport for NSW ABN 18 804 239 602, a NSW Government agency constituted by section 3C of the Transport Administration Act.

**Treasurer** means the Treasurer of the Commonwealth of Australia.

**TSE Contractor** has the meaning given to that term in the Station Delivery Deed.

**TSE Works Change** has the meaning given to that term in the Station Delivery Deed.

**Unacceptable Consent Condition** means a condition of any Development Consent that satisfies the criteria listed in clause 1 of part B of Schedule A1, and is not an excluded condition for the purposes of clause 2 of part B of Schedule A1.

**Updated Design Docs (CC)** means an updated set of the OSD Design Documentation (CC) proposed to be submitted by Macquarie with the Stage 2 Application.

**Updated Stage 2 DA Design Docs** has the meaning given to that term in clause 15.4(b).

**Value Sharing Instalment** has the meaning given to that term in Schedule E4.

**Value Sharing Payment** has the meaning given to that term in Schedule E4.

**Variation** means any change to the requirements of this deed for the OSD Works, including:

- (a) any addition, reduction, increase to, decrease, omission or deletion from the OSD Works;
- (b) any change to the character or quality, or demolition or removal, of any material or work;
- (c) any change to the levels, lines, positions or dimensions of any part of the OSD Works;
- (d) any change to the sequencing of the OSD Works; or
- (e) changes to the Construction Site.

**Variation Cost** means:

- (a) to the extent a Variation [REDACTED] increases the cost of the OSD Works, the following amounts:
  - (i) the direct costs and on-site overheads and the cost of Construction Materials, reasonably arising out of or in connection with the Variation



(including any increased construction costs) to the extent those costs are reasonable and incurred on an arm's length basis;

(ii) with respect to the D&C Contractor:

(A) a reasonable amount on account of the off-site overheads and preliminaries (including administration costs, site supervision, establishment costs, attendance and insurance costs) of the D&C Contractor; and

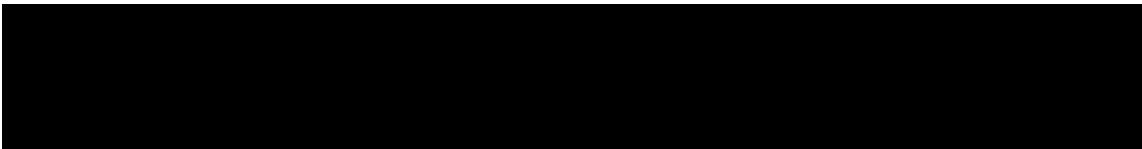
(B) an amount on account of the profit margin of the D&C Contractor (which must be equal to the D&C Margin),

not including an amount on account of the off-site overheads, preliminaries and profit margin of Macquarie;

(iii) a reasonable amount on account for additional third party, arm's length costs incurred by Macquarie but excluding any finance costs and any amount on account of the off-site overheads, preliminaries and profit margin of Macquarie; and

(iv) if the Variation will delay Macquarie in carrying out the OSD Works, the net incremental costs of Macquarie and the D&C Contractor that are directly attributable to the delay caused by the Variation, excluding any direct costs saved or which will be saved or which ought reasonably to have been saved in connection with the delay,

after deducting any Variation Savings arising from the Variation; or



**Variation Impact Proposal** means a proposal issued by Macquarie under clause 26.2.

**Variation Impact Request** means a notice titled "Variation Impact Request" issued by the Principal under clause 26.1.

**Variation Order** means a notice titled "Variation Order" issued by the Principal under clause 26.

**Variation Savings** means:

(a) the savings in the cost of designing and constructing the OSD Works arising out of or in connection with the Variation (including any savings in relation to construction costs and associated on-site overheads); and

(b) with respect to the D&C Contractor:

(i) a reasonable amount on account of savings in the off-site overheads of the D&C Contractor; and

(ii) an amount on account of the profit margin of the D&C Contractor (which must be equal to the D&C Margin),

not including an amount on account of the off-site overheads and profit margin of Macquarie.

**VSP Portion** has the meaning given to the term "Portion" in Schedule E4.

**WHS Legislation** means:

- (a) the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW); and
- (b) any legislation in other states and territories of Australia addressing work health and safety which applies to the OSD Works.

**Wilful Misconduct** means an act or failure to act by a party or its Associates that was intended to cause, or was in reckless disregard of or wanton indifference to, harmful consequences, excluding any innocent act, omission, mistake or error of judgement.

**Working Group** means each working group established pursuant to clause 4.5.

## 1.2 Interpretation

In this deed:

- (a) headings and subheadings are for convenience only and do not affect the interpretation of this deed;

and the following rules apply in interpreting this deed unless the context makes it clear that a rule is not intended to apply:

- (b) person includes an individual, the estate of an individual, a corporation, an Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (d) a reference to a person, entity or contractor includes that person, entity or contractor's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (f) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (g) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (h) a reference to a document, contract or agreement is to that document, contract or agreement as varied, novated, ratified or replaced from time to time;
- (i) a reference to any Authority, institute, association or body is:
  - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and

- (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or object as that Authority, institute, association or body;
- (j) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:
  - (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
  - (ii) any consolidations, amendments, re-enactments and replacements;
- (k) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (l) a reference to:
  - (i) a part, schedule, exhibit, attachment or annexure is a reference to a part, schedule, exhibit, attachment or annexure to or of this deed; and
  - (ii) this deed includes all schedules, exhibits, attachments and annexures to it;
- (m) a reference in:
  - (i) this deed to a clause is a reference to a clause of this deed; and
  - (ii) a schedule, exhibit, attachment, annexure or appendix to a clause, paragraph or annexure, is a reference to a clause, paragraph or annexure of that schedule, exhibit, attachment, annexure or appendix;
- (n) any reference to:
  - (i) the OSD Works or any aspect of the Project;
  - (ii) the OSD Design Parameters;
  - (iii) design and related documentation (including Design Documentation and Project Plans); or
  - (iv) any other document or thing,
 or any part of any of them:
  - (v) being or remaining fit for its purpose or for its intended purpose; or
  - (vi) as having an intended use,
 (or any similar reference) will be read as referring to the purpose, intended purpose or intended use prior to and at the Date of Practical Completion of the relevant Separable Portion having regard to:
  - (vii) the intention that is described in the OSD Design Parameters and the OSD Design Documentation (CC); and
  - (viii) any purpose, intended purpose or intended use stated in, contemplated by or reasonably ascertainable from:
    - (A) this deed, including:

- (aa) the objectives referred to in clause 3.1 and clause 3.2; and
  - (bb) the requirement that the OSD Works, when completed, will be designed and constructed in compliance with all health and safety requirements of the WHS Legislation; or
- (B) (to the extent relevant for determining the purpose, intended purpose or intended use in connection with a Variation) any document provided by the Principal to Macquarie specifically in connection with the Variation (excluding any Information Documents);
- (o) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - (p) **includes** in any form is not a word of limitation;
  - (q) a reference to **\$** or **dollar** is to Australian currency;
  - (r) a reference to **construction** includes development, manufacture, supply, installation, integration, testing and commissioning;
  - (s) any reference to **information** will be read as including information, representations, statements, data, samples, bore logs, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;
  - (t) any obligation of Macquarie under this deed with respect to a **Project Plan** will be read as an obligation with respect to the version of the relevant Project Plan last submitted by Macquarie to the Principal's Representative under clause 6, in respect of which the Principal's Representative has not rejected within the review period specified in this deed or the Station Delivery Deed (as applicable);
  - (u) anything (including an amount) is a reference to the whole and each part of it and the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
  - (v) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
  - (w) words and terms defined in the GST Law have the same meaning in clauses concerning GST;
  - (x) if a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled;
  - (y) references to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled;
  - (z) a time of day is a reference to Sydney time; and
  - (aa) any obligation of Macquarie under this deed to mitigate will be read as an obligation to mitigate having regard to Macquarie's obligations under this deed.

### 1.3 Resolution of ambiguities

- (a) The following order of precedence applies in the event of any ambiguity, discrepancy or inconsistency in, or between, the documents comprising this deed:
- (i) if the ambiguity, discrepancy or inconsistency is in or between the documents comprising this deed, the documents will be given precedence in accordance with the following:
    - (A) this deed (excluding the schedules and annexures to this deed); and
    - (B) the schedules and annexures to this deed;
  - (ii) if the ambiguity, discrepancy or inconsistency is in or between the Design Documentation, the documents will be given precedence in accordance with the following:
    - (A) the OSD Design Parameters;
    - (B) the Final Plans and Specifications;
    - (C) the OSD Design Documentation (FC); and
    - (D) the OSD Design Documentation (CC);
  - (iii) to the extent clauses 1.3(a)(i) and 1.3(a)(ii) do not apply or resolve the ambiguity, discrepancy or inconsistency and the ambiguity, discrepancy or inconsistency relates to the required quality or standard of the OSD Works, Macquarie must comply with the highest quality or standard specified or perform the more onerous obligation; and
  - (iv) to the extent clauses 1.3(a)(i), 1.3(a)(ii) and 1.3(a)(iii) do not apply or resolve the ambiguity, discrepancy or inconsistency and the ambiguity, discrepancy, or inconsistency is between figured and scaled dimensions, figured dimensions will prevail over the scaled dimensions.
- (b) The documents comprising this deed are to be regarded as mutually explanatory and anything contained in one but not the others will be equally binding as if contained in all of them.
- (c) If an ambiguity, discrepancy or inconsistency is discovered by Macquarie, Macquarie must notify the Principal within 5 Business Days after such discovery.
- (d) The Principal's Representative must, within 10 Business Days after receipt of a notice under clause 1.3(c), instruct Macquarie as to the interpretation to be followed so as to resolve the ambiguity, discrepancy or inconsistency in accordance with the rules set out in this clause 1.3.

### 1.4 No bias against drafter

No provision of this deed is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.

### 1.5 Business Day

If the day on or by which anything is to be done under this deed is not a Business Day, that thing must be done no later than the next Business Day.

1.6 **Excluding liability**

Any provision of this deed which seeks to limit or exclude a liability of a party is to be construed as doing so only to the extent permitted by Law.

1.7 **Severability**

If, at any time, any provision of this deed is or becomes void, illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, then:

- (a) that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or
  - (ii) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this deed; and
- (b) the provision will be construed in a manner which:
  - (i) avoids the provision being void, illegal, invalid or unenforceable; and
  - (ii) subject to clause 1.7(b)(i), preserves to the maximum possible extent:
    - (A) the enforceability of the provision and the provisions of this deed; and
    - (B) the original effect and intent of this deed.

1.8 **Authorities**

- (a) The Principal Project Documents will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of:
  - (i) the Principal or any other Public Transport Agency to exercise any of their respective functions and powers pursuant to any Law; or
  - (ii) the ASA to exercise any of its functions and powers pursuant to the ASA Charter.
- (b) Without limiting clause 1.8(a), anything the Principal, any other Public Transport Agency or the ASA does, or fails to do or purports to do, pursuant to their respective functions and powers either as an AEO or an Authority or under any Law or pursuant to the ASA Charter, will be deemed not to be an act or omission by the Principal, the Public Transport Agency or the ASA for the purposes of this deed (including a breach of contract) and will not entitle Macquarie to make any Claim against the Principal.
- (c) Clauses 1.8(a) and 1.8(b) do not limit any liability which the Principal would have had to Macquarie under this deed as a result of a breach by the Principal of a term of this deed but for clauses 1.8(a) and 1.8(b).
- (d) Macquarie acknowledges that:
  - (i) there are many Authorities (other than the Principal) with jurisdiction over aspects of the OSD Works, parts of the Construction Site and other areas affected by the OSD Works (including Extra Land);

- (ii) such Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the OSD Works or the Project generally; and
- (iii) except to the extent expressly stated otherwise in a Project Document, Macquarie bears the risk of all occurrences of the kind referred to in this clause 1.8(d) and will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with such occurrences.

#### 1.9 **Best or reasonable endeavours**

If the Principal is required under the terms of this deed to exercise best or reasonable endeavours, Macquarie acknowledges that:

- (a) unless otherwise expressly stated in this deed, the Principal will only be obliged to bring about the relevant outcome to the extent that it is reasonably able to do so, having regard to its resources and other responsibilities;
- (b) unless otherwise expressly stated in this deed, the Principal is not obliged to make any payment to Macquarie or any other parties;
- (c) the Principal cannot guarantee the relevant outcome; and
- (d) the Principal, by undertaking to exercise best or reasonable endeavours, does not agree to:
  - (i) interfere with or influence the exercise by any person of a statutory power or discretion;
  - (ii) exercise a power or discretion or otherwise act in a manner that promotes the objectives and expected outcomes of the Project Documents if the Principal regards that exercise as not in the public interest;
  - (iii) develop policy or legislate by reference only or predominantly to the objectives and expected outcomes of the Project Documents;
  - (iv) procure legislation in the future in a manner that is only consistent with the objectives and expected outcomes of the Project Documents; or
  - (v) act in any other way that the Principal regards as not in the public interest.

#### 1.10 **Macquarie's Associates**

If this deed prohibits Macquarie from doing a thing, then Macquarie must:

- (a) do everything reasonably necessary to ensure that Macquarie's Associates do not do that thing; and
- (b) not authorise or cause any person to do that thing.

#### 1.11 **Separable Portions**

Despite any other provision of this deed, the parties agree that:

- (a) all relevant provisions of this deed will apply separately to each Separable Portion and references to "OSD Works" means so much of the OSD Works as is comprised in the relevant Separable Portion;

- (b) if a Separable Portion has achieved Practical Completion, Macquarie must continue to comply with its obligations under this deed to carry out the balance of the OSD Works in order to achieve Practical Completion of the remaining Separable Portion in accordance with this deed; and
- (c) clause 31.6 does not apply to each Separable Portion.

#### 1.12 **Electronic files**

Where this deed refers to an electronic file on a separate disc or other electronic storage device which forms part of this deed, those electronic files are contained in the disc or other electronic storage device identified in Schedule F1.

## 2. **CONDITIONS PRECEDENT**

### 2.1 **Conditions Precedent**

This deed will not commence unless and until each of the Conditions Precedent has been satisfied (or waived under clause 2.3), except for the provisions contained in the Day 1 Clauses, which will commence on the Commencement Date.

### 2.2 **Satisfaction of Conditions Precedent**

- (a) The Principal must use all reasonable endeavours to satisfy each Condition Precedent which is expressed to be included for the benefit of Macquarie (or Macquarie and the Principal) by the Condition Precedent Deadline Date.
- (b) Macquarie must use all reasonable endeavours to satisfy each Condition Precedent which is expressed to be for the benefit of the Principal (or the Principal and Macquarie) by the Condition Precedent Deadline Date.
- (c) When a party is of the opinion that a Condition Precedent has been satisfied, it must promptly give the other party written notice of its opinion.
- (d) The party receiving a written notice given under clause 2.2(c) must, within 10 Business Days after receipt of the notice under clause 2.2(c), notify the other party in writing whether or not it agrees that the Condition Precedent has been satisfied, such agreement not to be unreasonably withheld.
- (e) If the party receiving a notice given under clause 2.2(c) fails to give the other party a written notice under clause 2.2(d) within the 10 Business Day period under clause 2.2(d), the Condition Precedent will be deemed to have been satisfied.
- (f) Upon the satisfaction (or waiver under clause 2.3) of all Conditions Precedent, the parties must promptly give each other a written notice acknowledging that Financial Close has occurred.

### 2.3 **Waiver of Conditions Precedent**

A Condition Precedent is waived if, and only if:

- (a) where the Condition Precedent is included for the benefit of a particular party, that party gives notice in writing of the waiver of the Condition Precedent to the other party; and
- (b) where the Condition Precedent is included for the benefit of both parties, both parties agree in writing to waive the Condition Precedent.



## 2.4 **Condition Precedent Deadline Dates**

- (a) If a Condition Precedent has not been satisfied (or waived under clause 2.3) by 11.59 pm on the Condition Precedent Deadline Date, then the party listed as the "Benefiting Party" in part A of Schedule A1 in respect of that Condition Precedent (or, if both parties are the "Benefiting Party" in respect of that Condition Precedent, either party) may give notice in writing to the other party that it is terminating this deed if the Condition Precedent in question is not satisfied (or waived under clause 2.3) within the period specified in its notice (which must not be less than 5 Business Days).
- (b) If a party gives notice under clause 2.4(a) and the Condition Precedent in question is not satisfied (or waived under clause 2.3) within the period specified in that notice (or such longer period as the parties may agree) then this deed will terminate upon the expiry of that period.
- (c) If this deed is terminated pursuant to this clause 2.4 then:
  - (i) clause 34.11 and clause 2 of the Termination Payment Schedule will apply and no party will have any other Claim against any other party under or in respect of any Principal Project Document, except for any Claim arising from or in relation to a breach of any Day 1 Clause; and
  - (ii) the parties acknowledge that where an amount referred to in clause 2 of the Termination Payment Schedule has been paid under the Station Delivery Deed, that payment is a payment in respect of the termination of both the Station Delivery Deed and this deed and no further amount will be payable under this deed in respect of that amount.

## 3. **OBJECTIVES AND RISKS**

### 3.1 **Objectives for Sydney Metro City & Southwest**

The parties acknowledge that Martin Place Metro Station will form part of Sydney Metro City & Southwest and that the Principal's strategic objectives for Sydney Metro City & Southwest are to:

- (a) improve the quality of the transport experience for Customers;
- (b) serve and stimulate urban development; and
- (c) implement a feasible solution recognising impacts, constraints and delivery risk.

Each party will, subject to and in accordance with this deed, perform its obligations under this deed having regard to the achievement of these objectives.

### 3.2 **Project objectives**

- (a) The Principal's objectives for the Project are to:
  - (i) complete Martin Place Metro Station so as to enable Sydney Metro City & Southwest to commence operation, with the OSD substantially or fully complete at the time Sydney Metro City & Southwest commences operation;
  - (ii) maximise the city building opportunities with the OSD Works, delivering a cohesive and integrated precinct, seamlessly connecting the OSD Works with the Martin Place Metro Station, Sydney Trains Martin Place Station, Martin Place and the new retail and street level precincts;

- (iii) provide a Customer experience with a high quality Martin Place Metro Station as part of an integrated station and over station development which is safe, easy to use and highly accessible;
- (iv) ensure that the OSD Works do not adversely impact on the completion of the Martin Place Metro Station or adversely impact on the commencement and continued operation of the Sydney Metro City & Southwest and persons using and operating the Martin Place Metro Station;
- (v) ensure that the Project is integrated with certain elements of the Martin Place Metro Station and the Martin Place Metro Station Lot and, accordingly, the Project, including the on-going use and occupation of the OSD, must take into account and not adversely impact on the design, construction, operation and maintenance of Sydney Metro City & Southwest;
- (vi) deliver the OSD Works in a collaborative and cooperative manner, including by working closely with the Rail Contractors so that the project participants can ensure the timely and effective delivery of Martin Place Metro Station and Sydney Metro City & Southwest;
- (vii) minimise impacts on the Environment, including but not limited to noise and vibration, air quality, traffic and transport, heritage, waste, water and energy management and embodied environmental impacts;
- (viii) maximise opportunities in relation to social sustainability, including workforce development and local procurement; and
- (ix) minimise disruption, delay and inconvenience to the affected public, road and public transport users, adjacent businesses, stakeholders and the community during the construction of the OSD Works,

**(Principal's Objectives).**

- (b) Macquarie's objectives for the Project include to:
  - (i) create, develop and deliver commercial office towers containing premium grade services, taking into account the proposed presence of the Martin Place Metro Station;
  - (ii) deliver a development that is integrated with and complements 50 Martin Place, Sydney, as well as Martin Place itself, given the significance (both historical and in the future) of Martin Place as a key component of each of Sydney, New South Wales and Australia;
  - (iii) deliver a development that is integrated with the proposed Martin Place Metro Station, and which enhances and complements the proposed station so as to create a mixed use precinct, combining commercial, retail and public transport components;
  - (iv) create, develop and deliver a global headquarters campus for Macquarie Bank Limited, integrated with Macquarie Bank Limited's existing property at 50 Martin Place, Sydney and which enables Macquarie Bank Limited and its Related Entities to attract and retain the best talent;
  - (v) allow certainty of continued tenure and uninterrupted operations for Macquarie Bank Limited and its Related Entities at Macquarie Bank Limited's leasehold premises at Shelley Street, Sydney and No.1 Martin Place, Sydney; and

- (vi) take market acceptable risks and achieve a market risk return in connection with the Project and the OSD, while realising the commercial viability of the OSD as a real estate investment opportunity,

**(Macquarie's Objectives).**

- (c) Each party will, subject to and in accordance with this deed, perform its obligations under this deed, having regard to the achievement of the objectives in this clause 3.2.
- (d) The parties agree that, to the extent there is an inconsistency between the Principal's Objectives and Macquarie's Objectives:
  - (i) Macquarie must notify the Principal of the inconsistency within 5 Business Days of discovery of the inconsistency;
  - (ii) the parties will seek creative and collaborative solutions wherever possible to resolve the inconsistency; and
  - (iii) if the inconsistency cannot be resolved by both parties (acting reasonably) within 10 Business Days after receipt of a notice under clause 3.2(d)(i), the Principal's Representative will instruct Macquarie as to the interpretation to be followed to resolve the inconsistency.

**3.3 Customer is at the centre**

- (a) Macquarie acknowledges the Principal's vision statement, namely that "The Customer is at the centre of everything we do in transport".
- (b) Each party will, subject to and in accordance with this deed, perform its obligations under this deed, having regard to this vision statement.

**3.4 Achievement of Project Values**

The parties:

- (a) acknowledge that adherence to and upholding of the Project Values is of fundamental importance to the Principal; and
- (b) agree to:
  - (i) adhere to and uphold the Project Values; and
  - (ii) work collaboratively in a spirit of mutual trust and cooperation in the performance of their obligations under this deed.

**3.5 Macquarie's primary obligations**

Without limiting Macquarie's obligations under this deed, Macquarie must:

- (a) commission, finance, or procure the financing of, the OSD Works;
- (b) obtain all Approvals for the OSD Works;
- (c) design, construct and complete the OSD Works;
- (d) pay or procure the payment of the Macquarie Payments to the Principal;

- (e) not prevent access to, from and between Martin Place Metro Station from the Station Date of Completion, including by providing safe and convenient public access at all times; and
- (f) not interfere with the operation of the Martin Place Metro Station in carrying out the OSD Works,

subject to, and in accordance with, this deed, the Call Option Deed (North Tower Lot) and the Call Option Deed (South Tower Lot).

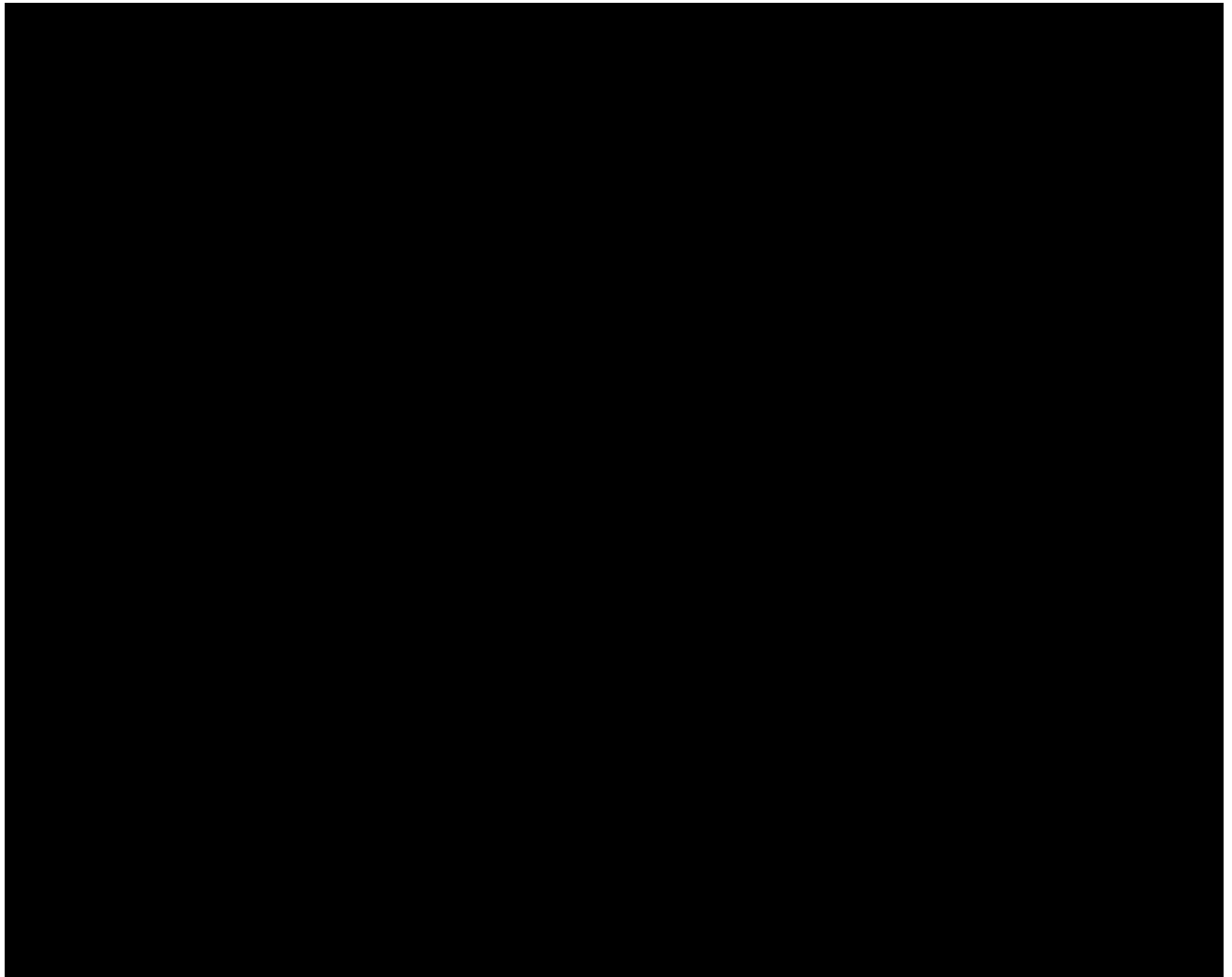
### 3.6 **Principal's primary obligations**

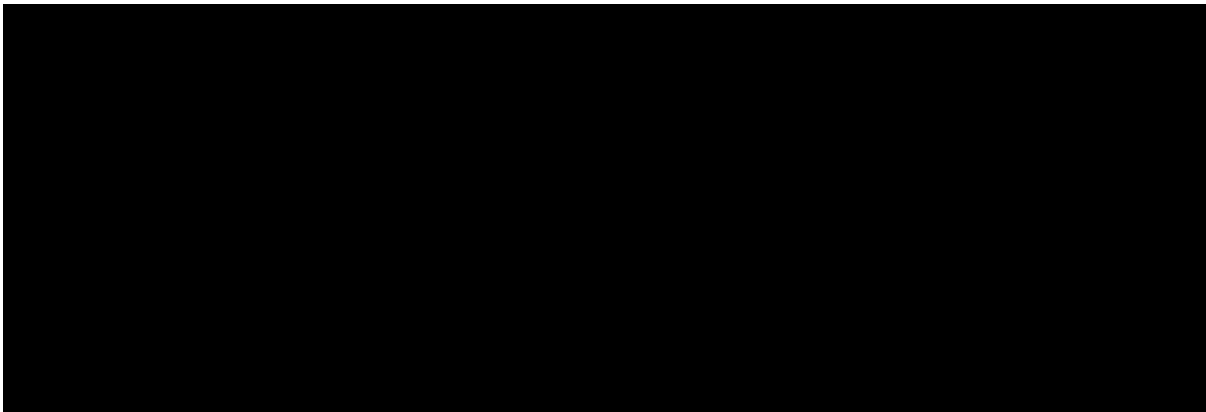
Without limiting the Principal's obligations under this deed, the Principal must:

- (a) grant Macquarie the Construction Licence; and
- (b) upon exercise of the Call Option Deed (North Tower Lot) or Call Option Deed (South Tower Lot), transfer the freehold interest in the relevant Development Lot to the relevant Development Lot Purchaser in consideration for the relevant Macquarie Payment,

subject to, and in accordance with, this deed and, in relation to clause 3.6(b) only, this deed, the Call Option Deed (North Tower Lot) and the Call Option Deed (South Tower Lot) (as applicable).

### 3.7 **Project risks**





3.8 **Change in Law**

- (a) Subject to the Call Option Deed (North Tower Lot), the Call Option Deed (South Tower Lot), each Development Lot Sale Contract and clause 8.6, Macquarie acknowledges and agrees that it accepts all risk in relation to any Change in Law.
- (b) If there is a Change in Law, Macquarie must:
  - (i) within 15 Business Days after Macquarie becomes aware of, or ought reasonably to have become aware of, the Change in Law, give written notice to the Principal's Representative setting out the details of the Change in Law and the expected impact on the OSD Works; and
  - (ii) subject to clause 8.6, comply with the Change in Law at its Cost and ensure that all of Macquarie's Associates comply with the Change in Law.
- (c) Subject to clause 8.6, Macquarie will not be entitled to claim an extension of time if the OSD Works are delayed by reason of a Change in Law.

3.9 **Principal's rights do not affect risk allocation**

- (a) The Principal has various rights under the Project Documents which are designed to give the Principal the ability to monitor the performance of Macquarie's obligations. Those rights include:
  - (i) the right to review Project Plans, OSD Design Documentation, the OSD Program, Progress Reports and other documents which Macquarie must submit to the Principal (Macquarie Submissions); and
  - (ii) rights to inspect, monitor or audit the OSD Works.
- (b) Neither the exercise of, nor the failure to exercise, such rights will:
  - (i) relieve Macquarie from, or alter or affect, Macquarie's liabilities, obligations or responsibilities whether under a Project Document or otherwise according to Law;
  - (ii) prejudice or limit the Principal's rights against Macquarie whether under a Project Document or otherwise according to Law; or
  - (iii) without limiting clause 3.9(b)(ii), preclude the Principal from subsequently asserting that Macquarie has not fulfilled its obligations whether under a Project Document or otherwise according to Law.
- (c) Without limiting clause 3.9(b):

- (i) neither the Principal nor the Principal's Representative assumes or owes any duty of care to Macquarie to review, or if it does review, in reviewing, any Macquarie Submissions for errors, omissions or compliance with the Project Documents;
- (ii) no review of, comments on, or notice in respect of, or any failure to review, comment on or give any notice in respect of, any Macquarie Submissions will:
  - (A) relieve Macquarie from, or alter or affect, Macquarie's liabilities, obligations or responsibilities whether under a Project Document or otherwise according to Law;
  - (B) prejudice or limit the Principal's rights against Macquarie whether under a Project Document or otherwise according to Law;
  - (C) constitute an instruction to accelerate, disrupt, prolong or vary any of the OSD Works; or
  - (D) affect the time for the performance of the Principal's obligations;
- (iii) Macquarie will not be relieved from compliance with any of its obligations under a Project Document or from any of its liabilities whether under a Project Document or otherwise according to Law as a result of:
  - (A) compliance with any Project Plan;
  - (B) any audits or other monitoring by the Principal of Macquarie's compliance with any Project Plan; or
  - (C) any failure by the Principal, or anyone acting on behalf of the Principal, to detect any non-compliance including where any failure arises from any negligence on the part of the Principal or such other person;
- (iv) neither the Principal nor the Principal's Representative assumes or owes any duty of care to Macquarie to inspect, or if it does so inspect, in inspecting, the performance of the obligations of Macquarie or the OSD Works for errors, omissions or compliance with the requirements of the Project Documents; and
- (v) any inspection of such matters (or lack of inspection) by or on behalf of the Principal will not in any way:
  - (A) relieve Macquarie from, or alter or affect, Macquarie's liabilities, obligations or responsibilities whether under a Project Document or otherwise according to Law; or
  - (B) prejudice or limit the Principal's rights against Macquarie whether under a Project Document or otherwise according to Law.

This clause 3.9 does not affect Macquarie's rights in respect of any breach of clause 35.

#### 4. **GOVERNANCE**

##### 4.1 **Principal's Representative**

- (a) The Principal may at any time by written notice to Macquarie replace the Principal's Representative with another person.

- (b) The Principal's Representative will carry out all of its functions under this deed as the agent of the Principal (and not as an independent certifier, assessor or valuer).
- (c) Macquarie must comply with all Directions given by the Principal's Representative in accordance with this deed.
- (d) The parties acknowledge that any Principal's Representative Statement is an interim position only and that either party may seek to have any Principal's Representative Statement opened up, reviewed, decided and substituted pursuant to the dispute resolution provisions in clause 40 by giving a Notice of Issue or a Notice of Dispute (OSD) (as applicable) to the other party. If Macquarie wishes to have a Principal's Representative Statement opened up, reviewed, decided and substituted it must give the Notice of Issue or the Notice of Dispute (OSD) (as applicable) within 15 Business Days after the receipt of the Principal's Representative Statement.
- (e) The Principal will not be liable upon any Claim by Macquarie arising out of or in connection with any Principal's Representative Statement in circumstances where it is incorrect, subsequently overturned pursuant to clause 40, is unreasonable (unless the Principal's Representative has an express obligation to act reasonably) or has been made in accordance with the directions of the Principal (and not independently). Macquarie acknowledges and agrees that its sole means of redressing any errors contained in or associated with any Principal's Representative Statement is by giving a Notice of Issue or a Notice of Dispute (OSD) (as applicable).
- (f) If Macquarie does not give such notice under clause 40.3(a) or clause 40.11 (as applicable) within the time required under clause 4.1(d):
  - (i) the Principal's Representative Statement will be binding upon Macquarie and will not thereafter be capable of being opened up or reviewed by any person, including the IDAR Panel or any arbitrator or court, at the request of or upon any application by Macquarie; and
  - (ii) the Principal will not be liable upon any Claim by Macquarie arising out of or in any way in connection with the relevant Principal's Representative Statement, other than in accordance with the Principal's Representative Statement.

#### 4.2 **Appointees of the Principal's Representative**

The Principal's Representative:

- (a) may, by written notice to Macquarie, appoint persons to exercise any of the functions of the Principal's Representative under this deed;
- (b) must not appoint more than one person to exercise a specific function at any one time; and
- (c) may revoke any appointment under clause 4.2(a) by written notice to Macquarie.

All references in this deed to the Principal's Representative include a reference to an appointee under this clause 4.2.

#### 4.3 **Macquarie's Representative**

Macquarie must ensure that Macquarie's Representative is available at all reasonable times for communications with the Principal's Representative.

#### 4.4 **Project Control Group**

- (a) A Project Control Group must be established consisting of:
  - (i) the Principal's Representative;
  - (ii) Macquarie's Representative;
  - (iii) a representative from the D&C Contractor;
  - (iv) two persons from each of the Principal and Macquarie holding positions the same or more senior than the persons referred to in clauses 4.4(a)(i) and 4.4(a)(ii) (as applicable to the relevant party); and
  - (v) such other persons as the Principal and Macquarie agree.
- (b) **(Delegates)**: The persons referred to in clauses 4.4(a)(i), 4.4(a)(ii) and 4.4(a)(iv) may appoint delegates (of an equivalent level of seniority or experience) to attend Project Control Group meetings in their absence.
- (c) **(Objectives)**: The objectives of the Project Control Group are to:
  - (i) facilitate the development of a collaborative working relationship between the parties;
  - (ii) monitor the overall progress of the performance of the obligations of Macquarie under this deed;
  - (iii) assist with the resolution of any matters or Disputes referred to the Project Control Group by a party, including issues arising out of the subject of the Follow-on Contractor Cooperation and Integration Deeds;
  - (iv) review each Progress Report provided by Macquarie; and
  - (v) review and consider such other matters relating to the Project as are agreed between the parties from time to time.
- (d) **(Frequency of meetings)**: The Project Control Group will meet monthly until the Last Date of Practical Completion, unless the parties agree otherwise.
- (e) **(Administration)**: The Principal's Representative will convene the meetings of the Project Control Group. The meetings will be chaired by the most senior attendee from the Principal.
- (f) **(Principal may require certain representatives to attend)**: At the Principal's request, Macquarie must procure the attendance of representatives of the D&C Contractor and the Financiers at meetings of the Project Control Group.
- (g) **(Principal may bring certain representatives)**: The Principal may invite representatives of the Operator, the Line-wide Contractors, any other Rail Contractor, the State or any Authority to attend any meeting of the Project Control Group.
- (h) **(Members of IDAR Panel)**: The members of the IDAR Panel may, until the Station Date of Completion, by invitation of either party, attend a Project Control Group meeting but will not be members of the Project Control Group.



#### 4.5 Working Groups

- (a) **(Disciplines)**: Working Groups will be established in relation to particular aspects of the Project. There will be Working Groups with respect to:
  - (i) design development;
  - (ii) interfaces between the works and activities of Macquarie and Macquarie's Associates, the works and activities of the Station Developer and the Station Developer's Associates and the works and activities of Rail Contractors; and
  - (iii) other aspects as agreed between the parties.
- (b) **(Composition)**: The composition of each Working Group will include a nominated representative of the Principal and Macquarie. Attendance by others will be agreed by the Project Control Group, or in the absence of agreement as directed by the Principal having regard to the particular solutions being discussed. If the Principal requests, Macquarie must procure the attendance of the representative of the D&C Contractor at a Working Group meeting.
- (c) **(Purpose)**: The purpose of each Working Group meeting is to provide a non-binding forum for Macquarie to present its proposed solutions, for the Principal to understand those solutions and for the parties to discuss the solutions.
- (d) **(Frequency of meetings)**: Each Working Group will meet monthly until the Last Date of Practical Completion unless otherwise agreed by the Project Control Group.
- (e) **(Administration)**: Macquarie must convene and chair meetings of each Working Group unless otherwise agreed between the parties.
- (f) **(Agenda and program)**: Macquarie must prepare and issue a three month rolling program of meetings.
- (g) **(Information only)**: Documentation prepared for Working Group meetings, documentation developed in Working Group meetings and information discussed in Working Group meetings are Information Documents and cannot be relied on by either party.

#### 4.6 No legal effect

The Project Control Group and each Working Group are consultative and advisory only and nothing which occurs during a meeting of any such group will:

- (a) affect the rights or obligations of any party under the Project Documents;
- (b) entitle a party to make any Claim against the others;
- (c) relieve a party from, or alter or affect, a party's liabilities or responsibilities whether under this deed or otherwise according to Law;
- (d) prejudice a party's rights against the others whether under this deed or otherwise according to Law; or
- (e) be construed as a Direction by a party to do or not do anything.

## 5. LAW AND APPROVALS

### 5.1 Compliance with Laws

Macquarie must:

- (a) in performing its obligations and exercising its rights under this deed, comply with all applicable Laws (including all WHS Legislation, Rail Safety National Law, Rail Safety Regulations and the Heavy Vehicle National Law);
- (b) ensure that Macquarie's Subcontractors, in performing the obligations of Macquarie, comply with all applicable Laws (including all WHS Legislation, Rail Safety National Law, Rail Safety Regulations and the Heavy Vehicle National Law);
- (c) give the Principal's Representative copies of:
  - (i) all material documents given to Macquarie or a Significant Subcontractor by an Authority (including Approvals and other notices) as soon as practicable after receipt;
  - (ii) all material documents (other than documents required to be prepared pursuant to the SSI Approval, unless relevant to the OSD Works or the carrying out of the OSD Works) given by Macquarie or a Significant Subcontractor to an Authority at the time that or within 2 Business Days after those documents are given to the Authority; and
  - (iii) details of any other material communications between Macquarie or a Significant Subcontractor and an Authority,  
in connection with the OSD Works;
- (d) ensure that the OSD Works for a Separable Portion, prior to and on completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion, comply with all applicable Laws;
- (e) after the relevant Construction Licence Commencement Date, comply with all applicable Laws in connection with the relevant part of the Construction Site, including all Laws governing use and occupation of the Construction Site; and
- (f) in relation to any document required to be prepared pursuant to a Planning Approval in relation to the OSD Works, which is also required to be submitted to an Authority:
  - (i) provide the Principal's Representative with copies of any such documents;
  - (ii) provide the Principal with a reasonable opportunity to comment on any such documents and where the documents submitted by Macquarie relate to the OSD Design Documentation (CC), the OSD Design Documentation (FC), the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs, the parties agree that the Principal must provide comments in accordance with clause 15;
  - (iii) amend the documents to take into account any comments made by the Principal to the extent that such comments relate to [REDACTED] the OSD Design Parameters and otherwise reasonably consider any comments made by the Principal in relation to any such documents and where the comments made by the Principal relate to the OSD Design Documentation (CC), the OSD Design Documentation (FC), the Updated Design Docs (CC)

or the Updated Stage 2 DA Design Docs, the parties agree that the terms of clause 15 apply;

- (iv) deliver a final version of any such documents in order to enable the Principal to submit the relevant document to any Authority; and
- (v) provide the Principal with such assistance as may be reasonably required by the Principal to enable the Principal to comply with all applicable Laws.

## 5.2 Lodgement of Development Applications

The parties acknowledge and agree that, prior to the Commencement Date, Macquarie:

- (a) received the determination for development application number SSD 17 8351 and provided the Principal with a copy of such determination;
- (b) obtained approval for its Planning Proposal Application; and
- (c) lodged the Stage 1 Amending Development Application.

## 5.3 Preparation of Stage 2 Application

- (a) The Stage 2 Application must be prepared by Macquarie, at its own Cost.
- (b) Macquarie, in preparing the Stage 2 Application, must:
  - (i) generate a design in accordance with the requirements of this deed, including complying with the process set out in clause 15;
  - (ii) perform its design responsibilities and all design work with the skill, care and diligence expected of a professional designer experienced in projects of a similar nature to the Project;
  - (iii) comply with, give effect to and satisfy the conditions and requirements of any applicable Law (including the EP&A Act) and planning and development controls which apply to the Project and the Construction Site;
  - (iv) comply with the SSI Approval; and
  - (v) without limiting clause 5.3(b)(i), ensure that the Stage 2 Application and all documents comprising or required to be submitted with the Stage 2 Application are consistent with:
    - (A) the Stage 1 Consent;
    - (B) the Stage 1 Amending Development Application;
    - (C) clause 6.38 of the Sydney LEP;
    - (D) the OSD Design Documentation (CC), subject to clause 15.3(i); and
    - (E) the OSD Design Parameters.

## 5.4 Process for procuring consent to Stage 2 Application

- (a) Macquarie must:
  - (i) subject to clause 15.3, on a progressive basis and as and when Macquarie considers that application components are complete and in a form suitable for review, provide to the Principal the application components forming part

of the Stage 2 Application and, when applicable, the proposed Stage 2 Application itself; and

- (ii) at least 15 Business Days before the date Macquarie intends to lodge the proposed Stage 2 Application with the Consent Authority, provide to the Principal a full copy of the proposed Stage 2 Application in the form that it is proposed to be lodged with the Consent Authority.

Any design plans and specifications attached to the Stage 2 Application must comply with the requirements under clause 15, including the design development provisions of clause 15.3.

- (b) As soon as reasonably practicable after receiving the relevant documents from Macquarie under clause 5.4(a)(i), the Principal (acting reasonably), may provide its comments in respect of the application components forming part of the Stage 2 Application under this clause 5.4.
- (c) Within 10 Business Days after receiving the relevant documents from Macquarie under clause 5.4(a)(ii), the Principal (acting reasonably) must either:
  - (i) provide its consent in writing to the lodgement of the proposed Stage 2 Application; or
  - (ii) notify Macquarie in writing that it is withholding consent to the proposed Stage 2 Application and provide the grounds on which it is withholding such consent and provide any comments and recommendations in respect of amendments to the Stage 2 Application. Without limiting clause 5.4(c), the Principal may not withhold its consent to the design documentation that forms part of the Stage 2 Application if the design documentation is the OSD Design Documentation (FC) resolved under clause 15.3.
- (d) The Principal may only withhold consent under clause 5.4(c)(ii) if the Principal's Representative determines that the Stage 2 Application:
  - (i) is inconsistent with any one or more of the following:
    - (A) the Stage 1 Consent;
    - (B) the Stage 1 Amending Development Application;
    - (C) clause 6.38 of the Sydney LEP;
    - (D) the planning and development controls applying to the Construction Site;
    - (E) the OSD Design Documentation (CC), subject to clause 15.3(i); or
    - (F) the OSD Design Parameters;
  - (ii) if approved by the Consent Authority, would result in the OSD Works having a Metro Impact;
  - (iii) provides for a change to the use of the Development Lots from that in the Stage 1 Consent; or
  - (iv) includes OSD Design Documentation in respect of which the process in clause 15 has not been complied with.

- (e) If the Principal withholds owner's consent to the Stage 2 Application or requires amendments to the Stage 2 Application for a reason set out in clause 5.4(d), Macquarie must amend the Stage 2 Application to take into account the requirements of the Principal (which may only relate to the reasons for the Principal withholding owner's consent as notified under clause 5.4(c)(ii)) and then resubmit the amended Stage 2 Application for the Principal's review under this clause 5.4, and the provisions of clause 5.4(c) and clause 5.4(d) will reapply.
- (f) If the Principal provides consent to a Stage 2 Application under clause 5.4(c)(i):
  - (i) the Principal must, within 30 Business Days (or such shorter period as agreed by the Principal) after receiving the Stage 2 Application from Macquarie under clause 5.4(a)(ii), sign all documents and provide all authorisations, consents and approvals (including land owner's consent) as may be reasonably required to enable Macquarie to lodge the Stage 2 Application with or obtain a Stage 2 Consent from the Consent Authority; and
  - (ii) without limiting clause 5.4(f)(i), the Principal cannot withhold providing land owner's consent where the Principal has provided its consent under clause 5.4(c)(i).
- (g) If Macquarie disagrees with the Principal's decision under clause 5.4(c)(ii), Macquarie may refer the matter for dispute resolution in accordance with clause 40.

## 5.5 **Review of Stage 2 Application**

Macquarie acknowledges and agrees as follows:

- (a) the Principal is not:
  - (i) obliged to review any Stage 2 Application;
  - (ii) responsible for any errors, omissions or non-compliance with any Law of any Stage 2 Application; or
  - (iii) liable for and is released from any Loss or Cost incurred or suffered by Macquarie or its Associates because of any defect or omission in, or any issue arising out of, a Stage 2 Application;
- (b) subject to clause 15, no comment or review by the Principal or the Principal's Associates, or information supplied to Macquarie or its Associates by the Principal or the Principal's Associates as part of such comment or review, alters or alleviates Macquarie's obligation to design, construct and complete the OSD Works or otherwise undertake the Project in accordance with the requirements of this deed; and
- (c) neither the requirement to comply with clause 5.4, nor any consent given by the Principal as contemplated under clause 5.4, imposes any duty, obligation or liability on the Principal in relation to the design or construction of the OSD Works or in respect of any Stage 2 Consent. Macquarie acknowledges that it is relying on its own skill and judgment, and that of Macquarie's Associates, in relation to all aspects of the OSD Works and the Project and is not relying on the skill or judgment of the Principal or any of the Principal's Associates.

### 5.5A **Review of Stage 2 Application before the Commencement Date**

The parties acknowledge and agree that:

- (a) on 15 August 2018, Macquarie submitted the Stage 2 Application (other than OSD Design Documentation that had complied with the process in clause 15) to the Principal's Representative;
- (b) notwithstanding clause 5.4(c) and that Macquarie has not provided the Principal with a full copy of the proposed Stage 2 Application in the form that it is proposed to be lodged with the Consent Authority, the Principal will:
  - (i) within 10 Business Days from the Commencement Date either:
    - (A) provide its consent in writing to the lodgement of the proposed Stage 2 Application; or
    - (B) notify Macquarie in writing that it is withholding consent in accordance with clause 5.4(c); and
  - (ii) if the Principal provides consent to the Stage 2 Application under clause 5.5A(b)(i)(A), within 30 Business Days from the Commencement Date (or such shorter period as is reasonably practicable), sign all documents and provide all authorisations, consents and approvals (including land owner's consent) as may be reasonably required to enable Macquarie to lodge the Stage 2 Application with or obtain a Stage 2 Consent from the Consent Authority; and
- (c) the process set out in clause 5 commenced prior to the Commencement Date and was applied to the Stage 2 Application submitted by Macquarie to the Principal's Representative.

#### 5.6 **Progress of the Macquarie Approvals**

- (a) Macquarie must:
  - (i) diligently and expeditiously pursue:
    - (A) the Stage 1 Amending Development Application to procure the Stage 1 Consent; and
    - (B) the Stage 2 Application to procure the Stage 2 Consent;
  - (ii) deal with the Consent Authority and make all submissions which Macquarie reasonably considers necessary to procure each Development Consent;
  - (iii) use all reasonable endeavours to identify and keep the Principal regularly informed of the progress and expected timeframe for obtaining the relevant Development Consent;
  - (iv) give the Principal any other information reasonably requested by the Principal in connection with any Development Consent;
  - (v) unless otherwise agreed between the parties, give the Principal at least 3 Business Days' notice of any proposed meeting with the Consent Authority, or other relevant Authority, for the purpose of discussing any Development Consent; and
  - (vi) permit a representative of the Principal to attend any meeting the subject of a notice under clause 5.6(a)(v).

- (b) The Principal must, if requested to do so by Macquarie in writing, provide reasonable and necessary assistance to Macquarie in relation to procuring each Development Consent in a prompt and timely manner.
- (c) The parties agree that:
  - (i) Macquarie may submit to the Principal an Application for its consent in its capacity as owner of the Principal's Land;
  - (ii) within 10 Business Days after receiving the Application from Macquarie under clause 5.6(c)(i), the Principal (acting reasonably) must either:
    - (A) provide its consent in writing to the lodgement of the Application to Macquarie; or
    - (B) notify Macquarie in writing that it is withholding its consent to the Application and provide the grounds on which it is withholding such consent together with any comments and recommendations in respect of amendments to the Application;
  - (iii) the Principal may only withhold consent under clause 5.6(c)(ii)(B) if the Principal's Representative determines that the Application:
    - (A) is inconsistent with any one or more of the following:
      - (aa) the Stage 1 Consent;
      - (bb) the Stage 1 Amending Development Application;
      - (cc) clause 6.38 of the Sydney LEP;
      - (dd) the planning and development controls applying to the Construction Site;
      - (ee) the OSD Design Documentation (FC), subject to clause 15.3(i); or
      - (ff) the OSD Design Parameters;
    - (B) if approved by the Consent Authority, would result in the OSD Works having a Metro Impact;
    - (C) provides for a change to the use of the Development Lots from that in the Stage 1 Consent; or
    - (D) includes OSD Design Documentation in respect of which the process in clause 15 has not been complied with;
  - (iv) if the Principal withholds its consent to an Application, Macquarie must amend the Application to take into account the requirements of the Principal (which may only relate to the reasons for the Principal withholding its consent as notified under clause 5.6(c)(ii)(B)) and then resubmit the amended Application for the Principal's review under this clause 5.6(c), and the provisions of clause 5.6(c)(ii) will reapply; and
  - (v) if the Principal provides consent to an Application under clause 5.6(c)(ii)(A):
    - (A) the Principal must, within 30 Business Days (or such shorter period as agreed by the Principal) after receiving the Application from

Macquarie under clause 5.6(c)(i), sign all documents and provide all authorisations, consents and approvals (including land owner's consent) as may be reasonably required to enable Macquarie to lodge the Application with the Consent Authority; and

- (B) without limiting clause 5.6(c)(v)(A), the Principal cannot withhold providing land owner's consent where the Principal has provided consent under clause 5.6(c)(ii)(A).
- (d) Clause 5.5 applies to any Application submitted by Macquarie under clause 5.6(c) and references to "Stage 2 Application" are to be read as "Application".

#### 5.7 Unacceptable Consent Condition

- (a) Within 20 Business Days after receiving a copy of a Development Consent, Macquarie must notify the Principal if the relevant Development Consent contains an Unacceptable Consent Condition and if so, Macquarie must indicate its proposed course of action to address the Unacceptable Consent Condition.
- (b) Within 20 Business Days after receipt of a notice under clause 5.7(a), the Principal may notify Macquarie whether it considers that the relevant Development Consent contains an Unacceptable Consent Condition and whether it agrees with Macquarie's proposed course of action (if relevant).
- (c) If the Principal:
  - (i) does not agree that the Development Consent contains an Unacceptable Consent Condition;
  - (ii) considers that the Development Consent contains a different Unacceptable Consent Condition from the one set out in the Macquarie notice; and/or
  - (iii) does not agree to Macquarie's proposed course of action,the Principal must, in its notice under clause 5.7(b), provide details regarding any conditions in the Development Consent which the Principal considers to be (or not to be if clause 5.7(c)(i) applies) Unacceptable Consent Conditions and/or the proposed course of action for Macquarie to address the Unacceptable Consent Condition (as applicable), which may include Macquarie:
  - (iv) applying to the Consent Authority to modify the relevant Development Consent to amend or remove the Unacceptable Consent Condition; and/or
  - (v) appealing to the NSW Land and Environment Court.
- (d) If Macquarie does not give the Principal a notice under clause 5.7(a), the Principal may, within 30 Business Days after receiving a copy of the relevant Development Consent under clause 5.11, give Macquarie a notice stating:
  - (i) that it considers that the Development Consent contains an Unacceptable Consent Condition; and
  - (ii) the proposed course of action for Macquarie to address the Unacceptable Consent Condition.
- (e) If:
  - (i) **(no notice)**: Macquarie does not give a notice under clause 5.7(a) and the Principal does not give a notice under clause 5.7(d), the Development



Consent is deemed not to contain any Unacceptable Consent Conditions on the date that Macquarie gave the Principal a copy of the Development Consent under clause 5.11;

(ii) **(notice by both parties - agreement)**: Macquarie gives a notice under clause 5.7(a) and the Principal gives a notice under clause 5.7(b) and the effect of the notices are that the Development Consent contains an Unacceptable Consent Condition, then Macquarie must pursue the course of action proposed by:

(A) to the extent agreed by the Principal in its notice given under clause 5.7(b), Macquarie under clause 5.7(a); or

(B) to the extent not agreed by the Principal in its notice given under clause 5.7(b), the Principal pursuant to clause 5.7(c),

(as applicable) and the provisions of clause 3 of part B of Schedule A1 will apply;

(iii) **(notice by both parties - no agreement)**: Macquarie gives a notice under clause 5.7(a) and the Principal gives a notice under clause 5.7(b) and the effect of the notices are that the Principal does not agree that the Development Consent contains an Unacceptable Consent Condition or considers that the Development Consent contains a different Unacceptable Consent Condition then Executive Negotiators must, within 20 Business Days after Macquarie receives the Principal's notice given under clause 5.7(b), meet and discuss in good faith whether there is an Unacceptable Consent Condition or what the Unacceptable Consent Condition is (as applicable). If the Executive Negotiators have met and the outcome of the meeting is that:

(A) the parties agree that the Development Consent does not contain any Unacceptable Consent Conditions, the Development Consent is deemed not to contain any Unacceptable Consent Conditions on the date that Macquarie gave the Principal a copy of the Development Consent under clause 5.11;

(B) the parties do not agree that the Development Consent contains an Unacceptable Consent Condition, Macquarie must pursue the course of action proposed by Macquarie in its notice given pursuant to clause 5.7(a) and the provisions of clause 3 of part B of Schedule A1 will apply; or

(C) the parties do not agree on the Unacceptable Consent Condition, Macquarie must pursue the course of action proposed by the Principal in its notice given pursuant to clause 5.7(b) or refer the matter for resolution in accordance with clause 40;

(iv) **(notice by the Principal)**: the Principal gives a notice under clause 5.7(d), Macquarie must pursue the course of action proposed by the Principal and the provisions of clause 3 of part B of Schedule A1 will apply; or

(v) **(notice by Macquarie)**: Macquarie has given a notice under clause 5.7(a) and the Principal does not provide a notice under clause 5.7(b), the Principal is deemed to have agreed with Macquarie's notice under clause 5.7(a) and:

(A) if the effect of Macquarie's notice is that Macquarie considers that the Development Consent does not contain any Unacceptable Consent Conditions, the Development Consent is deemed not to contain any

Unacceptable Consent Conditions on the date of Macquarie's notice under clause 5.7(a); or

- (B) if the effect of Macquarie's notice is that Macquarie considers that the Development Consent contains an Unacceptable Consent Condition, then Macquarie must pursue the course of action proposed by Macquarie and the provisions of clause 3 of part B of Schedule A1 will apply.

#### 5.8 **Modifications to any Development Consent**

Macquarie may, at any time, seek to modify a Development Consent, and, if it does so, the procedure in clauses 5.3 to 5.7 (inclusive) applies to the Development Application for the modification as if the references to "Stage 2 Application" is to that Development Application for the modification.

#### 5.9 **Other Approvals**

Macquarie must:

- (a) obtain and maintain, and ensure that its Subcontractors obtain and maintain, all Approvals required to perform the obligations of Macquarie (other than those Approvals which this deed expressly states that the Principal has obtained or requires the Principal to obtain or maintain);
- (b) comply with, carry out and fulfil, ensure that its Subcontractors comply with, carry out and fulfil and ensure that the OSD Works comply with the conditions and requirements of all Approvals (including those which the Principal is expressly or impliedly under the terms of the Approval required to comply with, carry out or fulfil);
- (c) ensure that the applications for any other Approvals that are required for the OSD Works are not inconsistent with the matters listed in clause 5.4(d)(i)(A) – 5.4(d)(i)(F) and ensure that the applications for any other Approval would not, if approved, have a Metro Impact;
- (d) pay all fees, effect all insurances it is required to effect and maintain under the Project Documents, provide any bonds and execute any undertakings or agreements or any other document required by any relevant Authority in respect of any Approval which Macquarie must obtain or comply with (and ensure that its Subcontractors do likewise in relation to any Approvals which they must maintain or comply with in connection with any obligation of Macquarie under this deed); and
- (e) without limiting clause 5.9(b), provide the Principal with such assistance as may reasonably be required by the Principal to enable it to obtain or satisfy or fulfil the conditions and requirements in respect of any:
  - (i) Approvals which are obtained by the Principal after the Commencement Date; or
  - (ii) conditions and requirements of Approvals which are required to be satisfied or fulfilled by the Principal.

#### 5.10 **Delays in obtaining Approvals**

Subject to clause 19.7, Macquarie accepts all risk arising out of or in connection to obtaining all Planning Approvals (other than the SSI Approval) and all other Approvals

that are required for the Project, including the risk of appeals or modifications to such Development Consents and Approvals.

5.11 **Copies of Approvals**

Macquarie must, within 5 Business Days after receipt of any Approvals obtained by it in relation to the Project, give the Principal a full copy of those Approvals.

5.12 **Environment Protection Licence**

Macquarie must comply with the terms of any Environment Protection Licence that applies to the OSD Works.

6. **PROJECT PLANS**

6.1 **Preparation of Project Plans**

Subject to clause 6.9, Macquarie must prepare, update and submit each of the following:

- (a) Community Communications Strategy;
- (b) Construction and Site Management Plan;
- (c) Project Health and Safety Management Plan; and
- (d) Interim Design and Presentation Plan,

for the Project (each a **Project Plan**) in accordance with this deed (including in accordance with the Project Plan Requirements) or such other terms as the parties agree (acting reasonably).

6.2 **Purpose**

The intended purposes of the Project Plans include:

- (a) to demonstrate to the Principal that Macquarie has the understanding, capacity and capability at all times to perform the obligations of Macquarie under this deed safely and in accordance with the requirements of this deed;
- (b) to ensure that the OSD Works comply with the requirements of this deed;
- (c) to define responsibilities, resources and processes for planning, performing and verifying that the OSD Works satisfy the requirements of this deed; and
- (d) to allow the Principal to understand how Macquarie will achieve the objectives set out in clause 3 and otherwise fulfil its obligations under this deed.

6.3 **Initial Project Plans**

Subject to clause 6.9, Macquarie must submit initial versions of the Project Plans to the Principal's Representative at the times set out in the Project Plan Requirements.

6.4 **Not used**

6.5 **Fitness for purpose**

Macquarie warrants that each Project Plan will at all relevant times be fit for its purpose.

6.6 **Not used**

6.7 **Not used**

6.8 **Implementation and compliance**

- (a) Macquarie must implement and comply with each Project Plan which has not been rejected by the Principal's Representative within the 10 Business Day period referred to in clause 1.2(f) of the Project Plan Requirements.
- (b) If the Principal's Representative does not respond within the 10 Business Day period referred to in clause 1.2(f) of the Project Plan Requirements, Macquarie may use the Project Plan at Macquarie's own risk.

6.9 **Project Plan submitted under the Station Delivery Deed**

The Principal acknowledges and agrees that if:

- (a) the Station Developer has prepared and submitted a Project Plan (as that term is defined in the Station Delivery Deed) (**Station Project Plan**) to the Principal's Representative in accordance with clause 7 of the Station Delivery Deed which Macquarie is also required to submit under this clause 6;
- (b) the Station Project Plan satisfies all of the requirements of the relevant Project Plan required to be submitted under this clause 6;
- (c) the Station Developer updates the Station Project Plan in accordance with clause 7 of the Station Delivery Deed; and
- (d) the Principal's Representative has not rejected the Station Project Plan under the Station Delivery Deed,

then that Project Plan will, for the purposes of this clause 6, satisfy Macquarie's obligations under this deed.

7. **SUBCONTRACTING**

7.1 **Subcontracting by Macquarie**

- (a) Subject to this clause 7, Macquarie may enter into Subcontracts for the vicarious performance of:
  - (i) the OSD Works or any part of them; or
  - (ii) any of Macquarie's rights or obligations under any Project Document.
- (b) Macquarie will be liable to the Principal for the acts and omissions of Macquarie's Subcontractors in connection with the performance by such Subcontractors of any obligation of Macquarie or the exercise of any right of Macquarie under this deed as if such acts or omissions were acts or omissions of Macquarie.
- (c) Subcontracting by Macquarie of any obligation under the Principal Project Documents will not relieve Macquarie of, or otherwise affect, any obligation or Liability it has to the Principal under the Principal Project Documents.
- (d) Macquarie must (unless otherwise approved in writing by the Principal's Representative, acting reasonably) ensure that each Subcontract it enters into in connection with the OSD Works, regardless of its value, includes provisions expressly requiring Macquarie's Subcontractor to comply with the Chain of

Responsibility Provisions and includes a clause to the same effect as this clause 7.1(d) which is binding on Macquarie's Subcontractor and provide evidence of this to the Principal's Representative when requested by the Principal's Representative.

## 7.2 Significant Subcontracts

- (a) **(Principal consent required):** Macquarie must not, and must ensure that DevCo, Macquarie Bank Limited and the D&C Contractor do not:
- (i) terminate, surrender, rescind or accept repudiation of (or give the Significant Subcontractor an entitlement to terminate, surrender, rescind or accept repudiation of);
  - (ii) permit the novation, assignment or substitution of any counterparty's right, obligation or interest in; or
  - (iii) where it may impact the rights or increase the Liabilities or obligations of the Principal, enter into any agreement or arrangement which affects the operation or interpretation of,  
  
a Significant Subcontract without obtaining the Principal's prior written consent (which consent must not be unreasonably withheld or delayed).
- (b) **(Copy):** Macquarie must provide the Principal with a copy of each Significant Subcontract (subject to removal, exclusion or redaction of any "commercial-in-confidence provision", as that term is defined in the GIPA Act).

## 8. MACQUARIE'S GENERAL OBLIGATIONS

### 8.1 All work included

Except as otherwise provided in the Project Documents, Macquarie has allowed for the provision of all work and materials necessary for the OSD Works, whether or not expressly mentioned in this deed. All such work and materials:

- (a) must be undertaken and provided by Macquarie at its own Cost;
- (b) form part of the OSD Works and will not constitute a Variation; and
- (c) will not entitle Macquarie to make a Claim.

### 8.2 Principal contractor

- (a) **(Definitions):** In this clause 8.2 and in clause 8.4, the terms "principal contractor", "workplace", "construction work" and "construction project" have the same meanings assigned to those terms in the WHS Legislation. For the purposes of the WHS Legislation and this deed:
- (i) the OSD Works; and
  - (ii) any construction work carried out on the Construction Site by:
    - (A) the Station Developer under the Station Delivery Deed;
    - (B) the Principal or a Rail Contractor; or
    - (C) any other person who:

(aa) Macquarie or the D&C Contractor invite onto, or otherwise agree may access, the Construction Site; or

(bb) is an Authority (other than the Principal),

which is performed during any period in which the Appointed Principal Contractor has been engaged as principal contractor (**Construction Site Interface Work**),

are taken to be part of the same "construction project".

(b) (**Engagement as principal contractor**): Without limiting Macquarie's obligations under any other provision of this deed, the parties acknowledge and agree that under the D&C Side Deed, from the date on which Macquarie is given access to a part of the Construction Site in accordance with this deed:

(i) to the extent that the OSD Works or any Construction Site Interface Work includes construction work, Macquarie:

(A) is a person conducting a business or undertaking that is commissioning a construction project comprising the OSD Works and the Construction Site Interface Work;

(B) engages the Appointed Principal Contractor as the principal contractor in respect of the OSD Works and the Construction Site Interface Work; and

(C) authorises the Appointed Principal Contractor to have management and control of each workplace at which the OSD Works and the Construction Site Interface Work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation;

(ii) the Appointed Principal Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor under the WHS Legislation and this deed; and

(iii) the Principal:

(A) must give the Appointed Principal Contractor prior notice of any Rail Contractor undertaking Construction Site Interface Work before such Construction Site Interface Work commences; and

(B) must provide the Appointed Principal Contractor with executed deed polls in favour of the Appointed Principal Contractor and Macquarie in the form set out in Schedule D2 from each Rail Contractor engaged by the Principal undertaking Construction Site Interface Work, before such Construction Site Interface Work commences.

(c) (**Period of engagement**): The Appointed Principal Contractor's engagement and authorisation as a principal contractor will continue until the earlier of:

(i) the termination of this deed; and

(ii) with respect to each Separable Portion, the date which is the later of:

(A) completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion; and

(B) the Date of Practical Completion of that Separable Portion.

- (d) **(Authorisations and licences):** Macquarie must:
- (i) ensure that if any Law, including in the State or Territory in which the OSD Works are situated or the obligations of Macquarie under this deed are carried out (as the case may be) requires that:
    - (A) a person:
      - (aa) be authorised or licensed (in accordance with the WHS Legislation) to carry out any work at that workplace, that person is so authorised or licensed and complies with any conditions of such authorisation or licence; and/or
      - (bb) has prescribed qualifications or experience or, if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised; or
    - (B) a workplace, plant or substance (or design) or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;
  - (ii) not direct or allow a person to carry out work or use plant or substance at a workplace unless the requirements of clause 8.2(d)(i) are met (including any requirement to be authorised, licensed, qualified or supervised); and
  - (iii) if requested by the Principal or required by the WHS Legislation, produce evidence of any approvals, certificates, authorisations, licences, prescribed qualifications or experience or any other information relevant to work health and safety (as the case may be) to the reasonable satisfaction of the Principal before Macquarie or a Subcontractor (as the case may be) commences such work.
- (e) **(If engagement not effective):** If the engagement of an Appointed Principal Contractor as principal contractor under the D&C Side Deed is not effective for any reason, Macquarie agrees that it will ensure that the Appointed Principal Contractor exercises and fulfils the functions and obligations of the principal contractor under the WHS Legislation as if the Appointed Principal Contractor had been validly engaged and authorised as principal contractor as contemplated by clause 8.2(b).

### 8.3 **Protection of persons and property**

Macquarie must carry out the OSD Works:

- (a) safely and in a manner that, insofar as is reasonably practicable, does not put the health or safety of persons at risk; and
- (b) in a manner that protects property.

### 8.4 **Work health and safety**

Macquarie must:

- (a) **(WHS Legislation):** ensure that in carrying out its obligations under this deed or exercising its rights under this deed:
  - (i) it complies with all Laws, Codes of Practice and other requirements of this deed for work health, safety and rehabilitation management;

- (ii) all Subcontractors comply with their respective obligations under all Laws, Codes of Practice and other requirements of this deed for work, health safety and rehabilitation management; and
  - (iii) it complies with its obligation under the WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter;
- (b) **(corporate work health and safety management system)**: have a corporate work health and safety management system which complies with the Law and is otherwise in accordance with the Office of the Federal Safety Commissioner's Audit Criteria Guidelines and New South Wales Government Work Health and Safety Management Systems and Auditing Guidelines (5th Edition) (September 2013, updated May 2014);
  - (c) **(notify)**: notify the Principal's Representative in accordance with the PHSMP of all work health and safety Incidents arising out of, or in any way in connection with the OSD Works;
  - (d) **(assurances from Significant Subcontractors)**: institute systems to obtain regular written assurances from all Significant Subcontractors about their ongoing compliance with WHS Legislation, Codes of Practice and other requirements of this deed for work health safety and rehabilitation management;
  - (e) **(assurances to the Principal)**: provide the Principal's Representative with the written assurances referred to in clause 8.4(d), together with written assurances from Macquarie about Macquarie's ongoing compliance with Laws, Codes of Practice and other requirements of this deed for work health safety and rehabilitation management;
  - (f) **(report)**: provide the Principal's Representative with a written report of all work health safety and rehabilitation matters in connection with the OSD Works as the Principal's Representative may require from time to time;
  - (g) **(cooperate)**: consult, cooperate and co-ordinate its activities with the Rail Contractors and the Principal to ensure that all parties are able to comply with their respective obligations under the WHS Legislation;
  - (h) **(duty)**: carry out Macquarie's duties under the WHS Legislation to enable the Principal to discharge its duties under the WHS Legislation and other applicable Laws;
  - (i) **(ensure the Principal does not breach WHS Legislation)**: ensure that it does not do anything or fail to do anything that would cause the Principal to be in breach of the WHS Legislation, the Heavy Vehicle National Law or other Law concerning work health and safety;
  - (j) **(safety leadership)**: provide strong safety leadership and continuously promote safety as a core value;
  - (k) **(comply)**: comply with those parts of the Sydney Metro Principal Contractor Health and Safety Standard, as amended from time to time, that the Principal notifies Macquarie in writing that it must comply with as if it was a principal contractor for the purposes of that standard; and
  - (l) **(Direction to cease work)**: if there is an imminent risk to the health or safety of people or damage to property arising from the OSD Works:



- (i) the Principal's Representative may direct Macquarie to change its manner of working or to cease working; and
- (ii) Macquarie must, at its Cost, comply with any direction by the Principal's Representative under this clause 8.4(l).

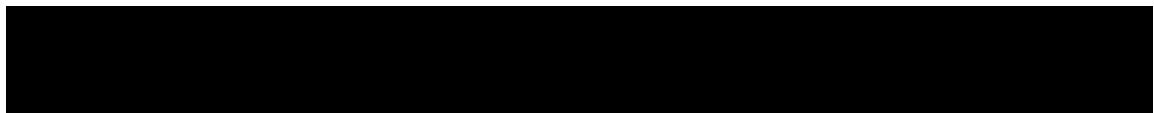
#### 8.5 **Project Health and Safety Management Plan**

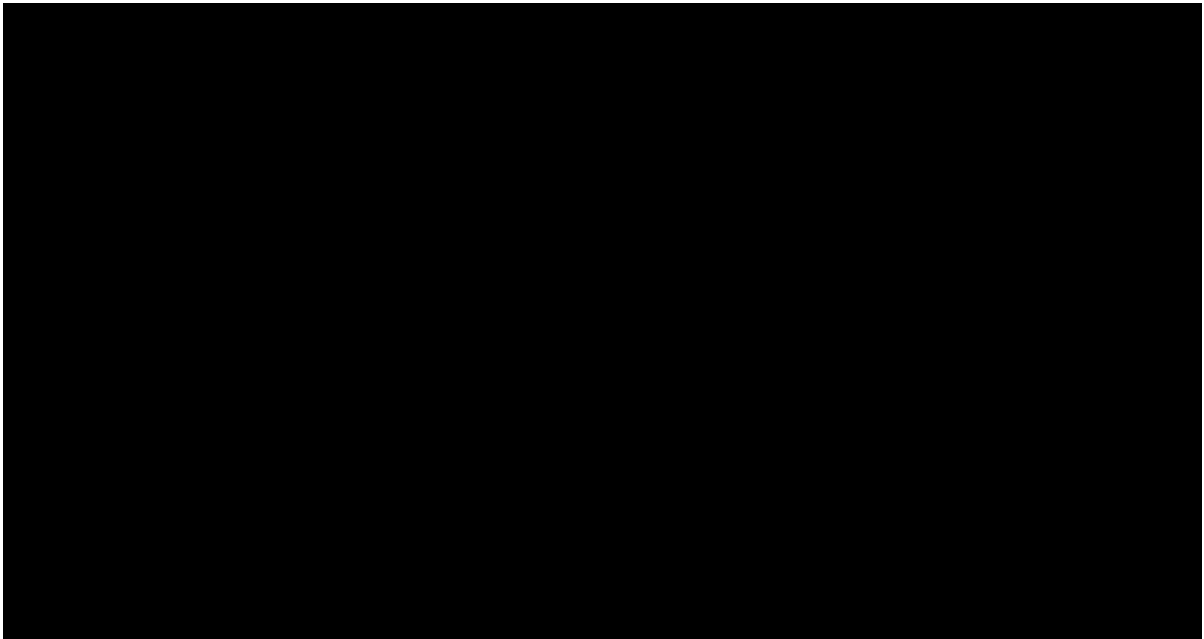
- (a) Without limiting clause 6, Macquarie must:
  - (i) continue to correct any defects in or omissions from the Project Health and Safety Management Plan (whether or not identified by the Principal's Representative); and
  - (ii) regularly review and, as necessary, revise the Project Health and Safety Management Plan in accordance with the WHS Legislation, Rail Safety National Law, Rail Safety Regulations, Heavy Vehicle National Law and any other Law concerning work health and safety, applicable Codes of Practice and the Sydney Metro Principal Contractor Health and Safety Standard, as amended from time to time,

and submit any amended draft of its Project Health and Safety Management Plan (or, where the non-compliance relates only to (i) the head-plan, (ii) one or more sub-plans, or (iii) the head-plan and one or more sub-plans (in each case the "affected plans"), submit a revised version of the affected plans) to the Principal's Representative, after which clause 6.8 of this deed and clause 1.2(f) and clause 3.1(b) (as applicable) of Schedule A6 will reapply to the revised Project Health and Safety Management Plan or affected plans (as applicable).

- (b) Macquarie must document and maintain detailed records of inspections or audits undertaken as part of the Project Health and Safety Management Plan.
- (c) Macquarie must carry out the OSD Works in accordance with, and otherwise implement, the latest Project Health and Safety Management Plan.
- (d) Macquarie acknowledges and agrees that:
  - (i) the Principal will update the Sydney Metro Principal Contractor Health and Safety Standard from time to time, including to address work health and safety issues relating to the OSD Works and the Sydney Metro City & Southwest; and
  - (ii) Macquarie will not be entitled to make, and the Principal will not be liable on, any Claim arising out of or in any way in connection with:
    - (A) any update or amendment to the Sydney Metro Principal Contractor Health and Safety Standard; or
    - (B) any act or omission of the Principal in relation to the Sydney Metro Principal Contractor Health and Safety Standard (including any failure of the Principal to do anything specified in the Sydney Metro Principal Contractor Health and Safety Standard as being an obligation of the Principal or an Associate of the Principal).

#### 8.6 **Rail Safety**





- (d) Macquarie must not do anything, and procure that its Associates do not do anything, that would interfere with or compromise the safe operation of Sydney Metro City & Southwest or any other railway.
- (e) Macquarie must ensure that it does not do anything or fail to do anything that would cause the Principal or any of the Principal's Associates to be in breach of the Rail Safety Requirements.
- (f) To the extent that, in carrying out the OSD Works, Macquarie carries out any Railway Operations for which accreditation is required under the Rail Safety National Law, Macquarie must obtain or procure that the D&C Contractor obtains any necessary accreditation or other Approval required to enable it to comply with all applicable Law.
- (g) Compliance by Macquarie with its obligations under this clause 8.6 does not discharge Macquarie from complying with its other obligations under this deed and is not evidence of compliance by Macquarie with its other obligations under this deed.

#### 8.7 **Engineering Authorisation and ASA compliance**

- (a) Macquarie represents and warrants that if it or any of its Subcontractors will carry out Asset Lifecycle Services, they are an AEO and have obtained ASA Authorisation to carry out the Asset Lifecycle Services.
- (b) Without limiting or otherwise restricting clause 8.7(c) and clause 8.7(d), Macquarie must:
  - (i) ensure that ASA Authorisation to carry out the Asset Lifecycle Services is held and maintained for so long as the OSD Works are being carried out; and
  - (ii) on and from the date that ASA Authorisation was granted, comply (and must ensure that its Subcontractors and all personnel for which Macquarie is responsible comply) with the conditions of the applicable ASA Authorisation.
- (c) Macquarie must (and must ensure that its Subcontractors and all personnel for which Macquarie is responsible):

- (i) implement and comply with any ASA Requirements applicable to the Asset Lifecycle Services;
  - (ii) immediately notify the Principal's Representative in writing of any non-compliance with this clause 8.7;
  - (iii) co-operate fully with the ASA in the performance of the ASA's functions;
  - (iv) provide access to premises and resources that are within Macquarie's control as reasonably required by the ASA, including so that the ASA can effectively carry out its review, surveillance and audit functions;
  - (v) comply with lawful Directions, instructions and requirements issued by the ASA provided that such Directions, instructions and requirements are consistent with the ASA Charter;
  - (vi) notify the ASA of any matter that arises out of or in connection with the OSD Works that could reasonably be expected to affect the exercise of the ASA's functions after Macquarie becomes aware of it;
  - (vii) provide the ASA with any information relating to its activities or any documents or other things reasonably required by the ASA in the context of the OSD Works in the exercise of its functions; and
  - (viii) provide the Principal with such reasonable assistance as may be reasonably required by the Principal to enable the Principal to co-operate fully with the ASA and to implement and comply with ASA Requirements in relation to the OSD Works.
- (d) Macquarie acknowledges and agrees that it is not entitled to make (and neither the Principal nor the ASA will be liable upon) any Claim arising out of or in connection with the performance of any of its obligations under this clause 8.7.

## 8.8 **Community relations**

Macquarie:

- (a) acknowledges that:
  - (i) the areas where the OSD Works are being carried out are of great importance to many people, including local residents and businesses; and
  - (ii) the Principal will retain a key role in the management of community relations activities for the Project; and
- (b) must manage and participate in all community relations and involvement programs and activities as:
  - (i) required by this deed;
  - (ii) required by any relevant Approval or Authority;
  - (iii) contained in the Community Communications Strategy; or
  - (iv) reasonably required by the Principal from time to time.

## 8.9 **Services**

- (a) Macquarie:

- (i) is solely responsible for obtaining, paying for, contracting for the provision of, acquiring or otherwise procuring or providing any Services in respect of the OSD Works and all connections for such Services (including electricity) it requires to perform its obligations or exercise its rights under this deed;
  - (ii) must investigate, protect, relocate, remove, modify, disconnect, support and reinstate and provide for all Services necessary for it to comply with its obligations or exercise its rights under this deed;
  - (iii) must obtain the Principal's Representative's prior written consent (such consent not to be unreasonably withheld or delayed) in respect of any new connections for Services forming part of or in relation to the OSD Works or changes or modifications to existing connections for such Services to the extent those connections will be inconsistent with the OSD Design Parameters or will result in a Metro Impact;
  - (iv) must consult with and keep the Principal fully informed as to Macquarie's dealings with the Authorities providing the Services referred to in clause 8.9(a)(iii);
  - (v) must ensure there are no unplanned disruptions to the Services caused by Macquarie or its Associates in carrying out the OSD Works which would have a Metro Impact;
  - (vi) must ensure that any planned disruptions to the Services caused by Macquarie or its Associates are minimised and that otherwise no Services are damaged, destroyed, disconnected, disrupted, interfered with or interrupted by reason of the performance of the OSD Works;
  - (vii) assumes the risk of the existence, location, condition and availability of Services required in respect of the Project from time to time; and
  - (viii) is solely responsible for co-operating and co-ordinating with the owners of all Services referred to in this clause 8.9.
- (b) Without limiting clause 8.9(a), Macquarie is responsible for, and assumes the risk of all additional work, increased Costs and any other Loss, delay or disruption (including any delay in achieving Practical Completion) it suffers or incurs arising out of or in any way in connection with the existence, location, condition and availability of all Services required for the OSD Works.

#### 8.10 **Green building obligations**

Macquarie must comply with the requirements set out in Schedule A4 in relation to achieving the Green Star Requirements.

### 9. **INTERFACE WITH RAIL CONTRACTORS**

#### 9.1 **Follow-on Contractor Cooperation and Integration Deeds**

- (a) Macquarie must:
  - (i) within 5 Business Days after receipt of a request from the Principal, provide to the Principal each Follow-on Contractor Cooperation and Integration Deed duly executed by Macquarie and the D&C Contractor in the number of counterparts required by the Principal; and

- (ii) at all relevant times, comply with (and procure that the D&C Contractor complies with) the terms of each Follow-on Contractor Cooperation and Integration Deed.
- (b) The Principal must within 20 Business Days of issuing a request referred to in clause 9.1(a)(i):
  - (i) procure that each Follow-on Contractor and Rail Contractor (other than the TSE Contractor) executes the Follow-on Contractor Cooperation and Integration Deed; and
  - (ii) execute each Follow-on Contractor Cooperation and Integration Deed.
- (c) The parties acknowledge and agree that a breach of a Follow-on Contractor Cooperation and Integration Deed by the D&C Contractor or Macquarie's Associates which are party to the Follow-on Contractor Cooperation and Integration Deeds, will be taken to be a breach by Macquarie of this deed, other than for the purposes of clause 32.1 and clause 34.1.

## 9.2 Cooperation and coordination with Rail Contractors

Without limiting Macquarie's obligations under each Follow-on Contractor Cooperation and Integration Deed but subject to and without limiting clause 19, Macquarie:

- (a) acknowledges that:
  - (i) the Rail Contractors' Work forms part of Sydney Metro City & Southwest;
  - (ii) its activities in relation to the OSD Works may interface with the Rail Contractors' Activities;
  - (iii) Rail Contractors will be executing work on areas adjacent to or in the vicinity of the Construction Site, at the same time as Macquarie is performing the OSD Works;
  - (iv) Rail Contractors may be executing work on parts of the Construction Site at the same time as Macquarie is performing the OSD Works;
  - (v) the Principal may grant the Rail Contractors a non-exclusive licence to use and occupy the Construction Site to carry out the Rail Contractors' Activities;
  - (vi) Rail Contractors may require Macquarie to provide information to them to coordinate the Rail Contractors' Activities with the carrying out of the OSD Works, and this must be provided in a timely manner by Macquarie; and
  - (vii) any delay or failure by Macquarie to cooperate or coordinate with any Rail Contractor may adversely impact upon, delay or disrupt any one or more Rail Contractors or the rights of the Principal under this deed in a way which may lead to the Principal suffering or incurring additional Loss;
- (b) must at all times:
  - (i) permit the Rail Contractors (if Macquarie's consent or authority is required) to execute the Rail Contractors' Work on the applicable parts of the Construction Site or on any property adjacent to or in the vicinity of the Construction Site:
    - (A) at the same time as Macquarie is performing the OSD Works; and

- (B) at the times agreed with the relevant Rail Contractor, or, failing agreement, at the times determined by the Principal's Representative (acting reasonably in the context of the Sydney Metro City & Southwest project as a whole),

and for this purpose ensure each Rail Contractor has safe, clean and clear access to those parts of the Construction Site or property adjacent to or in the vicinity of the Construction Site (to the extent that Macquarie is occupying or carrying out the OSD Works in those areas) required by that Rail Contractor for the purpose of carrying out their work (subject to, where the relevant Rail Contractor is carrying out Construction Site Interface Work, the Rail Contractor engaged by the Principal for such Construction Site Interface Work executing a deed poll in favour of Macquarie and the Appointed Principal Contractor in the form set out in Schedule D2);

- (ii) protect the OSD Works and other improvements on the Construction Site or Extra Land from damage by Rail Contractors;
- (iii) fully cooperate with the Rail Contractors, and do everything reasonably necessary to:
  - (A) facilitate the execution of work by the Rail Contractors, including providing each Rail Contractor with such assistance as may be directed by the Principal's Representative (acting reasonably in the context of the Sydney Metro City & Southwest project as a whole); and
  - (B) ensure the effective coordination of the design and construction of the OSD Works with the design and construction of the Rail Contractors' Work;
- (iv) carefully coordinate and interface the carrying out of the OSD Works with the Rail Contractors' Work and for this purpose:
  - (A) make reasonable allowance in its programs for the Rail Contractors' Work;
  - (B) review all programs provided by Rail Contractors and confirm that they adequately allow for the OSD Works and the interfaces between the Rail Contractors' Work and the OSD Works;
  - (C) monitor the progress of the Rail Contractors' Work;
  - (D) notify the Principal's Representative of any interface or sequence of activities that may affect the commencement, progress or completion of the OSD Works; and
  - (E) provide the Rail Contractors with sufficient information about the current and expected OSD Works and other activities of Macquarie to assist them to coordinate the Rail Contractors' Work;
- (v) cooperate, meet with, liaise and share information so that Macquarie and the relevant Rail Contractor each comply with the provisions of the relevant EPL (if applicable);
- (vi) perform the OSD Works so as to minimise any interference with or disruption or delay to the Rail Contractors' Work;

- (vii) be responsible for coordinating the OSD Works, including work sequencing, construction methods, safety and industrial relations matters, with those affecting, and influenced by, the Rail Contractors' personnel and work, including providing to the Principal's Representative copies of work method statements for those parts of the OSD Works which are adjacent to, in the vicinity of, or interface with any Rail Contractors' Work, at least 15 Business Days prior to commencing the work described in the work method statement;
- (viii) attend interface coordination meetings chaired by the Principal's Representative with Rail Contractors and others each 10 Business Days, or at other times to be advised by the Principal's Representative, to review current and future issues, including the exchange of information, status, problems, solutions, and newly identified interfaces;
- (ix) when information is required from a Rail Contractor, provide reasonable written notice to the Rail Contractor requesting that information and specifying the date by which such information is required, which must be as soon as reasonably practicable but in any event within 10 days after the date of the notice, with a copy to the Principal's Representative;
- (x) ensure that any written notice given under clause 9.2(b)(ix) provides the Rail Contractor with the longest possible time for the provision of the information;
- (xi) when any information is requested by Rail Contractors relating to the OSD Works or the carrying out of the OSD Works, including confirming the compatibility or suitability of the design of, work methods to be used in, or any other aspect of, the Rail Contractors' Work with the OSD Works or the carrying out of the OSD Works:
  - (A) provide the information to the Rail Contractor, with a copy to the Principal's Representative, within the time requested by the Rail Contractor (or, if the time requested by the Rail Contractor is not reasonable, within a reasonable period of time); and
  - (B) to the extent the information is prepared by, or otherwise the responsibility, of Macquarie, the D&C Contractor, DevCo or Macquarie Bank Limited, ensure and warrant (as at the date the information is provided) that the information provided is accurate; and
- (xii) use its best endeavours to resolve any problems, and work closely and iteratively, with Rail Contractors, including providing work methodologies, to achieve the best solution to such problems, related to:
  - (A) the provision of information;
  - (B) the obtaining of information;
  - (C) the adequacy of information provided to, or received from, Rail Contractors;
  - (D) coordination in accordance with this clause 9.2(b); and
  - (E) technical issues with the information provided to, or received from, Rail Contractors; and

- (c) must promptly advise the Principal's Representative of all matters arising out of the liaison with Rail Contractors that may involve a change to design or construction work under this deed or otherwise have an adverse effect on the OSD Works.

The Principal undertakes to Macquarie that it will procure that conditions similar to those in this clause 9.2 applying to Macquarie will apply to all Rail Contractors engaged by the Principal working on the Construction Site.

### 9.3 **Disputes between Macquarie and Rail Contractors**

- (a) If, despite Macquarie having complied with all of its obligations in clause 9.2(b), Macquarie and any Rail Contractor fail to resolve any interface issue or dispute between them, Macquarie must promptly give the Principal's Representative written notice of any interface issue or dispute with the relevant Rail Contractor (with a copy to the Rail Contractor).
- (b) Following receipt of Macquarie's notice under clause 9.3(a):
  - (i) the Principal's Representative must convene a meeting between Macquarie, the relevant Rail Contractor and any other relevant person (as reasonably determined by the Principal's Representative);
  - (ii) the Principal's Representative must work in good faith with Macquarie and the Rail Contractor to resolve the issues or dispute; and
  - (iii) Macquarie must work in good faith with the Principal's Representative and the Rail Contractor to resolve the issues or dispute.

### 9.4 **No Claims arising out of Rail Contractors' Work**

Macquarie:

- (a) acknowledges and agrees that:
  - (i) subject to clause 19.7, no act or omission by a Rail Contractor will, whether or not it causes any delay, disruption or interference to the carrying out of OSD Works, entitle Macquarie to an extension of time under this deed or constitute a direction by the Principal to carry out a Variation or breach of this deed; and
  - (ii) subject to clause 19.7 and clause 20 and except where the Principal's Representative directs a Variation, the Principal will not be liable upon any Claim by Macquarie arising out of or in any way in connection with:
    - (A) any Rail Contractor carrying out Rail Contractors' Work; or
    - (B) any act or omission of a Rail Contractor; and
- (b) warrants that the OSD Program contains sufficient allowances for the assumption by Macquarie of the obligations and risks under clause 9.1 and this clause 9.4.

### 9.5 **Related Delay Event**

Macquarie's entitlement to an extension of time and Delay Costs in relation to the Delay Event referred to in clause 19.6(b)(ii) will be reduced to the extent that Macquarie's non-compliance with:

- (a) a Follow-on Contractor Cooperation and Integration Deed; or



- (b) its obligations under a Project Document or the Station Delivery Deed in connection with the Rail Contractors,

increased the length of any delay caused by the Delay Event.

## 10. INTERFACE WITH THIRD PARTIES

### 10.1 Third party agreements

Macquarie must procure any rights from third parties that it requires to exercise its rights or perform its obligations under this deed, including any arrangements required with:

- (a) adjoining landowners, infrastructure providers and relevant stakeholders; and
- (b) Service providers regarding existing and future Services.

### 10.2 Existing Operations

- (a) Macquarie acknowledges that:

- (i) Existing Operators must continue their Existing Operations during the course of the carrying out of the OSD Works by Macquarie;
- (ii) the access ways to the Construction Site are used by Existing Operators and will not be available exclusively to Macquarie; and
- (iii) in using these access ways, Macquarie must ensure disturbance and inconvenience to the Existing Operations is minimised.

- (b) Macquarie bears the risk of:

- (i) coordinating its access to and from the Construction Site with any other relevant party (including Existing Operators) that uses the access ways to the Construction Site; and
- (ii) any delay or disruption to the carrying out of the OSD Works which arises from any Existing Operations on or in the vicinity of the Construction Site.

- (c) Without limiting any other obligations of Macquarie, Macquarie must:

- (i) to the extent reasonably possible in performing the OSD Works, not interfere with the free movement of traffic (vehicular, pedal cycle and pedestrian) into and out of, adjacent to, around, on or about the Construction Site or the Existing Operations or (except as an unavoidable consequence of performing the OSD Works in accordance with this deed) block or impair access to any premises, carparks, roadways, pedestrian ways, public spaces, parks, pedal cycle paths, or other facilities associated with the Existing Operations and comply with the Principal's reasonable Directions in relation to them;
- (ii) comply with the Principal's reasonable Directions in connection with:
  - (A) the Existing Operations (including access to and use of the Construction Site); and
  - (B) workplace health and safety issues to enable the Principal and Rail Contractors to comply with, and not place the Principal and Rail Contractors in breach of, their obligations under any Law relating to workplace health and safety;

- (iii) comply with all policies, procedures and rules of the Principal applying from time to time (as notified by the Principal) in respect of the Existing Operations (including in relation to workplace health and safety and/or the Environment);
- (iv) keep itself informed as to the requirements to comply with and not do anything which may place the Principal in breach of Law applying to the Existing Operations on or in the vicinity of the Construction Site; and
- (v) immediately:
  - (A) repair and make good any damage to the physical infrastructure of the Existing Operations to the extent caused or contributed to by the OSD Works; and
  - (B) when directed by the Principal's Representative, take such action as is required to ensure that its obligations in this clause 10.2(c) are complied with.
- (d) Except to the extent expressly permitted by this deed, Macquarie must:
  - (i) minimise disruption and interruption to, and interface with, the Existing Operations;
  - (ii) minimise any nuisance, unreasonable noise or inconvenience to the Existing Operations;
  - (iii) program and coordinate the activities of Macquarie and Macquarie's Associates under this deed using design and construct best practices and so as to minimise the effect that the carrying out of the OSD Works under this deed has on the Existing Operations;
  - (iv) cooperate with Existing Operators;
  - (v) coordinate its activities with any activity of Existing Operators; and
  - (vi) protect all adjoining properties from damage which may arise from the carrying out of the OSD Works.
- (e) Macquarie must ensure that its Associates at all times comply with this clause 10.2.

## 11. **INTERFACE WITH MARTIN PLACE METRO STATION**

### 11.1 **Acknowledgements regarding Martin Place Metro Station interface**

The parties acknowledge that:

- (a) the Principal and the Station Developer are parties to the Station Delivery Deed;
- (b) the Station Developer may carry out the Station Developer's Activities on the Construction Site pursuant to the Station Delivery Deed;
- (c) the Principal will grant the Station Developer a licence over the Martin Place Metro Station Construction Site under clause 17 of the Station Delivery Deed;
- (d) certain areas of the Martin Place Metro Station Construction Site will become part of the Construction Site (North Tower Lot) and Construction Site (South Tower Lot) on the day after the Station Date of Completion;

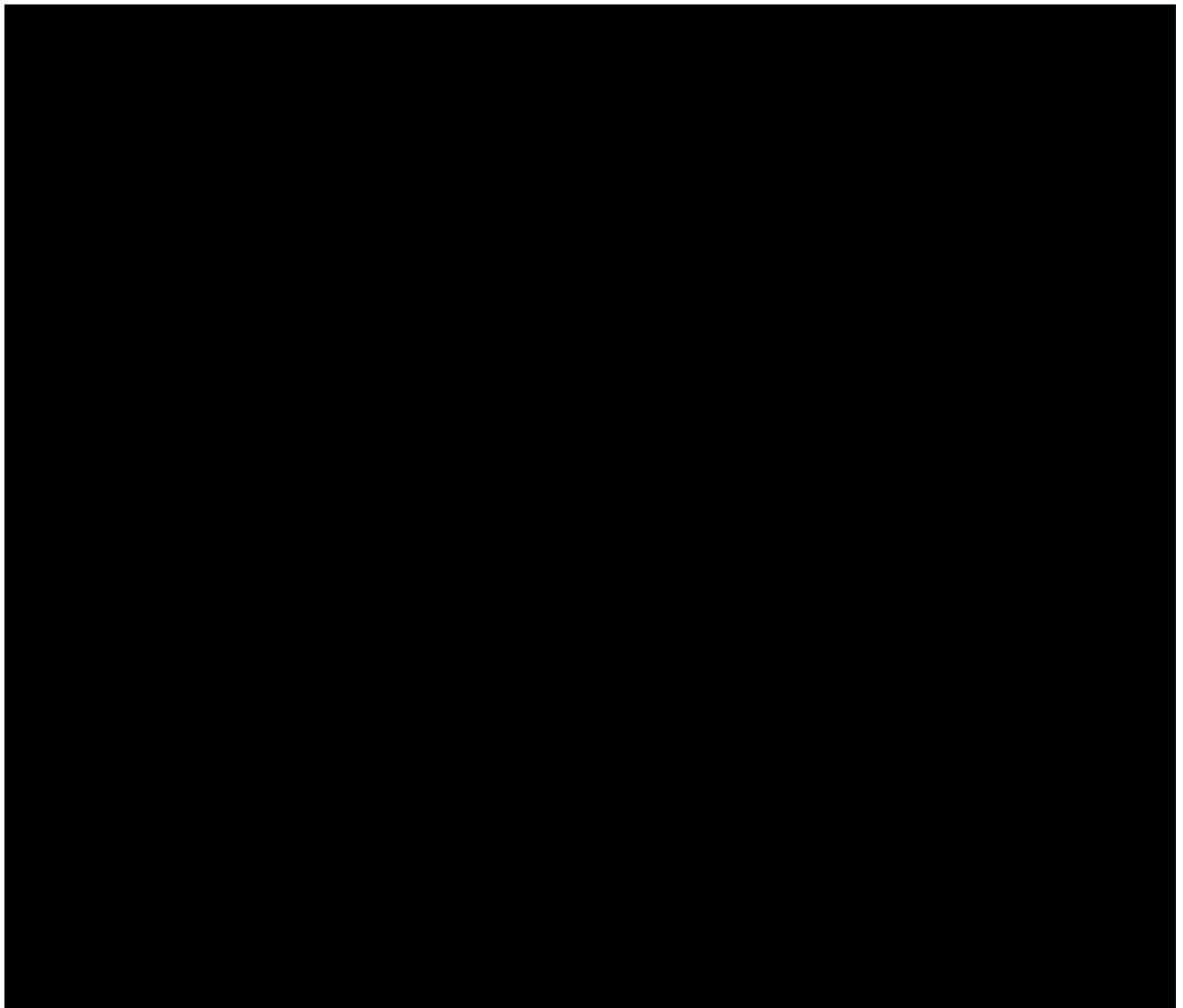
- (e) to the extent that Macquarie requires access to or a right to occupy or use the Martin Place Metro Station Construction Site prior to the Station Date of Completion, Macquarie must procure that access or right for itself from the Station Developer; and
- (f) Macquarie may permit the Station Developer to access, occupy or use the Construction Site for the purposes of undertaking the Station Developer's Activities as contemplated by clause 13 of the Station Delivery Deed, provided that such access is subject to the same terms, conditions and restrictions as those that apply to access by Macquarie under this deed.

**11.2 Procuring access to the Martin Place Metro Station Construction Site**

Without limiting clause 13.2(e), Macquarie acknowledges and agrees that:

- (a) the Principal has no responsibility or obligation to procure the access or rights, or to assist Macquarie to procure the access or rights, referred to in clause 11.1; and
- (b) if Macquarie accesses, occupies or uses the Martin Place Metro Station Construction Site, it does so at its own Cost and risk.

**11.3 Risk and liability in relation to Martin Place Metro Station interface**



#### 11.4 SDD Step-in Events

Notwithstanding any other provision of this deed or any other Project Document, if an SDD Step-in Event occurs and an SDD Step-in Party exercises any of the SDD Step-in Powers under clause 44 of the Station Delivery Deed, Macquarie must:

- (a) cooperate with the SDD Step-in Party;
- (b) allow the SDD Step-in Party to access and use the Construction Site (to the extent necessary to enable the SDD Step-in Party to exercise the SDD Step-in Powers);
- (c) provide any information that the SDD Step-in Party reasonably requires to exercise the SDD Step-in Powers; and
- (d) ensure that its Significant Subcontractor, and use its best endeavours to ensure all other Subcontractors, do likewise,

and Macquarie will have no entitlement to make any Claim against the Principal or the SDD Step-in Party in relation to any action taken by the Principal or the SDD Step-in Party pursuant to this clause 11.4 except where it arises from:

- (e) fraud or Wilful Misconduct on the part of the SDD Step-in Party or its Associates; or
- (f) the event listed in clause 19.6(b)(ii) (to the extent the OSD Works are damaged by the Principal, the SDD Step-in Party or the Step-in Party's Associates) and clause 19.6(b)(iv)(B) in respect of paragraph (f) of the definition of Compensation Event only (to which the provisions of clauses 19.7 and 20 will apply).

#### 11.5 Inconsistency

The parties agree that, to the extent there is any inconsistency between:

- (a) this clause 11 or clause 13 of this deed; and
- (b) clause 13 or clause 17 of the Station Delivery Deed,

the relevant provisions of the Station Delivery Deed will prevail.

### 12. INFORMATION DOCUMENTS AND ENVIRONMENTAL ISSUES

#### 12.1 Physical conditions

- (a) **(Examination and investigation):** Subject to clause 12.2(e), Macquarie warrants that, prior to the Commencement Date, Macquarie:
  - (i) examined this deed, the Project Documents, the Station Delivery Deed and the Construction Site, any Extra Land and its surroundings and any other information that was made available in writing by the Principal, TfNSW or any other person on the Principal's or TfNSW's behalf, to Macquarie or its Associates for the purpose of submitting its Binding Offer;
  - (ii) examined, and relied solely upon its own assessment, skill, expertise and enquiries in respect of, all information relevant to the risks, contingencies and other circumstances having an effect on the Binding Offer and its obligations under the Project Documents;
  - (iii) satisfied itself as to the correctness and sufficiency of the Binding Offer and that it has made adequate allowance for the costs of complying with all of its obligations under the Project Documents and of all matters and things

necessary for the due and proper performance and completion of the obligations of Macquarie under this deed;

- (iv) informed itself of all matters relevant to the employment of labour and all industrial matters on the Construction Site;
  - (v) was given the opportunity prior to submitting its Binding Offer to itself undertake, and to request others to undertake, tests, enquiries and investigations:
    - (A) relating to the subject matter of the Information Documents; and
    - (B) for design purposes and otherwise;
  - (vi) had a sufficient opportunity to obtain and obtained all necessary legal, geotechnical and other technical advice in relation to the terms of this deed, the Project Documents, the Information Disclaimer, the Information Documents, the Site Conditions, as well as the risks, contingencies and other circumstances having an effect on the Binding Offer and the performance of its obligations and its potential liabilities under the Project Documents; and
  - (vii) had sufficient access to the Construction Site, undertook sufficient tests, enquiries and investigations, had sufficient information and obtained a sufficient understanding of the risks involved to enable it to make an informed decision about whether or not to enter into the Project Documents and assume the obligations and potential risks and liabilities which it imposes on Macquarie.
- (b) **(Site Conditions)**: Except as expressly stated otherwise in this deed, Macquarie is responsible for, and assumes the risk of:
- (i) all Loss or delay it suffers or incurs; and
  - (ii) any adverse effect on the Project,
- arising out of, or in any way in connection with the Site Conditions encountered in performing the OSD Works.

## 12.2 Information Documents

- (a) **(Information Disclaimer)**: Prior to the Commencement Date, the Information Disclaimer was signed in respect of Information Documents provided by TfNSW to Macquarie and its Associates.
- (b) **(No warranty)**: Without limiting clause 12.2(c) or the warranties in the Information Disclaimer:
  - (i) neither the Principal nor TfNSW warrants, guarantees or assumes any duty of care or other responsibility for or make any representation about the accuracy, adequacy, suitability or completeness of the Information Documents;
  - (ii) Macquarie acknowledges that:
    - (A) whether or not an Information Document or any part thereof forms an exhibit or annexure to this deed, the Information Document or part thereof does not form part of this deed and clause 12.2(c) applies to the Information Document or part thereof; and

- (B) where an Information Document or any part thereof forms an exhibit or annexure to this deed, it does so only for the purposes of identification of that document or part thereof; and
- (iii) neither the Principal nor TfNSW will be liable upon any Claim by Macquarie or its Associates arising out of or in any way in connection with:
  - (A) the provision of, or the purported reliance upon, or use of the Information Documents to or by Macquarie or its Associates or any other person to whom the Information Documents are disclosed; or
  - (B) a failure by the Principal or TfNSW to provide any information to Macquarie or its Associates, except where such failure is a breach of a Project Document (whereby Macquarie's only remedy shall be for breach of contract).
- (c) **(No reliance):** Macquarie:
  - (i) subject to clause 12.2(e), warrants that it did not in any way rely upon:
    - (A) any Information Document or any other information, data, representation, statement or document made, or provided to Macquarie or its Associates, by the Principal, TfNSW or anyone on behalf of the Principal or TfNSW or any other information, data, representation, statement or document for which the Principal and/or TfNSW is responsible or may be responsible whether or not obtained from the Principal, TfNSW or anyone on behalf of the Principal or TfNSW; or
    - (B) the accuracy, adequacy, suitability or completeness of such Information Document or other information, data, representation, statement or document,

for the purposes of entering into this deed or carrying out the OSD Works but nothing in this clause 12.2(c) will limit or otherwise affect Macquarie's obligations under the Project Documents;
  - (ii) subject to clause 12.2(e), warrants that it enters into the Project Documents based on its own investigations, interpretations, deductions, information and determinations; and
  - (iii) acknowledges that it is aware that the Principal has entered into this deed relying upon:
    - (A) the warranties, acknowledgements and agreements in clauses 12.1, 12.2(c)(i) and 12.2(c)(ii); and
    - (B) the agreements and acknowledgements in the Information Disclaimer and its Binding Offer.
- (d) **(Release and indemnity):** Macquarie releases and indemnifies the Principal and TfNSW from and against:
  - (i) any Claim against the Principal and/or TfNSW by, or Liability of the Principal and/or TfNSW to, any person; or
  - (ii) (without being limited by clause 12.2(d)(i)) any Loss incurred by the Principal and/or TfNSW,

arising out of or in any way in connection with:

- (iii) the provision of, or the purported reliance upon, or use of, the Information Documents to or by Macquarie or its Associates or any other person to whom the Information Documents are disclosed by Macquarie or a failure by the Principal and/or TfNSW to provide any information to Macquarie or its Associates;
- (iv) any breach by Macquarie of clause 12.1 or this clause 12.2; or
- (v) the Information Documents being relied upon or otherwise used by Macquarie or its Associates, or by any other person to whom the Information Documents are disclosed by Macquarie, in the preparation of any information or document, including any Information Document which is "misleading or deceptive" or "false and misleading" (within the meaning of those terms in sections 18 and 29 (respectively) of the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) or any equivalent provision of State or Territory legislation),

except to the extent that:

- (vi) the Information Documents relate to the OSD Design Parameters, the SWTC Reliance Provisions or the Functional Design Layout, in which case Macquarie releases but does not indemnify the Principal and/or TfNSW (as applicable); or
  - (vii) in relation to clause 12.2(d)(iii), the Principal and/or TfNSW has breached a Project Document by failing to provide information in accordance with such Project Document.
- (e) **(OSD Design Parameters, SWTC Reliance Provisions and Functional Layout):** The parties acknowledge and agree that:
- (i) Macquarie is obliged to design and construct the OSD Works to satisfy the OSD Design Parameters;
  - (ii) the Station Developer is obliged to design and construct the Martin Place Metro Station Works to satisfy the SWTC Reliance Provisions and in accordance with the Functional Design Layout; and
  - (iii) for the purposes of this clause 12.2, Macquarie has not undertaken any investigation of the accuracy, adequacy, appropriateness, suitability, completeness or correctness of the OSD Design Parameters, SWTC Reliance Provisions or the Functional Design Layout.

### 12.3 Condition of the Construction Site

- (a) The Principal makes no representations and gives no warranty to Macquarie or its Associates in respect of:
  - (i) the Site Conditions likely to be encountered during the execution of the OSD Works or otherwise in respect of the condition of:
    - (A) the Construction Site, any Extra Land or their surroundings; or
    - (B) any structure or other thing on, under, above or adjacent to the Construction Site or any Extra Land;

- (ii) the adequacy or suitability of the Construction Site or any Extra Land for the OSD Works; or
- (iii) the existence, location, condition or availability of Services on, under, above, adjacent to or related to the Construction Site or any Extra Land.

(b) Macquarie accepts:

- (i) the Construction Site and any Extra Land; and
- (ii) any structures or other things on, above or adjacent to, or under the surface of, the Construction Site and any Extra Land,

in their present condition subject to all defects and Site Conditions and agrees that it is responsible for, and assumes the risk of:

- (iii) all Loss, delay or disruption it suffers or incurs; and
- (iv) any adverse effect on the OSD Works, the carrying out of the OSD Works and any part of the OSD Support Works and Martin Place Metro Station Works during the period in which Macquarie is responsible for them in accordance with clause 16.2,

arising out of, or in any way in connection with any defect or Site Conditions encountered in performing the OSD Works.

(c) Notwithstanding any other provision of this deed, Macquarie assumes all risks associated with the Macquarie Land (including any defects or Site Conditions encountered on the Macquarie Land) and will not be entitled to make any Claim against the Principal arising out of or in connection with such risks.

(d) Macquarie must investigate, design and construct the OSD Works in accordance with this deed and will not be relieved of its obligations under this deed, irrespective of:

- (i) any defects or Site Conditions encountered in performing the OSD Works;
- (ii) whatever may be the condition or characteristics (including all sub-surface conditions) of:
  - (A) the Construction Site or any Extra Land, the Environment or their surroundings; or
  - (B) any structure or other thing on, above or adjacent to, or under the surface of, the Construction Site or any Extra Land, the Environment or their surroundings; and
- (iii) any assumptions, projections, estimates, contingencies or otherwise that Macquarie or MCH may have made in relation to the Site Conditions or the conditions or the characteristics of any of the matters referred to in clause 12.3(d)(ii).

#### 12.4 Environmental compliance

Macquarie:

- (a) **(no improper use of Construction Site or Extra Land):** must not use the Construction Site or any Extra Land, or allow Subcontractors to use the Construction Site or any Extra Land, so that:



- (i) any Hazardous Chemical is abandoned or dumped on the Construction Site or any Extra Land;
  - (ii) any Hazardous Chemical is handled in a manner which is likely to cause an Environmental Hazard; or
  - (iii) any other substance is released from, deposited to, or emanates from, the Construction Site or any Extra Land such that a state of Contamination occurs, except where such release, deposit or emanation was an unavoidable consequence of performing the OSD Works in accordance with Good Industry Practice and otherwise in accordance with the requirements of this deed;
- (b) **(contamination)**: bears the risk of all Contamination on, in, over, under or about the Construction Site and must undertake Remediation of any such Contamination in accordance with Law, the Planning Approval and all guidelines made or approved by the NSW Environment Protection Authority, except as otherwise expressly provided in this deed;
- (c) (be environmentally responsible): must, at all times carry out, and ensure that Macquarie's Subcontractors carry out, the obligations of Macquarie in an environmentally responsible manner, in accordance with Good Industry Practice, and so as to protect the Environment and keep the Construction Site in a good and safe condition;
- (d) **(comply with Environmental laws)**: must, without limiting clause 5:
- (i) comply with, and ensure that Subcontractors in performing the obligations of Macquarie comply with:
    - (A) all Laws relating to the Environment;
    - (B) the Planning Approvals; and
    - (C) all Environmental Notices arising out of or in connection with the carrying out of the OSD Works; and
  - (ii) obtain and comply with all requirements of, and ensure that Subcontractors in performing the obligations of Macquarie obtain and comply with all requirements of, any Approvals required in order to release or emit anything from the Construction Site into the air or onto the ground or otherwise into the Environment or to emit any substantial noise or vibrations; and
- (e) **(notification)**: must notify the Principal in writing as soon as practicable after Macquarie:
- (i) becomes aware of any non-compliance with the requirements of any Law or Approval regarding the Environment, in the performing of the OSD Works;
  - (ii) becomes aware of any information, fact or circumstance where:
    - (A) if the Principal were to be aware of such information, fact or circumstance, the Principal would be required to notify any Authority of that information, fact or circumstance pursuant to any Law relating to the Environment (without limiting any other obligation of Macquarie in relation to the information, fact or circumstances); and
    - (B) Macquarie is aware of that notification obligation of the Principal; or

- (iii) notifies any Authority of any matter pursuant to any Law relating to the Environment, in which case Macquarie must provide to the Principal a copy of such notification and of any subsequent correspondence with the Authority in relation to the subject of the notification.

#### 12.5 **Liability under the NGER Legislation**

- (a) Without limiting any other clause in this deed, Macquarie acknowledges and agrees that if the OSD Works constitute a "facility" within the meaning of the NGER Legislation, then for the purposes of the NGER Legislation, it has operational control of that facility or facilities and will comply with any obligations arising in respect of the OSD Works under the NGER Legislation.
- (b) If, for the purpose of the NGER Legislation, Macquarie is not taken to have operational control of the facility or facilities referred to in clause 12.5(a):
  - (i) Macquarie must comply with any obligations arising under the NGER Legislation in respect of the OSD Works as if it was the person with operational control of such facility or facilities; and
  - (ii) where section 11B(1) of the NGER Legislation applies, Macquarie agrees that upon written request by the Principal, the parties will, for the purposes of the NGER Legislation, jointly nominate Macquarie as the person with operational control of such facility or facilities (with such nomination continuing until the completion of the OSD Works) and will do all things reasonably necessary to give effect to such nomination (including providing all relevant information and completing and executing all relevant documents and forms).
- (c) If, despite the operation of clauses 12.5(a) and 12.5(b), the Principal incurs, or but for this clause would incur, a liability under or in connection with the NGER Legislation as a result of or in connection with the OSD Works, and the NGER Legislation provides:
  - (i) that such liability can be transferred by the Principal to Macquarie; or
  - (ii) for a declaration or other mechanism by which Macquarie can become the person with such liability under the NGER Legislation,Macquarie must, upon written request by the Principal, do all things reasonably necessary to achieve such outcome (including providing all relevant information and completing and executing all relevant documents and forms).

#### 12.6 **Provision of Emissions and Energy Data to the Principal**

- (a) Macquarie must provide Macquarie's Emissions and Energy Data to the Principal's Representative:
  - (i) at such times as may be agreed by the Principal and Macquarie, or, if no such agreement is reached, within 10 Business Days after receiving written notice from the Principal indicating that it requires Macquarie's Emissions and Energy Data to be provided; and
  - (ii) on each occasion that Macquarie is required to provide Macquarie's Emissions and Energy Data to an Authority under the NGER Legislation or any other applicable Law.
- (b) The Principal may use Macquarie's Emissions and Energy Data for any purpose as it sees fit.

## 12.7 Reporting Emissions and Energy Data

- (a) This clause 12.7 applies if, despite the operation of clause 12.5, the Principal incurs a liability under or in connection with the NGER Legislation as a result of or in connection with the OSD Works.
- (b) Macquarie must assist the Principal to comply with the NGER Legislation in relation to any aspect of the OSD Works.
- (c) Without limiting clause 12.7(b), if the Principal notifies Macquarie in writing that Macquarie is required to provide Macquarie's Emissions and Energy Data to the Principal, then Macquarie must:
  - (i) provide Macquarie's Emissions and Energy Data to the Principal in the same manner, form and level of detail, based on the same methods and at the same times:
    - (A) as if Macquarie were obliged under the NGER Legislation or any other applicable Law to provide Emissions and Energy Data to an Authority and the Principal was that Authority;
    - (B) in accordance with the requirements or Approvals of any Authority and any Directions given by the Principal; and
    - (C) without limiting clause 12.7(c)(i)(A) or clause 12.7(c)(i)(B), as required to enable the Principal:
      - (aa) to discharge, as and when they fall due, any obligations that it may have to provide Macquarie's Emissions and Energy Data to any Authority; and
      - (bb) to provide to any Authority any Macquarie's Emissions and Energy Data concerning any greenhouse gas project;
  - (ii) keep all such Macquarie's Emissions and Energy Data required to enable it to discharge its obligations under clause 12.7(c)(i);
  - (iii) retain records of its activities that are the basis of Macquarie's Emissions and Energy Data for any financial year, for a period of not less than 7 years from the end of the year in which the relevant activities take place; and
  - (iv) permit Macquarie's Emissions and Energy Data to be examined, monitored, measured, copied, audited and verified by any persons appointed or authorised for that purpose by the Principal or any Authority, and cooperate with and provide all reasonable assistance to any such persons, including giving access to premises, plant and equipment, producing and giving access to documents (including any records kept and retained under clause 12.7(c)(ii) and clause 12.7(c)(iii)) and answering questions.
- (d) Macquarie acknowledges and agrees that:
  - (i) Macquarie's Emissions and Energy Data is provided to the Principal:
    - (A) to discharge any obligations that the Principal may have to provide such Emissions and Energy Data to an Authority; and
    - (B) so that the Principal may provide to any Authority any of Macquarie's Emissions and Energy Data concerning any greenhouse gas project;

- (ii) the Principal may provide or otherwise disclose Macquarie's Emissions and Energy Data to any Authority; and
- (iii) nothing in this clause 12.7 is to be taken as meaning that the Principal has agreed to perform on behalf of Macquarie, any obligation that Macquarie itself may have under any legislative requirement regarding the provision of Emissions and Energy Data to any Authority (including any obligation under the NGER Legislation).

### 13. ACCESS TO LAND AND OTHER LAND ISSUES

#### 13.1 Construction Licence

- (a) The Principal grants to Macquarie, and Macquarie accepts the grant of, a non-exclusive licence to use and occupy, and permit Macquarie's Associates to use and occupy, the Construction Site to commission and carry out the OSD Works in accordance with this deed.
- (b) The licence:
  - (i) commences in respect of each part of the Construction Site on the relevant Construction Licence Commencement Date;
  - (ii) terminates on the earlier of:
    - (A) with respect to the Construction Site (North Site 1) and Construction Site (North Site 2), the commencement of the Construction Site (North Tower Lot);
    - (B) with respect to the Construction Site (South Site), the commencement of the Construction Site (South Tower Lot);
    - (C) with respect to the Construction Site (North Tower Lot), the date of completion of the Development Lot Sale Contract for the North Tower Lot;
    - (D) with respect to the Construction Site (South Tower Lot), the date of completion of the Development Lot Sale Contract for the South Tower Lot;
    - (E) with respect to the 50 Martin Place Ancillary Amenities Lot, the date of completion of the transfer of the 50 Martin Place Ancillary Amenities Lot from the Principal to Macquarie Bank Limited under clause 31.11 of the Station Delivery Deed; and
    - (F) subject to clause 34.12(b), the date of termination of this deed;
  - (iii) is subject to restrictions upon the access, possession and use of the Construction Site referred to in the Site Access Schedule, the Follow-on Contractor Cooperation and Integration Deeds and clause 13.2(d); and
  - (iv) is personal in nature and does not create any entitlement or interest in the Construction Site.

#### 13.2 Access to and use of the Construction Site

- (a) The Principal must:

- (i) provide Macquarie with access to each part of the Construction Site by no later than the relevant Site Access Date; and
  - (ii) thereafter continue to allow Macquarie and Macquarie's Associates to access the Construction Site on the terms of this deed.
- (b) Macquarie is responsible for gaining access to and from the Construction Site after the Principal grants the non-exclusive licence under clause 13.1(a) for the relevant part of the Construction Site and, except as expressly provided in a Project Document, will not be entitled to make any Claim against the Principal in connection with access, or failure to gain or delay in gaining access, to and from the Construction Site.
- (c) Macquarie:
  - (i) must access the Construction Site only at the points of entry and exit and via the routes set out in the Construction and Site Management Plan; and
  - (ii) bears the risk of co-ordinating its access to the Construction Site with any other person that uses the access ways to the Construction Site.
- (d) Macquarie must not use the Construction Site, or permit it to be used, for any purpose other than:
  - (i) the OSD Works;
  - (ii) the Station Developer's Activities if the Construction Site is accessed, occupied or used by the Station Developer under the Station Delivery Deed;
  - (iii) any work undertaken by a Rail Contractor; or
  - (iv) fitout of the concourse link and end of trip facilities,without the Principal's prior written consent.
- (e) Without limiting clause 9 or clause 10, Macquarie acknowledges and agrees that:
  - (i) the Construction Site, the Martin Place Metro Station Construction Site, the Martin Place Metro Station Lot and land in the vicinity of the Construction Site may be the subject of construction and development activities by others;
  - (ii) the areas referred to in clause 13.2(e)(i) may be occupied by Existing Operators and Rail Contractors after the relevant Construction Licence Commencement Date;
  - (iii) its right of access granted under the Construction Licence is non-exclusive and access to the Construction Site under the Construction Licence confers on Macquarie a right only to use and control the Construction Site as is necessary to carry out its obligations under this deed (and to authorise Macquarie's Associates to carry out the OSD Works); and
  - (iv) to the extent that the Construction Site includes, or works are to be carried out by or on behalf of Macquarie on or to, public roads (as defined under the Roads Act), Macquarie must comply with the requirements of the Principal and any relevant Authority in relation to any works to be carried out on or to, closure or re-alignment of those public roads.

### 13.3 Variation of Construction Site

- (a) If, prior to the Station Date of Completion, the Principal has given a direction to the Station Developer to implement a variation under the Station Delivery Deed and such variation causes any of the works under the Station Delivery Deed or any of the Station Developer's Activities to encroach into the Construction Site:
  - (i) the Principal will give written notice to Macquarie:
    - (A) identifying the affected area of the Construction Site (Area of Encroachment); and
    - (B) attaching an amended Site Access Schedule which includes the Area of Encroachment in the relevant section of the amended Site Access Schedule; and
  - (ii) on and from the date specified in the Principal's notice:
    - (A) each reference to "Site Access Schedule" in the Project Documents will be deemed to be a reference to the amended Site Access Schedule attached to the Principal's notice to Macquarie; and
    - (B) the Area of Encroachment will be omitted from the Construction Site.
- (b) Macquarie will not be entitled to make any Claim against the Principal arising out of or in connection with the operation of this clause 13.3, except that nothing in this clause limits the application of clause 26.

### 13.4 Access to the Martin Place Metro Station Lot by Macquarie

- (a) Subject to Macquarie complying with the requirements set out in the remainder of this clause 13.4, Macquarie may require access to the Martin Place Metro Station Lot for the purpose of undertaking part of the OSD Works after the Station Date of Completion.
- (b) If Macquarie requires access to the Martin Place Metro Station Lot after the Station Date of Completion for the purpose of performing its obligations under this deed, Macquarie must give the Principal no less than 10 Business Days' prior written notice, together with details of:
  - (i) the area of the Martin Place Metro Station Lot to which access is required;
  - (ii) the reason access to the Martin Place Metro Station Lot is required;
  - (iii) the details of Macquarie's Associates who will be accessing the Martin Place Metro Station Lot;
  - (iv) the tools and equipment that Macquarie and its Associates propose to bring on site;
  - (v) all activities that Macquarie and its Associates will undertake in the Martin Place Metro Station Lot; and
  - (vi) the proposed access period and proposed time of the day,

**(Station Access Notice).**

- (c) The Principal must notify Macquarie in writing as soon as reasonably practicable but in any event no later than 10 Business Days after receiving a Station Access Notice that:
  - (i) Macquarie may access the area of the Martin Place Metro Station Lot identified in the Station Access Notice on the terms set out in the Station Access Notice and other conditions specified by the Principal; or
  - (ii) subject to clause 13.4(d), Macquarie may not access the Martin Place Metro Station Lot.
- (d) The Principal may not unreasonably withhold access to the Martin Place Metro Station Lot under clause 13.4(c)(ii).
- (e) If Macquarie accesses the Martin Place Metro Station Lot after the Principal grants such access under clause 13.4(c)(i), Macquarie:
  - (i) acknowledges that Sydney Metro will appoint a principal contractor in respect of the Martin Place Metro Station Lot and Macquarie must execute, or procure that the D&C Contractor executes, a deed poll in favour of that appointed principal contractor in the form of Schedule D2;
  - (ii) acknowledges that:
    - (A) the carrying out of the OSD Works interface with the Rail Contractors' Activities; and
    - (B) the Rail Contractors may be executing work on parts of the Martin Place Metro Station Lot at the same time Macquarie is carrying out the OSD Works; and
  - (iii) must at all times:
    - (A) fully cooperate with the Rail Contractors executing work on parts of the Martin Place Metro Station Lot;
    - (B) carefully coordinate and interface the carrying out of the OSD Works with the Rail Contractors' Activities; and
    - (C) carry out the OSD Works so as to minimise any interference with or disruption or delay to the Rail Contractors' Activities.
- (f) Macquarie:
  - (i) bears all risks associated with Macquarie and its Associates accessing the Martin Place Metro Station Lot pursuant to this clause 13.4, including:
    - (A) coordinating its access to and from the Martin Place Metro Station Lot with any other person (including Existing Operators and Rail Contractors) executing works or accessing the Martin Place Metro Station Lot; and
    - (B) any delay or disruption to the OSD Works which arises from any Existing Operations or Rail Contractors' Activities on or in the vicinity of the Martin Place Metro Station Lot; and
  - (ii) releases the Principal and the Principal's Associates from and against any Loss or Claims arising out of or in connection with:

- (A) Macquarie exercising its right of access to the Martin Place Metro Station Lot under this clause 13.4; or
- (B) the Principal's decision to withhold access in accordance with clause 13.4(c)(ii),

except to the extent such Loss or Claim arises from a breach by the Principal of its obligations under a Principal Project Document.

### 13.5 **Native Title Applications and Threatened Species Claims**

- (a) Macquarie agrees that if:
  - (i) there is a Native Title Application; or
  - (ii) a Threatened Species Claim is commenced,  
affecting any part of the Construction Site or the carrying out of the OSD Works, Macquarie must:
    - (iii) continue to perform its obligations under this deed and the other Project Documents unless otherwise:
      - (A) directed by the Principal's Representative;
      - (B) ordered by any court or tribunal; or
      - (C) required by Law;
    - (iv) at the request of the Principal, or if required to do so under any Law or by order of a court or tribunal, provide all reasonable assistance in connection with dealing with the Native Title Application or Threatened Species Claim (including giving the Principal and any other person authorised by the Principal access to the Construction Site or that part of the Construction Site that is the subject of the Native Title Application or Threatened Species Claim when reasonably required by the Principal for that purpose); and
    - (v) take all reasonable steps to mitigate any Loss to the Principal in complying with its obligations under clause 13.5(a)(iii).
  - (b) For the purposes of clause 13.5(a)(iii)(A), the Principal may by written notice direct Macquarie to suspend the performance of any or all of the OSD Works until such time as the Principal gives Macquarie further notice. Macquarie is not entitled to make any Claim against the Principal for such suspension.

### 13.6 **Extra Land**

- (a) Macquarie must procure for itself, and at its own Cost, the occupation or use of relevant rights over any land or buildings in addition to the Construction Site (including any access, occupation or use rights it requires over the Martin Place Metro Station Construction Site) which is necessary or which it requires for the execution of the OSD Works or to exercise any right or perform any obligation under this deed.
- (b) Macquarie acknowledges that:
  - (i) integration of the requirements for access to Extra Land is at the sole responsibility, Cost and risk of Macquarie; and



- (ii) the Principal will not be liable upon any Claim (insofar as is permitted by Law) by Macquarie arising out of or in any way in connection with:
  - (A) identifying and obtaining access to Extra Land; or
  - (B) any delay, additional Costs or other effects on the OSD Works related to the ability or inability of Macquarie or its Subcontractors to obtain access to Extra Land or approval to use Extra Land or to integrate Extra Land with the Construction Site.

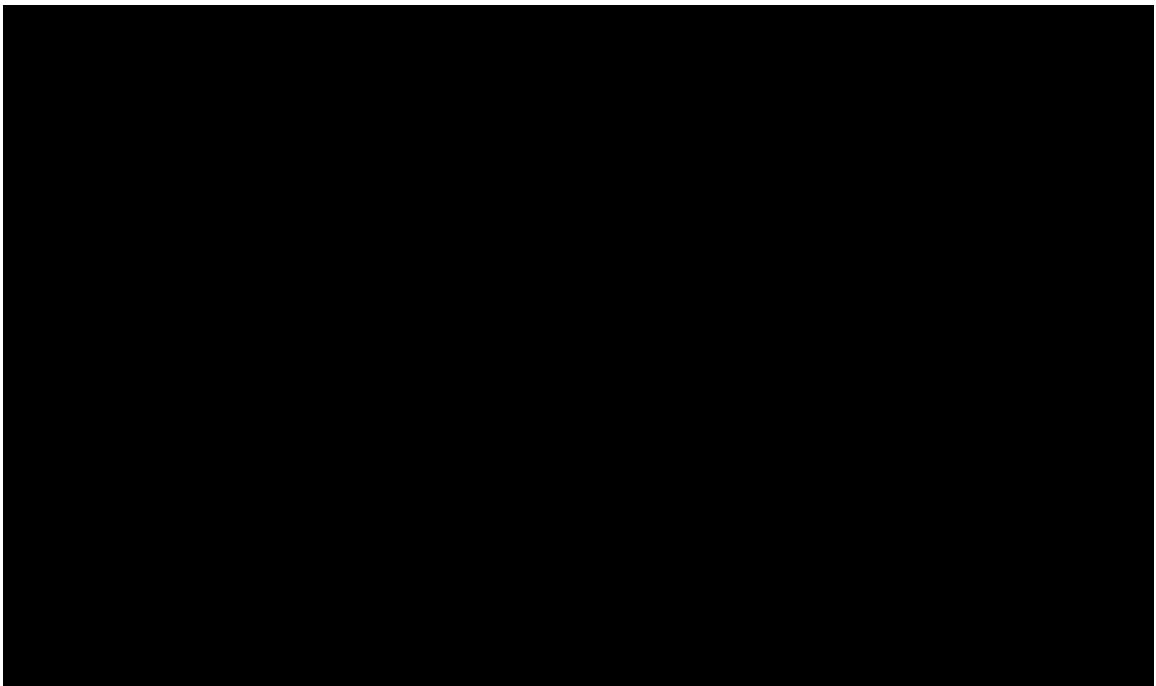
## 14. ENCUMBRANCES

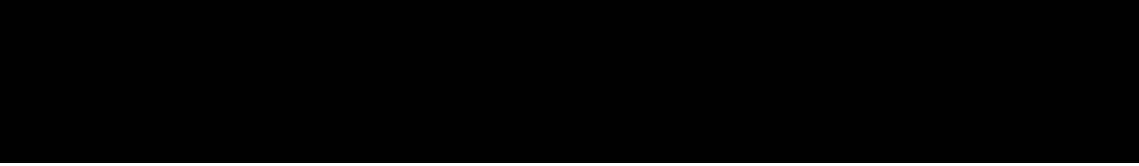
### 14.1 Principal's Land

- (a) The Principal must ensure that:
  - (i) subject to clauses 24 and 49.20, it remains the registered proprietor of the Principal's Land; and
  - (ii) subject to clauses 14.1(d) and 14.2, on:
    - (A) the Construction Licence (North Site 2) Commencement Date, that part of the Principal's Land forming Construction Site (North Site 2) will only be affected by the Existing Encumbrances set out in part A of Schedule D1; and
    - (B) the Construction Licence (South Site) Commencement Date, that part of the Principal's Land forming Construction Site (South Site) will only be affected by the Existing Encumbrances set out in part B of Schedule D1.
- (b) Macquarie acknowledges and agrees that:
  - (i) the Existing Encumbrances have been created on the title to or granted over parts of the Principal's Land;
  - (ii) it has read and understood the rights and obligations in respect of those Existing Encumbrances; and
  - (iii) subject to clause 14.2(a)(ii), it will, during the period of the Construction Licence, comply, and will procure that its Associates comply, with:
    - (A) any Existing Encumbrances; and
    - (B) any Encumbrances created pursuant to this clause 14.1, burdening or benefiting the Construction Site that is accessed by Macquarie or its Associates from time to time as if Macquarie were the owner of that land.
- (c) Except as otherwise provided in this deed (including clause 9.2(a)(v) and clause 14.1(d)), the Principal must not at any time create, or permit the creation of, any Encumbrance or Security Interest in respect of the Principal's Land (excluding any part of the Principal's Land which comprises or will comprise the Martin Place Metro Station Lot) after the Commencement Date without the consent of Macquarie (such consent not to be unreasonably withheld or delayed).

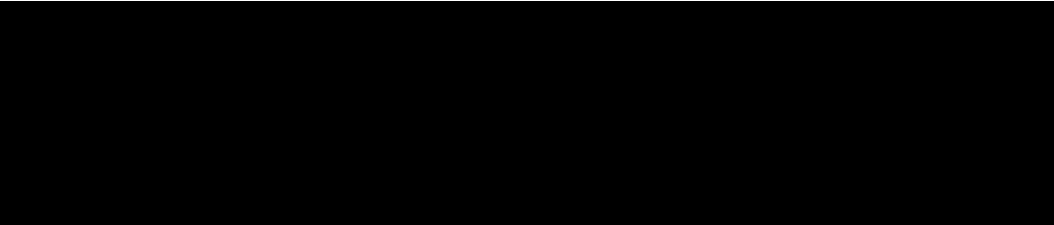
- (d) The Principal may, at its own Cost, at any time and from time to time, create or permit the creation of the following Encumbrances on the title to the Principal's Land:
- (i) any Encumbrance necessary, in the opinion of the Principal, to enable the construction and/or operation of Sydney Metro City & Southwest (including Martin Place Metro Station); and
  - (ii) any Encumbrance required by an Authority.
- (e) After the Commencement Date, if the Principal creates, or permits the creation of Encumbrances in respect of:
- (i) before subdivision of the Principal's Land under clause 31 of the Station Delivery Deed, that part of the Principal's Land that will be subdivided to create each of:
    - (A) the Retail Lot North;
    - (B) the Retail Lot South;
    - (C) the North Tower Lot;
    - (D) the South Tower Lot; and
    - (E) the 50 Martin Place Ancillary Amenities Lot; or
  - (ii) after subdivision of the Principal's Land has occurred under clause 31 of the Station Delivery Deed, the Retail Lot North, the Retail Lot South, the North Tower Lot, the South Tower Lot and/or the 50 Martin Place Ancillary Amenities Lot,

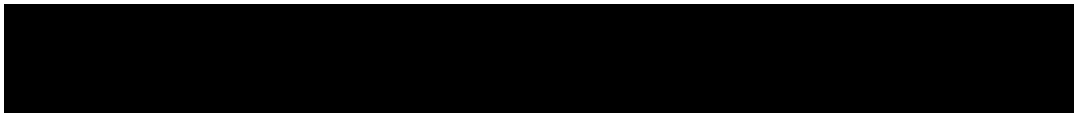
the Principal must consult with Macquarie before creating or permitting the creation of Encumbrances in accordance with clause 14.1(d), unless it is a licence referred to under clause 9.2(a)(v). Macquarie may provide comments to the Principal on the creation of any Encumbrance however the Principal is not obliged to take those comments into account.

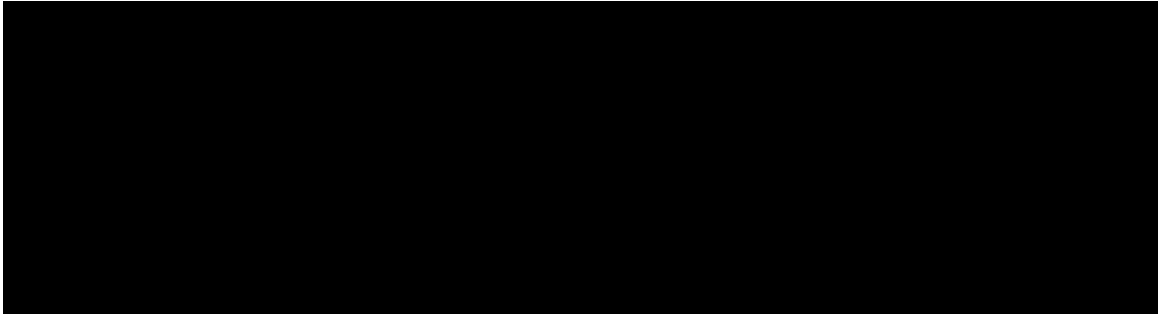


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- (h) Without limiting any other provision in this clause 14.1, if the Principal has created an Encumbrance on the title to the Principal's Land (excluding the Martin Place Metro Station Lot) solely to enable the construction of Sydney Metro City & Southwest (including Martin Place Metro Station) then the Principal must as soon as possible after the commencement of Sydney Metro City & Southwest operations, at no cost to Macquarie, procure the removal of that Encumbrance from the title to the relevant Principal's Land promptly after written request from Macquarie.

#### 14.2 Redundant Encumbrances

- (a) The parties acknowledge and agree that:
- (i) Macquarie and its Subcontractors are not required to comply with any term of a Redundant Encumbrance;
  - (ii) the Principal must:
    - (A) remove all Redundant Encumbrances from the relevant part of the Principal's Land:
      - (aa) by the date for removal as specified in Schedule D4; and
      - (bb) in any event, no later than the date that Macquarie is required to submit the Subdivision Proposal (as that term is defined in the Station Delivery Deed) pursuant to clause 31.3 of the Station Delivery Deed; and
    - (B) update and issue to Macquarie an amended Schedule D4 as soon as reasonably practicable after the Principal has removed a Redundant Encumbrance from the Principal's Land; and
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- (b) If the Principal has not removed any Redundant Encumbrance from the relevant part of the Principal's Land by the date specified in clause 14.2(a)(ii)(A)(bb):
- (i) the Principal agrees that Macquarie may attend to the removal of such Redundant Encumbrances as part of the subdivision process under clause 31 of the Station Delivery Deed;
  - (ii) if clause 14.2(b)(i) applies, the Principal must promptly provide to Macquarie all reasonable assistance and sign all relevant NSW Land Registry Services dealings to enable Macquarie to remove those Redundant Encumbrances from the Principal's Land as part of the subdivision process under clause 31 of the Station Delivery Deed; and
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15. **DESIGN AND DESIGN DOCUMENTATION**

15.1 **Design obligations**

Macquarie must design the OSD Works:

- (a) in accordance with:
  - (i) the OSD Design Parameters;
  - (ii) the Relevant Plans and Specifications and so that the design of the OSD Works is not inconsistent with the Relevant Plans and Specifications;
  - (iii) any Variation:
    - (A) directed by the Principal by a Variation Order; or
    - (B) otherwise permitted under the terms of this deed; and
  - (iv) the Development Consents and all relevant Approvals; and
- (b) without limiting clause 15.1(a), so that the OSD Works:
  - (i) do not have a Metro Impact; and
  - (ii) comply with any applicable Law.

15.2 **OSD Design Documentation (CC)**

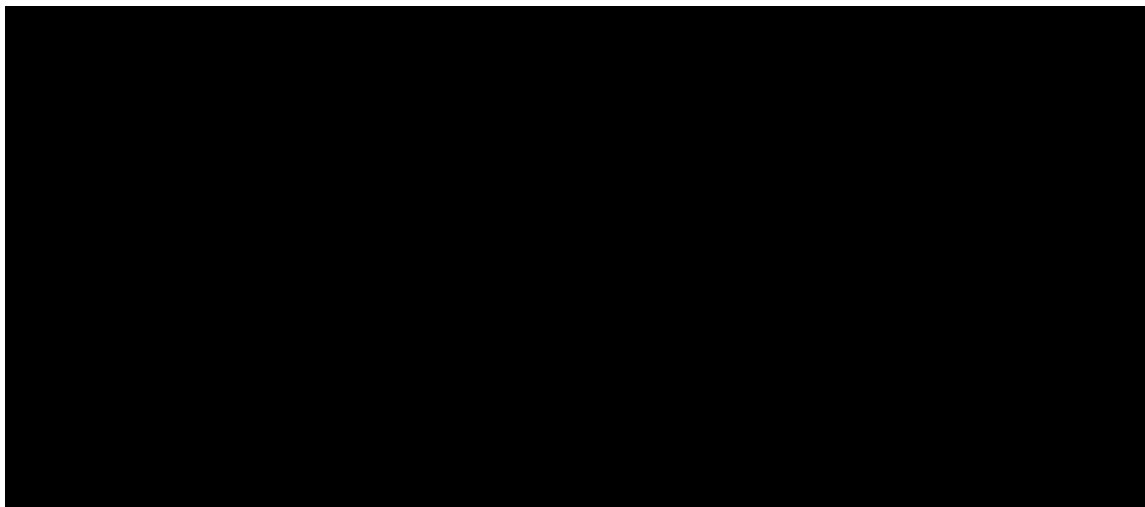
- (a) Macquarie acknowledges that, prior to the Commencement Date, Macquarie prepared the OSD Design Documentation (CC).
- (b) Subject to clause 12.2(c), Macquarie agrees that it bears absolutely all risks howsoever they may arise as a result of Macquarie's use of, or reliance upon, the OSD Design Documentation (CC) in performing its obligations or exercising its rights under this deed and such use and reliance will not limit or otherwise reduce any of its obligations under this deed.

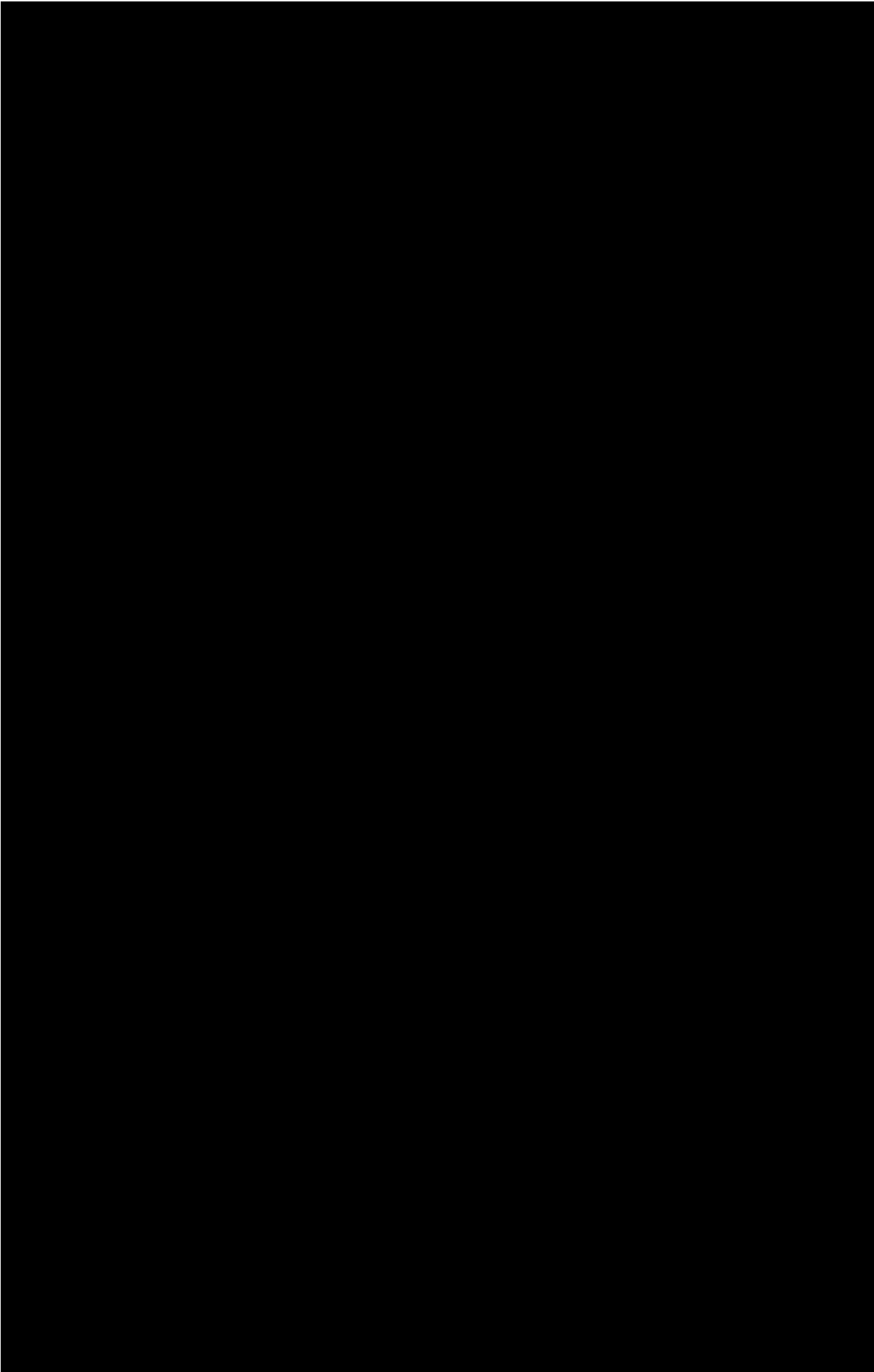
15.3 **Design development for Stage 2 Application**

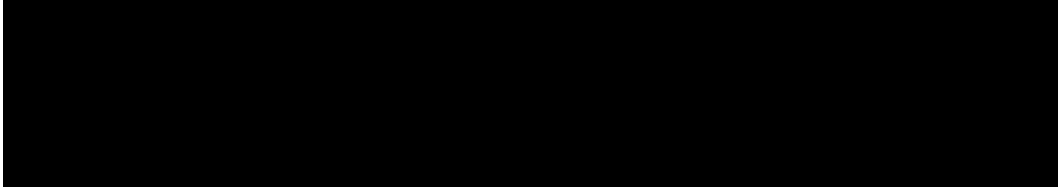
- (a) This clause 15.3 applies:
  - (i) during the period between the Commencement Date and the date on which Macquarie lodges the Stage 2 Application under clause 5;
  - (ii) to any Application containing Design Documentation which Macquarie is required to submit to the Principal for the Principal's consent in its capacity as owner of the Principal's Land; and
  - (iii) may apply to each Separable Portion separately.

- (b) Macquarie must:
- (i) provide updates on the progress of its preparation of the Updated Design Docs (CC) at each Project Control Group meeting held in accordance with clause 4.4, including in relation to the following:
    - (A) any issues it anticipates may arise or any issues which have arisen in relation to its preparation of the Updated Design Docs (CC) to the extent relevant to the matters referred to in clause 15.1; and
    - (B) the estimated date or dates on which Macquarie anticipates it will submit to the Principal's Representative:
      - (aa) the Updated Design Docs (CC) under clause 15.3(b)(ii); and
      - (bb) the Stage 2 Application under clause 5.4; and
  - (ii) submit the Updated Design Docs (CC) (one copy) to the Principal's Representative before the date that Macquarie intends to lodge the Stage 2 Application with the Consent Authority.
- (c) If applicable, Macquarie must, at the same time as it submits any Updated Design Docs (CC) under clause 15.3(b)(ii), give the Principal's Representative a Macquarie Design Non-compliance Notice in hardcopy and in an electronic format as reasonably required by the Principal's Representative.
- (d) If Macquarie gives the Principal's Representative a Macquarie Design Non-compliance Notice under clause 15.3(c):
- (i) the Principal's Representative may, within 20 Business Days after receiving the Macquarie Design Non-compliance Notice, notify Macquarie in writing:
    - (A) if Macquarie proposed amendments to the Updated Design Docs (CC), that the Principal does not object to Macquarie's proposed amendments set out in the Macquarie Design Non-compliance Notice;
    - (B) if Macquarie proposed amendments to the Updated Design Docs (CC), that the Principal does not consider that Macquarie's proposed amendments set out in the Macquarie Design Non-compliance Notice will or are likely to remove [REDACTED] the non-compliance with the OSD Design Parameters, together with the Principal's reasons and any proposed recommendations; or
    - (C) if it was not possible for Macquarie to propose any amendments to the Updated Design Docs (CC), of the Principal's proposed recommendations to [REDACTED] address the OSD Design Parameter non-compliance; and
  - (ii) following receipt of the Principal's notice:
    - (A) under clause 15.3(d)(i)(A), Macquarie must promptly amend the relevant aspects of the Updated Design Docs (CC) to take into account Macquarie's amendments (as set out in the Macquarie Design Non-compliance Notice) and resubmit the amended aspects of the Updated Design Docs (CC) to the Principal's Representative and the provisions of clauses 15.3(f) and 15.3(h) will apply to the amended aspects of the Updated Design Docs (CC); or

- (B) under clause 15.3(d)(i)(B) or clause 15.3(d)(i)(C), Macquarie must either:
  - (aa) promptly amend the relevant aspects of the Updated Design Docs (CC) to take into account the Principal's comments and any proposed recommendations and resubmit the amended aspects of the Updated Design Docs (CC) to the Principal's Representative and the provisions of clauses 15.3(f) and 15.3(h) will apply to the amended aspects of the Updated Design Docs (CC); or
  - (bb) within 10 Business Days after receipt of the Principal's notice under clause 15.3(d)(i)(B) or clause 15.3(d)(i)(C) (as applicable), serve a Notice of Issue or a Notice of Dispute (OSD) (as applicable) if Macquarie does not agree with the Principal's notice.
- (e) If Macquarie does not give the Principal a Macquarie Design Non-compliance Notice under clause 15.3(c) and the Principal's Representative (acting reasonably) considers that the Updated Design Docs (CC) [REDACTED] or will give rise to a non-compliance with the OSD Design Parameters, the Principal's Representative may, within 20 Business Days after receiving the relevant Updated Design Docs (CC), give Macquarie a Principal Design Non-compliance Notice. If Macquarie:
  - (i) disagrees with the Principal Design Non-compliance Notice and notifies the Principal of this within 10 Business Days (or such further time frame as requested by Macquarie in writing and agreed to by the Principal) after receipt of the Principal Design Non-compliance Notice, either the Principal or Macquarie may refer the matter for determination under clause 40; or
  - (ii) fails to notify the Principal's Representative within the time period (as extended by agreement between the parties) under clause 15.3(e)(i) that it disagrees with the Principal Design Non-compliance Notice, Macquarie is deemed to have agreed with the Principal Design Non-compliance Notice and must, within 20 Business Days after receipt of the Principal Design Non-compliance Notice, propose amendments required to the Updated Design Docs (CC) to remove such [REDACTED] non-compliance with the OSD Design Parameters and resubmit the amended aspects of the Updated Design Docs (CC) to the Principal's Representative, and the provisions of clauses 15.3(f) and 15.3(h) will apply.





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- (i) The parties acknowledge and agree that the OSD Design Documentation (FC) will be attached to and form part of the Stage 2 Application, as more particularly described in clause 5.4.
  - (j) The parties acknowledge that the Updated Design Docs (CC) referred to in clause 15.3(b)(i)(B)(aa) may be prepared by Macquarie and submitted to the Principal's Representative pursuant to clause 15.3(b)(ii) progressively. The provisions of this clause 15.3 apply separately to each package of the Updated Design Docs (CC) referred to in clause 15.3(b)(i)(B)(aa) submitted by Macquarie.
  - (k) Macquarie acknowledges that each review period in favour of the Principal under this clause 15.3 does not commence until such time as Macquarie has provided the Principal with a full and complete copy of all documents forming part of the relevant package of Updated Design Docs (CC).
  - (l) The Principal may, at any time during each review period in favour of the Principal under clause 15.3, request Macquarie to provide (and Macquarie must provide) such reasonable additional information in order to enable or assist the Principal to consider:
    - (i) the matters referred to in the Macquarie Design Non-compliance Notice; or
    - (ii) whether the Principal will issue a Principal Design Non-compliance Notice to Macquarie.

#### **15.3A Design development for Stage 2 Application before the Commencement Date**

The parties acknowledge and agree that:

- (a) on 23 July 2018, Macquarie submitted the Updated Design Docs (CC) to the Principal's Representative;
- (b) on 6 September 2018, Macquarie submitted a Macquarie Design Non-compliance Notice to the Principal's Representative; and
- (c) the process set out in clause 15.3 commenced prior to the Commencement Date, including the 20 Business Day time period with respect to Macquarie's Design Non-compliance Notice, and was applied to the Updated Design Docs (CC) submitted by Macquarie to the Principal's Representative.

#### **15.4 Design development beyond the Stage 2 Application**

- (a) This clause 15.4:
  - (i) applies after the date on which Macquarie lodges the Stage 2 Application under clause 5.4; and
  - (ii) may apply to each Separable Portion separately.
- (b) Macquarie must submit to the Principal progressive updates to the OSD Design Documentation (FC) in respect of design components or part elements, when the design for the OSD Works are:



- (i) 50% complete;
- (ii) 75% complete; and
- (iii) at the "for construction" level of completion,

(each being Updated Stage 2 DA Design Docs) as Macquarie undertakes design development with the objective of preparing "for construction" design documentation.

- (c) Macquarie must provide updates on the progress of its preparation of the Updated Stage 2 DA Design Docs at the Project Control Group meetings held in accordance with clause 4.4, in addition to the following:

- (i) any issues it anticipates may arise or any issues which have arisen in relation to its preparation of the Updated Stage 2 DA Design Docs to the extent relevant to the matters referred to in clause 15.1; and
- (ii) the estimated date or dates on which Macquarie anticipates it will submit to the Principal's Representative each level of Updated Stage 2 DA Design Docs under clause 15.4(b).

- (d) If applicable, Macquarie must, at the same time as it submits a level of Updated Stage 2 DA Design Docs (one copy) referred to in clause 15.4(b), give the Principal's Representative a Macquarie Design Non-compliance Notice in hard copy and in an electronic format as reasonably required by the Principal's Representative.

- (e) If Macquarie gives the Principal's Representative a Macquarie Design Non-compliance Notice under clause 15.4(d):

- (i) the Principal's Representative may, within 20 Business Days after receiving the Macquarie Design Non-compliance Notice, notify Macquarie in writing:

- (A) if Macquarie proposed amendments to the Updated Stage 2 DA Design Docs, that the Principal does not object to Macquarie's proposed amendments set out in the Macquarie Design Non-compliance Notice;

- (B) if Macquarie proposed amendments to the Updated Stage 2 DA Design Docs, that the Principal does not consider that Macquarie's proposed amendments set out in the Macquarie Design Non-compliance Notice will or are likely to remove [REDACTED] the non-compliance with the OSD Design Parameters, together with the Principal's reasons and any proposed recommendations; or

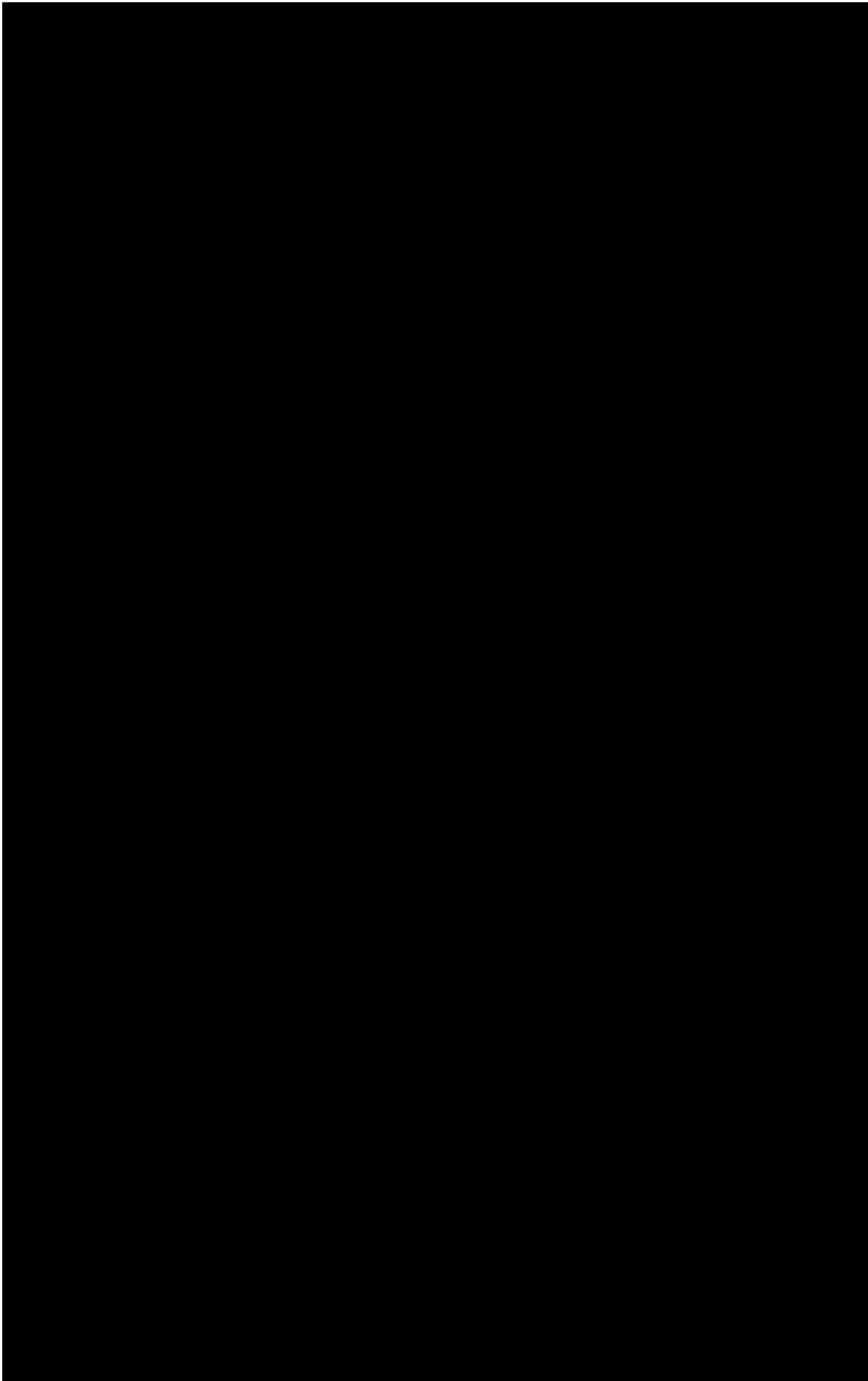
- (C) if it was not possible for Macquarie to propose any amendments to the Updated Stage 2 DA Design Docs, of the Principal's proposed recommendations to [REDACTED] address the OSD Design Parameter non-compliance; and

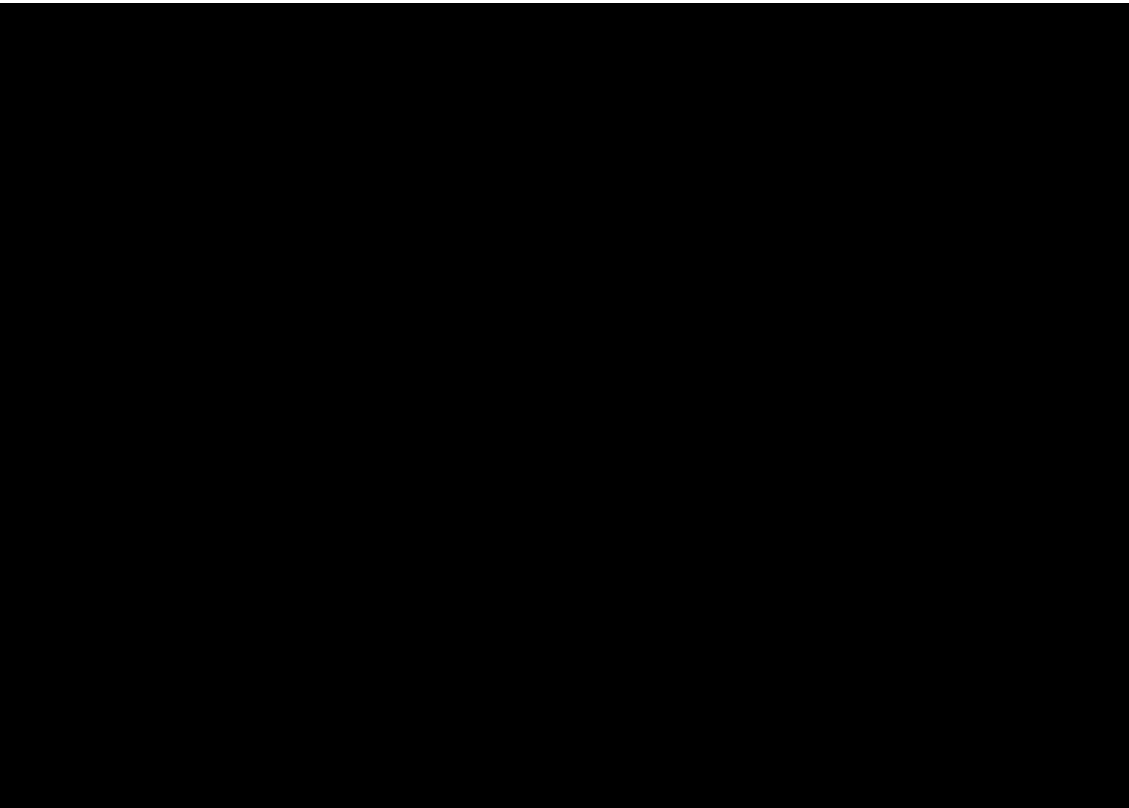
- (ii) following receipt of the Principal's notice:

- (A) under clause 15.4(e)(i)(A), Macquarie must promptly amend the relevant aspects of the Updated Stage 2 DA Design Docs to take into account Macquarie's amendments (as set out in the Macquarie Design Non-compliance Notice) and resubmit the amended aspects of the Updated Stage 2 DA Design Docs to the Principal's Representative

and the provisions of clauses 15.4(i) and 15.4(k) will apply to the amended aspects of the Updated Stage 2 DA Design Docs; or

- (B) under clause 15.4(e)(i)(B) or clause 15.4(e)(i)(C), Macquarie must either:
  - (aa) promptly amend the relevant aspects of the Updated Stage 2 DA Design Docs to take into account the Principal's comments and proposed recommendations and resubmit the relevant aspects of the Updated Stage 2 DA Design Docs to the Principal's Representative and the provisions of clauses 15.4(i) and 15.4(k) will apply to the amended aspects of the Updated Stage 2 DA Design Docs; or
  - (bb) within 10 Business Days after receipt of the Principal's notice under clause 15.4(e)(i)(B) or clause 15.4(e)(i)(C) (as applicable), serve a Notice of Issue or a Notice of Dispute (OSD) (as applicable) if Macquarie does not agree with the Principal's notice.
- (f) Macquarie agrees that, in respect of the "for construction" level of completion of the Updated Stage 2 DA Design Docs, the time period referred to in clause 15.4(e)(i) for the Principal's Representative to notify Macquarie is 25 Business Days (instead of 20 Business Days) after receiving the Macquarie Design Non-Compliance Notice.
- (g) If Macquarie does not give the Principal a Macquarie Design Non-compliance Notice under clause 15.4(d) and the Principal's Representative (acting reasonably) considers that the Updated Stage 2 DA Design Docs [REDACTED] will give rise to a non-compliance with the OSD Design Parameters, the Principal's Representative may, within 20 Business Days after receiving the relevant Updated Stage 2 DA Design Docs, give Macquarie a Principal Design Non-compliance Notice. If Macquarie:
  - (i) disagrees with the Principal Design Non-compliance Notice and notifies the Principal of this within 10 Business Days (or such further time frame as requested by Macquarie in writing and agreed to by the Principal) after receipt of the Principal Design Non-compliance Notice, either the Principal or Macquarie may refer the matter for determination under clause 40; or
  - (ii) fails to notify the Principal's Representative within the time period under clause 15.4(g)(i) (as extended by agreement between the parties) that it disagrees with the Principal Design Non-compliance Notice, Macquarie is deemed to have agreed with the Principal Design Non-compliance Notice and must, within 20 Business Days after receipt of the Principal Design Non-compliance Notice, propose amendments required to the Updated Stage 2 DA Design Docs to remove such [REDACTED] non-compliance with the OSD Design Parameters and resubmit the amended aspects of the Updated Stage 2 DA Design Docs to the Principal's Representative, and the provisions of clauses 15.4(i) and 15.4(k) will apply.
- (h) Macquarie agrees that, in respect of the "for construction" level of completion of the Updated Stage 2 DA Design Docs, the time period referred to in clause 15.4(g) for the Principal's Representative to notify Macquarie is 25 Business Days (instead of 20 Business Days) after receiving the relevant "for construction" level of completion of the Updated Stage 2 DA Design Docs.





- (l) The parties acknowledge that each level of Updated Stage 2 DA Design Docs referred to in clause 15.4(b) may be prepared by Macquarie and submitted to the Principal's Representative pursuant to clause 15.4(b) progressively. The provisions of this clause 15.4 apply separately to each package of the Updated Stage 2 DA Design Docs submitted by Macquarie.
- (m) Macquarie acknowledges that each review period in favour of the Principal under this clause 15.4 does not commence until such time as Macquarie has provided the Principal with a full and complete copy of all documents forming part of the relevant package of Updated Stage 2 DA Design Docs.
- (n) The Principal may, at any time during each review period in favour of the Principal under clause 15.4 request Macquarie to provide (and Macquarie must provide) such reasonable additional information in order to enable or assist the Principal to consider:
  - (i) the matters referred to in the Macquarie Design Non-compliance Notice; or
  - (ii) whether the Principal will issue a Principal Design Non-compliance Notice to Macquarie.

**15.5 Design Review Panel**

- (a) The Principal may, in respect of any OSD Design Documentation submitted by Macquarie under clause 15.3 or clause 15.4:
  - (i) provide copies of any such OSD Design Documentation to; and
  - (ii) seek comments from and take into account the views of,  
  
the Design Review Panel within the timeframes permitted under clause 15.3 or clause 15.4 (as applicable) and such comments must be provided by the Principal's Representative to Macquarie at the same time as the Principal's Representative provides his or her comments and recommendations to Macquarie under clause 15.3 or clause 15.4 (as applicable). Nothing in this clause 15.5(a) entitles the

Principal to greater rights in relation to the Updated Design Docs (CC) than are set out in clause 15.3 or in relation to the Updated Stage 2 DA Design Docs than are set out in clause 15.4.

- (b) Without limiting any other provision of this deed:
  - (i) the parties acknowledge and agree that:
    - (A) the Design Review Panel comprises a panel of experts to assist in achieving design excellence in respect of the OSD Works; and
    - (B) Macquarie, in the presence of the Principal's Representative, presents aspects of the design of the OSD Works to the Design Review Panel;
  - (ii) Macquarie is not required to take into account any feedback by or comments from the Design Review Panel, but Macquarie may in its absolute discretion incorporate any feedback by or comments from the Design Review Panel into the development of the Updated Design Docs (CC) or the Updated Stage 2 DA Design Docs (as applicable);
  - (iii) nothing which occurs during any workshop or meeting at which members of the Design Review Panel are present:
    - (A) will relieve Macquarie of its obligations, or constitute a waiver of any of the Principal's rights, under this deed;
    - (B) be construed as a Direction or notice by the Principal to do or not to do anything and the parties confirm that all discussions on any matters raised at any workshop or meeting at which members of the Design Review Panel are present, or any comments made by the Design Review Panel, will not give rise to any obligation on the part of Macquarie to comply with anything which the members of the Design Review Panel say or do during such workshops or meetings; and
  - (iv) Macquarie may consult with the Principal in respect of any feedback or comments given or purported to be given by the Design Review Panel or a member of the Design Review Panel.

## 15.6 **Explanation of OSD Design Documentation**

If required by the Principal's Representative, Macquarie must, whenever it submits OSD Design Documentation pursuant to clauses 15.3 and 15.4:

- (a) deliver a design presentation workshop to the Principal's Representative or the Design Review Panel within 5 Business Days after its submission; and
- (b) make available the appropriate design personnel to:
  - (i) explain the OSD Design Documentation; and
  - (ii) provide such information regarding the relevant OSD Design Documentation as the Principal's Representative or the Design Review Panel reasonably requests.

### 15.7 **Final Plans and Specifications**

- (a) The "for construction" level Final Plans and Specifications to which clause 15.4(j)(ii) refers will be the Final Plans and Specifications for the purposes of constructing the relevant part of the OSD Works.
- (b) Macquarie acknowledges and agrees as follows:
  - (i) the Principal is not:
    - (A) obliged to review or approve the Final Plans and Specifications;
    - (B) responsible for any errors, omissions or non-compliance of the Final Plans and Specifications; or
    - (C) liable for and is released from any Liability or Loss incurred by Macquarie or Macquarie's Associates because of any defect in or issue arising out of the Final Plans and Specifications;
  - (ii) no comment, review or information supplied to Macquarie or Macquarie's Associates by the Principal, the Principal's Associates or the Design Review Panel alters or alleviates Macquarie's obligations in relation to the Final Plans and Specifications; and
  - (iii) the requirements under this clause 15 do not, in any way, impose any duty, obligation or Liability on the Principal in relation to the Final Plans and Specifications and Macquarie acknowledges that it is relying on its own skill and judgment, and that of Macquarie's Associates, in relation to the Final Plans and Specifications and is not relying on the skill or judgment of the Principal or any of the Principal's Associates in this respect.

### 15.8 **No duty to review**

The Principal and Macquarie acknowledge and agree that:

- (a) neither the Principal, the Principal's Representative nor the Design Review Panel assume a duty or owe any duty to Macquarie to review the OSD Design Documentation for errors, omissions or compliance with the requirements of this deed or to consult with Macquarie or make any comments regarding any OSD Design Documentation; and
- (b) any review of, or consultation or comments or recommendations by the Principal, the Principal's Representative or the Design Review Panel, nor any failure by the Principal, the Principal's Representative or the Design Review Panel regarding any OSD Design Documentation or any other Direction by the Principal's Representative in respect of any OSD Design Documentation will not lessen or otherwise affect:
  - (i) Macquarie's warranties under clause 15.10 or any other of its liabilities or responsibilities under this deed or otherwise according to Law; or
  - (ii) the Principal's rights against Macquarie, whether under this deed or otherwise according to Law.

### 15.9 **Consolidated set of Final Plans and Specifications**

Macquarie must give to the Principal's Representative:

- (a) a consolidated set of the Final Plans and Specifications for a Separable Portion within 5 Business Days after the date all Final Plans and Specifications for that

Separable Portion have been processed under clause 15.4, and in any event, prior to the OSD Works Commencement Date; and

- (b) written details of any changes to the Final Plans and Specifications for a Separable Portion (including copies of the changed plans and specifications), within 5 Business Days after Macquarie receives any other Approval.

#### 15.10 Macquarie warranties

- (a) Subject to clause 12.2(e), Macquarie warrants to the Principal that:
  - (i) the OSD Design Documentation (CC) has been prepared by Macquarie or its Associates;
  - (ii) it remains responsible for ensuring that the OSD Works will satisfy the requirements of this deed;
  - (iii) if the OSD Works are designed and constructed using the OSD Design Documentation (FC), the OSD Works will satisfy the requirements of this deed;
  - (iv) it will ensure that the OSD Works:
    - (A) are designed and constructed in accordance with the OSD Design Parameters;
    - (B) do not give rise to a Metro Impact; and
    - (C) are otherwise designed and constructed within the agreed engineering capacity of the OSD Support Works;
  - (v) it will not make any adjustments to the OSD Design Documentation (CC) that will have a Metro Impact;
  - (vi) it will be fully and exclusively responsible and liable for the design of the OSD Works (whether set out in the OSD Design Documentation or otherwise), including any such design submitted or re-submitted to the Principal's Representative in accordance with this deed;
  - (vii) it will be fully and exclusively responsible and liable for all risks howsoever they may arise as a result of the use by Macquarie of, or reliance on, the OSD Design Parameters;
  - (viii) the use of, or reliance on, the OSD Design Parameters does not affect any of its obligations under this deed or, subject to clause 26, entitle Macquarie to make any Claim against the Principal arising out of or in any way in connection with the OSD Design Parameters;
  - (ix) the OSD Design Documentation will:
    - (A) satisfy the requirements of the OSD Design Parameters and the other requirements of this deed;
    - (B) be and will remain at all relevant times fit for its intended purpose; and
    - (C) be prepared, completed and used in accordance with the requirements of this deed;

- (x) construction of the OSD Works will be carried out in accordance with the OSD Design Documentation which Macquarie is entitled to use for construction purposes in accordance with clause 15.7(a);
  - (xi) construction carried out in accordance with the OSD Design Documentation which Macquarie is entitled to use will satisfy the requirements of this deed; and
  - (xii) the OSD Works will be completed in accordance with, and satisfy the requirements of, this deed.
- (b) Subject to clause 12.2(e), Macquarie agrees that its obligations under, and the warranties given in, this deed will remain unaffected and that it will bear and continue to bear full liability and responsibility for the design (including the OSD Design Documentation), construction or completion of the OSD Works by Macquarie or its Associates notwithstanding:
- (i) any design work carried out by others prior to the Commencement Date;
  - (ii) subject to clause 26.13(b) and clause 26.13(c), any Variation the subject of a Direction by the Principal's Representative; or
  - (iii) the termination (for any reason) of this deed.
- (c) Despite any provision to the contrary in this deed, Macquarie will not be regarded as being in breach of:
- (i) any obligation under this deed in respect of or relating to any requirement that the OSD Design Documentation be fit for their purpose, intended purpose or intended use (or any similar reference) or not contain or constitute a Defect; or
  - (ii) the warranties in this clause 15.10,
- solely because Macquarie has relied on the SWTC Reliance Provisions or the Functional Design Layout.

#### 15.11 **Ownership of OSD Design Documentation**

Subject to clause 34.9, as between the Principal and Macquarie, all Intellectual Property Rights in or in relation to the Design Documentation prepared by Macquarie will vest in Macquarie on its creation for the purposes of this deed.

#### 15.12 **Ownership of intellectual property**

Macquarie warrants in favour of the Principal that Macquarie has or will have a transferable right to use all Design Documentation and methods of working produced by or on behalf of Macquarie for the purpose of undertaking the OSD Works.

### 16. **OSD SUPPORT WORKS AND MARTIN PLACE METRO STATION WORKS**

#### 16.1 **Acknowledgements in relation to the OSD Support Works**

The parties acknowledge and agree the following:

- (a) the design and construction of the OSD Support Works will be carried out and completed by the Station Developer in accordance with the Station Delivery Deed;
- (b) in relation to any warranties in respect of the OSD Support Works:



- (i) the Station Developer has agreed to give various warranties to the Principal in respect of, amongst others, the OSD Support Works under the Station Delivery Deed;
  - (ii) the Principal has no obligation to give Macquarie the benefit of any such warranties; and
  - (iii) it is the responsibility of Macquarie to procure any warranties and representations or other obligations it requires in relation to the OSD Support Works from the Station Developer directly;
- (c) Macquarie acknowledges and agrees that there must not be any modification of the design or the works comprising the OSD Support Works:
- (i) prior to the Station Date of Completion except as permitted under the Station Delivery Deed; and
  - (ii) between the Station Date of Completion and in respect of the OSD Support Works relevant to a Separable Portion, the date of completion of the Development Lot Sale Contract for that Separable Portion, without the prior written consent of the Principal (such consent may be given or withheld at the absolute discretion of the Principal but which may not be unreasonably withheld where there has been a Change in Law after the Station Date of Completion which would require a modification of the design or work comprising the OSD Support Works to enable compliance with this deed);
- (d) any physical changes to the OSD Support Works made by Macquarie in performing the obligations of, or exercising the rights of, Macquarie under this deed must have the prior written consent of the Principal (such consent may be given or withheld at the absolute discretion of the Principal but which may not be unreasonably withheld where there has been a Change in Law after the Station Date of Completion which would require a physical change to the OSD Support Works to enable compliance with this deed); and
- (e) any agreed changes to the Martin Place Station Works proposed by Macquarie under this deed will be at the entire risk of Macquarie and Macquarie releases and indemnifies the Principal from and against any Claim against the Principal or any Loss incurred by the Principal in respect of the same.

**16.2 Care and responsibility for the OSD Support Works and Martin Place Metro Station Works**

- (a) At all times before the completion of the relevant Development Lot Sale Contract, Macquarie will be wholly responsible for the care of the OSD Support Works for the relevant Separable Portion and Martin Place Metro Station Works to the extent that they are located within the Construction Site.
- (b) Clause 16.2(a) does not apply to the extent that any destruction, loss or damage for which Macquarie:
  - (i) would otherwise be responsible; or
  - (ii) bears the risk,
 results from destruction, loss or damage to the OSD Support Works or Martin Place Metro Station Works by the Principal or a Rail Contractor.

17. **CONSTRUCTION**

17.1 **Construction obligations**

- (a) Macquarie must construct the OSD Works:
  - (i) in accordance with:
    - (A) the Acceptable Development Consent and all relevant Approvals;
    - (B) the Final Plans and Specifications;
    - (C) any Variation:
      - (aa) directed by the Principal by a Variation Order; or
      - (bb) otherwise proposed by Macquarie and not objected to by the Principal under the terms of this deed; and
    - (D) the other requirements of this deed; and
  - (ii) without limiting clause 17.1(a)(i), so that the OSD Works:
    - (A) for a Separable Portion, satisfy the OSD Design Parameters on Practical Completion of that Separable Portion;
    - (B) have no Metro Impact; and
    - (C) for a Separable Portion, comply with any applicable Law, at all times prior to and on completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion.
- (b) Subject to clause 6.8, Macquarie may only commence work on the Construction Site after:
  - (i) each of the following Project Plans have not been rejected by the Principal's Representative within the review period under clause 1.2(f) of Schedule A6:
    - (A) Construction and Site Management Plan; and
    - (B) Project Health and Safety Management Plan;
  - (ii) it has notified the Principal that all Approvals necessary for commencement of the OSD Works have been obtained and has provided the Principal with copies of those Approvals;
  - (iii) it has provided to the Principal the Approved Engineer's Certificate (Pre Commencement); and
  - (iv) an Acceptable Development Consent in relation to a Stage 2 Consent has been obtained.

17.2 **Construction warranties**

Macquarie warrants that, on Practical Completion of a Separable Portion, the OSD Works for that Separable Portion, will satisfy the requirements of this deed.

### 17.3 Performance of Macquarie's obligations

- (a) Without limiting clause 17.1, in performing its obligations under this deed, Macquarie must:
  - (i) keep the Construction Site, any Extra Land and the OSD Works clean and tidy and regularly remove from the Construction Site and the Extra Land any rubbish, graffiti, waste or surplus material (including Construction Materials) arising from such performance;
  - (ii) once it has commenced any construction activities on the Construction Site, take all steps reasonably available to it (including re-sequencing and re-scheduling the commencement of its activities) to minimise any disruption to, impact of the performance of the OSD Works on, or compromising the safety of other users of the Existing Operations or carrying out the Rail Contractors' Activities;
  - (iii) act in a timely and expeditious manner;
  - (iv) give priority to the safety of persons and vehicles using the Existing Operations or carrying out the Rail Contractors' Activities or otherwise affected by the performance of the OSD Works (to the extent necessary, prioritising the safety of persons over the safety of vehicles);
  - (v) coordinate its activities so as to ensure that no unnecessary interference is caused to Customers, members of the public (including the passage of people, vehicles and traffic), Rail Contractors or operations of Authorities;
  - (vi) do all things and take all measures necessary to protect people and property; and
  - (vii) minimise nuisance, noise, vibration and disturbance and comply with the requirements of Authorities.
- (b) Without limiting clause 17.1, Macquarie warrants that it will perform the OSD Works using the workmanship and Construction Materials required by this deed and which are fit for their intended purposes.
- (c) Macquarie must:
  - (i) perform its obligations under this deed safely and in a manner that, insofar as is reasonably practicable, does not put the health and safety of persons at risk; and
  - (ii) take all reasonable precautions to avoid obstruction and damage to any property (including the property of the Principal) and Services arising out of the performance of its obligations under this deed.

### 17.4 Notice of commencement of OSD Works

- (a) At least 20 Business Days before Macquarie wishes to commence the OSD Works for a Separable Portion, Macquarie must give to the Principal's Representative a notice specifying the date it expects to commence the OSD Works for that Separable Portion (including for Site Establishment and works in respect of Services) (Date for Commencement of the OSD Works).
- (b) Macquarie may change the date in its notice to the Principal under clause 17.4(a) at any time prior to the Date for Commencement of the OSD Works specified in an

earlier notice in respect of those OSD Works by giving one or more further notices to the Principal.

- (c) The date specified in a notice given under clause 17.4(a) is the OSD Works Commencement Date for the works the subject of the notice unless Macquarie gives the Principal a notice under clause 17.4(b) in respect of the same works.

#### 17.5 **Cost of OSD Works**

Despite any other provision of this deed, in relation to the Cost of the OSD Works:

- (a) the Principal will pay:
  - (i) any Variation Costs (as set out in the Variation Impact Proposal provided by Macquarie under clause 26.2(b), as agreed between the parties pursuant to clause 26.7 or as determined pursuant to clause 40 or clause 52 of the Station Delivery Deed (as applicable)) the subject of a Variation Order by the Principal under and as set out in clause 28;
  - (ii) any direct Costs (excluding finance costs) of acceleration which include D&C Costs of acceleration (as set out in the Acceleration Notice provided by Macquarie under clause 19.3(b) or as varied by the parties' agreement) the subject of an Acceleration Determination Notice by the Principal under and as set out in clause 19.3;
  - (iii) any Costs (excluding finance costs) of suspension (as set out in the Suspension Impact Notice provided by Macquarie under clause 19.5(c) or as varied by the parties' agreement) the subject of a direction by the Principal under clause 19.5(a); and
  - (iv) any Delay Costs and/or ██████████ to which Macquarie is entitled to in accordance with clause 20; and
- (b) subject to clause 17.5(a), Macquarie must bear all other Costs incurred in respect of the OSD Works.

#### 17.6 **Incident management**

- (a) Macquarie must identify clear guidelines for responding to any Incident arising from the carrying out of the OSD Works and establish procedures to ensure that the Principal's Representative is promptly notified of any Incident.
- (b) Should an Incident occur, Macquarie must immediately report the Incident to:
  - (i) if the Incident is reportable under any relevant Law, the relevant Authority; and
  - (ii) the Principal's Representative.
- (c) The Principal acknowledges and agrees that:
  - (i) if the Station Developer has prepared guidelines for responding to any Incident in accordance with clause 21.5(a) of the Station Delivery Deed; and
  - (ii) those guidelines satisfy the requirements of clause 17.6(a),

then those guidelines will, for this purposes of this clause 17.6, satisfy Macquarie's obligations under this deed.

- (d) The Principal acknowledges and agrees that if the Station Developer reports an Incident under clause 21.5(b) of the Station Delivery Deed and the Incident referred to in clause 17.6(b) relates to the same Incident, then the reporting of the Incident by the Station Developer under clause 21.5(b) of the Station Delivery Deed satisfies Macquarie's requirements under clause 17.6(b) of this deed.

#### 17.7 **Instructions from Authorities**

Notwithstanding any other provision of this deed, Macquarie:

- (a) must not restrict, close, interfere with or obstruct the free flow of the public in public spaces, parks, pedestrian ways or pedal cycle paths, or traffic on any lane or shoulder of the existing road network, contrary to the instructions of the New South Wales Police Service or any other Authority; and
- (b) in restricting, closing, interfering with or obstructing the free flow of the public in public spaces or parks, pedestrian ways or pedal cycle paths, or traffic on any lane or shoulder of the existing road network, must act in accordance with any instructions of the New South Wales Police Service or any other Authority including to cease any of the OSD Works and to re-open the public space, park, pedestrian way, pedal cycle path, lane or shoulder.

#### 17.8 **D&C Contractor Insolvency Event**

If Macquarie has ceased, or is unable, to proceed with the OSD Works as a result of an Insolvency Event occurring in respect of the D&C Contractor, Macquarie must:

- (a) immediately after Macquarie becomes aware that an Insolvency Event has occurred in relation to D&C Contractor, notify the Principal's Representative in writing to that effect;
- (b) prepare and submit to the Principal's Representative, together with the notice provided by Macquarie under clause 17.8(a), a draft plan describing the actions and measures which Macquarie will diligently pursue to enable it to proceed with the OSD Works, including its plan to diligently procure a replacement to the D&C Contractor (Contractor Replacement Plan);
- (c) in consultation in good faith with the Principal and at Macquarie's election, amend the Contractor Replacement Plan having regard to the Principal's reasonable requirements and if applicable, resubmit the amended Contractor Replacement Plan to the Principal's Representative for reference purposes only. The:
  - (i) amended Contractor Replacement Plan (if any); or
  - (ii) the Contractor Replacement Plan if not amended pursuant to this clause, is the Final Contractor Replacement Plan;
- (d) comply with and diligently implement the Final Contractor Replacement Plan to enable Macquarie to proceed with the OSD Works;
- (e) keep the Construction Site (and the OSD Works) safe and ensure that the Construction Site is (and the OSD Works are) at all times secure during the period of the implementation of the Final Contractor Replacement Plan;
- (f) regularly update the Principal in relation to its progress in implementing the Final Contractor Replacement Plan; and

- (g) provide such information as requested by the Principal (acting reasonably) in relation to any matters contemplated under this clause 17.8.

18. **QUALITY**

18.1 **Standard of care**

- (a) Macquarie must, in performing the OSD Works:
  - (i) use the skill, care and diligence expected of a professional developer, builder and designer experienced in carrying out projects of a similar nature to the Project; and
  - (ii) carry out all of its works and activities to a standard consistent with Good Industry Practice for work of a similar nature to the OSD Works.
- (b) Macquarie must use Construction Materials:
  - (i) which are consistent with the Good Industry Practice for work of a similar nature to the applicable OSD Works; and
  - (ii) which are:
    - (A) free from defects and other imperfections; and
    - (B) safe and fit for their intended purpose.

18.2 **Approved Engineer**

- (a) Macquarie must:
  - (i) procure that:
    - (A) in relation to the OSD Works for Separable Portion 1, Macquarie Bank Limited engages, together with the D&C Contractor, the Approved Engineer at Macquarie Bank Limited's Cost; and
    - (B) in relation to the OSD Works for Separable Portion 2, DevCo engages, together with the D&C Contractor, the Approved Engineer at DevCo's Cost;
  - (ii) not permit the replacement of the Approved Engineer without the prior written consent of the Principal (which must not be unreasonably withheld or delayed); and
  - (iii) ensure that the Approved Engineer's liability is not limited to less than [REDACTED] (or such lesser amount as agreed by the Principal in its absolute discretion).
- (b) Macquarie warrants that:
  - (i) the Approved Engineer (and any replacement Approved Engineer) and (as applicable) any individual from the Approved Engineer (or replacement Approved Engineer) who will be responsible for performing any aspect of the duties of the Approved Engineer pursuant to this deed has:
    - (A) at least the qualifications, experience and expertise described in part A of Schedule A8; and

- (B) the requisite experience and skill to undertake the role of Approved Engineer in accordance with this clause 18.2 and the other requirements of this deed; and
  - (ii) the Approved Engineer (and any replacement Approved Engineer) has effected professional indemnity insurance policies which are subject to the usual terms and conditions that apply to such a policy and which provide cover for at least [REDACTED] (or such lesser amount as agreed by the Principal in its absolute discretion) for one claim or in the aggregate during any one period of insurance.
- (c) The Approved Engineer's role under this deed is to:
- (i) provide the Approved Engineer's Certificate (Pre Commencement) which independently certifies that the OSD Works for each Separable Portion as shown in the Final Plans and Specifications:
    - (A) will not exceed the structural limitations of the OSD Support Works for the relevant Separable Portion during construction and on Practical Completion of the relevant Separable Portion; and
    - (B) is within the engineering capacity of the OSD Support Works; and
  - (ii) provide the Approved Engineer's Certificate (Post Completion) which independently certifies that, based on the information provided or otherwise made available to the Approved Engineer in accordance with this deed, each OSD:
    - (A) does not exceed the structural limitations of the OSD Support Works for the relevant Separable Portion; and
    - (B) has been constructed otherwise within the engineering capacity of the OSD Support Works for the relevant Separable Portion,
- except for any Minor Non-Compliances.
- (d) The parties acknowledge and agree that:
- (i) each of the Approved Engineer's Certificate (Pre Commencement) and the Approved Engineer's Certificate (Post Completion) (Approved Engineer Certificate) may be issued to the Principal for each Separable Portion separately and at different times;
  - (ii) the Approved Engineer is obliged to act independently of Macquarie, the Principal and any of their respective Associates (including TfNSW in the case of the Principal);
  - (iii) the Approved Engineer must not be an employee of Macquarie, the Principal or any of their respective Associates (including TfNSW in the case of the Principal); and
  - (iv) all advice and comments (including drafts and calculations) provided by the Approved Engineer to Macquarie must be in writing and must be made available to the Principal's Representative, upon request.
- (e) Macquarie must procure that Macquarie Bank Limited (in respect of Separable Portion 1) and DevCo (in respect of Separable Portion 2):

- (i) provides the Approved Engineer with all information and documents (as applicable); and
- (ii) allows the Approved Engineer:
  - (A) to attend design meetings with a representative of the D&C Contractor's design team; and
  - (B) access to the relevant Construction Site and all places at which the OSD Works and OSD Support Works for the relevant Separable Portion are being undertaken, provided that the Approved Engineer must comply with the reasonable directions of Macquarie, DevCo, Macquarie Bank Limited and the D&C Contractor (as applicable) given in relation to work health and safety,

all as may be:

- (iii) necessary or reasonably required by the Approved Engineer or the Principal's Representative, to allow the Approved Engineer to perform its role under this deed; and
  - (iv) requested by the Approved Engineer or directed by the Principal's Representative.
- (f) Nothing that the Approved Engineer does or fails to do pursuant to the purported exercise of its functions will entitle Macquarie to make any Claim against the Principal.
- (g) The parties acknowledge and agree that Macquarie must procure that the Approved Engineer executes a deed poll in favour of the beneficiaries listed in the form of Schedule D3 prior to Macquarie commencing work on the Construction Site.

## 19. TIME

### 19.1 Commencement

Macquarie must:

- (a) promptly commence performance of its obligations under this deed following Financial Close;
- (b) expeditiously and diligently progress the OSD Works; and
- (c) achieve Practical Completion of each Separable Portion by the Date for Practical Completion of that Separable Portion.

### 19.2 OSD Program

- (a) The initial OSD Program is contained in Annexure F.
- (b) Macquarie must prepare and update the OSD Program in accordance with the requirements set out in clause 3 of Schedule B3.
- (c) Nothing in the OSD Program will bind the Principal or otherwise affect the time for the performance of the Principal's obligations under this deed.



### 19.3 Principal initiated acceleration

- (a) The Principal's Representative may, at any time, request Macquarie to accelerate the OSD Works if, and only to the extent that, in the opinion of the Principal's Representative, the OSD Works directly and materially impact or are likely to directly and materially impact on the works and activities being carried out under the Station Delivery Deed.
- (b) Subject to clause 19.3(c), if the Principal's Representative makes a request under clause 19.3(a), Macquarie must, within 15 Business Days after receipt of such request, inform the Principal's Representative of the time and Cost consequences (provided such Costs must only be the direct, incremental Costs arising out of the acceleration which includes D&C Costs arising out of the acceleration but must exclude finance costs) of the acceleration and submit for approval a written notice (**Acceleration Notice**) setting out:
  - (i) any details of any changes required to the OSD Program to reflect the effects of the acceleration on the OSD Works;
  - (ii) if the acceleration would result in Macquarie incurring additional Costs, the amount of those additional Costs and the basis of calculation of those additional Costs (provided that those Costs are the direct, incremental Costs of the acceleration which includes D&C Costs arising out of the acceleration but excludes finance costs); and
  - (iii) the likely impact the acceleration will have or is likely to have on the Station Developer's Activities.
- (c) If Macquarie (acting reasonably) considers that the OSD Works cannot be accelerated as proposed by the Principal, Macquarie must, within 15 Business Days after receipt of a request from the Principal's Representative under clause 19.3(a), notify the Principal's Representative in writing, with such notice to include:
  - (i) details of the extent to which Macquarie considers that the proposed acceleration is not likely to be achieved; and
  - (ii) detailed reasons as to why Macquarie considers that the acceleration is not likely to be achieved.
- (d) Within 10 Business Days after receipt of a notice by Macquarie under clause 19.3(c), the Principal's Representative must notify Macquarie in writing:
  - (i) that the Principal's Representative's request under clause 19.3(a) is withdrawn, in which case Macquarie is not obliged to comply with clause 19.3(b) or accelerate the OSD Works; or
  - (ii) the Principal's Representative's request under clause 19.3(a) stands, in which case Macquarie must comply with clause 19.3(b).
- (e) The Principal's Representative must accept or reject the Acceleration Notice within 20 Business Days after receipt of the Acceleration Notice by notifying Macquarie in writing (**Acceleration Determination Notice**).
- (f) If the Principal's Representative accepts the Acceleration Notice:
  - (i) the OSD Program will be amended to incorporate the changes proposed pursuant to clause 19.3(b)(i);

- (ii) Macquarie must, after finalising the funding for the proposed acceleration referred to in clause 19.3(b)(ii) in accordance with the Acceleration Notice, execute the OSD Works in accordance with the OSD Program (as amended pursuant to clause 19.3(f)(i)); and
  - (iii) the Principal must pay to Macquarie the direct, incremental Costs of acceleration (which includes D&C Costs of acceleration but excludes finance costs) as specified in the Acceleration Notice (or as varied by the parties' agreement) progressively within 16 Business Days after each month in which the relevant work was undertaken.
- (g) If the Principal's Representative rejects the Acceleration Notice or does not provide Macquarie with an Acceleration Determination Notice within 20 Business Days, the Acceleration Notice will have no force and effect and Macquarie is not obliged to accelerate the OSD Works.

#### 19.4 **Acceleration by Macquarie**

If Macquarie chooses to accelerate progress of the OSD Works then:

- (a) the Principal will not be obliged to take any action to assist Macquarie in this respect;
- (b) the time for the performance of the Principal's or the Principal's Representative's obligations under this deed and all other obligations and Liability of the Principal under the Project Documents will not be affected; and
- (c) Macquarie will not be entitled to make any Claim against the Principal in relation to such acceleration (or any failure or inability by Macquarie or the Principal to accelerate).

#### 19.5 **Suspension**

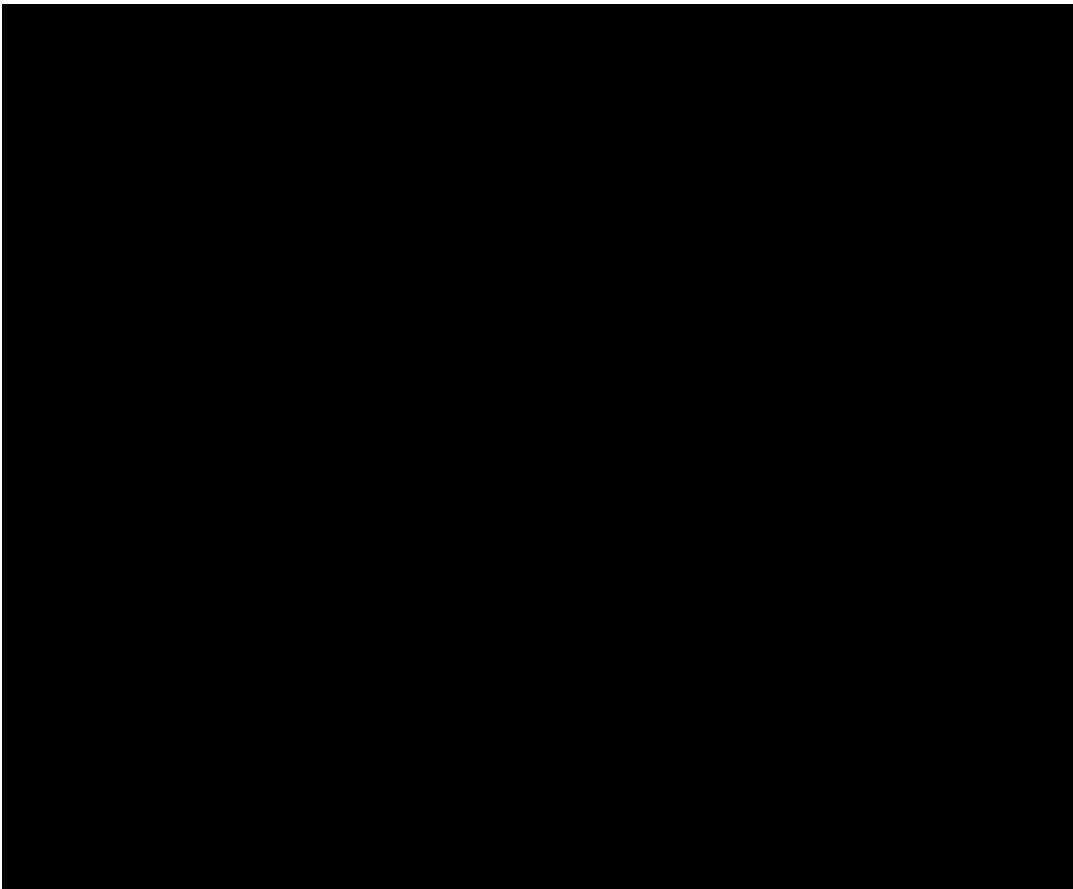
- (a) The Principal's Representative may, at any time, direct Macquarie to suspend all or any part of the OSD Works and, after a suspension has been directed, to recommence, the carrying out of all or a part of the OSD Works if and to the extent that the OSD Works are:
  - (i) directly and materially impacting on, or are likely to directly and materially impact on the ability of the Principal or the Principal's Associates to comply with:
    - (A) any WHS Legislation, Rail Safety National Law, Rail Safety Regulations or the Heavy Vehicle National Law; and/or
    - (B) any safety requirements in respect of either the Station Developer's Activities or the work and activities of Rail Contractors;
  - (ii) or are likely to:
    - (A) pose a threat; and/or
    - (B) cause damage,

to the Rail Contractors' Activities, the Martin Place Metro Station or the Martin Place Metro Station Lot, where that threat and/or damage occurs or will occur on or before the Station Date of Construction Completion; or
  - (iii) posing a threat to or are likely to pose a threat to:

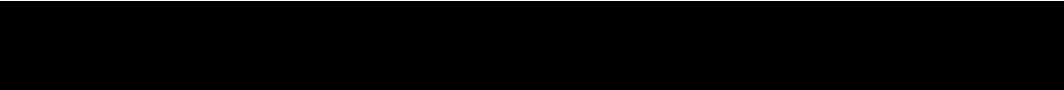
- (A) the health and safety of Customers; and/or
  - (B) the safety and security of the Martin Place Metro Station,
- and Macquarie must comply with such direction.
- (b) Notwithstanding anything else in this deed, if the Principal's Representative gives a direction under clause 19.5(a) and to the extent that the reason for the suspension is a breach by Macquarie or Macquarie's Associates of this deed, Macquarie is not entitled to make any Claim against the Principal in relation to such suspension.
  - (c) If the Principal's Representative gives a direction under clause 19.5(a) and to the extent that the reason for such suspension has not been caused by or contributed to by any breach by Macquarie or its Associates of this deed, Macquarie may give notice to the Principal's Representative (**Suspension Impact Notice**) of:
    - (i) the details of any changes required to the OSD Program to reflect the effects of the suspension on the OSD Works; and
    - (ii) if the suspension will result in Macquarie incurring additional Costs, the amount of those increased Costs (which includes D&C Costs of the suspension but excludes finance costs) calculated on the basis that those Costs are reimbursed to Macquarie by the Principal by way of a lump sum payment.
  - (d) If the Principal's Representative accepts the Suspension Impact Notice:
    - (i) the OSD Program will be amended to incorporate the changes reflected in the Suspension Impact Notice; and
    - (ii) the Costs of the suspension (which includes D&C Costs of the suspension but excludes finance costs) must be paid by the Principal to Macquarie within 20 Business Days of the date of the Suspension Impact Notice.
  - (e) If the Principal's Representative does not accept the Suspension Impact Notice, then the Principal's Representative and Macquarie must refer the dispute for resolution in accordance with clause 40.

#### 19.6 **Delay Events**

- (a) Not used.
- (b) Without limiting clause 19.3 and clause 26, Macquarie may only claim an extension of time to the Date for Practical Completion of a Separable Portion if Macquarie is or will be delayed in achieving Practical Completion of that Separable Portion as a result of one of the following:
  - (i) a failure by the Principal to provide Macquarie with access to part of:
    - (A) Construction Site (North Site 1);
    - (B) Construction Site (North Site 2); or
    - (C) Construction Site (South Site),
 by the relevant Site Access Date;



(v) a Force Majeure Event;



(vii) a direction by the Principal's Representative under clause 19.5 requiring Macquarie to suspend the performance of the OSD Works; or

(viii) a direction by the relevant beneficiary of registered dealing number CP594135 to comply with its terms after the relevant Construction Licence Commencement Date,

(each a **Delay Event**).

19.7 **Claim for extension of time**

(a) Subject to clause 19.7(c), if Macquarie wishes to claim an extension of time to the Date for Practical Completion of a Separable Portion, it must:

(i) within 20 Business Days after the date Macquarie first became aware of a Delay Event which delays or will delay Macquarie in achieving the Date for Practical Completion of a Separable Portion, submit a written claim for an extension to the Date for Practical Completion of that Separable Portion to the Principal's Representative which:

(A) contains detailed particulars of:

(aa) the Delay Event causing the delay;

(bb) the parts of the OSD Works that have been delayed; and

- (cc) the delay caused by the relevant Delay Event;
- (B) states the number of days' extension of time to the Date for Practical Completion of the relevant Separable Portion claimed by Macquarie together with the basis of calculating the total number of days claimed, including evidence that Macquarie will be delayed in achieving Practical Completion of that Separable Portion;
- (C) contains details of the Delay Costs arising from the Delay Event to which it believes it will be entitled; and
- (D) includes evidence that the conditions precedent to any extension of time in clause 19.8 have been satisfied;
- (ii) within 5 Business Days after Macquarie has submitted a written claim for an extension of time in accordance with clause 19.7(a)(i), give the Principal details of how Macquarie proposes to avoid, mitigate or minimise the consequences of the delay consistent with its obligations under clause 19.1; and
- (iii) if the effects of the delay continue beyond the period of 20 Business Days after the commencement of the relevant Delay Event causing the delay and Macquarie wishes to claim an extension of time to the Date for Practical Completion of the relevant Separable Portion, in respect of the further delay, submit a further written claim to the Principal's Representative:
  - (A) every 20 Business Days after the first written claim until 10 Business Days after the relevant Delay Event ceases to cause the delay;
  - (B) containing the information required by clause 19.7(a)(i); and
  - (C) containing details of how the continuing delay will be mitigated or minimised.
- (b) The Principal's Representative may, within 10 Business Days after receiving Macquarie's claim or further claim for an extension of time to the Date for Practical Completion of the relevant Separable Portion, by written notice to Macquarie, request additional information in relation to the claim or further claim. Macquarie must, within 10 Business Days after receiving such request, provide the Principal's Representative with the information requested.
- (c) Macquarie will not be entitled to make any Claim, including a claim under this clause 19.7, to the extent such Claim arises out of or is in connection with a TSE Works Change (including the TSE Adjustment Works (as that term is defined in the Station Delivery Deed)) directed by the Principal at the request of the Station Developer under clause 11.4 of the Station Delivery Deed.

#### 19.8 **Conditions precedent to extension**

It is a condition precedent to Macquarie's entitlement to an extension of time to a Date for Practical Completion that:

- (a) Macquarie has submitted the written claim or claims in accordance with clause 19.7;
- (b) the cause of the delay was beyond the reasonable control of Macquarie and its Associates; and

- (c) Macquarie has been, or will be, delayed in achieving Practical Completion of a Separable Portion by the Delay Event described in the claim.

#### 19.9 **Grant of extension of time**

- (a) Subject to clause 19.9(c), if the conditions precedent in clause 19.8 have been satisfied, the Date for Practical Completion of the relevant Separable Portion will be extended by a reasonable period determined by the Principal's Representative having regard to the information supplied by Macquarie to the Principal's Representative under clause 19.7(a) and clause 19.7(b) (if applicable) and notified to Macquarie within 20 Business Days after the later of:
    - (i) receipt of the last written claim submitted by Macquarie under clause 19.7(a); or
    - (ii) provision by Macquarie of any additional information requested by the Principal's Representative under clause 19.7(b).
  - (b) In determining any extension of time, the Principal's Representative will not be bound by the OSD Program or any Progress Report.
  - (c) The Principal's Representative will reduce any extension to a Date for Practical Completion that it would have otherwise granted to Macquarie under clause 19.9(a) to the extent that:
    - (i) Macquarie or any of their Associates contributed to the delay; or
    - (ii) Macquarie or its Associates have not taken all proper and reasonable steps to:
      - (A) prevent the cause of any delay to the carrying out of the OSD Works; and
      - (B) avoid or minimise the consequences or duration of any delay,
- provided that Macquarie is not required to incur any additional expense or apply any additional resources in order to comply with its obligations under this clause 19.9(c)(ii).

#### 19.10 **Unilateral extension**

- (a) The Principal may, in its absolute discretion, unilaterally extend the Date for Practical Completion of a Separable Portion by any period specified in a notice from the Principal to Macquarie, whether or not Macquarie has made, or is entitled to make, a Claim for an extension of time under clause 19.7. The power to extend the Date for Practical Completion of a Separable Portion under this clause 19.10 may only be exercised by the Principal and the Principal is not required to exercise its discretion for the benefit of Macquarie.
- (b) The Principal's exercise of its discretion under clause 19.10(a) does not limit Macquarie's right to make a Claim under clause 19.7 and clause 20.1 where, but for the exercise of the discretion, Macquarie would have been entitled to an extension of time or Delay Costs.

#### 19.11 **Concurrent delays**

Macquarie is not entitled to make a Claim under clause 19.7 for an extension of time in respect of a delay to Practical Completion of a Separable Portion caused by

a Delay Event to the extent that the delay is contemporaneous with a delay to Practical Completion of a Separable Portion caused by:

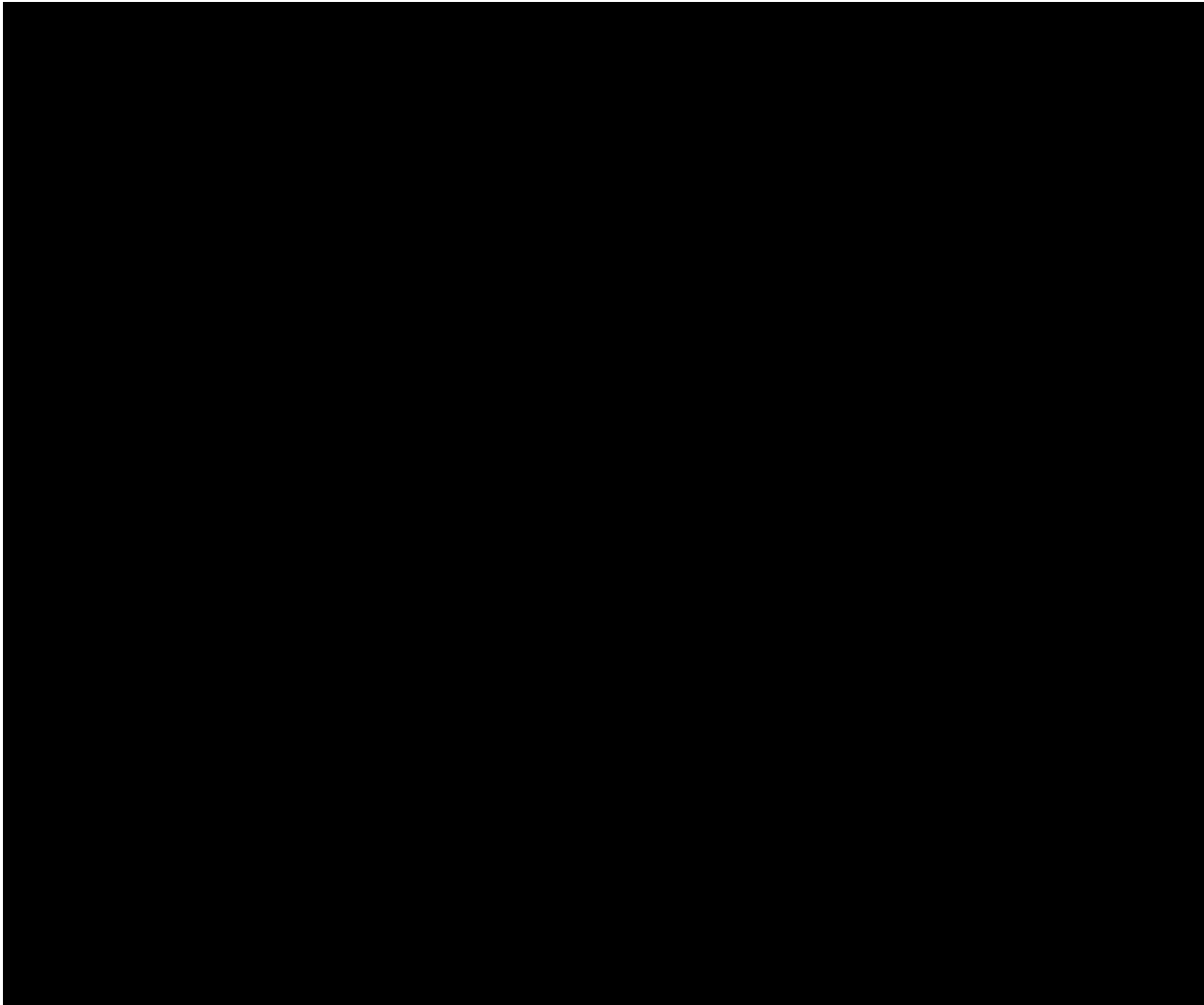
- (a) an event which is not a Delay Event; or
- (b) a Delay Event for which Macquarie has been granted an extension of time to the Date for Practical Completion for that Separable Portion.

**19.12 Progress Reports**

Macquarie must give the Principal a Progress Report containing the details required by Schedule B3 at the time set out in Schedule B3.

**20. DELAY COSTS AND [REDACTED]**

**20.1 Entitlement to claim compensation**



**20.2 Claim for compensation**

- (a) In order for Macquarie to claim Delay Costs or [REDACTED] in respect of a Delay Event referred to in clause 20.1, Macquarie must:
  - (i) within 40 Business Days after the earlier of the date Macquarie becomes aware, or ought reasonably to have become aware, that the Delay Event is likely to cause Macquarie to incur Delay Costs or [REDACTED] (or if Macquarie becomes so aware, or ought reasonably to have become so

aware, in the period between the Commencement Date and Financial Close, within 40 Business Days after Financial Close), give to the Principal's Representative a written notice, expressly stating:

- (A) that Macquarie proposes to make a Claim for Delay Costs and/or [REDACTED] (as applicable); and
  - (B) the Delay Event upon which the Claim will be based; and
- (ii) within 25 Business Days of giving the notice under clause 20.2(a)(i), give the Principal's Representative a written Claim which must include (to the extent practicable):
- (A) detailed particulars concerning the Delay Event upon which the Claim is based;
  - (B) details of the obligations and rights of Macquarie which have been affected by the Delay Event;
  - (C) details of the Delay Costs and/or [REDACTED] claimed in respect of the Delay Event and how those Delay Costs and/or [REDACTED] have been calculated;
  - (D) detailed particulars of how:
    - (aa) the delay for which Macquarie has been granted an extension of time has caused Macquarie to incur Delay Costs; and/or
    - (bb) the Delay Event has caused Macquarie to incur [REDACTED]; and
  - (E) details of the steps which Macquarie has taken to mitigate the effects of the relevant Delay Event.
- (b) If the Delay Event referred to in clause 19.6(b) (or its effects) are continuing, Macquarie must:
- (i) continue to give the information required by clause 20.2(a)(ii) every 40 Business Days after the notice under clause 20.2(a)(ii) was provided to the Principal's Representative until after the Delay Event (or its effects) have ceased; and
  - (ii) provide a final written Claim within 25 Business Days after the Delay Event (or its effects) have ceased.

### 20.3 Conditions precedent to compensation

- (a) It is a condition precedent to Macquarie's entitlement to compensation that:
  - (i) in relation to:
    - (A) a claim for Delay Costs, a Delay Event referred to in clause 19.6(b)(i), clause 19.6(b)(ii), clause 19.6(b)(iii), clause 19.6(b)(iv)(B) or clause 19.6(b)(iv)(D) (and in relation to clause 19.6(b)(iv)(D), only to the extent the Martin Place Metro Station Works or Temporary Works are damaged by the Principal) has occurred which has caused Macquarie to incur Delay Costs; or



- (B) a claim for [REDACTED] a Delay Event referred to in clause 19.6(b)(i) or clause 19.6(b)(ii) has occurred which has caused Macquarie to incur [REDACTED];
  - (ii) Macquarie has complied with the requirements under clause 20.2(a) and clause 20.2(b); and
  - (iii) to the extent that Macquarie wishes to claim any Delay Costs that it has incurred and which arise out of or in connection with any delay in achieving Practical Completion of a Separable Portion, Macquarie has been granted an extension of time to the Date for Practical Completion of that Separable Portion under clause 19.9(a).
- (b) If Macquarie fails to comply with the requirements under clause 20.2(a) and, if applicable, under clause 20.2(b) within the periods required by those clauses:
- (i) the Principal will not be liable (in so far as it is possible to exclude such liability) upon any Claim for Delay Costs and [REDACTED] by Macquarie; and
  - (ii) Macquarie will be absolutely barred from making any Claim for Delay Costs and [REDACTED] against the Principal,
- arising out of or in connection with the relevant Delay Event.

#### 20.4 **Delay Costs and [REDACTED]**

- (a) If the conditions precedent in clause 20.3(a) have been satisfied, the Principal must pay Macquarie the Delay Costs that Macquarie has incurred as a direct result of the delay caused by the Delay Event to Practical Completion of the Separable Portion for which the extension of time was granted pursuant to clause 19.9(a), but only in respect of the period of time for which the extension of time was granted.
- (b) If the conditions precedent in clause 20.3(a) have been satisfied, the Principal must pay Macquarie the [REDACTED] that Macquarie has incurred as a direct result of the relevant Delay Event.
- (c) The Principal must pay the costs referred to in clause 20.4(a) and/or clause 20.4(b) (as applicable) within 20 Business Days of receipt of a claim or claims pursuant to clause 20.2.

#### 20.5 **Limitation on Delay Costs**

Notwithstanding anything else in this deed, the Delay Costs to which Macquarie is entitled under clause 20.4 will not exceed:

- (a) with respect to D&C Delay Costs, the D&C Delay Cost Cap; and
  - (b) with respect to Delay Costs (Macquarie), the Delay Costs (Macquarie) Cap,
- in respect of each Day of Delay (as that term is defined in Schedule E5).

#### 20.6 **Mitigation**

- (a) Macquarie's entitlement to Delay Costs and/or [REDACTED] will be reduced to the extent that Macquarie fails to use all reasonable endeavours to:
  - (i) mitigate the effects of the relevant Delay Event;

- (ii) avoid or minimise the duration and consequences of the delay;
  - (iii) minimise any incremental costs or loss of revenue incurred or suffered as a result of the relevant Delay Event; and
  - (iv) maximise any cost savings or additional revenue derived as a result of the relevant Delay Event.
- (b) Macquarie's entitlement to Delay Costs and/or [REDACTED] will be reduced to the extent that Macquarie fails to comply with its obligations under this clause 20.6.

## 21. PRACTICAL COMPLETION

### 21.1 Notice of anticipated Practical Completion

Macquarie must, at least 20 Business Days prior to the date on which it reasonably anticipates Practical Completion of a Separable Portion will be achieved, give a notice in writing to the Principal's Representative, specifying the anticipated Date of Practical Completion for that Separable Portion (**Anticipated Date of Practical Completion**).

### 21.2 Requesting Certificate of Practical Completion (OSD Design Parameters)

- (a) When Macquarie considers it has completed or installed every item shown in the Final Plans and Specifications in respect of the OSD Works comprising the elements of the OSD Design Parameters within a Separable Portion (irrespective of whether Practical Completion of the OSD Works for a Separable Portion has been achieved), Macquarie must give the Principal written notice in the form set out in part A of Schedule B2. The Principal's Representative and Macquarie's Representative must jointly inspect those parts of the OSD Works at a mutually convenient time.
- (b) The Principal's Representative must, within 5 Business Days after the joint inspection referred to in clause 21.2(a):
  - (i) if Macquarie has completed or installed every item shown in the Final Plans and Specifications in respect of the OSD Works comprising the elements of the OSD Design Parameters within a Separable Portion (except for Minor Non-Compliances), provide to Macquarie a certificate in the form set out in part B of Schedule B2 for that Separable Portion; or
  - (ii) if Macquarie has not completed or installed every item shown in the Final Plans and Specifications in respect of the OSD Works comprising the elements of the OSD Design Parameters within that Separable Portion (except for Minor Non-Compliances), issue a notice to Macquarie in which it states the reasons for not issuing that certificate, and provide a detailed list of work required to be completed in order for that certificate to be issued.
- (c) On receipt of the detailed list referred to in clause 21.2(b)(ii), Macquarie must carry out the work referred to in that list and, on completion of that work, request the Principal's Representative to issue a Certificate of Practical Completion (OSD Design Parameters), and clauses 21.2(a) and 21.2(b) will reapply.
- (d) If the parties fail to agree on a mutually convenient time to jointly inspect those parts of the OSD Works or a party fails to attend the joint inspection, either party may refer the matter for dispute resolution in accordance with clause 40.

### 21.3 Requesting Certificate of Practical Completion

- (a) When Macquarie considers it has achieved Practical Completion of a Separable Portion, Macquarie must give the Principal written notice in the form set out in part C of Schedule B2 for that Separable Portion together with a copy of each of:
  - (i) the Certificate of Practical Completion (OSD Design Parameters) for that Separable Portion;
  - (ii) the Approved Engineer's Certificate (Post Completion) for the relevant OSD Works for that Separable Portion; and
  - (iii) an Occupation Certificate for the whole of the OSD Works for that Separable Portion which has been issued and is in force to enable occupation of the relevant OSD.
- (b) The Principal's Representative must, within 10 Business Days after receipt of all the documents referred to in clause 21.3(a), provide to Macquarie a certificate in the form set out in part D of Schedule B2 for the Separable Portion the subject of Macquarie's notice under clause 21.3(a).
- (c) If the Principal's Representative does not issue a Certificate of Practical Completion within 10 Business Days after receipt of all the documents under clause 21.3(a):
  - (i) Macquarie must notify the Principal's Representative of the failure to issue the Certificate of Practical Completion; and
  - (ii) if the Principal's Representative does not issue a Certificate of Practical Completion within 5 Business Days after receipt of the notice under clause 21.3(c)(i), the Principal's Representative is deemed to have issued a Certificate of Practical Completion for the Separable Portion the subject of Macquarie's notice under clause 21.3(a).

### 21.4 Effect of Certificate of Practical Completion

The issue of a Certificate of Practical Completion is evidence that Practical Completion of a Separable Portion has been achieved but is not an acknowledgment that Macquarie has otherwise complied with its obligations under this deed.

### 21.5 Providing documents to the Principal

As soon as practicable, and in any case within 60 Business Days after Practical Completion of a Separable Portion, Macquarie must do all things required to procure the issue and delivery to the Principal of copies of the following items:

- (a) as-built drawings for those parts of the OSD Works for that Separable Portion contained from basement level 5 to level 6 (inclusive) (in hardcopy and in an electronic format reasonably required by the Principal); and
- (b) all certificates issued by any Authority in relation to those parts of the OSD Works for that Separable Portion contained from basement level 5 to level 6 (inclusive) which have not previously been delivered to the Principal.

## 22. EARLY OCCUPATION LICENCE

- (a) The parties agree that:
  - (i) the OSD Works may be undertaken in stages; and

- (ii) if Macquarie wishes to occupy a part of the OSD prior to the achievement of Practical Completion of the Separable Portion relevant to that part of the OSD, this clause 22 will apply.
- (b) Macquarie must, at least:
  - (i) 1 month; and
  - (ii) 10 Business Days,  
prior to the date on which it reasonably anticipates Early Occupation Area Practical Completion will be achieved in respect of the Early Occupation Area, give a notice in writing to the Principal's Representative specifying:
    - (iii) that part of an OSD that Macquarie wishes to occupy prior to the achievement of Practical Completion (**Early Occupation Area**); and
    - (iv) the date by which it reasonably anticipates Early Occupation Area Practical Completion will be achieved in respect of the Early Occupation Area.
- (c) Within 10 Business Days after giving a notice under clause 22(b), Macquarie must:
  - (i) if Early Occupation Area Practical Completion has been achieved, provide to the Principal's Representative a Certificate of Early Occupation Area Practical Completion in the form set out in part E of Schedule B2; or
  - (ii) if Early Occupation Area Practical Completion has not been achieved, notify the Principal's Representative as to when Macquarie expects Early Occupation Area Practical Completion will be achieved and clause 22(b) will apply again.
- (d) If Macquarie issues a Certificate of Early Occupation Area Practical Completion under clause 22(c)(i), the Principal must grant Macquarie a licence to occupy an Early Occupation Area subject to:
  - (i) the terms and conditions of the Occupation Certificate;
  - (ii) the licence terms and conditions set out in Schedule A7; and
  - (iii) the terms of:
    - (A) the Building Management Statement if the Building Management Statement has been registered; or
    - (B) the Draft BMS (as that term is defined in the Station Delivery Deed) if the Building Management Statement has not been registered.
- (e) Macquarie may request, and subject to Macquarie complying with this clause 22, the Principal must grant Macquarie a licence, at one or more times, over one or more Early Occupation Areas.
- (f) If Macquarie provides the Principal with a copy of an Occupation Certificate for that part of the Concourse Link Works (as that term is defined in the Station Delivery Deed) and works within the 50 Martin Place Ancillary Amenities Lot, the Principal must grant Macquarie a licence to occupy the 50 Martin Place Ancillary Amenities Lot subject to:
  - (i) the terms and conditions of the Occupation Certificate;

- (ii) the licence terms and conditions set out in Schedule A13; and
- (iii) the terms of:
  - (A) the Building Management Statement if the Building Management Statement has been registered; or
  - (B) the Draft BMS (as that term is defined in the Station Delivery Deed) if the Building Management Statement has not been registered.

**23. DEFECTS**

**23.1 Macquarie to rectify Defects**

As soon as practicable after the Date of Practical Completion of a Separable Portion, Macquarie must, in accordance with the provisions in this clause 23, rectify any Defects in the OSD Works for that Separable Portion.

**23.2 Defects Notice**

- (a) The Principal may, at any time during the Defects Correction Period, give a notice (Defects Notice) to Macquarie of any Defects which, in the reasonable opinion of the Principal, is required to be rectified pursuant to clause 23.1.
- (b) Any Defects Notice issued by the Principal under clause 23.2(a):
  - (i) must identify the Defect; and
  - (ii) must specify a reasonable time for rectification of the Defect.
- (c) In respect of the rectification work, there will be a separate Defects Correction Period for the relevant Defect of a stated duration not exceeding 12 months.

**23.3 Obligations of Macquarie**

Macquarie must:

- (a) allow or procure the Principal and its Associates reasonable access from time to time during the Defects Correction Period to the Construction Site or the Development Lots (as applicable) to inspect the OSD Works for the purpose of this clause 23;
- (b) rectify any Defect specified in the Defects Notice within the reasonable period of time specified in the Defects Notice (as extended under clause 23.6); and
- (c) give notice to the Principal when, in Macquarie's opinion, those Defects have been rectified.

**23.4 Principal may rectify Defects**

If Macquarie does not complete any rectification work required pursuant to a Defects Notice within the reasonable period of time specified in the Defects Notice (as extended under clause 23.6) then:

- (a) the Principal may have the rectification work carried out; and
- (b) Macquarie must pay to the Principal on demand a sum equal to the Cost of the rectification work reasonably incurred by the Principal.

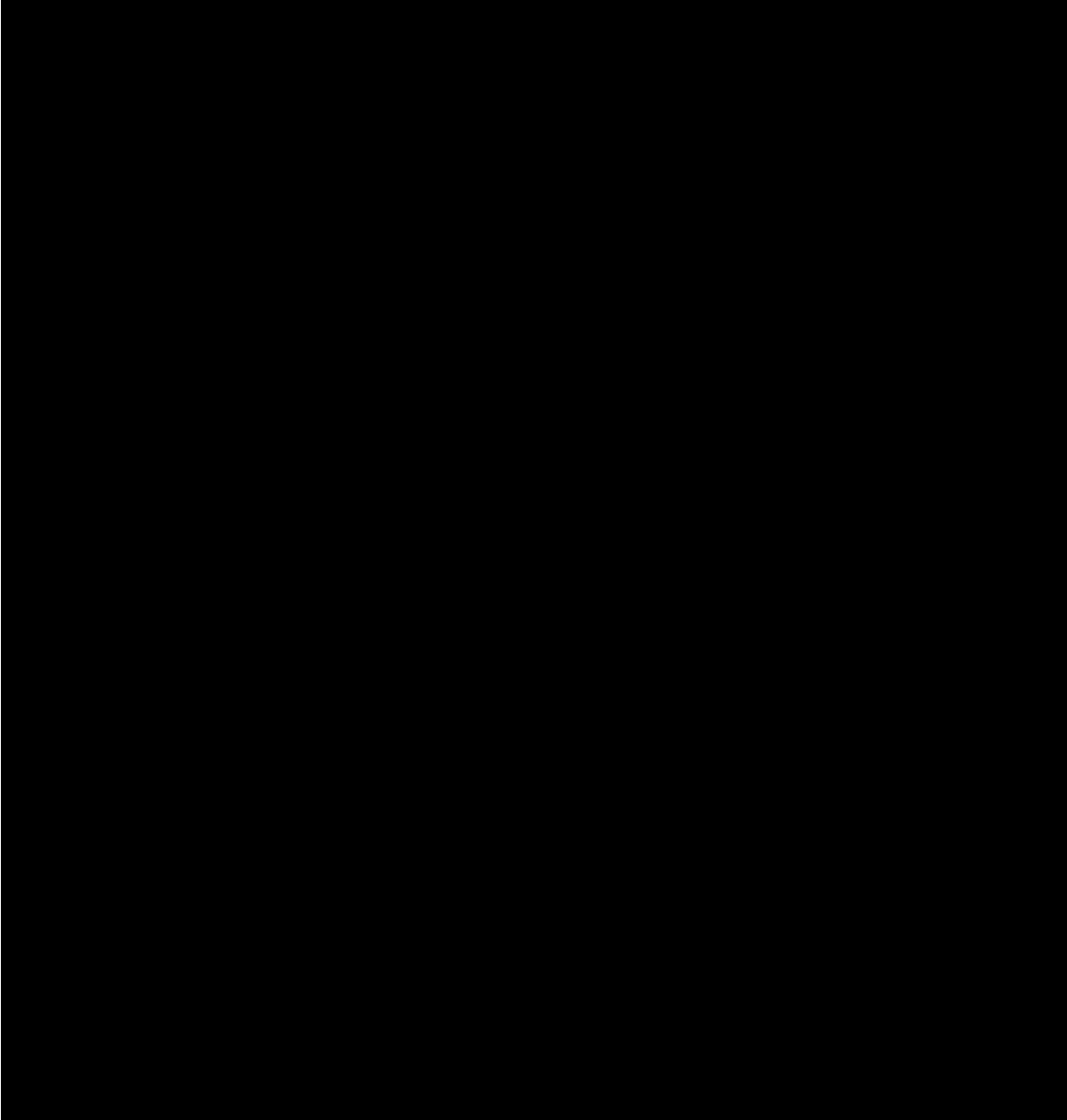
23.5 **Access to remedy Defects**

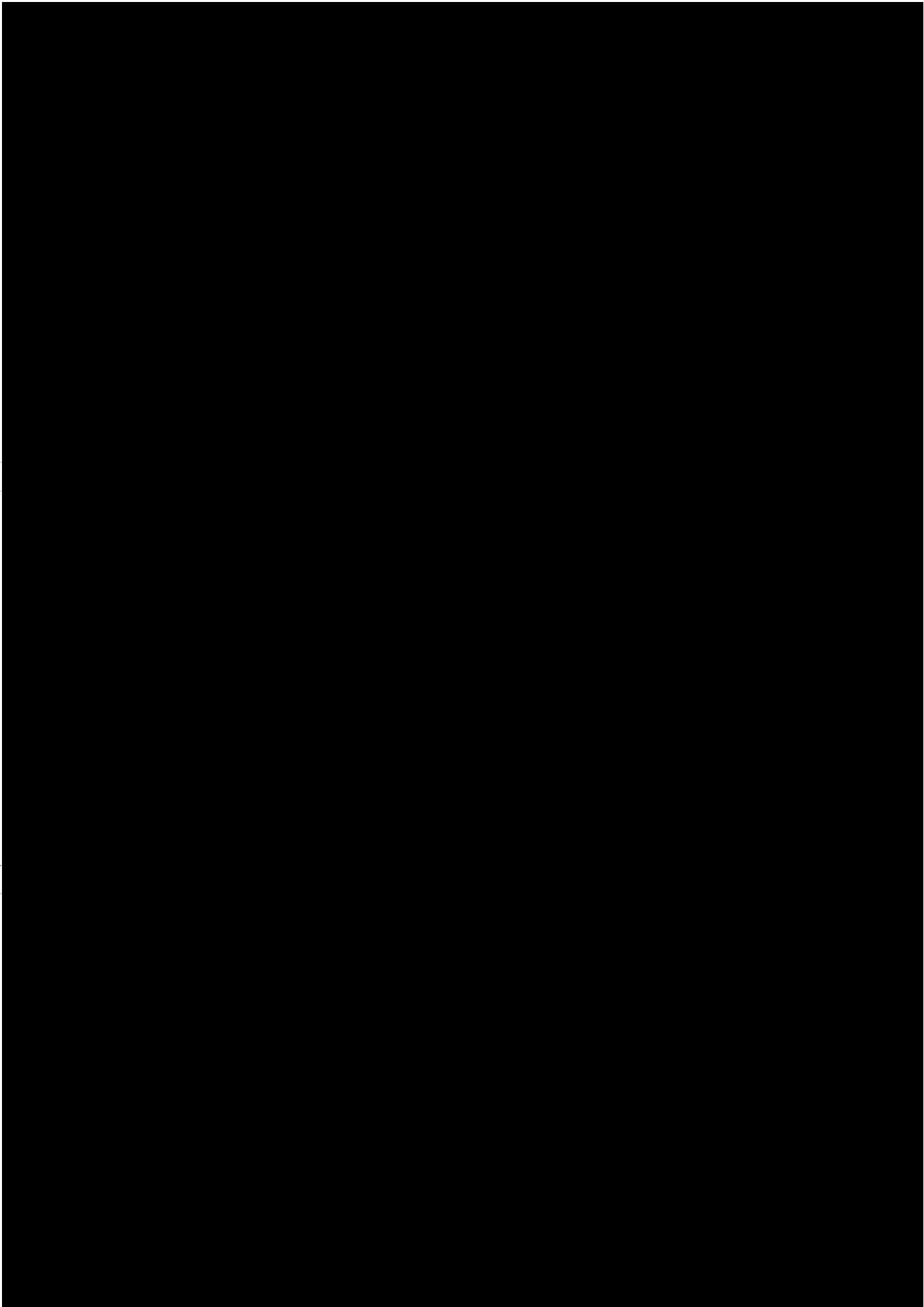
Each party must ensure that a party which is rectifying or remedying Defects has access to the relevant area of the Construction Site or the OSD for the purposes of rectifying or remedying those Defects in accordance with this clause 23.

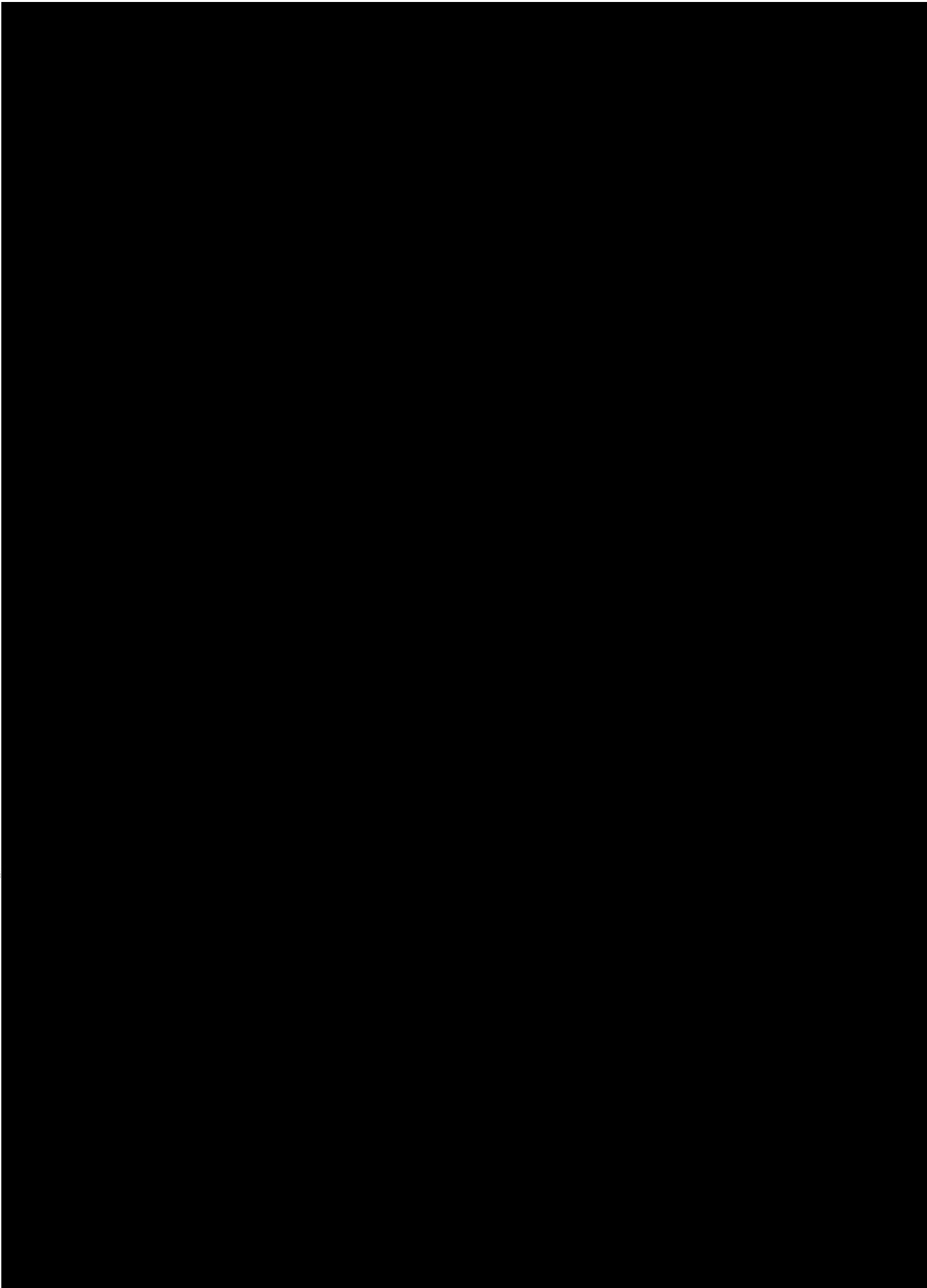
23.6 **Extension of rectification period**

Where Macquarie has not completed rectification of a Defect within the reasonable period of time specified in the Defects Notice for that Defect but is diligently pursuing a remedy of the Defect, the Principal must, if requested by Macquarie in writing, extend the period for rectification by a period or periods as reasonably determined by the Principal.

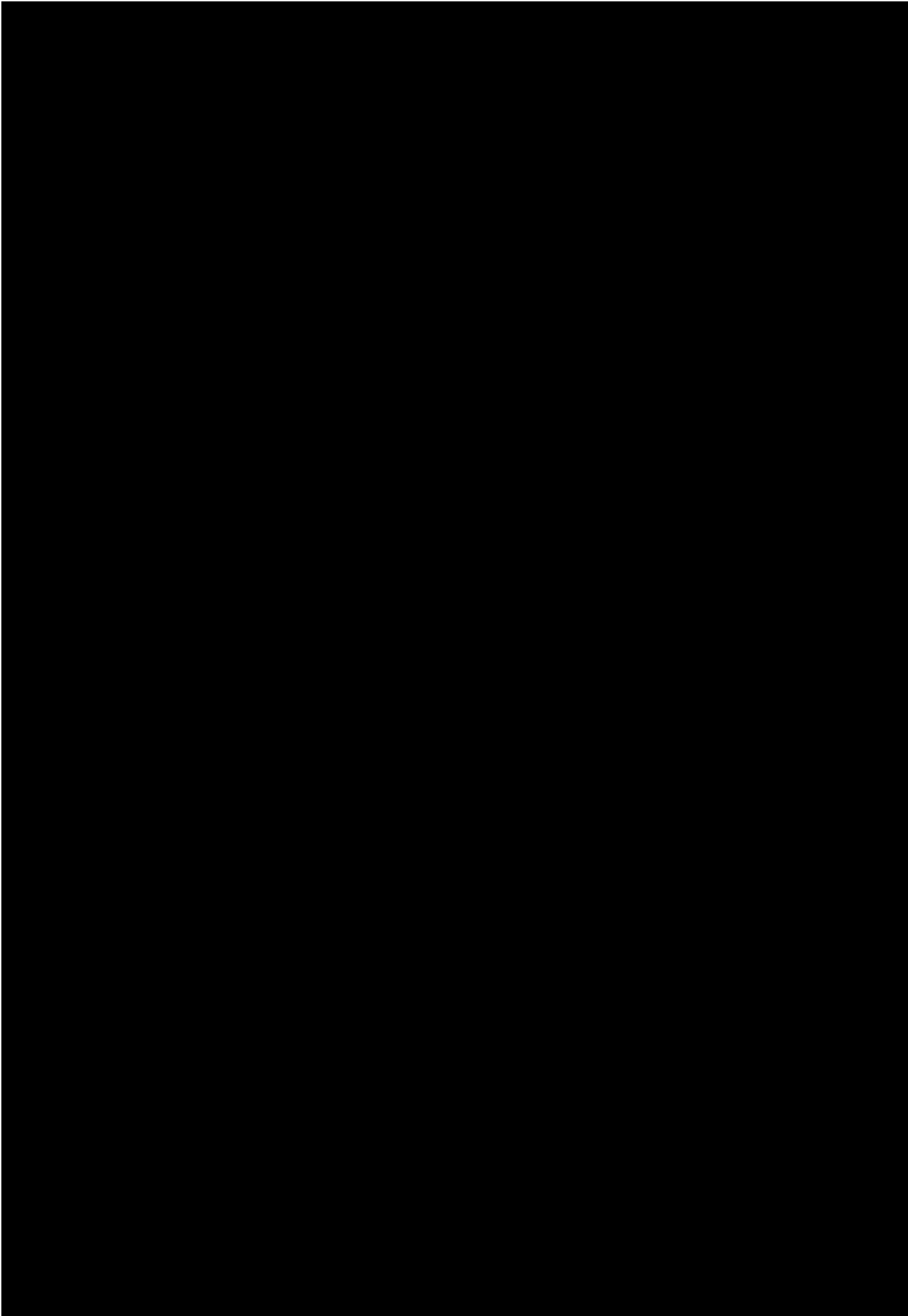
24. **TRANSFER OF FREEHOLD TITLE**

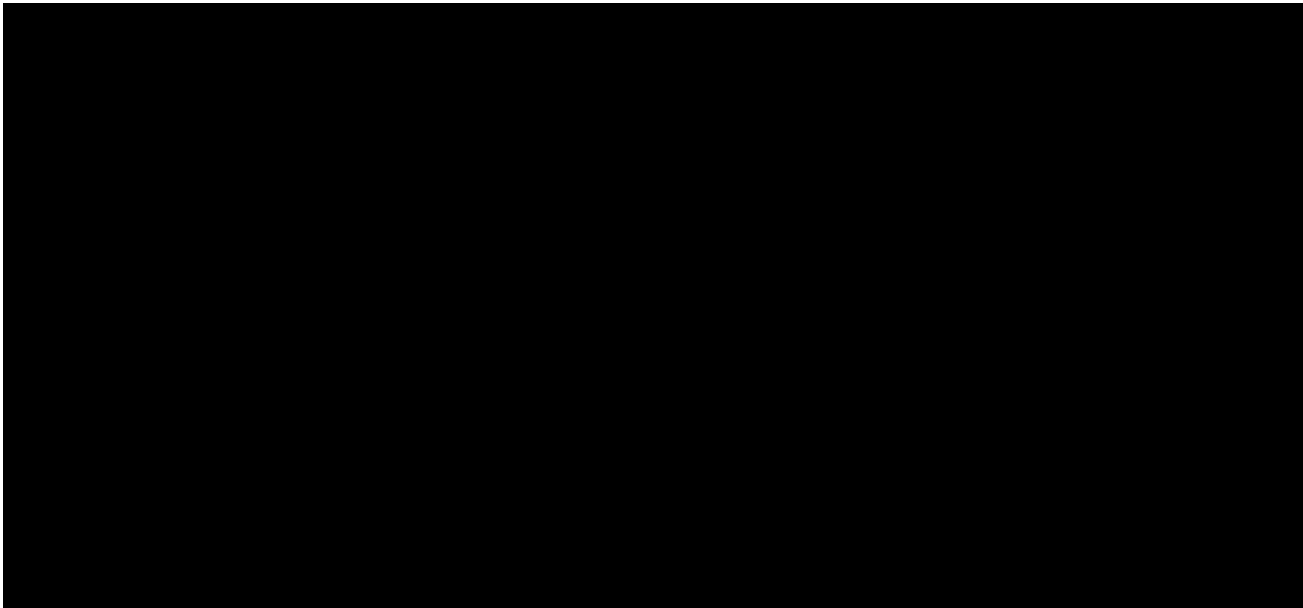












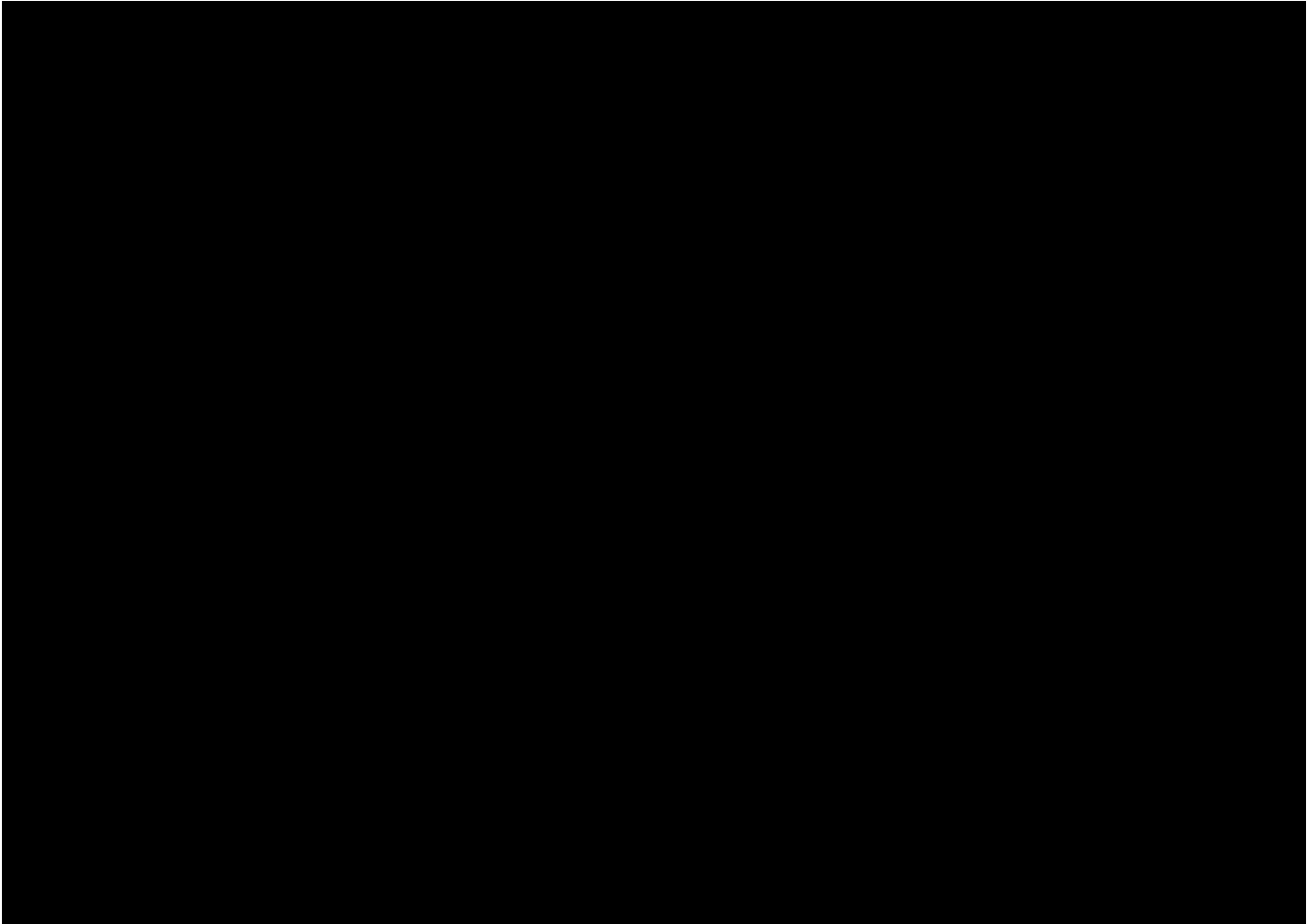
25. **MACQUARIE PAYMENTS**

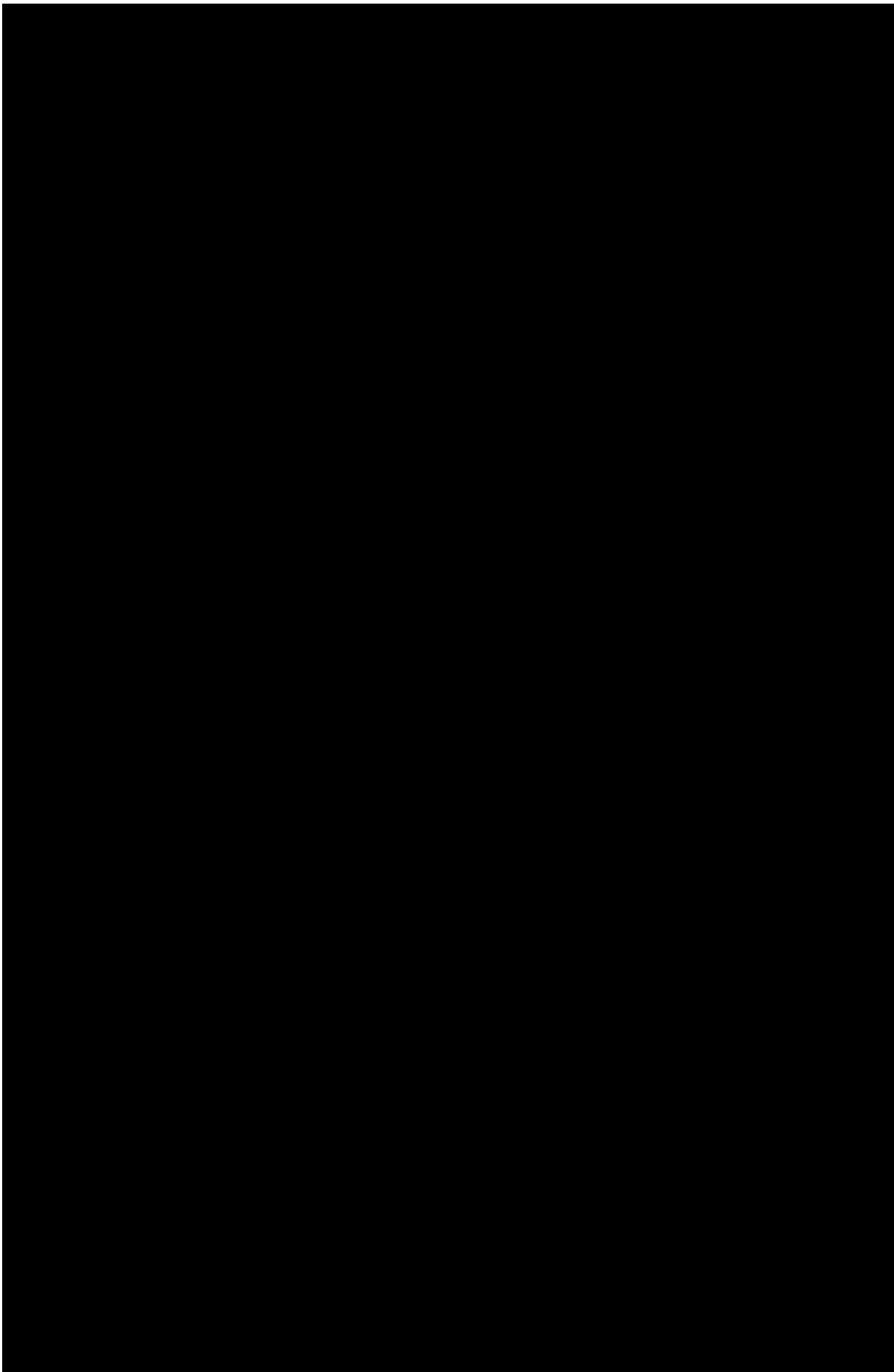


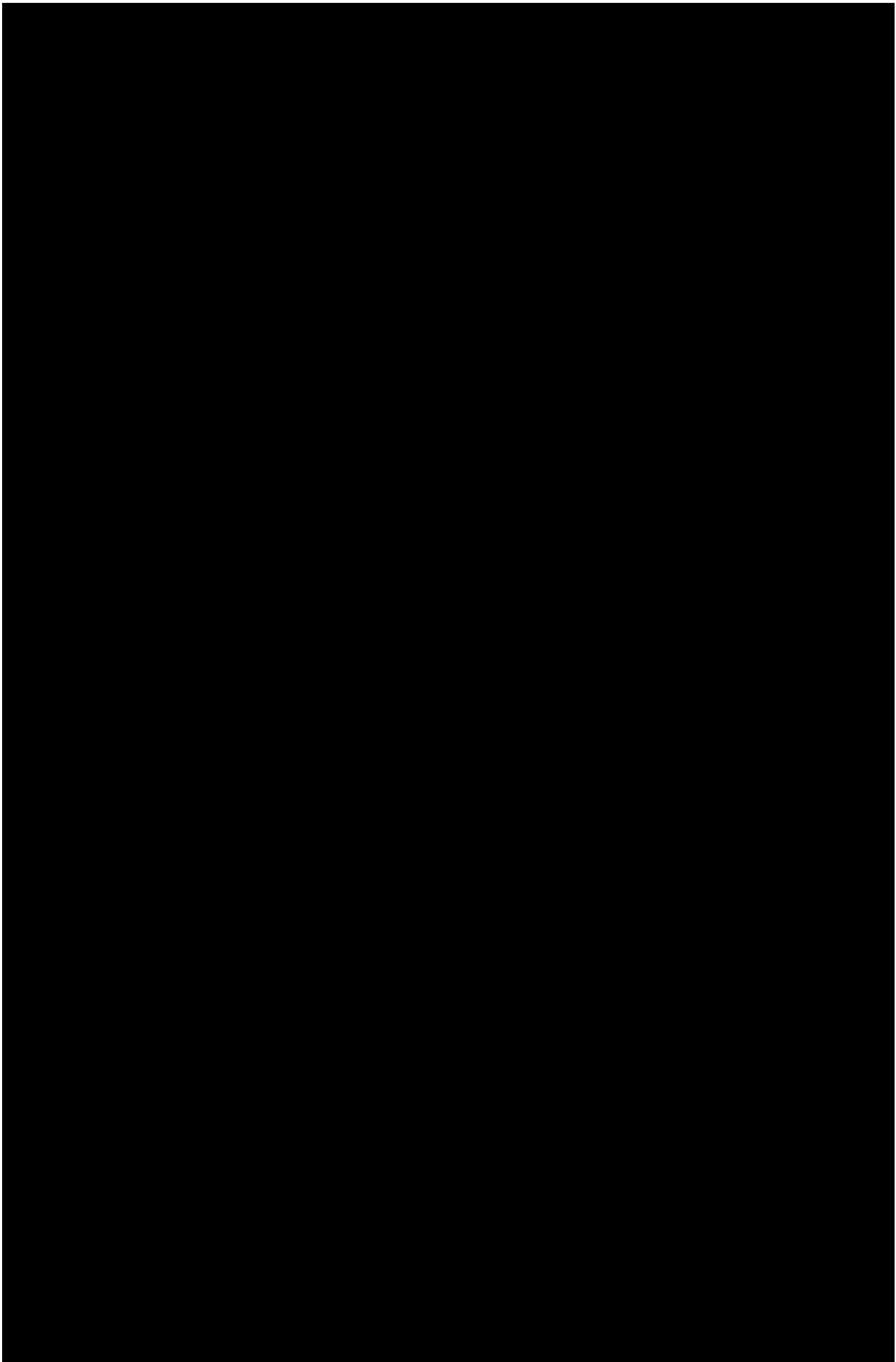
25.1 **Macquarie Payments**

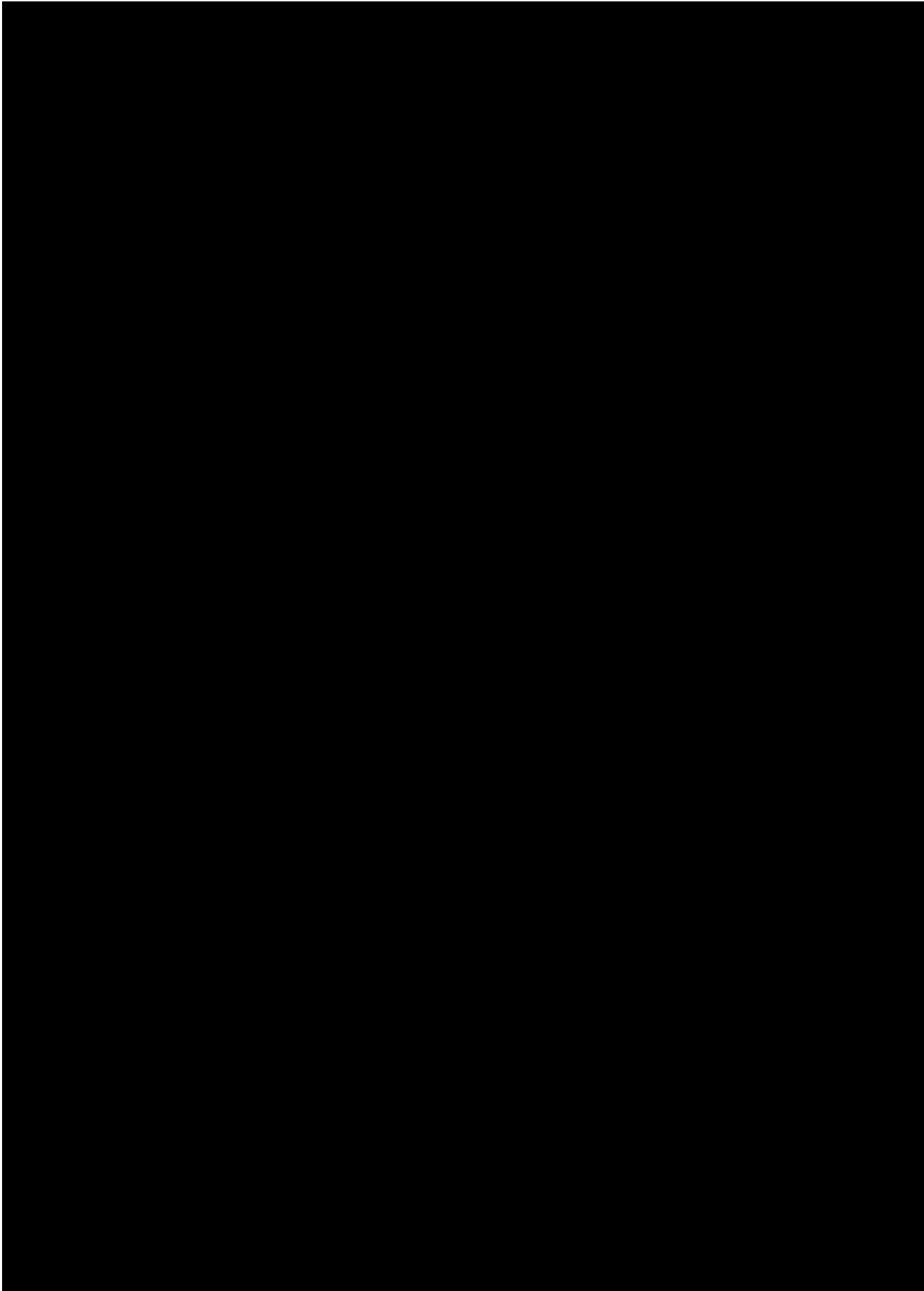
Macquarie must pay the Macquarie Payments to the Principal in accordance with this clause 25 and the Payment Schedule, as consideration for all rights and benefits granted to Macquarie under this deed.

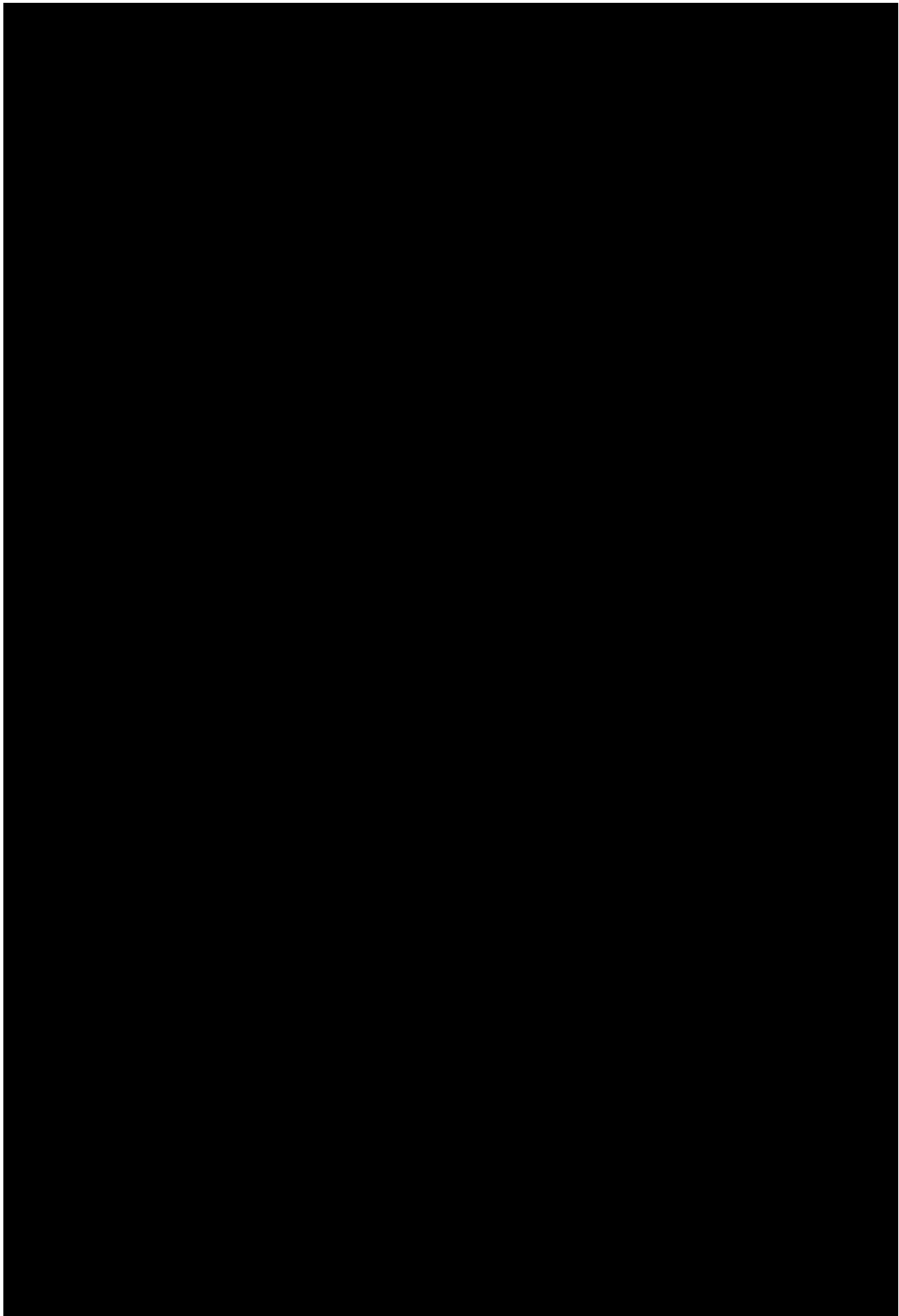
25.2 **Core Payment 1**

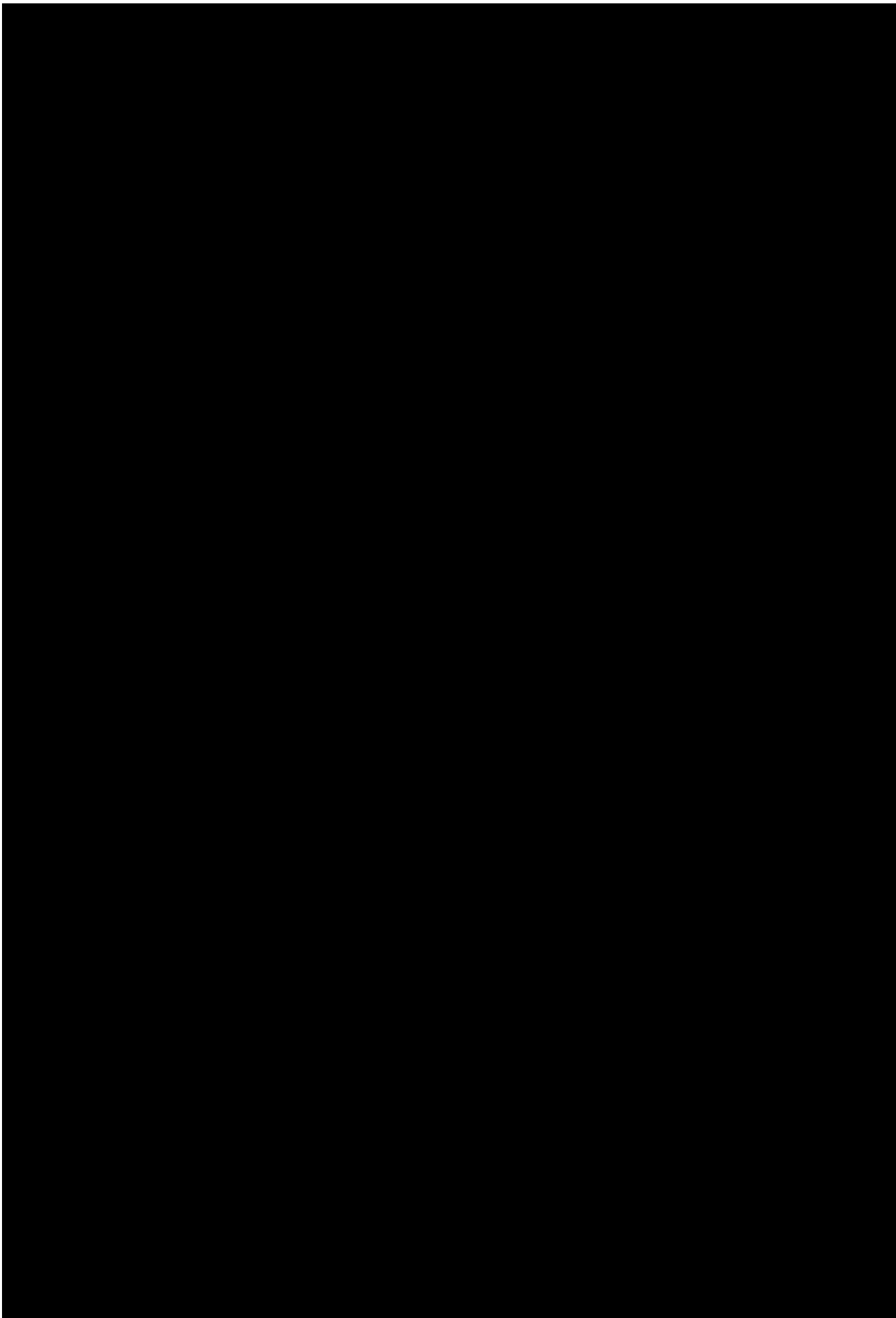


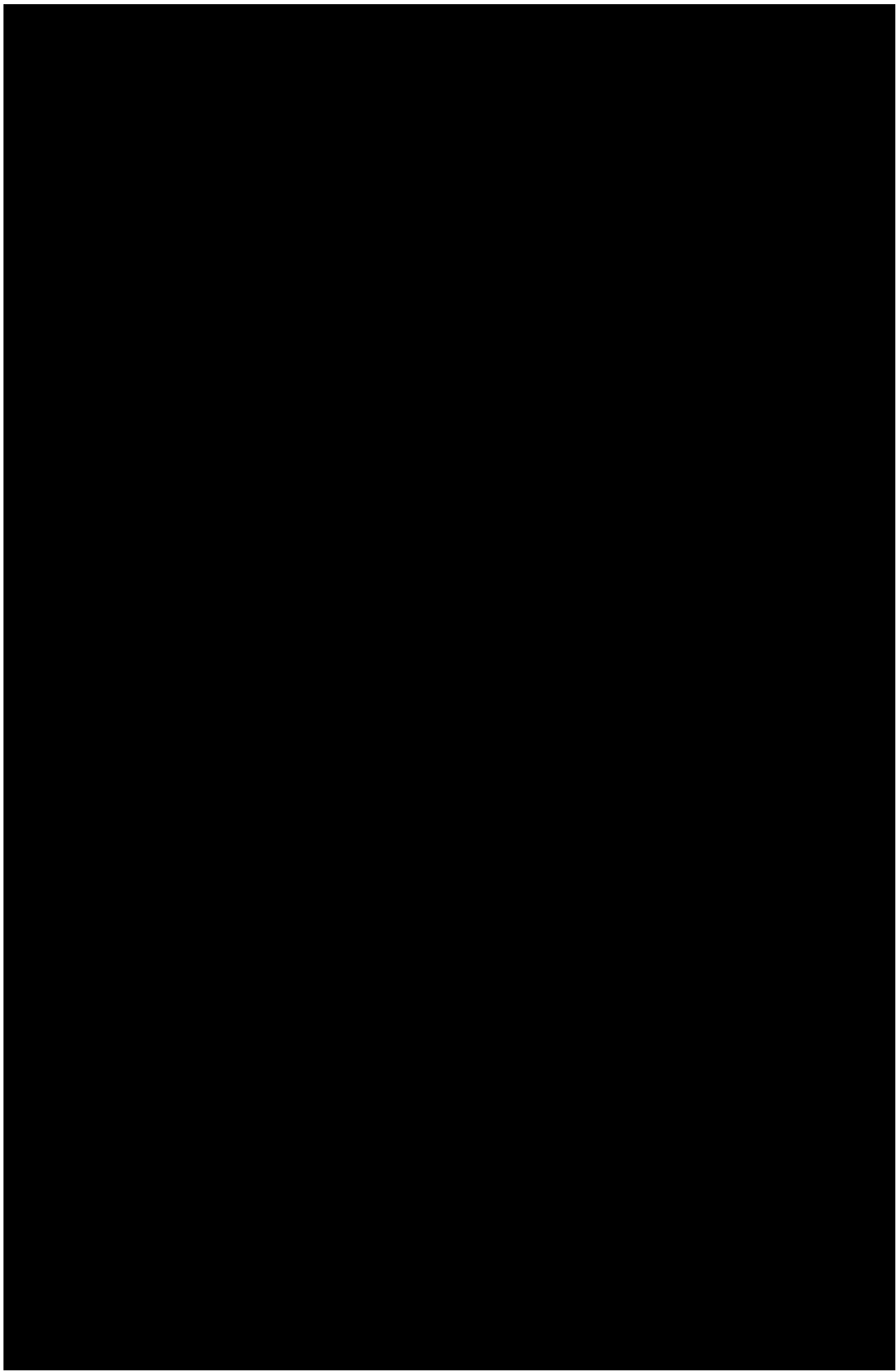












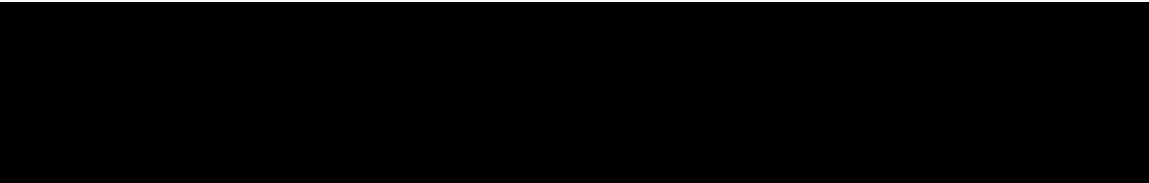




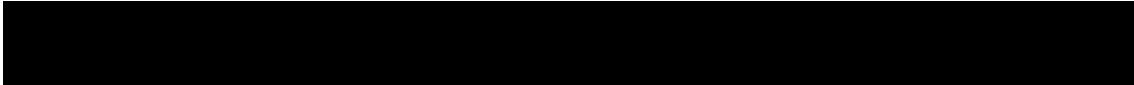
26. **PRINCIPAL INITIATED VARIATIONS**

26.1 **Variation Impact Request**

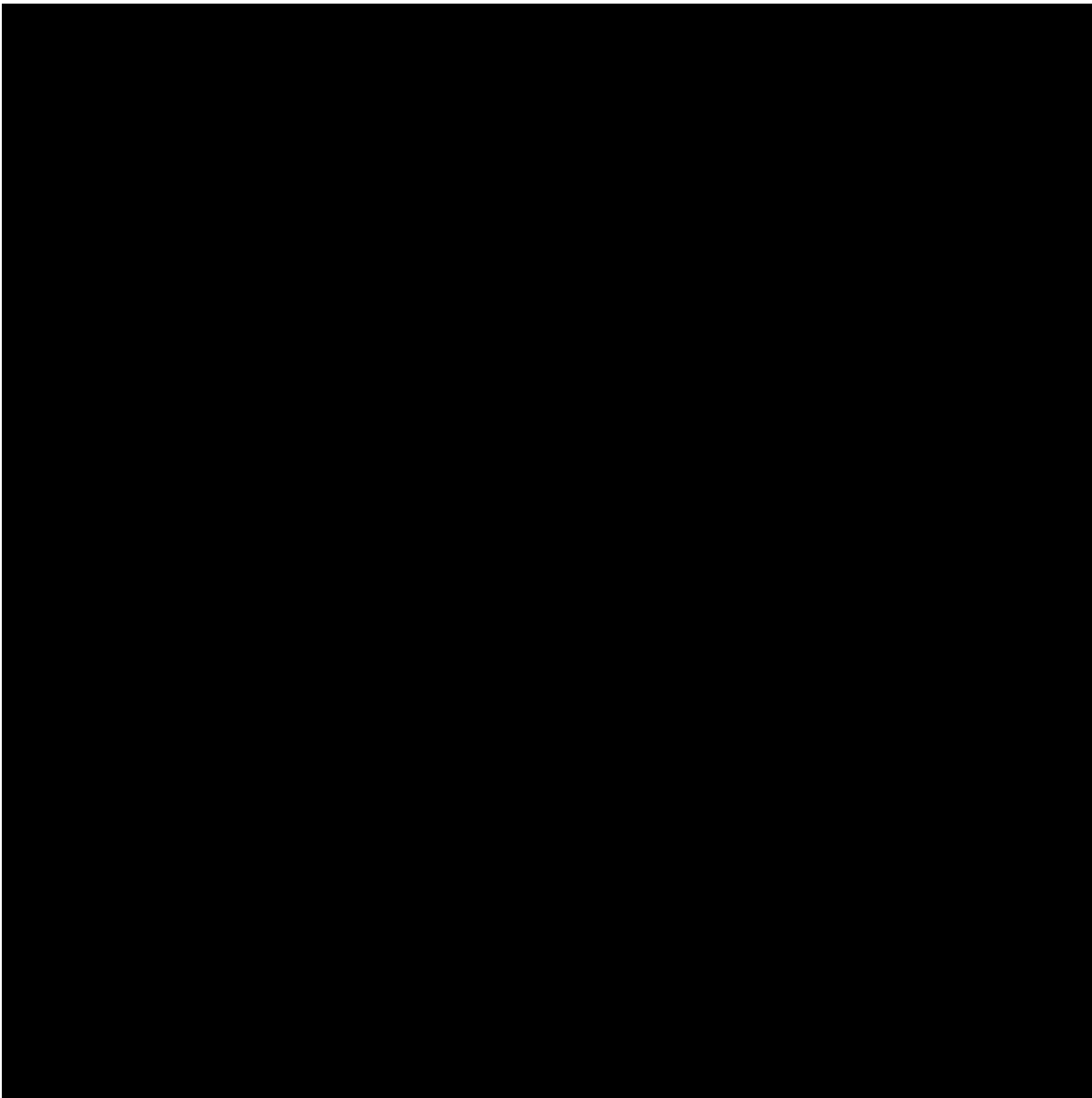
- (a) Subject to clause 26.15, if the Station Developer has given a notice to the Principal in accordance with clause 35.2(c)(vii) of the Station Delivery Deed that a SDD Variation can only be implemented if a corresponding Variation is implemented under this deed (**Corresponding Variation**), the Principal's Representative must issue to Macquarie a Variation Impact Request for that Corresponding Variation within 5 Business Days after receipt of the Station Developer's notice under clause 35.2(c)(vii) of the Station Delivery Deed.



- (d) The Variation Impact Request must request that Macquarie provides an estimate of the third party costs that Macquarie will incur in preparing a Variation Impact Proposal, and Macquarie must provide that estimate within 5 Business Days after receipt of the Variation Impact Request (or such longer period as is reasonable having regard to the nature of the request).

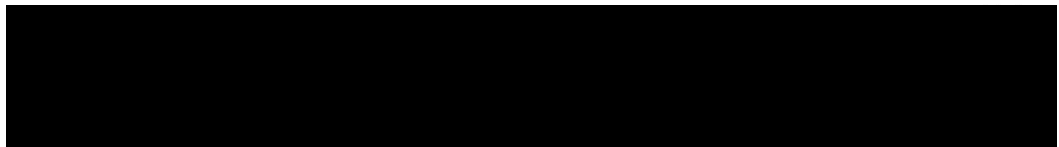


26.2 **Variation Impact Proposal**



- (c) The Variation Impact Proposal must set out detailed particulars of Macquarie's view on:

- (i) the Variation Costs of the proposed Variation;
- (ii) the effect which the proposed Variation will have on the OSD Program (including any extension of time required to a Date for Practical Completion);
- (iii) any Approvals required to implement the proposed Variation, and the effect of the proposed Variation on any existing Approvals and on the ability of Macquarie to comply with those Approvals;
- (iv) the effects which the proposed Variation will have on Macquarie's ability to satisfy its obligations under a Project Document (including any warranties given by Macquarie under a Project Document) or exercise its rights under a Project Document;
- (v) any relief which is required from Macquarie's obligations under this deed to ensure that it is left in a no better and no worse position than it would be in if the Variation were not implemented;



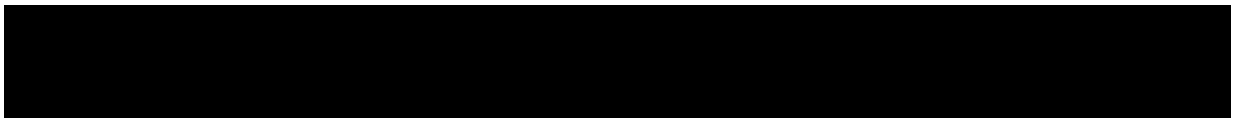
- (vii) the quantum of any potential claim by Macquarie under clause 2 of Schedule E6 or clause 3 of Schedule E7 (as applicable); and
- (viii) any other information requested by the Principal in the Variation Impact Request.

**26.3 Cost of preparing Variation Impact Proposal**

If:

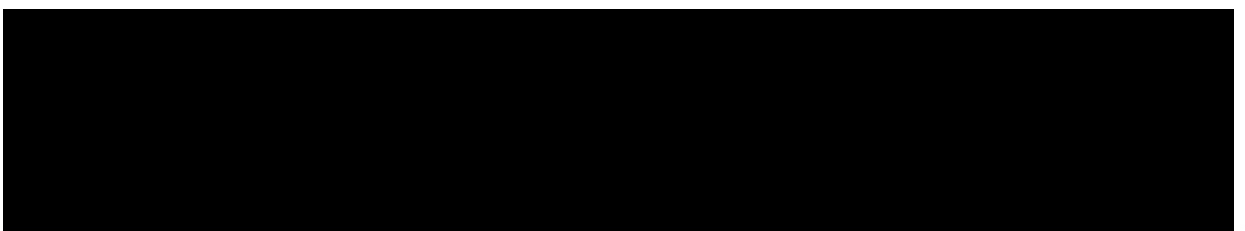
- (a) Macquarie prepares a Variation Impact Proposal in accordance with clause 26.2; and
- (b) the Principal does not issue a Variation Order in respect of the proposed Variation (including if the Principal withdraws or rejects the Variation Impact Request),

then the Principal must reimburse Macquarie within 20 Business Days after the demand from Macquarie the additional and reasonable, arm's length third party Costs incurred by Macquarie in:



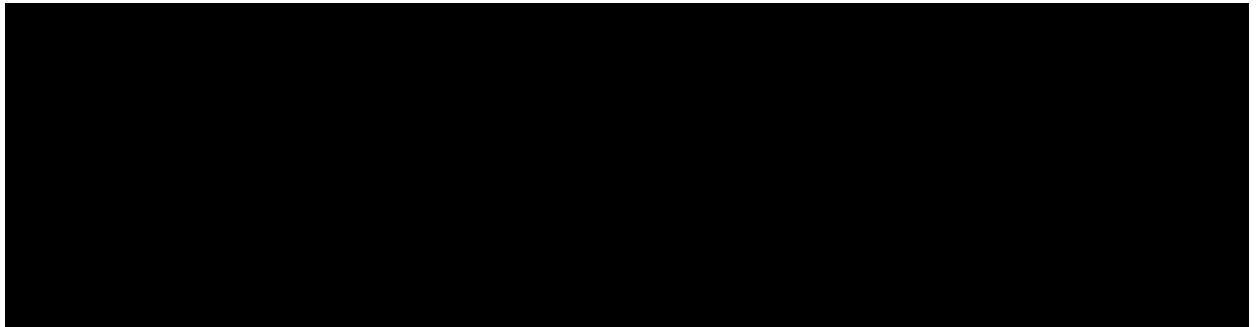
- (d) performing its obligations under clause 26.6.

**26.4 Election by the Principal**





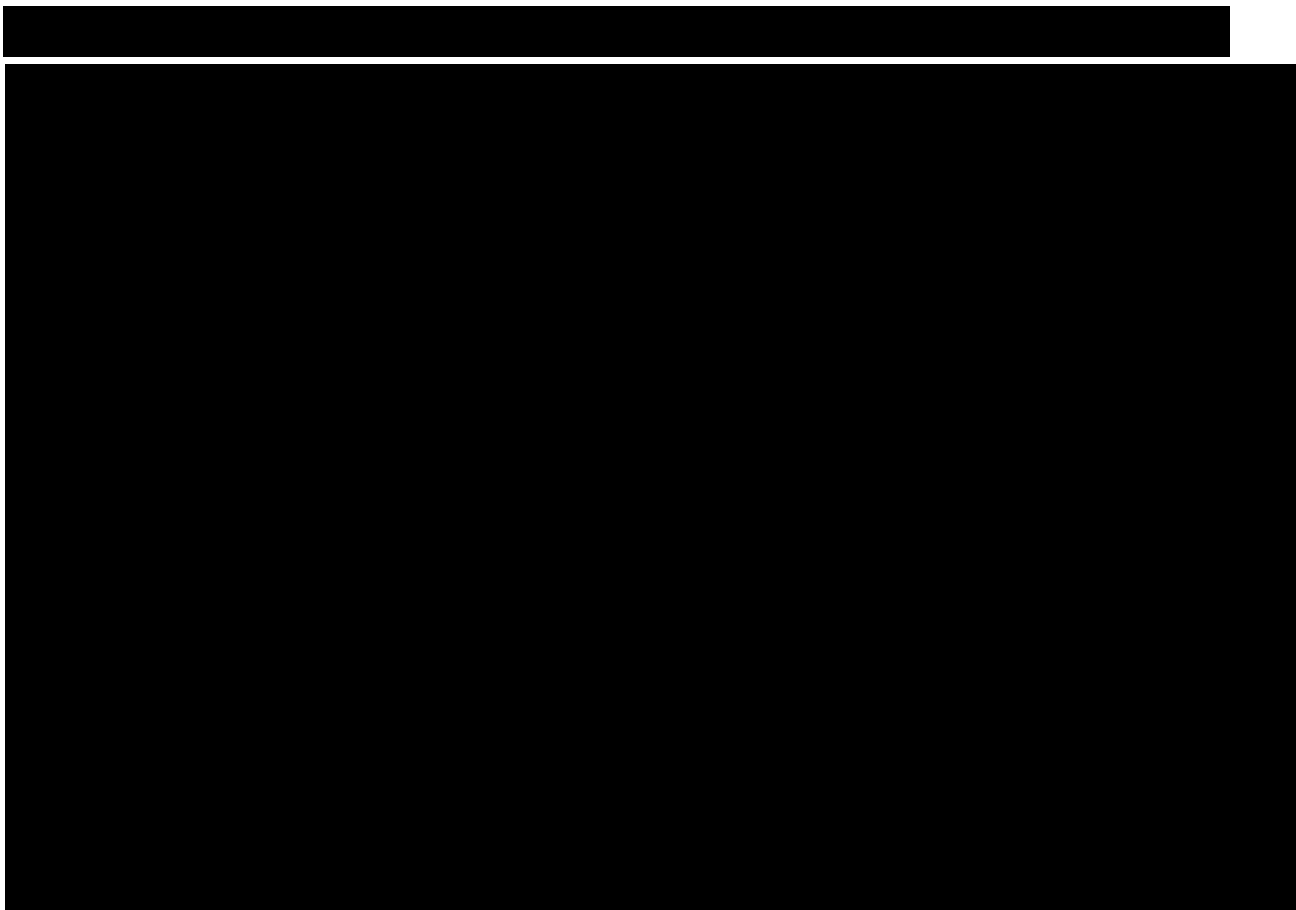
(b) In the case of a Corresponding Variation, the Principal:

- (i) must accept the Variation Impact Proposal (by issuing a Variation Order) if:
    - (A) under the Station Delivery Deed, the Principal elects to proceed with the SDD Variation which relates to or gave rise to the Corresponding Variation;
    - (B) the Principal agrees (or it is determined under clause 40) that the Corresponding Variation is required; and
    - (C) the Principal agrees with (or it is determined under clause 40) the details set out in the Variation Impact Proposal provided under clause 26.2(c);
  - (ii) must reject the Variation Impact Proposal if, under the Station Delivery Deed, the Principal elects to not proceed with, or withdraws the SDD Variation which relates to or gave rise to the Corresponding Variation; or
  - (iii) must withdraw its Variation Impact Request if:
    - (A) the parties have agreed that the Corresponding Variation is not required to enable the relevant SDD Variation to be implemented; or
    - (B) the Station Developer's determination has been referred to dispute resolution pursuant to clause 40 and it has been determined that the Corresponding Variation is not required to enable the SDD Variation to be implemented.
- 

#### 26.5 **Principal accepts Variation Impact Proposal**

If the Principal accepts the Variation Impact Proposal in accordance with clause 26.4(a):

- (a) Macquarie must implement the Variation on the basis of the Variation Impact Proposal (as submitted by Macquarie, determined pursuant to clause 40 or otherwise agreed by the parties);
- (b) Macquarie will be relieved of its obligations under this deed to the extent specified in the Variation Impact Proposal (as submitted by Macquarie, determined pursuant to clause 40 or otherwise agreed by the parties);
- (c) the relevant Date for Practical Completion will be extended as specified in the Variation Impact Proposal (as submitted by Macquarie, determined pursuant to clause 40 or otherwise agreed by the parties); and
- (d) the Principal must pay Macquarie the Variation Costs of the Variation in accordance with clause 28.



**26.6 Principal rejects Variation Impact Proposal**

If the Principal rejects the Variation Impact Proposal in accordance with clause 26.4(a)(iv) (except in circumstances where the SDD Variation that gave rise to the Corresponding Variation has been withdrawn by the Principal under the Station Delivery Deed), either party may require that the parties consult in good faith and use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Variation Impact Proposal which are in dispute.

**26.7 Parties reach agreement**

If the parties reach agreement on the disputed matters in the Variation Impact Proposal and the Principal directs Macquarie to implement the Variation by issuing a Variation Order:

- (a) Macquarie must implement the Variation on the basis of the Variation Impact Proposal (as varied by the parties' agreement);
- (b) Macquarie will be relieved of its obligations under this deed to the extent specified in the Variation Impact Proposal (as varied by the parties' agreement);
- (c) the relevant Date for Practical Completion will be extended as specified in the Variation Impact Proposal (as varied by the parties' agreement); and
- (d) the Principal must pay Macquarie the Variation Costs of the Variation in accordance with clause 28.

**26.8 If parties fail to reach agreement**

- (a) If the parties are unable to reach agreement within 20 Business Days after the Principal rejects the Variation Impact Proposal in accordance with clause 26.4(a)(iv) (except in circumstances where the SDD Variation that gave rise to the Corresponding Variation has been withdrawn by the Principal under the Station Delivery Deed), either party may:
  - (i) subject to clause 26.8(a)(ii), refer the matter for dispute resolution in accordance with clause 40; or
  - (ii) in the case of a Corresponding Variation where the Principal or the Station Developer has referred the SDD Variation to dispute resolution in accordance with clause 52 of the Station Delivery Deed, refer the matter for dispute resolution in accordance with clause 52 of the Station Delivery Deed in which case the parties acknowledge and agree that:
    - (A) they will be bound by the determination process under clause 52 of the Station Delivery Deed; and
    - (B) the determination under clause 52 of the Station Delivery Deed is final and binding on the parties.
- (b) In making a referral under this clause 26.8, the relevant party must refer all disputed matters under the Variation Impact Proposal to be determined in accordance with clause 40 or clause 52 of the Station Delivery Deed (as applicable).

**26.9 Principal may direct that Variation proceed**

- (a) If a party refers the matter for dispute resolution under clause 26.8, the Principal may also direct Macquarie to implement the Variation by issuing a Variation Order whether or not any matters in dispute have been agreed in accordance with clause 40.
- (b) If the Principal issues a Variation Order under clause 26.9(a):
  - (i) the disputed matters in the Variation Impact Proposal will, until the Principal and Macquarie otherwise agree or a determination is made in accordance with clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable), be reasonably determined by the Principal's Representative. In making his or her reasonable determination, the Principal's Representative must determine all disputed matters in the Variation Impact Proposal required to enable the Variation to be implemented;
  - (ii) Macquarie must proceed to implement the Variation on the basis of the Variation Impact Proposal and the matters determined by the Principal's

Representative under clause 26.9(b)(i) (notwithstanding that any matters in dispute have not been agreed or determined in accordance with clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable));

- (iii) Macquarie will be relieved of its obligations under this deed to the extent specified in the Variation Order;
- (iv) the relevant Date for Practical Completion will be extended as specified in the Variation Order; and
- (v) necessary adjustments will be made following the determination of a dispute under clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable) (where applicable).

#### 26.10 **Principal's options following determination**

- (a) Following determination of a dispute referred to in clause 26.8 in accordance with clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable), the Principal may, only if it has not already exercised its right to issue a Variation Order under clause 26.9, elect to do either of the following:
  - (i) subject to clause 26.10(b), require Macquarie to implement the proposed Variation in accordance with the Variation Impact Proposal as varied by the determination; or
  - (ii) withdraw the proposed Variation (in which case clause 26.3 applies),  
by written notice to Macquarie (which in the case of clause 26.10(a)(i) must be a Variation Order).
- (b) The Principal must not require Macquarie to implement the proposed Variation under clause 26.10(a)(i) where it has been determined in accordance with clause 40 that the proposed Variation should not proceed.

#### 26.11 **Macquarie to implement Variation**

If the Principal gives a Variation Order pursuant to clause 26.10(a)(i):

- (a) Macquarie must carry out the Variation described in the Variation Order on the basis of the Variation Impact Proposal (as varied by the determination, once made);
- (b) Macquarie will be relieved of its obligations under this deed to the extent specified in the Variation Impact Proposal (as varied by the determination, once made);
- (c) the relevant Date for Practical Completion will be extended as specified in the Variation Impact Proposal (as varied by the determination, once made); and
- (d) the Principal must pay to Macquarie the Variation Costs in accordance with clause 28.

#### 26.12 **Instruction to proceed**

- (a) Subject to clause 26.4(c)(ii), the Principal's Representative may at any time instruct Macquarie to implement a Variation by issuing a Variation Order for:
  - (i) a Corresponding Variation where the Principal has exercised its right to instruct the SDD Variation which relates to or gave rise to the Corresponding Variation under clause 35.13 of the Station Delivery Deed, whether or not

the Principal has issued a Variation Impact Request under clause 26.1 or whether or not Macquarie has issued a Variation Impact Proposal under clause 26.2 in response to a Variation Impact Request;

- [REDACTED]
- [REDACTED]
- (b) In giving an instruction under clause 26.12(a), the Principal's Representative will determine (acting reasonably), all matters required to enable the Variation to be implemented, including the matters set out in clause 26.2(c), until the Principal and Macquarie otherwise agree or a determination is made in accordance with clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable).
- (c) If Macquarie disagrees with a matter determined by the Principal's Representative:
- (i) Macquarie may refer the matter for dispute resolution:
    - (A) subject to clause 26.12(c)(i)(B), in accordance with clause 40 of this deed; or
    - (B) in the case of a Corresponding Variation where the Principal or the Station Developer has referred the SDD Variation to dispute resolution in accordance with clause 52 of the Station Delivery Deed, refer the matter for dispute resolution in accordance with clause 52 of the Station Delivery Deed in which case the parties acknowledge and agree that:
      - (aa) they will be bound by the determination process under clause 52 of the Station Delivery Deed; and
      - (bb) the determination under clause 52 of the Station Delivery Deed is final and binding on the parties;
  - (ii) Macquarie must proceed to implement the Variation on the basis determined by the Principal's Representative notwithstanding that the matters in dispute have not been agreed or determined in accordance with clause 40 of this deed or clause 52 of the Station Delivery Deed (as applicable);
  - (iii) Macquarie will be relieved of its obligations under this deed to the extent specified in the Variation Order; and
  - (iv) any necessary adjustments will be made following any agreement or determination under clause 40 of this deed or clause 52 of the Station Delivery Deed.

**26.13 No liability unless Variation Order**

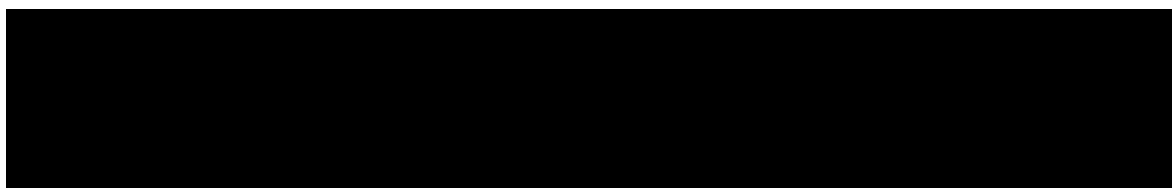
- (a) Macquarie will not be entitled to make any Claim against the Principal arising out of, or in any way in connection with, any Variation, except where Macquarie is directed to implement a Variation pursuant to a Variation Order issued by the Principal under this clause 26 or where clauses 26.3 or 42 apply.
- (b) Subject to clause 26.13(c), if:

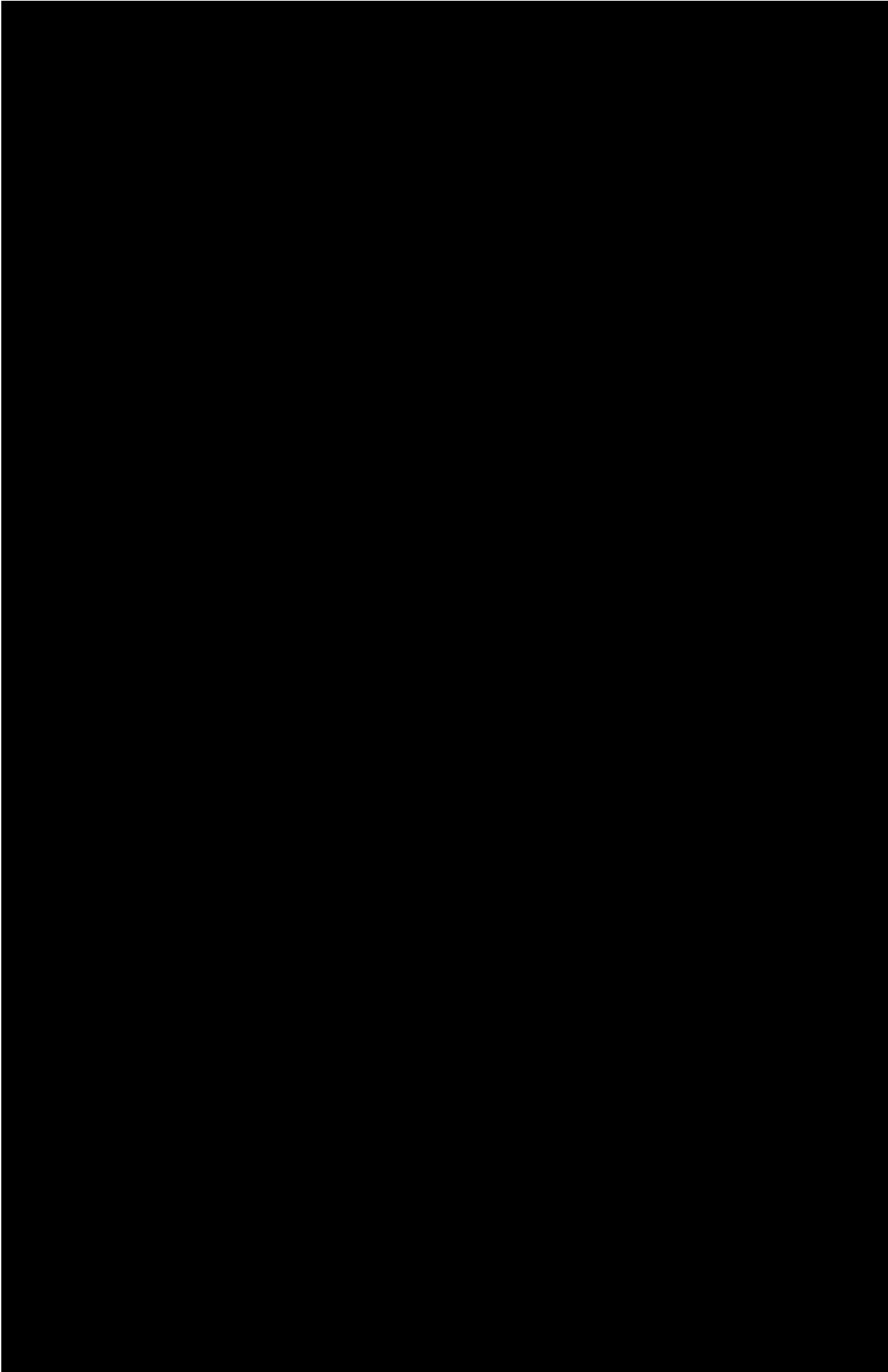


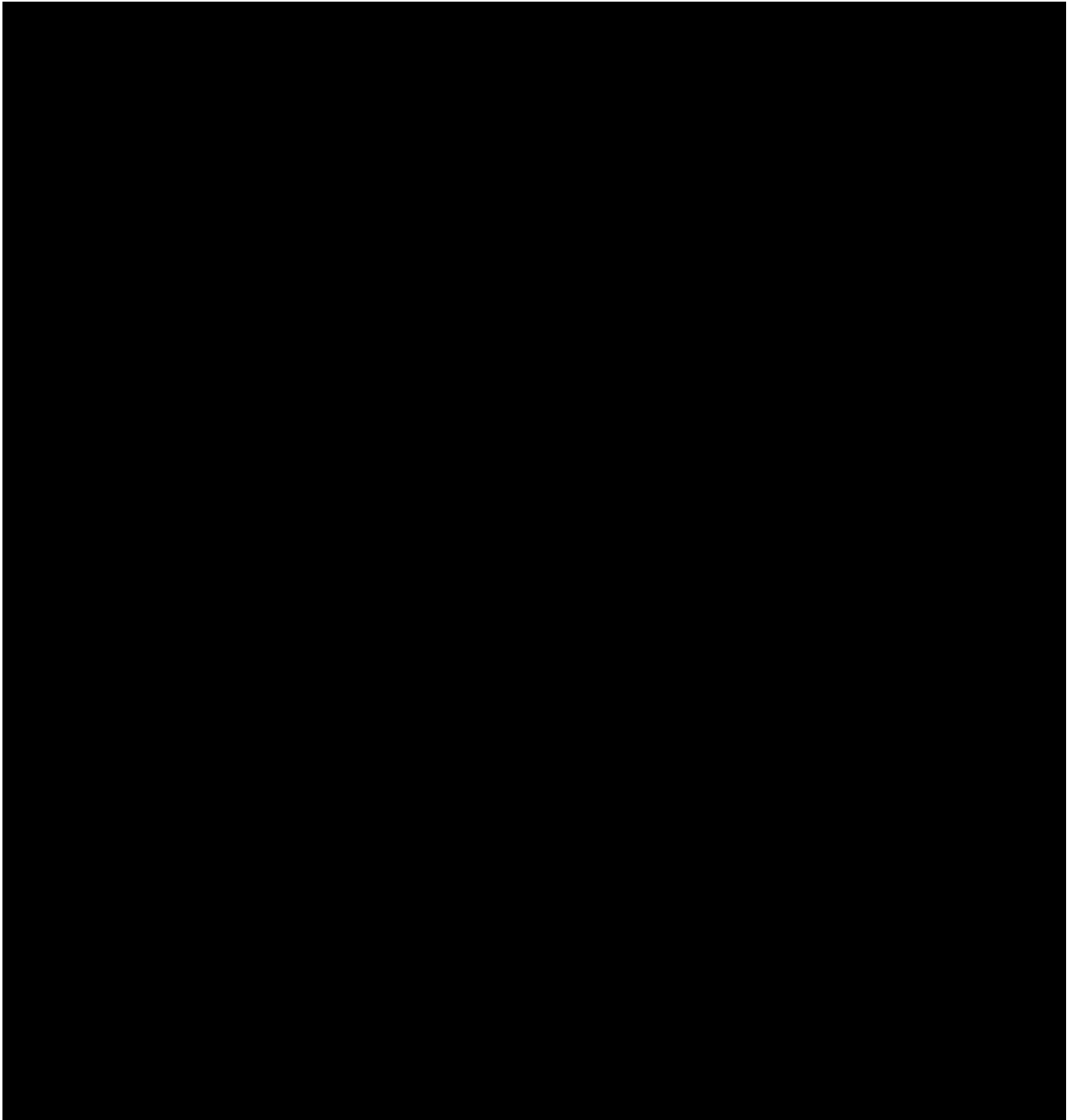
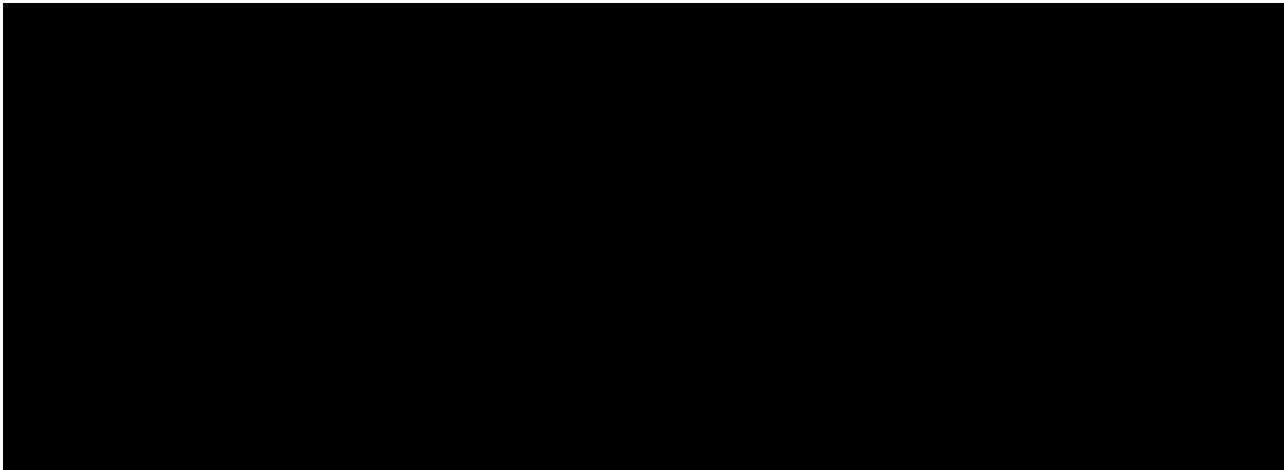
- (i) the Principal's Representative issues a Variation Order;
  - (ii) the Variation the subject of the Variation Order did not arise from any wrongful act or omission of Macquarie or any of its Associates or any breach of a Project Document by Macquarie; and
  - (iii) either:
    - (A) the relevant Variation Order was issued pursuant to clause 26.12(a)(i) (including the Principal's Representative's determination of the matters set out in clause 26.2(c)) without any corresponding Variation Impact Request being issued to Macquarie; or
    - (B) except in circumstances where the Principal has issued a Variation Order under clause 26.12(a) and Macquarie is in breach of its obligation to provide a Variation Impact Proposal, Macquarie has provided the Principal's Representative with a Variation Impact Proposal which complies with the requirements of clause 26.2(c), including details of the effect that Macquarie anticipates the Variation will have on Macquarie's ability to satisfy its obligations under this deed (including any warranties given by Macquarie under this deed) and exercise its rights under this deed,  
  
then Macquarie's liability under this deed will be reduced to the extent that liability arises as a result of:
  - (iv) the matters notified by Macquarie in the Variation Impact Proposal, as determined by the Principal's Representative pursuant to clause 26.12(a) in the Variation Order or adjusted pursuant to clause 26.12(c)(iv) (as applicable); and
  - (v) the actual adverse effect which the Variation has upon Macquarie's ability to satisfy its obligations under this deed and exercise its rights under this deed.
- (c) Where Macquarie is required to submit a Variation Impact Proposal pursuant to clause 26, if Macquarie fails to notify the Principal's Representative of any adverse effect of the Variation on Macquarie's ability to satisfy its obligations under this deed (including any warranties given by Macquarie under this deed), then:
- (i) Macquarie will be deemed to have warranted to the Principal that the Variation does not have any such adverse effect and the Variation will not limit or otherwise affect Macquarie's obligations or liabilities under this deed; and
  - (ii) the Variation will not be taken to limit or otherwise affect Macquarie's obligations or liabilities under this deed.

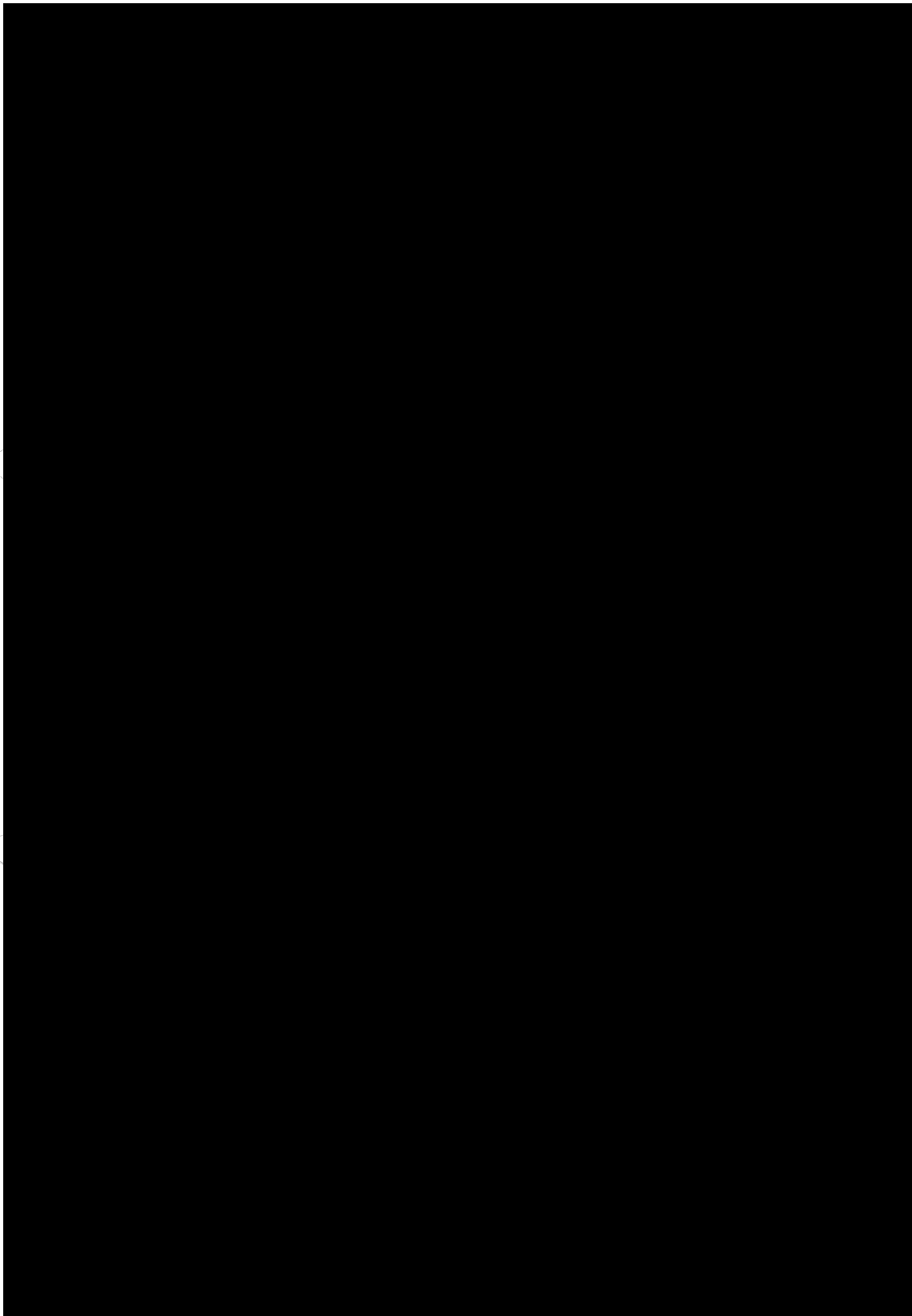
#### 26.14 **Template**

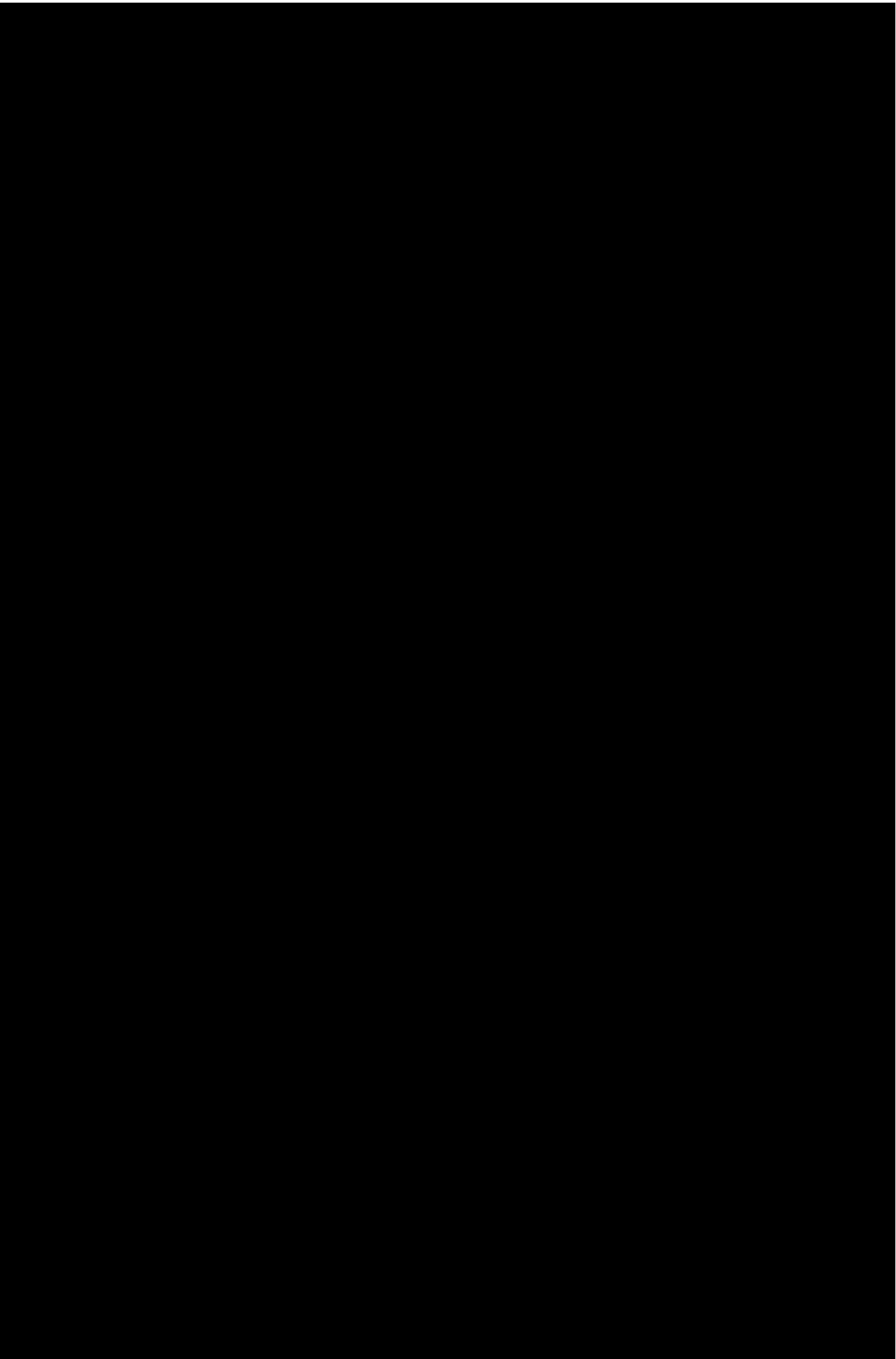
Schedule B4 contains a template which the parties may use to document a Principal initiated Variation. The parties are not obliged to use this template.











**27. MACQUARIE INITIATED VARIATIONS**

**27.1 Variations proposed by Macquarie – Principal consent required**

(a) This clause 27.1 only applies to:

(i) any Variation proposed by Macquarie to the OSD Works (including any Variation to the Final Plans and Specifications) which:

(A) will:

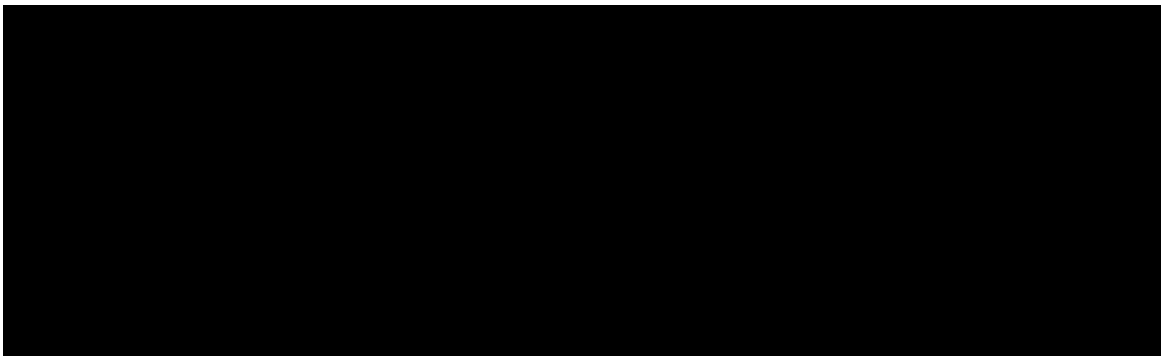
(aa) 

(bb) result in the OSD Works not complying with the OSD Design Parameters; or

(cc) require an SDD Variation; or

(B) requires notification to an Authority; and

(ii) a Variation that the Principal requires Macquarie, under clause 27.1(b), to propose.



- (c) Macquarie must:
- (i) not implement any Variation referred to in clause 27.1(a)(i) unless Macquarie has:
    - (A) notified the Project Control Group at a meeting of the Project Control Group held pursuant to clause 4.4 that it intends to implement the Variation in accordance with this clause 27.1; and
    - (B) provided the Principal with sufficient details of the proposed Variation (including details of any changes proposed by Macquarie to the Final Plans and Specifications or to the Martin Place Metro Station Works) to enable the Principal to make an assessment of the impact of the proposed Variation upon the OSD Works, the Station Developer's Activities and Martin Place Metro Station; or
  - (ii) within 20 Business Days after receipt of a notice from the Principal under clause 27.1(b):
    - (A) notify the Project Control Group at a meeting of the Project Control Group held pursuant to clause 4.4 that it intends to implement a Variation in accordance with this clause 27.1; and
    - (B) provide the Principal with sufficient details of the proposed Variation (including details of any changes proposed by Macquarie to the Final Plans and Specifications or to the Martin Place Metro Station Works) to enable the Principal to make an assessment of the impact of the proposed Variation [REDACTED]
- (d) If the Variation proposed by Macquarie under this clause 27.1 is required:
- (i) by an Authority, Macquarie must give the Principal a copy of any notice provided to Macquarie by that Authority; or
  - (ii) to enable a variation proposed by Macquarie under clause 36 of the Station Delivery Deed to be implemented, Macquarie must give the Principal details of that variation and the impact upon that variation if the Variation proposed by Macquarie under this clause 27.1 is not implemented,
- at the same time that Macquarie provides the Principal with the information referred to in clause 27.1(c)(i)(B).
- (e) Within 20 Business Days after the date on which Macquarie gives the Principal the notification, and provides the details, required by clause 27.1(c), the Principal must give written notice to Macquarie that:
- (i) the Principal does not object to the proposed Variation; or
  - (ii) the Principal has determined that the proposed Variation:
    - (A) would cause the OSD Works to not comply with the OSD Design Parameters; or[REDACTED]
- and that the Principal requires Macquarie to either:
- (C) not implement the Variation; or

(D) only implement the Variation subject to the conditions required by the Principal (acting reasonably),

(each a **Variation Notice**).

- (f) The Principal must act reasonably in making any determination under clause 27.1(e)(ii) and must have regard to any notice provided to the Principal by Macquarie under clause 27.1(d) in making that determination.
- (g) If the Principal does not give Macquarie a Variation Notice within 20 Business Days after the date on which Macquarie gives the Principal the notification, and provides the details, required by clause 27.1(c), Macquarie may issue a written notice to the Principal requesting that the Principal provide Macquarie with a Variation Notice.
- (h) If, in the case of a Variation referred to in clause 27.1(a), the Principal does not issue a Variation Notice to Macquarie within 10 Business Days after the notice issued by Macquarie under clause 27.1(g), the Principal will be deemed to have issued a Variation Notice to Macquarie pursuant to clause 27.1(e)(ii)(C).
- (i) If in the case of a Variation referred to in clause 27.1(a):
  - (i) the Principal gives a Variation Notice to Macquarie pursuant to clause 27.1(e)(i), Macquarie may proceed to implement the Variation on the basis notified by Macquarie to the Principal under clause 27.1(c);
  - (ii) the Principal gives a Variation Notice to Macquarie pursuant to clause 27.1(e)(ii)(C) (or is deemed to have given a Variation Notice to Macquarie pursuant to clause 27.1(h)), Macquarie may:
    - (A) withdraw the proposed Variation; or
    - (B) amend the proposed Variation and notify the Project Control Group of the amended Variation and re-submit details of the amended Variation to the Principal in accordance with clause 27.1(c), in which case this clause 27.1 will re-apply to the amended Variation; or
  - (iii) the Principal gives a Variation Notice to Macquarie pursuant to clause 27.1(e)(ii)(D), Macquarie may:
    - (A) implement the Variation on the conditions notified to Macquarie by the Principal;
    - (B) withdraw the proposed Variation; or
    - (C) amend the proposed Variation and notify the Project Control Group of the amended Variation and re-submit details of the amended Variation to the Principal in accordance with clause 27.1(c)(i), in which case this clause 27.1 will re-apply to the amended Variation.
- (j) If, in the case of a Variation referred to in clause 27.1(b):
  - (i) the Principal gives a Variation Notice to Macquarie pursuant to clause 27.1(e)(i), Macquarie must proceed to implement the Variation on the basis notified by Macquarie to the Principal under clause 27.1(c); or
  - (ii) the Principal gives a Variation Notice to Macquarie pursuant to clause 27.1(e)(ii)(D), Macquarie must:



- (A) implement the Variation on the conditions notified to Macquarie by the Principal; or
  - (B) amend the proposed Variation and notify the Project Control Group of the amended Variation and re-submit details of the amended Variation to the Principal in accordance with clause 27.1(c)(ii), in which case this clause 27.1 will re-apply to the amended Variation.
- (k) Any review or comment by, or direction of, [REDACTED] or non-compliance with the OSD Design Parameters by the Principal (or any failure by the Principal to review, comment or give a direction) in relation to a Variation proposed by Macquarie does not:
- (i) give rise to any responsibility or liability of the Principal for the design of the OSD Works or any other aspect of the OSD Works; or
  - (ii) limit or otherwise affect Macquarie's obligations under this deed.

## 27.2 **Macquarie to bear risks and costs**

Unless otherwise agreed in writing by the Principal, Macquarie will:

- (a) bear all risks and Costs associated with a Variation proposed under clause 27.1 or clause 27.3 (including any amounts that are payable by Macquarie or the Principal to any of the Rail Contractors under any Follow-on Contractor Cooperation and Integration Deeds or any other contracts entered into between the Principal and the Rail Contractors);
- (b) be responsible for managing the implementation of any Variation proposed by Macquarie under clause 27.1 and clause 27.3, including with the Rail Contractors where a Variation implemented under clause 27.1 impacts on the Rail Contractors; and
- (c) not be entitled to make any Claim against the Principal arising out of, or in any way in connection with, a Variation proposed by Macquarie under clause 27.1 or clause 27.3,

including where the Principal does not object to such Variation.

## 27.3 **Variations proposed by Macquarie – no Principal consent required**

- (a) This clause 27.3 applies to all proposed Variations by Macquarie to the OSD Works (including any Variation to the Final Plans and Specifications) to which clause 27.1 does not apply (**Unrestricted Variation**).
- (b) Macquarie may in its absolute discretion effect any Unrestricted Variation.

## 28. **VARIATION COSTS**

- (a) If a Variation directed by the Principal under clause 26 results in Variation Costs then:
  - (i) if the Principal does not agree that a Variation to the OSD Works is required or the quantum of Variation Costs payable to Macquarie under clause 26 is the subject of a Dispute, the Principal must pay Macquarie its Variation Costs:
    - (A) pending agreement between the parties or determination of the Variation Costs in accordance with clause 40 of this deed or clause 52

of the Station Delivery Deed (as applicable), as reasonably determined by the Principal; and

- (B) following determination or agreement between the parties, as so determined or agreed,

progressively within 16 Business Days after each month in which the relevant work was undertaken. If the Variation Costs paid under clause 28(a)(i)(A) are more or less than the Variation Costs for the relevant month as subsequently determined or agreed, the difference must be paid by the relevant party to the other; or

- (ii) otherwise:

- (A) Macquarie may claim the Variation Costs progressively within 16 Business Days after the end of the month in which the relevant work is undertaken unless agreed between the parties; and

- (B) the Principal must pay Macquarie the Variation Costs within 16 Business Days after receiving Macquarie's claim under clause 28(a)(ii)(A).

- (b) The parties acknowledge that, in the calculation of any Variation Costs, there must not be any double counting of any amounts (including, where Variation Costs are payable in connection with a Delay Event, any double counting of any amounts included in the calculation of the Delay Costs payable with respect to that Delay Event).

- (c) Subject to clause 26.6A and clause 26.16(g), this clause 28 is an exhaustive code of Macquarie's rights in any way in connection with any Variation under clause 26. Macquarie waives all rights at Law to make any Claim against the Principal in any way in connection with any of the matters set out in this clause 28, otherwise than in accordance with this deed.

## 29. **NAMING, BRANDING AND MARKETING**

### 29.1 **Name of the OSD**

- (a) Subject to clause 29.1(b), the Principal acknowledges and agrees that Macquarie has the naming rights and branding rights in respect of each OSD.

- (b) Subject to clause 29.5, for the period from the Commencement Date until the later of:

- (i) the Date of Practical Completion of a Separable Portion; and

- (ii) completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion,

Macquarie must consult with the Principal regarding the proposed name of the relevant OSD before using that name and/or erecting any signage in connection with that name in respect of such OSD and:

- (iii) the Principal may provide feedback on any proposed name and/or any signage in connection with that name; and

- (iv) Macquarie may have regard to the Principal's feedback provided under clause 29.1(b)(iii) however Macquarie is not required to take into account that feedback.

## 29.2 Signage, Branding and Marketing Guidelines

- (a) Macquarie must, on or before the date which is 3 months after the Commencement Date (or such longer period as agreed by the parties) and at its Cost, prepare the Signage, Branding and Marketing Guidelines and provide them to the Principal's Representative for review.
- (b) Macquarie must ensure that the Signage, Branding and Marketing Guidelines contain a provision that prohibits any signage, branding, marketing or advertising material being displayed, erected, installed or distributed until the later of the Date of Practical Completion of a Separable Portion and completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion which:
  - (i) contains political, religious, racist, sexually explicit, offensive or other similar subject matter which is contentious;
  - (ii) resembles or is capable of confusion with directional or informational signs in or on the Construction Site either by shape, size or colour;
  - (iii) adversely comments on, mocks or denigrates the Principal, its clientele or the Principal's network;
  - (iv) adversely comments on, mocks or denigrates the NSW Government;
  - (v) depicts the Principal or TfNSW's trademarks or logos without that party's prior written consent; or
  - (vi) breaches the Principal's Intellectual Property Rights or TfNSW's Intellectual Property Rights.
- (c) The Principal's Representative may (acting reasonably) request additional supporting documents in connection with any such guidelines (in which case, Macquarie must provide to the Principal's Representative such additional supporting documents as soon as reasonably practicable after any such request).
- (d) The Principal's Representative may provide feedback on the draft guidelines, with such feedback to be provided as soon as reasonably practicable after the Principal's Representative receives:
  - (i) a full copy of the draft Signage, Branding and Marketing Guidelines under clause 29.2(a); and
  - (ii) all supporting documentation (including any additional supporting documentation reasonably requested by the Principal's Representative).
- (e) Subject to clause 29.5, Macquarie may have regard to the Principal's Representative's feedback provided under clause 29.2(d) however Macquarie is not obliged to incorporate such feedback into the Signage, Branding and Marketing Guidelines.

## 29.3 Marketing the OSD

- (a) Macquarie is responsible for all aspects of the marketing and promotion of the OSD.
- (b) For the period from the Commencement Date until the date of the first early occupation area licence granted by the Principal to Macquarie under clause 22(d),

Macquarie must consult with the Principal regarding the preparation and release of any marketing materials.

- (c) Subject to clause 29.4, Macquarie must ensure that all marketing materials are in accordance with the Signage, Branding and Marketing Guidelines and reflect the highest standard of industry practice.

#### 29.4 **Signage, advertising and marketing materials**

- (a) Other than:

- (i) any signage erected in accordance with clause 29.1 (if any); or
- (ii) as permitted under clause 29.4(b),

no signs or advertisements are to be placed on any part of the Construction Site unless Macquarie obtains the prior written consent of the Principal (which consent by the Principal must not be unreasonably withheld or delayed) in relation to the size, nature, content, colour and location of those signs and advertisements.

- (b) The Principal acknowledges that its consent is not required under this clause 29.4 for the erection of signs and advertising to the extent the details of the proposed signs and advertising which:

- (i) were included in and are compliant with a Development Application lodged with the Consent Authority; or
- (ii) are in accordance with and comply with the Signage, Branding and Marketing Guidelines.

#### 29.5 **Principal's Intellectual Property Rights**

If:

- (a) the proposed name of an OSD;
- (b) any marketing materials;
- (c) any signage or advertisements to be placed on any part of the Construction Site; or
- (d) anything contained in the Signage, Branding and Marketing Guidelines,

if used by Macquarie would infringe the Principal's Intellectual Property Rights or TfNSW's Intellectual Property Rights, Macquarie must obtain the Principal's prior written consent to its use, such consent to be given or withheld in the Principal's absolute discretion.

### 30. **RISKS AND INSURANCE**

#### 30.1 **Responsibility for care of the OSD Works**

- (a) Subject to clauses 19.9, 20 and 30.1(c), Macquarie is, in respect of each Separable Portion, responsible for the care of, and bears the risk of destruction, loss or damage to:
  - (i) the OSD Works from the Commencement Date;
  - (ii) the Construction Site from the relevant Construction Licence Commencement Date; and

- (iii) any Extra Land from the date Macquarie procures access to such Extra Land, up to and including completion of the Development Lot Sale Contract in respect of that Separable Portion.
- (b) Macquarie must, in accordance with clause 30.13, (at its own Cost) promptly make good any destruction, loss or damage for which Macquarie bears the risk under this clause 30.
- (c) This clause 30.1 does not apply to the extent that any destruction, loss or damage for which Macquarie:
  - (i) would otherwise have been responsible; or
  - (ii) bears the risk,
 results from destruction, loss or damage to the OSD Works by the Principal or its Associates or a Rail Contractor.

### 30.2 **Principal's insurance**

- (a) The Principal must, on or before Financial Close, effect and thereafter maintain:
  - (i) contract works (material damage) insurance;
  - (ii) delay in start-up insurance (DSU Insurance); and
  - (iii) public and products liability insurance,
 including for the benefit of each member of the Macquarie Group as at the Commencement Date, and for the benefit of the D&C Contractor at nil premium cost to them in respect of the contract works (material damage) insurance and the public and products liability insurance, on the terms of the policies referred to in Schedule E3 (unless otherwise agreed by Macquarie).
- (b) The Principal's Insurances are subject to the exclusions, conditions, deductibles and excesses noted on the Principal's Insurance policies and Macquarie acknowledges and agrees that:
  - (i) it has satisfied itself of the nature and extent of the cover provided by the Principal's Insurances;
  - (ii) the Principal's Insurances do not cover every risk to which Macquarie or its Associates may be exposed and are subject to deductibles and limits;
  - (iii) Macquarie may, at its Cost, elect to effect insurance for any risk or liability which is not covered by the Principal's Insurances;
  - (iv) if Macquarie makes a claim under any Principal's Insurance (including in respect of any destruction, loss or damage for which Macquarie bears the risk under clause 30.1 or any risk against which Macquarie indemnifies a State Indemnified Party under clause 31.1) and the event giving rise to that claim was not caused by the Principal or a Rail Contractor, Macquarie will bear the Cost of any excesses, deductibles or self-insured retentions payable under the Principal's Insurance in connection with that claim;
  - (v) the DSU Insurance is effected by the Principal for the benefit of Macquarie, and Macquarie warrants that it has complied with the duty of disclosure owed to the insurer and that information provided by Macquarie for

provision to the insurer for the purposes of disclosure and the proposal is, to the best of Macquarie's knowledge, full, true, and correct and does not exclude information that may have affected the insurers decision to insure and on what terms; and

- (vi) a failure by it to comply with the duty of disclosure to the DSU Insurance insurer may entitle the insurer to void the policy or to reduce its liability for a claim and in such circumstances Macquarie agrees that the Principal is not responsible for the avoidance of the policy by the insurer or any reduction in the insurer's liability for a claim and Macquarie agrees not to bring any claim against the Principal for compensation.

### 30.3 **Macquarie's Insurance obligations**

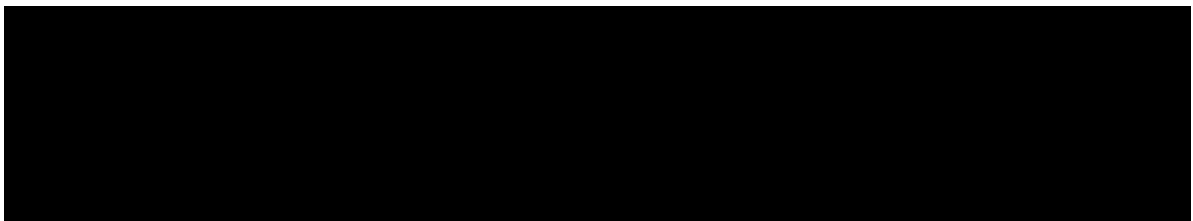
Macquarie must effect and maintain, or cause to be effected and maintained, the following Insurance:

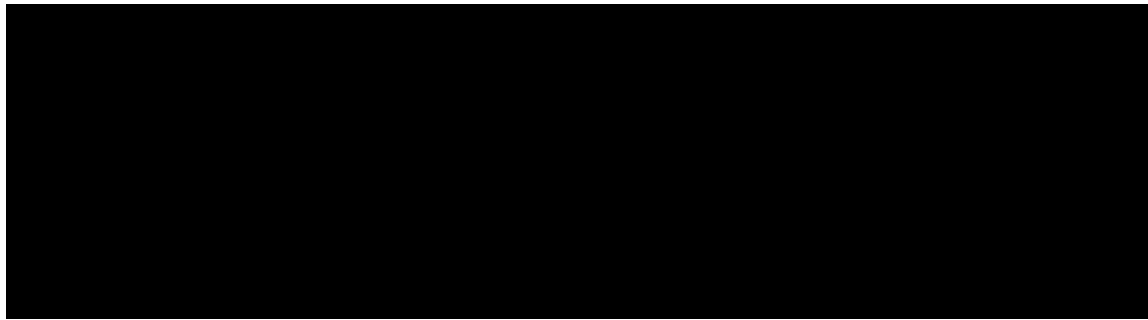
- (a) workers compensation insurance referred to in clause 30.4;
- (b) professional indemnity insurance referred to in clause 30.5;
- (c) Construction Plant insurance referred to in clause 30.6;
- (d) motor vehicle insurance referred to in clause 30.7; and
- (e) any other insurances required by Law.

### 30.4 **Workers compensation insurance**

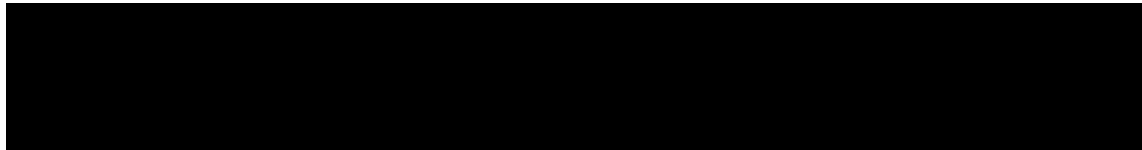
- (a) Macquarie must effect and maintain, or cause to be effected and maintained, workers compensation insurance (unless Macquarie is a licensed self-insurer under the relevant statutory scheme) which covers workers in accordance with any statute relating to workers or accident compensation:
  - (i) for the amount required by Law; and
  - (ii) in the name of Macquarie and, where permissible under the relevant statutory scheme, extended to indemnify the Principal for its statutory liability to persons employed, or deemed to be employed, by Macquarie.
- (b) Macquarie must ensure that each of its Subcontractors effects and maintains workers compensation insurance which covers employees in accordance with any statute relating to workers or accident compensation:
  - (i) for the amount required by Law; and
  - (ii) in the name of the Subcontractor and, where permissible under the relevant statutory scheme, extended to indemnify the Principal and Macquarie for their statutory liability to persons employed, or deemed to be employed, by the Subcontractor.

### 30.5 **Professional indemnity insurance**

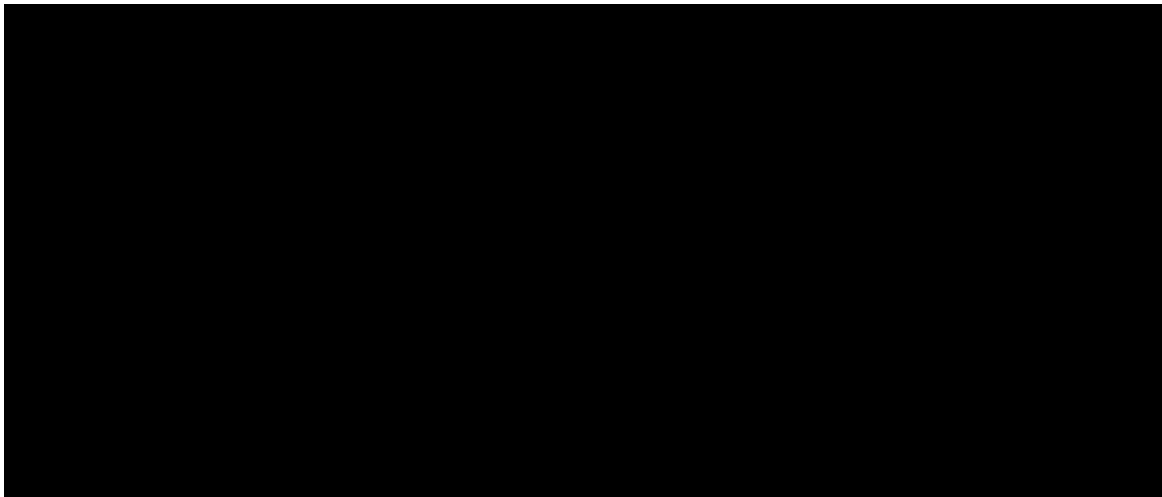




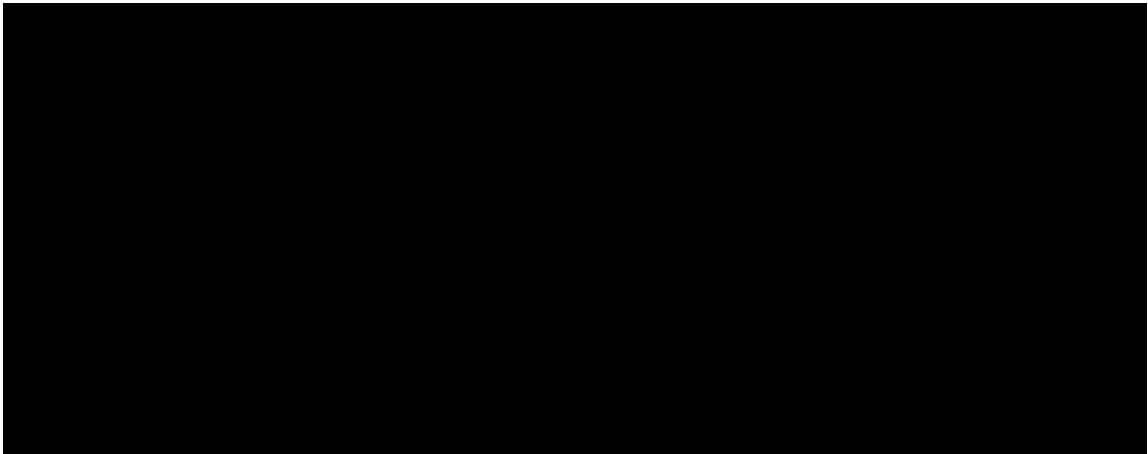
30.6 **Construction Plant insurance**



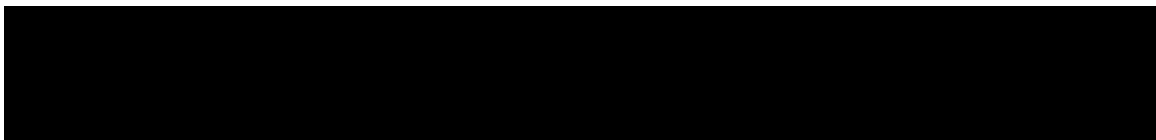
30.7 **Motor vehicle insurance**

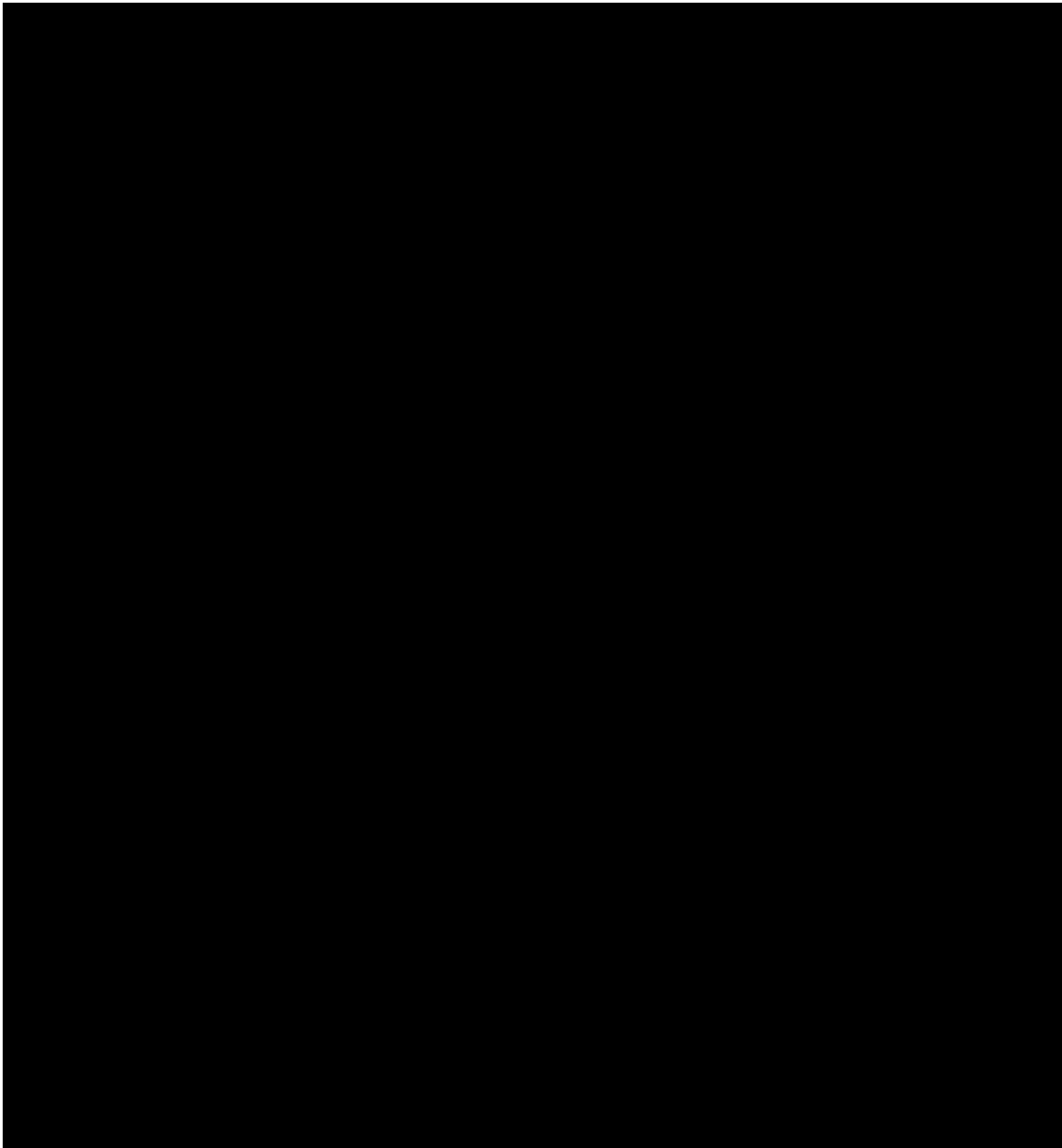


30.8 **Periods of Insurance**

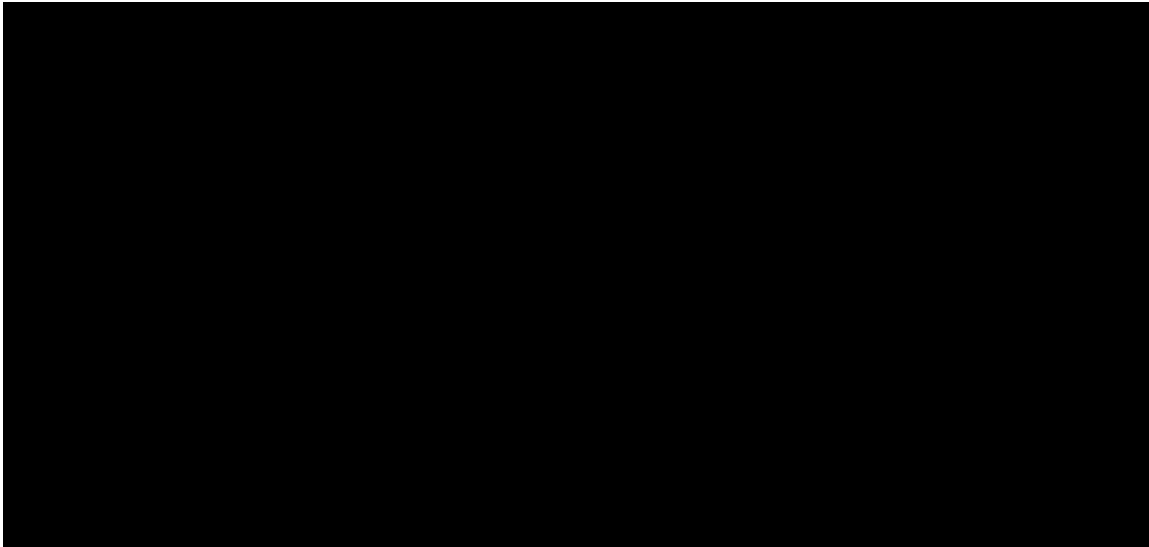


30.9 **Evidence of policies**

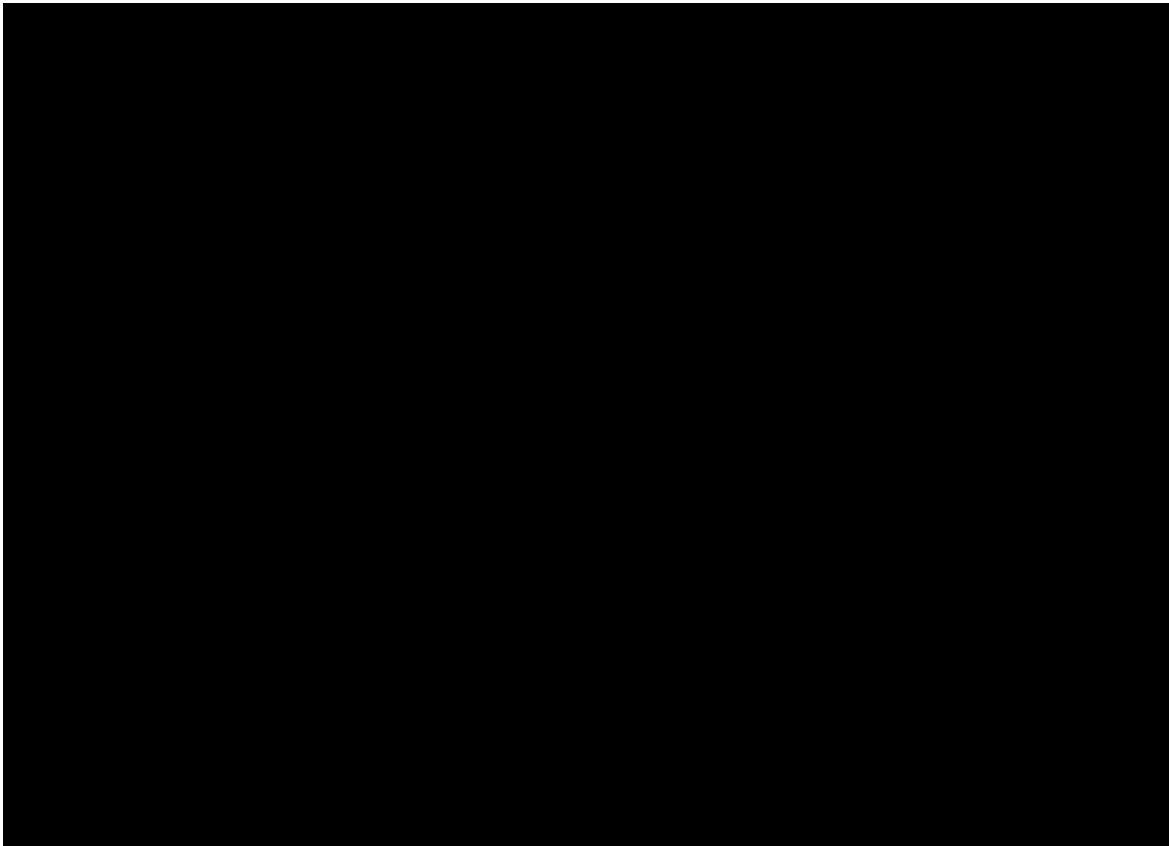




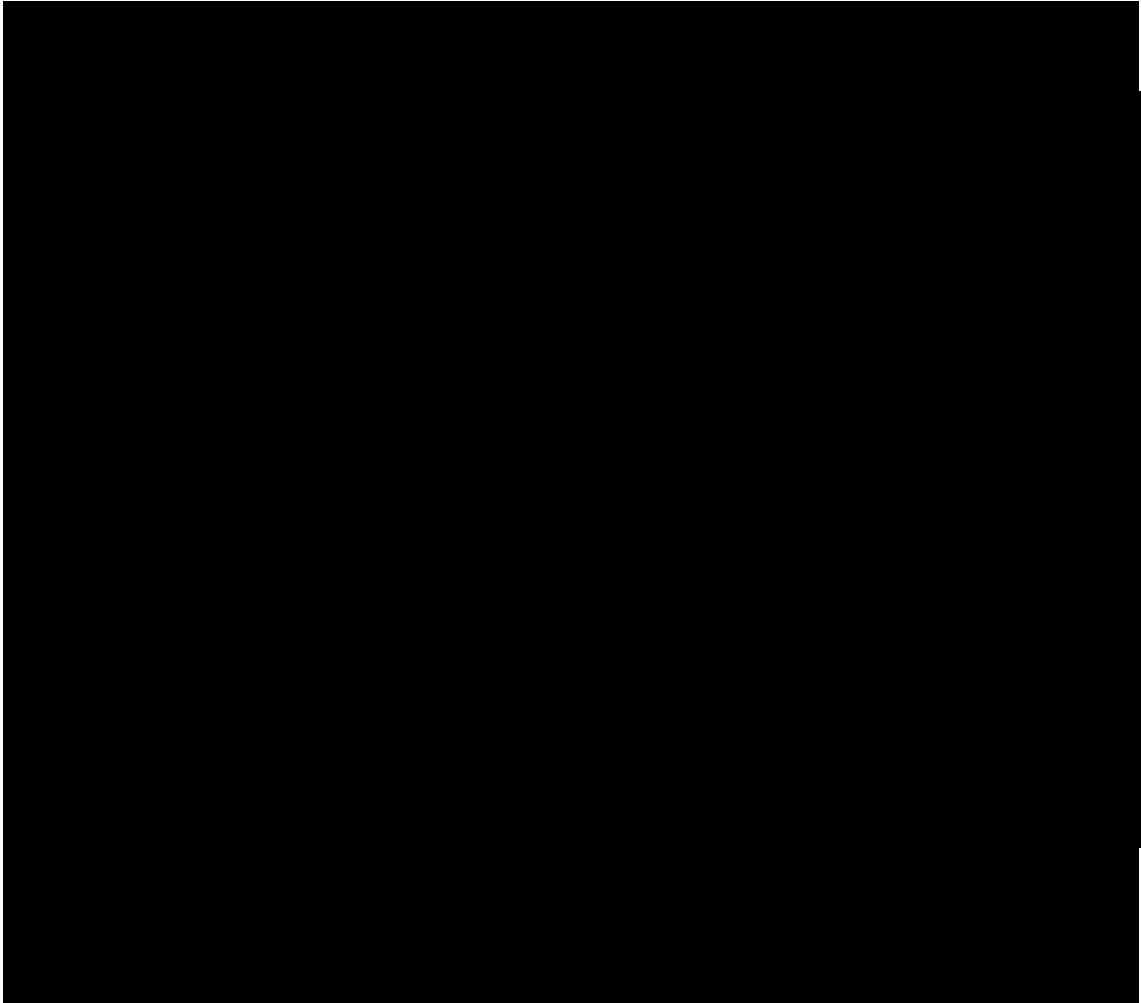
30.10 **Provisions in policies**



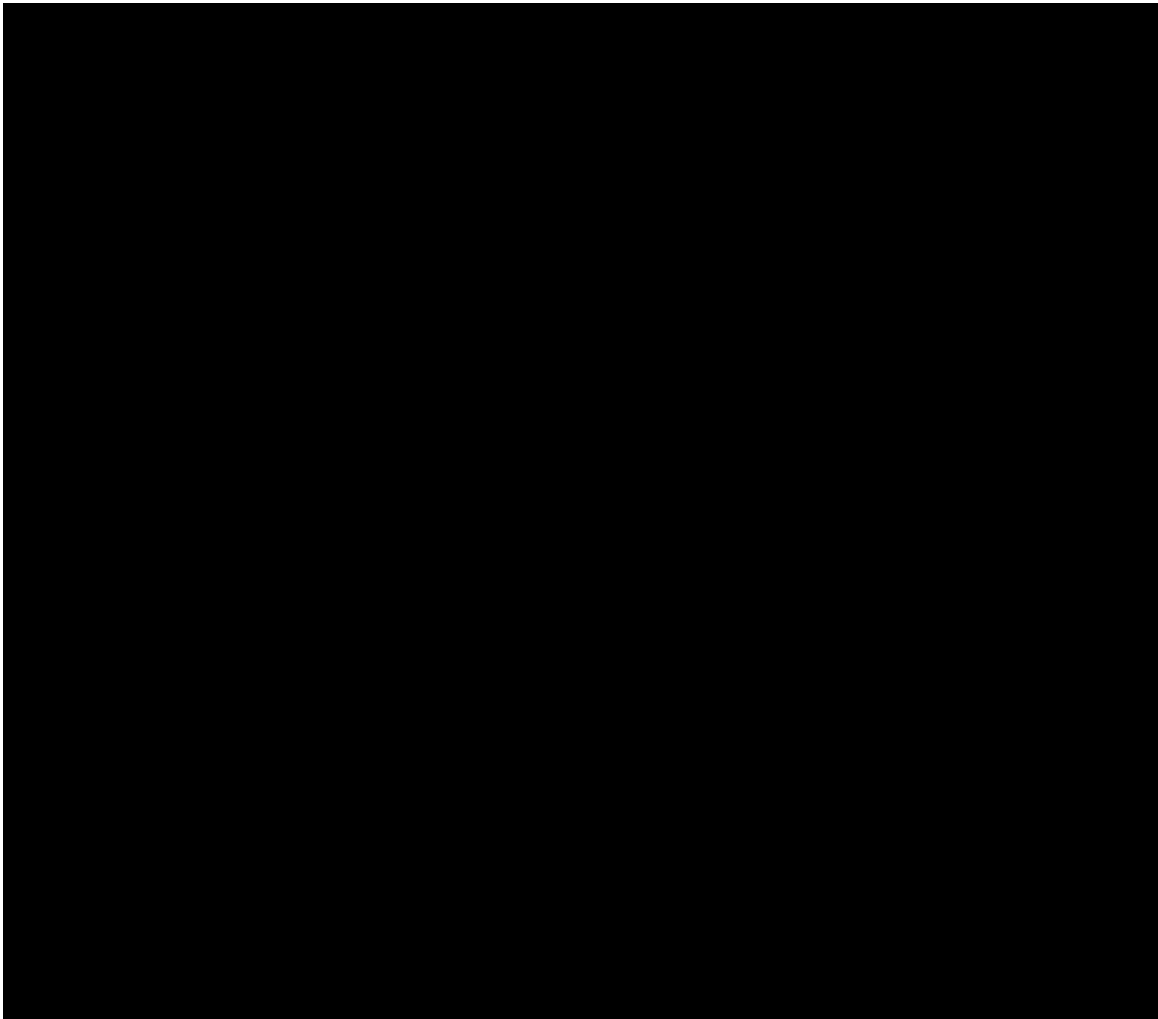




30.11 **Premiums**



### 30.12 Undertaking to inform



### 30.13 Reinstatement

- (a) If, prior to the Date of Practical Completion of a Separable Portion, any destruction, damage or loss occurs to the OSD Works for that Separable Portion, Macquarie must:
  - (i) make secure the OSD Works and the parts of the Construction Site which are still under the control of Macquarie;
  - (ii) notify:
    - (A) appropriate Authorities and emergency services; and
    - (B) the insurers for assessment,  
and comply with their instructions;
  - (iii) promptly consult with the Principal to agree on steps to be taken to ensure:
    - (A) the prompt repair or replacement of the destruction, loss or damage to the OSD Works; and
    - (B) that, to the greatest extent possible, Macquarie continues to comply with its obligations under this deed;

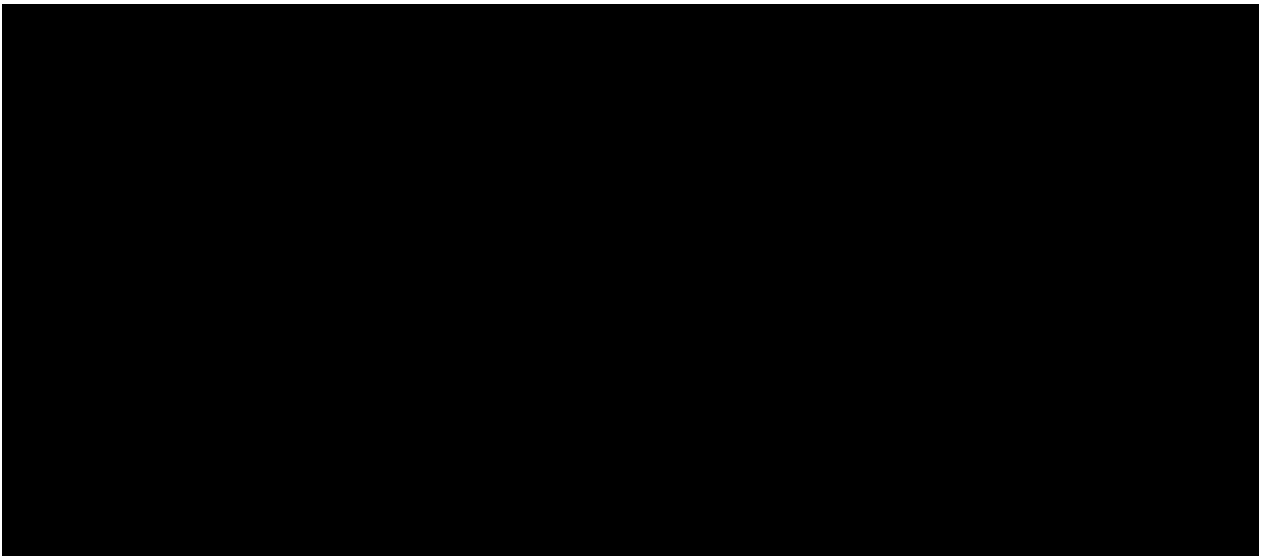
- (iv) manage all repair and replacement activities so as to minimise the impact on the OSD Works; and
  - (v) keep the Principal's Representative fully informed of the progress of the repair and replacement activities.
- (b) Subject to clause 30.1(c), Macquarie will bear the Cost of complying with this clause 30.13.

**30.14 Application of the Principal's Insurance proceeds**

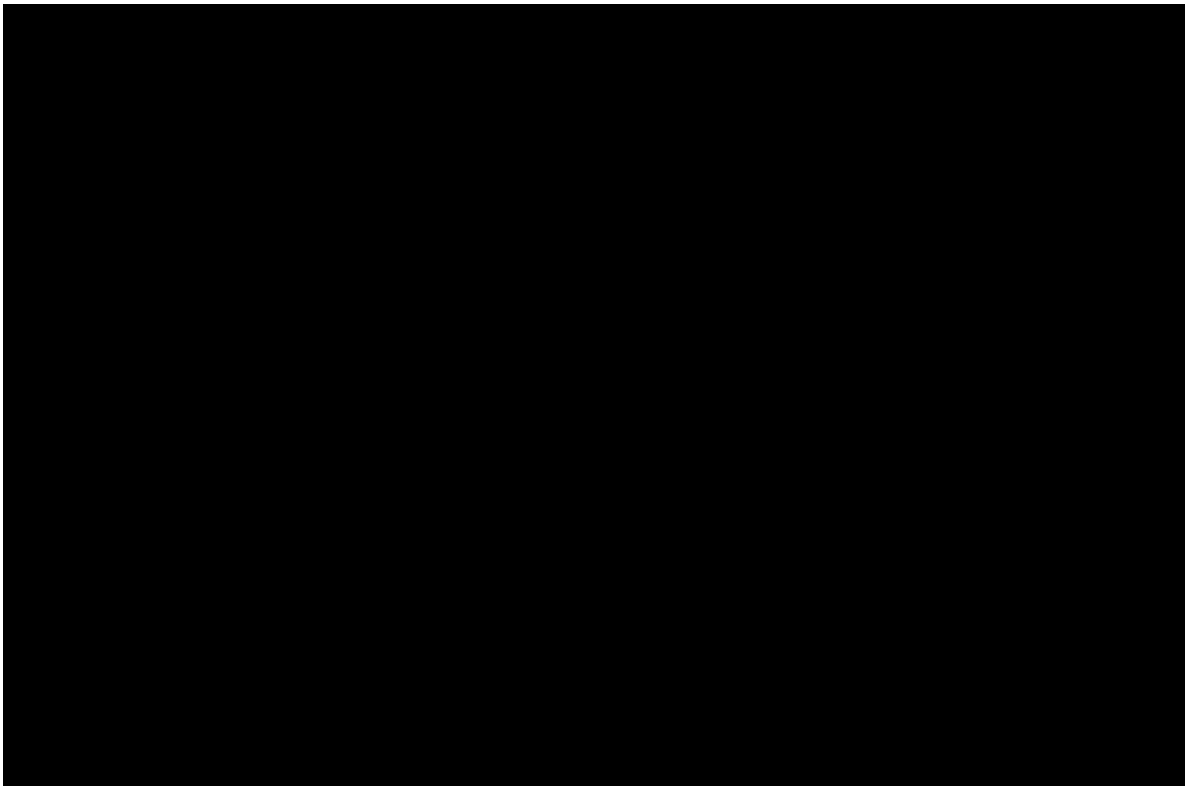
If all or any part of the OSD Works for a Separable Portion are damaged or destroyed prior to the Date of Practical Completion of that Separable Portion, the parties agree that the following provisions will apply in respect of proceeds under the contract works (material damage) insurance required under clause 30.2(a)(i):

- (a) if permitted by the insurance policy and agreed to by the insurer, Macquarie will be loss payee in respect of any benefits payable under the contract works (material damage) insurance required under clause 30.2(a)(i) and all proceeds will be paid to an account in the name of Macquarie (or such other entity as it may direct in writing from time to time), which proceeds will then be used for the purpose of reinstating the OSD Works;
- (b) as Macquarie proceeds to reinstate the OSD Works (or procure that the OSD Works are reinstated), Macquarie must provide written monthly reports to the Principal (or such other frequency as agreed between the parties) setting out the moneys that have been withdrawn from the account for the purposes of satisfying the Costs of such reinstatement; and
- (c) subject to clause 30.1(c), if the proceeds received under the contract works (material damage) insurance required under clause 30.2(a)(i) in respect of the damage to or destruction of the OSD Works are less than the Cost of repairing or replacing the OSD Works (or such Principal's Insurance is void or unenforceable or in accordance with its terms does not cover the particular damage or destruction), Macquarie must complete the repair and replacement of the OSD Works at its own Cost.

**30.15 Risk of deductibles or excesses**



30.16 **DSU Insurance**



30.17 **Liabilities of Macquarie not affected**

The effecting of Insurances does not limit the Liabilities or obligations of Macquarie under the Project Documents.

30.18 **No merger**

This clause 30 survives termination or expiry of this deed.

31. **INDEMNITY AND LIABILITY EXCLUSIONS**

31.1 **Indemnity from Macquarie**

Macquarie indemnifies:

- (a) the Principal;

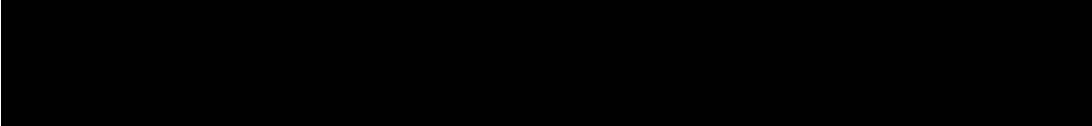


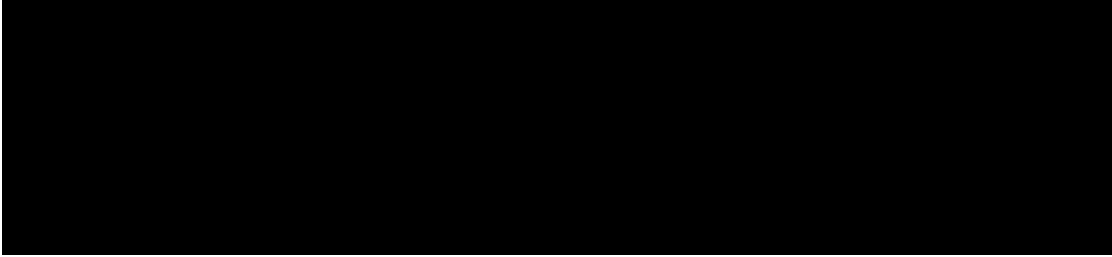
- (d) any Claim against a State Indemnified Party or any Liability a State Indemnified Party may have to a third party in respect of or arising out of or in connection with the use or occupation of the Construction Site or any Extra Land by Macquarie or Macquarie's Associates; and

- (e) all Claims and Loss incurred or suffered by a State Indemnified Party, to the extent caused by or contributed to by:

- (i) the performance of the obligations of Macquarie or the exercise of rights by Macquarie under this deed, including the OSD Works and any nuisance, noise or disturbance caused by or contributed to or arising out of the performance of the obligations of Macquarie or the exercise of rights by Macquarie under this deed;
- (ii) any Site Conditions in or on the Construction Site;
- (iii) damage to the Construction Site or to any real or personal property on or in the vicinity of the Construction Site, or illness, injury to or the death of any person on or in the vicinity of the Construction Site, arising from the OSD Works or any act or omission of Macquarie or Macquarie's Associates arising from the carrying out of the OSD Works;
- (iv) any Contamination, Hazardous Chemical or Pollution of, on or in, or emanating from the Construction Site after the relevant Construction Licence Commencement Date, caused by Macquarie or Macquarie's Associates, except to the extent such Contamination, Hazardous Chemical or Pollution is caused by the Principal or the Principal's Associates;
- (v) any Environmental Liabilities to the extent caused by or contributed to by:
  - (A) a breach of this deed by Macquarie or Macquarie's Associates;
  - (B) a breach of the Development Consent;
  - (C) the negligence or any wrongful or reckless act or omission of Macquarie or Macquarie's Associates; and/or
  - (D) the performance by Macquarie of its obligations or the exercise of its rights under this deed;
- (vi) an Environmental Notice received by the Principal to the extent that it arises out of or in connection with any Contamination or that occurs as a result of a breach by Macquarie of this deed;

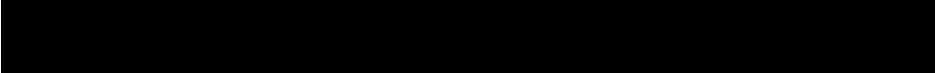


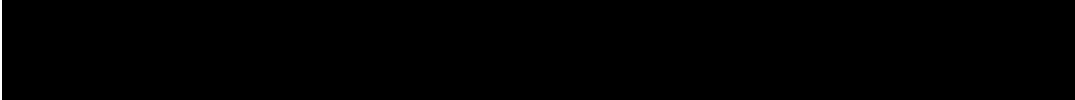
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- (x) any breach (including breach of warranty) by Macquarie or Macquarie's Associates of any Principal Project Document or other non-compliance by Macquarie or Macquarie's Associates with any Principal Project Document;



(xiii) the failure of:

- (A) an Appointed Principal Contractor to exercise or fulfil the functions and responsibilities of the principal contractor under the WHS Legislation; or
- (B) Macquarie to comply with clauses 8.2 and 8.3 or with WHS Legislation, Rail Safety National Law, Rail Safety Regulations, Heavy Vehicle National Law or any other relevant Law or provision of this deed concerning work health and safety;

- 
- (xv) without limiting clause 31.1(d), a Claim by the owner, occupier or any other person having an interest in any part of the Extra Land; or

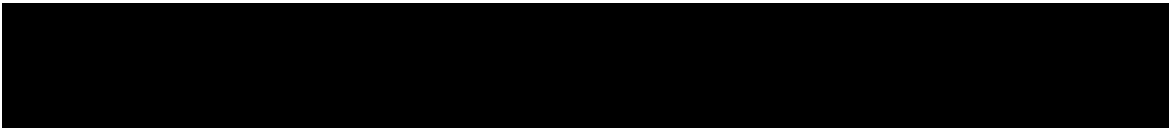


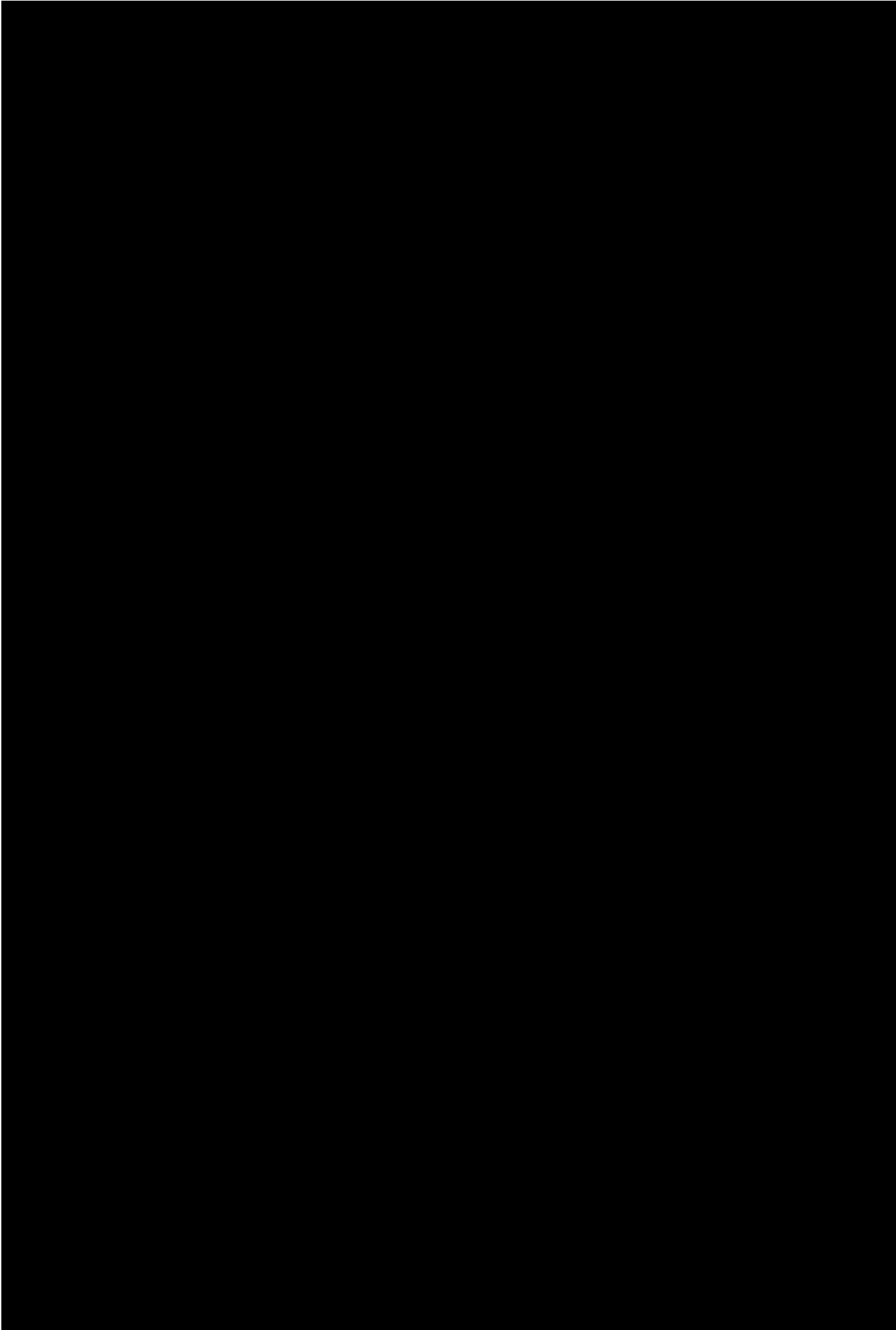
except to the extent that Claim or the Loss:

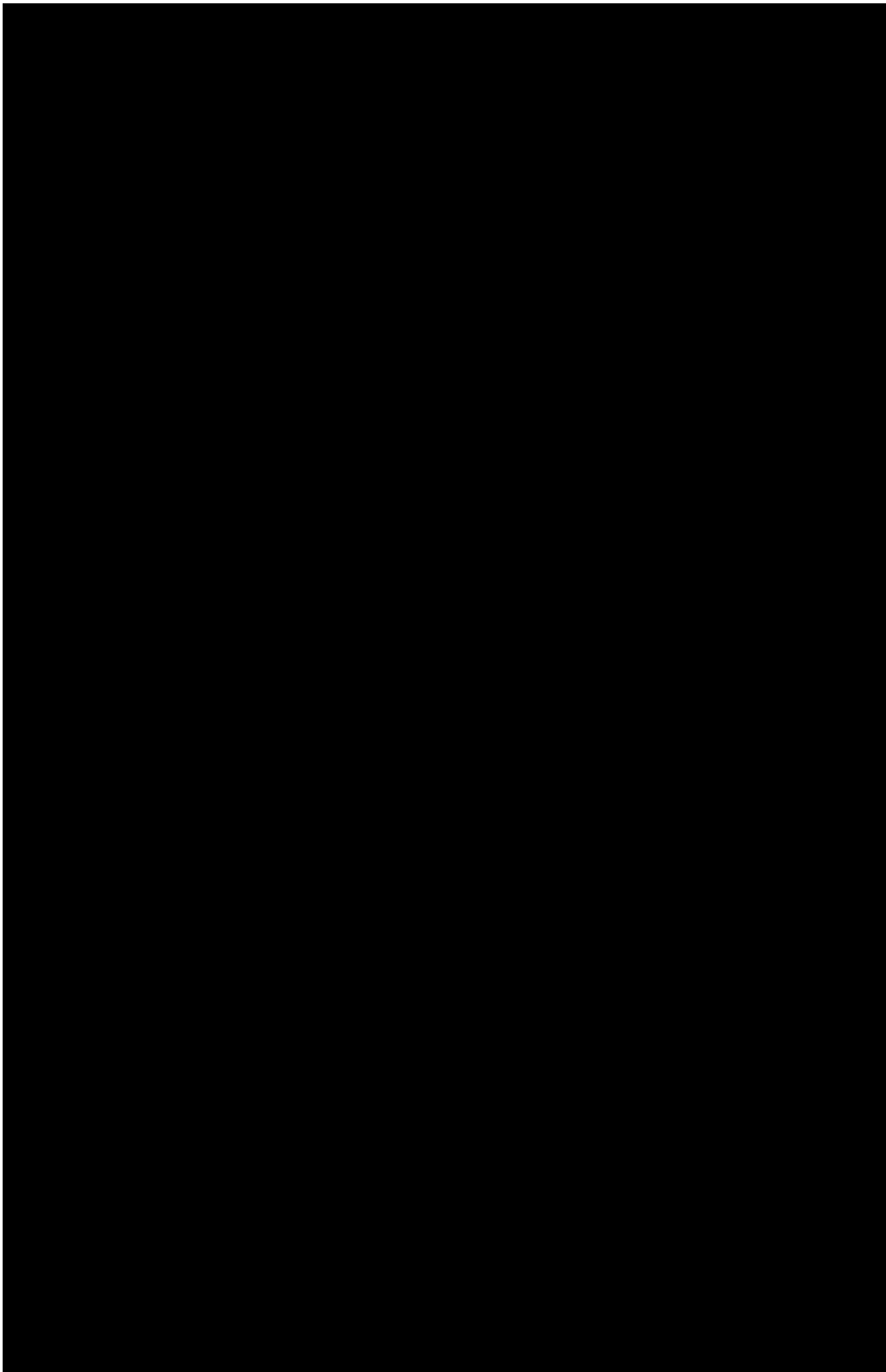
- (f) was caused by or contributed to by a breach of this deed by a State Indemnified Party;
- (g) arises from the negligence of a State Indemnified Party or any wrongful or reckless act or omission by a State Indemnified Party; or
- (h) arises from a failure by the Principal to take reasonable steps to mitigate against the Claim or Loss,

except to the extent caused by or contributed to by a breach of this deed by, or any act or omission of, Macquarie or Macquarie's Associates.

### 31.2 **Obligations not affected**

- (a) Clause 31.1 does not limit or otherwise affect Macquarie's other obligations under the Project Documents or otherwise according to Law.
- 









32. **DEFAULT**

32.1 **Event of Default**

Each of the following events is an Event of Default:

- (a) **(Abandonment)**: Macquarie Abandons the OSD Works;
- (b) **(failure to insure)**: Macquarie fails to effect or maintain (or cause to be effected or maintained) an Insurance as required by this deed;
- (c) **(incorrect representation or warranty)**: a representation or warranty made or given by Macquarie in this deed or any other Principal Project Document proves to be untrue which has a material adverse effect on Macquarie's ability to comply with its obligations under the Project Documents; or
- (d) **(other breach)**: any other material breach by Macquarie of an obligation under this deed or any other Principal Project Document (including a breach by Macquarie of clause 30.13).

32.2 **Default Notice**

If an Event of Default occurs, the Principal may give Macquarie a notice (the Default Notice):

- (a) stating that it is a notice under this clause 32; and
- (b) specifying the nature of the Event of Default.

32.3 **Cure Plan**

- (a) If:
  - (i) a Default Notice is given; and
  - (ii) the Event of Default is capable of being Remedied,  
Macquarie must:
    - (iii) with respect to the event described in clause 32.1(a), within [REDACTED]
    - (iv) with respect to the event described in clause 32.1(b), within [REDACTED]
    - (v) with respect to the event described in clause 32.1(c), within [REDACTED] and [REDACTED]
    - (vi) with respect to the event described in clause 32.1(d), within [REDACTED]  
after receipt of the Default Notice:
  - (vii) Remedy the Event of Default; or
  - (viii) prepare and submit to the Principal a draft plan describing the actions and measures which Macquarie will diligently pursue to Remedy the Event of Default (including the proposed cure period) (**Draft Cure Plan**).
- (b) Within [REDACTED] after receipt of the Draft Cure Plan, the Principal must (acting reasonably) either:
  - (i) approve the Draft Cure Plan by notifying Macquarie; or
  - (ii) reject the Draft Cure Plan by notifying Macquarie and providing reasons to Macquarie for its rejection.
- (c) If the Principal approves a Draft Cure Plan pursuant to clause 32.3(b)(i) (the **Approved Cure Plan**):
  - (i) the period of time in the Approved Cure Plan to Remedy the Event of Default is the cure period (the Applicable Cure Period); and
  - (ii) Macquarie must comply with and implement the Approved Cure Plan (or otherwise diligently pursue the Remedy of the Event of Default) and Remedy the Event of Default within the Applicable Cure Period.
- (d) If the Principal rejects a Draft Cure Plan pursuant to clause 32.3(b)(ii), Macquarie, in consultation in good faith with the Principal, must amend the Draft Cure Plan to meet the Principal's reasonable requirements and submit the amended Draft Cure Plan to the Principal for its approval, in which case this clause 32.3 will apply to the amended Draft Cure Plan as if it were originally submitted under clause 32.3(a)(viii).
- (e) If:
  - (i) a Default Notice is given;

- (ii) the Event of Default is capable of being Remedied; and
- (iii) Macquarie fails to:
  - (A) Remedy the Event of Default, or submit a Draft Cure Plan, in accordance with clause 32.3(a);
  - (B) if the Principal rejects a Draft Cure Plan pursuant to clause 32.3(b)(ii), amend the Draft Cure Plan to meet the Principal's reasonable requirements and submit the amended Draft Cure Plan in accordance with clause 32.3(d); or
  - (C) comply with and implement the Approved Cure Plan (or otherwise diligently pursue the Remedy of the Event of Default), except in a minor respect,

and such failure is not remedied by Macquarie within [REDACTED] after notice from the Principal regarding that failure, a Macquarie Termination Event will occur.

- (f) If at any time prior to the expiry of an Applicable Cure Period, Macquarie reasonably considers that it requires an extension to the Applicable Cure Period it may request an extension to the Applicable Cure Period by notifying the Principal in writing setting out the reasons for that belief and the reasonable period of time proposed by Macquarie for the extension of the Applicable Cure Period.
- (g) If:
  - (i) Macquarie gives the Principal a notice under clause 32.3(f); and
  - (ii) the Principal is reasonably satisfied that Macquarie has diligently pursued and is continuing to diligently pursue a Remedy (other than in a minor respect) of the applicable Event of Default but that the Event of Default cannot, despite such diligence, be Remedied within the Applicable Cure Period,

the Principal must grant an extension of the Applicable Cure Period for such period as the Principal reasonably considers is reasonably required to Remedy the Event of Default, provided that the Principal is not required to grant more than one extension to an Applicable Cure Period.

#### 32.4 Prevention Plan

- (a) If:
  - (i) a Default Notice is given; and
  - (ii) the Event of Default is not capable of being Remedied,

Macquarie must:

- (iii) with respect to the event described in clause 32.1(a), within [REDACTED];
- (iv) with respect to the event described in clause 32.1(b), within [REDACTED];
- (v) with respect to the event described in clause 32.1(c), within [REDACTED]; and

(vi) with respect to the event described in clause 32.1(d), within [REDACTED]

after receipt of the Default Notice, prepare and submit to the Principal a draft plan describing the actions and measures which Macquarie will diligently pursue to prevent the Event of Default from recurring (Draft Prevention Plan).

(b) Within [REDACTED] after receipt of the Draft Prevention Plan, the Principal must (acting reasonably) either:

(i) approve the Draft Prevention Plan by notifying Macquarie; or

(ii) reject the Draft Prevention Plan by notifying Macquarie and providing reasons to Macquarie for its rejection.

(c) If the Principal approves a Draft Prevention Plan pursuant to clause 32.4(b)(i) (the Approved Prevention Plan), Macquarie must comply with and implement the Approved Prevention Plan.

(d) If the Principal rejects a Draft Prevention Plan pursuant to clause 32.4(b)(ii), Macquarie, in consultation in good faith with the Principal, must amend the Draft Prevention Plan to meet the Principal's reasonable requirements and submit the amended Draft Prevention Plan to the Principal for its approval, in which case this clause 32.4 will apply to the amended Draft Prevention Plan as if it were originally submitted under clause 32.4(a).

(e) If:

(i) a Default Notice is given;

(ii) the Event of Default is not capable of being Remedied; and

(iii) Macquarie fails to:

(A) submit a Draft Prevention Plan in accordance with clause 32.4(a);

(B) if the Principal rejects a Draft Prevention Plan pursuant to clause 32.4(b)(ii), amend the Draft Prevention Plan to meet the Principal's reasonable requirements and submit the amended Draft Prevention Plan in accordance with clause 32.4(d); or

(C) comply with and implement, except in a minor respect, the Approved Prevention Plan,

and such failure is not remedied by Macquarie within [REDACTED] after notice from the Principal regarding that failure, a Macquarie Termination Event will occur.

(f) If Macquarie reasonably considers that it requires an extension to any of the time periods in the Approved Prevention Plan, it may request an extension to such time period by notifying the Principal in writing setting out the reasons for that belief and the reasonable period of time proposed by Macquarie for the extension of the applicable time period.

(g) If:

(i) Macquarie gives the Principal a notice under clause 32.4(f); and

- (ii) the Principal is reasonably satisfied that Macquarie has diligently pursued and is continuing to diligently pursue compliance with the Approved Prevention Plan (other than in a minor respect),

the Principal must grant an extension to the applicable timing in the Approved Prevention Plan for such period as the Principal considers is reasonably required, provided that the Principal is not required to grant more than one extension to an Approved Prevention Plan.

### 33. **STEP-IN**

#### 33.1 **Step-in Events**

Each of the following is a Step-in Event:

- (a) a Macquarie Termination Event; and
- (b) an event or circumstance which arises out of or in connection with the OSD Works that poses a serious threat to, or causes or will cause material damage or material disruption to:
  - (i) the health or safety of persons;
  - (ii) the Environment;
  - (iii) any property; or
  - (iv) the safe and secure performance of the OSD Works.

#### 33.2 **Step-in Rights**

- (a) If:
  - (i) a Step-in Event occurs; and
  - (ii) the Principal has given notice to Macquarie in accordance with clause 33.2(b),

then a Step-in Party may exercise all or any of the Step-in Powers set out in clause 33.3 in an endeavour to remedy the Step-in Event or overcome the risk or mitigate any consequences resulting from the Step-in Event (Step-in Right).

- (b) The notice referred to in clause 33.2(a)(ii):
  - (i) must be in writing and must specify:
    - (A) the Step-in Event which has triggered the Step-in Right;
    - (B) the works and activities which the Step-in Party proposes to perform;
    - (C) the date on which the relevant Step-in Party proposes to commence carrying out the relevant works and activities; and
    - (D) the date on which the relevant Step-in Party proposes to cease carrying out the relevant works and activities; or
  - (ii) may be given orally if the Principal's Representative considers that the Step-in Event requires urgent remedy or action and there is insufficient time to

issue a written notice under clause 33.2(b)(i), but if given orally must be followed within 24 hours by a written notice under clause 33.2(b)(i).

- (c) The Step-in Right is without prejudice to the Principal's other rights in respect of a Step-in Event, including its rights under clause 34.

### 33.3 **Step-in Powers**

A Step-in Party may, in carrying out the works and activities referred to in the notice under clause 33.2(b), do anything in respect of those works and activities that Macquarie could do including:

- (a) enter into and remain in possession of all or any of the OSD Works and/or the Construction Site;
- (b) manage all or any of the OSD Works and/or the Construction Site;
- (c) exercise all or any of Macquarie's rights, and perform all or any of Macquarie's obligations:
  - (i) in connection with the carrying out of the OSD Works;
  - (ii) under or in relation to a Project Document or any other document to which Macquarie is a party; and
  - (iii) under or in relation to any Approval held by Macquarie, as if it were Macquarie, to the exclusion of Macquarie;
- (d) do anything the Step-in Party considers necessary or desirable to remedy the Step-in Event or overcome the risk or mitigate any consequences resulting from the Step-in Event, including any works or activities required to ensure that the OSD Works are made safe; and
- (e) do anything incidental to the matters listed in clauses 33.3(a) to 33.3(d) (inclusive),

**(Step-in Powers).**

### 33.4 **Macquarie's obligations**

- (a) Macquarie must:
  - (i) cooperate with the Step-in Party in the exercise of the Step-in Powers; and
  - (ii) take any step which the Step-in Party considers necessary or desirable to remedy the Step-in Event or overcome the risk or mitigate any consequences resulting from the Step-in Event; and
  - (iii) ensure that its Significant Subcontractors, and use its best endeavours to ensure all other Subcontractors, do likewise.
- (b) Without limiting clause 33.4(a), Macquarie must:
  - (i) allow the Step-in Party to access and use:
    - (A) all or any of the land and assets used in the carrying out of the OSD Works;

(B) Macquarie's Associates; and

(C) any information the Step-in Party reasonably requires;

(ii) comply with all reasonable Directions given by the Step-in Party; and

(iii) ensure that its Significant Subcontractors uses its best endeavours to ensure all other Subcontractors, do likewise,

to enable the Step-in Party to exercise its Step-in Powers.

(c) Macquarie's obligations under this deed will be suspended to the extent and for such period as is necessary to permit the Principal to exercise its Step-in Rights.

### 33.5 **Principal's obligations**

(a) The Principal must ensure that each Step-in Party, in exercising the Step-in Powers, uses its reasonable endeavours to carry out the relevant works and activities in accordance with the requirements of this deed.

(b) Macquarie acknowledges that a Step-in Party is not under any obligation to remedy the Step-in Event nor to overcome the risk or mitigate any consequences resulting from the Step-in Event.

### 33.6 **No liability**

Macquarie acknowledges that the Principal will have no liability to Macquarie, and Macquarie will not be entitled to make any Claim against the Principal, arising out of or in connection with:

(a) any conduct, delay, negligence or breach of duty in the exercise or non-exercise of a Step-in Power; nor

(b) for any Loss which results,

except where it arises from:

(c) fraud or Wilful Misconduct on the part of the Step-in Party or its Associates, or a breach of clause 33.5; or

(d) a Delay Event (to which the provisions of clauses 19.7 and 20 will apply).

### 33.7 **Step-out**

(a) A Step-in Party must cease to exercise the Step-in Powers as soon as reasonably practicable and, in any event, on the earlier of:

(i) the relevant Step-in Event being remedied (or the risk or consequences resulting from the Step-in Event being overcome); and

(ii) the Principal's Representative notifying Macquarie in writing that the Step-in Party will no longer exercise the Step-in Powers.

(b) The Principal must give written notice to Macquarie of the date on which the Step-in Party will cease to exercise the Step-in Powers (which notice must be given by the Principal to Macquarie a reasonable time prior to the date the Step-in Party proposes to cease to exercise the Step-in Powers).



- (c) The Principal and Macquarie must consult with each other with the intention of ensuring that the transition from the Step-in Party ceasing to exercise the Step-in Powers to Macquarie resuming the carrying out of the OSD Works is effected without interruption to Macquarie carrying out the OSD Works.
- (d) Upon the Step-in Party ceasing to exercise the Step-in Powers, Macquarie must resume carrying out the OSD Works in accordance with this deed (unless this deed has been terminated).

### 33.8 **Principal's Costs**

The Principal will be entitled to recover its reasonable Costs and expenses for any action taken pursuant to clause 33.1 as a debt due and payable from Macquarie to the Principal.

## 34. **TERMINATION**

### 34.1 **Macquarie Termination Events**

Each of the following is a Macquarie Termination Event:

- (a) **(termination of the Station Delivery Deed)**: termination of the Station Delivery Deed for any reason but only if such termination occurs prior to the [REDACTED];
- (b) **(failure to pay)**: Macquarie fails to pay any Macquarie Payment or any other amount which it is obliged to pay to the Principal under this deed and the failure is not remedied:
  - (i) if the amount is not disputed, within 20 Business Days after a written demand from the Principal; or
  - (ii) if the amount is disputed, within 20 Business Days after determination of such dispute;
- (c) **(failure to submit, amend or implement a cure or prevention plan or to Remedy or prevent)**: an event described in clause 32.3(e) or clause 32.4(e); or
- (d) **(insolvency of Macquarie)**: an Insolvency Event occurs in relation to Macquarie, whether or not Macquarie has been in breach of this deed.

### 34.2 **Notice of Macquarie Termination Event**

Without limiting the Principal's other rights or Macquarie's other obligations under the Project Documents, Macquarie must notify the Principal's Representative immediately on becoming aware of any Macquarie Termination Event or an event or occurrence that, with the giving of notice, or lapse of time, would or is likely to become a Macquarie Termination Event.

### 34.3 **Termination for Macquarie Termination Event**

- (a) If the Macquarie Termination Event described in clause 34.1(a) occurs then this deed will automatically terminate.
- (b) If the Macquarie Termination Event described in clause 34.1(d) occurs, the Principal may give a written notice to Macquarie immediately terminating this deed.
- (c) Subject to clause 34.3(e), if a Macquarie Termination Event described in clause 34.1(b) or clause 34.1(c) occurs:

- (i) before the Station Date of Completion and is subsisting, the Principal may give a written notice to Macquarie immediately terminating this deed; or
  - (ii) after the Station Date of Completion and is subsisting for longer than 20 Business Days after the Principal has served to Macquarie written notice of the subsisting event, the Principal may give a written notice to Macquarie immediately terminating this deed.
- (d) If the Principal gives a notice to Macquarie in accordance with clause 34.3(c)(i) or clause 34.3(c)(ii), such notice must set out details of the Macquarie Termination Event for which the Principal is giving the notice.
- (e) The Principal may not issue a notice under clause 34.3(c)(i) or clause 34.3(c)(ii) if the Principal exercises its step-in right under clause 33.

#### 34.4 **Principal Termination Events**

- (a) Each of the following is a Principal Termination Event:
- (i) **(frustration)**: a breach by the Principal of this deed which substantially frustrates or renders it impossible for Macquarie to achieve Practical Completion of a Separable Portion; or
  - (ii) **(failure to rectify)**: the Principal commits a material breach of this deed and that breach is not remedied within 20 Business Days after written notice from Macquarie,

except to the extent such Principal Termination Event has been caused by or contributed to by an act or omission of Macquarie or Macquarie's Associates (including any act or omission of the Station Developer or its Associates under the Station Delivery Deed).

#### 34.5 **Termination for a Principal Termination Event**

- (a) If a Principal Termination Event occurs, Macquarie may give the Principal 30 Business Days' notice of its intention to terminate this deed.
- (b) If the relevant Principal Termination Event has not been remedied (or its effects overcome) within 30 Business Days after receipt of Macquarie's notice under clause 34.5(a), Macquarie may, if the Principal Termination Event is still subsisting, immediately terminate this deed by notice to the Principal.

#### 34.6 **Not used**

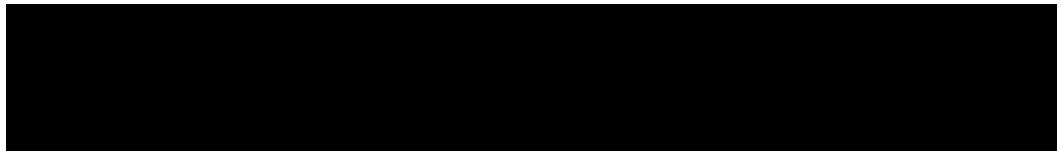
#### 34.7 **Termination of Station Delivery Deed**

- (a) The parties acknowledge that, if this deed is terminated by:
- (i) the Principal under clause 34.3; or
  - (ii) Macquarie under clause 34.5,



- (b) If:
- (i) the Station Delivery Deed is terminated (including under clause 2 of the Station Delivery Deed) prior to the Station Date of Completion; and

- (ii) this deed is not terminated,  
the parties must use best endeavours to agree:
  - (iii) the amendments required to the Project Documents to reflect the fact that:
    - (A) the Station Delivery Deed has been terminated;
    - (B) the Project Documents must operate independently of the Station Project Documents; and
    - (C) the Principal may engage a third party to carry out the Station Developer's Activities; and
  - (iv) any Variation required to the OSD Works as a consequence of the termination of the Station Delivery Deed.
- (c) If there is a dispute between the parties as to the amendments required to the Project Documents under clause 34.7(b)(iii) or any Variation required under clause 34.7(b)(iv), that dispute will be resolved in accordance with clause 40.
- (d) If the parties agree, or it is determined under clause 40, that a Variation is required to the OSD Works pursuant to clause 34.7(b)(iv), that Variation will be deemed to have been proposed by:
- (i) Macquarie, pursuant to clause 27.1 and not objected to by the Principal in accordance with clause 27.1(e)(i), if the Station Delivery Deed was terminated by the Principal pursuant to clause 45.3 of the Station Delivery Deed; or



**34.8 Principal not entitled to give notice**

The Principal will not be entitled to give any notice under clause 34.2 or clause 34.3 and will not be entitled to terminate this deed to the extent the occurrence or circumstance which would otherwise entitle the Principal to give such a notice results from the relevant Principal Termination Event.

**34.9 Consequences of termination**

- (a) On expiry or termination of this deed, the rights and obligations of the parties under this deed will cease except for:
  - (i) any accrued rights and obligations under this deed, including those arising out of the termination of this deed; and
  - (ii) any rights and obligations which expressly or impliedly continue after termination of this deed, including those referred to in clause 49.4.
- (b) If this deed is terminated pursuant to clause 34.3 or clause 34.5, the Principal may, in its absolute discretion, to the extent reasonably required by the Principal to make the Construction Site and any Extra Land safe and/or facilitate completion of the OSD Works (as the case may be) (**Remaining Work**):

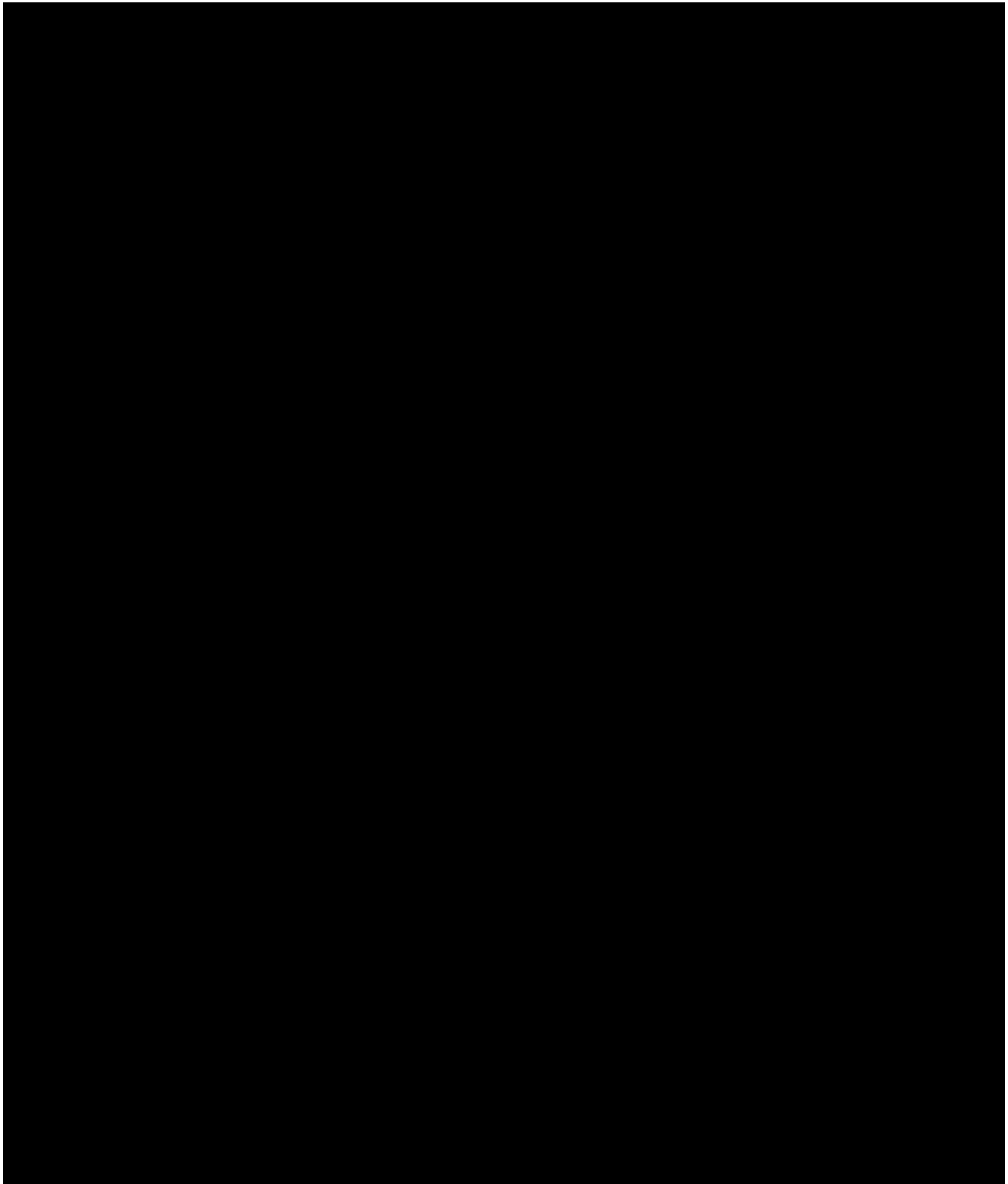
- (i) take possession of, and use (and permit others to use), the Construction Site and any Extra Land (and, for this purpose, Macquarie must ensure that the Principal has such access to the Extra Land);
  - (ii) contract with any of the Subcontractors;
  - (iii) take possession of, and use (and permit others to use), such of the Design Documentation, Material and other information in the possession of Macquarie or any of Macquarie's Associates and Macquarie must ensure that all necessary rights for this purpose are licensed to the Principal in accordance with clause 34.10;
  - (iv) itself or engage third parties to carry out and complete the whole or any part of the Remaining Works; and
  - (v) exclude Macquarie and any of Macquarie's Associates from the Construction Site and the Extra Land.
- (c) Macquarie acknowledges and agrees that the Principal's rights and entitlements set out in this clause 34 are in addition to the Principal's rights and entitlements under the D&C Side Deed.

#### 34.10 **Licence for Intellectual Property Rights in the Design Documentation**

- (a) If this deed is terminated by the Principal or Macquarie or to the extent required to enable the Principal to exercise its step-in rights under clause 33, Macquarie must:
  - (i) as soon as reasonably practicable deliver copies of all information, documents, records and Design Documentation (other than the Design Documentation referred to in paragraph (b) of the definition of "Design Documentation") (whether complete or not), including in electronic forms, then in existence to the Principal, provided that Macquarie is entitled to keep two copies of the Design Documentation for its records;
  - (ii) grant to the Principal, and to the extent that Macquarie does not own or hold a licence to the Intellectual Property Rights in the Design Documentation, Macquarie must ensure that the Principal is granted, a royalty-free, irrevocable and transferable licence or sub-licence (as applicable) in relation to the Intellectual Property Rights in the Design Documentation (other than the Design Documentation referred to in paragraph (b) of the definition of "Design Documentation") to allow the Principal to carry out, maintain, rectify, repair, improve, service, alter or complete the OSD Works, occupy the OSD or design, construct complete and operate the Martin Place Metro Station; and
  - (iii) do all other things to enable the Principal to exercise its rights to use such information, documents, records and Design Documentation.
- (b) Macquarie warrants that it has or will obtain an undertaking (in the form substantially consistent with Schedule A9) from any consultant performing any design work in relation to the OSD Works, not to enforce any Moral Rights that author may have, now or in the future, in any such design work in which copyright subsists, so that the Principal may freely exercise its rights pursuant to the licence granted under clause 34.10(a).
- (c) The Principal, to the fullest extent permitted under Law, releases Macquarie and Macquarie's Associates from and against any Loss or Claims arising out of or in connection with:

- (i) the Intellectual Property Rights granted in relation to the Design Documentation;
- (ii) the Principal's use of all Design Documentation delivered to the Principal by Macquarie pursuant to clause 34.10(a)(i); and
- (iii) any undertaking obtained from any consultant performing any design work in relation to the OSD Works under clause 34.10(b).

**34.11 Termination payment**



#### 34.12 Other matters relevant to termination

- (a) Macquarie must take all steps possible to mitigate the incurring by it of Costs or Loss in respect of any termination of this deed.
- (b) Macquarie may continue to use and occupy the Construction Site pursuant to clause 13.1 until the date that is 20 Business Days after the date on which this deed is terminated (or such other date agreed between the parties) to the extent reasonably necessary to enable Macquarie to:
  - (i) demobilise and remove its Construction Materials and Construction Plant from the Construction Site; and
  - (ii) comply with its obligations under clause 34.12(a).

This clause 34.12(b) will only apply if the Principal does not exercise its right under clause 3.1 of the D&C Side Deed (North Tower OSD) or clause 3.1 of the D&C Side Deed (South Tower OSD).

- (c) Nothing in this clause 34 or that the Principal does or fails to do pursuant to this clause 34 will prejudice the right of the Principal to exercise any right or remedy which it may have, including where Macquarie breaches (including repudiates) this deed.

#### 34.13 Preservation of rights

- (a) **(No prejudice):** Nothing in this clause 34 prejudices the right of the Principal to exercise any right or remedy which it may have against Macquarie in respect of any breach of a Project Document occurring before termination (other than a breach leading to termination of this deed under clause 34), including any rights arising in relation to any Liability a State Indemnified Party may have to third parties for which the State Indemnified Party is entitled to be indemnified pursuant to clause 31.

- (b) **(Direct deeds):** The Principal's rights and entitlements set out in this clause 34 are in addition to the Principal's rights and entitlements under the D&C Side Deed.

**34.14 No other termination rights**

Despite any rule of Law or equity to the contrary, this deed may not be terminated other than as provided for in this deed.

**34.15 Survival**

This clause 34 will survive the termination of this deed.

**35. PRINCIPAL'S RIGHTS TO ENTER, INSPECT AND CARRY OUT WORK**

**35.1 Principal's right to enter and inspect**

- (a) Subject to clause 35.1(b):

- (i) the Principal and the Principal's Associates may, at any time after the relevant Construction Licence Commencement Date and before the Last Date of Practical Completion; and
- (ii) any Nominated Member, may, at any time after the relevant Construction Licence Commencement Date and until the Station Date of Completion (or such further period of time required by a Nominated Member to provide its Recommendation),

enter the Construction Site and any other premises where the OSD Works are being carried out:

- (iii) in respect of the Principal and the Principal's Associates, for the purpose of:
  - (A) monitoring compliance by Macquarie with its obligations under any Project Document; or
  - (B) exercising any right which the Principal has under any Principal Project Document; and
- (iv) in respect of a Nominated Member, for the purposes of providing its Recommendation.

- (b) When exercising this right of entry under clause 35.1(a), the Principal must:

- (i) give reasonable prior written notice to Macquarie (except in the case of an emergency or where access is required to perform the Principal's powers under, or to comply with, any rail related Laws); and
- (ii) do so (and must ensure the Principal's Associates and the relevant Nominated Member do so) in a manner that:
  - (A) does not interfere with the OSD Works; and
  - (B) complies with the reasonable site access and work health safety and rehabilitation plans, policies and protocols, procedures and requirements of Macquarie and Macquarie's Associates.

- (c) Macquarie must use reasonable endeavours to:

- (i) co-ordinate the OSD Works so they do not interfere with the exercise by the Principal of its right of entry, subject always to compliance by the Principal, the Principal's Associates and the relevant Nominated Member (as applicable) of the obligations in clause 35.1(b); and
  - (ii) provide the Principal with every reasonable facility and other assistance necessary for any inspection by the Principal, including providing access to any relevant systems, registers, manuals, records (excluding financial records), plans and programs.
- (d) Neither the Principal nor the Principal's Associates owe any duty to Macquarie to inspect the OSD Works or review the OSD Works for errors, omissions or compliance with the requirements of this deed if it does so inspect.
- (e) No inspection or review of the OSD Works by the Principal or the Principal's Associates (as applicable) will in any way lessen or otherwise affect:
- (i) Macquarie's obligations under this deed or any other Project Document or otherwise according to Law; or
  - (ii) the Principal's rights against Macquarie, whether under this deed or any other Project Document or otherwise according to Law.

### 35.2 **Principal's notice to remedy**

- (a) If, at any time prior to the Date of Practical Completion of a Separable Portion, the Principal reasonably believes that any part of the OSD Works for that Separable Portion or any materials for incorporation into those OSD Works are not consistent with the OSD Design Parameters or will have a Metro Impact, the Principal may give Macquarie notice containing details of any such inconsistency to the extent such information is available to the Principal.
- (b) Subject to clauses 35.2(c) and 35.2(d), Macquarie must, on receiving a notice from the Principal under clause 35.2(a), provide to the Principal a plan for remedying the issue identified by the Principal in its notice and then must implement that plan.
- (c) If Macquarie reasonably requires any details in addition to those contained in the notice given by the Principal under clause 35.2(a):
- (i) Macquarie may make a request to the Principal in writing that further details be provided; and
  - (ii) the Principal must provide those details within 5 Business Days after such request.
- (d) If Macquarie disputes the contents of any notice issued by the Principal under clause 35.2(a), Macquarie must give the Principal a notice to that effect within 10 Business Days after the later of the date on which:
- (i) Macquarie received that notice; and
  - (ii) the Principal provides further details following a request under clause 35.2(c),

and the provisions of clause 40 will apply to that dispute.



**35.3 Macquarie to cooperate**

Subject to clause 35.1(b), Macquarie must cooperate, and must ensure that Macquarie's Subcontractors cooperate, with the Principal and any persons authorised by the Principal in the exercise of the Principal's rights under this clause 35.

**35.4 Principal must cooperate**

Without limiting clause 35.1(b), the Principal must cooperate, and must ensure that its Associates cooperate, with Macquarie in the exercise of the Principal's rights under this clause 35.

**36. RECORDS AND REPORTING OBLIGATIONS**

**36.1 Records**

Macquarie must keep appropriate books of account, records, documentation and systems which evidence its carrying out of the OSD Works and its compliance with the Project Documents.

**36.2 Early warning risk register**

- (a) Macquarie will give early warning by notifying the Principal as soon as it becomes aware of any fact, matter or thing which may give rise to a risk of:
  - (i) a delay in achieving Practical Completion of a Separable Portion;
  - (ii) an adverse effect on the performance of the OSD Works;
  - (iii) Macquarie being in breach of any term of this deed; or
  - (iv) a Claim.
- (b) Upon receipt of an early warning notification under clause 36.2(a), Macquarie will enter the risk the subject of the early warning notification on the Risk Register (which will include a description of the risk and the actions which are to be taken to avoid or mitigate the risk).
- (c) Macquarie must provide the Principal with access to the Risk Register or as otherwise directed by the Principal's Representative.
- (d) A notification provided by either party under this clause 36.2 will not relieve Macquarie from or alter its liabilities or obligations under this deed, including any and all other notification obligations under this deed.

**36.3 Notices under Project Documents**

- (a) Macquarie must give the Principal as soon as practicable certified copies of all notices of default, breach or dispute given or received by it under the Project Documents from any of its co-contracting parties.
- (b) The Principal acknowledges that, to the extent the Station Developer has given the Principal copies of the notices and other documents referred to in clause 36.3(a) pursuant to clause 47.4 of the Station Delivery Deed, Macquarie will be deemed to have complied with clause 36.3(a).

#### 36.4 **ASIC and ASX notices**

- (a) Macquarie must give the Principal, as soon as practicable, copies of notices relevant for the Project or ability of Macquarie to perform its obligations under any Project Document and other documents given or received by a member of the Macquarie Group to or from the Australian Securities and Investments Commission or the ASX Limited.
- (b) The Principal acknowledges that, to the extent the Station Developer has given the Principal copies of the notices and other documents referred to in clause 36.4(a) pursuant to clause 47.6 of the Station Delivery Deed, Macquarie will be deemed to have complied with clause 36.4(a).

#### 36.5 **Other information**

Macquarie must promptly give the Principal such other information relating to the OSD Works (only to the extent it relates to the OSD Design Parameters and Metro Impacts) as the Principal may reasonably require from time to time.

#### 36.6 **Retention of records**

Macquarie must retain all records in relation to the OSD Works:

- (a) until they are delivered to the Principal; or
- (b) if not so delivered to the Principal, for at least 7 years after the Last Date of Practical Completion.

### 37. **CONFIDENTIALITY AND PERMITTED DISCLOSURE**

#### 37.1 **Confidentiality**

- (a) Subject to clause 37.1(b) and clause 37.1(c), Macquarie must:
  - (i) keep the Project Documents and any information relating to the OSD Works, the Project and any discussions concerning the Project Documents (together the **Information**) confidential; and
  - (ii) ensure that each of its Associates comply with clause 37.1(a)(i).
- (b) Macquarie is not obliged to keep any Information confidential to the extent:
  - (i) that Information is in the public domain through no default of Macquarie;
  - (ii) that Information is:
    - (A) required to be disclosed by Law or the ASX listing rules; or
    - (B) given to a court in the course of proceedings to which Macquarie is a party; or
  - (iii) the Principal consents in writing to the disclosure of that Information.
- (c) Macquarie may provide Information to:
  - (i) its Related Entities;
  - (ii) bona fide potential purchasers of an interest in a member of the Macquarie Group (excluding Macquarie, Macquarie Bank Limited, Project Trust, DevCo

and Macquarie Financial Holdings) or a Development Lot from Macquarie or a Related Entity of Macquarie, pursuant to clause 39, and any Related Entity of such potential purchaser;

- (iii) Subcontractors, advisors, Financiers and prospective Financiers of Macquarie or any of the parties set out in clauses 37.1(c)(i) and 37.1(c)(ii); and
- (iv) the officers, employees and agents of Macquarie or of any of the parties set out in clauses 37.1(c)(i), 37.1(c)(ii) and 37.1(c)(iii),

to the extent that the disclosure of such Information is:

- (v) necessary to enable Macquarie to perform its obligations under this deed, the Station Delivery Deed or any other Project Document; or
- (vi) required in relation to the potential sale of an interest in a member of the Macquarie Group (excluding Macquarie, Macquarie Bank Limited, Project Trust, DevCo and Macquarie Financial Holdings) or a Development Lot,

and provided that, in the case of the parties described in clauses 37.1(c)(i), 37.1(c)(ii) and 37.1(c)(iii), Macquarie ensures that the relevant party is subject to the same obligations of confidentiality as those contained in this deed.

### 37.2 Principal's Public Disclosure Obligations

- (a) Macquarie acknowledges and agrees that the Principal, the State or any Authority may be required to disclose the Principal Project Documents and information concerning the Principal Project Documents and the performance of the OSD Works:
  - (i) under the GIPA Act or any similar legislation (subject to the prior redaction of Commercially Sensitive Information which is not required to be disclosed under the GIPA Act or any similar legislation);
  - (ii) by Law; or
  - (iii) to satisfy the disclosure requirements of the NSW Auditor General or to satisfy the requirements of Parliamentary accountability,

#### **(Public Disclosure Obligations).**

- (b) Macquarie must, at its own Cost and expense, use all reasonable endeavours to assist the Principal, the State or an Authority to meet its Public Disclosure Obligations.
- (c) The parties acknowledge and agree that:
  - (i) by entering into this deed, the Principal has consulted with Macquarie in relation to the disclosure of the Principal Project Documents and information concerning the Principal Project Documents and the performance of the OSD Works under the GIPA Act that is not Commercially Sensitive Information;
  - (ii) the Principal must notify Macquarie of any proposed disclosure of any information that the Principal considers (acting reasonably) may be Commercially Sensitive Information by the Principal under the GIPA Act no later than 15 Business Days before the proposed date of disclosure;
  - (iii) following notification by the Principal in accordance with clause 37.2(c)(ii), the Principal must take reasonable steps to consult with Macquarie before

disclosing the information referred to in clause 37.2(c)(ii) under the GIPA Act; and

(iv) if, following:

(A) notification by the Principal in accordance with clause 37.2(c)(ii); and

(B) consultation between the Principal and Macquarie in accordance with clause 37.2(c)(iii),

Macquarie objects to disclosure of some or all of the information referred to in clause 37.2(c)(ii) under the GIPA Act on the basis that it is Commercially Sensitive Information, Macquarie must provide details of any such objection within 5 Business Days after the date Macquarie received notification from the Principal or the date on which the consultation process concluded (as relevant).

(d) The Principal may take into account any objection received from Macquarie pursuant to clause 37.2(c)(iv) in determining whether the information identified by Macquarie as Commercially Sensitive Information should be disclosed under the GIPA Act.

(e) Nothing in this clause 37.2 will limit or otherwise affect the discharge of the Principal's obligations under the GIPA Act.

### 37.3 **Media Requests**

Without limiting clauses 37.1 and 37.2, if Macquarie receives a request from the media for comment with respect to any aspect of the OSD Works, Macquarie must:

(a) promptly provide details of the request to the Principal;

(b) in relation to the matters contemplated by the Community Communications Strategy, respond only in accordance with the requirements of that Project Plan; and

(c) in relation to matters not contemplated by the Community Communications Strategy, not respond without the prior written consent of the Principal (such consent not to be unreasonably withheld or delayed).

## 38. **FINANCING AND REFINANCING**

### 38.1 **Financing documents**

(a) The Principal acknowledges that:

(i) Macquarie or its Related Entities may obtain financial accommodation to fund the Project; and

(ii) it may be a condition of obtaining that financial accommodation that the Principal enters into one or more Financiers' Side Deeds and other agreements with the Financiers.

(b) The parties acknowledge and agree that, if and when one or more Financiers' Side Deeds are entered into by the relevant parties, the Financiers' Side Deeds will be Project Documents.

## 38.2 **Negotiating terms of financing documents**

- (a) The Principal agrees to:
  - (i) enter into a Financiers' Side Deed (and other agreements referred to in clause 38.1(a)(ii)) if required by the Financier (acting reasonably); and
  - (ii) subject to clause 38.2(b), act reasonably in negotiating:
    - (A) the form of the Financiers' Side Deed; and
    - (B) the terms of the other agreements referred to in clause 38.1(a)(ii).
- (b) The Principal will be deemed to be acting reasonably under clause 38.2(a)(ii) if it withholds its consent to the form of the Financiers' Side Deed or to the terms of an agreement referred to in clause 38.1(a)(ii) where:
  - (i) the Principal is of the reasonable opinion that the particular term of the Financiers' Side Deed or the terms of an agreement referred to in clause 38.1(a)(ii) would bring about:
    - (A) an increase or adverse change in the profile of the risks or potential liabilities of the Principal under the Project Documents; or
    - (B) a material derogation of the Principal's rights under this deed, without adequate compensation to the Principal;
  - (ii) Macquarie has not agreed to pay all Costs reasonably incurred by the Principal arising out of or in connection with the negotiation and execution of the Financiers' Side Deed and agreements referred to in clause 38.1(a)(ii); or
  - (iii) the Principal is not satisfied (acting reasonably) with the credit standing of the Financier (including, where the Financier is acting in a security trustee capacity, that the Principal is not satisfied that the entity providing commitments to the Principal under the Financiers' Side Deed is capable of financially performing those obligations) after taking into account:
    - (A) the benefit of any indemnities the Principal may have from Macquarie and/or any financier; and
    - (B) the recourse of the Financier to the assets of the security trust pursuant to the relevant security trust deed.
- (c) For the purposes of this clause 38.2, "Financier" means each Financier (if any) which enters into a Financiers' Side Deed.

## 39. **FINANCIAL INDEBTEDNESS, ASSIGNMENT AND CHANGE IN OWNERSHIP**

### 39.1 **Change in ownership**

Subject to clause 39.2, Macquarie:

- (a) represents and warrants that the legal and beneficial ownership of each member of the Macquarie Group (other than Macquarie) as at the Commencement Date is as set out in the Macquarie Group Structure;

- (b) must not permit, and must ensure that there is not, any change in the beneficial or legal ownership of any shares, units or other interest in the nature of equity in Macquarie, [REDACTED]
- (c) without limiting clause 39.1(b), must not permit any change in the beneficial or legal ownership of any shares, units or other interest in the nature of equity in any member of the [REDACTED] unless Macquarie has notified the Principal in writing:
- (i) at least [REDACTED] prior to any proposed change; and
  - (ii) no later than [REDACTED] after any change,
- in the beneficial or legal ownership of such shares, units or other interest.

### 39.2 Permitted Changes in Ownership

Clauses 39.1 and 39.3 do not apply to:

- (a) a transfer of any share or unit or other interest in the nature of equity which is listed on a recognised stock exchange (including conversion of any relevant interest);
- (b) any capital raising (whether hybrid capital or equity capital), share buy-back, share reduction or any other capital markets transaction conducted by and in relation to Macquarie; or
- (c) any transfer of a share or unit or other interest in the nature of equity by a person to a Related Entity of Macquarie, provided Macquarie gives the Principal prior written notice of the transfer and provided that Macquarie remains the ultimate parent company.

### 39.3 Assignment

- (a) Subject to clauses 39.1, 39.2 and 39.3(c), Macquarie must not, and must ensure that Macquarie Bank Limited and DevCo do not assign, grant a Security Interest over, or otherwise dispose of all or any benefit, right or interest in or under:
  - (i) the Project Documents; or
  - (ii) prior to the Last Date of Practical Completion:
    - (A) the Construction Site;
    - (B) the Principal's Land; or
    - (C) the Macquarie Land,without the Principal's prior written consent.
- (b) The Principal must act promptly in determining whether to provide its consent to Macquarie for the purposes of clause 39.3(a), where the provision of such mortgage, charge or other Encumbrance is reasonably required by Macquarie in order to raise funds for the purposes of carrying out its obligations under this deed.

- (c) Despite clause 39.3(a), nothing in this clause 39 restricts or limits the ability of Macquarie or its Related Entities to assign, grant a Security Interest (including real property mortgage) or otherwise dispose of all or any benefit, right or interest in Macquarie Bank Limited's estate and interest in any part of the Macquarie Land that does not include the 50 Martin Place Ancillary Amenities Lot, Concourse Link Works, the Macquarie Construction Site or the Relevant Land (as those terms are defined in the Station Delivery Deed).

#### 40. **DISPUTE RESOLUTION**

##### 40.1 **Disputes generally**

Subject to clause 40.18 and any other express provision of this deed, any dispute, difference, controversy or Claim (**Dispute**) directly or indirectly based upon, arising out of, relating to or in connection with the OSD Works, the Project or this deed (including any questions relating to the existence, validity or termination of this deed), or either party's conduct before the Commencement Date, but excluding a failure by a party to comply with a final and binding decision of an expert appointed to determine a Dispute pursuant to clause 40.5 or clause 40.14 (as applicable), must be resolved in accordance with:

- (a) if the Dispute arises prior to the Station Date of Completion, the procedure for the resolution of Disputes set out in clauses 40.2 to 40.10 and 40.16 to 40.20 (inclusive) (unless the parties agree that the Dispute should be resolved in accordance with the procedure set out in clauses 40.11 to 40.20 (inclusive)); or
- (b) if the Dispute arises on or after the Station Date of Completion, the procedure for the resolution of Disputes set out in clauses 40.11 to 40.20 (inclusive).

##### 40.2 **Independent Dispute Avoidance and Resolution Panel**

- (a) (**Establishment**) The IDAR Panel will be constituted under the IDAR Panel Agreement.
- (b) (**Accession by Macquarie**) Macquarie must, within 5 Business Days of receipt of a request from the Principal, execute the IDAR Panel Agreement Accession Deed Poll.
- (c) (**Attendance and Assistance**) Each party must:
  - (i) following execution of the IDAR Panel Agreement Accession Deed Poll (if applicable), at all times comply with the terms of the IDAR Panel Agreement;
  - (ii) attend meetings with the IDAR Panel as required pursuant to the IDAR Panel Agreement or this deed; and
  - (iii) provide all reasonable assistance to the IDAR Panel in fulfilling its function(s) in respect of the carrying out of the OSD Works including providing all information that the IDAR Panel reasonably requests.

##### 40.3 **Consultation**

- (a) (**Notice of Issue**) Where a Dispute arises, the Dispute must be notified to the IDAR Panel by written notice of the issues in Dispute (Notice of Issue) from the dissatisfied party (**Party A**) to the IDAR Panel and the other party (**Party B**). The Notice of Issue must:
  - (i) provide brief particulars of the issues in Dispute; and

- (ii) be issued within 10 Business Days after Party A first became aware of the fact, matter or thing on which the Dispute is based.
- (b) **(Selection of Nominated Member)** Within 2 Business Days of the Notice of Issue, the parties must agree upon a member of the IDAR Panel (**Nominated Member**) to review the Dispute. If:
  - (i) the parties fail to reach such agreement within 2 Business Days; or
  - (ii) the Nominated Member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,

the Chair must nominate a replacement Nominated Member within a further 2 Business Days.
- (c) **(Replacement of Nominated Member)** If a replacement Nominated Member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, the Chair must nominate a further replacement Nominated Member within a further 2 Business Days. The Chair cannot nominate itself as the Nominated Member.
- (d) **(Appointment by Resolution Institute)** If a further replacement Nominated Member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, the process in clause 40.3(c) will be reapplied until there are no IDAR Panel members to accept the appointment, in which case the Chair must request the Resolution Institute to appoint a replacement member. This appointment will be final and conclusive.
- (e) **(Parties to consult)** Within 3 Business Days of the appointment of the Nominated Member, the Nominated Member must convene at least one meeting (**Consultation**) to facilitate genuine and good faith negotiations with a view to:
  - (i) resolving the Dispute; and
  - (ii) clarifying and narrowing the issues in Dispute, in the event that the Dispute is not resolved.
- (f) **(Attendees)** Each Consultation will be attended by:
  - (i) the Nominated Member;
  - (ii) the Principal's Representative;
  - (iii) Macquarie's Representative; and
  - (iv) other persons as agreed between the Principal's Representative and Macquarie's Representative.
- (g) **(Conclusion of Consultation)** The Nominated Member will advise the parties in writing once the Consultation process has concluded.
- (h) **(Failure to notify in time is breach)** A failure to comply with clause 40.3(a)(ii) will be treated as a breach of this deed by the relevant party.

#### 40.4 Recommendation

- (a) **(Notification of Recommendation)** Within 5 Business Days of the conclusion of Consultation, the Nominated Member must notify the parties in writing of its non-binding recommendation as to:



- (i) the formulation of the issues in Dispute;
- (ii) the most appropriate Expert(s) to be appointed to determine the Dispute pursuant to clause 40.5; and
- (iii) whether the Dispute is not suitable for expert determination and should be determined in accordance with clause 40.8,

**(Recommendation).**

- (b) **(Referral to expert determination)** Subject to clause 40.4(d), if the Dispute is not resolved within the later of:

- (i) 5 Business Days of the Recommendation; and
- (ii) 15 Business Days of the Notice of Issue,

Party A must refer those parts of the Dispute that remain unresolved to expert determination by notice to Party B (with a copy to the IDAR Panel) within 20 Business Days after the later of clause 40.4(b)(i) and 40.4(b)(ii) or such other period of time as agreed between the parties (**Notice of Dispute (IDAR)**).

- (c) **(Requirements of Notice)** The Notice of Dispute (IDAR) must:

- (i) be in writing;
- (ii) state that it is a Notice of Dispute (IDAR) under clause 40.4(b); and
- (iii) include or be accompanied by reasonable particulars of those parts of the Dispute including:
  - (A) references to any:
    - (aa) provisions of this deed; and
    - (bb) acts or omissions of any person,relevant to the Dispute;
  - (B) the relief sought and the basis for claiming the relief sought; and
  - (C) copies of, or relevant extracts from, any documents in support of the claim.

- (d) **(Parties may accept Recommendations)** If the Nominated Member makes a Recommendation:

- (i) under clause 40.4(a)(ii), the parties may accept the recommendation or clause 40.5(a) will apply; or
- (ii) under clause 40.4(a)(iii), that the Dispute is not suitable for expert determination, the parties may agree to have the Dispute determined in accordance with clause 40.8, however if the parties have not so agreed within 5 Business Days of the Recommendation, clause 40.5 will apply.

#### 40.5 Expert determination

- (a) Any Dispute which is referred to expert determination by a Notice of Dispute (IDAR) will be conducted in accordance with the Resolution Institute's Expert Determination Rules, as modified by Schedule A12.
- (b) Both parties must promptly make available to the Expert all such additional information, access to the Construction Site, other relevant places and all appropriate facilities, as the Expert may require for the purposes of making a determination on the Dispute.
- (c) The parties agree that, to the extent permitted by Law:
  - (i) the powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on the Expert; and
  - (ii) the Expert has no power to make a binding or non-binding determination or any award in respect of a Dispute by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any Dispute referred to determination by the Expert.
- (d) Within 50 Business Days after the Expert has been appointed, or within such other period as may be proposed by the Expert and approved by both parties, the Expert must give its determination in writing, which must be reasoned and must state that it is given under this clause 40.5. The determination will be immediately binding on both parties, who must give effect to it unless and until it is revised, overturned or otherwise changed by written agreement between the parties or a court judgment or an arbitral award made in court proceedings or an arbitration pursuant to this clause 40.

#### 40.6 Notice of dissatisfaction

- (a) If:
  - (i) either party is dissatisfied with a determination made by an Expert under clause 40.5, then either party may, within 10 Business Days after receiving the determination, give notice to the other party of its dissatisfaction; or
  - (ii) an Expert fails to give its determination within a period of 50 Business Days after the Expert has been appointed by the parties (or within such other period as may be proposed by the Expert and approved by both parties), then either party may, within 10 Business Days after this period has expired, give a notice to the other party of its dissatisfaction,

**(Notice of Dissatisfaction).**

- (b) A Notice of Dissatisfaction issued under this clause 40.6 must:
  - (i) state that it is given under this clause 40.6; and
  - (ii) set out the matter in Dispute and the reason(s) for dissatisfaction.
- (c) Except as stated in clause 40.4(d)(ii), neither party will be entitled to commence court proceedings or arbitration in respect of the Dispute unless a Notice of Dissatisfaction has been given in accordance with this clause 40.6.

#### 40.7 **Final and binding decision**

- (a) If the Expert has made a determination as to a Dispute and no Notice of Dissatisfaction has been given by either party under clause 40.6 within 10 Business Days after that party received the Expert's determination, then the Expert's determination will become final and binding upon both parties.
- (b) Once a determination of an Expert has become final and binding under clause 40.7(a), neither party will be entitled to challenge that determination on any basis.

#### 40.8 **Litigation or arbitration**

Where this clause applies, the Principal in its absolute discretion, may within 5 Business Days:

- (a) after issuing or receiving a Notice of Dissatisfaction; or
- (b) of reaching an agreement under clause 40.4(d)(ii),

(as applicable) issue a notice to Macquarie stating that the Dispute is to be determined by litigation pursuant to court proceedings. If the Principal does not issue such a notice within the 5 Business Day period, the Dispute will be referred to arbitration.

#### 40.9 **Arbitration rules**

- (a) Any arbitration conducted in relation to a Dispute will be conducted in accordance with the arbitration rules of ACICA known as the ACICA Arbitration Rules.
- (b) The seat of the arbitration will be Sydney, Australia.
- (c) The number of arbitrators will be agreed or determined pursuant to the ACICA Arbitration Rules.
- (d) The language of the arbitration will be English.
- (e) The parties further agree to the following general principles relating to the procedure of the arbitration:
  - (i) that they have chosen arbitration for the purposes of achieving a just, quick and cost-effective resolution of any Dispute;
  - (ii) that any arbitration conducted pursuant to this clause will not necessarily mimic court proceedings and the practices of those courts will not regulate the conduct of the proceedings before the arbitral tribunal; and
  - (iii) that in conducting the arbitration, the arbitral tribunal must take into account the matters set out above, particularly in deciding issues such as:
    - (A) the number of written submissions that will be permitted;
    - (B) where appropriate, the length of written submissions;
    - (C) the extent of document discovery permitted, if any;
    - (D) the consolidation of proceedings, when requested;
    - (E) the joinder of parties, when requested;
    - (F) the length of any hearing, if any; and

- (G) the number of experts, if any, each party is permitted to appoint.
- (f) The parties agree that:
- (i) subject to clause 40.10, the arbitral tribunal will have the power to grant all legal, equitable and statutory remedies, except punitive damages; and
  - (ii) section 24 of the *International Arbitration Act 1974* (Cth) will apply in an international arbitration context.
- (g) The arbitral tribunal has the power, on the application of any party to this arbitration agreement, to allow a third party who the arbitral tribunal considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. Each party hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitral tribunal has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.
- (h) Any award of the arbitral tribunal will be final and binding upon the parties.
- (i) This arbitration agreement is governed by and must be construed according to the Law applying in New South Wales.

#### 40.10 **Exclusion from determination or award**

- (a) The powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on an arbitral tribunal appointed in accordance with this clause 40.
- (b) The arbitral tribunal has no power to make a binding or non-binding determination or any award in respect of a Dispute by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any Dispute referred to the arbitral tribunal.

#### 40.11 **Notice of Dispute (OSD)**

If a Dispute arises and clause 40.1(b) applies, either party may, at any time after the Dispute has arisen, give the other party written notice of the Dispute (**Notice of Dispute (OSD)**). The Notice of Dispute (OSD) must:

- (a) specify the Dispute;
- (b) provide particulars of the party's reasons for being dissatisfied; and
- (c) set out the position which the party believes is correct.

#### 40.12 **Parties to refer**

- (a) Where a Notice of Dispute (OSD) is given under clause 40.11, the Dispute must first be referred to the Project Control Group who must meet within 10 Business Days after the date of the notice of the Dispute.
- (b) The parties must undertake genuine and good faith negotiations with a view to resolving the Dispute.
- (c) If the parties cannot reach a resolution in relation to the Dispute within 10 Business Days, then clause 40.13 applies.

#### 40.13 Executive negotiation

- (a) The Dispute must be referred to the Executive Negotiators and the Executive Negotiators must, within 5 Business Days after the date on which the Dispute was referred to the Executive Negotiators, meet and negotiate with a view to resolving the Dispute.
- (b) If the Executive Negotiators:
- (i) have not resolved the Dispute; or
  - (ii) have not reached agreement on a procedure to resolve the Dispute, within 20 Business Days after the date on which the Notice of Dispute (OSD) was given under clause 40.11 (or such longer period of time as the Executive Negotiators or the parties may have agreed in writing) then, whether or not the Executive Negotiators have met and undertaken negotiations with a view to resolving the Dispute:
- (iii) in the case of Disputes solely in connection with:
- (A) any extension of time to which Macquarie is entitled to under clause 19;
  - (B) the calculation of:
    - (aa) the Delay Costs applicable to an extension of time which has been granted to Macquarie in accordance with clause 19;
    - (bb) [REDACTED]; or
    - (cc) any other Claim for payment under this deed; or
  - (C) any other Dispute which this deed specifies will be referred to expert determination,
- either party to the Dispute may give the other party written notice requiring the Dispute be referred to expert determination under clause 40.14.
- (c) In the case of all other Disputes, either party to the Dispute may give the other party written notice that the Dispute will be referred to arbitration under clause 40.15.

#### 40.14 Expert determination

- (a) If a party to the Dispute requires that the Dispute be referred to expert determination under clause 40.13(b)(iii):
- (i) the Executive Negotiators will attempt to agree on the expert to be appointed for the dispute resolution process; or
  - (ii) if, within 5 Business Days after a referral to expert determination pursuant to clause 40.13(b)(iii), the parties to the Dispute cannot agree on the expert to be appointed for the dispute resolution process, either party may request ACICA to appoint an expert.
- (b) If an expert is appointed in accordance with 40.14(a)(ii), the party that made the request must, within 3 Business Days of being notified of the expert, advise the other party details of the expert for the purposes of this clause 40.14.

- (c) Not used.
- (d) Not used.
- (e) The parties to the Dispute must enter into an agreement with the expert on the terms contained in Annexure E or such other terms as may be agreed between the parties and the expert (**Expert Determination Agreement**).
- (f) The parties to the Dispute must not withhold agreement to:
  - (i) any amendments the expert requests to be made to the terms contained in the Expert Determination Agreement provided the amendments are reasonable and do not conflict with this clause 40; or
  - (ii) any reasonable fees and disbursements the expert requests to be set out in the Expert Determination Agreement between the parties and the expert.
- (g) The expert must make the determination in accordance with:
  - (i) the Expert Determination Agreement and the rules for expert determination (**Rules**) contained in schedule 2 to Annexure E to this deed; and
  - (ii) the Resolution Institute's Expert Determination Rules, to the extent they are not inconsistent with the Expert Determination Agreement and the Rules.
- (h) An expert determination conducted in accordance with the Expert Determination Agreement and the Rules is not an arbitration and the expert is not an arbitrator.
- (i) The determination of the expert will be final and binding unless a party to the Dispute serves a notice of appeal on the other party within 20 Business Days after the determination.
- (j) If a notice of appeal is given by any party in accordance with clause 40.14(i):
  - (i) the Dispute will be referred to arbitration under clause 40.15; and
  - (ii) the determination of the expert will be binding on the parties to the Dispute until it is overturned, reversed, varied or otherwise changed by an award of an arbitrator.

#### 40.15 **Arbitration rules**

If a Dispute is referred to arbitration under clause 40.13(c) or clause 40.14(j), the arbitration will be conducted in accordance with the following procedure:

- (a) the arbitration will be conducted in accordance with the arbitration rules of ACICA known as, where applicable:
  - (i) "ACICA Expedited Arbitration Rules"; or
  - (ii) "ACICA Arbitration Rules";
- (b) the seat of the arbitration will be Sydney, Australia;
- (c) the number of arbitrators will be:
  - (i) one, in the case of an arbitration conducted in accordance with the ACICA Expedited Arbitration Rules; or

- (ii) agreed or determined pursuant to Article 8 of the ACICA Arbitration Rules in the case of an arbitration conducted in accordance with the ACICA Arbitration Rules;
- (d) the language of the arbitration will be English;
- (e) the parties further agree to the following general principles relating to the procedure of the arbitration:
  - (i) that they have chosen arbitration for the purposes of achieving a just, quick and cost-effective resolution of any Dispute;
  - (ii) that any arbitration conducted pursuant to this clause 40.15 will not necessarily mimic court proceedings and the practices of those courts will not regulate the conduct of the proceedings before the arbitral tribunal;
  - (iii) that in conducting the arbitration, the arbitral tribunal must take into account the matters set out above, particularly in deciding issues such as:
    - (A) the number of written submissions that will be permitted;
    - (B) where appropriate, the length of written submissions;
    - (C) the extent of document discovery permitted, if any;
    - (D) the consolidation of proceedings, when requested;
    - (E) the joinder of parties, when requested;
    - (F) the length of any hearing, if any; and
    - (G) the number of experts, if any, each party is permitted to appoint;
- (f) the parties agree that:
  - (i) subject to clauses 40.15(j) and 40.15(k), the arbitral tribunal will have the power to grant all legal, equitable and statutory remedies, except punitive damages; and
  - (ii) section 24 of the *International Arbitration Act 1974* (Cth) will apply in an international arbitration context;
- (g) the arbitral tribunal has the power, on the application of any party to this arbitration agreement, to allow a third party who the arbitral tribunal considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. Each party hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitral tribunal has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration;
- (h) any award of the arbitral tribunal will be final and binding on the parties;
- (i) this arbitration agreement is governed by and must be construed according to the Law applying in New South Wales;
- (j) the powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on an arbitral tribunal appointed in accordance with this clause 40; and

- (k) the arbitral tribunal has no power to make a binding or non-binding determination or any award in respect of a Dispute by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any Dispute referred to the arbitral tribunal.

#### 40.16 **Continued performance of obligations**

Despite the existence of any Dispute:

- (a) Macquarie must continue to perform the OSD Works; and
- (b) the parties must perform their respective obligations under this deed.

#### 40.17 **Urgent relief**

Nothing in this clause 40 will prejudice the right of a party to seek urgent injunctive or declaratory relief from a court.

#### 40.18 **Dispute under related contracts**

The parties acknowledge and agree that the provisions of this clause 40 will not apply to any dispute, difference, controversy or Claim which is to be resolved between the parties under a separate agreement.

#### 40.19 **Disputes with the D&C Contractor**

- (a) The parties acknowledge and agree that a dispute arising under the D&C Contract may concern the respective rights and obligations of the parties under this deed.
- (b) Macquarie must inform the Principal immediately of any formal disputes or differences under any D&C Contract and the consequences (if any) of those disputes or differences under this deed.
- (c) In such circumstances, and if the Principal consents (in its absolute discretion), Macquarie may permit the relevant D&C Contractor to:
  - (i) attend and observe the dispute resolution process under this deed; or
  - (ii) be joined as a party to the dispute resolution process.

#### 40.20 **Survive termination**

This clause 40 will survive termination of this deed.

### 41. **REPRESENTATIONS AND WARRANTIES**

#### 41.1 **Principal representations and warranties**

The Principal represents and warrants for the benefit of Macquarie that:

- (a) it is a NSW Government agency validly constituted and existing under the Transport Administration Act;
- (b) it has or will have in full force and effect all authorisations necessary under its constituent legislation to enter into and perform its obligations under each of the Principal Project Documents (or will have them in full force and effect at the time the obligation is to be performed);



- (c) each Principal Project Document constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (d) the execution, delivery and performance of each Principal Project Document by the Principal does not violate any Law, or any document or agreement to which it is a party or which is binding on it or its assets.

#### 41.2 **Macquarie representations and warranties**

Macquarie represents and warrants for the benefit of the Principal that:

- (a) it has been incorporated as a company limited by shares in accordance with the Law of its place of incorporation, is validly existing under that Law and has power and authority to carry on its business as it is now being conducted;
- (b) it is duly registered and remains in existence;
- (c) it has, or will have (in respect of those Project Documents still to be executed as at the **Commencement Date**), power to enter into the Project Documents to which it is a party and comply with its obligations under them;
- (d) it has, or will have (in respect of those Project Documents still to be executed as at the Commencement Date) in full force and effect the authorisations necessary for it to enter into the Project Documents to which it is a party, to comply with its obligations under them and to allow them to be enforced;
- (e) its obligations under the Project Documents (once executed) are valid and binding and are enforceable against it in accordance with their terms;
- (f) the Project Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
- (g) not used;
- (h) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- (i) it is not in breach of a Law or obligation affecting it or its assets in a way which is, or is likely to have, a material adverse effect on its ability to comply with its obligations under this deed;
- (j) no Event of Default has occurred or is subsisting;
- (k) it is not in default of its material obligations under any Principal Project Document;
- (l) it does not have immunity from the jurisdiction of a court of Australia or from Australian legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (m) there has been no material change in the financial condition of Macquarie (since the Commencement Date) which would prejudice the ability of Macquarie to perform its obligations under the Project Documents;
- (n) it is not aware of any material facts or circumstances relating to Macquarie that have not been disclosed to the Principal and which might, if disclosed, materially adversely affect the decision of a prudent person considering whether Macquarie

has the financial or technical capabilities to adhere to its obligations and deliver on its commitments under this deed;

- (o) no litigation, arbitration, mediation, conciliation, criminal or administrative procedures are current, pending or to its knowledge, threatened, which, if adversely determined, would or could have a material adverse effect on it or its ability to perform its financial or other obligations under any Project Document to which it is a party; and
- (p) the Treasurer cannot prohibit and has not prohibited the grant of this deed under the FIRB Act.

#### 41.3 **Repetition of representation and warranties**

The representations and warranties contained in clauses 41.2(f), 41.2(j), 41.2(k), 41.2(n), 41.2(o) and 41.2(p) are made on the Commencement Date. Each other representation and warranty contained in this clause 41:

- (a) is made on the Commencement Date; and
- (b) will be deemed to be repeated on each anniversary of the Commencement Date up to and including completion of the last Development Lot Sale Contract to complete, with reference to the facts and circumstances then subsisting.

#### 41.4 **Obligations not affected**

Macquarie acknowledges that the representations and warranties in this clause 41 and Macquarie's obligations under the Project Documents remain unaffected notwithstanding any receipt or review of, or comment or Direction on, documentation prepared by Macquarie.

#### 41.5 **Undertakings by Macquarie**

Each party undertakes to notify the other party promptly if any representation or warranty made or taken to be made by or on behalf of the party in connection with a Project Document other than this deed is found, having regard to the other party's rights under, or by virtue of this deed, to be materially incorrect or materially misleading when made or taken to be made.

### 42. **NOTICE OF CLAIMS**

#### 42.1 **Notice of Variation**

- (a) If a Direction of the Principal, other than a Variation Order under clause 26, constitutes or involves a Variation, Macquarie must, if it wishes to make a Claim against the Principal arising out of or, or in any way in connection with, the Direction:
  - (i) within 20 Business Days after receiving the Direction and before commencing work on the subject matter of the Direction or otherwise complying with the Direction, give notice to the Principal's Representative that sets out:
    - (A) that it considers the Direction constitutes or involves a Variation;
    - (B) details of the relevant Direction; and

- (C) details of why it considers the Direction constitutes or involves a Variation; and
  - (ii) within 10 Business Days after giving the notice under clause 42.1(a)(i), submit a written Claim to the Principal's Representative which includes the details required by clause 42.3(b); and
  - (iii) continue to perform its obligations under this deed in accordance with this deed including any Direction in respect of which notice has been given under this clause 42.1.
- (b) If Macquarie issues a notice under clause 42.1(a)(i), the Principal may:
- (i) confirm that the Direction constitutes or involves a Variation (in which case clauses 26 and 28 will apply and Macquarie will be entitled to any Variation Costs payable under clause 28), or entitles Macquarie to make a Claim, by the giving of a notice under this clause 42.1(b)(i), in which case Macquarie must comply with the Direction;
  - (ii) deny that the Direction constitutes or involves a Variation, or entitles Macquarie to make a Claim, by the giving of a notice under this clause 42.1(b)(ii), in which case Macquarie:
    - (A) may within 10 Business Days after the receipt of the notice issue a Notice of Issue or a Notice of Dispute (OSD) (as applicable); and
    - (B) unless otherwise directed by the Principal's Representative, must comply with the Direction irrespective of any Claim or Dispute in relation to the Direction or any part of it; or
  - (iii) withdraw the Direction by giving a notice under this clause 42.1(b)(iii) provided that the Principal must compensate Macquarie for its reasonable Costs incurred in compliance with such withdrawn Direction pursuant to clause 42.1(a)(iii).
- (c) If within 20 Business Days after first receipt of the notice under clause 42.1(a)(i), the Principal's Representative has not taken any action under clause 42.1(b), the Principal's Representative will be deemed to have given a notice under clause 42.1(b)(ii).

#### 42.2 Notices of other Claims

- (a) Subject to clause 42.2(b), Macquarie must give the Principal the notices required by clause 42.3 if it wishes to make a Claim against the Principal in respect of any Direction or any other fact, matter or thing (including a breach of this deed by the Principal) under, arising out of, or in connection with the Project or this deed, including anything in respect of which it is given an express entitlement under this deed but excluding anything which Macquarie is expressly prohibited from claiming under this deed.
- (b) Clause 42.2(a) does not apply to the following Claims:
  - (i) a Claim in relation to acceleration under clause 19.3;
  - (ii) a Claim in relation to suspension under clause 19.5;
  - (iii) a Claim for an extension of time under clause 19.7;
  - (iv) a Claim for Delay Costs or [REDACTED] under clause 20.1;

- (v) a Claim in respect of a Variation ordered in accordance with clause 26 or to which clause 42.1 applies; or
- (vi) a Claim for payment under clause 34.11.

#### 42.3 **Prescribed notices**

The notices referred to in clause 42.2 are:

- (a) a written notice within 30 Business Days after when Macquarie first became aware of the Direction or first became aware of any other fact, matter or thing on which the Claim is based, expressly specifying:
  - (i) that Macquarie intends to submit a Claim;
  - (ii) the relevant clause of the deed under which the Claim is made; and
  - (iii) the Direction or any other fact, matter or thing on which the Claim will be based; and
- (b) a written Claim within 10 Business Days after giving notice under clause 42.3(a), which must include:
  - (i) detailed particulars concerning the Direction or any other fact, matter or thing on which the Claim is based;
  - (ii) the legal basis for the Claim, whether based on a term of this deed or otherwise, and if based on a term of this deed, clearly identifying the specific term;
  - (iii) the facts relied on in support of the Claim in sufficient detail to permit verification; and
  - (iv) details of the amount claimed and how it has been calculated.

#### 42.4 **Continuing events**

If the Direction or any other fact, matter or thing on which the Claim under clause 42.3(b) is based or the consequences of the events are continuing, Macquarie must continue to give information required by clause 42.3(b) within 14 Business Days after the end of each calendar month after the written Claim under clauses 42.1(a)(ii) or 42.3(b) (as the case may be) was submitted, until after the Direction or fact, matter or thing on which the Claim is based has, or the consequences thereof have, ceased.

#### 42.5 **Time bar**

If Macquarie fails to comply with clauses 42.1, 42.2, 42.3 or 42.4:

- (a) the Principal will not be liable (insofar as it is possible to exclude such liability) in respect of any Claim by Macquarie; and
- (b) Macquarie will be absolutely barred from making any Claim against the Principal, arising out of, or in any way in connection with, the relevant Direction or fact, matter or thing (as the case may be) to which clause 42.1 or clause 42.3 applies.

#### 42.6 Temporary waiver of notification requirements

- (a) Within 5 Business Days after receipt of a written notice referred to in clause 42.1(a)(i) or clause 42.3(a) (as applicable), the Principal's Representative may notify Macquarie in writing that the Principal wishes to temporarily waive the requirements of clause 42.1(a)(ii) or clause 42.3(b) (as applicable) (Claims Clause) in relation to the proposed Claim that is the subject of Macquarie's notice.
- (b) If the Principal's Representative issues a notice under clause 42.6(a), the parties must meet within 2 Business Days (or such longer period agreed between the parties) to discuss the proposed Claim and seek to agree:
  - (i) the period for which the requirements of the relevant Claims Clause will not apply in relation to the proposed Claim; and
  - (ii) the next steps (if any) that the parties wish to take in relation to the proposed Claim.
- (c) If, at a meeting under clause 42.6(b), the parties agree a period for which the requirements of the relevant Claims Clause will not apply, the Principal's Representative will promptly confirm such period by notice in writing to Macquarie.
- (d) A meeting under clause 42.6(b) may be held in person, by phone, by video conference or by any other means of instantaneous communication agreed between the parties.
- (e) If the Principal's Representative has given a written notice under clause 42.6(a) and, with respect to the requirements of the relevant Claims Clause, the parties:
  - (i) agree a period for which the requirements of the relevant Claims Clause will not apply, Macquarie must provide a written Claim including the details required by the Claims Clause no later than 20 Business Days after the expiry of that period as stated in a notice issued by the Principal's Representative under clause 42.6(a) (or such longer period as the parties may subsequently agree in writing); or
  - (ii) fail to agree a period for which the requirements of the relevant Claims Clause will not apply, Macquarie must provide a written Claim including the details required by the relevant Claims Clause no later than 20 Business Days after the date of the meeting held under clause 42.6(b).
- (f) Macquarie must maintain and keep an updated register of potential Claims that have been the subject of a notice issued by the Principal's Representative under clause 42.6(a) and provide a copy of this register to the Principal's Representative at least 3 Business Days in advance of each meeting of the Project Control Group.
- (g) The register of potential Claims under clause 42.6(f) must include:
  - (i) Claim number;
  - (ii) Claim description;
  - (iii) the date the initial notice of Claim was received;
  - (iv) the clause(s) under which the notice was given;
  - (v) the date of the notice issued by the Principal's Representative under clause 42.6(a);

- (vi) the date of the meeting under clause 42.6(b);
  - (vii) the date on which the Claim is required (as agreed or pursuant to clause 42.6(e)(ii));
  - (viii) any next steps agreed at the meeting under clause 42.6(b); and
  - (ix) the status of those next steps.
- (h) Nothing done by the Principal or the Principal's Representative under this clause 42.6:
- (i) constitutes acceptance by the Principal that the relevant notice under clauses 20.2, 42.1 or 42.2 (as the case may be) is valid; or
  - (ii) prejudices in any way the Principal's right to later assert a time bar in respect of such notice provided that, for the purposes of any such subsequent assertion, the calculation of the time bar must not include any time period the subject of a waiver granted under this clause 42.6.

#### 42.7 **Other provisions unaffected**

Nothing in clauses 42.1 to 42.5 (inclusive) will limit the operation or effect of any other provision of this deed which requires Macquarie to give notice to the Principal or the Principal's Representative in order to preserve an entitlement to make a Claim against the Principal.

### 43. **PROPORTIONATE LIABILITY**

#### 43.1 **Exclusion of proportionate liability scheme**

- (a) To the extent permitted by Law, Part 4 of the Civil Liability Act 2002 (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or liabilities of either party under this deed whether these rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.
- (b) Without limiting the above, the rights, obligations and liabilities of the Principal and Macquarie under this deed with respect to proportionate liability are as specified in this deed and not otherwise, whether these rights, obligations or liabilities are sought to be enforced by a Claim in contract, in tort or otherwise.

#### 43.2 **Macquarie not to apply proportionate liability scheme**

To the extent permitted by Law:

- (a) Macquarie must not seek to apply the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to any Claim by the Principal against Macquarie (whether in contract, tort or otherwise); and
- (b) if any of the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) are applied to any Claim by the Principal against Macquarie (whether in contract, tort or otherwise), Macquarie will indemnify the Principal against any Loss, damage, Cost or expense that forms part of a Claim by the Principal against Macquarie which the Principal cannot recover from Macquarie because of the operation of Part 4 of the *Civil Liability Act 2002* (NSW).

### 43.3 **Subcontracts**

Macquarie must:

- (a) in each Subcontract into which it enters into for the performance of any obligation of Macquarie under this deed, include a term that (to the extent permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or liabilities of either party under each Subcontract whether these rights, obligations or liabilities are sought to be enforced by a Claim in contract, tort or otherwise; and
- (b) require each Subcontractor to include, in any further contract that it enters into with a third party for the performance of any obligation of Macquarie under this deed, a term that (to the extent permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or liabilities of either party under each further agreement whether such rights, obligations or liabilities are sought to be enforced by a Claim in contract, tort or otherwise.

## 44. **COSTS**

### 44.1 **Obligations of Macquarie**

Except as otherwise specified in a Project Document, Macquarie must pay or reimburse the Principal on demand for the Costs of the Principal (including legal Costs on a solicitor and own client basis) in connection with:

- (a) any consent or approval sought by Macquarie or anyone claiming through Macquarie under any Project Document (whether or not that consent or approval is given);
- (b) a waiver, variation, release, surrender or discharge of or in connection with any Project Document;
- (c) the Principal doing anything at the request of Macquarie to vary documents or negotiate with any other entity; and
- (d) subject to the Call Option Deed (North Tower Lot), the Call Option Deed (South Tower Lot) and each Development Lot Sale Contract, Taxes and fees (including registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with any Project Document (including any discharge of a Project Document) or a payment or receipt or any other transaction excluding any fine or penalty incurred due to the default of the Principal.

### 44.2 **Costs of negotiating this deed**

Subject to clause 45.1, each party agrees to pay its own Costs of and incidental to the negotiation and execution of this deed.

### 44.3 **Each party to pay its Costs**

Unless otherwise provided and subject to clause 45.1, anything which a party does in connection with a Project Document must be done at the party's own Cost.

## 45. **TAXES AND OUTGOINGS**

### 45.1 **Taxes and Outgoings**

- (a) On and from the relevant Construction Licence Commencement Date until the later of:
- (i) the Date of Practical Completion of the relevant Separable Portion; and
  - (ii) completion of the Development Lot Sale Contract for the Development Lot associated with that Separable Portion,

Macquarie must pay all Taxes and Outgoings of whatever description in cash or in kind as lawfully imposed by any Authority in connection with the relevant part of the Construction Site.

- (b) For the avoidance of doubt, Macquarie will bear the following fees and levies relating to the OSD Works:
- (i) Construction Certificate fees;
  - (ii) long service leave levy;
  - (iii) the fees of any principal certifying authority (as defined in the EP&A Act); and
  - (iv) all fees associated with any Development Application.

### 45.2 **Principal's right to reimbursement**

Any moneys paid by the Principal in respect of any liability expressly imposed on Macquarie under this deed, notwithstanding that any Law imposes that liability on the Principal, becomes a debt due and payable by Macquarie to the Principal under this deed.

## 46. **GENERAL PAYMENT REQUIREMENTS**

### 46.1 **Method of payment**

A party must make payments under this deed to the other party (or a person nominated by the other party in a notice to the first party) by the method the other party reasonably requires without deduction, unless prohibited by Law or otherwise provided in this deed.

### 46.2 **No demand necessary**

A party need not make demand for any amount required to be paid by the other party under this deed, unless this deed expressly specifies that demand must be made.

### 46.3 **Incorrect amount paid**

If a party pays an amount and it is found later that the amount payable should have been:

- (a) higher, then the other party may demand payment of the difference; or
- (b) lower, then the other party must repay the difference,

even though the other party has given the first party a receipt for payment of the incorrect amount.



46.4 **Ongoing obligation**

Subject to any provision in this deed to the contrary, expiry or termination of this deed does not affect a party's obligations to make payments under this deed for periods before then.

46.5 **When to make payments**

A party must make payments to the other party under this deed on the due date in immediately available funds.

46.6 **Currency of payment**

The parties waive any right which they have in any jurisdiction to pay an amount in a currency other than the currency payable under this deed.

46.7 **Interest on overdue money**

A party must pay simple interest at the rate of [REDACTED] above the Bank Bill Rate on any amount under this deed which is not paid on the due date for payment. That interest:

- (a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and
- (b) is payable on demand from the other party or, if no such demand is made, on the last day of each calendar month.

46.8 **Compounding**

Interest payable under clause 46.7 which is not paid when due for payment may (at any time before payment) be added to the overdue amount payable by a party monthly or the last day of each calendar month. Interest is payable on the increased overdue amount at the rate of [REDACTED] above the Bank Bill Rate in the manner set out in clause 46.7.

46.9 **Interest on liability merged in judgment or order**

If a liability under this deed becomes merged in a judgment or order, then a party agrees to pay interest to the other party on the amount of that liability as an independent obligation. The interest accrues both before and after that judgment or order from the date the liability was due for payment until it is paid, at a rate that is the higher of [REDACTED] above the Bank Bill Rate and the rate payable under the judgment or order.

46.10 **Tender after termination**

Money tendered by a party after the termination of this deed and accepted by the other party may be applied in the manner the other party decides.

47. **GST**

47.1 **Payment of GST**

Unless otherwise expressly stated, all amounts payable under or in connection with this deed are stated exclusive of GST. If GST is or will be payable on a supply made under or in connection with this deed:

- (a) the consideration otherwise provided for that supply under this deed is increased by the amount of that GST relating to the amount of money otherwise payable; and

- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within 5 Business Days after receiving a written demand from the supplier.

#### 47.2 **Later adjustment to price or GST**

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier, within 10 Business Days after becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving 5 Business Days' written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply but only to the extent that the supplier is entitled to a refund or credit from the commissioner of taxation; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 20 Business Days after the adjustment event.

#### 47.3 **Tax invoice/adjustment note**

The right of the supplier to recover any amount in respect of GST under this deed on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.

#### 47.4 **Indemnities and reimbursement**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under this deed must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

#### 47.5 **Long service leave levy**

Before commencing construction of the OSD Works, Macquarie must:

- (a) pay (or procure payment) to the Building and Construction Industry Long Service Payments Corporation, or its agent, the amount of the long service levy payable in respect of the building and/or construction work under the Building and Construction Industry Long Service Payments Act 1986 (NSW); and
- (b) produce to the Principal's Representative the document evidencing payment of the levy.

#### 48. **NOTICES**

- (a) Wherever referred to in this clause 48, Notice means each communication (including each notice, consent, approval, request and demand) under or in connection with this deed.

- (b) At any time and from time to time, the Principal's Representative may notify Macquarie that a PDCS will be used for giving Notices under or in connection with this deed. The Principal's Representative's notice will set out:
- (i) the name of the relevant PDCS;
  - (ii) the commencement date for use of the PDCS;
  - (iii) any password, login details or similar information required for the parties to use the PDCS; and
  - (iv) any other information reasonably necessary for the use and service of Notices via the PDCS.
- (c) At any time and from time to time, the Principal's Representative may notify Macquarie that a PDCS will not be used for giving certain Notices under or in connection with this deed. The Principal's Representative's notice will state that such Notices will be given in accordance with clause 48(d)(i) and must be given 10 Business Days prior to the implementation of any such change to the notice arrangements.
- (d) Each Notice must:
- (i) before the date referred to in clause 48(d)(ii) applies, be:
    - (A) in writing;
    - (B) addressed:
      - (aa) in the case of a Notice from Macquarie, to the Principal's Representative; or
      - (bb) in the case of a Notice from the Principal, to Macquarie's Representative;
    - (C) signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
    - (D) delivered or posted to the relevant address or sent to the relevant email address shown below (or to any new address or email address notified by the intended recipient):
      - (aa) to the Principal:

Address: Level 43, 680 George Street, Sydney NSW 2000

Email: [REDACTED]

Attention: [REDACTED]
      - (bb) to Macquarie:

Address: c/- Macquarie Capital, Level 4, 50 Martin Place, Sydney NSW 2000

Email: [REDACTED]

Attention: MGL Representative - [REDACTED]

- (ii) on and from the commencement date for use of the PDCS referred to in clause 48(b)(ii) (other than where clause 48(c) applies):
  - (A) be sent through the PDCS in accordance with the requirements set out in clause 48(f) and:
    - (aa) in the case of a Notice to the Principal, be addressed to the Principal's Representative; or
    - (bb) in the case of a Notice to Macquarie, be addressed to Macquarie's Representative; or
  - (B) in circumstances where the PDCS is temporarily disabled or not operating for a period in excess of two (2) hours, be issued in accordance with clause 48(d)(i).
- (e) A communication is taken to be received by the addressee:
  - (i) (in the case of a Notice sent through the PDCS) at the time recorded on the PDCS as being the time at which the Notice was sent;
  - (ii) (in the case of prepaid post sent to an address in the same country) 2 Business Days after the date of posting;
  - (iii) (in the case of international post) 7 Business Days after the date of posting;
  - (iv) (in the case of delivery by hand) on delivery; and
  - (v) (in the case of email):
    - (A) if it is transmitted by 5:00pm (Sydney time) on a Business Day – on that Business Day; or
    - (B) if it is transmitted after 5:00pm (Sydney time) on a Business Day, or on a day that is not a Business Day - on the next Business Day.
- (f) With respect to Notices sent through the PDCS:
  - (i) all Notices must be submitted by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
  - (ii) only the text in any Notice, or subject to clause 48(f)(iii), any attachments to such Notice which are referred to in the Notice, will form part of the Notice. Any text in the subject line will not form part of the Notice; and
  - (iii) an attachment to a Notice will only form part of a Notice if it is uploaded to the PDCS in:
    - (A) .pdf format;
    - (B) a format compatible with Microsoft Office; or
    - (C) such other format as may be agreed between the parties in writing from time to time.
- (g) Macquarie warrants that it will:

- (i) ensure that it has internet access which is sufficient to facilitate use of the full functionality of the PDCS;
  - (ii) ensure that relevant personnel log on and use the PDCS and check whether Notices have been received on each Business Day;
  - (iii) comply with any user guide and protocol with respect to the PDCS provided by the Principal to Macquarie from time to time;
  - (iv) ensure all relevant personnel attend all necessary training required by the Principal's Representative;
  - (v) advise the Principal's Representatives of which personnel require access to the PDCS;
  - (vi) at all times, ensure that it has access to personnel trained in the use of the PDCS so as to be able to view, receive and submit communications (including Notices) using the PDCS; and
  - (vii) as soon as practicable, at the first available opportunity following any period of time during which the PDCS is temporarily disabled or not operating, send all communications which have been issued pursuant to clause 48(d)(ii)(B) to the Principal's Representative through the PDCS.
- (h) The Principal has no liability for any Losses Macquarie may suffer or incur arising out of or in connection with its access to or use of the PDCS or any failure of the PDCS, and Macquarie will not be entitled to make, and the Principal will not be liable upon, any Claim against the Principal arising out of or in connection with such access to or use of the PDCS or any failure of the PDCS.

49. **GENERAL**

49.1 **Governing Law and jurisdiction**

- (a) This deed is governed by and must be constructed according to the Law in force in New South Wales.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed.

49.2 **Amendments**

This deed may only be varied by a formal deed or agreement executed by or on behalf of each party.

49.3 **Waiver**

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by Law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by Law or under this deed.
- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.

- (c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of a Project Document.

#### 49.4 **Survival of certain provisions; no merger**

- (a) Without limiting clause 49.11(a):
  - (i) clauses 1, 2.4(c), 12.2, 12.4, 30, 31, 34, 36.6, 37, 39.3, 40, 43, 44, 45, 46.3, 46.4, 46.10, 47, 48, 49, Schedule A11, Schedule A12, Schedule E2, Annexure E, the representations, warranties and indemnities given by Macquarie under the Project Documents and any other provisions which are expressed to survive termination or by implication from their nature are intended to survive termination (together, the Surviving Clauses) and any rights arising on termination will survive rescission, termination or expiration of this deed; and
  - (ii) if this deed is rescinded or terminated, no party will be liable to any other party except:
    - (A) under the Surviving Clauses; or
    - (B) in respect of any breach of this deed occurring before such rescission or termination.
- (b) No right or obligation of any party will merge on completion of any transaction under this deed. All rights and obligations under this deed survive the execution and delivery of any transfer or other document which implements any transaction under this deed.

#### 49.5 **Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by Law or reasonably requested by another party to give effect to this deed.

#### 49.6 **Consents**

A consent required under this deed from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this deed expressly provides otherwise.

#### 49.7 **No representation or reliance**

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this deed.

#### 49.8 **Exercise of remedies - Principal**

- (a) If Macquarie breaches any of its obligations under this deed or any other Project Document, the Principal may exercise any or all of the rights and powers and pursue any or all of the remedies available to the Principal under the Project Documents and/or enforce any other legal or equitable remedy available under applicable Law.

- (b) Each and every right, power and remedy of the Principal will be cumulative and in addition to any other right, power and remedy, whether under a Project Document or applicable Law, which may be exercised by the Principal and the exercise of a right, power or remedy will not be construed to be a waiver of the right to exercise any other right, power or remedy.
- (c) No delay or omission by the Principal in the exercise of any right, power or remedy will impair such right, power or remedy or constitute a waiver of the relevant breach.

**49.9 Exercise of remedies – Macquarie**

- (a) If the Principal breaches any of its obligations under this deed or any other Project Document, Macquarie may exercise any or all of the rights and powers and pursue any or all of the remedies available to Macquarie under the Project Documents and/or enforce any other legal or equitable remedy available under applicable Law.
- (b) Each and every right, power and remedy of Macquarie will be cumulative and in addition to any other right, power and remedy, whether under a Project Document or applicable Law, which may be exercised by Macquarie and the exercise of a right, power or remedy will not be construed to be a waiver of the right to exercise any other right, power or remedy.
- (c) No delay or omission by Macquarie in the exercise of any right, power or remedy will impair such right, power or remedy or constitute a waiver of the relevant breach.

**49.10 Entire agreement**

To the extent permitted by Law, in relation to its subject matter, this deed:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

**49.11 Indemnities**

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this deed.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this deed.
- (c) A party must pay on demand any amount it must pay under an indemnity in this deed.
- (d) Where Macquarie gives any indemnity or release under any of the Project Documents, it gives an equivalent indemnity and release to the State. The Principal holds for itself and on trust for the State the benefit of each such indemnity and release in this deed.
- (e) Other than an indemnity to which clause 31.1 applies, where Macquarie indemnifies a State Indemnified Party under this deed from and against any Liability, claim or Loss, its liability to indemnify the State Indemnified Party will be reduced to the extent that:

- (i) the negligence of the State Indemnified Party or any wrongful or reckless act or omission by the State Indemnified Party contributed to the Liability, claim or Loss; or
- (ii) in the case of the Principal only, the negligence of the Principal's Associates or any wrongful or reckless act or omission of the Principal's Associates contributed to the Liability, claim or Loss; and
- (iii) the State Indemnified Party has not mitigated against the Liability, claim or Loss.

#### 49.12 **Counterparts**

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

#### 49.13 **Attorneys**

Each person who executes this deed on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

#### 49.14 **Relationship between the Principal and Macquarie**

Nothing in, or contemplated by, this deed or any other Project Document will be construed or interpreted as:

- (a) constituting a relationship between the Principal and Macquarie, or any other person, of partners, joint venturers, fiduciaries, employer and employee or principal and agent;
- (b) imposing any general duty of good faith on the Principal to Macquarie or Macquarie's Associates in relation to or arising out of Project Document, other than to comply with the obligations (if any) expressly stated to be assumed by the Principal under this deed or any other Project Document on a good faith basis; or
- (c) imposing any general duty of good faith on Macquarie to the Principal or the Principal's Associates in relation to or arising out of a Project Document, other than to comply with the obligations (if any) expressly stated to be assumed by Macquarie under this deed or any other Project Document on a good faith basis.

#### 49.15 **Principal not liable**

Except to the extent expressly provided for in this deed, the Principal is not liable for any Loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right, power or remedy.

#### 49.16 **Supervening legislation**

Any present or future legislation which operates to vary the obligations of Macquarie in connection with this deed with the result that the Principal's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

#### 49.17 **Continuing breaches**

The expiry or termination of this deed does not affect the rights of the parties to this deed for a breach of this deed by the other party or parties before the expiry or termination.



#### 49.18 **Antecedent obligations**

The expiry or termination of this deed does not affect a party's obligations:

- (a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or
- (b) to provide information to the other party to enable it to calculate those payments.

#### 49.19 **Vienna Convention**

The United Nations Convention on Contracts for the International Sale of Goods and the Sale of Goods (Vienna Convention) Act 1986 (NSW) do not apply to this deed.

#### 49.20 **Transfer of functions or Public Transport Agency assets**

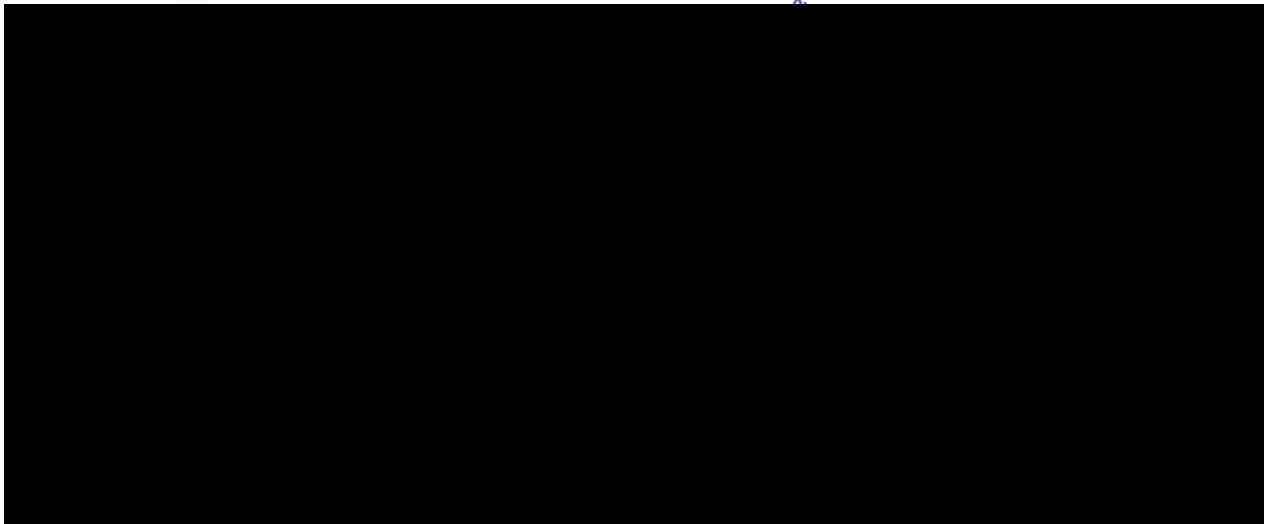
- (a) The parties acknowledge that:
  - (i) a Public Transport Agency may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, rights, liabilities or responsibilities of a Public Transport Agency may be transferred to or vested in another entity;
  - (ii) if a Public Transport Agency is reconstituted, renamed, dissolved, replaced or restructured and/or some or all of that Public Transport Agency's powers, functions, rights or responsibilities are transferred to or vested in another entity, then unless otherwise notified by the Public Transport Agency, references in this deed to that Public Transport Agency must, subject to any facilitative legislation, be deemed to refer, as applicable, to the reconstituted, renamed, restructured or new entity or entity replacing that Public Transport Agency to the extent that such entity has assumed or has had transferred to it or vested in it those powers, functions, rights or responsibilities; and
  - (iii) a Public Transport Agency may be required to or may, at its absolute discretion, elect to (including as a result of changes to New South Wales government policy or directions) acquire, or dispose of, any property or assets.
- (b) Macquarie acknowledges and agrees that it must, to the extent required by a Public Transport Agency and without limiting any facilitative legislation, negotiate in good faith any variations required to this deed, or any replacement agreement or agreements for this deed to give effect to a Public Transport Agency being reconstituted, renamed, dissolved, replaced or restructured.
- (c) Macquarie will be taken for all purposes to have consented to, and will not have, and no Public Transport Agency will be liable for, any claim as a result of any action, matter or circumstance referred to in, or contemplated by this clause 49.20.
- (d) For the purposes of this clause 49.20, "another entity" means a government or semi-government entity, including any agency, statutory corporation, statutory authority, department or state owned corporation.

**EXECUTED** as a deed.

**SIGNED** for **SYDNEY METRO** ABN 12 354 063 515 by its duly authorised delegate, in the presence of:



**SIGNED** by **MACQUARIE GROUP LIMITED** ABN 94 122 169 279 by its duly authorised attorneys who hereby state that at the time of executing this instrument they have no notice of the revocation of the Power of Attorney dated 4 September 2018:



**SCHEDULE A1  
Conditions Precedent**

**PART A – Conditions Precedent**

<b>Conditions Precedent</b>	<b>Benefiting Party</b>
<p>1. <b>PROJECT DOCUMENTS</b></p> <p>Execution of all Project Documents and Station Project Documents, other than:</p> <ul style="list-style-type: none"> <li>(a) the Development Lot Sale Contracts;</li> <li>(b) each Follow-on Contractor Cooperation and Integration Deed;</li> <li>(c) each Follow-on Contractor Cooperation and Integration Deed (as that term is defined in the Station Delivery Deed);</li> <li>(d) the Retail Lease (as defined in the Station Delivery Deed);</li> <li>(e) the IDAR Panel Agreement;</li> <li>(f) the Collateral Warranty Deed Poll (as defined in the Station Delivery Deed);</li> <li>(g) the Call Option Deeds;</li> <li>(h) the Independent Certifier's Deed (as defined in the Station Delivery Deed); and</li> <li>(i) the Master Interface Protocols Deed Poll (as defined in the Station Delivery Deed),</li> </ul> <p>and the satisfaction or waiver of all conditions precedent to those Project Documents and Station Project Documents (other than any condition precedent that requires the satisfaction or waiver of the conditions precedent to this deed).</p>	<p>The Principal and Macquarie</p>
<p>2. <b>MACQUARIE'S INSURANCE POLICIES</b></p> <p>The Insurances referred to in clause 30.3 of this deed being effected in the form required by this deed or as otherwise agreed by the Principal and the certificates of currency being provided to the Principal.</p>	<p>The Principal</p>

Conditions Precedent	Benefiting Party
<p>3. <b>PRINCIPAL'S INSURANCE POLICIES</b></p> <p>The Insurances referred to in clause 30.2 of this deed being effected in the form of the wording:</p> <ul style="list-style-type: none"><li>(a) set out in Schedule E3; or</li><li>(b) as otherwise agreed by Macquarie and Macquarie being provided with the final amended policy document/endorsement (as applicable) incorporating the agreed amendment,</li></ul> <p>and the certificates of currency being provided to Macquarie.</p>	Macquarie
<p>4. <b>SSD APPROVAL</b></p> <p>The Principal receiving evidence that Macquarie has lodged the Stage 2 Application.</p>	The Principal and Macquarie

**PART B – Unacceptable Consent Conditions**

**1. Unacceptable Consent Conditions**

The Principal and Macquarie acknowledge that where a Development Consent is issued with conditions attached, any such condition (or conditions) will, subject to clause 2 of part B of this Schedule A1, constitute an Unacceptable Consent Condition, to the extent that the condition (or conditions):

- (a) results in or may result in Macquarie being unable to comply with the OSD Design Parameters; or
- (b) results in a Metro Impact.

**2. Excluded conditions**

The Principal and Macquarie acknowledge that the following conditions will not at any time constitute Unacceptable Consent Conditions:

- (a) any condition requiring compliance with any Law, regulation, standard, code, policy or approving Authority requirement which reflects or establishes standard industry practice, current at the date of lodgement of any Development Application with the Consent Authority; or
- (b) any condition relating to the manner of the carrying out of the OSD Works which Macquarie has accepted by reason of the Stage 1 Application or Stage 2 Application.

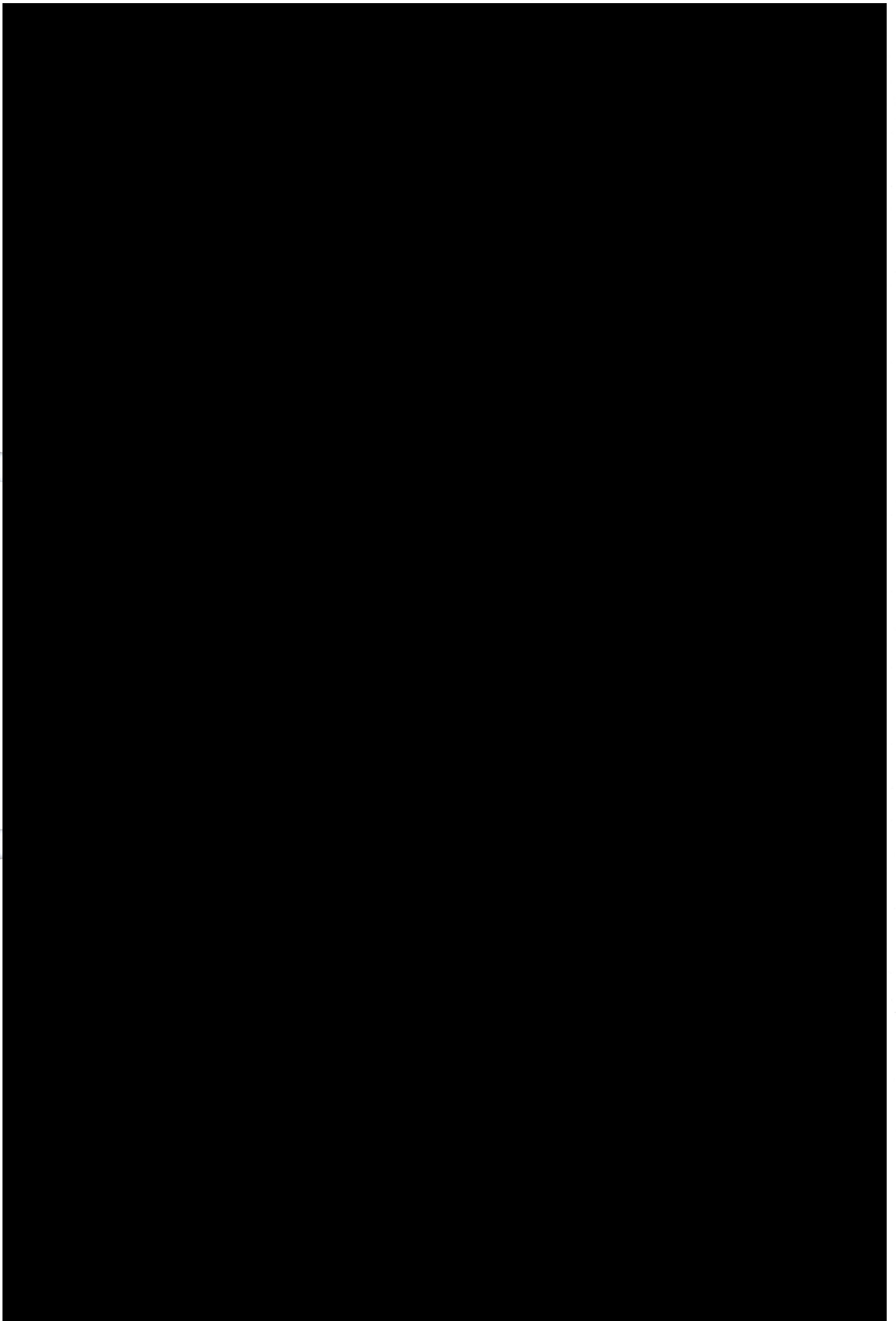
**3. Procedure for Unacceptable Consent Conditions**

- (a) Macquarie must, as soon as practicable, notify the Principal's Representative of the outcome of the course of action it was required to undertake pursuant to clause 5.7(e).
- (b) The Principal's Representative must, within 20 Business Days after receipt of Macquarie's notice under clause 3(a) of part B of this Schedule A1, notify Macquarie whether:
  - (i) it considers that the Development Consent does not contain any Unacceptable Consent Conditions; or
  - (ii) it considers that the Development Consent contains an Unacceptable Consent Condition.
- (c) If the effect of the Principal's Representative's notice pursuant to clause 3(b) of part B of this Schedule A1 is that:
  - (i) the Principal considers (or it is determined under clause 40) that the Development Consent does not contain any Unacceptable Consent Conditions, the Development Consent is considered to be an Acceptable Development Consent on the date of the Principal's Representative's notice under clause 3(b)(i) of part B of this Schedule A1 (or on the date of determination of any dispute resolution proceedings); or
  - (ii) the Principal considers (or it is determined under clause 40) that the Development Consent contains an Unacceptable Consent Condition, the Executive Negotiators must meet and discuss in good faith the resolution of any Unacceptable Consent Conditions.

**SCHEDULE A2  
Agreed OSD Program Dates Schedule**

<b>Item</b>	
1.	<b>Core Payment 1 Instalment 1 Date</b>
2.	<b>Core Payment 1 Instalment 2 Date</b>
3.	<b>Core Payment 1 Instalment 3 Date</b>
4.	<b>Date for Practical Completion</b>
5.	<b>Development Lots Title Transfer Date</b>
6.	<b>Date for Practical Completion (Payment)</b>

**SCHEDULE A3  
Macquarie Group Structure**





**SCHEDULE A4  
Green Star Requirements**

Macquarie must ensure that the OSD Works are designed to achieve a rating of 6 Stars under the Green Star version 1.1 rating system.

**SCHEDULE A5**

**Not used**

**SCHEDULE A6**  
**Project Plan Requirements**

1. **GENERAL**

1.1 **Definitions**

In this Schedule A6:

**Codes and Standards** means the codes, standards, specifications and guidelines referred to in section 3.2 of the SWTC.

**Station Project Works** has the meaning given to the term "Station Works" in the Station Delivery Deed.

**Station Project Plan** has the meaning given to the term "Project Plan" in the Station Delivery Deed.

1.2 **General requirements**

- (a) Each Project Plan must contain, as a minimum, the contents specified in the relevant sections of this Schedule A6.
- (b) Where content requirements overlap between Project Plans, Macquarie may avoid duplication by cross referencing.
- (c) Where this Schedule A6 requires the same Project Plan to be produced as a Development Consent or other relevant Approval does, a single Project Plan is to be provided which complies with all requirements.
- (d) All Project Plans must describe their interface with other Project Plans.
- (e) The Construction and Site Management Plan must be produced separately. Otherwise Project Plans may be combined for convenience.
- (f) The Principal's Representative may review each Project Plan and, within 10 Business Days following submission of the Project Plan to the Principal's Representative, determine whether the Project Plan complies with the requirements of this Schedule A6 and if the Project Plan does not comply with the requirements of this Schedule A6 (Minor Non-Compliances excepted), notify Macquarie that the Project Plan has been rejected and specify the non-compliances with detailed reasons.
- (g) If any Project Plan does not comply with the requirements of this Schedule A6 or Macquarie has not updated any Project Plan in accordance with the requirements of this Schedule A6, the Principal's Representative may by written notice direct Macquarie to amend or update the Project Plan specifying:
  - (i) the reasons why such amendment or update is required (or why the Project Plan does not comply with this Schedule A6); and
  - (ii) the time within which such updating must occur (which must be reasonable, having regard to the amount of work required),and Macquarie must comply with such direction.
- (h) Each Project Plan that is amended or updated in accordance with clause 1.2 of this Schedule A6 must be submitted by Macquarie to the Principal's Representative for review in accordance with this clause 1.2 of Schedule A6.

- (i) If Macquarie receives a notice in accordance with clause 1.2(f) of this Schedule A6, Macquarie must, within 10 Business Days, submit a revised Project Plan to the Principal's Representative which complies with the requirements of this Schedule A6 whereupon the provisions of this Schedule A6 will reapply to the revised Project Plan or affected plans (as applicable).
- (j) If the Principal's Representative notifies Macquarie of any Minor Non-Compliances:
  - (i) the Principal's Representative may recommend an action that may be taken by Macquarie to address the Minor Non-Compliances; and
  - (ii) Macquarie must complete the recommended action, or take any other action Macquarie deems reasonable in the circumstances to correct the Minor Non-Compliances to the extent required for that Project Plan to comply with this Schedule A6, within the time frame (if any) specified by the Principal's Representative (as applicable).
- (k) If the Principal's Representative does not give Macquarie a notice pursuant to and within the time period referred to in clause 1.2(f) of this Schedule A6, the Principal is deemed to have not rejected the relevant Project Plan.

**2. PART A - PROJECT PLAN REQUIREMENTS PRIOR TO THE STATION DATE OF COMPLETION**

**2.1 Project Plan submission**

- (a) Until the Station Date of Completion the Construction and Site Management Plan must be prepared in accordance with the times set out in Table 1, and comply with the requirements, set out in Appendix 54 of the SWTC for the Station Project Works, as applicable to the OSD Works.
- (b) The Project Health and Safety Management Plan must be prepared in accordance with the times set out in Table 1, and comply with the requirements set out in the Sydney Metro Principal Contractor Health and Safety Requirements.
- (c) Until Martin Place Metro Station operational commencement, the Community Communications Strategy must be prepared in accordance with the times set out in Table 1, and comply with the requirements set out in Appendix 54 of the SWTC for the Station Project Works, as applicable to the OSD Works.
- (d) The content requirements for the OSD Works must be detailed out separately but can be contained in a single Project Plan with the Station Project Plan for the Station Project Works required to be prepared by the Station Developer under the Station Delivery Deed.

**2.2 Table 1 Project Plans prior to the Station Date of Completion**

<b>Ref</b>	<b>Project Plan</b>	<b>Project Plan submission date</b>	<b>Update frequency</b>
1.	Project Health and Safety Management Plan	20 Business Days from the date of the deed	Annually until the Last Date of Practical Completion or following a significant change
2.	Construction and Site Management Plan	30 Business Days from the date of the deed	Annually until the Last Date of Practical Completion or following a significant change
3.	Community Communications	30 Business Days	Every six months until the Last

Ref	Project Plan	Project Plan submission date	Update frequency
	Strategy	from the date of the deed	Date of Practical Completion or following a significant change

**3. PART B - PROJECT PLAN REQUIREMENTS AFTER THE STATION DATE OF COMPLETION**

**3.1 Project Plan submission and update**

- (a) All Project Plans identified in Table 2 must be submitted and updated:
  - (i) in accordance with the times set out in Table 2 of this Schedule A6;
  - (ii) where reasonably requested or required by the Principal's Representative or any Authority; and
  - (iii) when a significant change to a methodology has occurred.
- (b) The Project Plans must be progressively reviewed, monitored, amended and updated. Macquarie's reviews of the Project Plans must regularly reassess their applicability, suitability and effectiveness for managing the OSD Works taking into account:
  - (i) status and progress of the OSD Works;
  - (ii) changes to the OSD Works;
  - (iii) lessons learnt during the design and/or delivery phases and activities;
  - (iv) changes in other related Project Plans including relevant Station Project Plans under the Station Delivery Deed;
  - (v) requirements and matters that are not covered by the existing Project Plans;
  - (vi) changes to the Project Plans as requested by the Principal's Representative;
  - (vii) changes in Law;
  - (viii) the commencement of new phases or stages of design, construction, testing or commissioning;
  - (ix) any direction given by the Principal's Representative under this deed; and
  - (x) any breach or potential breach of the warranty under this deed.

**3.2 Table 2 Project Plans after the Station Date of Completion**

Ref	Project Plan	Project Plan submission date	Update frequency
1.	Project Health and Safety Management Plan	40 Business Days prior to the Station Date of Completion	Annually until the Last Date of Practical Completion or following a significant change

Ref	Project Plan	Project Plan submission date	Update frequency
2.	Construction and Site Management Plan	40 Business Days prior to the Station Date of Completion	Annually until the Last Date of Practical Completion or following a significant change
3.	Community Communications Strategy	40 Business Days prior to the Station Date of Completion	Every six months until the Last Date of Practical Completion or following a significant change
4.	Condition and Dilapidation Survey	Prior to the Last Date of Practical Completion	N/A
5.	Interim Design and Presentation Plan	As required	As required

### 3.3 Project Health and Safety Management Plan

- (a) Macquarie must develop, implement and maintain a Project Health and Safety Management Plan (**PHSMP**) that complies with and demonstrates compliance with the requirements of:
- (i) the WHS Legislation;
  - (ii) the Heavy Vehicle National Law;
  - (iii) the Rail Safety National Law;
  - (iv) other relevant Codes and Standards;
  - (v) the latest versions of the New South Wales Government Work Health & Safety Management Systems and Auditing Guidelines;
  - (vi) the latest version of the Office of the Federal Safety Commissioner’s Audit Criteria Guidelines;
  - (vii) the Sydney Metro Principal Contractor Health and Safety Requirements; and
  - (viii) relevant requirements imposed on Macquarie through the deed.
- (b) The PHSMP must also cover as a minimum the following safety-related topics:
- (i) safety action plan;
  - (ii) risk management;
  - (iii) occupational health, hygiene and wellness;
  - (iv) chain of responsibility;
  - (v) traffic management;
  - (vi) security management;
  - (vii) interface management;
  - (viii) Subcontractor safety management; and

- (ix) emergency and crisis management.

**3.4 Construction and Site Management Plan**

The Construction and Site Management Plan must describe the procedures and processes that Macquarie will undertake to plan and execute the OSD Works, demonstrating how Macquarie will avoid Metro Impacts and must:

- (a) detail how Macquarie will comply with its obligations under the deed in relation to the control, establishment, security, use and rehabilitation of the Construction Site;
- (b) determine effective construction staging that will ensure that Martin Place Metro Station and rail operations and the associated transport facilities' operational requirements are maintained and impact to these operations is minimised and managed accordingly during construction of the OSD Works; and
- (c) address the management of interfaces with all Authorities, Rail Contractors and other stakeholders including:
  - (i) work implications and applicable construction methodologies; and
  - (ii) outline an incident reporting procedure and crisis management procedures with reference to the deed.

**3.5 Community Communications Strategy**

Macquarie must develop, implement and maintain the Community Communications Strategy – Martin Place, which must comply with, and include all requirements of the Sydney Metro Overarching Community Communications Strategy and detail processes and procedures, for:

- (a) handling complaints and enquiries;
- (b) handling of media and government enquiries; and
- (c) incident and crisis communication management and reporting.

**3.6 Not used**

**3.7 Not used**

**3.8 Condition and dilapidation survey**

Prior to the Last Date of Practical Completion a condition and dilapidation survey is required for Martin Place Metro Station.

**3.9 Interim Design and Presentation Plan**

- (a) Macquarie must produce an Interim Design and Presentation Plan if requested by the Principal's Representative in the event of a delay to the completion of the OSD Works impacting on the operation of the Martin Place Metro Station.
- (b) The Interim Design and Presentation Plan must cover Macquarie's approach to the following:
  - (i) Customer queue zones;
  - (ii) pedestrian modelling results and diagrams showing Level of Service heat maps;
  - (iii) weather protection and stormwater drainage;

- (iv) wayfinding and signage;
- (v) lighting (all MEP services);
- (vi) ventilation;
- (vii) hoarding design at interface areas of construction sites with station operational areas must demonstrate any potential impacts to Sydney Metro operations; and
- (viii) visibility and legibility of entrances and station entries including important sightlines to entries.



**SCHEDULE A7  
Early Occupation Licence**

1. **INTERPRETATION**

1.1 **Terms defined in deed**

Unless defined in clause 1.2, capitalised terms which are used in this Licence have the meaning set out in clause 1.1 of this deed.

1.2 **Definitions**

The following definitions apply in this Licence:

**Commencing Date** means the date on which Macquarie issues the Certificate of Early Occupation Area Practical Completion in respect of the Early Occupation Area.

**Early Occupation Area** means the relevant Early Occupation Area identified in Macquarie's notice pursuant to clause 22(b) of this deed.

**Licence** means the non-exclusive licence to occupy the Early Occupation Area granted by the Principal to Macquarie under this deed on the terms set out in this schedule.

**Licence Fee** means the amount of [REDACTED]

**Term** means the term beginning on the Commencing Date and ending on the Terminating Date.

**Terminating Date** means the earlier of:

- (a) termination of this deed; and
- (b) the date of completion of the Development Lot Sale Contract of the relevant Development Lot that contains the Early Occupation Area.

1.3 **Interpretation**

- (a) Clauses 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.
- (b) The parties acknowledge that references in this deed to:
  - (i) the Construction Site include the Early Occupation Area under this Licence; and
  - (ii) the deed includes this Licence.

2. **GRANT OF LICENCE**

2.1 **Licence**

The Principal grants to Macquarie and Macquarie accepts a non-exclusive licence to occupy the Early Occupation Area for the Term.

2.2 **Licence Fee**

- (a) Macquarie must pay the Principal the Licence Fee when demanded.
- (b) The parties agree that the Licence Fee is not subject to any licence fee review during the Term.

**2.3 Nature of Licence**

- (a) The Licence is personal to Macquarie, subject to the terms of this Licence.
- (b) The Principal agrees that Macquarie may permit Macquarie's Associates (and its Related Body Corporate) and Macquarie's sublicensees (**Occupant**) to occupy the Early Occupation Area provided they comply with the terms of this Licence.
- (c) Nothing in this Licence:
  - (i) confers on Macquarie or any of Macquarie's Associates (including its Related Body Corporate) and Macquarie's sublicensees any rights as a tenant of the Early Occupation Area or any interest or entitlement in the Early Occupation Area; or
  - (ii) creates the relationship of landlord and tenant between the parties.
- (d) Subject to clause 2.3(e), Macquarie acknowledges that the Principal and the Principal's Associates will be entitled to enter the Early Occupation Area in accordance with clause 35 of this deed.
- (e) The Principal must, when exercising its right under clause 35 of this deed:
  - (i) do so (and must ensure that any person authorised by the Principal does so) in a manner that does not interfere with the Occupant's use of the Early Occupation Area; and
  - (ii) be accompanied (or ensure that the Principal's Associates be accompanied) by a representative of the relevant Occupant (unless the Occupant fails to make a representative available at the time specified in the Principal's notice under clause 35.1(b)(i) of this deed).

**3. LICENSEE'S OBLIGATIONS**

**3.1 General obligations**

During the Term, Macquarie must:

- (a) use the Early Occupation Area for the purposes of commercial offices (and related fitout of the commercial offices), food and beverage outlets and other retail purposes only, and comply with all laws relating to the Early Occupation Area and its use;
- (b) keep the relevant parts of the Early Occupation Area at all times in a clean, tidy and good condition and repair;
- (c) pay all costs which are required to be paid under the Building Management Statement in respect of the Early Occupation Area during the Term;
- (d) pay or reimburse to the Principal within 20 Business Days after demand all Taxes and Outgoings imposed by any Authority in connection with the Early Occupation Area;
- (e) subject to clause 2.3(e), allow the Principal or the Principal's Associates to enter and inspect the Early Occupation Area in accordance with clause 35 of this deed; and

- (f) comply with the Building Management Statement in respect of the Early Occupation Area during the Term as though it were the owner of the freehold interest in respect of the Early Occupation Area.

**3.2 Prohibitions on Macquarie**

Macquarie must not until completion of the Development Lot Sale Contract:

- (a) subject to the terms of this deed, make any change or structural alteration or addition to the Early Occupation Area other than in undertaking internal fitout of the Early Occupation Area to permit the use of the Early Occupation Area as commercial premises;
- (b) damage the Early Occupation Area or any thing on the Early Occupation Area or injure any person in or around the Early Occupation Area;
- (c) cause any Contamination, Pollution or Environmental damage in the Early Occupation Area; or
- (d) store any thing in the Early Occupation Area which is dangerous, explosive or could increase the risk of fire in the Early Occupation Area unless permitted pursuant to an Approval or in accordance with all relevant Laws.

**4. RISK AND LIABILITY**

**4.1 Macquarie's risk**

Macquarie:

- (a) uses and occupies the Early Occupation Area and carries out all work in the Early Occupation Area at its own risk; and
- (b) assumes all responsibilities in relation to persons and property, including Macquarie's Associates and Macquarie's sublicensees, and otherwise as if it were the owner of the freehold interest in respect of the Early Occupation Area.

**4.2 Indemnity and release**

The provisions of clause 31 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**4.3 Insurance**

The provisions of clause 30 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**4.4 Public and products liability insurance**

- (a) In addition to any insurances Macquarie is required to effect pursuant to clause 30 of this deed, Macquarie must during the Term also effect and maintain, or cause to be effected and maintained, an insurance policy covering public and products liability for not less than [REDACTED] for a single claim, other than products liability which is limited in the aggregate.
- (b) The insurance which Macquarie is required to effect under this Licence:
  - (i) must be taken out with a reputable insurer being not less than the equivalent of a Standard and Poors A- rating or equivalent rating with another rating agency;

- (ii) must be on terms typical for insurances of their types in the Australian insurance market;
  - (iii) are to be maintained during the Term; and
  - (iv) must comply with all relevant Laws.
- (c) In respect of the insurance which Macquarie is required to effect under this Licence, Macquarie must:
- (i) ensure that all premiums and other amounts payable are paid on or before the due date;
  - (ii) give the Principal a copy of the certificate of currency:
    - (A) before the Commencing Date;
    - (B) within 1 month after the renewal of the policy (as applicable); and
    - (C) at any other time requested by the Principal (acting reasonably) which must not exceed once every 12 months; and
  - (iii) make the policies available for inspection by the Principal and/or its insurance broker in an office located in Sydney provided that the Principal and/or its insurance broker must be in the presence of a representative of Macquarie (that Macquarie must make available within 3 Business Days of the Principal's request) and the Principal and/or its insurance broker must not photocopy or reproduce the policies.
- (d) Despite any other provision of this schedule, the Principal acknowledges and agrees that Macquarie may effect the insurance required under this Licence under a global or blanket insurance policy that is in the name of Macquarie or a Related Entity of Macquarie provided that:
- (i) the insurance policy:
    - (A) covers liability for not less than [REDACTED] for a single claim, other than products insurance liability which is limited in the aggregate; and
    - (B) has a full severability clause; and
  - (ii) Macquarie otherwise satisfies clauses 4.4(a) and 4.4(b) of this schedule.

**5. DEFAULT**

**5.1 The Principal may remedy breach**

- (a) If Macquarie does not comply with any term of this Licence then, without affecting any other right of the Principal, the Principal may, after providing 20 Business Days' written notice to Macquarie, remedy Macquarie's non-compliance at Macquarie's cost.
- (b) The Principal will be entitled to recover its reasonable Costs and expenses for any action taken pursuant to clause 5.1(a) as a debt due and payable from Macquarie to the Principal.

6. **GENERAL**

6.1 **Disputes**

The parties agree that any Dispute in relation to this Licence will be resolved in accordance with clause 40 of this deed.

6.2 **Permission to sub-licence**

The Principal consents to Macquarie entering into a sublicense of this Licence provided that:

- (a) the sublicensee agrees not to do anything which will result in Macquarie and Macquarie's Associates (including its Related Body Corporate) being in breach of this Licence; and
- (b) the sublicense terminates on the termination of this Licence.

6.3 **GST**

The provisions of clause 47 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

6.4 **Notices**

The provisions of clause 48 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

6.5 **General**

The provisions of clause 49 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

6.6 **Interdependency**

The parties acknowledge and agree that if this deed is terminated or comes to an end, this Licence will automatically terminate.

**SCHEDULE A8  
Requirements of Approved Engineer**

**PART A – Approved Engineer Requirements**

The following are the minimum required qualifications, experience and expertise that must be possessed by the Approved Engineer:

- (a) demonstrated experience in the design of works similar to the OSD Support Works and the OSD Works that are required to be designed under the terms of the Station Delivery Deed and under this deed respectively;
- (b) 12 years' experience and proven ability in structural analysis and design of works similar to the OSD Support Works and the OSD Works that are required to be designed under the terms of the Station Delivery Deed and this deed respectively;
- (c) Quality Management System 3rd party certified to AS/NZS ISO 9001;
- (d) range of suitable structural analysis and CAD software;
- (e) be a Chartered Engineer registered with the Institute of Engineers Australia, and with qualifications admitting to MIEAust and National Professional Engineers Register;
- (f) knowledge of Australian Standards applicable to the OSD Support Works and the OSD Works that are required to be designed under the terms of the Station Delivery Deed and this deed respectively; and
- (g) at least 5 years' experience in undertaking the checking of works design in the past 10 years.

**Part B – Approved Engineer's Certificate (Pre Commencement)**

**Approved Engineer's Certificate (Pre Commencement) 18.2(c)(i)**

To: The Principal's Representative and Macquarie  
Cc: [insert]  
From: [Approved Engineer] ABN [ ]

This certificate is given in accordance with the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: [507]) entered into between the Principal and Macquarie on or about [insert] (OSD PDA). Words defined in the OSD PDA have the same meaning in this certificate.

In accordance with the terms of clause 18.2(c)(i) of the OSD PDA, we hereby certify that the OSD Works for Separable Portion [insert] as shown in the Final Plans and Specifications:

- (a) will not exceed the structural limitations of the OSD Support Works for Separable Portion [insert] during construction and on Practical Completion; and
- (b) is within the engineering capacity of the OSD Support Works for Separable Portion [insert].

.....

Signed for and on behalf of  
[Approved Engineer]

**PART C – Approved Engineer's Certificate (Post Completion)**

**Approved Engineer's Certificate (Post Completion)**

18.2(c)(ii)

To: The Principal's Representative and Macquarie  
Cc: [insert]  
From: [Approved Engineer] ABN [ ]

This certificate is given in accordance with the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between the Principal and Macquarie on or about [insert] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this certificate.

In accordance with the terms of clause 18.2(c)(ii) of the OSD PDA, we hereby certify, based on the information provided or otherwise made available to us in accordance with the OSD PDA, that [the North Tower OSD/ South Tower OSD]:

- (a) does not exceed the structural limitations of the OSD Support Works for Separable Portion [insert]; and
- (b) has been constructed otherwise within the engineering capacity of the OSD Support Works for Separable Portion [insert],

except for the following Minor Non-Compliances.

**[insert details of Minor Non-Compliances]**

.....  
Signed for and on behalf of  
[Approved Engineer]



**SCHEDULE A9  
Moral Rights Consent**

**Moral Rights Consent**

In relation to any Moral Rights the [Author] (Author) has in respect of [*specify the relevant copyright work(s) – eg. the relevant architectural plans*] (Copyright Works), the Author hereby unconditionally and irrevocably waives all of his / her Moral Rights in the Copyright Works and consents to:

- Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**);
- Sydney Metro ABN 12 354 063 515 (**Principal**);
- Lendlease Building Pty Limited ABN 97 000 098 162 (**Contractor**);
- Skylight Dev Co Pty Limited ABN 43 627 172 445 (**DevCo**); [*Drafting note: delete all references to DevCo from this schedule if the Moral Rights Consent is in relation to the North Tower Lot.*]
- Macquarie Bank Limited ABN 46 008 583 542 (**MBL**); and [*Drafting note: delete all references to MBL from this schedule if the Moral Rights Consent is in relation to the South Tower Lot.*]
- Skylight ST Pty Limited as trustee for the Skylight South Tower Sub Trust ABN 83 706 249 544 (**ST Owner**), [*Drafting note: delete all references to ST Owner from this schedule if the Moral Rights Consent is in relation to the North Tower Lot.*]

doing or authorising the doing of the following acts or making or authorising the making of the following omissions (whether occurring before or after this consent is given) anywhere in the world:

- (a) exercise any rights in relation to the Copyright Works, without identifying the Author as the individual responsible for creating any particular material comprising the Copyright Works;
- (b) have the Copyright Works bear the name of [*to be completed*] or such other address of that property, or bear the name of Macquarie, the Principal, the Contractor, [[MBL] or [DevCo and the ST Owner]] or any other person associated with the project (**Names**); and
- (c) modify, alter, adapt, distort or otherwise change any of the Copyright Works as it sees fit in its absolute discretion (**Modified Works**), including:
  - (i) by adapting or translating those Copyright Works into other dimensions, format or media; and
  - (ii) by changing, relocating, demolishing or destroying any two or three dimensional reproduction of those Copyright Works without notice to, or consultation with, the Author,

and exercising any rights in relation to the Modified Works without identifying the Author as the individual responsible for creating any particular material comprising the Modified Works, or having the Modified Works bear a Name.

The Author acknowledges that these consents are given for the benefit of Macquarie, the Principal, the Contractor, [[MBL] or [DevCo and the ST Owner]], their licensees, successors in title and anyone authorised by any of them to do acts comprised in the copyright of the Copyright Works.

**Execution version**

The Author must not institute, maintain or support any claim or proceeding for infringement of any of the Moral Rights that the Author has waived or that may otherwise result from any act or omission to which the Author has consented.

The Author acknowledges that Macquarie, the Principal, the Contractor, [[MBL] or [DevCo and the ST Owner]] will be relying on the consents in this document and that those consents are intended to be legally binding.

**Dated**

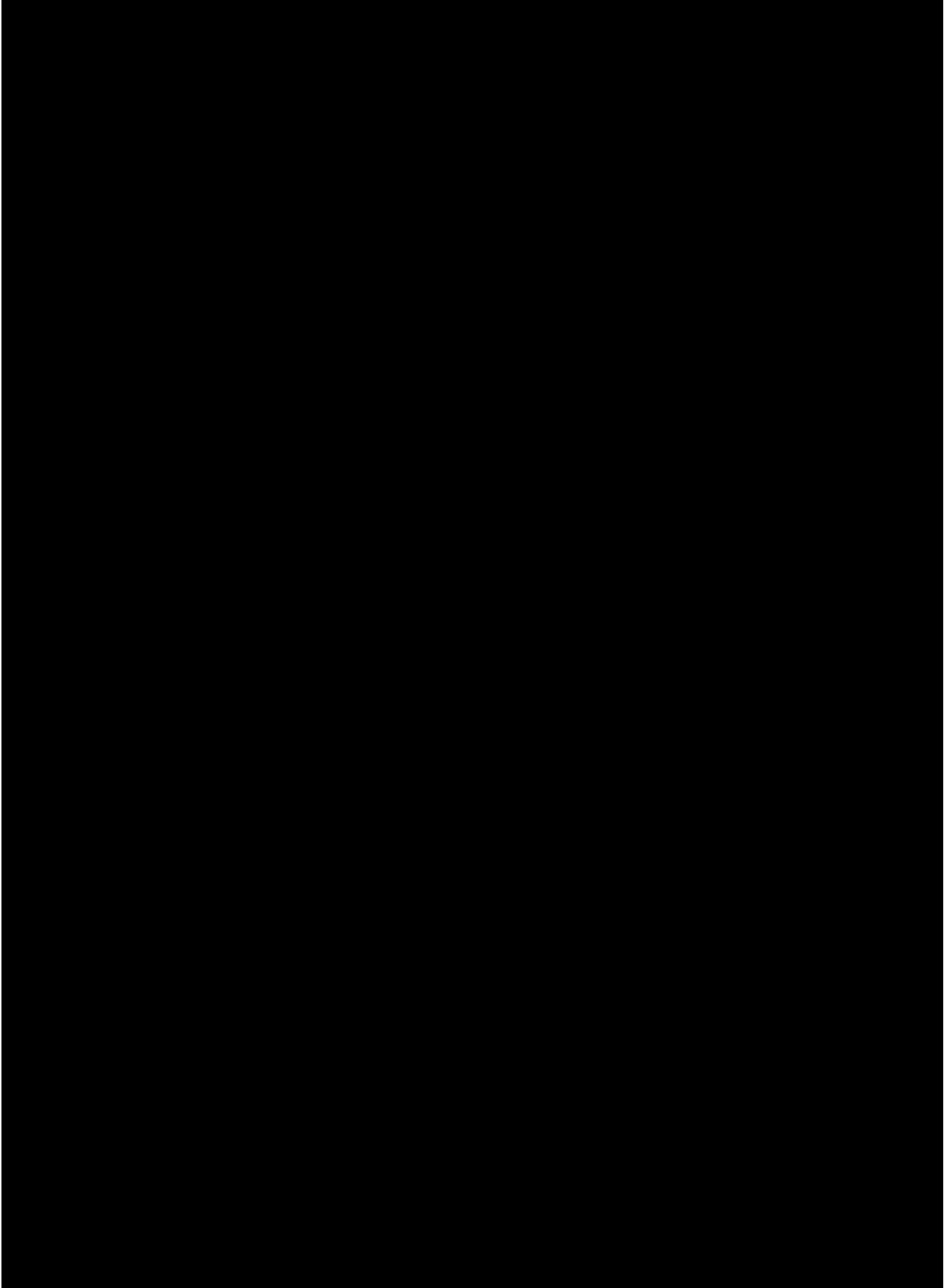
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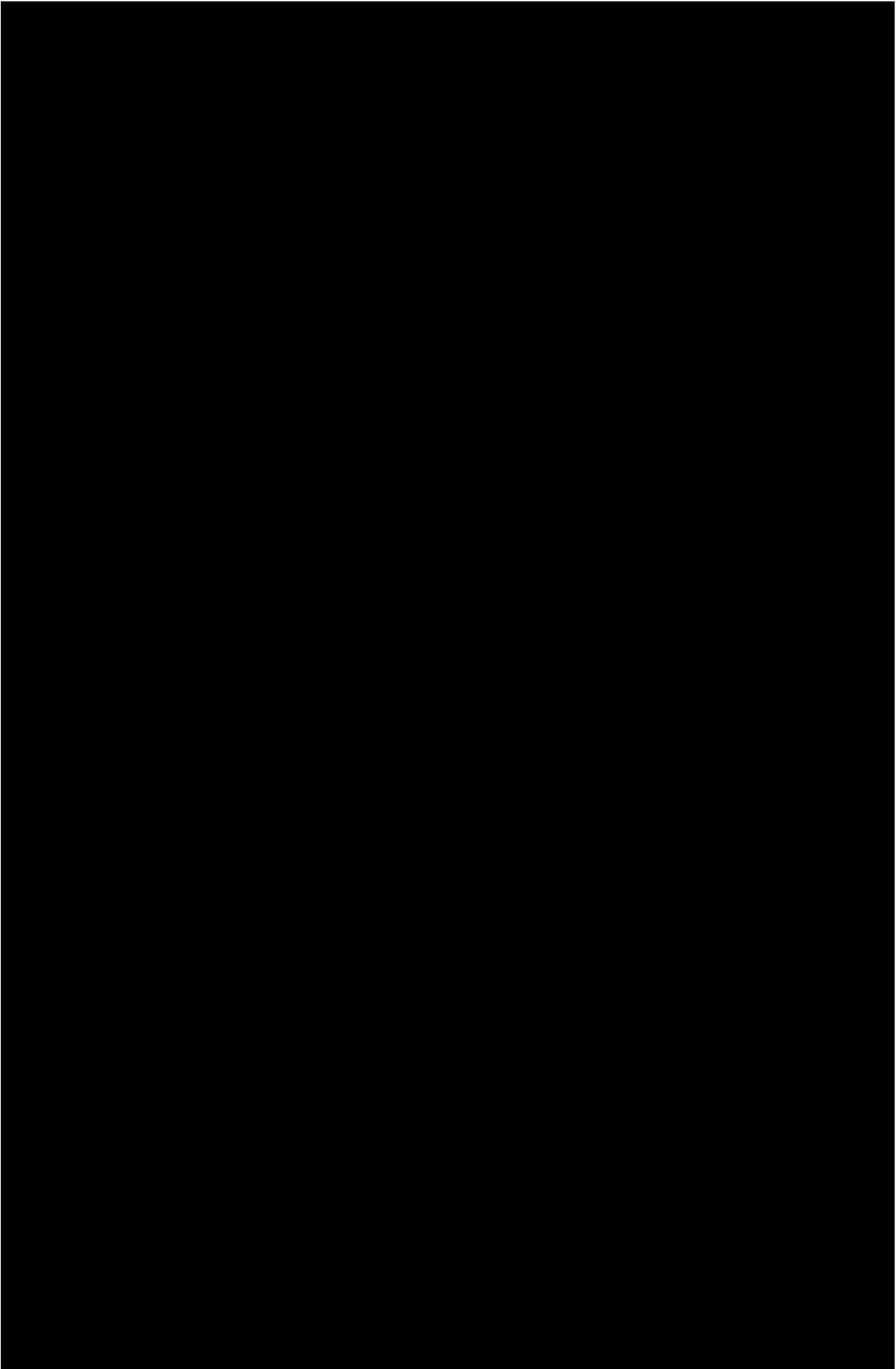
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Signature

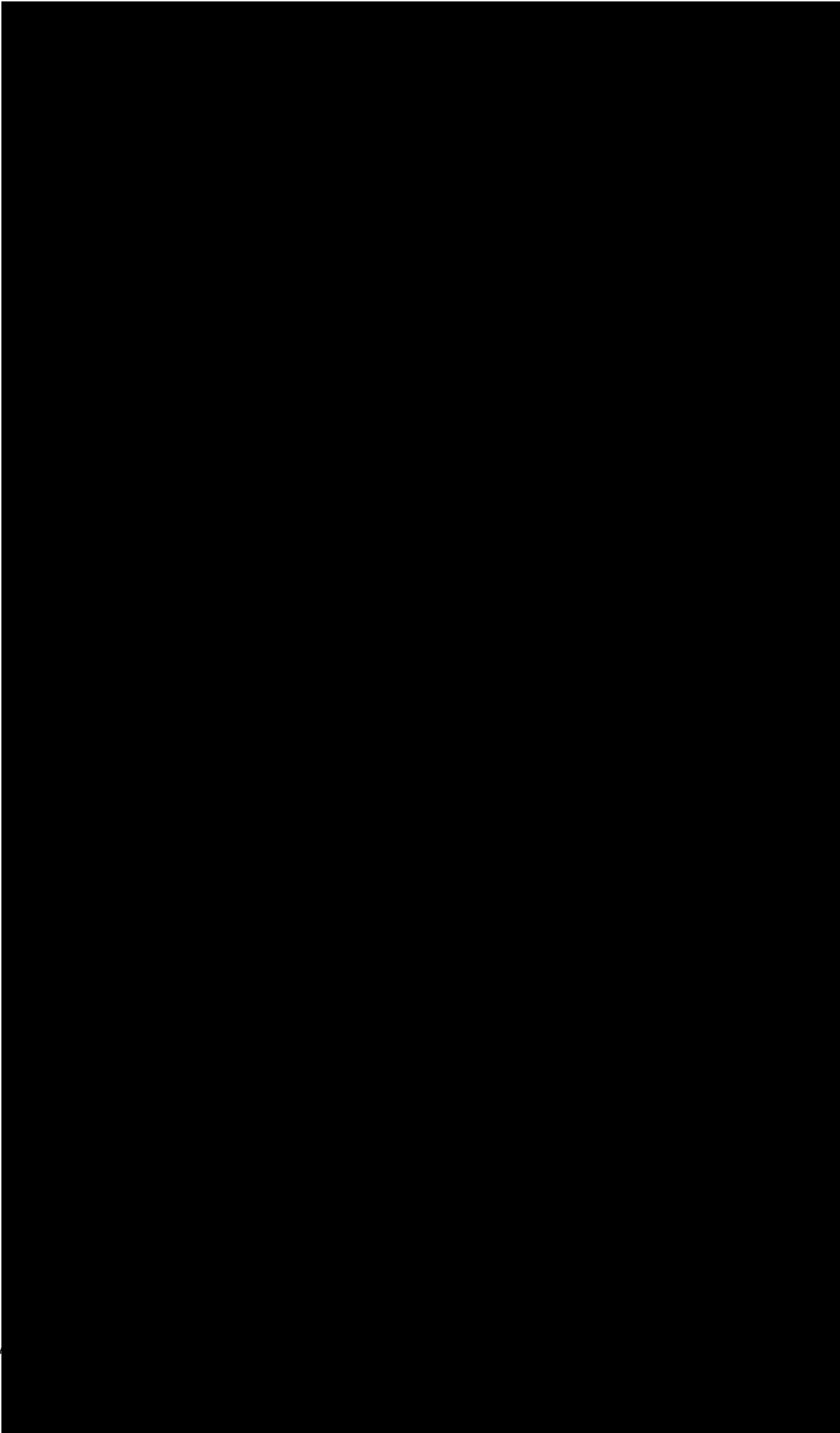
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Signature of witness

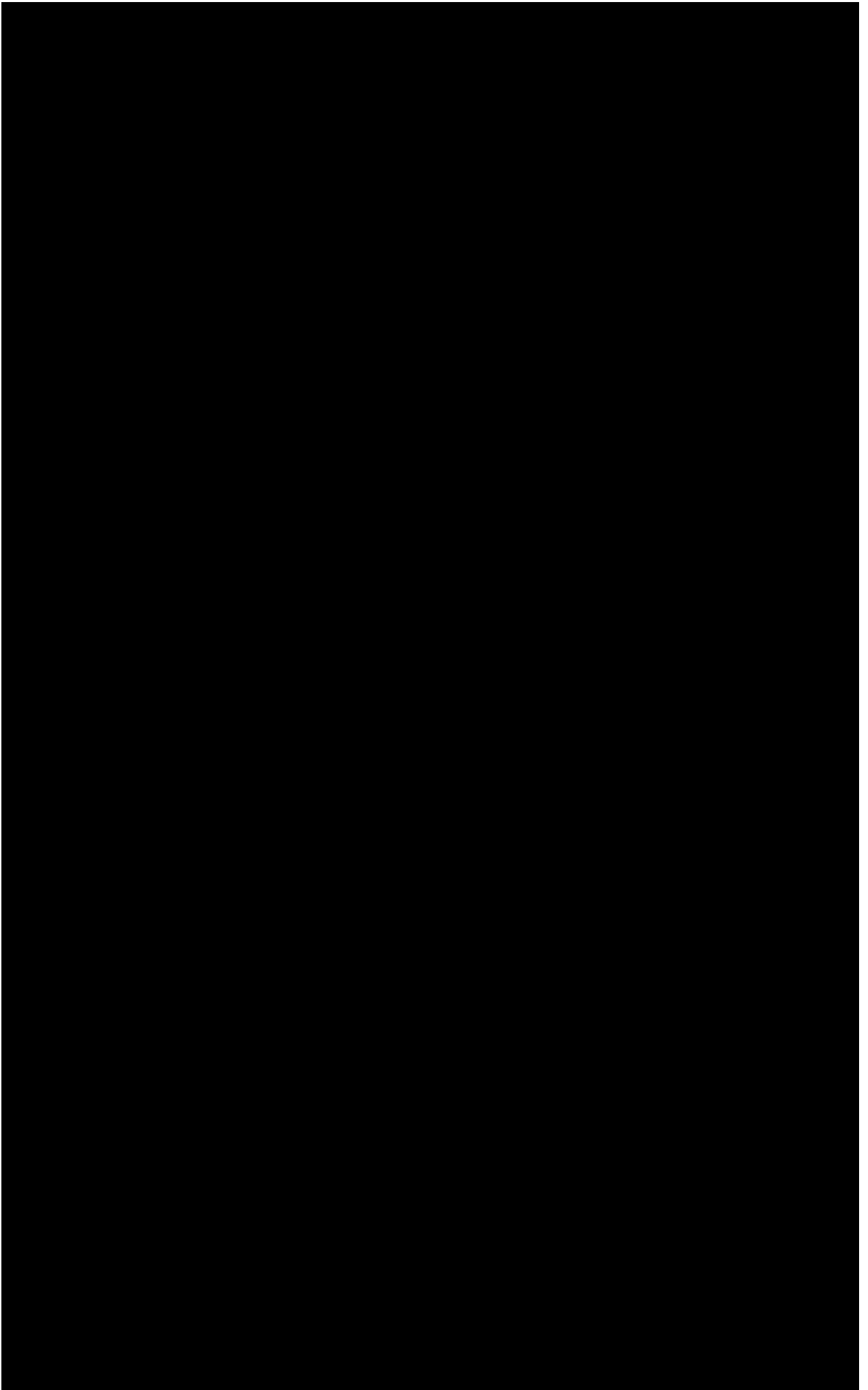
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Name of witness in full

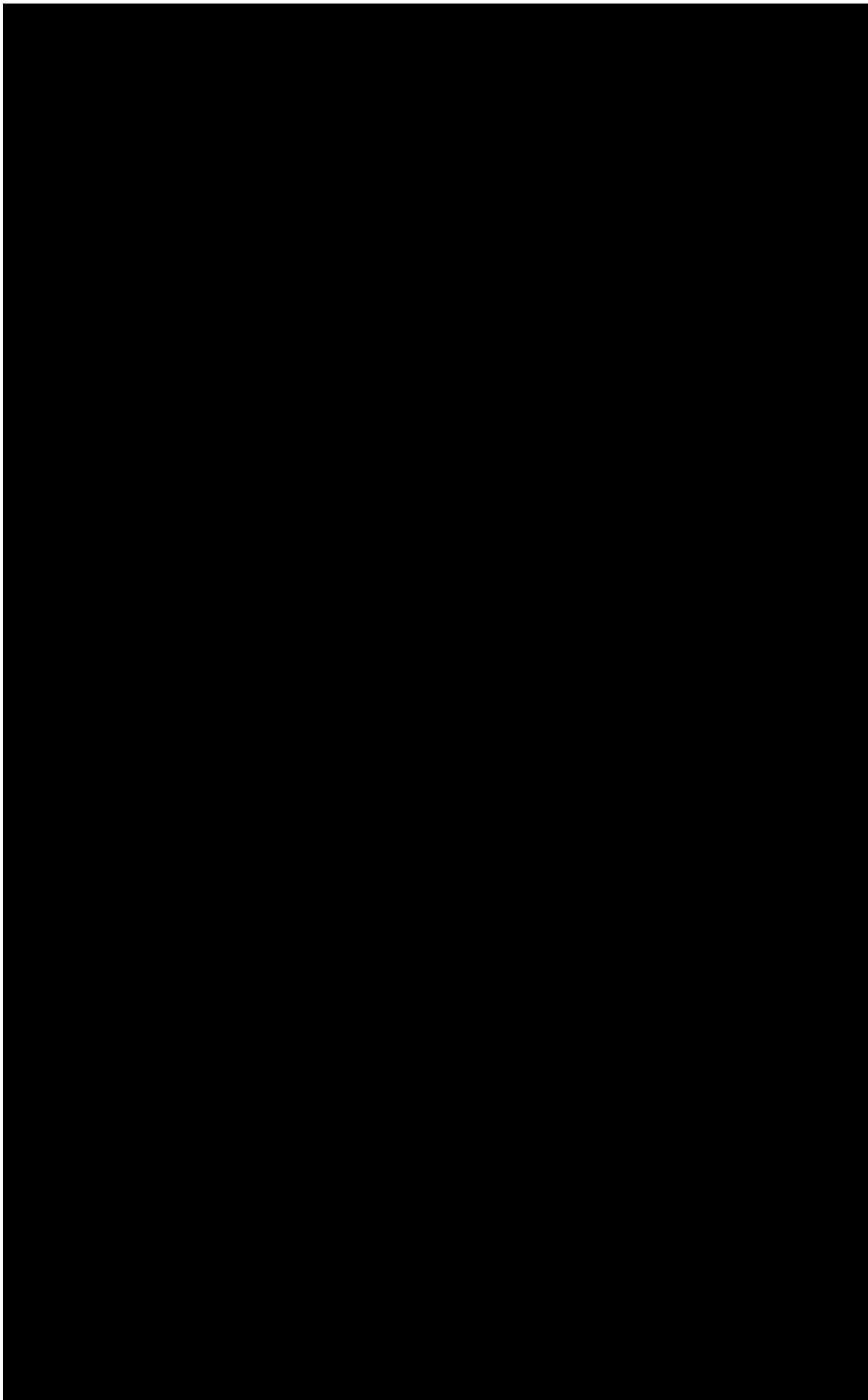
**SCHEDULE A10**  
**Follow-on Contractor Cooperation and Integration Deed**

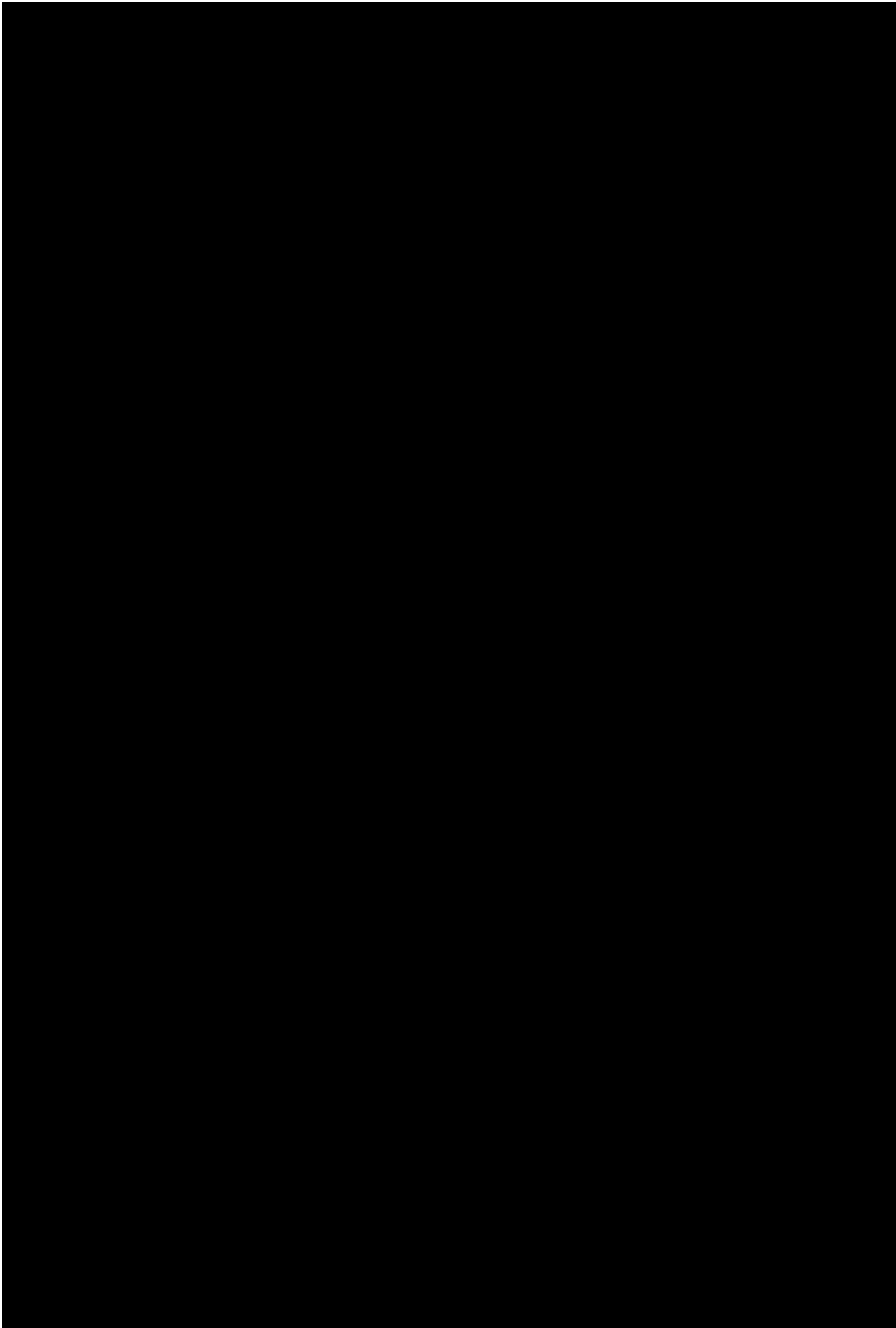




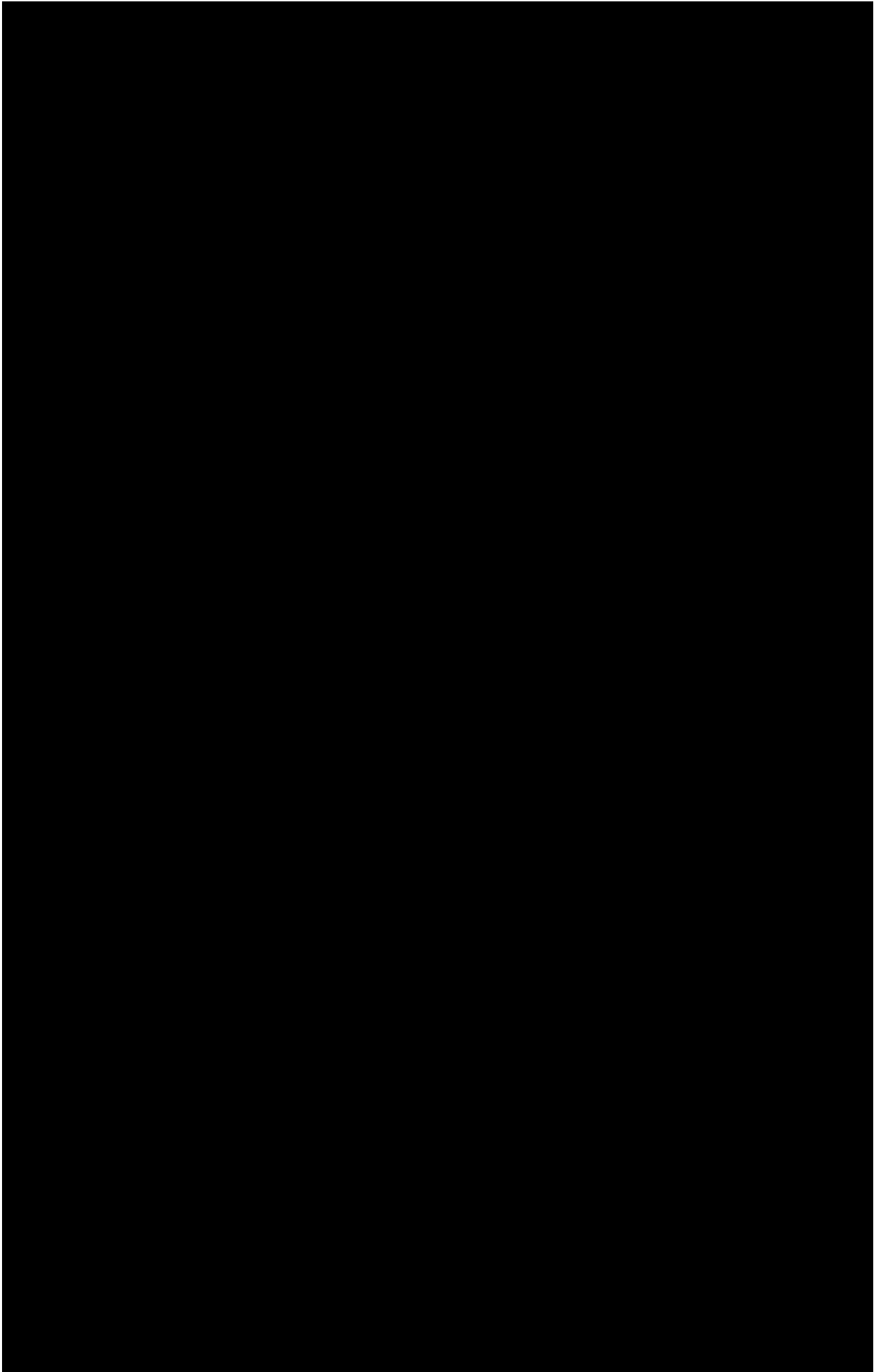


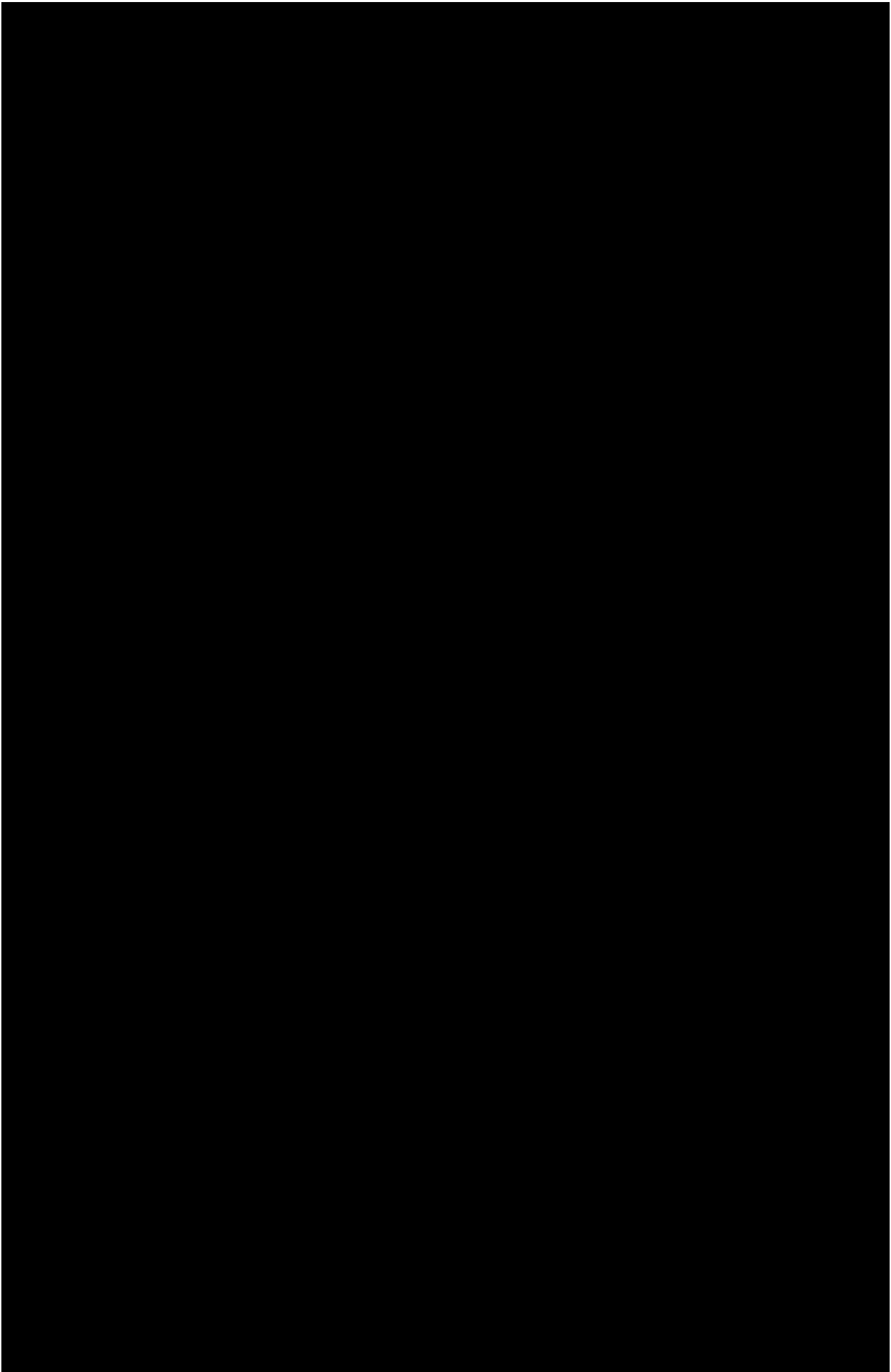


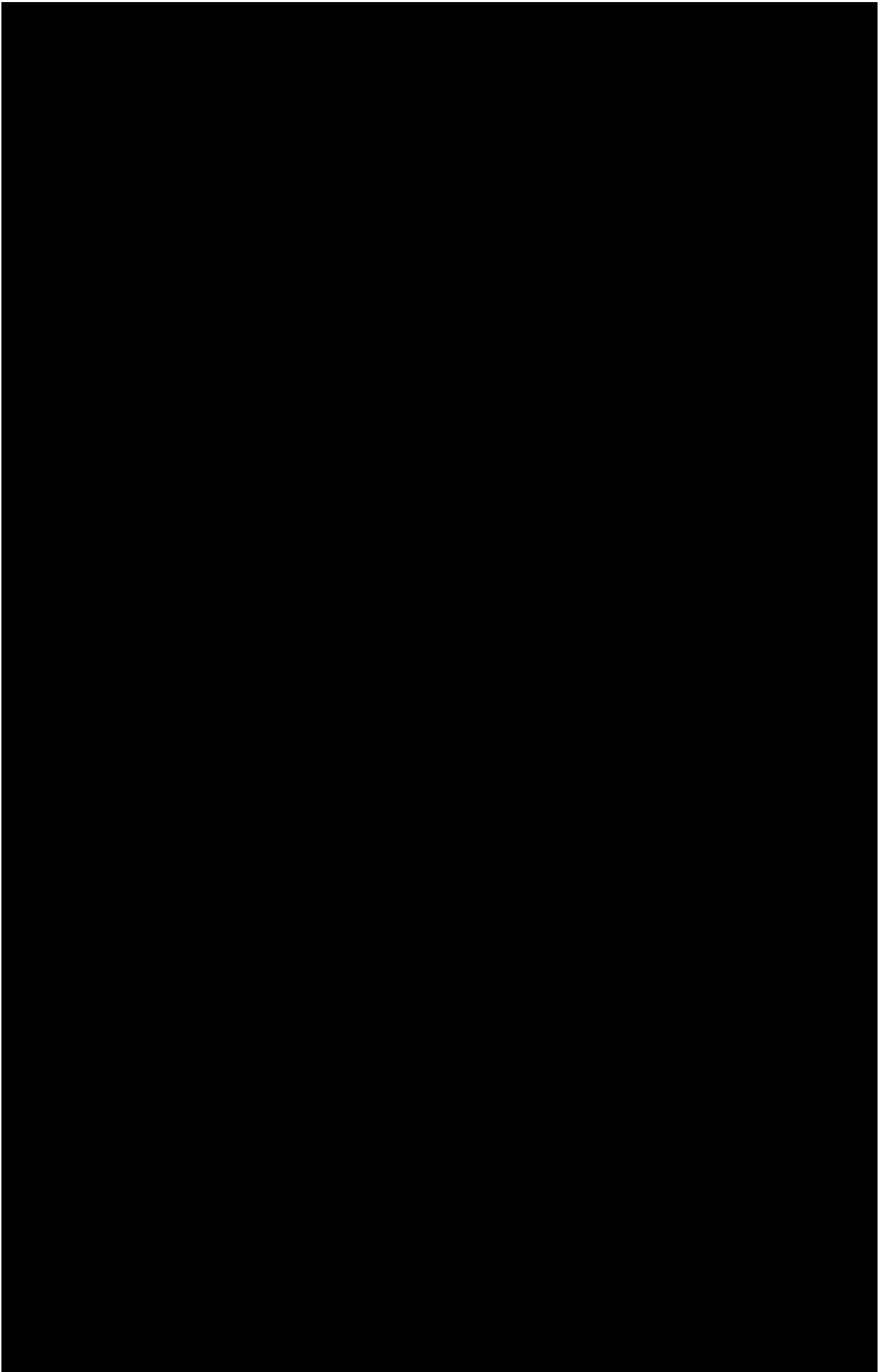


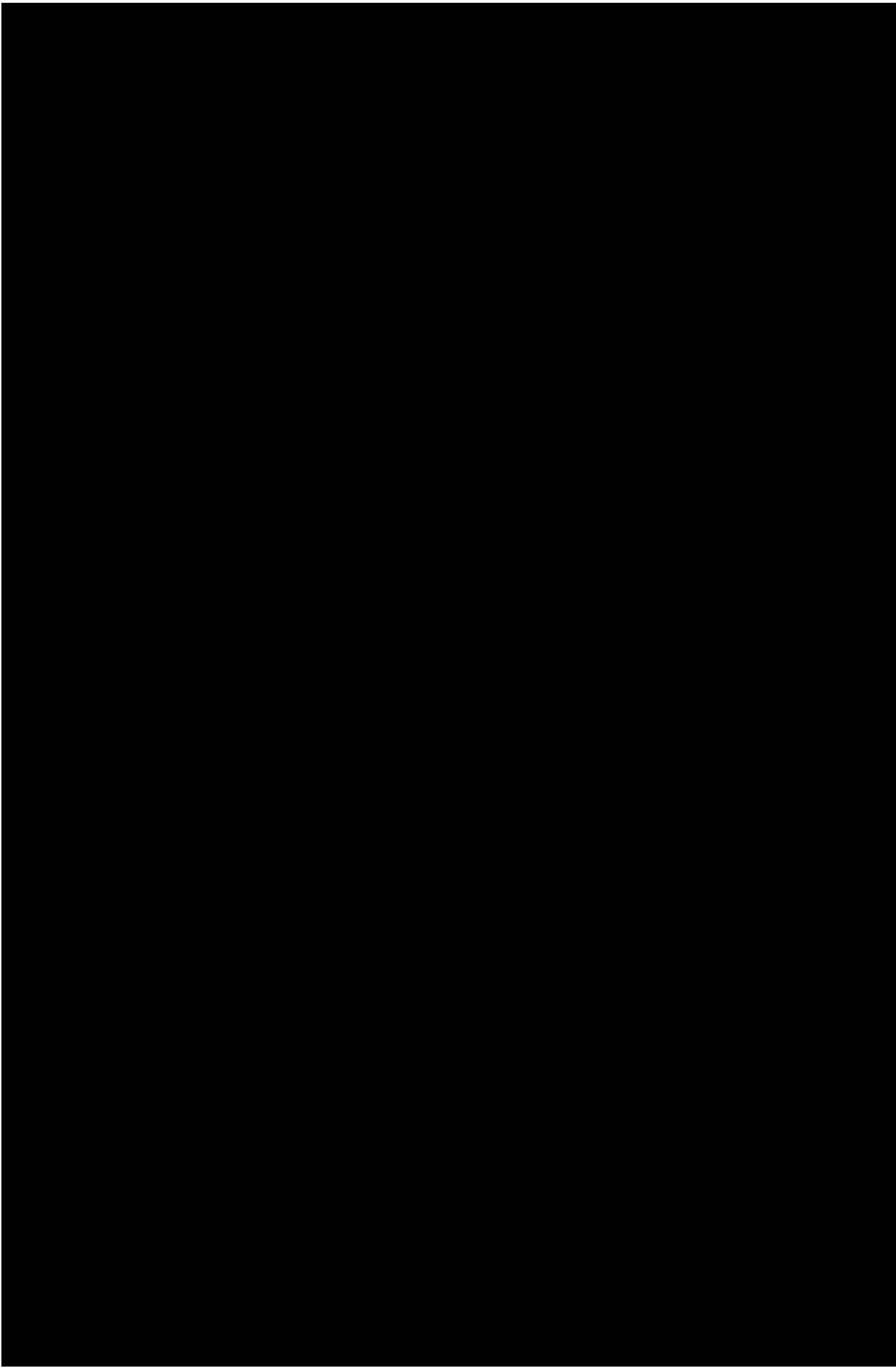


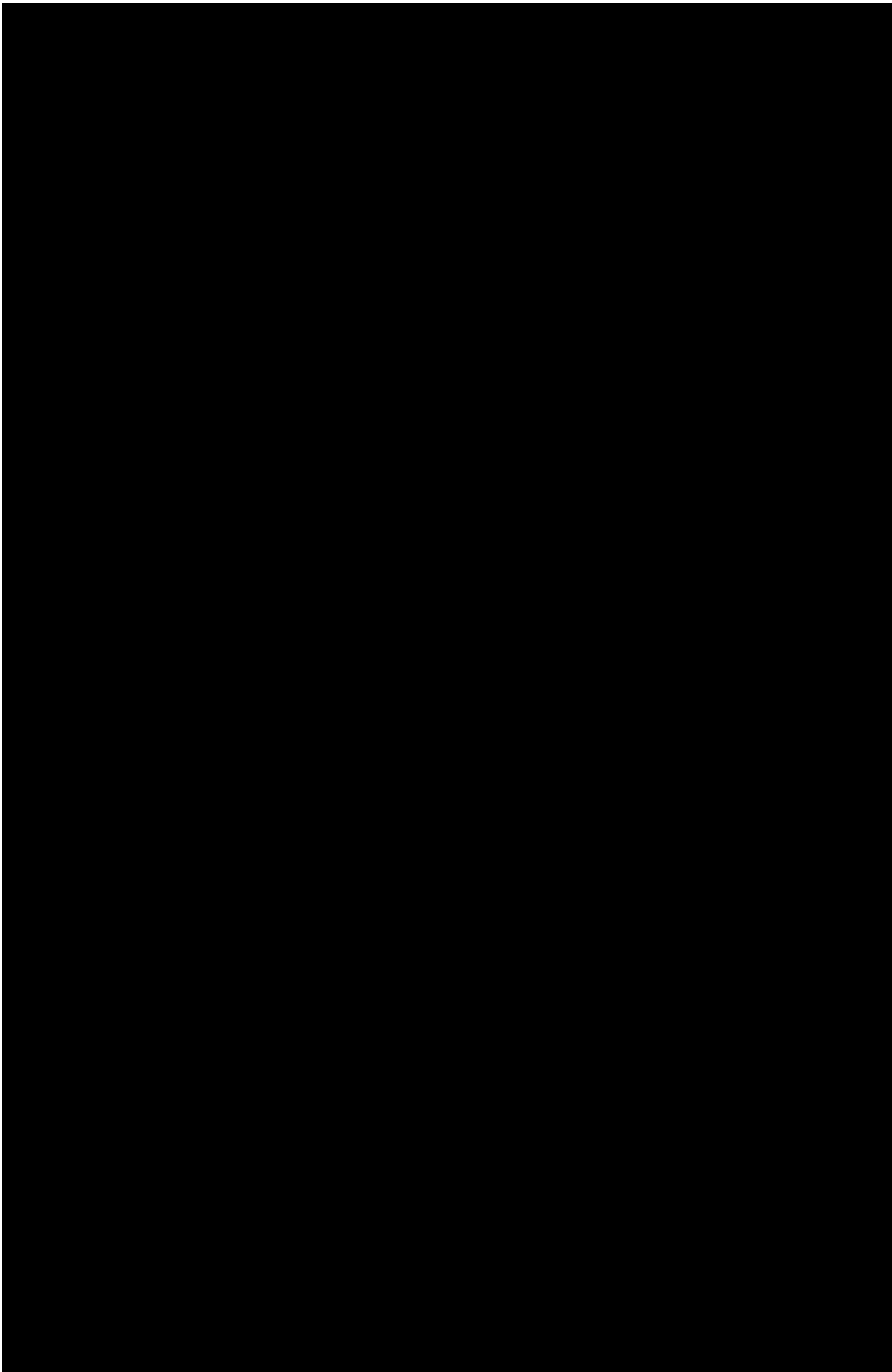


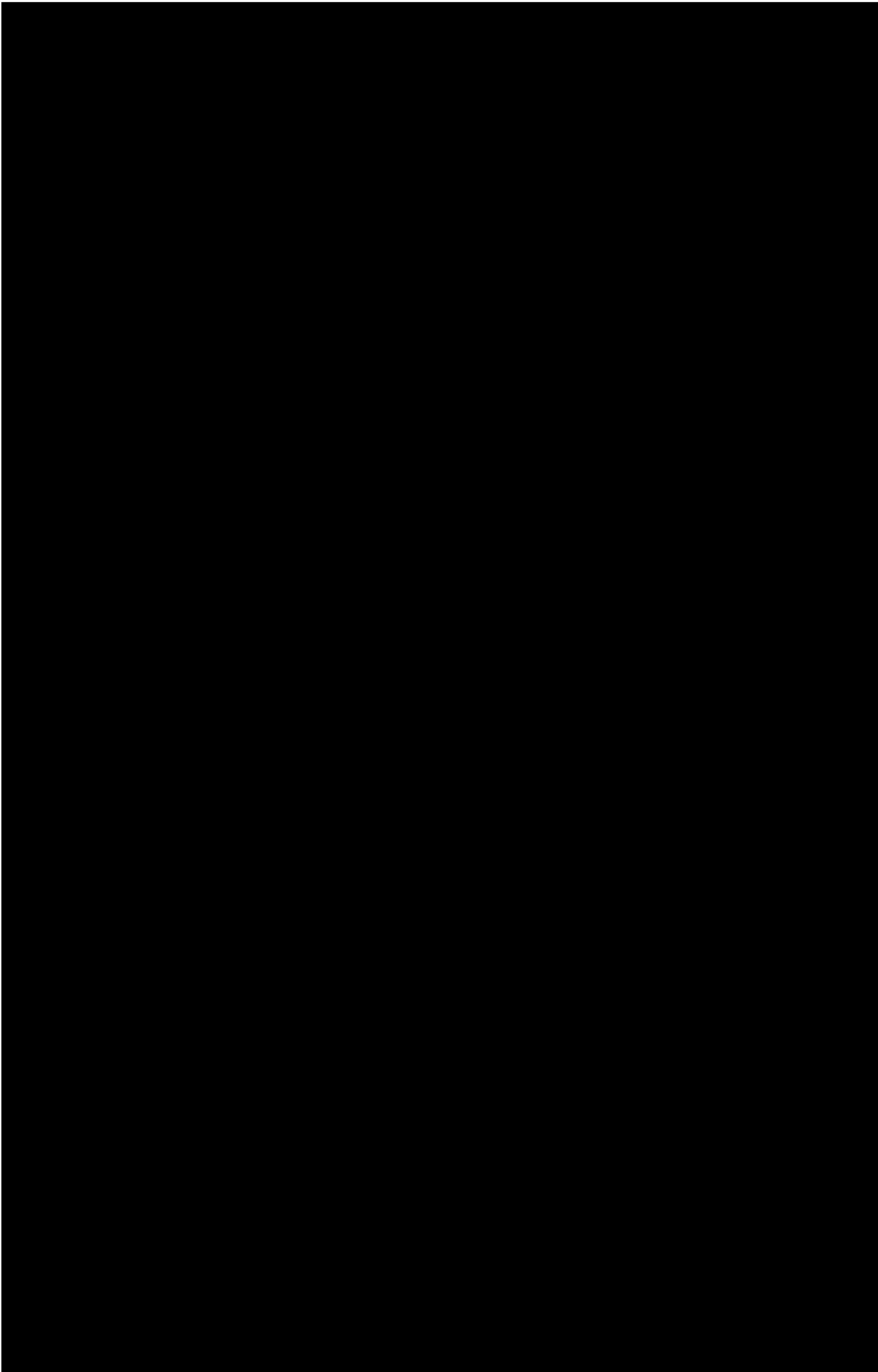


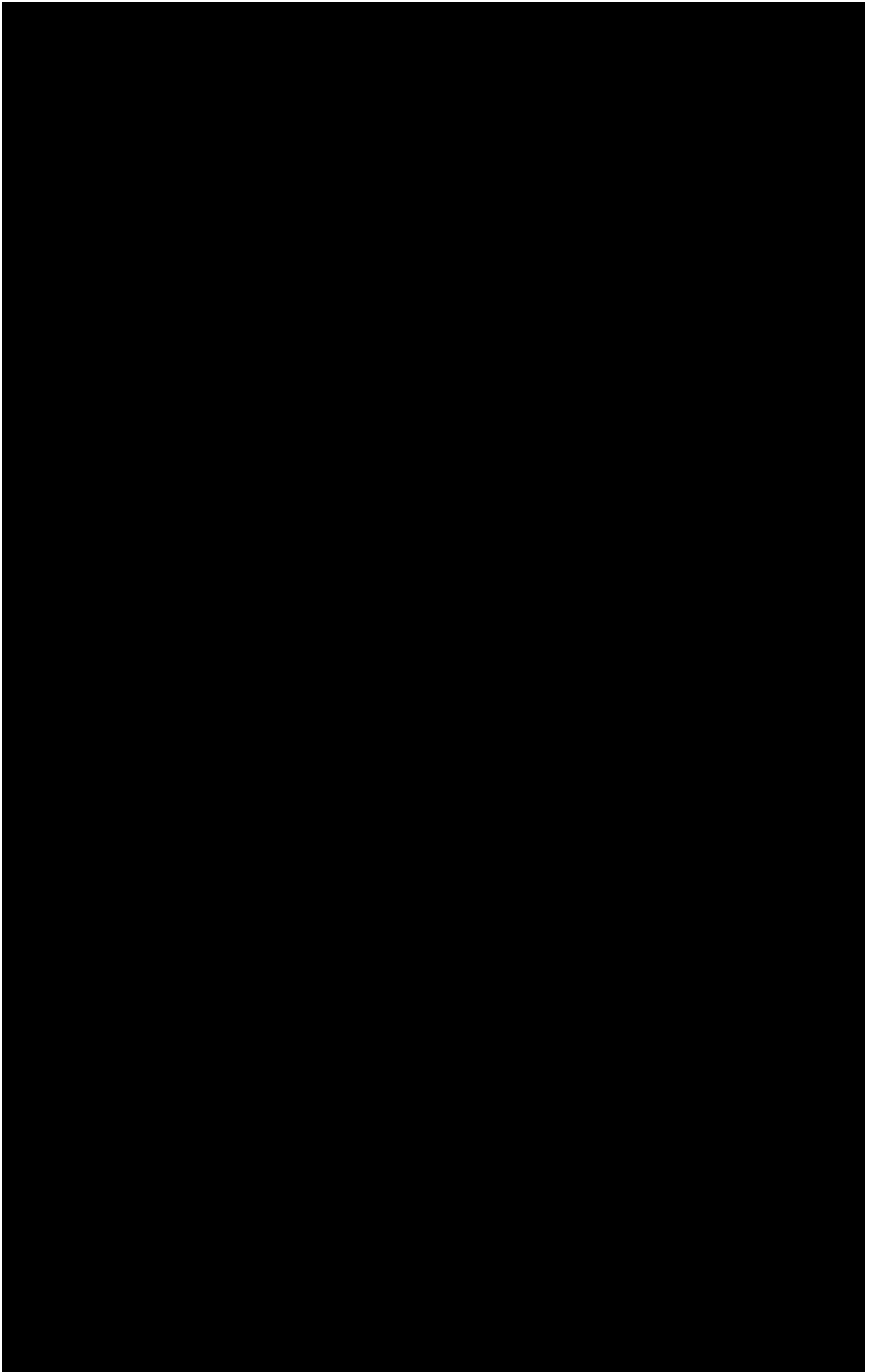


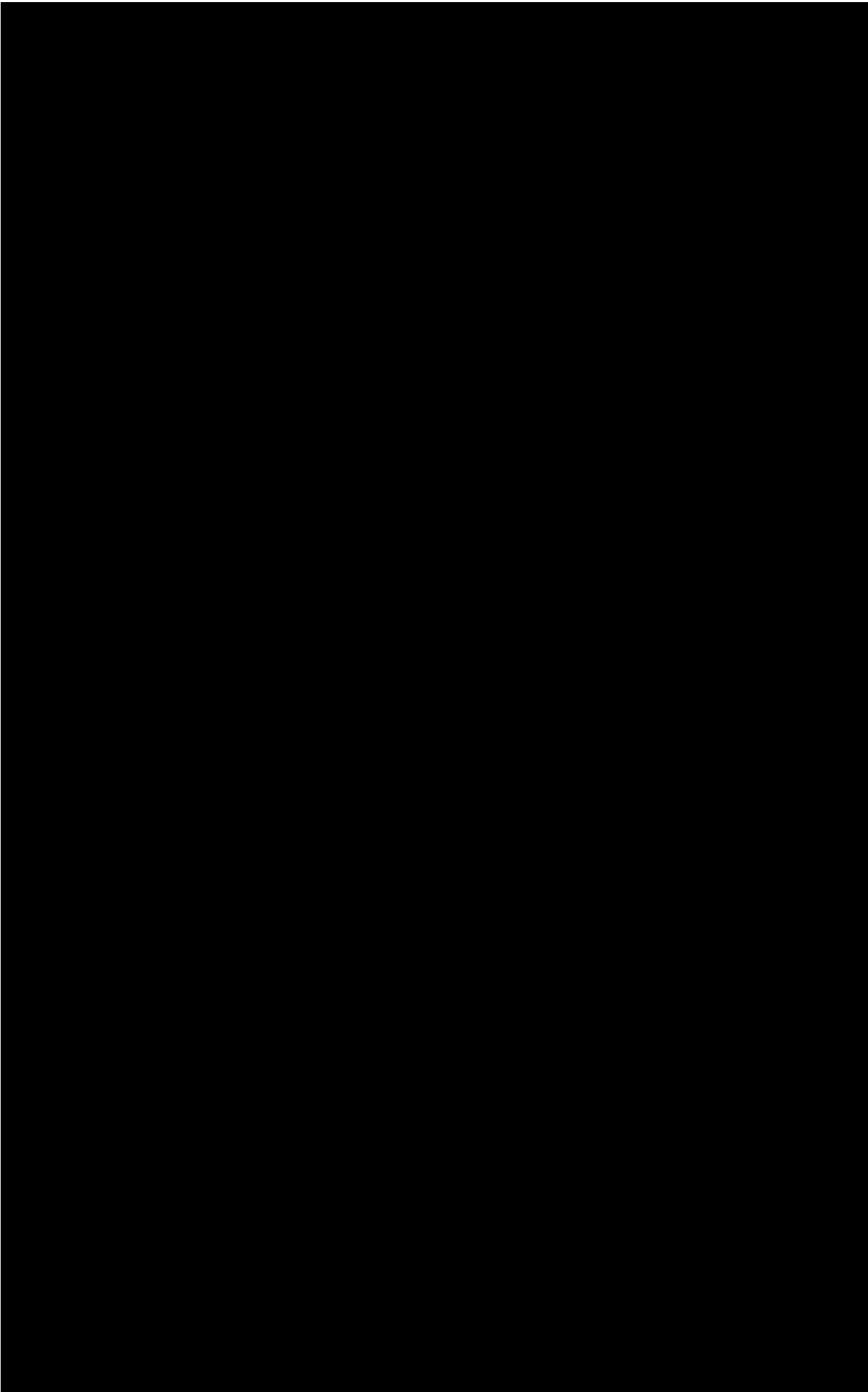




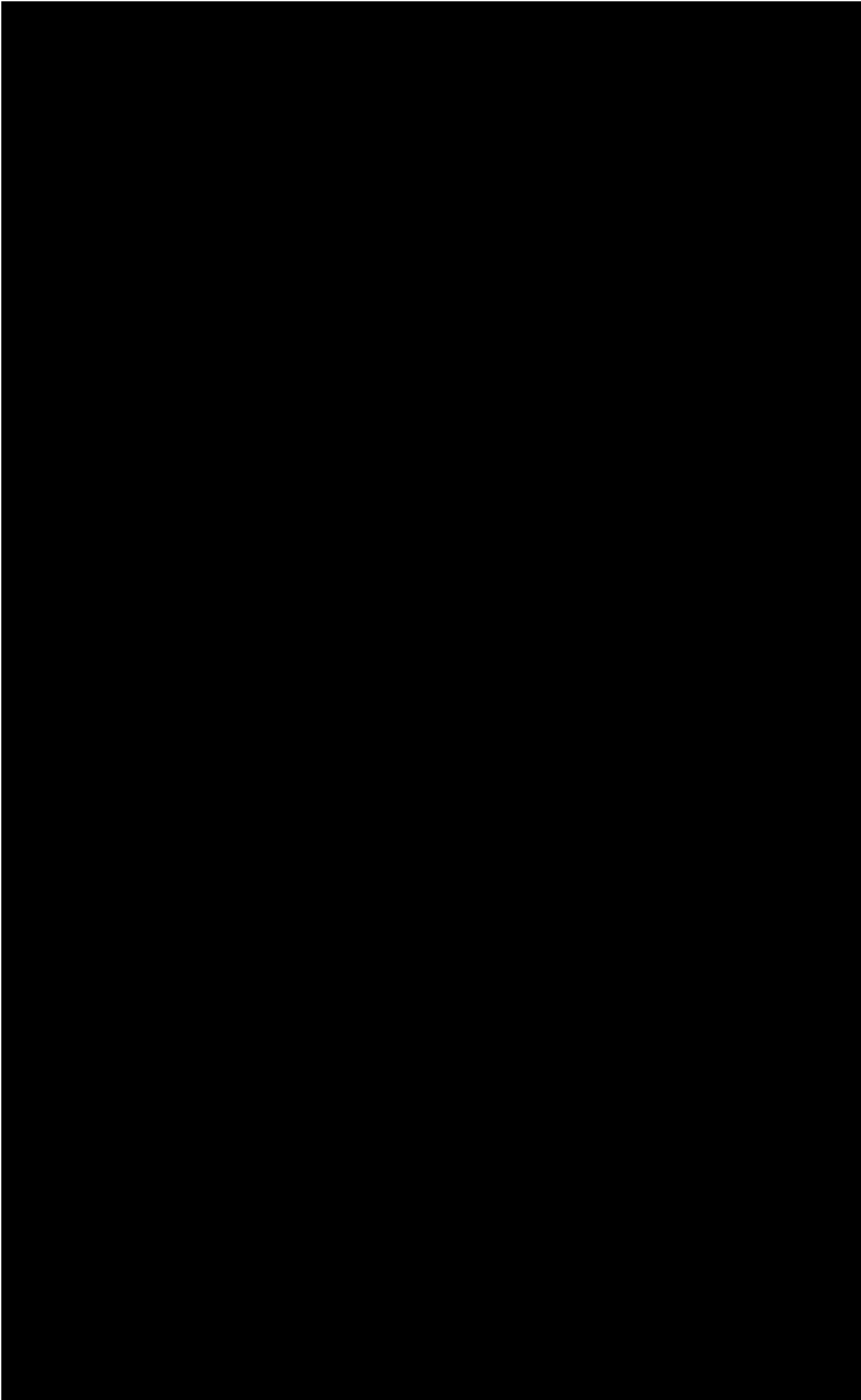


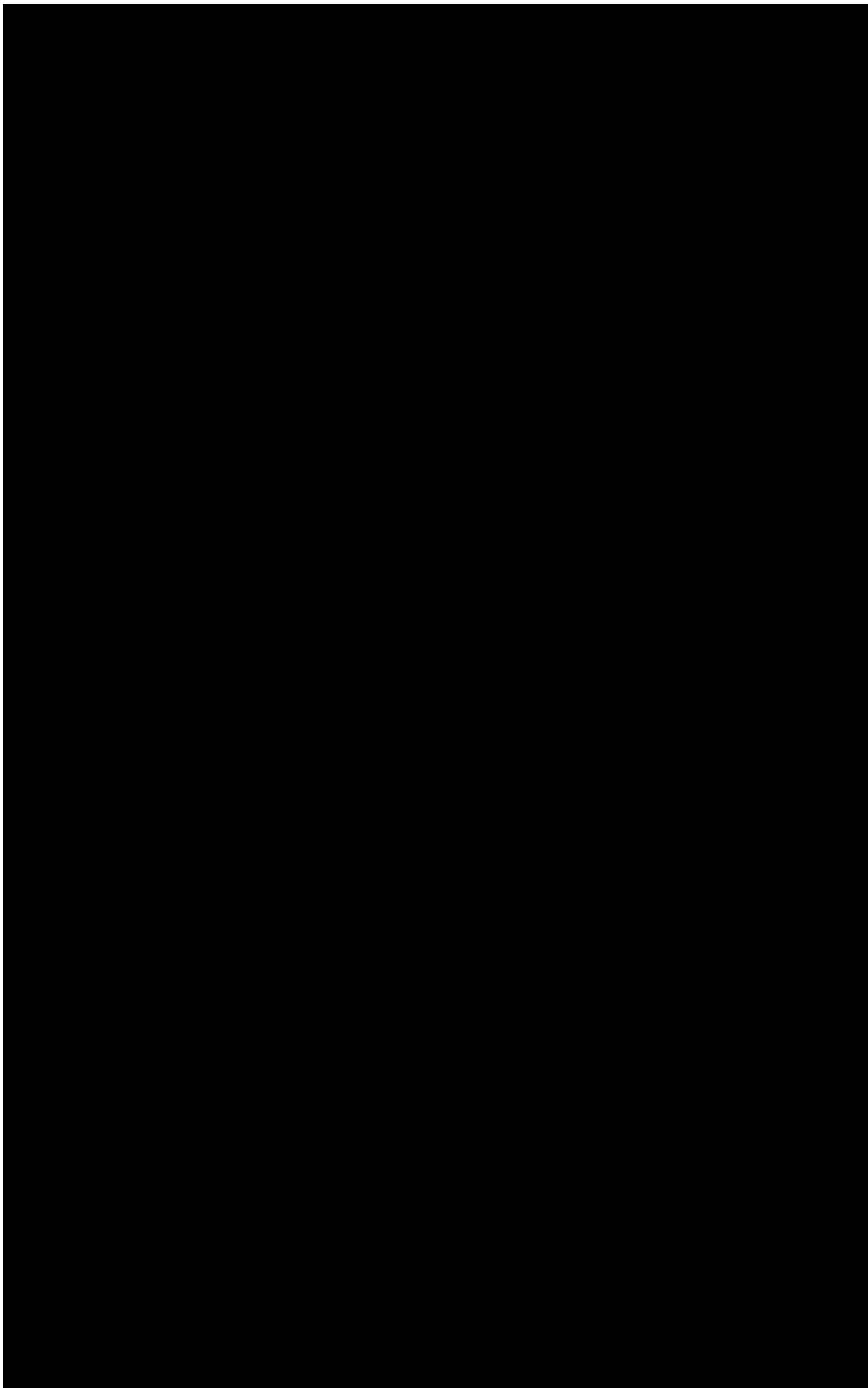


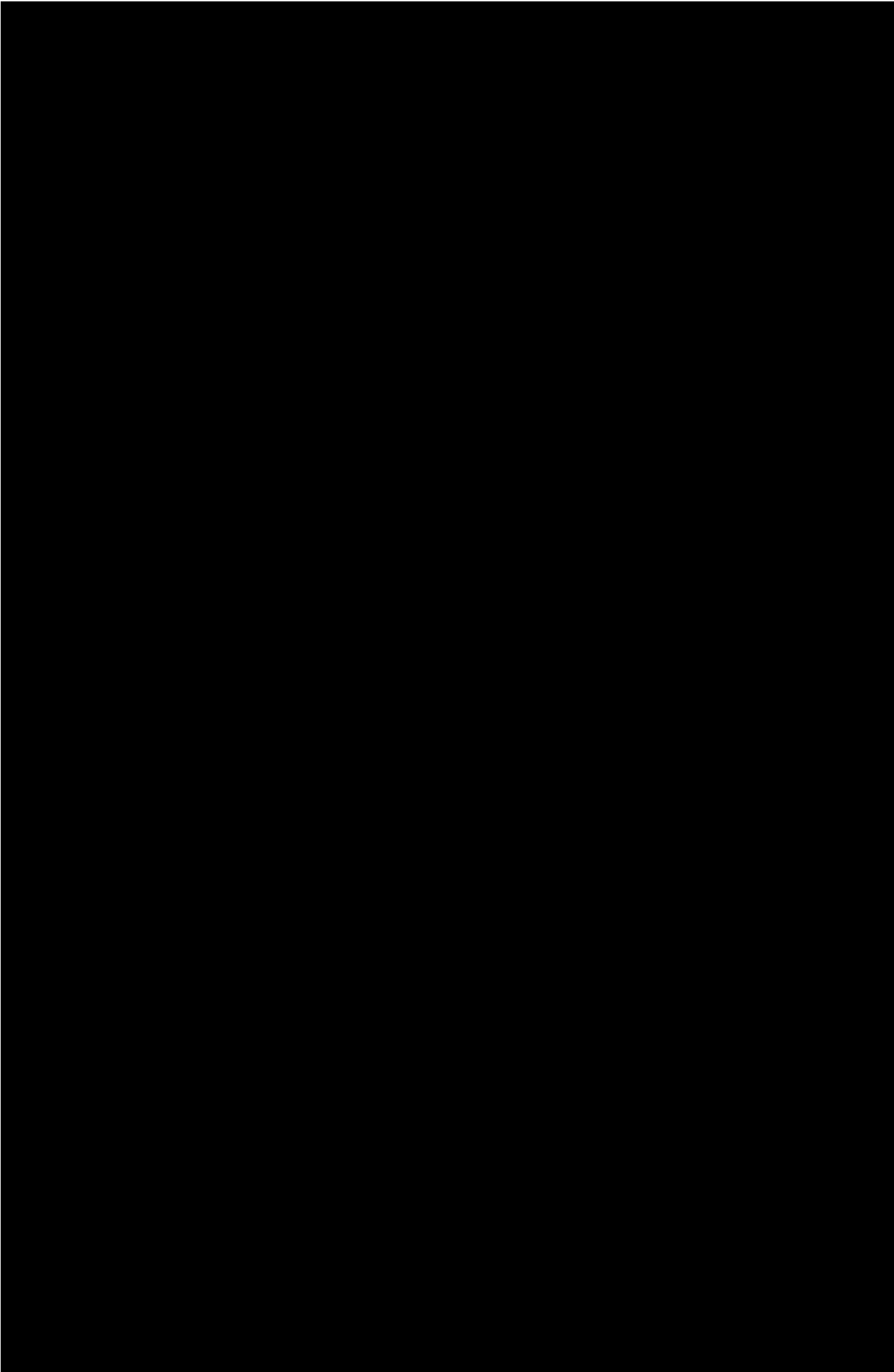


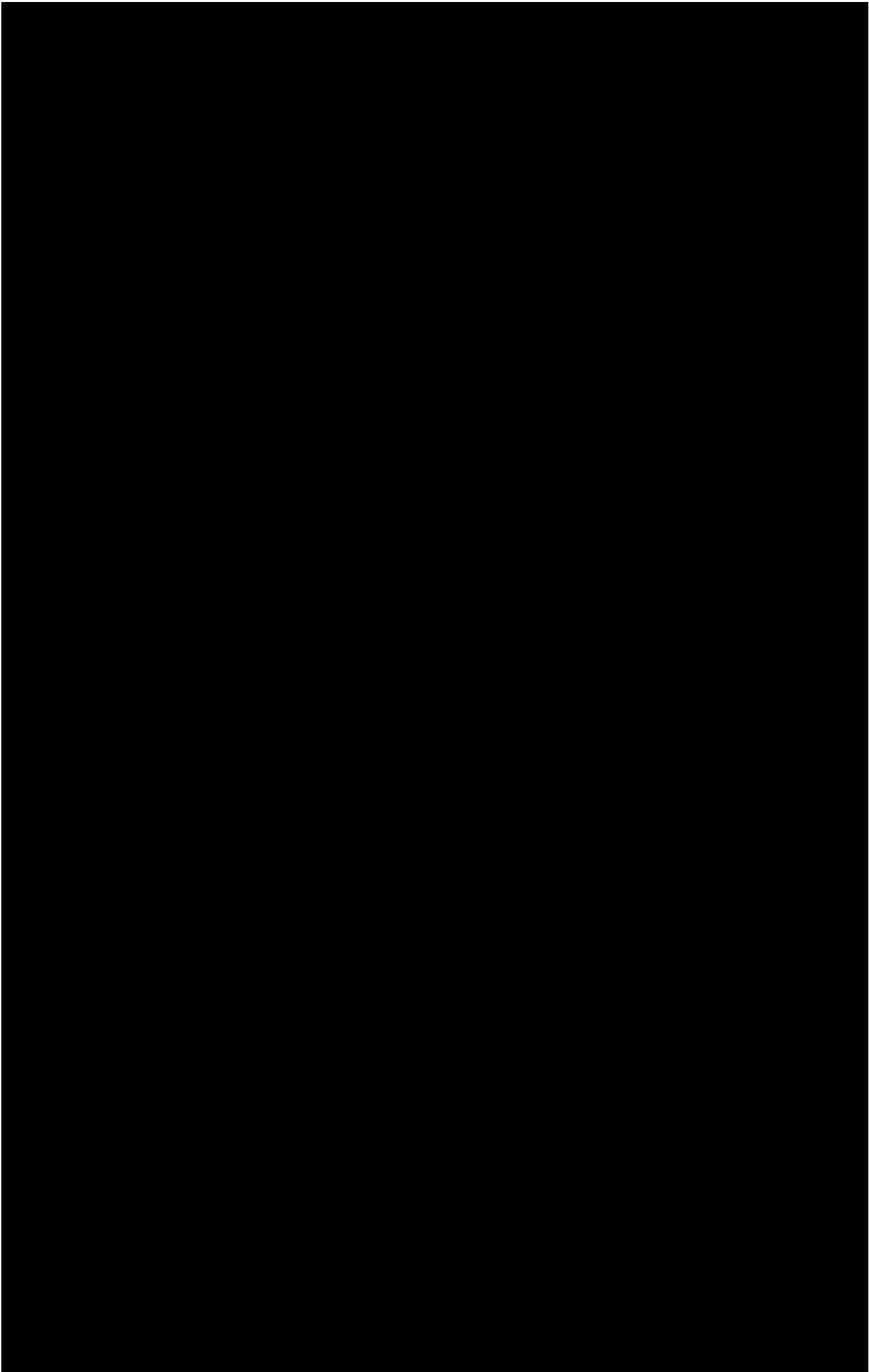


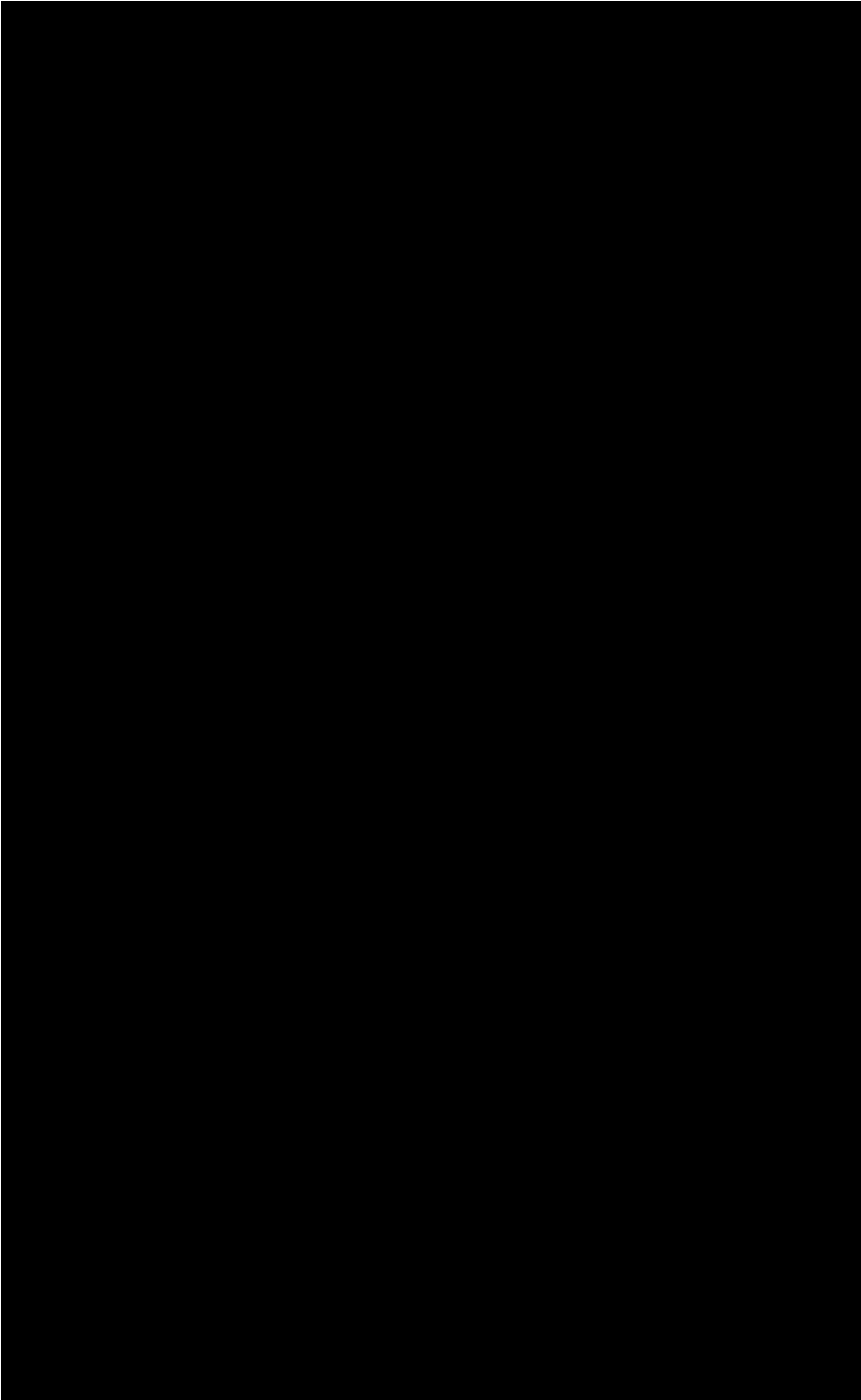


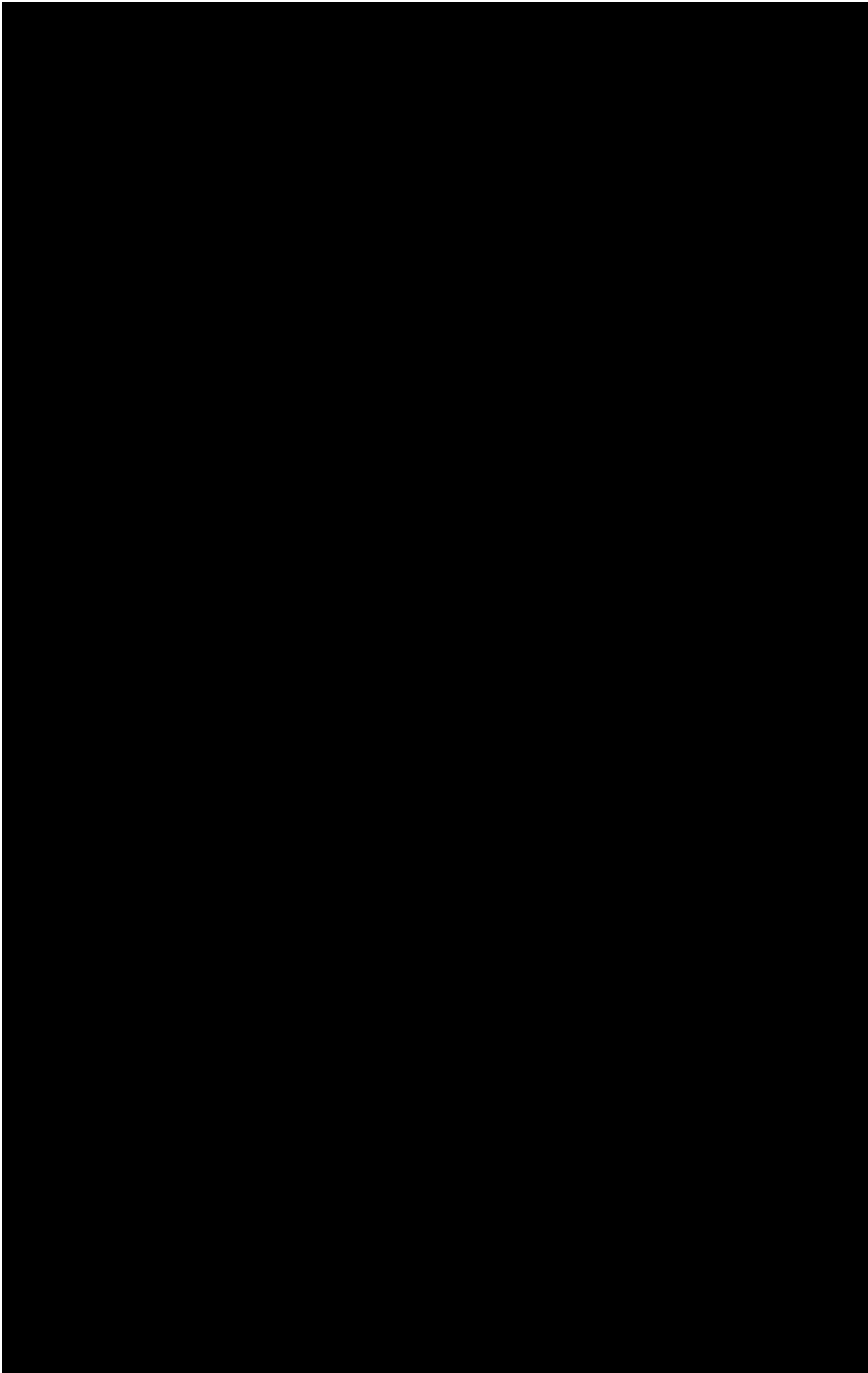


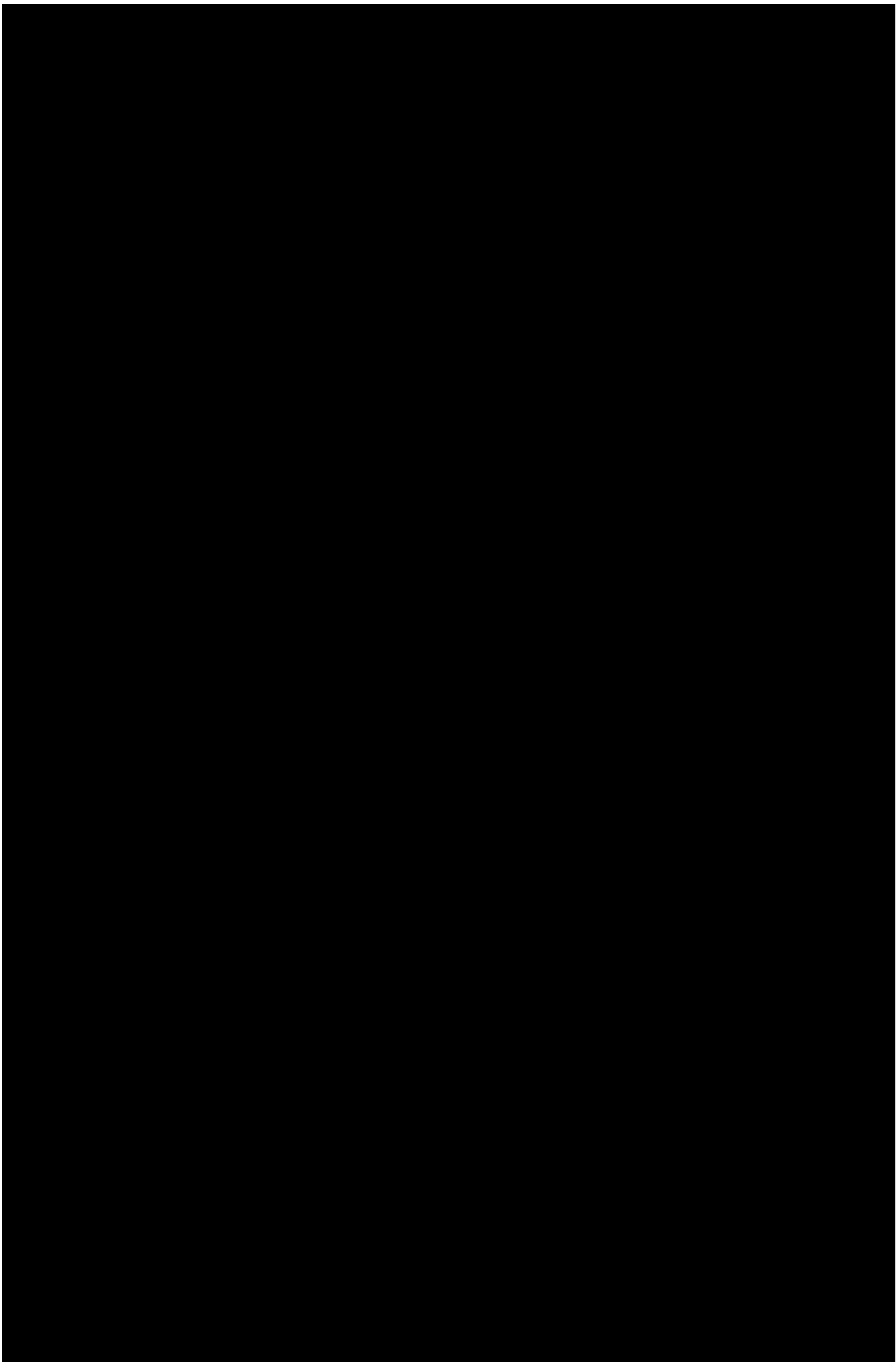


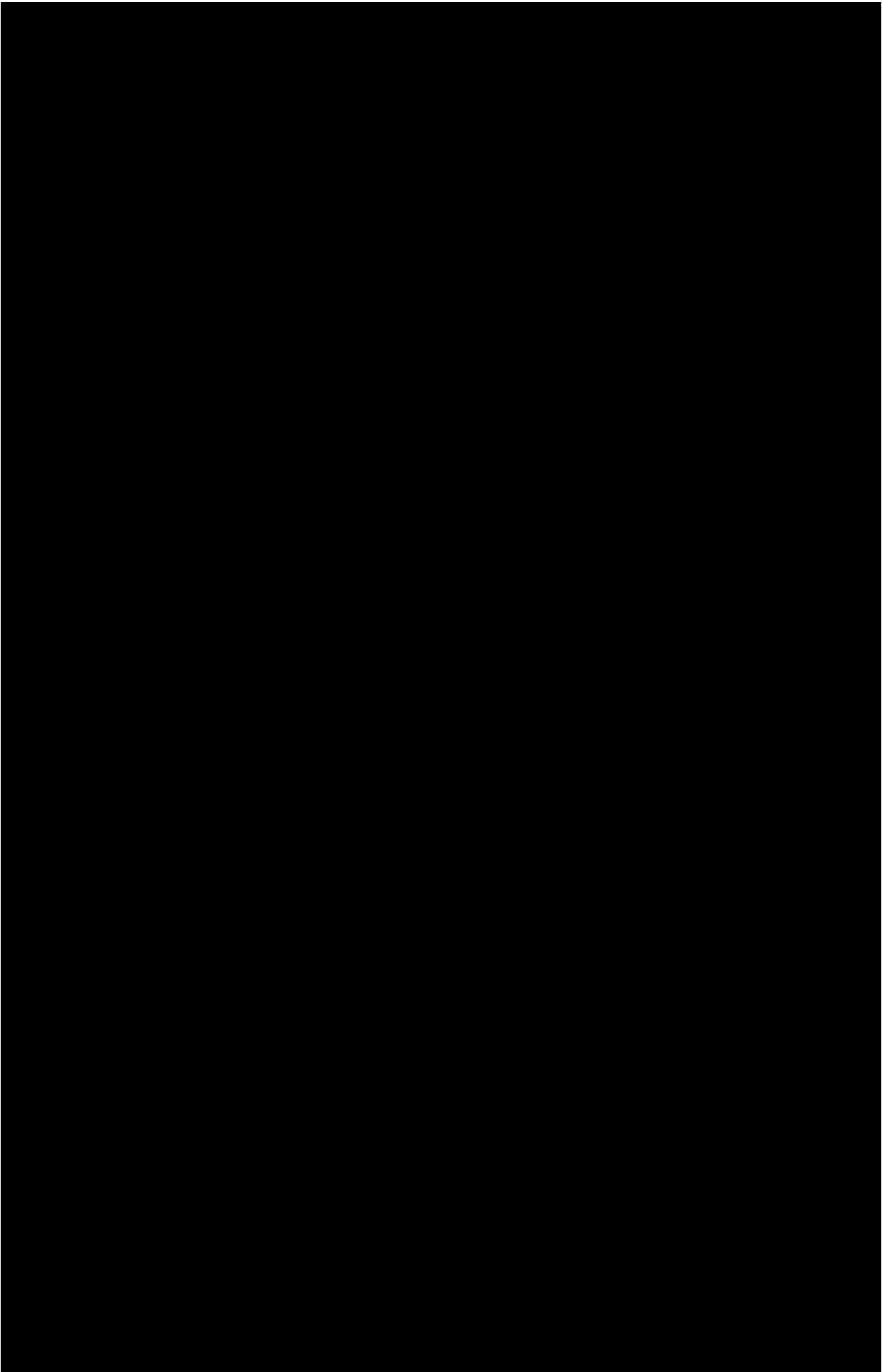




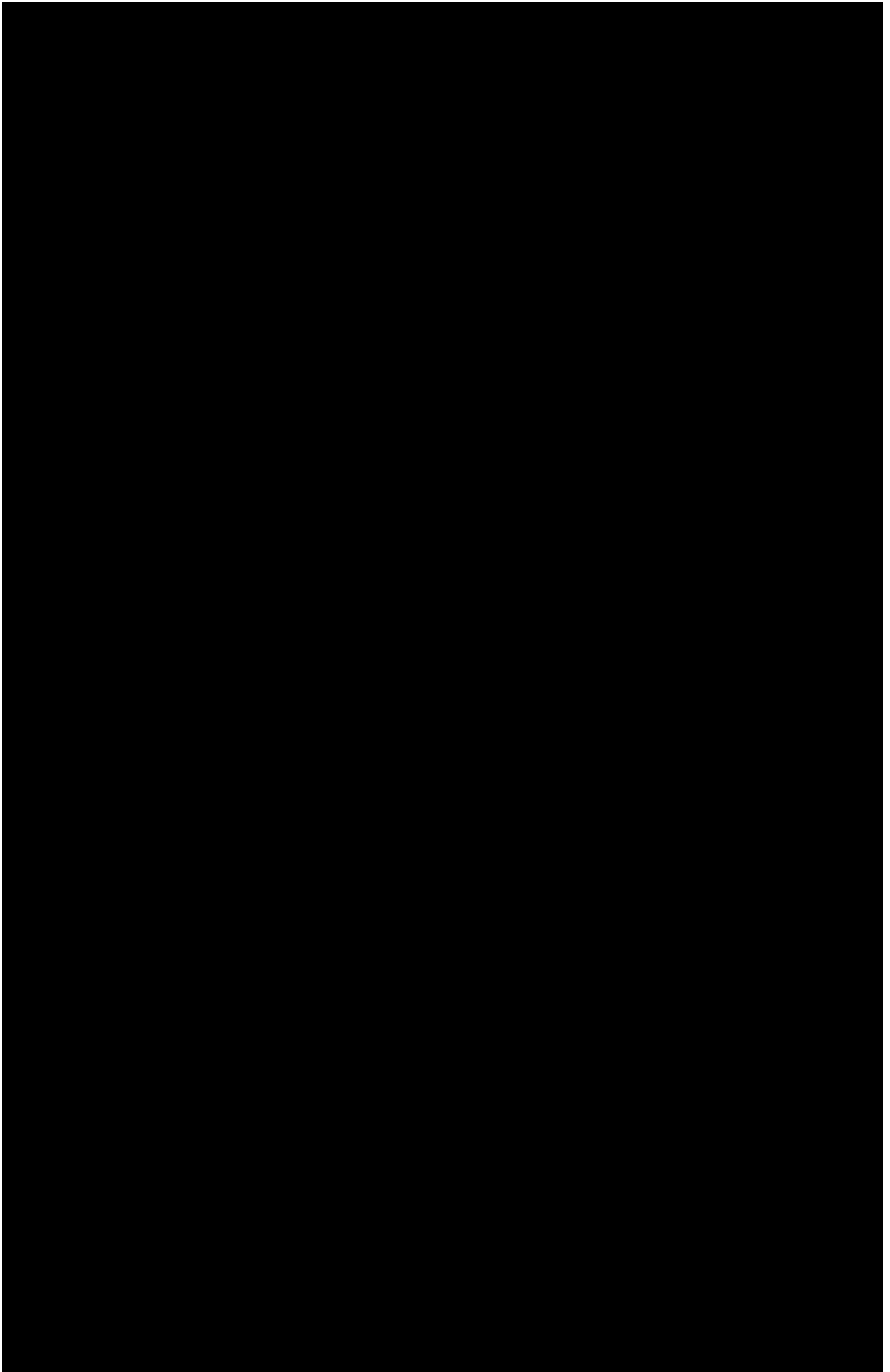


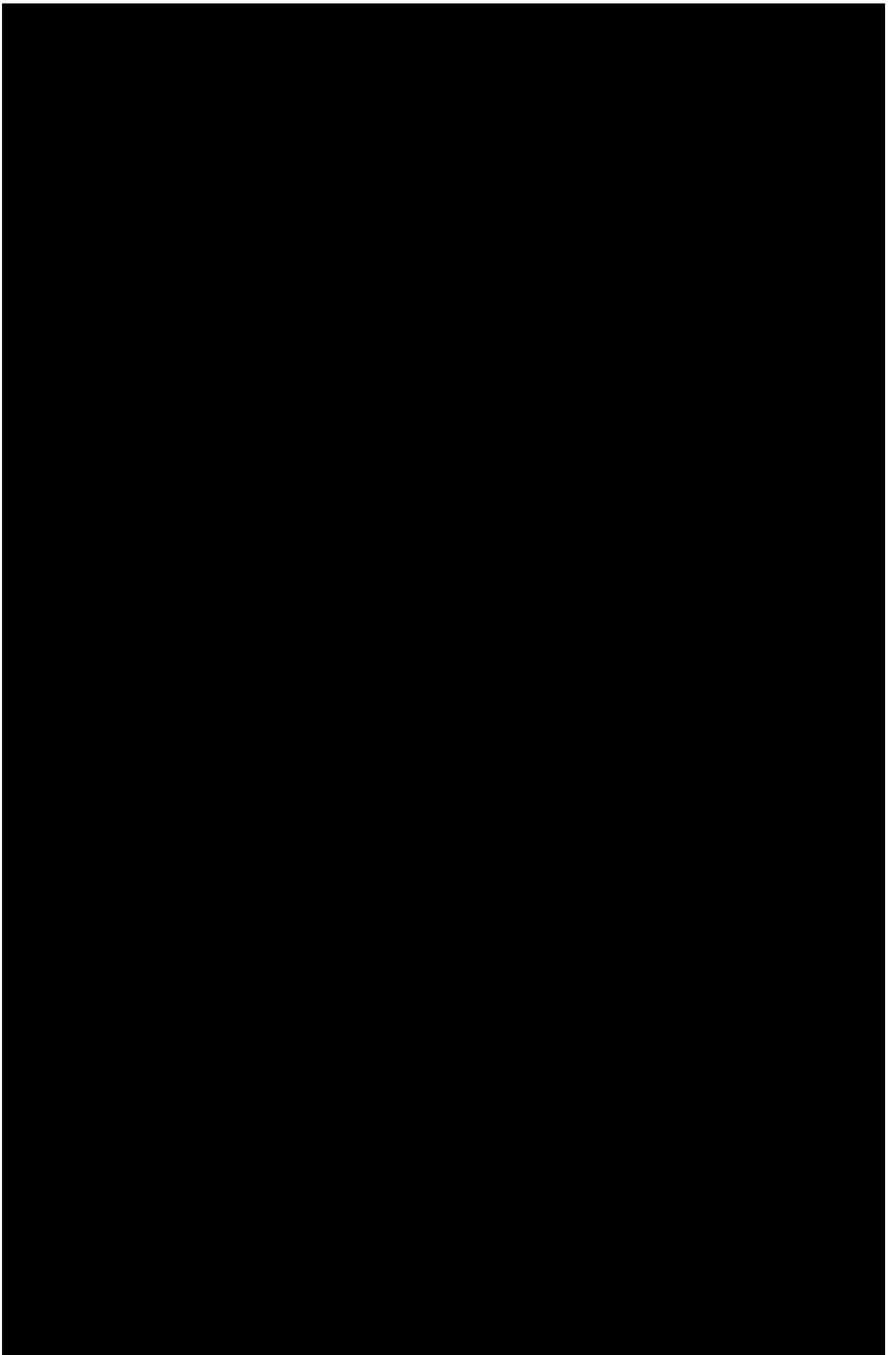


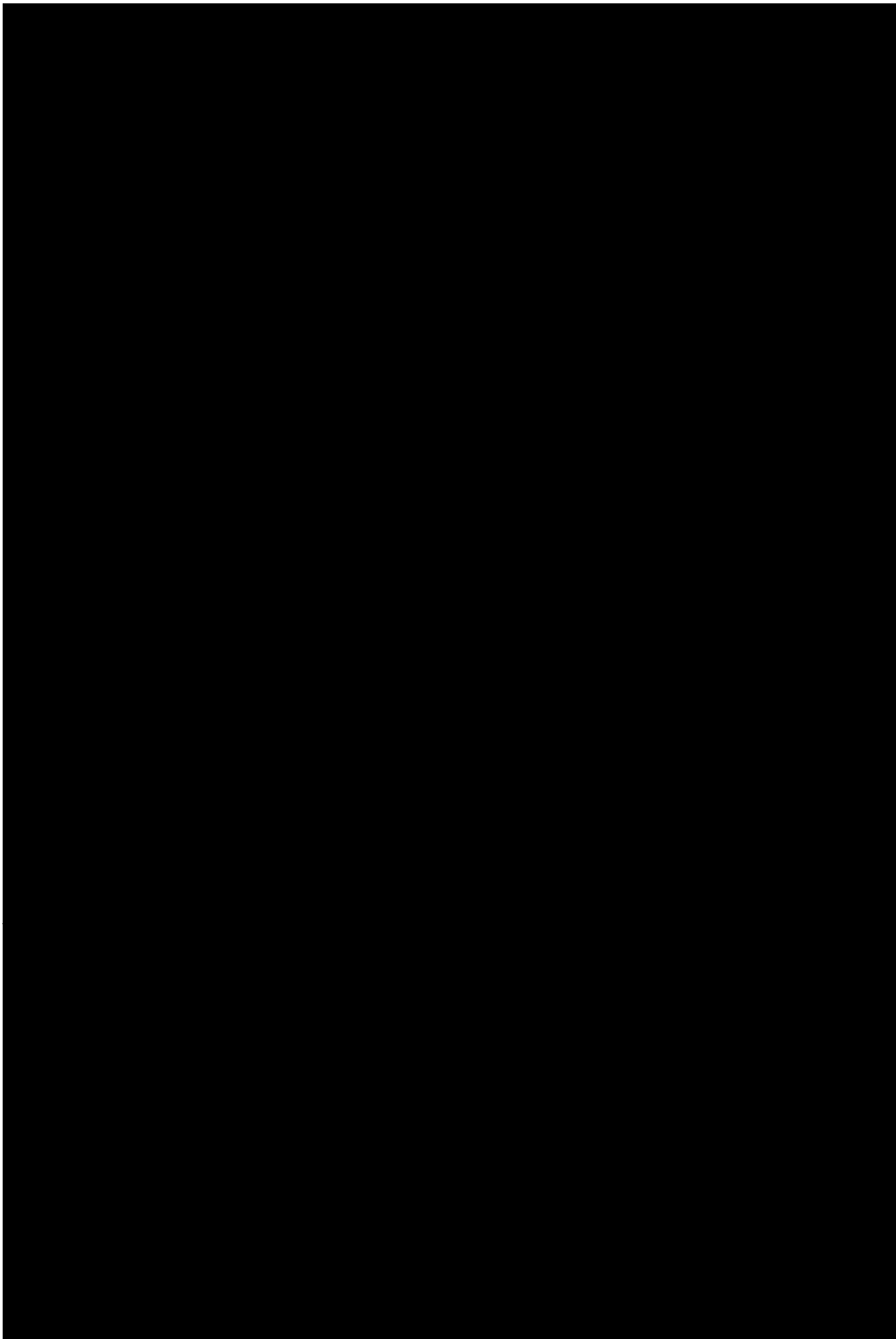


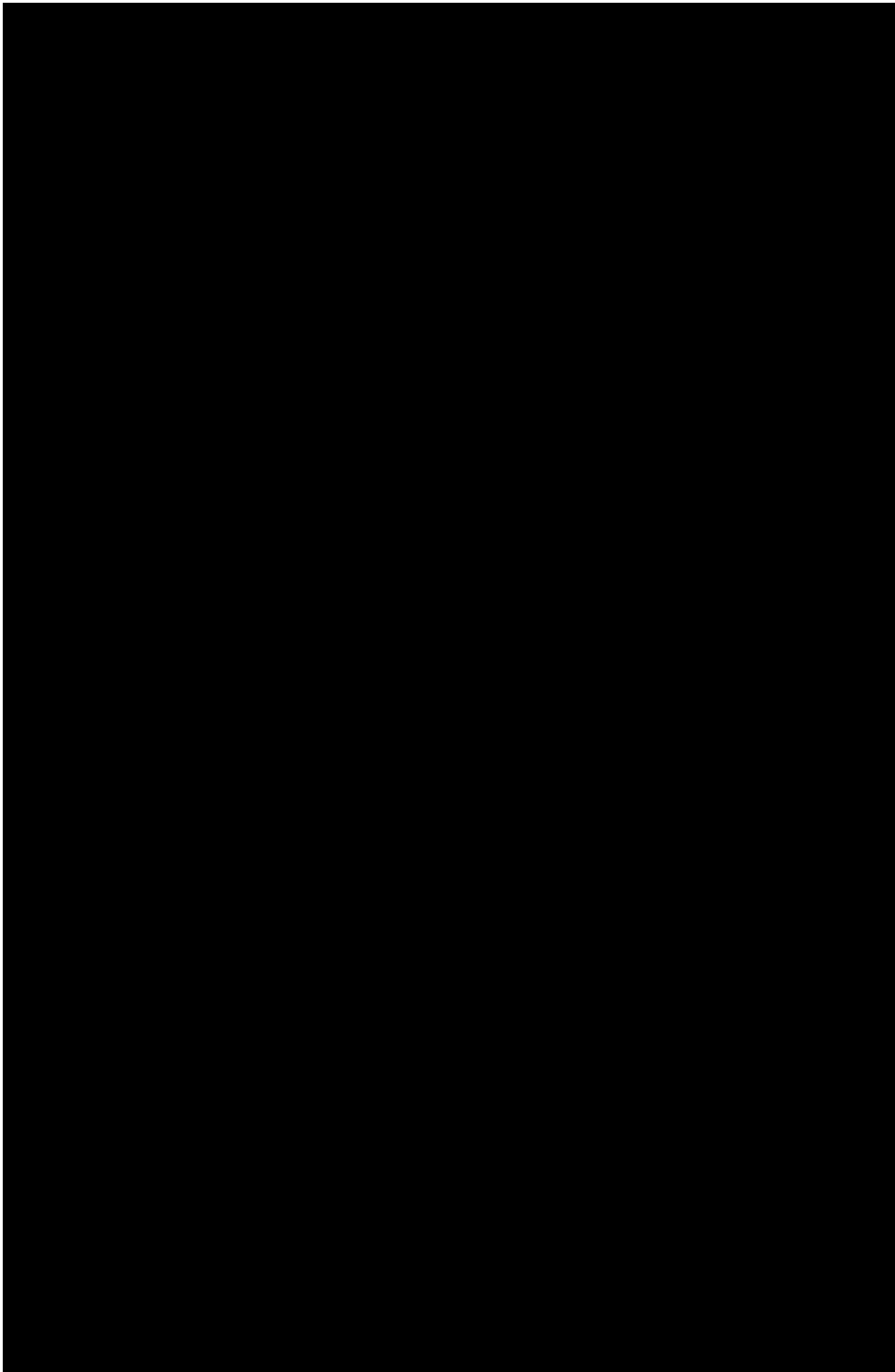


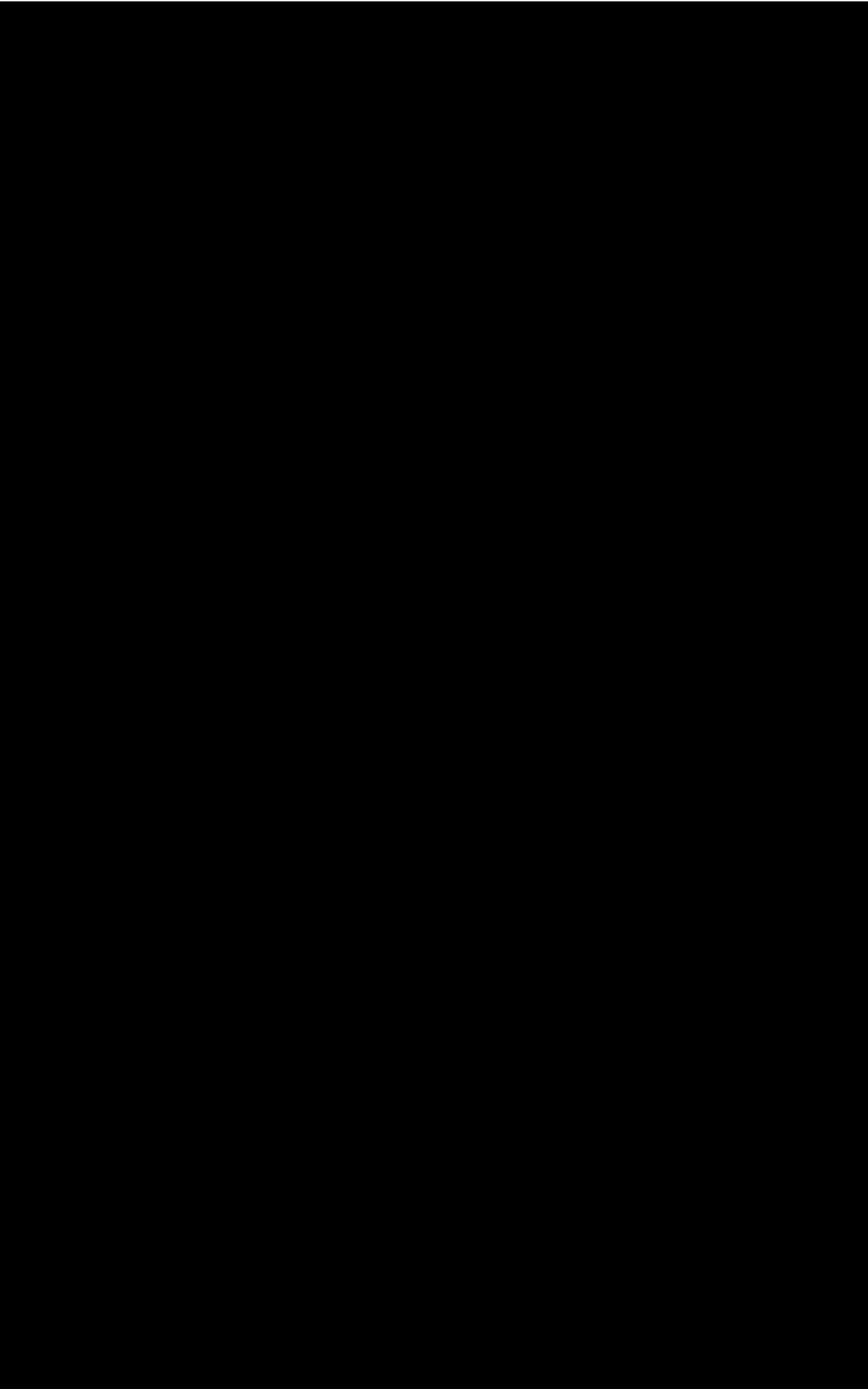


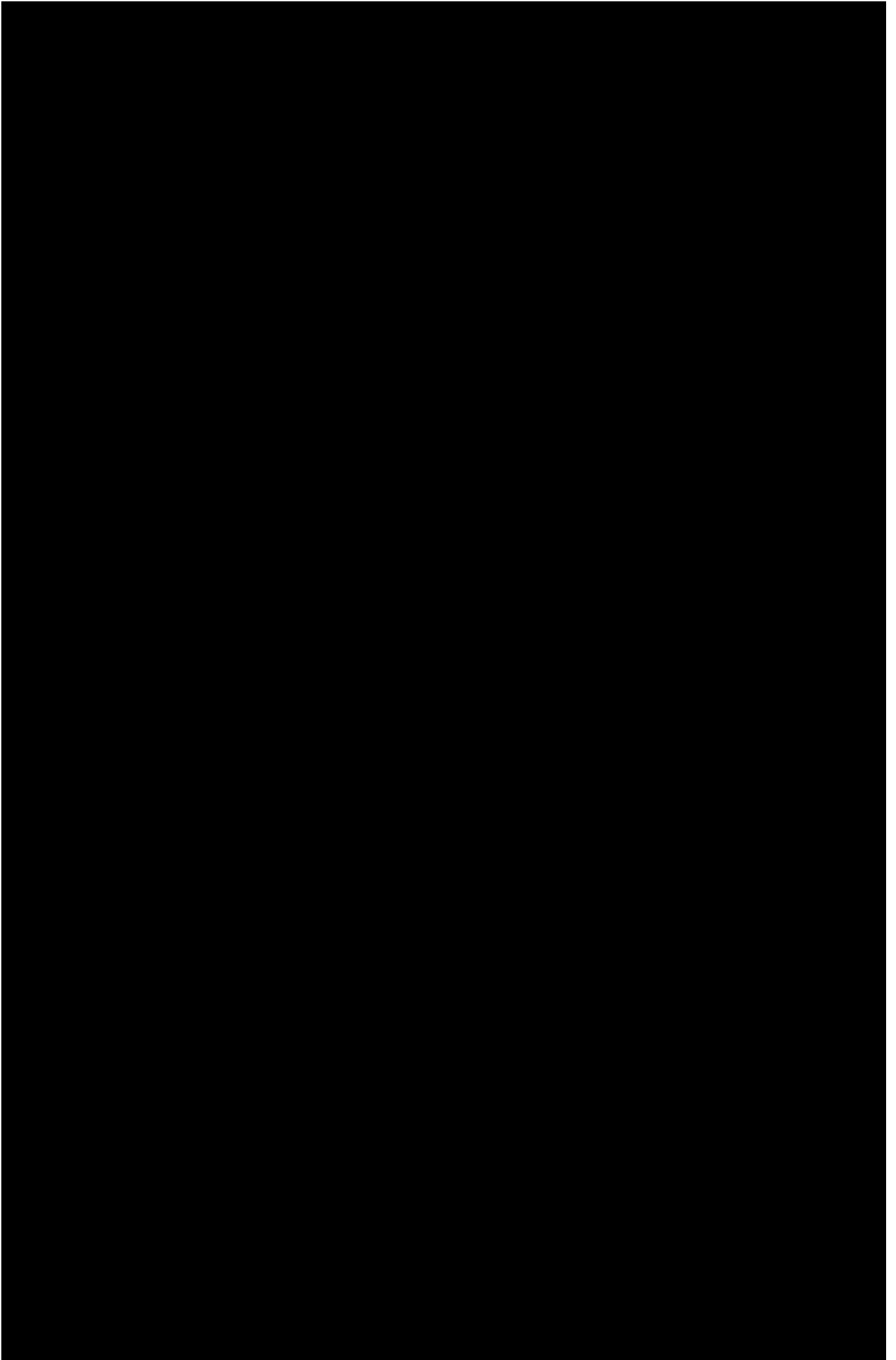


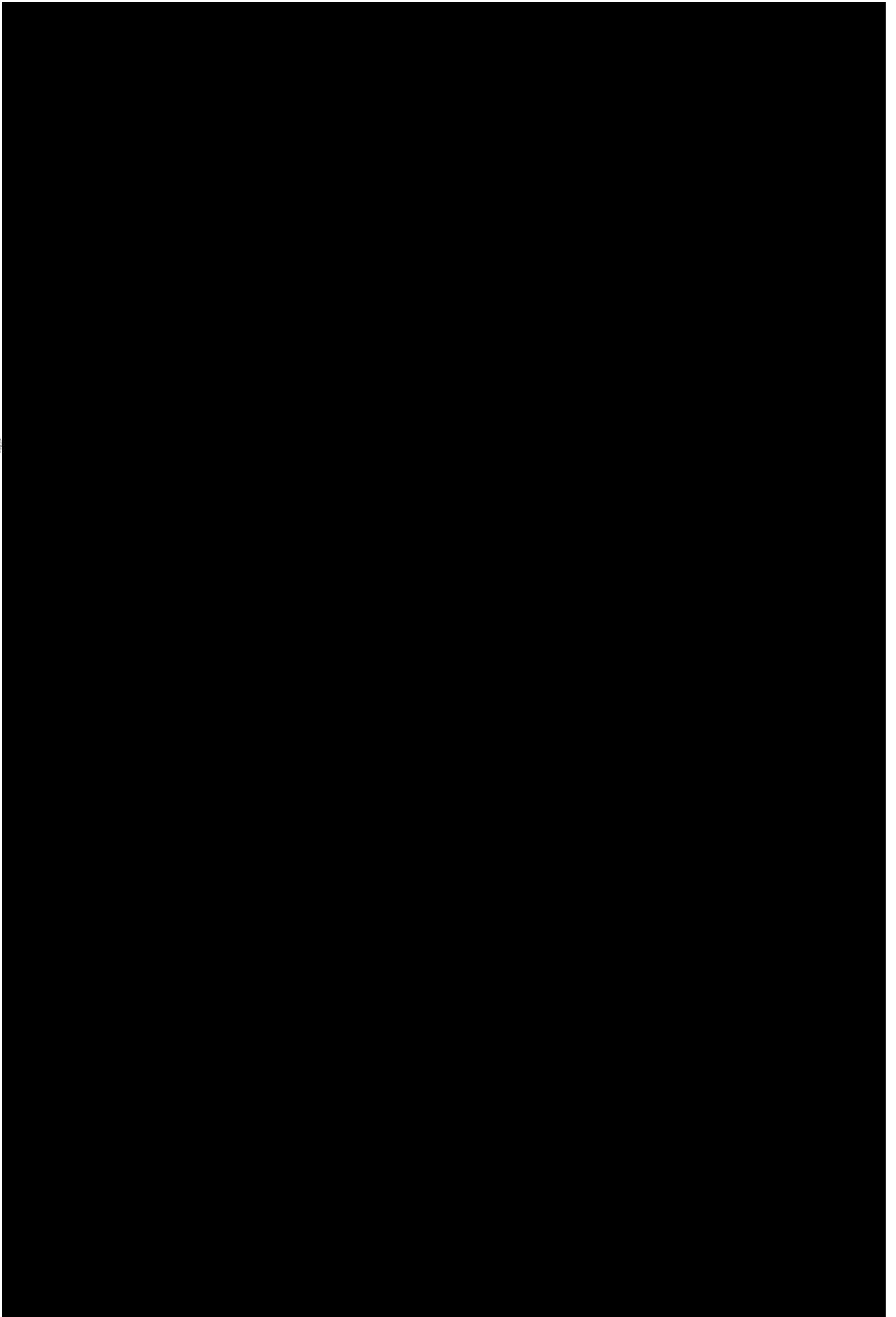


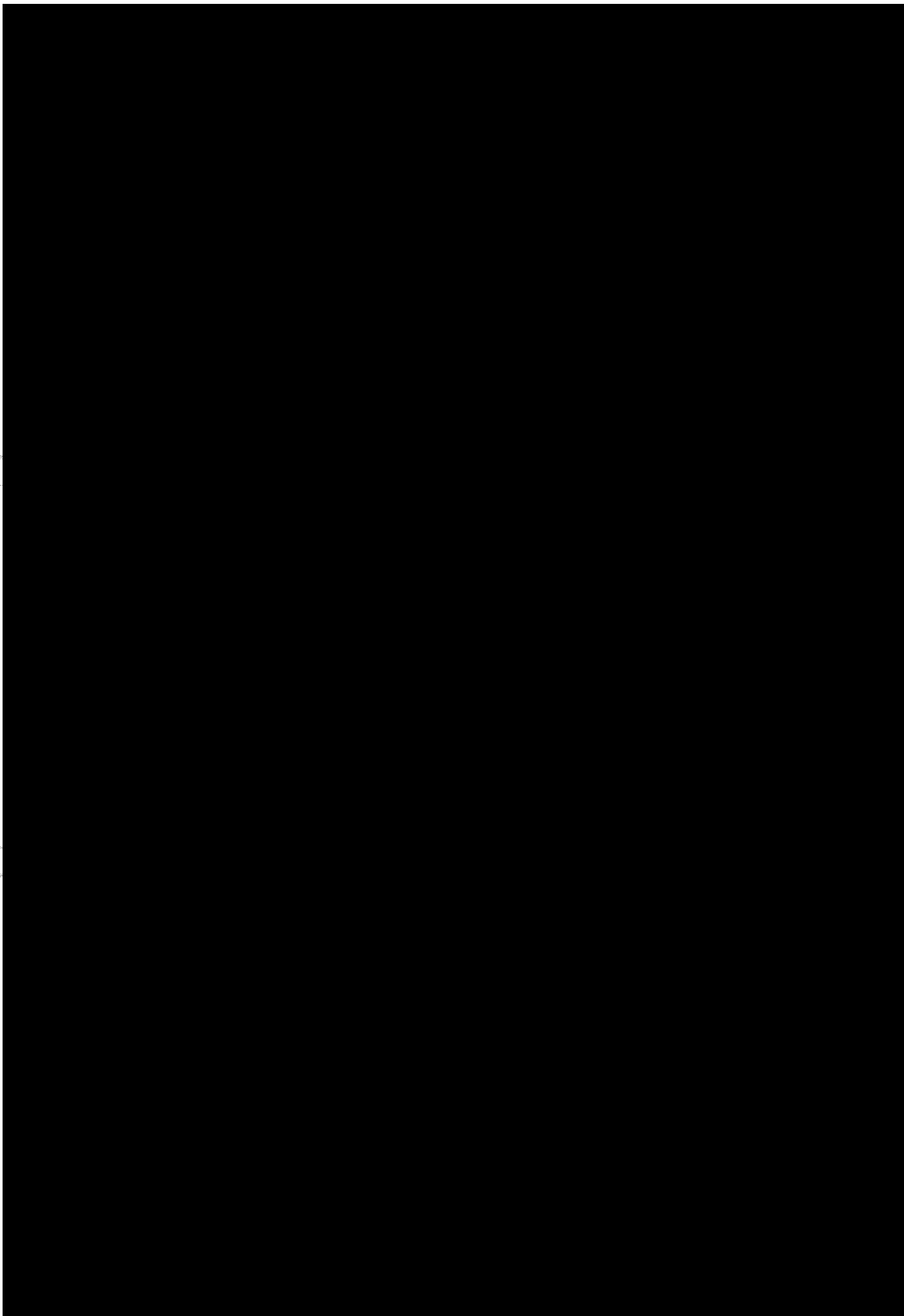




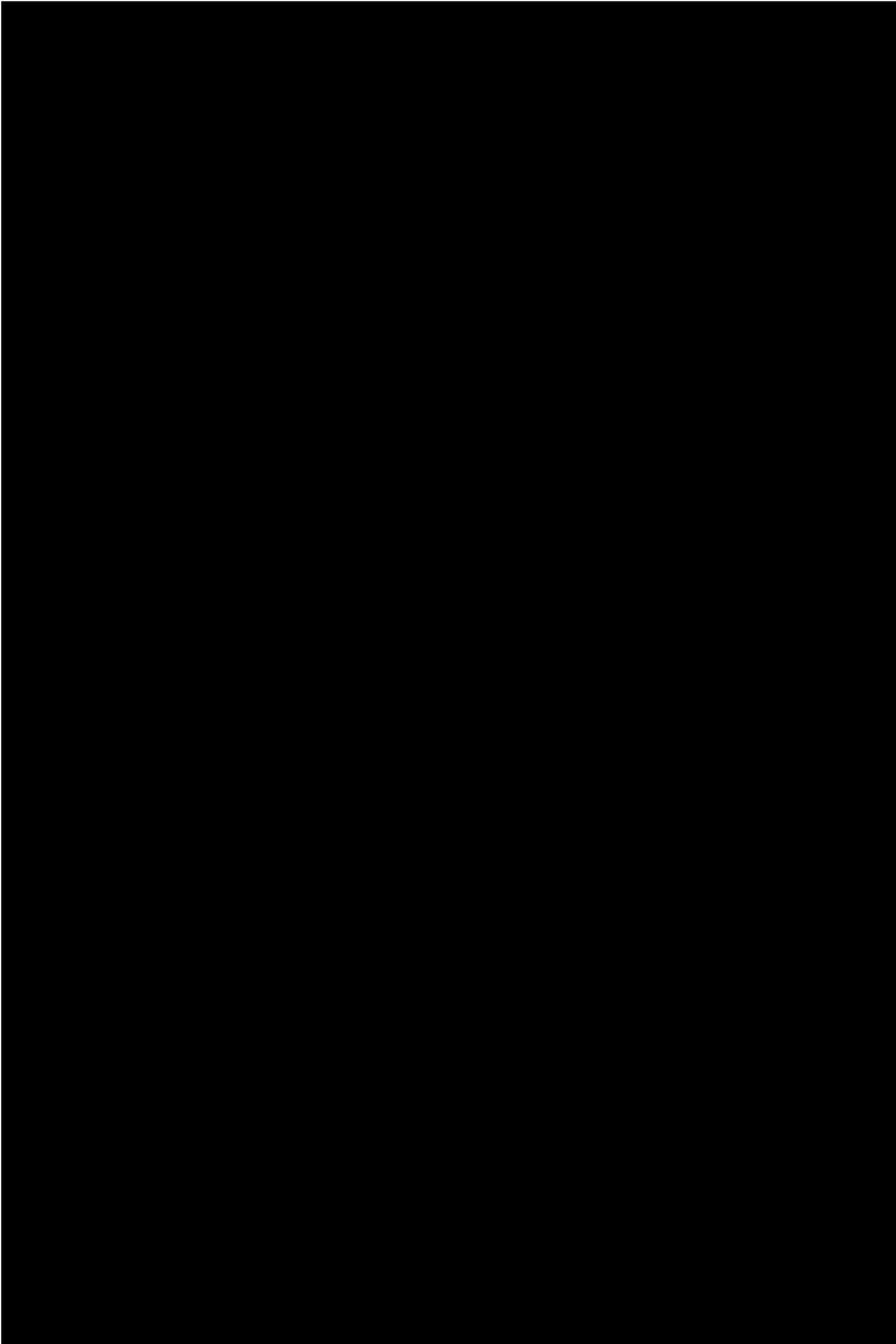


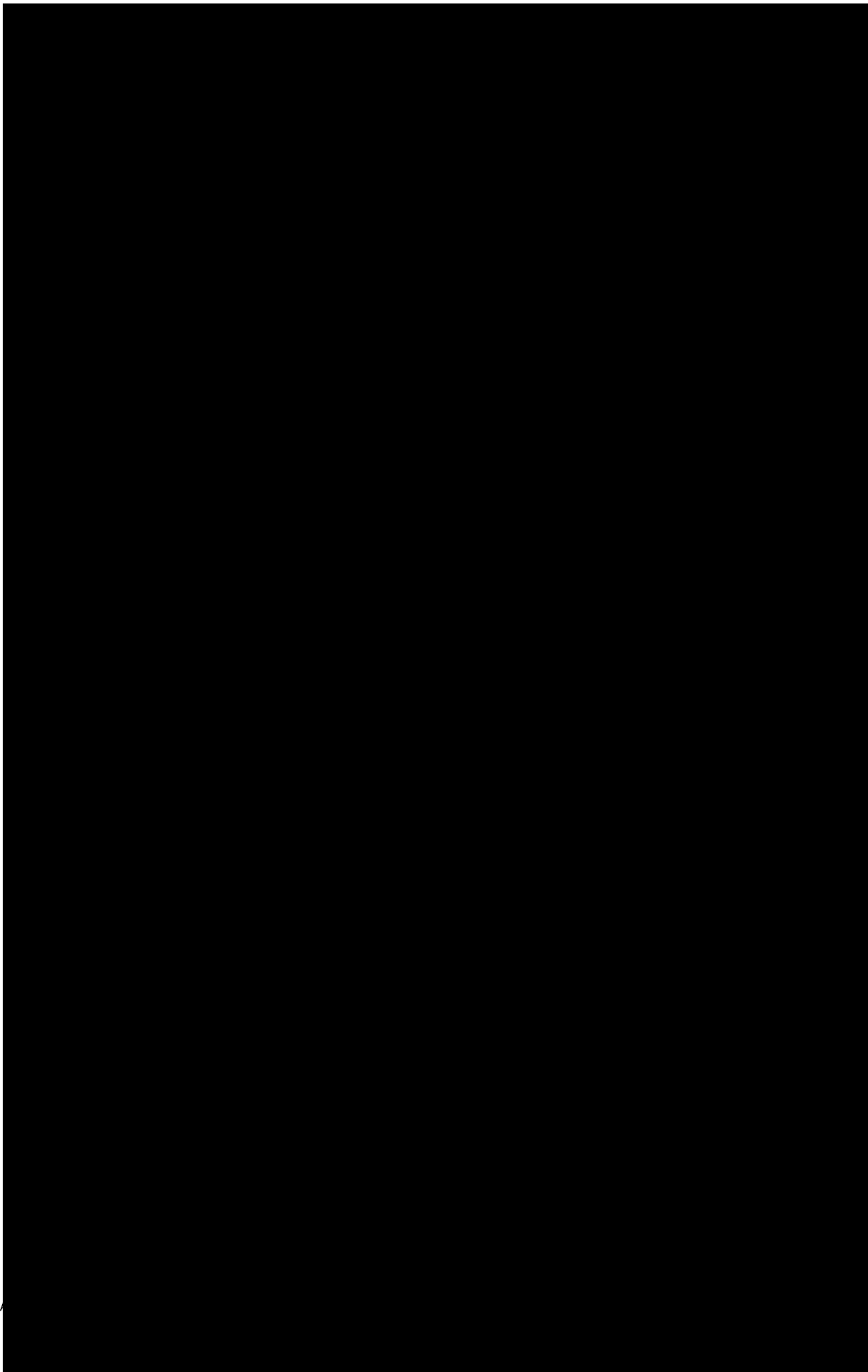


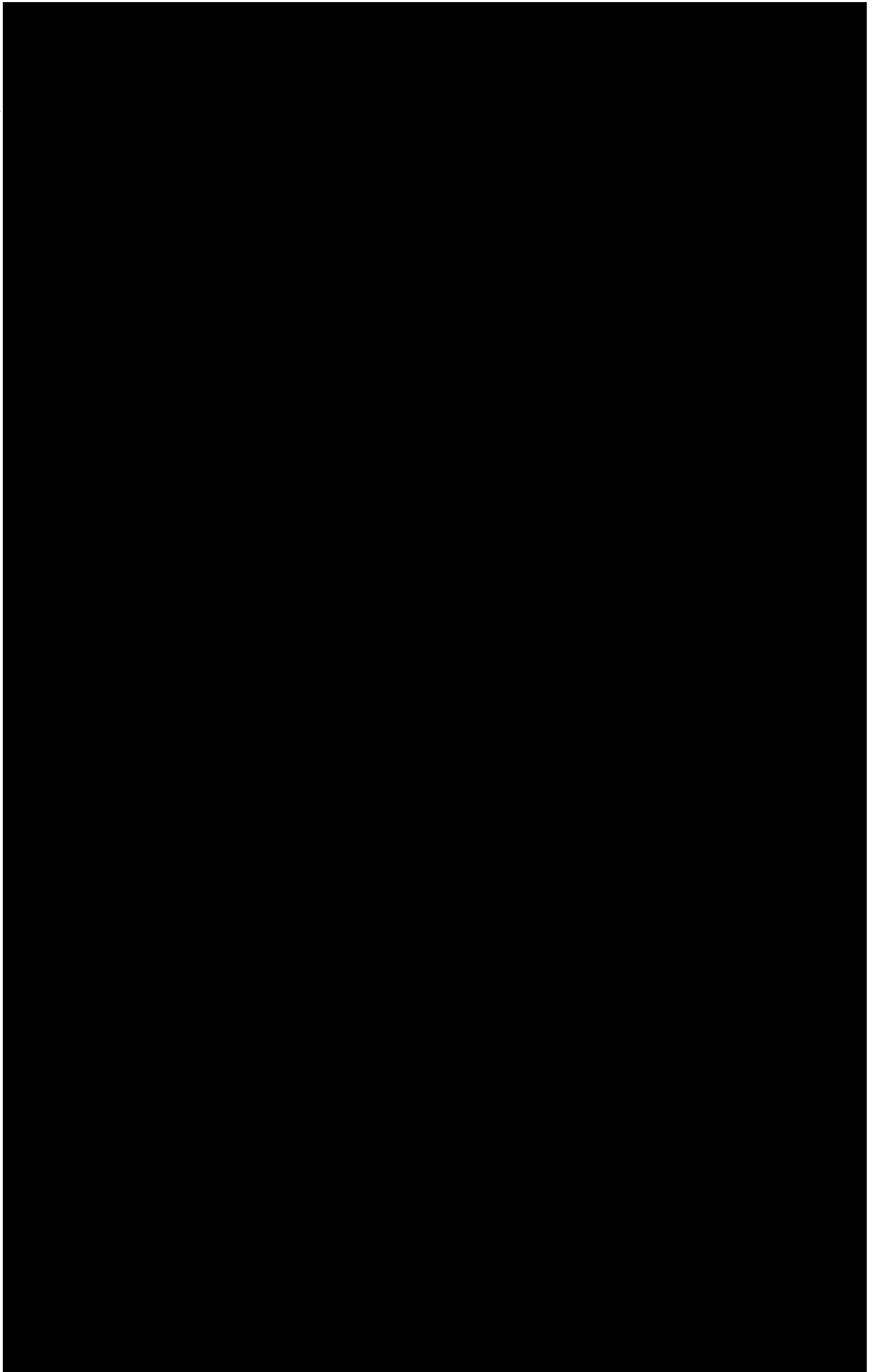


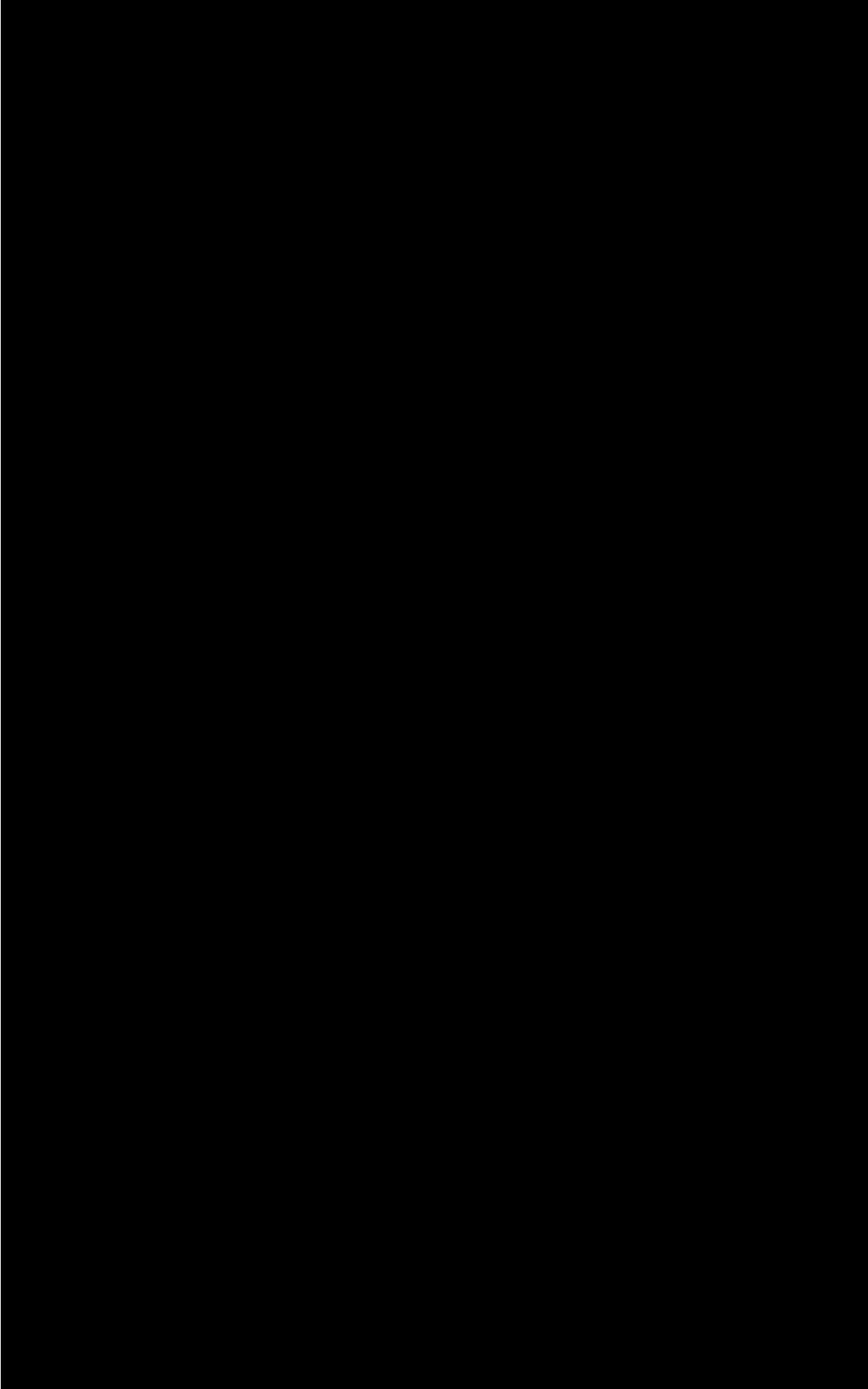


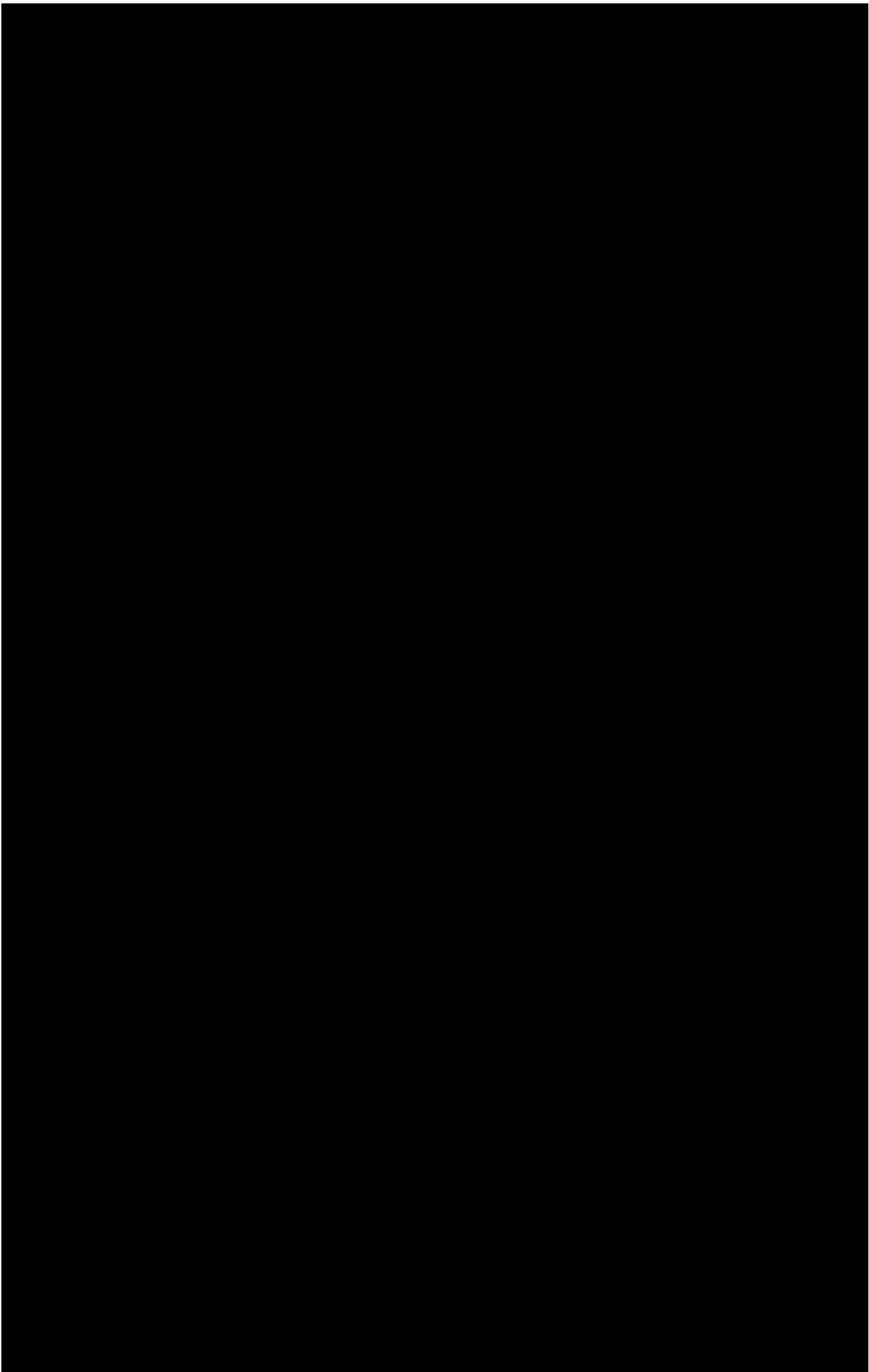


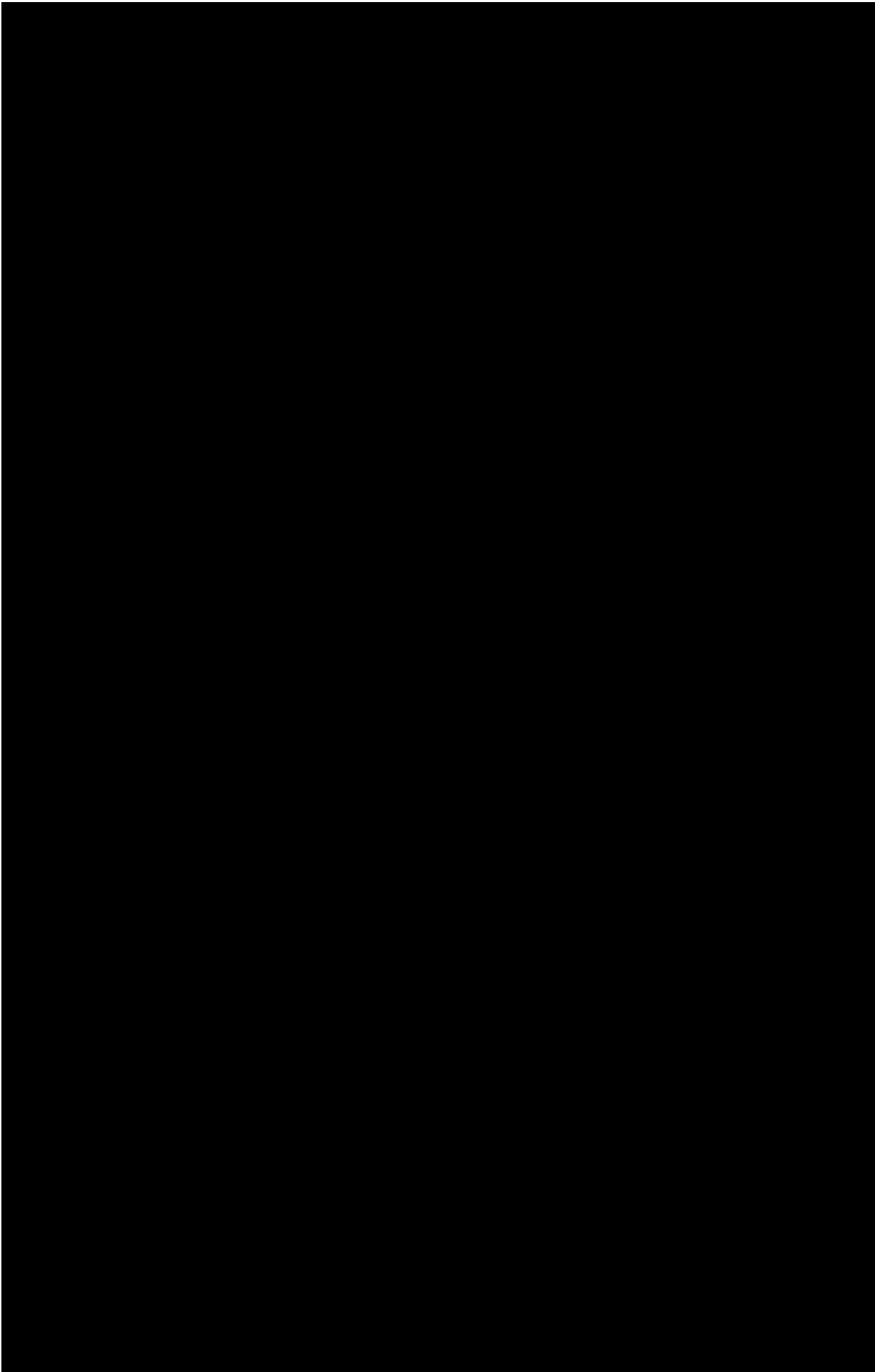


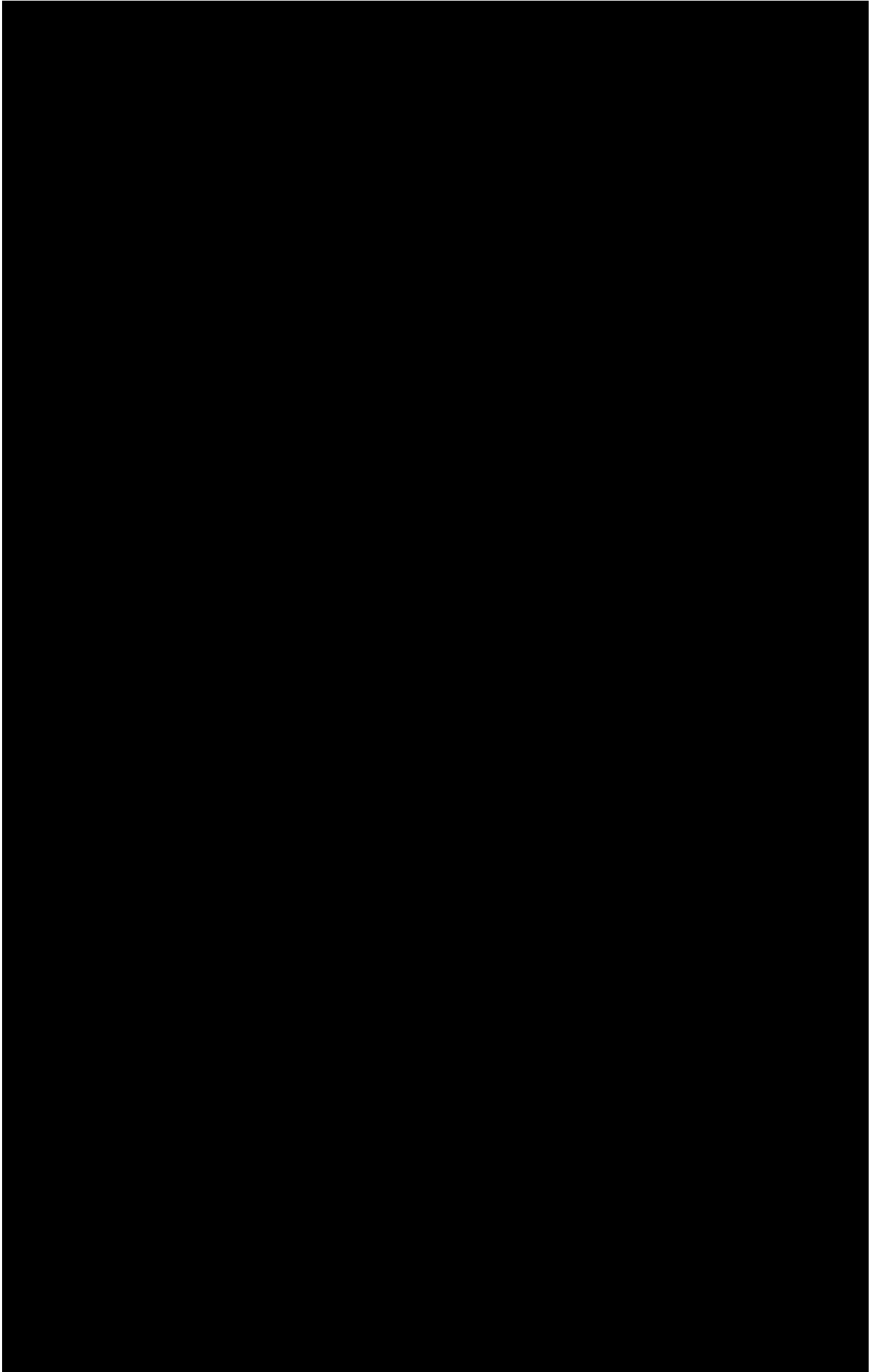


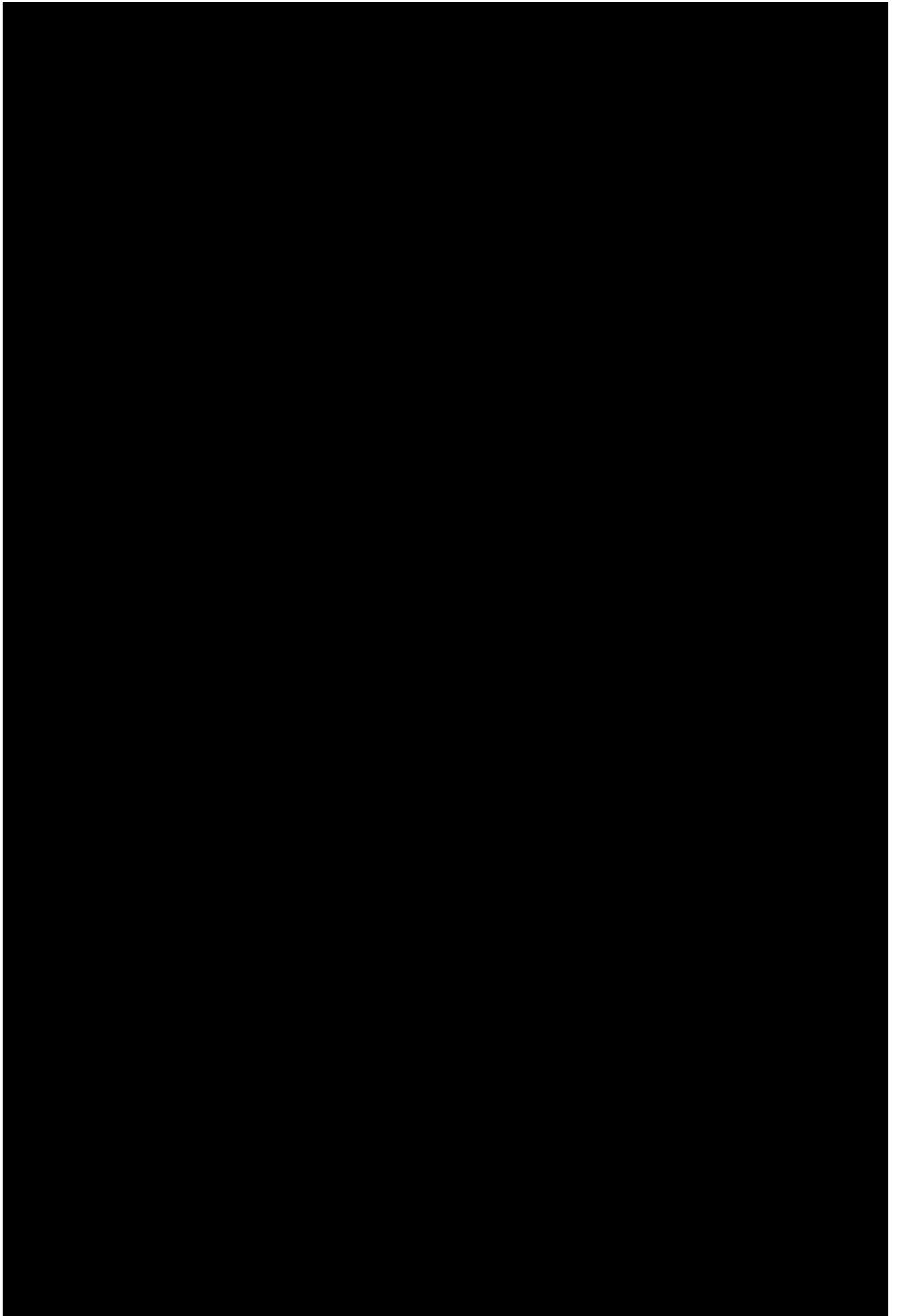




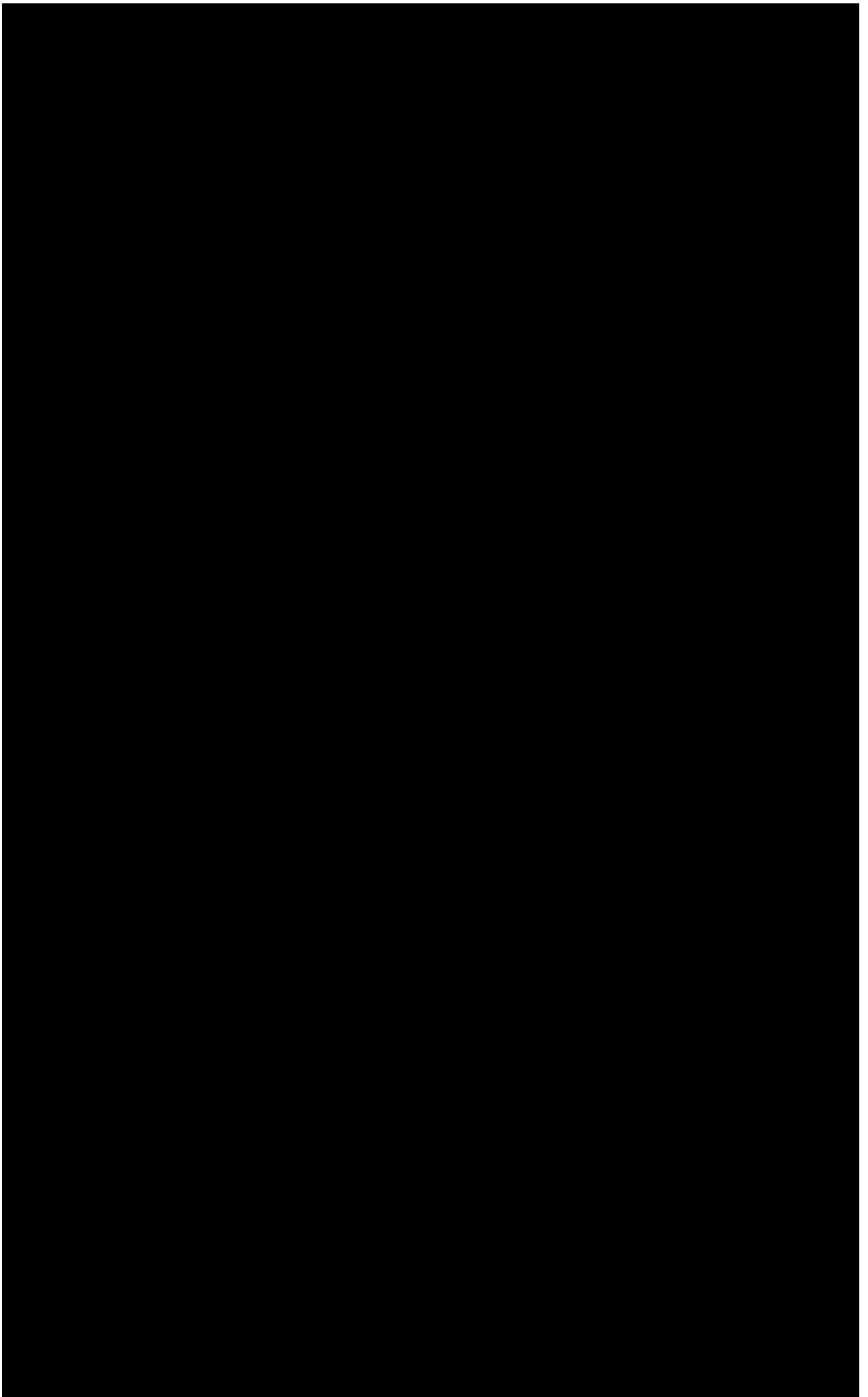


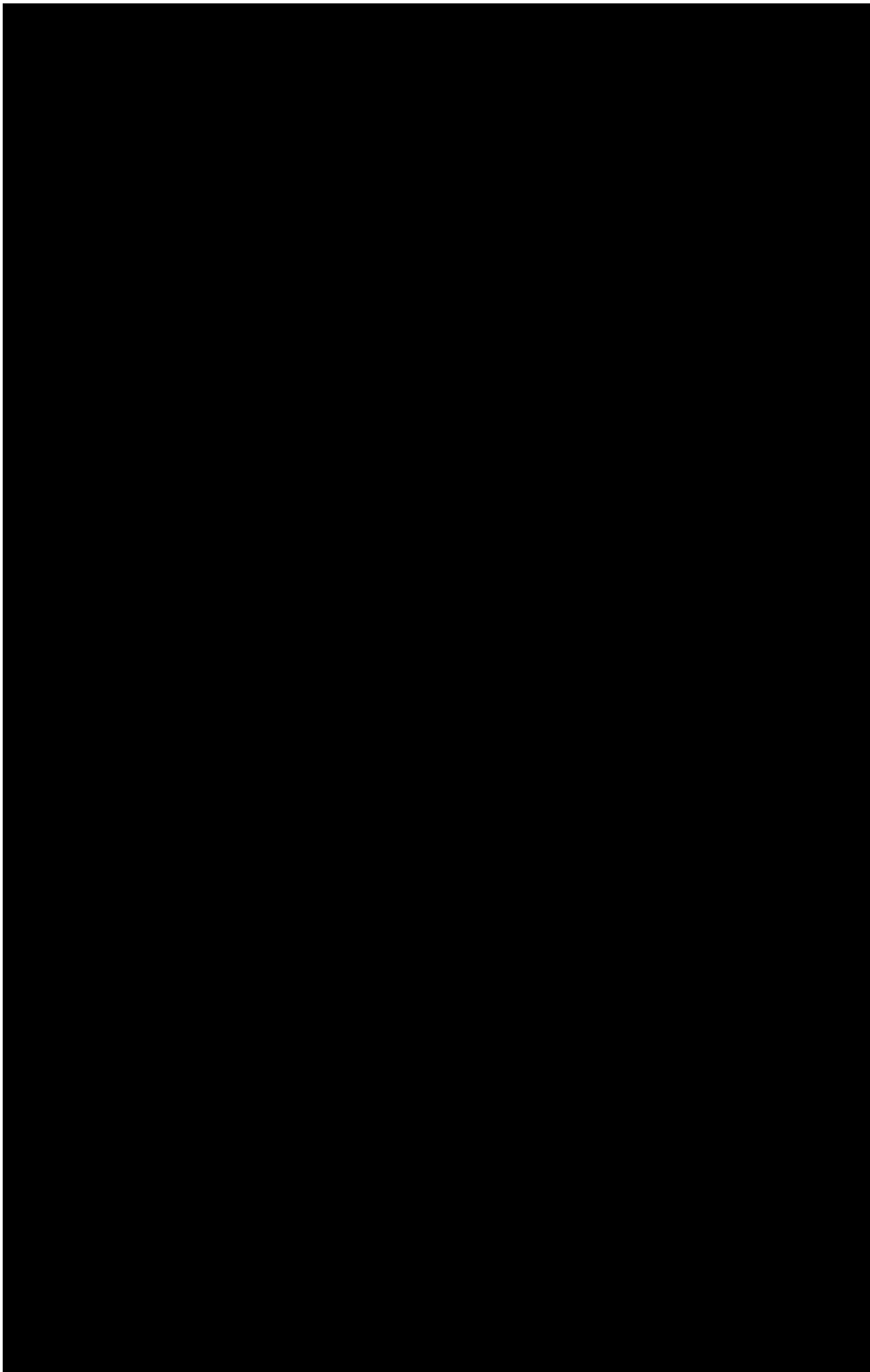


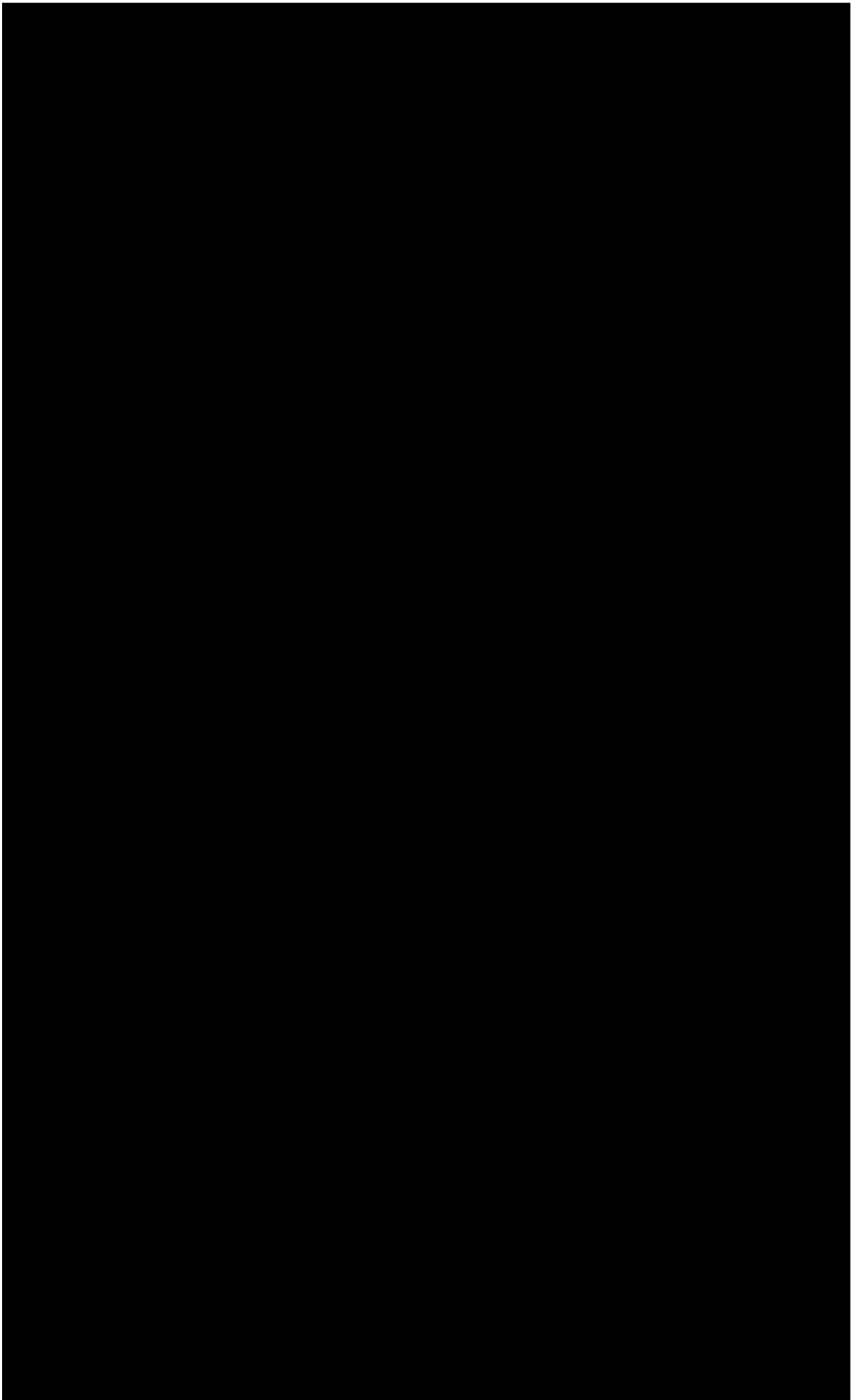


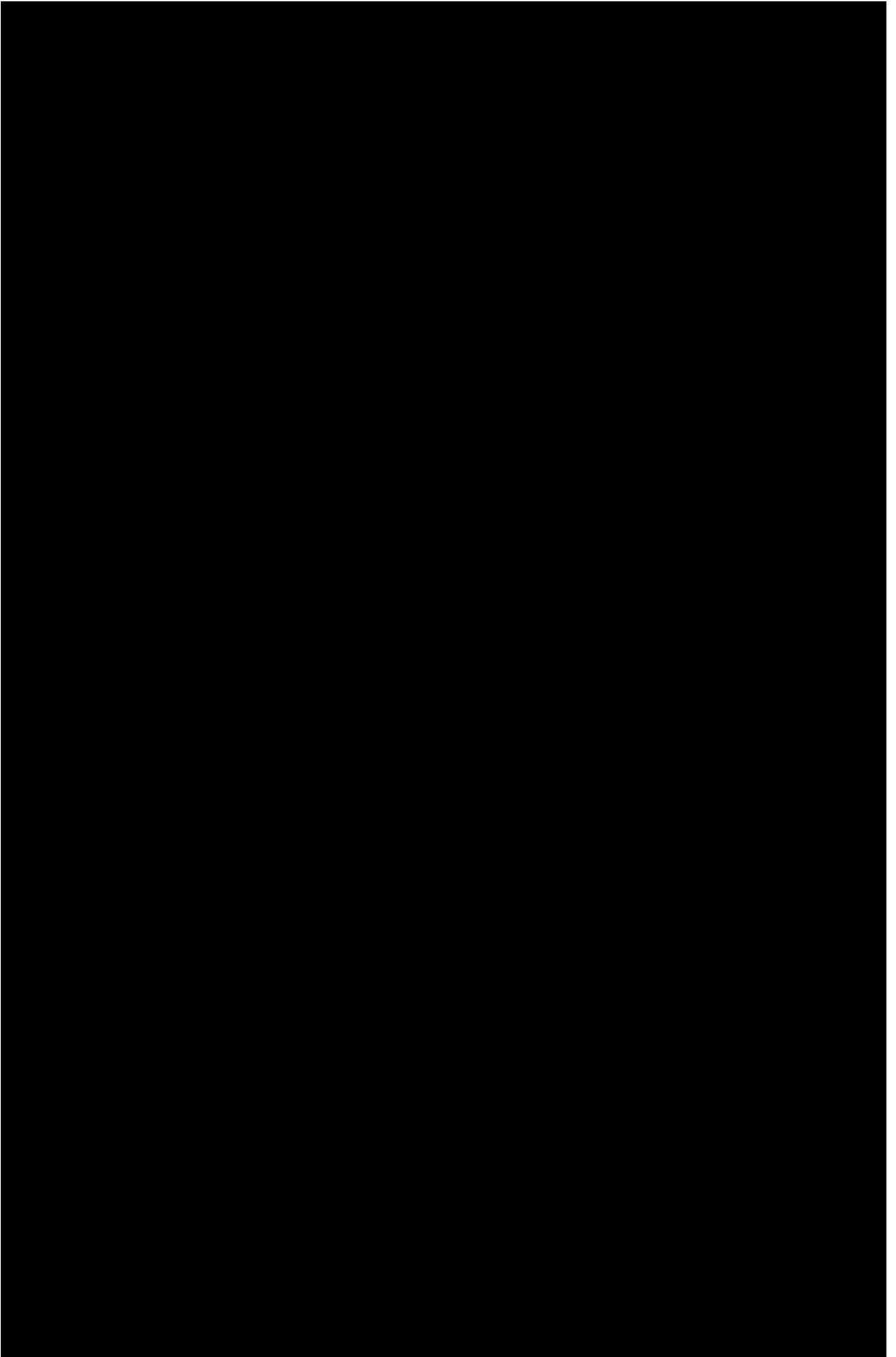


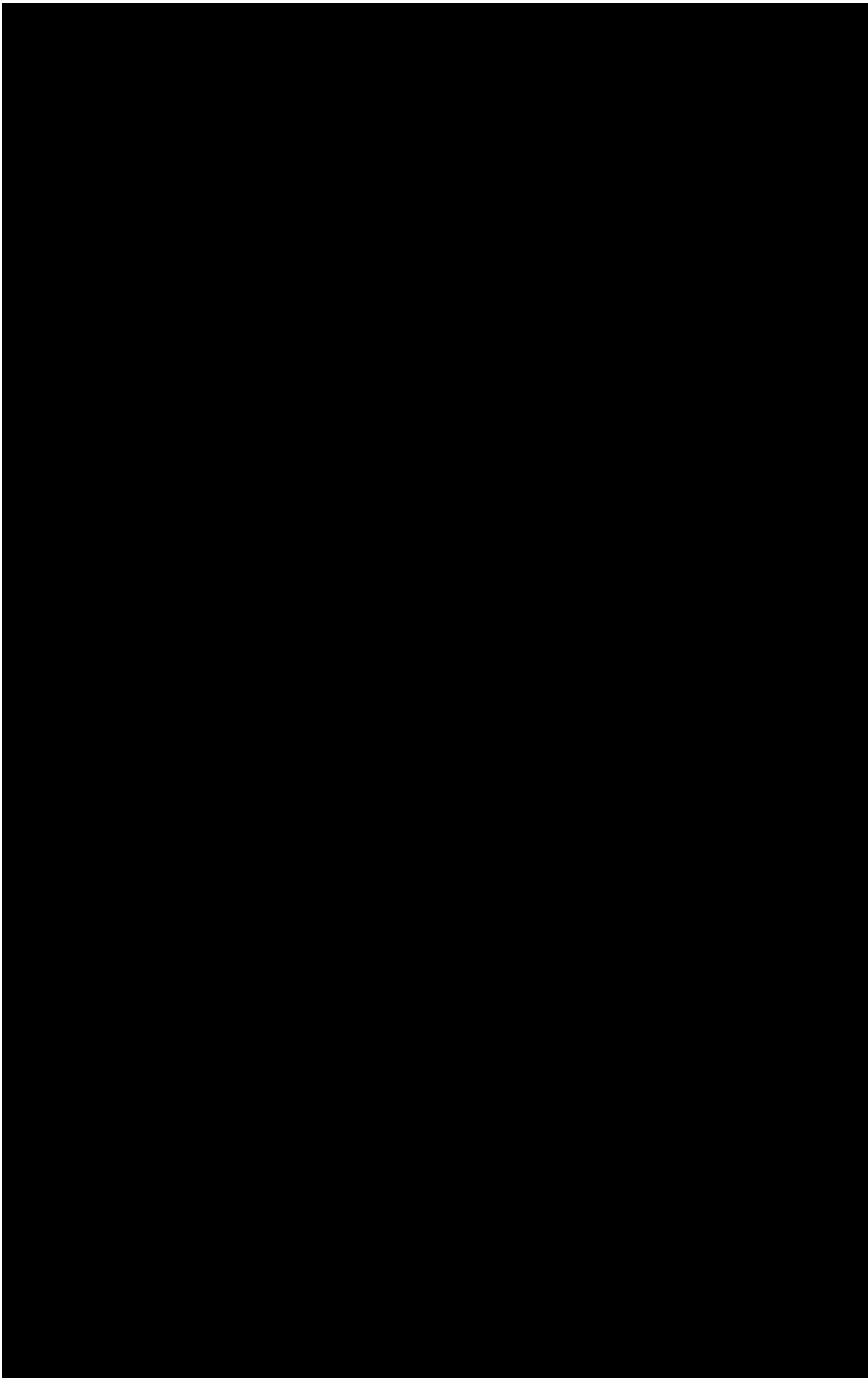


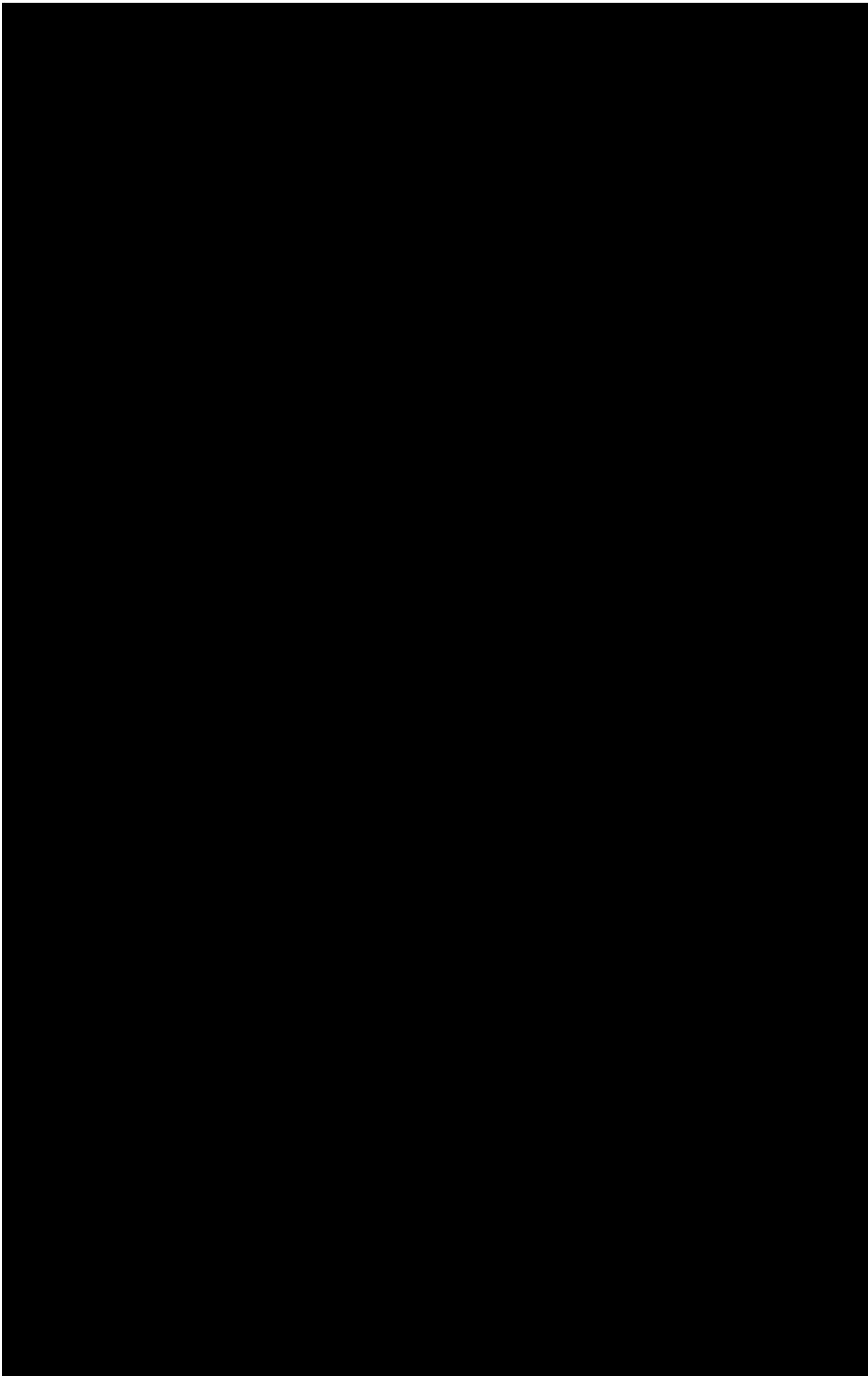




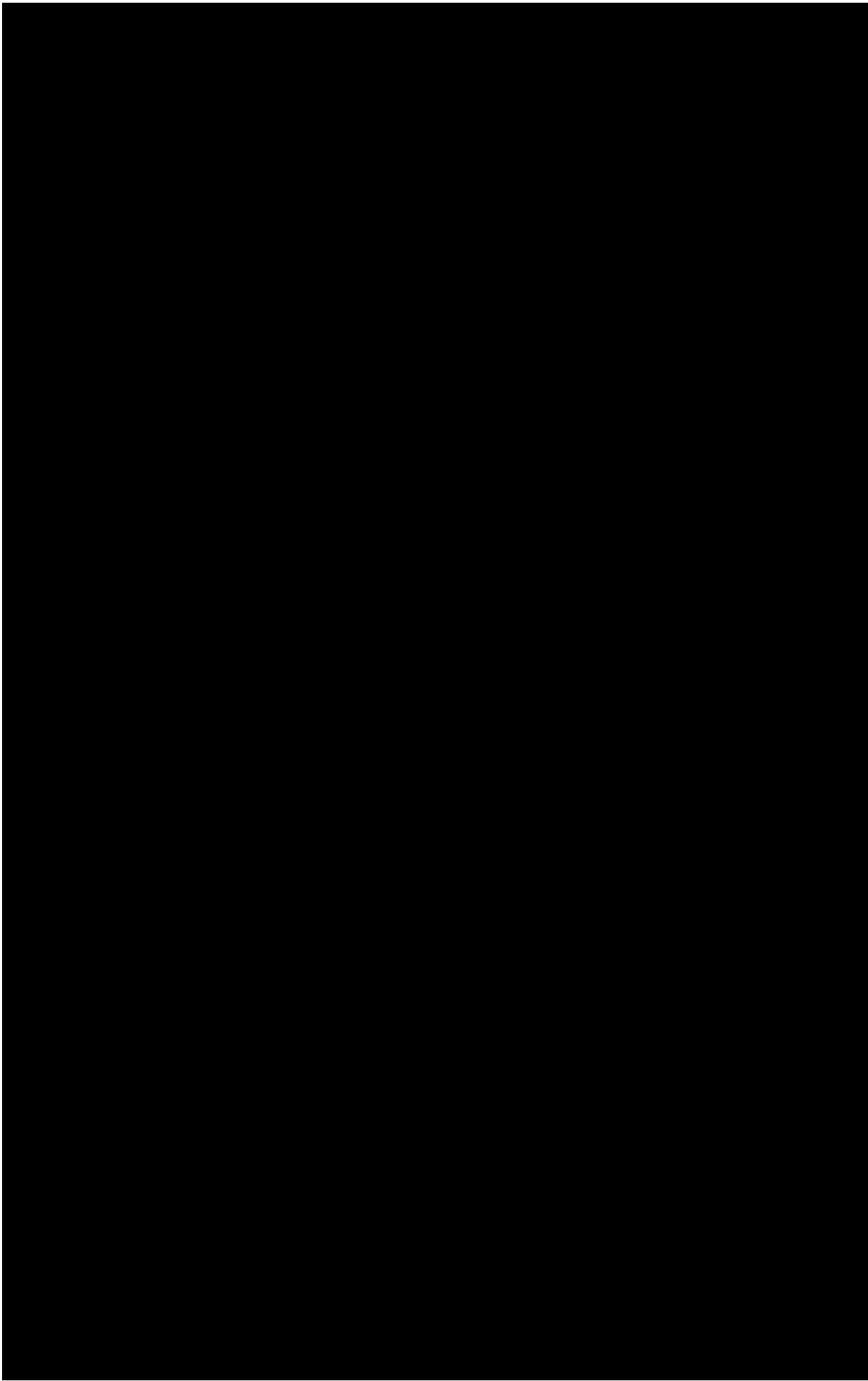




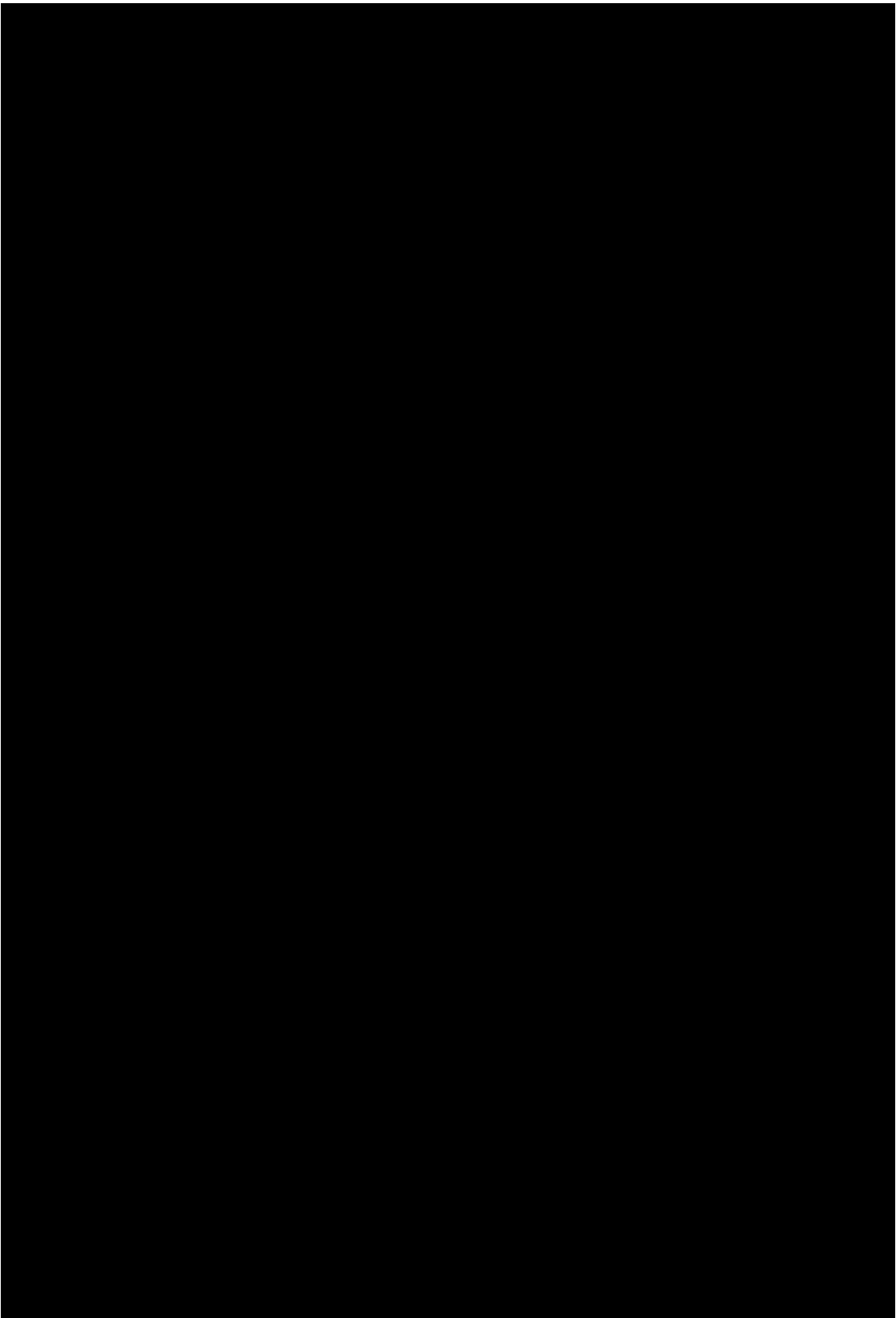


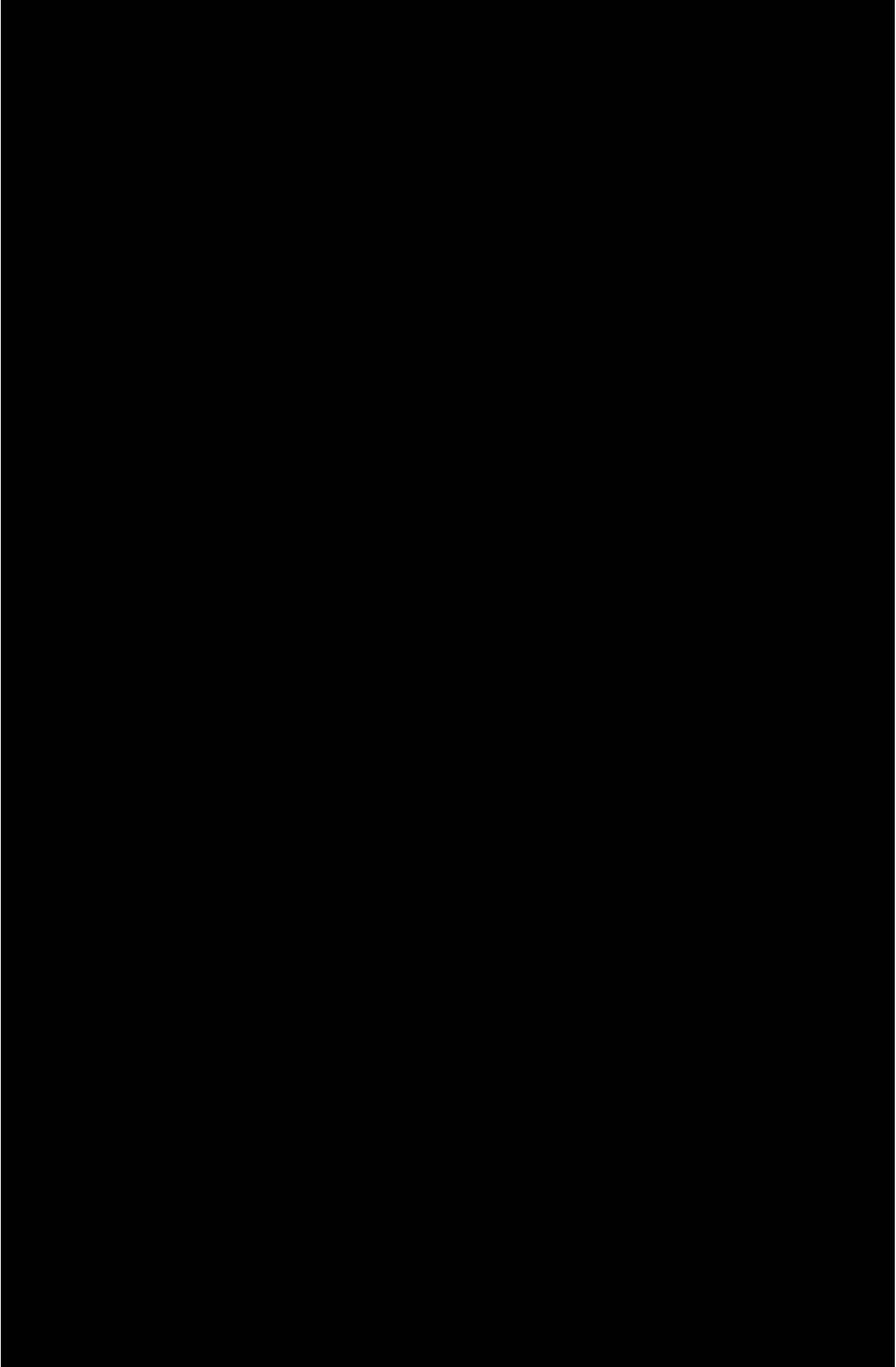


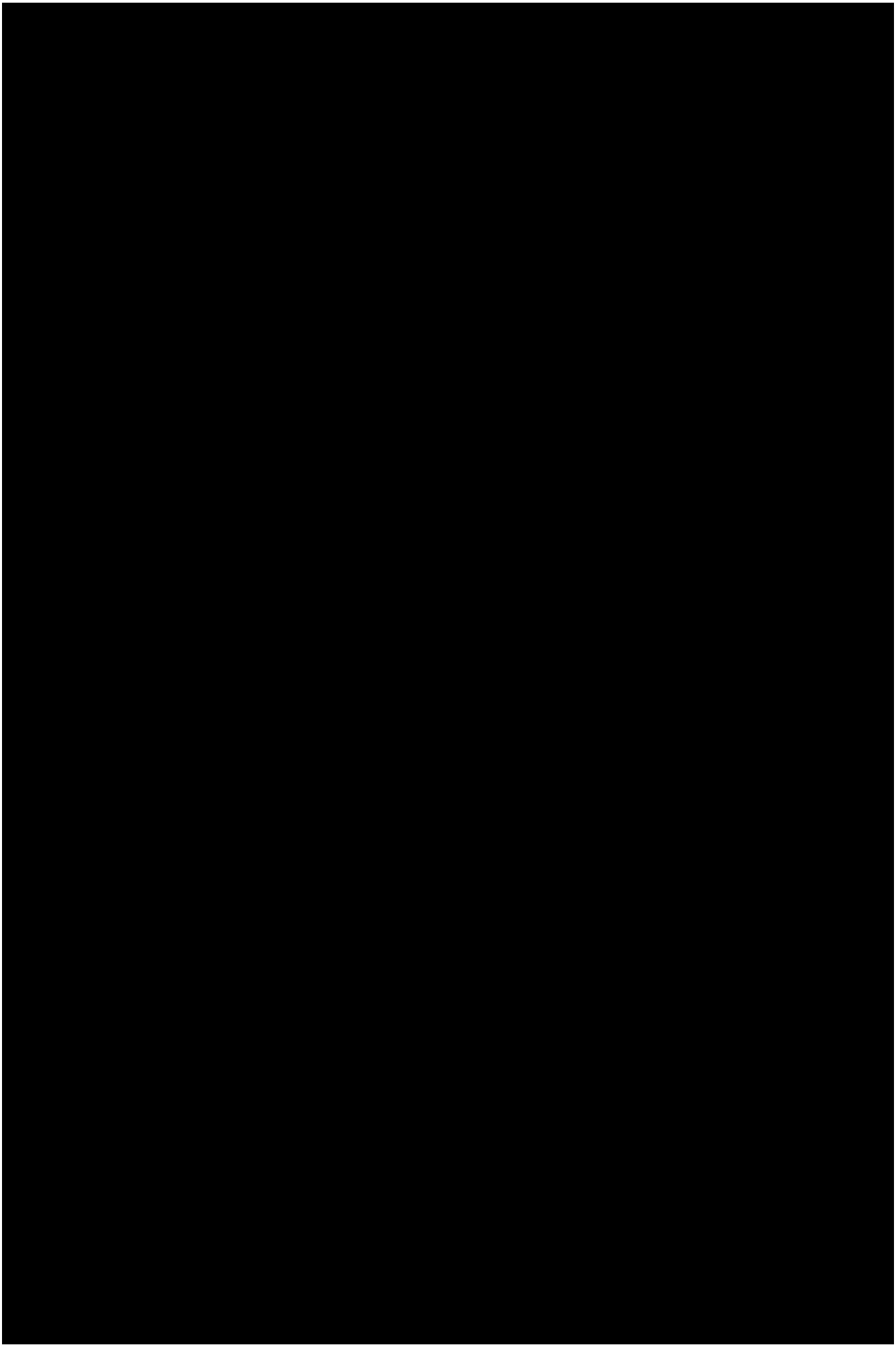
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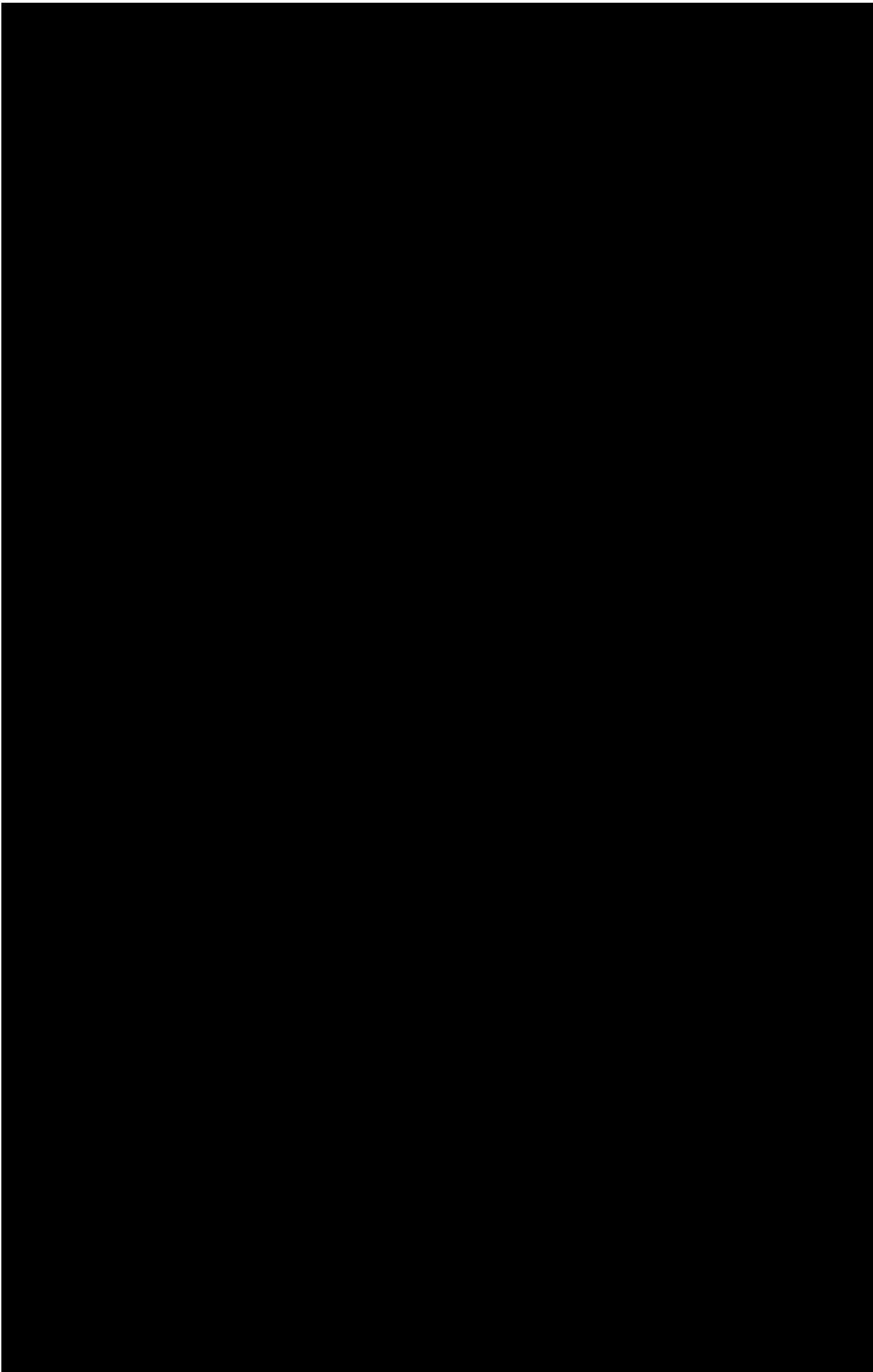


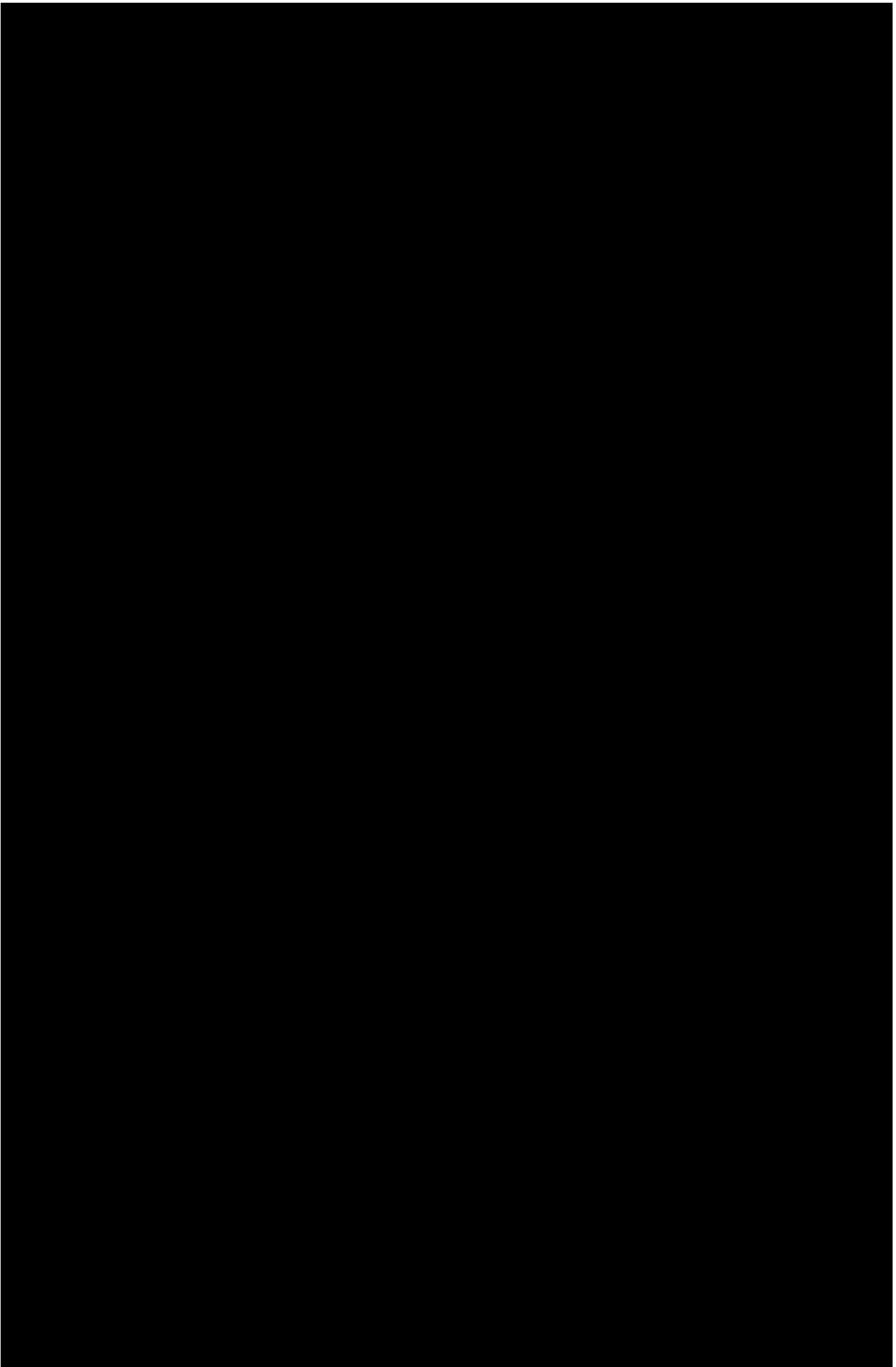


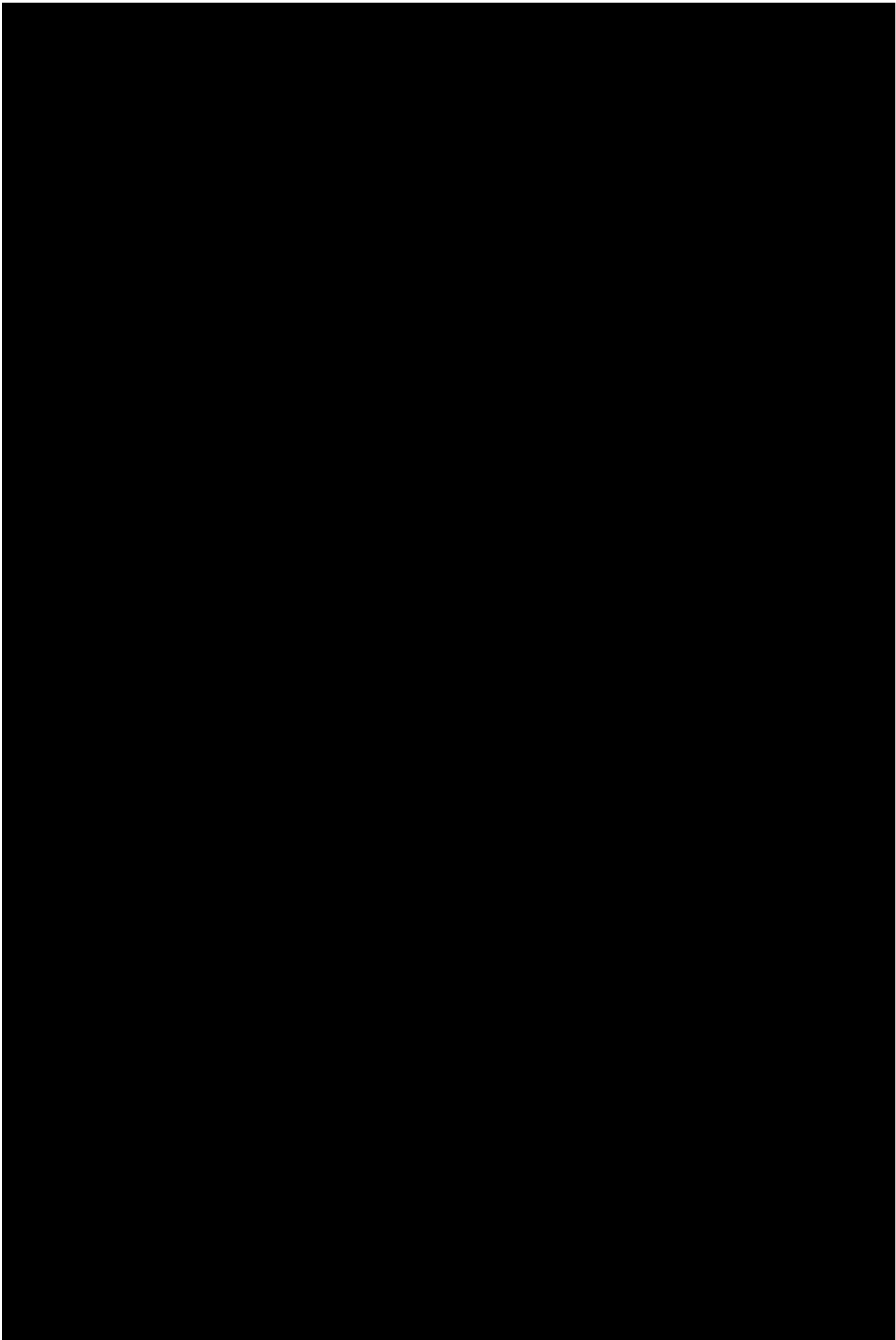


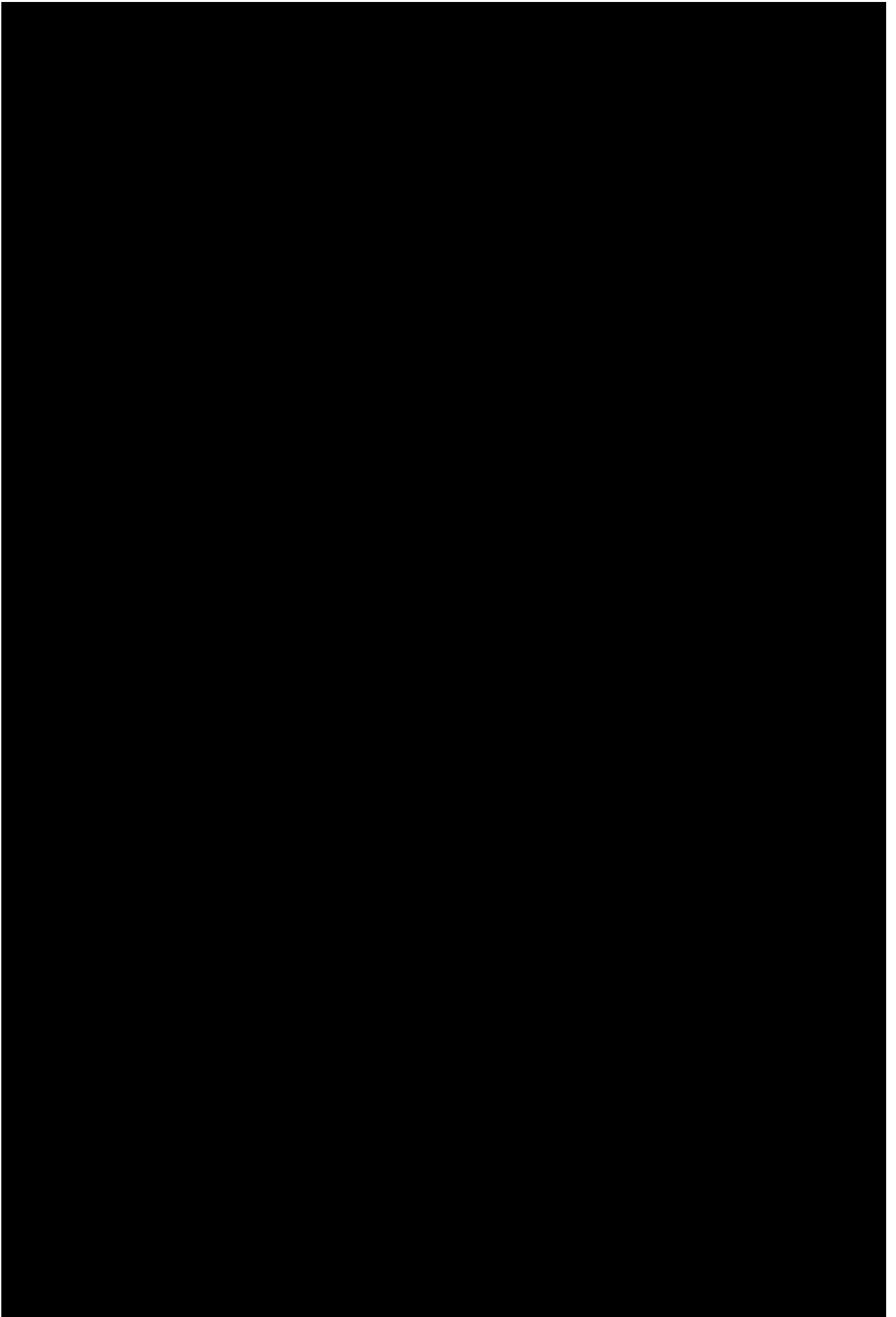


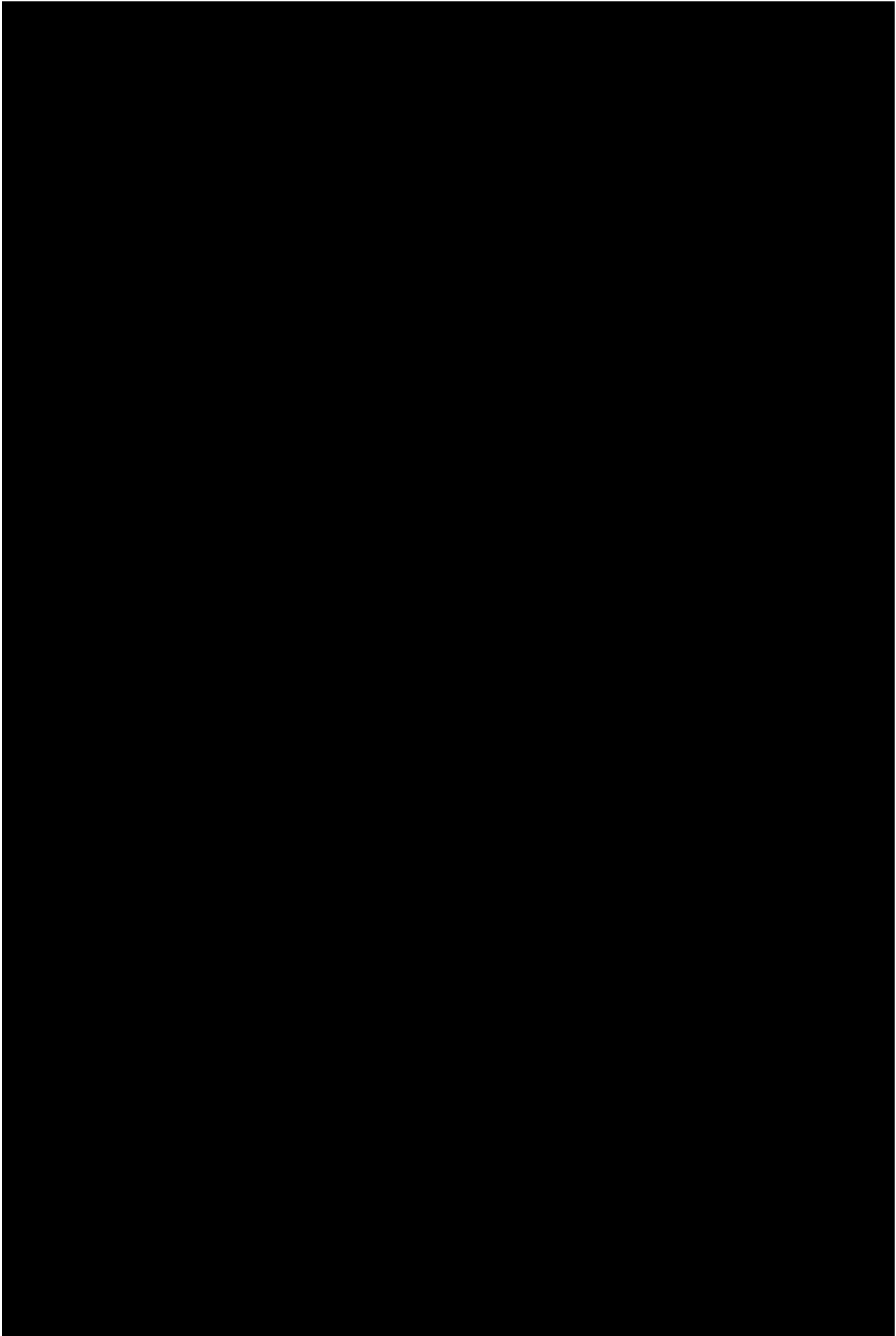




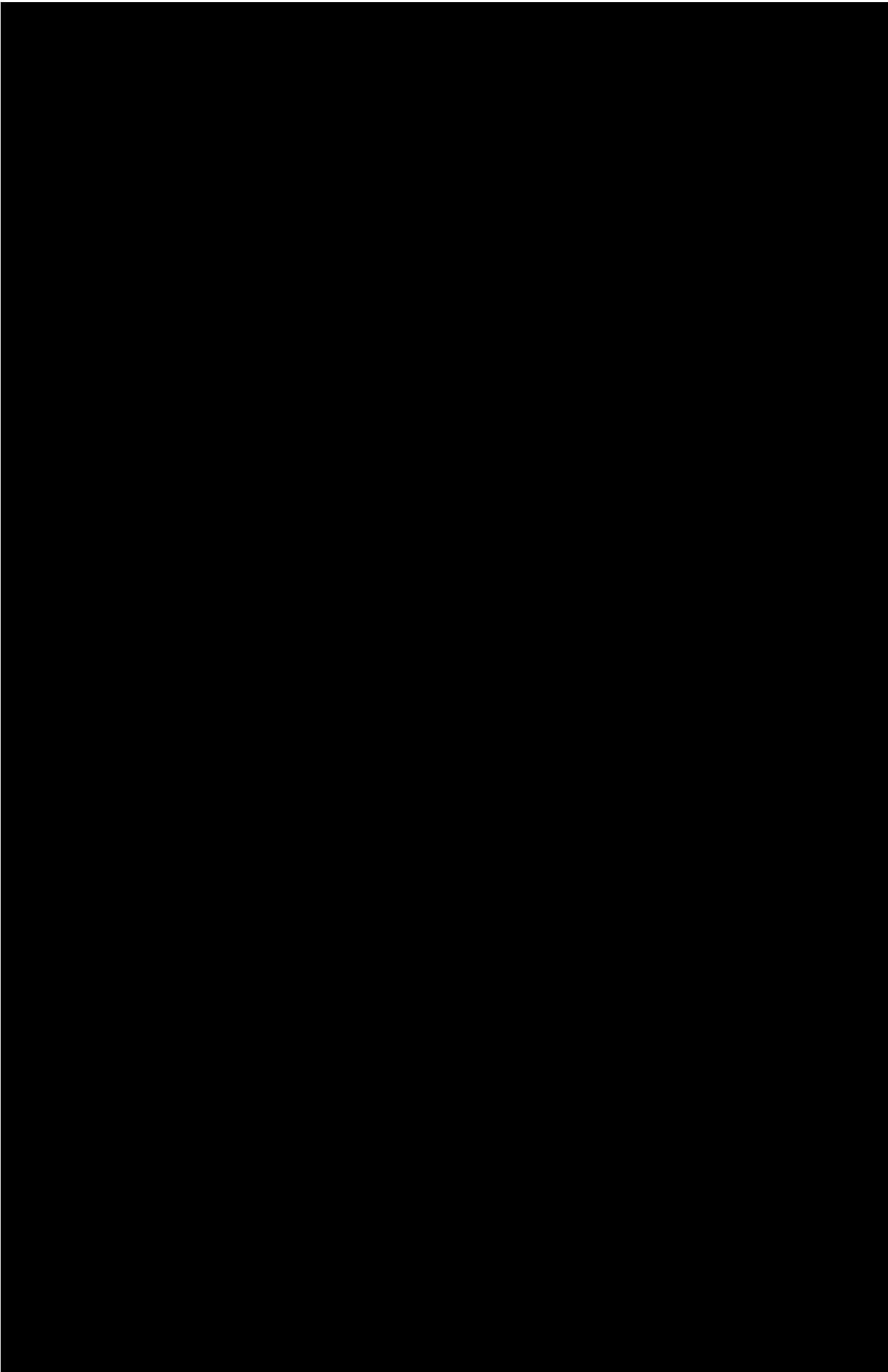


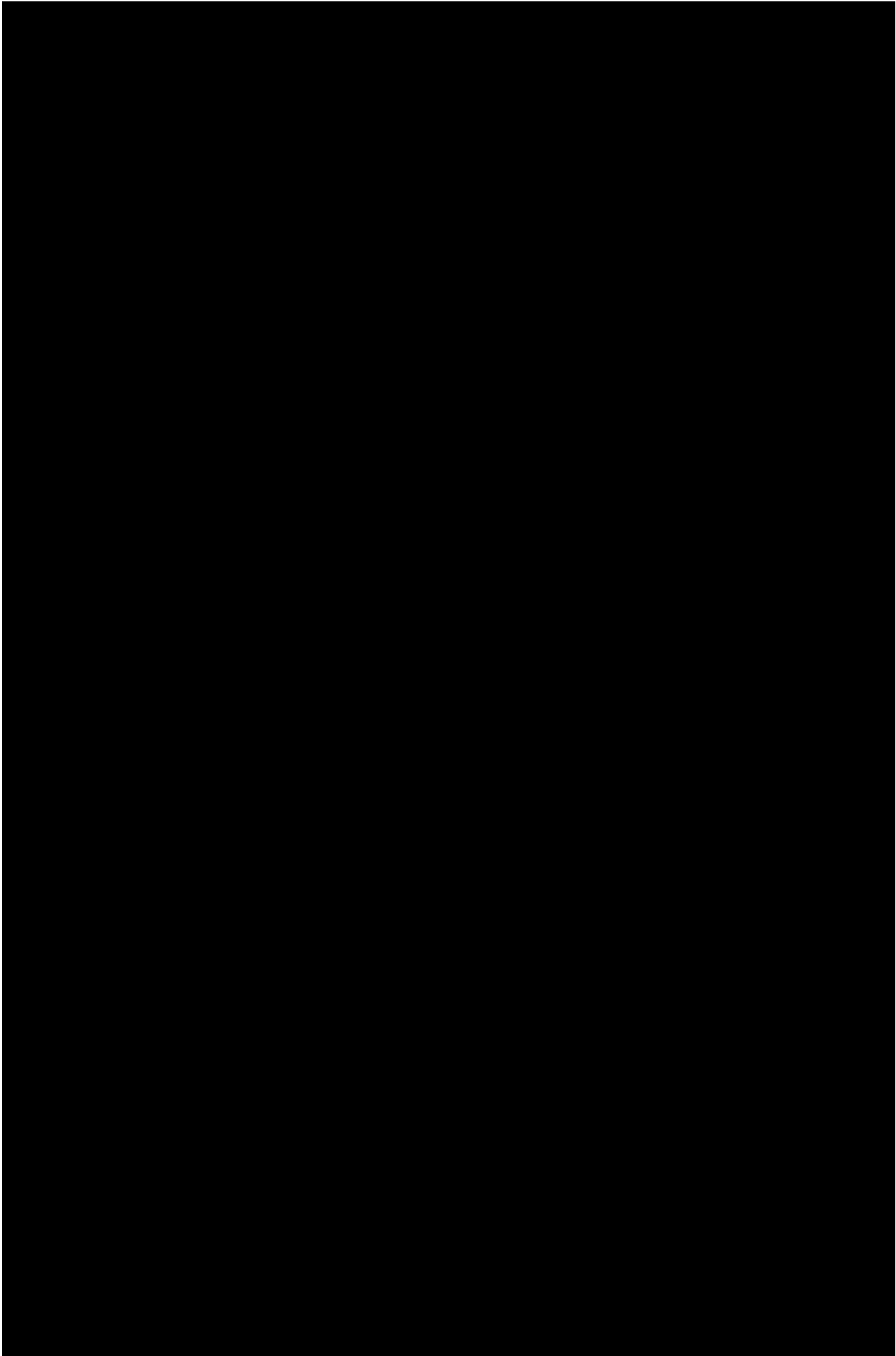


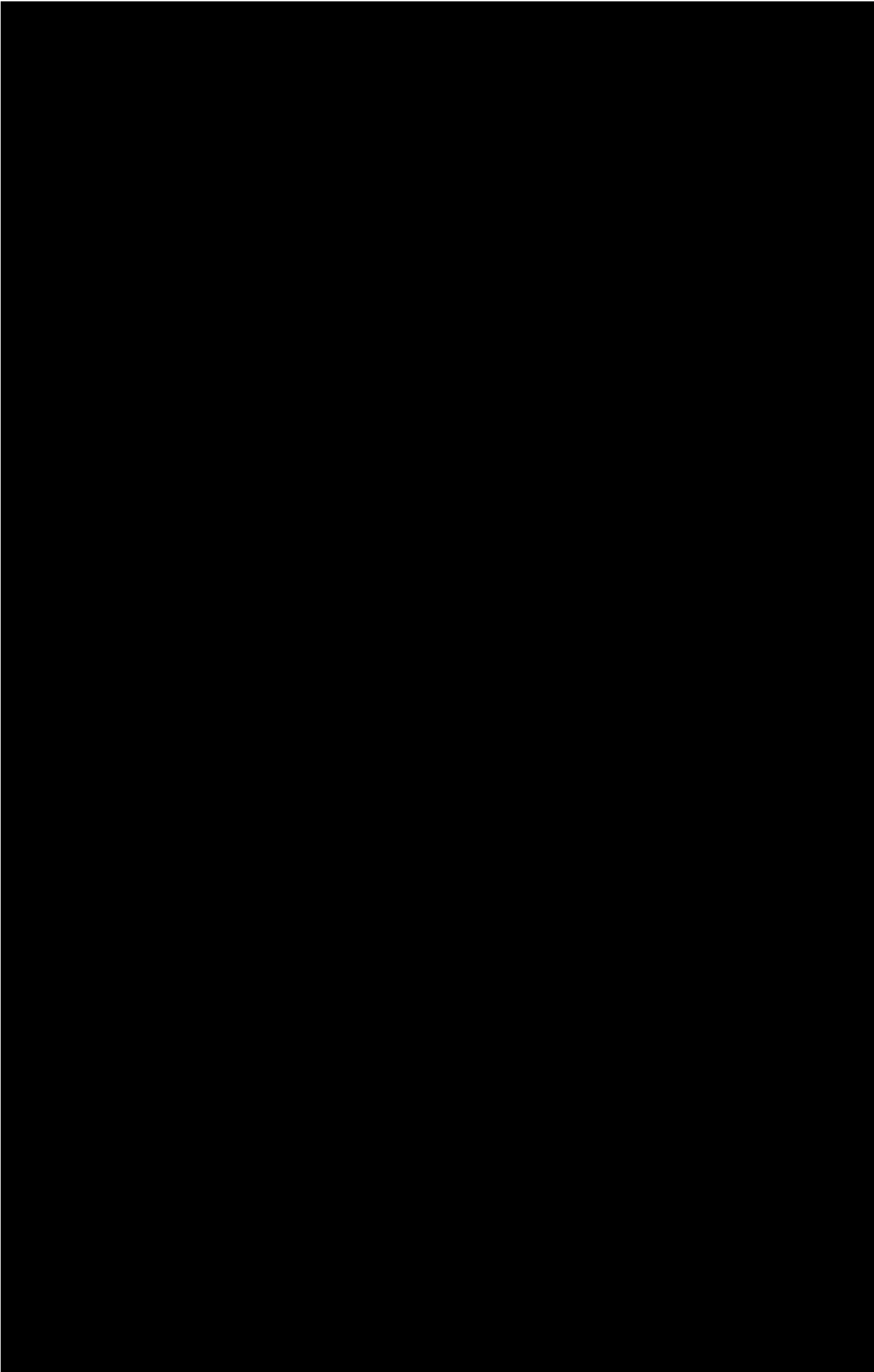


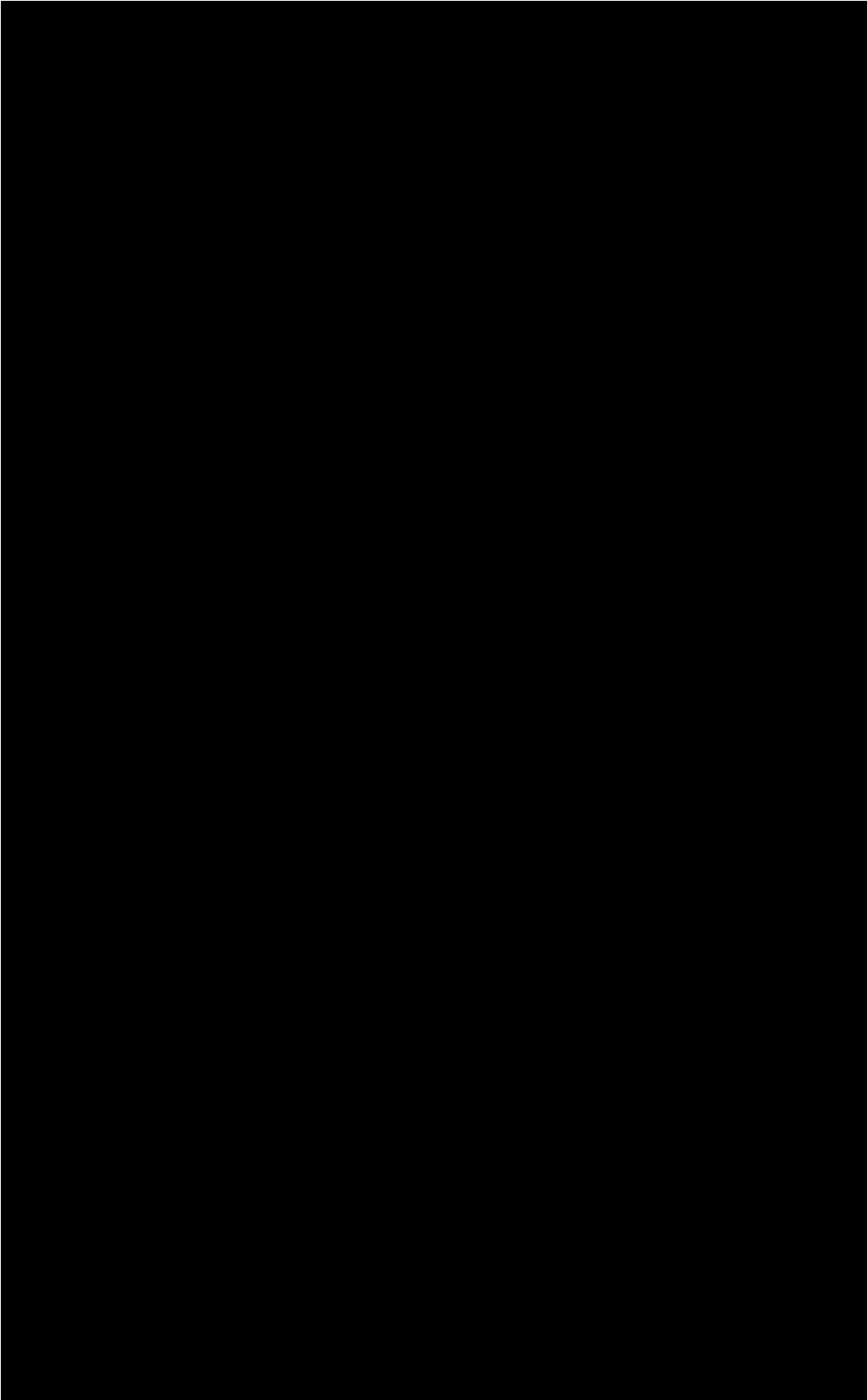












**SCHEDULE A11  
IDAR Panel Agreement**

**IDAR Panel Agreement**

**This Agreement** is made at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
between the following parties:

1. **Sydney Metro** ABN 12 354 063 515 a New South Wales Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW) and located at Level 43, 680 George Street, Sydney NSW 2000 (**Principal**)  
  
and
2. **Members of the IDAR Panel** (collectively **Members**), namely:  
  
[insert name] of [insert address] (**Chair**)  
  
[insert name] of [insert address]  
  
[insert name] of [insert address]  
  
[insert name] of [insert address]  
  
and
3. (From each Accession Date) each person who accedes to this agreement under clause 4, being the person identified as the "Acceding Party" in an Accession Deed Poll (**Project Contractor**).

**RECITALS:**

- (A) The Principal is responsible for delivering Sydney Metro City & Southwest. Sydney Metro City & Southwest involves multiple packages of works to be undertaken by contractors engaged by the Principal and by developers above or adjacent to the new Metro stations under separate contracts (**Project Contracts**).
- (B) The Principal will progressively engage or enter into contracts with Project Contractors. As each Project Contract is entered into, the Project Contractor will execute an Accession Deed Poll substantially in the form set out in Schedule 1 and will thereby accede to the terms of this agreement.
- (C) The Project Contracts provide for a dispute resolution process through the establishment and the operation of an IDAR Panel to assist in avoiding and resolving Disputes under the Project Contracts.
- (D) The role of the IDAR Panel is to, among other things, encourage the Principal and the relevant Project Contractor to proactively resolve Disputes by providing a non-binding forum for the parties to establish their positions and narrow the issues in Dispute.
- (E) The parties acknowledge the benefits of a project-wide IDAR Panel include an improvement in the quality of assessments and determinations as a result of the IDAR Panel's familiarity with complex interfaces across multiple integrated works packages.

- (F) This agreement sets out the rights, obligations and duties of the Members, the Principal and (from each Accession Date) the Project Contractors in relation to the IDAR Panel and the Disputes (the **Agreement**).

**THIS AGREEMENT PROVIDES:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**Accession Date** has the same meaning as given to the term "Effective Date" in the Accession Deed Poll, being the date from which each Project Contractor accedes to this Agreement.

**Accession Deed Poll** means the deed poll in substantially the same form as Schedule 1 (with relevant details duly completed) which is to be executed by each Project Contractor in accordance with clause 4.

**Continuing Parties** has the same meaning as given to the term "Continuing Parties " in the Accession Deed Poll, being those parties to the Agreement at the Accession Date, excluding the Principal.

**Fees and Disbursements Letter** means each of the following:

- (a) the letter titled "Fees and Disbursements for Independent Dispute Avoidance and Resolution Panel" between the Principal, each Project Contractor and [Member] dated on or about the date of this agreement;
- (b) the letter titled "Fees and Disbursements for Independent Dispute Avoidance and Resolution Panel" between the Principal, each Project Contractor and [Member] dated on or about the date of this agreement;
- (c) the letter titled "Fees and Disbursements for Independent Dispute Avoidance and Resolution Panel" between the Principal, each Project Contractor and [Member] dated on or about the date of this agreement; and
- (d) the letter titled "Fees and Disbursements for Independent Dispute Avoidance and Resolution Panel" between the Principal, each Project Contractor and [Member] dated on or about the date of this agreement.

**Joint Project Committee** means the committee established under the Master Interface Protocols Deed Poll.

**Members** means the four individuals appointed to the IDAR Panel in accordance with this Agreement.

**Project Briefing** has the meaning given in clause 6.

**Project Contract** has the meaning given in Recital A.

**1.2 Terms defined in the Project Contracts**

Terms used in this Agreement which are not otherwise defined will have the meaning given to them in the Project Contracts.

**1.3 Interpretation**

In this Agreement unless the context otherwise requires:

**Execution version**

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words without limitation;
- (c) a reference to any party to this Agreement includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to any Authority, institute, association or body is:
  - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
  - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;
- (e) a reference to this Agreement or to any other deed, agreement, document or instrument is deemed to include a reference to this Agreement or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes:
  - (i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
  - (ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;
- (g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (h) headings are for convenience only and do not affect the interpretation of this Agreement;
- (i) a reference to:
  - (i) a party or clause is a reference to a party or clause of or to this Agreement; and
  - (ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) for all purposes (other than where designated as a Business Day), day means calendar day;
- (l) a reference to "\$" is to Australian currency;



- (m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Agreement or any part; and
- (n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

**2. AGREEMENT TO PREVAIL**

- (a) The parties agree that if there is any inconsistency between the terms of this Agreement and a Project Contract the terms of this Agreement will prevail to the extent of the inconsistency.
- (b) This Agreement is effective as of the date the Principal and the Members sign this document and will continue, unless terminated earlier, until it terminates in accordance with clause 16.

**3. FORMATION OF THE IDAR PANEL**

The parties acknowledge that the IDAR Panel:

- (a) has been formed;
- (b) is constituted by the Members;
- (c) will be chaired by that Member designated as Chair or such other Member as the Principal nominates, by written notice to the Members and Project Contractors, from time to time; and
- (d) must perform its obligations and functions under the Project Contracts and this Agreement.

**4. ACCESSION BY PROJECT CONTRACTORS**

- (a) The Principal will ensure that each Project Contractor who enters into a Project Contract that contemplates the involvement of the IDAR Panel in the relevant dispute resolution process accedes to this Agreement.
- (b) The Project Contractors may accede to this Agreement by execution of an Accession Deed Poll without the Continuing Parties' prior approval.
- (c) Upon accession of any Project Contractor to this Agreement as referred to in clause 4(a), the rights and liabilities of the parties to this Agreement will be as set out in this Agreement as amended in accordance with the requirements of the Accession Deed Poll.
- (d) The Principal will provide the Members with a copy of the Accession Deed Poll duly executed by the Project Contractor.

**5. ROLE OF THE IDAR PANEL**

The parties acknowledge and agree that the role of the IDAR Panel is to:

- (a) provide specialised expertise in technical and administration aspects of each Project Contract in order to assist the relevant parties in firstly, attempting to prevent, and if unable to prevent, in determining Disputes under each Project Contract in a timely manner;

- (b) function as an objective, impartial and independent body at all times; and
- (c) utilise knowledge gained from Disputes across each Project Contract in its recommendations and determinations.

**6. PROJECT BRIEFINGS**

- (a) The Principal will:
  - (i) hold meetings with the Members for the purpose of the Principal providing a Sydney Metro City & Southwest project briefing and update (**Project Briefing**); and
  - (ii) provide the Members at least 10 Business Days' notice to convene a Project Briefing.
- (b) The Members must attend the Project Briefings.
- (c) During the first Project Briefing, the IDAR Panel will establish procedures for the conduct of its routine site visits and other matters (excluding the rules governing the dispute resolution process as it relates to the IDAR Panel in each Project Contract) in accordance with the procedures included in Schedule 2 to this Agreement (unless otherwise agreed by the parties).

**7. JOINT PROJECT COMMITTEE**

- (a) The Chair must attend Joint Project Committee meetings.
- (b) The Principal will provide the Chair at least 10 Business Days' notice of each meeting of the Joint Project Committee.

**8. MEMBER'S OBLIGATIONS**

**8.1 Impartiality**

Each Member agrees to consider fairly and impartially the Disputes and other matters referred to the IDAR Panel.

**8.2 Independence**

Each Member agrees to act honestly and independently in the performance of its obligations under this Agreement (including the consideration of facts and conditions relating to a Dispute) and in accordance with clause 8 of this Agreement.

**8.3 General Duties**

Each Member agrees to carry out his or her obligations as a Member of the IDAR Panel:

- (a) with due care and diligence;
- (b) in compliance with the Project Contracts and this Agreement; and
- (c) in compliance with all applicable Laws.

**9. SELECTION OF NOMINATED MEMBER**

- (a) Where a Dispute has been notified to the IDAR Panel by Notice of Issue under the relevant provisions of the Project Contract, and:
  - (i) the parties to the Dispute are unable to agree on a Nominated Member; or

- (ii) a Member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,

the Chair must nominate a Nominated Member within a further 2 Business Days.

- (b) If a Member nominated under clause 9(a) declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, the Chair must nominate a further Nominated Member within a further 2 Business Days.
- (c) The Chair may not nominate itself as the Nominated Member.
- (d) If a replacement member appointed under clause 9(b) declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, the process in clause 9(b) will be reapplied until there are no Members to accept the appointment, in which case the Chair must request the Resolution Institute to appoint a replacement member. This appointment will be final and conclusive.

10. **SELECTION OF EXPERT**

The parties acknowledge and agree that:

- (a) those persons listed in Schedule 3:
  - (i) have been appointed by the Principal to a panel of subject-matter experts; and
  - (ii) may be recommended to determine a Dispute referred to expert determination by a Notice of Dispute under the relevant provisions of the Project Contract; and
- (b) any Dispute which is referred to expert determination by a Notice of Dispute under the relevant provisions of the Project Contract will be conducted in accordance with the Resolution Institute's Expert Determination Rules, as modified by the relevant Project Contract.

11. **COSTS AND FEES**

11.1 **Monthly retainer**

- (a) The Principal is liable for the payment of the Members' monthly retainer set out in the Fees and Disbursements Letter for each Member.
- (b) The Principal is liable for the payment of the Chair's attendance at the Joint Project Committee as set out in the Fees and Disbursements Letter for the Chair.

11.2 **Agreed rates for work and services**

With respect to each Dispute between the Principal and a Project Contractor:

- (a) the Principal and the relevant Project Contractor are jointly and severally liable for the payment of the Members' fees and disbursements, calculated in accordance with the Fees and Disbursements Letter for each Member; and
- (b) the Principal and the relevant Project Contractor agree as between themselves that:
  - (i) they will each pay one half of:

- (A) the Members' fees and disbursements, calculated in accordance with the Fees and Disbursements Letter for each Member; and
  - (B) any third party costs incurred in holding the Consultation and the preparation of the Recommendation, including any booking fee, room hire and transcript costs; and
- (ii) they will each bear their own costs of and incidental to the preparation of this Agreement and their participation in any decision process of the IDAR Panel.

**11.3 Payment claims**

All claims for payment by the Members must be submitted and processed in accordance with the payment procedure set out in Schedule 4.

**12. THE PARTIES' COMMITMENTS AND RESPONSIBILITIES**

The Principal and each Project Contractor acknowledges and agrees that it must:

- (a) act in good faith towards each Member and the IDAR Panel;
- (b) comply with the reasonable requests and directions of the IDAR Panel; and
- (c) except for its participation in the IDAR Panel's activities as provided in the Project Contracts and this Agreement, not solicit advice or consultation from the IDAR Panel or the Members on matters dealing with the resolution of Disputes which may compromise the IDAR Panel's integrity or compliance with this Agreement.

**13. CONFIDENTIALITY**

In relation to all confidential information disclosed to the IDAR Panel at any time each Member agrees:

- (a) to keep that information confidential;
- (b) not to disclose that information except if compelled by Law to do so;
- (c) not to use that information for a purpose other than the resolution of the Dispute in relation to which the confidential information was disclosed; and
- (d) to be bound by this obligation of confidentiality whether or not such confidential information is or later becomes in the public domain.

**14. CONFLICT OF INTEREST**

- (a) If a Member, during the term of appointment as a Member, becomes aware of any circumstance that might reasonably be considered to affect the Member's capacity to act independently, impartially and without bias, the Member must inform the Principal and each Project Contractor and the other Members.
- (b) The other Members will within 5 Business Days of notification under clause 14(a) confer and inform the parties and the Member, whether they believe the circumstances notified are such that the Member should be replaced. In the event that one or both of the other Members believe that the Member should be replaced, the Member will immediately resign from the IDAR Panel and a reappointment will occur pursuant to clause 17.3.

**15. LIABILITY AND INDEMNITY**

**15.1 Liability**

Each Member is not liable to either the Principal or a Project Contractor for any act or omission done in good faith and with due care and diligence.

**15.2 Indemnity**

The Principal and each Project Contractor each indemnify each Member against all claims from a person not a party to this Agreement for any act or omission done in connection with this Agreement in good faith and with due care and diligence.

**15.3 Due Care and Diligence**

For the purpose of clauses 15.1 and 15.2, the parties agree that the Member's act will have been done in good faith and with due care and diligence unless no reasonable person in the position of the Member would have so acted or made such an omission.

**16. TERMINATION OF AGREEMENT**

- (a) The Principal may terminate this Agreement by written notice to the Members and each Project Contractor.
- (b) Each Project Contractor's rights and obligations under this Agreement will terminate automatically upon termination of the Project Contractor's Project Contract, and the terms of this Agreement will be of no further force and effect.

**17. MEMBERS' TERMINATION**

**17.1 Resignation**

A Member may resign from the IDAR Panel by providing 30 Business Days' written notice to the other Members, the Principal and each Project Contractor.

**17.2 Termination**

A Member's appointment may be terminated at any time by the Principal.

**17.3 Re-Appointment**

The parties acknowledge and agree that if:

- (a) a Member resigns under clause 14(b) or 17.1; or
  - (b) the appointment of a Member is terminated by the Principal under clause 17.2,
- then:
- (c) a replacement Member will be appointed by the Principal; and
  - (d) the parties, the Members and any new Member must enter into a replacement agreement substantially similar to this Agreement.

**18. GOVERNING LAW**

- (a) This Agreement will be governed by and construed in accordance with the Laws of the State of New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeals from any of those courts, for any

proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

19. **RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement will be construed or interpreted as constituting the relationship between the Principal, the Project Contractors and the Members as that of partners, joint venturers or any other fiduciary relationship.

20. **NOTICES**

- (a) Any notices contemplated by this Agreement must be in writing and delivered to the relevant address, sent by email in the form of a .pdf file as set out below (or to any new address or email address that a party notifies to the others).
- (i) to the Principal: **[to be completed]**
  - (ii) to the Members: **[to be completed]**
  - (iii) to a Project Contractor: To the address or email address set out in the relevant Accession Deed Poll.
- (b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.
- (c) A notice sent by email will be taken to have been received:
- (i) if it is transmitted by 5.00 pm (Sydney time) on a Business Day - on that Business Day; or
  - (ii) if it is transmitted after 5.00 pm (Sydney time) on a Business Day, or on a day that is not a Business Day - on the next Business Day.

21. **GIVING EFFECT TO THIS AGREEMENT**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this Agreement.

22. **SURVIVAL OF TERMS**

The parties agree that clauses 11 and 15 and this clause 22 (and any other terms of this Agreement necessary for or incidental to the operation of the preceding terms) will survive the termination or expiry of this Agreement.

23. **WAIVER OF RIGHTS**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

24. **OPERATION OF THIS AGREEMENT**

- (a) Except as otherwise expressly specified in this Agreement, this Agreement contains the entire agreement between the parties about its subject matter, and any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Agreement and has no further effect.
- (b) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the intended effect of this Agreement.

25. **AMENDMENT**

- (a) Subject to clause 25(b), this Agreement can only be amended, supplemented, replaced or novated by another document signed by the parties.
- (b) The Principal may amend Schedule 3 by written notice without the Continuing Parties' prior approval.

26. **COUNTERPARTS**

- (a) This Agreement may be executed in counterparts, which taken together constitute one instrument.
- (b) A party may execute this Agreement by executing any counterpart.

27. **ATTORNEYS**

Each person who executes this Agreement on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**EXECUTED** as an agreement.

**Executed** by **SYDNEY METRO ABN 12 354 063 515** by its authorised delegate in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Signature of [insert position]

\_\_\_\_\_  
Name of [insert position]

**Signed** by [**Member**] in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

\_\_\_\_\_  
Signature

**Signed** by [**Member**] in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

\_\_\_\_\_  
Signature

**Signed** by [**Member**] in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

\_\_\_\_\_  
Signature



**Signed** by **[Member]** in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

\_\_\_\_\_  
Signature

**Executed** by **[insert name of Project Contractor]** (ABN [ ]) in accordance with section 127 of the *Corporations Act 2001* (Cth) by or in the presence of:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director in full

\_\_\_\_\_  
Signature of Secretary/other Director

\_\_\_\_\_  
Name of Secretary/other Director in full

**SCHEDULE 1**

**Form of Accession Deed Poll**

**THIS DEED POLL** is made on [2018/2019]

**BY:** [Insert name] ABN [number] whose registered office is at [address] (**Acceding Party**)

**IN FAVOUR OF:** (1) **Sydney Metro** ABN 12 354 063 515 a New South Wales Government agency of Level 43, 680 George Street, Sydney NSW 2000 (**Principal**)  
and  
(2) **Members of the IDAR Panel** (collectively **Members**), namely:  
[insert name] of [insert address]  
[insert name] of [insert address]  
[insert name] of [insert address]  
[insert name] of [insert address]  
and  
(3) each person who has acceded to the IDAR Panel Agreement,  
(together (2) and (3) being the **Continuing Parties**).

**RECITALS:**

- (A) This deed poll is supplemental to the agreement titled "IDAR Panel Agreement" between the Principal and the Continuing Parties dated [insert] as amended or acceded to from time to time (**IDAR Panel Agreement**).
- (B) The Principal and the Continuing Parties are each party to the IDAR Panel Agreement.
- (C) The Principal has entered into the [insert name of relevant Project Contract] with the Acceding Party.
- (D) Each of the Continuing Parties has acknowledged and agreed that the Acceding Party will accede to the IDAR Panel Agreement.
- (E) By this deed poll, the Acceding Party accedes to the IDAR Panel Agreement and the IDAR Panel Agreement is amended on the terms set out in this deed poll.

**THE ACCEDING PARTY COVENANTS AS FOLLOWS:**

1. **INTERPRETATION**

Capitalised terms used in this deed poll and not otherwise defined have the same meanings as those given in the IDAR Panel Agreement. The following definitions apply in this deed poll:

**Effective Date** means the date of execution of this deed poll.

[Insert name of relevant Project Contract] means the contract entered into between the Principal and the Acceding Party titled [insert title] and dated [insert date].

**2. PRIMARY COVENANTS**

- (a) The Acceding Party:
  - (i) confirms that it has been supplied with a copy of the IDAR Panel Agreement;  
and
  - (ii) covenants with each of the Principal and the Continuing Parties, with effect from the Effective Date, to be bound by the provisions of, and to perform all of its obligations under the IDAR Panel Agreement.
- (b) For the purposes of the IDAR Panel Agreement, the Acceding Party's representative is as set out below:  
  

**[Insert details of Acceding Party's representative]**
- (c) For the purposes of clause 20 of the IDAR Panel Agreement, the Acceding Party's notice address details are as set out below:
  - Address:
  - Email:
  - For the attention of:
- (d) Clause 18 of the IDAR Panel Agreement applies to this deed poll.

**EXECUTED** as a deed poll.

**[Note: Appropriate execution block to be inserted by the Acceding Party prior to execution.]**

## **SCHEDULE 2**

### **IDAR Panel General Operating Procedures**

#### **1. General**

- 1.1 Each Project Contractor will furnish to each of the Members all documents necessary for the IDAR Panel to perform its functions, including copies of all Project Contract documents plus periodic reports, such as progress reports, minutes of weekly or other project control meetings, site meetings or similar meetings and any other documents that would be helpful in informing the Members of Disputes and other matters.
- 1.2 The Members must make prompt disclosure from time to time of any new or previously undisclosed circumstance, relationship or dealing, which comes to their attention and which might give rise to a conflict of interest or apprehension of bias.
- 1.3 Communications between the parties and the IDAR Panel for the purpose of attempting to prevent or resolve Disputes are without prejudice communications and may not be adduced as evidence in any dispute resolution process under the relevant Project Contract.

#### **2. Frequency of regular meetings and site visits**

- 2.1 The frequency and scheduling of meetings and site visits necessary to keep the IDAR Panel properly informed of the project circumstances will generally be agreed between the IDAR Panel and the parties to each Project Contract.
- 2.2 In the case of a failure to agree between the IDAR Panel and the parties to a Project Contract, the Principal will schedule the meetings and visits as it sees fit.

#### **3. Agenda for regular meetings**

- 3.1 IDAR Panel meetings held for the purposes of briefing and updating the Members on performance and progress of the work under each Project Contract and issues or potential issues between the relevant parties will be held on an in-confidence and without prejudice basis to encourage full and frank disclosure and discussions.
- 3.2 At the conclusion of the meeting, the IDAR Panel will generally inspect the Project Works and the Construction Site in the company of representatives of both parties to the relevant Project Contract. Any areas of the Project Works or Construction Site that are or may be the subject of any potential Dispute will be pointed out by the parties to the relevant Project Contract.

#### **4. Minutes of meetings**

- 4.1 The Chair will prepare minutes of the regular meetings of the IDAR Panel and these draft minutes will be circulated to the parties of the relevant Project Contract and the Members for comments, additions and corrections.
- 4.2 In accordance with clause 3.1 above, the minutes of IDAR Panel meetings held will be marked "in-confidence, without prejudice".
- 4.3 Minutes as amended will be adopted by the relevant parties and the Members at the next meeting.

#### **5. Communications**

- 5.1 All communications by the parties to the IDAR Panel outside the IDAR Panel meetings should be directed in writing to the Chair and copied to the other Members and to the

other party of the relevant Project Contract. All communications by the Members to the parties should be addressed to the Principal's Representative and the relevant Project Contractor's representative.

**6. Representation**

- 6.1 The parties must each ensure they are represented at IDAR Panel meetings by at least one senior project personnel and at least one senior off-site person to whom the on-site personnel reports. The parties must inform the Chair of the names and project roles of each of their respective representatives and, if applicable, the names and roles of any alternatives.

**SCHEDULE 3**

**Appointed panel of Experts**

<b>Item</b>	<b>Name</b>	<b>Subject-matter area</b>
1.		
2.		

## **SCHEDULE 4**

### **Payment procedure**

#### **1. Payment claims**

At the end of each month in which the Members perform services under this Agreement with respect to each Dispute between the Principal and a Project Contractor, each Member must submit to both the Principal and the relevant Project Contractor an account for payment on account of the Member's fees and disbursements:

- (a) setting out the value of the services performed in accordance with this Agreement during the relevant month;
- (b) calculated in accordance with the Fees and Disbursements Letter for that Member; and
- (c) in such form and with such details and supporting documentation as the Principal and the relevant Project Contractor may reasonably require (including details of the time expended by the Member in performing the services).

#### **2. Payment and notification of disputed amounts**

- (a) Within 20 Business Days after receipt of the account for the month (submitted in accordance with section 1 of this Schedule 4):
  - (i) the Principal must pay:
    - (A) the Member's monthly retainer set out in the Fees and Disbursements Letter for that Member; and
    - (B) the Chair's attendance at the Joint Project Committee as set out in the Fees and Disbursements Letter for the Chair; and
  - (ii) the Principal and the relevant Project Contractor must each pay each Member 50% of the amount claimed by each Member for services performed during the month which is not disputed.
- (b) If the Principal or the relevant Project Contractor disagrees with the amount included in an account submitted by a Member then, within 10 Business Days of receipt of the relevant Member's account, the Principal or the relevant Project Contractor (as applicable) must notify the relevant Member in writing of the reasons for any amount which is disputed (with a copy to the Principal and the relevant Project Contractor).
- (c) If the Principal, the relevant Project Contractor and the relevant Member do not resolve the matter within 10 Business Days after the issue of the Principal's or the relevant Project Contractor's written notice, the Principal and the relevant Project Contractor (acting reasonably) must jointly determine the dispute. Any determination by the Principal and the relevant Project Contractor in respect of the amount payable must be given effect to by the Principal, the relevant Project Contractor and the relevant Member unless and until it is reversed or overturned in any subsequent court proceedings.

#### **3. Goods and services tax**

- (a) A party must pay GST on a taxable supply made to it under this Agreement, in addition to any consideration (excluding GST) that is payable for that taxable supply. The party making the taxable supply must provide a valid tax invoice to

the other party at or before the time that the other party is required to pay the GST.

- (b) Terms used in this section 3 have the meaning given to them in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).



**FORM OF FEES AND DISBURSEMENTS LETTER**

[Date]

[Member details]

Dear [Member]

**Fees and Disbursements for IDAR Panel**

This letter (**Fees and Disbursements Letter**) forms part of the IDAR Panel Agreement between Sydney Metro, each Project Contractor and Members of the IDAR Panel dated on or about the date of this Fees and Disbursements Letter.

All defined terms used in this Fees and Disbursements Letter have the meaning given to them in the IDAR Panel Agreement.

The fees and disbursements due to [Member] in respect of his/her responsibilities as a Member of the IDAR Panel are agreed as follows:

<b>Item</b>	<b>Work scope/description</b>	<b>Fee arrangement</b>
1.	Preparation for, and attendance at, one Project Briefing per month	Monthly retainer
2.	(Chair only) Preparation for, and attendance at, Joint Project Committee meetings	Payment per attendance
3.	All other work carried out in connection with this Agreement, other work set out in items (1) and (2)	[Hourly rate/daily rate]
4.	Disbursements	International and interstate flights, accommodation and associated travel expenses
5.	Rates escalation	Rates escalation commencing 1 July 2019, then annually

**Payment terms**

Payment terms will be in accordance with Schedule 4 of the IDAR Panel Agreement.

**Counterparts**

This Fees and Disbursements Letter may be executed in counterparts, which taken together constitute one instrument. A party may execute this Fees and Disbursements Letter by executing any counterpart.

**Acceptance**

Please acknowledge your acceptance of the fees and disbursements of this letter by signing, dating and returning the enclosed copies to Sydney Metro.

**Executed by SYDNEY METRO ABN 12 354 063 515** by its authorised delegate in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of [insert position]

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Name of [insert position]

**Signed by [Member]** in the presence of:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Witness in full

**[Execution blocks for each Project Contractor to be inserted as required.]**

**SCHEDULE A12  
EXPERT DETERMINATION RULES**

Pursuant to Rule 4(2)(b) of the Resolution Institute Expert Determination Rules (**Rules**), the parties agree to modify the application of the Rules as follows:

Modifications are underlined or ~~struck out~~.

1. **RULE 1 Definitions**

"Business Days" means any day in New South Wales other than a Saturday, Sunday or public holiday or 27, 28, 29, 30 or 31 December.

"IDAR Panel Agreement" means the agreement titled "Independent Dispute Avoidance and Resolution Panel Agreement" between the Principal, the Members, Macquarie and any other party that accedes to the agreement from time to time.

"Member" has the meaning given in the IDAR Panel Agreement.

"Relevant Proportionate Liability Legislation" means:

- (a) Part IV of the Civil Liability Act 2002 (NSW);
- (b) Part IVAA of the Wrongs Act 1958 (Vic);
- (c) Chapter 2, Part 2 of the Civil Liability Act 2003 (Old);
- (d) Part 1F of the Civil Liability Act 2002 (WA);
- (e) the Proportionate Liability Act 2005 (NT);
- (f) Chapter 7A of the Civil Law (Wrongs) Act 2002 (ACT);
- (g) Part 3 of the Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001 (SA);
- (h) Part 9A of the Civil Liability Act 2002 (Tas); and
- (i) any Regulations enacted pursuant to the Acts listed in (a)-(h) above.

"Relevant Security of Payment Legislation" means:

- (a) the Building and Construction Industry Security of Payment Act 1999 (NSW);
- (b) the Building and Construction Industry Security of Payment Act 2002 (Vic);
- (c) the Building and Construction Industry Payments Act 2004 (QLD);
- (d) the Construction Contracts Act 2004 (WA);
- (e) the Construction Contracts (Security of Payment) Act 2004 (NT);
- (f) the Building and Construction Industry (Security of Payment) Act 2009 (ACT);
- (g) the Building and Construction Industry Security of Payment Act 2009 (SA);
- (h) the Building and Construction Industry Security of Payment Act 2009 (Tas);  
and

- (i) any Regulations enacted pursuant to the Acts listed in (a)-(h) above.

"OSD PDA" means the deed entitled "Martin Place Metro Station Project: Over Station Development Project Delivery Deed" between the parties.

"Subject-Matter Expert" means those persons listed in Schedule 3 to the IDAR Panel Agreement.

**2. RULE 2 Appointment of the Expert**

1. Unless otherwise agreed in writing by the parties, the Process shall be conducted:
- (i) by a Member or a Subject-Matter Expert ~~person~~ agreed between the parties;  
or
  - (ii) if the parties are unable to agree on the identity of the person to be appointed within 3 Business Days of Party A giving Party B a Notice of Dispute (IDAR), by a Member or a Subject-Matter Expert ~~person~~ nominated by the Australian Centre for International Commercial Arbitration (**ACICA**),  
  
who accepts appointment as Expert.
2. Rule 2.2 is deleted in its entirety.
3. [no modification]
4. [no modification]
5. [no modification]

**3. RULE 3 Agreement to be bound**

1. [no modification]
2. Rule 3.2 is deleted in its entirety.

**4. RULE 5 Role of the Expert**

1. The Expert shall determine the Dispute as an expert in accordance with these Rules, the OSD PDA, the requirements of procedural fairness and according to law.
2. [no modification]
3. [no modification]
4. a. The Expert shall be independent of, and act fairly and impartially as between the parties, giving each a reasonable opportunity of putting its case and dealing with that of any opposing party, and a reasonable opportunity to make submissions on the conduct of the Process.
- b. The Expert must take all reasonable steps to avoid any conflict of interest, potential conflict of interest or other circumstances that might reasonably be considered to adversely affect the Expert's independence or capacity to act fairly and impartially in relation to the Dispute.
- c. If at any time during the Process, the Expert becomes aware of any circumstances that might reasonably be considered to adversely affect the Expert's independence or capacity to act fairly or impartially in relation to the Dispute, the Expert must inform the parties immediately.

d. The Expert's mandate will be terminated 7 days after the notice is provided by the Expert under Rule 5.4(c), unless the parties agree otherwise.

5. [no modification]

5. **RULE 9 Conduct of the Process**

1. [no modification]

2. [no modification]

3. ~~If the parties agree in writing (in the Agreement or otherwise), that the procedure in Schedule B shall~~ will apply.

4. The rules of evidence do not apply to the Process.

6. **RULE 10 The Expert's Determination**

1. ~~As soon as reasonably practicable after receiving the submissions and evidentiary material from the parties pursuant to Rule 9, the Expert shall determine the Dispute between the parties and notify such determination in writing to the parties within the time period specified in the OSD PDA.~~

2. [no modification]

3. ~~Subject to any rule of law or equity or written agreement of the parties to the contrary, Unless otherwise agreed by the parties, the Expert's determination:~~

a. may include for the payment of interest on any monetary sum determined, in such amount as the Expert considers reasonable;

b. must allow for any amount already paid to a party under or for the purposes of any Relevant Security of Payment Legislation;

c. may make such orders as he or she considers appropriate for the restitution of any amount so paid, and such other orders as he or she considers appropriate; and

d. to the extent permitted by law, will not apply or have regard to the provisions of any Relevant Proportionate Liability Legislation.

4. [no modification]

7. **RULE 12 Waiver of Right to Object**

Rule 12 is deleted in its entirety.

8. **RULE 14 Extension of Limitation Period**

Rule 14 is deleted in its entirety.

9. **SCHEDULE B**

1. The reference to "twenty one (21) days" is replaced by "ten Business Days".

2. The reference to "twenty one (21) days" is replaced by "twenty Business Days".

3. The reference to "twenty one (21) days" is replaced by "five Business Days".

4. [no modification]

5. [no modification]
6. [no modification]
7. [no modification]
8. [no modification]

**SCHEDULE A13**  
**Terms of occupation of 50 Martin Place Ancillary Amenities Lot**

**1. INTERPRETATION**

**1.1 Terms defined in deed**

Unless defined in clause 1.2, capitalised terms which are used in this Licence have the meaning set out in clause 1.1 of this deed.

**1.2 Definitions**

The following definitions apply in this Licence:

**Commencing Date** means the date on which the licence of the 50 Martin Place Ancillary Amenities Lot commences under clause 13.1(b)(i) of this deed.

**Licence** means the non-exclusive licence to occupy the 50 Martin Place Ancillary Amenities Lot granted by the Principal to Macquarie under this deed on the terms set out in this schedule.

**Licence Fee** means the amount of [REDACTED]

**Term** means the term beginning on the Commencing Date and ending on the Terminating Date.

**Terminating Date** means the earlier of:

- (a) termination of this deed; and
- (b) the date on which the freehold title to the 50 Martin Place Ancillary Amenities Lot is transferred by the Principal to Macquarie Bank Limited under clause 31.11 of the Station Delivery Deed.

**1.3 Interpretation**

- (a) Clauses 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.
- (b) The parties acknowledge that references in this deed to:
  - (i) the Construction Site include the 50 Martin Place Ancillary Amenities Lot under this Licence; and
  - (ii) the deed includes this Licence.

**2. GRANT OF LICENCE**

**2.1 Licence**

The Principal grants to Macquarie and Macquarie accepts a non-exclusive licence to occupy the 50 Martin Place Ancillary Amenities Lot for the Term.

**2.2 Licence Fee**

- (a) Macquarie must pay the Principal the Licence Fee when demanded.
- (b) The parties agree that the Licence Fee is not subject to any licence fee review during the Term.

**2.3 Nature of Licence**

- (a) The Licence is personal to Macquarie, subject to the terms of this Licence.
- (b) The Principal agrees that Macquarie may permit Macquarie's Associates (and its Related Body Corporate) and Macquarie's sublicensees (**Occupant**) to occupy the 50 Martin Place Ancillary Amenities Lot provided they comply with the terms of this Licence.
- (c) Nothing in this Licence:
  - (i) confers on Macquarie or any of Macquarie's Associates (including its Related Body Corporate) and Macquarie's sublicensees any rights as a tenant of the 50 Martin Place Ancillary Amenities Lot or any interest or entitlement in the 50 Martin Place Ancillary Amenities Lot; or
  - (ii) creates the relationship of landlord and tenant between the parties.
- (d) Subject to clause 2.3(e), Macquarie acknowledges that the Principal and the Principal's Associates will be entitled to enter the 50 Martin Place Ancillary Amenities Lot in accordance with clause 35 of this deed.
- (e) The Principal must, when exercising its right under clause 35 of this deed:
  - (i) do so (and must ensure that any person authorised by the Principal does so) in a manner that does not interfere with the Occupant's use of the 50 Martin Place Ancillary Amenities Lot; and
  - (ii) be accompanied (or ensure that the Principal's Associates be accompanied) by a representative of the relevant Occupant (unless the Occupant fails to make a representative available at the time specified in the Principal's notice under clause 35.1(b)(i) of this deed).

**3. LICENSEE'S OBLIGATIONS**

**3.1 General obligations**

During the Term, Macquarie must:

- (a) use the 50 Martin Place Ancillary Amenities Lot for the purposes of a pedestrian concourse link and an end of trip facility (and related fitout of the concourse link and end of trip facilities), and comply with all laws relating to the 50 Martin Place Ancillary Amenities Lot and its use;
- (b) keep the relevant parts of the 50 Martin Place Ancillary Amenities Lot at all times in a clean, tidy and good condition and repair;
- (c) pay all costs which are required to be paid under the Building Management Statement in respect of the 50 Martin Place Ancillary Amenities Lot during the Term;
- (d) pay or reimburse to the Principal within 20 Business Days after demand all Taxes and Outgoings imposed by any Authority in connection with the 50 Martin Place Ancillary Amenities Lot;
- (e) subject to clause 2.3(e), allow the Principal or the Principal's Associates to enter and inspect the 50 Martin Place Ancillary Amenities Lot in accordance with clause 35 of this deed; and



- (f) comply with the Building Management Statement in respect of the 50 Martin Place Ancillary Amenities Lot during the Term as though it were the owner of the freehold interest in respect of the 50 Martin Place Ancillary Amenities Lot.

**3.2 Prohibitions on Macquarie**

Macquarie must not until transfer of the freehold title to the 50 Martin Place Ancillary Amenities Lot:

- (a) subject to the terms of this deed, make any change or structural alteration or addition to the 50 Martin Place Ancillary Amenities Lot other than in undertaking internal fitout of the 50 Martin Place Ancillary Amenities Lot;
- (b) damage the 50 Martin Place Ancillary Amenities Lot or any thing on the 50 Martin Place Ancillary Amenities Lot or injure any person in or around the 50 Martin Place Ancillary Amenities Lot;
- (c) cause any Contamination, Pollution or Environmental damage in the 50 Martin Place Ancillary Amenities Lot; or
- (d) store any thing in the 50 Martin Place Ancillary Amenities Lot which is dangerous, explosive or could increase the risk of fire in the 50 Martin Place Ancillary Amenities Lot unless permitted pursuant to an Approval or in accordance with all relevant Laws.

**4. RISK AND LIABILITY**

**4.1 Macquarie's risk**

Macquarie:

- (a) uses and occupies the 50 Martin Place Ancillary Amenities Lot and carries out all work in the 50 Martin Place Ancillary Amenities Lot at its own risk; and
- (b) assumes all responsibilities in relation to persons and property, including Macquarie's Associates and Macquarie's sublicensees, and otherwise as if it were the owner of the freehold interest in respect of the 50 Martin Place Ancillary Amenities Lot.

**4.2 Indemnity and release**

The provisions of clause 31 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**4.3 Insurance**

The provisions of clause 30 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**4.4 Public and products liability insurance**

- (a) In addition to any insurances Macquarie is required to effect pursuant to clause 30 of this deed, Macquarie must during the Term also effect and maintain, or cause to be effected and maintained, an insurance policy covering public and products liability for not less than [REDACTED] for a single claim, other than products liability which is limited in the aggregate.
- (b) The insurance which Macquarie is required to effect under this Licence:

- (i) must be taken out with a reputable insurer being not less than the equivalent of a Standard and Poors A- rating or equivalent rating with another rating agency;
  - (ii) must be on terms typical for insurances of their types in the Australian insurance market;
  - (iii) are to be maintained during the Term; and
  - (iv) must comply with all relevant Laws.
- (c) In respect of the insurance which Macquarie is required to effect under this Licence, Macquarie must:
- (i) ensure that all premiums and other amounts payable are paid on or before the due date;
  - (ii) give the Principal a copy of the certificate of currency:
    - (A) before the Commencing Date;
    - (B) within 1 month after the renewal of the policy (as applicable); and
    - (C) at any other time requested by the Principal (acting reasonably) which must not exceed once every 12 months; and
  - (iii) make the policies available for inspection by the Principal and/or its insurance broker in an office located in Sydney provided that the Principal and/or its insurance broker must be in the presence of a representative of Macquarie (that Macquarie must make available within 3 Business Days of the Principal's request) and the Principal and/or its insurance broker must not photocopy or reproduce the policies.
- (d) Despite any other provision of this schedule, the Principal acknowledges and agrees that Macquarie may effect the insurance required under this Licence under a global or blanket insurance policy that is in the name of Macquarie or a Related Entity of Macquarie provided that:
- (i) the insurance policy:
    - (A) covers liability for not less than [REDACTED] for a single claim, other than products insurance liability which is limited in the aggregate; and
    - (B) has a full severability clause; and
  - (ii) Macquarie otherwise satisfies clauses 4.4(a) and 4.4(b) of this schedule.

**5. DEFAULT**

**5.1 The Principal may remedy breach**

- (a) If Macquarie does not comply with any term of this Licence then, without affecting any other right of the Principal, the Principal may, after providing 20 Business Days' written notice to Macquarie, remedy Macquarie's non-compliance at Macquarie's cost.

- (b) The Principal will be entitled to recover its reasonable Costs and expenses for any action taken pursuant to clause 5.1(a) as a debt due and payable from Macquarie to the Principal.

**6. GENERAL**

**6.1 Disputes**

The parties agree that any Dispute in relation to this Licence will be resolved in accordance with clause 40 of this deed.

**6.2 Permission to sub-licence**

The Principal consents to Macquarie entering into a sublicense of this Licence provided that:

- (a) the sublicensee agrees not to do anything which will result in Macquarie and Macquarie's Associates (including its Related Body Corporate) being in breach of this Licence; and
- (b) the sublicense terminates on the termination of this Licence.

**6.3 GST**

The provisions of clause 47 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**6.4 Notices**

The provisions of clause 48 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

**6.5 General**

The provisions of clause 49 of this deed (with the necessary changes) apply to this Licence as if they had been set out in full.

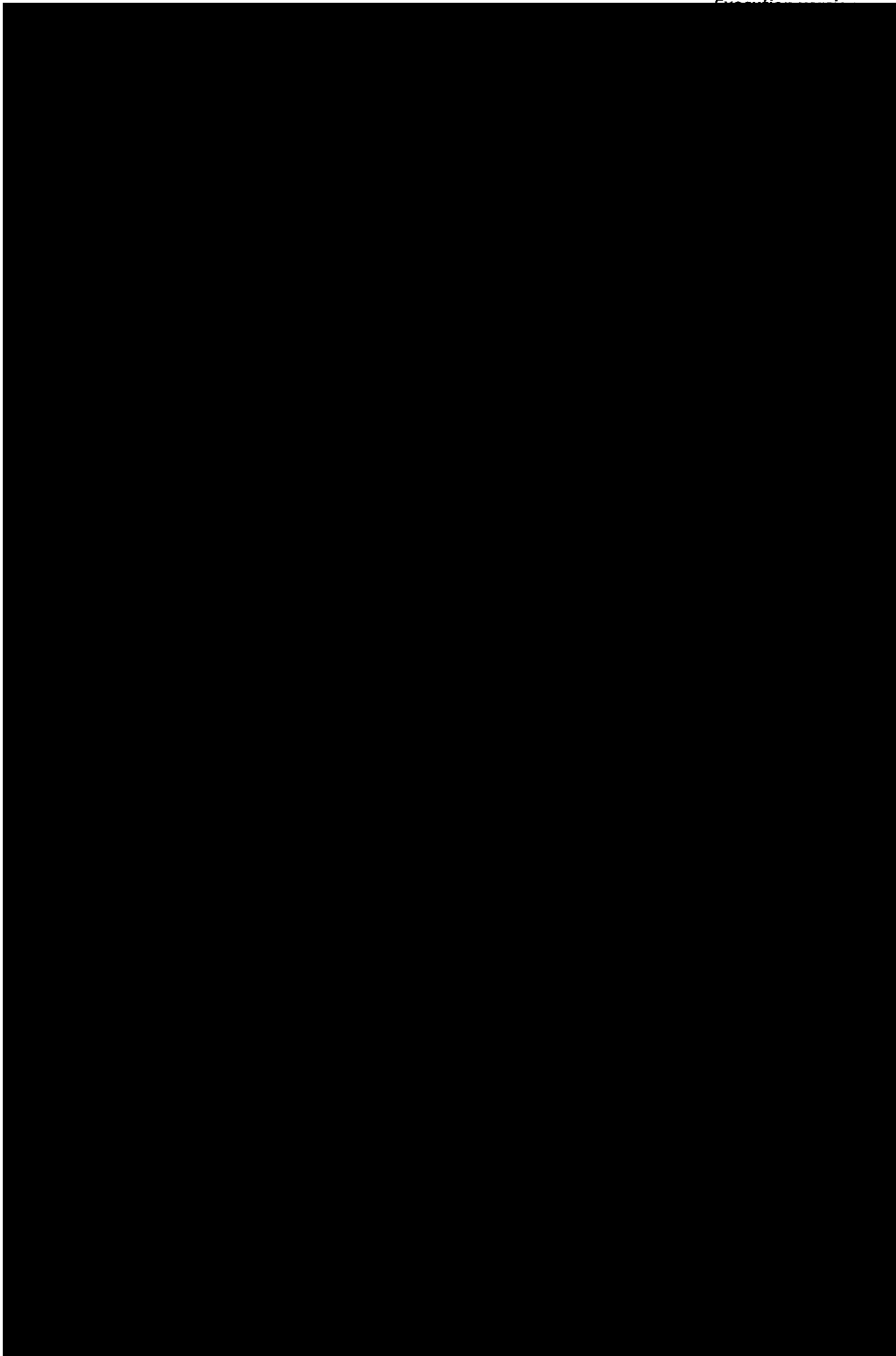
**6.6 Interdependency**

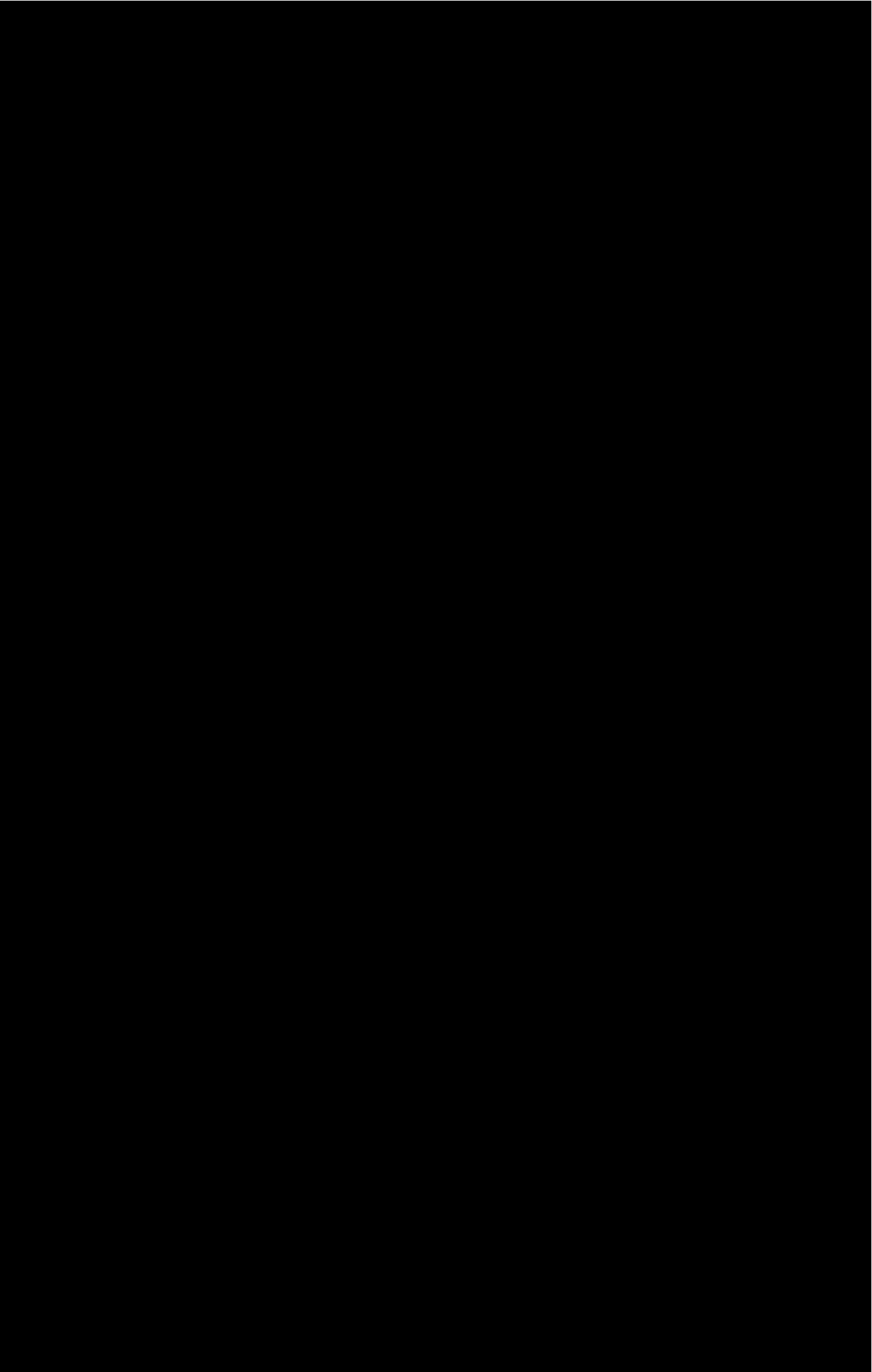
The parties acknowledge and agree that if this deed is terminated or comes to an end, this Licence will automatically terminate.



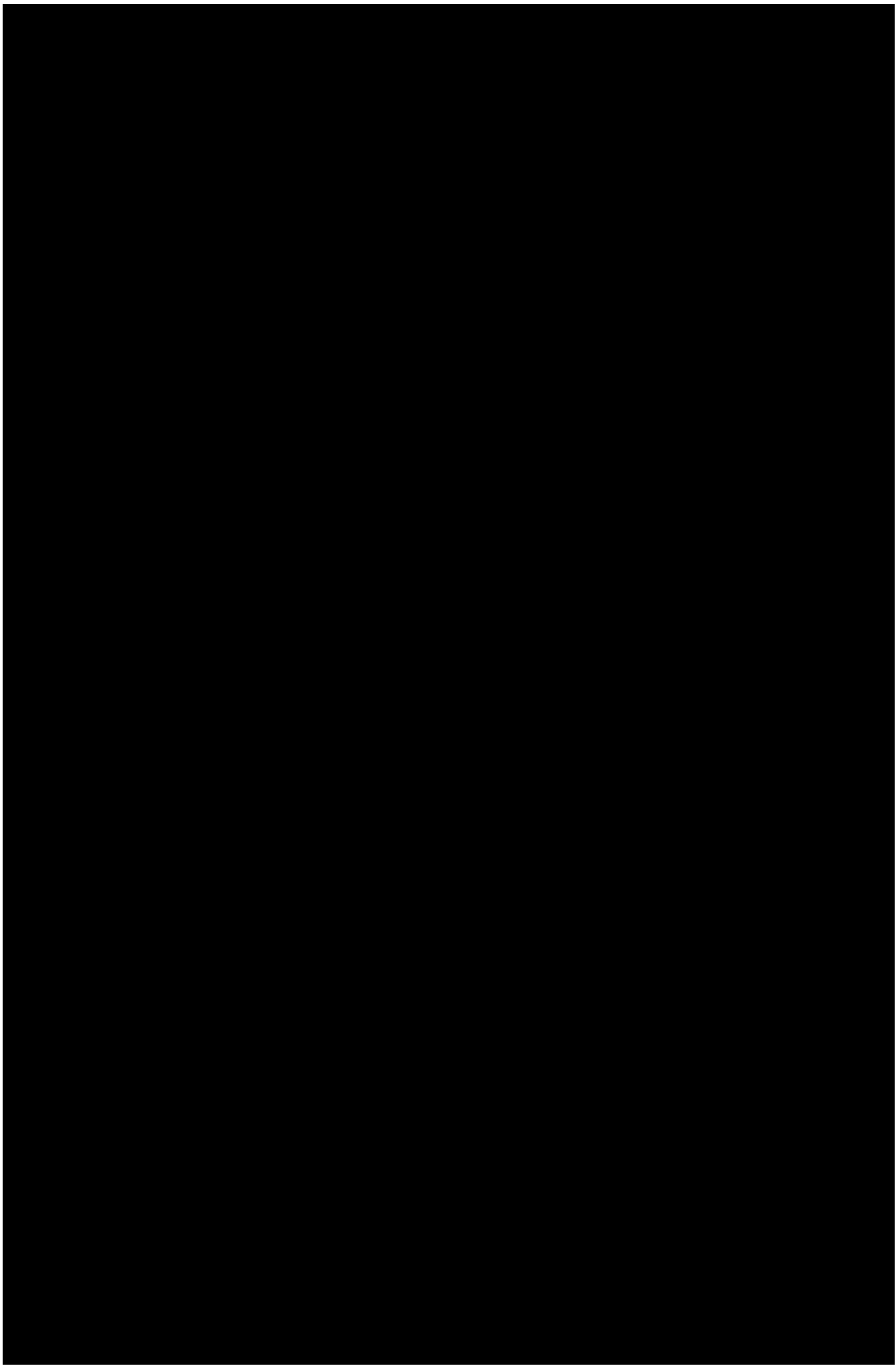


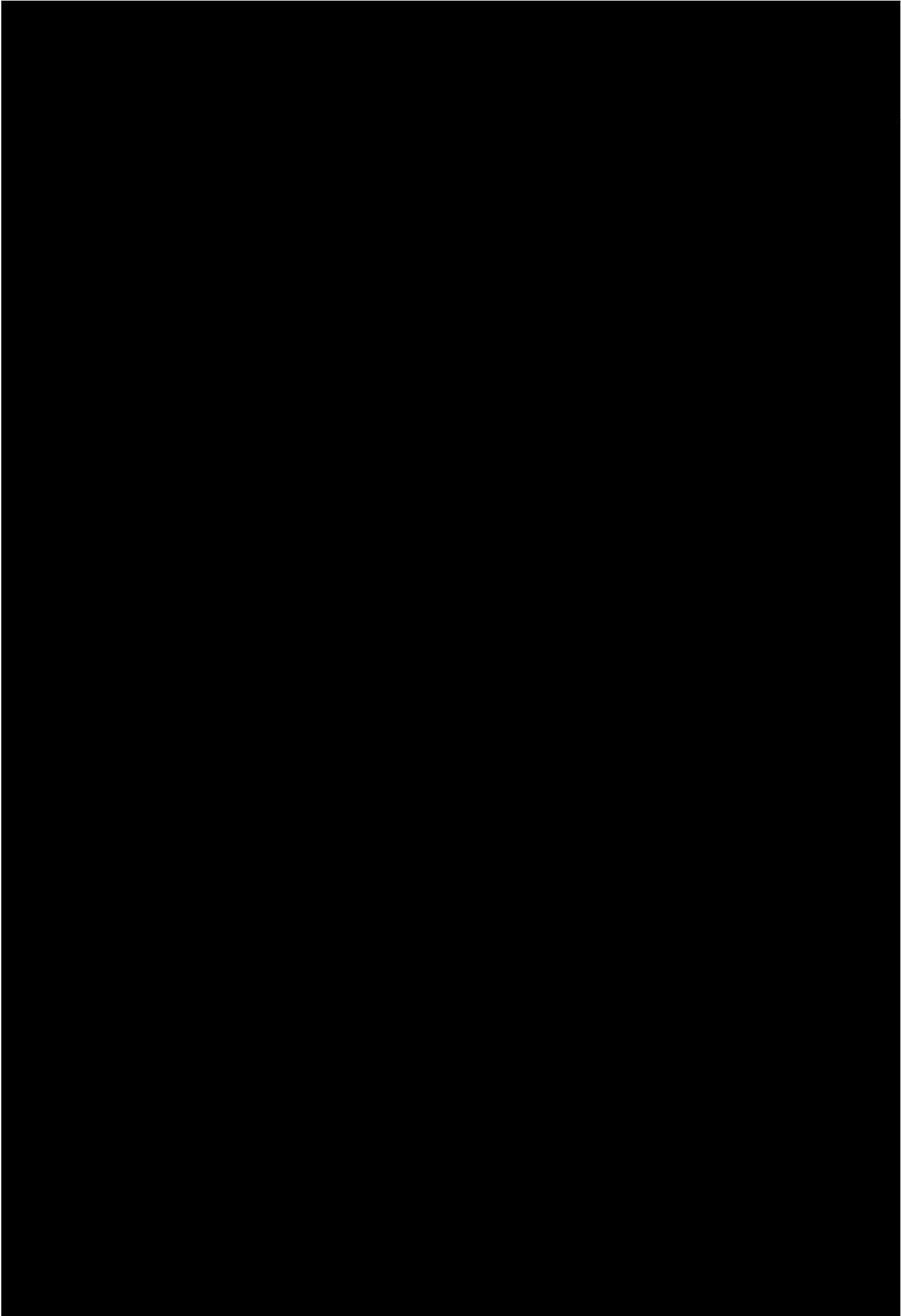


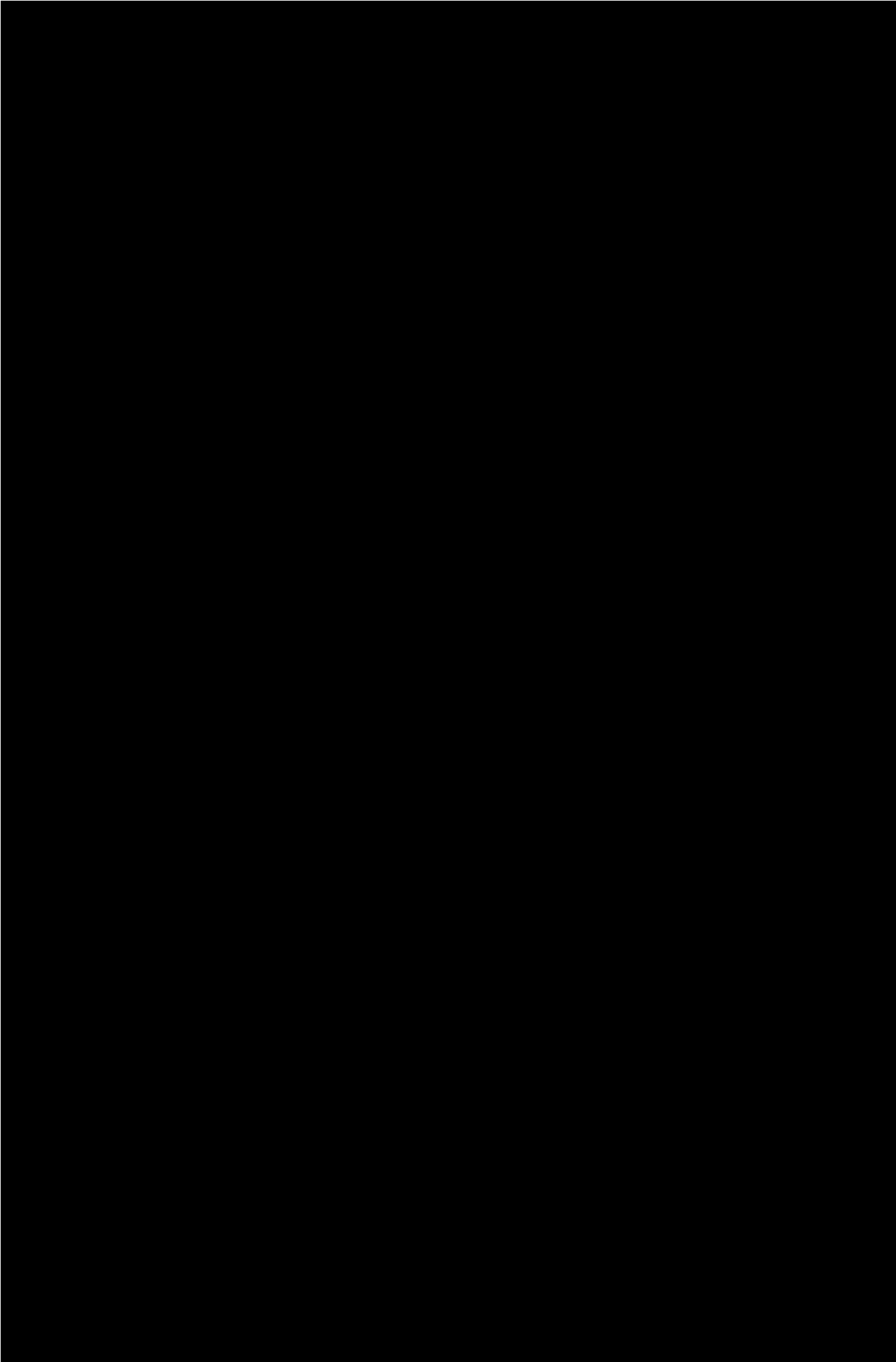














**SCHEDULE B2  
Certificate in Relation to Practical Completion**

**PART A – Notice of Practical Completion (OSD Design Parameters)**

[ON MACQUARIE LETTERHEAD]

[insert date]

Principal's Representative  
[insert address]

Dear [insert name]

**NOTICE OF PRACTICAL COMPLETION (OSD DESIGN PARAMETERS)  
Sydney Metro City & Southwest  
Martin Place Metro Station Project - Over Station Development Project Delivery Agreement  
OSD Design Parameters**

This notice is given in accordance with the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro ABN 12 354 063 515 and Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**) on or about [insert] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this notice.

In accordance with clause 21.2(a) of the OSD PDA, Macquarie confirms that Practical Completion (OSD Design Parameters) of Separable Portion [insert] has been achieved. The Date of Practical Completion (OSD Design Parameters) of Separable Portion [insert] is [insert date].

Yours sincerely

.....  
for and on behalf of Macquarie

**PART B – Certificate of Practical Completion (OSD Design Parameters)**

To: Macquarie Group Limited ABN 94 122 169 279

From: [ ] (**Principal's Representative**)

This certificate is given in accordance with deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro ABN 12 354 063 515 and Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**) on or about [*insert*] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this certificate.

In accordance with the terms of clauses 1.1 and 21.2(b)(i) of the OSD PDA, the Principal's Representative hereby certifies that Practical Completion (OSD Design Parameters) of Separable Portion [*insert*] has been achieved by Macquarie on [*insert*] in accordance with the terms and conditions of the OSD PDA.

.....  
Signed for and on behalf of  
Principal's Representative

**PART C – Notice of Practical Completion**

[ON MACQUARIE LETTERHEAD]

[insert date]

Principal's Representative  
[insert address]

Dear [insert name]

**NOTICE OF PRACTICAL COMPLETION  
Sydney Metro City & Southwest  
Martin Place Metro Station Project - Over Station Development Project Delivery Agreement  
OSD Works**

This notice is given in accordance with the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro ABN 12 354 063 515 and Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**) on or about [insert] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this notice.

In accordance with clause 21.3(a) of the OSD PDA, Macquarie confirms that Practical Completion of Separable Portion [insert] has been achieved. The Date of Practical Completion of Separable Portion [insert] is [insert date].

Yours sincerely

.....  
for and on behalf of Macquarie

**PART D – Certificate of Practical Completion**

To: Macquarie Group Limited ABN 94 122 169 279

From: [ ] (**Principal's Representative**)

This certificate is given in accordance with deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro ABN 12 354 063 515 and Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**) on or about [*insert*] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this certificate.

In accordance with the terms of clauses 1.1 and 21.3(b) of the OSD PDA, we hereby certify that Practical Completion of Separable Portion [*insert*] has been achieved by Macquarie on [*insert*] in accordance with the terms and conditions of the OSD PDA.

.....

Signed for and on behalf of  
Principal's Representative



**PART E – Certificate of Early Occupation Area Practical Completion**

To: Principal's Representative

From: Macquarie Group Limited ABN 94 122 169 279

This certificate is given in accordance with deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro ABN 12 354 063 515 and Macquarie Group Limited ABN 94 122 169 279 (**Macquarie**) on or about [*insert*] (**OSD PDA**). Words defined in the OSD PDA have the same meaning in this certificate.

In accordance with the terms of clauses 1.1 and 22(c)(i) of the OSD PDA, we hereby certify that Early Occupation Area Practical Completion has been achieved by Macquarie on [*insert*] in accordance with the terms and conditions of the OSD PDA.

.....

Signed for and on behalf of Macquarie

**SCHEDULE B3  
Progress Reports and OSD Program**

**1. GENERAL**

- (a) During the carrying out of the OSD Works, Macquarie must provide regular Progress Reports to the Principal's Representative in accordance with this Schedule B3 and this deed.
- (b) Each report must be submitted electronically using the document management system (**PDCS**) in accordance with this deed and this Schedule B3.
- (c) Where information is provided to the Principal, including for the purposes of decision making, justification or information, Macquarie must include all associated and relevant information pertaining to the particular matter and any other information as reasonably requested by the Principal.

**2. PROGRESS REPORTS**

**2.1 Progress Reports - Prior to the Station Date of Completion**

- (a) Prior to the Station Date of Completion, Macquarie must provide a monthly Progress Report to the Principal's Representative by the first Business Day of each calendar month including progress information to the 25th day of the preceding calendar month and in a dashboard format or as required by the Principal's Representative.
- (b) The Progress Report must include, address and detail the following, relevant to the OSD Works:
  - (i) each of the sections detailed in Appendix 53a of the SWTC in the Station Delivery Deed for the Martin Place Metro Station Works, excluding the following:
    - (A) Design;
    - (B) Quality;
    - (C) Risk Management;
    - (D) Environmental Management;
    - (E) Systems engineering and safety assurance;
    - (F) Other; and
    - (G) Sustainability Report;
  - (ii) the content for the OSD Works must be detailed out separately, but can be contained in a single Progress Report with the progress report for the Martin Place Metro Station Works provided by Macquarie under the Station Delivery Deed; and
  - (iii) a Metro Impact section describing, any aspect of the Design Documentation or the OSD Works, which in the opinion of Macquarie, may give rise to a Metro Impact, including to the extent possible, any amendment or proposal to remove the Metro Impact.

**2.2 Progress Reports – After the Station Date of Completion**

- (a) After the Station Date of Completion, Macquarie must provide a monthly Progress Report to the Principal's Representative by the first Business day of each calendar month including progress information to the 25th day of the preceding calendar month and in a dashboard format or as required by the Principal's Representative.
- (b) The Progress Report must include, address and detail the following, relevant to the OSD Works:

- (i) Executive summary

- The executive summary must summarise the key elements of each of the sections listed below in this clause 2.2 of this Schedule B3.

- (ii) Metro Impacts

- A Metro Impact section describing any aspect of the Design Documentation or the OSD Works, which in the opinion of Macquarie, may give rise to a Metro Impact, including to the extent possible, any amendment or proposal to remove the Metro Impact.

- (iii) OSD Program

- A program section describing:

- (A) a current four week look-ahead program in Microsoft excel format (.xlsx) and native format identifying current and upcoming OSD Works;

- (B) an updated OSD Program and accompanying narrative which meets the following additional requirements:

- (aa) is stated to identify the actual progress of activities based on the physical work completed;

- (bb) shows as-built progress achieved;

- (cc) identifies the amount of program contingency available for each Separable Portion; and

- (dd) details the status of pending items including permits, Approvals and Variations; and

- (C) any act, matter, thing or issue which has or is likely to have a material adverse effect on the progress of the OSD Works, together with detailed particulars on how Macquarie is dealing with any such issue.

- (iv) Health and safety

- Details of any:

- (A) accidents or incidents within the Construction Site;

- (B) industrial action; and

- (C) traffic accidents recorded at the Construction Site, or any other locations affected by the OSD Works.

- (v) Stakeholder and community involvement

Post Martin Place Metro Station operational commencement, describe and report on crisis/incident management.

**3. OSD PROGRAM**

**3.1 OSD Program submissions, reviews and updates**

- (a) The OSD Program and updates, including Macquarie's program section of the Progress Reports, must be submitted to the Principal's Representative for review in accordance with this deed.
- (b) Macquarie must submit to the Principal's Representative an updated OSD Program:
  - (i) on the first Business Day of each calendar month; and
  - (ii) within 10 Business Days of:
    - (A) an extension of time being granted pursuant to clause 19.9; or
    - (B) the logic to complete the OSD Works has significantly changed.
- (c) The OSD Program must comply with the requirements of clause 3.2 of this Schedule B3.
- (d) The OSD Program must include an accompanying written "basis of schedule" narrative which clearly describes how the OSD Program has been developed.

**3.2 Program requirements**

The OSD Program and all its subsequent submissions must meet the following requirements:

- (a) be based upon the Initial OSD PDA Program;
- (b) is a baseline program stated appropriately or as required by the Principal's Representative;
- (c) be prepared using Oracle Primavera P6 Professional Release 8.3 or its subsequent upgraded version if permitted by the Principal's Representative;
- (d) represent the contractors plans realistically;
- (e) be practicable;
- (f) shows work activities, resource schedules and utilisation, data and connectors;
- (g) identify the full scope of the OSD Works, including staged works and including items such as traffic management, mobilisation, site establishment, interface management, review periods etc.;
- (h) clearly identify access requirements and activities, including Construction Site access, service outages, public domain access requirements;
- (i) identify the award of all significant contracts and Subcontracts related to the OSD Works;
- (j) identify all significant external events activities that have a bearing on time required to complete the OSD Works;

- (k) be based on a time-scaled calendar in units of one week and identify working days, non-working days, shifts, statutory holidays, rostered days off, Christmas shutdown and any other shutdowns;
- (l) contain activities, each having an activity ID, activity description, original duration, start date, finish date and dependencies;
- (m) break down all activities into periods of no greater than four weeks with sufficient details to allow accurate monitoring of the progress of the OSD Works;
- (n) identify the critical path and near critical path(s) for Agreed OSD Program Dates as set out in Schedule A2 including assumptions and logic links; and
- (o) must be submitted in electronic format which must include:
  - (i) electronic format for publishing in Adobe Acrobat .pdf files;
  - (ii) native format (.xer); and
  - (iii) layout and filter files (.plf) together with the native format (.xer) files, and allow interrogation by the Principal's Representative.

### 3.3 **Program Narrative Requirements**

The OSD Program narrative required must be in sufficient detail to enable the durations, leads and lags in the logic diagram to be assessed and to explain any constraints that may exist within the program network logic, and must include the following:

- (a) an overview of the delivery strategy as reflected in the OSD Program;
- (b) executive summary program that is a maximum of two pages;
- (c) staging diagrams for the OSD Works;
- (d) fundamental assumptions;
- (e) key indicators of program progress, performance, and trends;
- (f) long lead items, approvals and permits;
- (g) critical path;
- (h) construction staging and major work front configuration;
- (i) approach and frequency for updating the program; and
- (j) mitigation measures that could be implemented in the case of delay.

**SCHEDULE B4  
Variation Impact Request and Proposal (VIRAP)**

**(Principal Initiated Variation)**

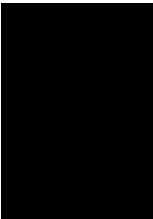
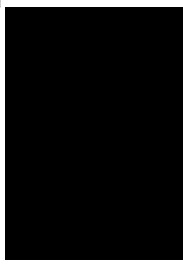
This VIRAP has been designed to fulfil the requirements of clause 26 under the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) entered into between Sydney Metro (**Principal**) and Macquarie Group Limited (**Macquarie**) on or about *[insert]* (**OSD PDA**) and the D&C Contract [**North Tower / South Tower**] OSD in relation to the relevant parties.

- Section 1 constitutes the Principal's Variation Impact Request pursuant to clause 26.1 of the OSD PDA.
- Section 2 constitutes Macquarie's Variation Impact Proposal pursuant to clause 26.2 of the OSD PDA.
- Section 3 (when signed) constitutes the Principal's approval or rejection of Macquarie's Variation Impact Proposal, or withdrawal of the proposed Variation, pursuant to clause 26.4 of the OSD PDA.
- Section 4 constitutes [**Macquarie Bank Limited/DevCo's**] Variation Impact Request pursuant to clause 26.1 of the D&C Contract [**North Tower / South Tower**] OSD.
- Section 5 constitutes the D&C Contractor's Variation Impact Proposal pursuant to clause 26.2 of the D&C Contract [**North Tower / South Tower**] OSD.
- Section 6 (when signed) constitutes [**Macquarie Bank Limited/DevCo's**] acceptance or rejection of the D&C Contractor's Variation Impact Proposal, or withdrawal of the proposed Variation, pursuant to clause 26.4 of the D&C Contract [**North Tower / South Tower**] OSD.

For the purposes of the OSD PDA, only sections 1, 2 and 3 have any contractual status. Similarly, for the purposes of the D&C Contract [**North Tower / South Tower**] OSD, only sections 4, 5 and 6 have any contractual status. The Principal does not make any comment as to the accuracy of, and may not be held liable for, any information provided by any party in sections 4, 5 and 6.

This VIRAP will not give rise to any rights against the Principal, whether legal or equitable, unless and until section 3 has been signed by the Principal's Representative.

<b>SECTION 1 - PRINCIPAL'S VARIATION IMPACT REQUEST</b>			
<b>OSD PDA No.</b>		<b>Principal VIRAP No.</b>	
<b>Subject</b>			
<b>Subsystem:</b>			
<b>Submitted By</b>		<b>Principal's Issue No.</b>	
<b>Submitted To:</b>		<b>Submission Date:</b>	
<b>Correspondence Ref.</b>			
<b>Contract Document Ref.</b>			
Principal Initiated Variation Variation Impact Request (Clause 26.1 of the OSD PDA) Amendment Proposed:  Current wording:  Proposed wording (include deleted text as strikethrough text and underline new text):			
<b>Attachments</b>			
<b>Submitted by</b>	<b>Signed:</b>	<b>Date:</b>	

<b>SECTION 2 - MACQUARIE'S VARIATION IMPACT PROPOSAL</b>			
<b>Macquarie's Variation Impact Proposal (Clause 26.2 of the OSD PDA)</b>			
<b>Modification Impact Proposal No.:</b>			
(a) the Variation Cost of the proposed Variation;			
(b) the effect which the proposed Variation will have on the OSD Program (including any extension of time required to the Date for Practical Completion of a Separable Portion);			
(c) the Approvals required to implement the proposed Variation, and the effect of the proposed Variation on any existing Approvals and on the ability of Macquarie to comply with those Approvals;			
(d) the effects which the proposed Variation will have on Macquarie's ability to satisfy its obligations under a Project Document (including any warranties given by Macquarie under a Project Document) or exercise of its rights under a Project Document;			
(e) any relief which Macquarie requires from its obligations under the OSD PDA to ensure that Macquarie would be left in no better and no worse position than it would be in if the Variation were not implemented;			
(f) where the proposed Variation is a Metro Impact Variation, whether an SDD Variation will be required to enable the proposed Metro Impact Variation to be implemented or as a consequence of the proposed Metro Impact Variation; and			
(g) any other information requested by the Principal in the Variation Impact Request.			
<b>Attachments</b>			
<b>Period of time in which the Principal must respond</b>			
			
<b>Submitted By</b>	<b>Signed:</b>		<b>Date:</b>



SECTION 3 - ELECTION BY PRINCIPAL				
<b>Election by the Principal (Clause 26.4 of the OSD PDA)</b>				
<b>The Variation Impact Proposal is:</b>				
<b>ACCEPTED</b>				
<b>THE PRINCIPAL WILL NOT PROCEED WITH VARIATION</b>				
<b>REJECTED</b>				
If REJECTED pursuant to clause 26.4(a)(ii) of the OSD PDA, the Principal requires the parties to consult to resolve any matters of Variation Impact Proposal	YES		NO	
<p><b>Notes:</b></p> <p>Where this Variation Impact Proposal is <b>ACCEPTED</b>, and the Principal's Representative has signed below, this Variation Impact Proposal is a "Variation Order" under clause 26.4 of the OSD PDA.</p>				
<b>Principal's Representative</b>	<b>Signed:</b>	<b>Date:</b>		
<b>Macquarie's Representative:</b>	<b>Signed:</b>	<b>Date:</b>		

SECTION 4 - [MACQUARIE BANK LIMITED/DEVCO] VARIATION IMPACT REQUEST		
<p>[Macquarie Bank Limited/DevCo] Initiated Variation Variation Proposal (Clause 26.1 of the D&amp;C Contract [North Tower / South Tower] OSD)</p> <p>Amendment Proposed:</p> <p>Current wording:</p> <p>Proposed wording (include deleted text as strikethrough text and underline new text):</p>		
Attachments		
Submitted by [Macquarie Bank Limited/DevCo's] Representative:	Signed:	Date:

SECTION 5 - D&C CONTRACTOR'S VARIATION IMPACT PROPOSAL		
<b>D&amp;C Contractor's Variation Impact Proposal (Clause 26.2 of the D&amp;C Contract [<i>North Tower / South Tower</i>] OSD)</b>		
<b>Variation Impact Proposal No.:</b>		
(a) the Variation Cost of the proposed Variation;		
(b) the effect which the proposed Variation will have on the OSD Program (including any extension of time required to the Date for Practical Completion or a Fitout Site Access Date);		
(c) the Approvals required to implement the proposed Variation, and the effect of the proposed Variation on any existing Approvals and on the ability of the D&C Contractor to comply with those Approvals;		
(d) the effects which the proposed Variation will have on the D&C Contractor's ability to satisfy its obligations or exercise its rights under the D&C Contract [ <b><i>North Tower / South Tower</i></b> ] (including any warranties given by D&C Contractor under the D&C Contract [ <b><i>North Tower / South Tower</i></b> ] OSD);		
(e) any relief which the D&C Contractor requires from its obligations under the D&C Contract to ensure that the D&C Contractor would be left in no better and no worse position than it would be in if the Variation were not implemented;		
(f) where the proposed Variation is a Metro Impact Variation, whether an SDD Variation will be required to enable the proposed Metro Impact Variation to be implemented or as a consequence of the proposed Metro Impact Variation; and		
(g) any other information requested by [ <b><i>Macquarie Bank Limited/DevCo</i></b> ] in the Variation Impact Request.		
<b>Attachments</b>		
<b>Endorsed by</b>	<b>Signed:</b>	<b>Date:</b>
<b>Submitted by D&amp;C Contractor's Representative:</b>	<b>Signed:</b>	<b>Date:</b>

SECTION 6 - ELECTION BY [MACQUARIE BANK LIMITED/DEVCO]				
Election by [Macquarie Bank Limited/DevCo] (Clause 26.4 of the D&C Contract [North Tower / South Tower] OSD):				
The Variation Impact Proposal is:				
ACCEPTED				
[MACQUARIE BANK LIMITED/DEVCO] WILL NOT PROCEED WITH THE VARIATION				
REJECTED				
If REJECTED pursuant to clause 26.4(a)(ii) of the D&C Contract [North Tower / South Tower] OSD, [Macquarie Bank Limited/DevCo] requires the parties to consult to resolve any matters of Variation Impact Proposal	YES		NO	
<b>Notes:</b> Where this Variation Impact Proposal is <b>ACCEPTED</b> , and [Macquarie Bank Limited/DevCo's] Representative has signed below, this Variation Impact Proposal is a "Variation Order" under clause 26.4 of the D&C Contract [North Tower / South Tower] OSD.				
[Macquarie Bank Limited/DevCo's] Representative	Bank	Signed:	Date:	
D&C Contractor's Representative:		Signed:	Date:	

**SCHEDULE C1  
OSD Design Parameters**

In respect of the OSD Design Parameters, the parties acknowledge and agree that:

- (A) Part A applies to Separable Portion 1;
- (B) Part B applies to Separable Portion 2;
- (C) Part C contains the diagrams referenced in Part A and Part B of this schedule;
- (D) each diagram in Part C applies to the applicable Separable Portion as marked in the relevant diagram; and
- (E) a reference to:
  - (1) "north entry" in Part C is in reference to a part of Separable Portion 1; and
  - (2) "south entry" in Part C is in reference to a part of Separable Portion 2.

**PART A – OSD Design Parameters in relation to Separable Portion 1**

**1. PROTECTION OF NATURAL LIGHT TO PLATFORM LEVEL**

- 1.1. As a minimum, provision of lateral light penetration into the Martin Place Metro Station from Hunter Street to the northern end of the Martin Place Metro Station concourse and platform level must be maintained to an equivalent extent indicated in the attached **Diagrams 1 & 2**.

**2. PRECINCT CONNECTIVITY AND INTEGRATION**

- 2.1. Enhancement of the Martin Place Metro Station entries via connectivity to adjoining commercial lobbies and retail spaces and through site links – as a minimum the entries must be demonstrated to benefit from the amenity of light, space, and activation via a connectivity as illustrated in the attached **Diagrams 1 & 2**.

**3. DESIGN OF RETAIL FRONTAGES ADJOINING MARTIN PLACE METRO STATION ENTRIES AT STREET LEVEL**

- 3.1. Extent of precinct retail activation must be provided to minimum extents illustrated in the attached **Diagram 4**. This clause 3 only applies to retail frontages that adjoin Martin Place Metro Station entries at street level.
- 3.2. Shopfronts must be a minimum of 50% transparently glazed frontages (including doorways) where fronting streets (footpaths) and station primary plazas where possible, in order to maximise visual permeability to aid street and precinct activation. Transparent glazing must extend from floor level (or as close as possible to floor level given site conditions) to a consistent level of a minimum of 3m above finished floor level, except for the retail at the north entry fronting Castlereagh Street, where the minimum can be 2.5m.
- 3.3. Signage projecting into the Martin Place Metro Station pedestrian access pathways must be contained to shopfront zones above the 3m height, except for the north entry retail fronting Castlereagh Street where it may be necessary to have an alternate solution, and any retail signage must not impact on the comfort of Customers or their ability to access the Martin Place Metro Station.
- 3.4. Retail zones must trade to street frontages as well as into station primary plazas where appropriate (and subject to not impeding the station operations and customer access).

- 3.5. If temporary retail is to be in operation in these zones prior to the completion of the OSD Works and retail works, tenancy conditions of the Lease still apply (such as control over types of retail tenants, control of odours etc).
- 3.6. Retail operations must not impede on the station operations and access, including Martin Place Metro Station wayfinding elements and signage.
- 3.7. Hoardings must be subject to the same controls stated in the Building Management Statement.
- 3.8. Secure enclosure of retail areas must be provided for outside of retail opening or trading times, to areas fronting primary plazas or station entries.

**4. NORTHERN ENTRY THROUGH SITE CONNECTION (ELIZABETH TO CASTLEREAGH STREETS)**

- 4.1. A through site connection providing access between Elizabeth and Castlereagh Streets at the northern entry site must be maintained generally to the extent illustrated in the attached **Diagram 6**.

**5. PERMANENT AND OTHER STRUCTURES IN STATION ENTRY AREA**

- 5.1. Other than:
  - 5.1.1. the structures shown in Diagrams 7 and 8;
  - 5.1.2. items of public art or landscaping;
  - 5.1.3. all plant and apparatus necessary for the transmission of Services, which are to be concealed in the building fabric, including but not limited to channels, cuttings, drains, wires, fibres, cables, pipes, conduits, ducts, pumps, sumps, tanks, pits and traps;
  - 5.1.4. security bollards (or equivalent protection measures) security shutters, stair handrails, balustrades, weather protection awnings, and overhead lift pit access gantry; and
  - 5.1.5. each structure or item (whether permanent or not) to which the Principal has consented in writing,

no structures are to be installed, constructed or located within the green bordered areas indicated in **Diagrams 7 and 8**.

**PART B – OSD Design Parameters in relation to Separable Portion 2**

**1. DESIGN OF RETAIL FRONTAGES ADJOINING MARTIN PLACE METRO STATION ENTRIES AT STREET LEVEL**

- 1.1. Extent of precinct retail activation must be provided to minimum extents illustrated in the attached **Diagram 3**. This clause 1 only applies to retail frontages that adjoin Martin Place Metro Station entries at street level.
- 1.2. Shopfronts must be a minimum of 50% transparently glazed frontages (including doorways) where fronting streets (footpaths) and station primary plazas where possible, in order to maximise visual permeability to aid street and precinct activation. Transparent glazing must extend from floor level (or as close as possible to floor level given site conditions) to a consistent level of a minimum of 3m above finished floor level.
- 1.3. Signage projecting into the Martin Place Metro Station pedestrian access pathways must be contained to shopfront zones above the 3m height, and any retail signage must not impact on the comfort of Customers or their ability to access the Martin Place Metro Station.

- 1.4. Retail zones must trade to street frontages as well as into station primary plazas where appropriate (and subject to not impeding the station operations and customer access).
- 1.5. If temporary retail is to be in operation in these zones prior to the completion of the OSD Works and retail works, tenancy conditions of the Lease still apply (such as control over types of retail tenants, control of odours etc).
- 1.6. Retail operations must not impede on the station operations and access, including Martin Place Metro Station wayfinding elements and signage.
- 1.7. Hoardings must be subject to the same controls stated in the Building Management Statement.
- 1.8. Secure enclosure of retail areas must be provided for outside of retail opening or trading times, to areas fronting primary plazas or station entries.

## **2. SOUTHERN ENTRY THROUGH SITE LINK (ELIZABETH TO CASTLEREAGH STREETS)**

- 2.1. A through site link providing universal accessibility between Elizabeth and Castlereagh Streets at the southern entry site must be maintained to the minimum extent illustrated in the attached **Diagram 6**. Universal accessibility is achieved if the through site link complies with the Disability Discrimination Act 1992 (Cth).

## **3. SOUTHERN ENTRY VIEW ACCESS TO MARTIN PLACE**

- 3.1. A view to and from the southern station entry to Martin Place must be preserved, to the minimum extent illustrated in the attached **Diagram 5**. This view can be activated with a retail kiosk open to Martin Place.

## **4. PERMANENT AND OTHER STRUCTURES IN STATION ENTRY AREA**

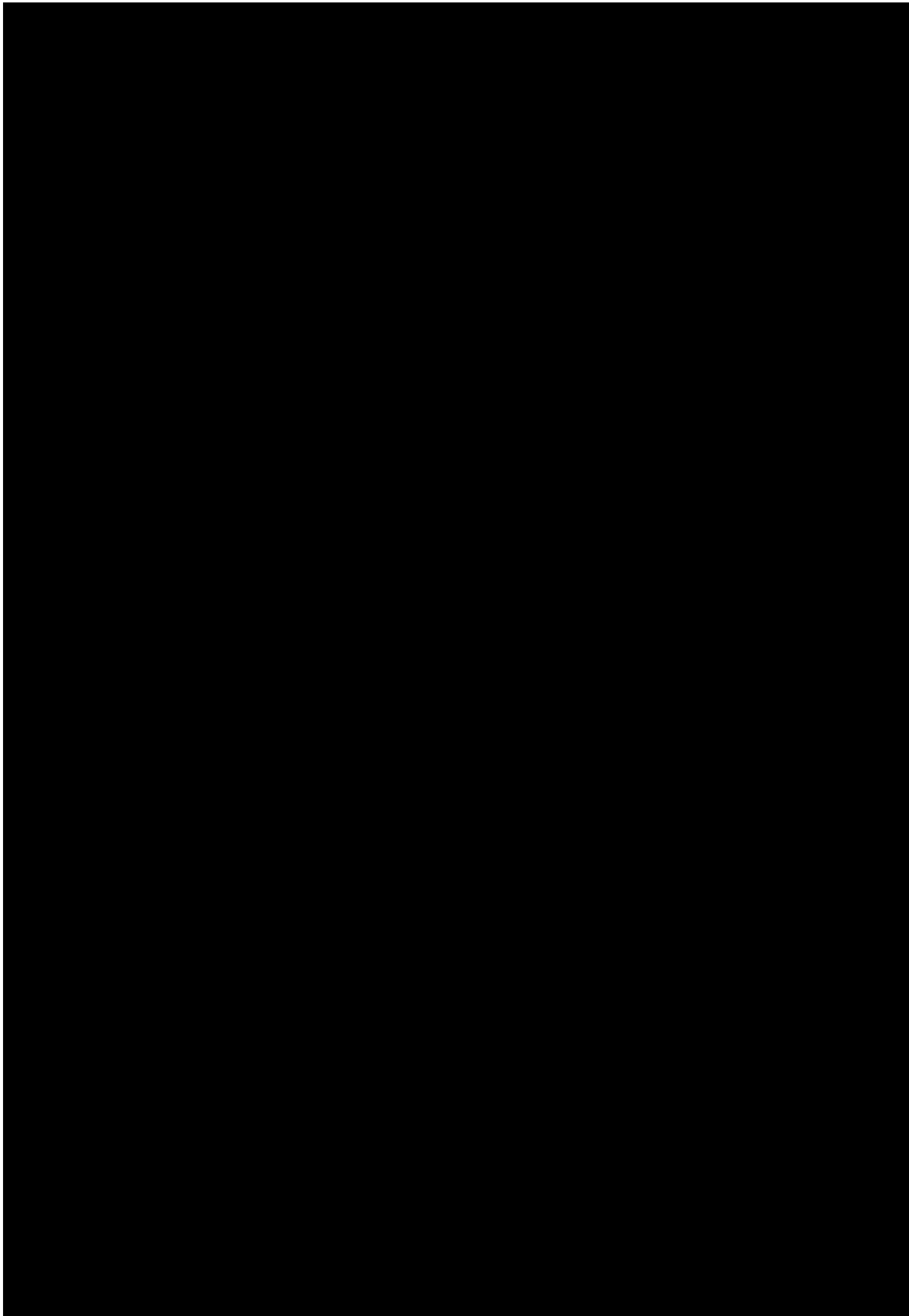
- 4.1. Other than:
  - 4.1.1. the structures shown in **Diagram 9**;
  - 4.1.2. items of public art or landscaping;
  - 4.1.3. all plant and apparatus necessary for the transmission of Services, which are to be concealed in the building fabric, including but not limited to channels, cuttings, drains, wires, fibres, cables, pipes, conduits, ducts, pumps, sumps, tanks, pits and traps;
  - 4.1.4. security bollards (or equivalent protection measures) security shutters, stair handrails, balustrades, weather protection awnings, and overhead lift pit access gantry; and
  - 4.1.5. each structure or item (whether permanent or not) to which the Principal has consented in writing,

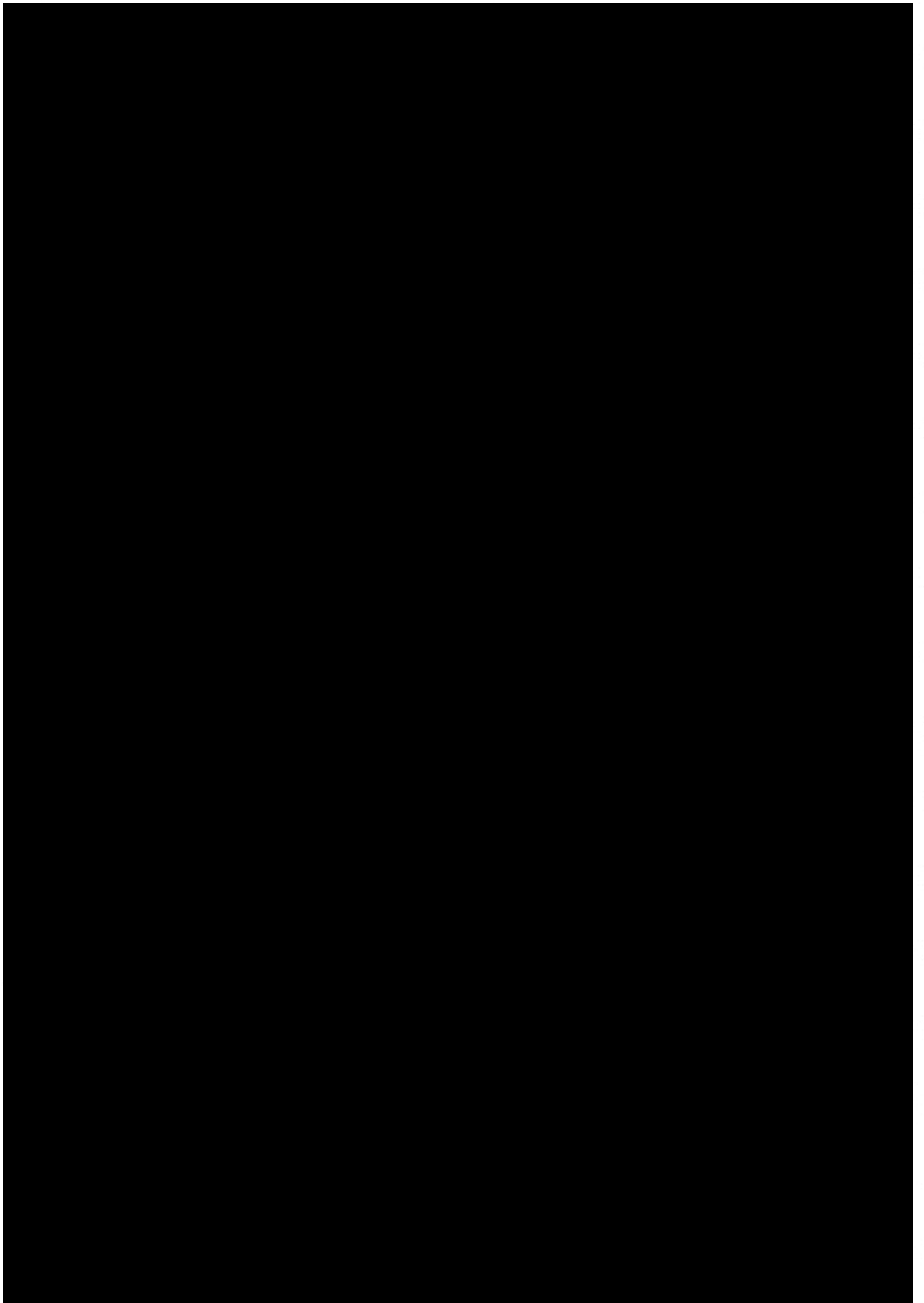
no structures are to be installed, constructed or located within the green bordered area indicated in **Diagram 9**.

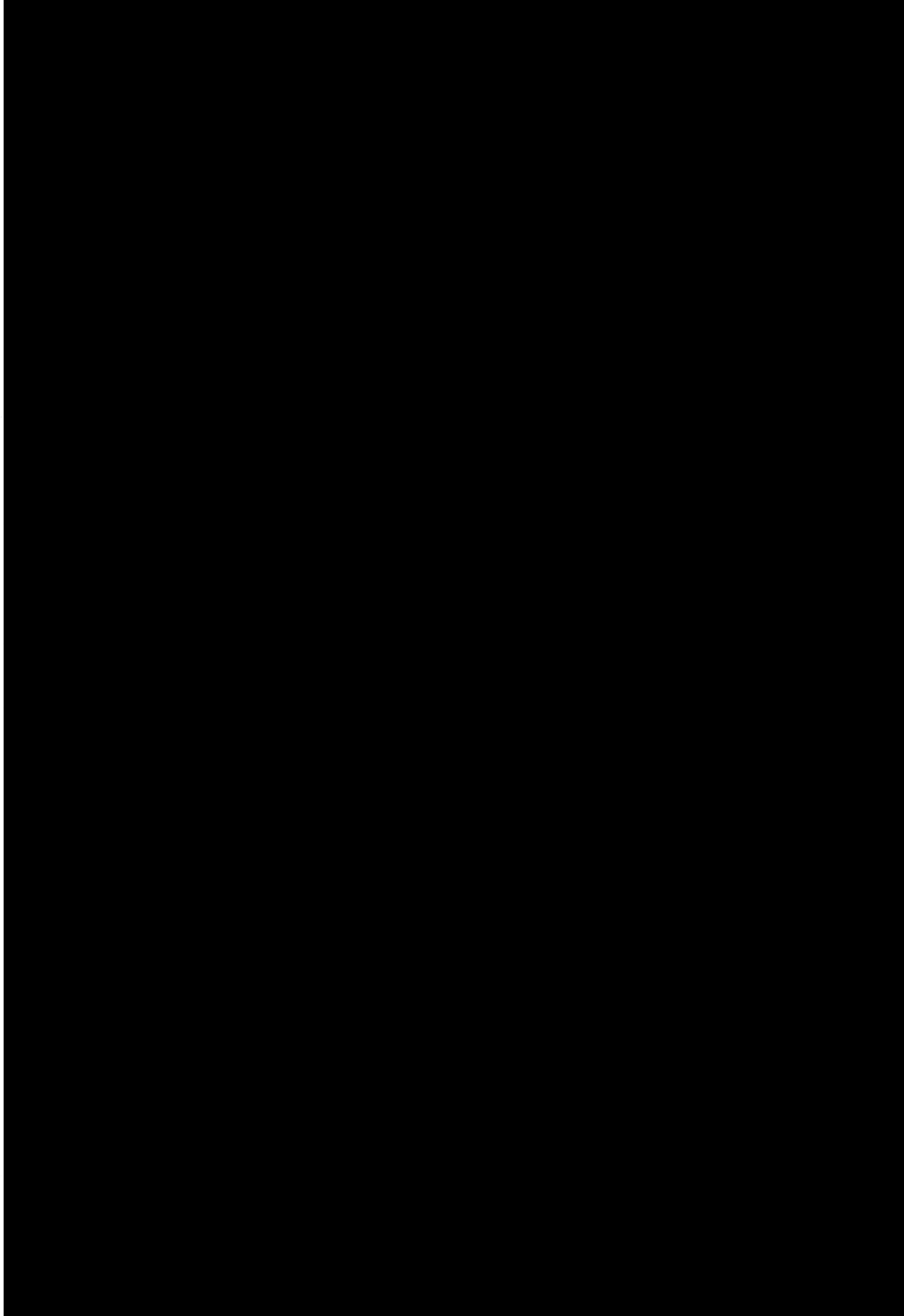
**PART C – OSD Design Parameters diagrams**



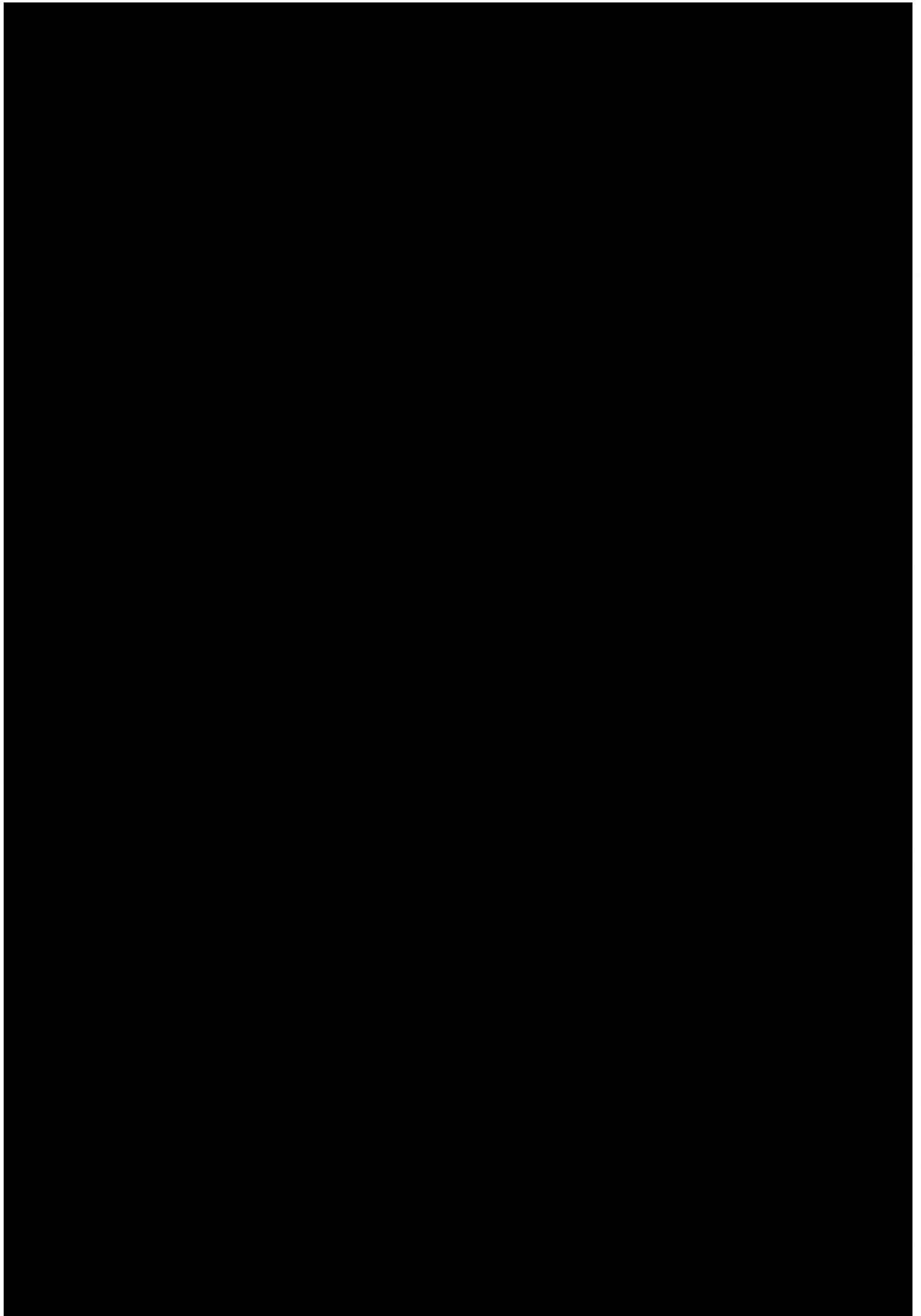


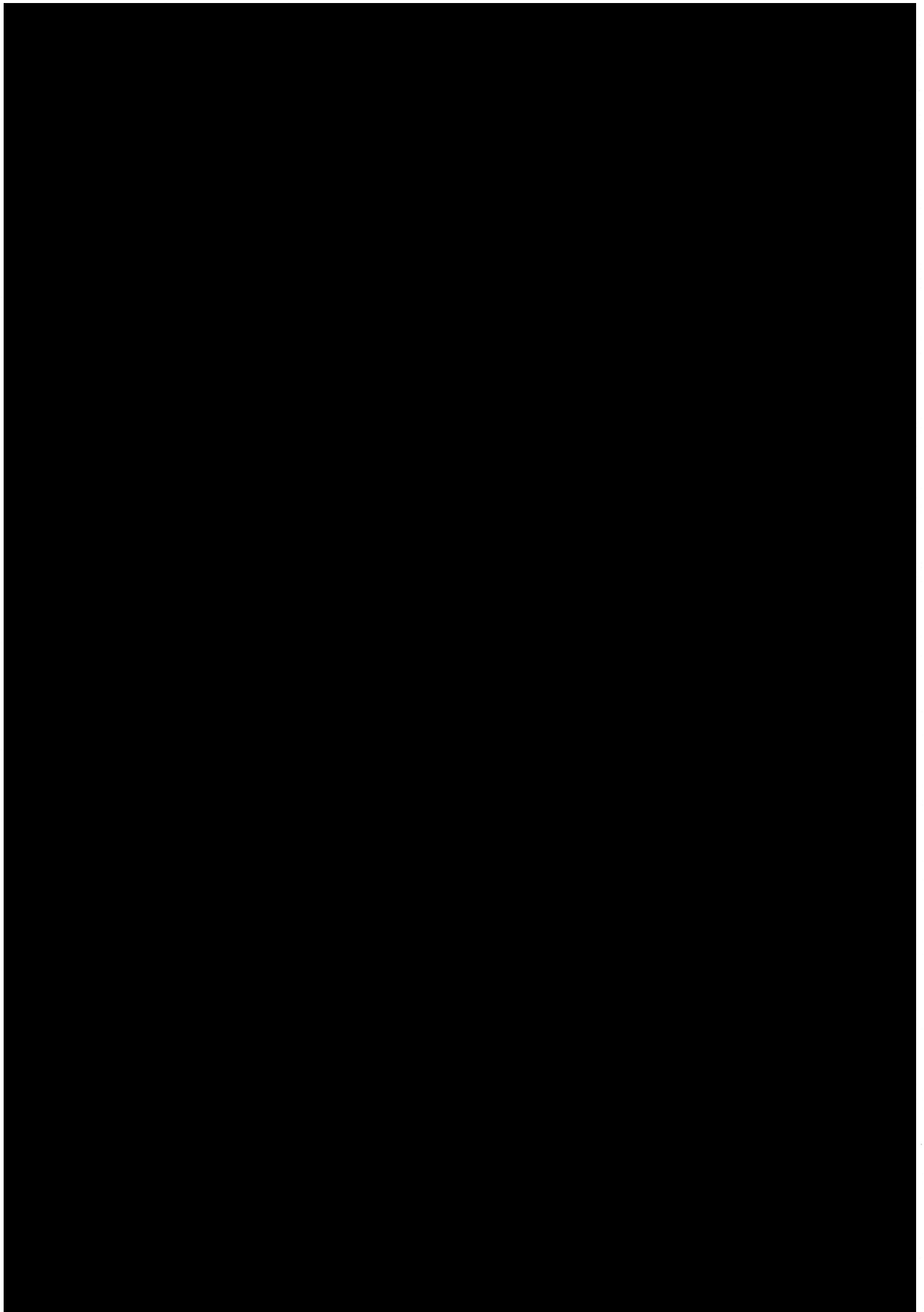


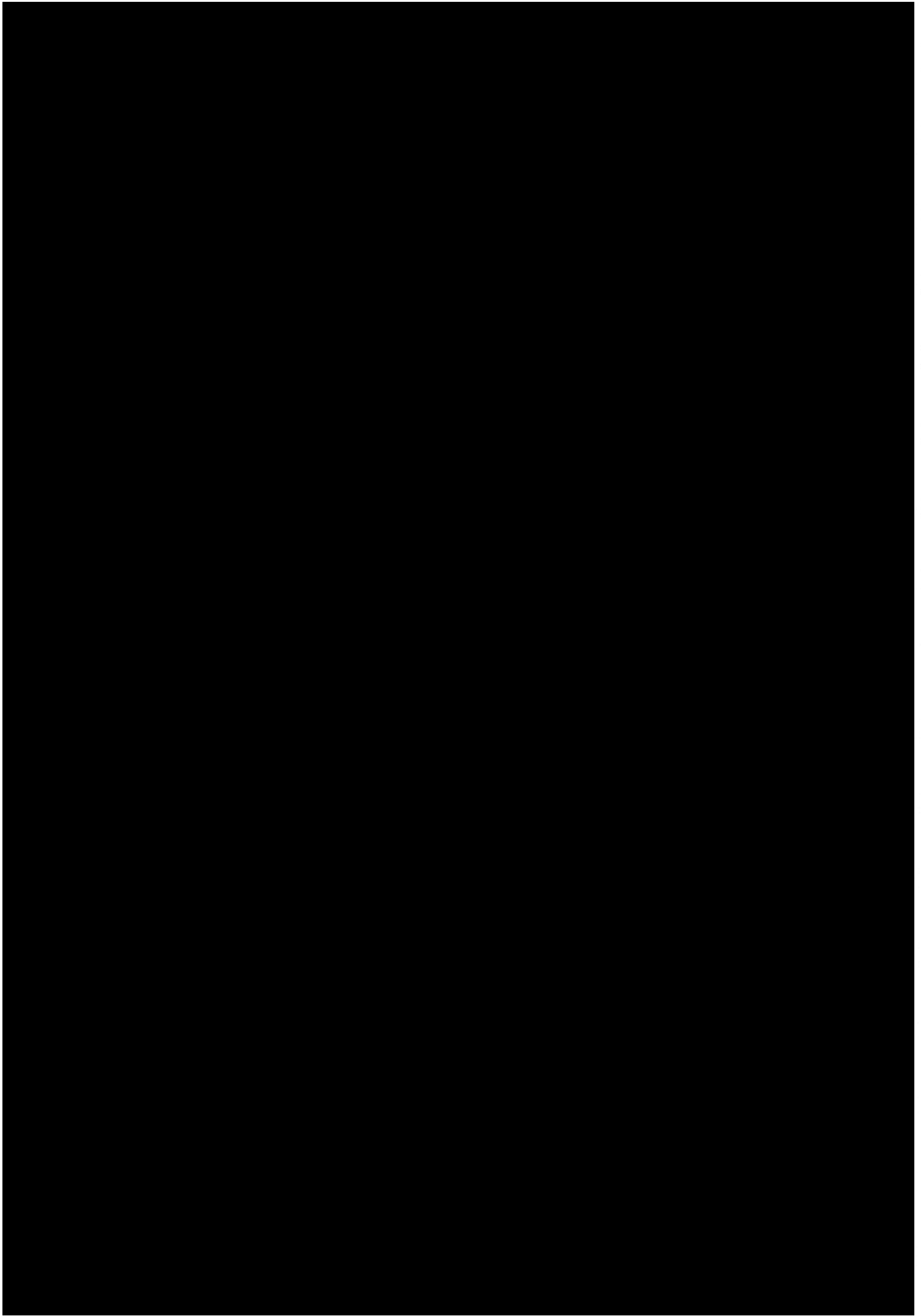


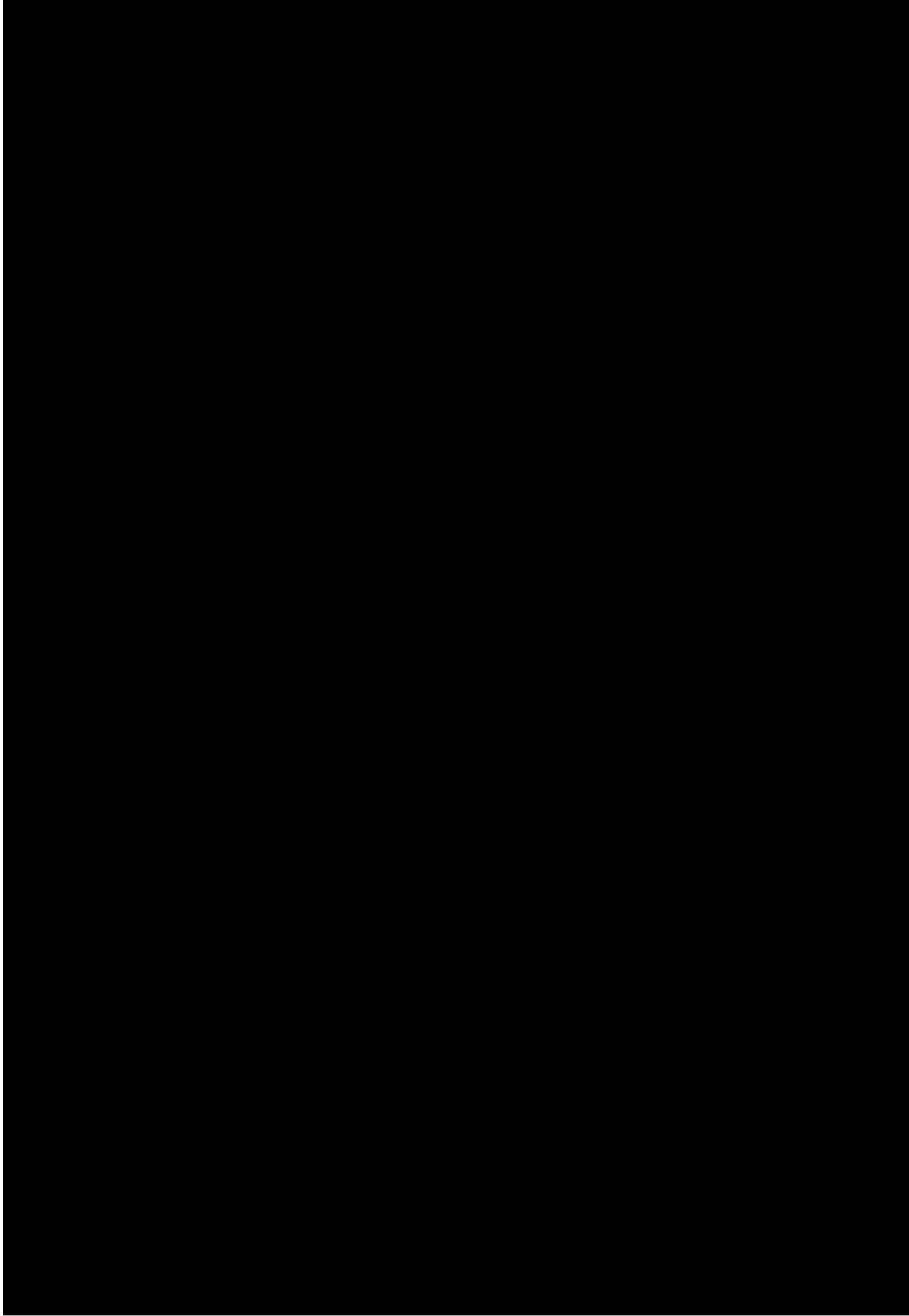




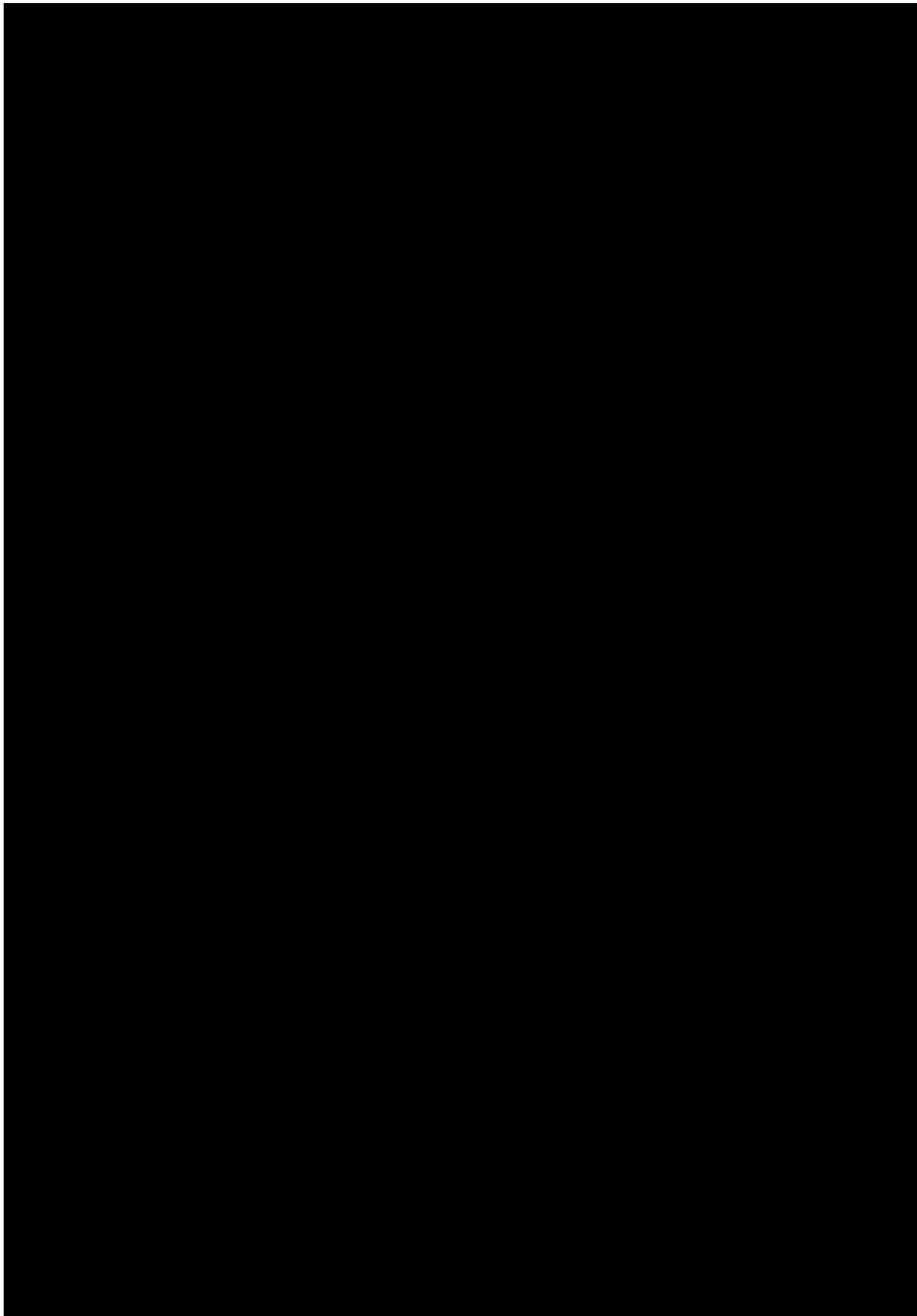












**SCHEDULE D1  
Existing Encumbrances**

<b>Item</b>	<b>Registered dealing number (if applicable)</b>	<b>Information</b>
<b>Part A - Construction Site (North Site 2)</b>		
1.	F822764	Easement for railway purposes affecting the parts of the undersurface of the land.
<b>Part B - Construction Site (South Site)</b>		
2.	V75456	Right of way 1 metre wide affecting the land
3.	V75456	Easement for electricity purposes affecting the land
4.	V75456	Easement for electricity purposes (variable width) affecting the land
5.	V75456	Easement for electricity purposes (variable width) affecting the land
6.	AM989595	Construction lease (Government Gazette 15-12-2017 Fols 7744-7756)

**SCHEDULE D2**  
**Site Interface Deed Poll**

**THIS DEED POLL** is made on [year]

**IN FAVOUR OF:**

- (1) [Insert name] ABN [number] of [address] (**Site Contractor**);
- (2) [Insert name] ABN [number] of [address] (**Appointed Principal Contractor**); and
- (3) **Sydney Metro** ABN 12 354 063 515 a New South Wales Government agency constituted by section 38 of the Transport Administration Act 1988 (NSW) and located at Level 43, 680 George Street, Sydney NSW 2000 (**Principal**),  
  
(together, the **Beneficiaries**)

**GIVEN BY:**

- (4) [Insert name] ABN [number] of [address] (**Accessing Contractor**)

**RECITALS:**

- (A) Pursuant to the deed titled "[insert]" between the Principal and the Site Contractor dated [insert] (**Contract**), the Site Contractor agreed to, among other things, design and construct certain works and carry out certain activities (**Project Works**) on the land more particularly described in the Contract (the **Construction Site**).
- (B) The Accessing Contractor has been appointed under a contract to undertake certain works and activities on the Construction Site (**Construction Site Interface Work**).
- (C) For the purposes of the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW) (together, the **WHS Legislation**), the Project Works and the Construction Site Interface Work are a 'construction project' within the meaning of the WHS Legislation.
- (D) The Appointed Principal Contractor is authorised to have management and control of the workplace for the purpose of discharging the duties imposed on a principal contractor for the construction project.
- (E) Under the provisions of the Contract, the [insert] is required to procure the provision of this deed poll from certain contractors that undertake Construction Site Interface Work.

**This deed poll witnesses that the Accessing Contractor hereby covenants, warrants and agrees with and for the benefit of the Beneficiaries as follows:**

1. In consideration of the Site Contractor and the Appointed Principal Contractor accepting this deed poll, the Accessing Contractor agrees that:
  - (a) the Accessing Contractor, its subcontractors and their respective personnel while they are on the Construction Site, will comply with Construction Site safety regulations, any Construction Site rules or regulations and with all directions of the Site Contractor and the Appointed Principal Contractor with respect to work health and safety;

- (b) the Accessing Contractor, its subcontractors and their respective personnel will comply in a timely manner with directions of the Site Contractor and the Appointed Principal Contractor so that the Appointed Principal Contractor discharges its obligations as principal contractor;
  - (c) the Accessing Contractor, its subcontractors and their respective personnel will consult, cooperate and coordinate activities with the Site Contractor and the Appointed Principal Contractor, the Principal and all other persons who have a work health and safety duty in relation to the same matter;
  - (d) the Accessing Contractor, its subcontractors and their respective personnel will comply with the work health and safety plan(s) prepared by the Site Contractor and the Appointed Principal Contractor while on the Construction Site;
  - (e) the Site Contractor and the Appointed Principal Contractor may exclude the Accessing Contractor, any of its subcontractors and their respective personnel from the Construction Site for work health and safety reasons;
  - (f) the Site Contractor and the Appointed Principal Contractor may direct the Accessing Contractor, any of its subcontractors and their respective personnel to perform or not perform certain acts for work health and safety reasons;
  - (g) where high risk construction work, as reasonably determined by the Site Contractor or the Appointed Principal Contractor, is to be carried out in the performance of the Construction Site Interface Work, the Accessing Contractor must:
    - (i) prepare a safe work method statement that complies with all requirements of the WHS Legislation;
    - (ii) provide a copy of the safe work method statement to the Principal, the Site Contractor and the Appointed Principal Contractor prior to the commencement of high risk construction work;
    - (iii) review and revise the safe work method statement in accordance with the WHS Legislation;
    - (iv) ensure that the high risk construction work is carried out in compliance with the safe work method statement; and
    - (v) where so directed by the Site Contractor and the Appointed Principal Contractor, suspend the performance of any high risk construction work;
  - (h) the Accessing Contractor will in carrying out the Construction Site Interface Work, comply with, and ensure that all subcontractors and personnel comply with the WHS Legislation; and
  - (i) in its contracts with subcontractors, the Accessing Contractor will ensure that the subcontractor is obliged to give the same obligations and rights as required of the Accessing Contractor under this deed poll.
2. The Accessing Contractor indemnifies the Site Contractor and the Appointed Principal Contractor against any delay, damage, expense, loss, penalty or liability suffered or incurred by the Site Contractor and the Appointed Principal Contractor as a result of:
- (a) any failure by the Accessing Contractor to comply with any direction given by the Site Contractor or the Appointed Principal Contractor in accordance with this deed poll; or

(b) any breach by the Accessing Contractor, any of its subcontractors or their respective personnel of:

(i) their respective contractual or legislative work health and safety obligations;  
or

(ii) the provisions of this deed poll.

3. This deed poll will be governed by and construed in accordance with the law for the time being of New South Wales.

**EXECUTED** as a deed poll.

**Executed** by [Accessing Contractor] in accordance with section 127 of the *Corporations Act 2001* (Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/other director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/other director

SCHEDULE D3

Approved Engineer Deed Poll

By: [insert name and ABN] of [insert address] ( Approved Engineer)

In favour of: **Sydney Metro** ABN 12 354 063 515, a New South Wales Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW), and located at Level 43, 680 George Street, Sydney NSW 2000 (**Principal**).

RECITALS

- (A) The Principal and Macquarie are parties to the OSD PDA under which Macquarie will design and construct the OSD Works above the Martin Place Metro Station. Macquarie has:
- (1) with respect to Separable Portion 1, subcontracted to Macquarie Bank Limited and Macquarie Bank Limited has in turn subcontracted the carrying out of the OSD Works for Separable Portion 1 to the D&C Contractor; and
  - (2) with respect to Separable Portion 2, subcontracted to DevCo and DevCo has in turn subcontracted the carrying out of the OSD Works for Separable Portion 2 to the D&C Contractor.
- (B) [Macquarie Bank Limited/DevCo] and the D&C Contractor have engaged the Approved Engineer under a deed dated [insert] (**Approved Engineer Deed**) to carry out the Approved Engineer Services. [Drafting note: delete reference to "Macquarie Bank Limited" if this deed poll is in relation to the South Tower OR delete reference to DevCo if this deed poll is in relation to the North Tower.]
- (C) The Principal is relying on the Approved Engineer to perform the Approved Engineer Services in accordance with the Approved Engineer Deed.
- (D) The Approved Engineer has agreed to provide the Principal with certain rights on the terms and conditions of this deed poll.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised terms used in this deed poll and not otherwise defined have the same meanings as those given in the OSD PDA.

**Approved Engineer Services** means the services required to be performed by the Approved Engineer pursuant to clause 18.2(c) of the OSD PDA for the [North Tower OSD/South Tower OSD]. [Drafting note: delete reference to "North Tower OSD" if this deed poll is in relation to the South Tower OSD OR delete reference to "South Tower OSD" if this deed poll is in relation to the South Tower OSD.]

**OSD PDA** means the deed titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) between the Principal and Macquarie dated [insert].

2. DUTY OF CARE AND WARRANTIES

- (a) The Approved Engineer warrants to the Principal that in performing the Approved Engineer Services and in providing any certificate under clause 18.2(c)(i) and clause 18.2(c)(ii) of the OSD PDA:

- (i) it will owe a duty of care to the Principal;
  - (ii) it will exercise reasonable skill and care which would reasonably be expected of a professional providing services similar to the Approved Engineer Services; and
  - (iii) it is aware that the Principal will be relying upon the skill and judgement of the Approved Engineer in performing the Approved Engineer Services.
- (b) The Approved Engineer warrants that:
- (i) it has the qualifications, experience and expertise described in part A of Schedule A8 to the OSD PDA; and
  - (ii) the requisite experience and skill to undertake the role of the Approved Engineer in accordance with the requirements of the OSD PDA and the Approved Engineer Deed.

3. **BENEFIT OF DEED POLL**

- (a) The Approved Engineer acknowledges and agrees that this deed poll is for the benefit of the Principal.
- (b) This document operates as a deed poll and is enforceable against the Approved Engineer in accordance with its terms by the Principal, even though the Principal is not a party to this deed poll.
- (c) Without limiting any other clause of this deed poll, the Approved Engineer must carry out the Approved Engineer Services for the benefit of the Principal.

4. **INDEMNITIES**

4.1 **Indemnity**

- (a) Subject to clauses 4.1(b) and 5.4, the Approved Engineer is liable for and indemnifies the Principal against any Liability, Loss, Claim, expense or damage which it may pay, suffer or incur in respect of:
  - (i) any damage to or loss of property;
  - (ii) death of or injury to any person; or
  - (iii) delay to the completion of, or the loss of use or operation of, the Sydney Metro City & Southwest,

insofar as the Liability, Loss, Claim, expense or damage arises out of the act, error or omission of the Approved Engineer, its employees, agents or consultants in respect of or in relation to the Approved Engineer Services.

- (b) The Approved Engineer's Liability to the Principal under this deed will be reduced proportionally to the extent that a negligent act or omission of the Principal contributed to the loss or damage.

**4.2 Indemnity survives**

Each indemnity contained in this deed poll:

- (a) is a continuing obligation despite a settlement of account or the occurrence of any other thing, and remains fully effective until all money owing, contingently or otherwise, under an indemnity has been paid in full;
- (b) is an additional, separate and independent obligation and no one indemnity limits the generality of another indemnity; and
- (c) survives the termination of this deed poll.

**5. GENERAL**

**5.1 No payment by the Principal**

The Approved Engineer acknowledges and agrees that the Principal will have no obligation to make any payments whatsoever to the Approved Engineer caused by, arising out of or in connection with the Approved Engineer Services.

**5.2 Warranties**

The warranties, covenants and acknowledgments set out in the Approved Engineer Deed are repeated for the benefit of the Principal and are enforceable by the Principal against the Approved Engineer.

**5.3 Severability**

If any provision of this deed poll is illegal, void, invalid or unenforceable for any reason, all other provisions which are self-sustaining and capable of separate enforcement will, to the maximum extent permitted by law, be and continue to be valid and enforceable.

**5.4 Limitation of liability**

- (a) Despite any other clause of this deed poll, the Approved Engineer's liability arising under or in connection with this deed poll must not exceed the maximum aggregate limit of liability of the Approved Engineer under the Approved Engineer Deed subject to the same exceptions, exclusions and limitations as are specified in the Approved Engineer Deed less the liability incurred (from time to time) by the Approved Engineer to [Macquarie Bank Limited/DevCo] and/or the D&C Contractor (as applicable) under the Approved Engineer Deed. ***[Drafting note: delete reference to "Macquarie Bank Limited" if this deed poll is in relation to the South Tower OSD OR delete reference to "DevCo" if this deed poll is in relation to the North Tower OSD.]***
- (b) Any provision of this deed poll which seeks to limit or exclude a liability of the Approved Engineer is to be construed as doing so only to the extent permitted by law.
- (c) Clause 5.4(a) does not limit the Approved Engineer's liability:
  - (i) in respect of any liability that:
    - (A) cannot be limited at Law; or
    - (B) is due to the Approved Engineer's fraud, wilful misconduct or criminal conduct; or



- (ii) to the extent that (ignoring the application of clause 5.4(a), the Approved Engineer is entitled to be indemnified for that liability under a policy of insurance required under the Approved Engineer Deed or would have been entitled to be indemnified for that liability under a policy of insurance required under its Approved Engineer Deed but for any act or omission of the Approved Engineer and, in each case, up to the maximum of the amount of the relevant insurance required under the Approved Engineer Deed.

**5.5 Assignment**

The Principal may assign or charge the benefits and rights accrued under this deed poll.

**5.6 Governing law and jurisdiction**

- (a) This deed poll shall be governed by and construed in accordance with the laws of the State of New South Wales.
- (b) The Approved Engineer hereby submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeals from any of those courts, for any proceedings in connection with this deed poll, and waives any right it might have to claim that those courts are an inconvenient forum.

**5.7 Amendments**

This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.

**EXECUTED** as a deed poll on

**[Insert execution block for Approved Engineer]**

**SCHEDULE D4  
Redundant Encumbrances**

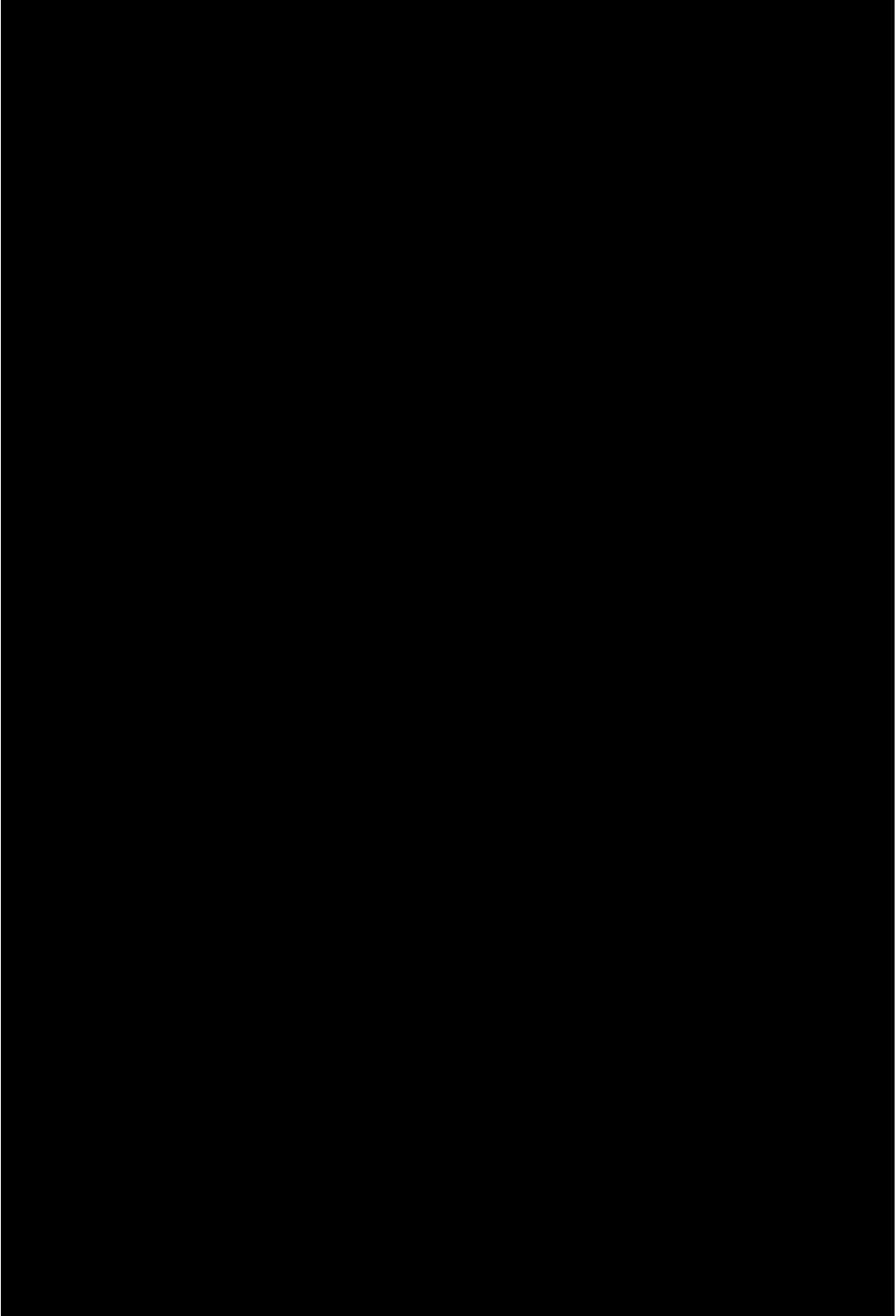
Item	Registered dealing number	Dealing Information	Date for removal
<b>CP/SP13171 (7 Elizabeth Street, Sydney)</b>			
1.		ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA SCHEMES MANAGEMENT REGULATION 2016	31 December 2018
2.	X114009	CHANGE OF BY-LAWS	31 December 2018
<b>1/526161 – 9-19 Elizabeth Street, Sydney</b>			
1.	AM711275	PROPOSED ACQUISITION PURSUANT TO SECTION 11 LAND ACQUISITION (JUST TERMS COMPENSATION) ACT, 1991 AFFECTING THE LAND ABOVE DESCRIBED. ISSUED 27/6/2017	31 December 2018
2.	AM489976	NOTE: MEMORANDUM AM216034	31 December 2018
3.	AM922406	NOTE: ACQUIRED FOR THE JUST TERMS COMPENSATION ACT 1991 LOT 132 DP1232469 VIDE GOV. GAZ. 11-10-2017 FOLS. 5847-6099. ERRATUM VIDE GOV. GAZ. 10-11-2017 FOLS. 6787-6829	31 December 2018
4.	DP1232469	PLAN OF ACQUISITION	31 December 2018
<b>1/222356 – 55 Hunter Street, Sydney</b>			
1.	V269294	<ul style="list-style-type: none"> <li>• LEASE TO THE SYDNEY COUNTY COUNCIL OF SUBSTATION NO:- 1664, SHOWN IN PLAN WITH J489524. EXPIRES 30.9.2033</li> <li>• AK971351 LEASE OF LEASE V269294 TO BLUE ASSET PARTNER PTY LTD, ERIC ALPHA ASSET CORPORATION 1 PTY LTD, ERIC ALPHA ASSET CORPORATION 2 PTY LTD, ERIC ALPHA ASSET CORPORATION 3 PTY LTD &amp; ERIC ALPHA ASSET CORPORATION 4 PTY LTD EXPIRES: SEE DEALING. CLAUSE 2.3(b)(ii)</li> <li>• AK971352 LEASE OF LEASE AK971351 TO BLUE OP PARTNER PTY LTD, ERIC ALPHA OPERATOR CORPORATION 1 PTY LTD, ERIC ALPHA OPERATOR CORPORATION 2 PTY LTD, ERIC ALPHA OPERATOR CORPORATION 3 PTY LTD &amp; ERIC ALPHA OPERATOR CORPORATION 4 PTY LTD EXPIRES: SEE DEALING.</li> </ul>	31 December 2018

Item	Registered dealing number	Dealing Information	Date for removal
		CLAUSE 12.1 <ul style="list-style-type: none"><li>AK971502 MORTGAGE OF LEASE AK971351 TO ANZ FIDUCIARY SERVICES PTY LTD</li></ul>	
<b>Auto Consol 10684-174 – 39 Martin Place</b>			
1.	C594135	COVENANT AFFECTING THE LAND SHOWN IN DP110109	1 February 2021

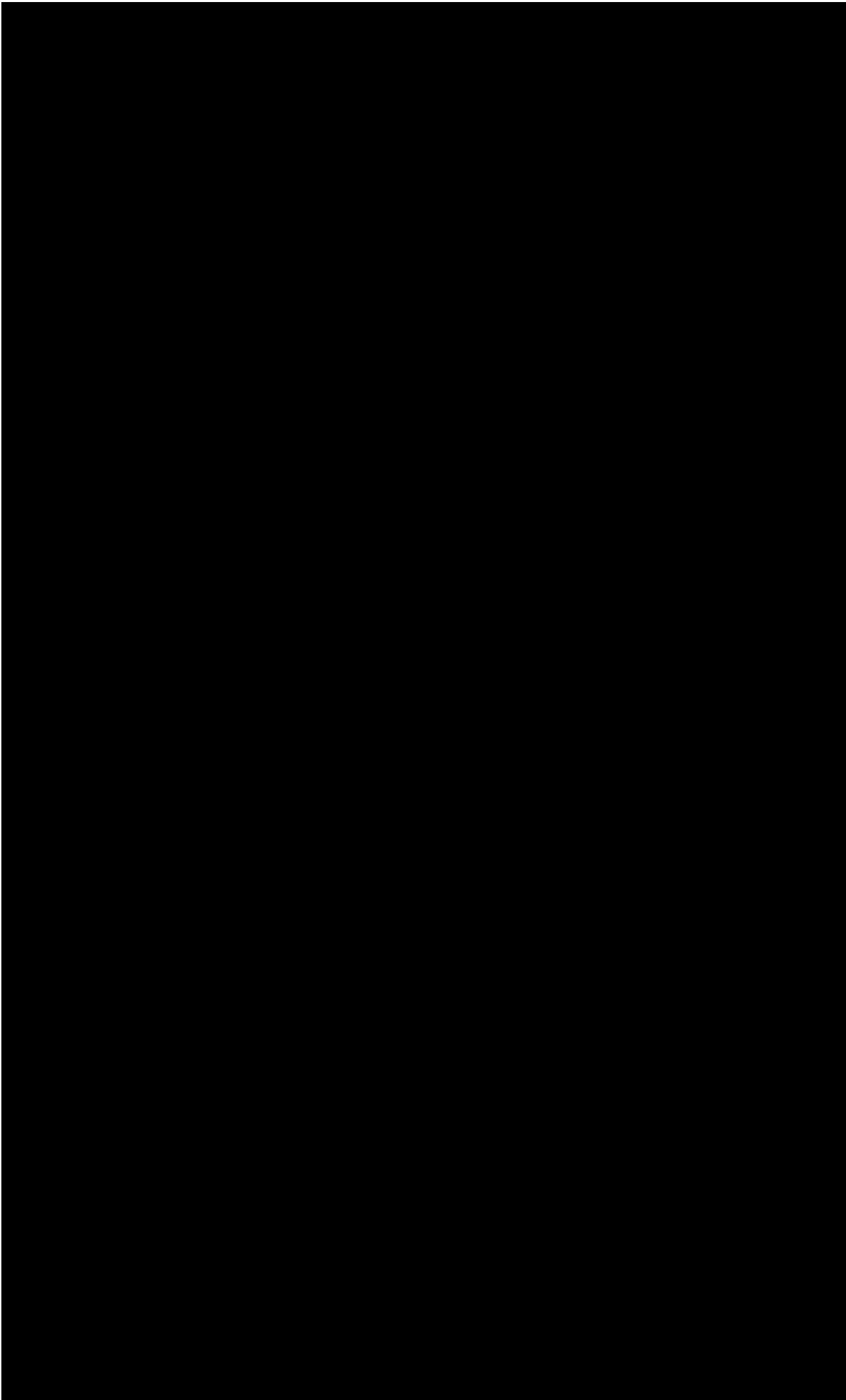
**SCHEDULE E1  
Payment Schedule**

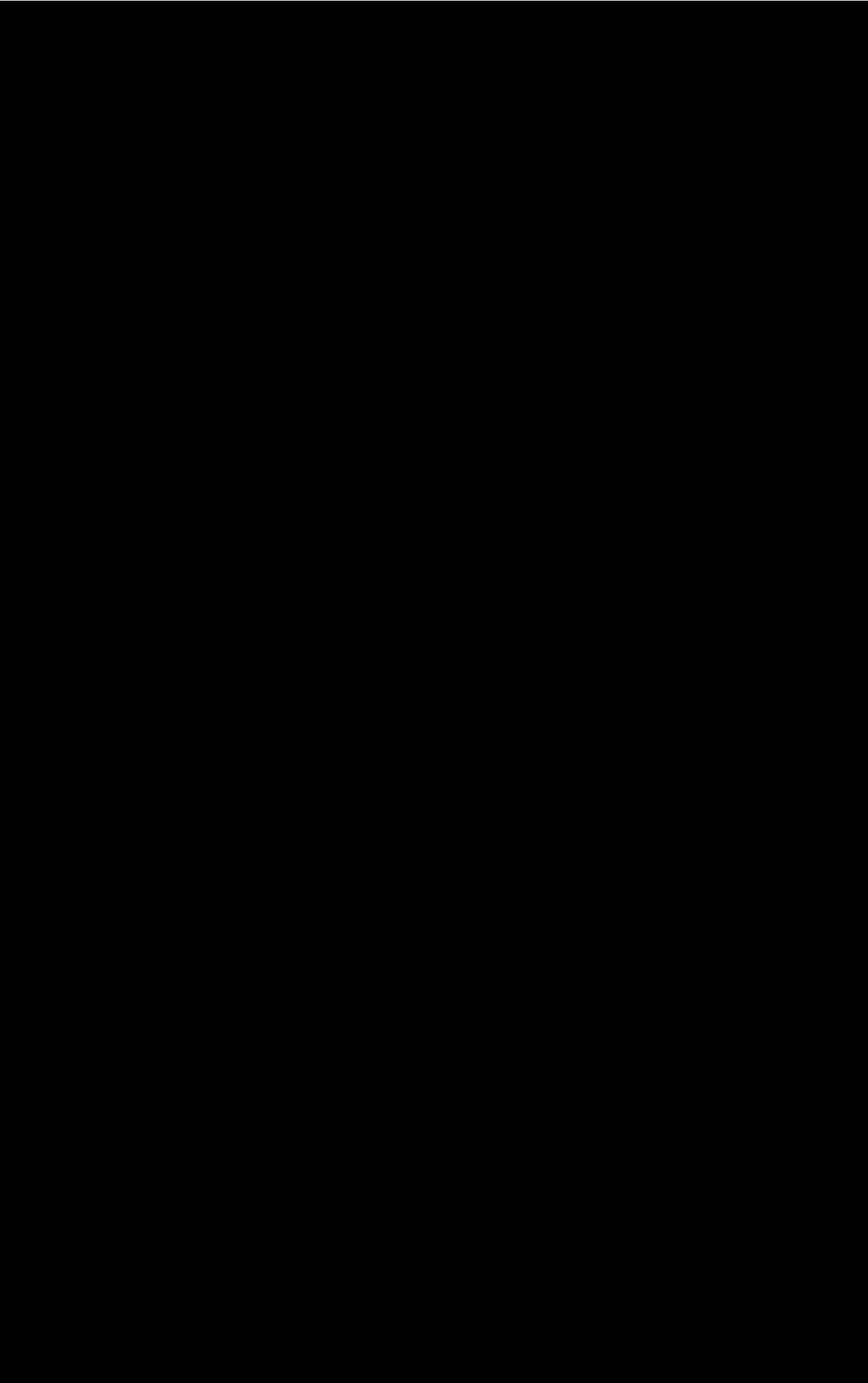


**SCHEDULE E2  
Termination Payment Schedule**

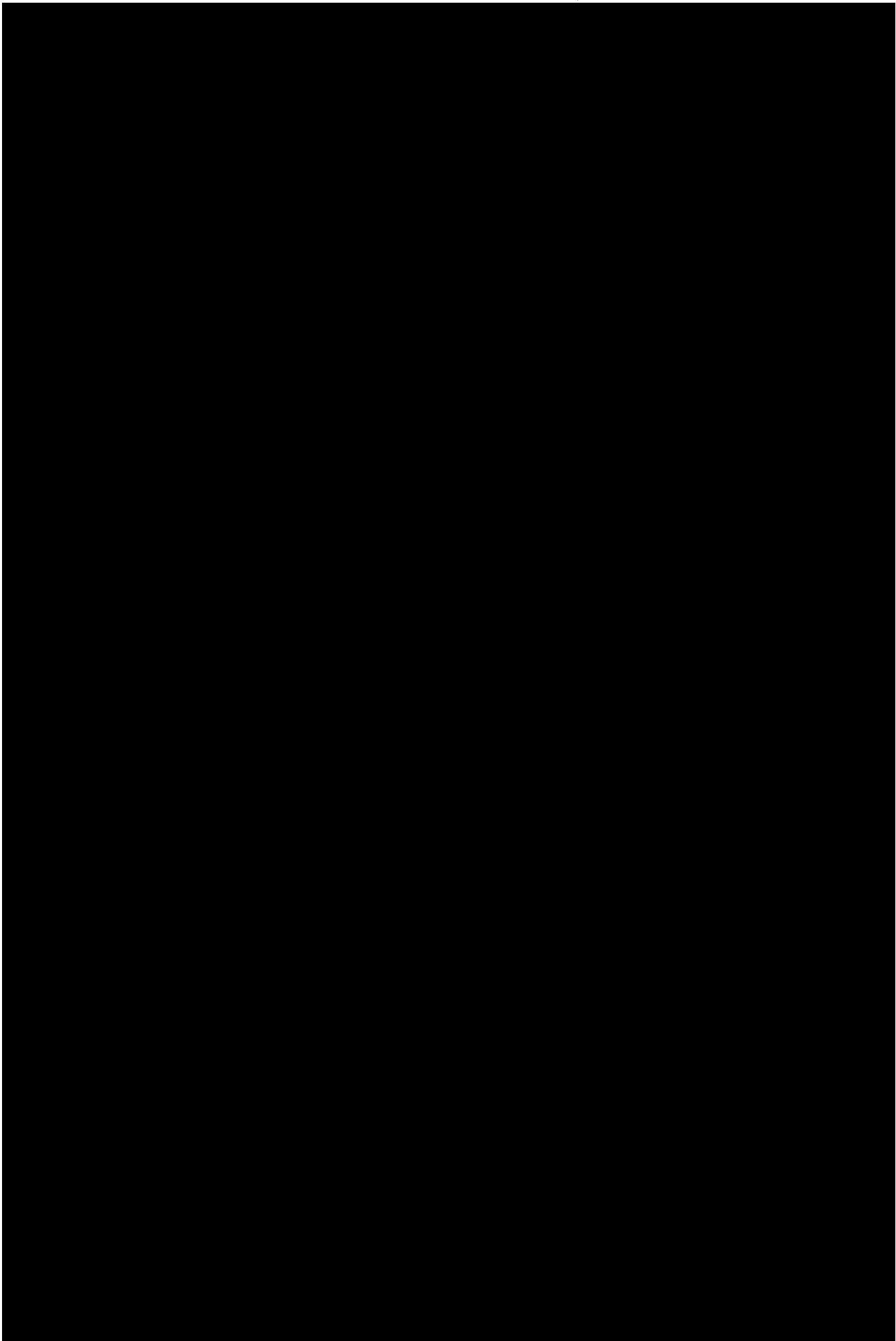


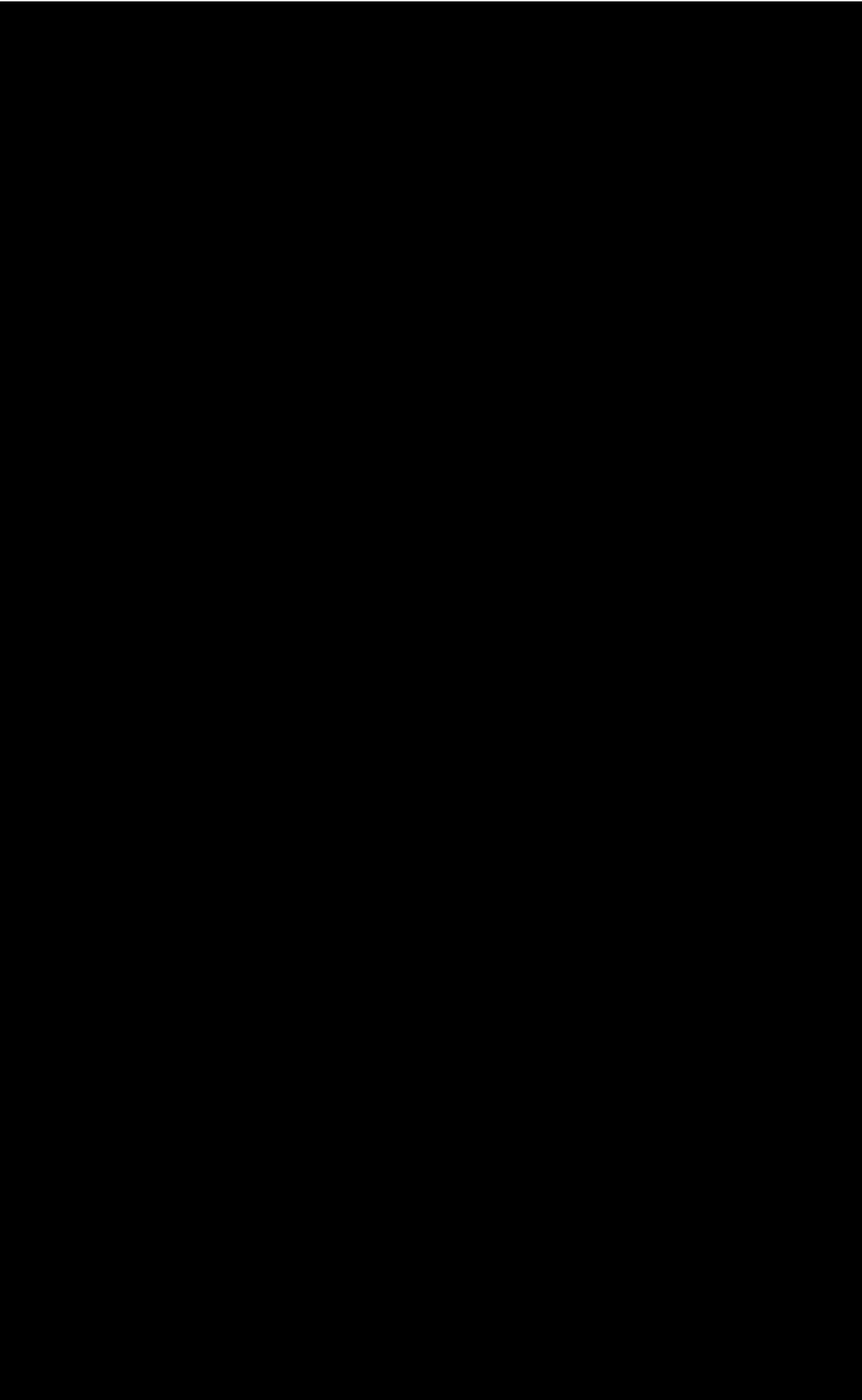


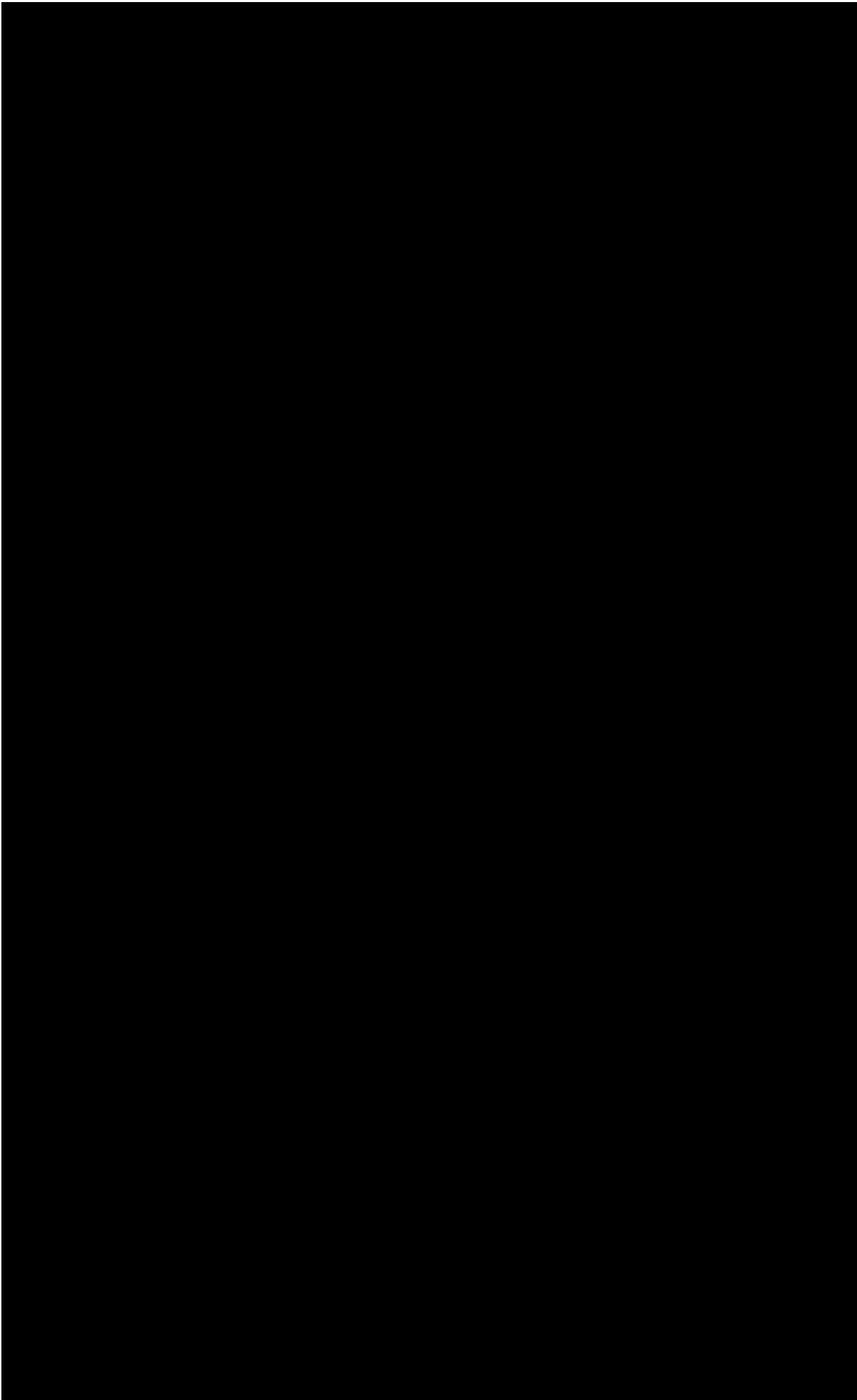


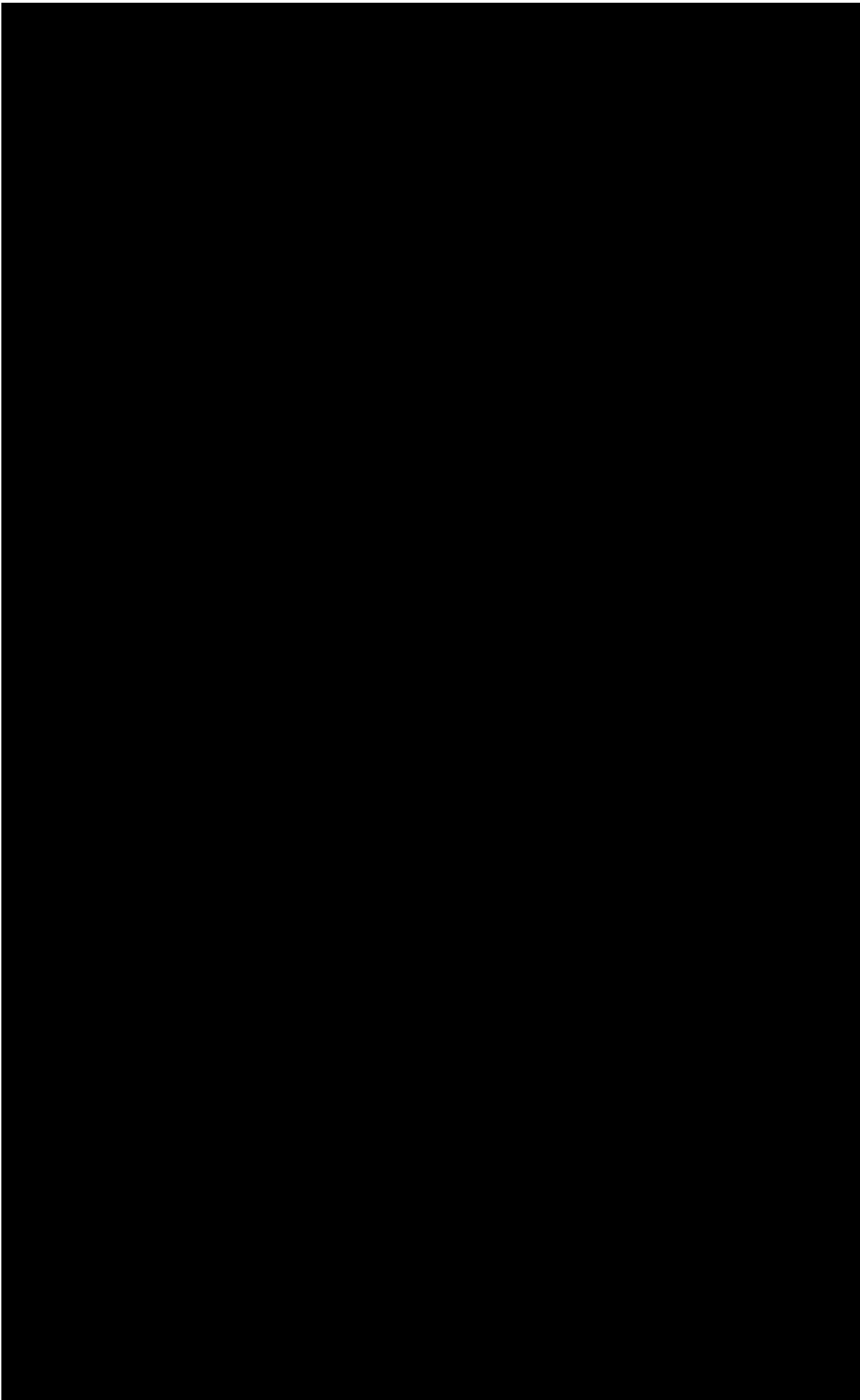


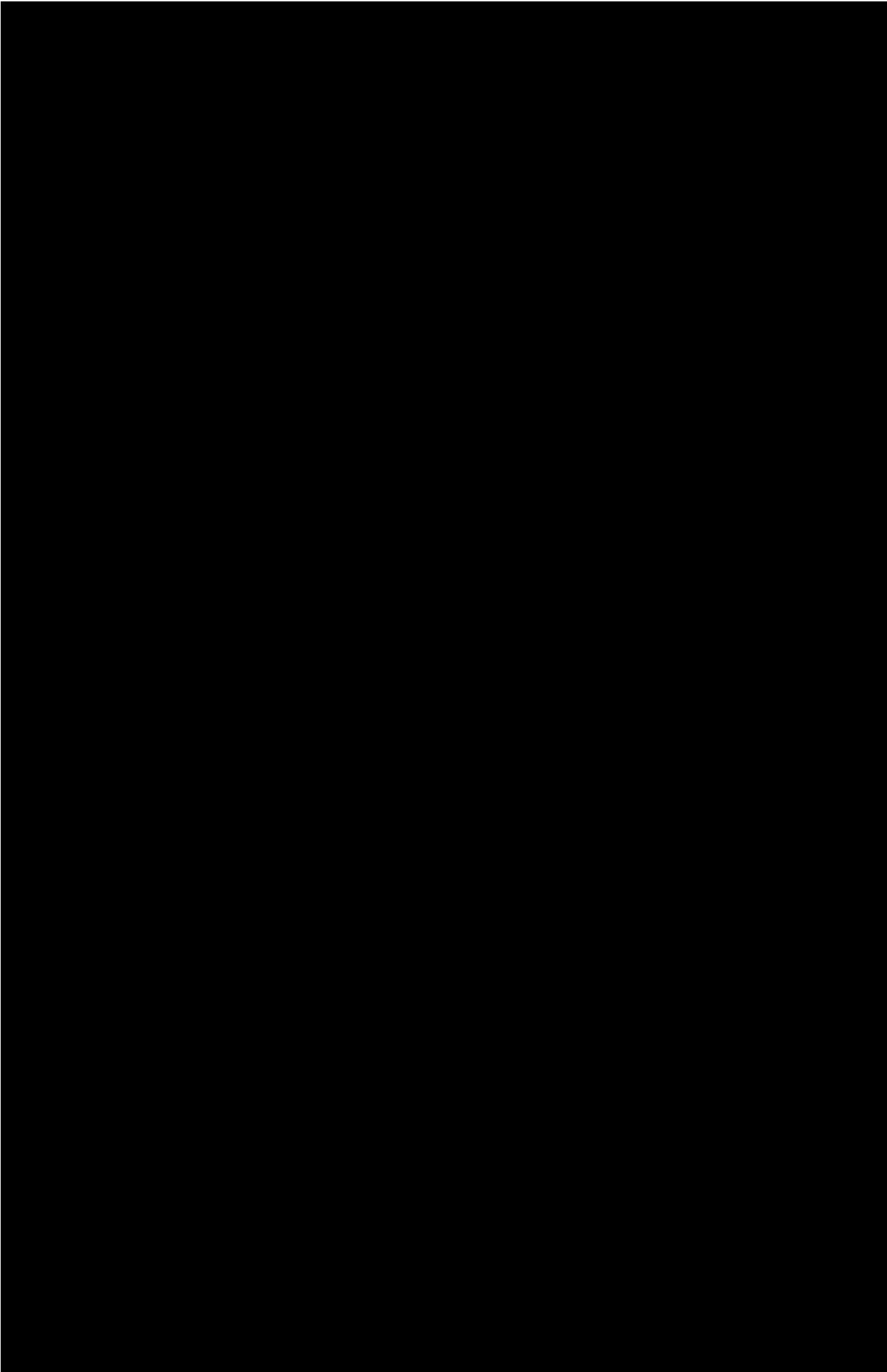


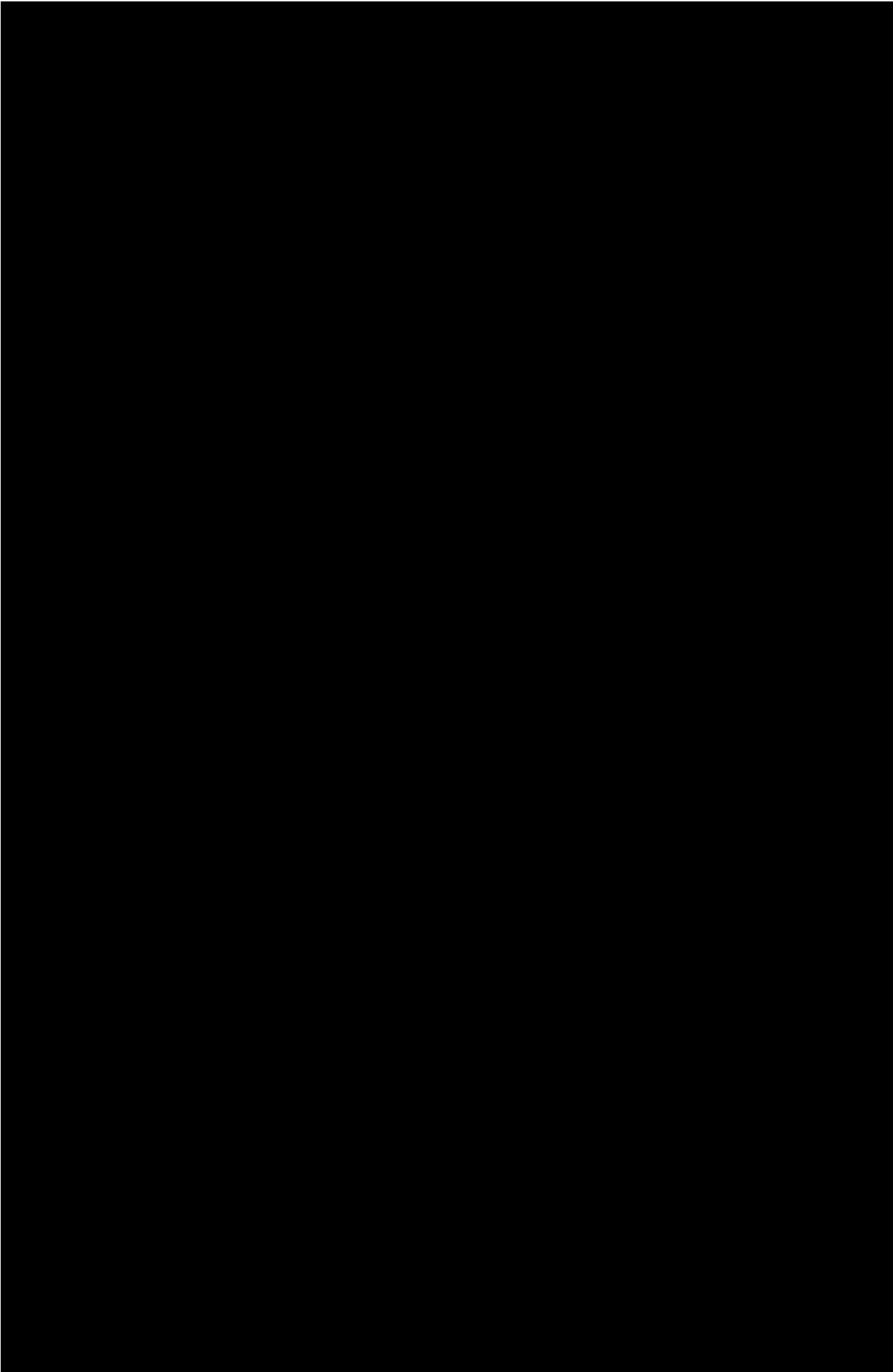


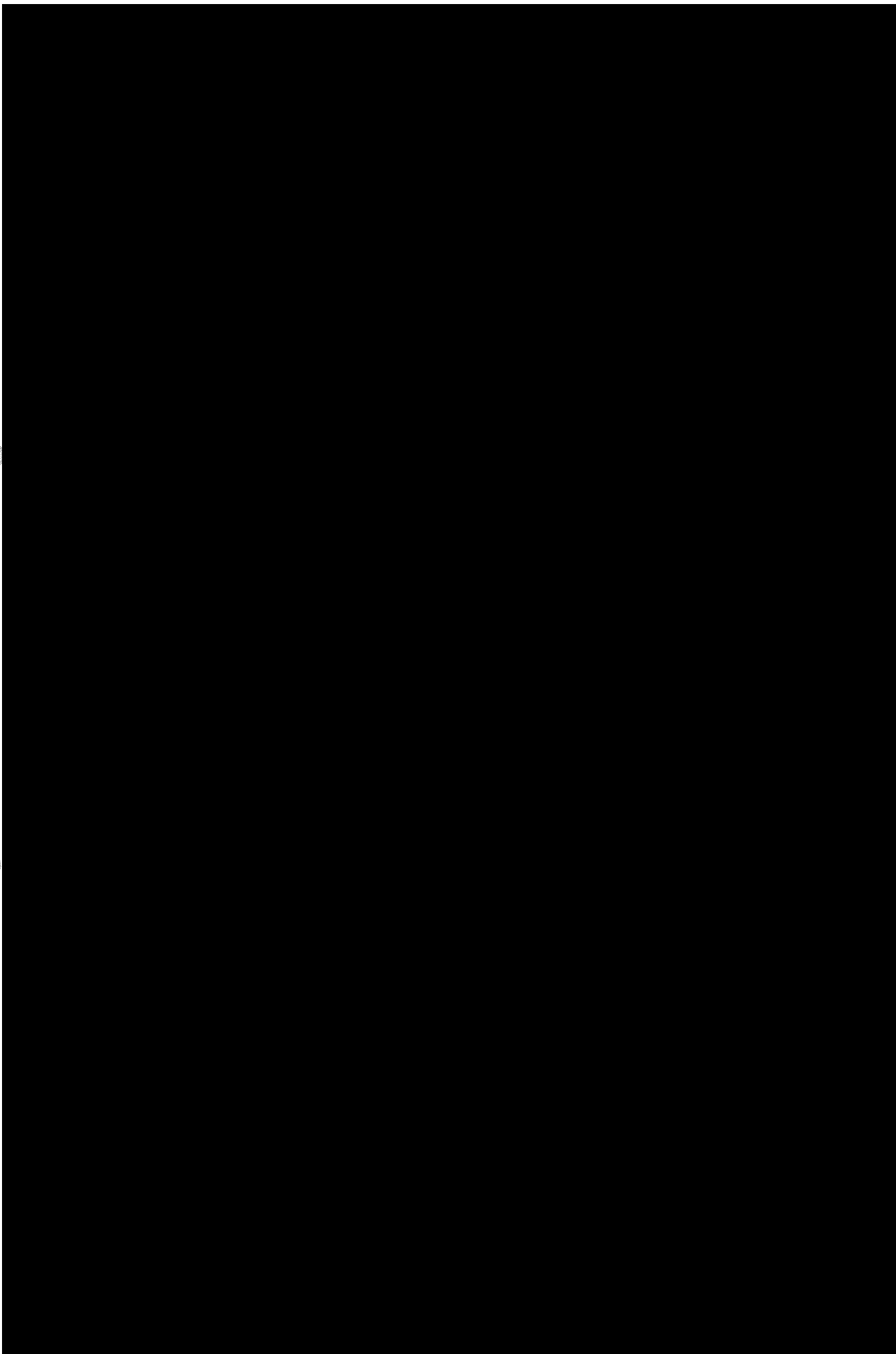


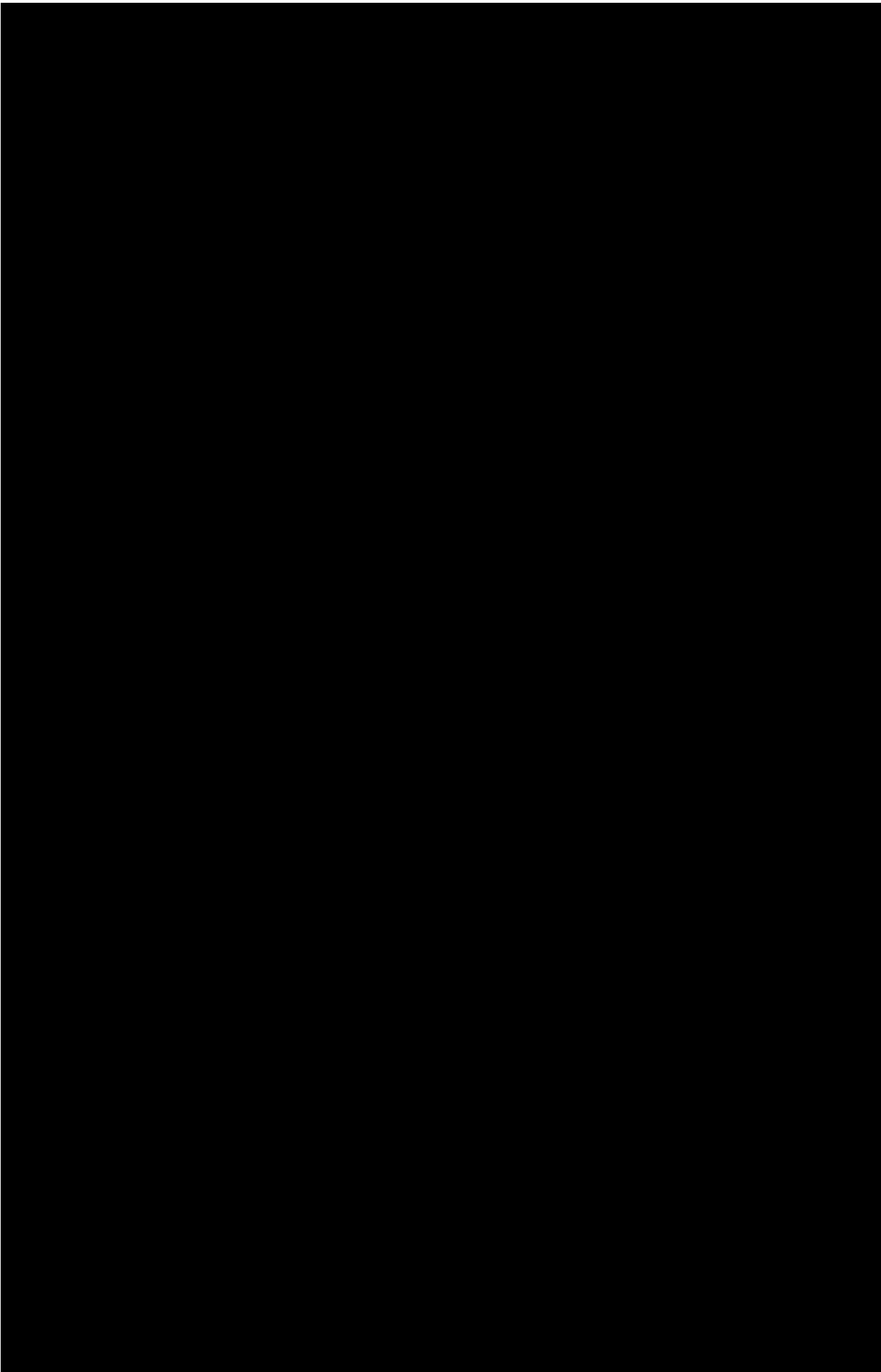




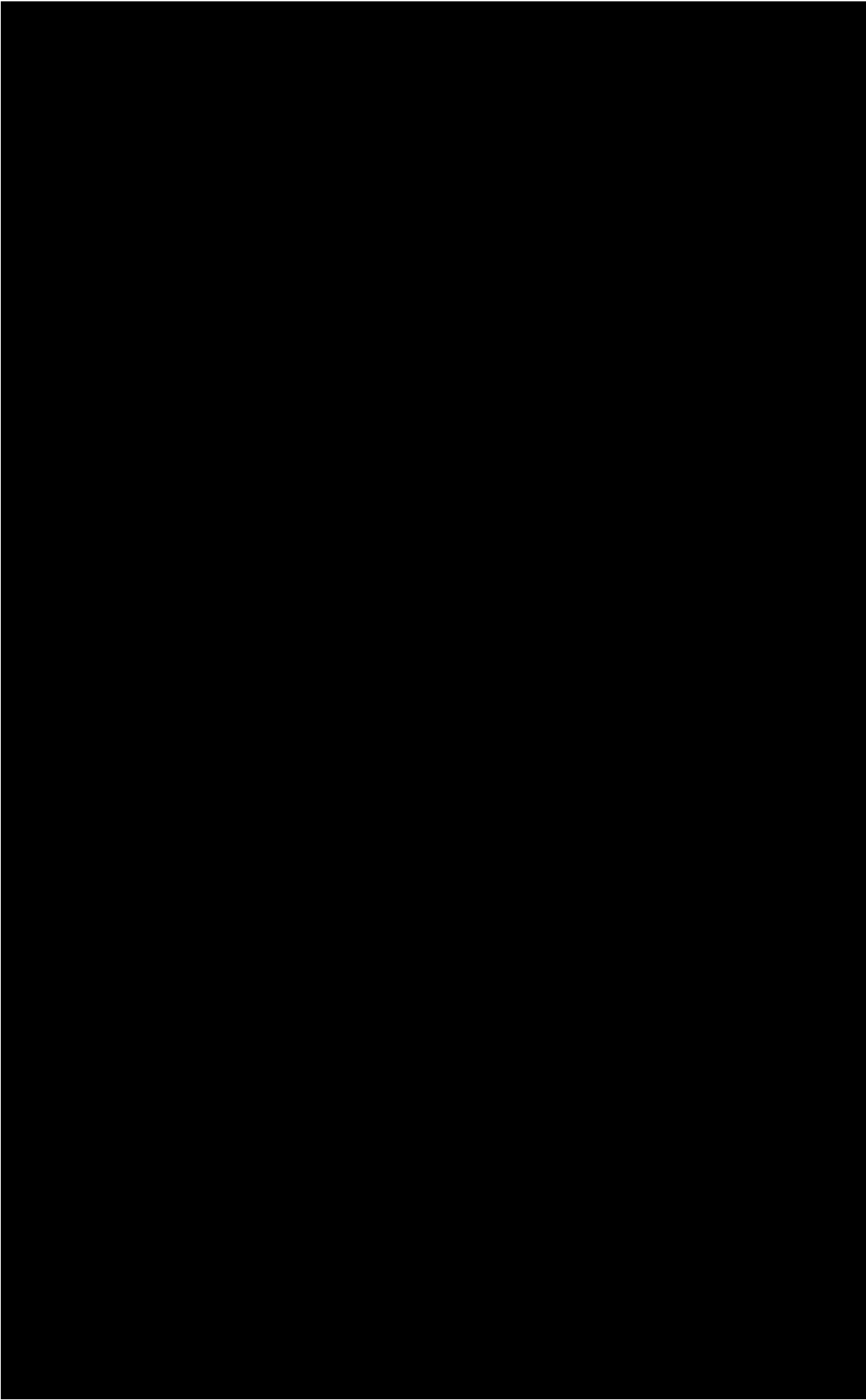


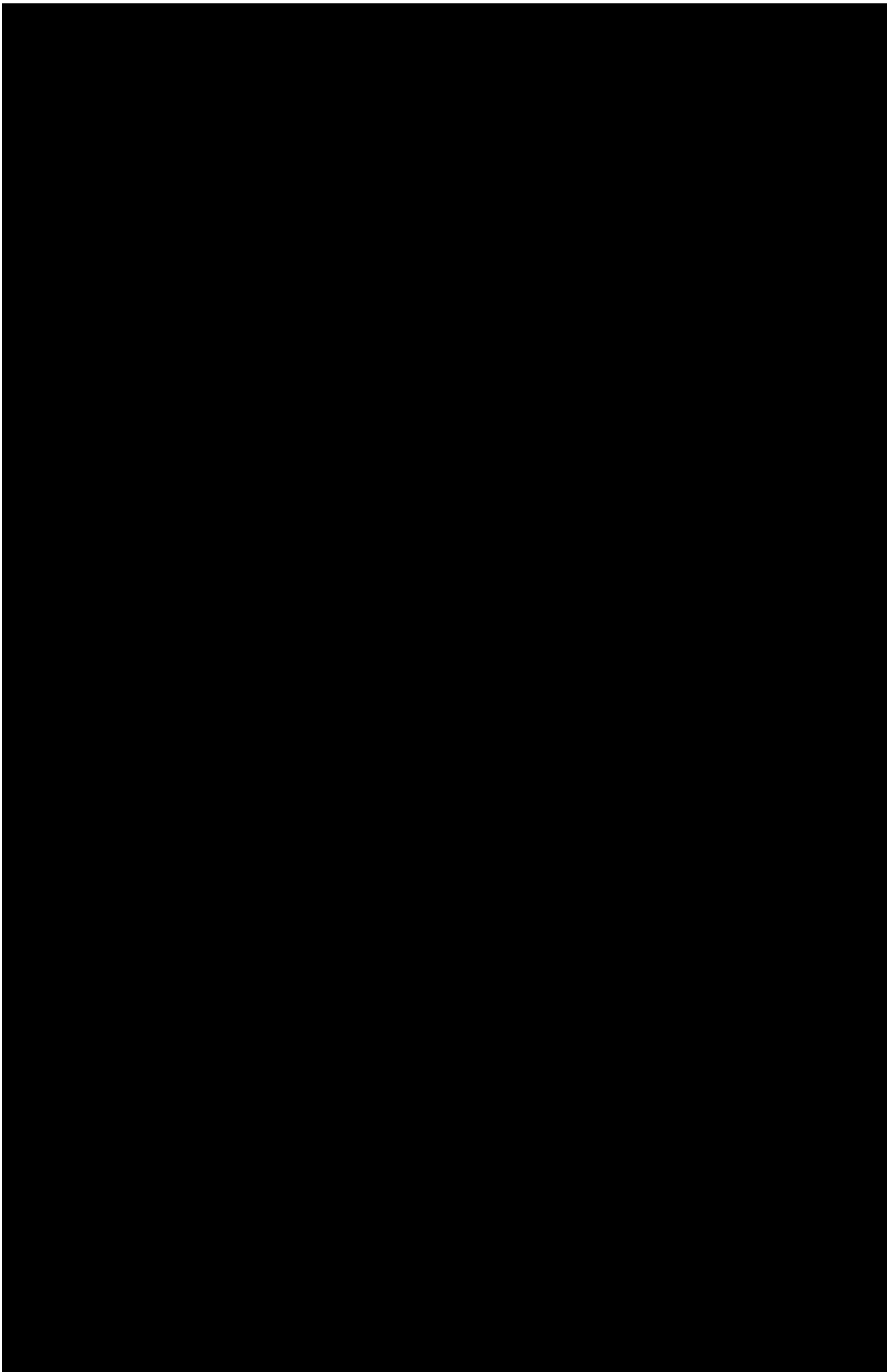


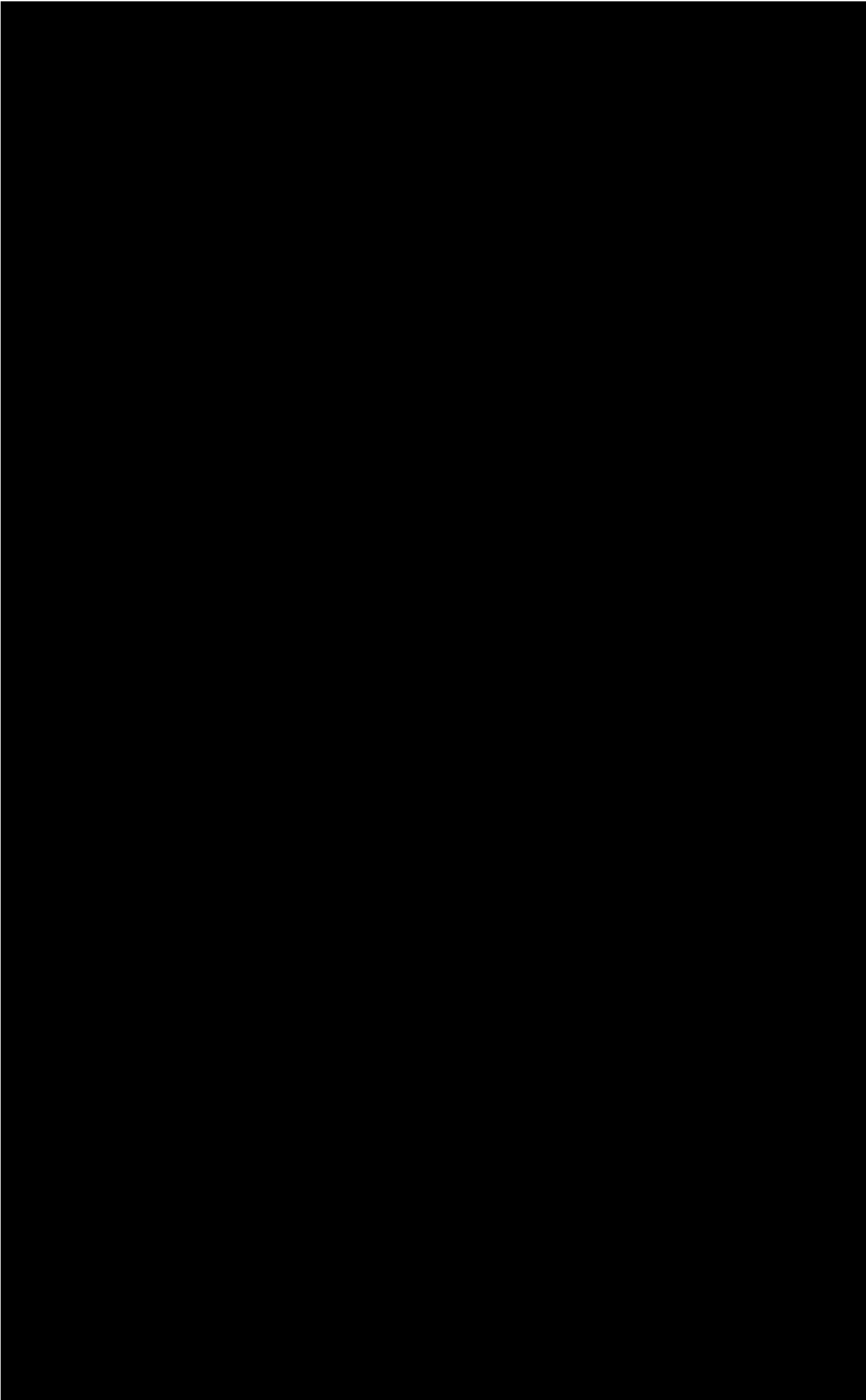


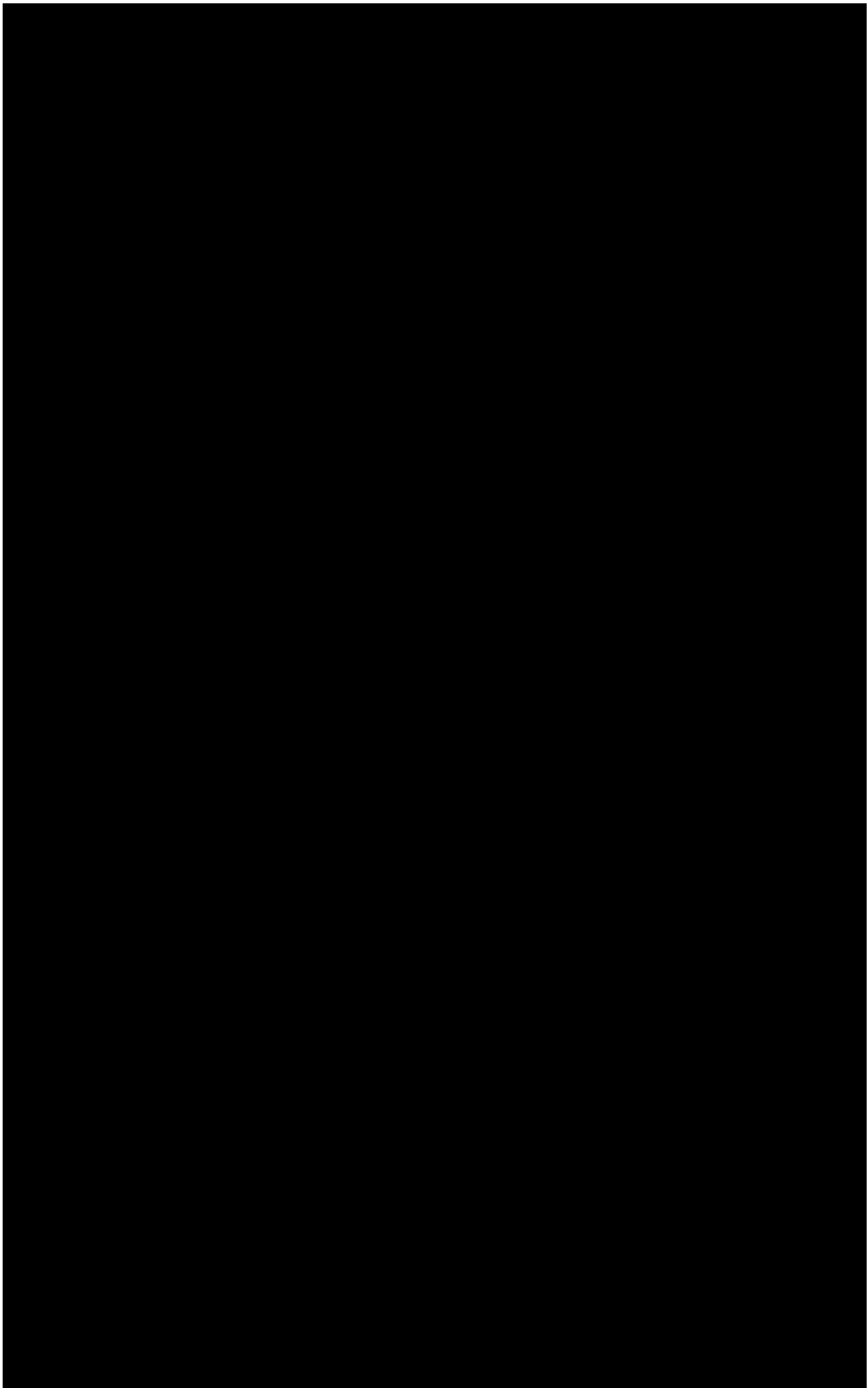


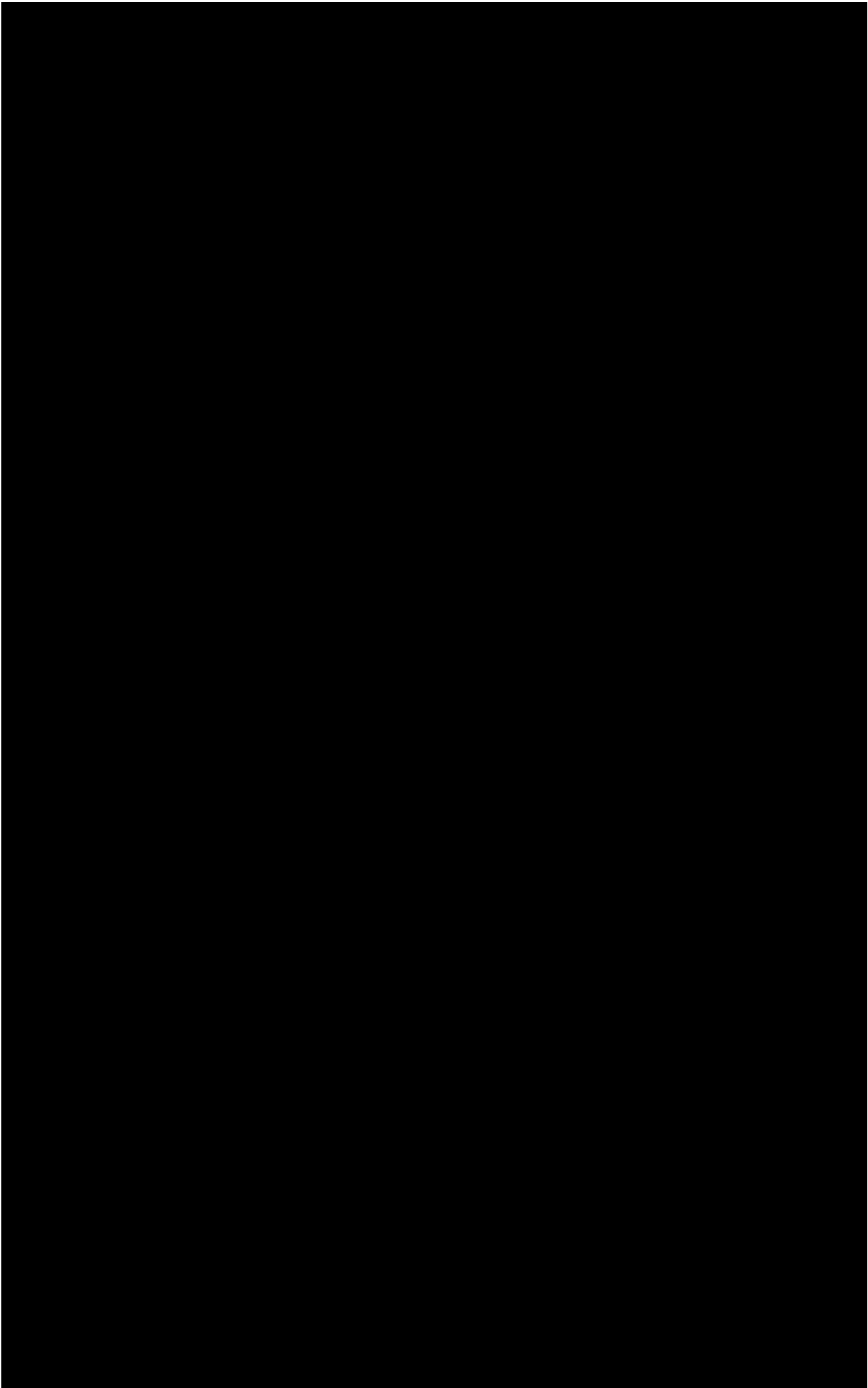










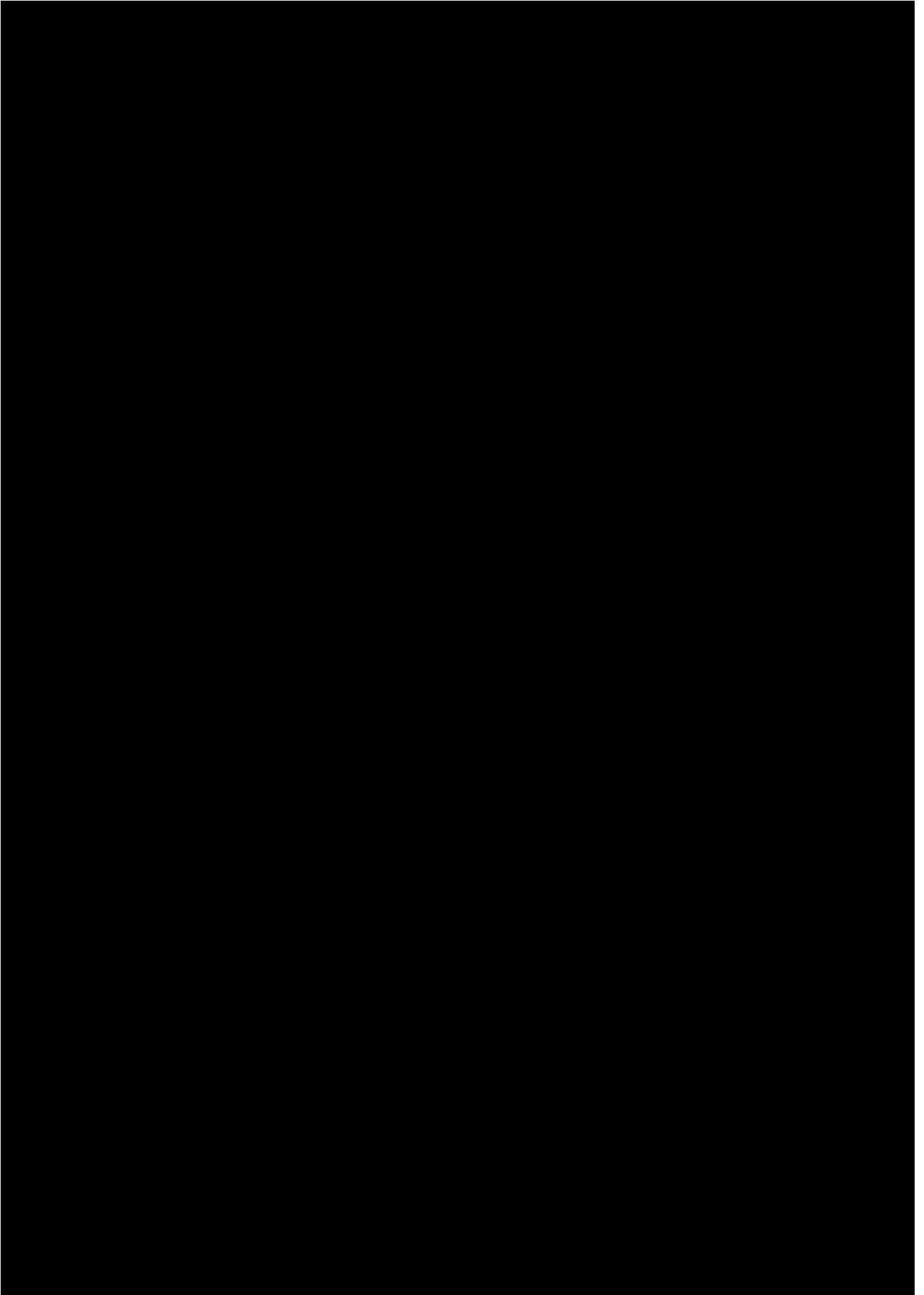


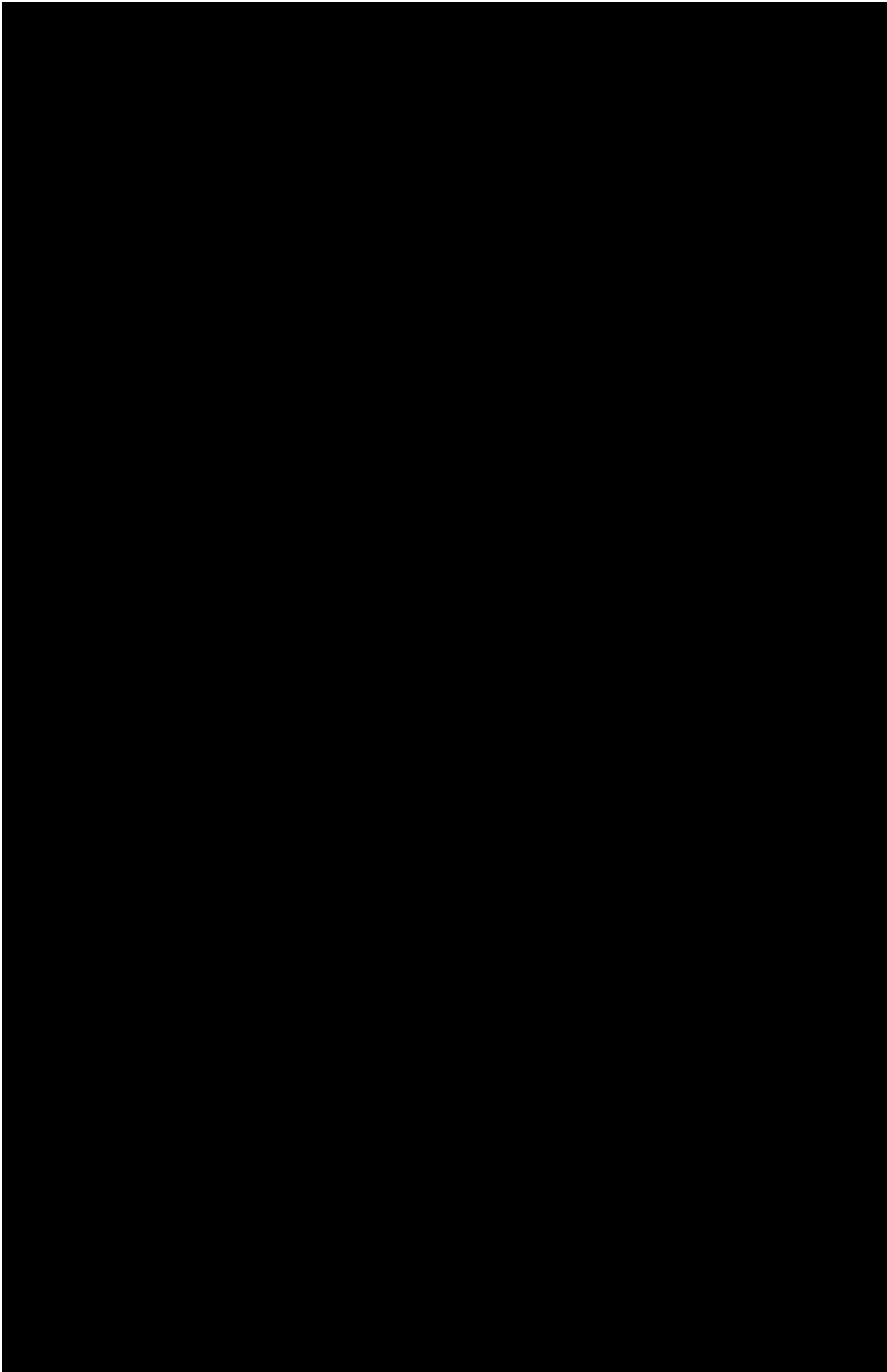
**SCHEDULE E3  
Insurance policies**

For the purposes of clause 30.2, refer to the following insurance policy documents which are included as electronic files in Schedule F1:

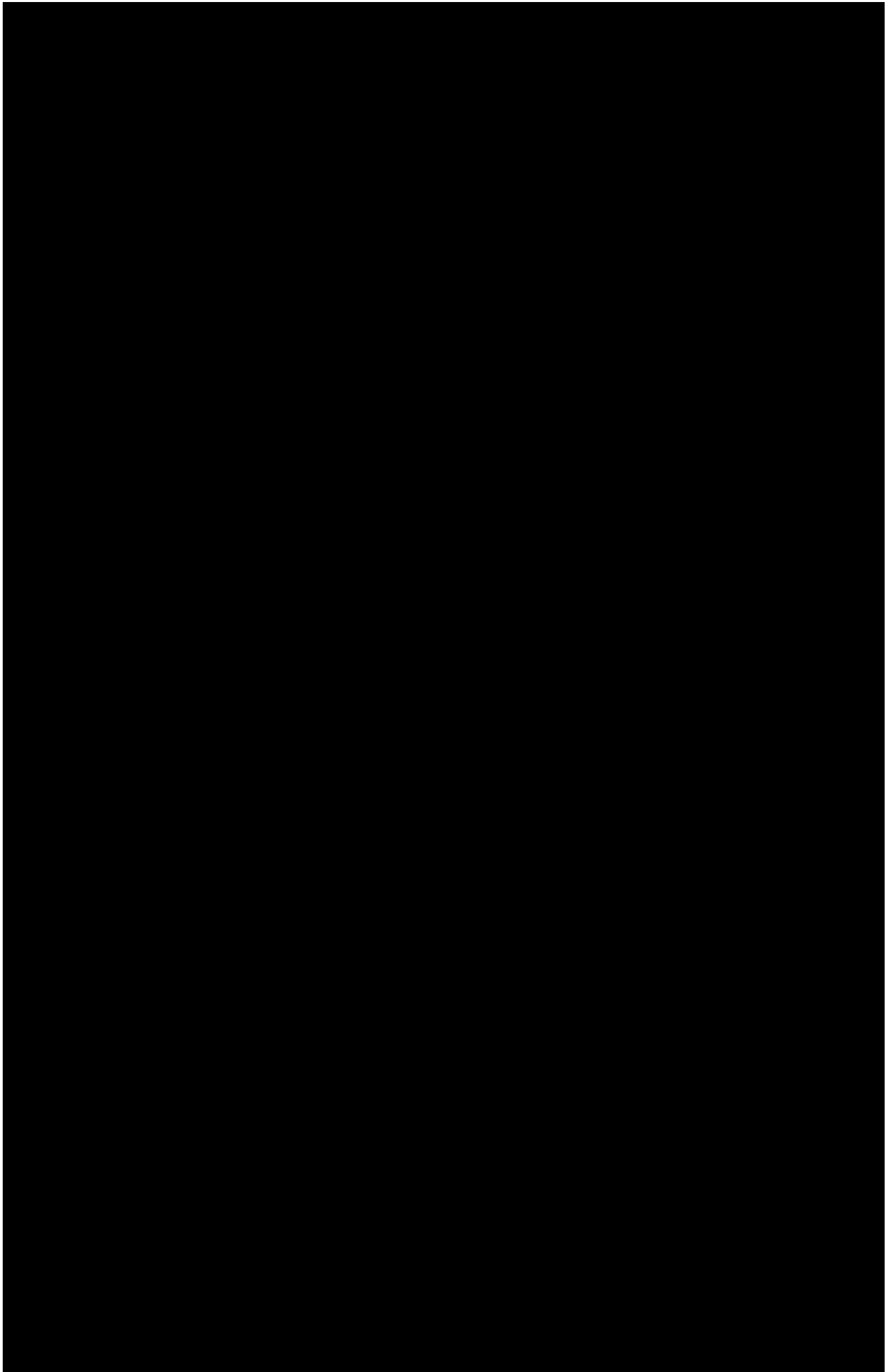
No.	Principal's Insurance	Relevant documents	Electronic file name
1	Contract works (material damage) insurance	<p>Contract Works Insurance Policy</p> <p>Endorsement 1 to Contract Works Policy</p> <p>Endorsement 2 to Contract Works Policy</p>	<p>Schedule E3_Contract Works_Policy.pdf</p> <p>Schedule E3_Contract Works_Endorsement001.pdf</p> <p>Schedule E3_Contract Works_Endorsement002.pdf</p>
2	Public and products liability insurance	<p>Public and Products Liability Insurance Policy</p> <p>Memorandum of Insurance (Excess Liability Insurance – Project Specific issued on [REDACTED] and naming Sydney Metro a NSW Government agency constituted by section 3D of the <i>Transport Administration Act 1988</i> (NSW) as the named insured)</p> <p>Endorsement 1 to Public &amp; Products Liability</p> <p>Endorsement 2 to Public &amp; Products Liability</p>	<p>Schedule E3_Public Liability_Policy.pdf</p> <p>Schedule E3_Public Liability_MOI.pdf</p> <p>Schedule E3_Public Liability_Endorsement001.pdf</p> <p>Schedule E3_Public Liability_Endorsement002.pdf</p>
3	DSU Insurance	DSU Insurance Policy	Schedule E3_DSU_Policy.pdf

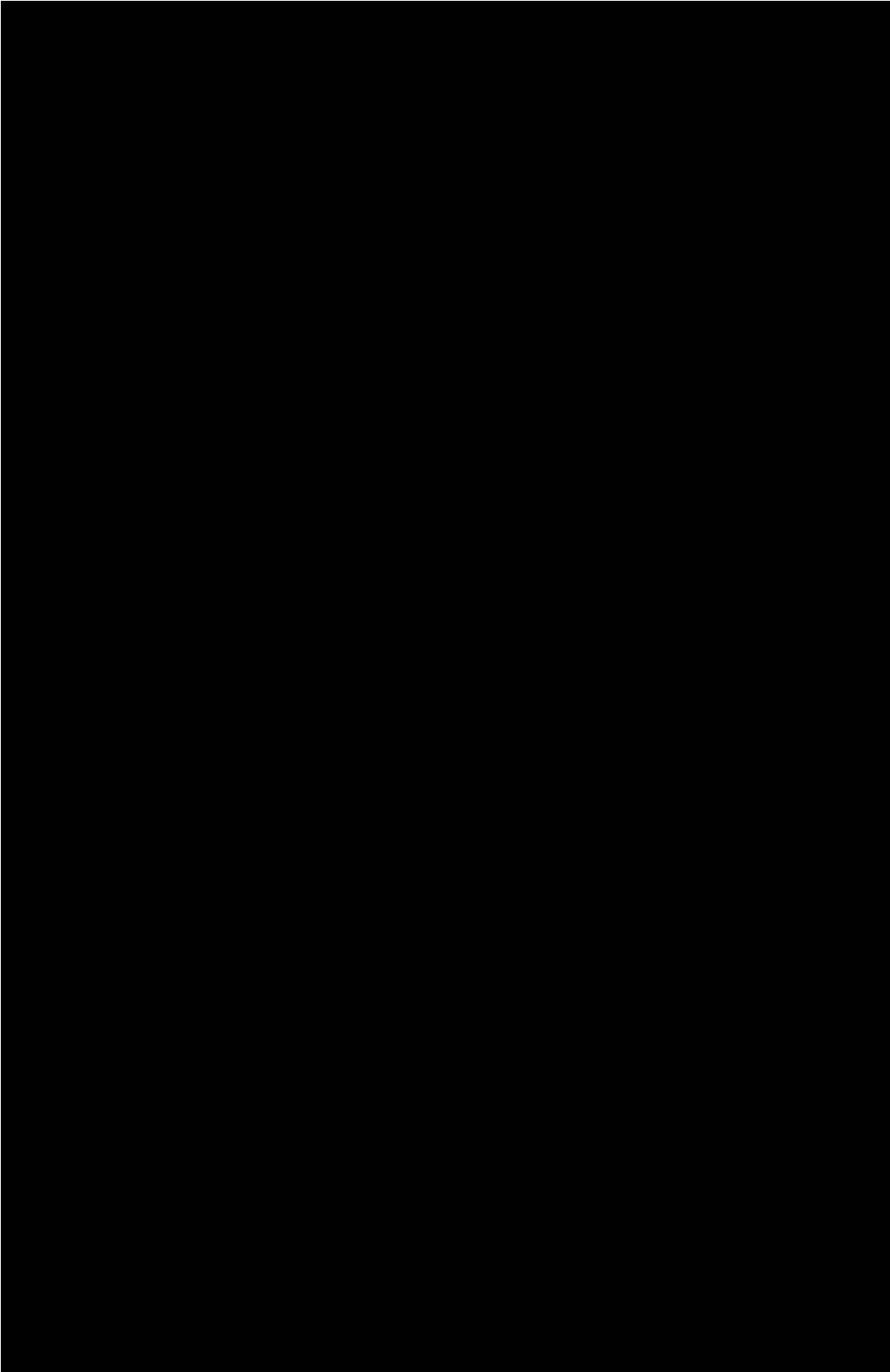
**SCHEDULE E4  
Value Sharing Payment**

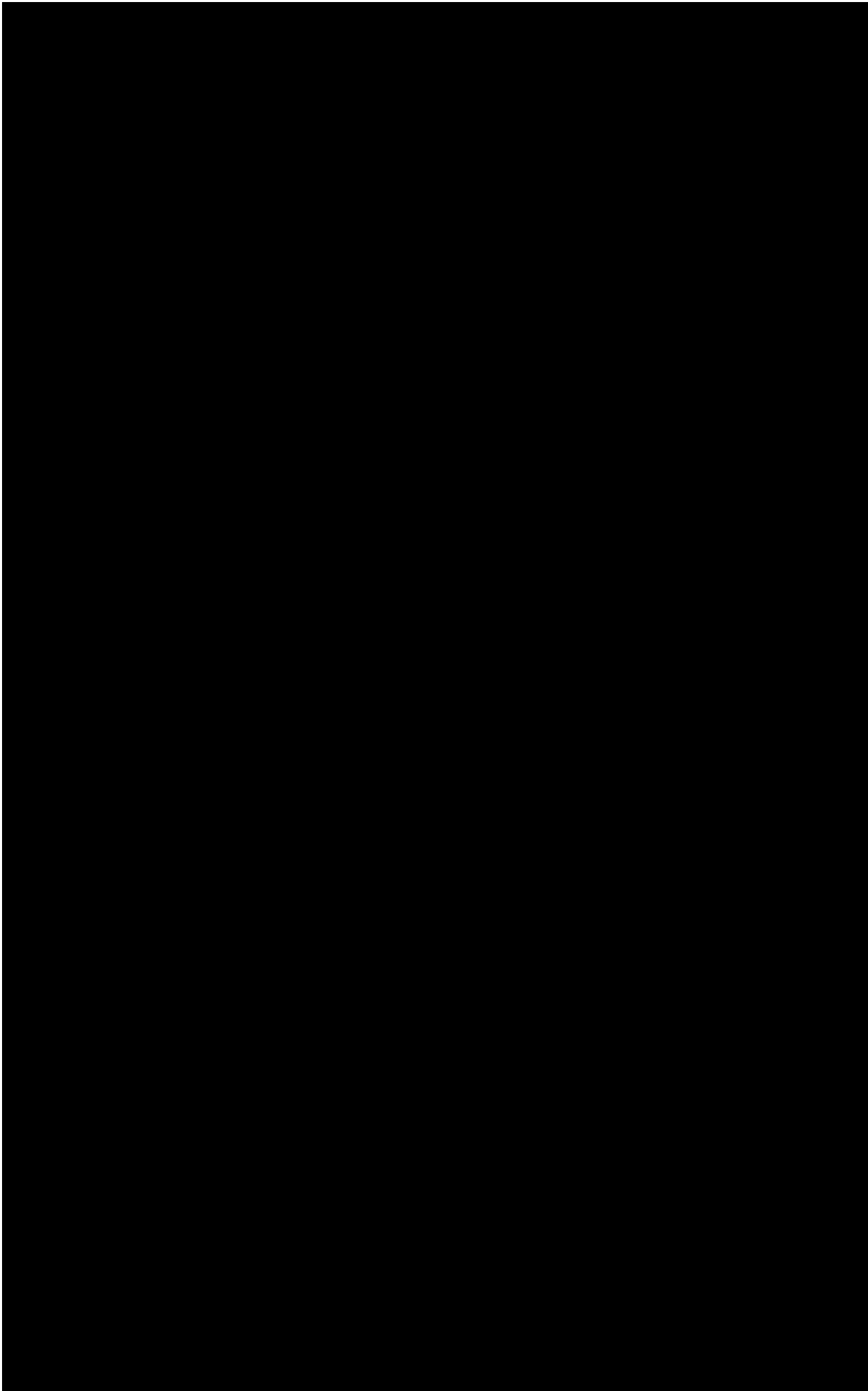


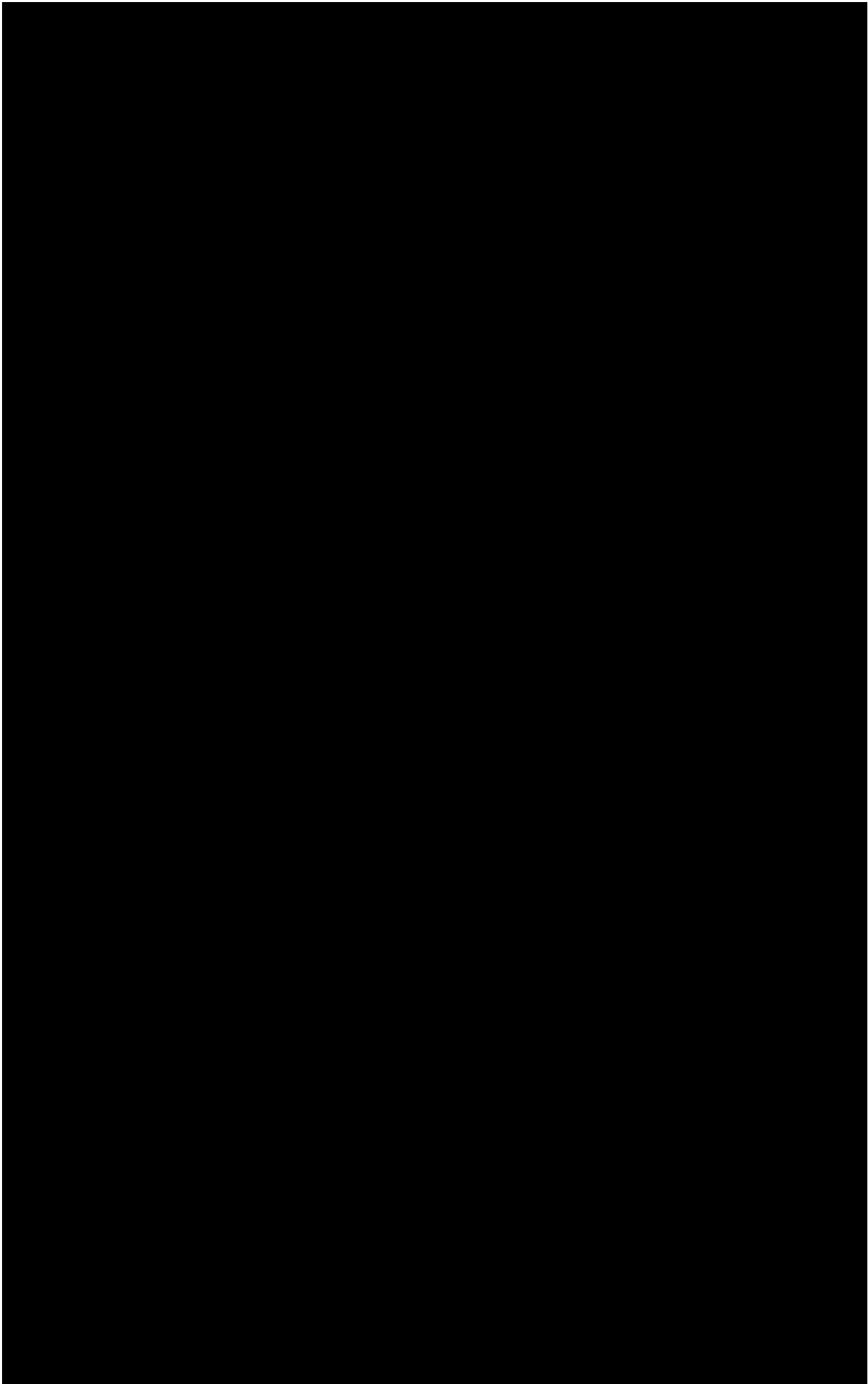


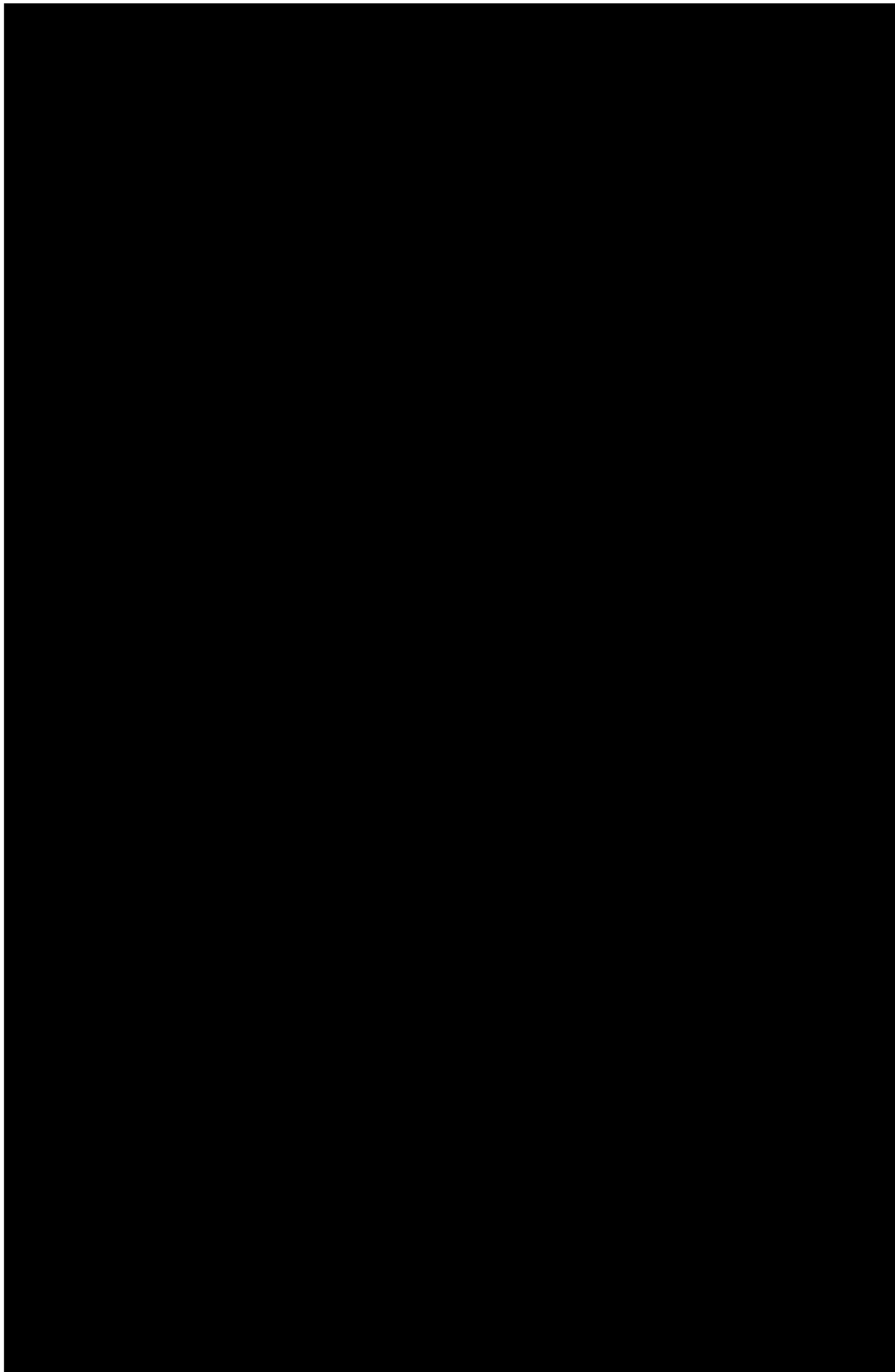




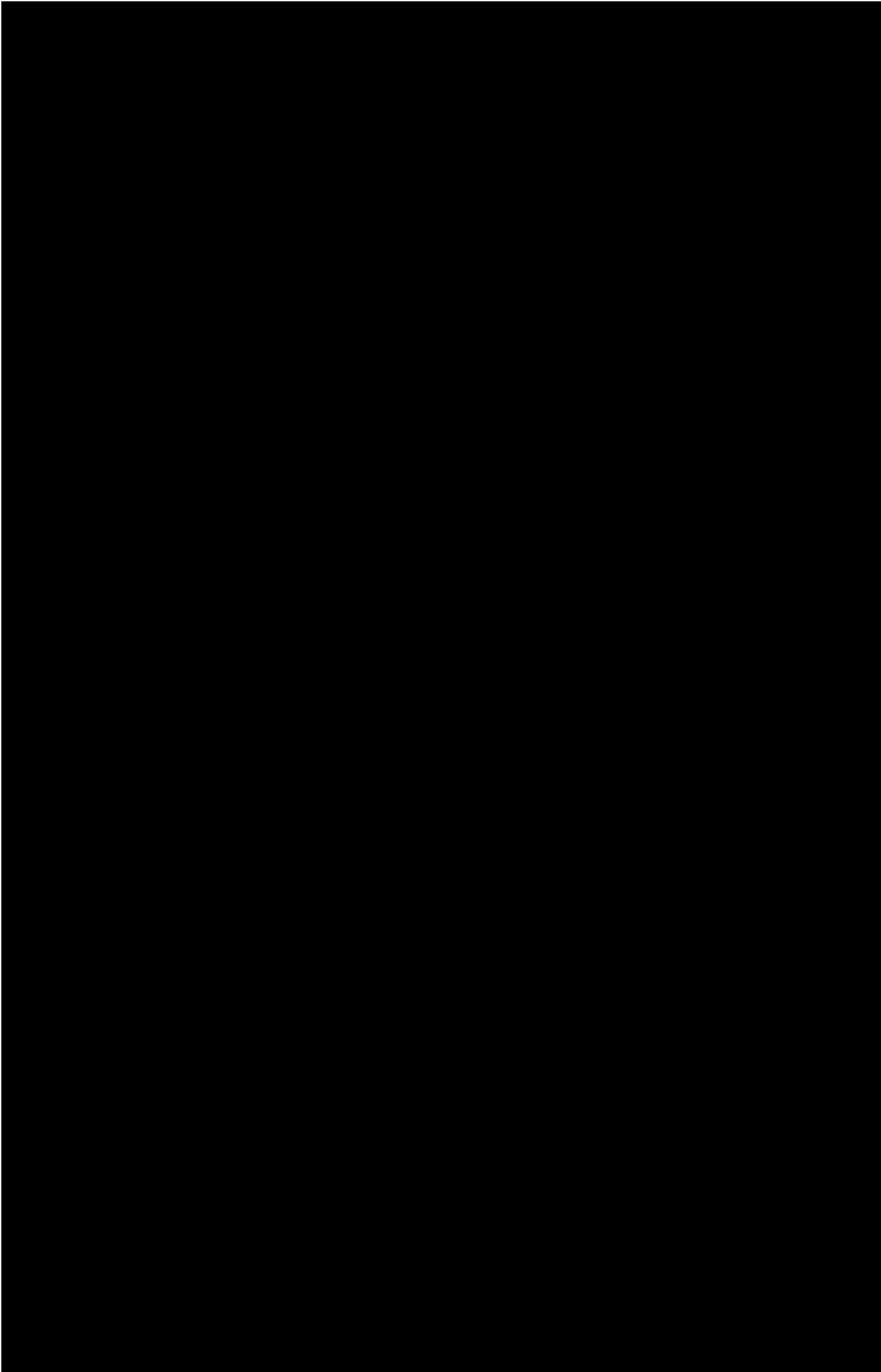


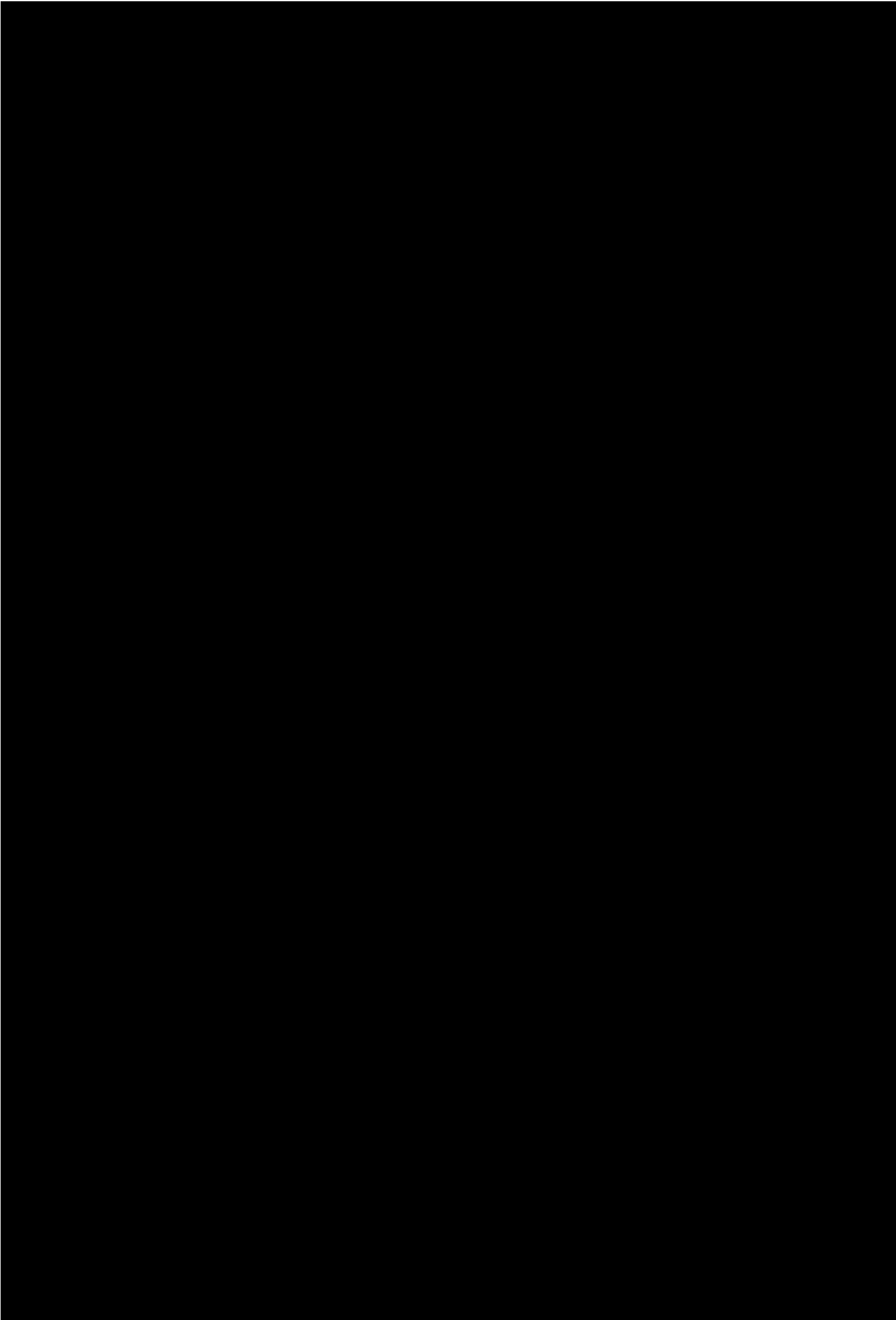




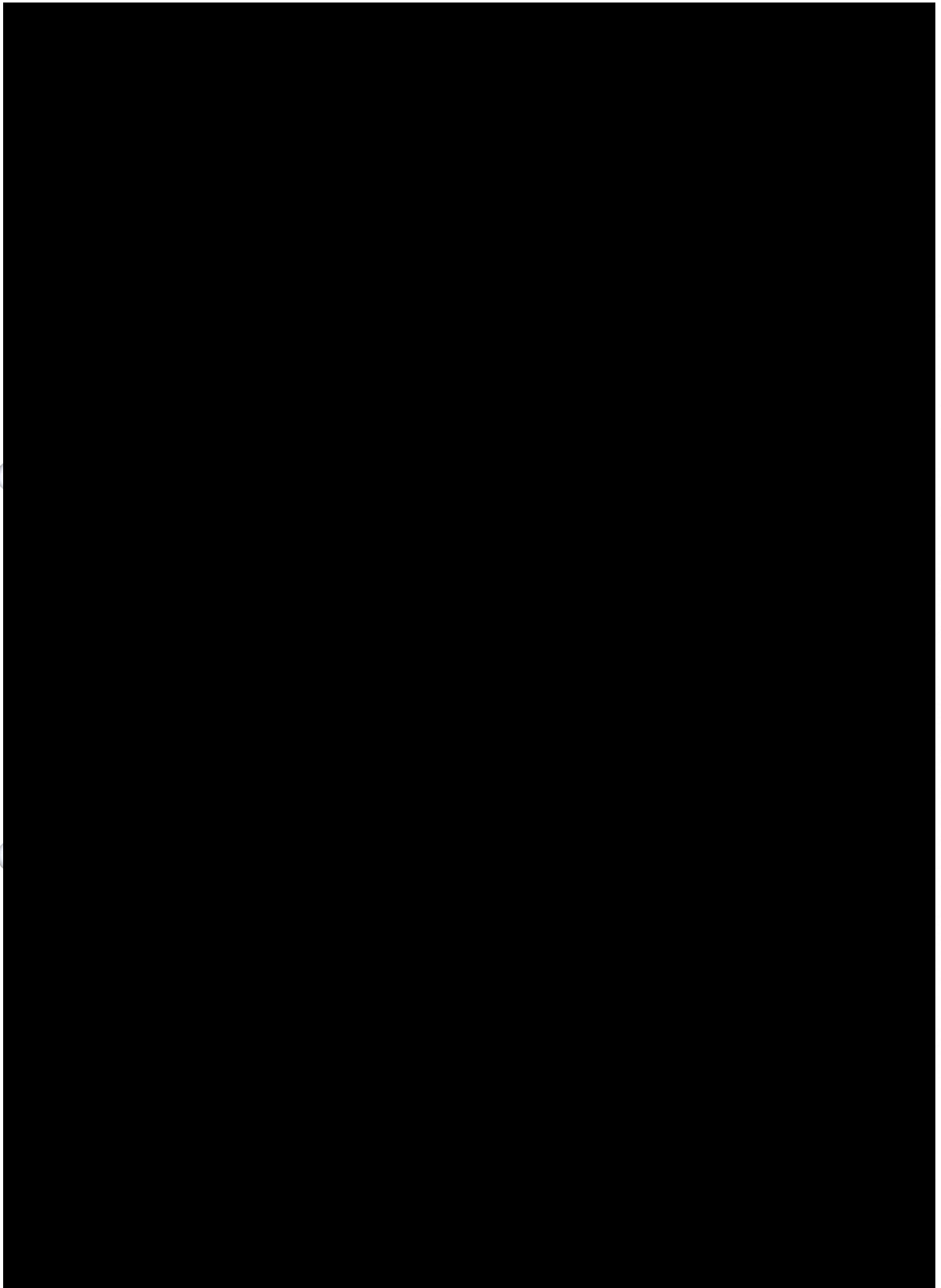


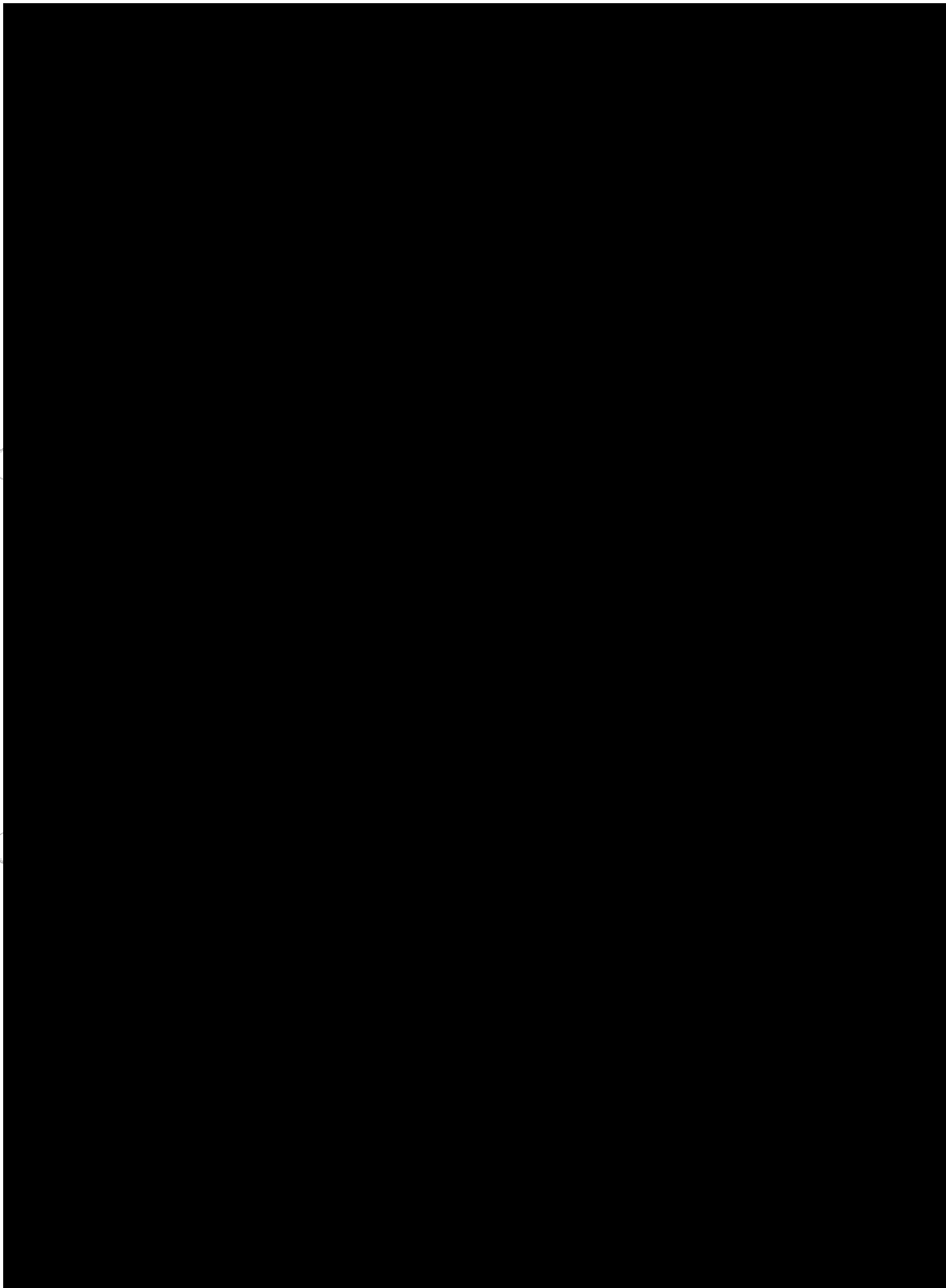


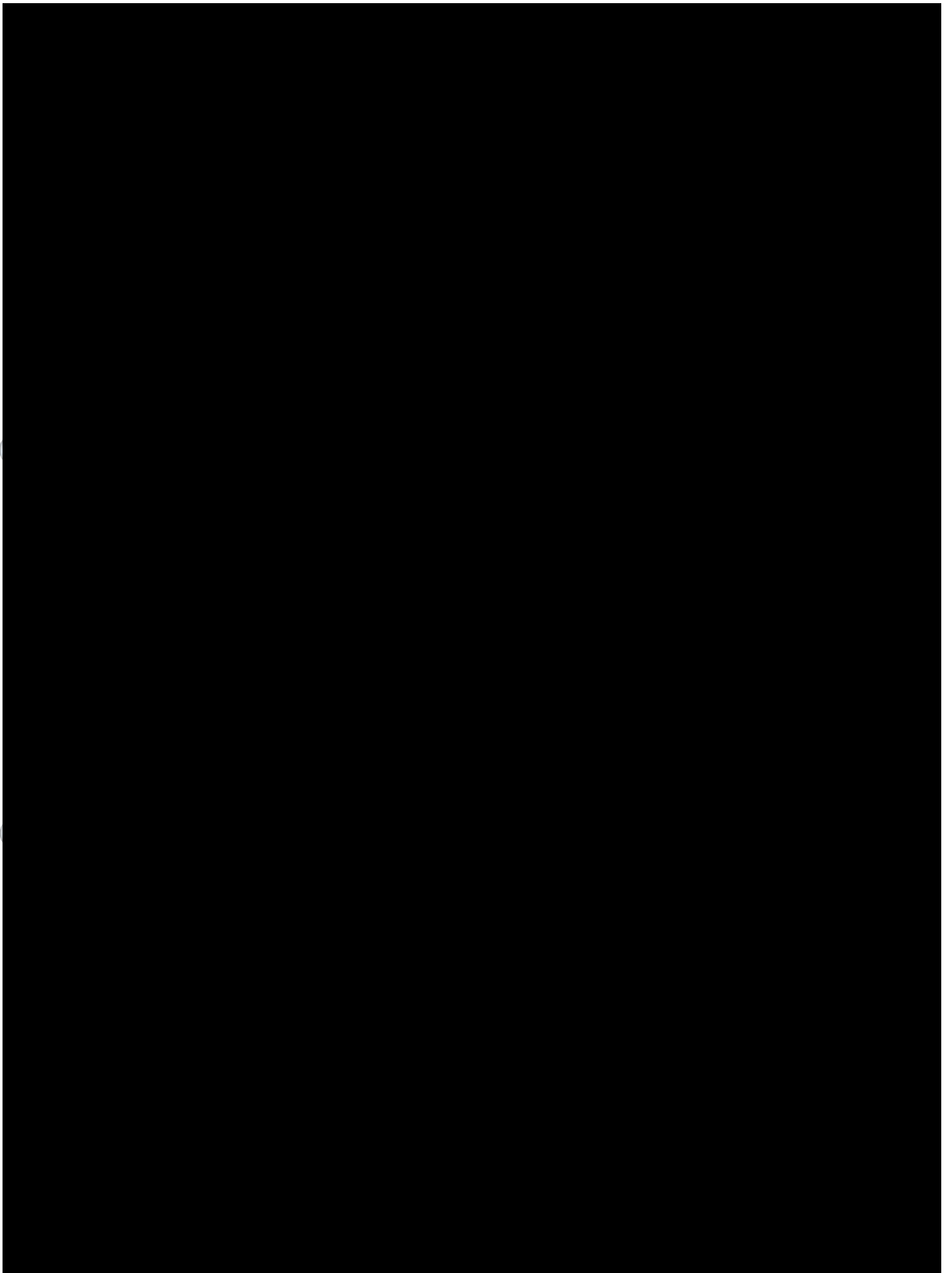


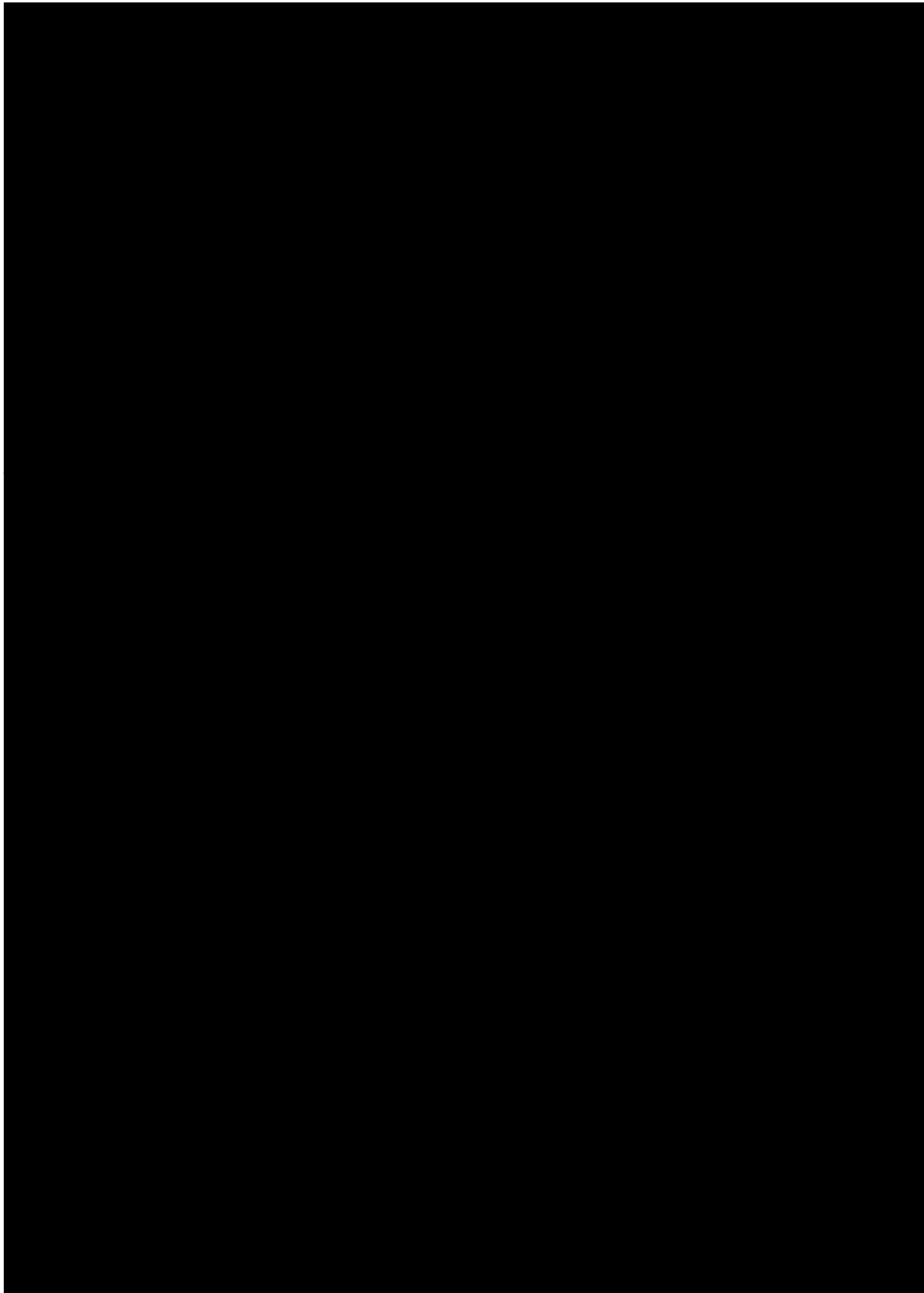


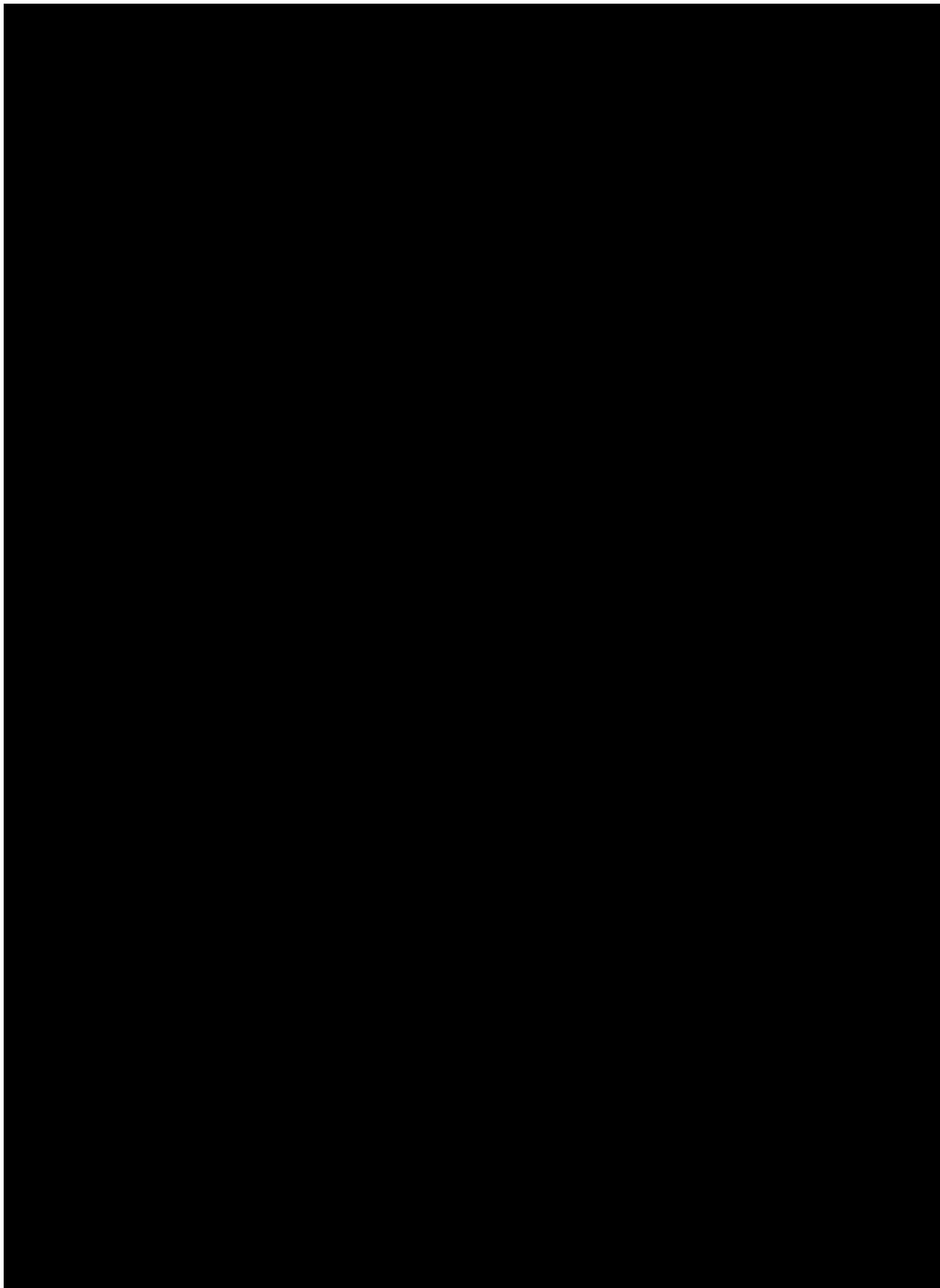


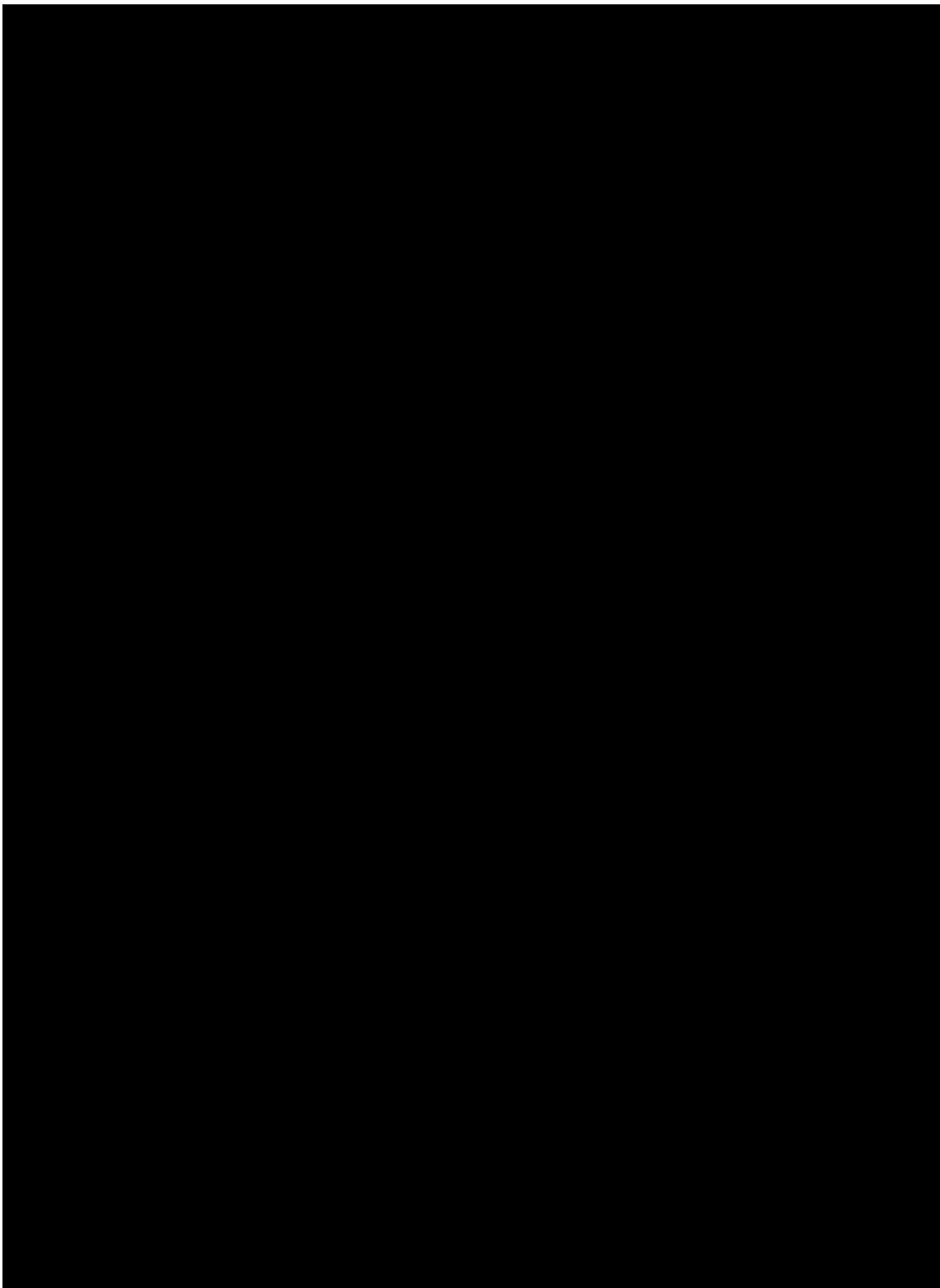


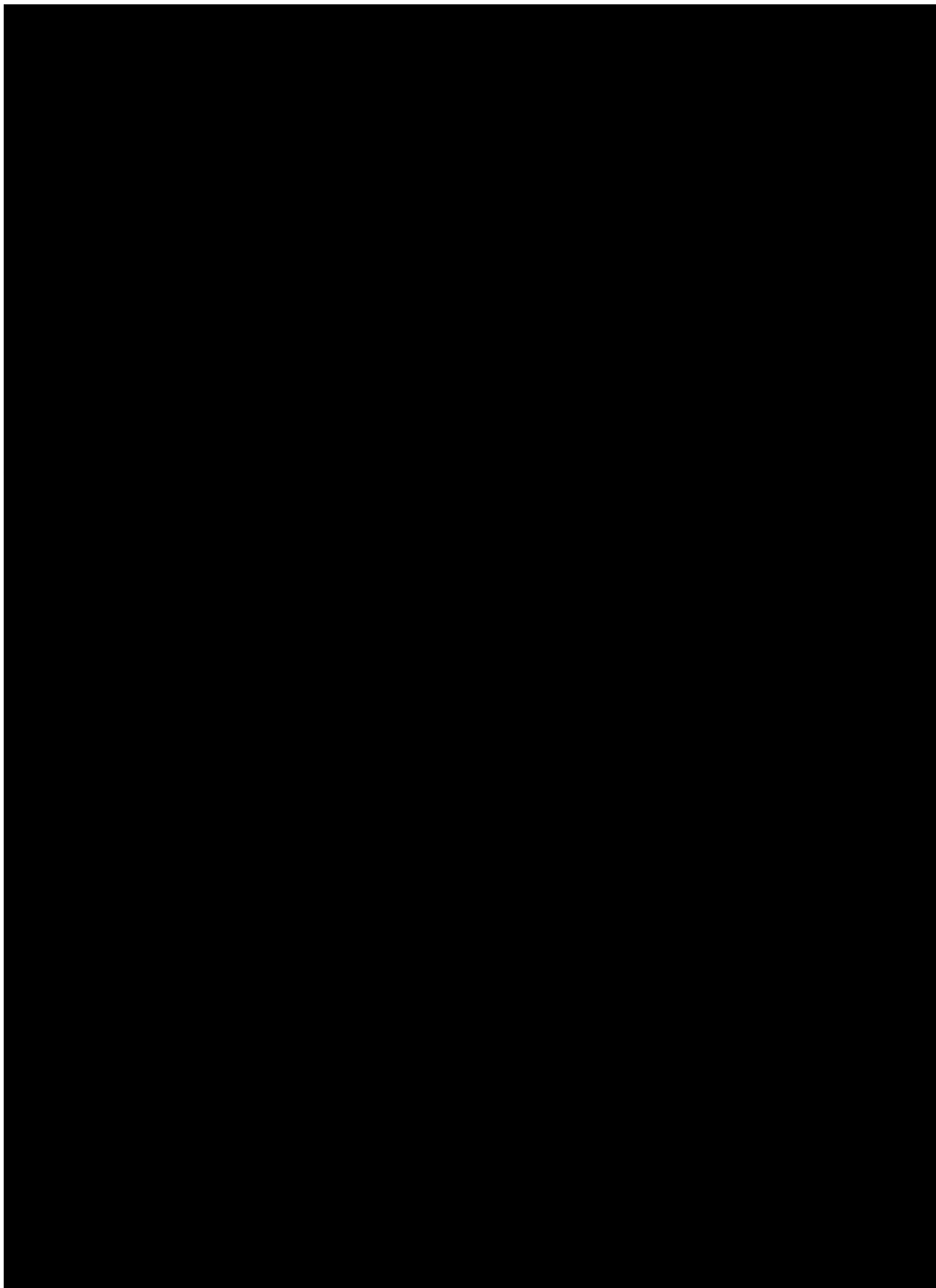


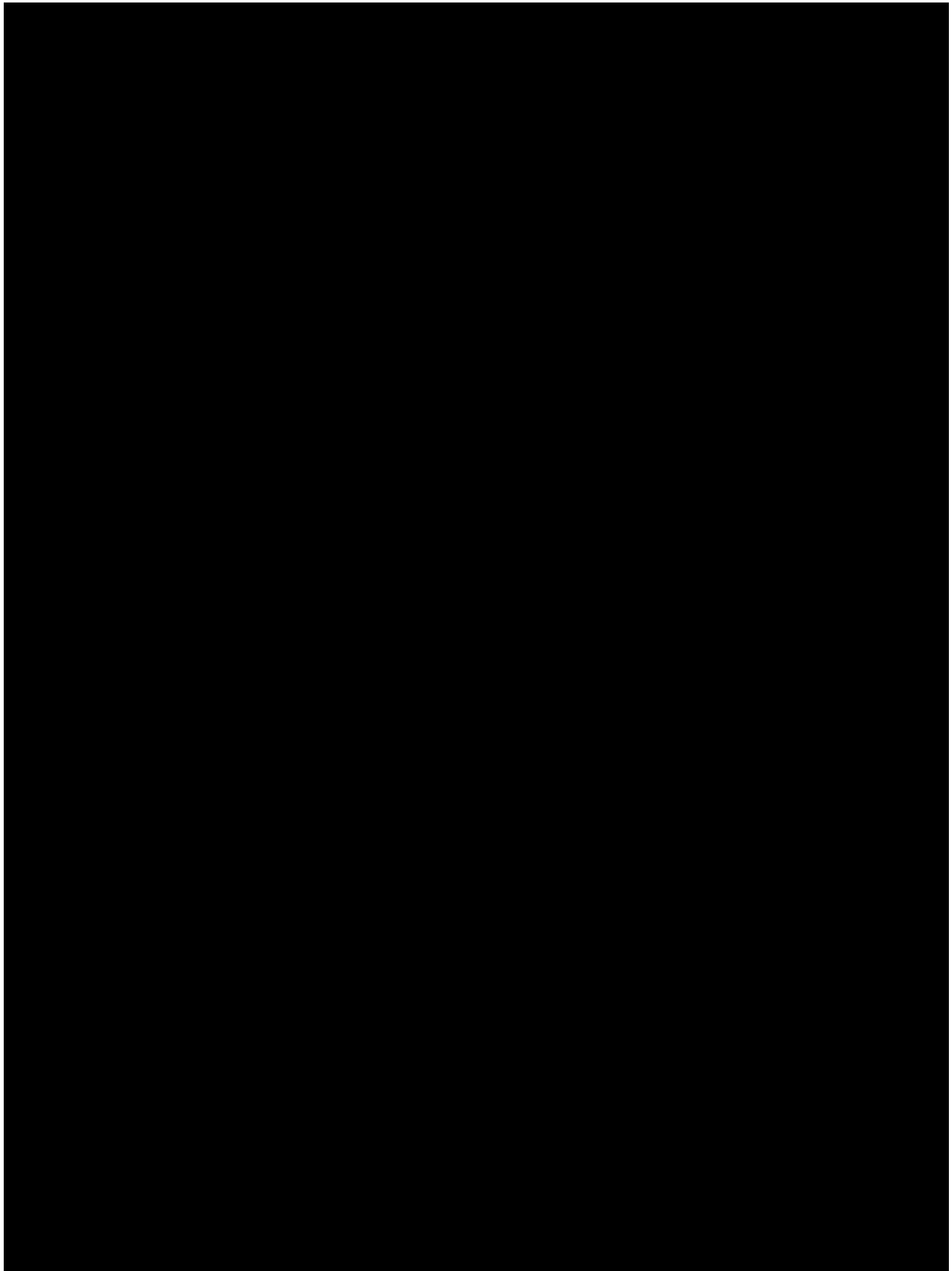




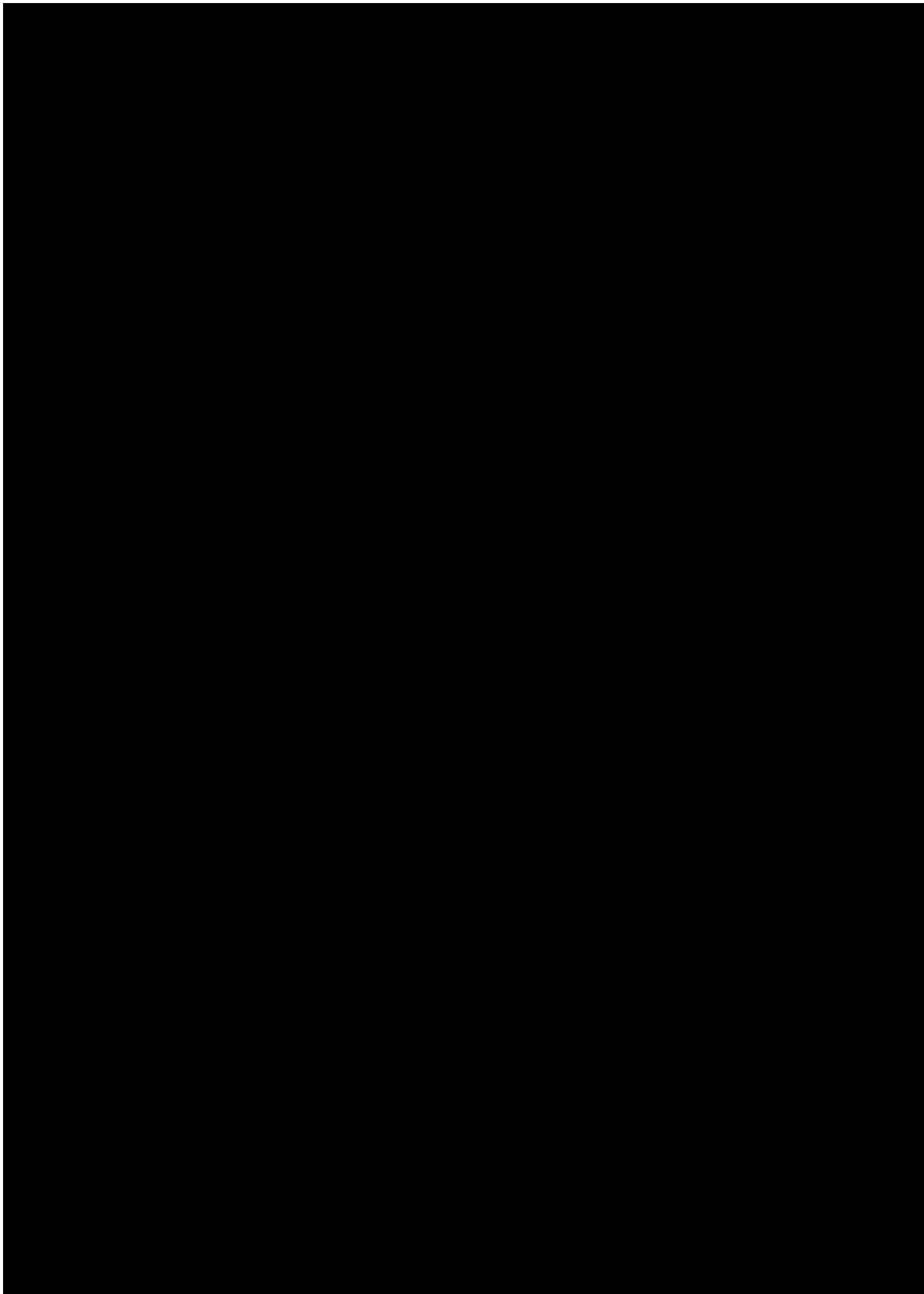


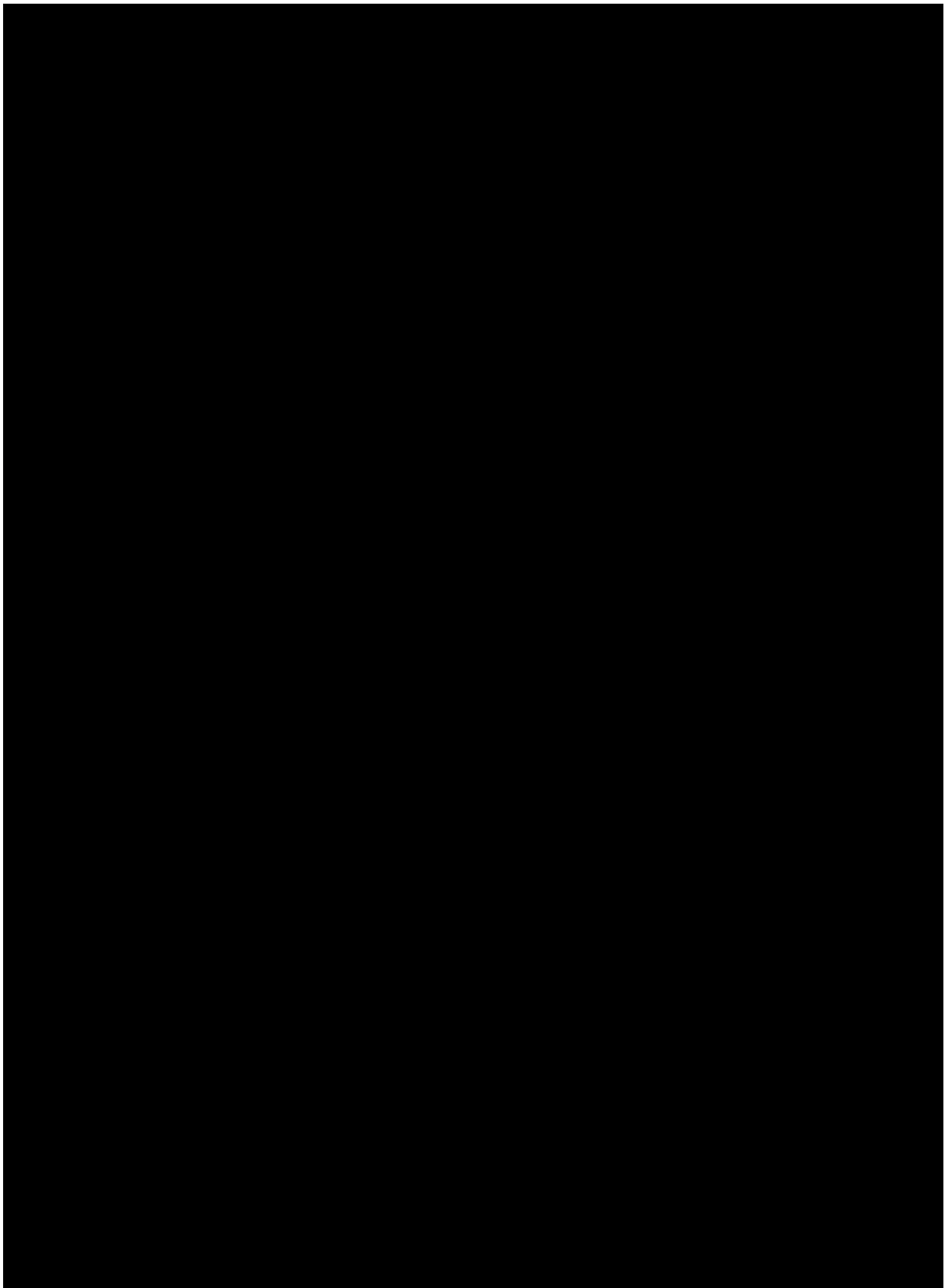


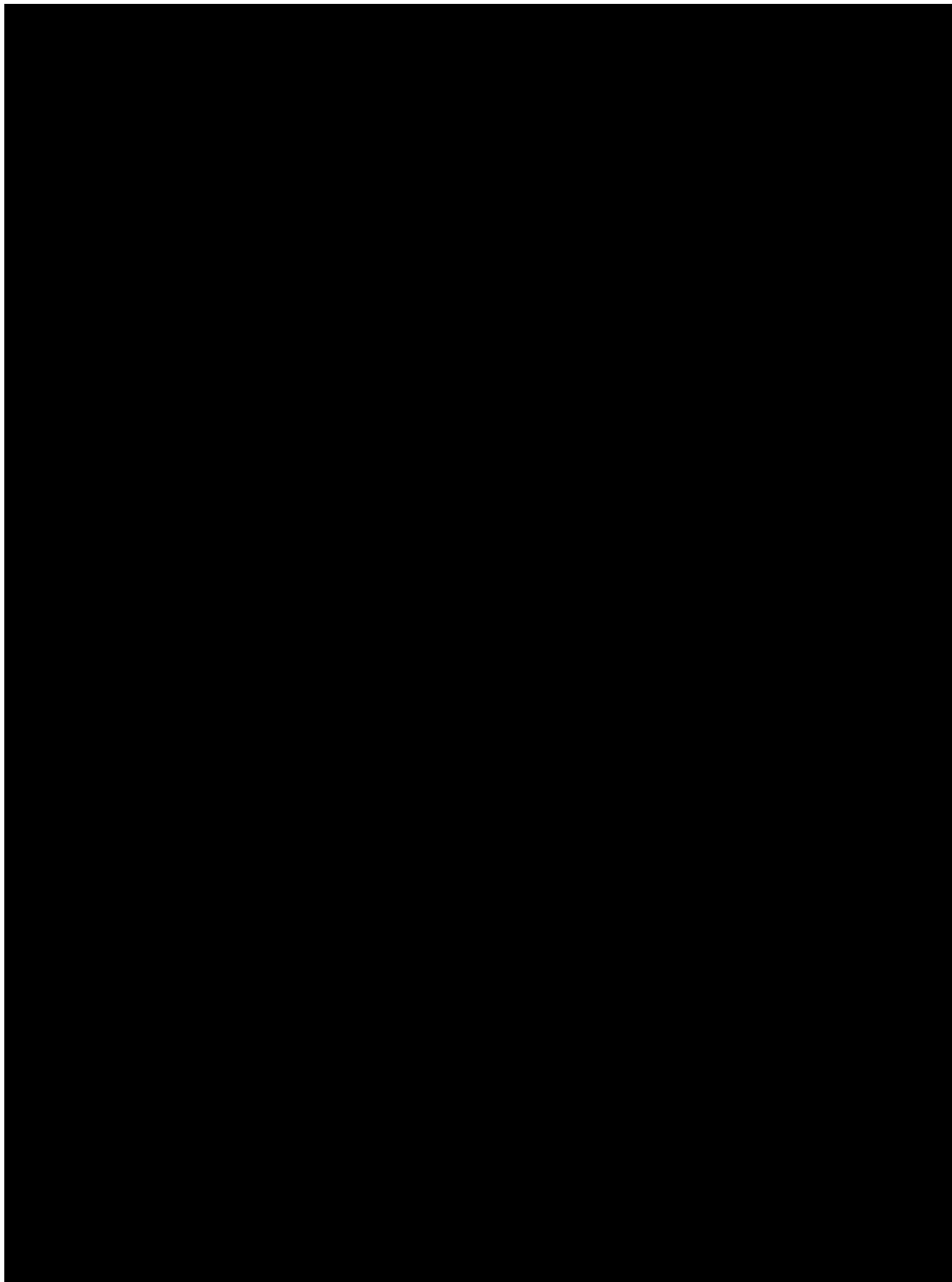


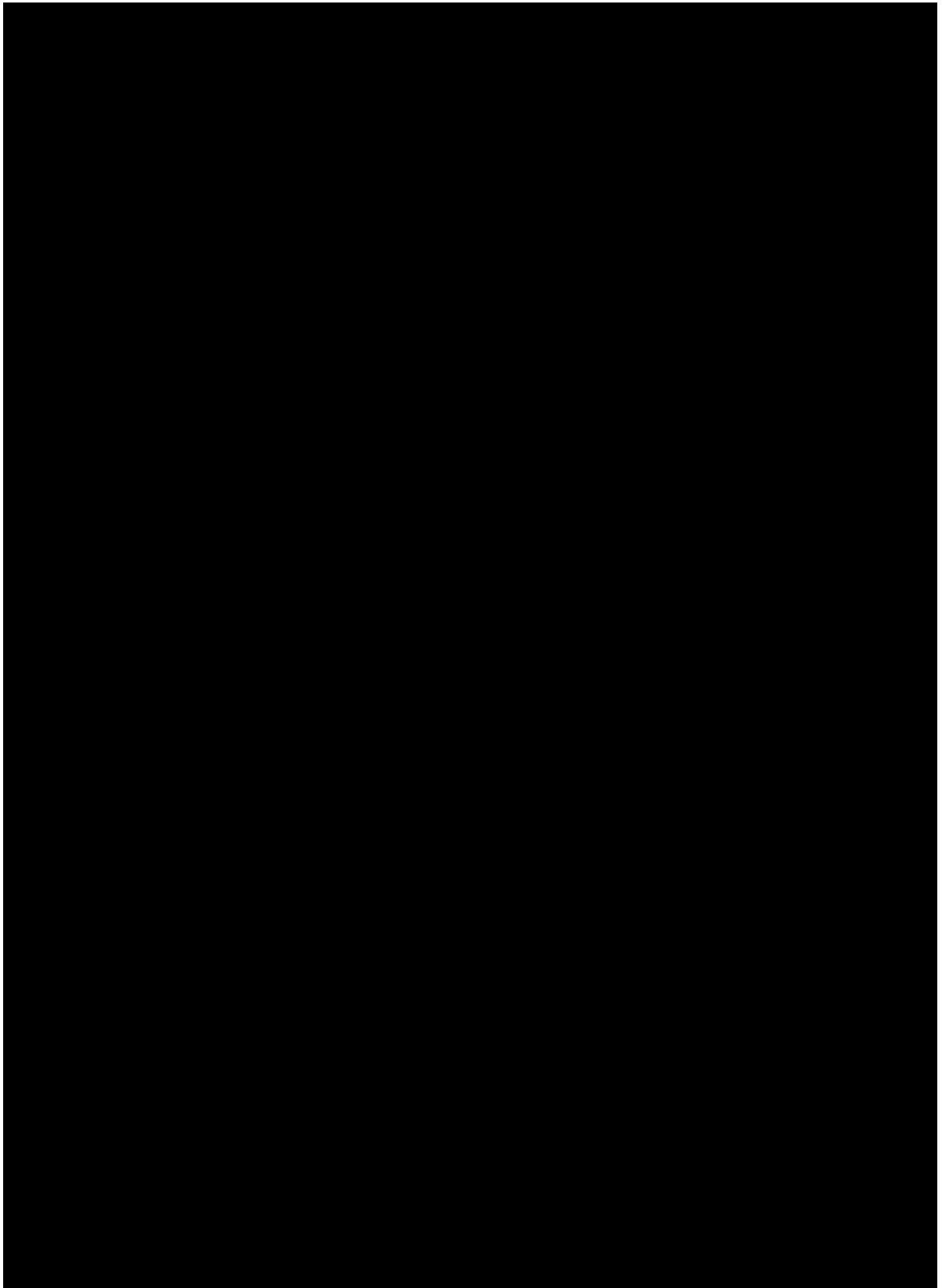


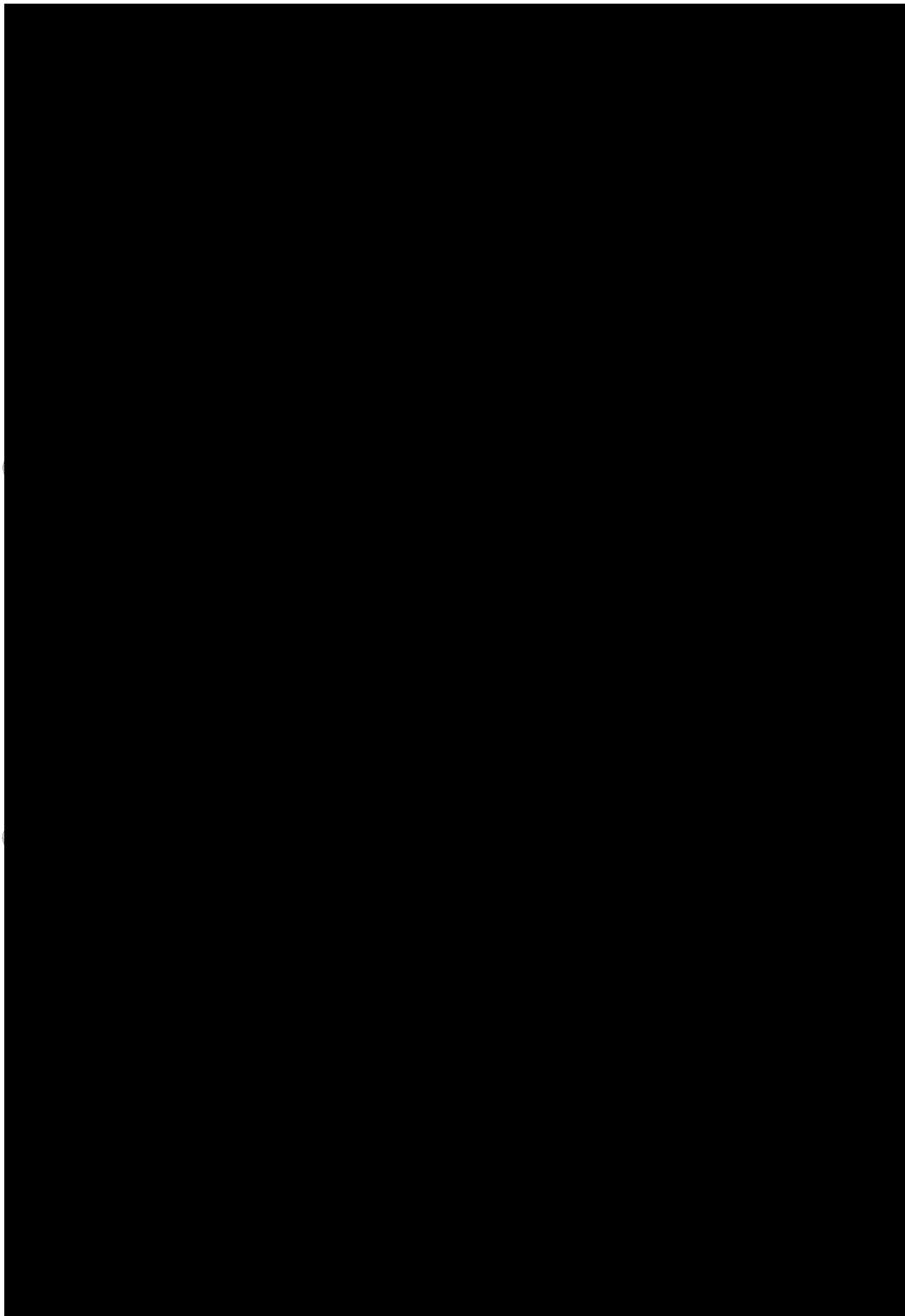


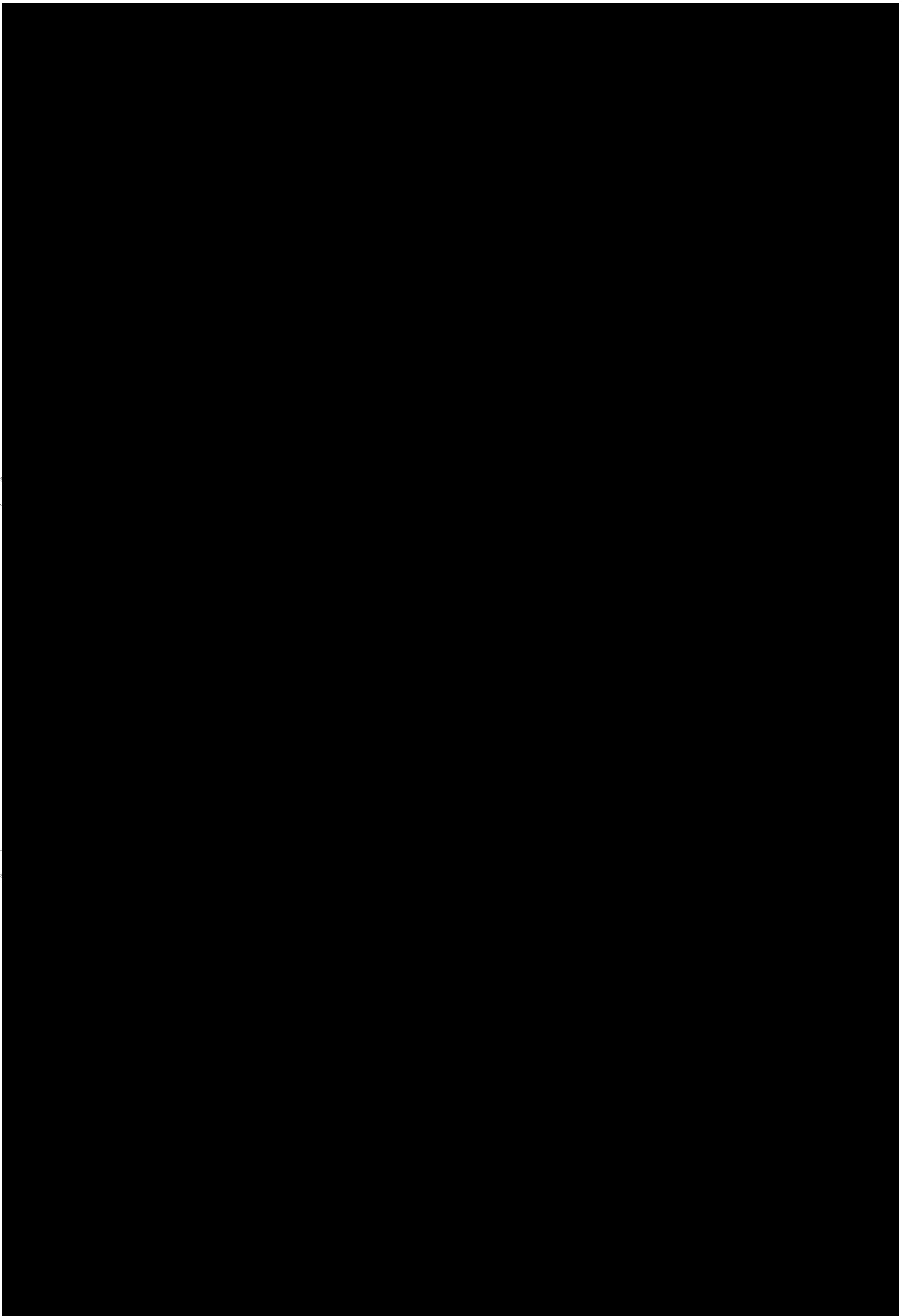


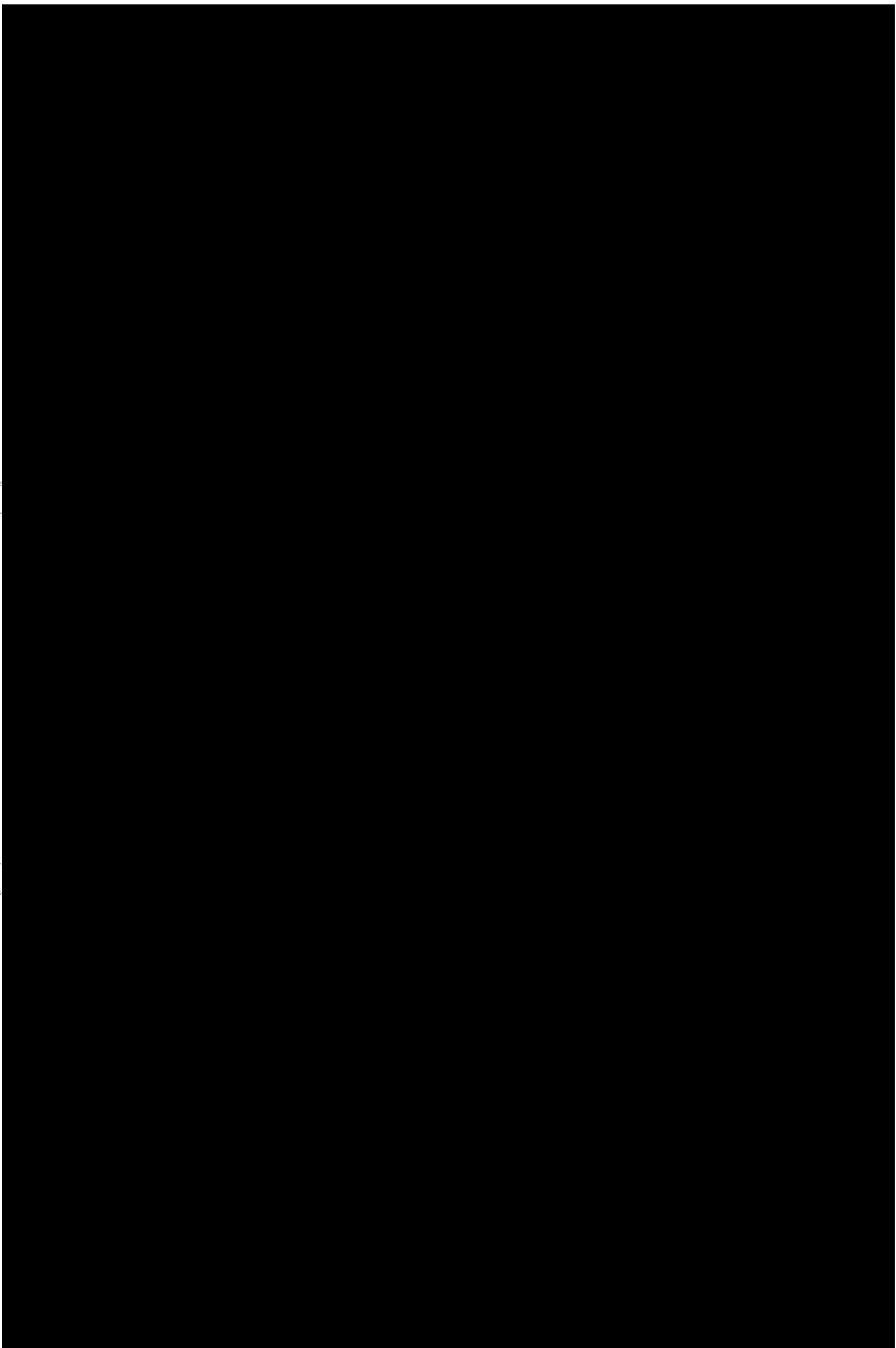


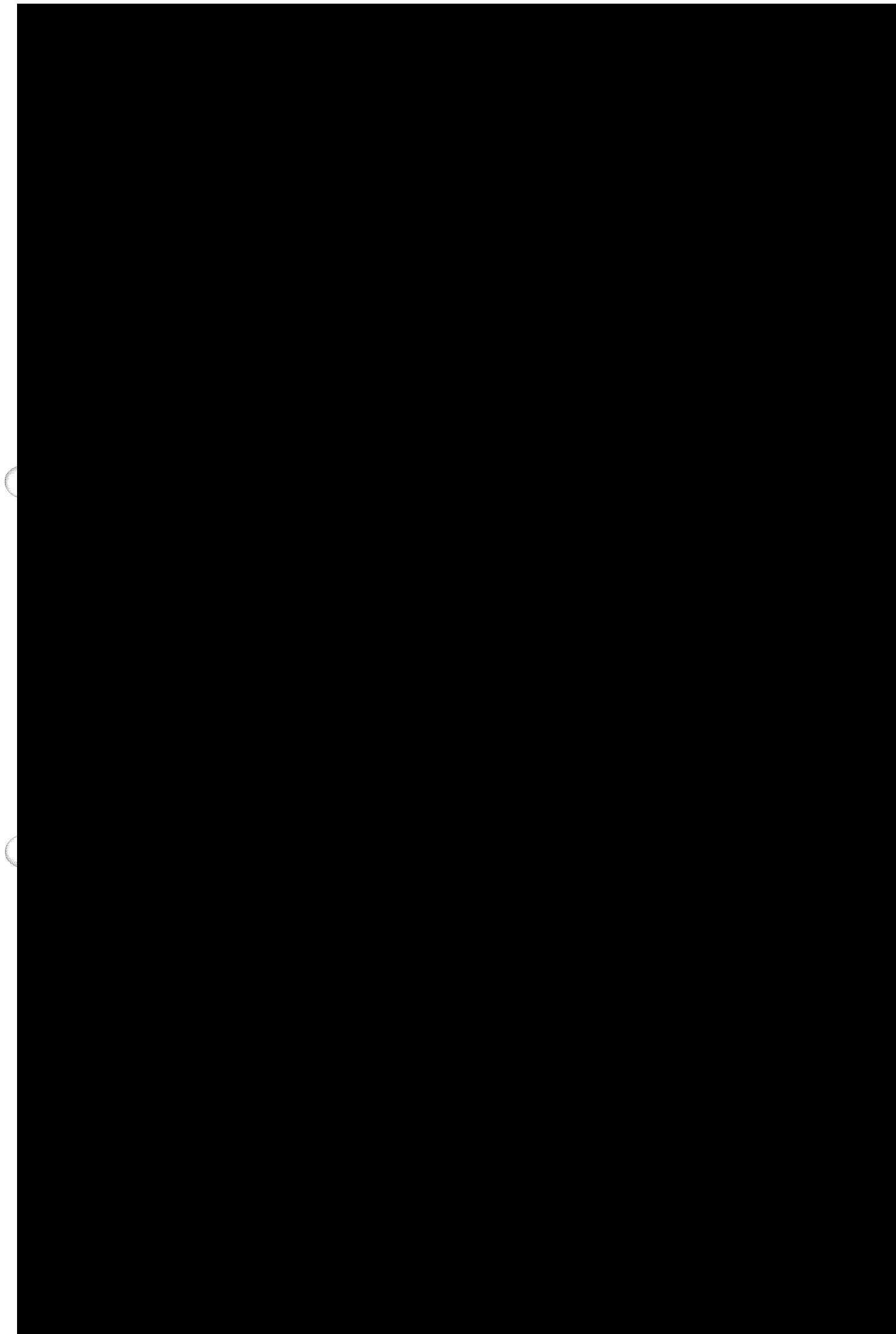






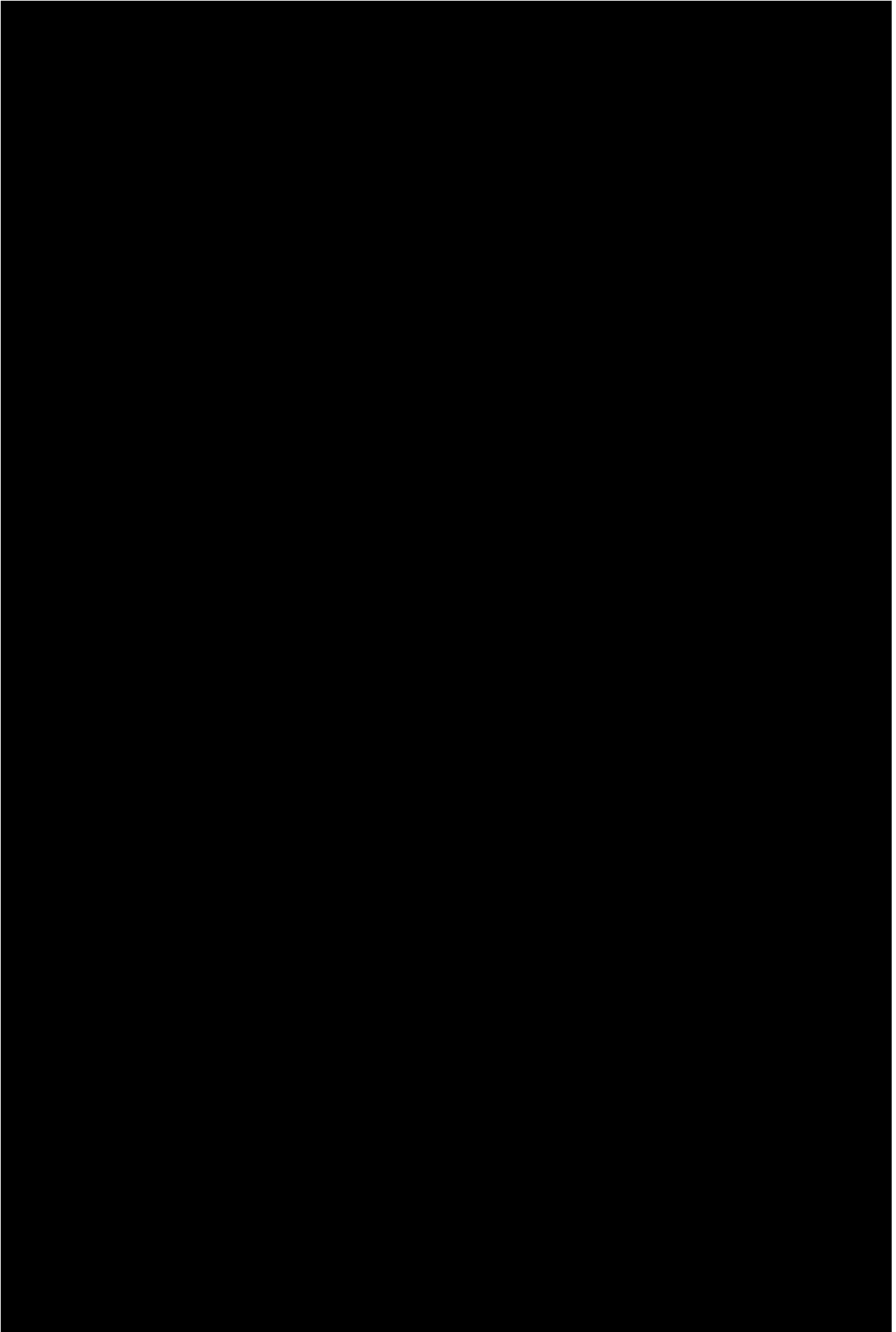


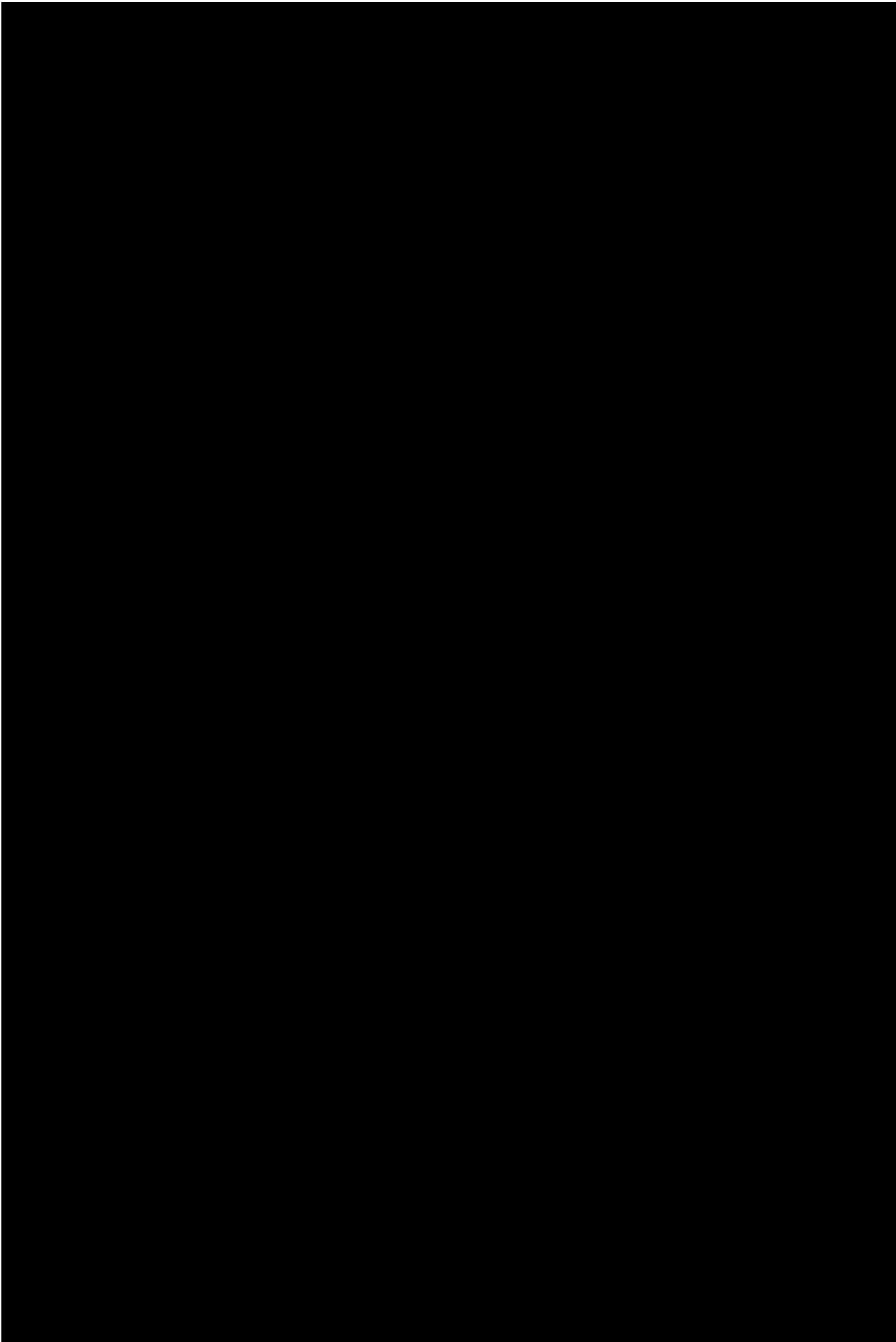


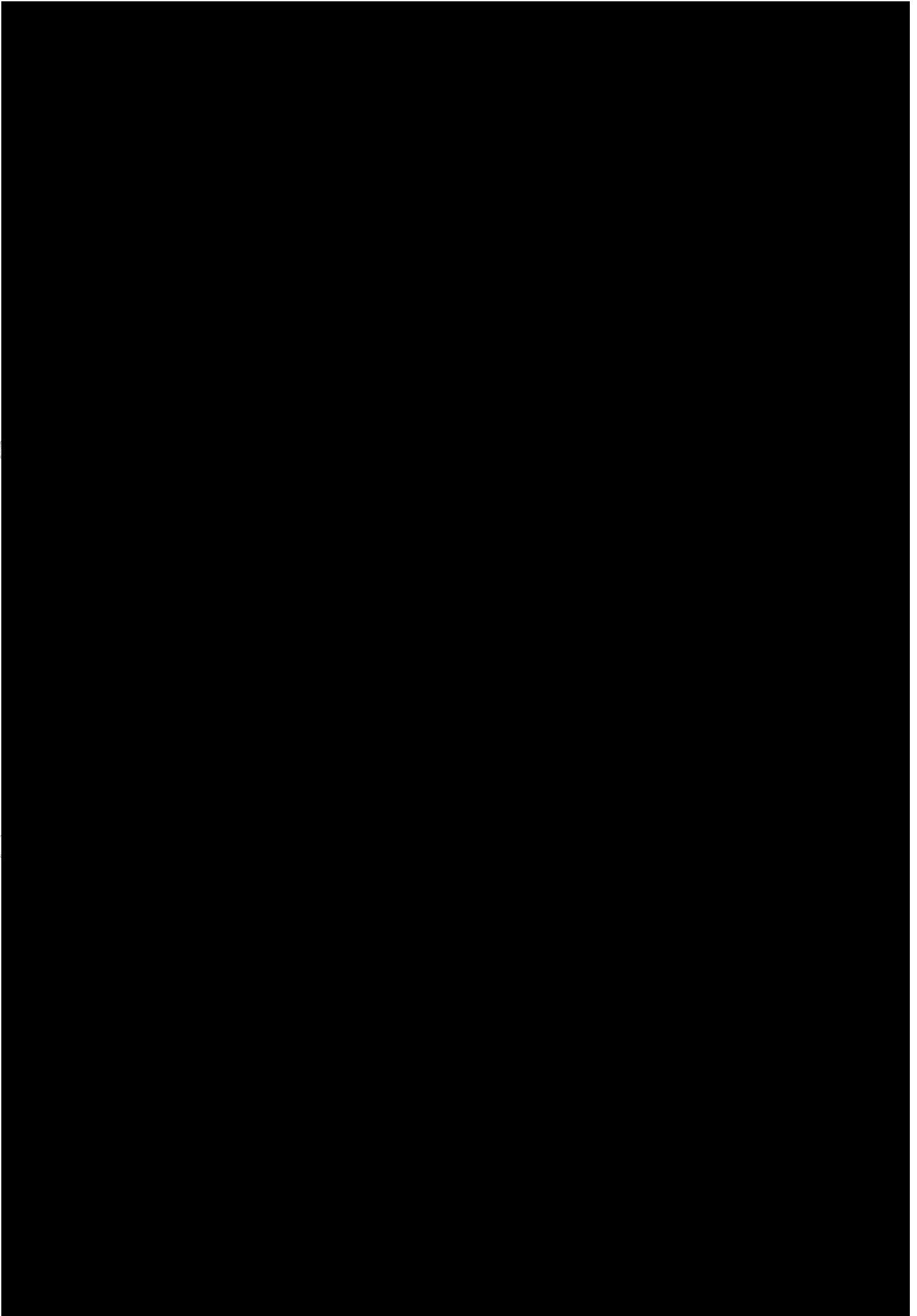


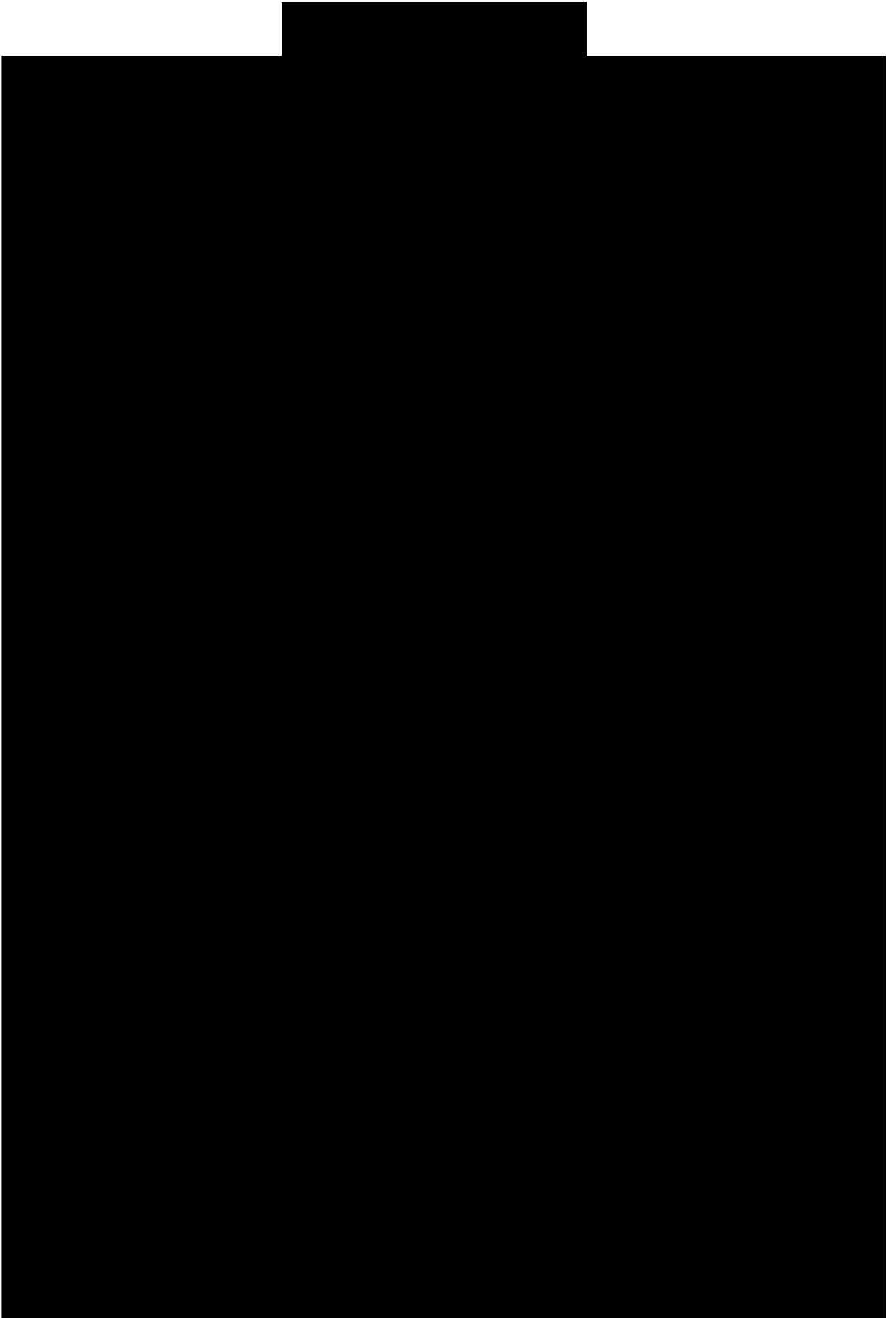


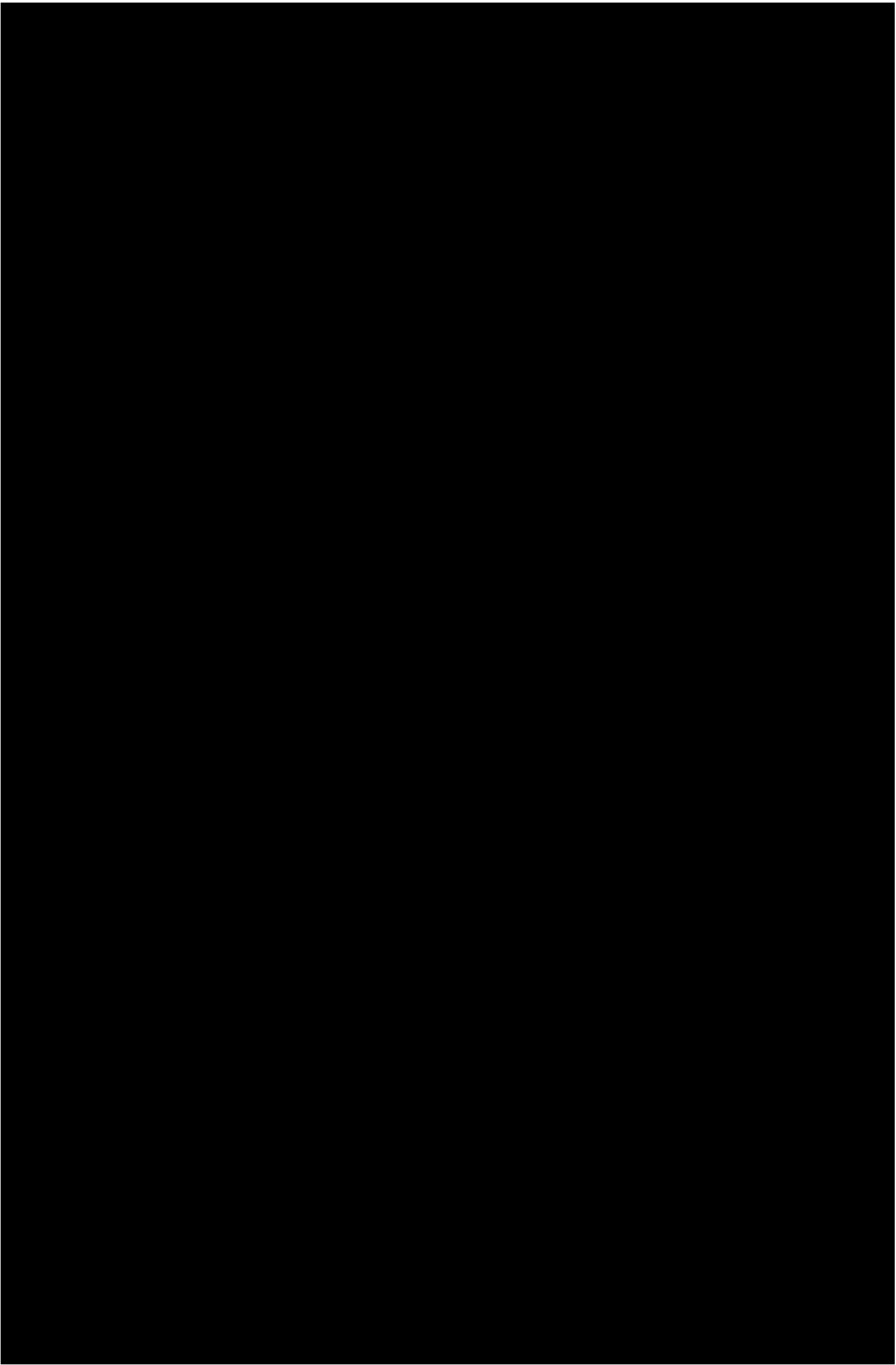
**SCHEDULE E5  
Delay Costs**

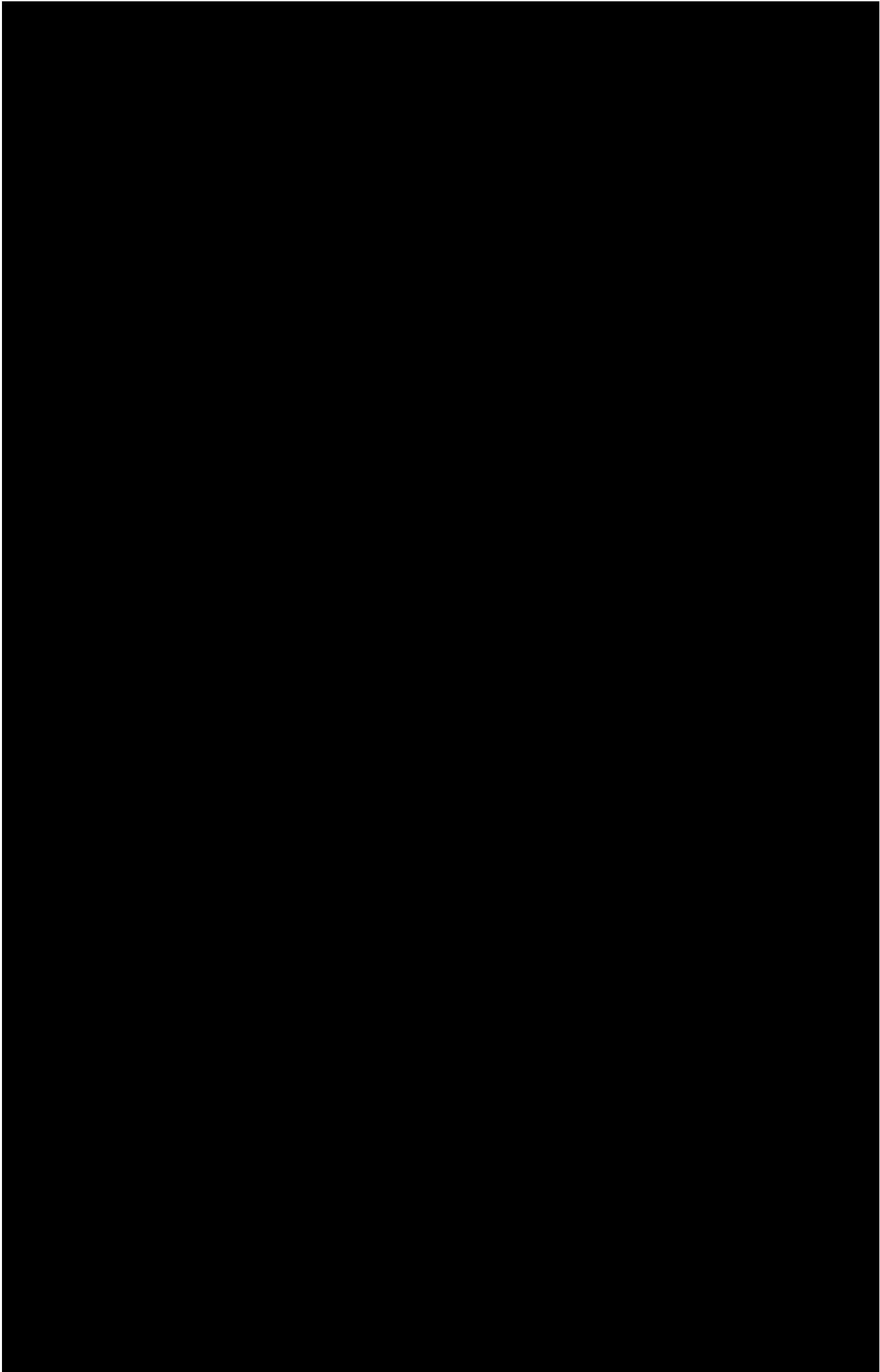








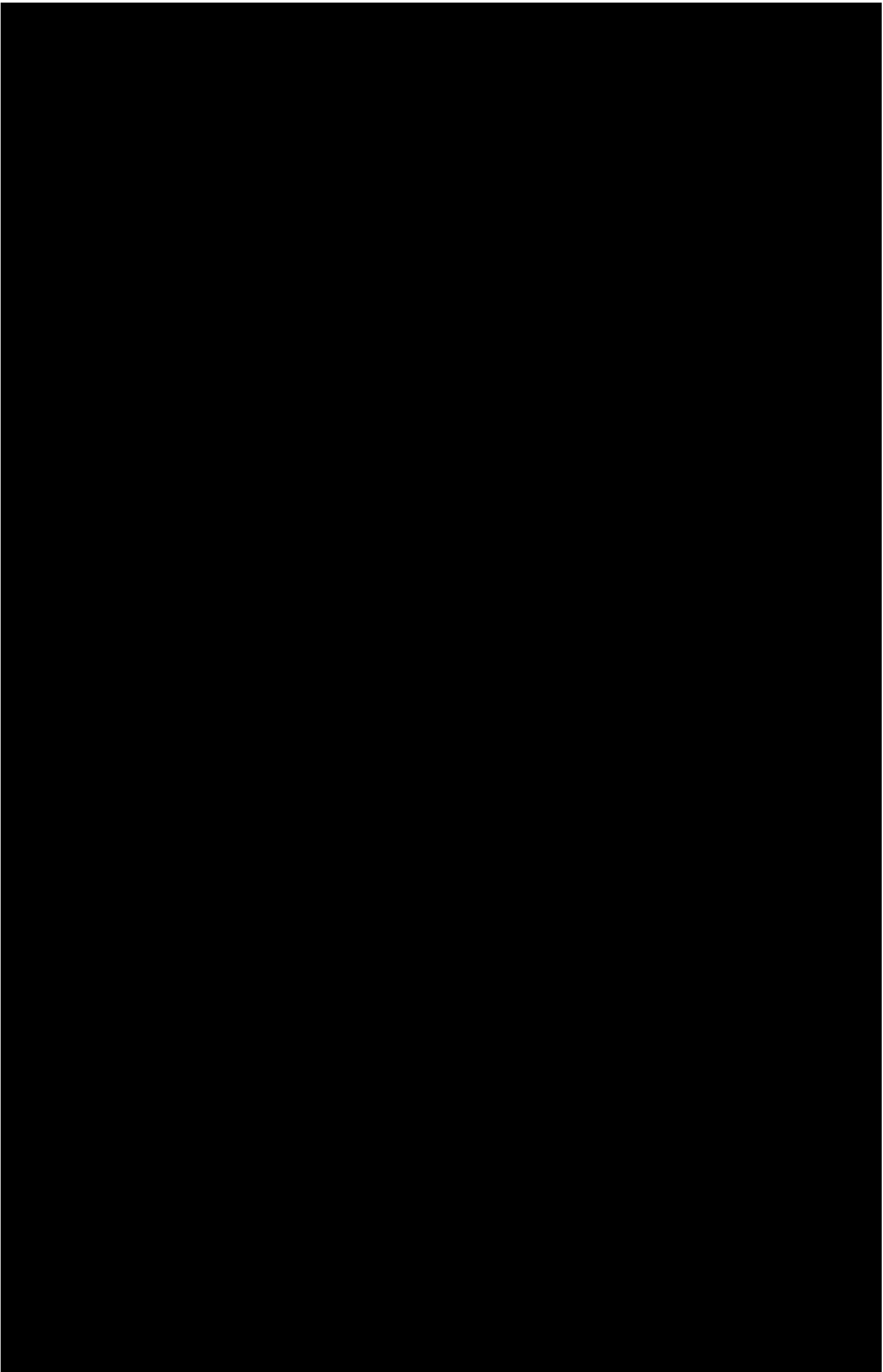


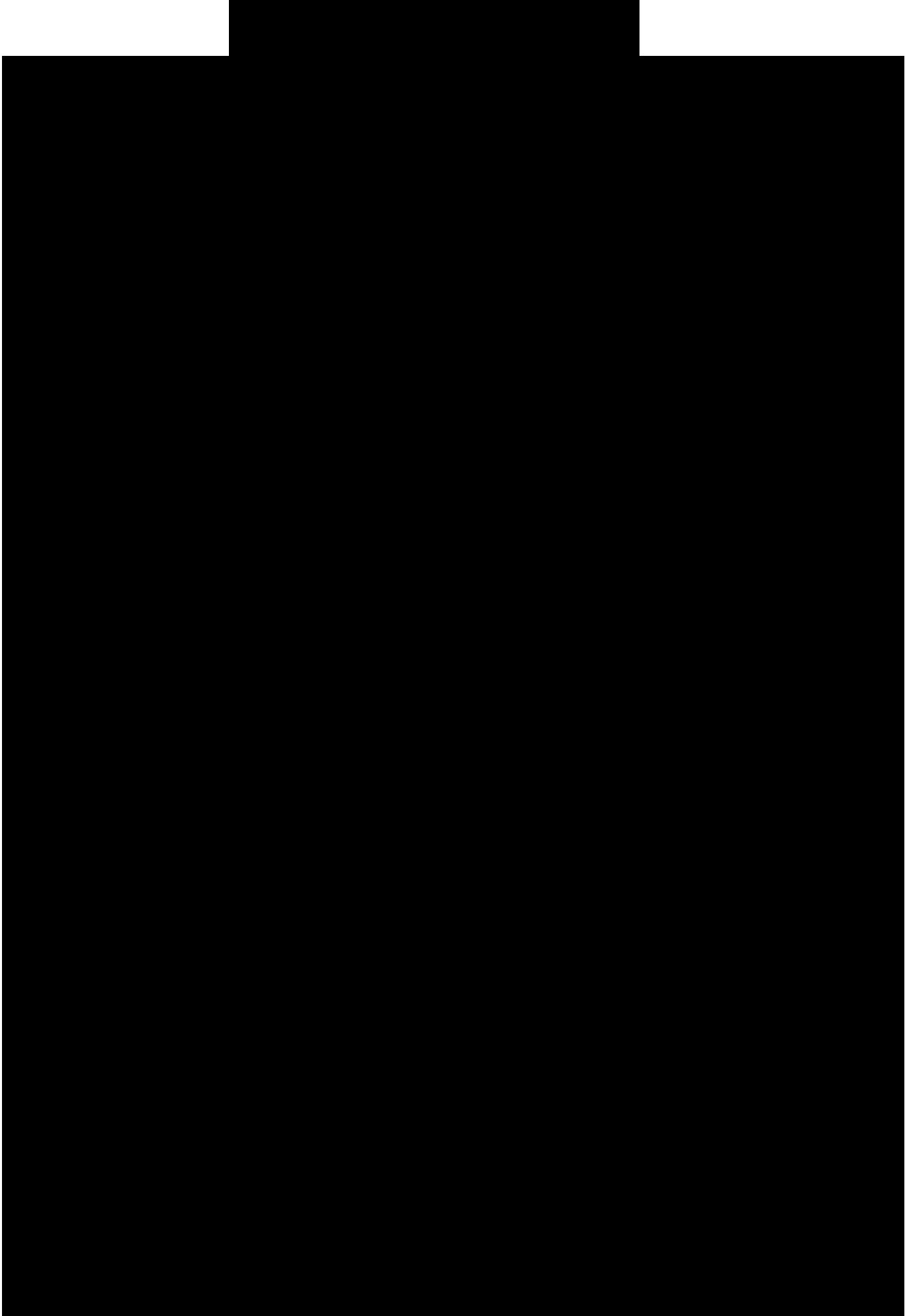




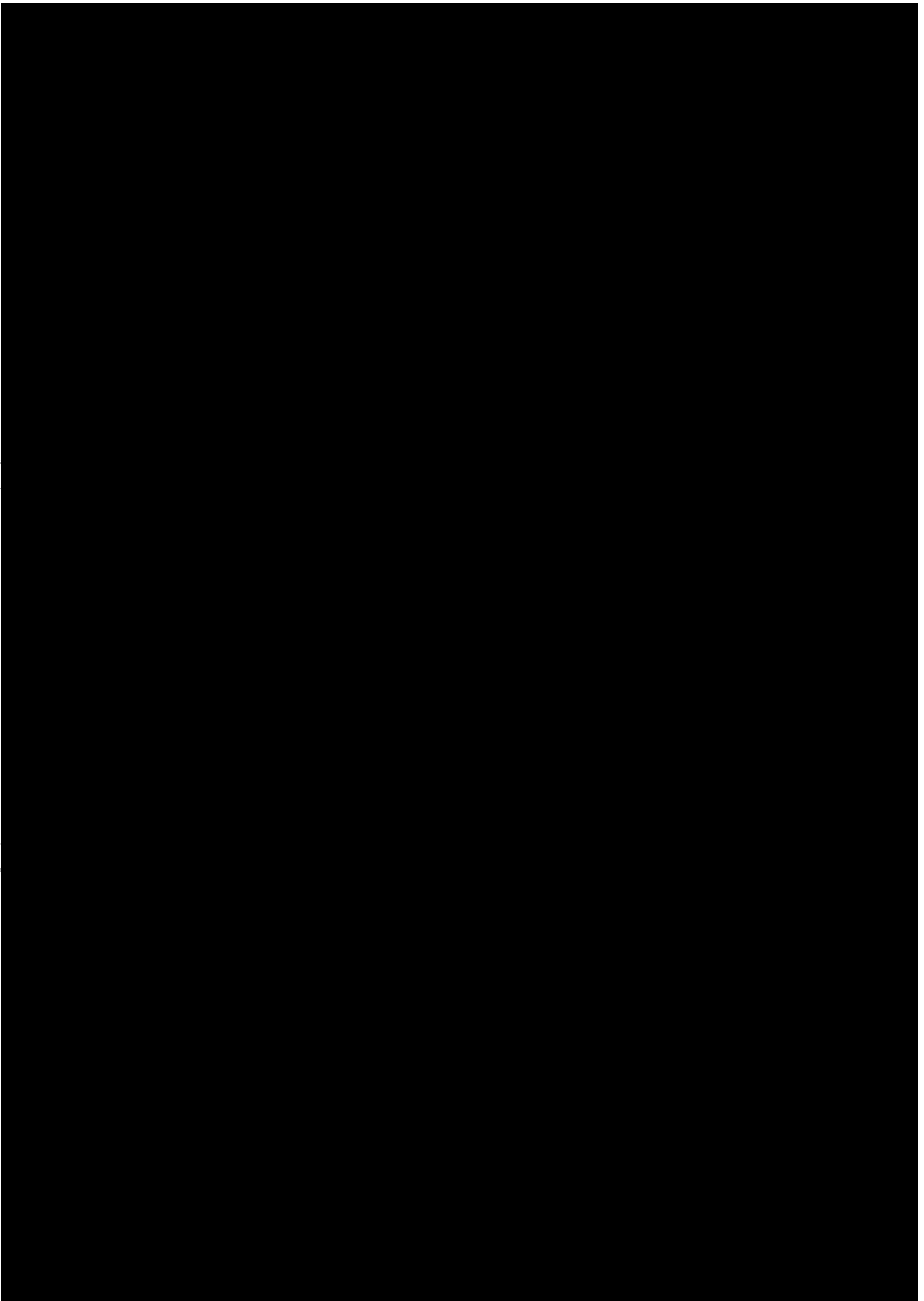


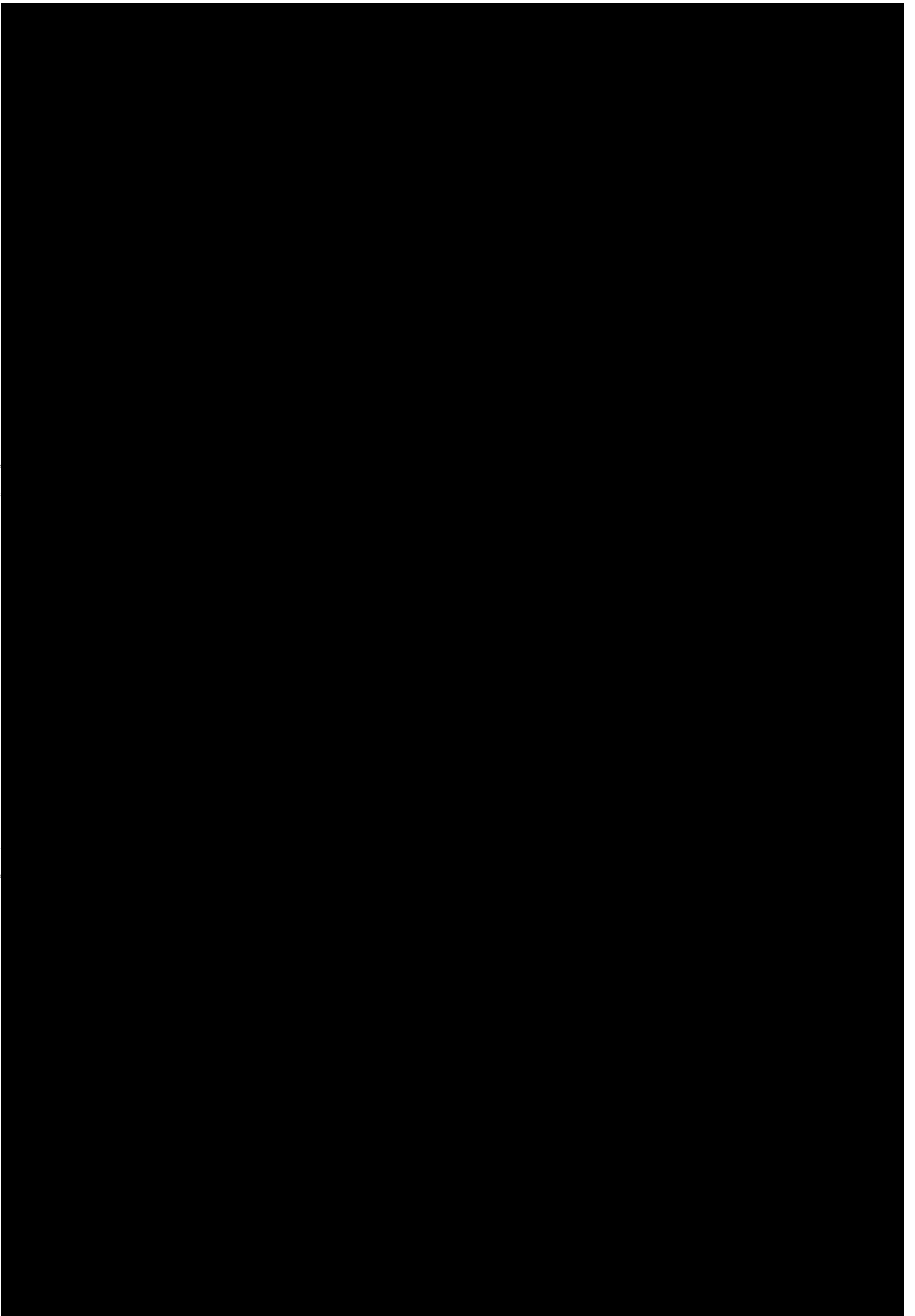




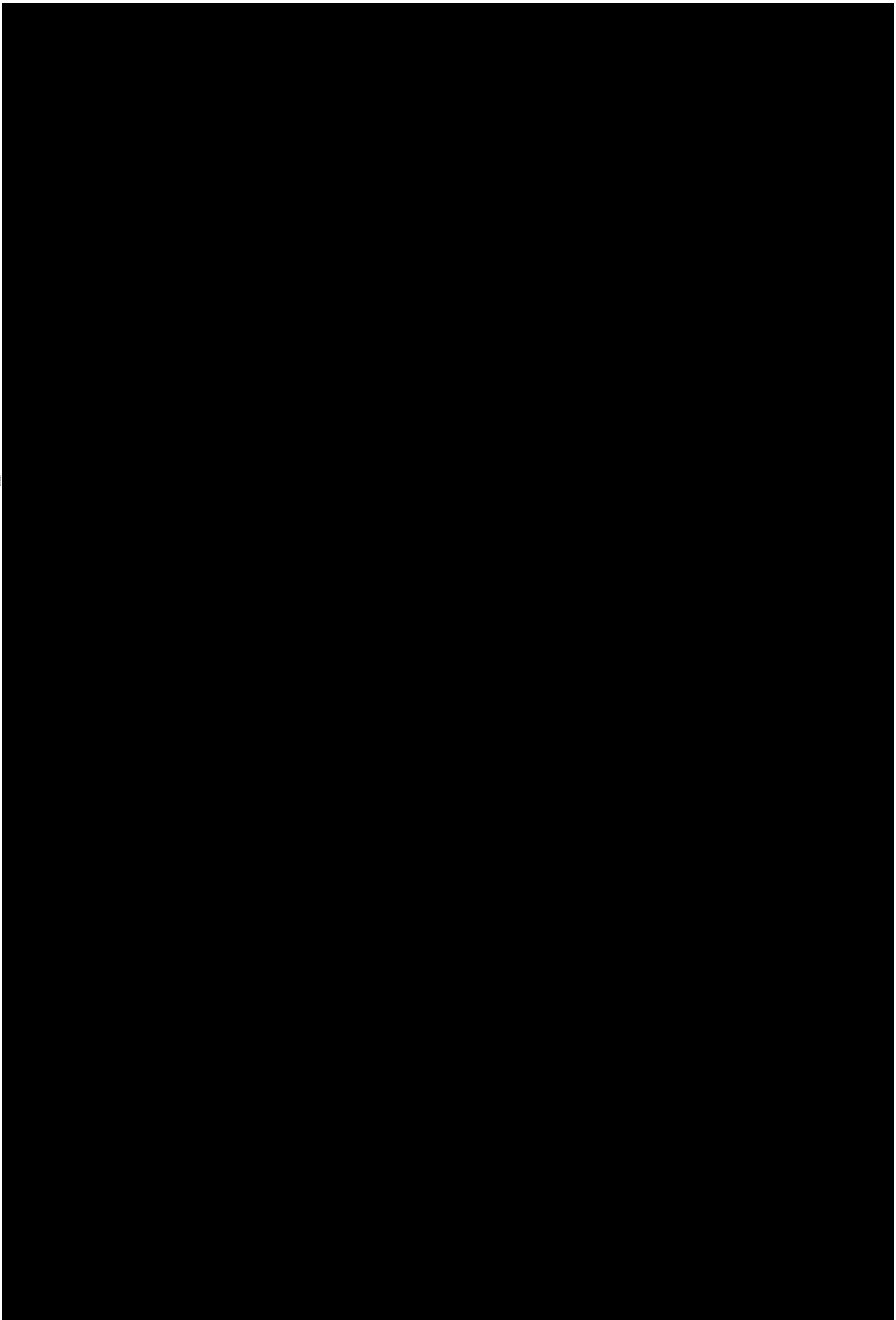
















**SCHEDULE F1  
Electronic Documents**

All electronic files identified below are saved to the USB labelled "USP OSD PDA Schedule F1":

Document/Schedule Number	Document/Schedule Name
Schedule E3	<ul style="list-style-type: none"> <li>• Contract Works Insurance Policy</li> <li>• Endorsement 1 to Contract Works Policy</li> <li>• Endorsement 2 to Contract Works Policy</li> <li>• Public and Products Liability Insurance Policy</li> <li>• Memorandum of Insurance (Excess Liability Insurance – Project Specific issued on [REDACTED])</li> <li>• Endorsement 1 to Public &amp; Products Liability Policy</li> <li>• Endorsement 2 to Public &amp; Products Liability Policy</li> <li>• DSU Insurance Policy</li> </ul> <p><i>(Refer to "Schedule E3" folder on Schedule F1)</i></p>
Annexure B	<ul style="list-style-type: none"> <li>• Drawing referred to in Table 1 of Section 1.3 Site Access Schedule (Drawing)</li> </ul> <p><i>(Refer to "Annexure B" folder on Schedule F1)</i></p>
Annexure F	<ul style="list-style-type: none"> <li>• OSD Program (Dated [REDACTED], Revision: 'Contract Submission')</li> </ul> <p><i>(Refer to "Annexure F" folder on Schedule F1)</i></p>
Annexure G	<ul style="list-style-type: none"> <li>• OSD Design Documentation (CC)</li> </ul> <p><i>(Refer to "Annexure G" folder on Schedule F1)</i></p>

**ANNEXURE A**

**Not used**

**ANNEXURE B  
Site Access Schedule**

**1. OVERVIEW AND SCOPE**

**1.1 General**

- (a) This Annexure B identifies:
- (i) the Site Access Date for each part of the Construction Site;
  - (ii) the restrictions on access, possession and use that will apply to Macquarie's access to or use of each part of the Construction Site; and
  - (iii) the restrictions on the type of OSD Works or Station Developer's Activities that may be constructed on each part of the Construction Site.
- (b) This Annexure B is subject to the requirements of:
- (i) this deed;
  - (ii) the Station Delivery Deed; and
  - (iii) any other document or condition referred to in this Annexure B or in the "Restrictions upon access, possession and use" column of this Annexure B,
- and, in particular, must be read in conjunction with clauses 5.1, 9, 10, 11 and 13 of this deed.

**1.2 References**

In this Annexure B, a reference to:

- (a) **Martin Place USP OSD Site Access Plan** is a reference to the drawings described in Table 1 of section 1.3 of this Annexure B;
- (b) an **Area** is a reference to an area of land depicted in the Martin Place USP OSD Site Access Plan with the relevant individual Area reference (e.g. Construction Site "(North Site 1)"); and
- (c) **Lot [No.] DP [No.]** are references to land contained in the lots and deposited plans (DPs) registered with NSW Land Registry Services as at the Commencement Date under the *Real Property Act 1900* (NSW).

**1.3 Drawings**

This Annexure B contains the drawings identified in Table 1 of this section 1.3 of this Annexure B, which are included in Schedule F1 as electronic files.

**Table 1 Drawings**

Drawing number	Revision	Drawing title (number of sheets)	Electronic file reference
NWRLSRT-RPS-SMP-SR-DWG-000046-A.1-Martin Place OSD Site Access Plan	A.1	Sydney Metro City and Southwest Martin Place Over Station Development Site Access Drawing	NWRLSRT-RPS-SMP-SR-DWG-000046-A.1-Martin Place OSD Site Access Plan.pdf

**1.4 Explanation of section 2 to section 7**

- (a) The tables in sections 2 to 7 of this Annexure B comprises 5 columns as follows:
  - (i) "Area of Construction Site" specifies the specific parcel of land within the Construction Site;
  - (ii) "Site Access Date" is the date on which the Principal will give Macquarie access to the land referred to in the corresponding "Area of Construction Site" column, and must be read in conjunction with the corresponding and "Restrictions upon access, possession and use" columns;
  - (iii) "Restrictions upon access, possession and use" either:
    - (A) contains a cross reference to a document; or
    - (B) specifies terms and conditions, with which Macquarie must comply in accessing or occupying the land referred to in the corresponding "Area of Construction Site" column; and
  - (iv) "Restrictions on type of work" are the restrictions on the type of work that may be carried out by Macquarie on the land referred to in the corresponding "Area of Construction Site" column.

**1.5 General terms and restrictions upon access**

The "Restrictions upon access, possession and use" columns of sections 2 to 7 do not limit Macquarie's obligations to comply with this deed or the Project Plans.

**1.6 Boundaries**

- (a) Subject to section 1.6(b), each Area in the Martin Place USP OSD Site Access Plan contains the land enclosed by the plan area represented for that Area in the Martin Place USP OSD Site Access Plan.
- (b) Areas in the Martin Place USP OSD Site Access Plan are unrestricted in height and depth above and below the plan area represented in the Martin Place USP OSD Site Access Plan, unless a limit is specified in the Martin Place USP OSD Site Access Plan or this Annexure B.

2. PRINCIPAL LAND FORMING PART OF THE CONSTRUCTION SITE (NORTH SITE 1)

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	The part of Lot 1 DP526161 that is above RL 32.19.			

3. PRINCIPAL LAND FORMING PART OF THE CONSTRUCTION SITE (NORTH SITE 2)

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	The part of Lot 2 DP929277 that is above RL 32.19.			
2.	The part of Lot 1 DP929277 that is above RL 32.19.			
3.	The part of Lot 1 DP173027 that is above RL 32.19.			
4.	The part of SP13171 that is above RL 32.19.			
5.	The part of Lot 2 DP548142 that is above RL 32.19.			

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
6.	The part of Lot 1 DP222356 that is above RL 32.19.			

**4. PRINCIPAL LAND FORMING PART OF CONSTRUCTION SITE (SOUTH SITE)**

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	The part of Lot 2 DP1103195 that is above RL 32.10.			
2.	The part of Lot 1 DP1103195 that is above RL 32.10.			

**5. PRINCIPAL LAND FORMING PART OF THE CONSTRUCTION SITE (NORTH TOWER LOT)**

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	North Tower Lot			

**6. PRINCIPAL LAND FORMING PART OF THE CONSTRUCTION SITE (SOUTH TOWER LOT)**

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	South Tower Lot			

**7. PRINCIPAL LAND FORMING PART OF THE CONSTRUCTION SITE (50 MARTIN PLACE ANCILLARY AMENITIES LOT)**

No	Area of Construction Site	Site Access Date	Restrictions upon access, possession and use	Restrictions on type of work
1.	50 Martin Place Ancillary Amenities Lot			

**ANNEXURE C**

**Not used**



**ANNEXURE D**

**Not used**

**ANNEXURE E**  
**Expert Determination Agreement**

# Expert Determination Agreement – Martin Place Metro Station Project

Sydney Metro

ABN 12 354 063 515

and

Macquarie Group Limited

ABN 94 122 169 279

and

[Name of Expert]

**Alt**[ABN/ACN/ARBN] [number]

**THIS AGREEMENT** is made on

**BETWEEN:**

- (1) **Sydney Metro** ABN 12 354 063 515, a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW) of Level 43, 680 George Street, Sydney NSW 2000 (**Principal**);
- (2) **Macquarie Group Limited** ABN 94 122 169 279 of Level 6, 50 Martin Place, Sydney (**Macquarie**); and
- (3) **[Name of Party] Alt**[ABN/ACN/ARBN] [number] of [address] (**Expert**).

**RECITALS:**

- (A) The background to the Project is set out in the OSD PDA.
- (B) By written notice dated [*insert date*], [*insert the Principal or Macquarie as applicable*], requires that the Dispute is determined by an Expert appointed under clause 40.14 of the OSD PDA.
- (C) The Expert has been appointed to determine the Dispute in accordance with the process set out in this agreement.

**THE PARTIES AGREE AS FOLLOWS:**

1. **DEFINITIONS**

1.1 **OSD PDA definitions**

Unless otherwise expressly defined, terms used in this agreement have the meanings given to them in the OSD PDA.

1.2 **Definitions**

**Code of Conduct** means the code of conduct set out in section 2 of Schedule 2 of this agreement.

**Dispute** means the dispute described in Schedule 1 of this agreement.

**OSD PDA** means the document titled "Martin Place Metro Station Project - Over Station Development Project Delivery Agreement" (Contract No: 507) between the Principal and Macquarie dated [*insert date*].

**Party** means each of the Principal and Macquarie.

**Rules** means the "Rules for Expert Determination Process" set out in Schedule 2 of this agreement.

**Schedule of Fees and Disbursements** is contained in Schedule 3 of this agreement.

1.3 **Interpretation**

In this Agreement:

- (a) headings and subheadings are for convenience only and do not affect interpretation of this agreement;

and the following rules apply in interpreting this agreement unless the context makes it clear that a rule is not intended to apply:

- (b) person includes an individual, the estate of an individual, a corporation, an Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (d) a reference to a person, entity or contractor includes that person, entity or contractor's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a group of persons is a reference to any two or more of them jointly and to each of them individually;
- (f) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (g) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (h) a reference to a document, contract or agreement is to that document, contract or agreement as varied, novated, ratified or replaced from time to time;
- (i) a reference to any Authority, institute, association or body is:
  - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
  - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or object as that Authority, institute, association or body;
- (j) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:
  - (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
  - (ii) any consolidations, amendments, re-enactments and replacements;
- (k) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (l) a reference to:
  - (i) a party, schedule, exhibit, attachment or annexure is a reference to a party, schedule, exhibit, attachment or annexure to or of this agreement;
  - (ii) this agreement includes all schedules, exhibits, attachments and annexures to it; and

- (iii) a section is a reference to a section of a schedule;
- (m) a reference in:
  - (i) this agreement to a clause is a reference to a clause of this agreement; and
  - (ii) a schedule, exhibit, attachment, annexure or appendix to a clause, paragraph or annexure, is a reference to a clause, paragraph or annexure of that schedule, exhibit, attachment, annexure or appendix;
- (n) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (o) **includes** in any form is not a word of limitation;
- (p) a reference to **\$** or **dollar** is to Australian currency;
- (q) any reference to **information** will be read as including information, representations, statements, data, samples, bore logs, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;
- (r) anything (including an amount) is a reference to the whole and each part of it and the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (s) a time of day is a reference to Sydney time;
- (t) a reference to a right includes any benefit, remedy, function, discretion, authority or power; and
- (u) the use of the word "remedy" or any form of it in this agreement means that the event to be remedied must be cured or its effects overcome.

#### 1.4 **No bias against drafter**

No provision of this agreement is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.

#### 1.5 **Business Day**

If the day on or by which anything is to be done under this deed is not a Business Day, that thing must be done no later than the next Business Day.

#### 1.6 **Excluding liability**

Any provision of this deed which seeks to limit or exclude a liability of a party is to be construed as doing so only to the extent permitted by Law.

### 2. **APPOINTMENT OF EXPERT**

#### 2.1 **Parties to appoint Expert**

The Parties appoint the Expert to determine the Dispute in the manner and within the times set out in this agreement and the Expert accepts the appointment on the basis set out in this agreement.

## 2.2 **Agreement of conditions**

The Parties agree that:

- (a) the Expert will act as an expert and not as an arbitrator;
- (b) neither the determination of the Dispute, nor the process required by this agreement is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
- (c) the rules of evidence do not apply to the determination; and
- (d) the Expert must conduct the determination of the Dispute in accordance with:
  - (i) this agreement;
  - (ii) the OSD PDA;
  - (iii) the Rules, including the Code of Conduct; and
  - (iv) the requirements of procedural fairness.

## 2.3 **Independence and bias**

- (a) At the date of this agreement, the Expert warrants that the Expert is independent of the parties and does not have a conflict of interest, potential conflict of interest or other circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially.
- (b) The Expert must take all reasonable steps to avoid any conflict of interest, potential conflict of interest or other circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially.
- (c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Parties immediately.
- (d) If, at any time during the determination, a Party becomes aware of any circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially in relation to the Dispute, that Party must inform the other Parties and the Expert.
- (e) If the Expert agrees that the circumstances in clause 2.3(c) might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially in relation to the Dispute, the Expert must provide notice under clause 2.3(b).
- (f) This agreement will terminate 7 days after the notice is provided by the Expert under clause 2.3(b), unless the Parties agree otherwise.
- (g) The Parties must not withhold agreement to any amendment the Expert requests to be made to this agreement provided the amendment is reasonable and does not conflict with the OSD PDA.

3. **CONFIDENTIALITY**

All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any person, except with the prior written consent of both Parties or as may be required by Law, for the purpose of subsequent arbitration or to the extent necessary to give effect to or enforce the Expert's determination.

The parties acknowledge that for the purposes of clause 3, the Parties are entitled to keep their insurers (and their insurer's advisors) informed of all proceedings, submissions and all documents prepared for the determination (including the Expert's determination).

4. **COSTS AND FEES**

(a) As between the Parties and the Expert, the Parties are jointly and severally liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements, unless the Expert determines a different allocation between the parties of the Expert's fees and disbursements. The Parties agree to comply with any reasonable request from the Expert as to the arrangements for payment of the Expert's fees and disbursements.

(b) The parties agree as between themselves that:

(i) they will each pay one half of:

(A) the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements; and

(B) any third party costs incurred in holding the conference referred to in clause 4 of Schedule 2 of this agreement including any booking fee, room hire and transcript costs; and

(ii) they will each bear their own costs of and incidental to the preparation of this agreement and their participation in the determination including their legal costs and the costs of consultants they engage; and

(iii) for the purposes of this clause 4 only, the Station Developer and Macquarie will be taken to be one party to the Dispute.

5. **GST**

5.1 **GST payable**

(a) **(Interpretation):**

(i) Except where the context suggests otherwise, terms used in this clause 5.1 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).

(ii) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 5.1.

(iii) Unless otherwise expressly stated, all consideration to be provided under this deed (other than under this clause 5.1) is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into

account in calculating the GST payable in relation to a supply for the purpose of this clause 5.1.

- (iv) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.
- (b) **(Reimbursements):** Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense or other amount paid or incurred will be limited to the total costs, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.
- (c) **(Additional amount of GST payable):** If GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this deed:
  - (i) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and
  - (ii) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 5.1(c)(i).
- (d) **(Variation of GST):**
  - (i) If the GST Amount recovered by the Supplier from the Recipient under clause 5.1(c) for a supply varies from the amount of GST paid or payable by the Supplier on that supply, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient.
  - (ii) The Supplier must issue an Adjustment Note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed within 7 days after the Supplier becomes aware of the adjustment event.
- (e) **(No merger):** This clause will not merge on completion or termination of this deed.

## 6. EXCLUSION OF LIABILITY AND INDEMNITY

Except in the case of fraud, the Expert will not be liable to either Party for any act or omission by the Expert in the performance or purported performance of this agreement.

## 7. CO-OPERATION OF THE PARTIES

- (a) Each Party agrees to:
  - (i) do all things reasonably necessary for the proper, expeditious and cost effective conduct of the determination of the Expert;
  - (ii) take part in the determination in good faith;
  - (iii) comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination; and



(iv) be represented at any conference convened by the Expert by a person or persons with authority to agree on procedural matters.

(b) If a Party does not comply with the Expert's reasonable directions, the Expert may continue with its determination and determine the Dispute despite the non-compliance.

8. **SUBSEQUENT PROCEEDINGS**

The Expert will not accept an appointment as an arbitrator, advocate or adviser to a Party in any arbitral, judicial or adjudication proceedings relating to the Dispute or any part of it. No Party will take action to cause the Expert to breach this clause 8.

The Parties agree, and undertake to the Expert, not to subpoena the Expert to give evidence or to deliver up documents in any subsequent proceedings.

9. **GOVERNING LAW AND JURISDICTION**

(a) This agreement is governed by and must be construed according to the Law in force in New South Wales.

(b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement.

10. **URGENT RELIEF**

Nothing in this agreement or the Rules will prejudice the right of a party to seek urgent interlocutory relief in respect of the Dispute or submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the courts competent to determine appeals from those courts in relation to that urgent interlocutory relief.

11. **NOTICES**

(a) Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement must:

(i) be in writing;

(ii) be addressed as follows (or as otherwise notified by that party to each other party from time to time):

**Principal**

Address: Level 43, 680 George Street  
Sydney NSW 2000

Email: [REDACTED]

Attention: [REDACTED]

**Macquarie**

Address: Level 6, 50 Martin Place  
Sydney NSW 2000

Email: [REDACTED]

Attention: [REDACTED]

**Expert**

Address: [insert]  
[insert]  
Email: [insert]  
Attention: [insert]

- (iii) be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
  - (iv) be delivered by hand or posted by prepaid post to the relevant address or sent by email to the addressee in accordance with clause 11(a)(ii).
- (b) A communication is taken to be received by the addressee:
- (i) (in the case of prepaid post sent to an address in the same country) 2 Business Days after the date of posting;
  - (ii) (in the case of international post) 7 Business Days after the date of posting;
  - (iii) (in the case of delivery by hand) on delivery; and
  - (iv) (in the case of email) when the addressee's email system logs the email message as having been received,

provided that if the communication would be deemed to be received on a day which is not a Business Day or after 5.00pm on a Business Day, it is deemed to be received at 9.00am on the next Business Day.

12. **FURTHER ACTS AND DOCUMENTS**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by Law or reasonably requested by another party to give effect to this agreement.

13. **COUNTERPARTS**

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

14. **TIMING**

In the event that the Expert is unable to or fails to determine the Dispute between the Parties within the time provided in section 8 of the Rules, either party may refer the Dispute to arbitration under clause 40.15 of the OSD PDA.

**SCHEDULE 1**

**The Dispute**

*[Insert description of the Dispute.]*



## SCHEDULE 2

### Rules for Expert Determination Process

#### 1. COMMENCEMENT

The expert determination process begins when the Expert accepts an appointment to determine the Dispute in accordance with these Rules, including the Code of Conduct.

#### 2. CODE OF CONDUCT

- (a) The function of the Expert is to make a determination of the Dispute in accordance with the OSD PDA and the Expert Determination Agreement, including these Rules and the Code of Conduct.
- (b) The Expert must receive the written submissions and responses of the Parties in accordance with the procedures specified in these Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Dispute.
- (c) The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
- (d) The Expert must disclose to both Parties all information and documents received.
- (e) If a Party fails to make a written submission, the Expert may continue with the process.
- (f) Subject to section 4 of these Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of both Parties.
- (e) The Expert shall act independently and without bias.

#### 3. WRITTEN SUBMISSIONS

- (a) Within 5 Business Days after the date this expert determination process begins, the Party who gave notice under clause 40.11 of the OSD PDA (**Party A**) must give the other Party and the Expert a written statement of the Dispute referred for Expert determination, any agreed statement of facts, a written submission on the Dispute in support of Party A's contentions and all documents and other evidentiary material on which it relies.
- (b) Within 5 Business Days after the statement in section 3(a) is served, the other Party must give Party A and the Expert a written response to Party A's submissions including any cross claim. The other Party's response must not raise new matters.
- (c) If the Expert considers it appropriate, Party A may reply in writing to the other Party's response in section 3(b) within the time allowed by the Expert. Party A's reply must not raise new matters.
- (d) If the Expert decides further information or documentation (including submissions) is required for the determination of the Dispute, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.
- (e) The Expert must disclose to both Parties all information and documents received by the Expert on a private and confidential basis.

- (f) Any times fixed pursuant to these Rules may be varied by agreement of the Parties and the Expert. In the absence of such agreement, or proper cause being shown by a party, the Expert may vary the times fixed on such terms as he or she considers reasonable in the circumstances.
- (g) If a Party fails to make a written submission, the Expert may continue with the process.

4. **CONFERENCE**

- (a) The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the parties agree otherwise, the conference will be held in Sydney, Australia.
- (b) At least 10 Business Days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.
- (c) The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under section 4(b), the Expert and the other Party may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the expert determination process.
- (d) The Parties:
  - (i) may be accompanied at a conference by legal or other advisers; and
  - (ii) will be bound by any procedural directions given by the Expert in relation to the expert determination process.
- (e) The conference must be held in private.
- (f) If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties on a private and confidential basis.

5. **VIEW**

- (a) Upon the application of a Party or at the Expert's own volition, the Expert may direct that a view be conducted of any place or thing relevant to the Dispute by the Expert in the presence of the Parties.
- (b) The Expert may draw any reasonable inference from what the Expert sees, hears or otherwise observes during a view.
- (c) If a Party fails to attend a view, the Expert may nevertheless proceed with the view.

6. **ENGAGEMENT OF ADVISERS AND CONSULTANTS**

The Expert may engage his or her own advisers and consultants, including lawyers, accountants, bankers, engineers or other technical consultants, to provide information to assist the Expert in his or her determination, unless both Parties object to the engagement, and subject to the following process:

- (a) the Expert must notify the Parties of any proposed engagement;
- (b) the Parties may make submissions to the Expert on the selection of such a person, including any qualifications and expertise that may be required;

- (c) the Expert must obtain the Parties prior written consent to provide any information relating to the determination to the persons to be engaged by the Expert;
- (d) before disclosure of any information relating to the determination to the persons engaged by the Expert under this clause, the Expert must obtain a confidentiality undertaking from those persons with respect to that information on the same terms as clause 3 of the agreement;
- (e) the Expert must disclose to both Parties all advice received from any persons engaged by the Expert under this clause; and
- (f) the Parties may make submissions to the Expert, within the time prescribed by the Expert, on the weight (if any) to be given by the Expert to any advice such a person may give.

**7. GENERAL**

- (a) In making a determination or calling or holding a conference, the Expert must proceed in accordance with the OSD PDA, this agreement and these Rules.
- (b) Subject to section 4(c), meetings and discussions with the Expert must only take place in the presence of both Parties.
- (c) Without limiting section 2(c) of this agreement, the Expert must:
  - (i) inform the Parties of:
    - (A) any relationship or interest which the Expert has, or the persons engaged by the Expert under section 6 have, with the Parties or their respective Associates;
    - (B) any interest the Expert has, or the persons engaged by the Expert under section 6 have, in the matters in dispute; and
    - (C) any circumstance which might reasonably be considered to adversely affect the capacity of the Expert, or the persons engaged by the Expert under section 6, to act independently or impartially,

immediately upon becoming aware of any such circumstances; and
  - (ii) upon making any disclosure under this section 7(c), unless and until the Parties agree otherwise, terminate the proceedings.

**8. THE DETERMINATION**

- (a) As soon as possible after receipt of the submissions or after any conference and, in any event not later than 20 Business Days after the Expert's acceptance of the appointment (or such other period as the Parties may otherwise agree), the Expert must:
  - (i) determine the Dispute between the Parties; and
  - (ii) notify the Parties of that determination.
- (b) The determination of the Expert must:
  - (i) be in writing stating the Expert's determination and giving reasons;
  - (ii) be made in accordance with:

- (A) the Law;
  - (B) the OSD PDA;
  - (C) this agreement (including these Rules and the Code of Conduct);
  - (D) the Resolution Institute's Expert Determination Rules; and
  - (E) the requirements for procedural fairness;
- (iii) be made on the basis of:
- (A) the submissions, statements and responses (if any) of the Parties;
  - (B) the further information and documentation (including submissions) received by the Expert under section 3(d) (if any);
  - (C) the conference (if any);
  - (D) the view (if any);
  - (E) the Expert's own expertise (as supplemented by any advice which the Expert obtains from his or her own advisers and consultants); and
  - (F) the submissions received by the Expert under section 6(f) (if any); and
- (iv) meet the requirements of the OSD PDA.
- (c) To the extent permitted by Law, the Expert's determination will be final and binding on the Parties unless a notice of appeal is served by a party to the other in accordance with clause 40.14(i) of the OSD PDA.
- (d) If the Determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a material mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

9. **COSTS**

Security for costs of the Expert must be deposited by both Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.

10. **MODIFICATION**

These Rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

11. **PROPORTIONATE LIABILITY**

To the extent permitted by Law, the Expert will have no power to apply or have regard to Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provision in any other state or territory).

### **SCHEDULE 3**

#### **Schedule of Fees and Disbursements**

***[To be inserted: Expert's fees and disbursements to be inserted, which should include fees paid to consultants and advisers engaged by the Expert pursuant to clause 5 of the Rules.]***



**EXECUTED** as an agreement.

**SIGNED** for **SYDNEY METRO** ABN 12 354 063 515 by its duly authorised delegate, in the presence of:

\_\_\_\_\_  
Signature of Delegate

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**SIGNED** by **MACQUARIE GROUP LIMITED** ABN 94 122 169 279 by its duly authorised attorneys who hereby state that at the time of executing this instrument they have no notice of the revocation of the Power of Attorney dated [*insert*]:

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Name of Attorney

\_\_\_\_\_  
Name of Attorney

\_\_\_\_\_  
Signature of witness

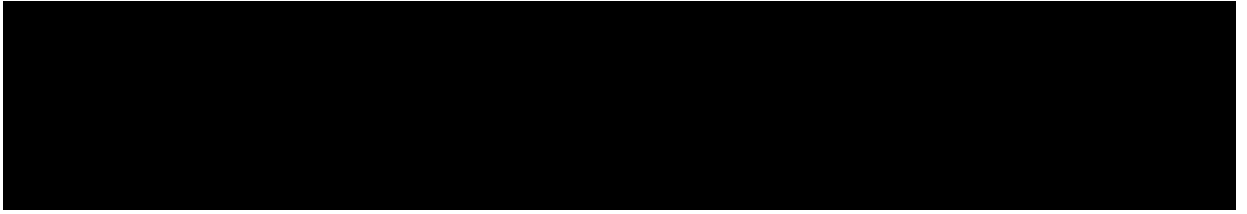
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Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of witness

**[Execution block of Expert to be inserted.]**

**ANNEXURE F**  
**Initial OSD PDA Program**



**ANNEXURE G**  
**OSD Design Documentation (CC)**

For the purposes of clause 15 of the OSD PDA, this Annexure G contains the OSD Design Documentation (CC) which is included in Schedule F1 as an electronic file.

**ANNEXURE H**  
**Sydney Metro Principal Contractor Health and Safety Requirements**



- **Sydney Metro City & Southwest**

Martin Place Metro Station Project  
Over Station Development Project Delivery  
Agreement

Annexure H - Sydney Metro Principal  
Contractor Health & Safety Requirements



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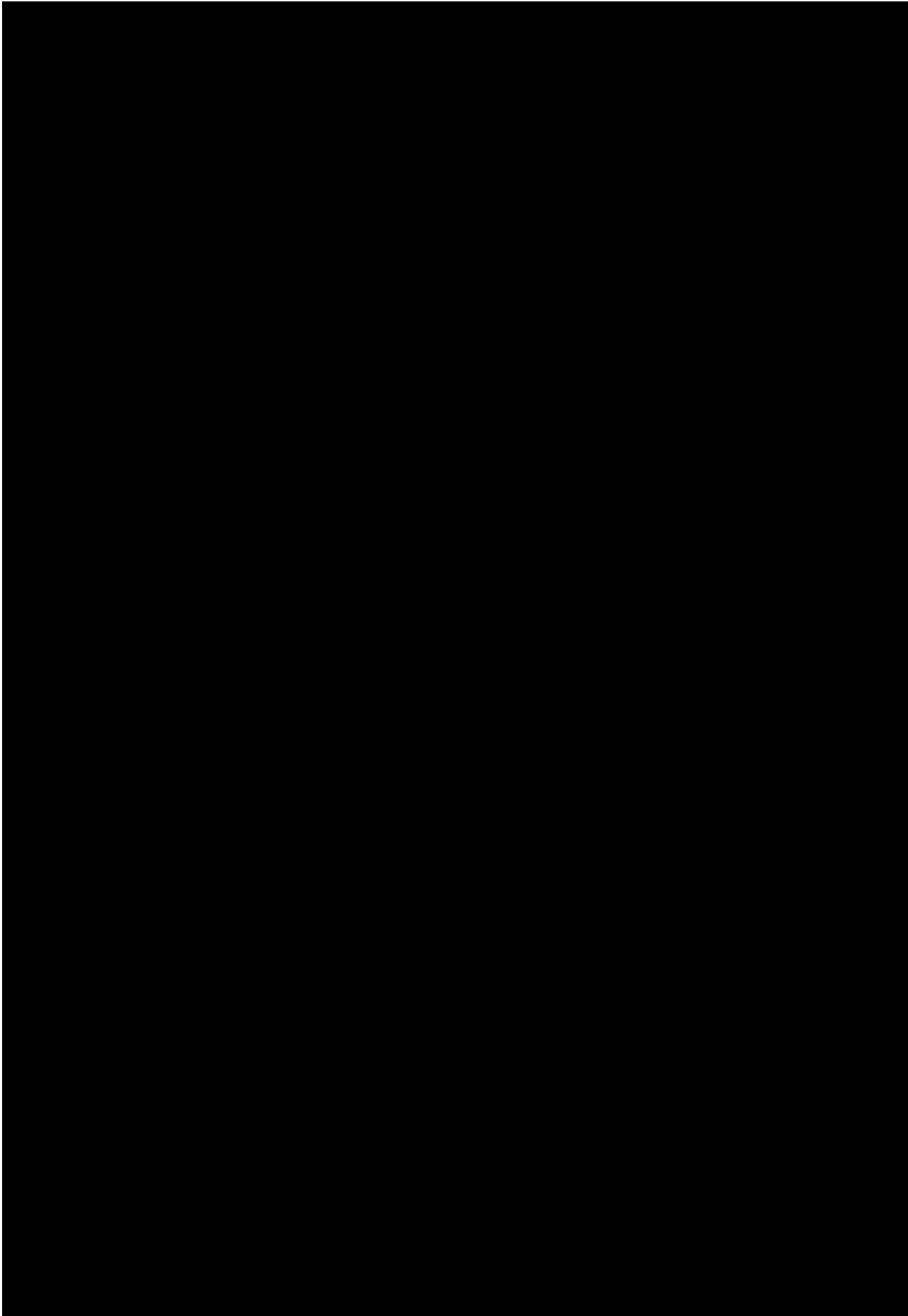
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<b>GROUP</b>	Sydney Metro City & Southwest	<b>STATUS</b>	Draft
<b>AUTHOR</b>	Transport for NSW	<b>REVISION</b>	0.1
<b>COMPANY</b>	Transport for NSW	<b>FILE NUMBER</b>	
<b>FILE NAME</b>	MPSD OSD Annexure H SMPCH&SSv0.1		

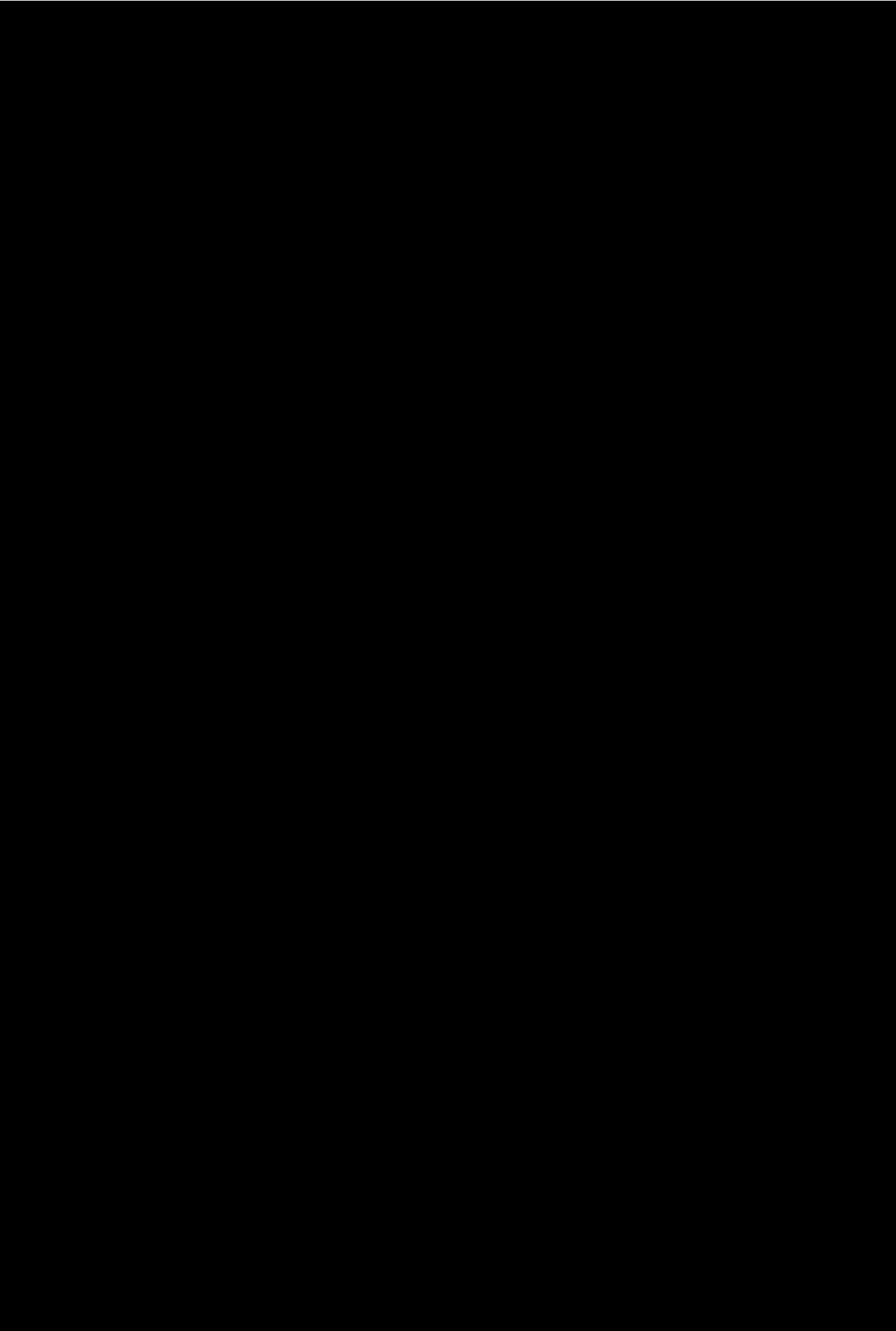
# 1 General

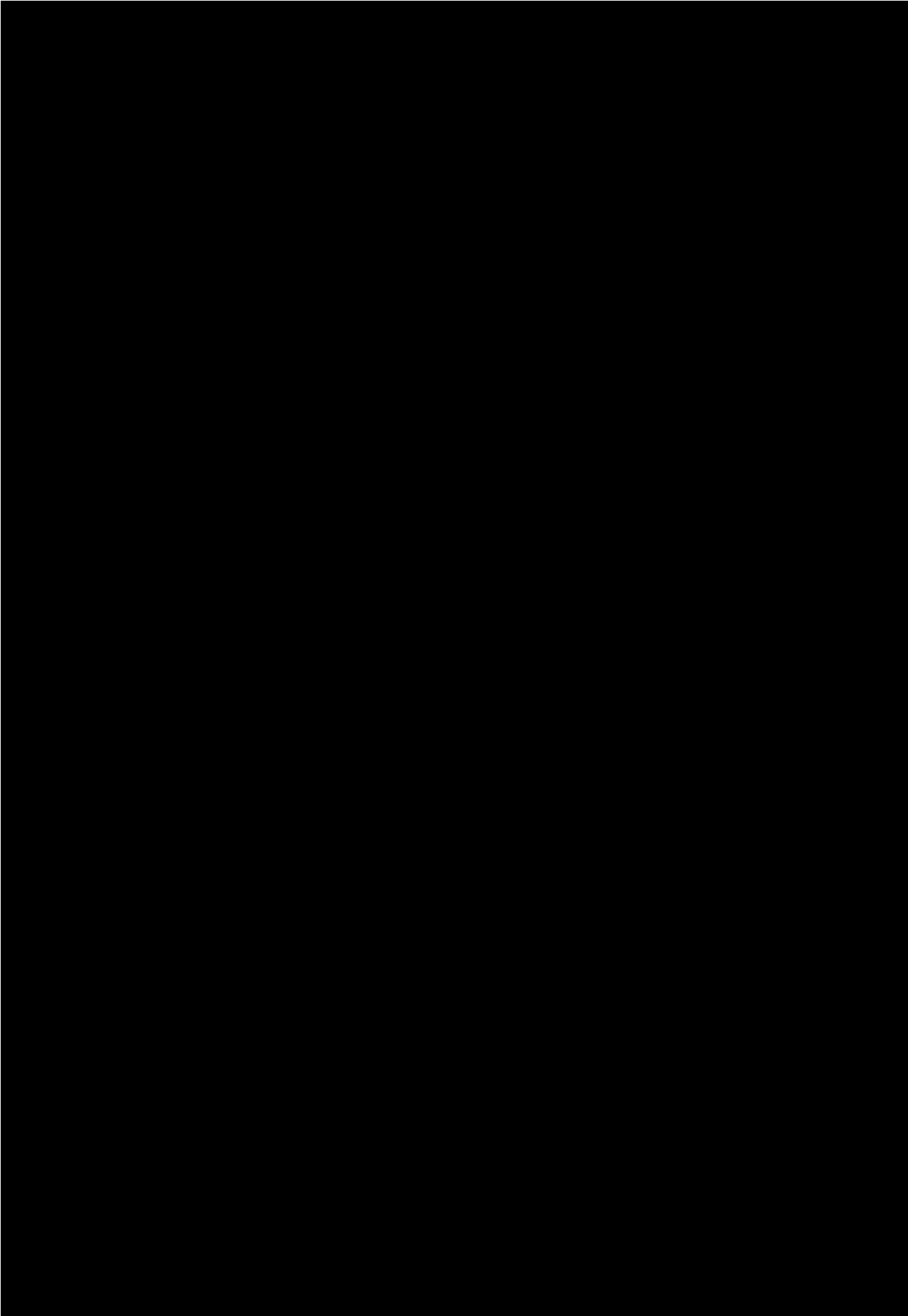
## 1.1 Introduction

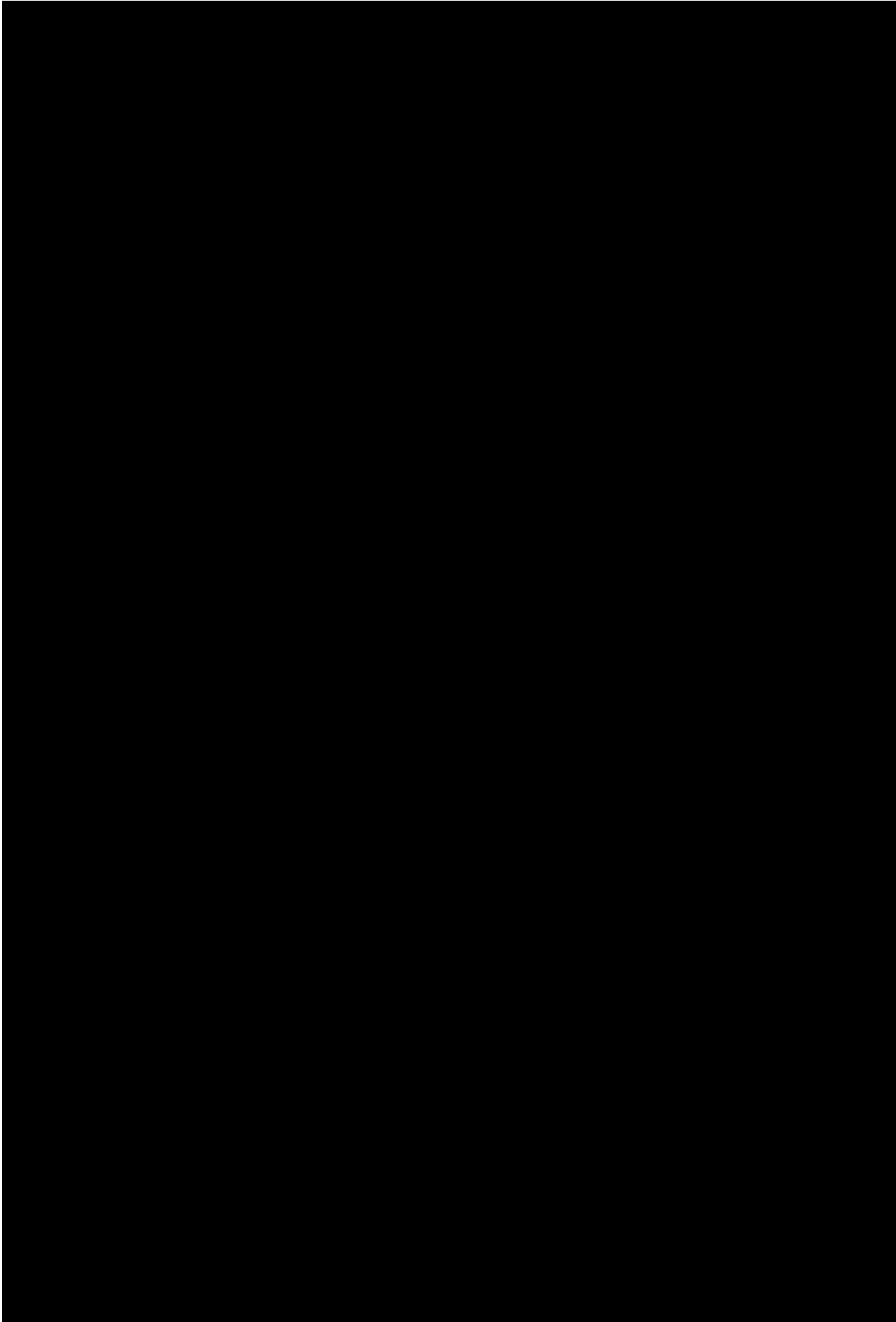
As required by clause 2(b) of Schedule A6, Macquarie must develop a Project Health Safety Management Plan based on Sydney Metro Principal Contractor Health & Safety Standard (SM PS-ST-221) and the specific requirements for the Martin Place Metro Station Over Station Development as set out in Annexure A of this Annexure H. The requirements contained in Annexure A of this Annexure H prevail over the requirements in the Sydney Metro Principal Contractor Health & Safety Standard (SM PS-ST-221).

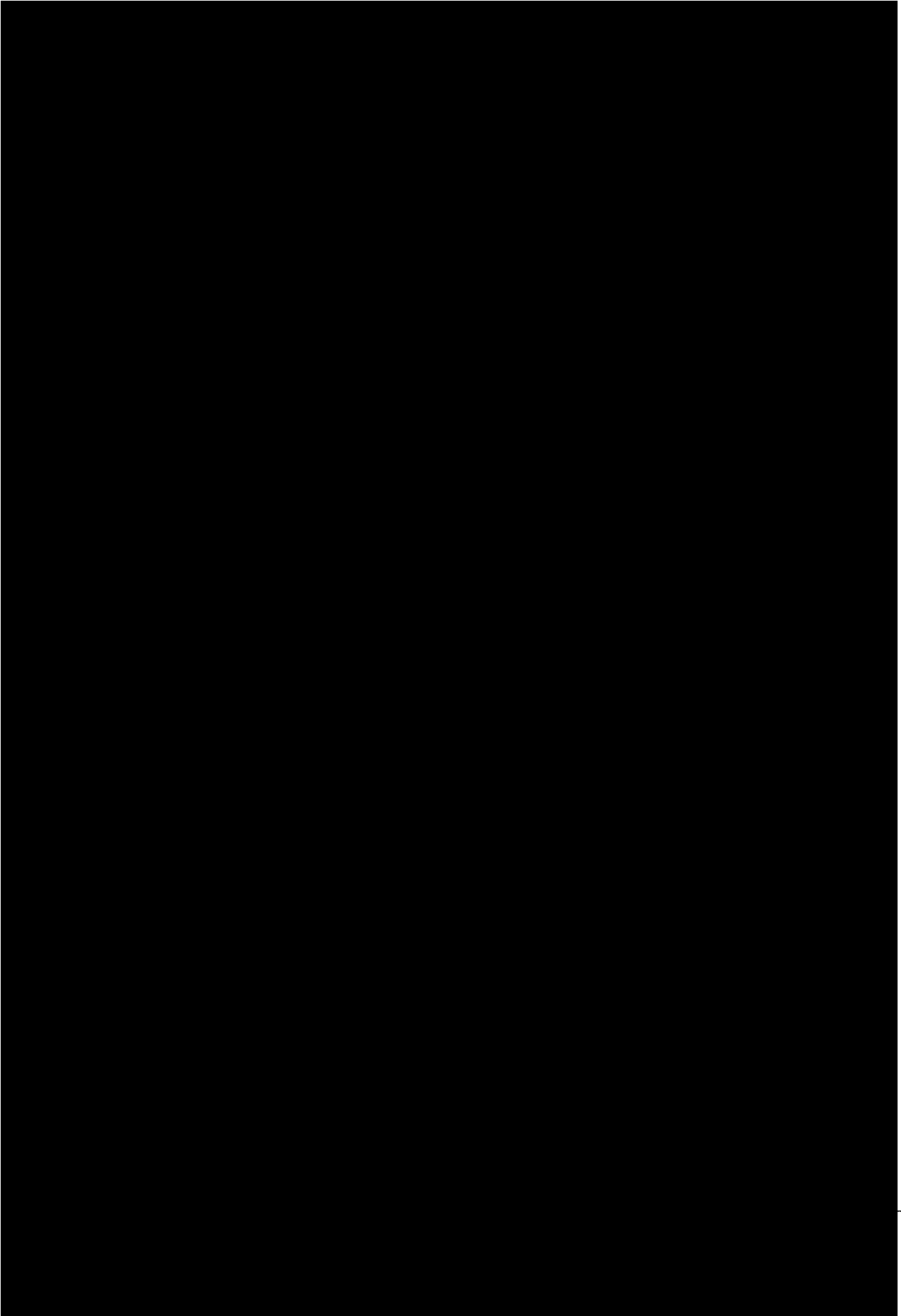


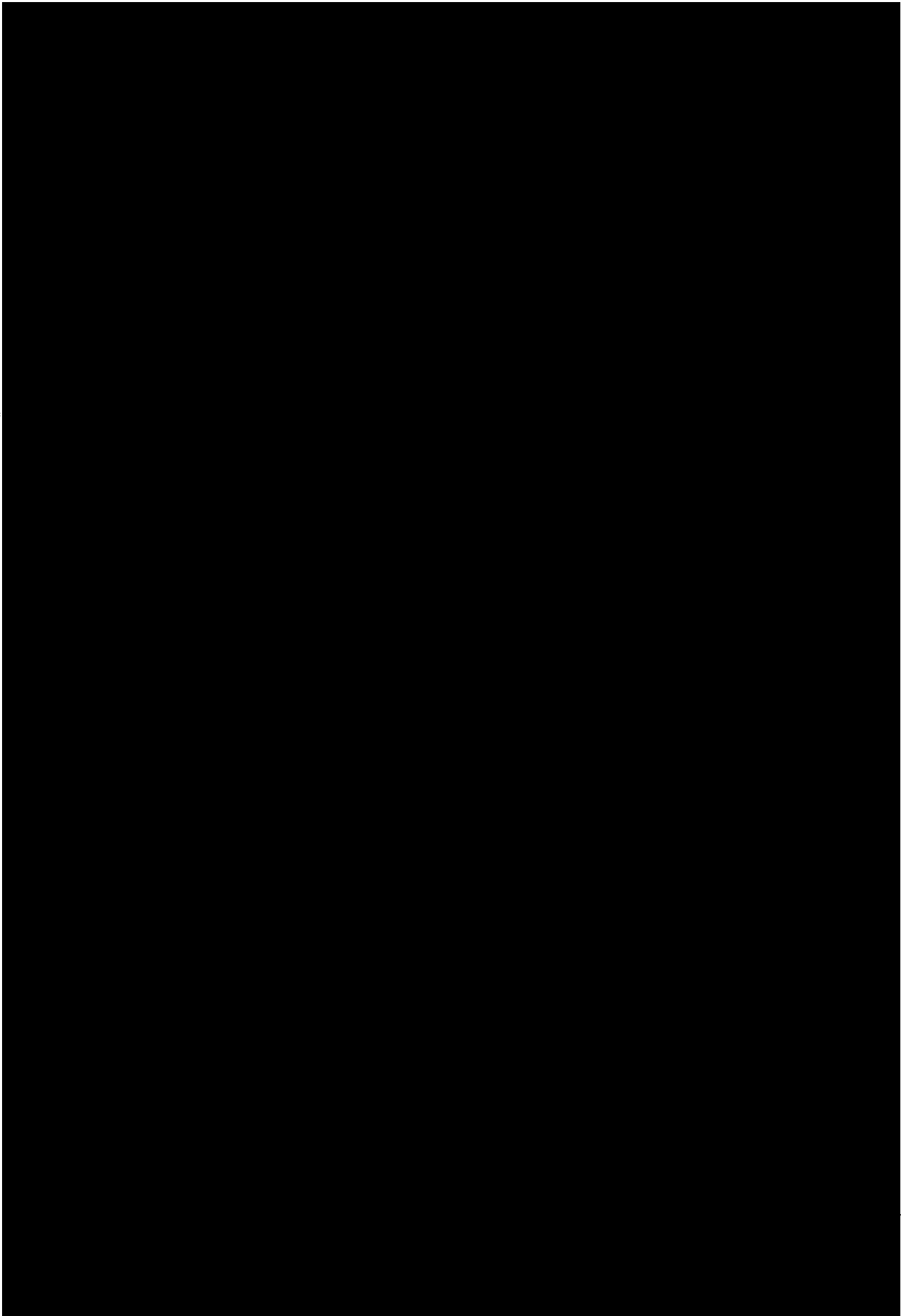


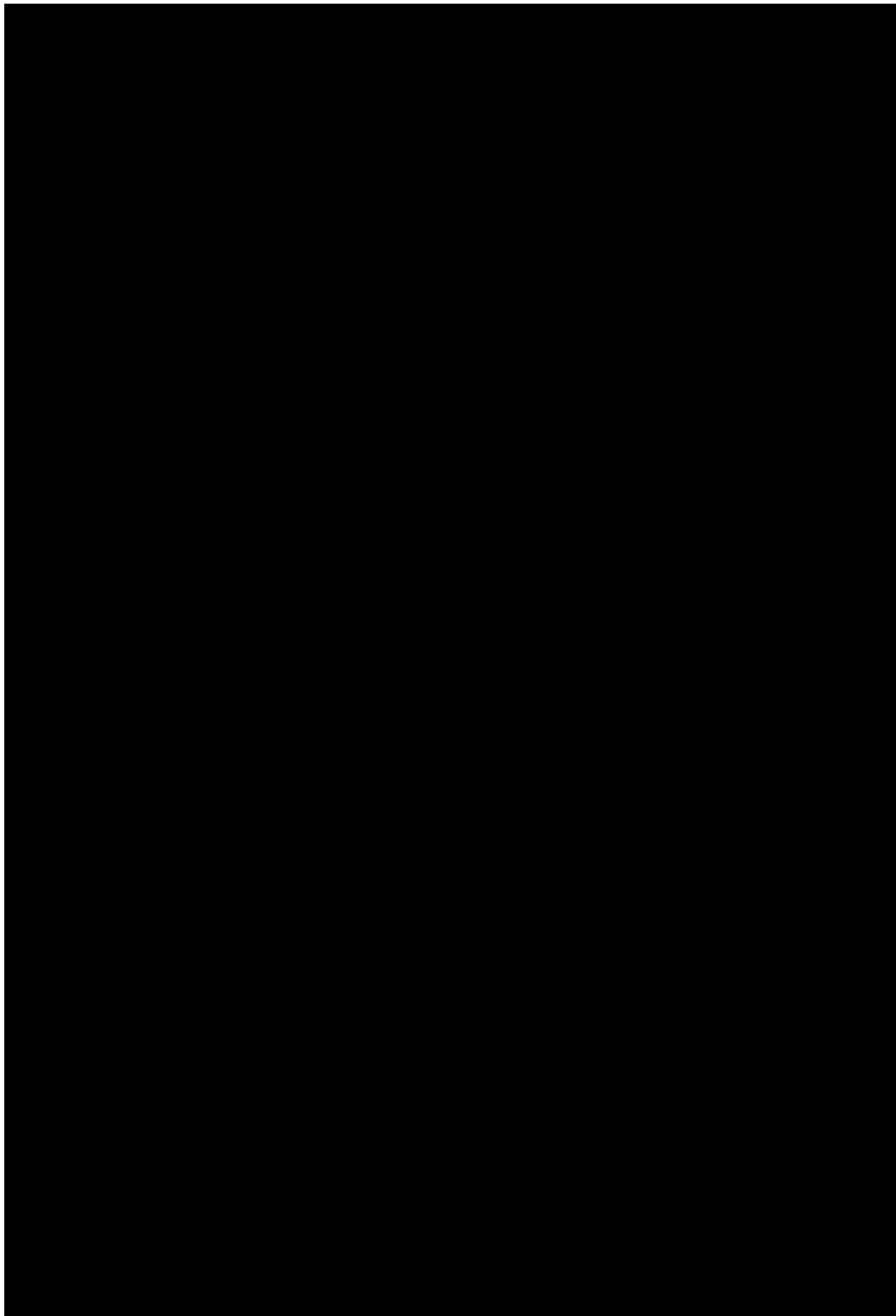


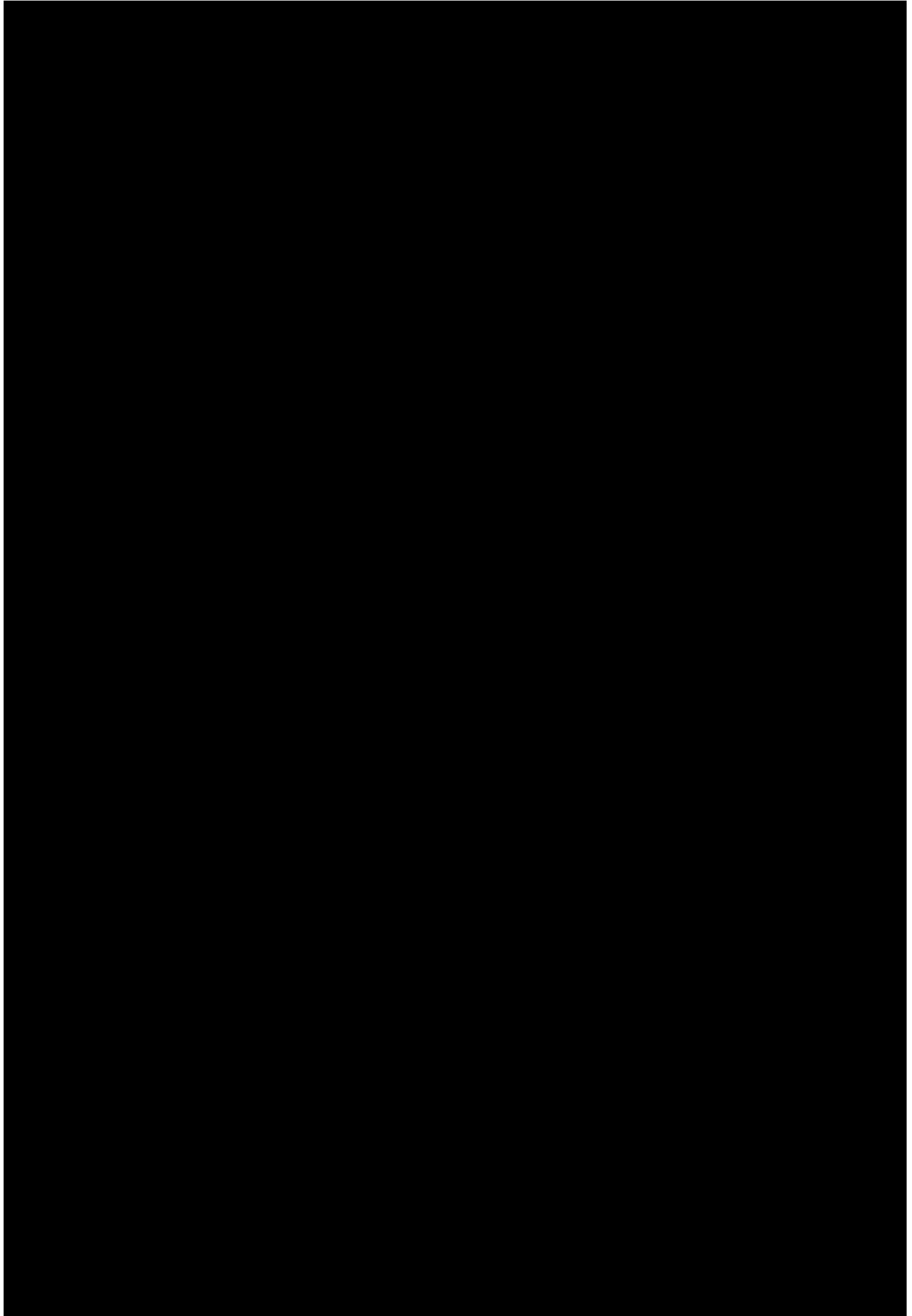




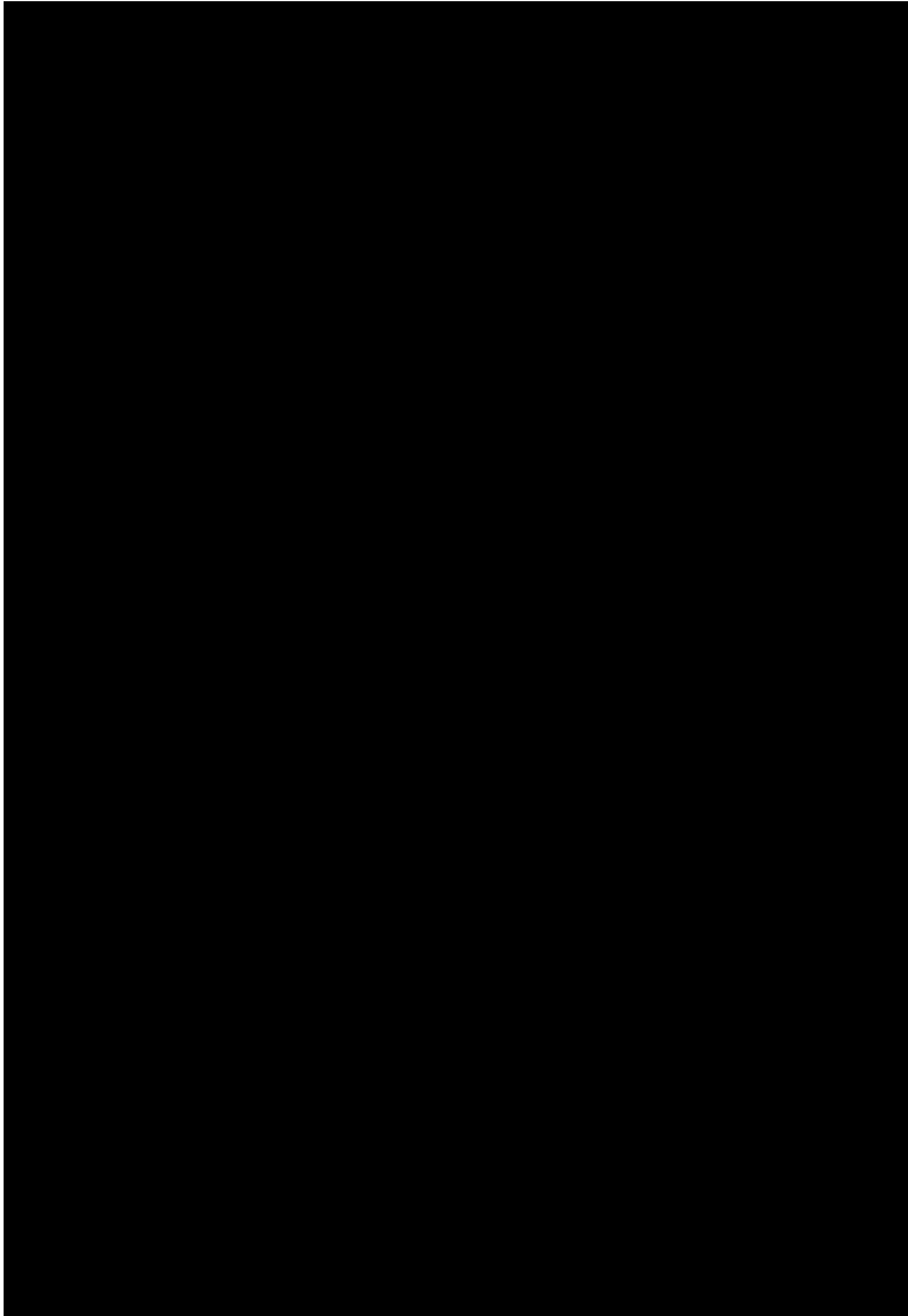


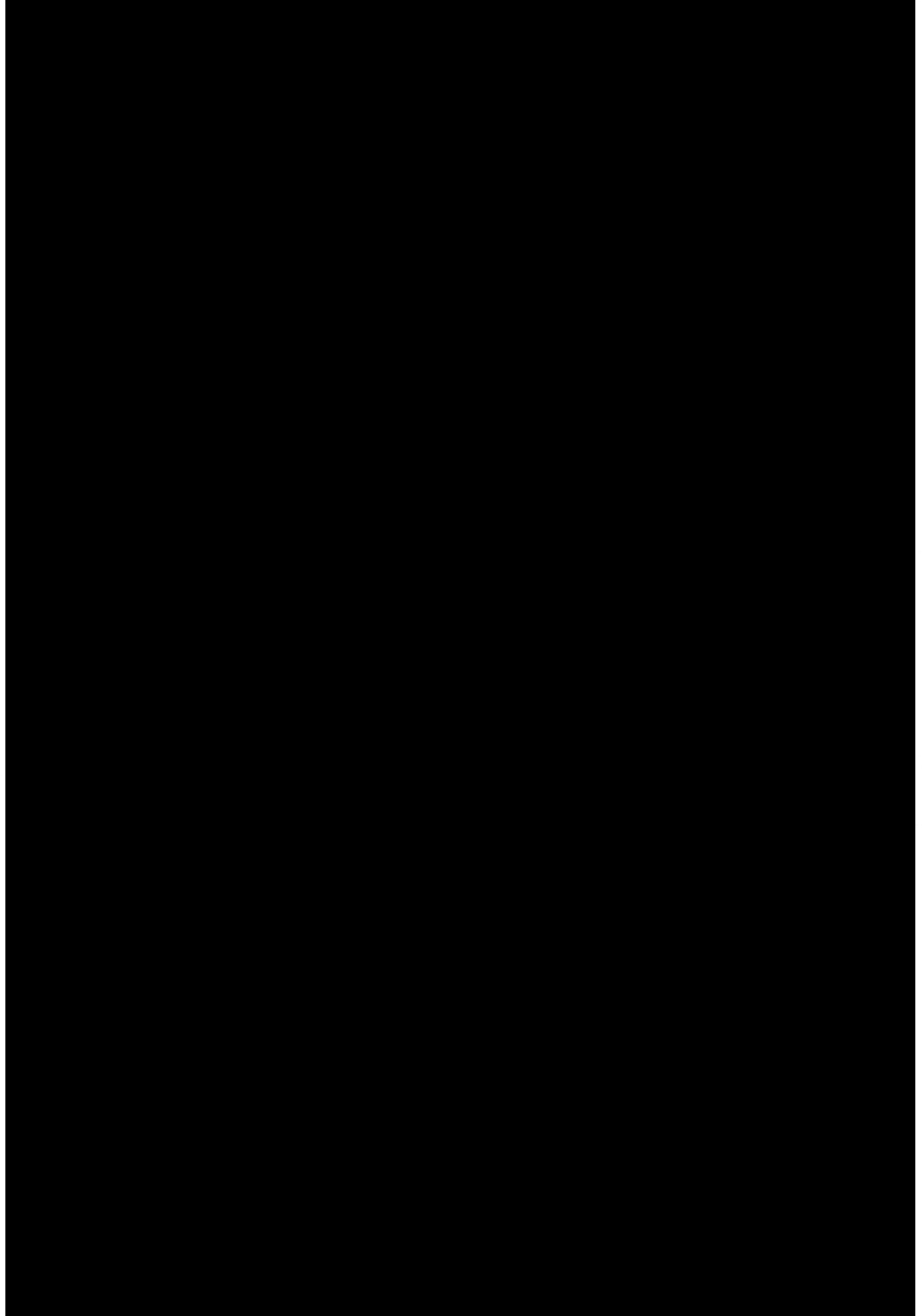


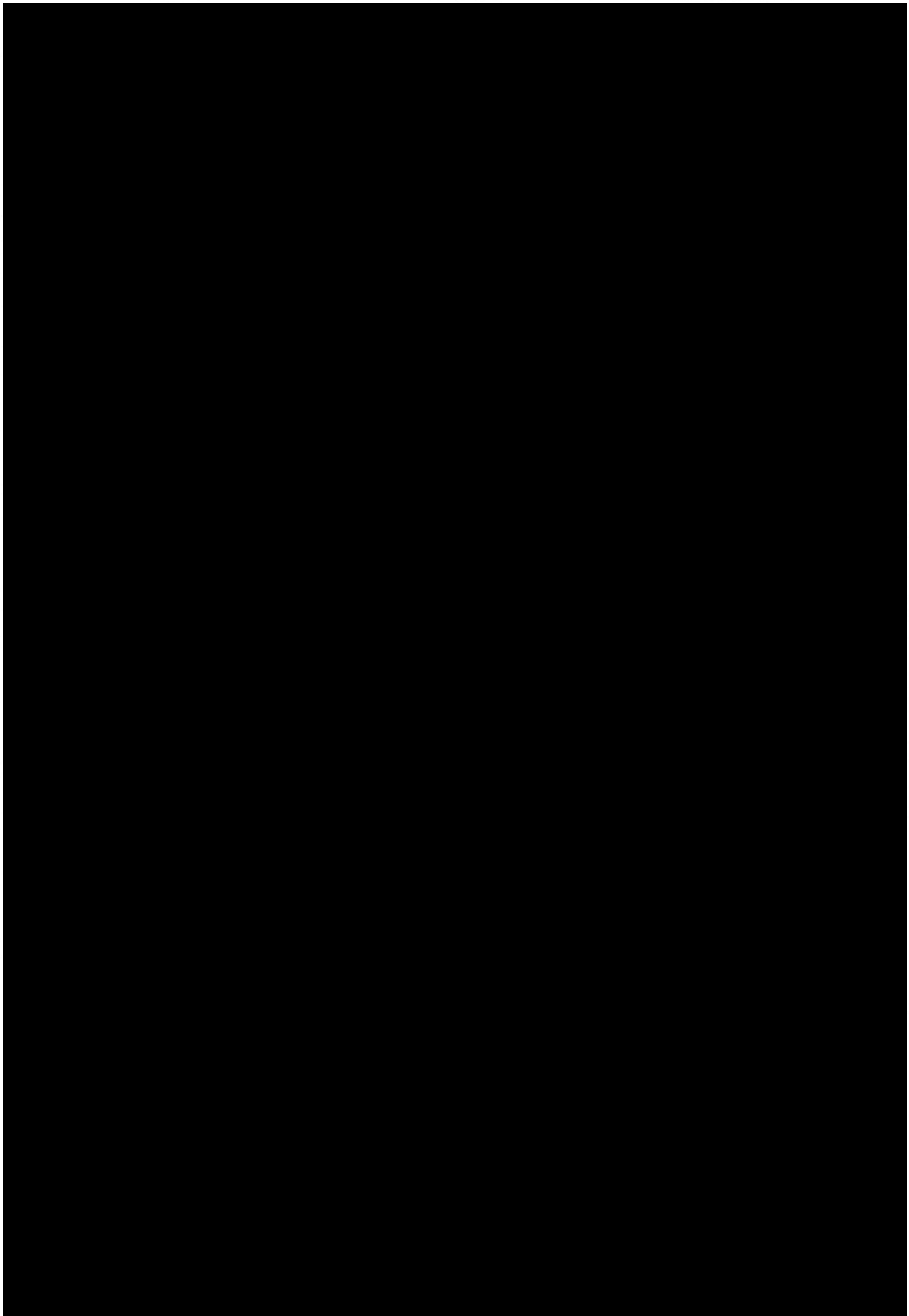


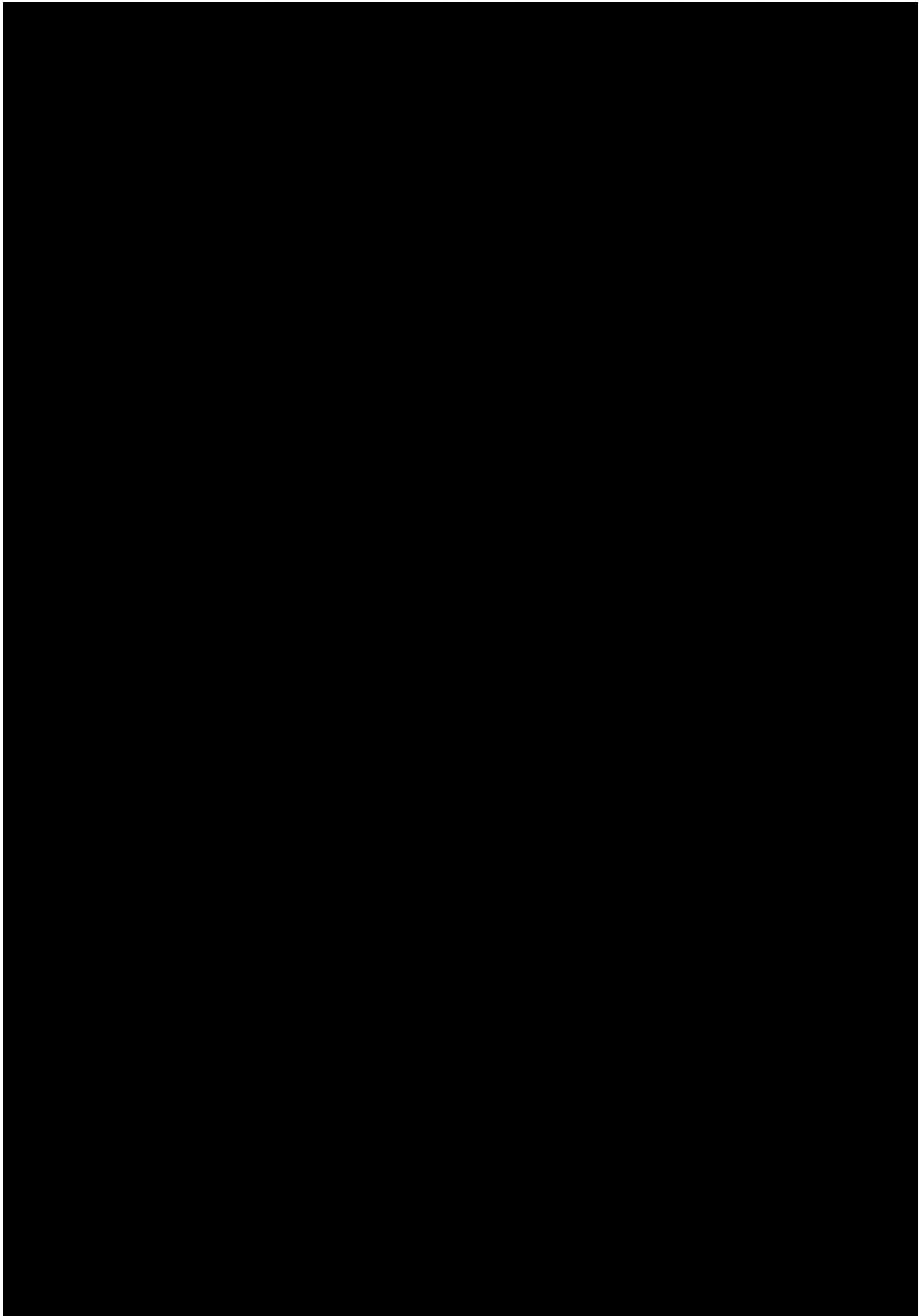


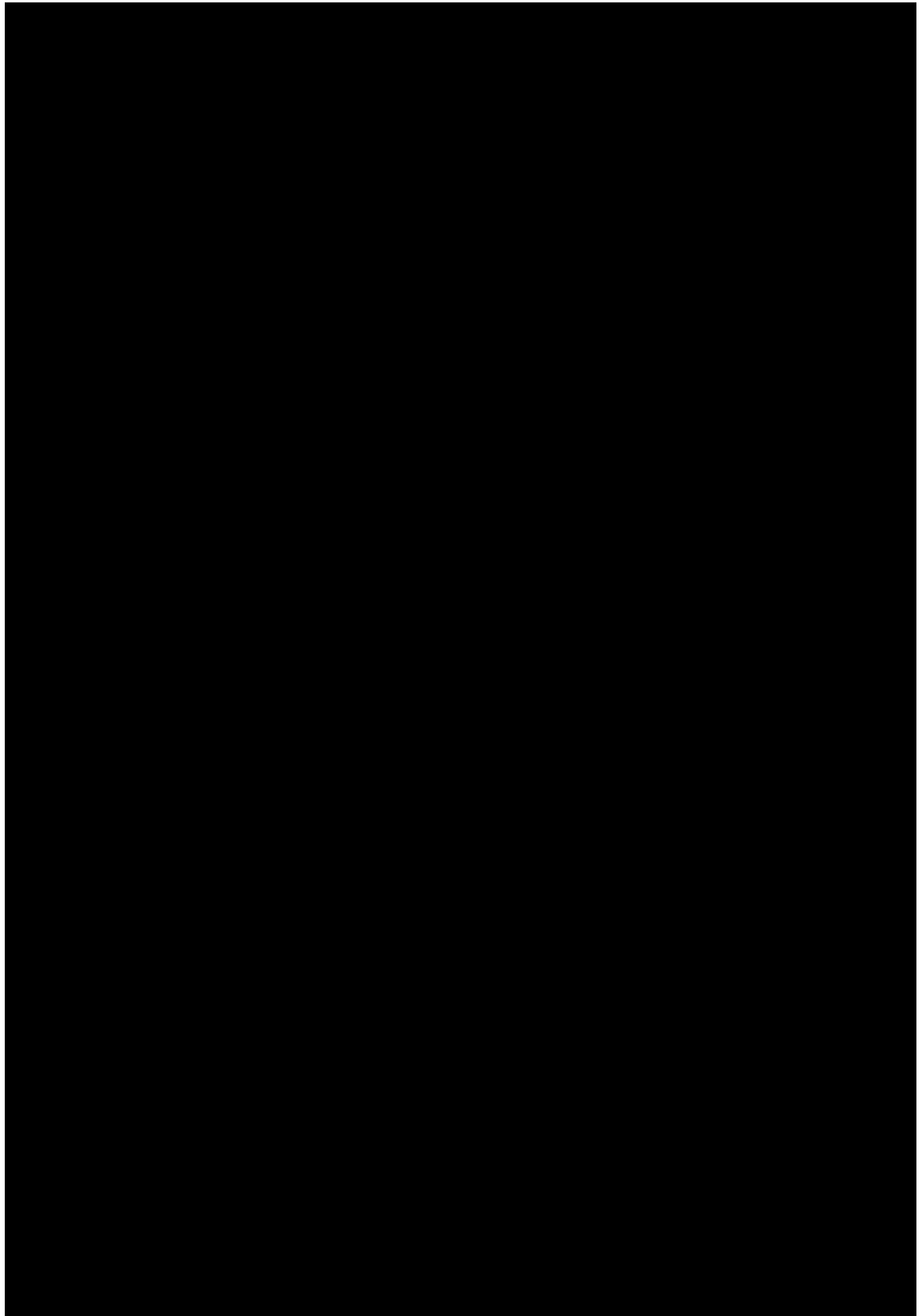


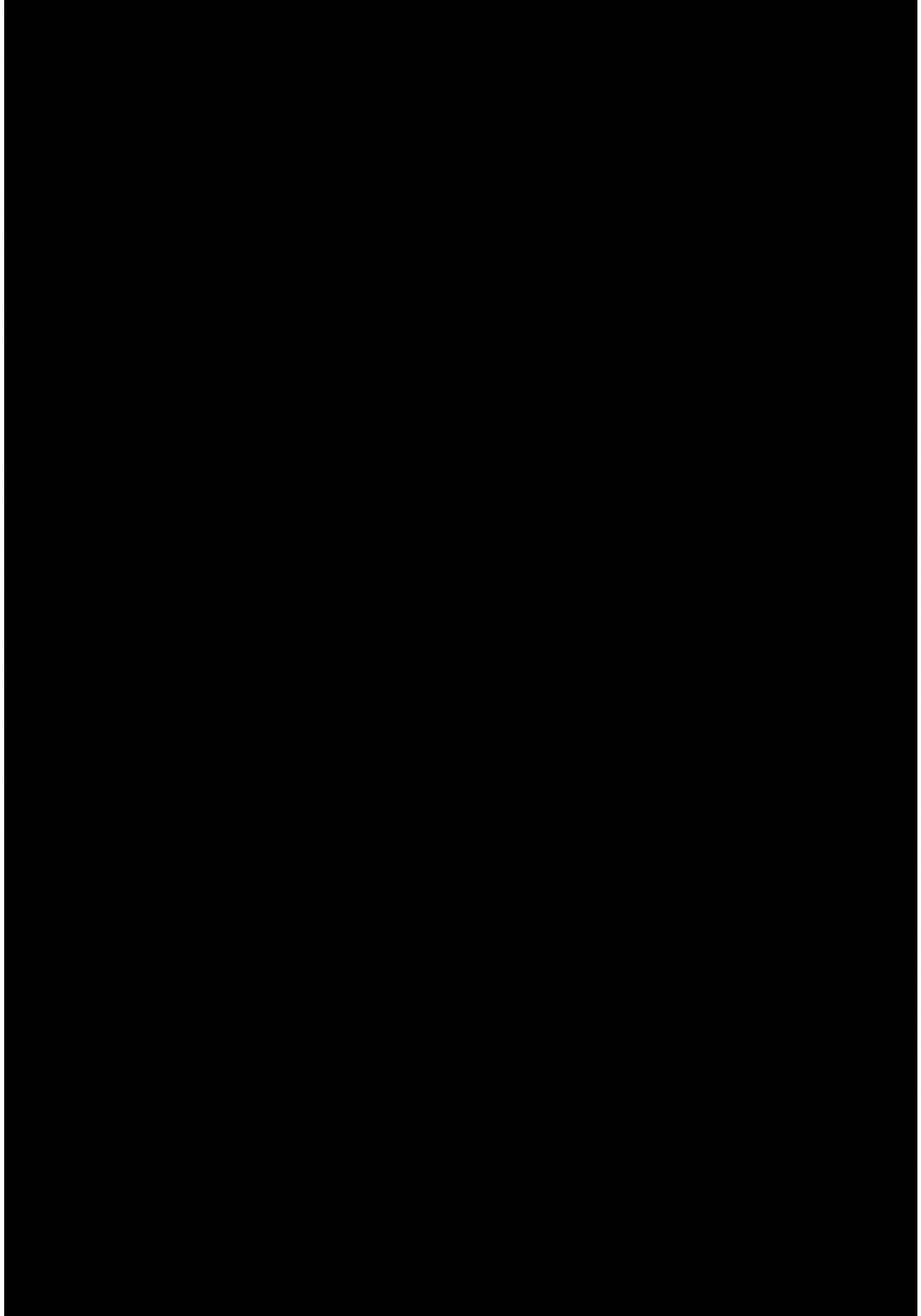


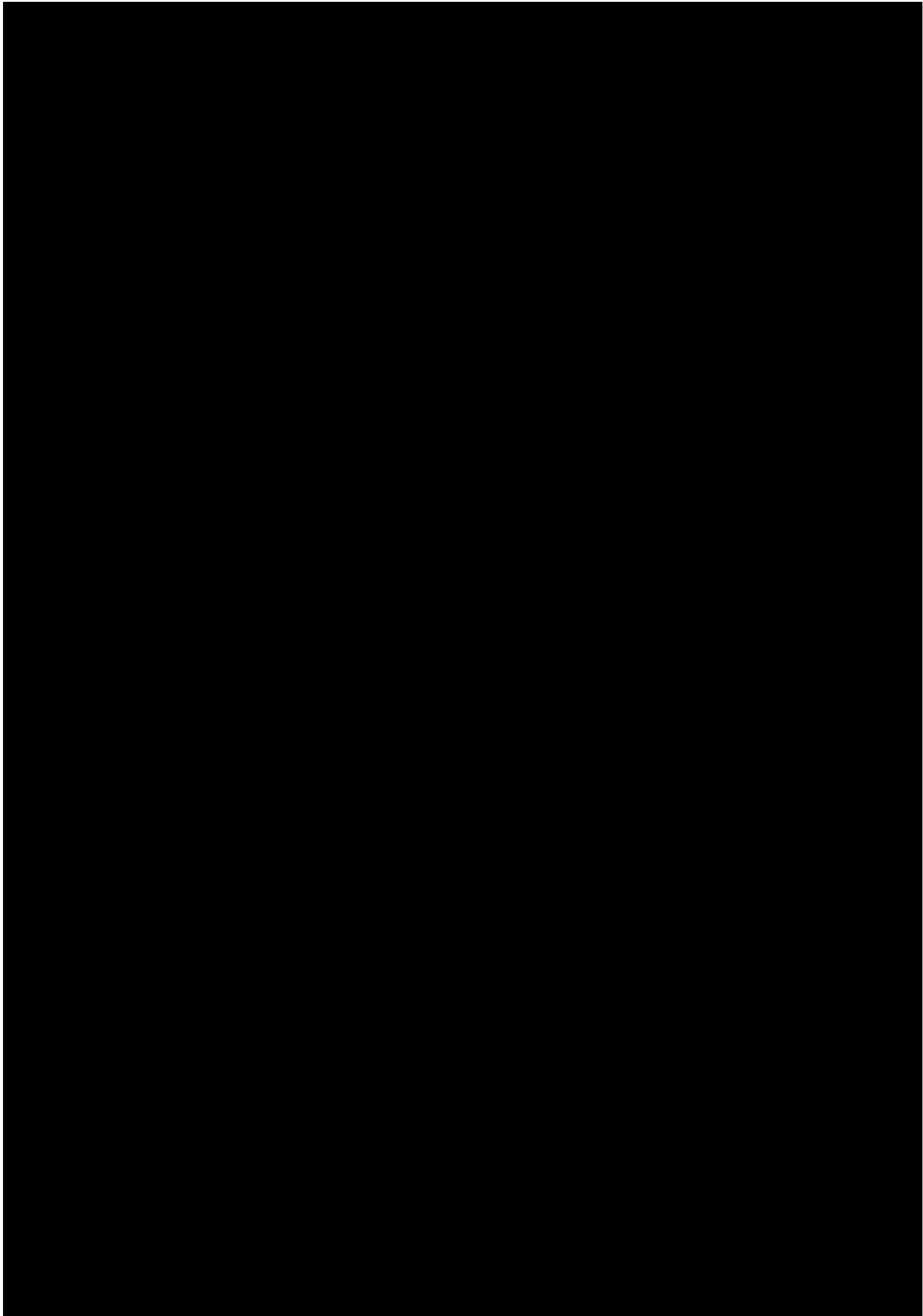


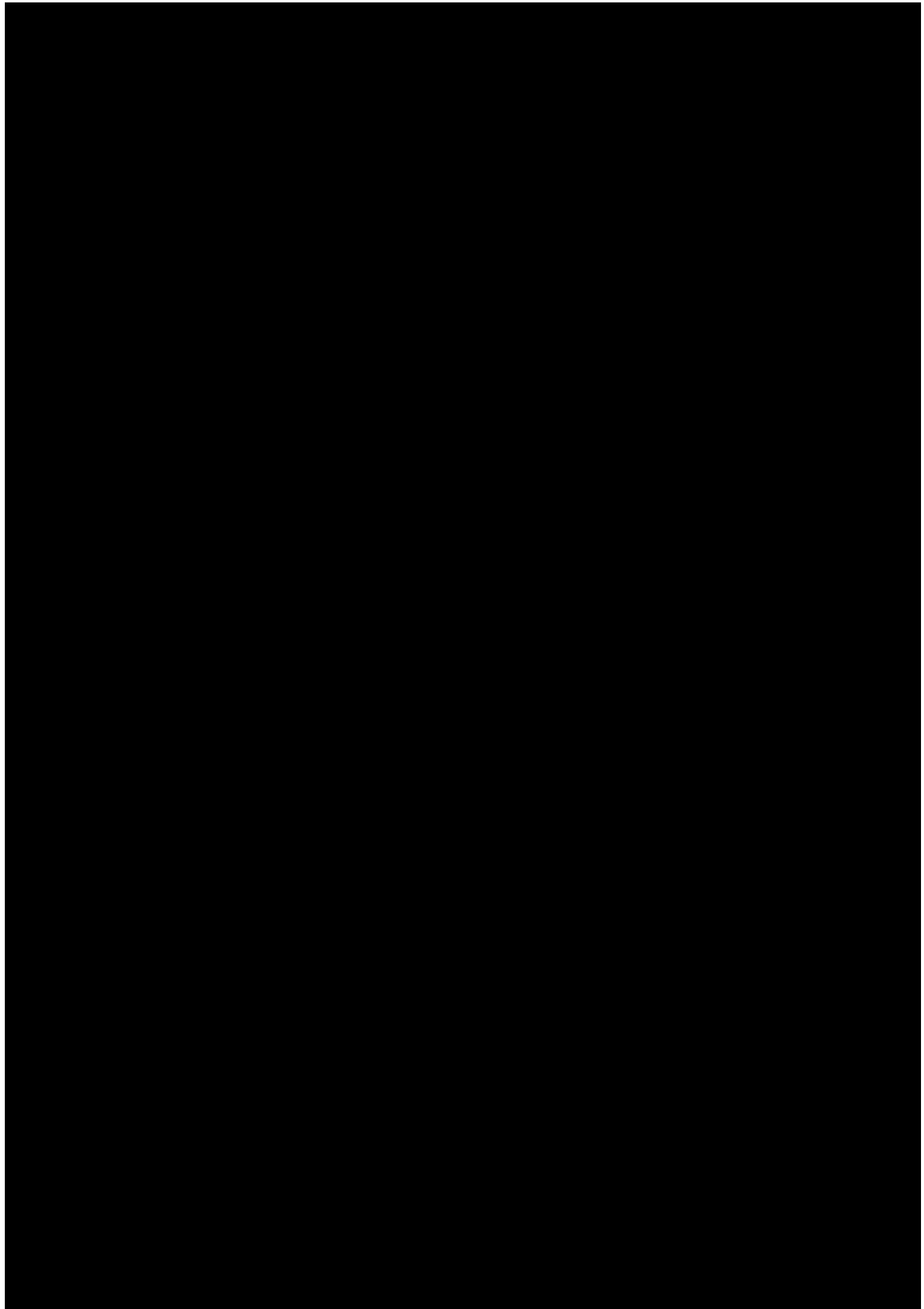












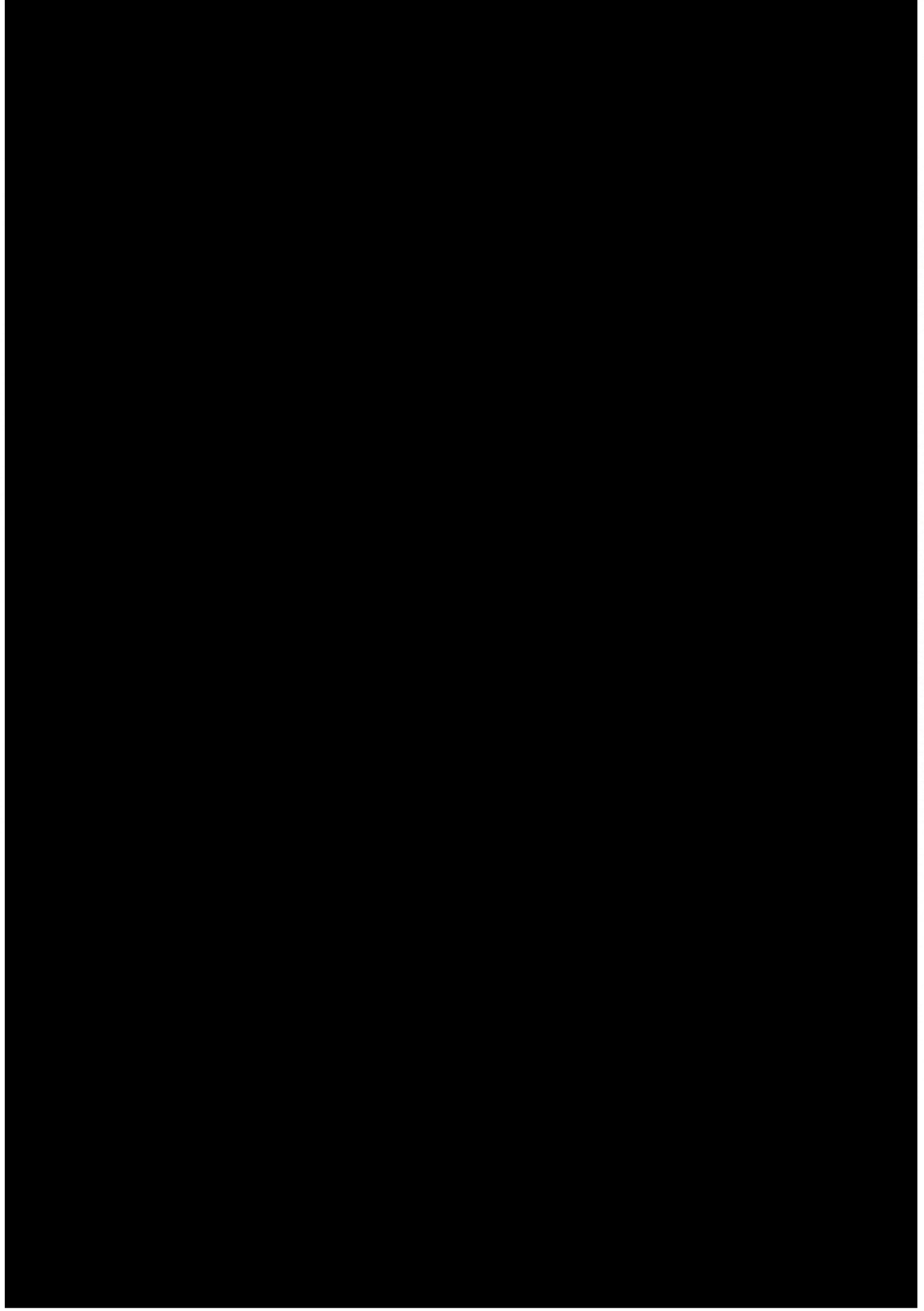


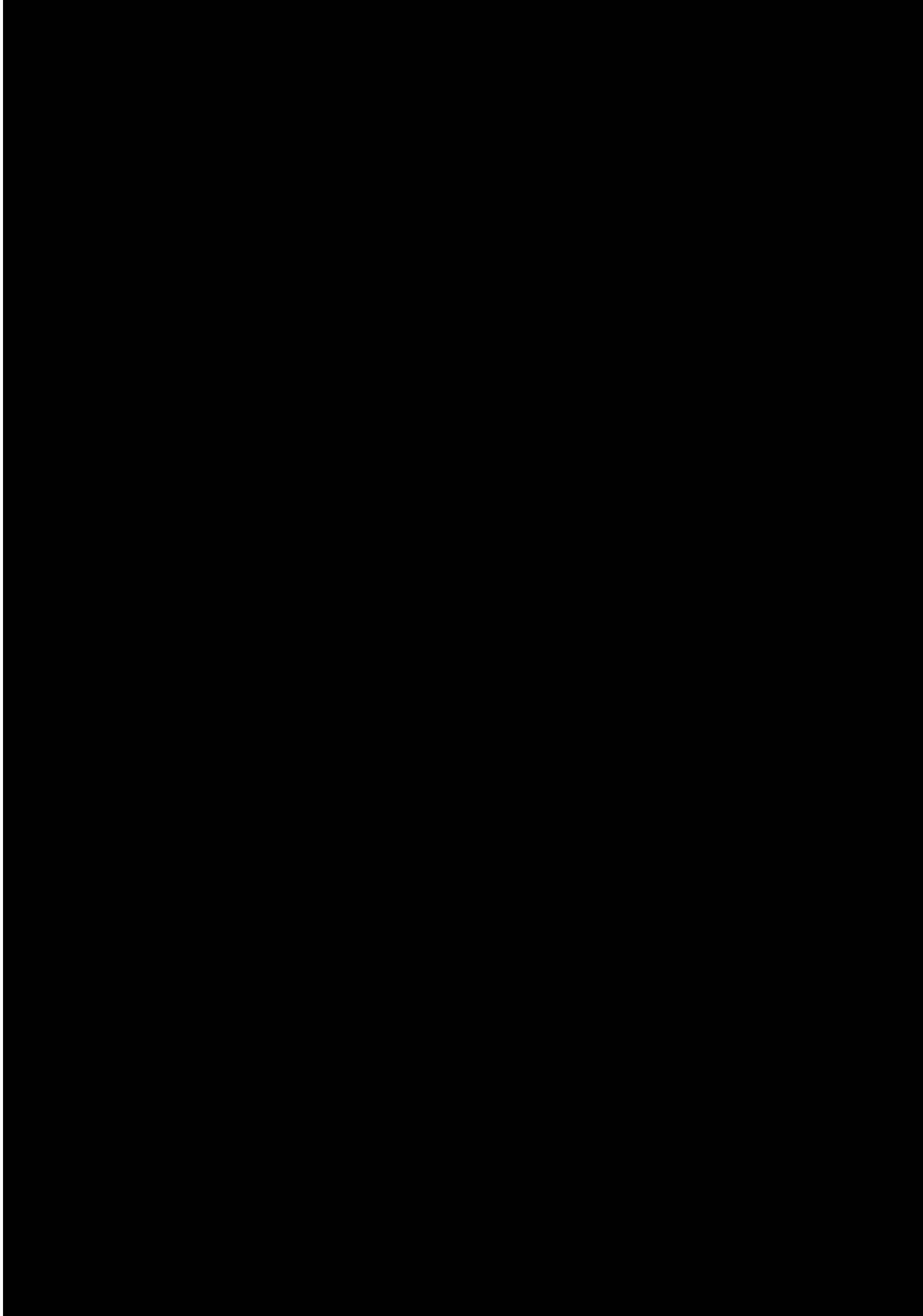
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses, income, and transfers between accounts.

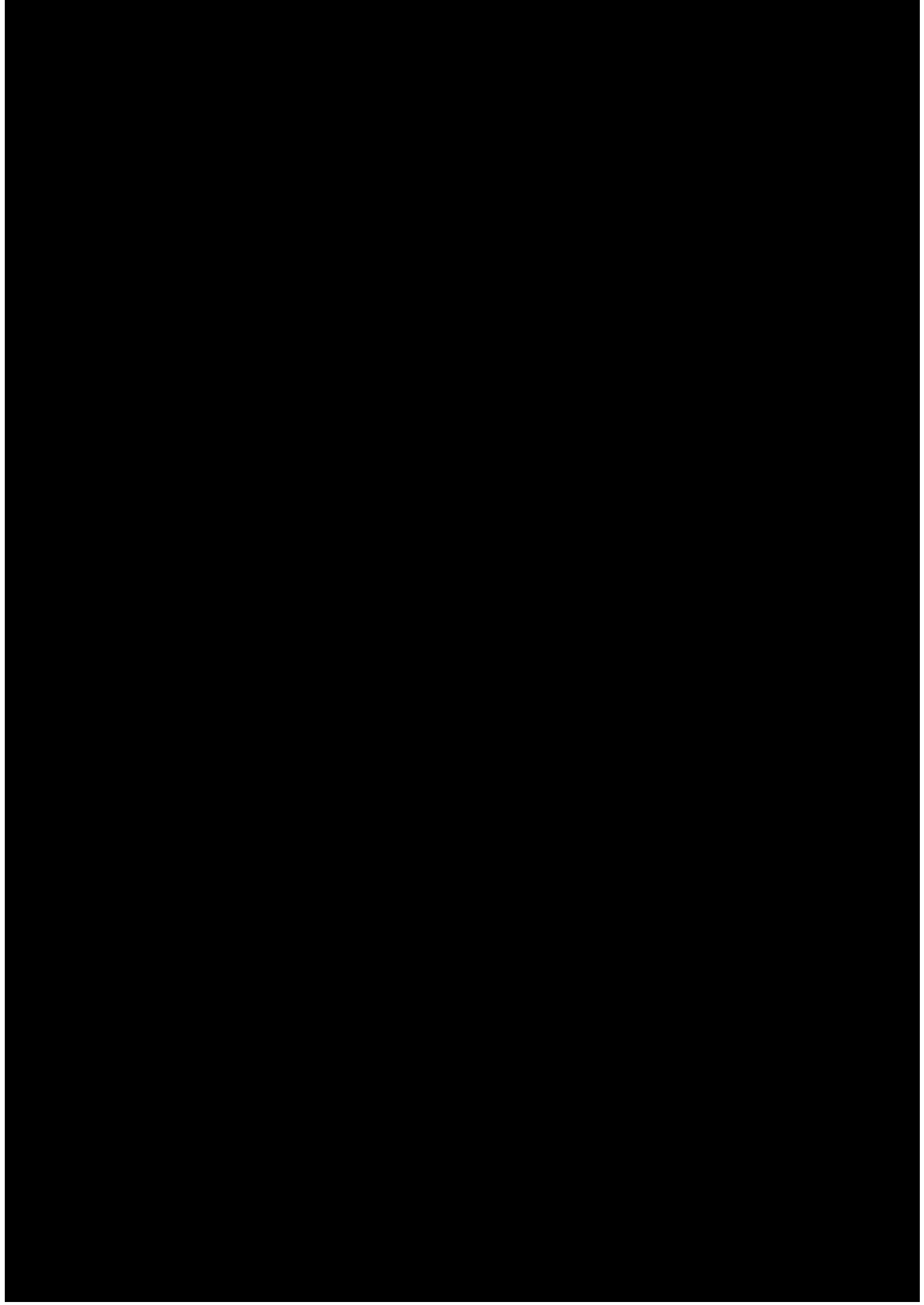
Secondly, the document highlights the need for regular reconciliation. By comparing the company's internal records with bank statements and other external sources, discrepancies can be identified and corrected promptly. This process helps in detecting errors, fraud, and unauthorized transactions, thereby safeguarding the organization's assets.

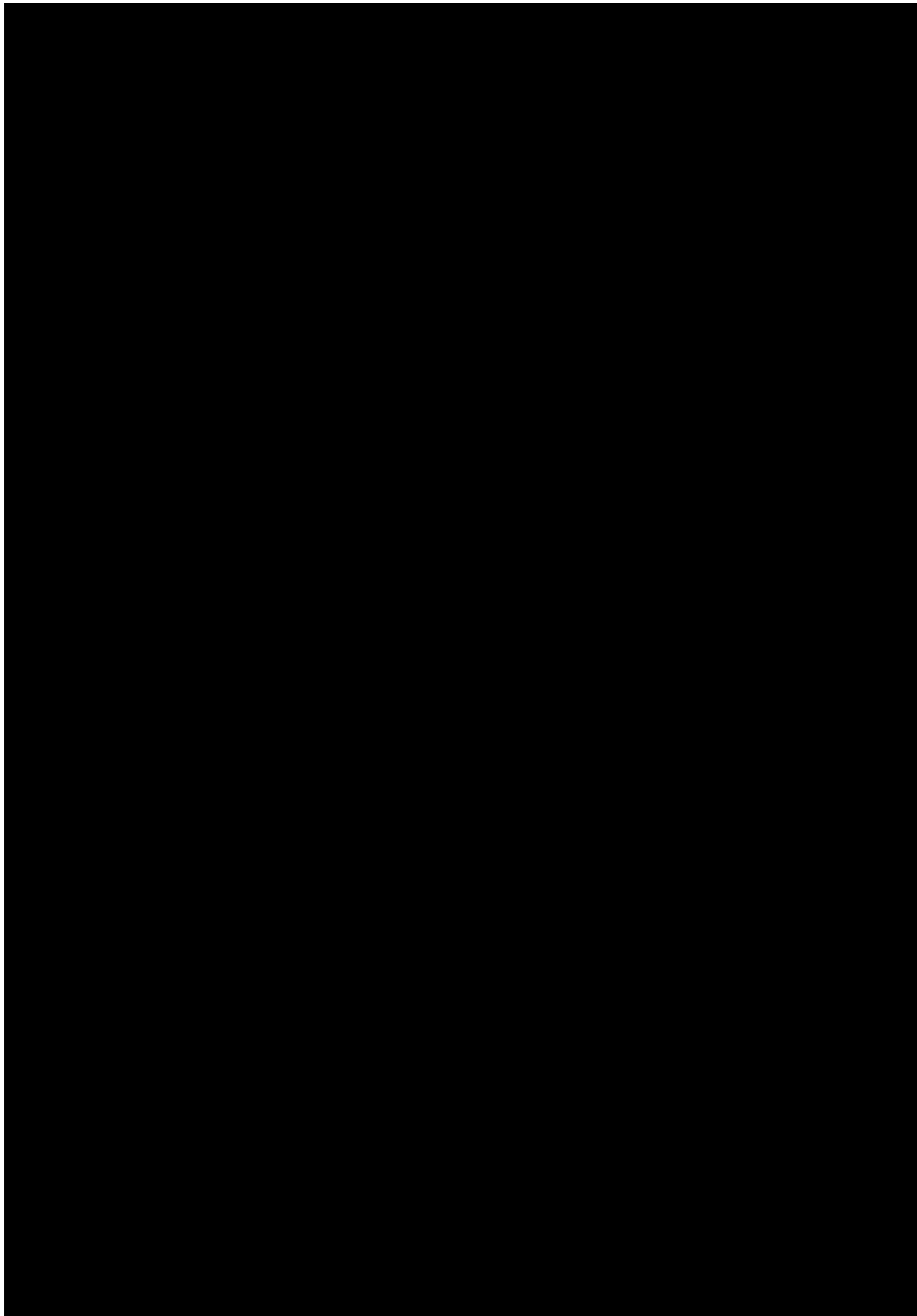
Thirdly, the document stresses the importance of maintaining proper documentation. All receipts, invoices, and contracts should be kept in a secure and organized manner. This documentation is crucial for tax purposes, audits, and resolving any disputes that may arise. It also provides a clear audit trail for all financial activities.

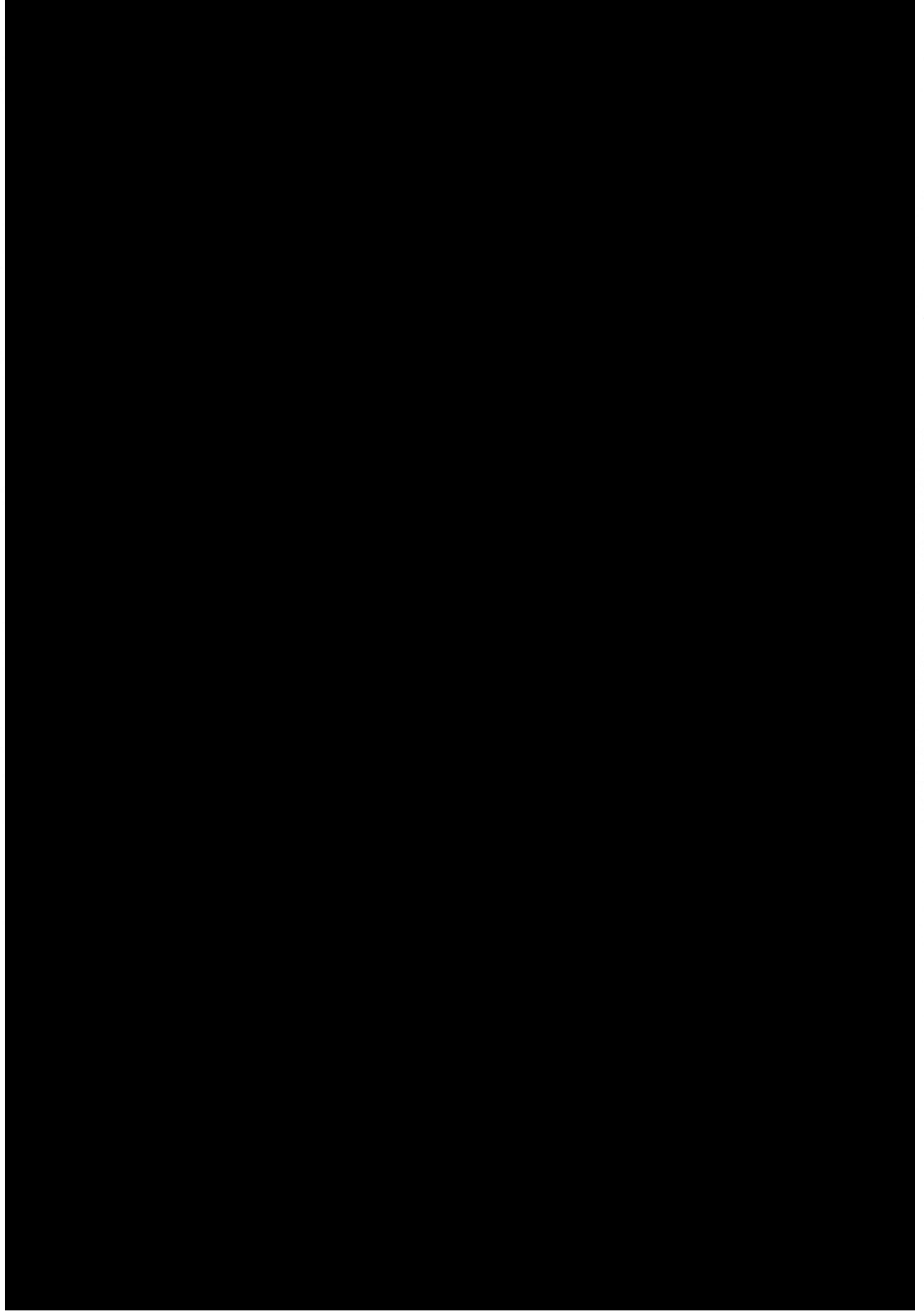
Finally, the document concludes by stating that consistent and accurate record-keeping is essential for the long-term success and stability of any business. It provides a solid foundation for financial analysis, budgeting, and strategic decision-making. By adhering to these principles, organizations can ensure the reliability and transparency of their financial information.

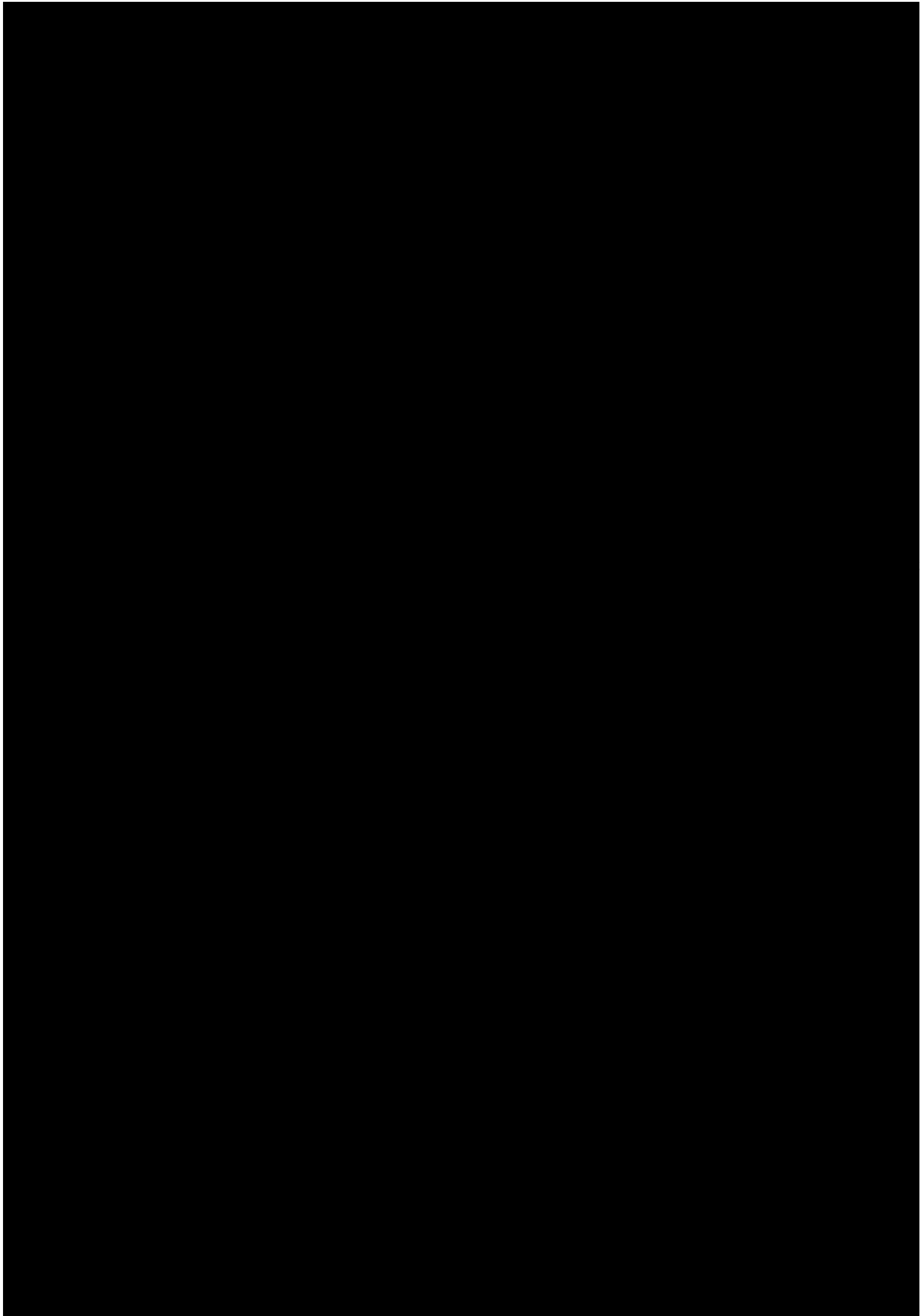


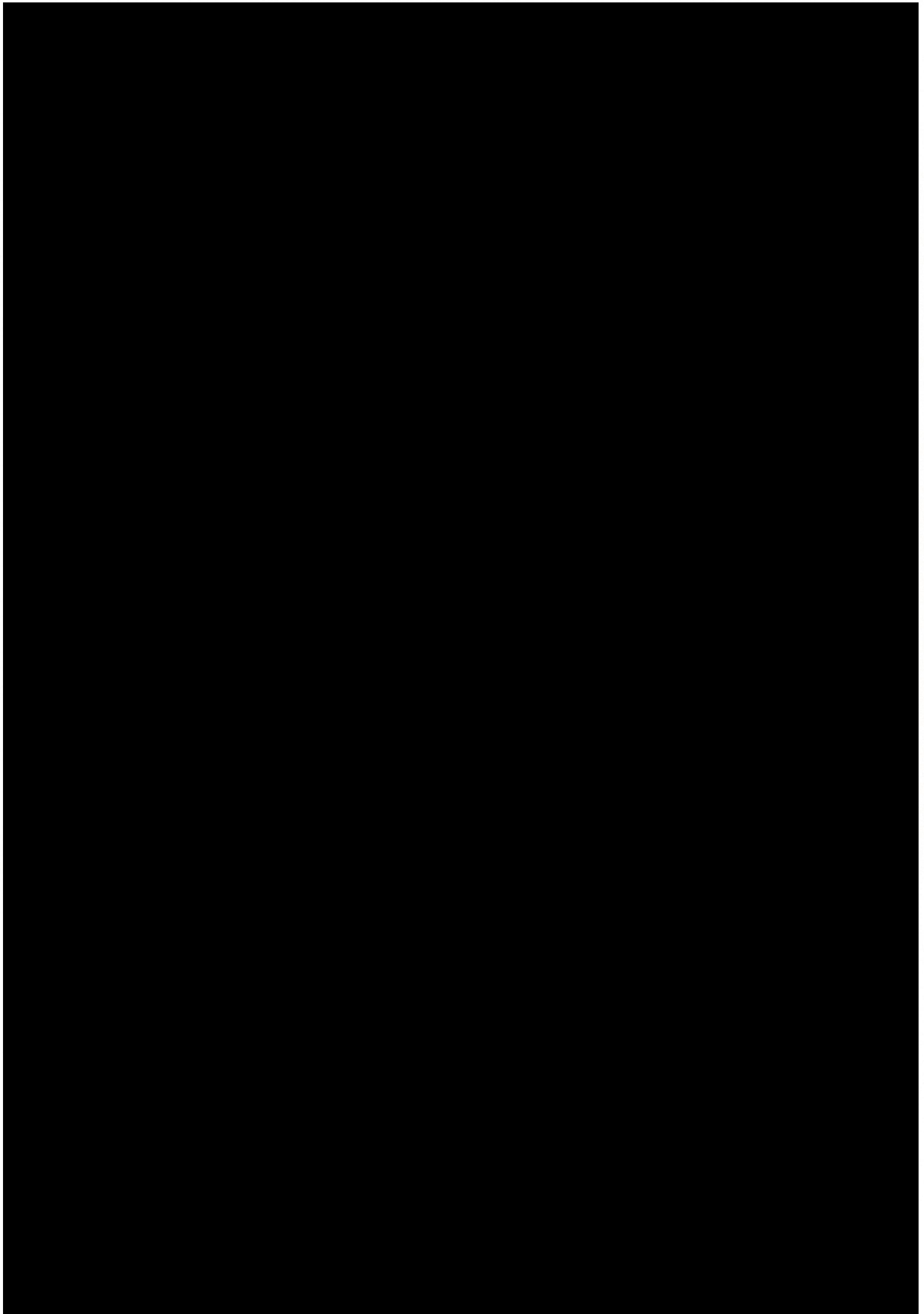




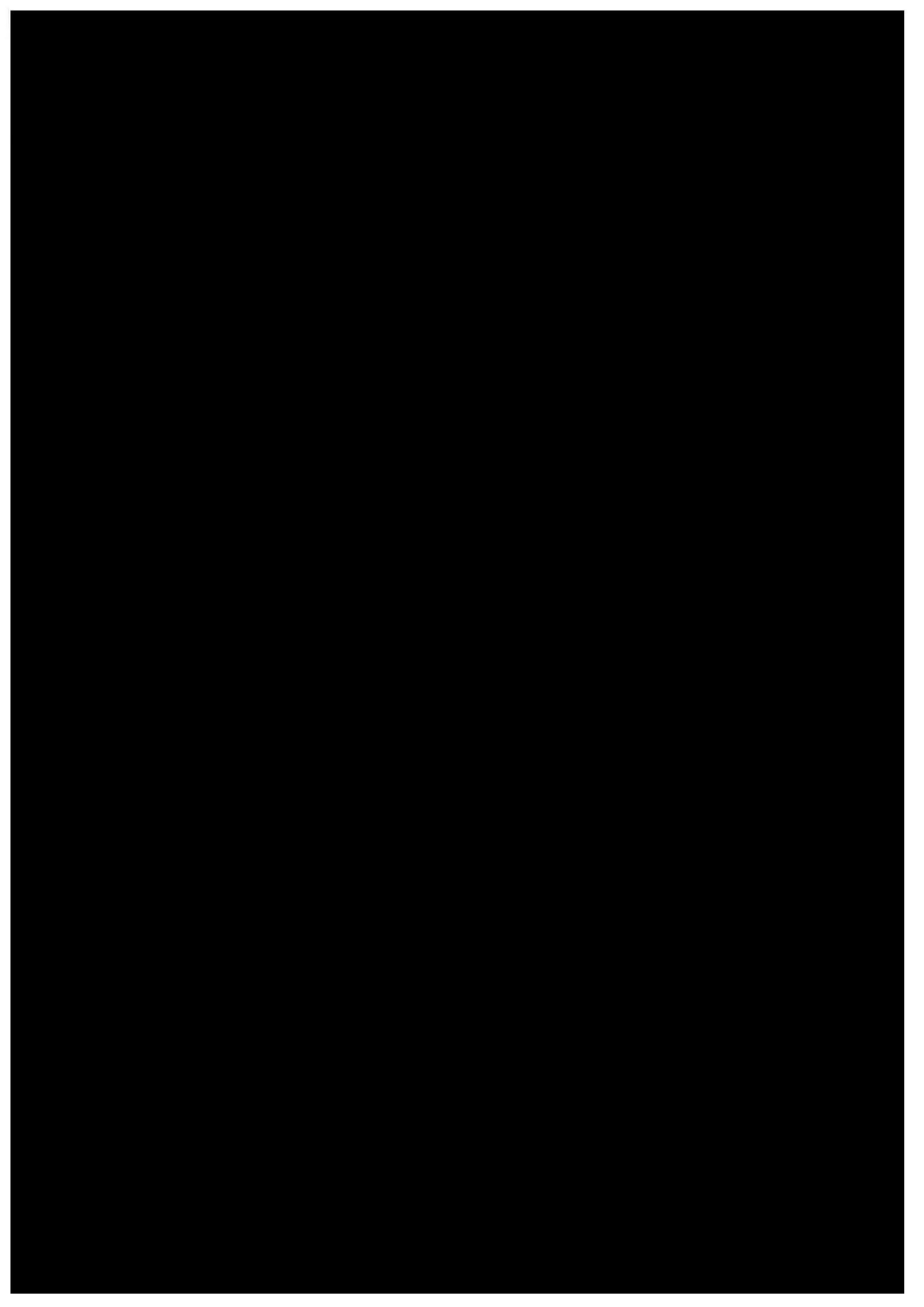


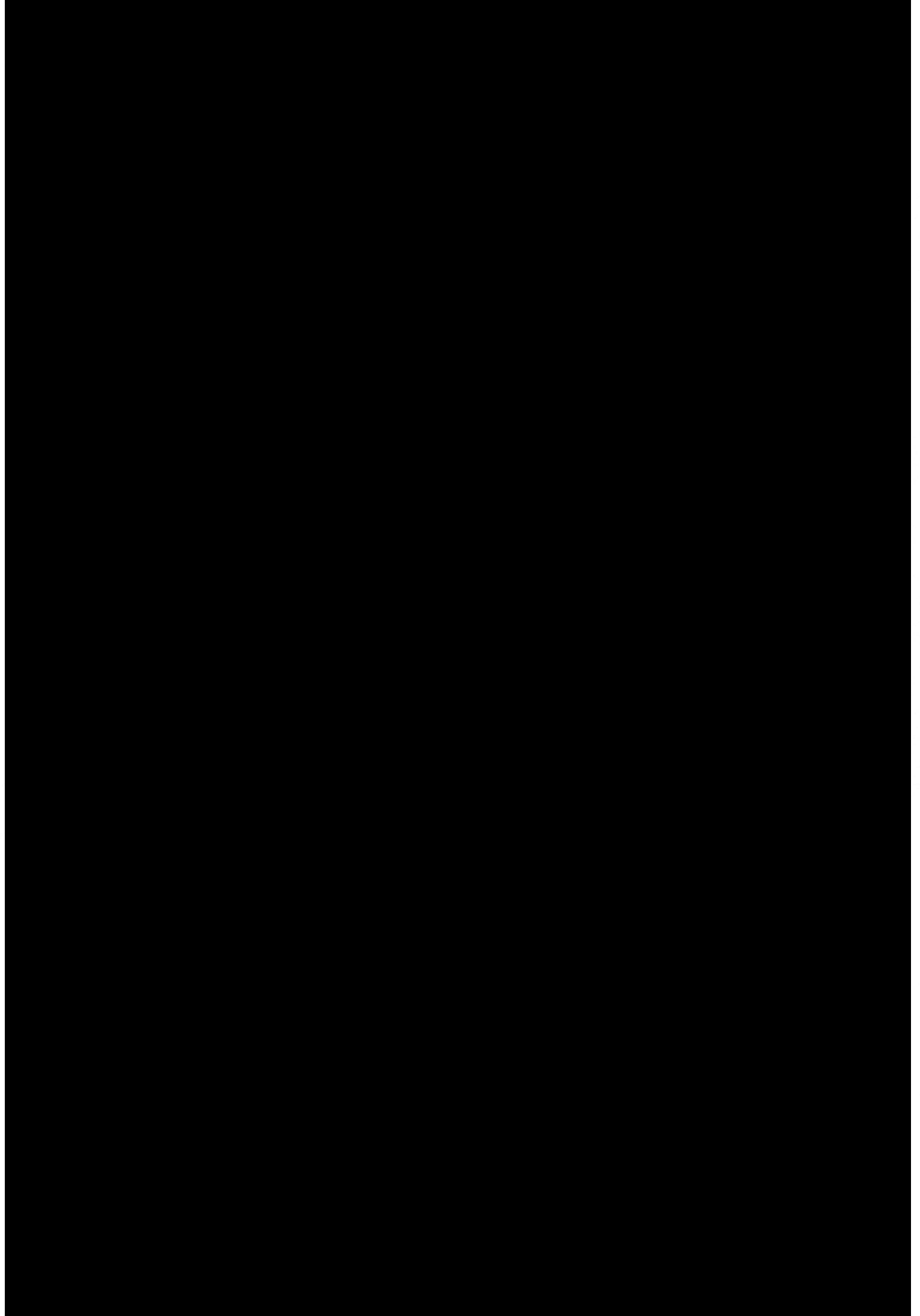


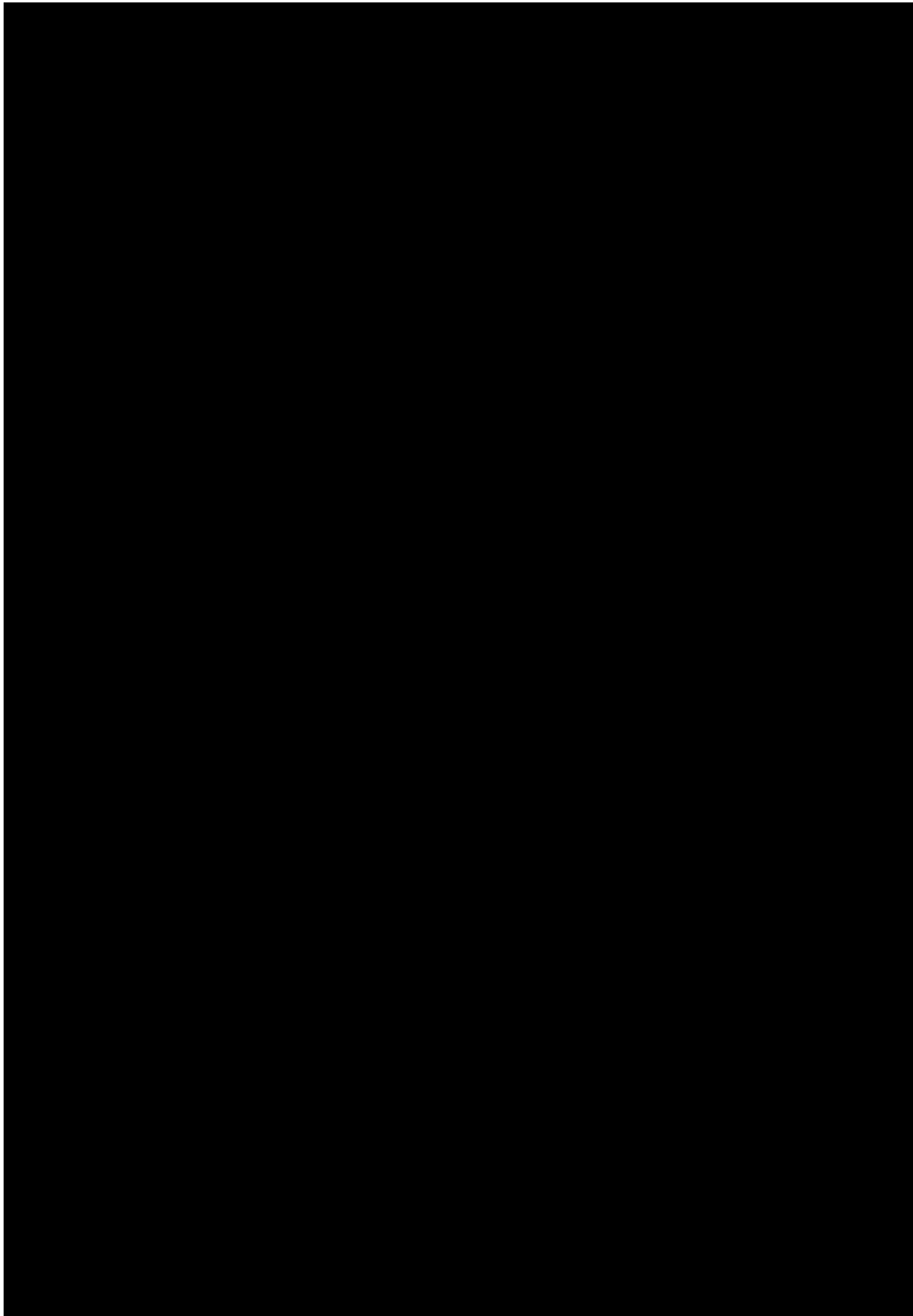


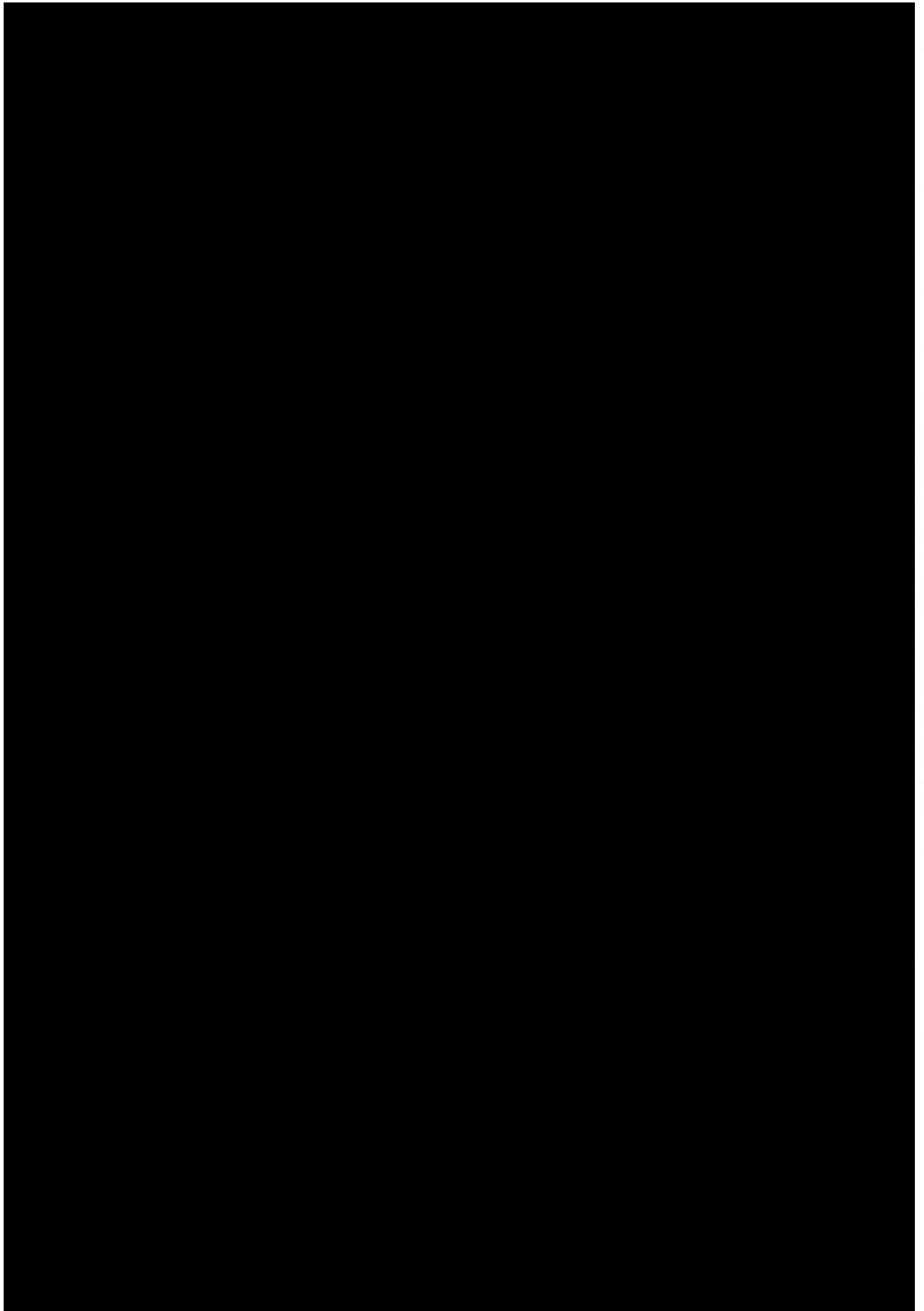


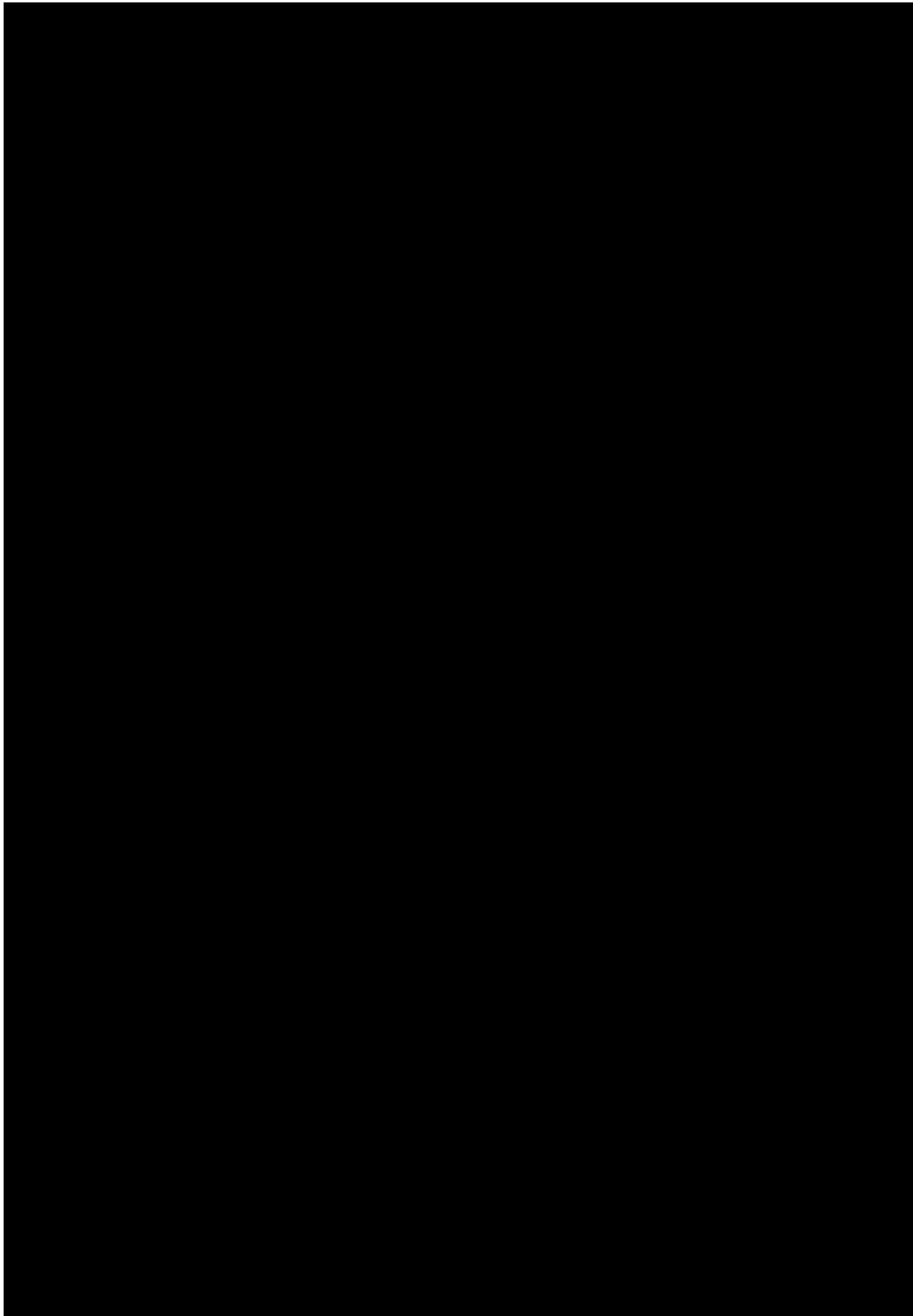


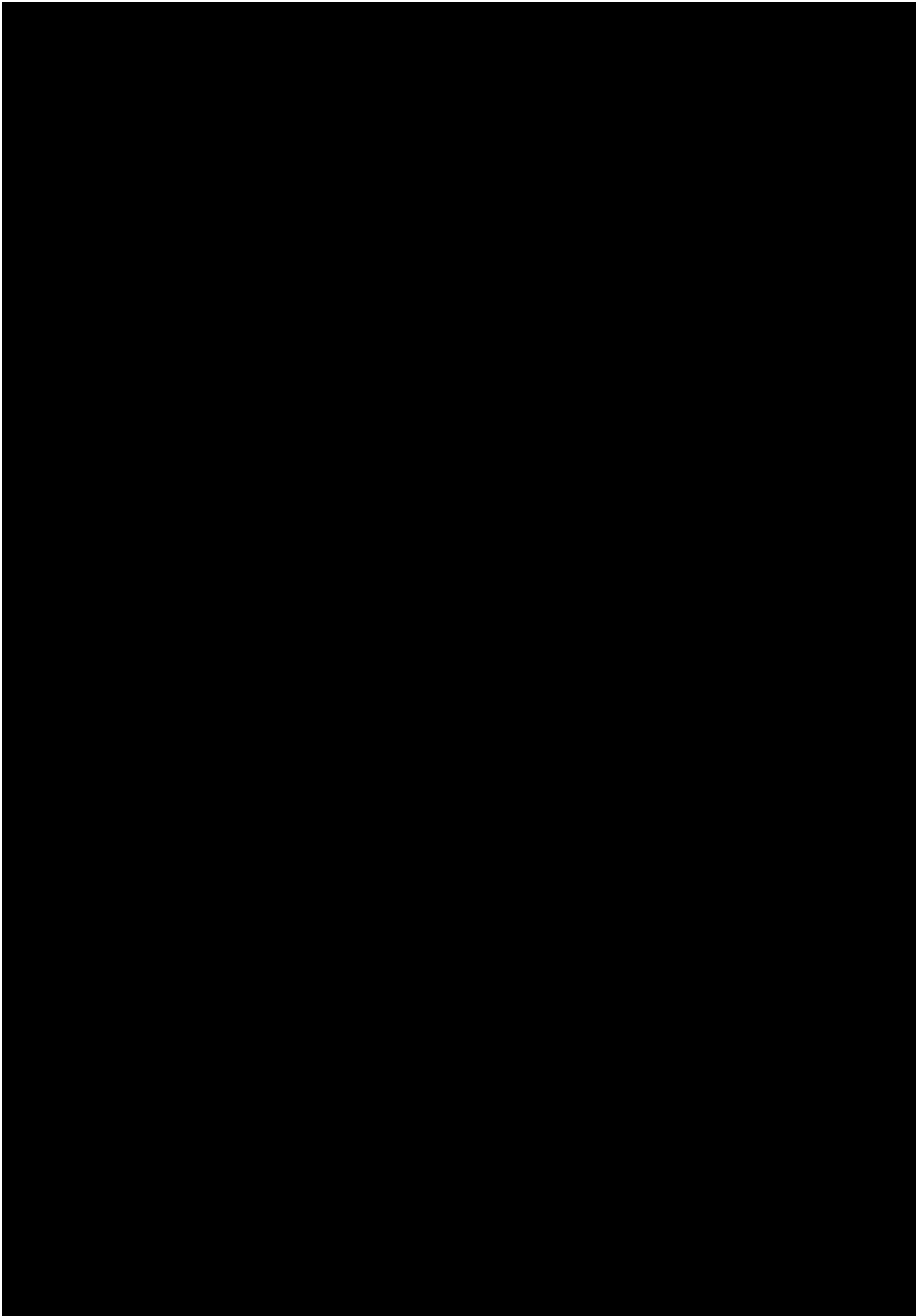


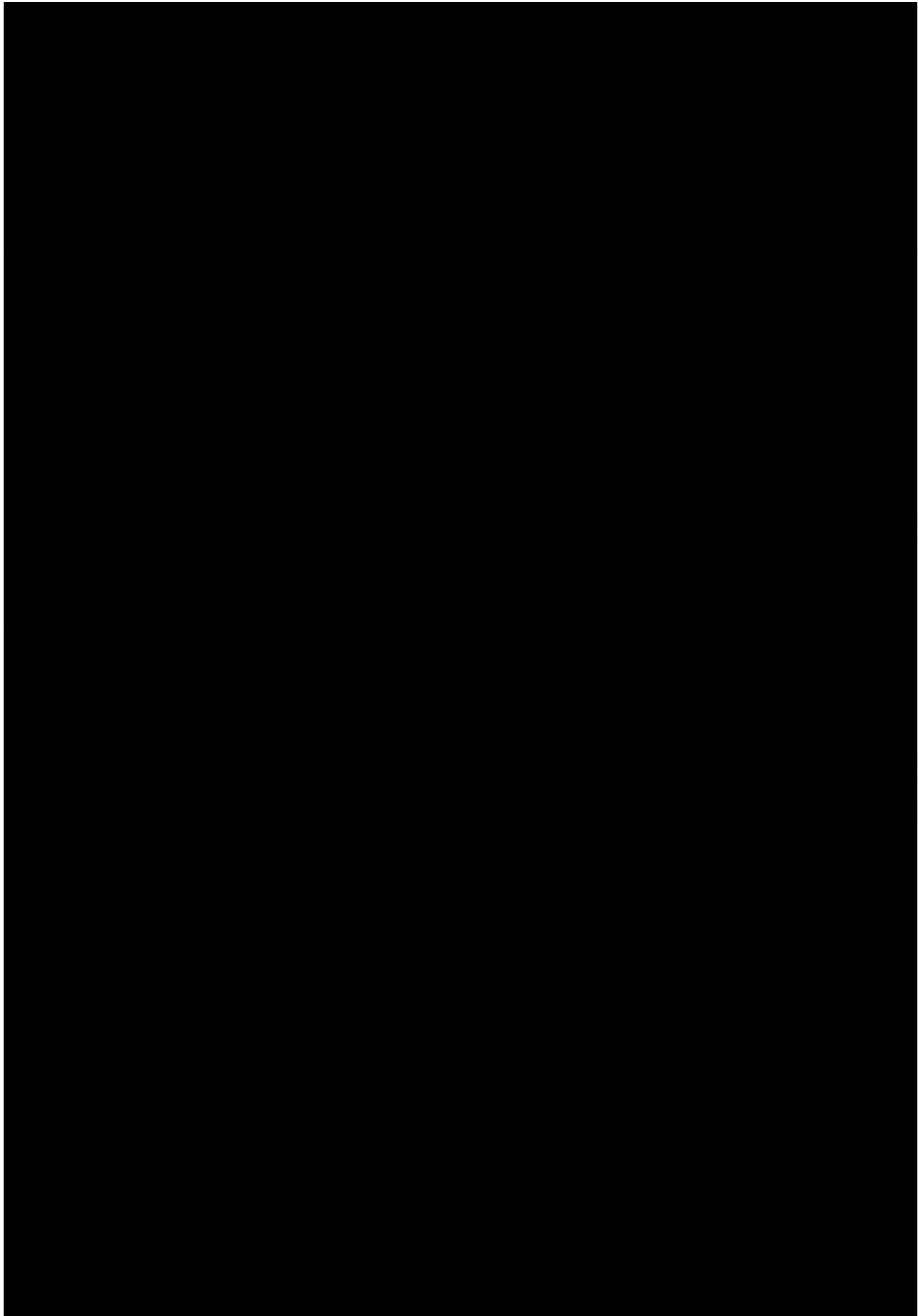


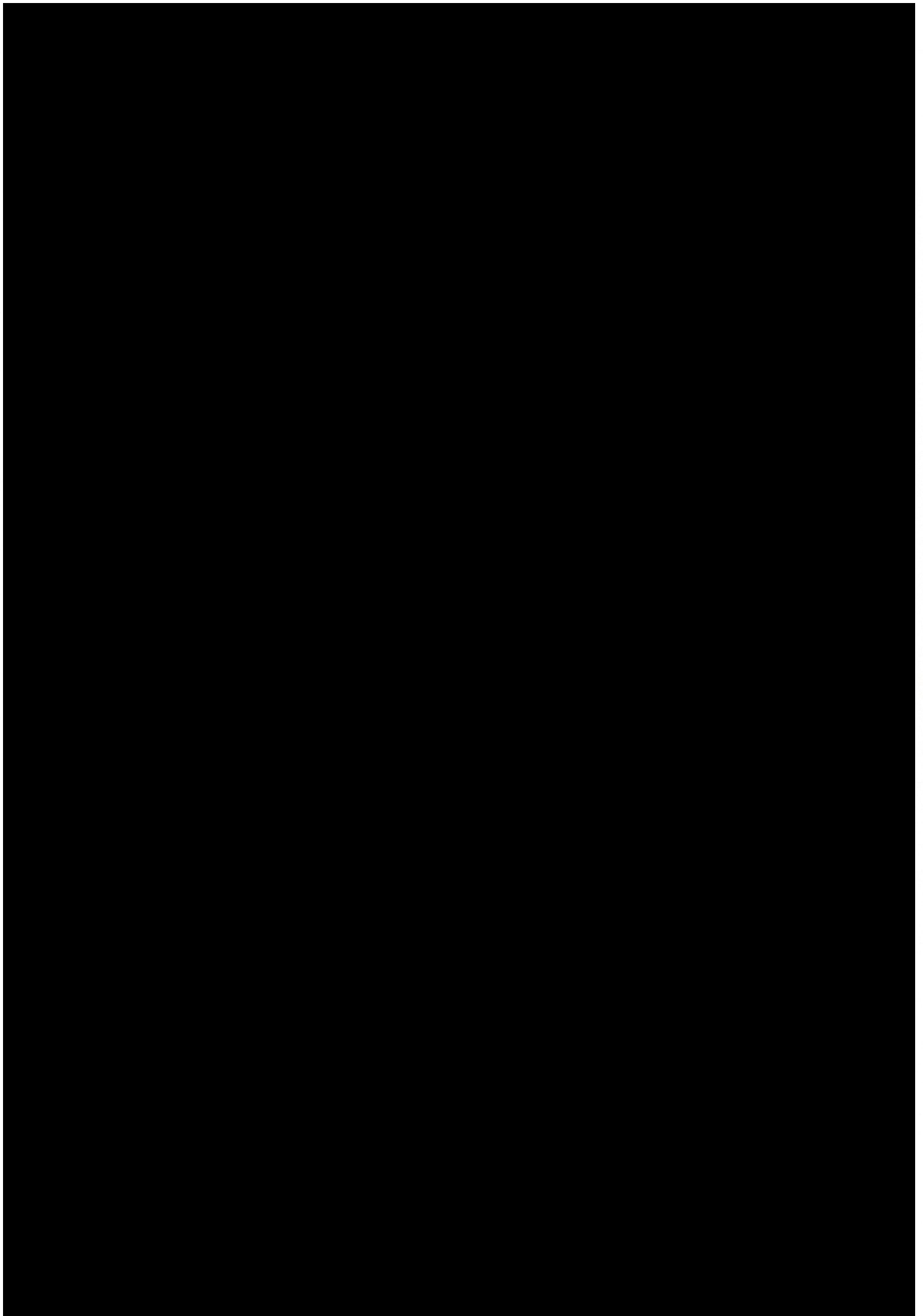




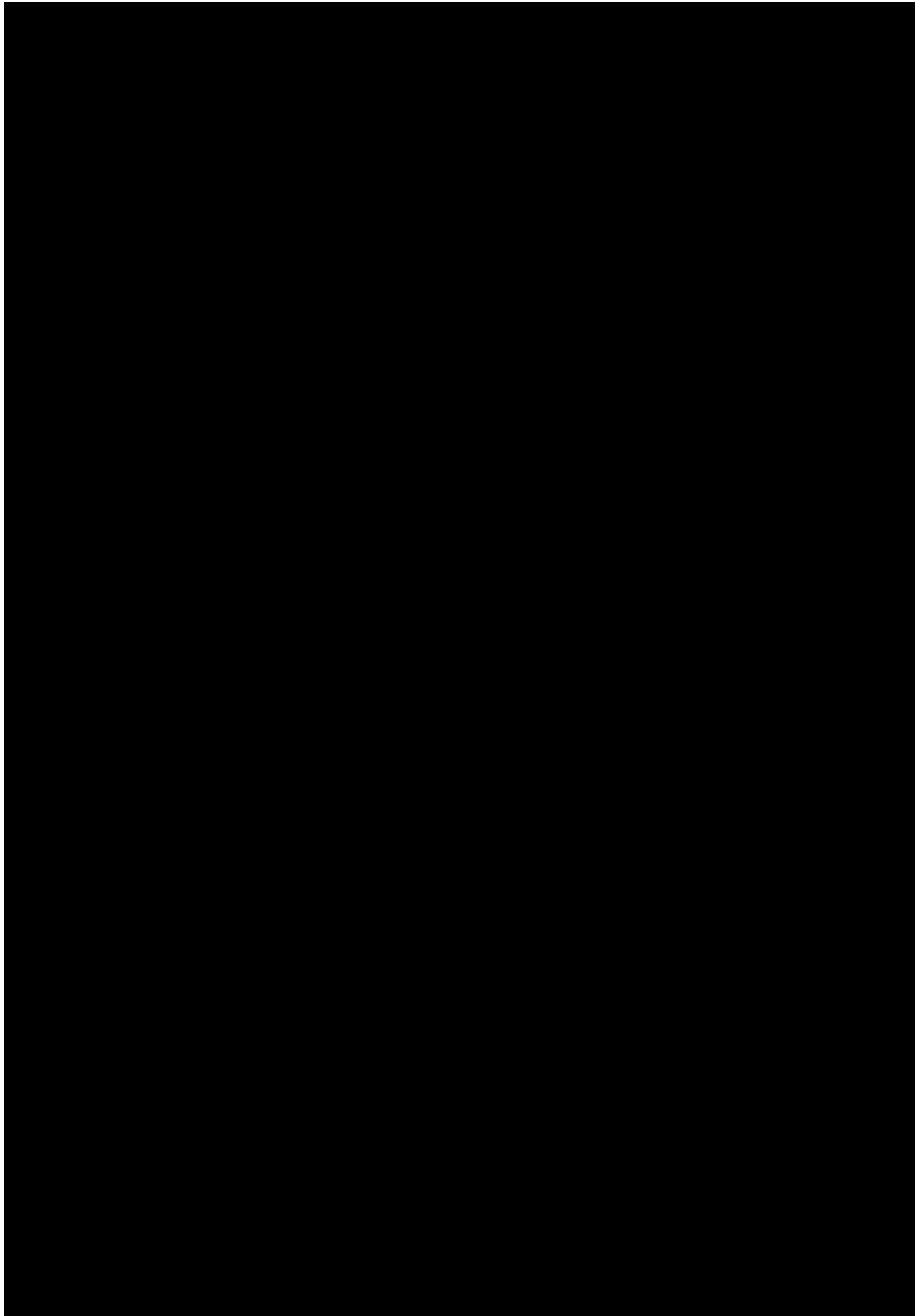


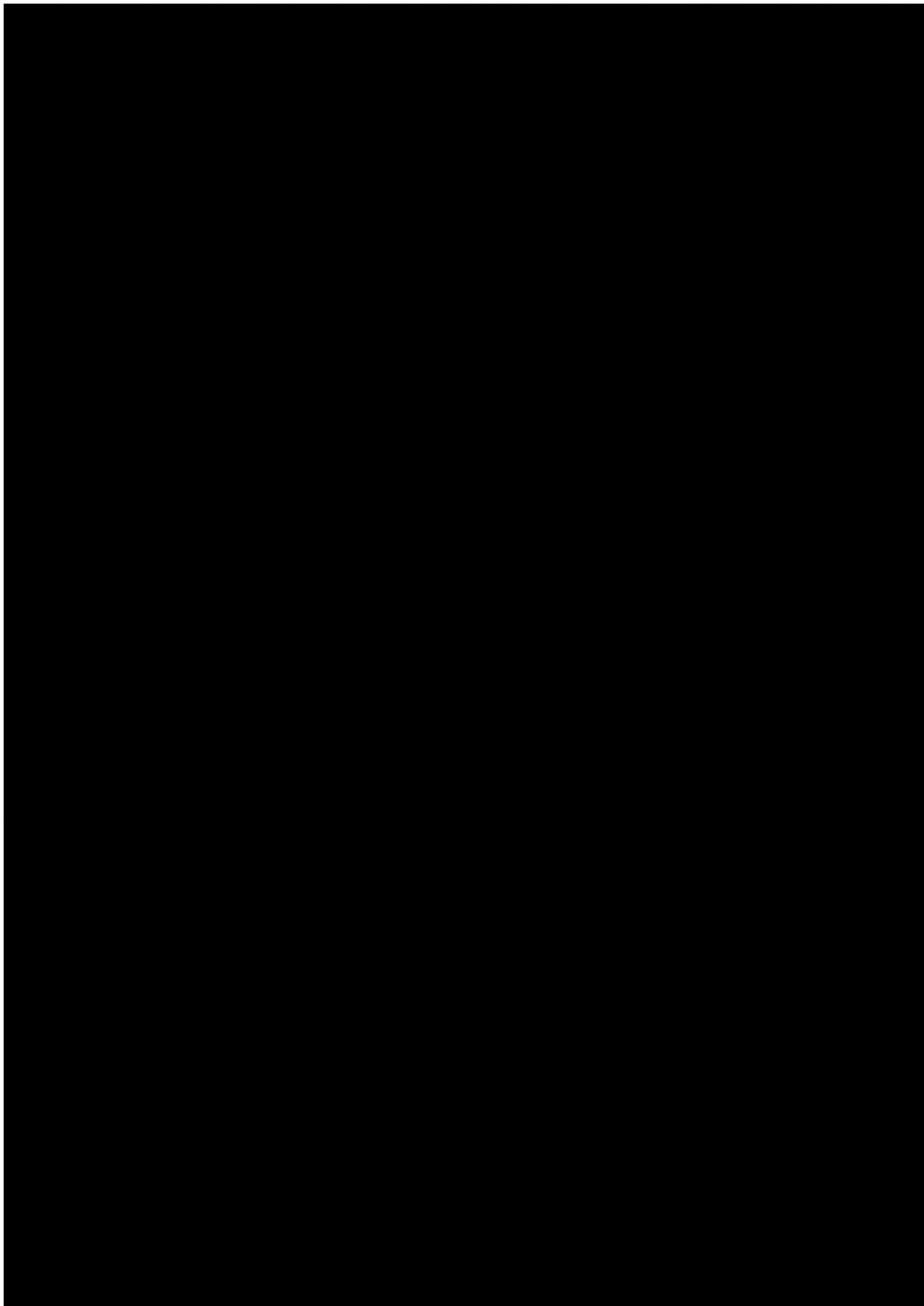


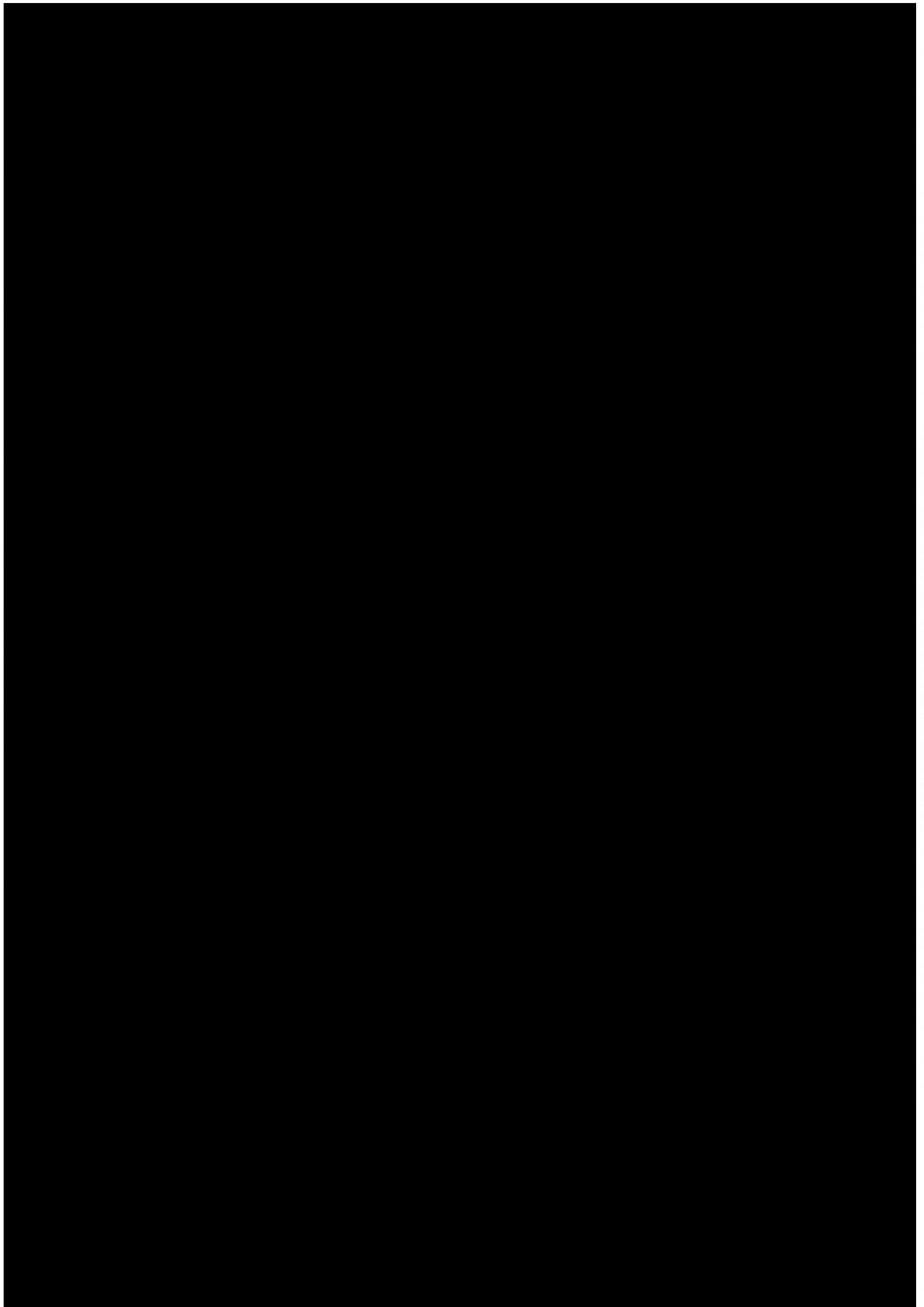


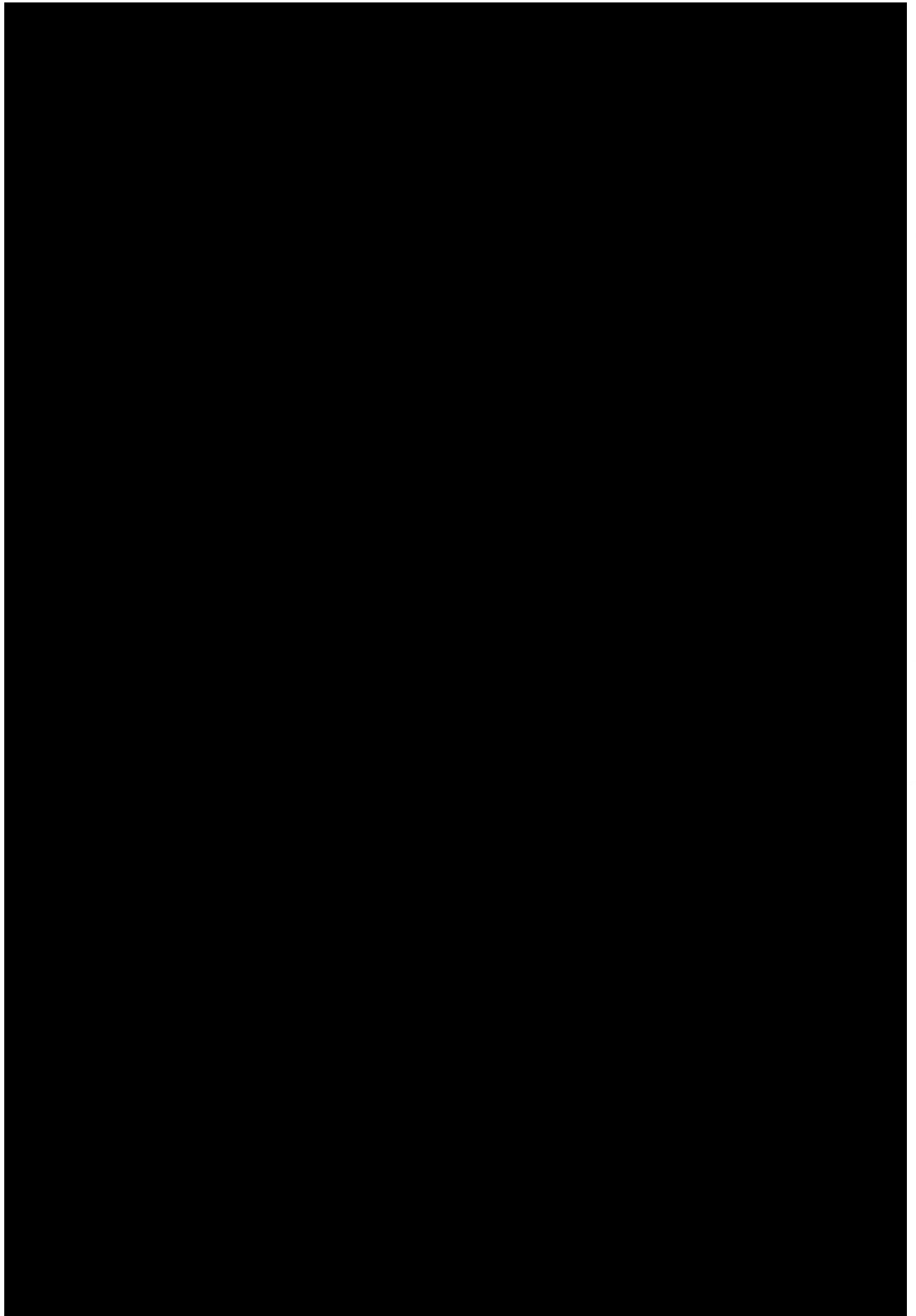


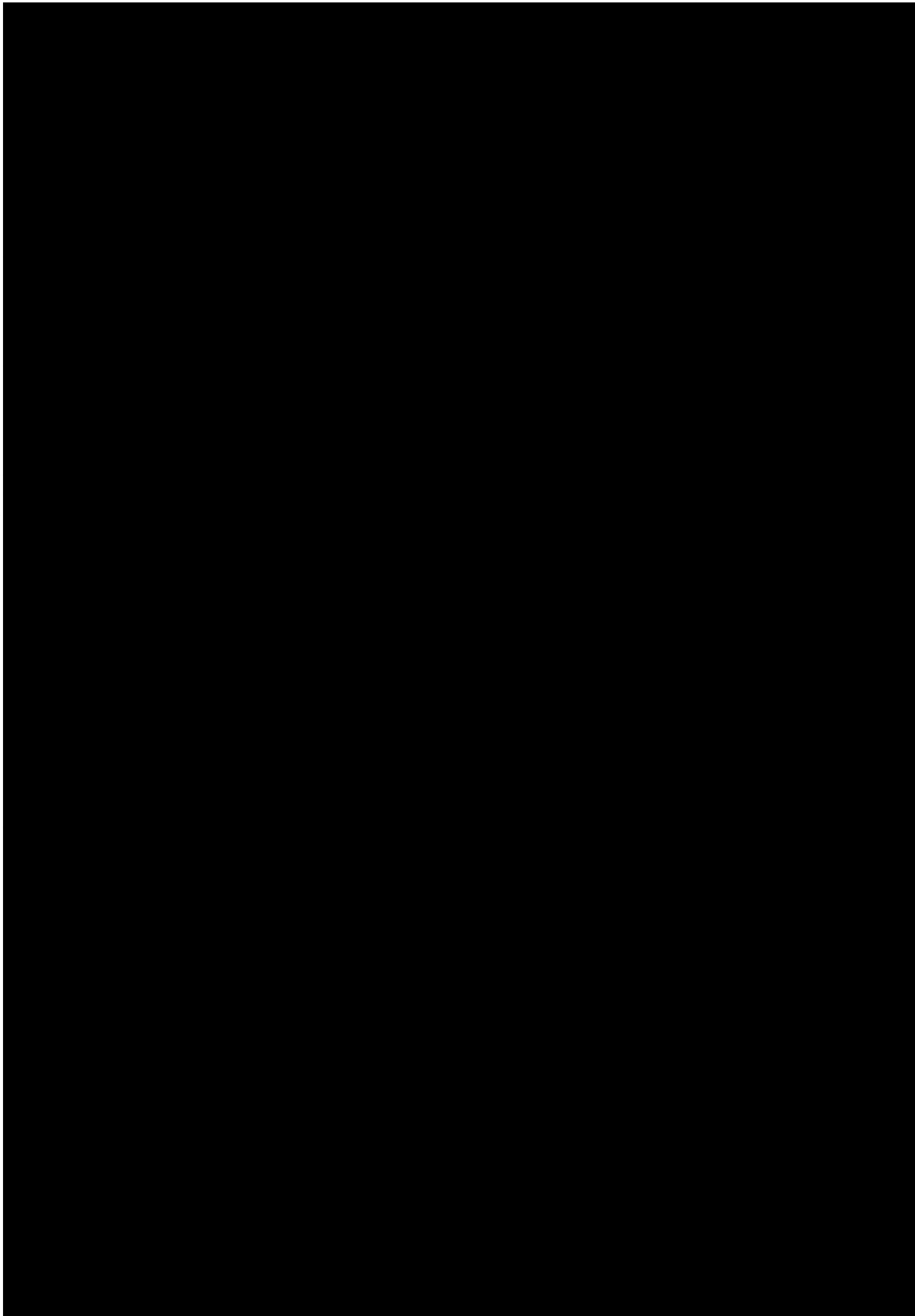


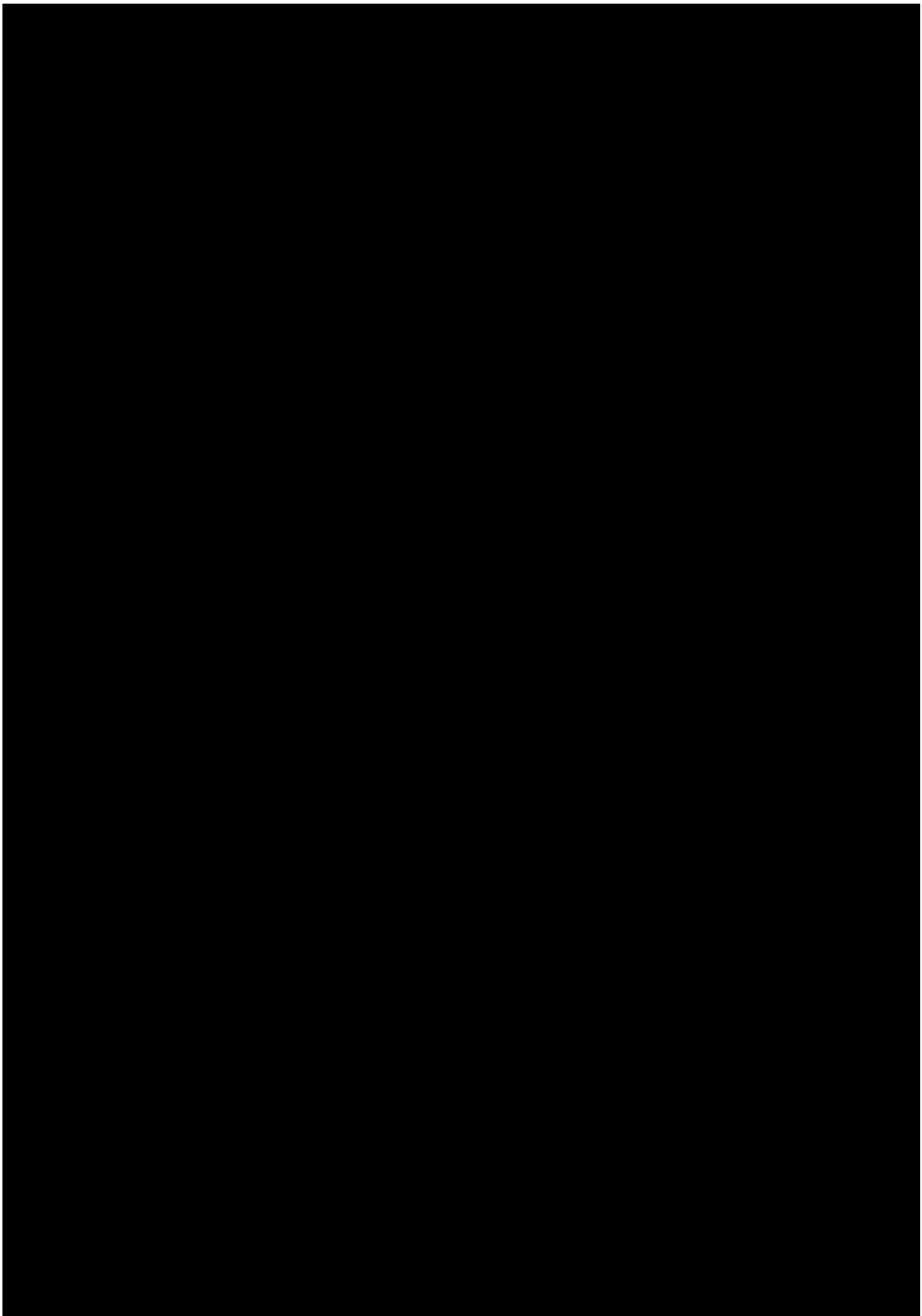


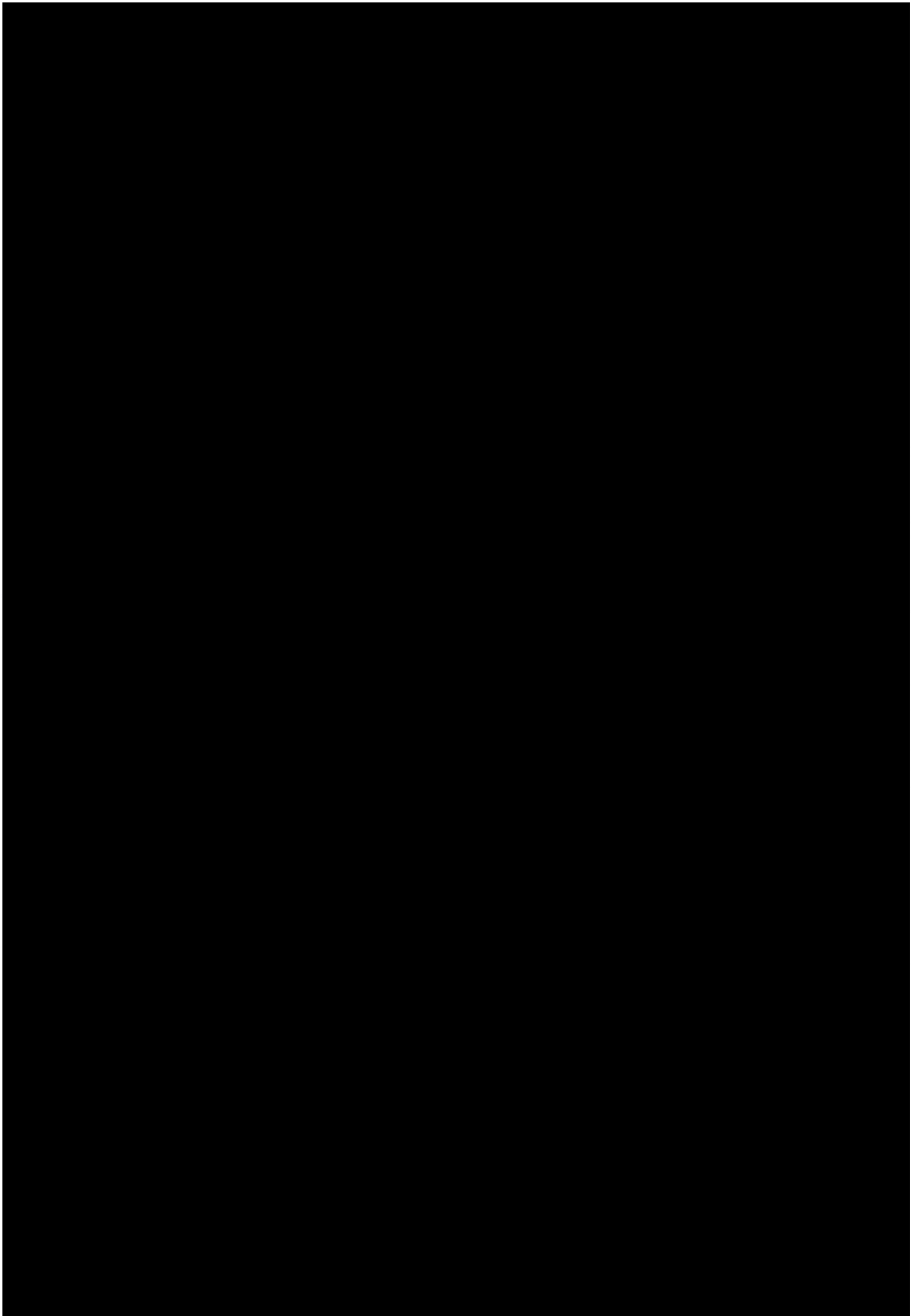


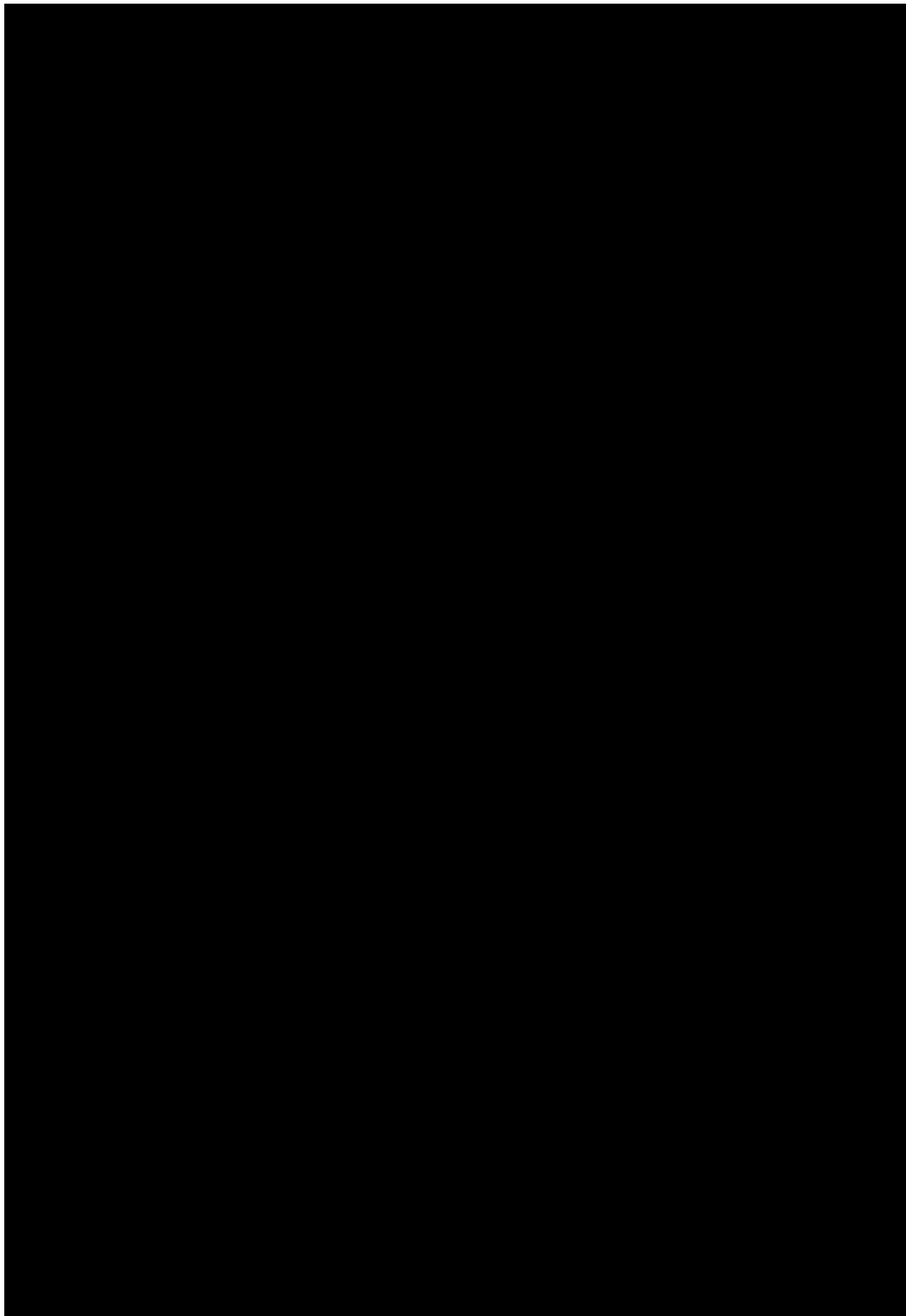




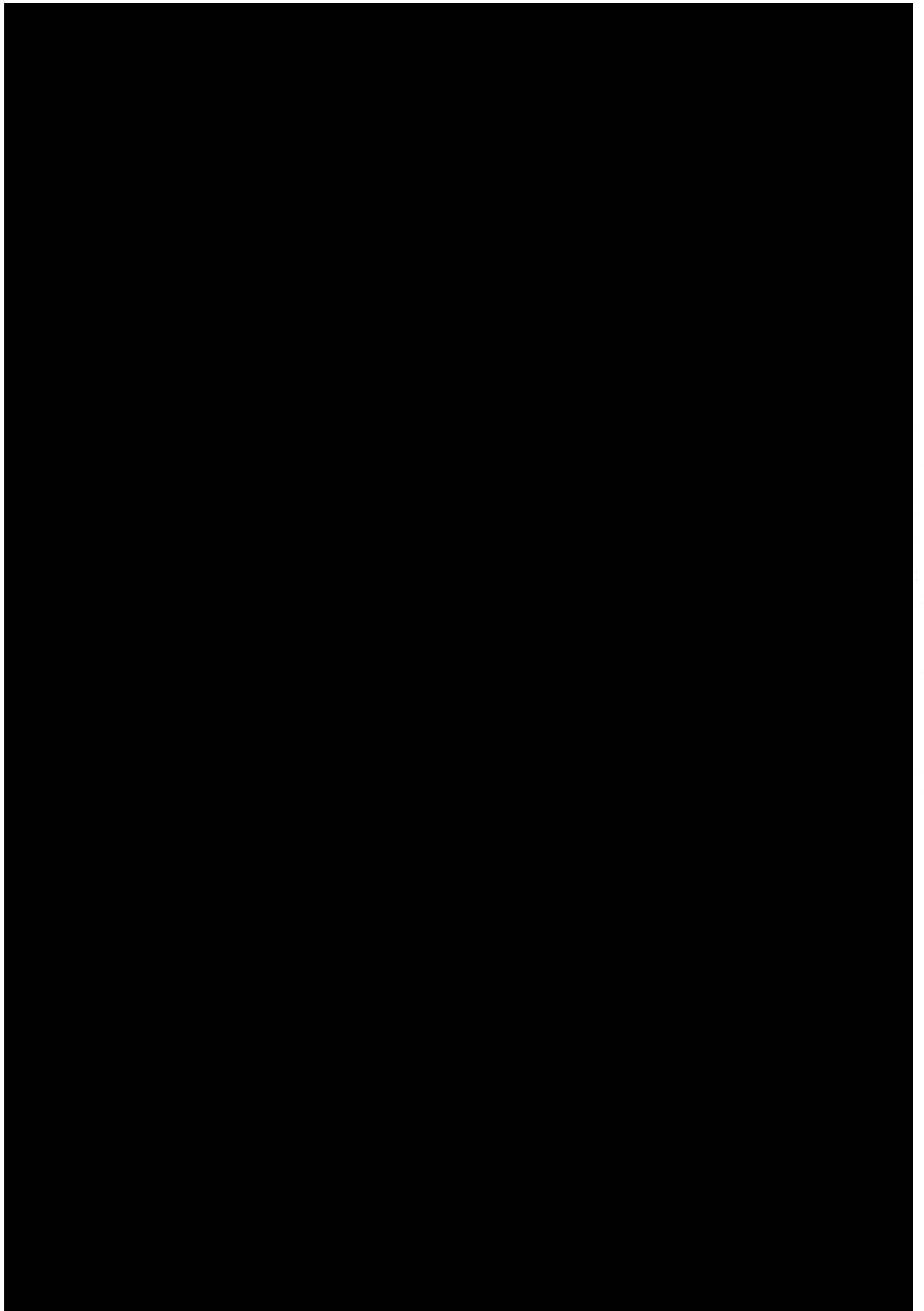


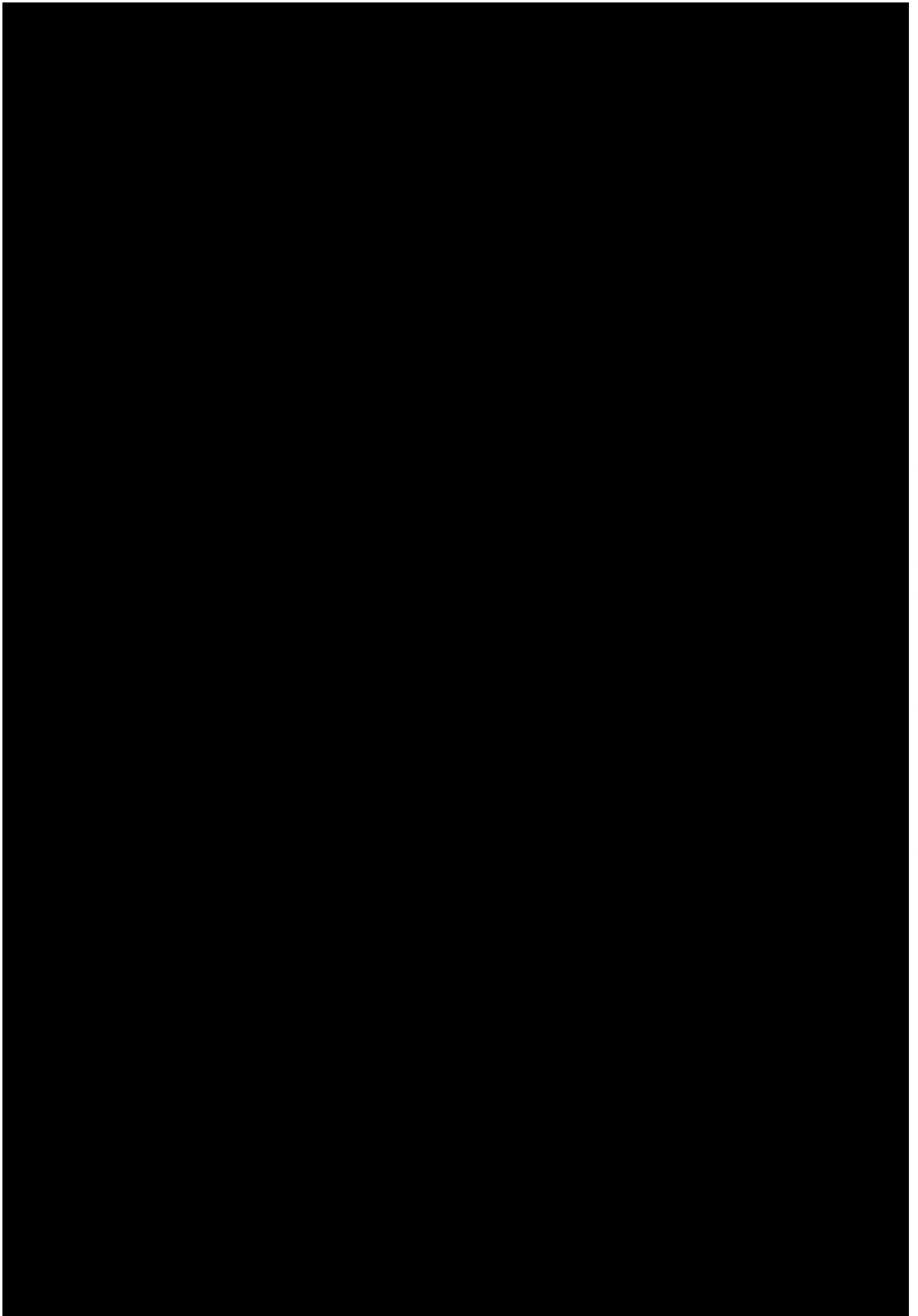


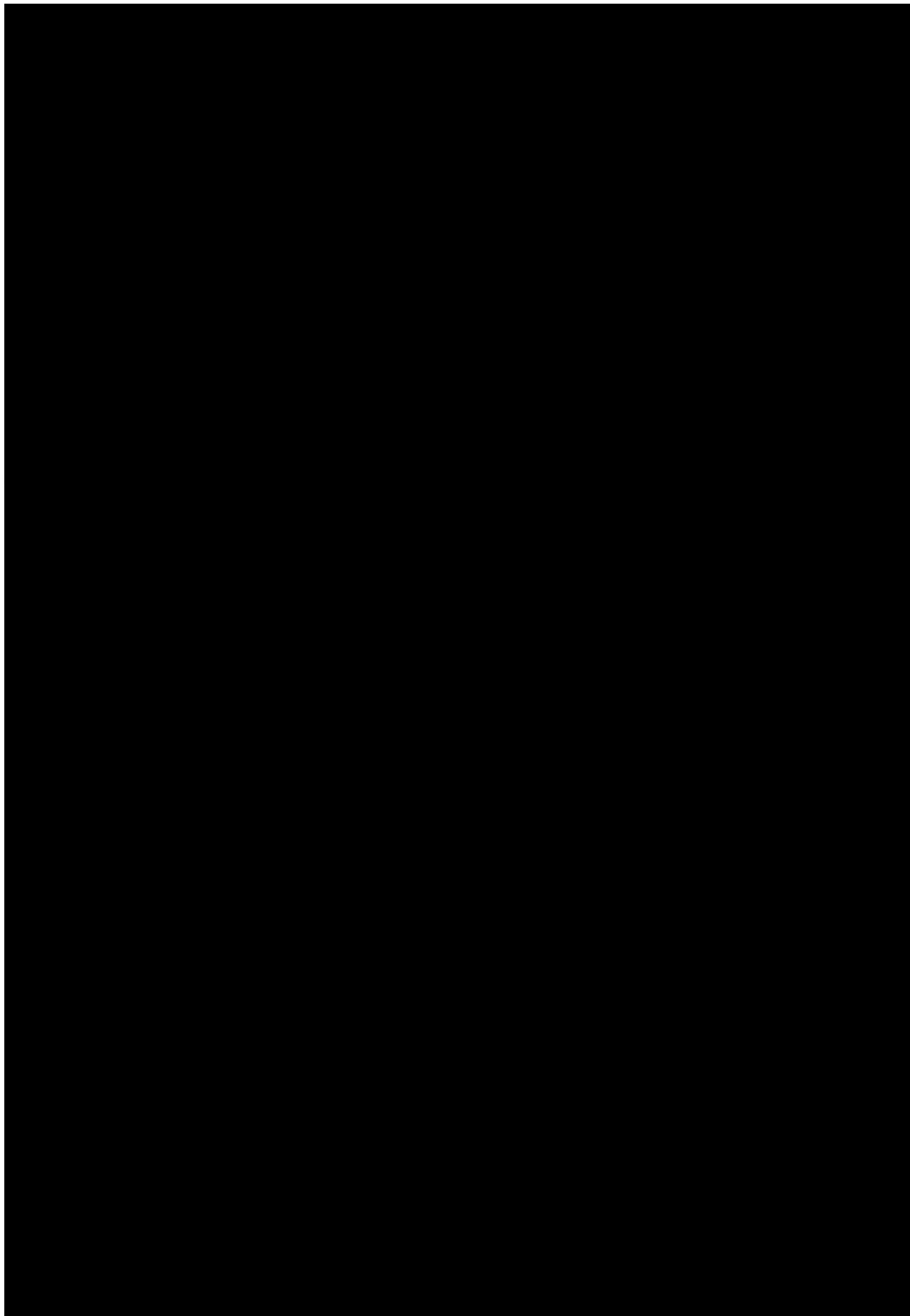


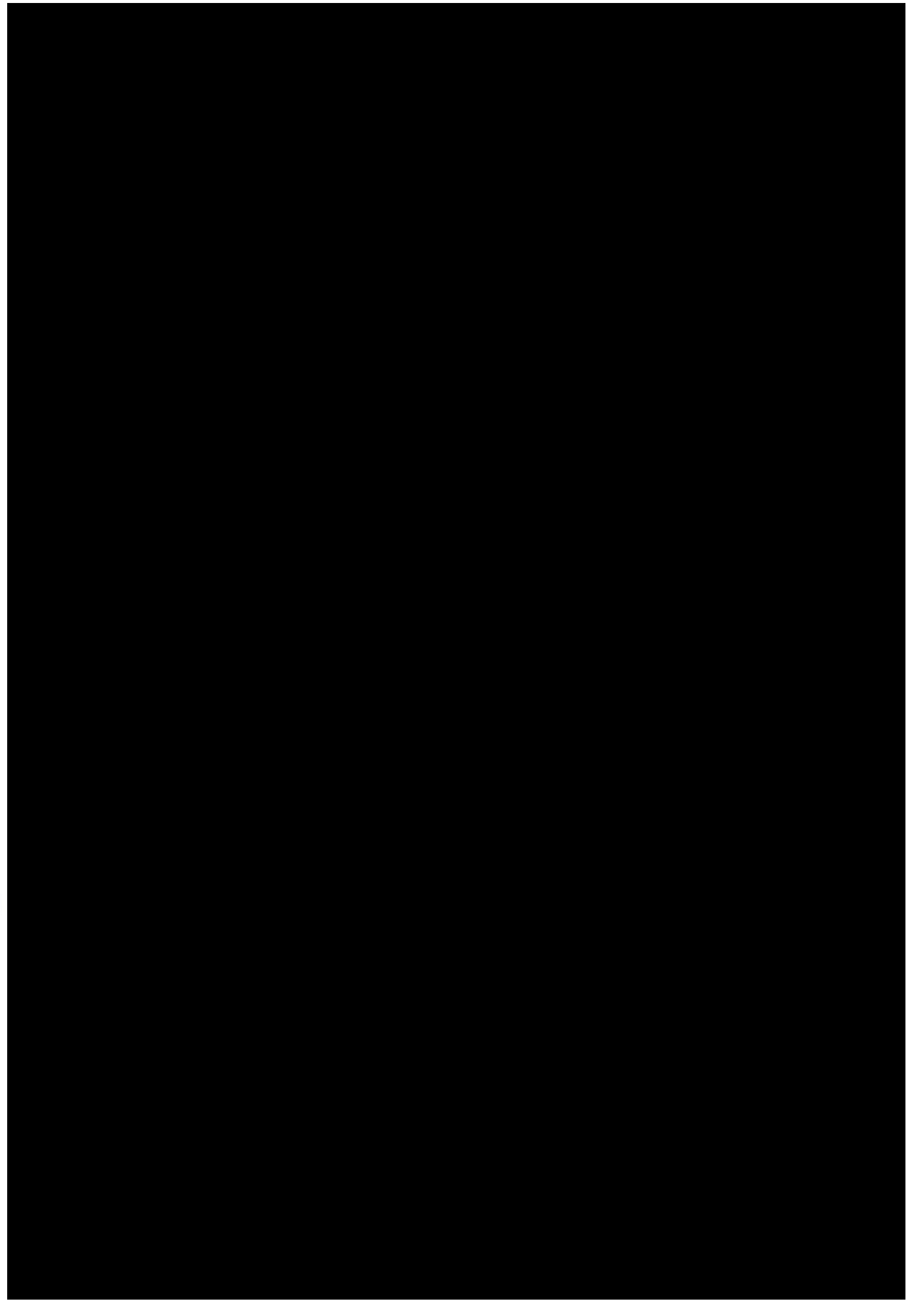


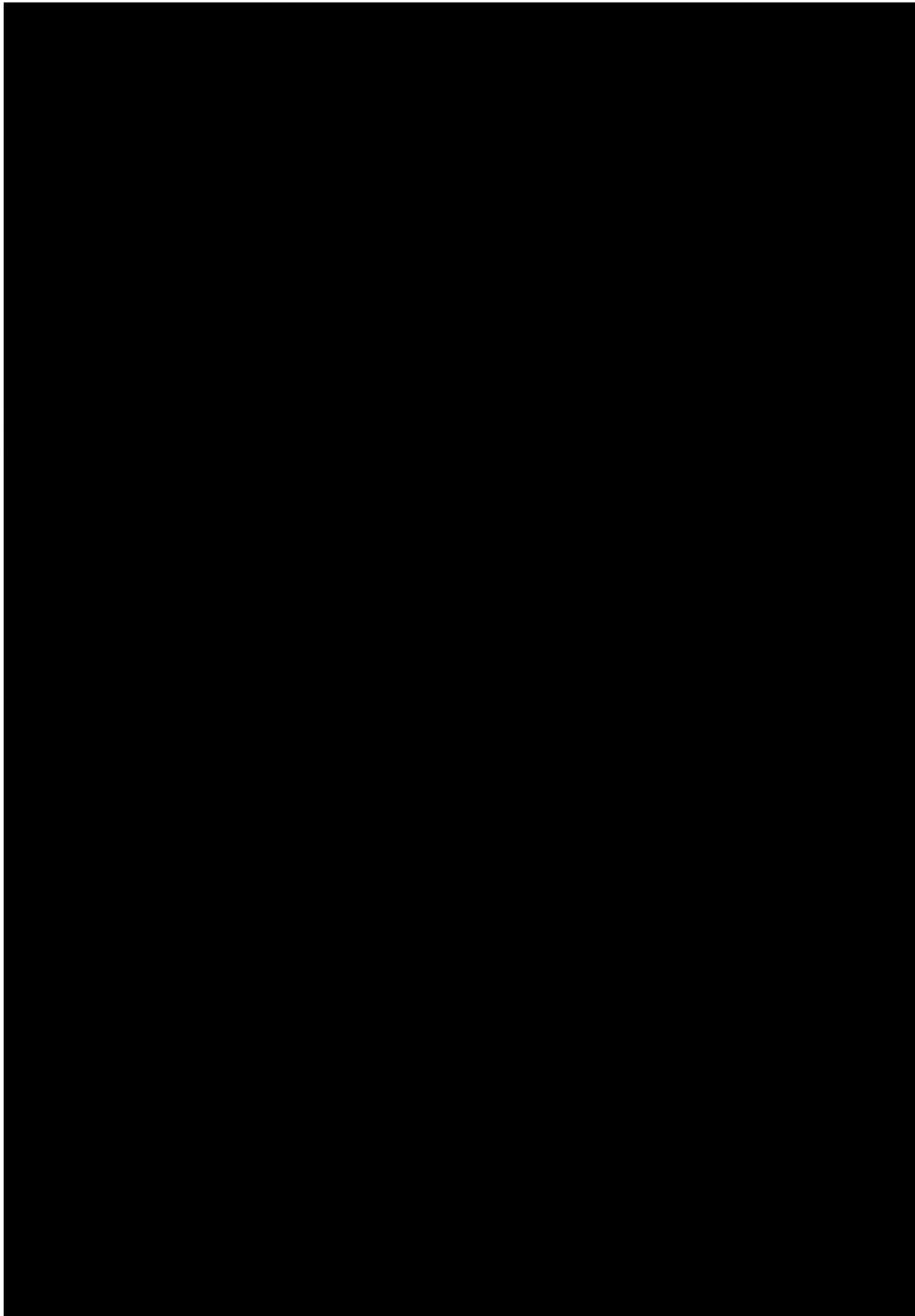


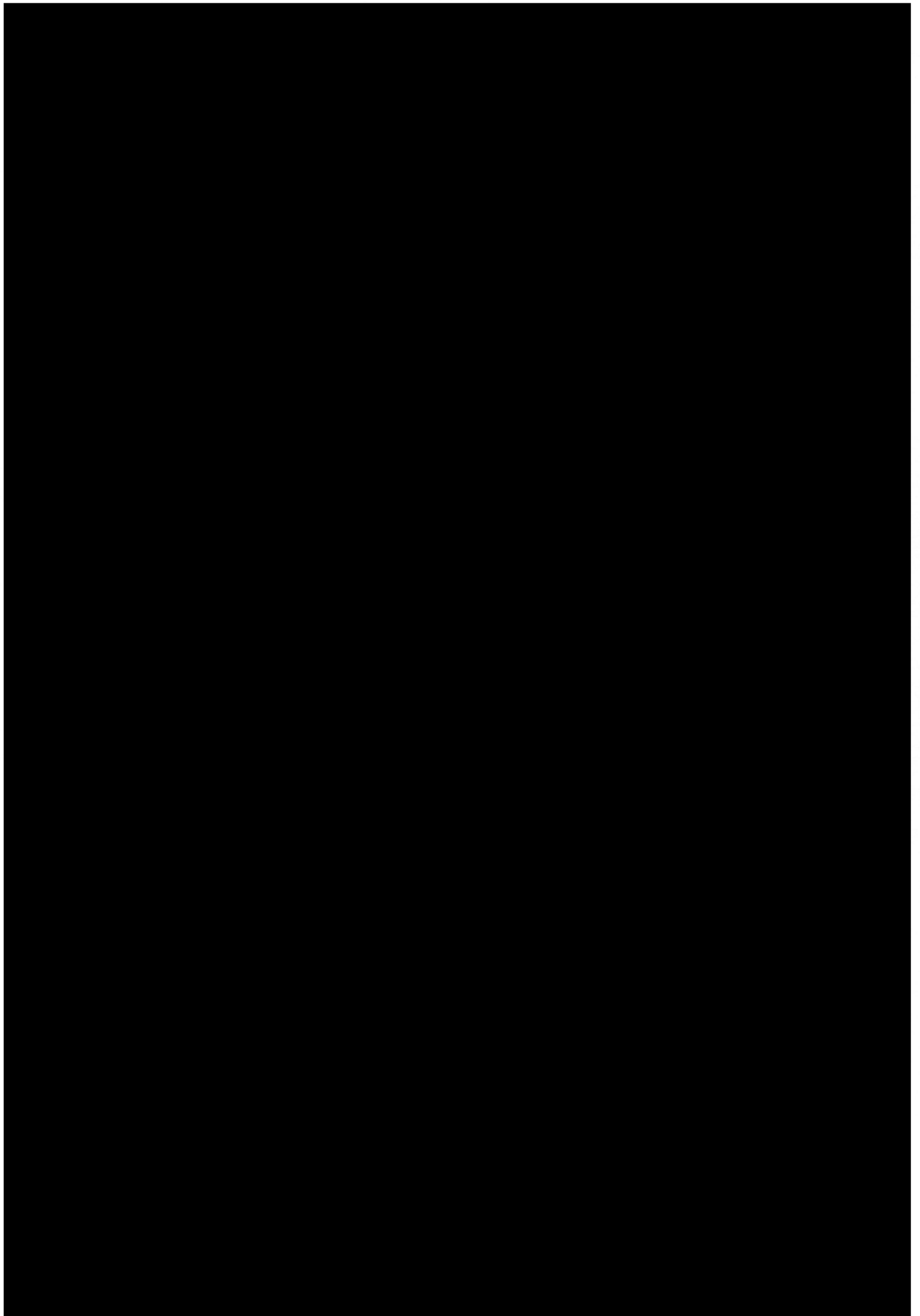


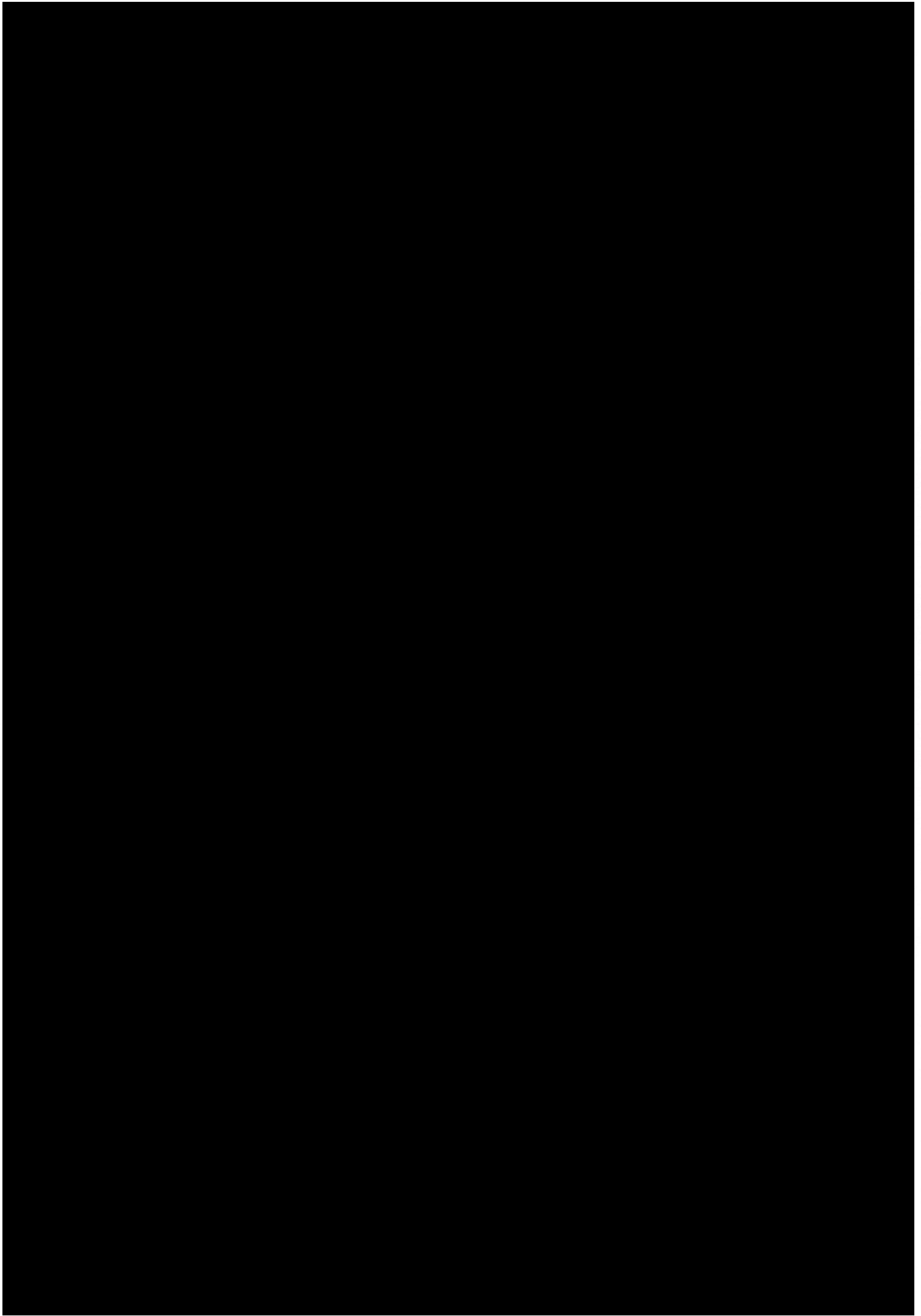


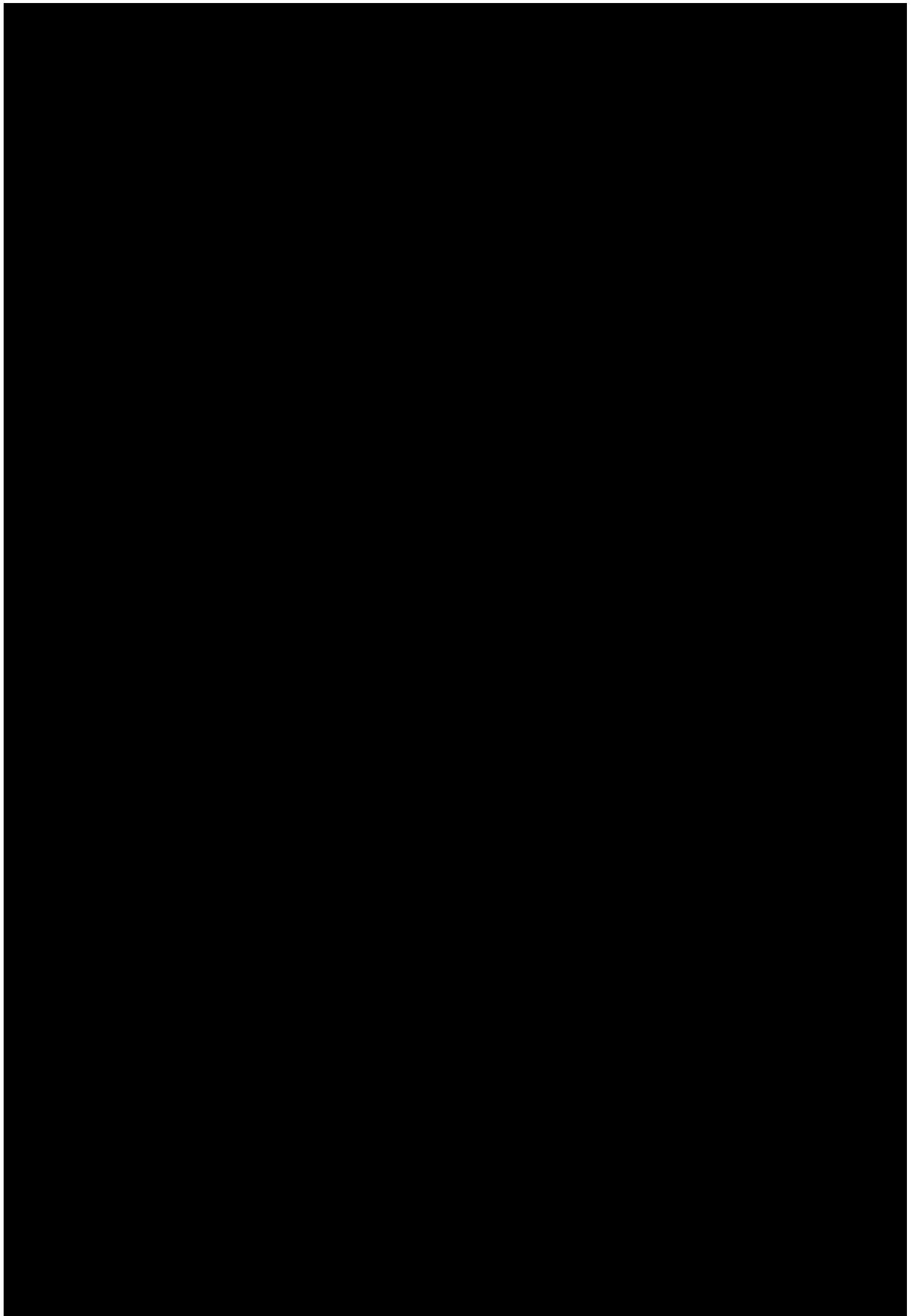




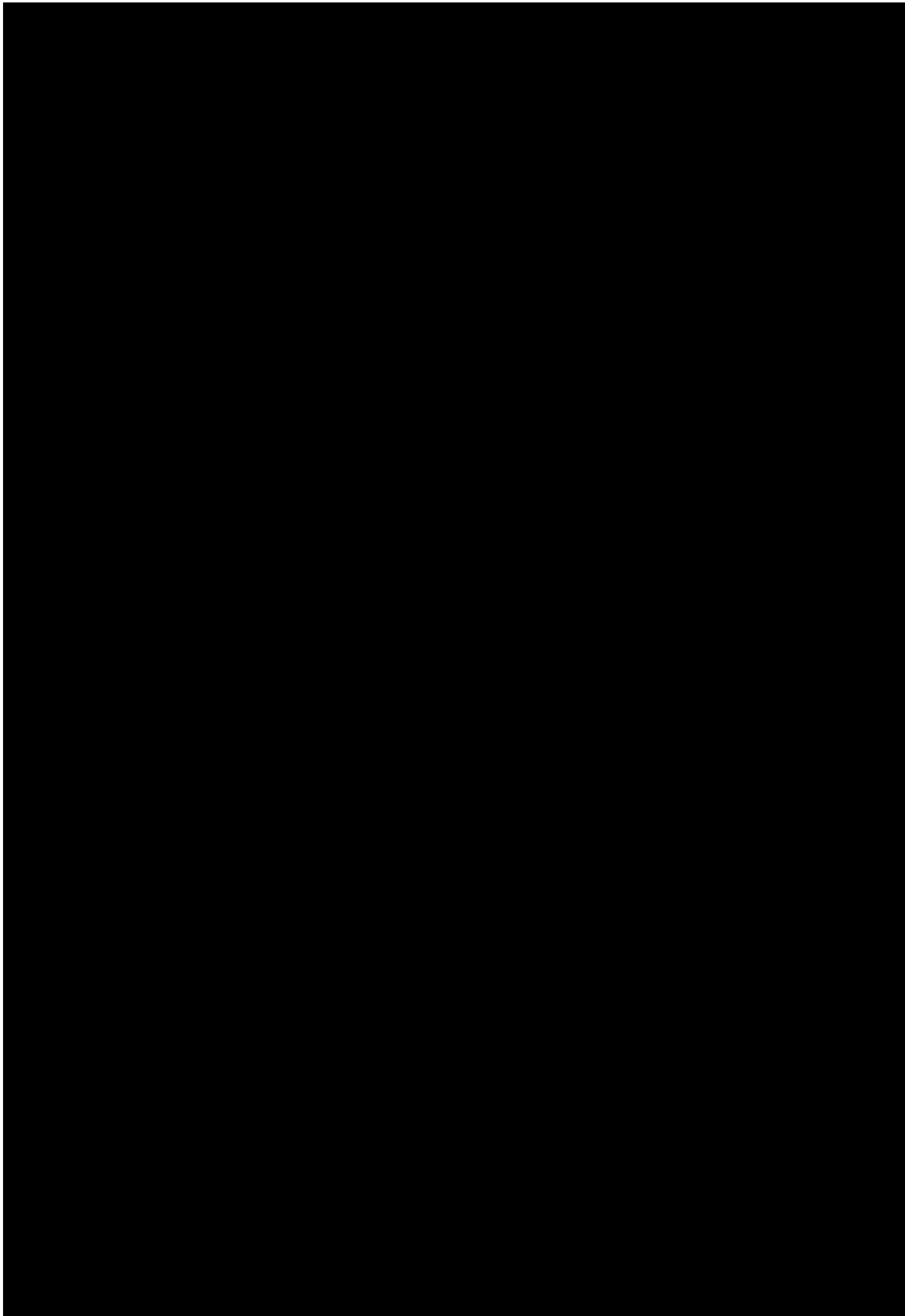


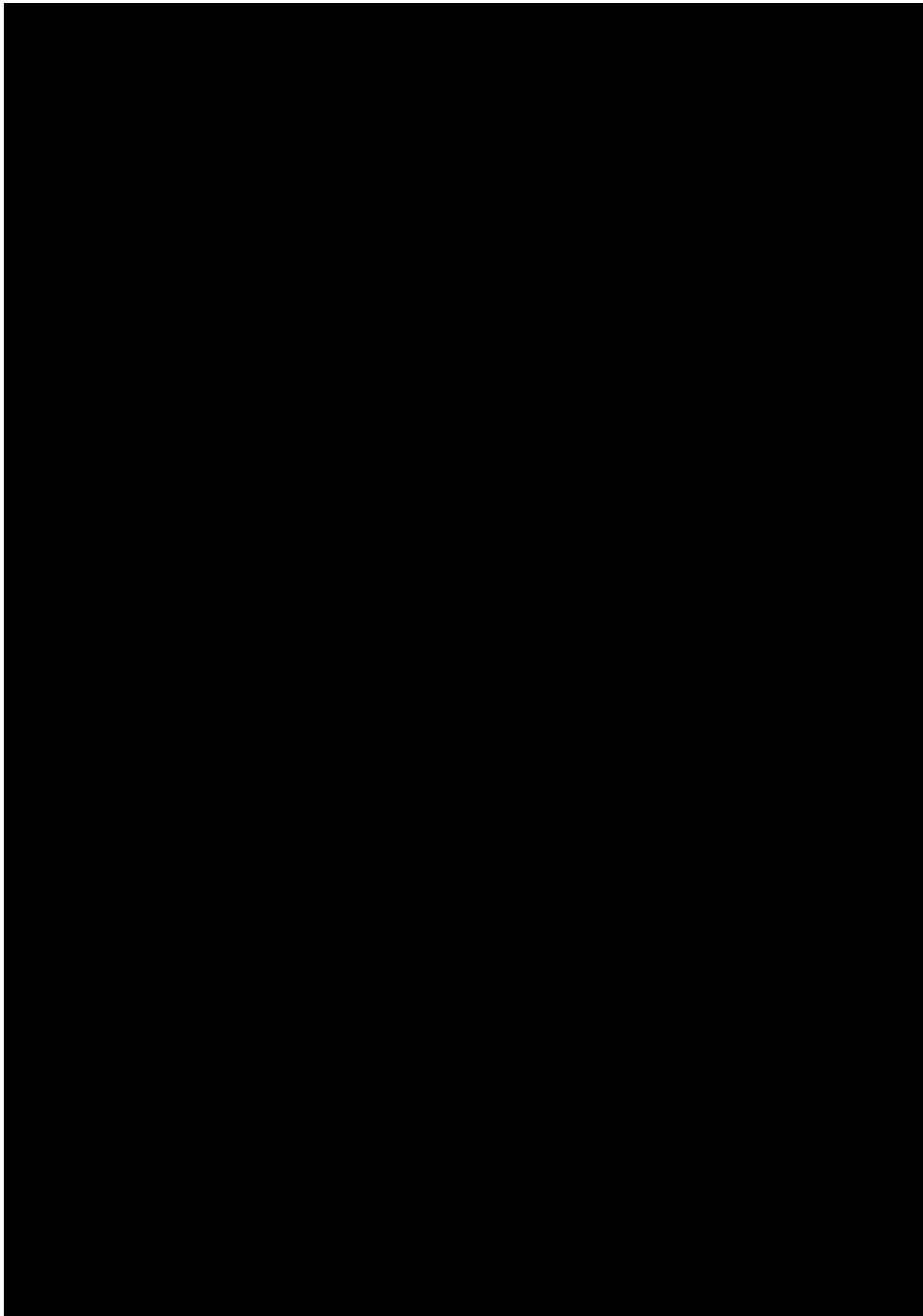


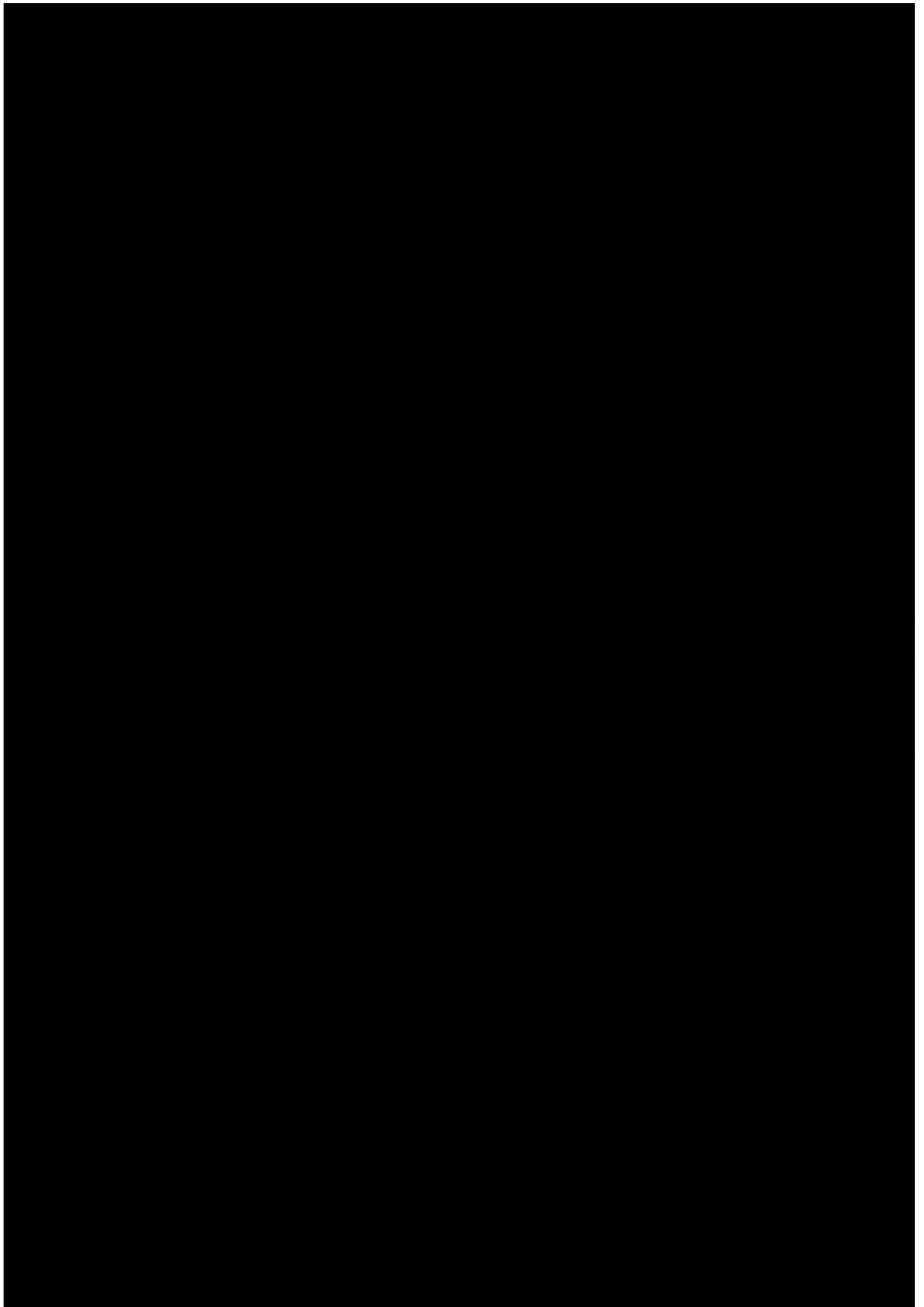


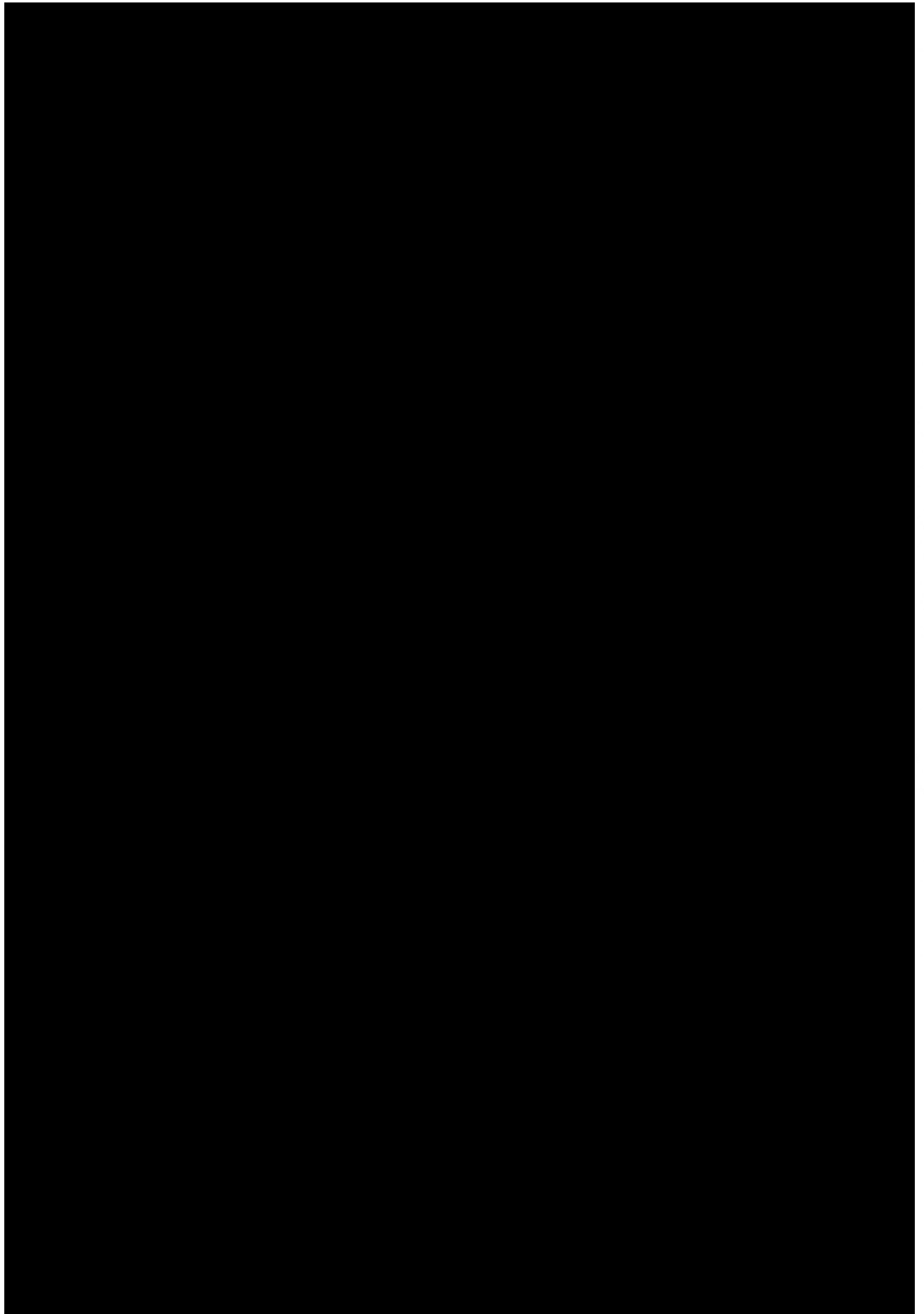


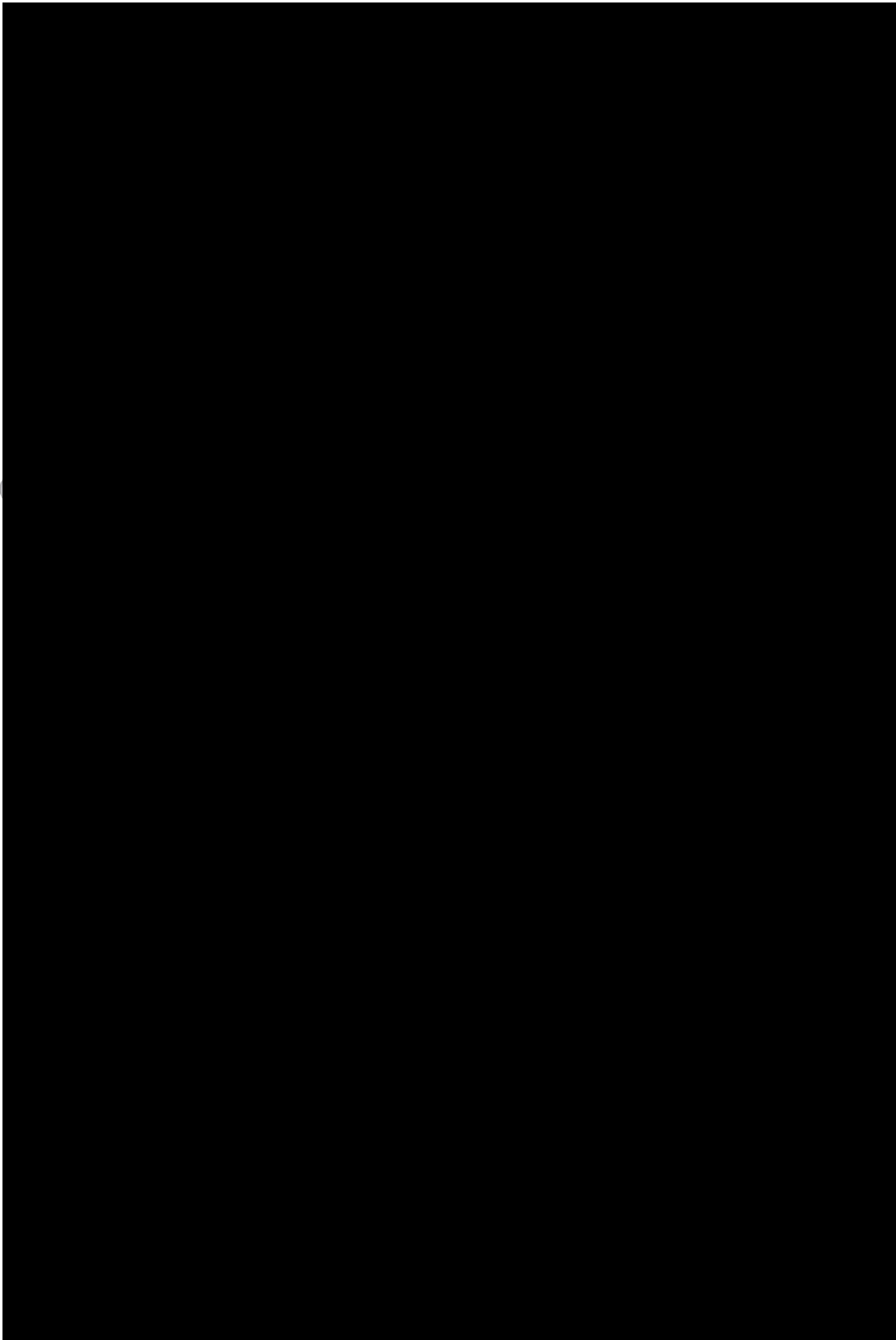


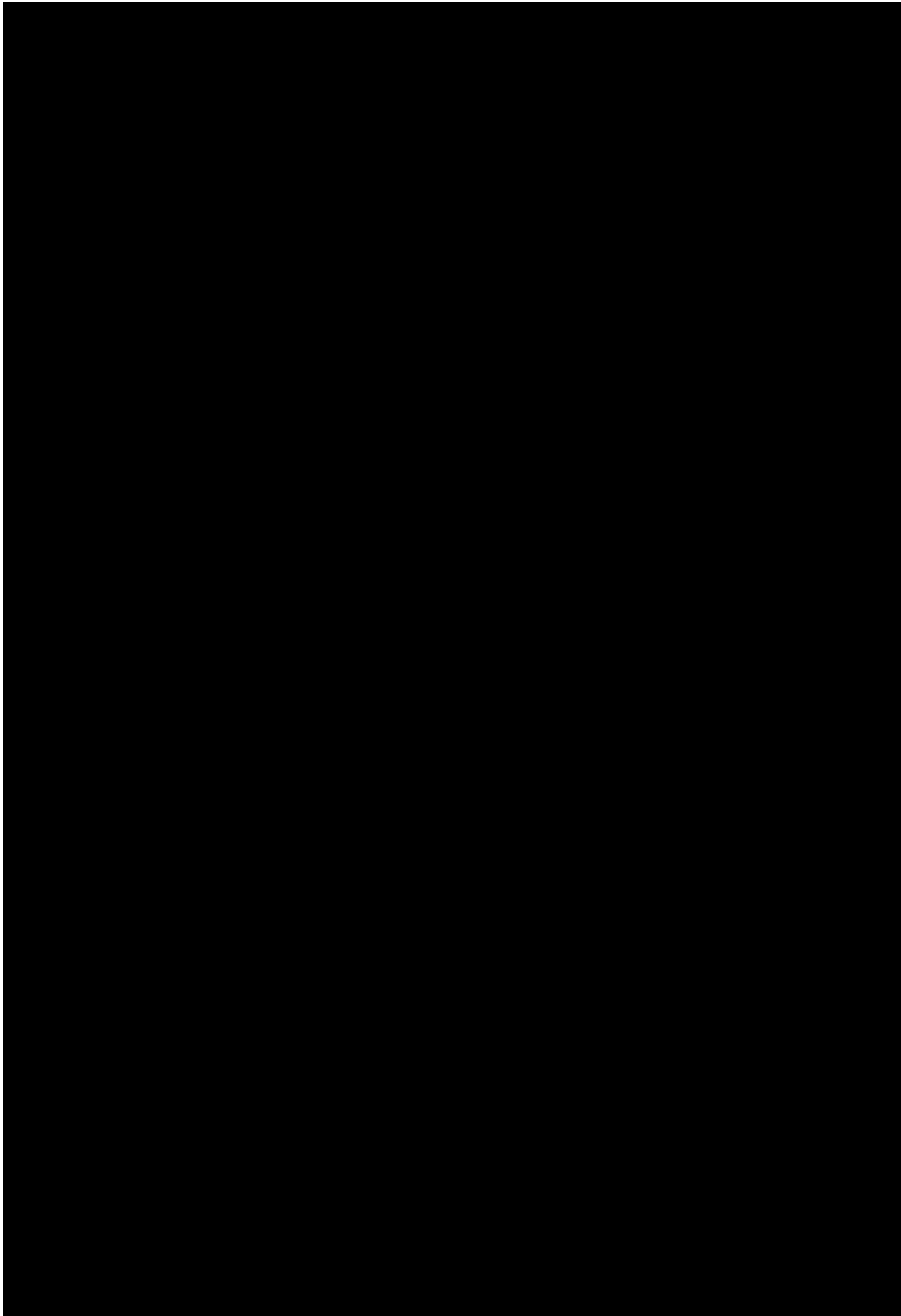


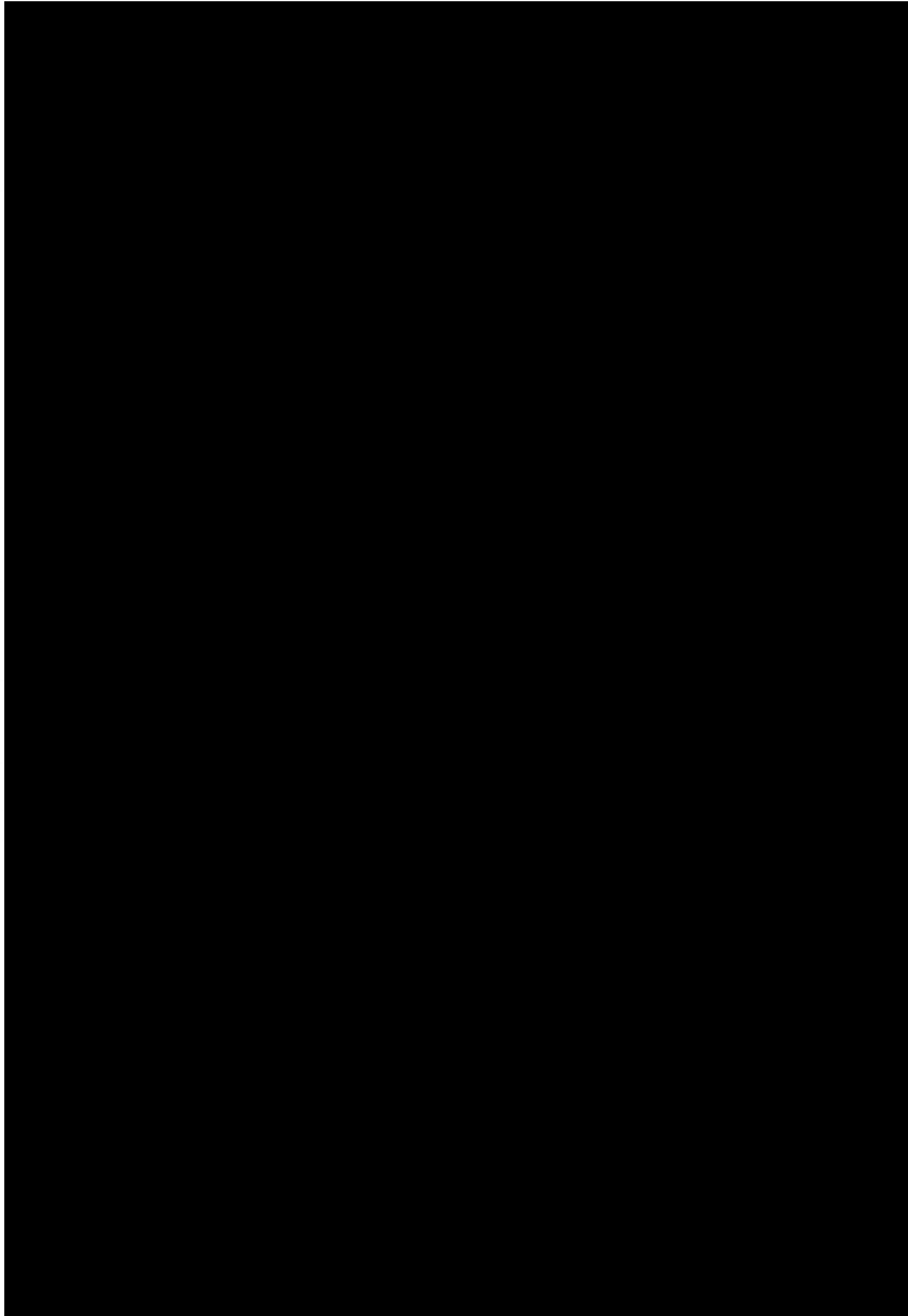


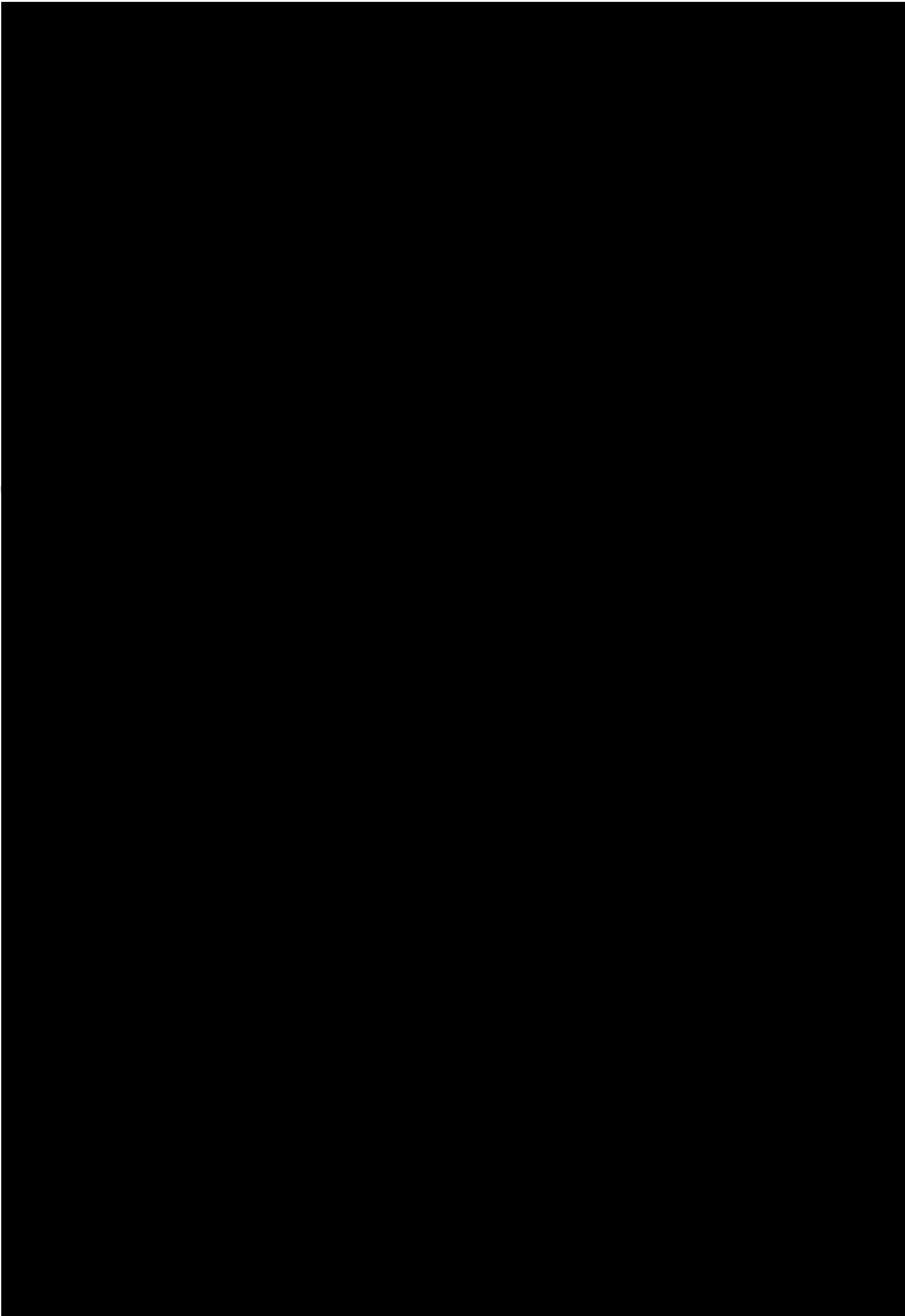




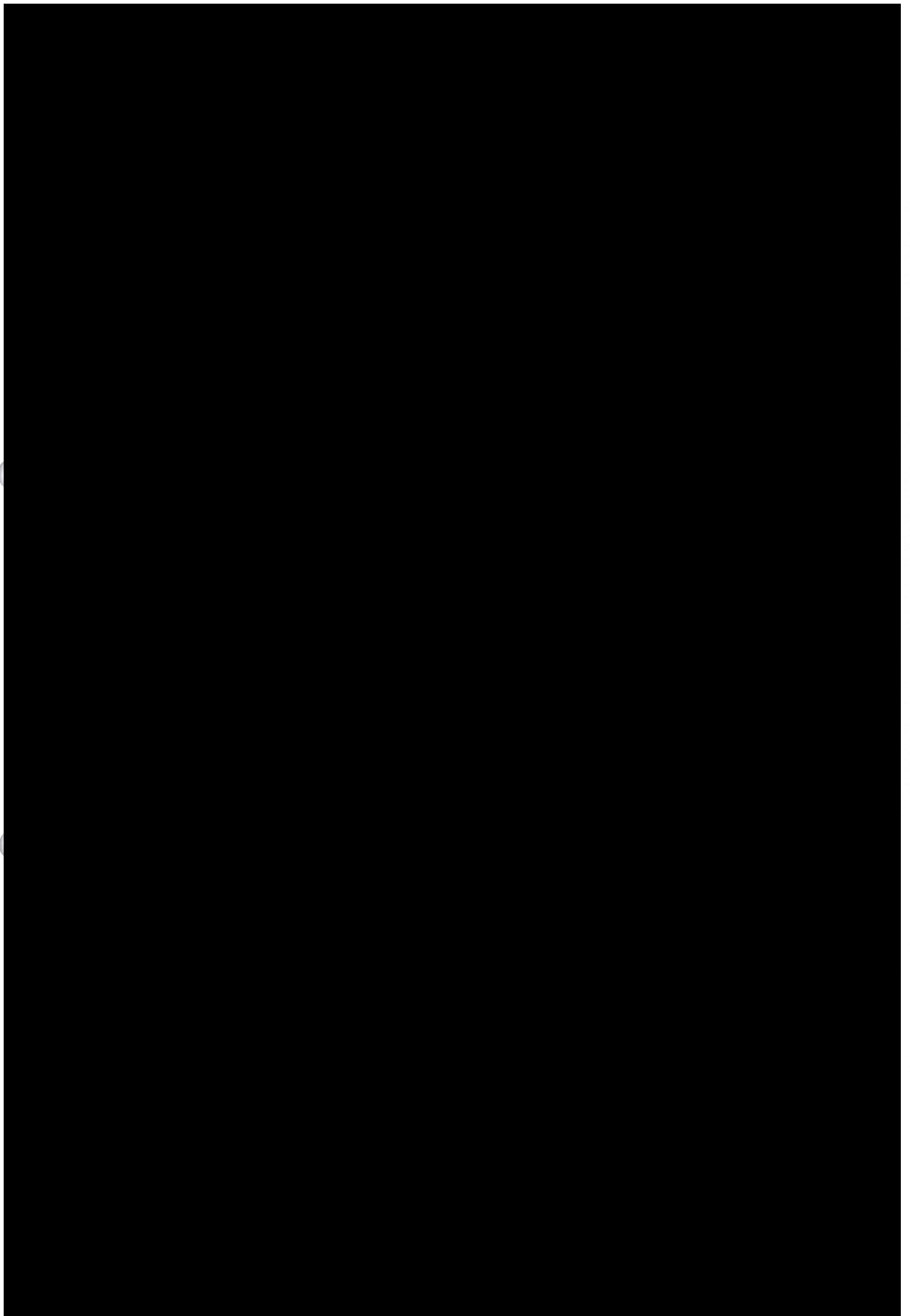


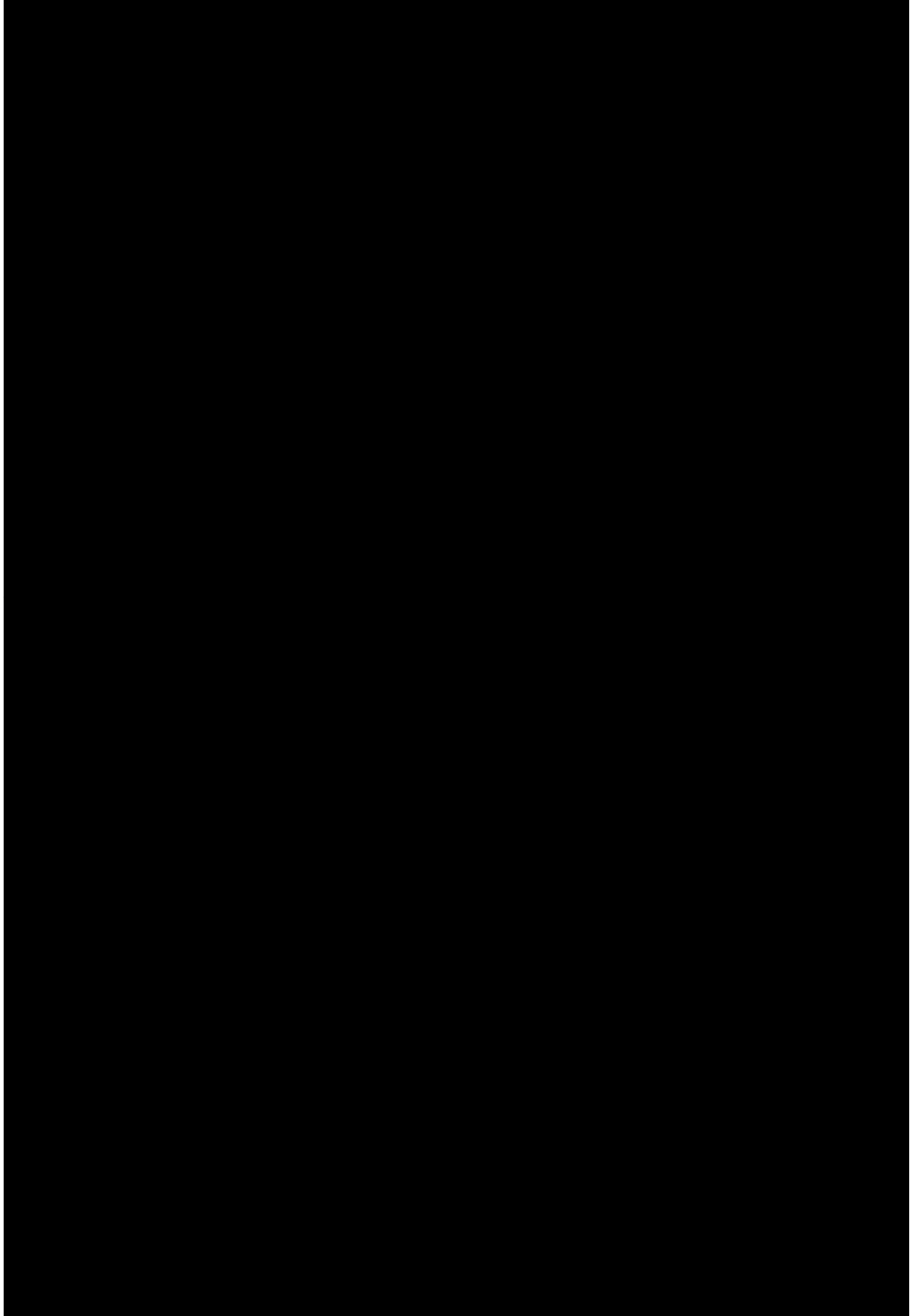


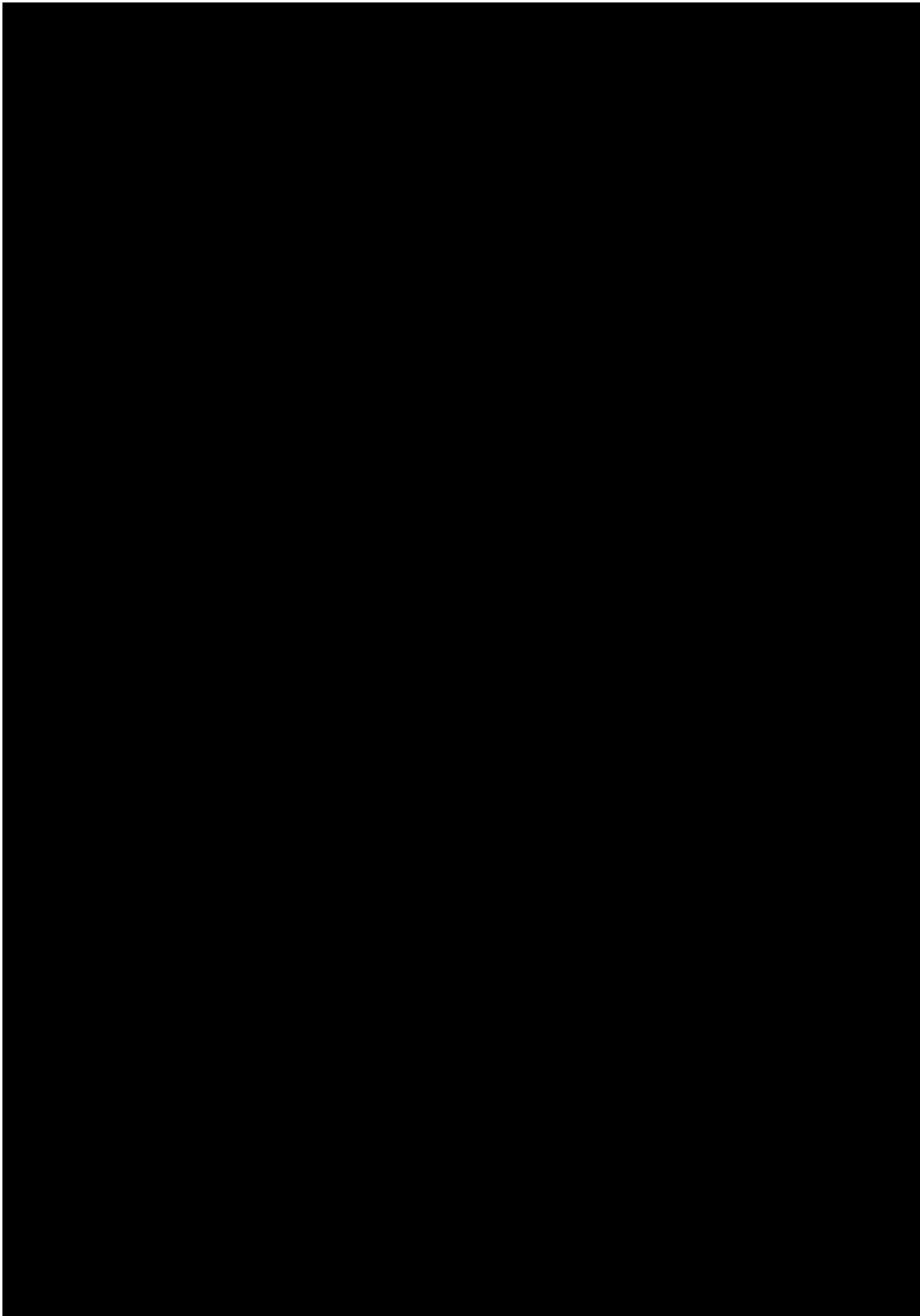


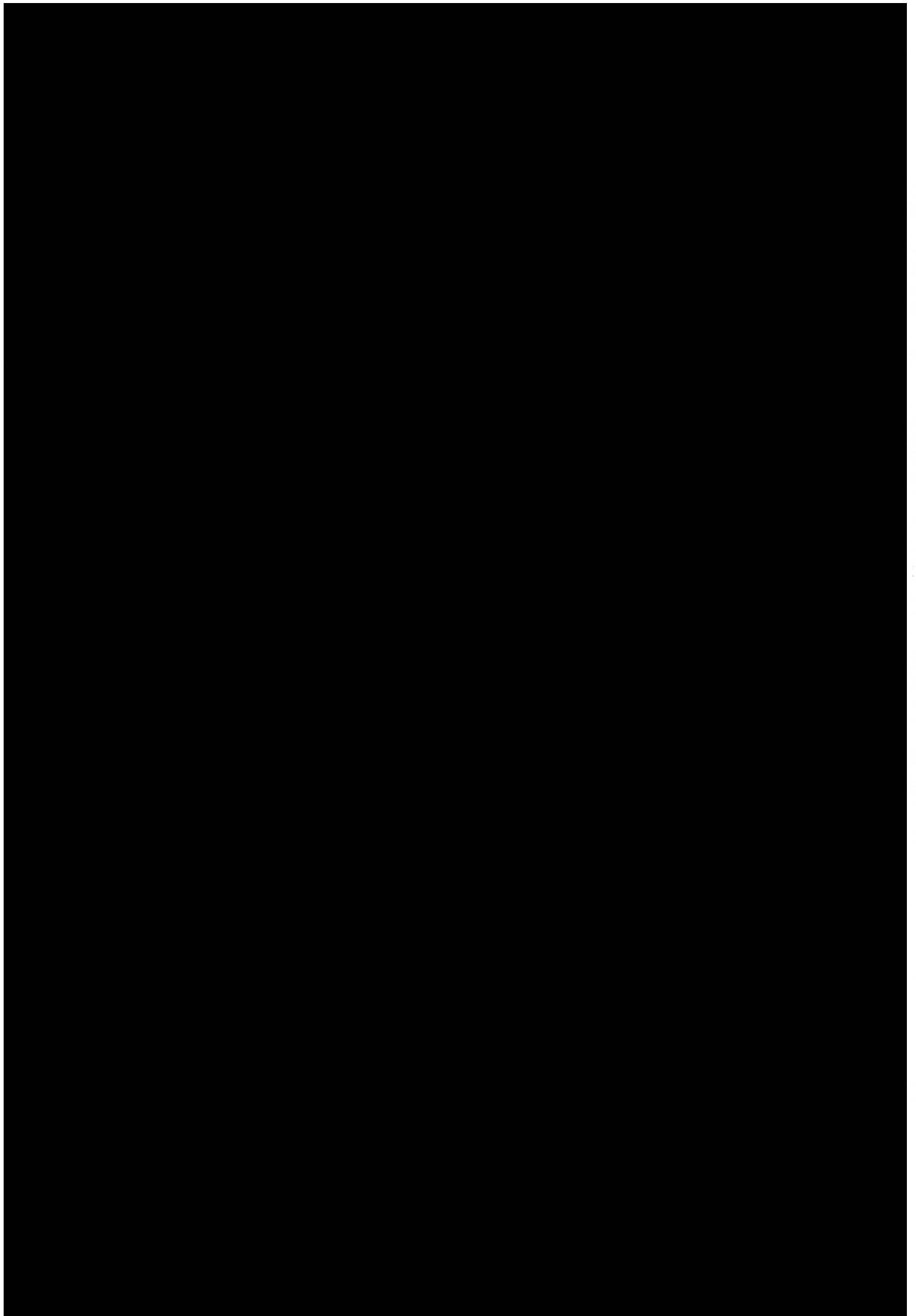


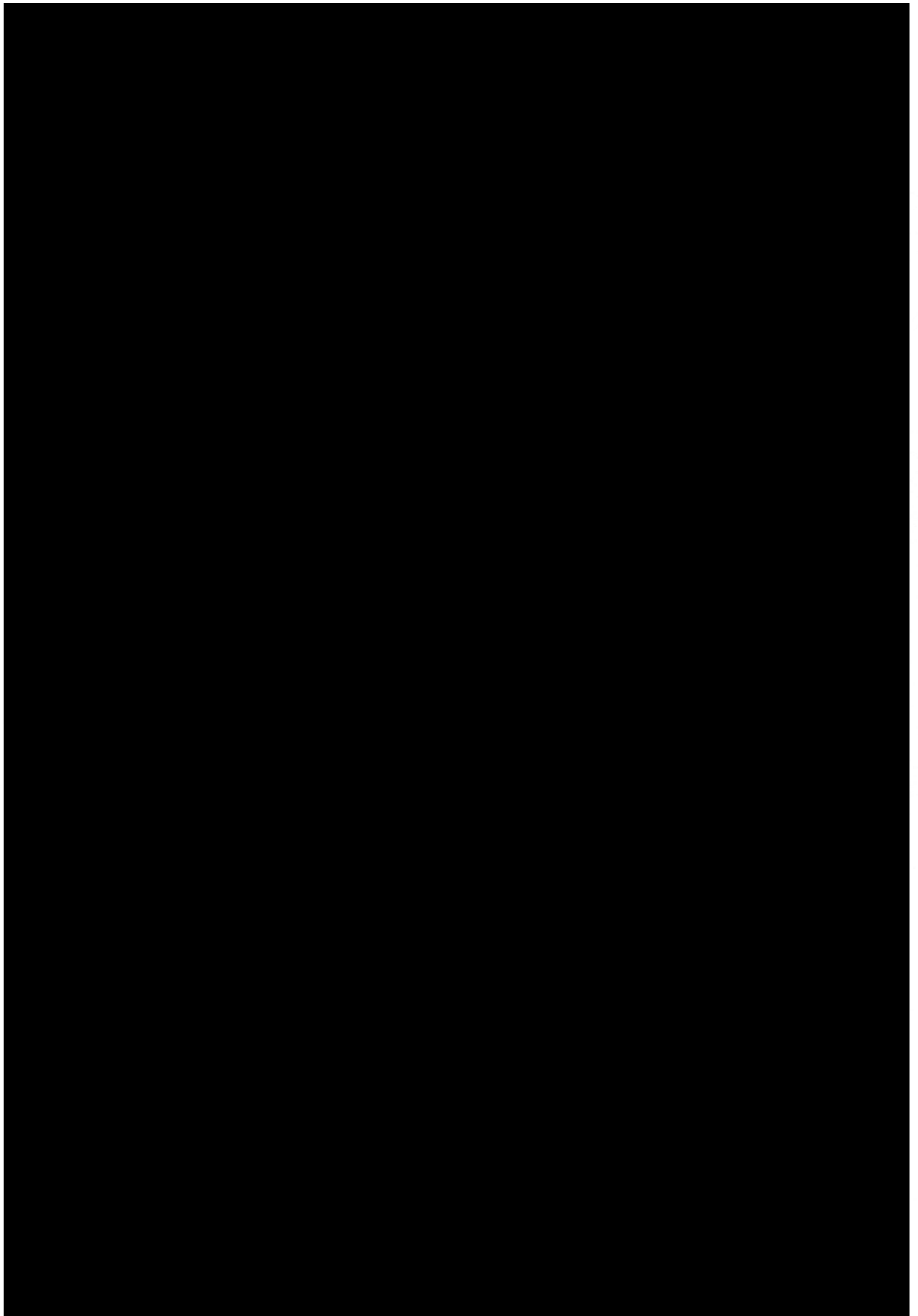


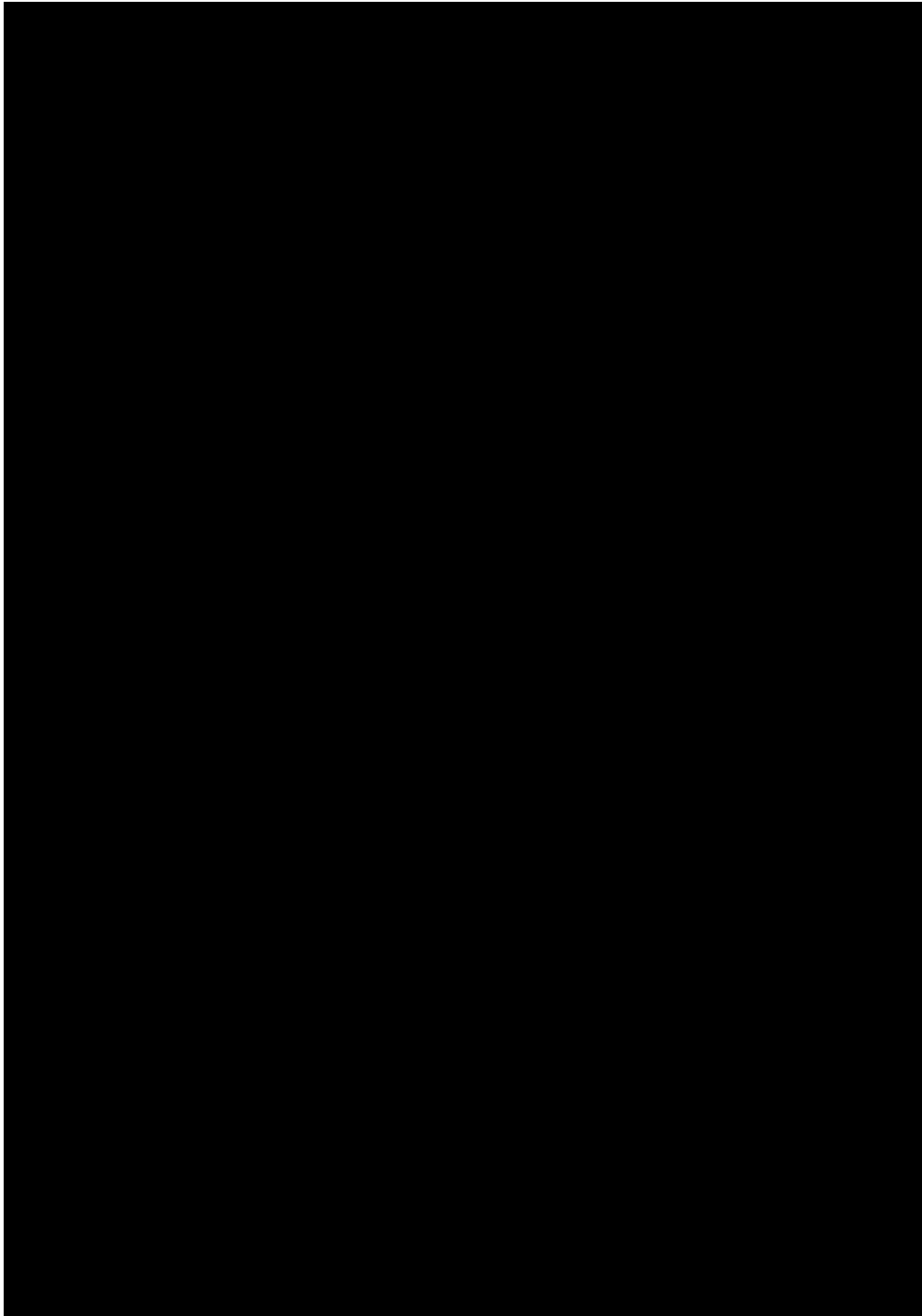


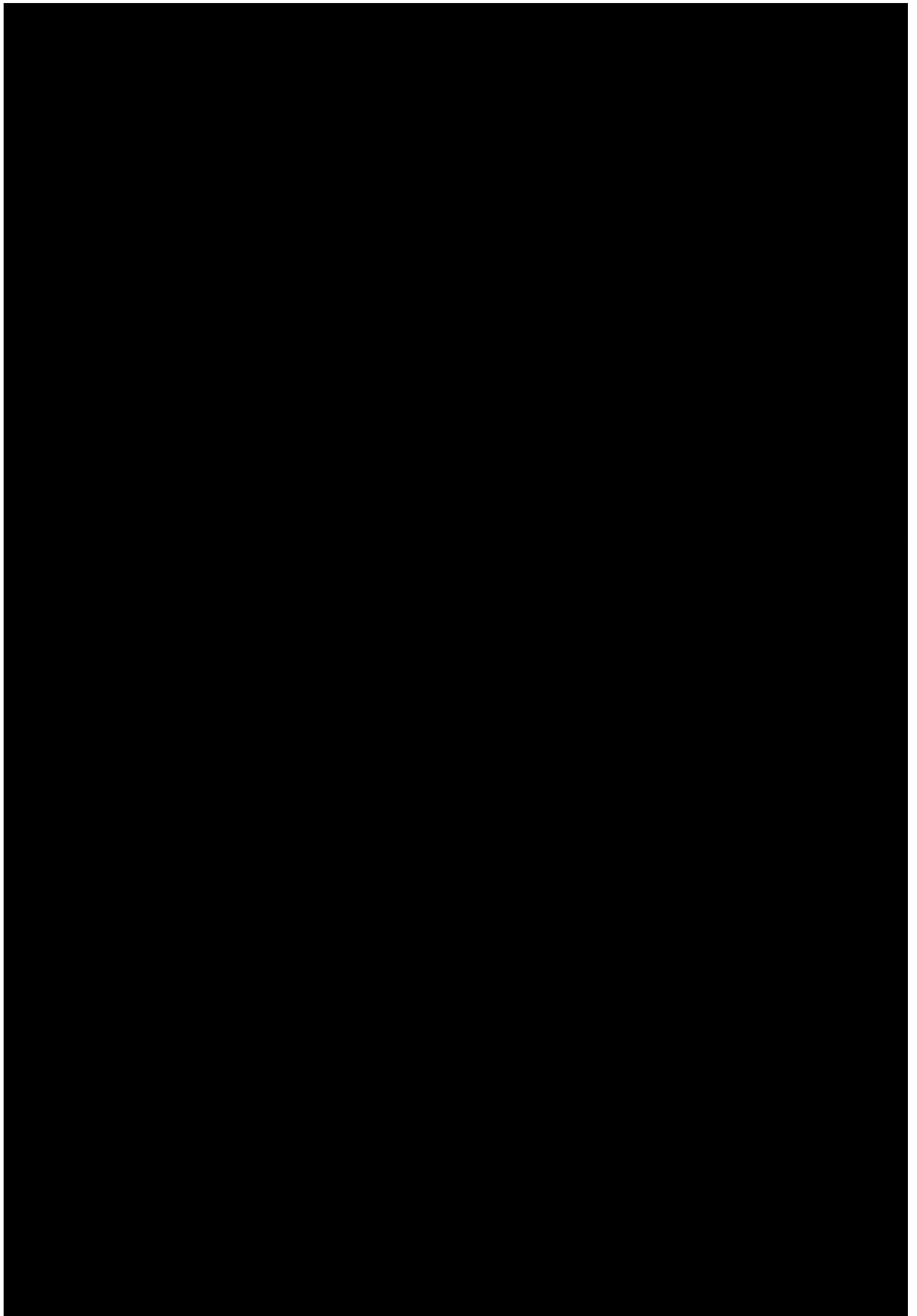


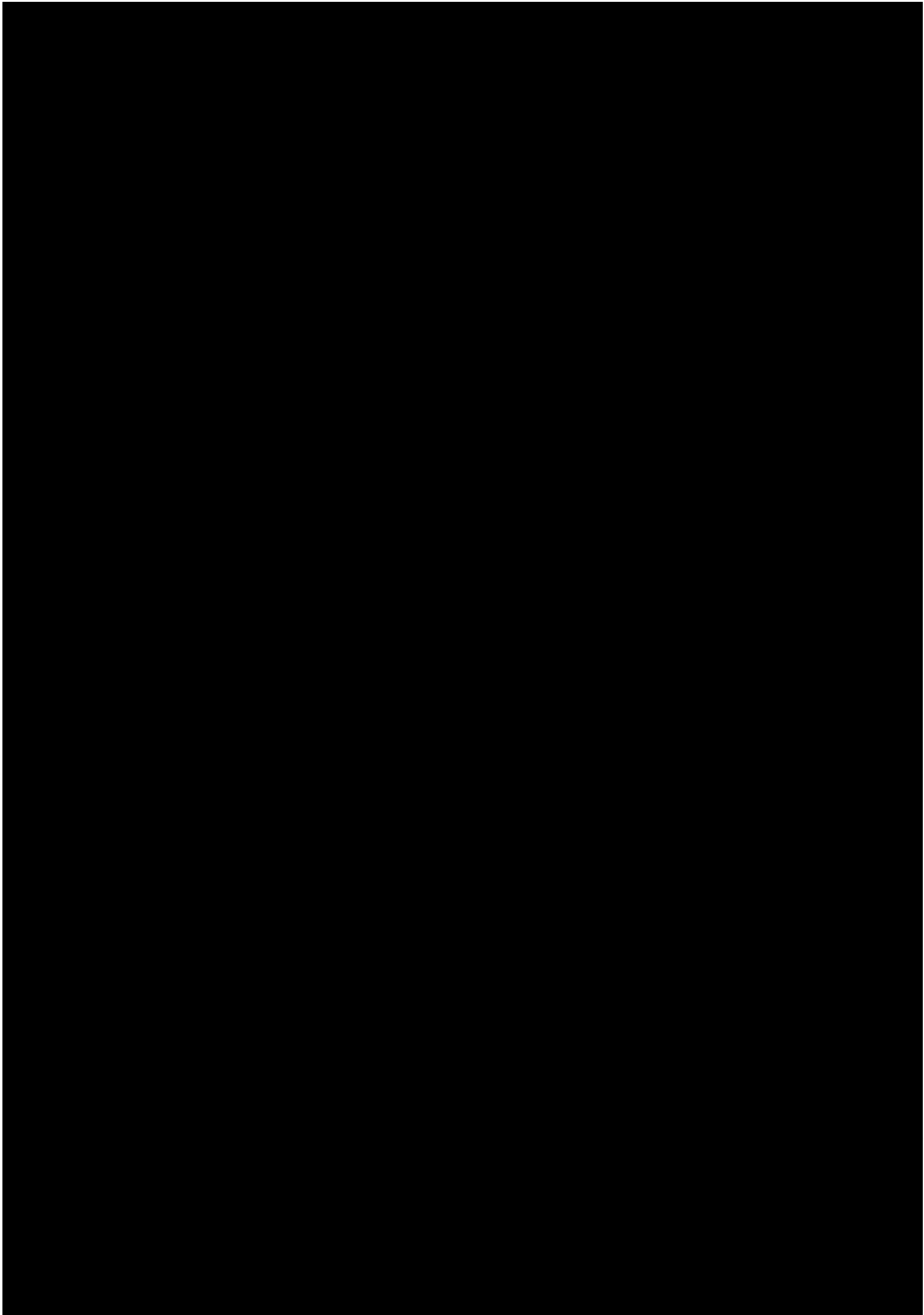




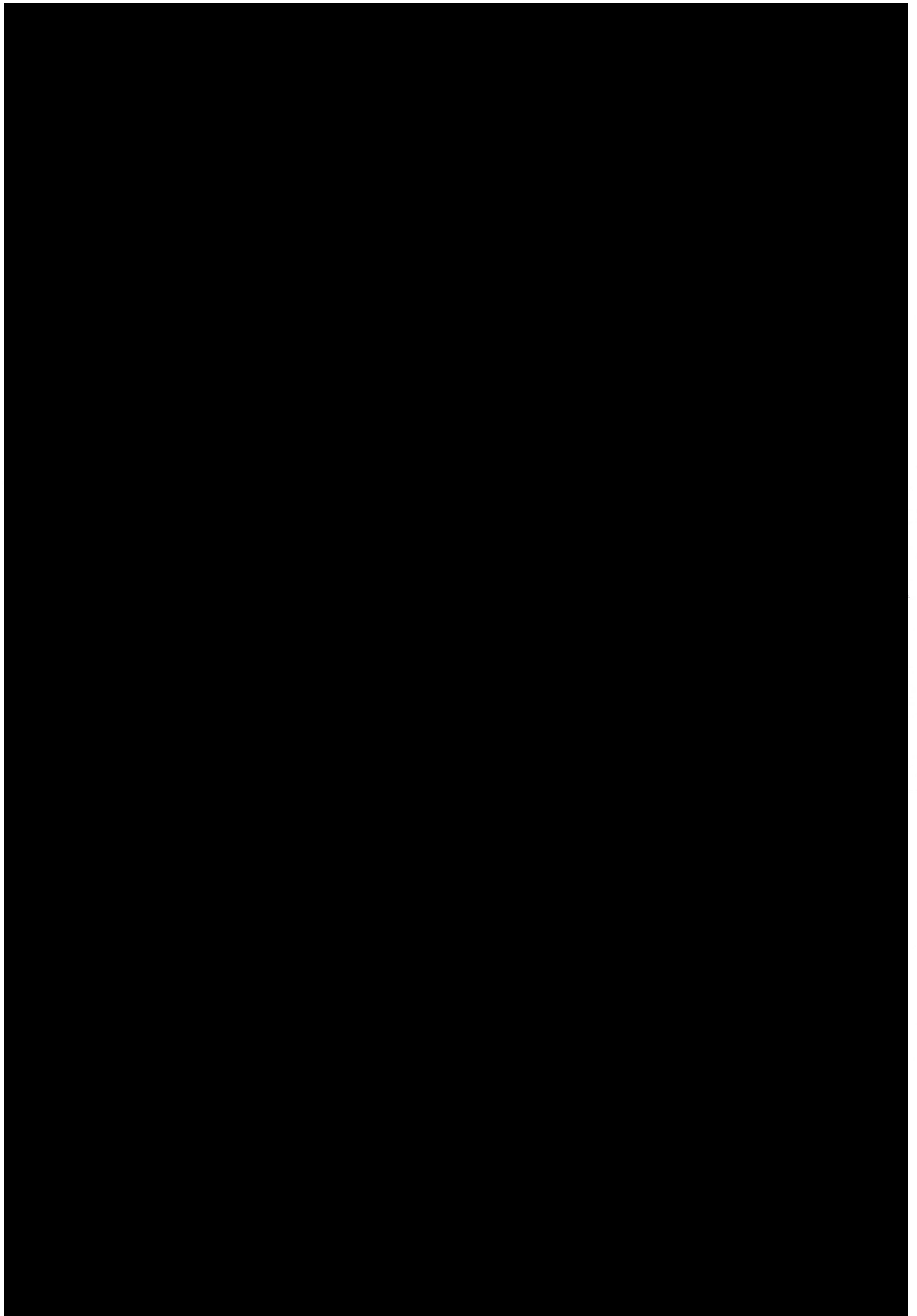


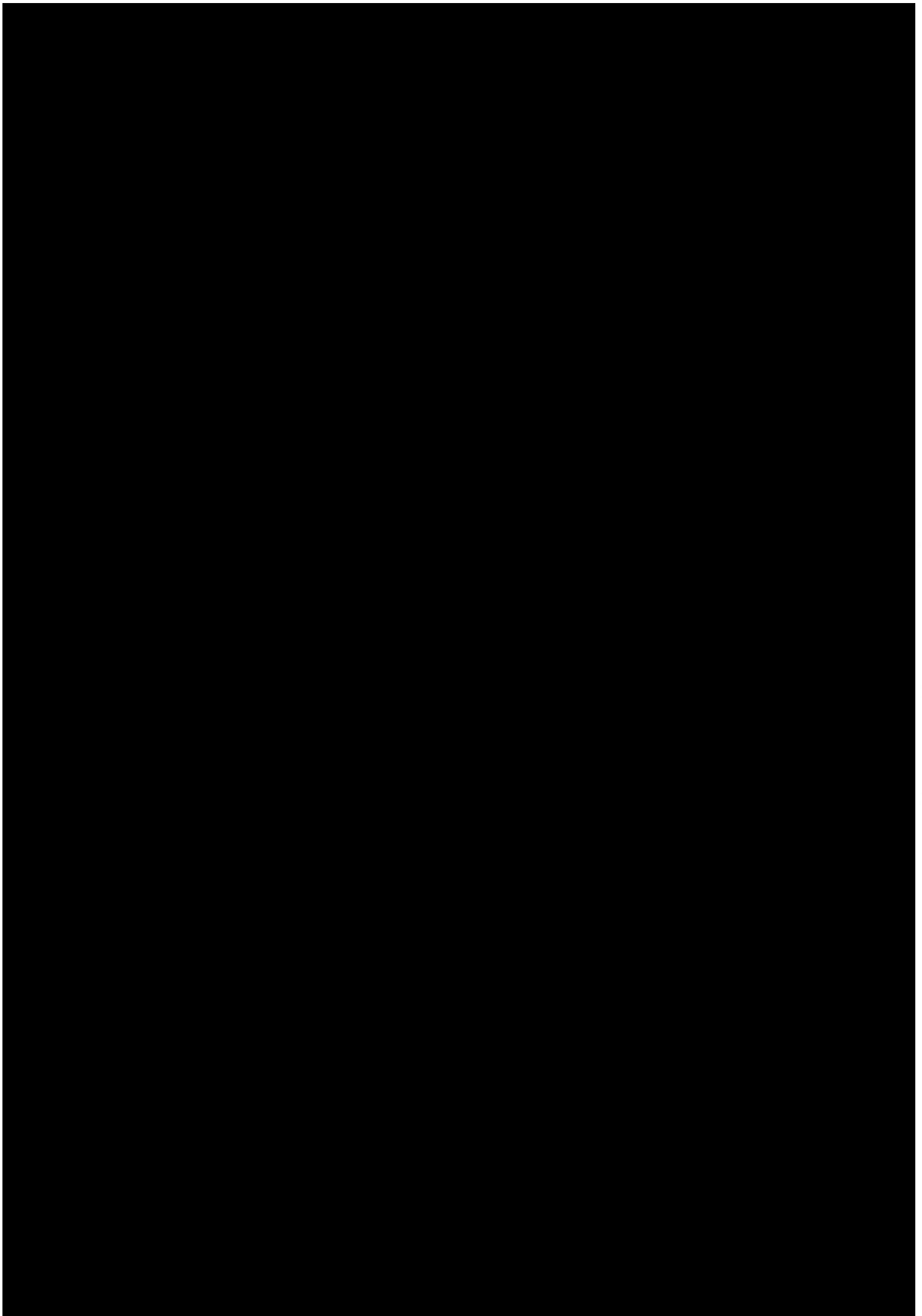


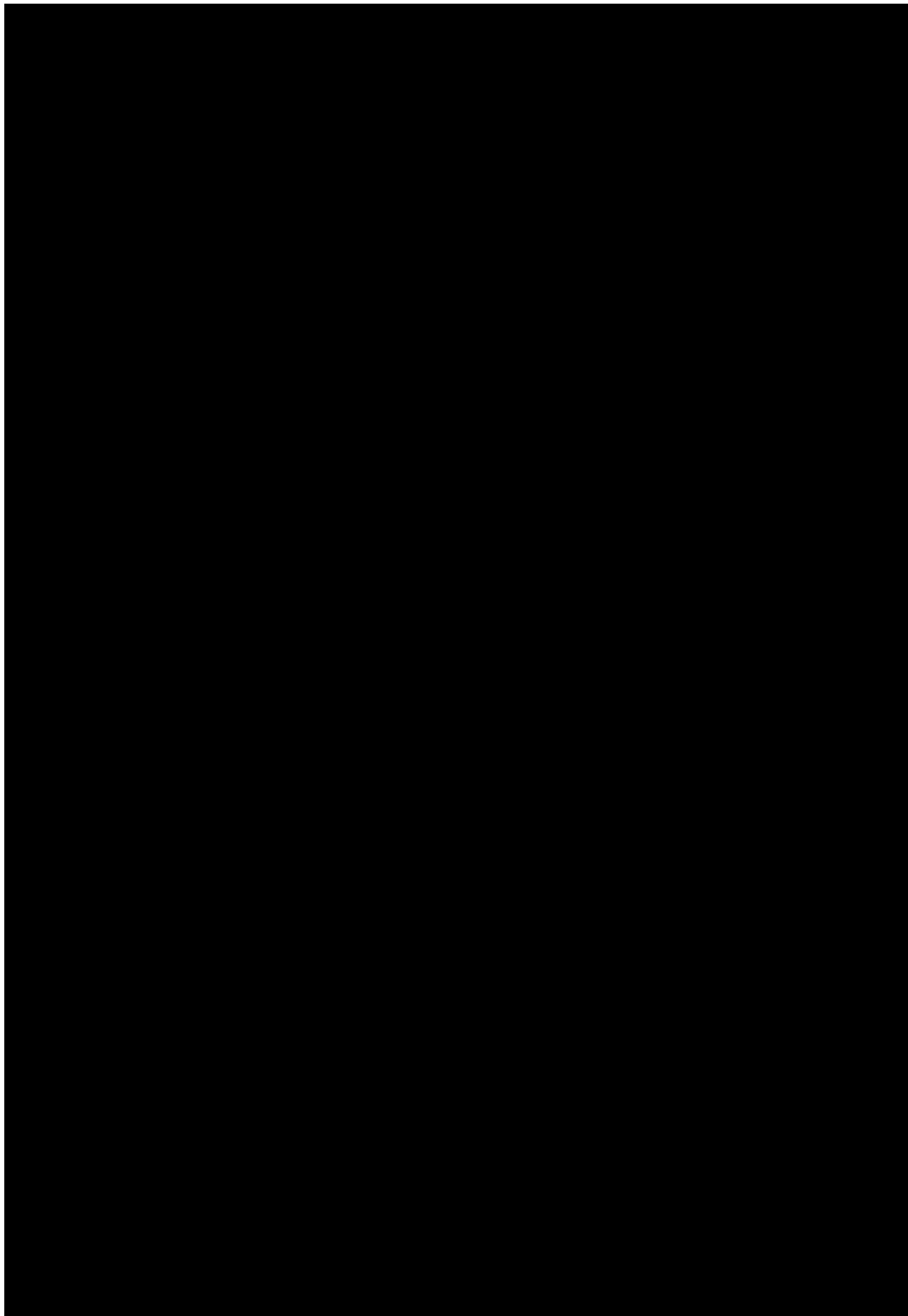


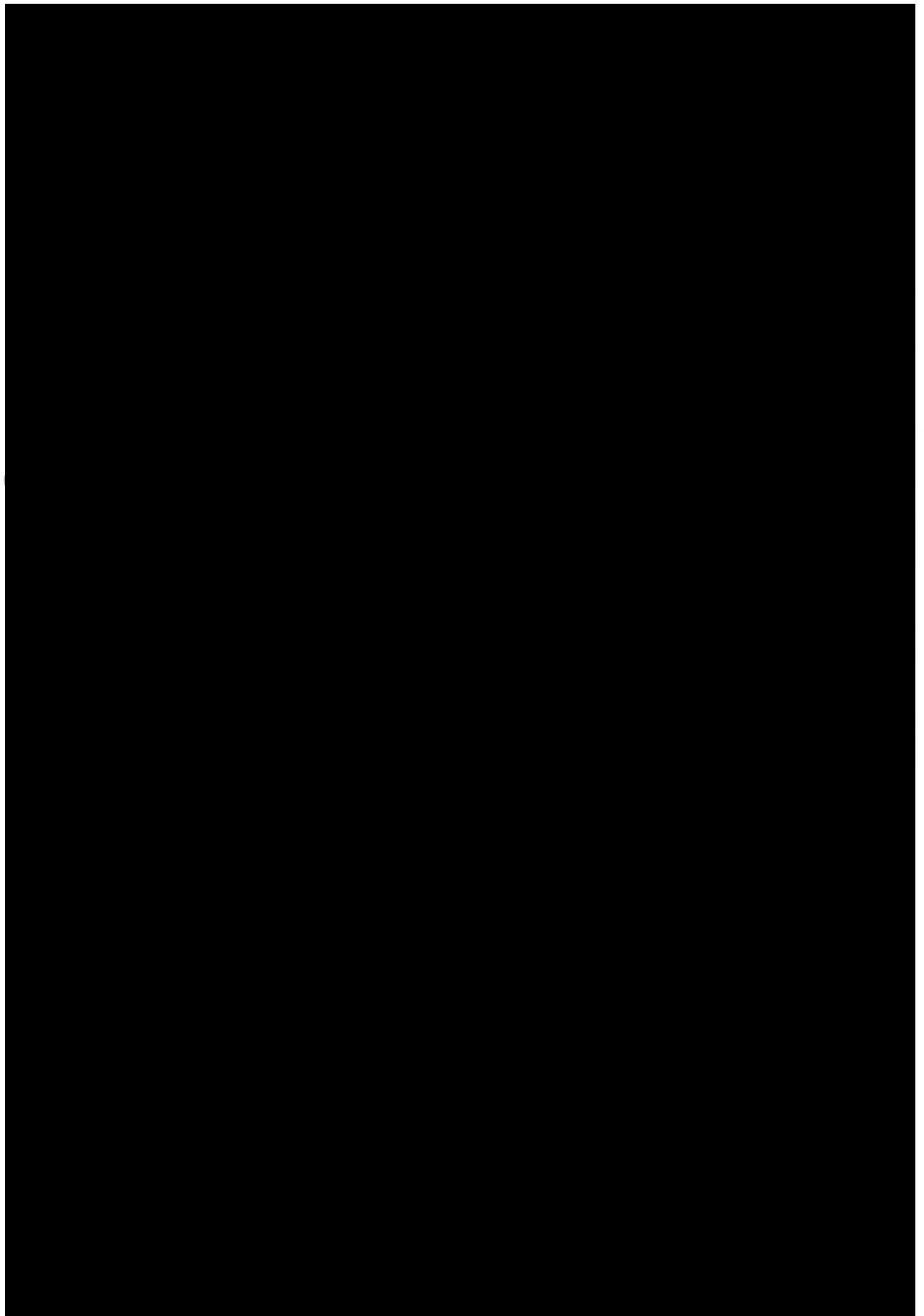


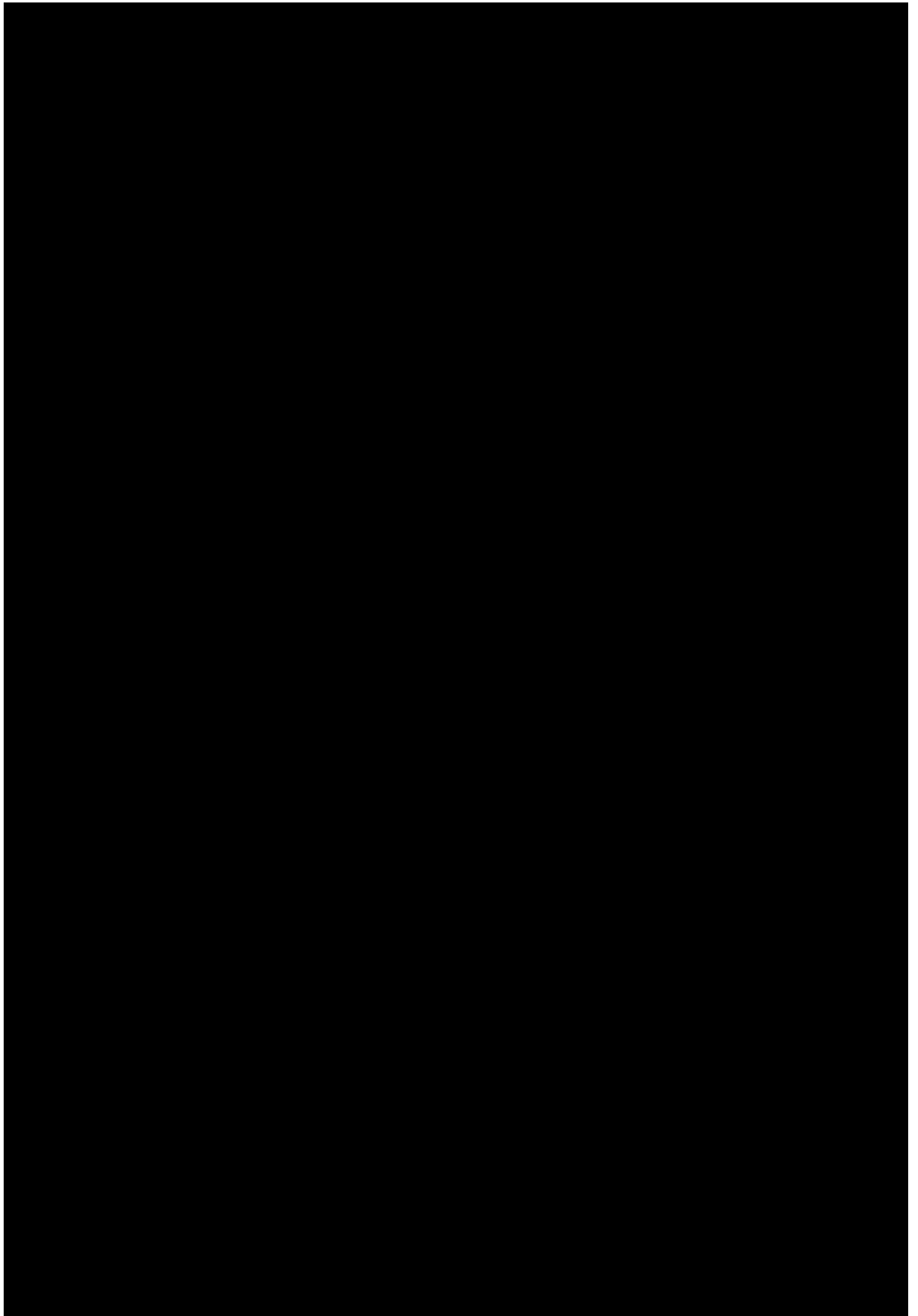


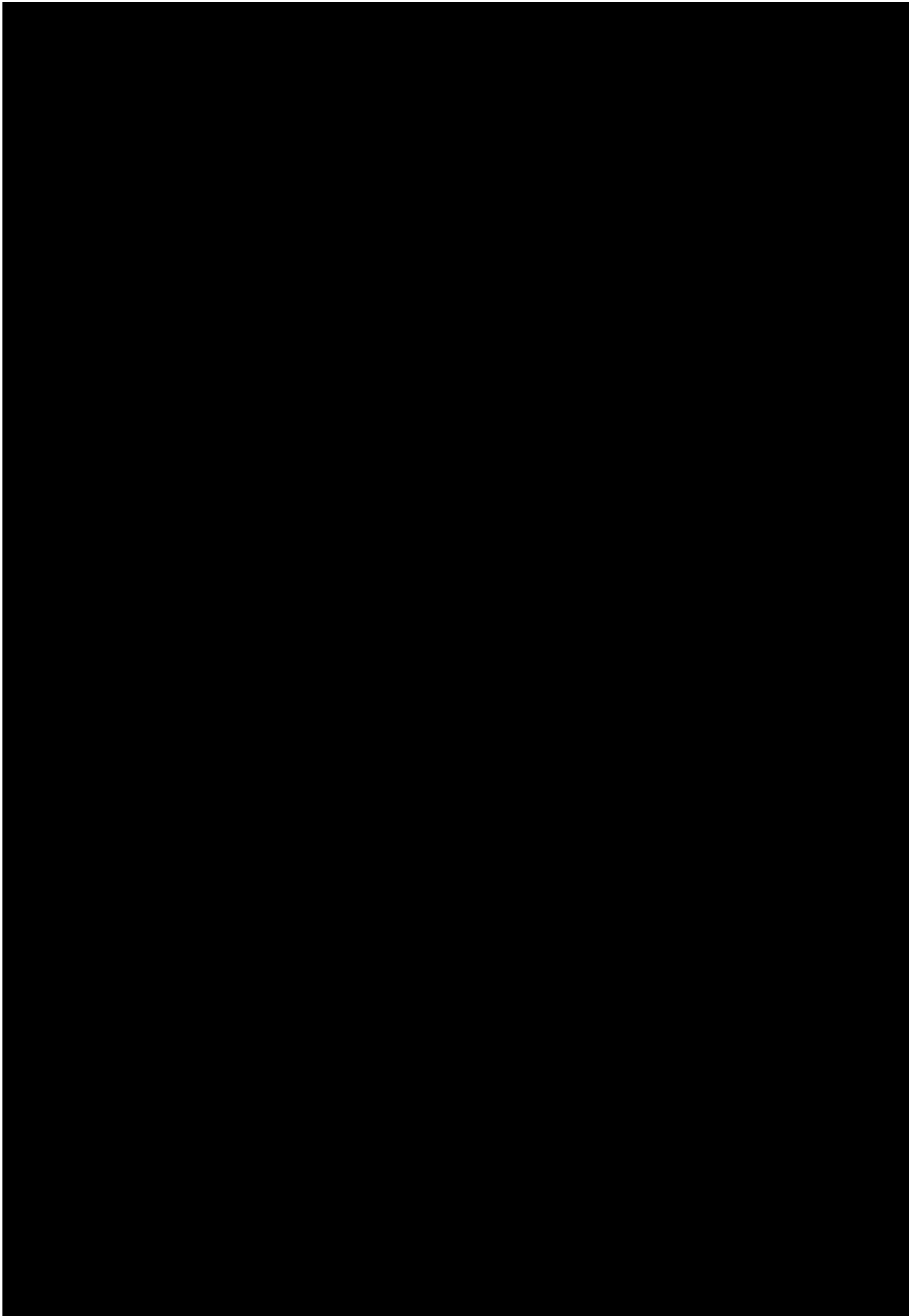


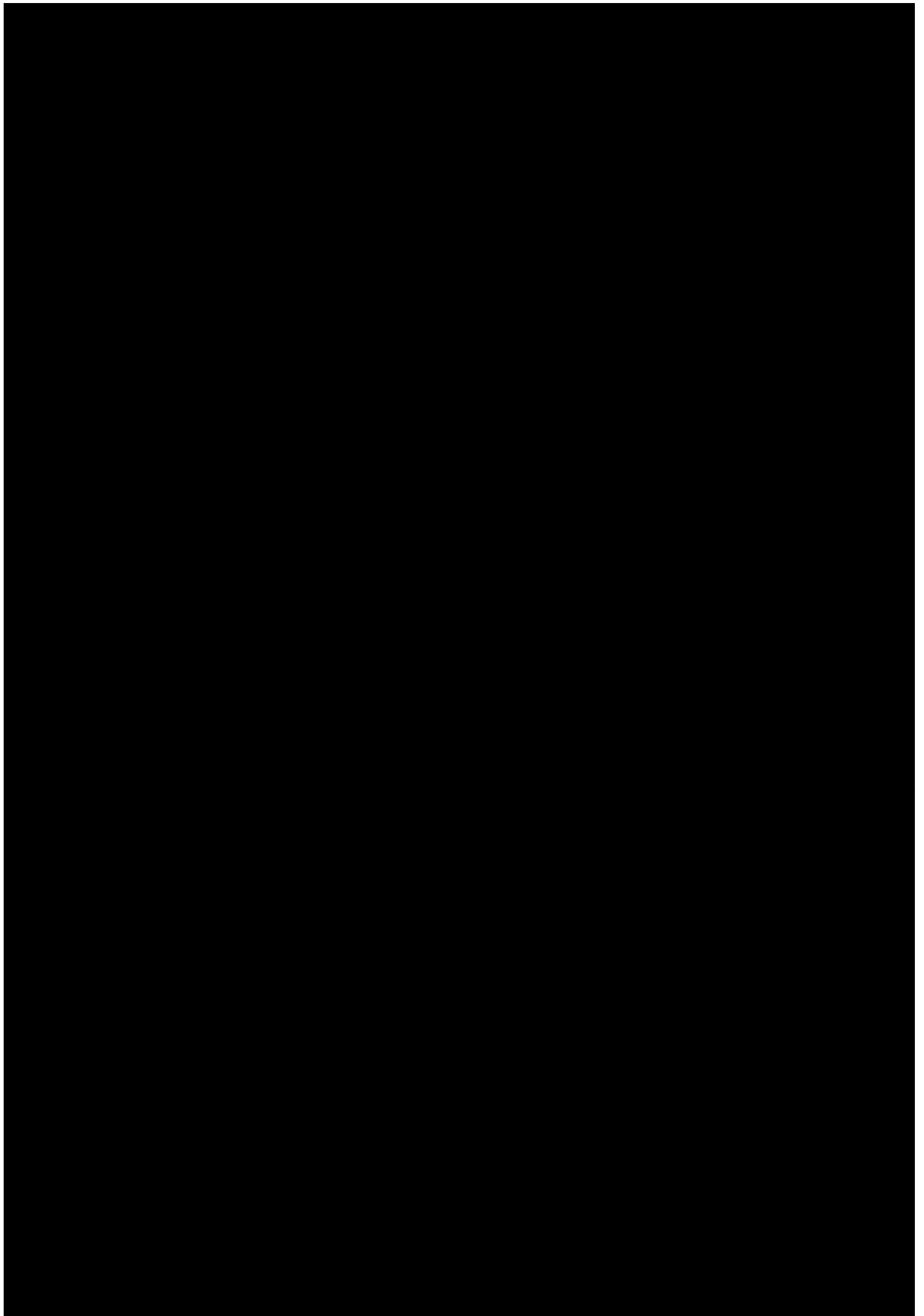


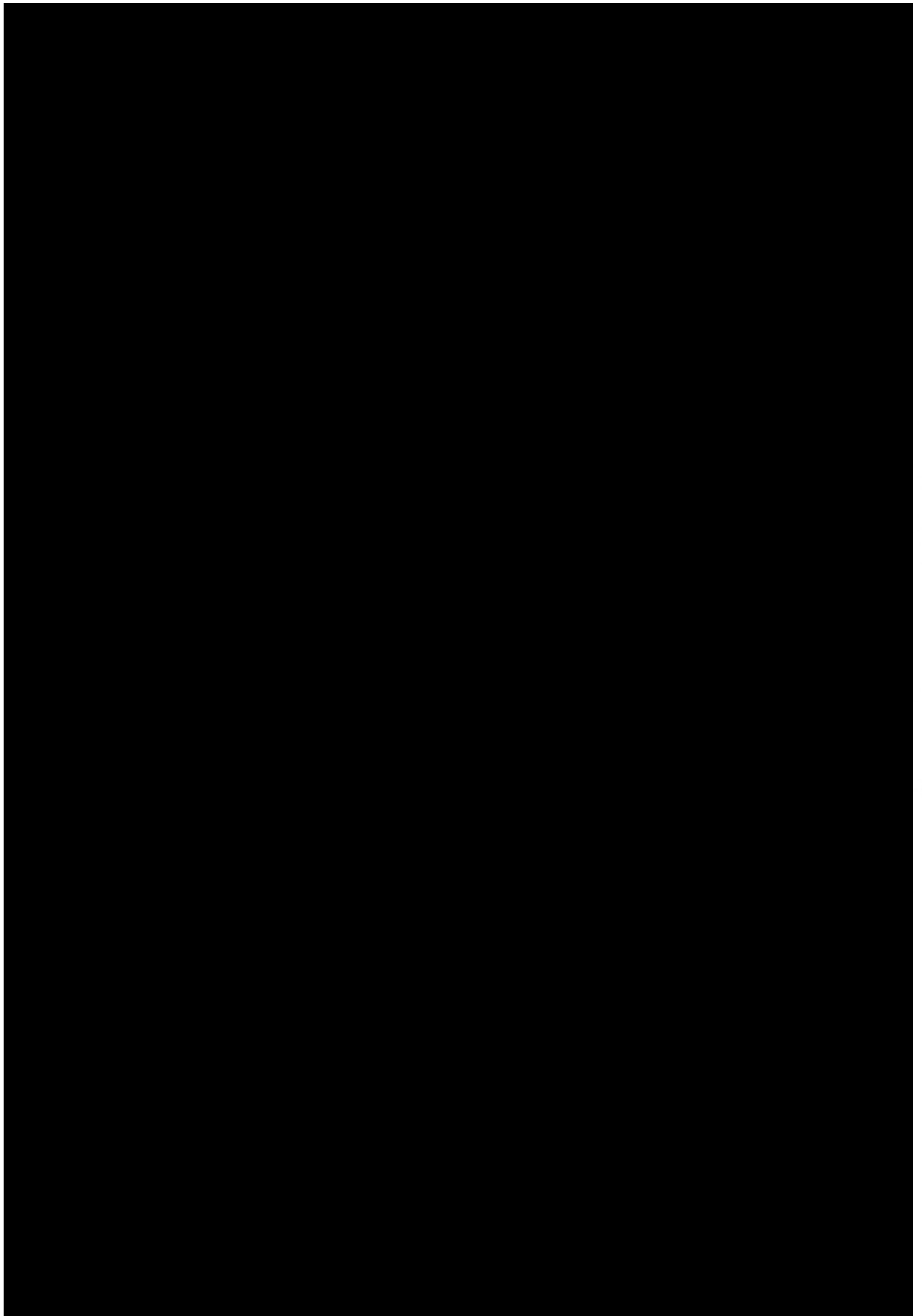




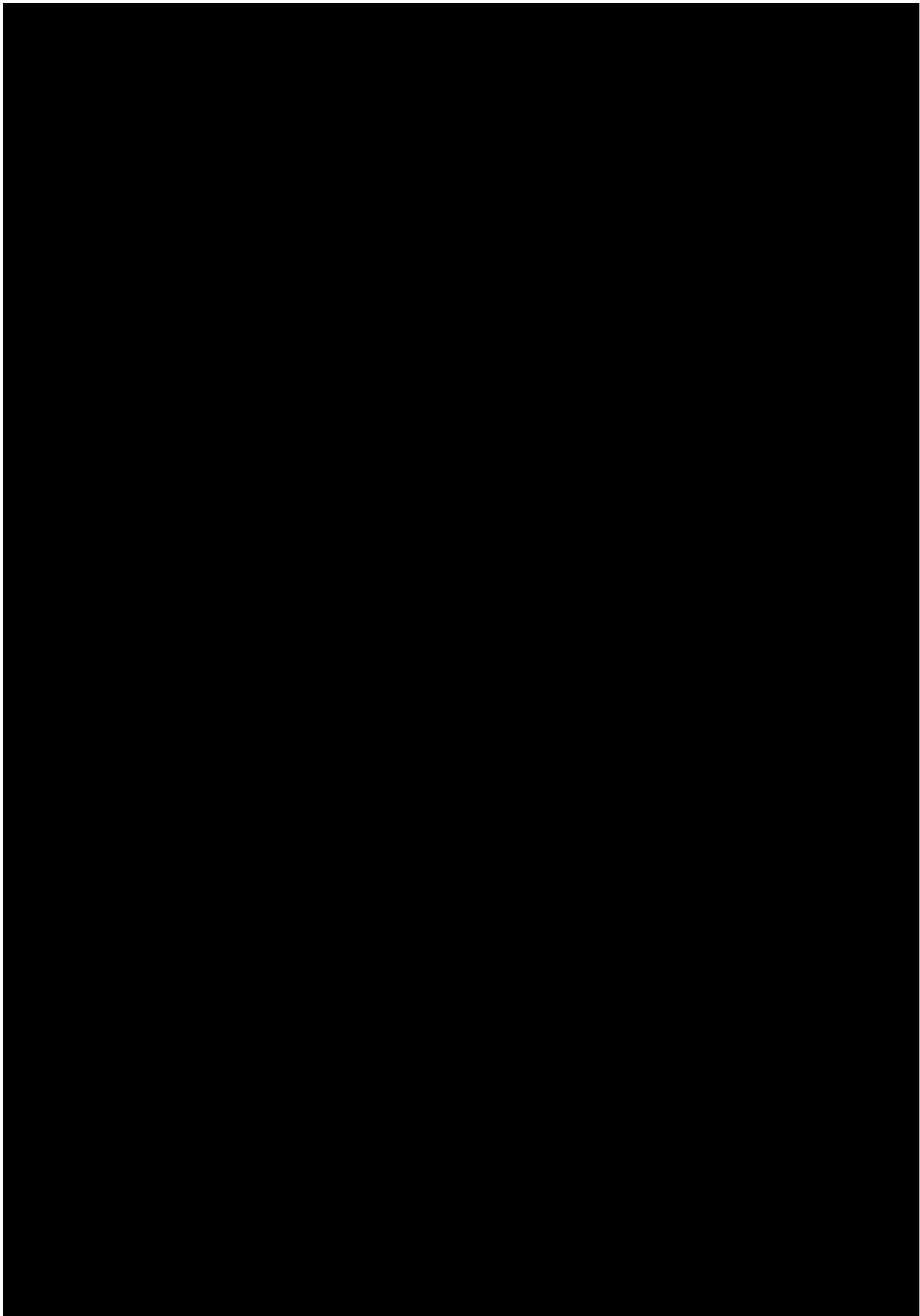


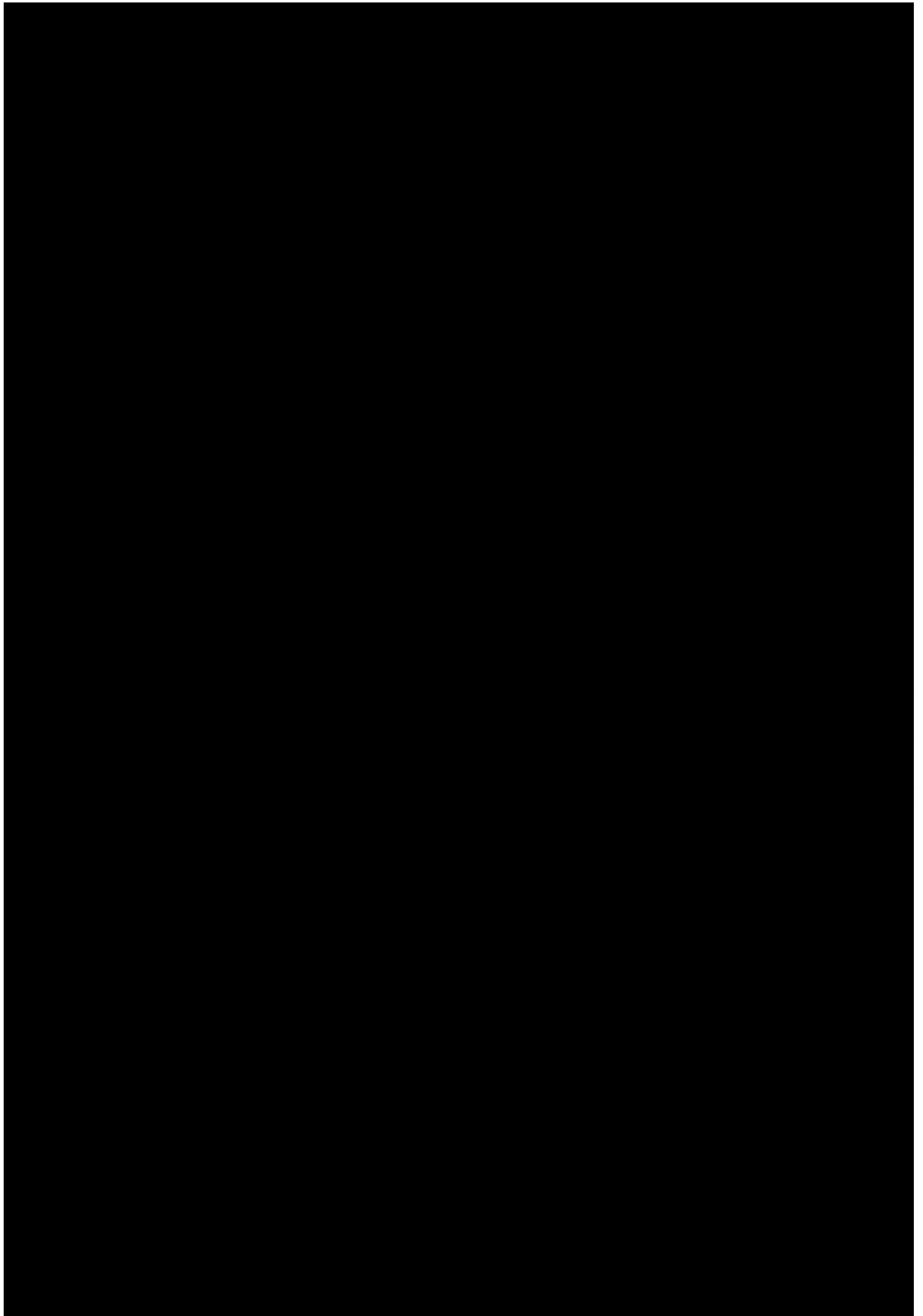


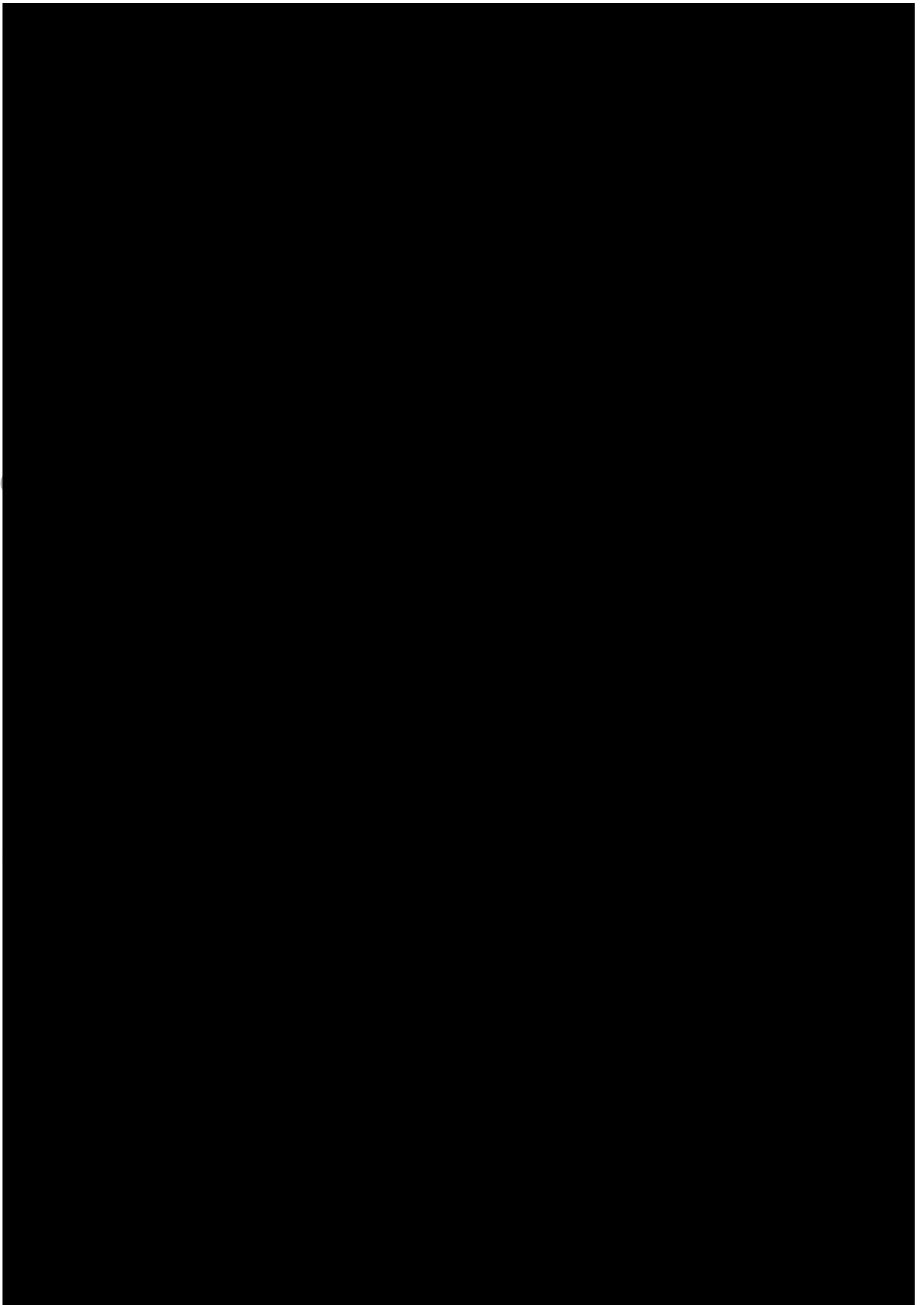


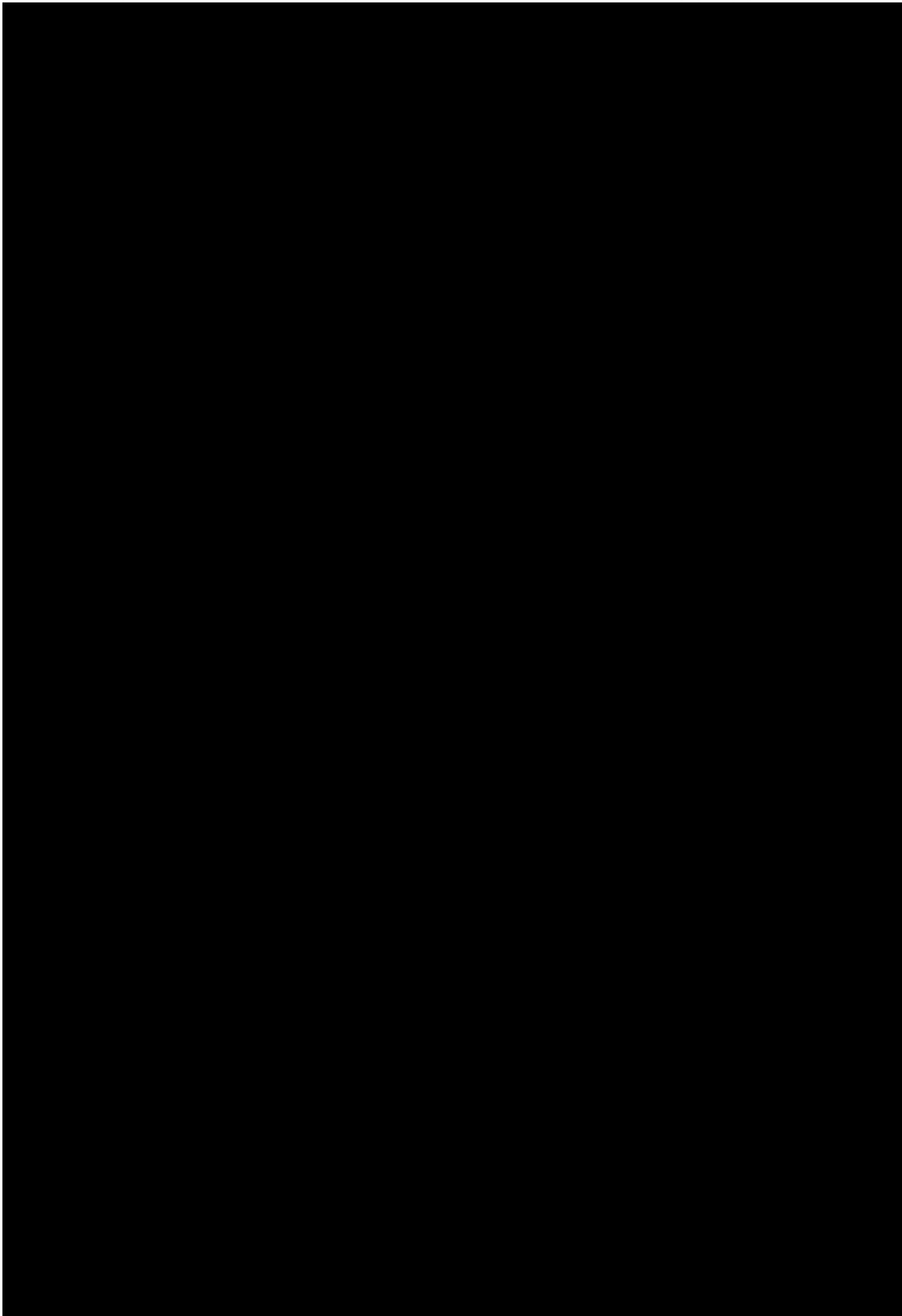


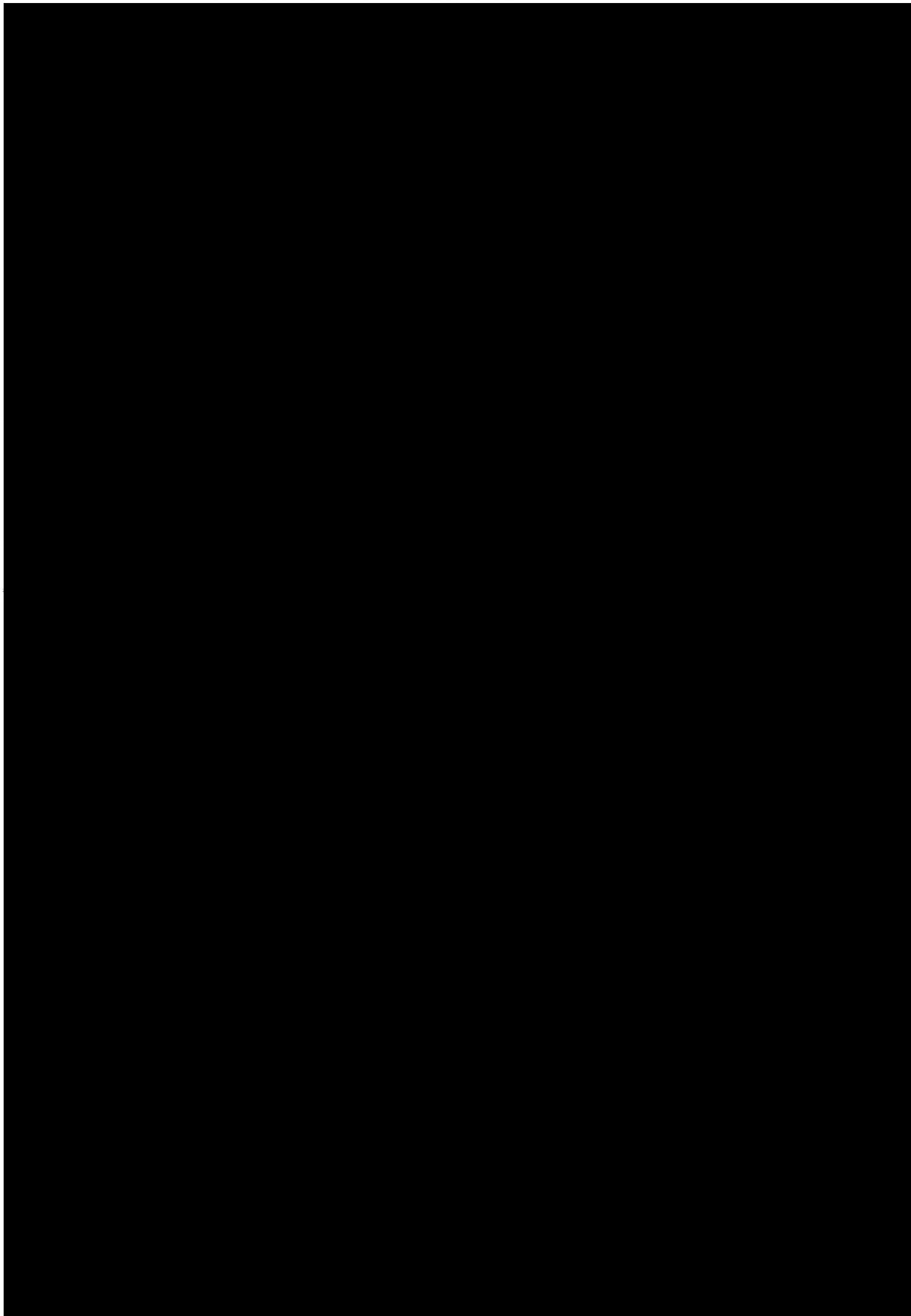


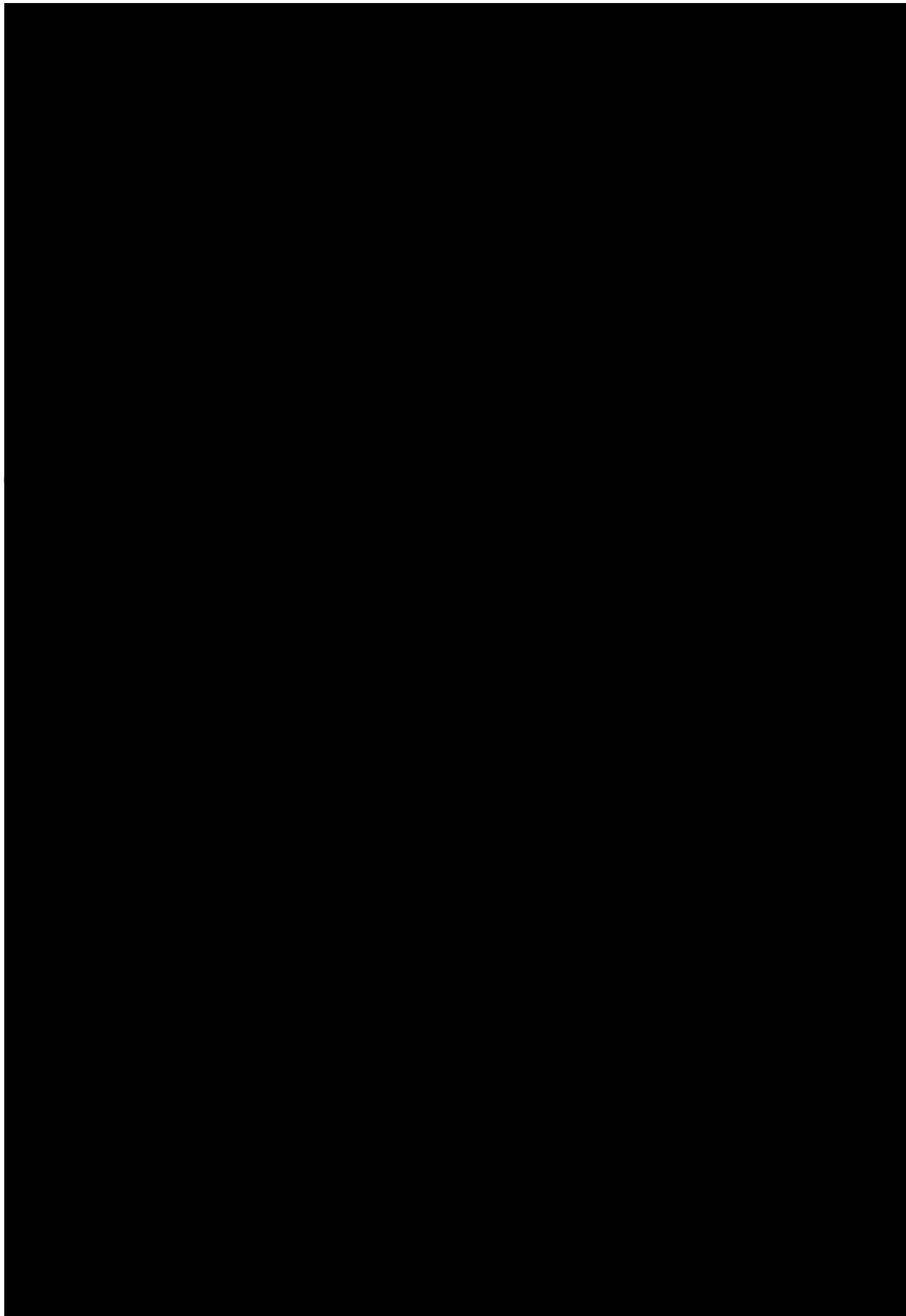


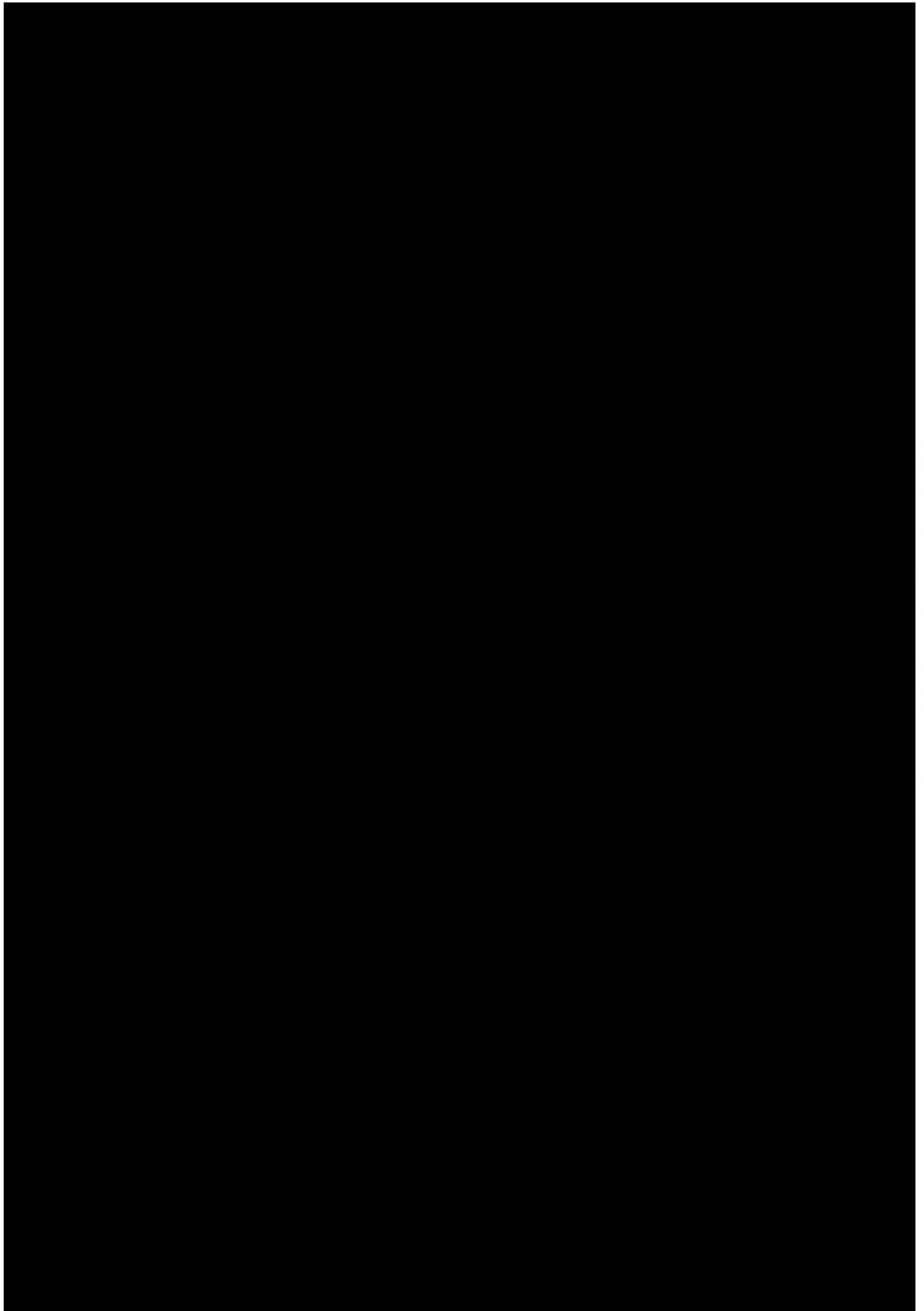


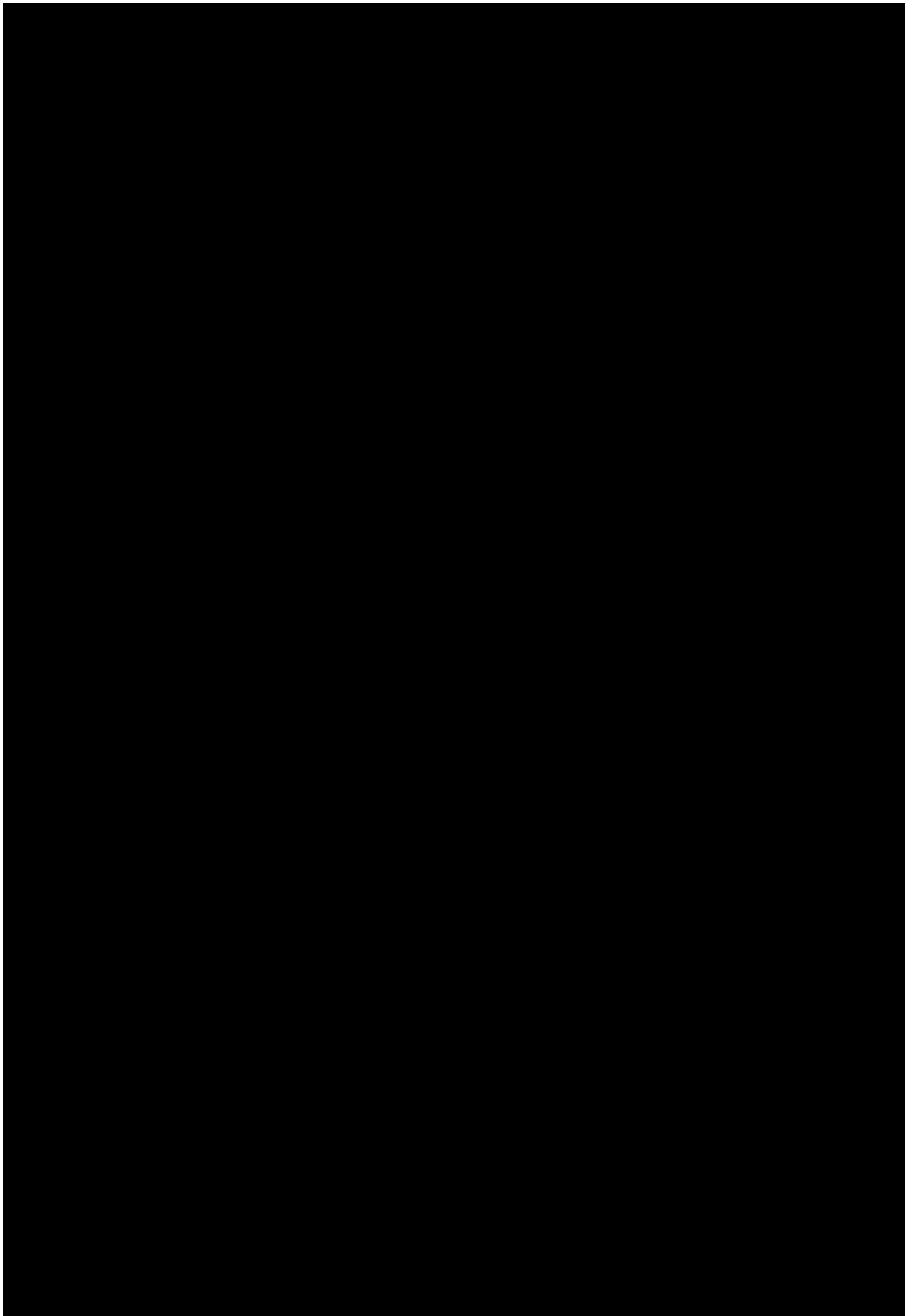




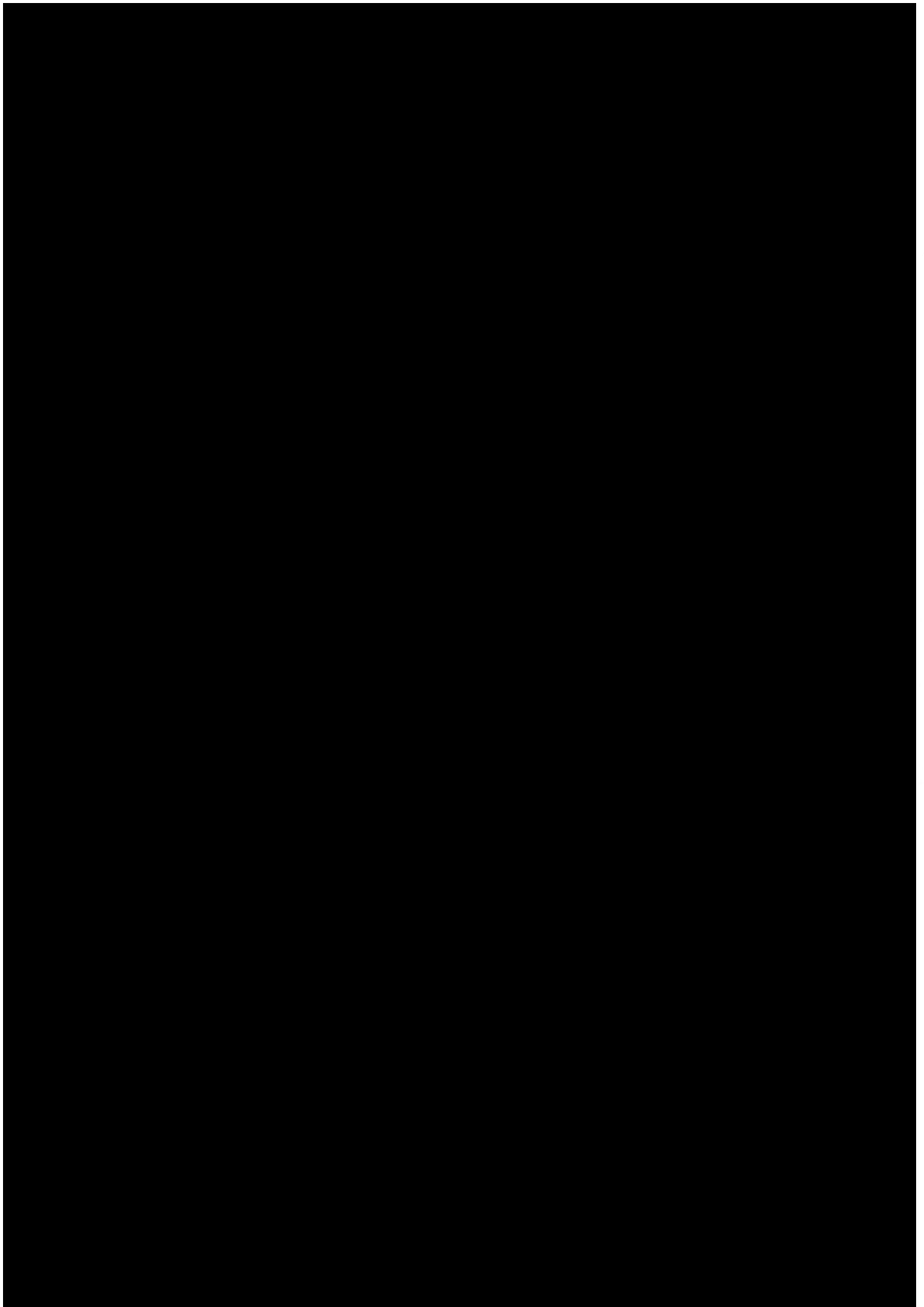


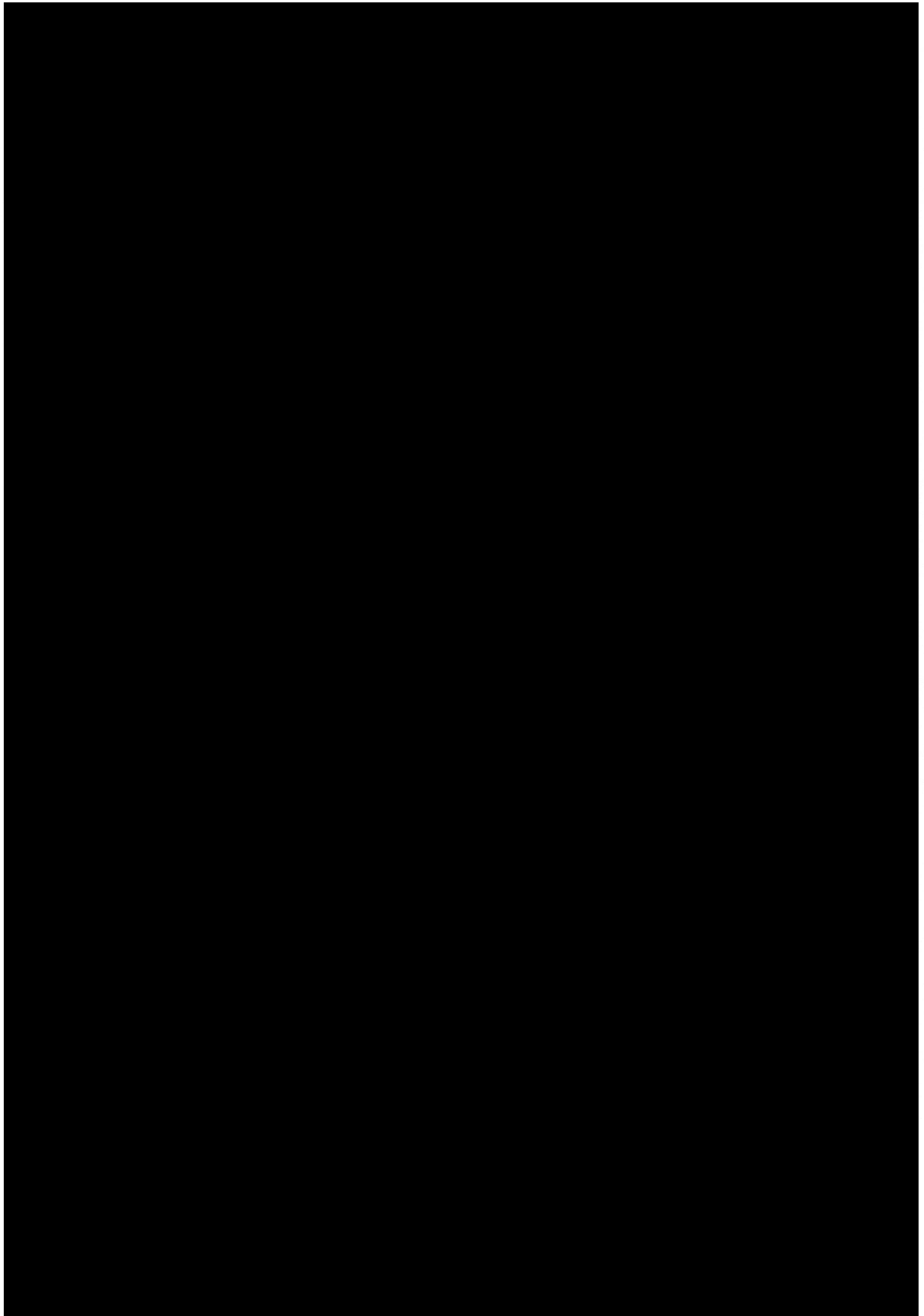


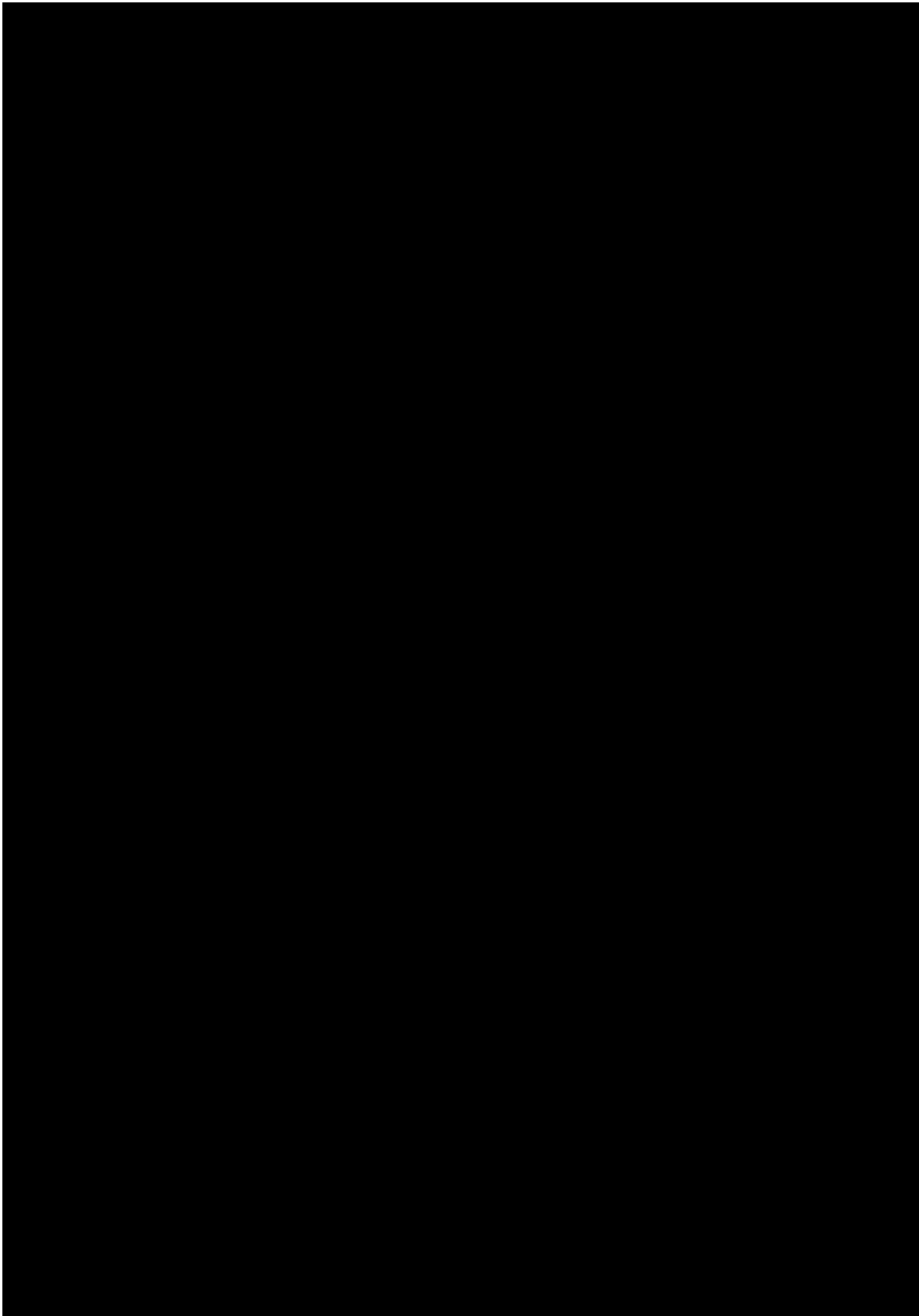


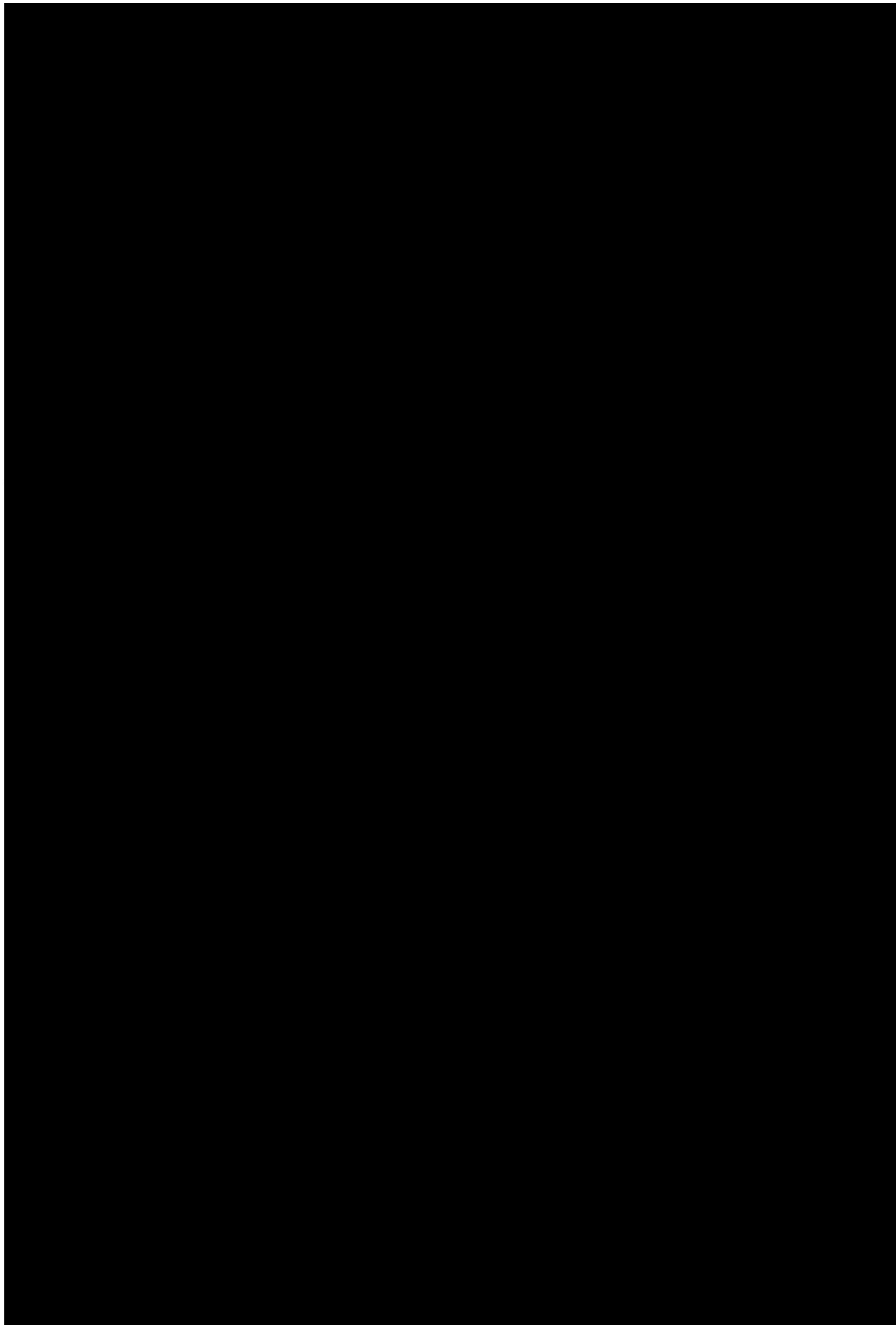


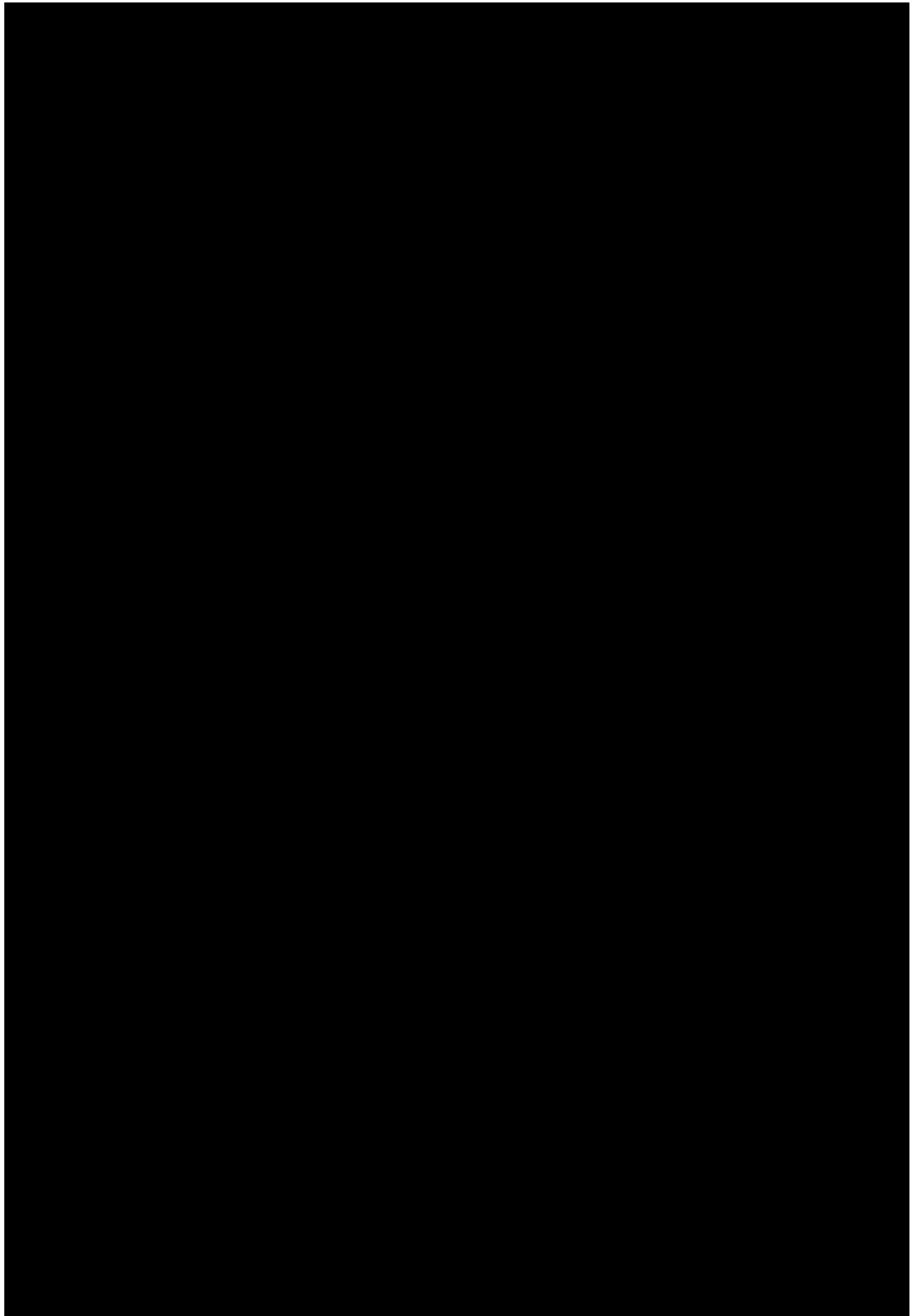


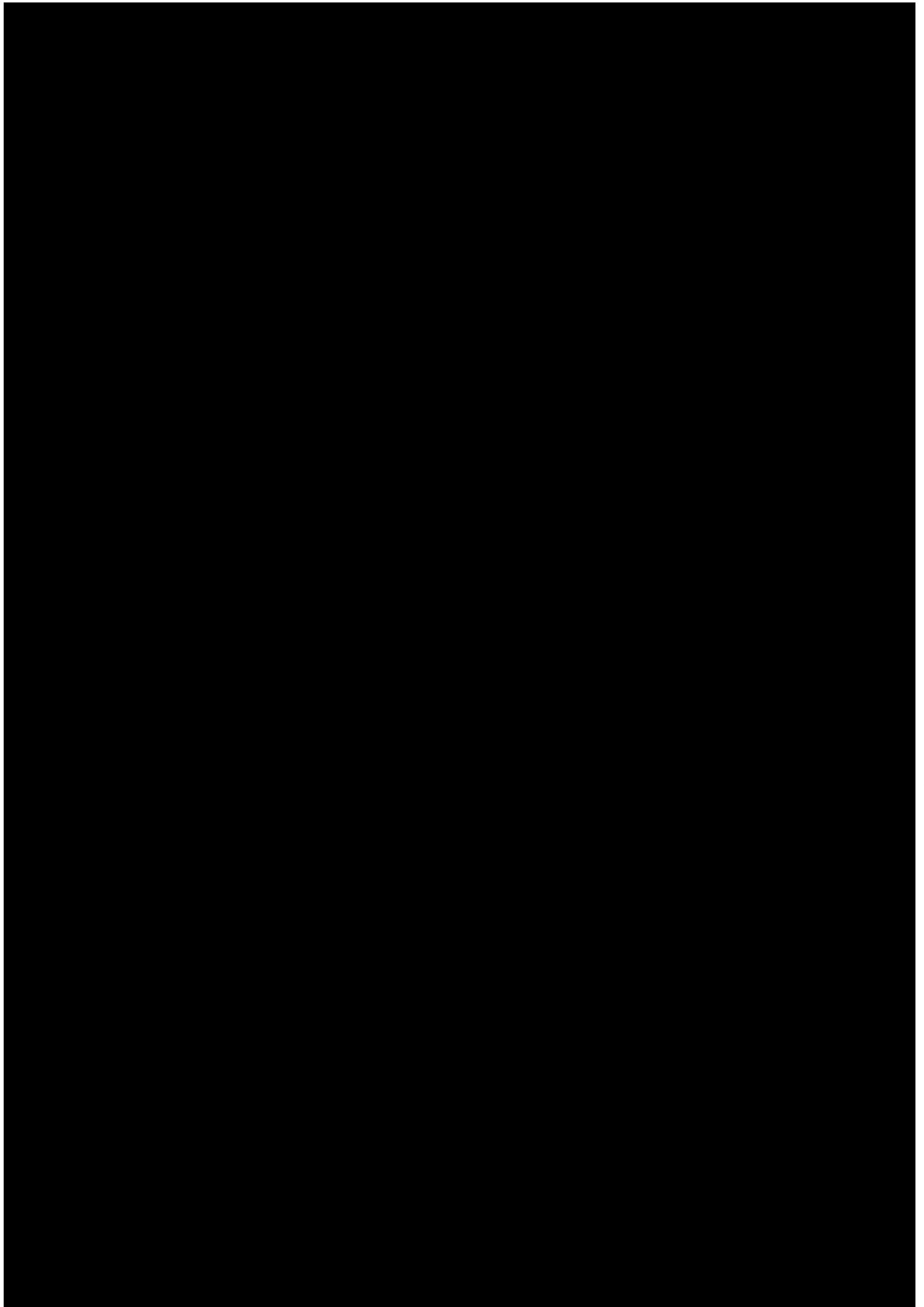


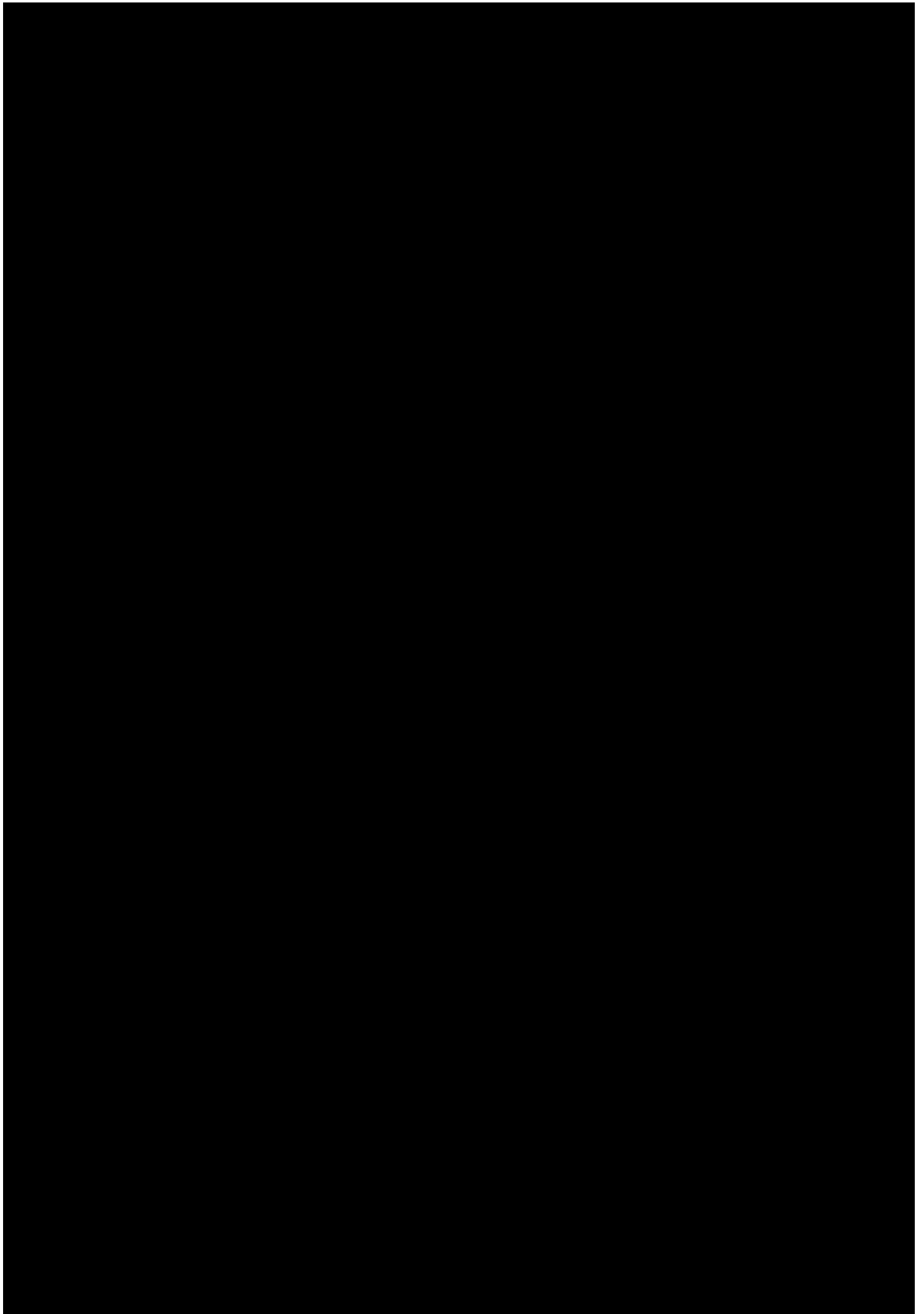


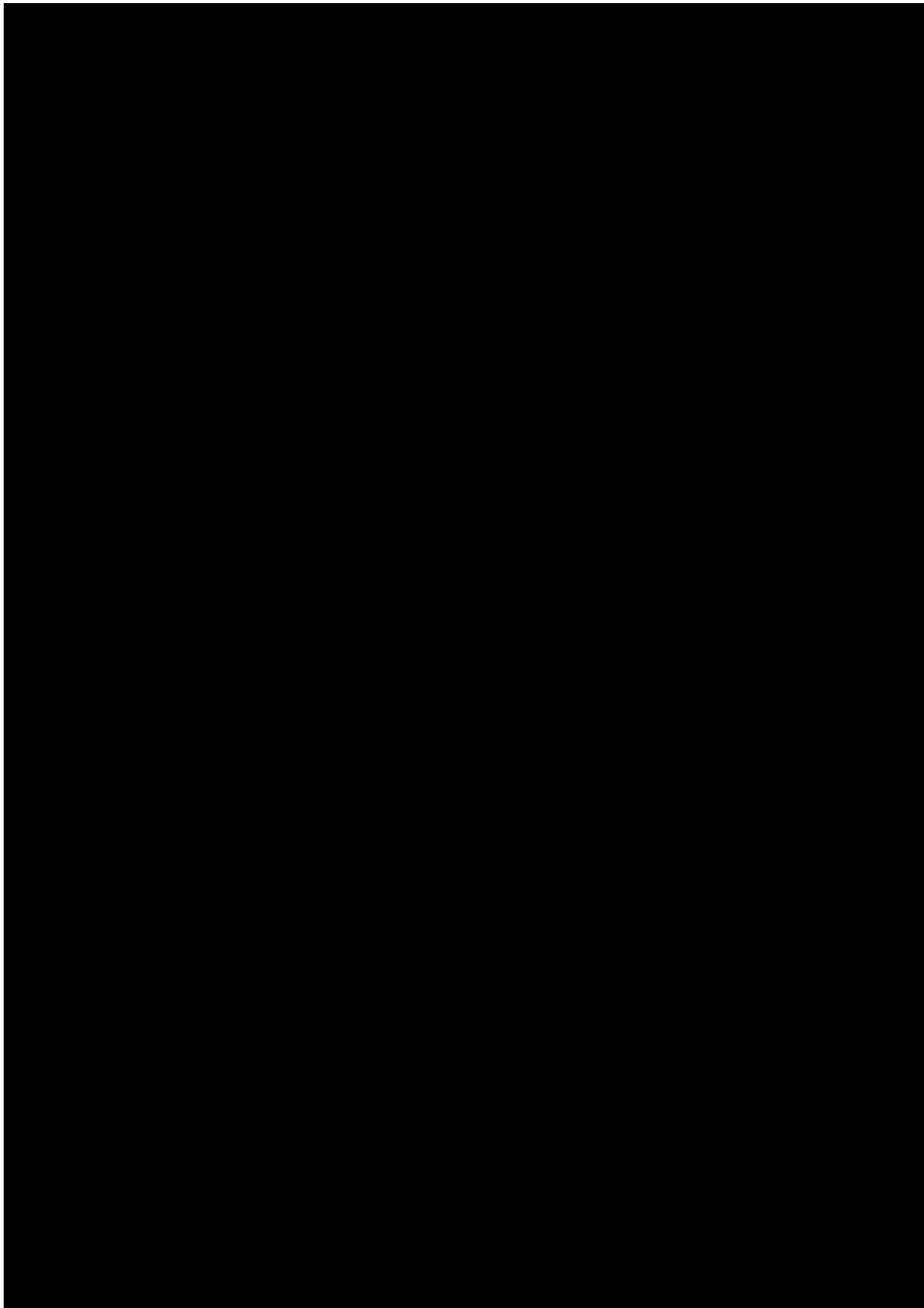




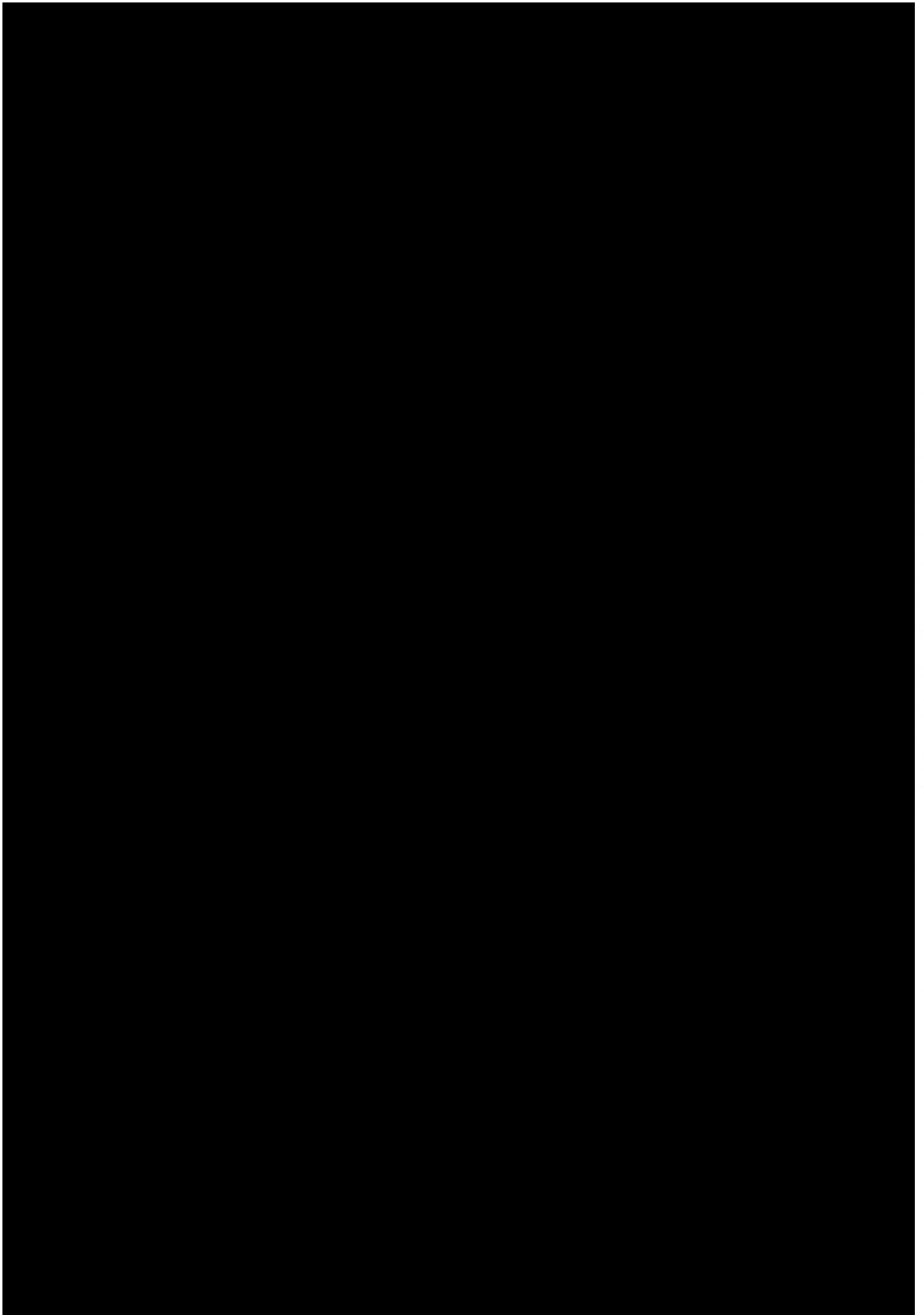


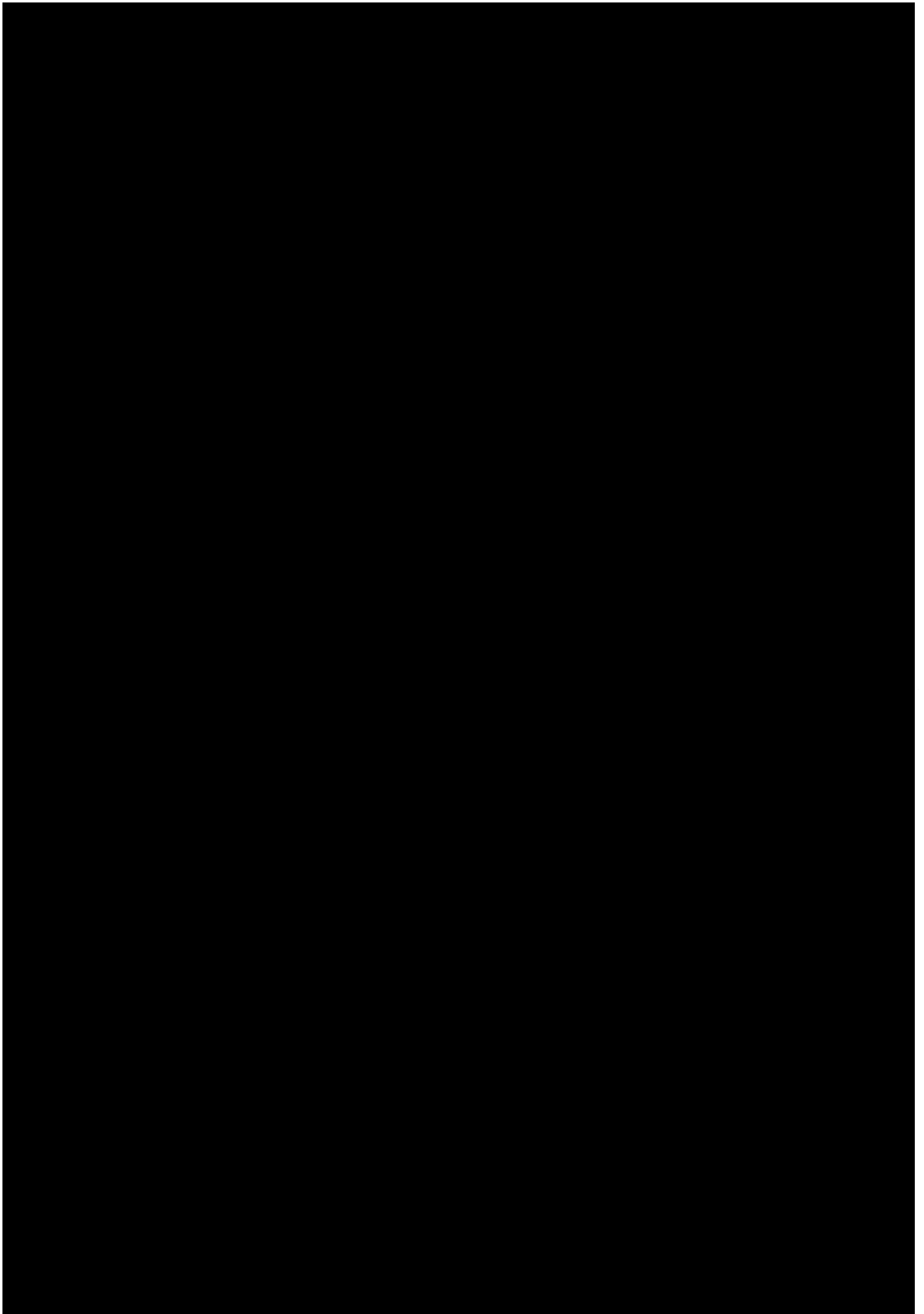


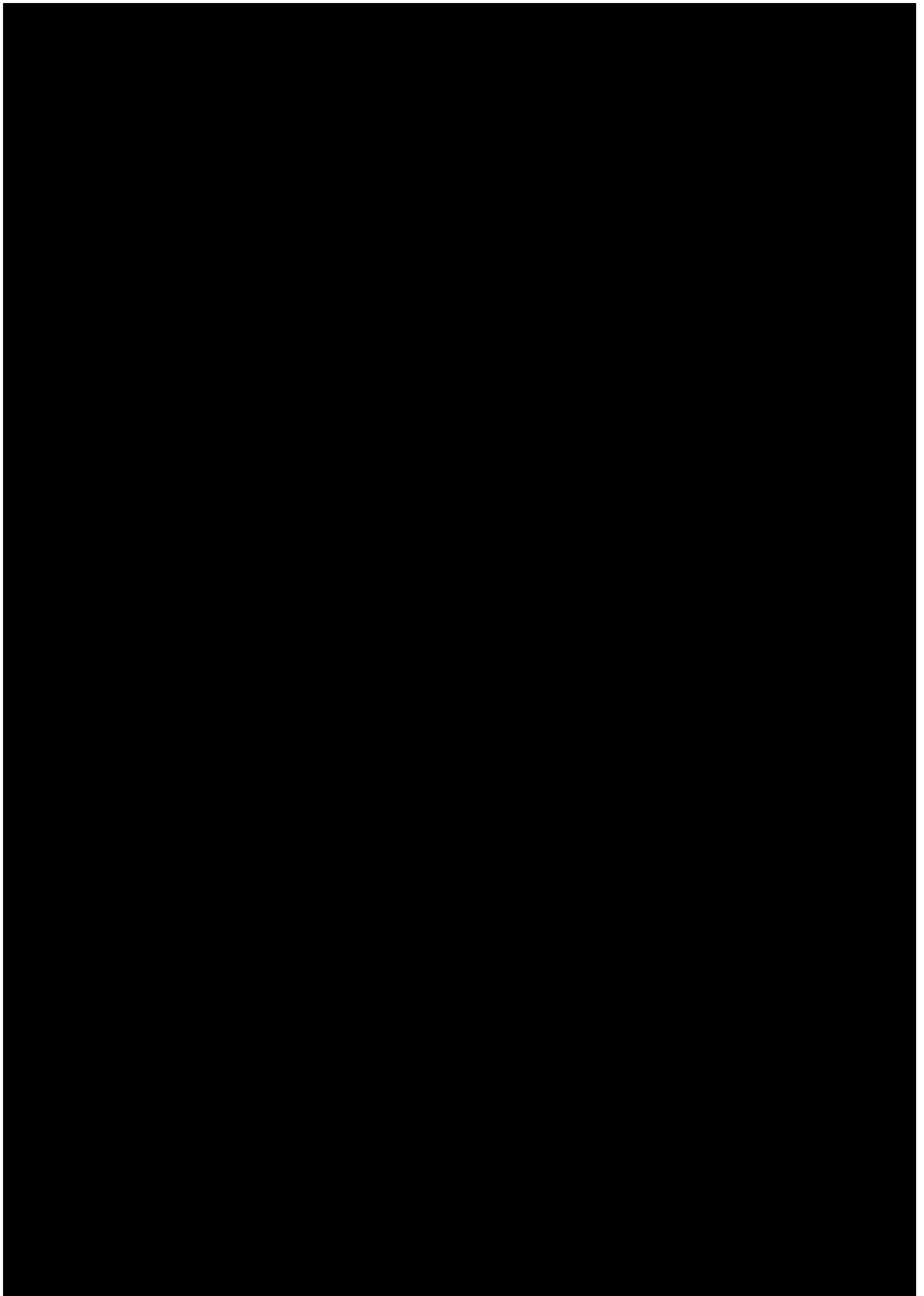


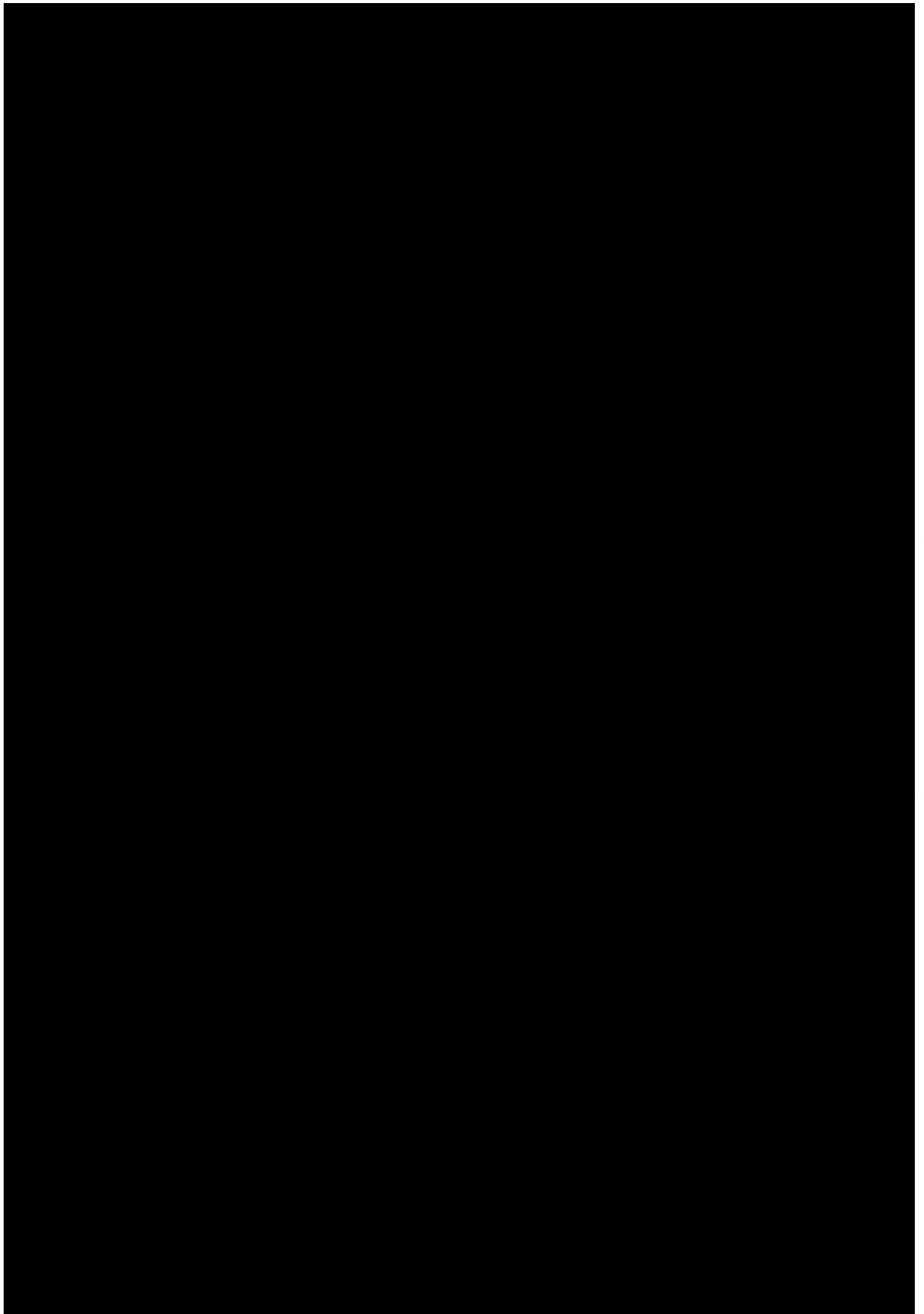


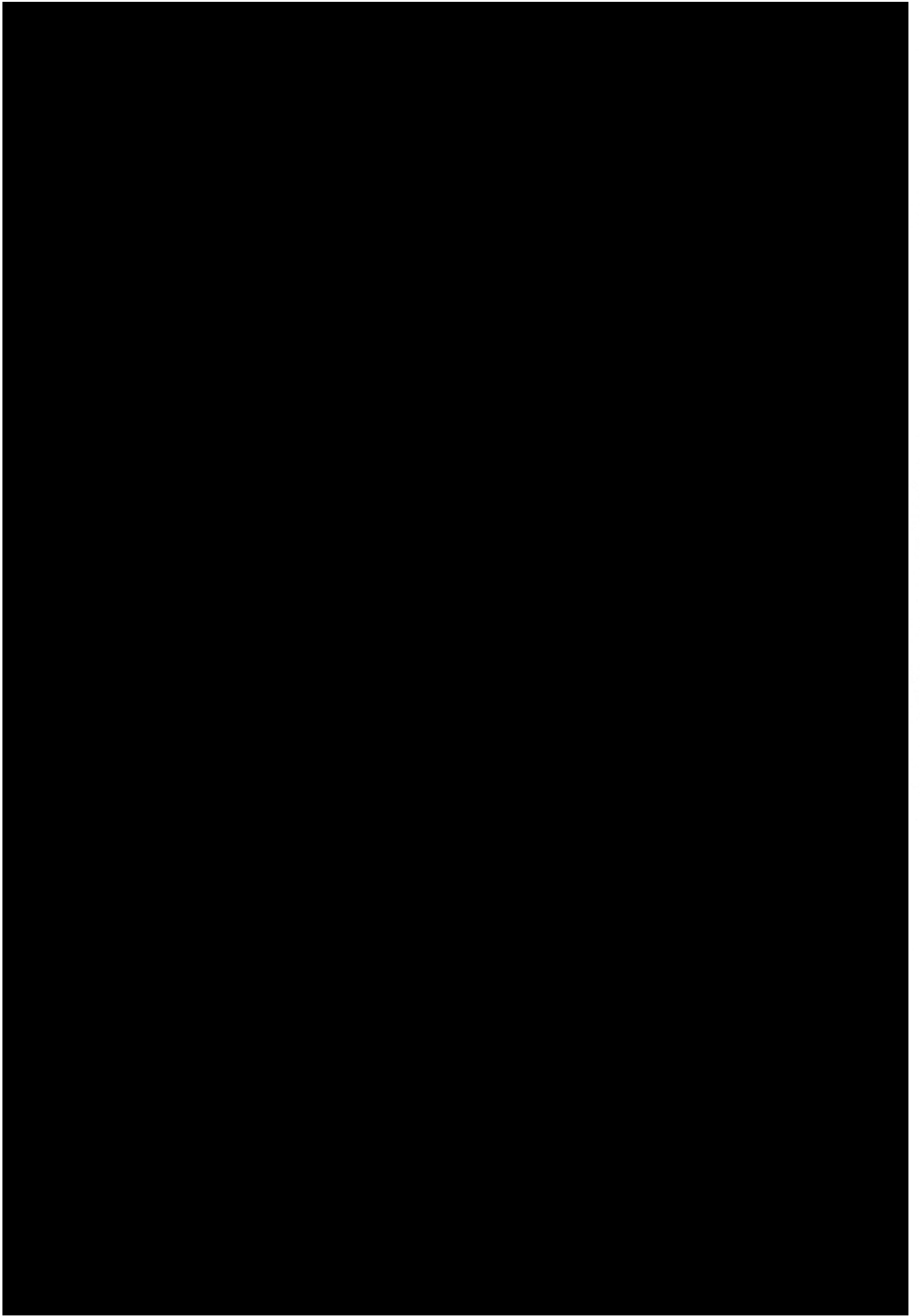


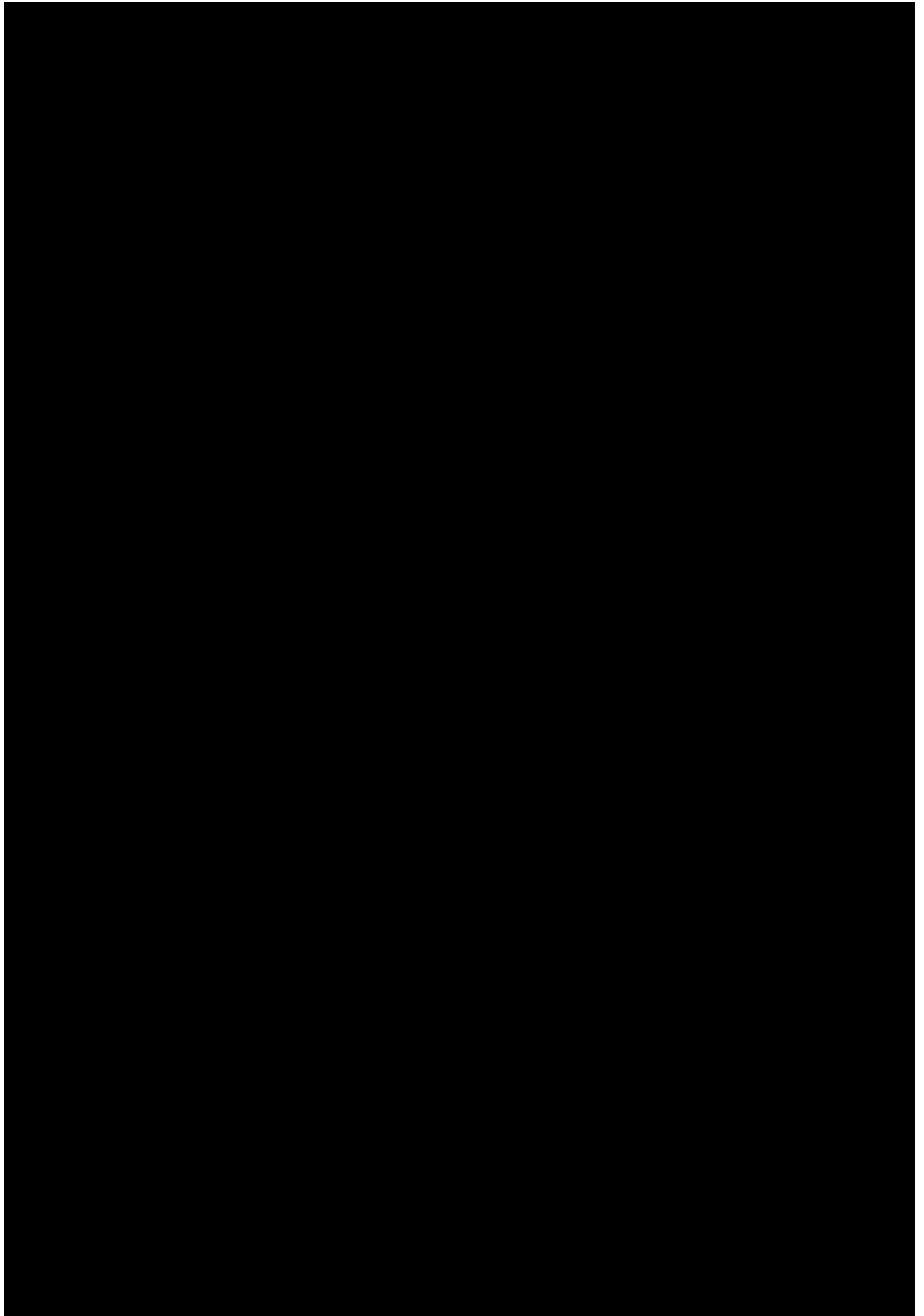


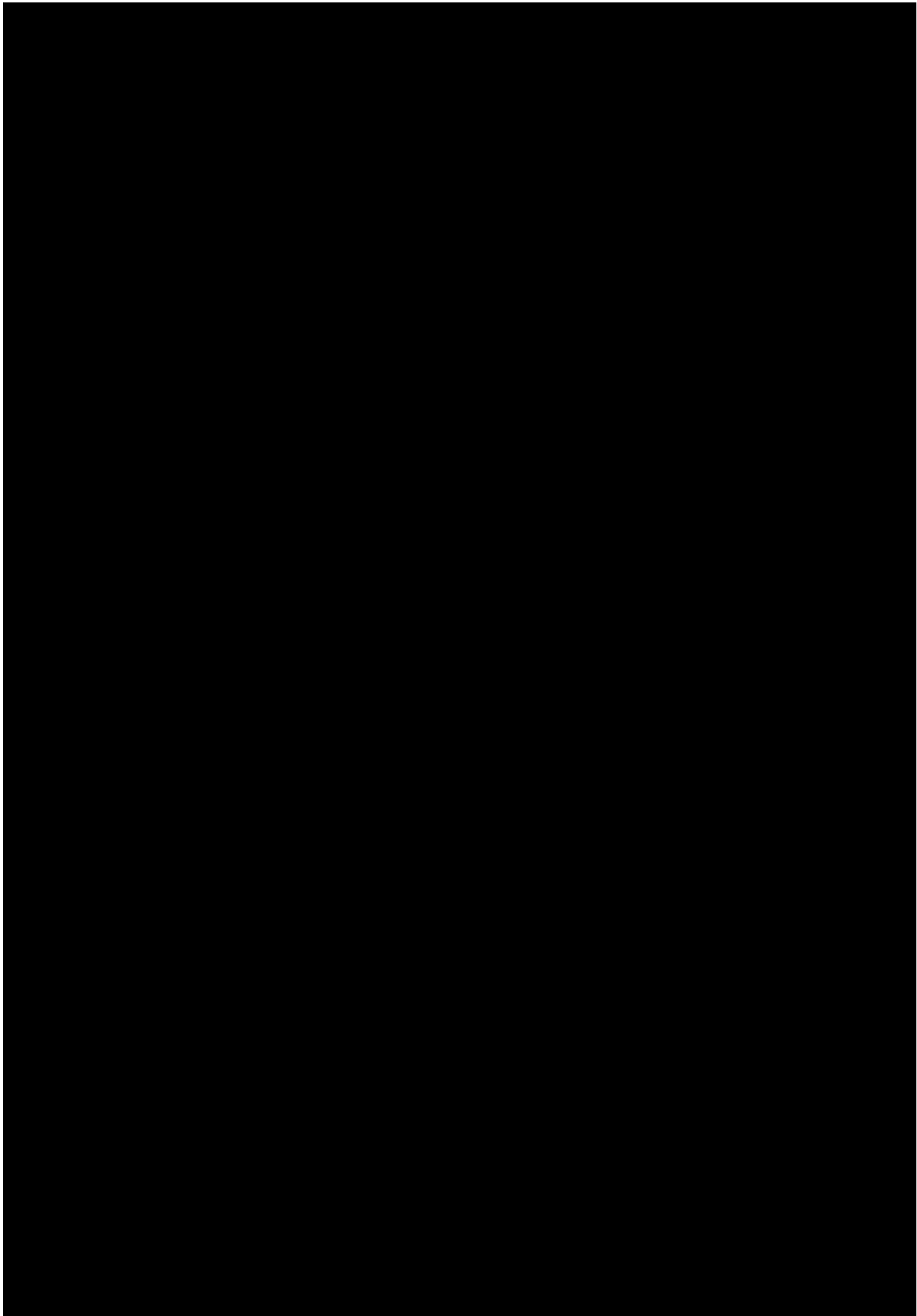


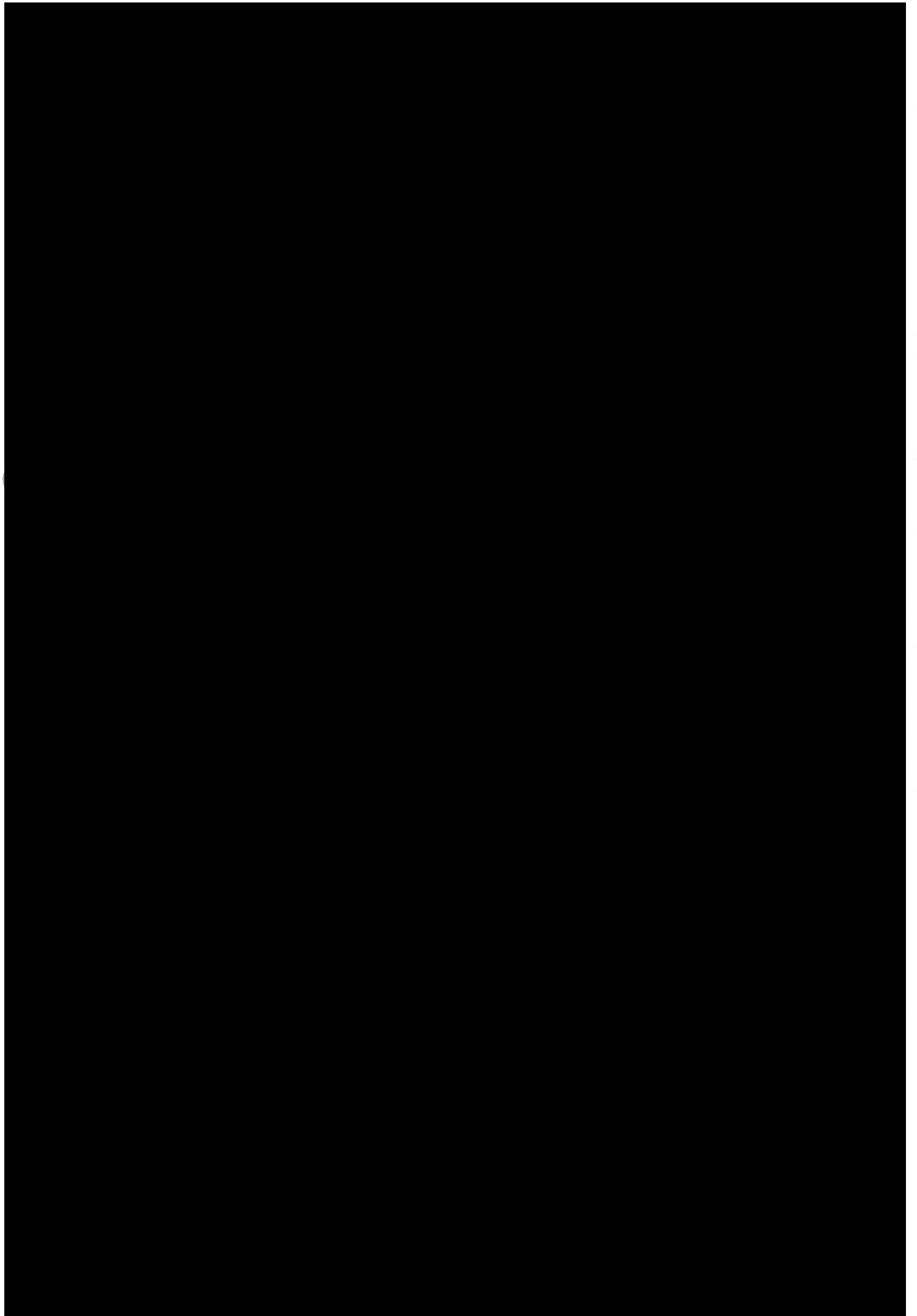




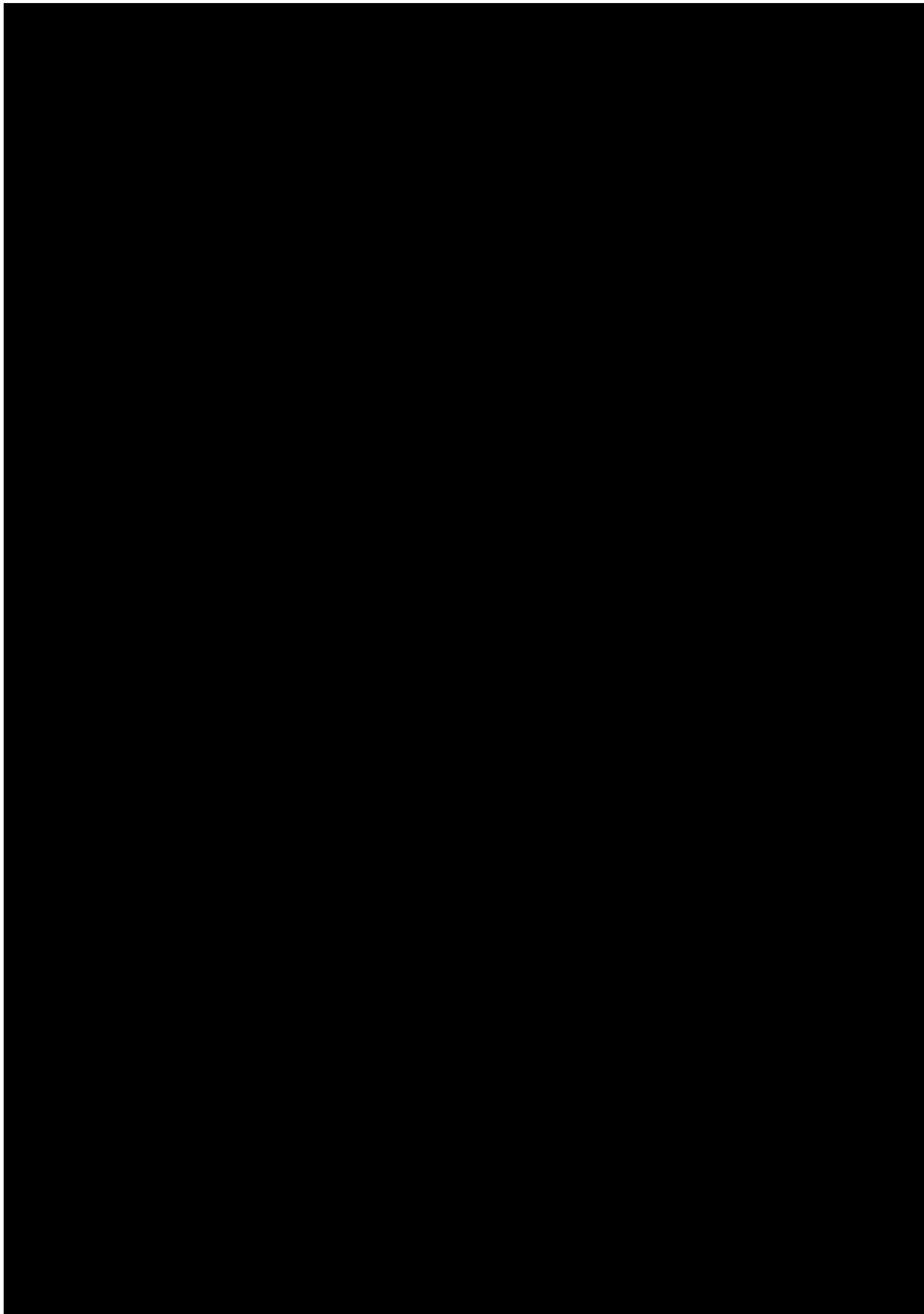


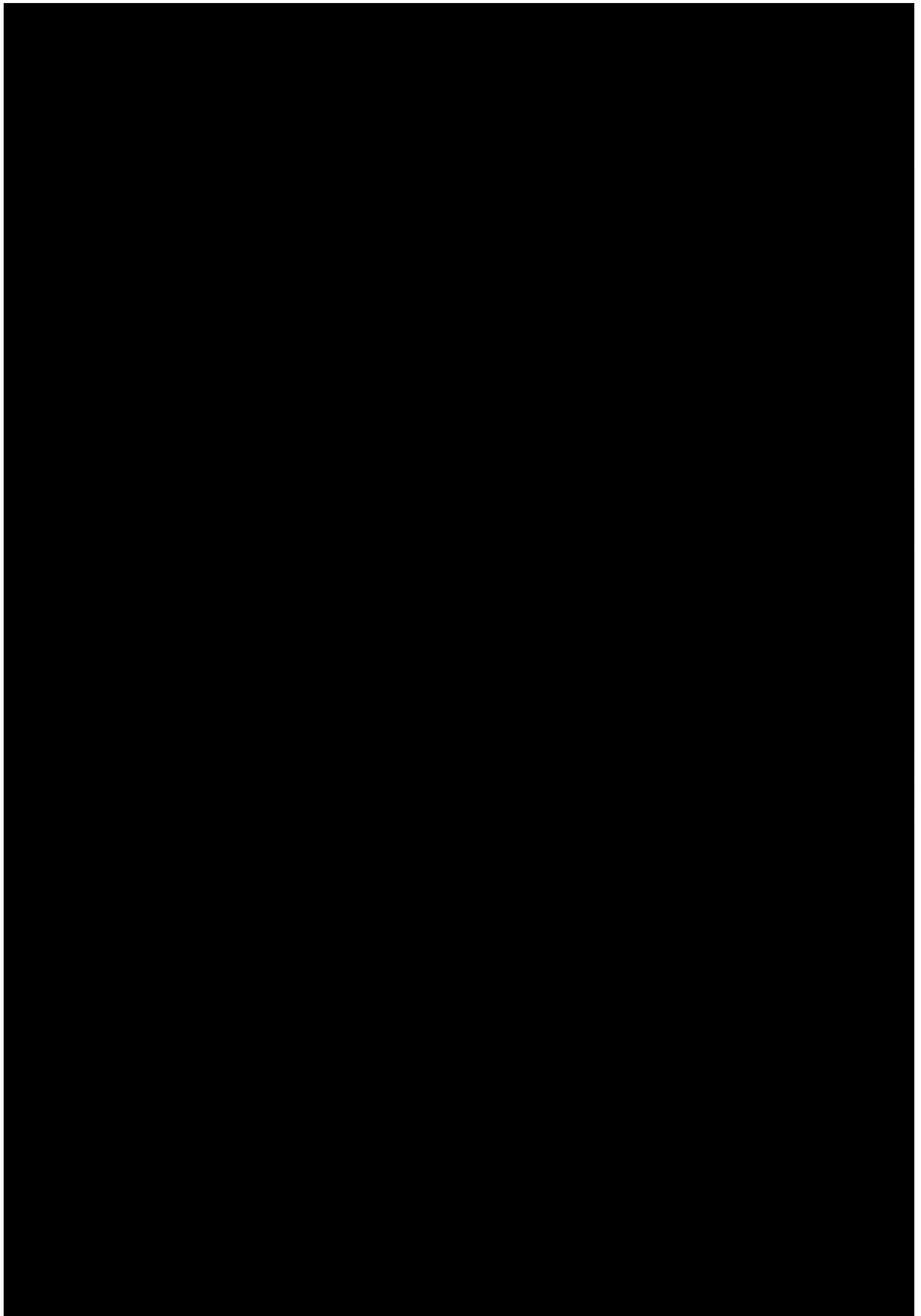


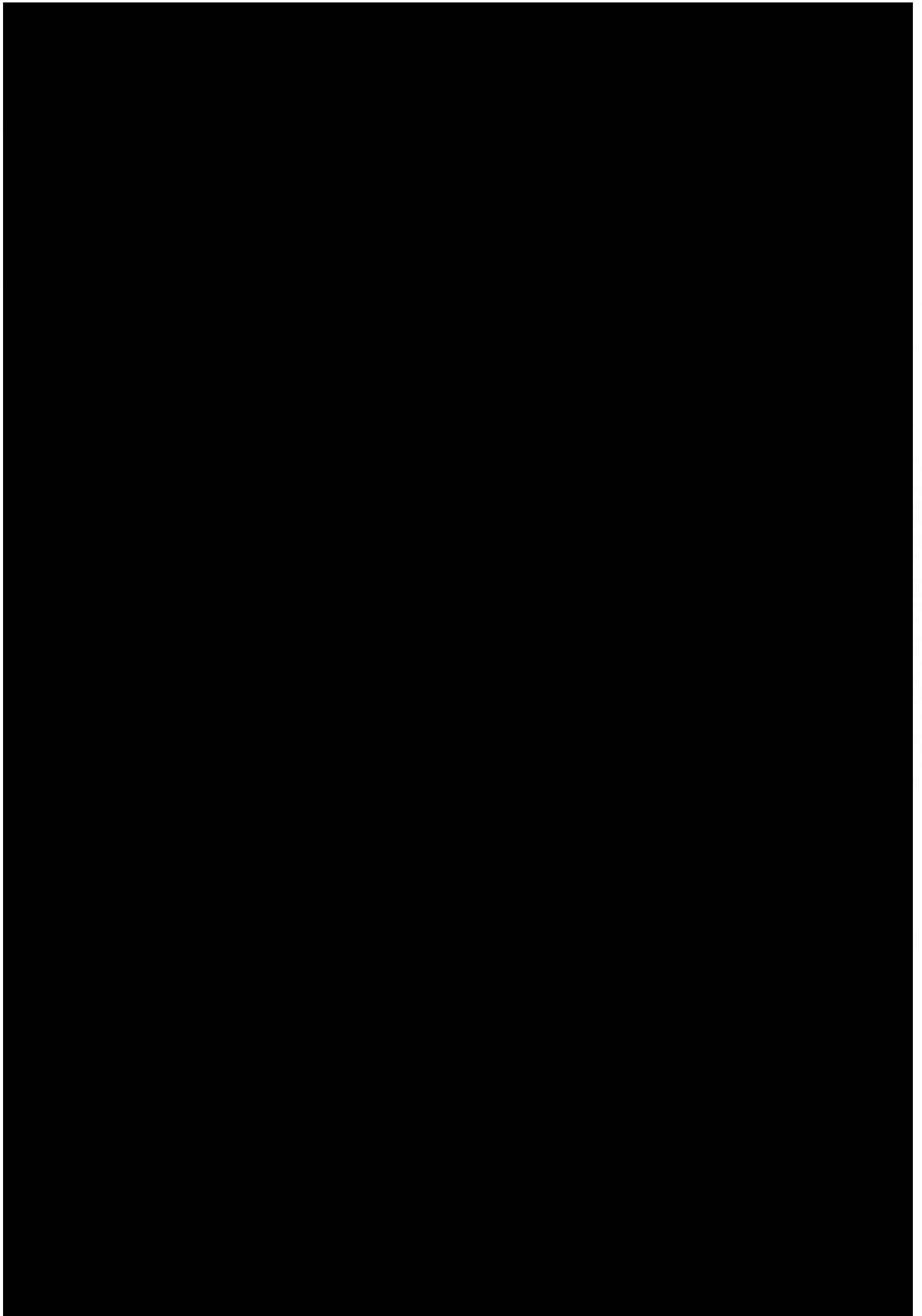


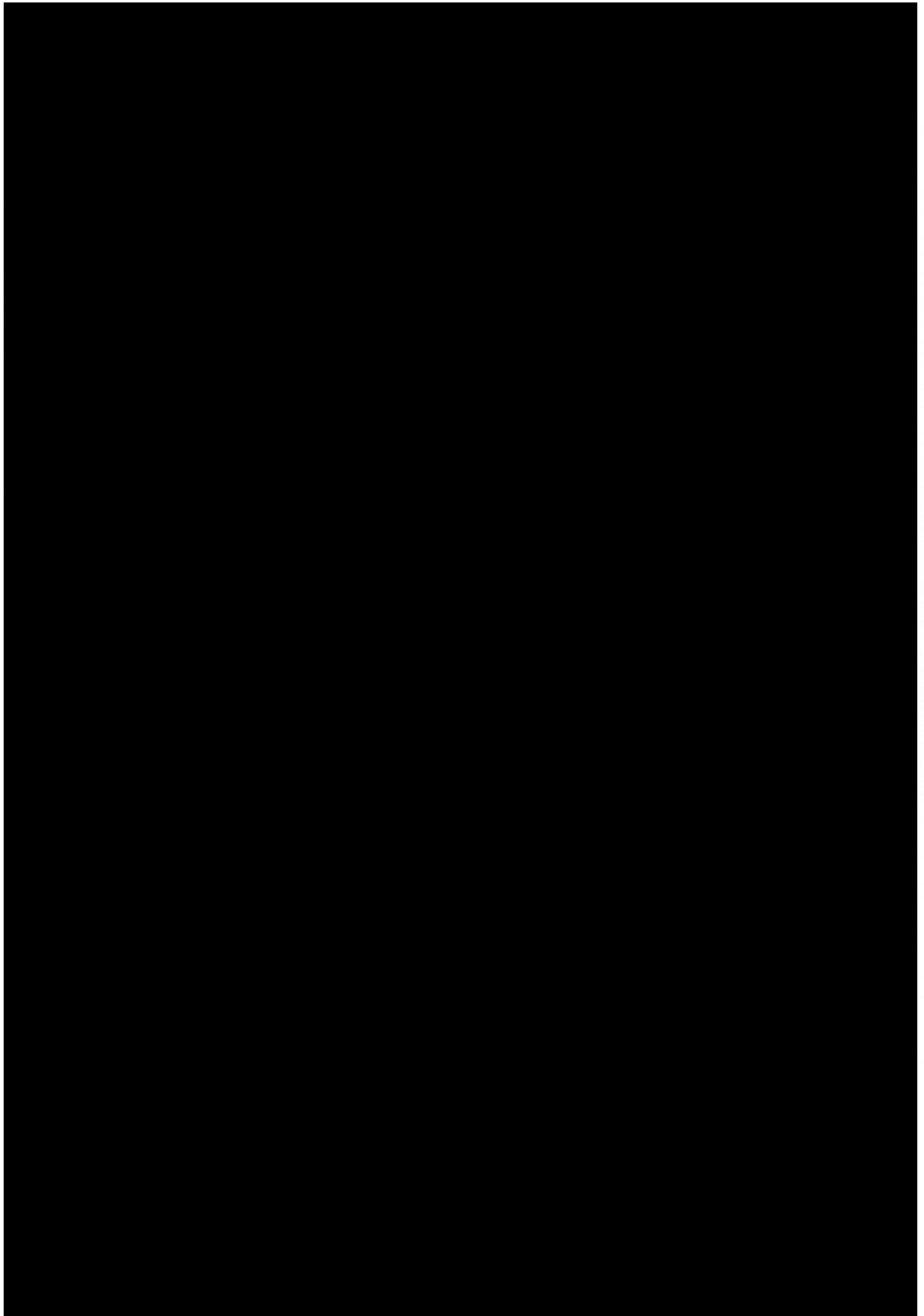


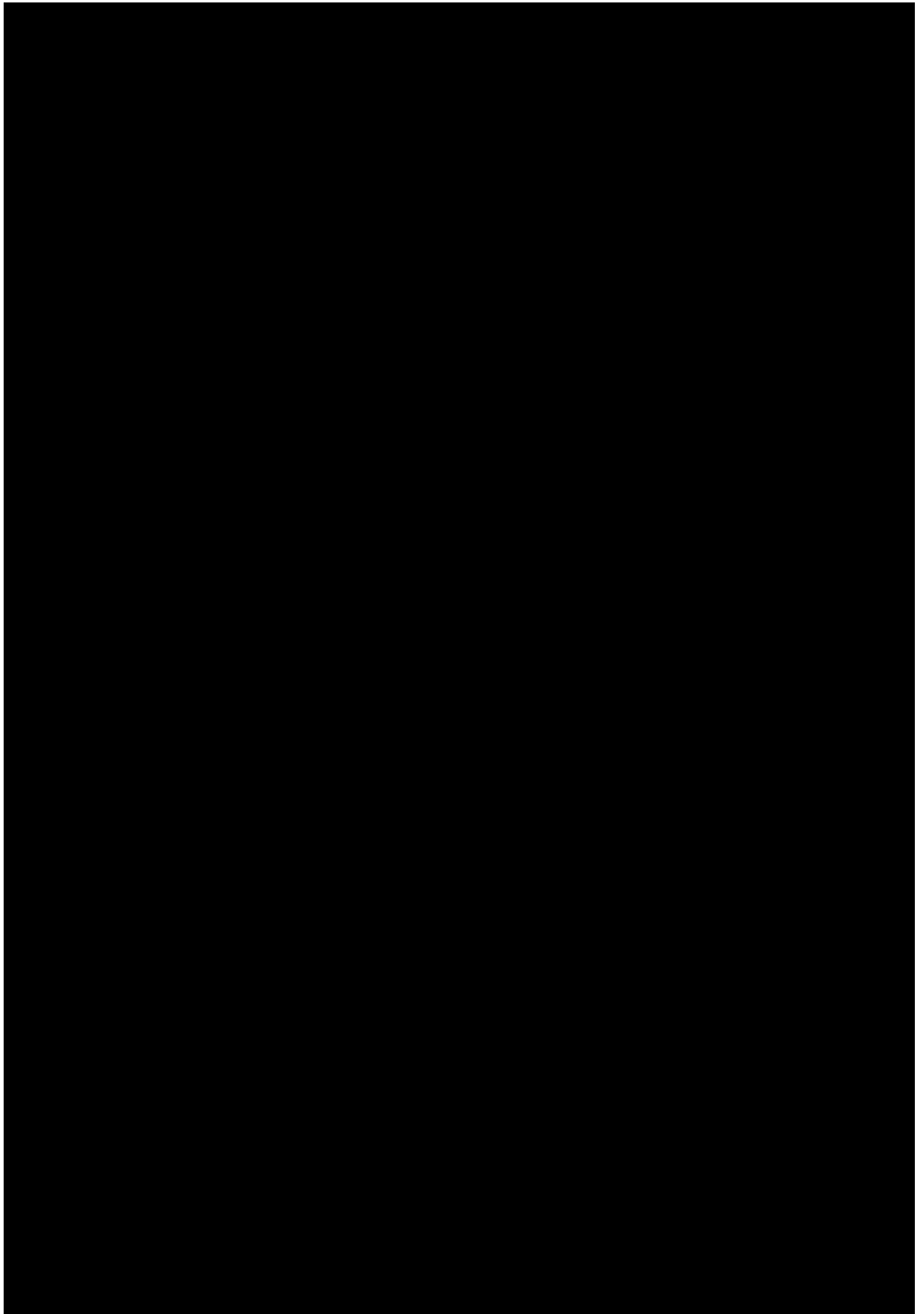


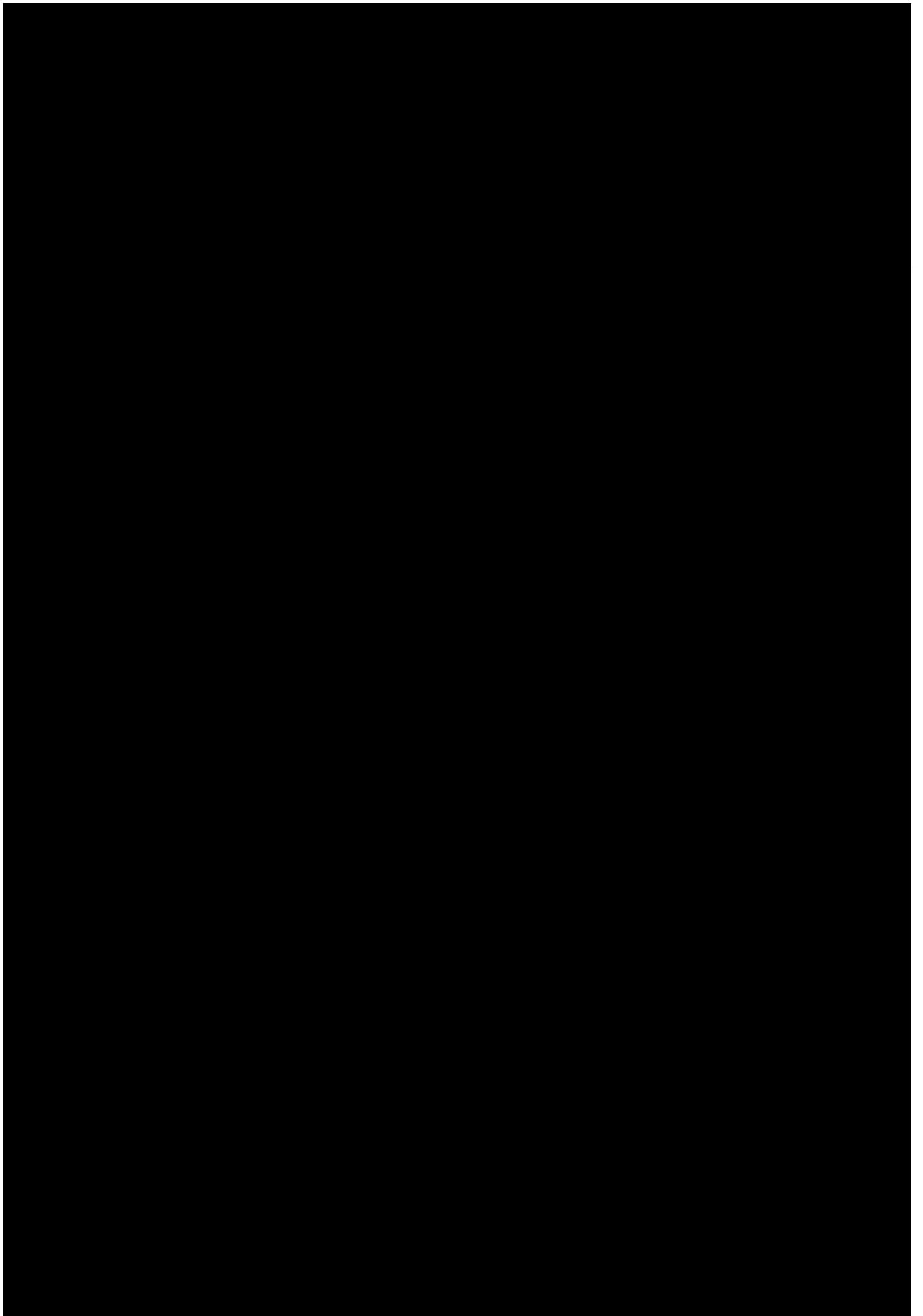


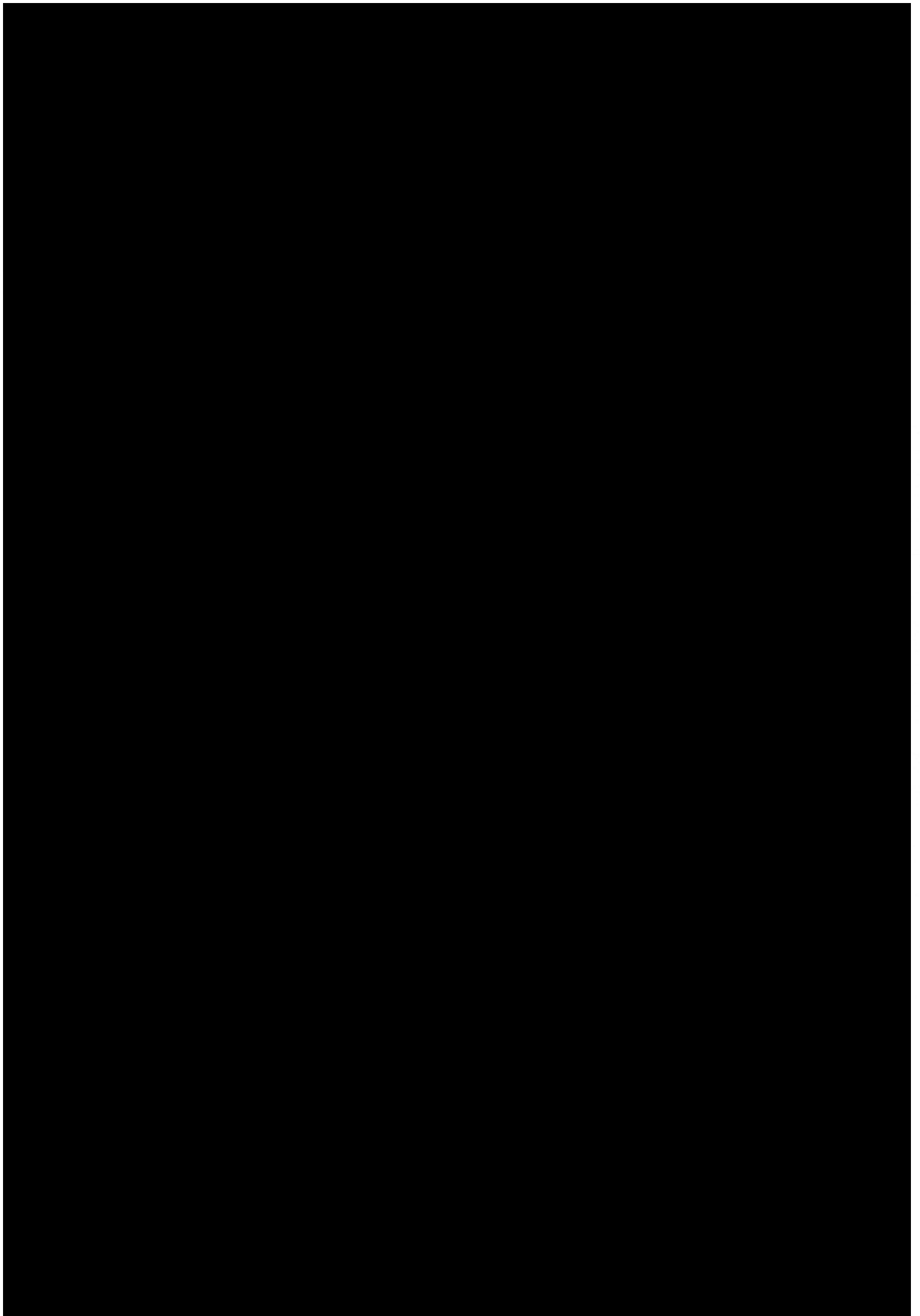


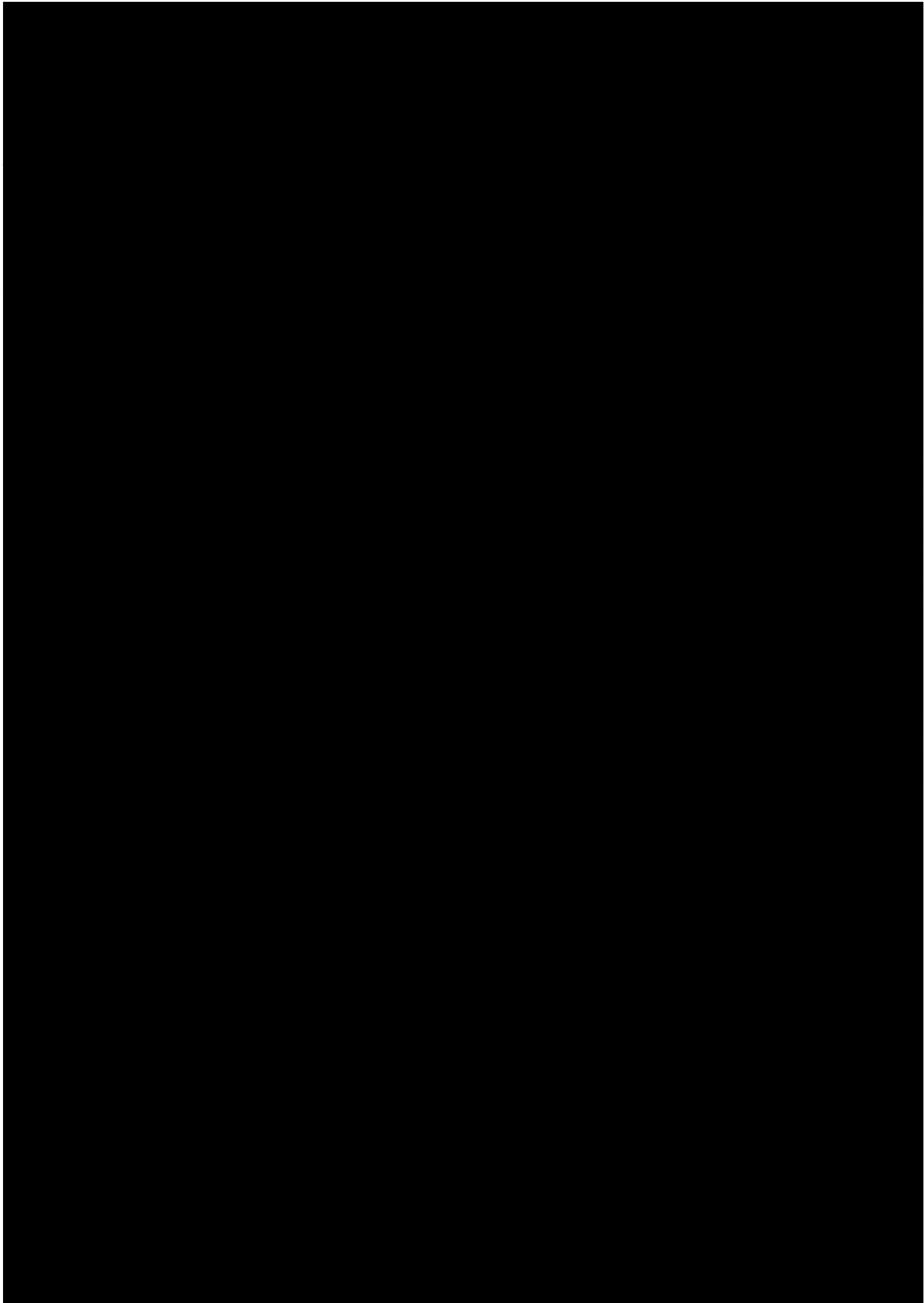




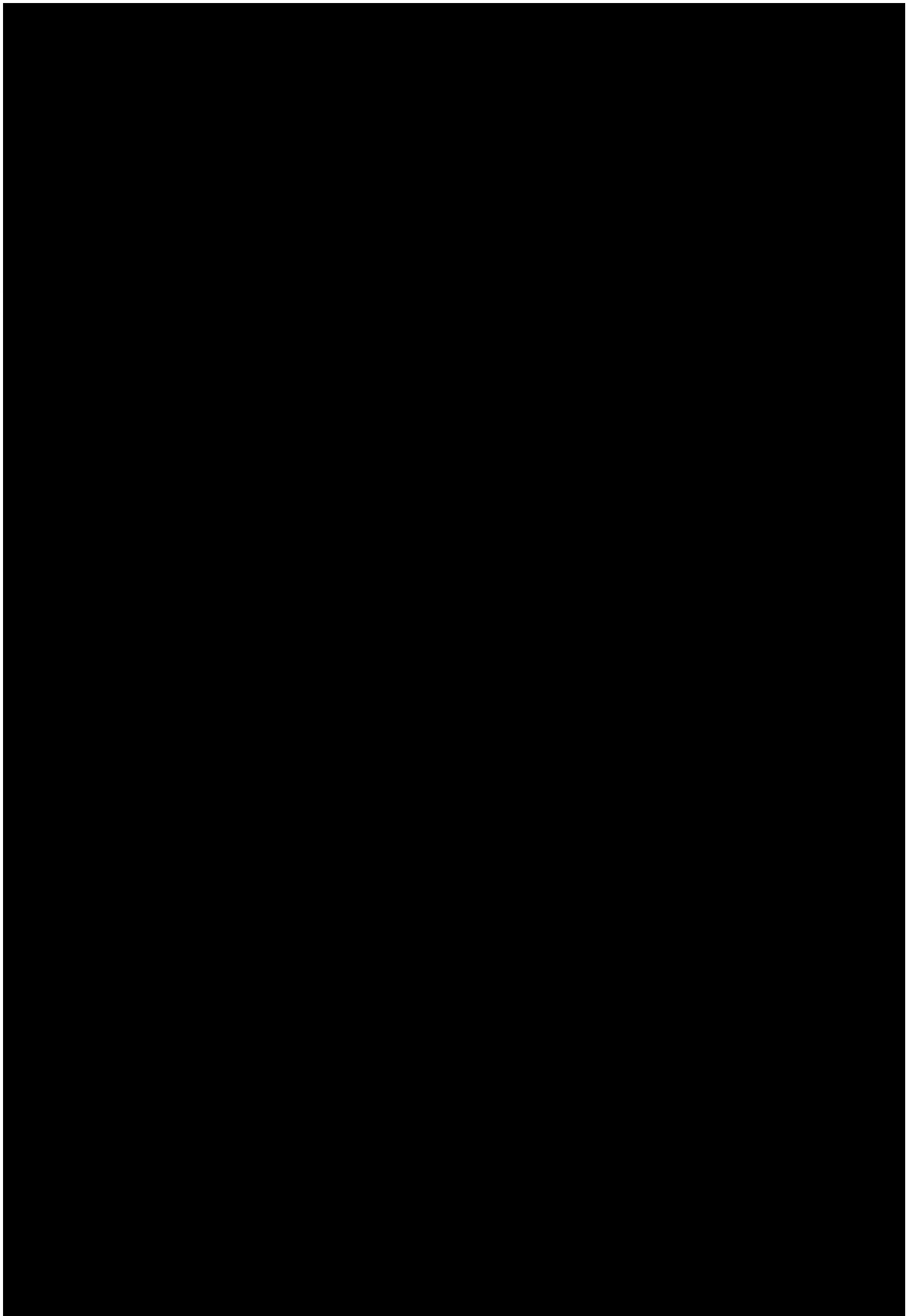


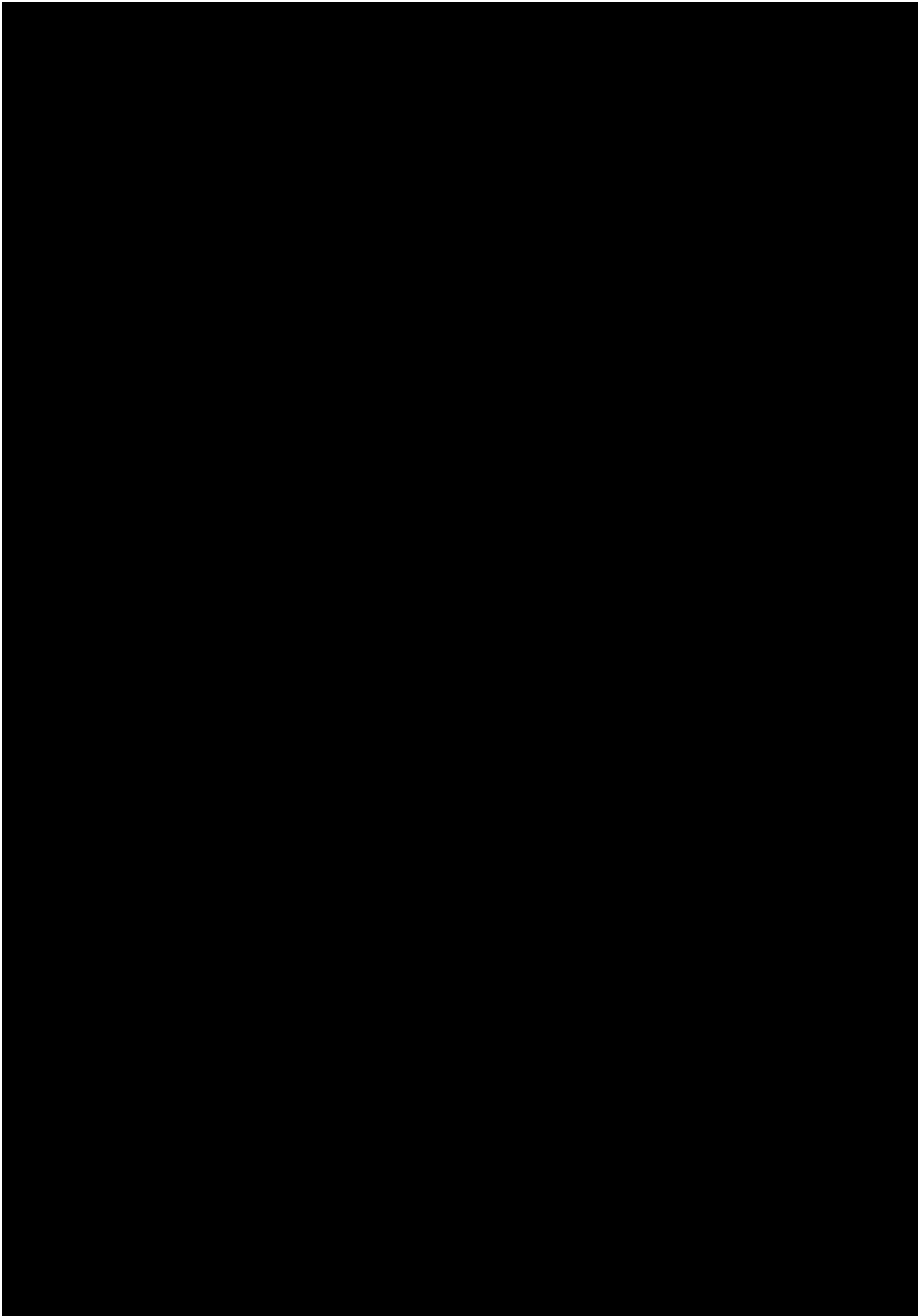


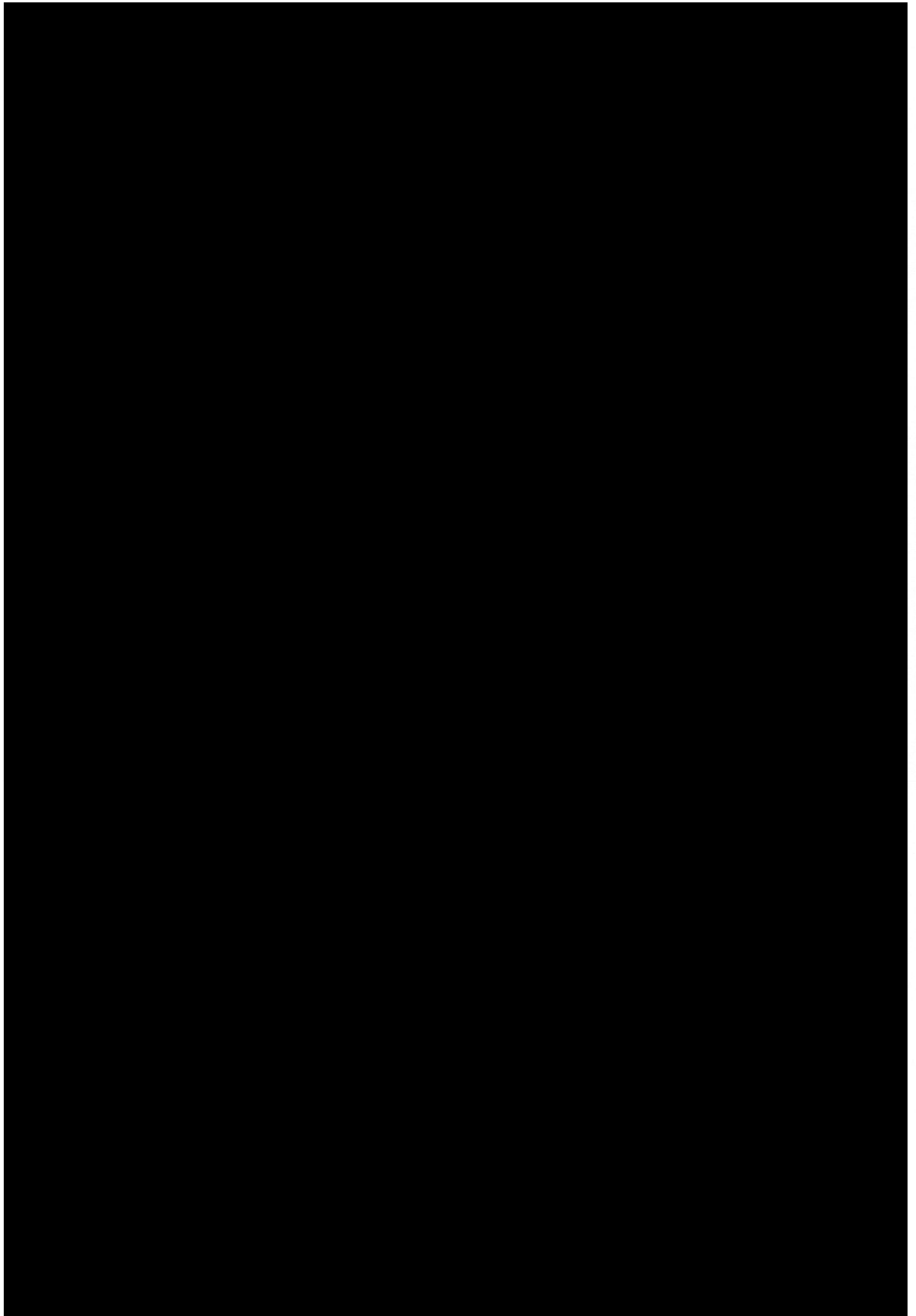


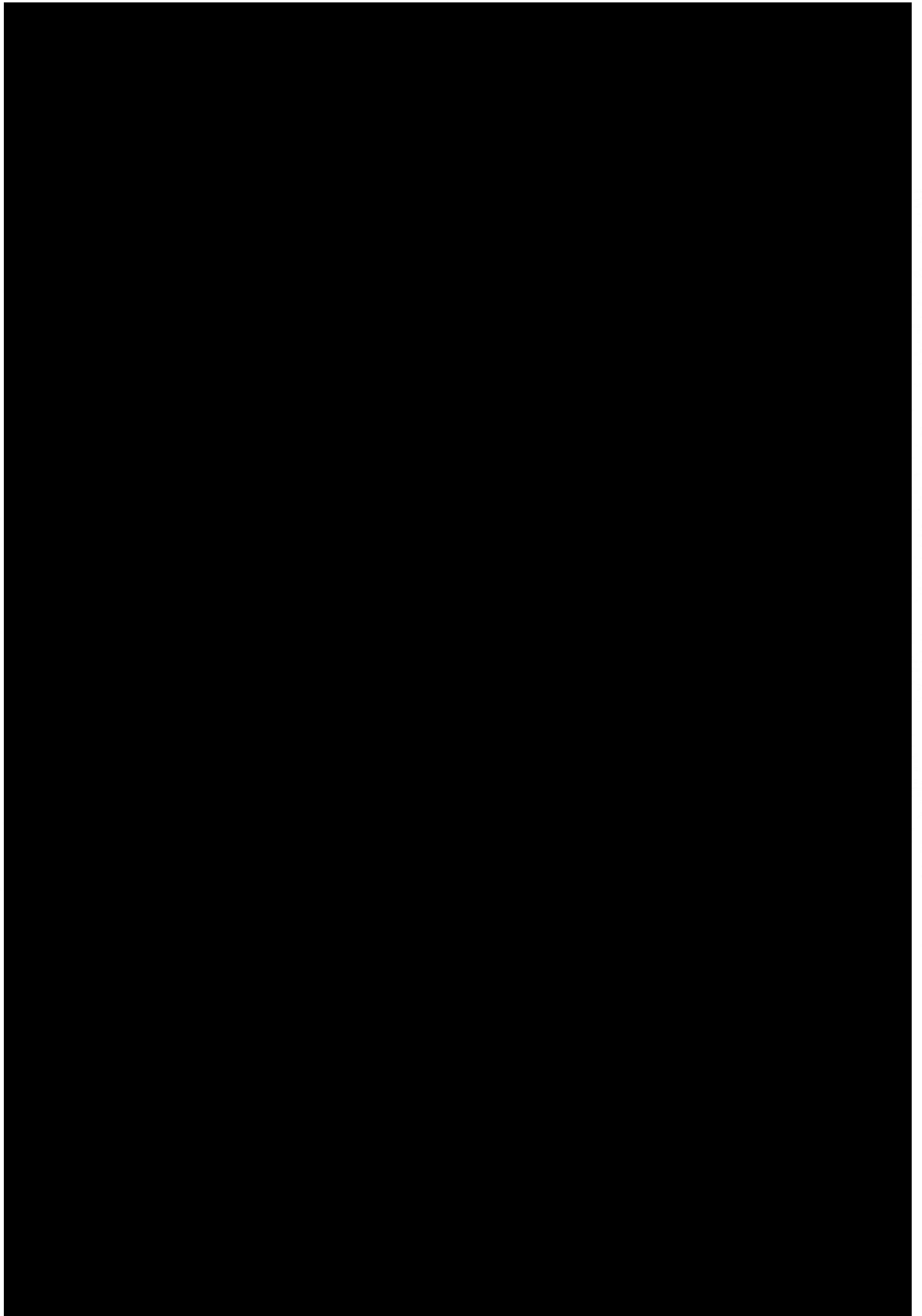


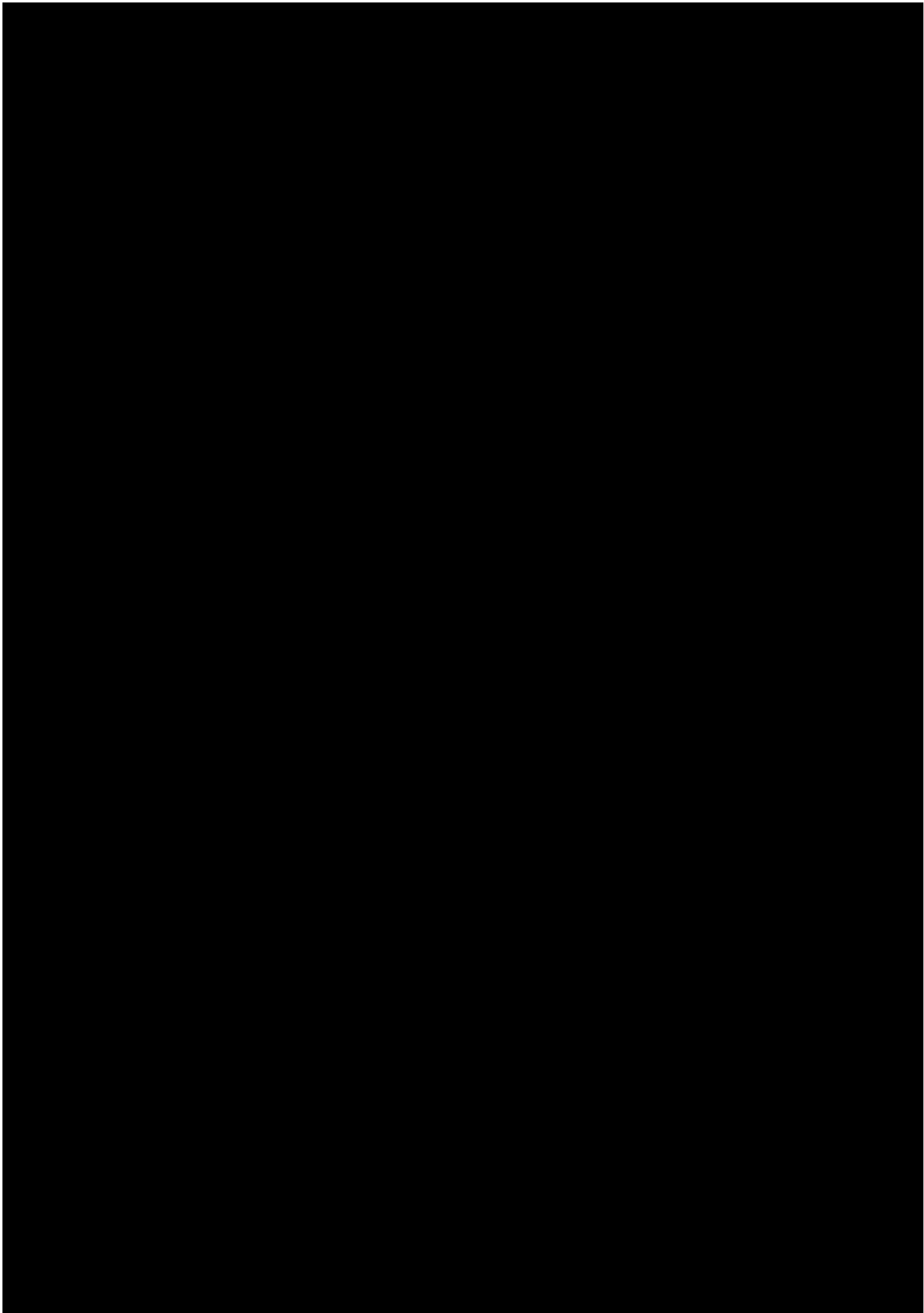


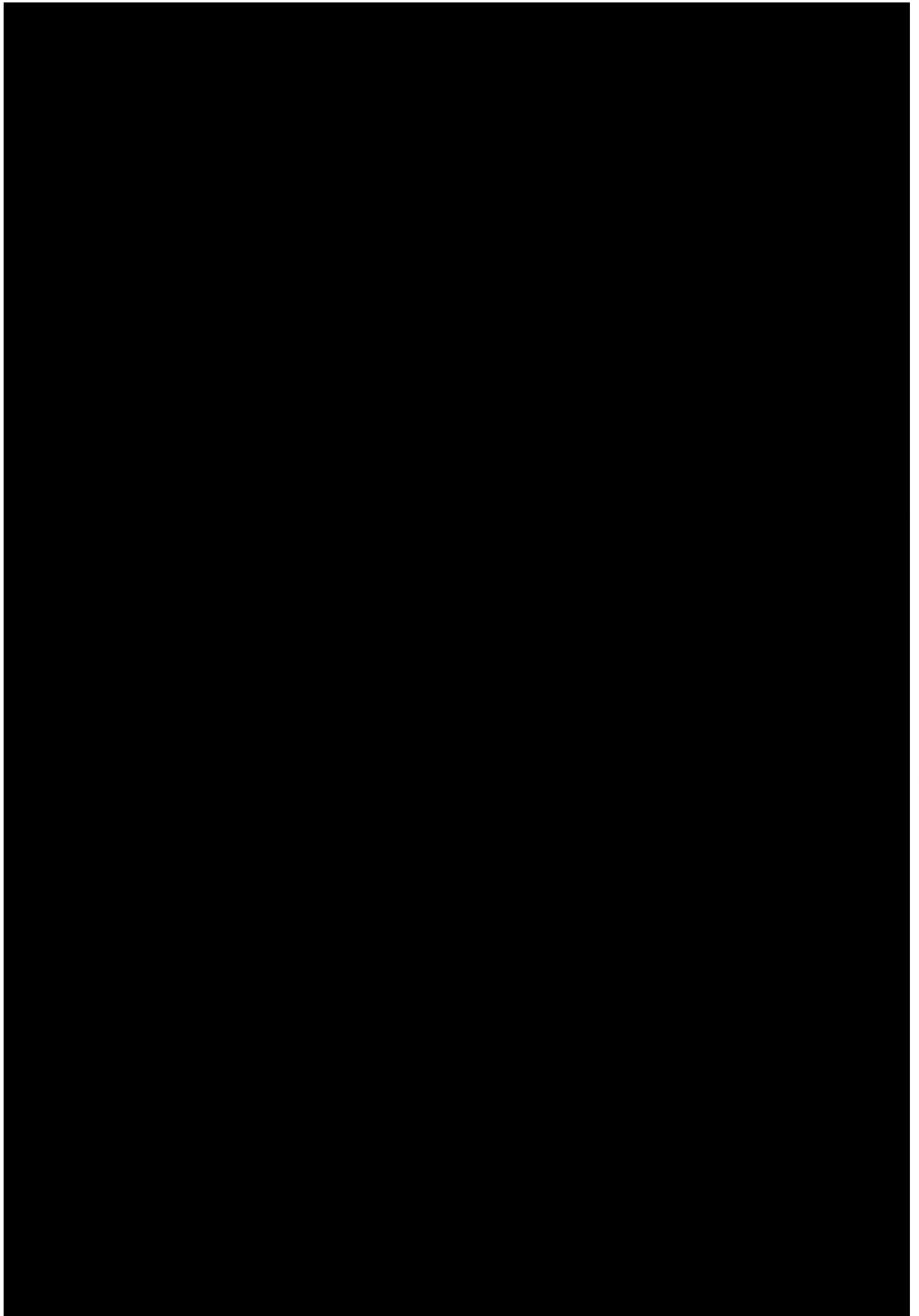


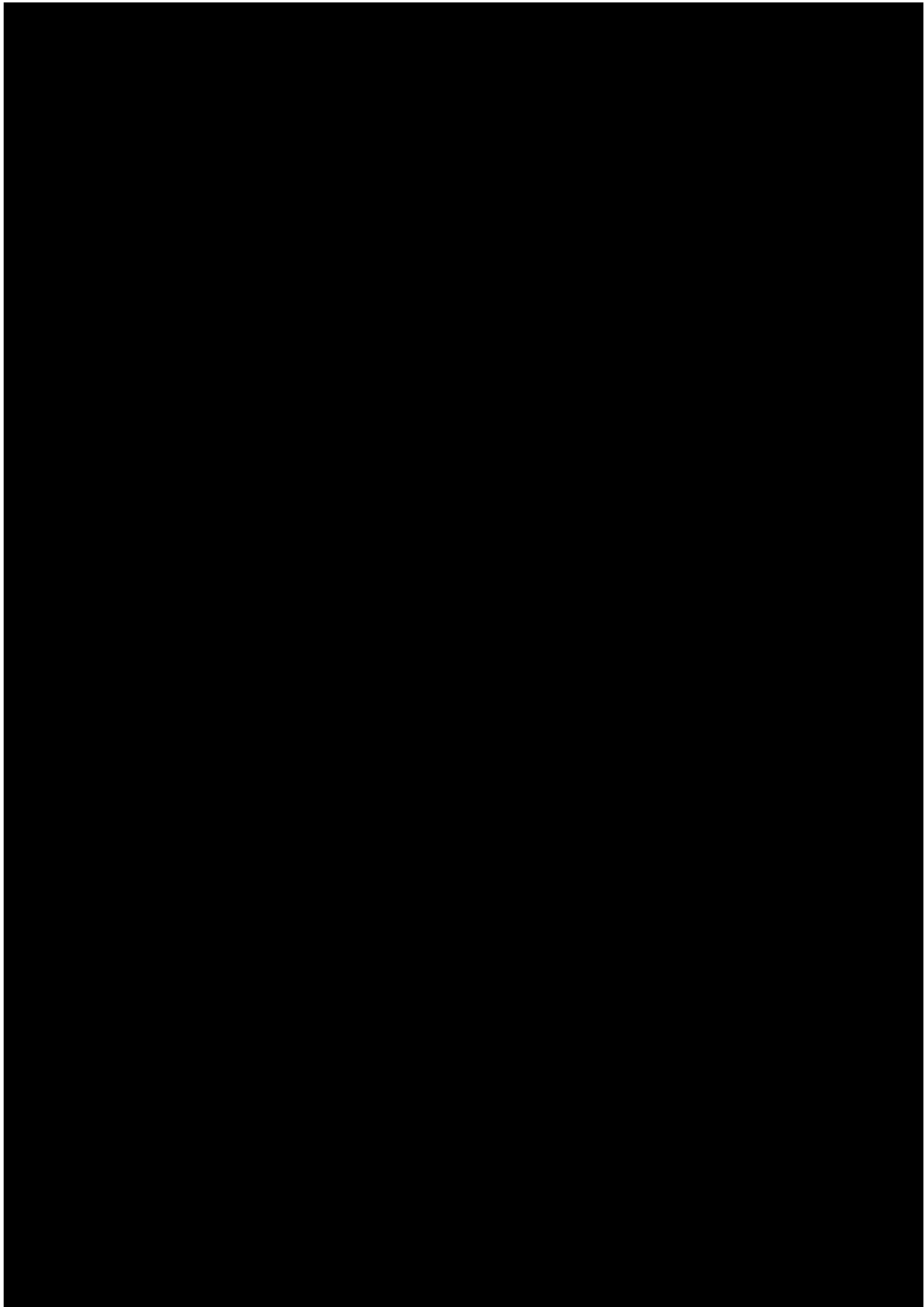


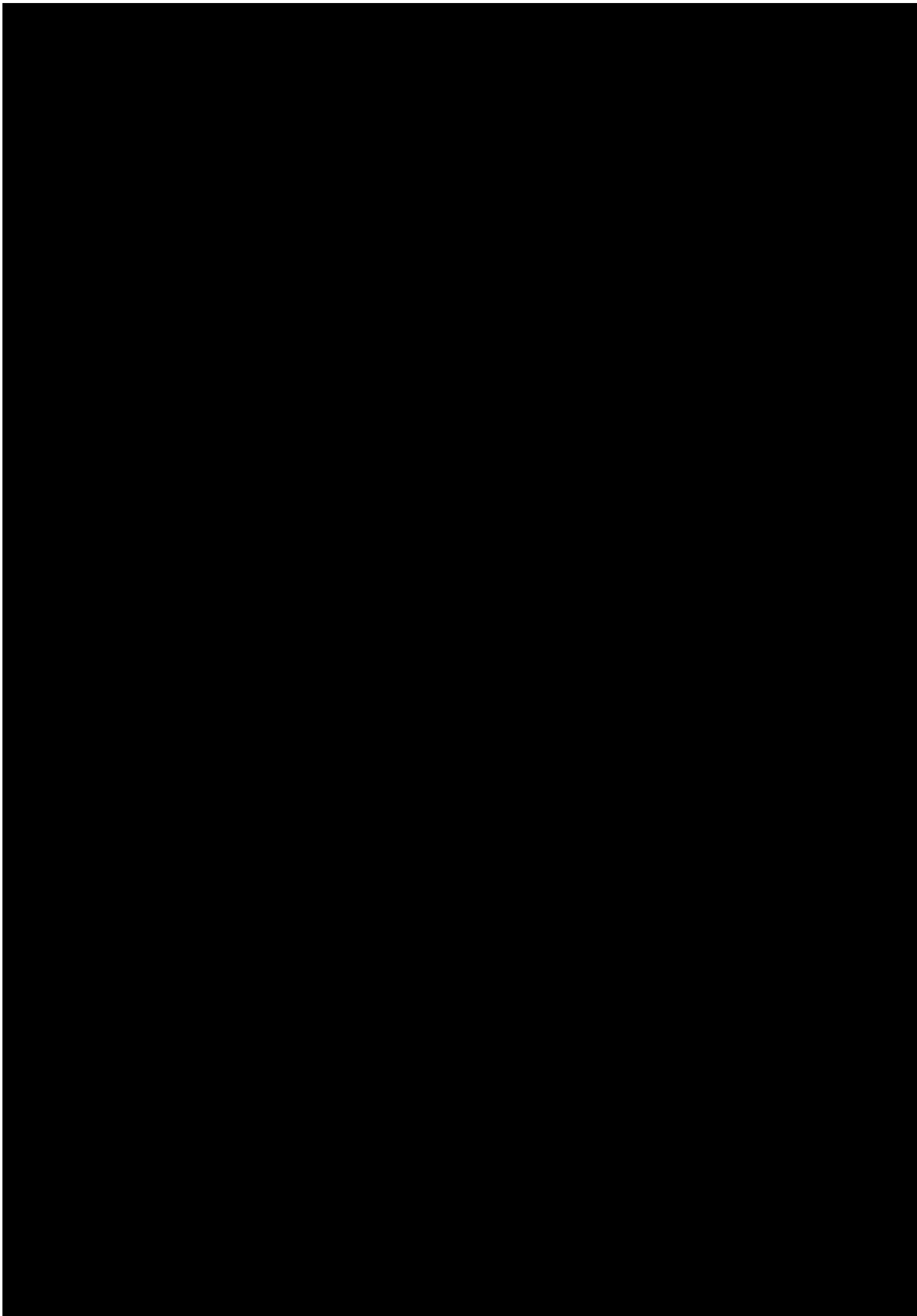




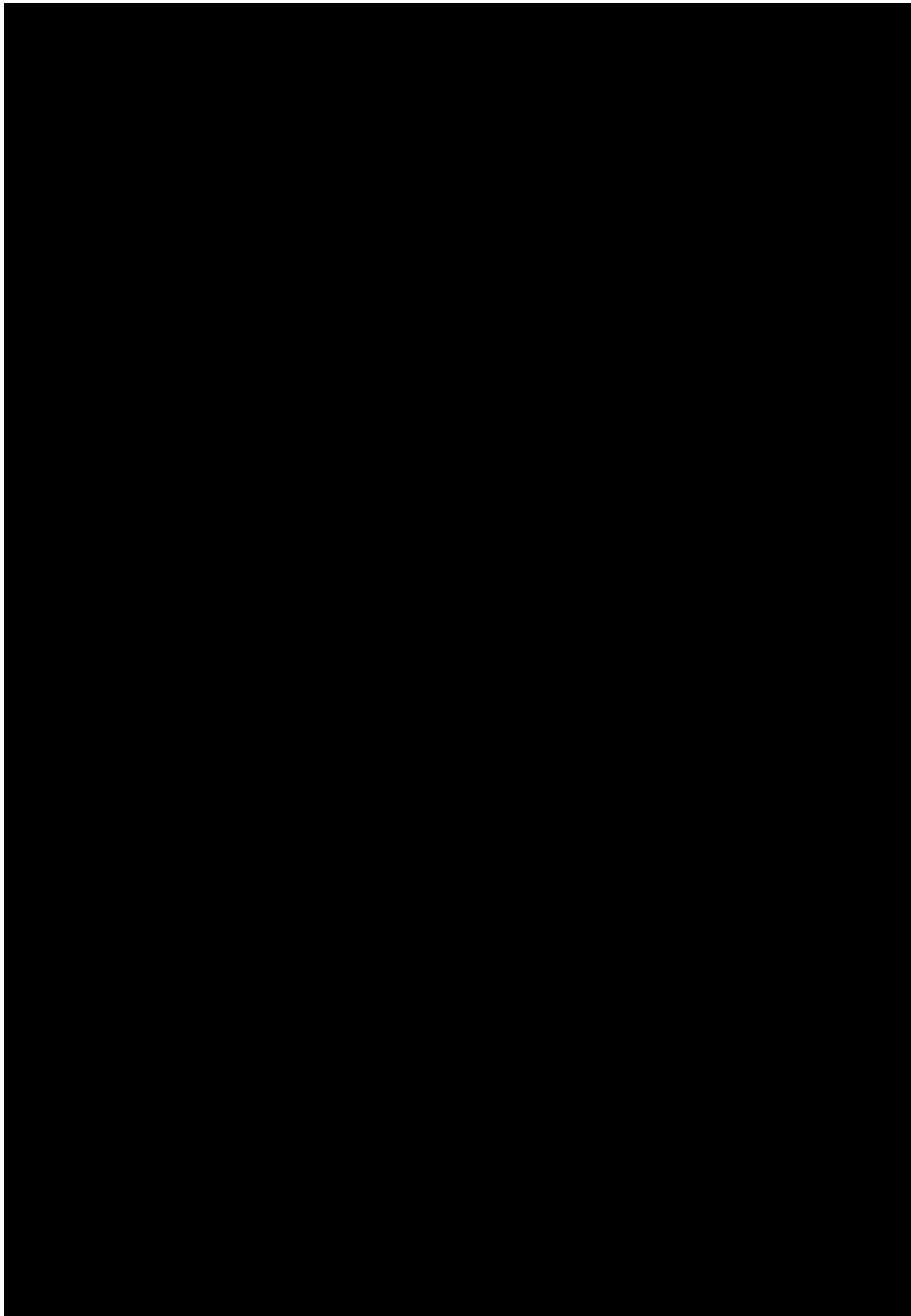




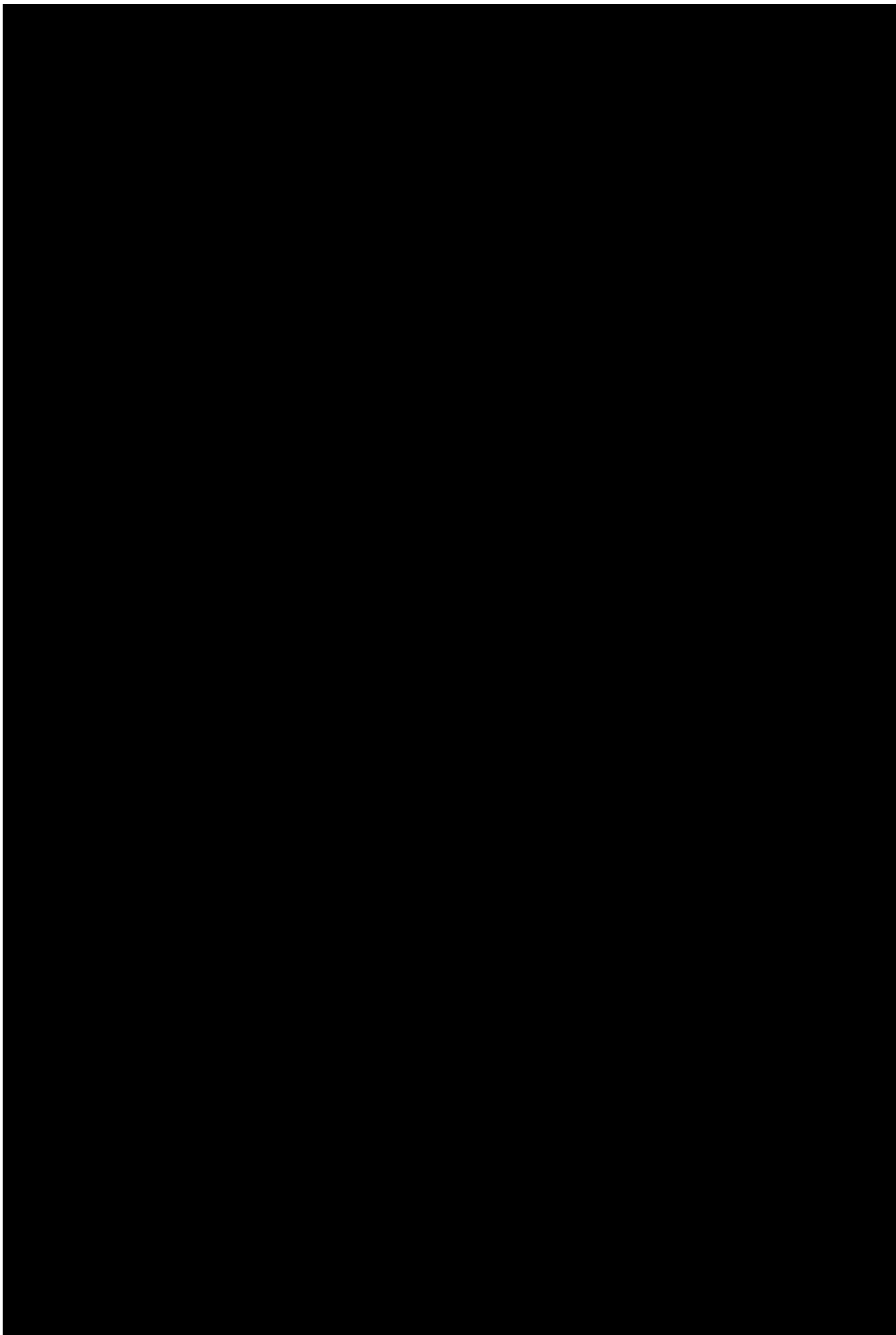


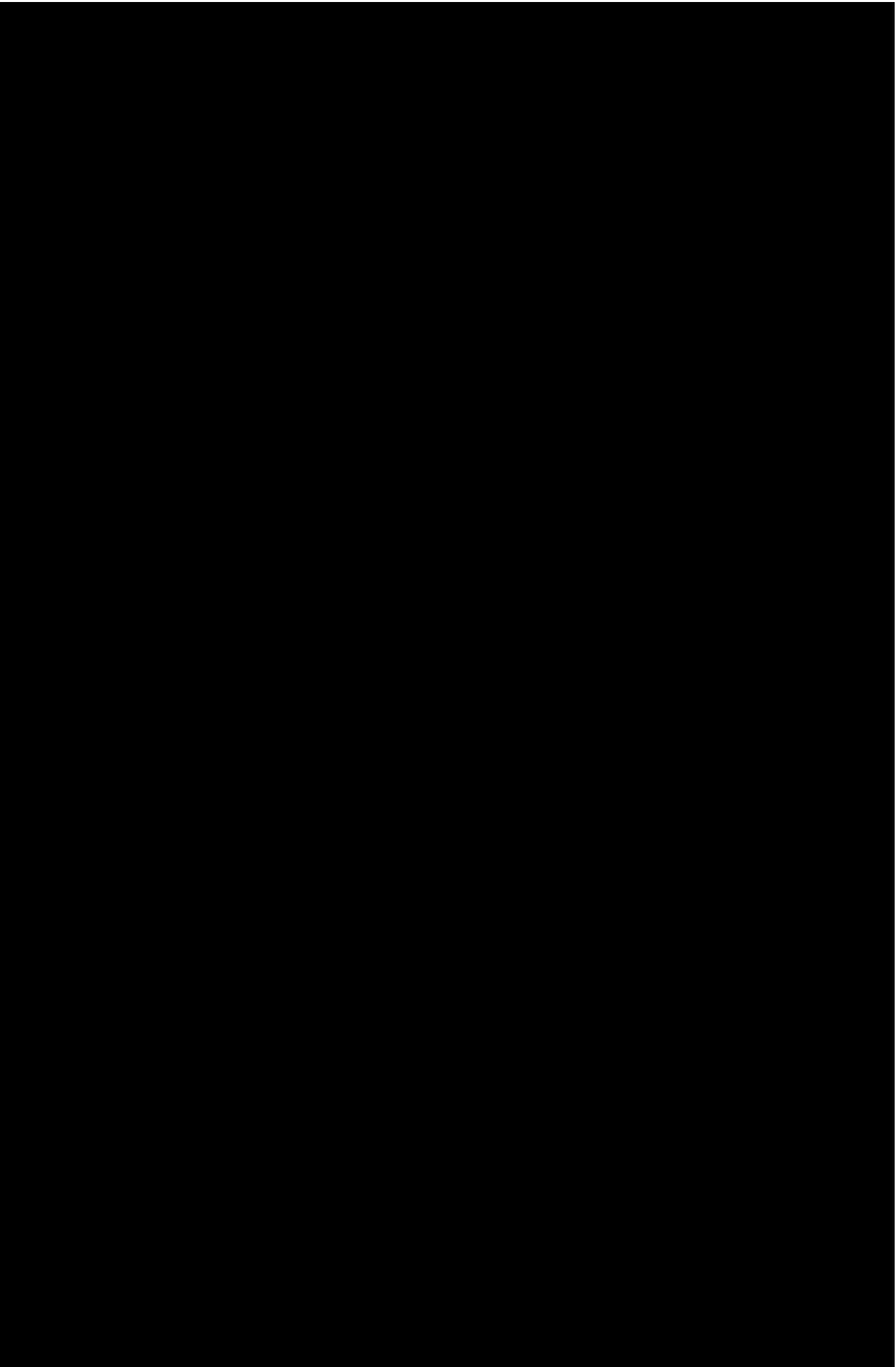


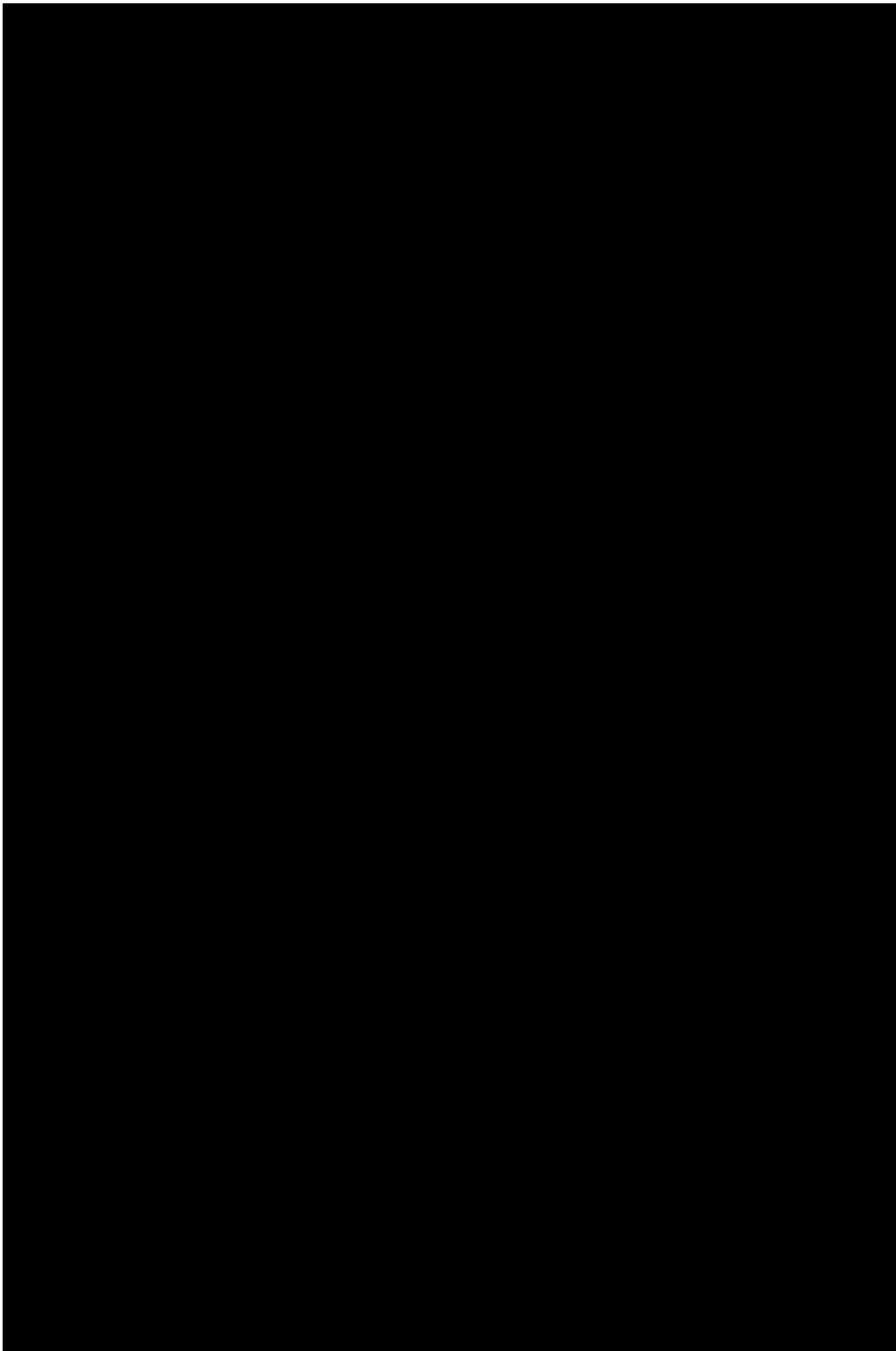


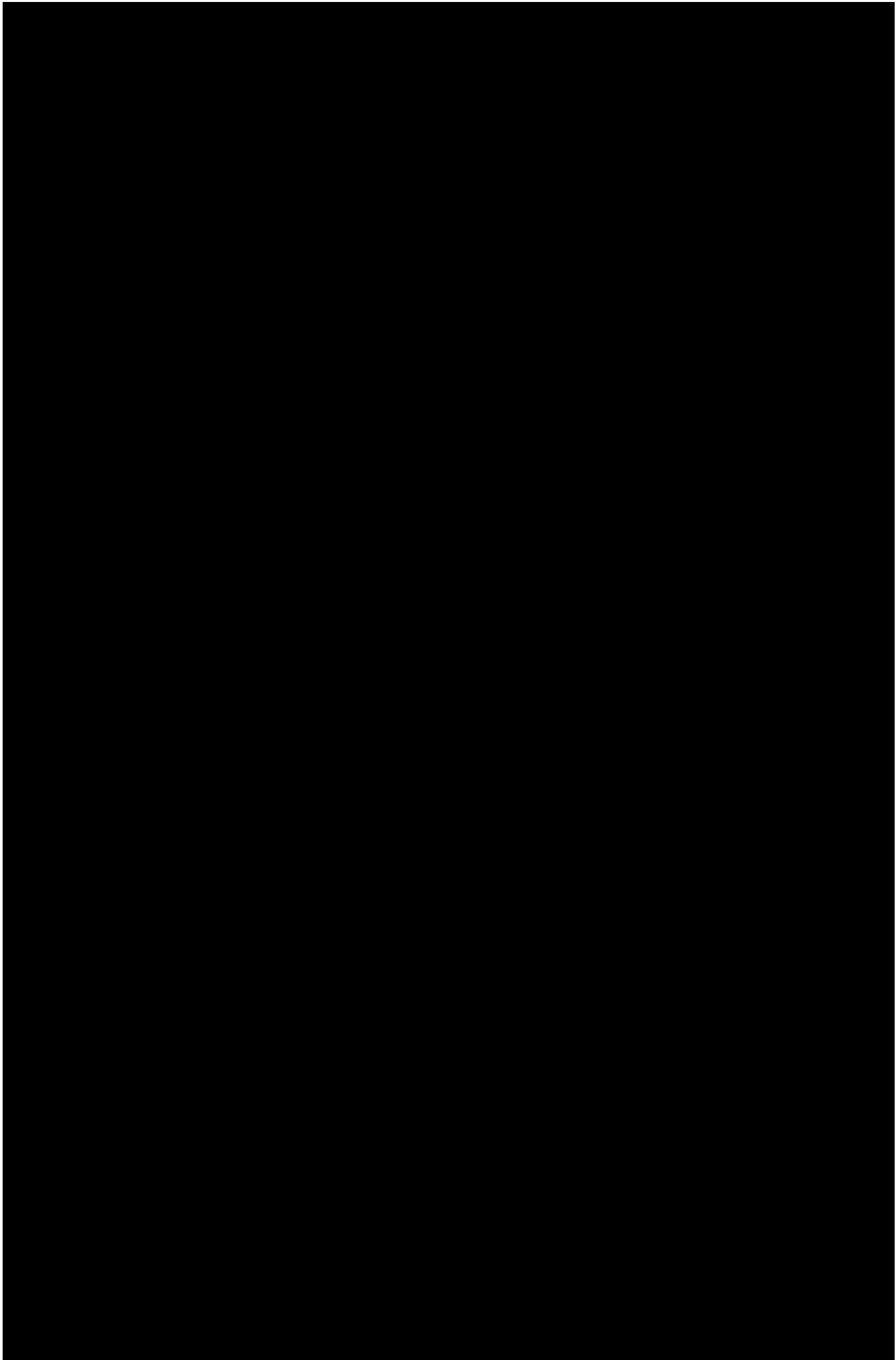


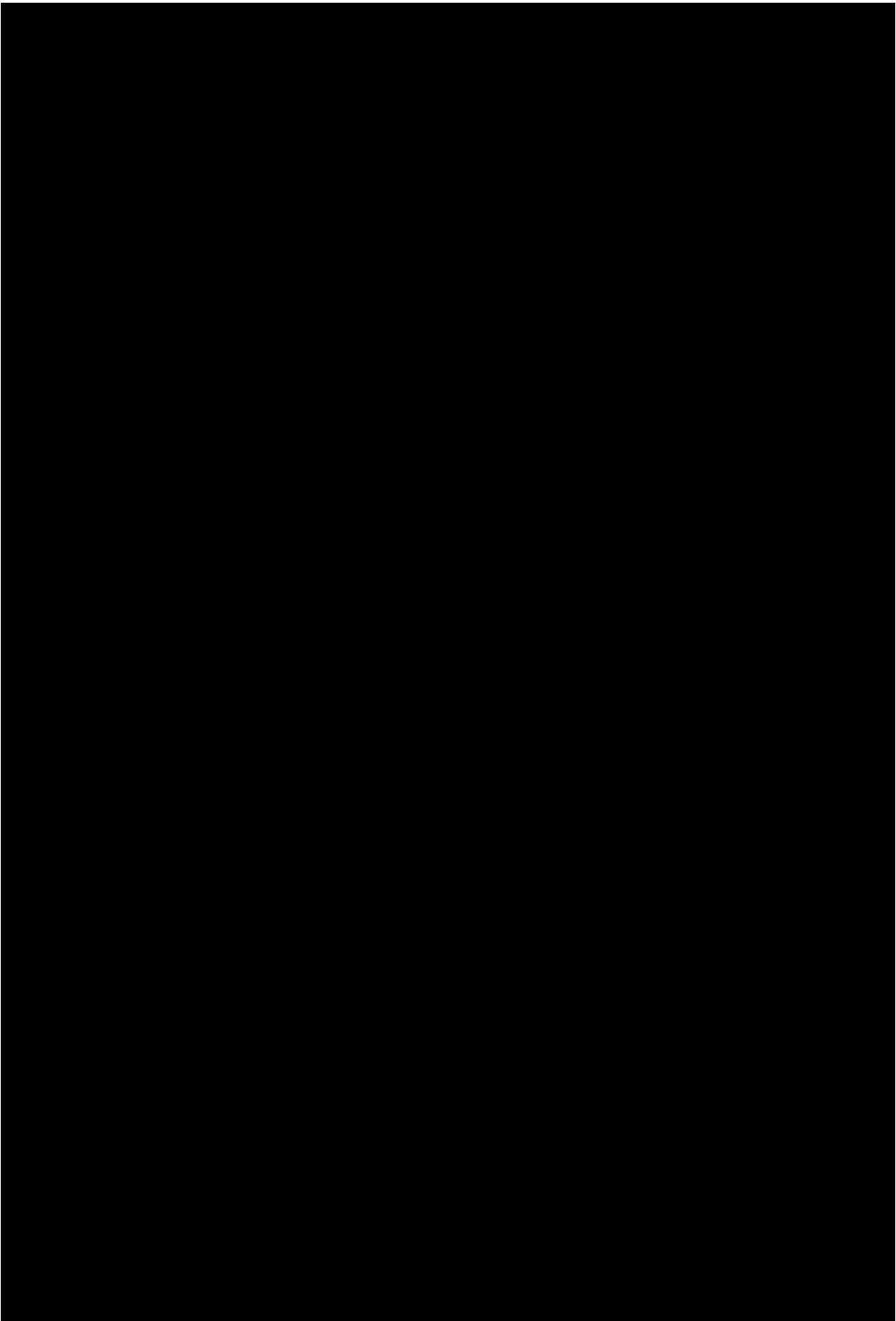
**ANNEXURE J  
Call Option Deed (North Tower Lot)**

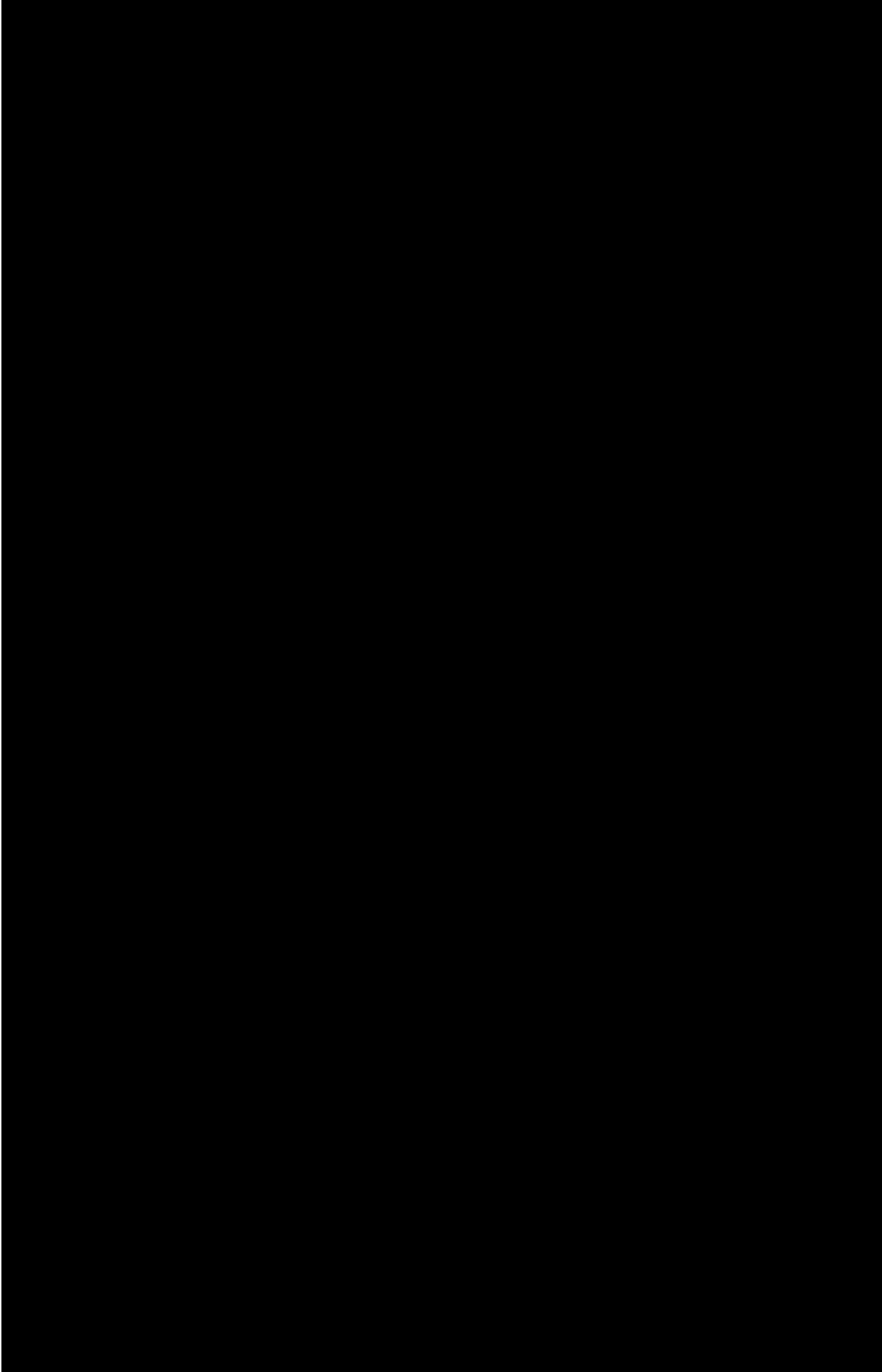




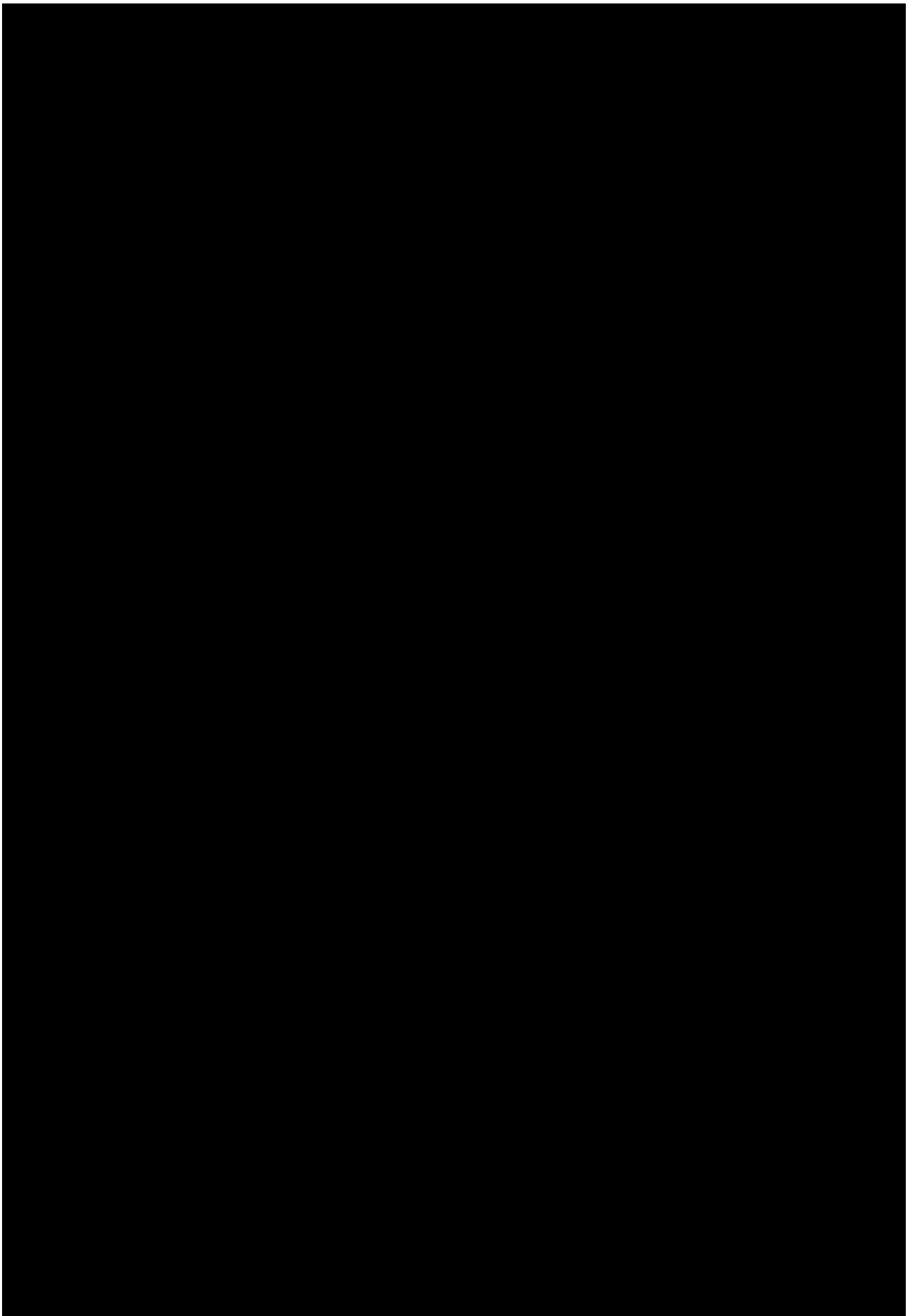


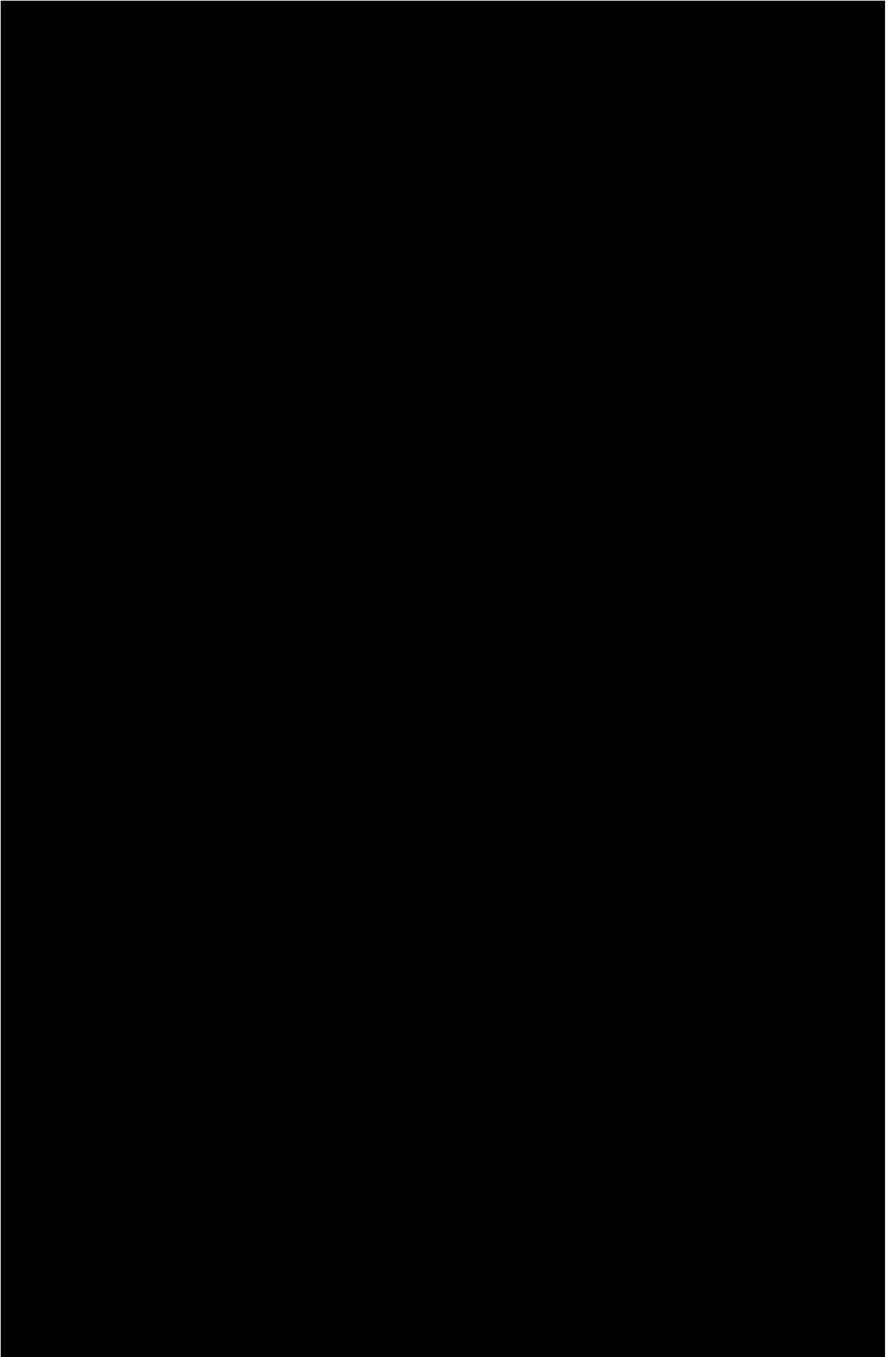


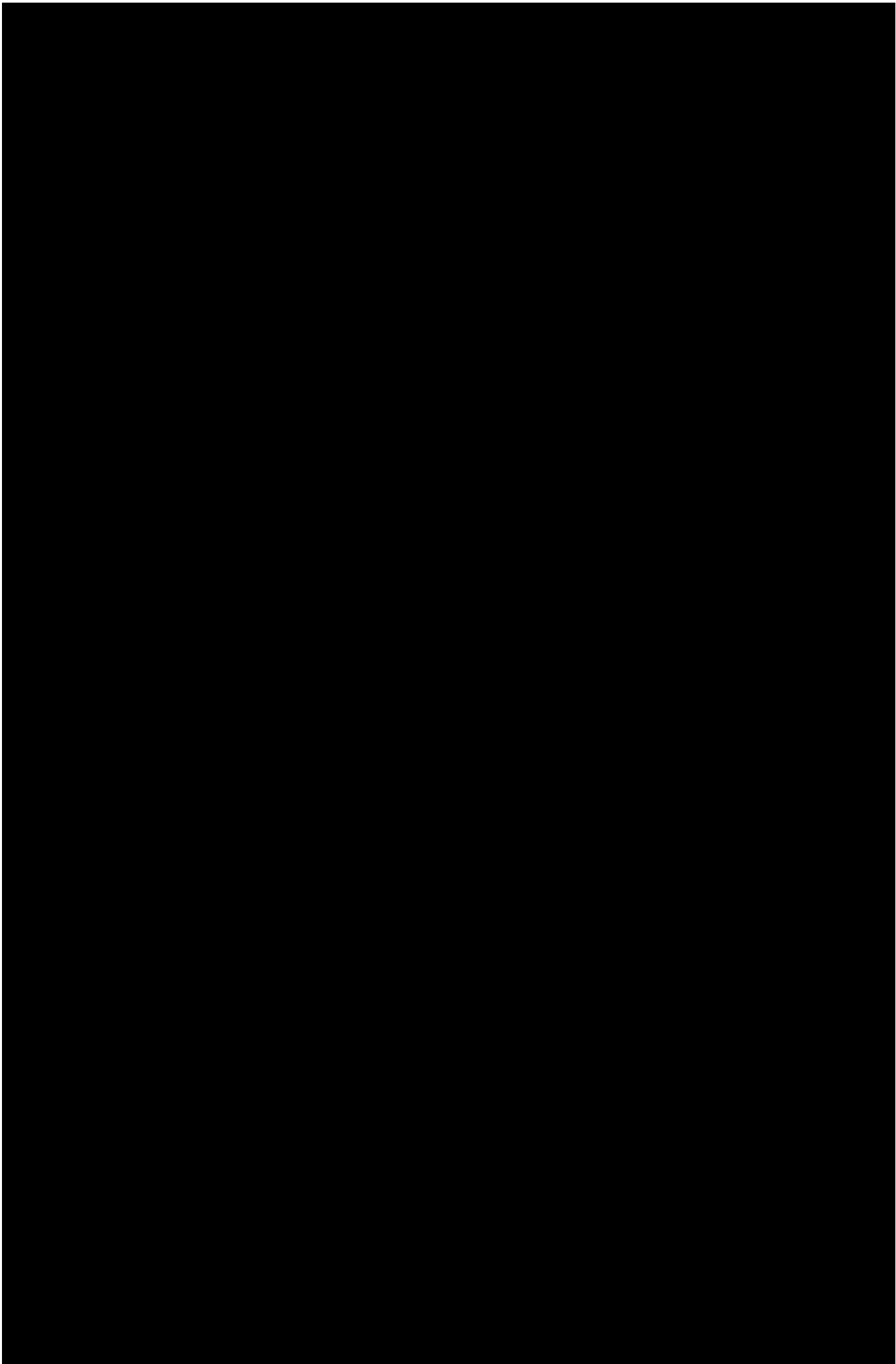


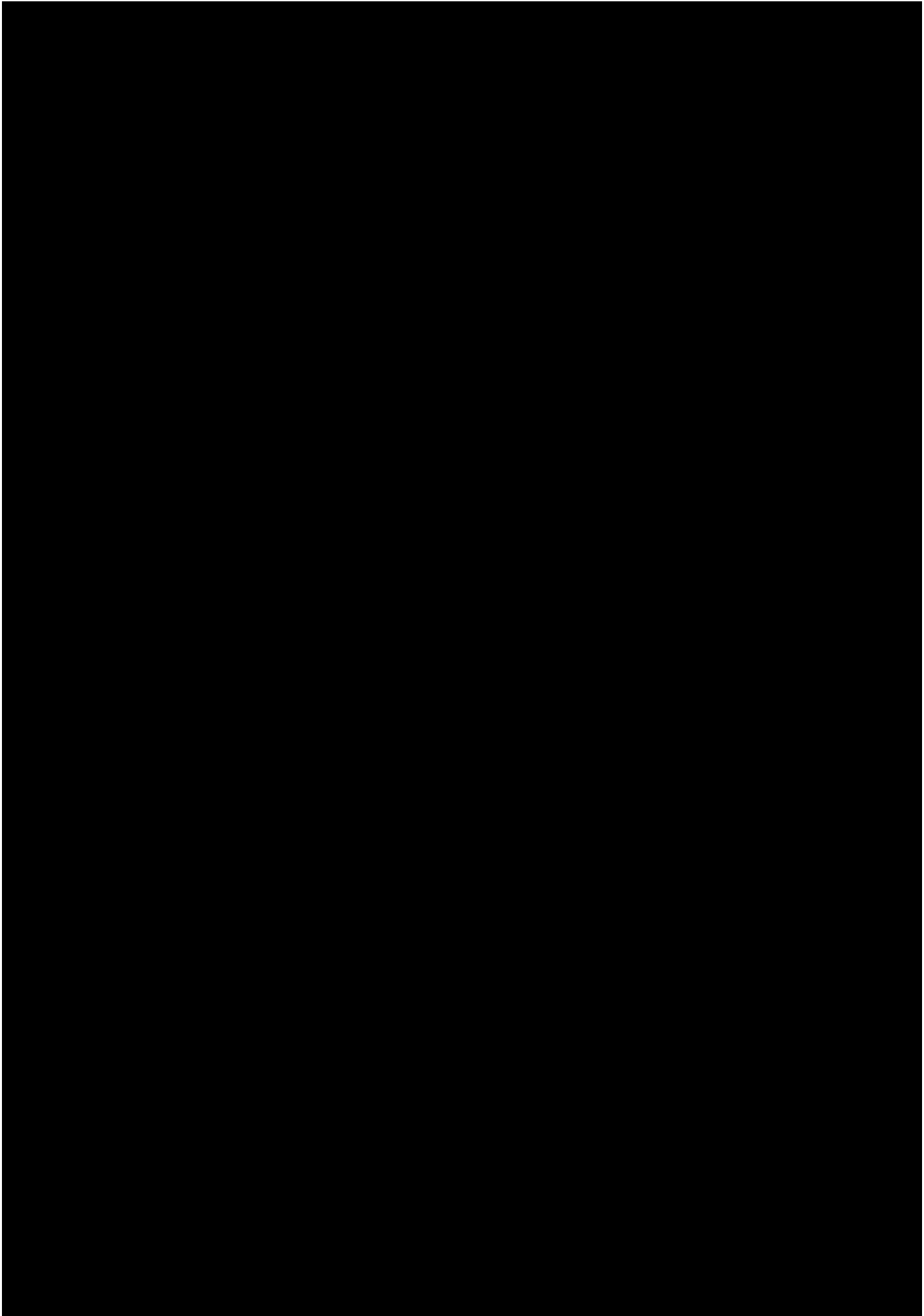


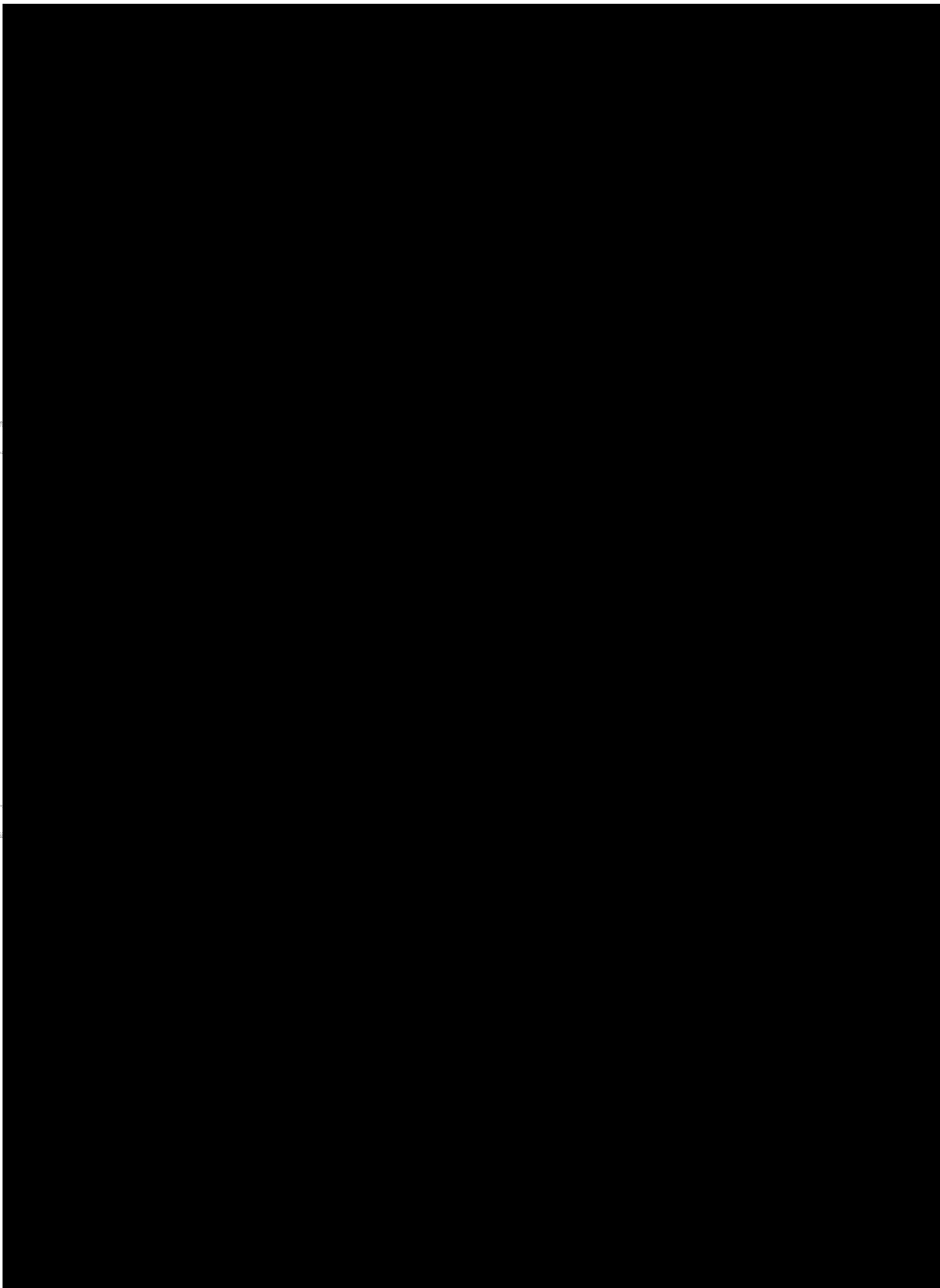


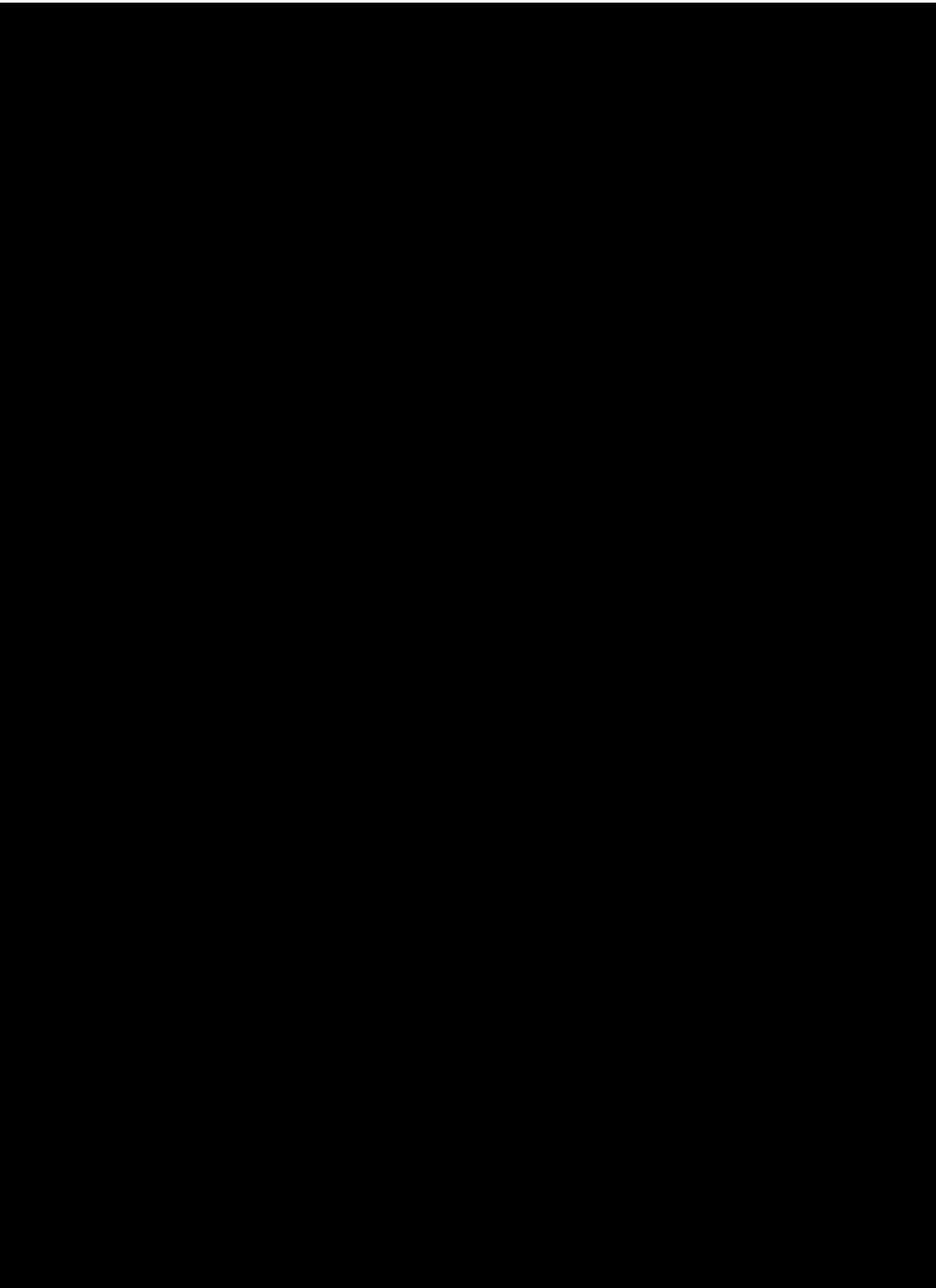


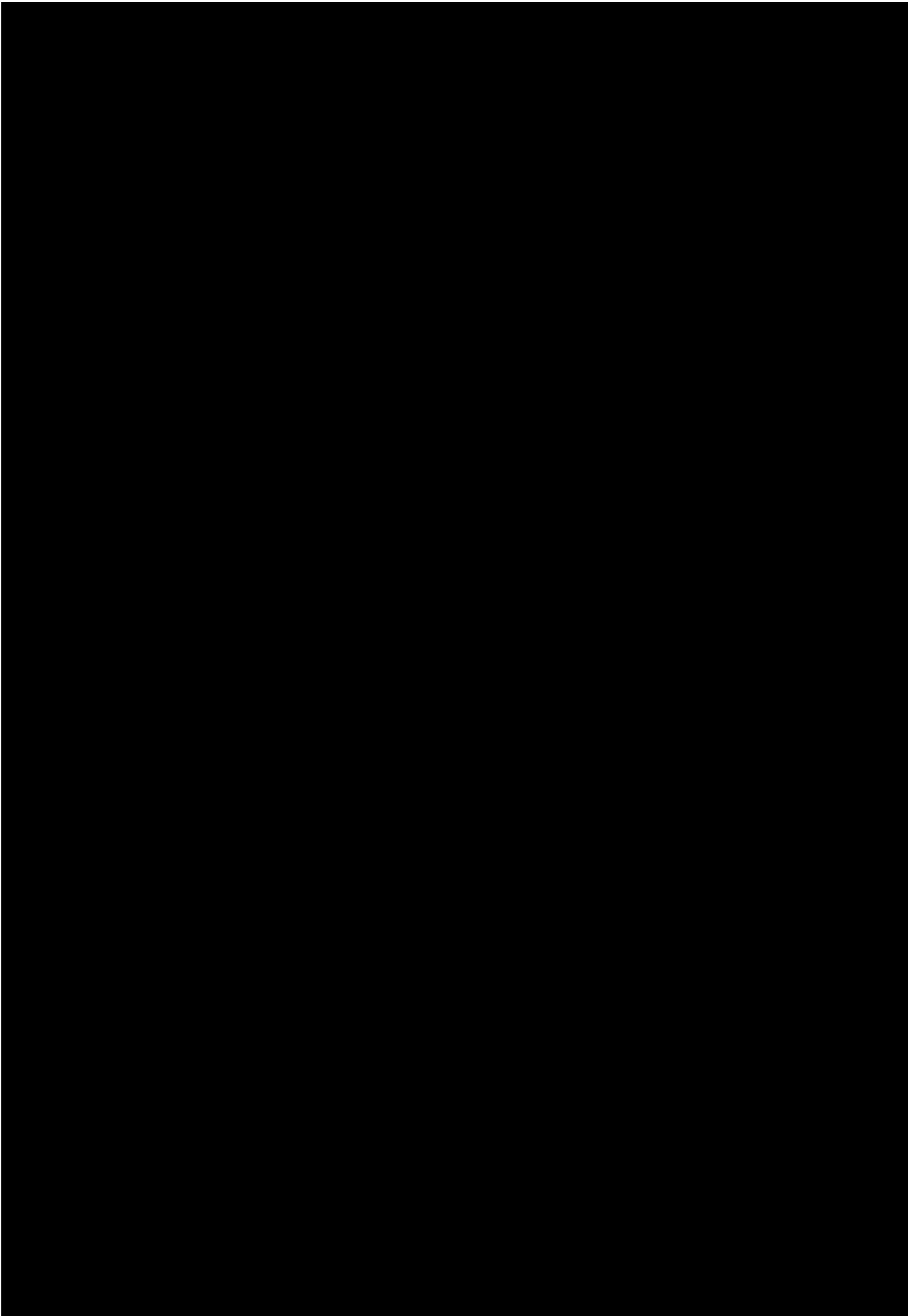


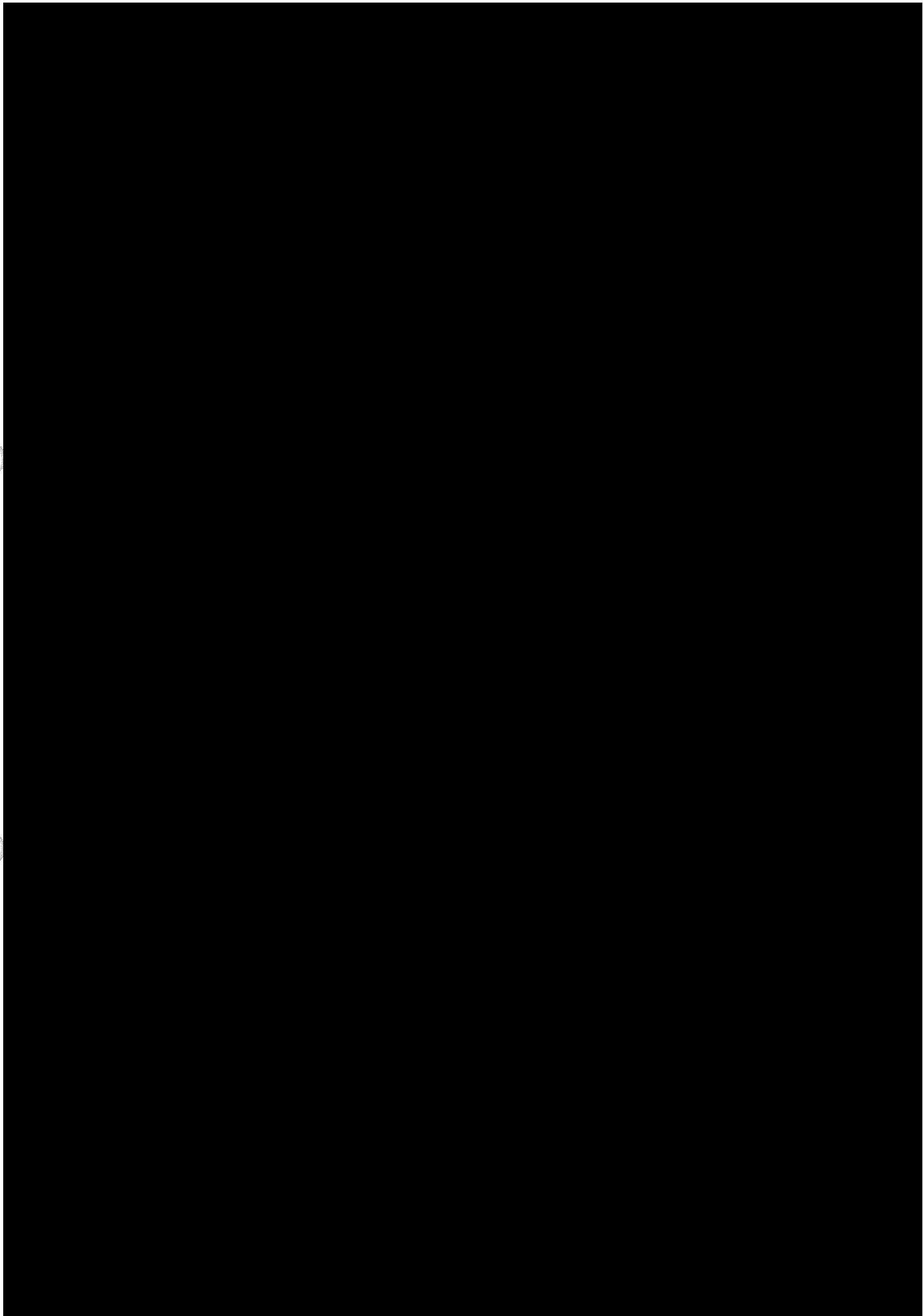




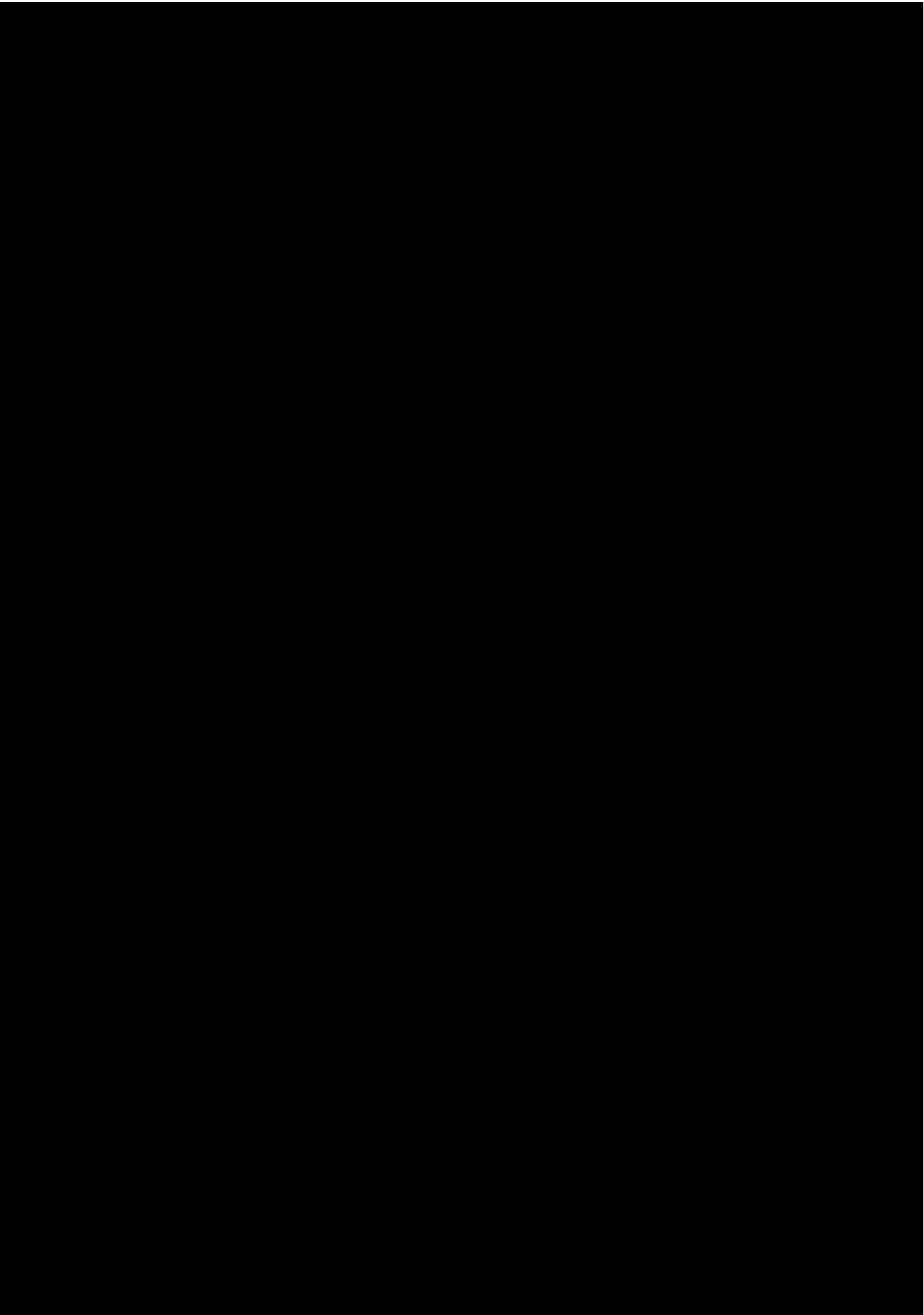


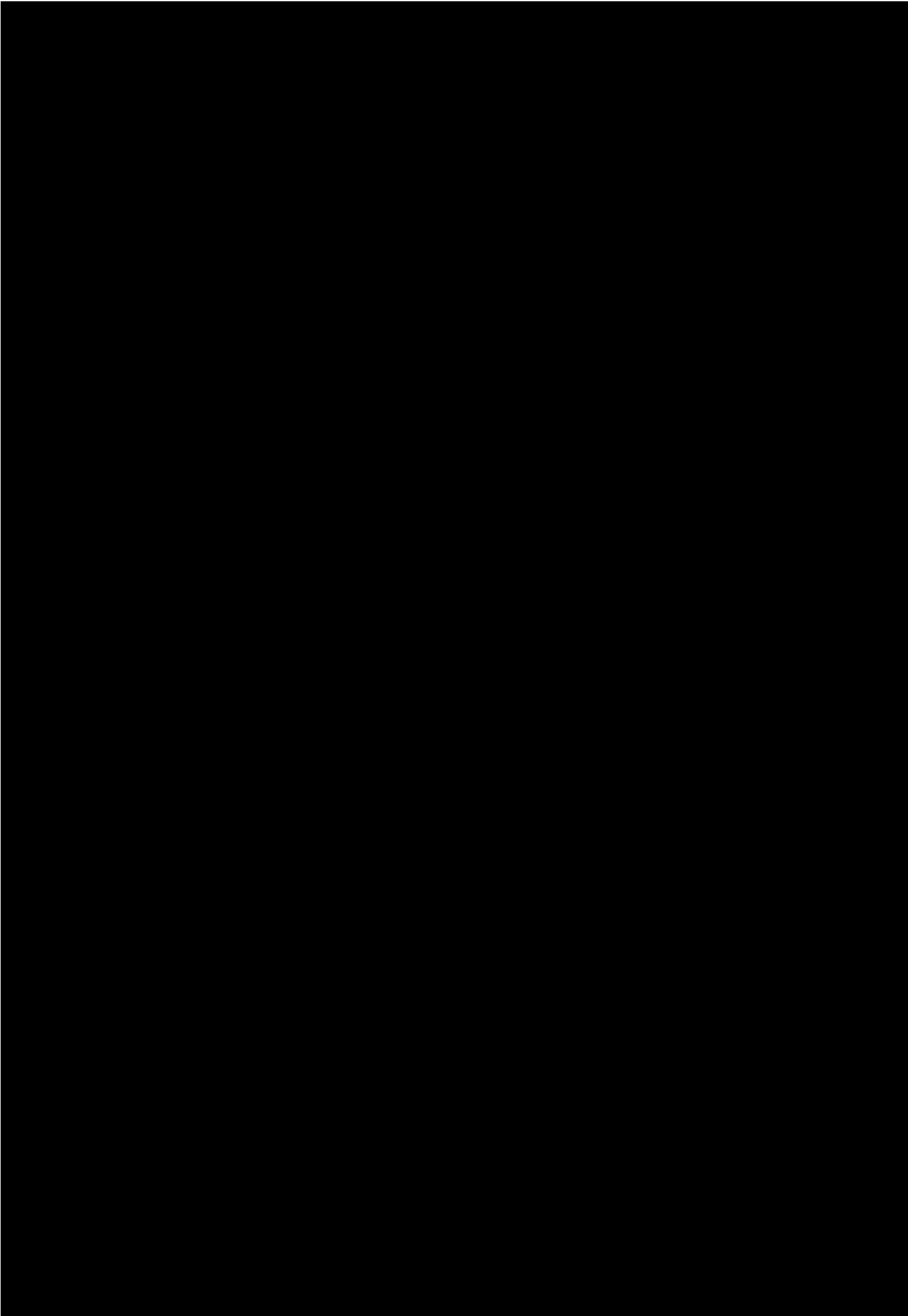


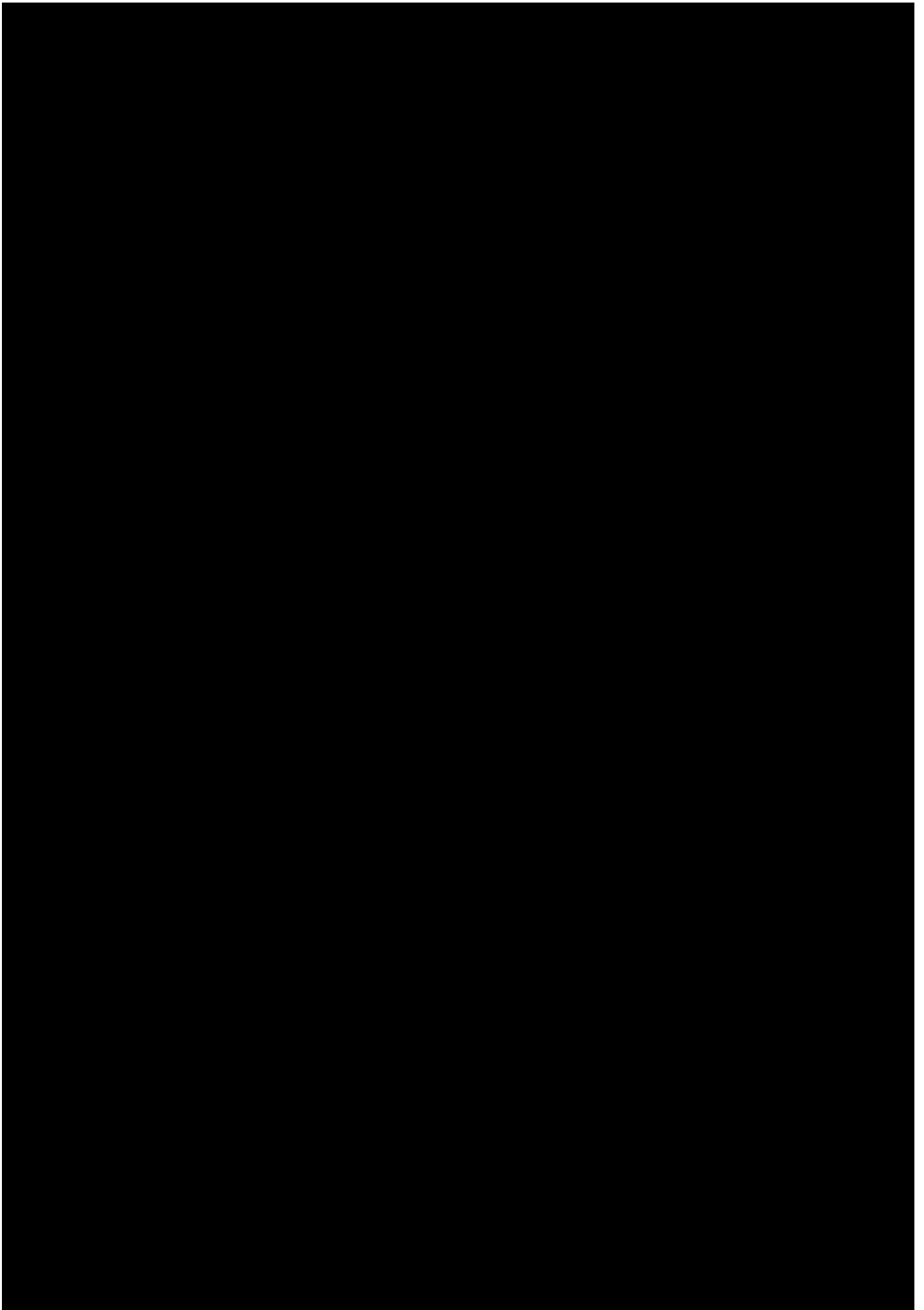


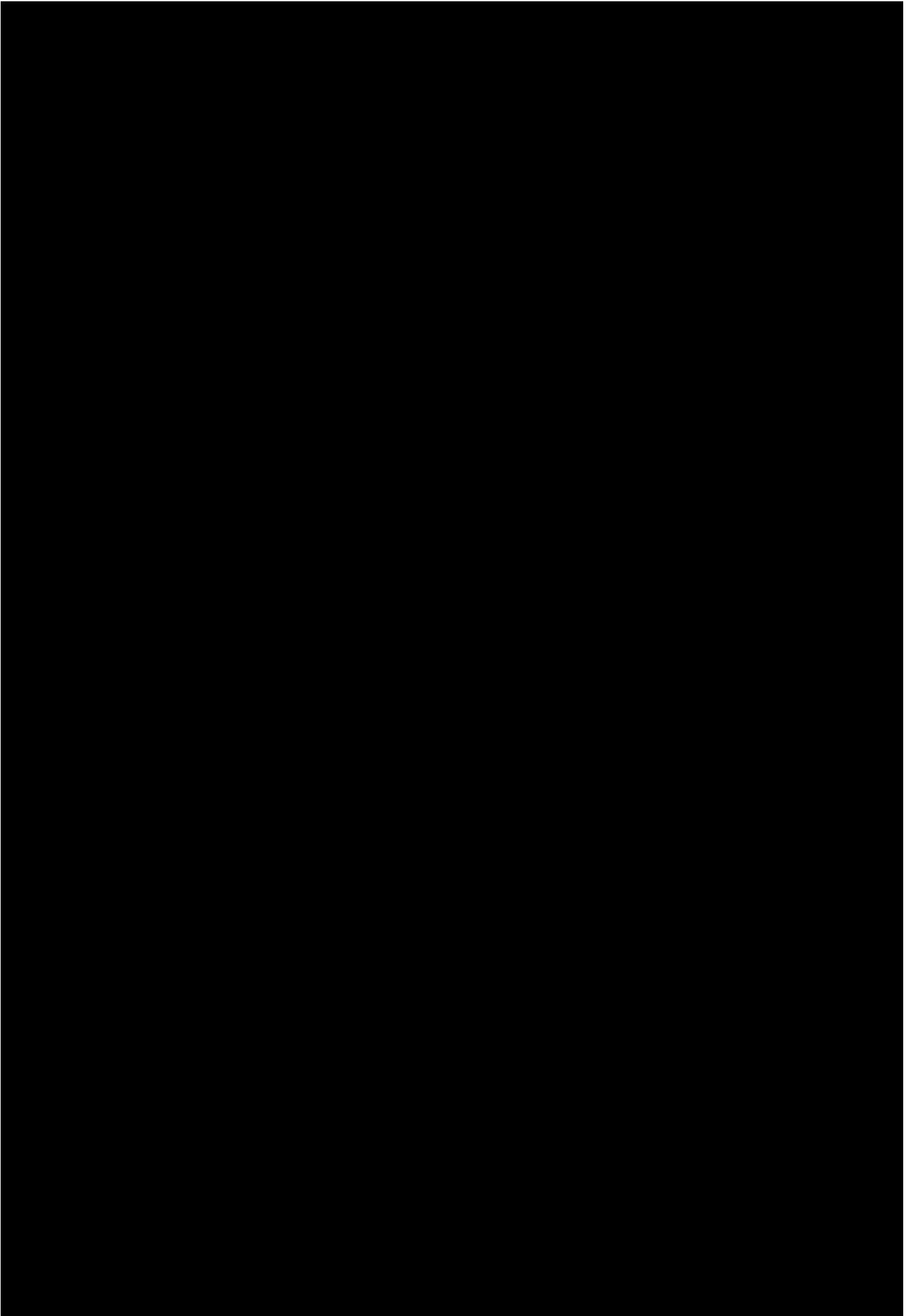


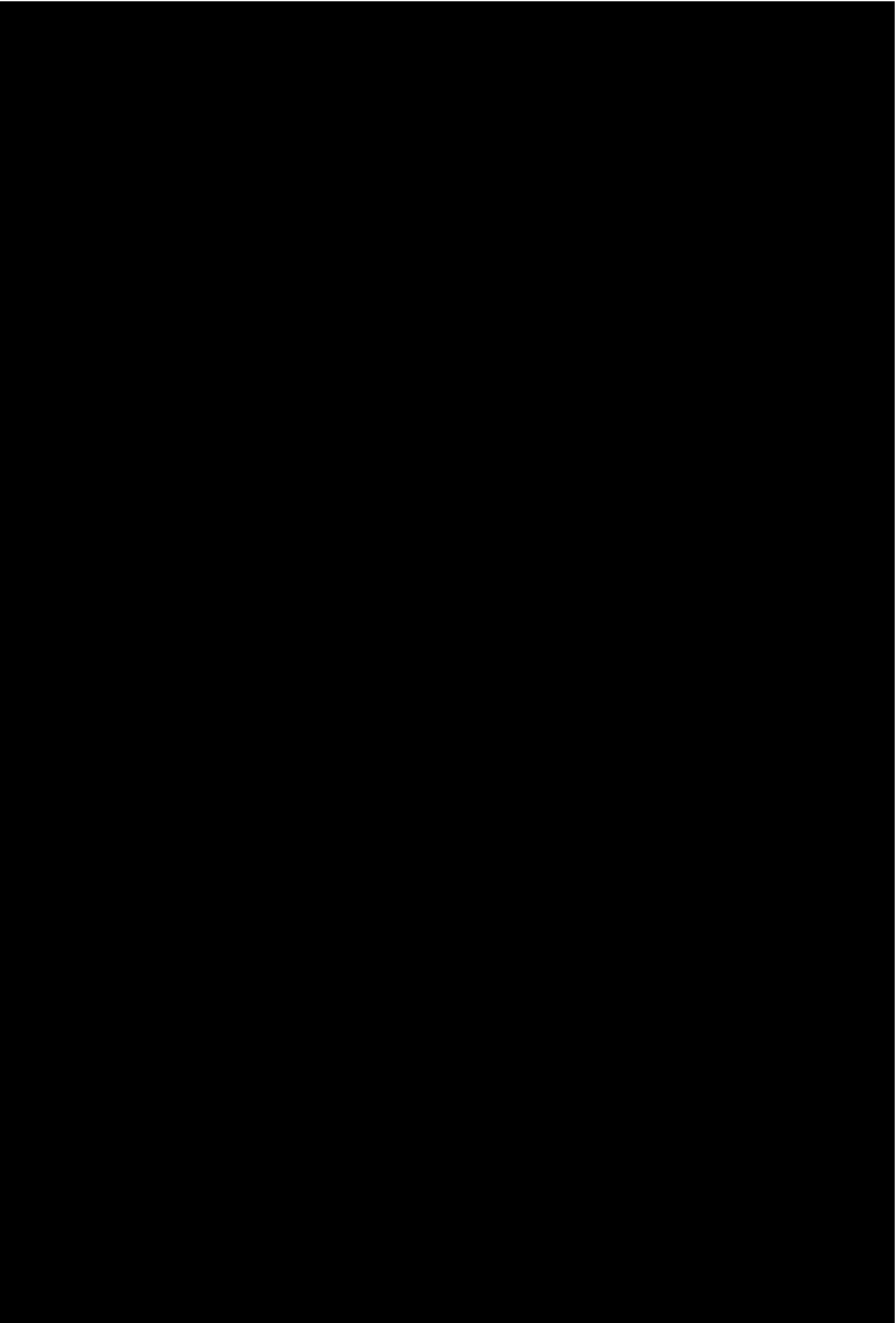


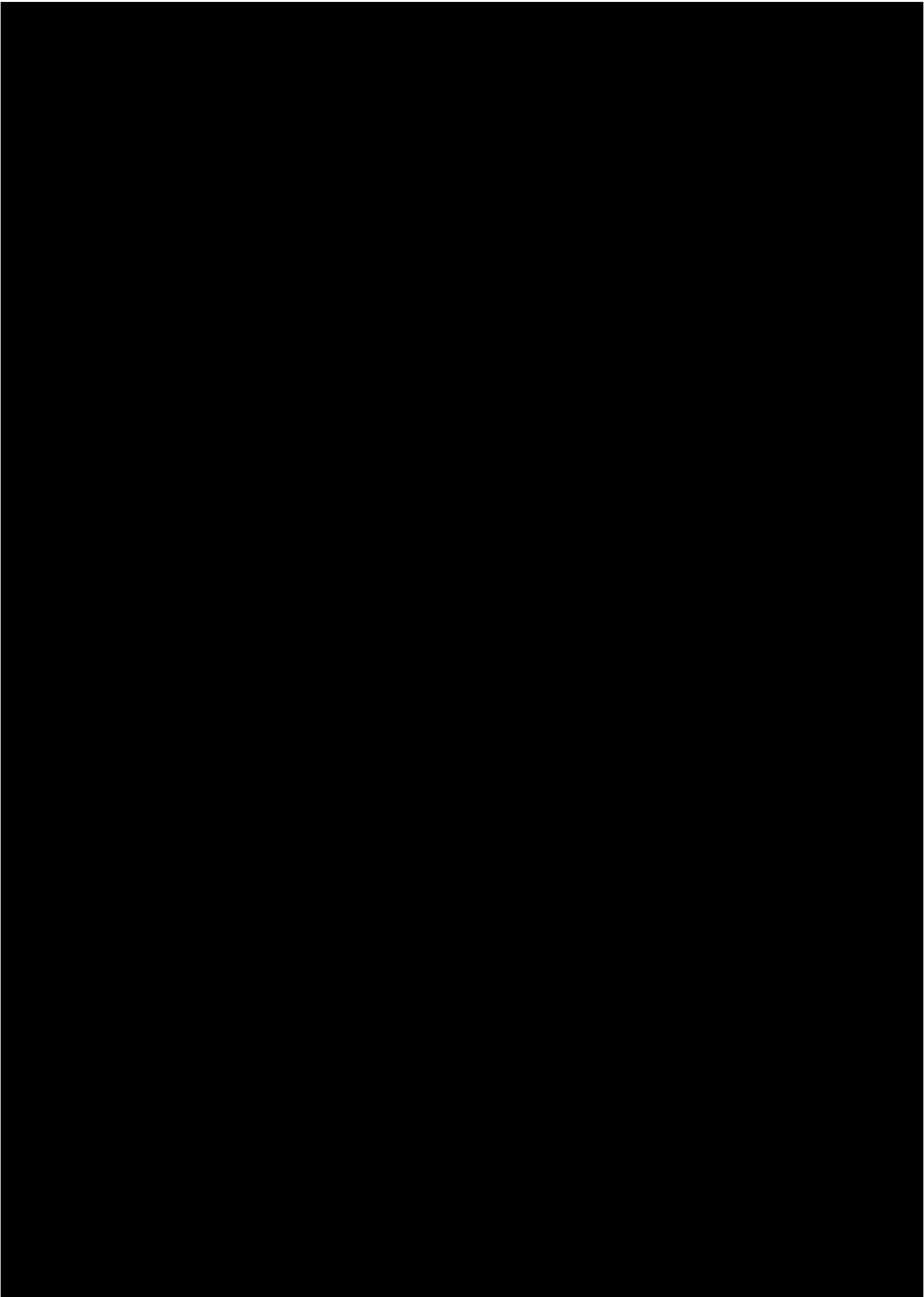


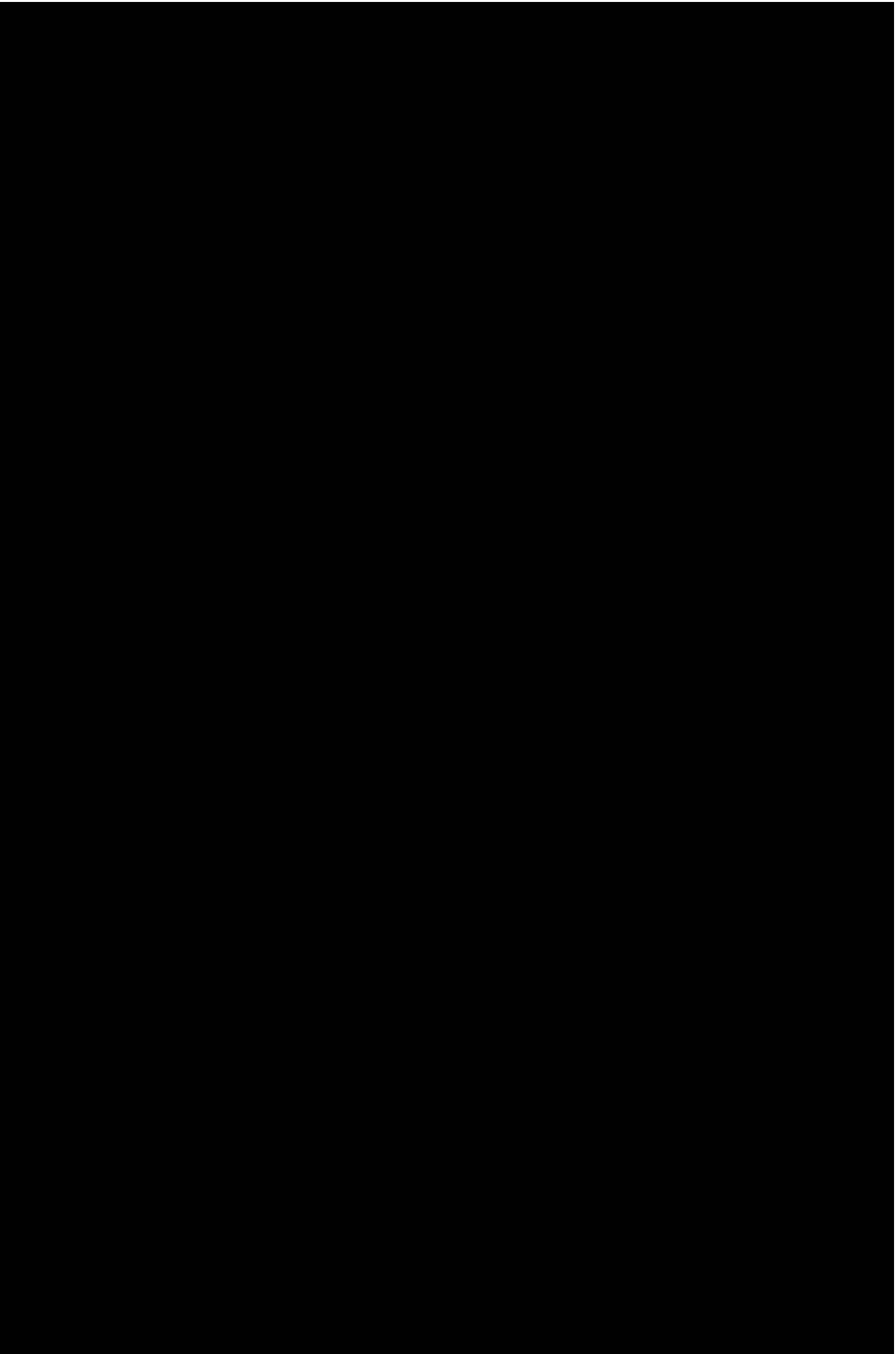


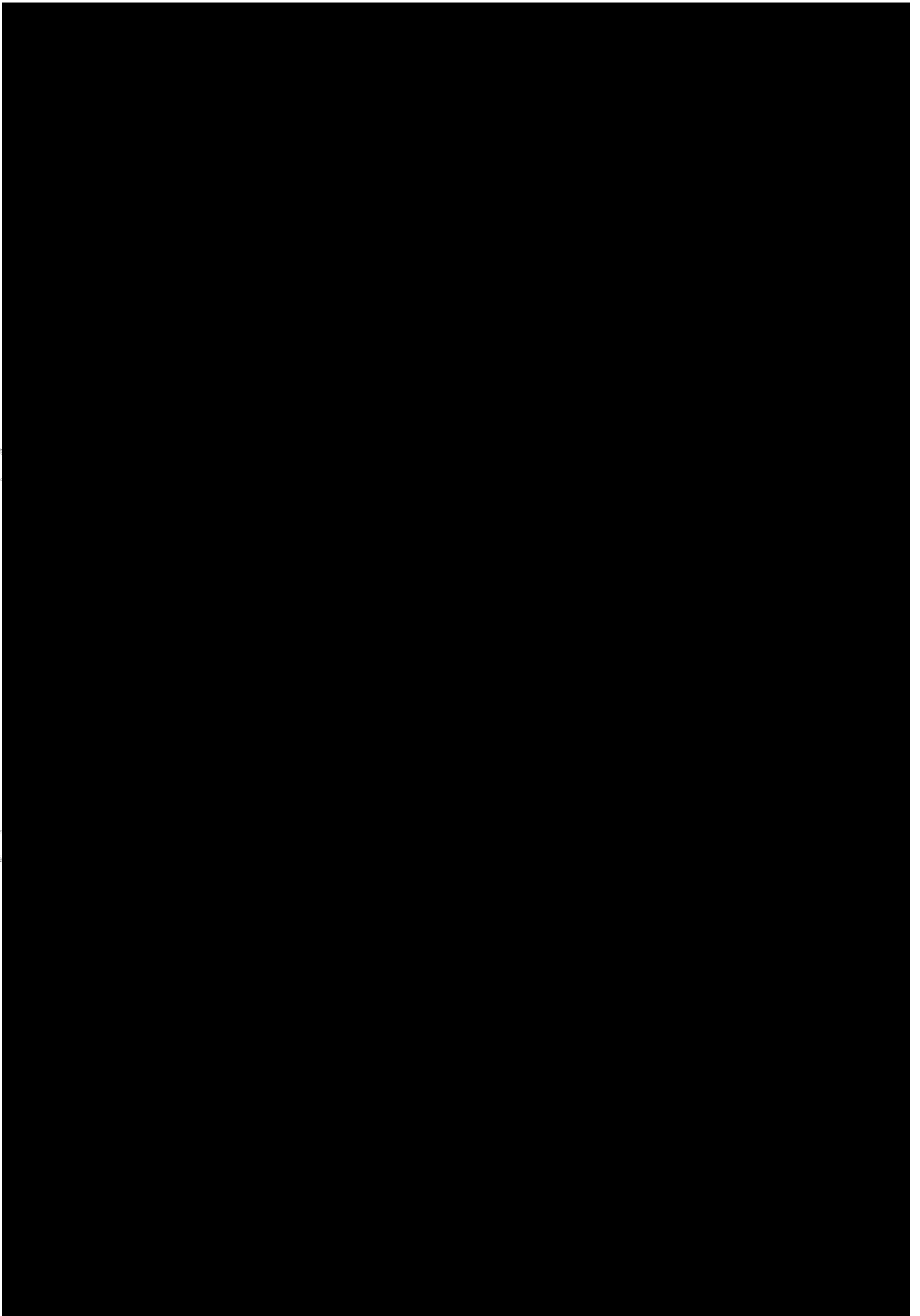




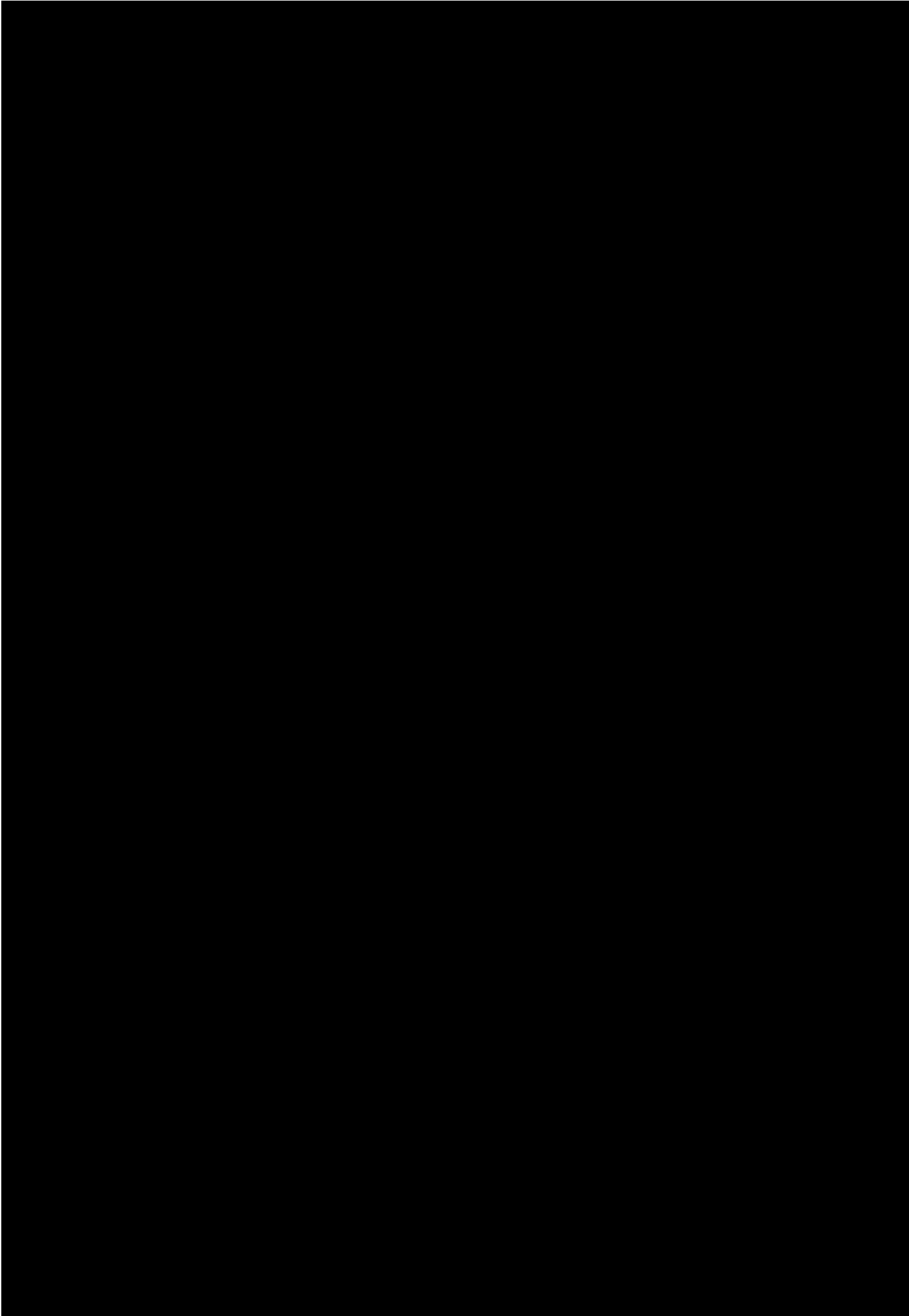


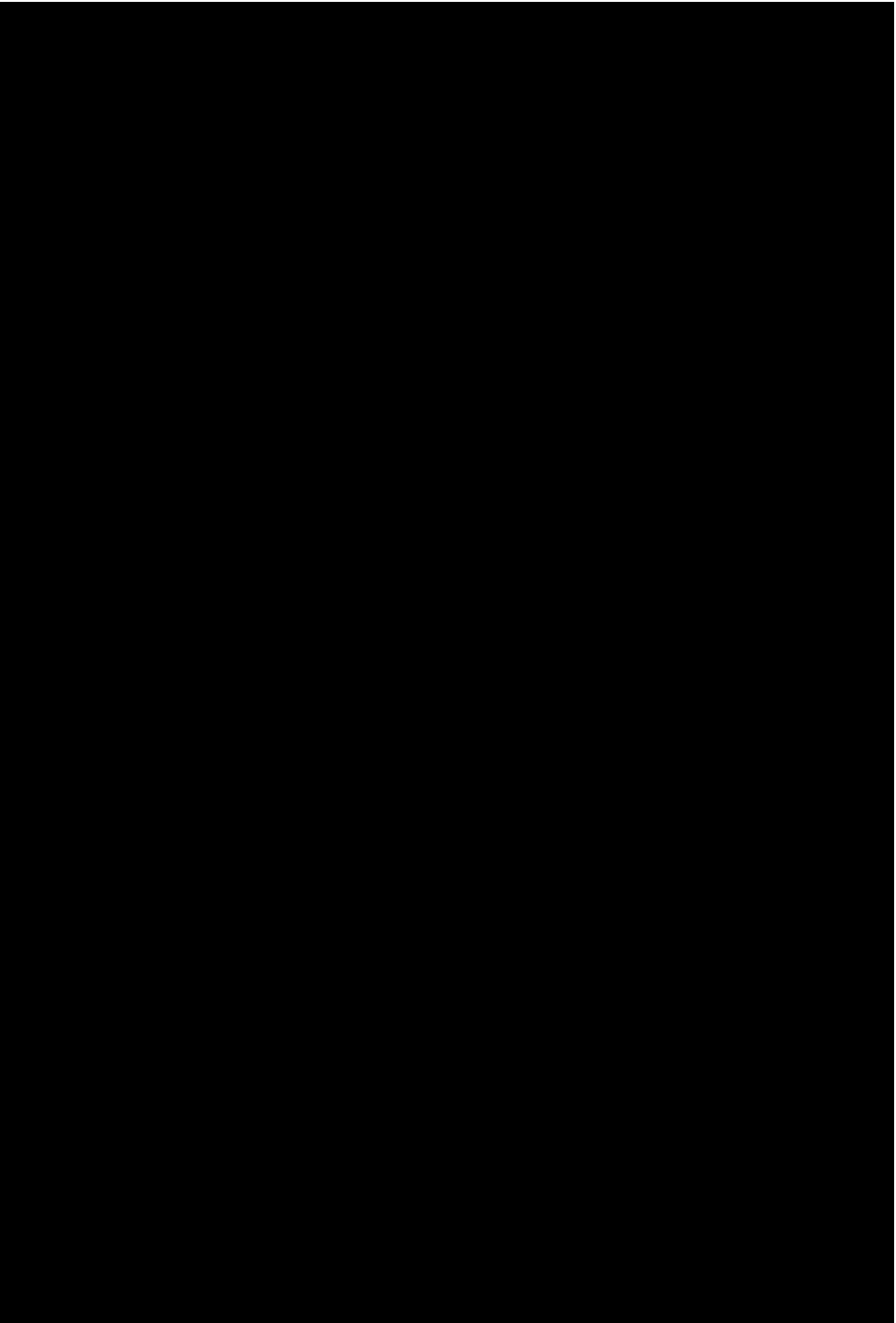


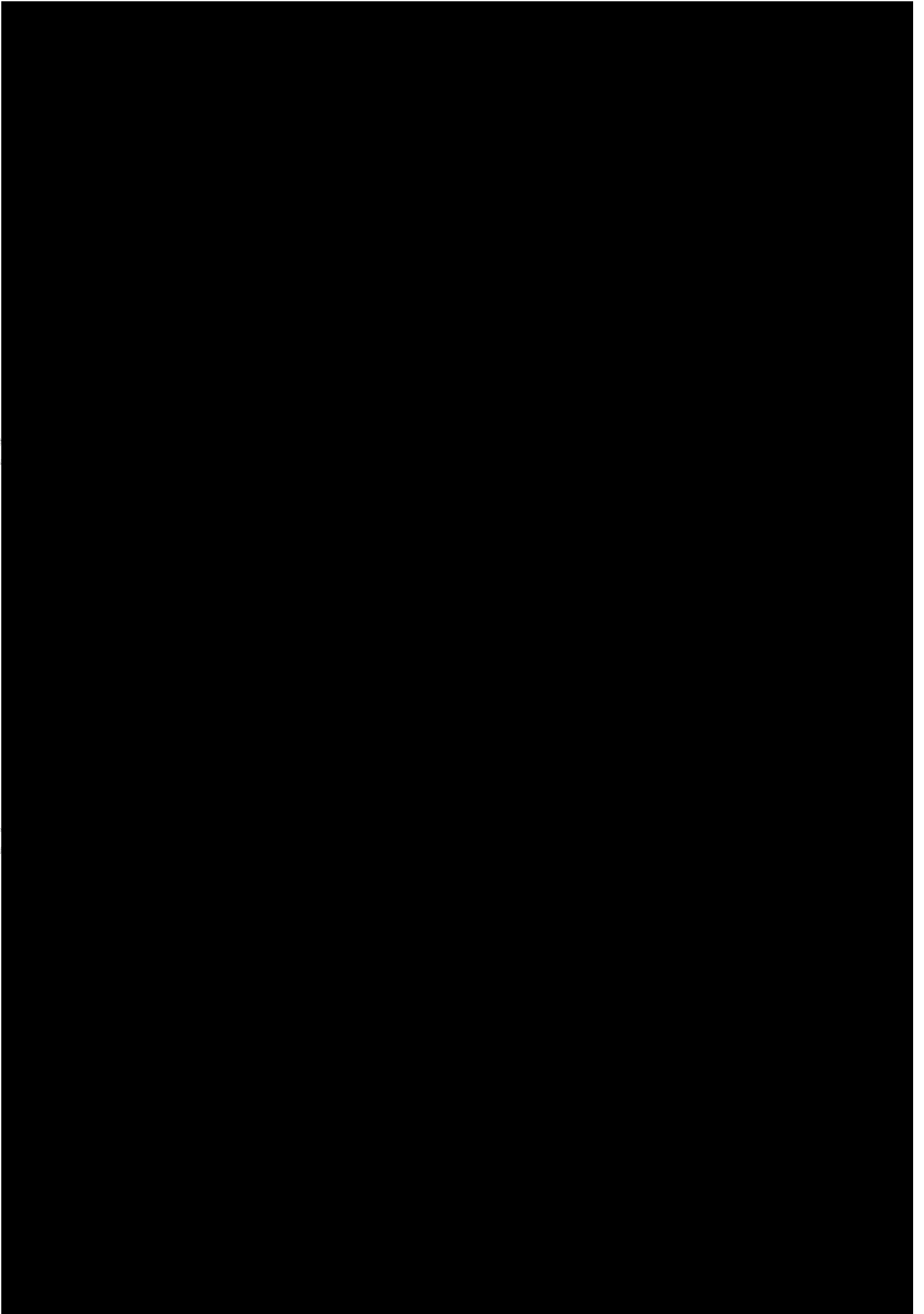


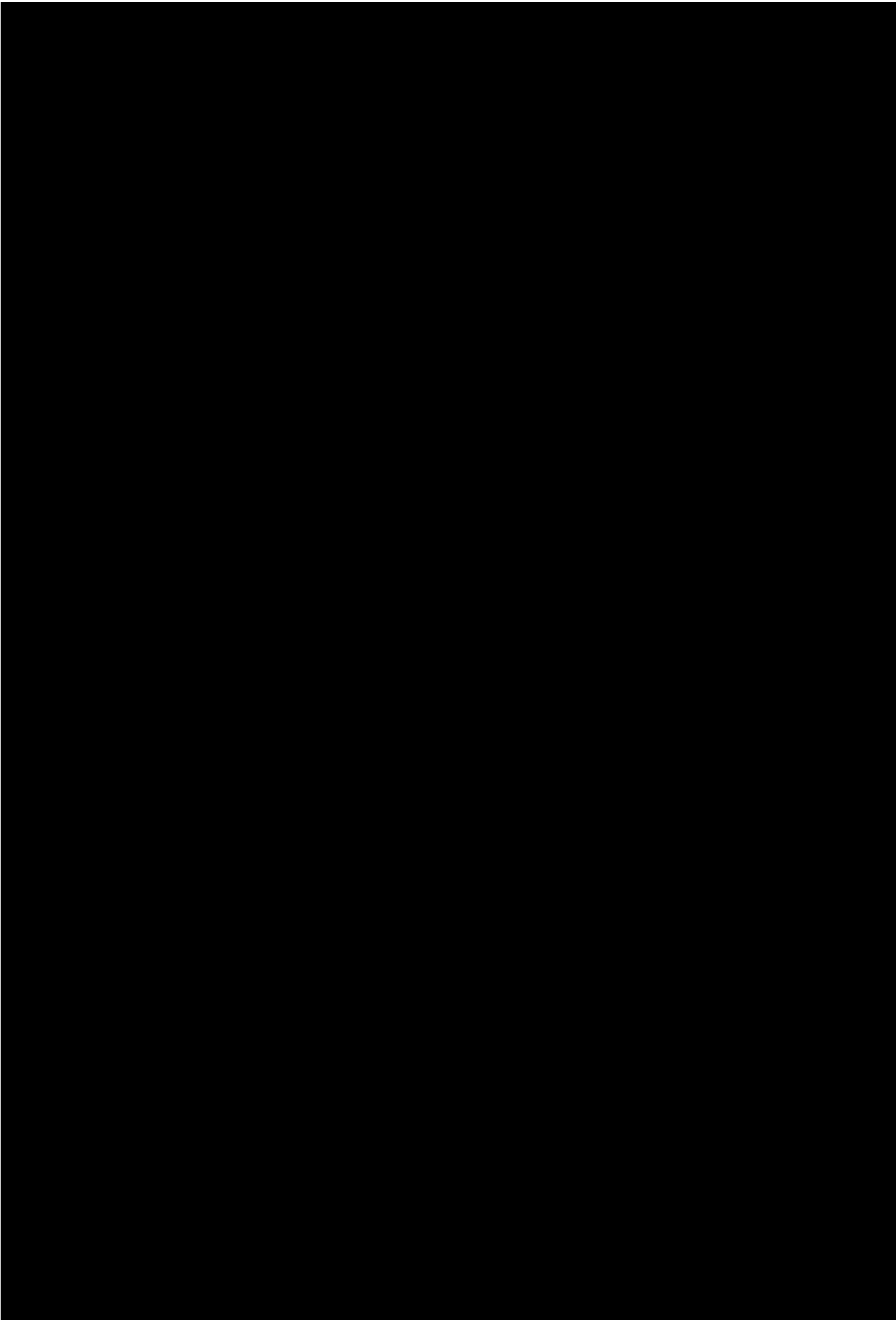


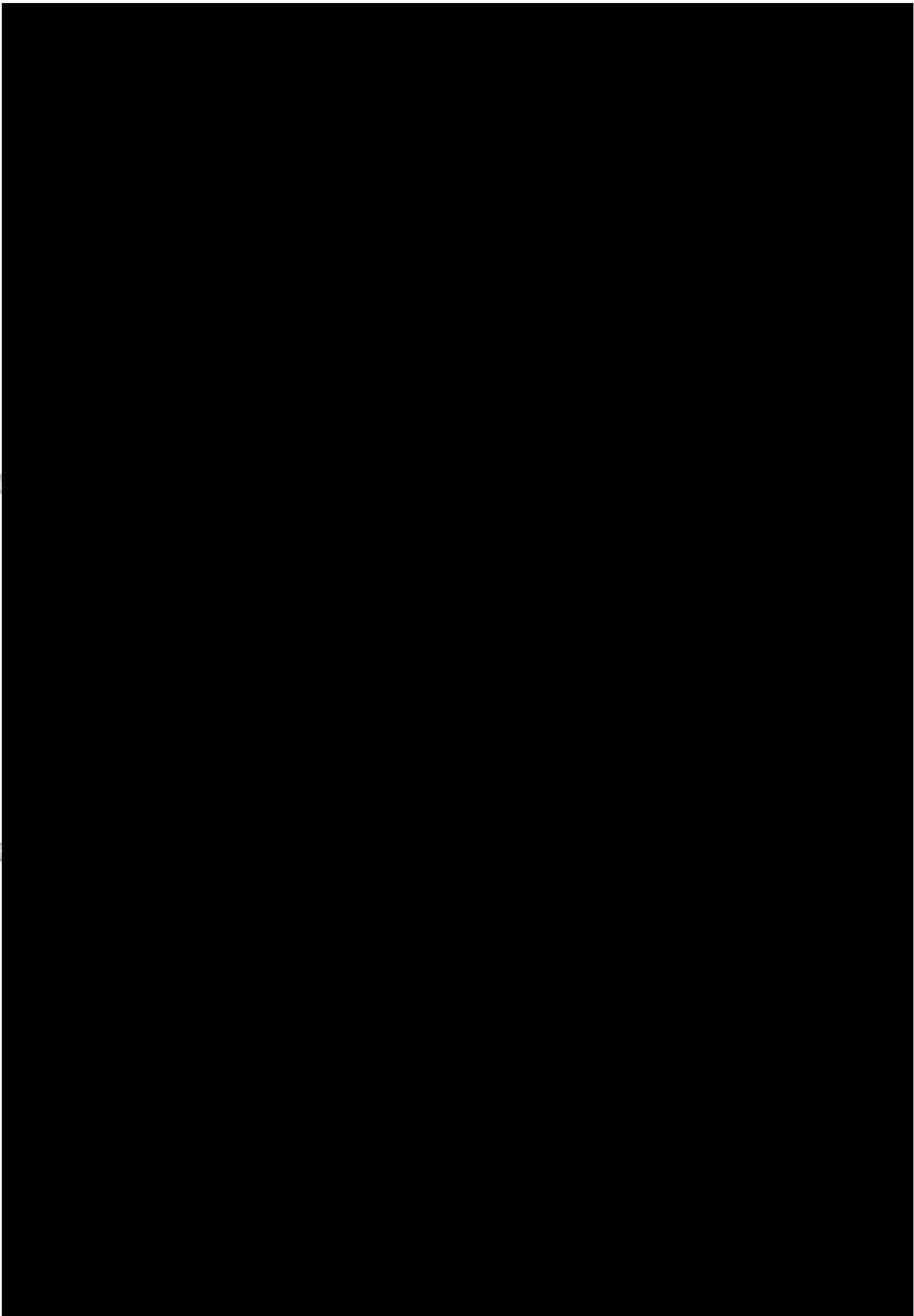


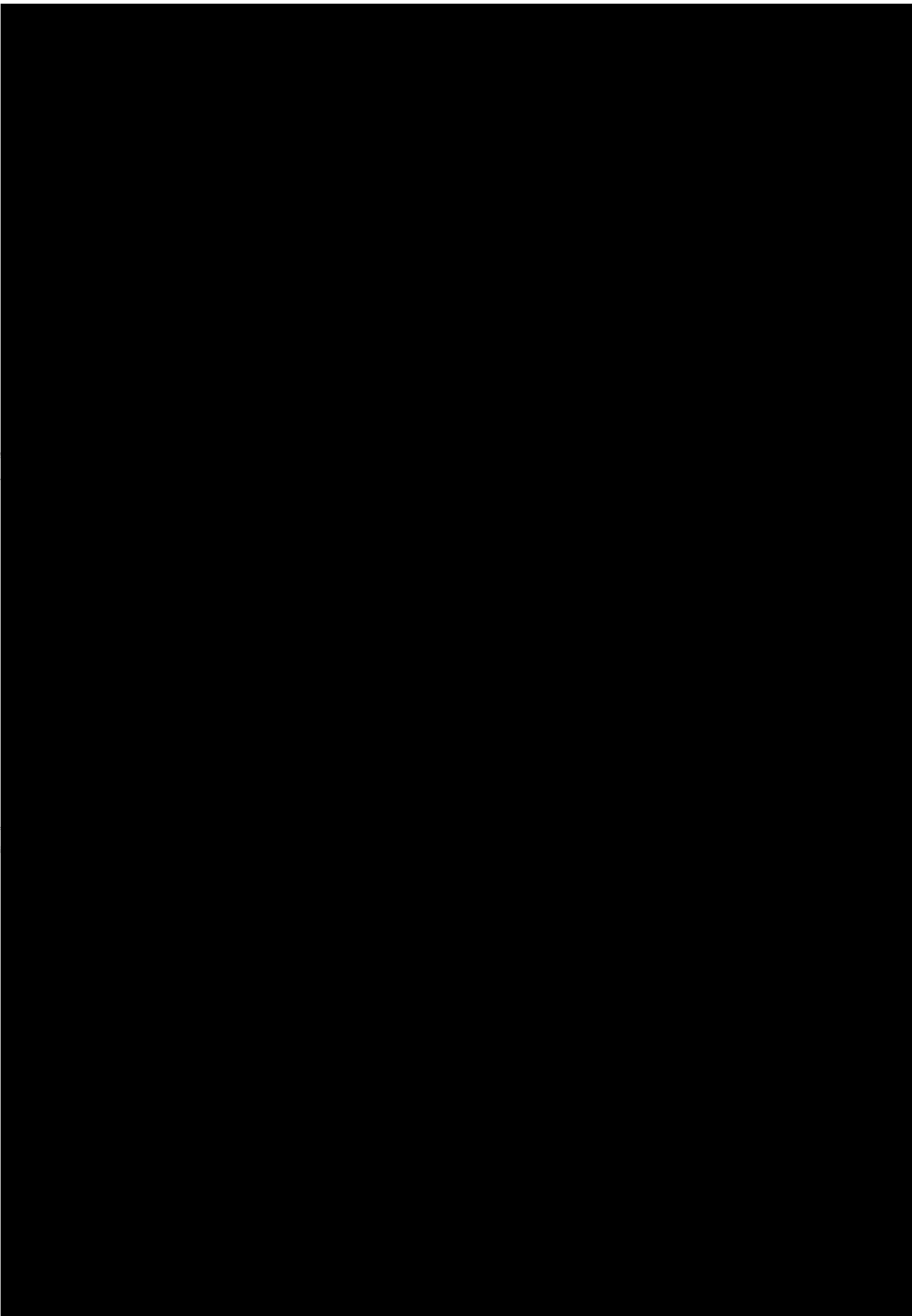


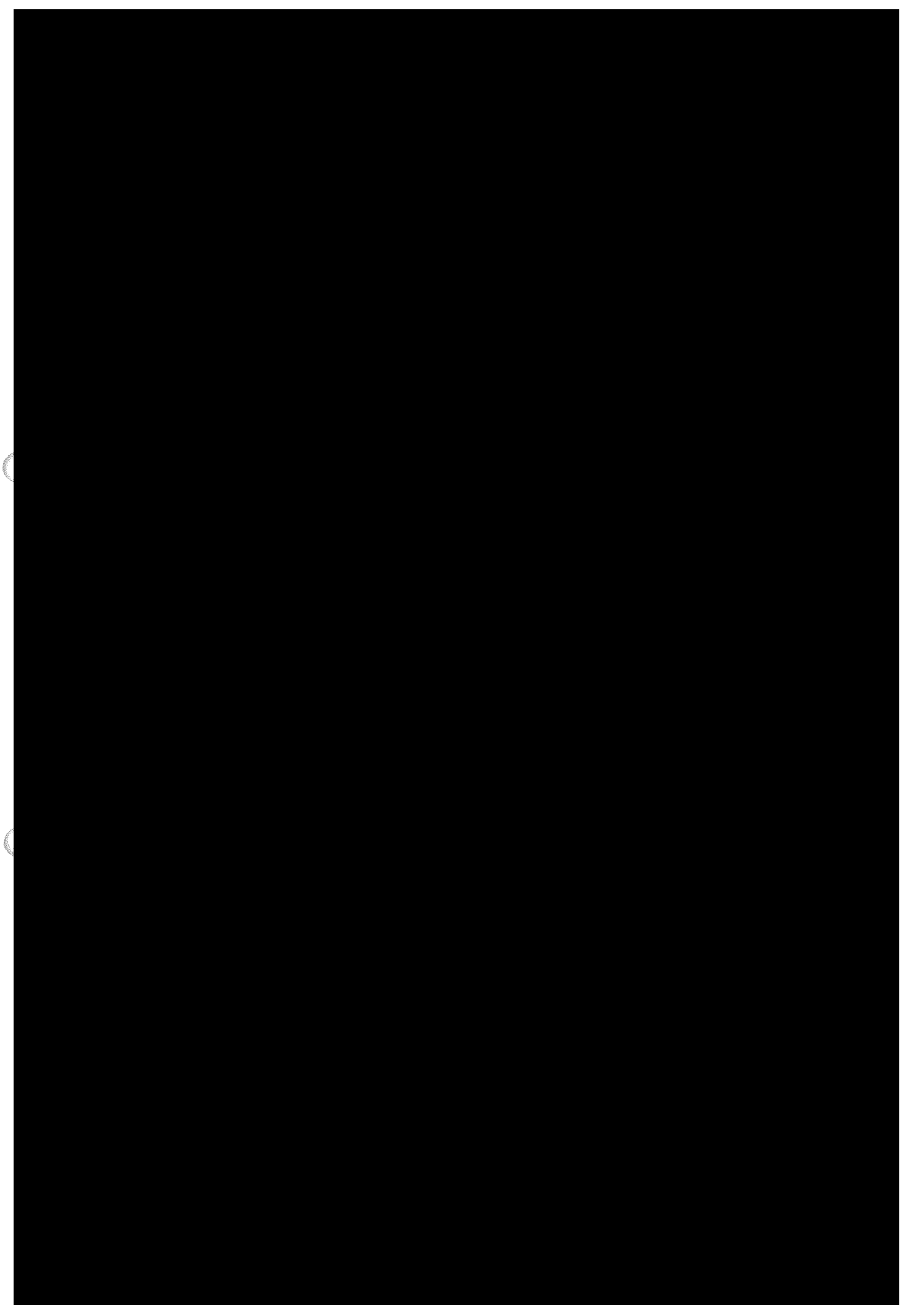


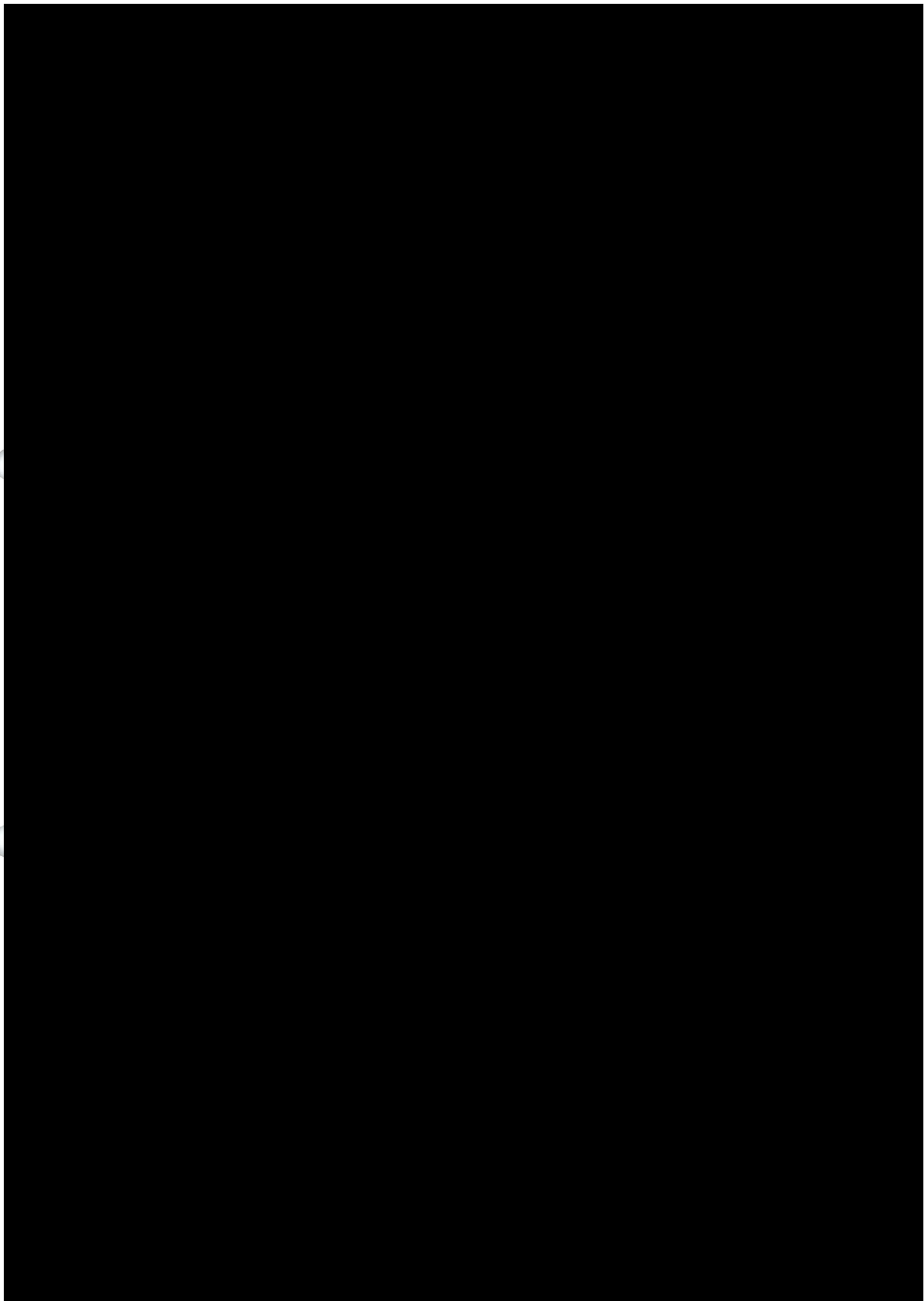




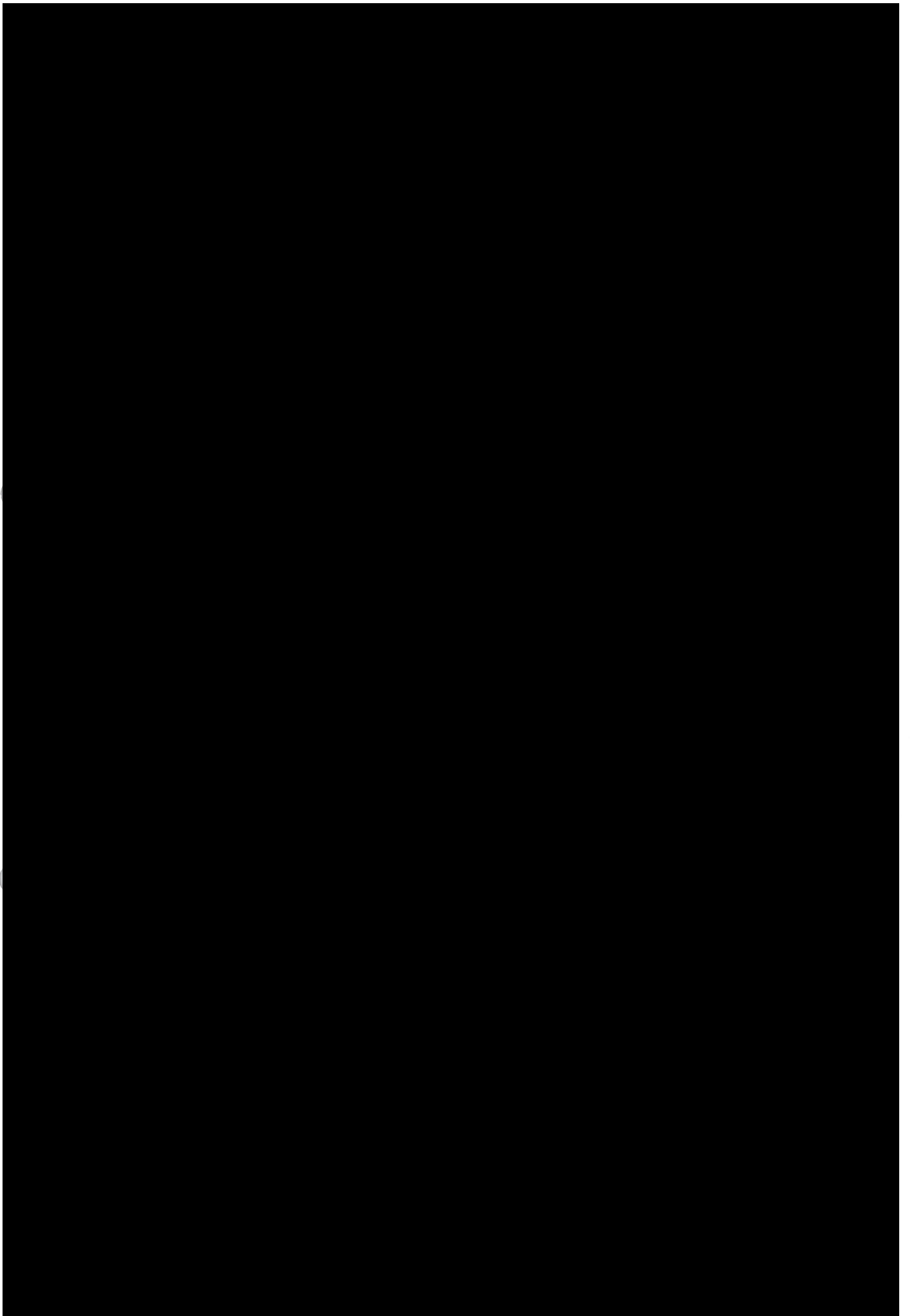




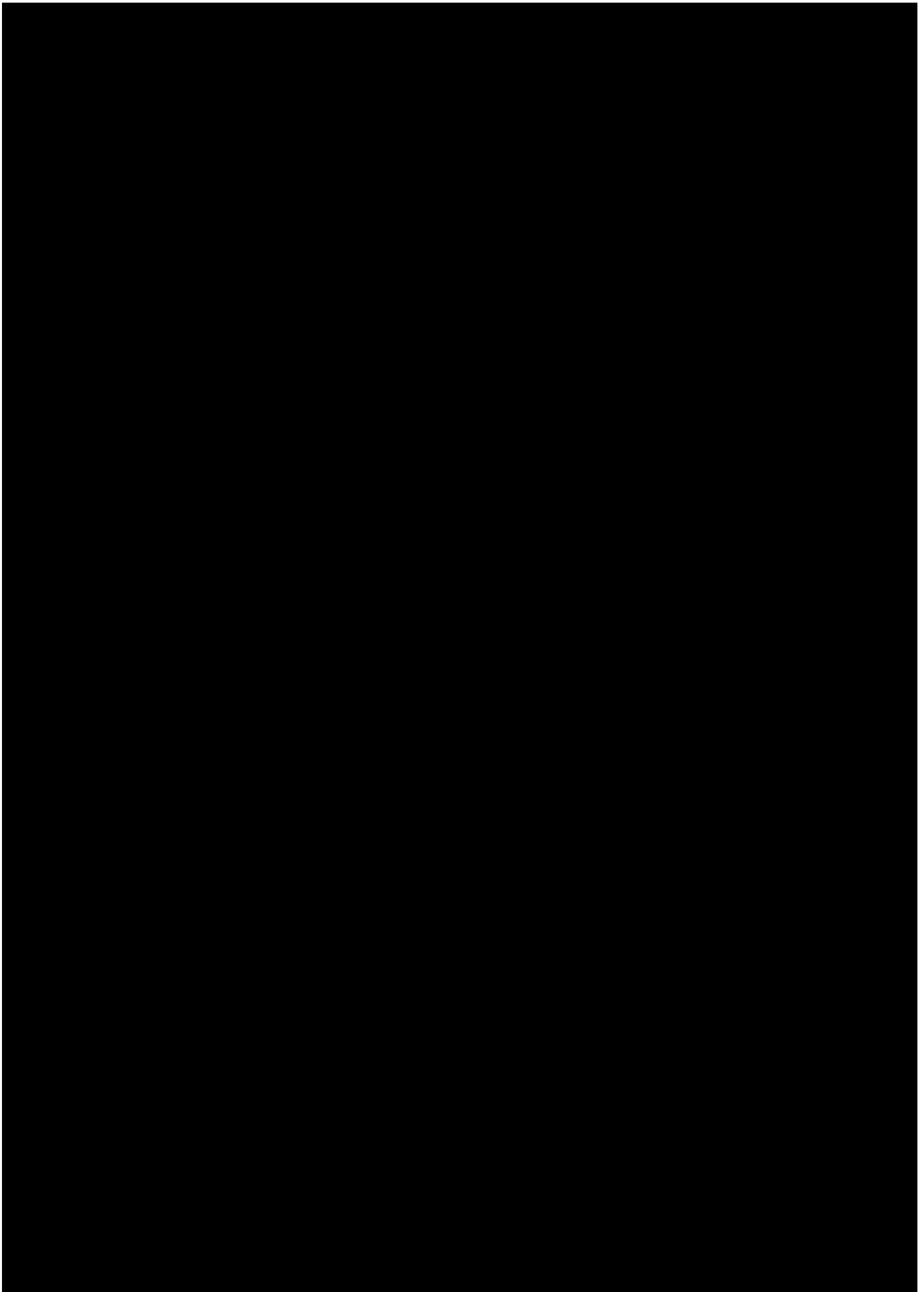


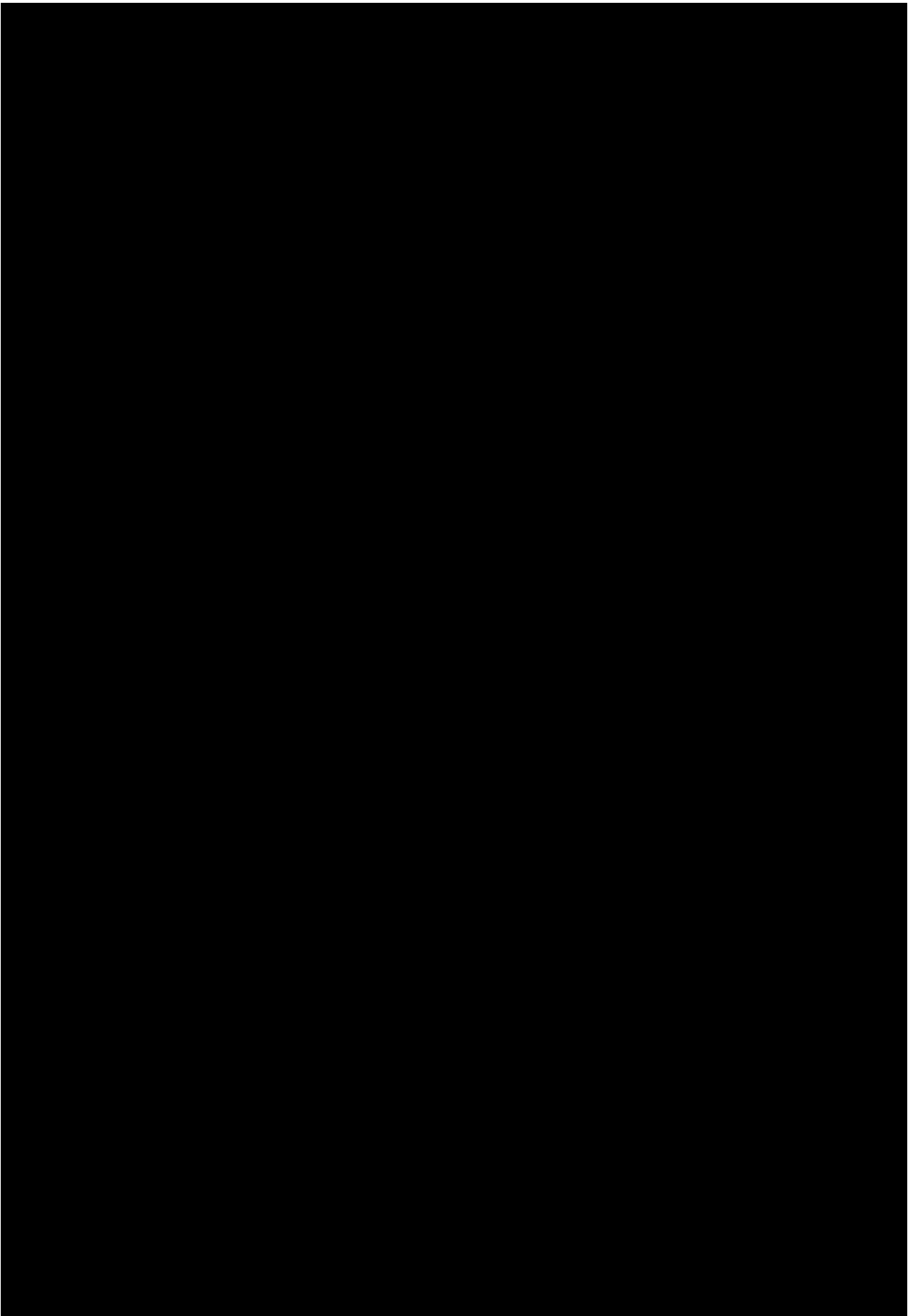




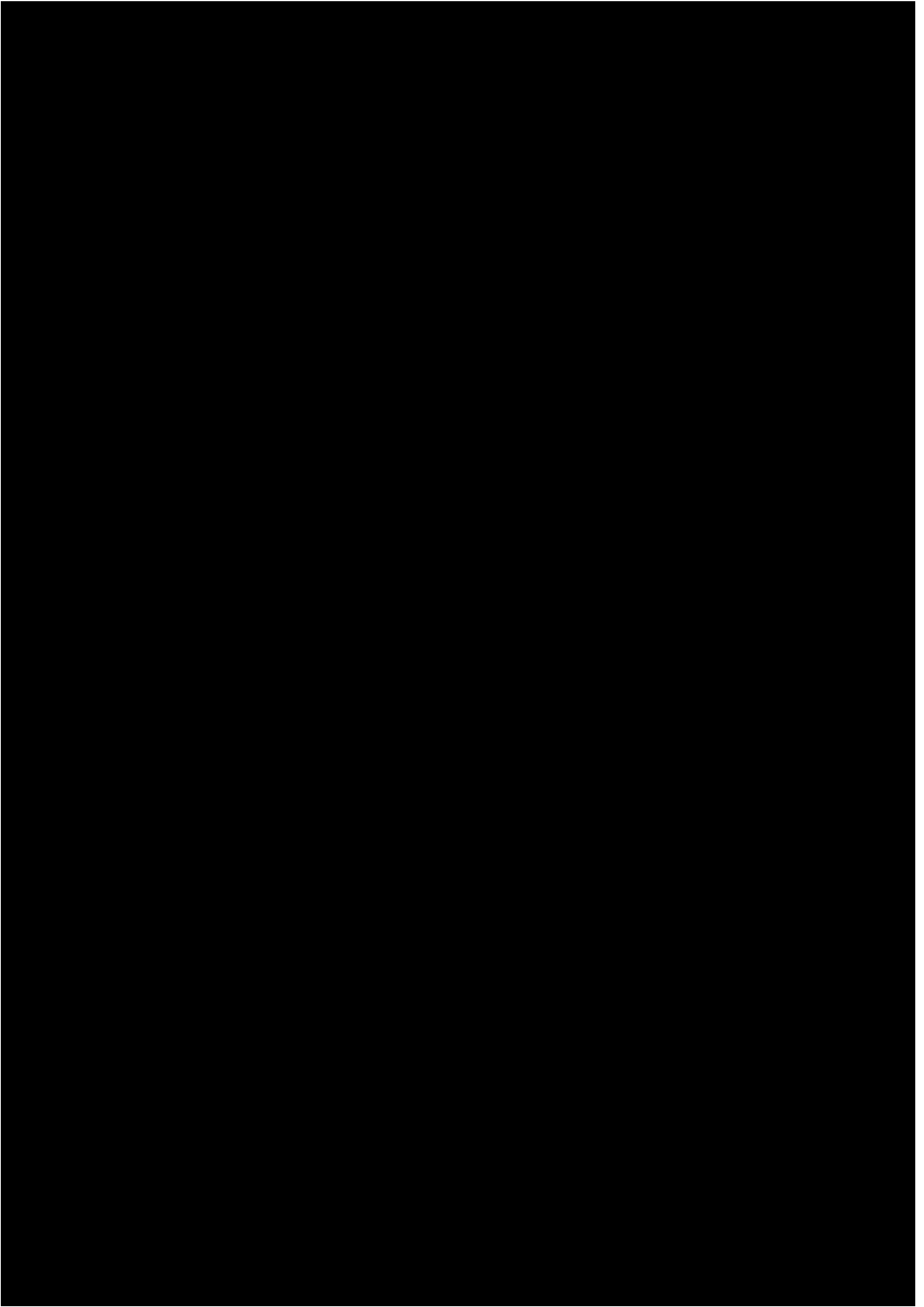


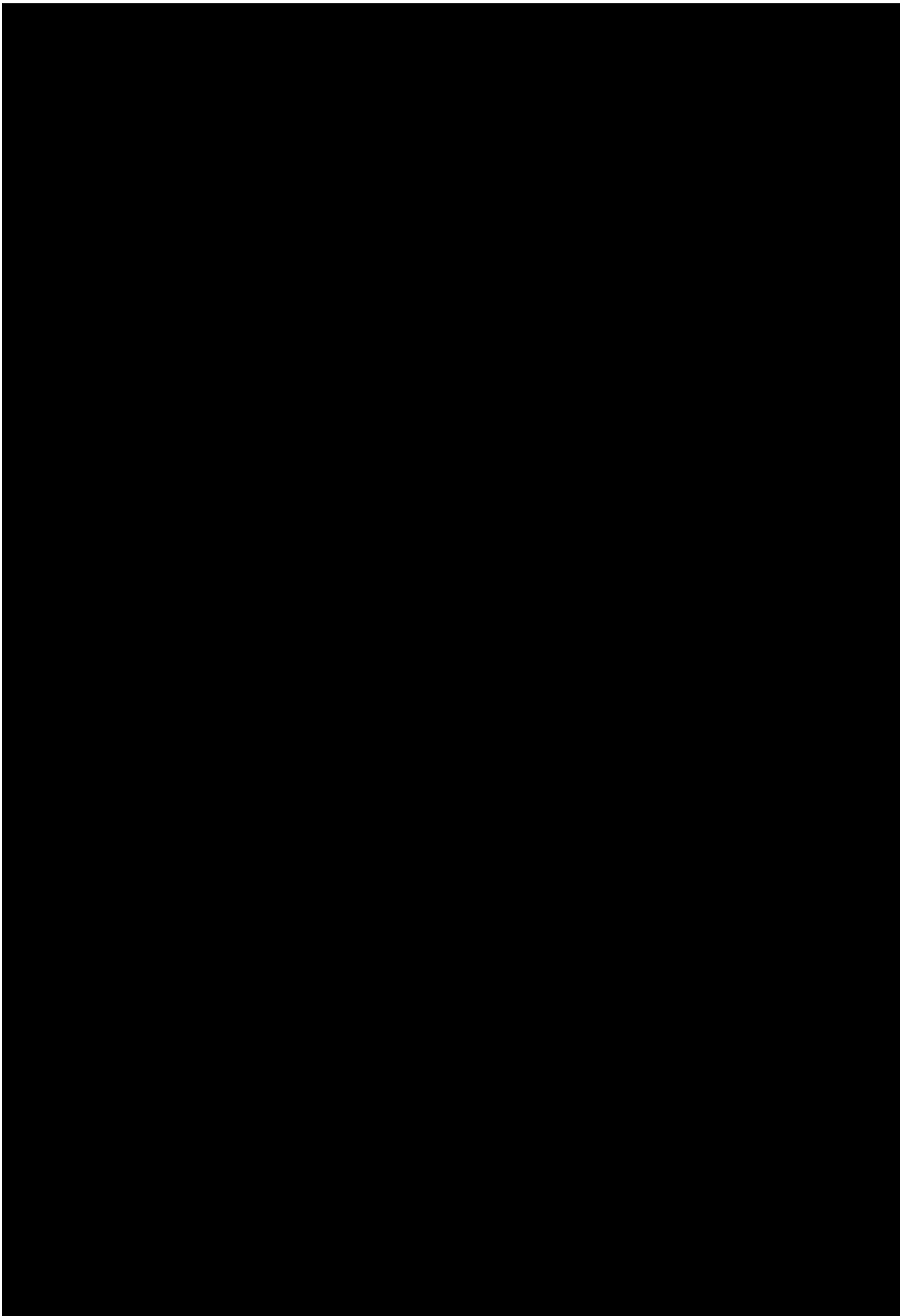


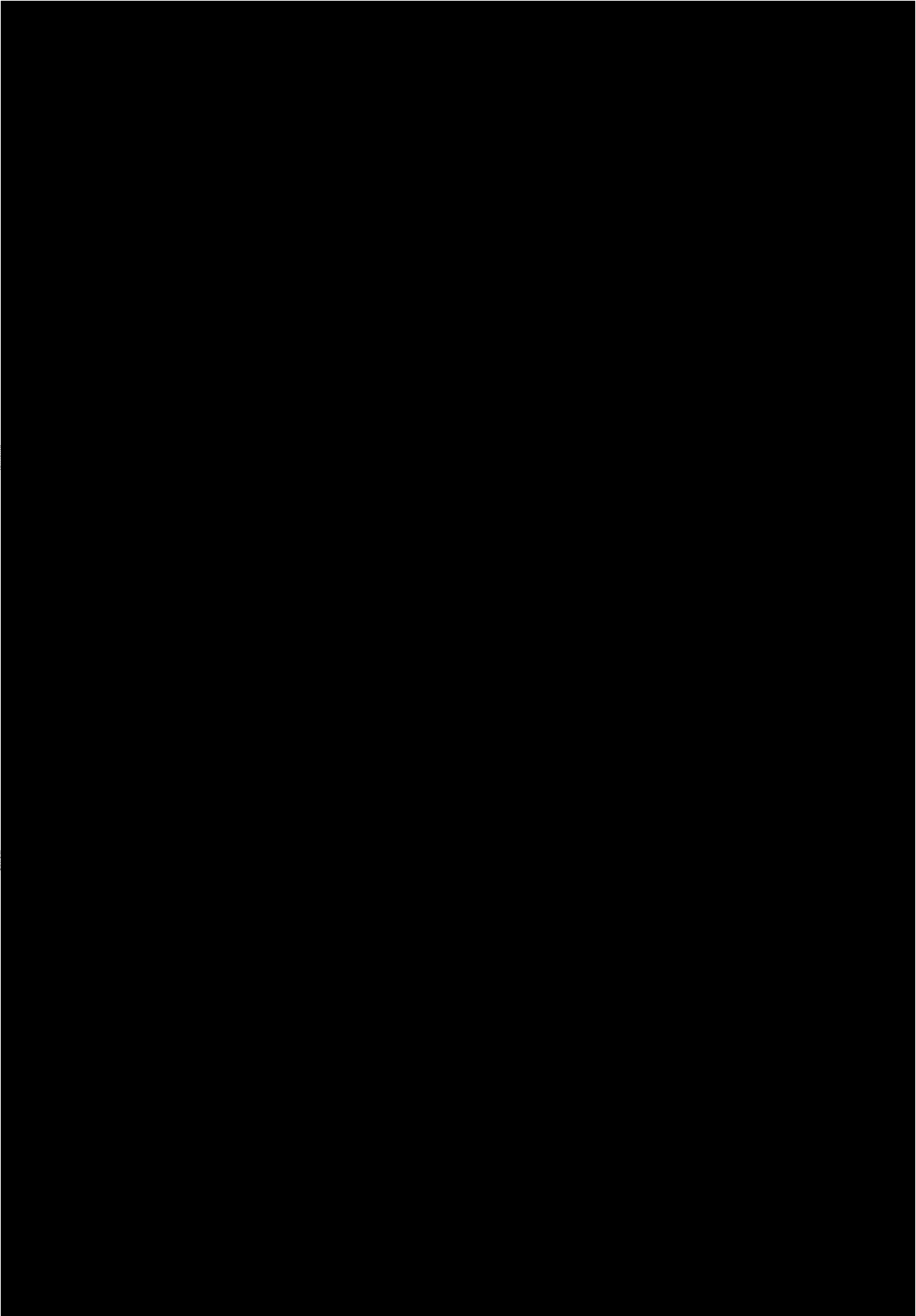






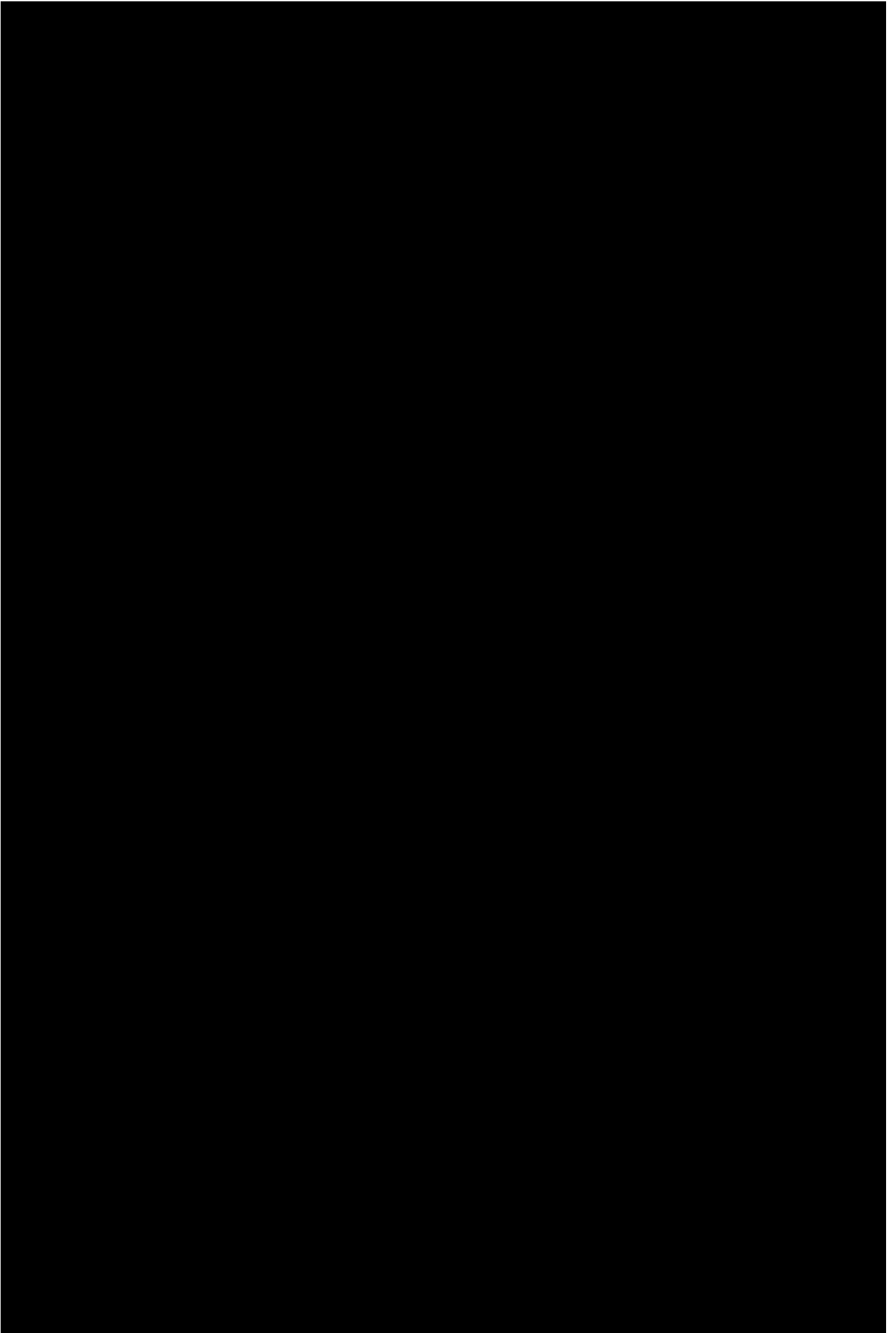






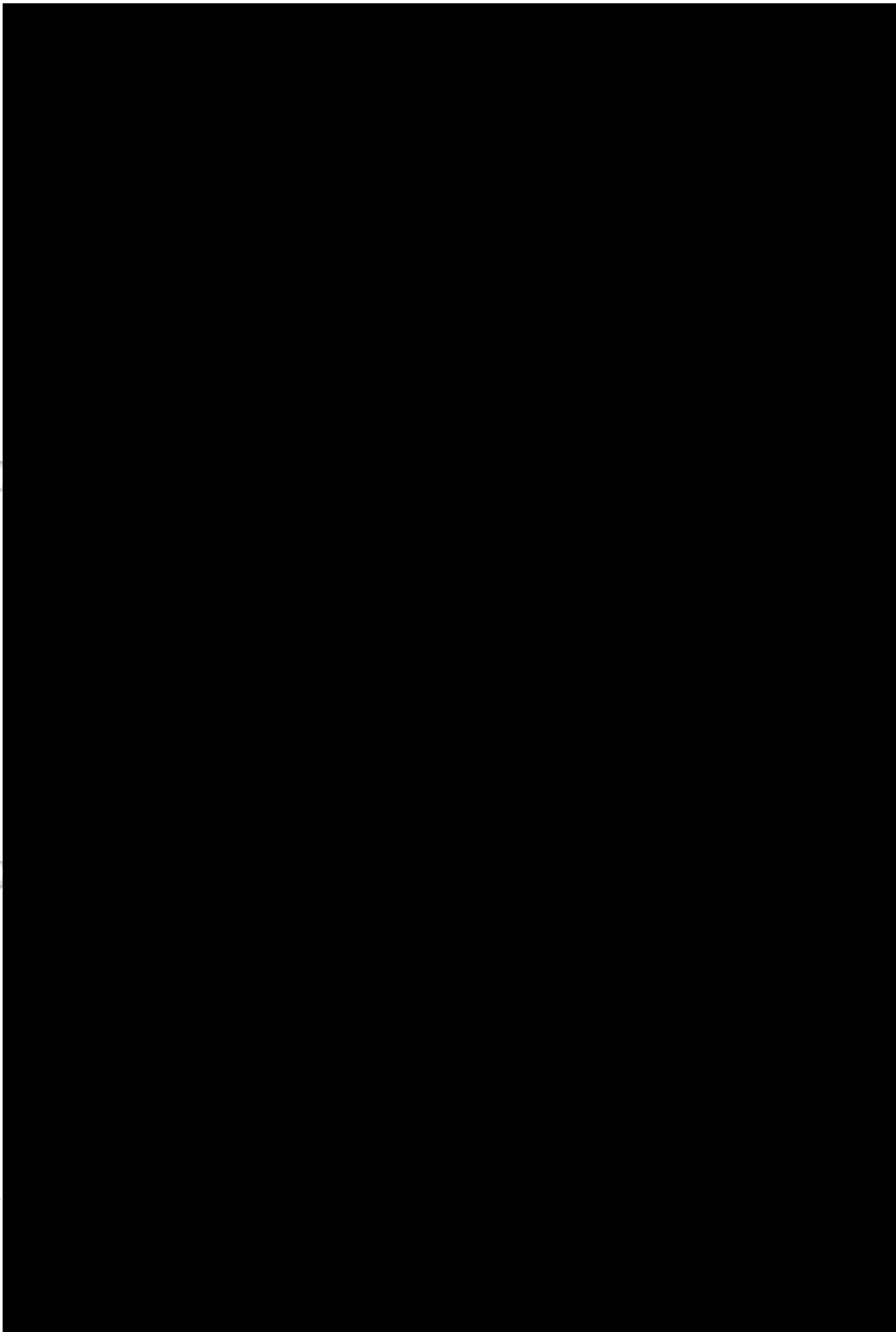




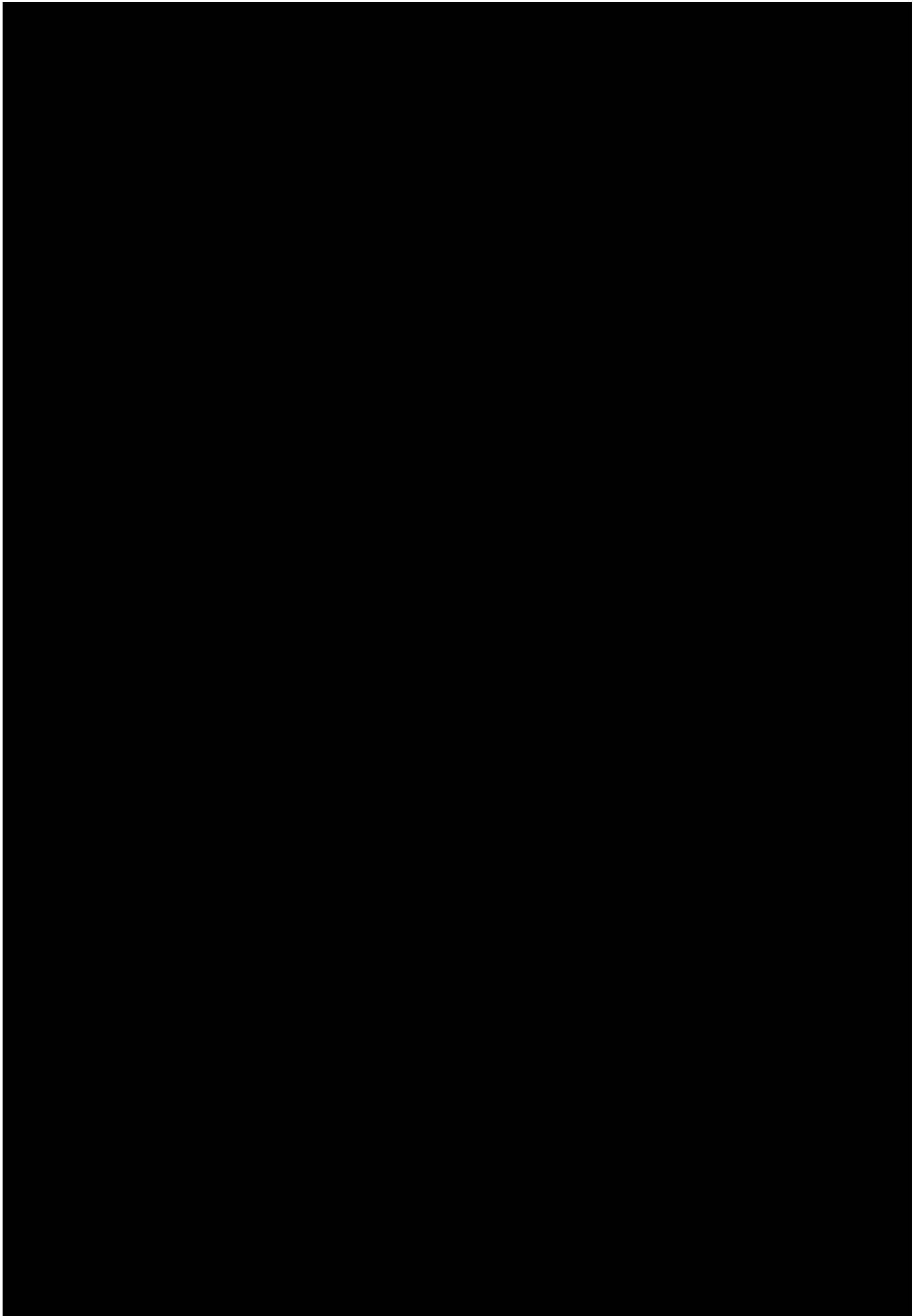


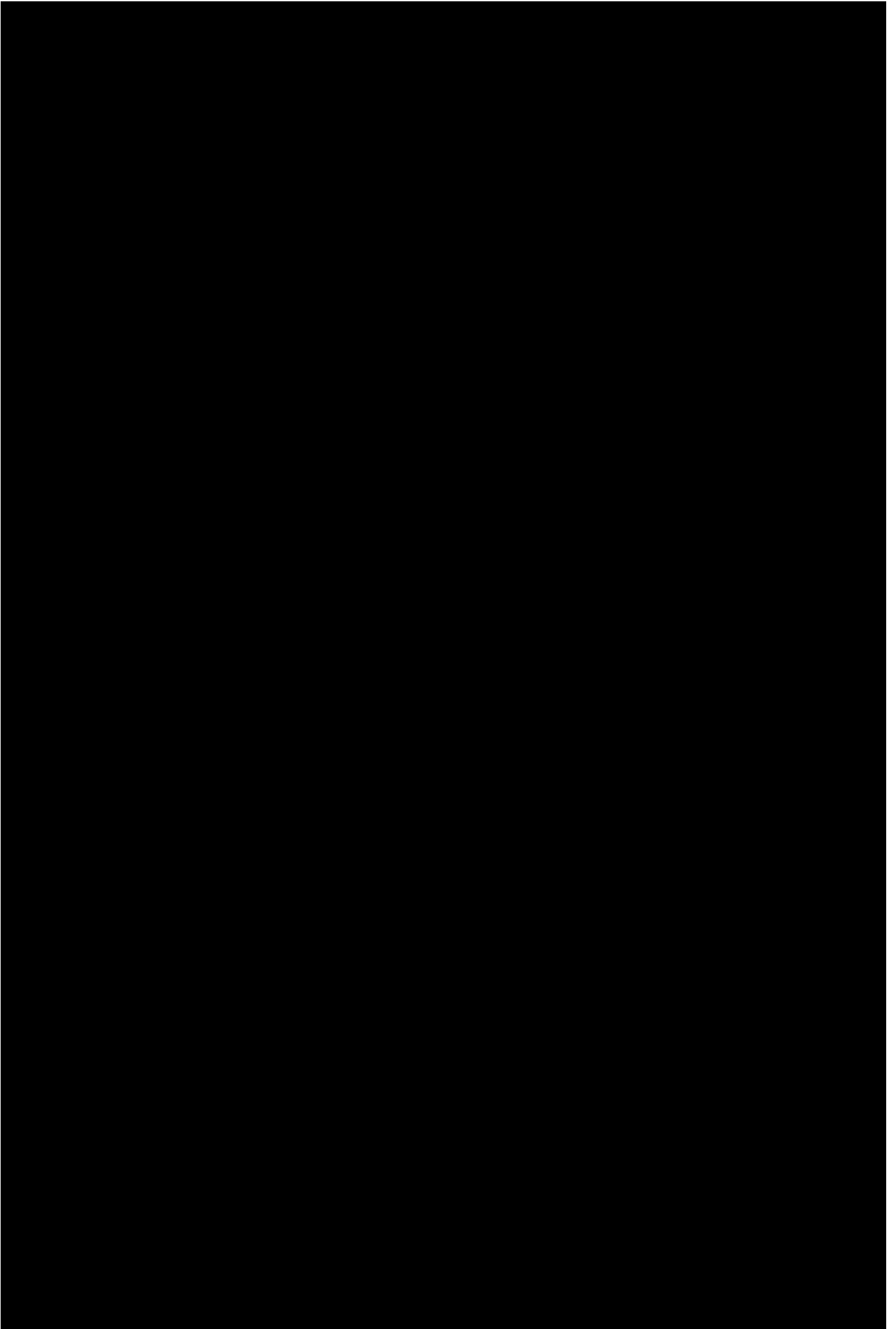




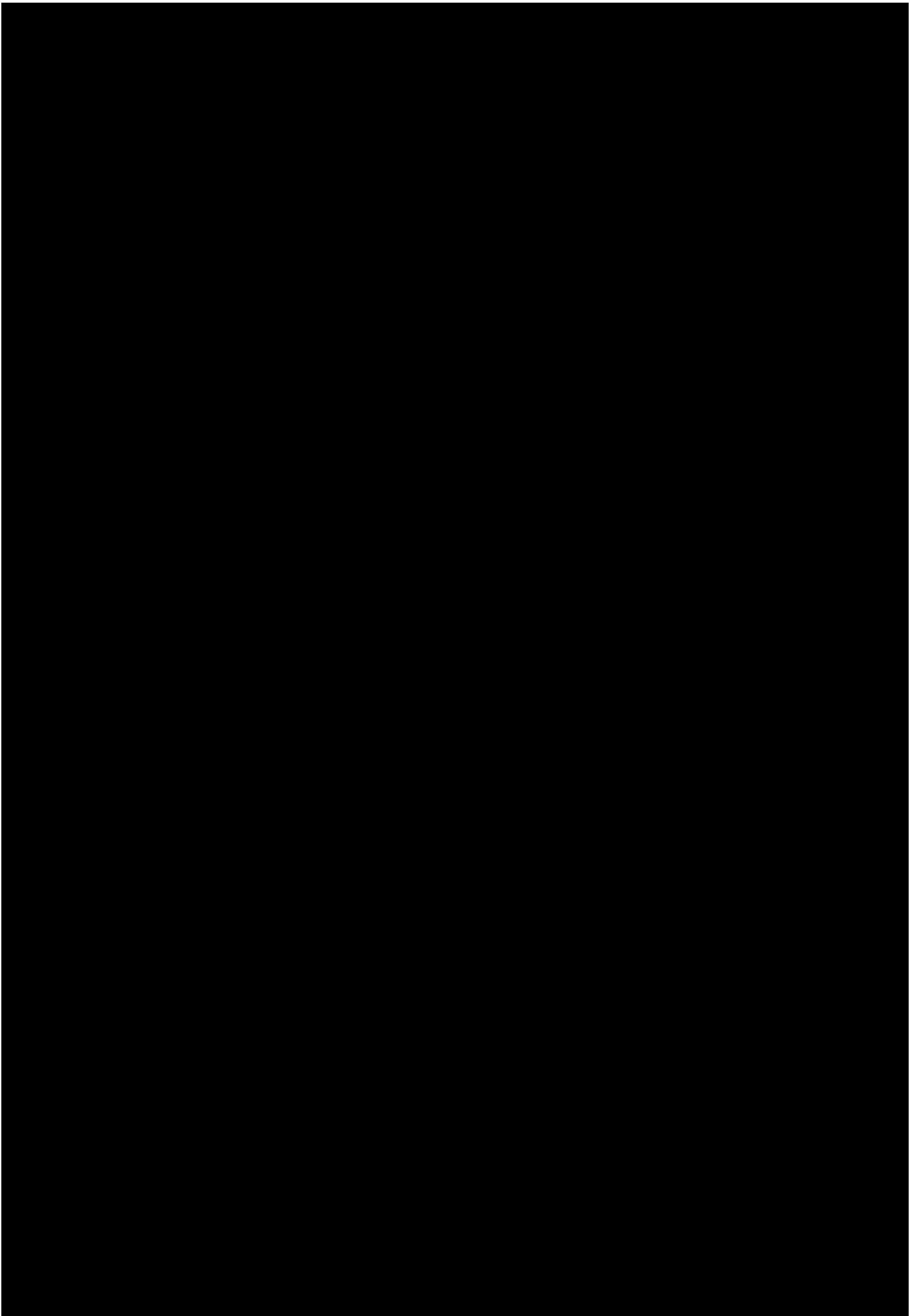


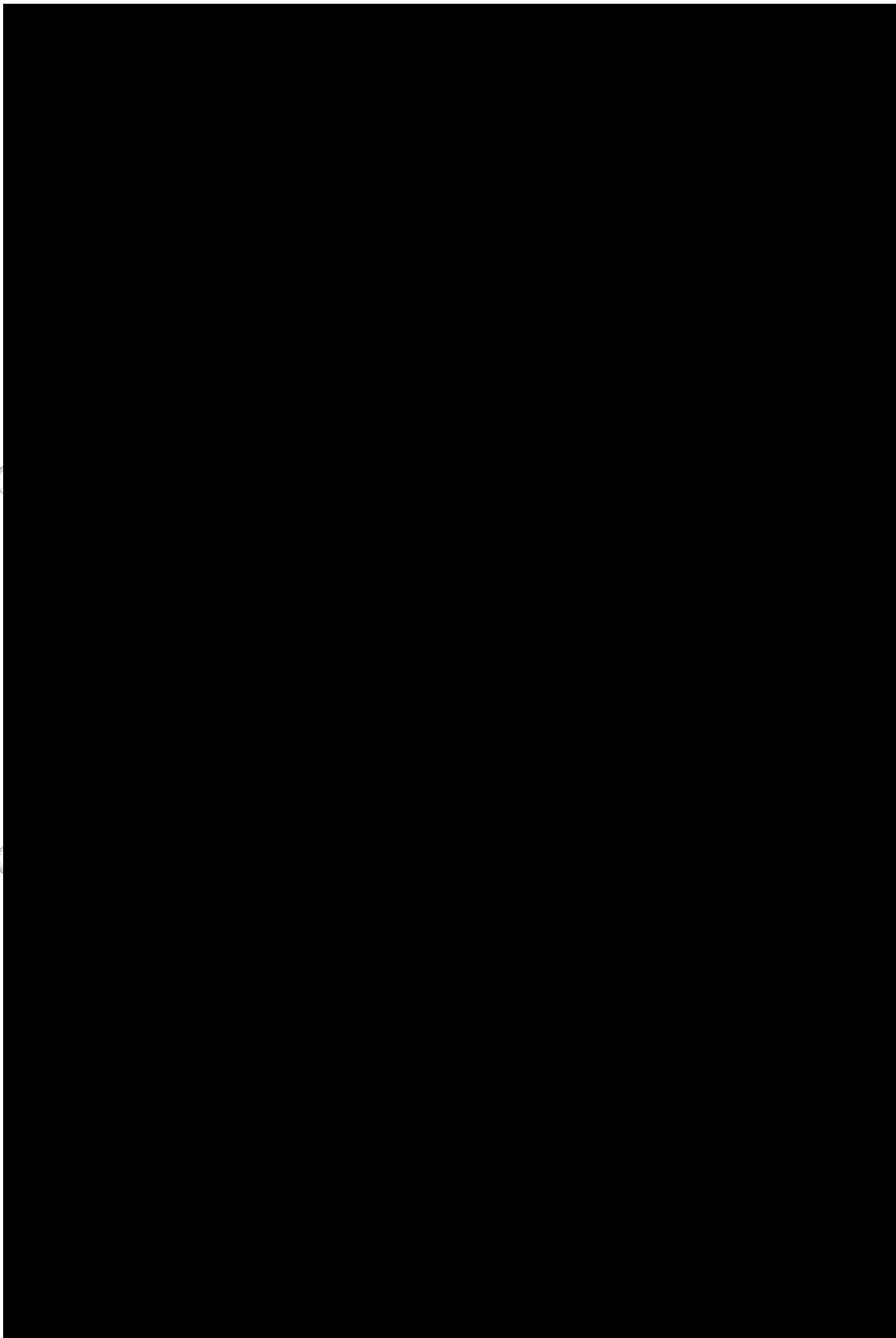


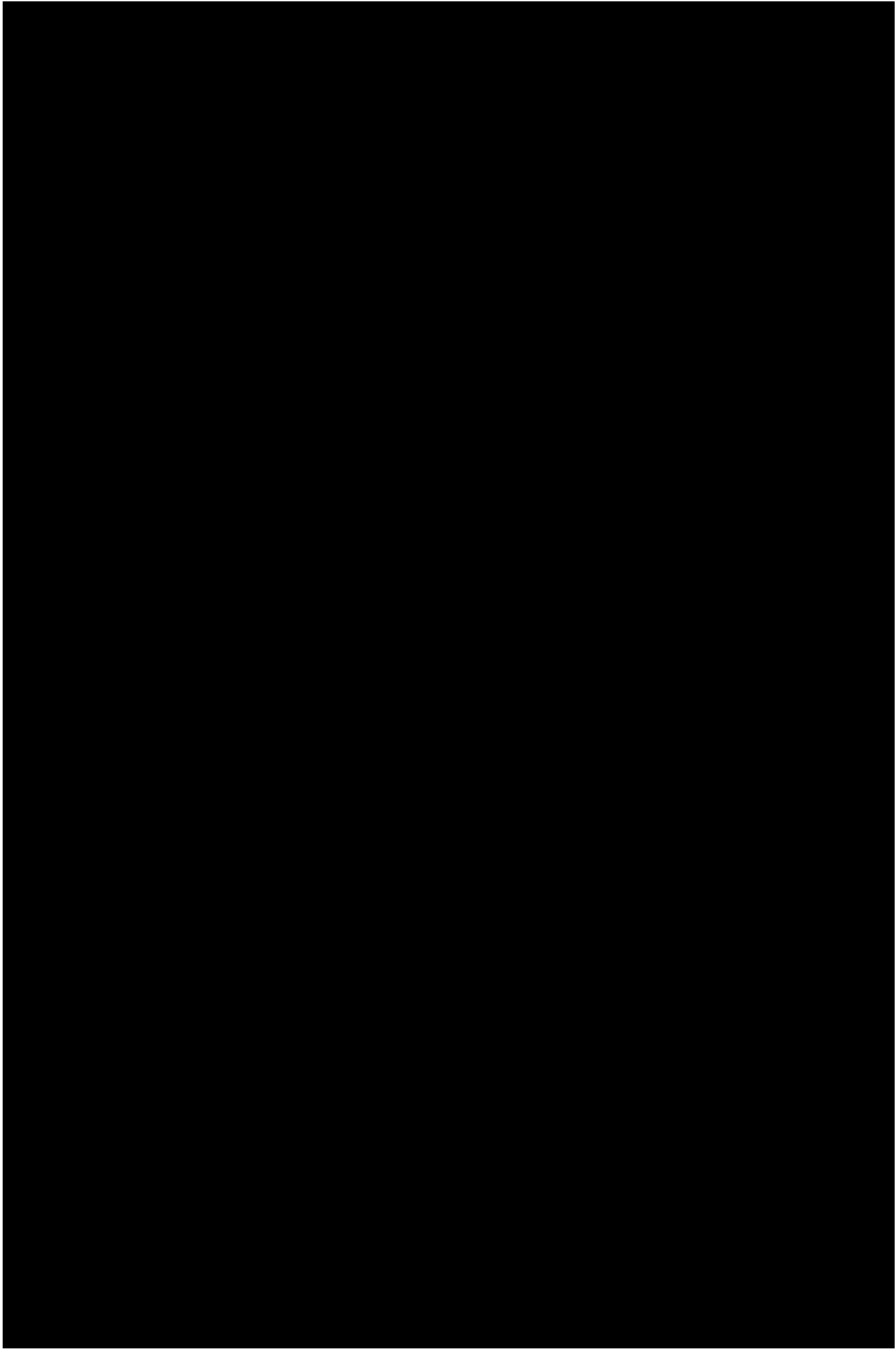


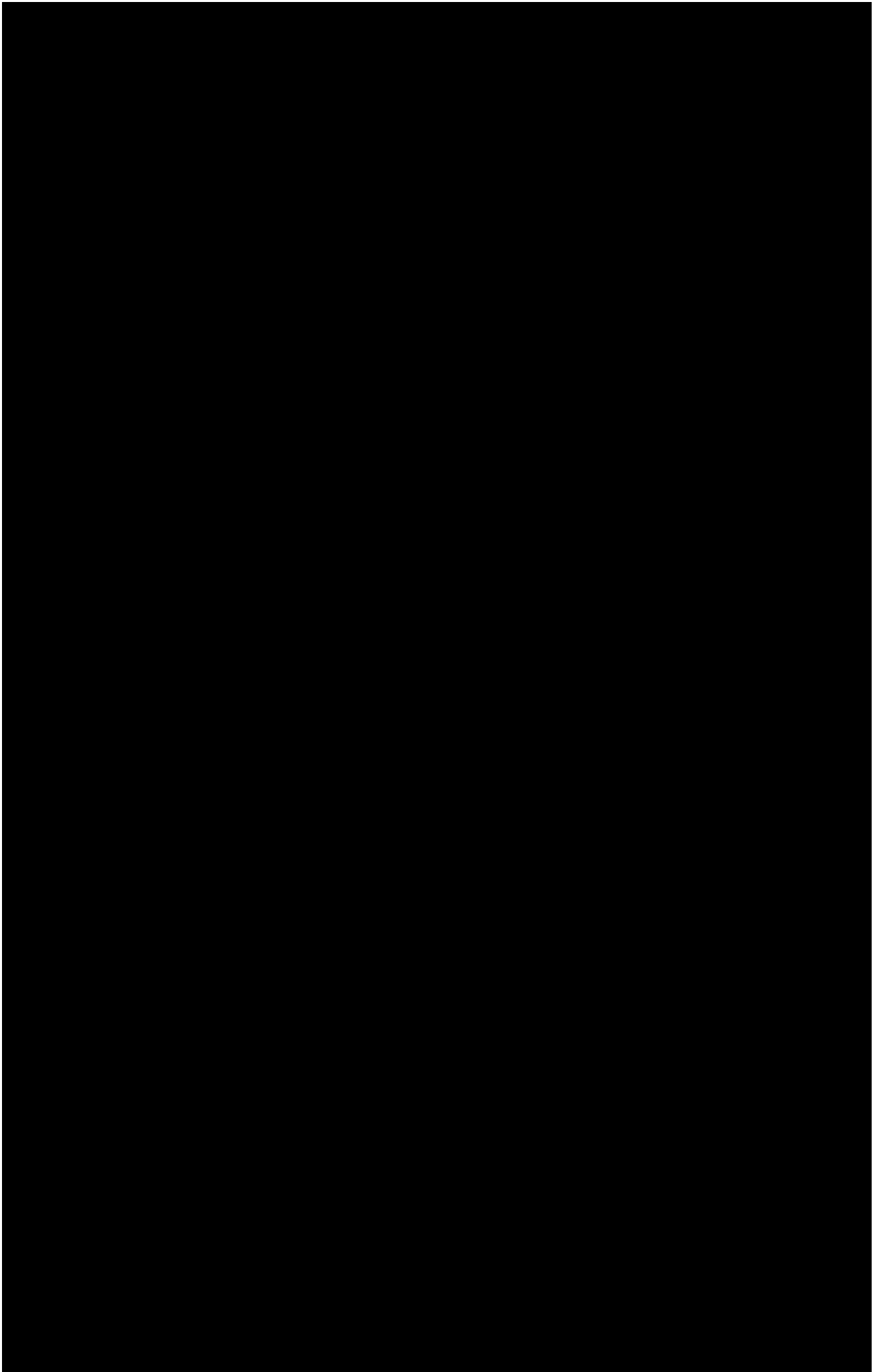


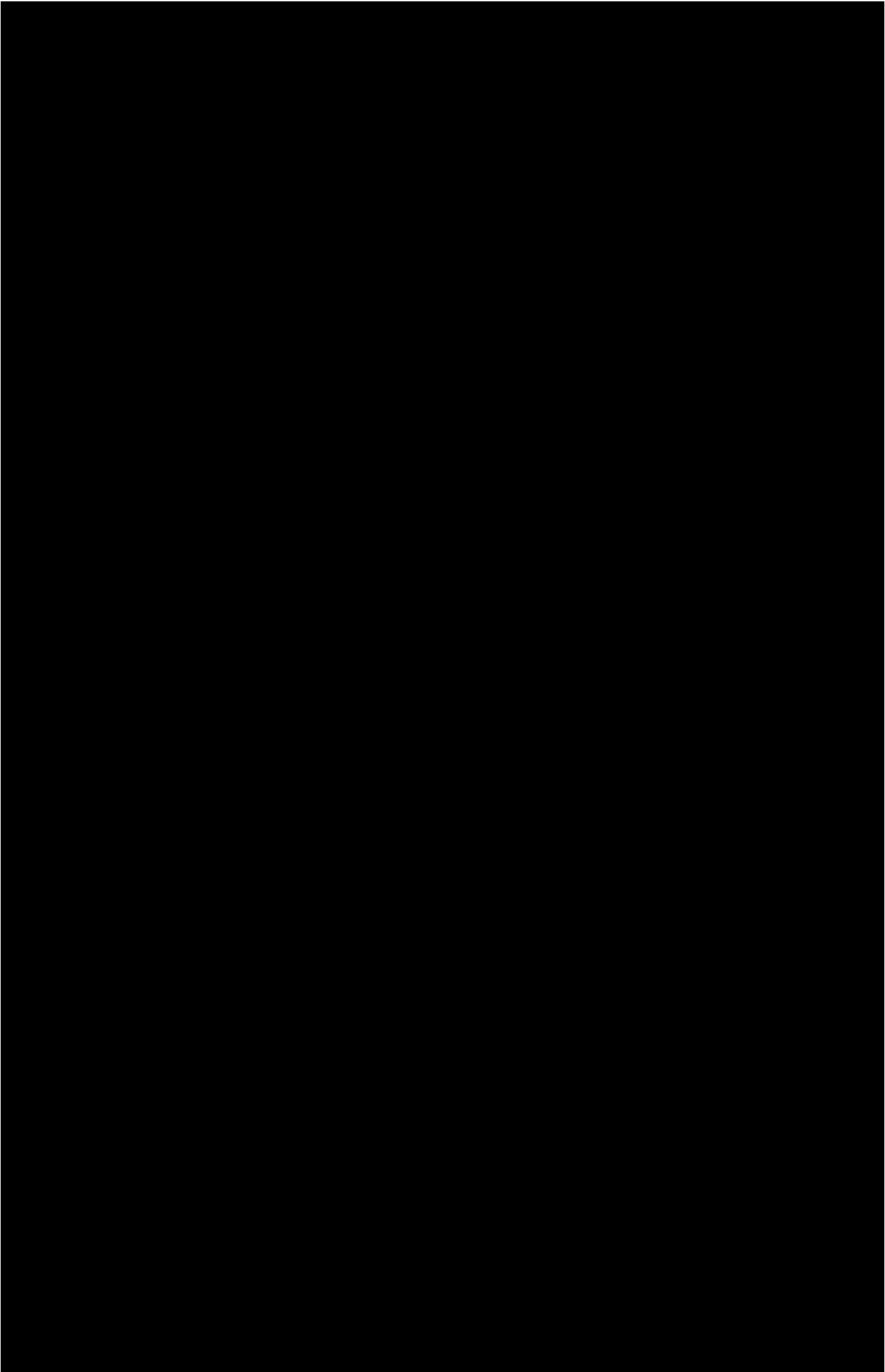




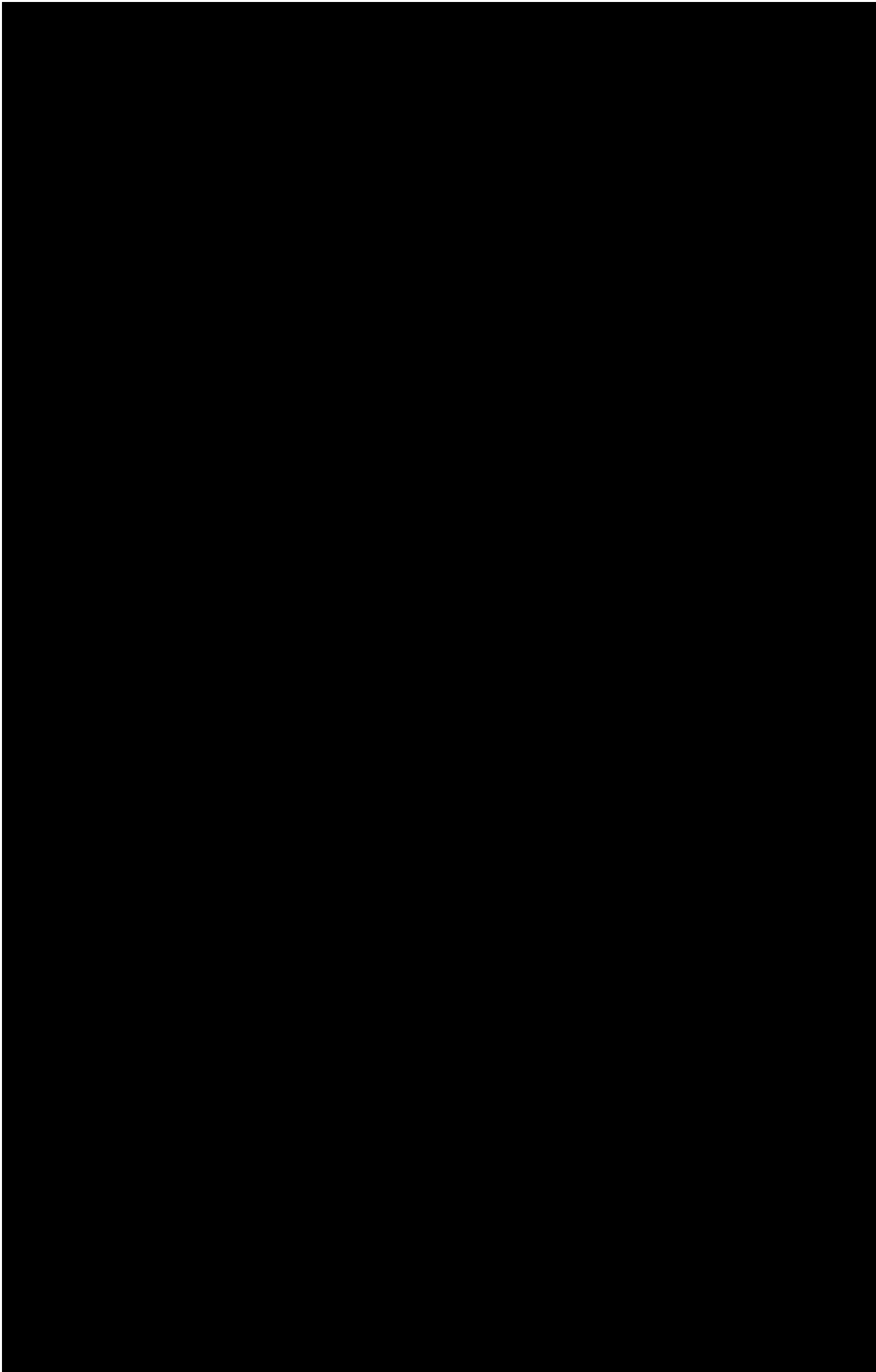


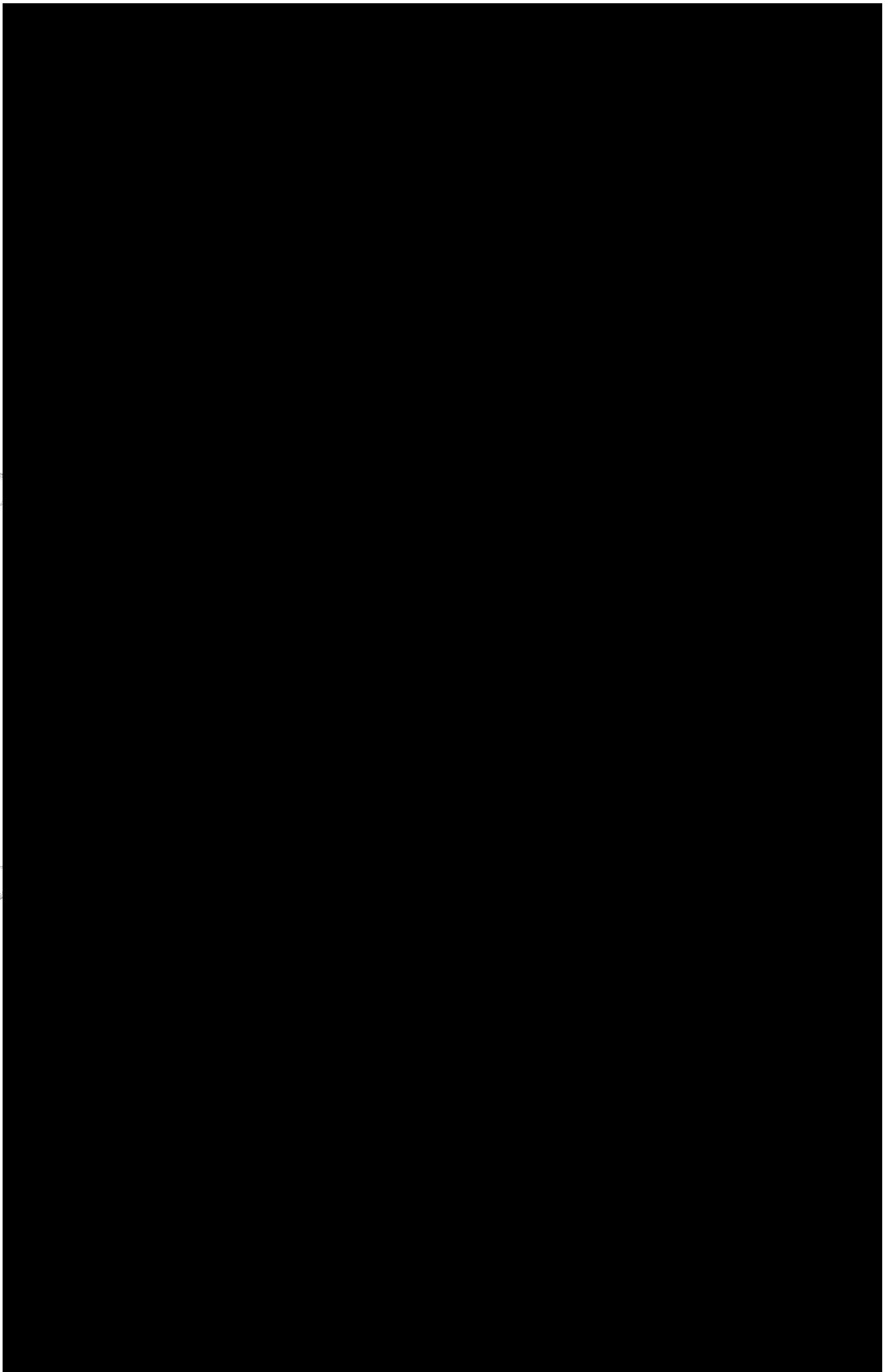




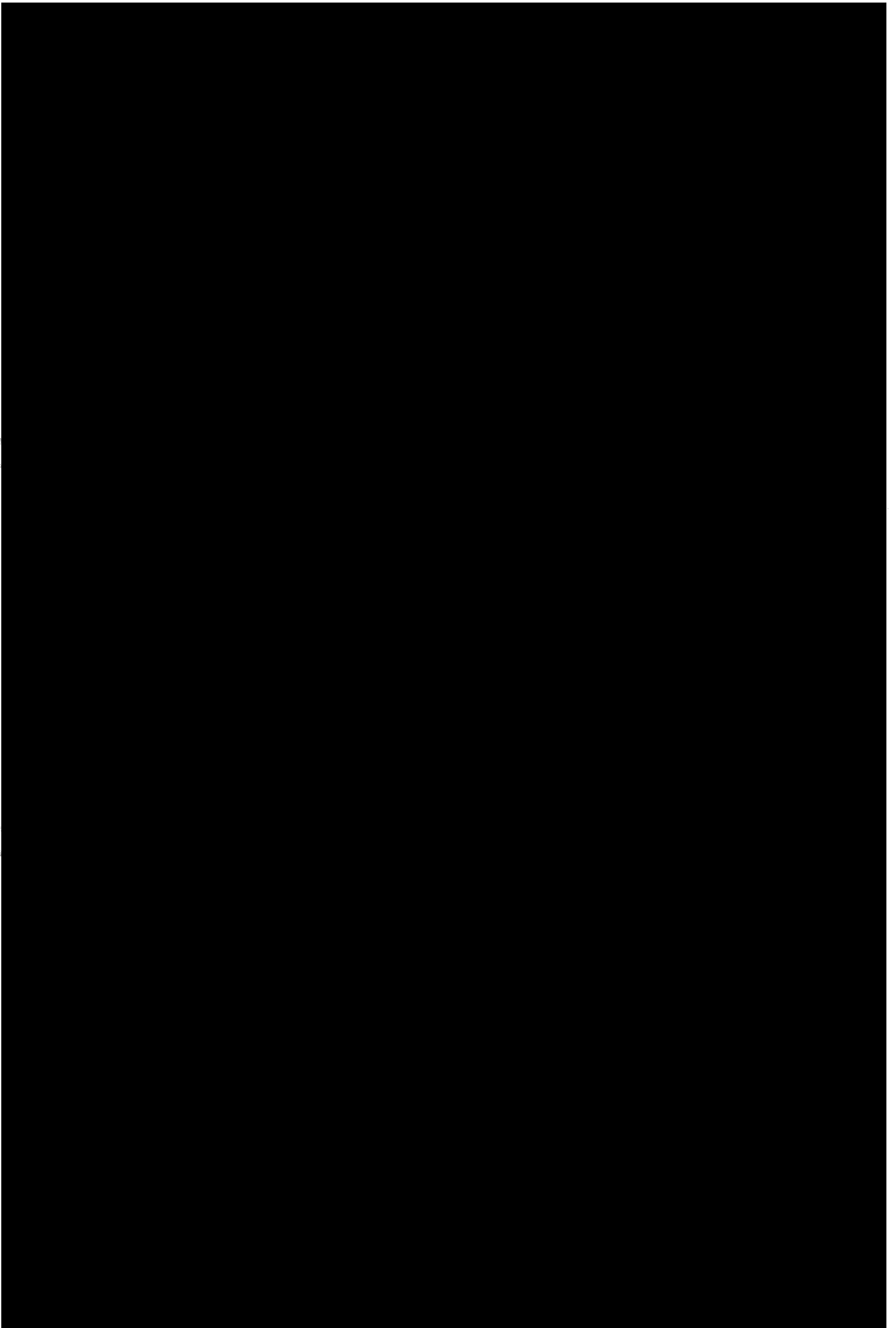


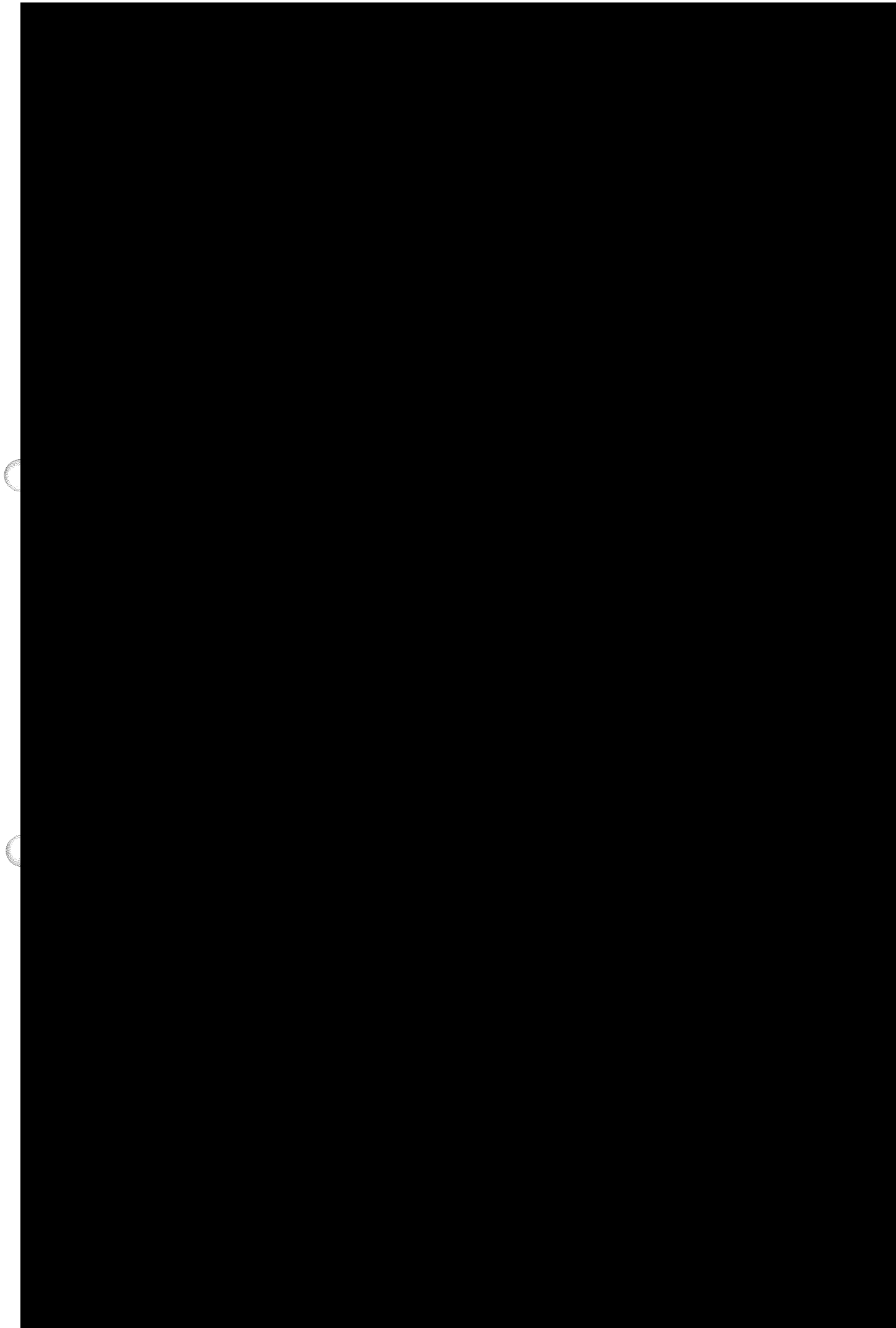


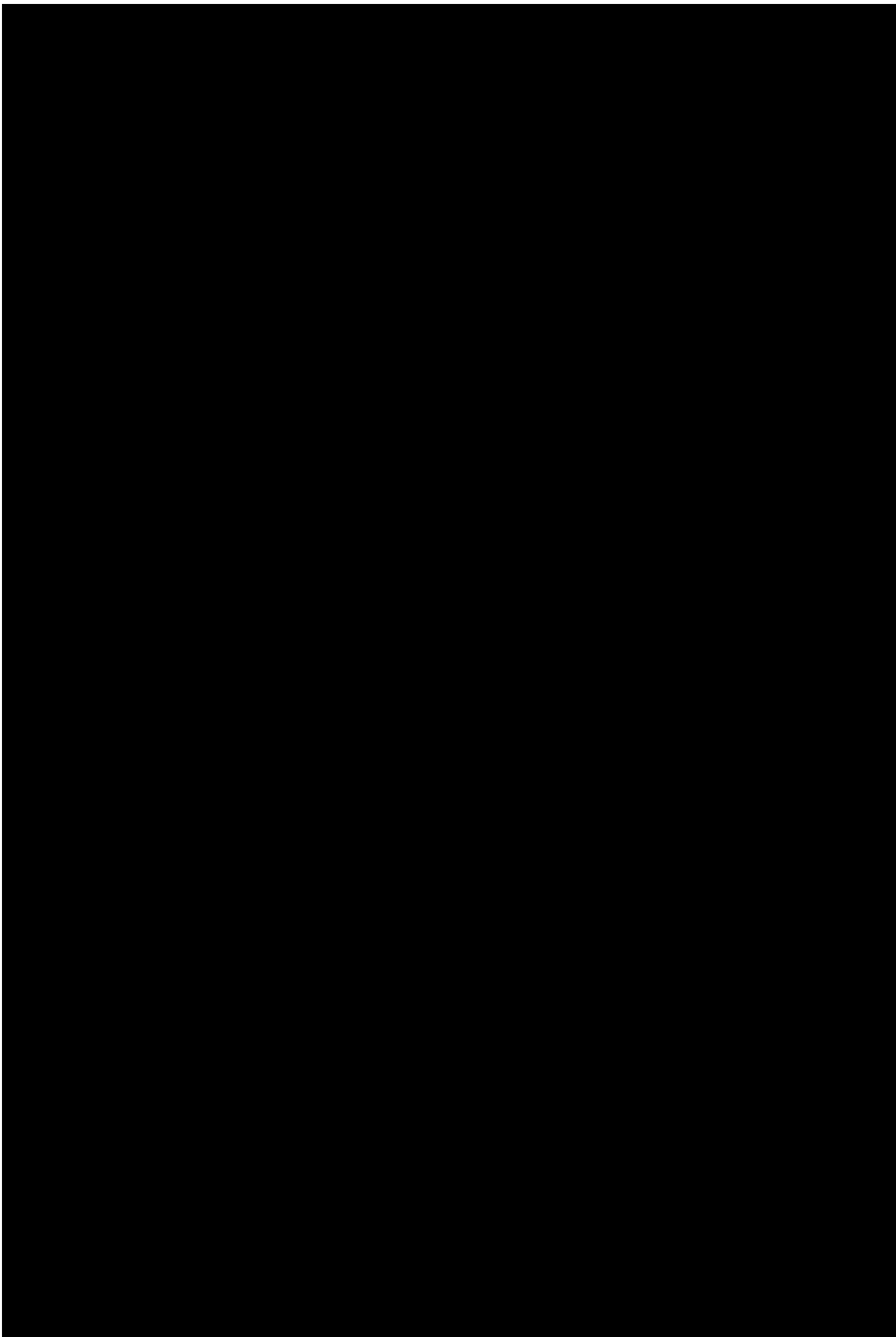


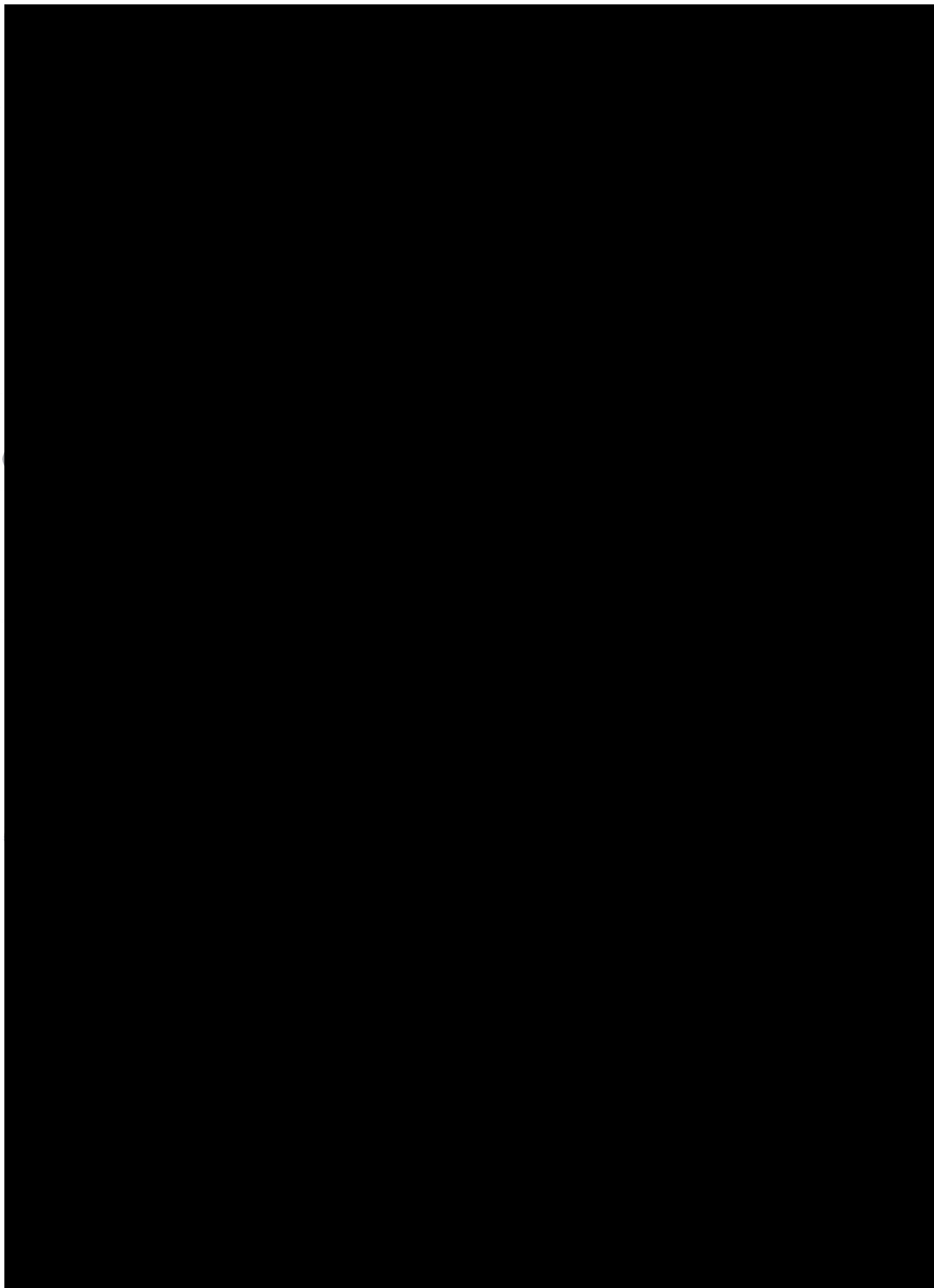


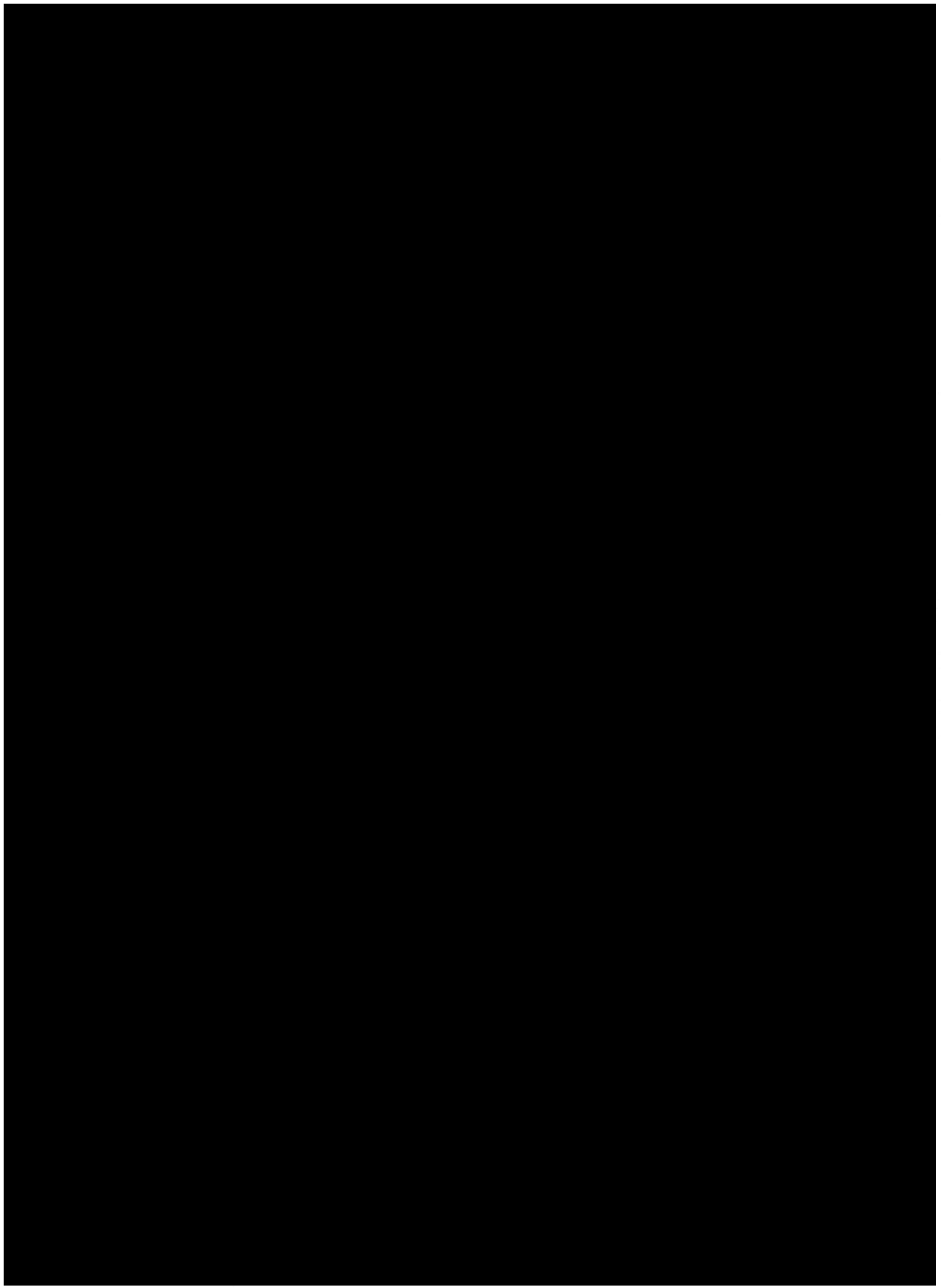


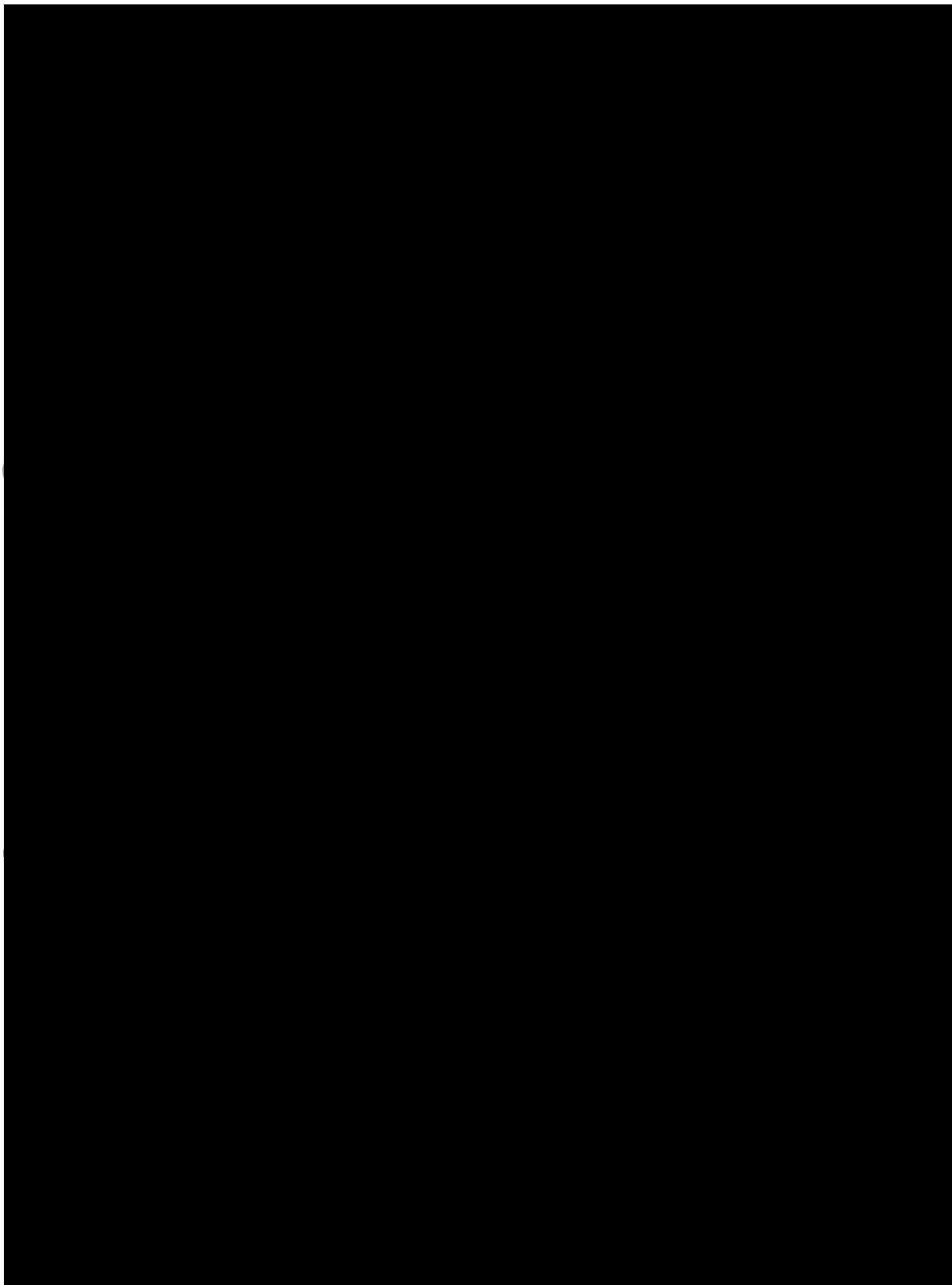


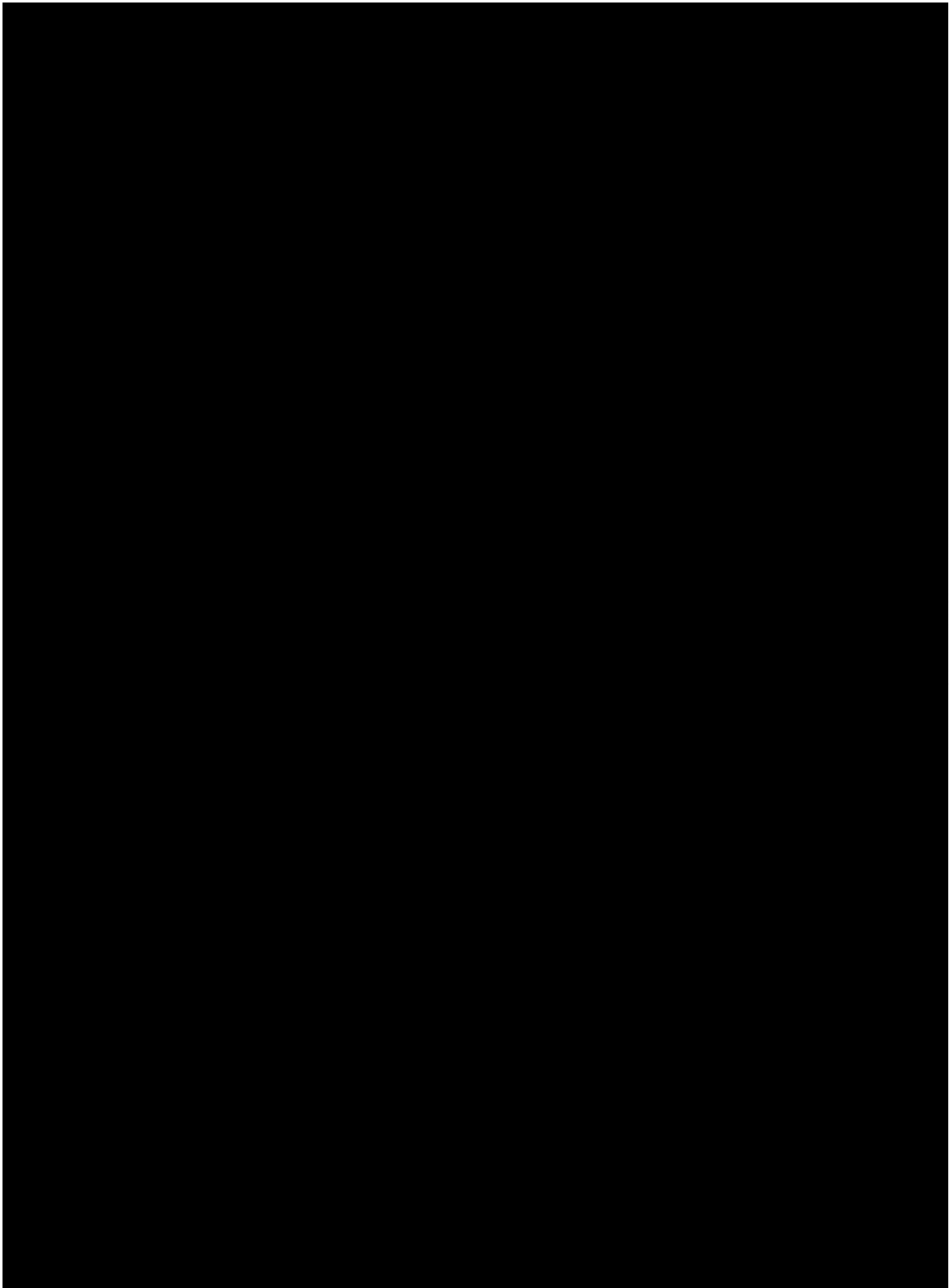


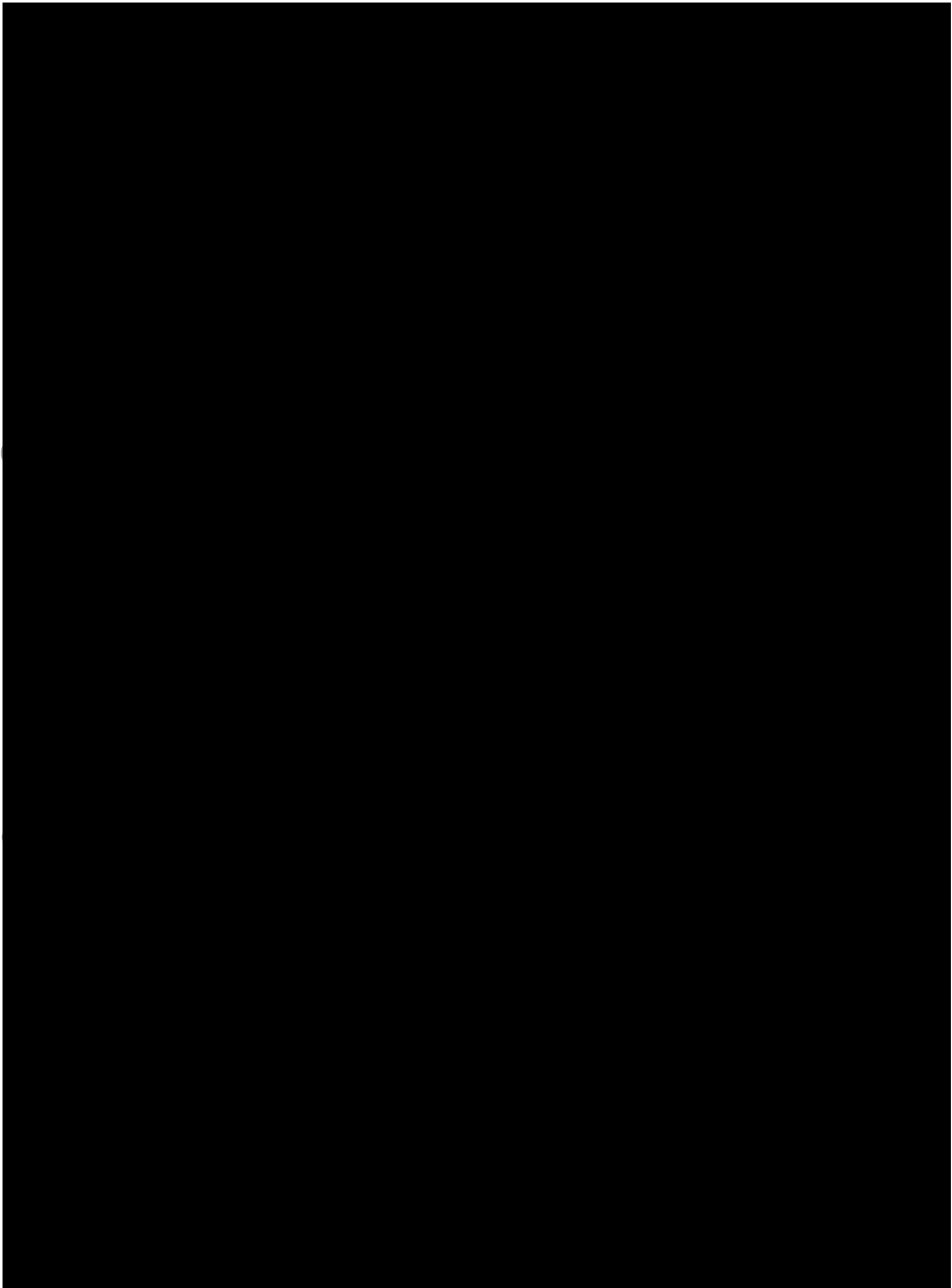




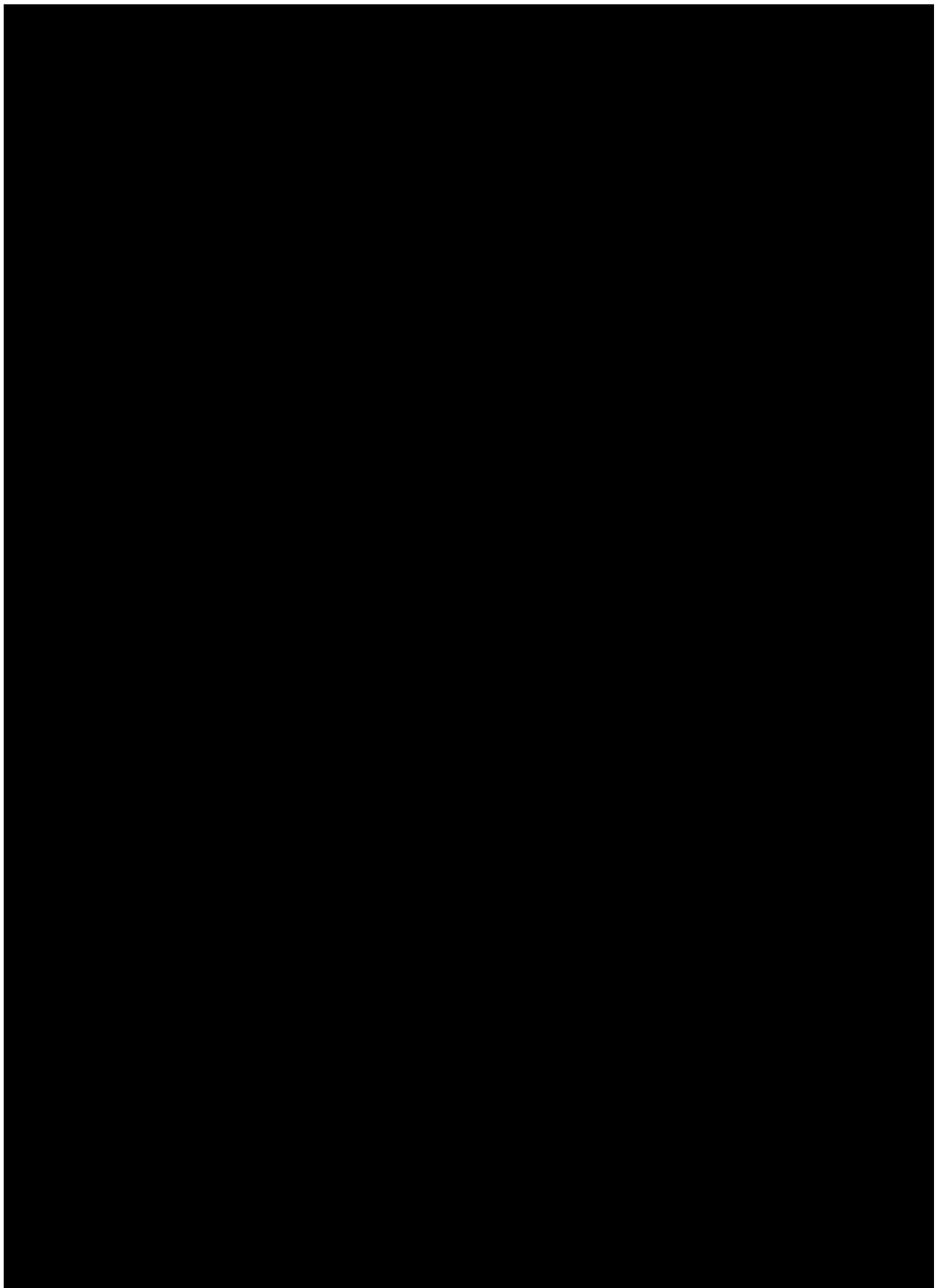


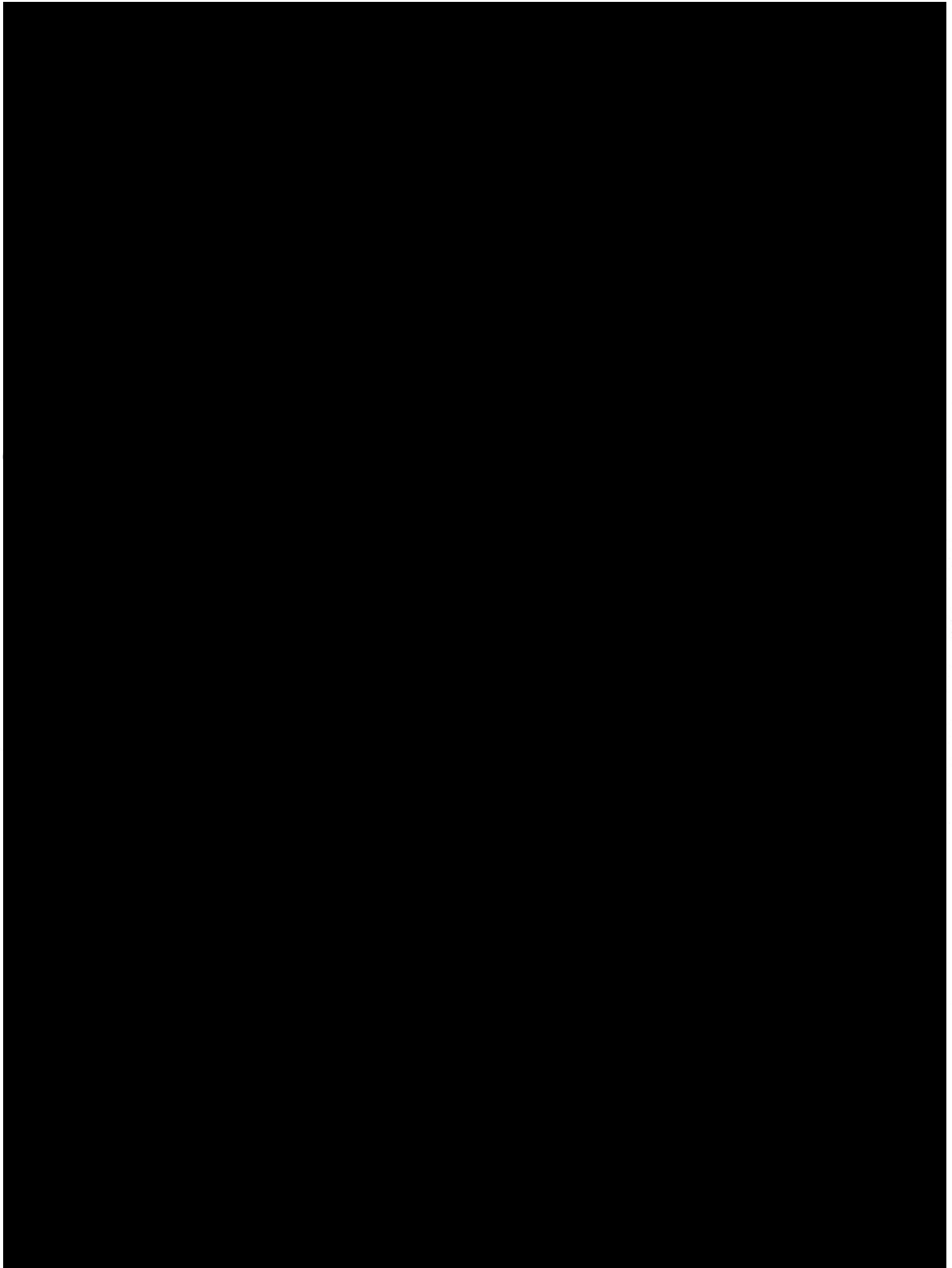


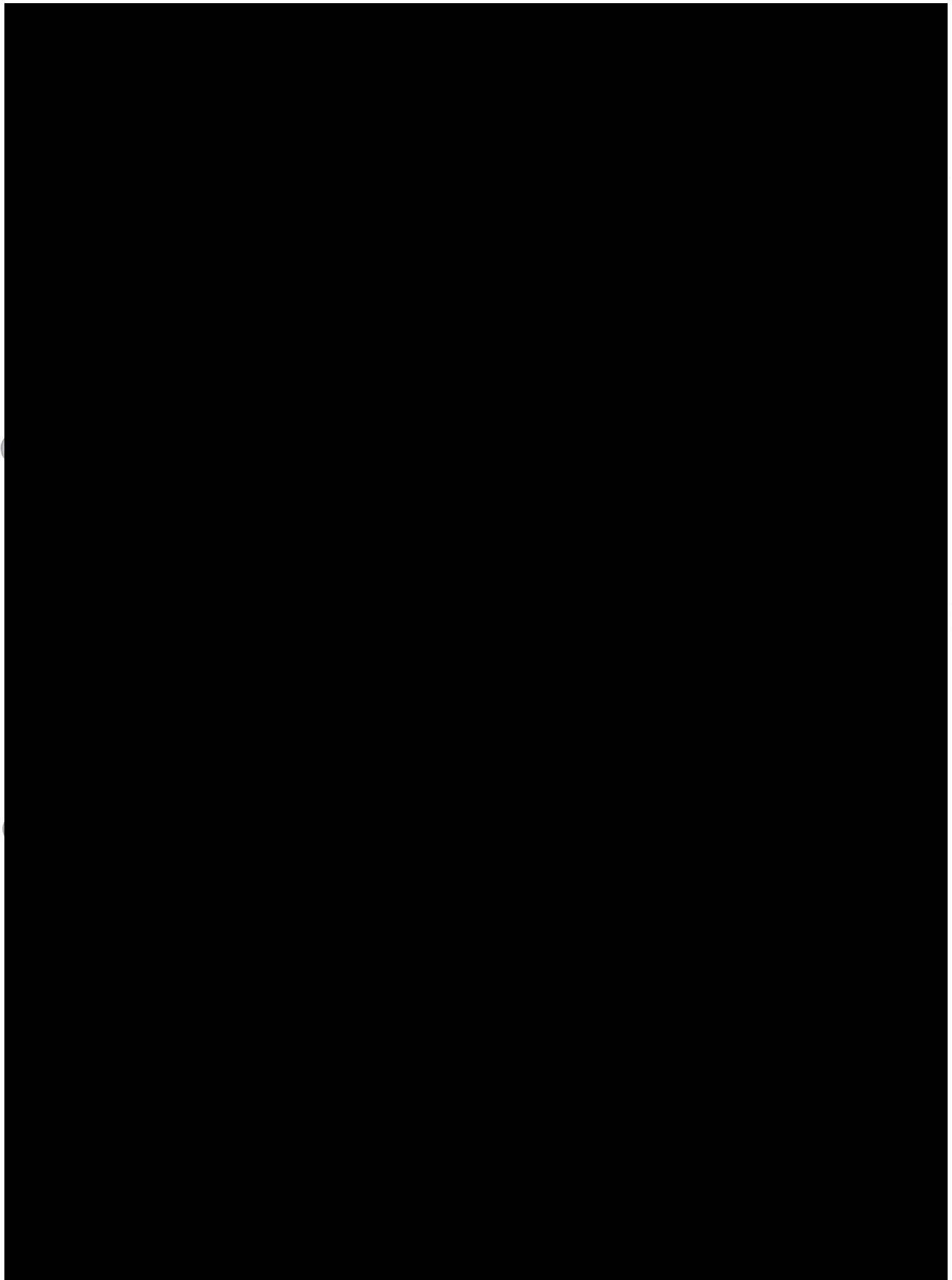


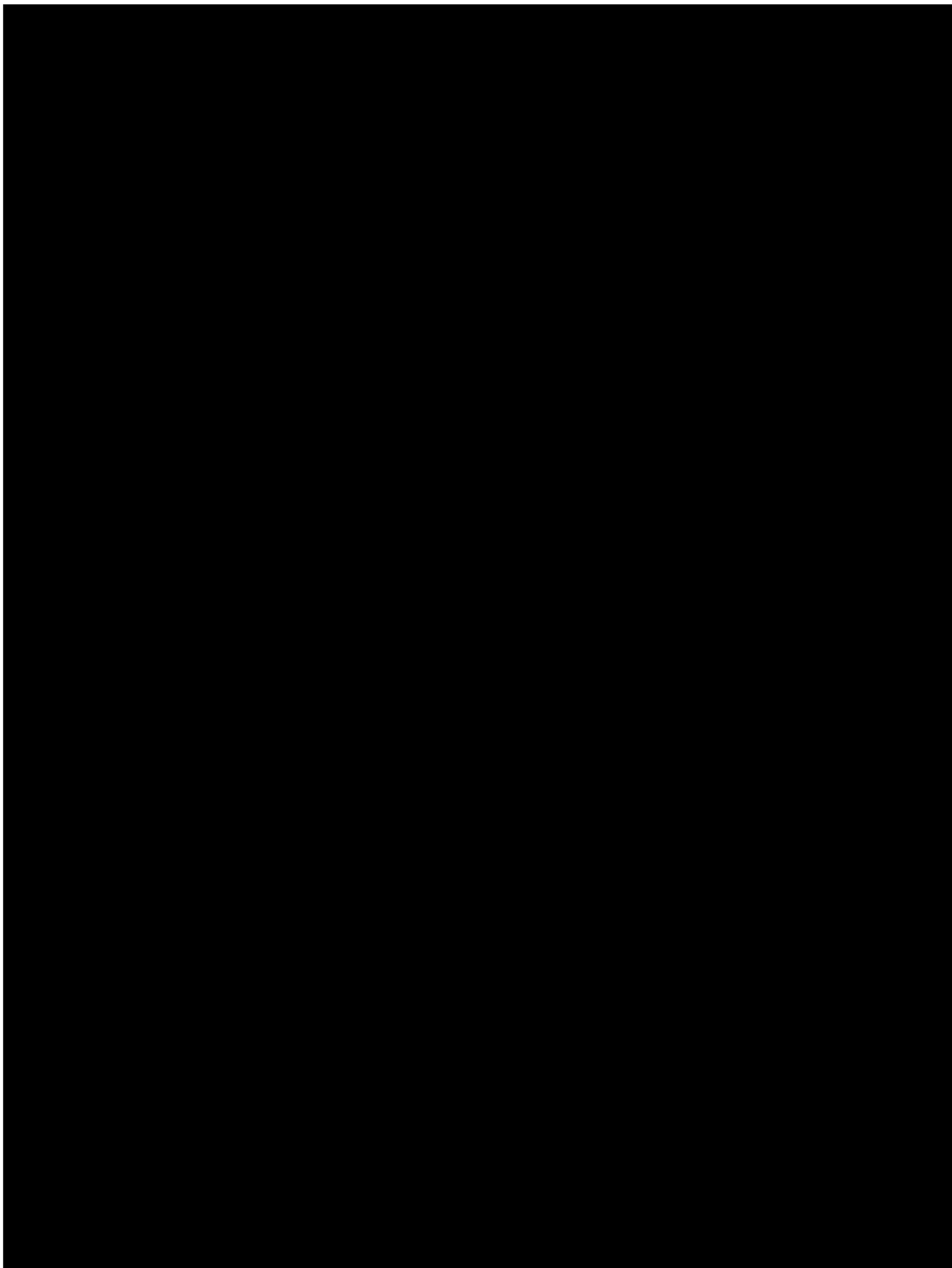


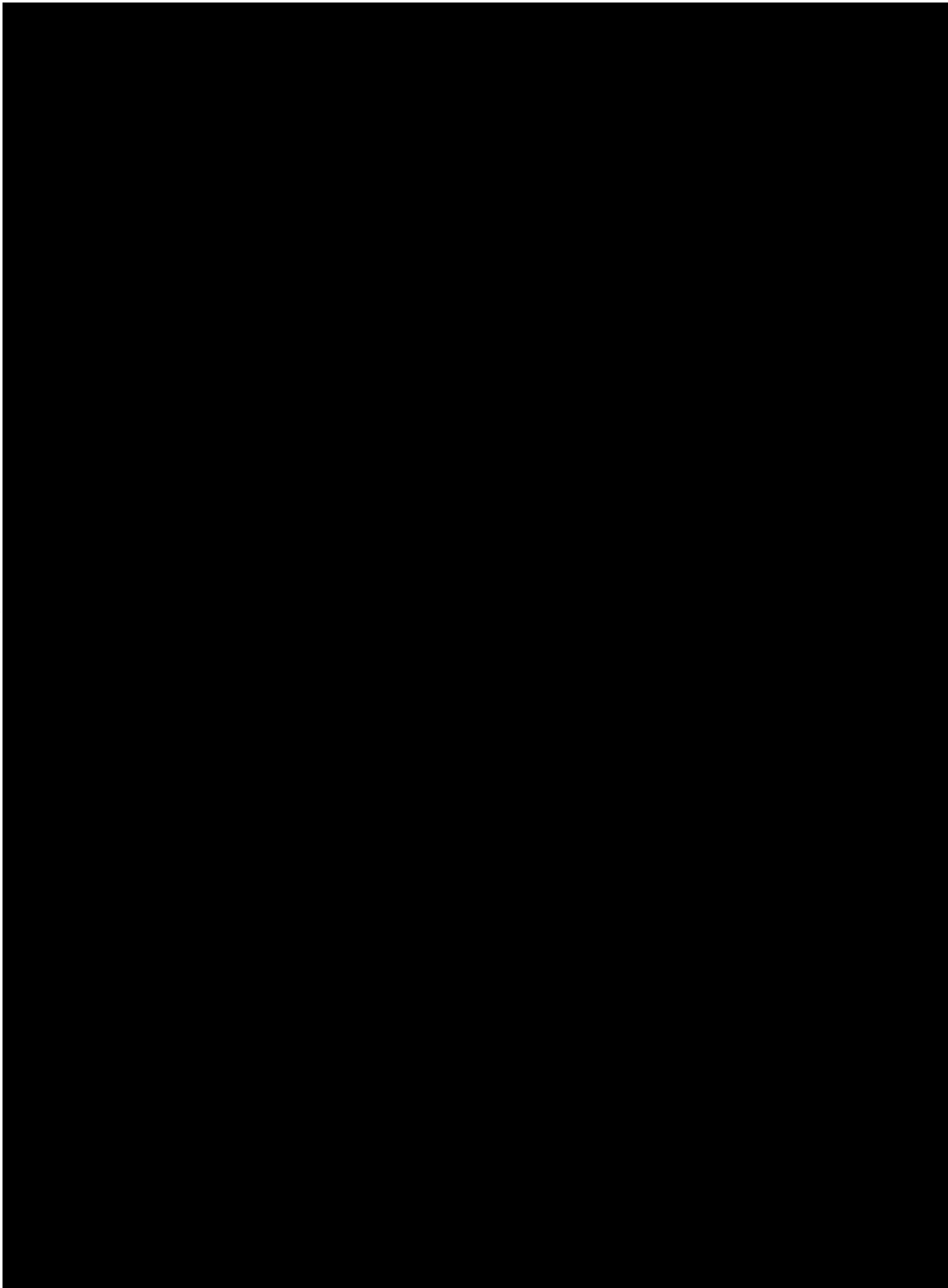


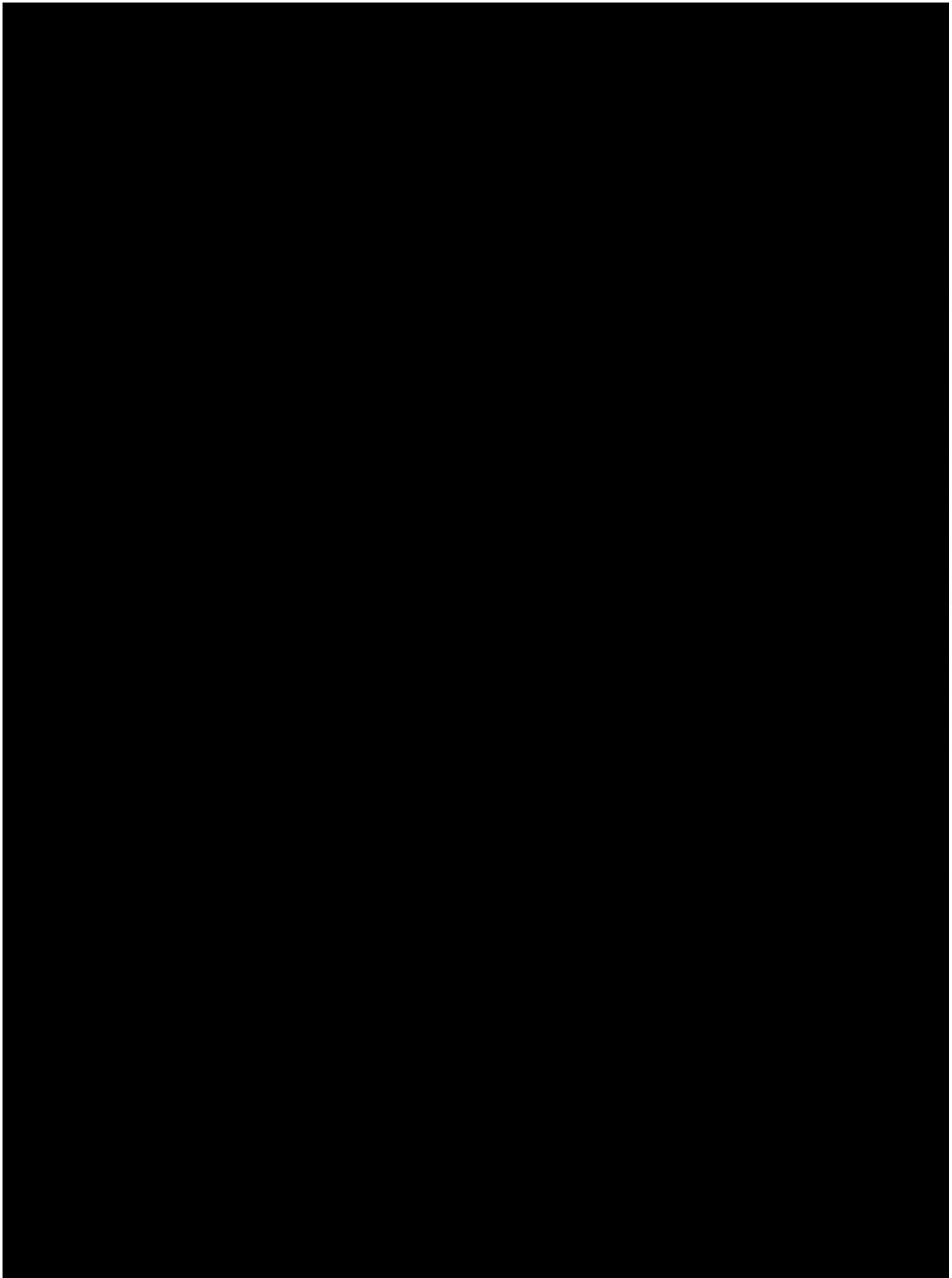


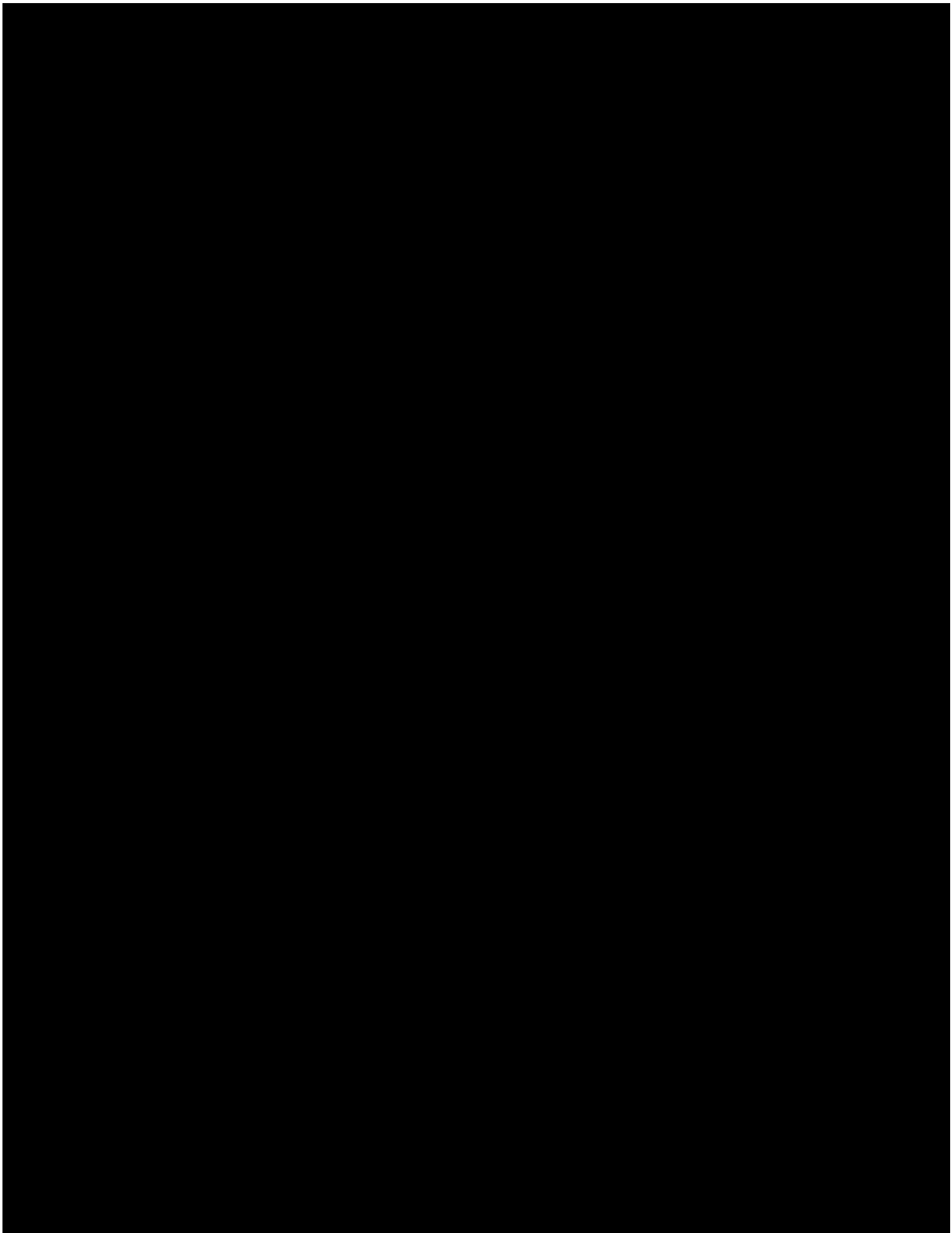


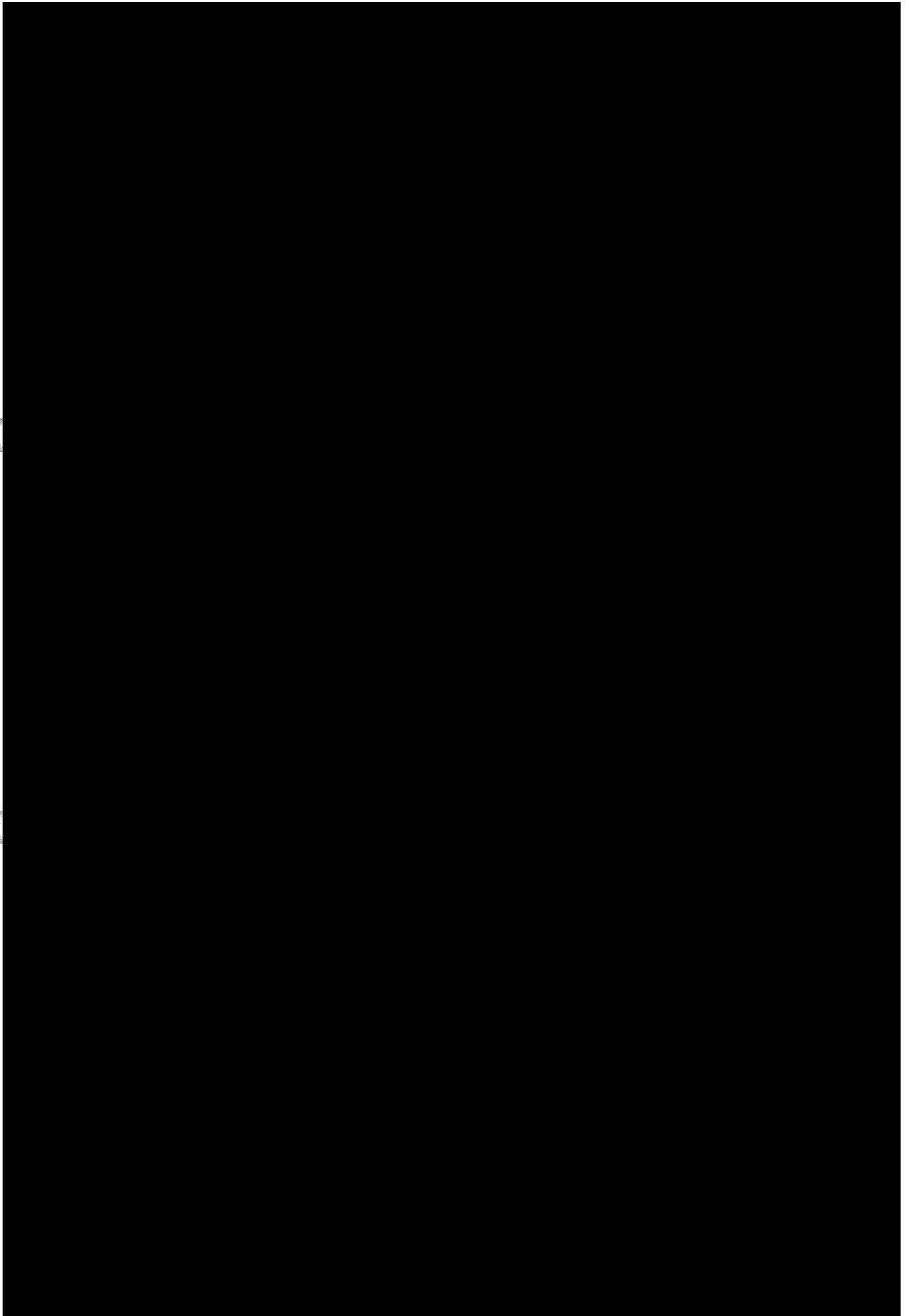






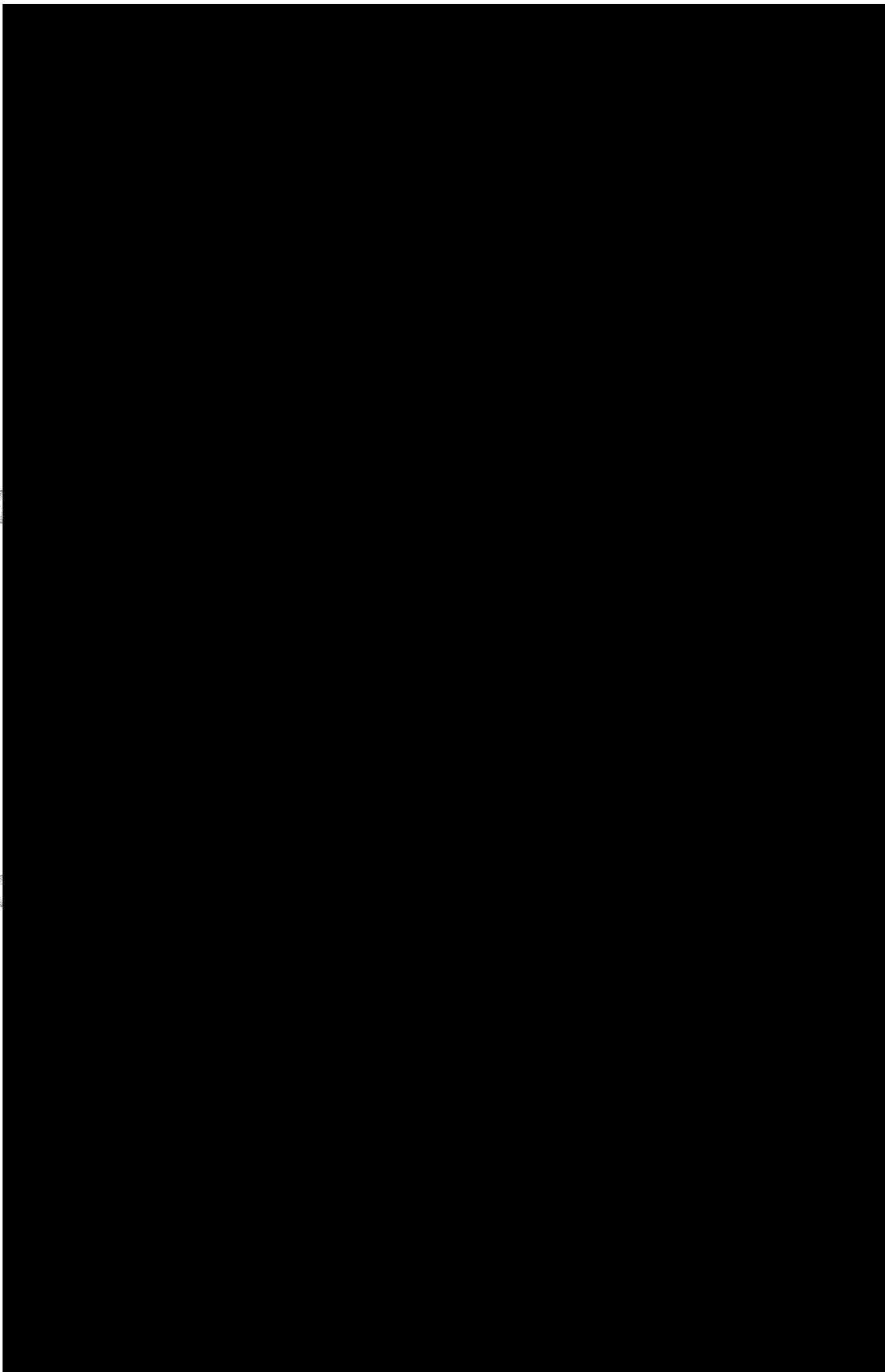








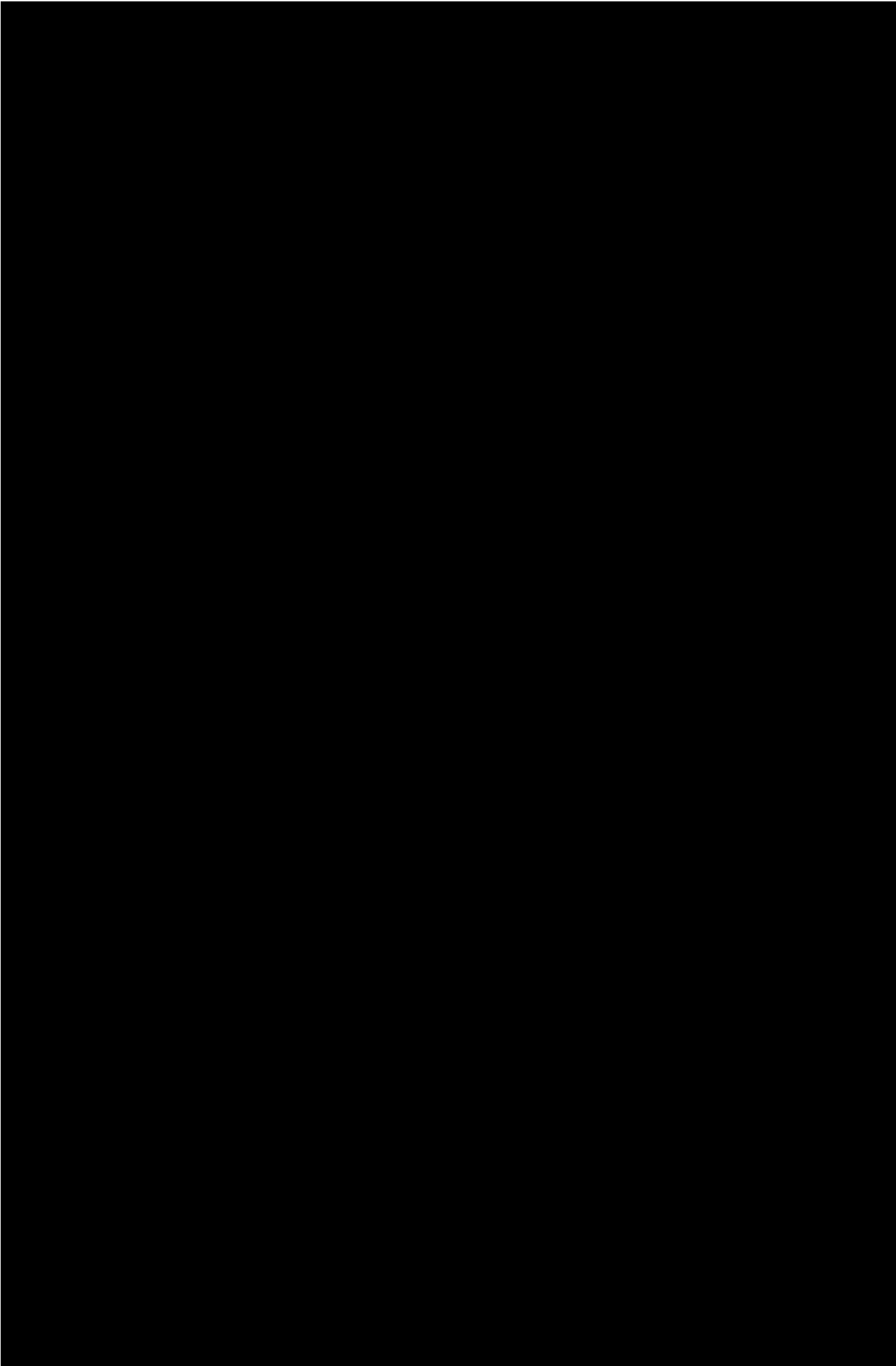


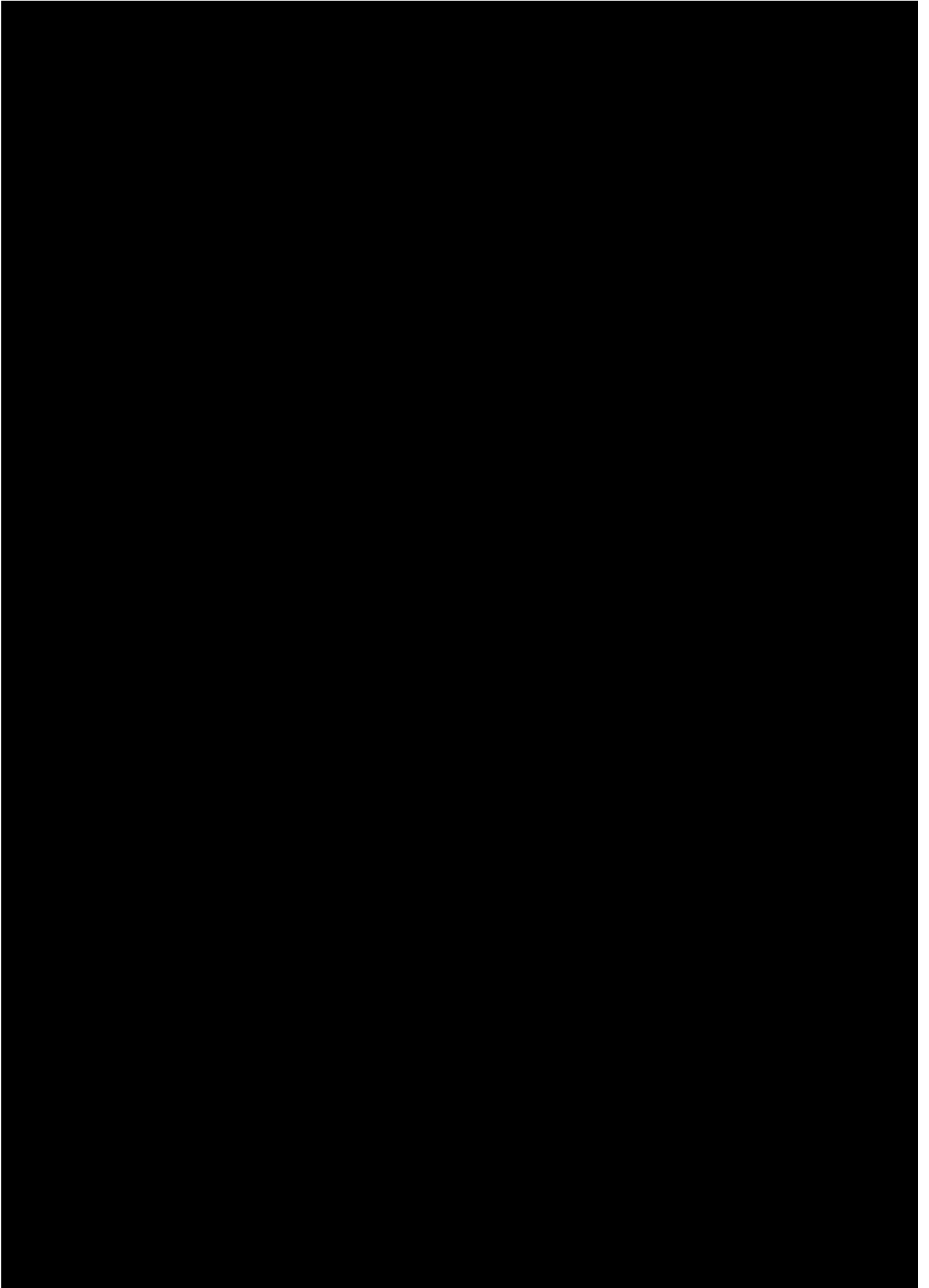


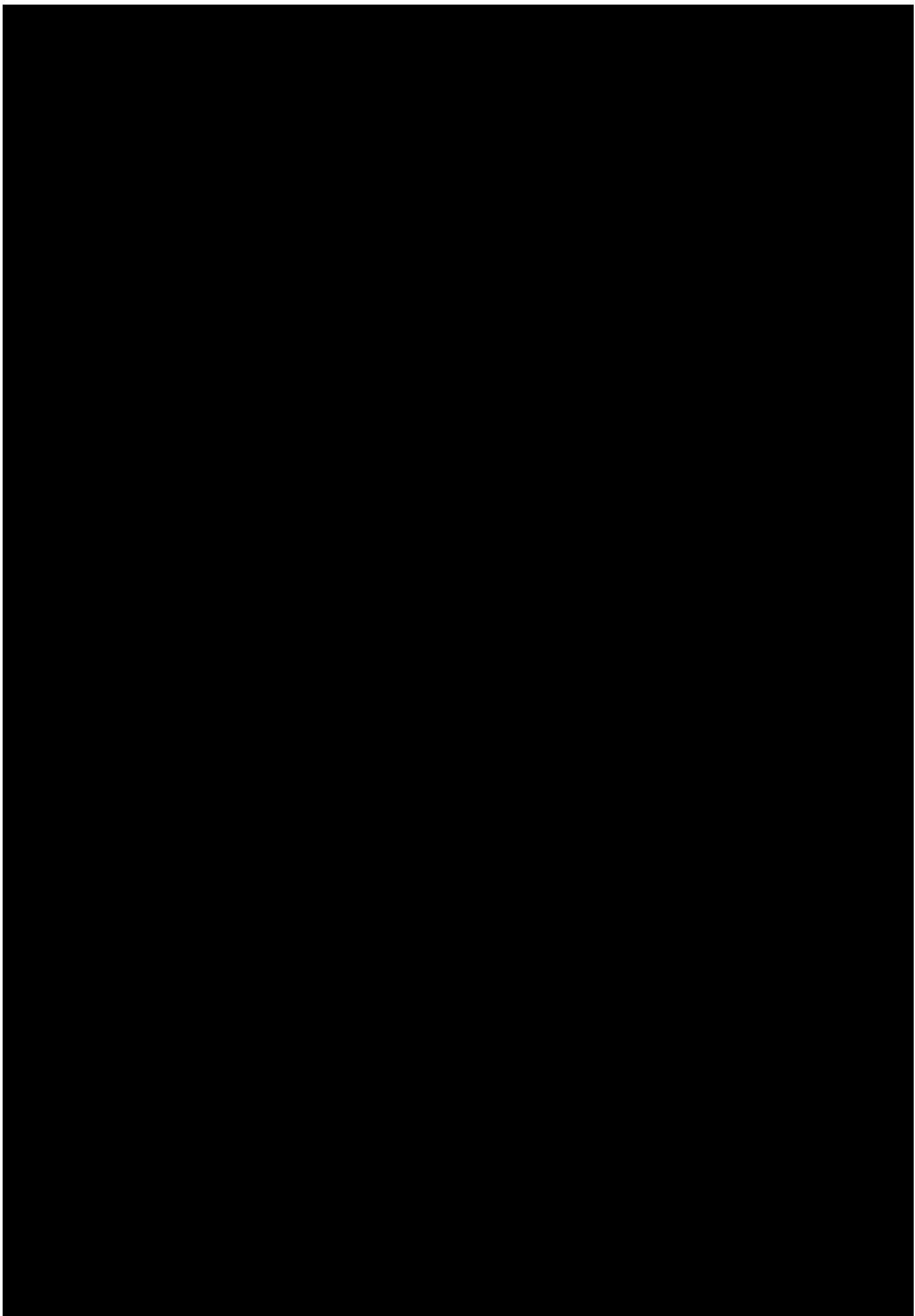


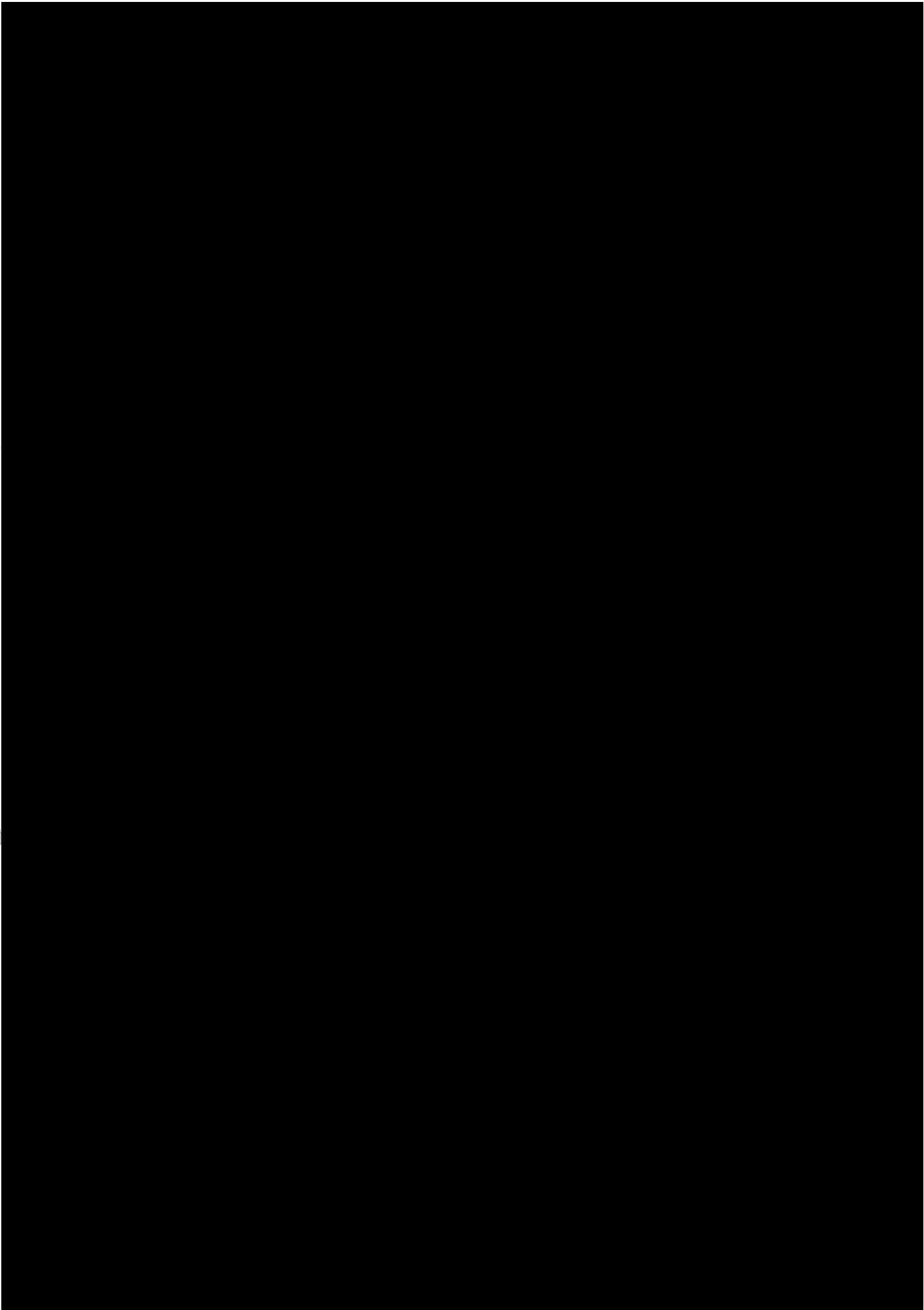
**ANNEXURE K**  
**Call Option Deed (South Tower Lot)**



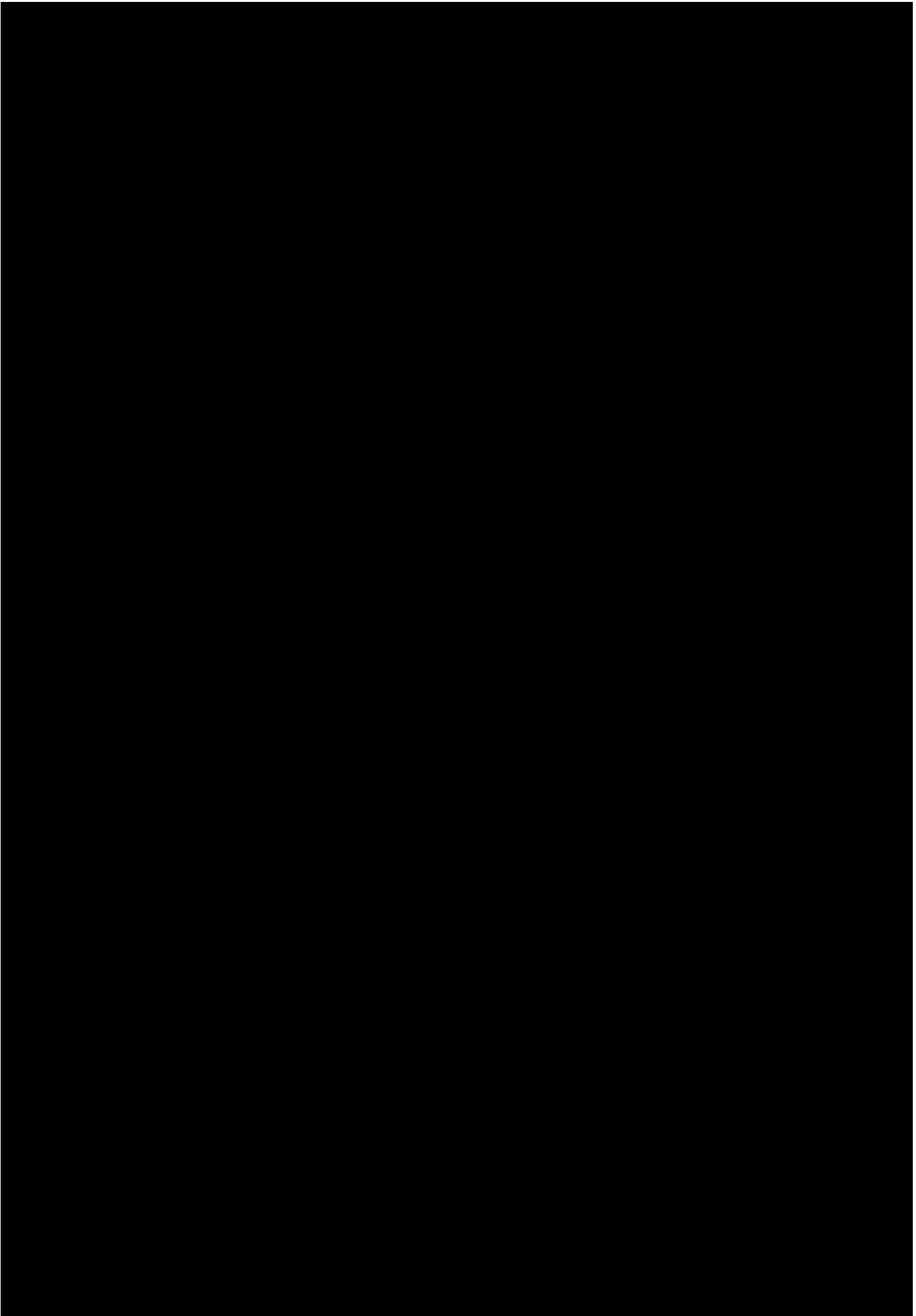


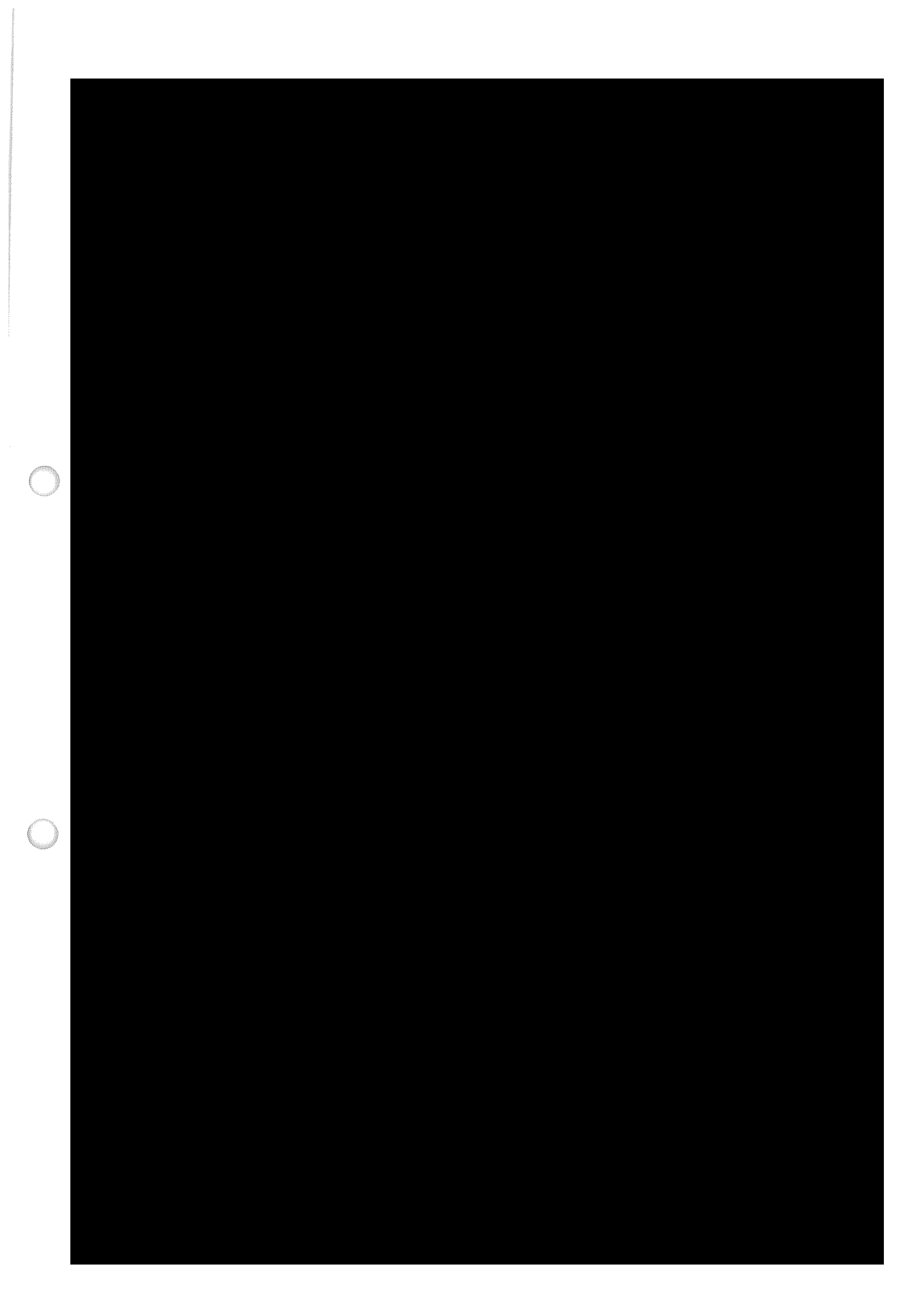




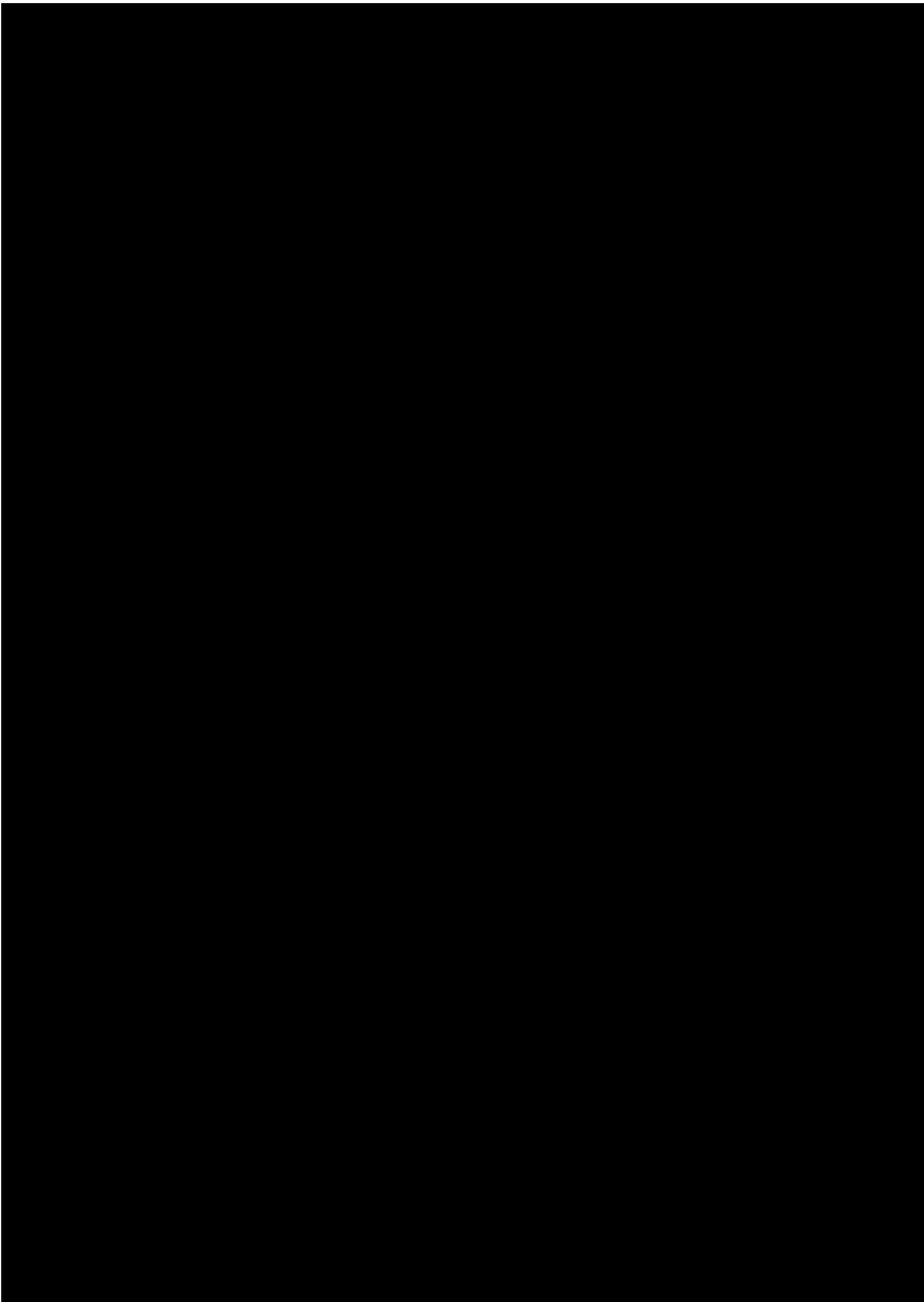


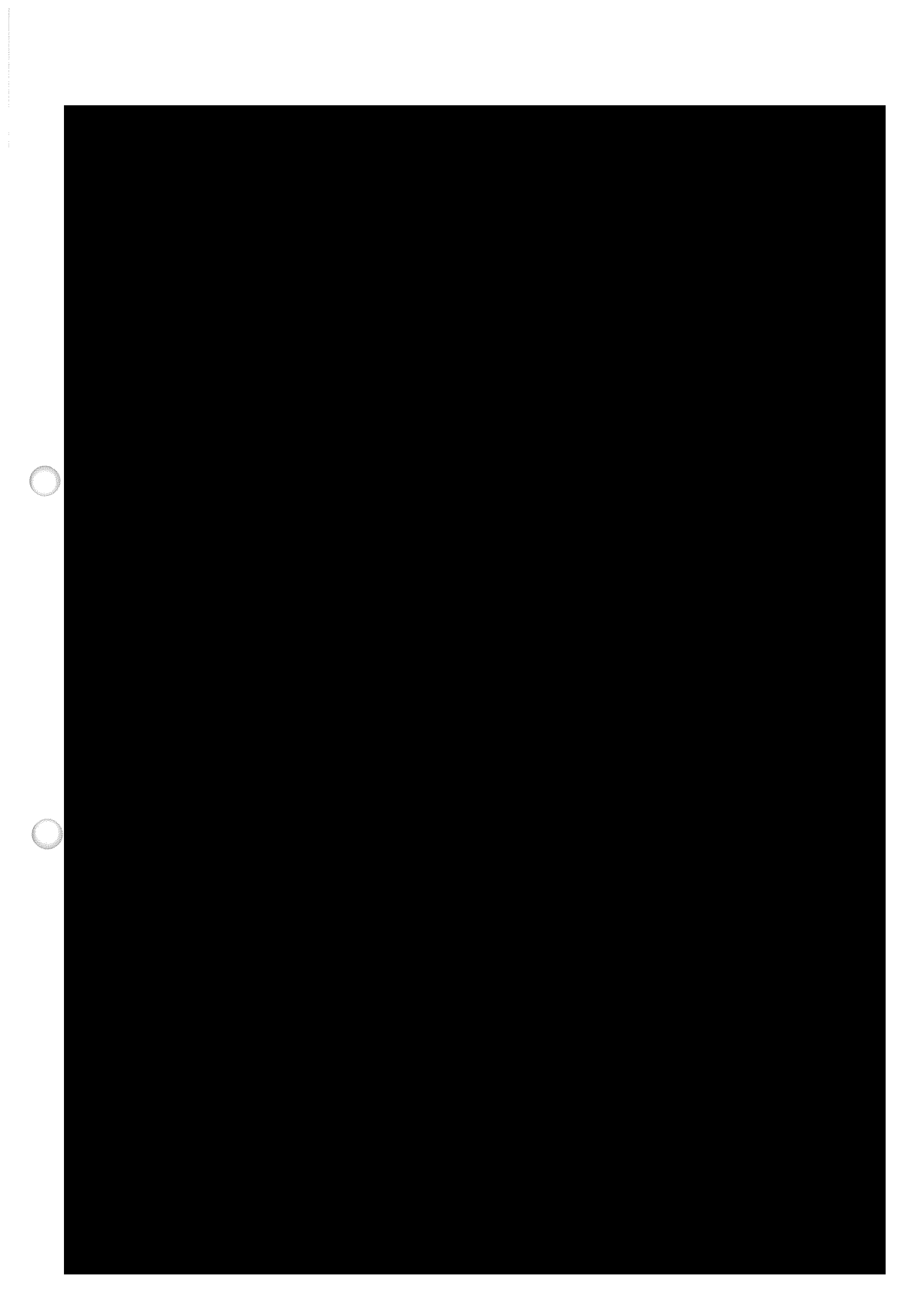


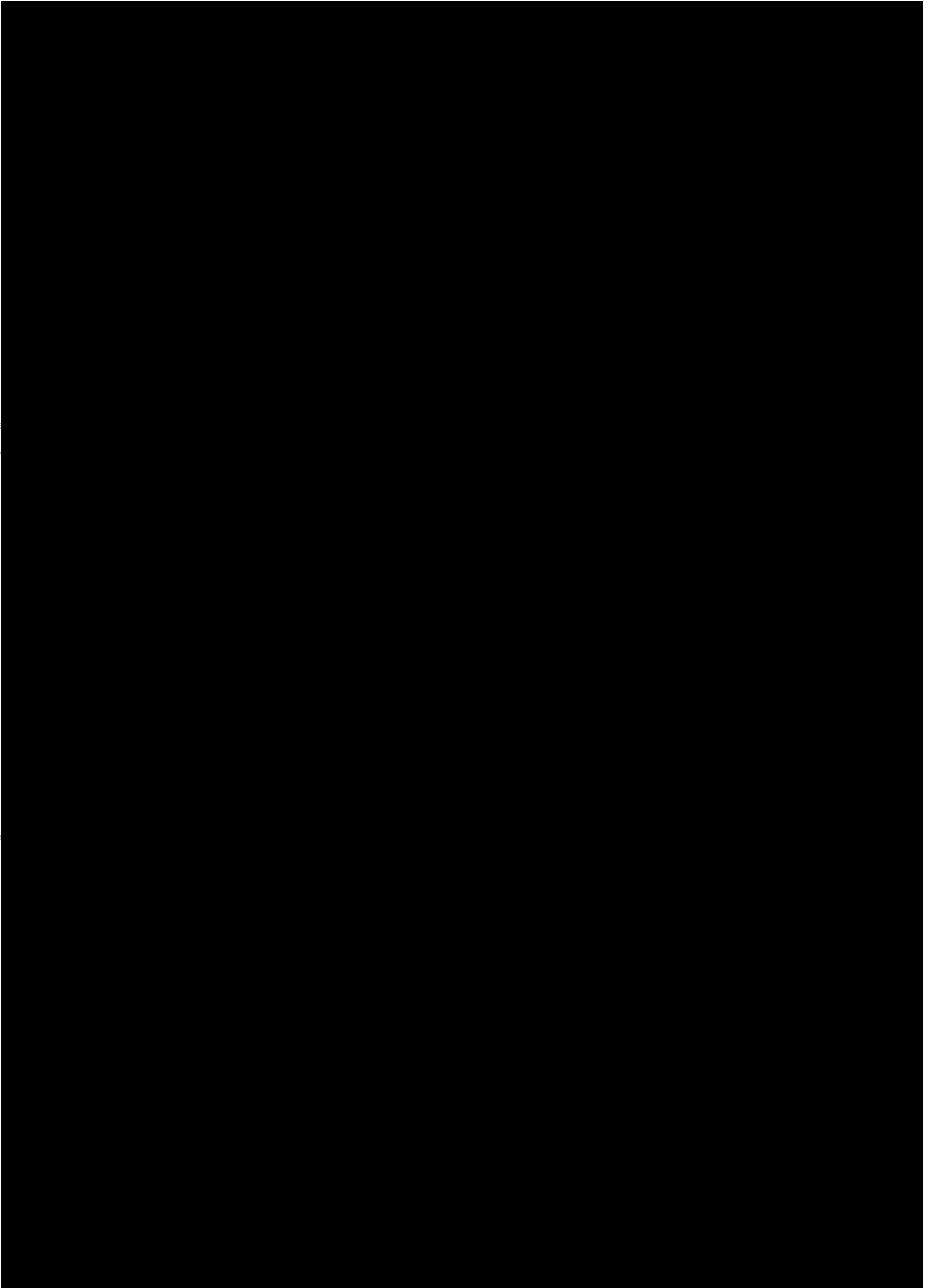


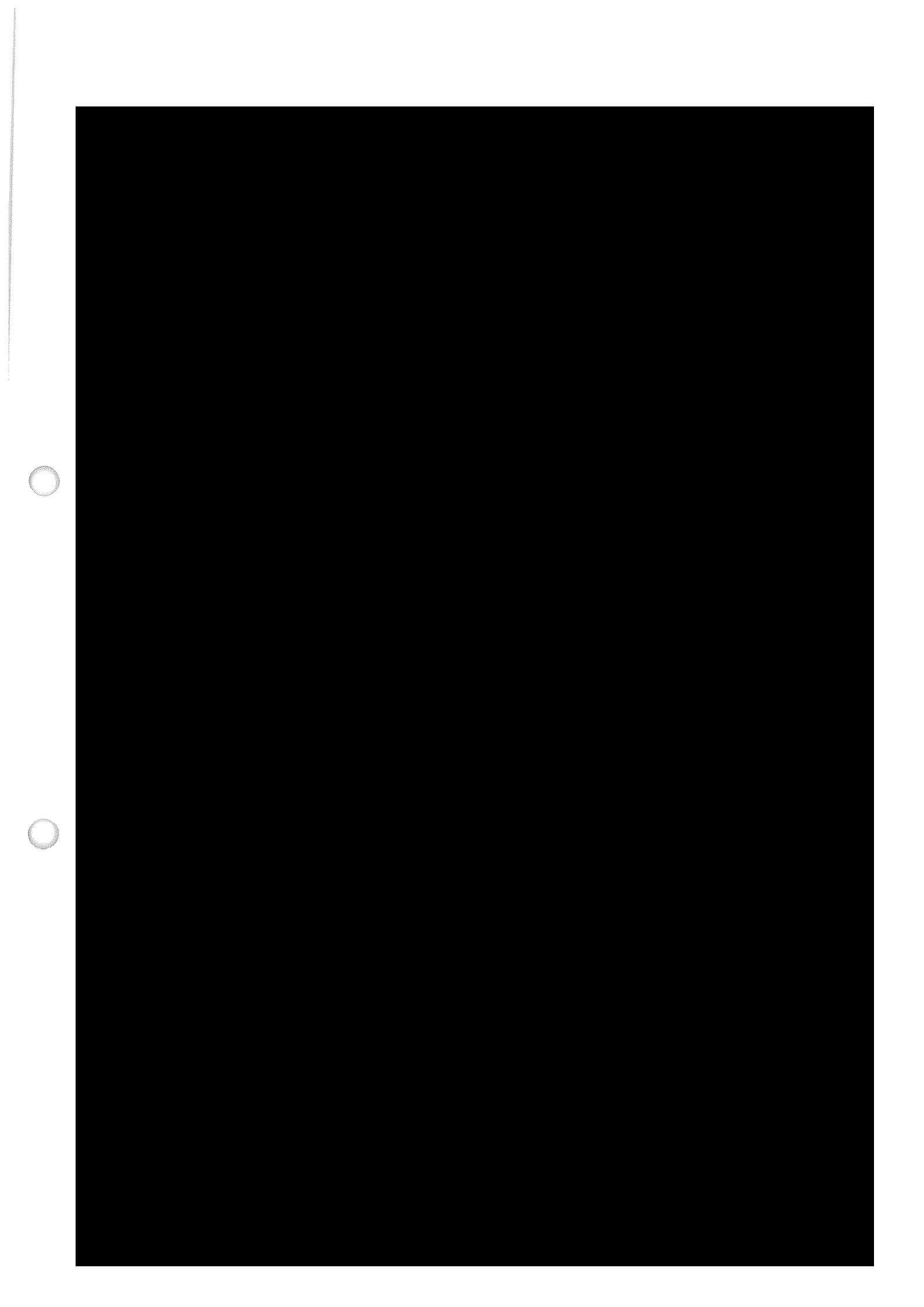


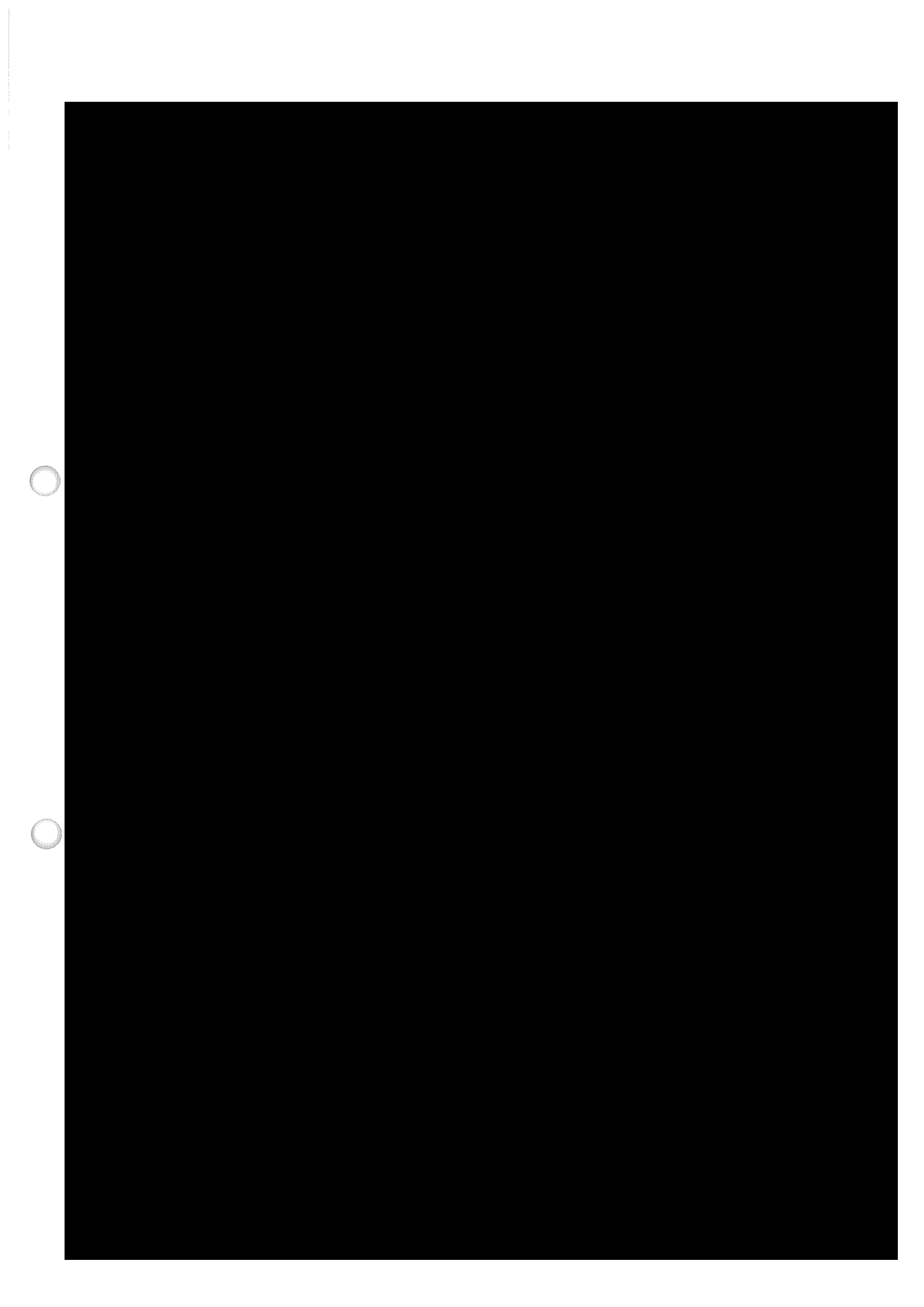




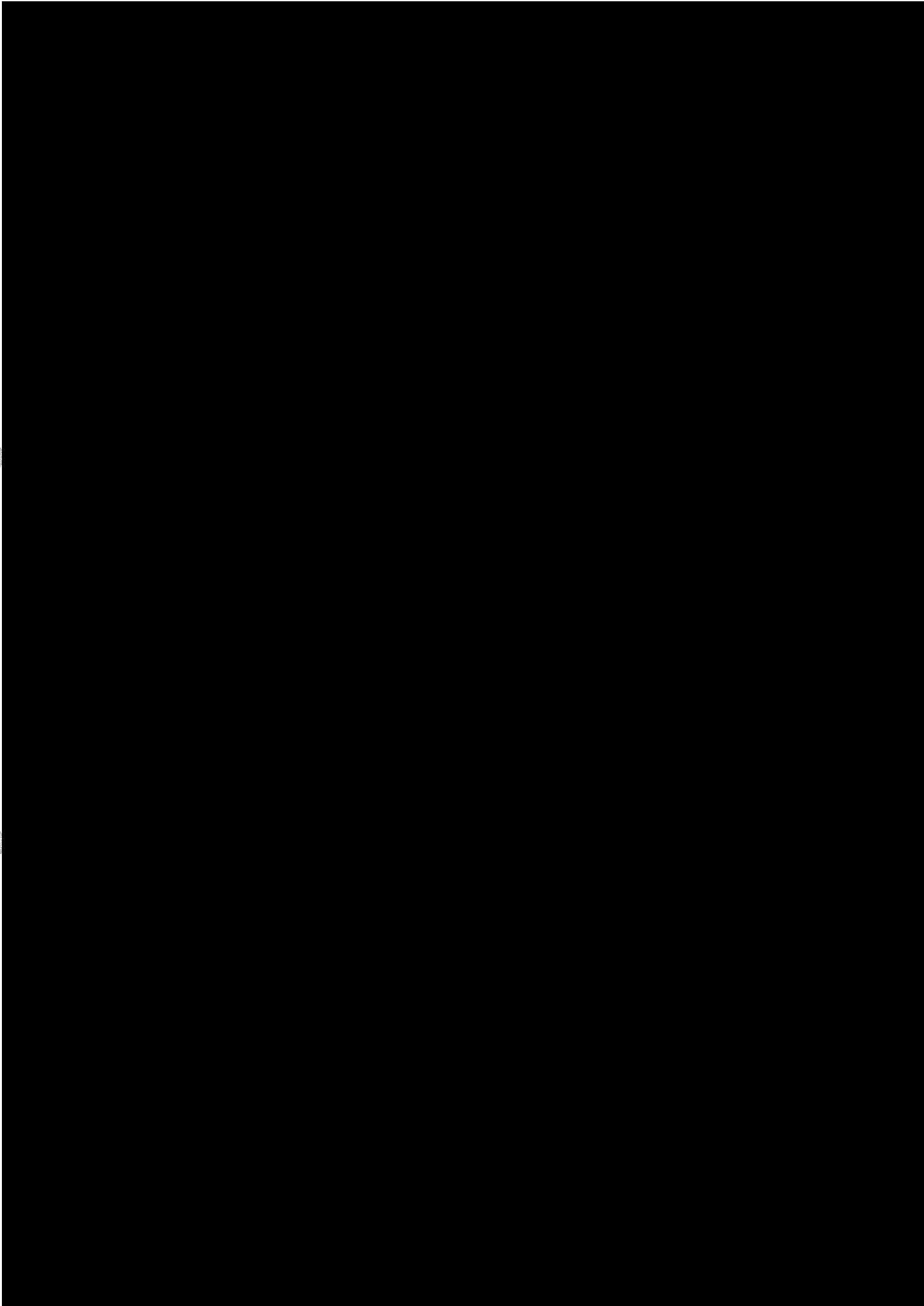


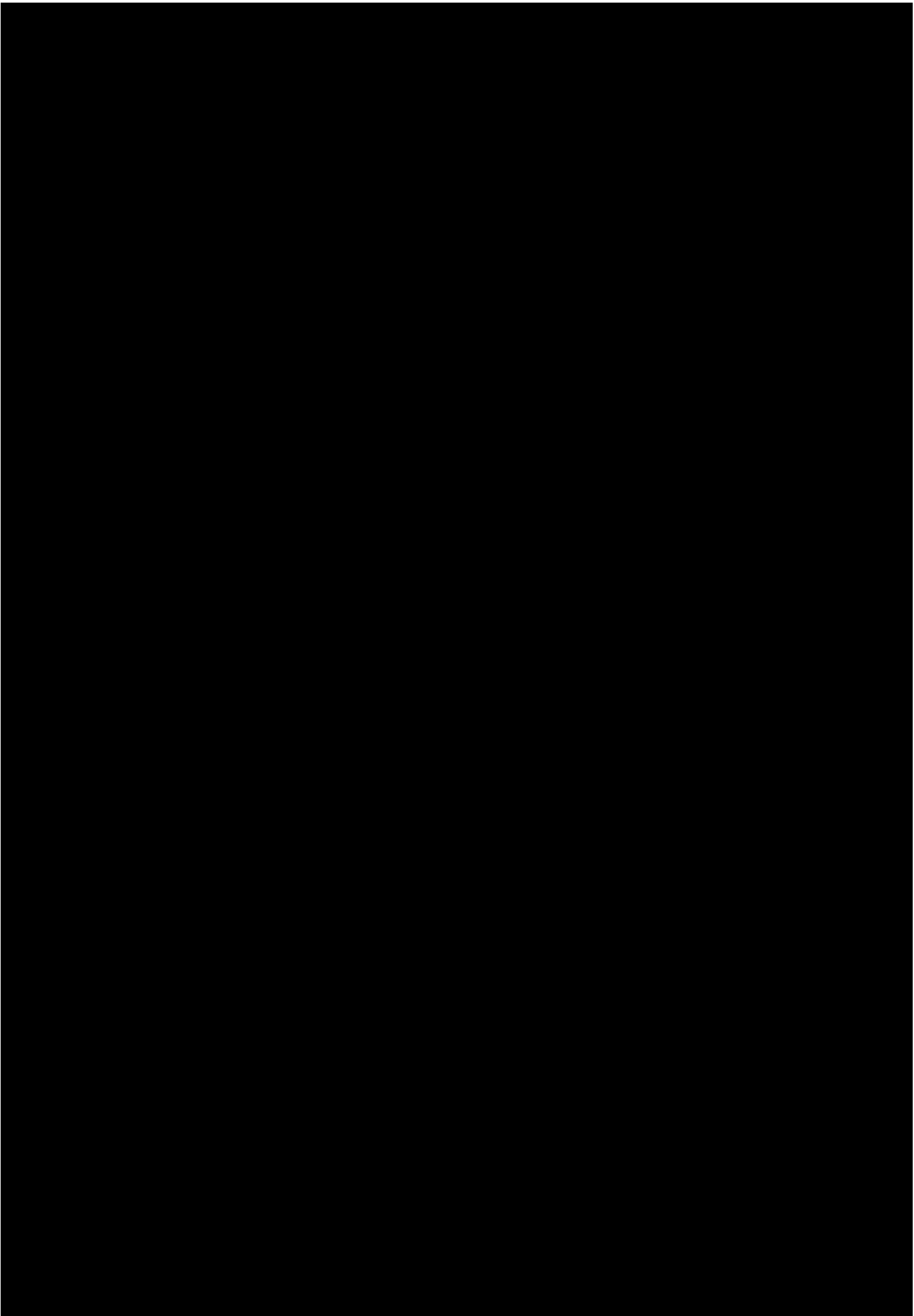


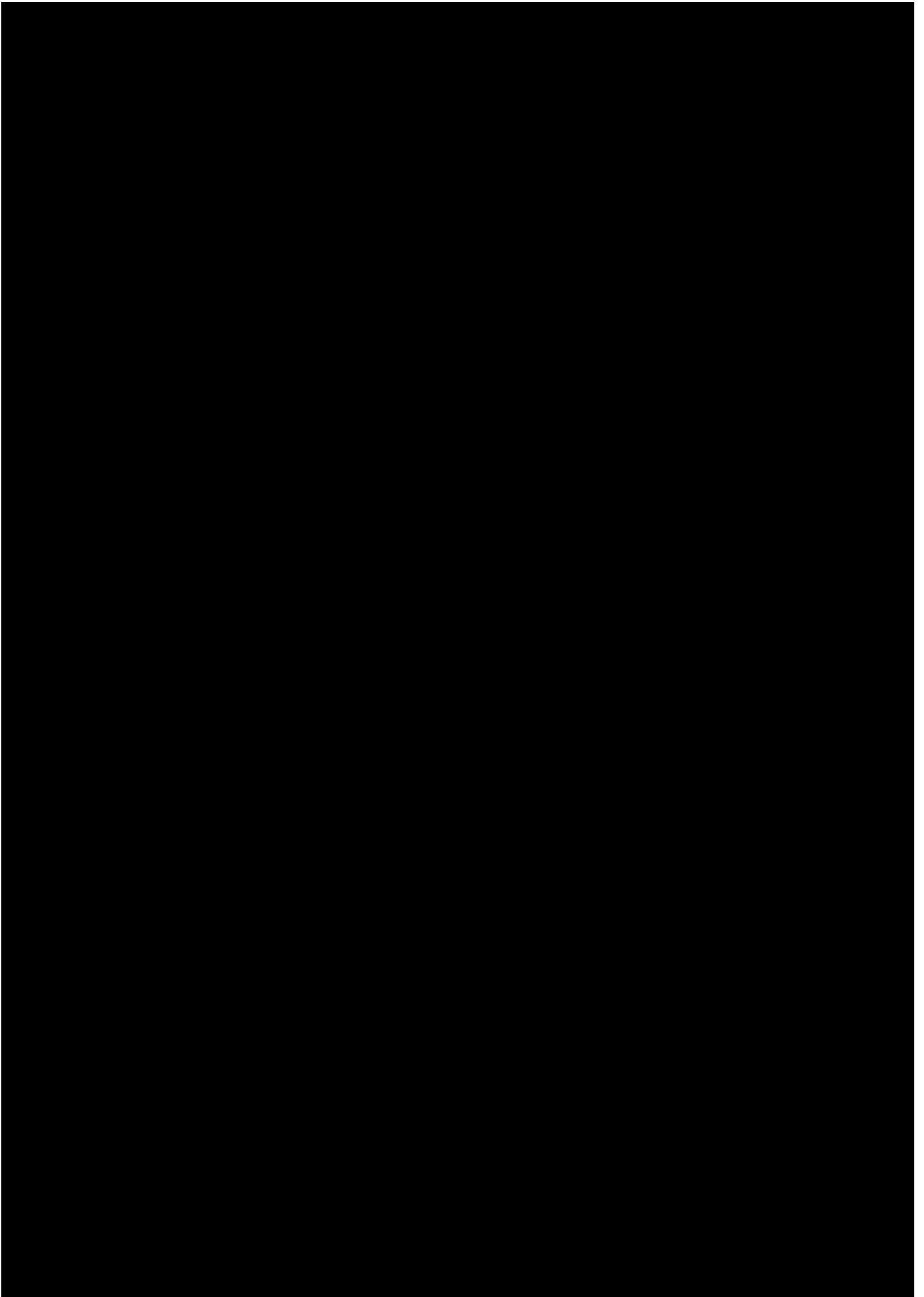


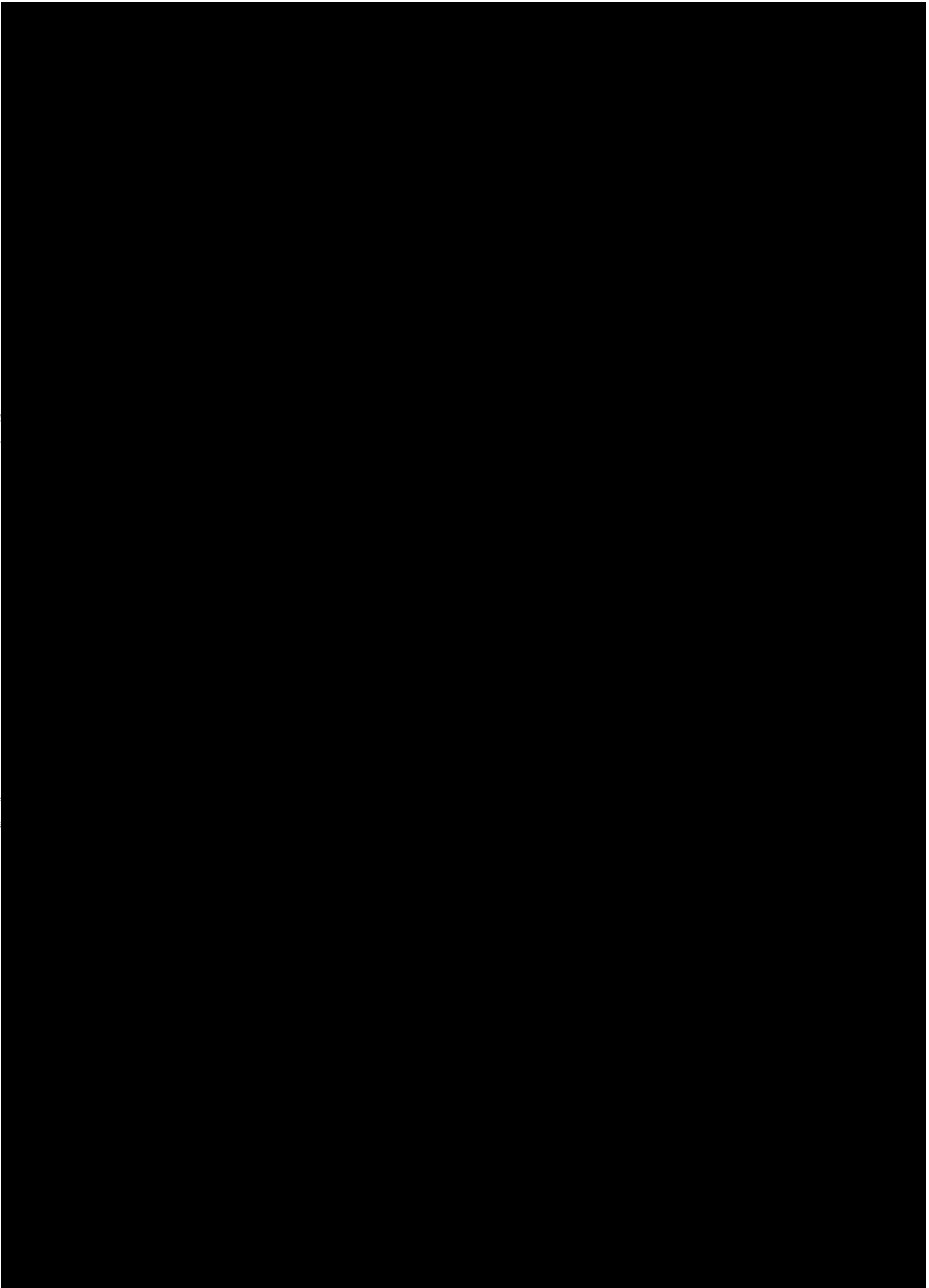


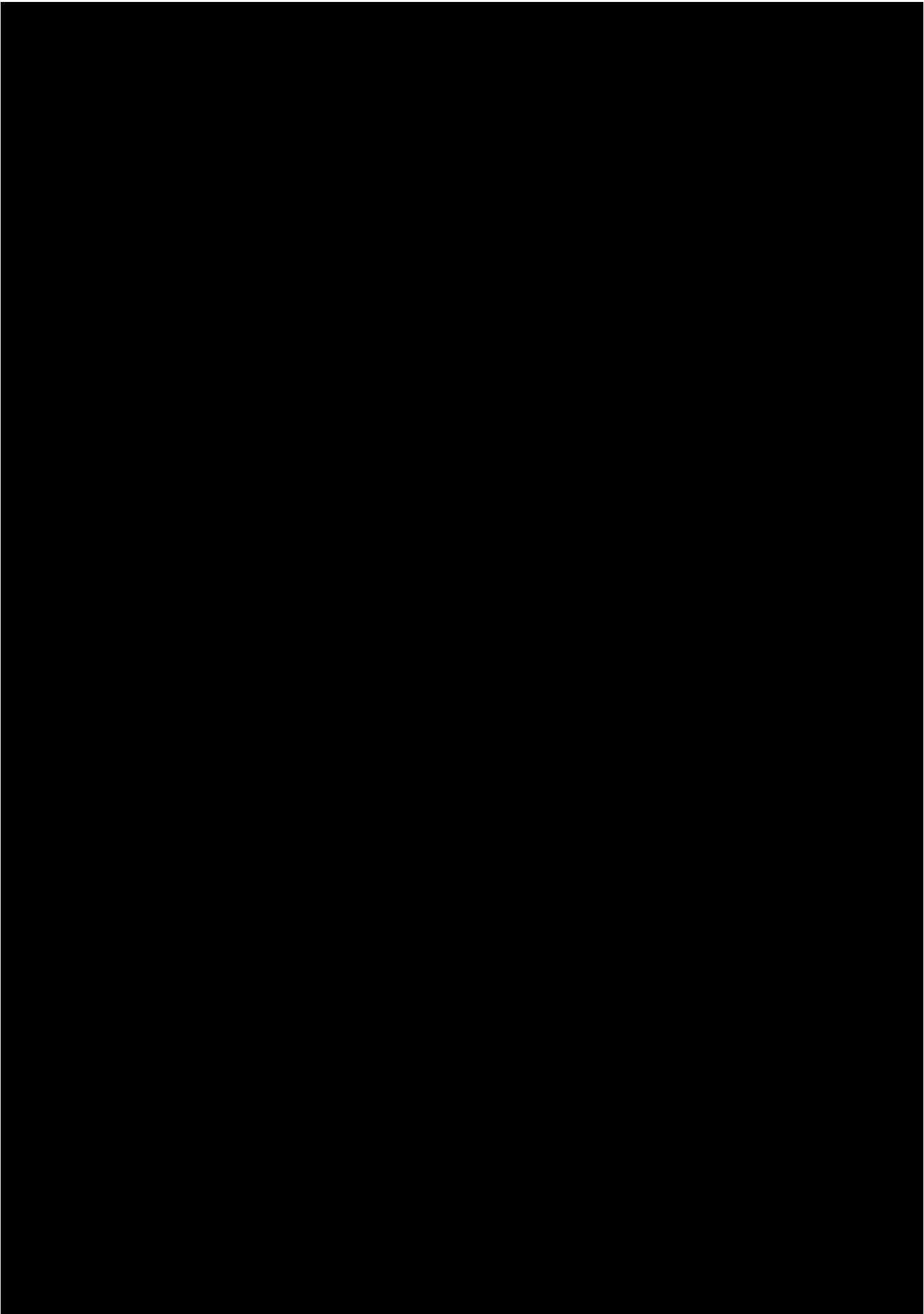


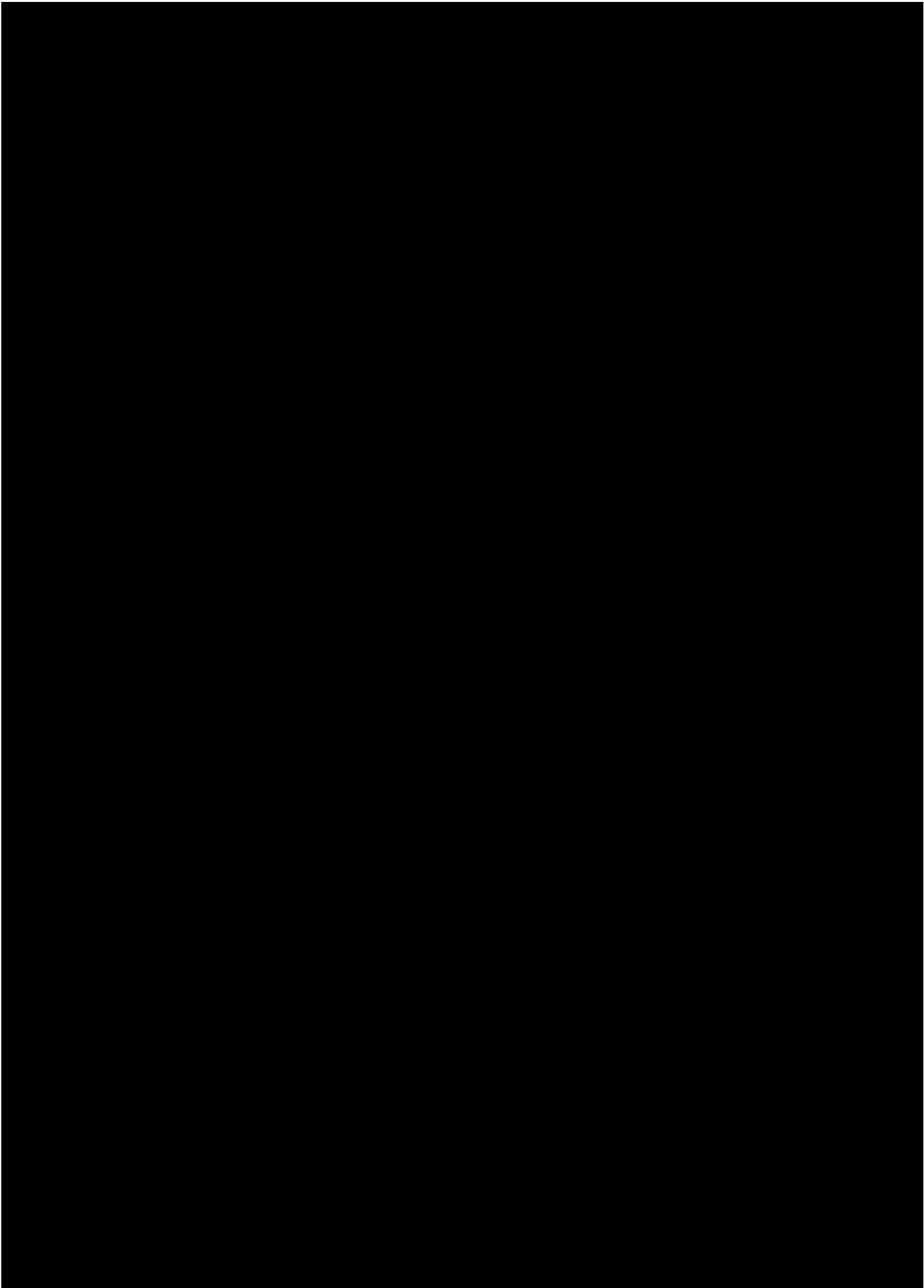








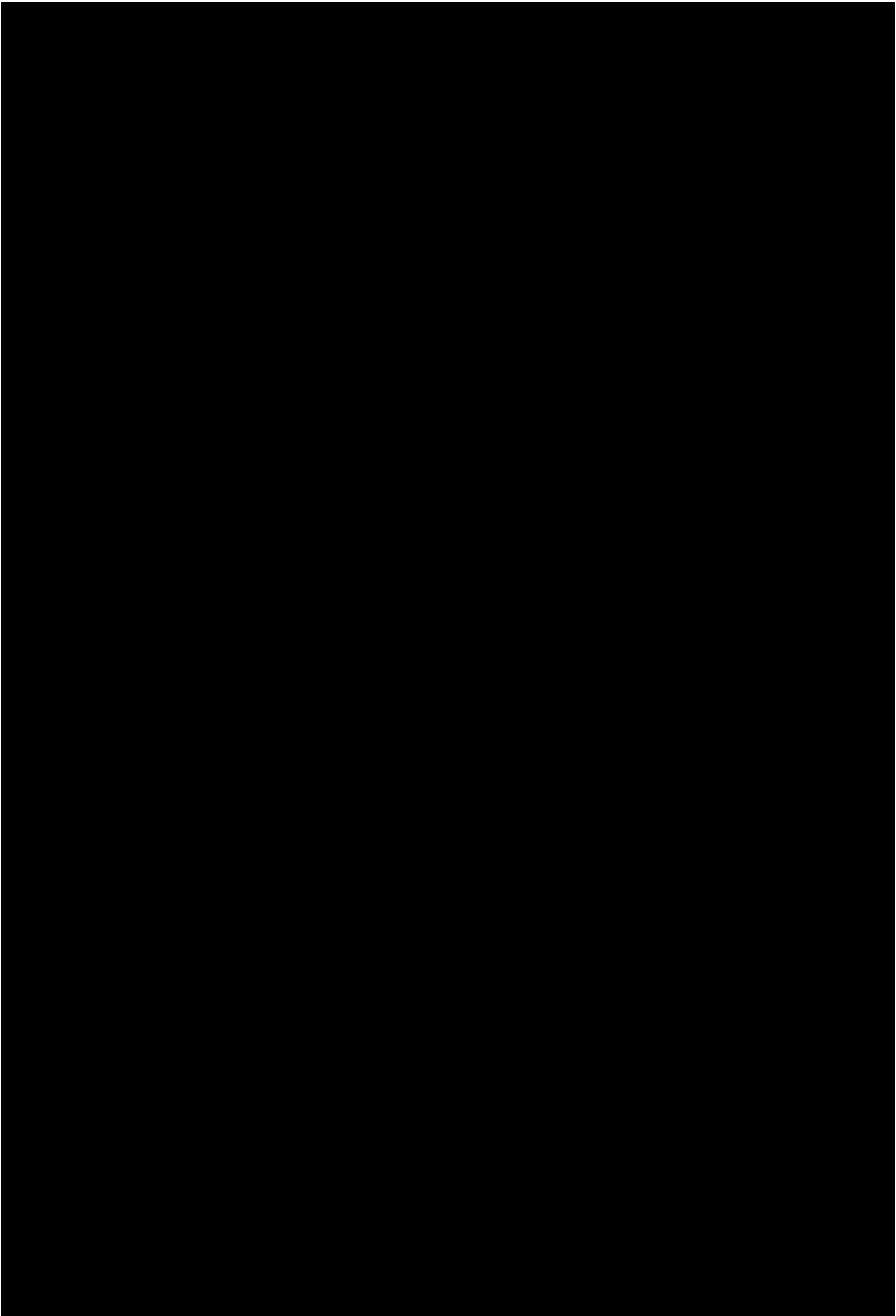


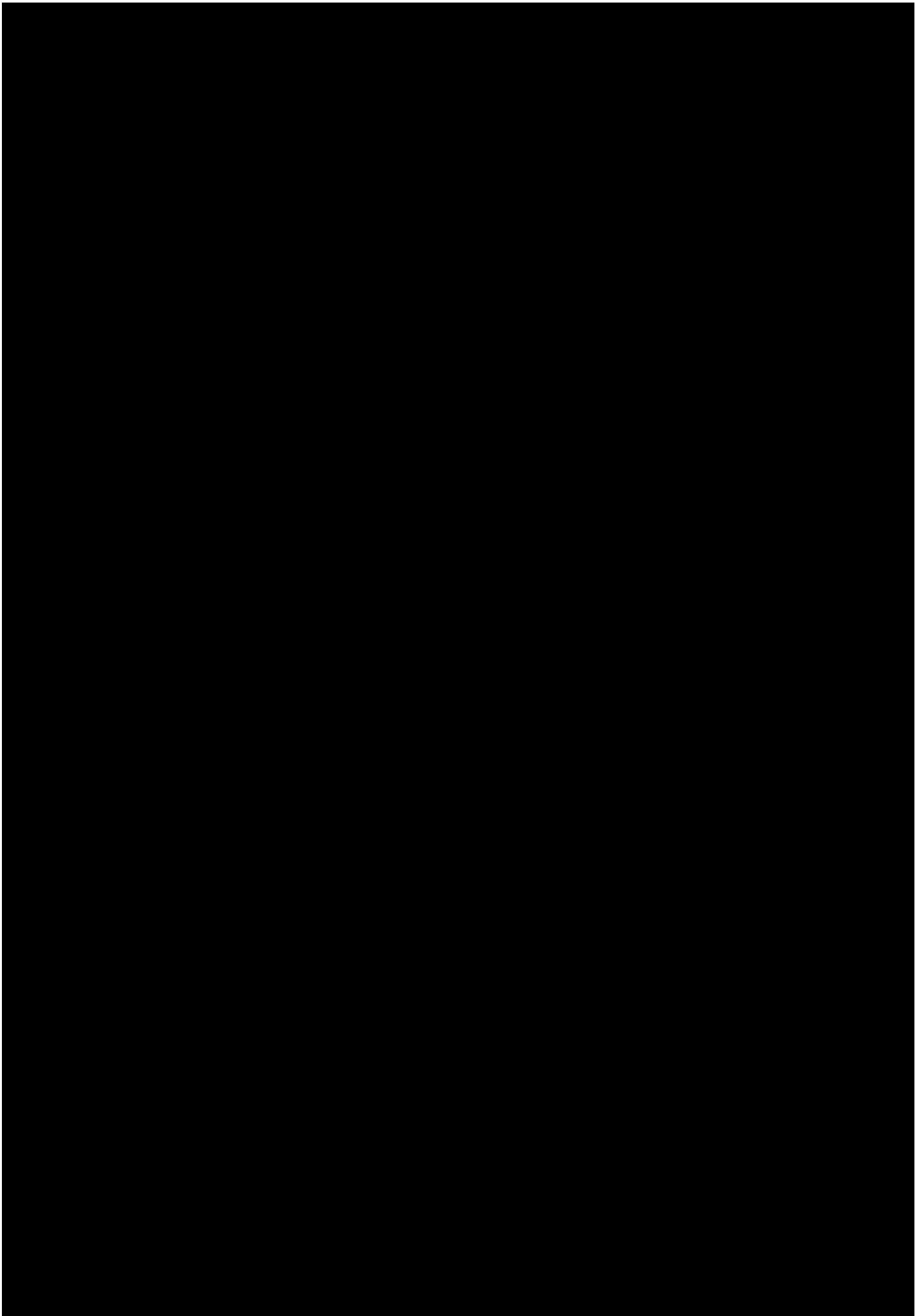


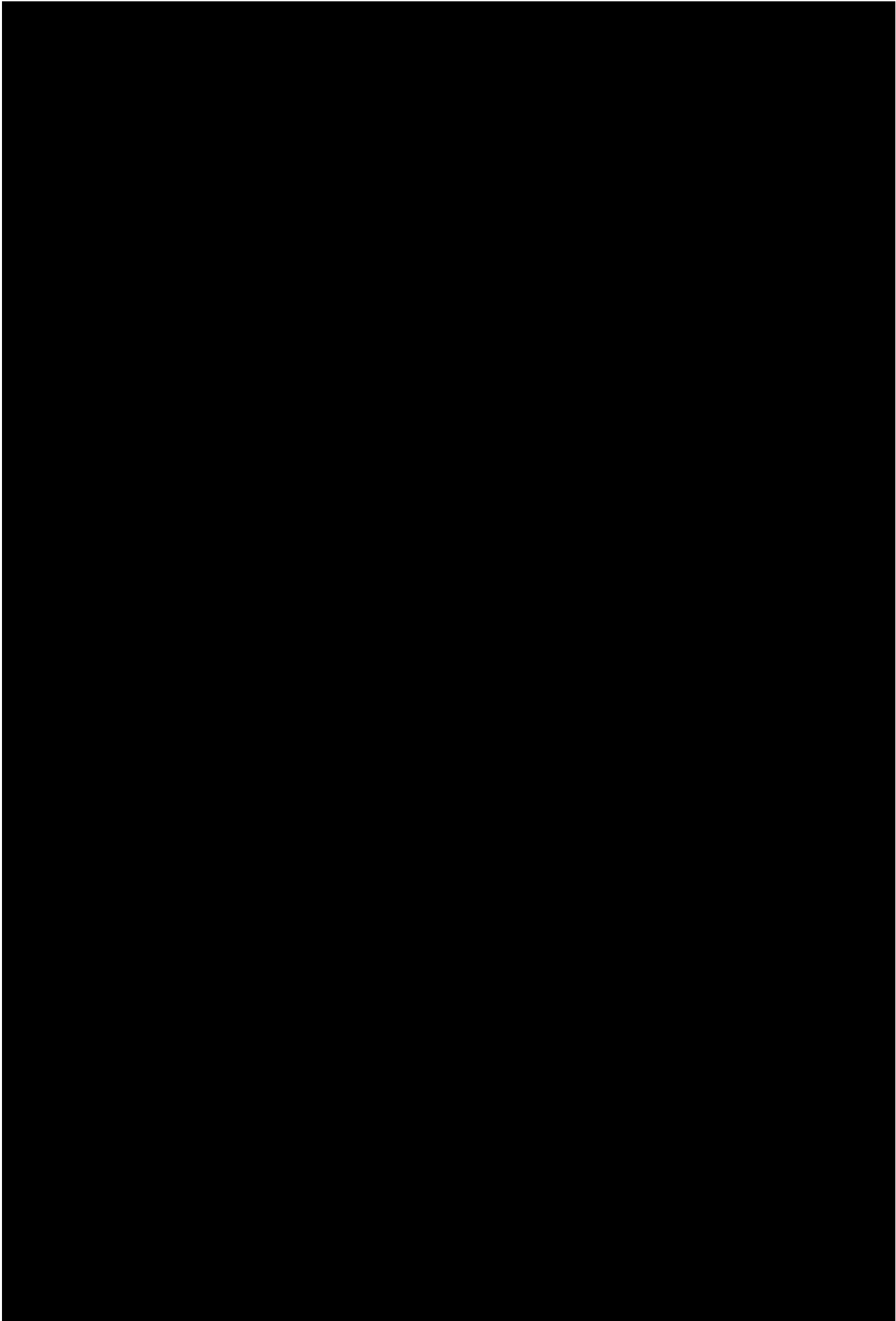


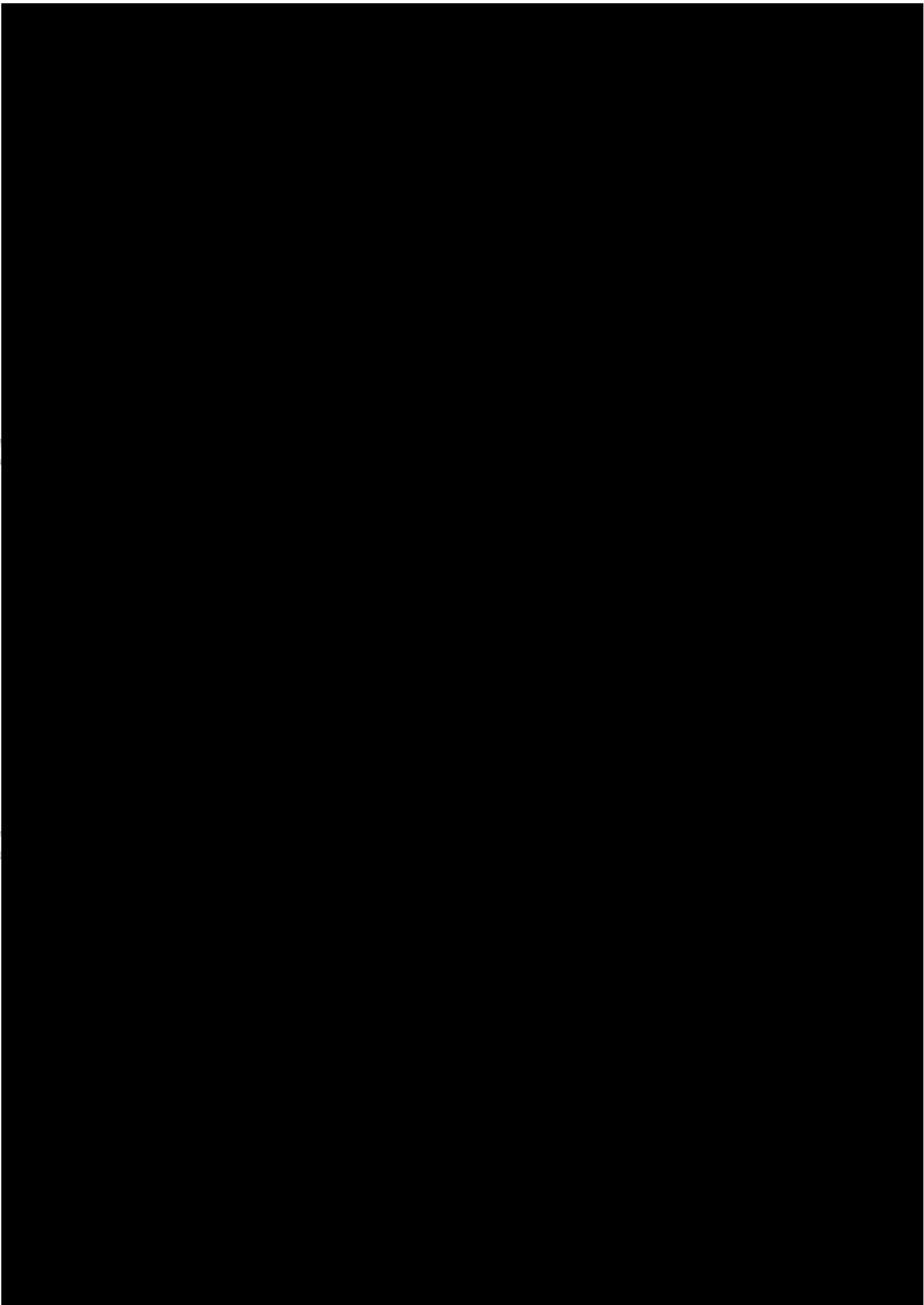


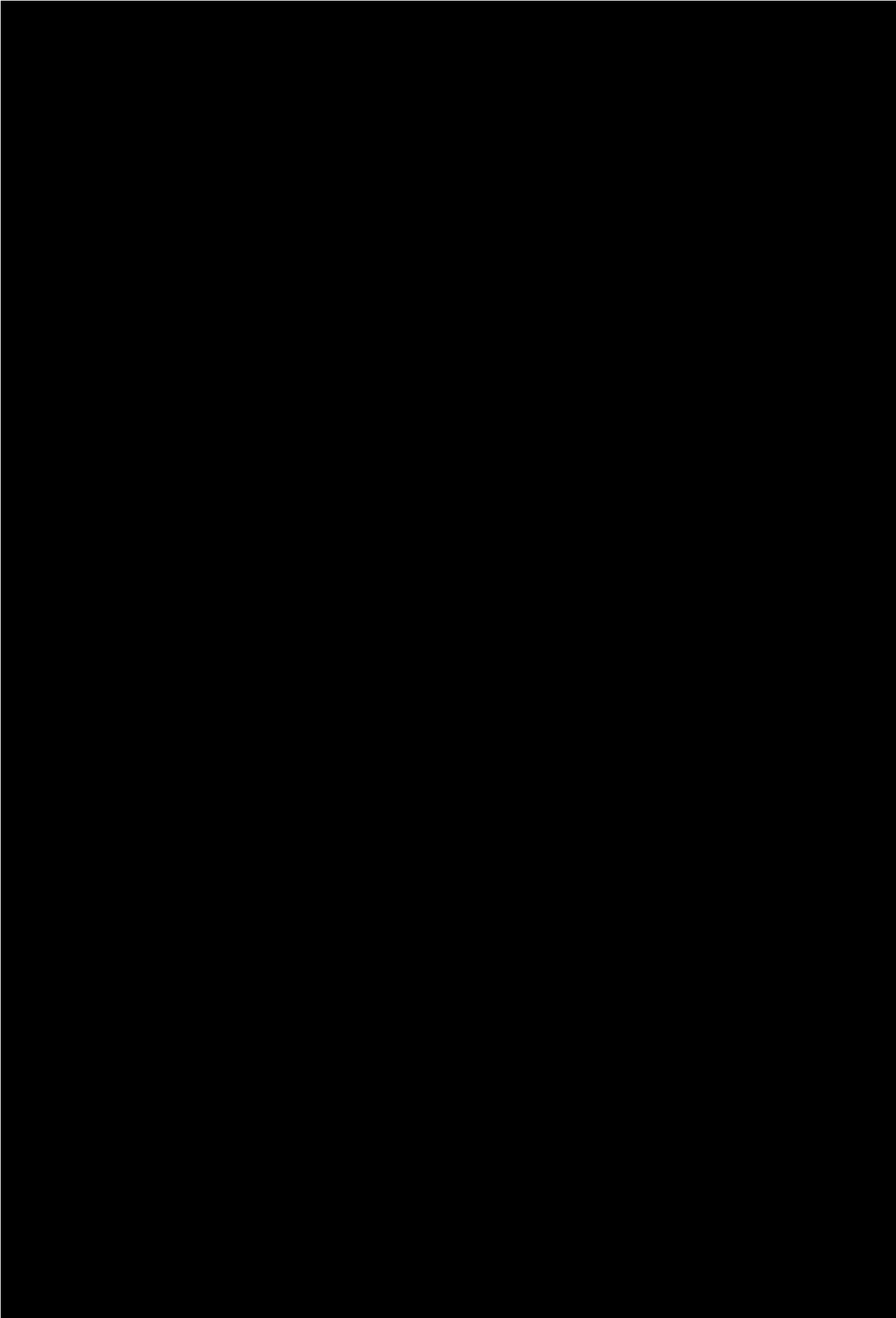


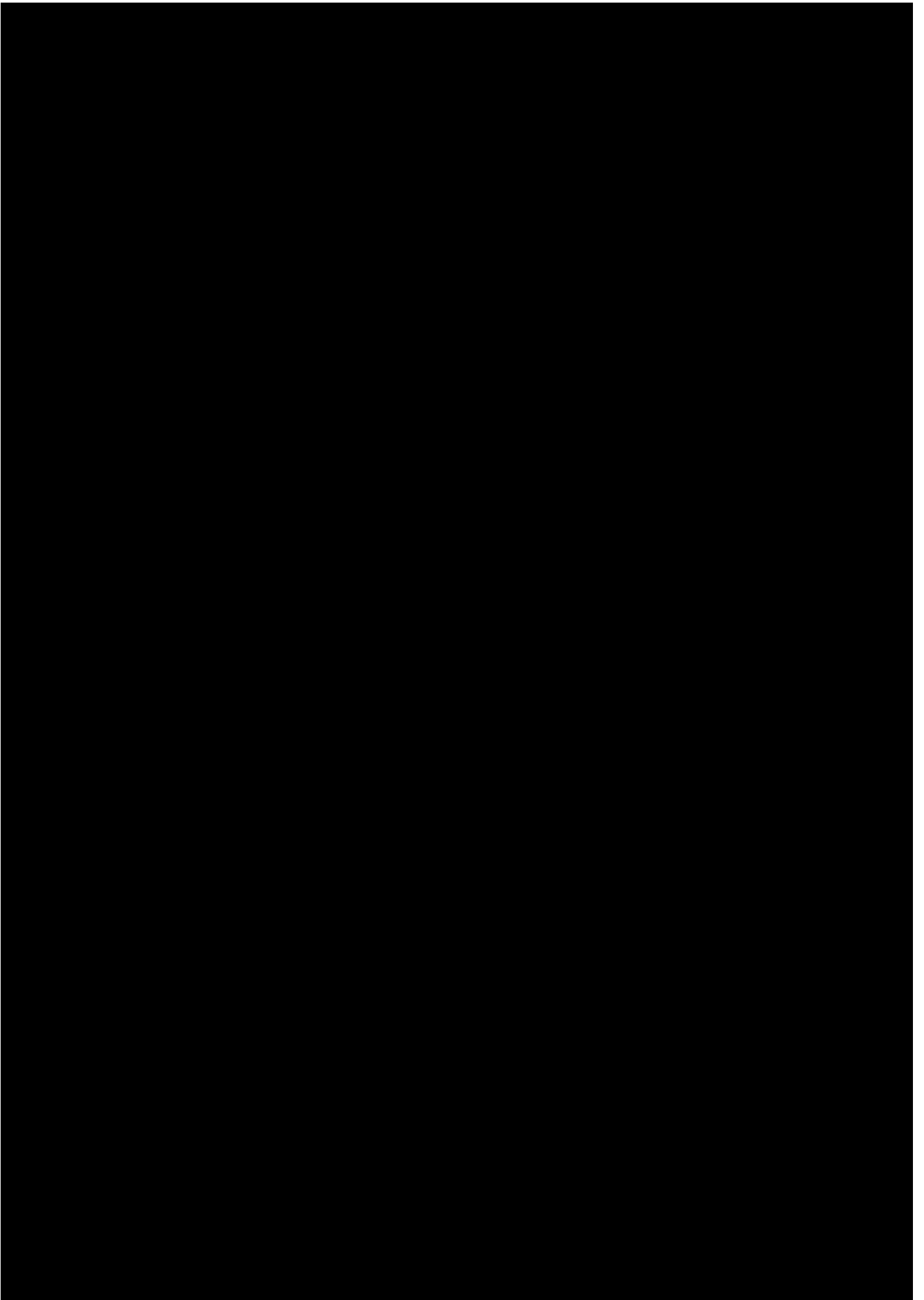


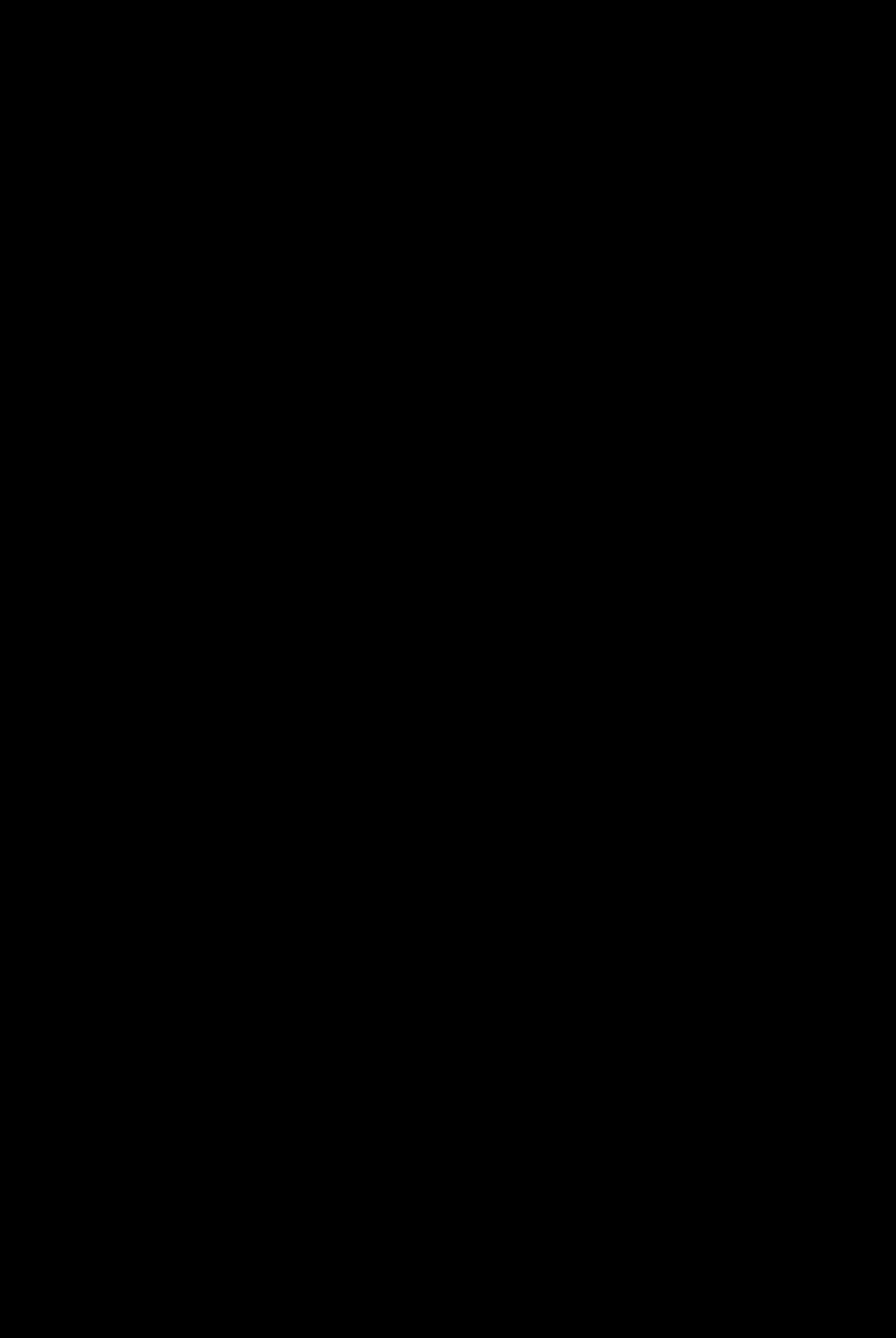


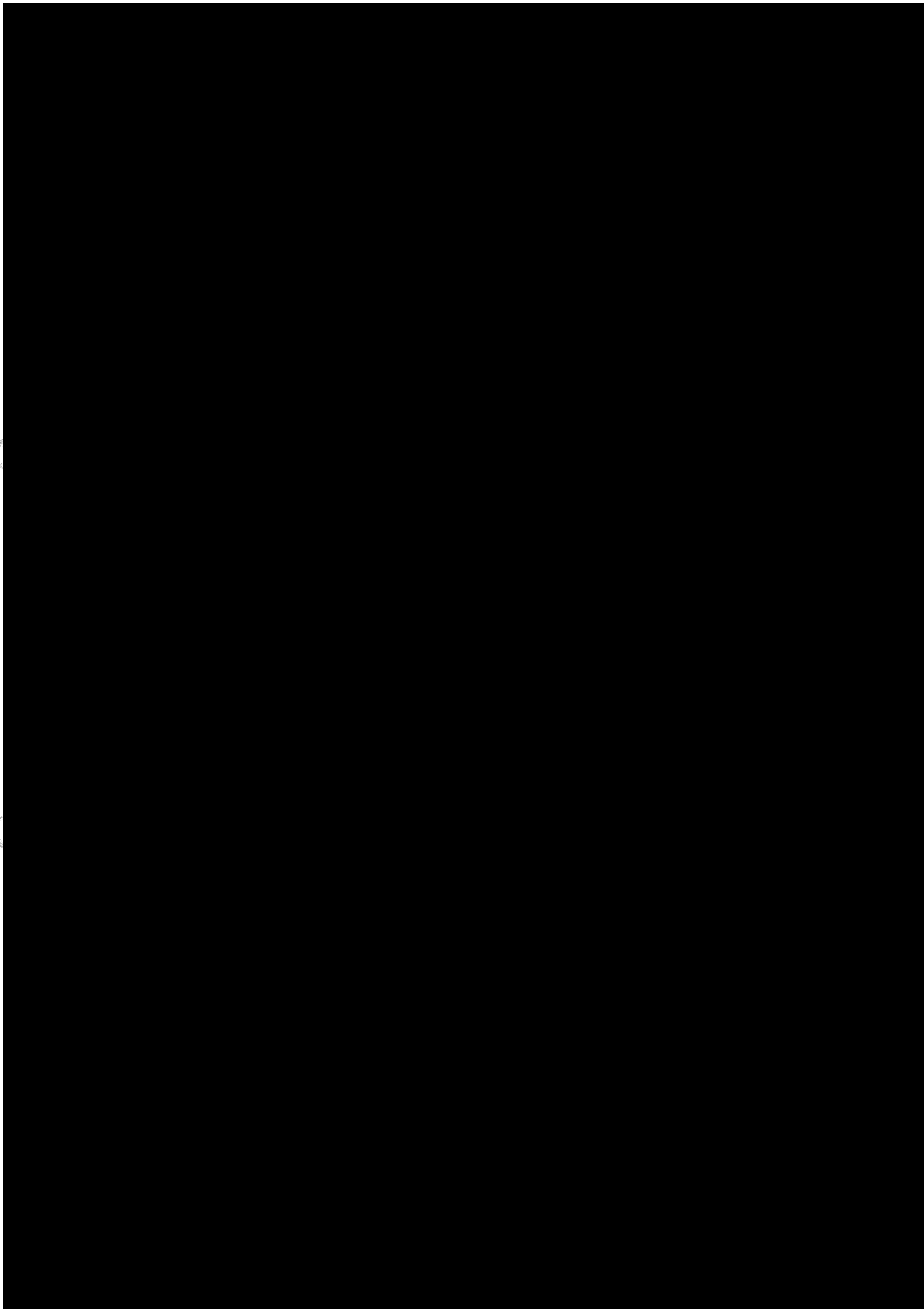




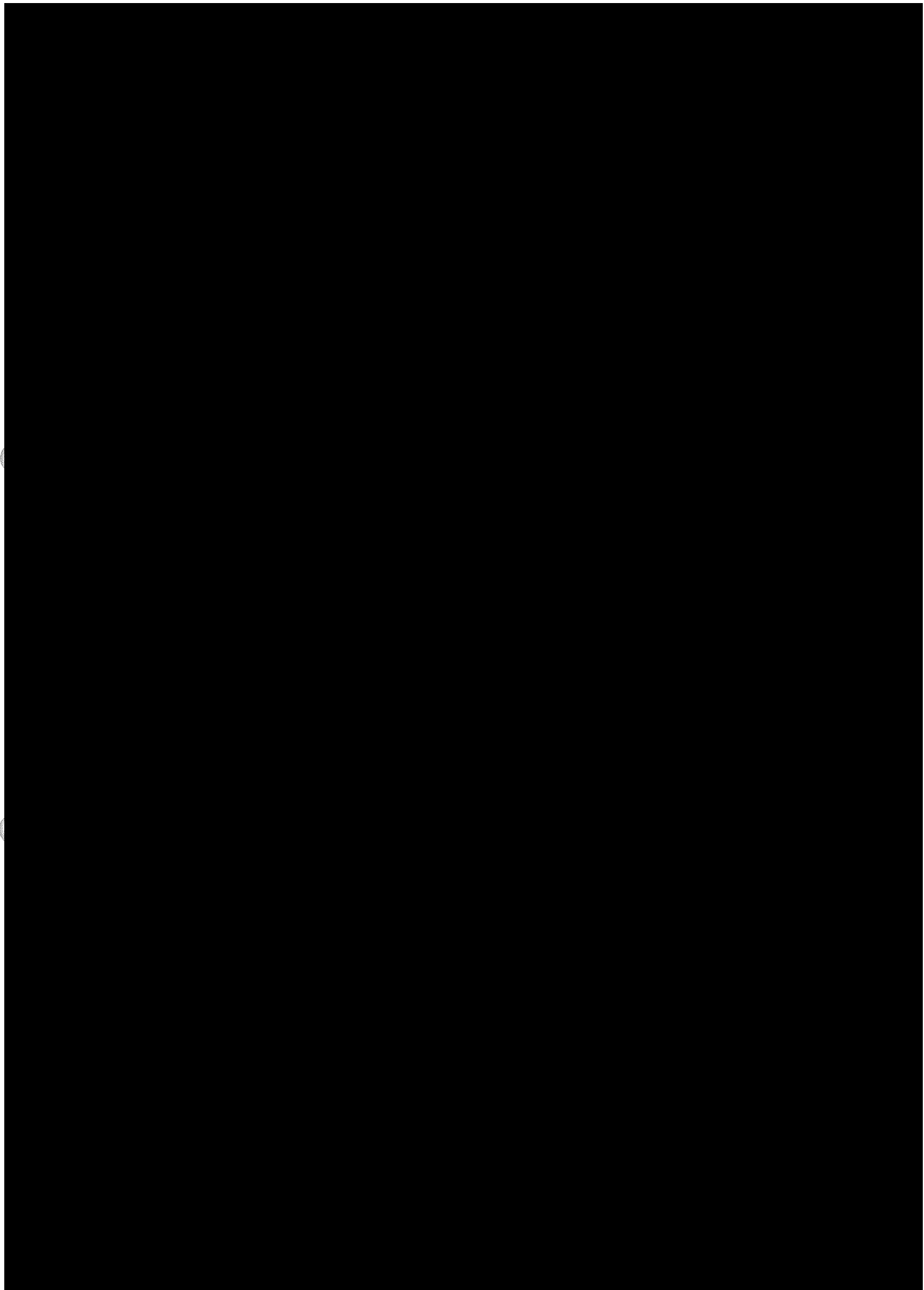


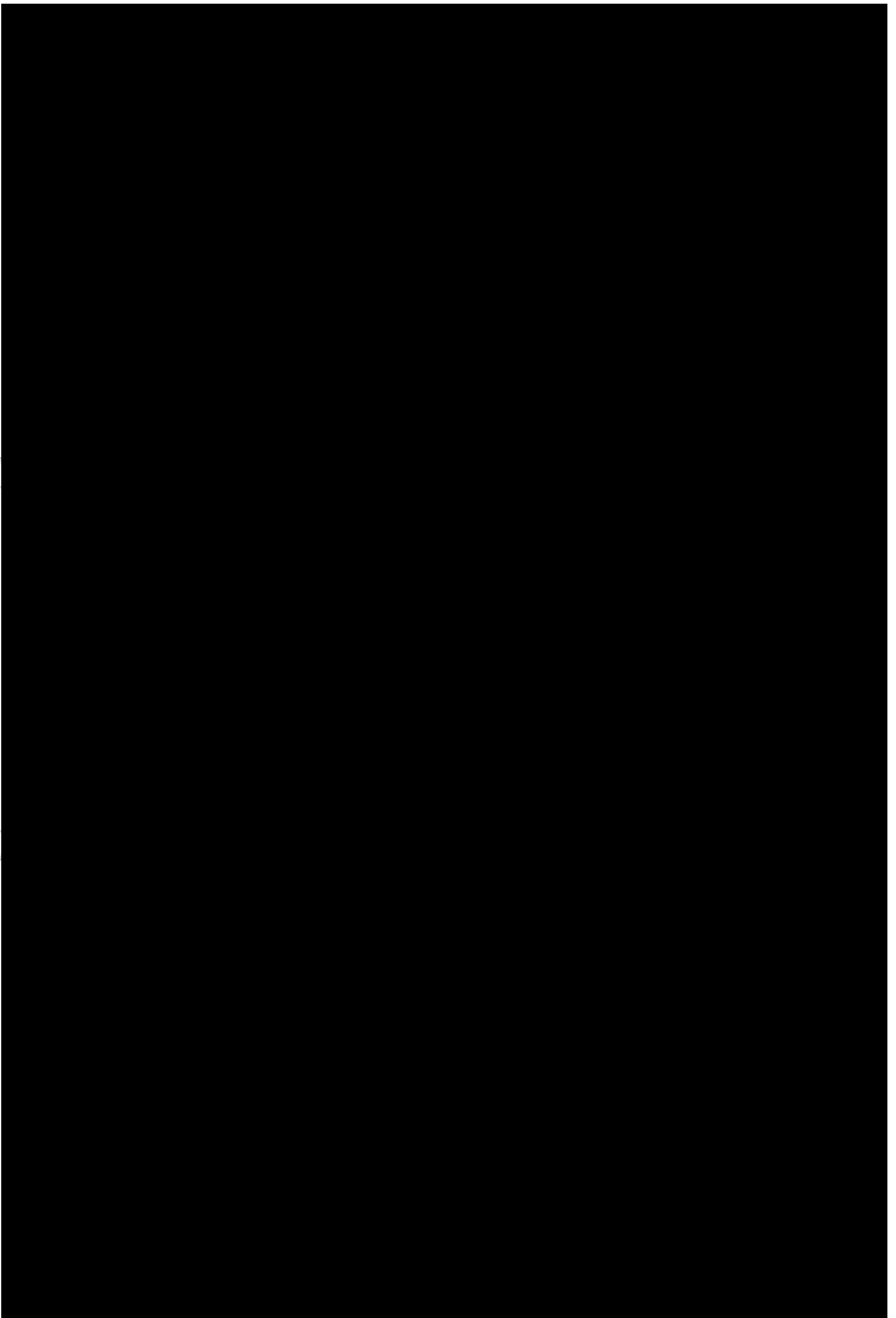


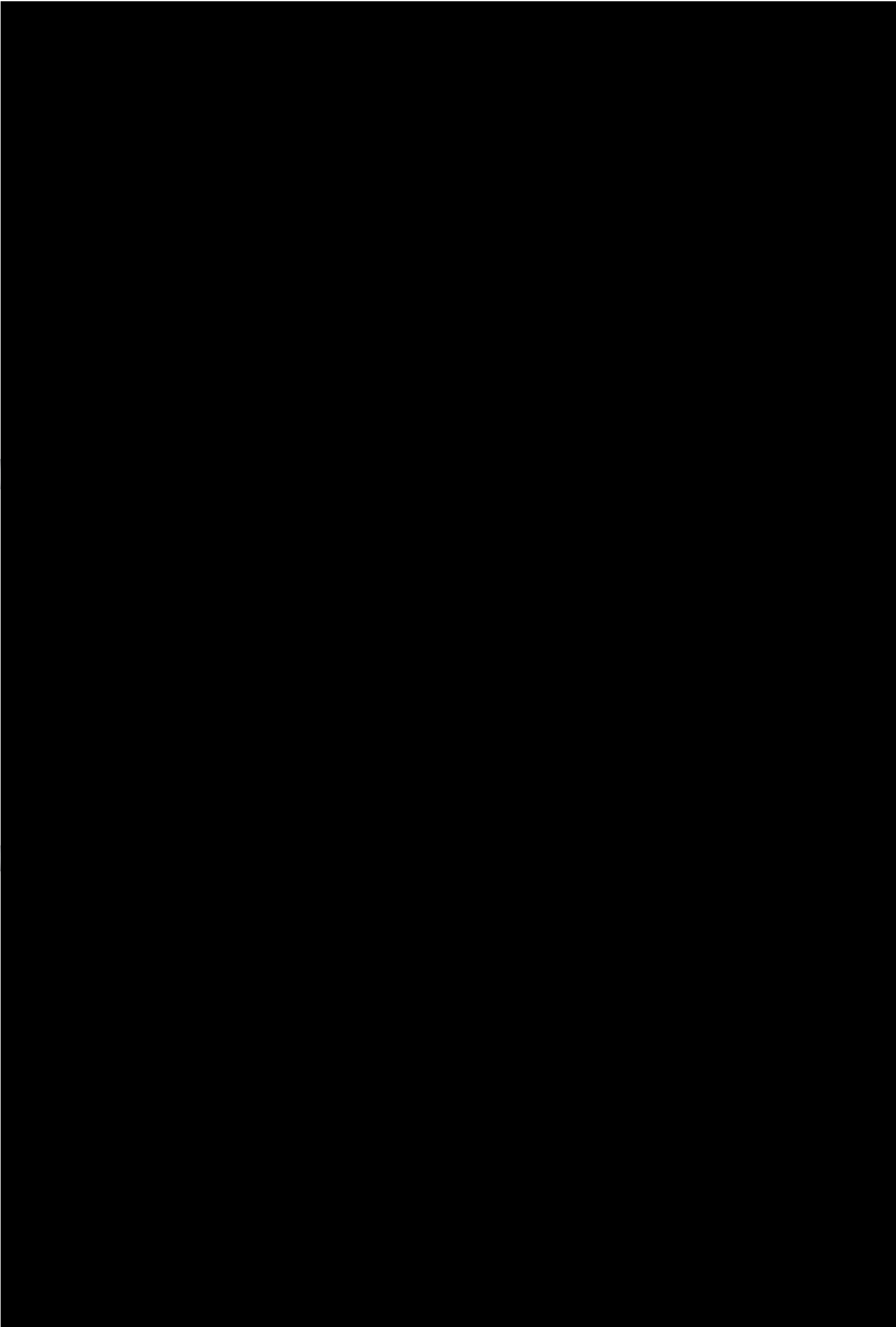


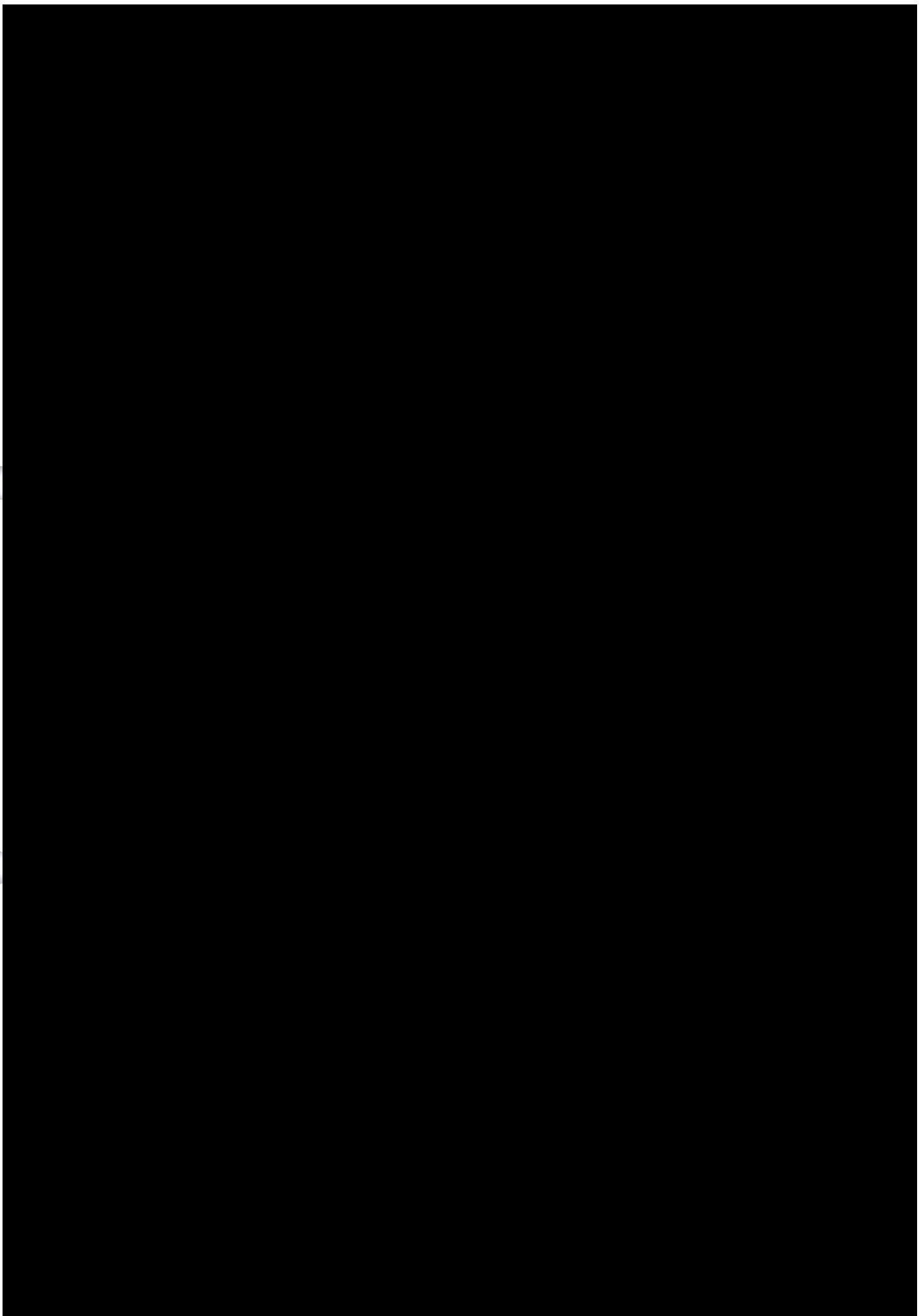


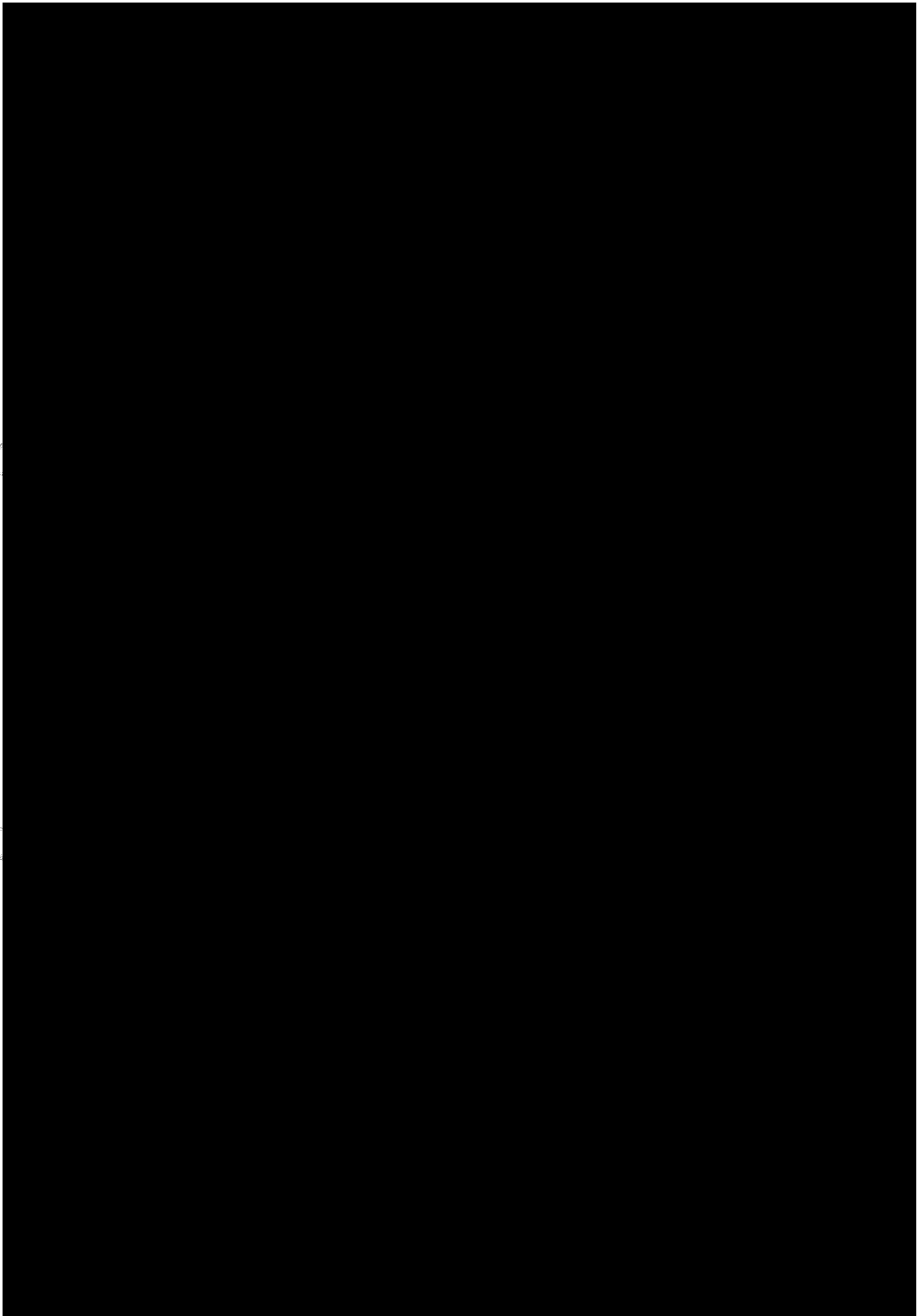




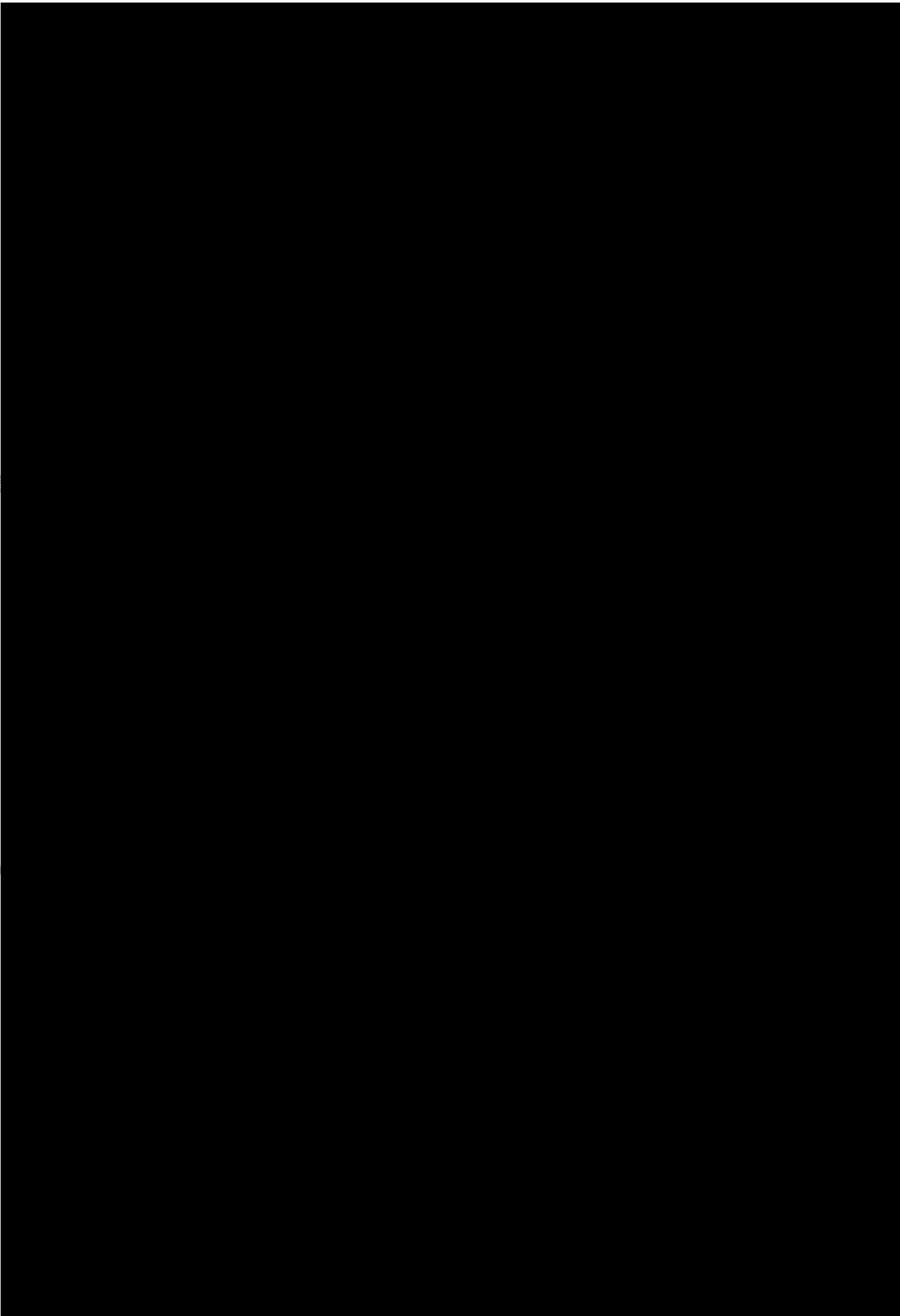










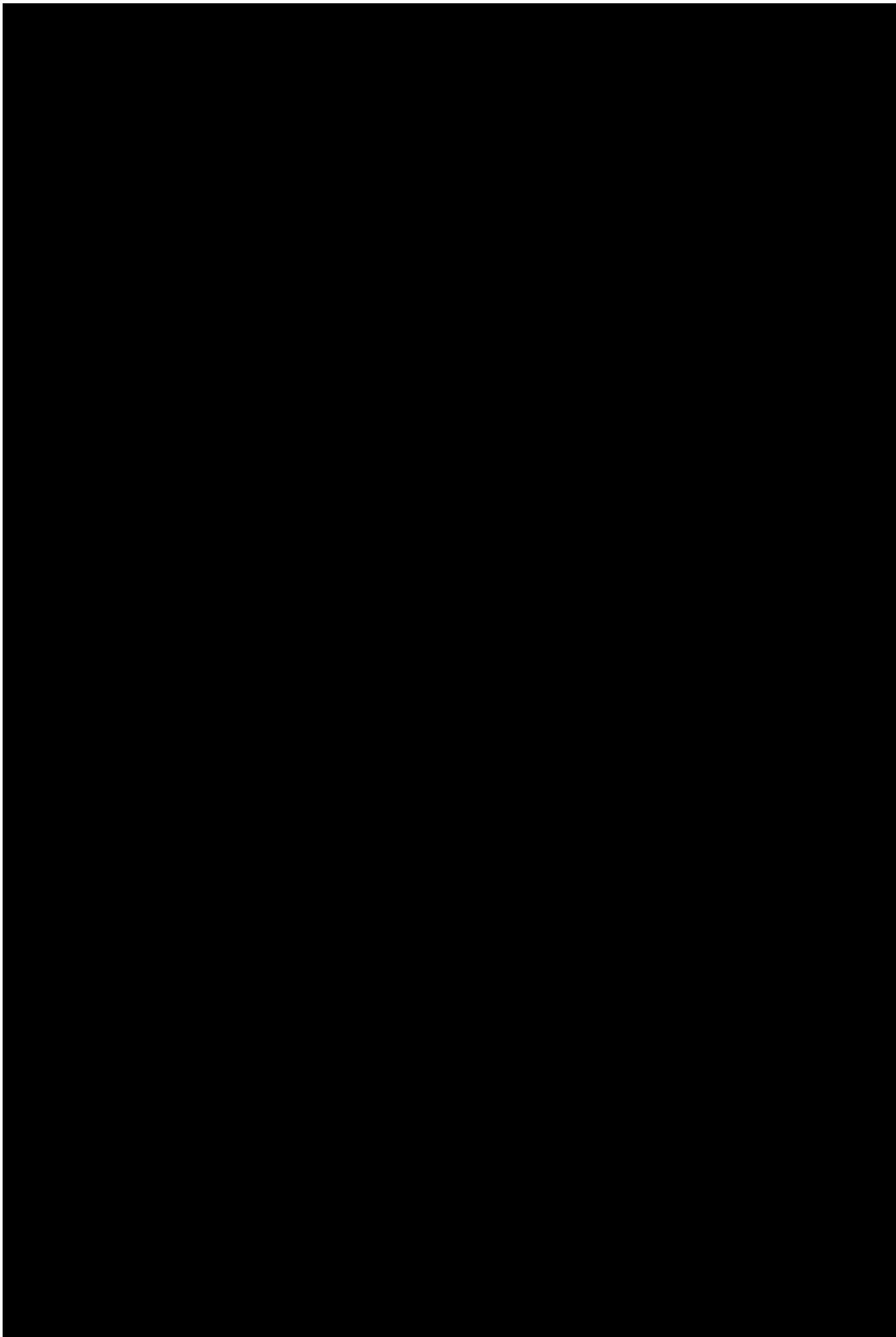


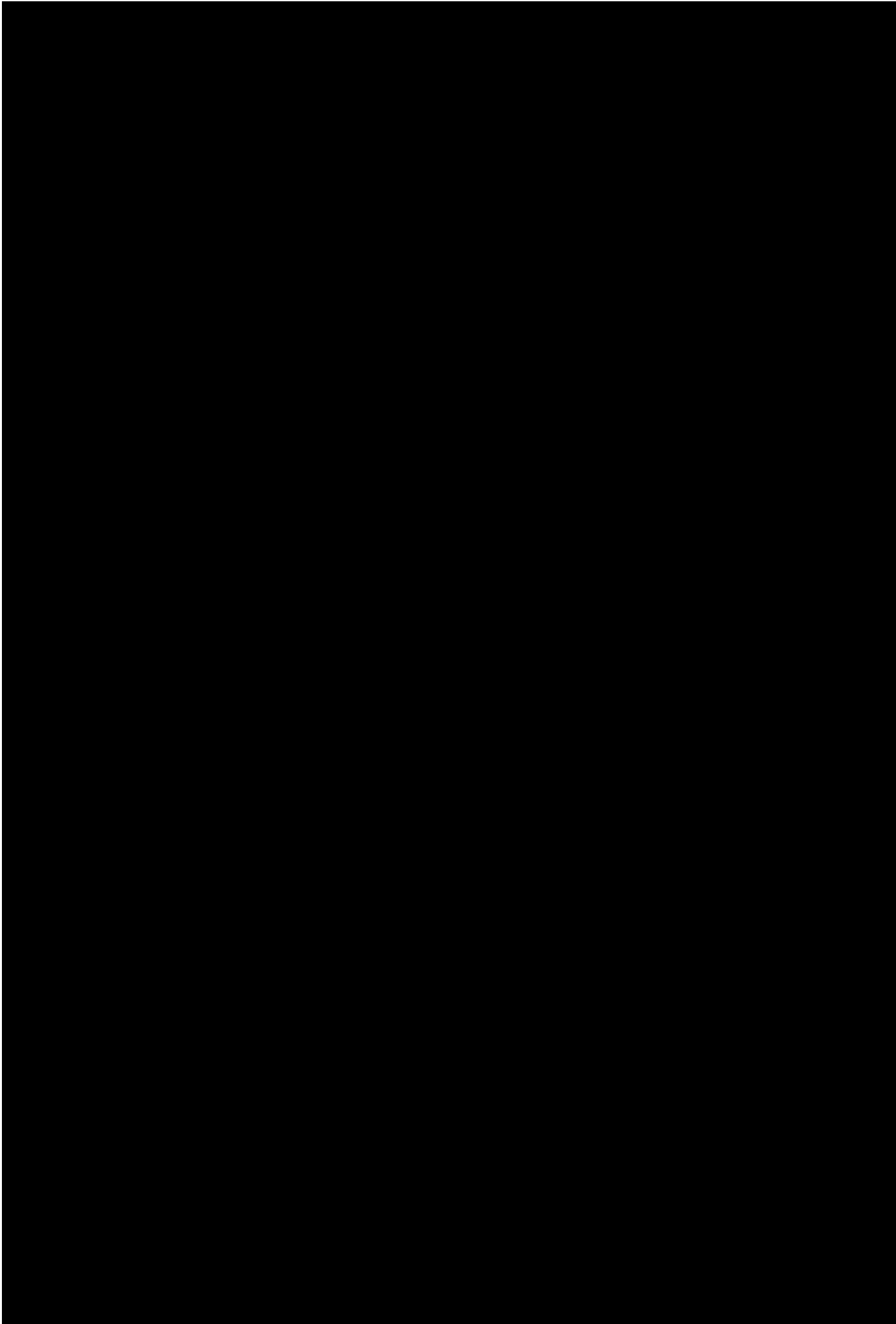




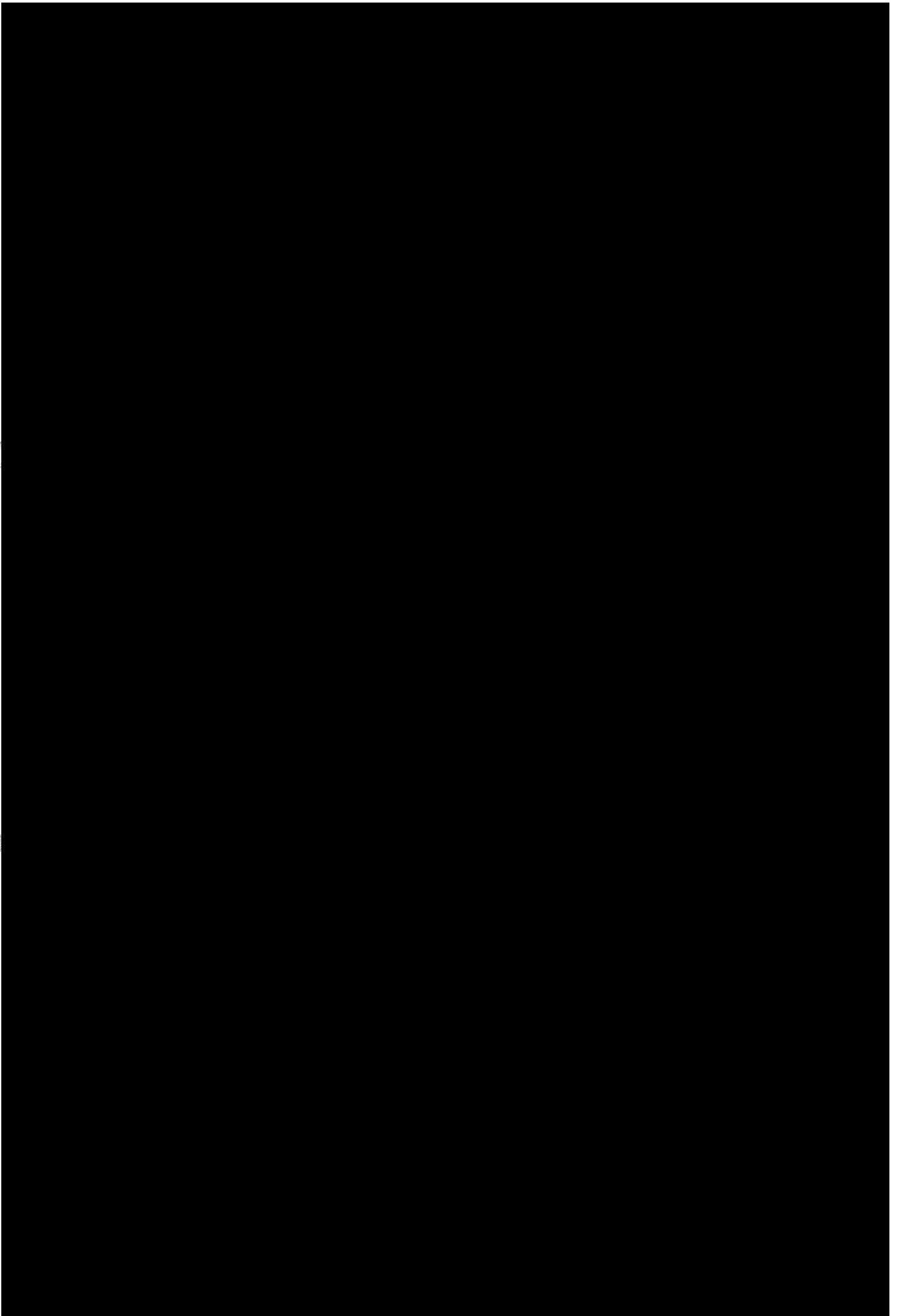


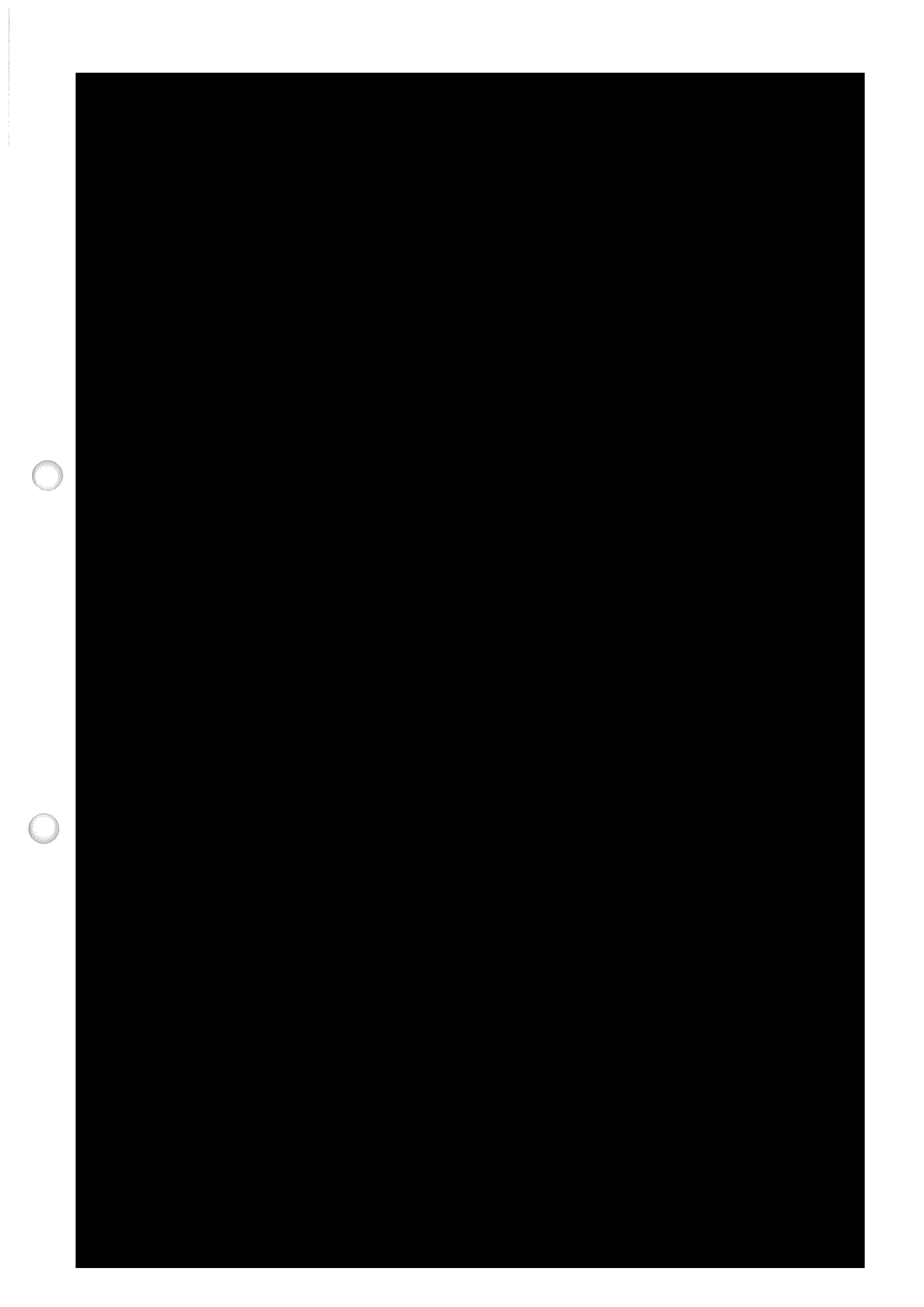


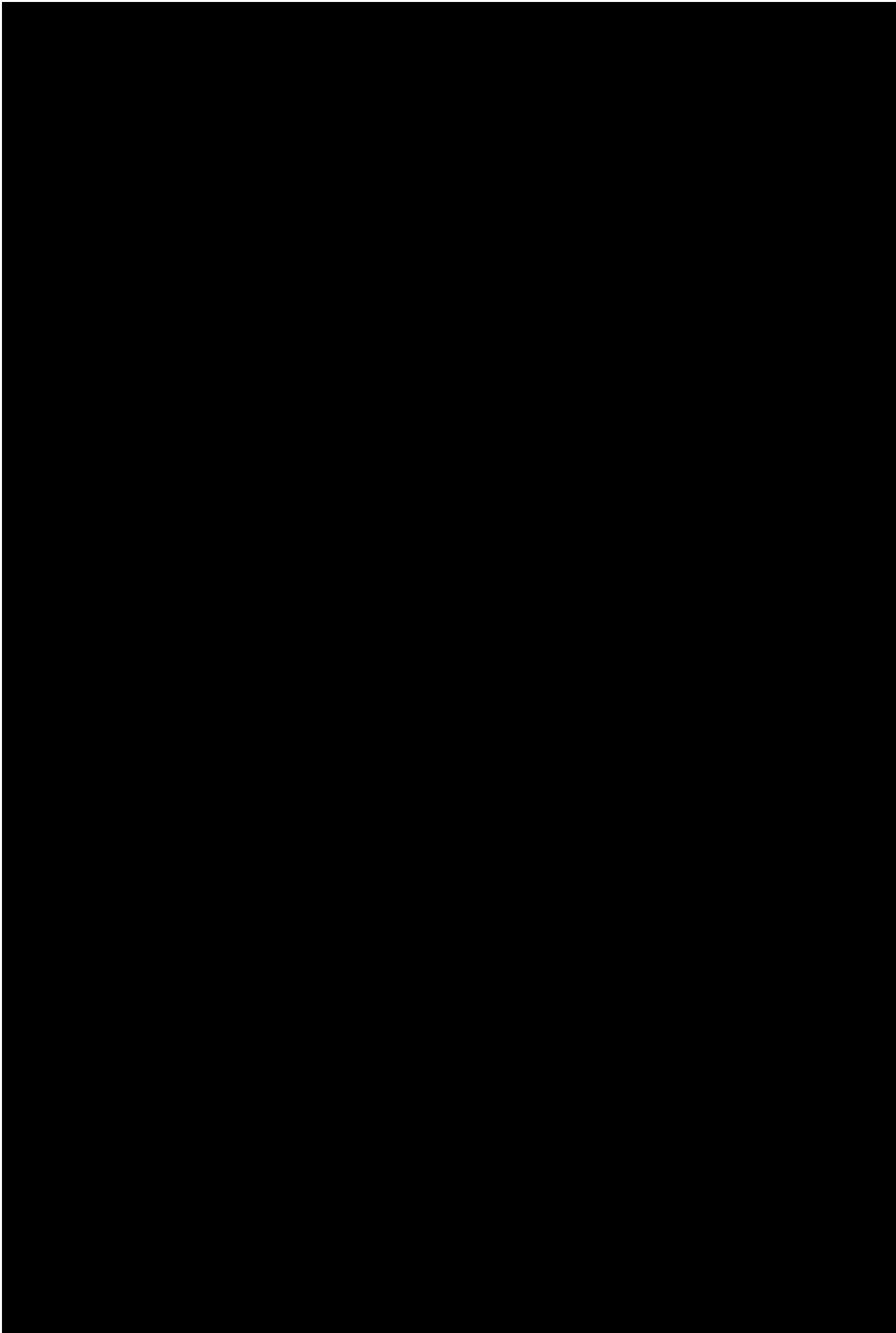






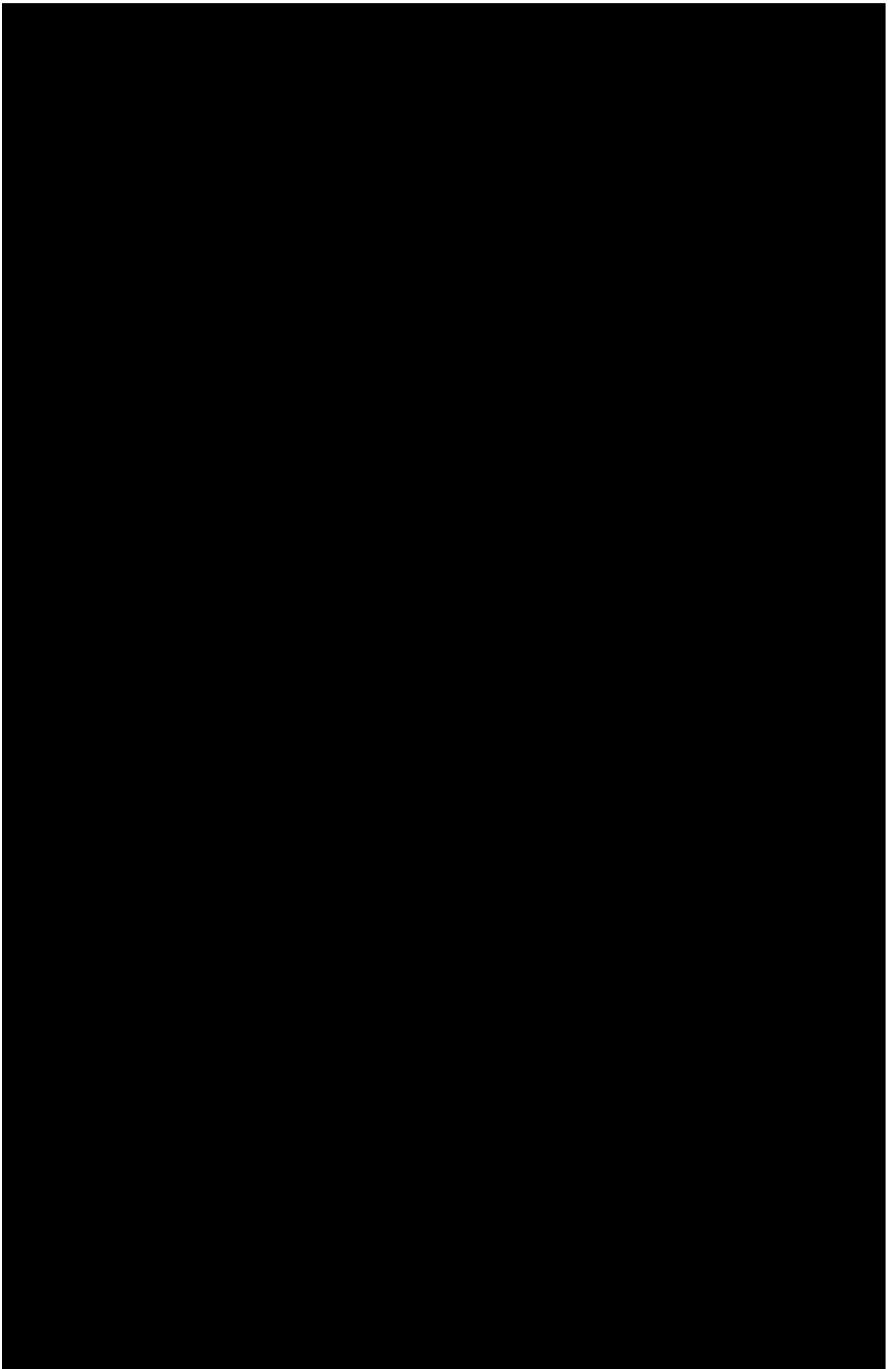


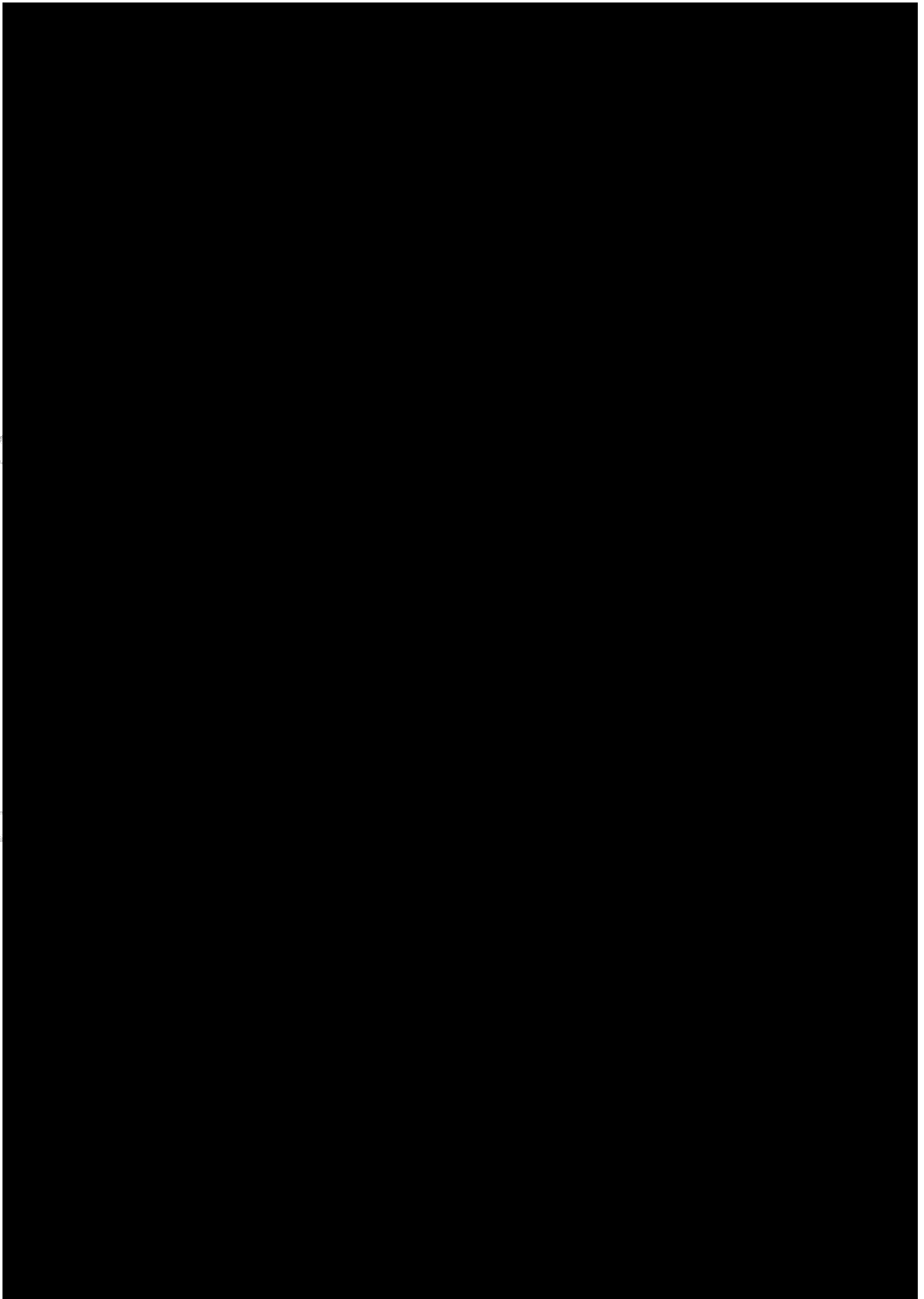




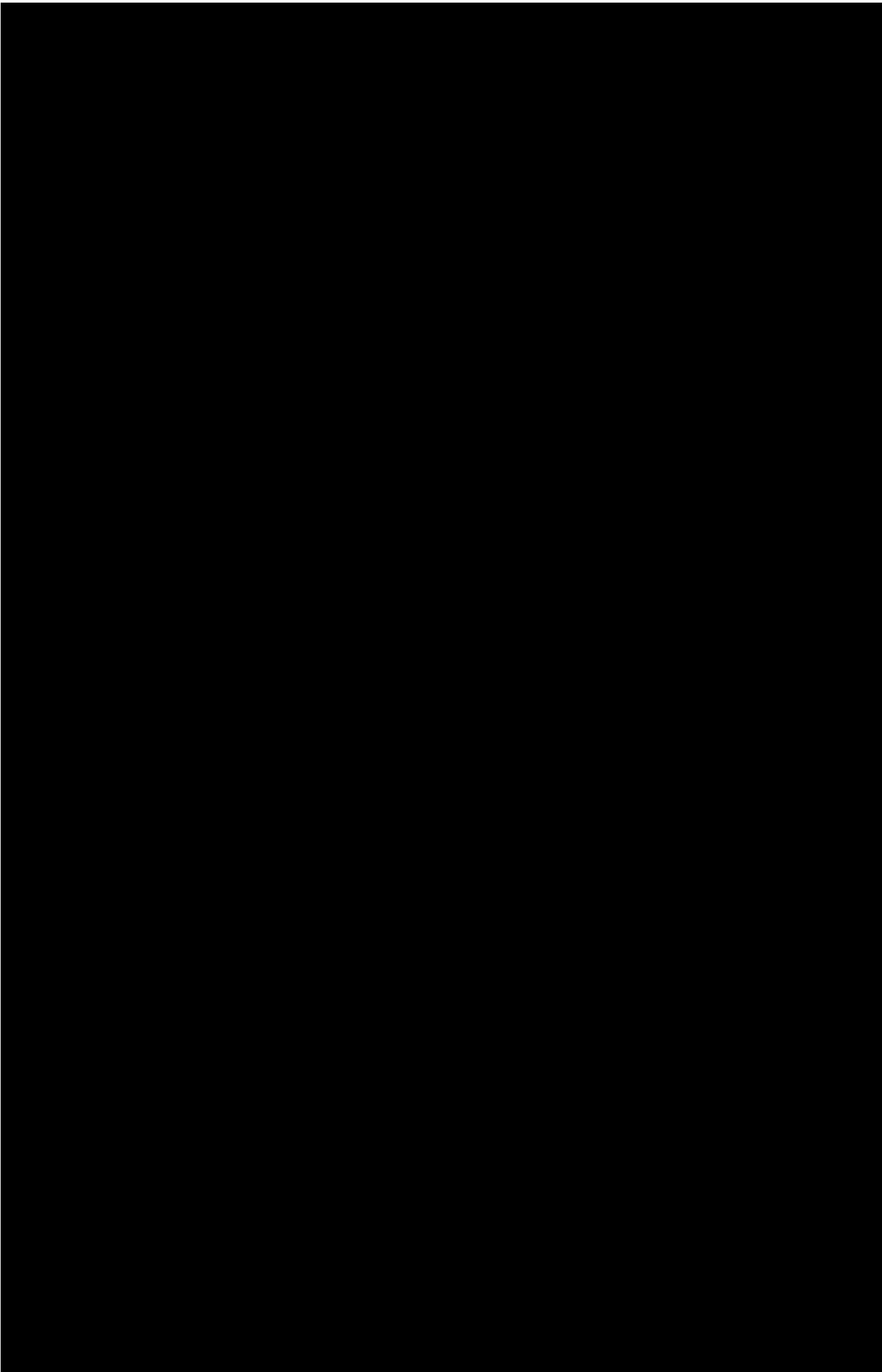


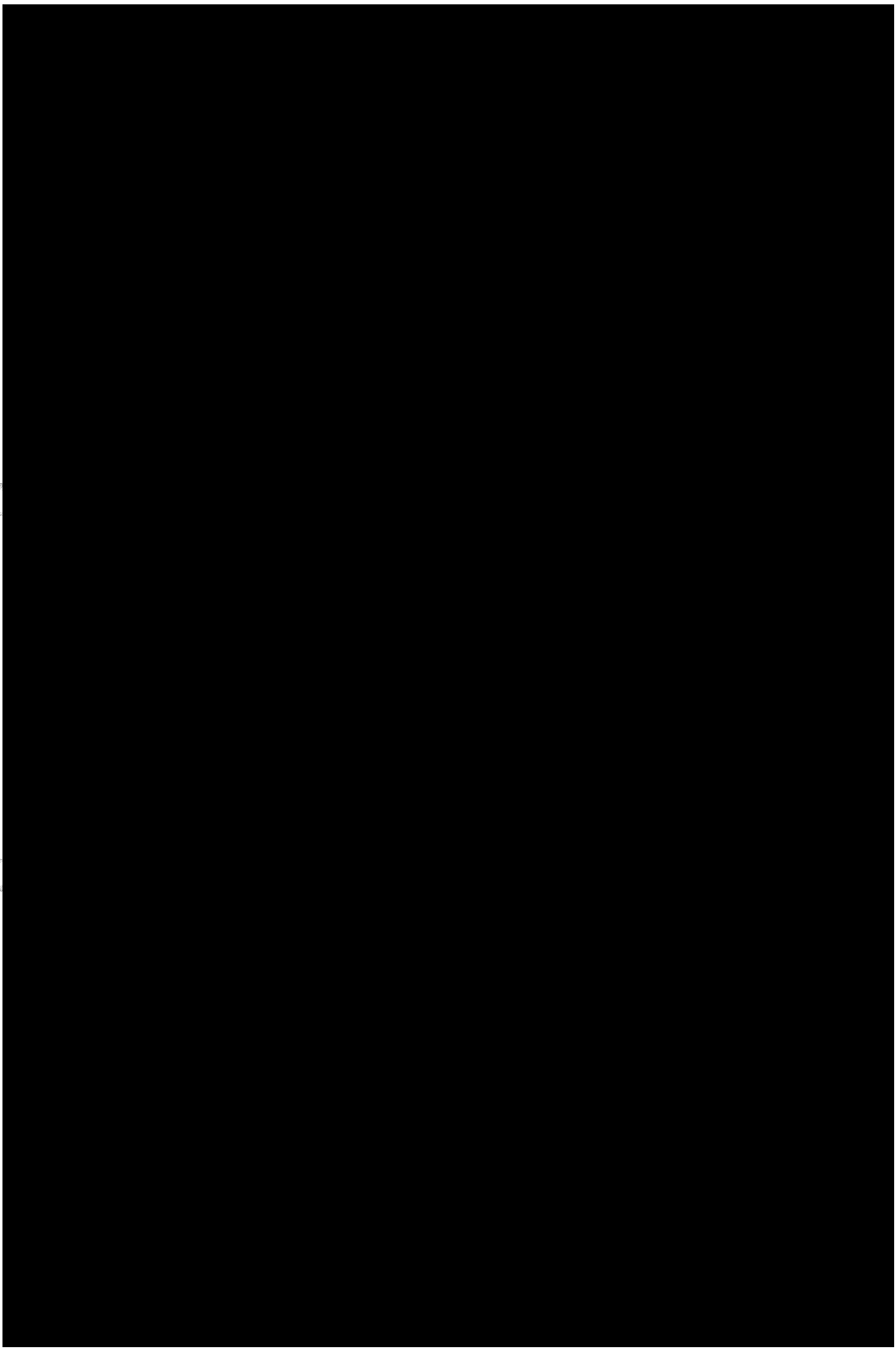


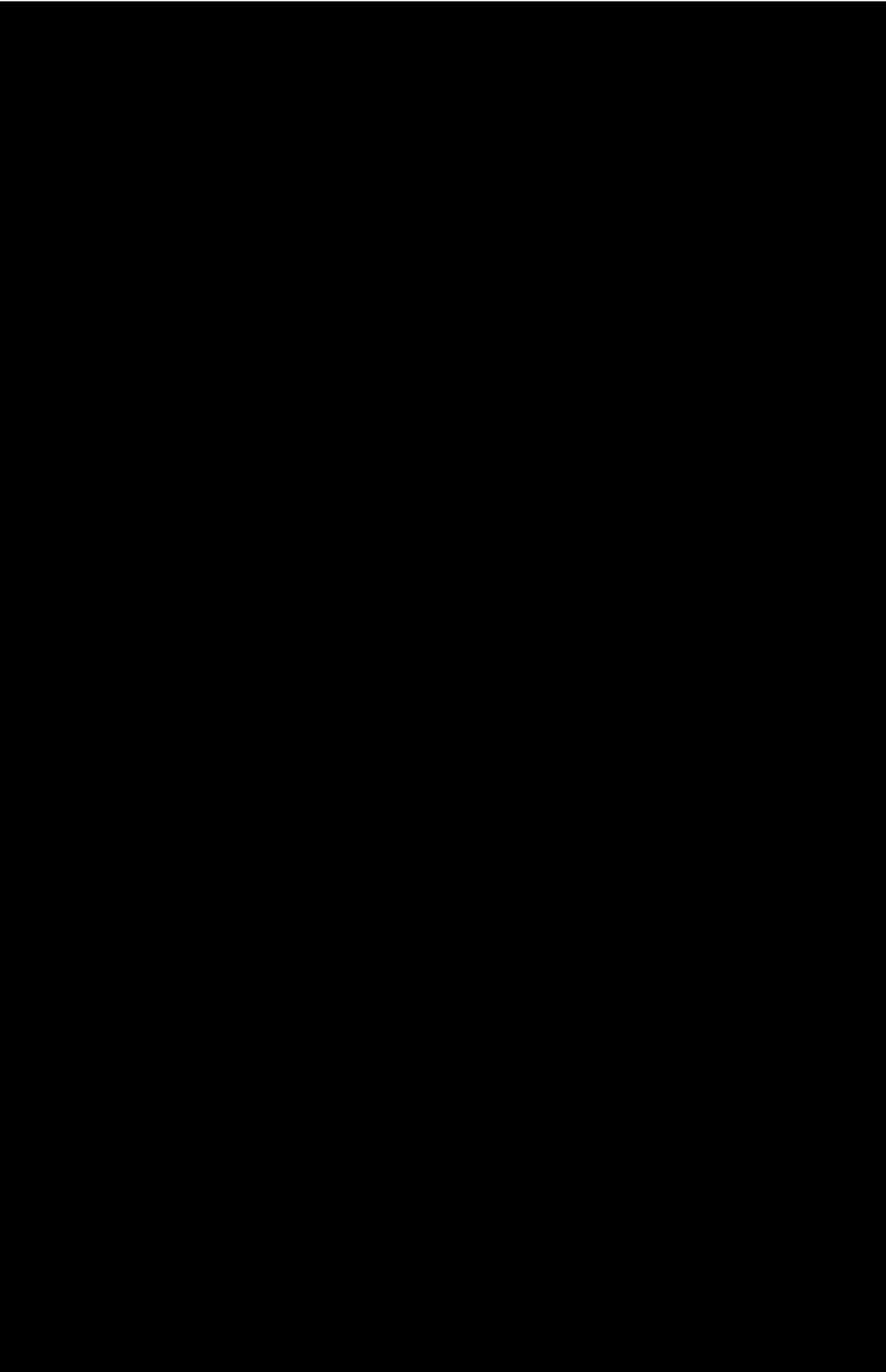


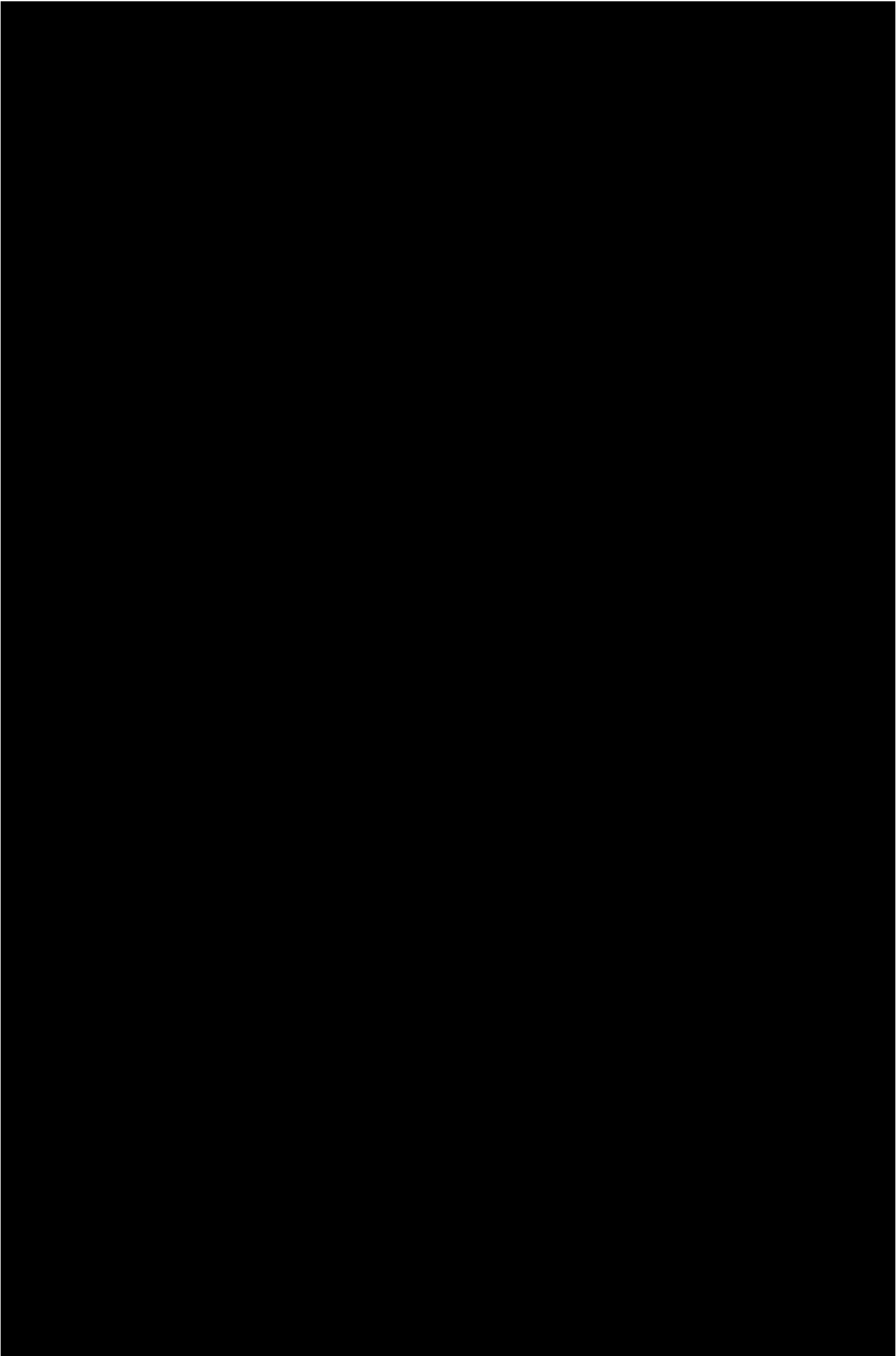




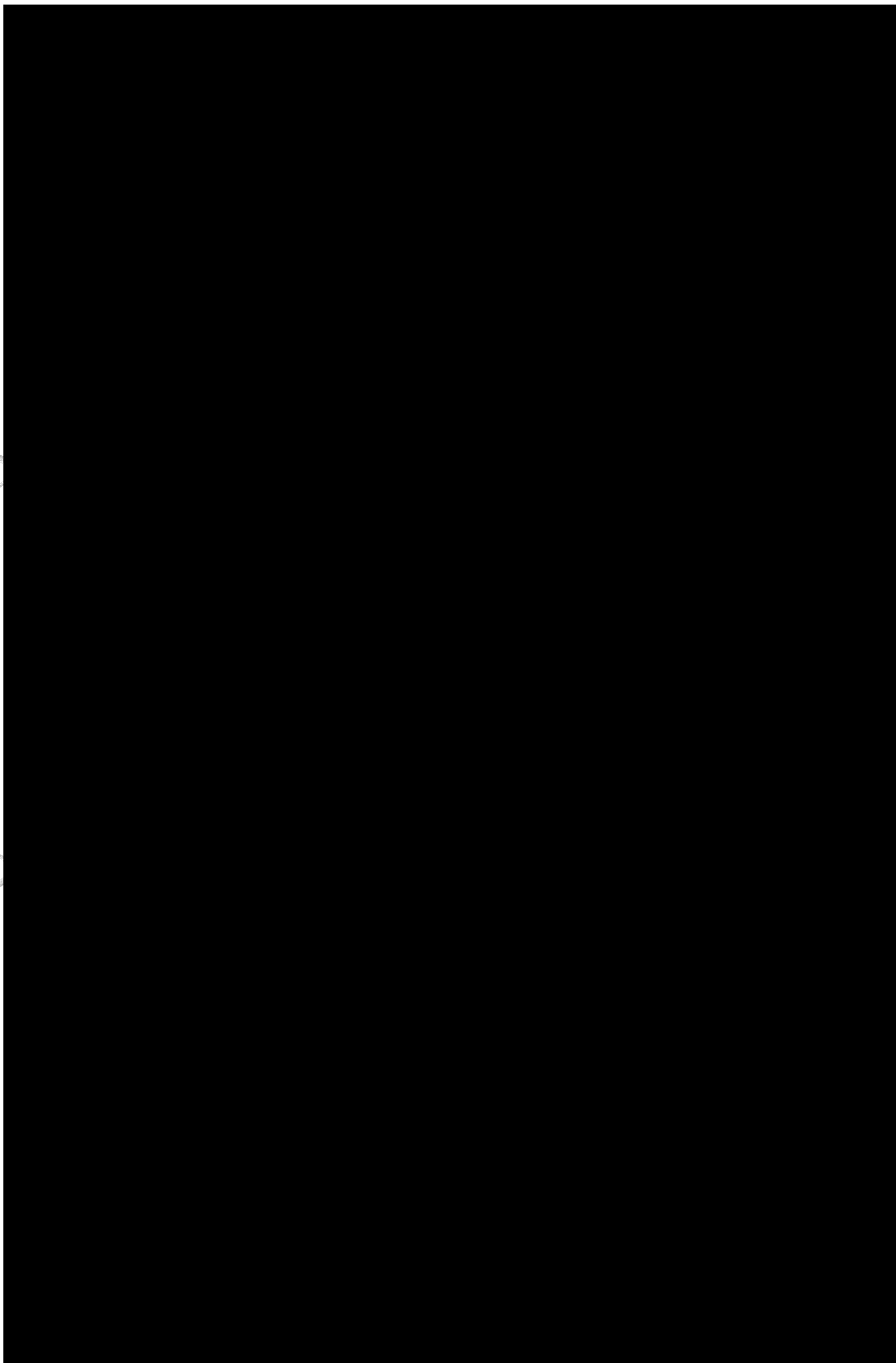


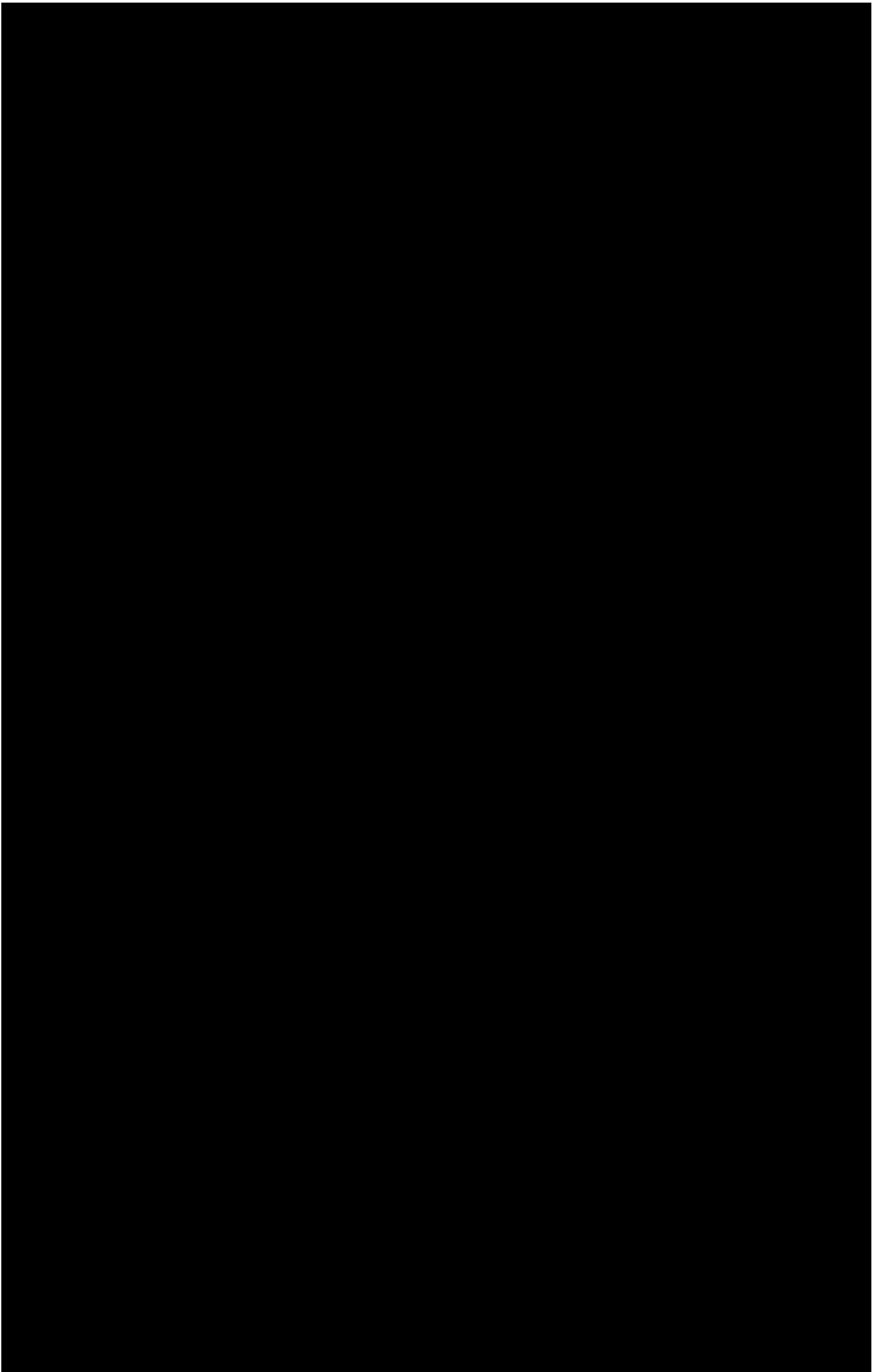


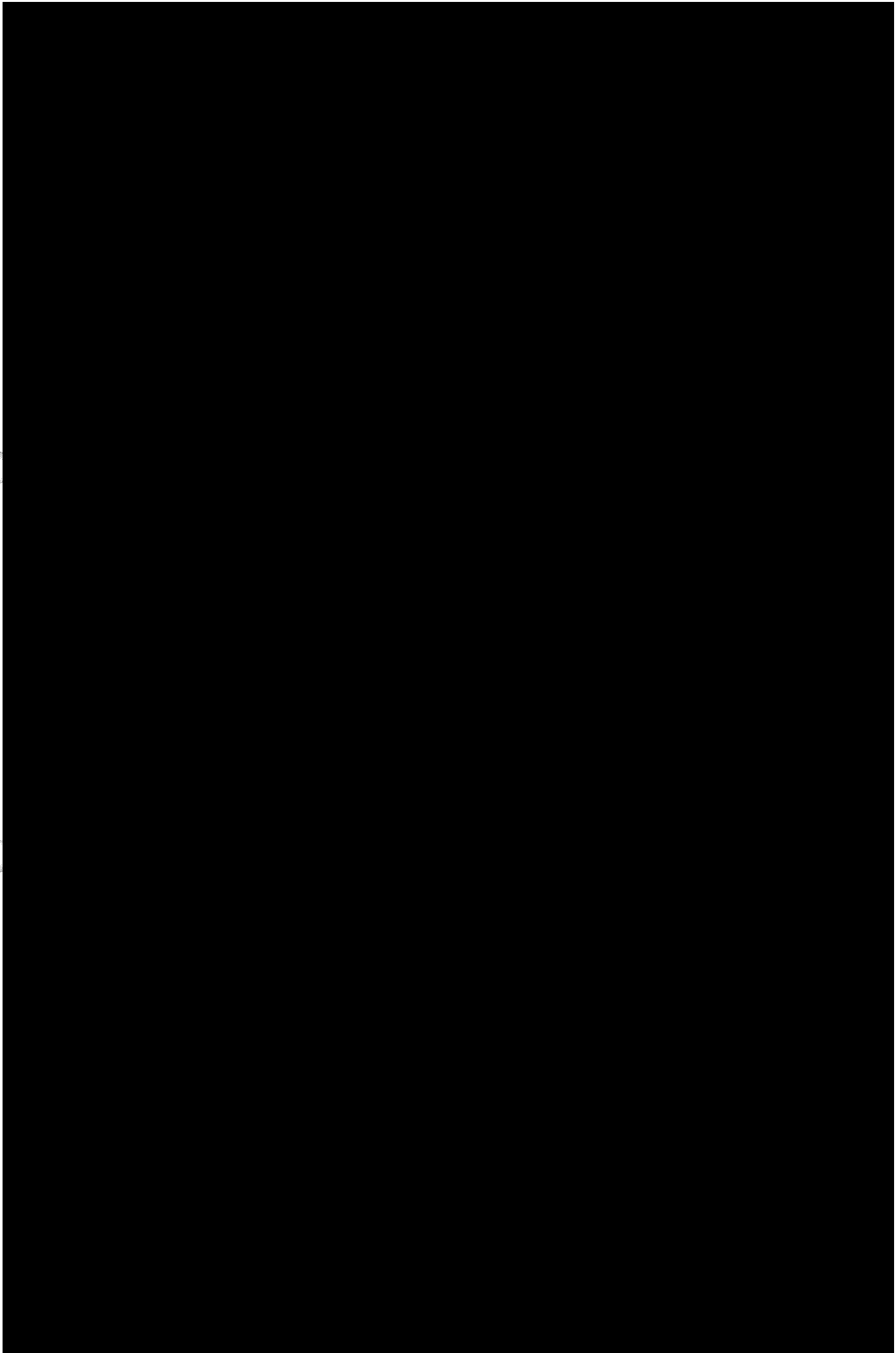


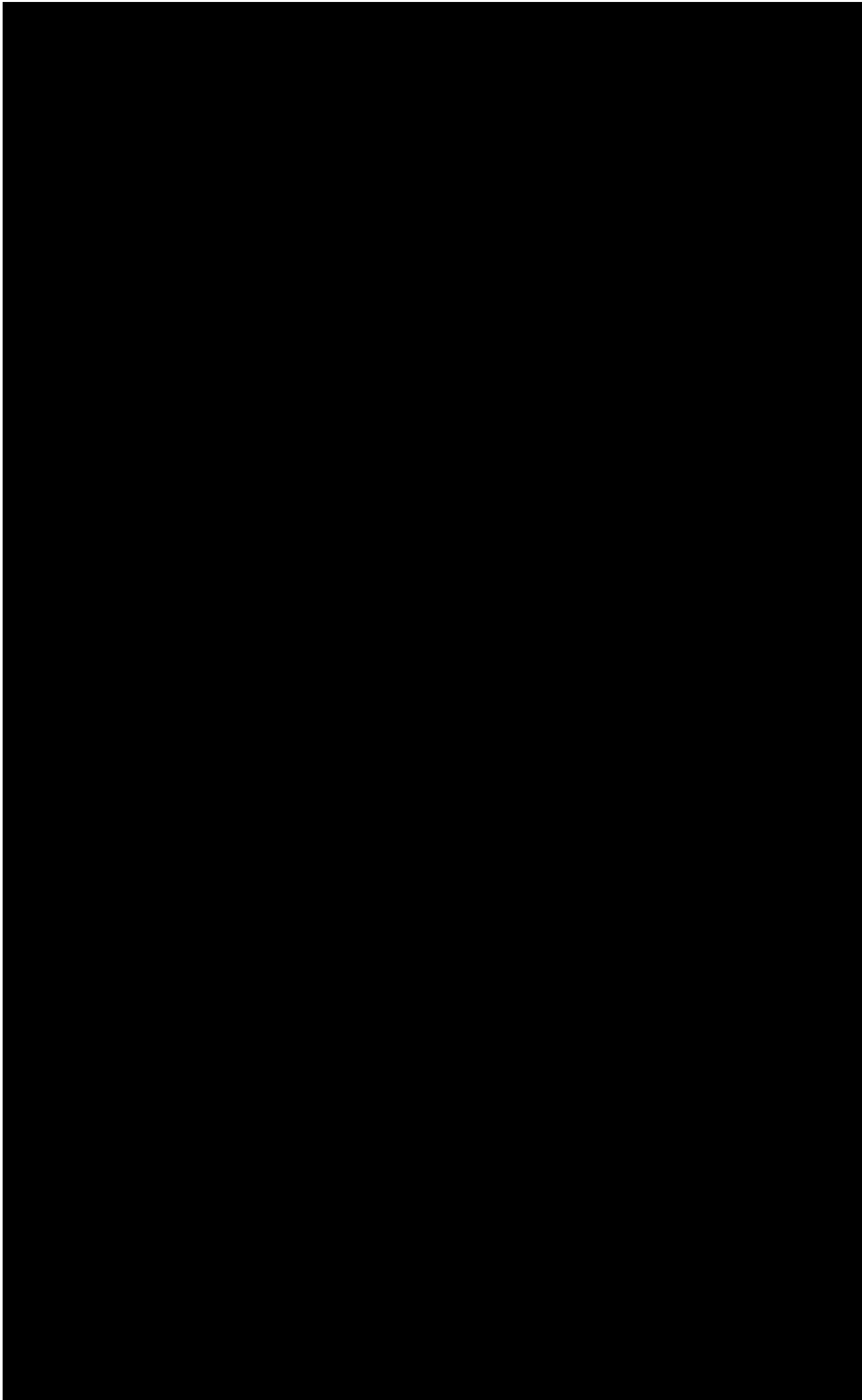


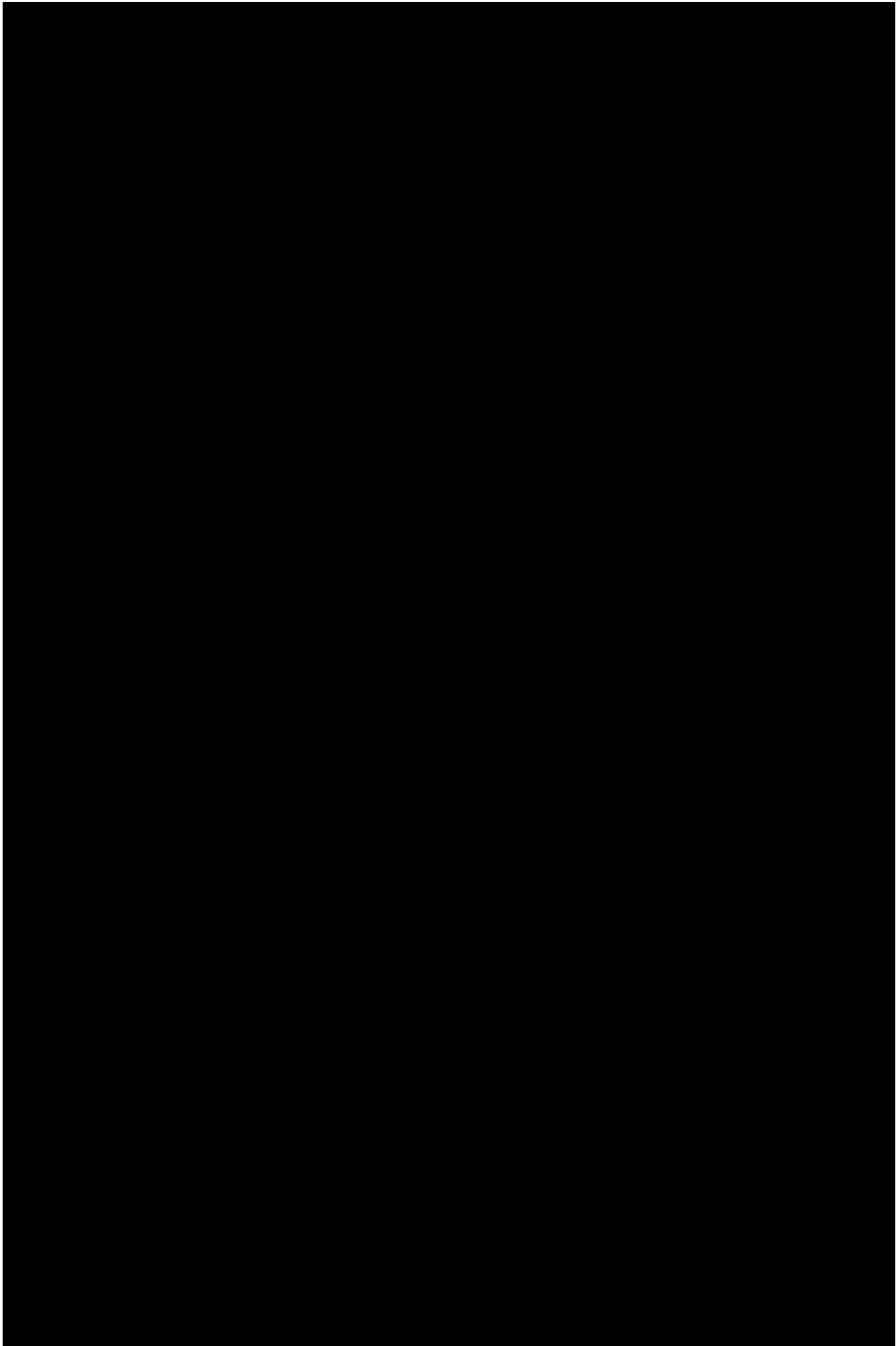




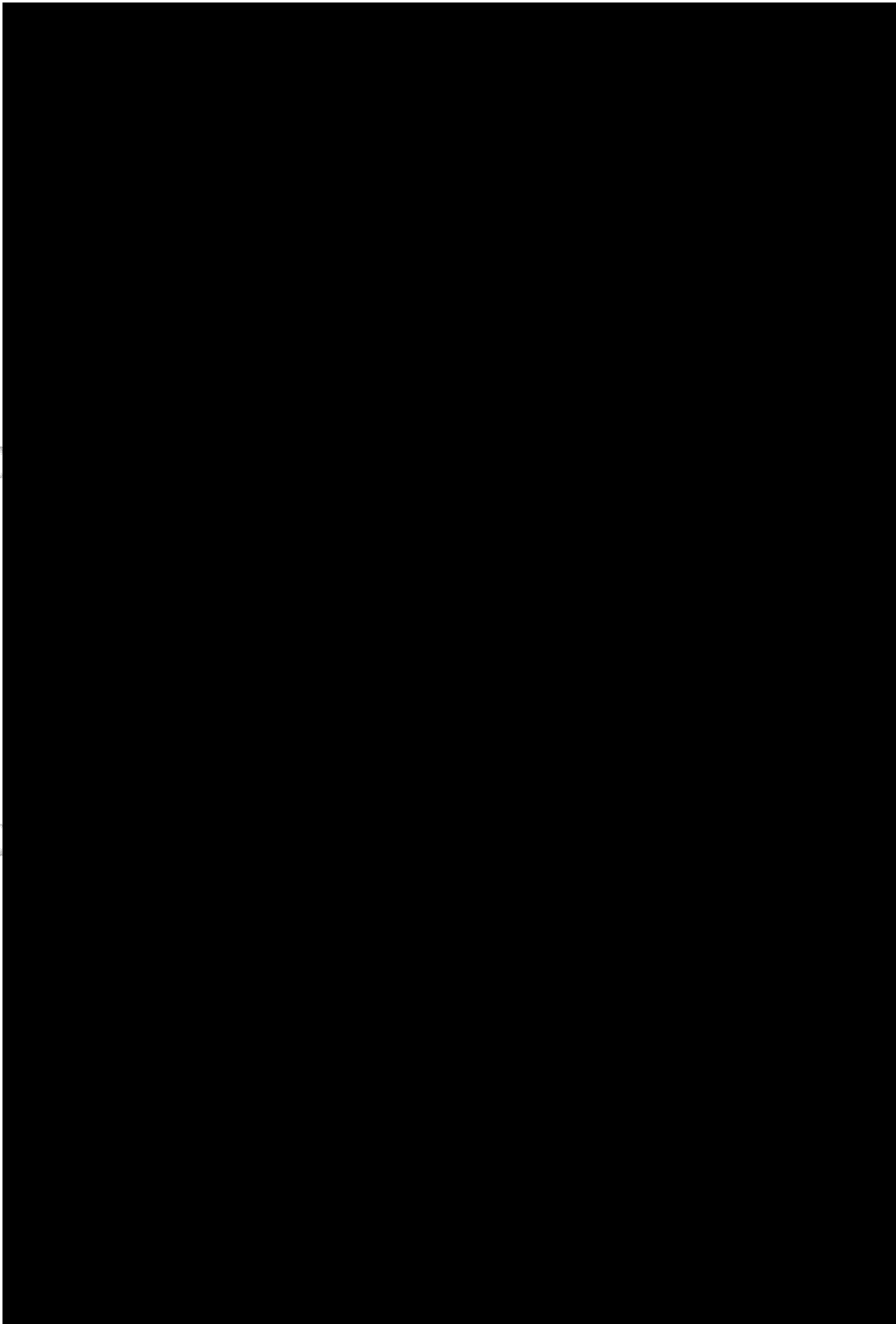


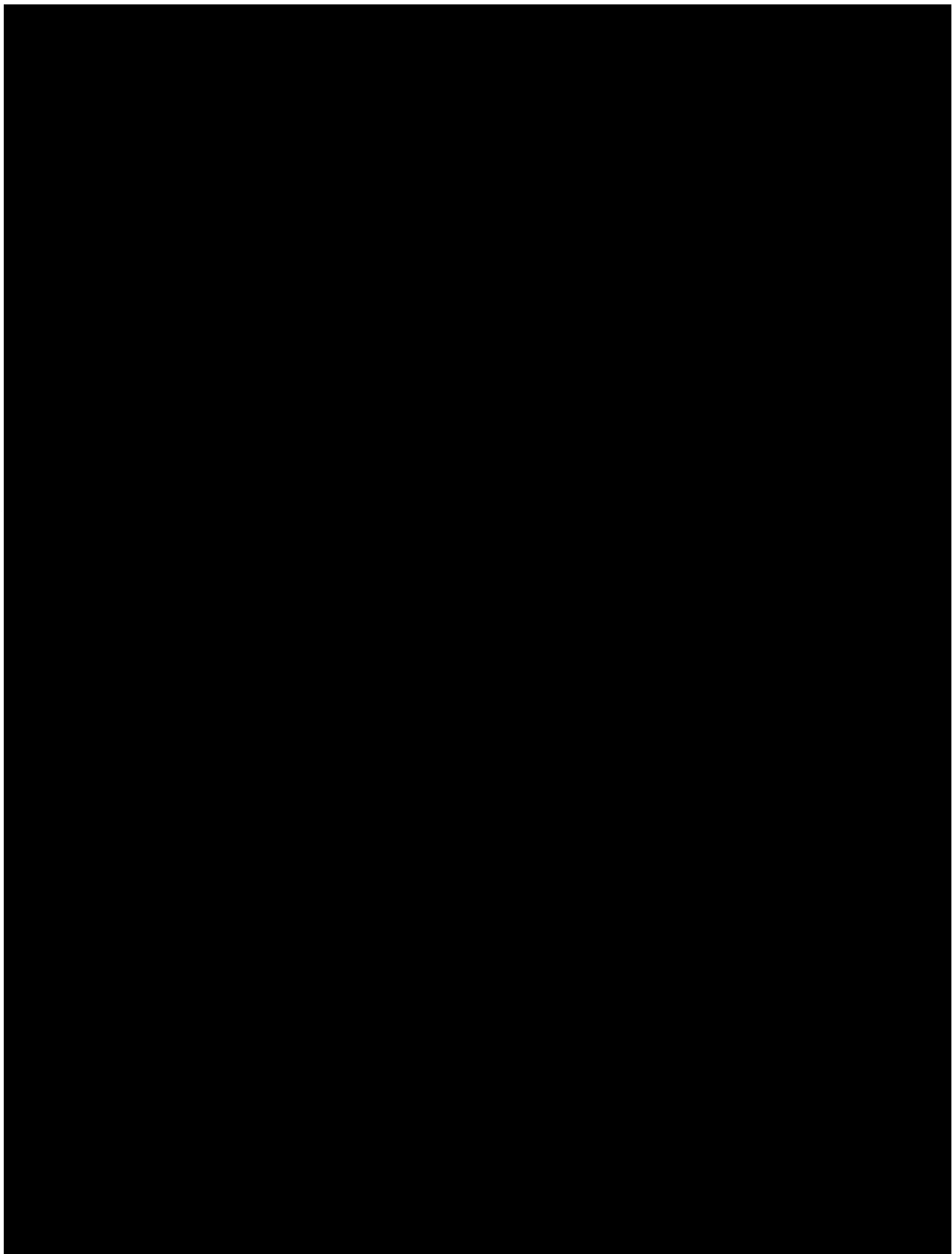




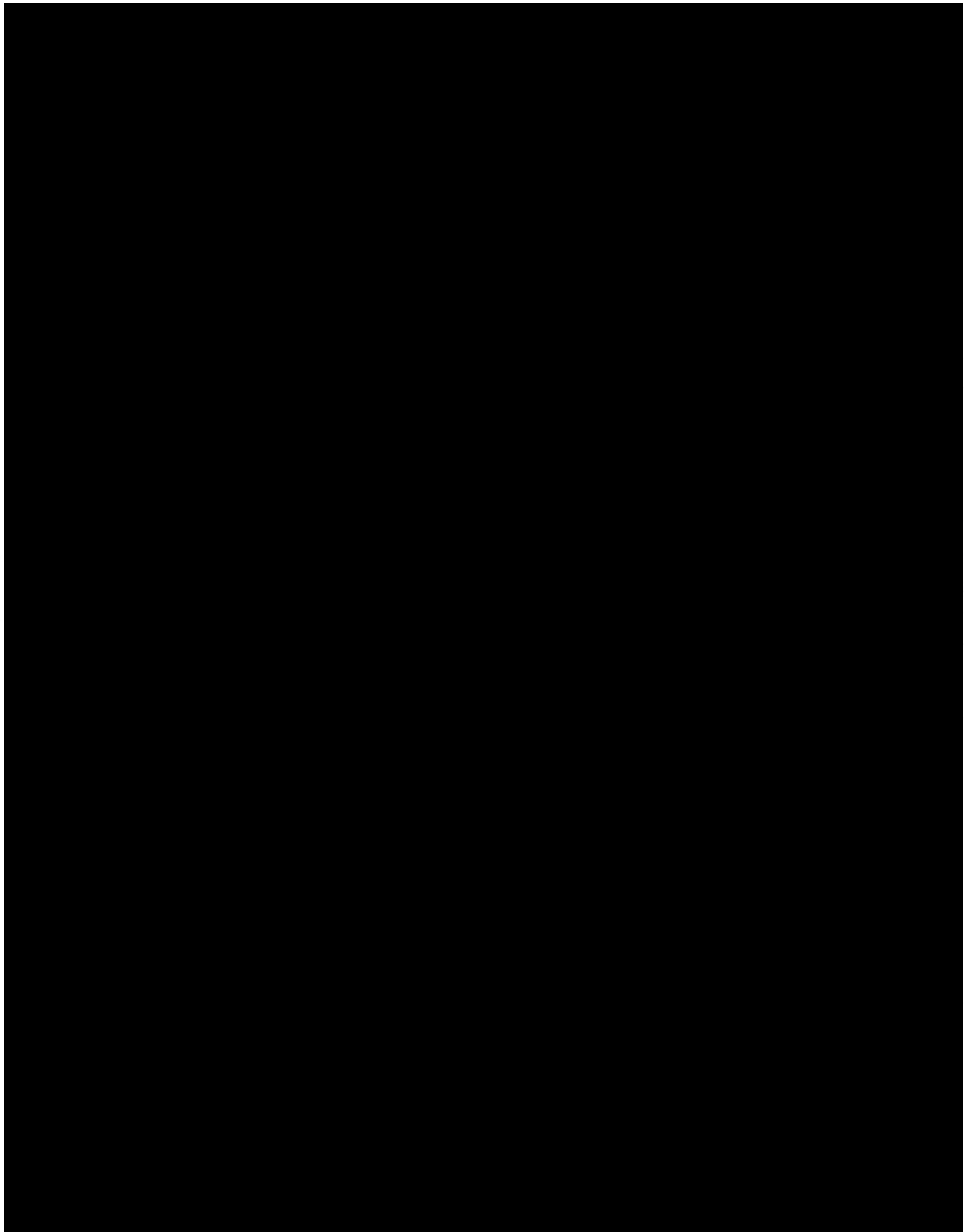


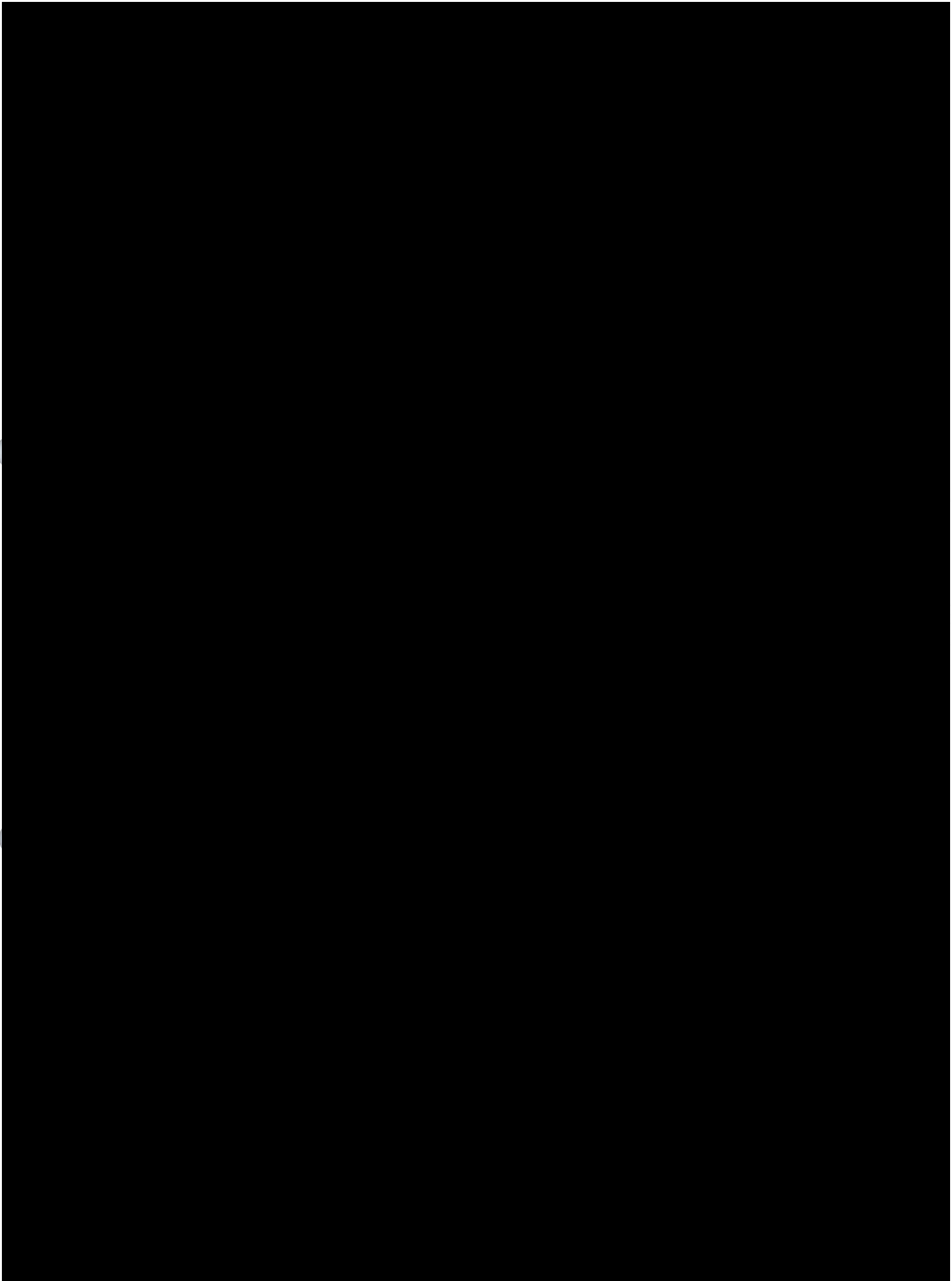


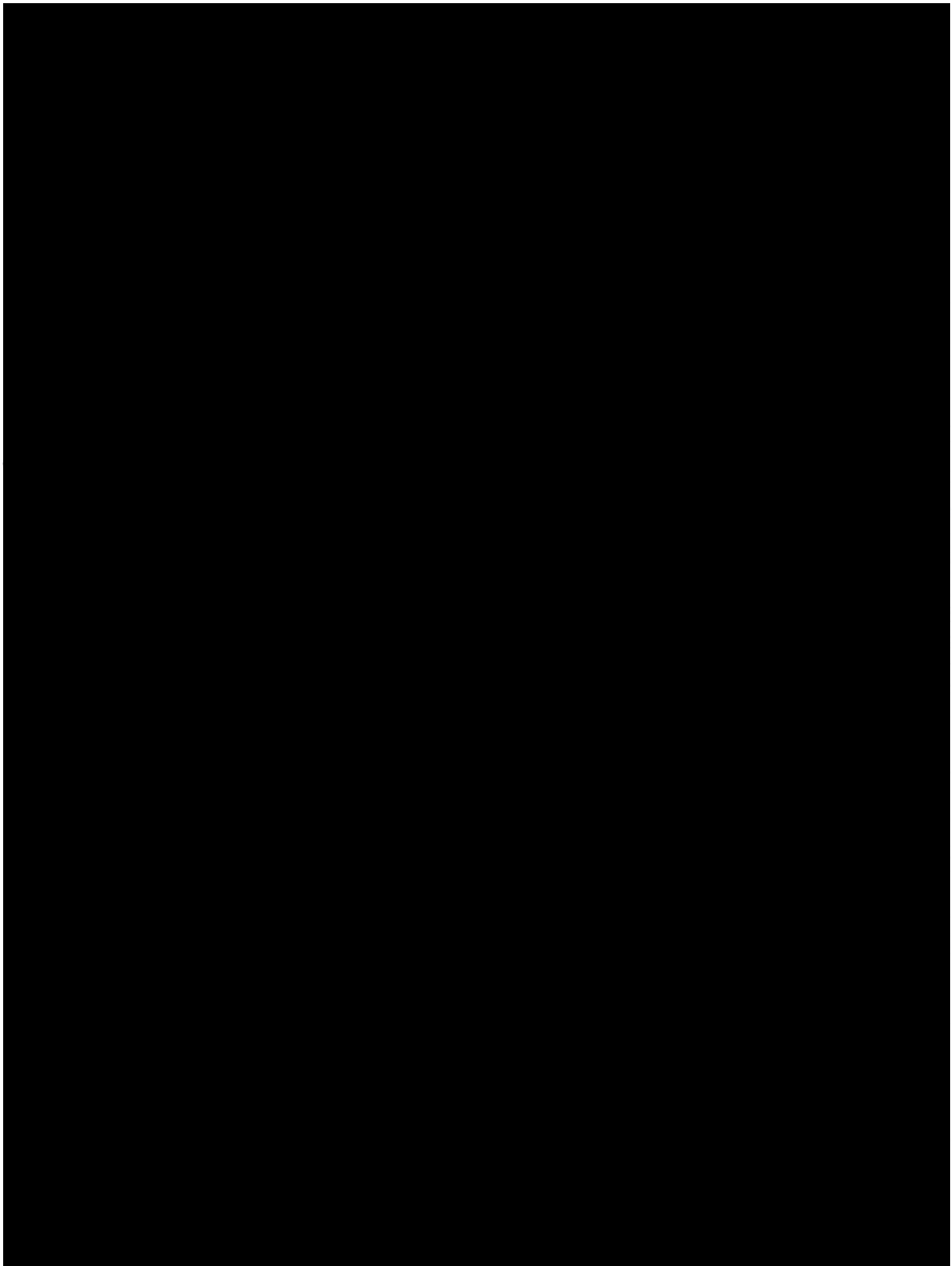


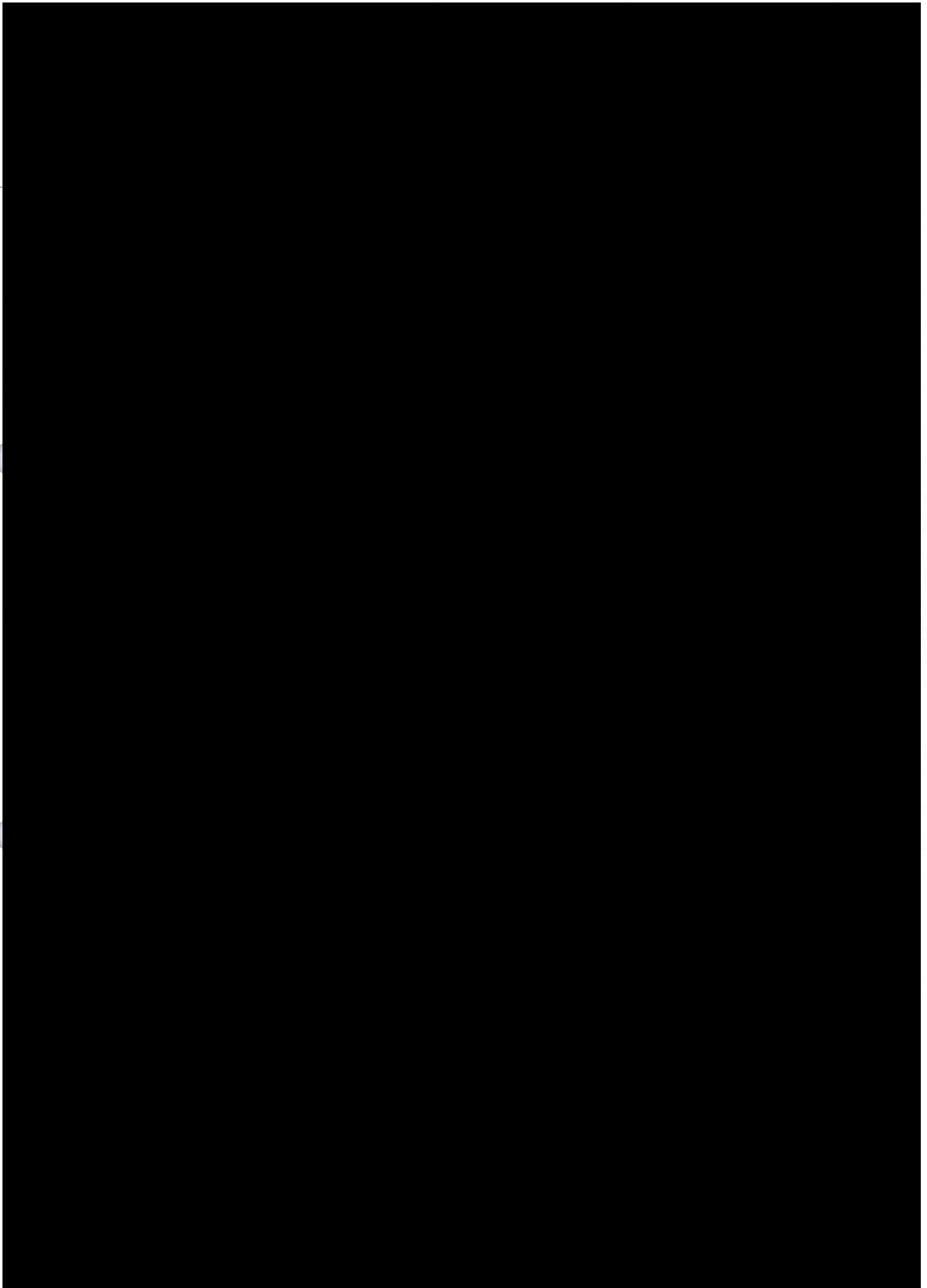


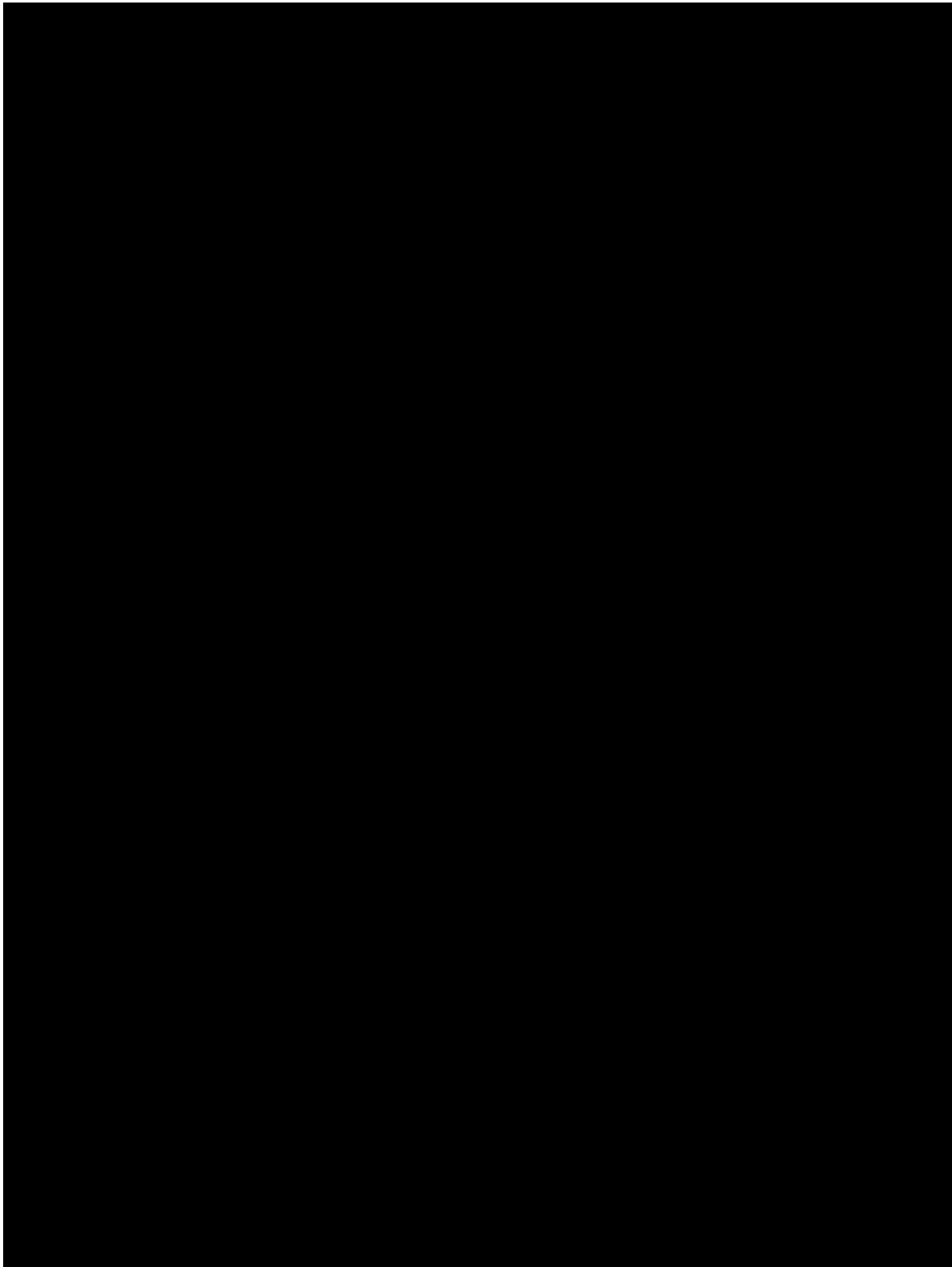


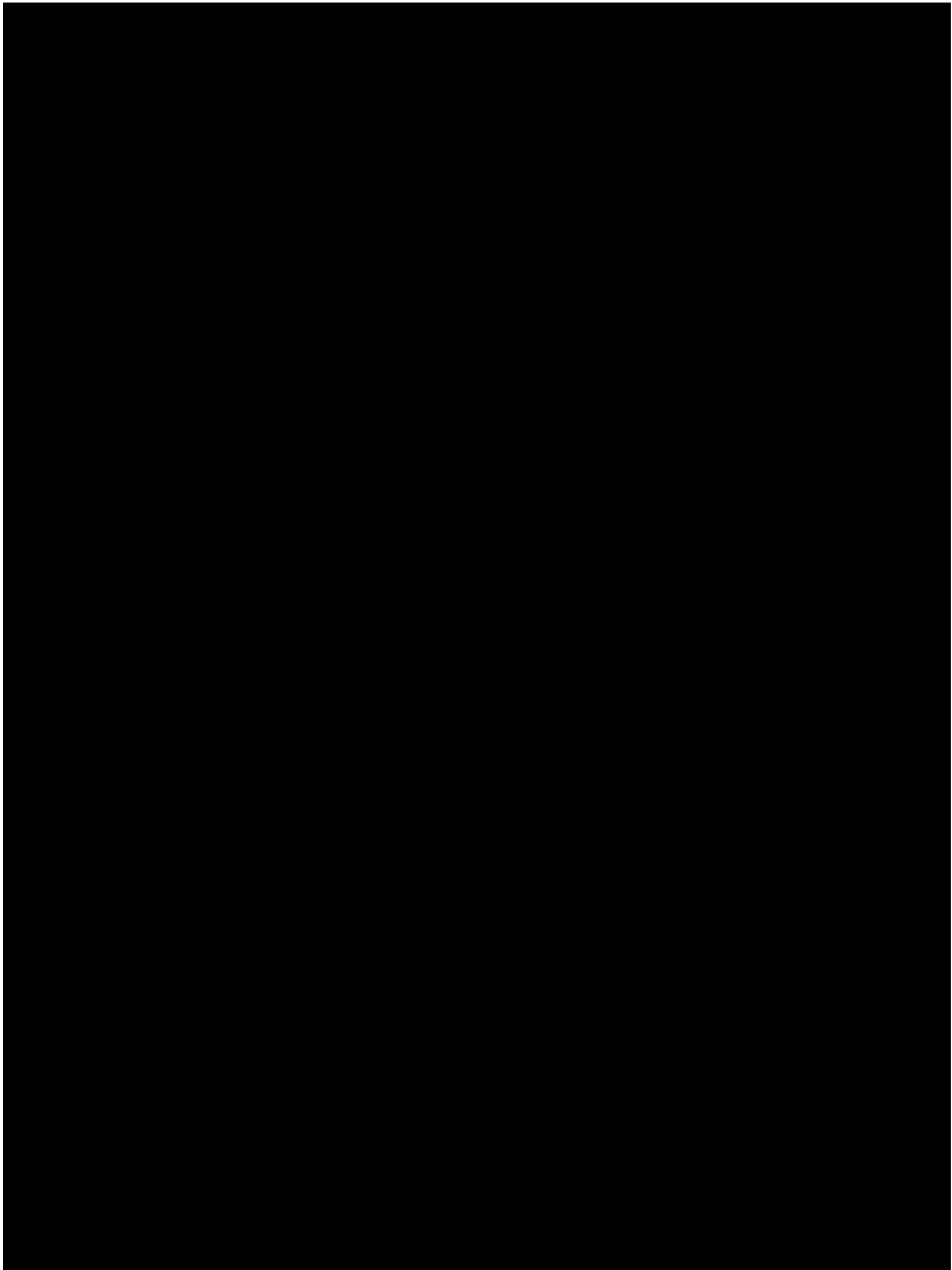


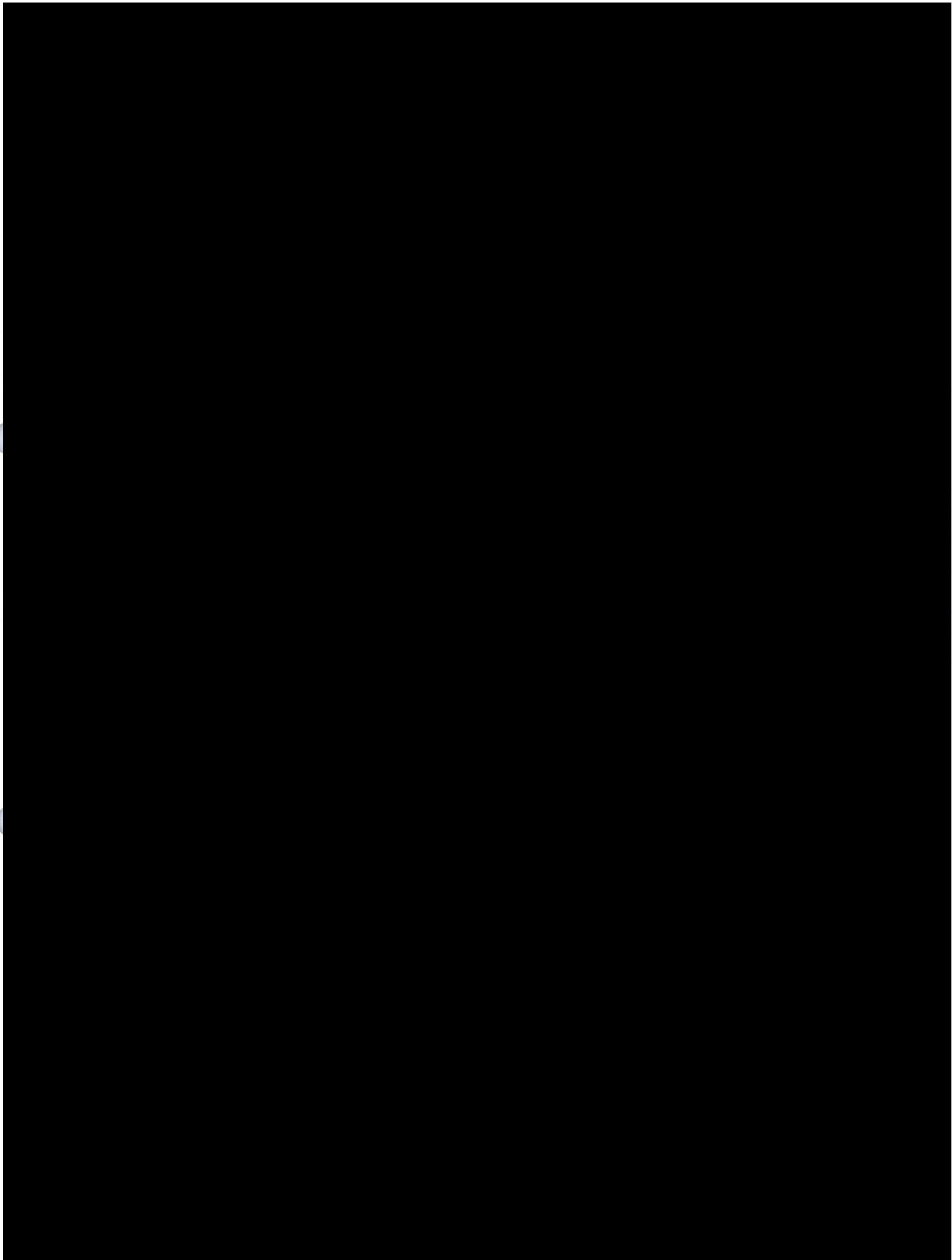


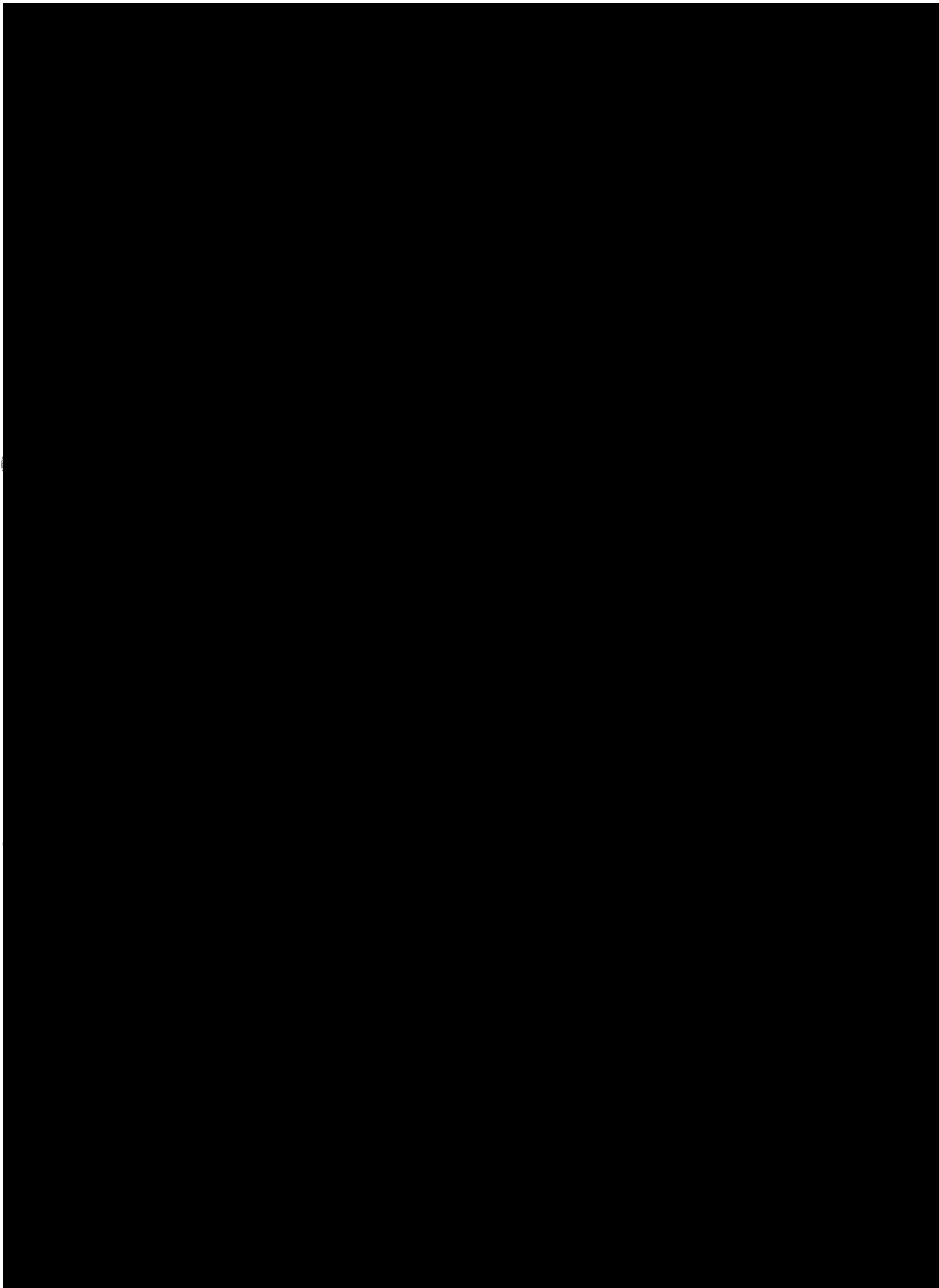




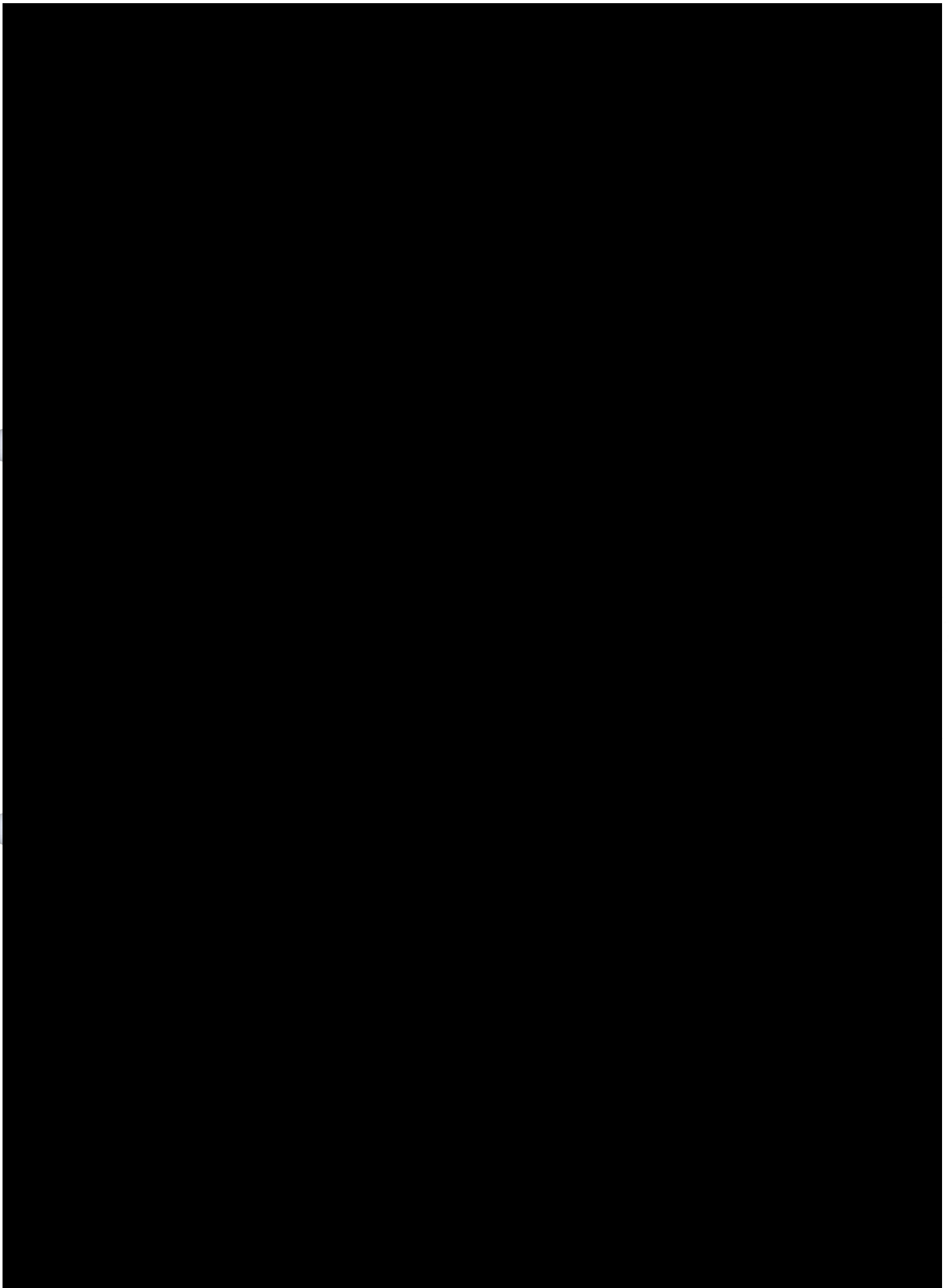


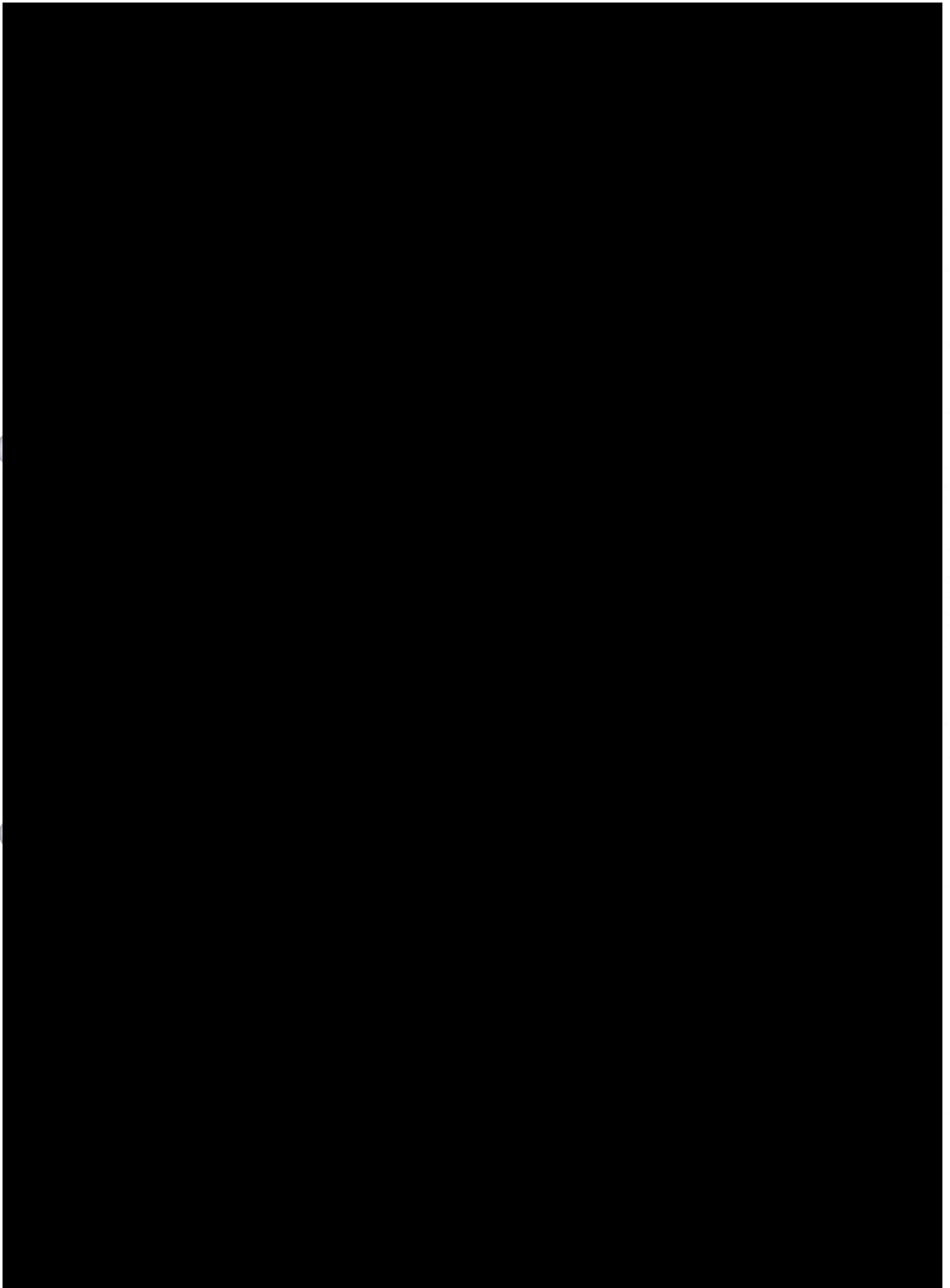


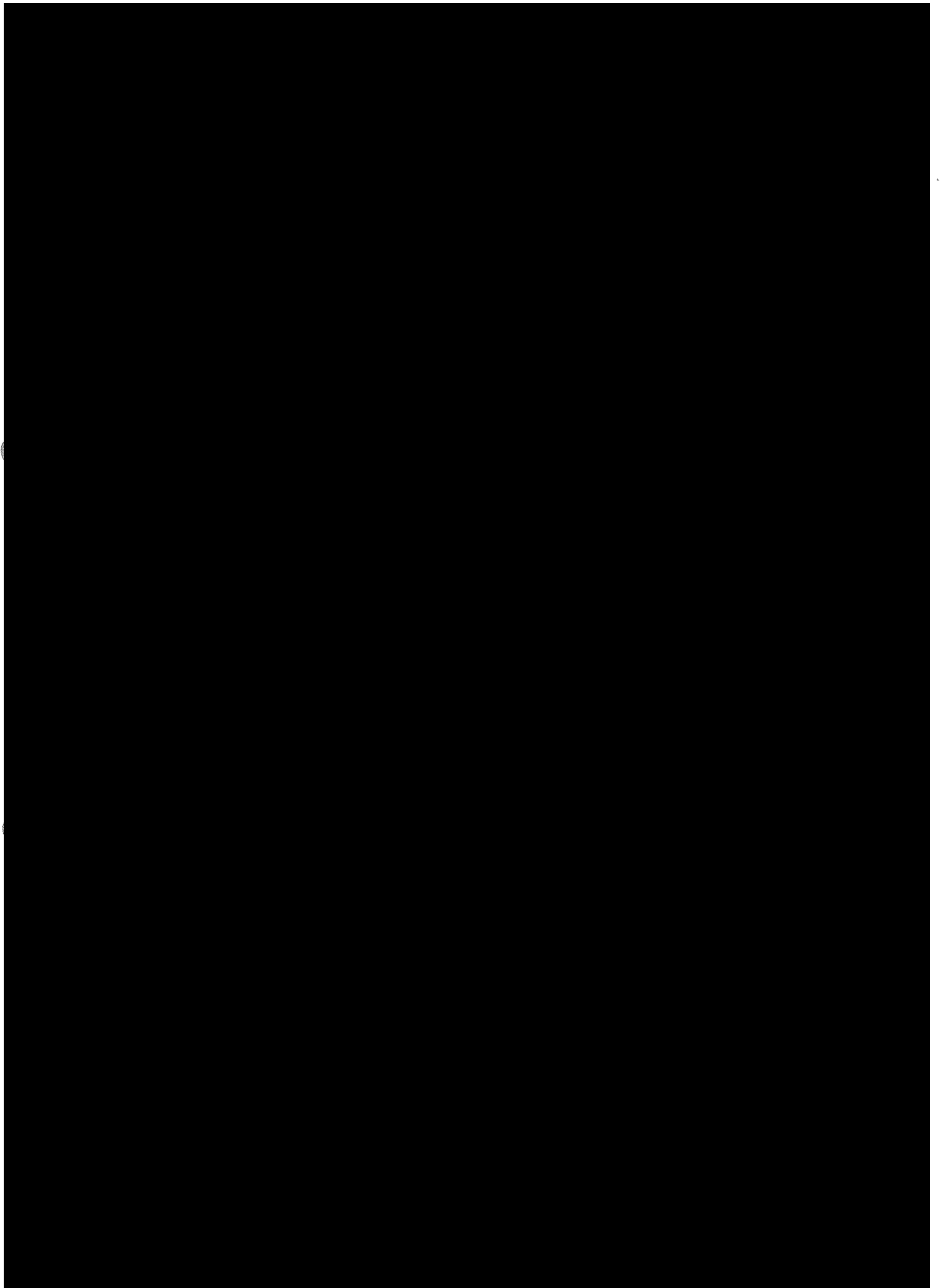


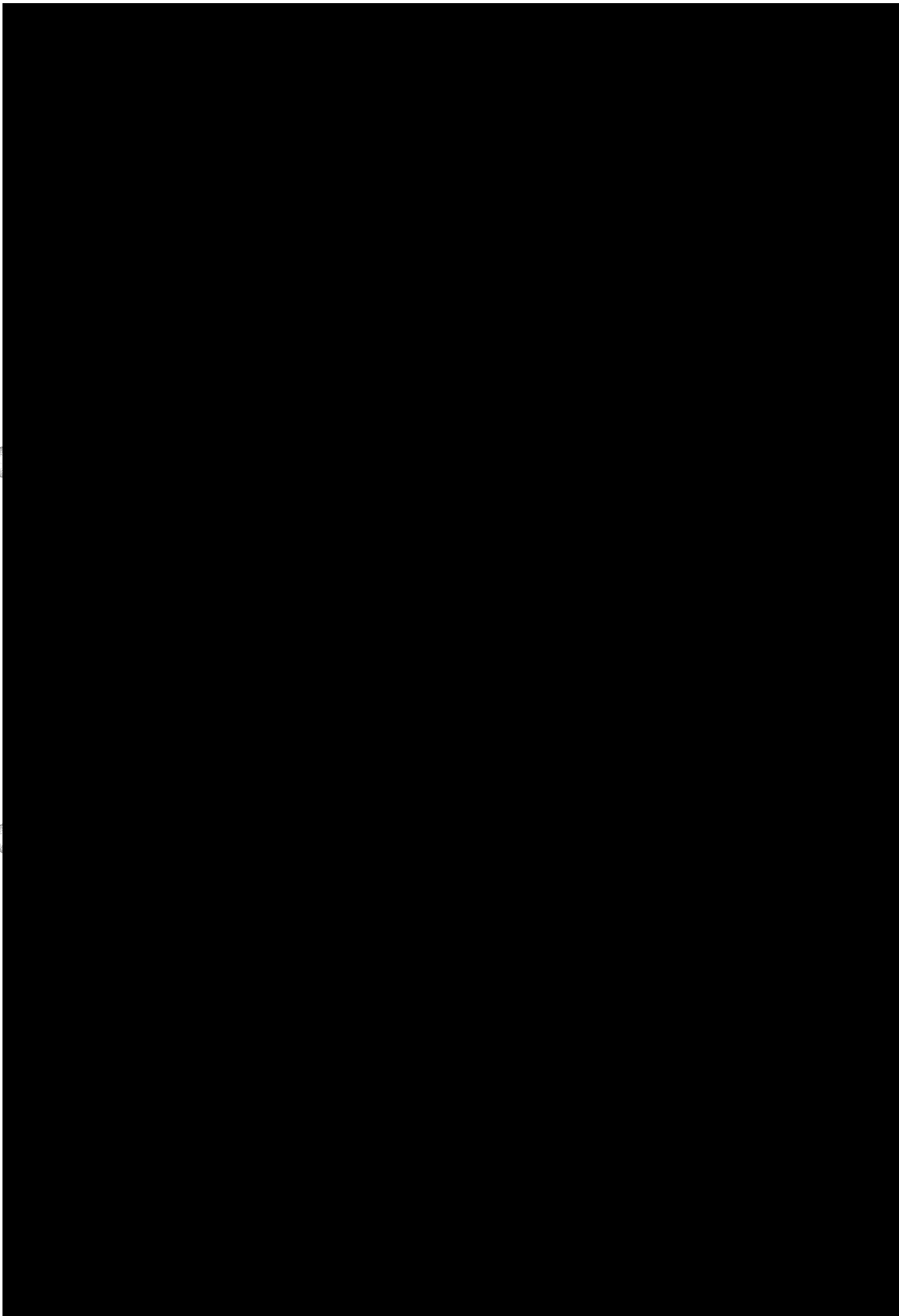




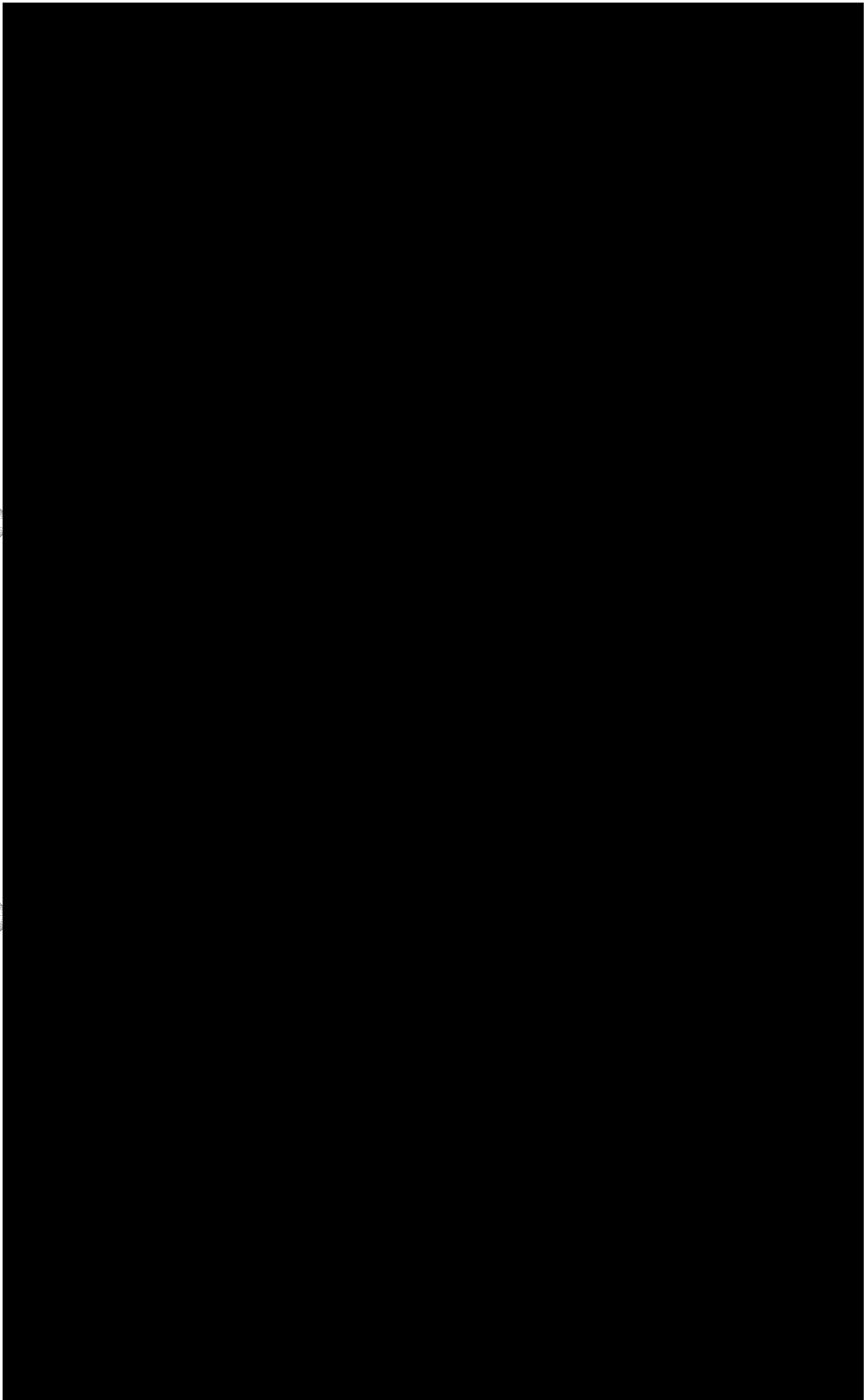




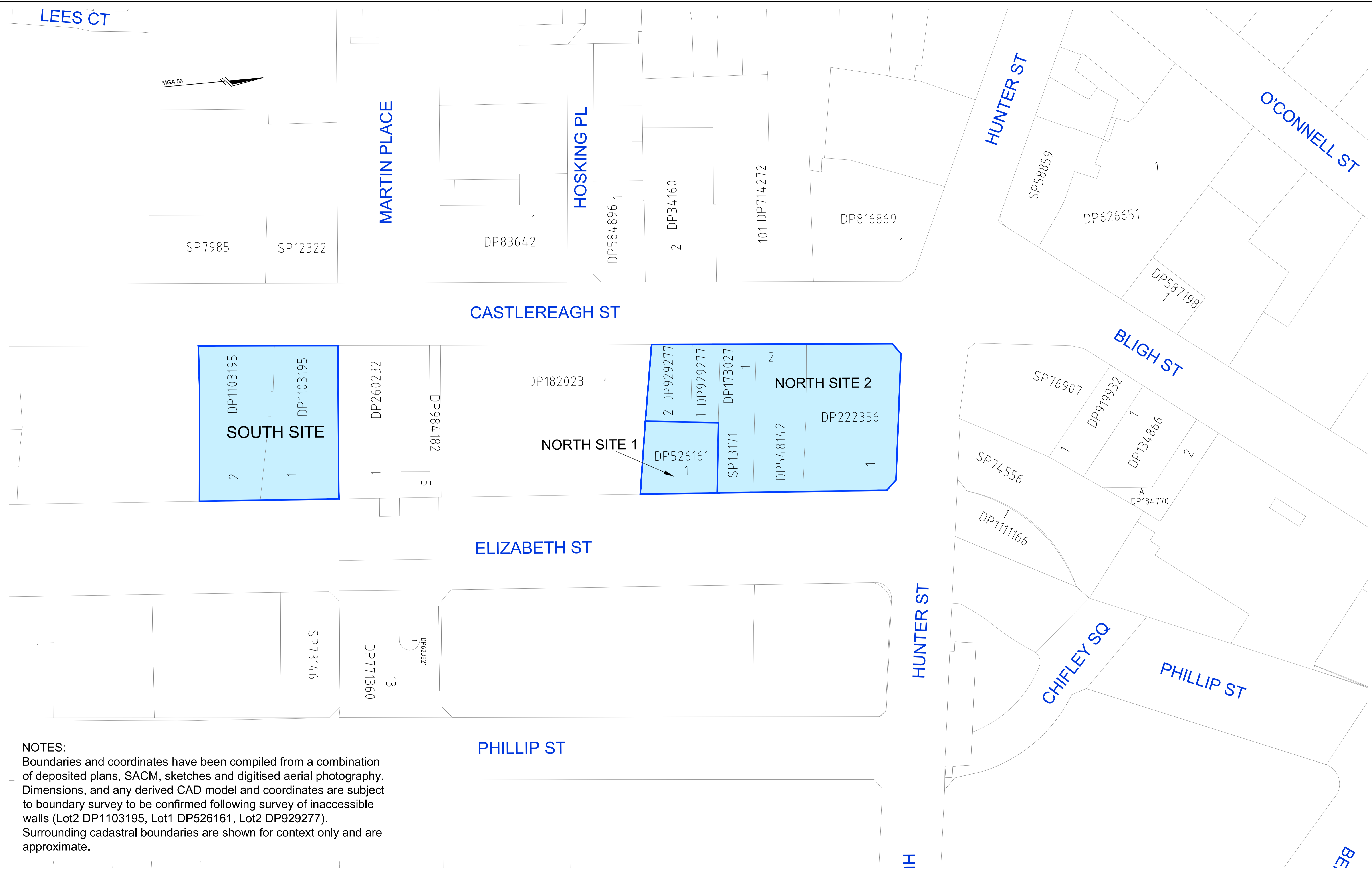












**NOTES:**  
 Boundaries and coordinates have been compiled from a combination of deposited plans, SACM, sketches and digitised aerial photography. Dimensions, and any derived CAD model and coordinates are subject to boundary survey to be confirmed following survey of inaccessible walls (Lot2 DP1103195, Lot1 DP526161, Lot2 DP929277). Surrounding cadastral boundaries are shown for context only and are approximate.

REVISIONS			
No.	DATE	REVISION DETAILS	APP
A	16.07.2018	INITIAL ISSUE	MGL

**LEGEND**

- Coordinate identifier
- Area boundary
- Project Site

**NOT TO SCALE**

COORDINATES: MGA

DATUM: MGA

ORIGIN: MGA

CLIENT: **NSW GOVERNMENT** Transport for NSW

SURVEY: DATE OF SURVEY: 10.07.2018

DRAWN: ZHY DATE OF PLAN: 10.07.2018

CHECKED: MGL DATE LAST SAVED: 19.07.2018

APPROVED: MGL DATE APPROVED: 11.07.2018

TITLE: SYDNEY METRO CITY AND SOUTHWEST MARTIN PLACE OVER STATION DEVELOPMENT SITE ACCESS DRAWING

DRAWING No: NWRLSRT-RPS-SMP-SR-DWG-000046-A.1-Martin Place OSD Site Access Plan.dwg

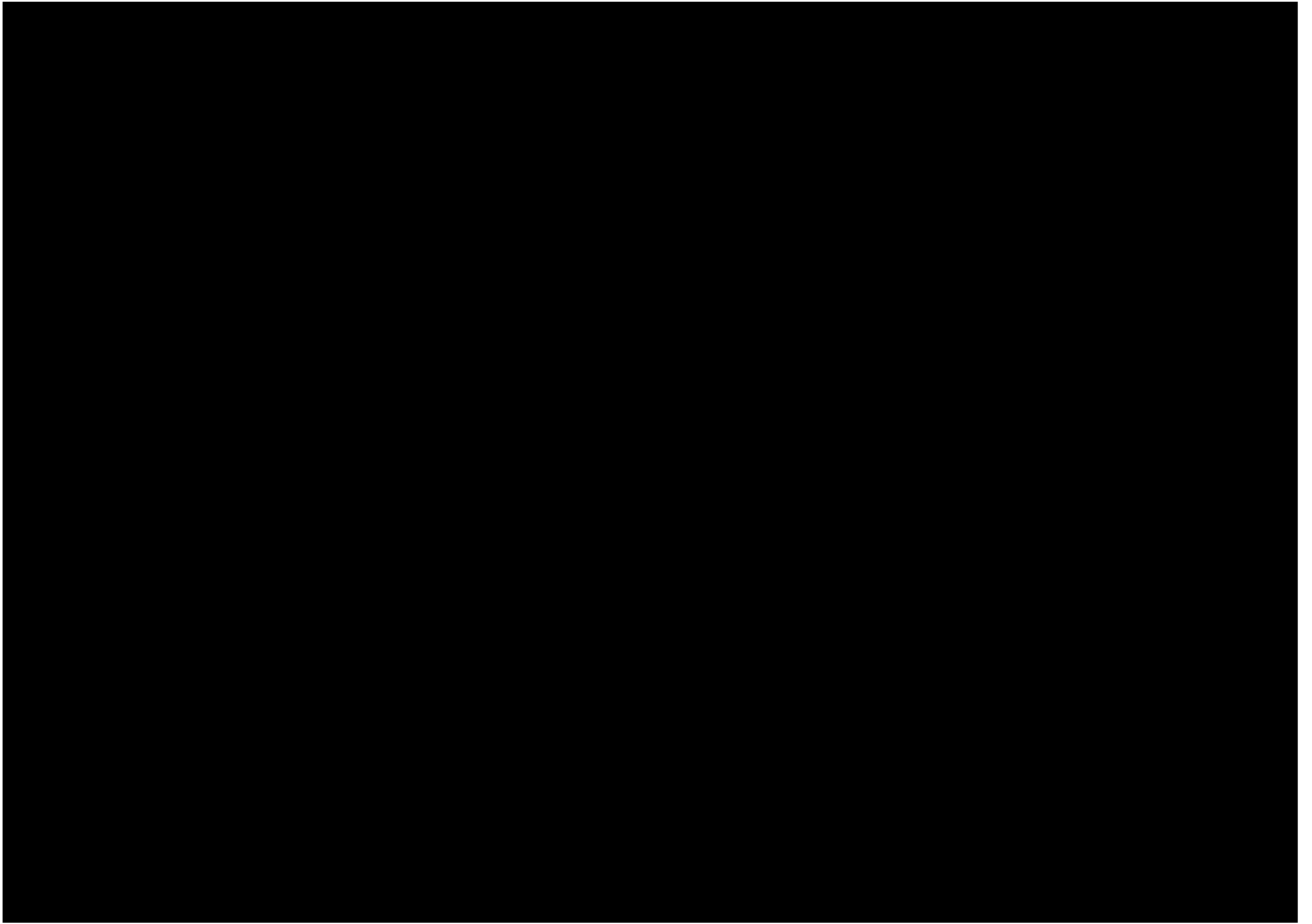
JOB No: PR124856

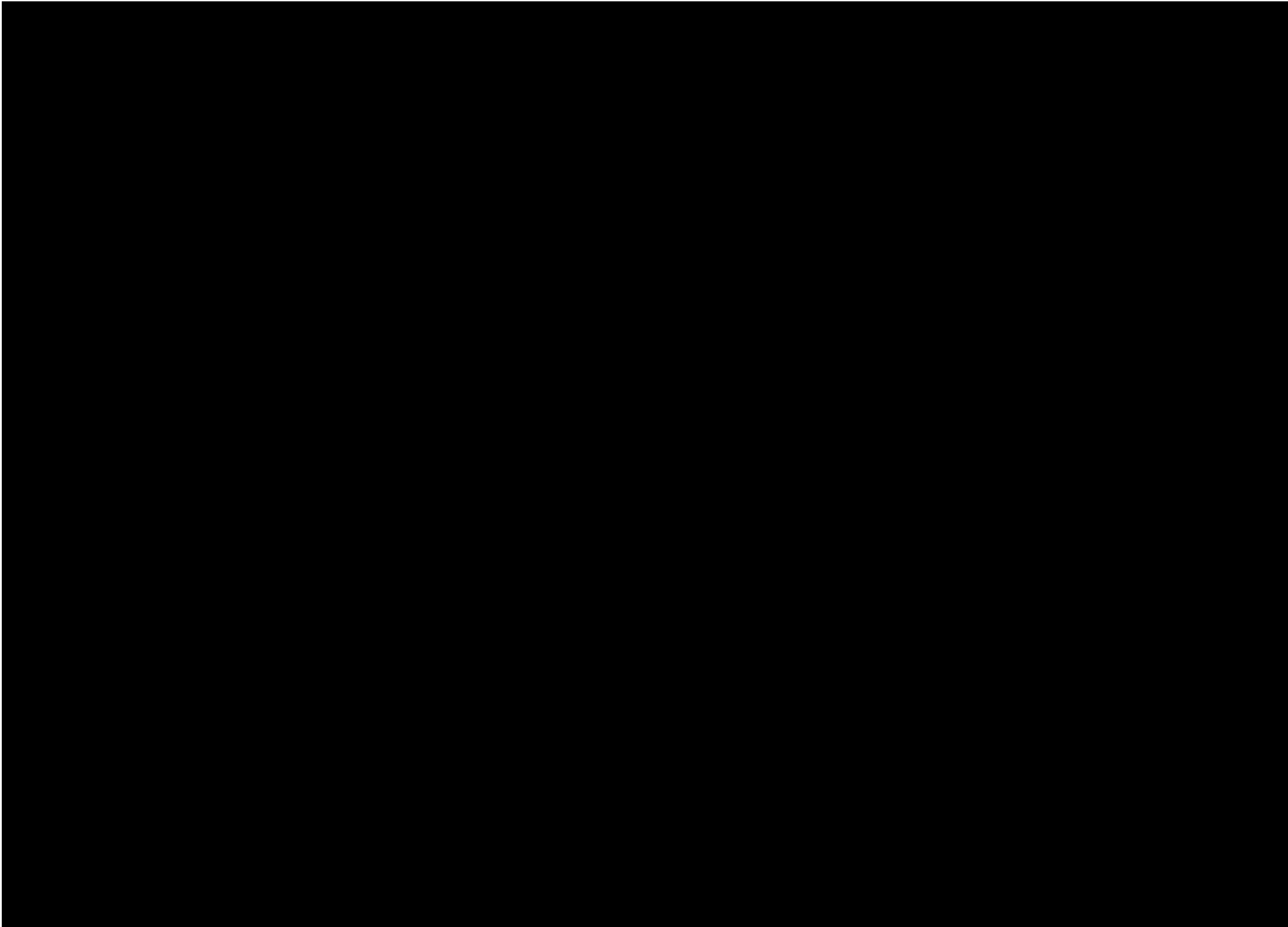
ISSUE: A.1

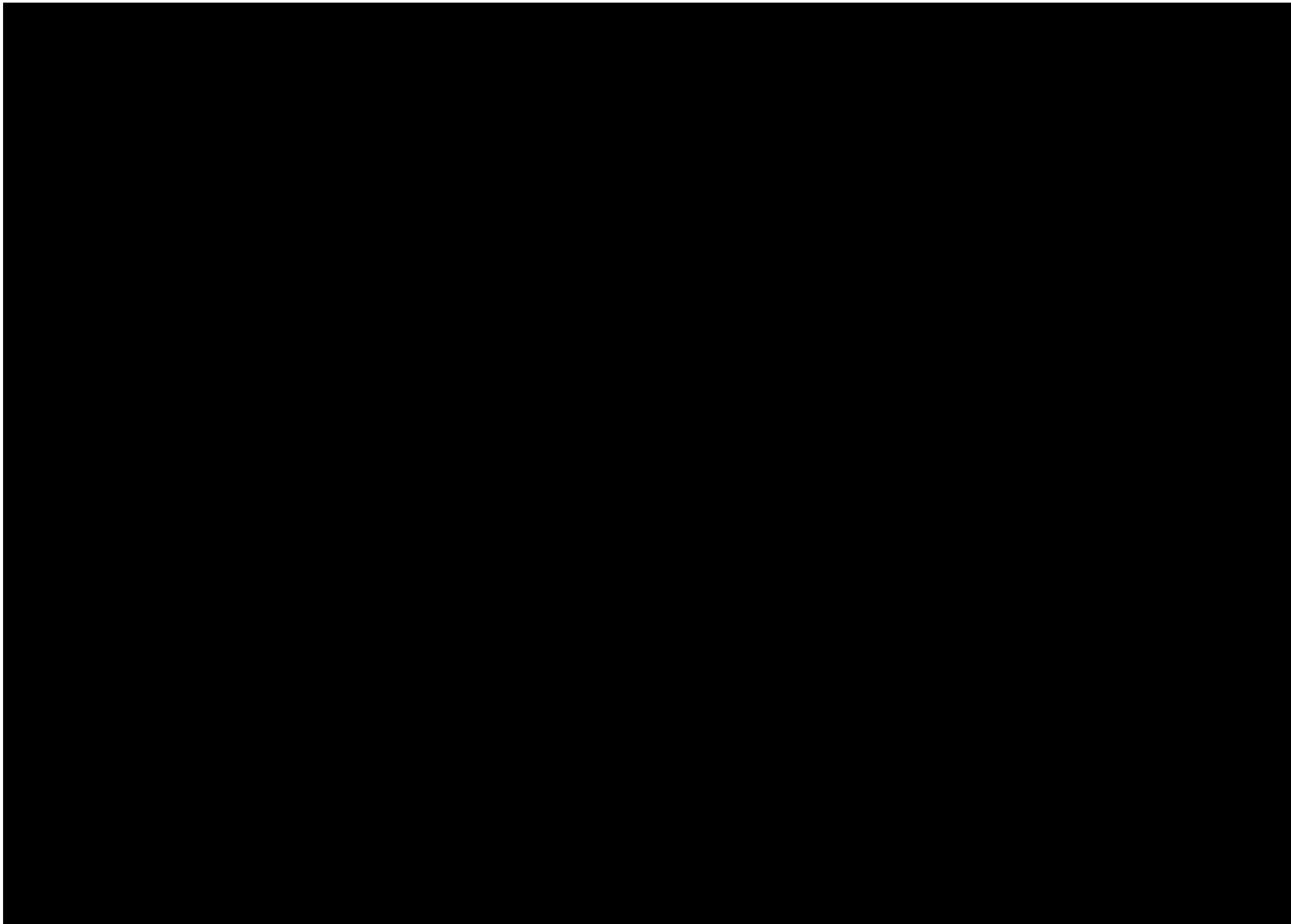
SHEET 1 OF 1 SHEETS

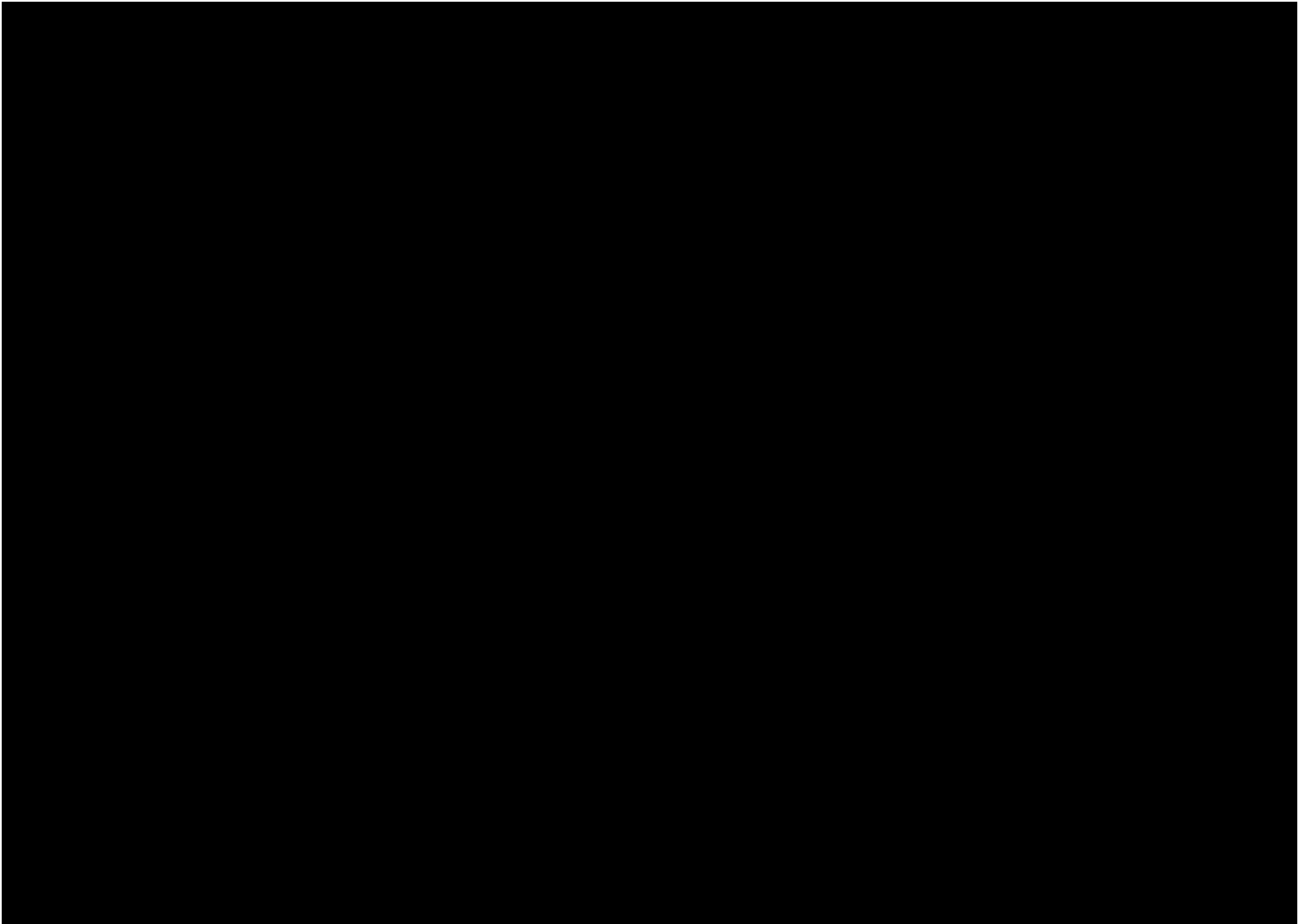
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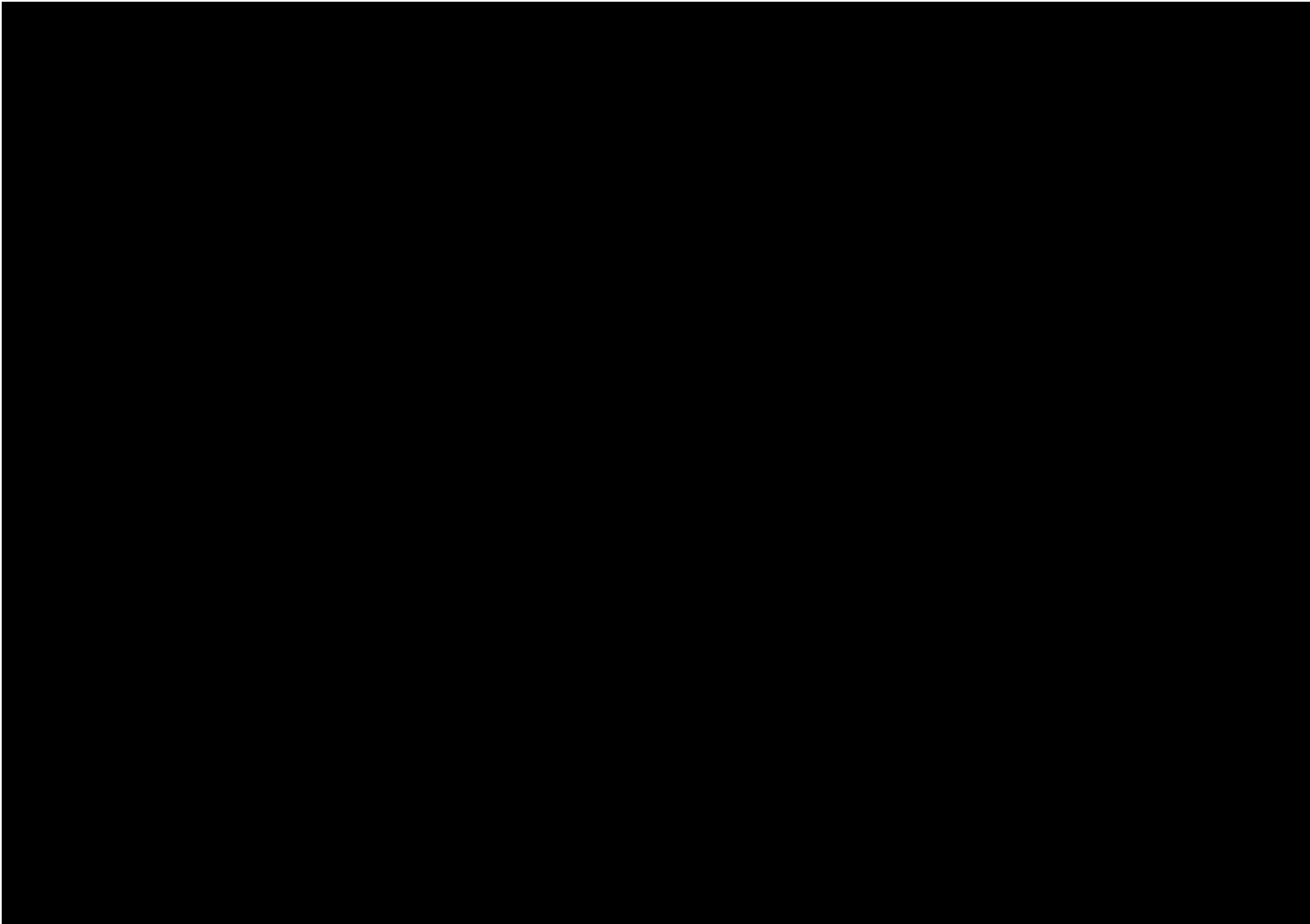


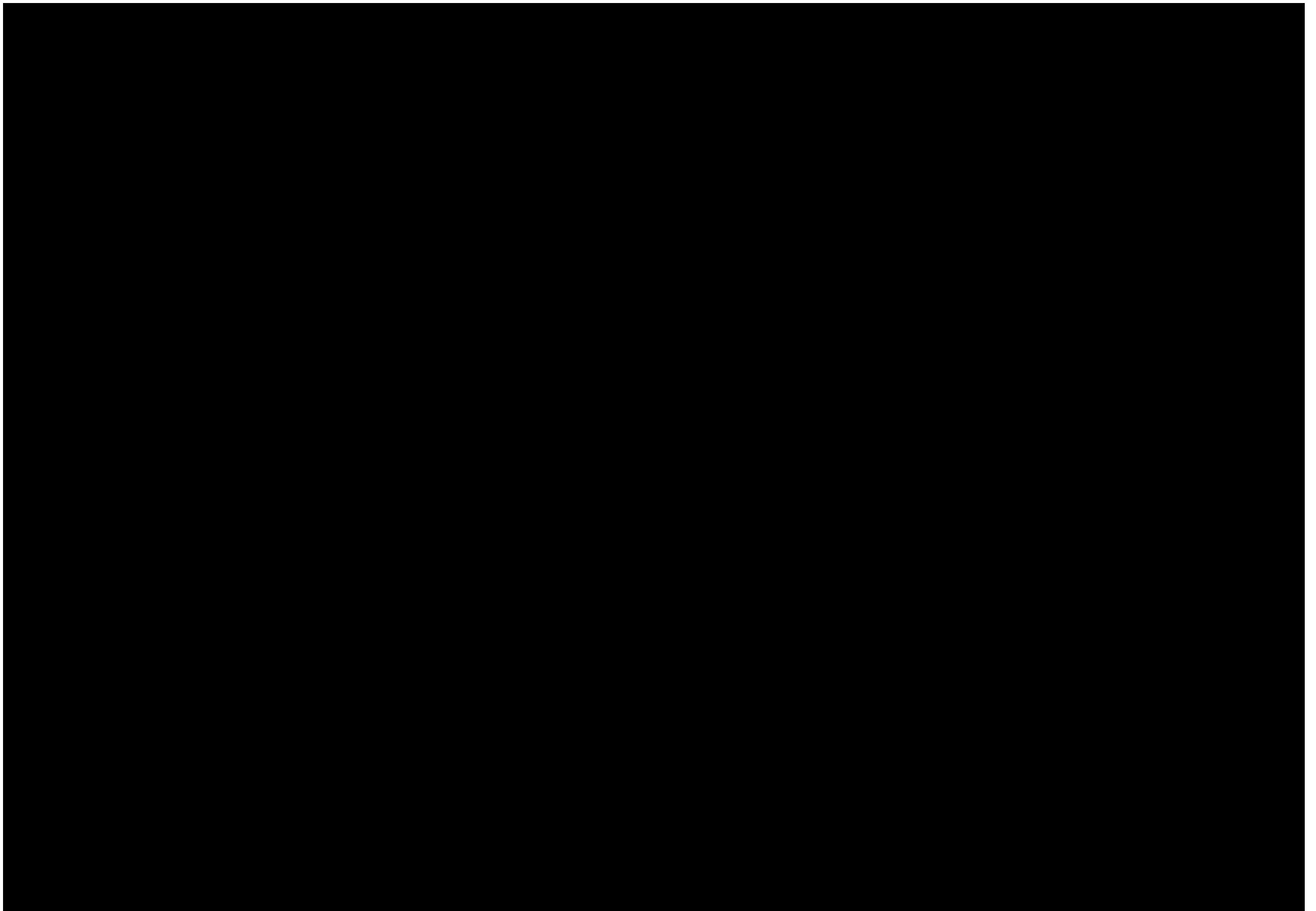


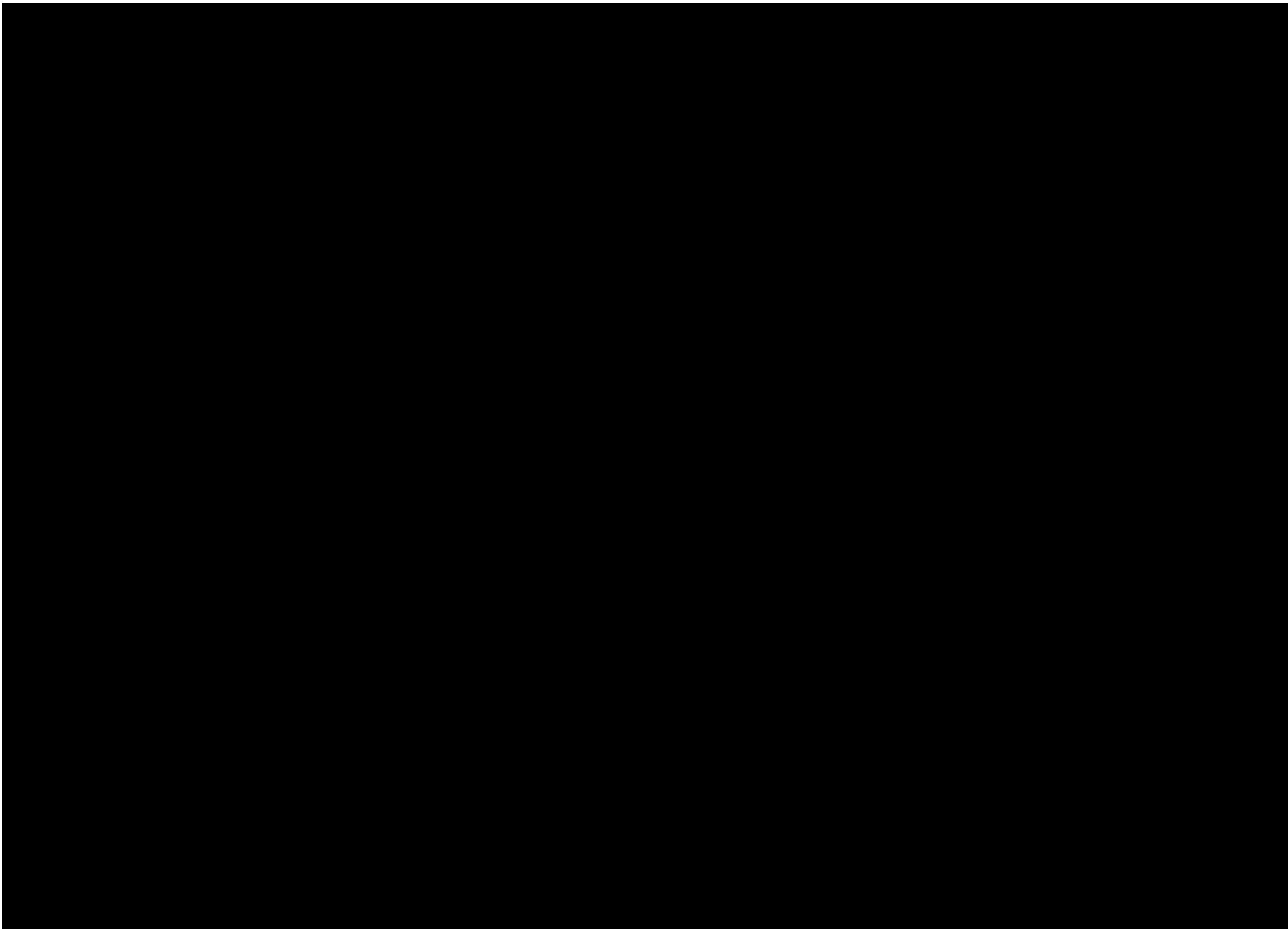


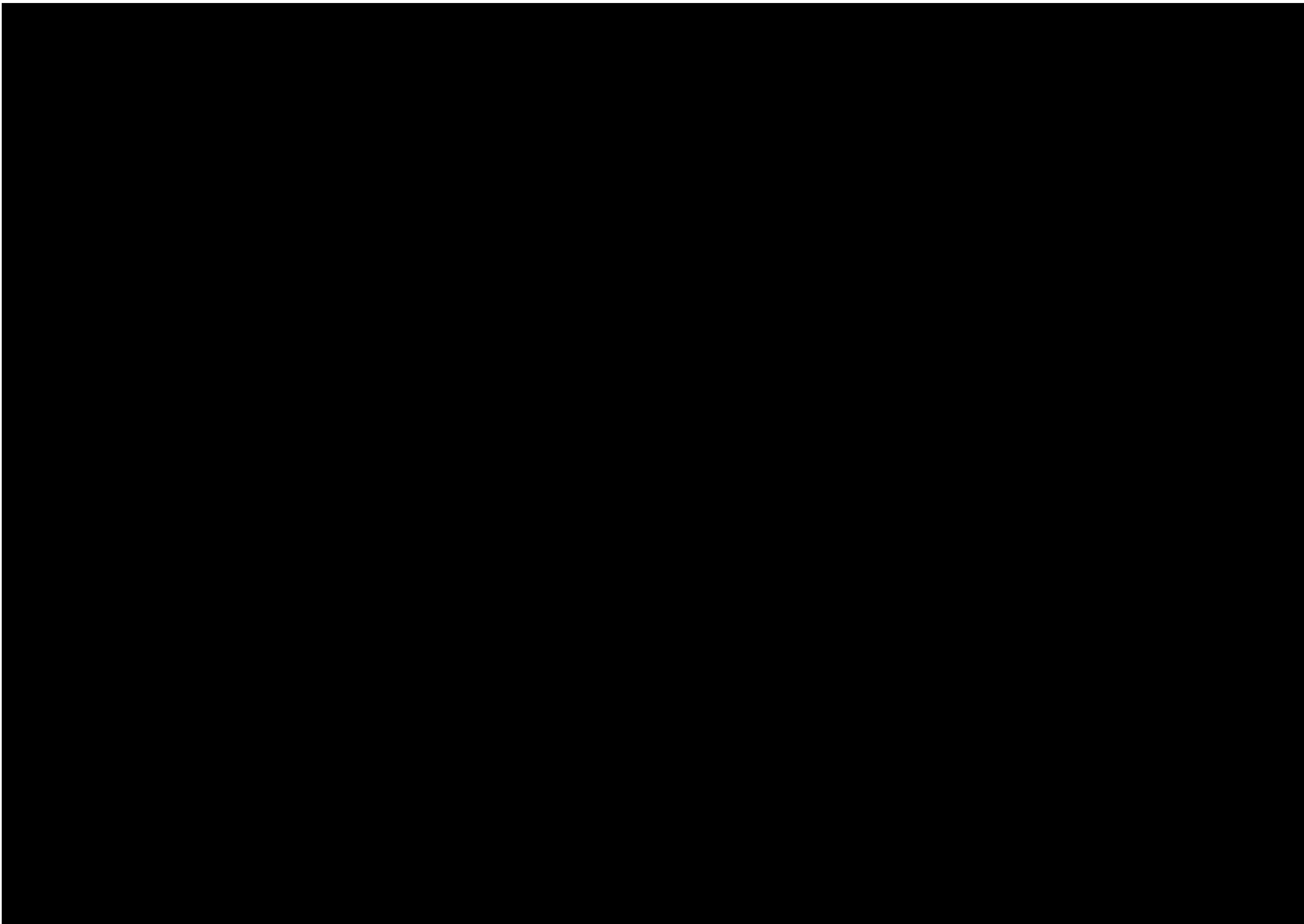




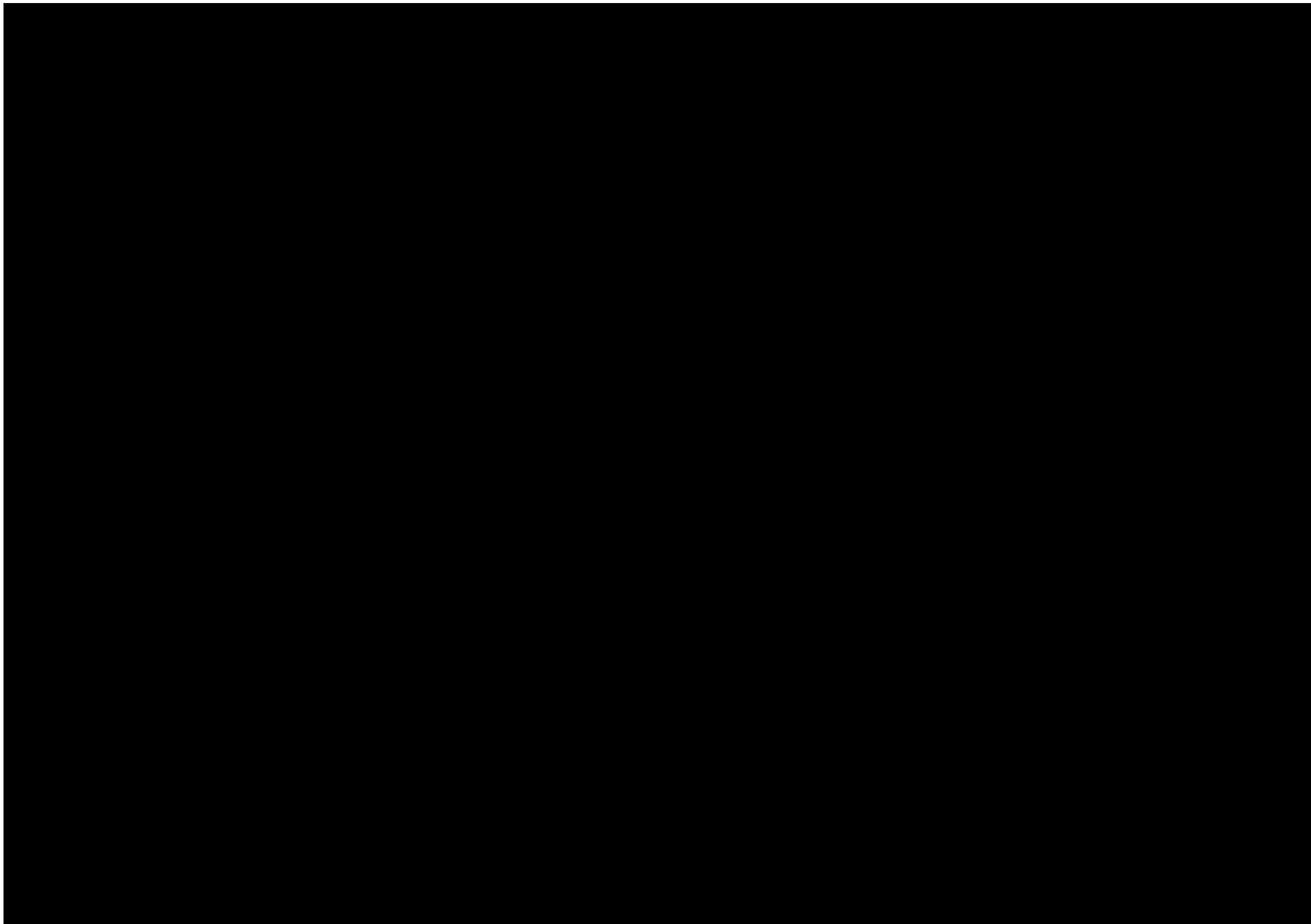


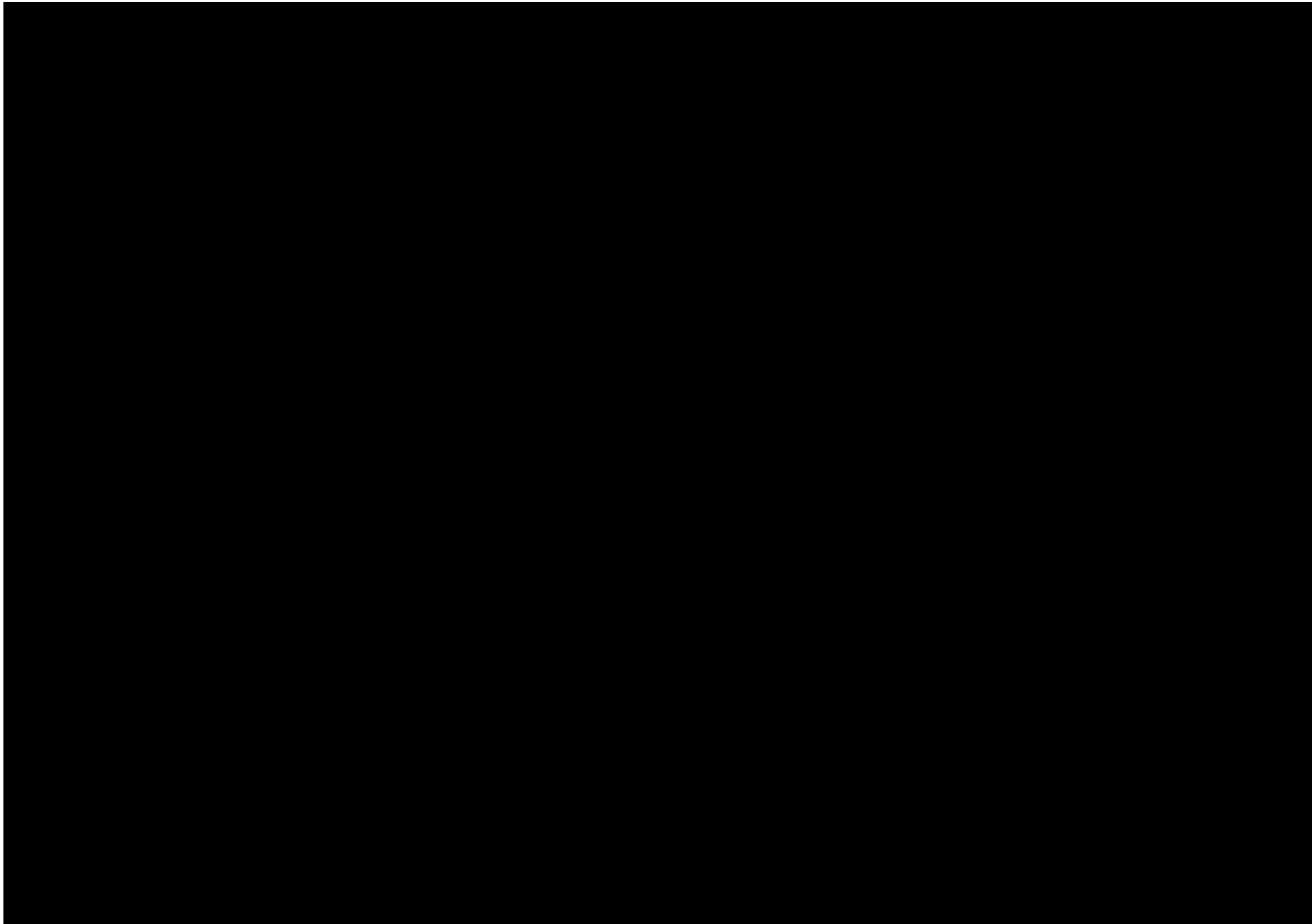


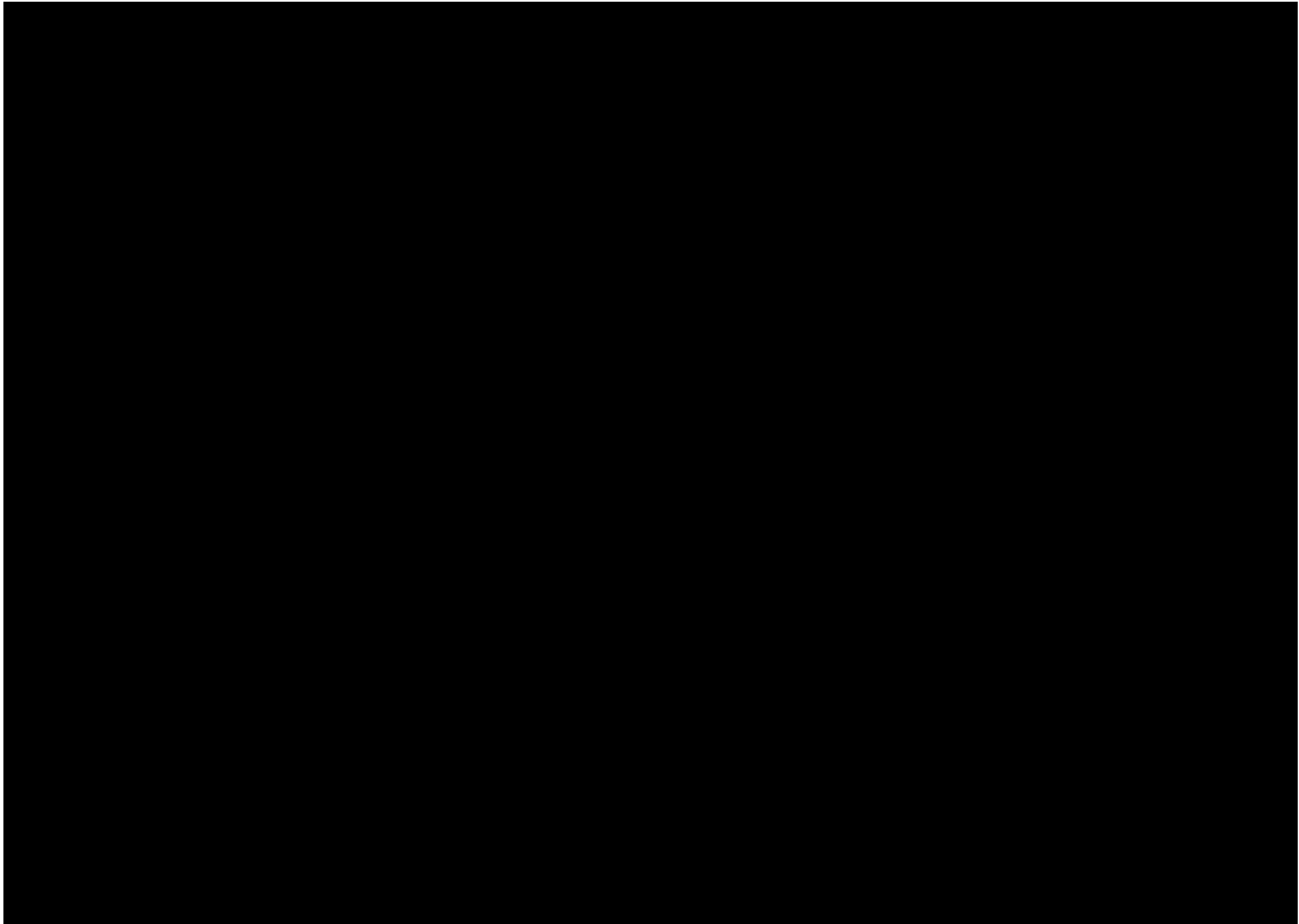


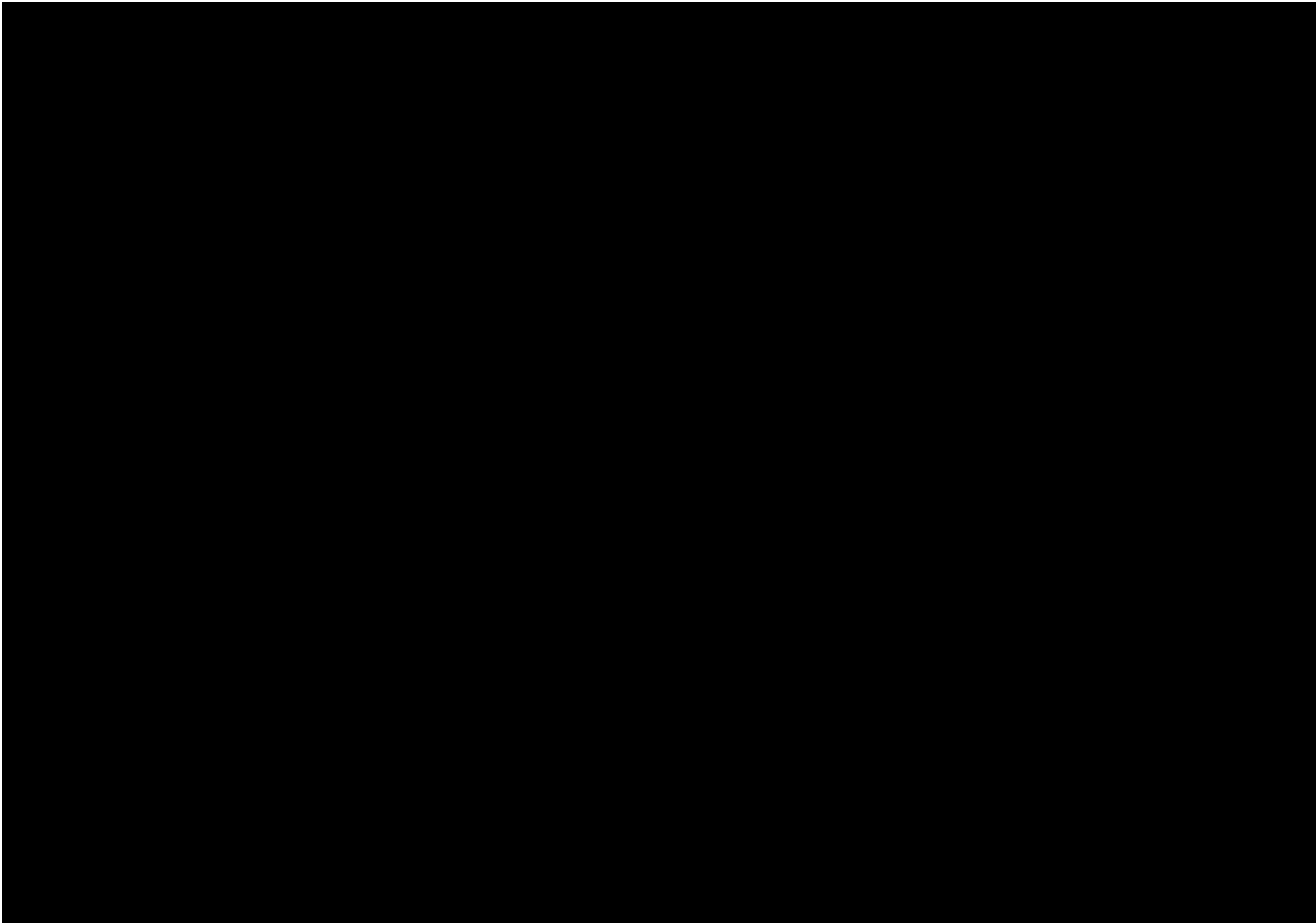


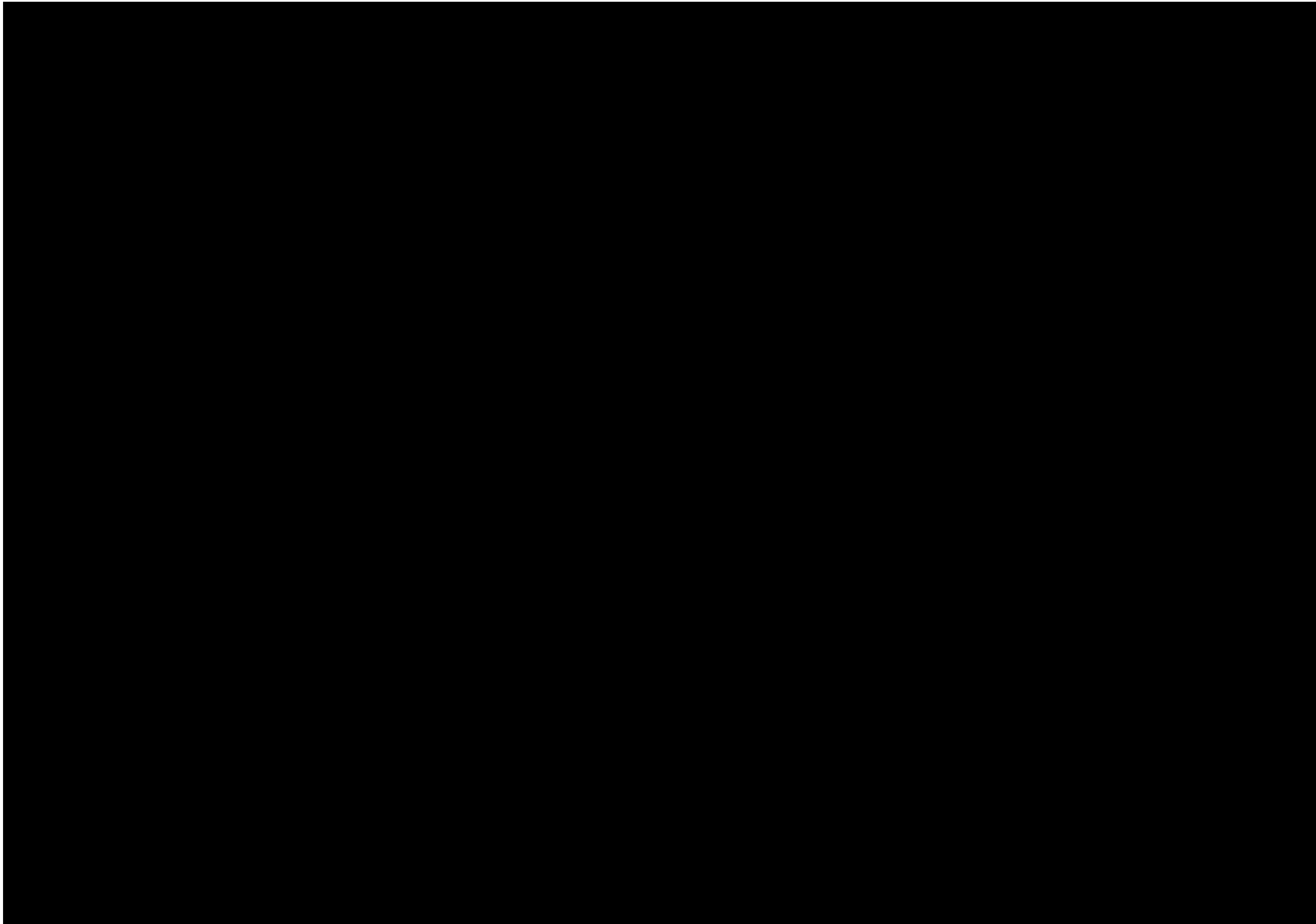


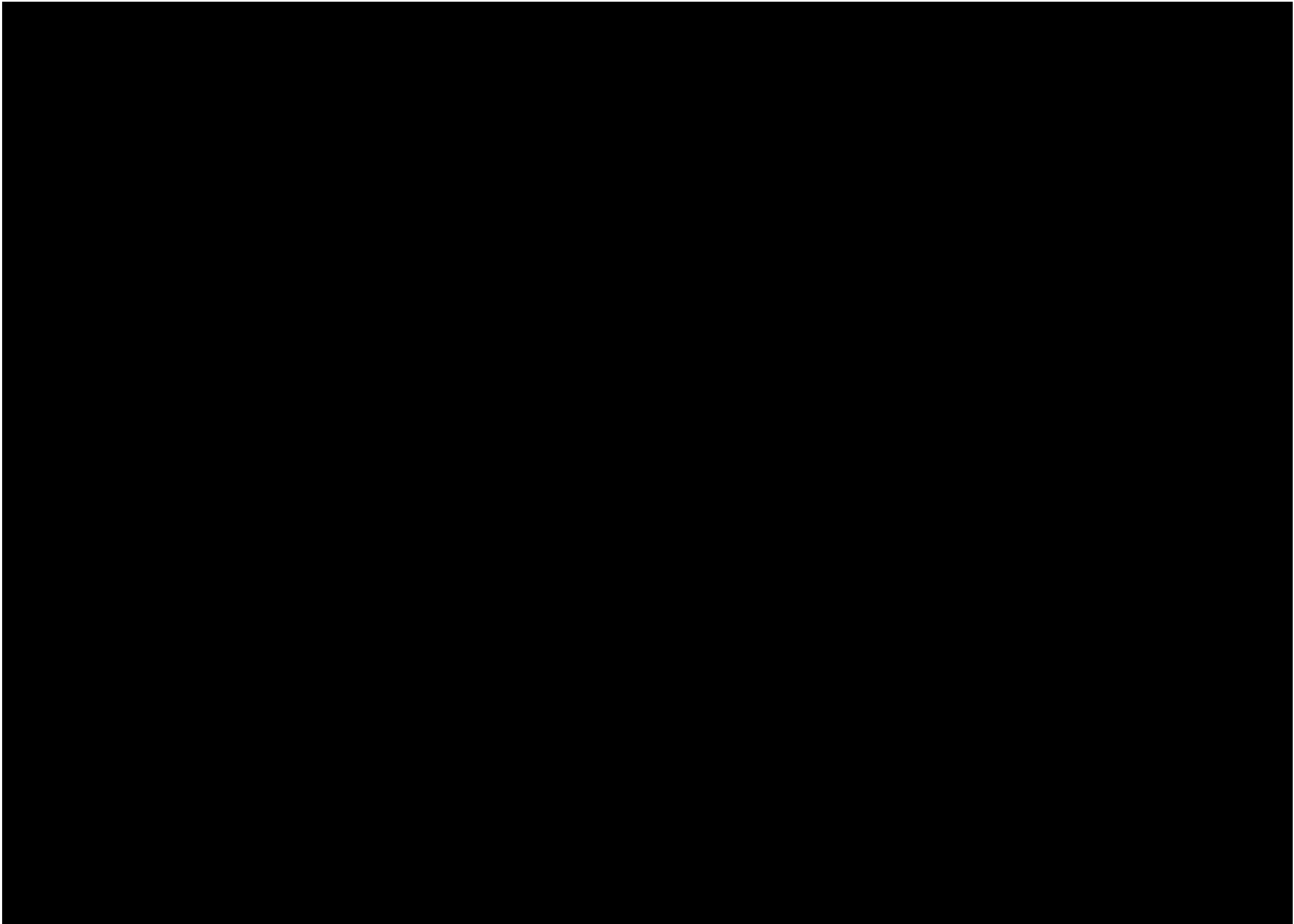


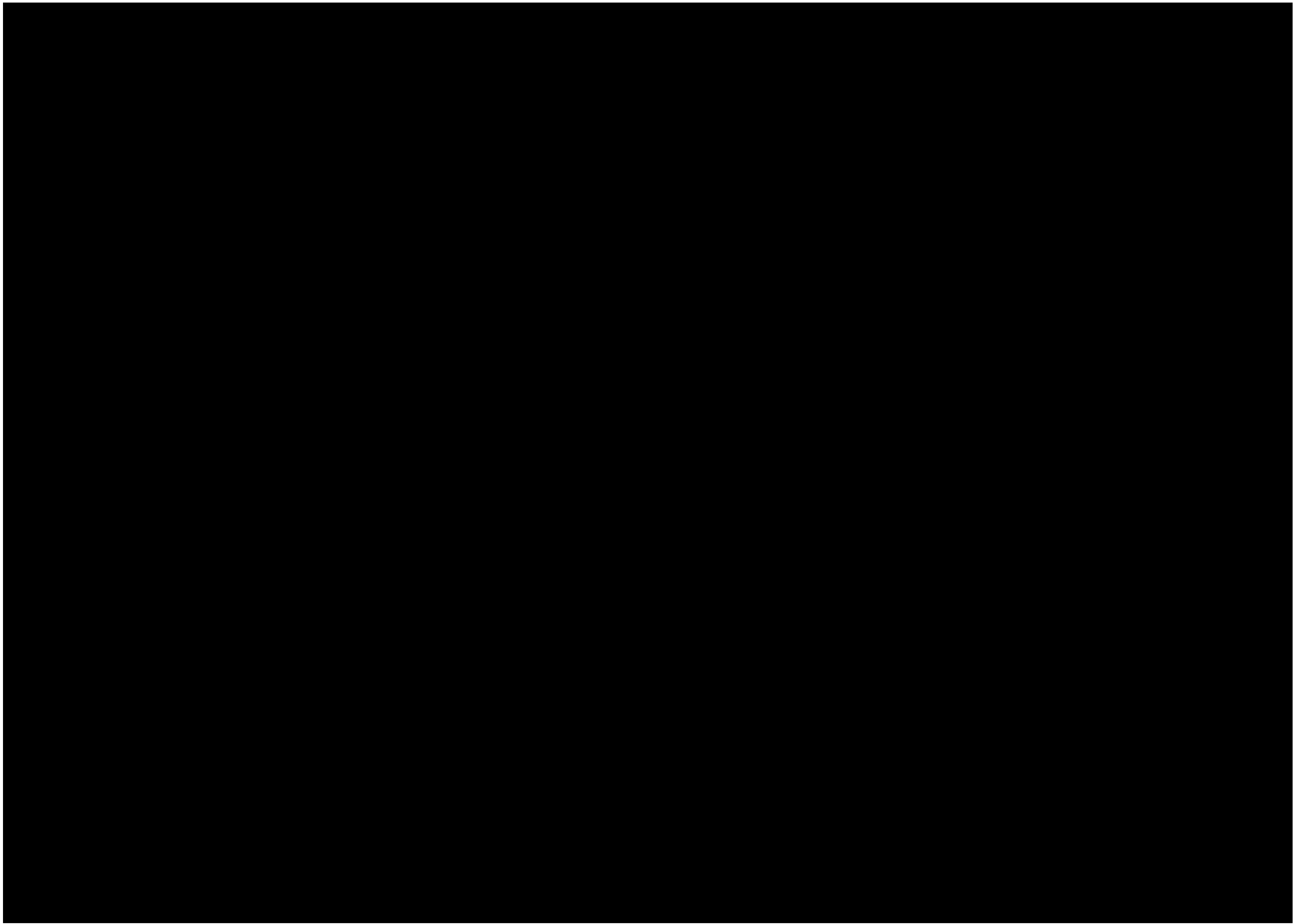


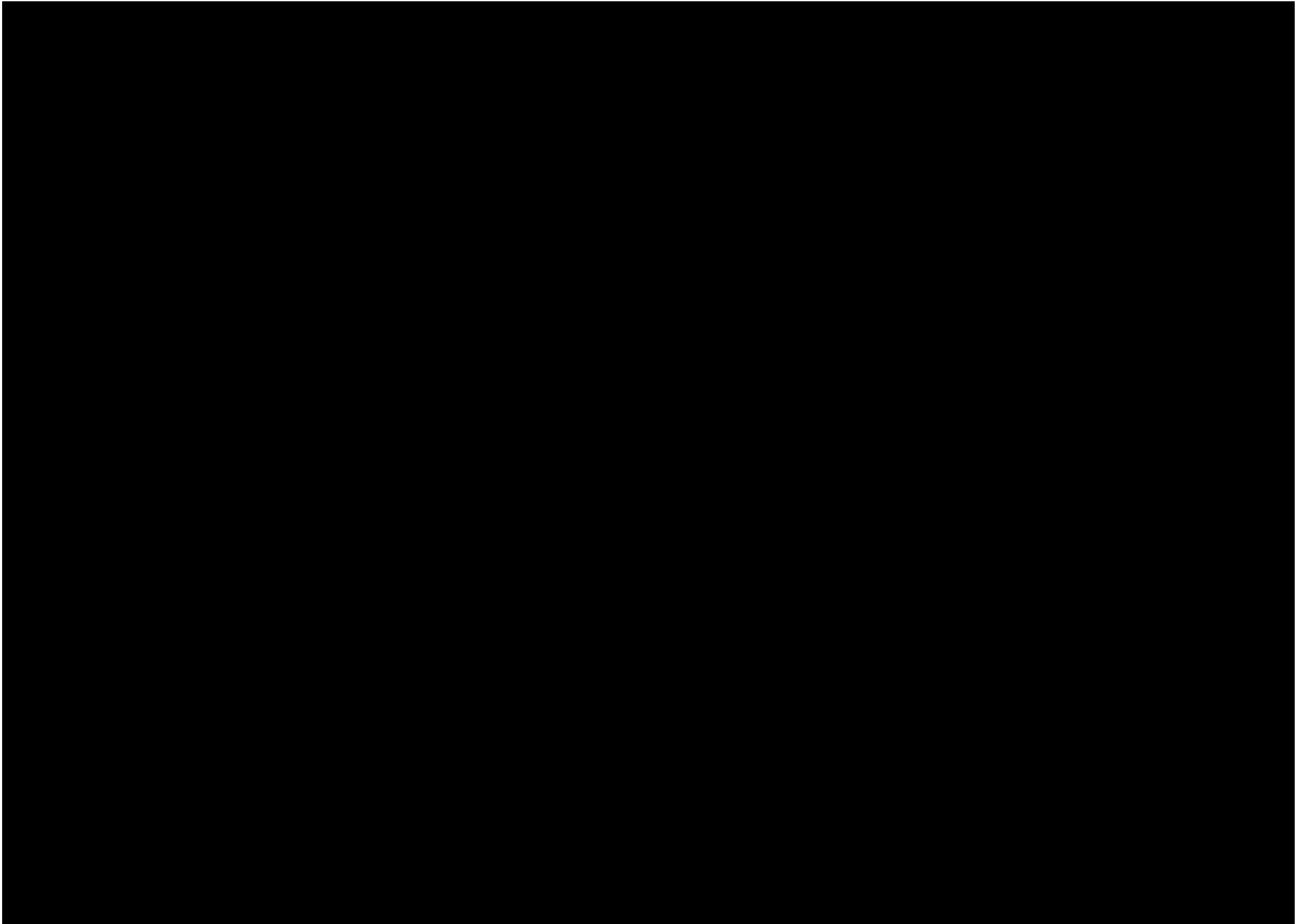




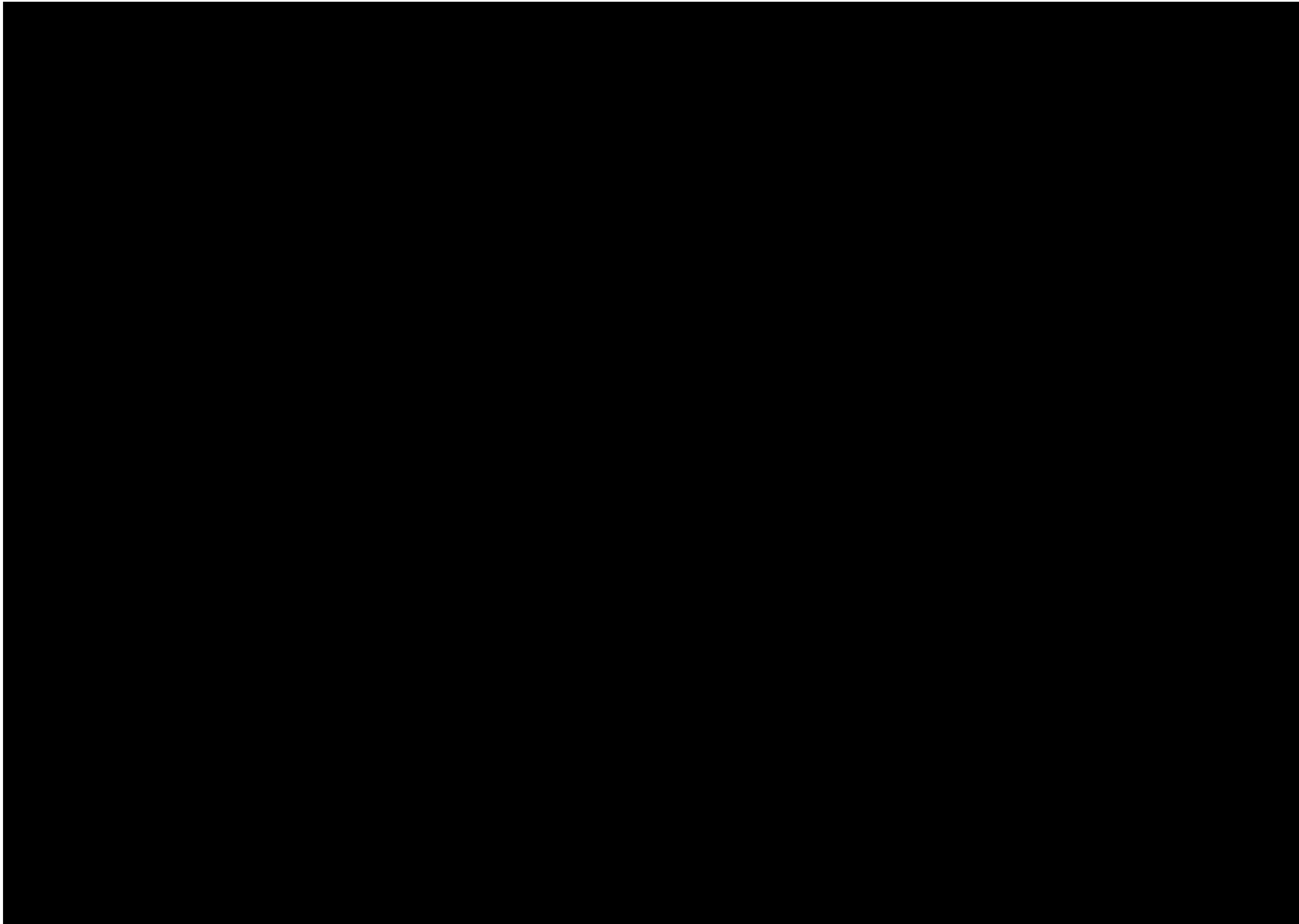


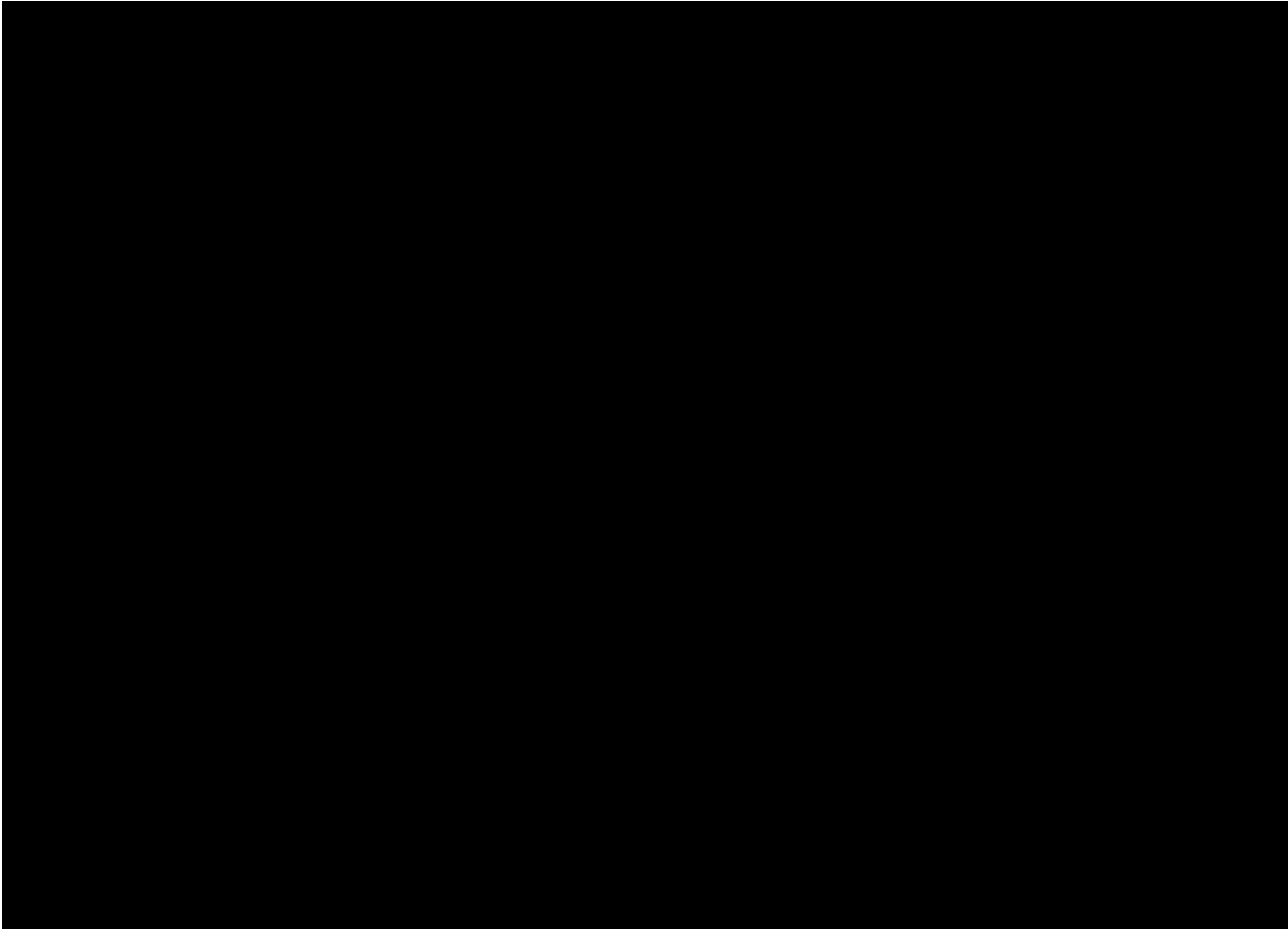


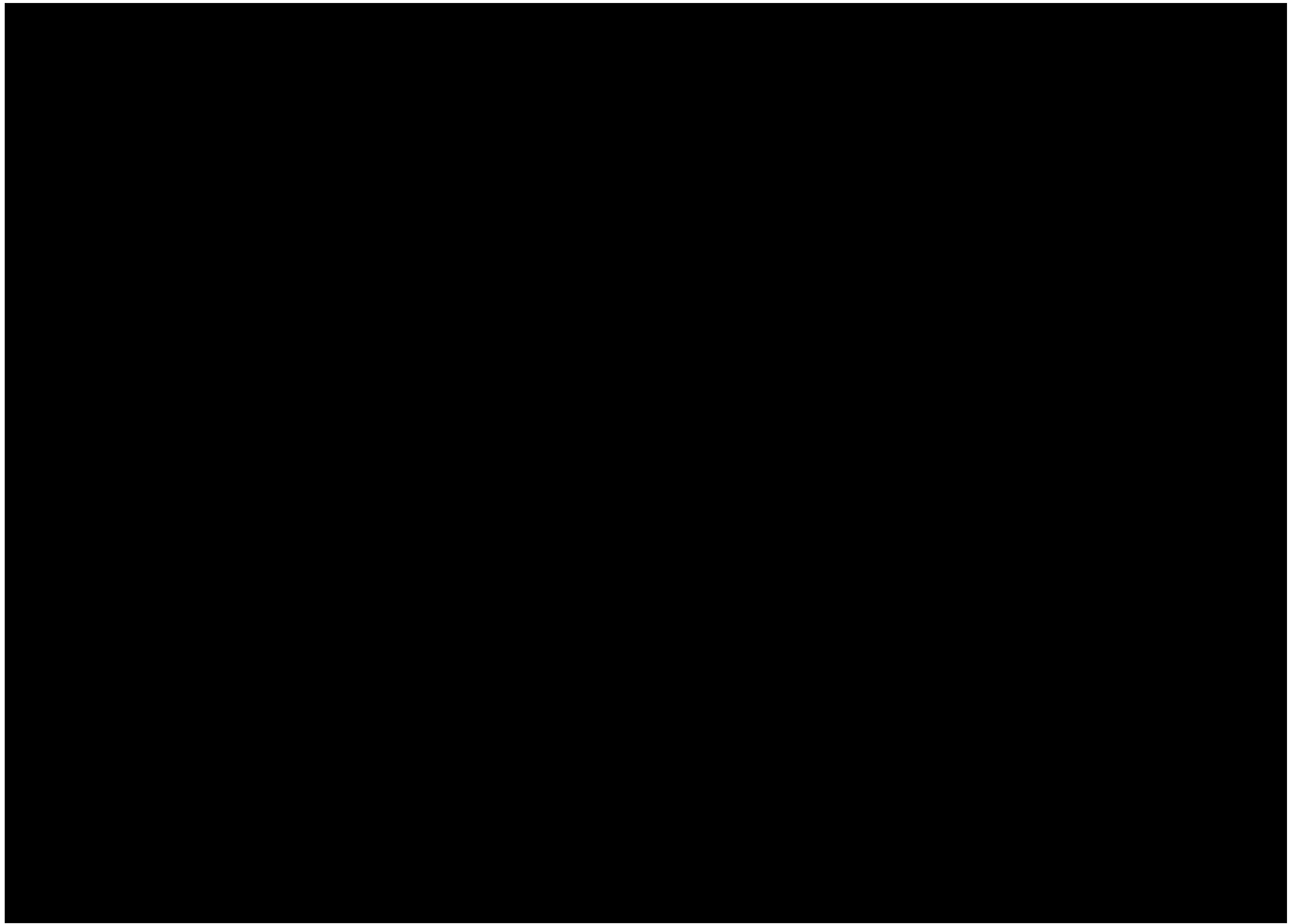


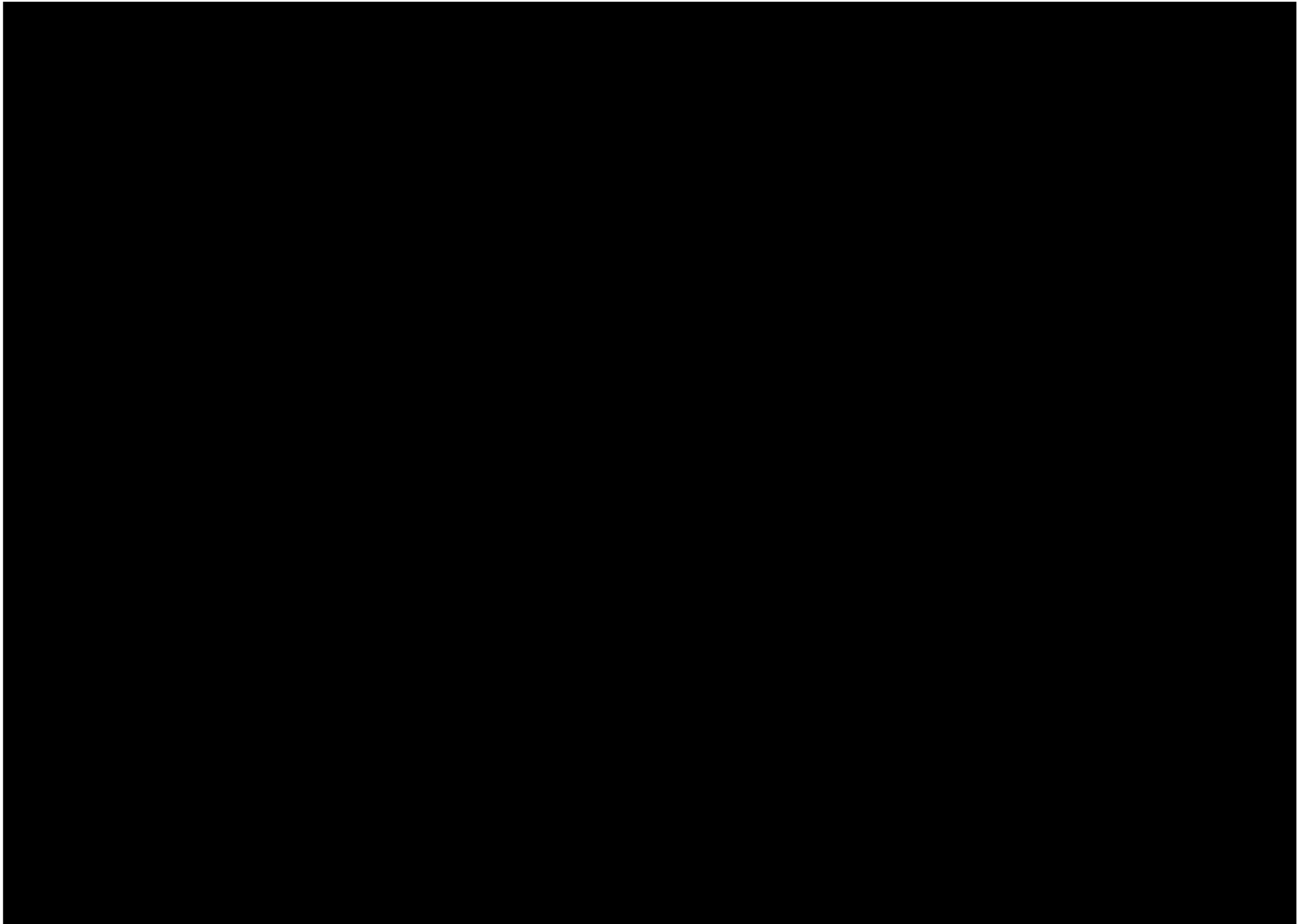


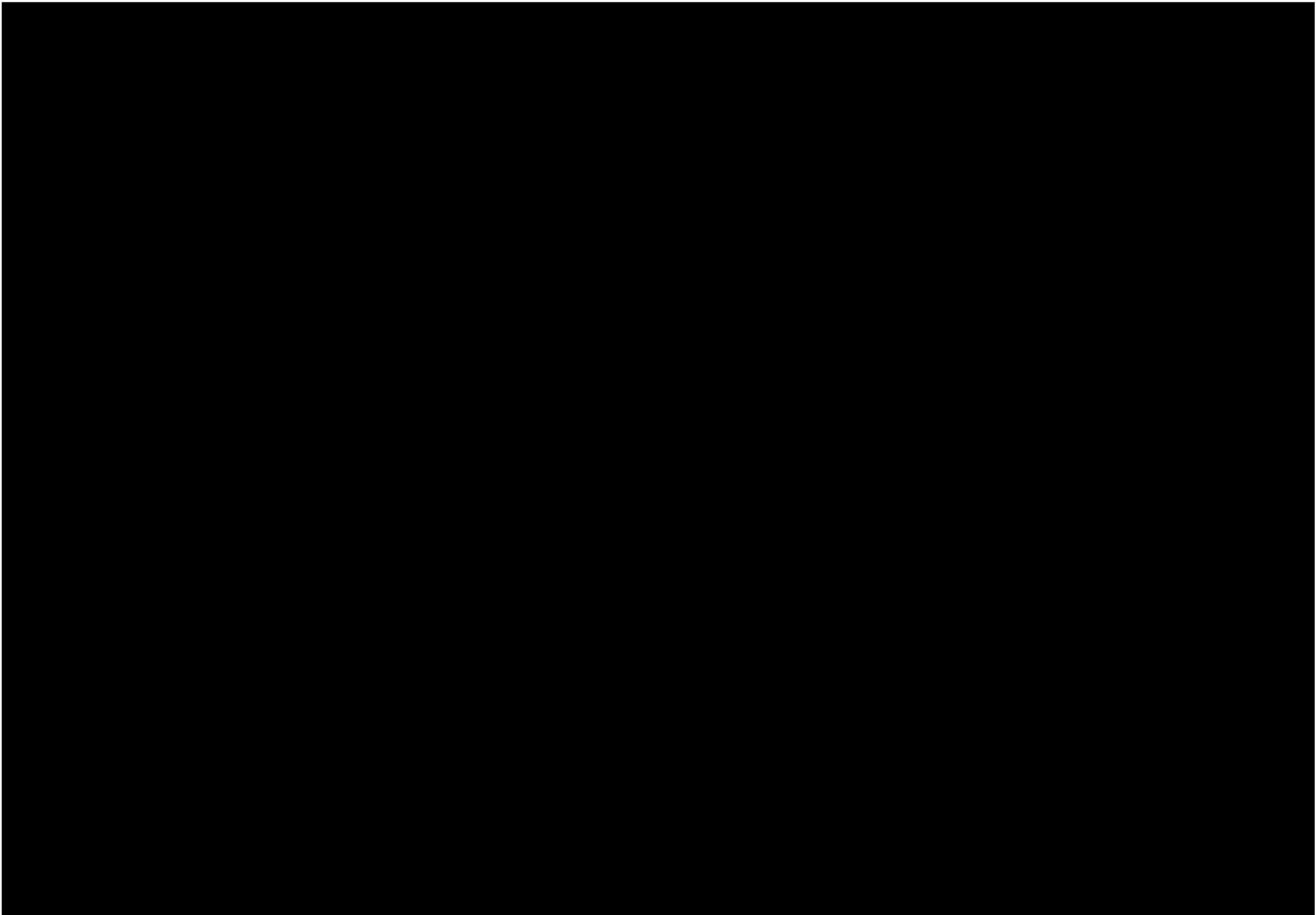


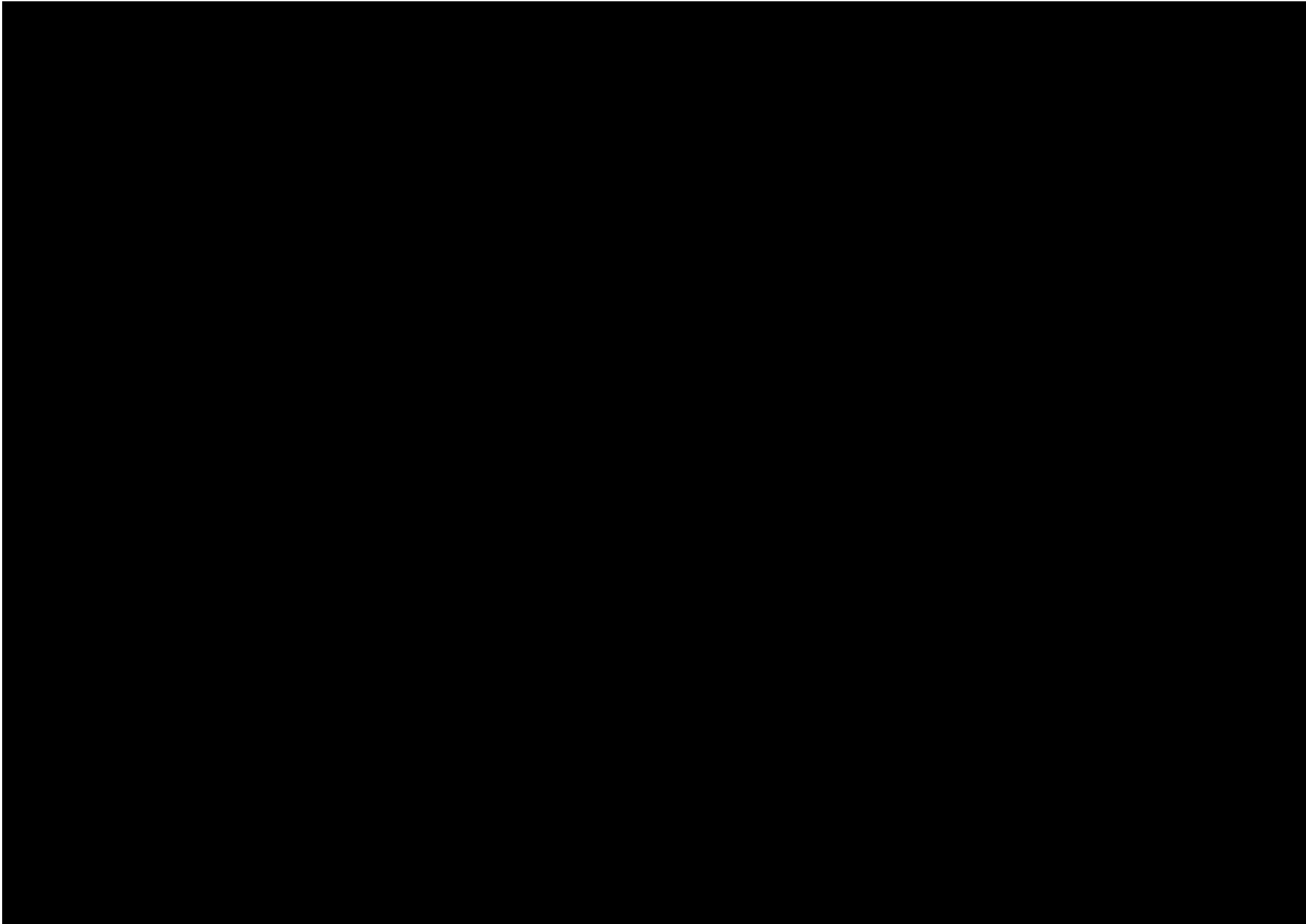


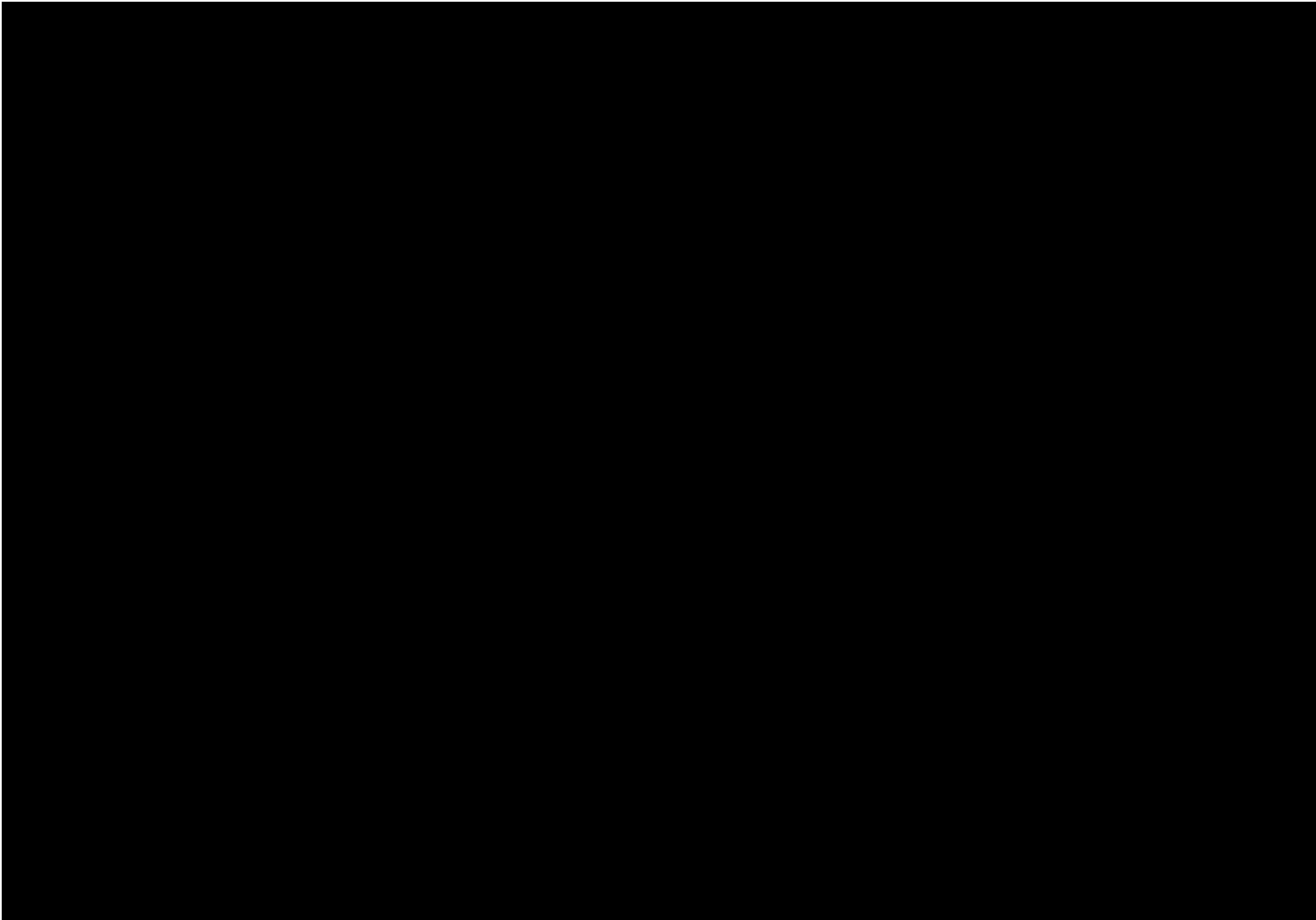


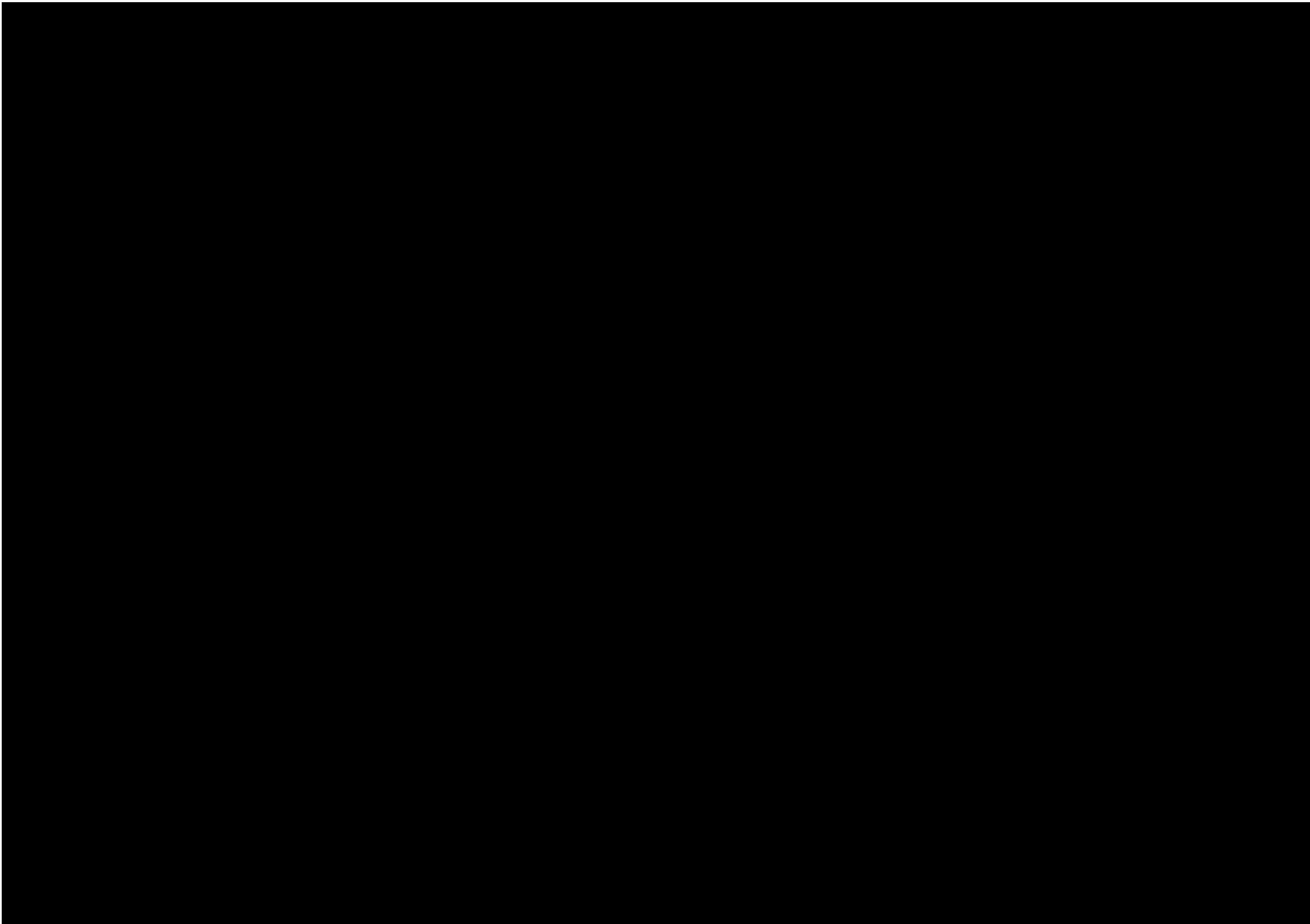
















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 Sydney Australia

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**Nominated Architects**

Alec Tzannes 4174  
 Jonathan Evans 6613  
 Mladen Prnjatovic 7468  
 Ben Green 7066

**General Notes**

Verify dimensions on site prior to commencement of work. Check existing RL's on site. Advise Architect of any discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with relevant authorities requirements. Comply with Building Code of Australia requirements. Comply with relevant Australian Standards for materials and construction practice. Comply with Basix Certificate. Do not scale from drawings.

**Notes Regarding "For Construction Documents"**

Tzannes Associates (TA) believes that the information shown on this drawing (when read with the applicable specification) is sufficient for a reasonably competent and experienced builder to understand the design intent; understand the process of construction required to achieve a finished product conforming with the design intent and understand what building materials, techniques and methods are required to achieve that finished product

Rev	Date	For
A	20/10/17	USP
B	26/10/17	USP
C	03/07/18	USP
D	16/08/18	USP

**Client**

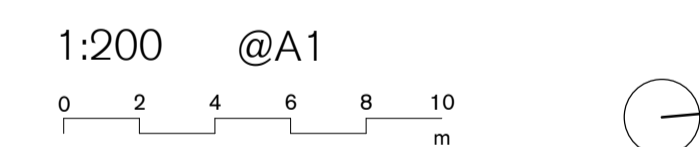
Macquarie Group Ltd  
 02 8232 3333



**Legend**

Tzannes

Scale North



**Project**

Sydney Metro - Martin Place

**Address**

39 - 49 Martin Place, Sydney

**Status**

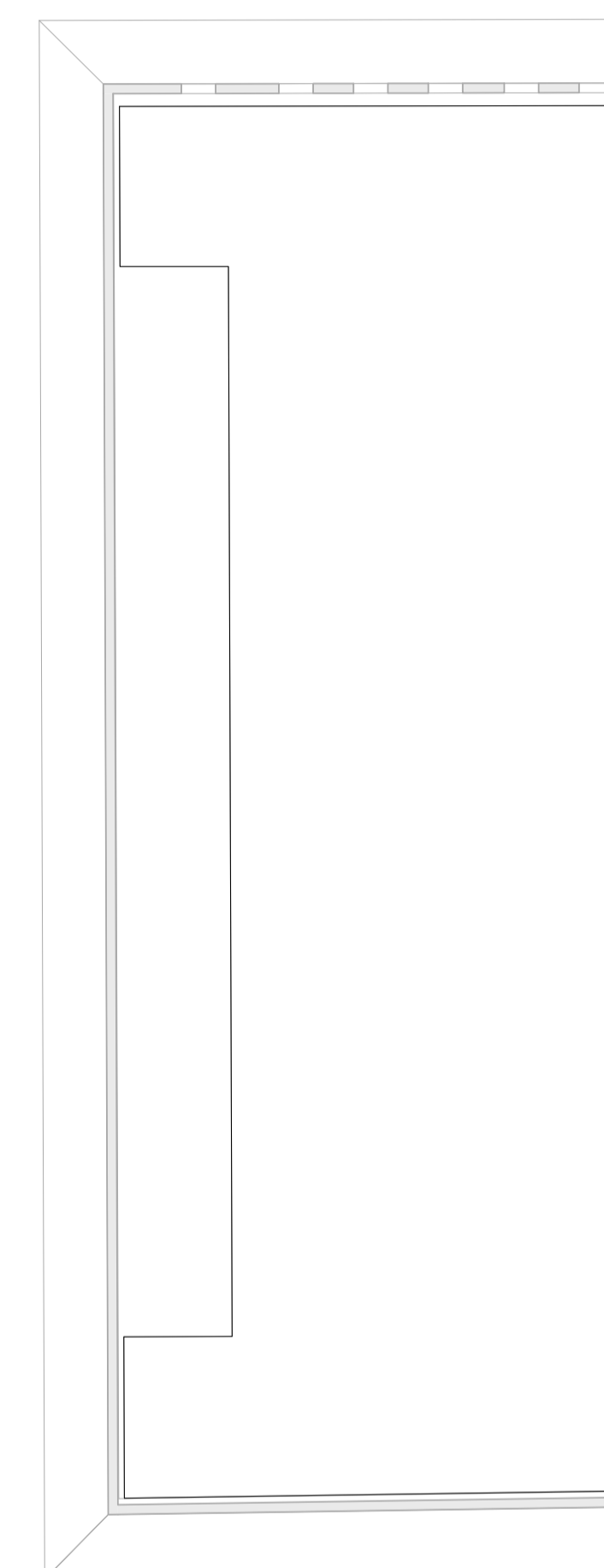
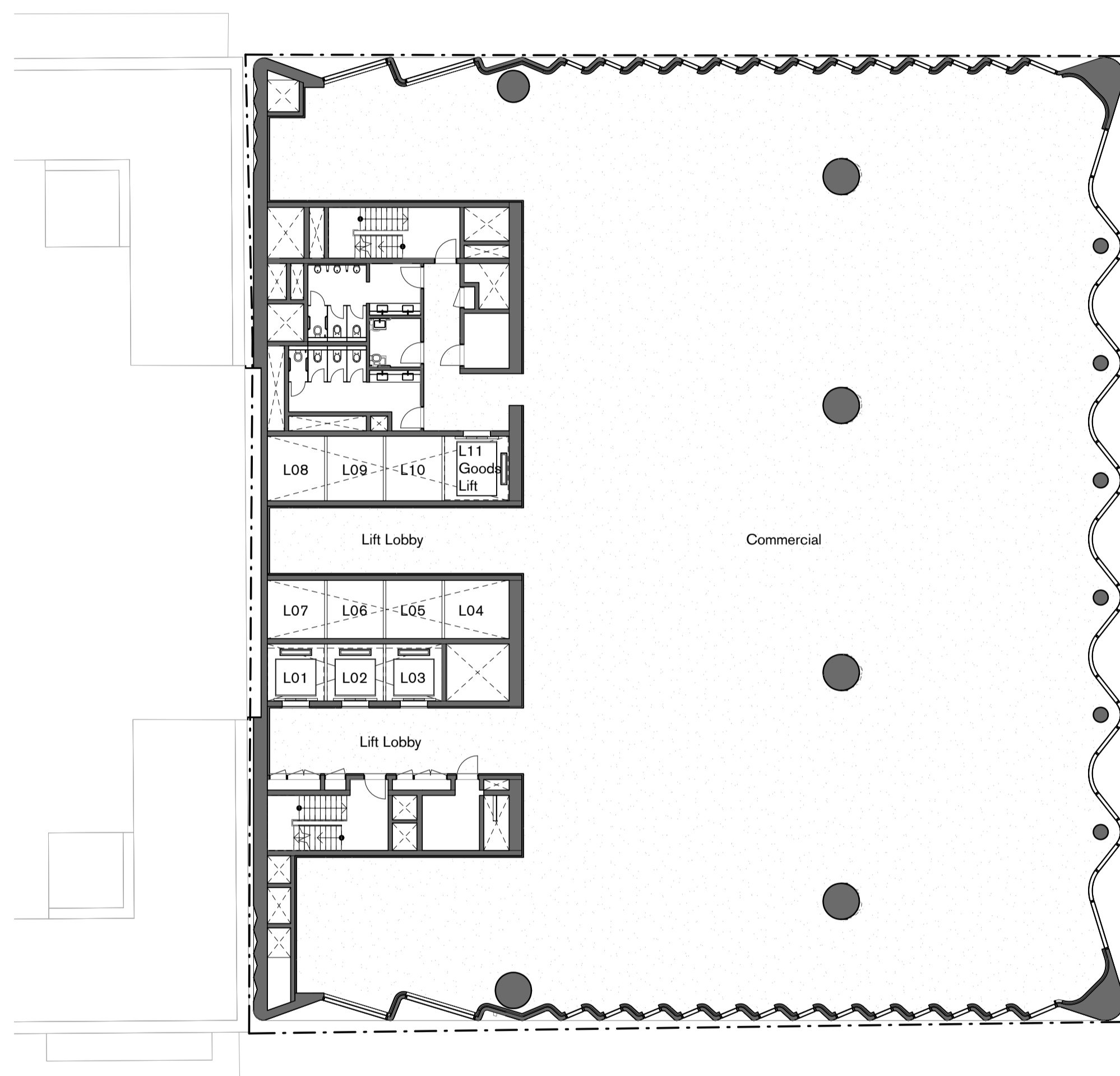
NOT FOR CONSTRUCTION

**Drawing**

L08 GA Plan  
 South Tower OSD

Date	Drawn	Checked
16/08/18	KT	BG

Project No.	Drawing No.	Revision
16036	SMS-1008	D



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**Nominated Architects**  
 Alec Tzannes 4174  
 Jonathan Evans 6613  
 Mladen Prnjatovic 7468  
 Ben Green 7066

**General Notes**  
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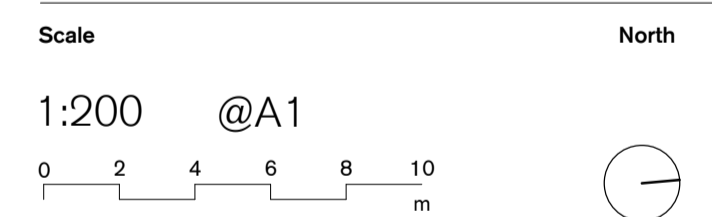
Rev	Date	For
A	20/10/17	USP
B	26/10/17	USP
C	08/07/18	USP
D	16/06/18	USP
E	17/08/18	USP

**Client**  
 Macquarie Group Ltd  
 02 8232 3333



**Legend**

**Tzannes**



**Project**  
 Sydney Metro - Martin Place

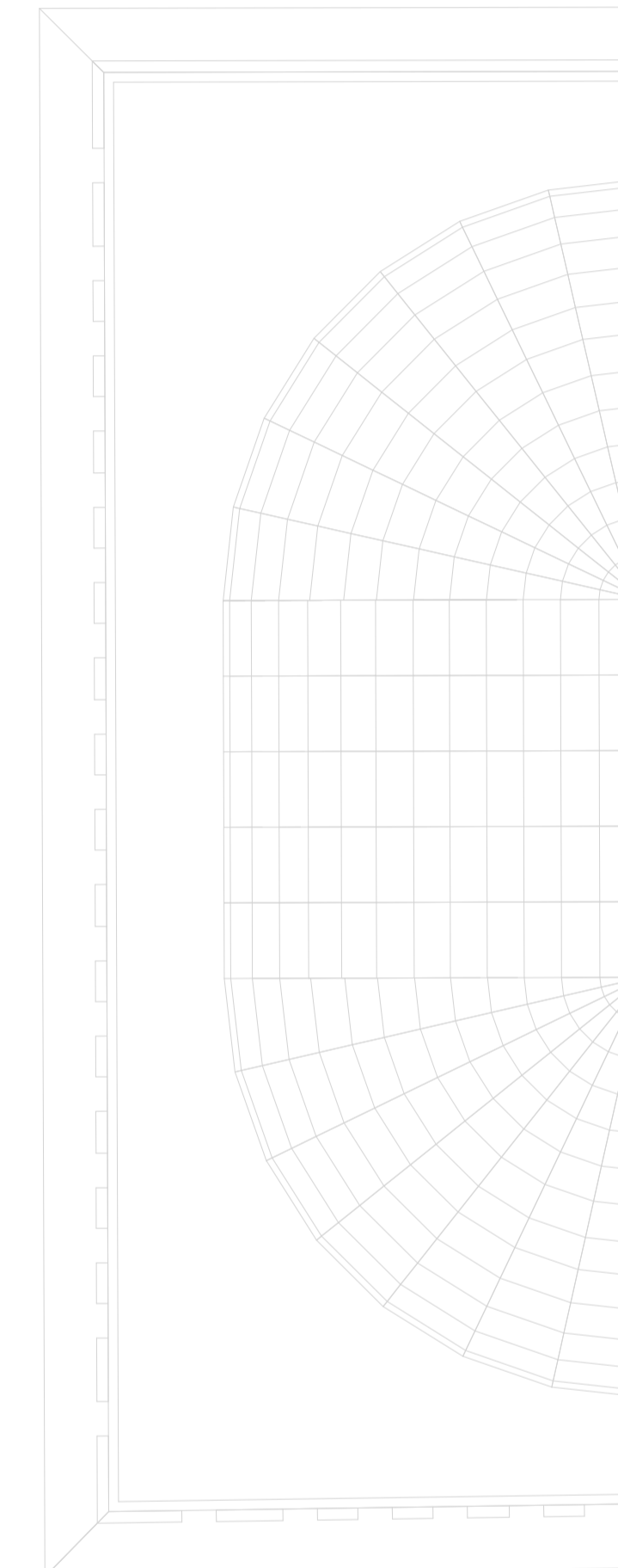
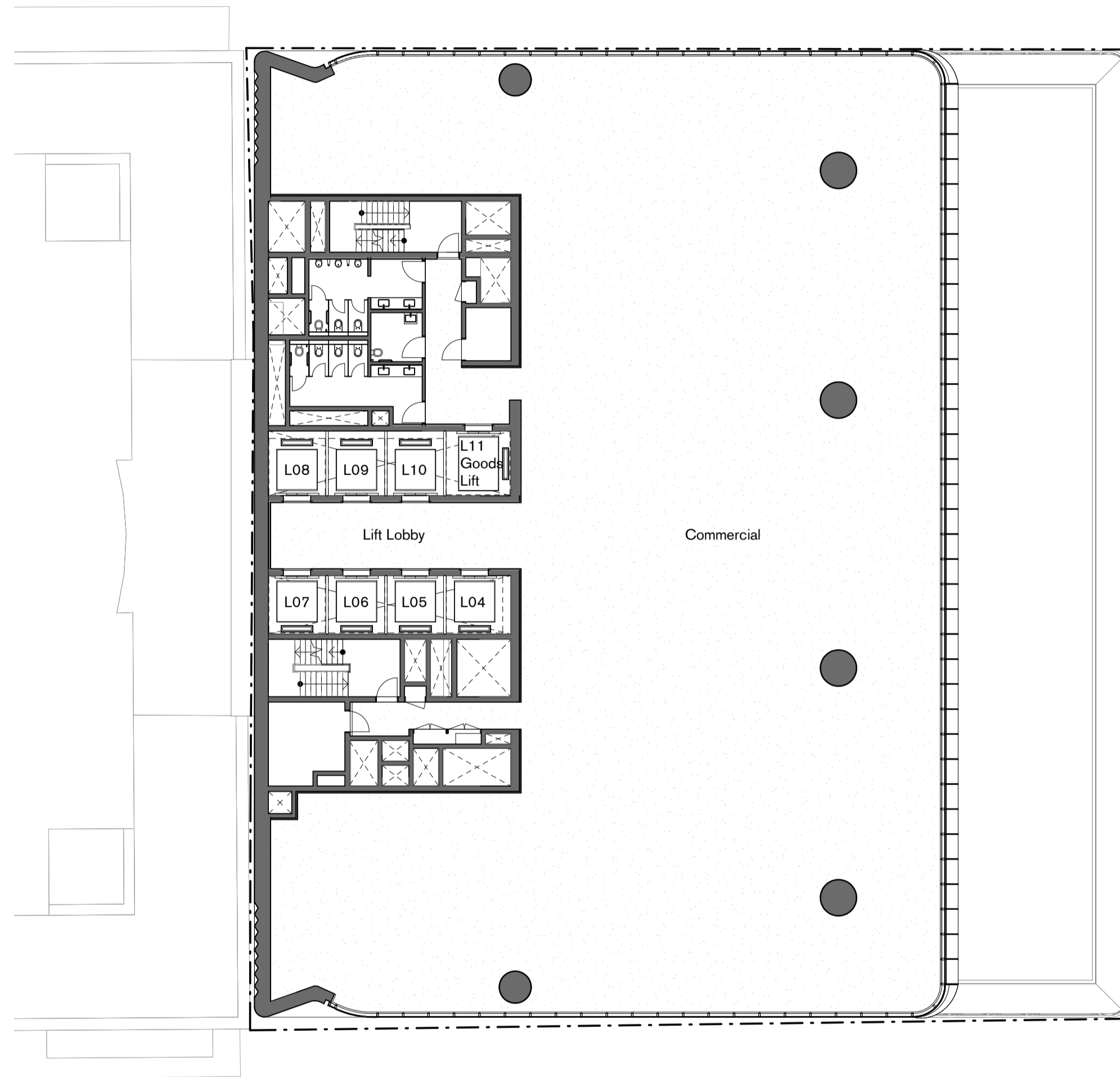
**Address**  
 39 - 49 Martin Place. Sydney

**Status**  
 NOT FOR CONSTRUCTION

**Drawing**  
 L15 - 26 GA Plan  
 South Tower OSD

Date	Drawn	Checked
16/08/18	AB	BG

Project No.	Drawing No.	Revision
16036	SMS-1011	E



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Rev	Date	For
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B	23/10/17	USP
C	26/10/17	USP
D	03/07/18	USP
E	16/08/18	USP

**Client**

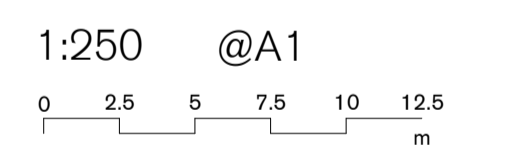
Macquarie Group Ltd  
 02 8232 3333



**Legend**

**Tzannes**

Scale North



**Project**

Sydney Metro - Martin Place

**Address**

39 - 49 Martin Place. Sydney

**Status**

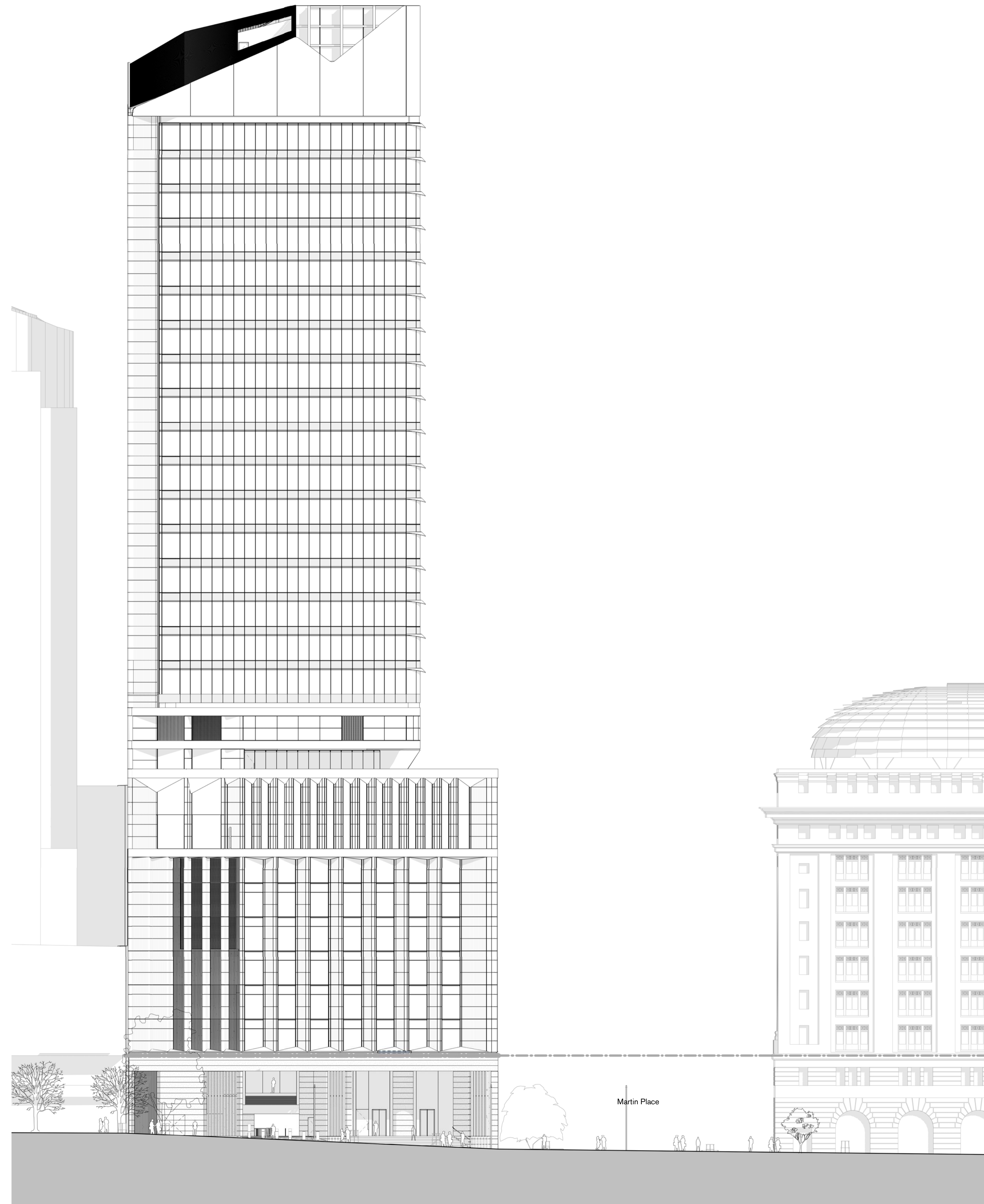
NOT FOR CONSTRUCTION

**Drawing**

East Elevation  
 South Tower OSD

Date 16/08/18 Drawn KT Checked BG

Project No. 16036 Drawing No. SMS-4000 Revision E





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Rev	Date	For
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B	26/10/17	USP
C	03/07/18	USP
D	16/08/18	USP

**Client**

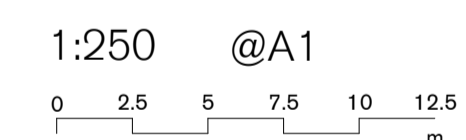
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**Legend**

**Tzannes**

Scale North



**Project**

Sydney Metro - Martin Place

**Address**

39 - 49 Martin Place, Sydney

**Status**

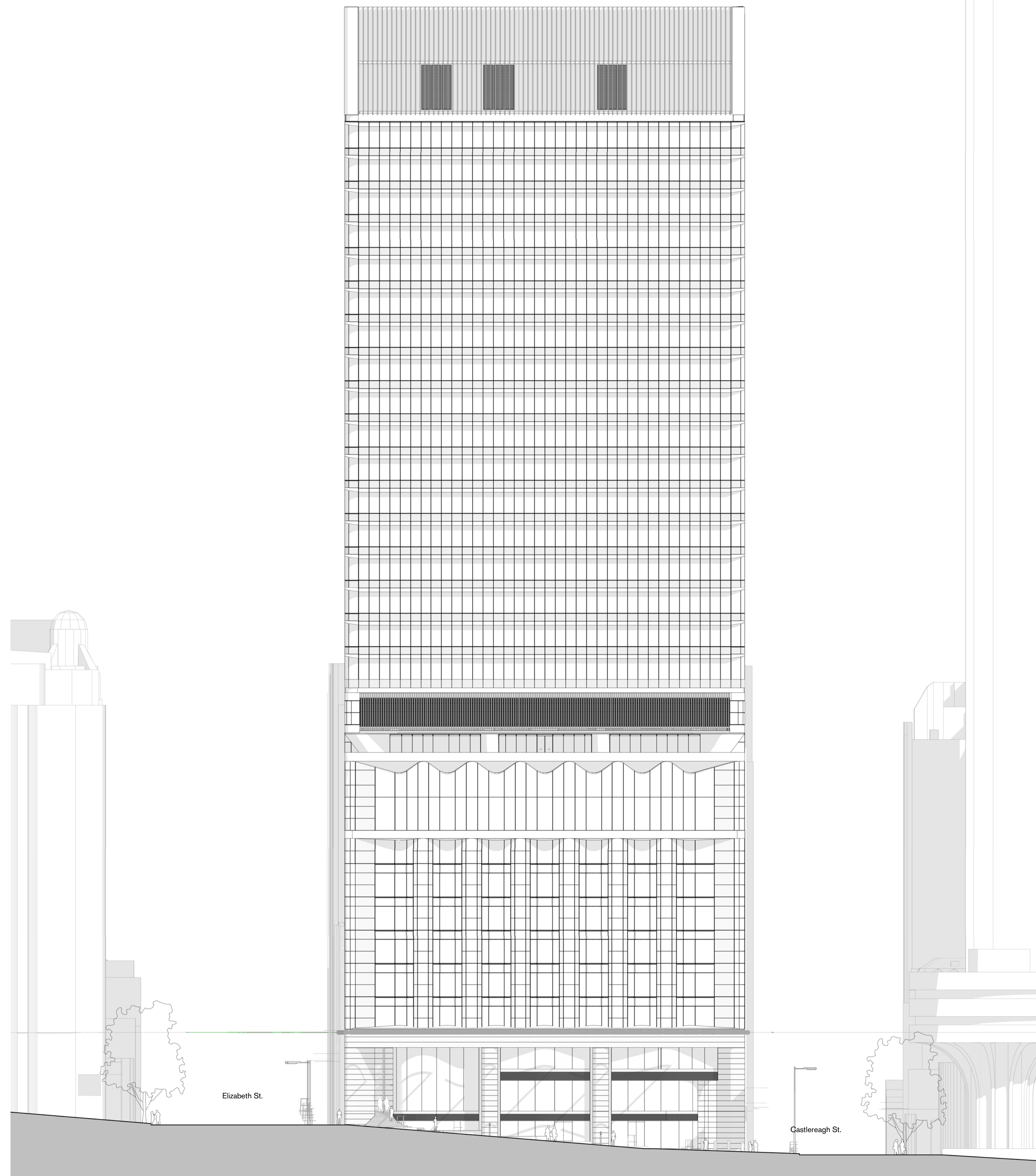
NOT FOR CONSTRUCTION

**Drawing**

North Elevation  
 South Tower OSD

Date 16/08/18 Drawn KT Checked BG

Project No. 16036 Drawing No. SMS-4001 Revision D





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Rev	Date	For
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B	23/10/17	USP
C	26/10/17	USP
D	03/07/18	USP
E	16/08/18	USP

**Client**

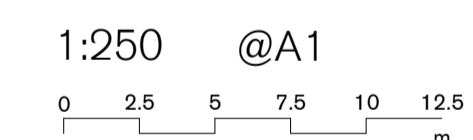
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**Legend**

**Tzannes**

Scale North



**Project**

Sydney Metro - Martin Place

**Address**

39 - 49 Martin Place, Sydney

**Status**

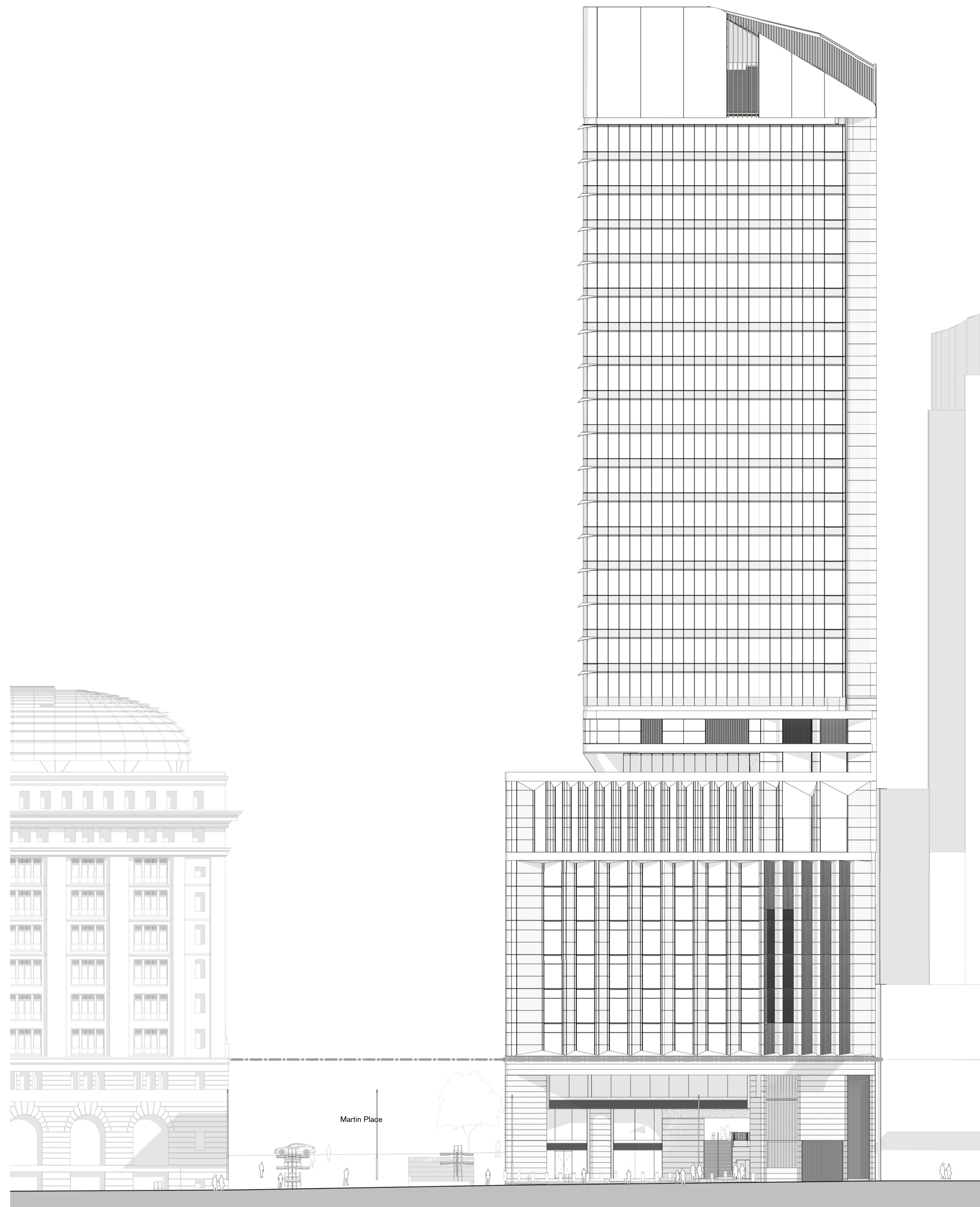
NOT FOR CONSTRUCTION

**Drawing**

West Elevation  
 South Tower OSD

<b>Date</b>	<b>Drawn</b>	<b>Checked</b>
16/08/18	KT	BG

<b>Project No.</b>	<b>Drawing No.</b>	<b>Revision</b>
16036	SMS-4002	E

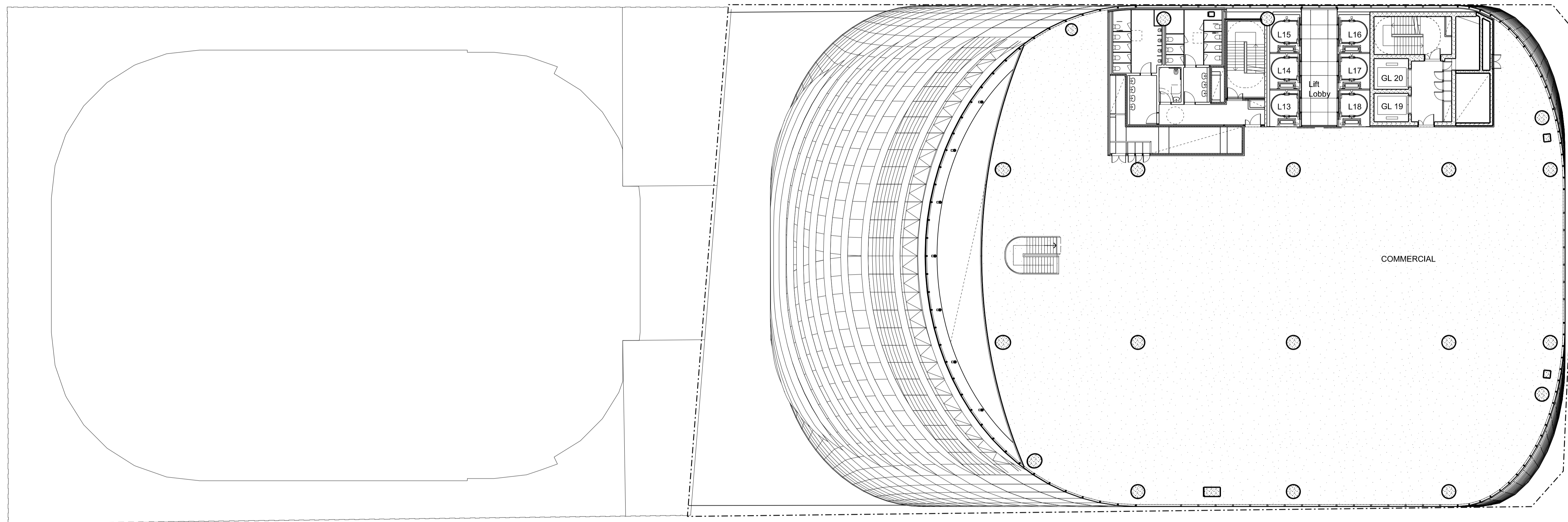


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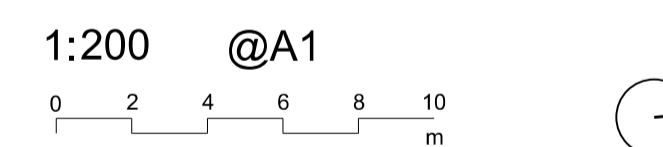
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Legend

JPW  
JOHNSON PILTON WALKER

Scale North



Project  
**Sydney Metro - Martin Place**

Address  
**50 Martin Place, 5-19 Elizabeth Street, 8-12 Castlereagh Street, and 55 Hunter Street, Sydney**

Status  
**NOT FOR CONSTRUCTION**

Drawing  
**L30 GA Plan  
North Tower OSD**

Date Drawn Checked  
**08/14/18 JW NM**

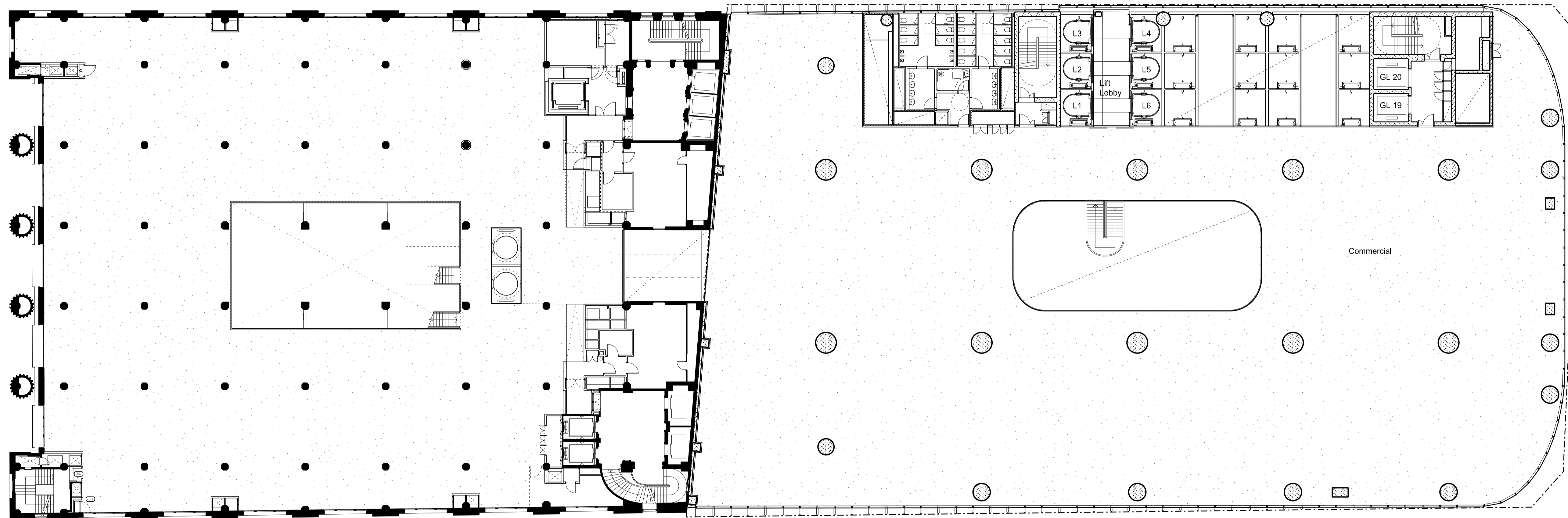
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**16002 SMN-1030**

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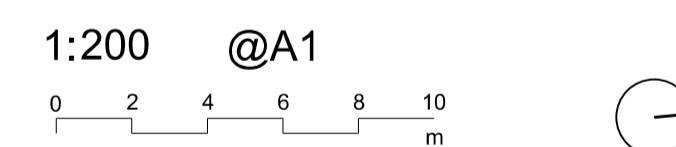
Client  
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Legend

JPW  
JOHNSON PILTON WALKER

Scale North



Project  
**Sydney Metro - Martin Place**

Address  
**50 Martin Place, 5-19 Elizabeth Street, 8-12 Castlereagh Street, and 55 Hunter Street, Sydney**

Status  
**NOT FOR CONSTRUCTION**

Drawing  
**L09 GA Plan  
North Tower OSD**

Date Drawn Checked  
**08/14/18 JW NM**

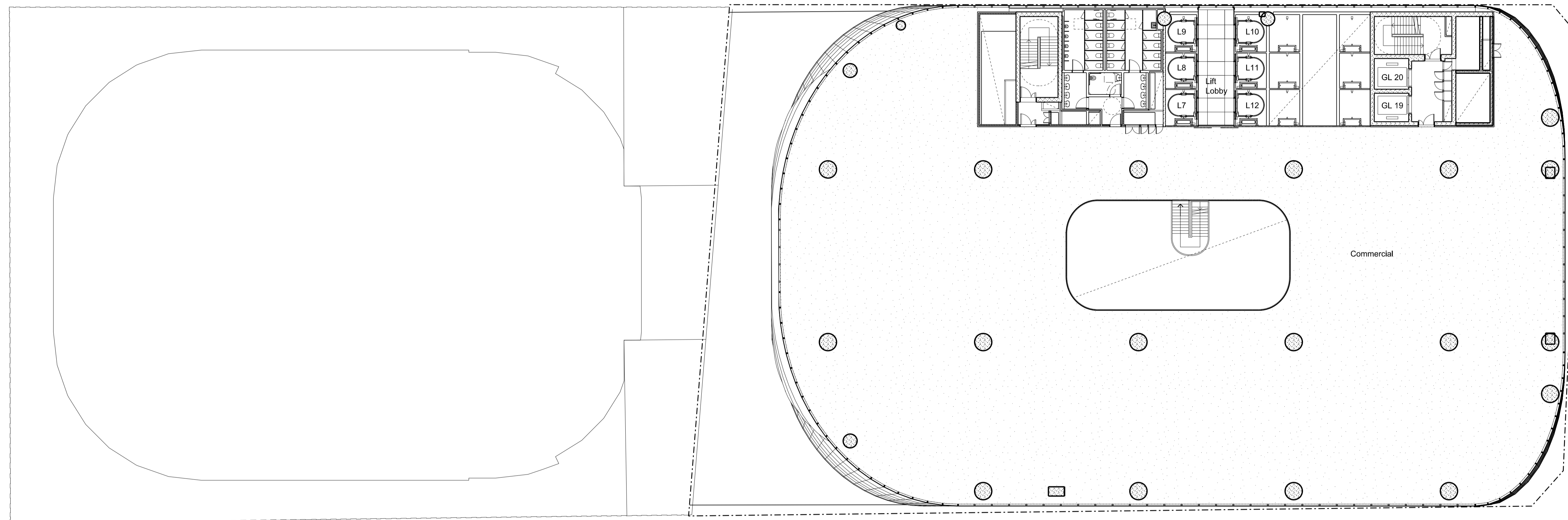
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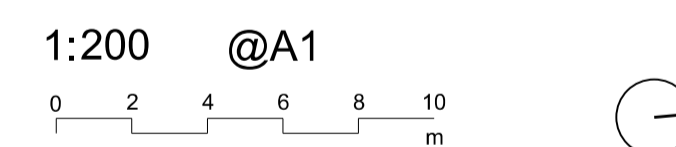
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Scale North



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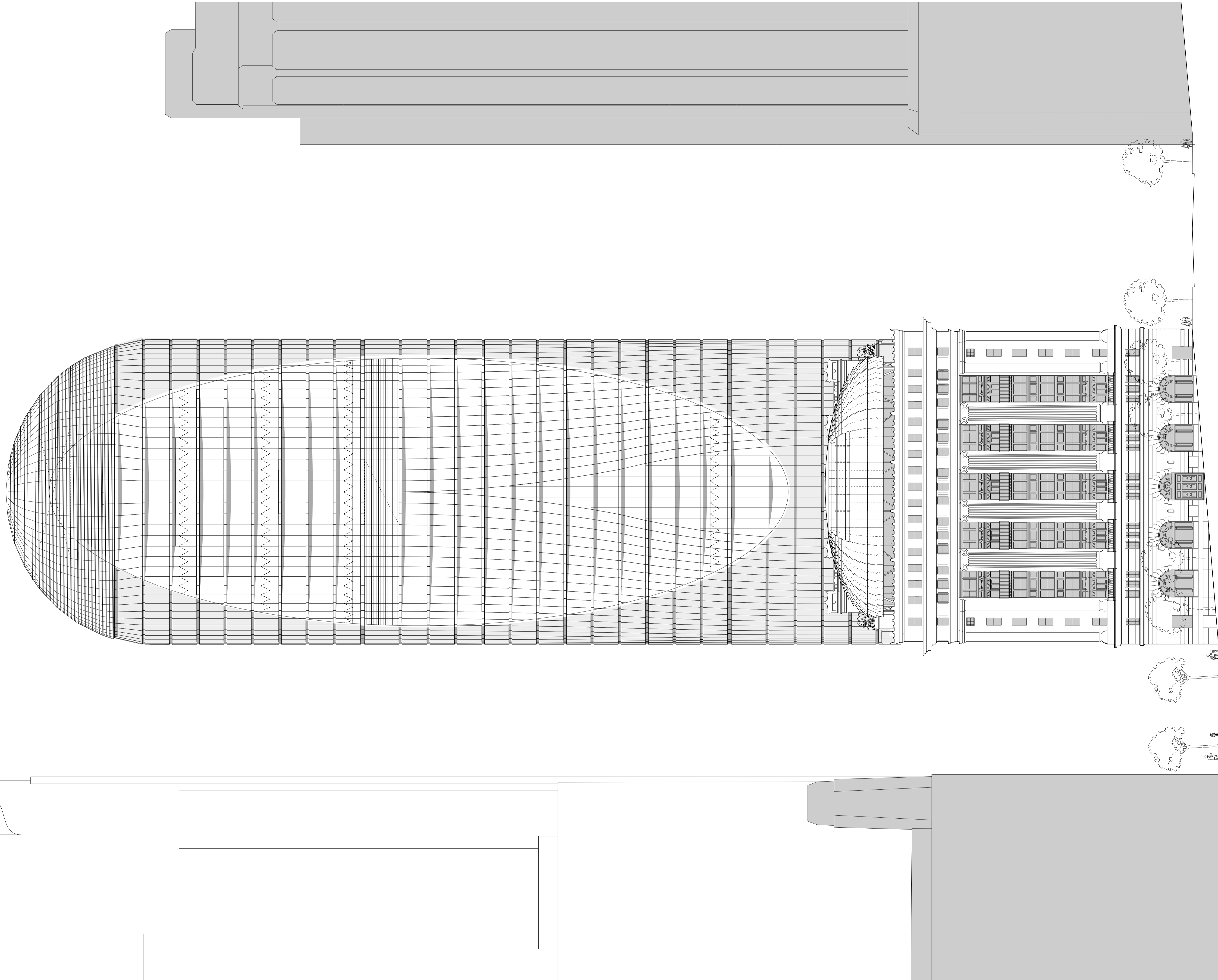
Status  
**NOT FOR CONSTRUCTION**

Drawing  
**L20 GA Plan  
North Tower OSD**

Date Drawn Checked  
**08/14/18 JW NM**

Project No. Drawing No. Revision  
**16002 SMN-1020**





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Nominated Architect  
Jeff Walker 6403

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Legend

Scale North  
1:250 @A1  
0 2.5 5 7.5 10 12.5  
m

Project  
**Sydney Metro - Martin Place**

Address  
**50 Martin Place, 5-19 Elizabeth Street, 8-12 Castlereagh Street, and 55 Hunter Street, Sydney**

Status  
**NOT FOR CONSTRUCTION**

Drawing  
**South Elevation  
NorthTower OSD**

Date Drawn Checked  
**08/16/18 JW NM**

Project No. Drawing No. Revision  
**16002 SMN-4003**

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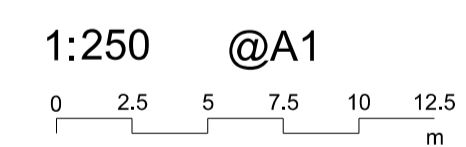
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Legend

Scale North



Project  
**Sydney Metro - Martin Place**

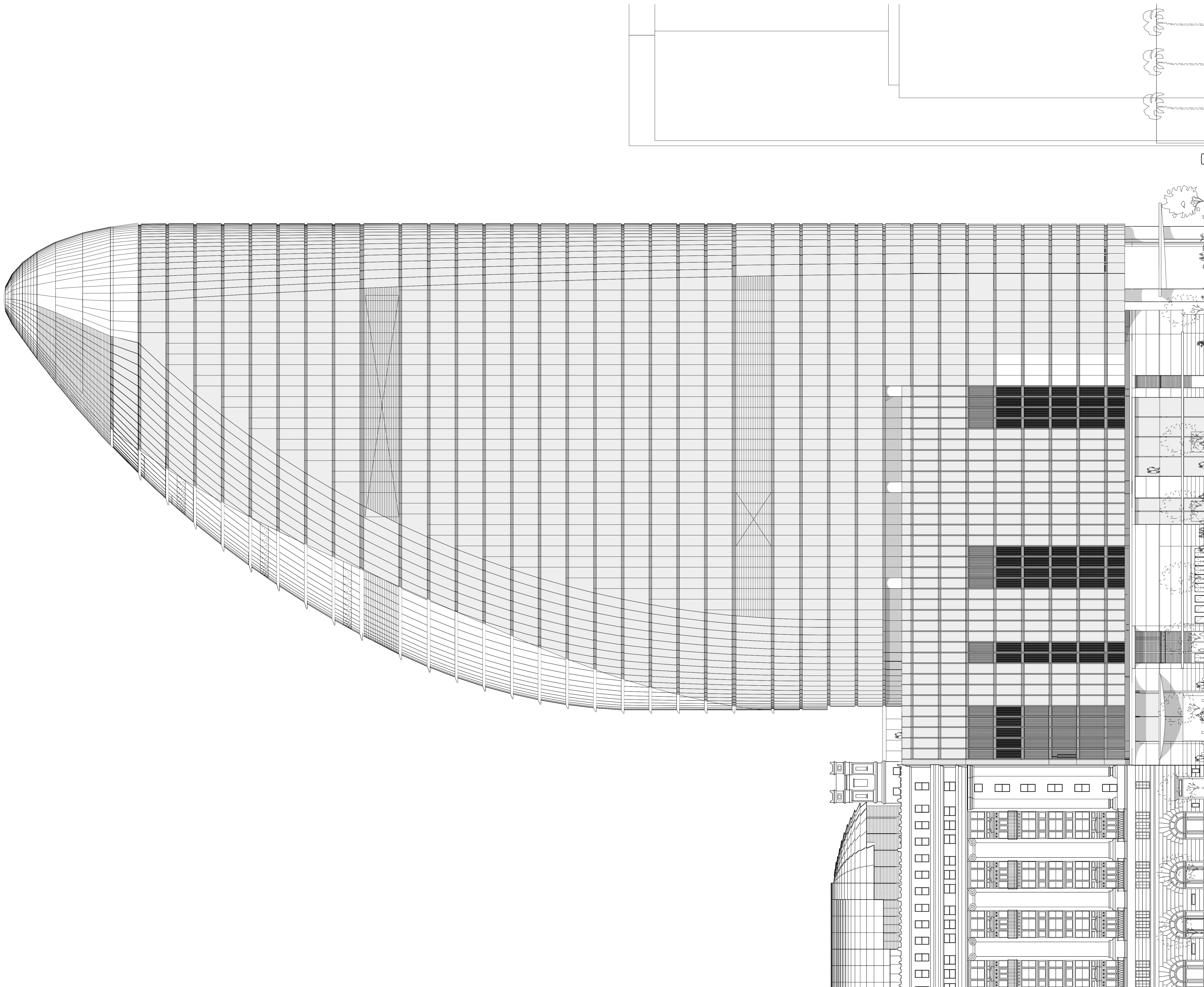
Address  
 50 Martin Place, 5-19 Elizabeth Street, 8-12 Castlereagh Street, and 55 Hunter Street, Sydney

Status  
**NOT FOR CONSTRUCTION**

Drawing  
**East Elevation  
 North Tower OSD**

Date Drawn Checked  
 08/22/18 JW NM

Project No. Drawing No. Revision  
 16002 SMN-4000



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**Legend**

**Scale**    North  
1:250    @A1  
0    2.5    5    7.5    10    12.5  
m

**Project**  
**Sydney Metro - Martin Place**

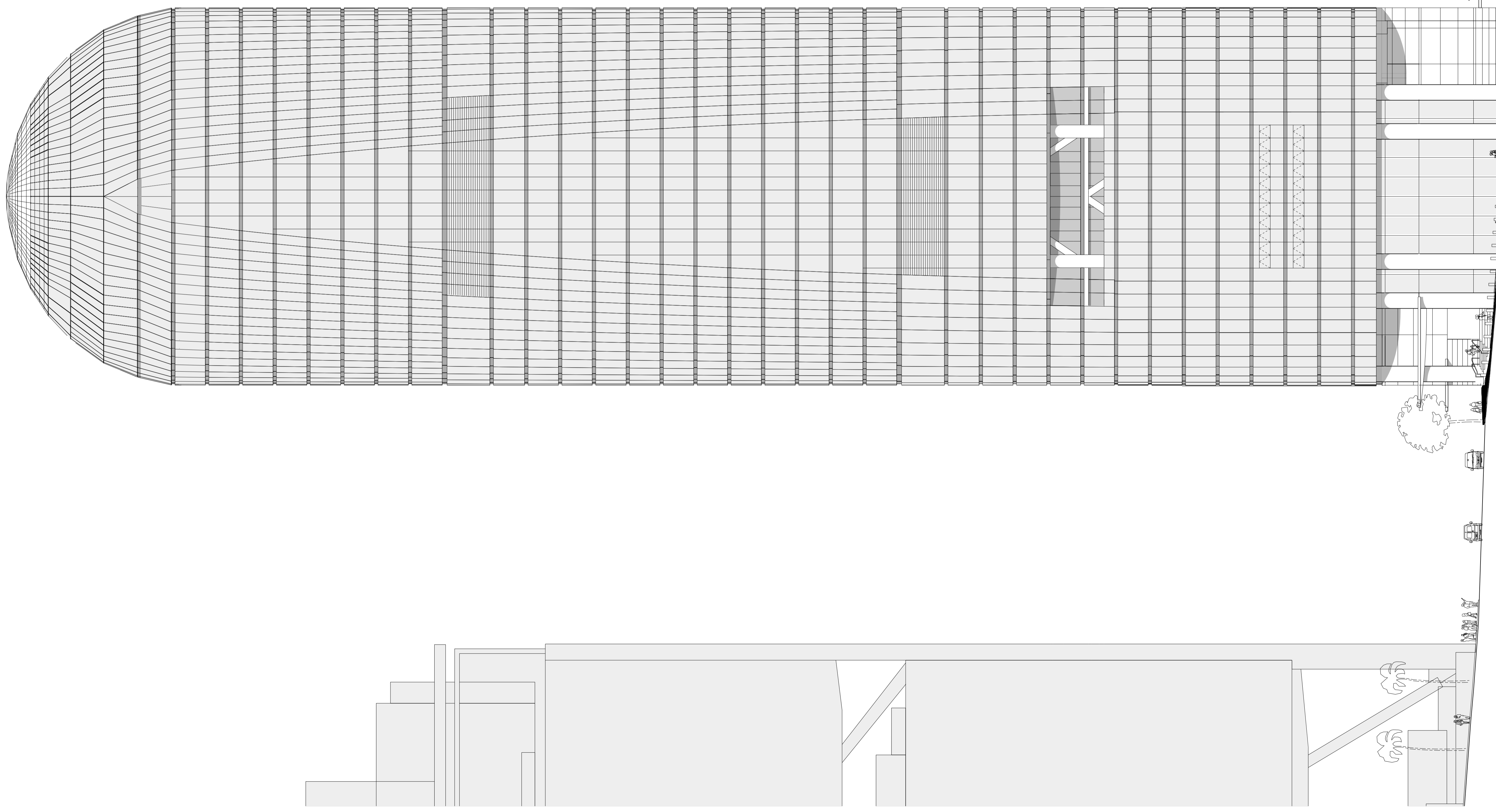
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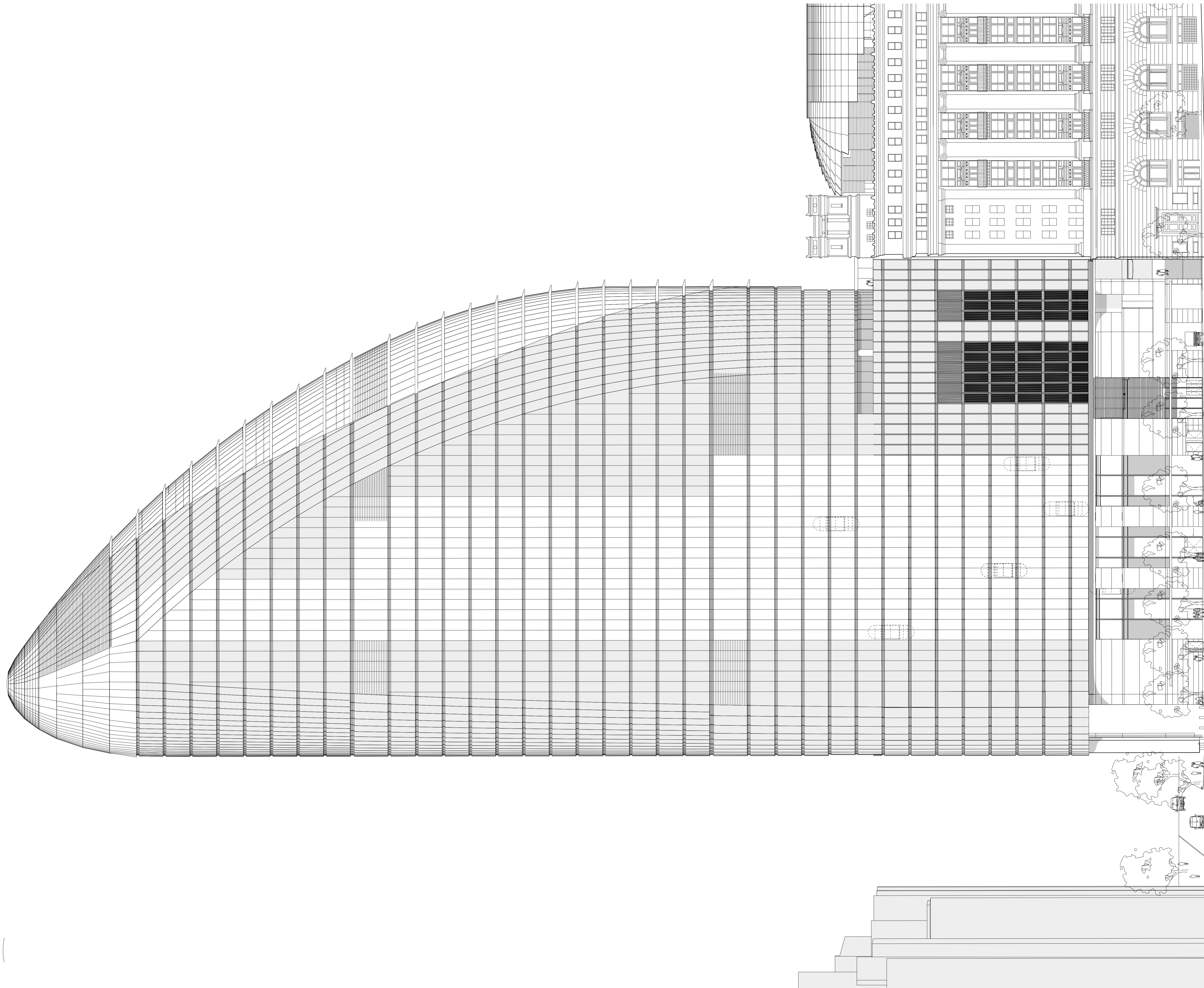
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**NOT FOR CONSTRUCTION**

**Drawing**  
**North Elevation**  
**North Tower OSD**

**Date**    **Drawn**    **Checked**  
08/22/18    JW    NM

**Project No.**    **Drawing No.**    **Revision**  
16002    SMN-4001





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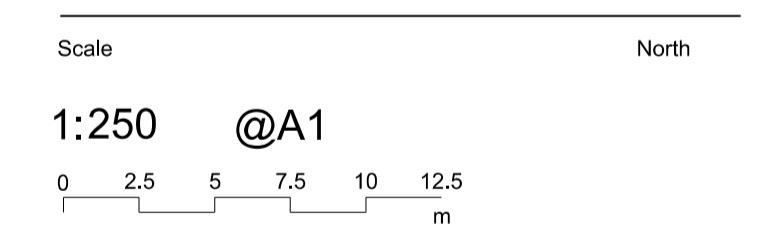
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**Legend**



**Project**  
**Sydney Metro - Martin Place**

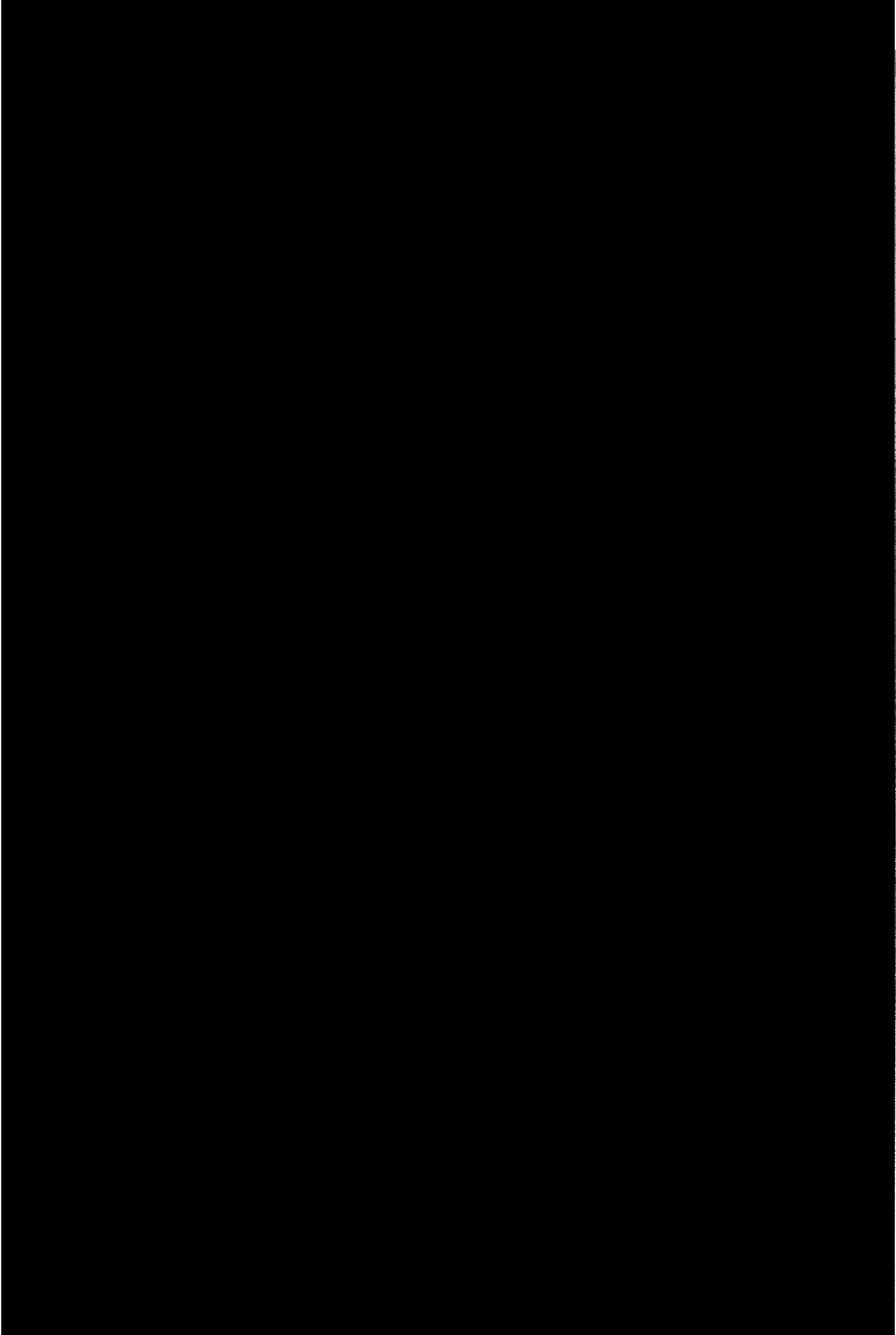
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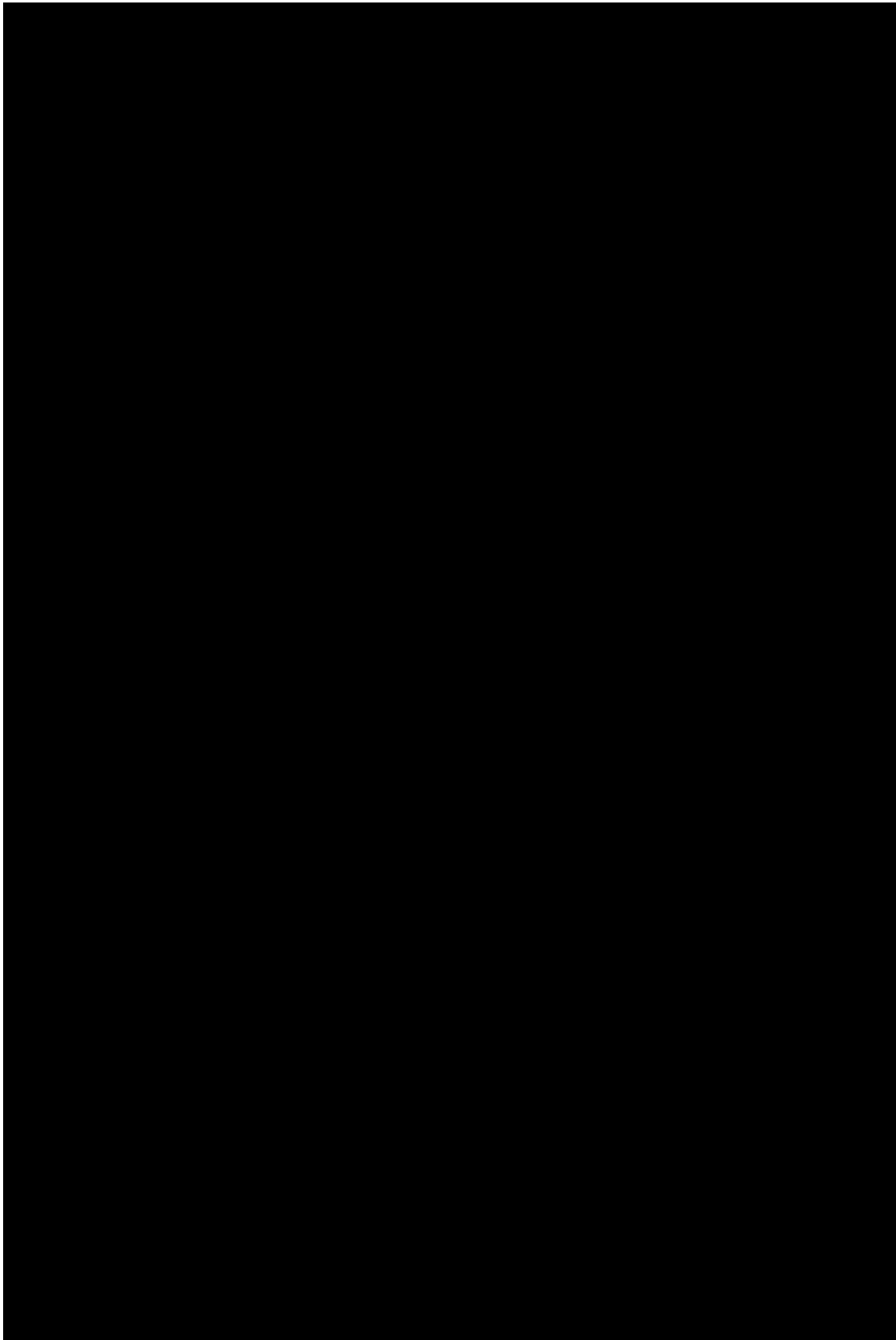
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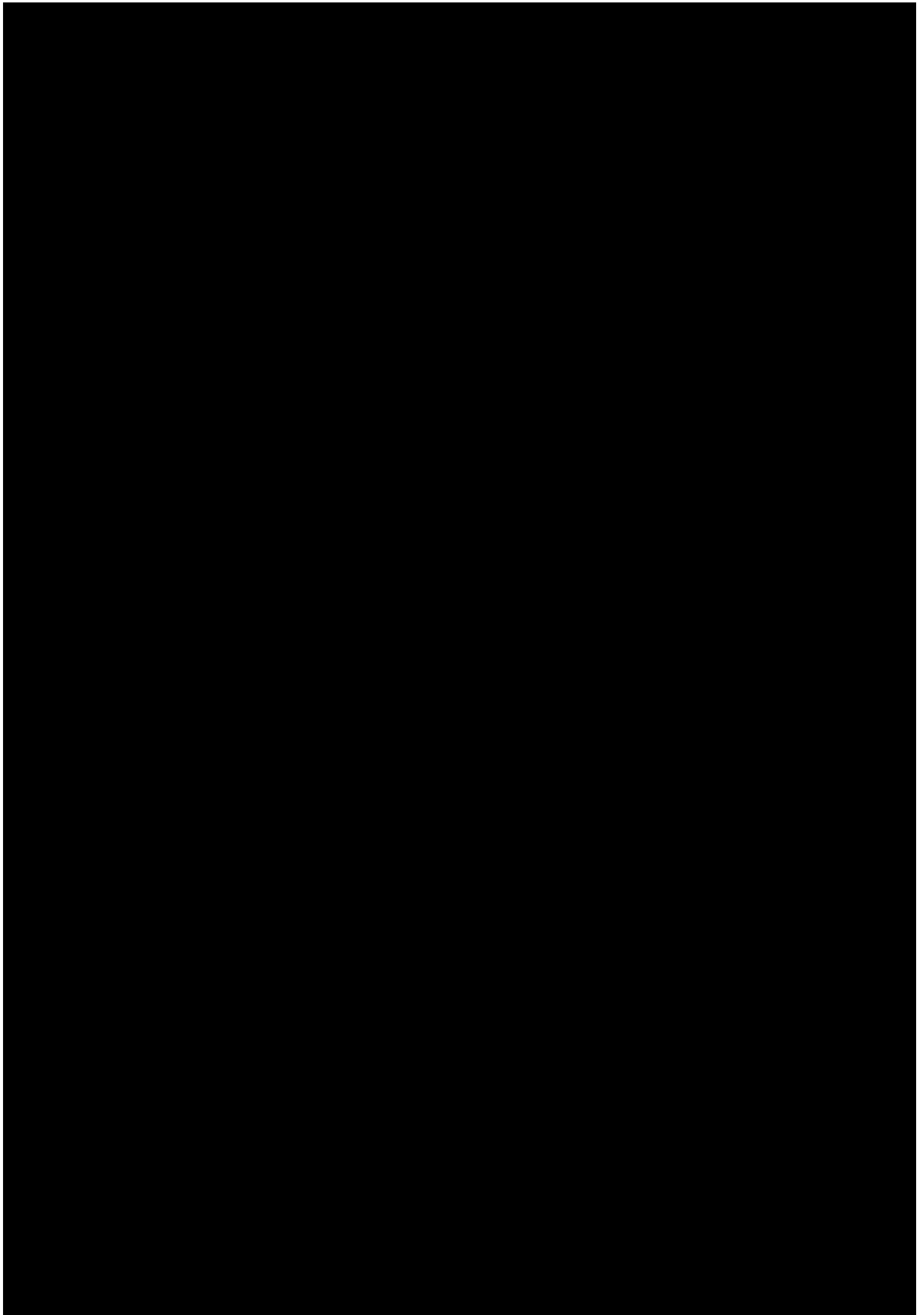
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**West Elevation**  
**NorthTower OSD**

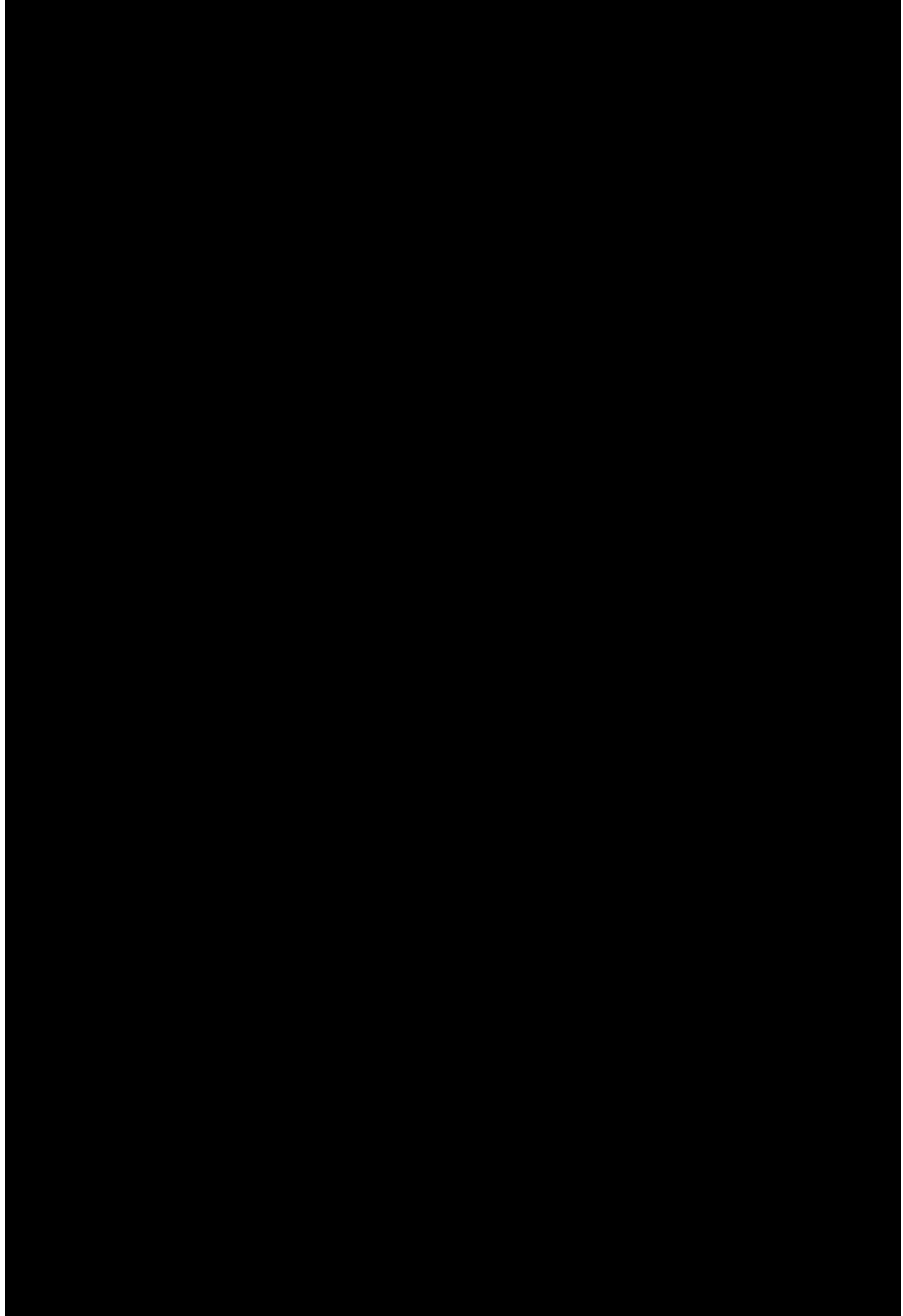
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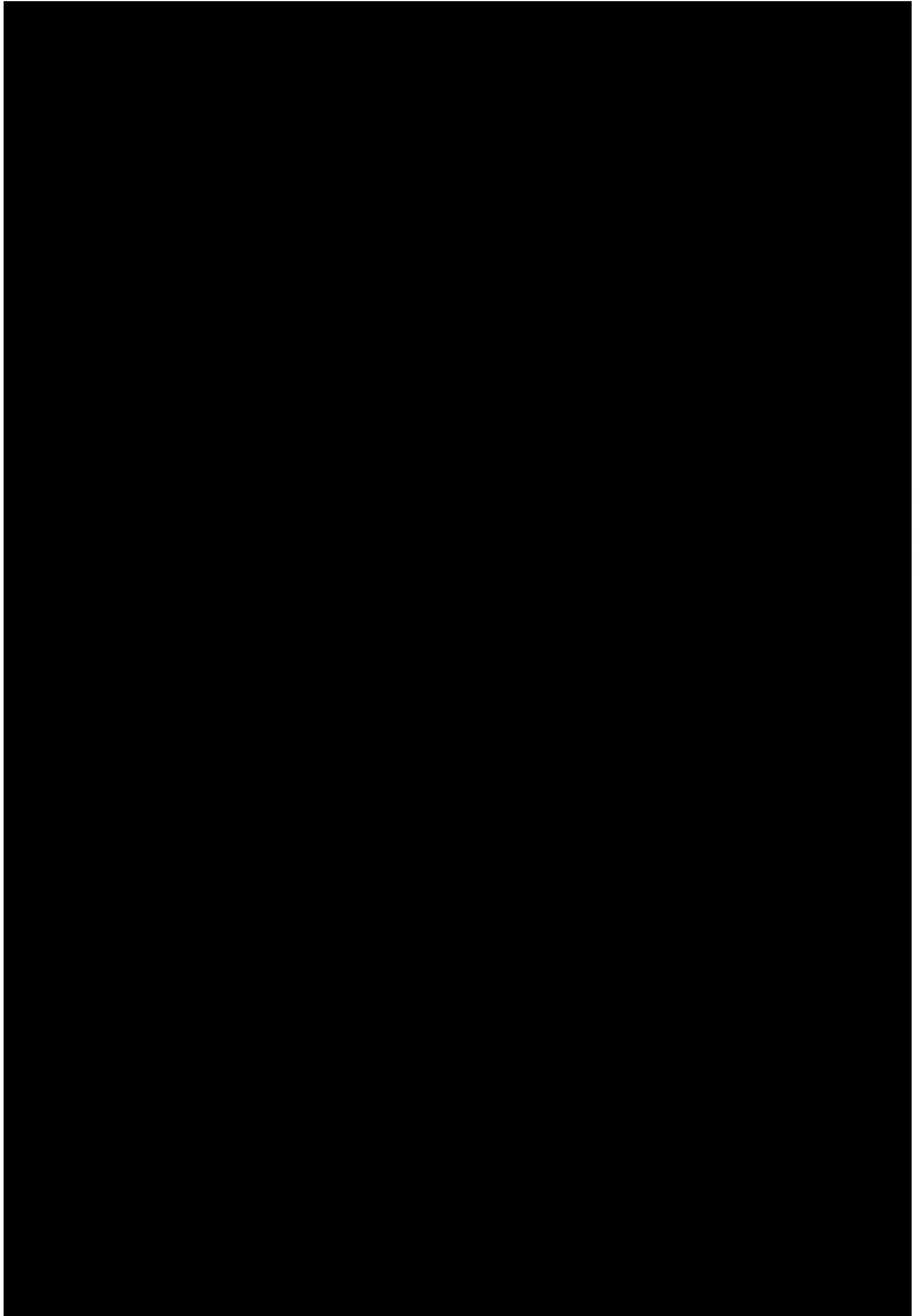


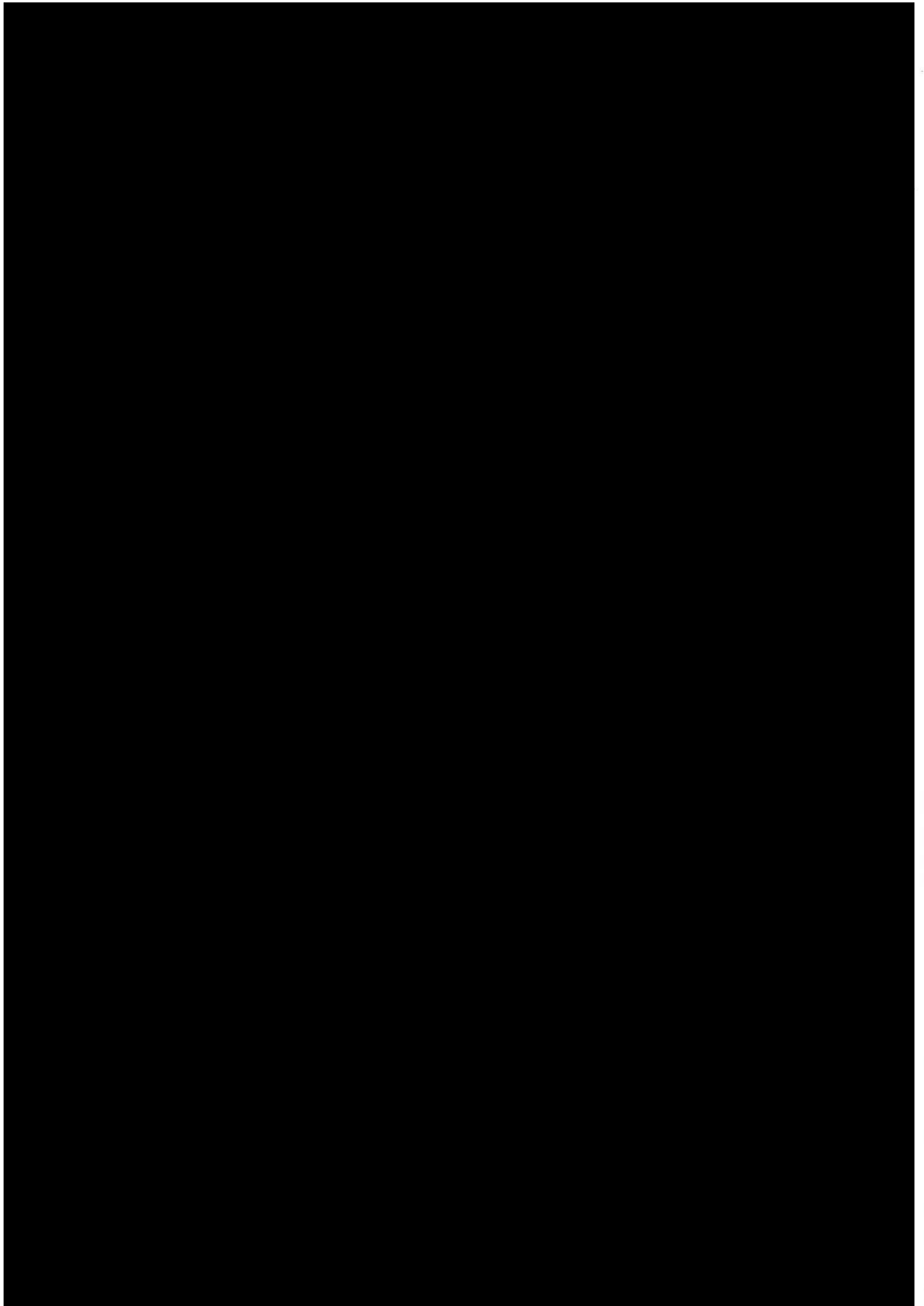


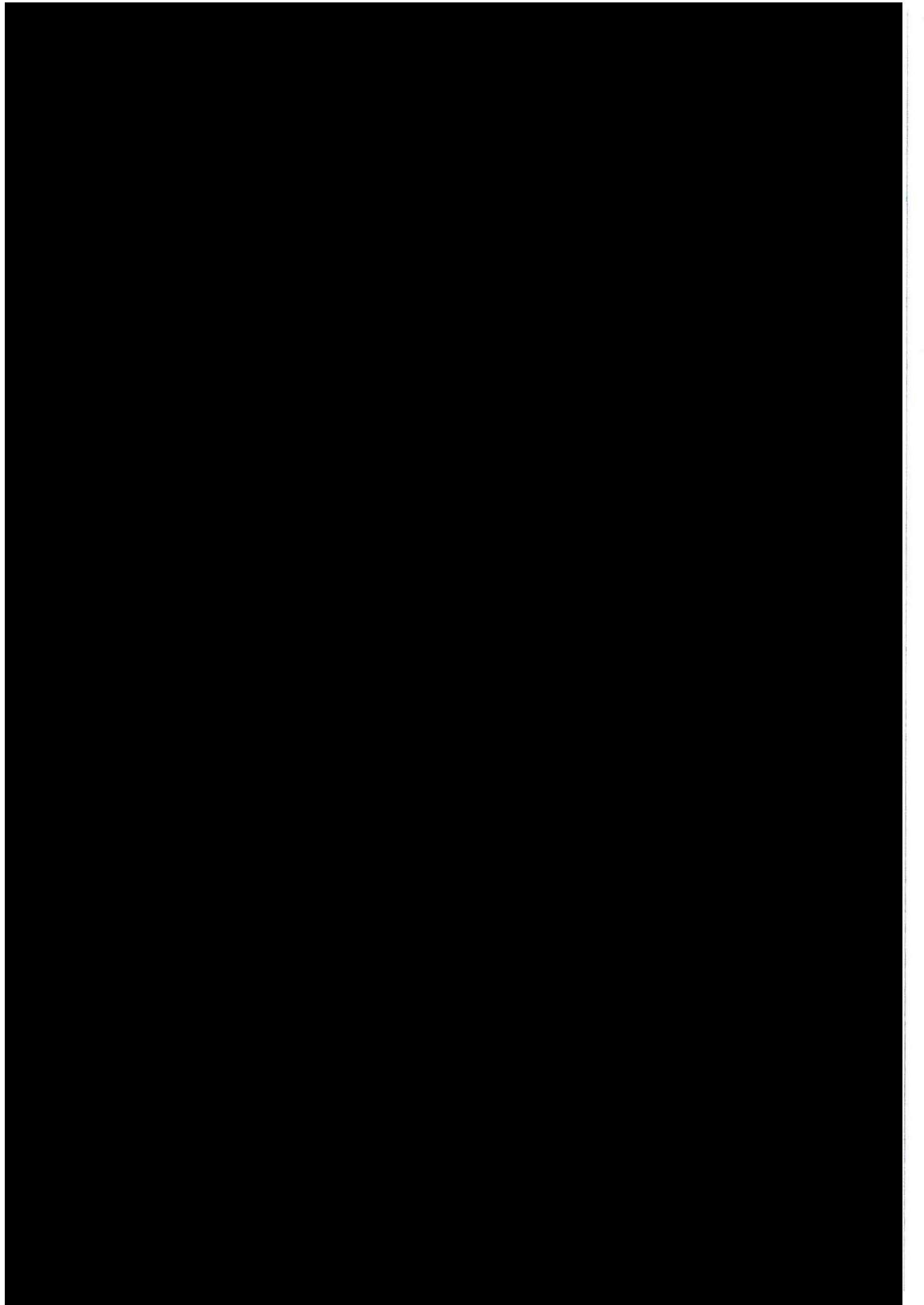


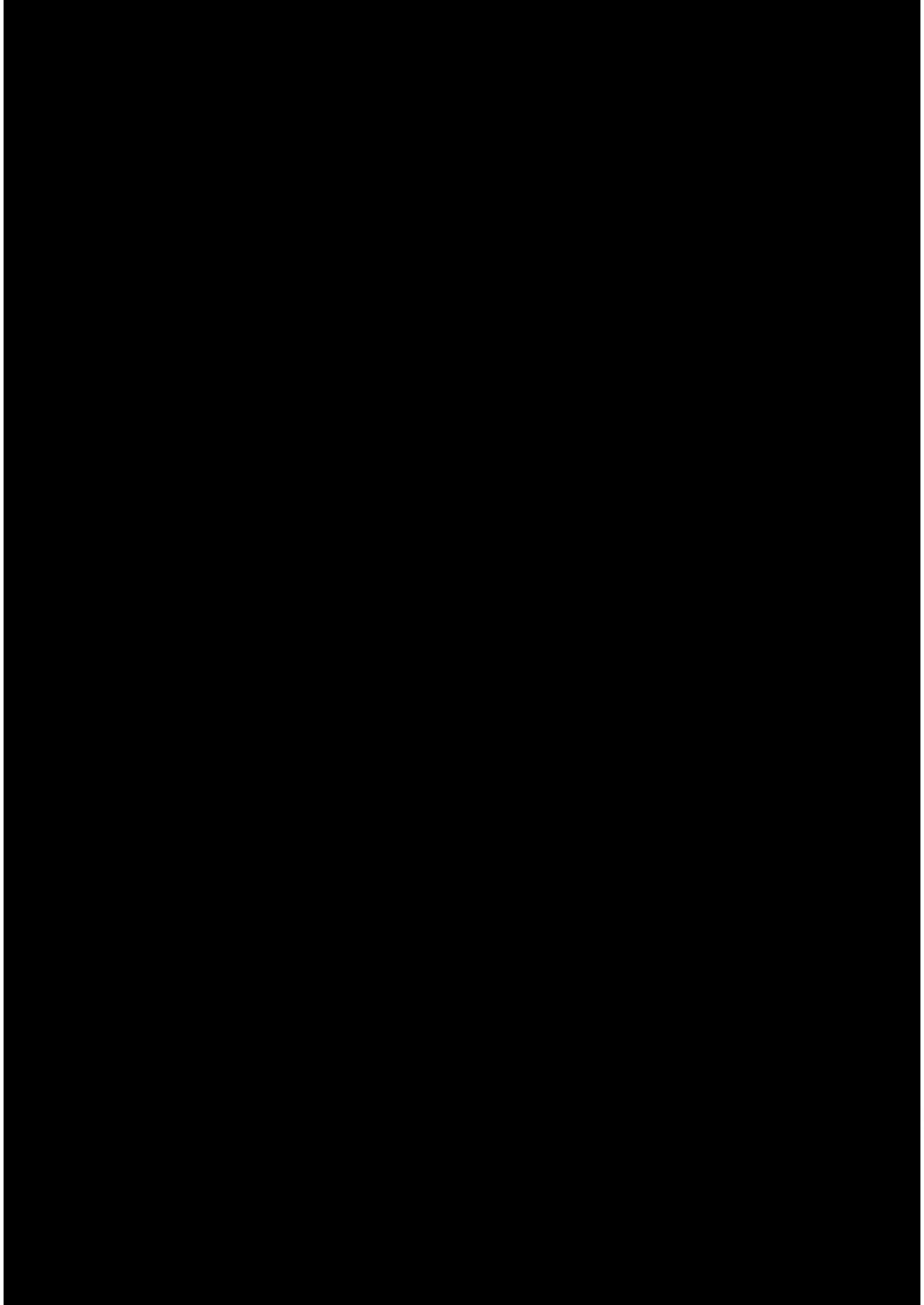


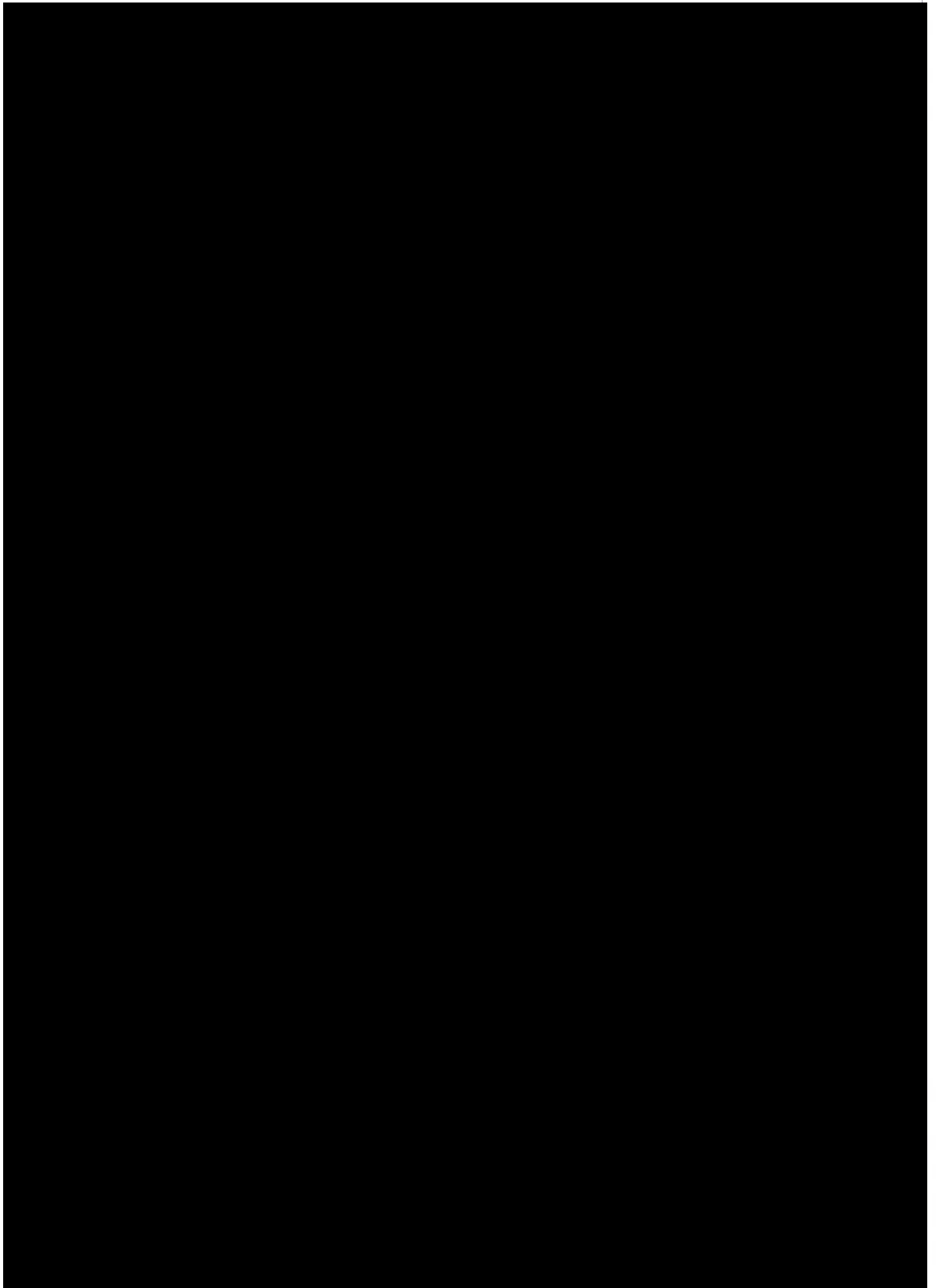


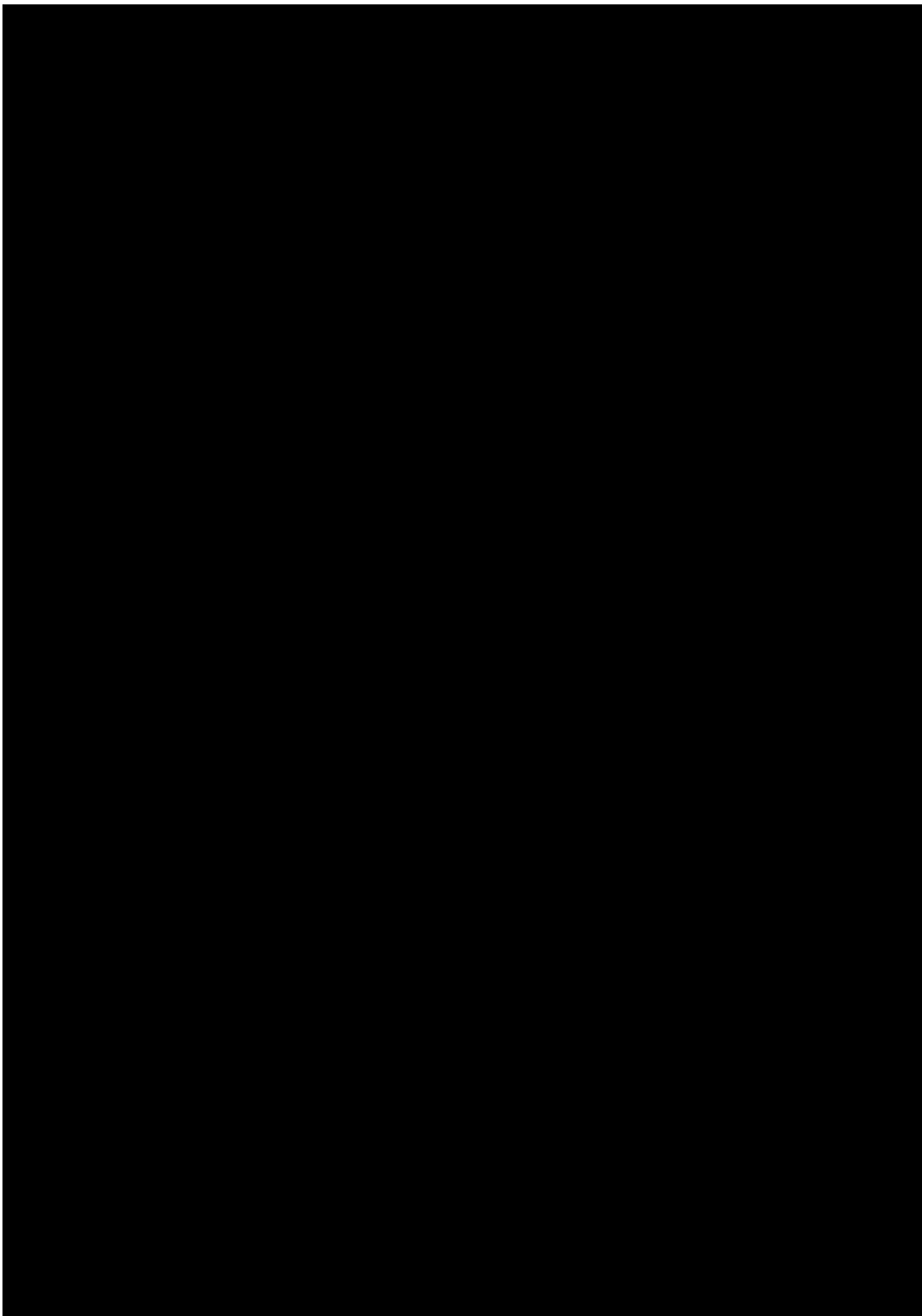


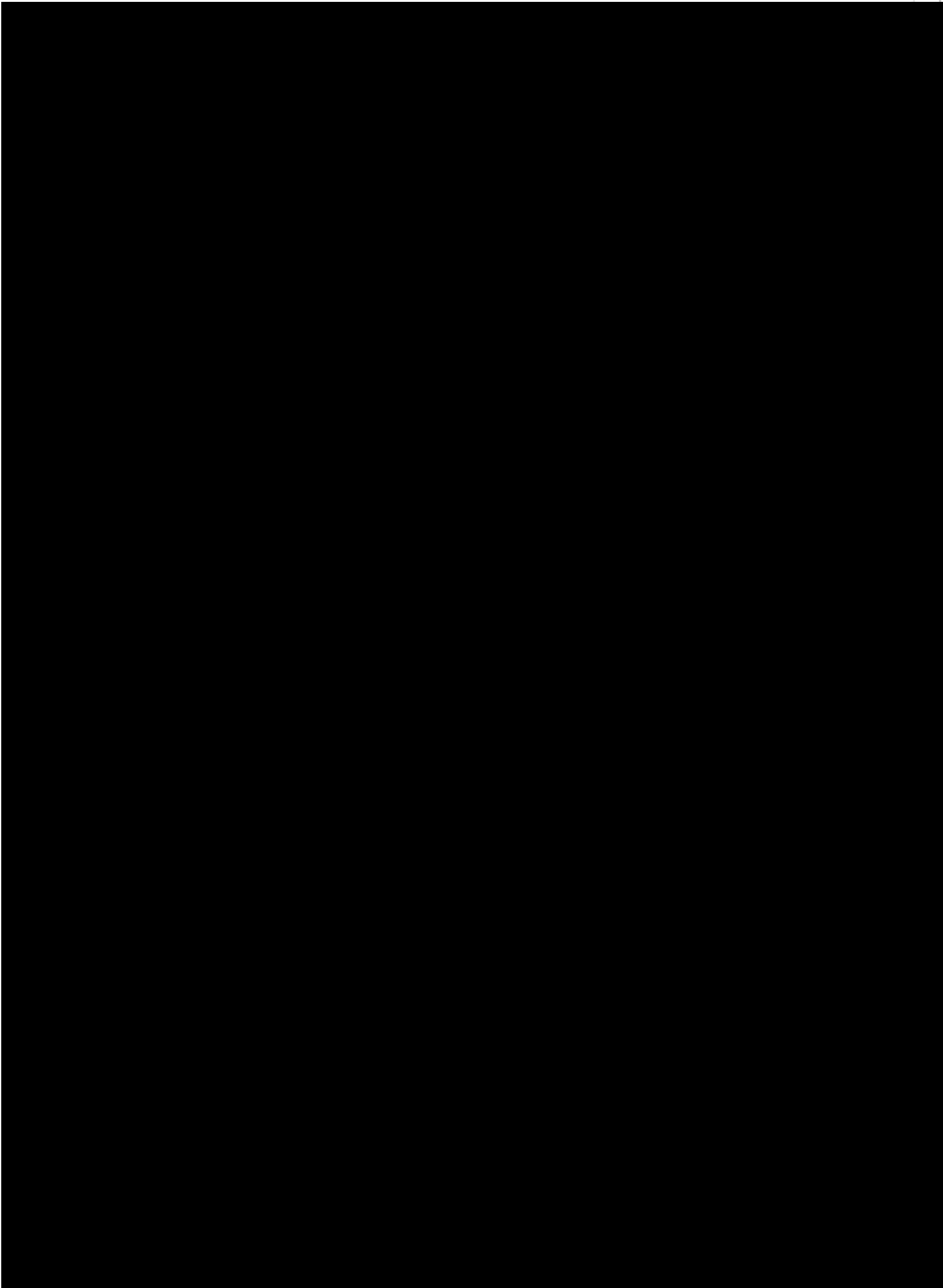


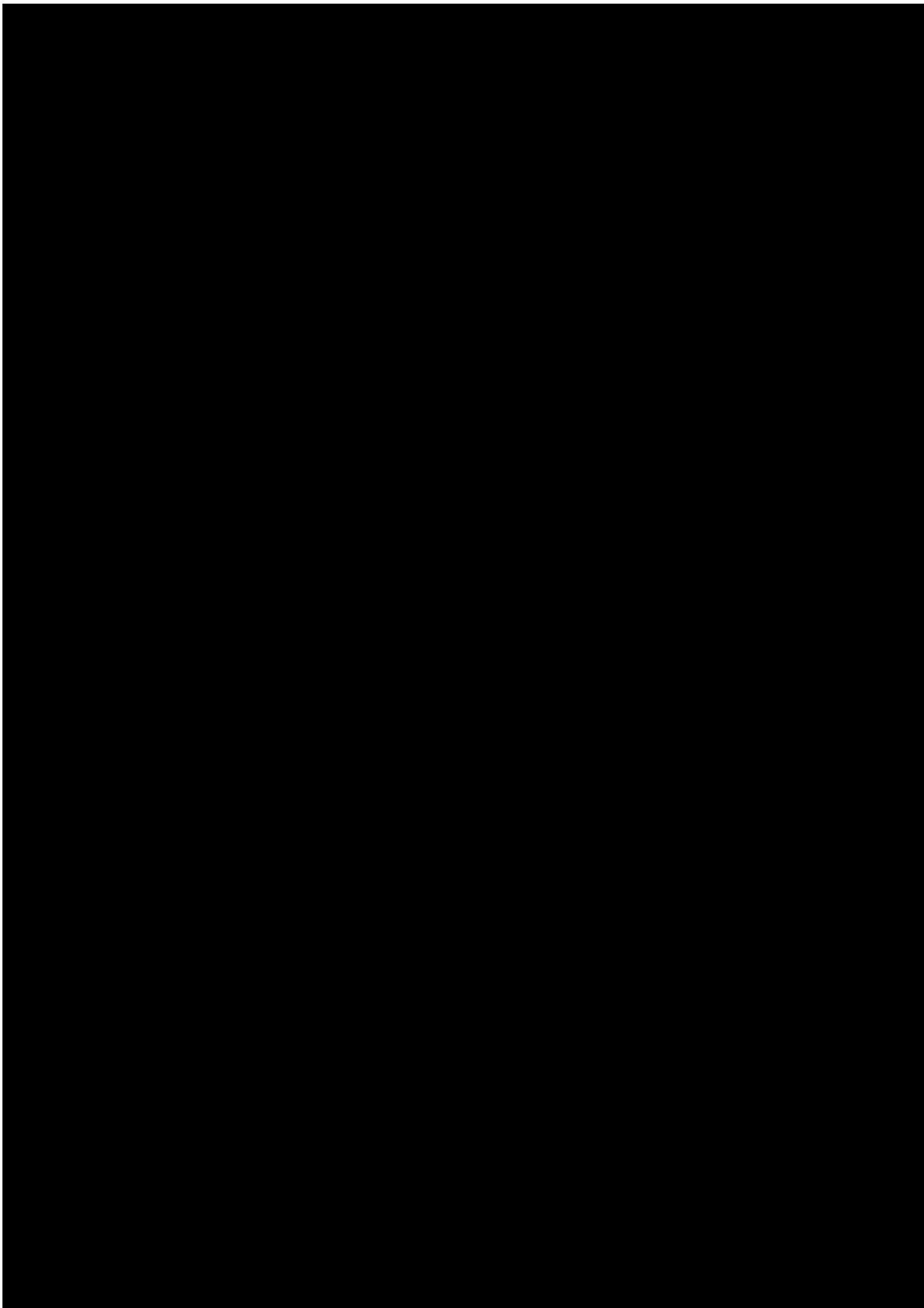




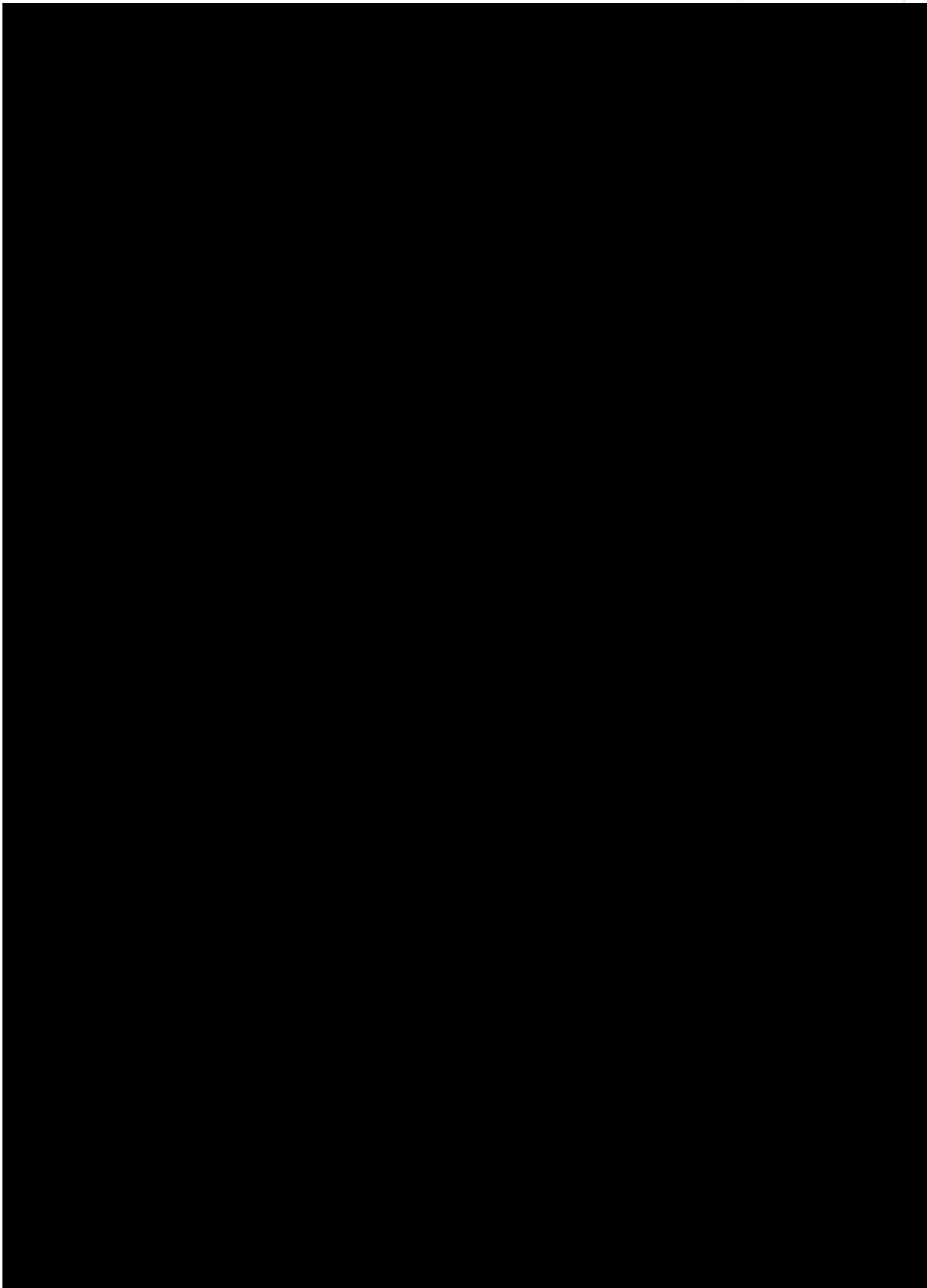


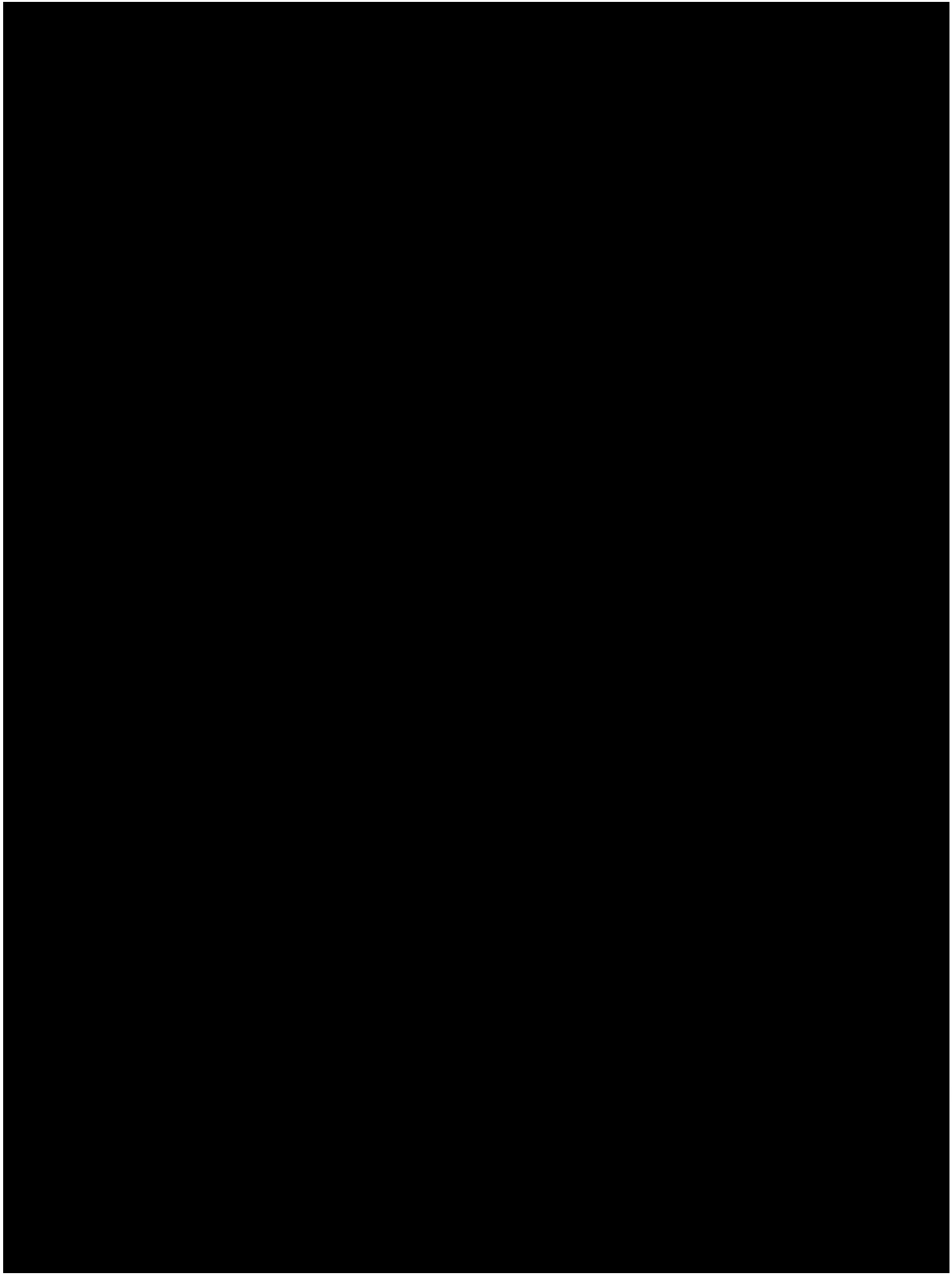


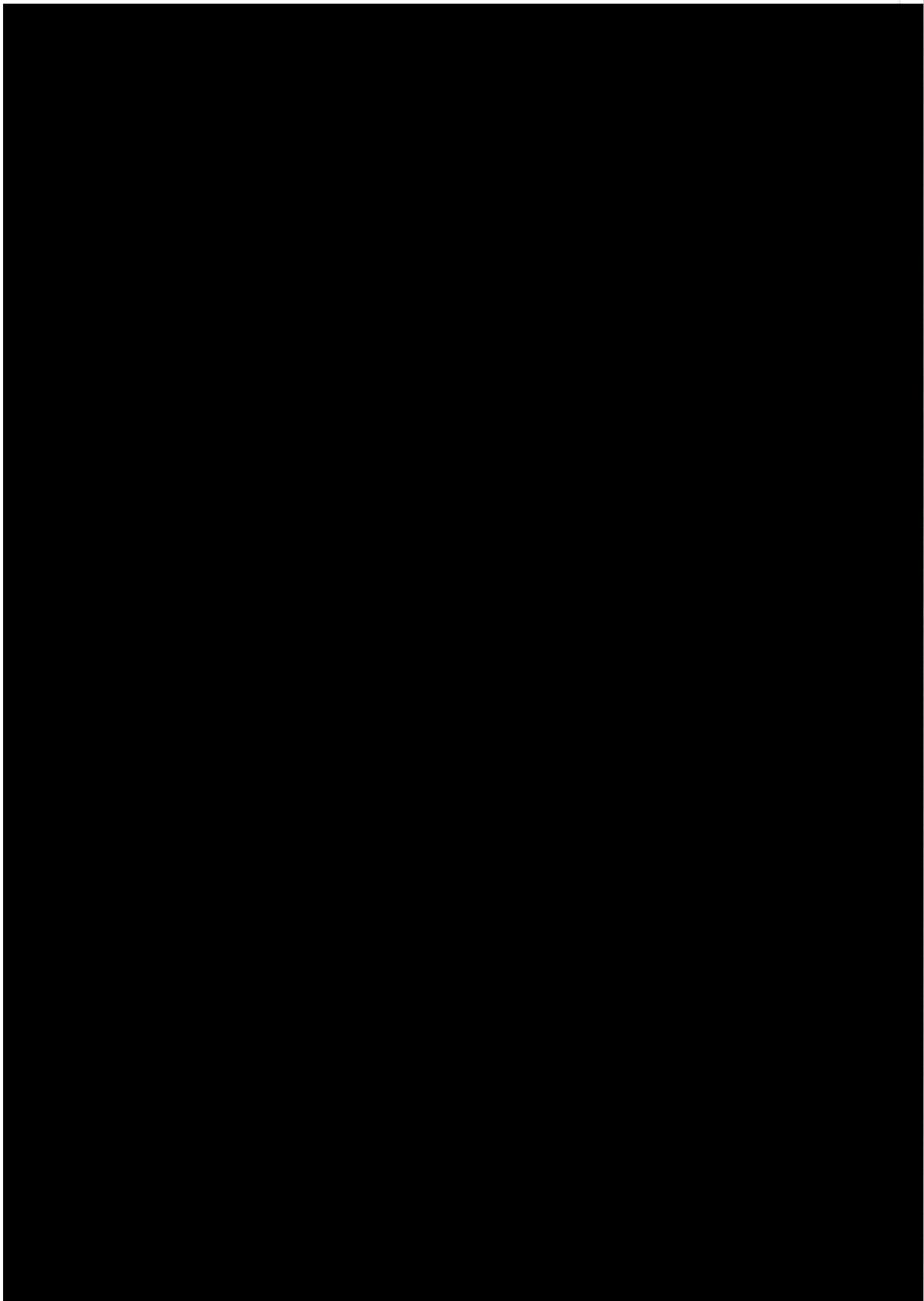


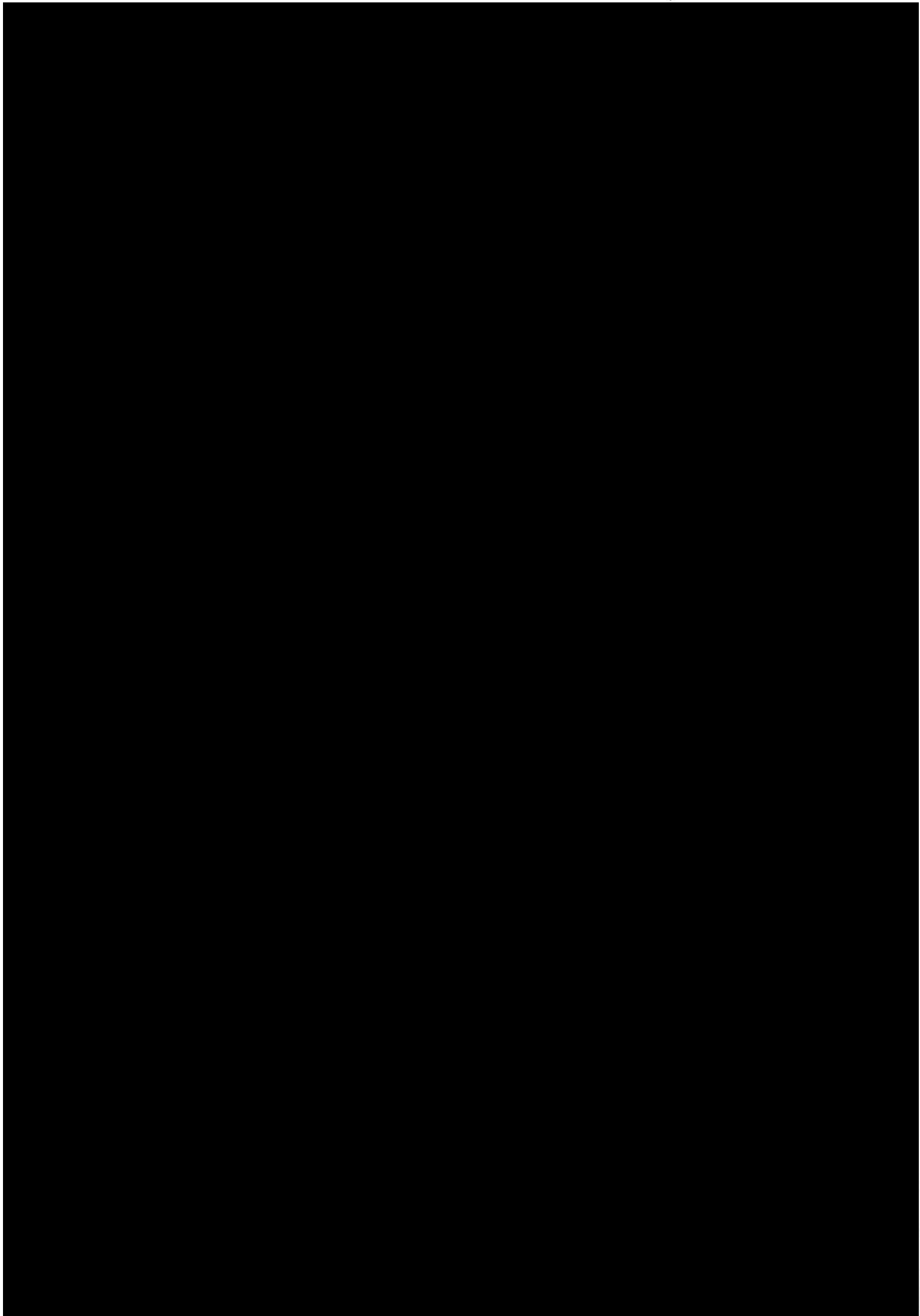


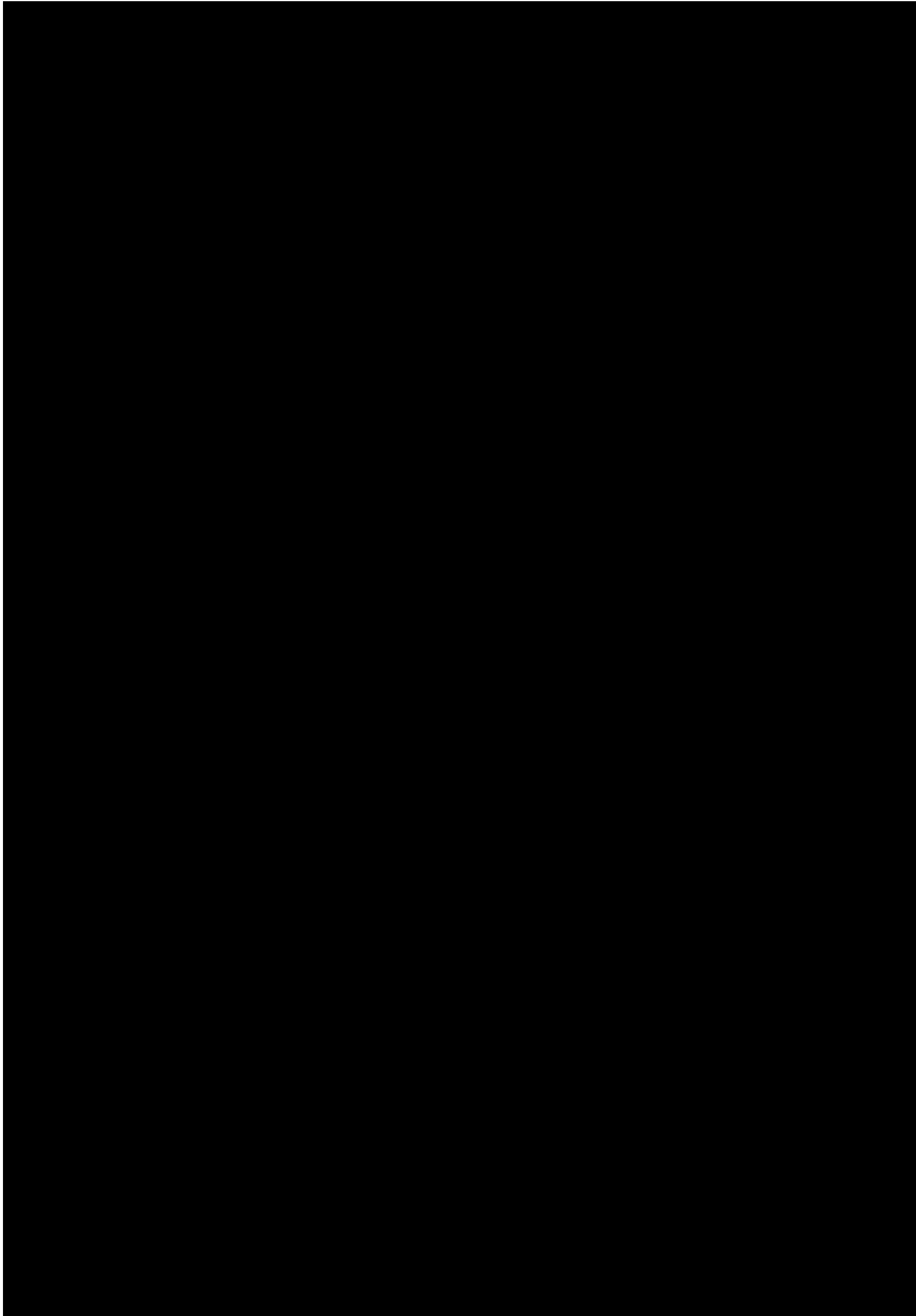


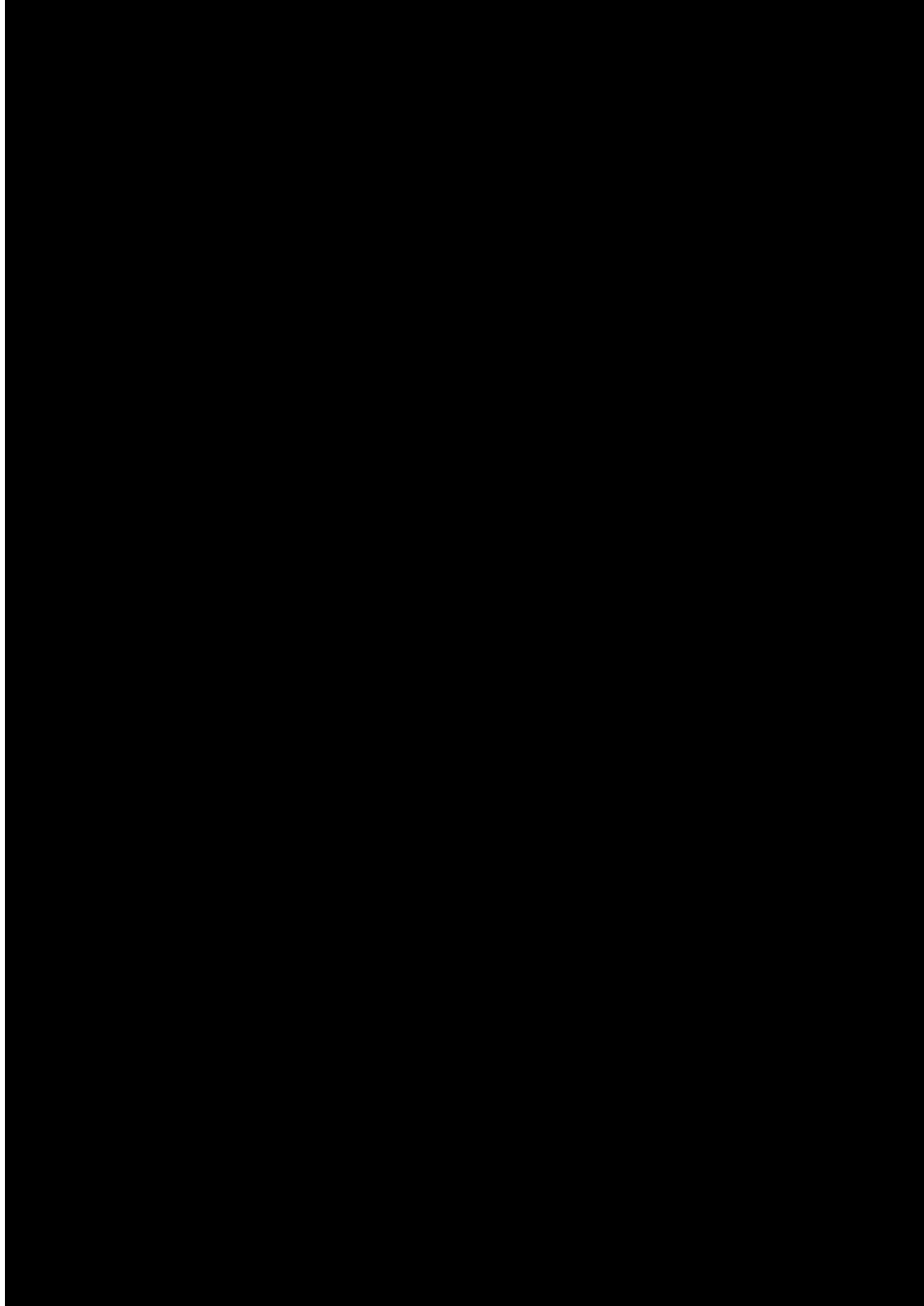


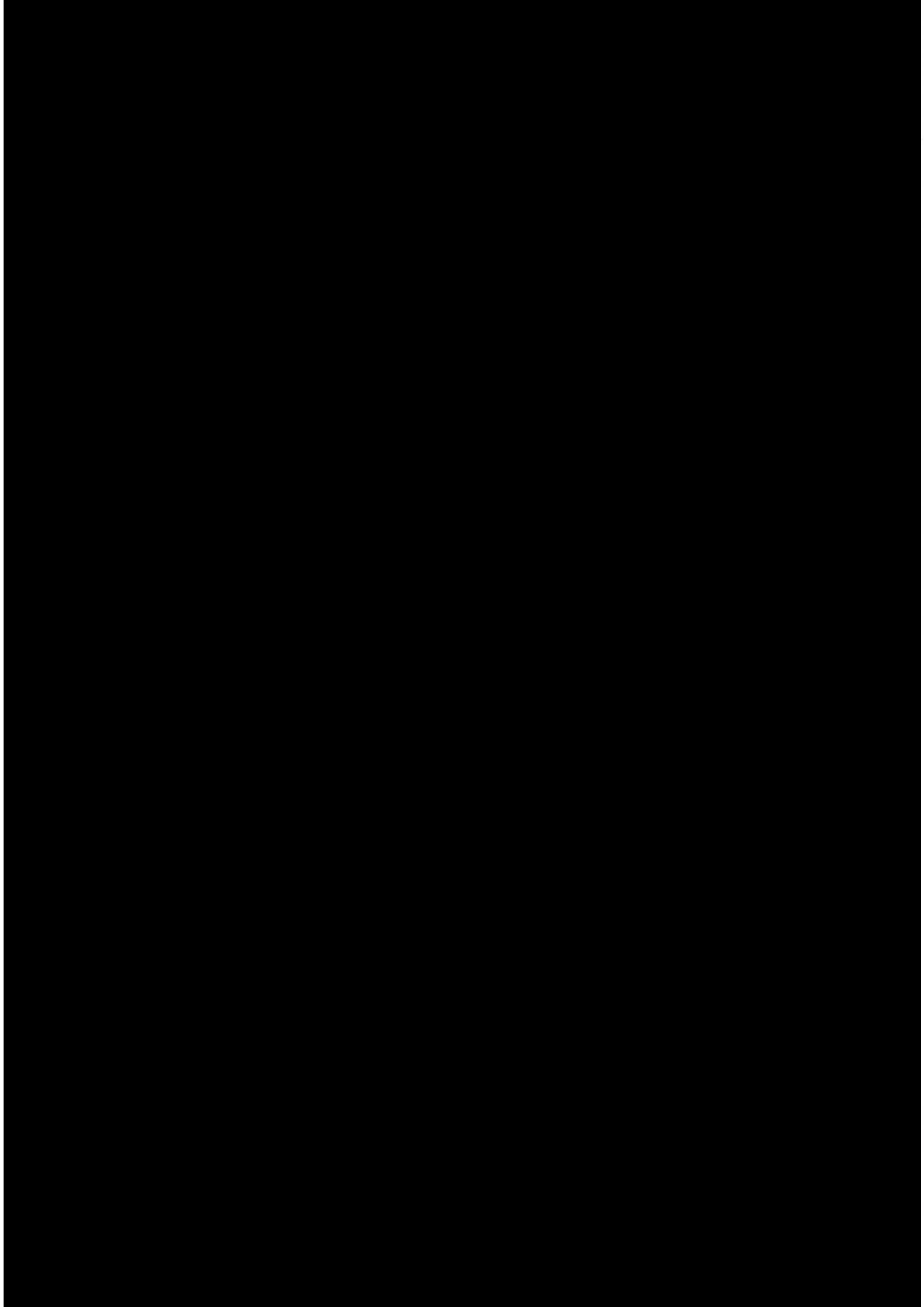


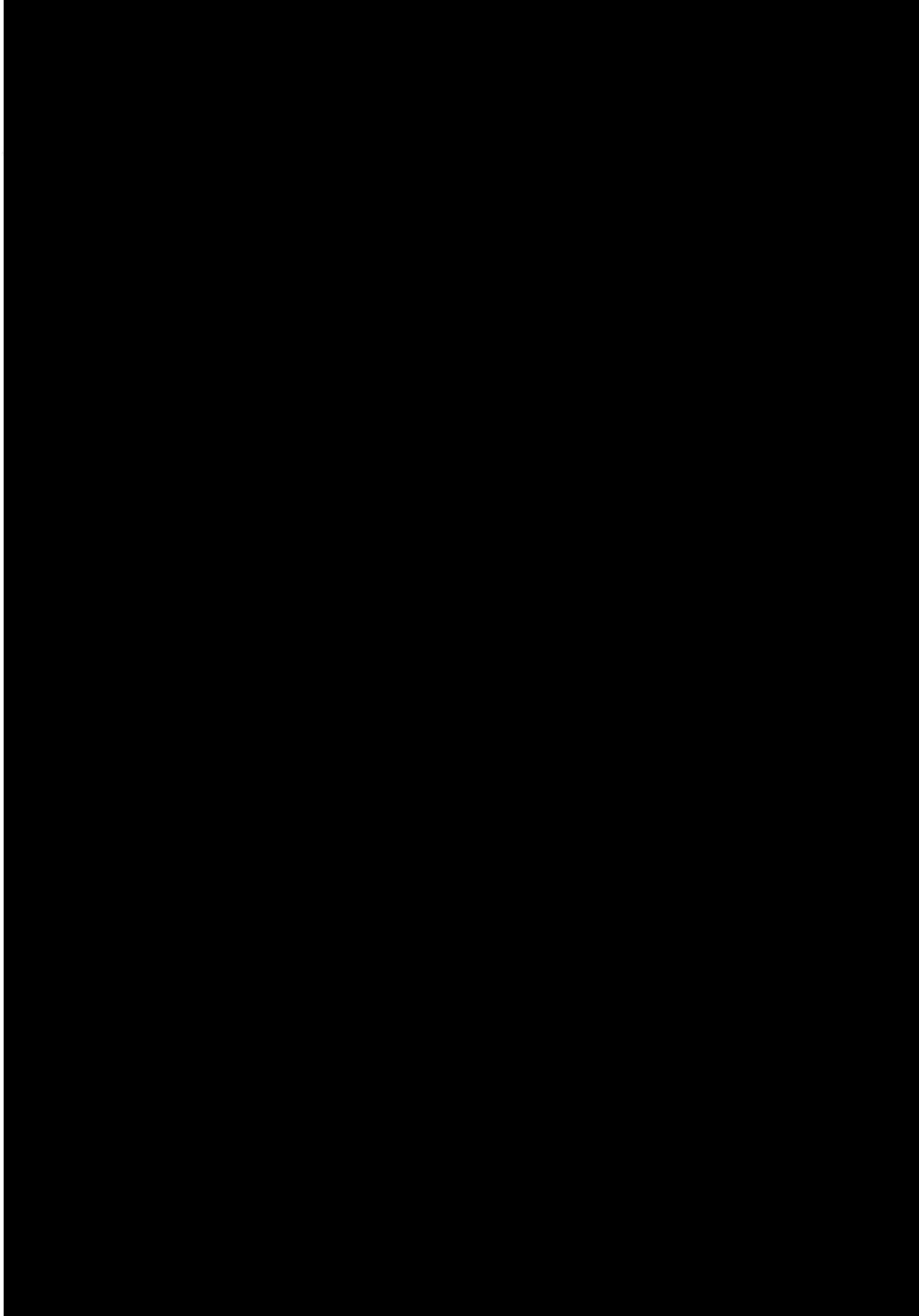




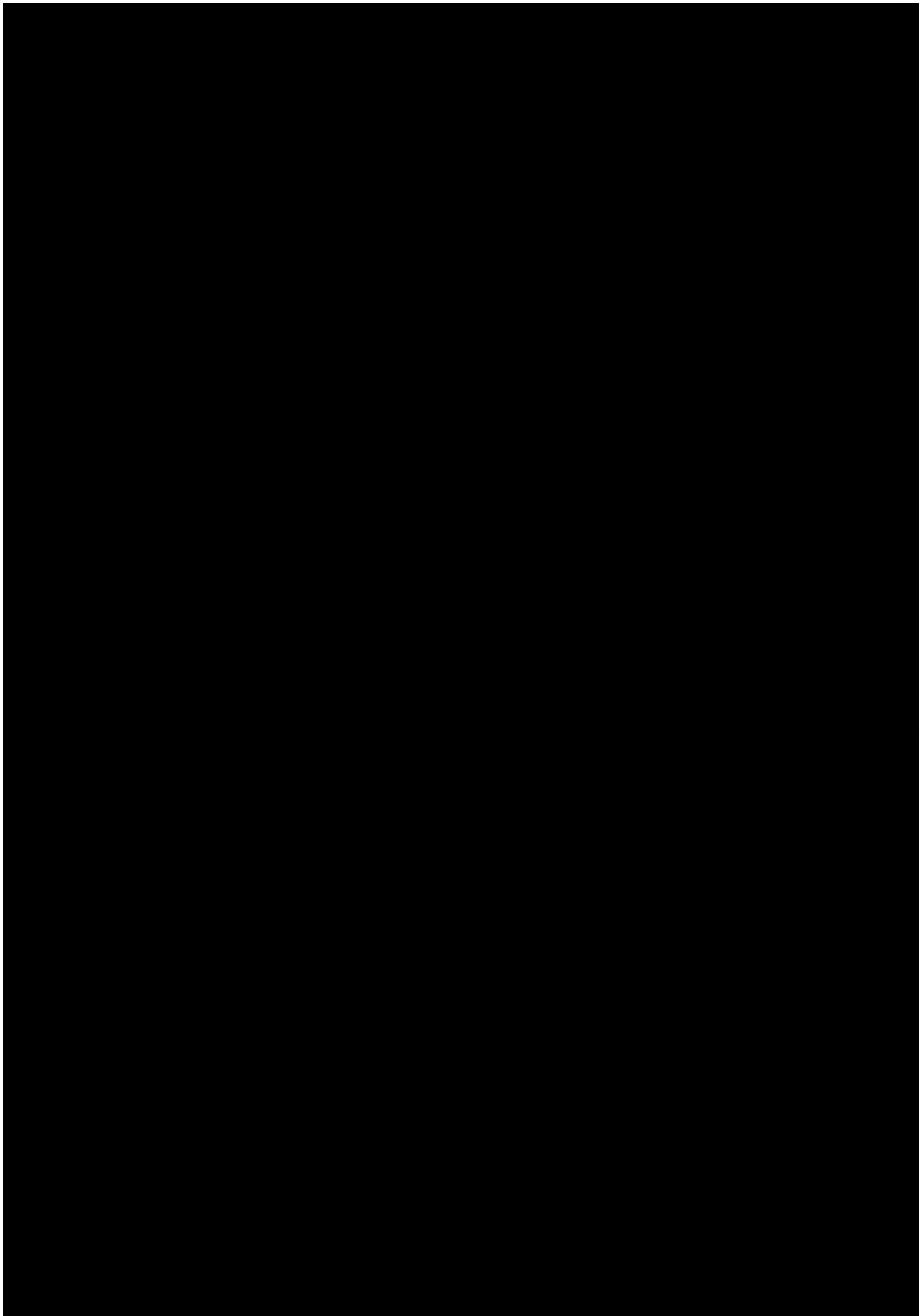


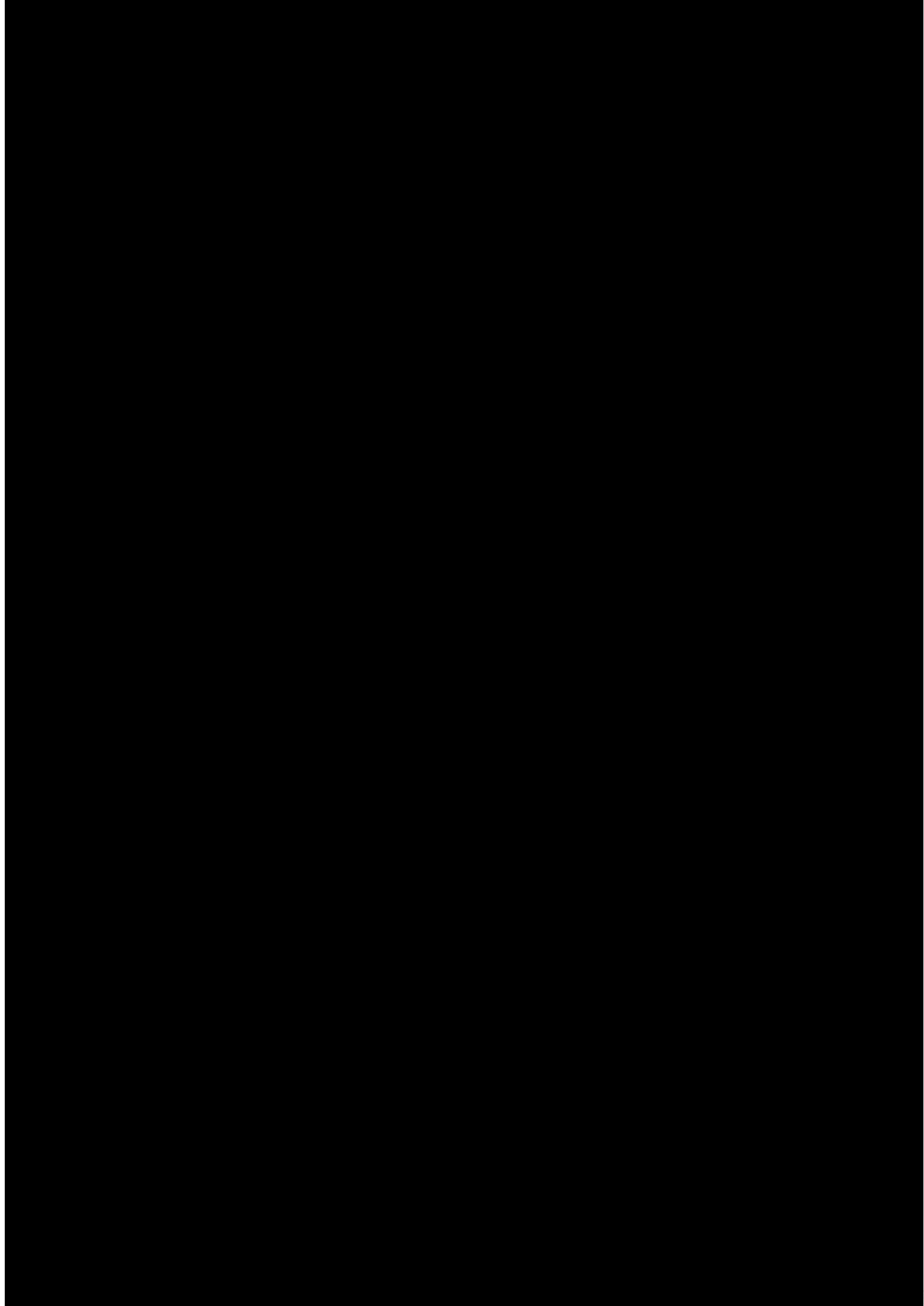


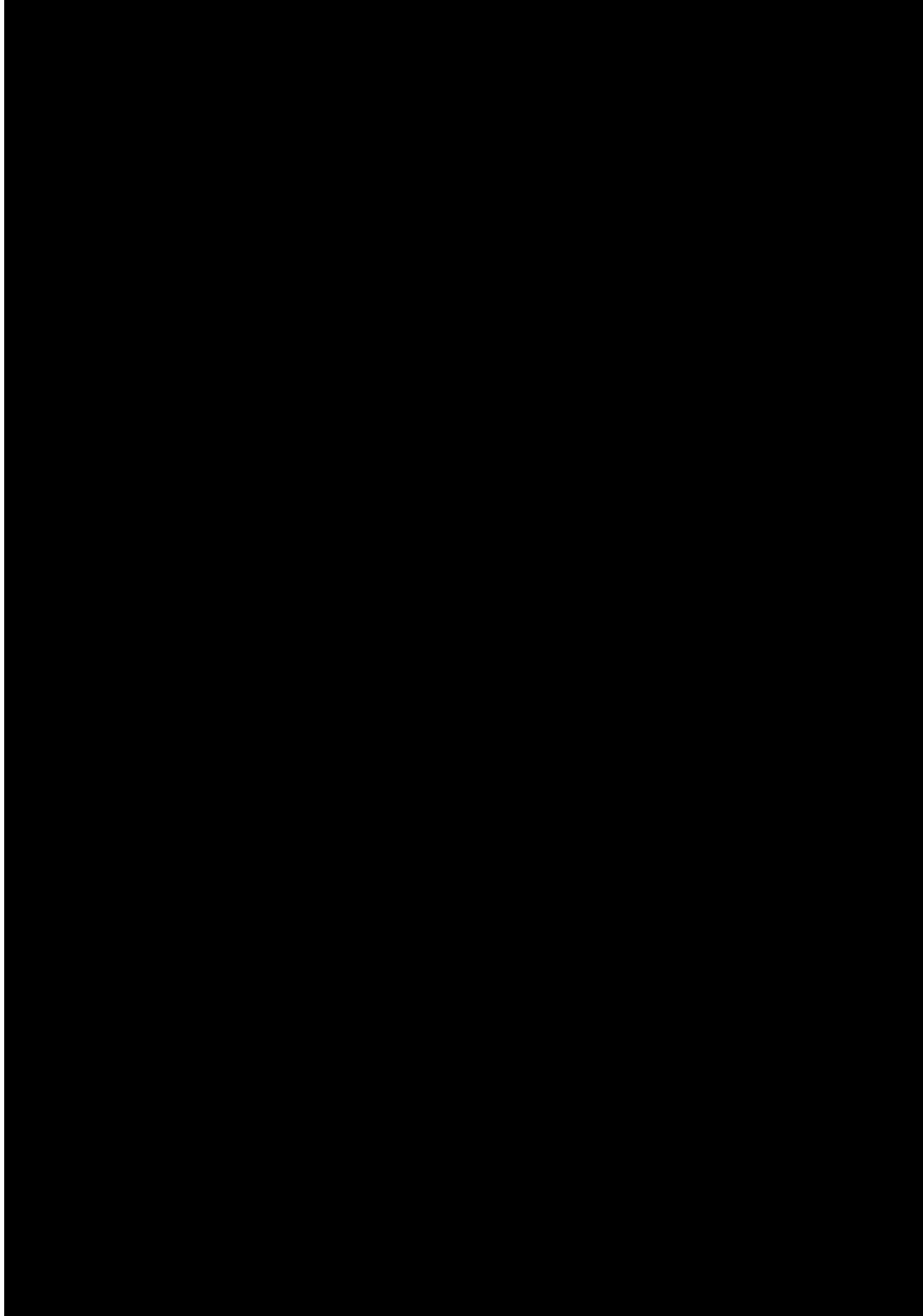


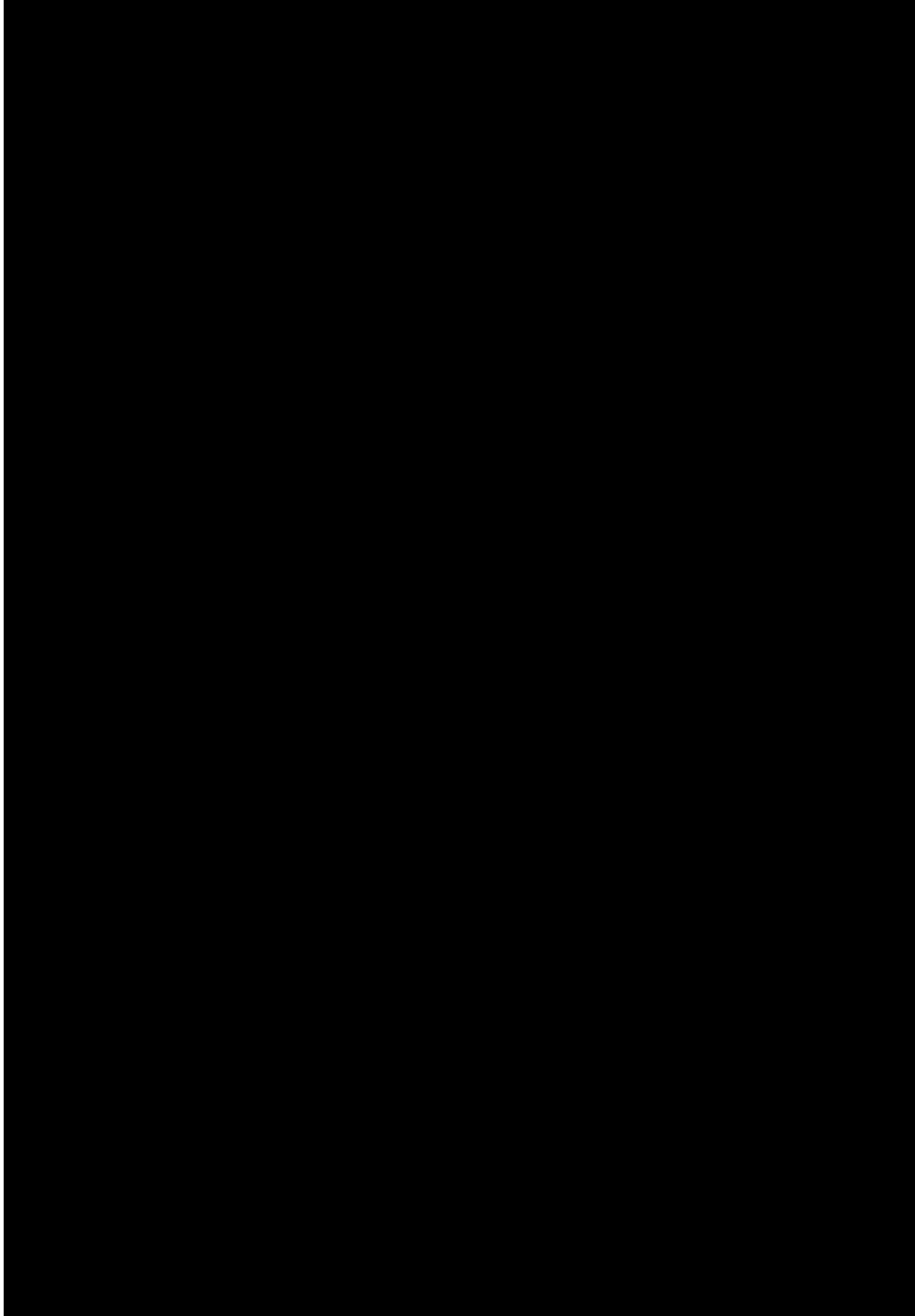


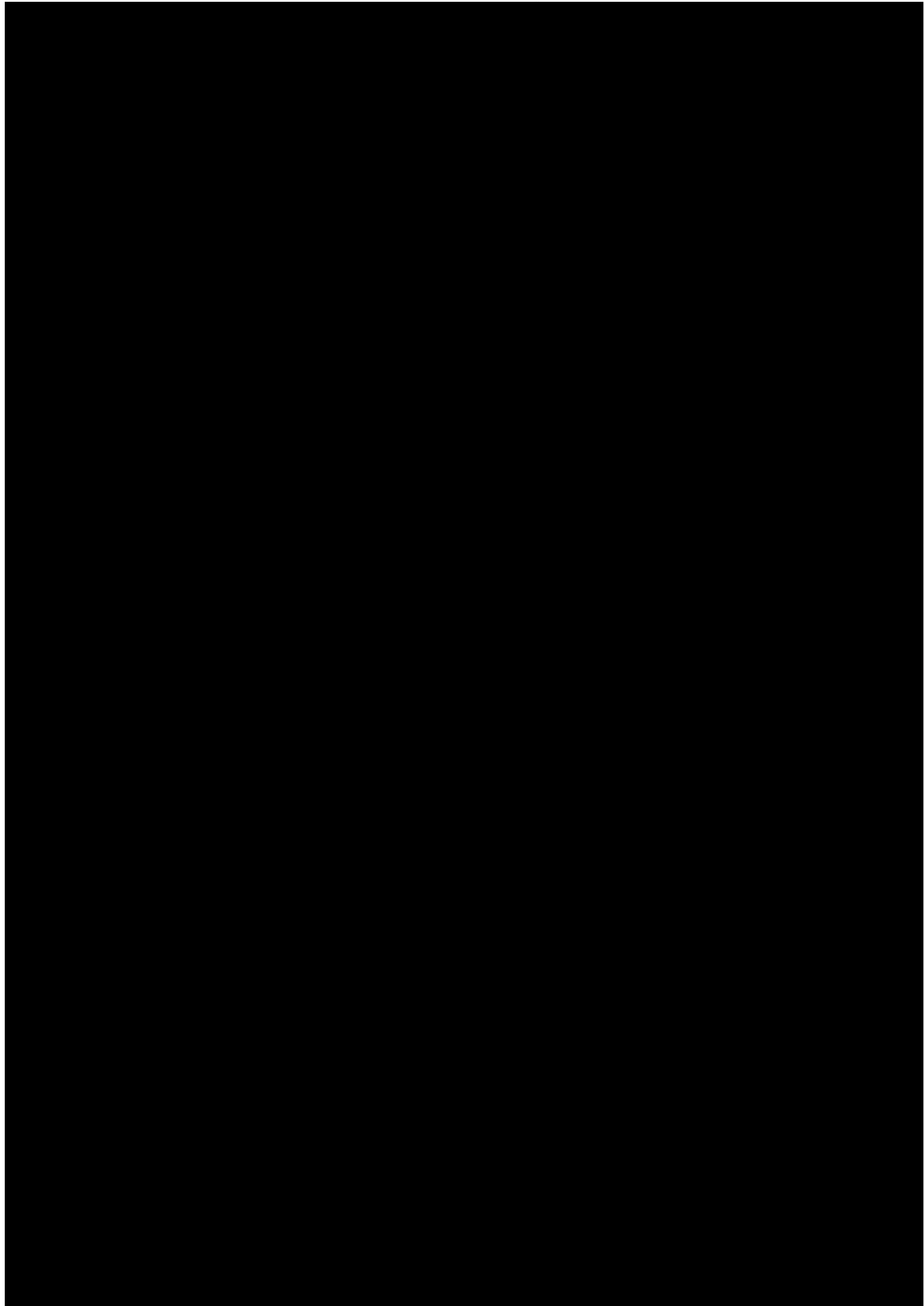


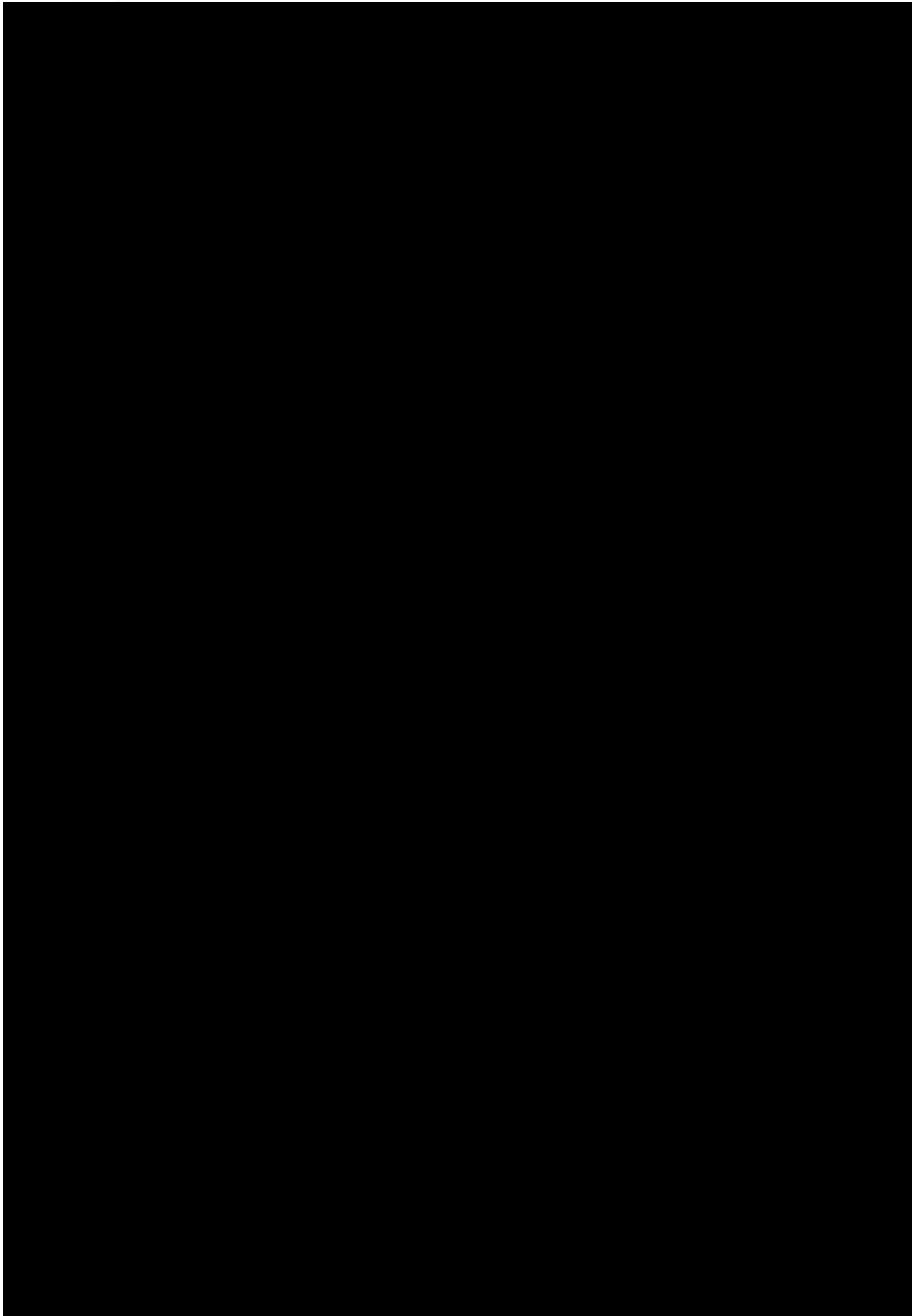


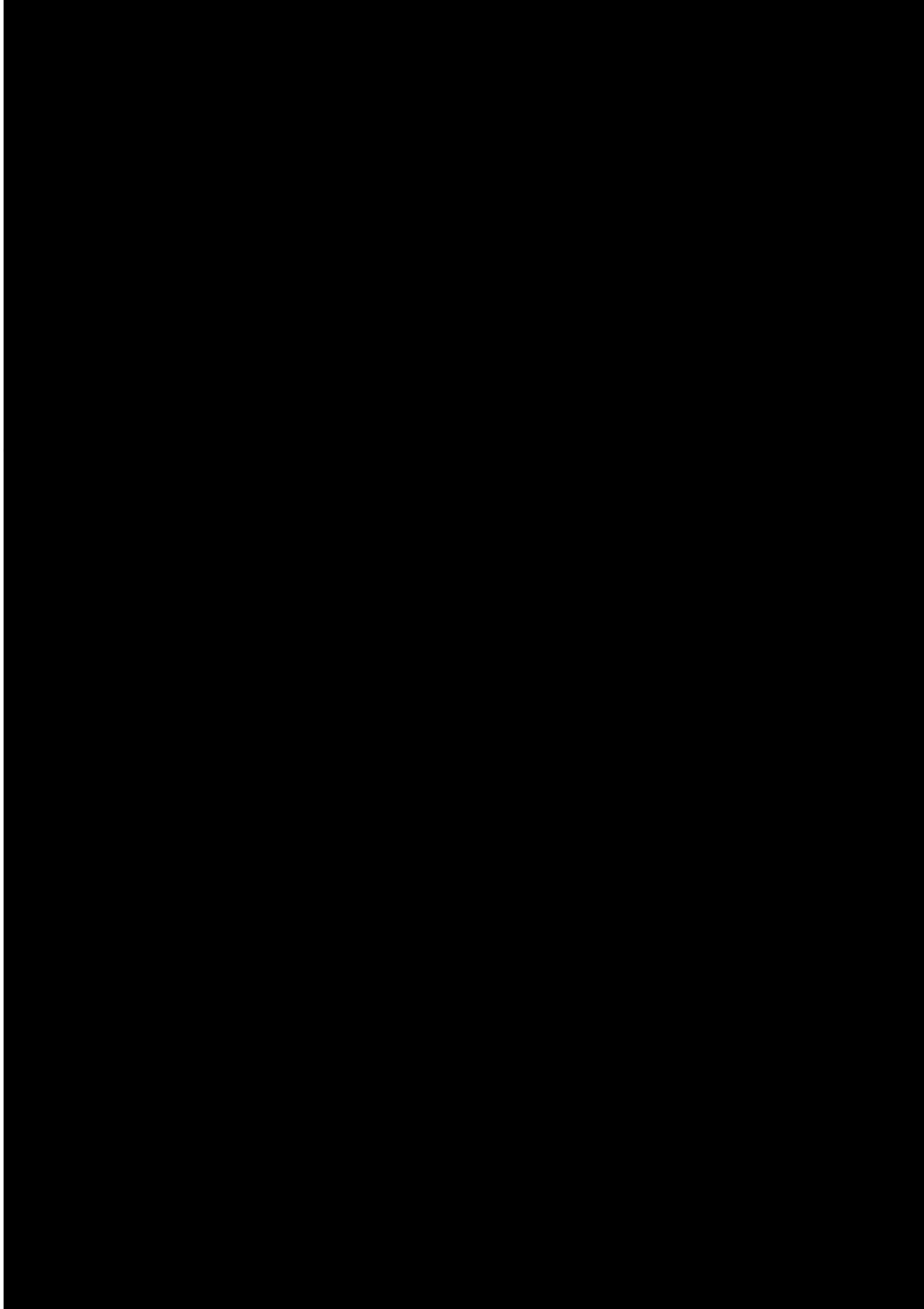


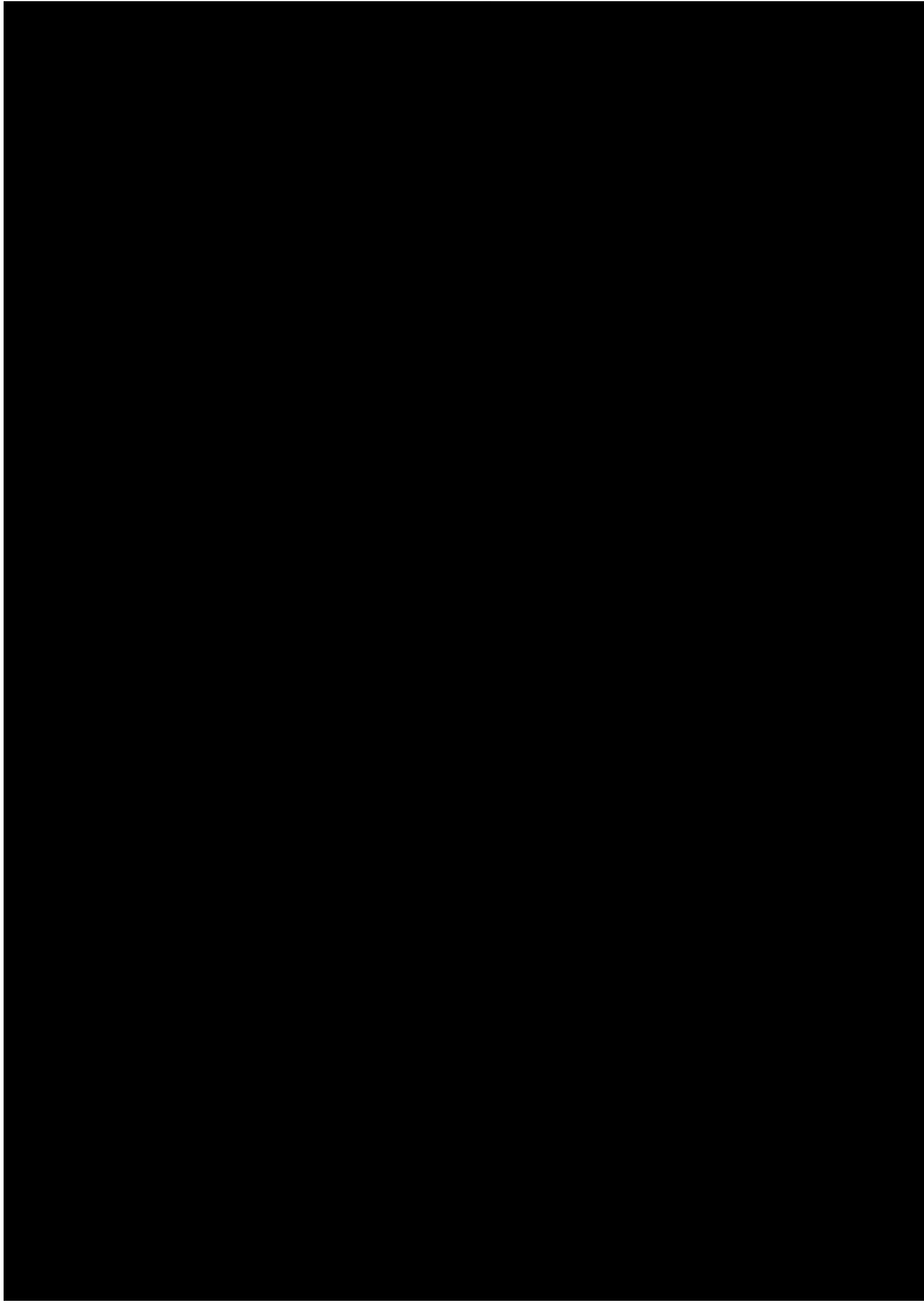




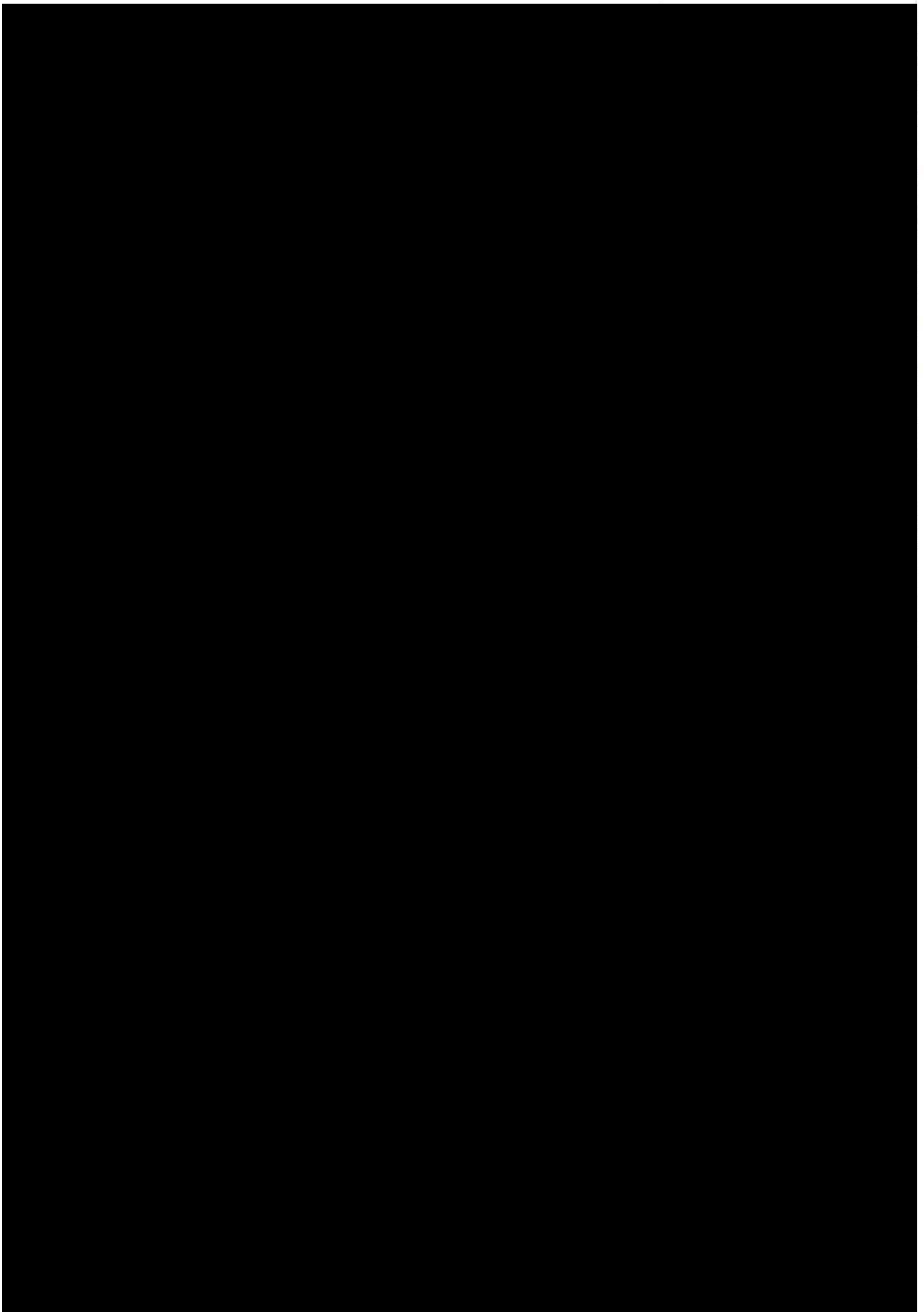


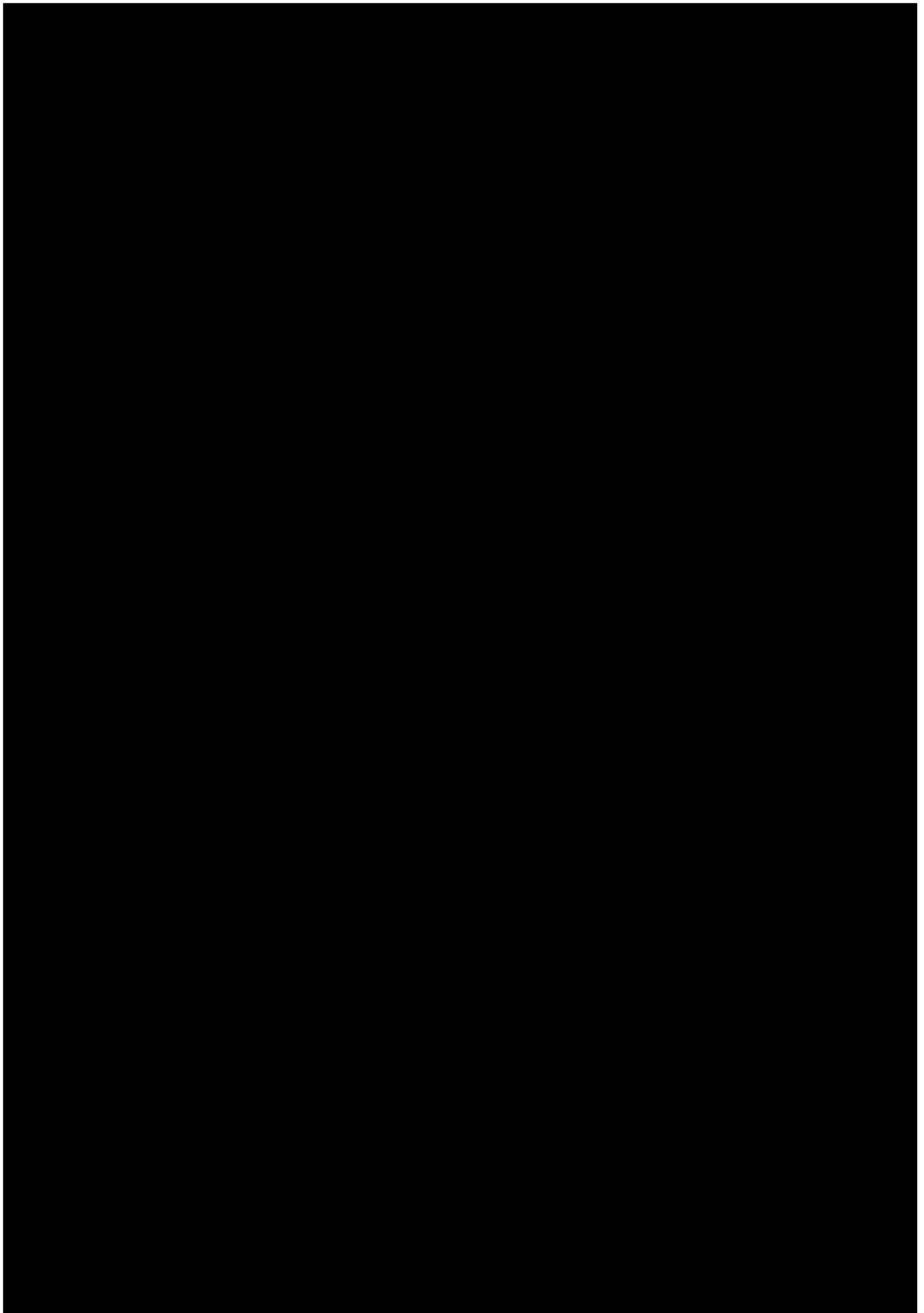


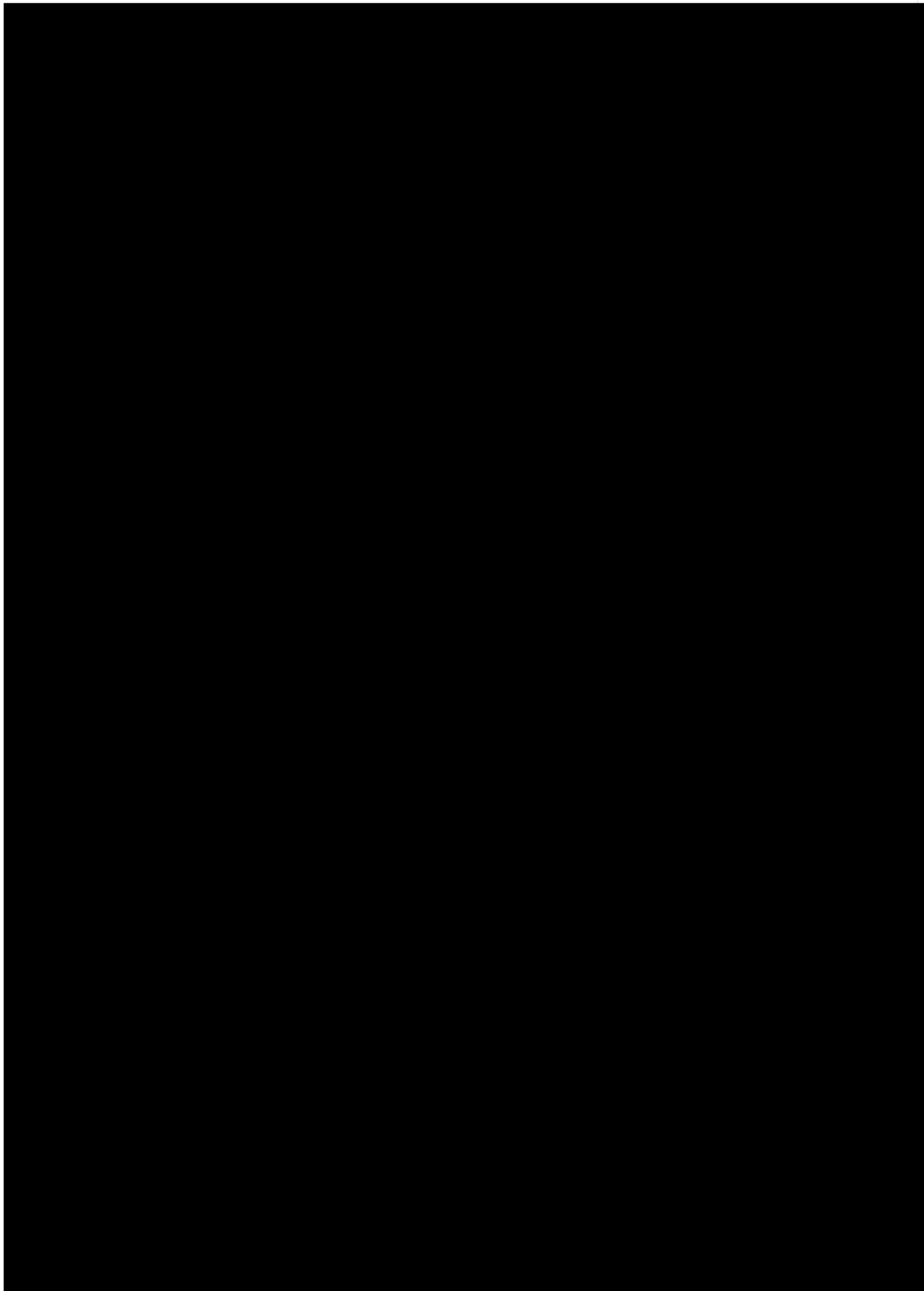


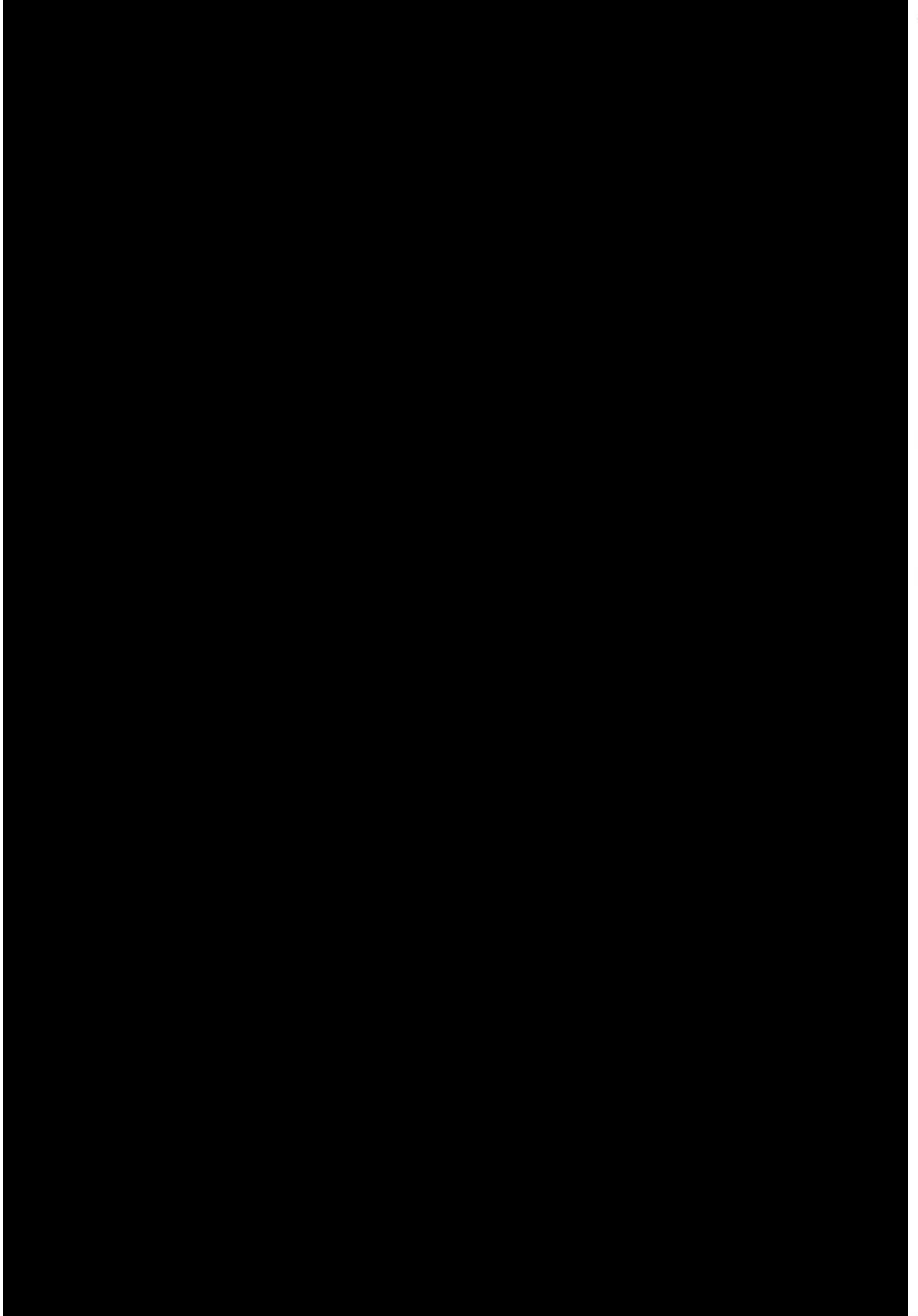


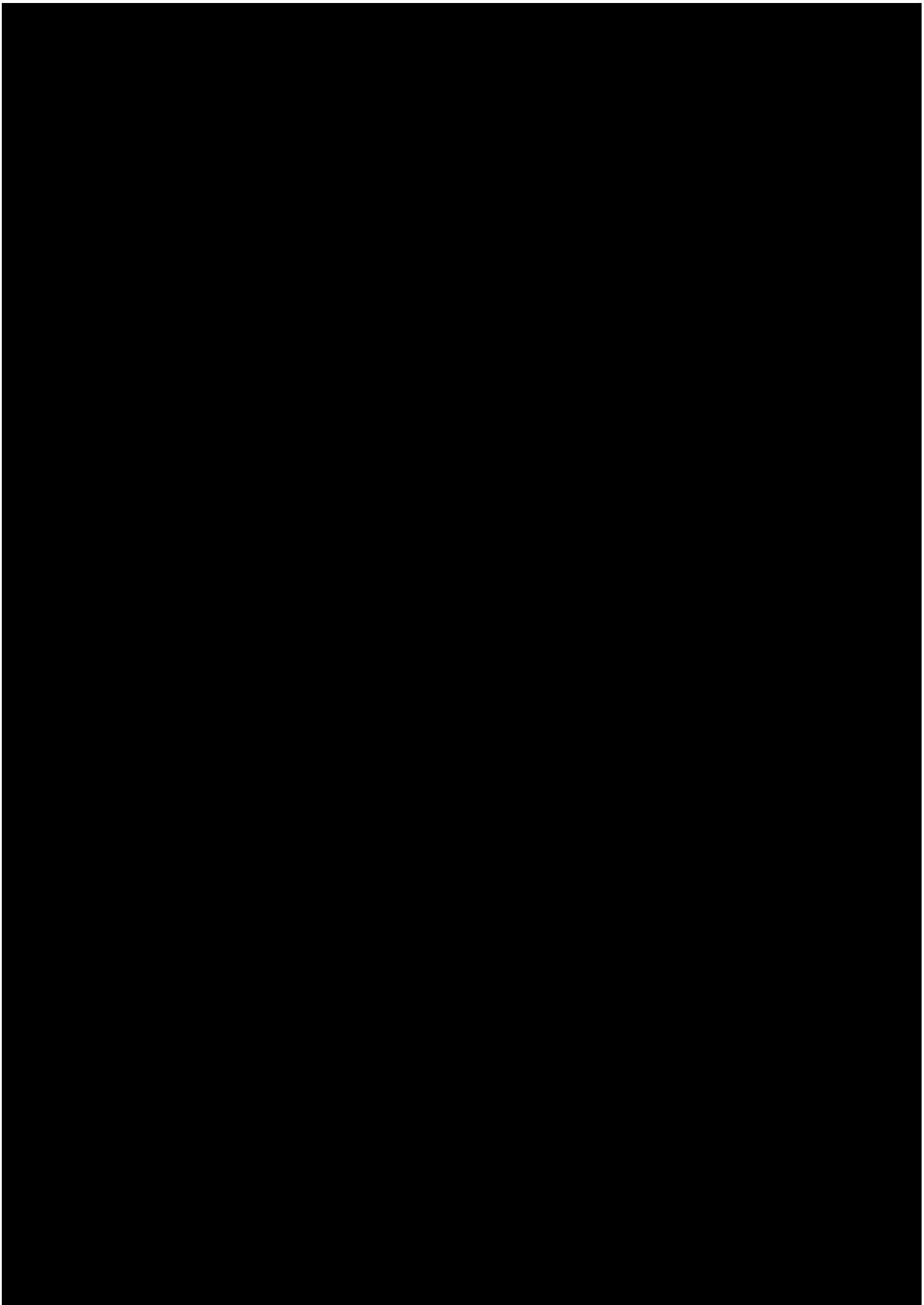


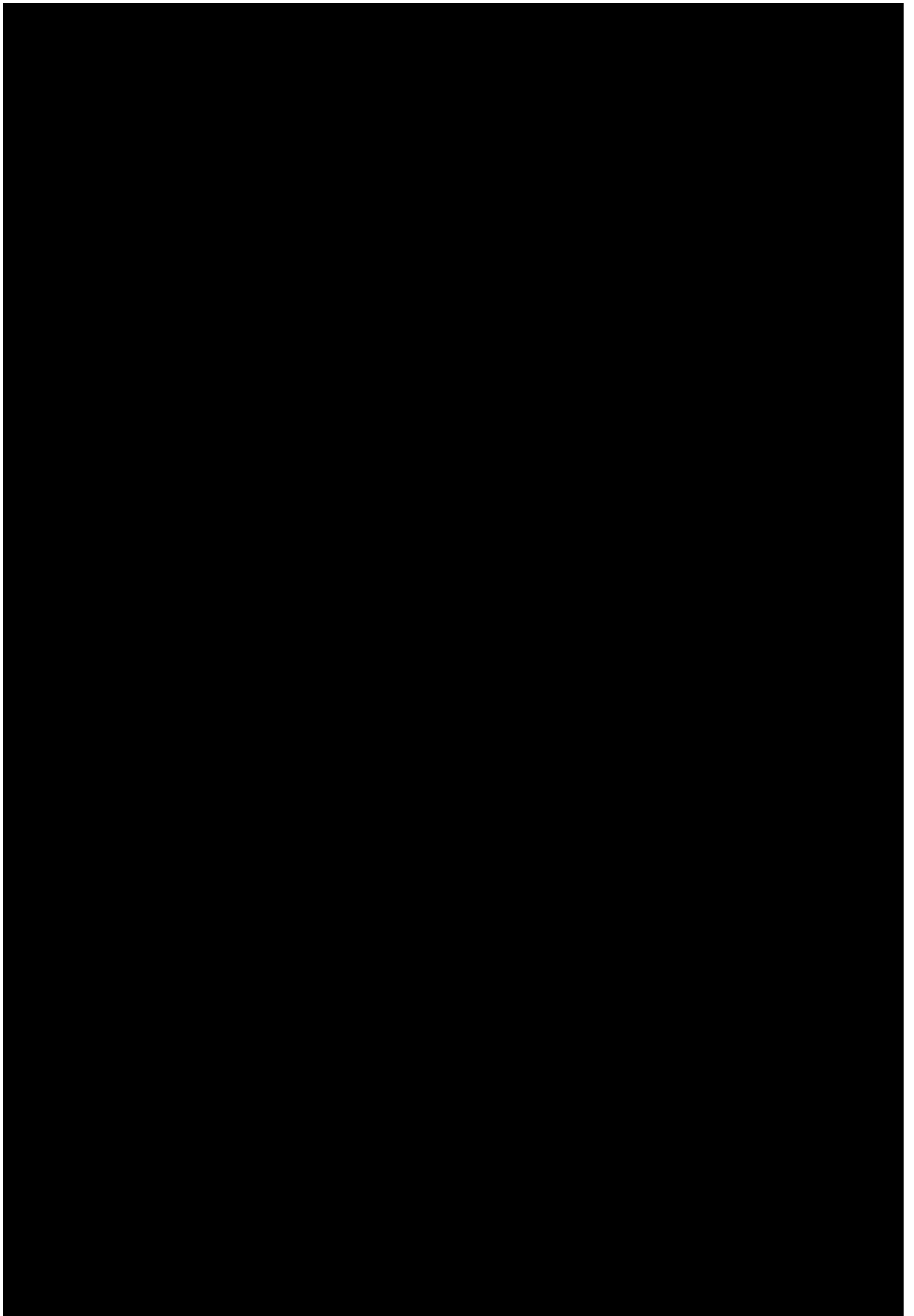


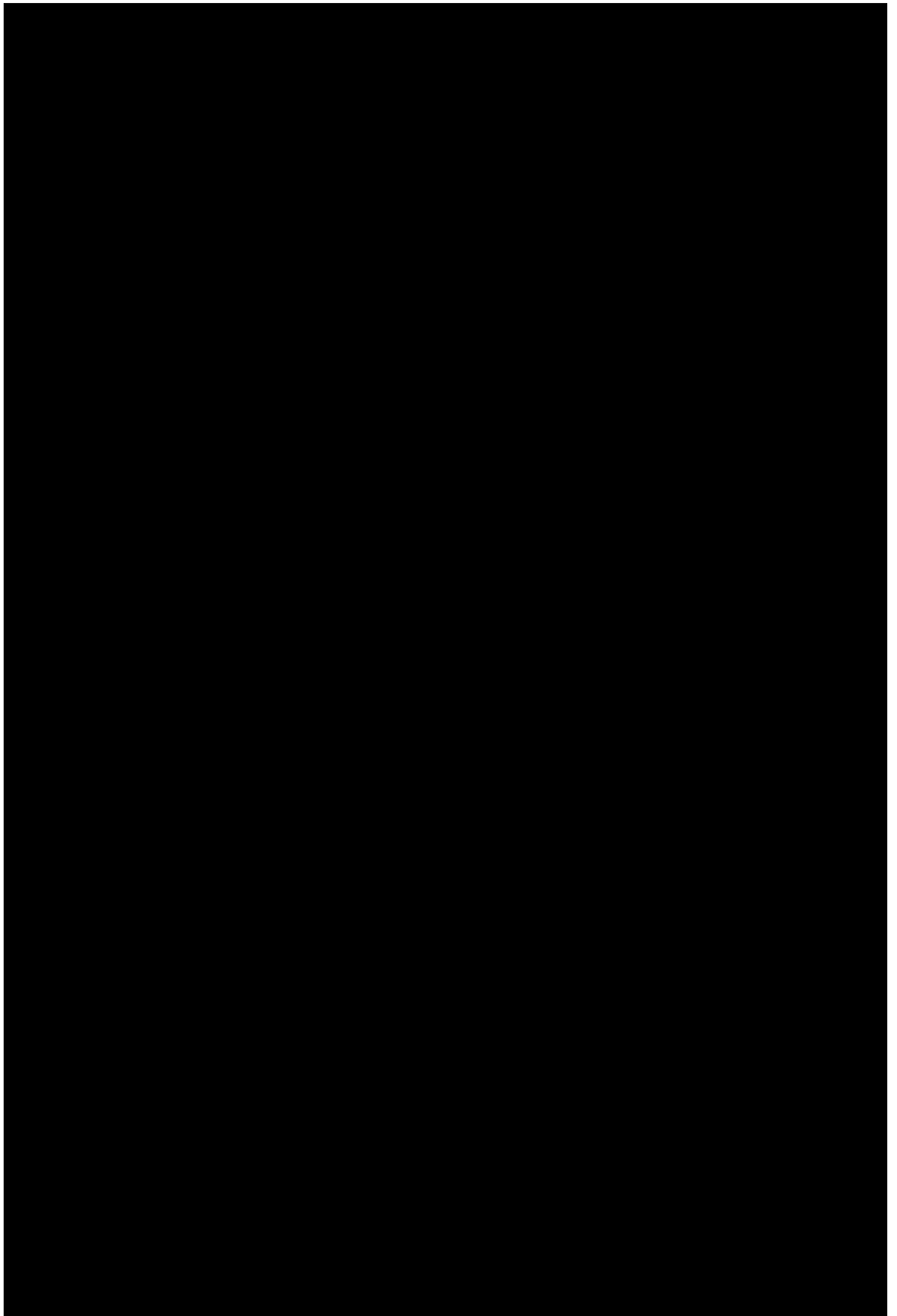


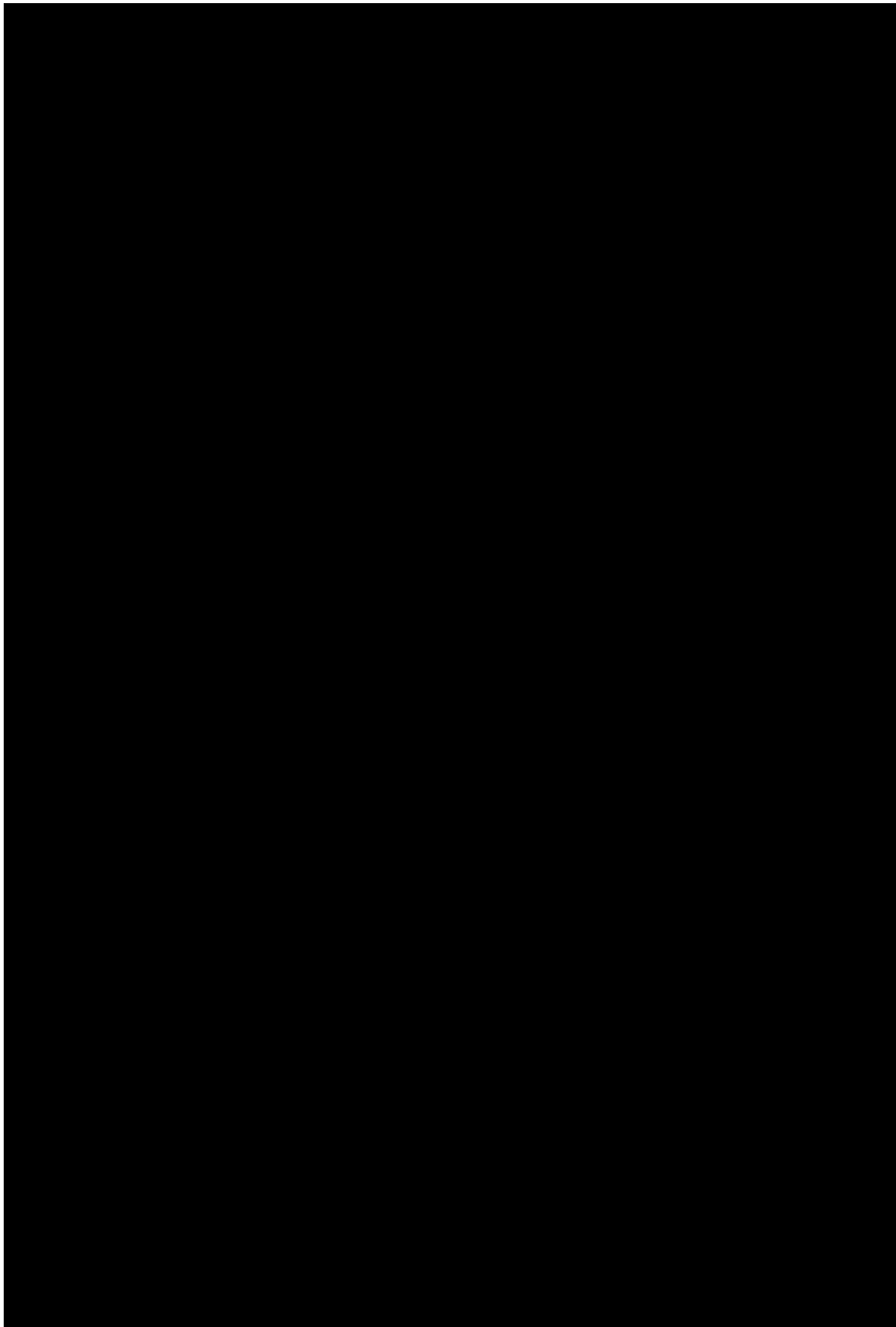




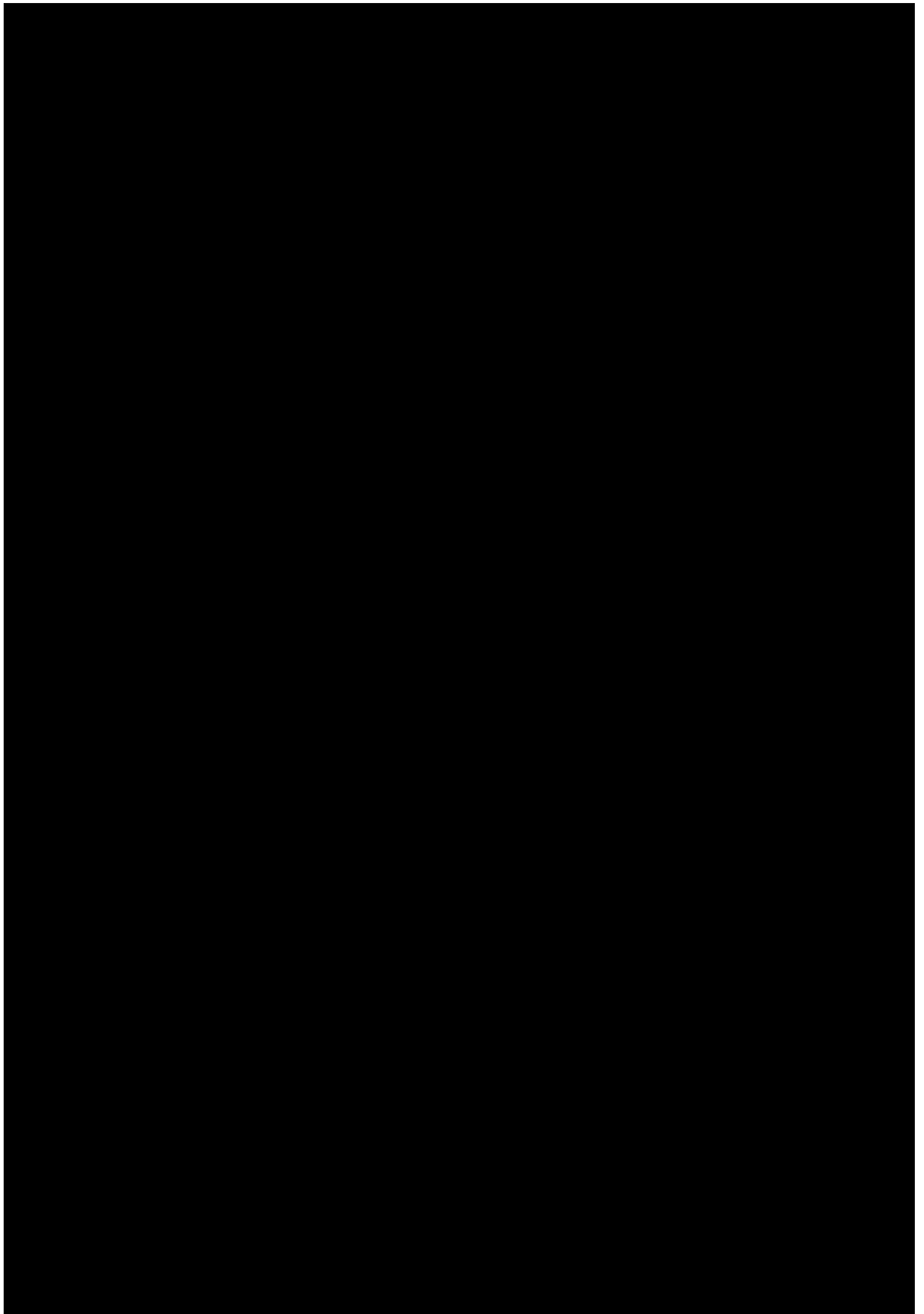


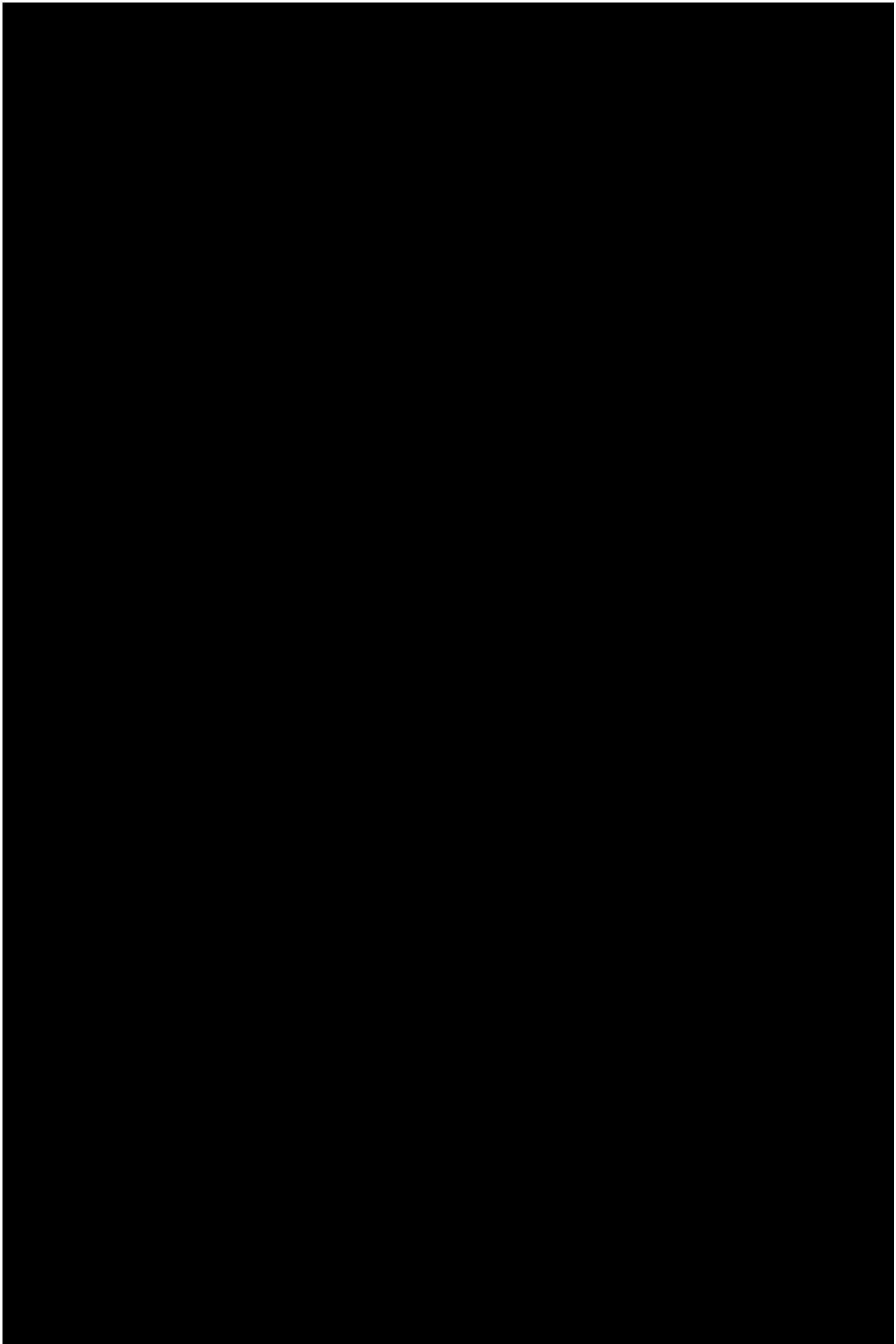


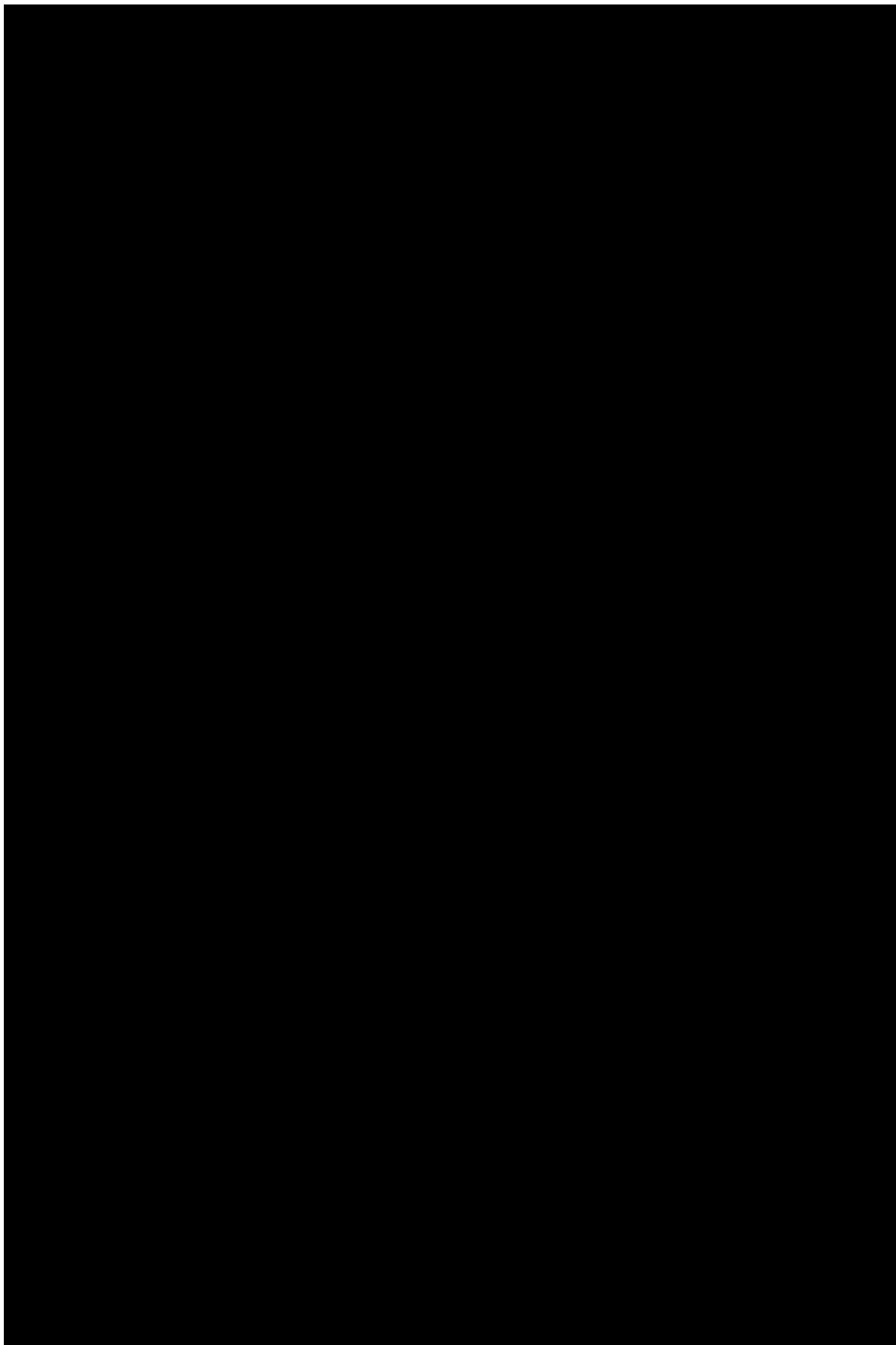


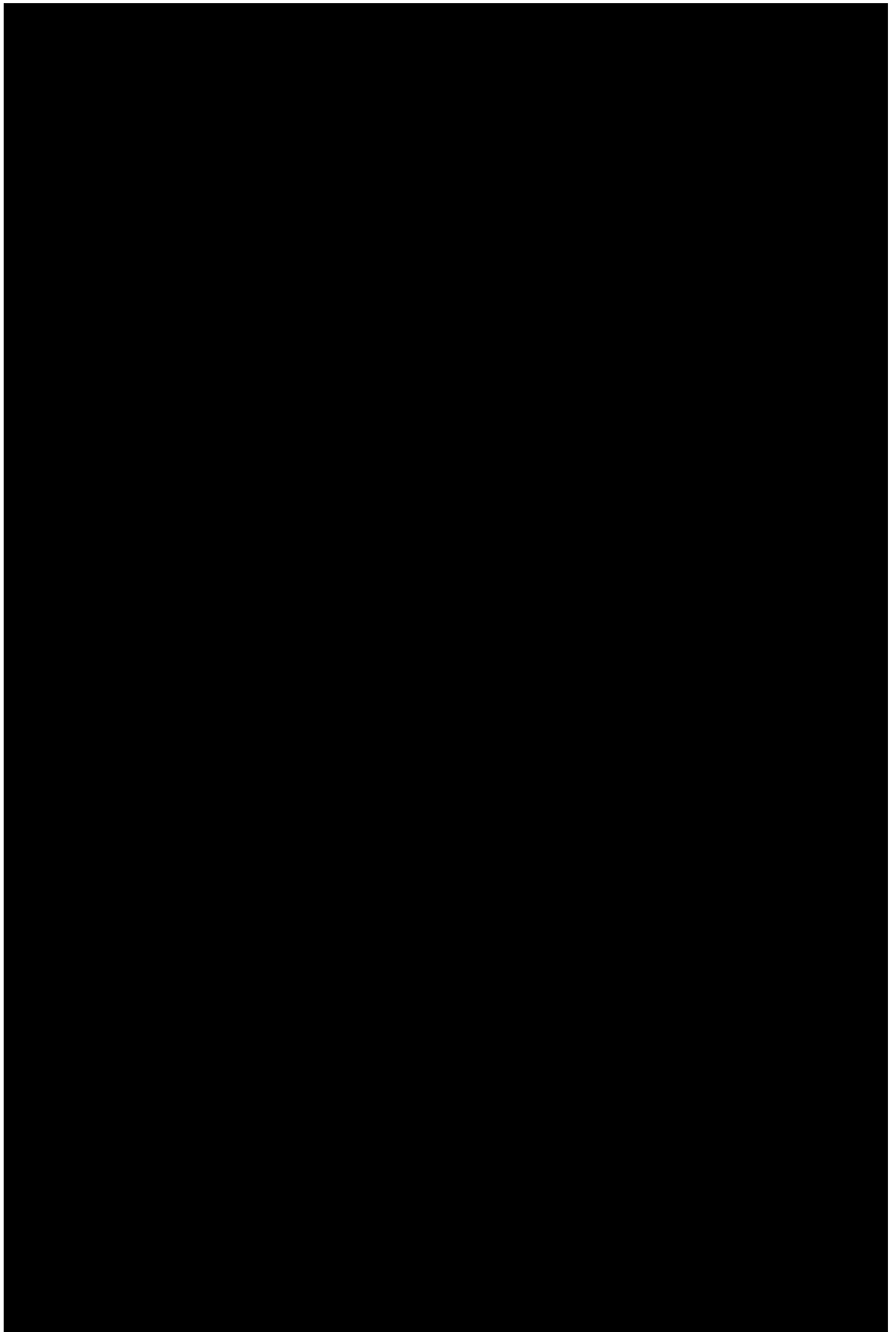


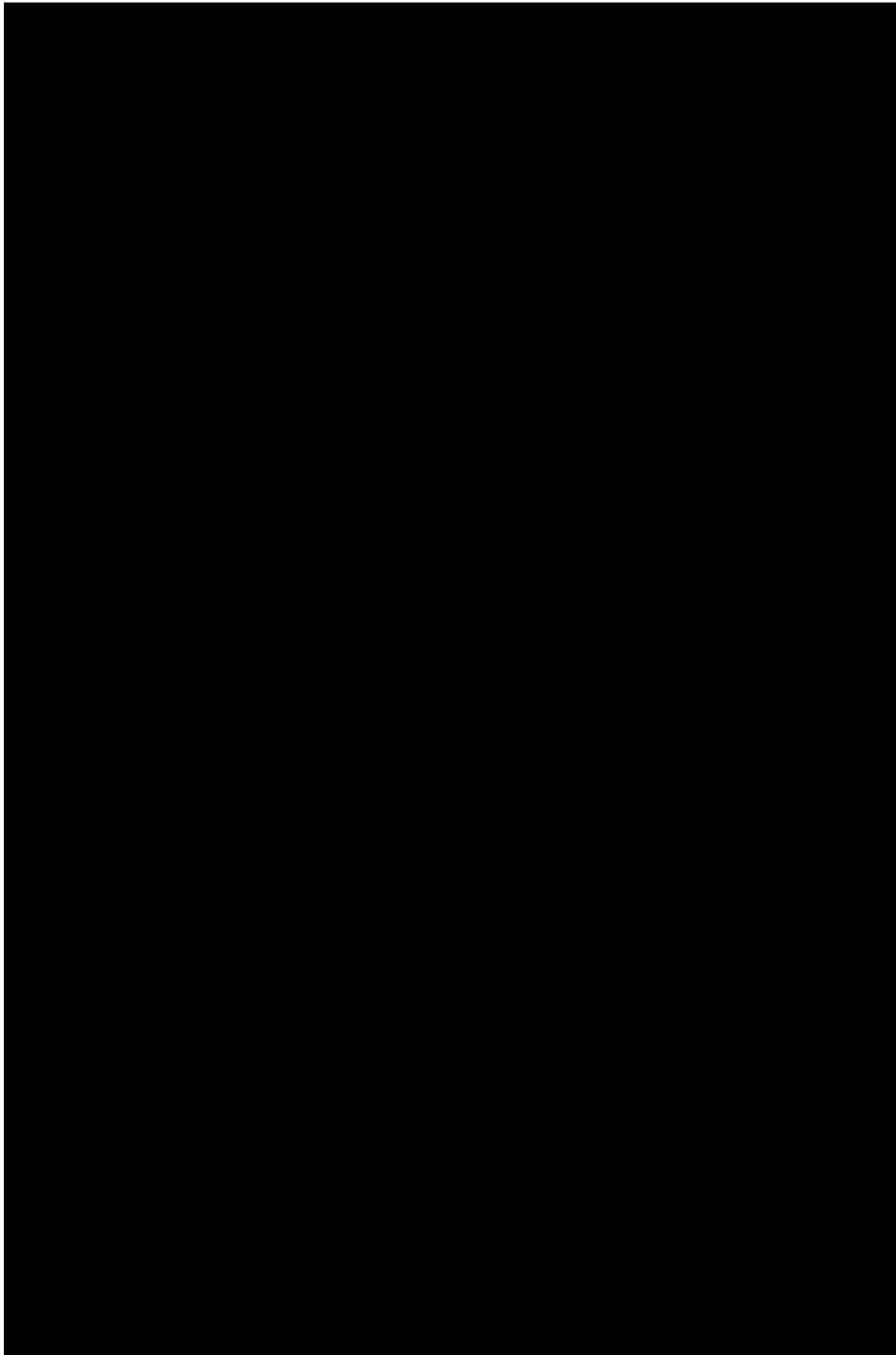


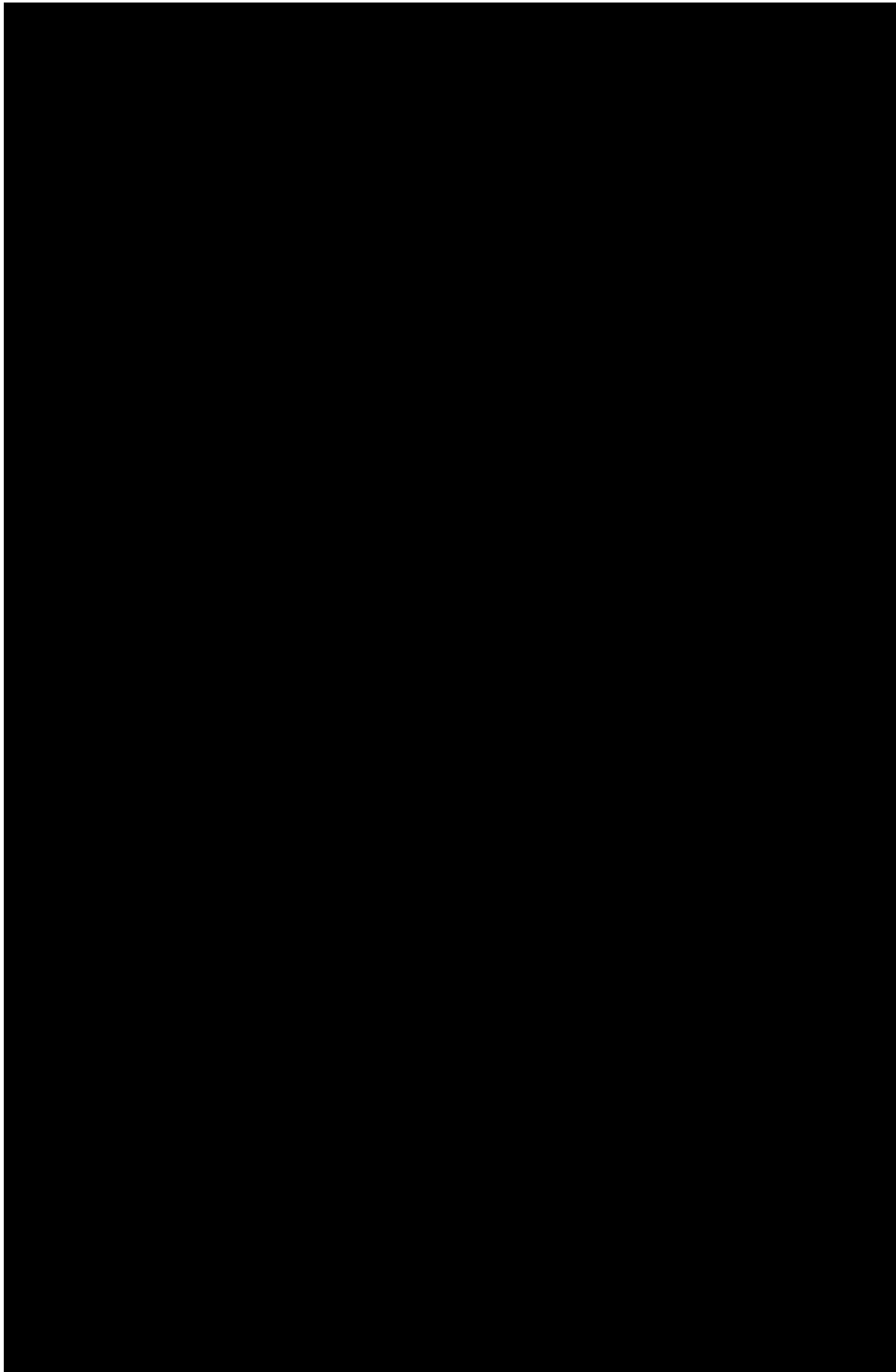


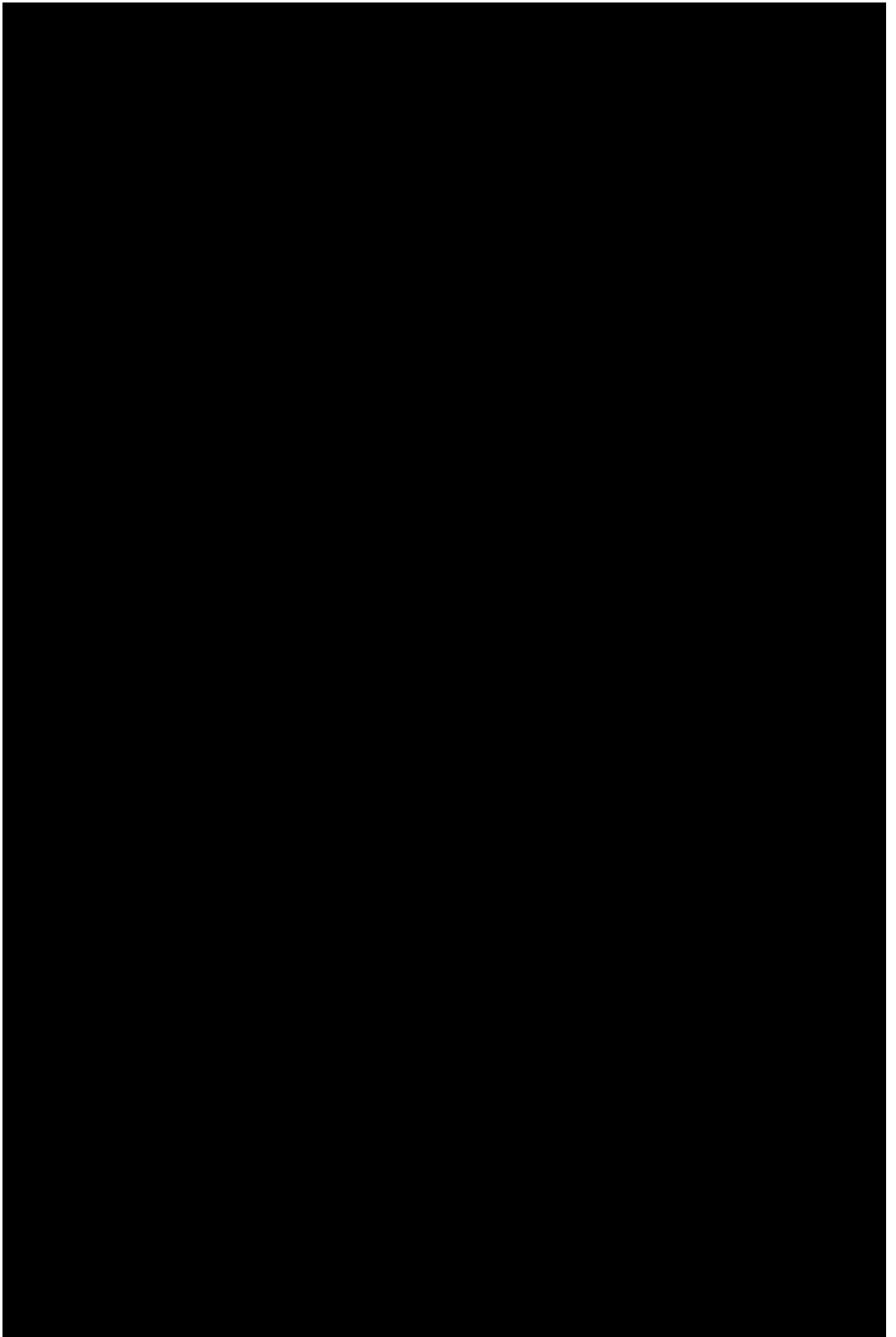


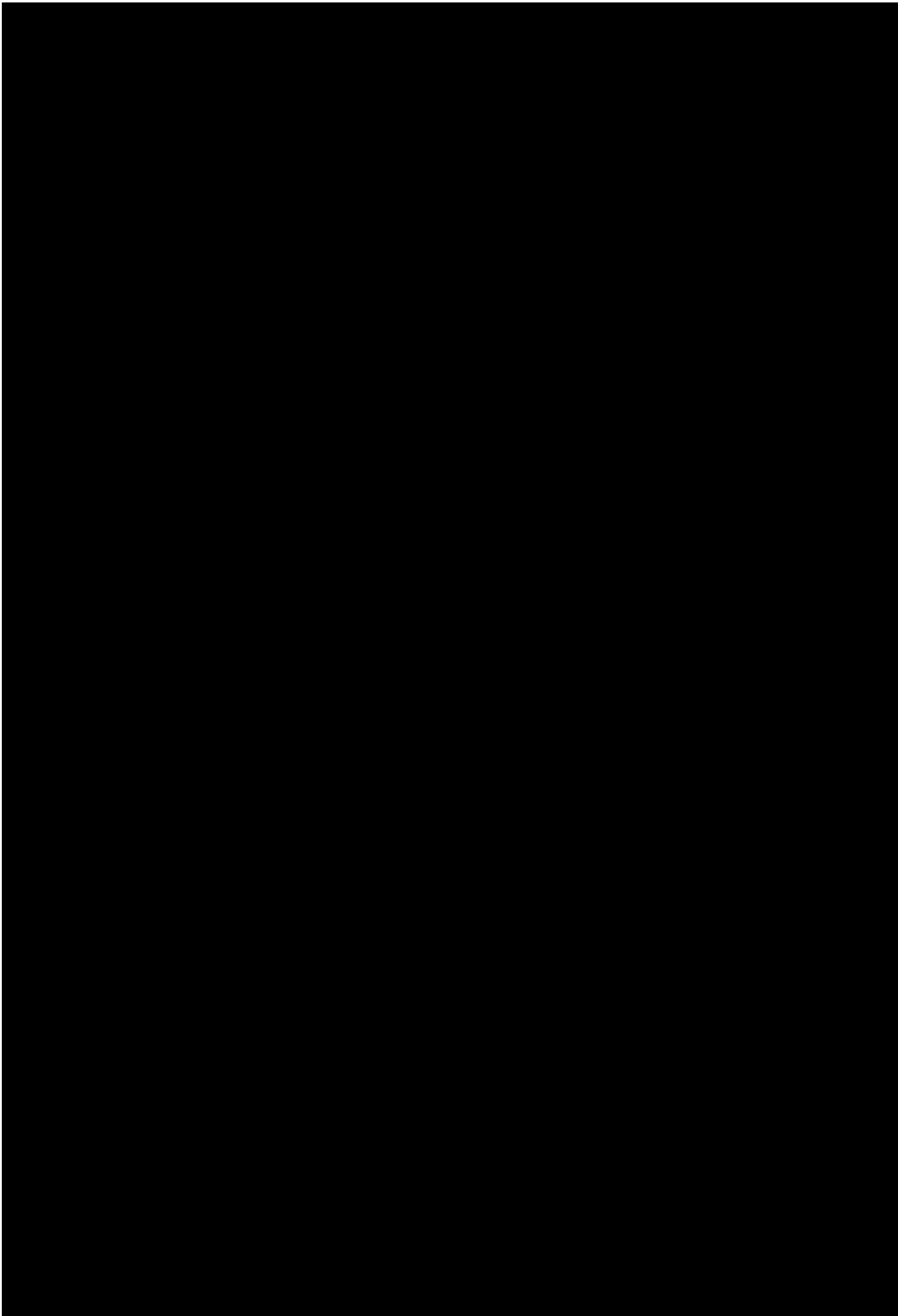




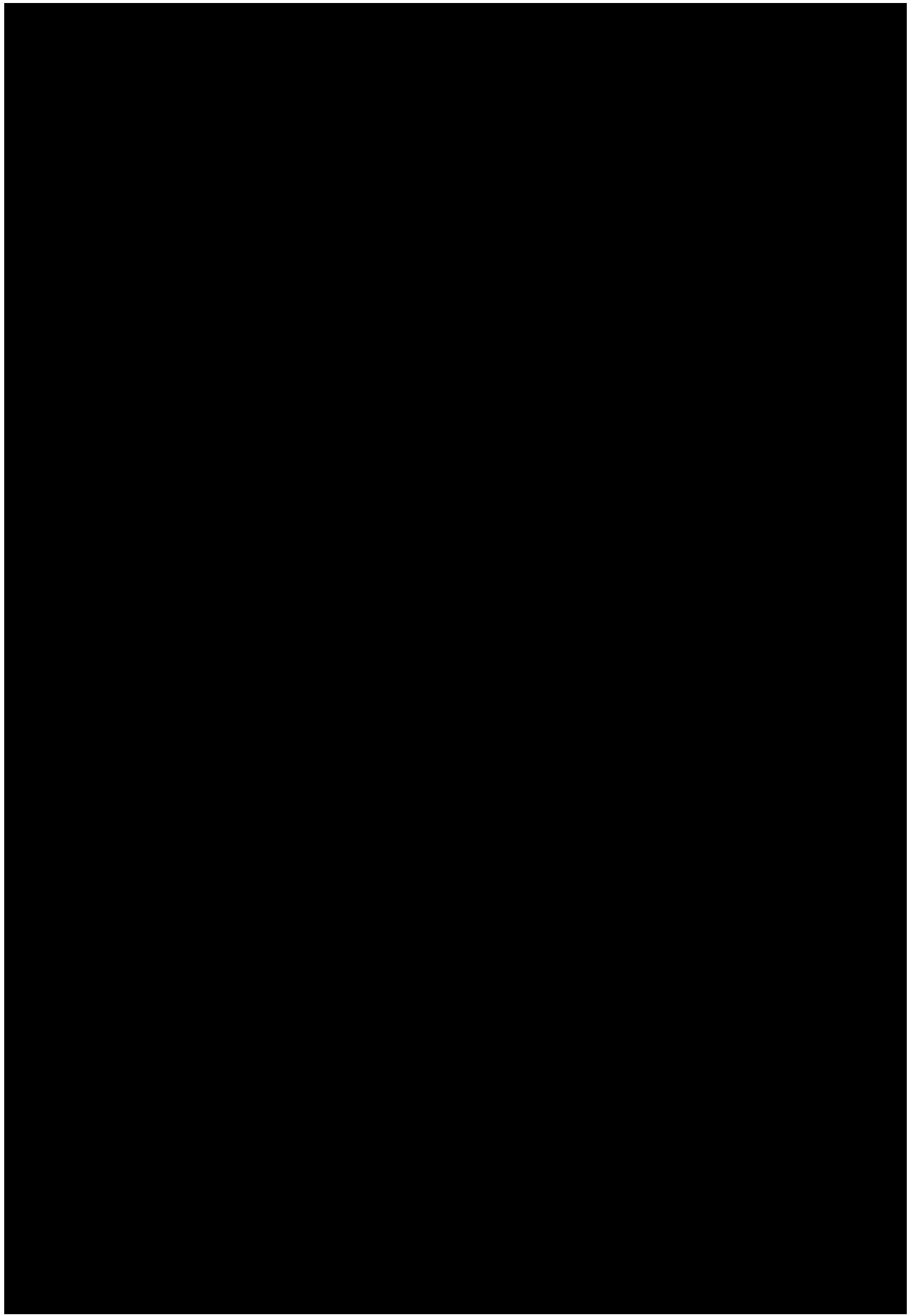


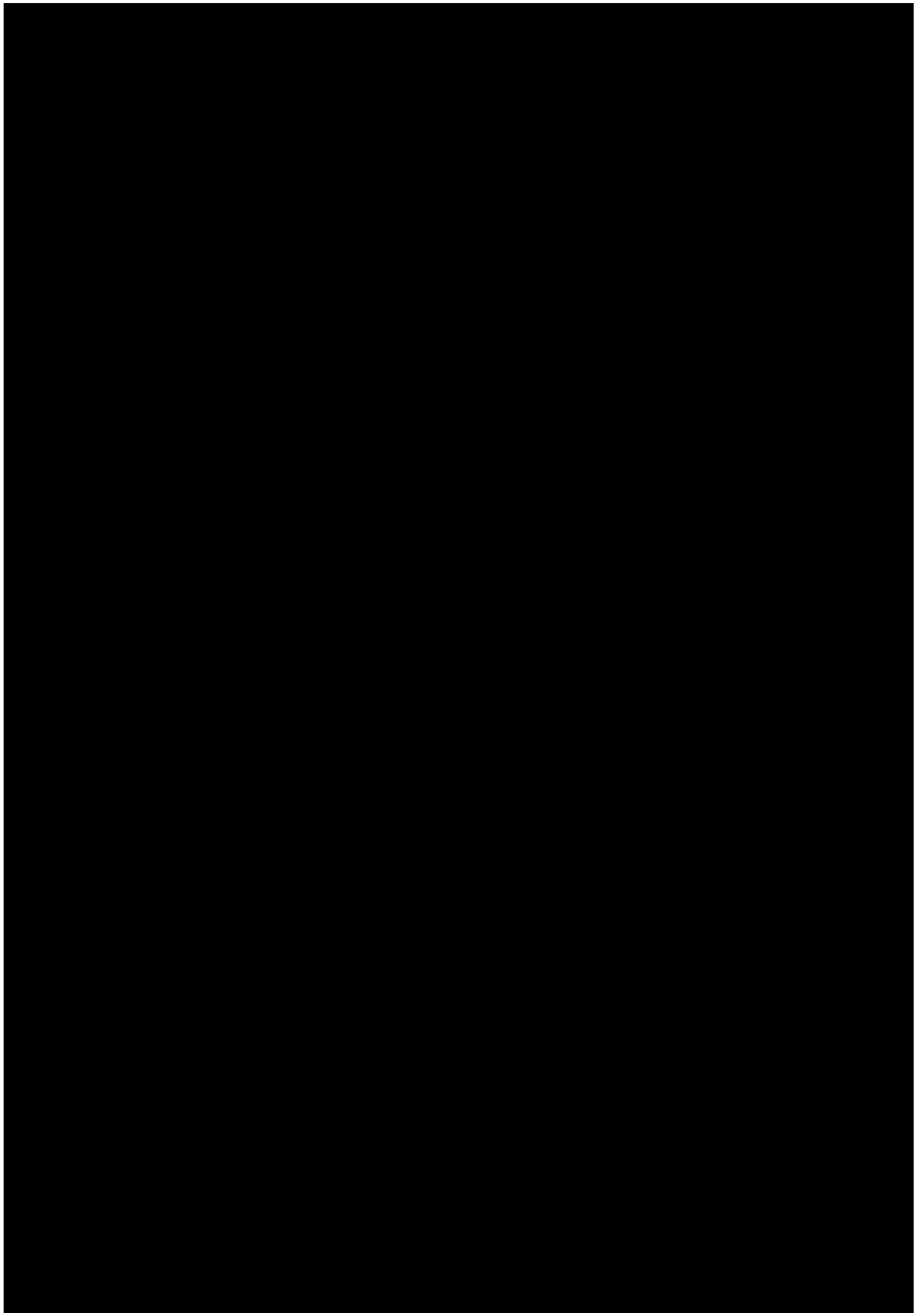


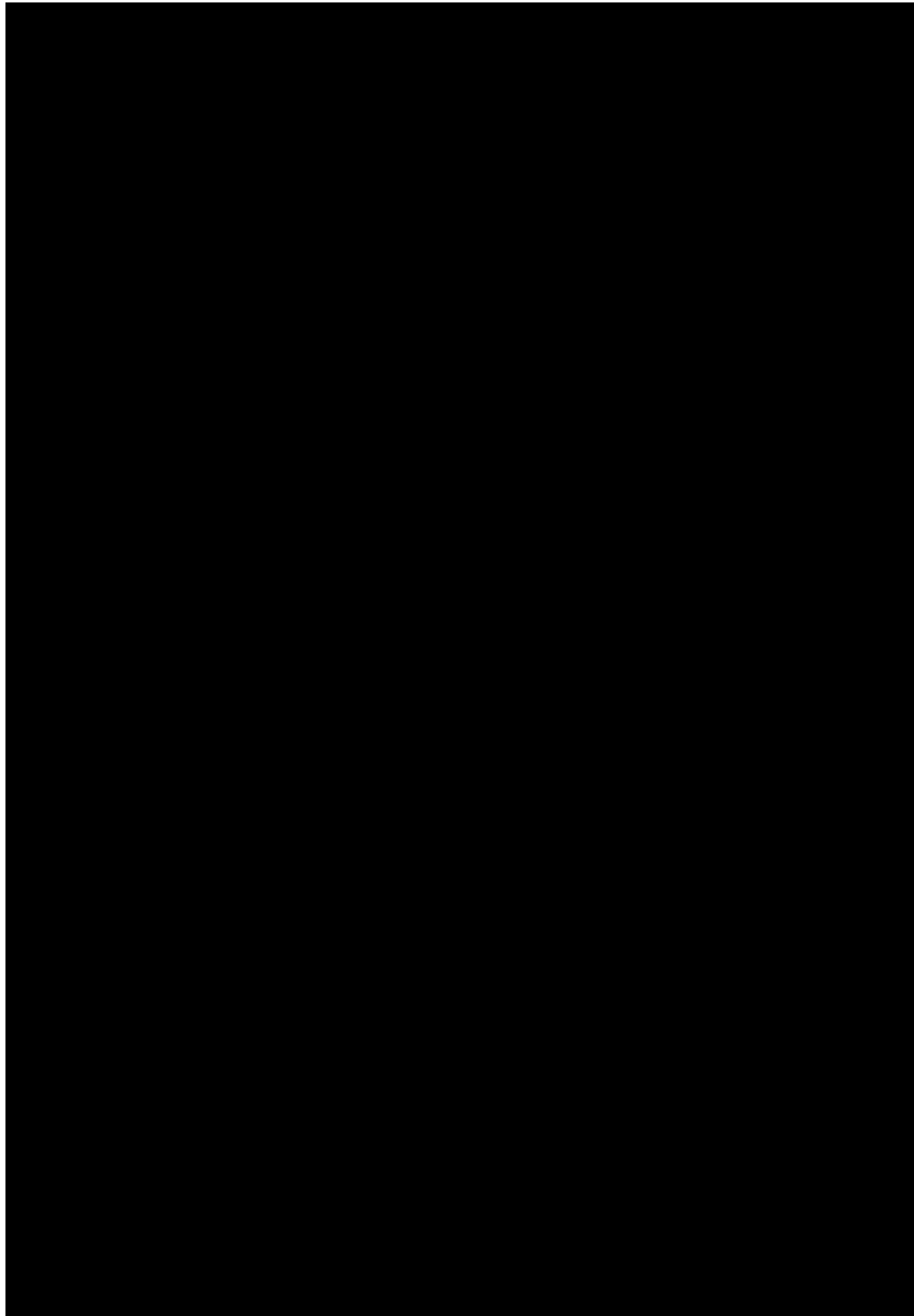


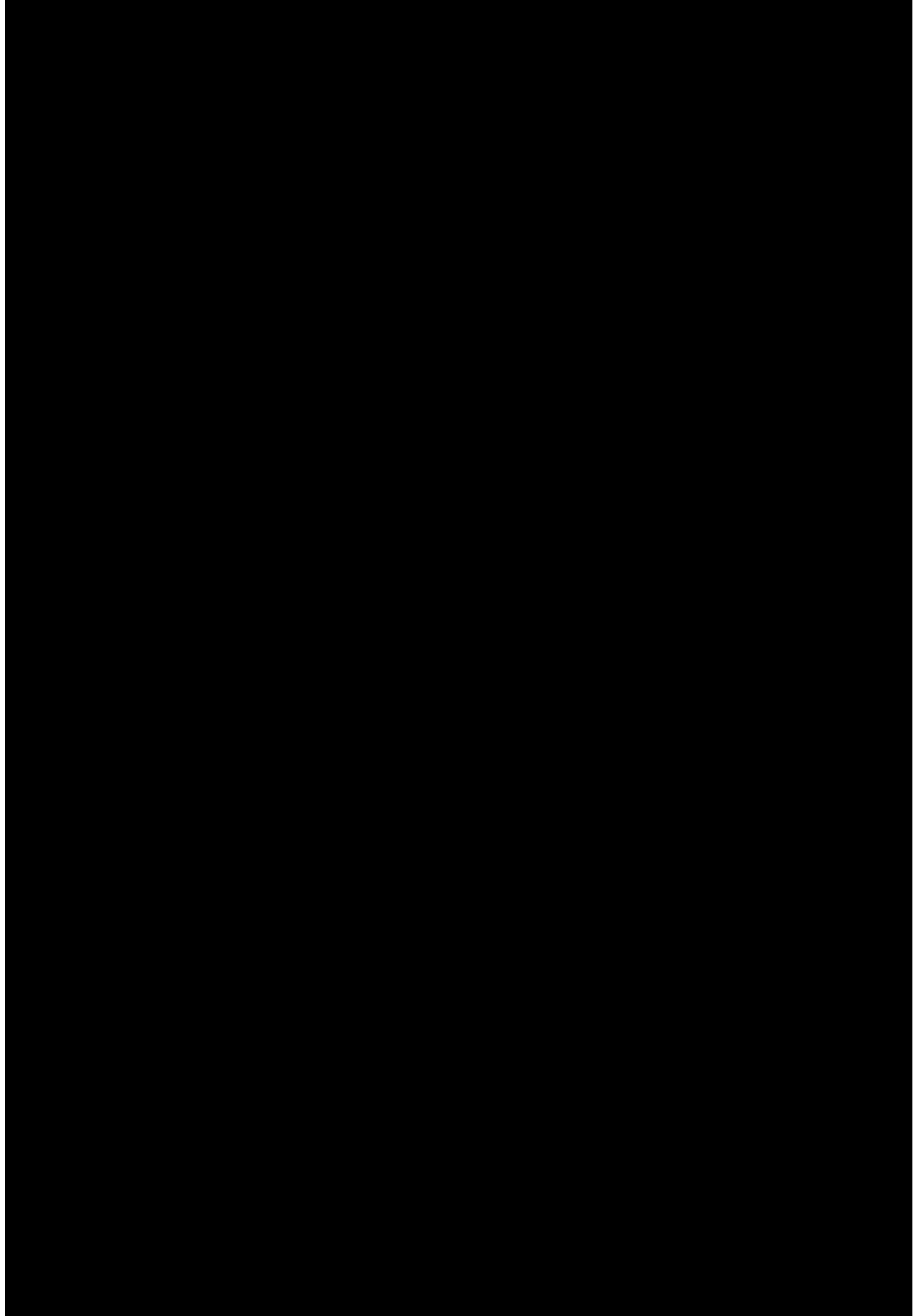


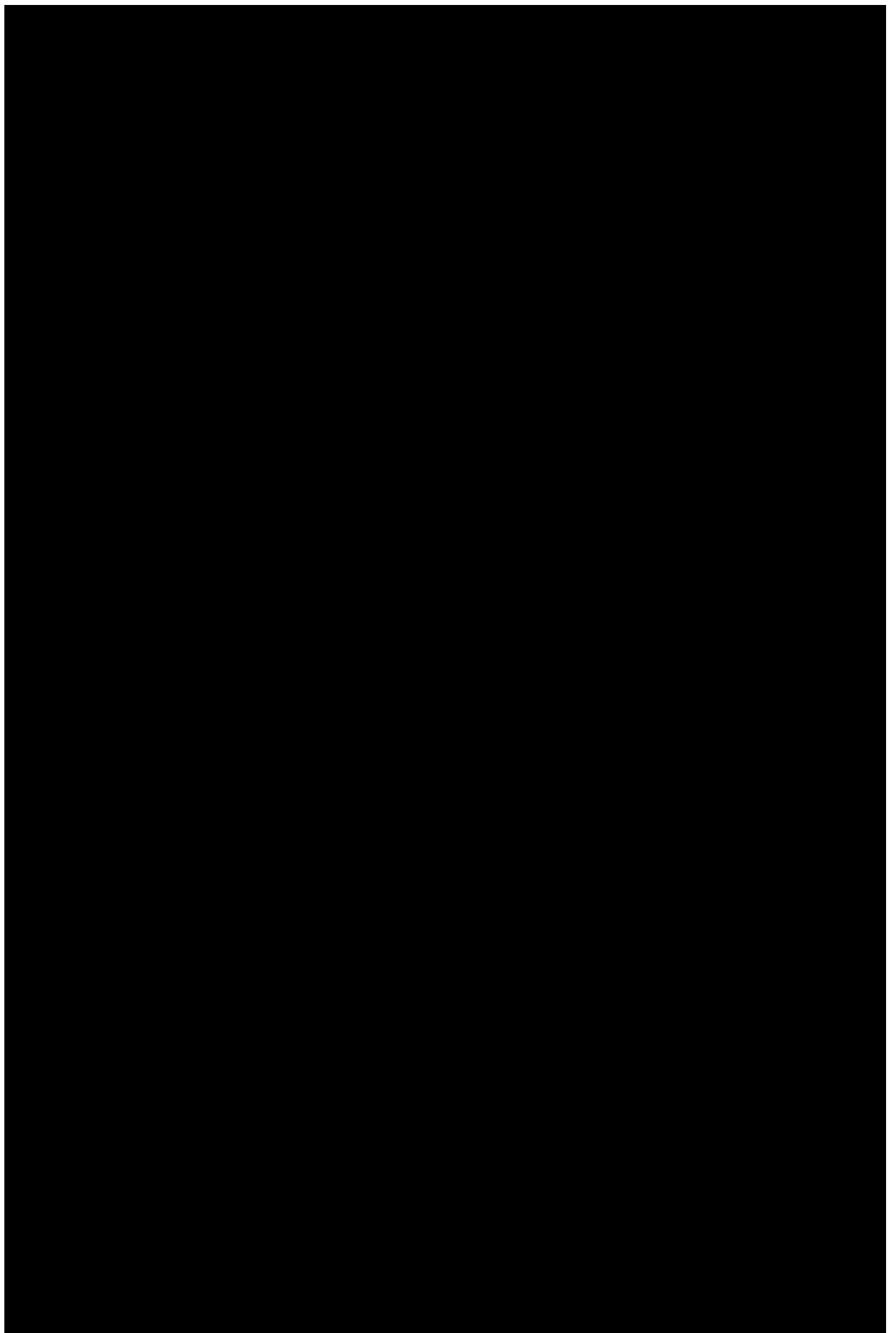


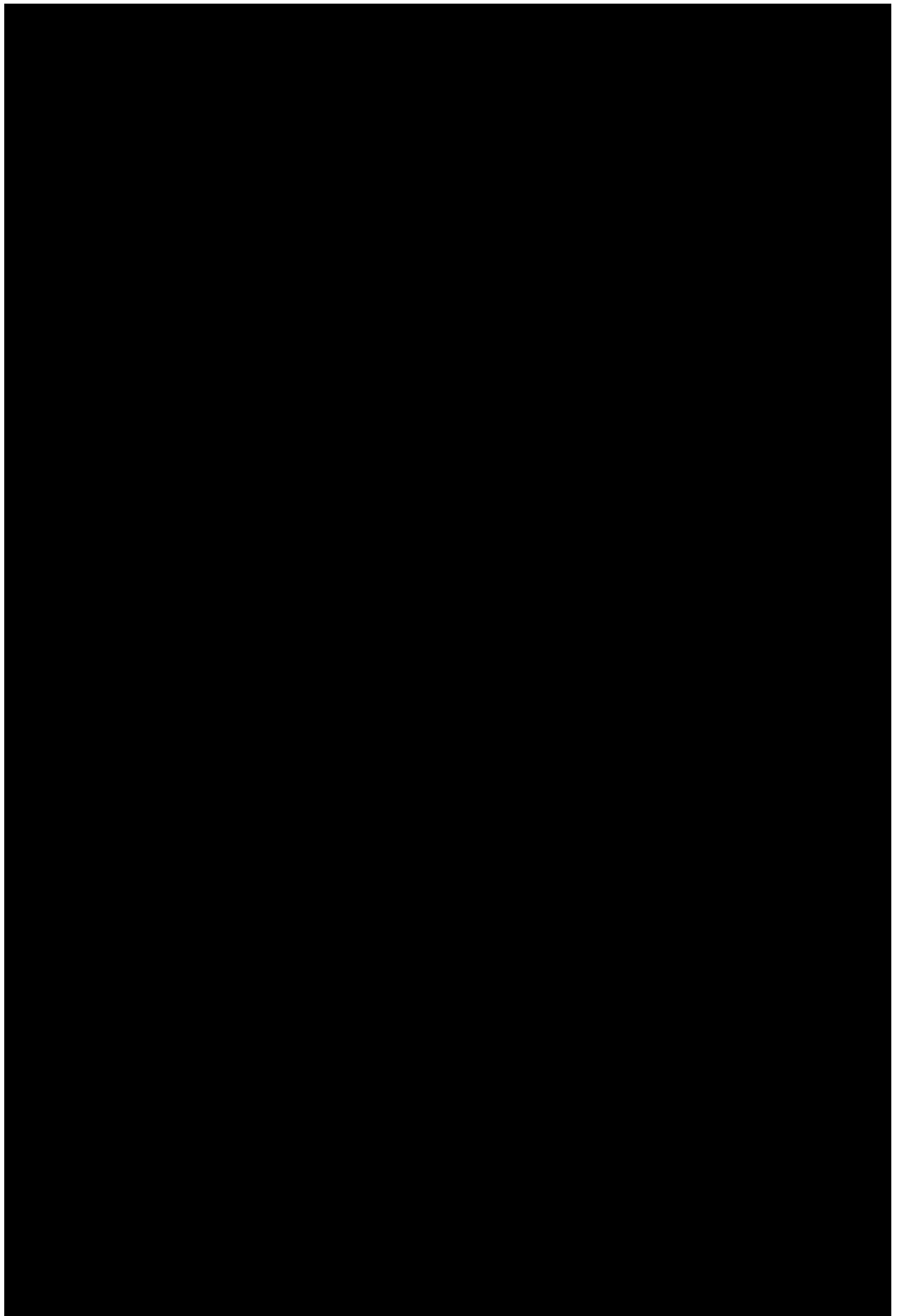


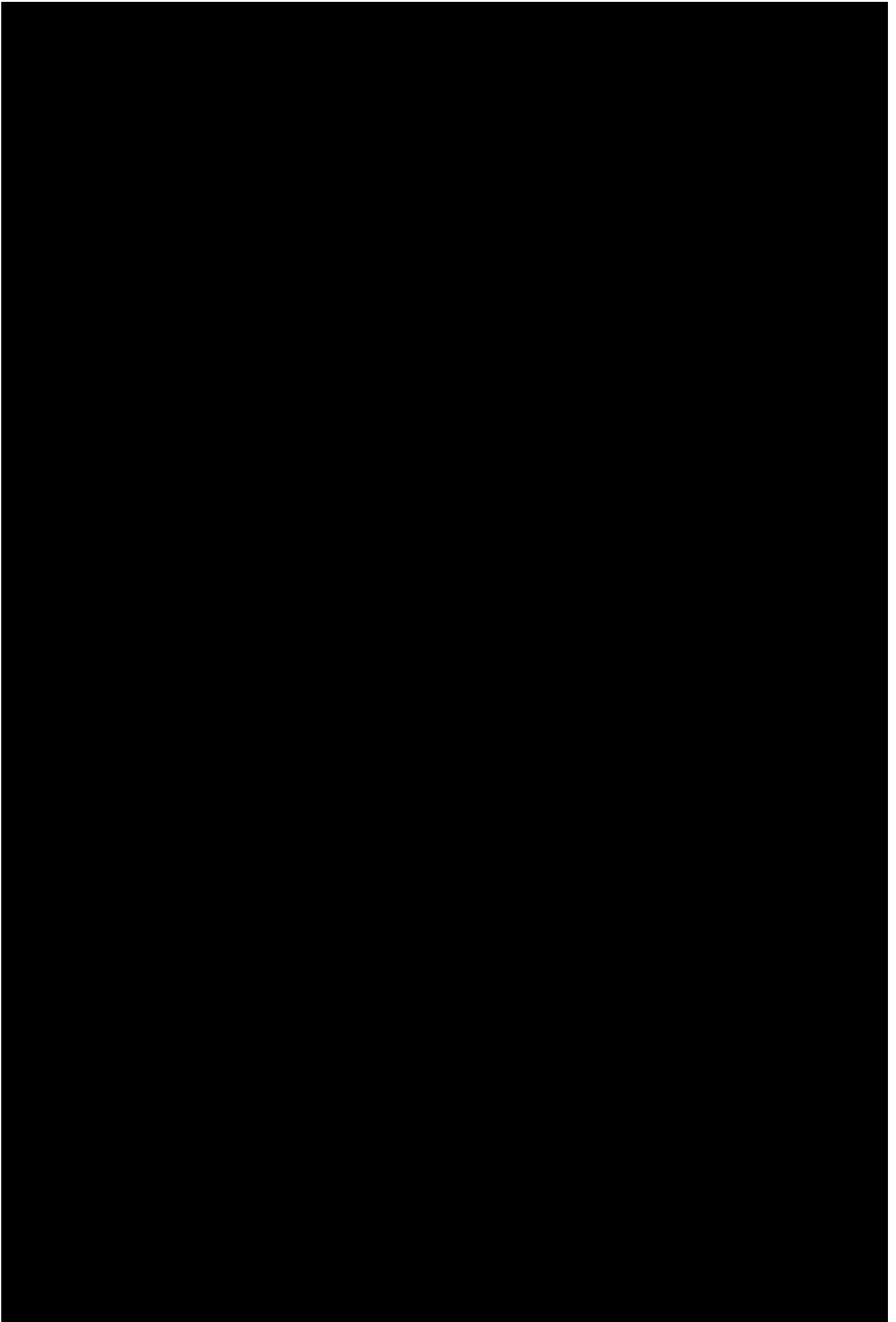


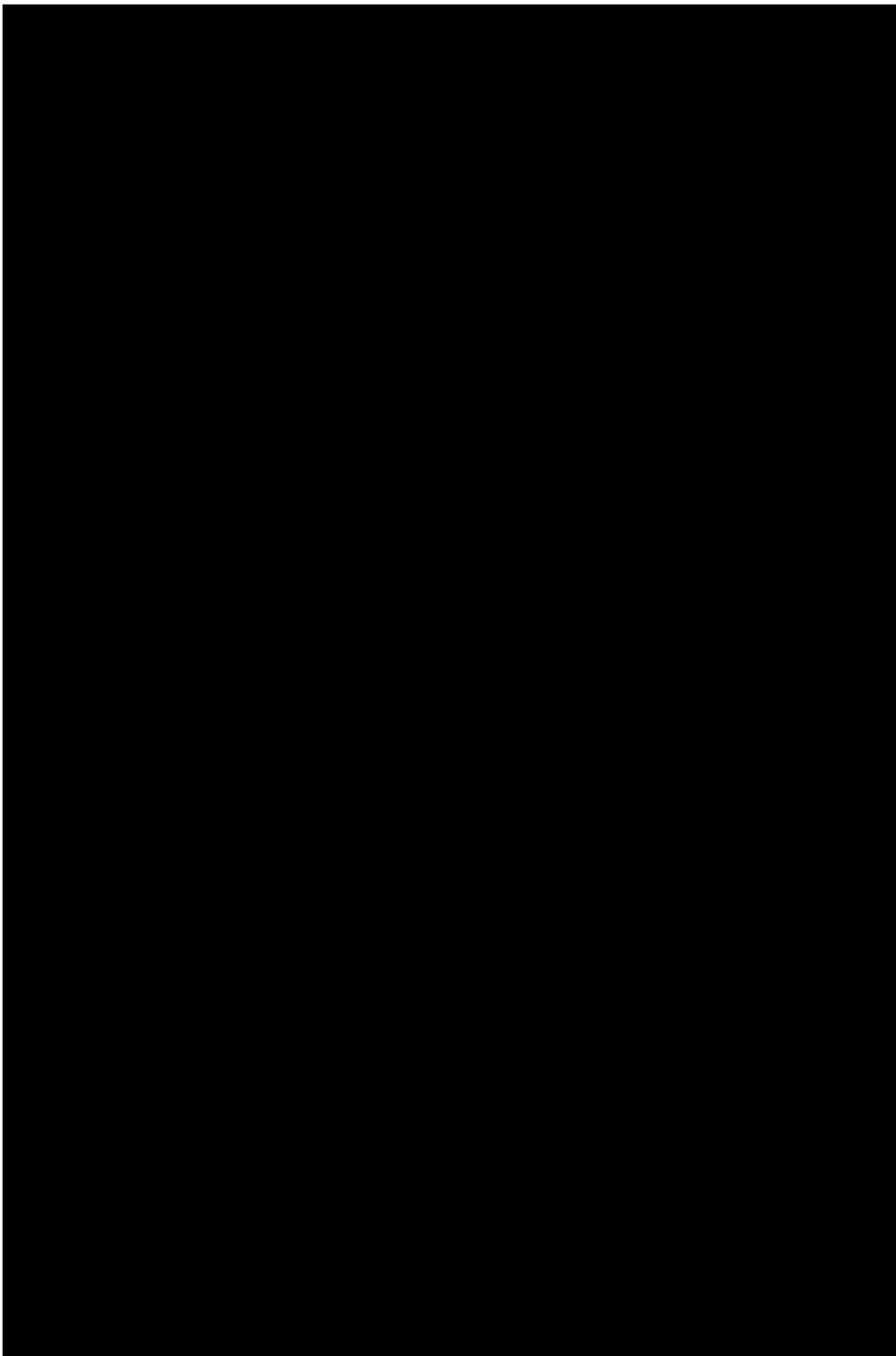




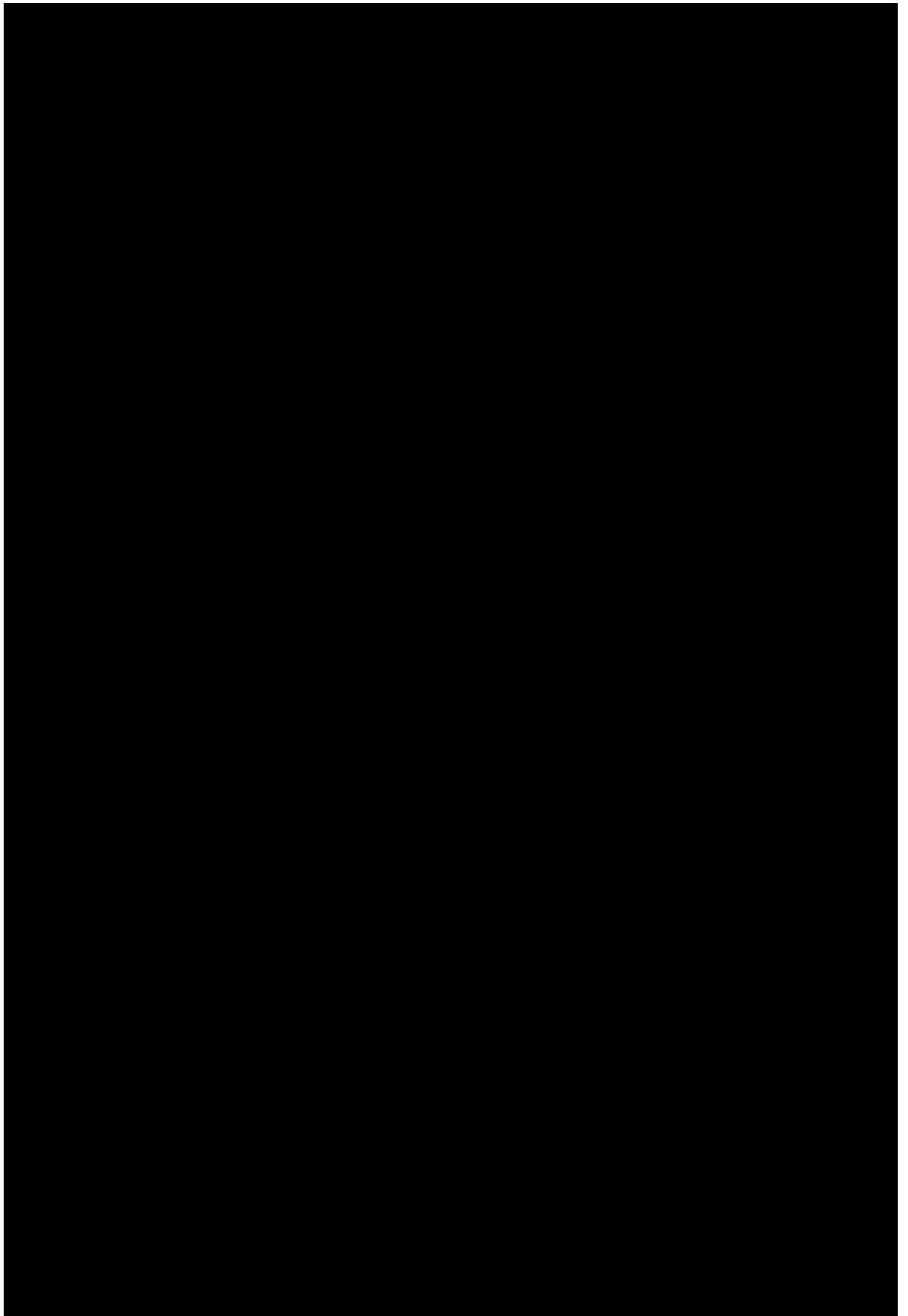


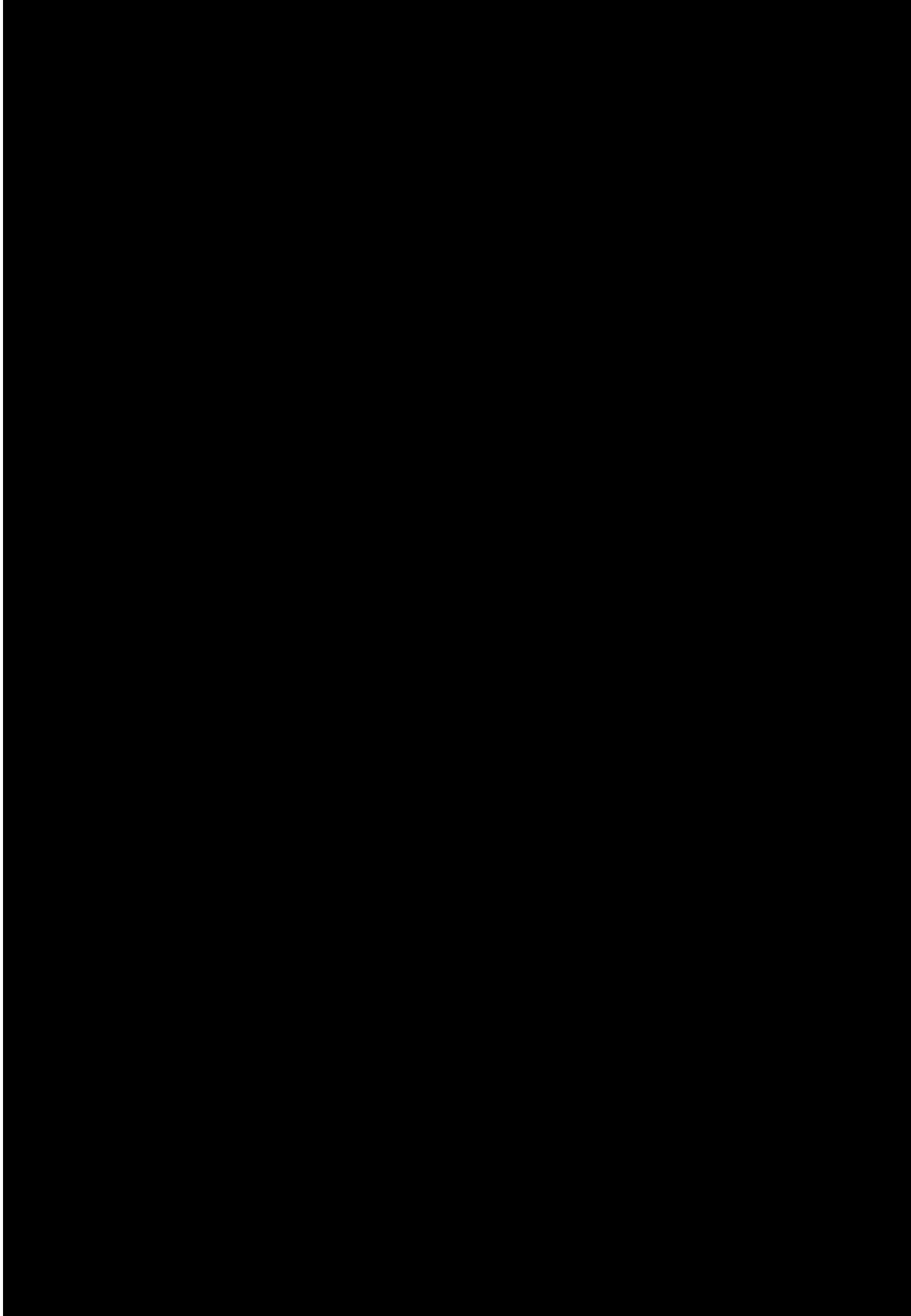


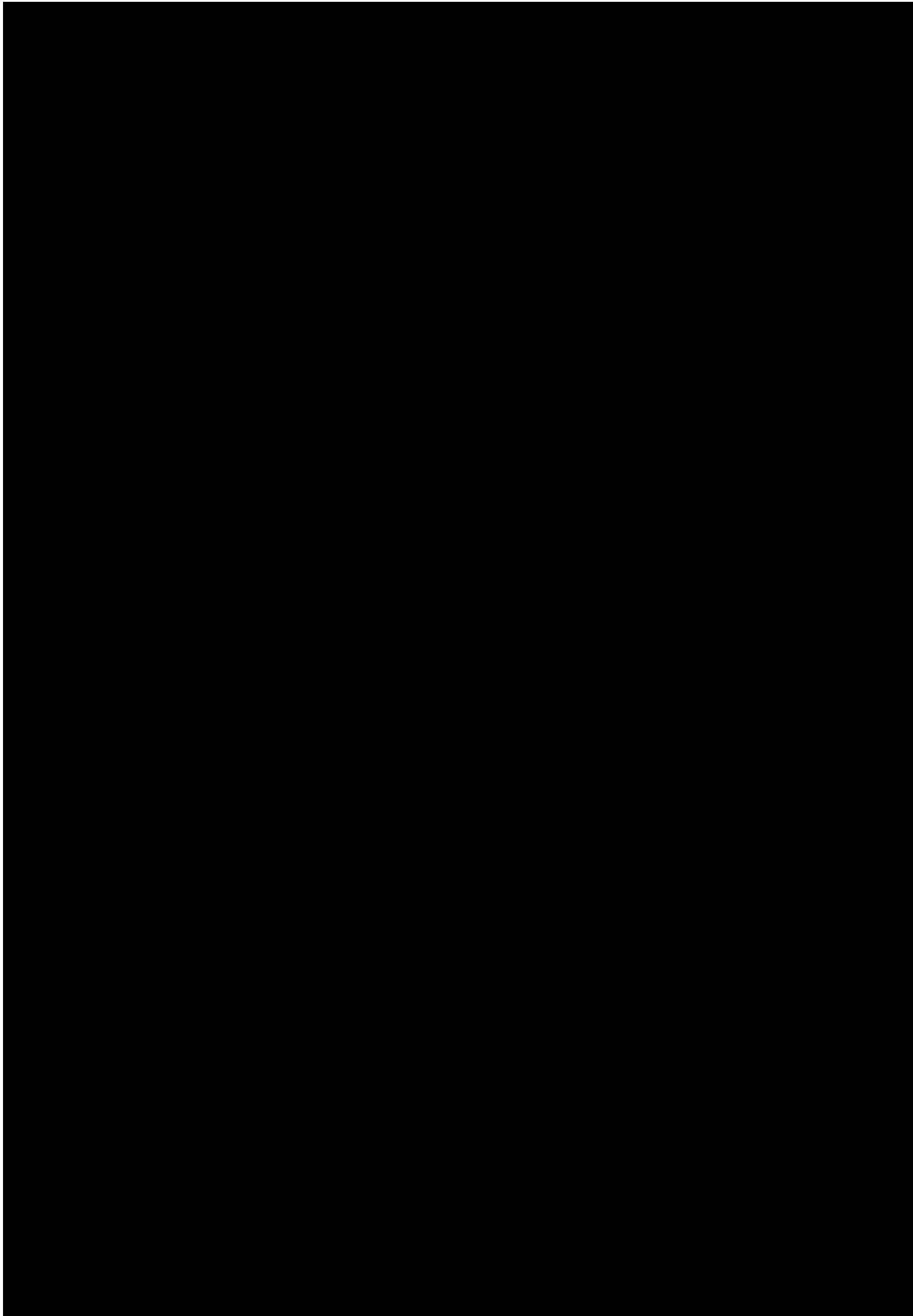


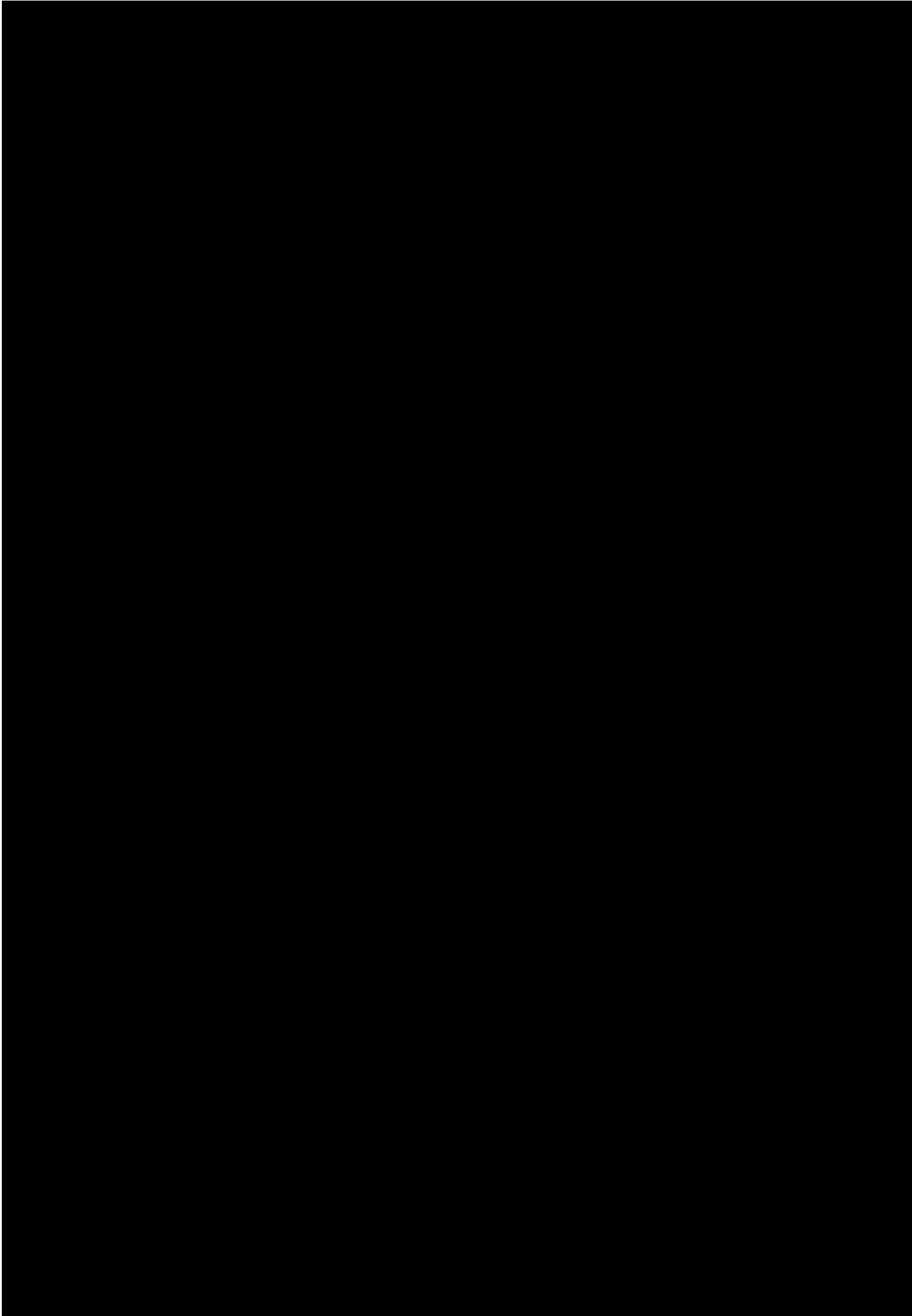


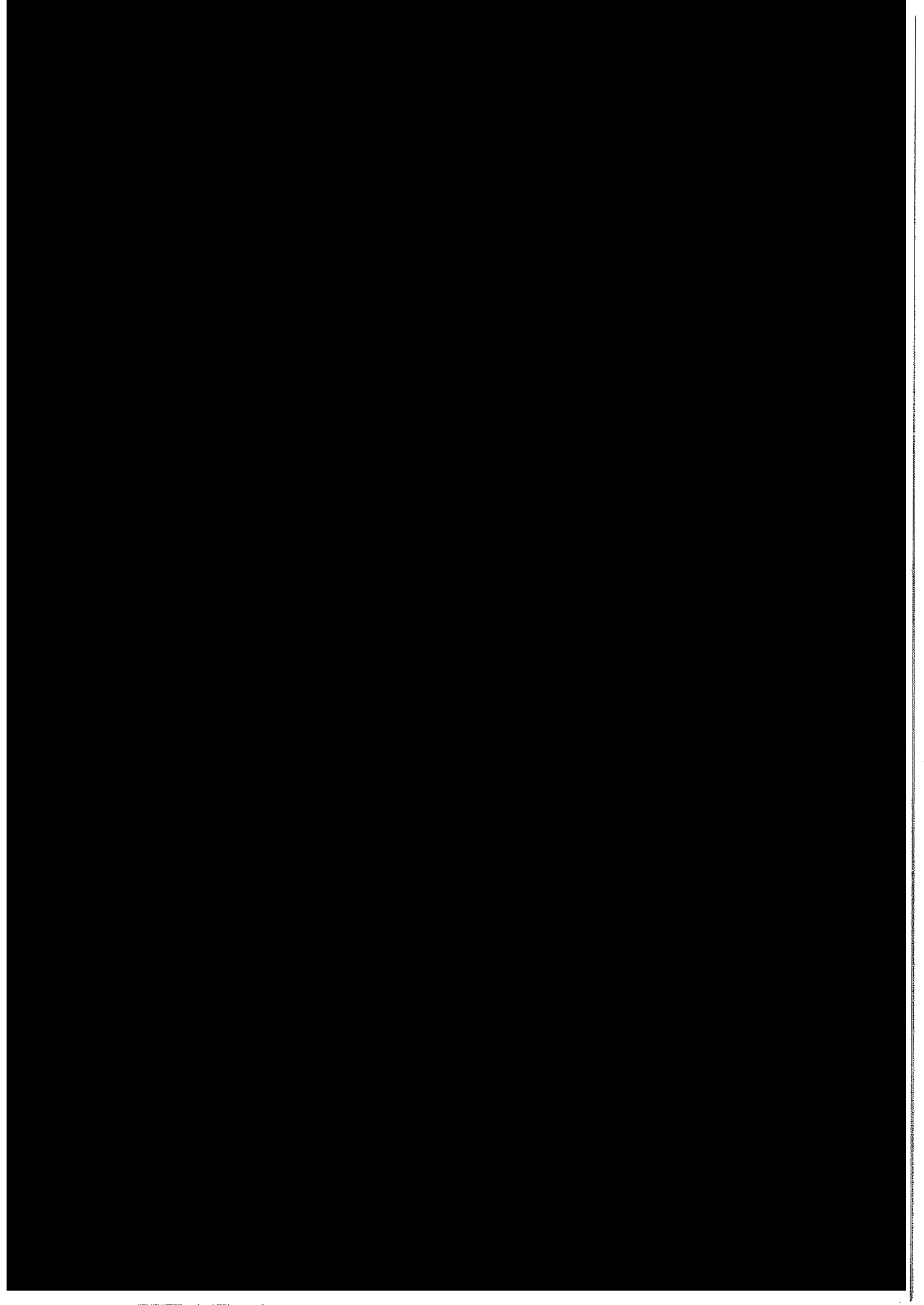


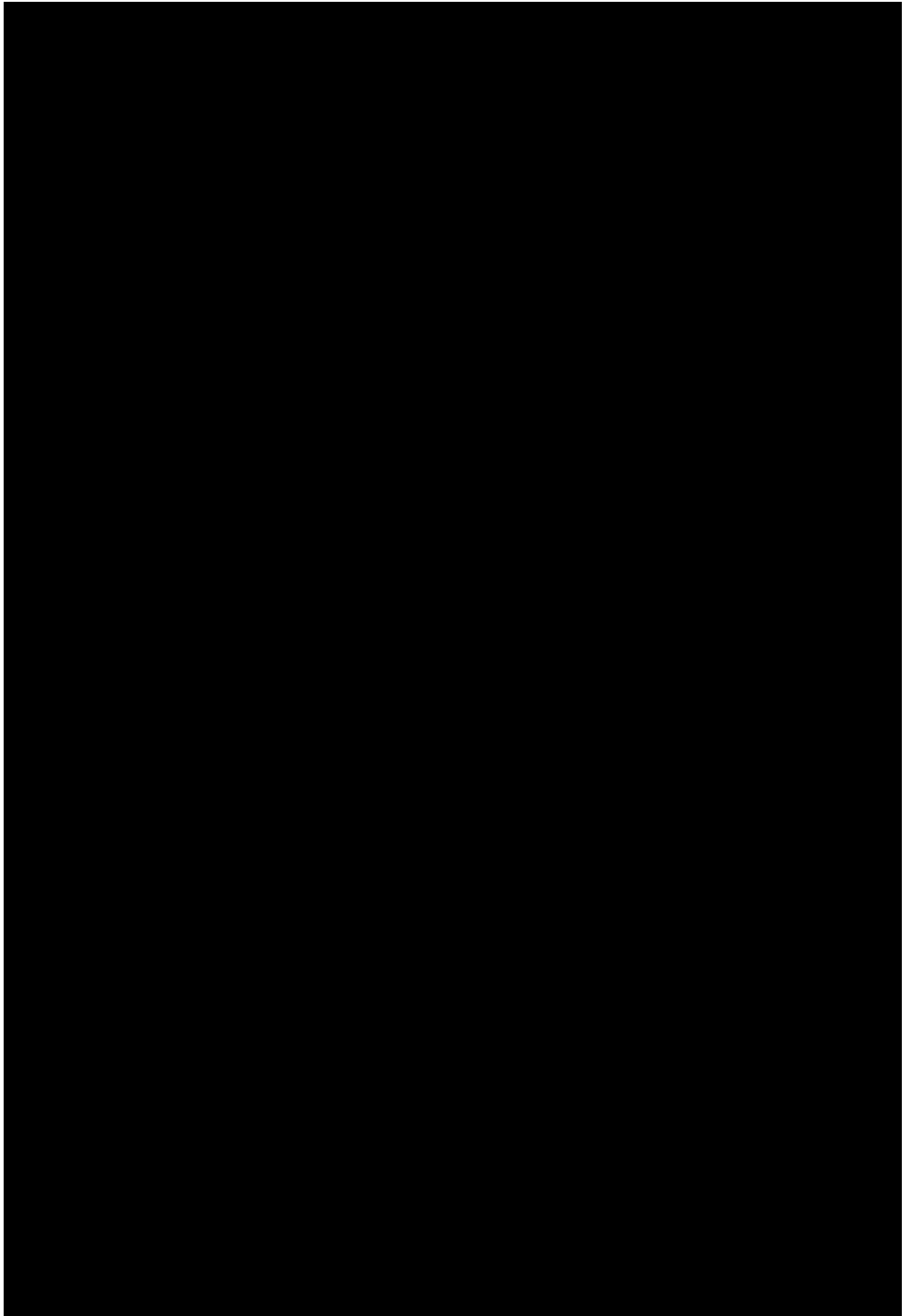


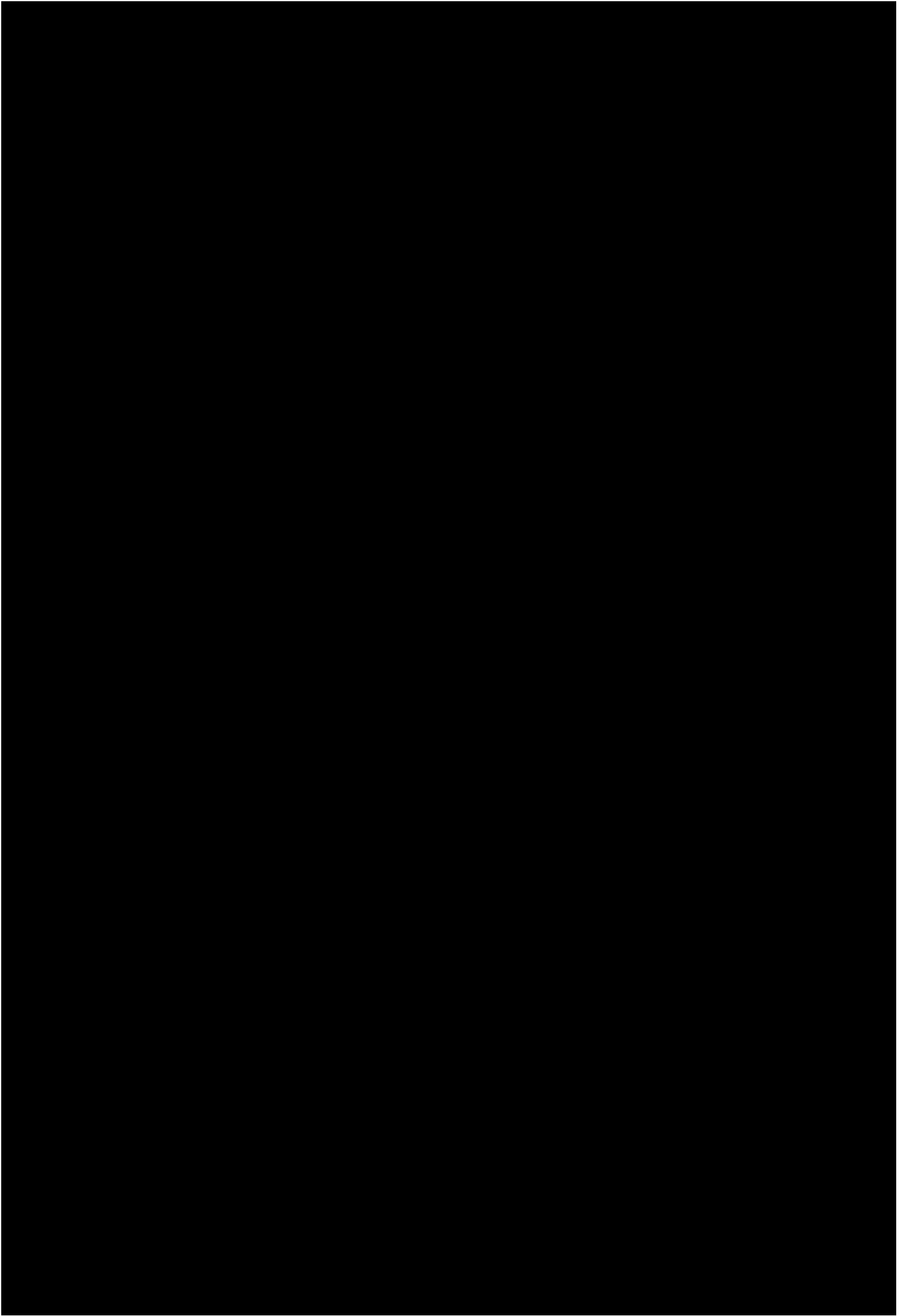


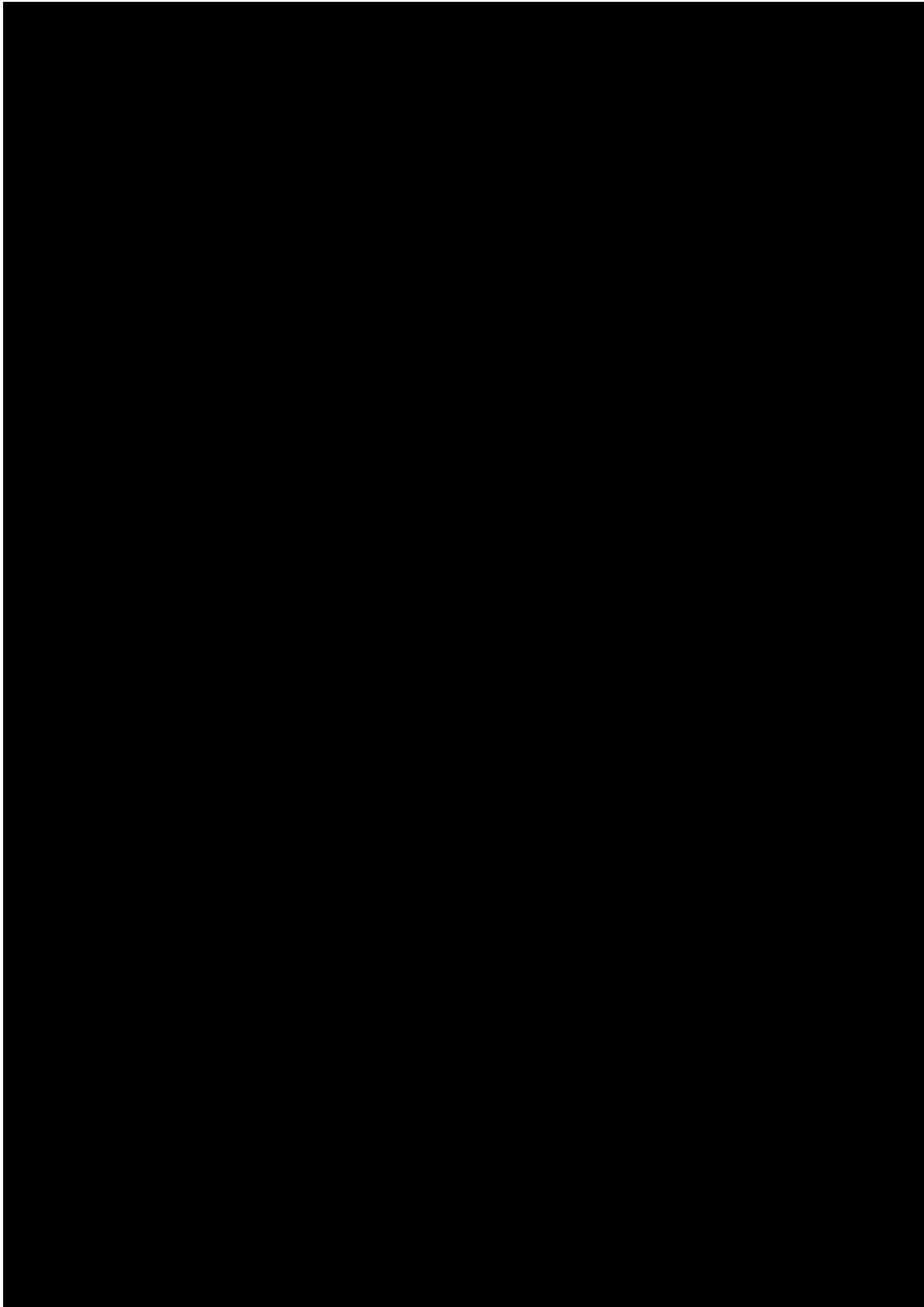




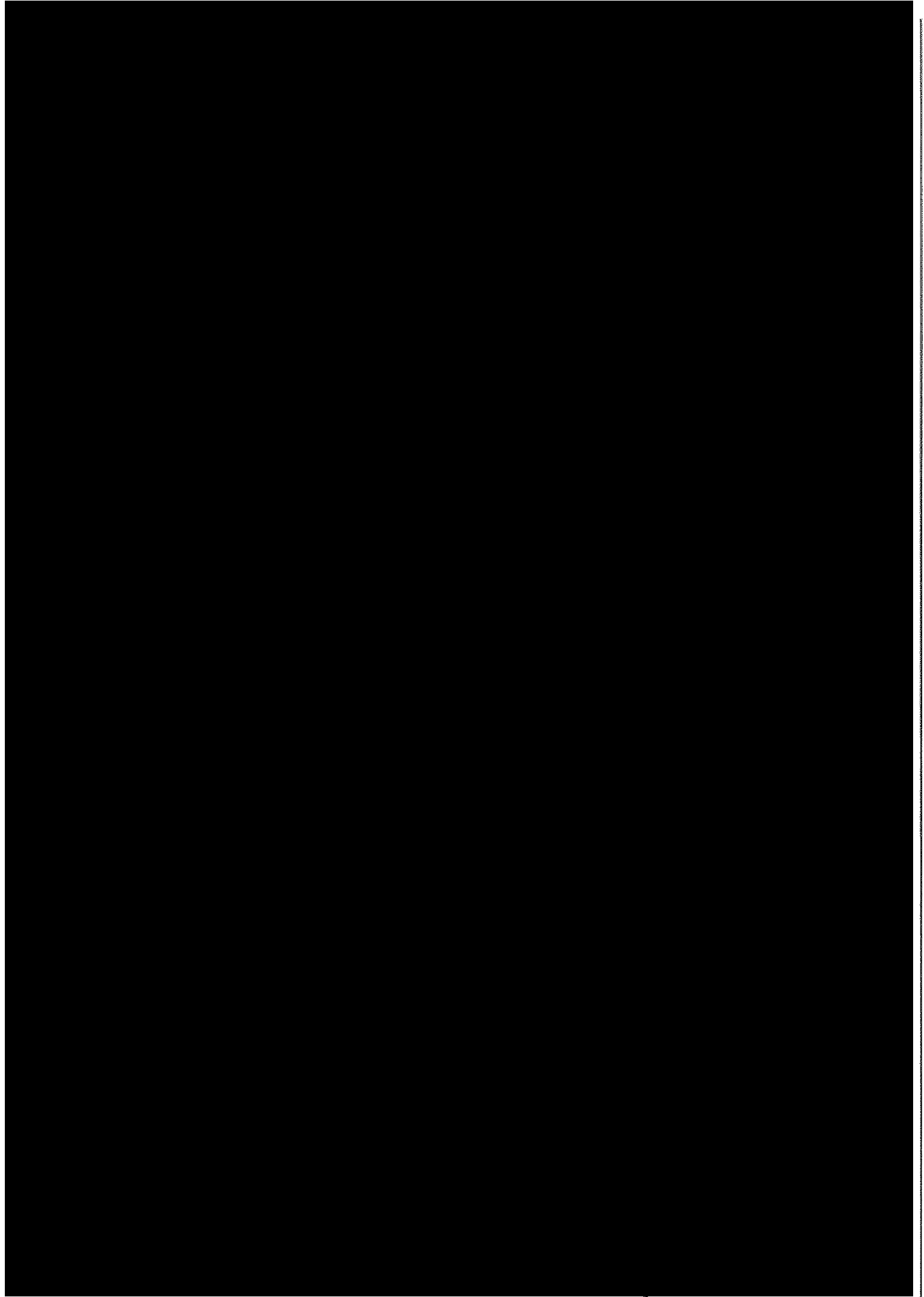


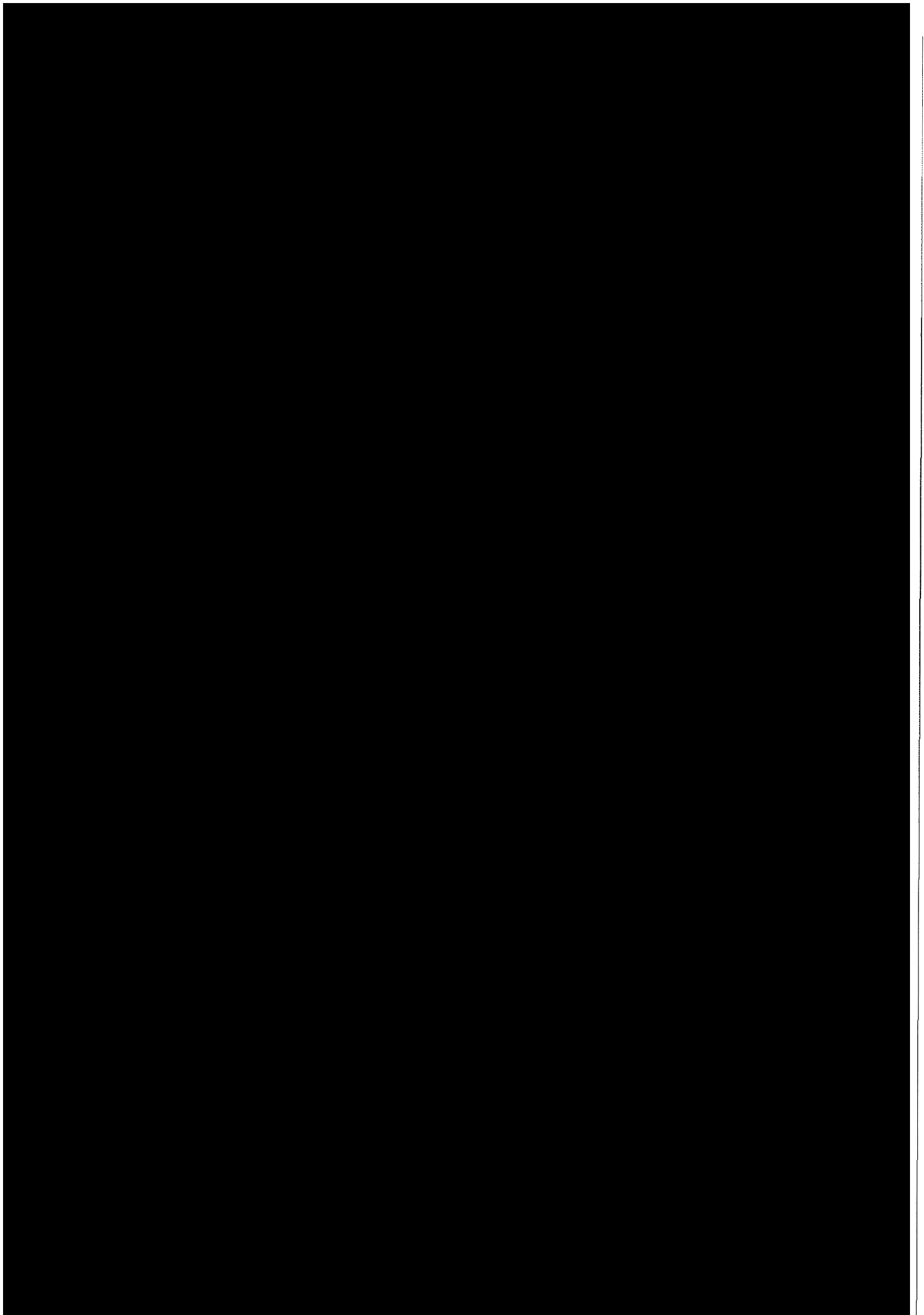


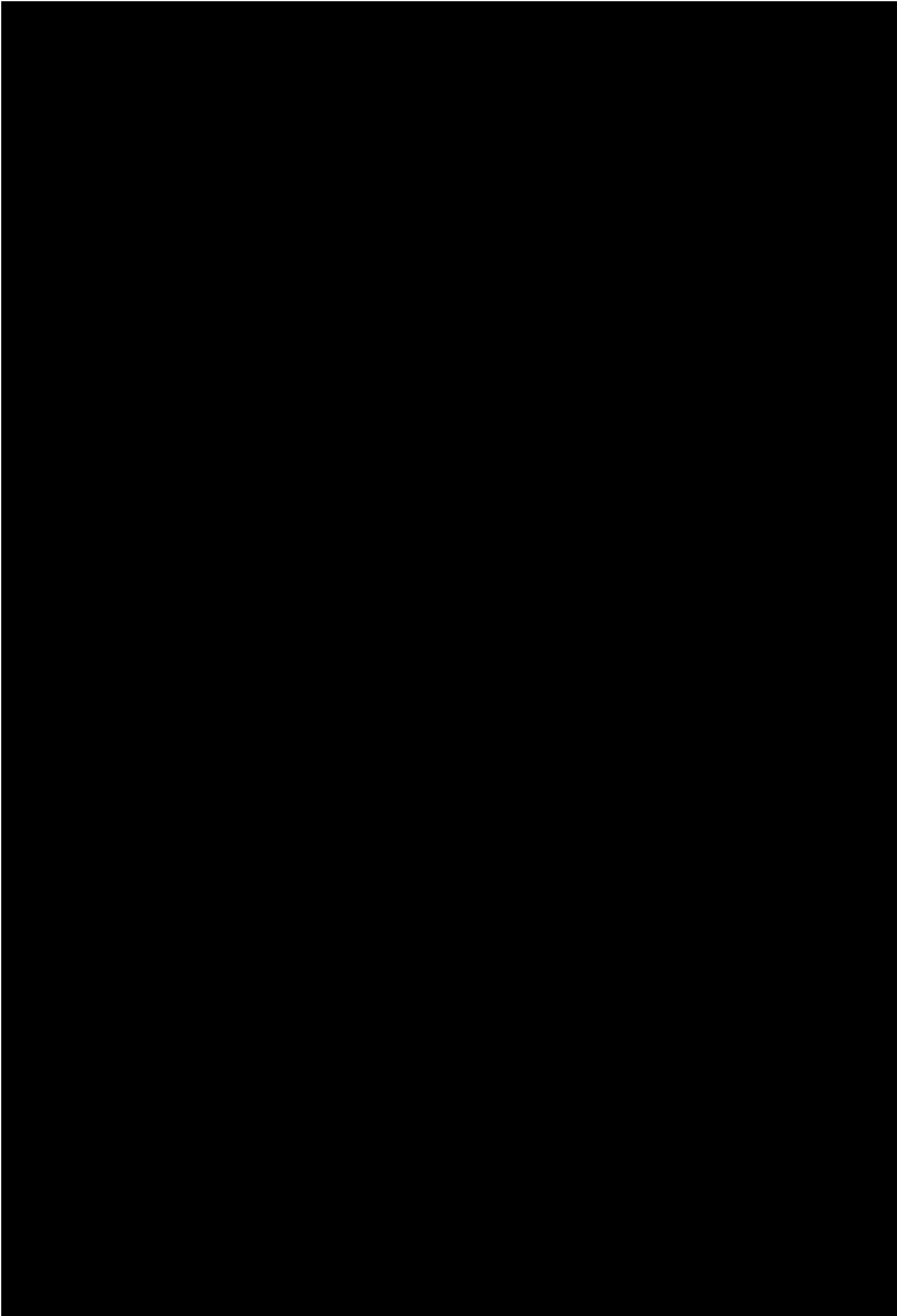


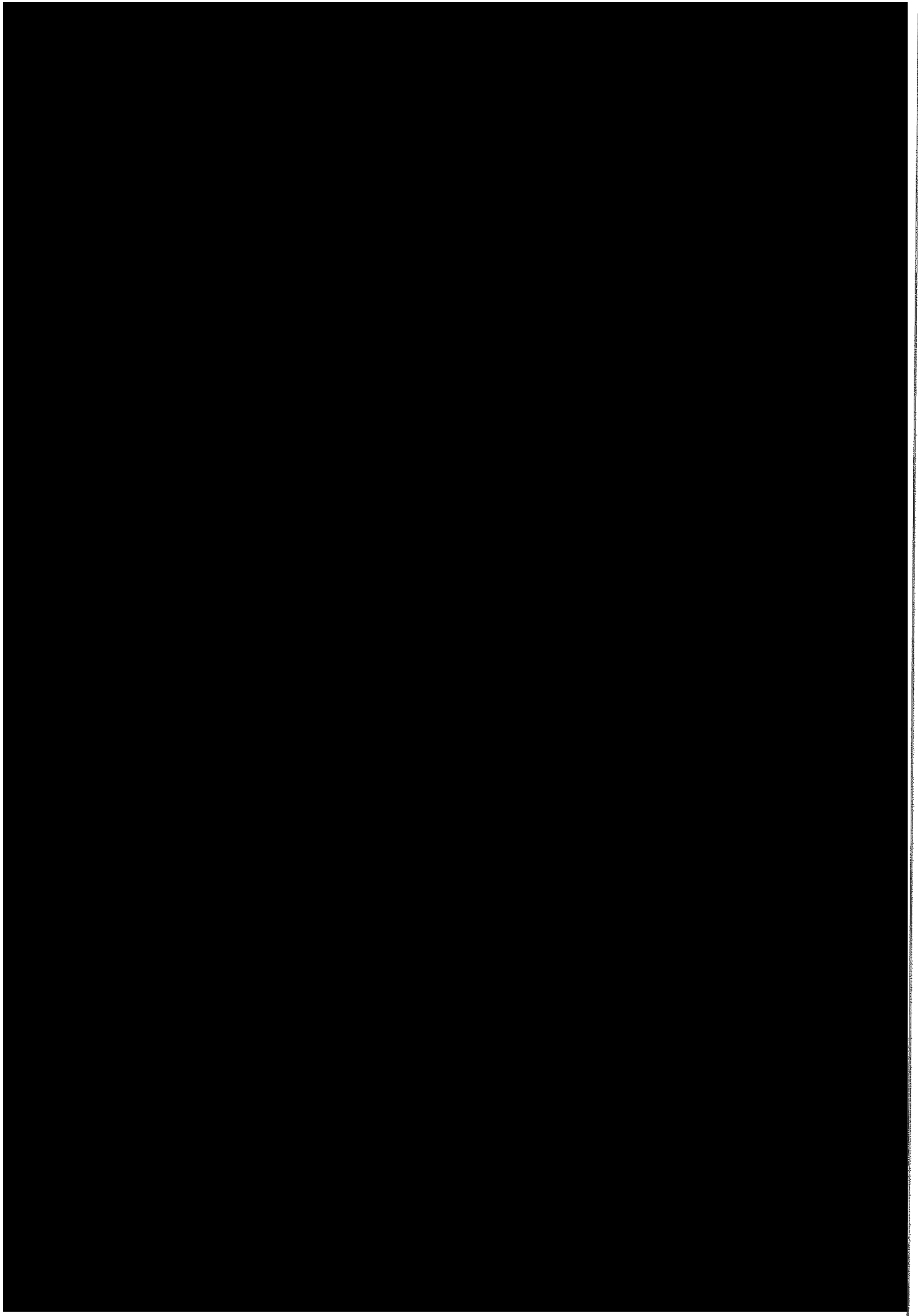


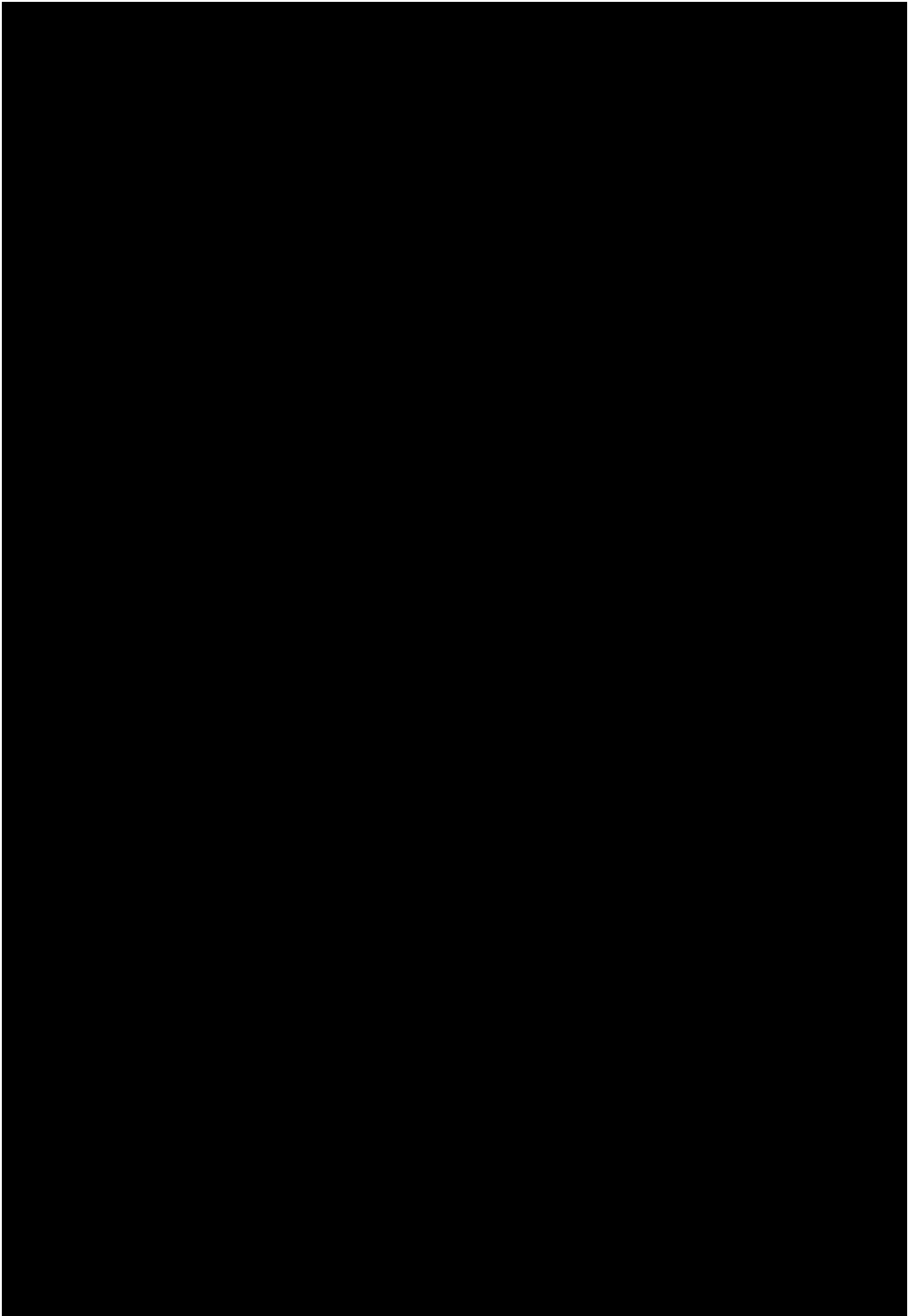


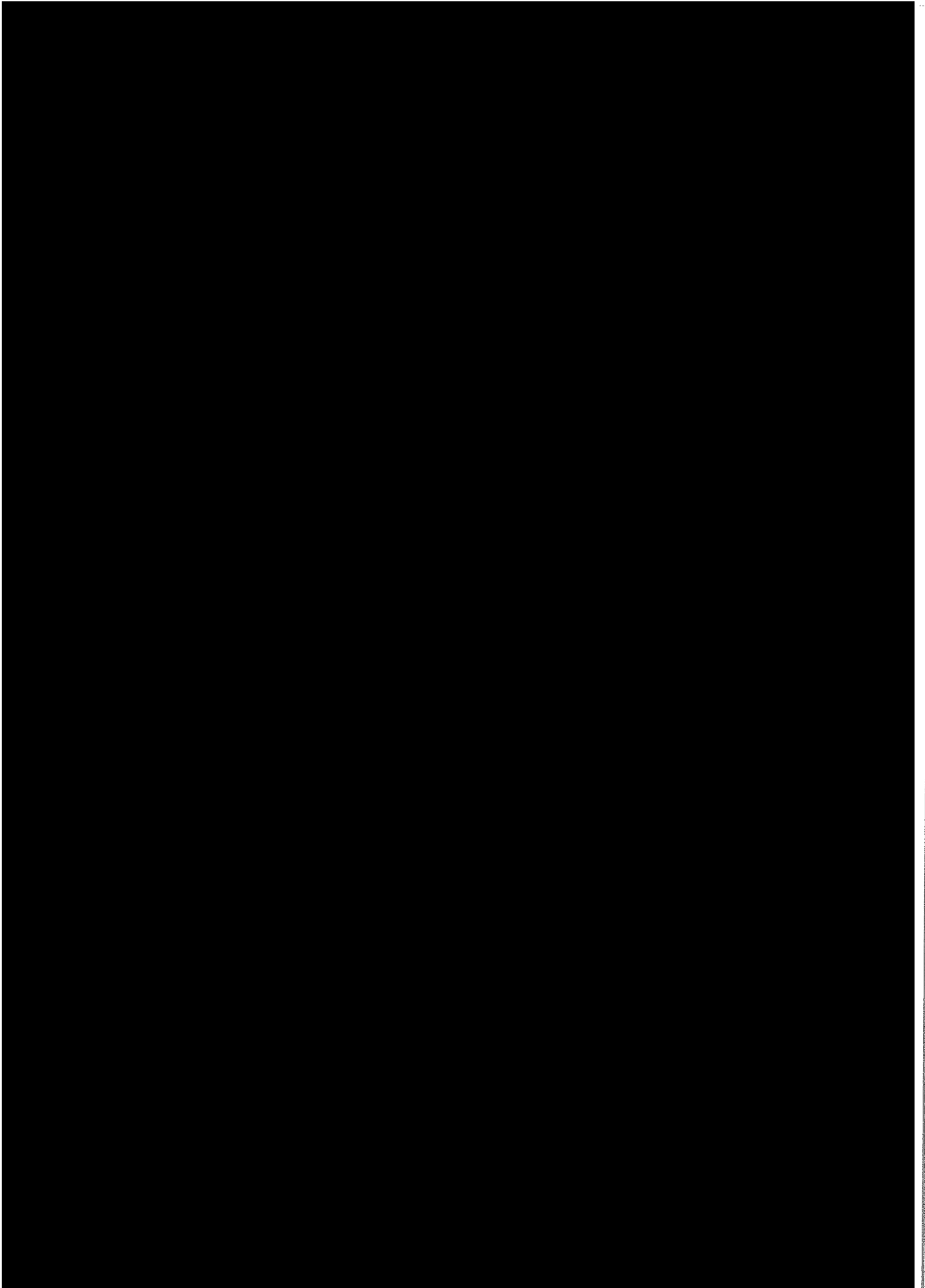


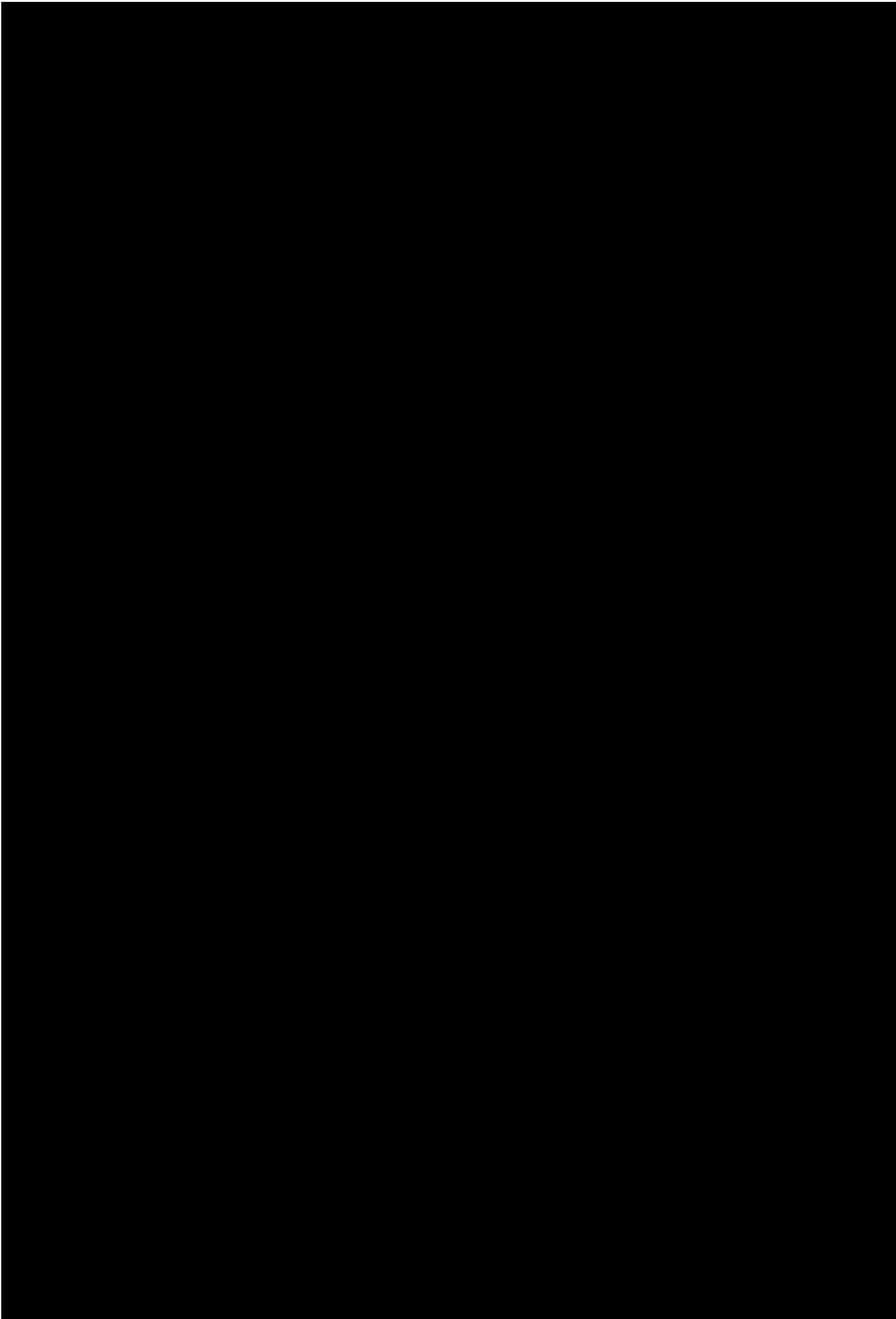


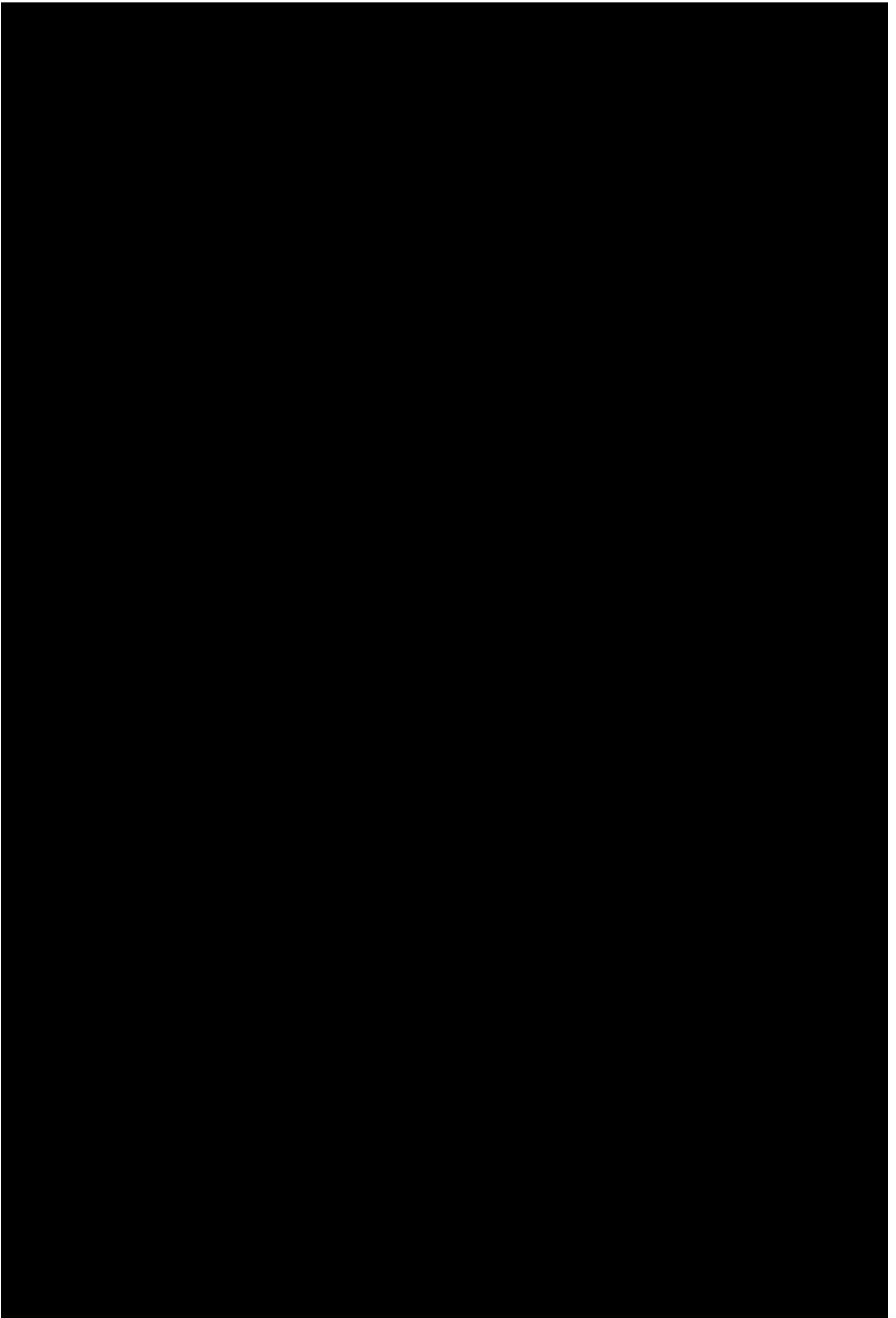




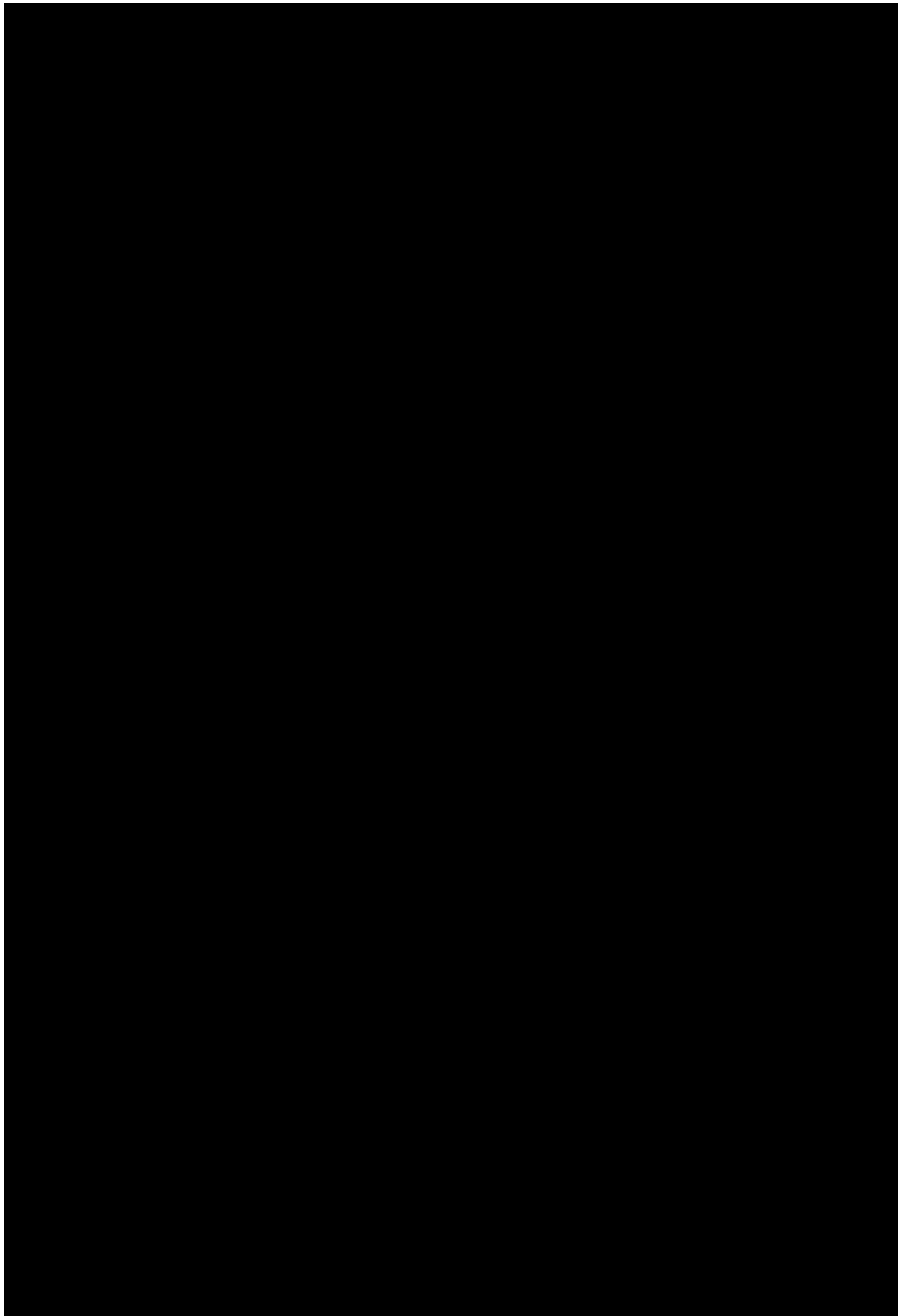


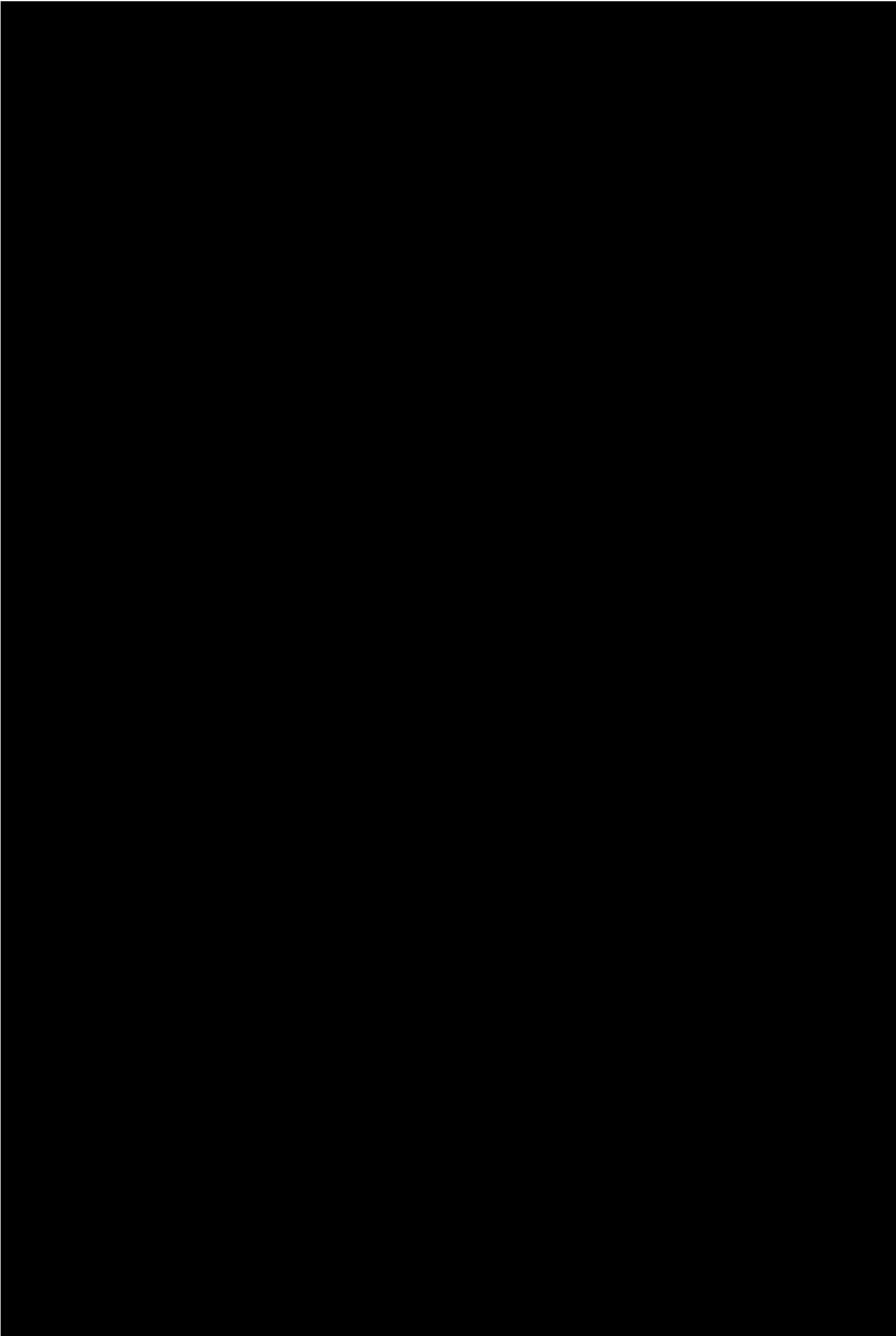


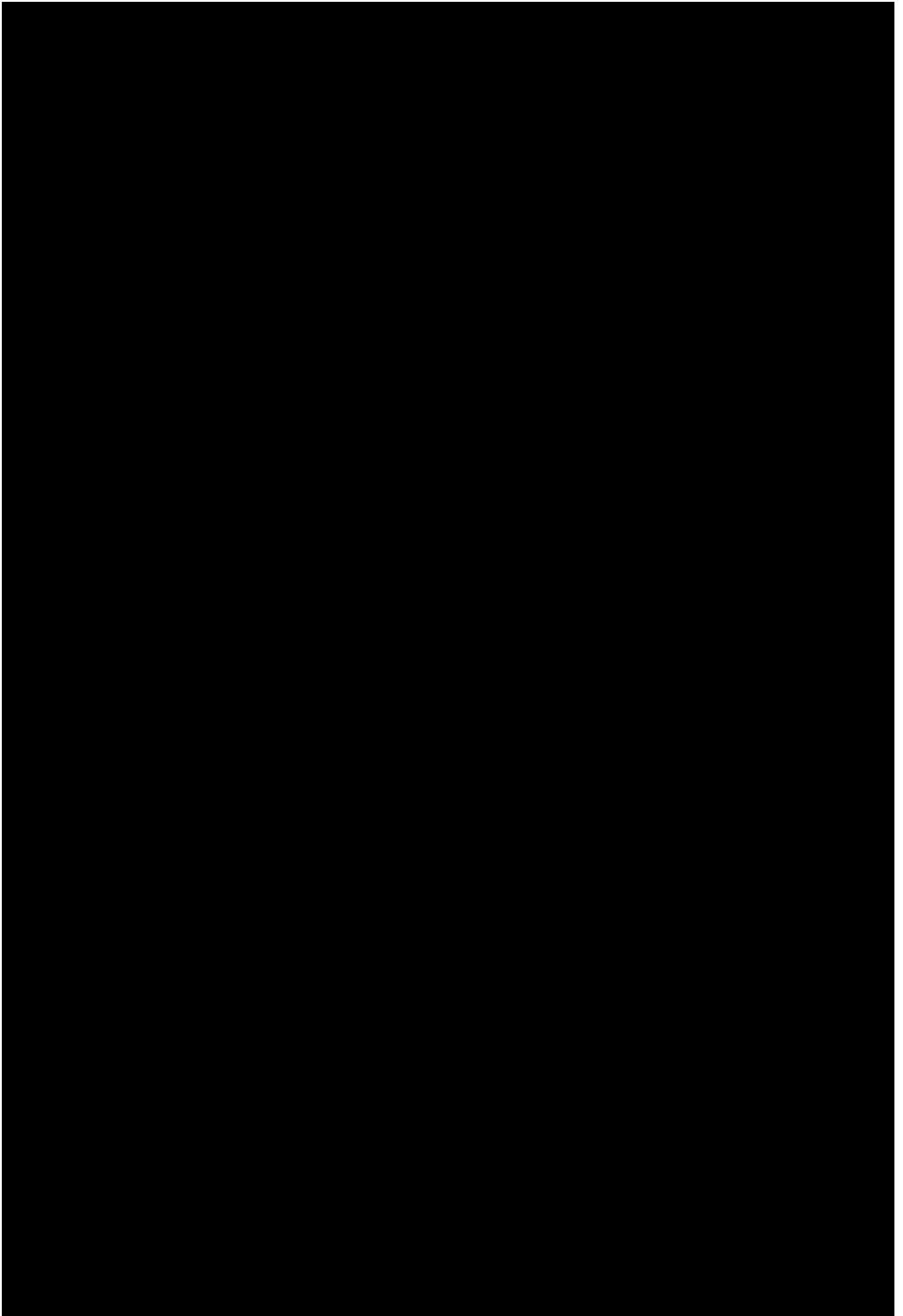


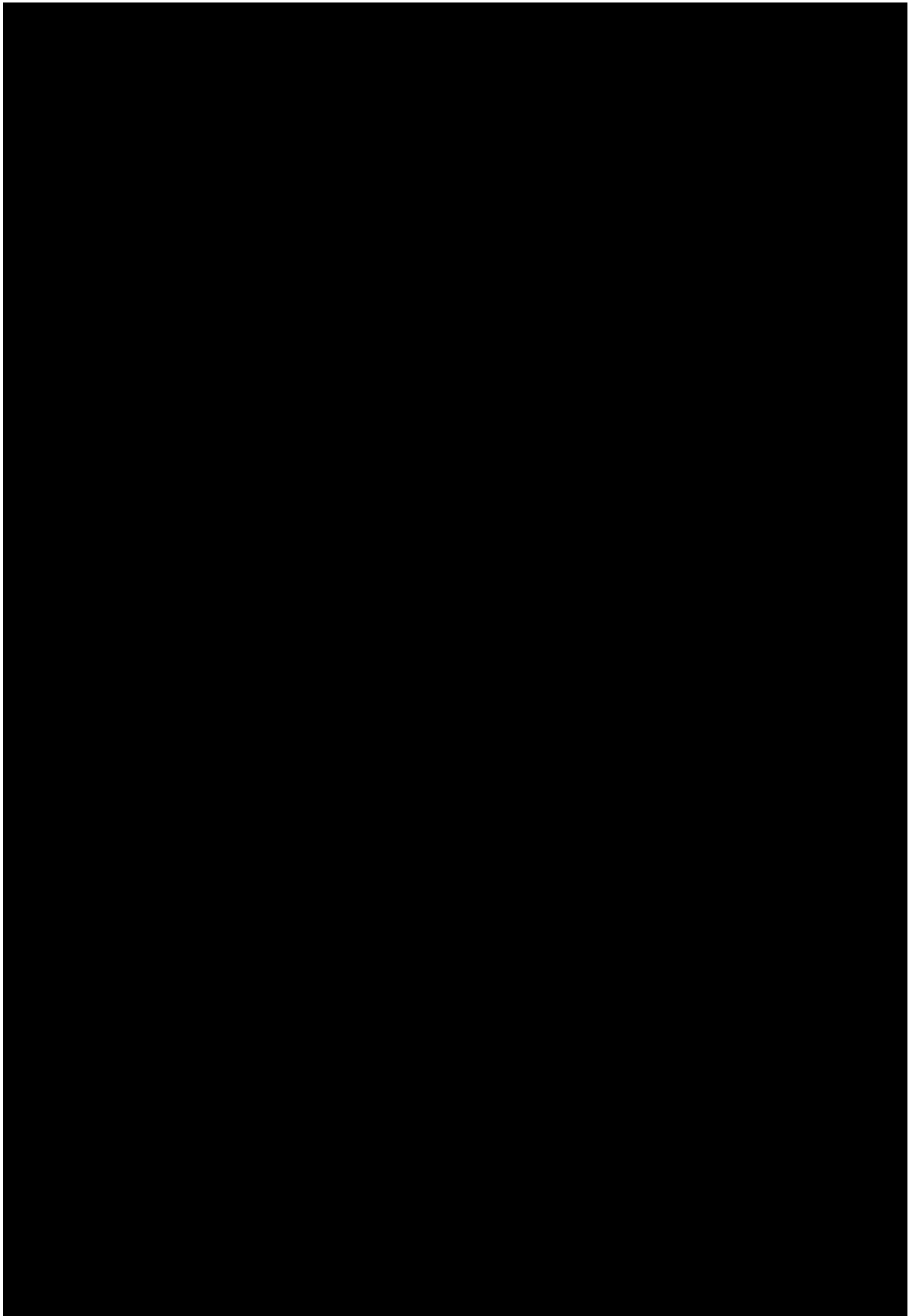


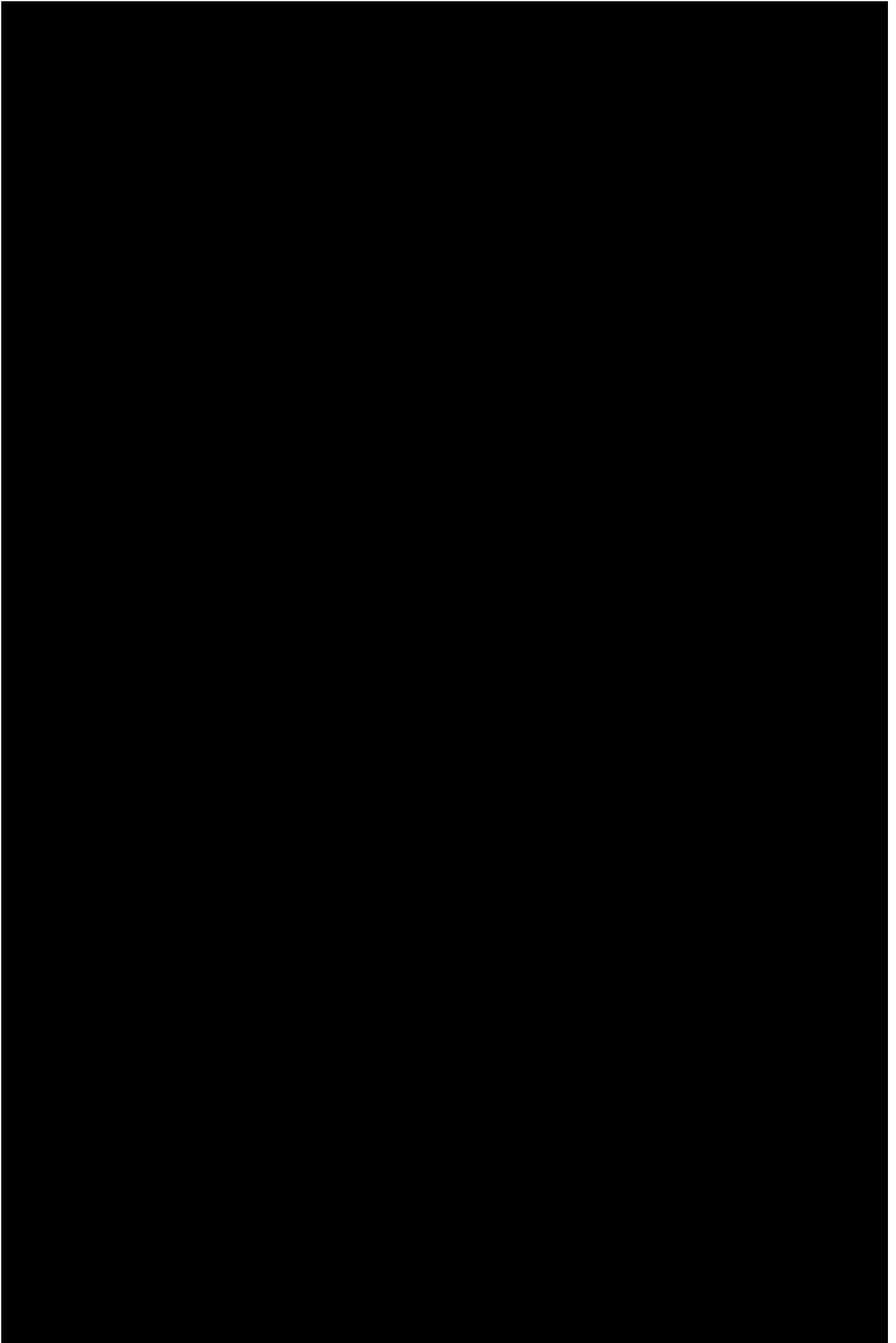


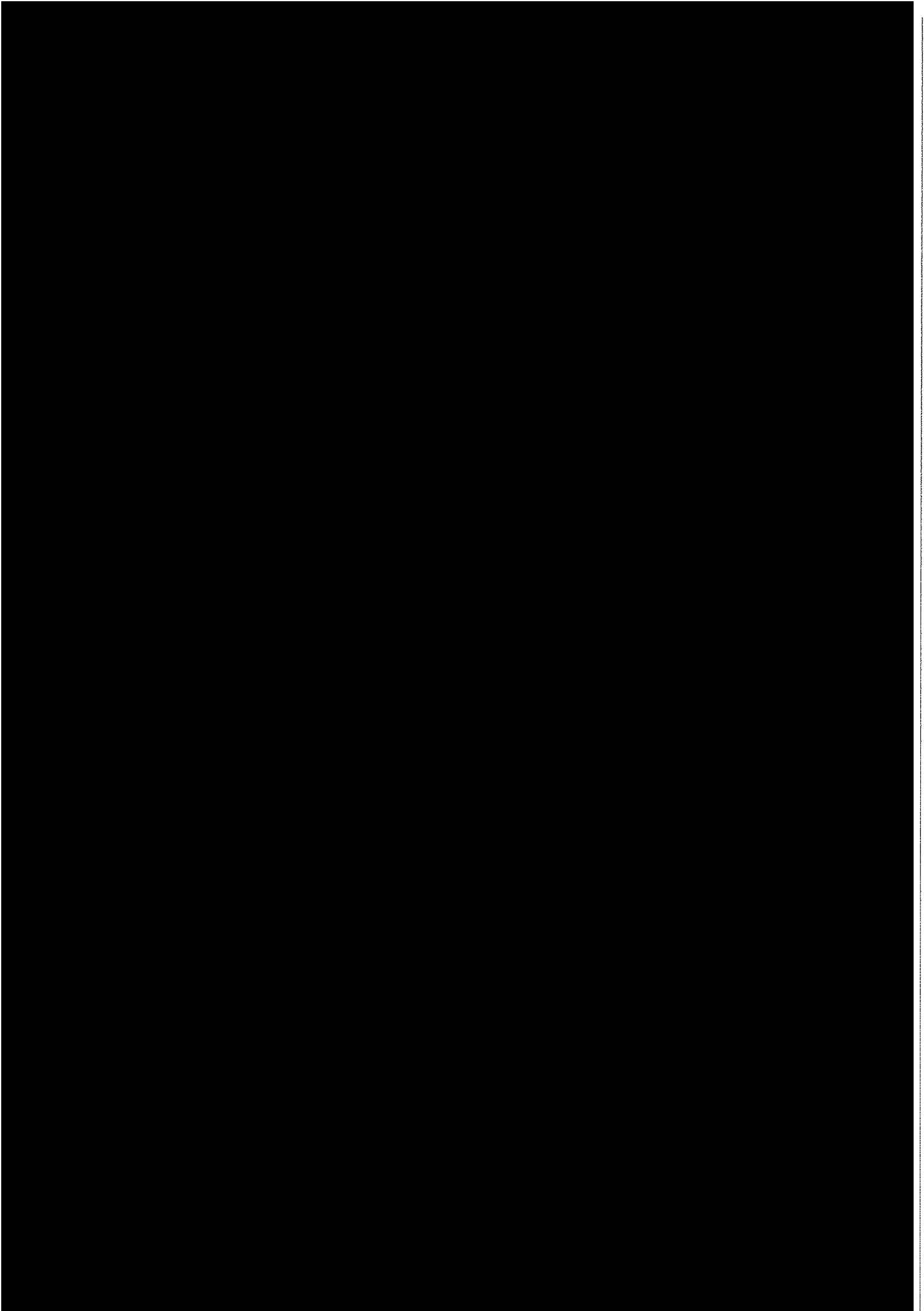


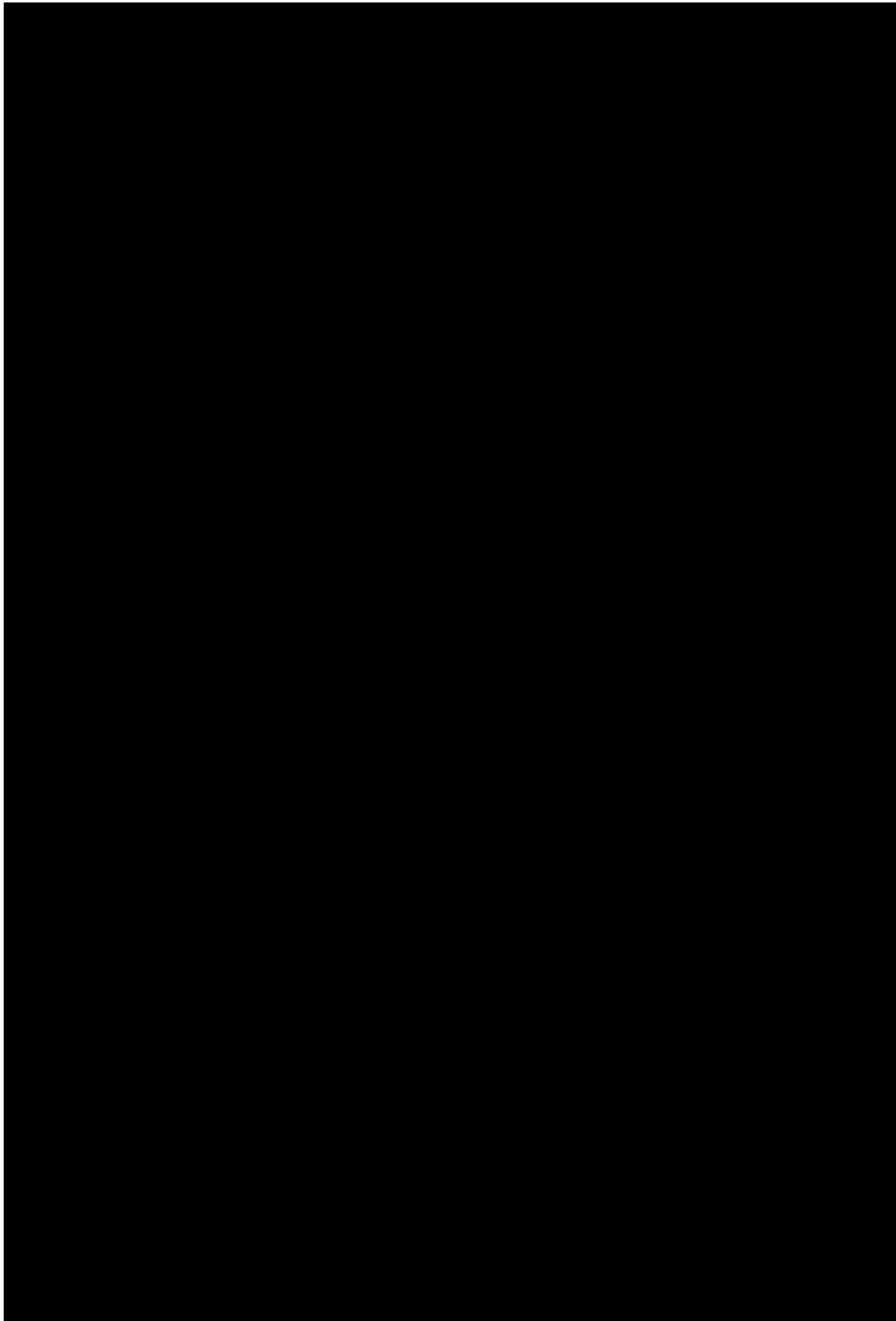


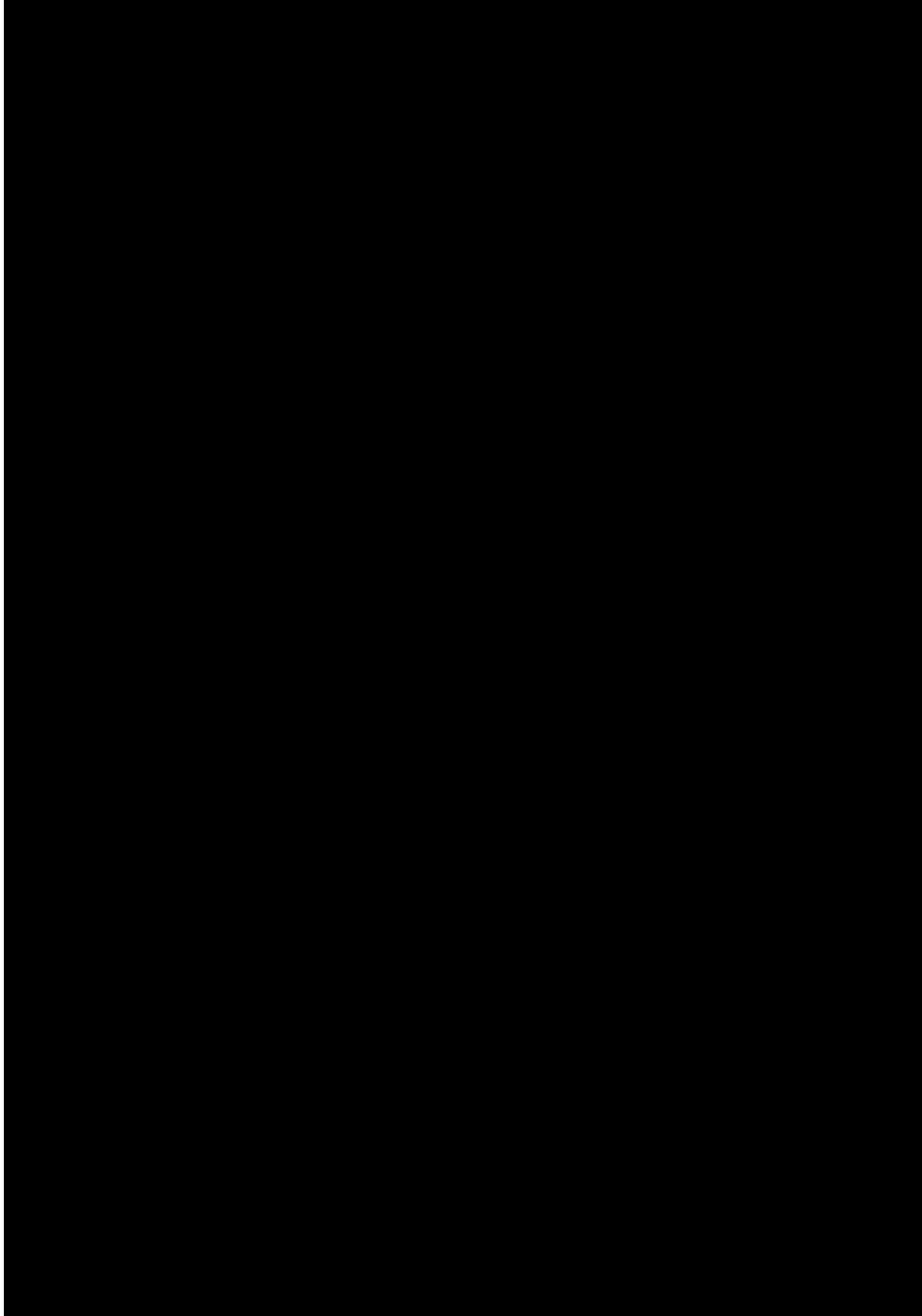




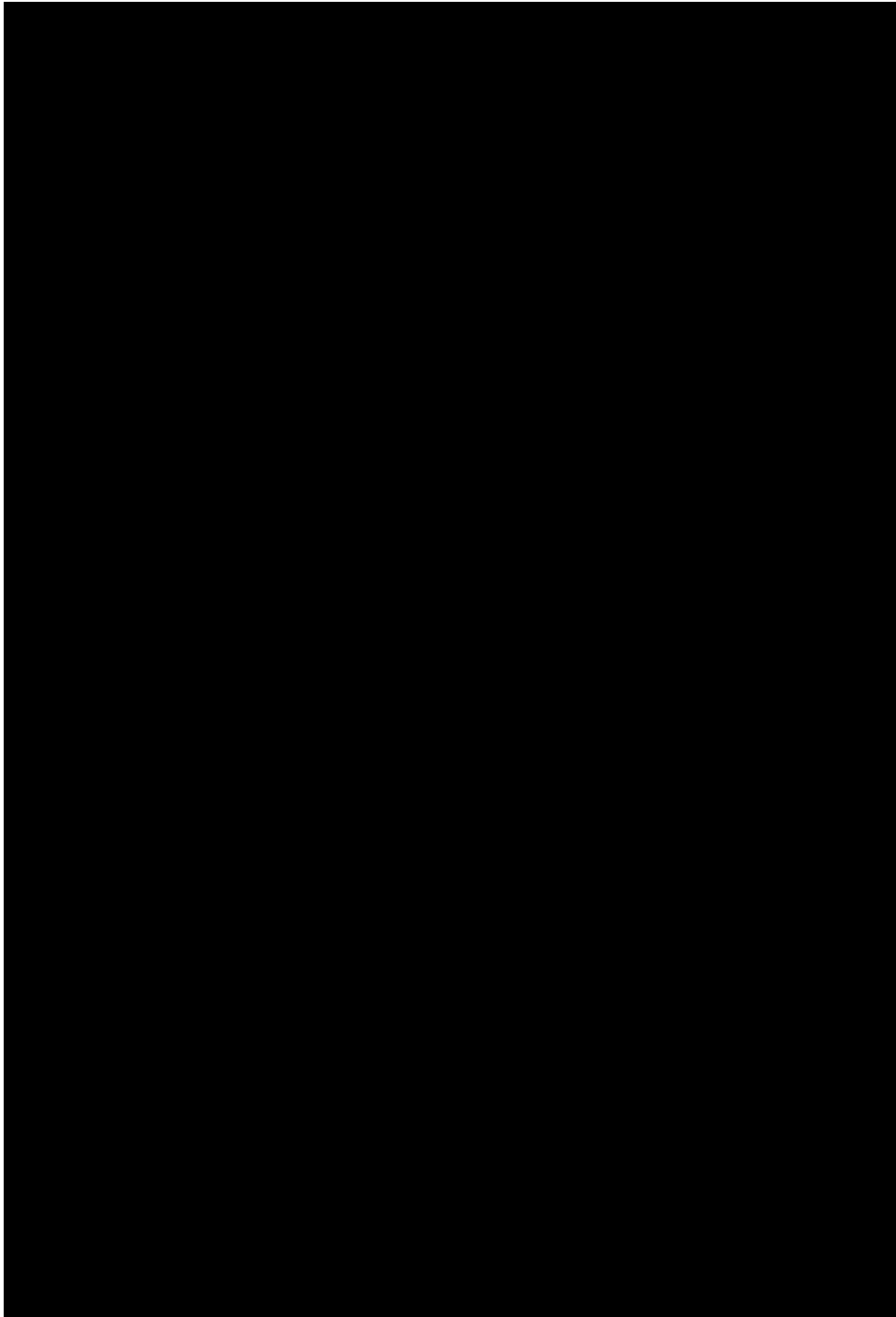


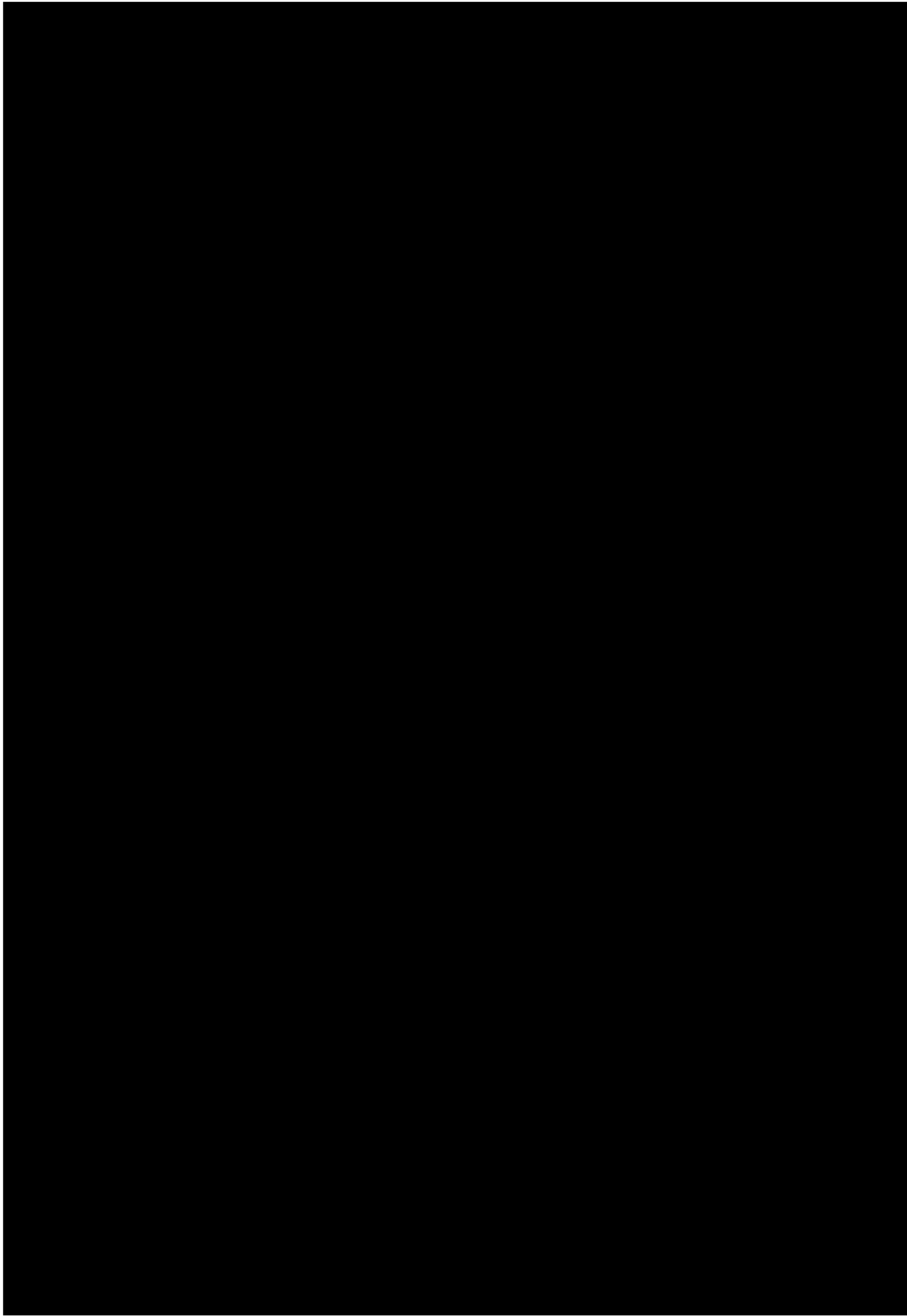


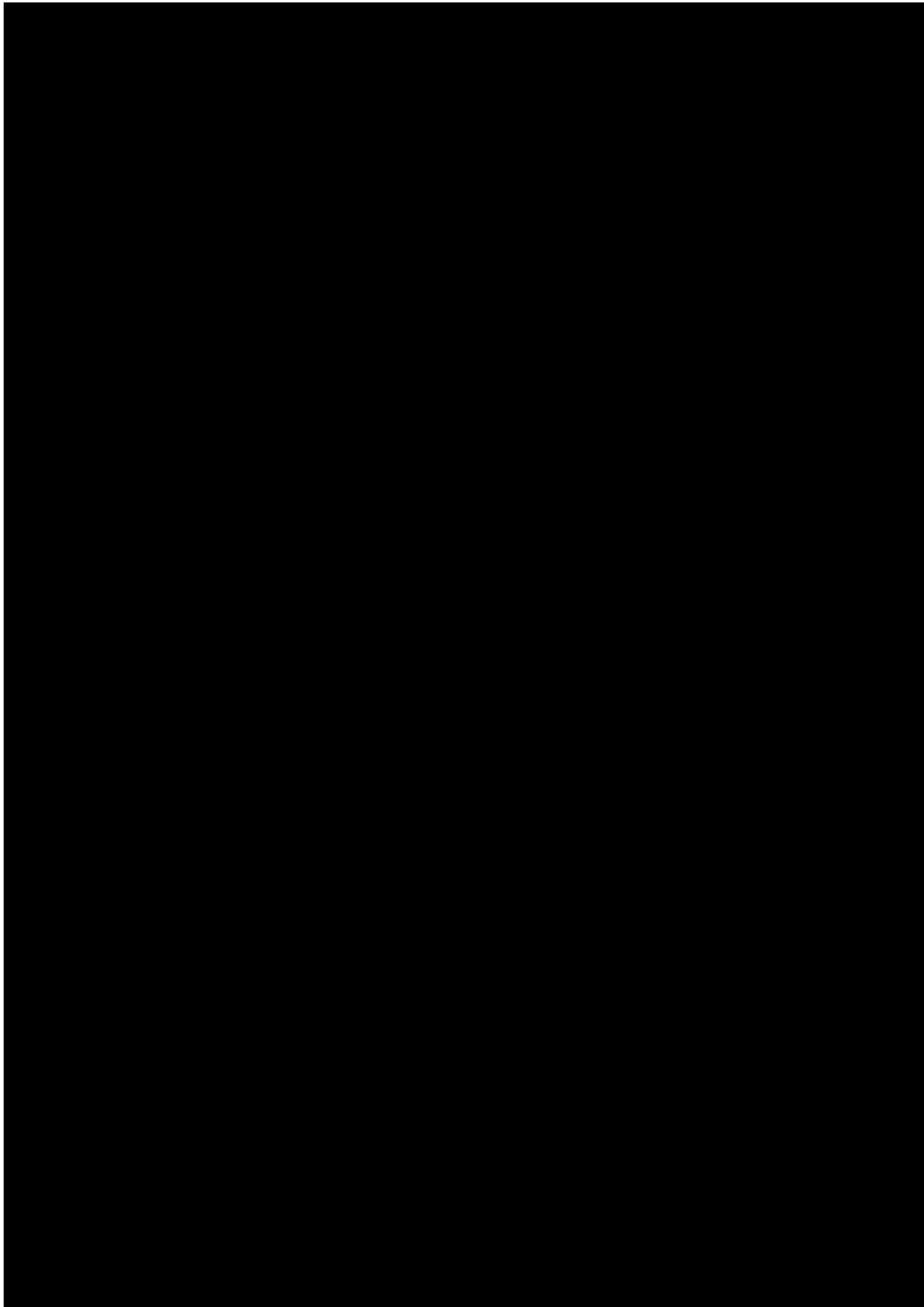


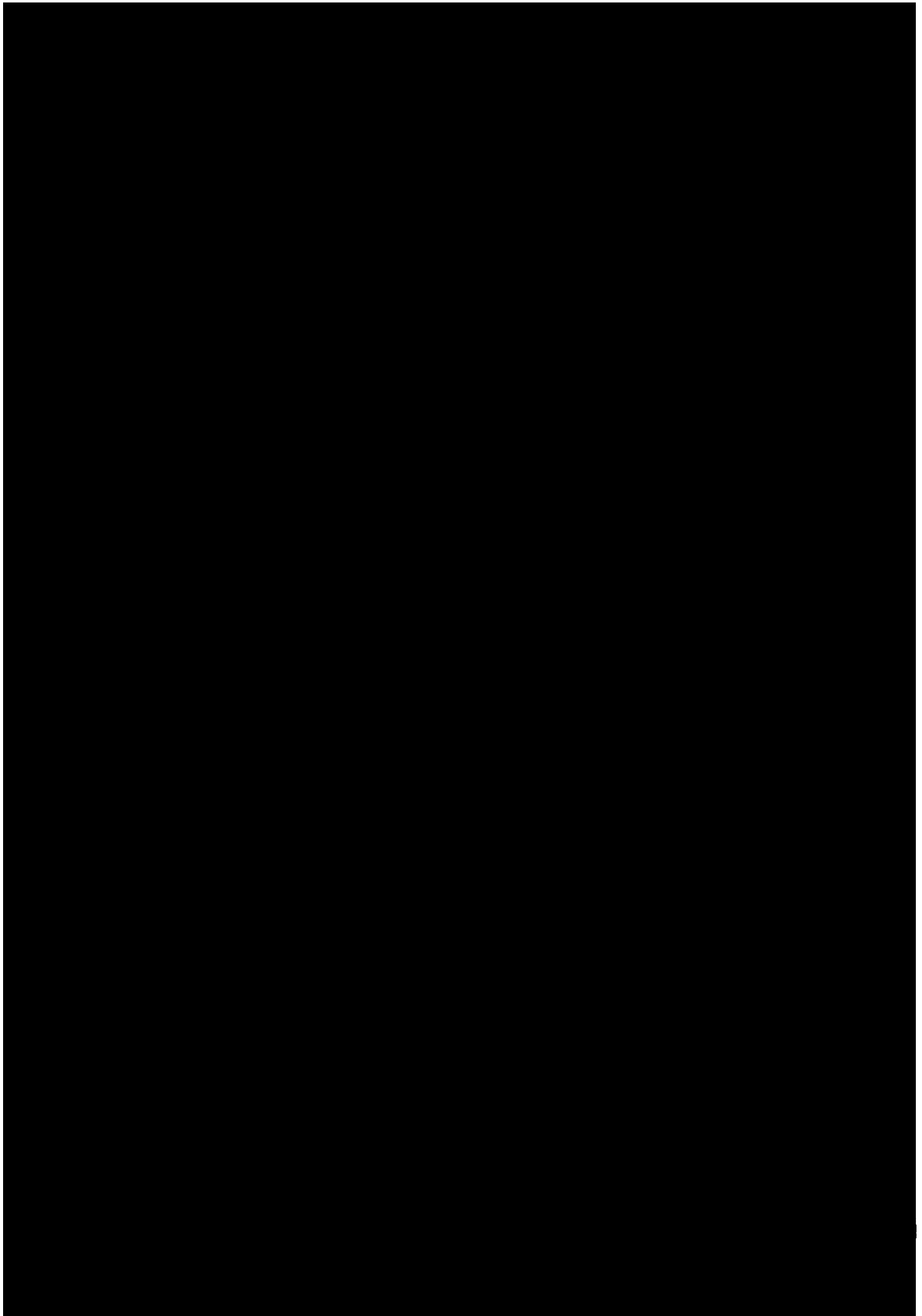


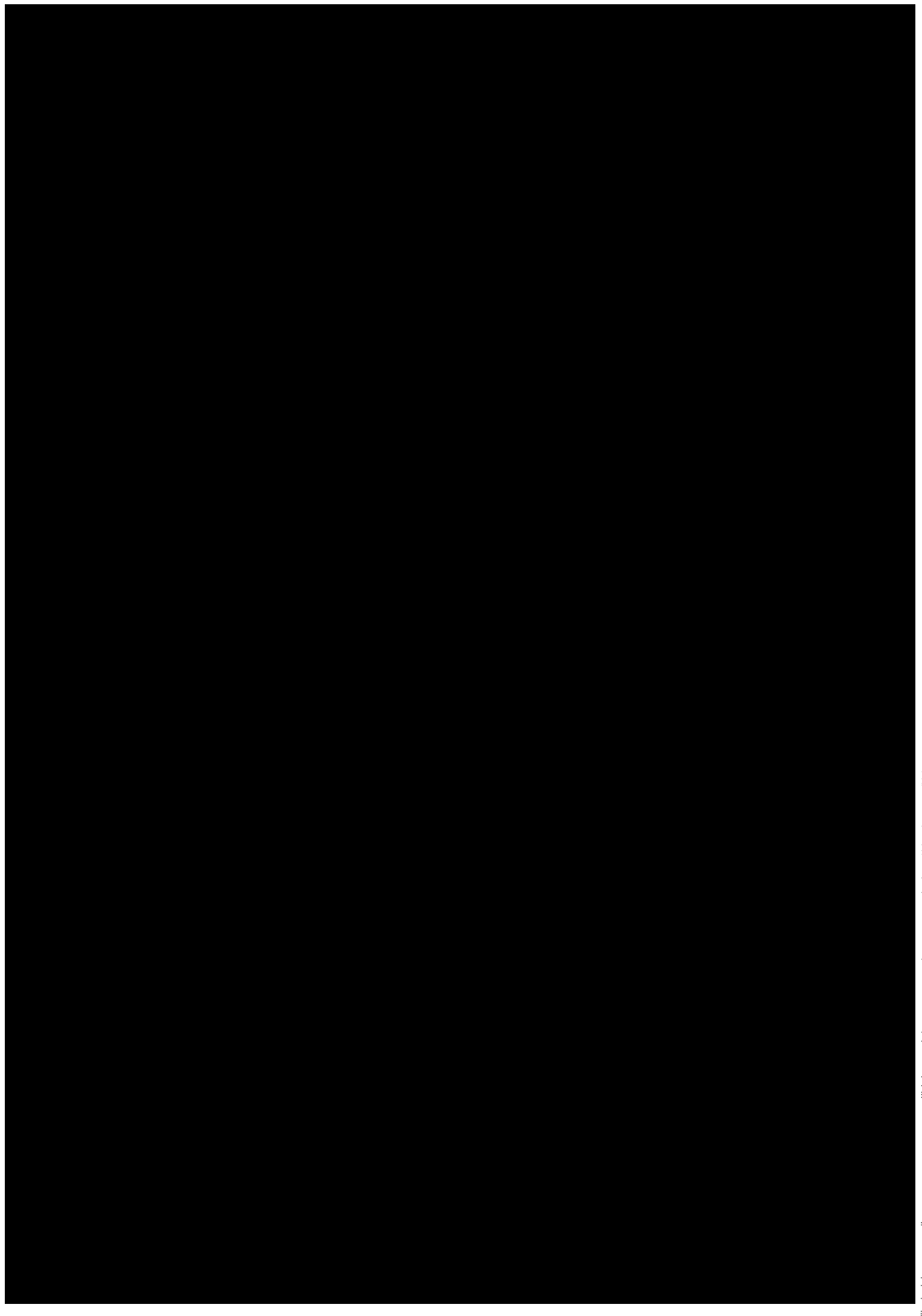


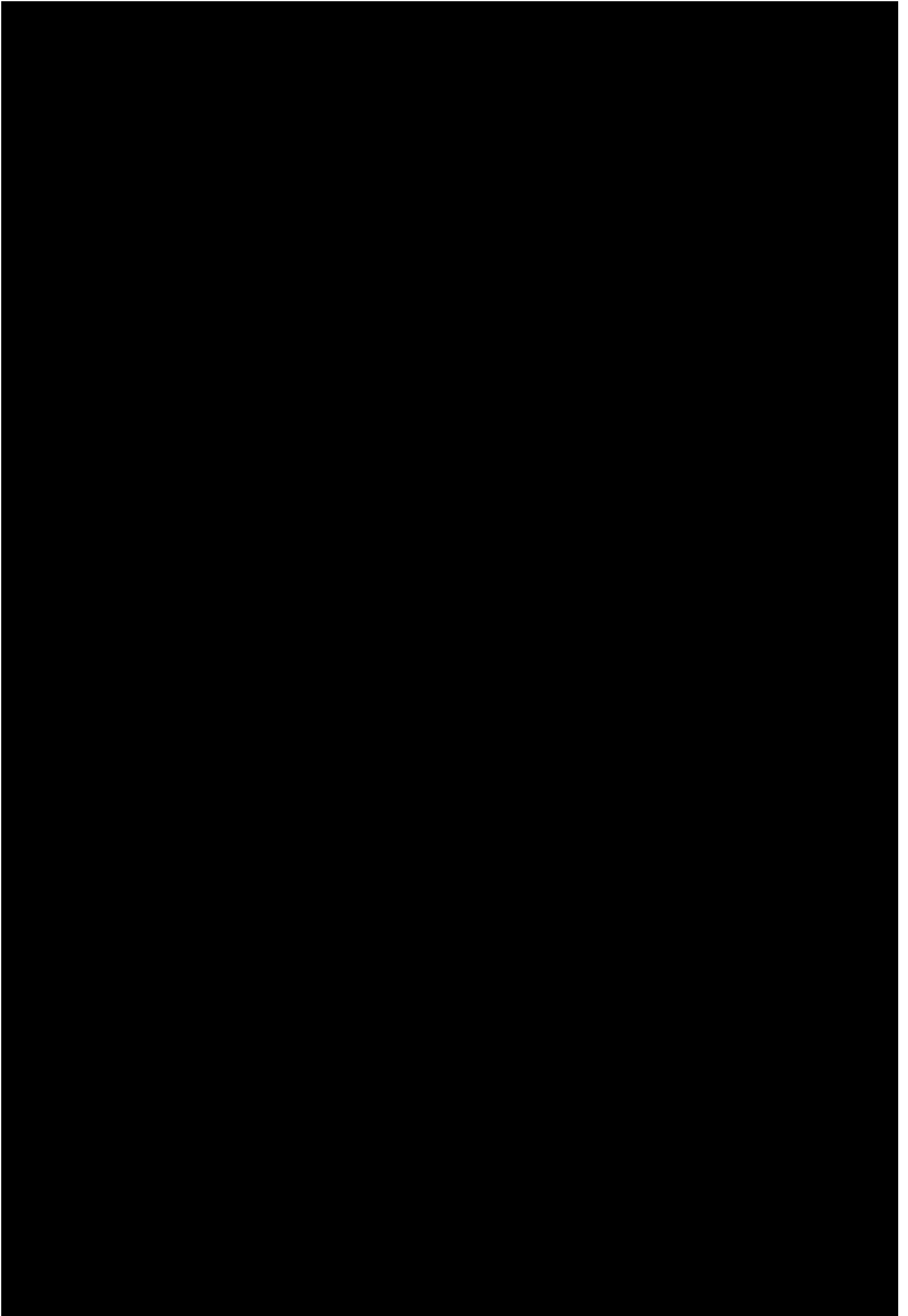


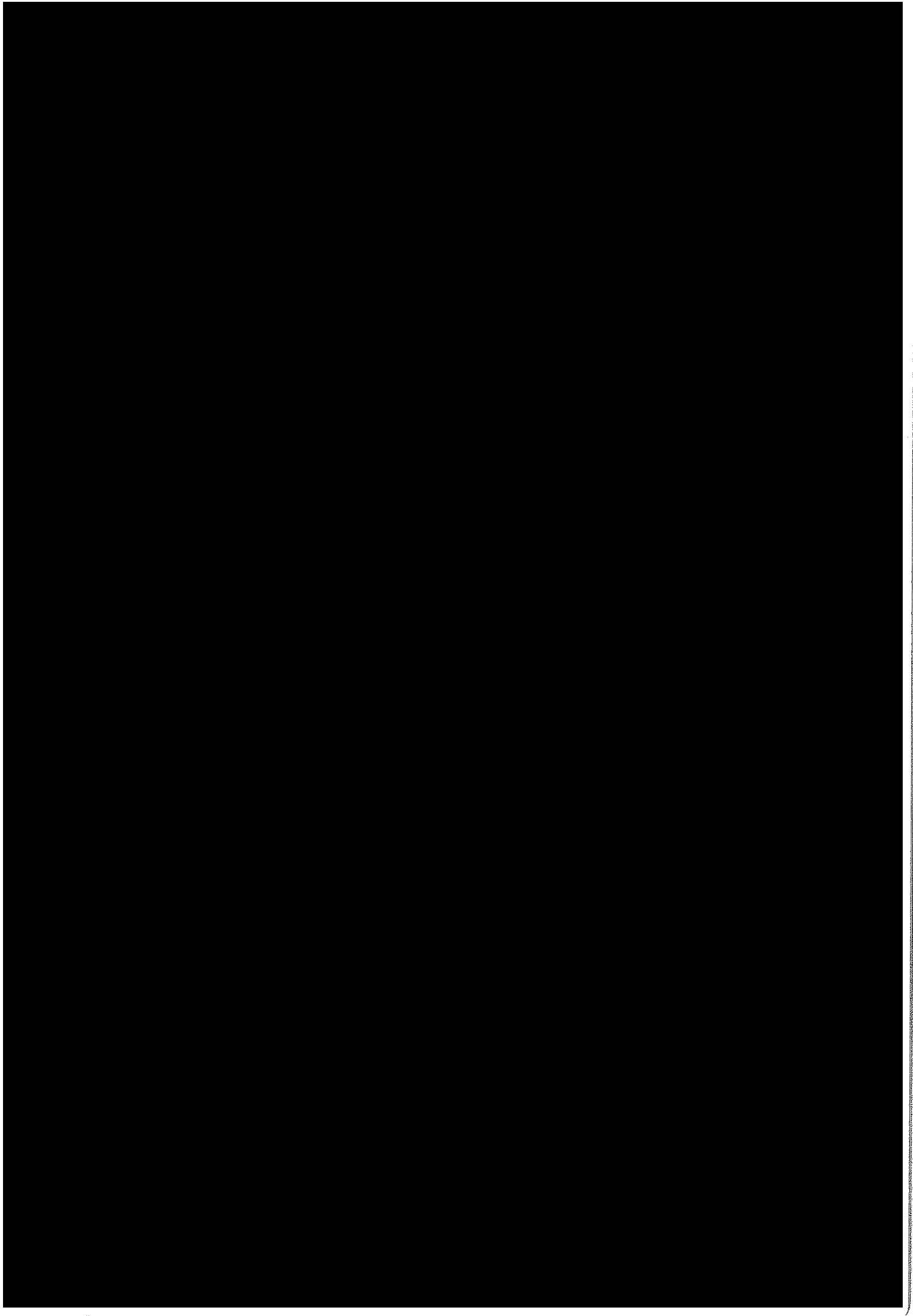


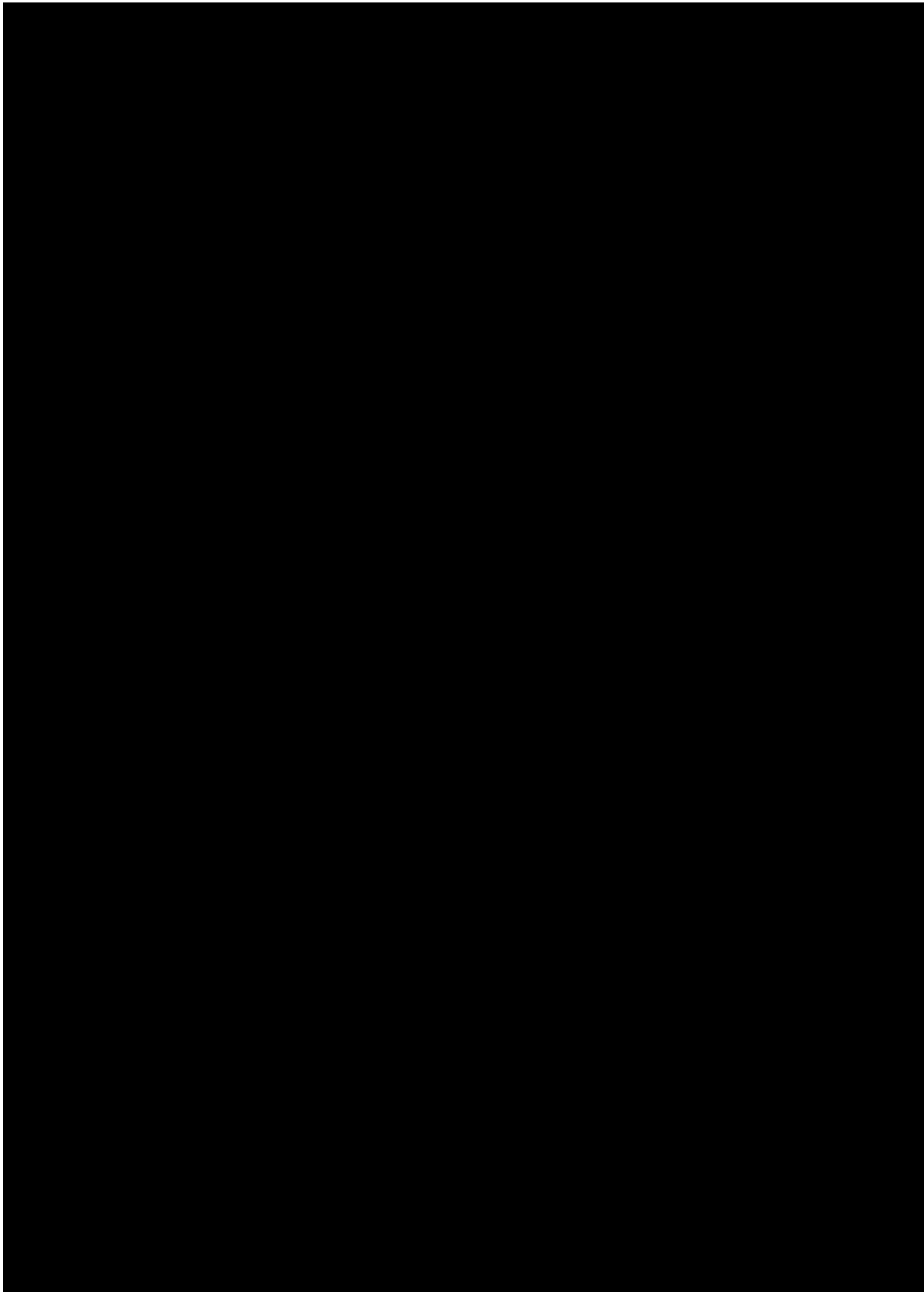




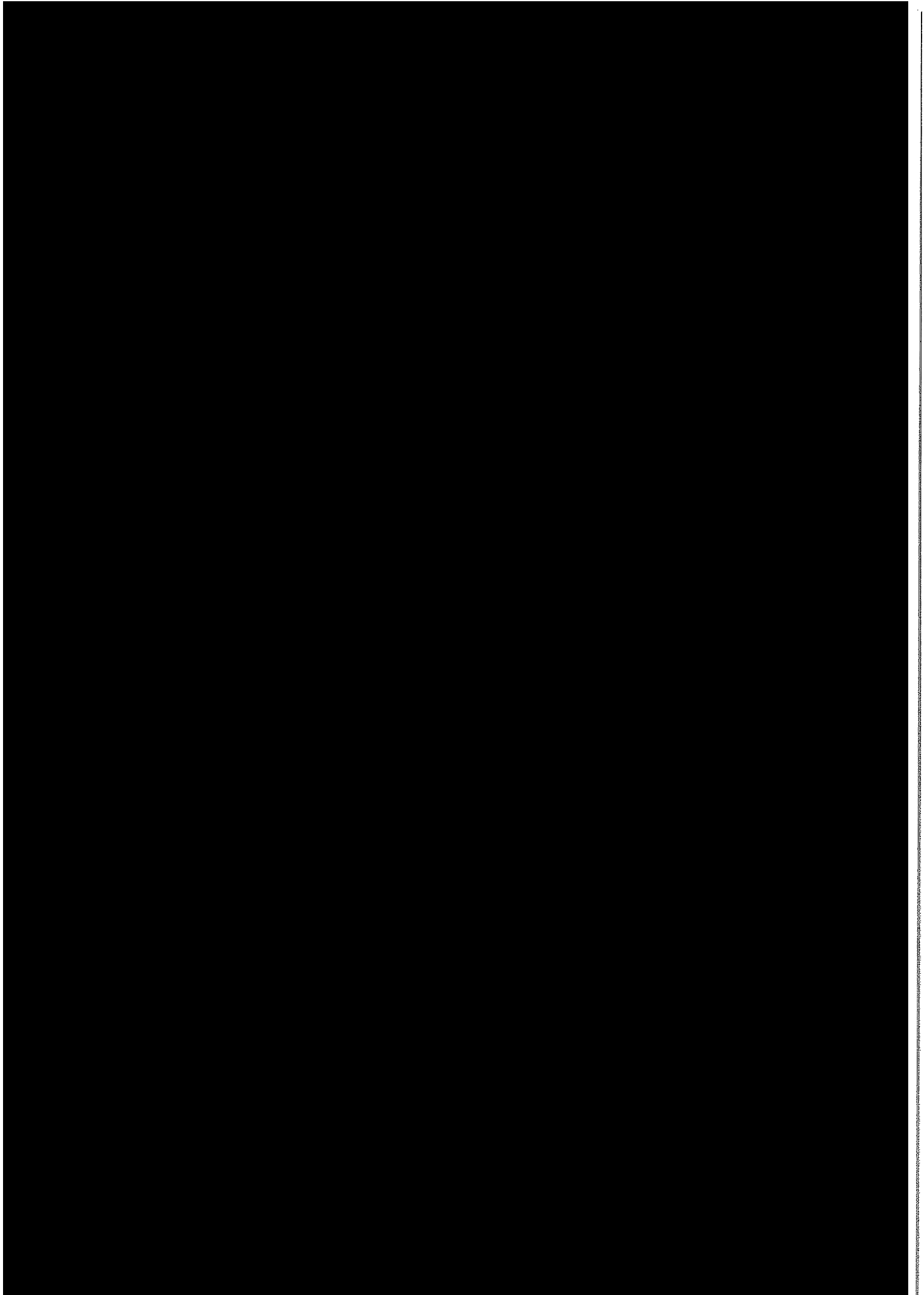


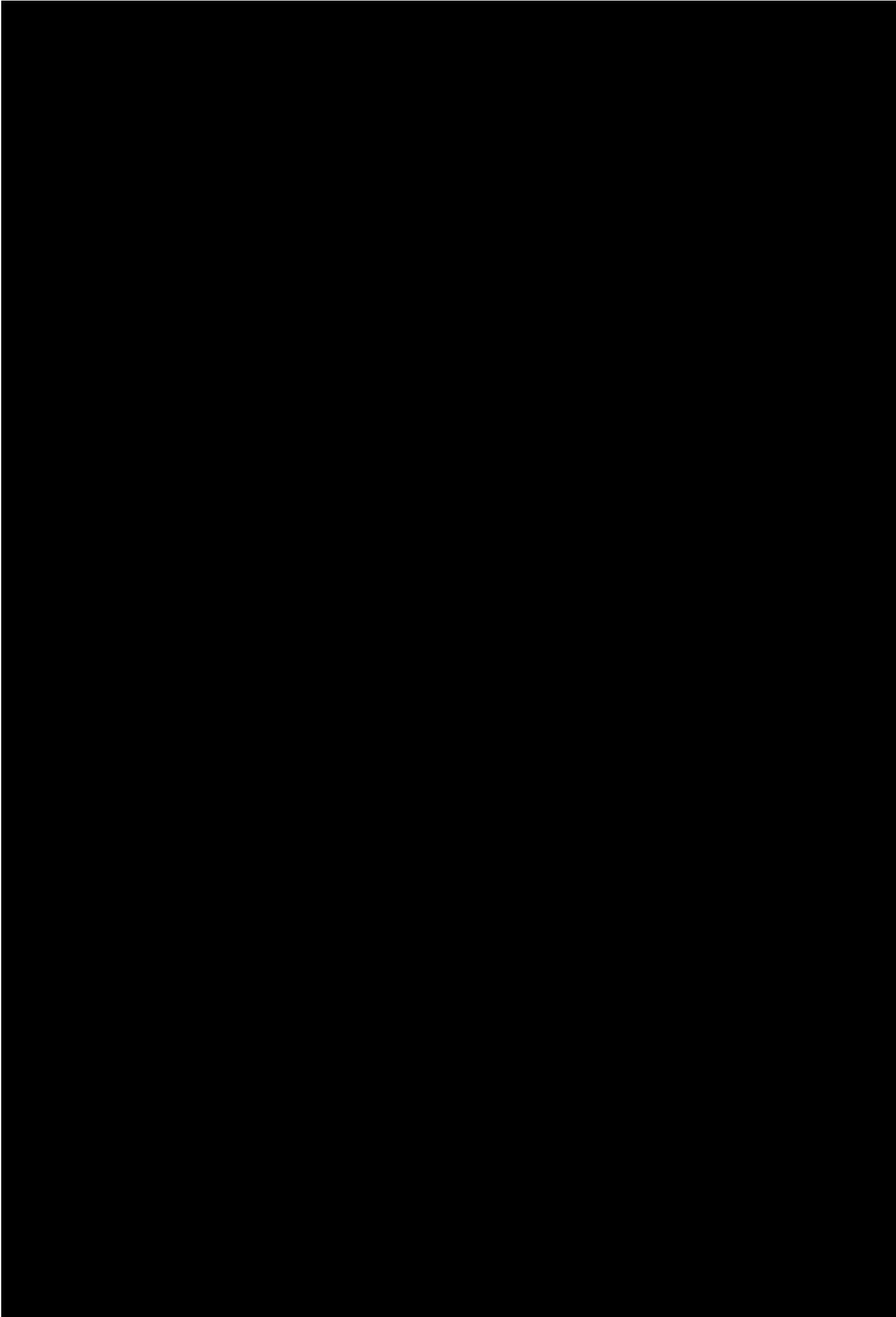


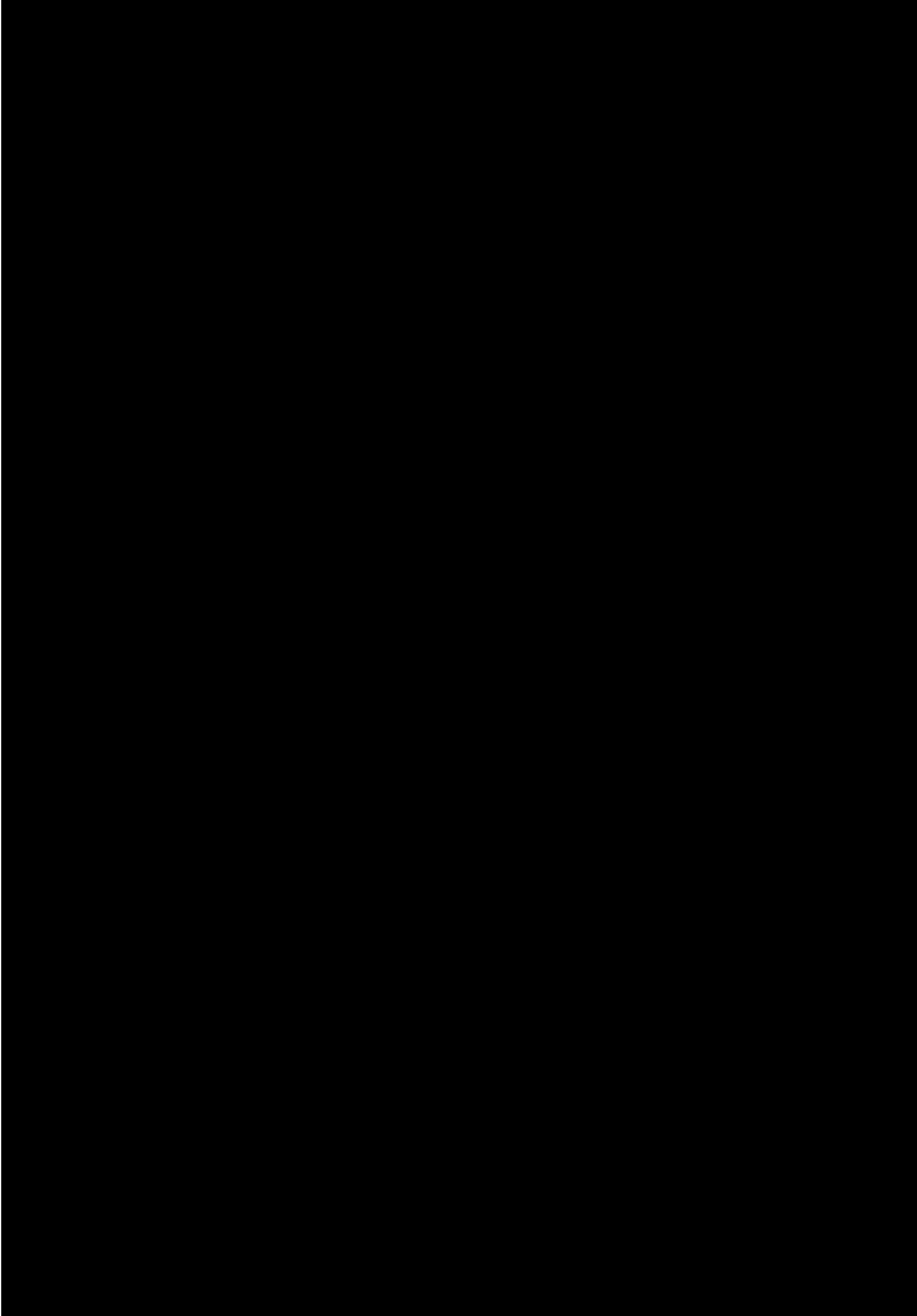


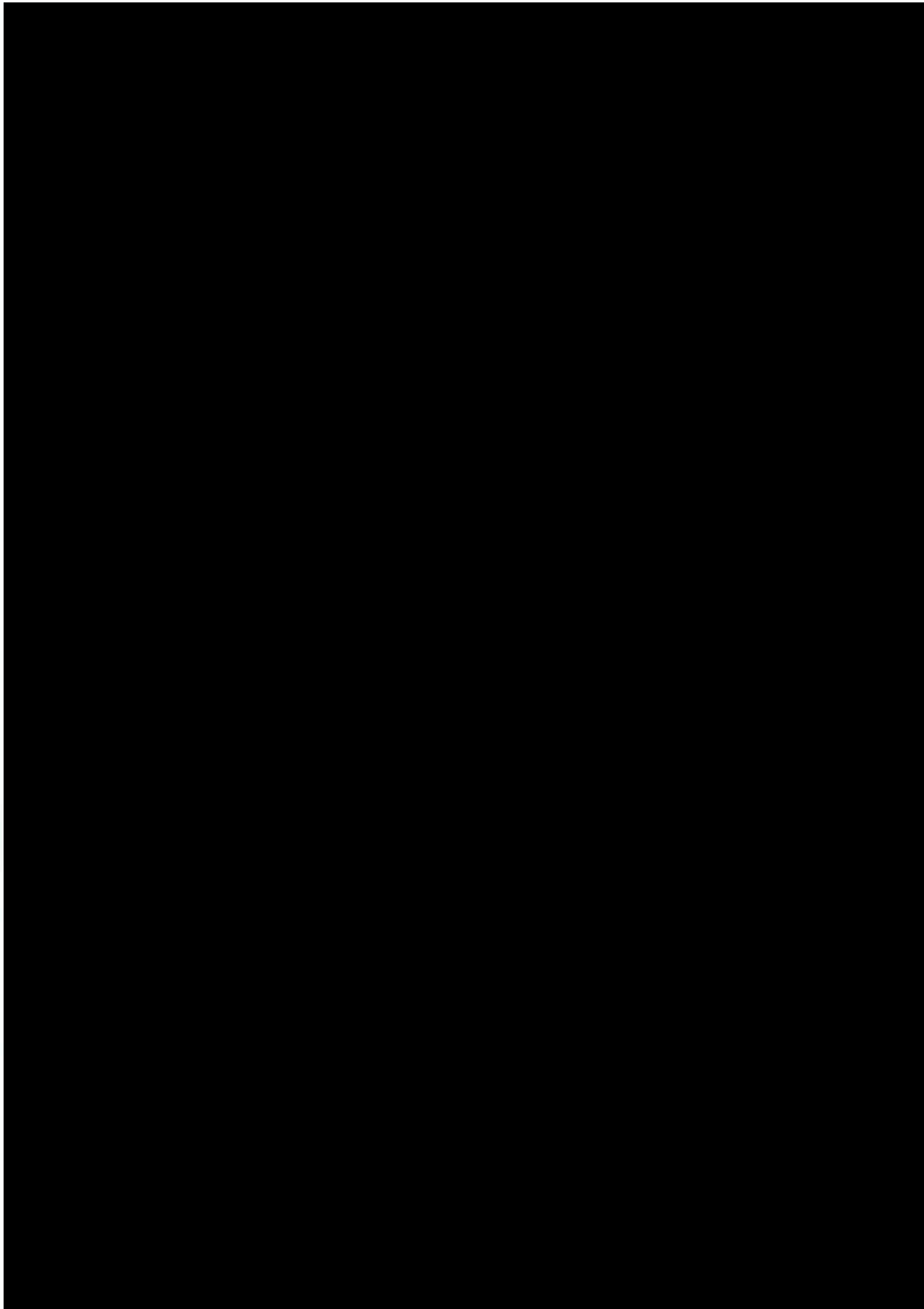


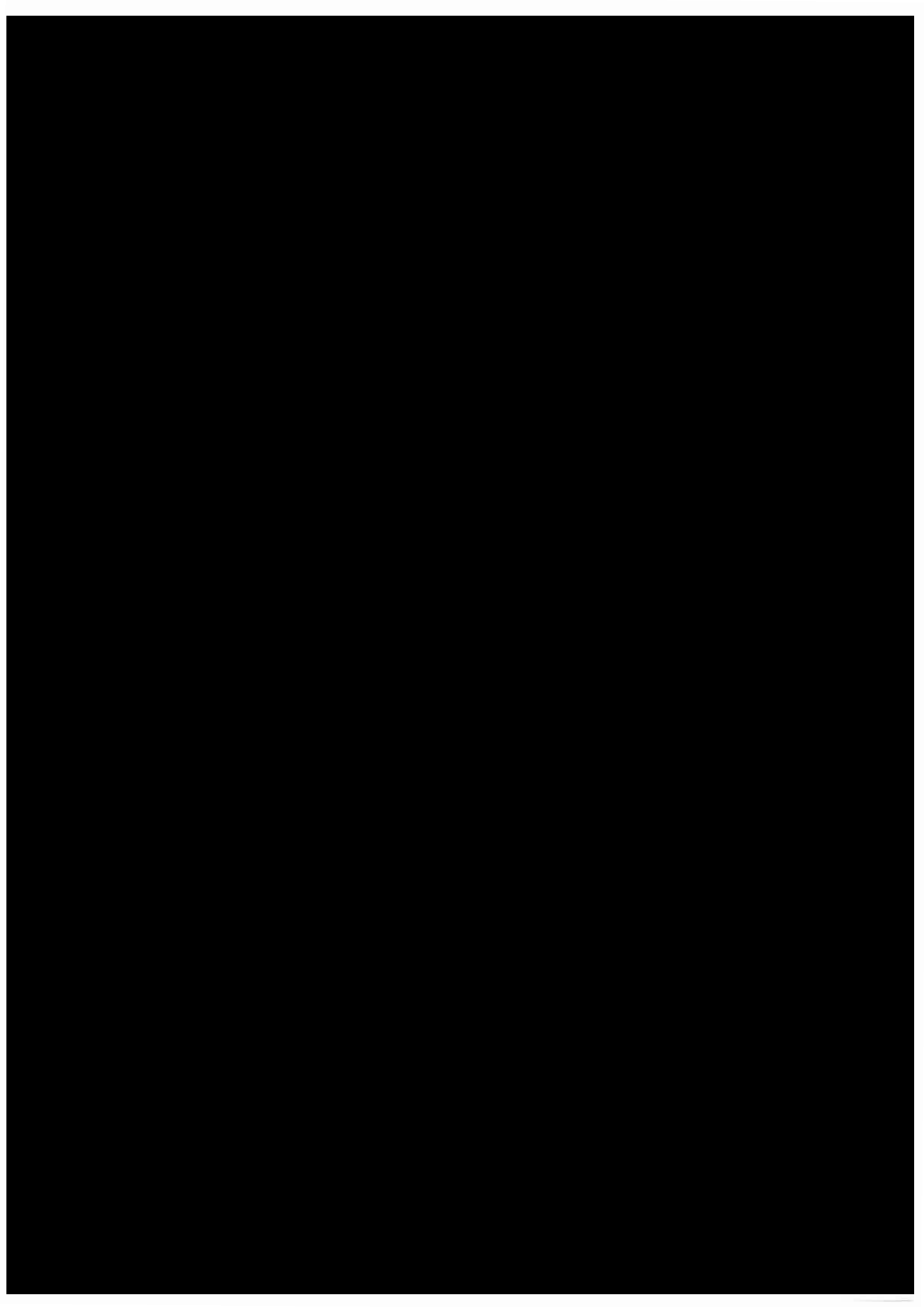


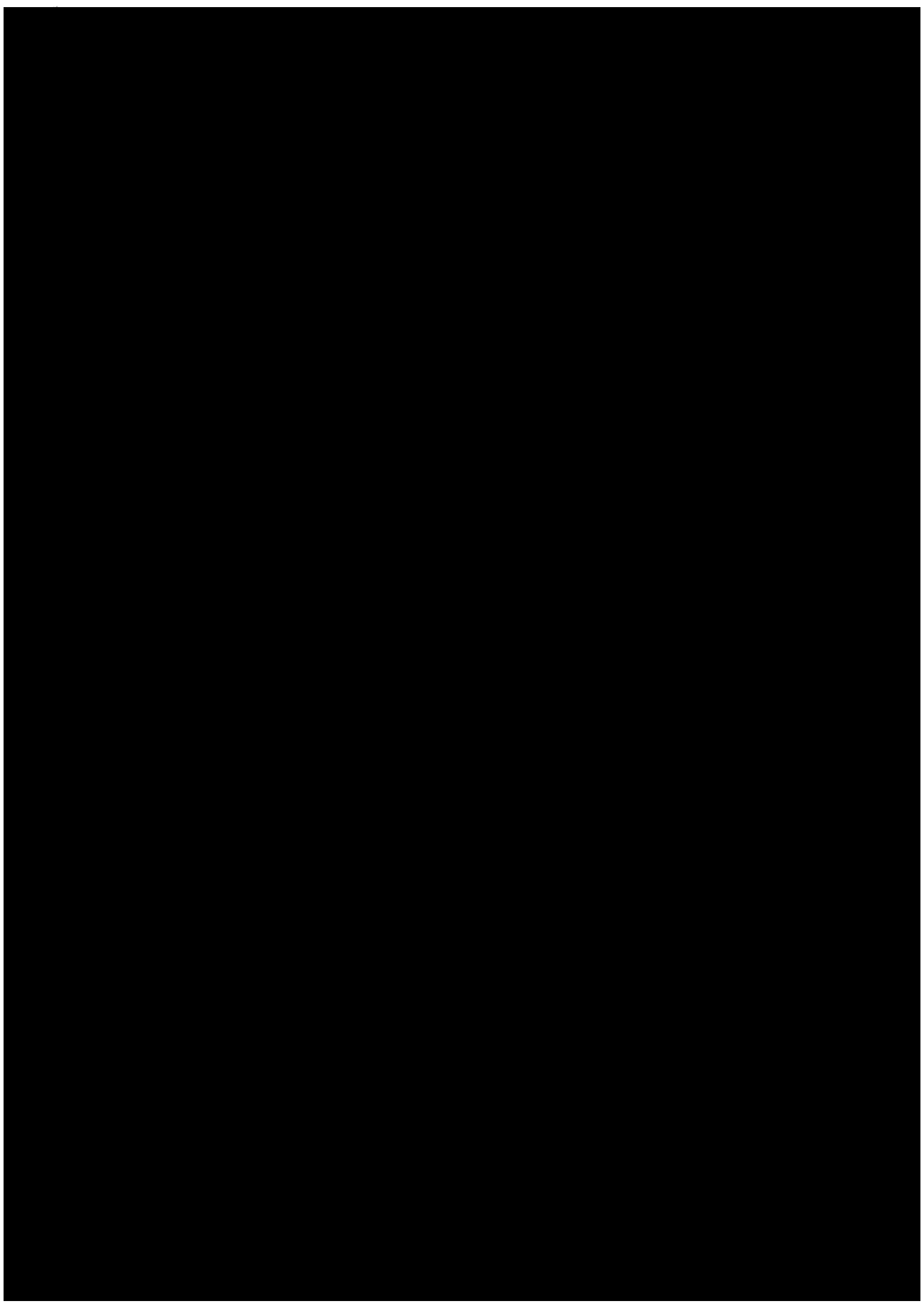


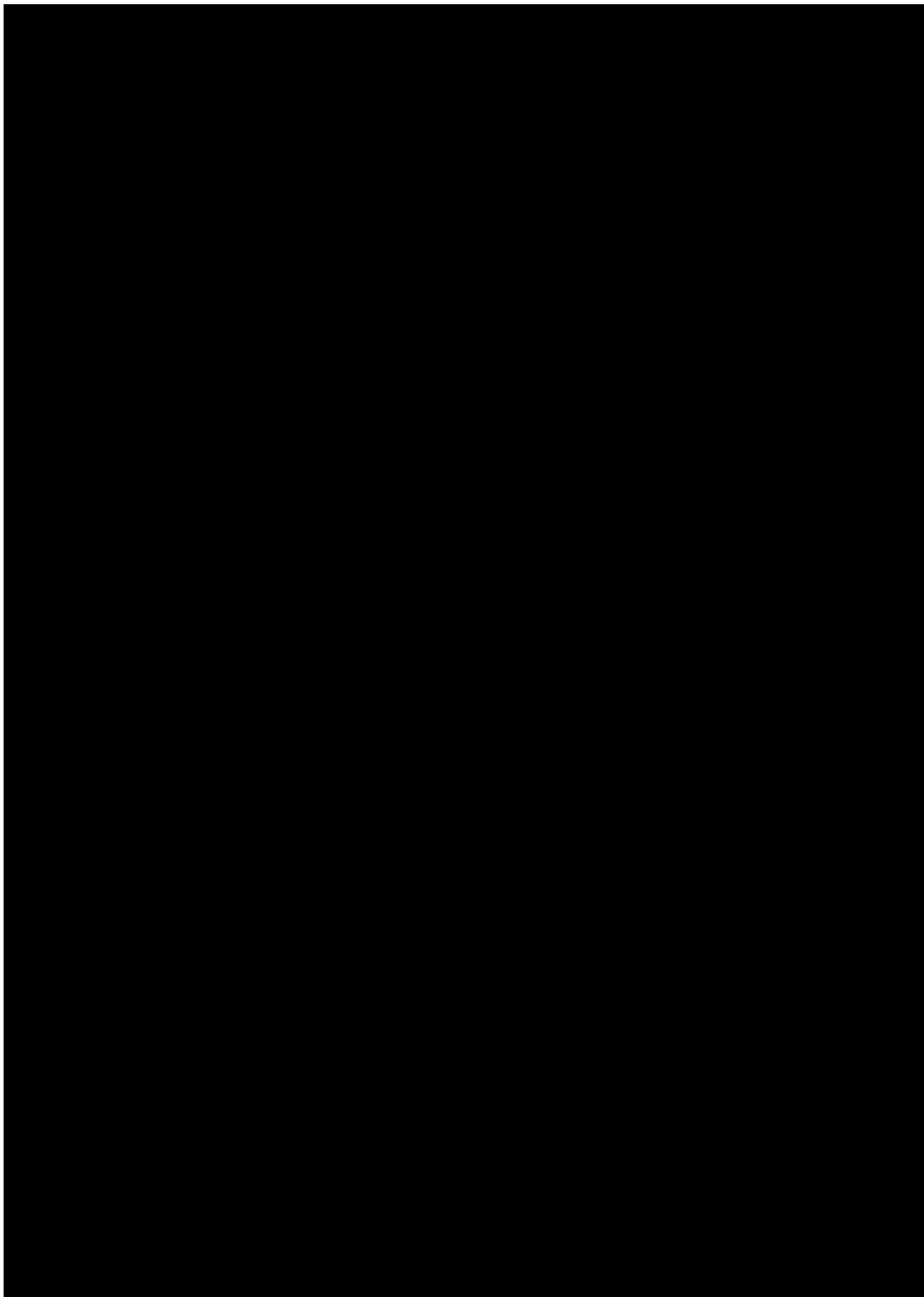


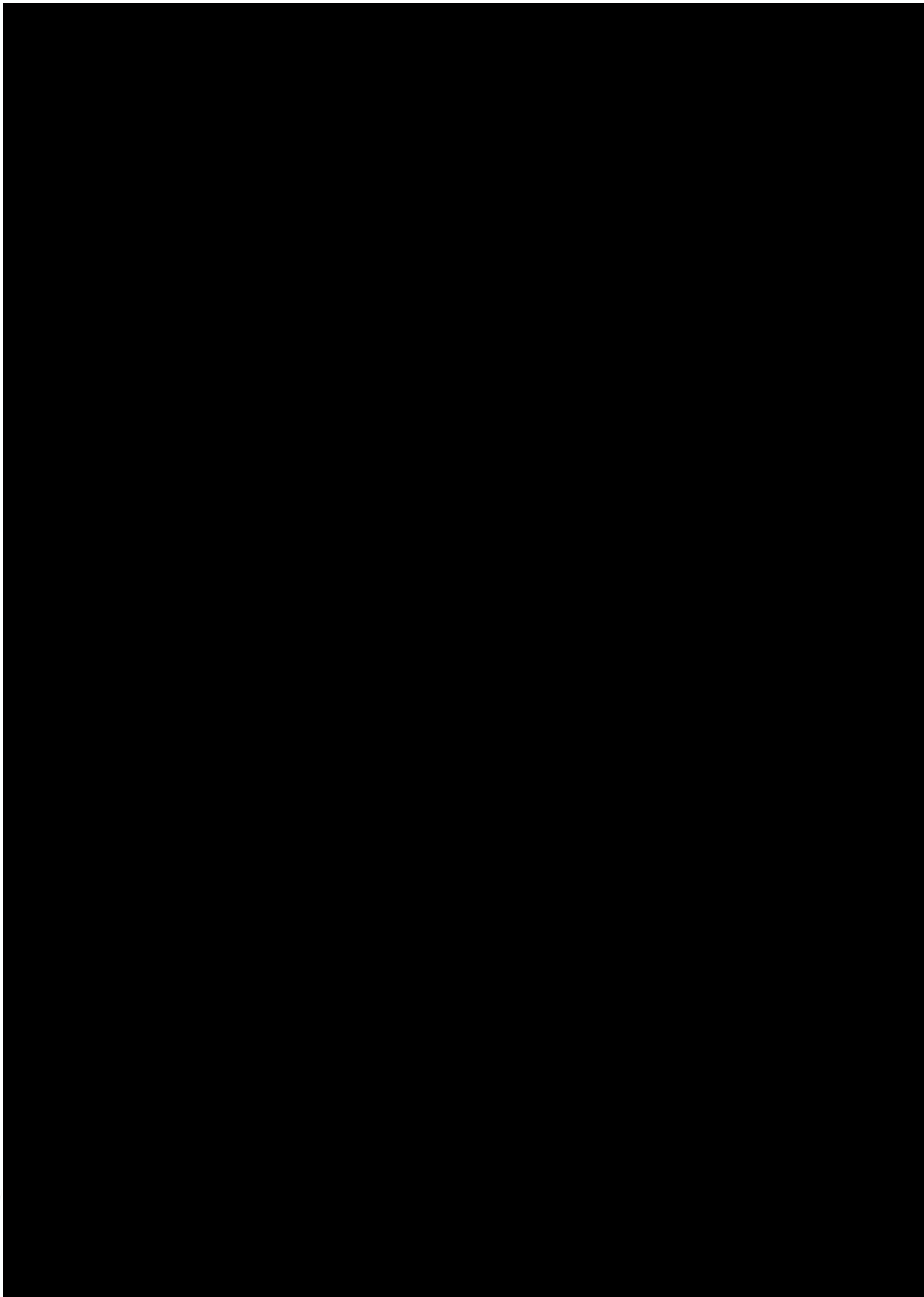






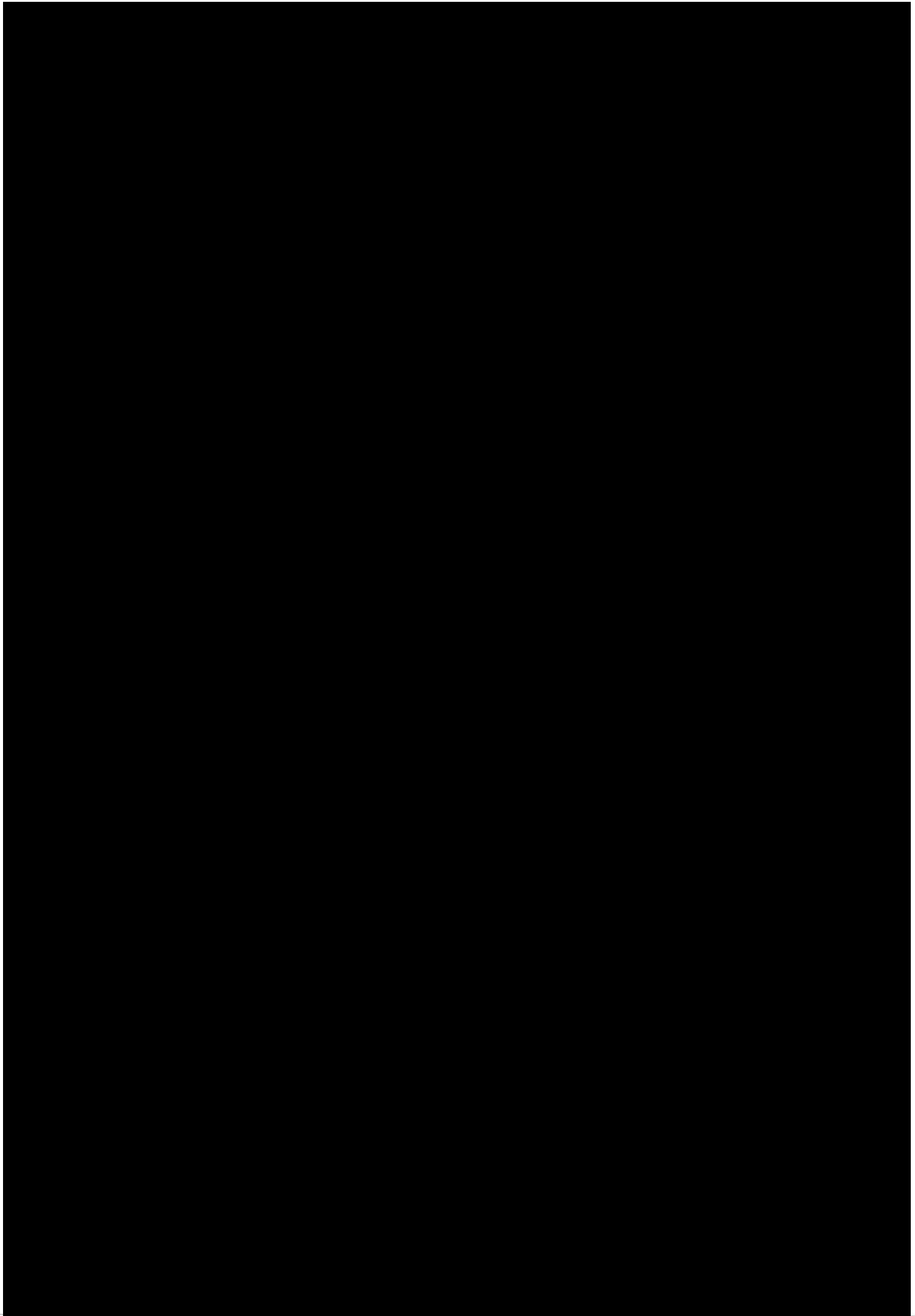


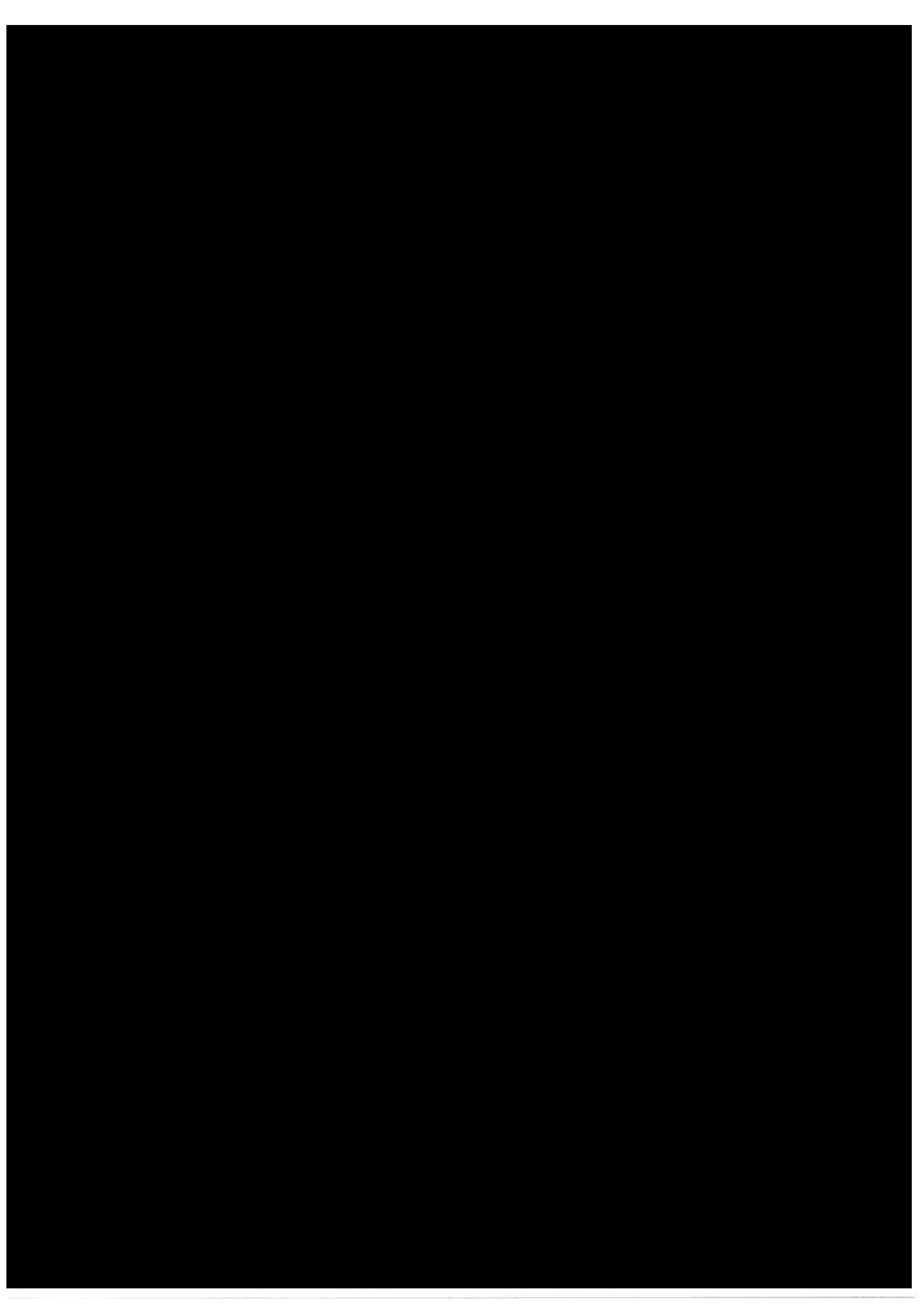


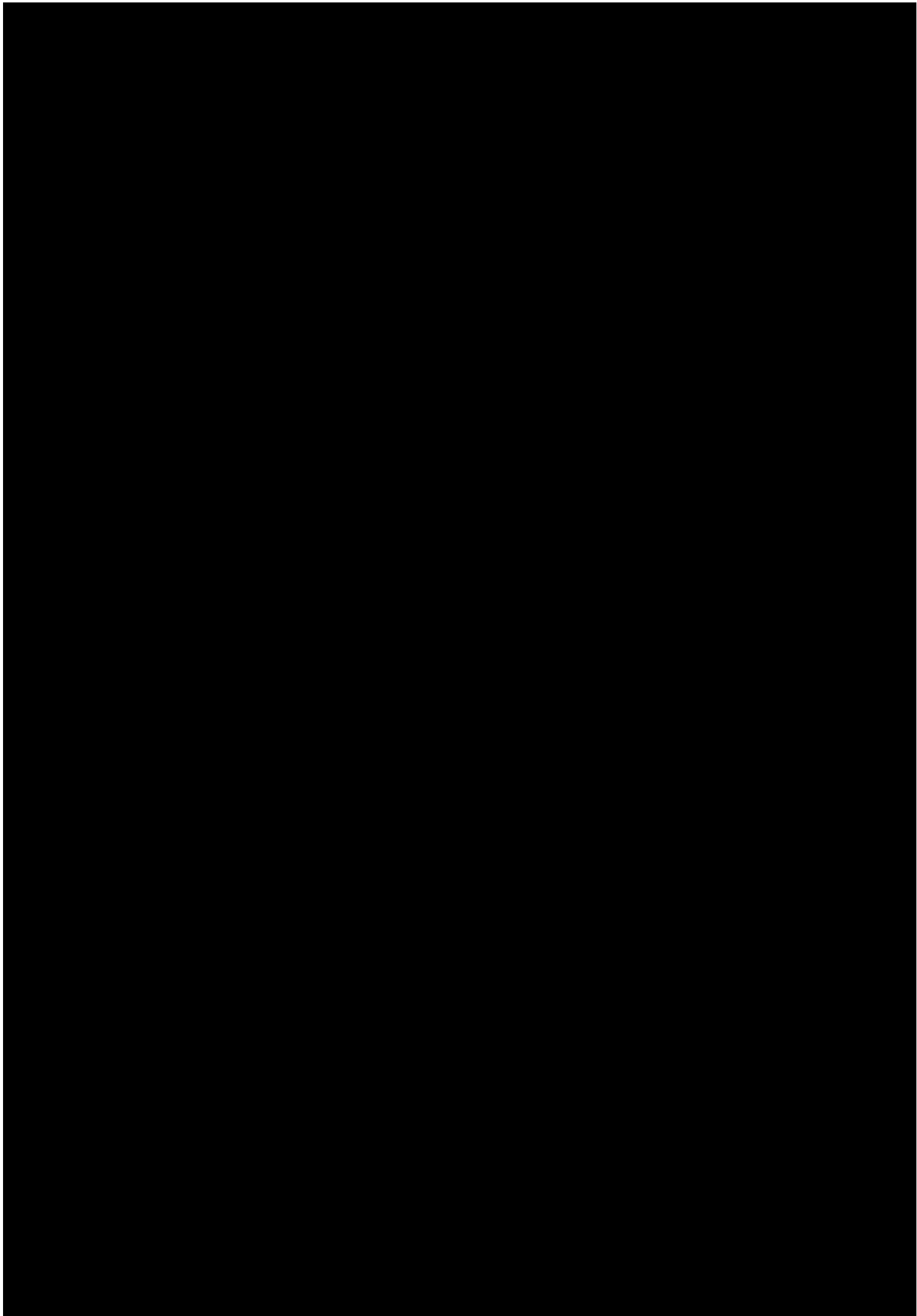


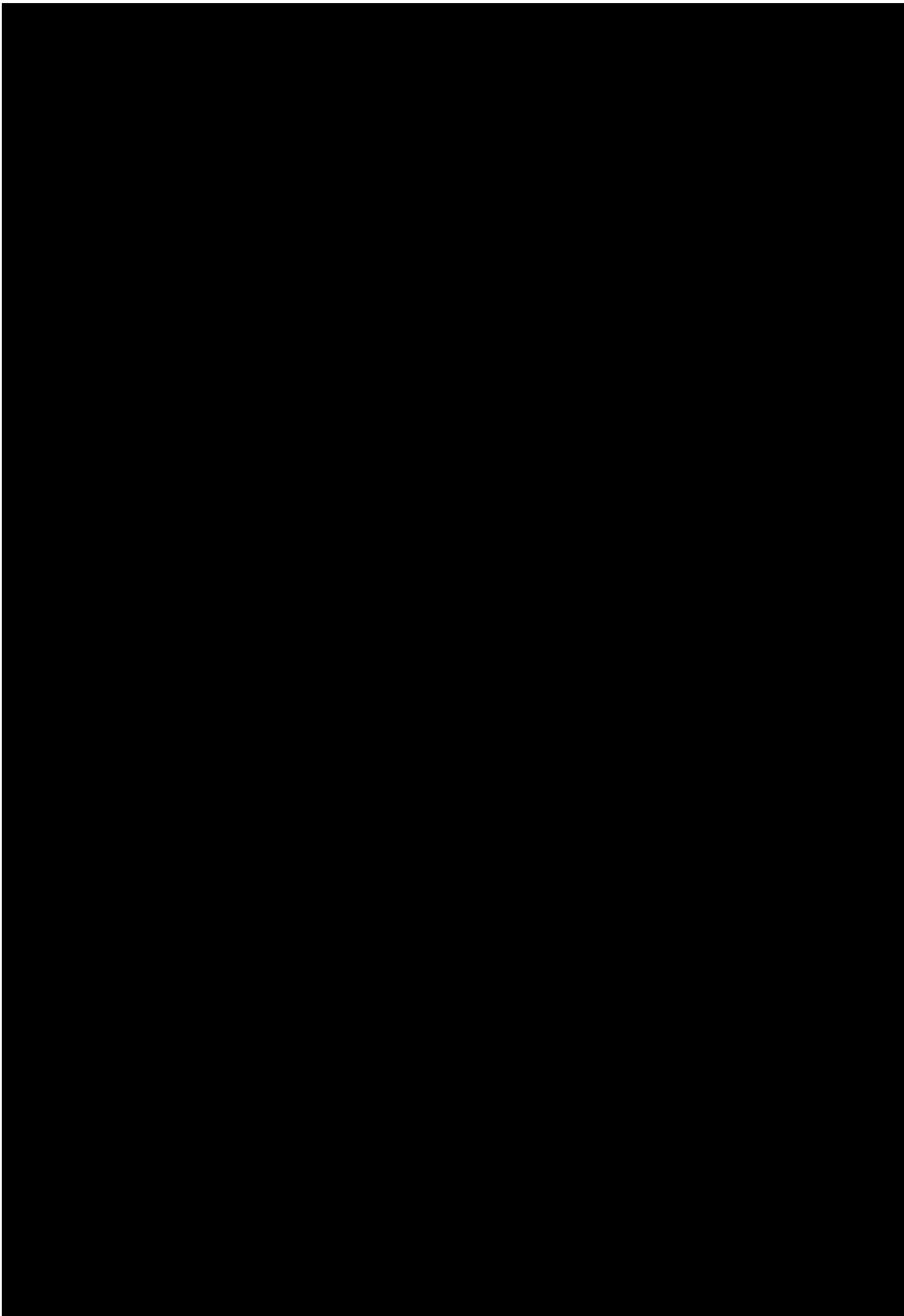


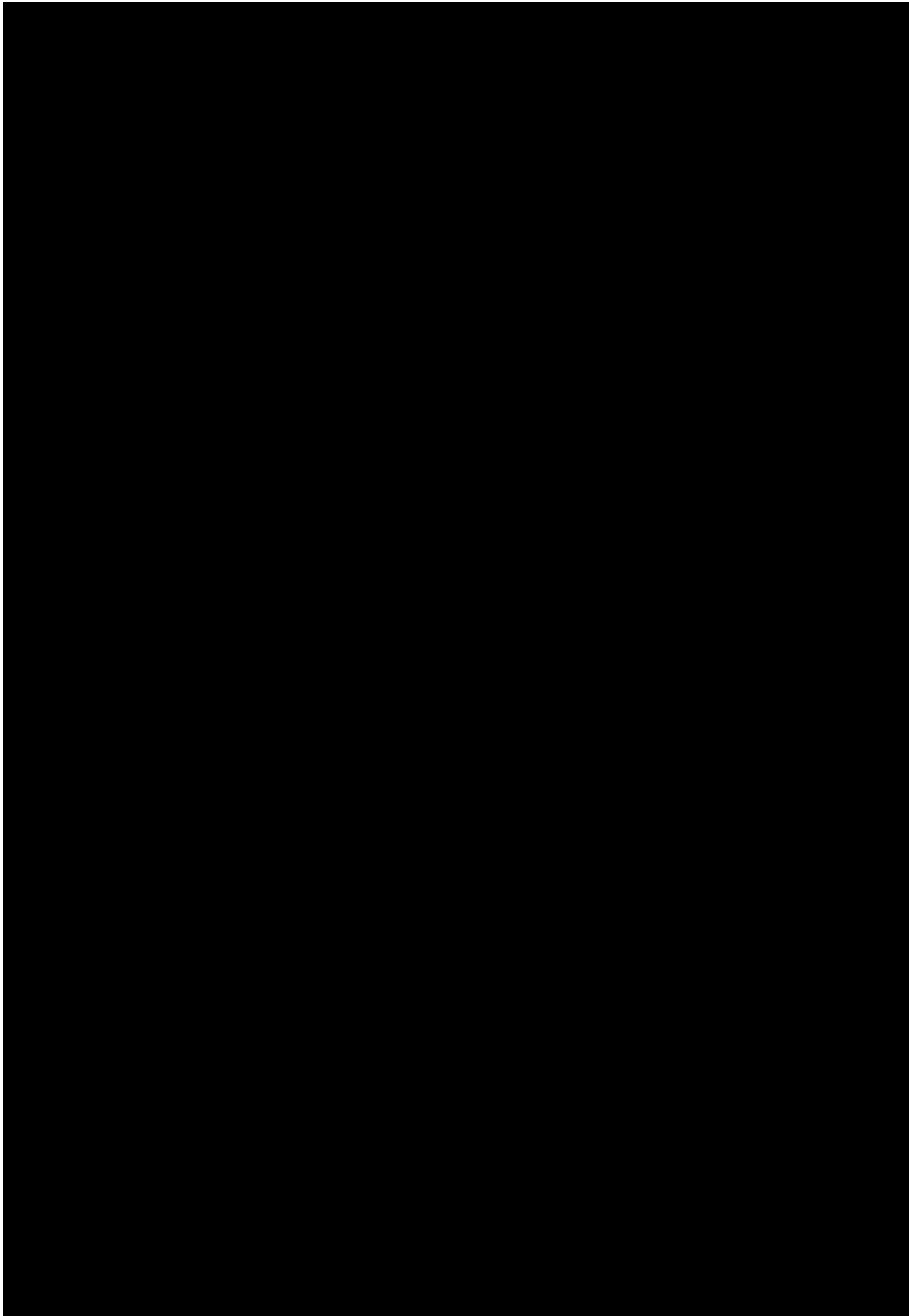


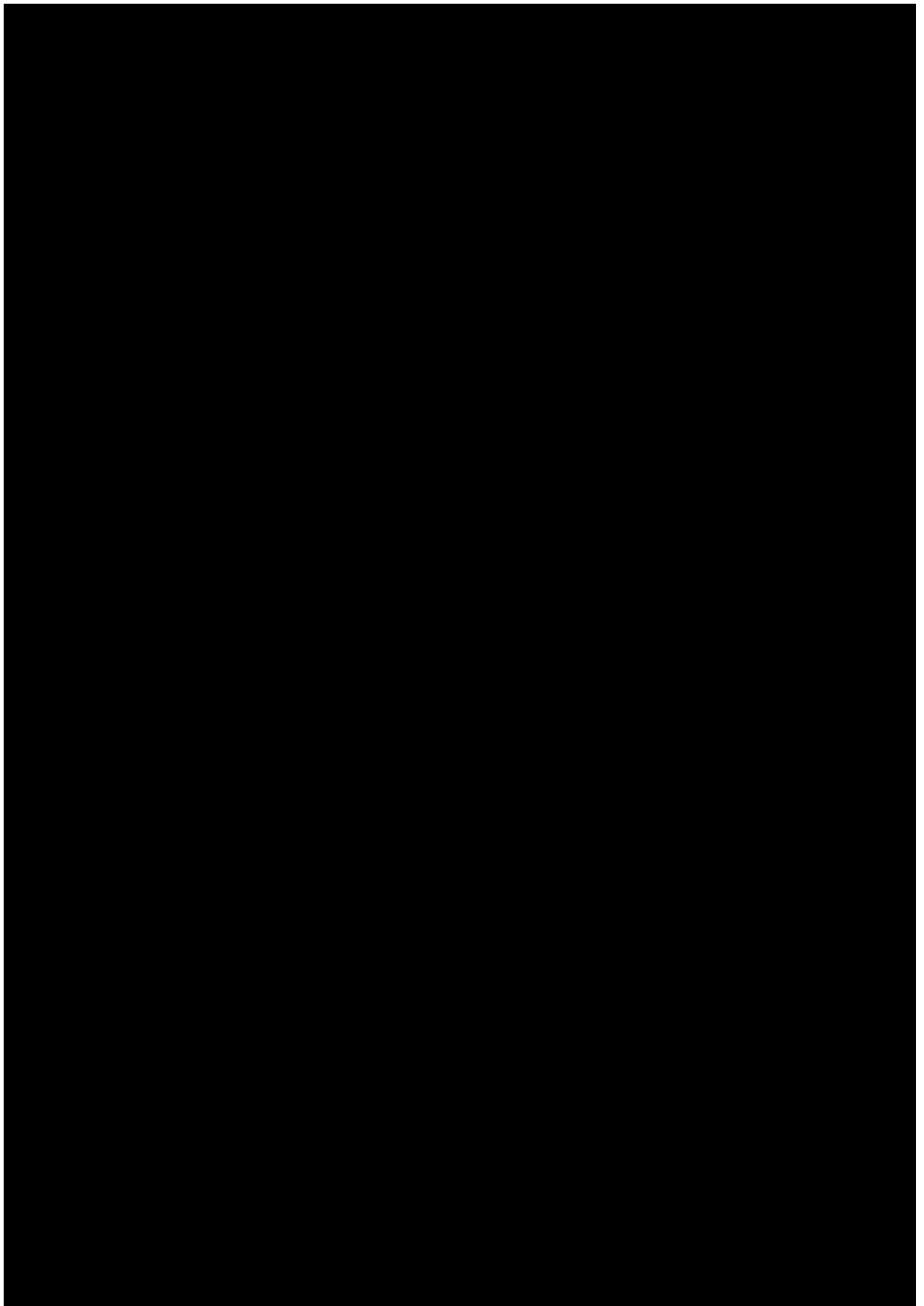






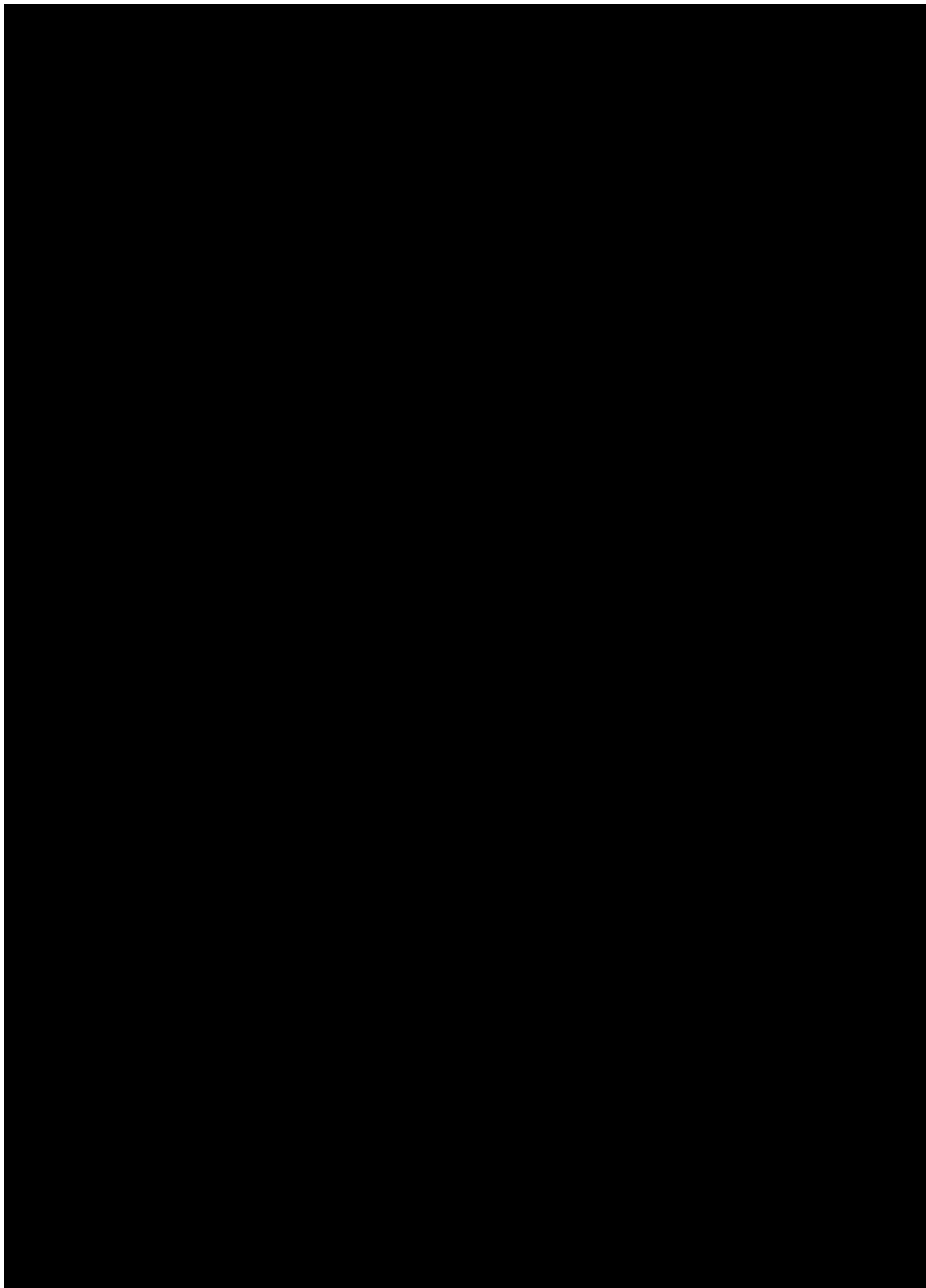


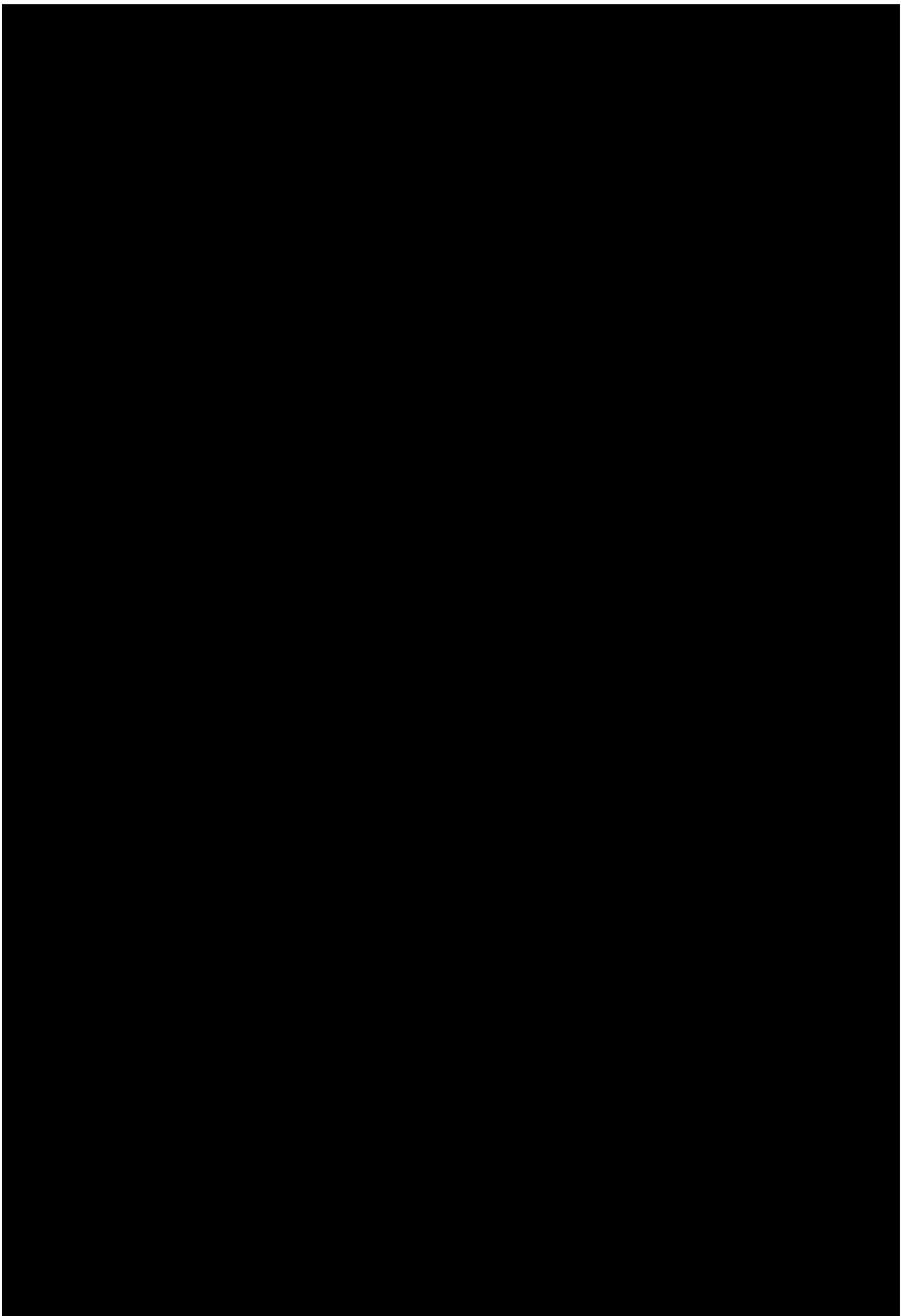


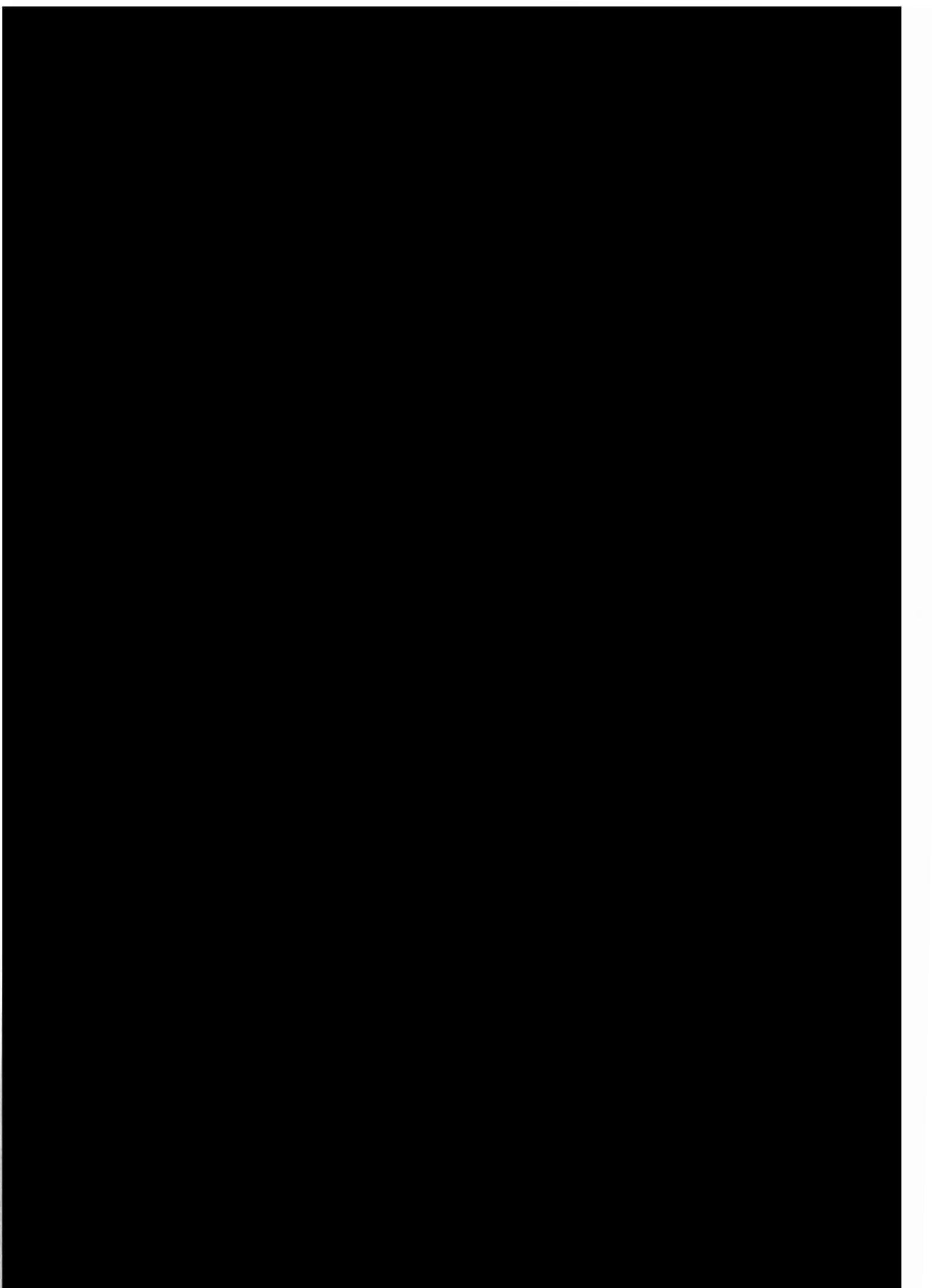


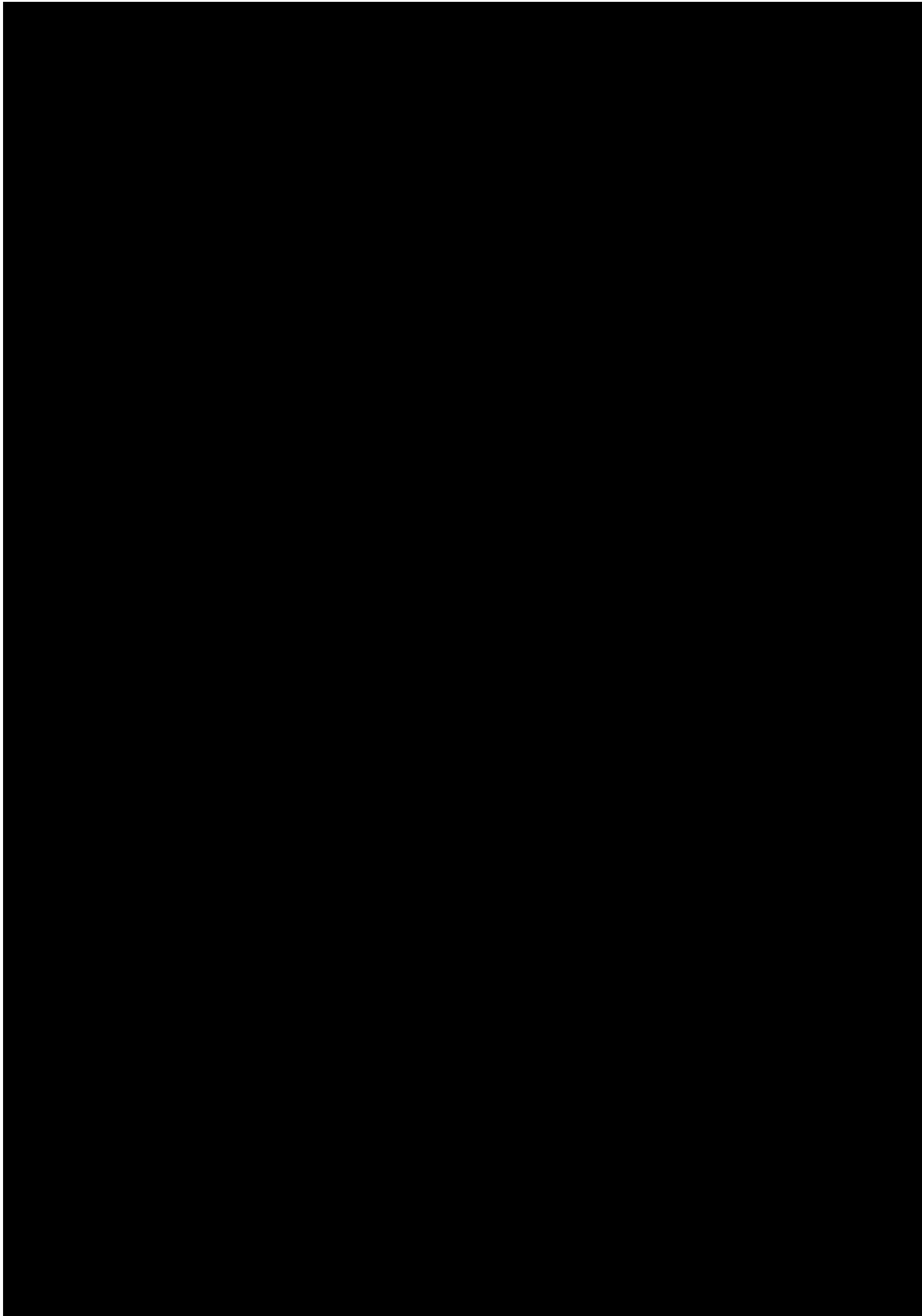


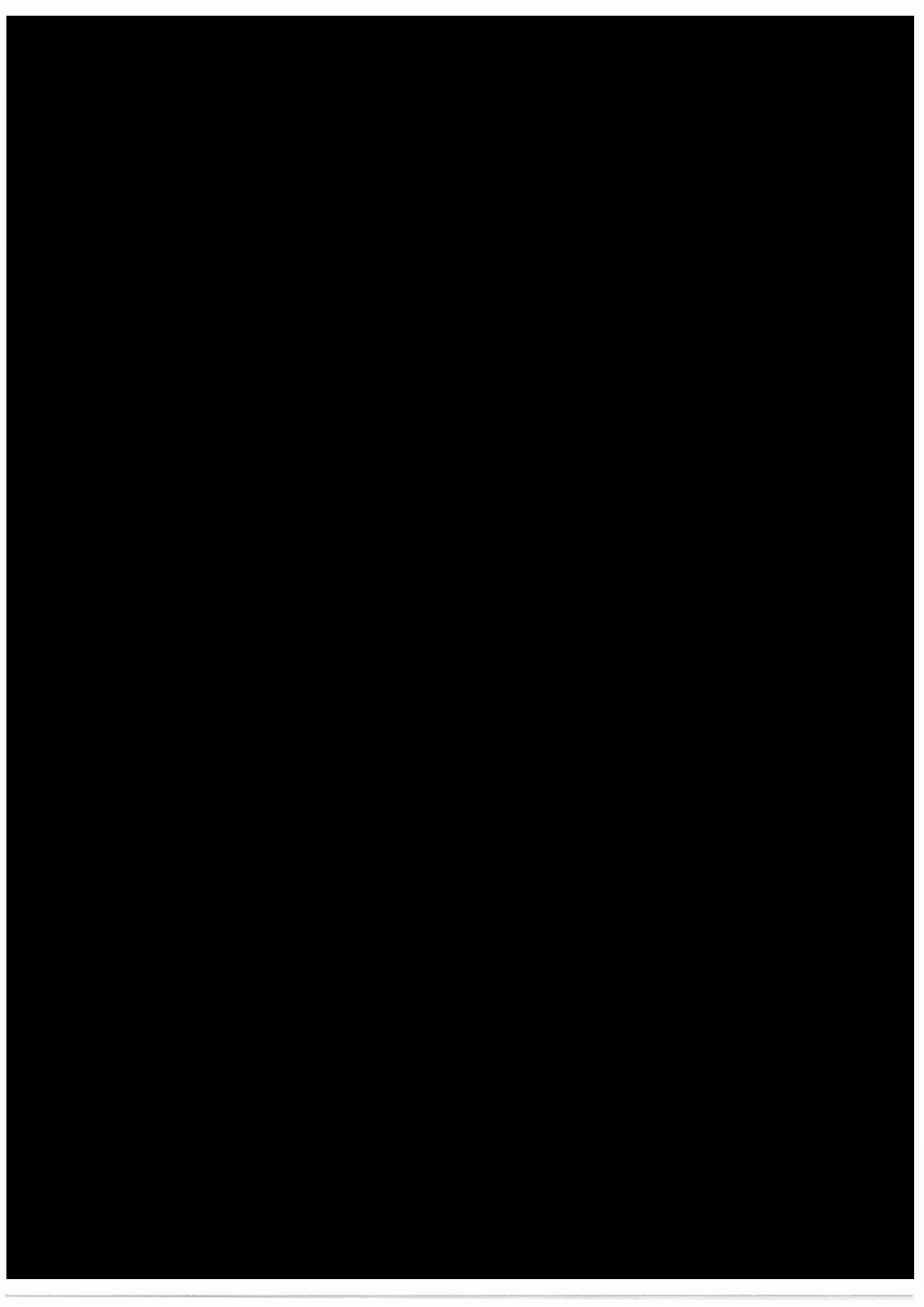


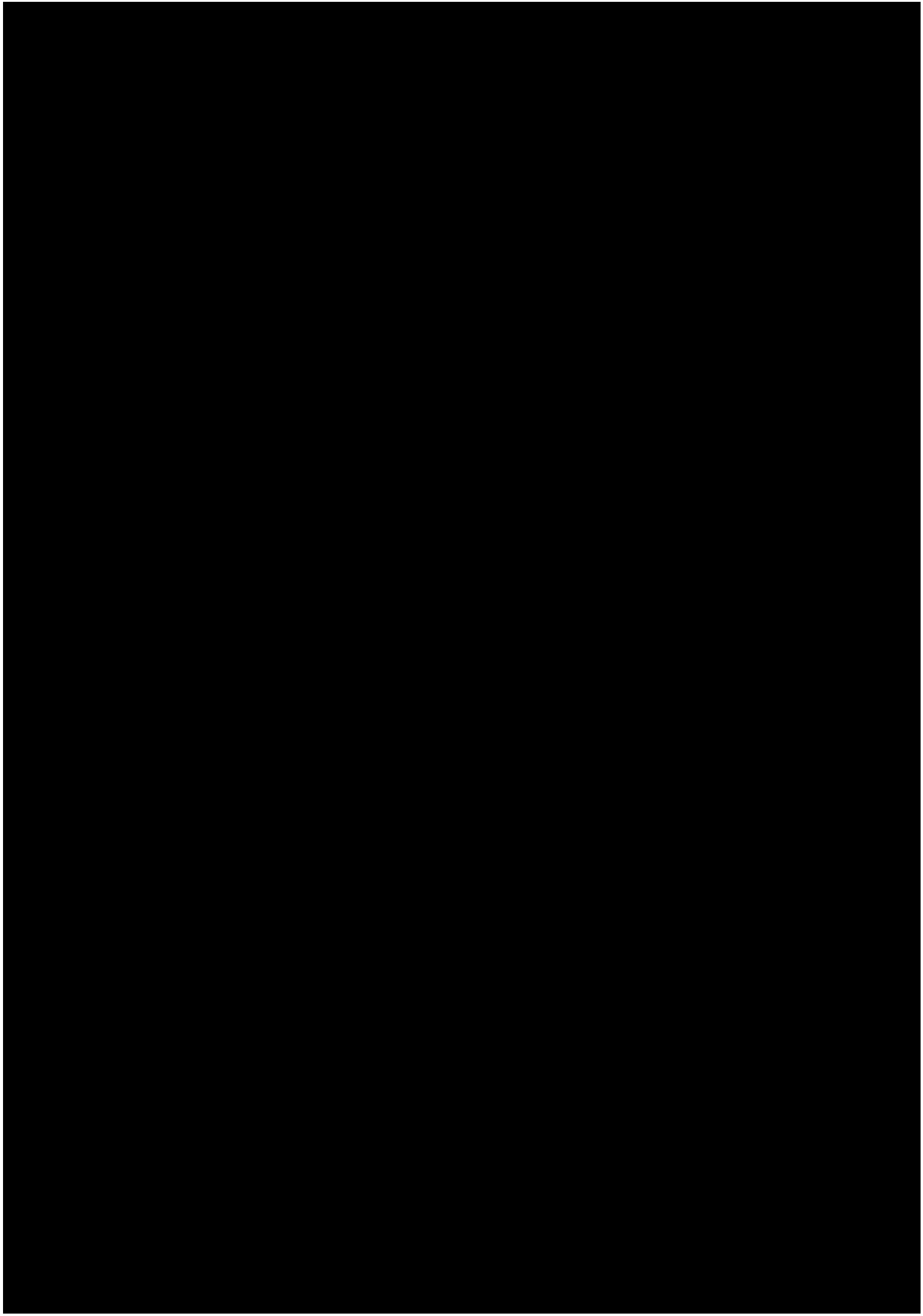


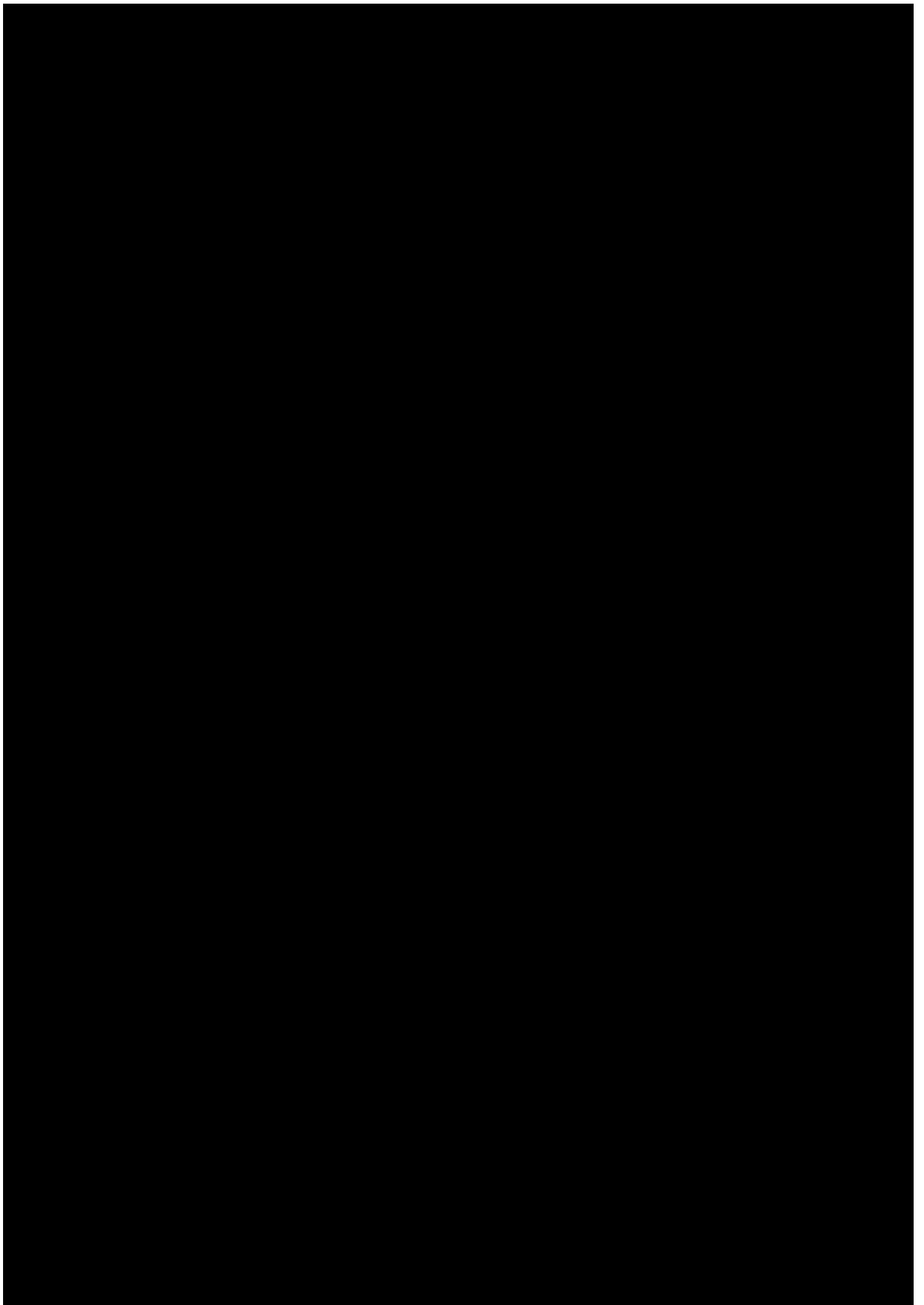


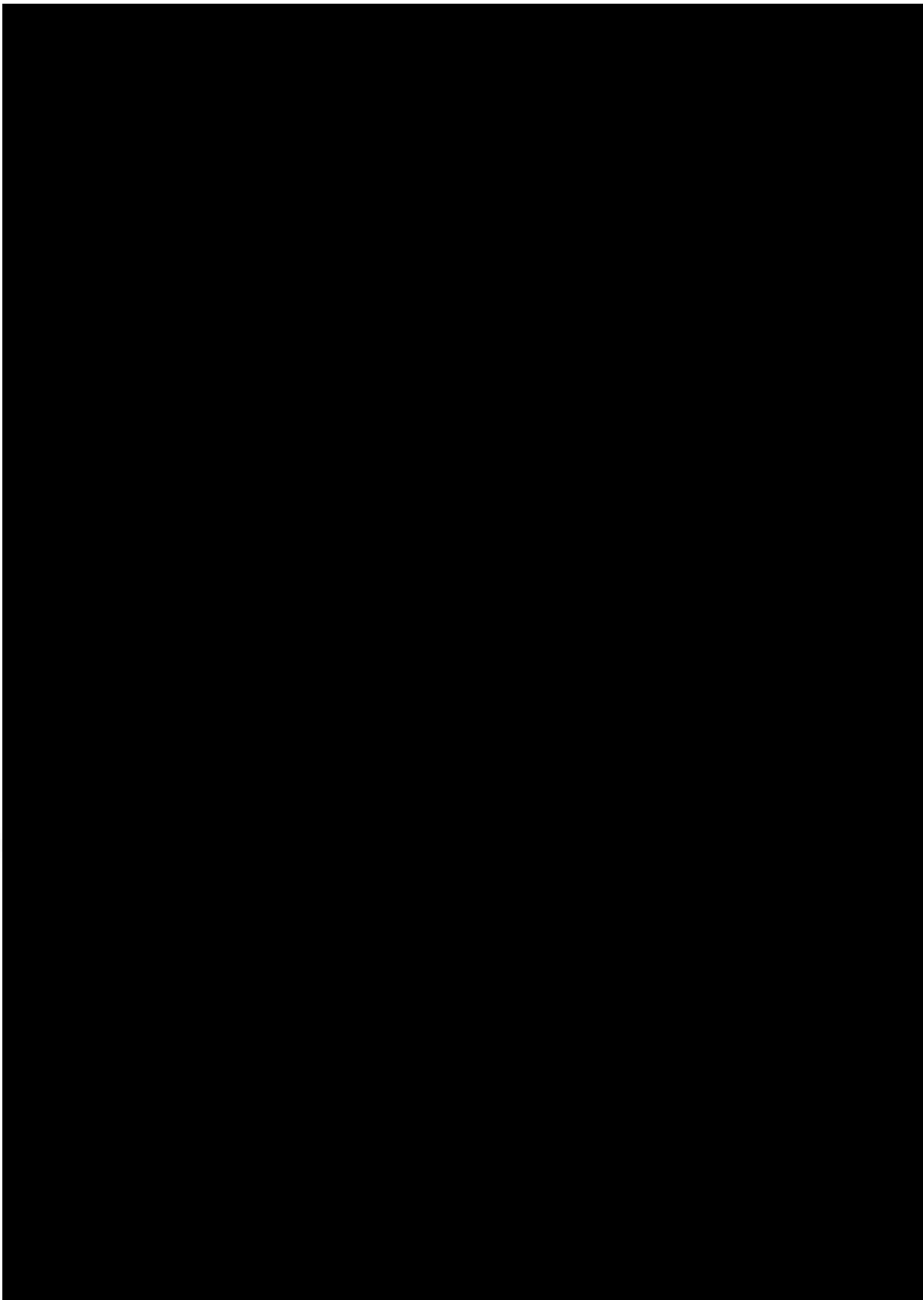




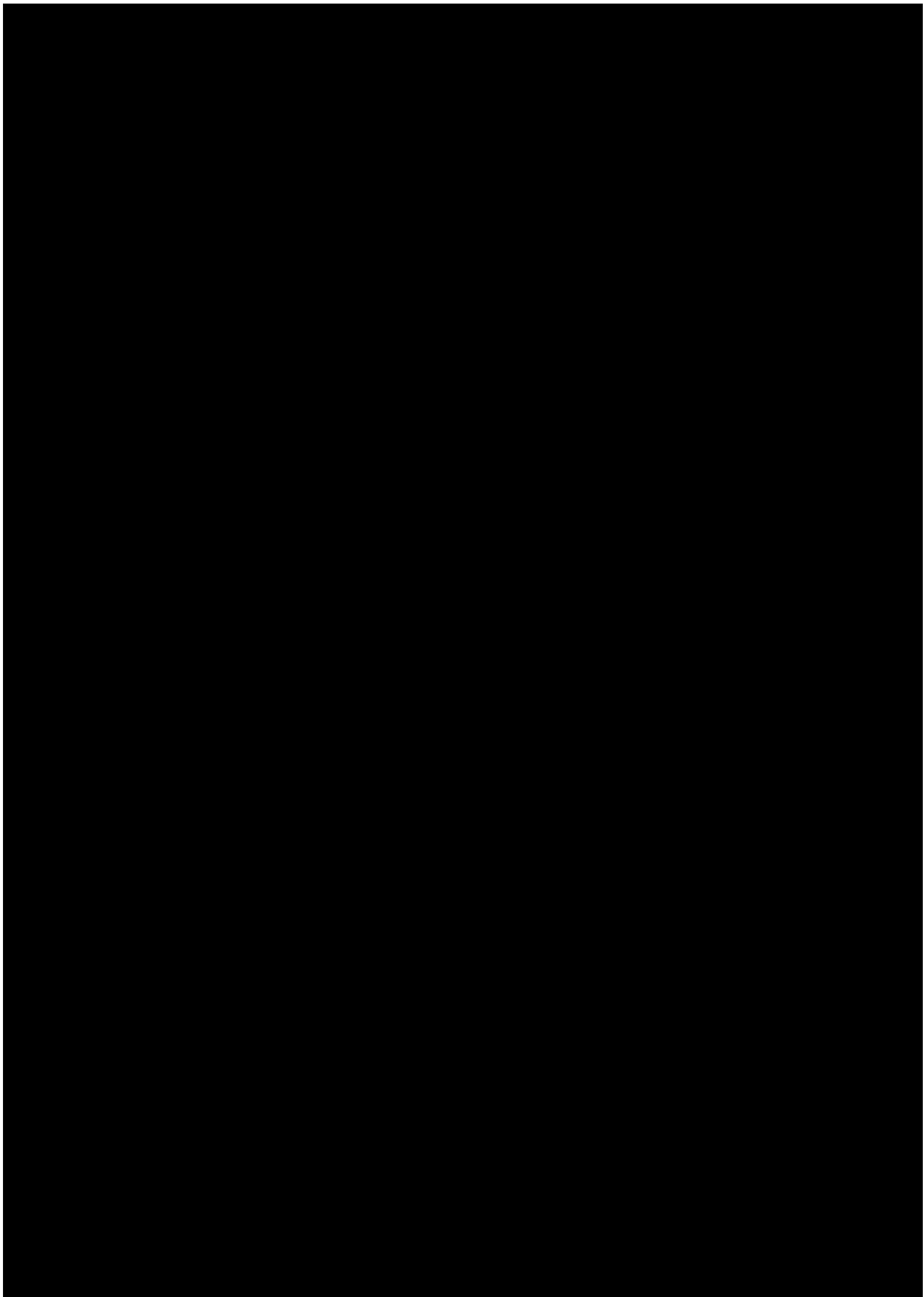


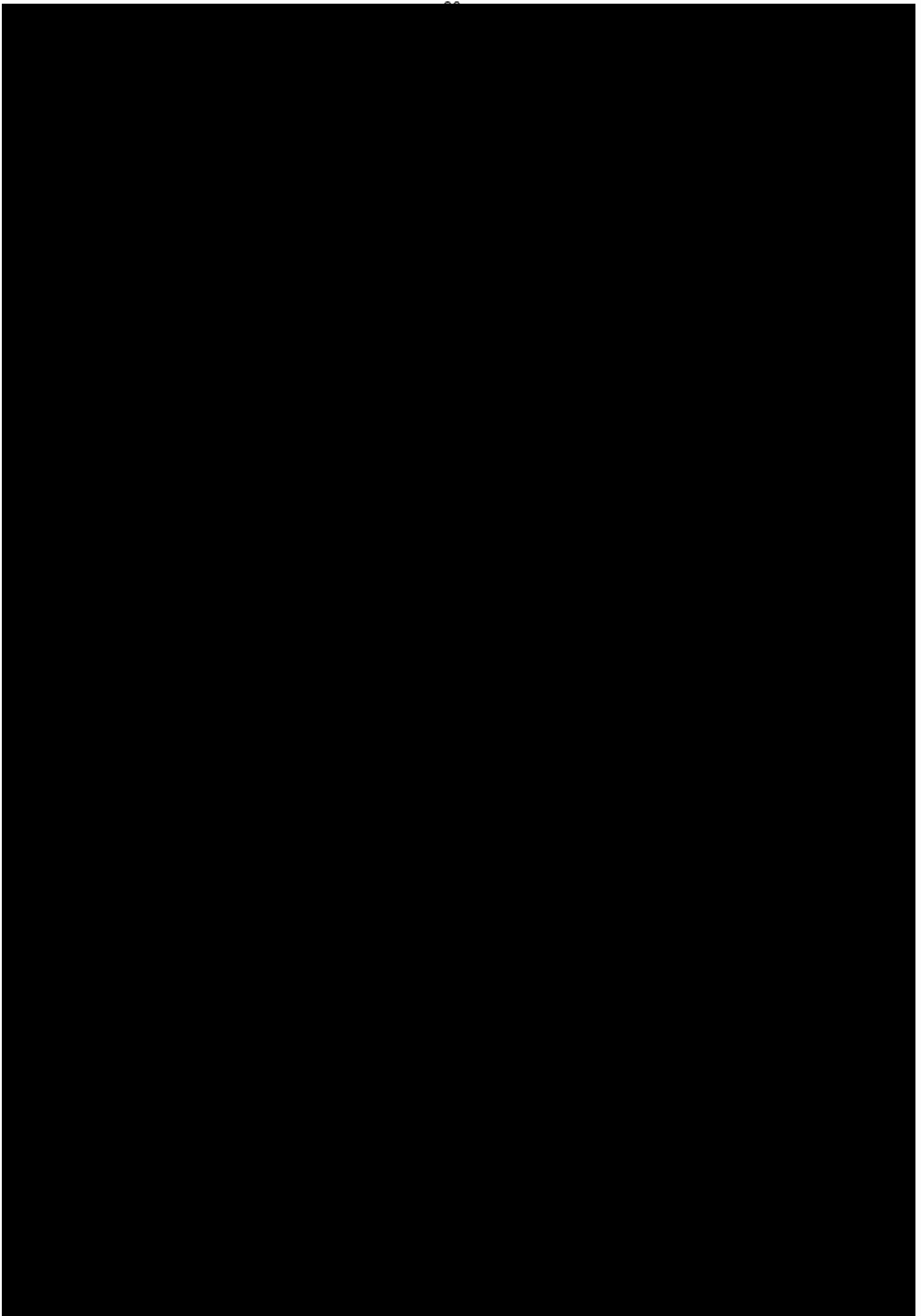




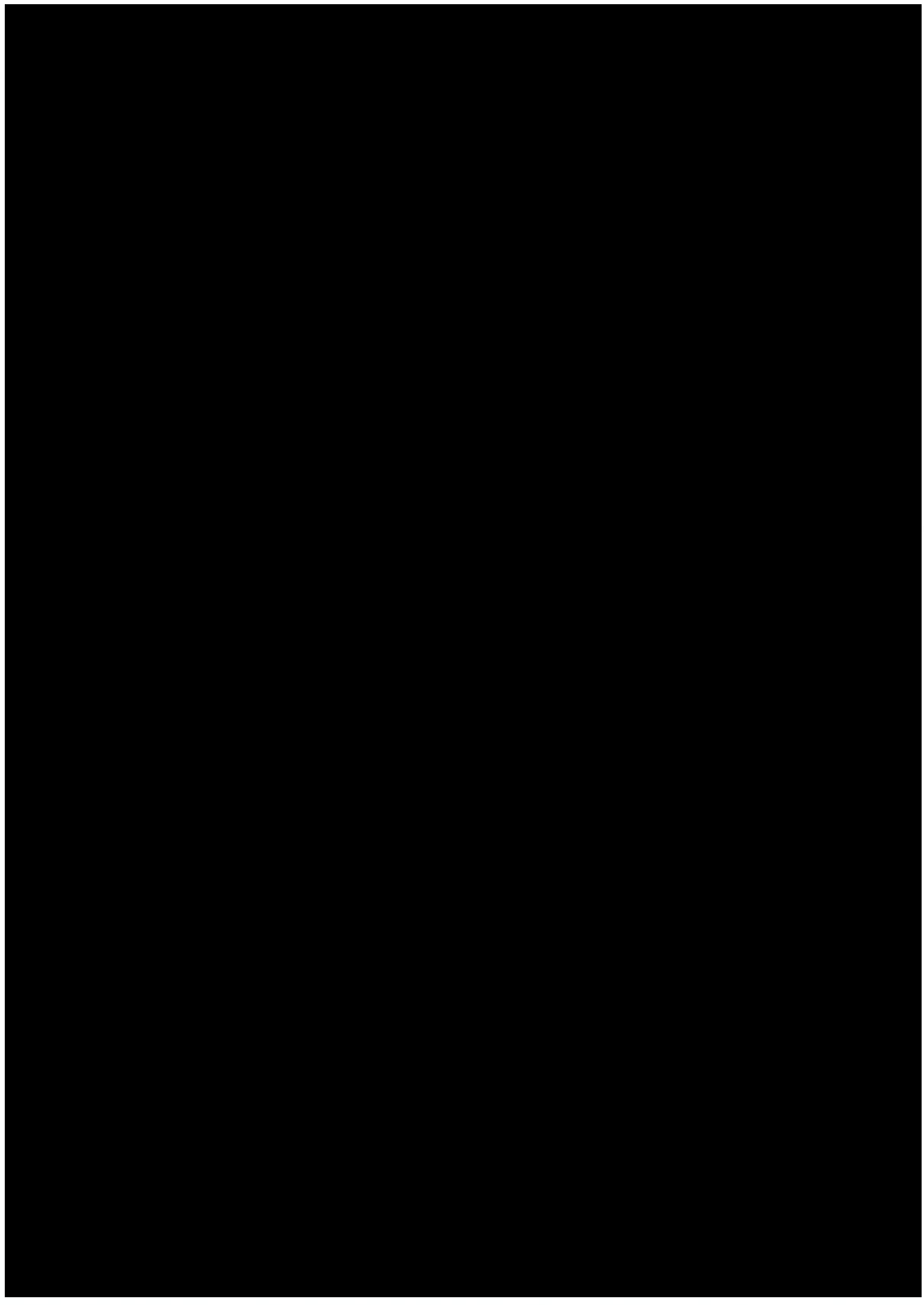


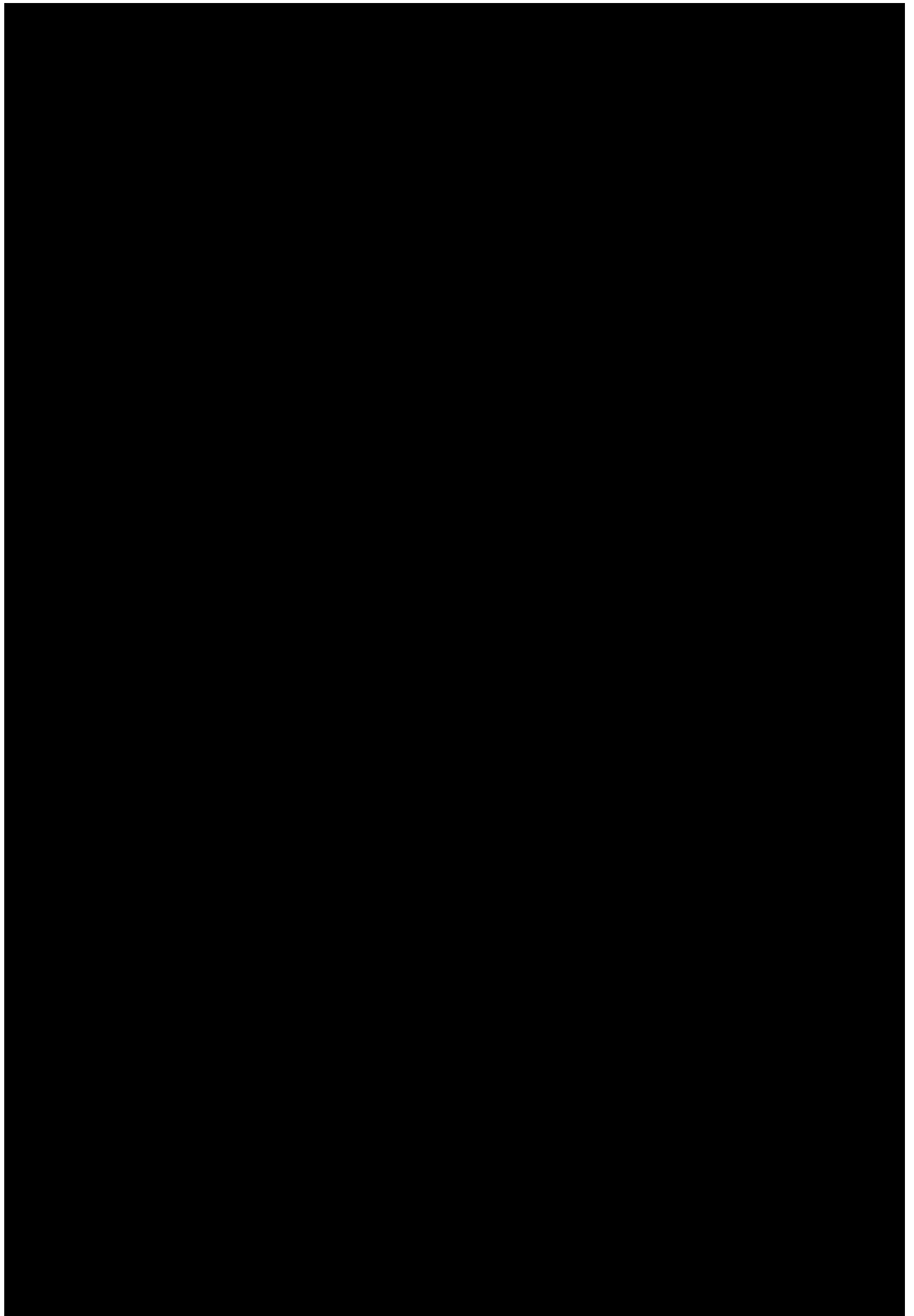


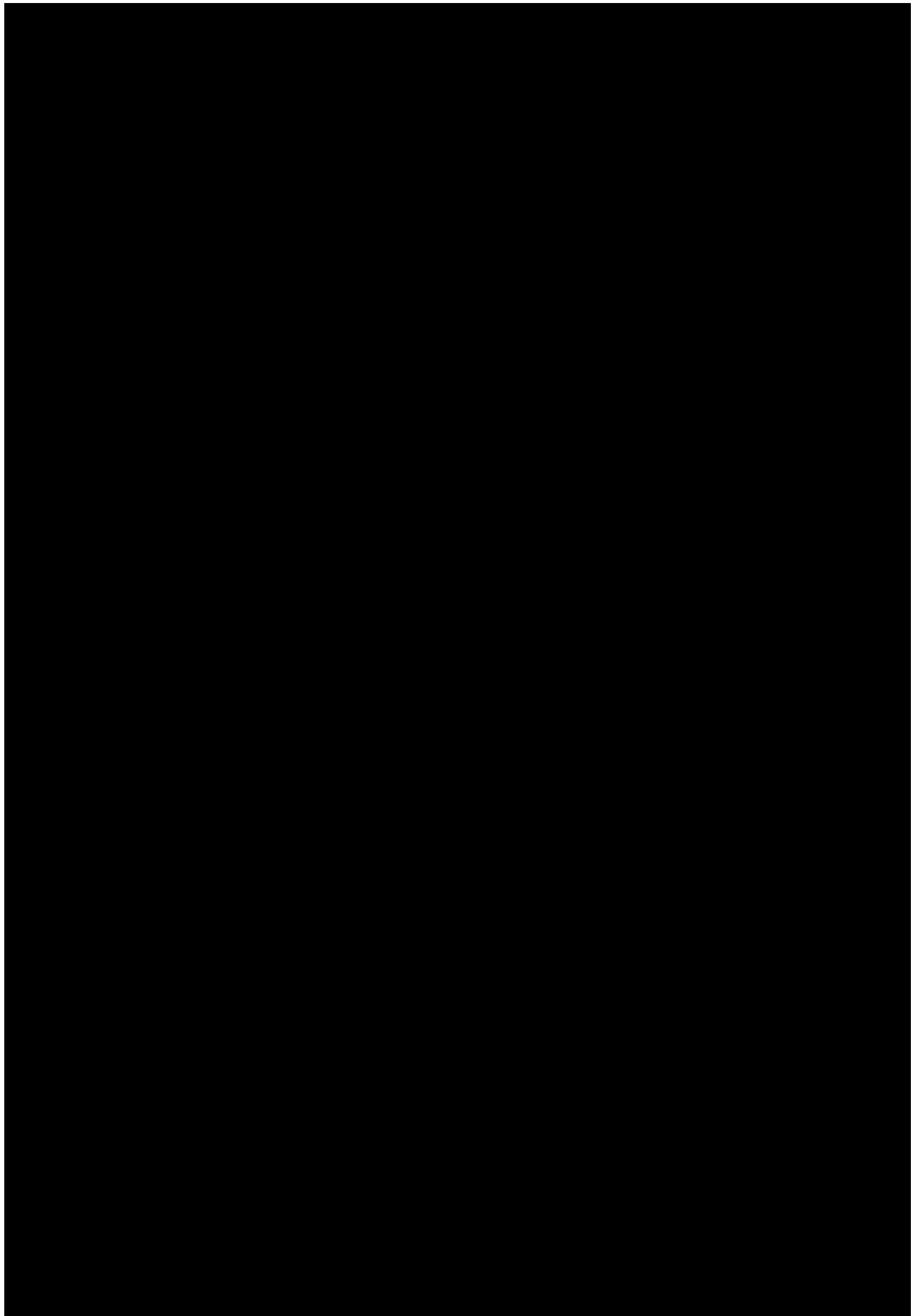


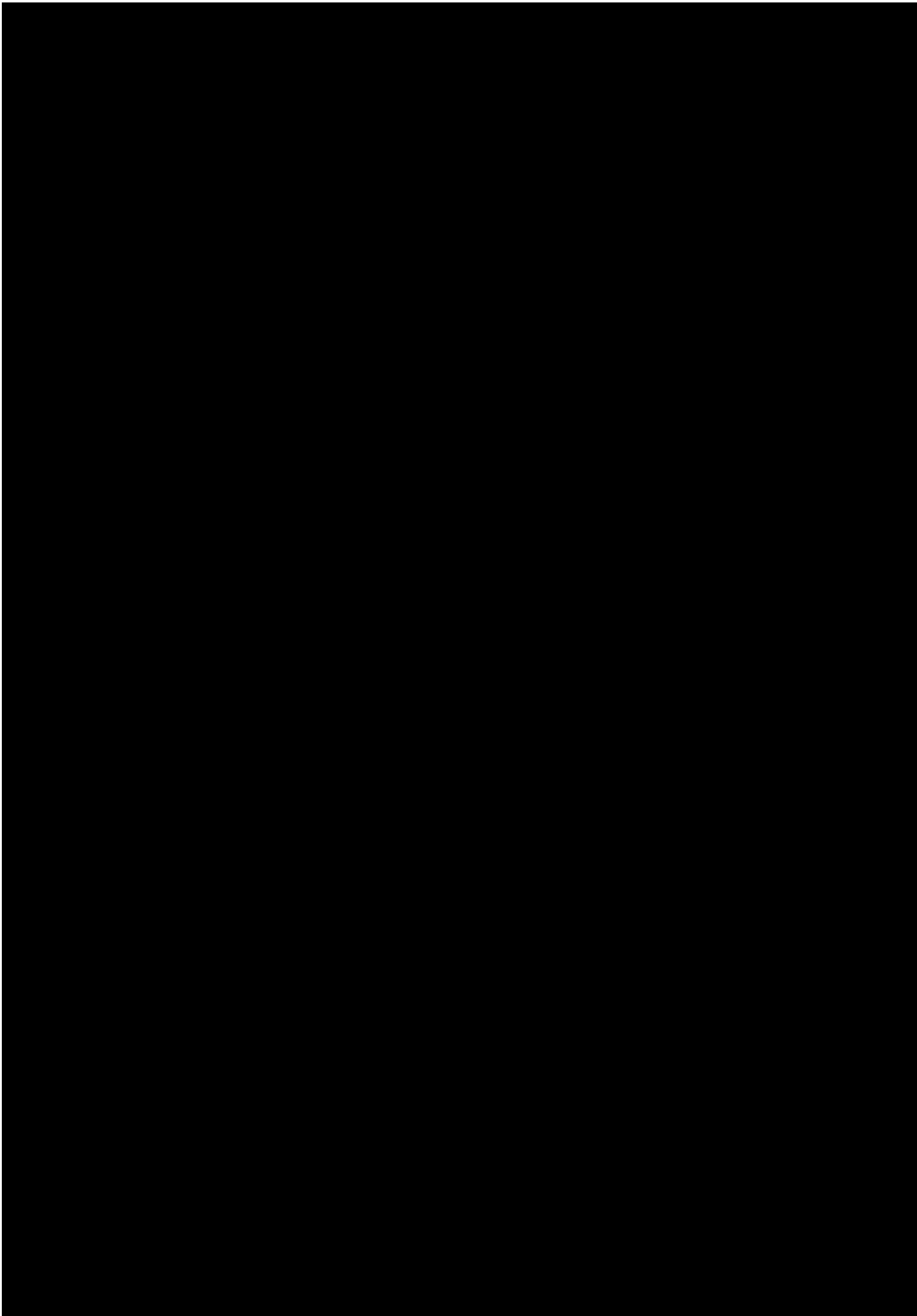


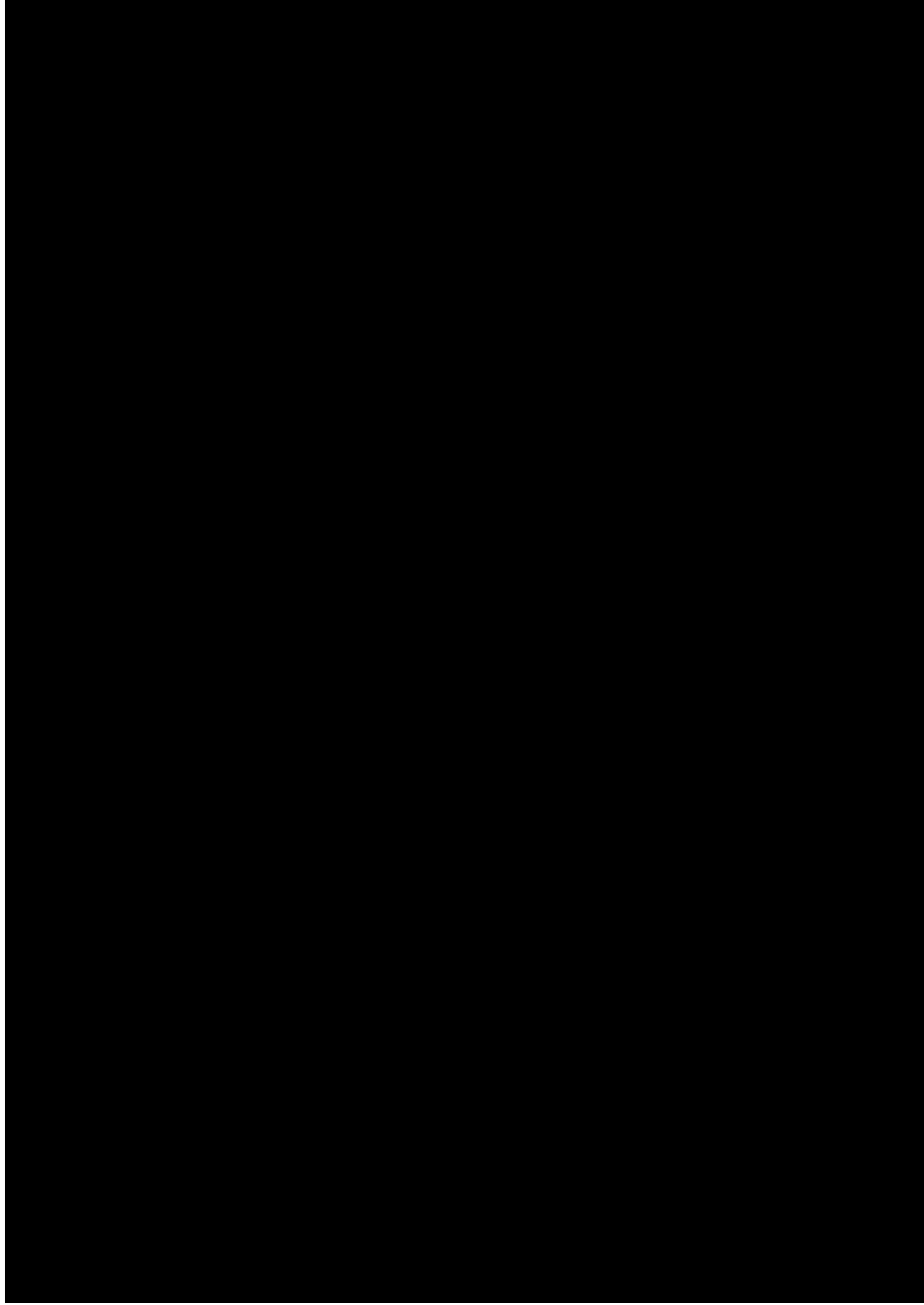




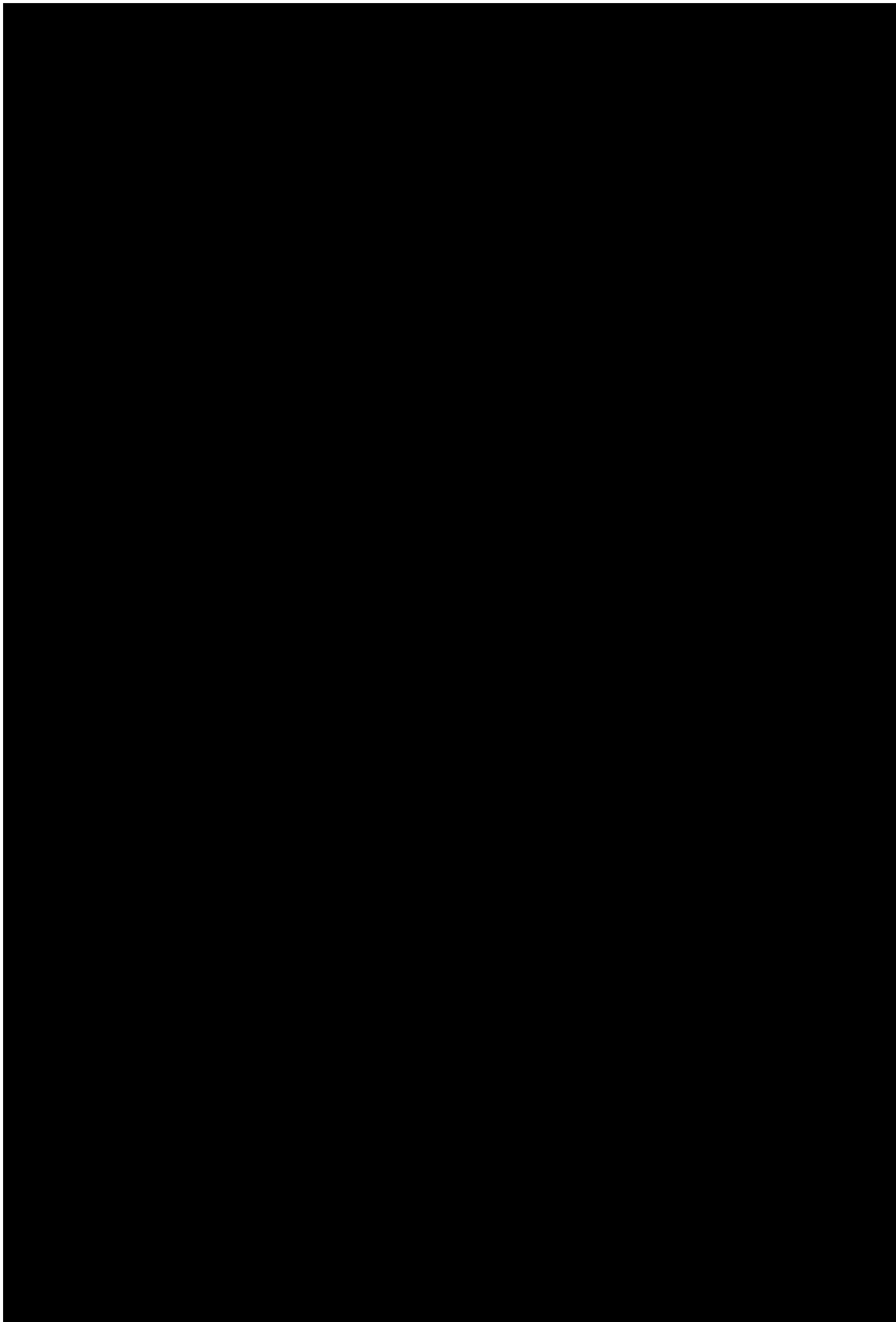


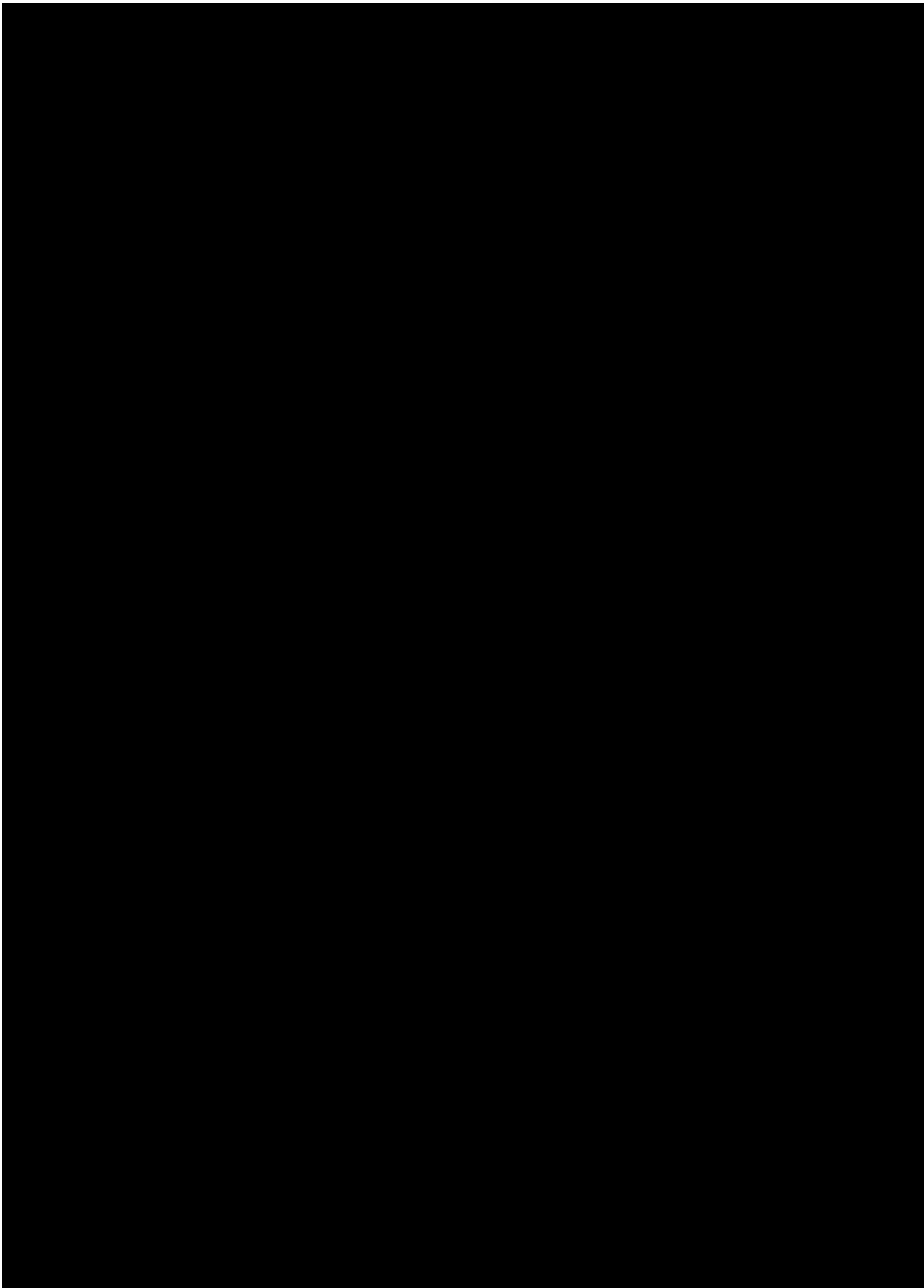


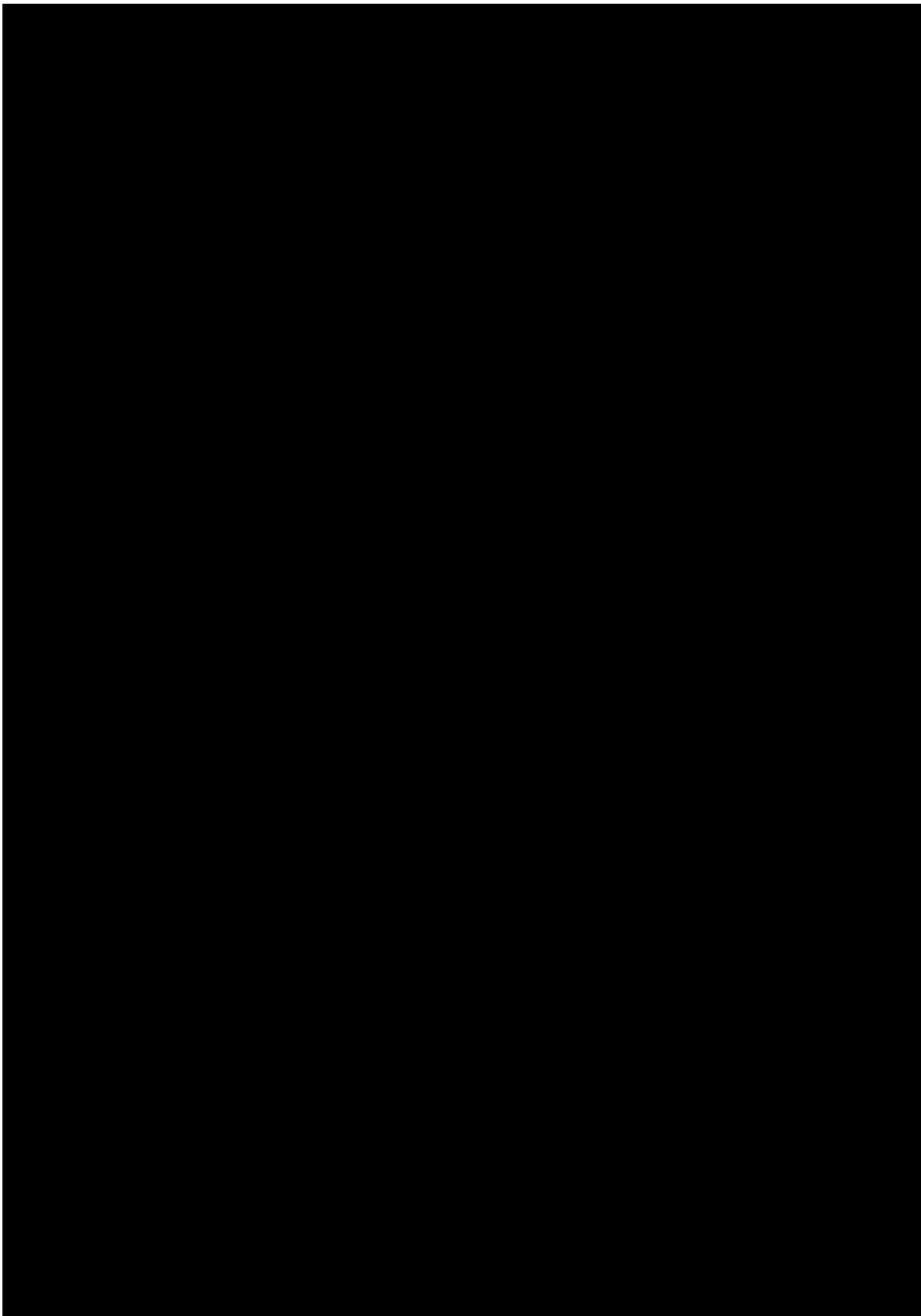


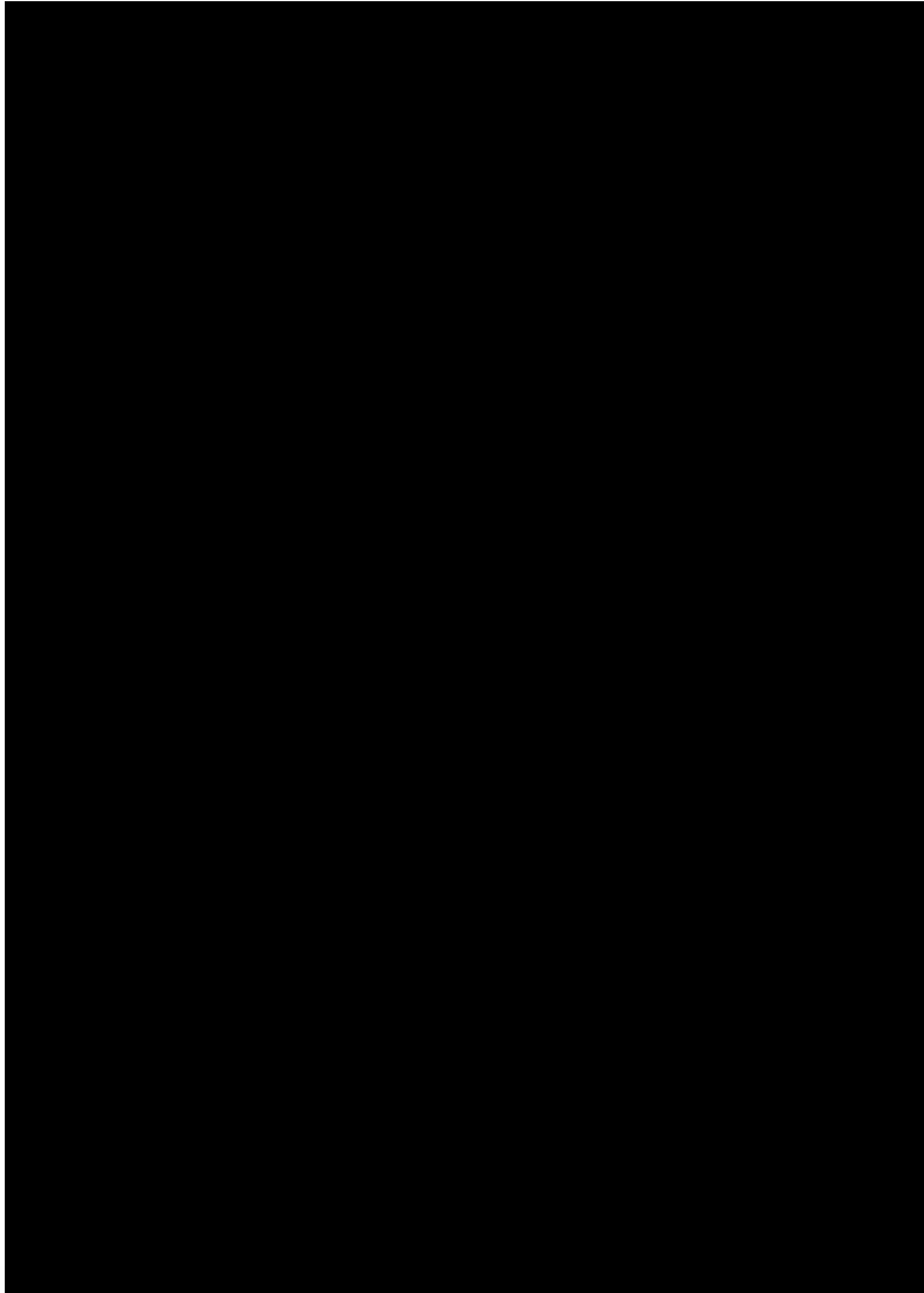


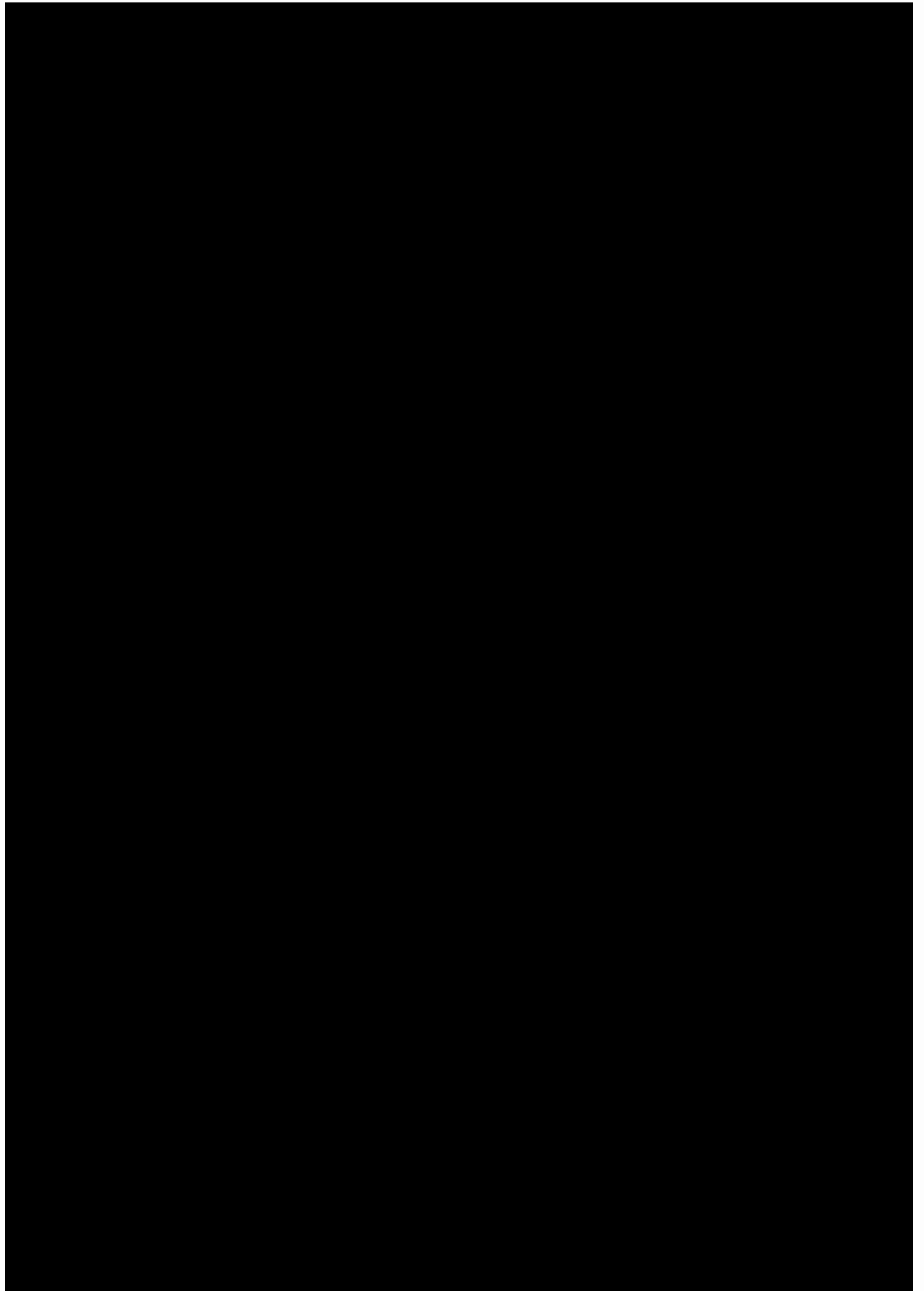


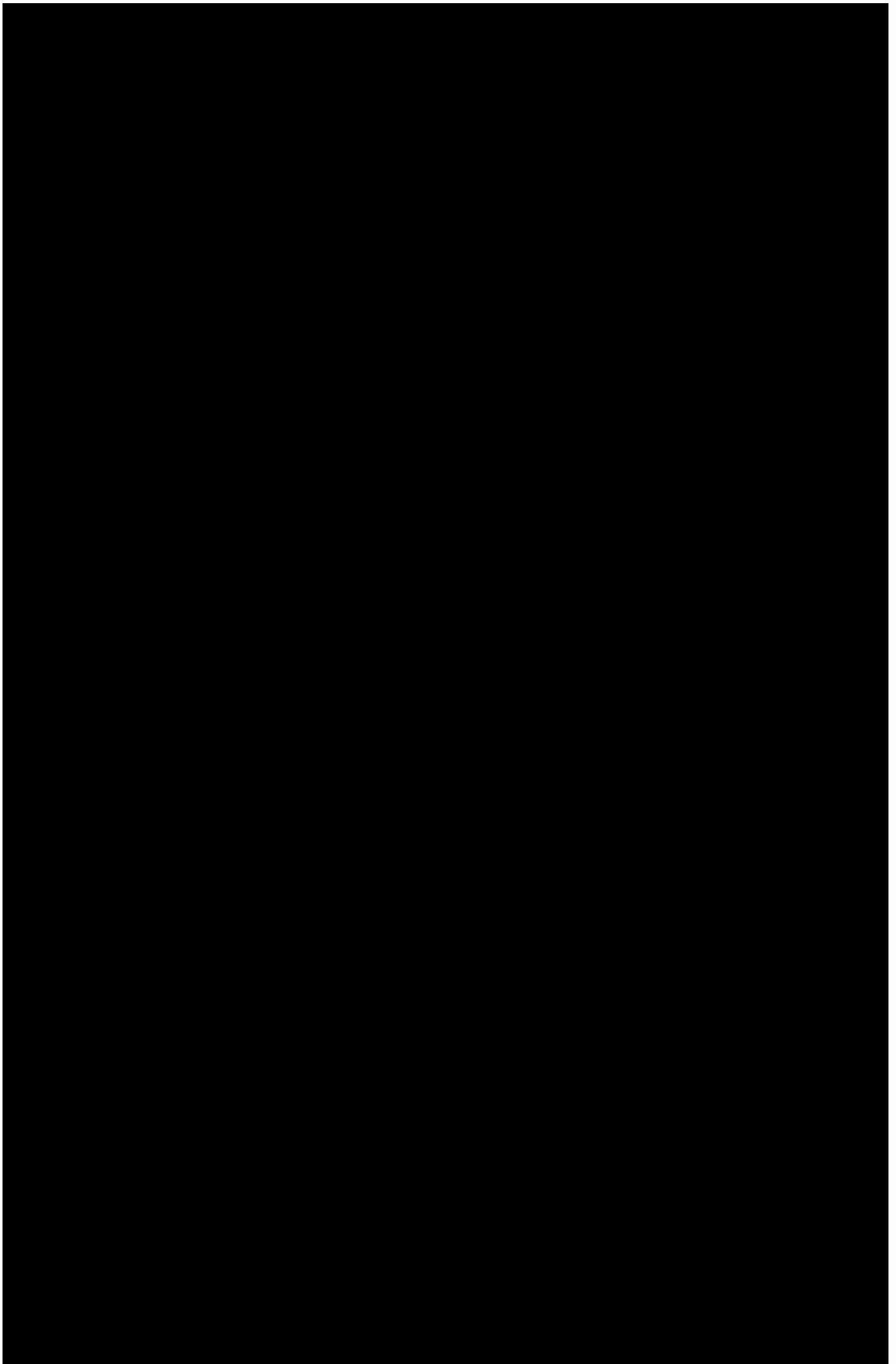




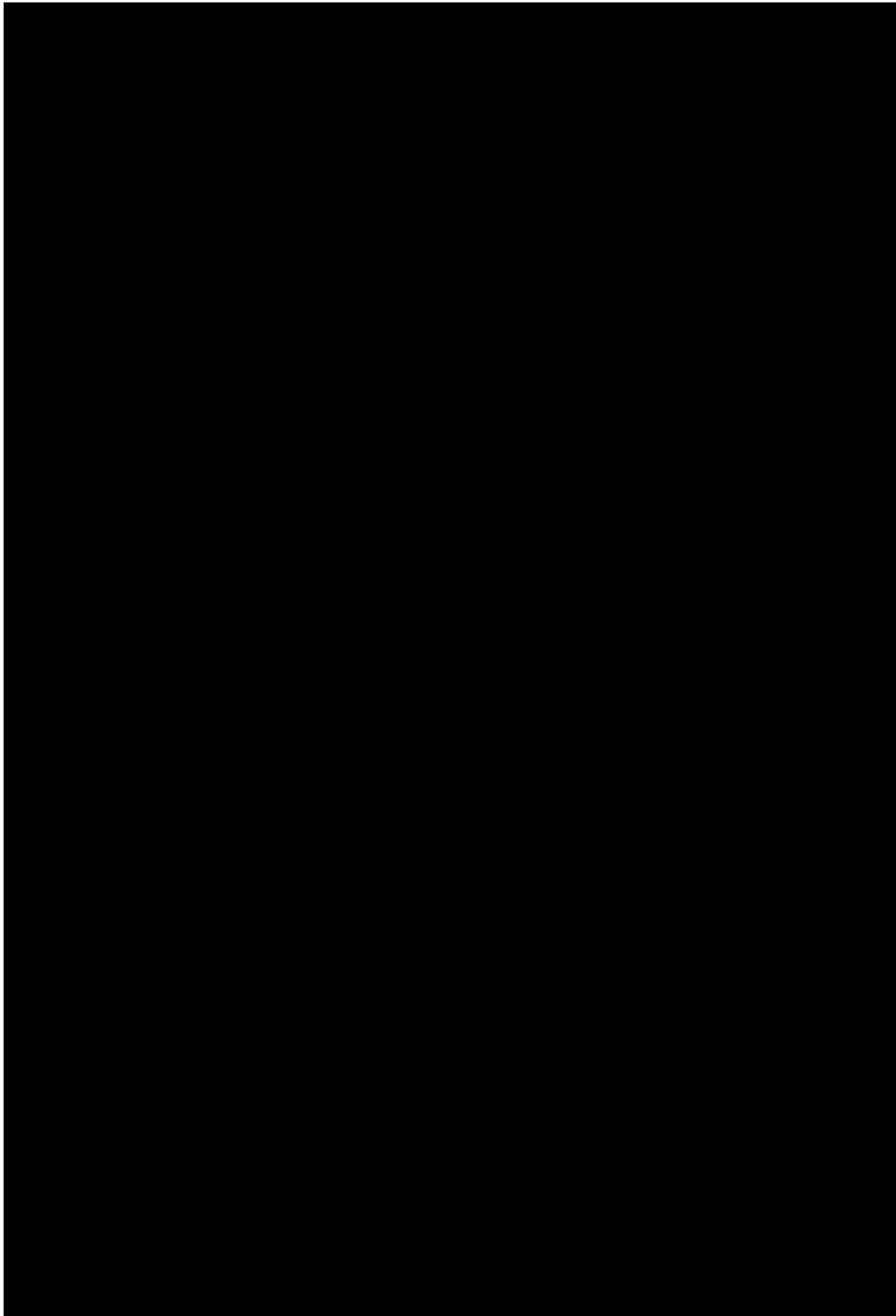




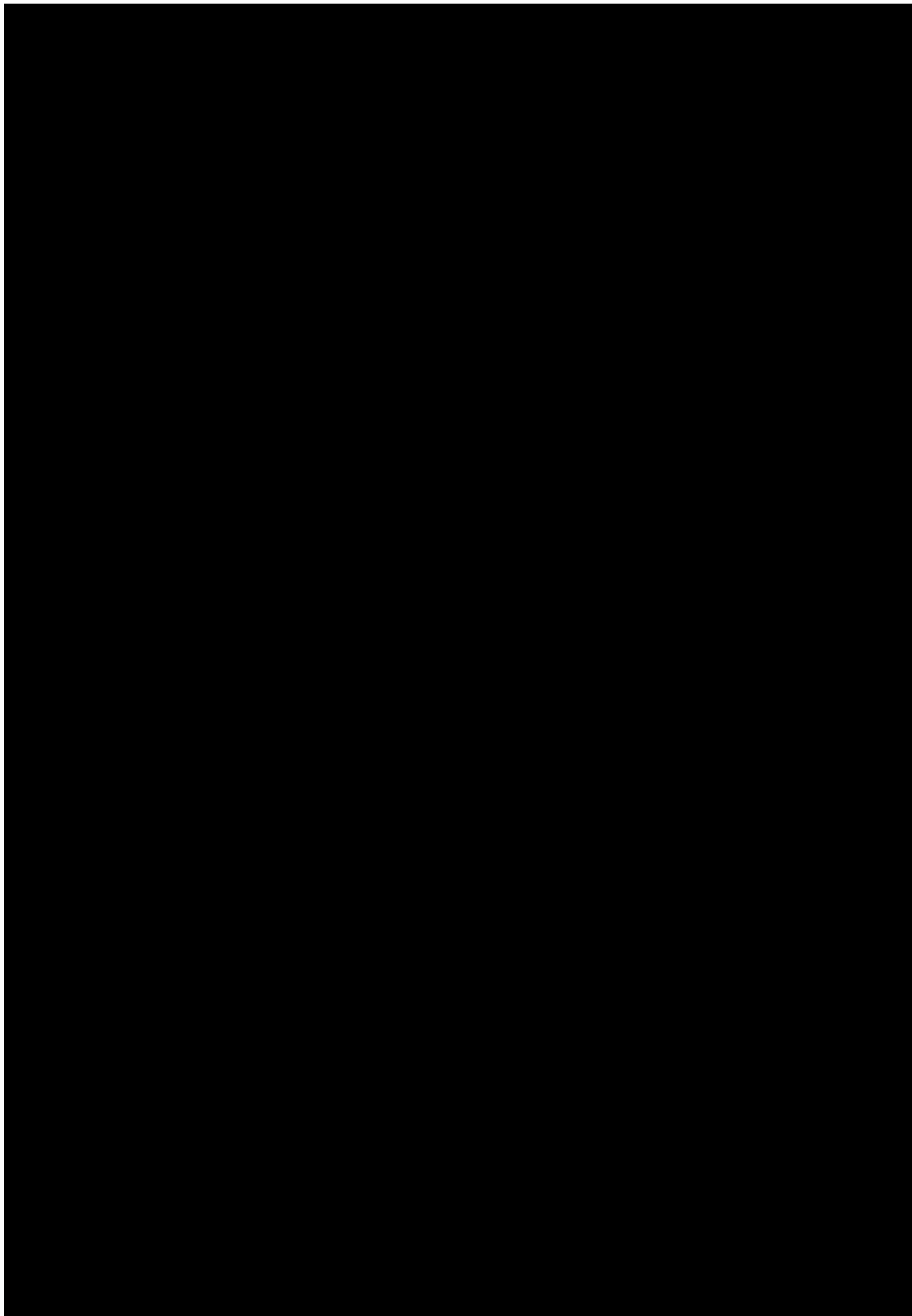


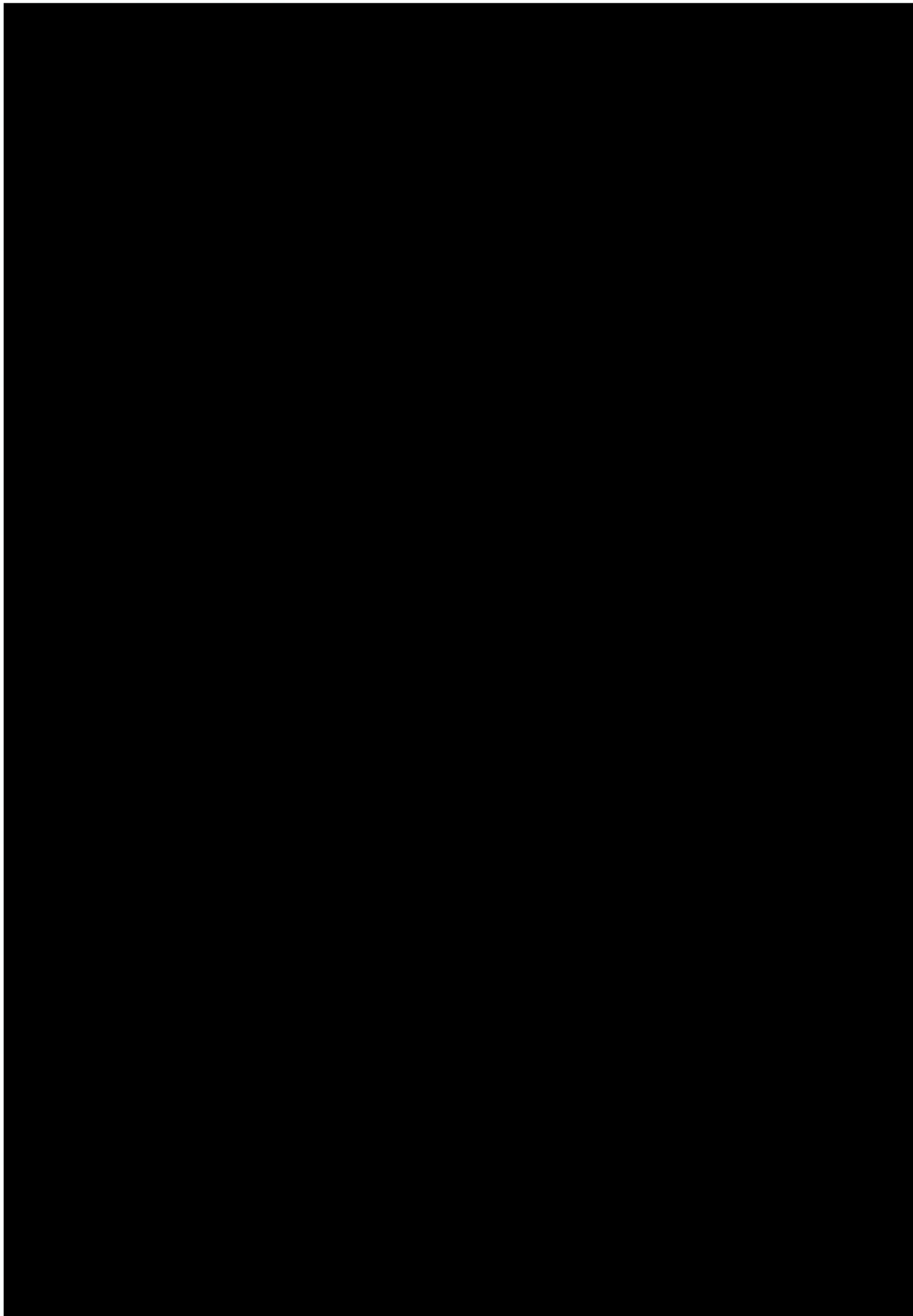


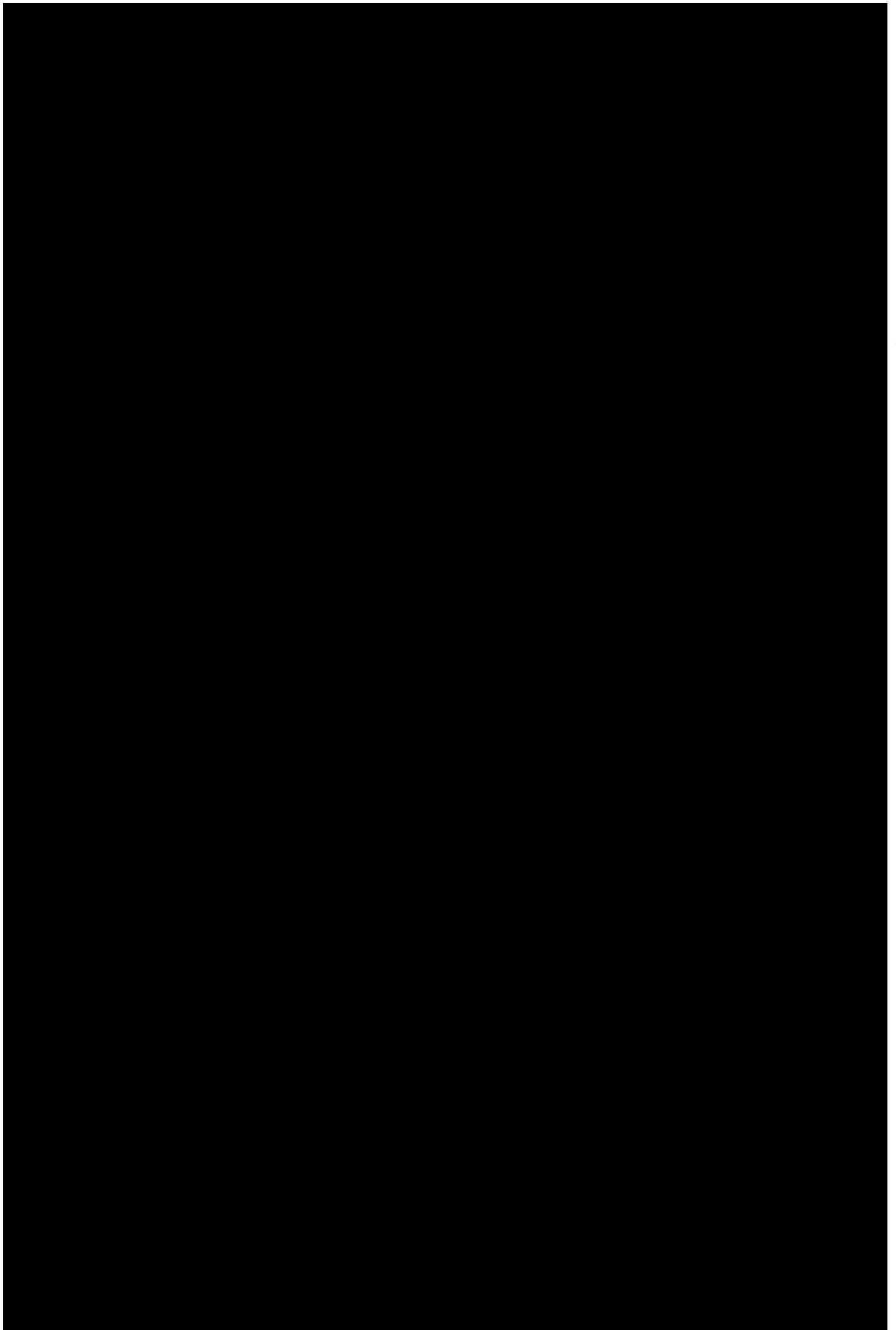


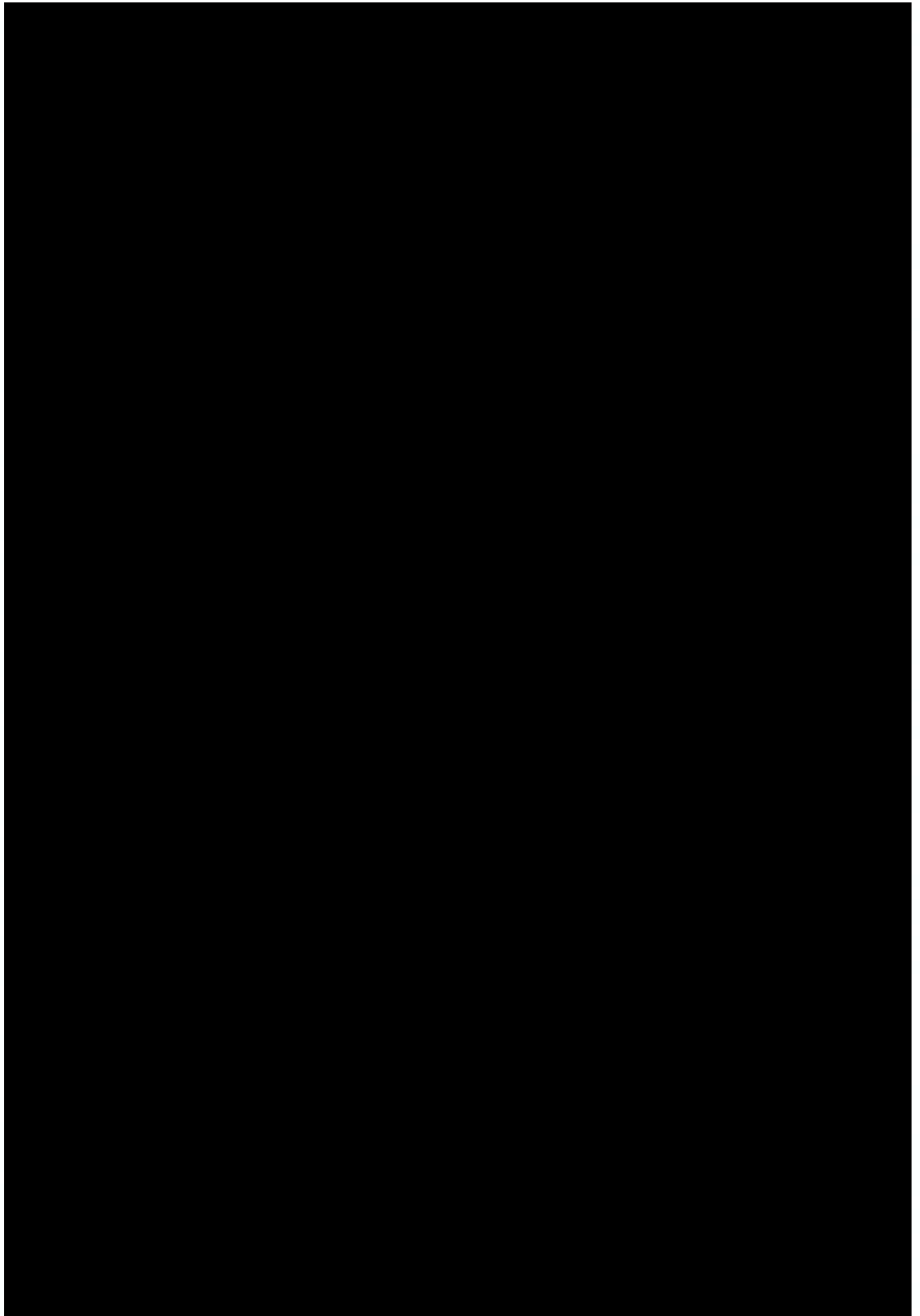


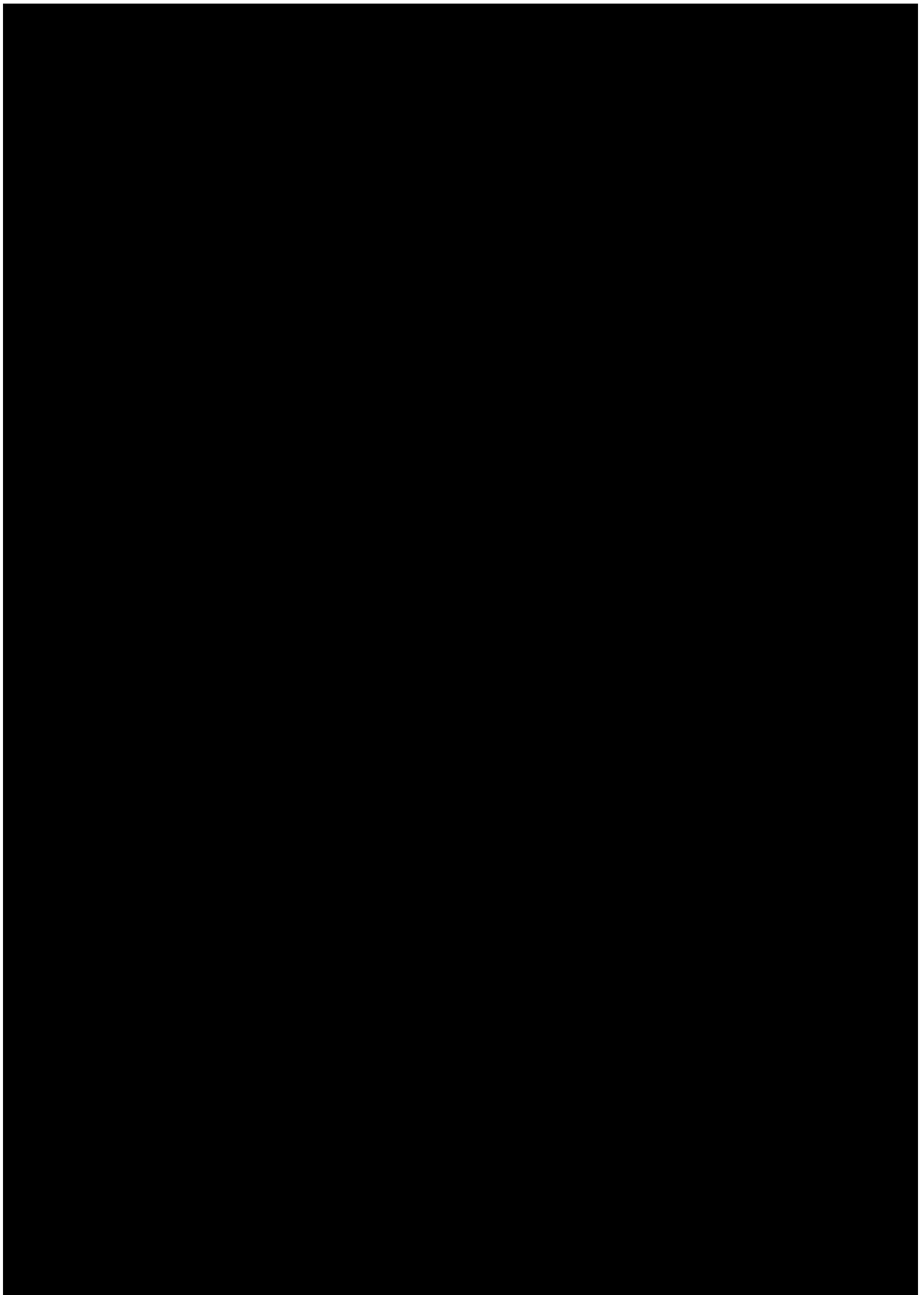


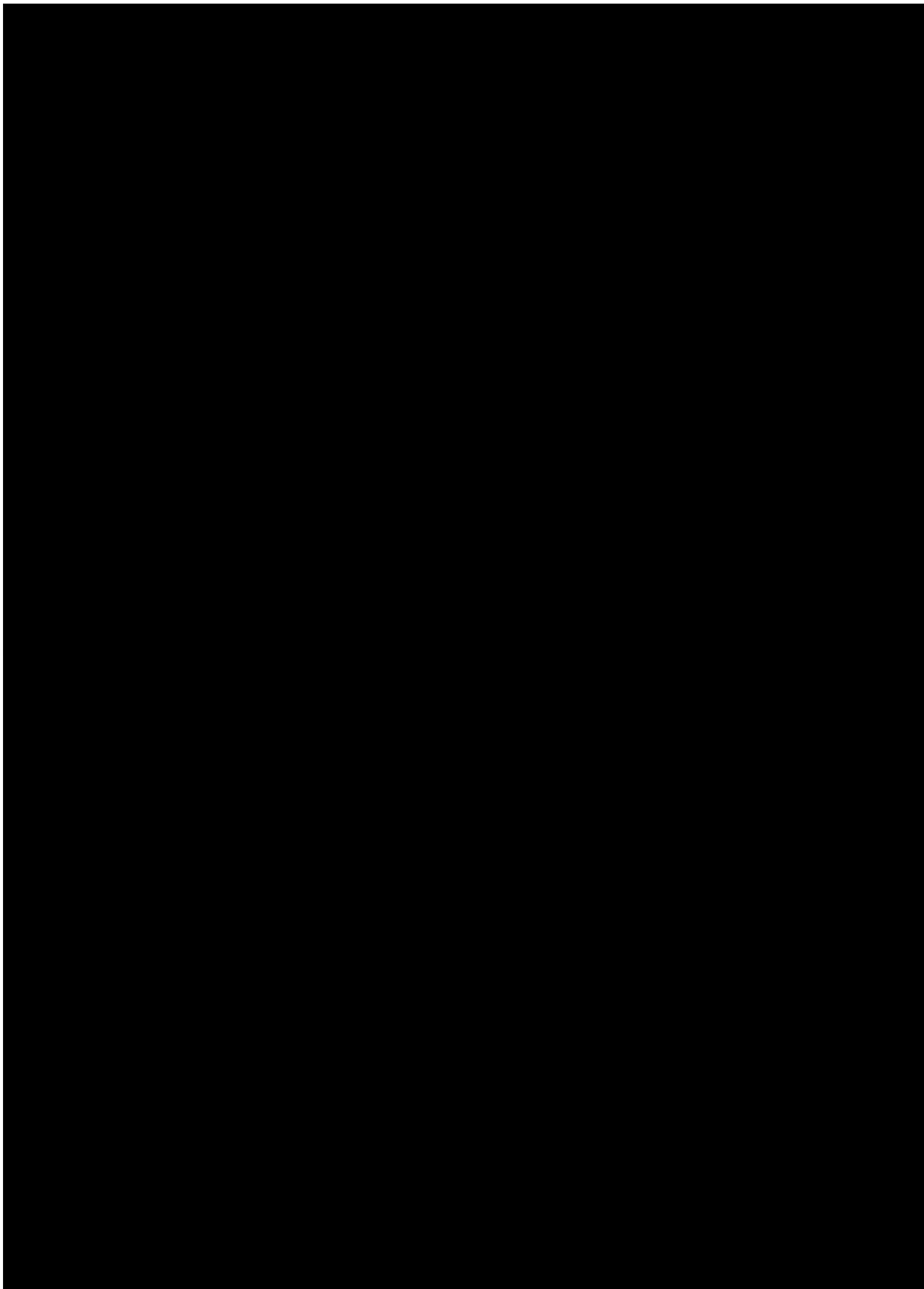


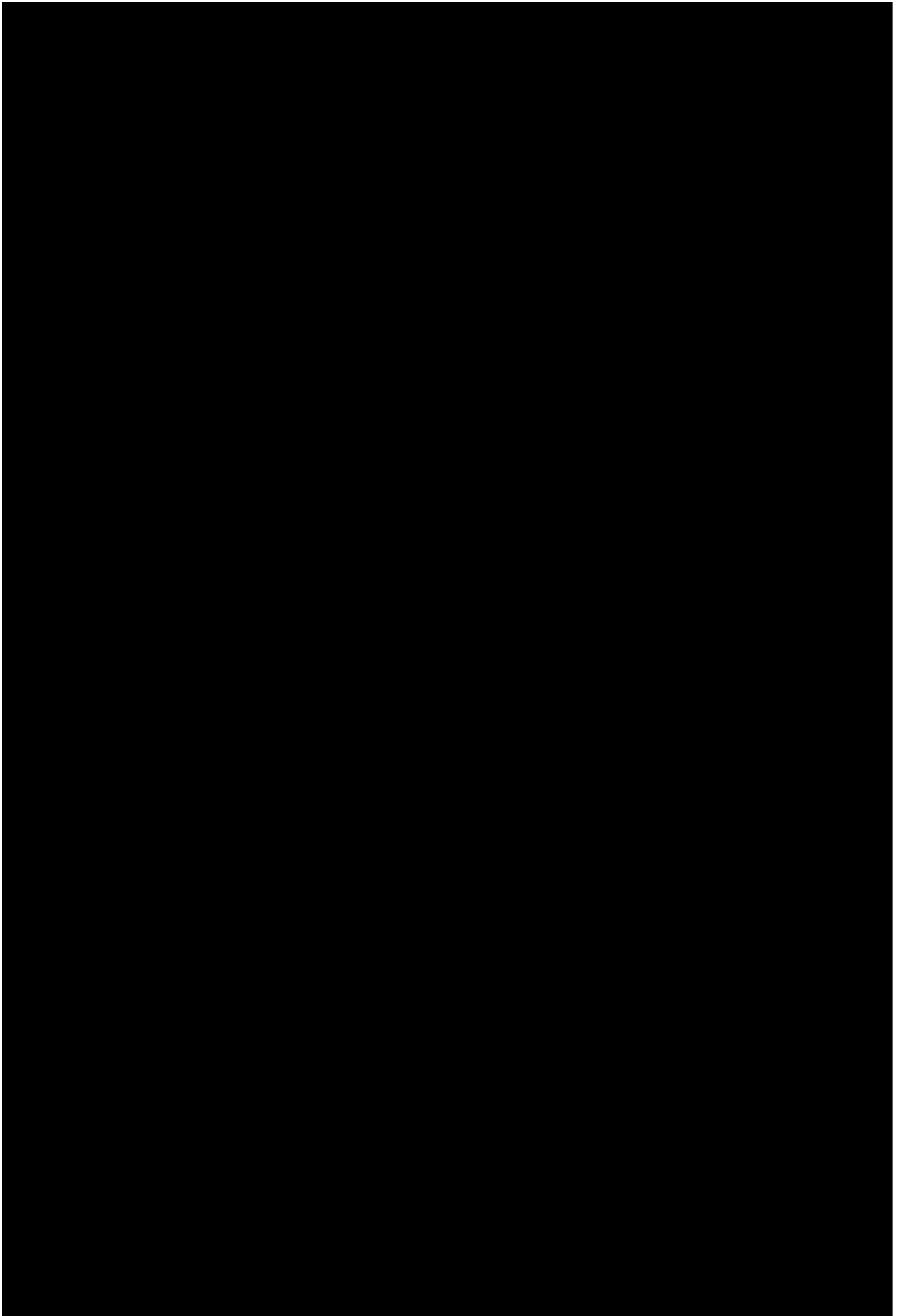


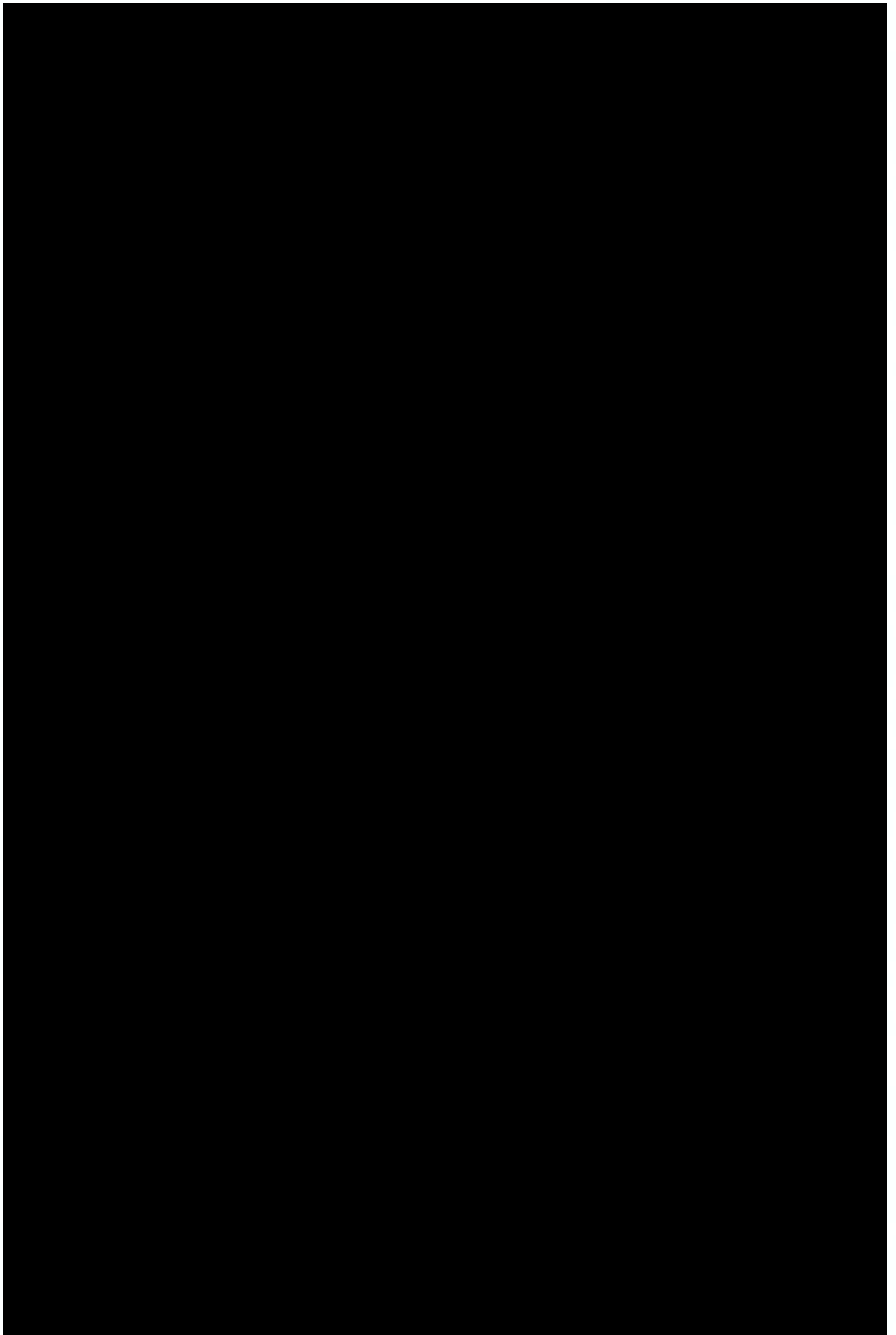




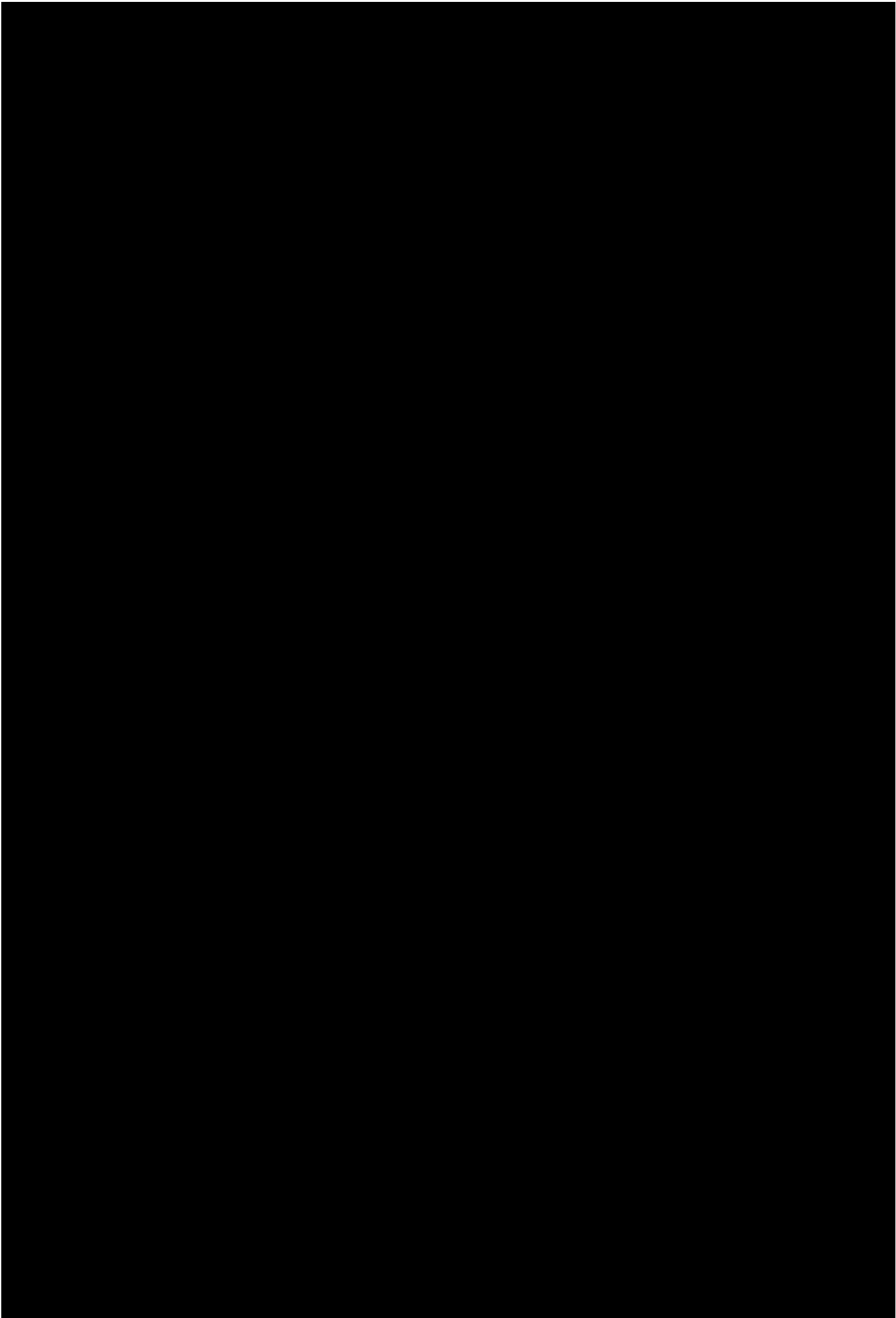


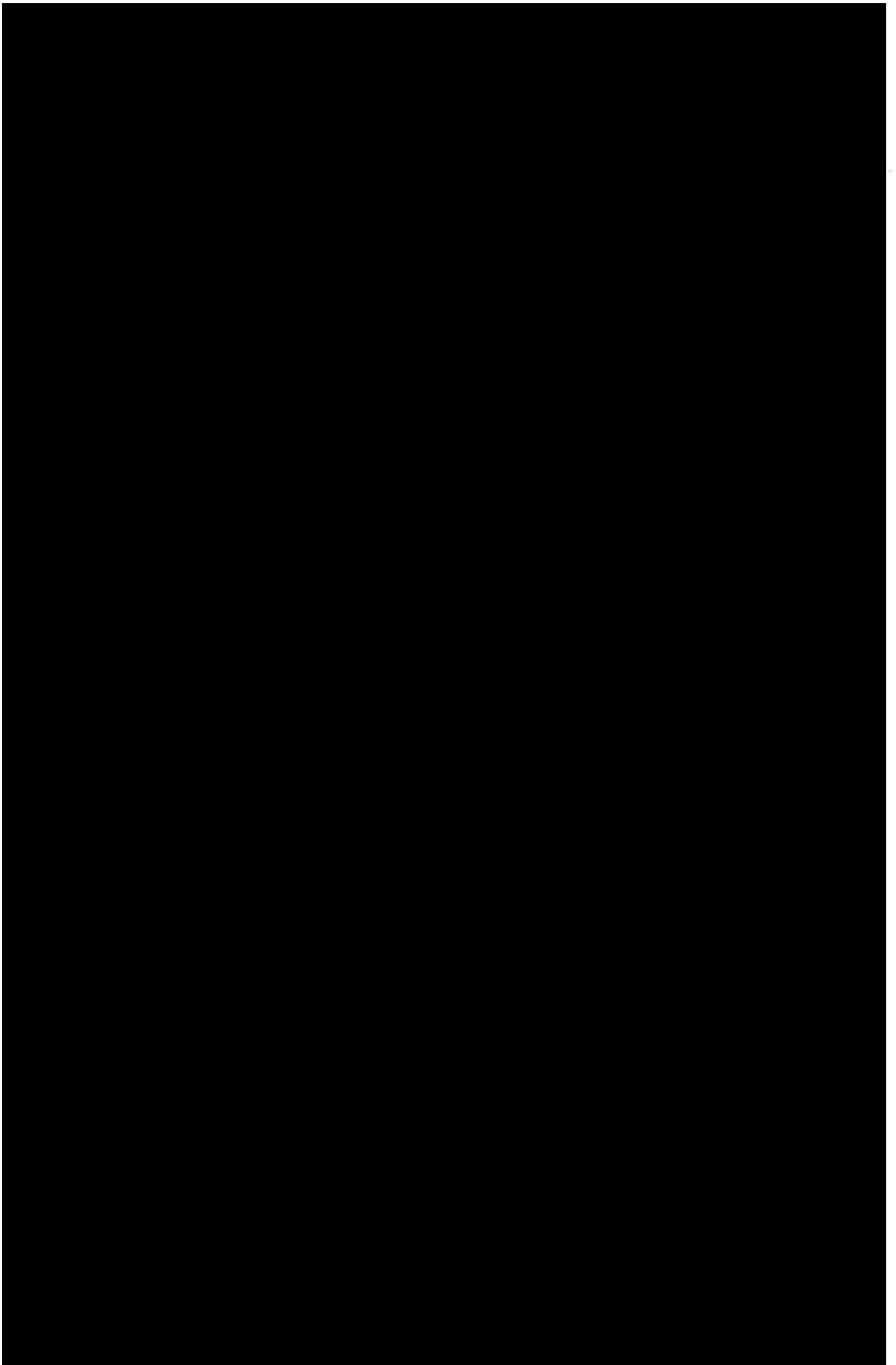


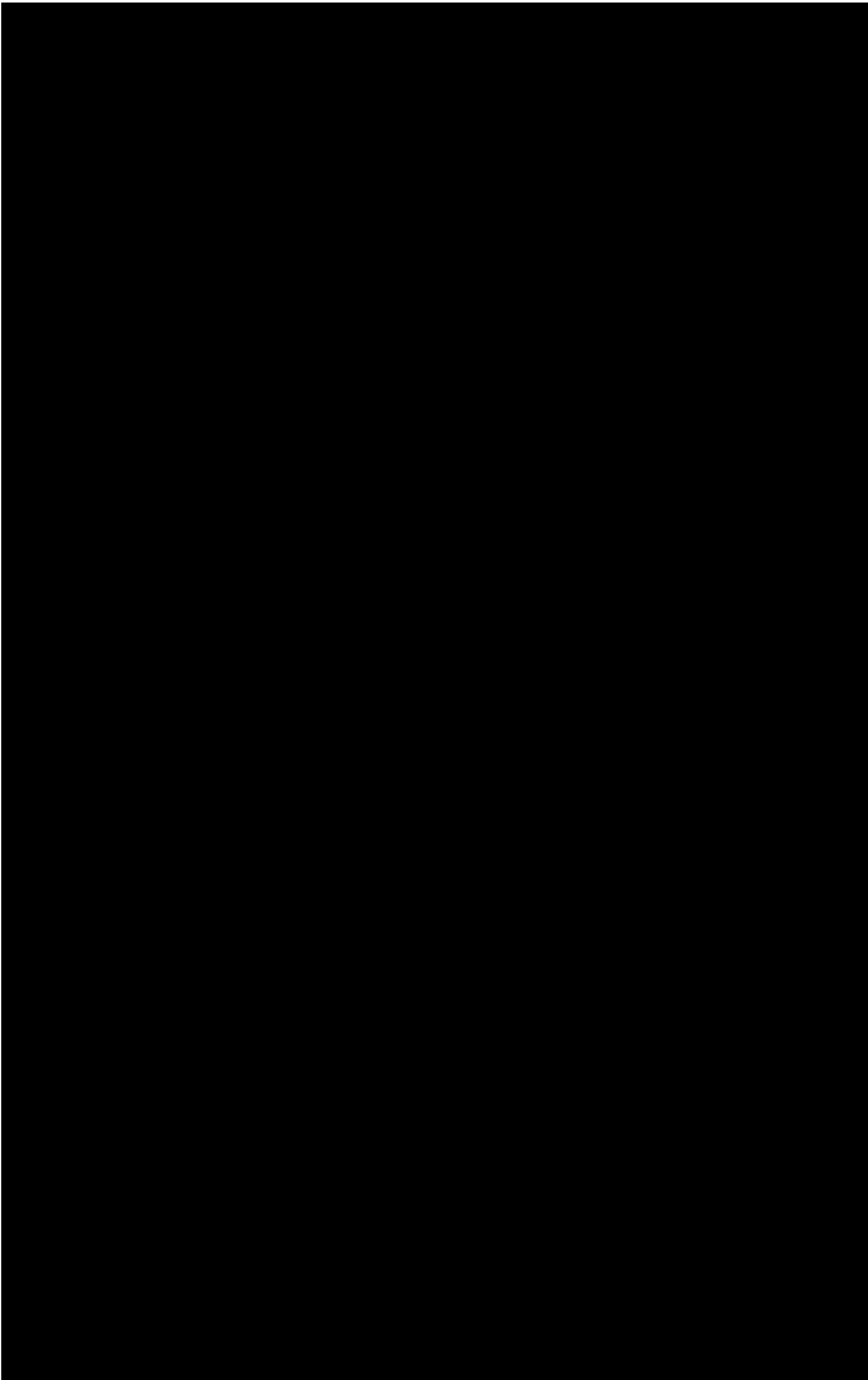


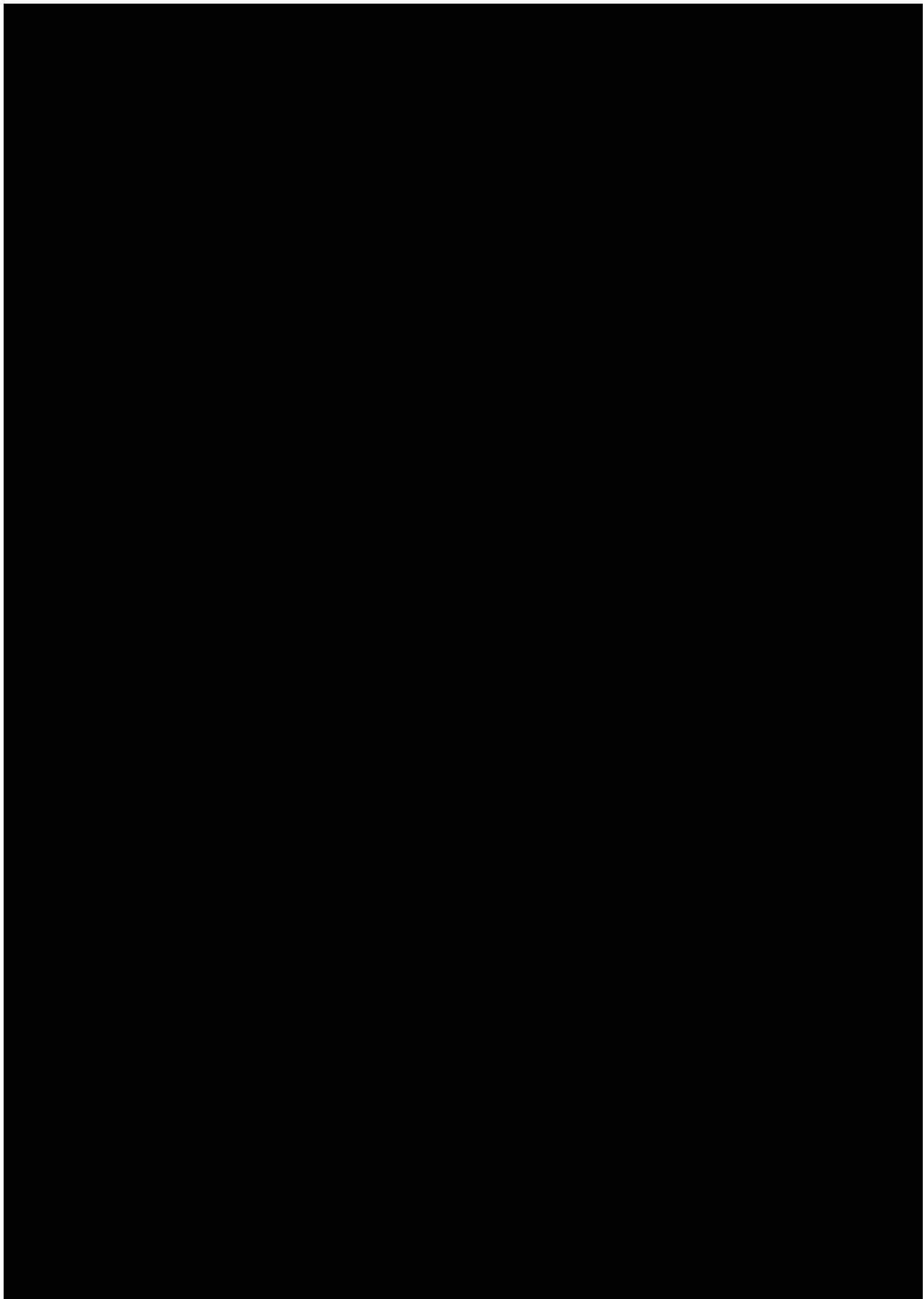


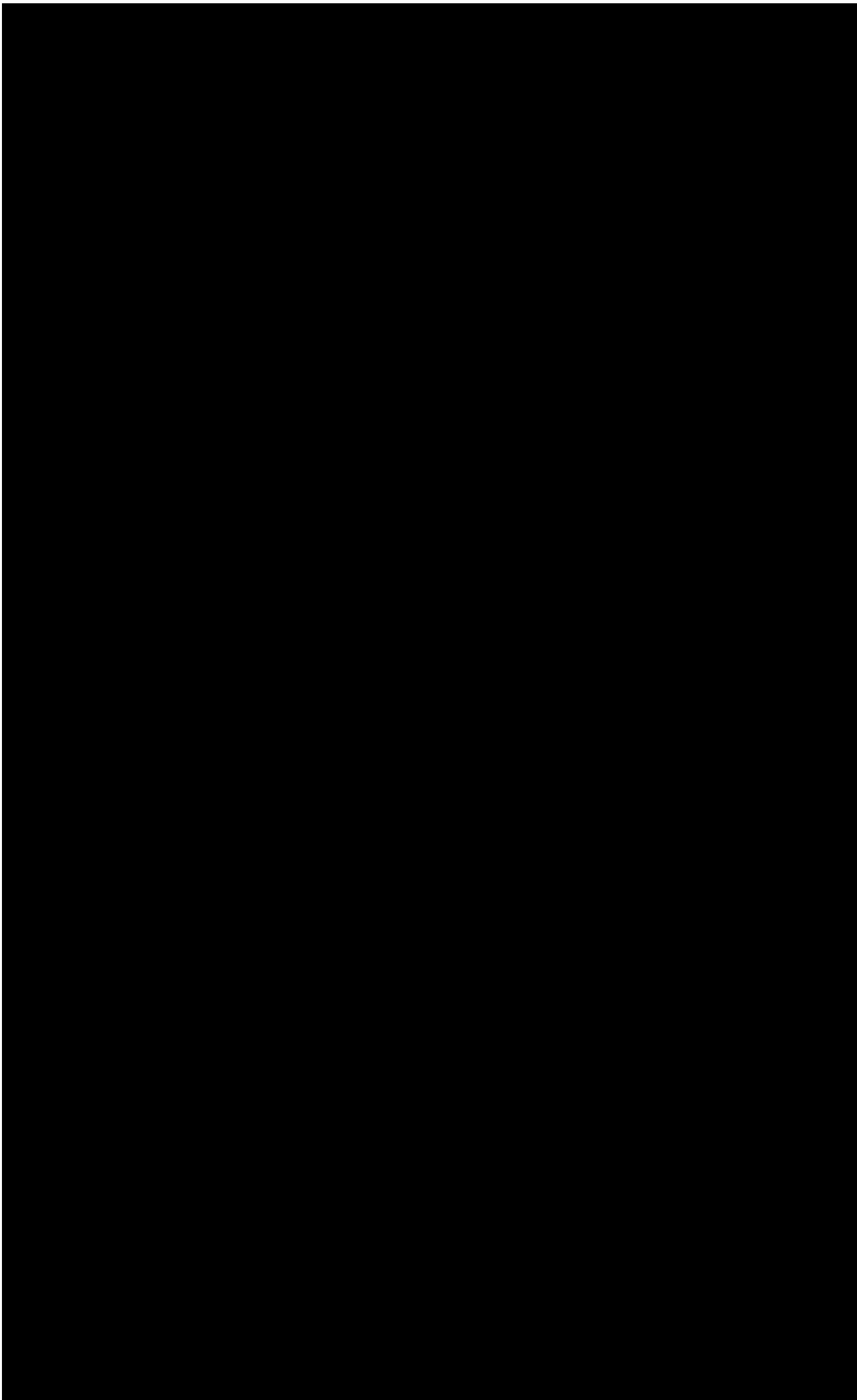


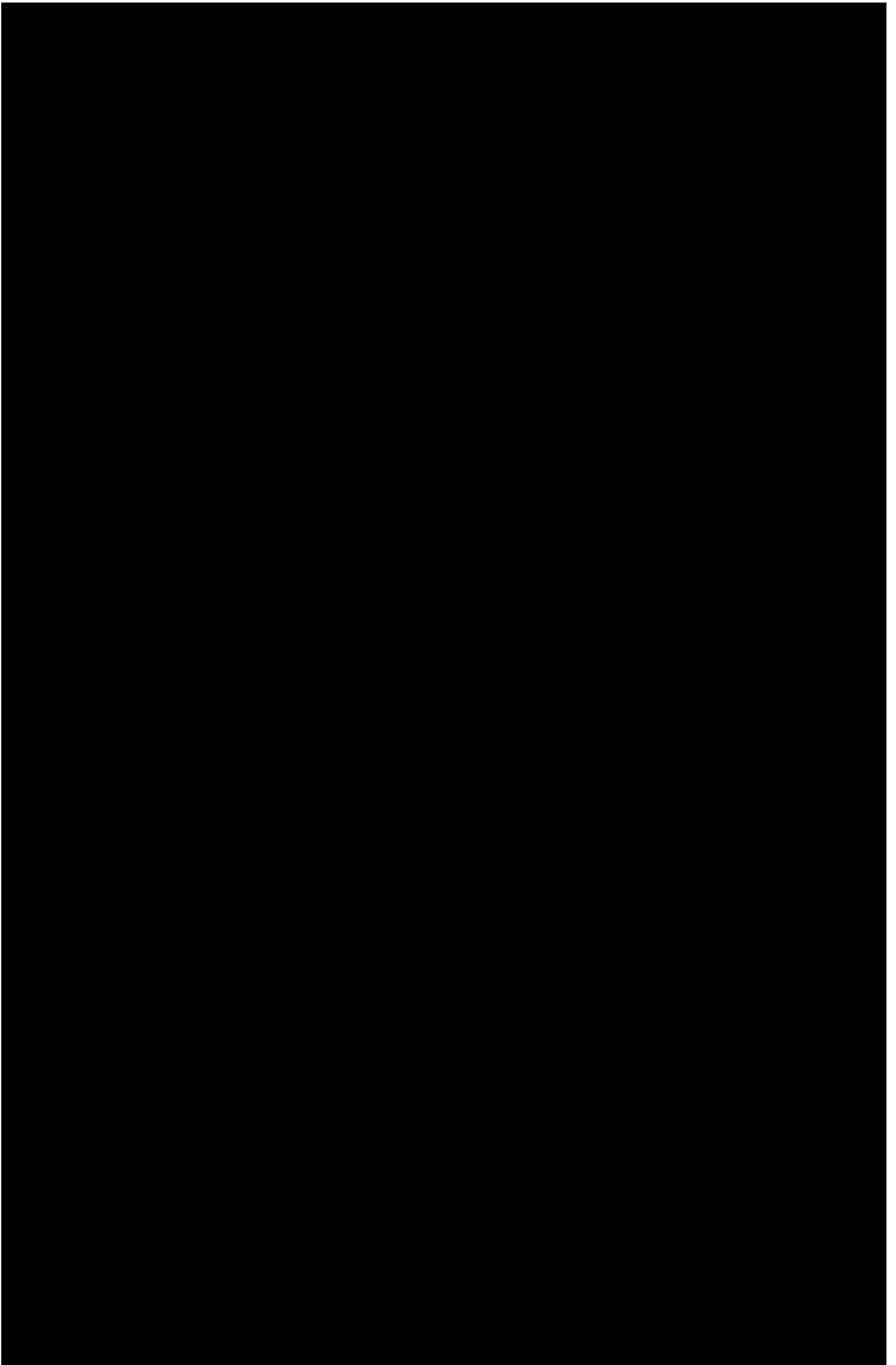


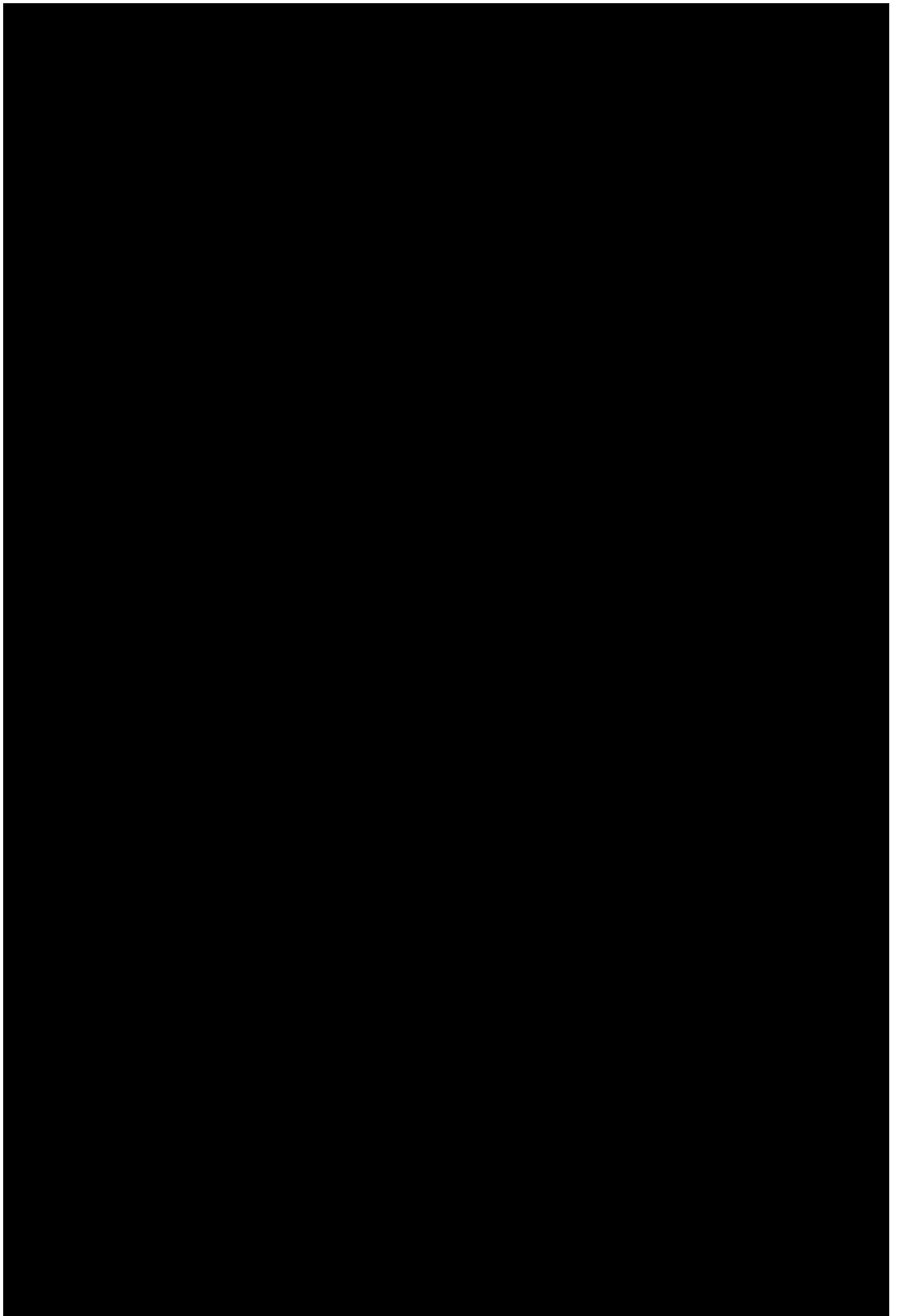


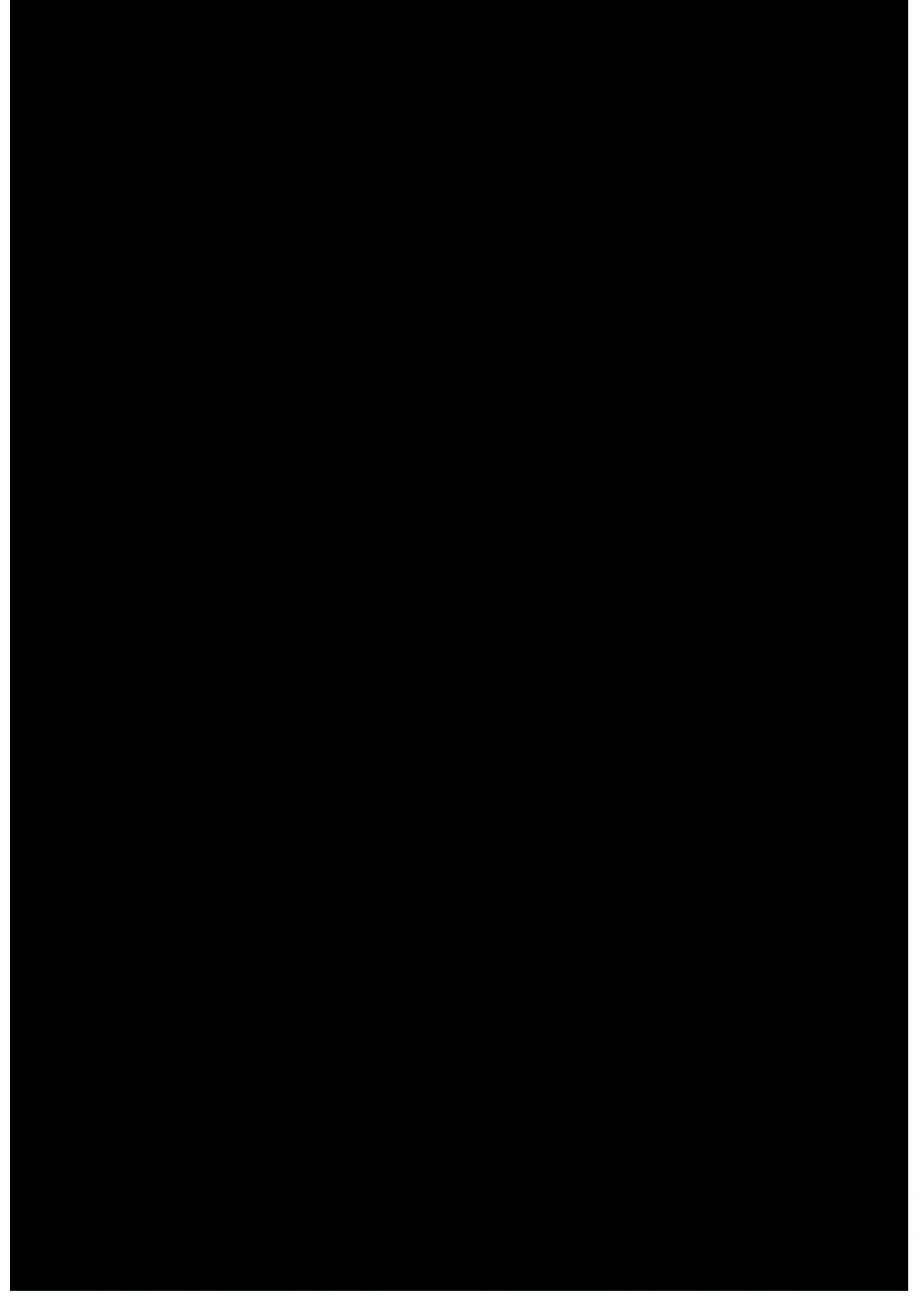




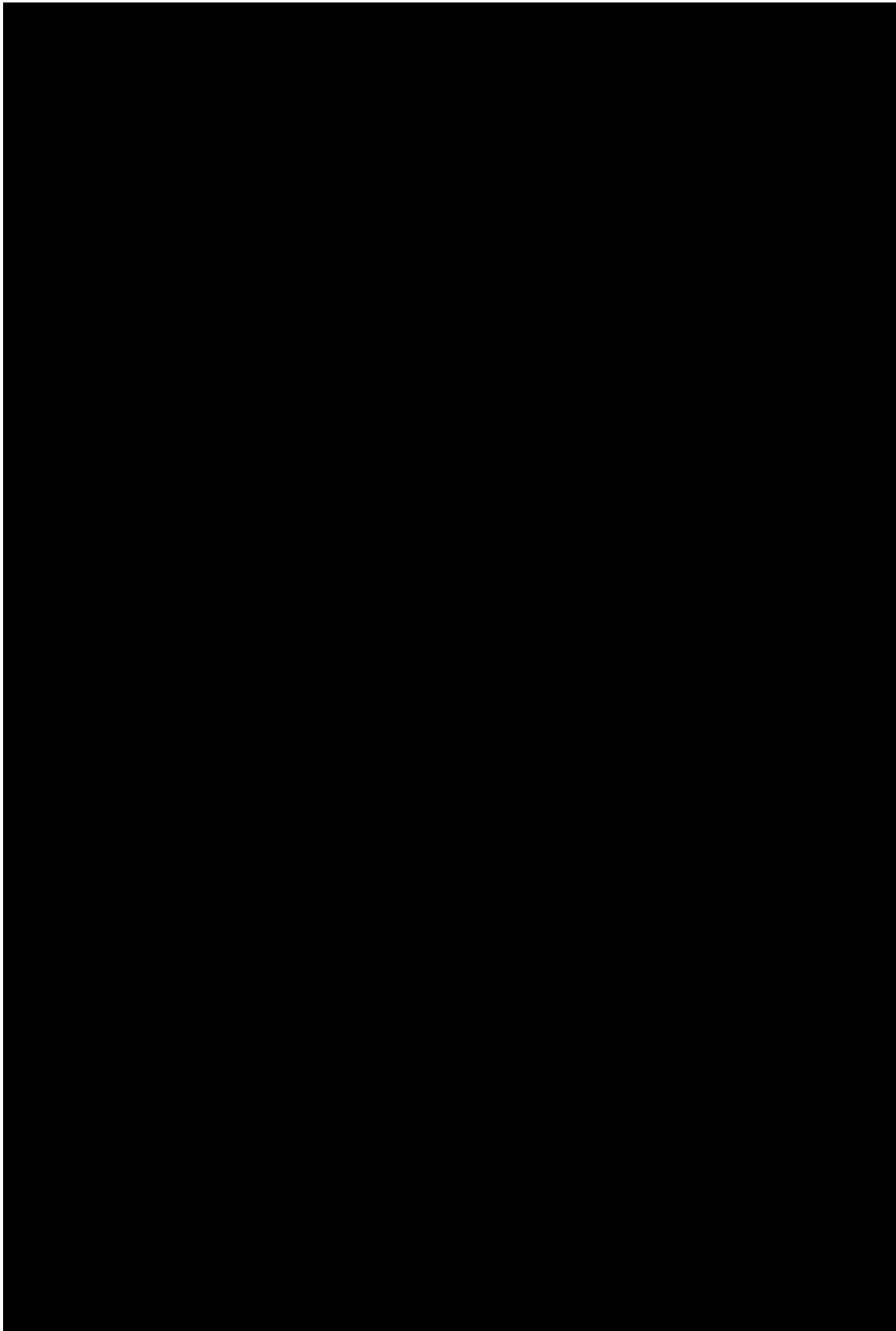


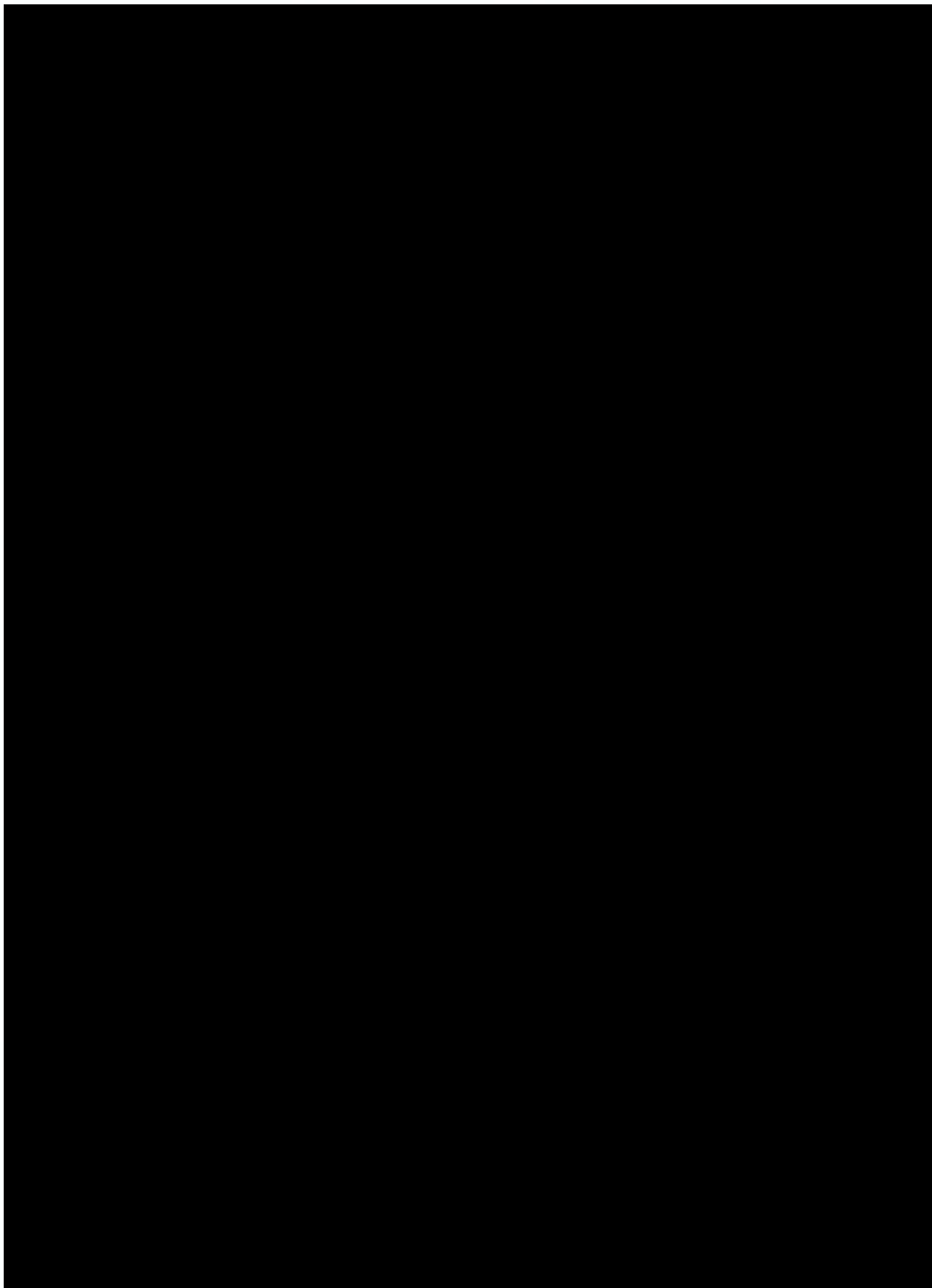




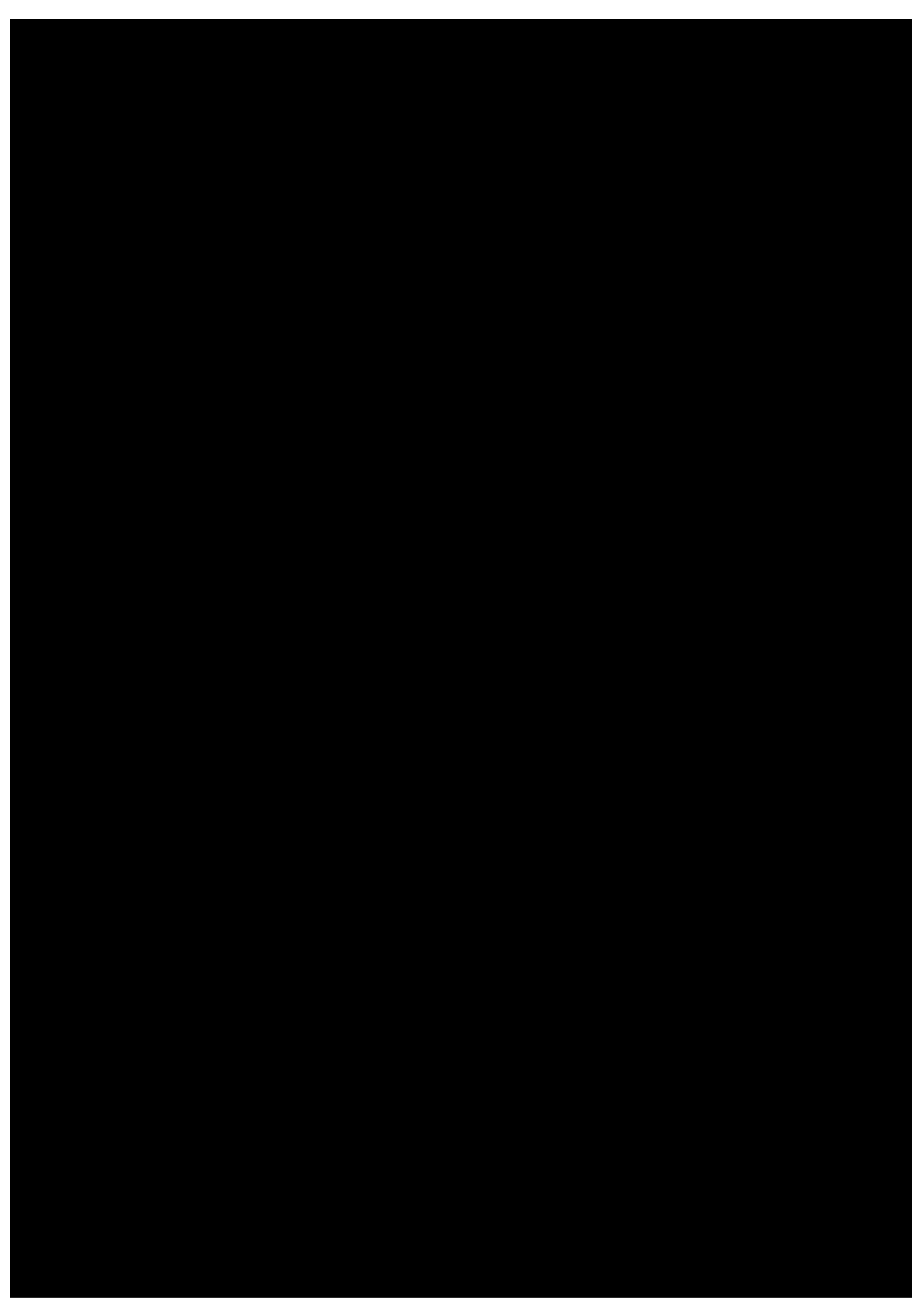


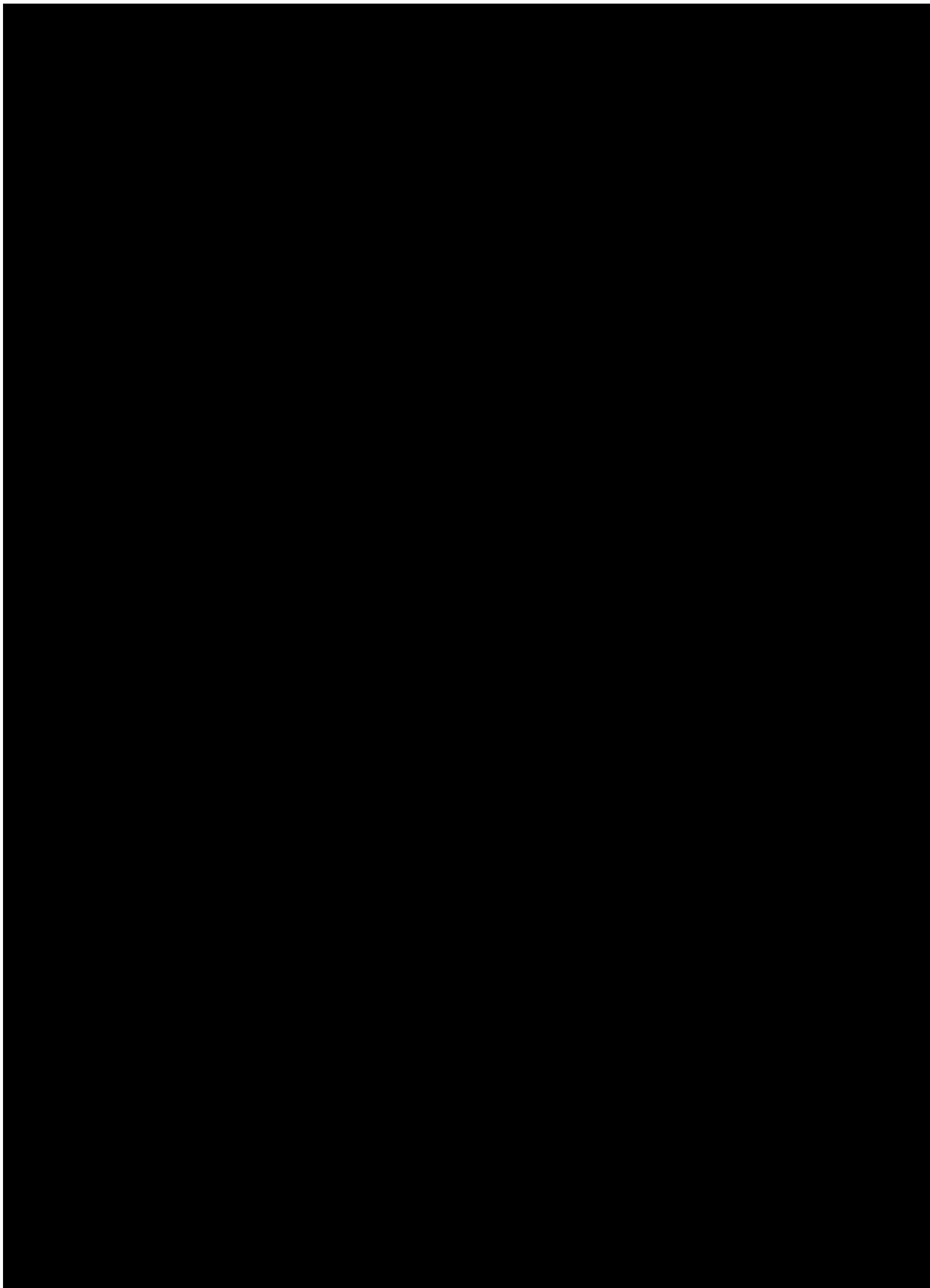


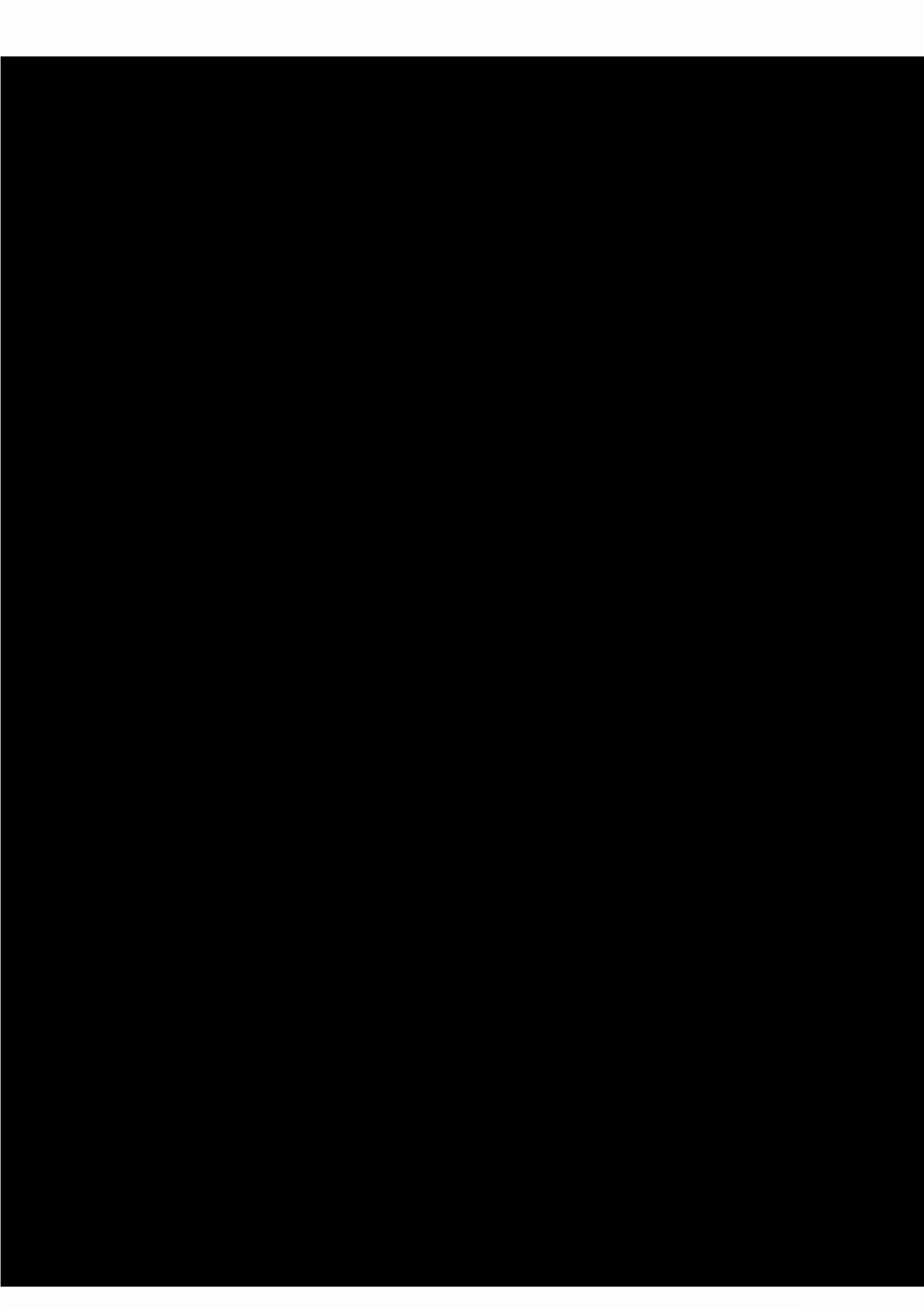


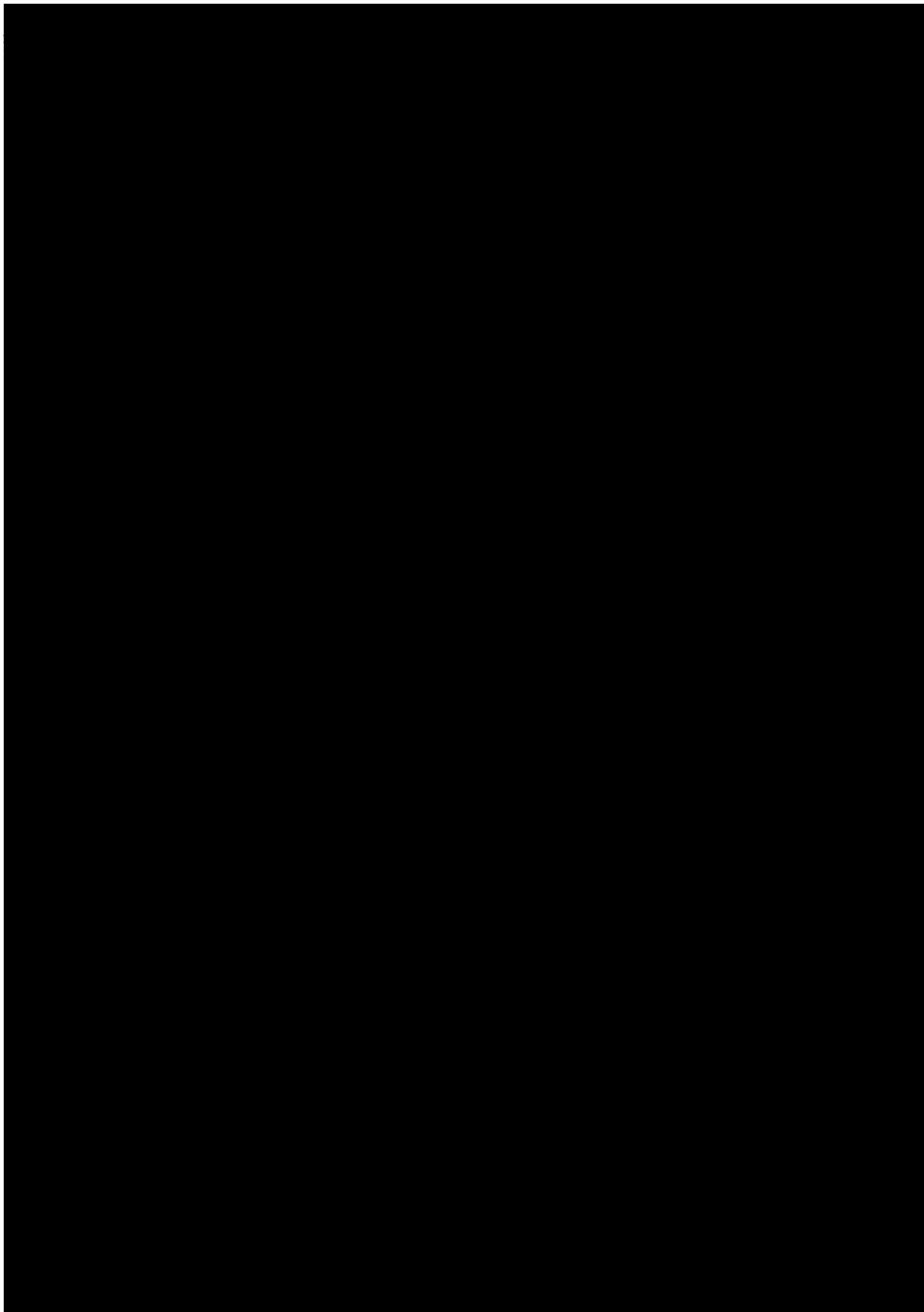


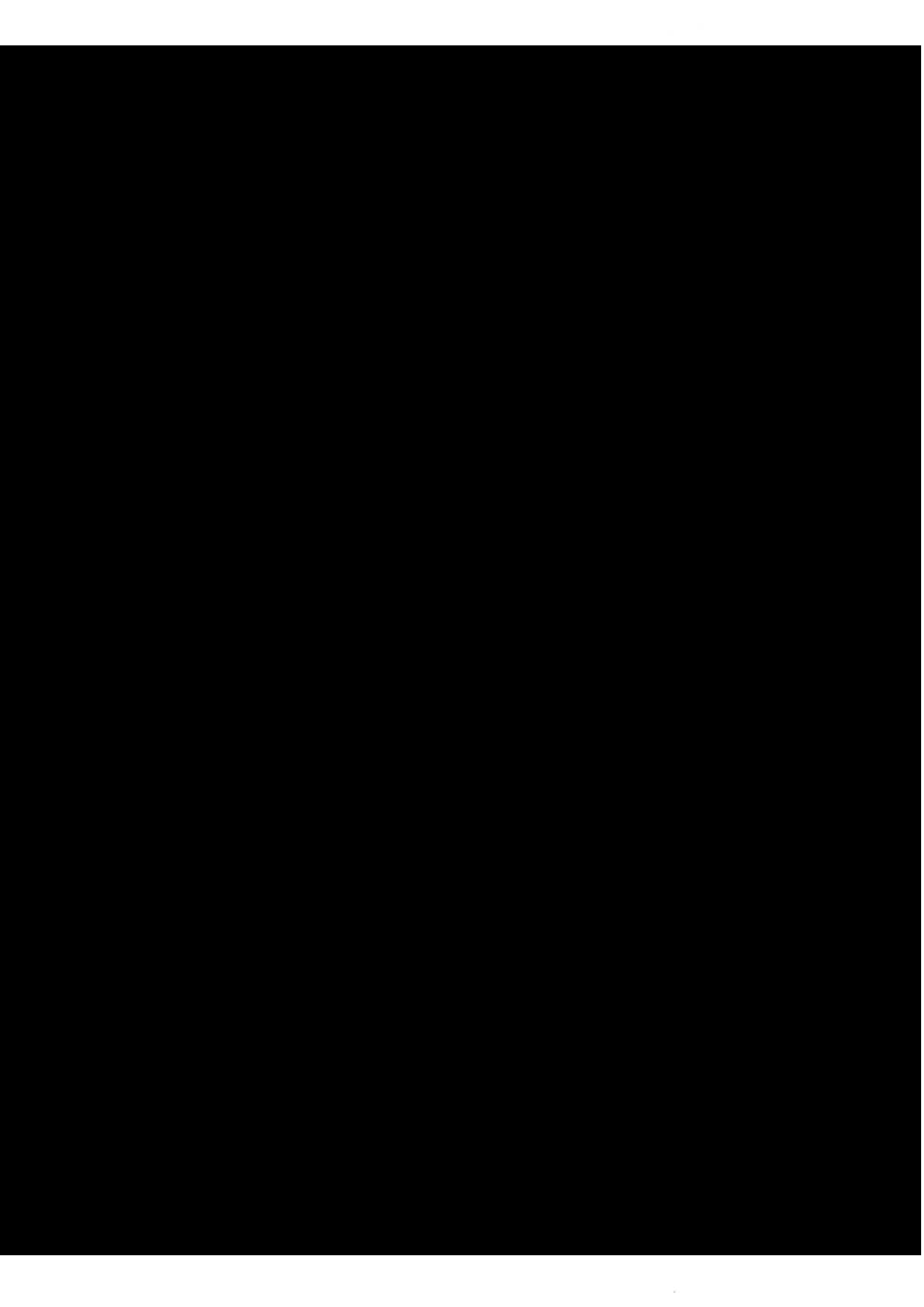
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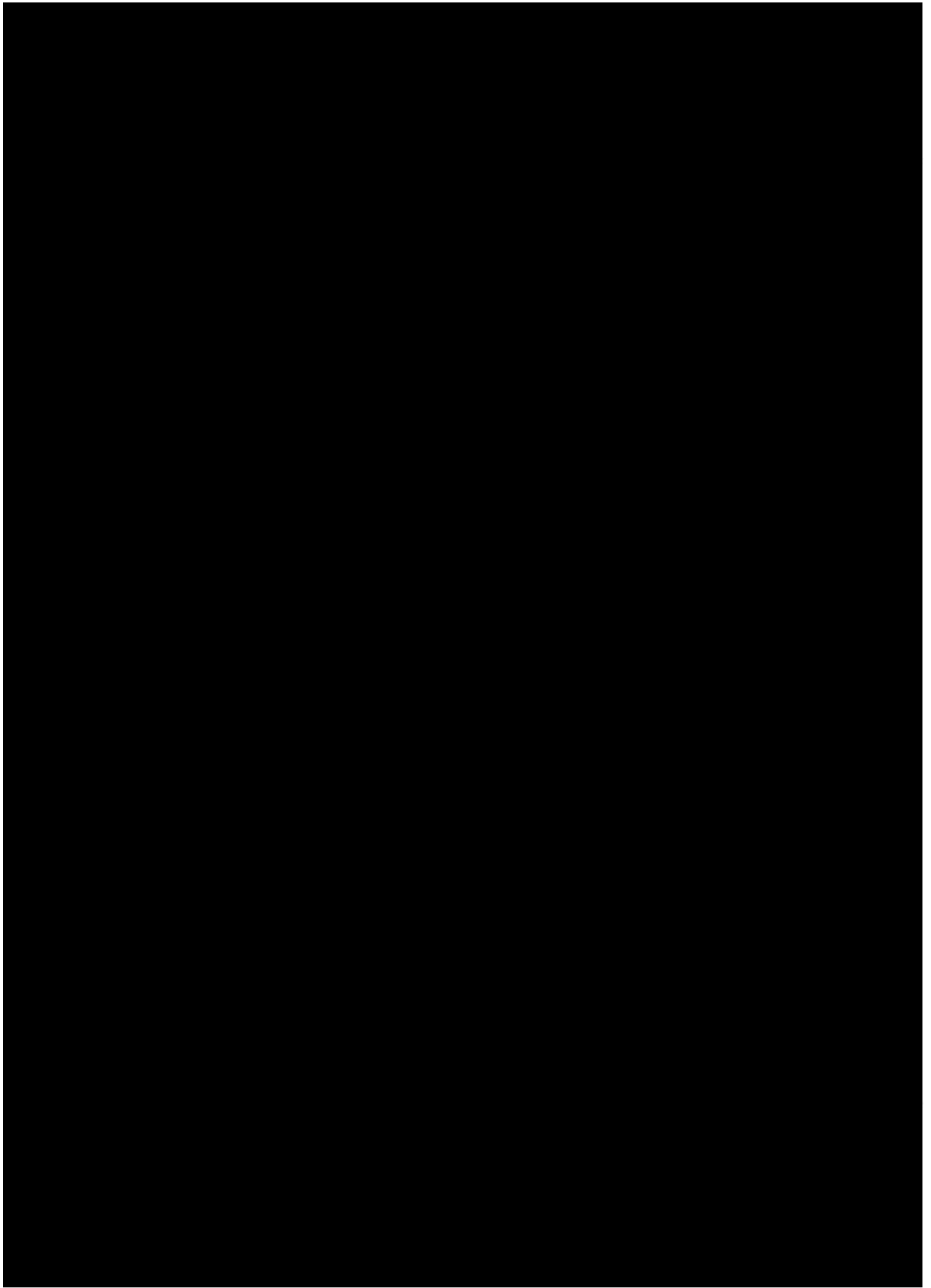


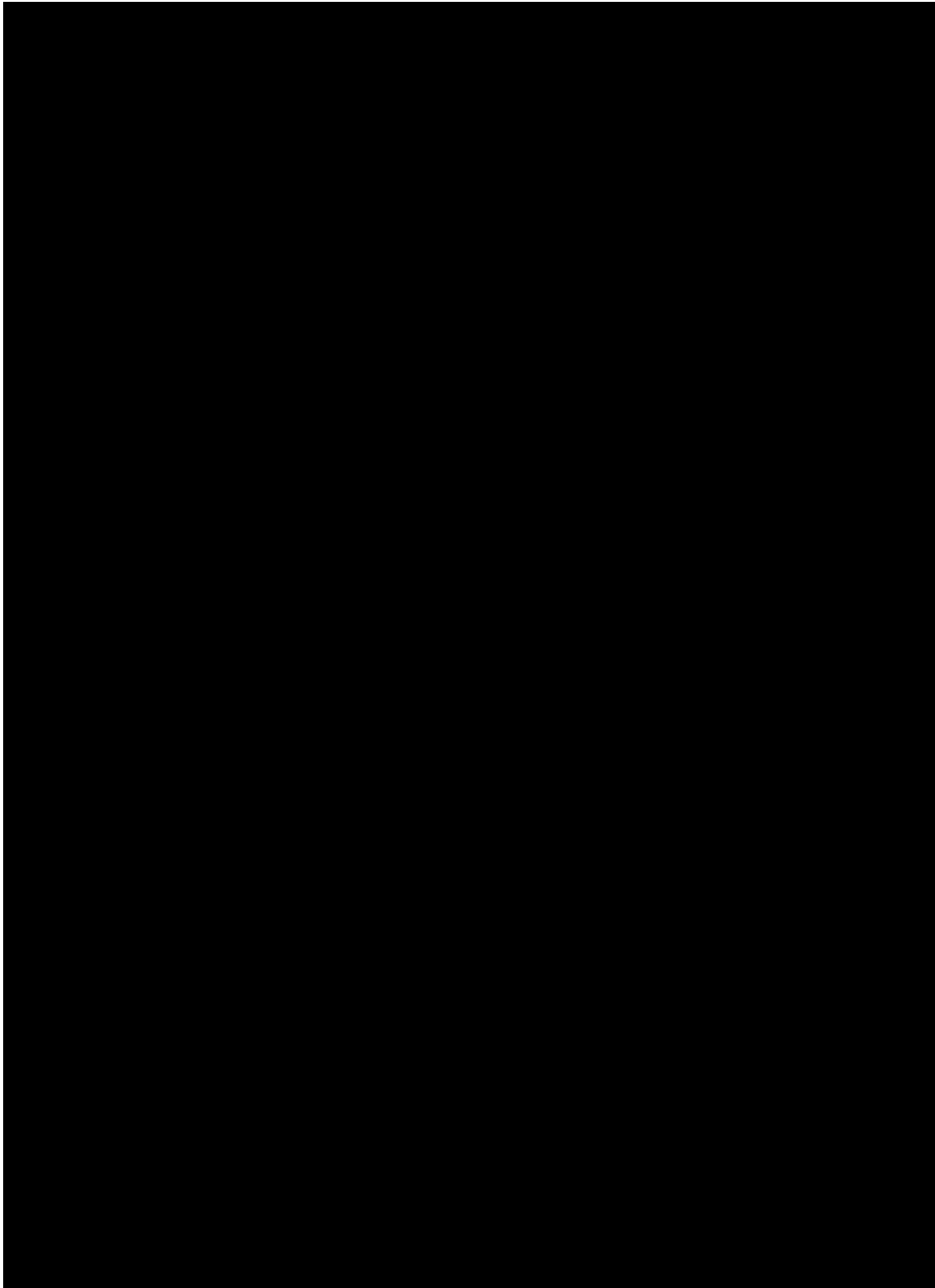


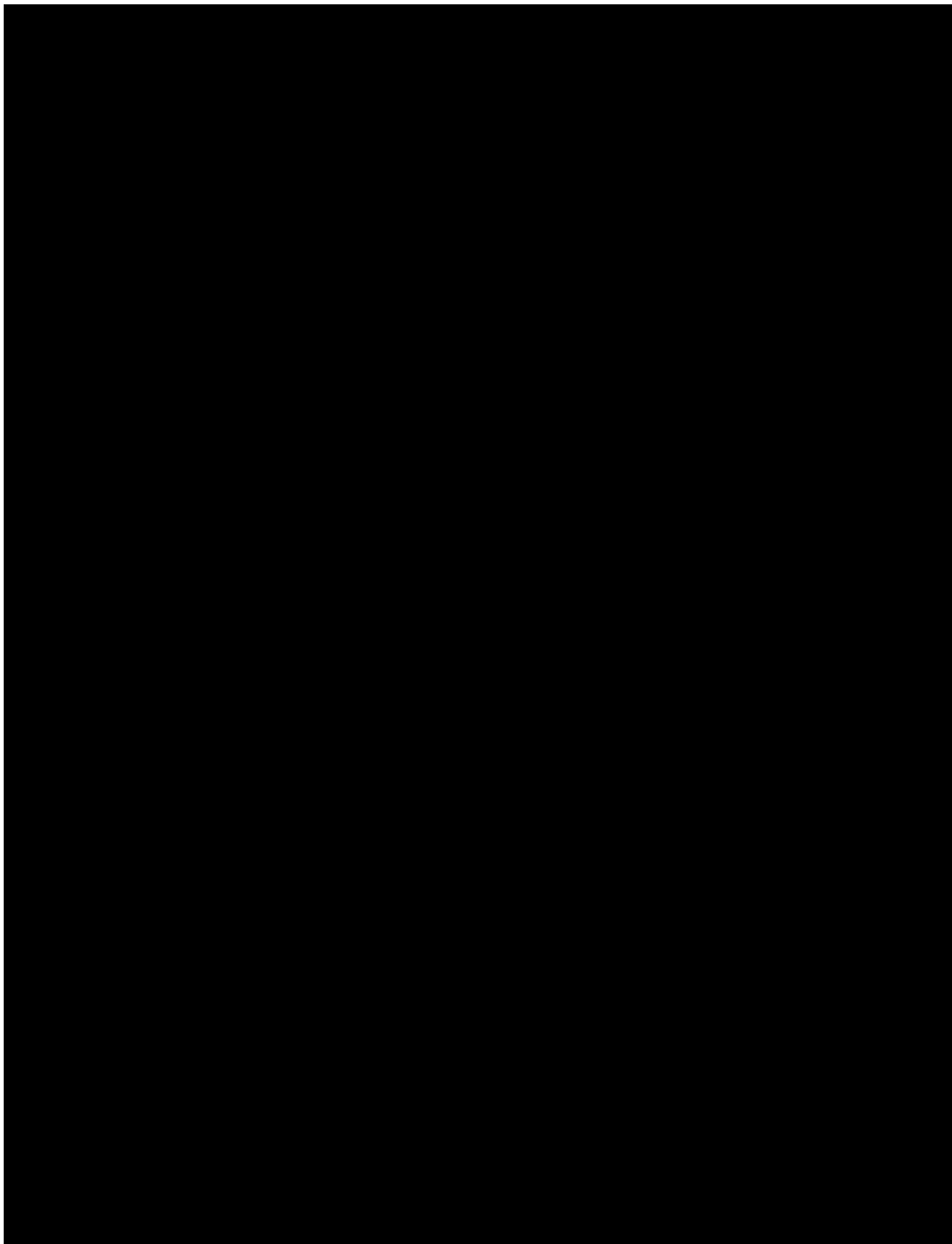


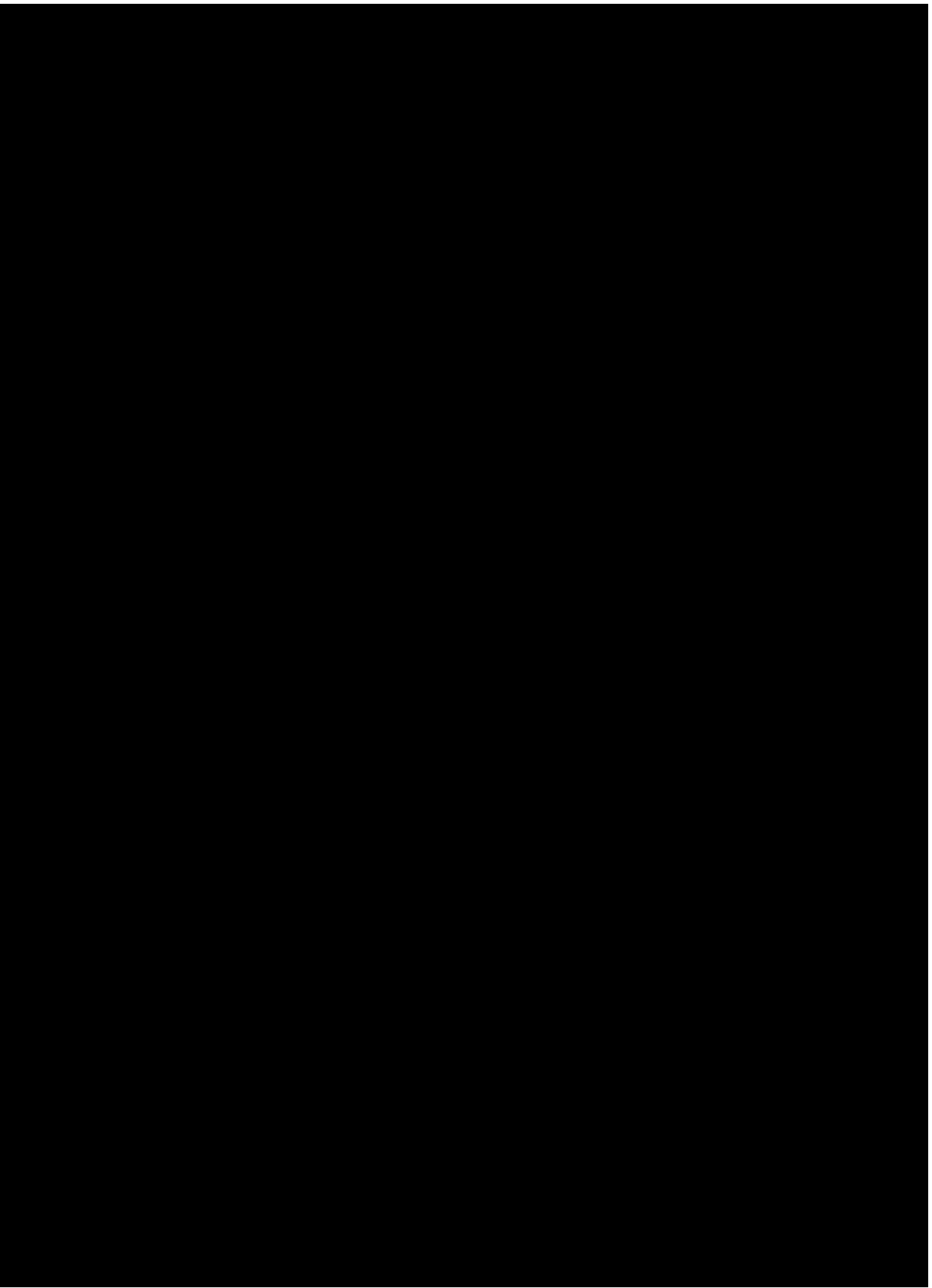


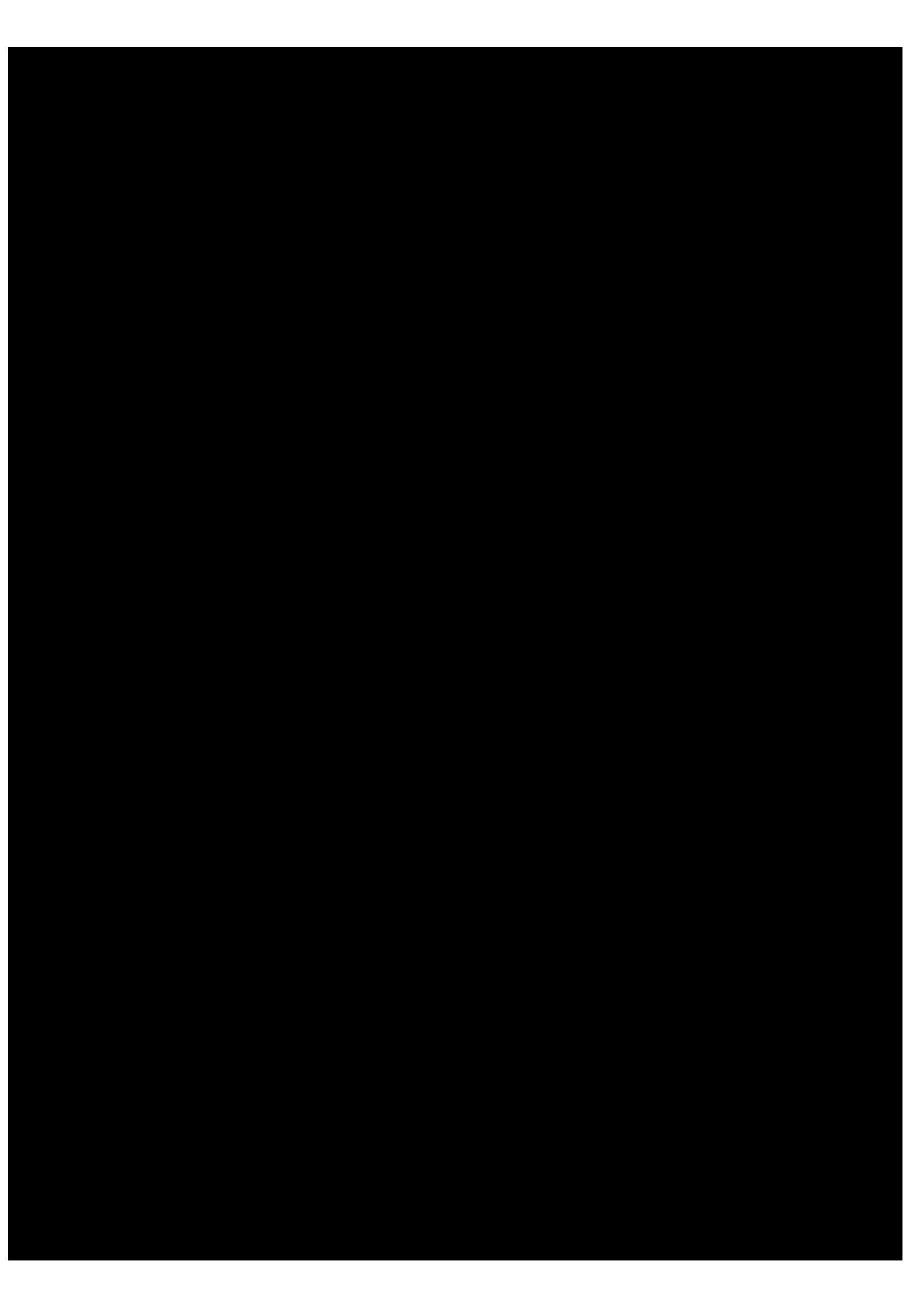


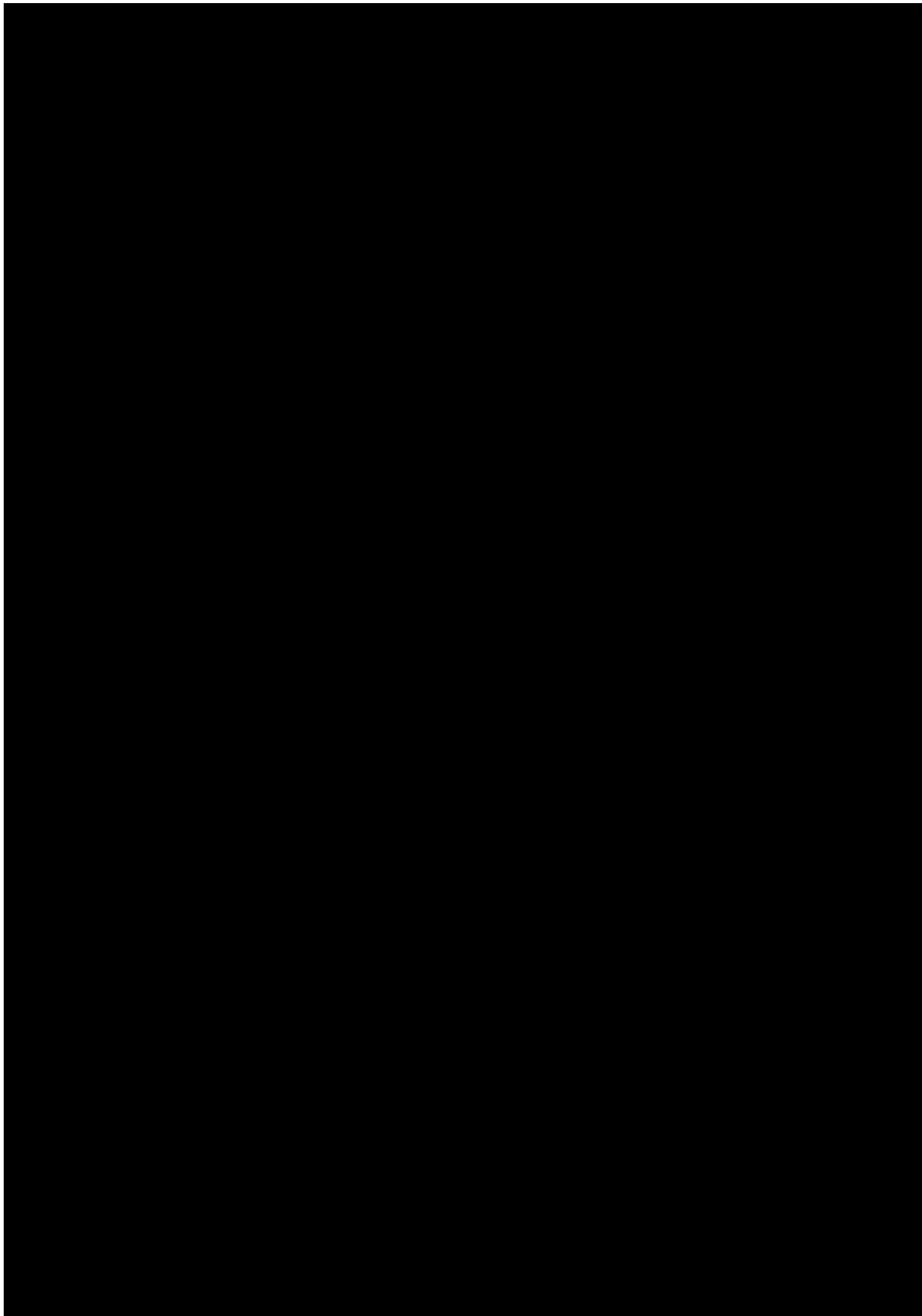


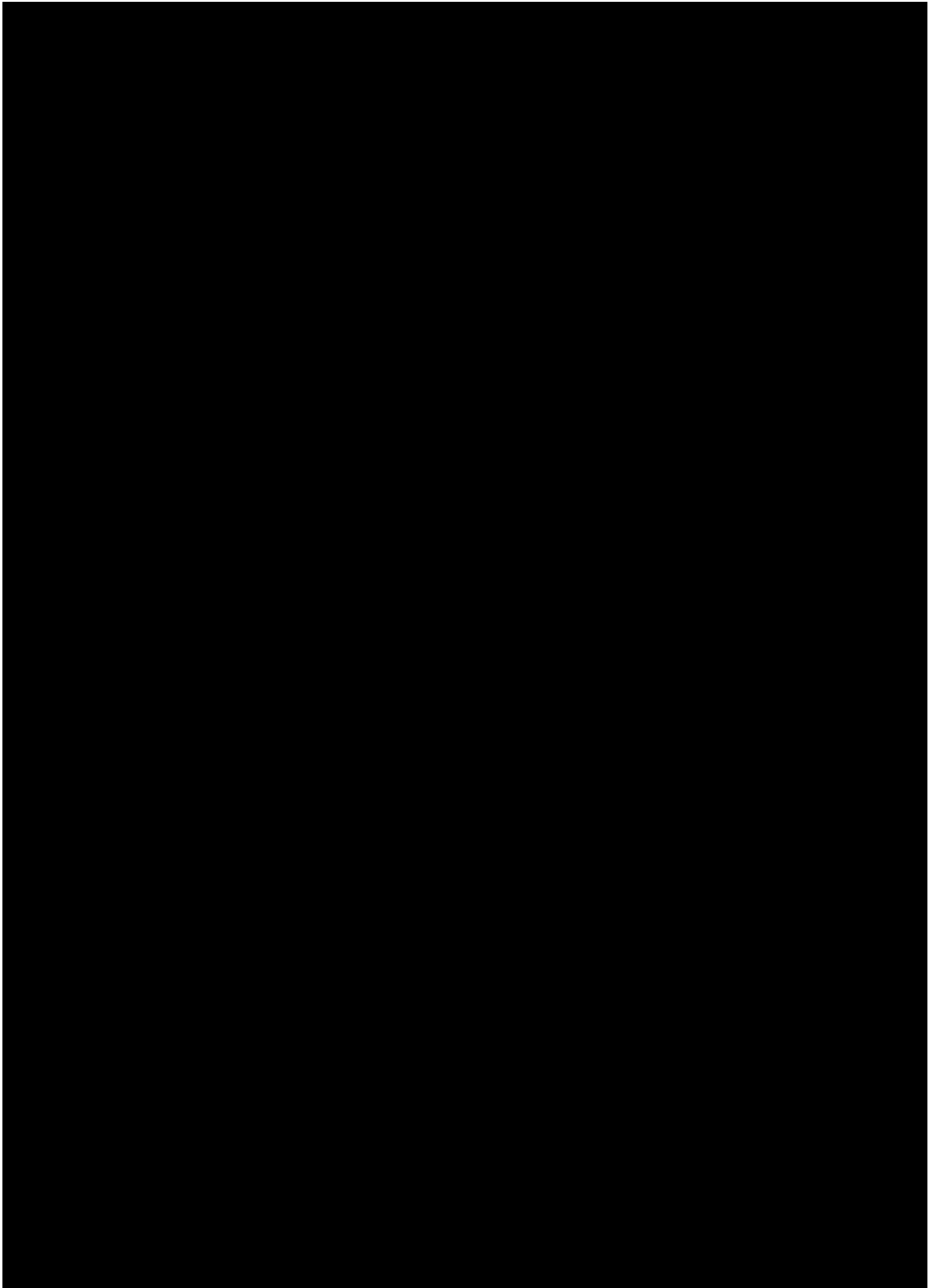


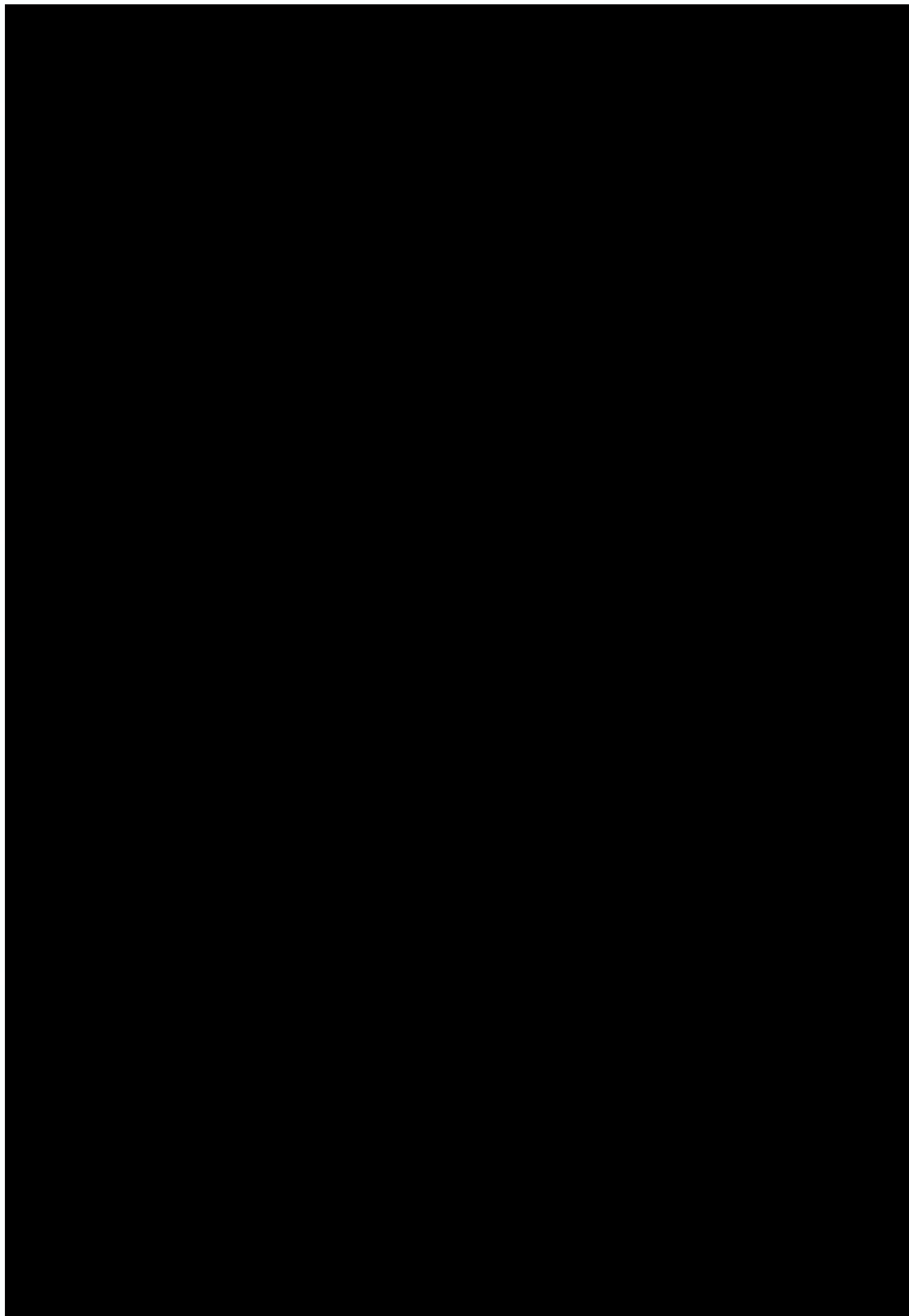




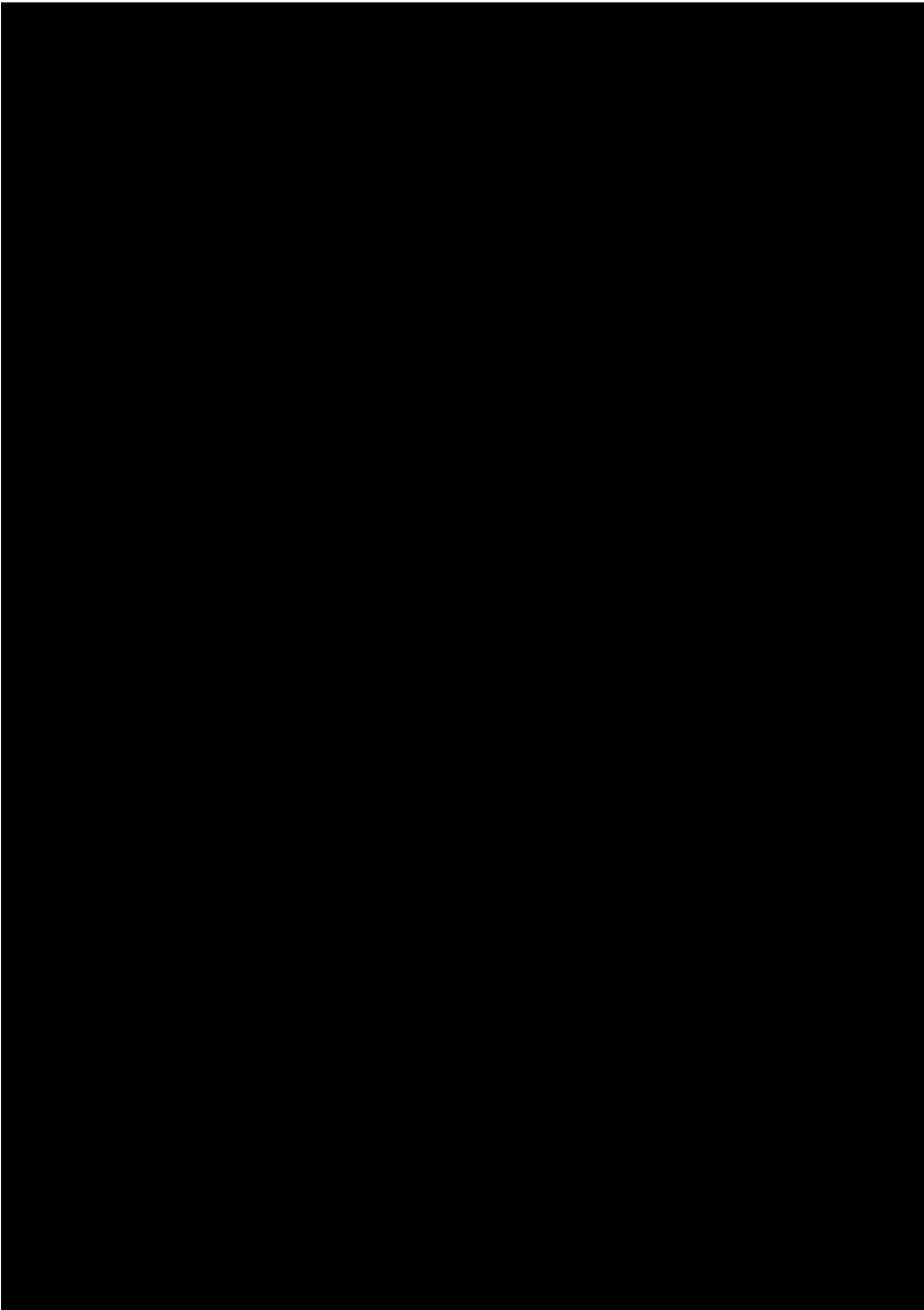


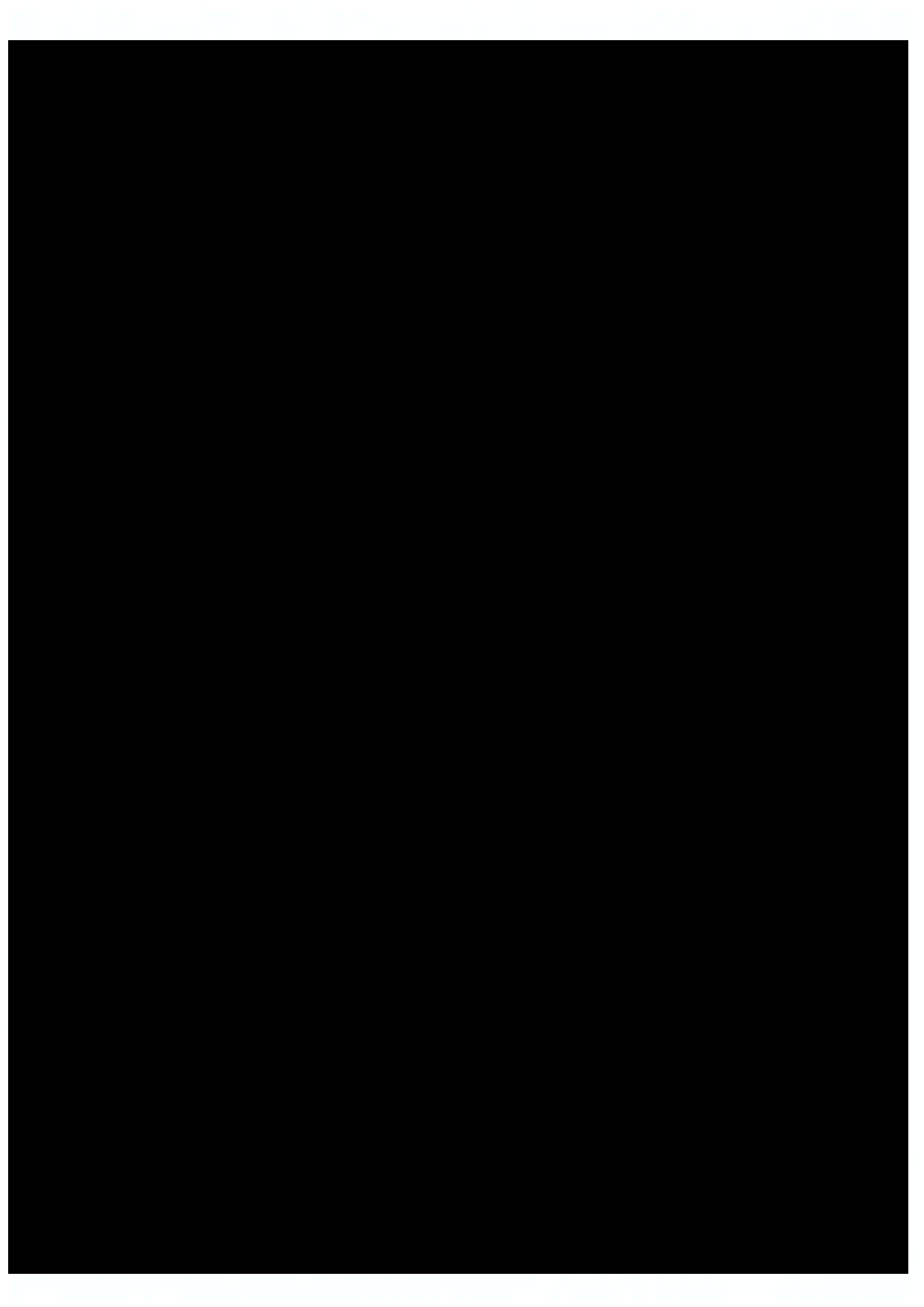


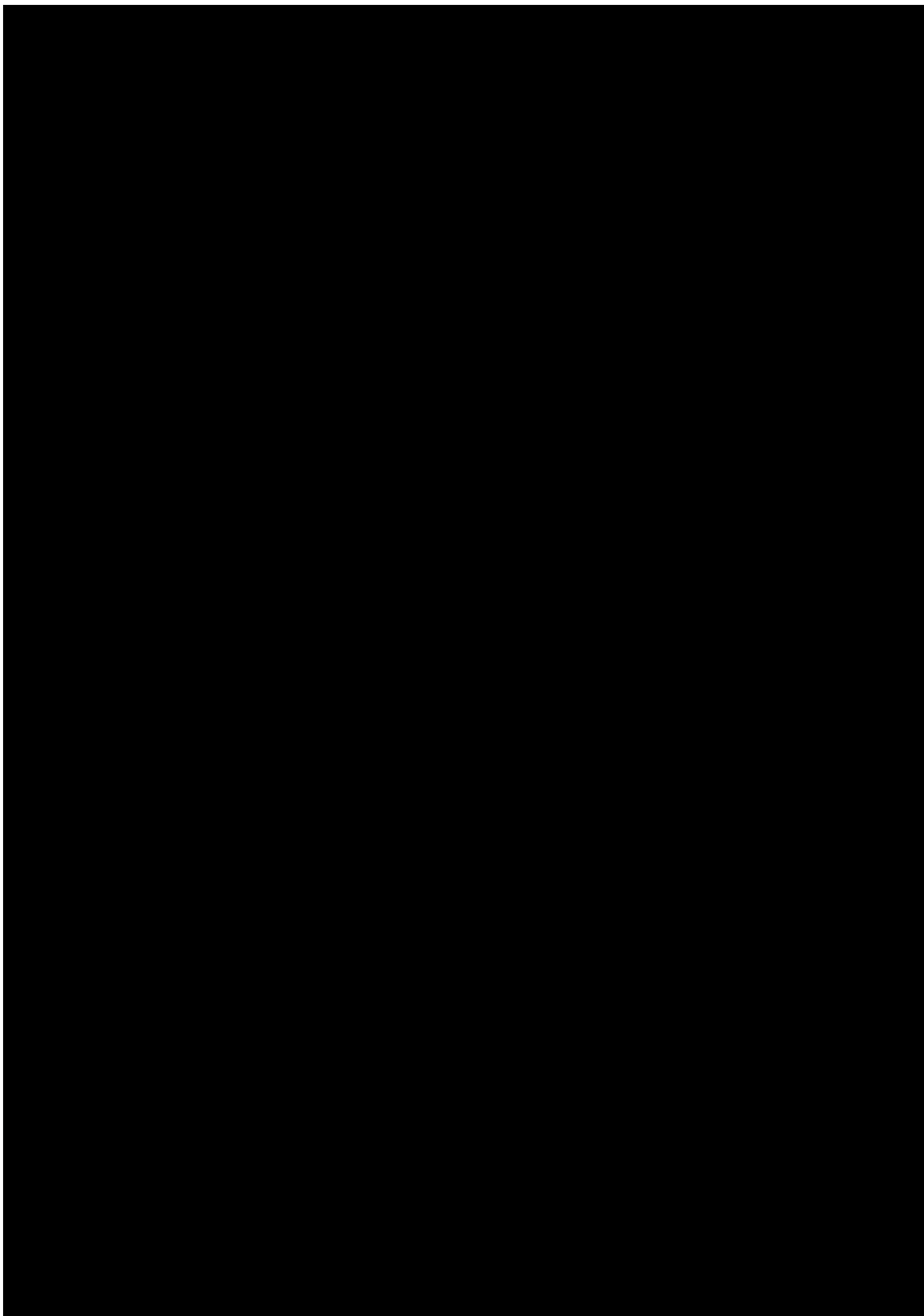


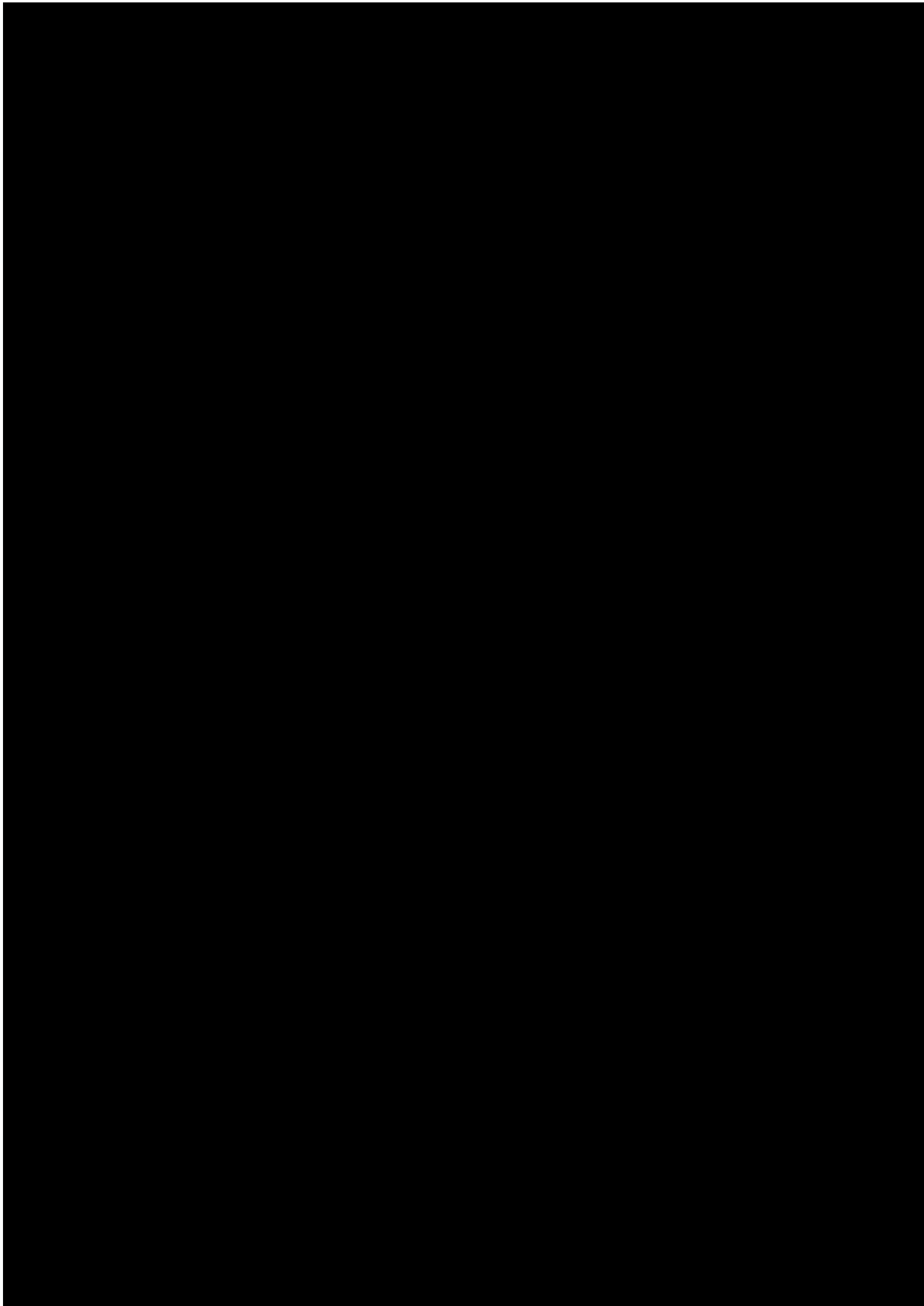


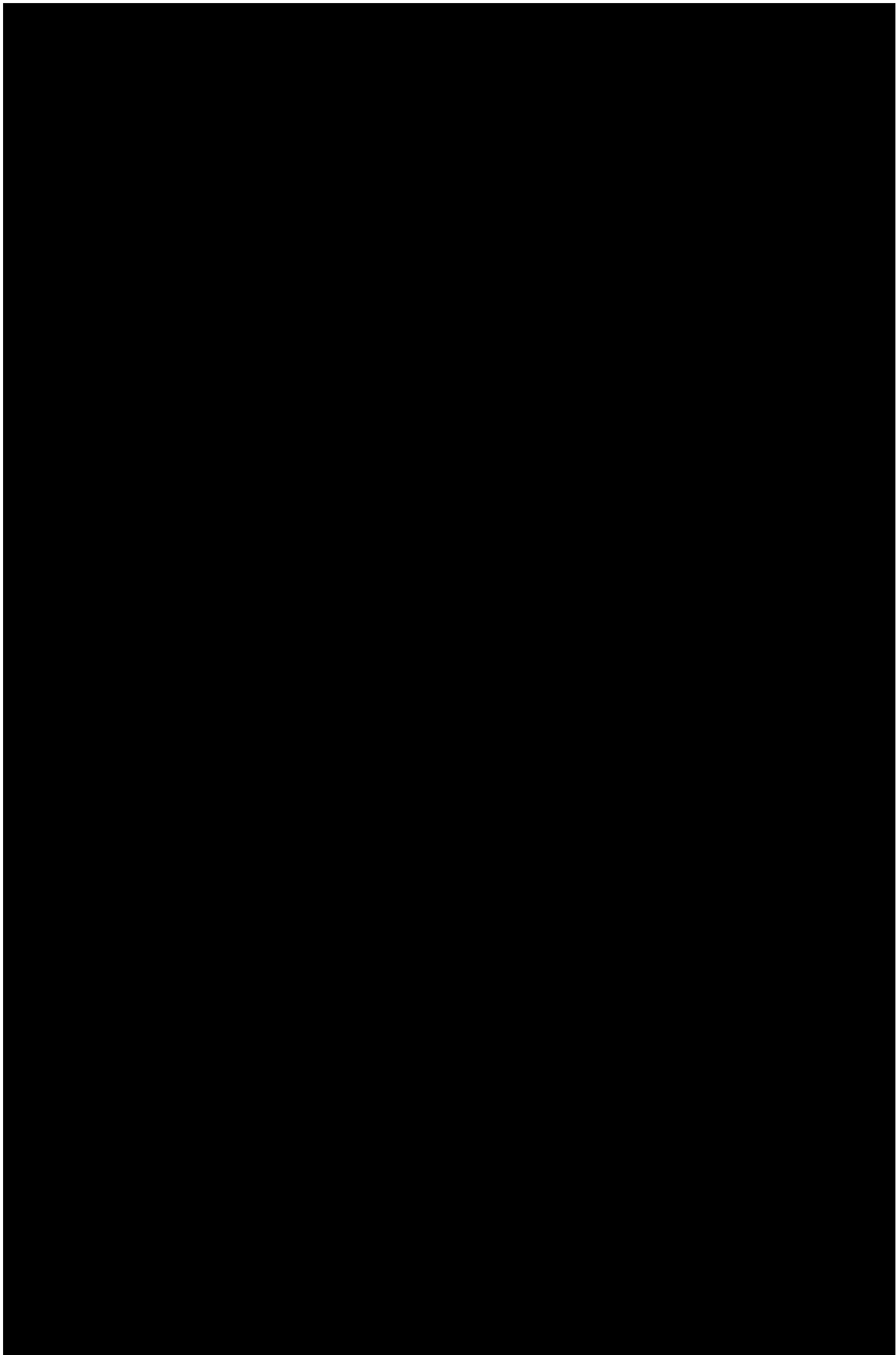


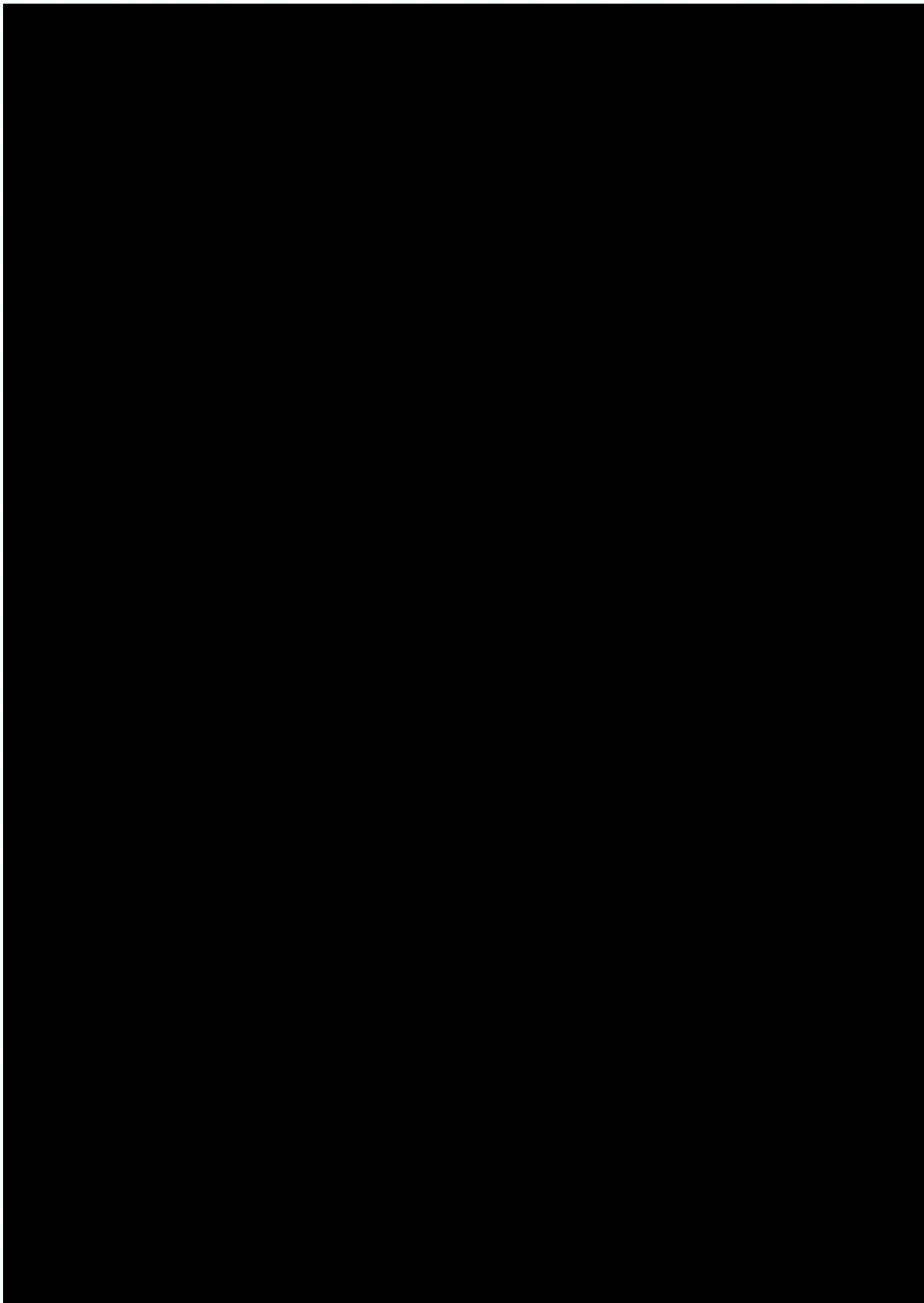


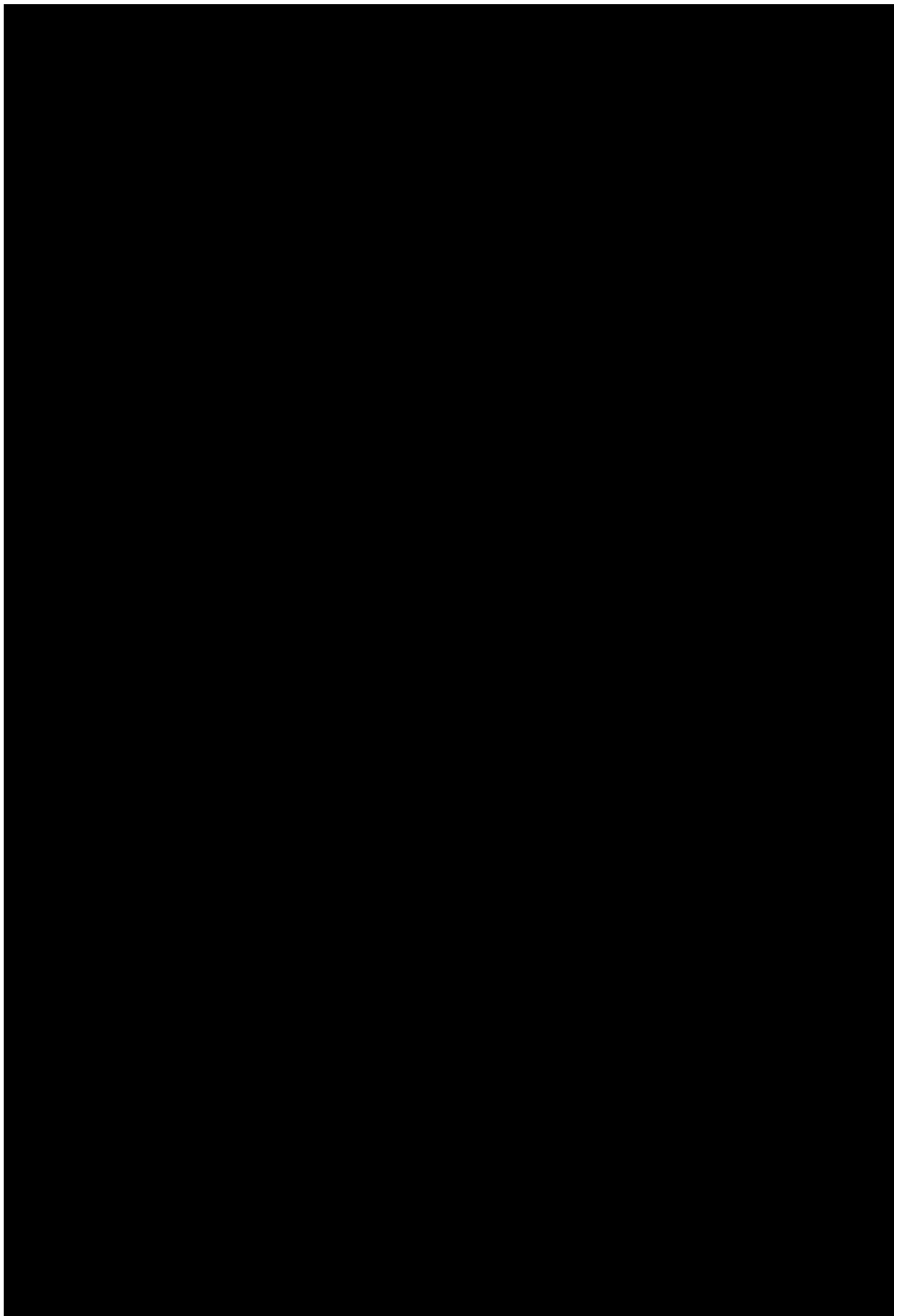


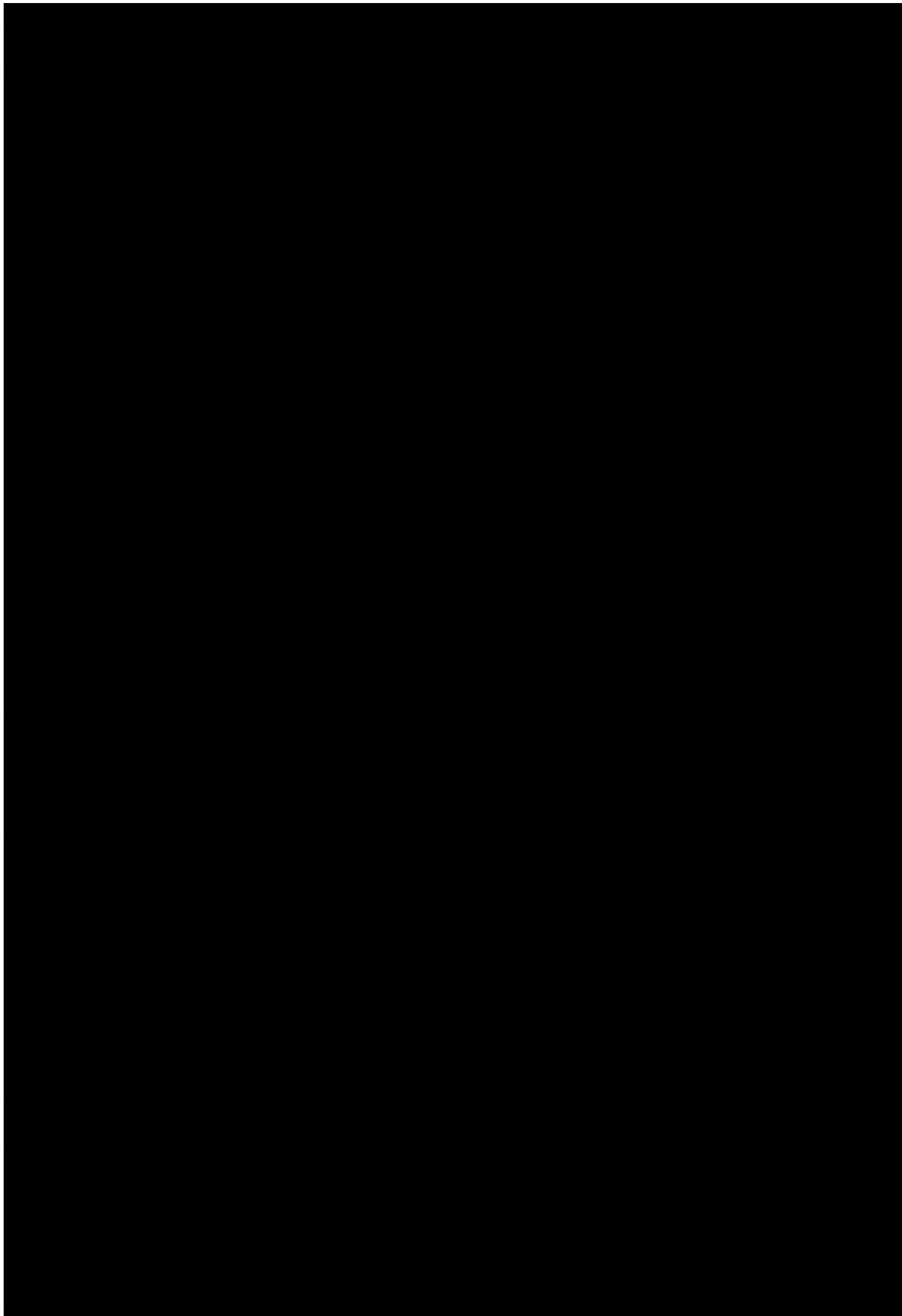




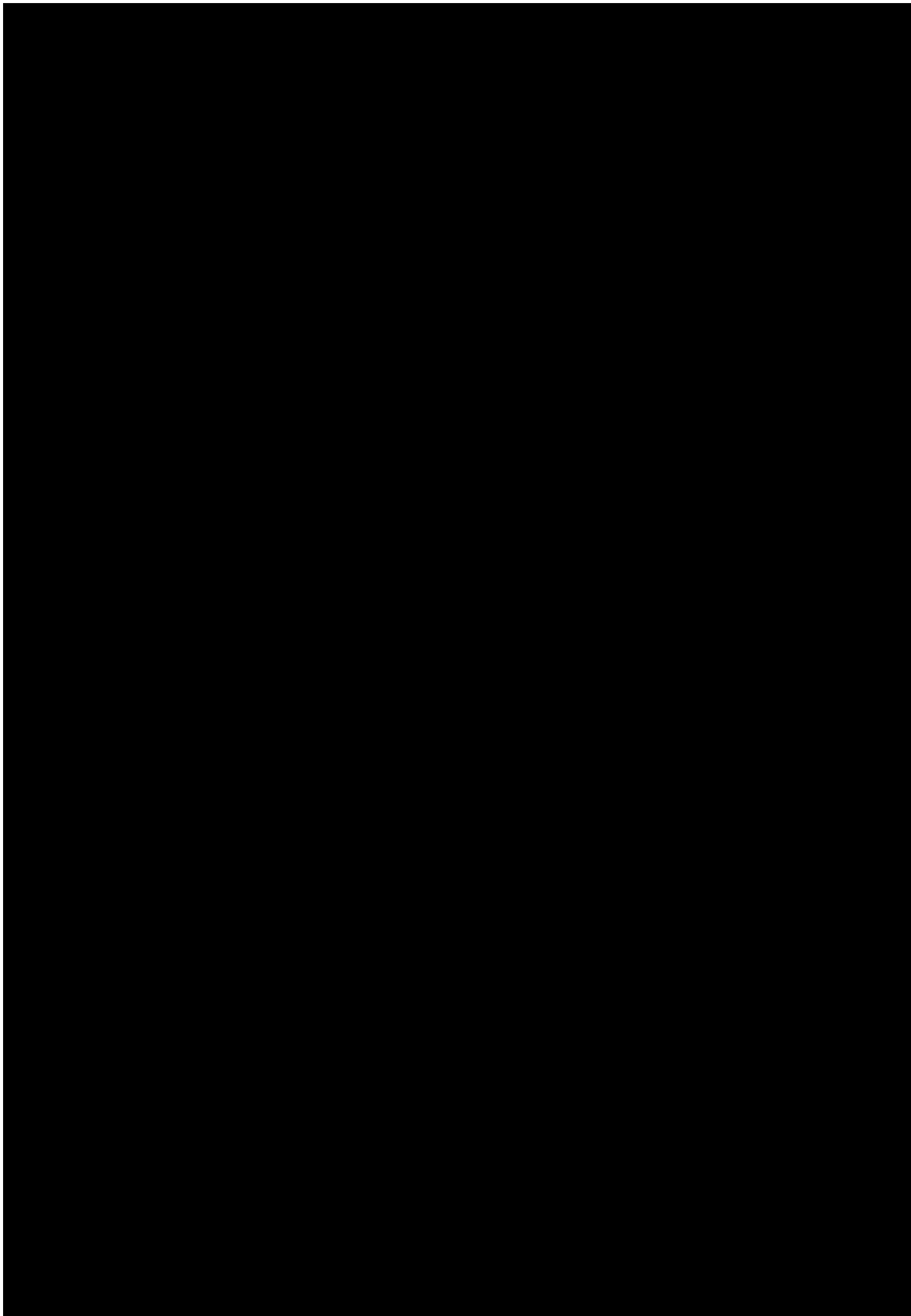


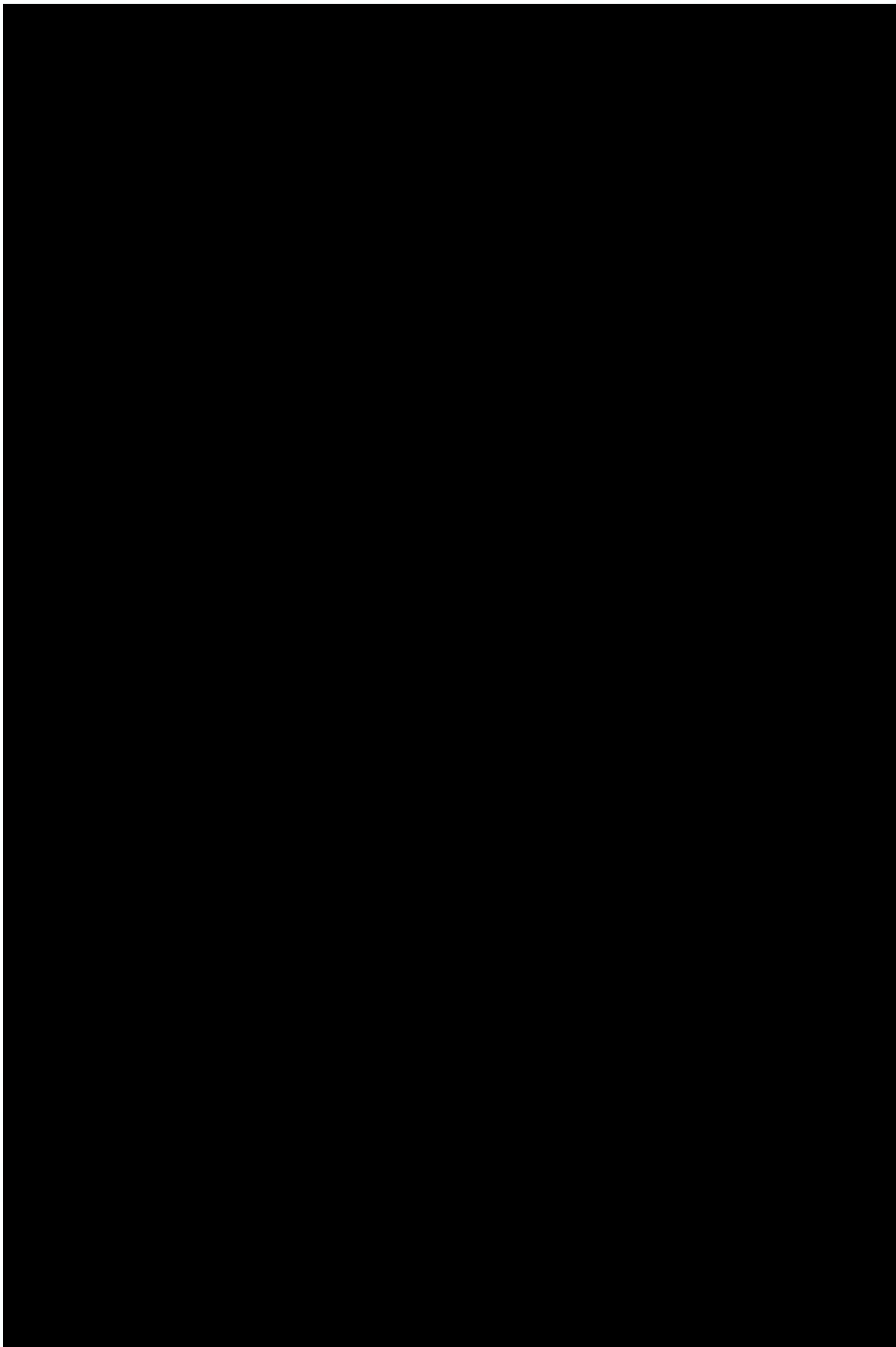


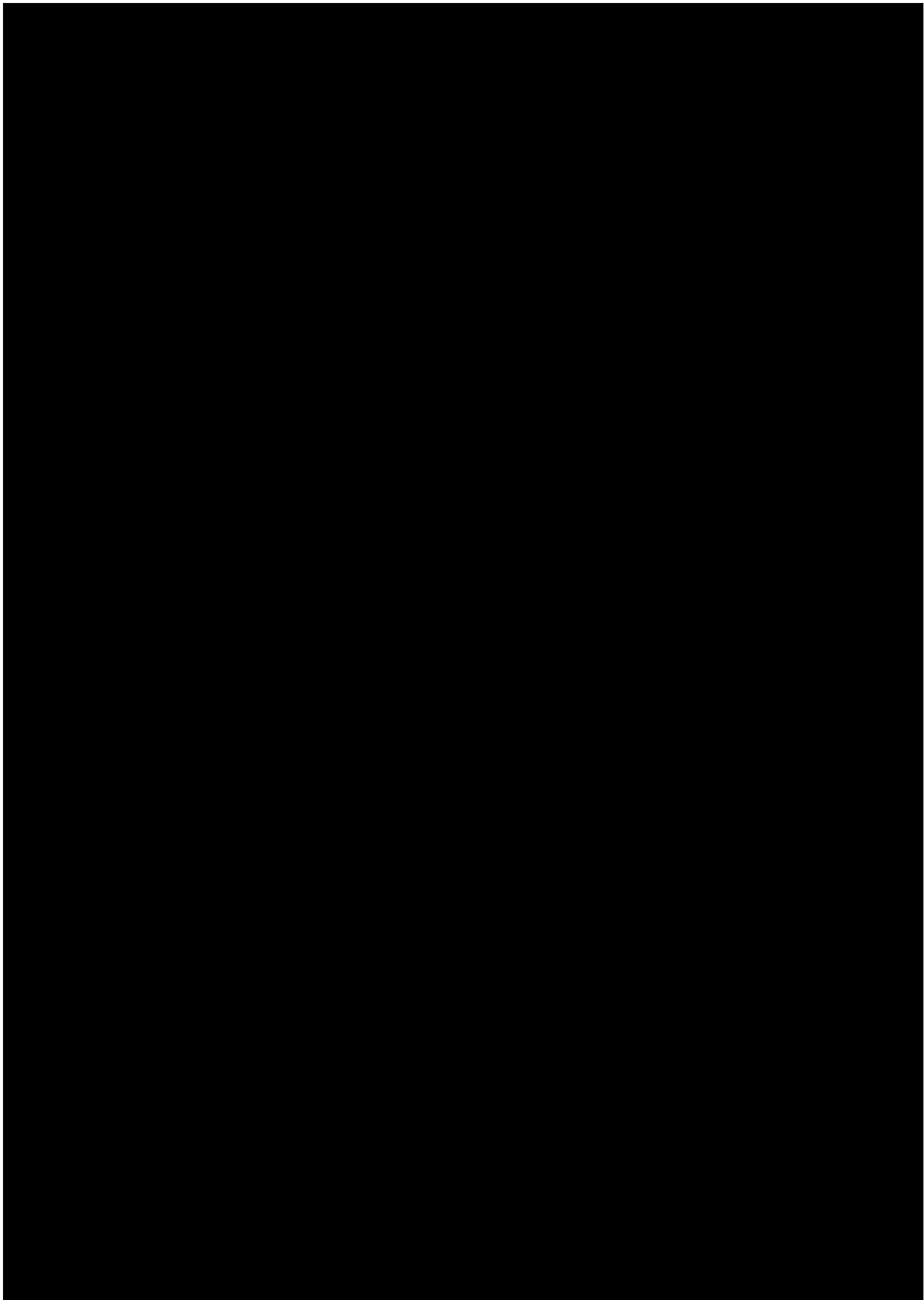


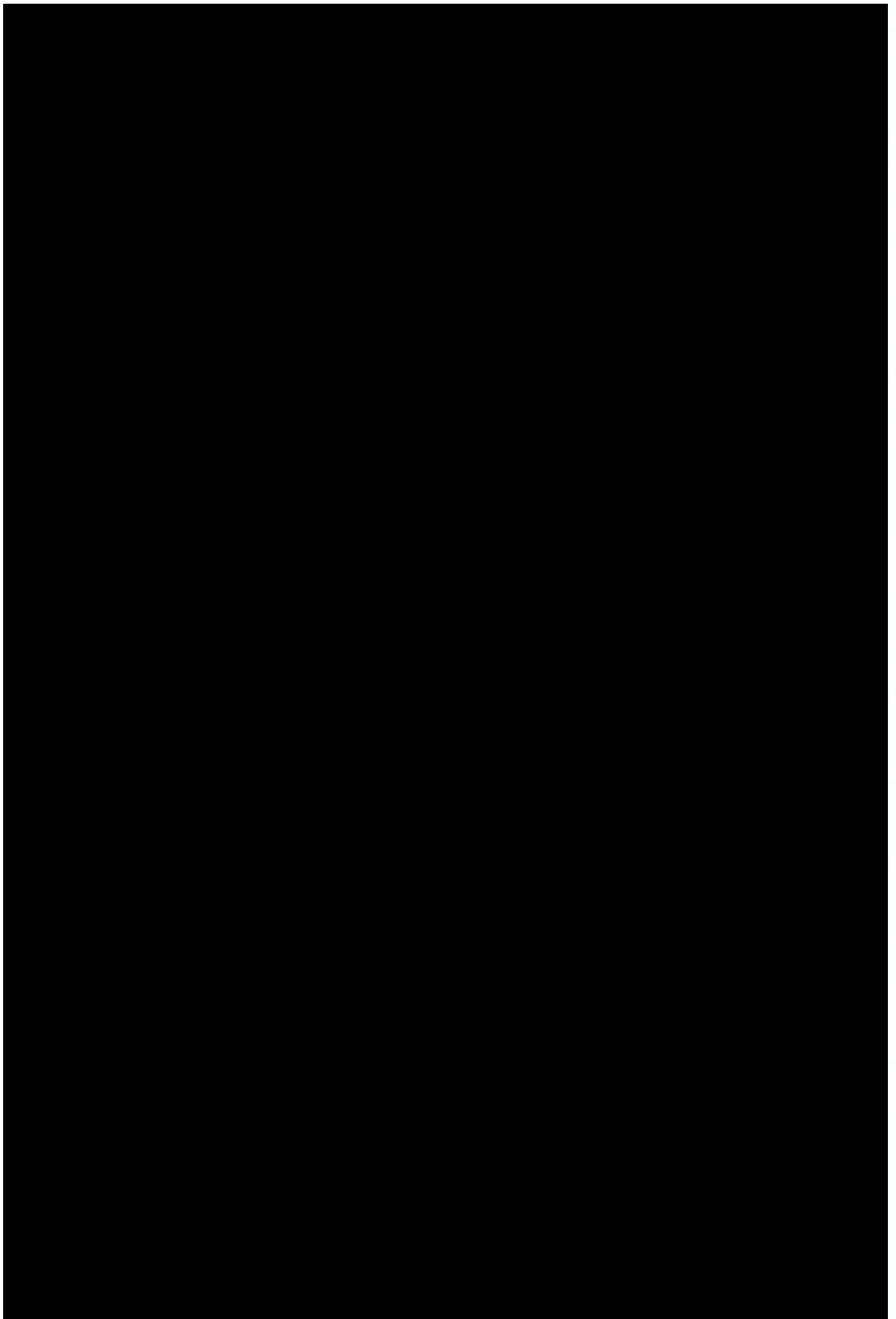


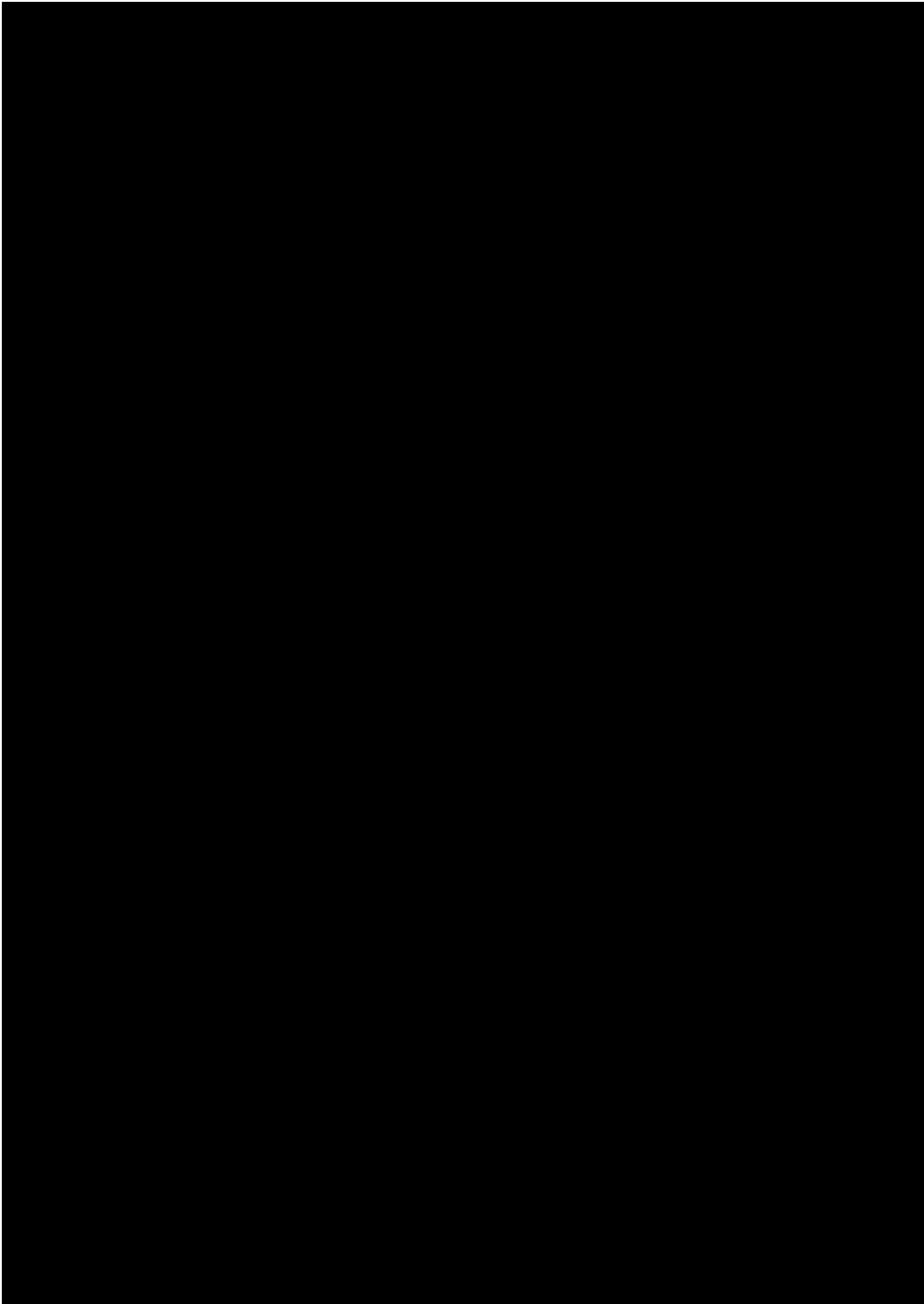


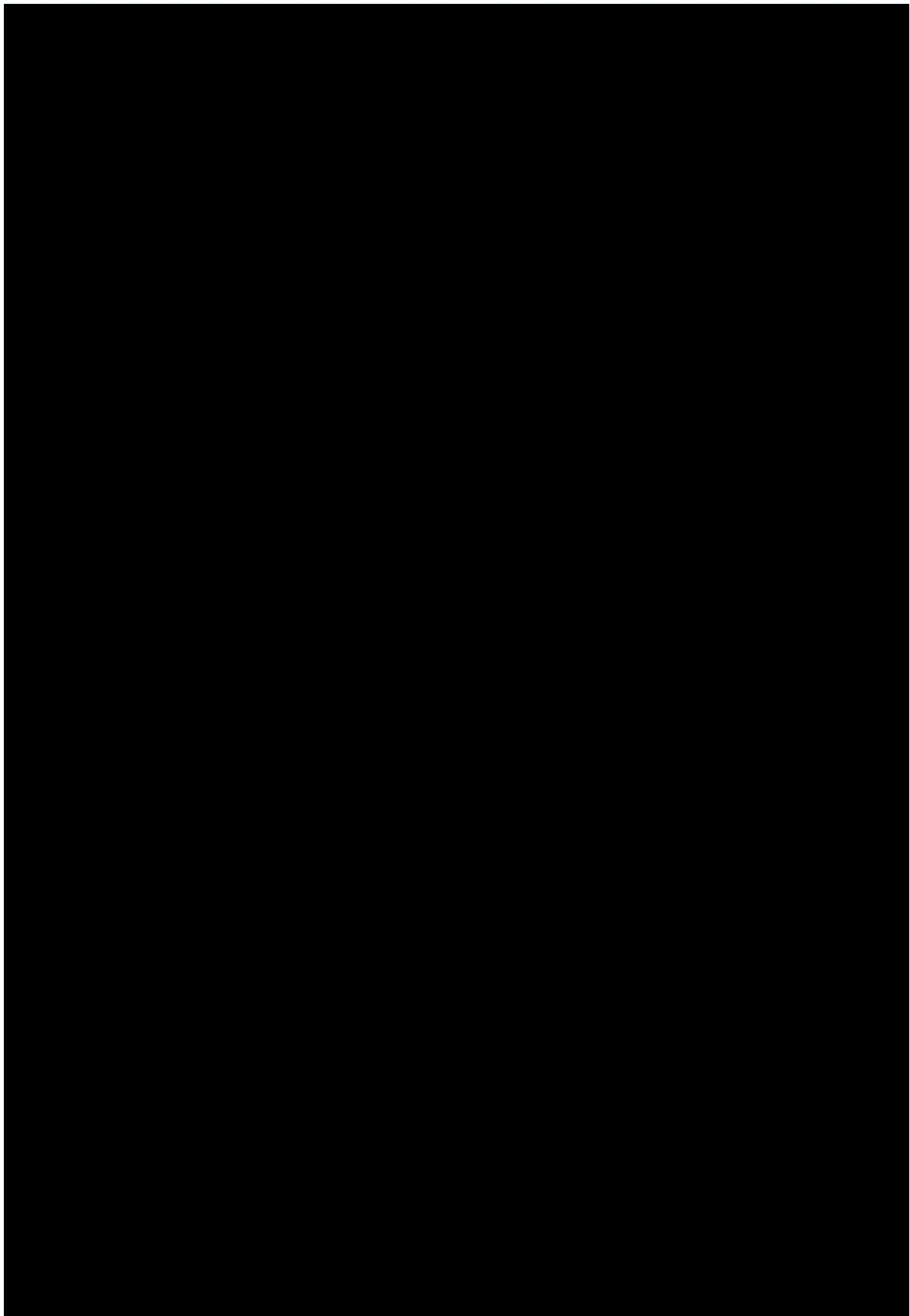


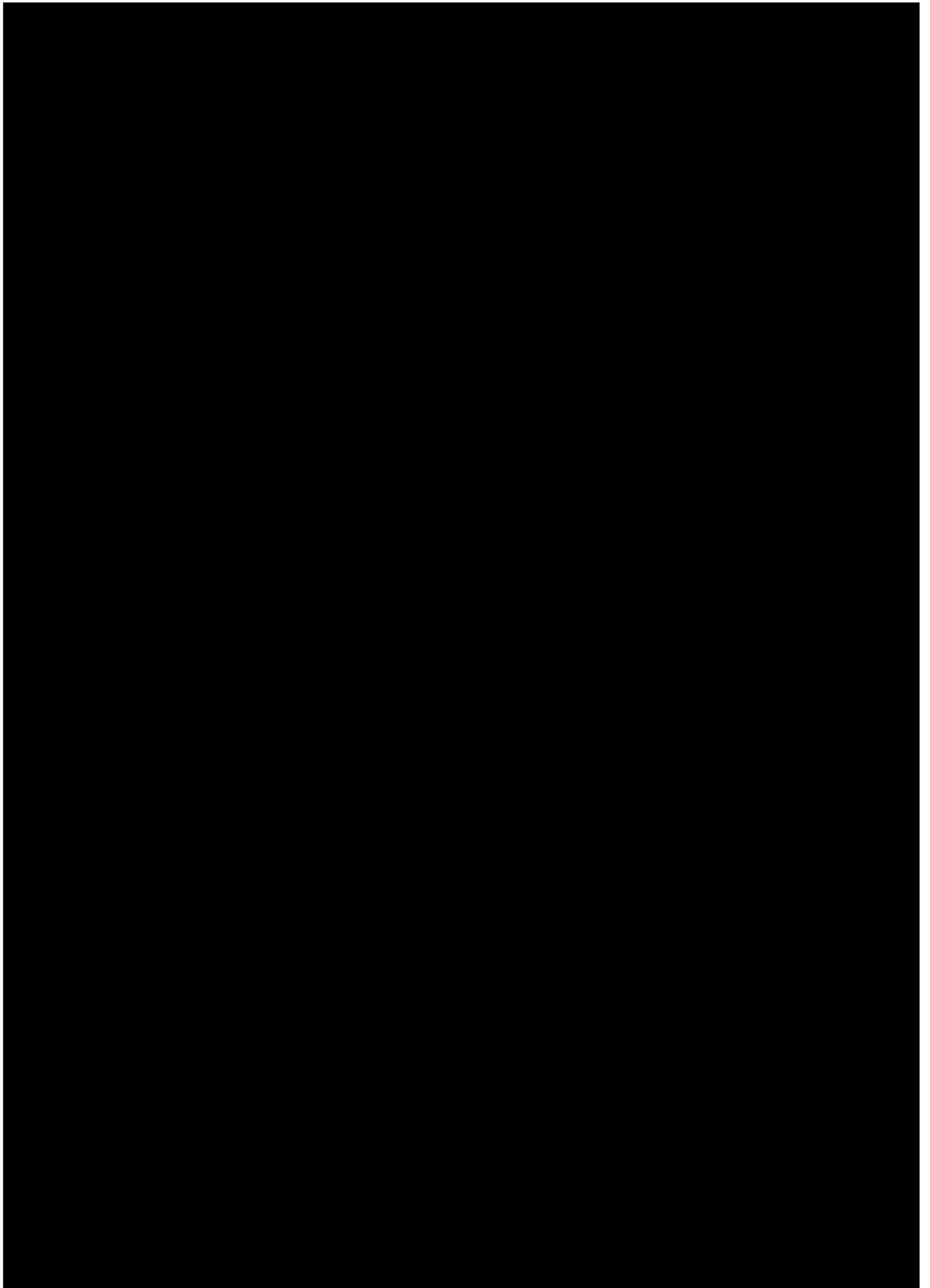


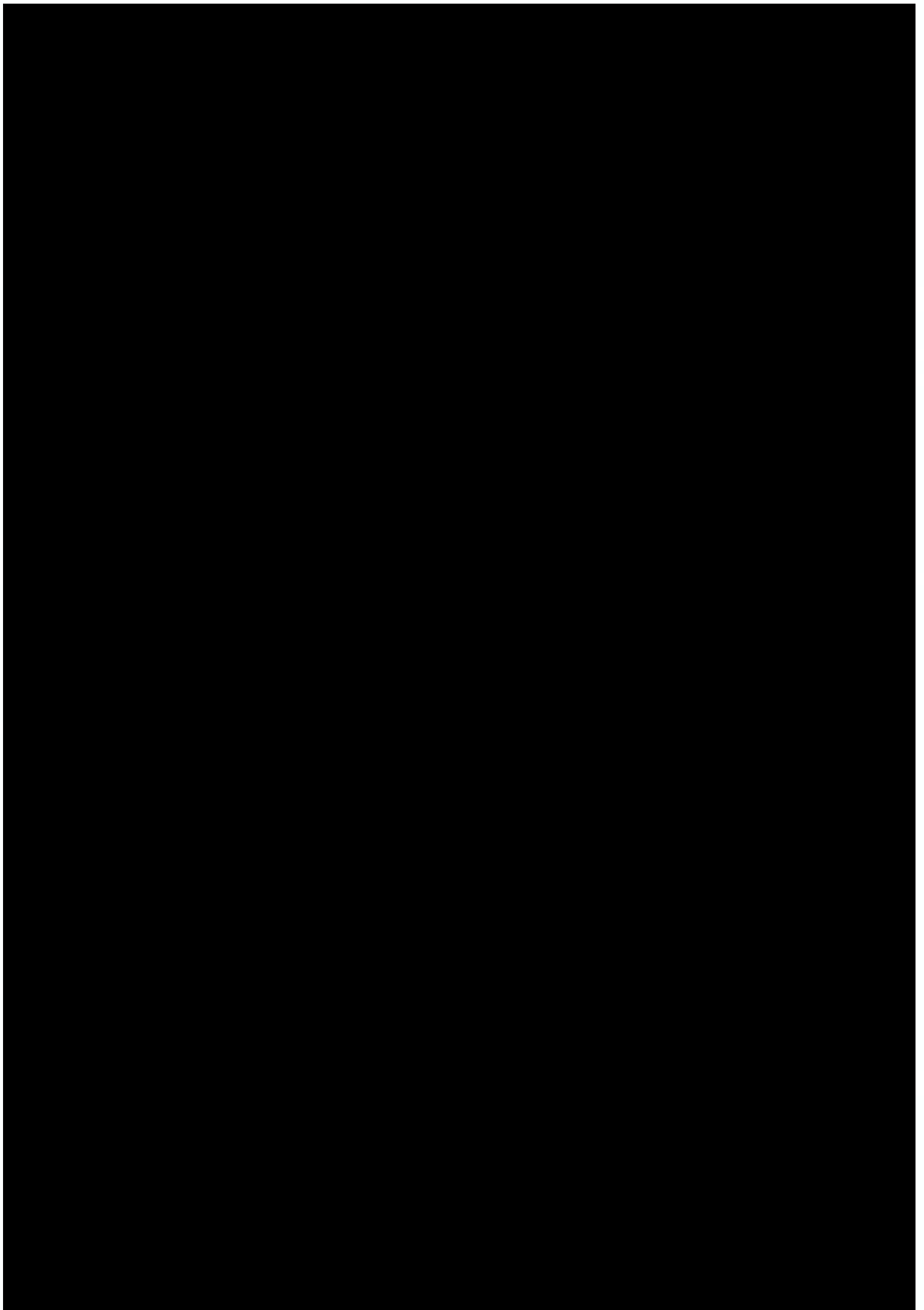




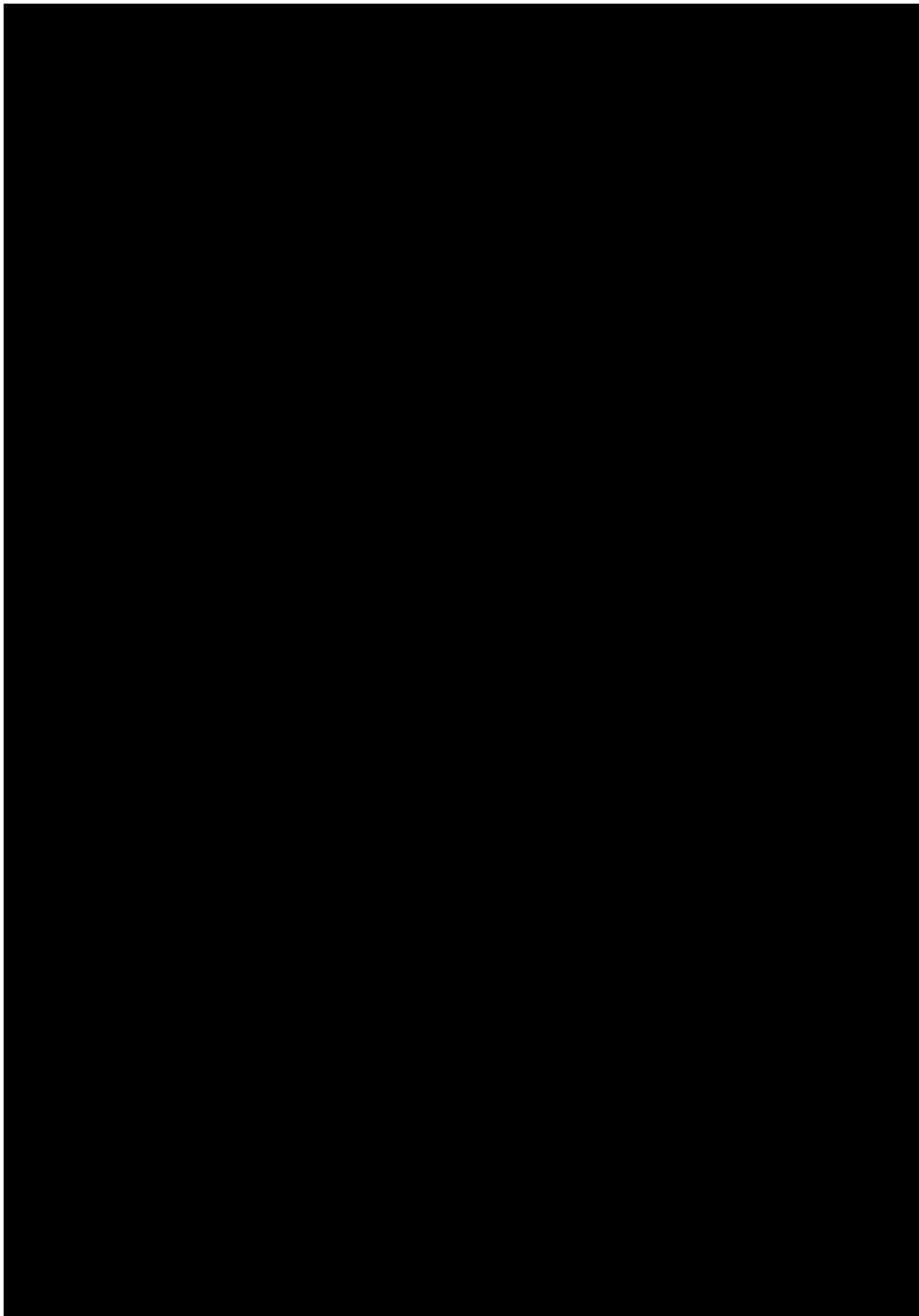


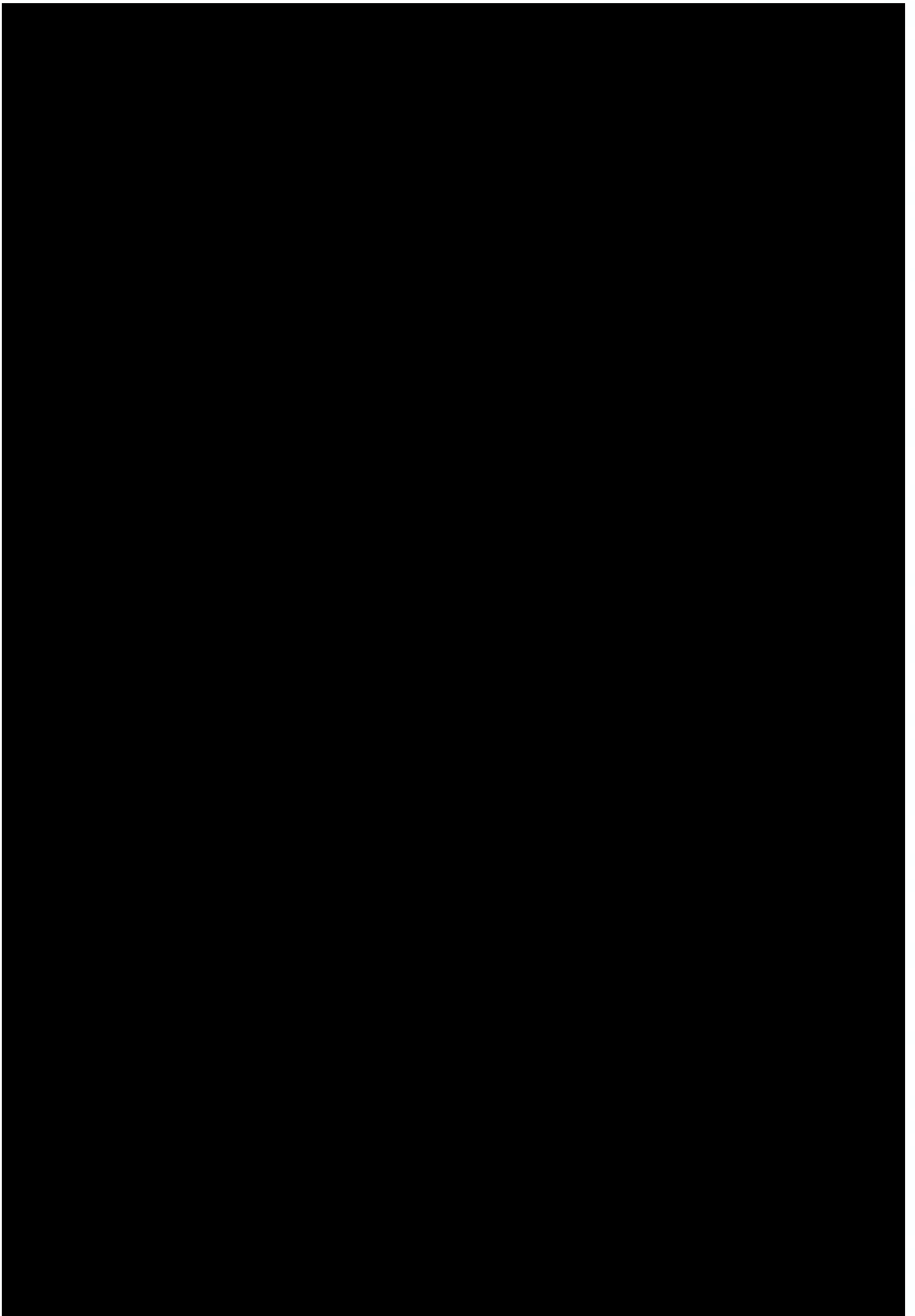


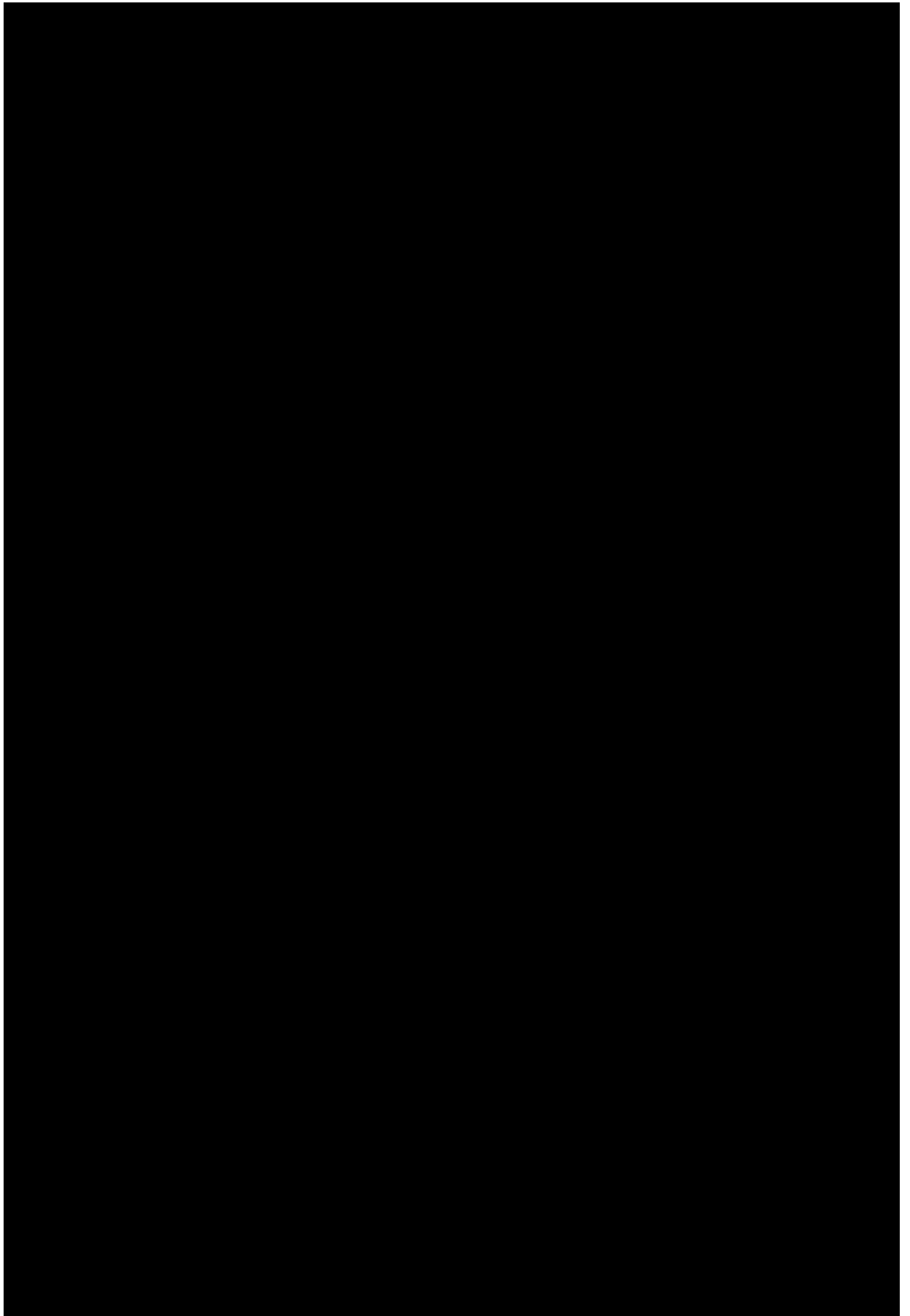


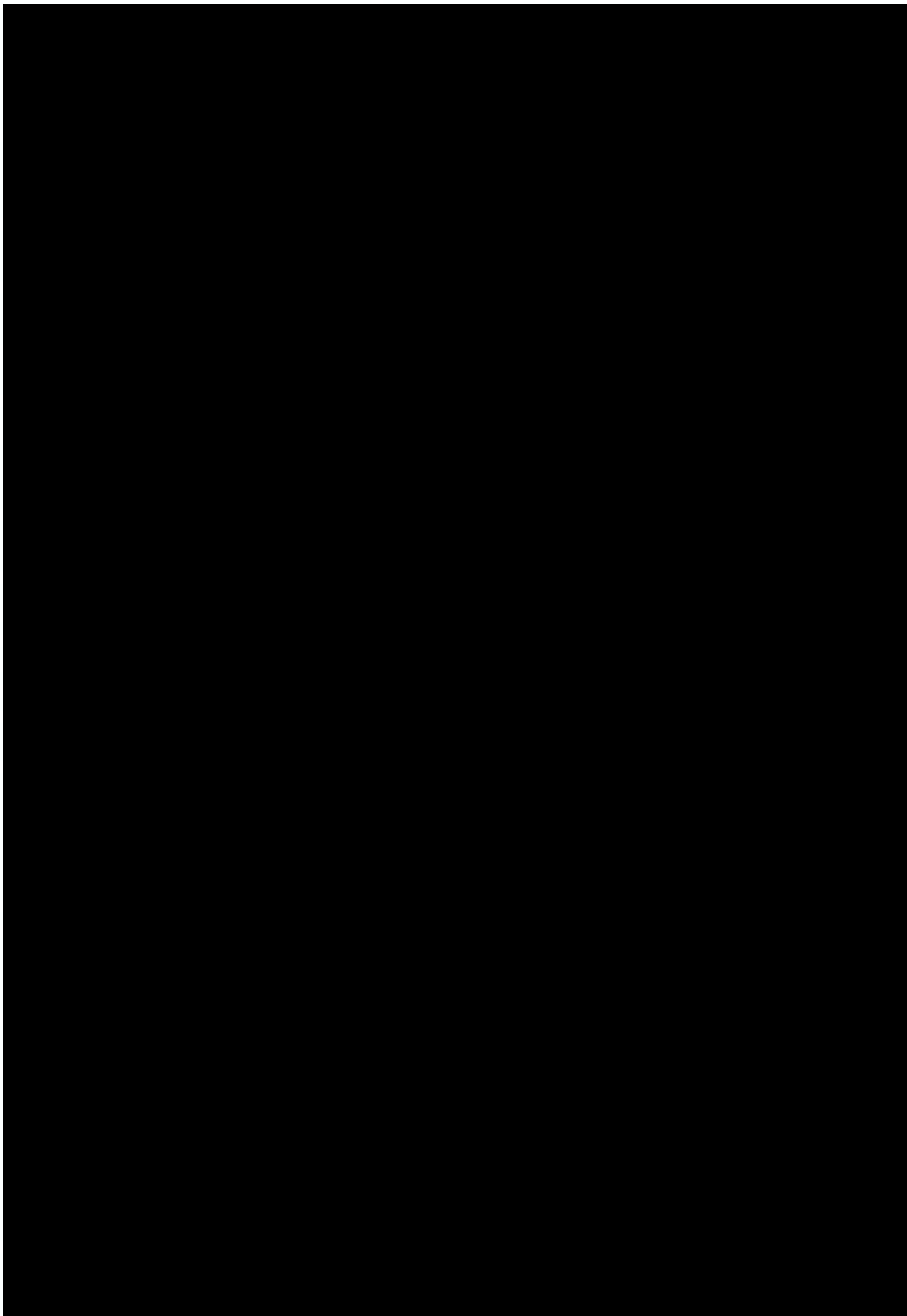


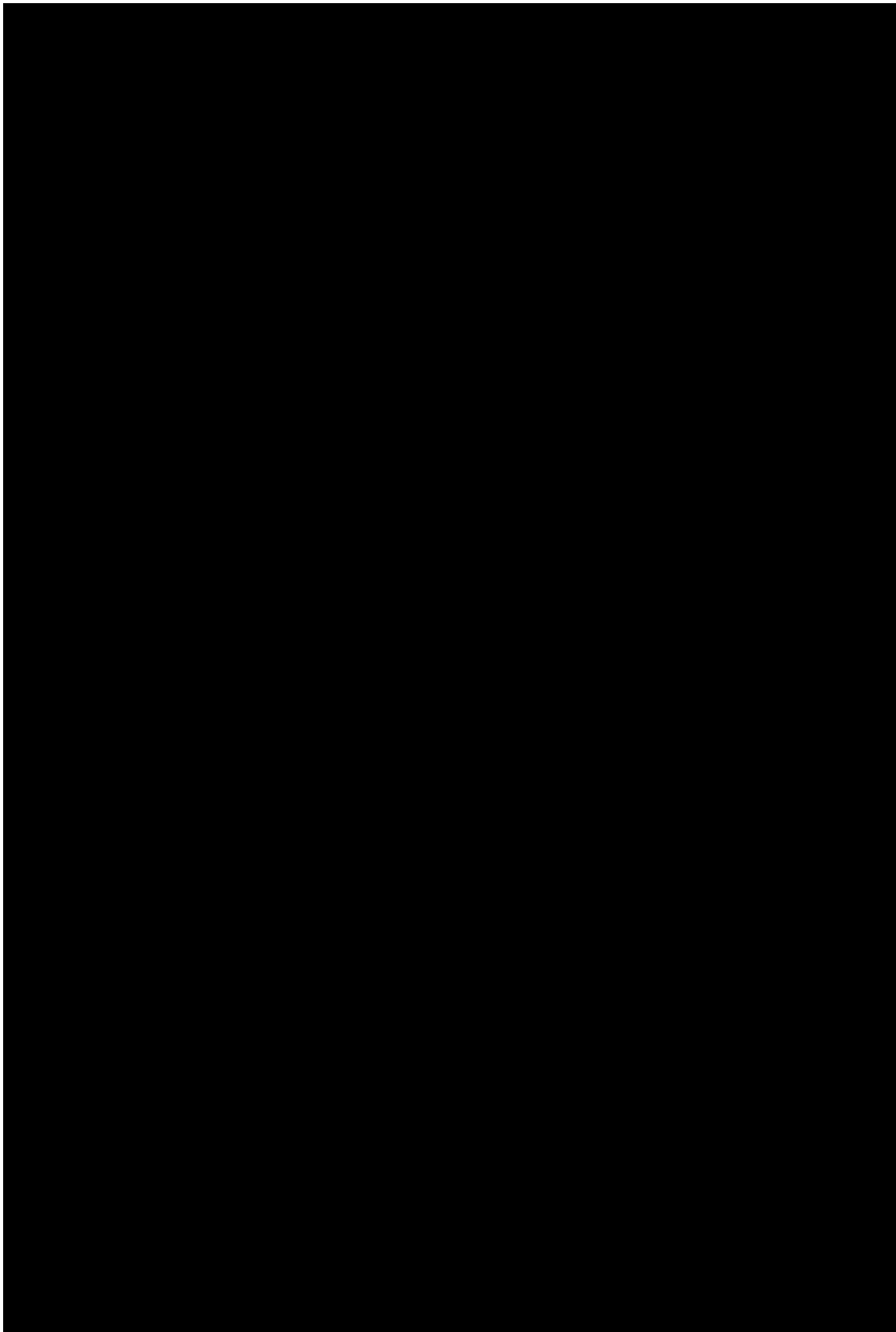


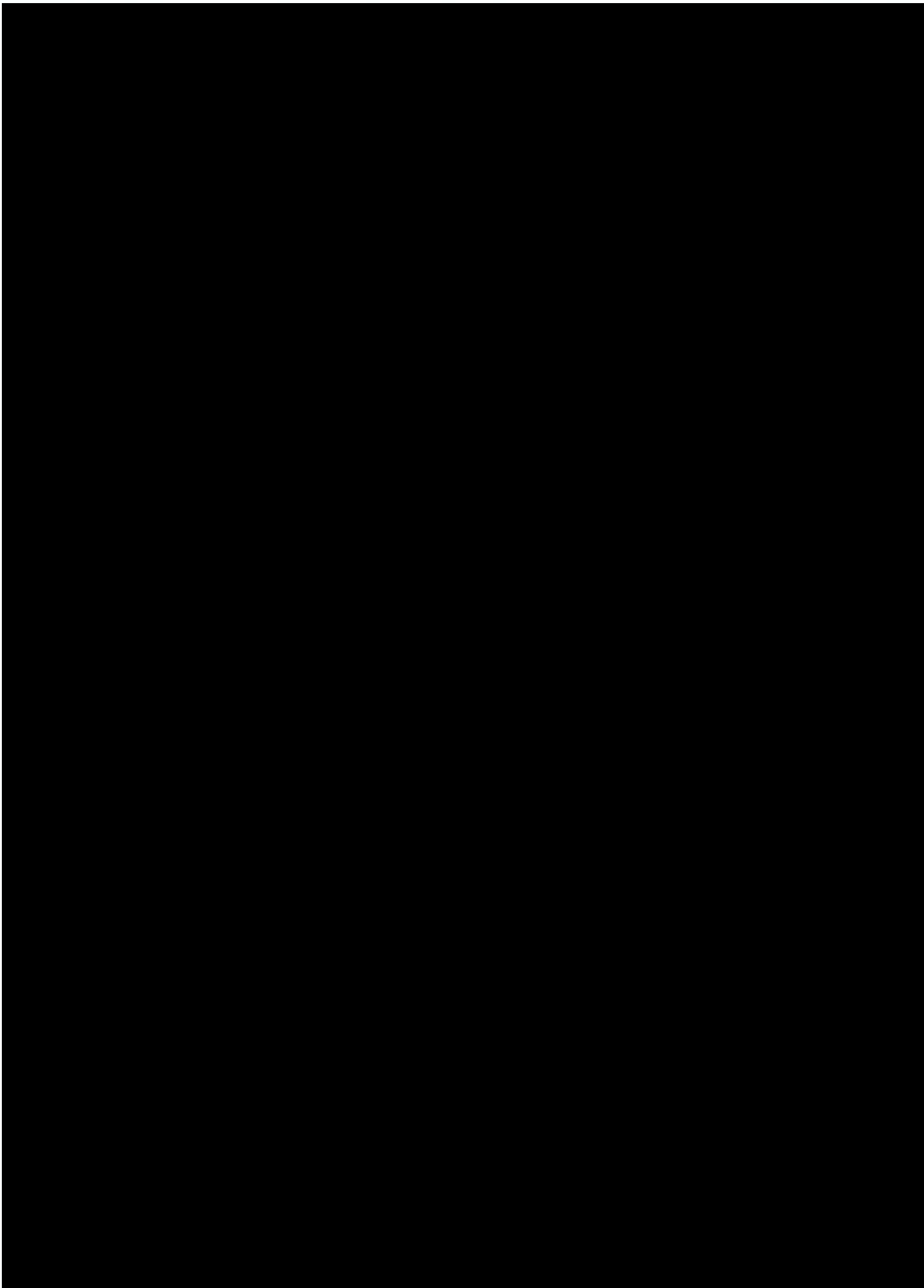


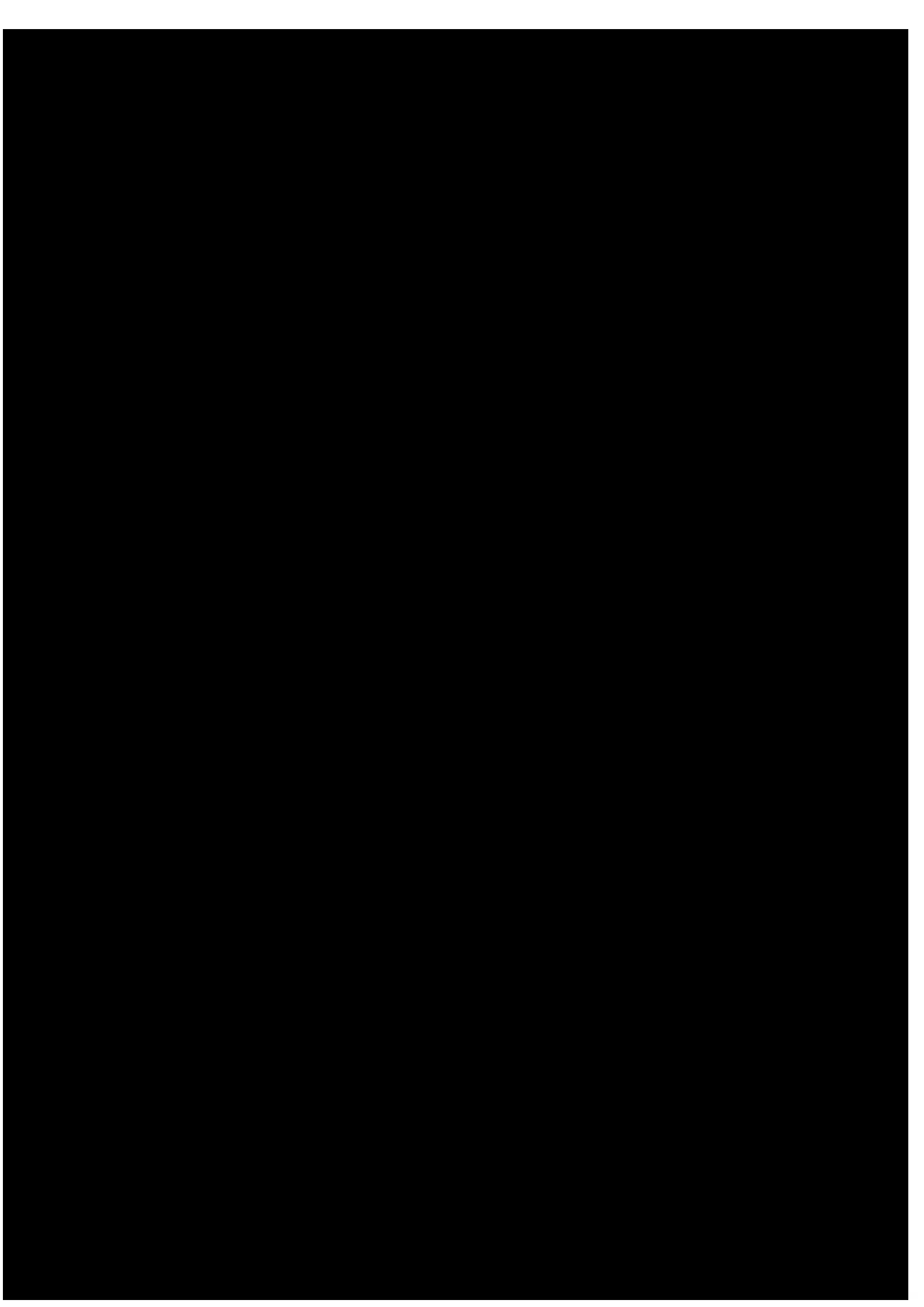


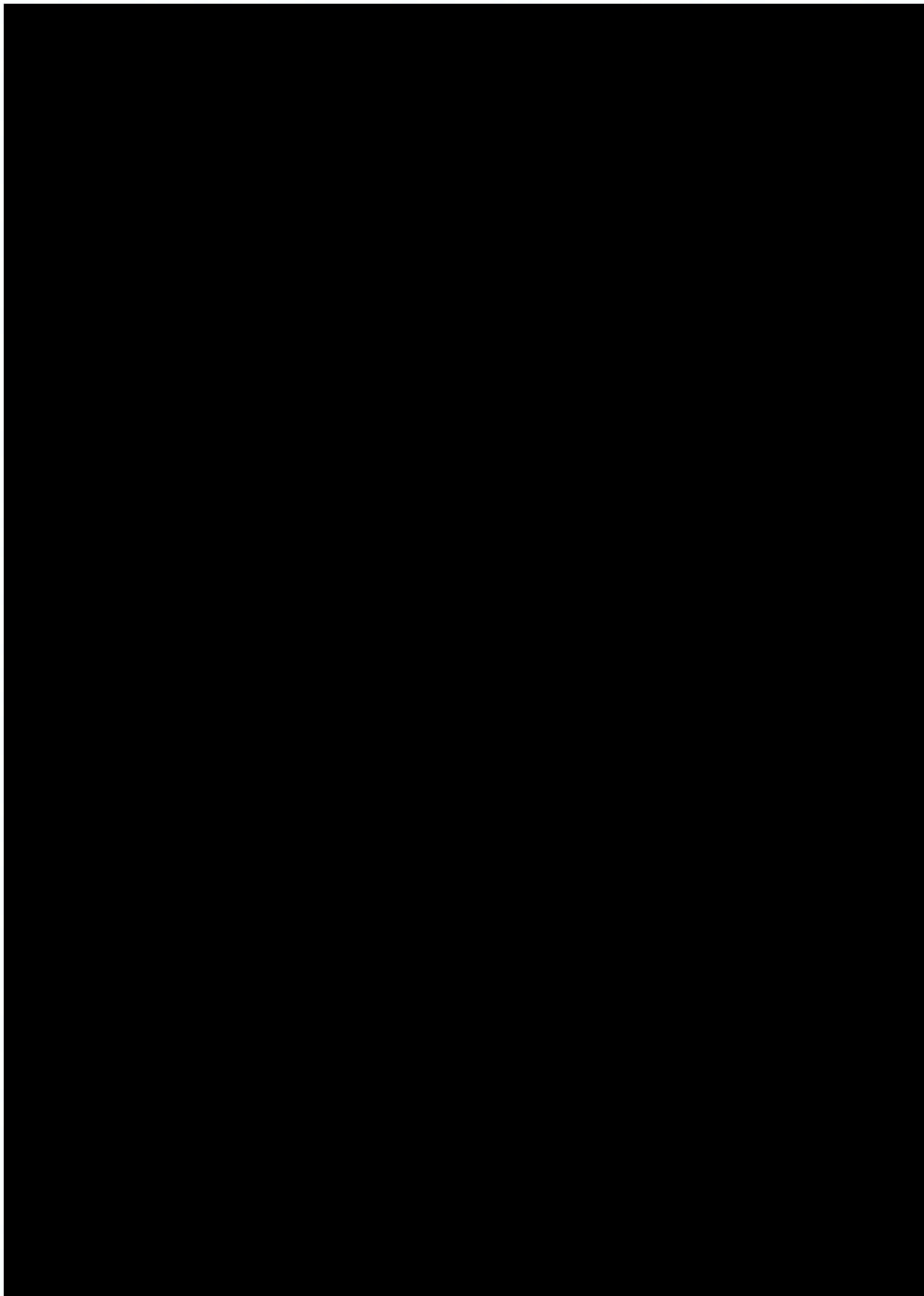




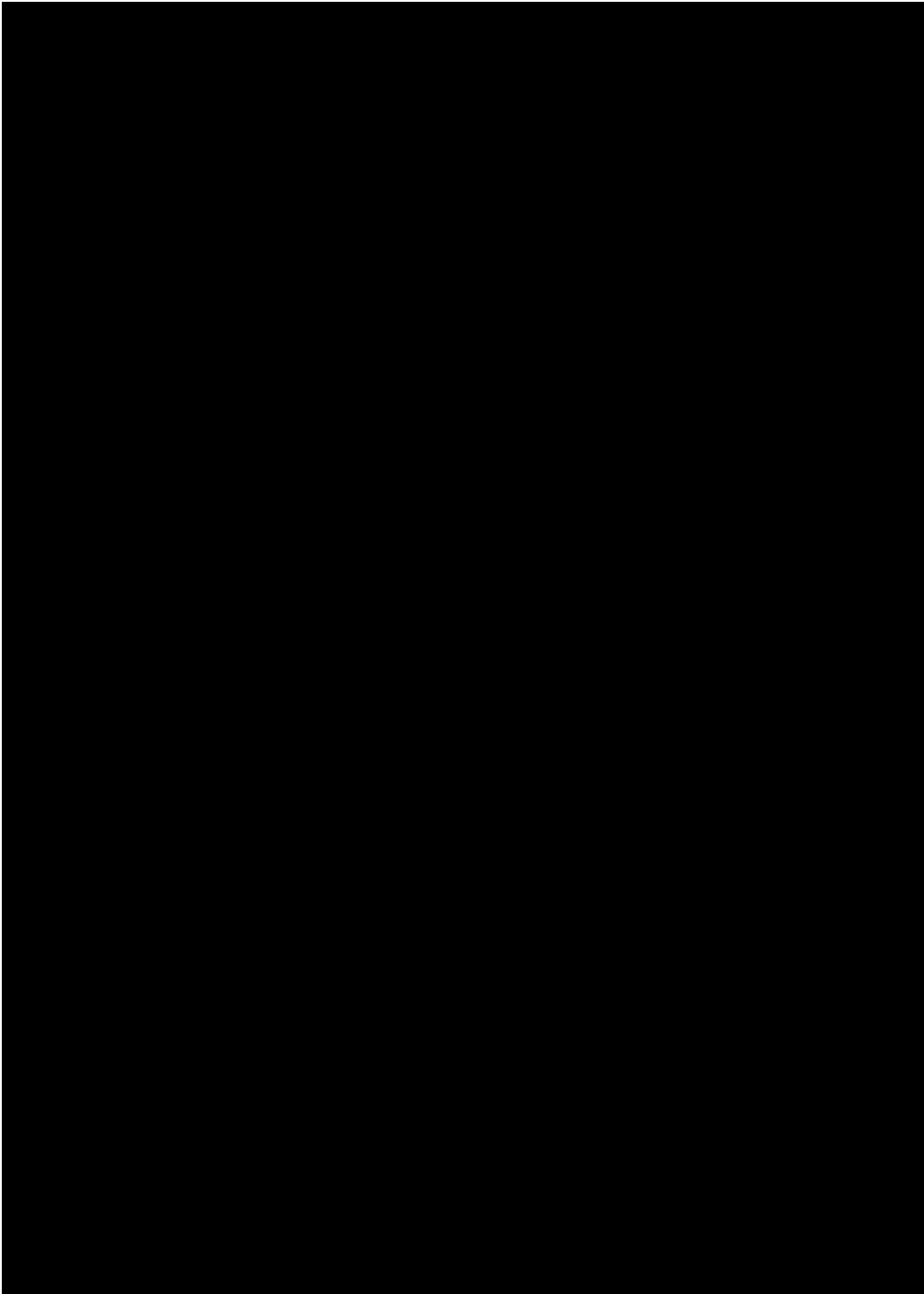


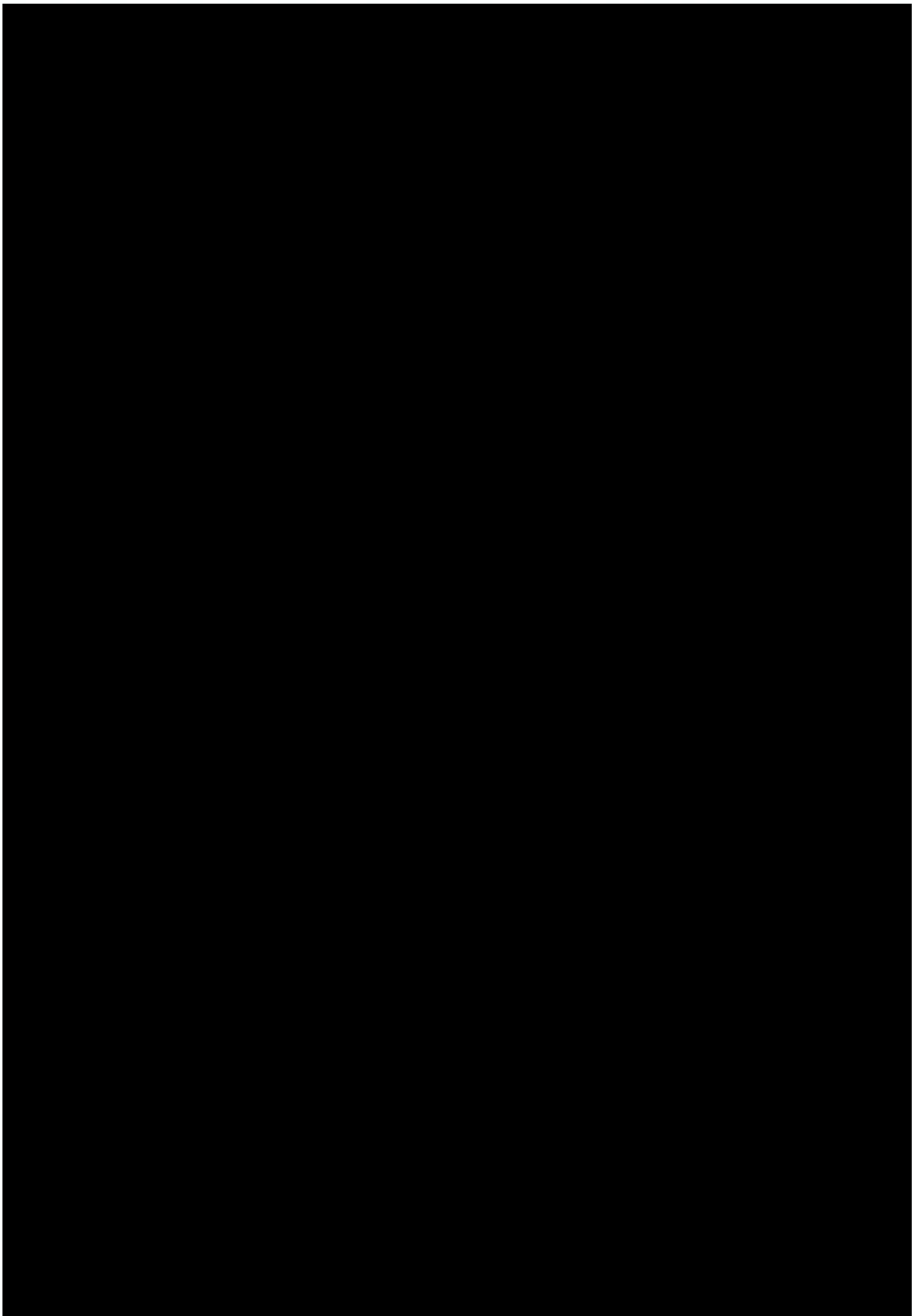


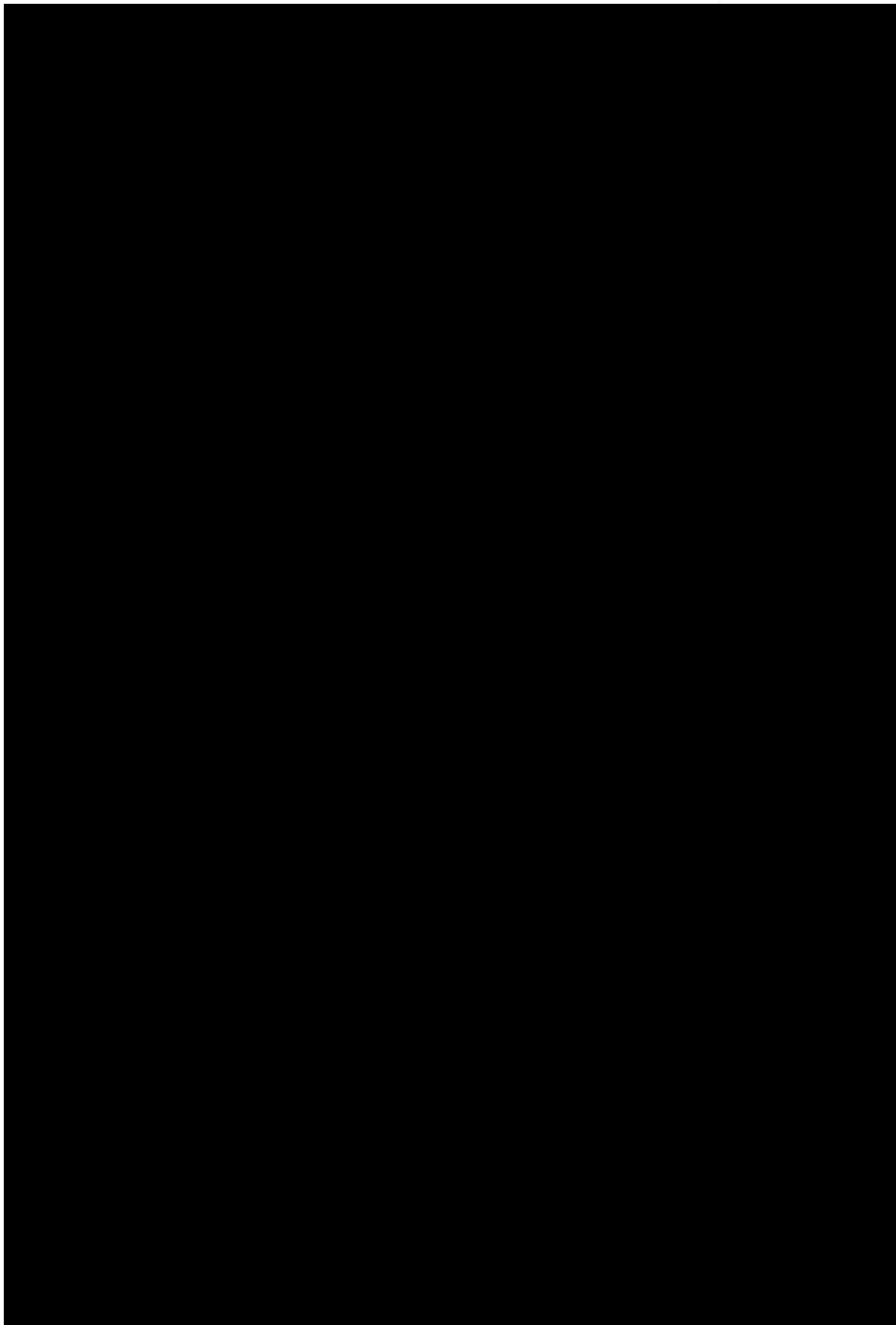


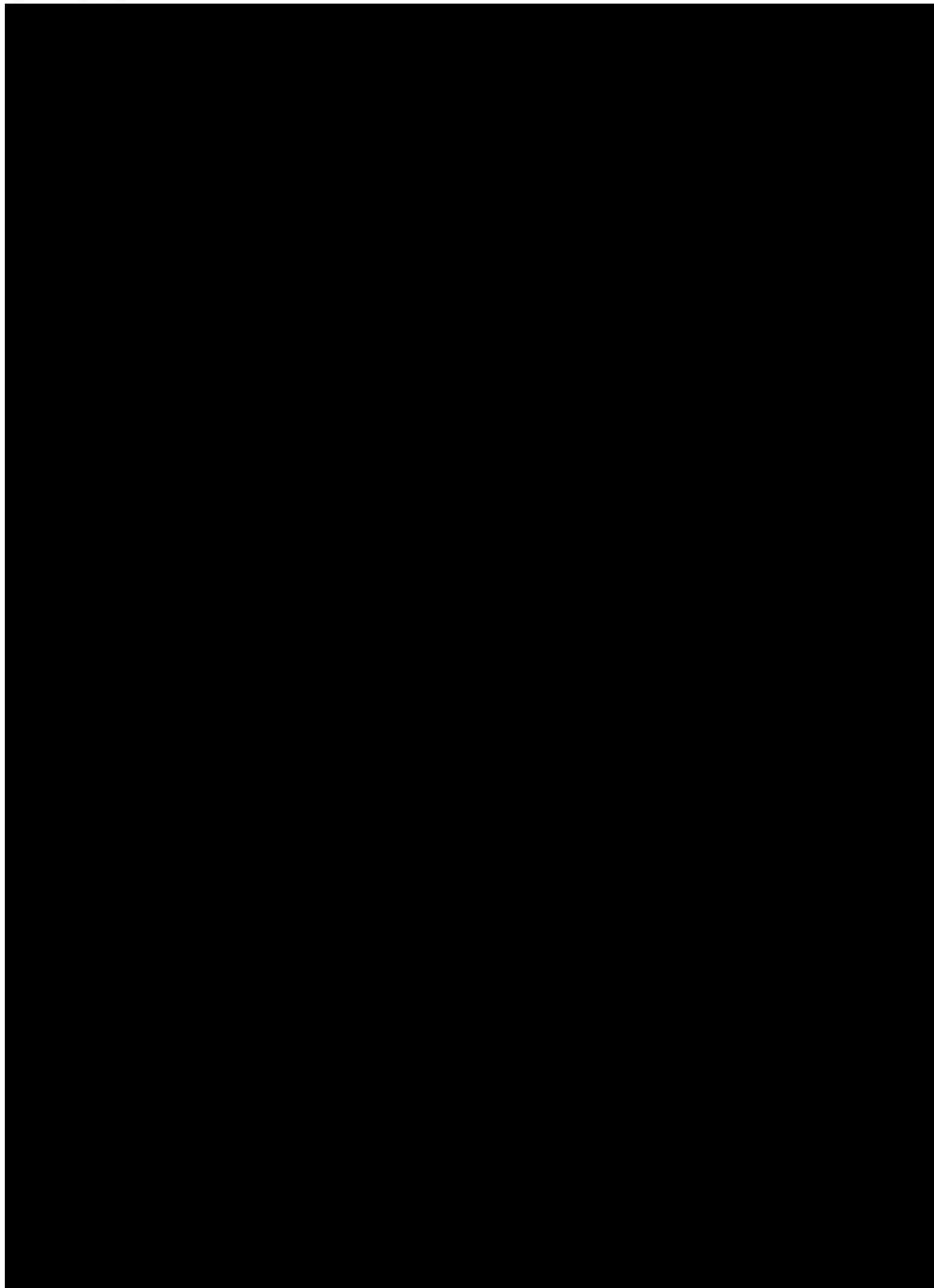


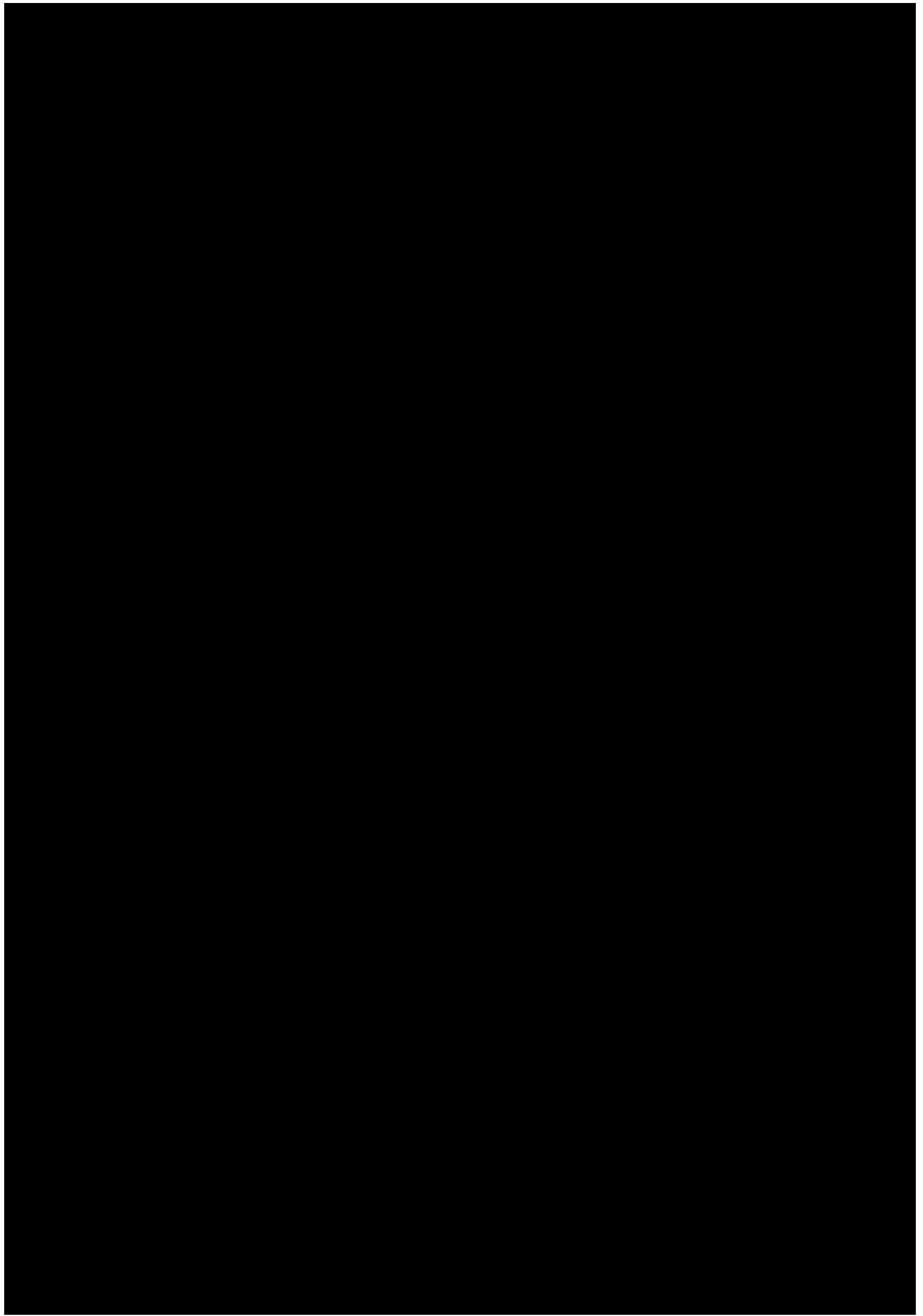


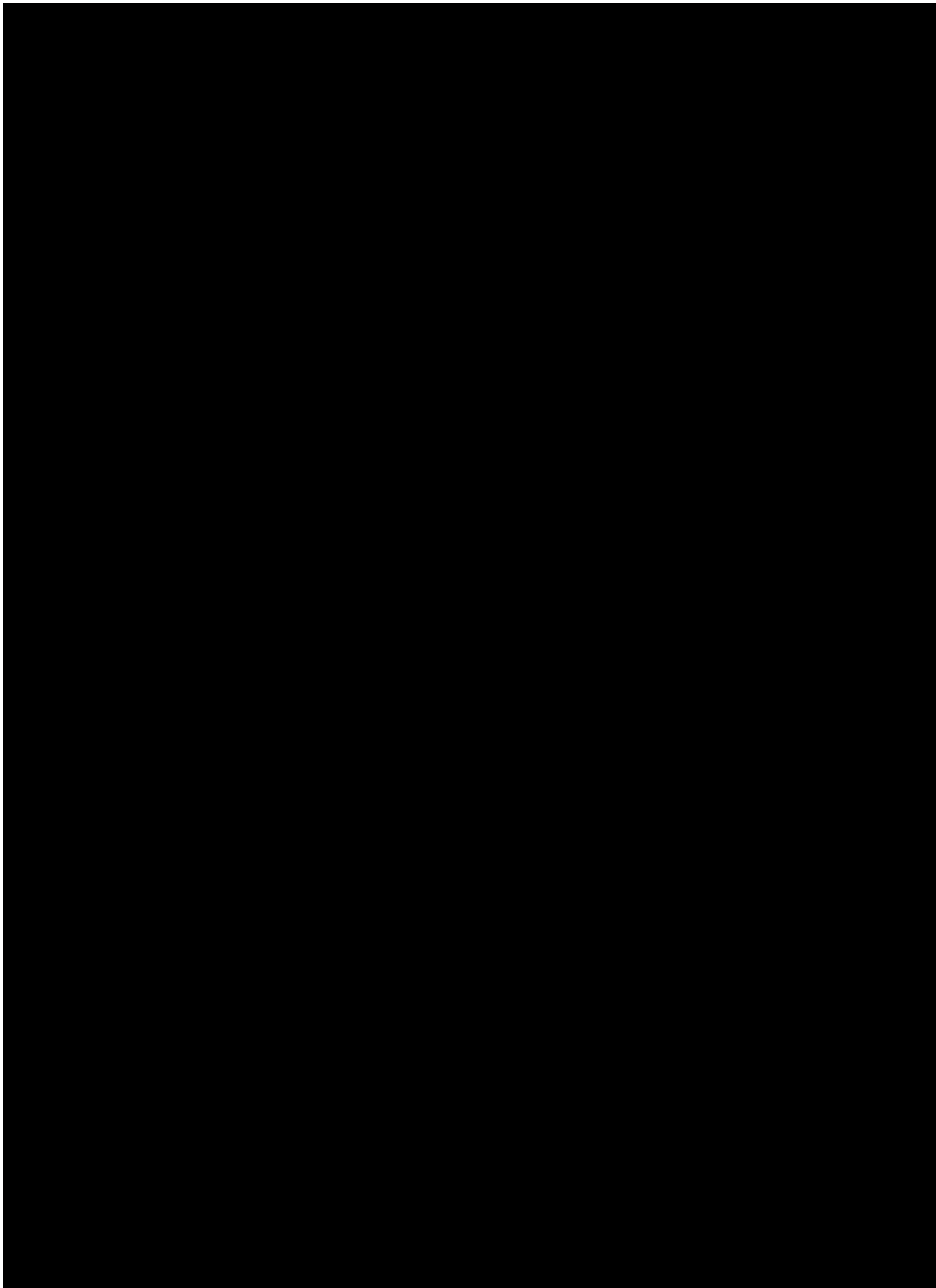


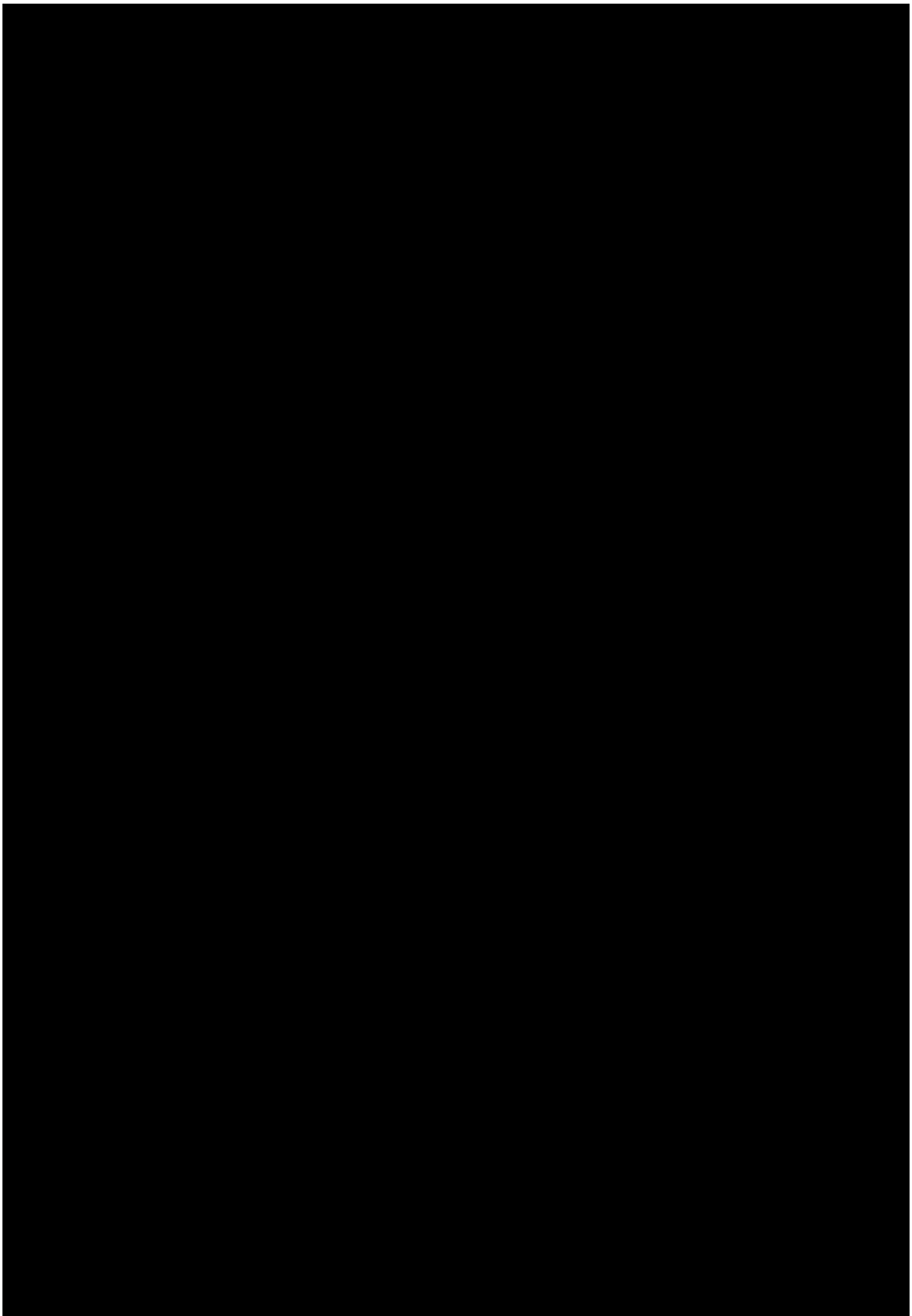


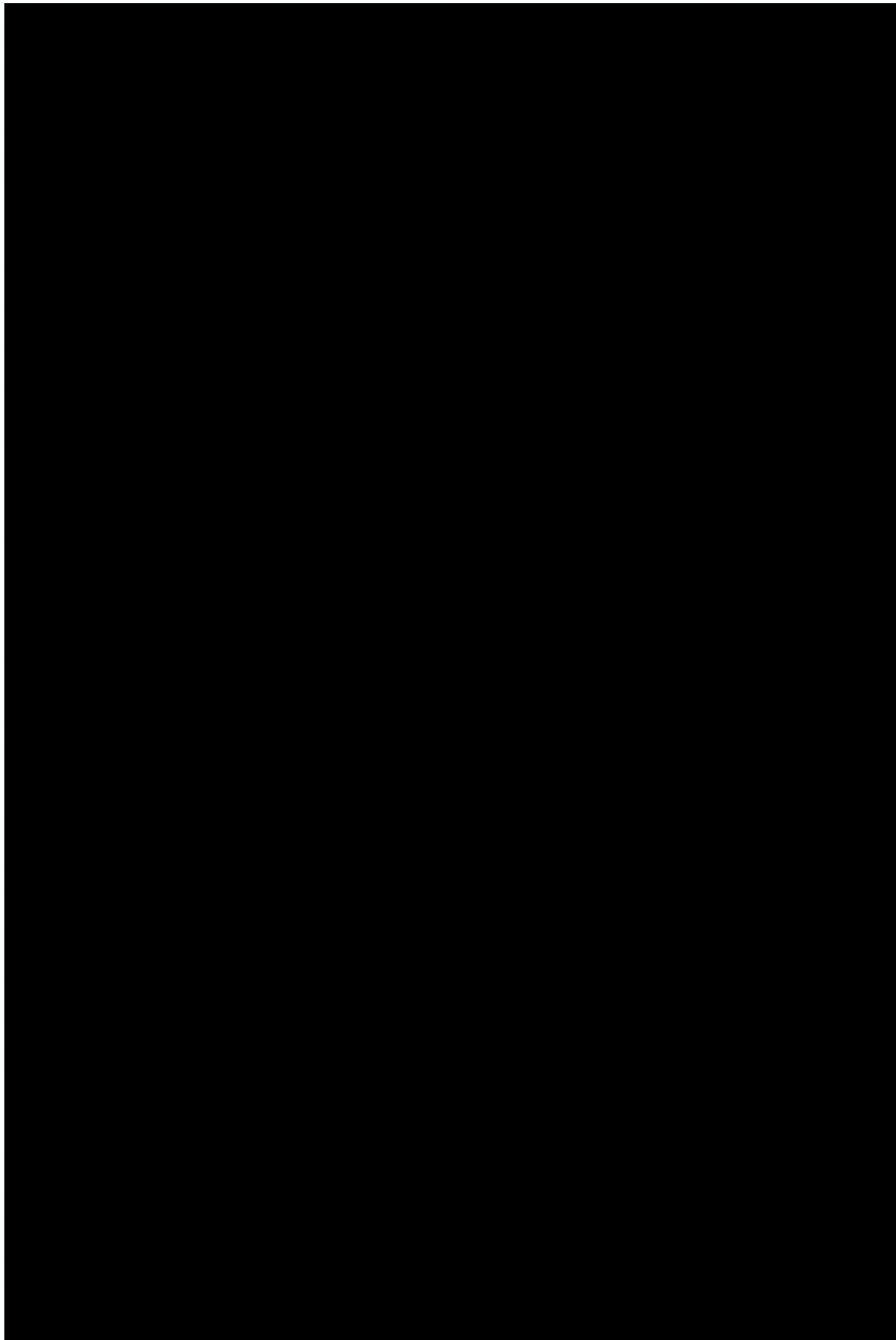




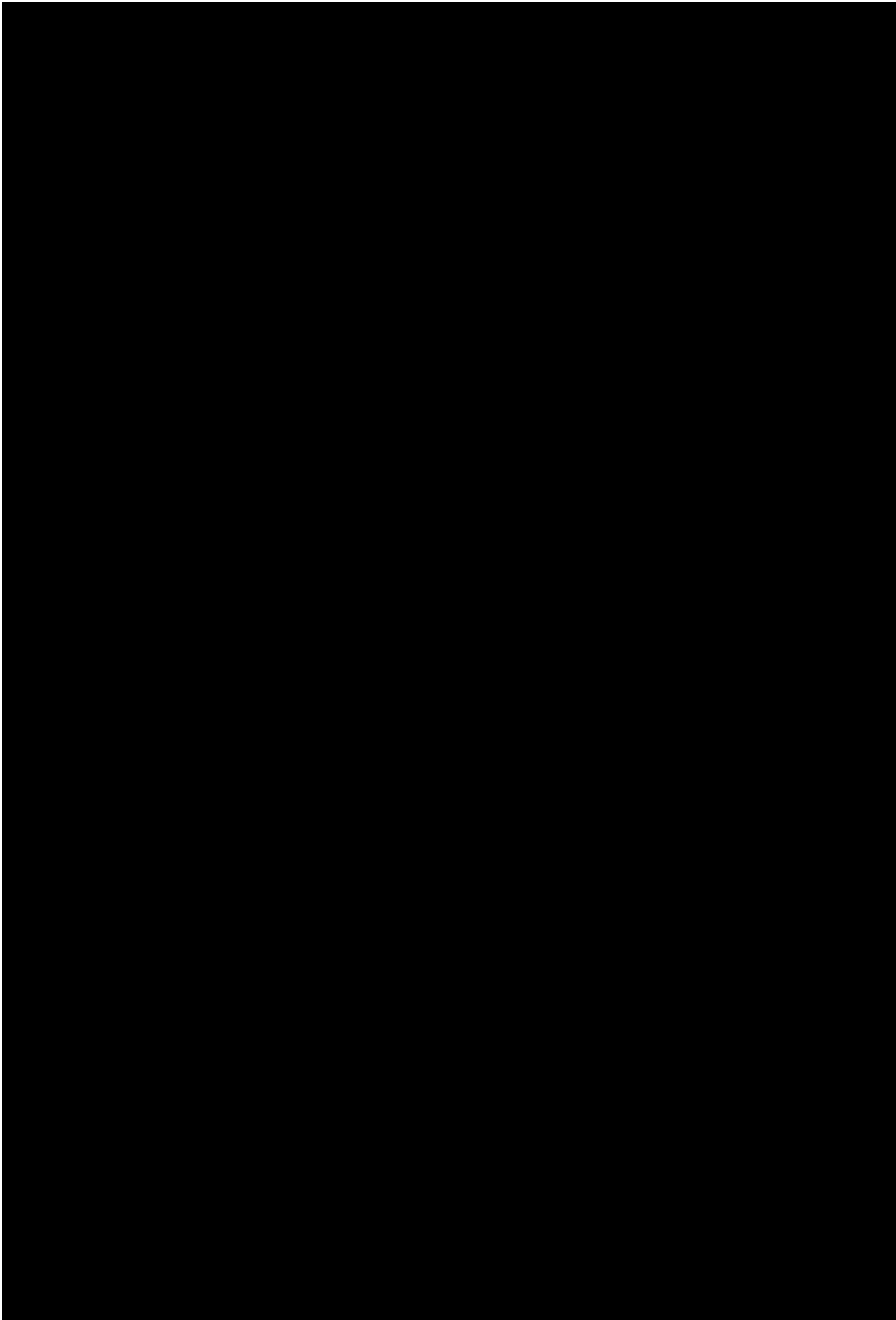


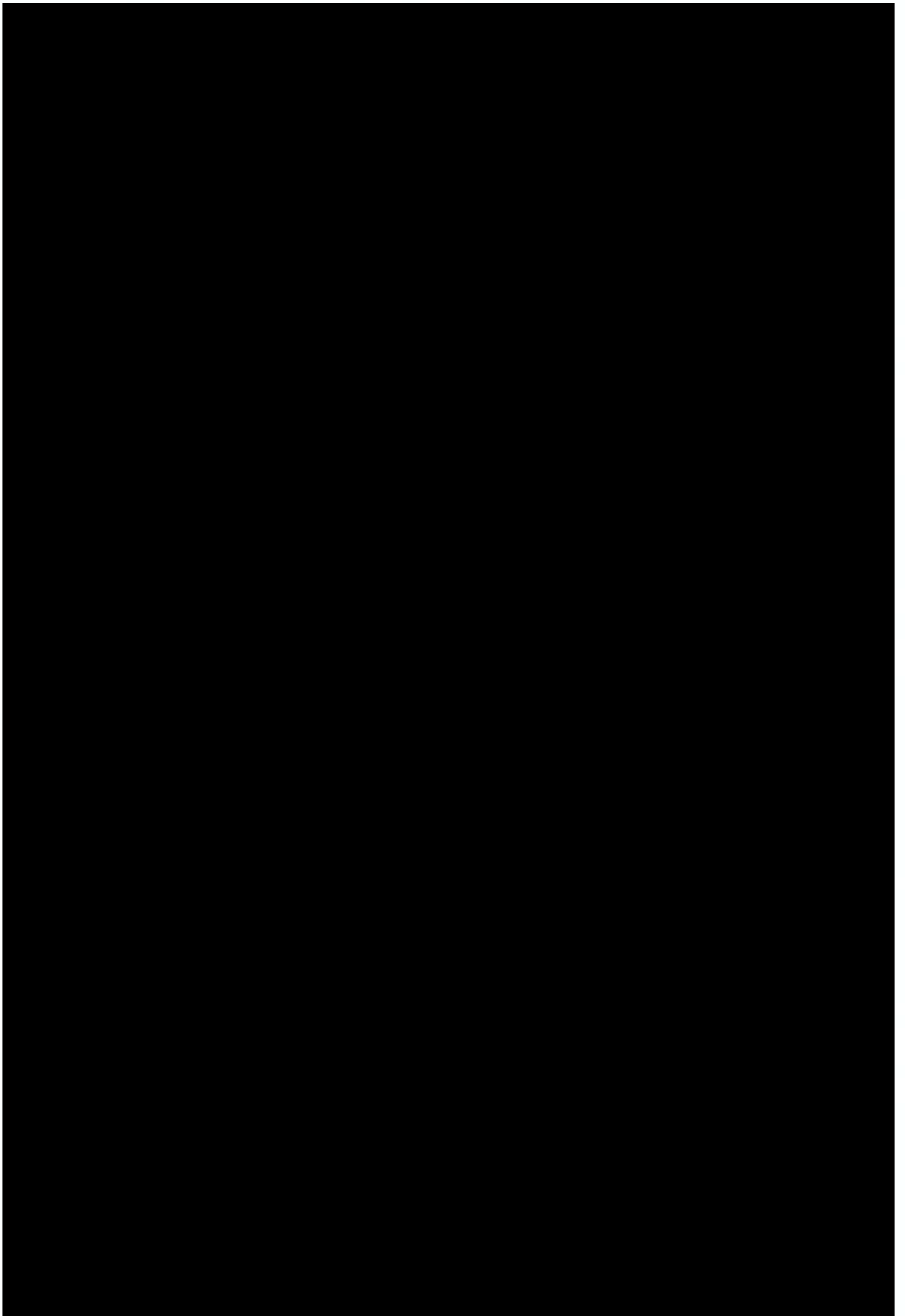


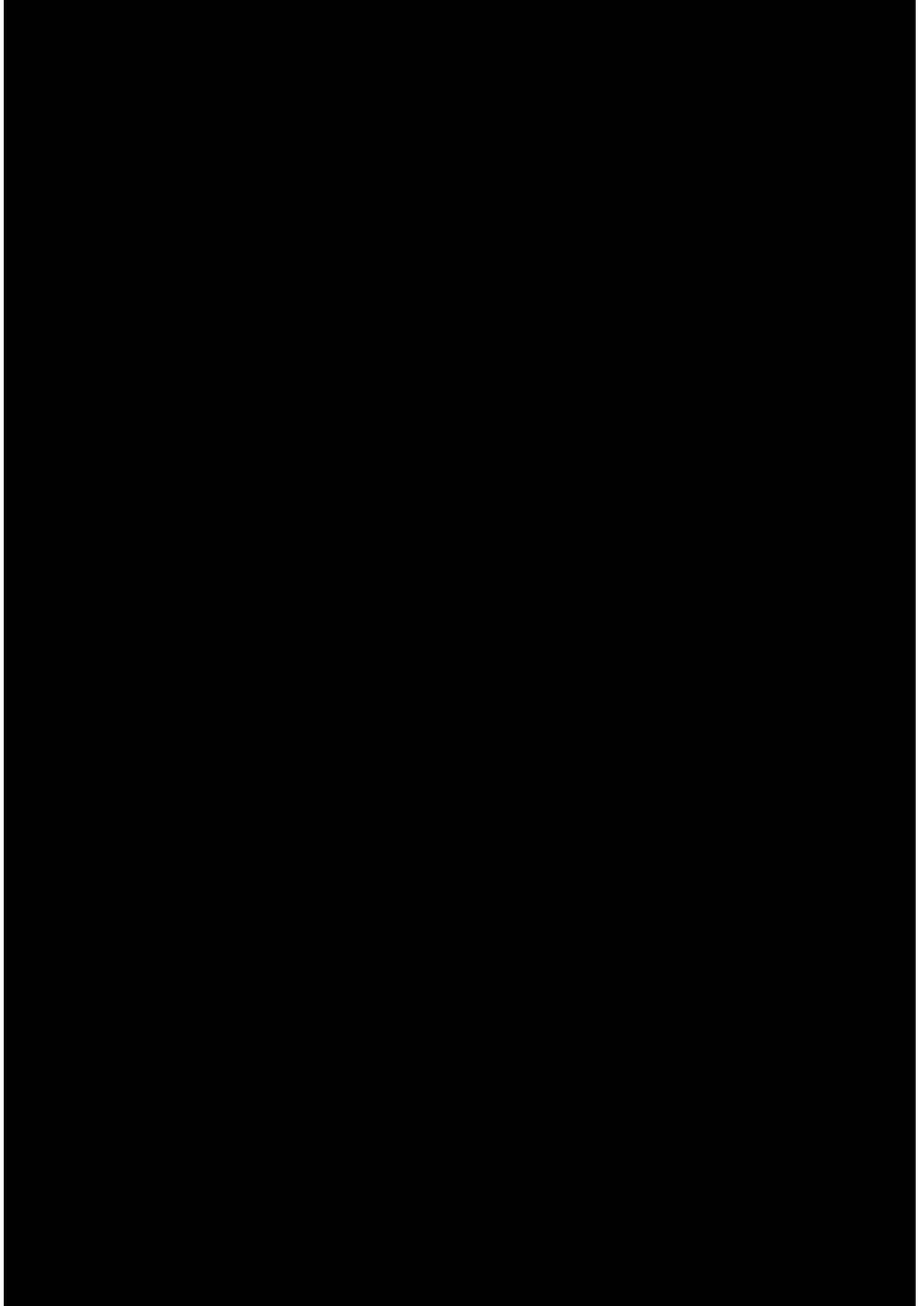


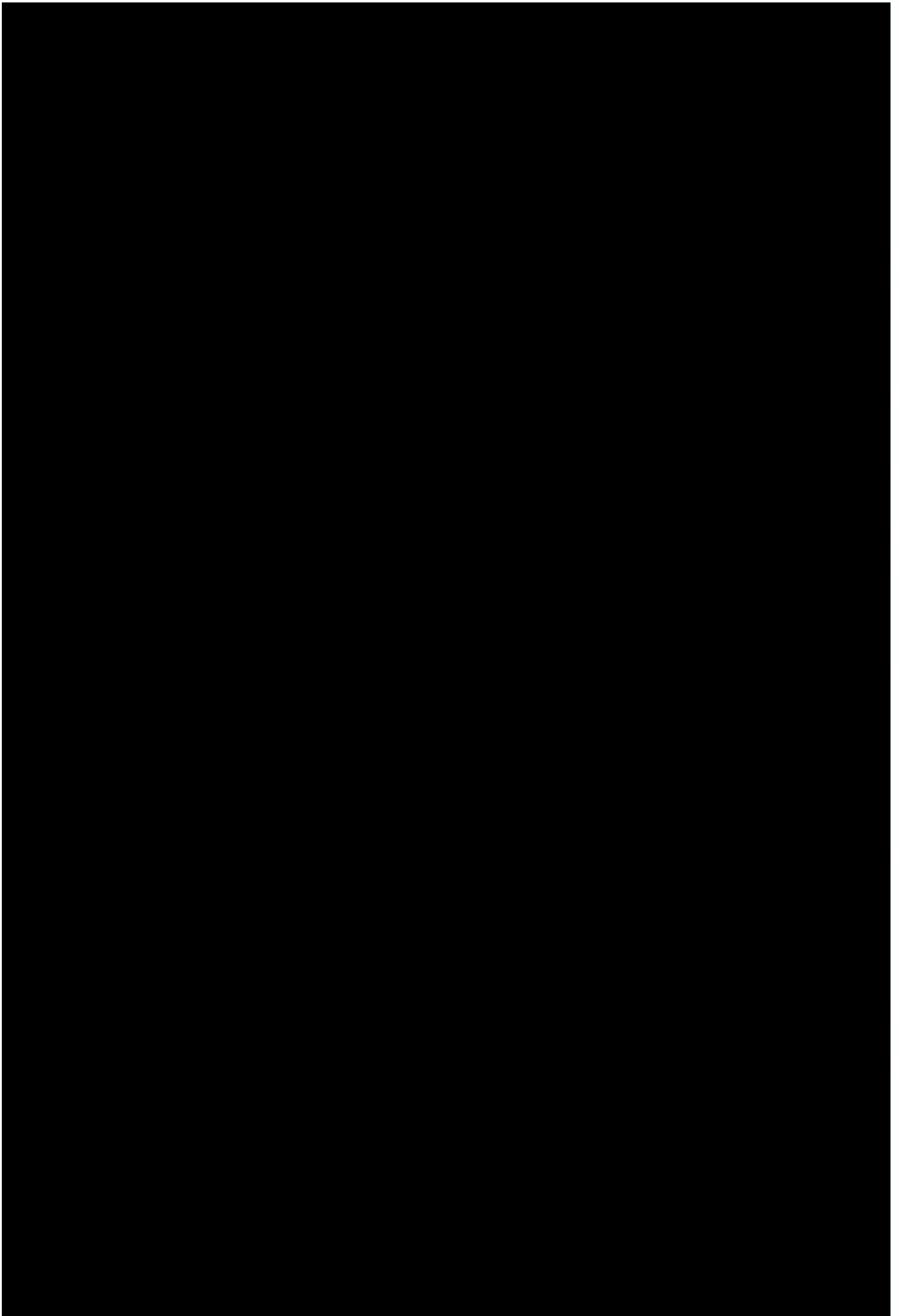


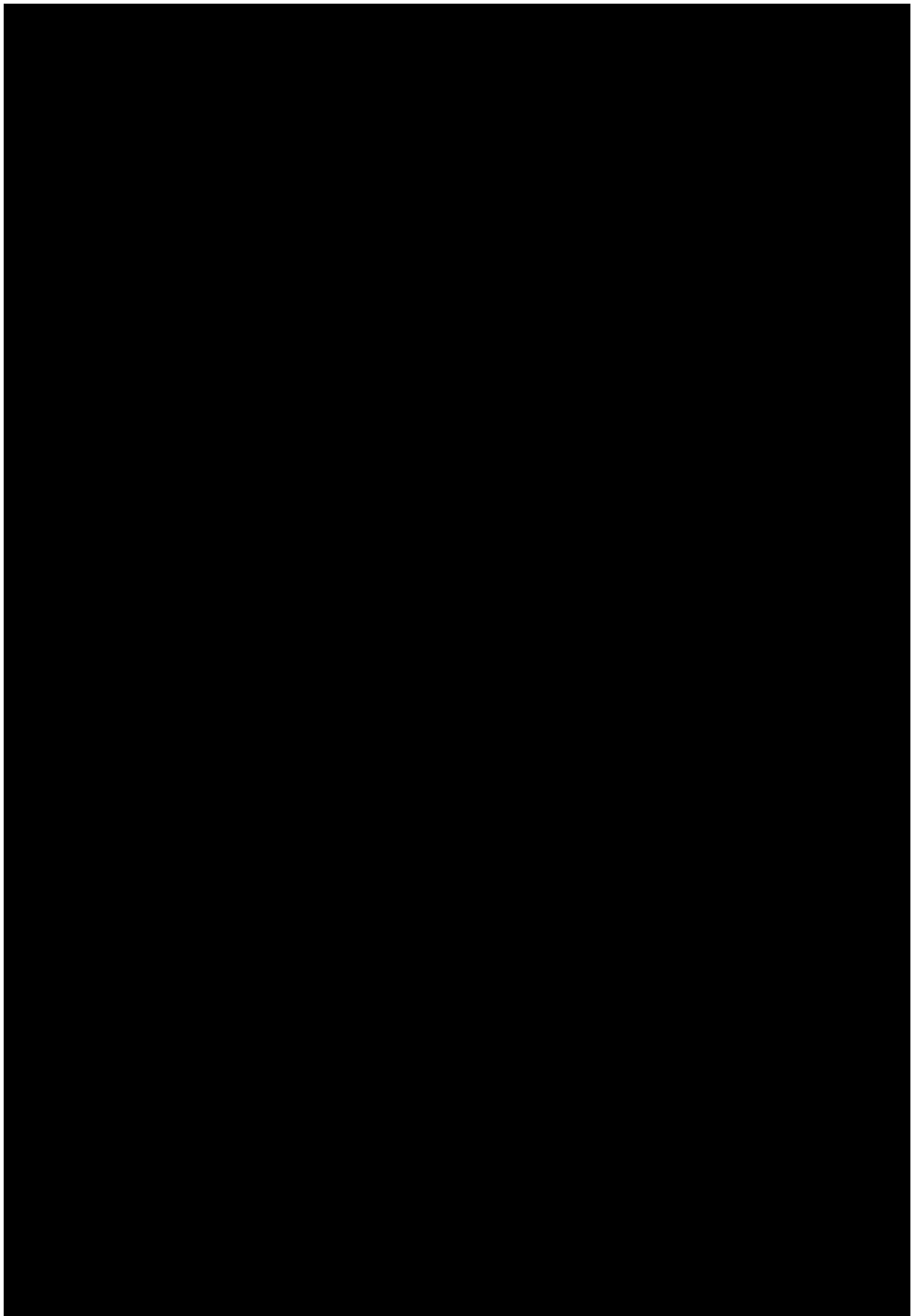


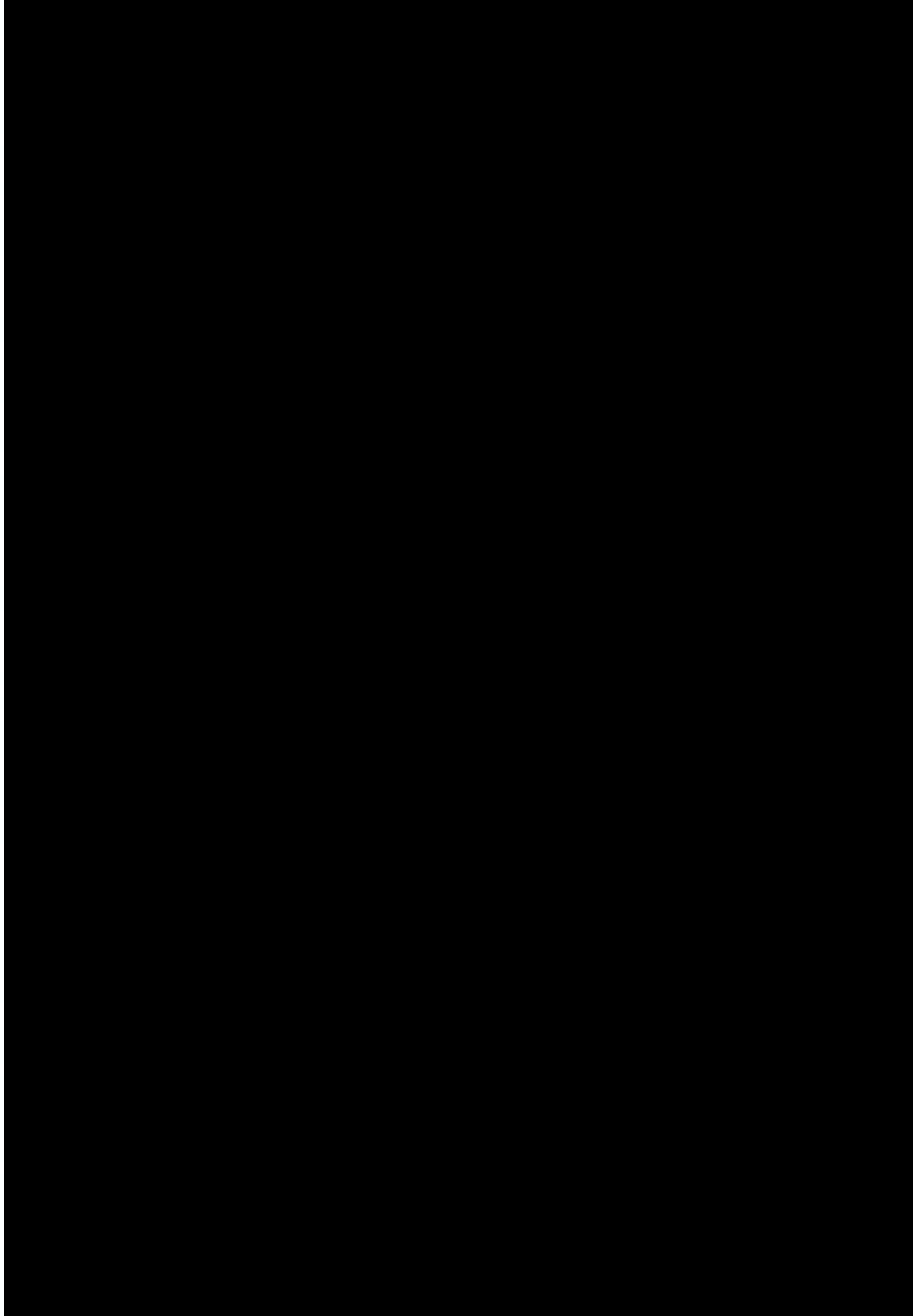


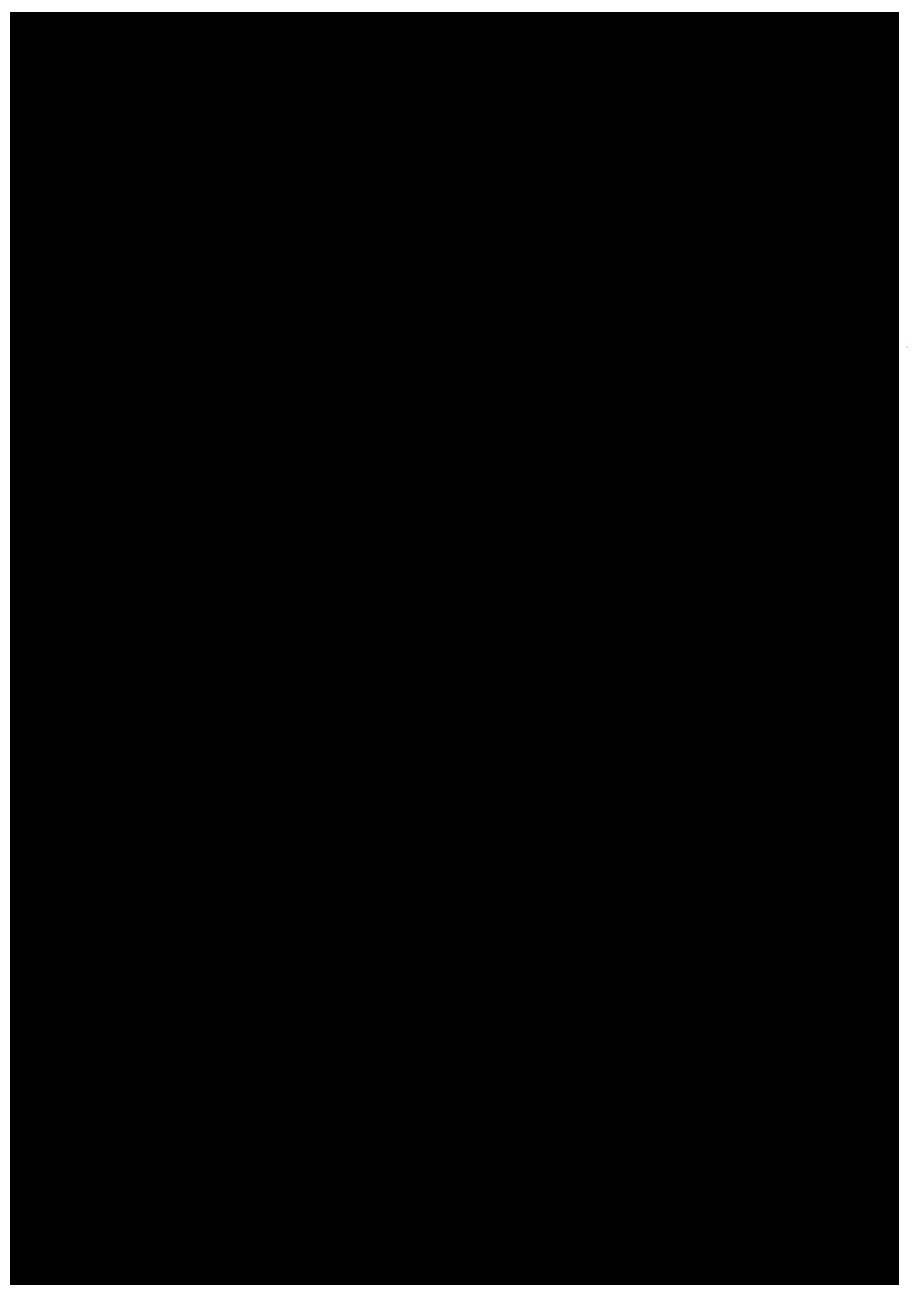


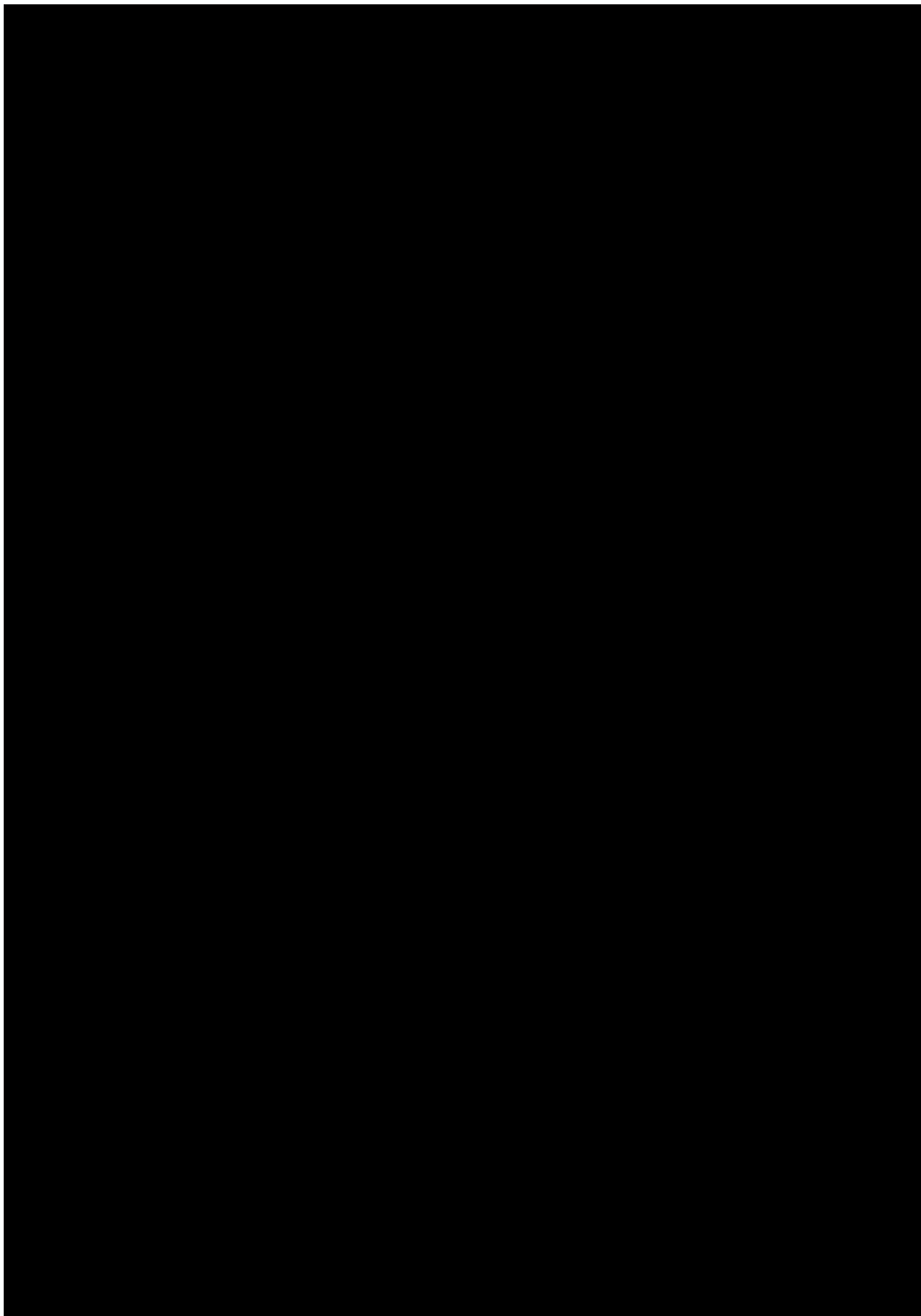




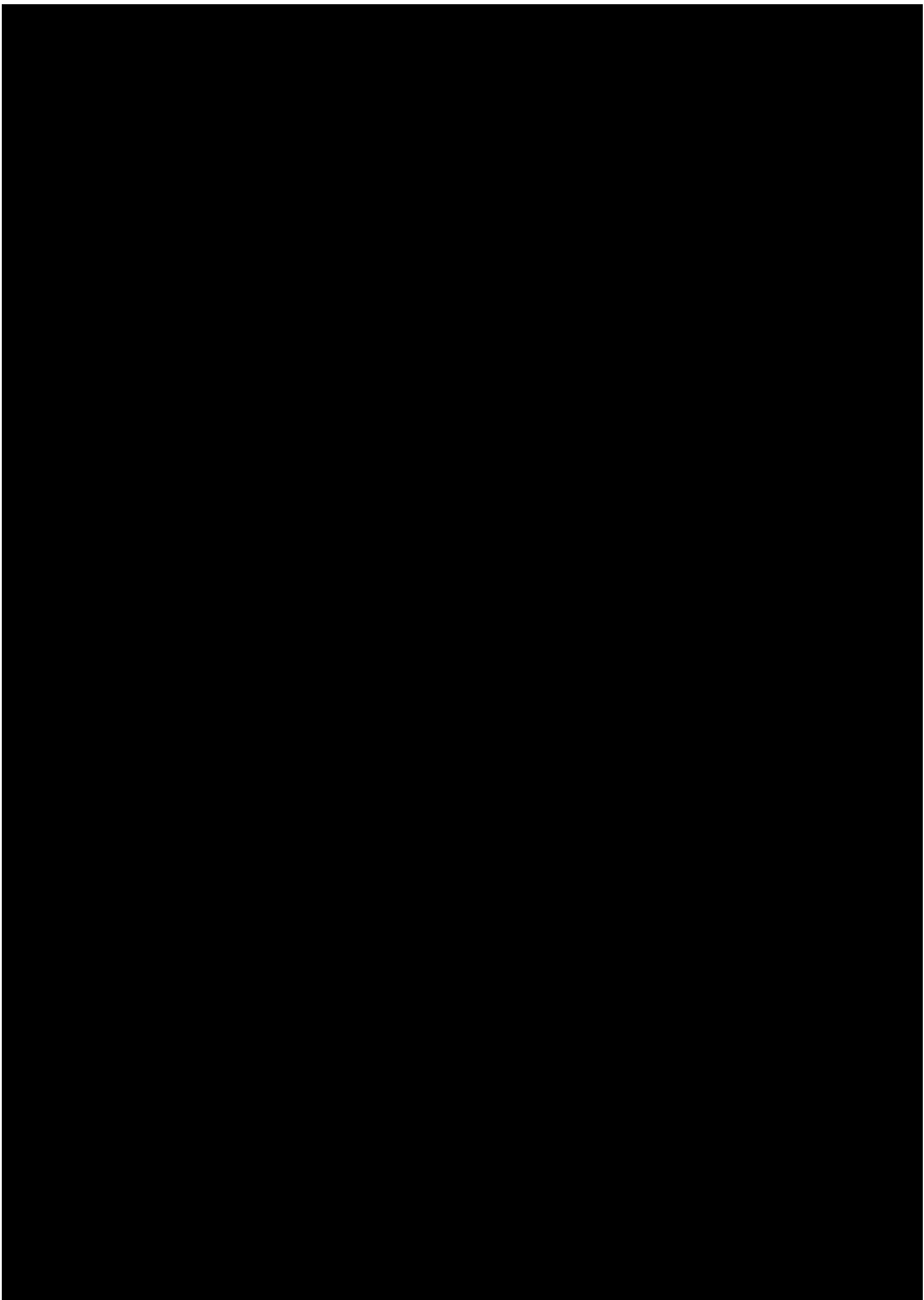


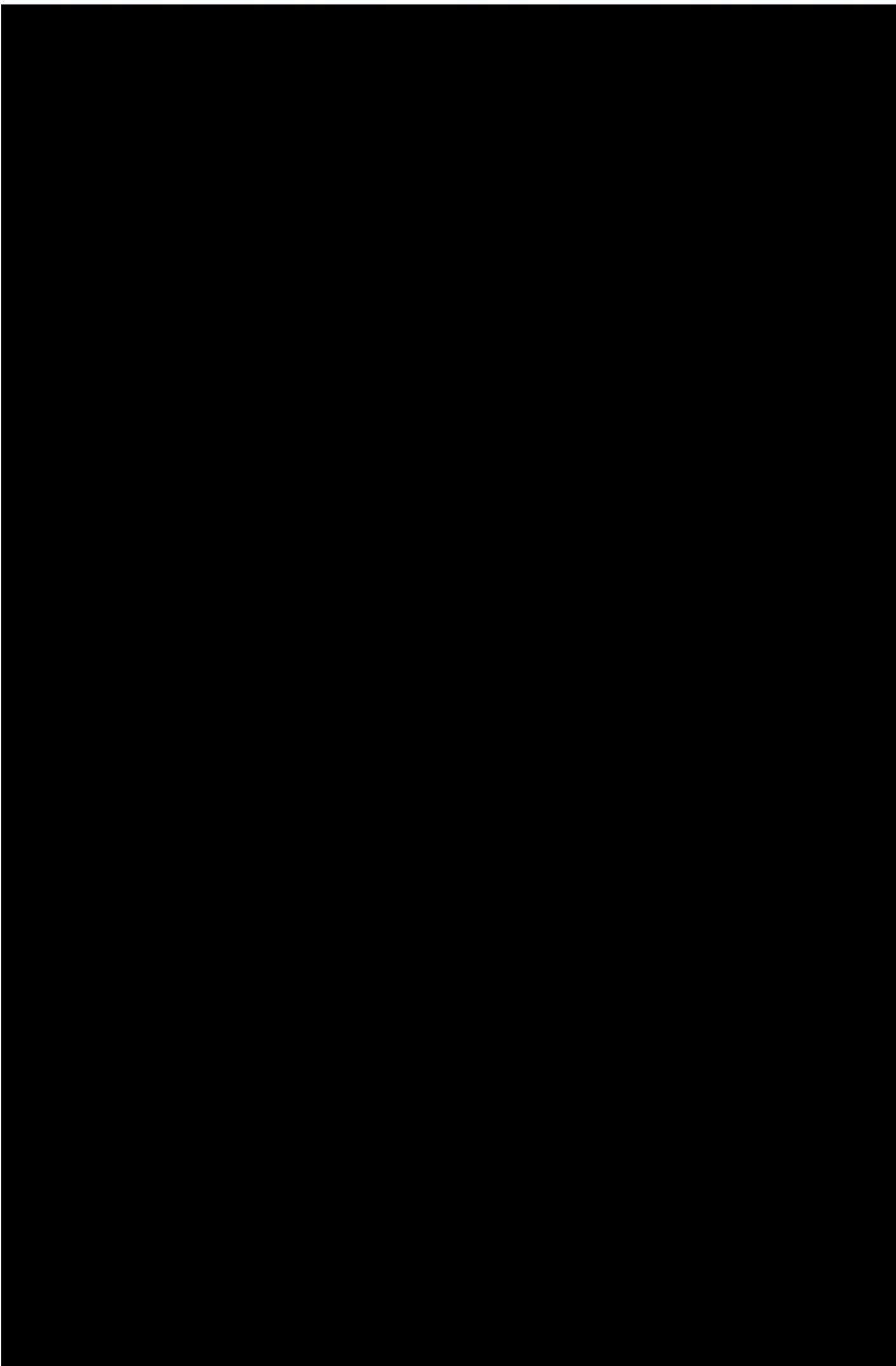




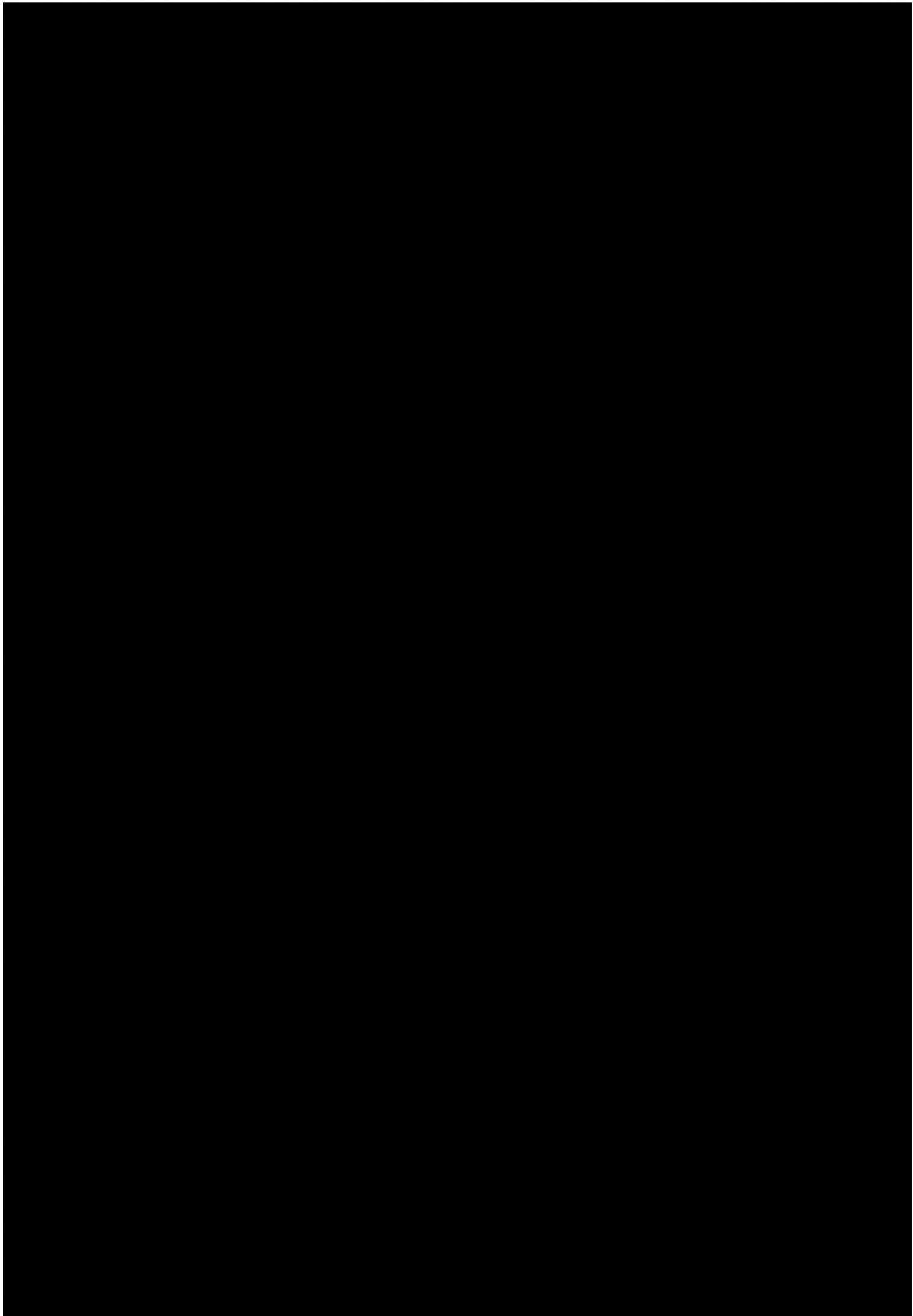


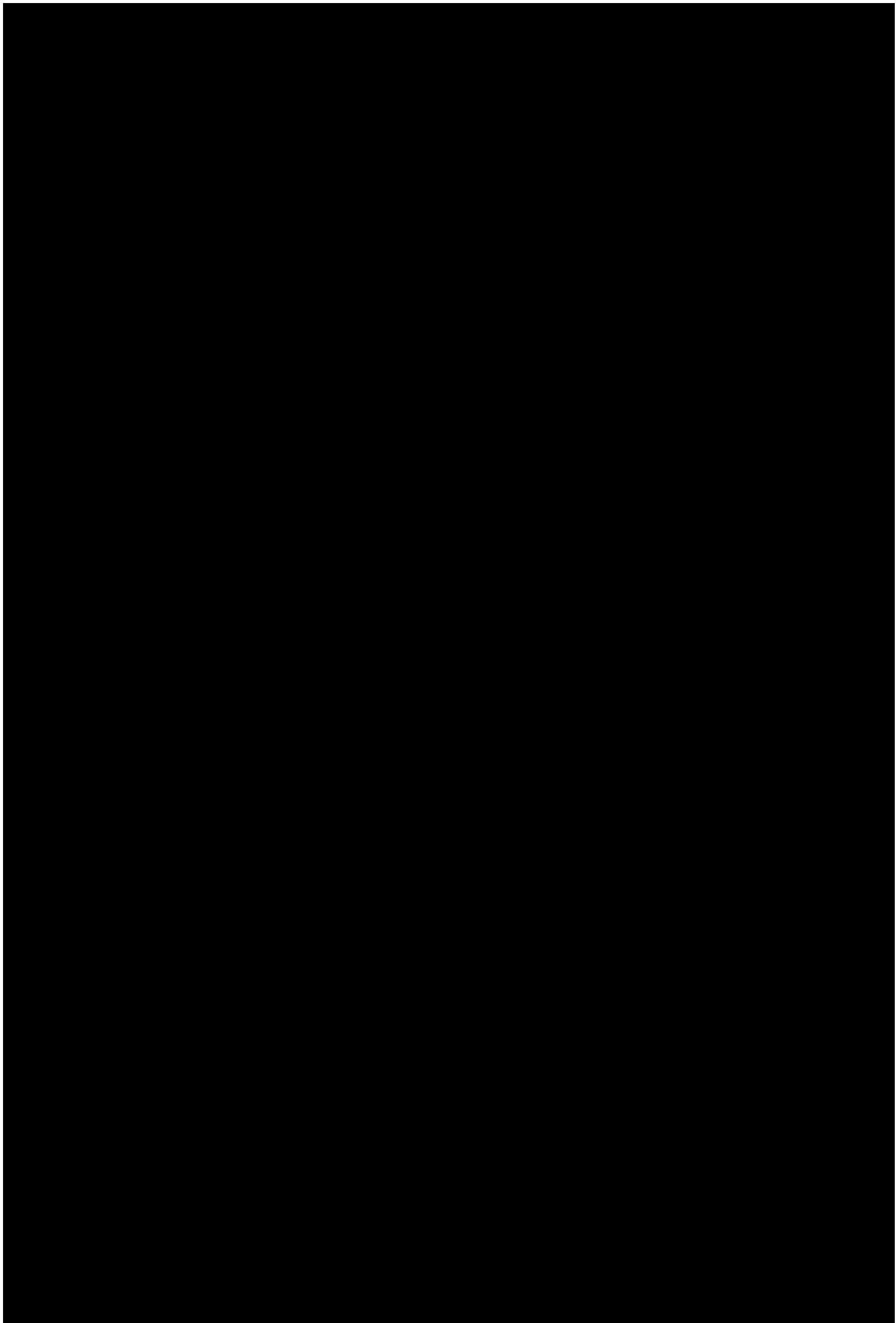


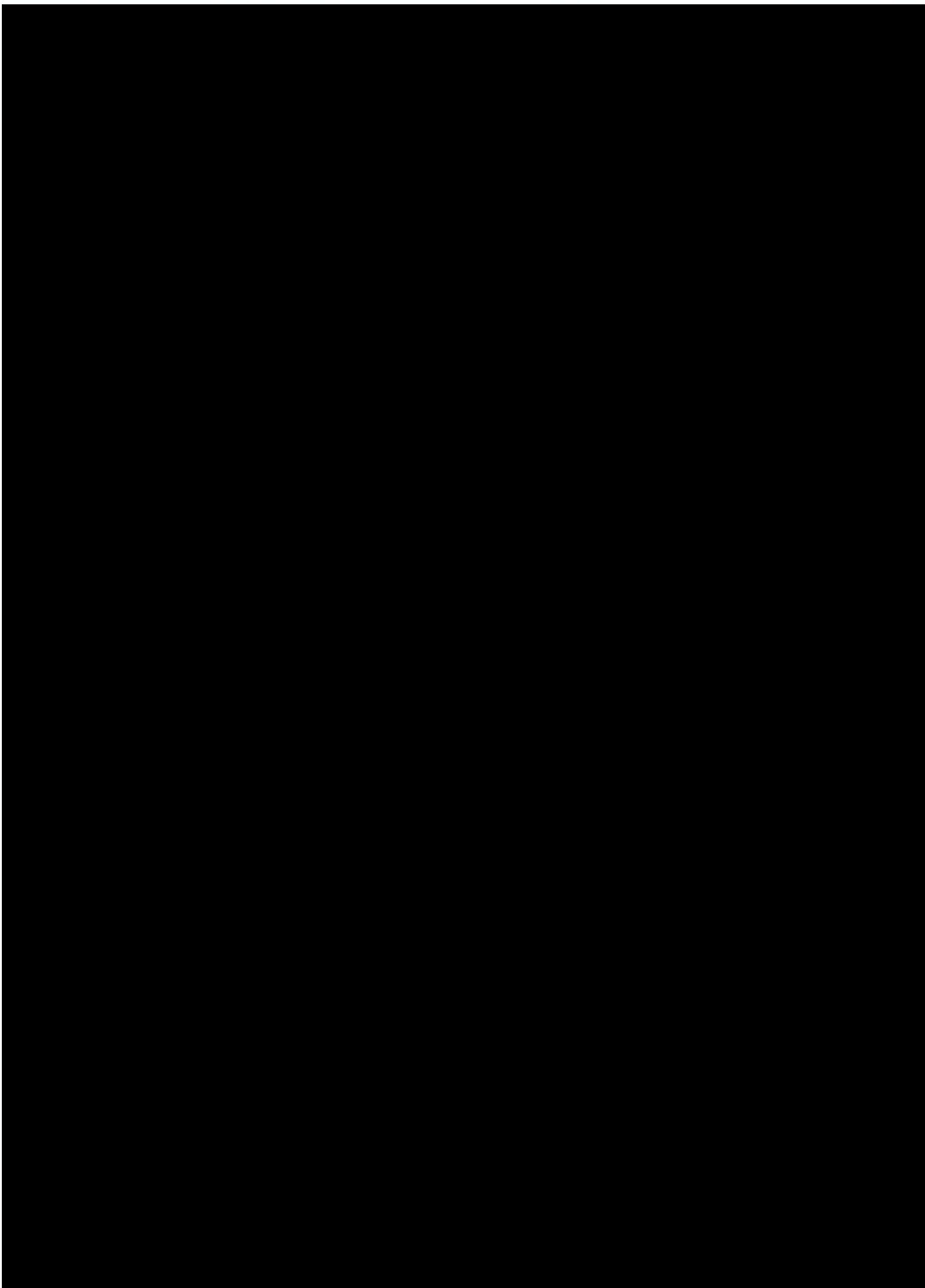


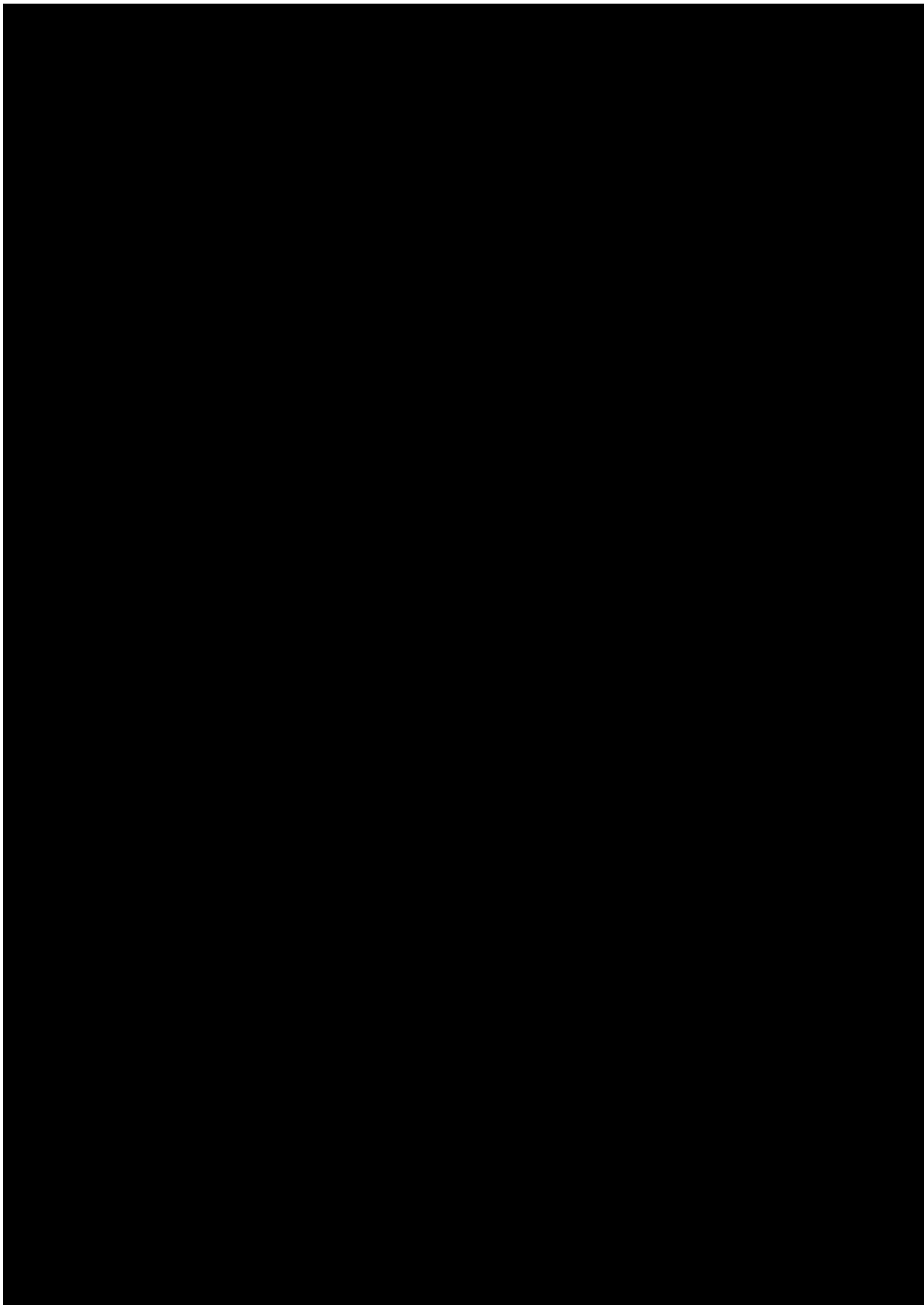


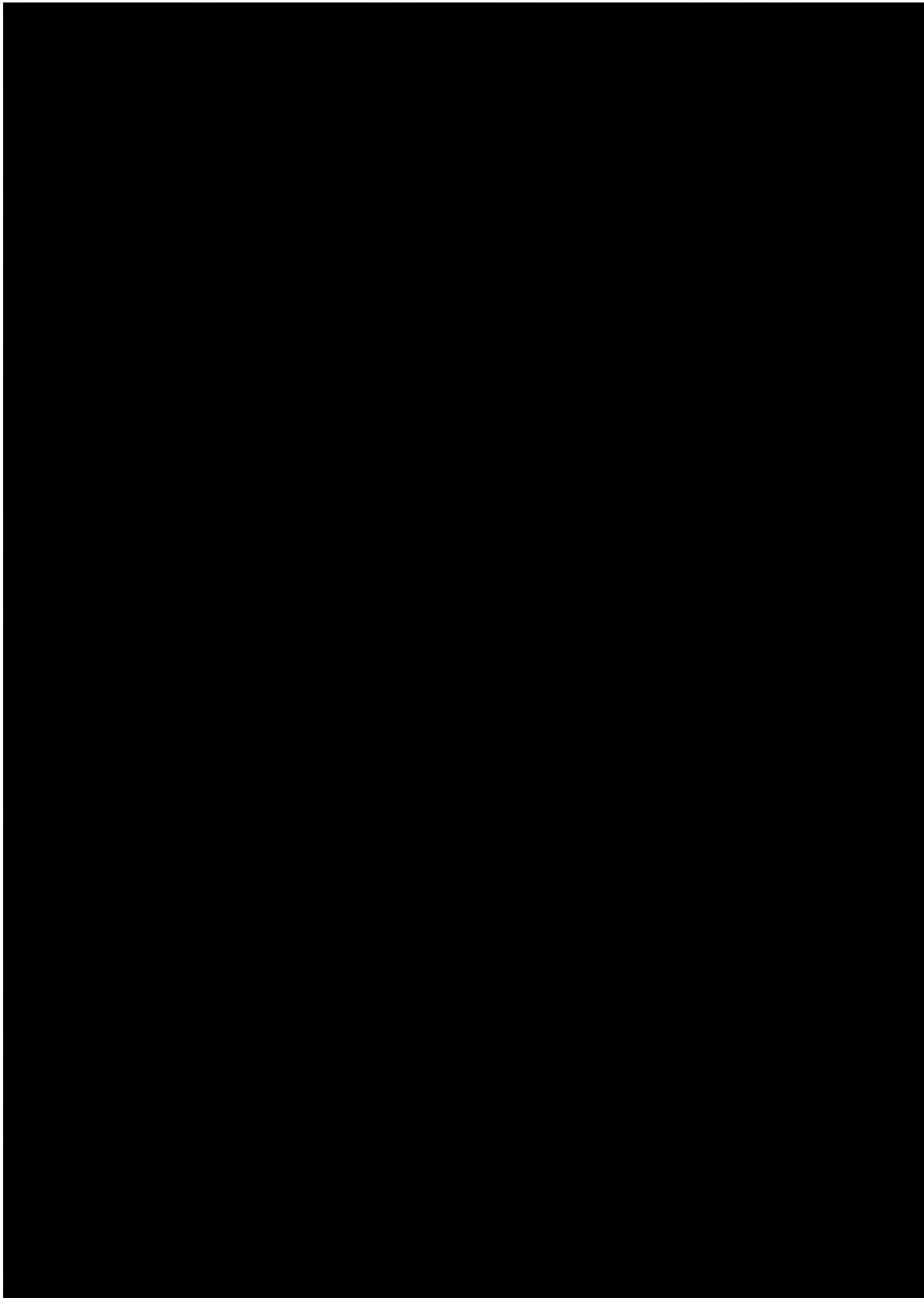
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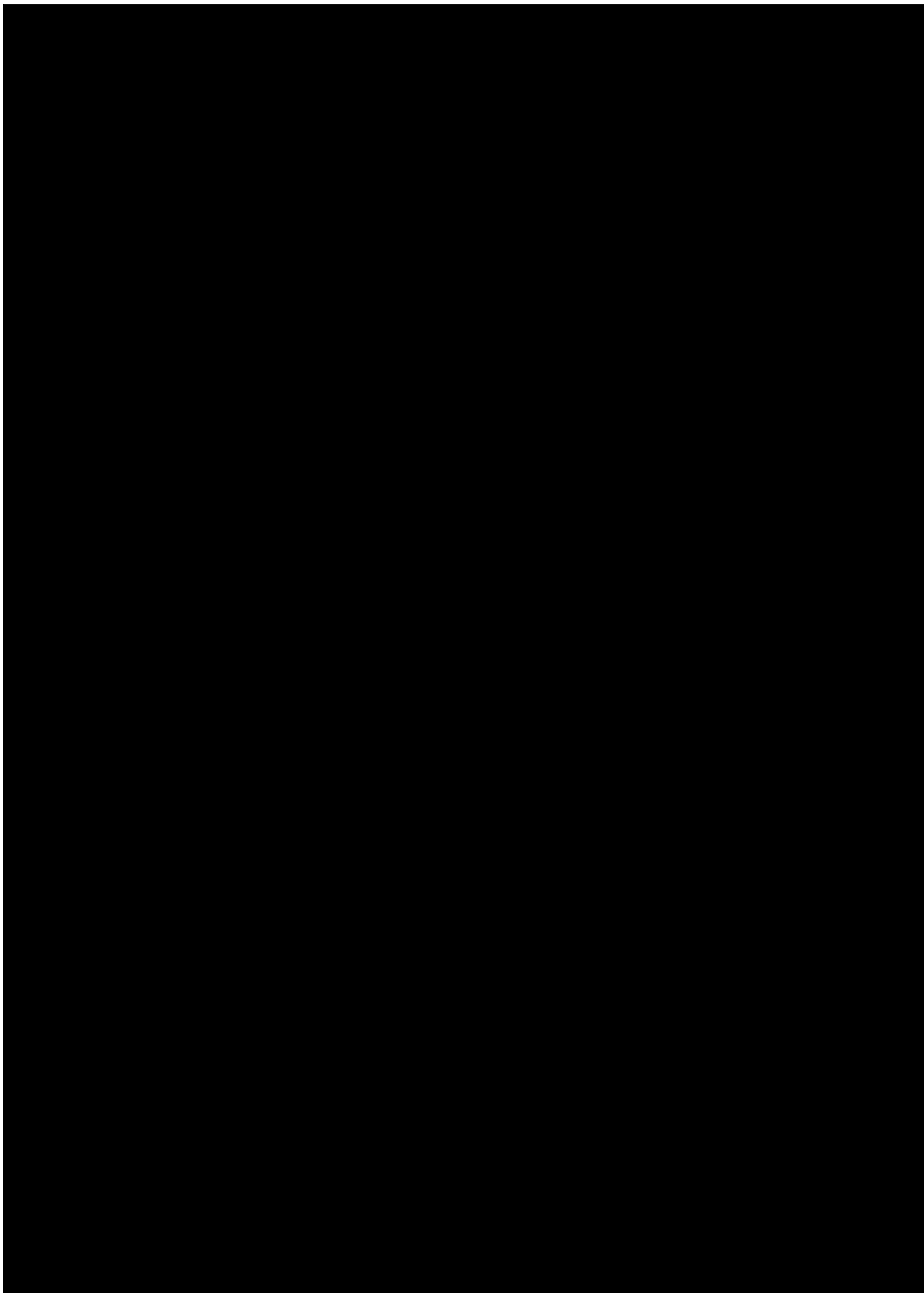


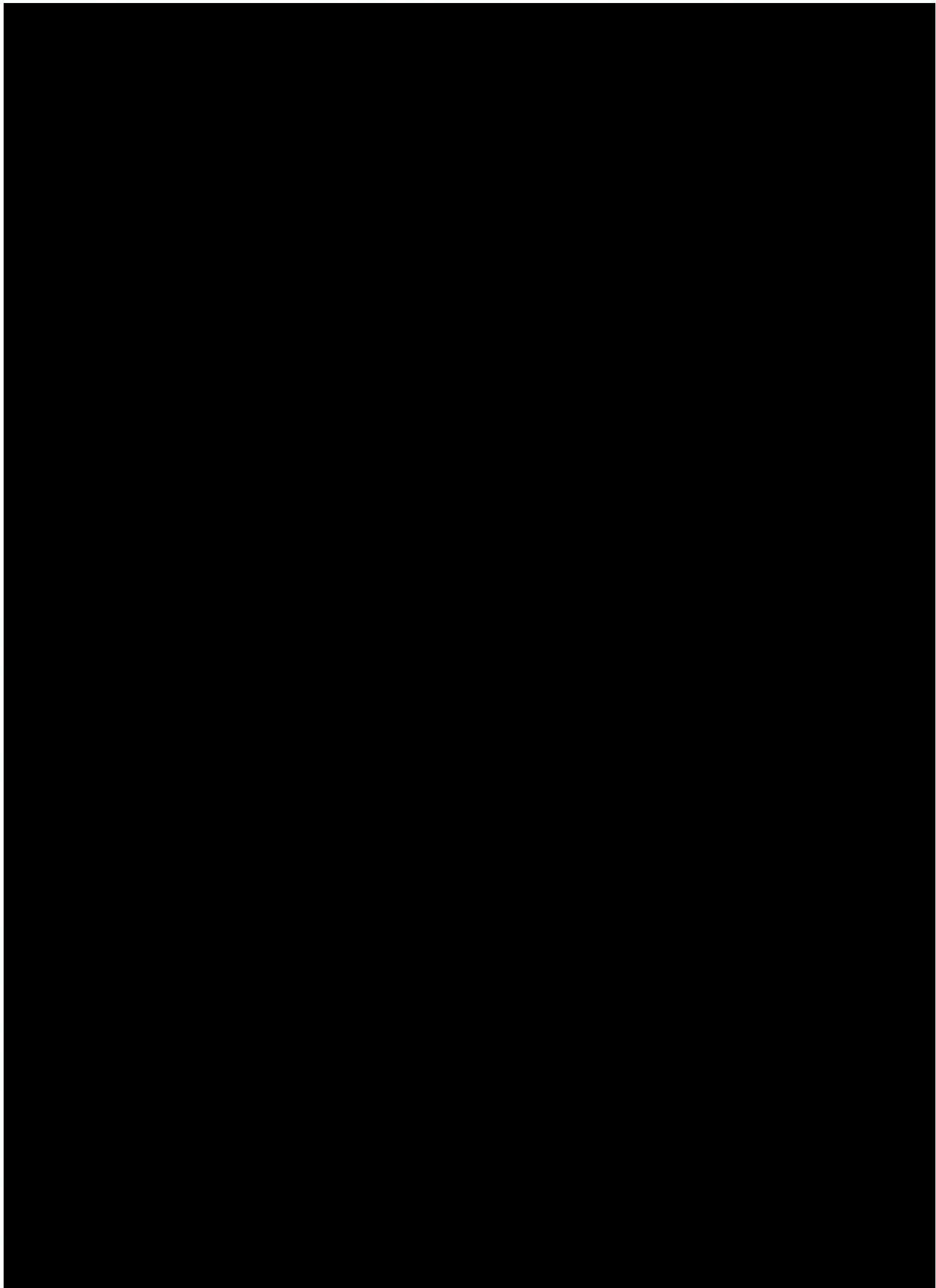


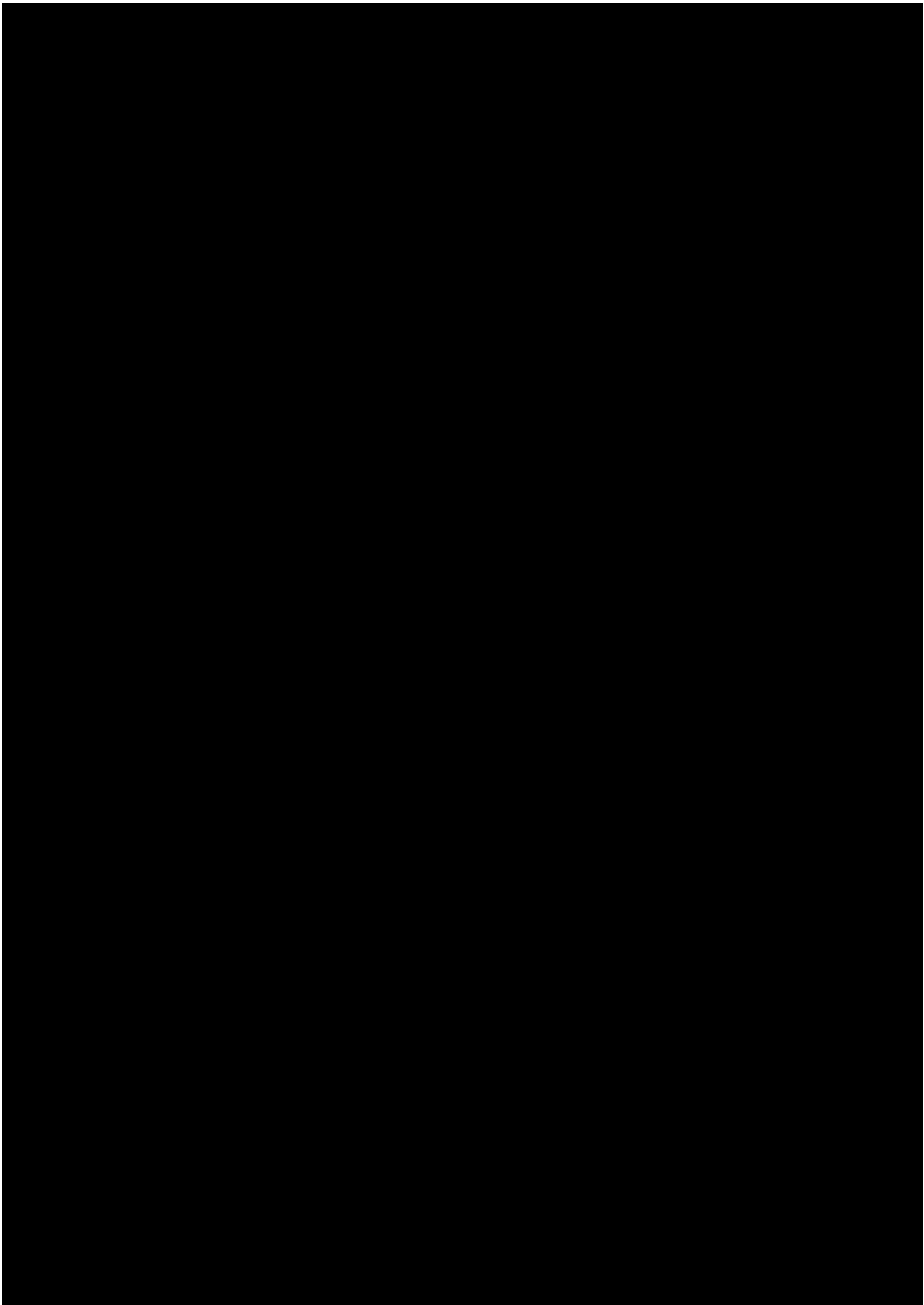


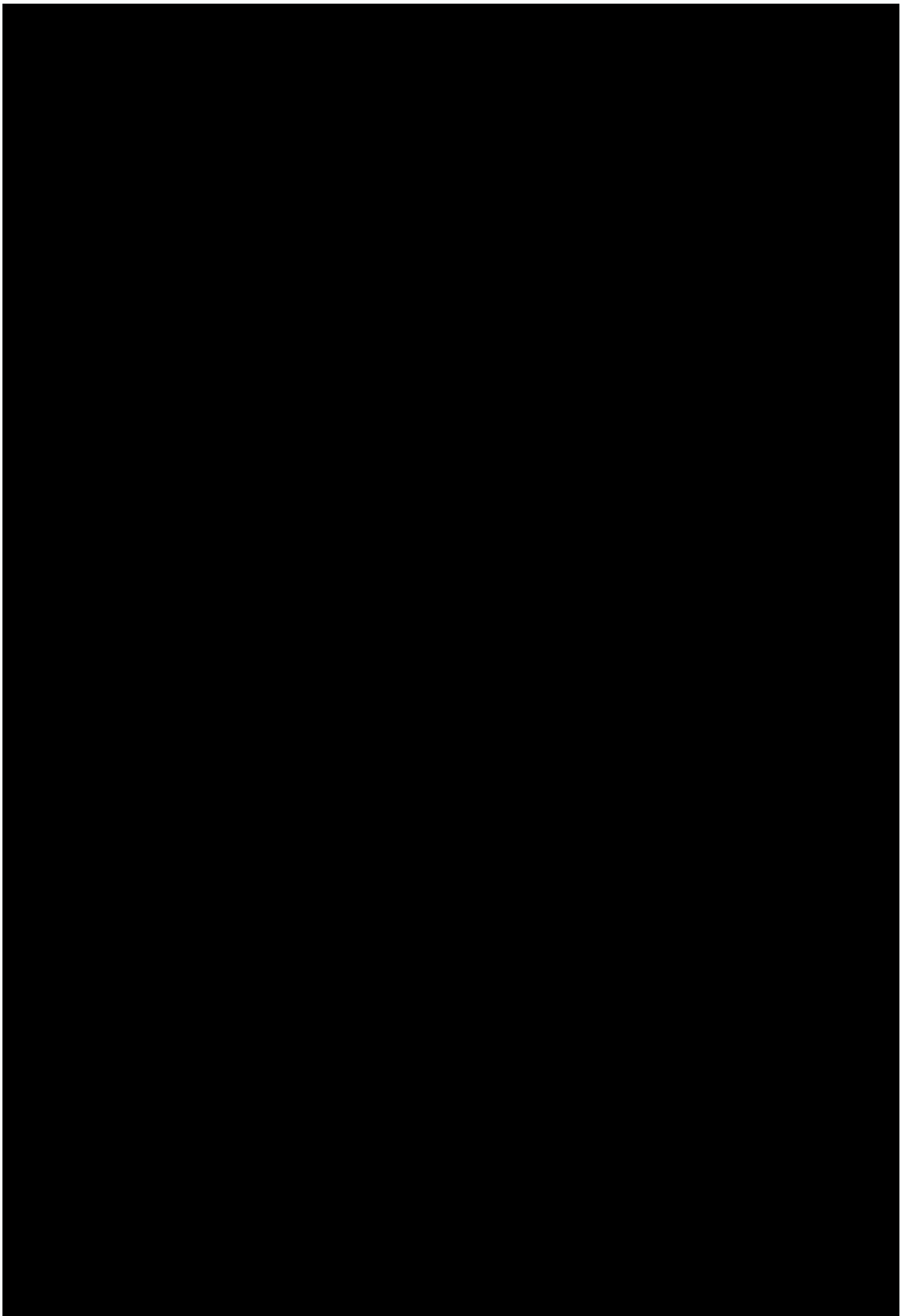


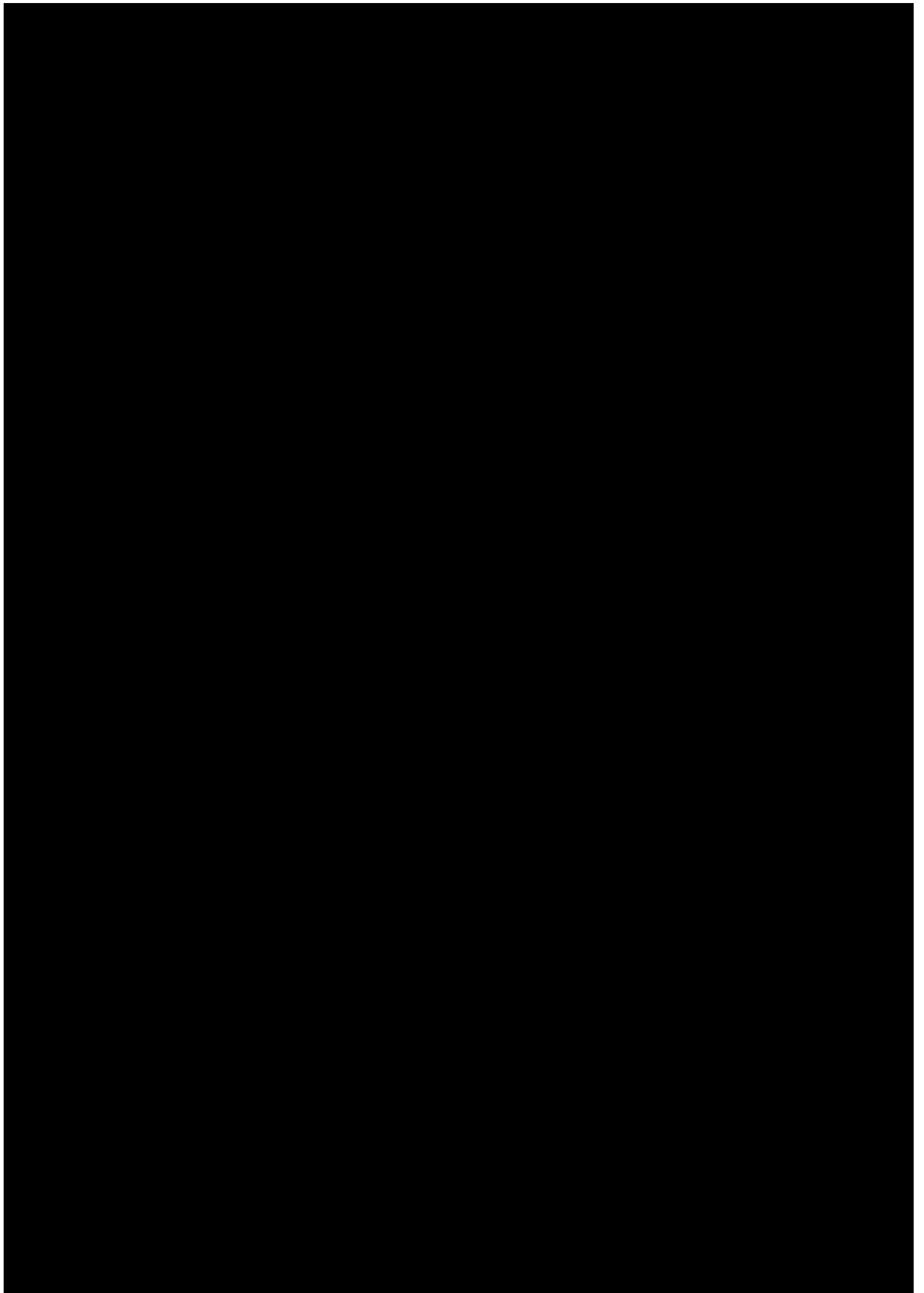


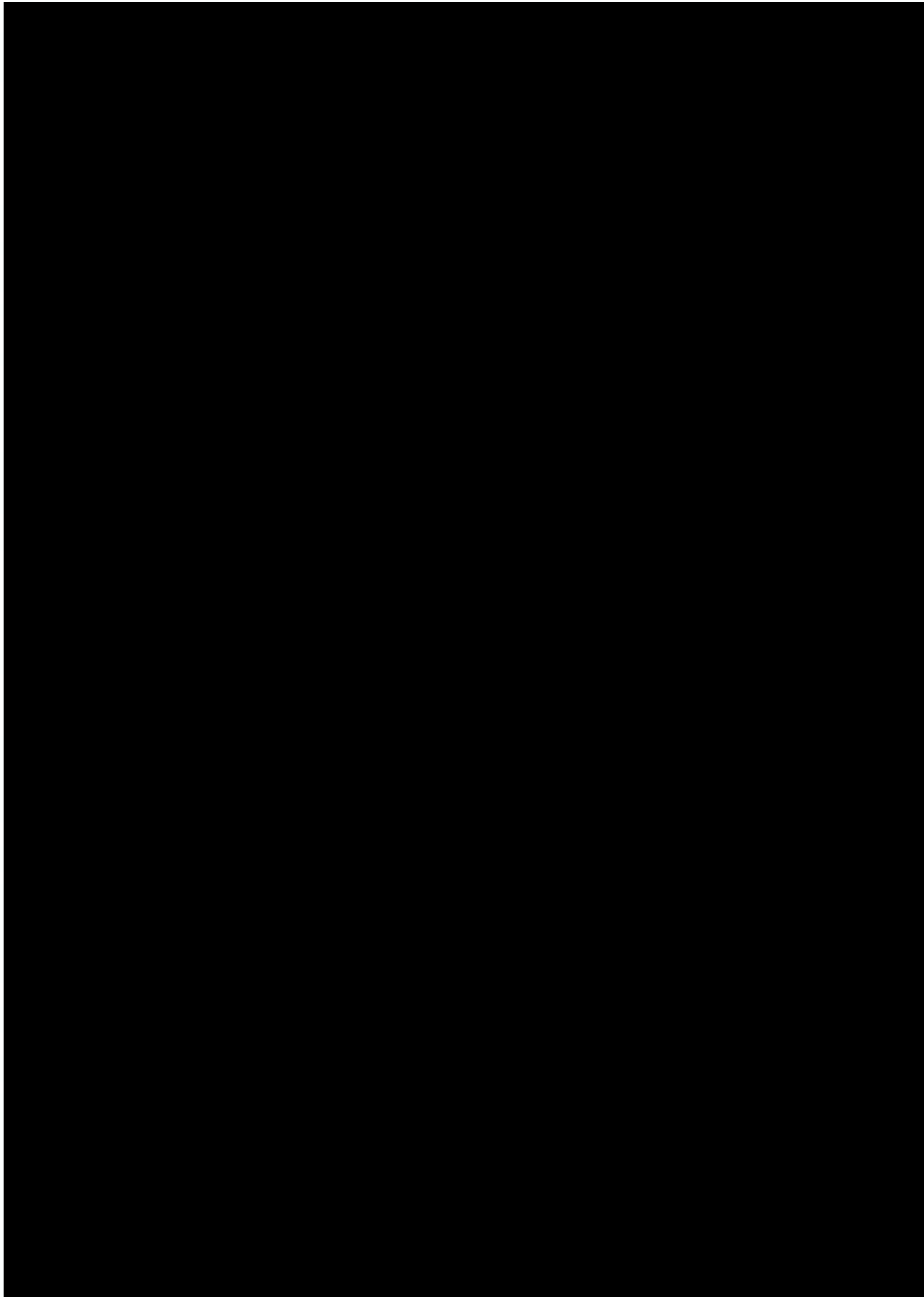


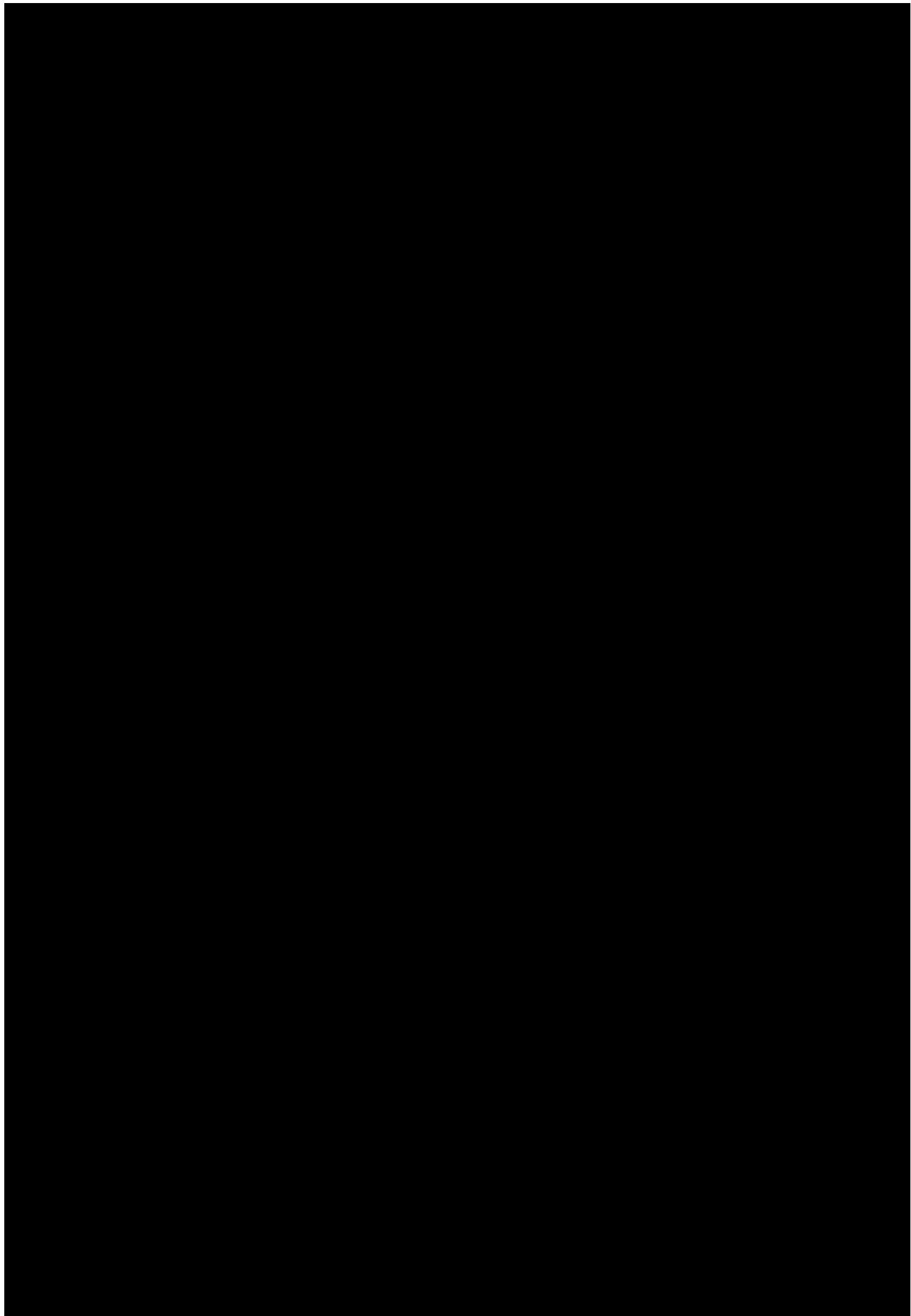


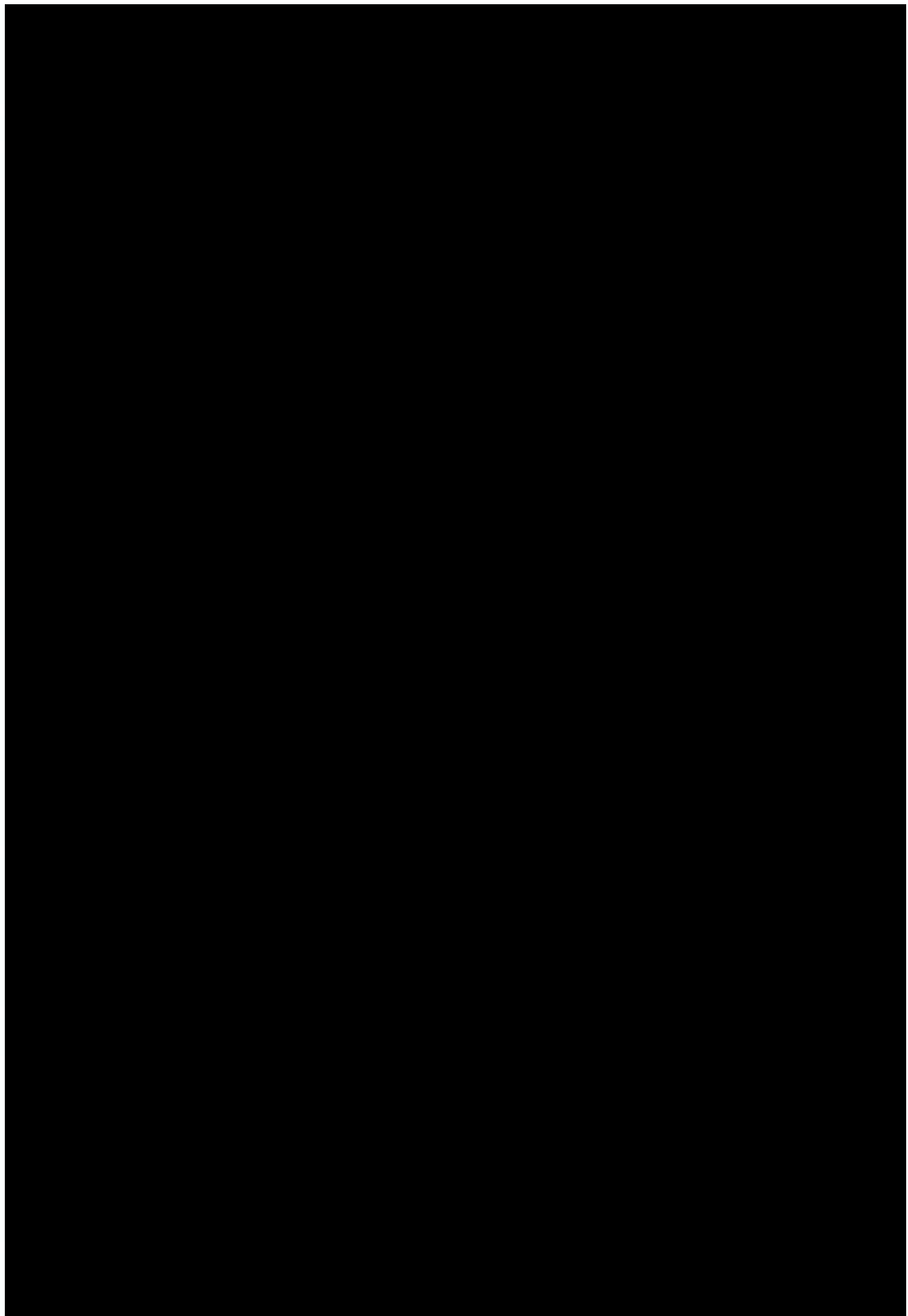




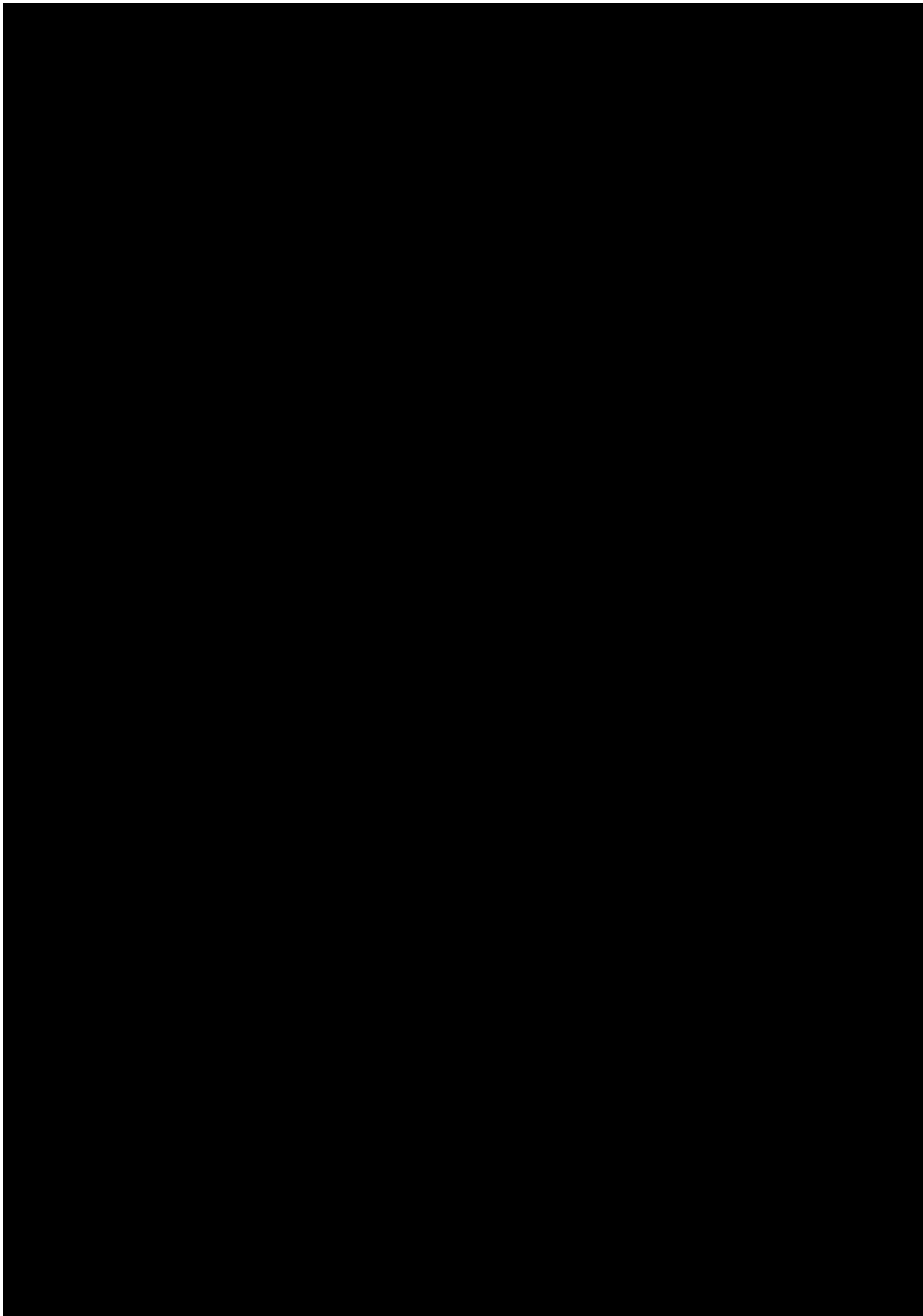


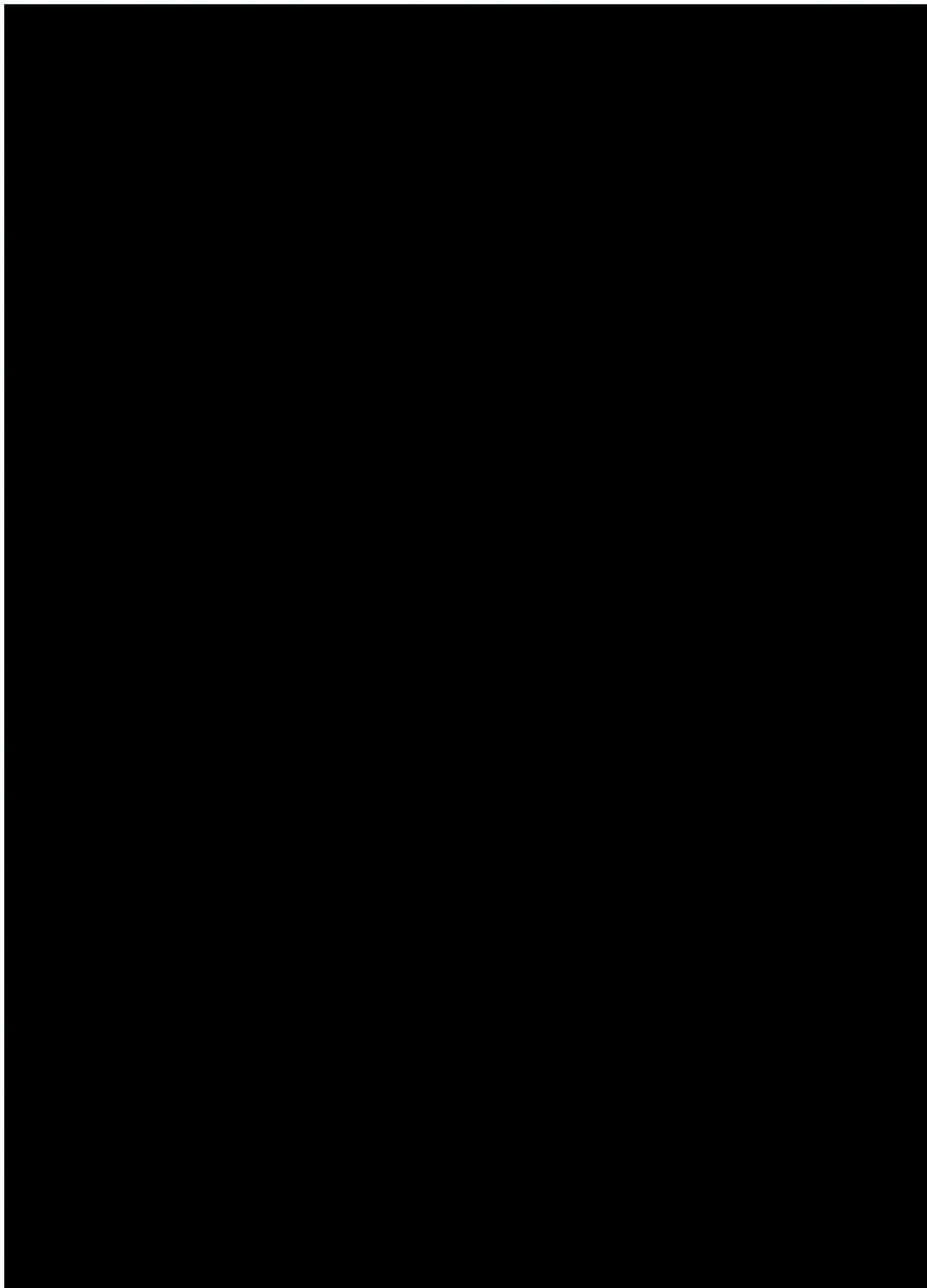


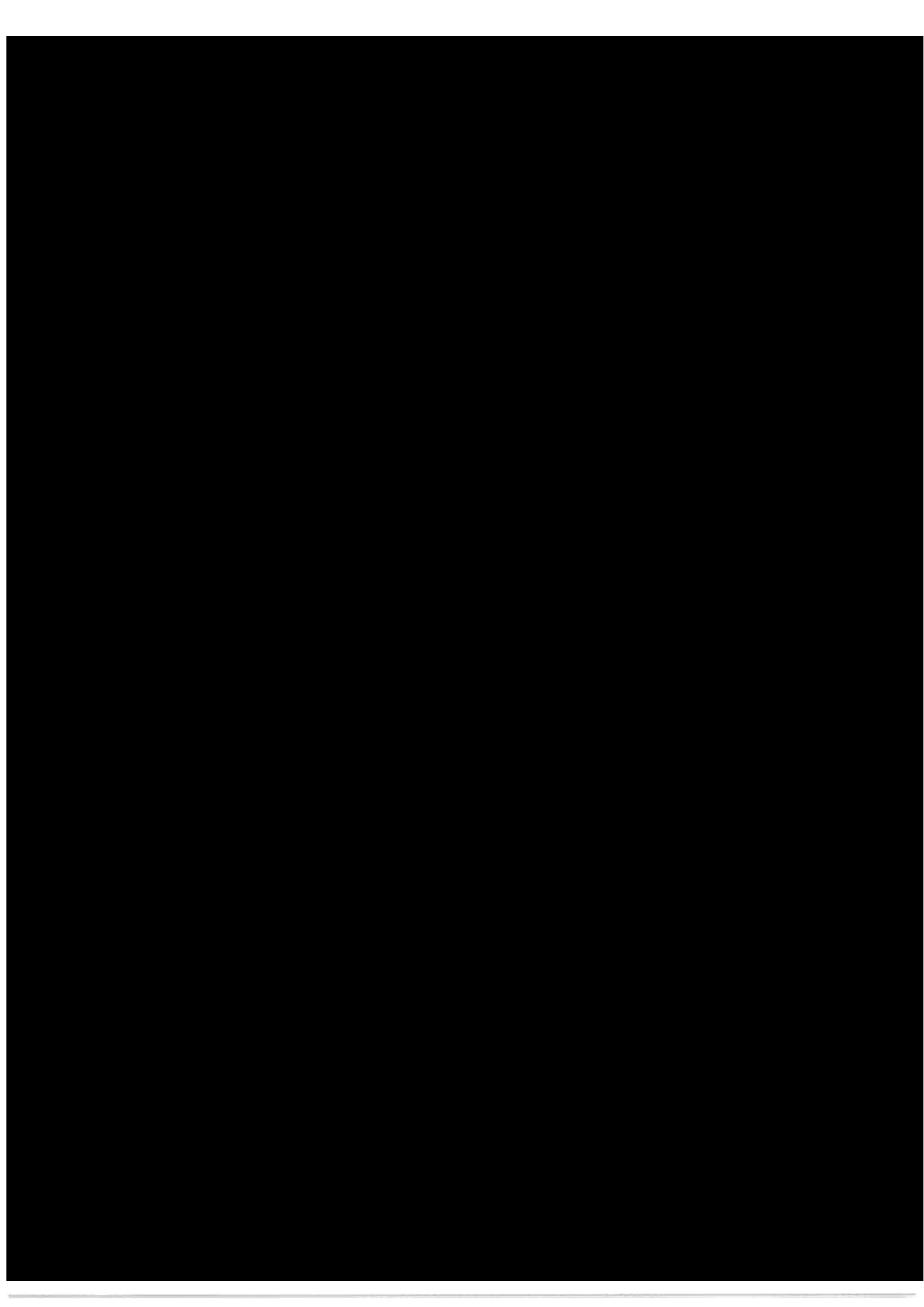


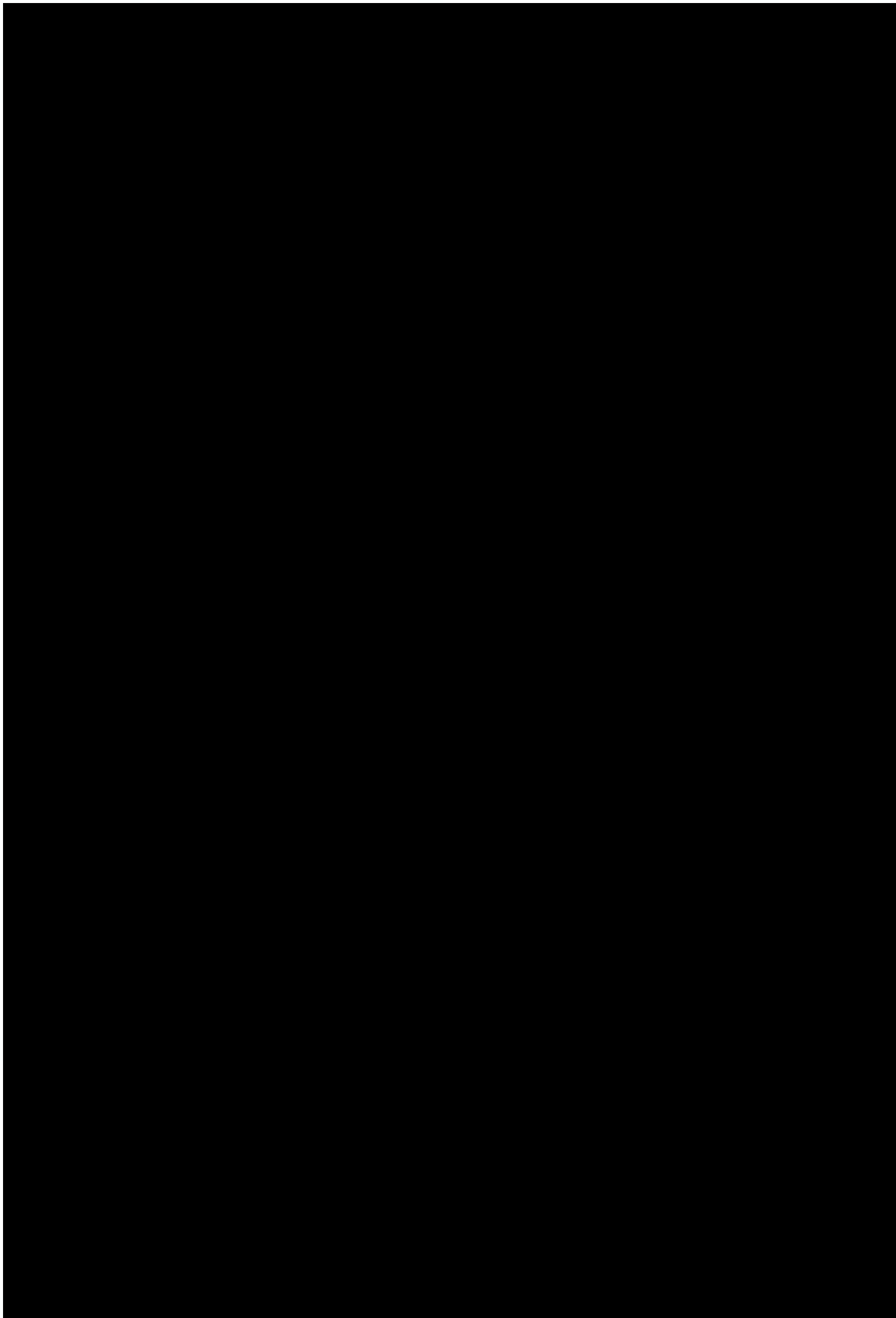


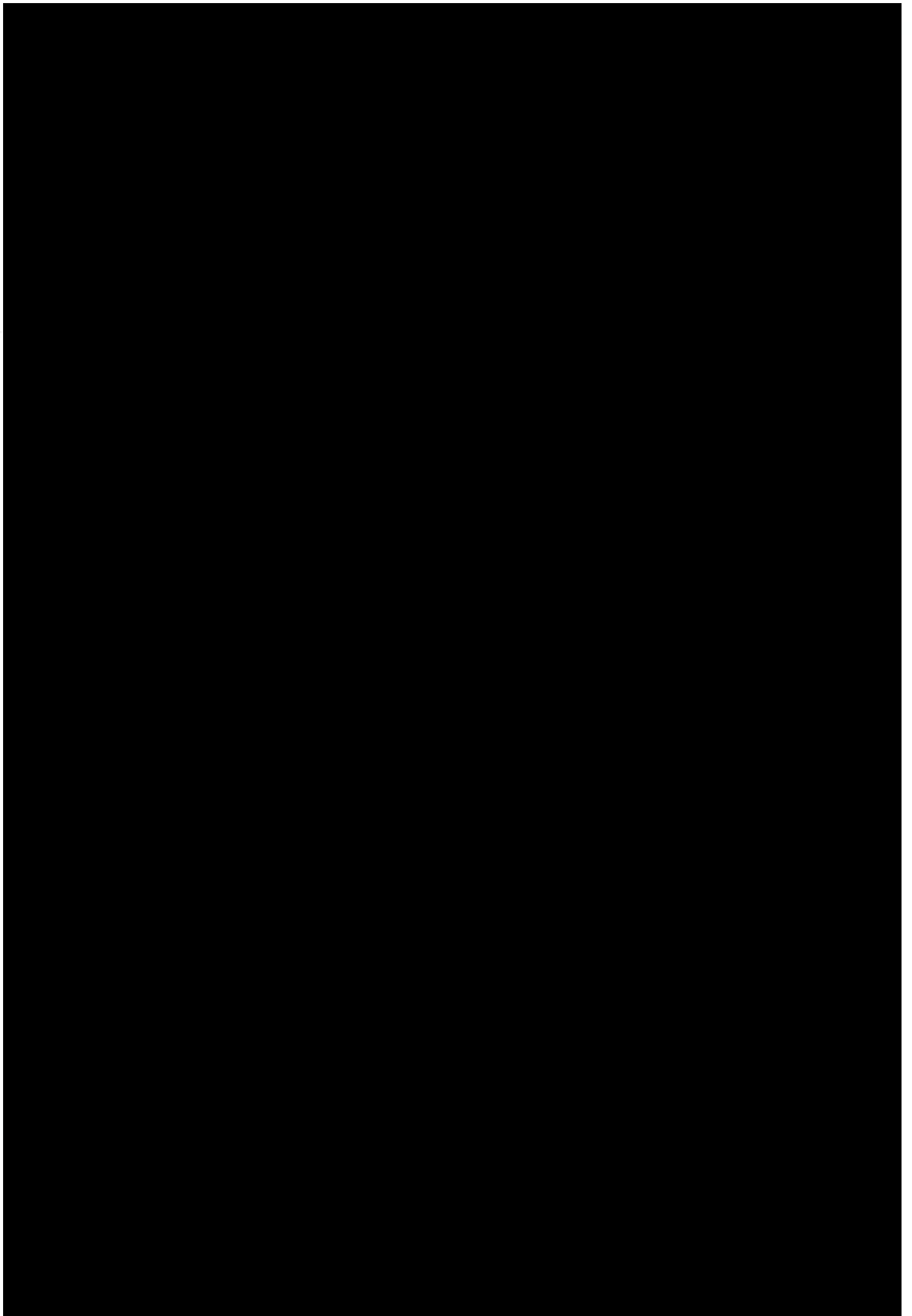


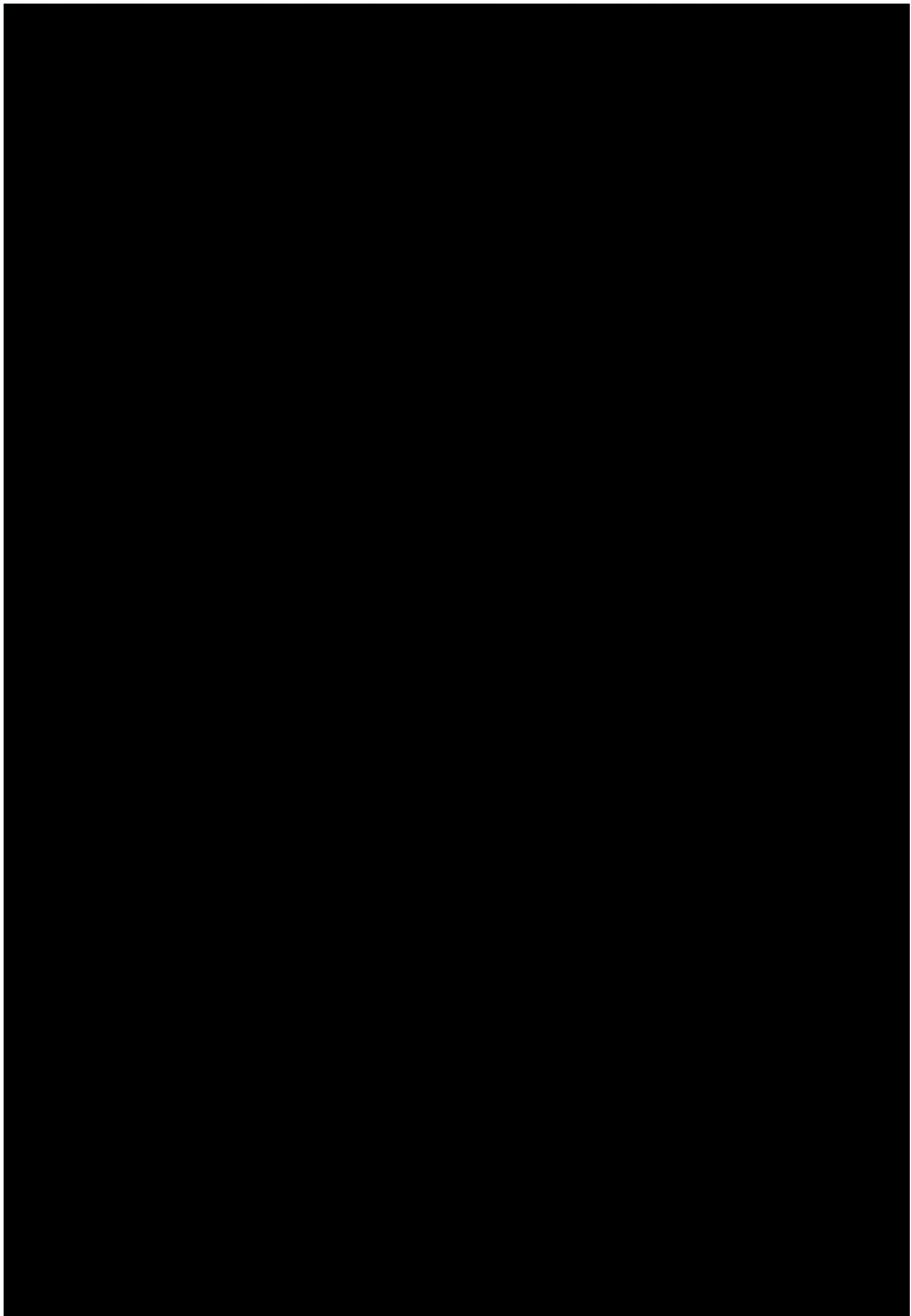


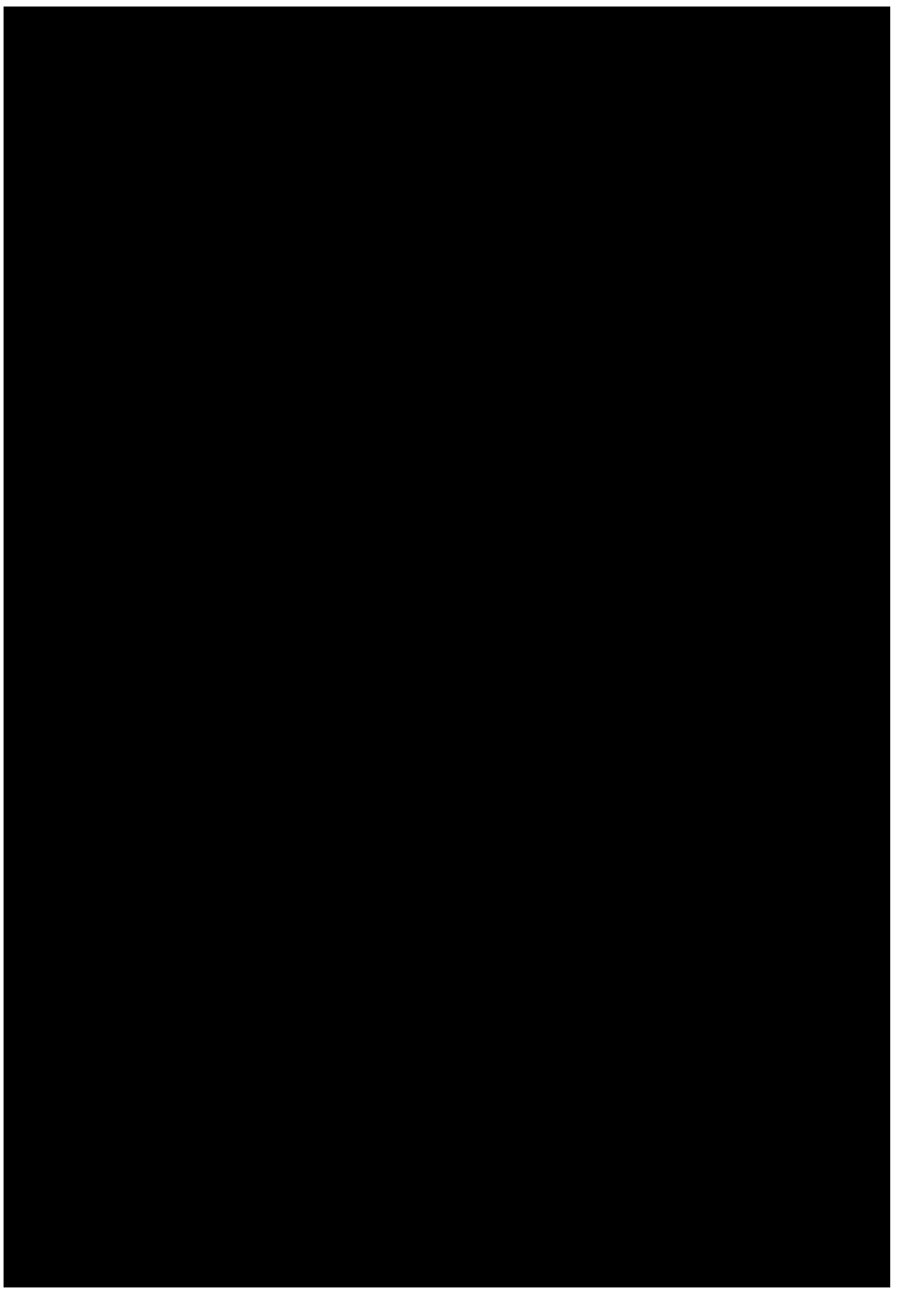


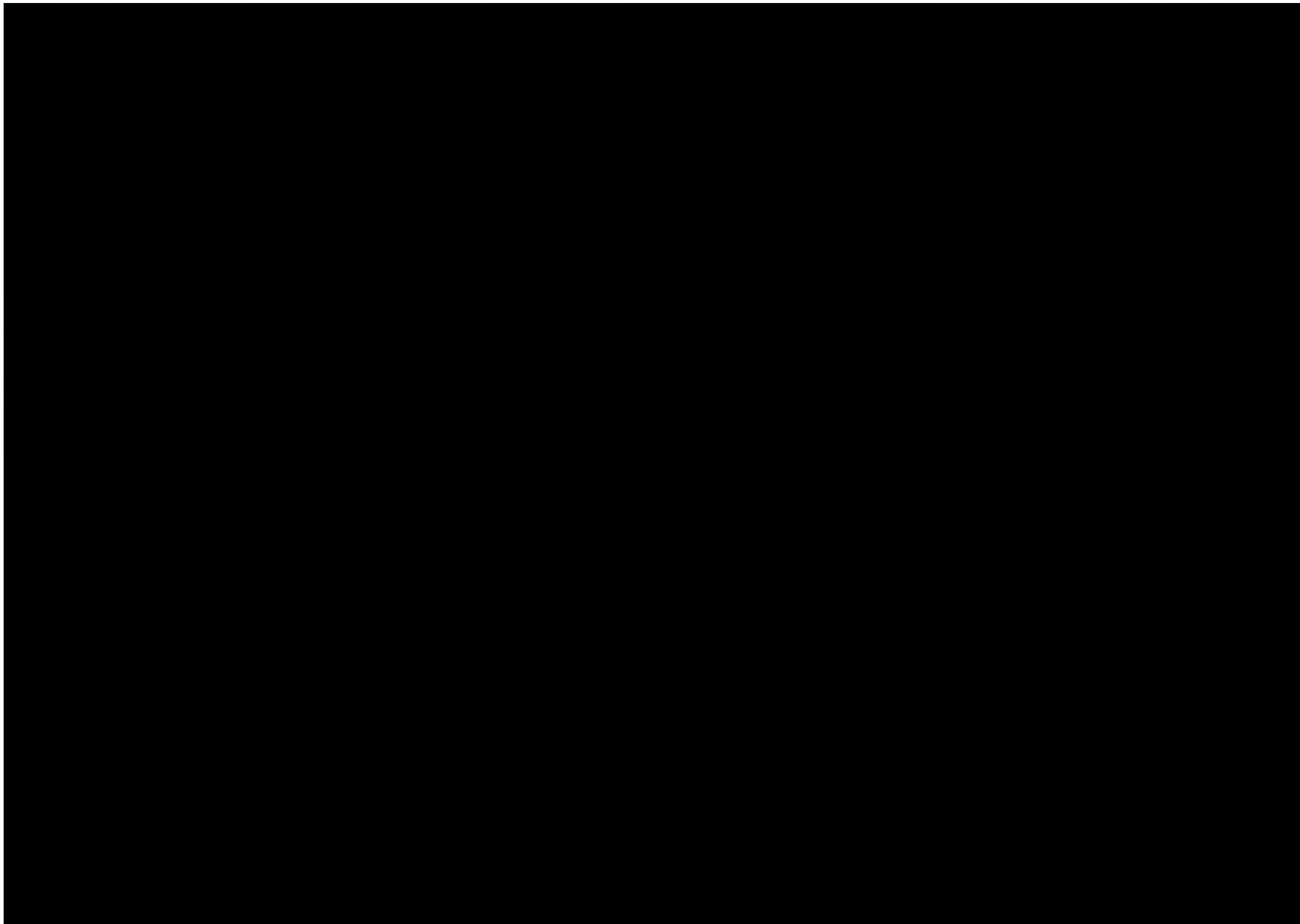






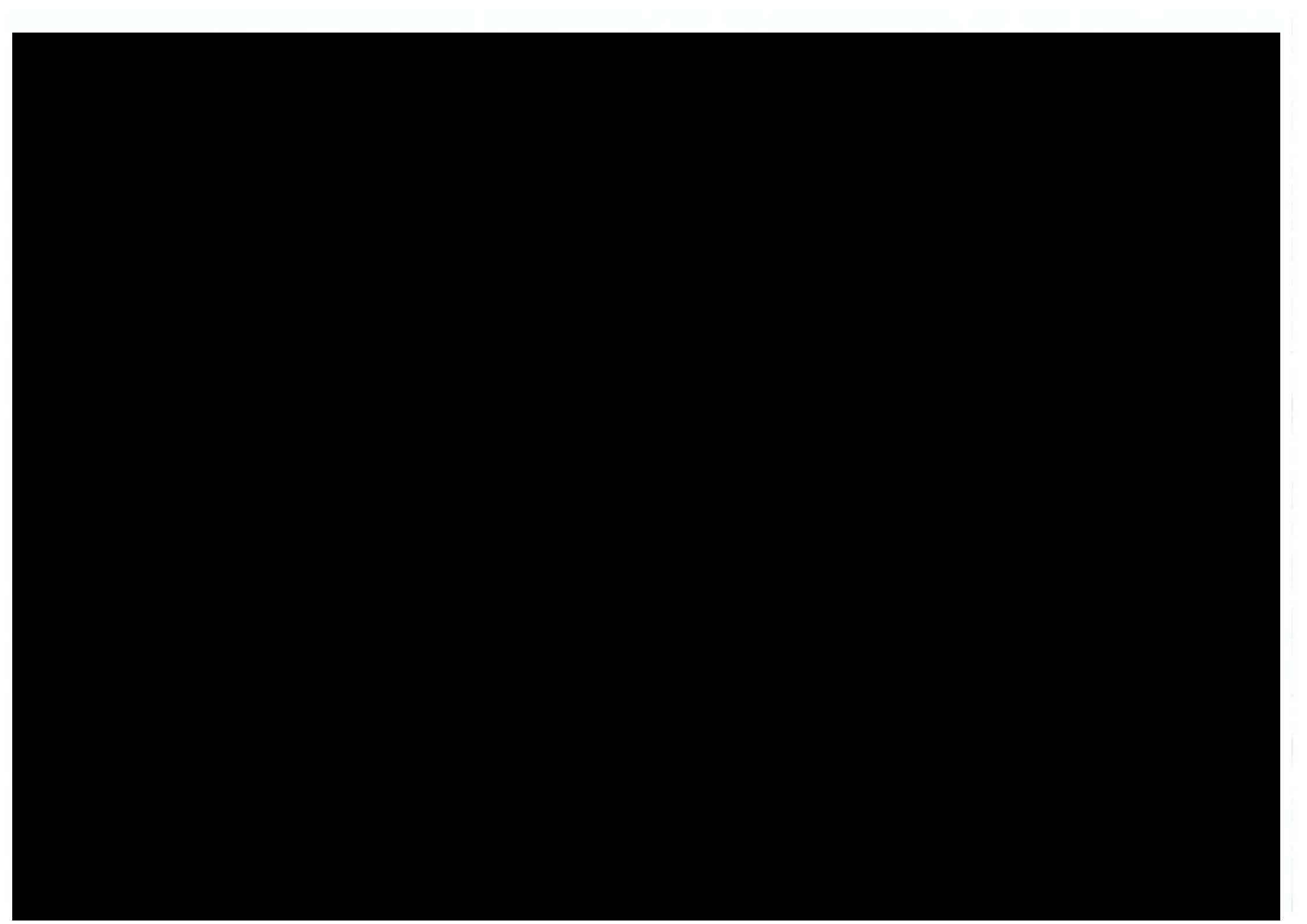


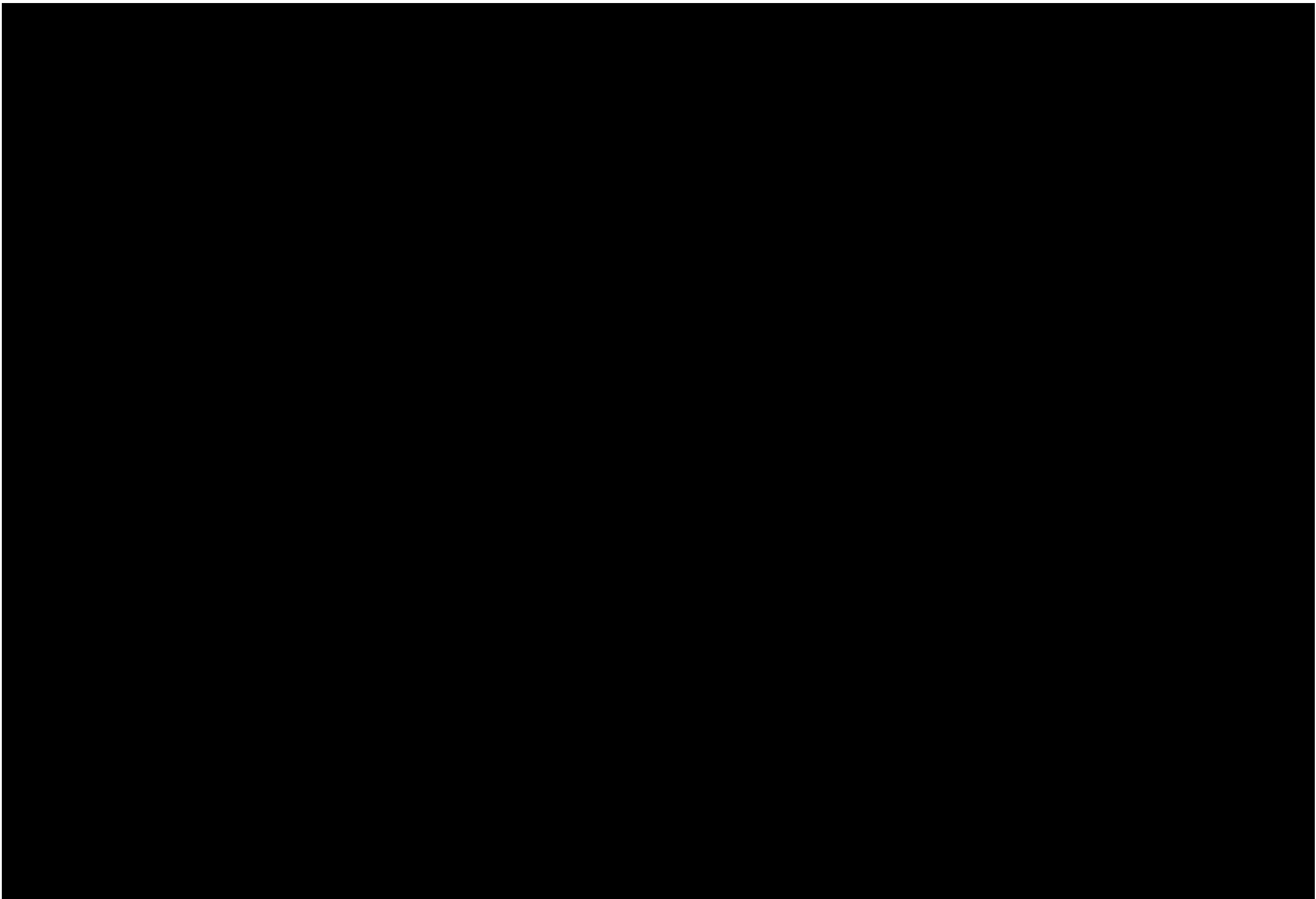






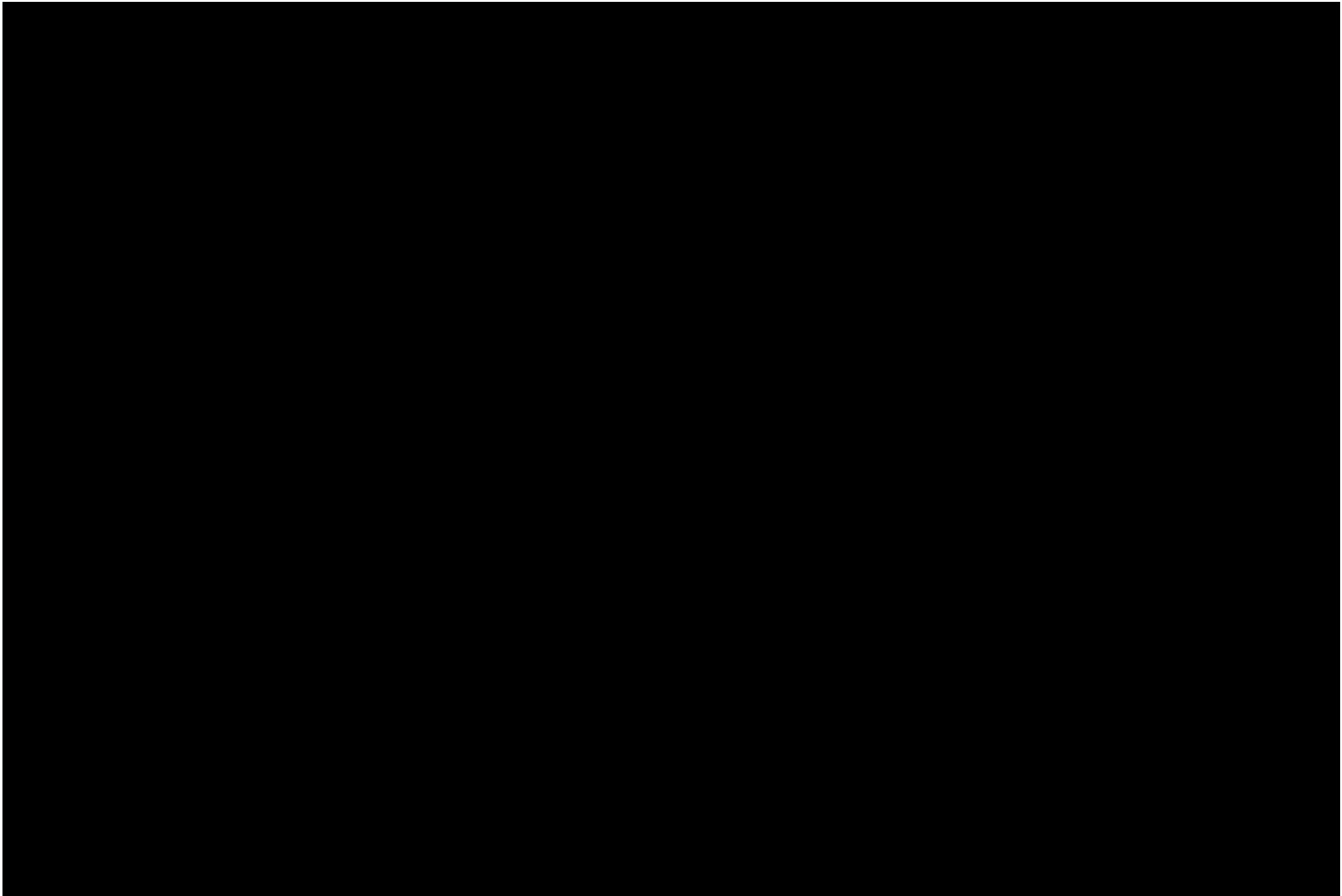


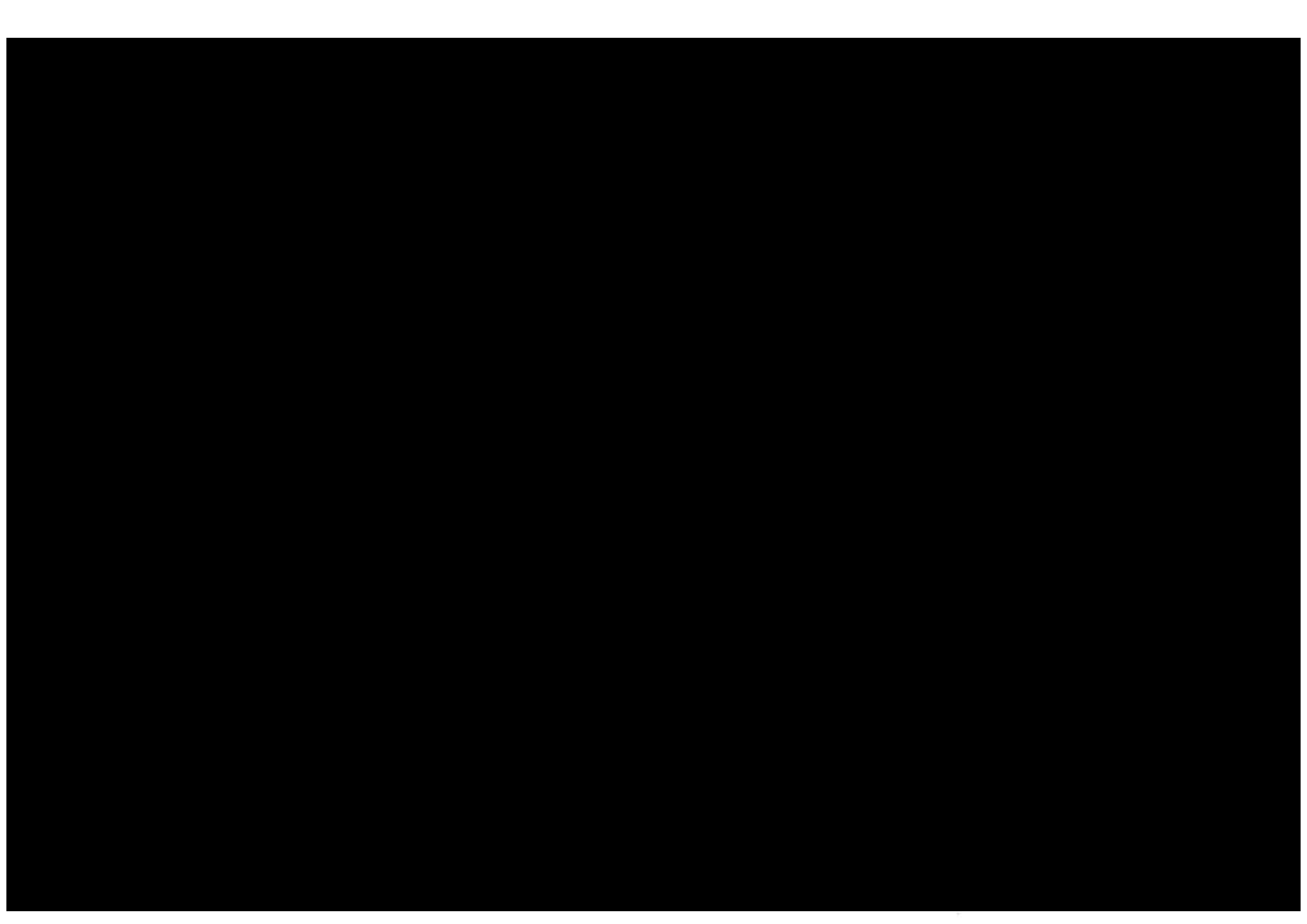


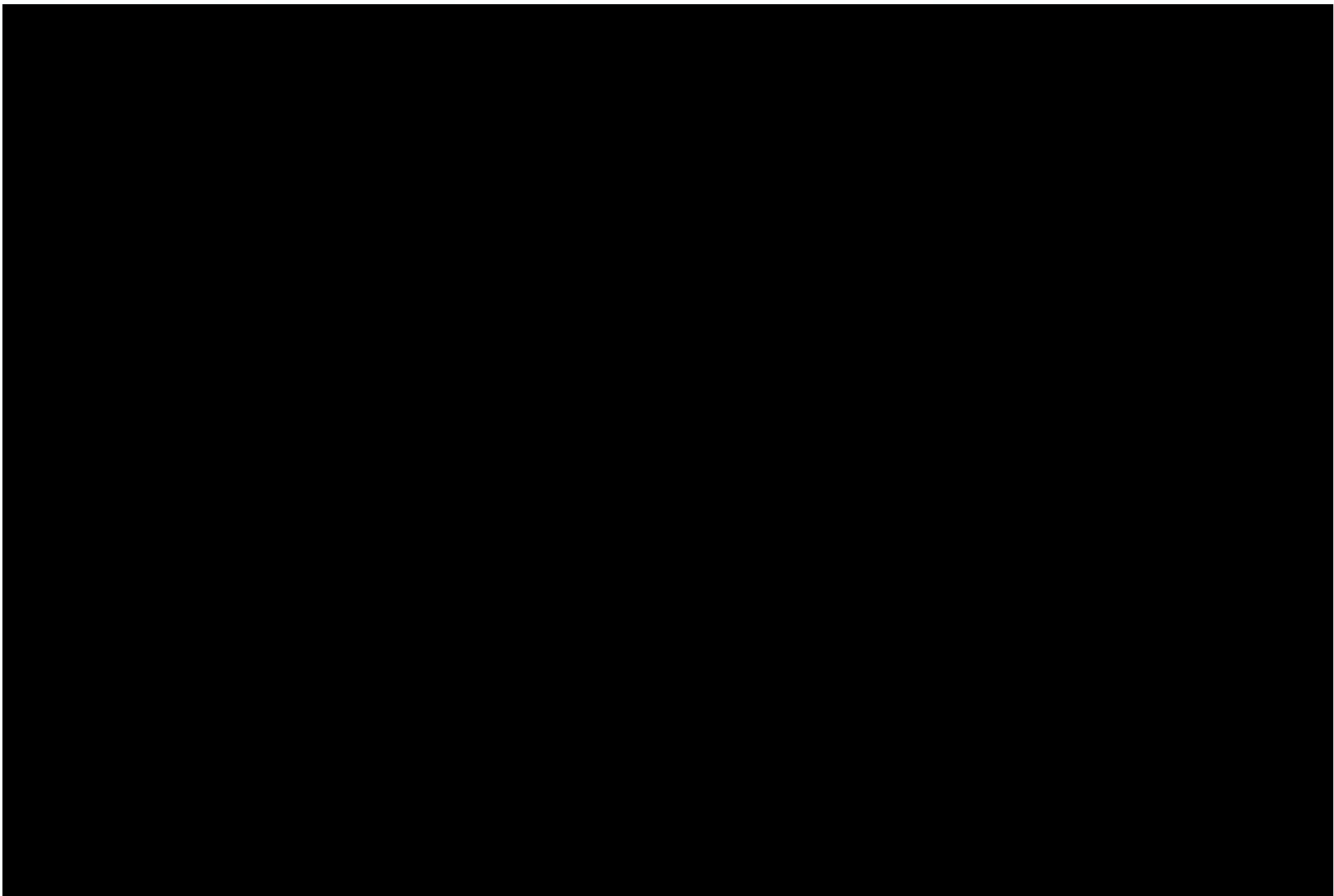




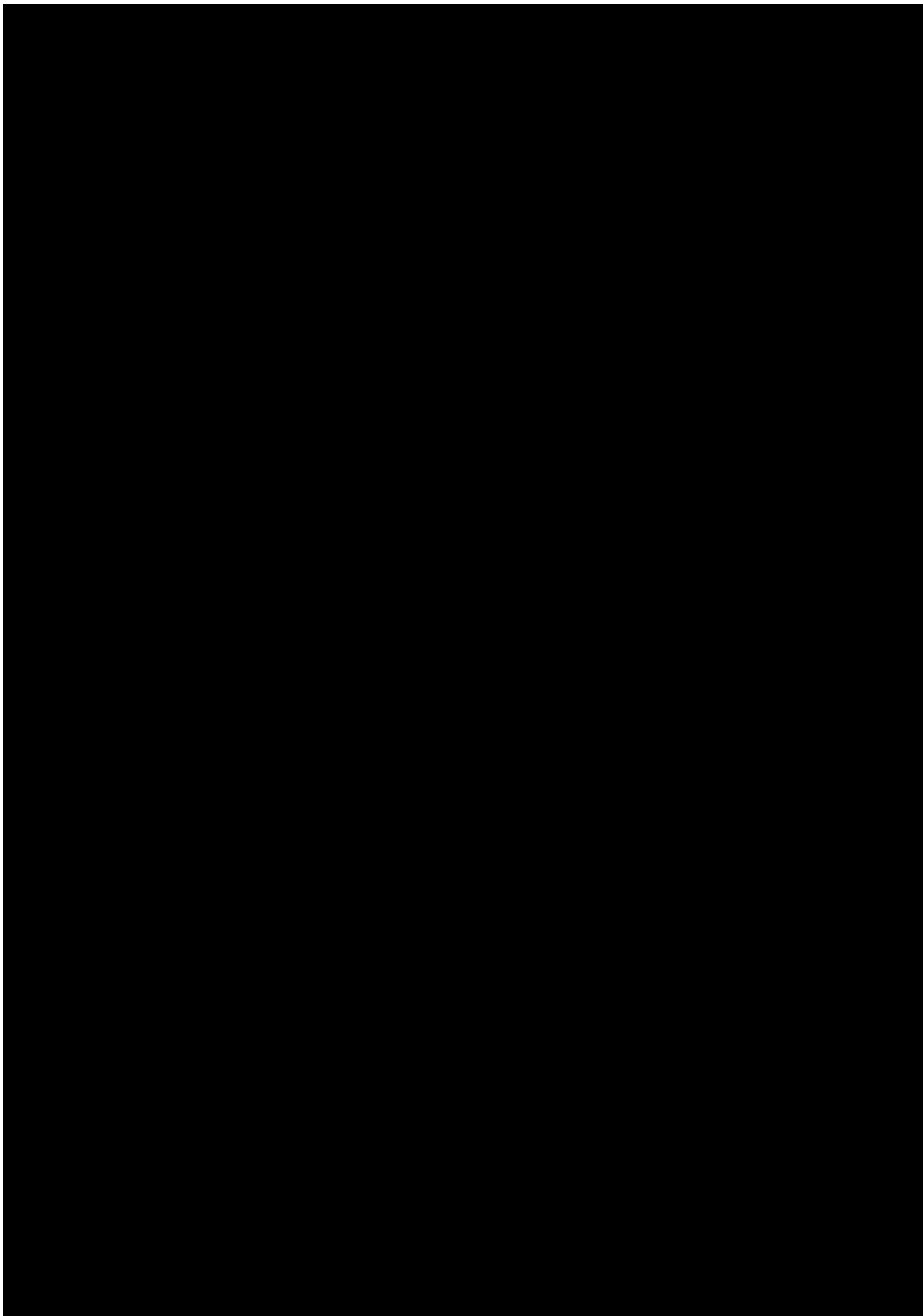


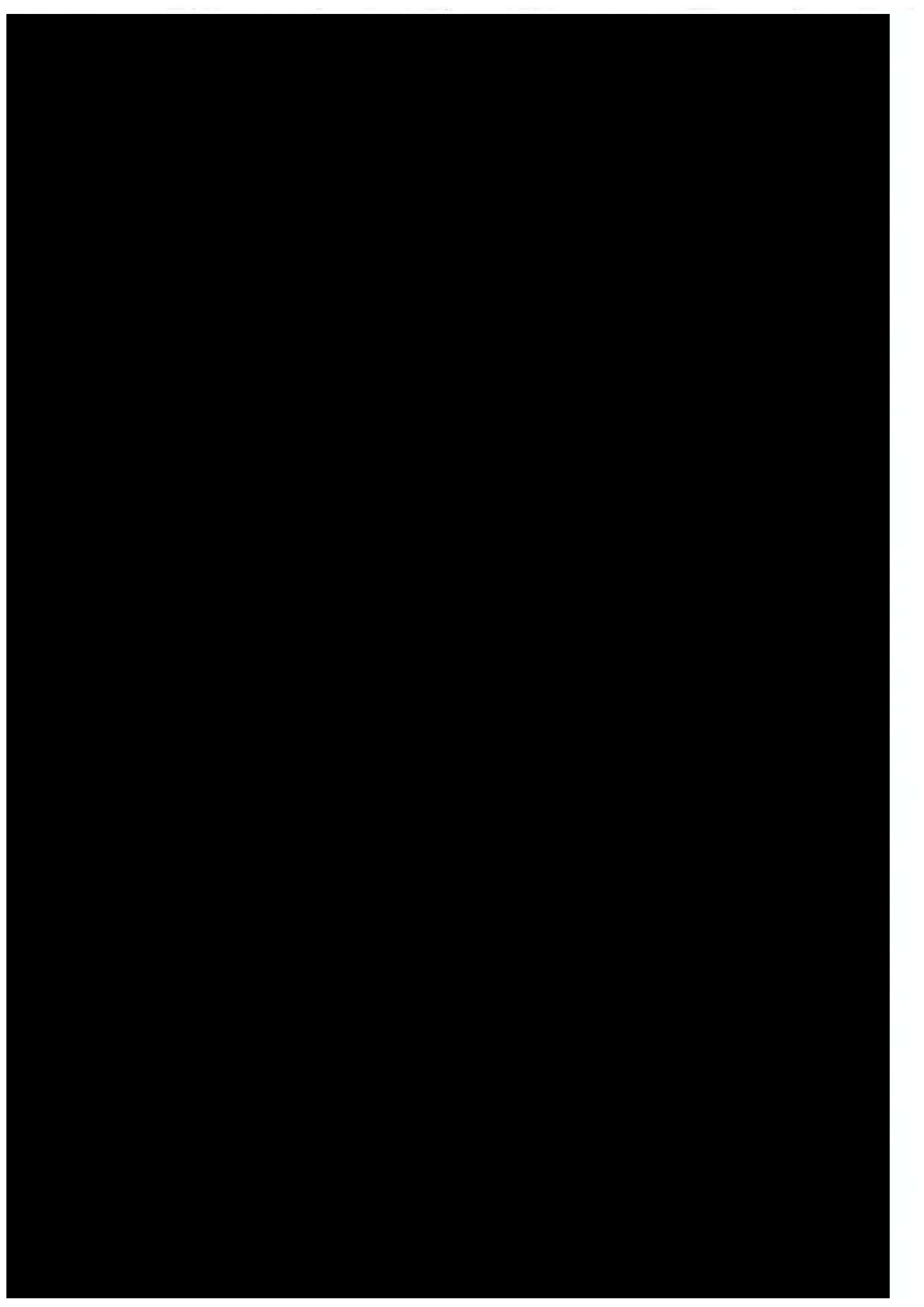


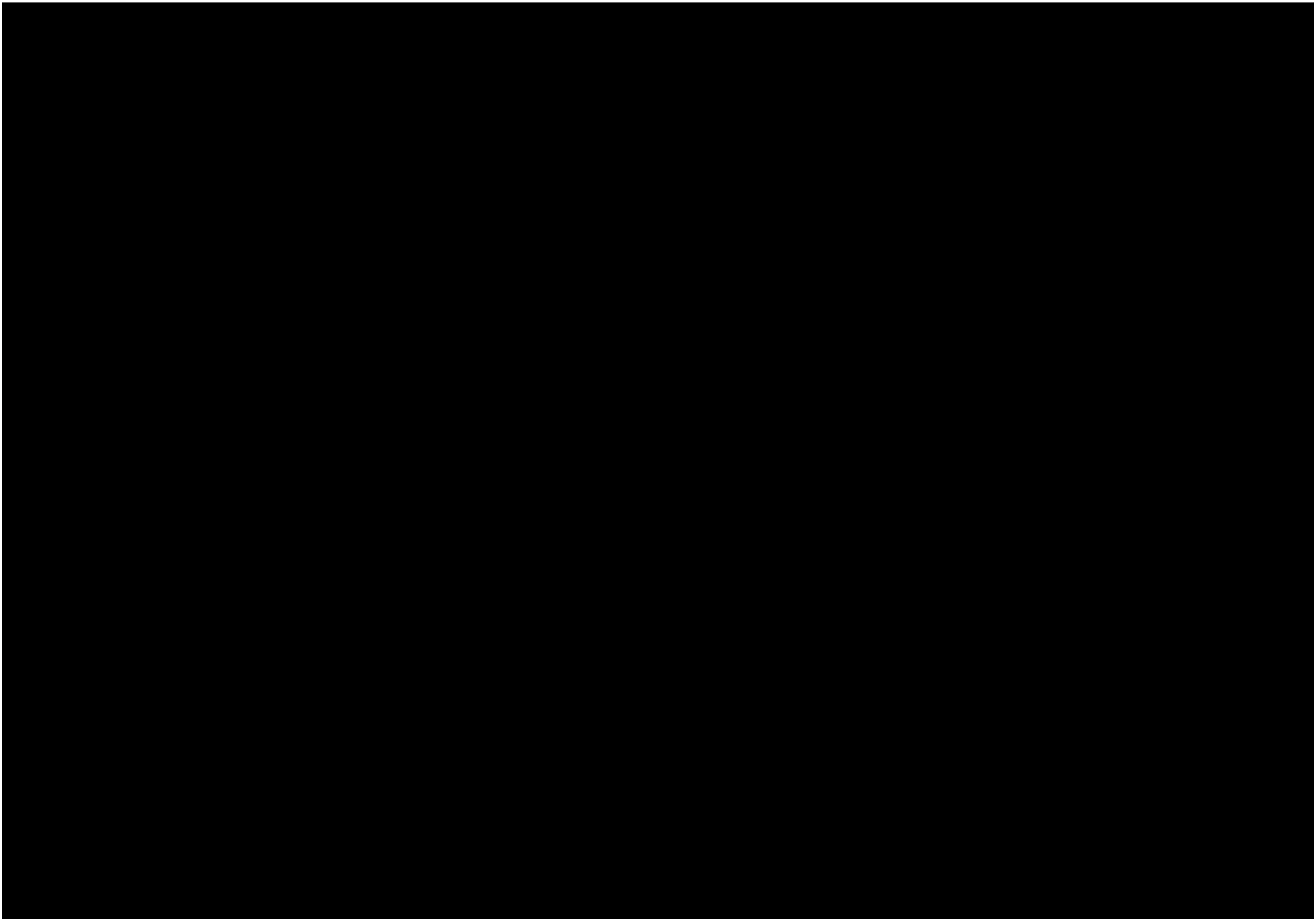


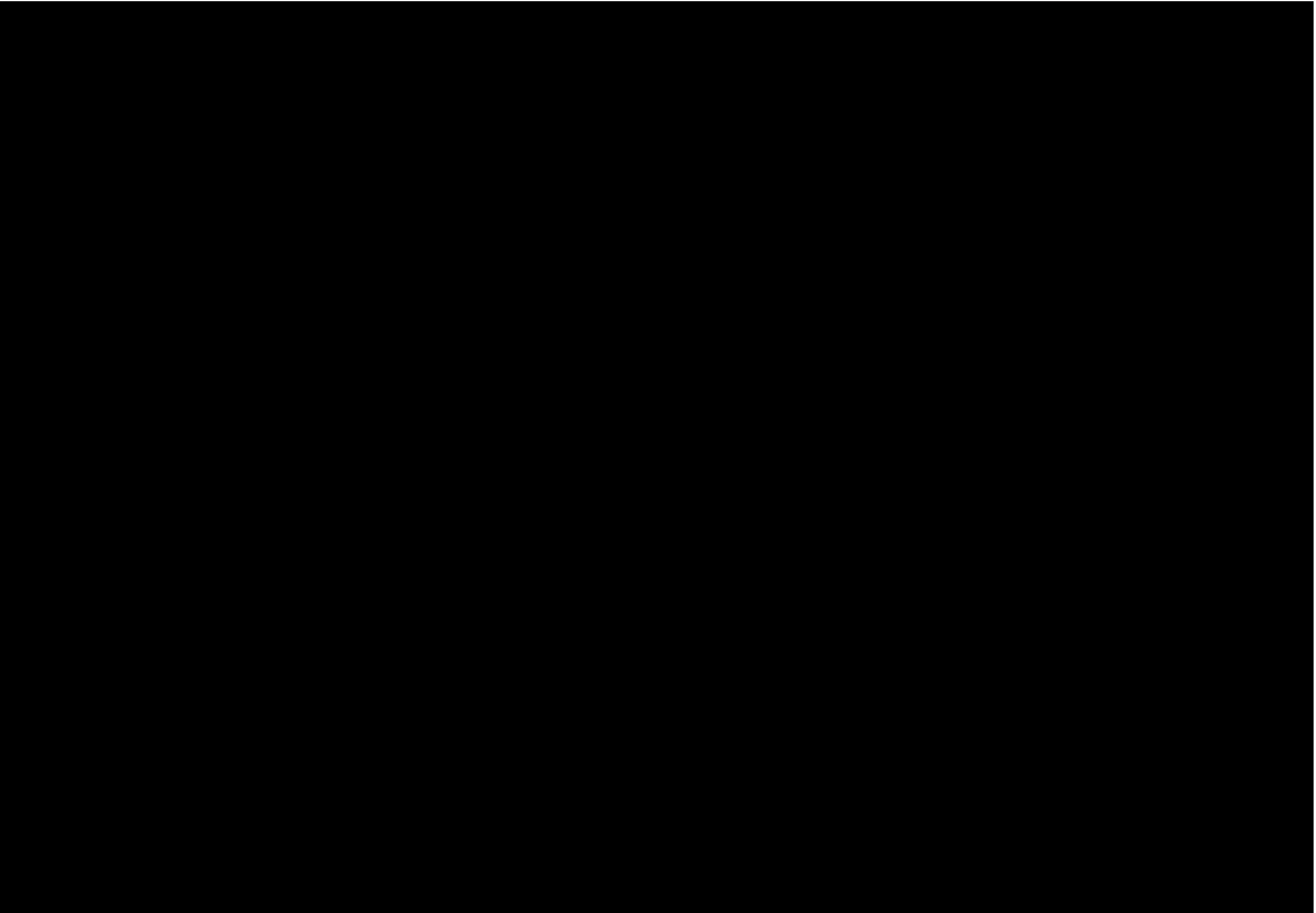


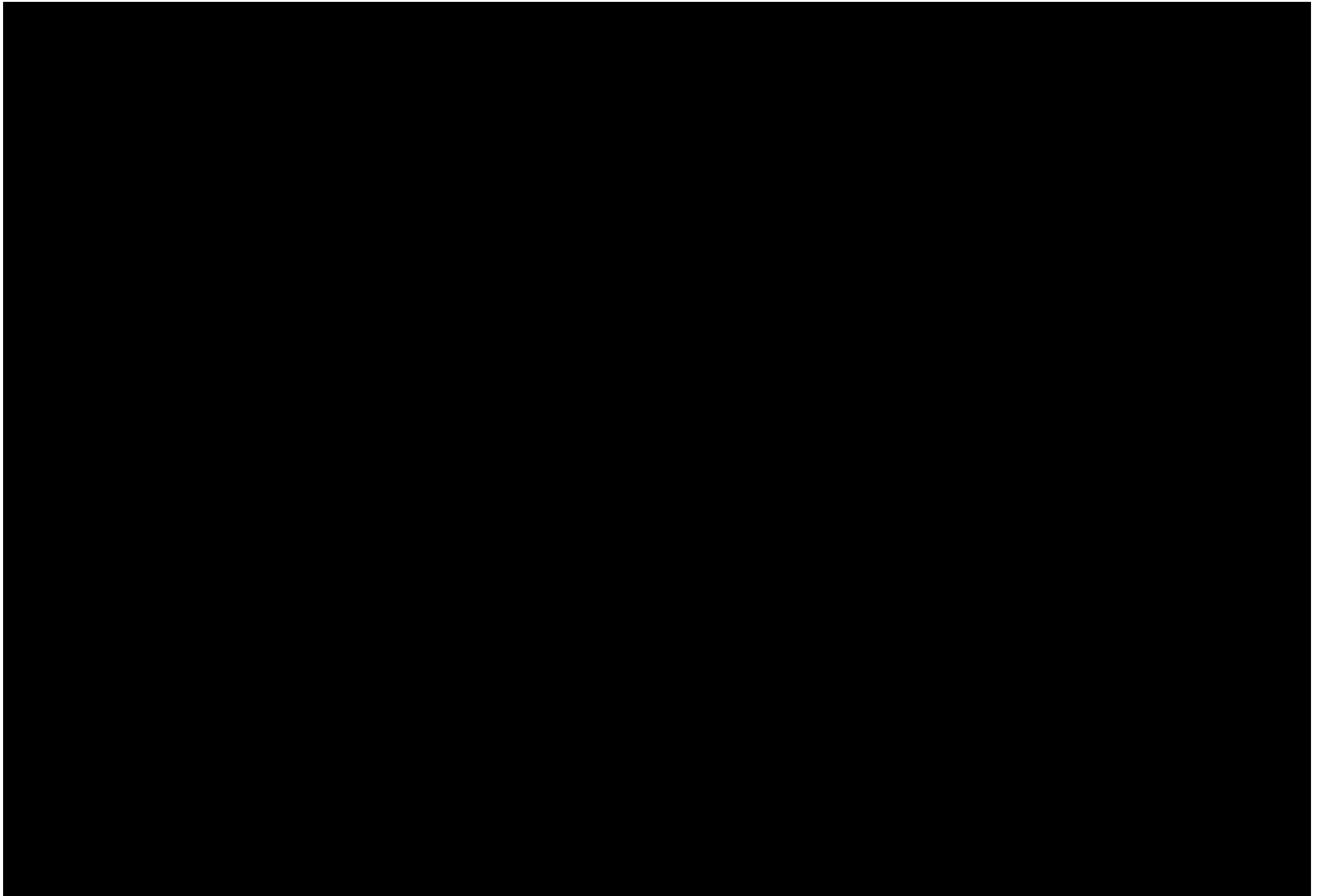


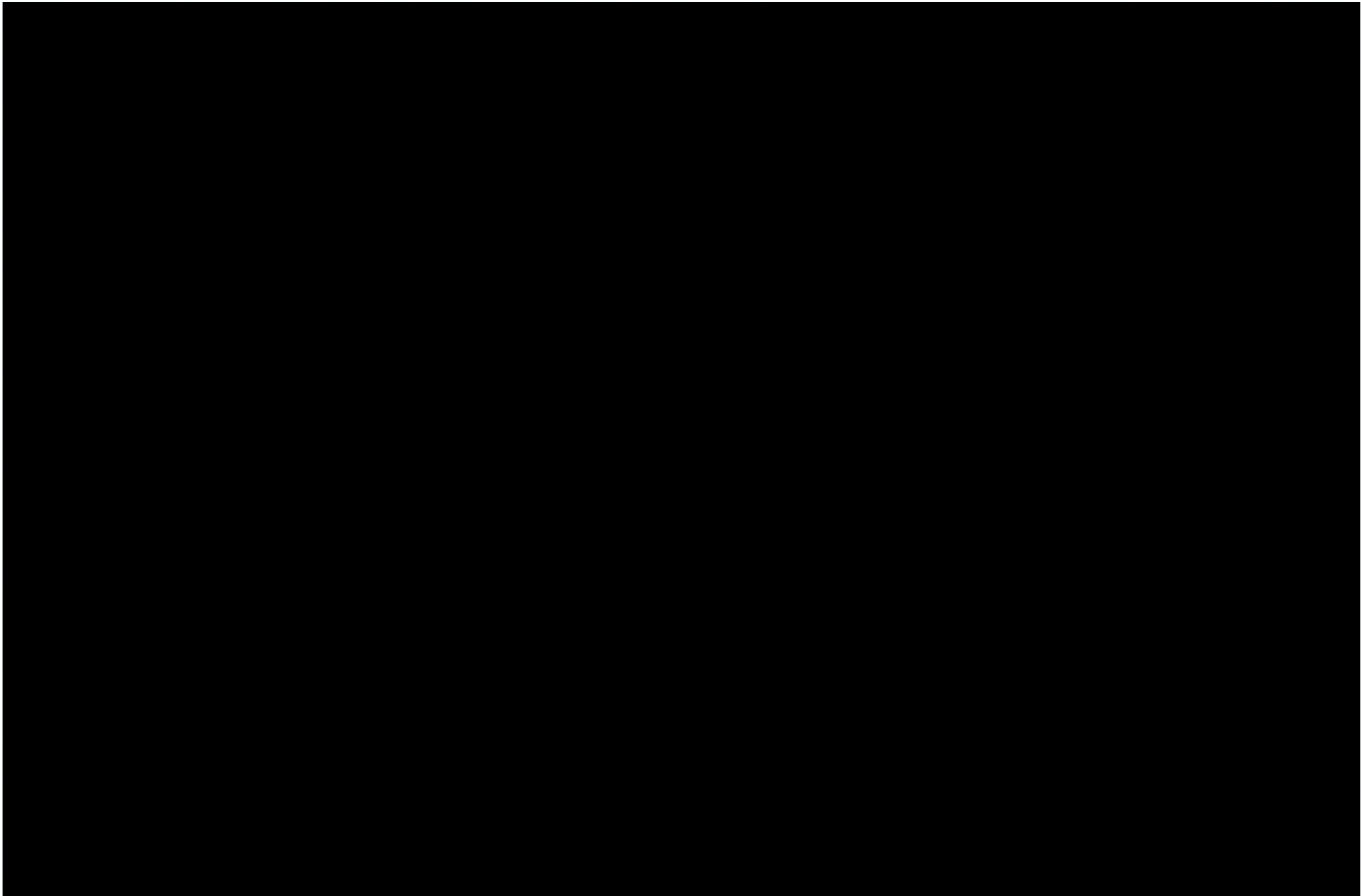


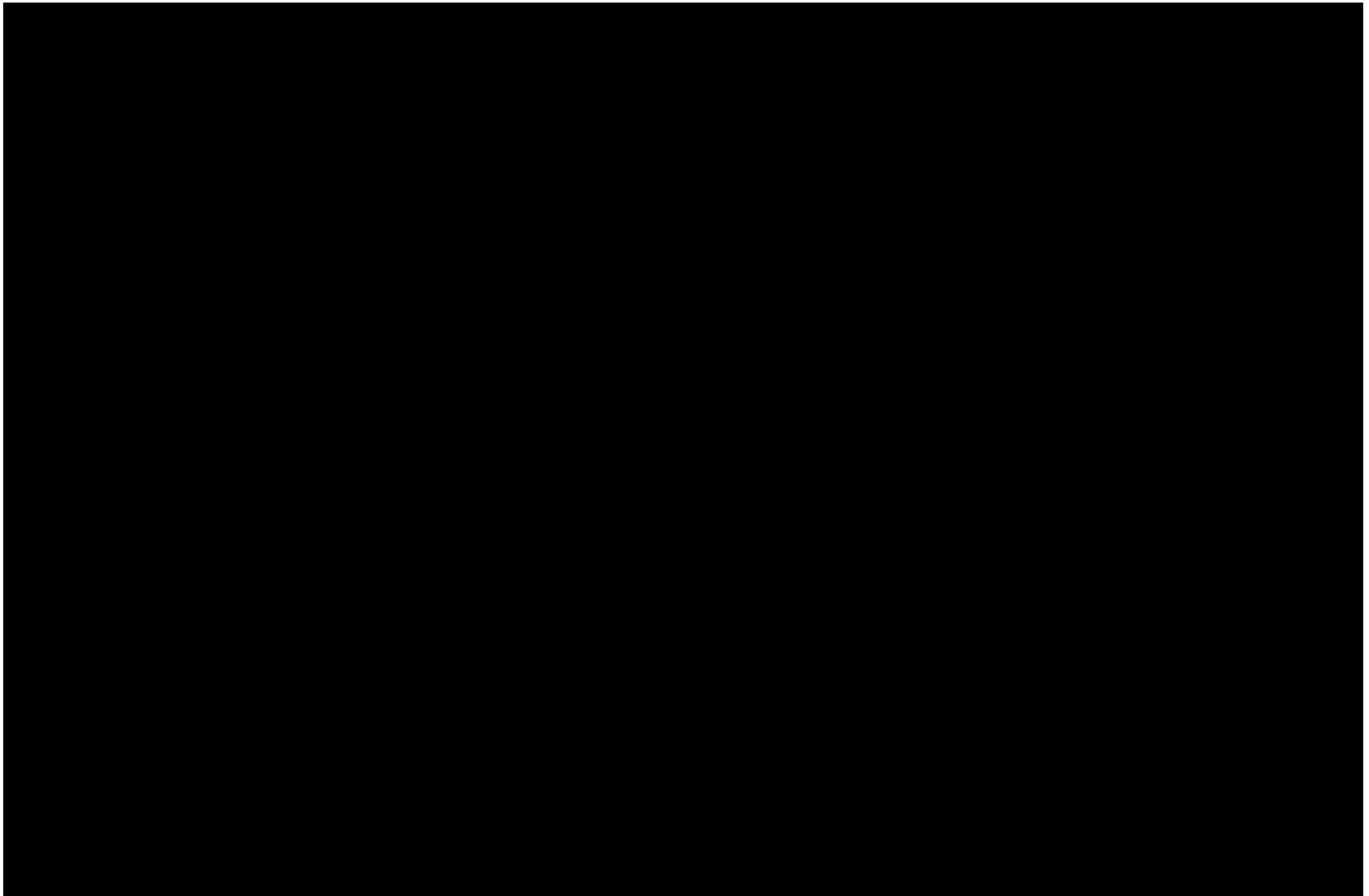






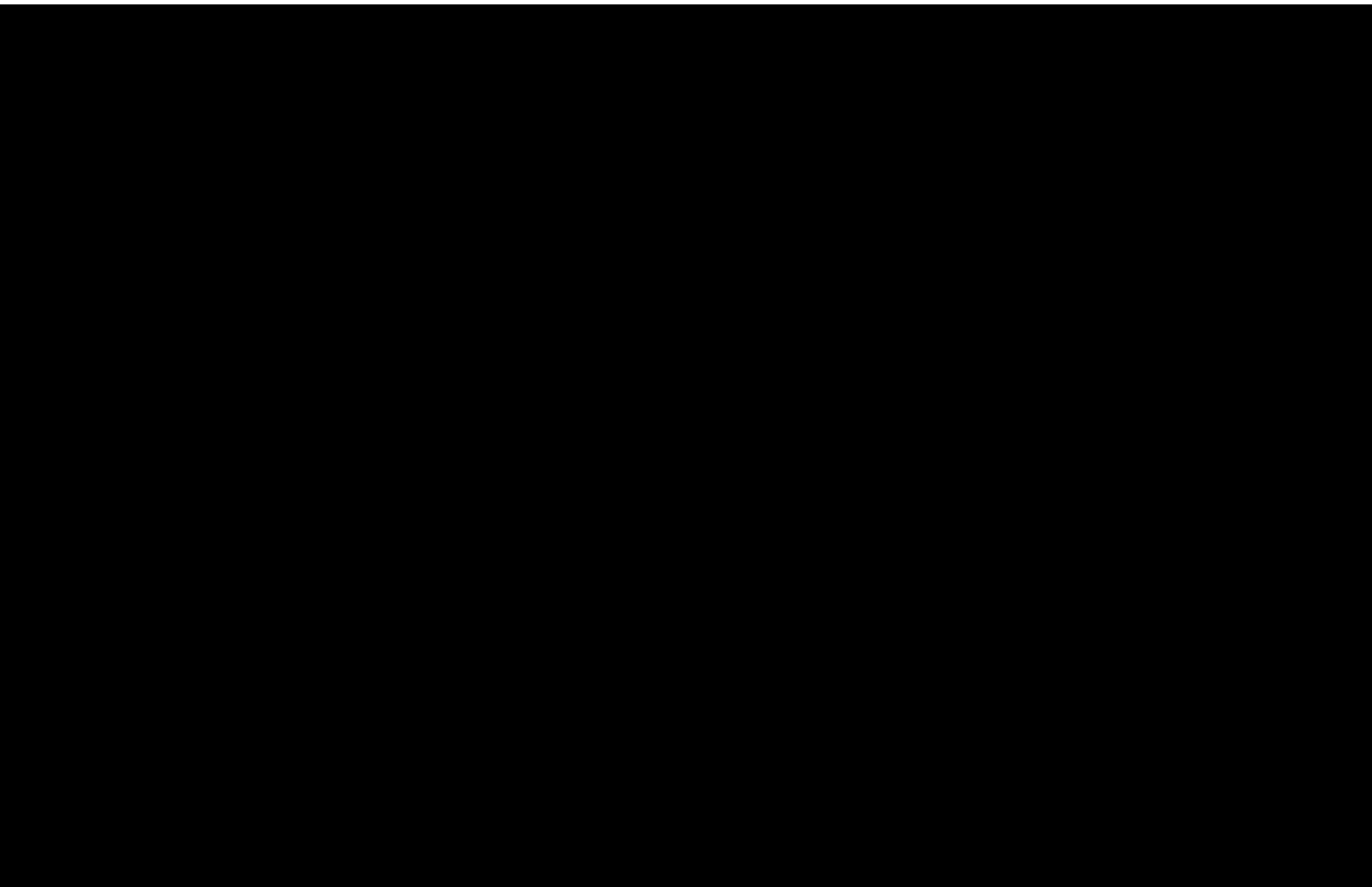


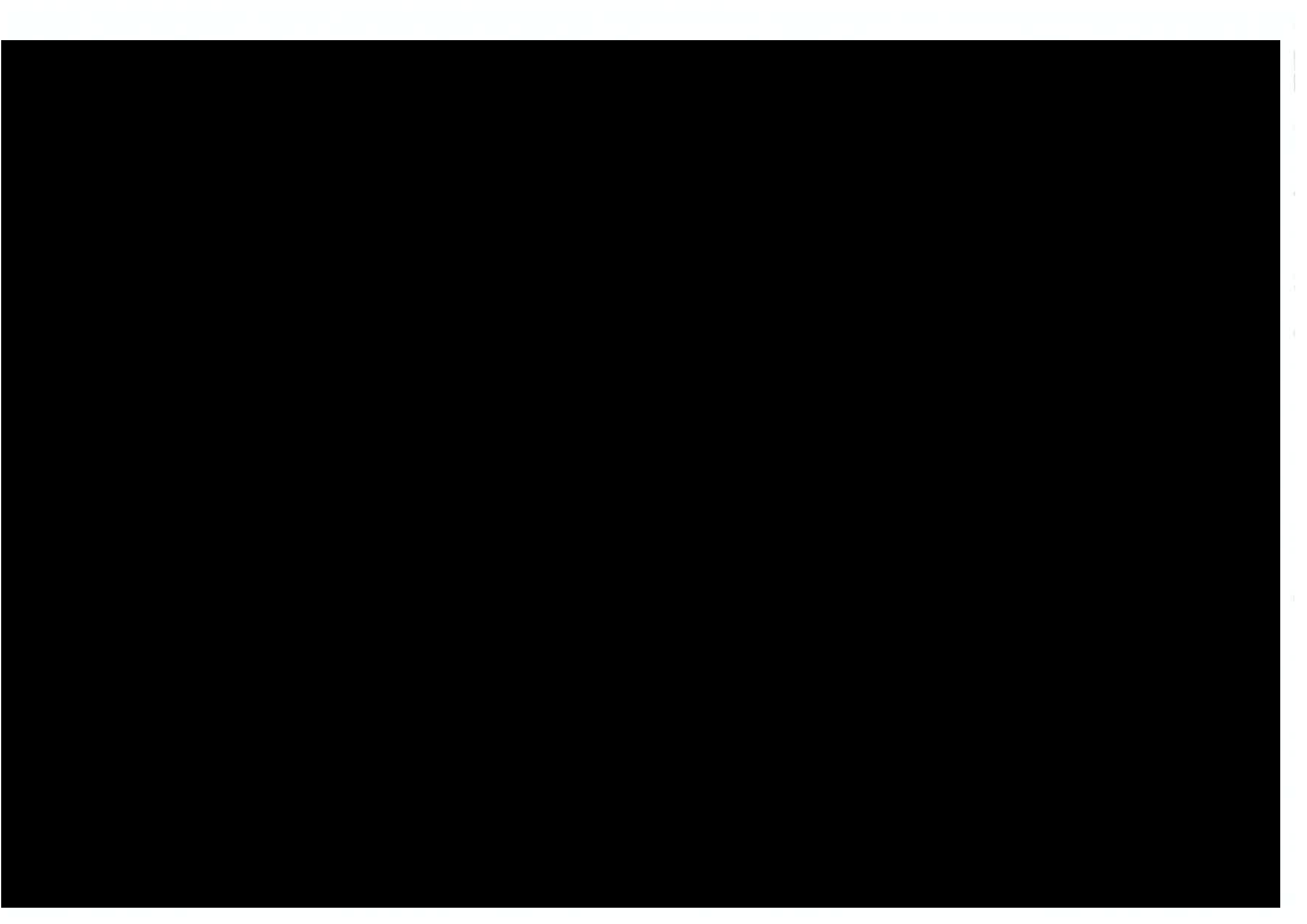




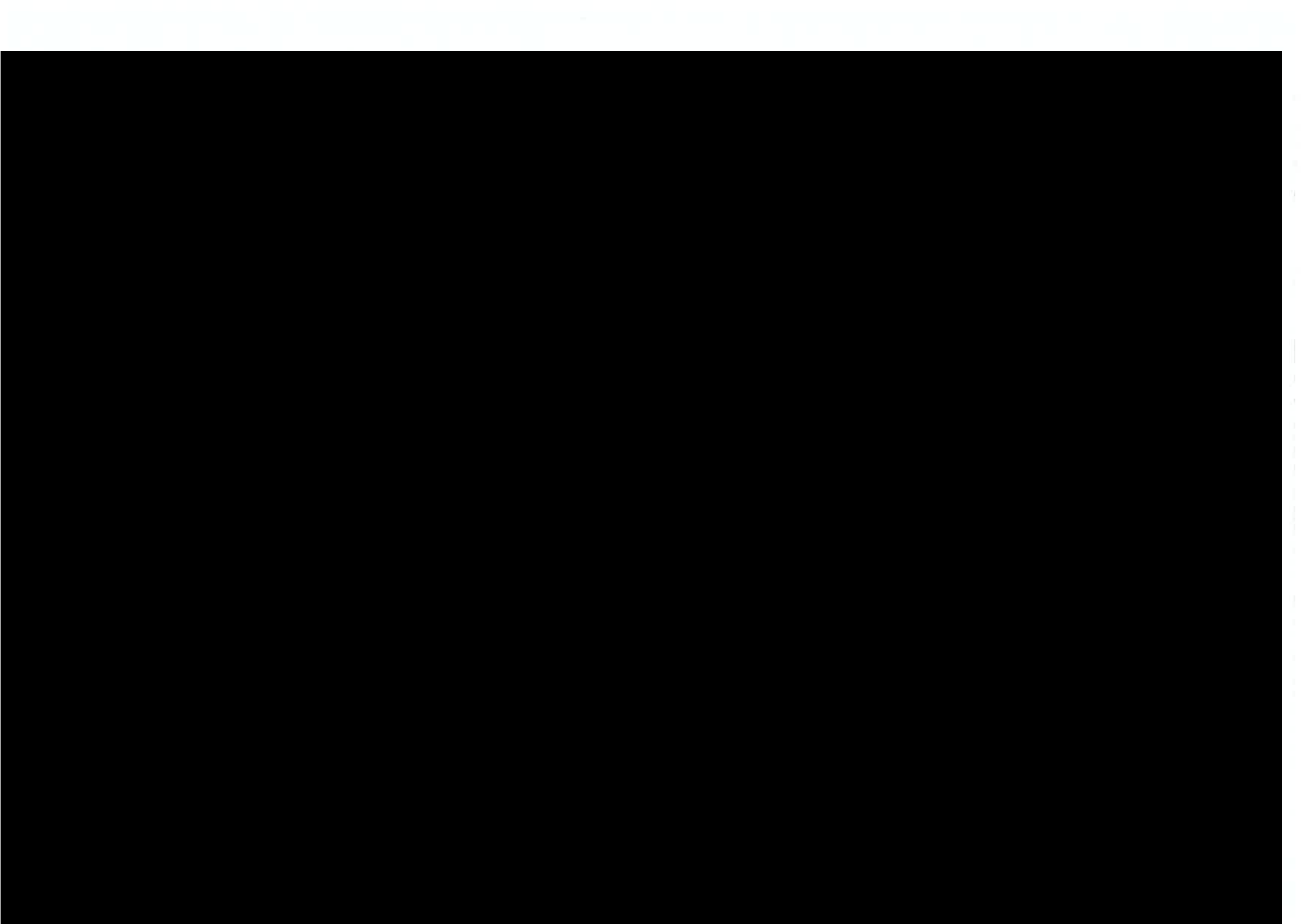


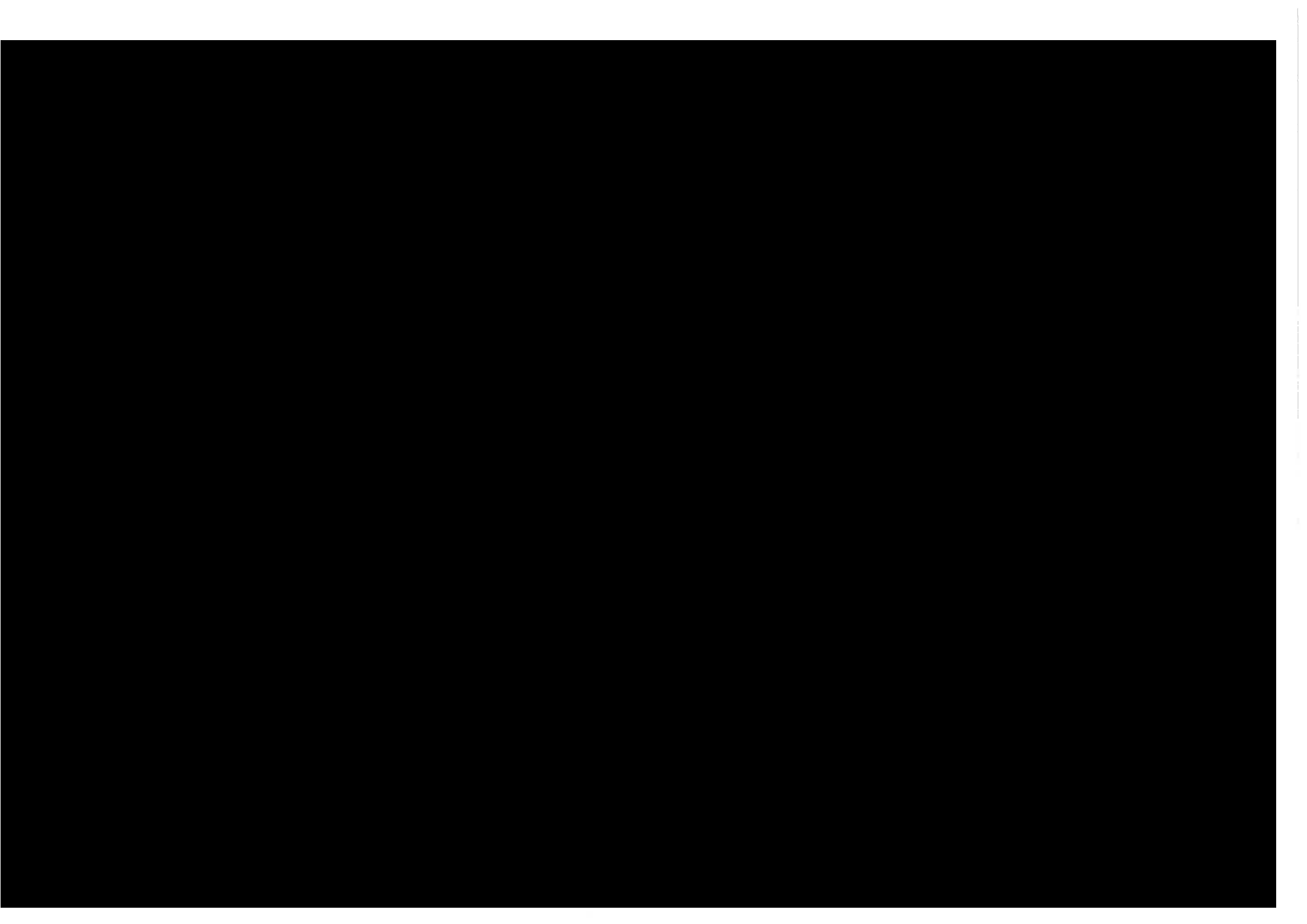




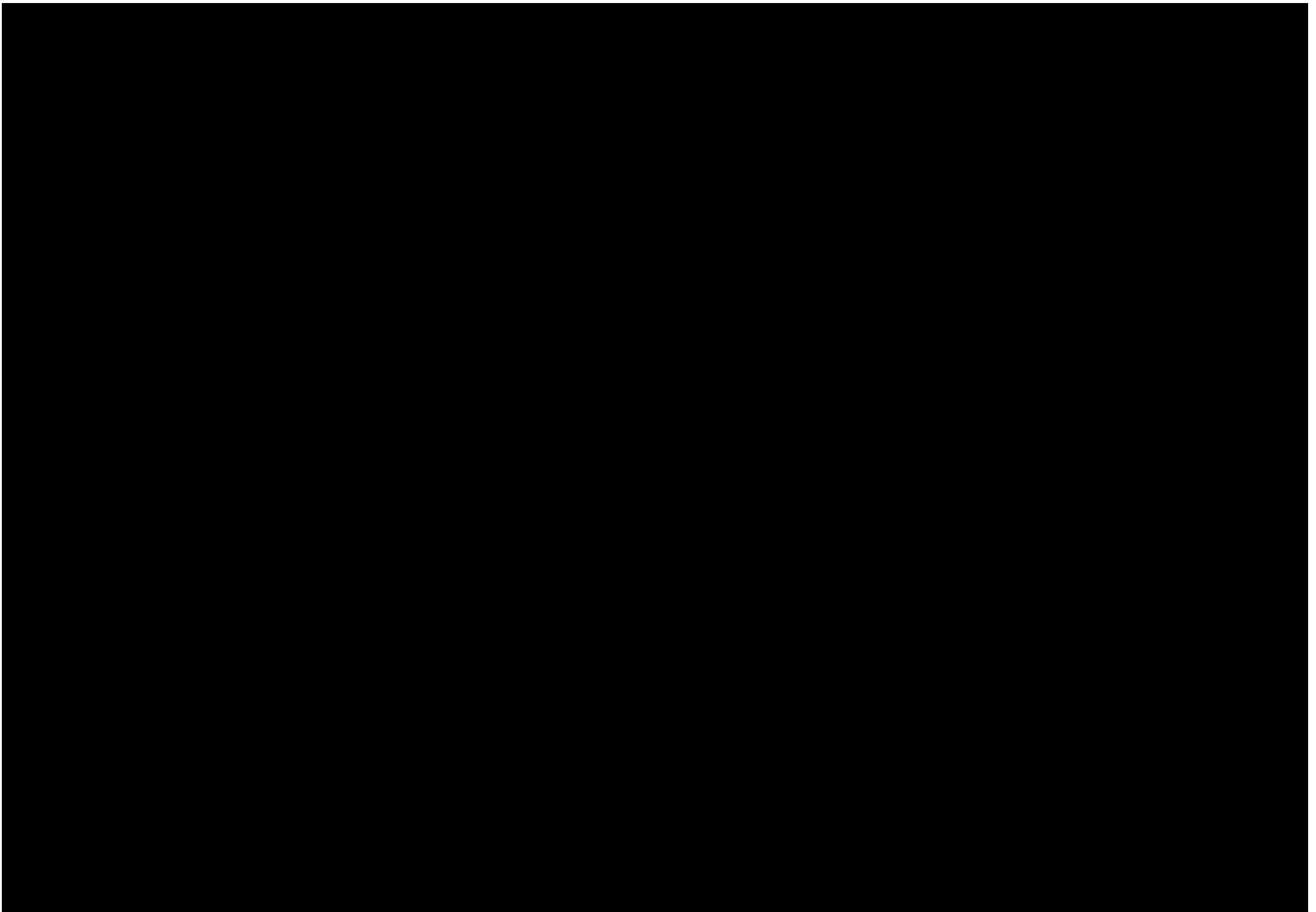


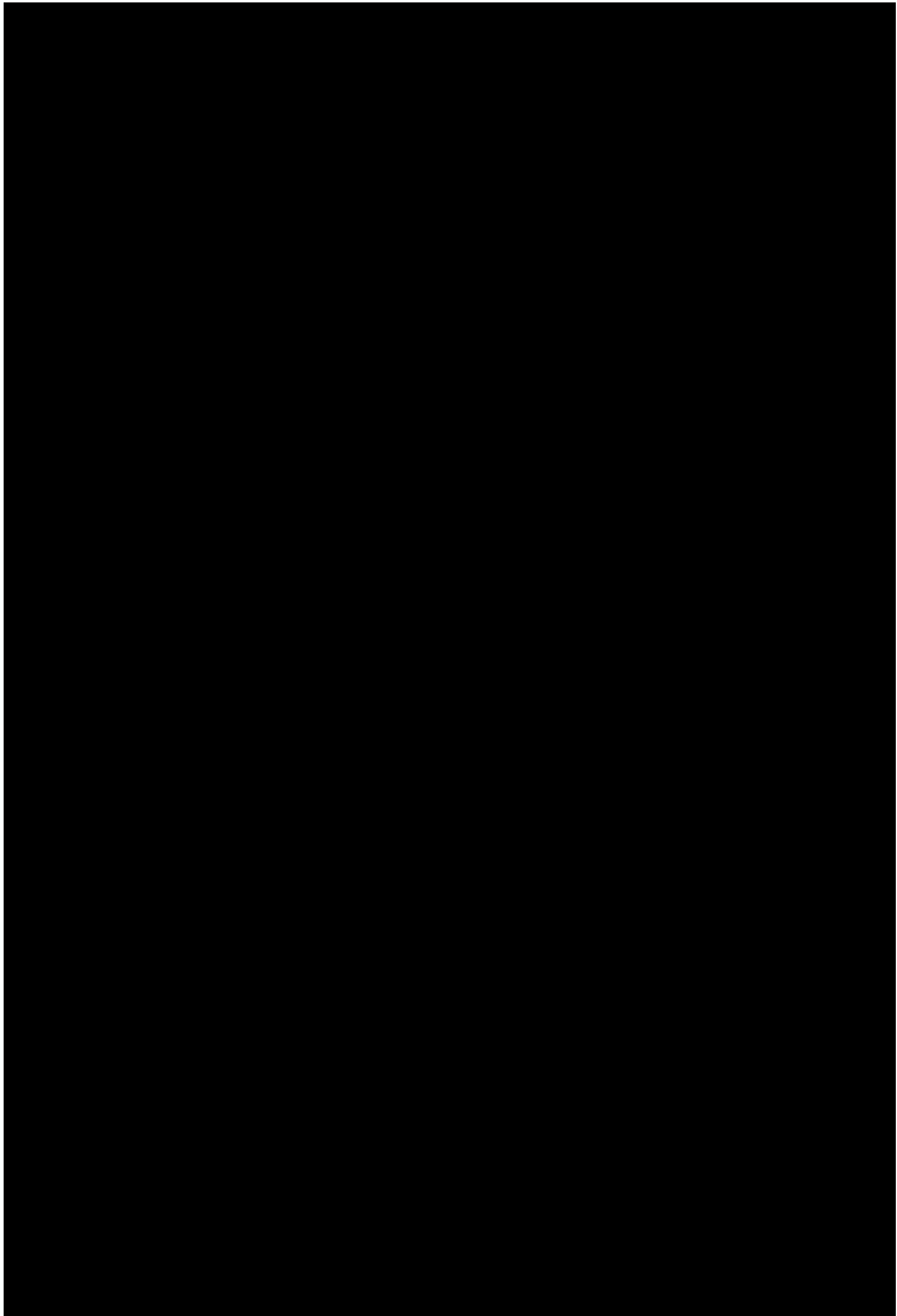








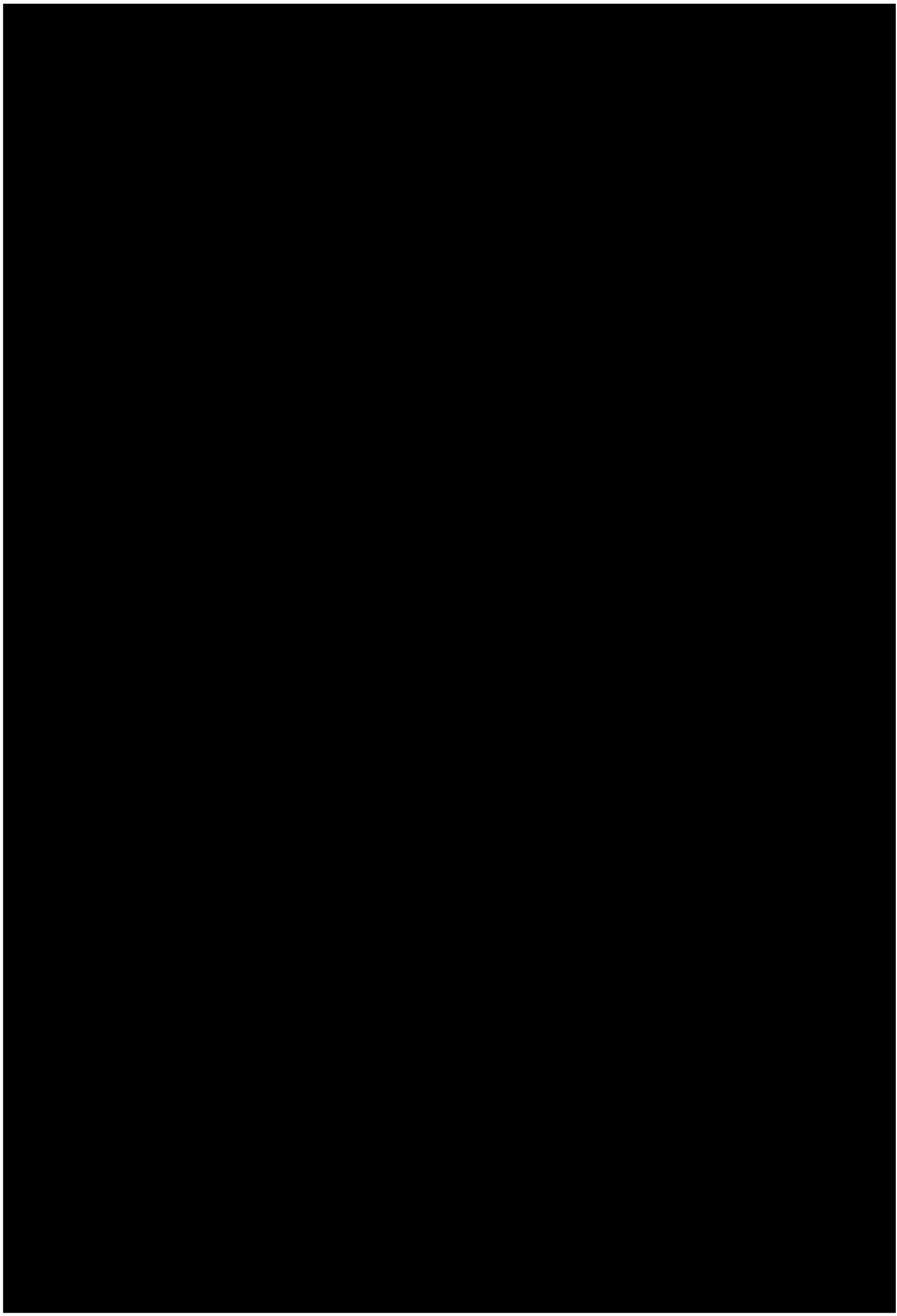


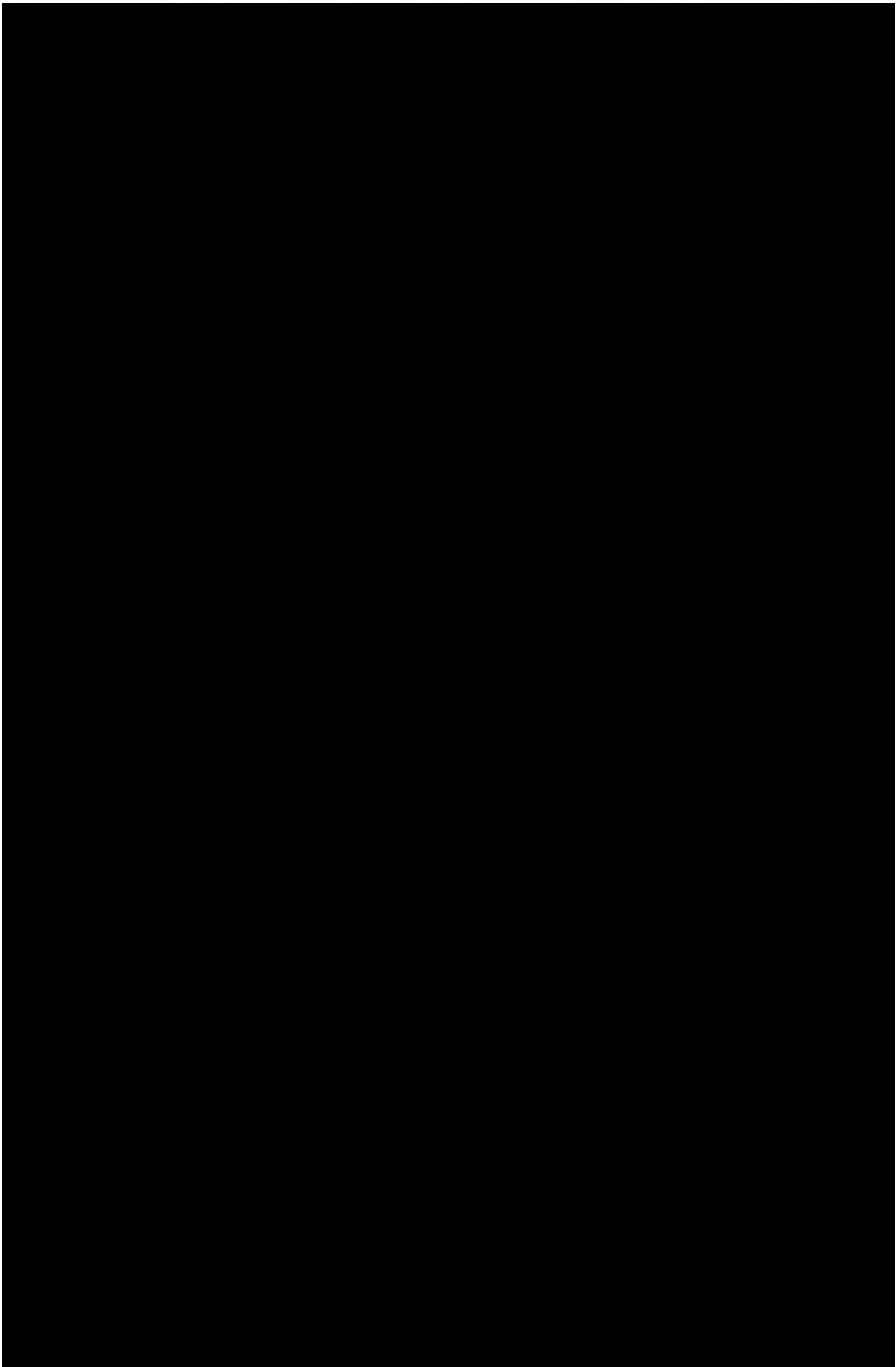


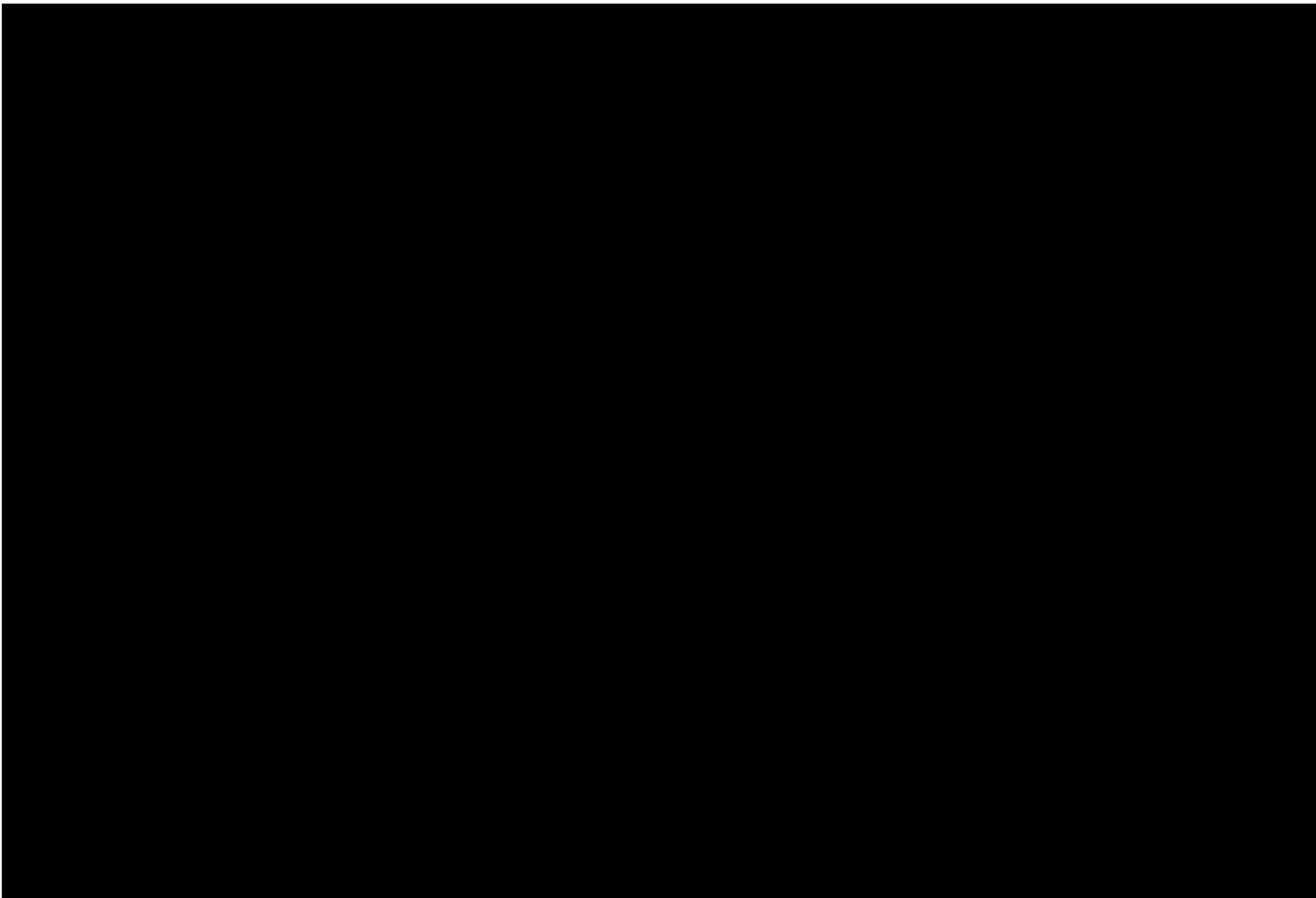


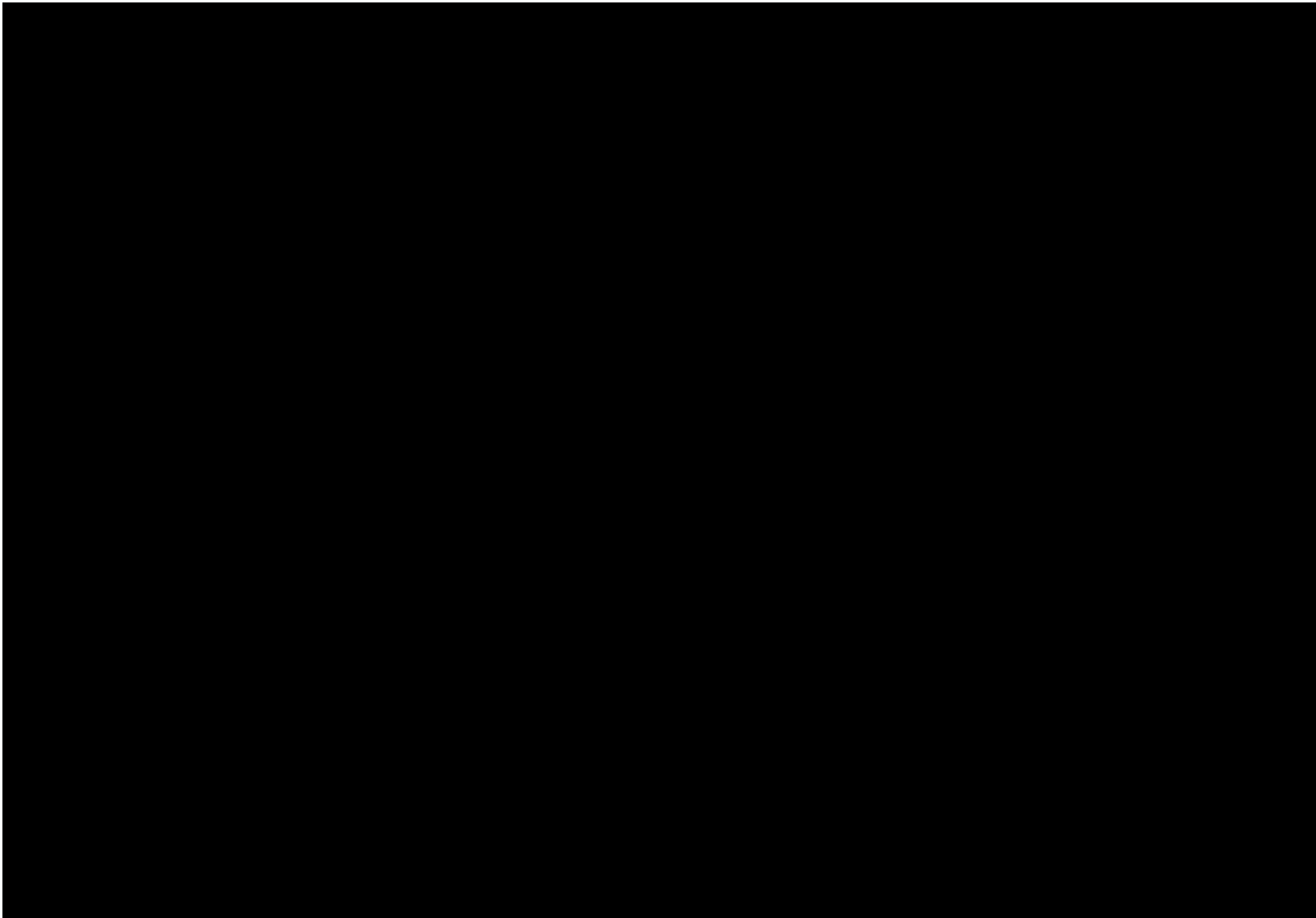
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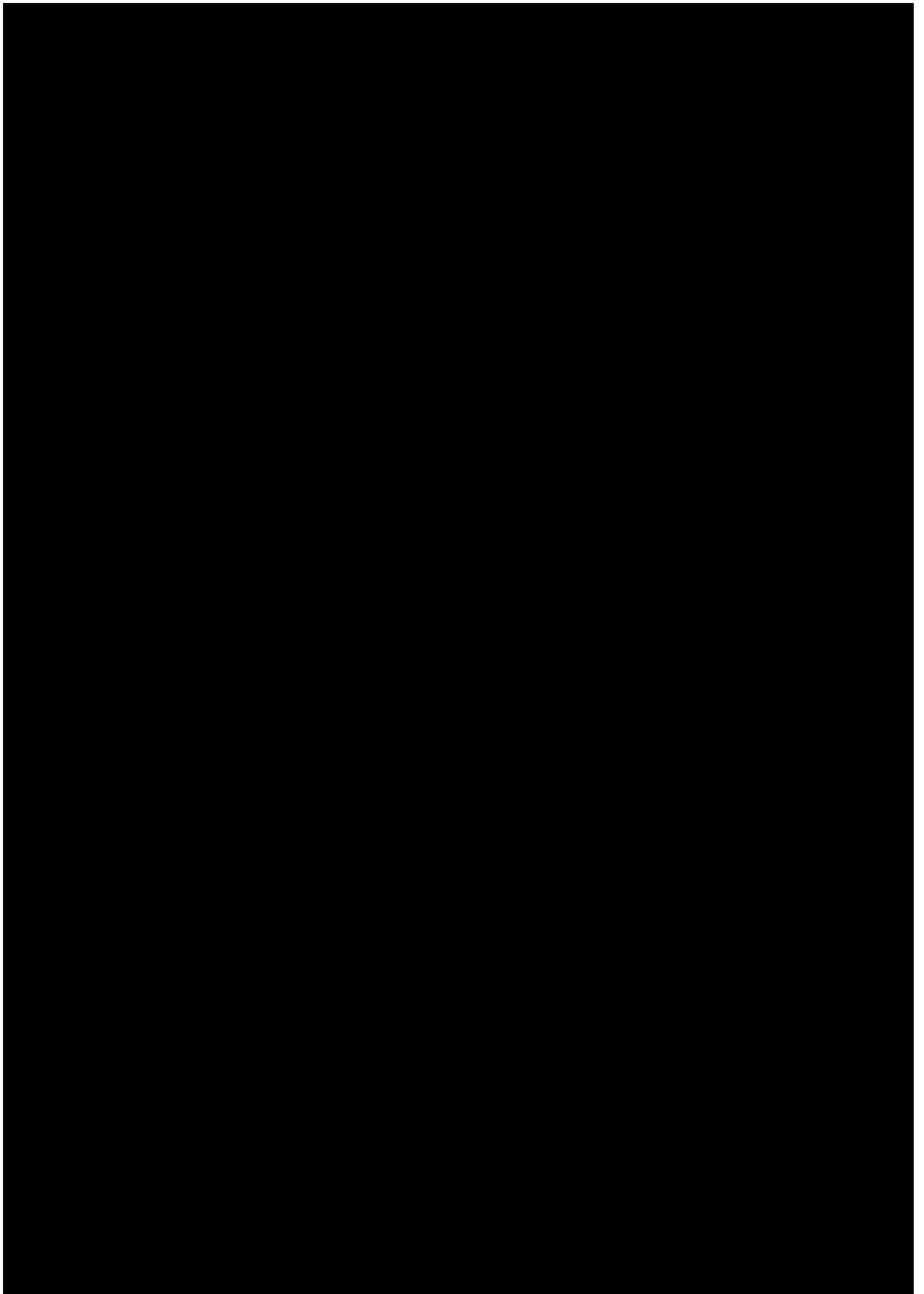


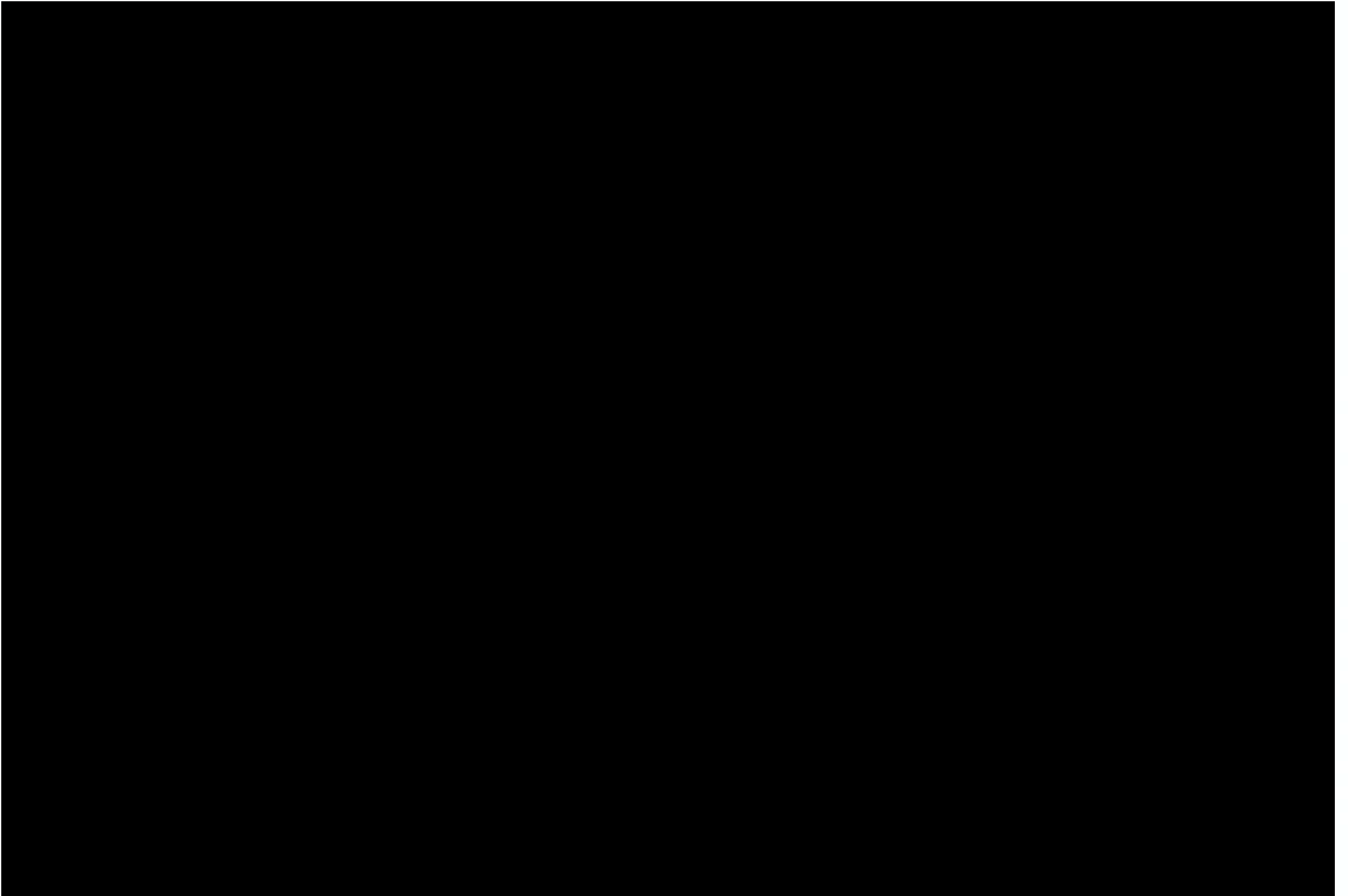




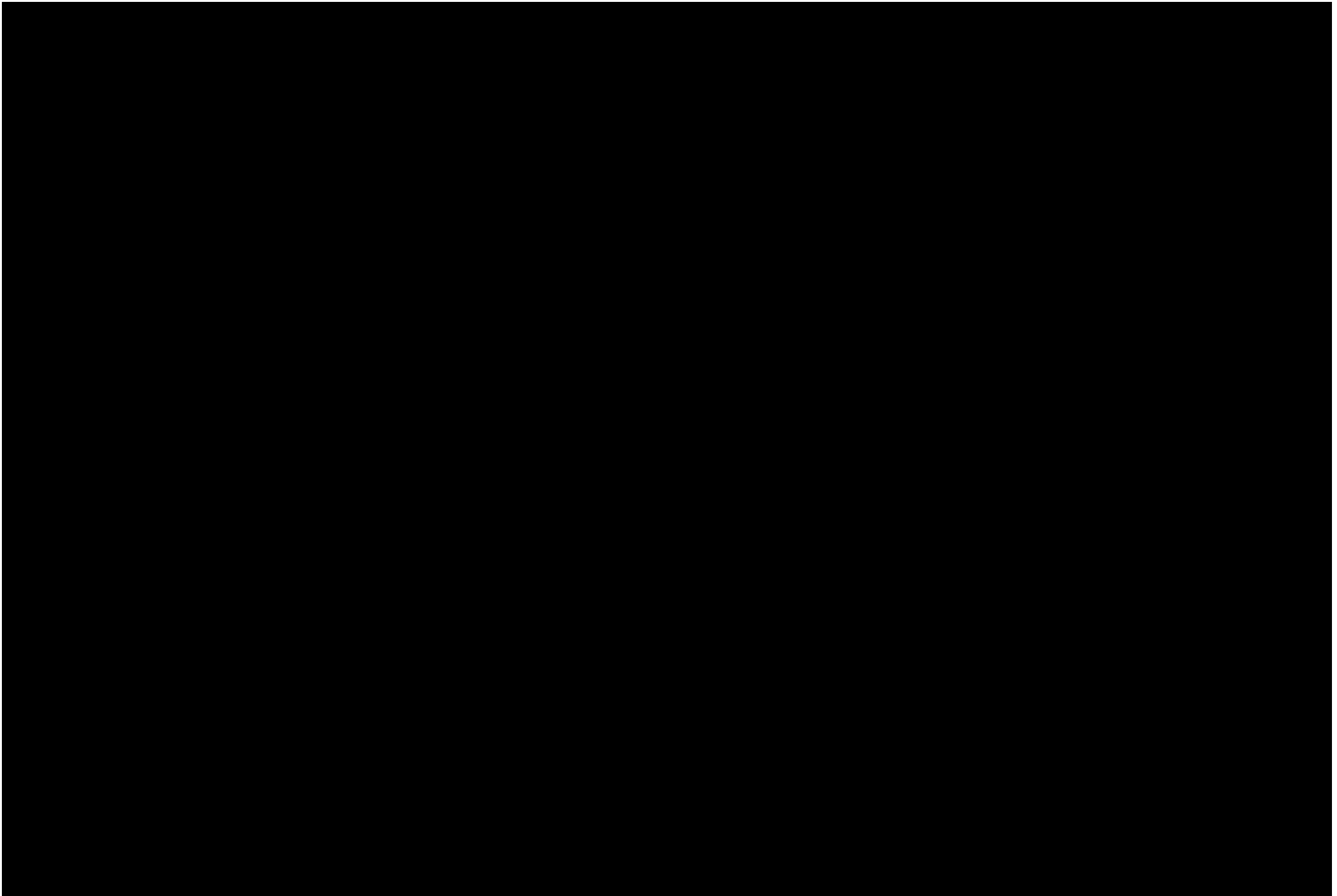


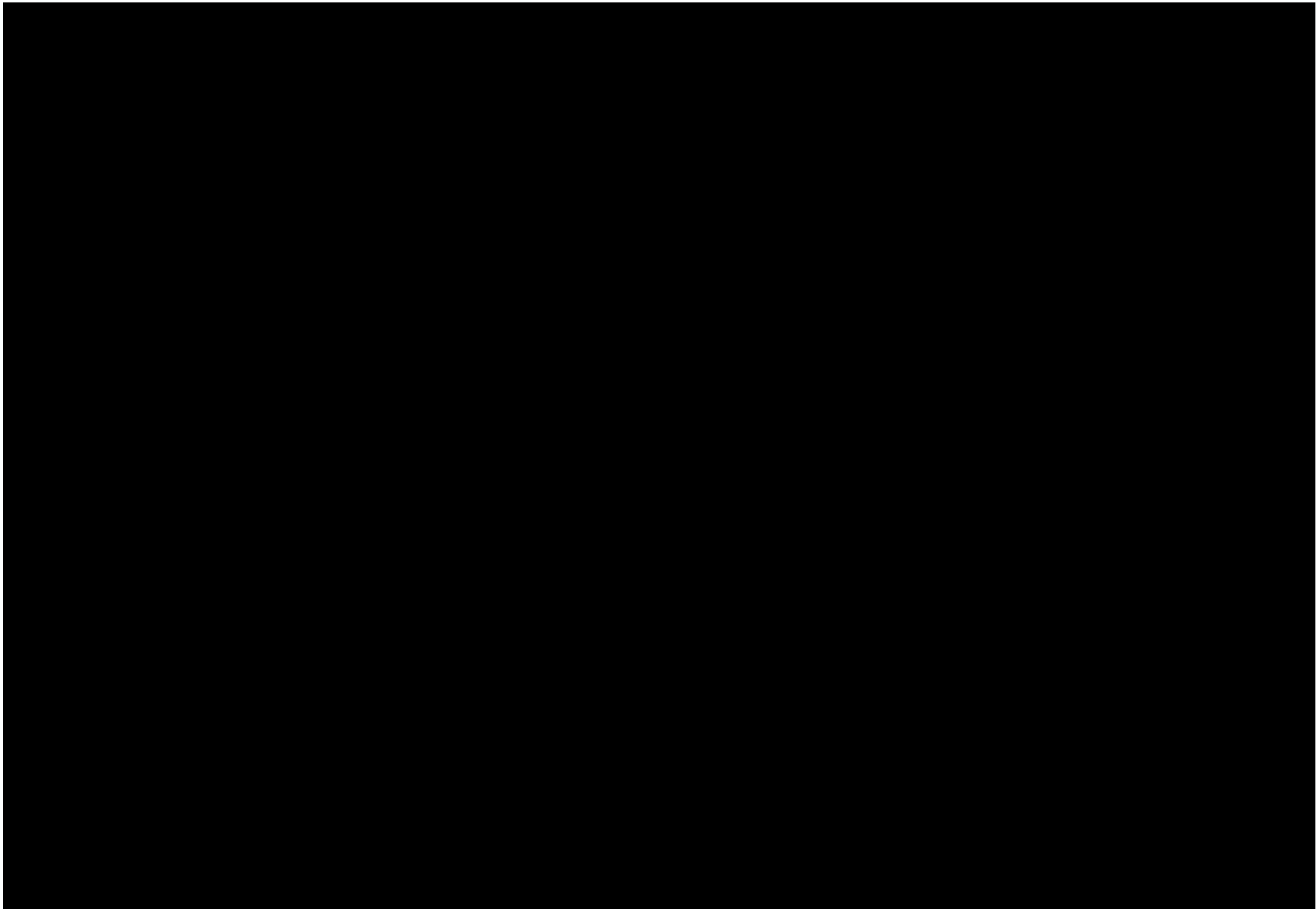


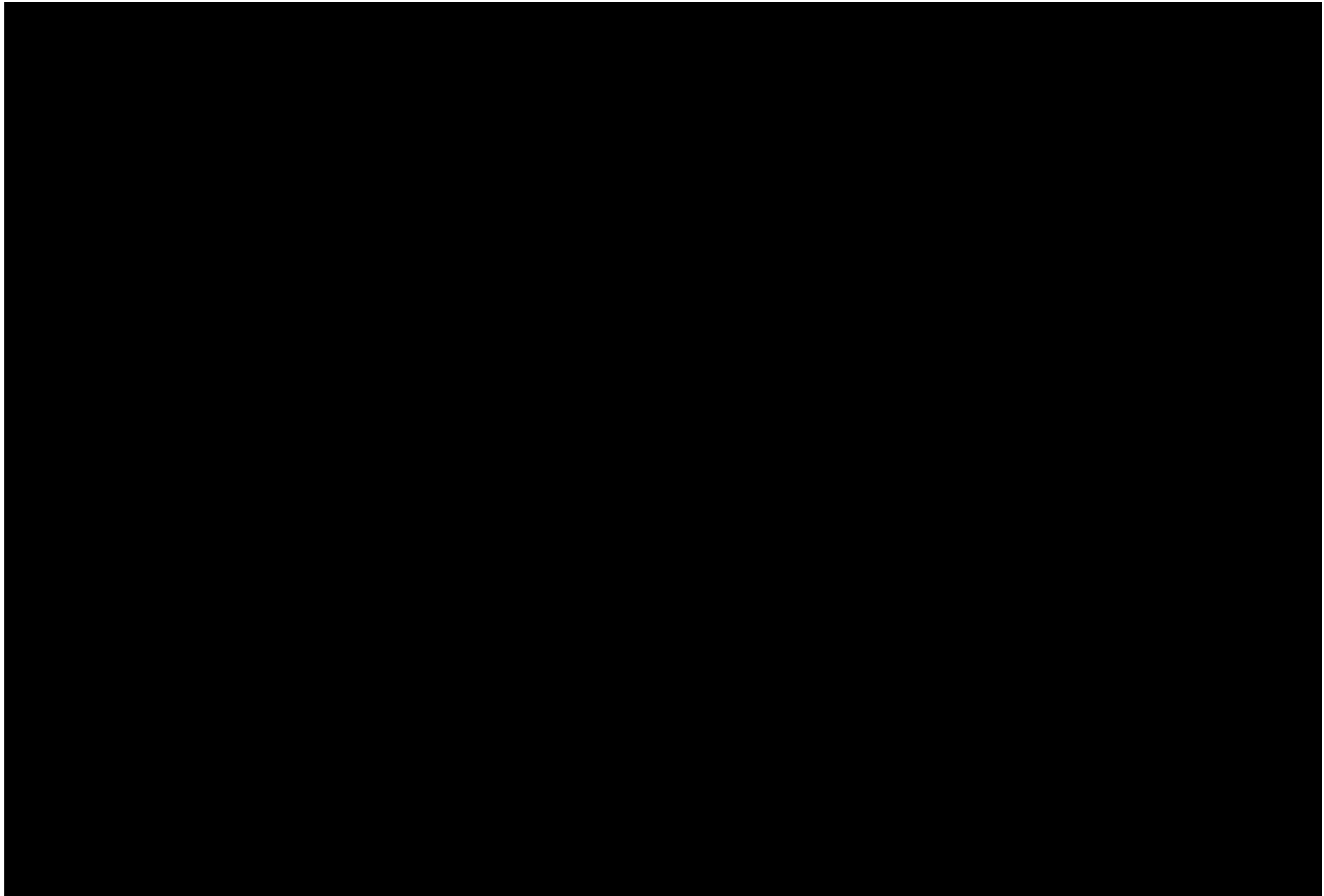


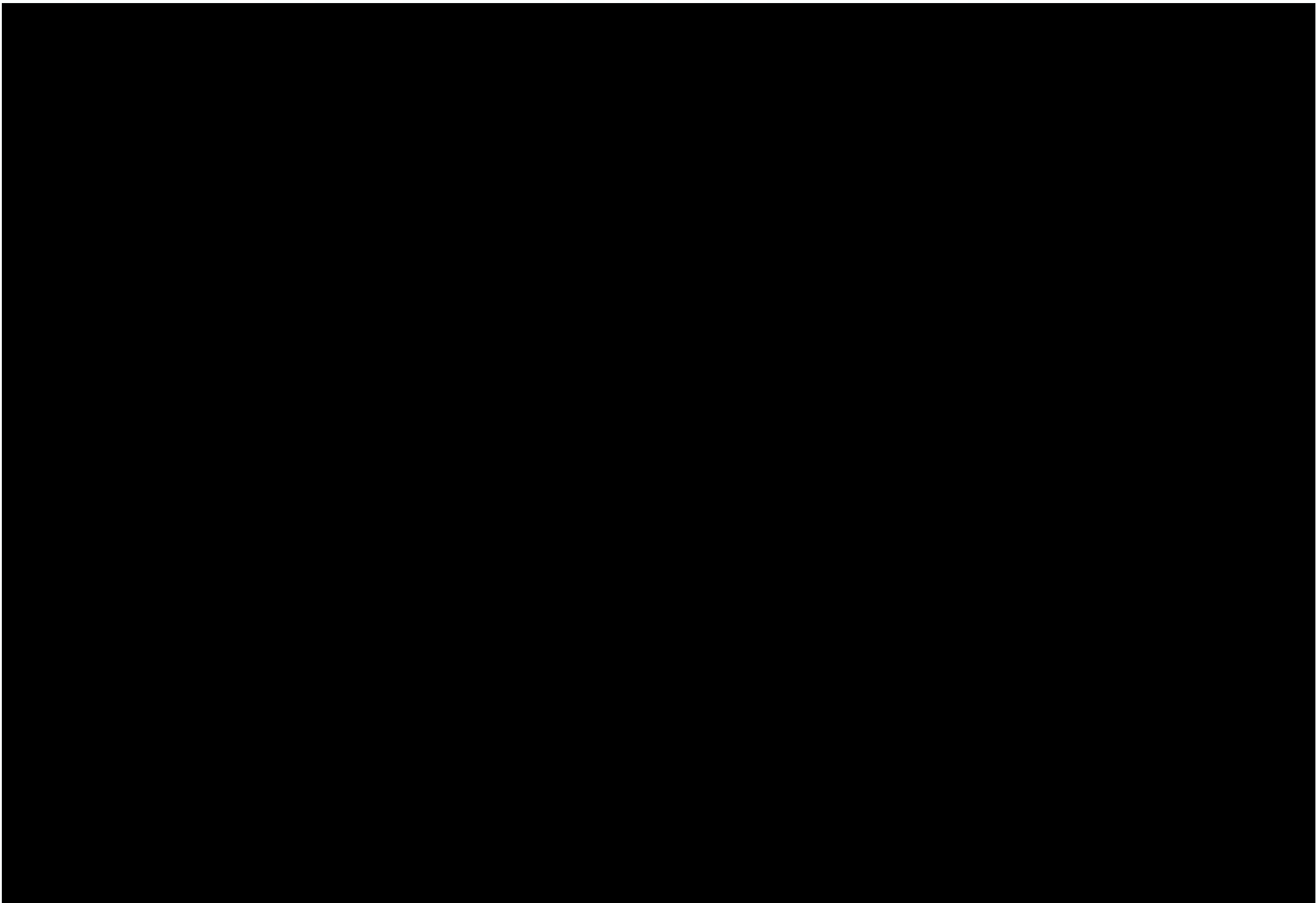


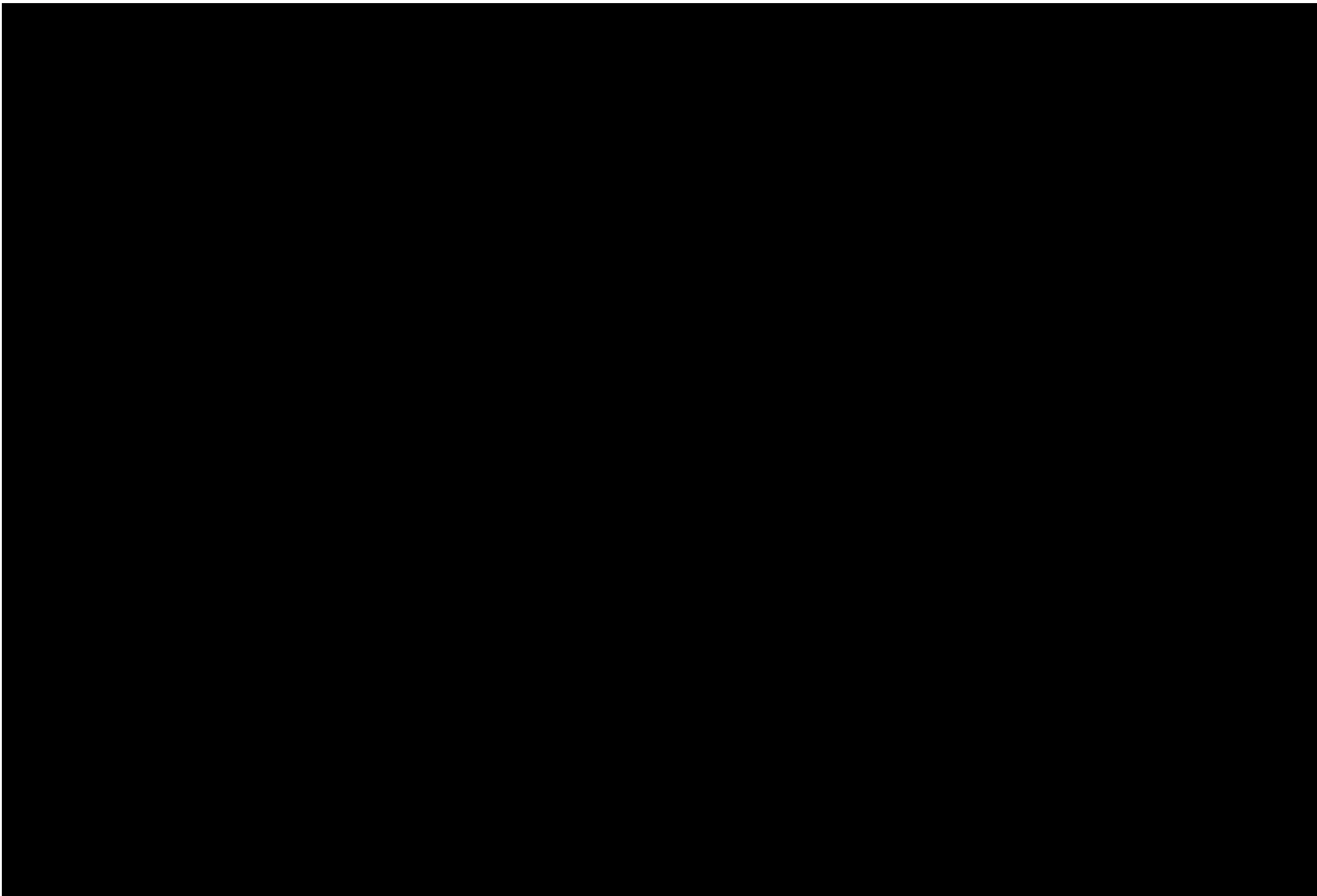


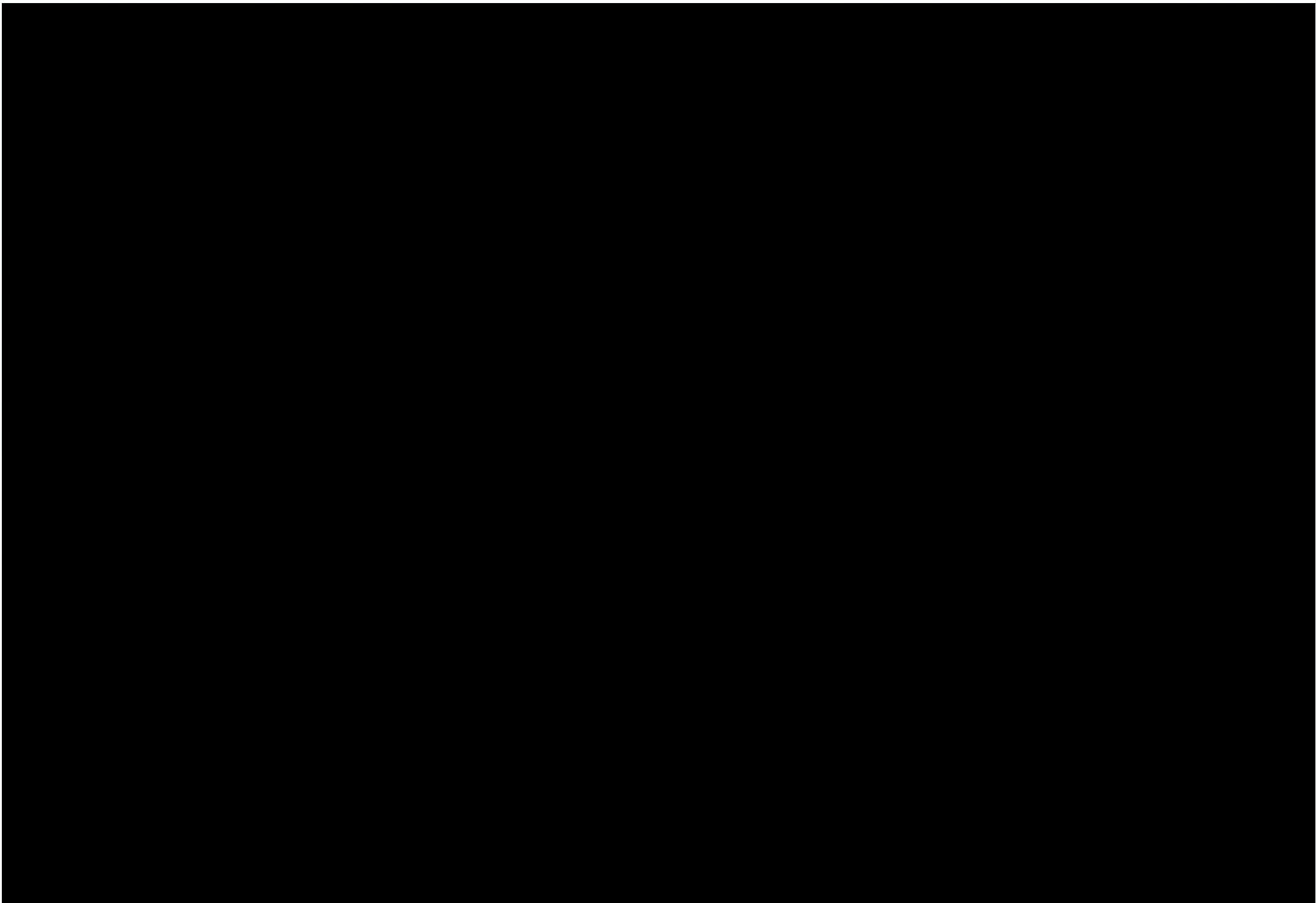


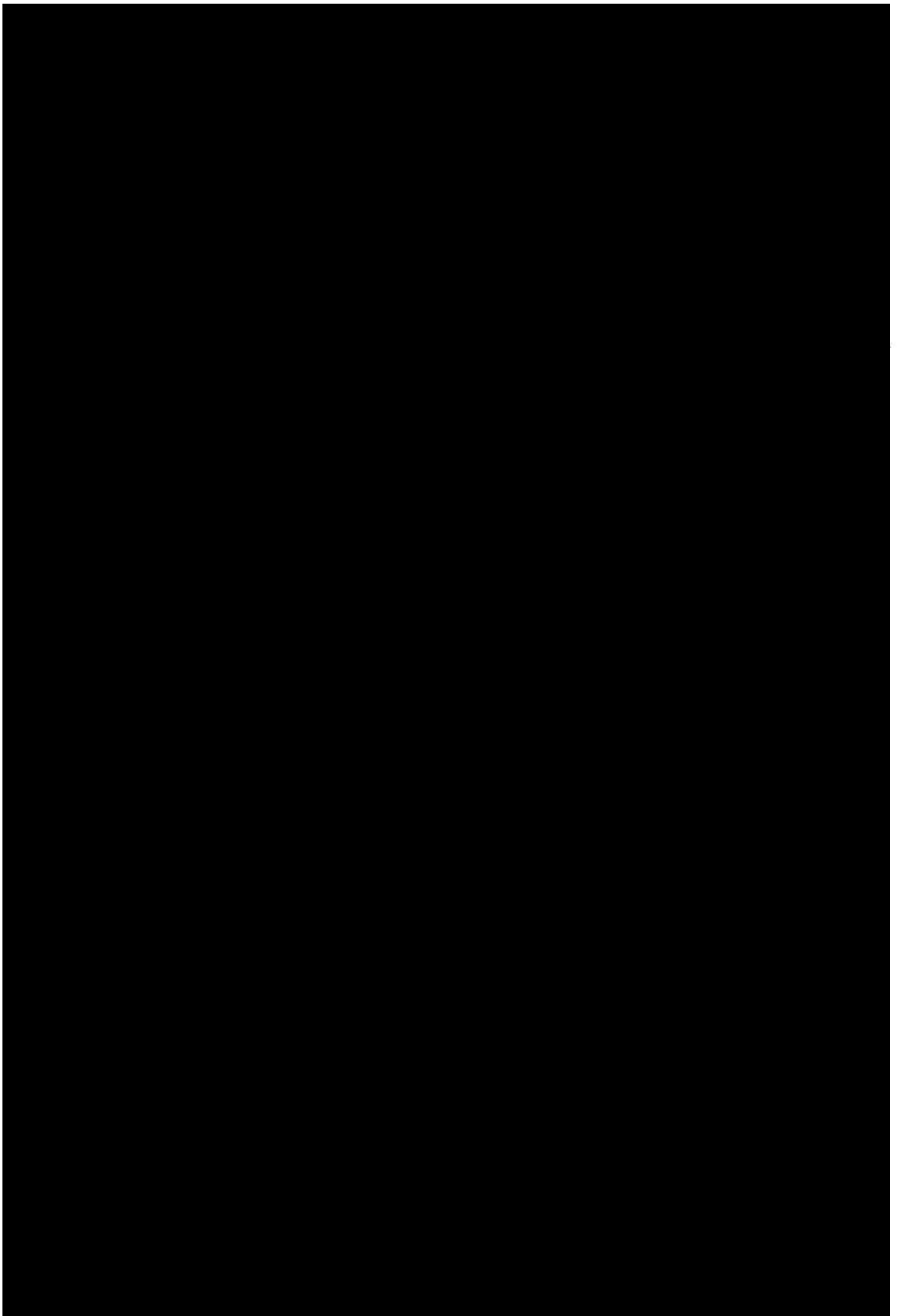


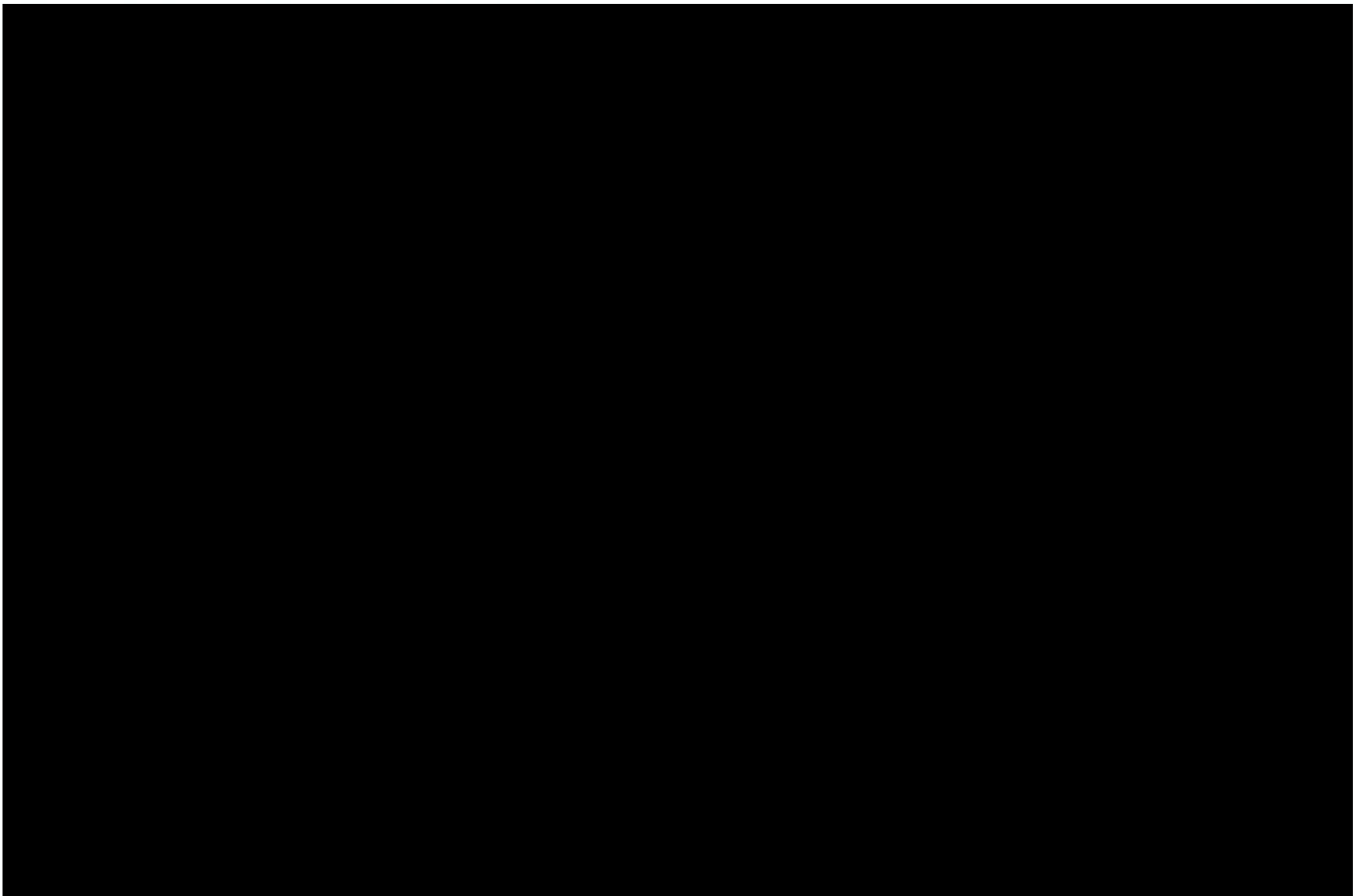




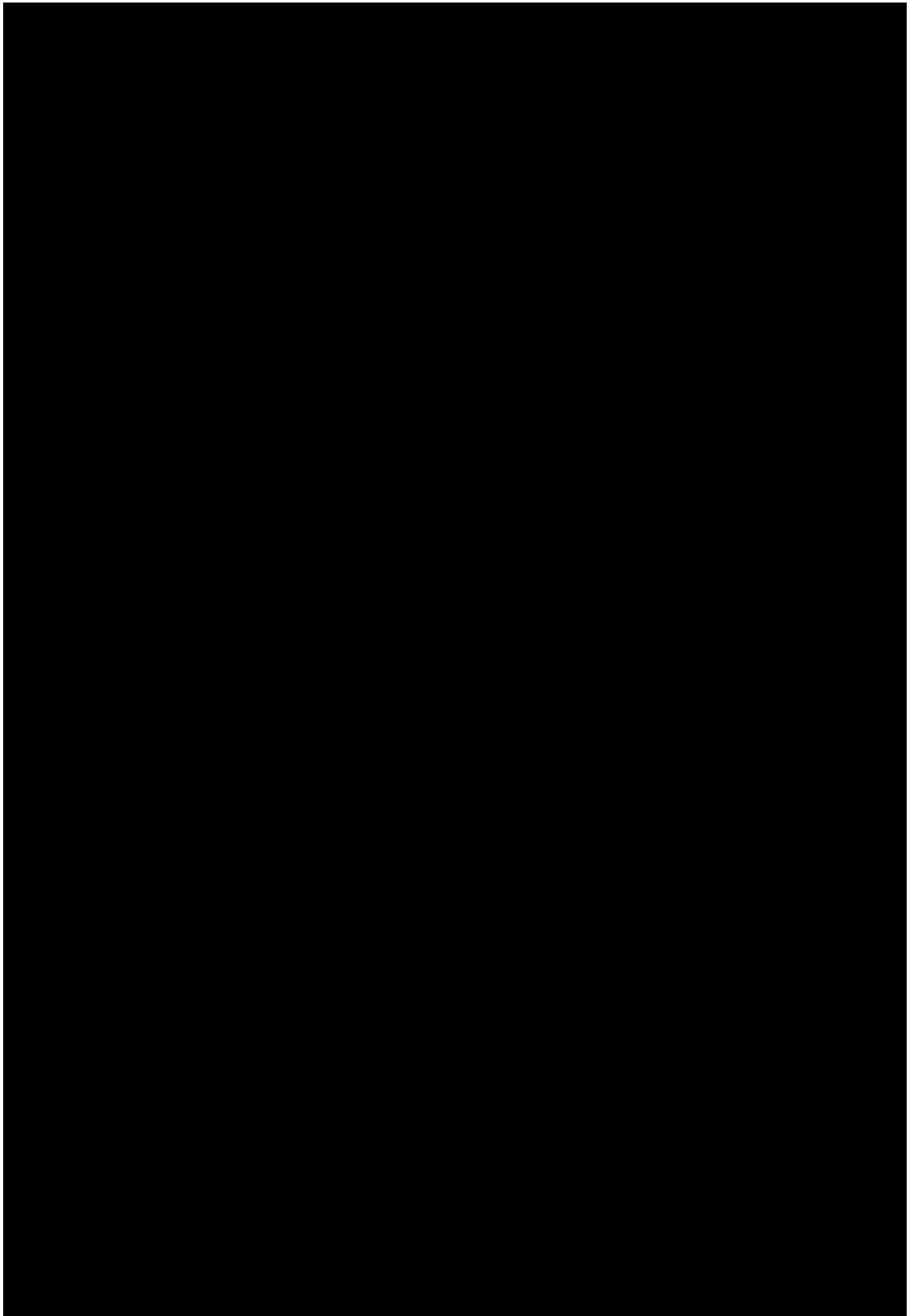


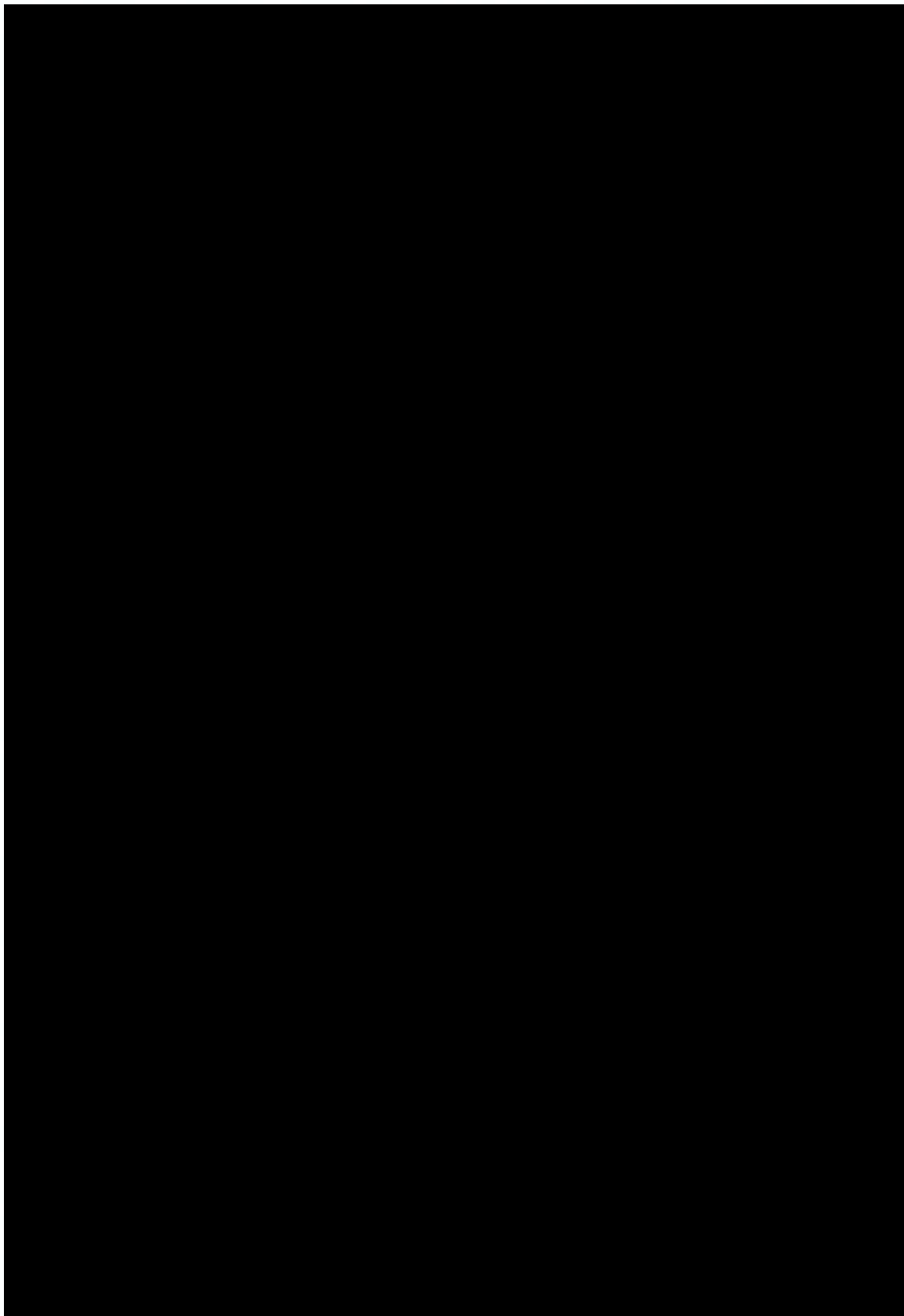


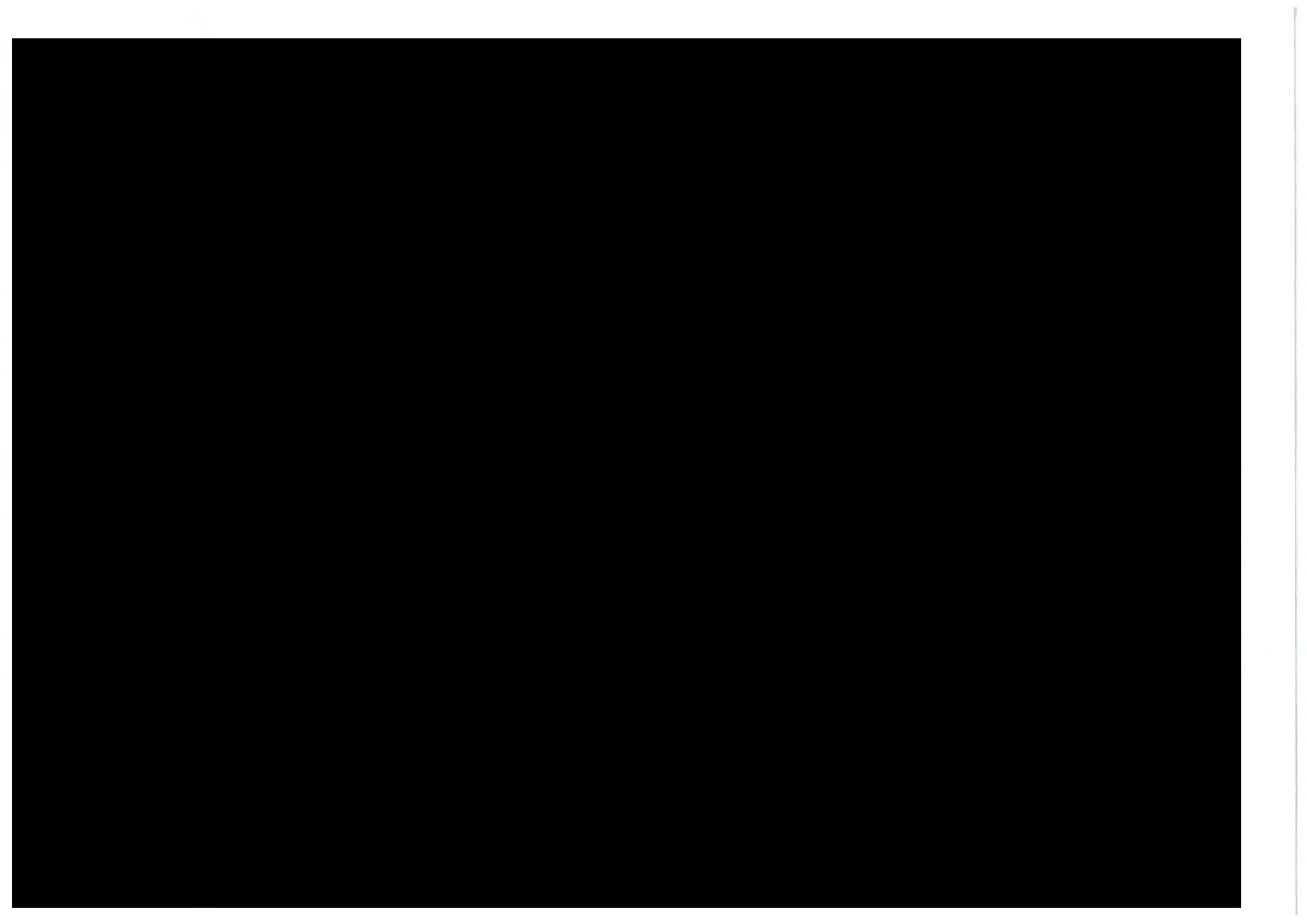


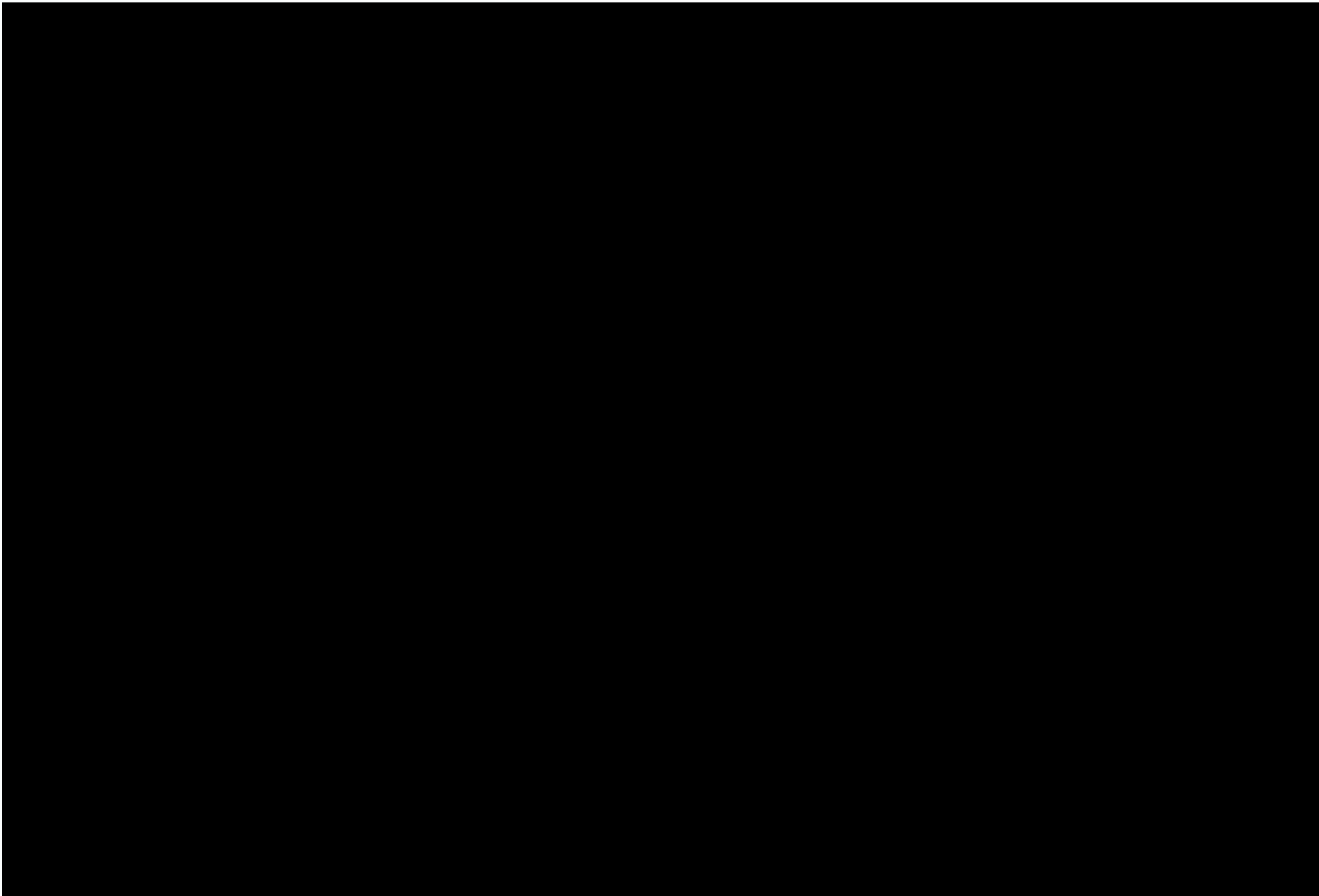


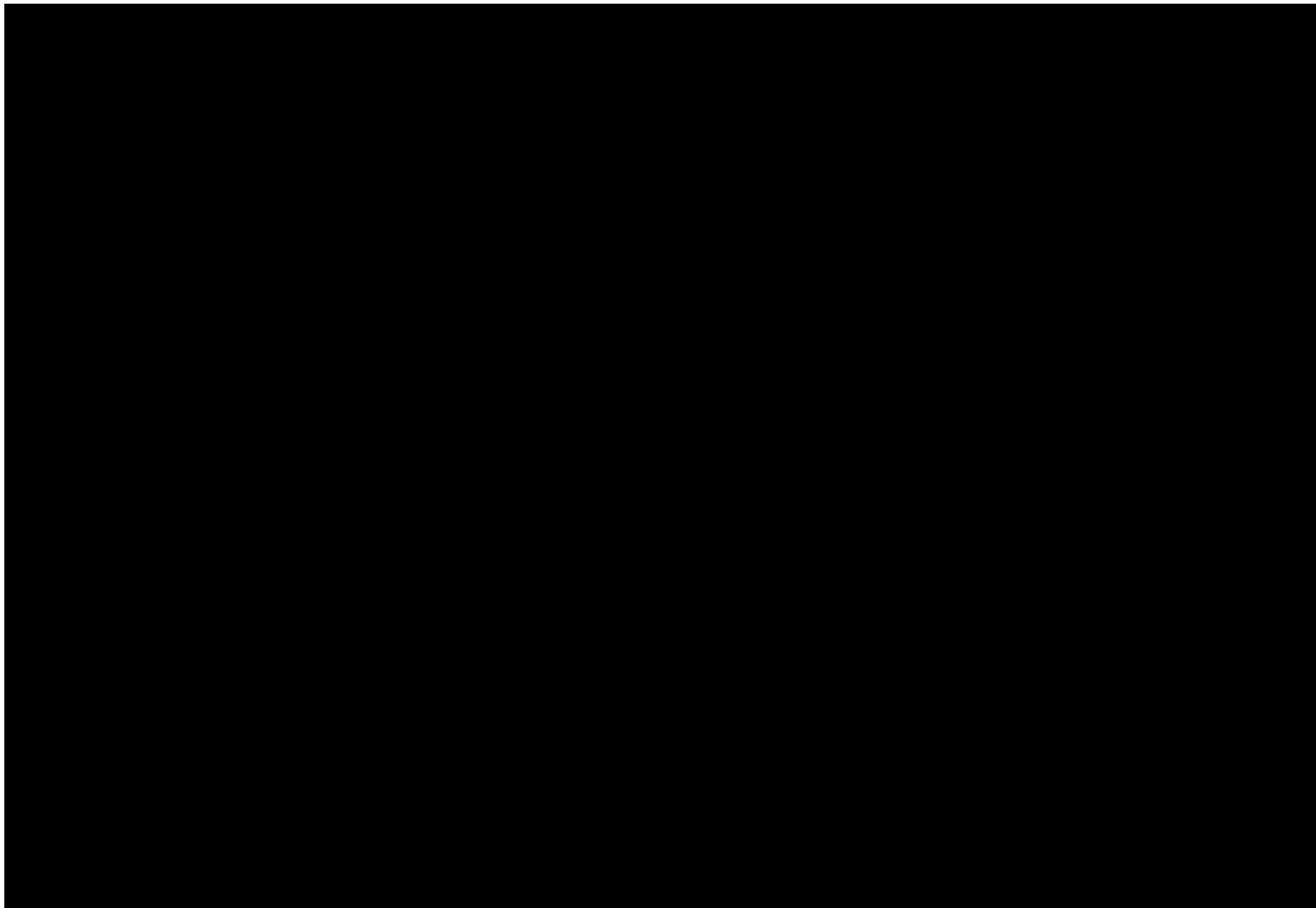


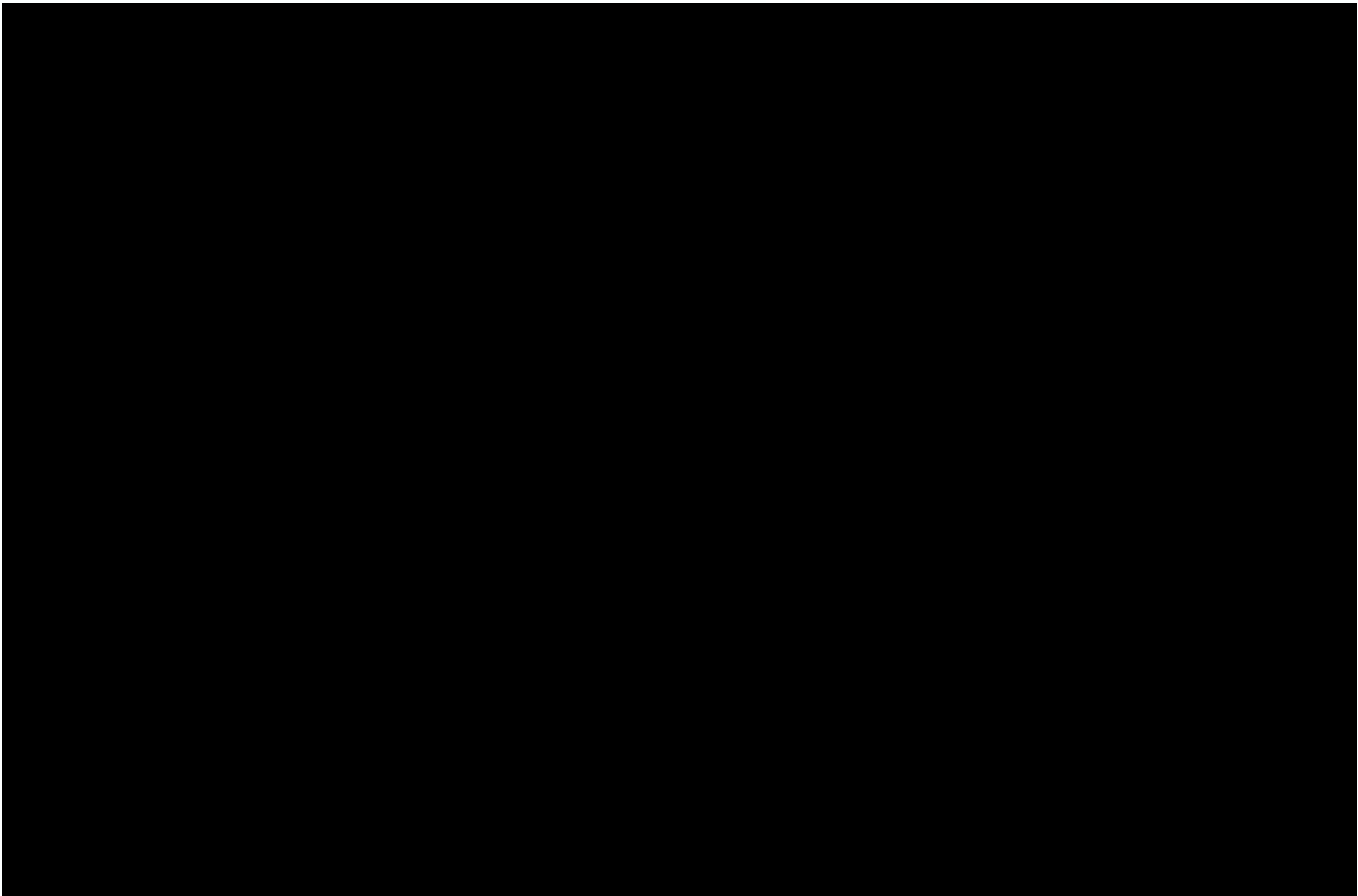


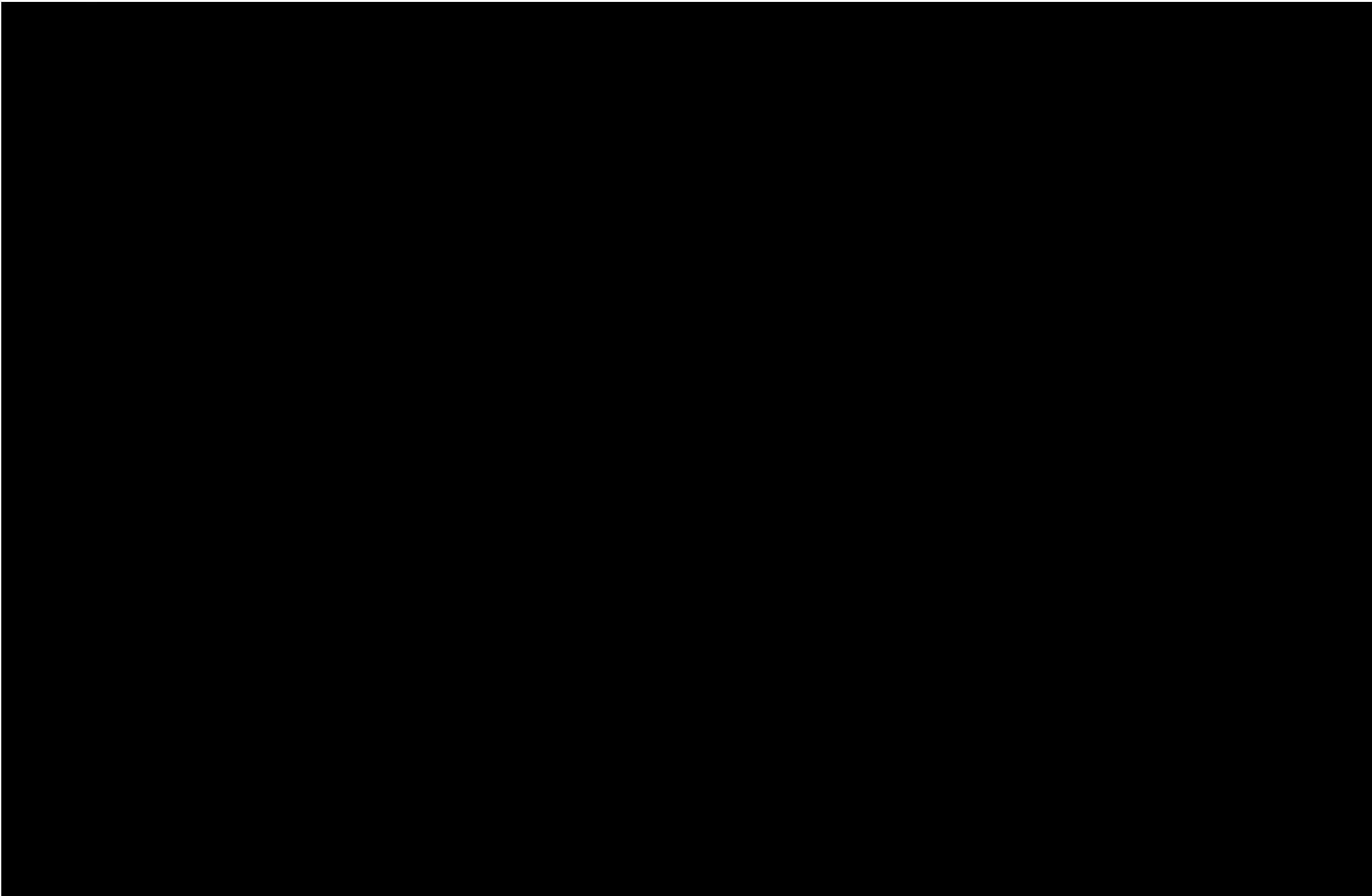


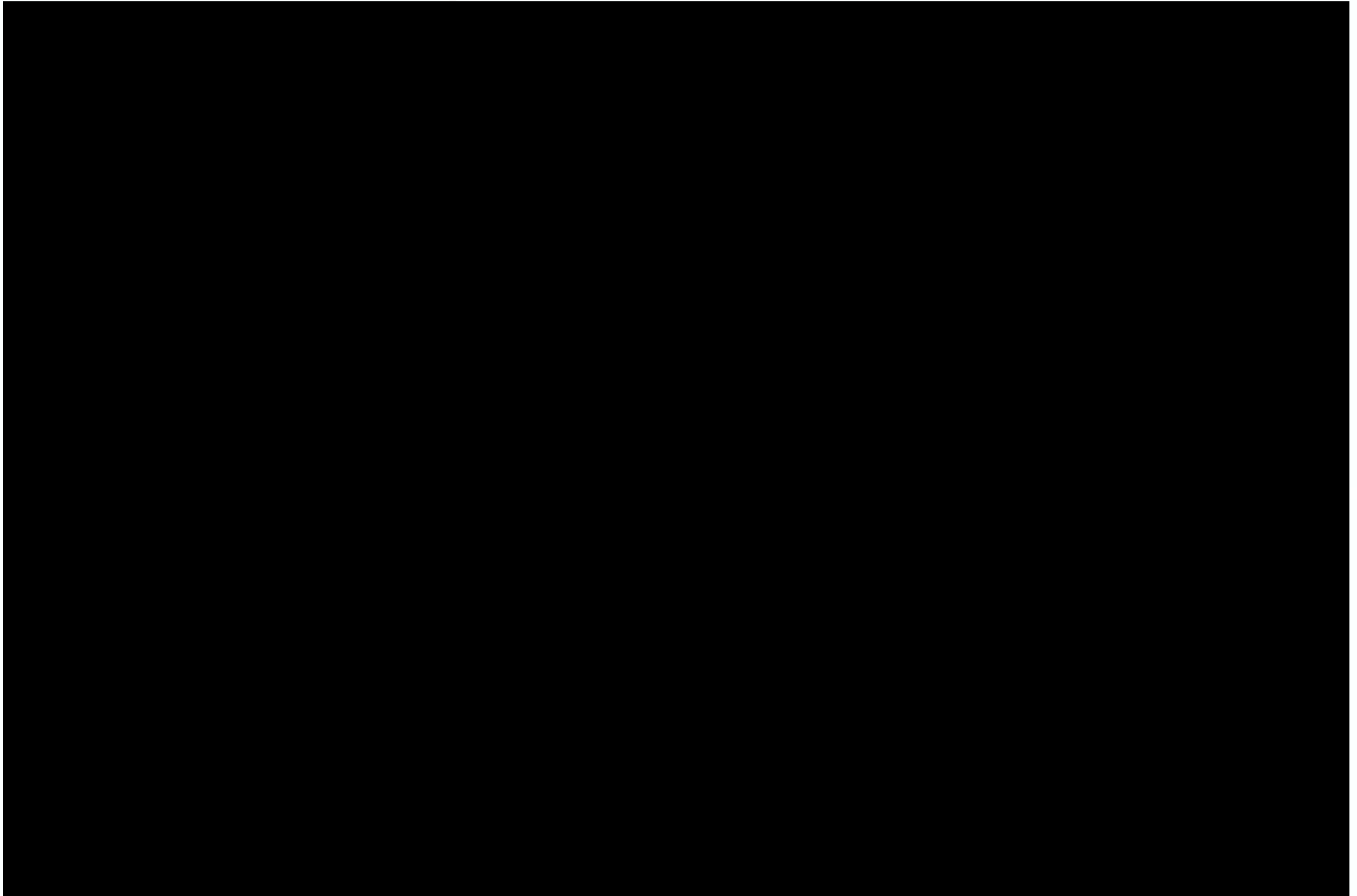




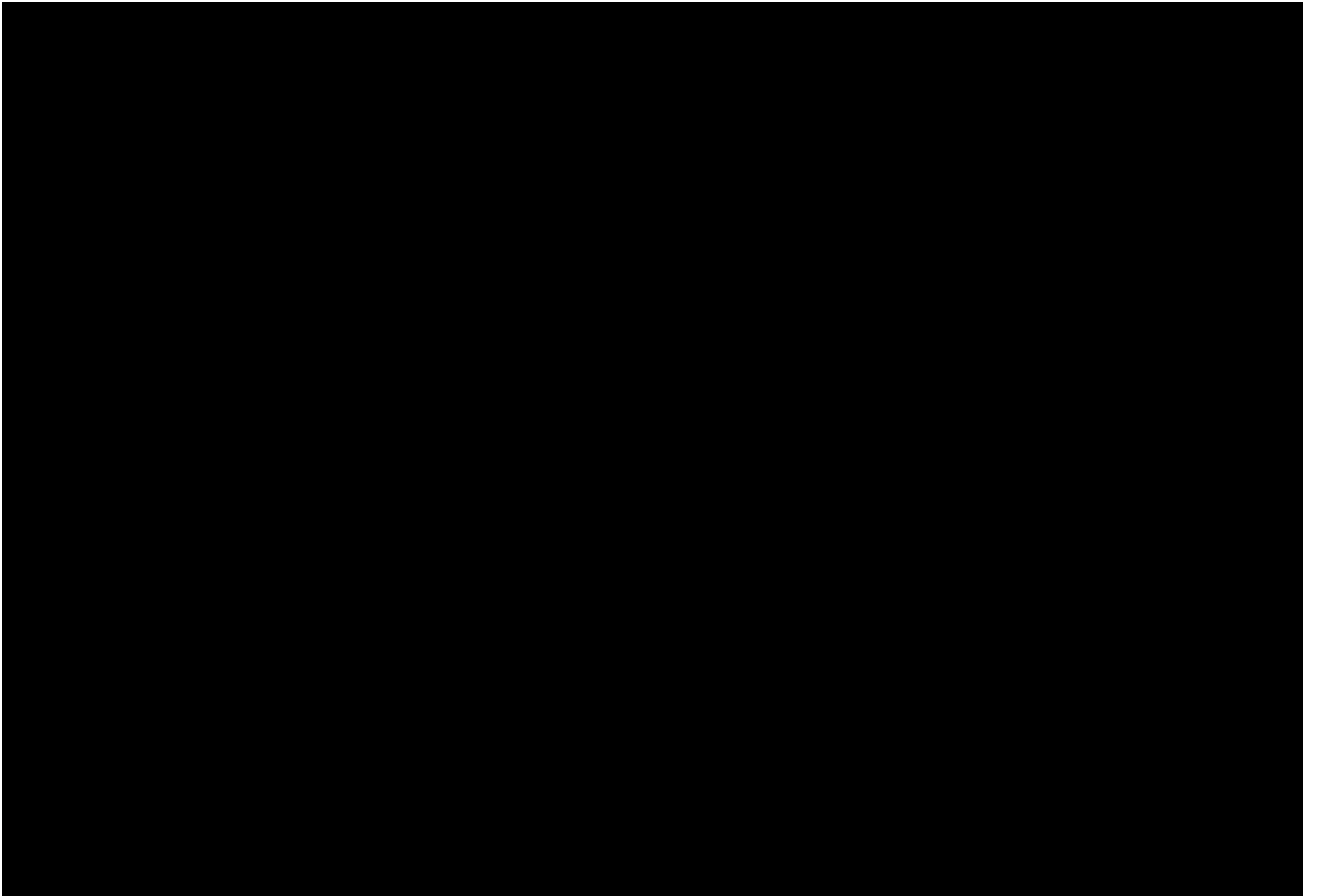


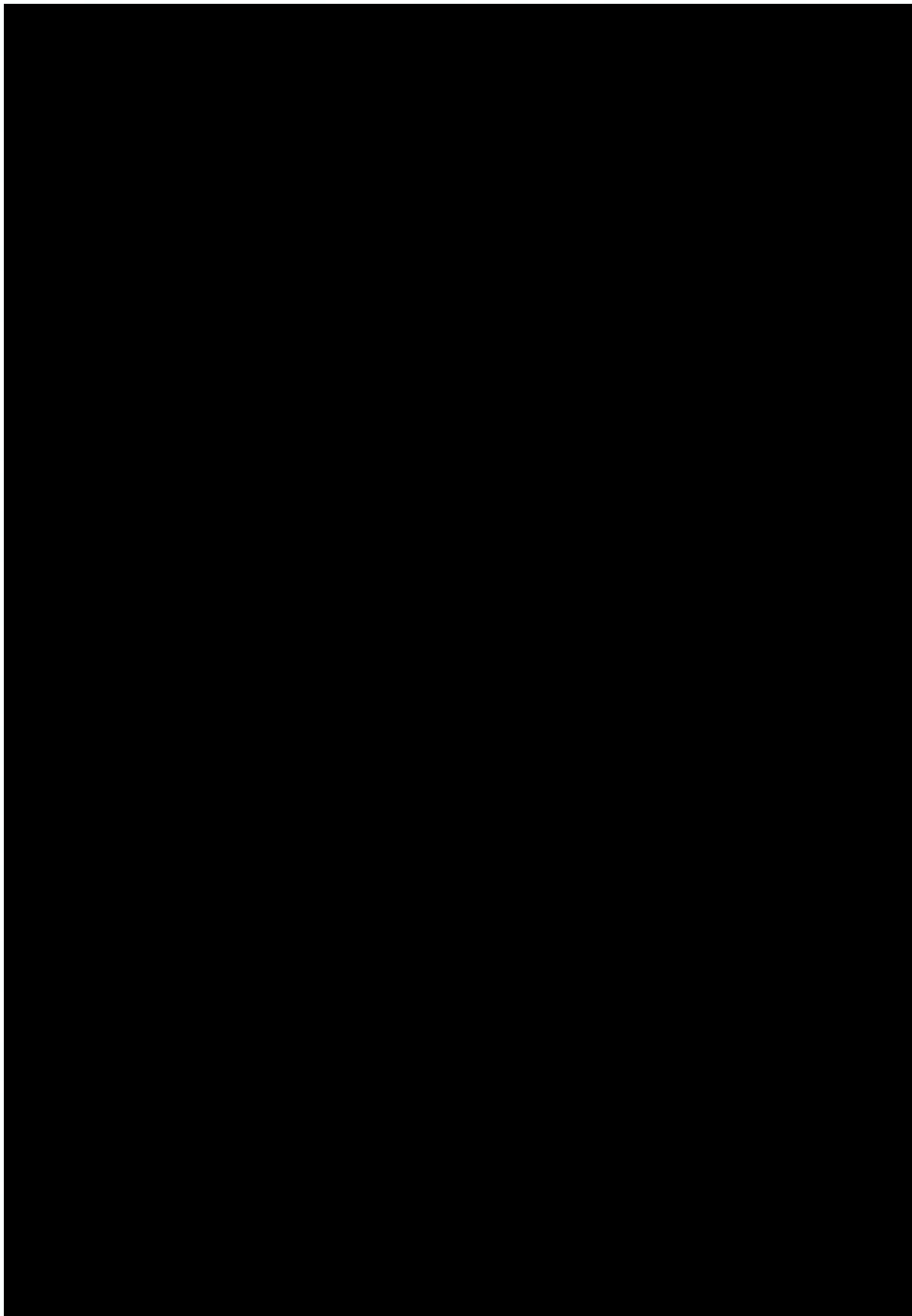


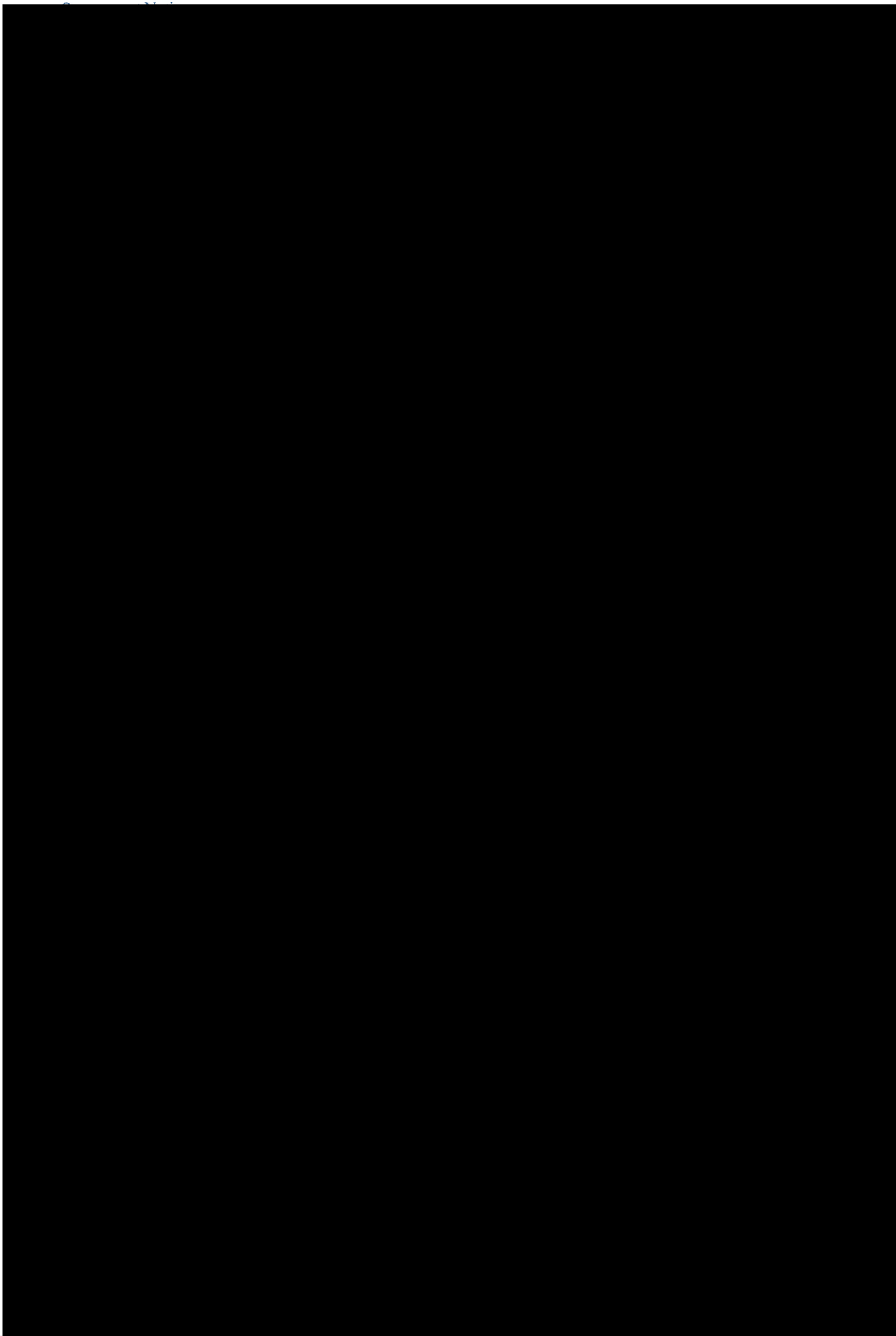


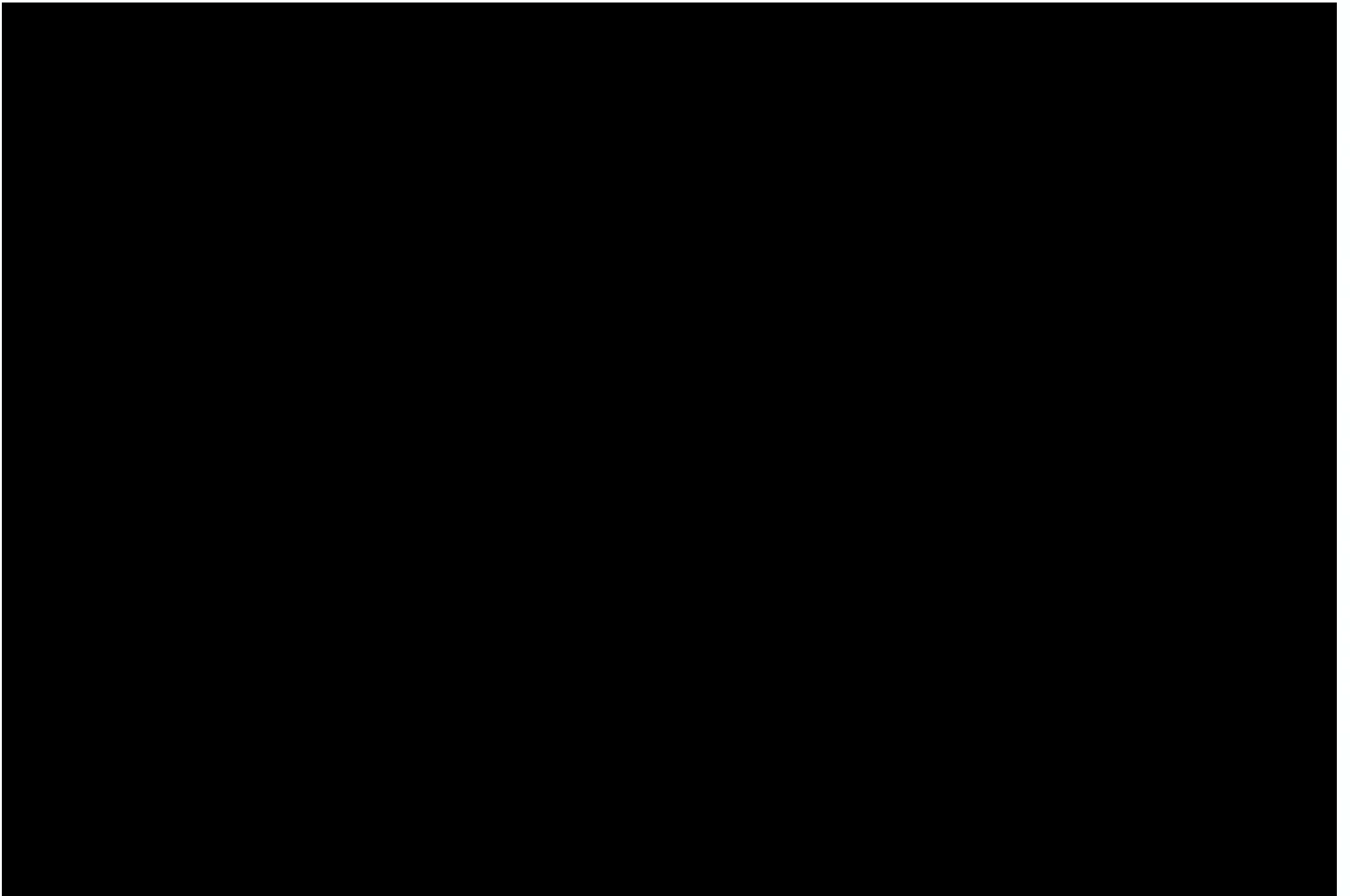


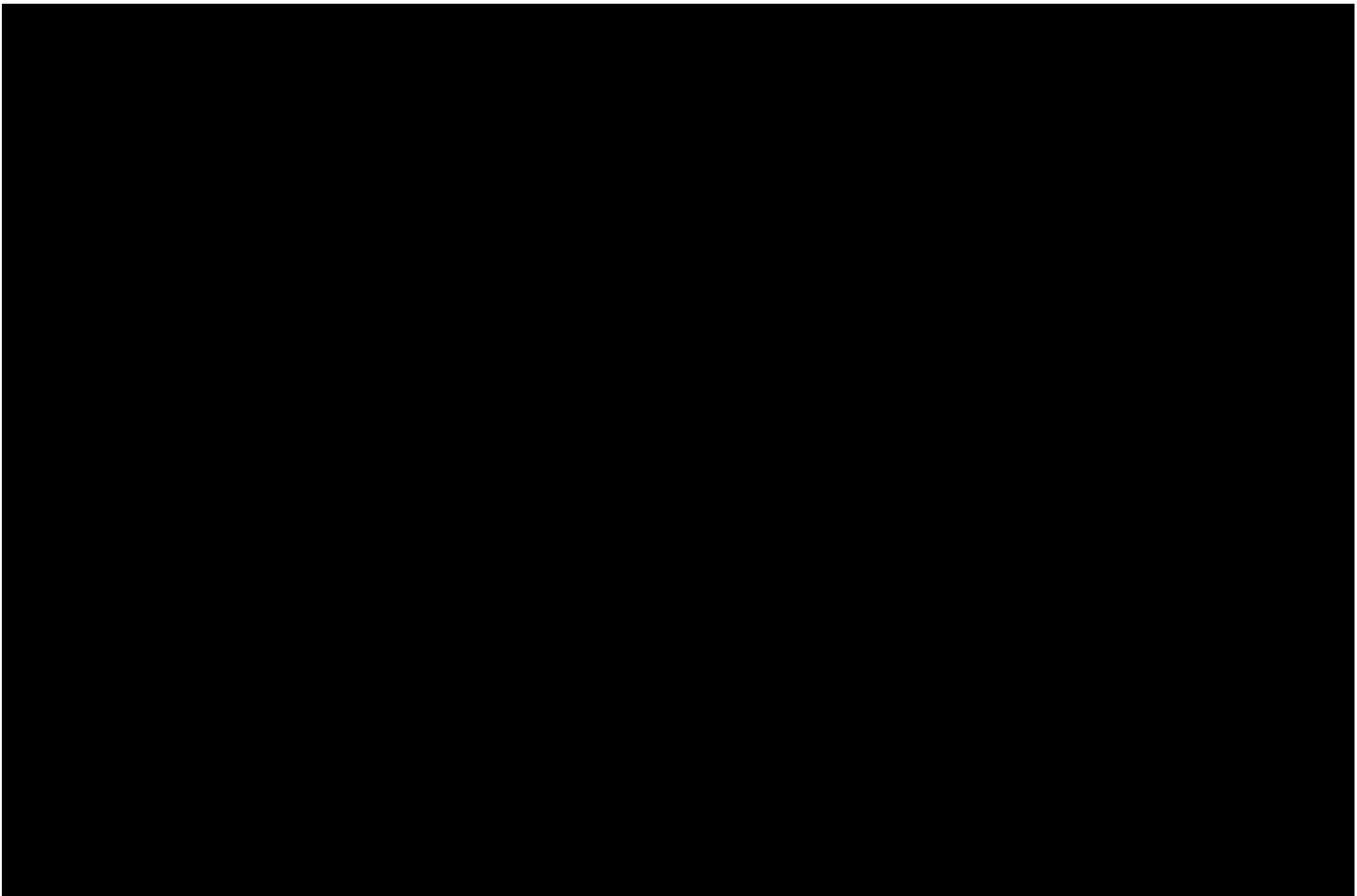


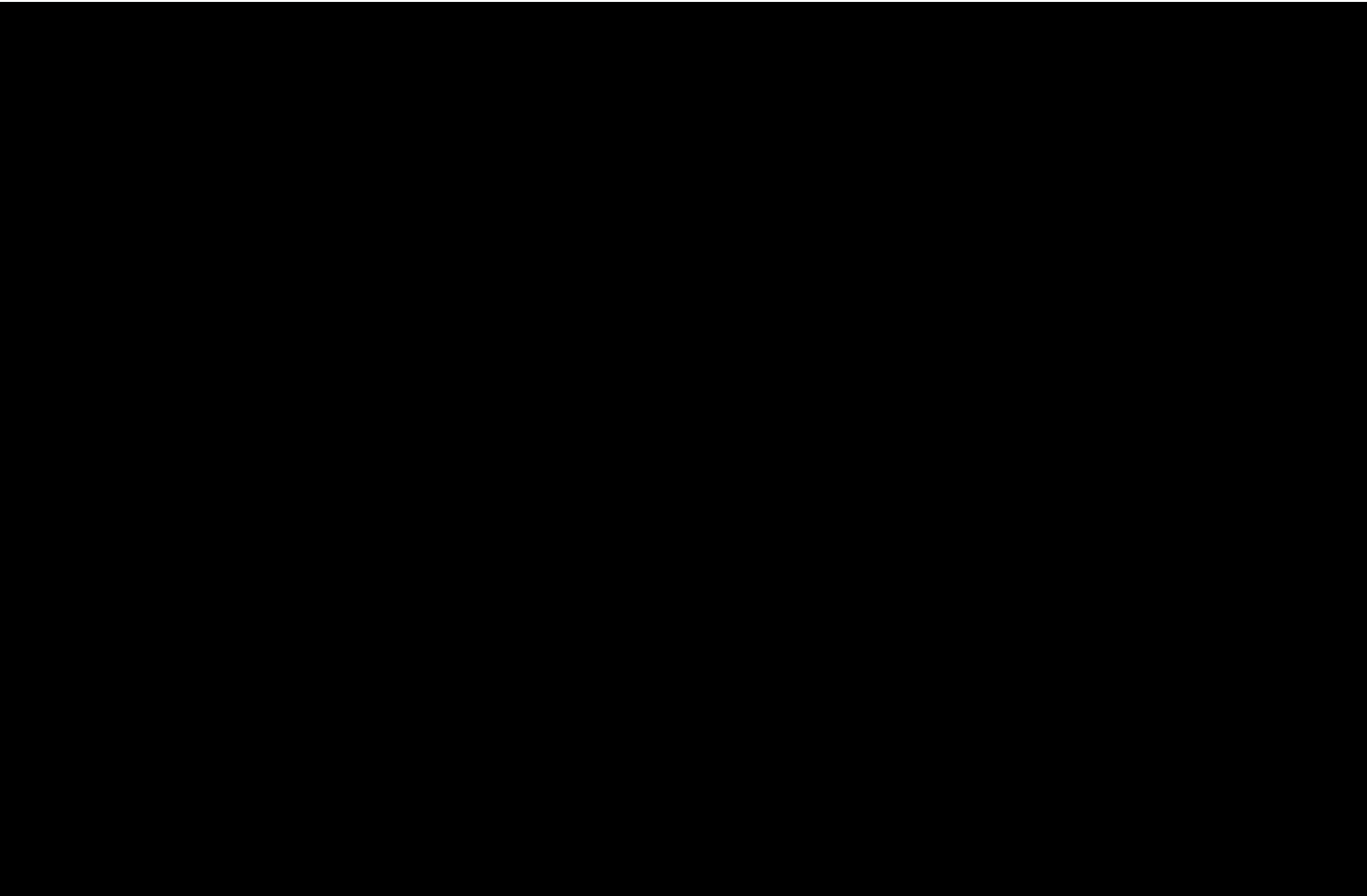


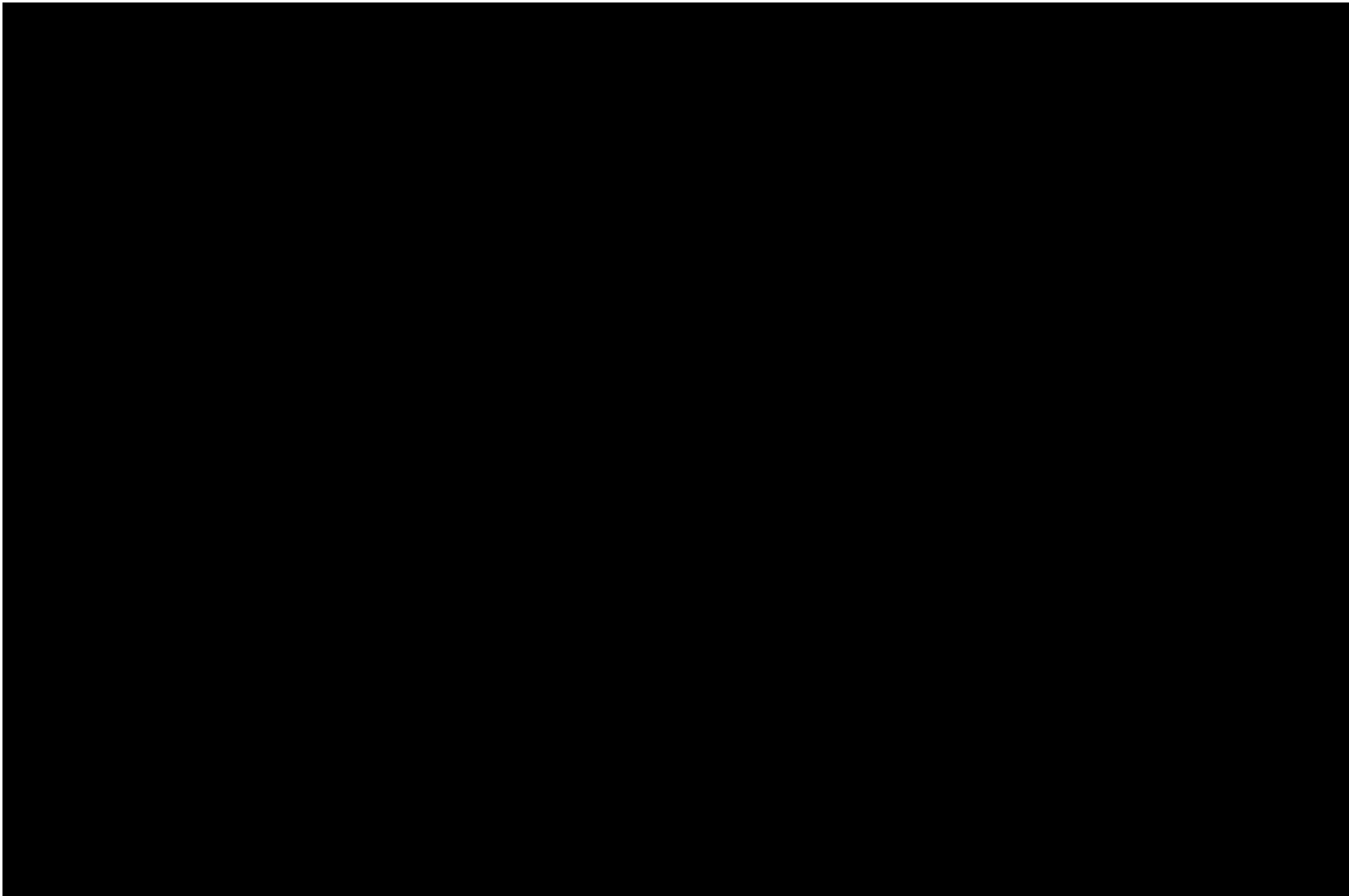


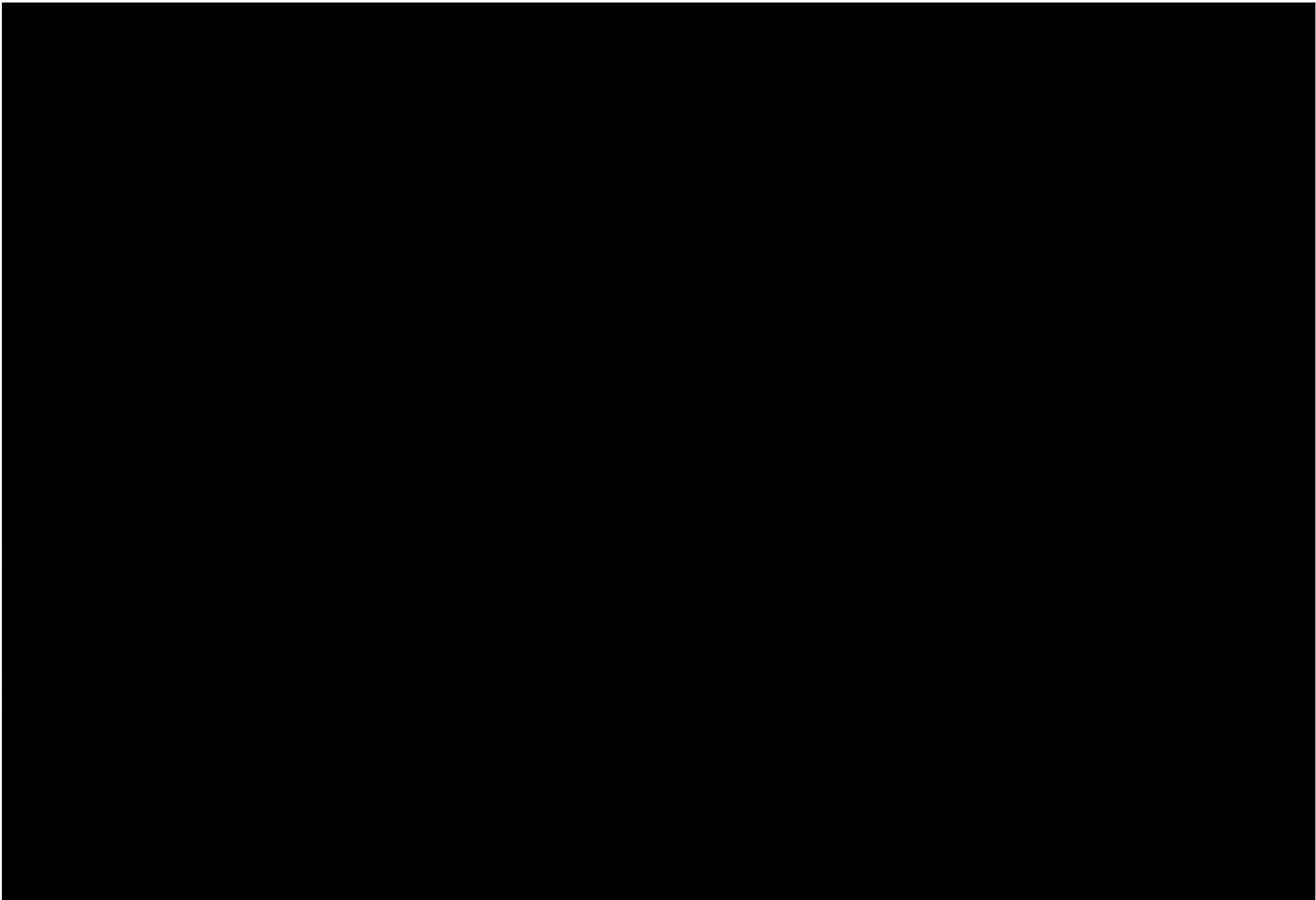




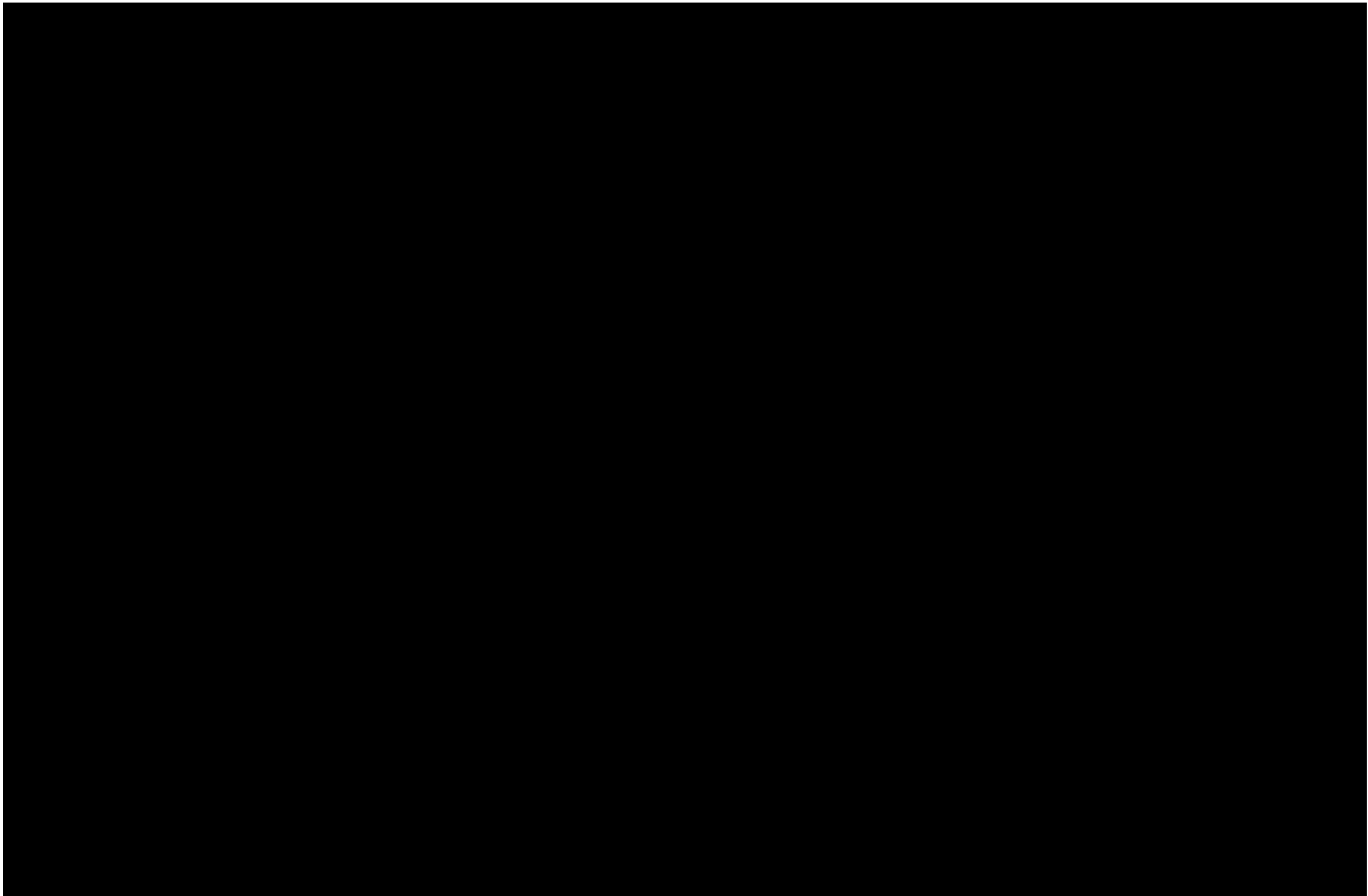






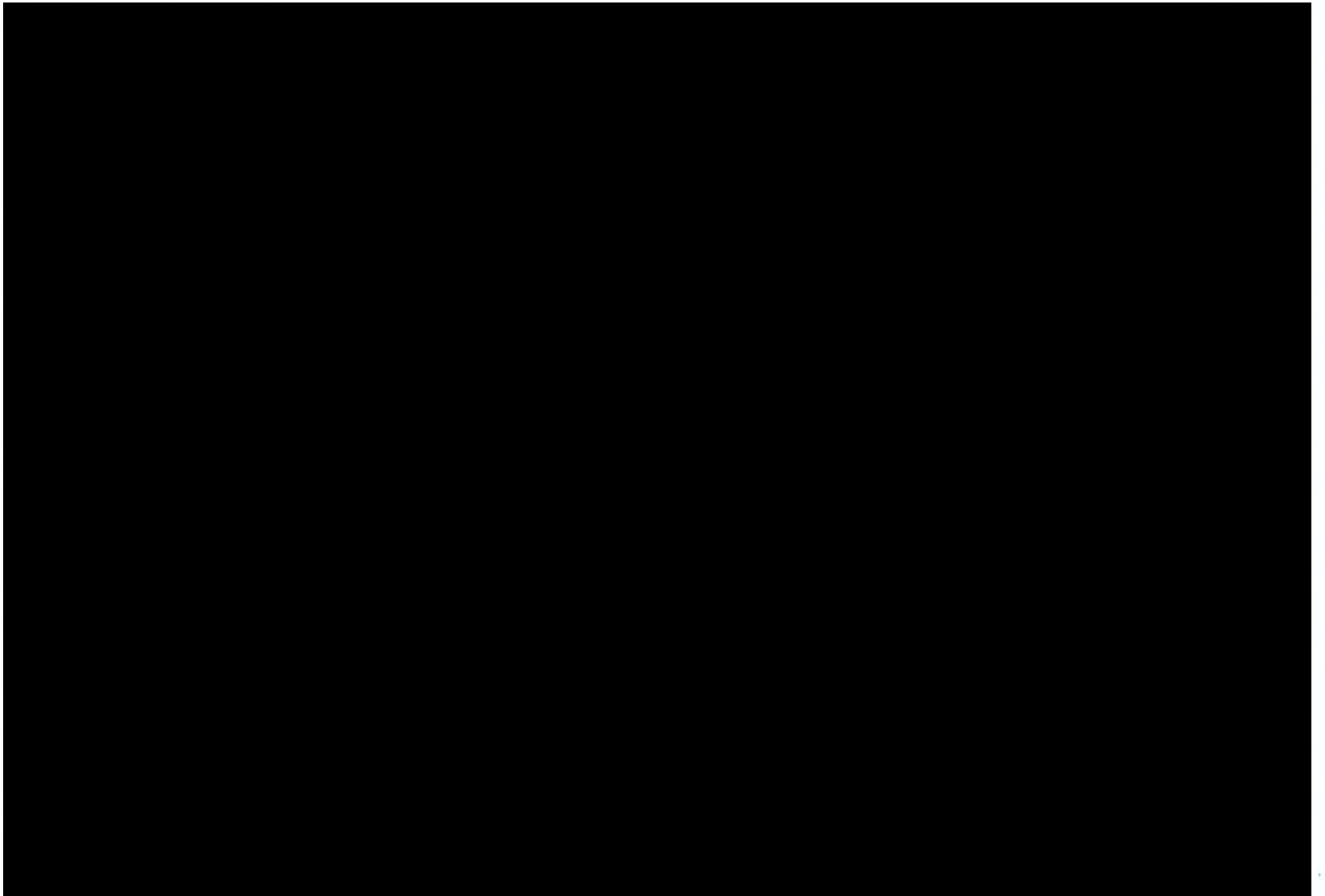


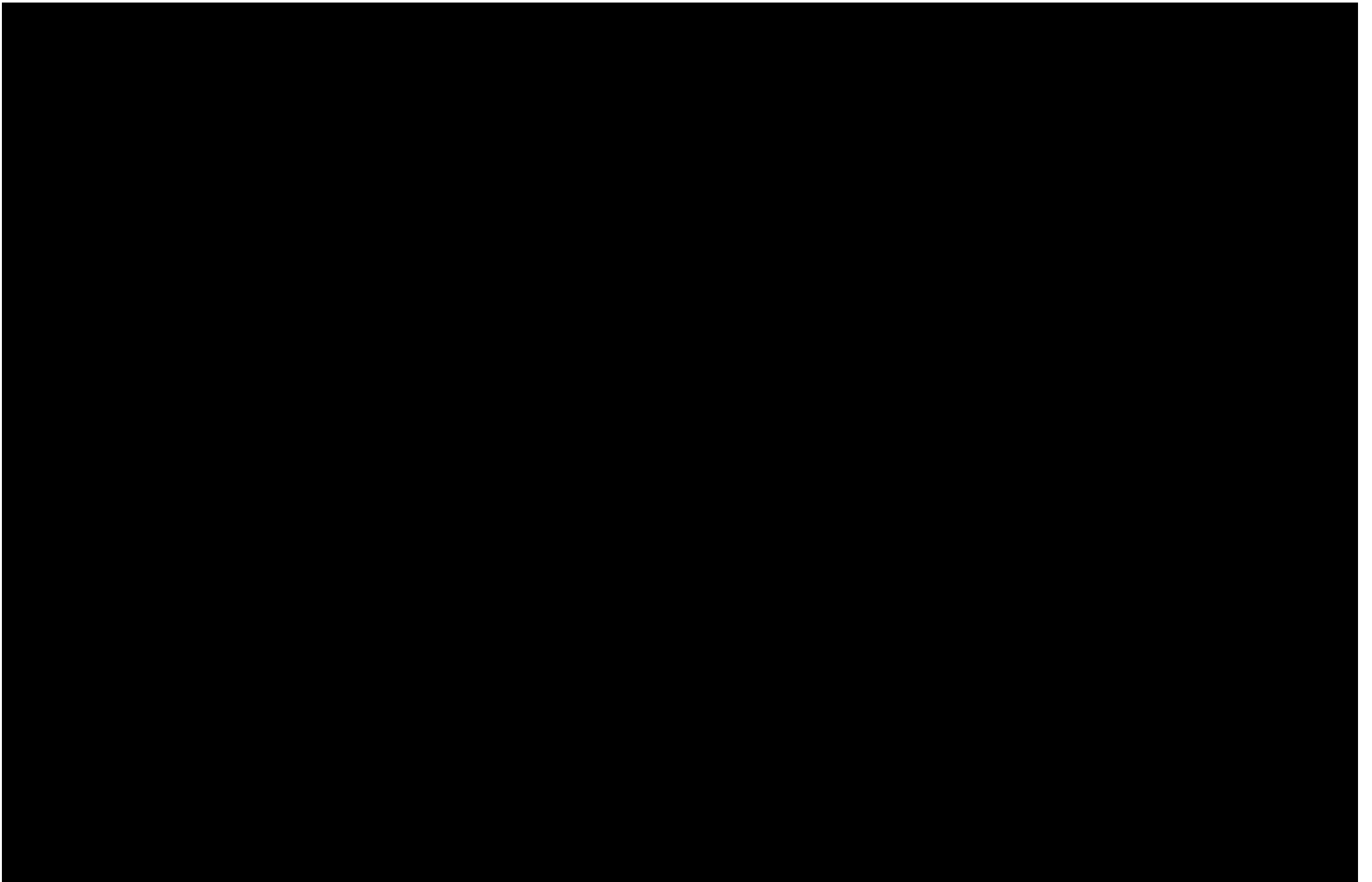


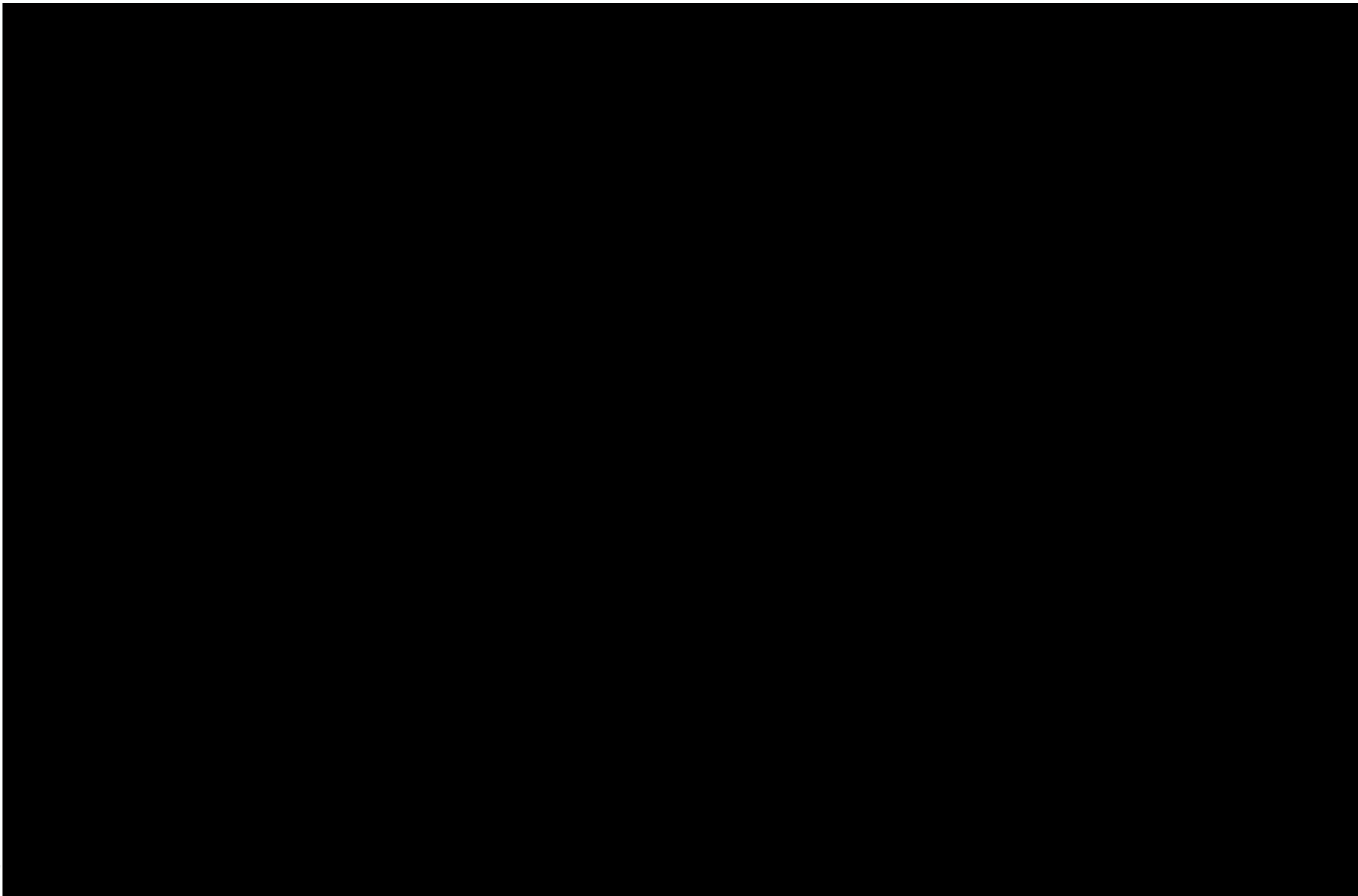


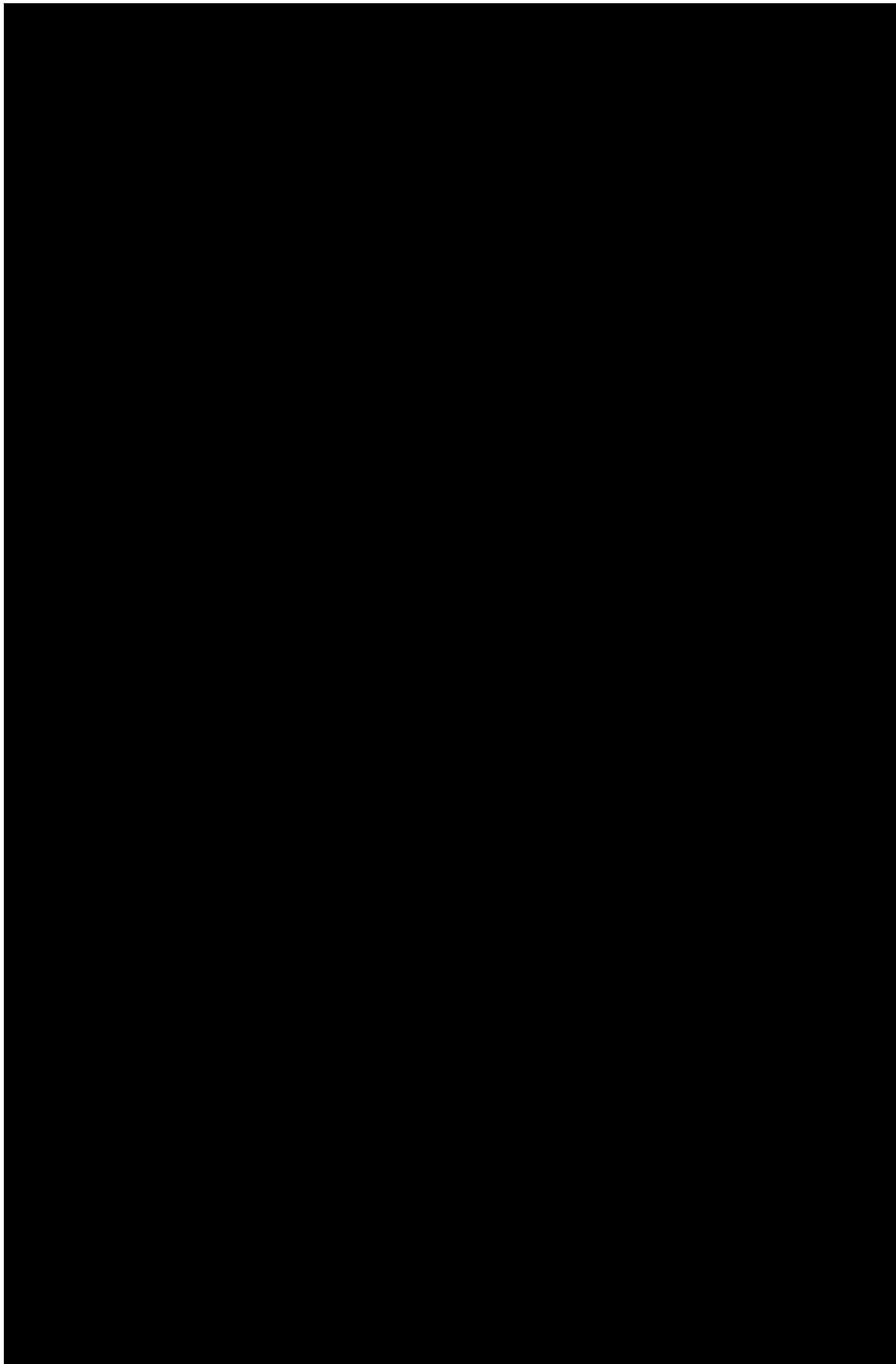


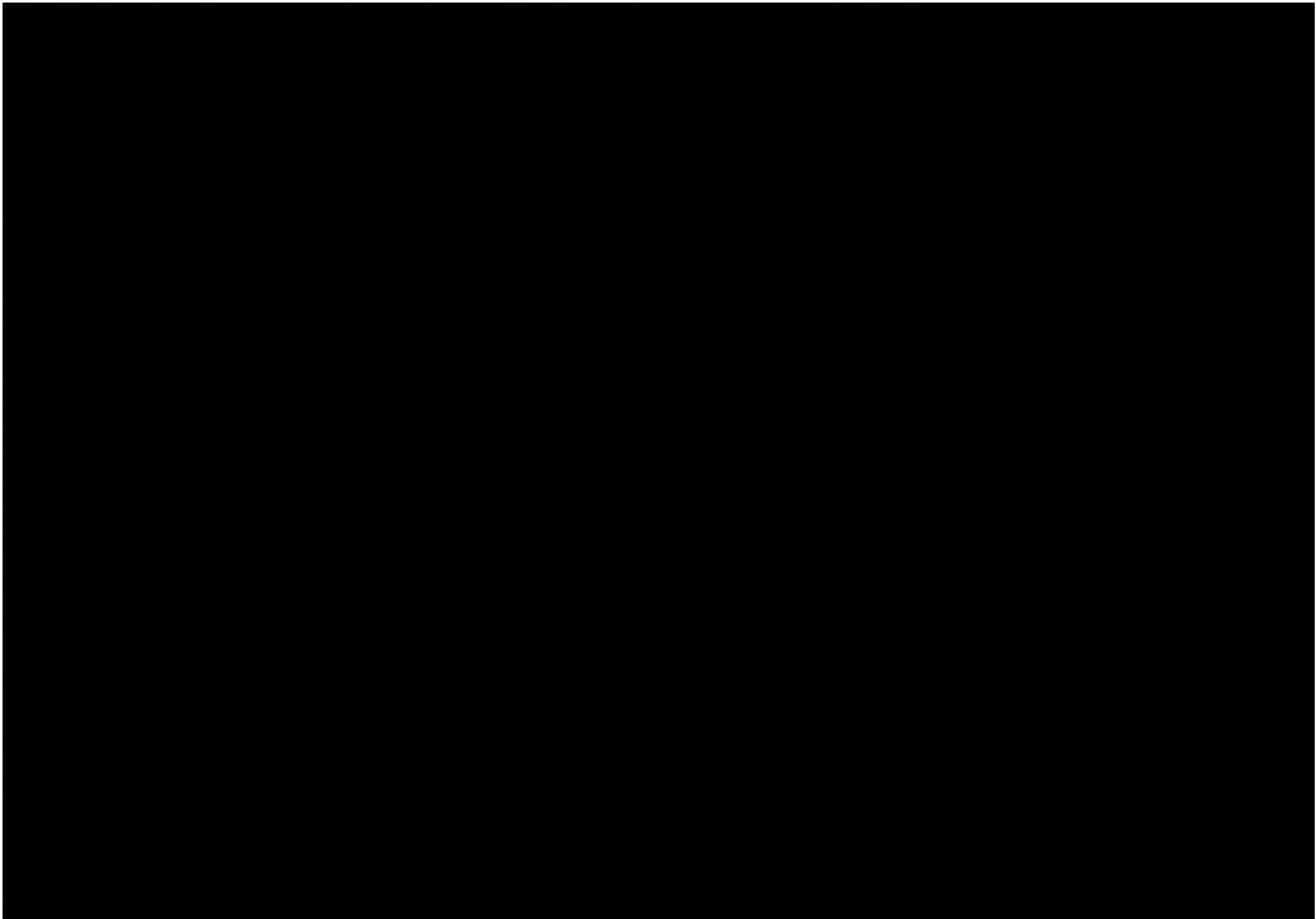




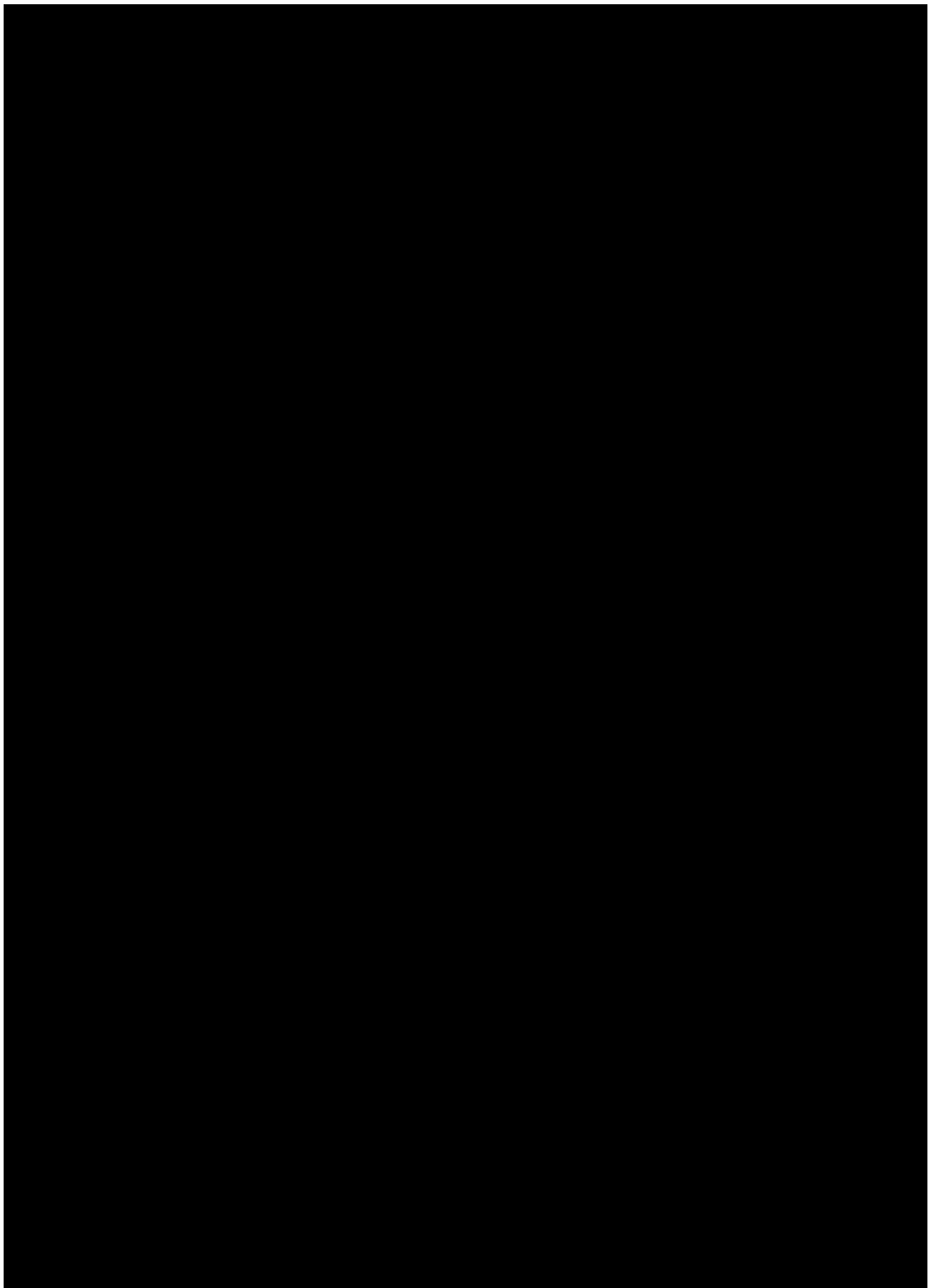


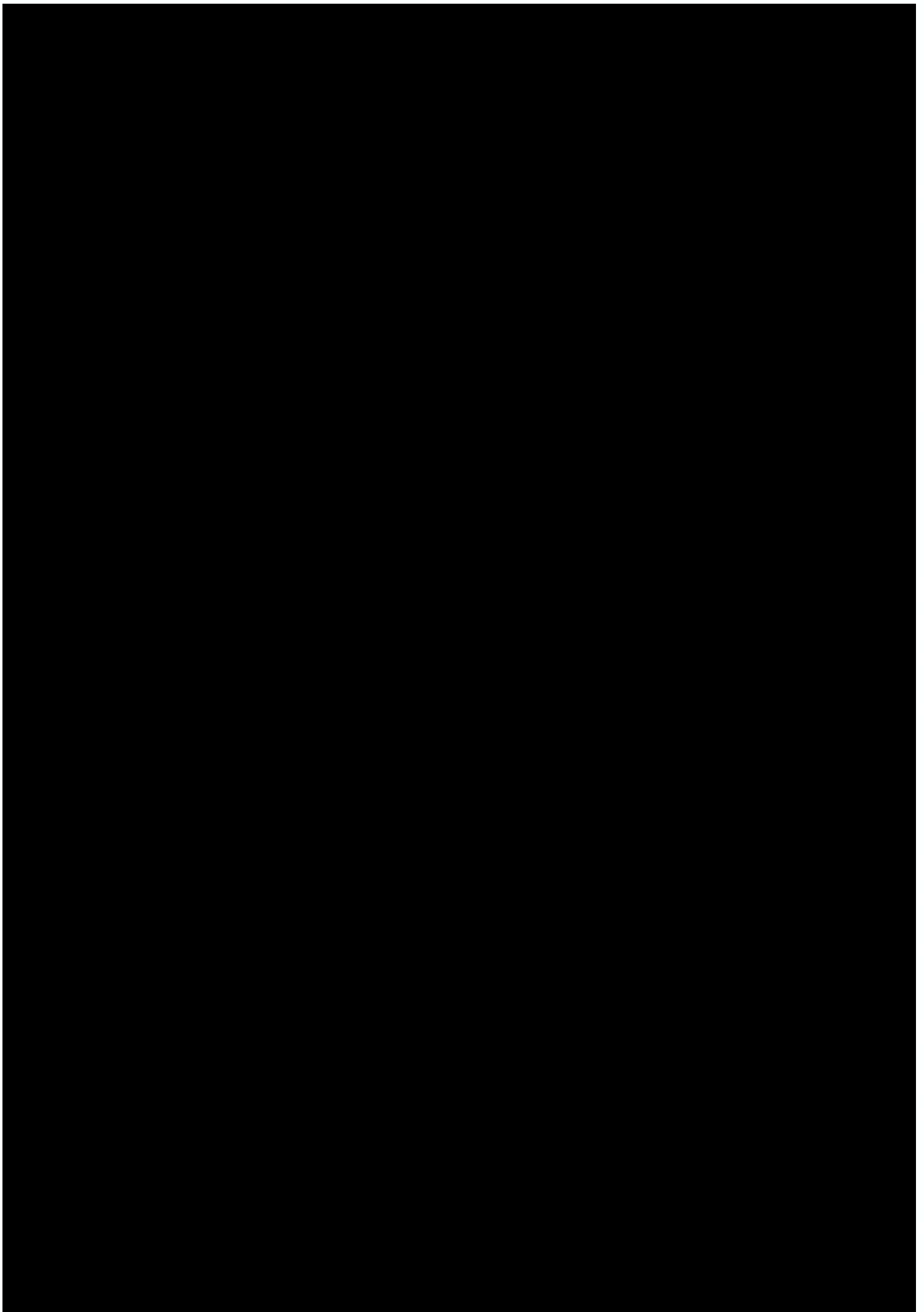


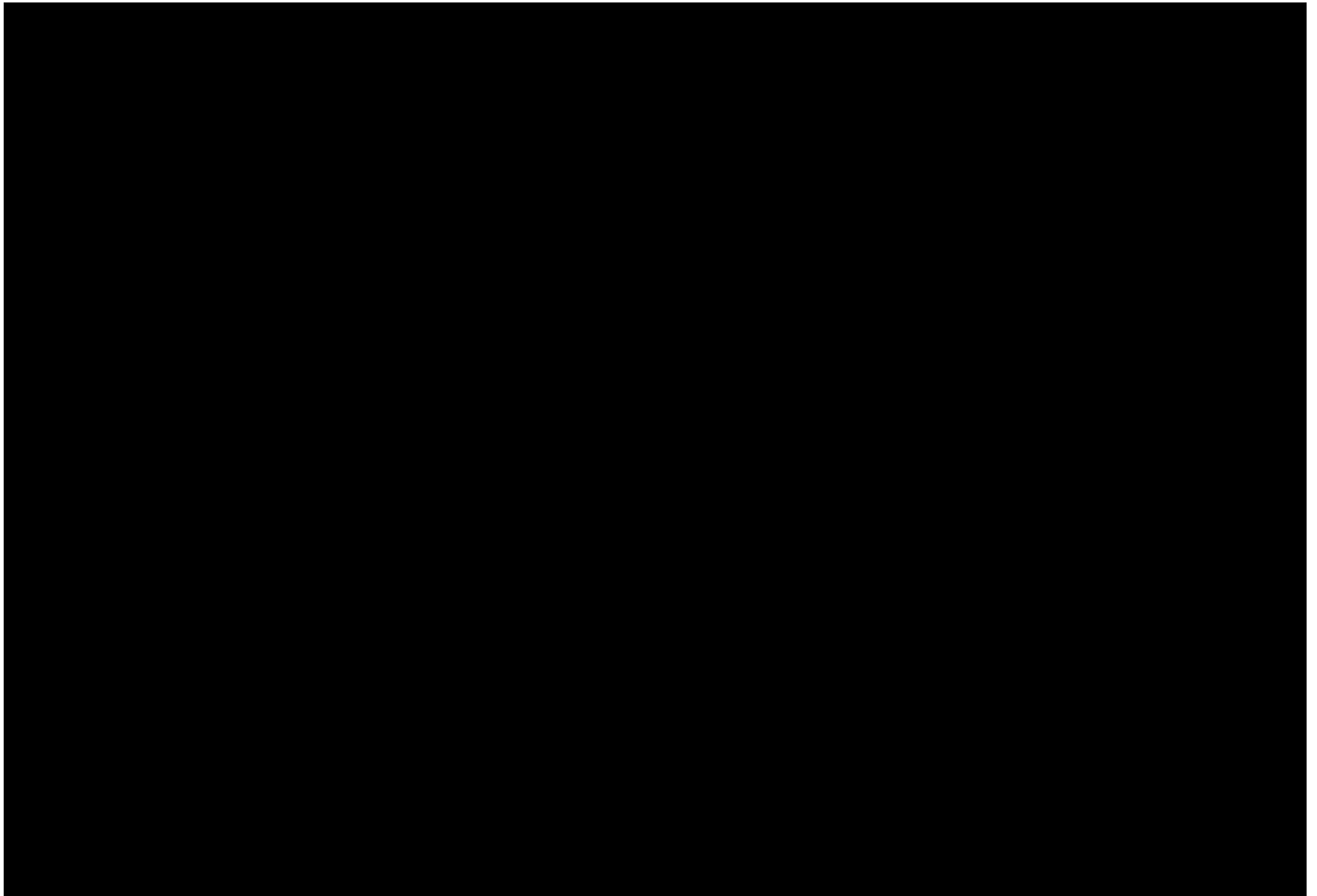


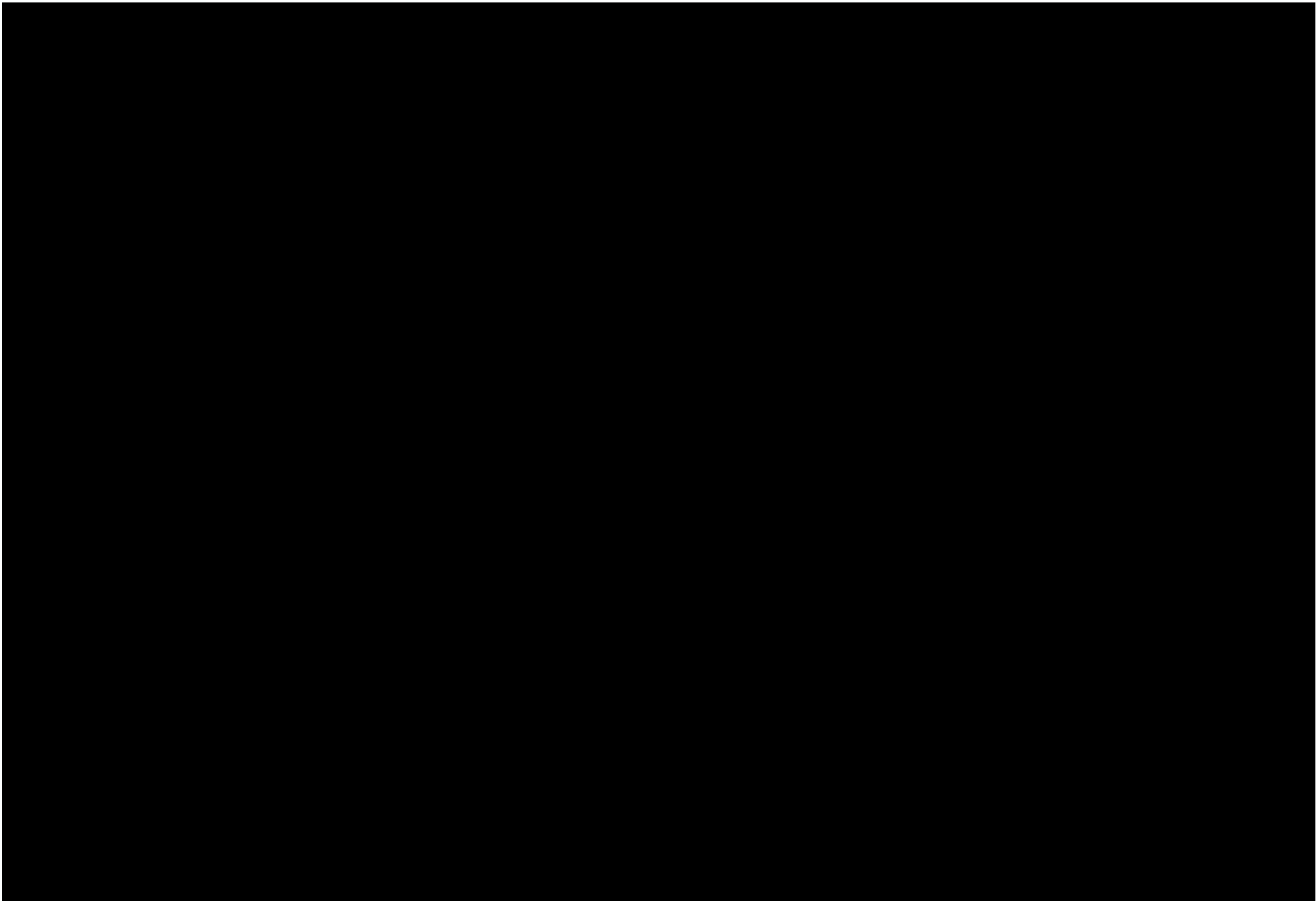


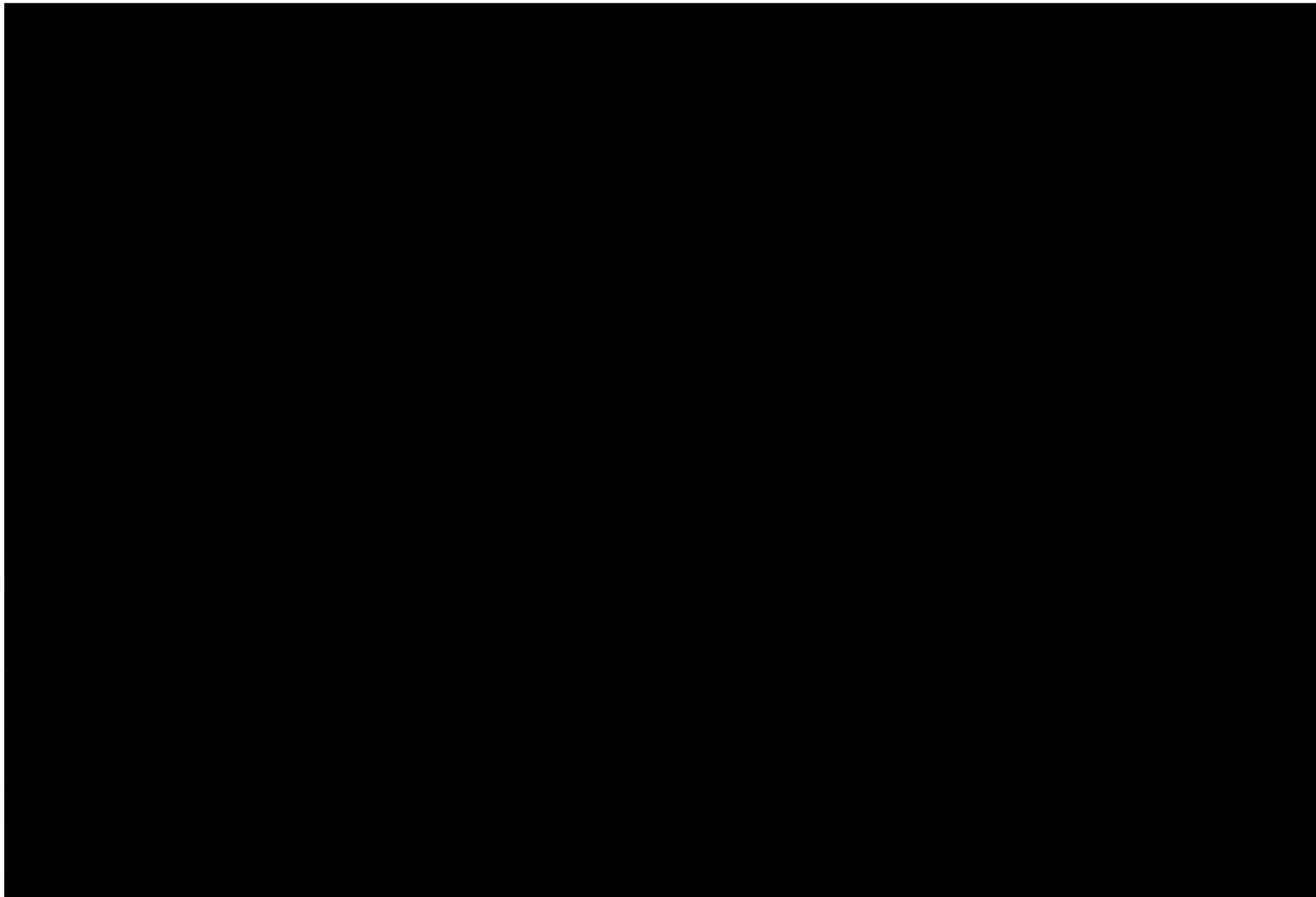


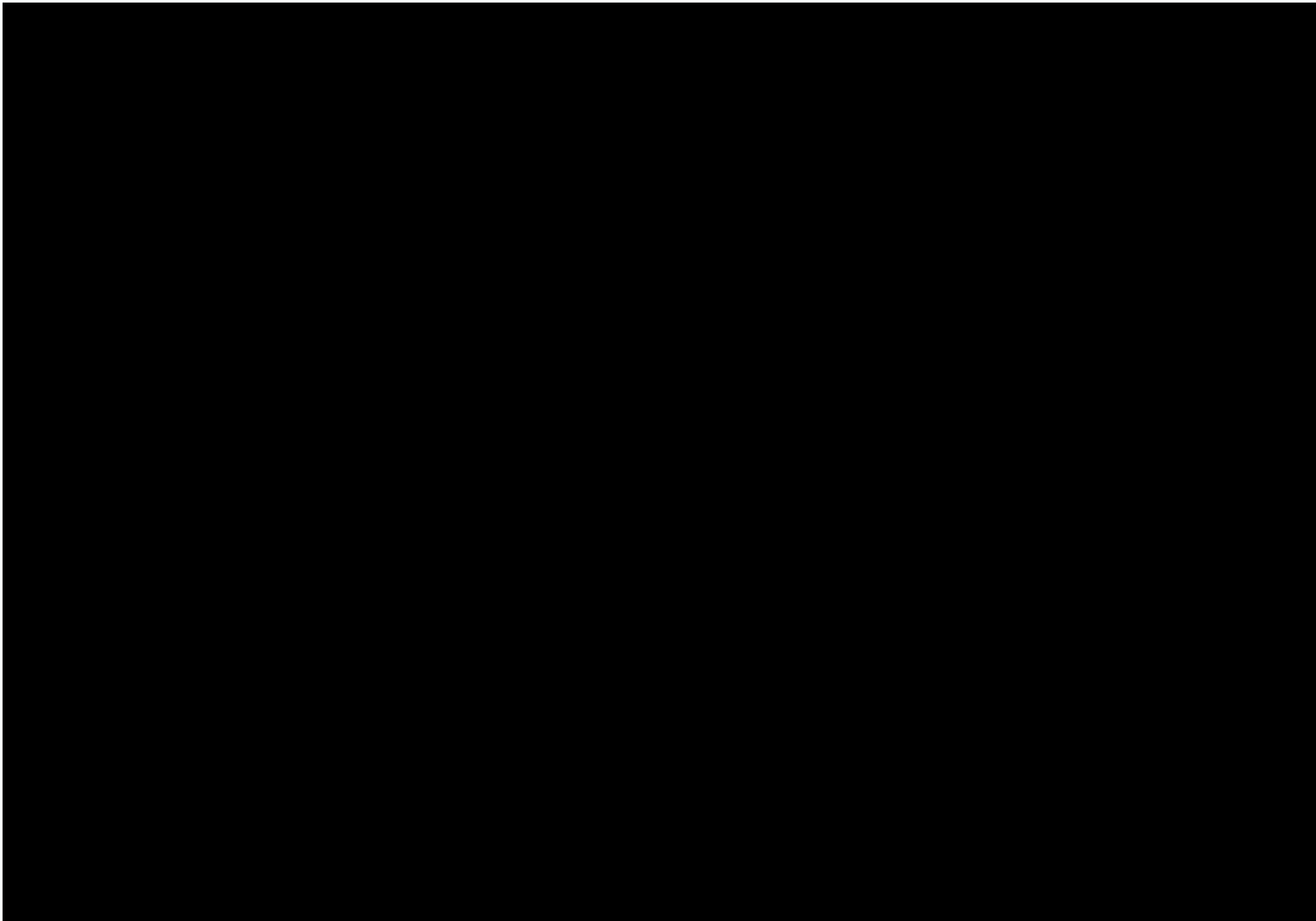


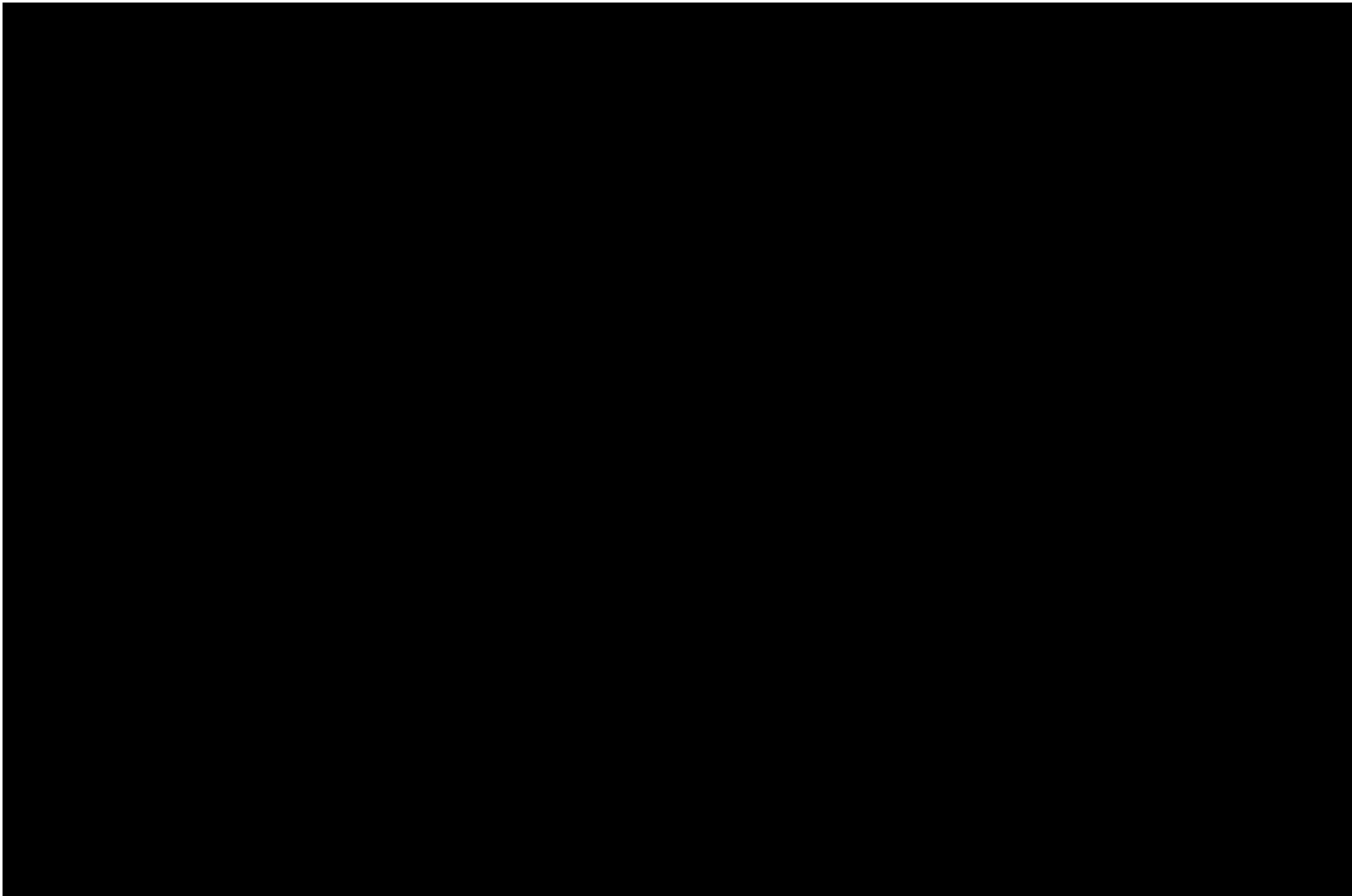






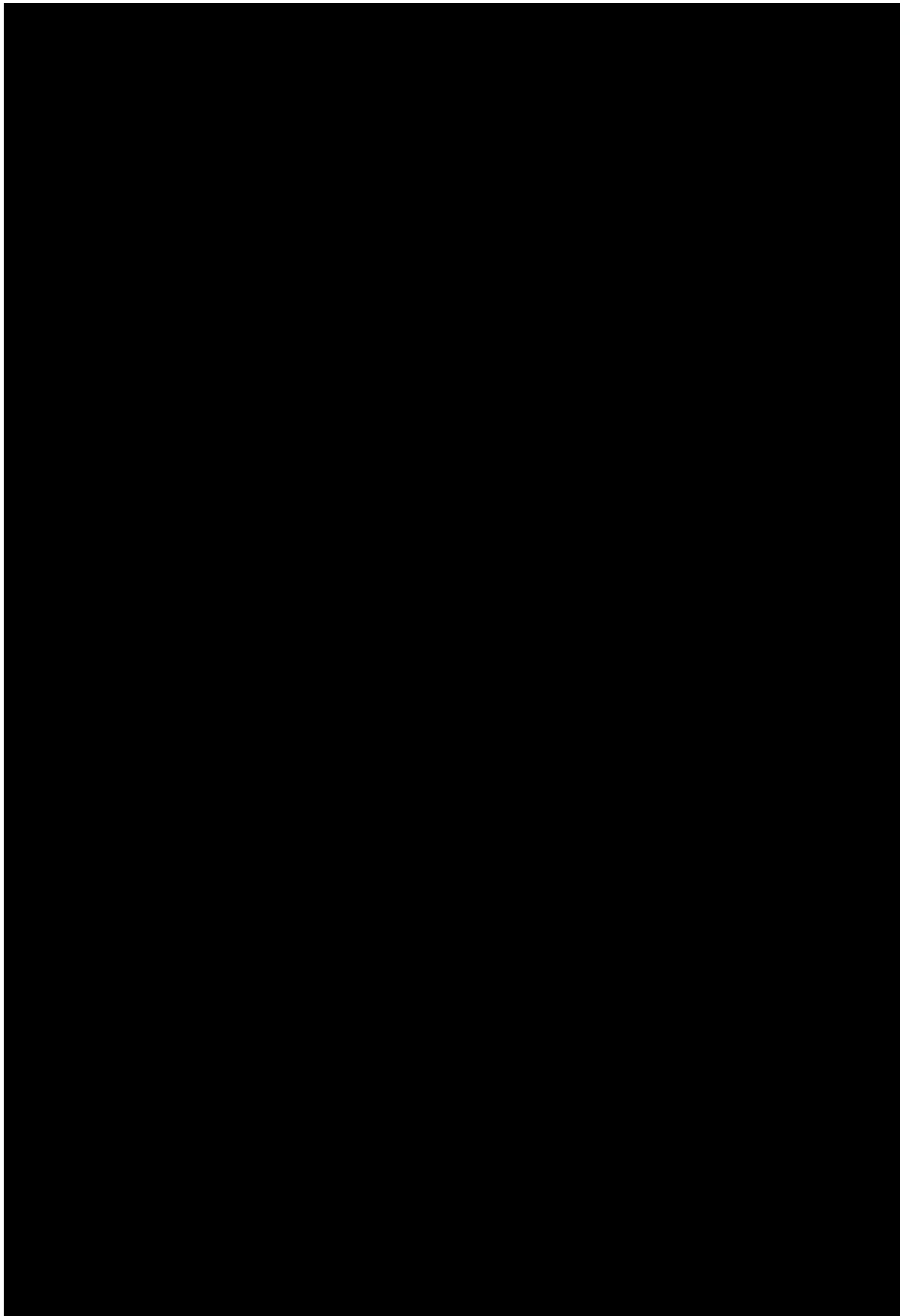


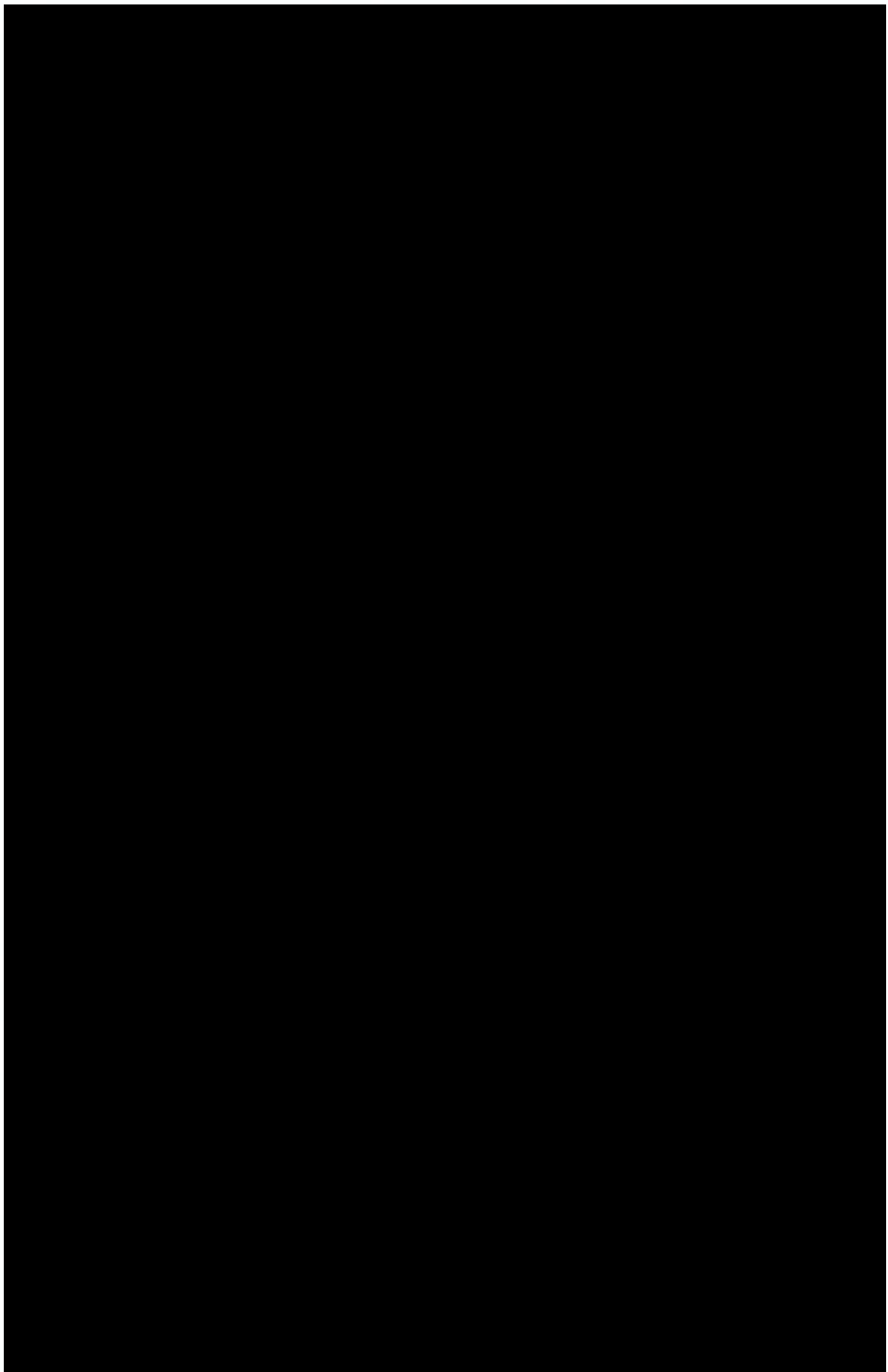


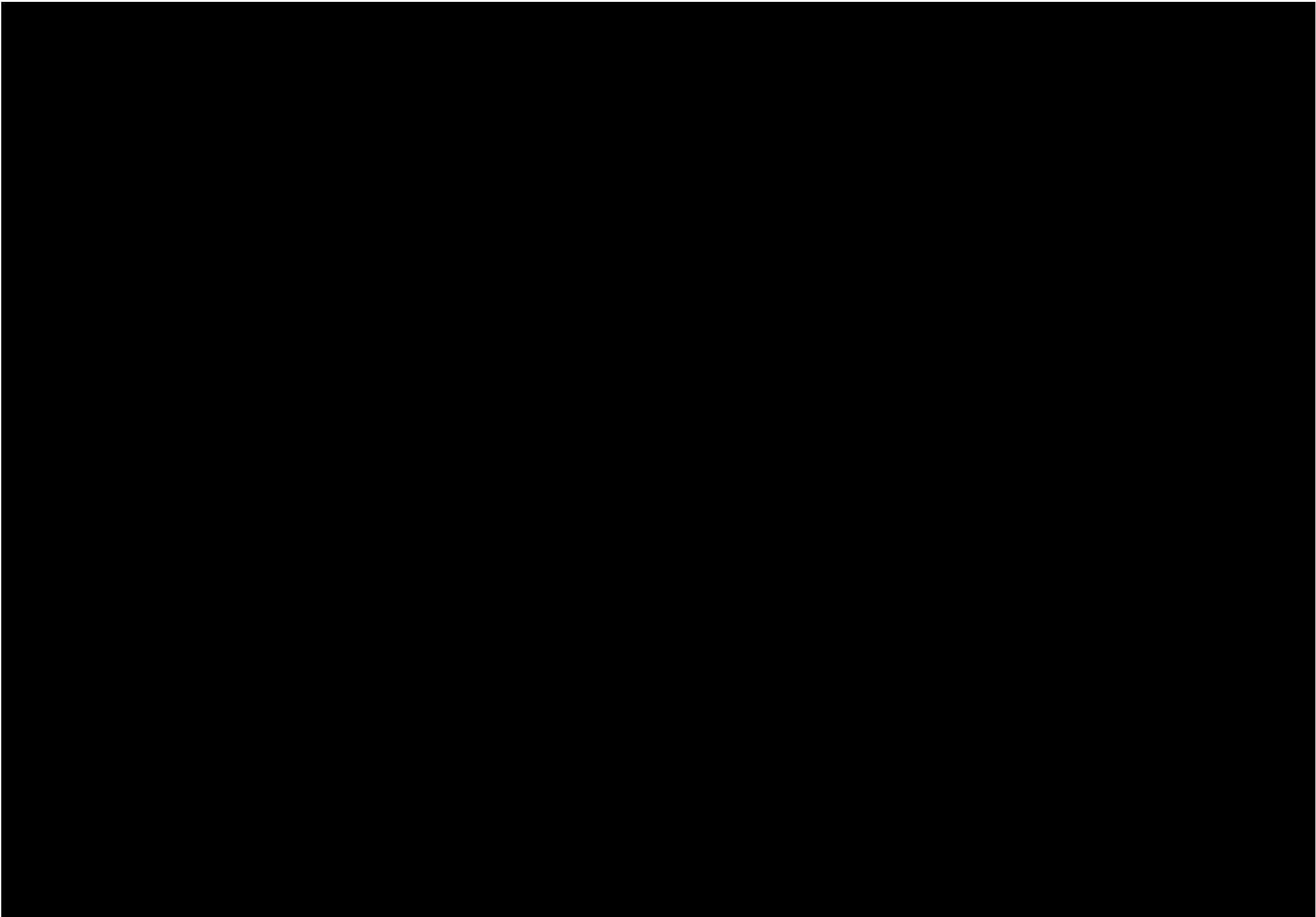


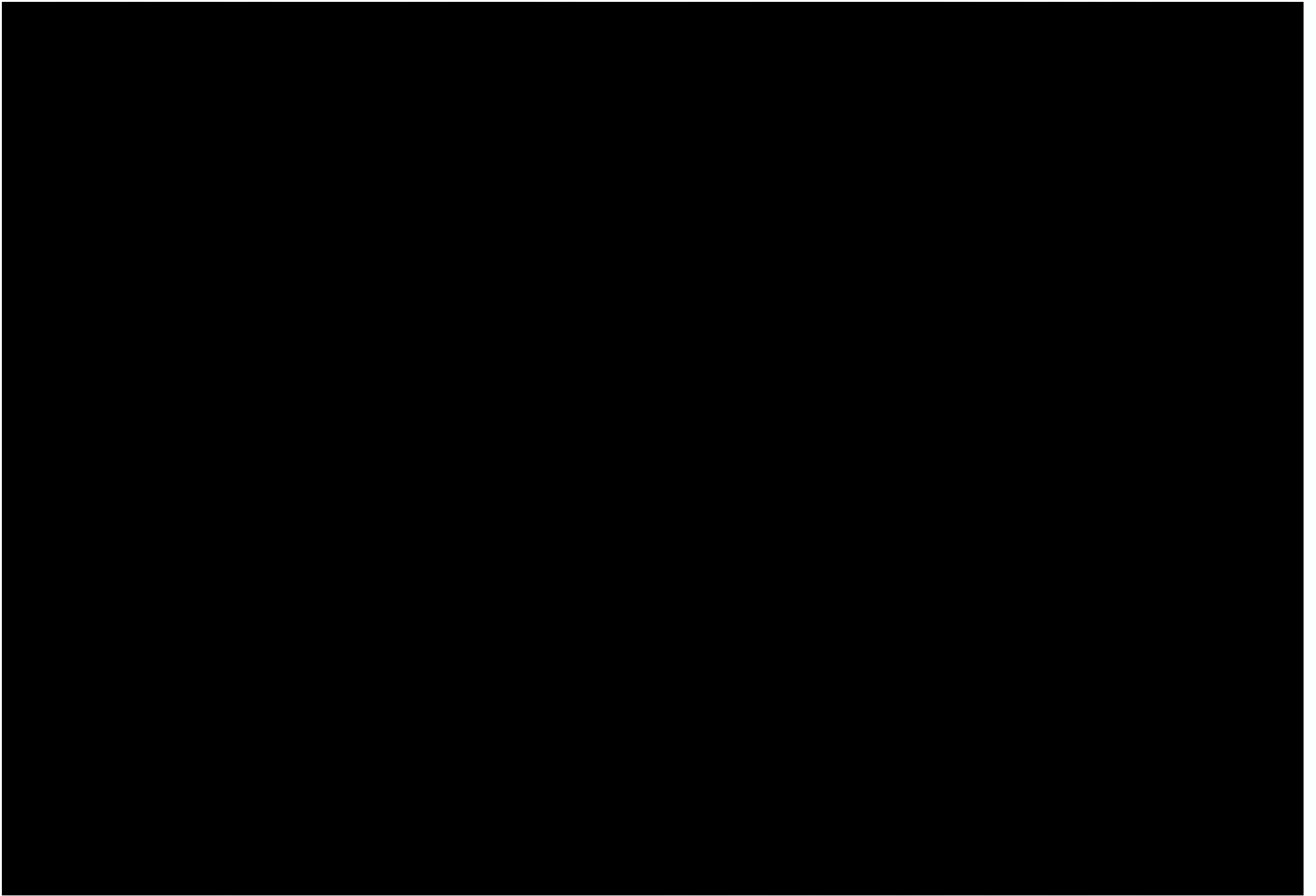




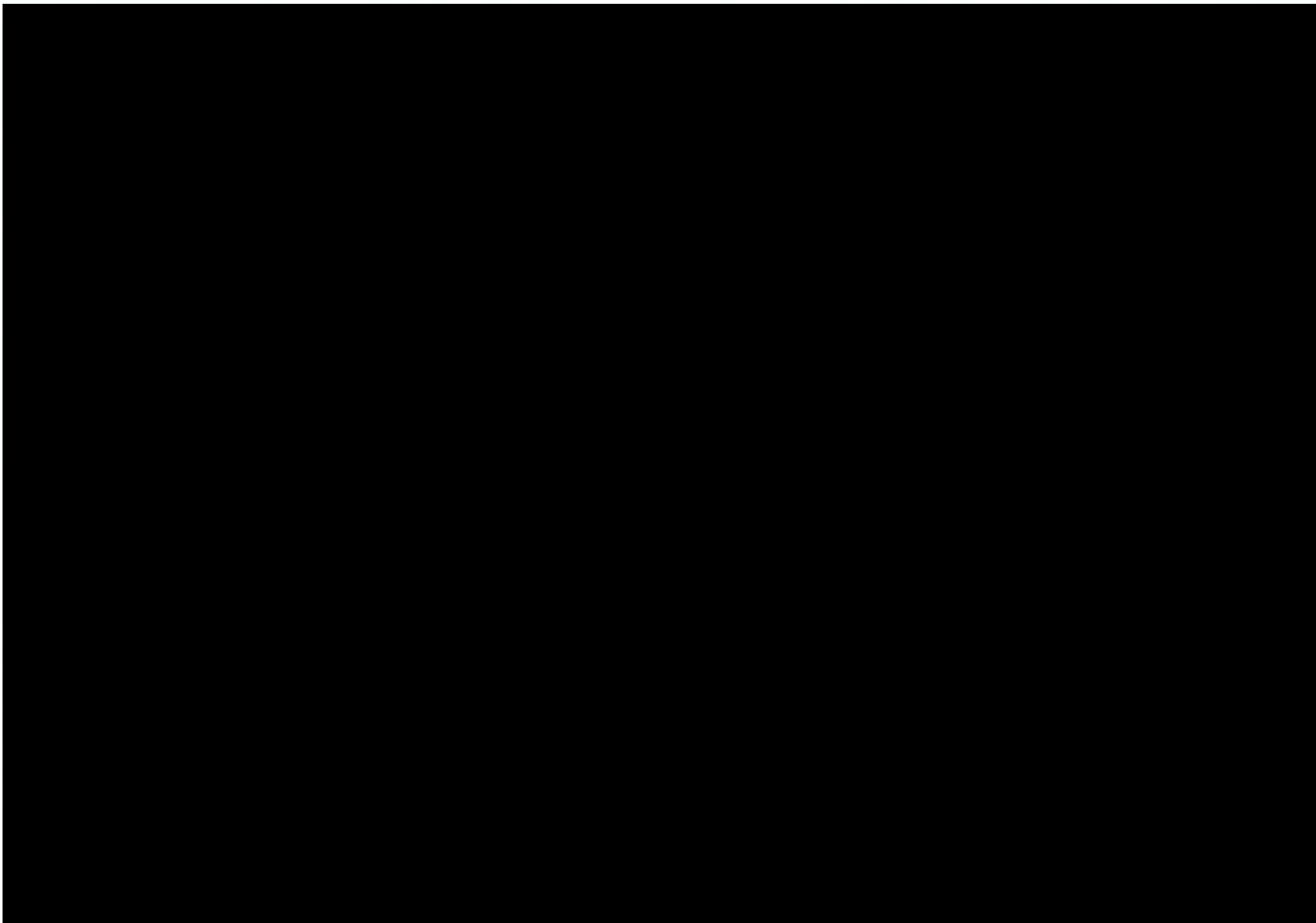


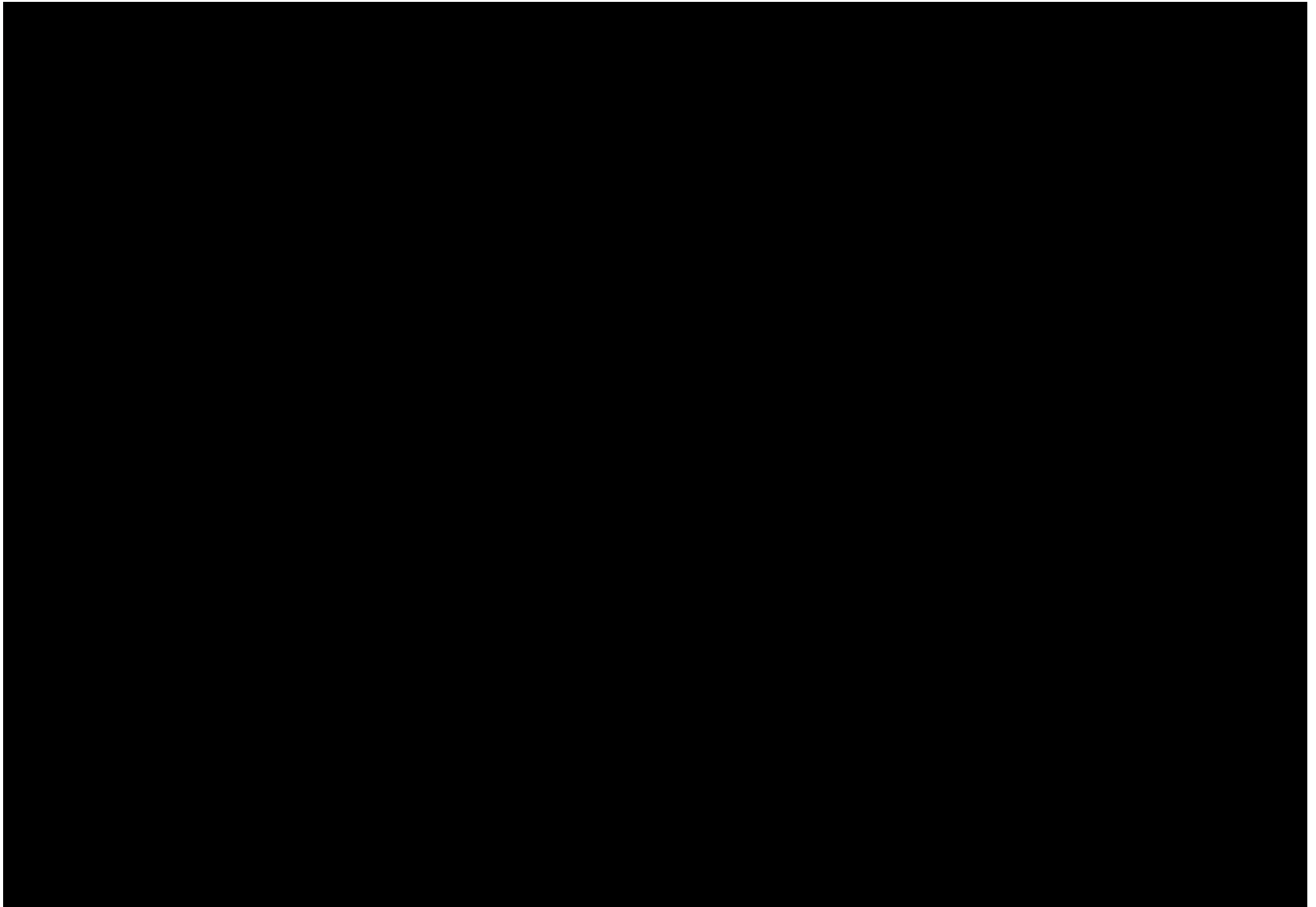


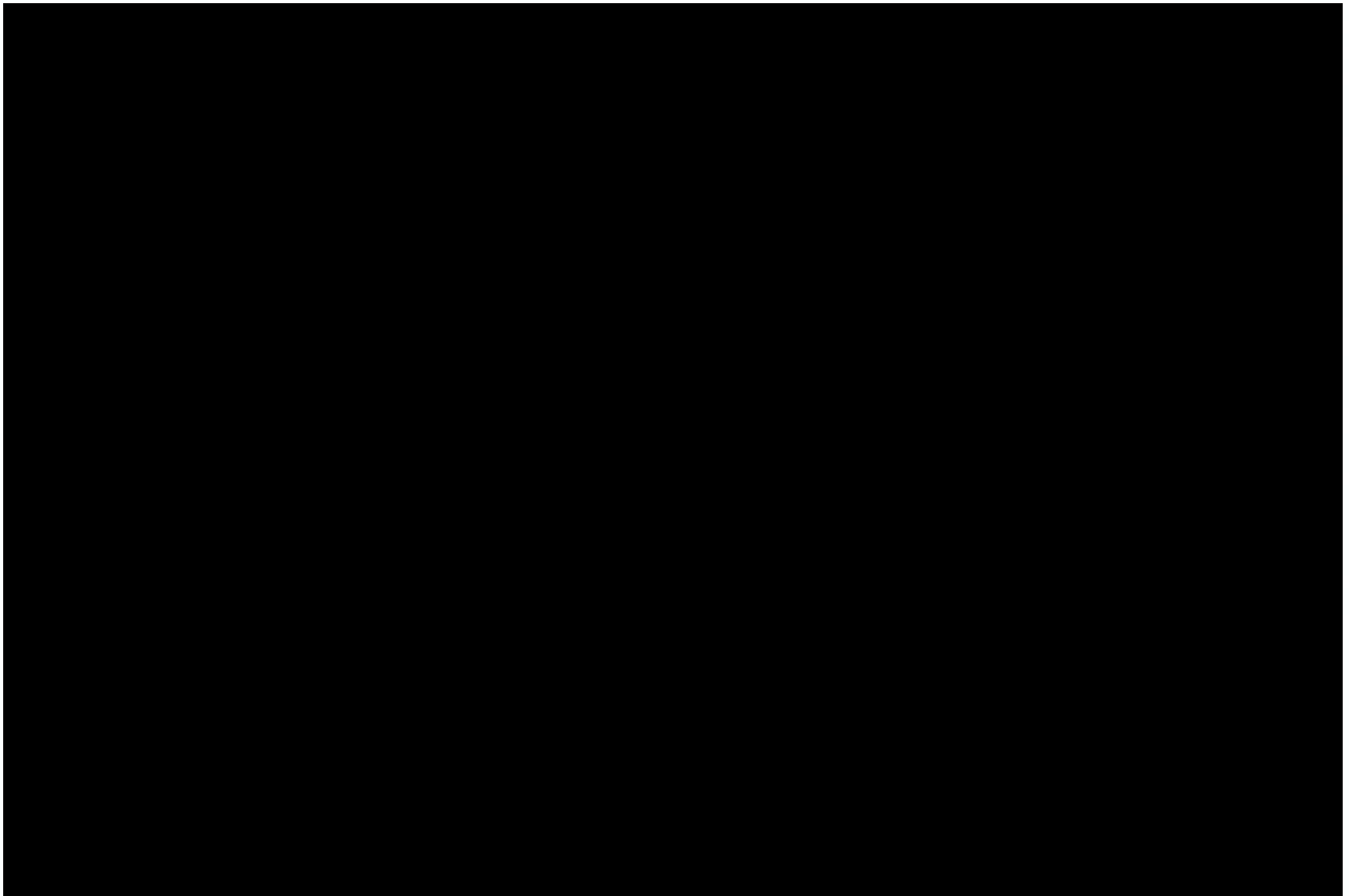




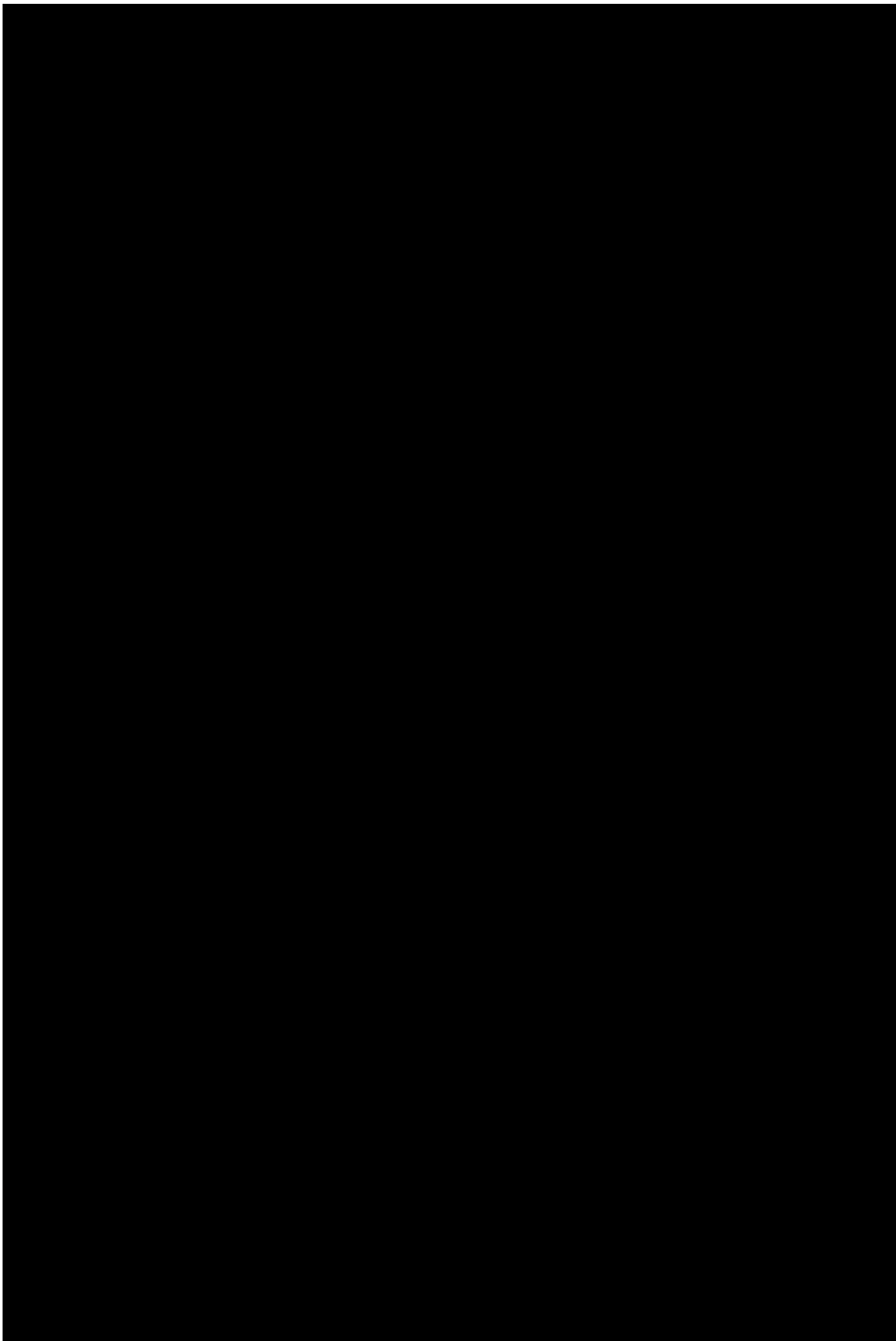


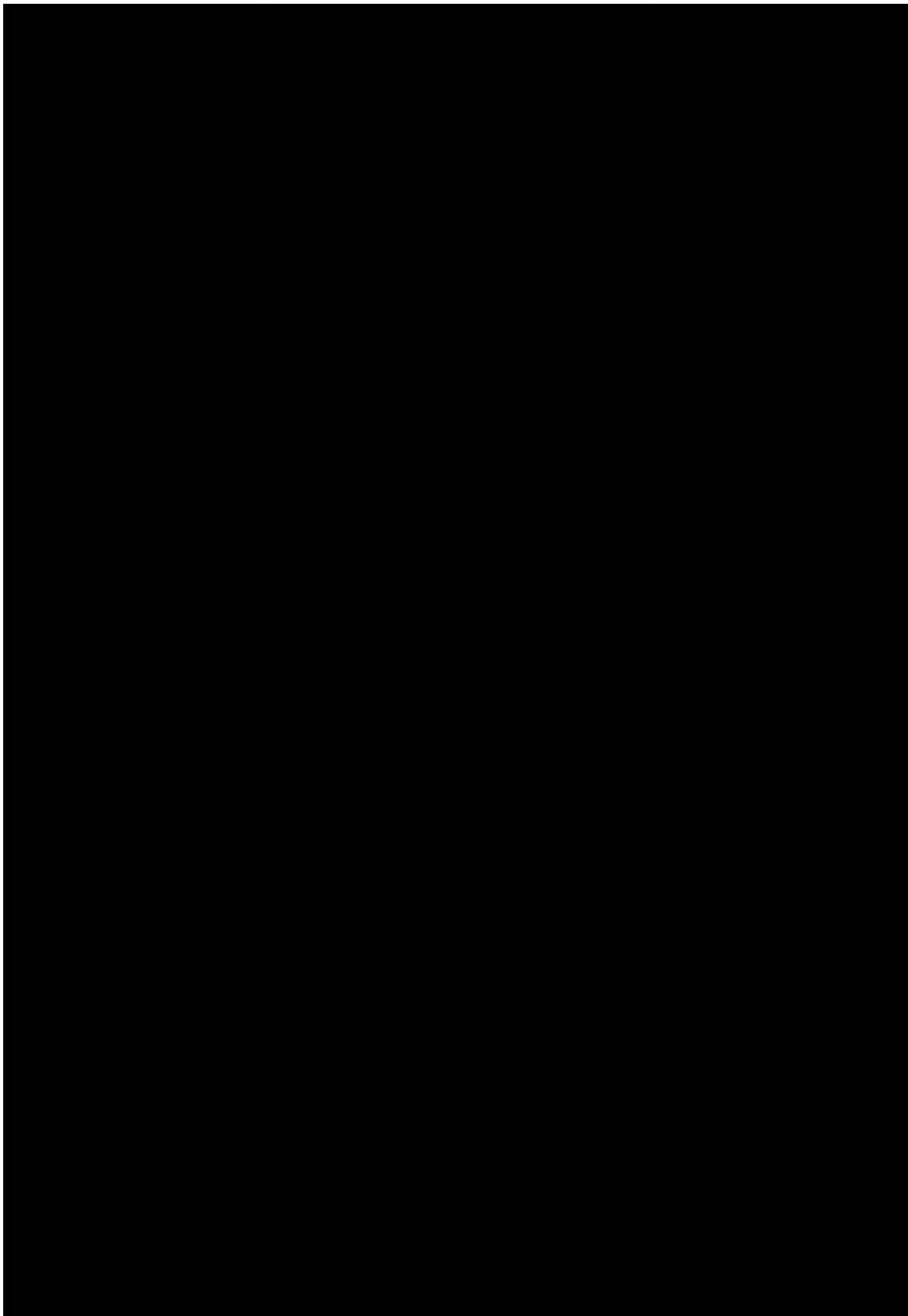


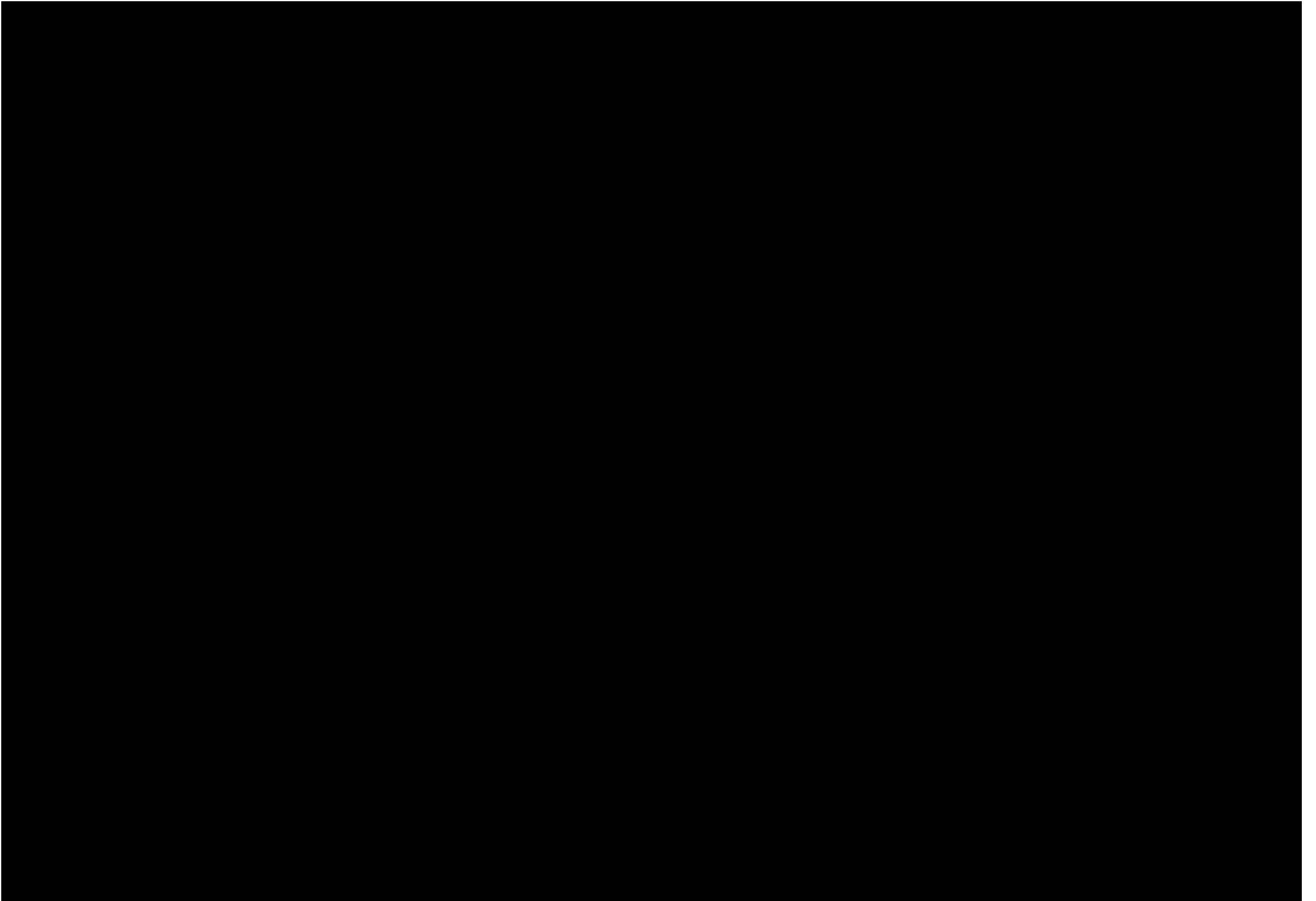


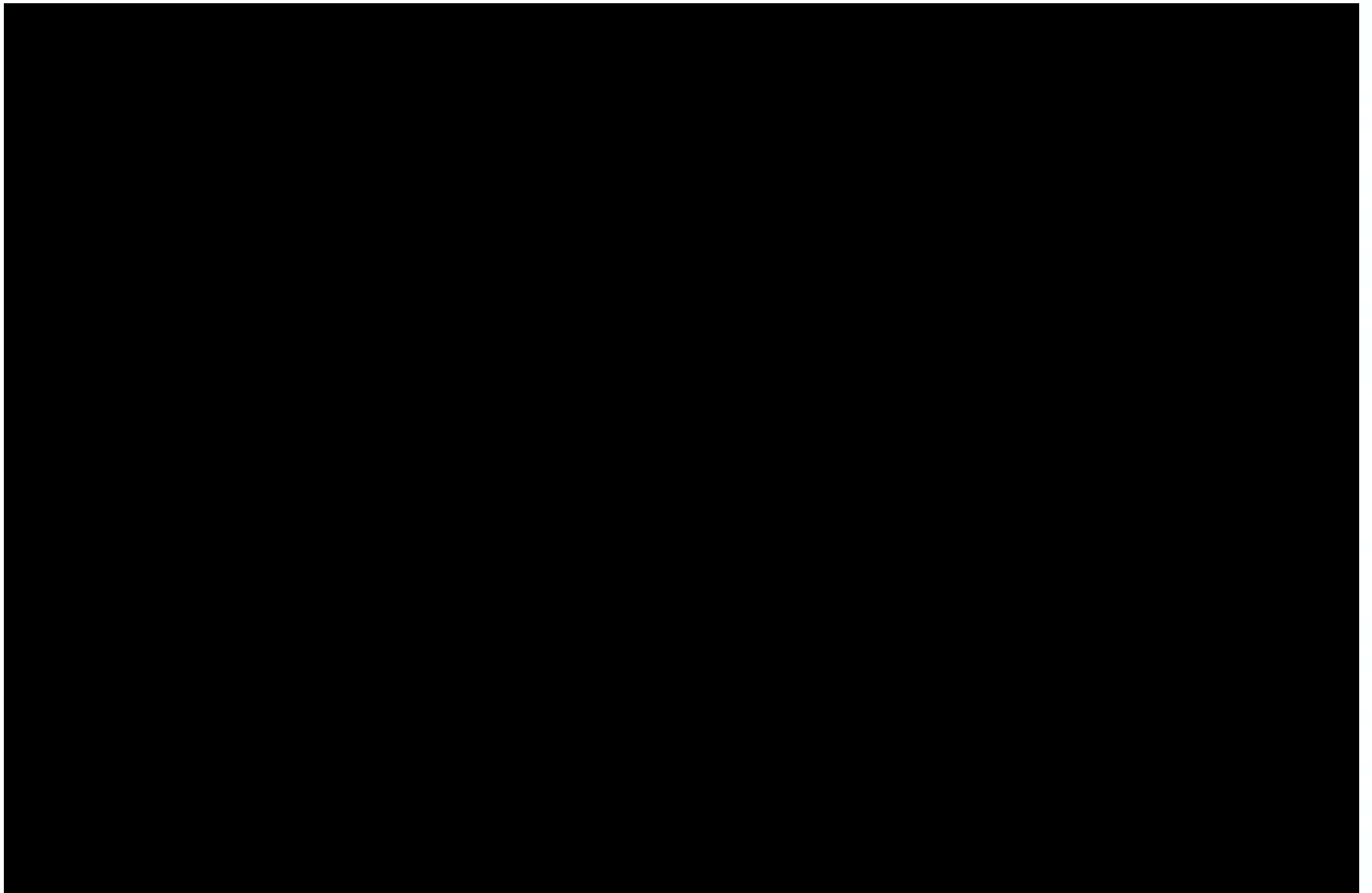


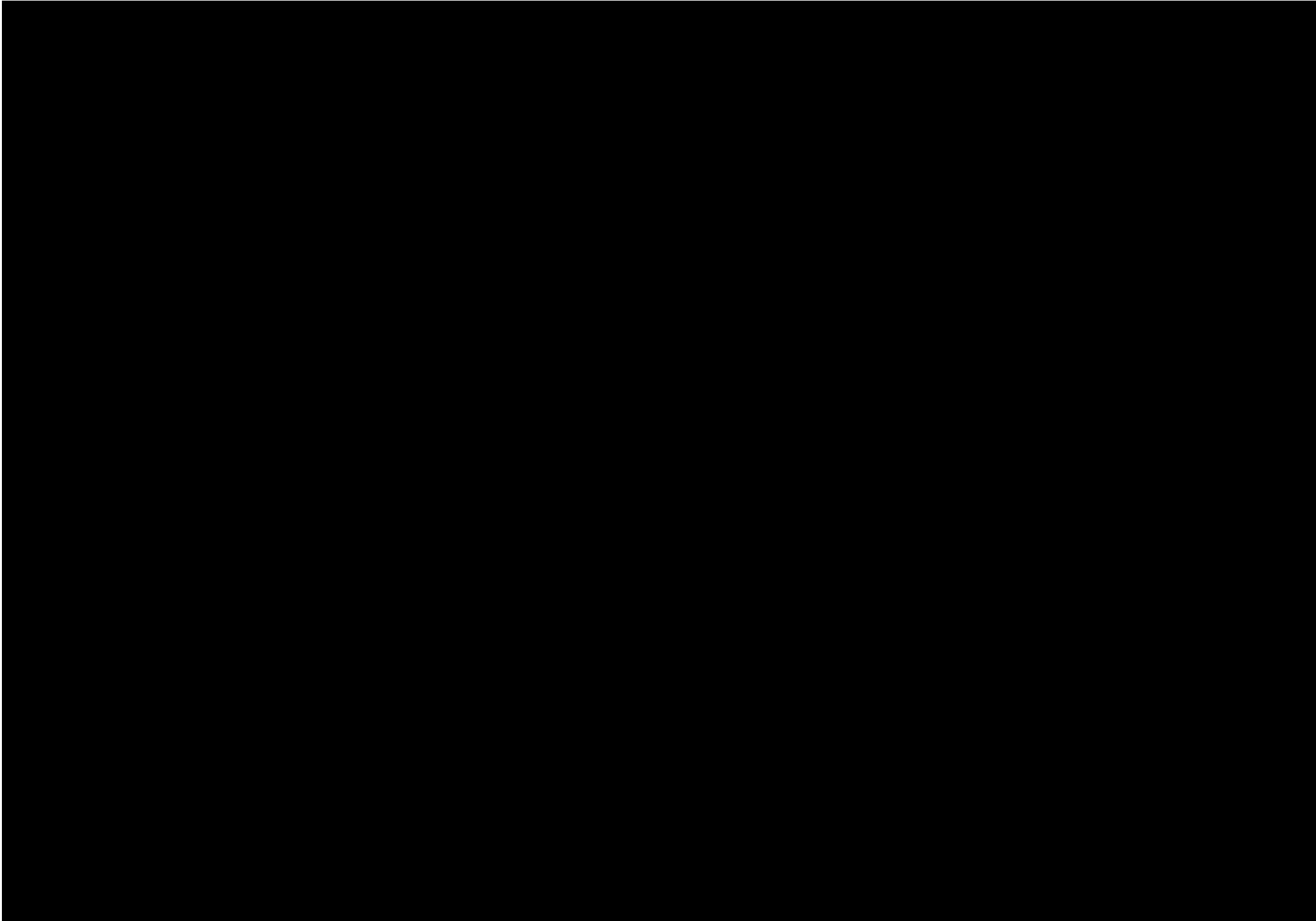


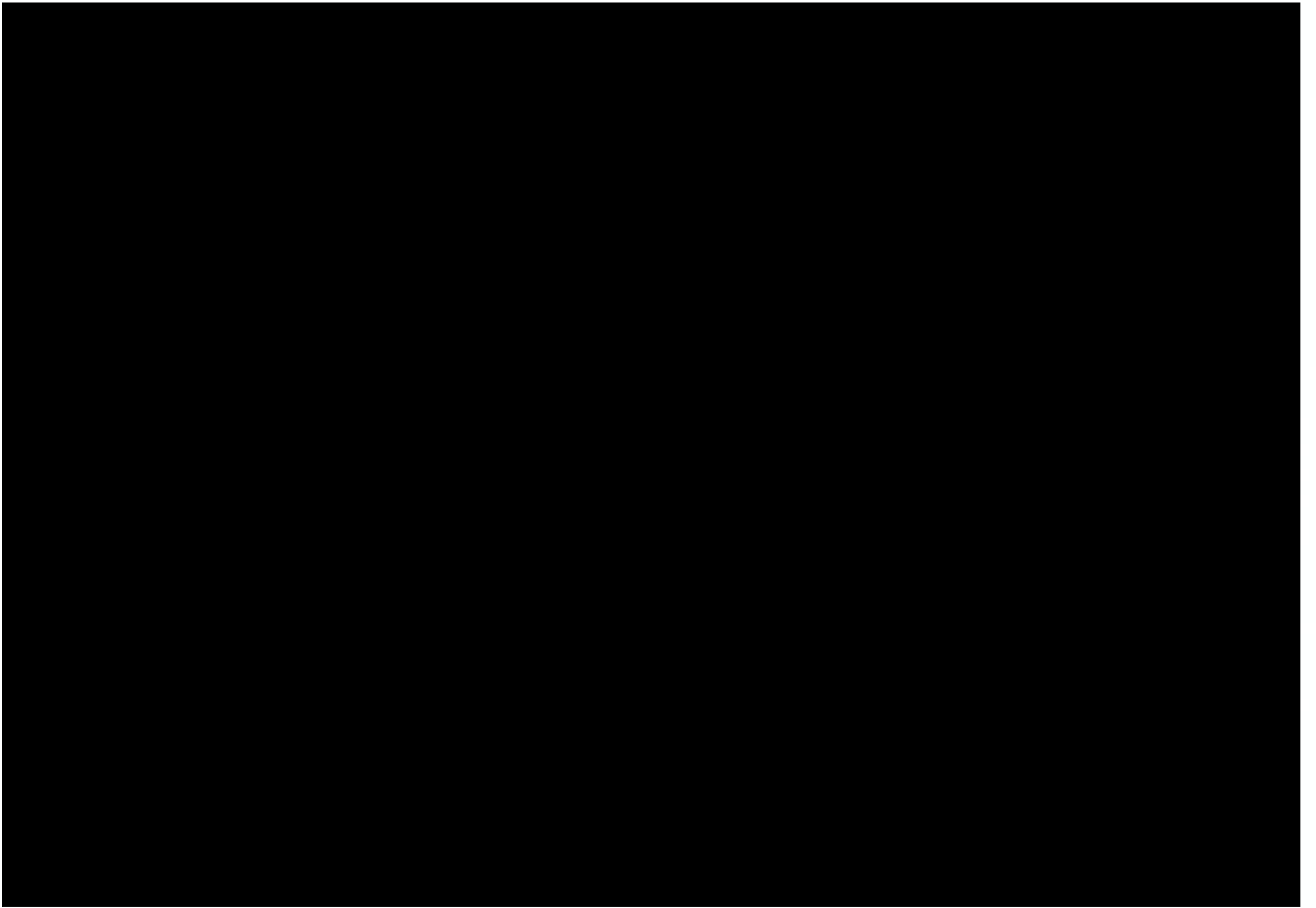


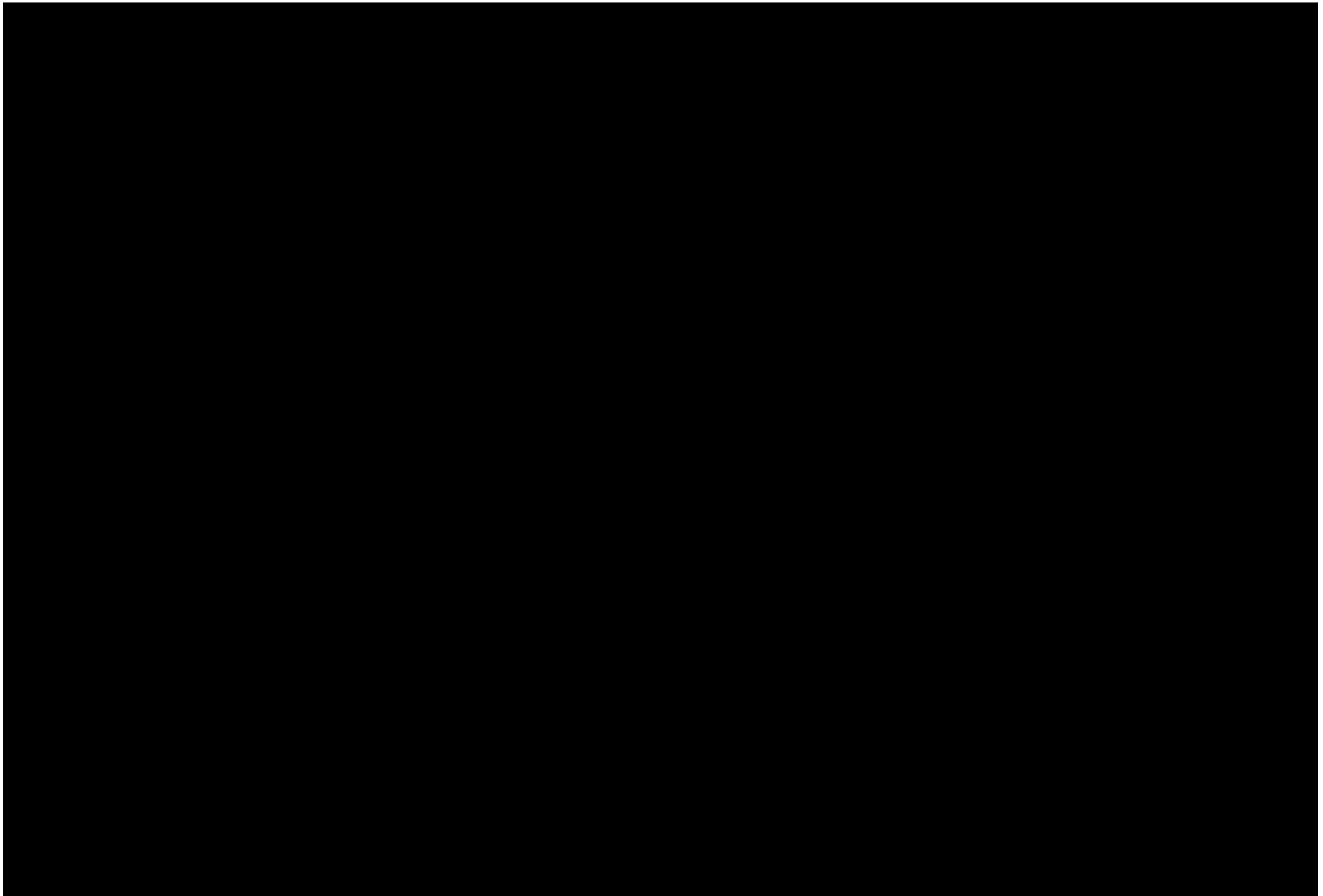


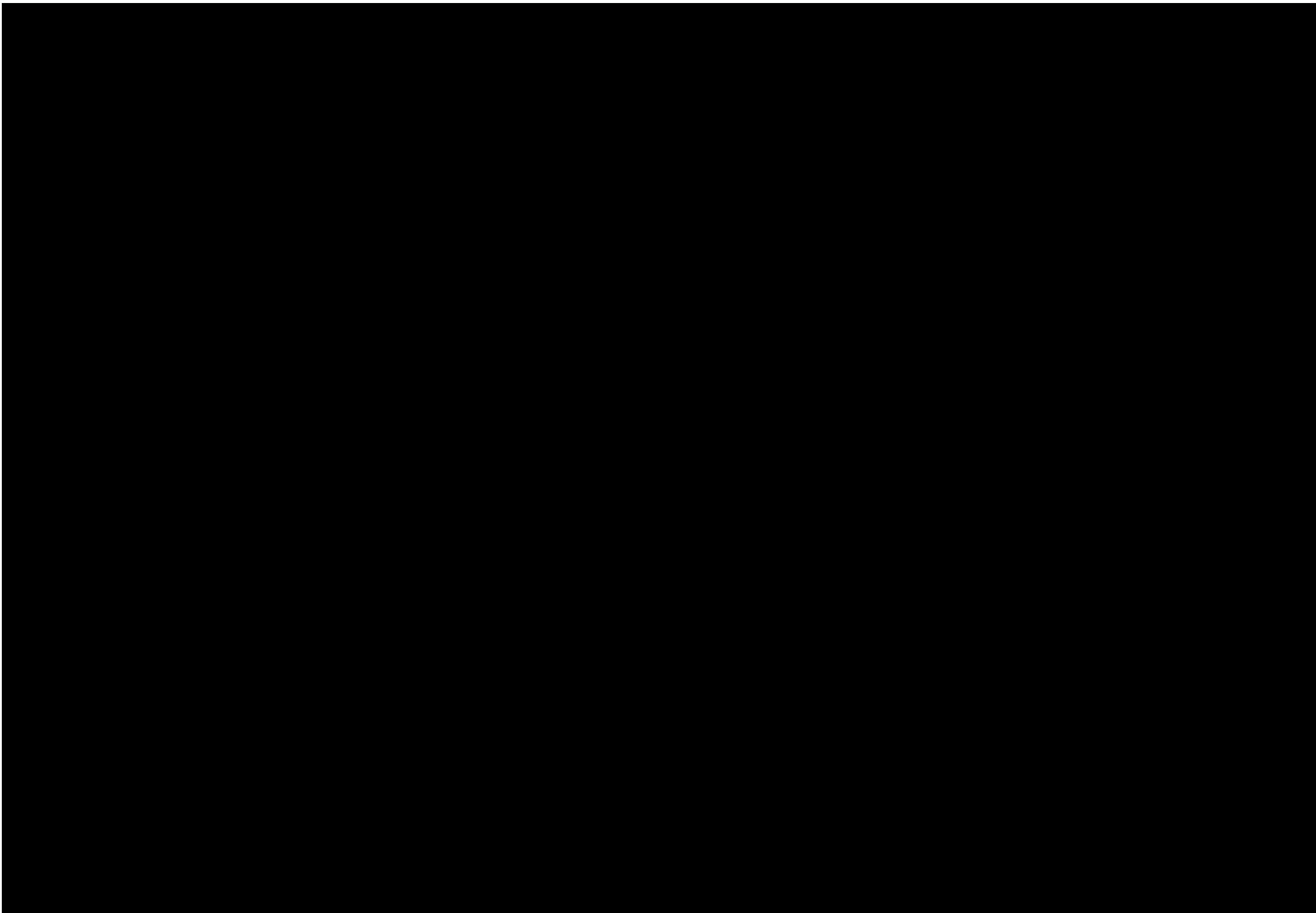




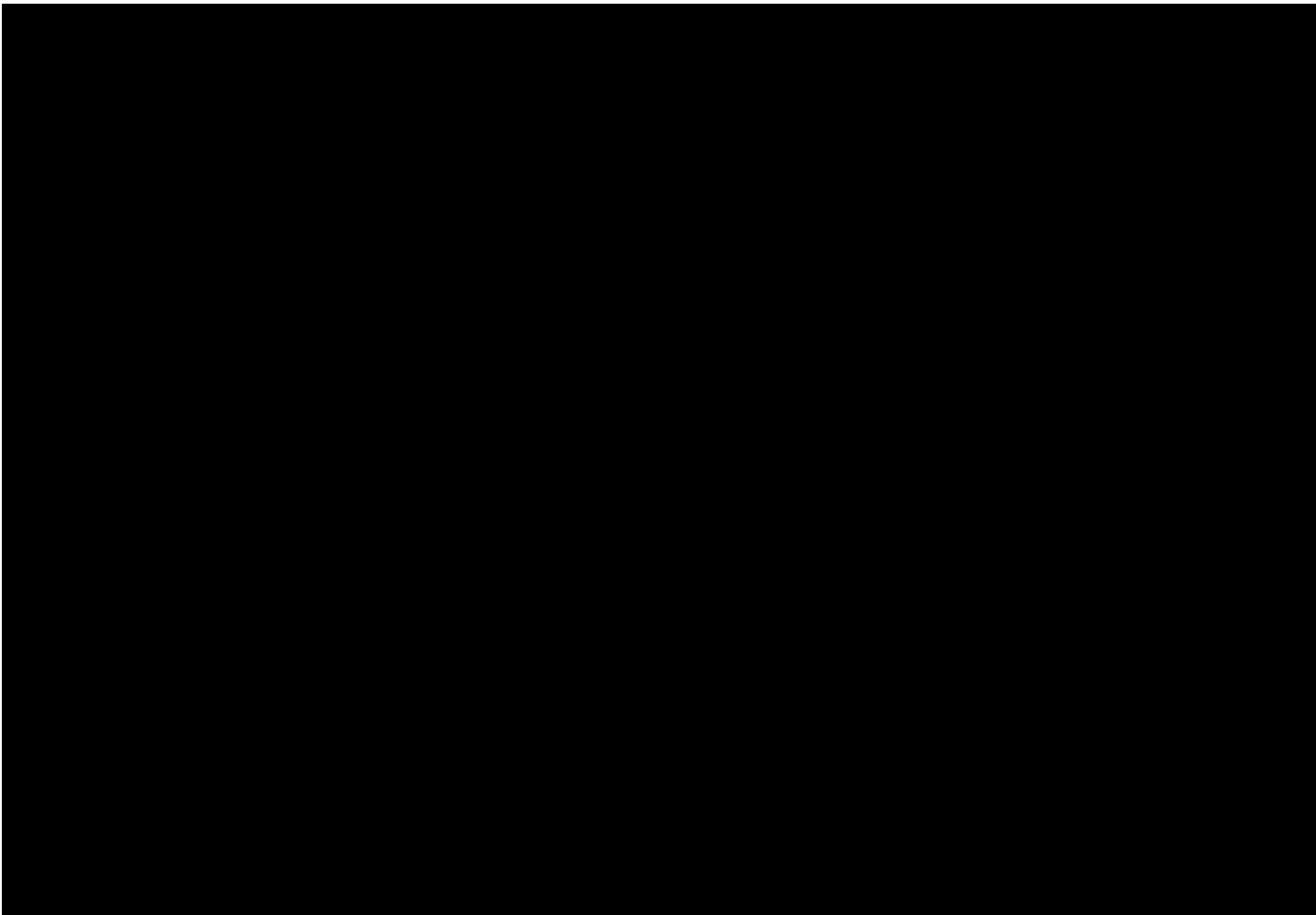


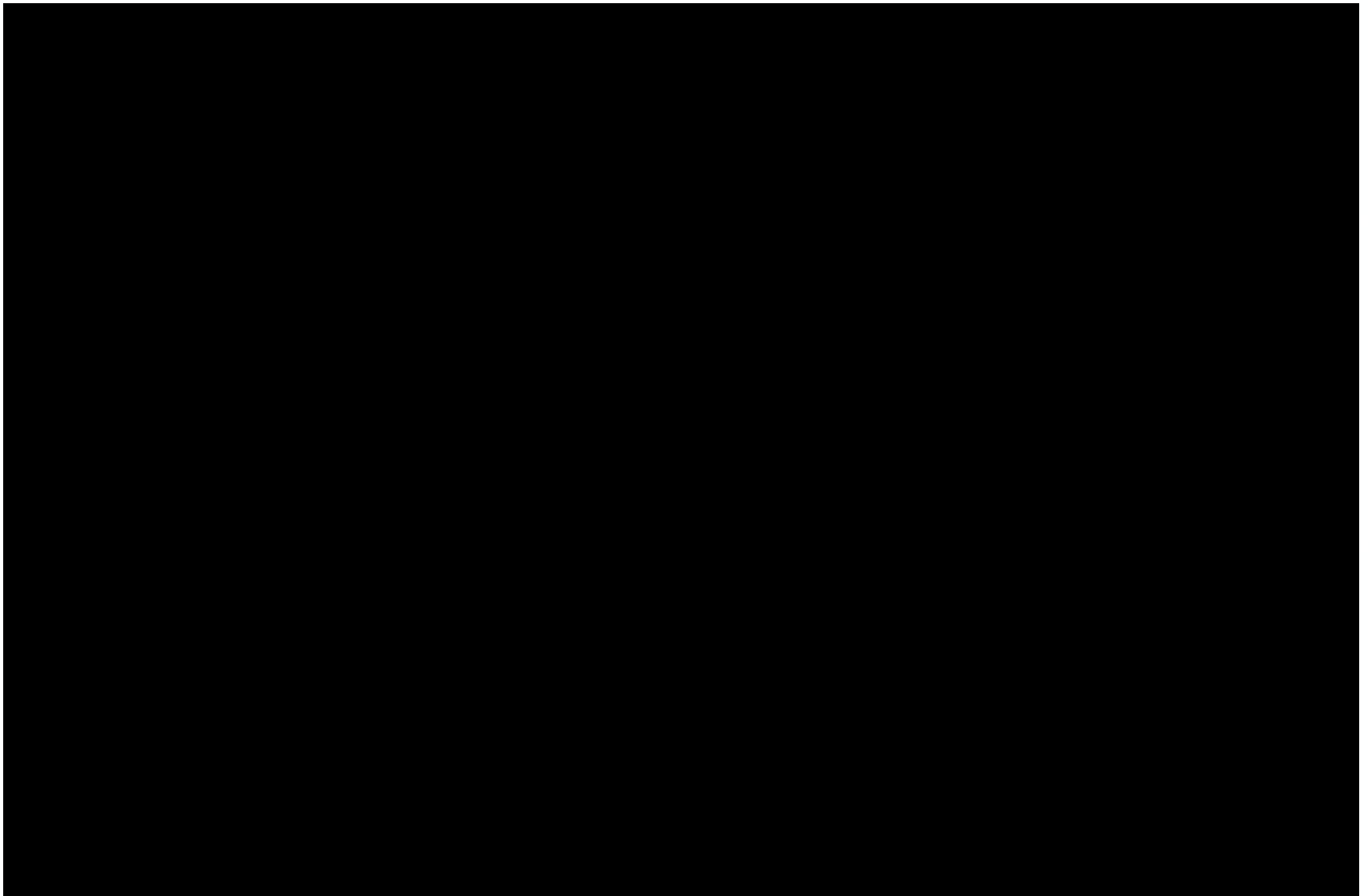


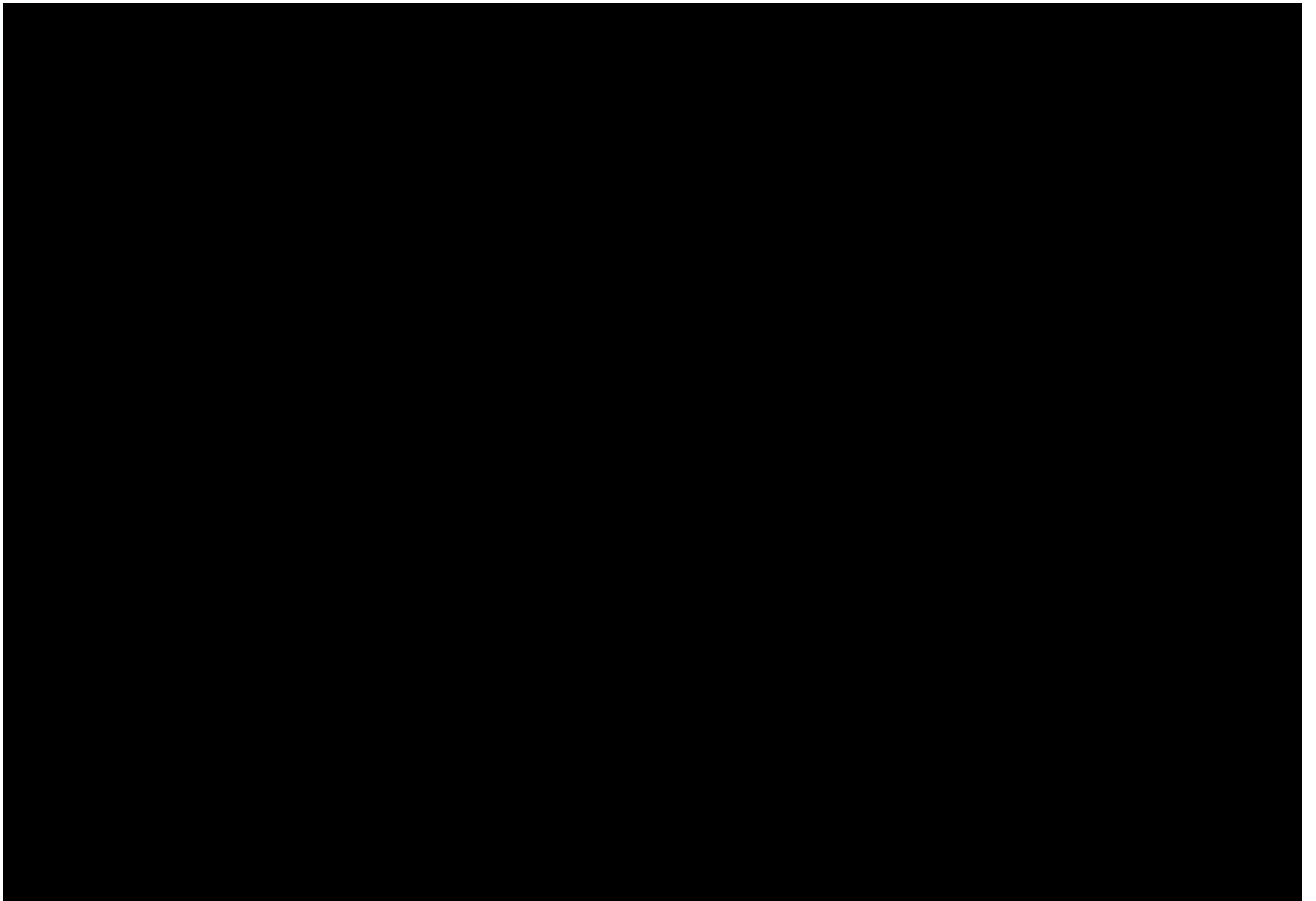


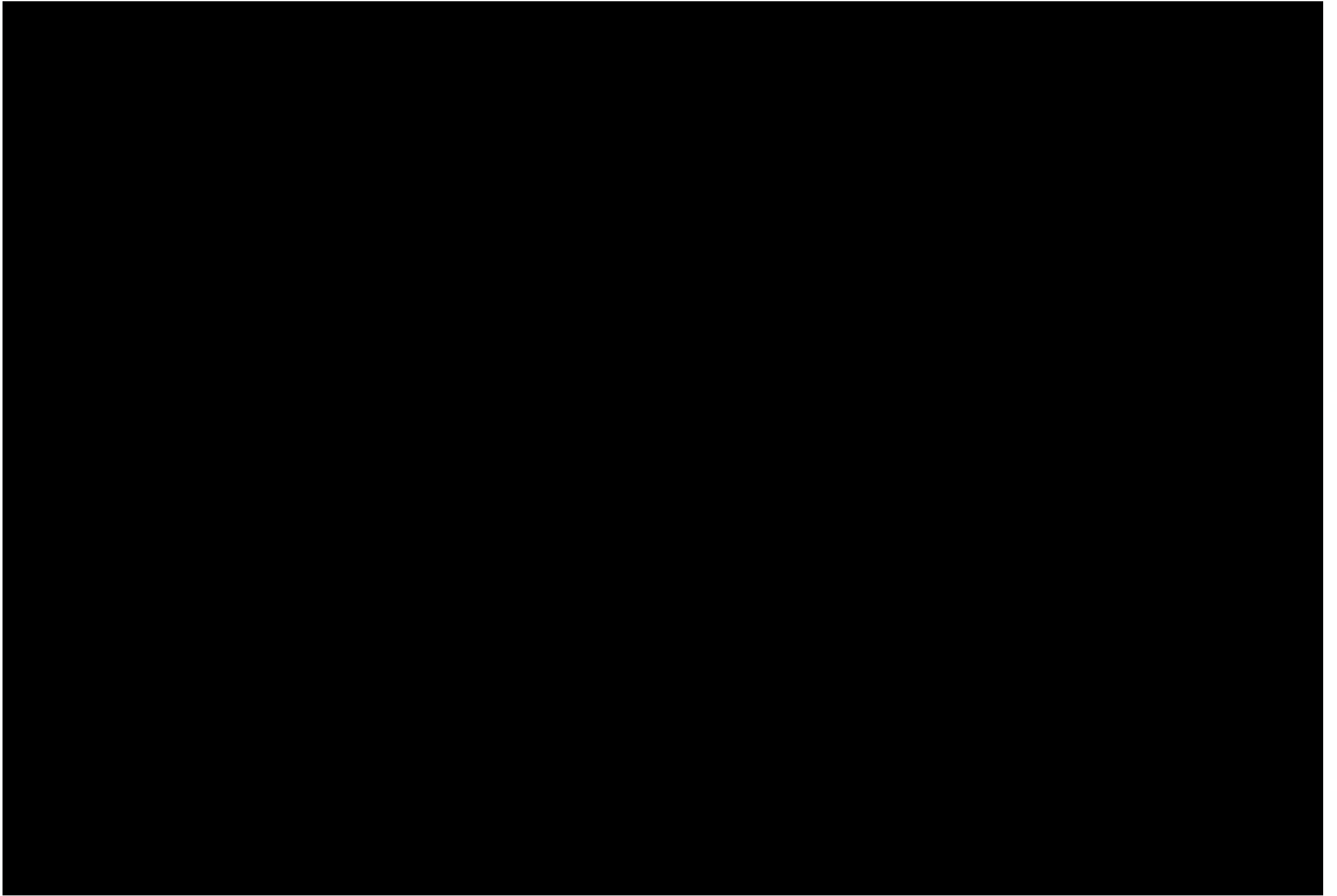


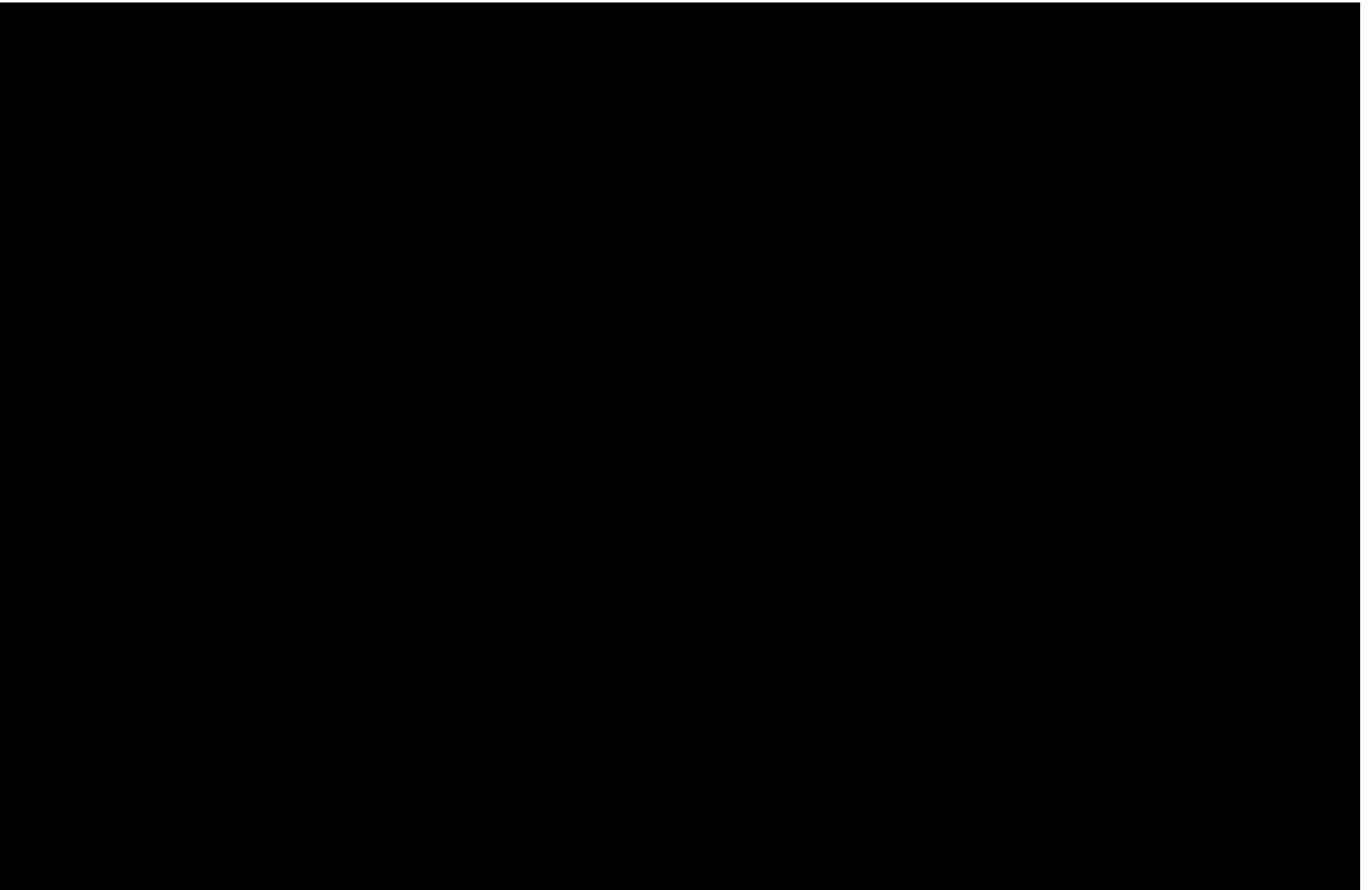


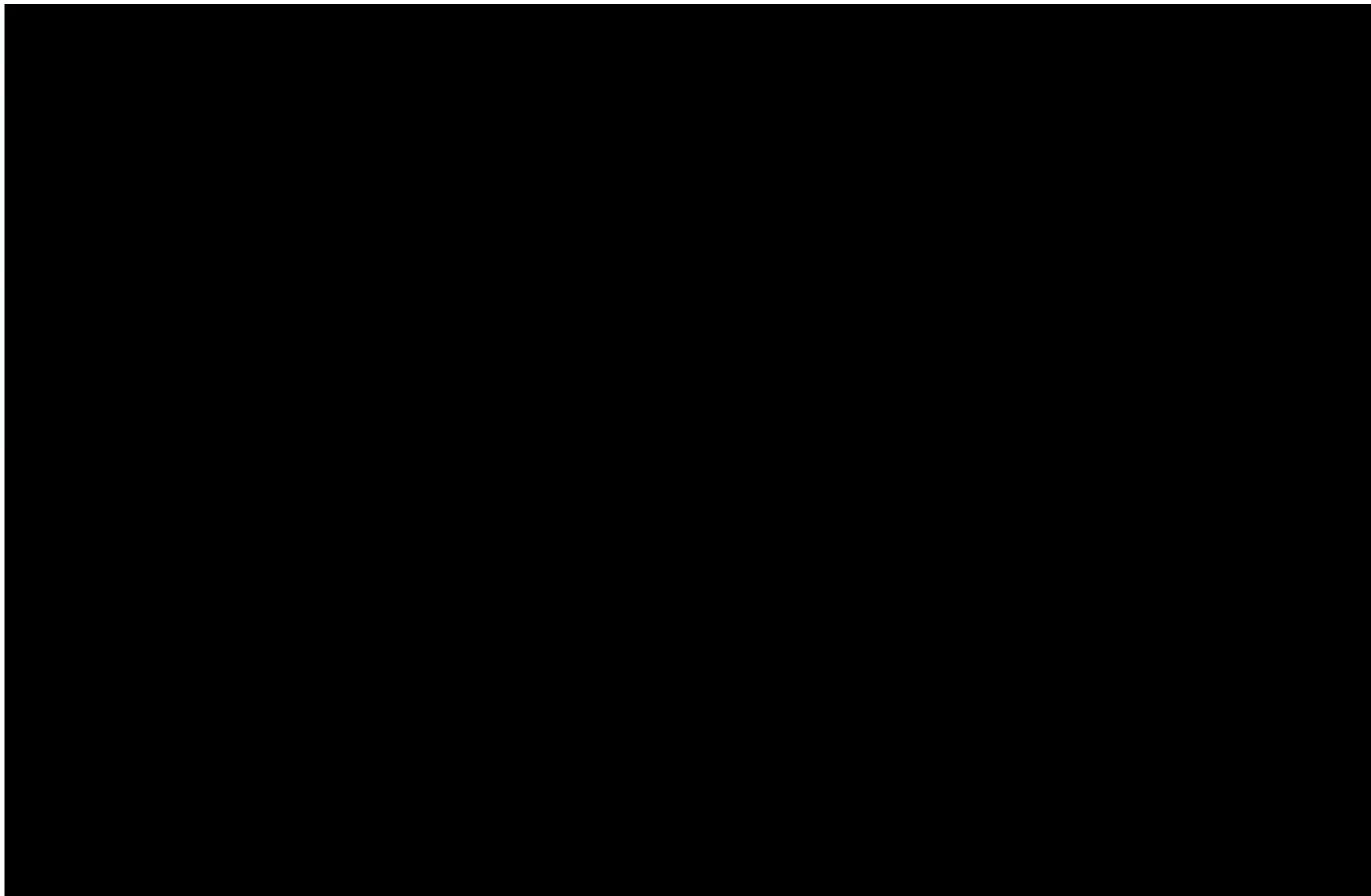


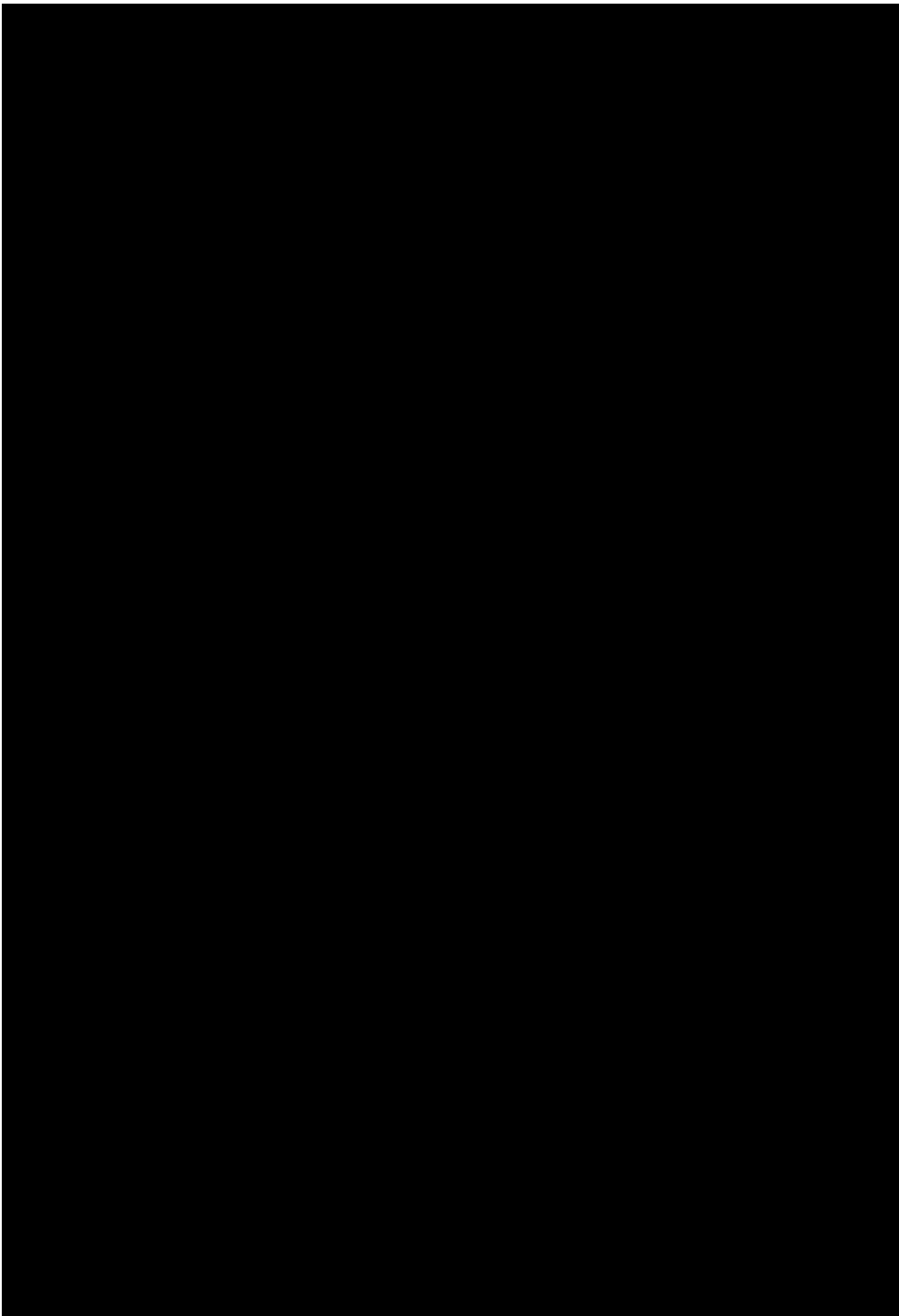


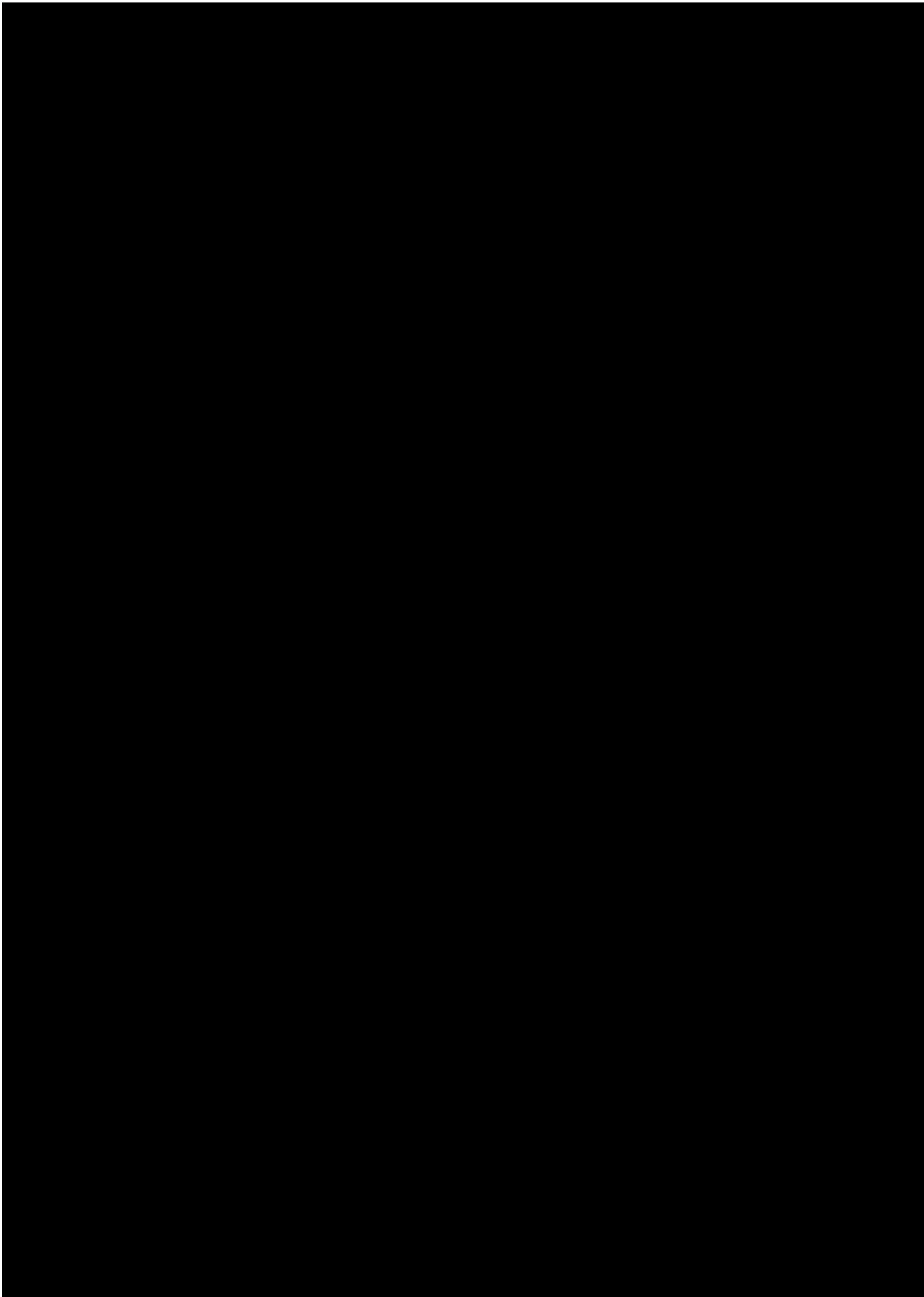




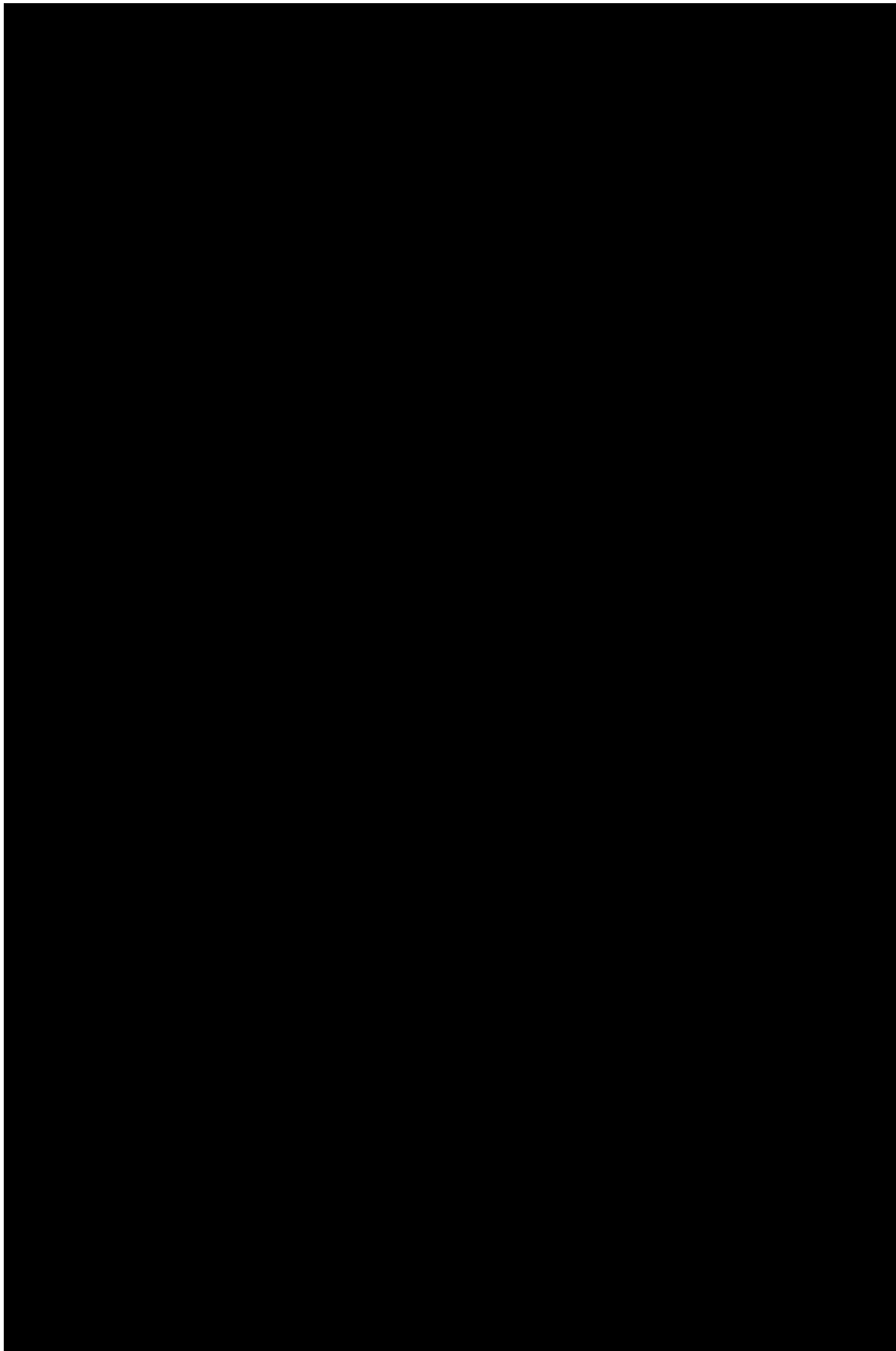


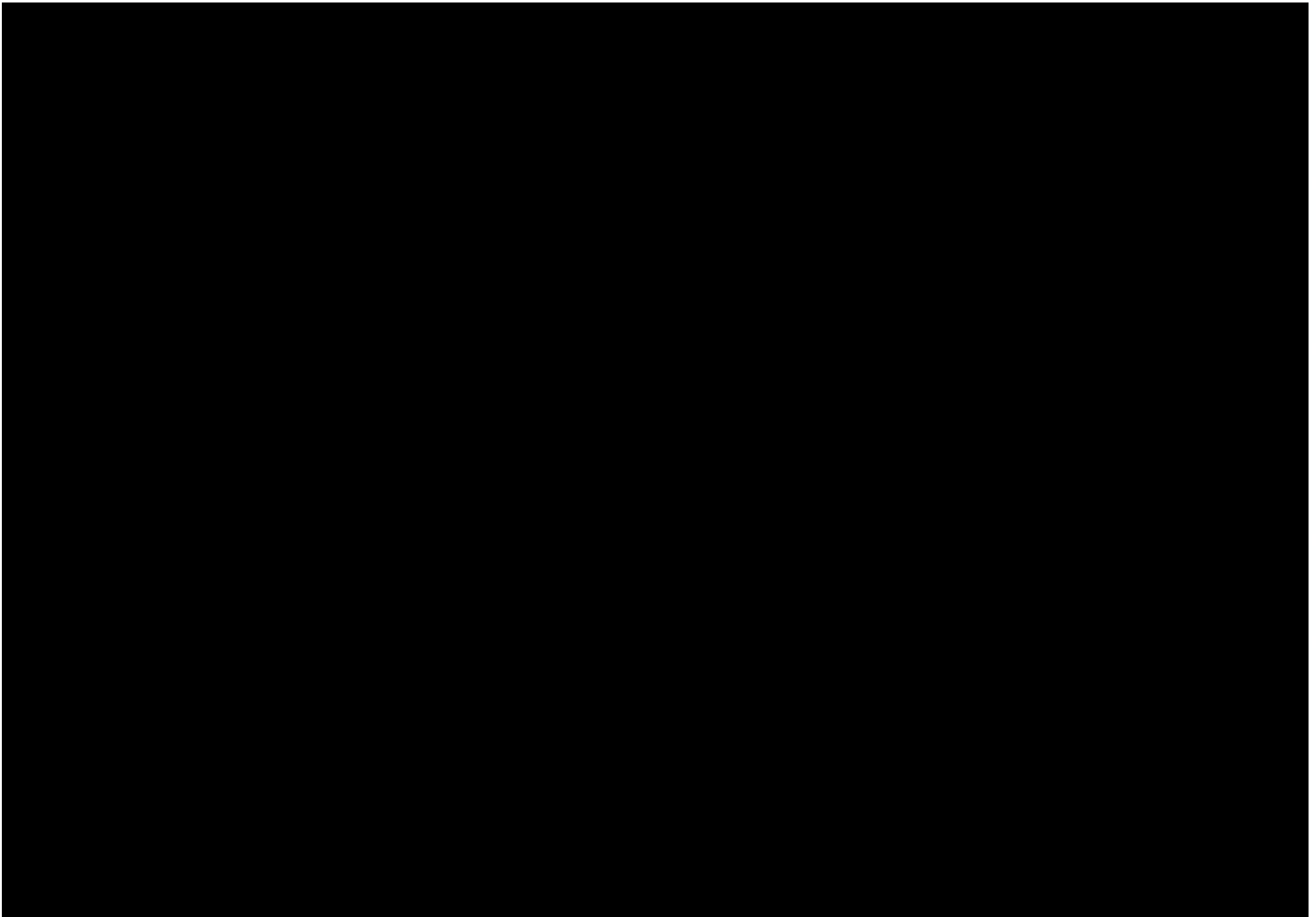


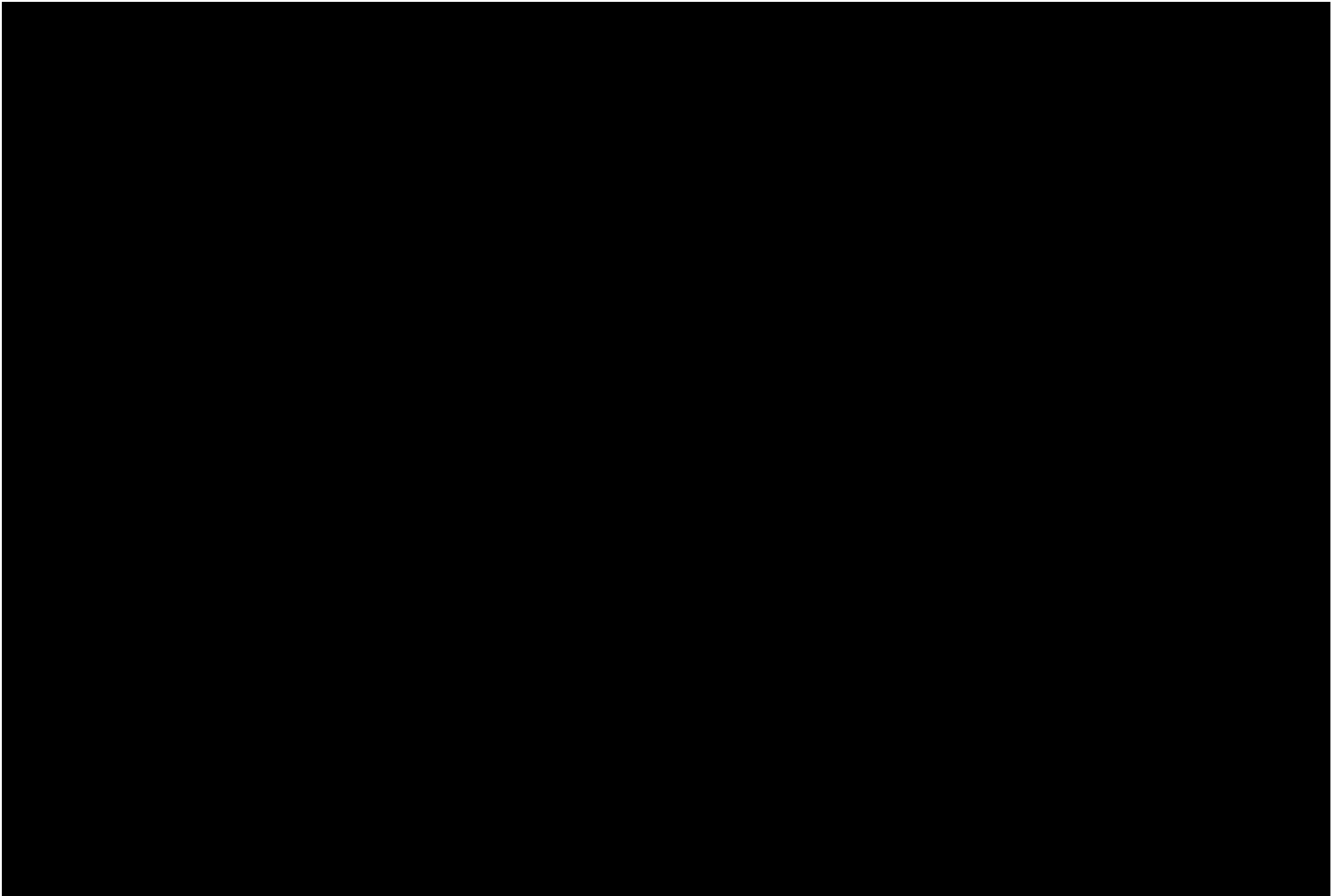


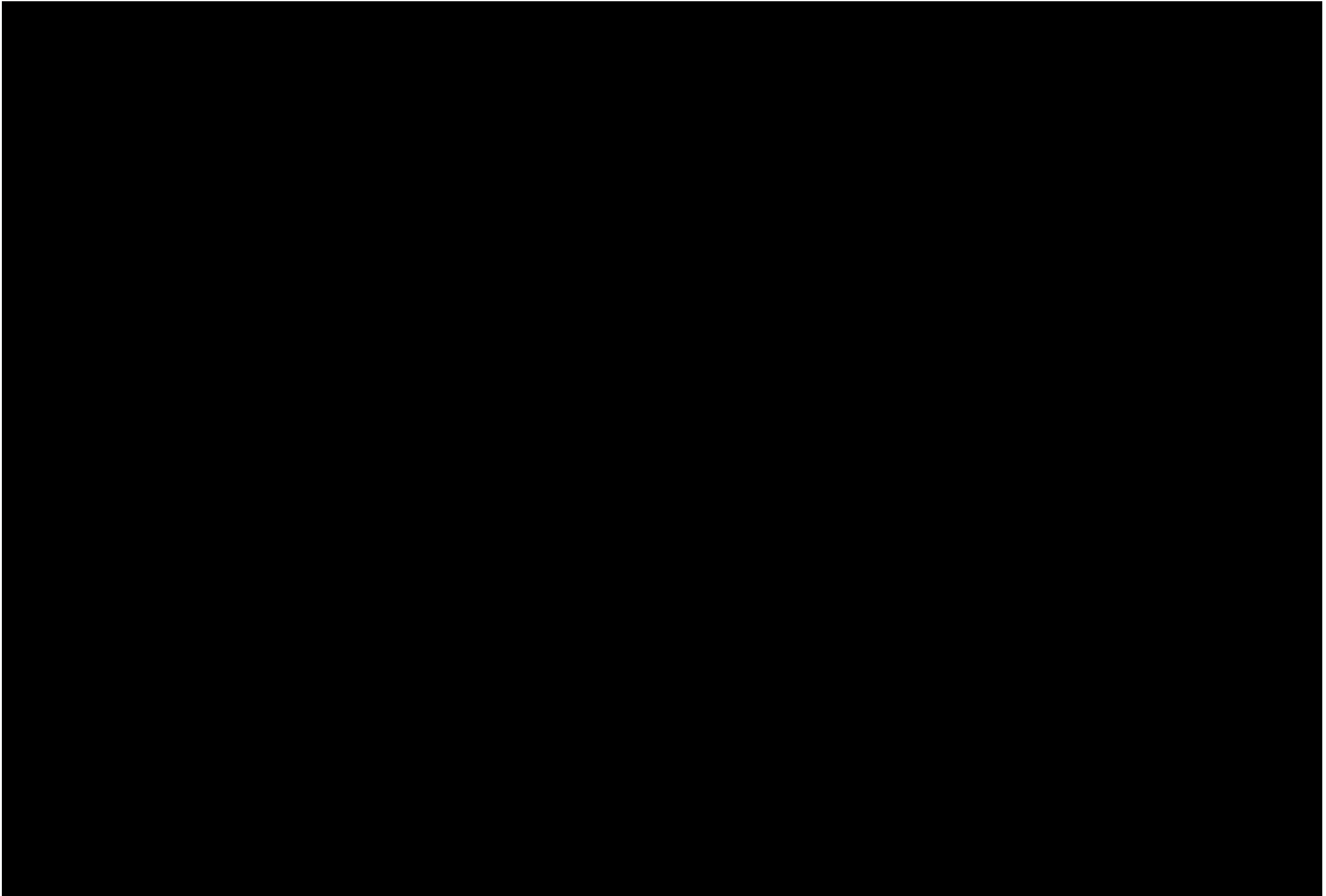


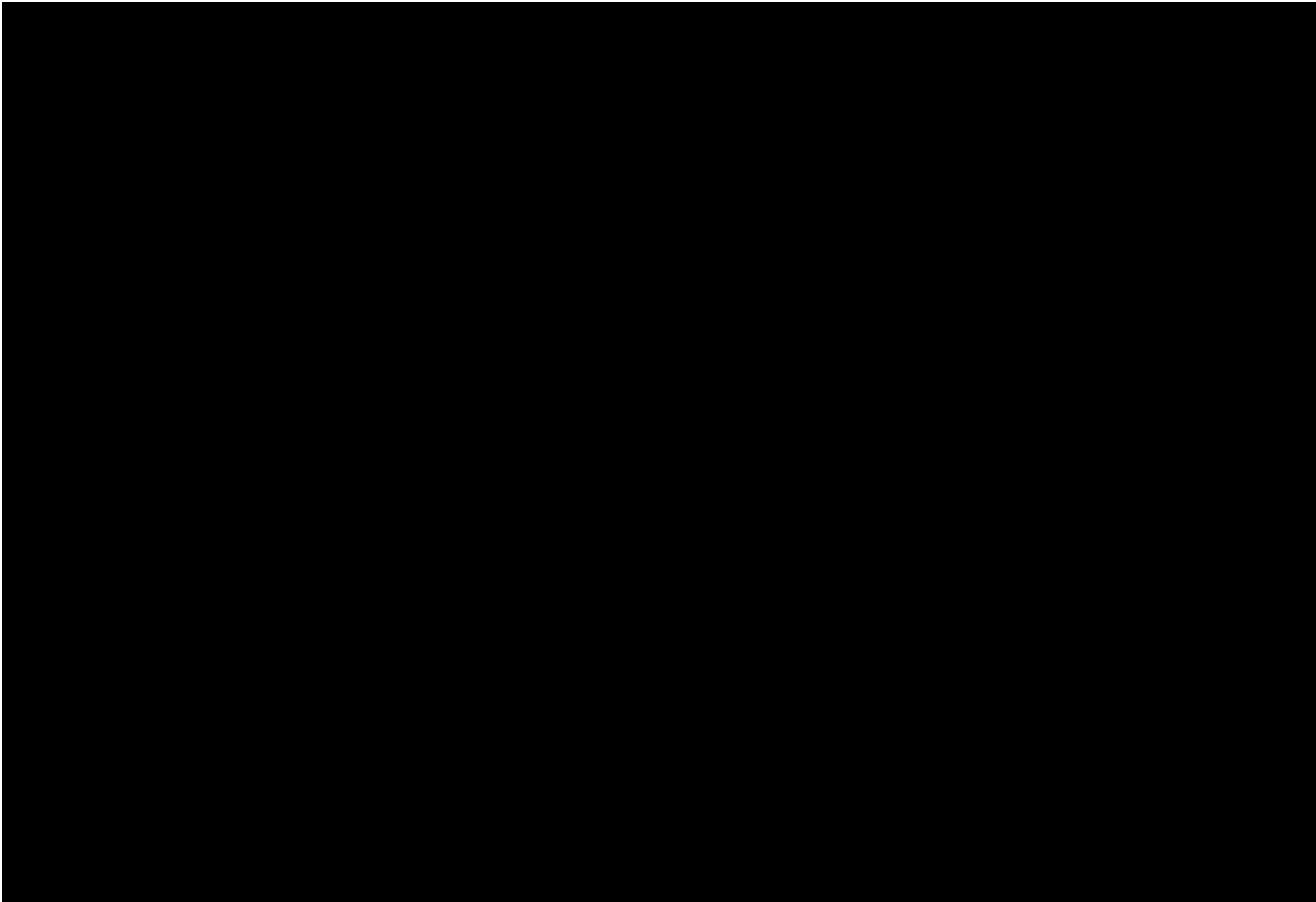




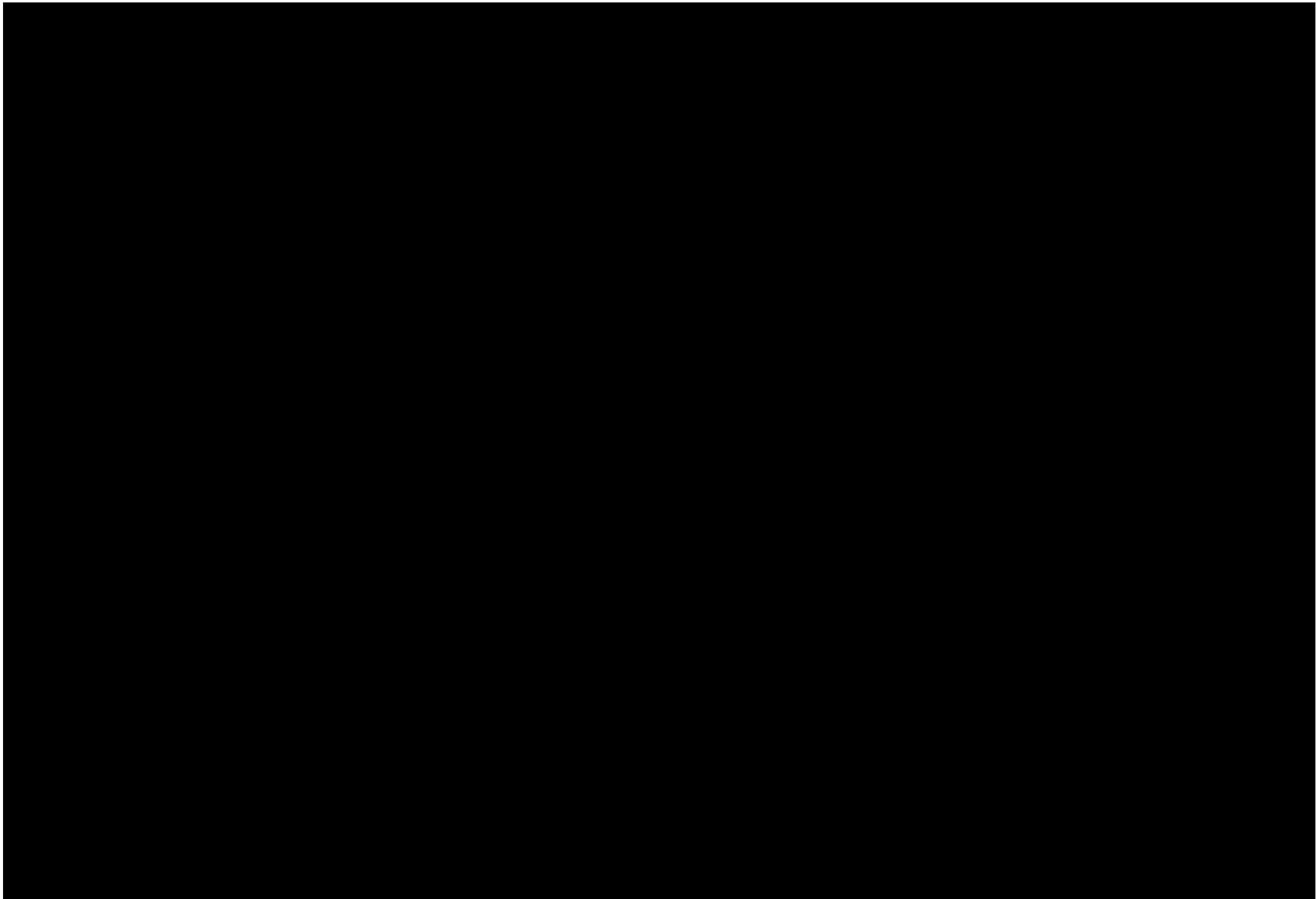


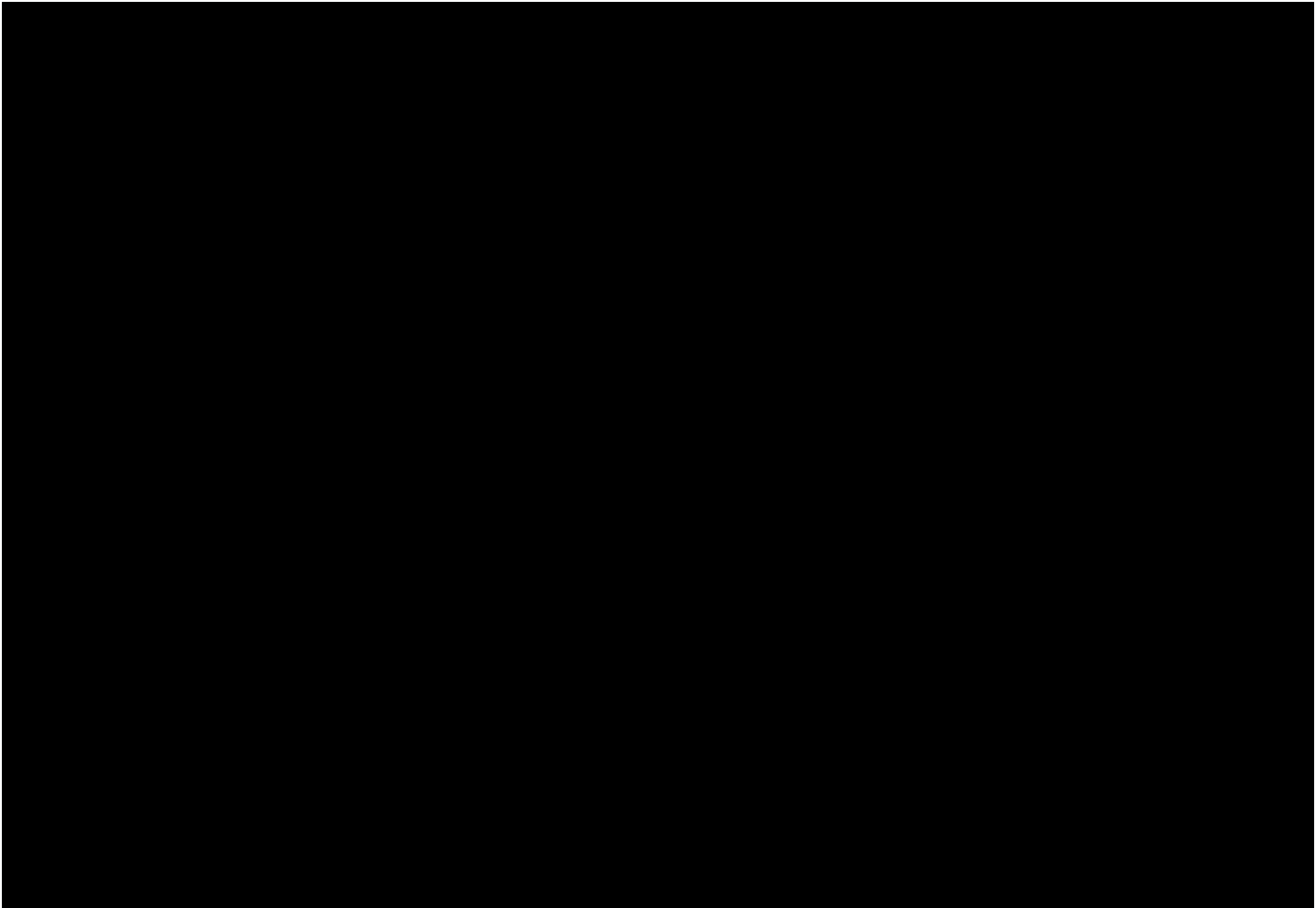




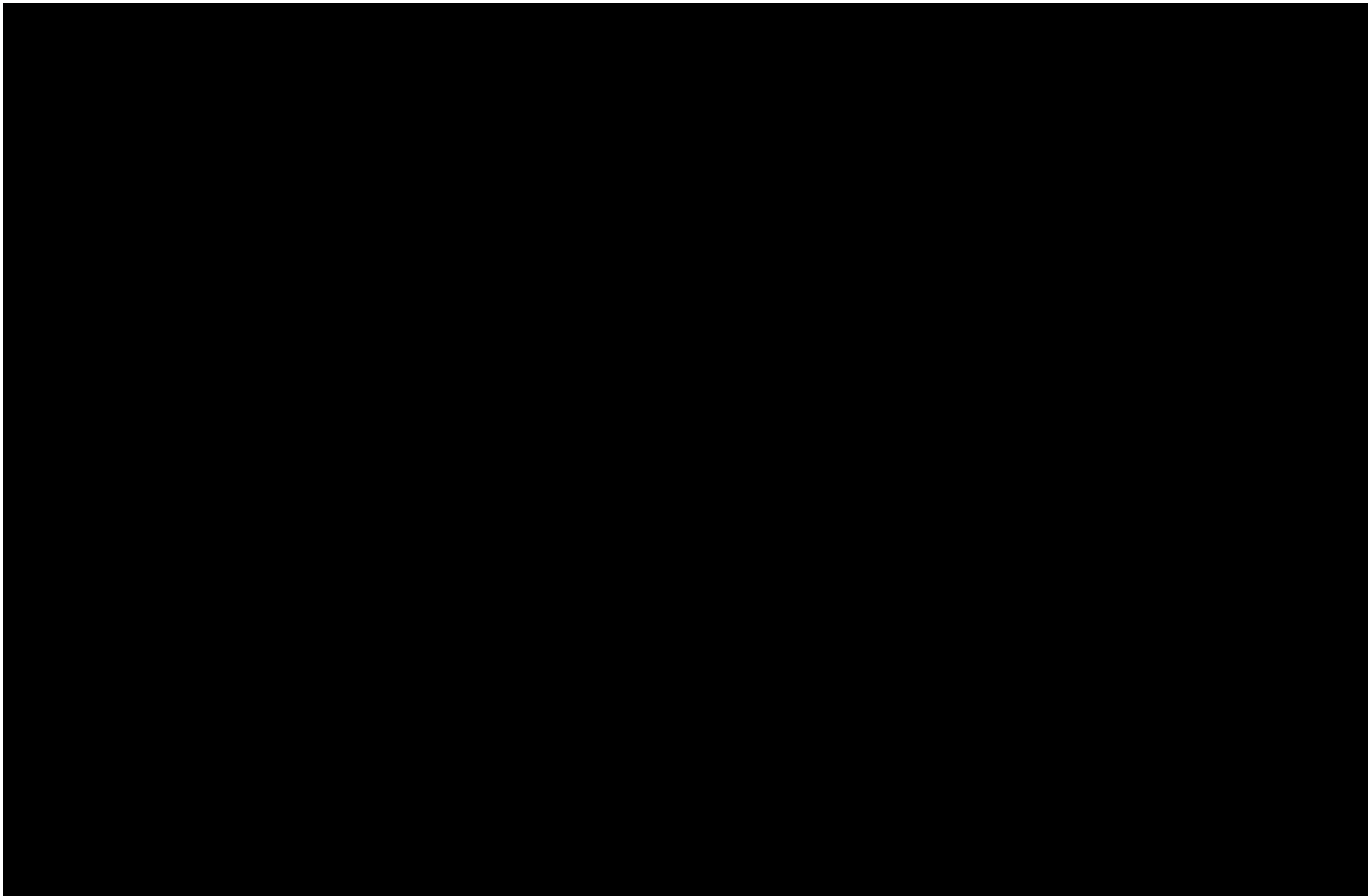




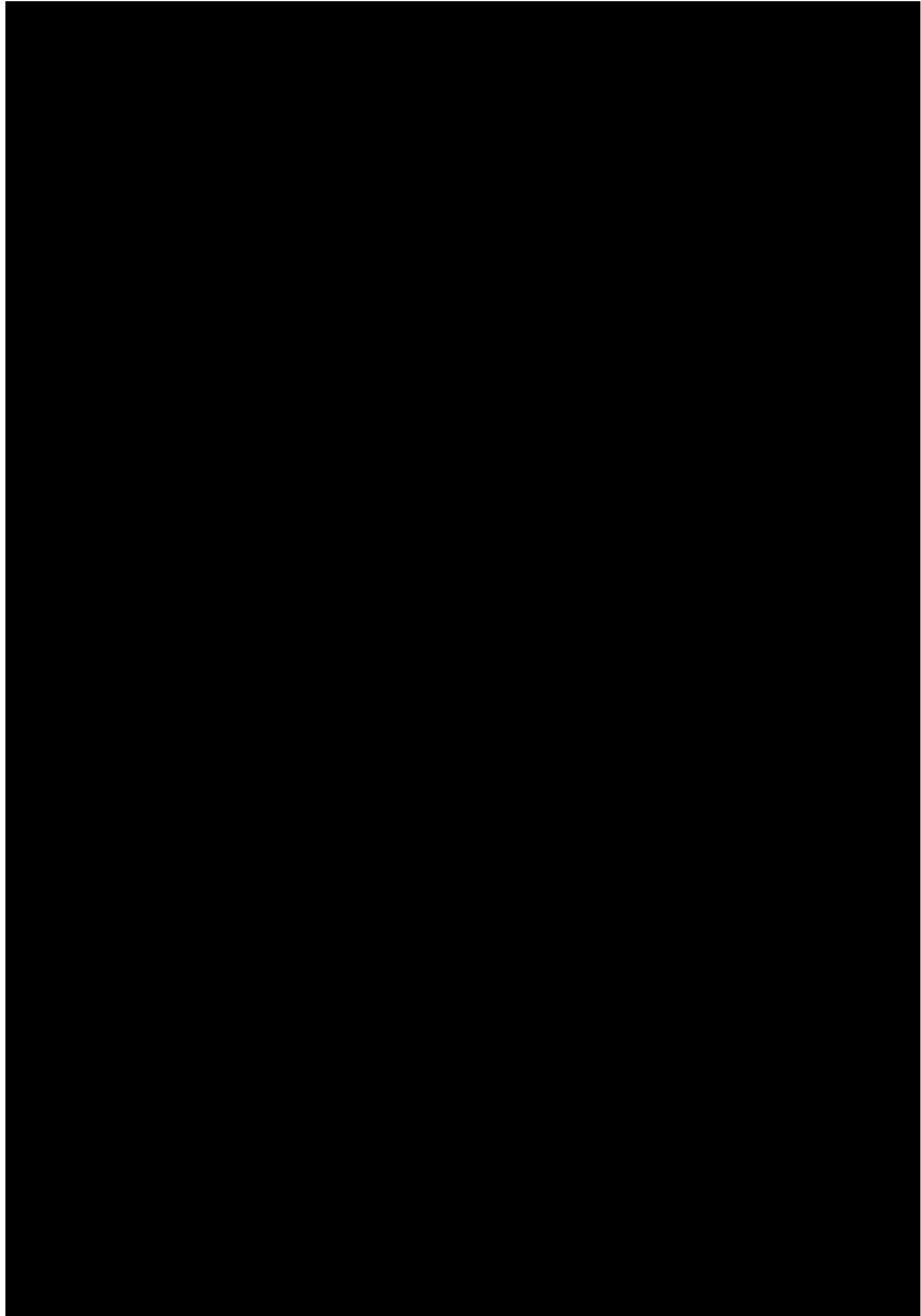


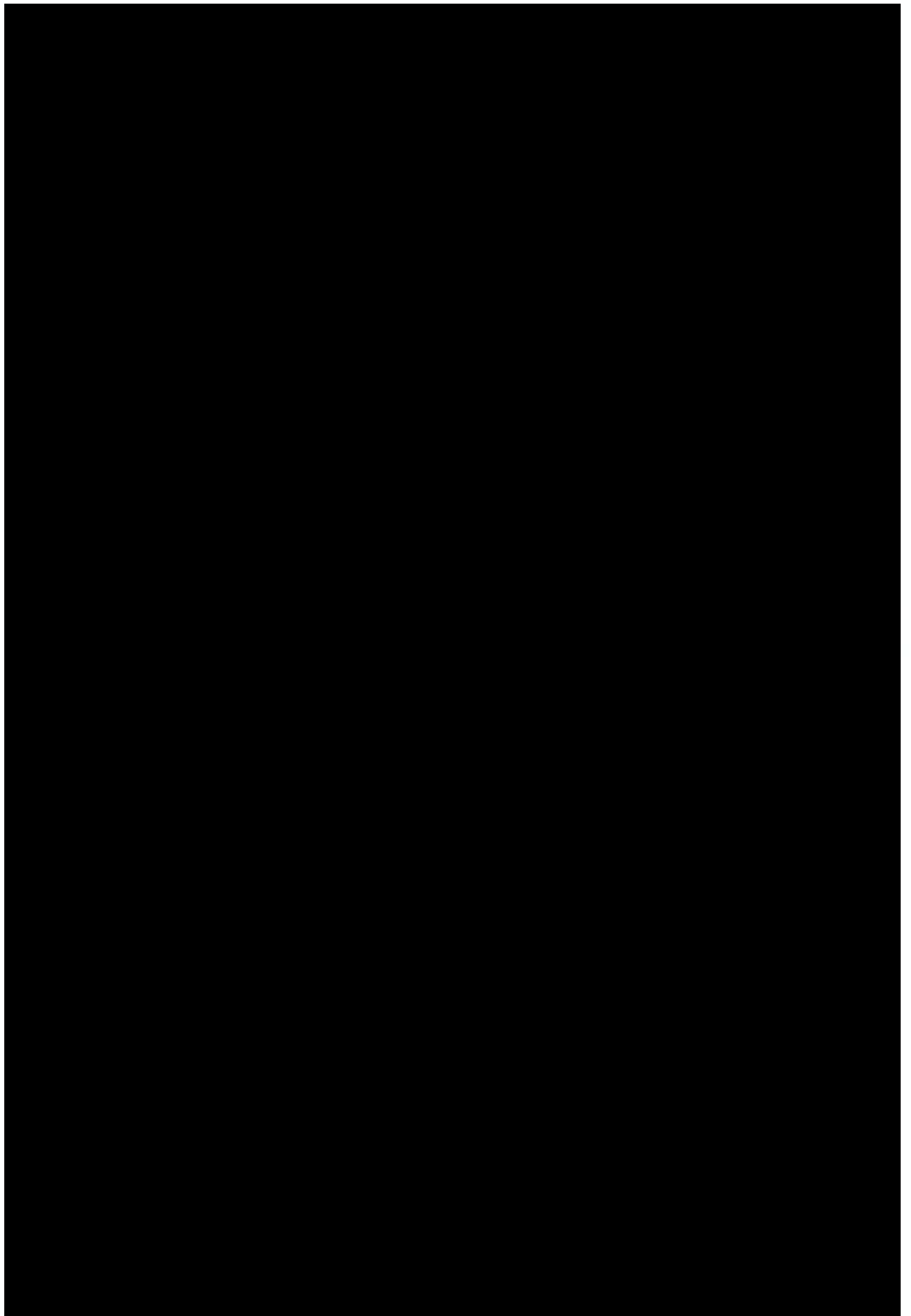


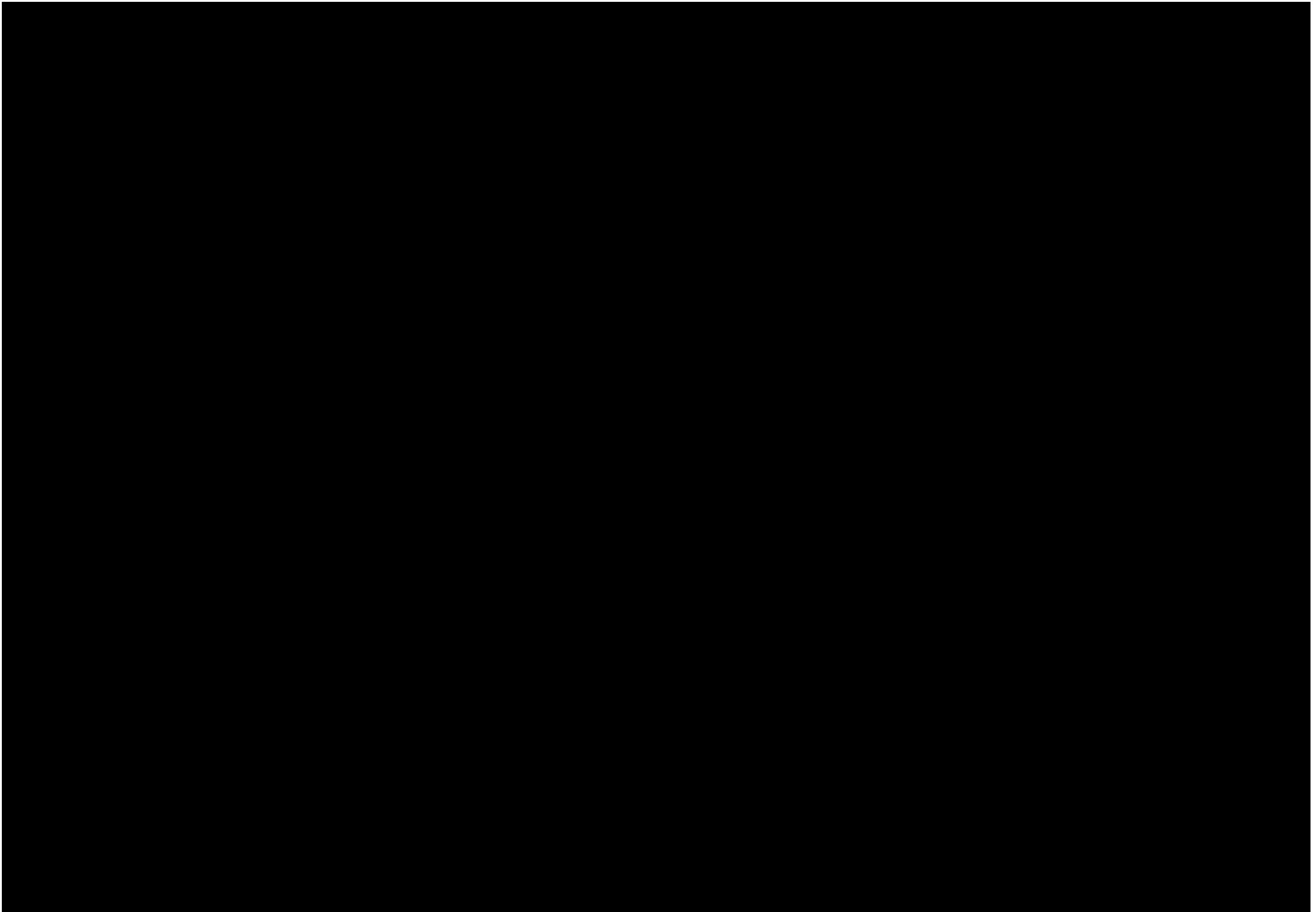


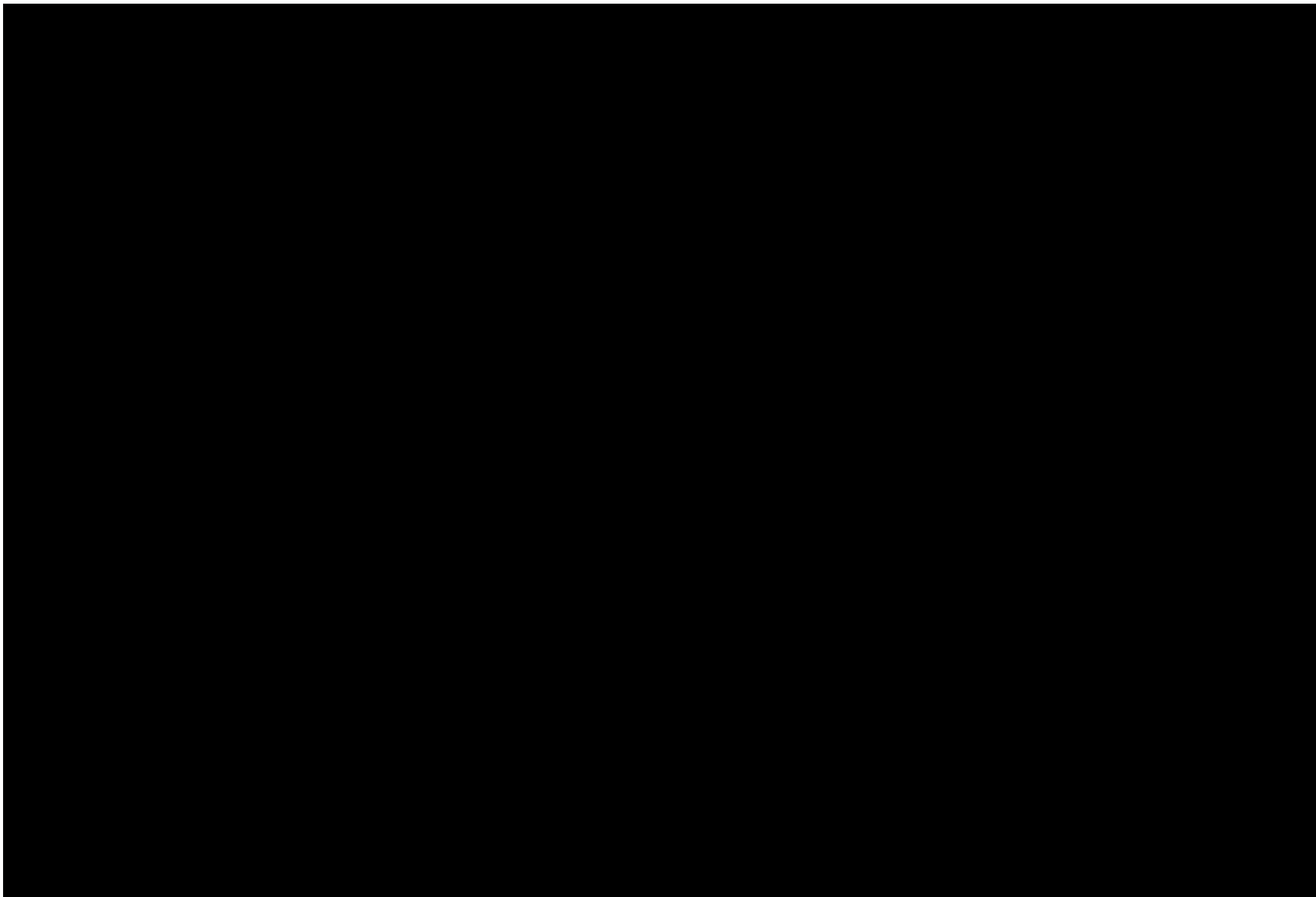


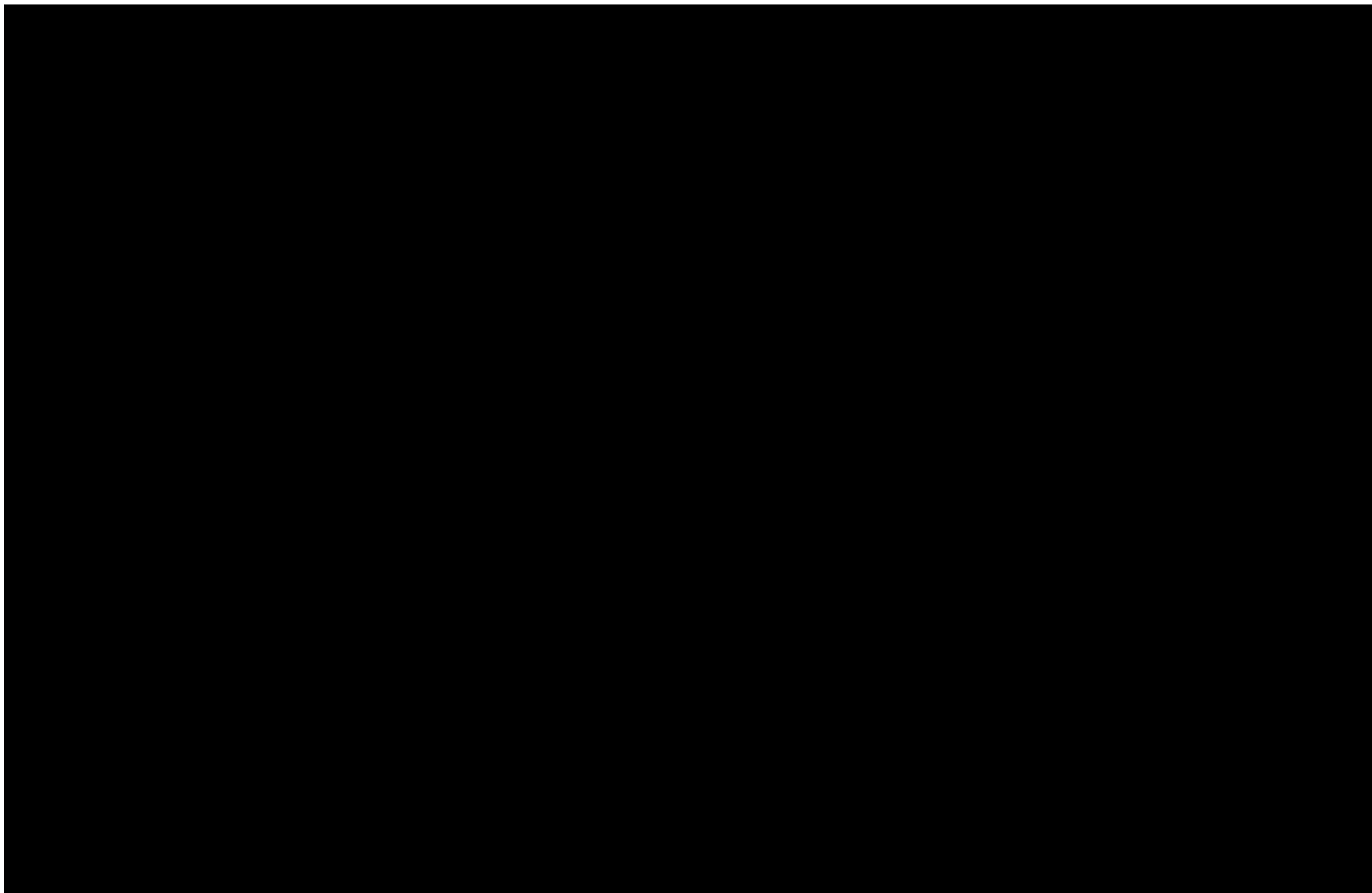


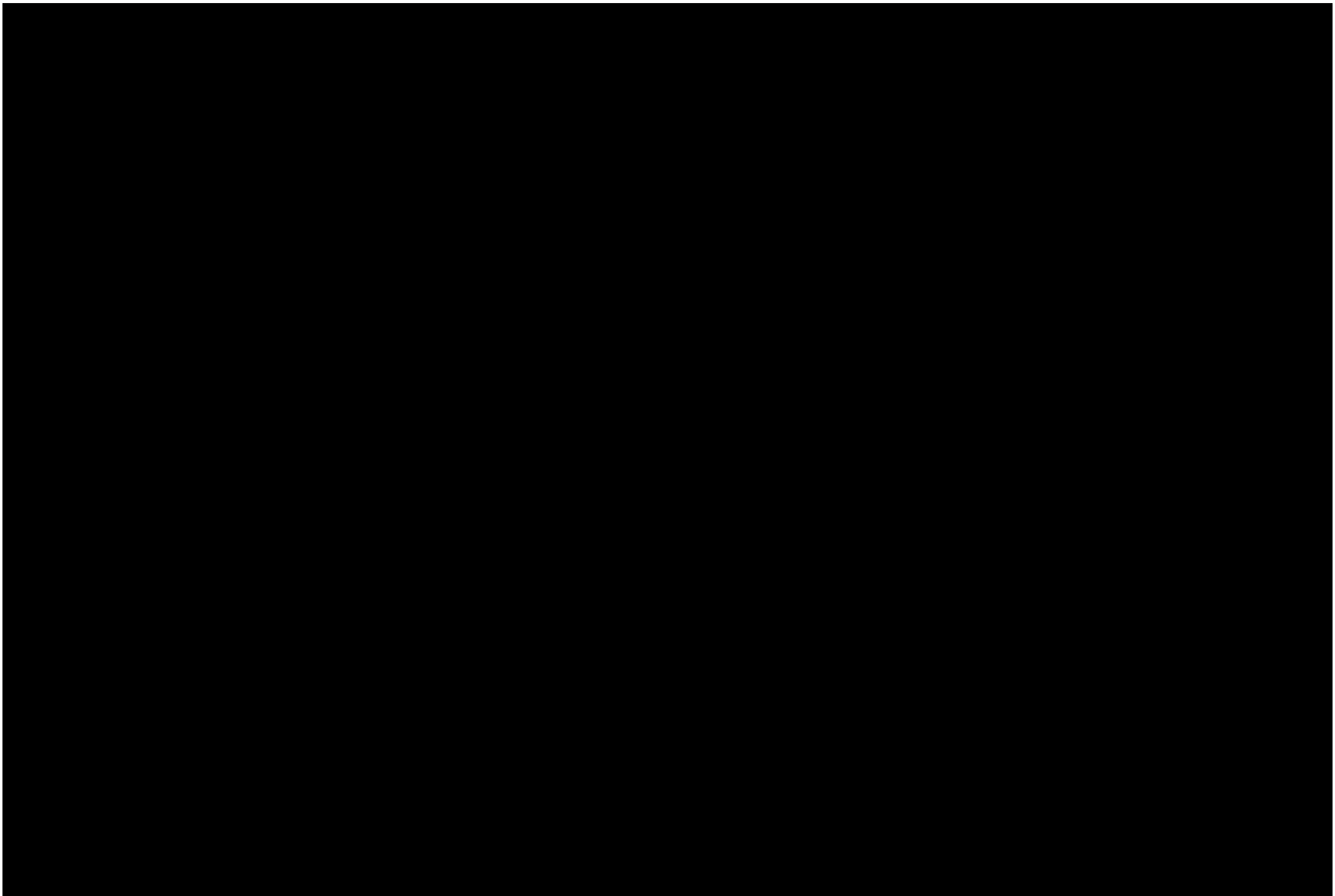






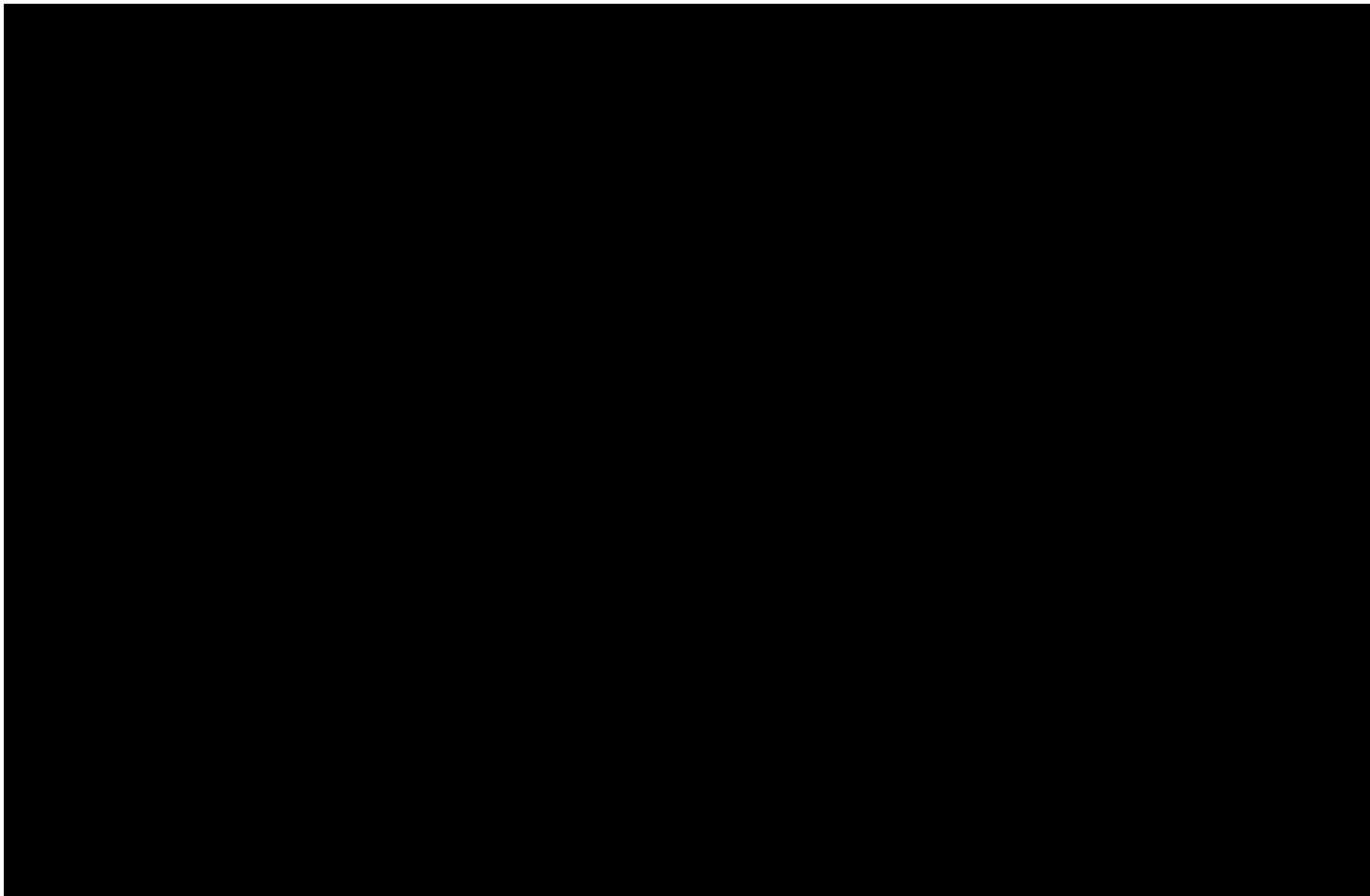




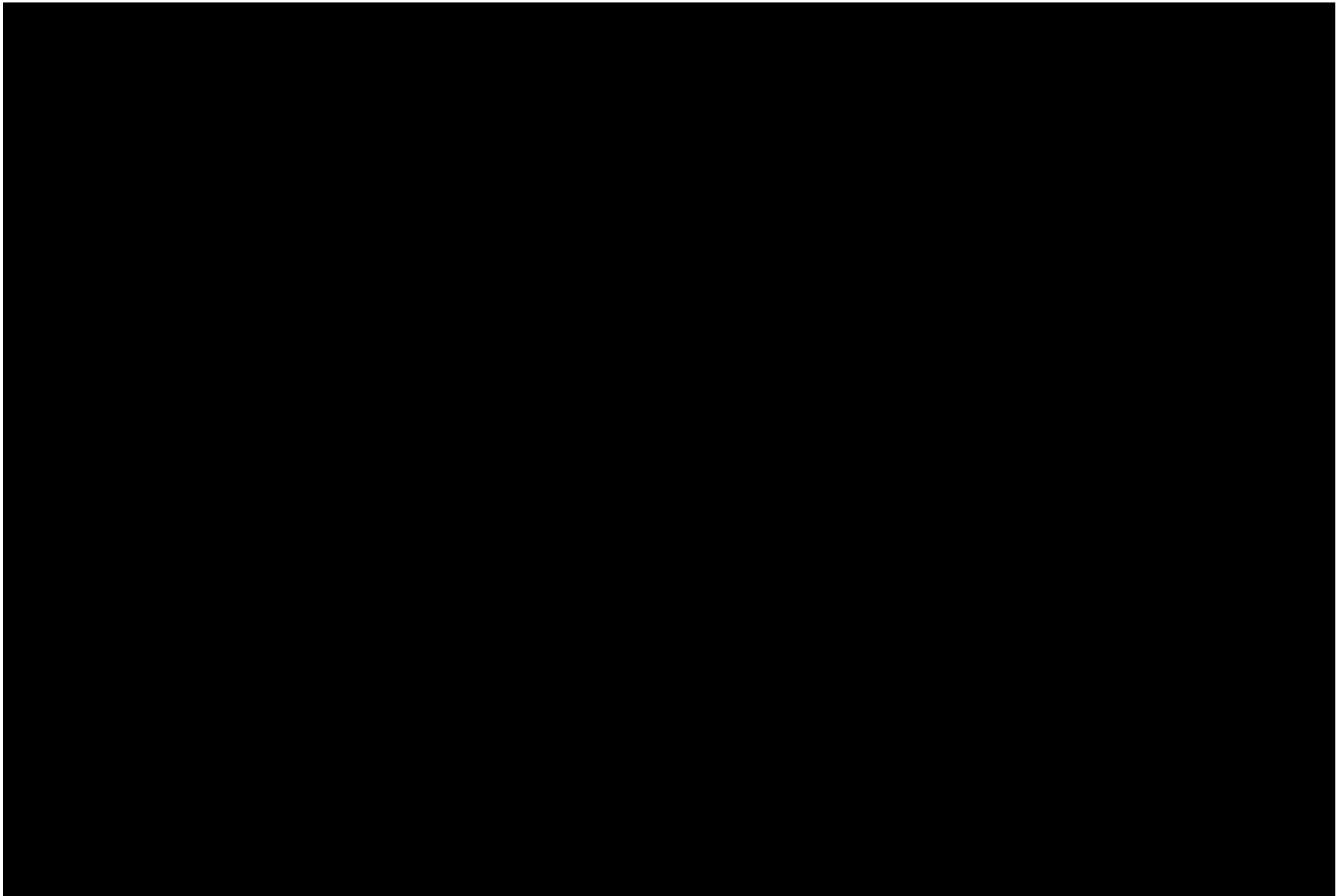


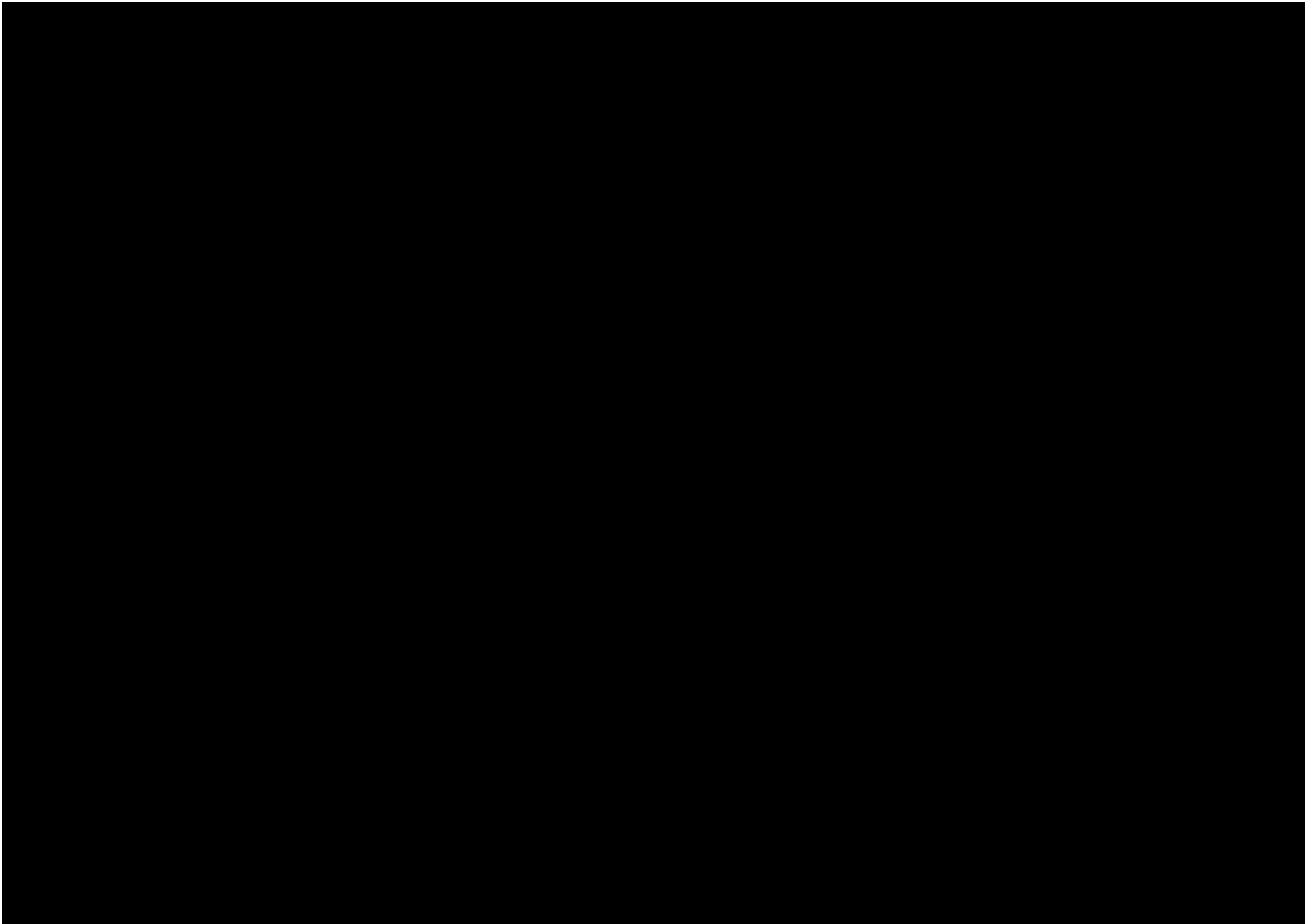


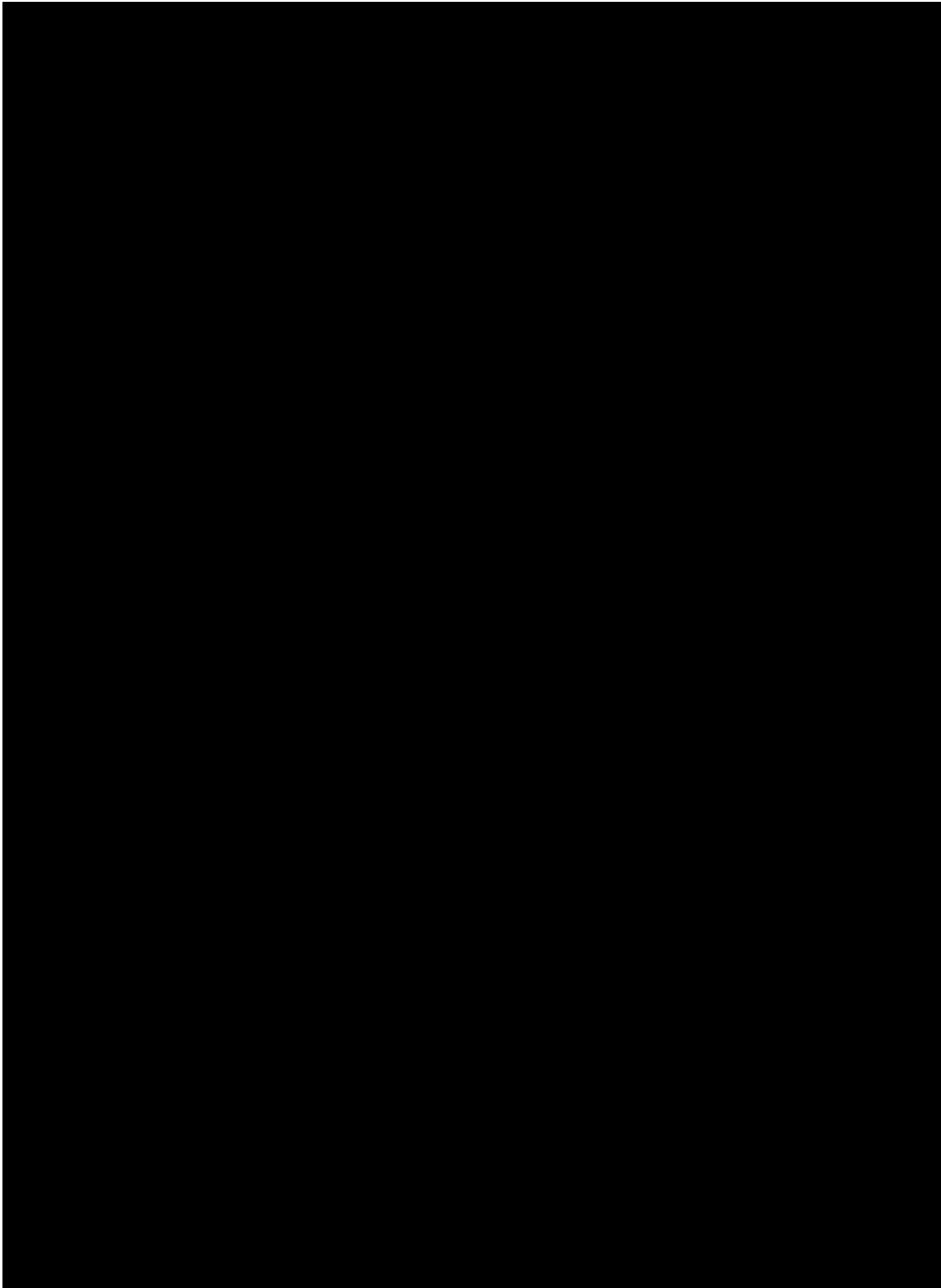


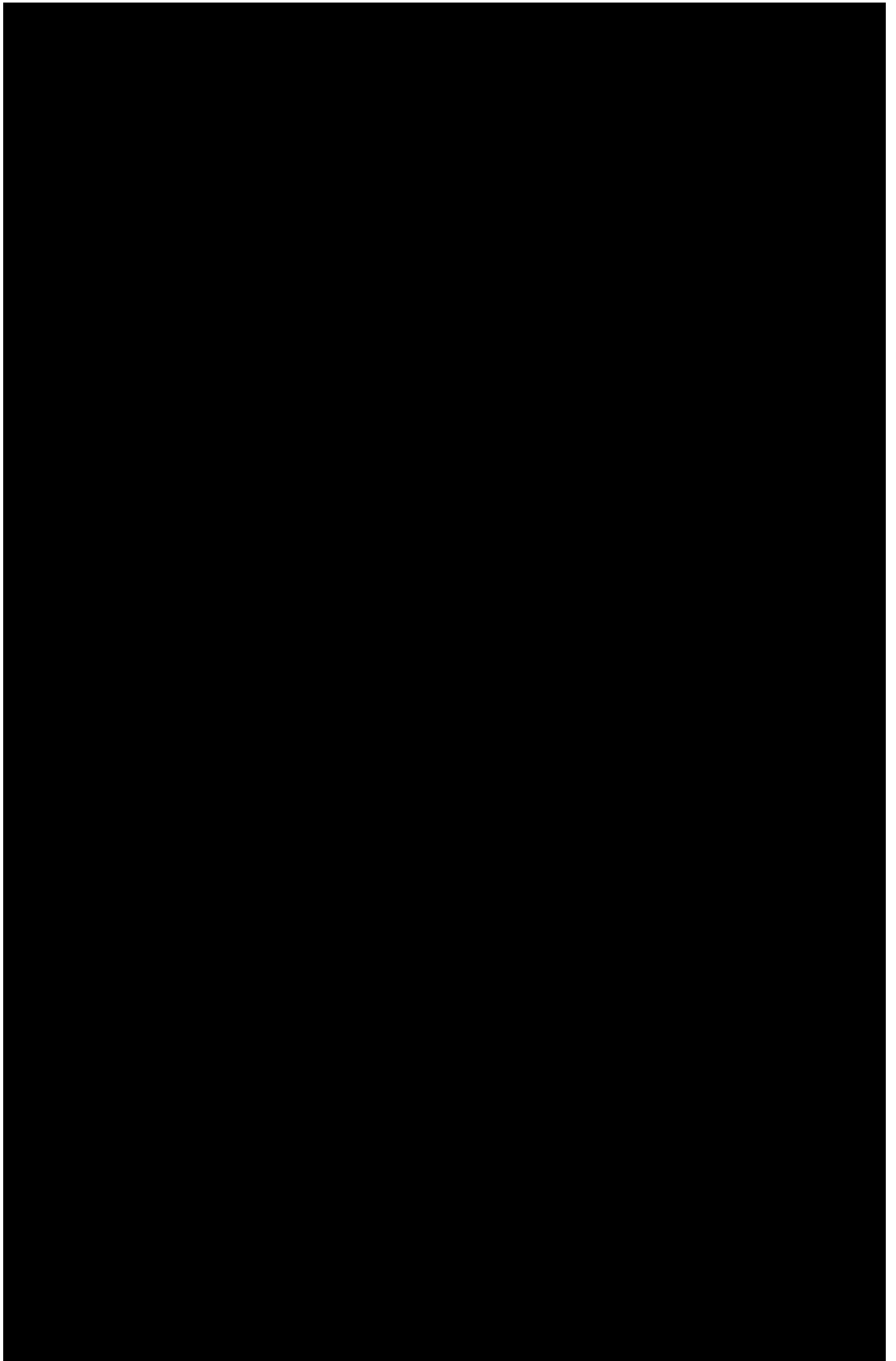


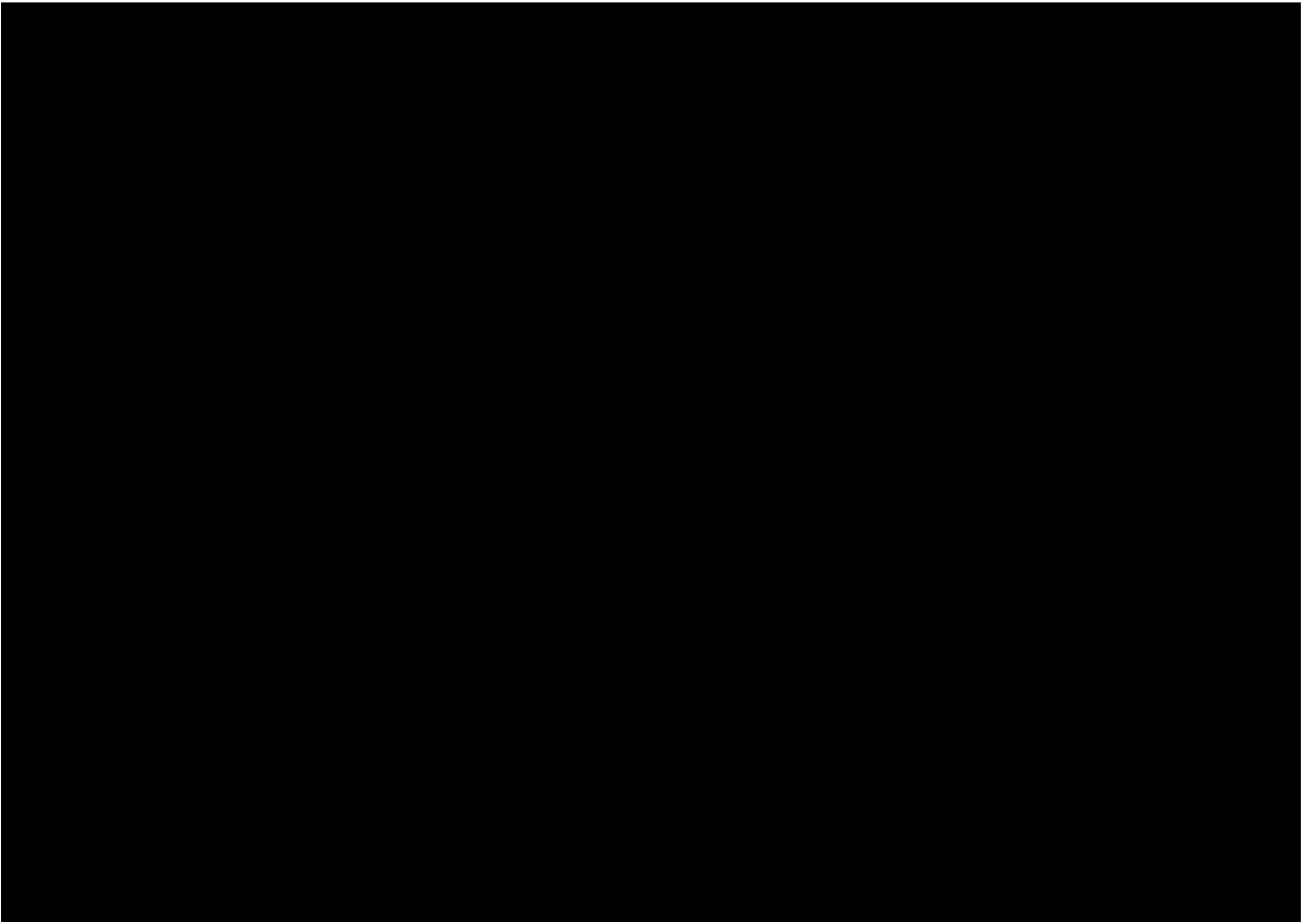




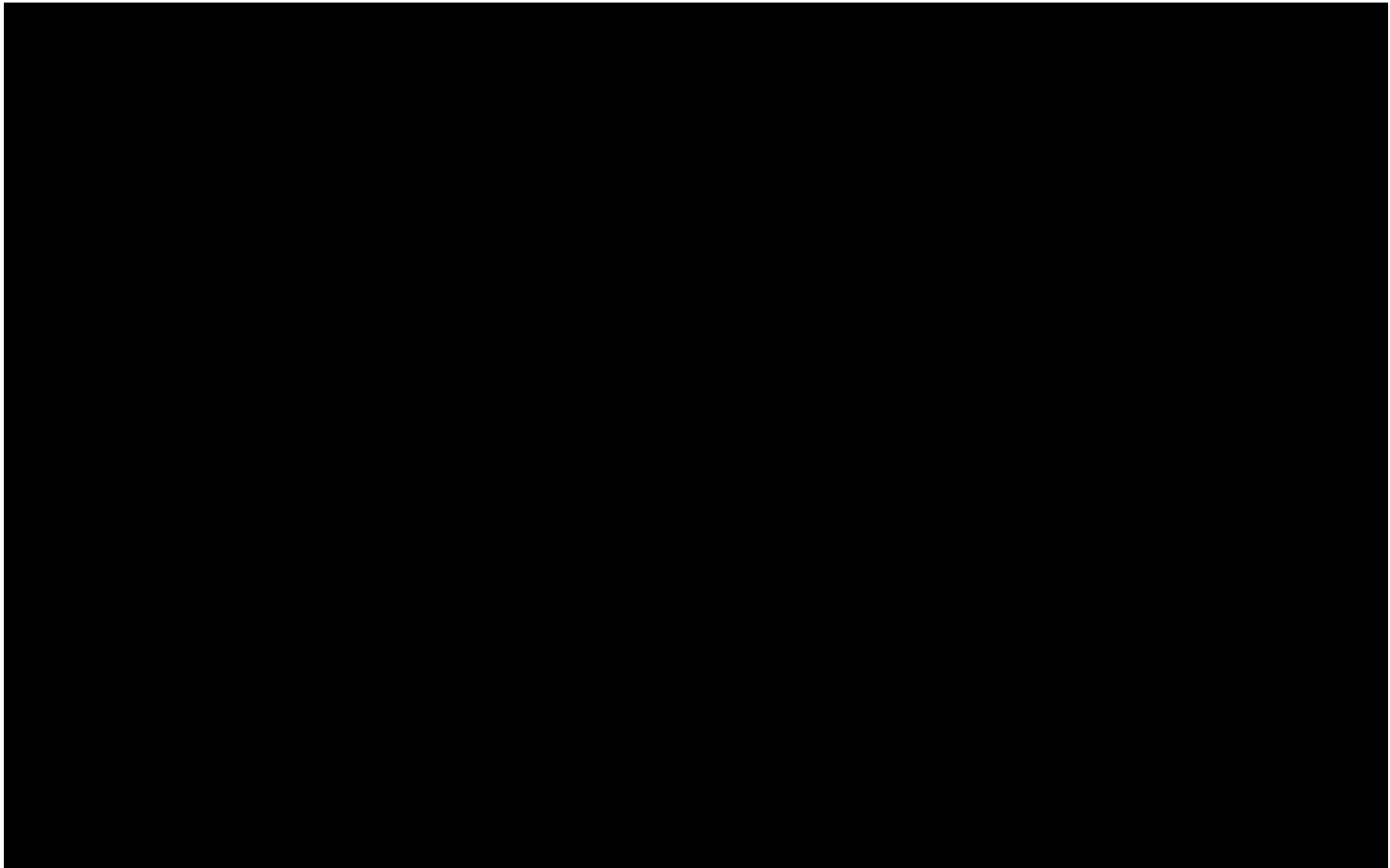


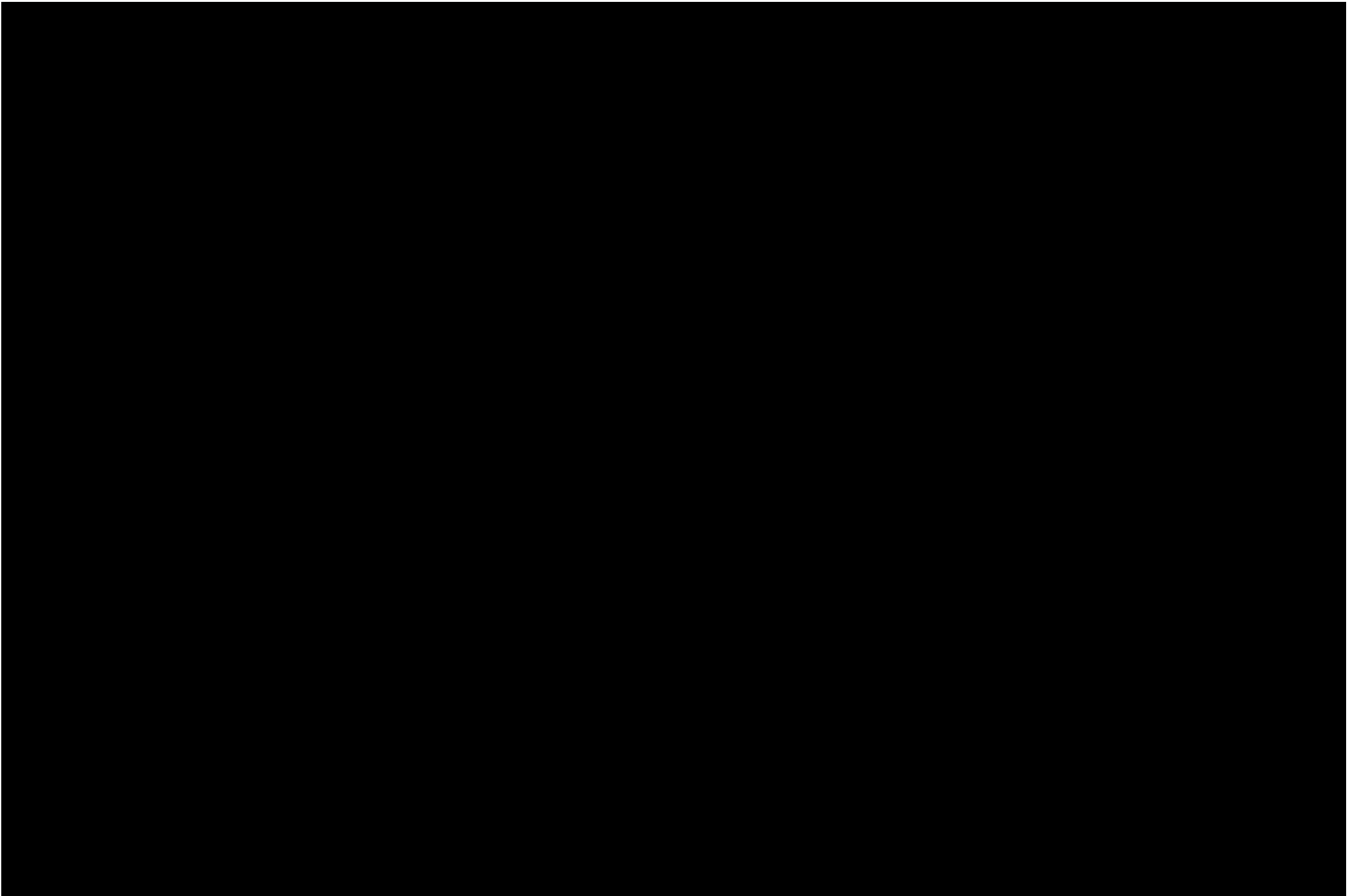


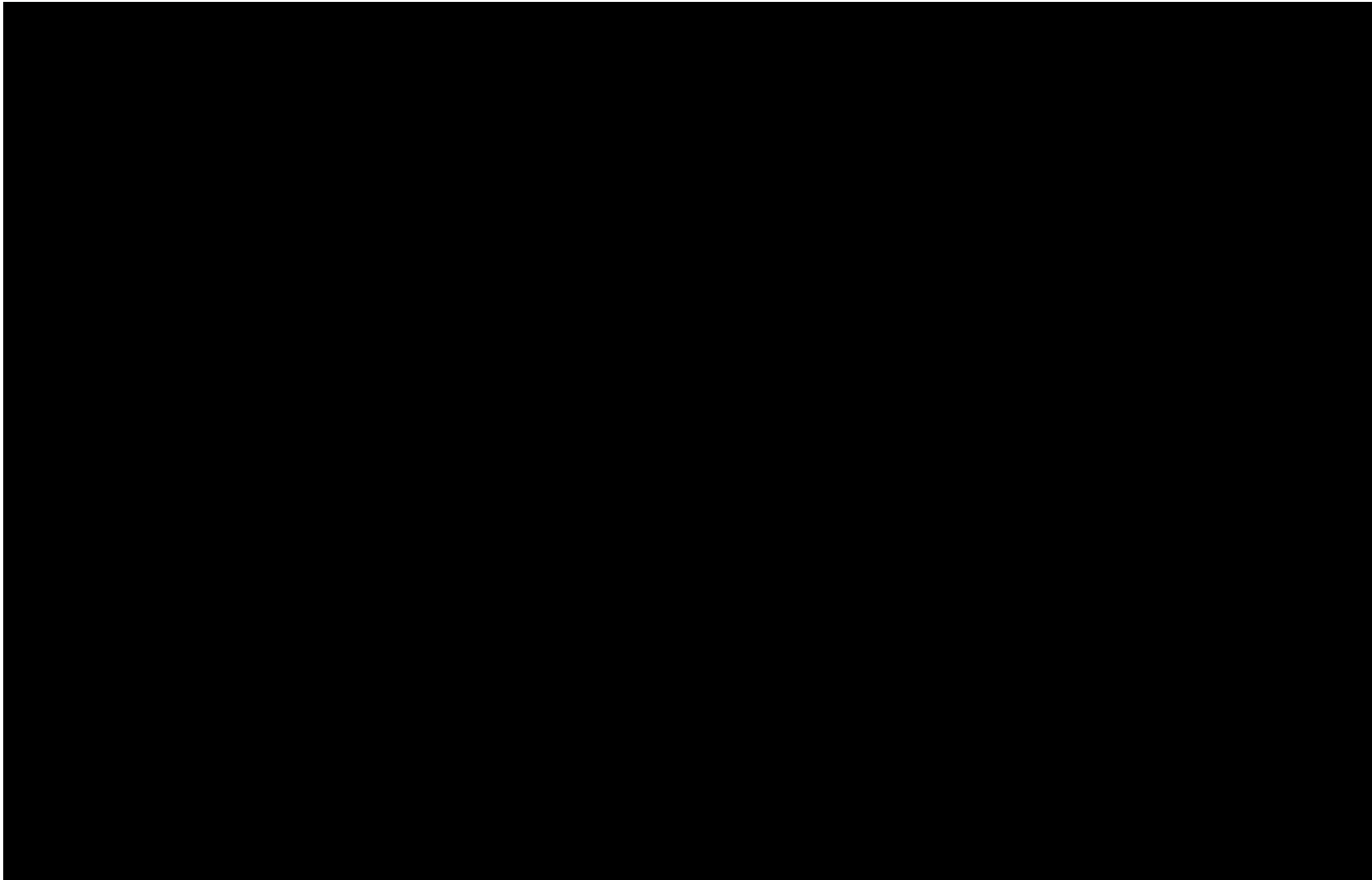




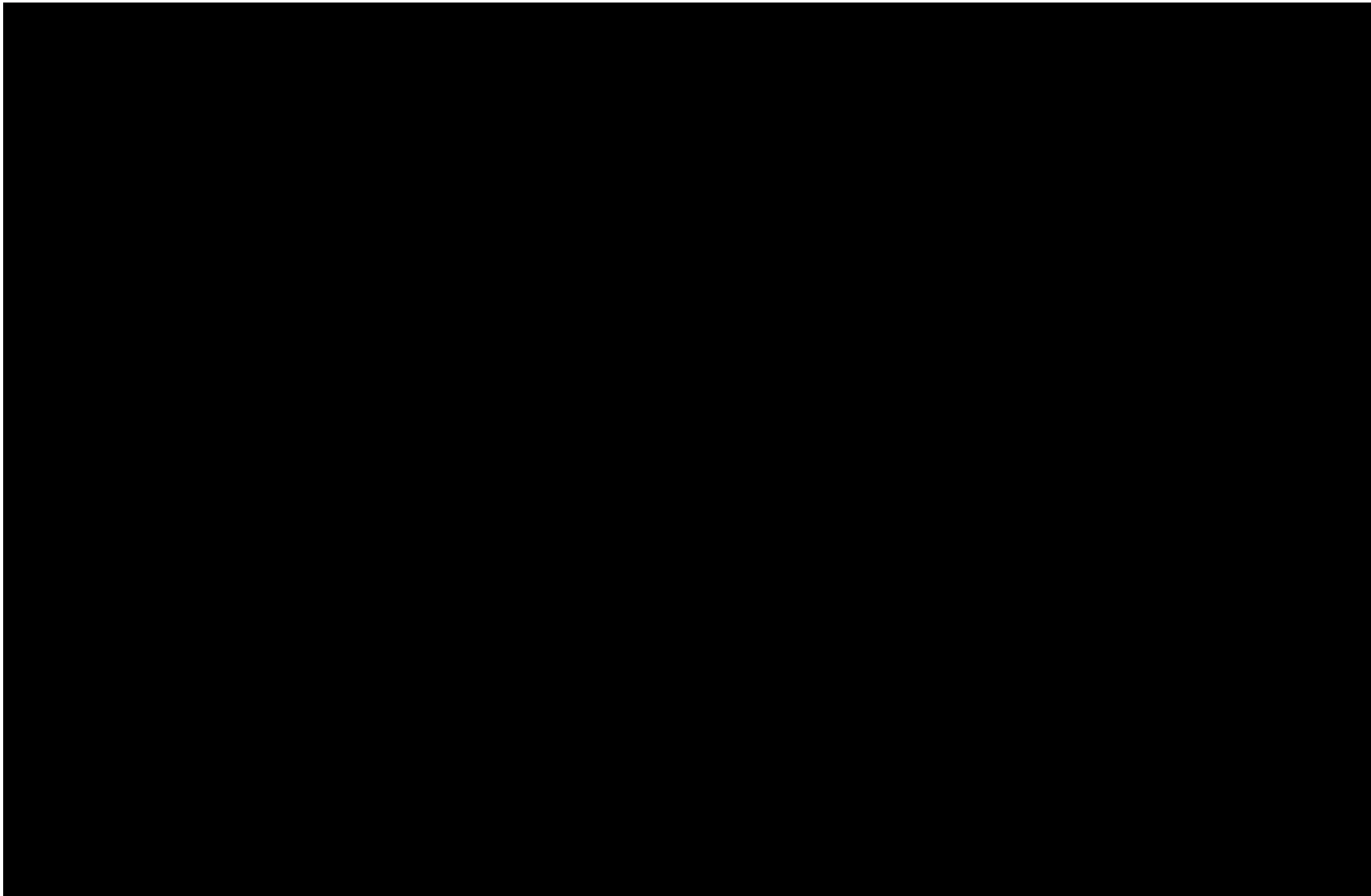


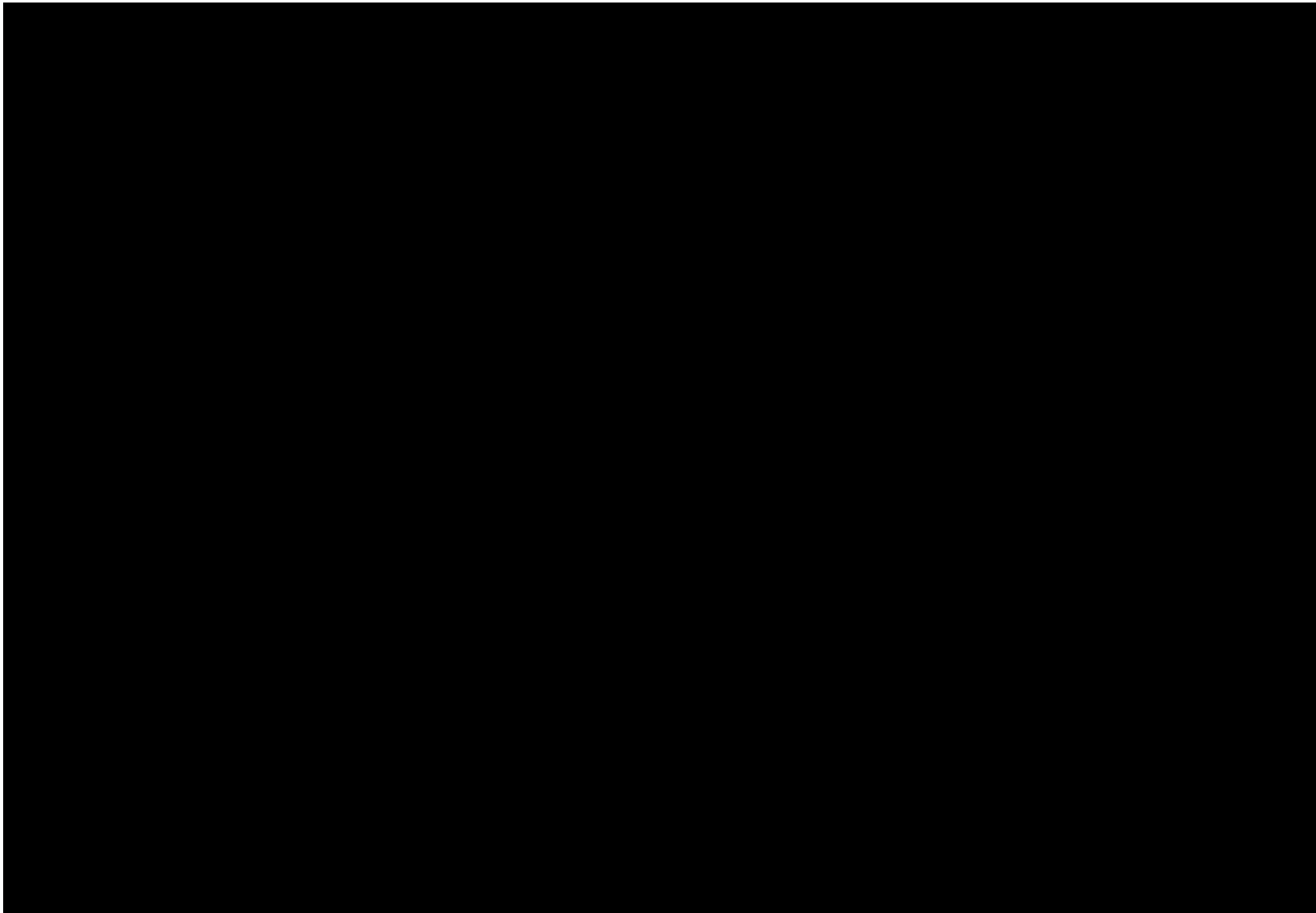


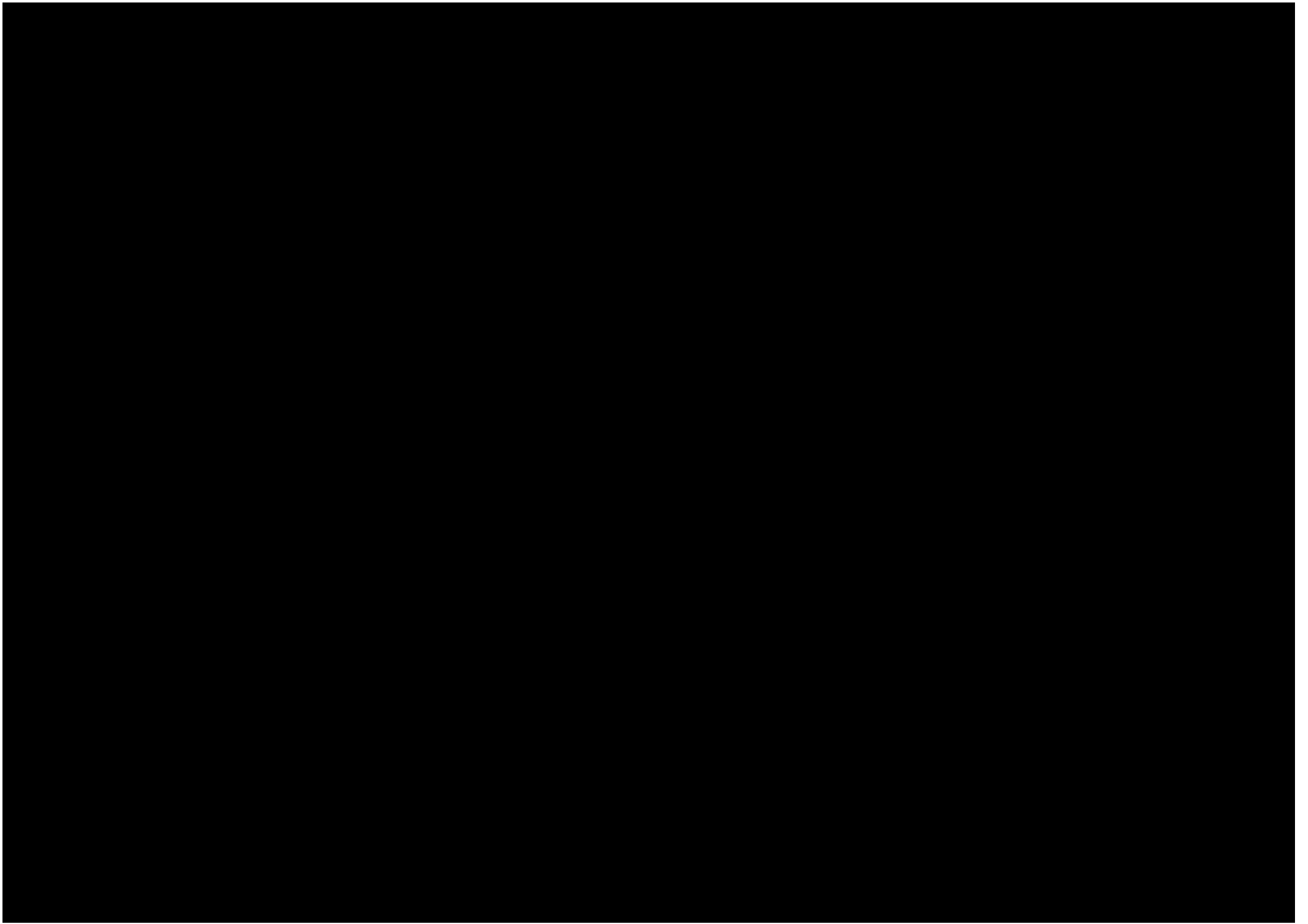


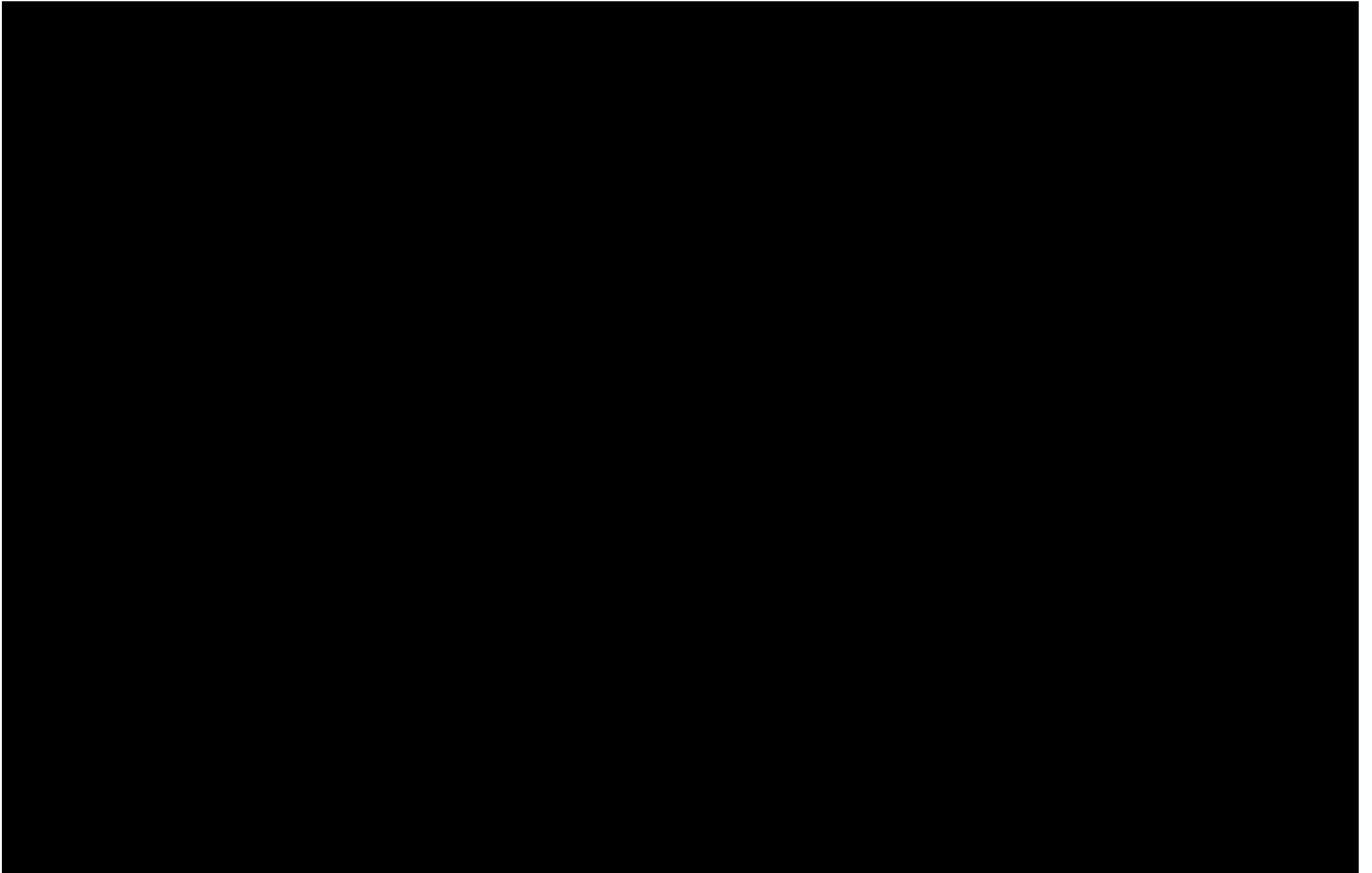




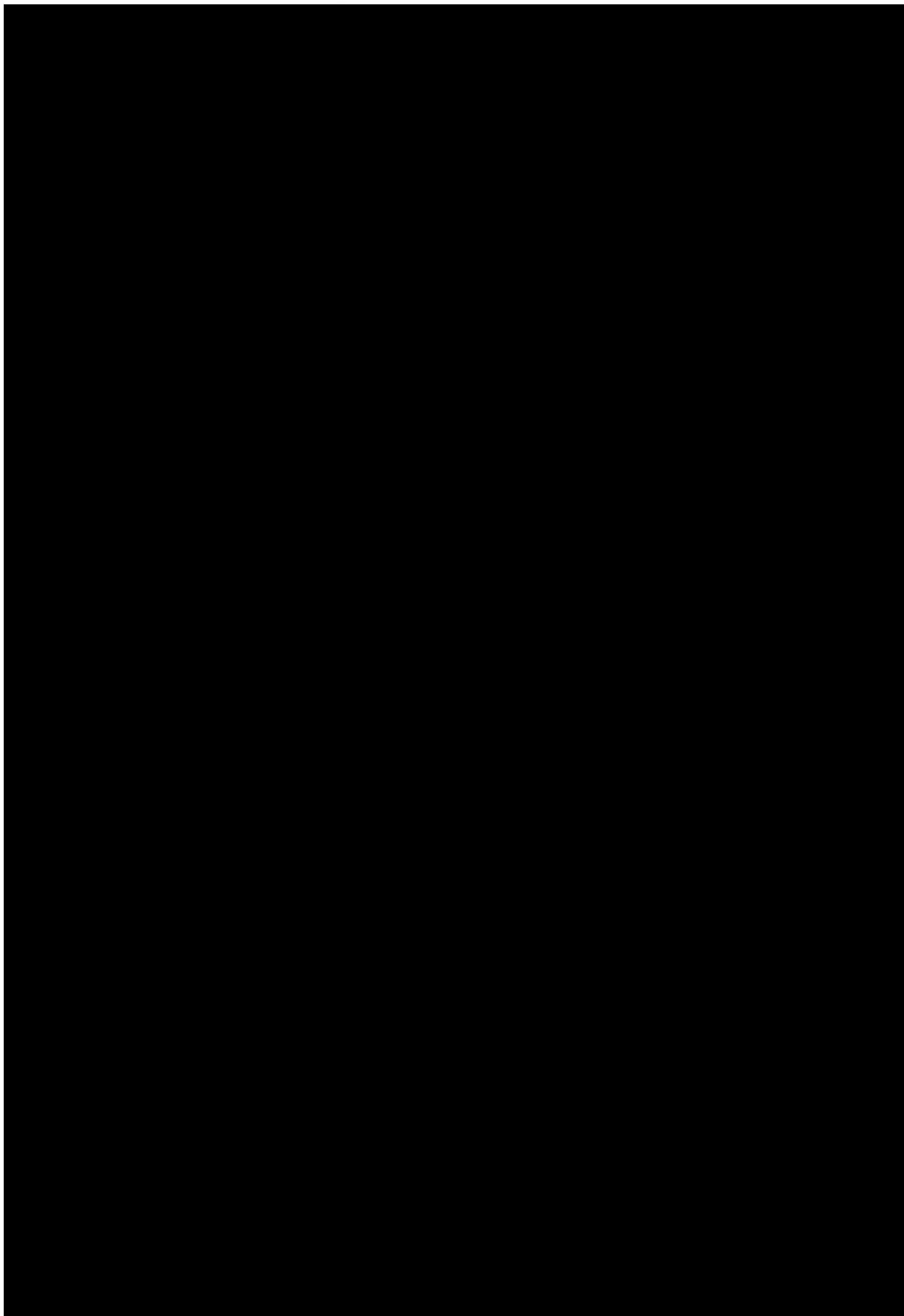


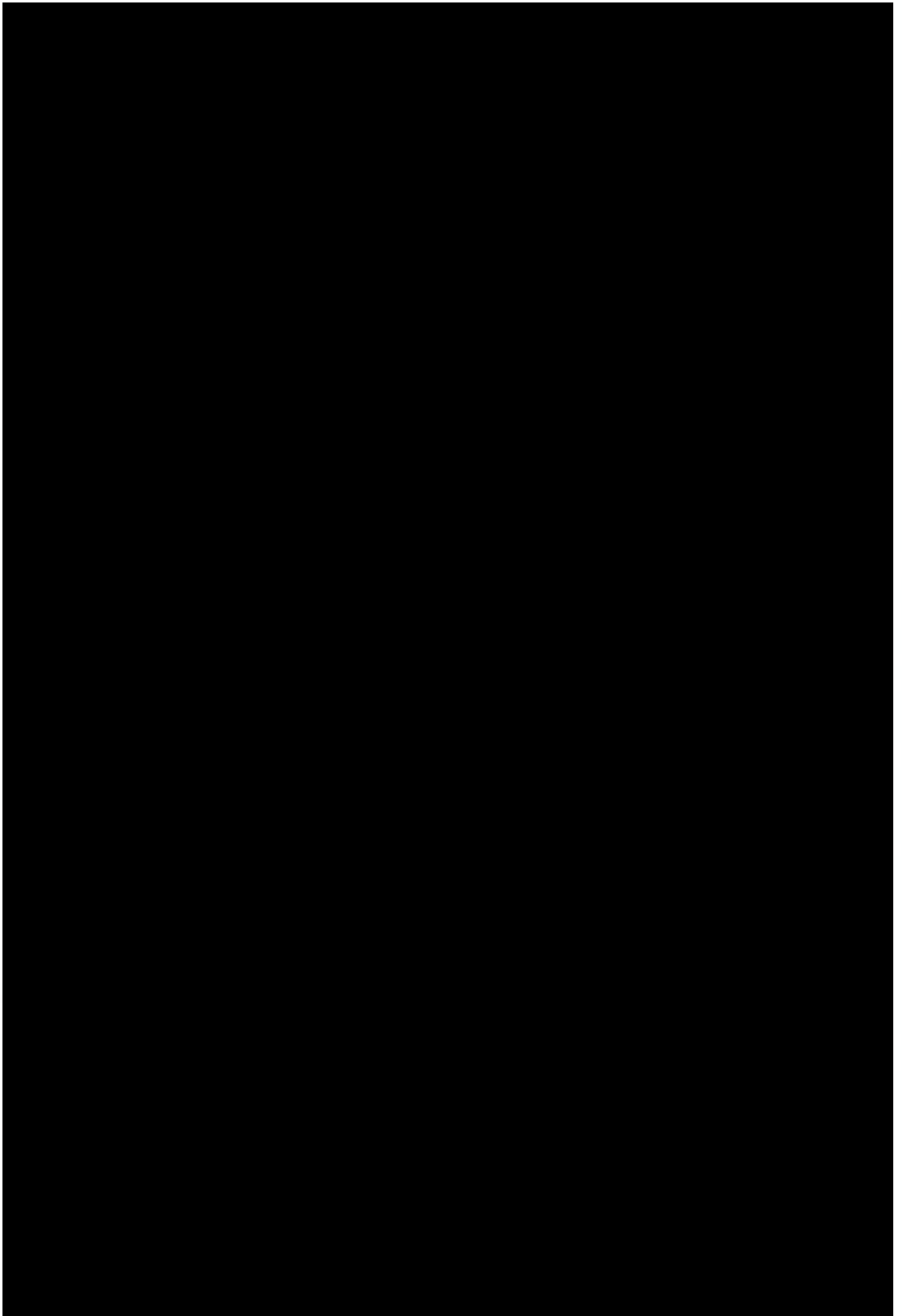


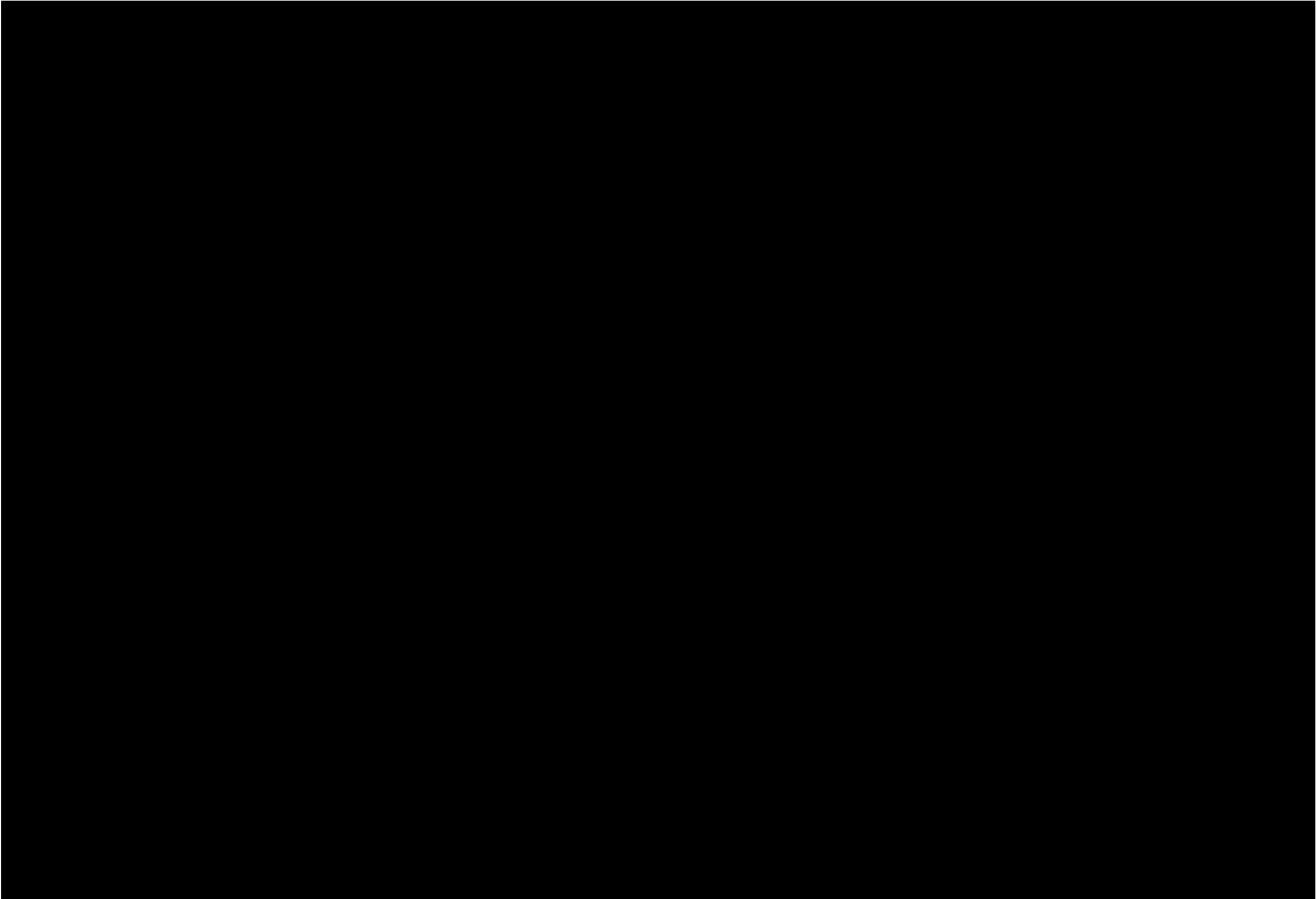


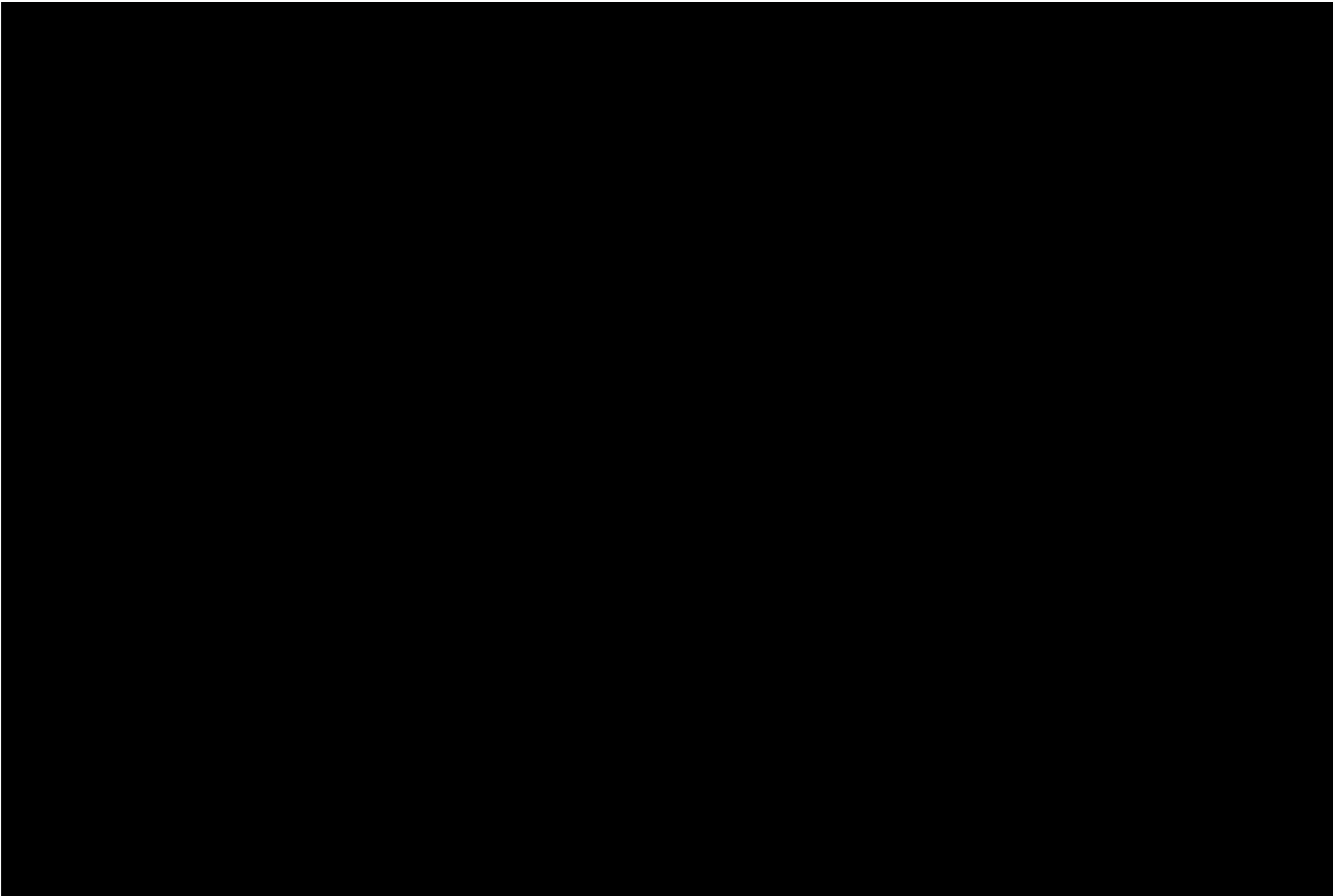


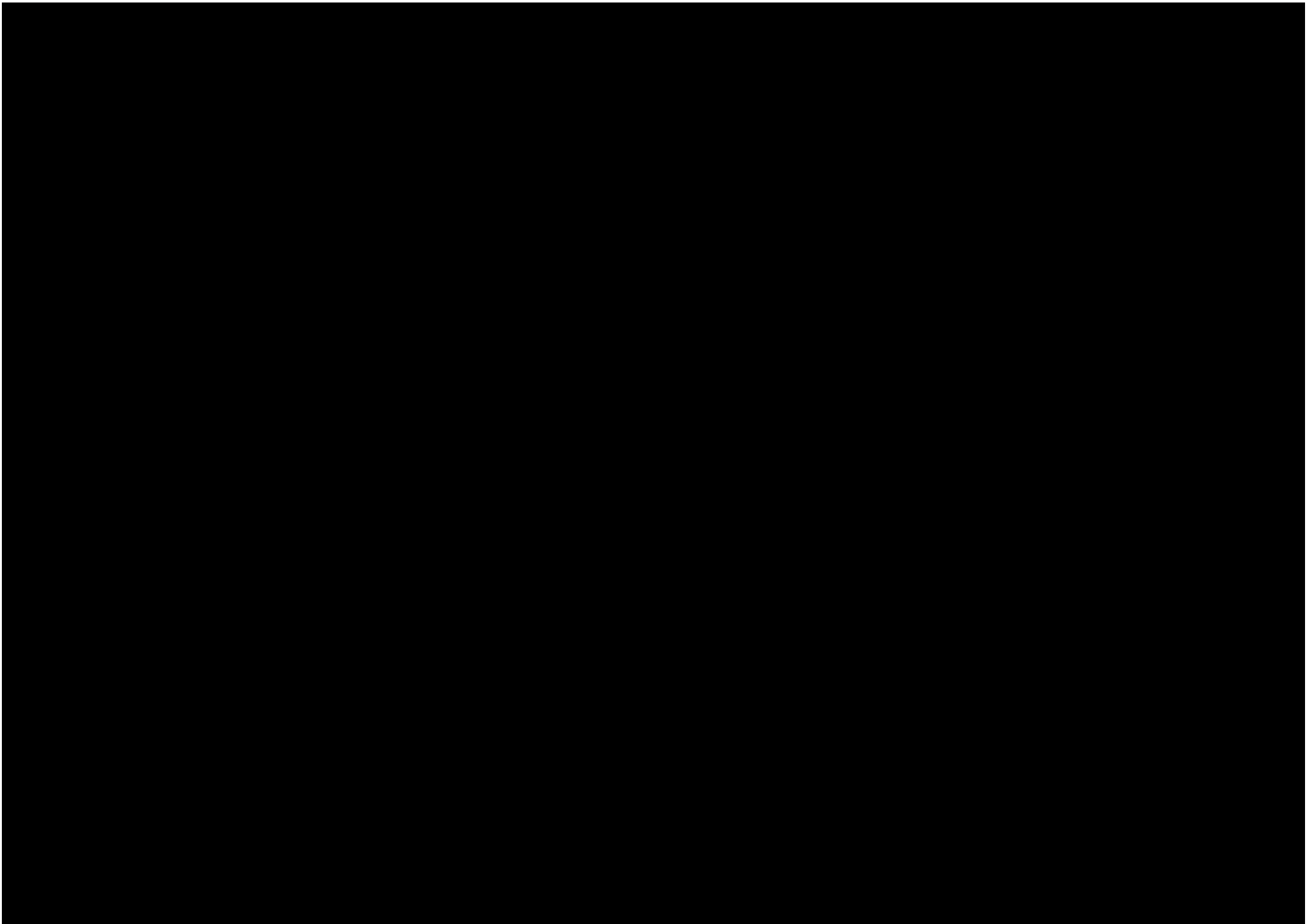


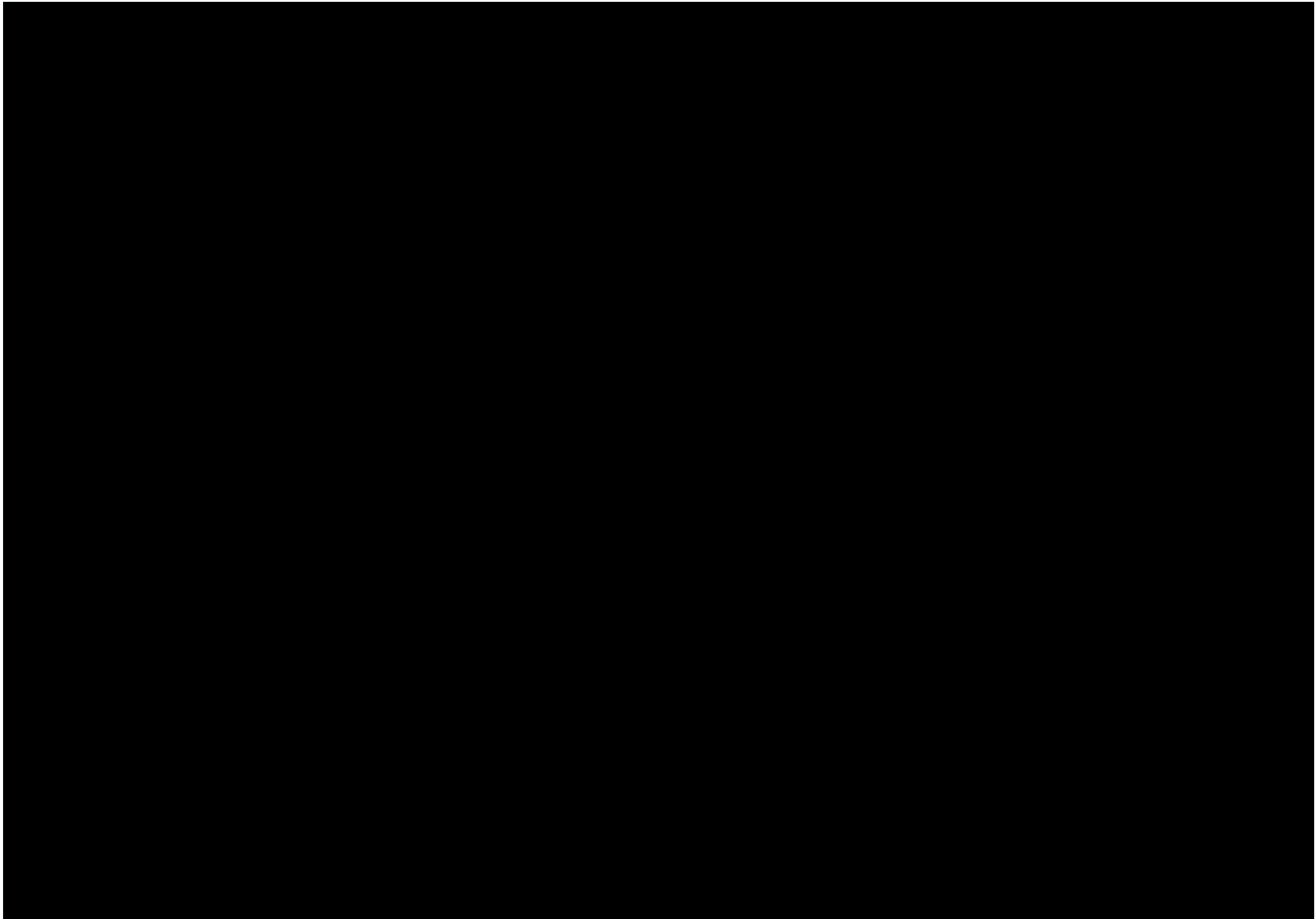


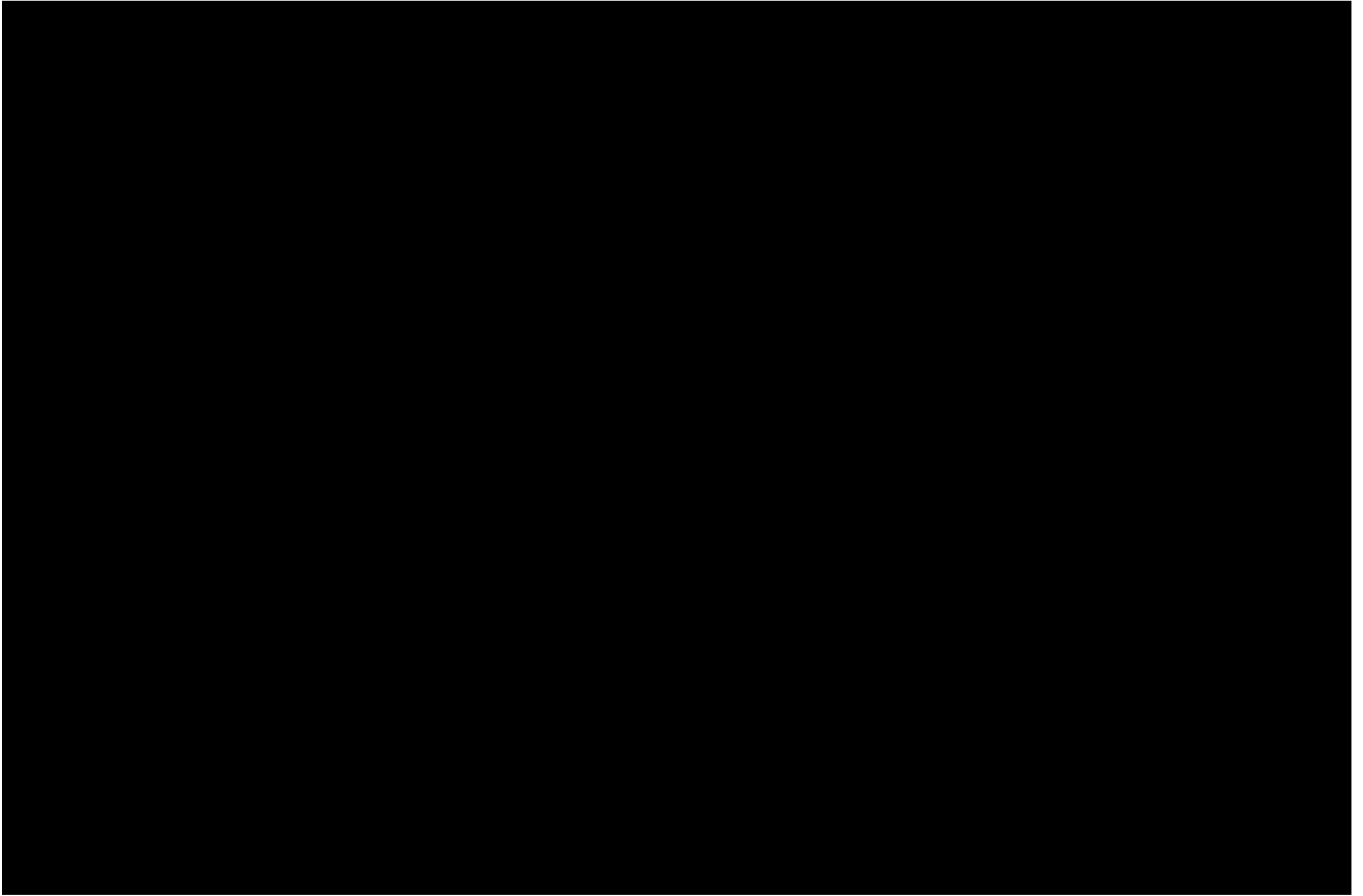






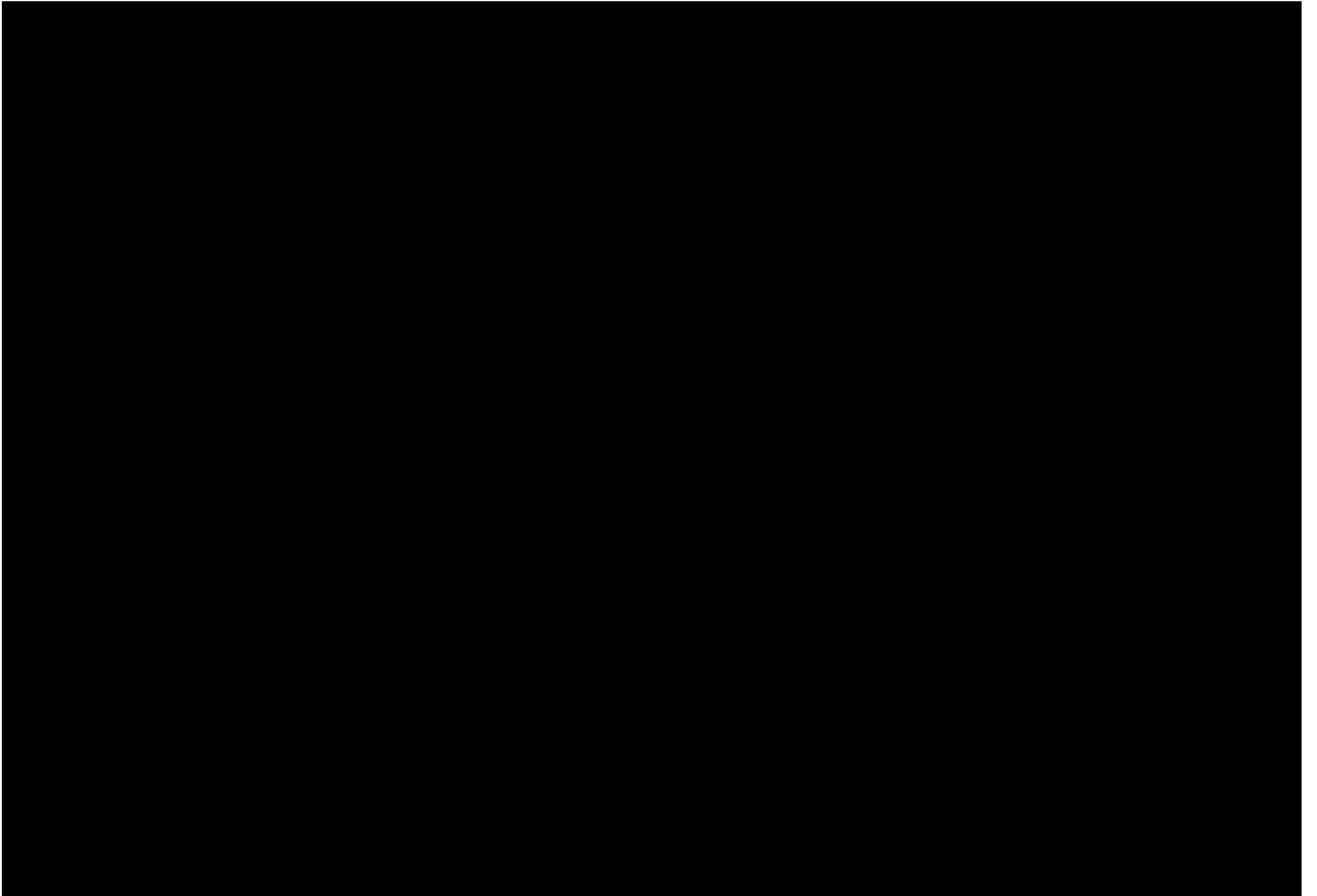






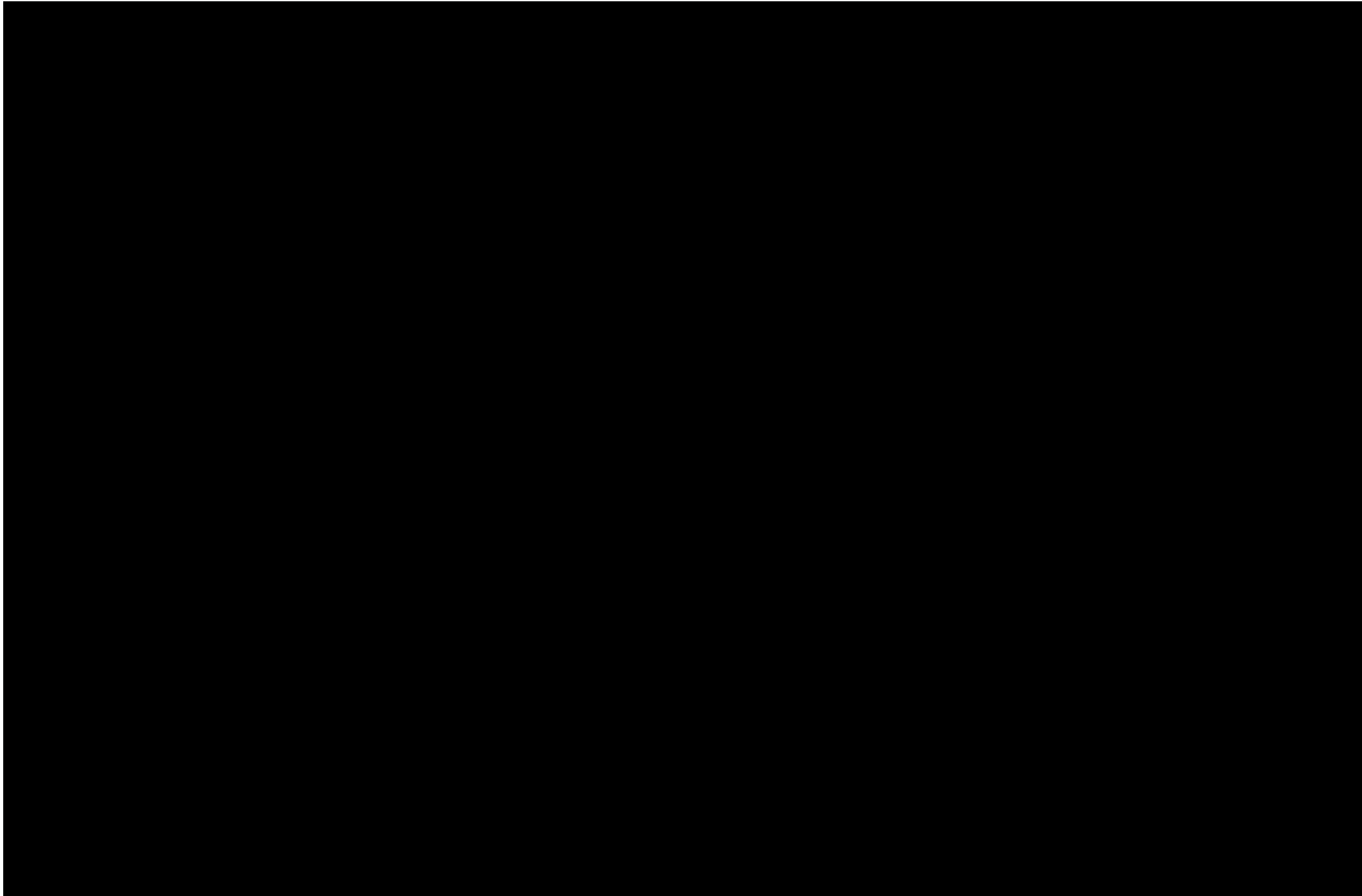


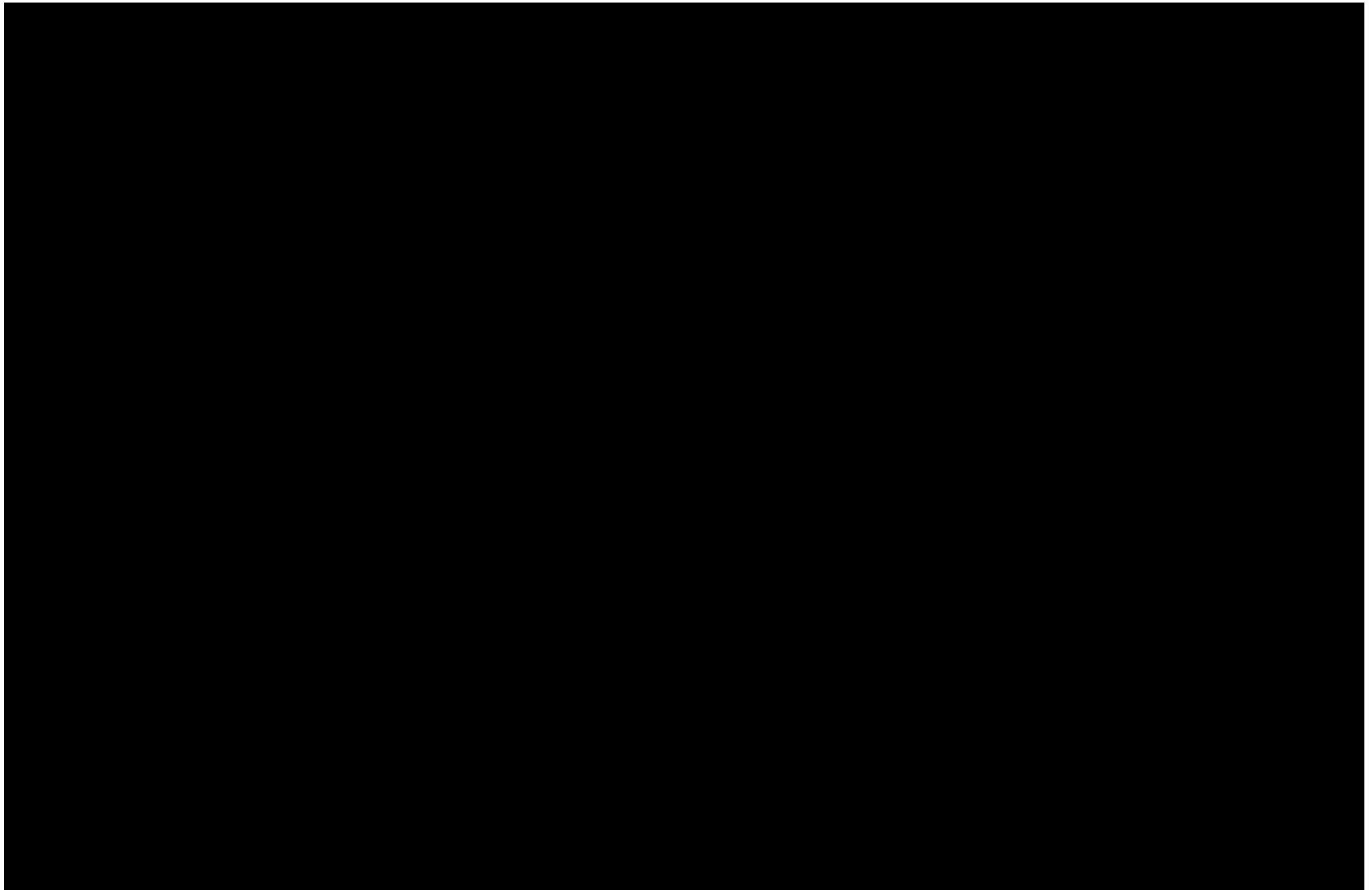


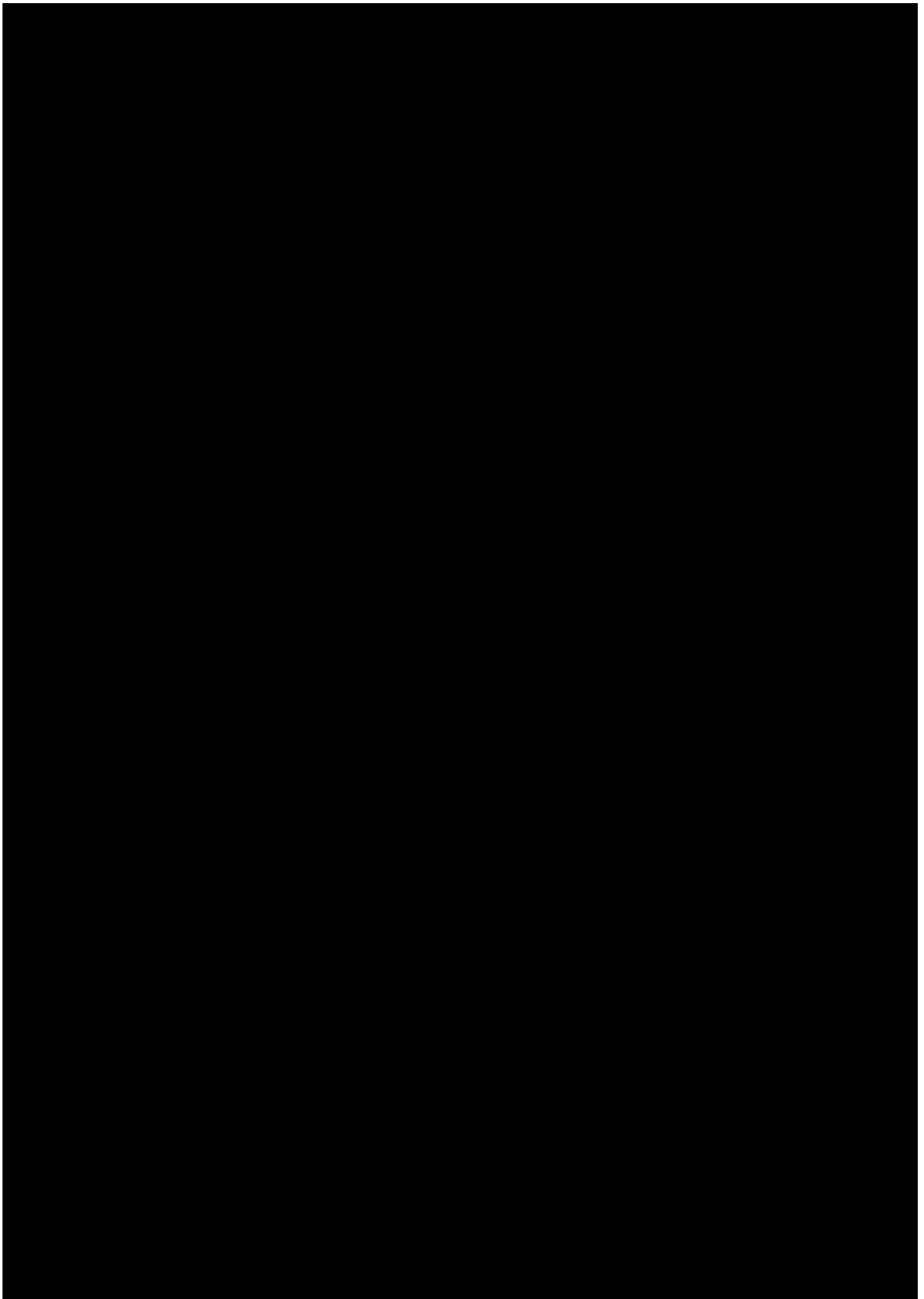


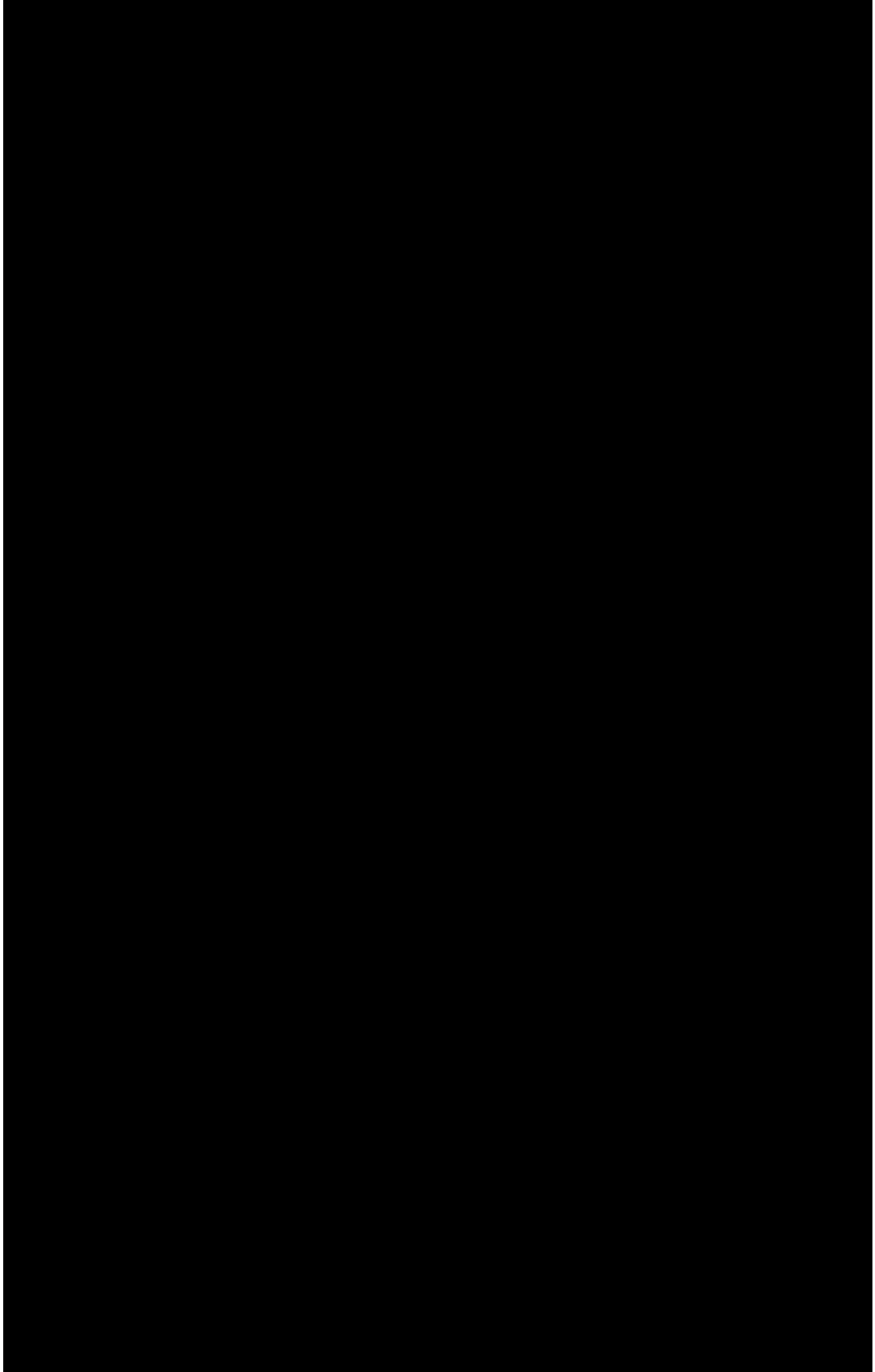


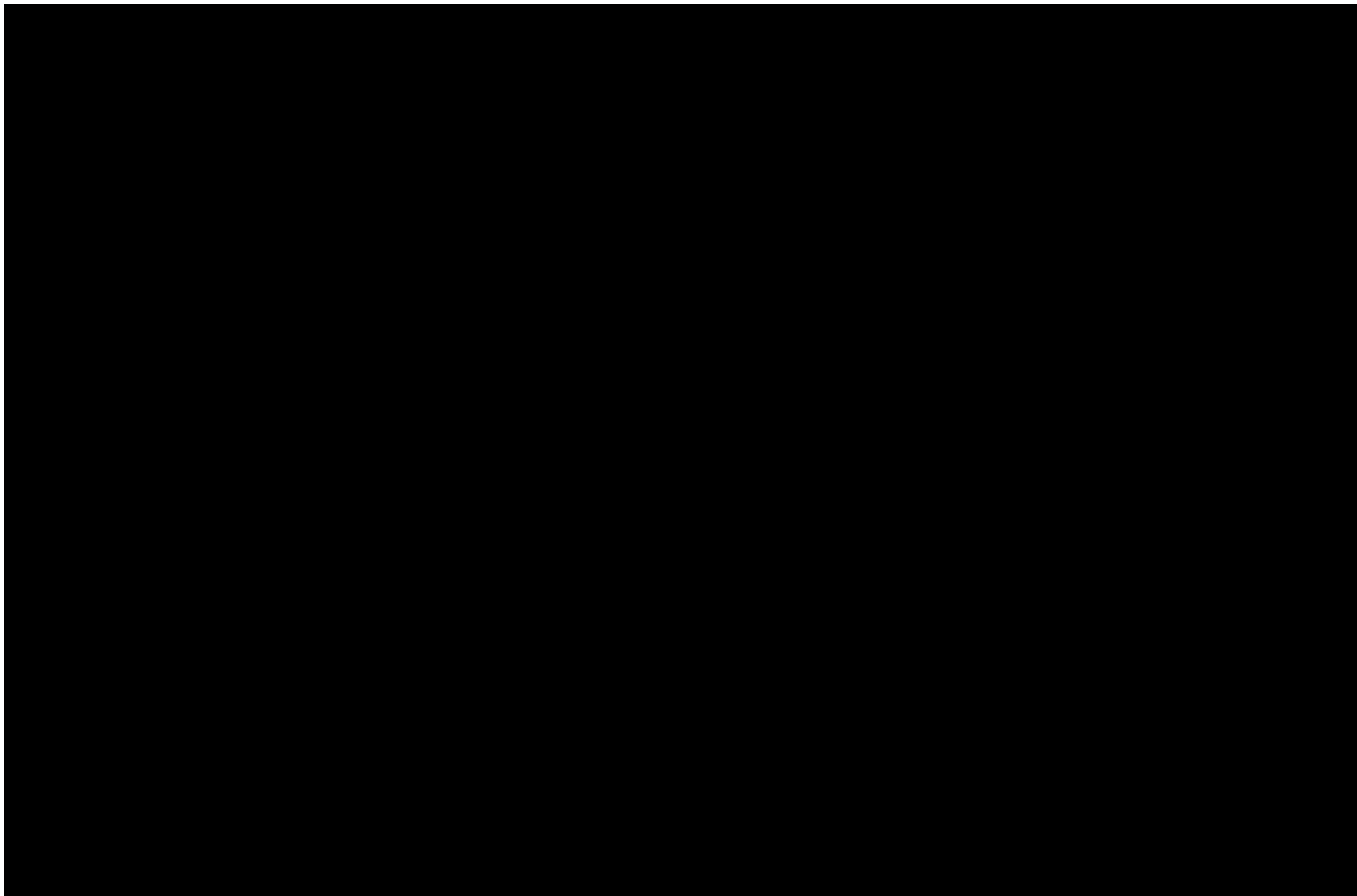




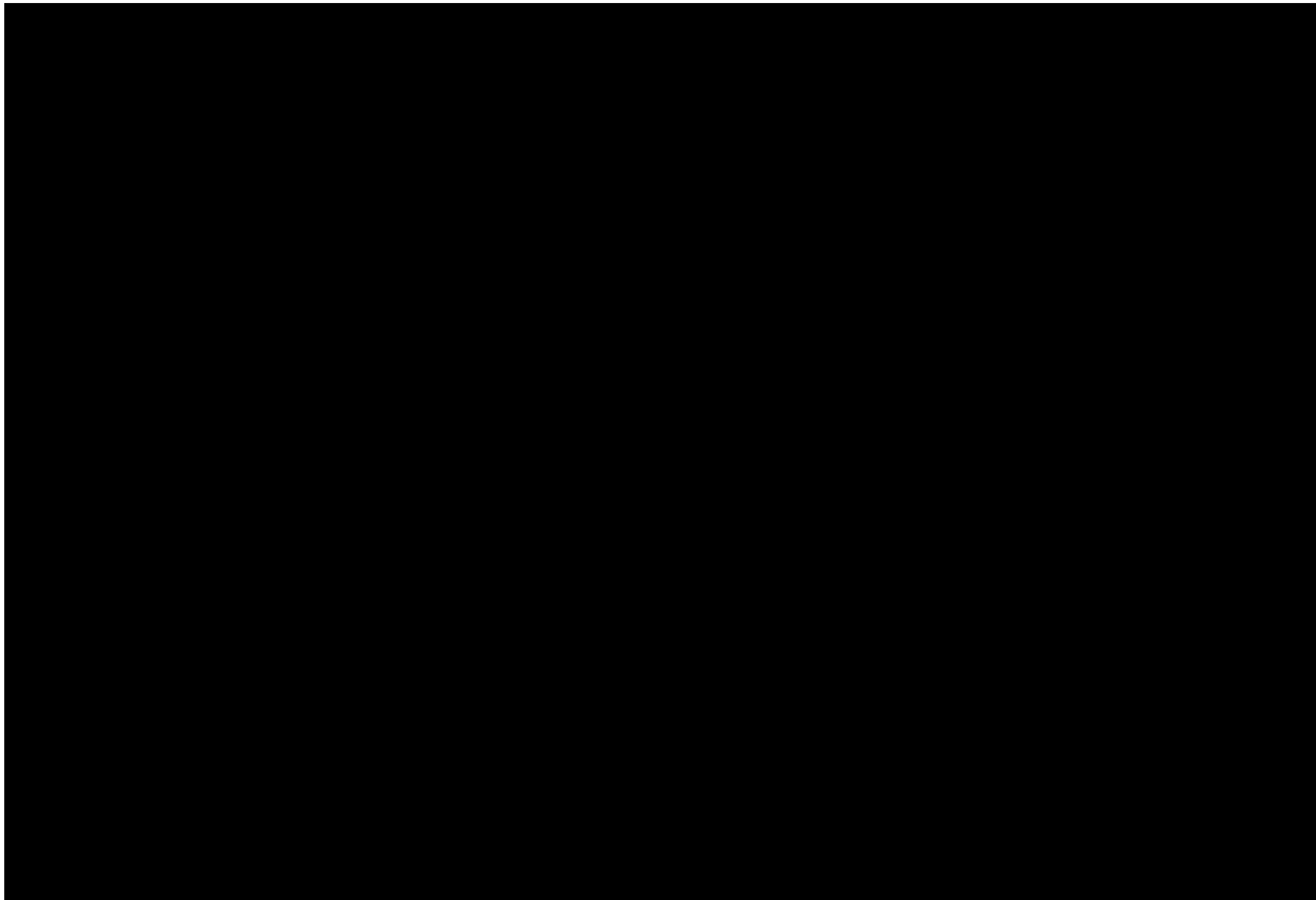


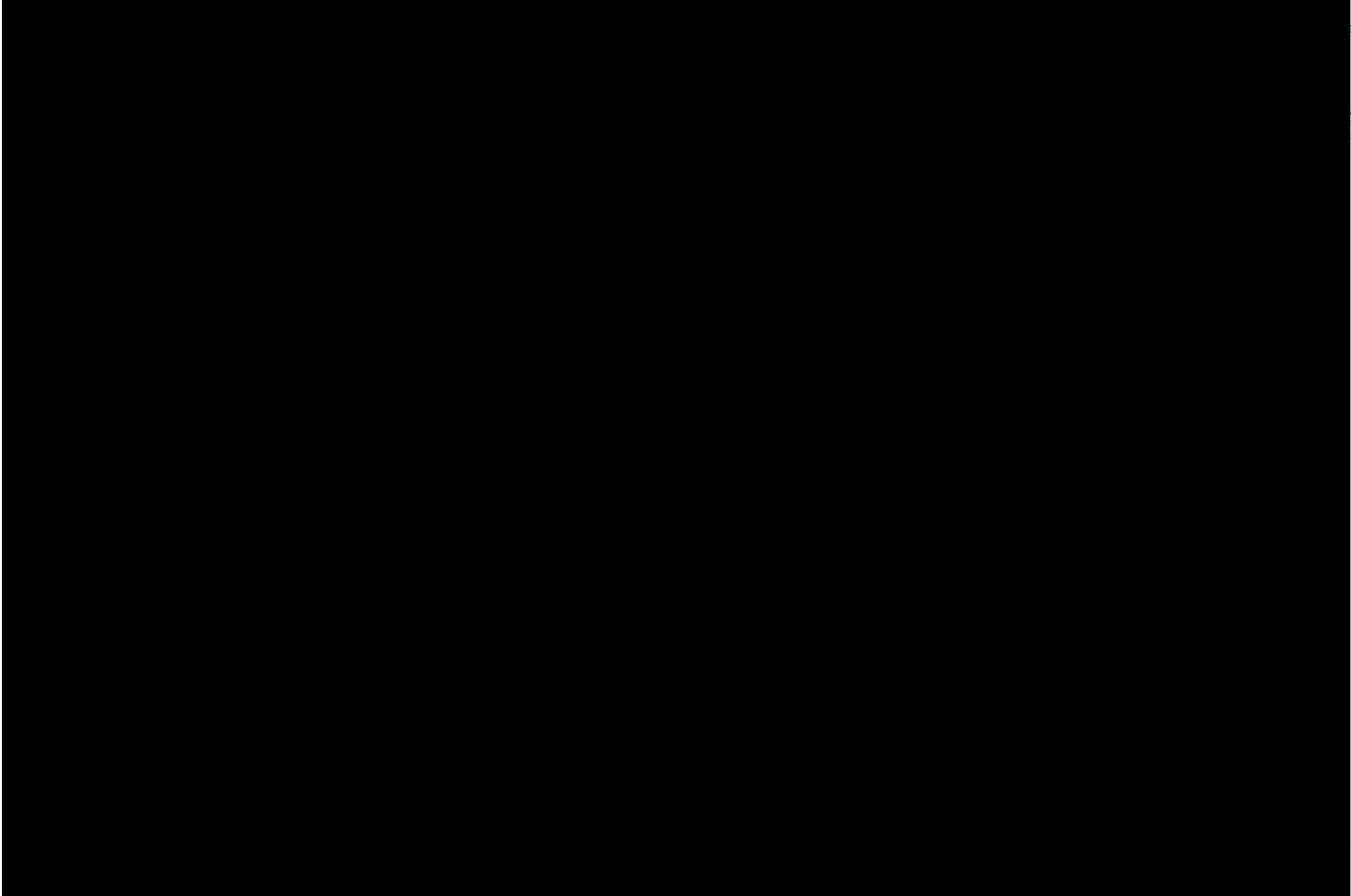




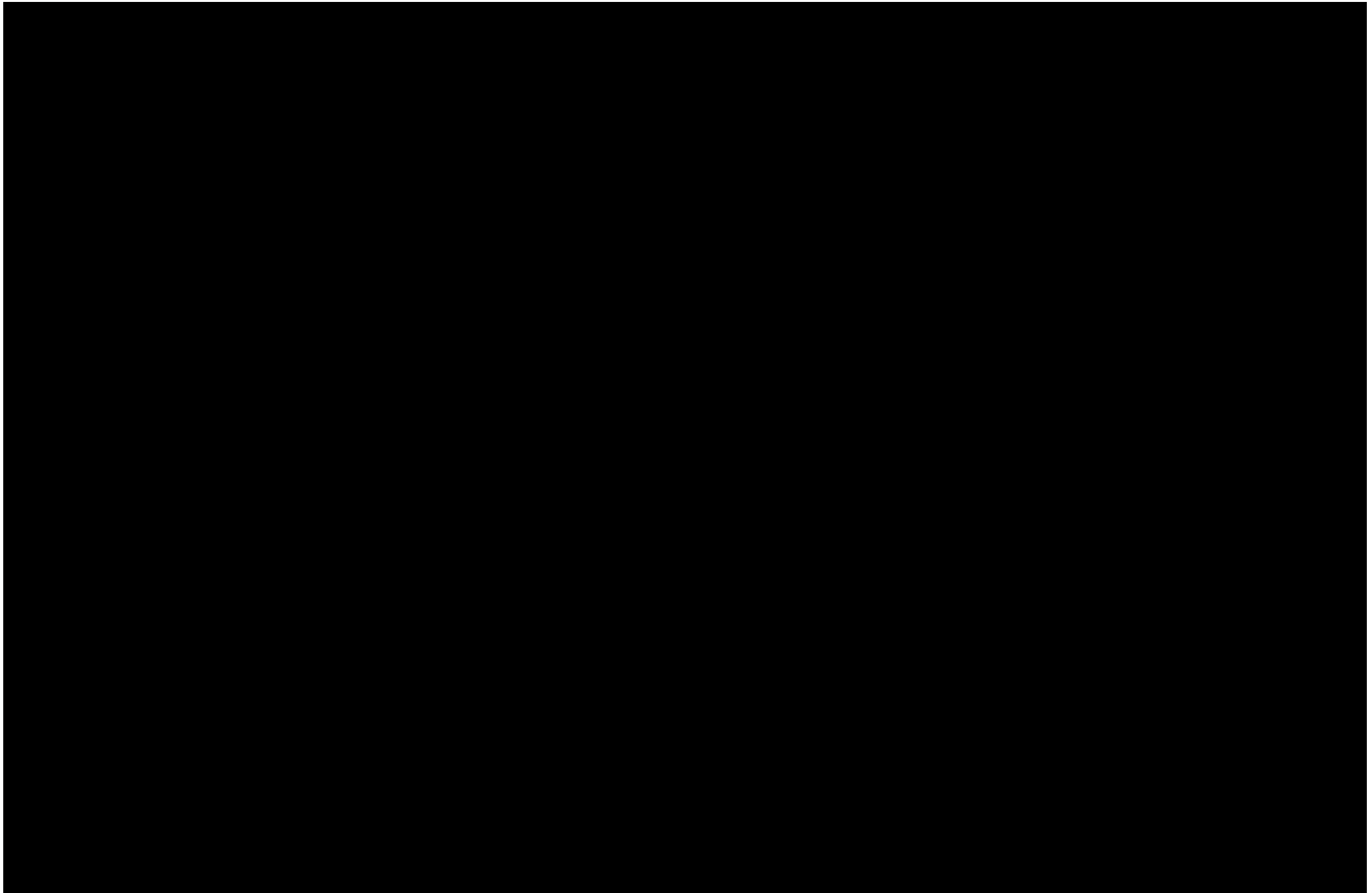


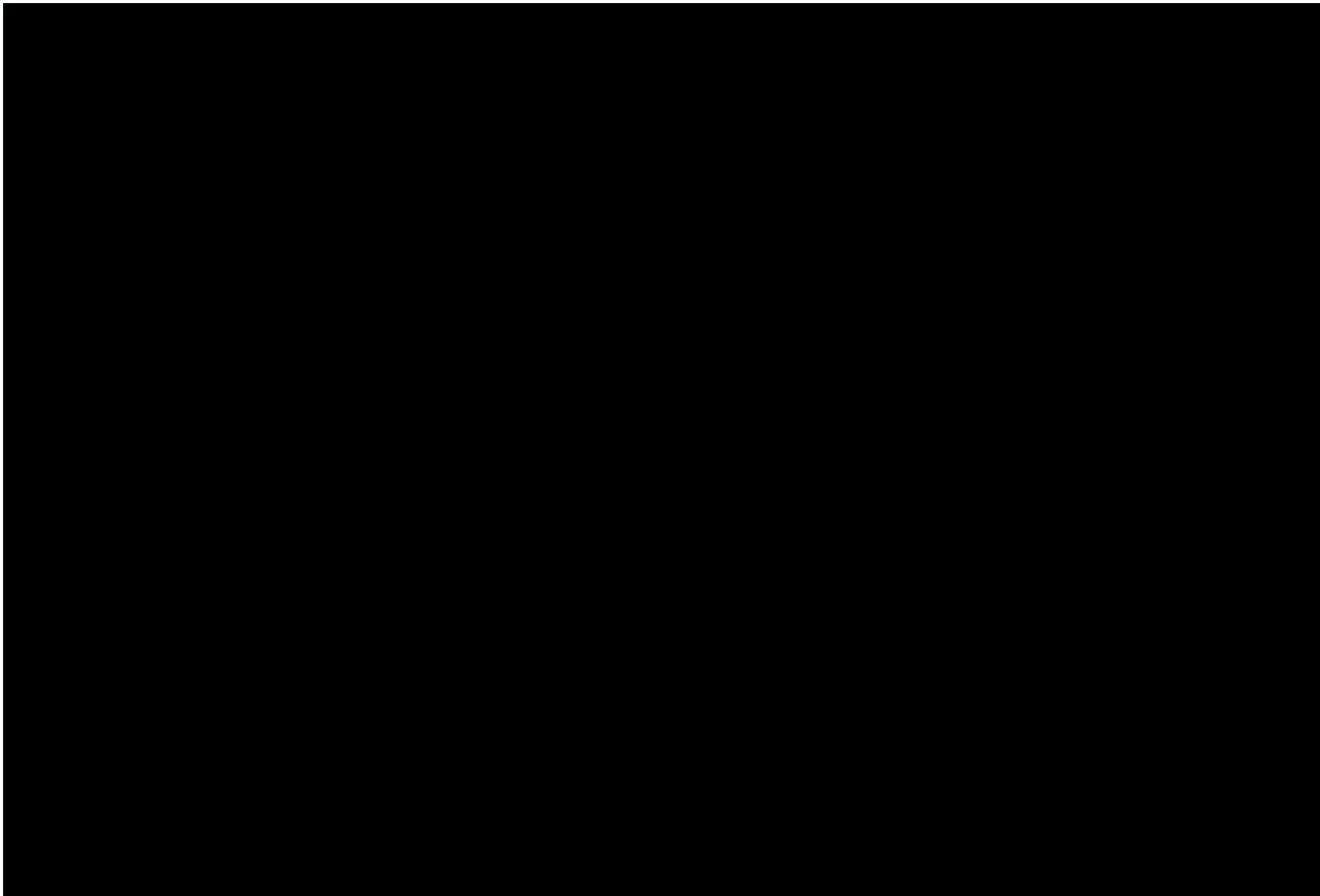


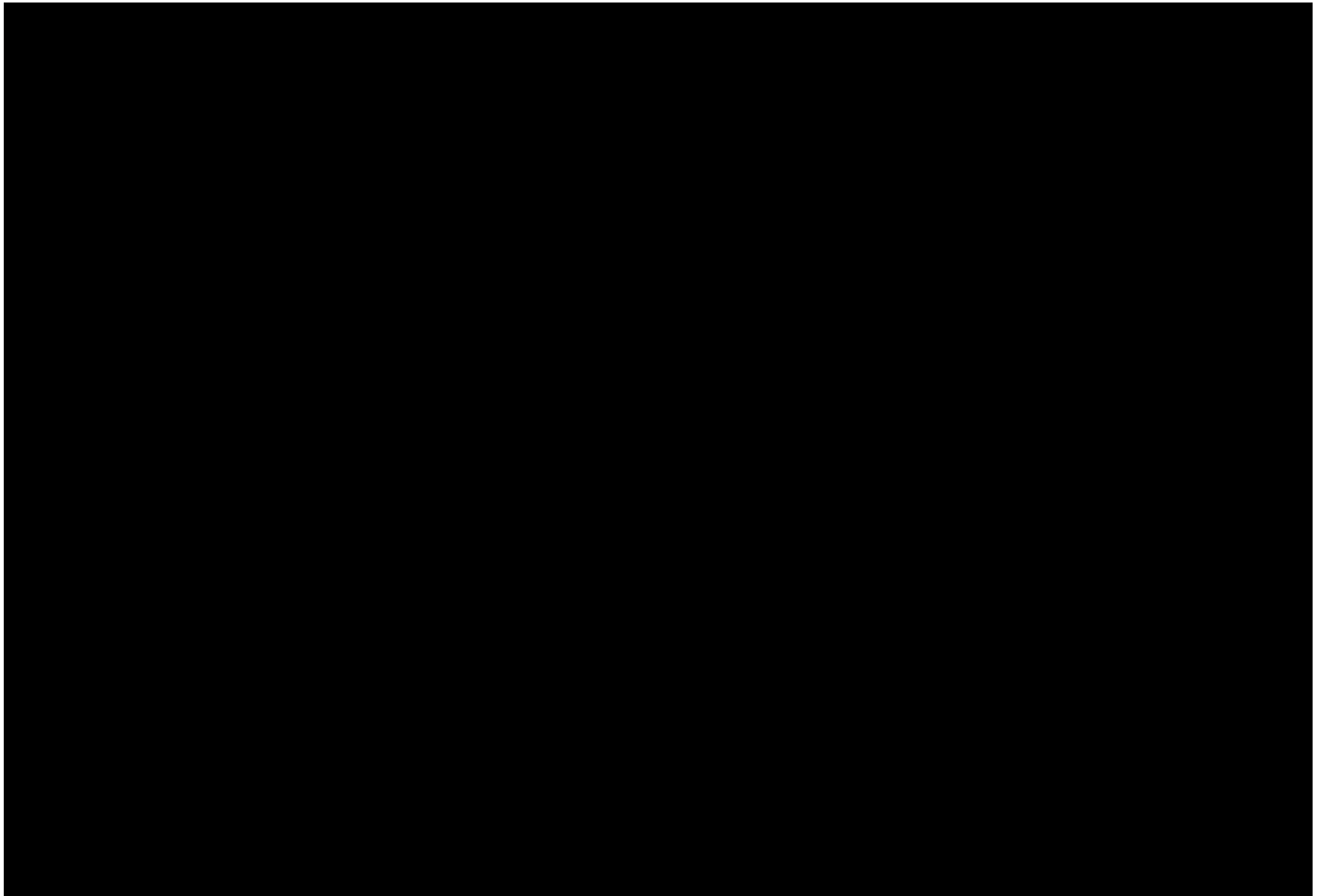


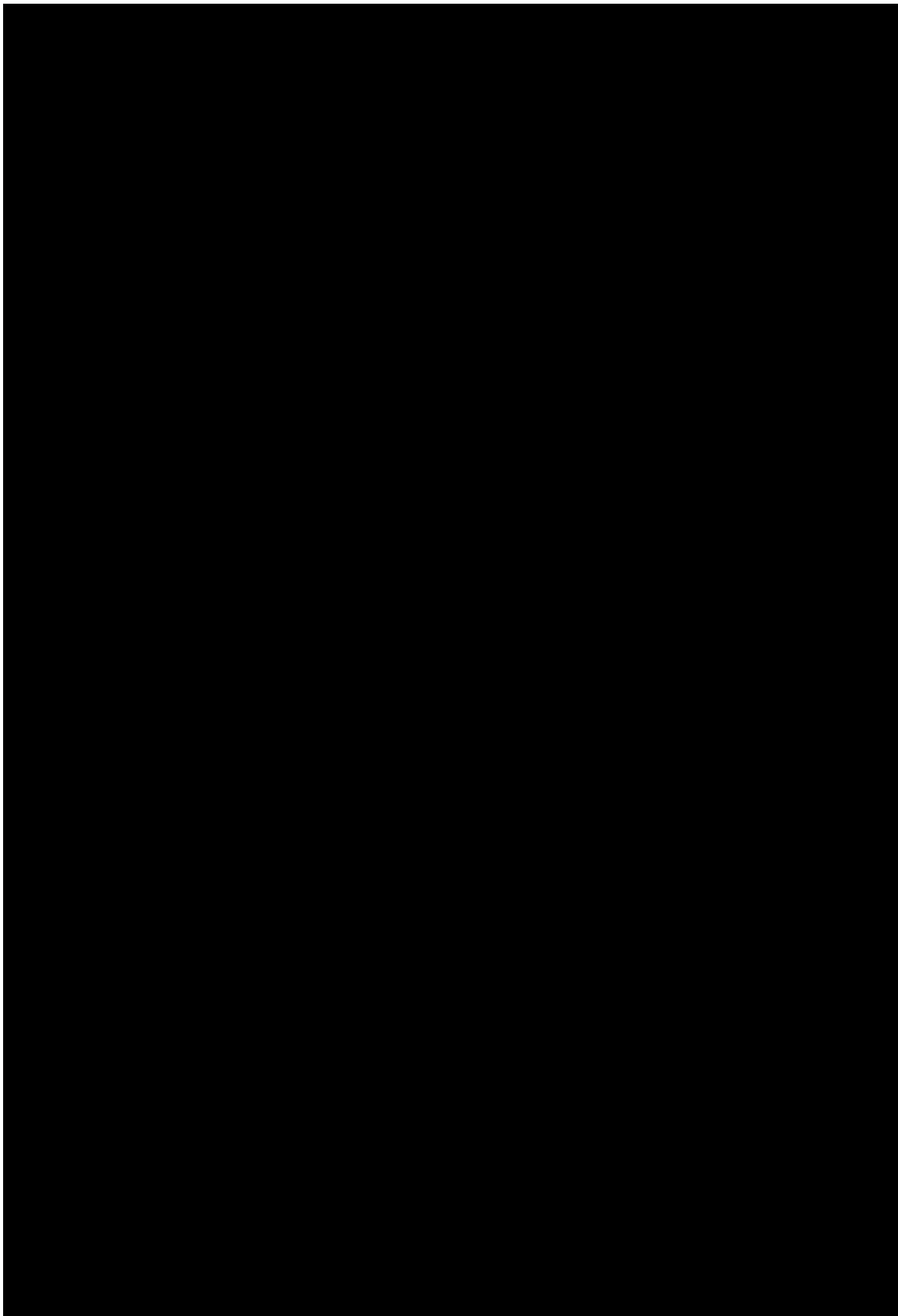


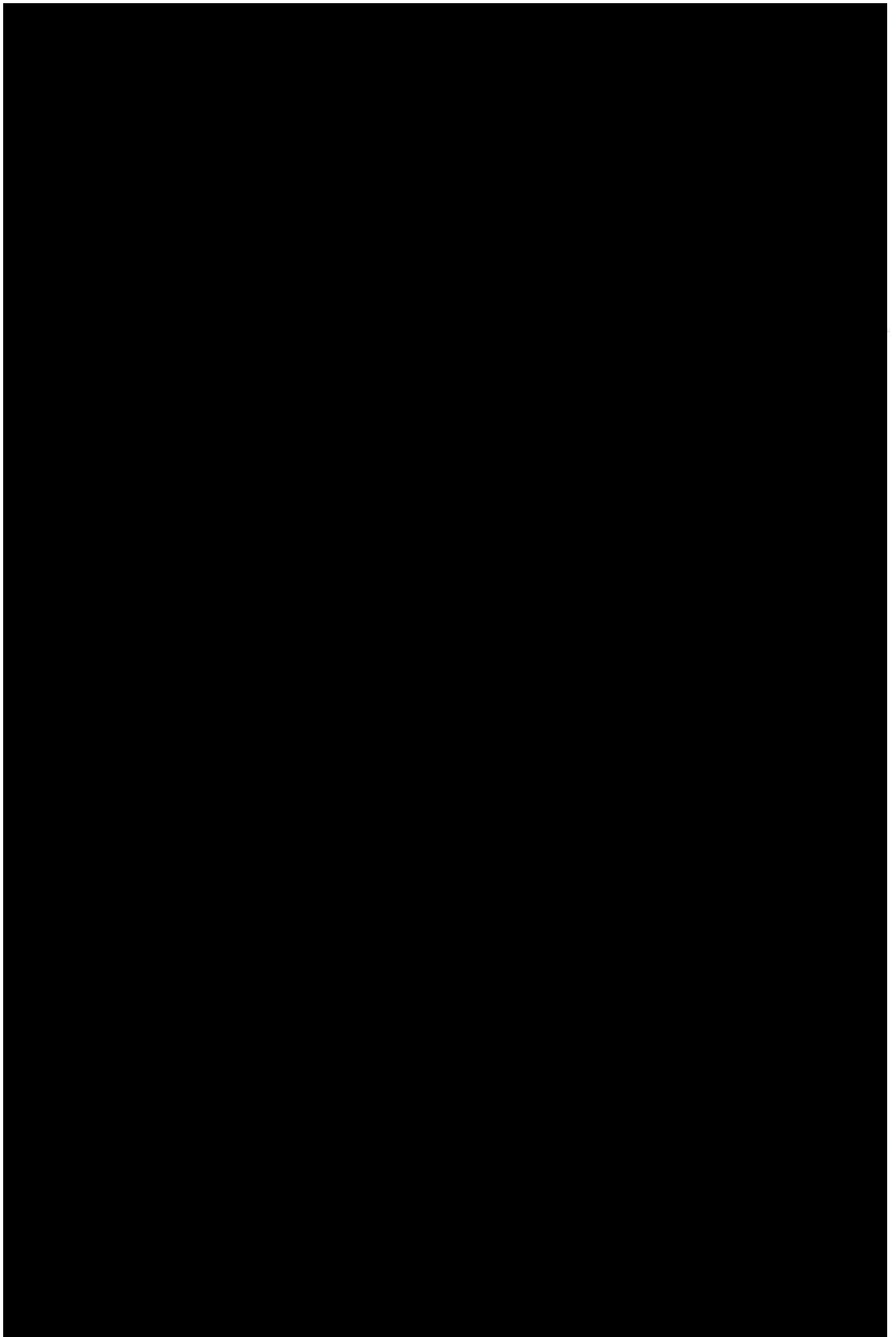
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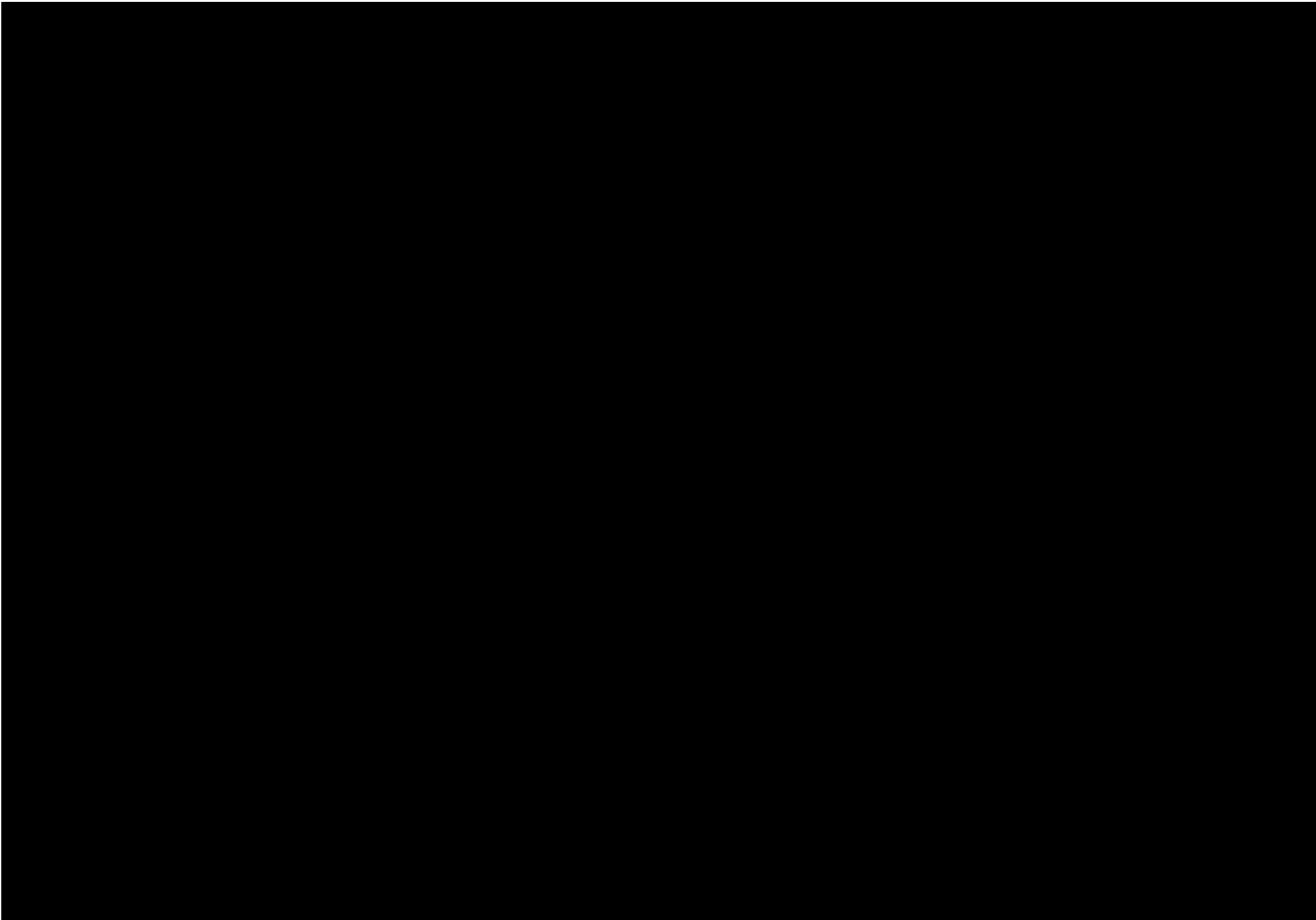




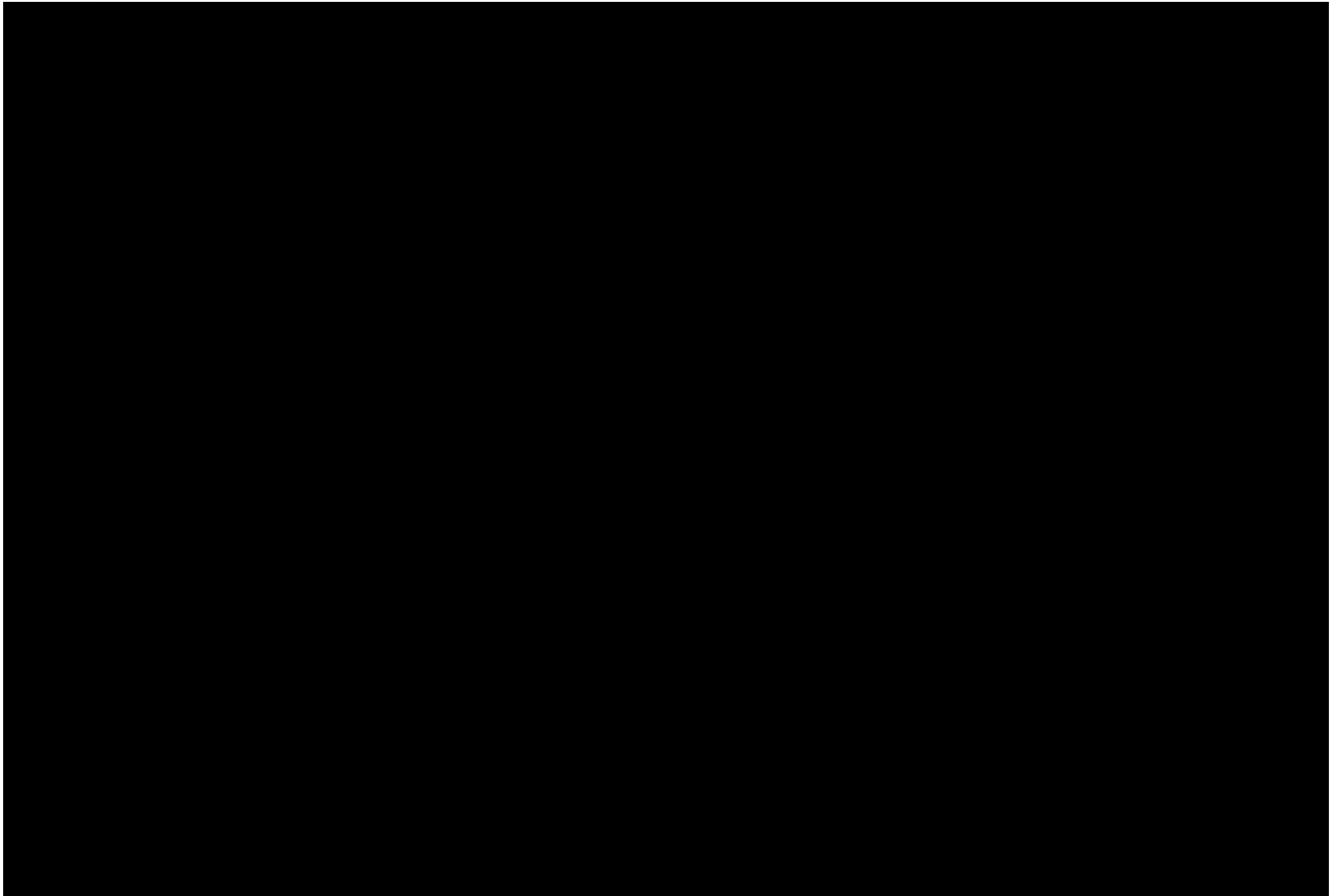




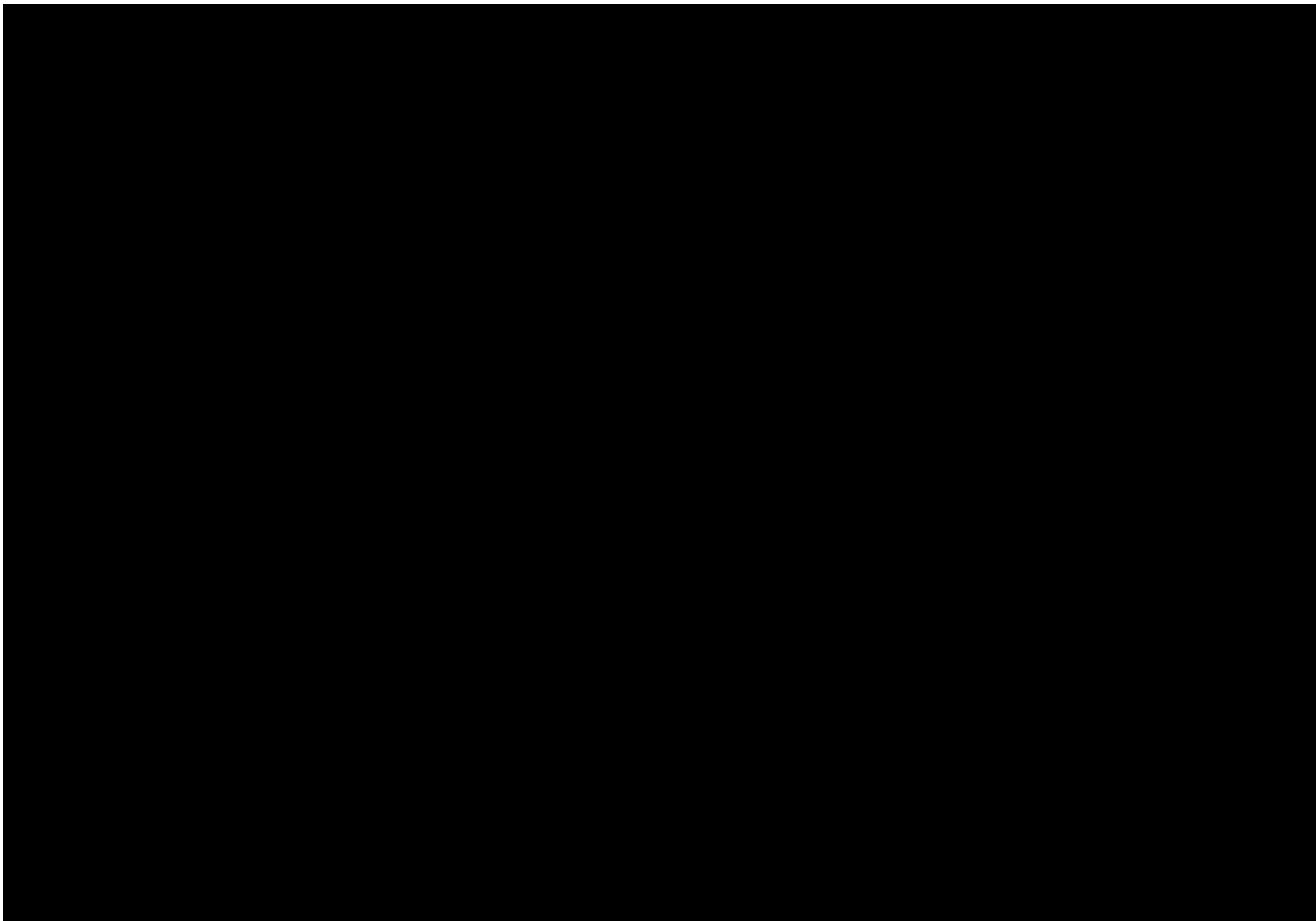


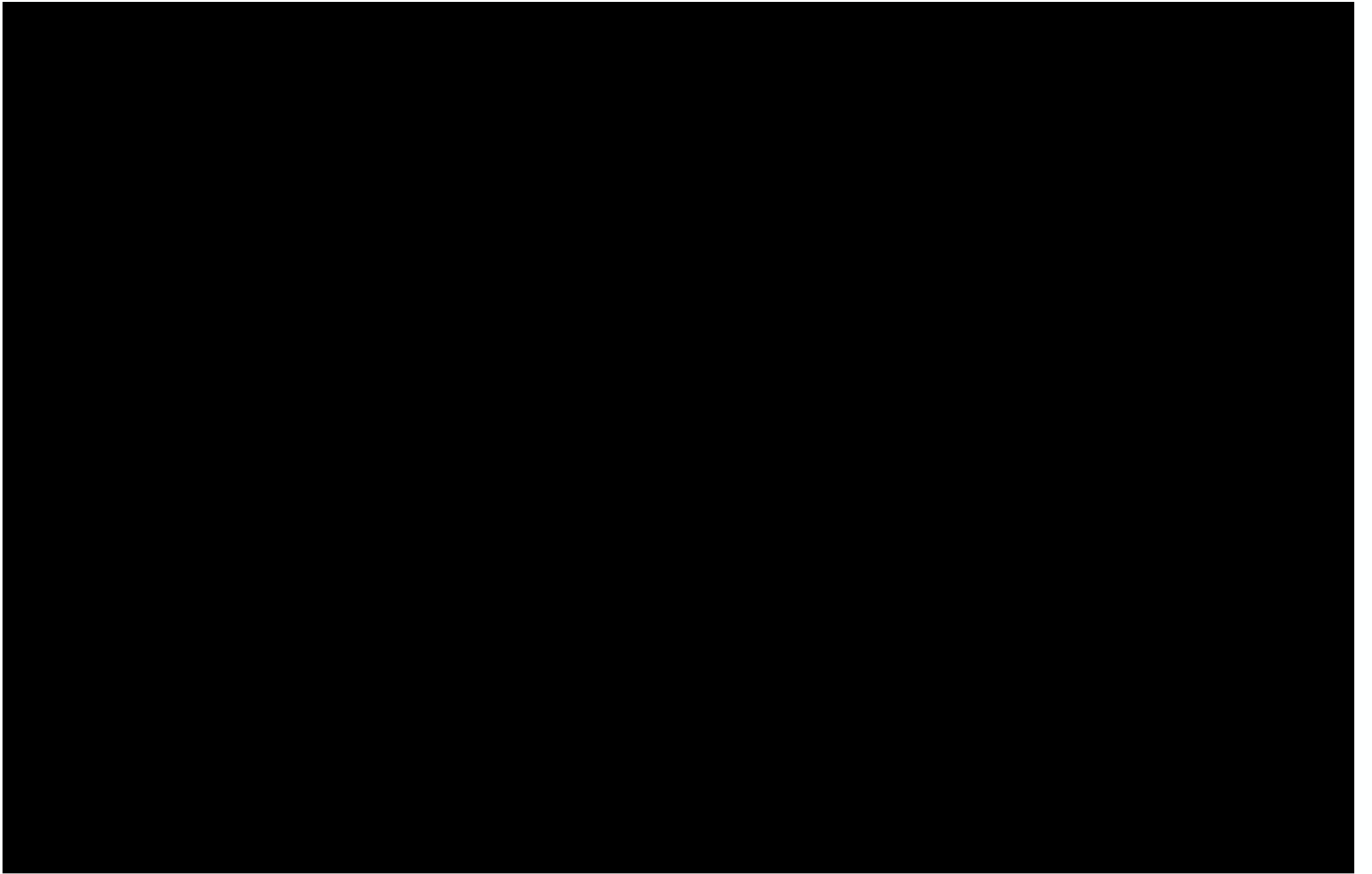


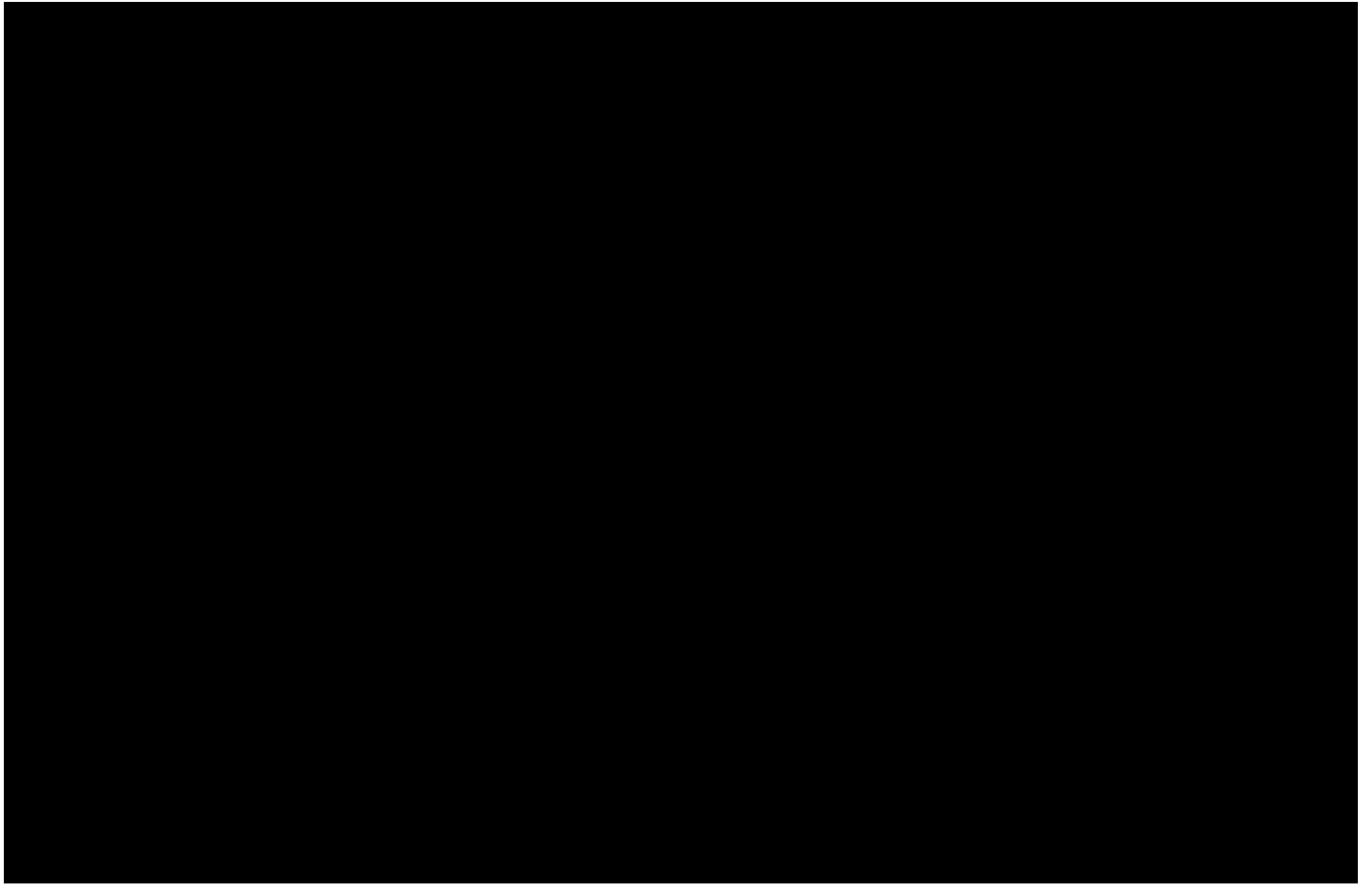


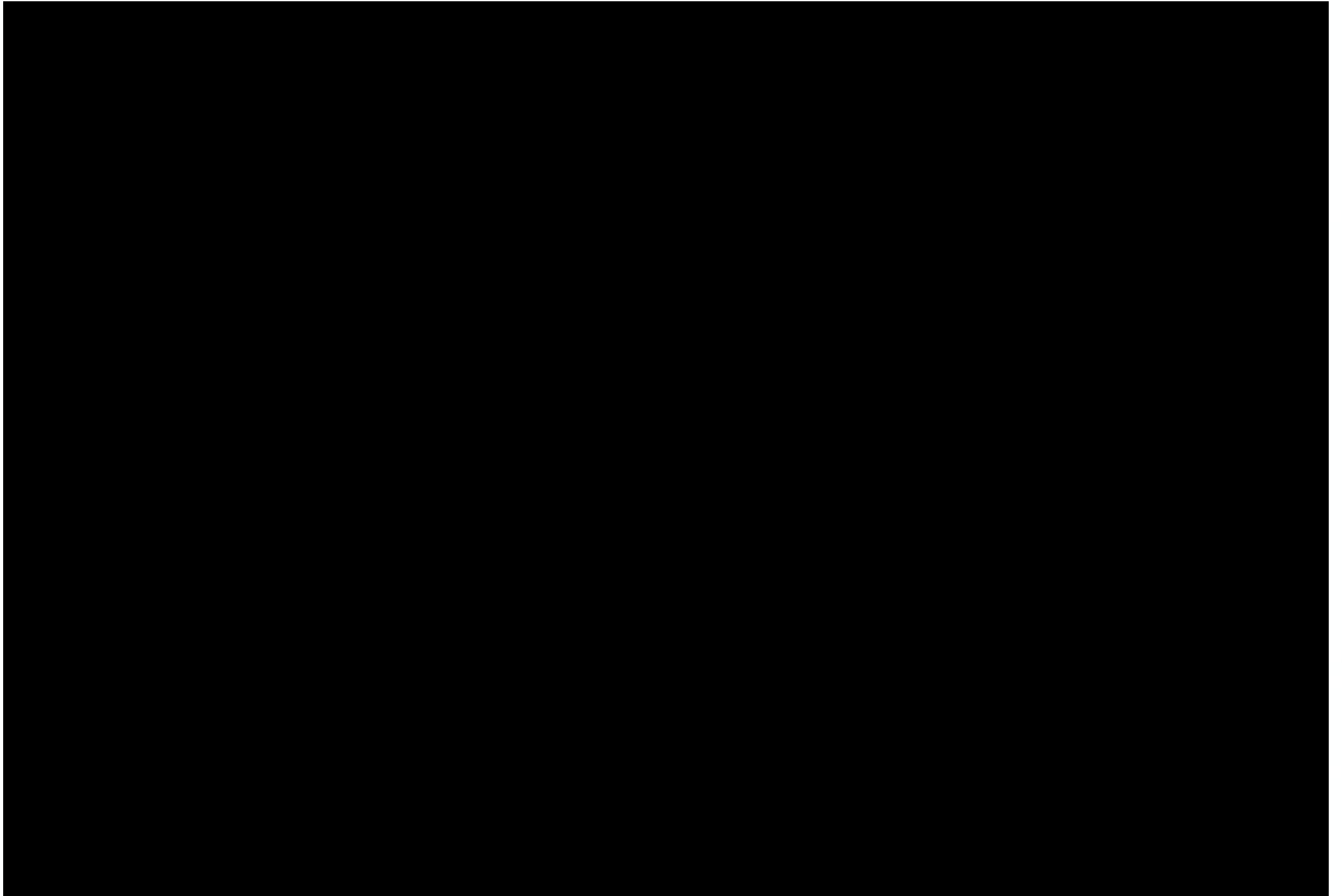


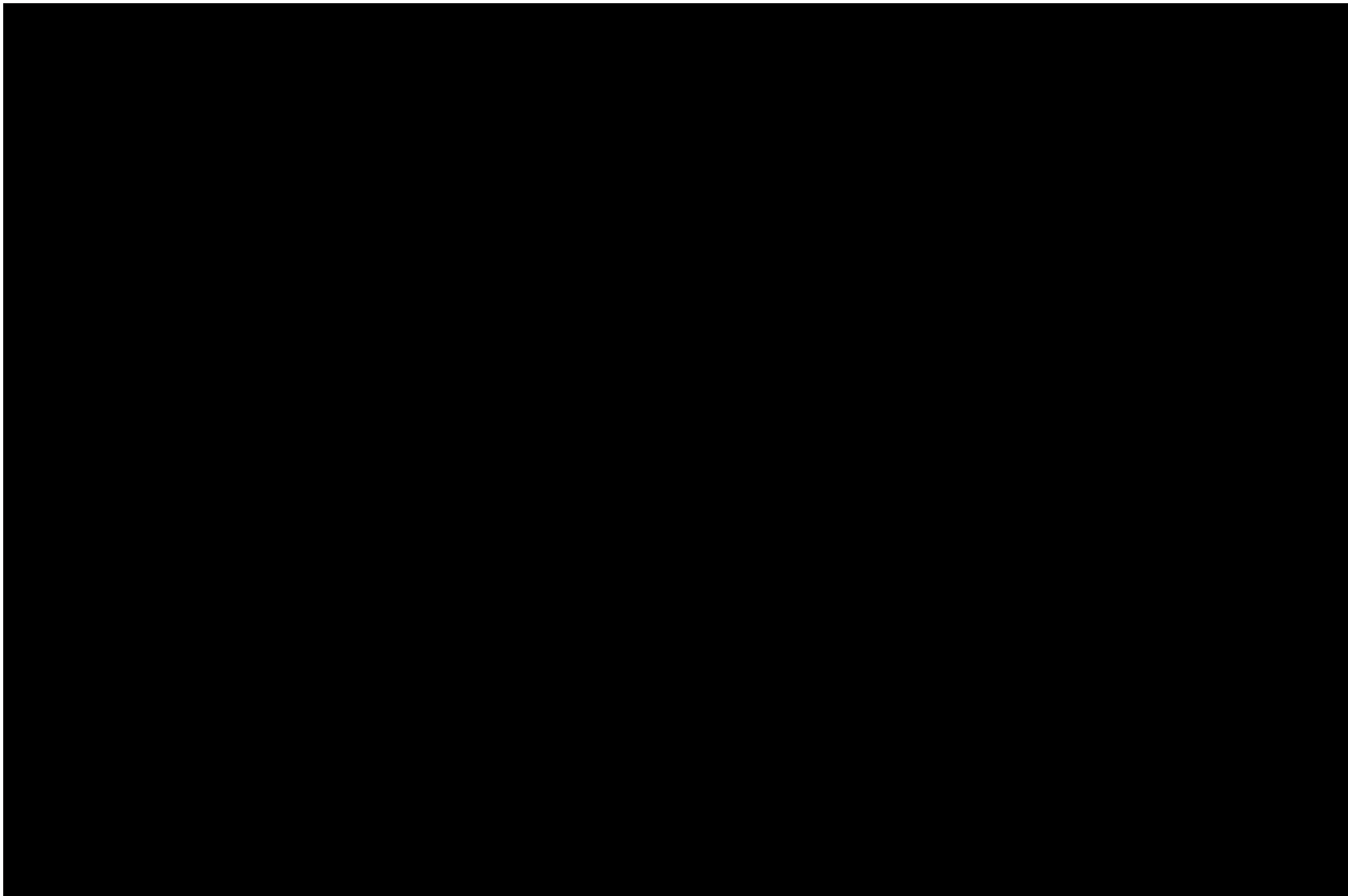


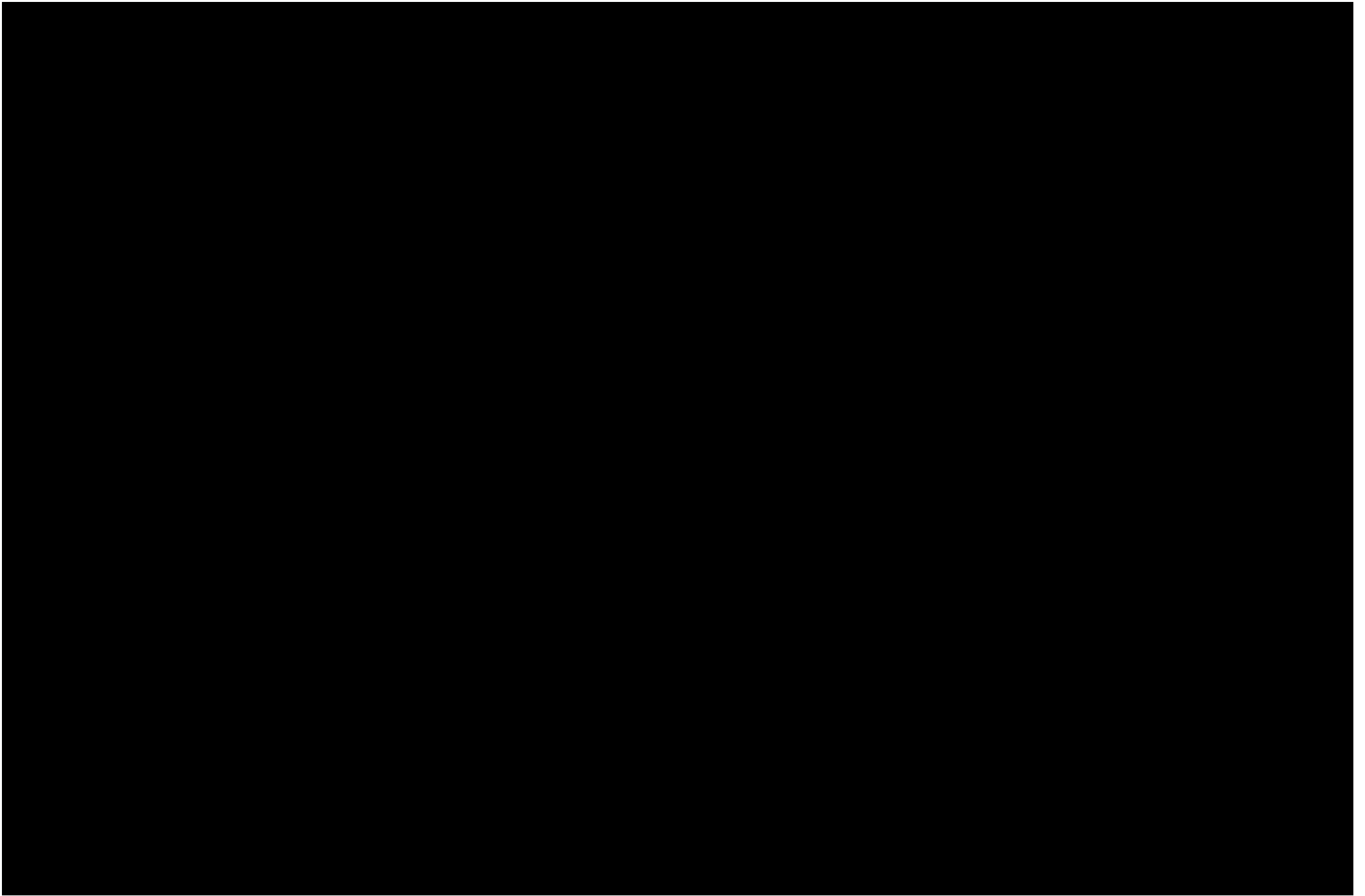




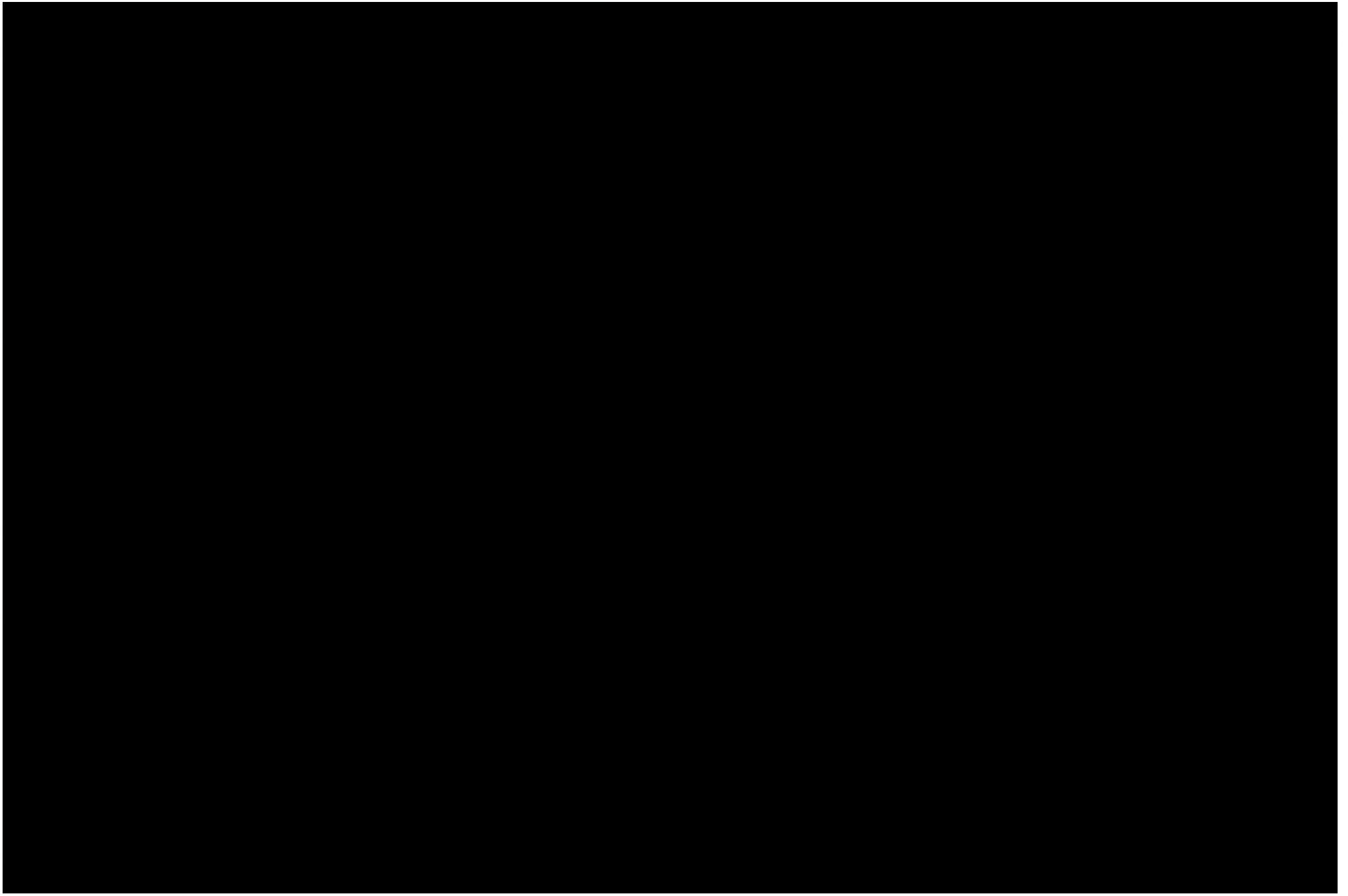


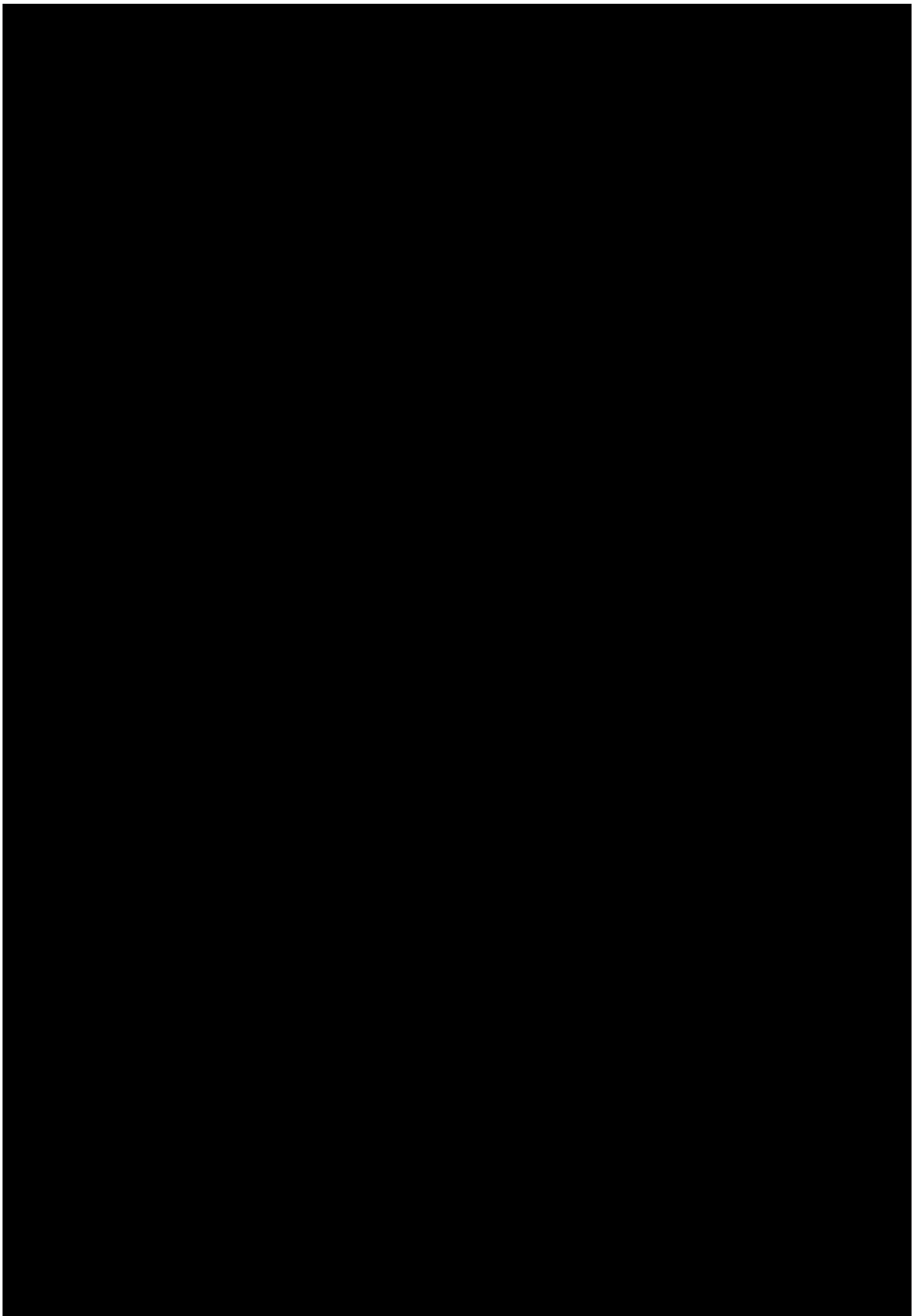


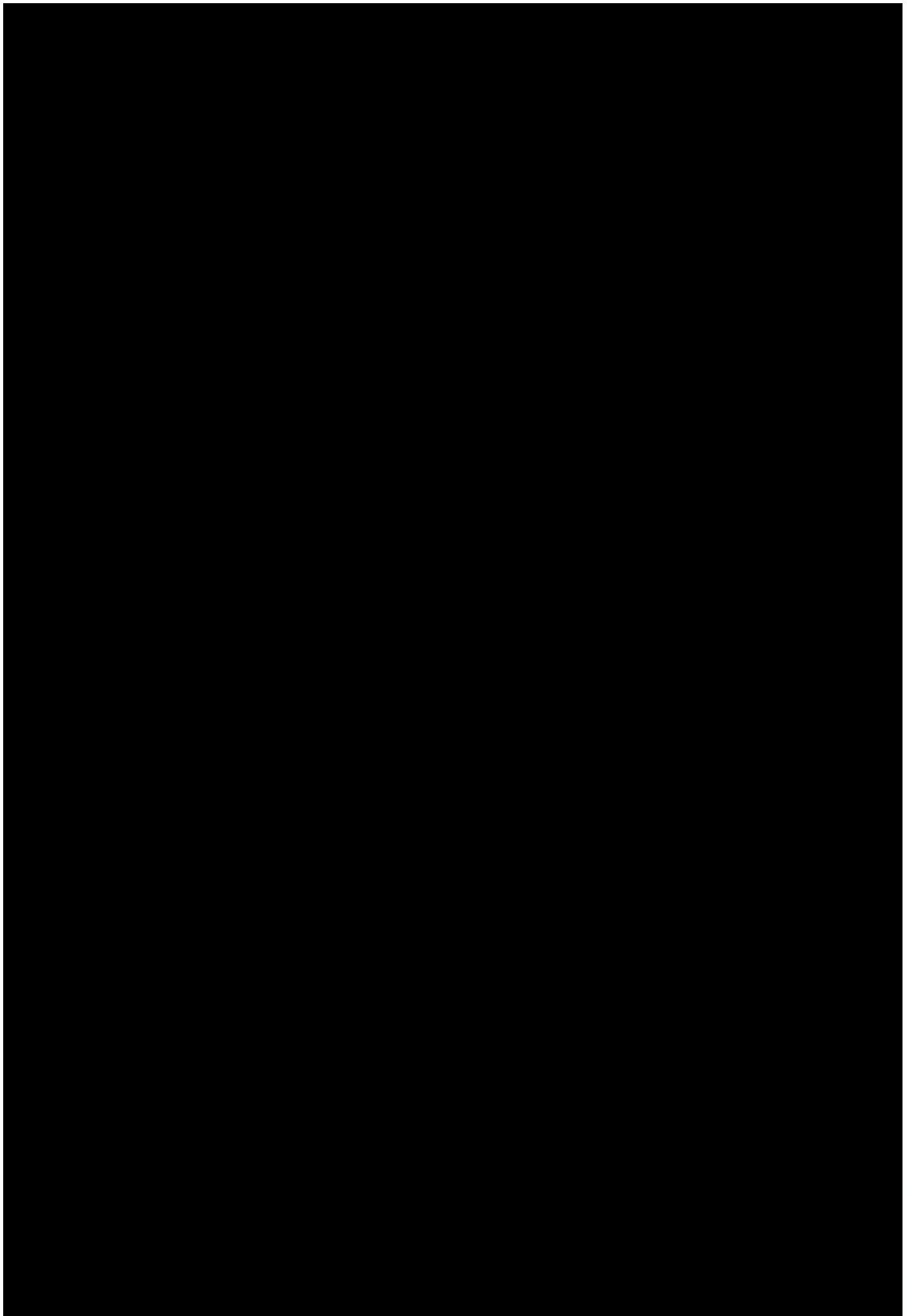




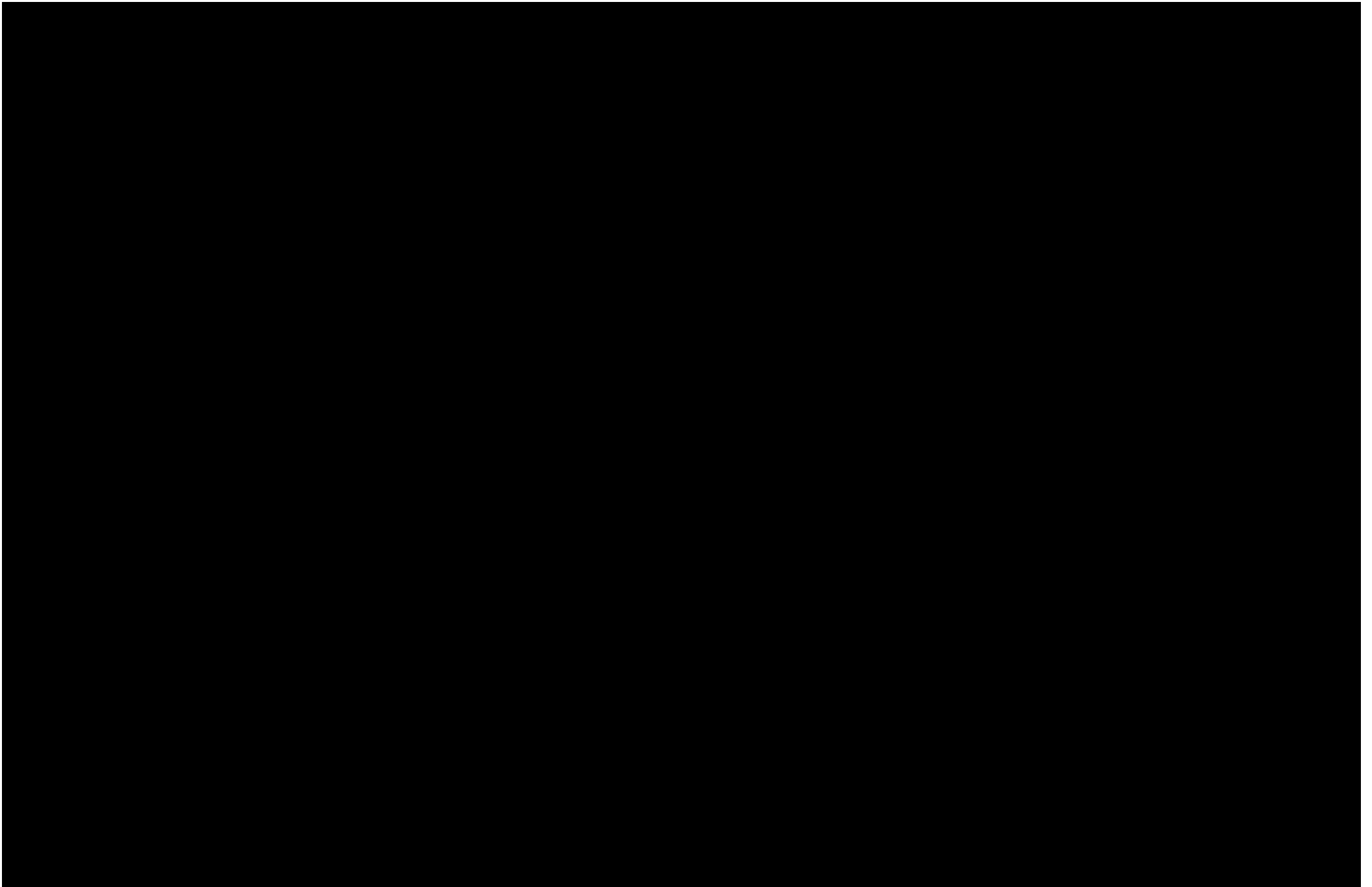


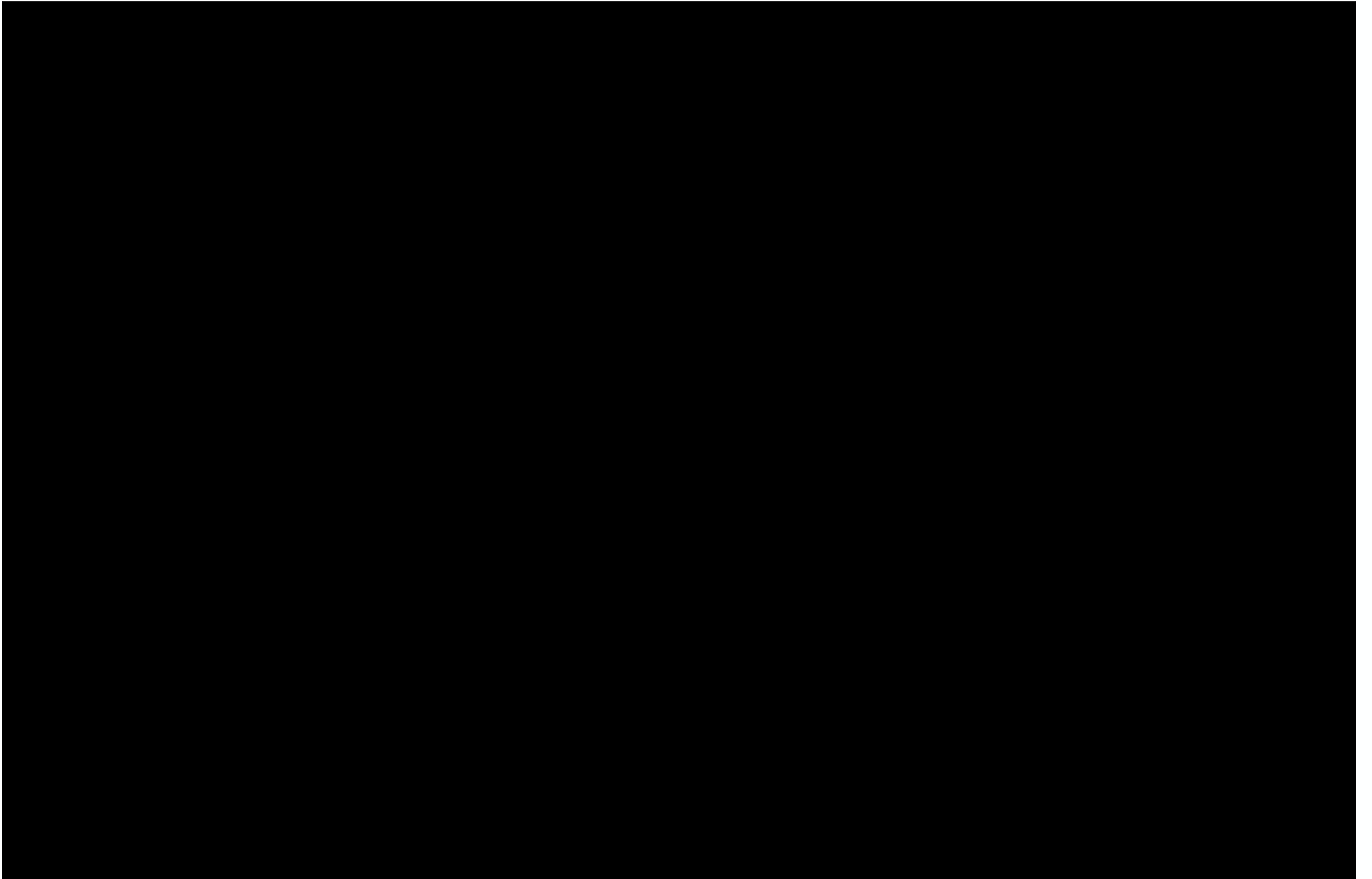


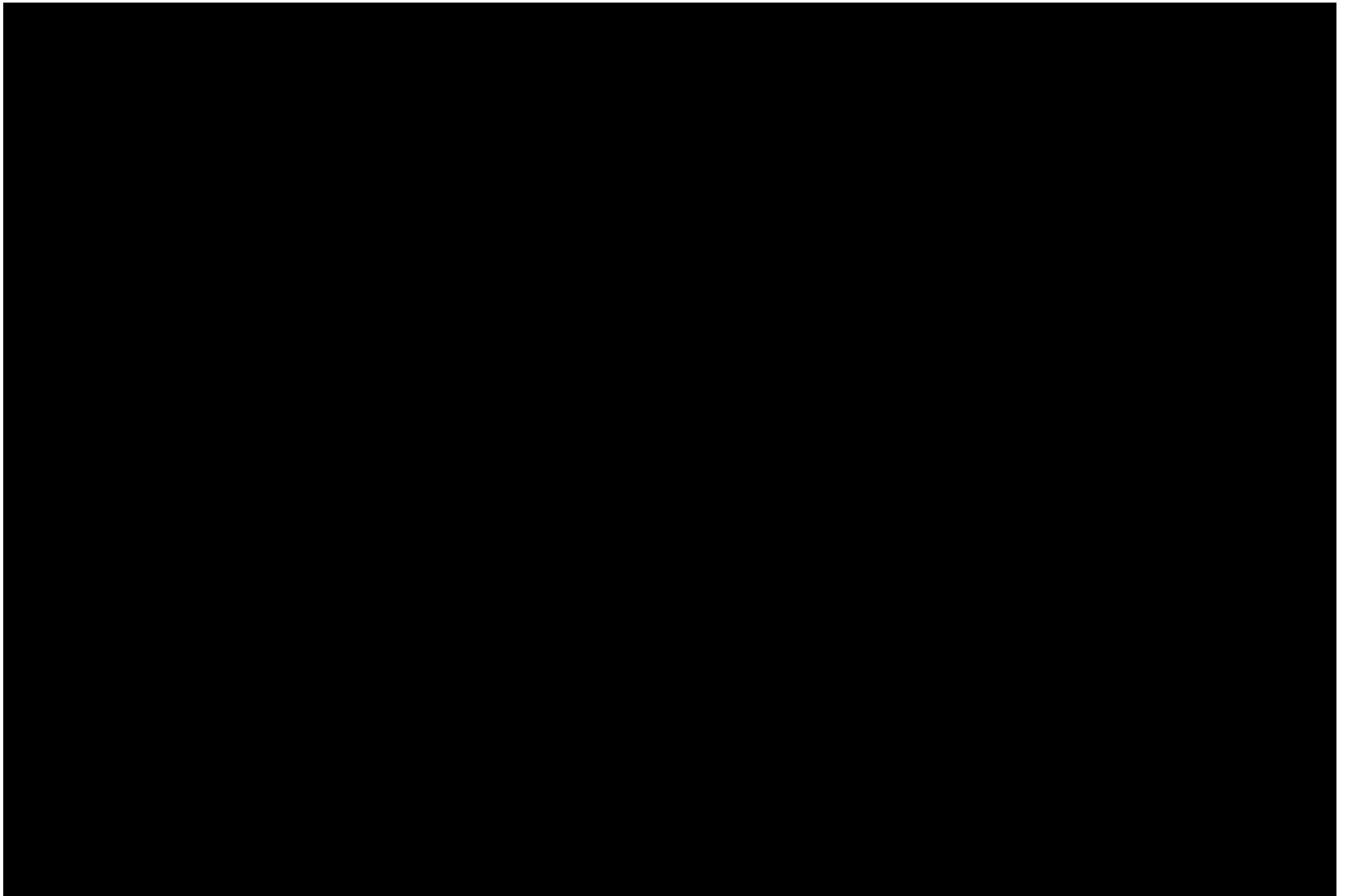


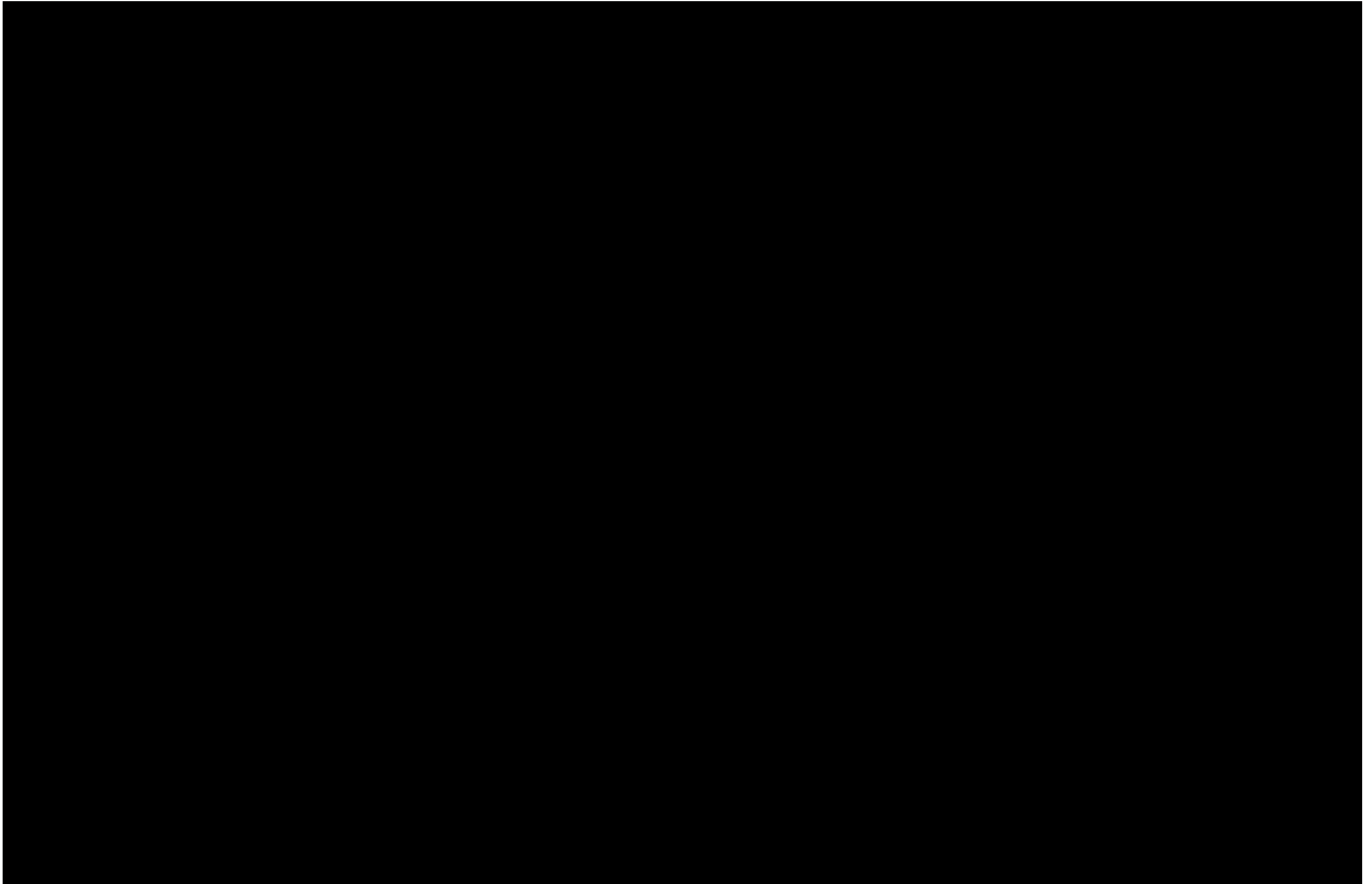




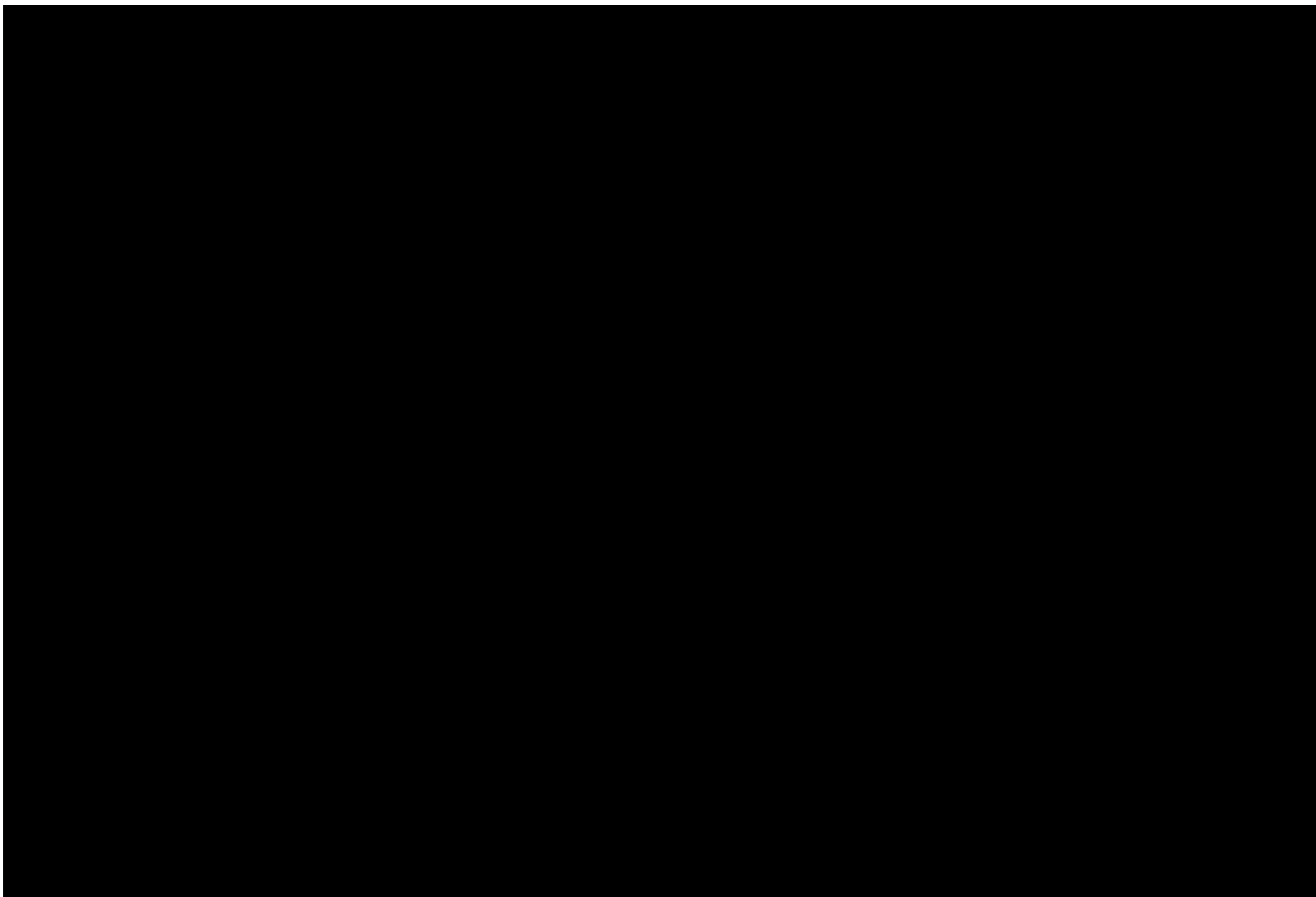


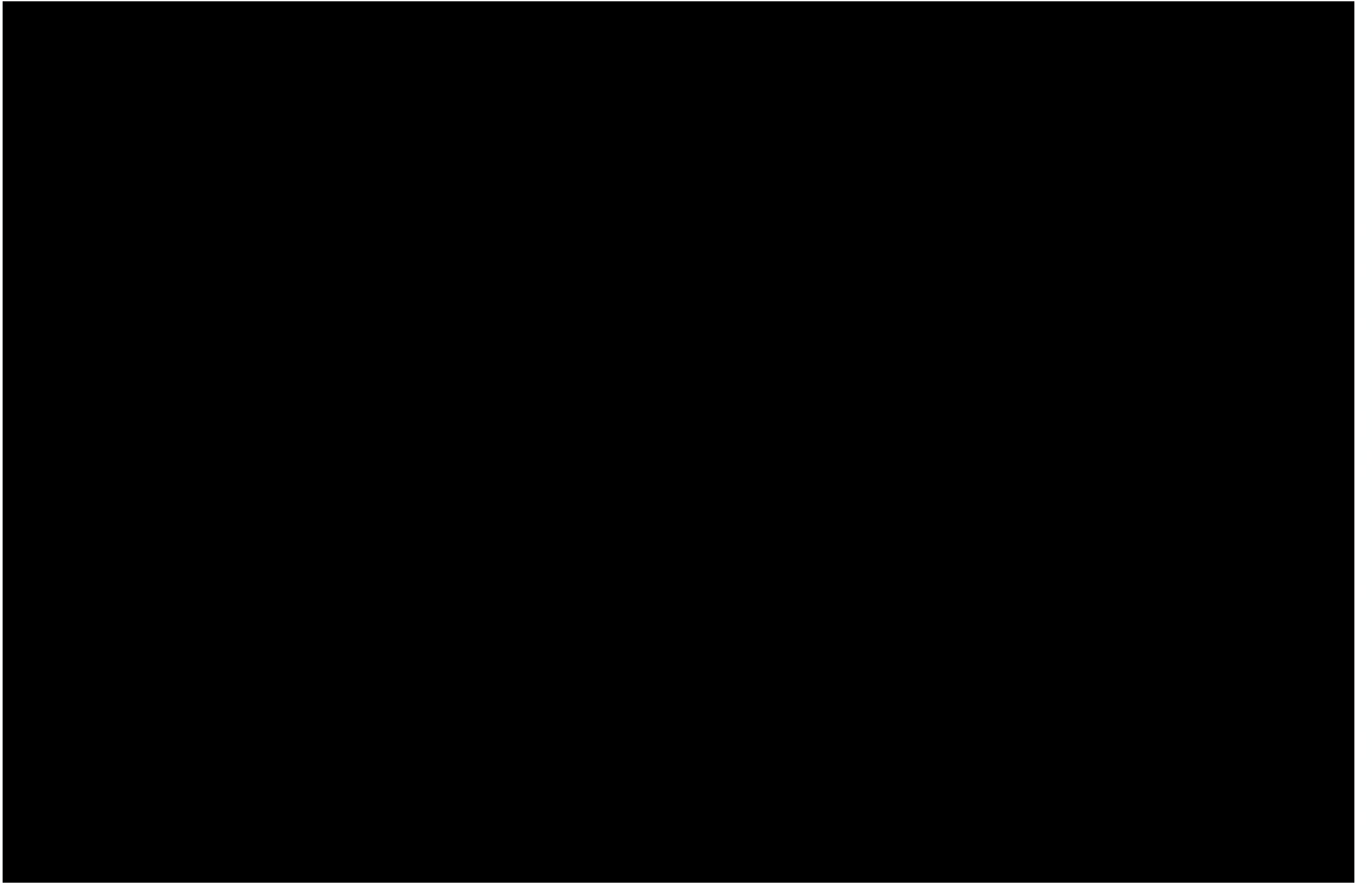


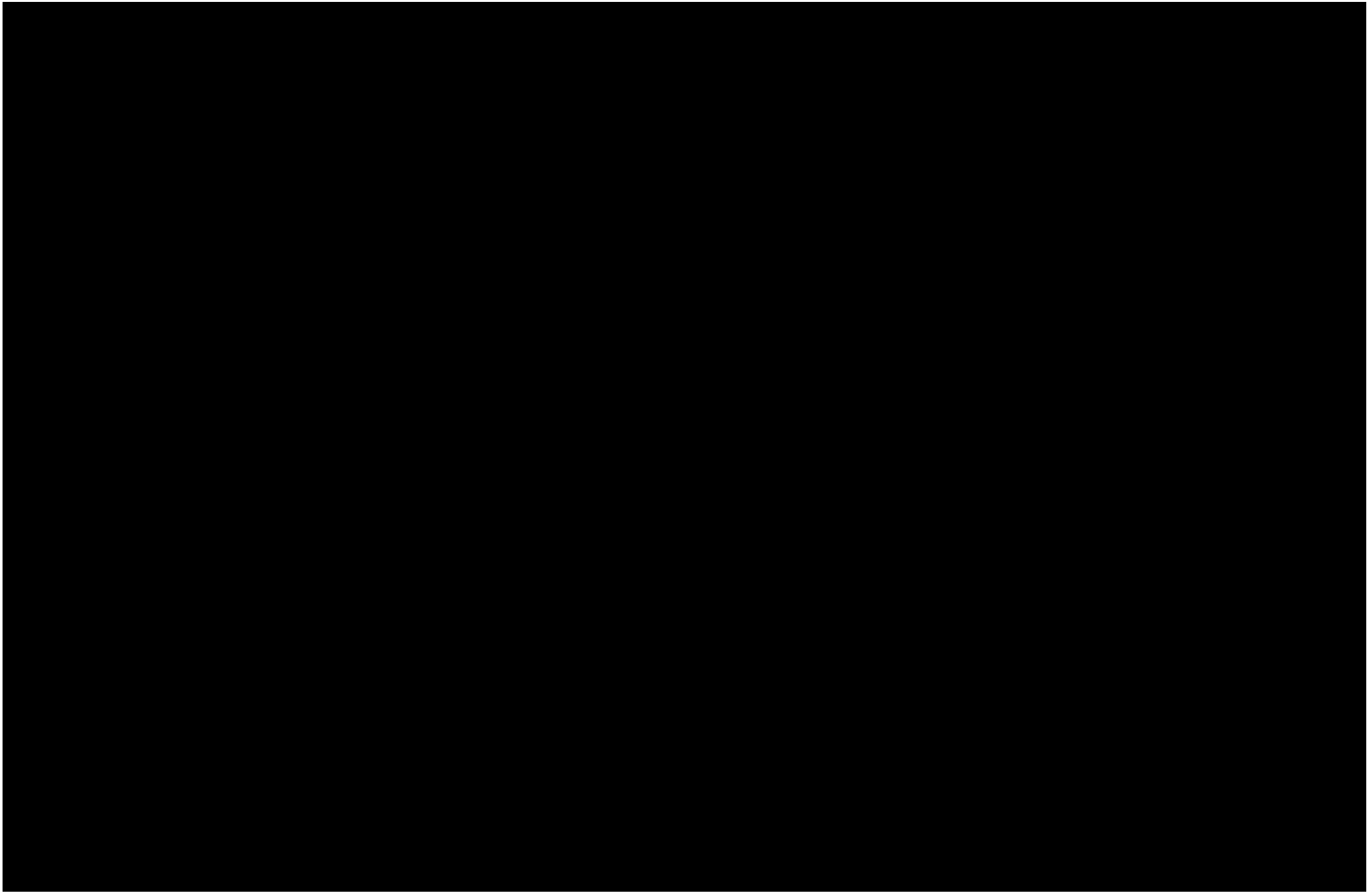


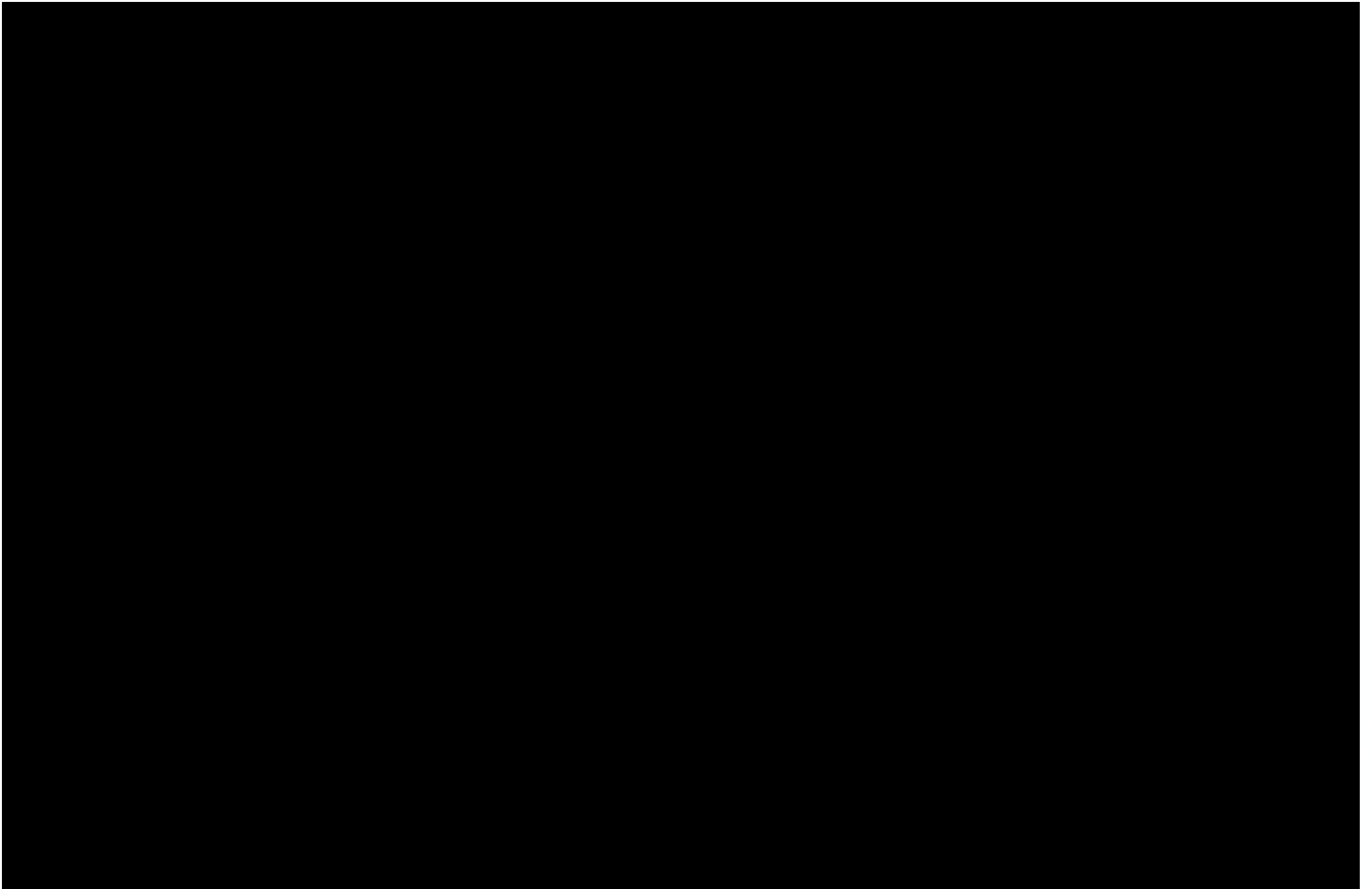


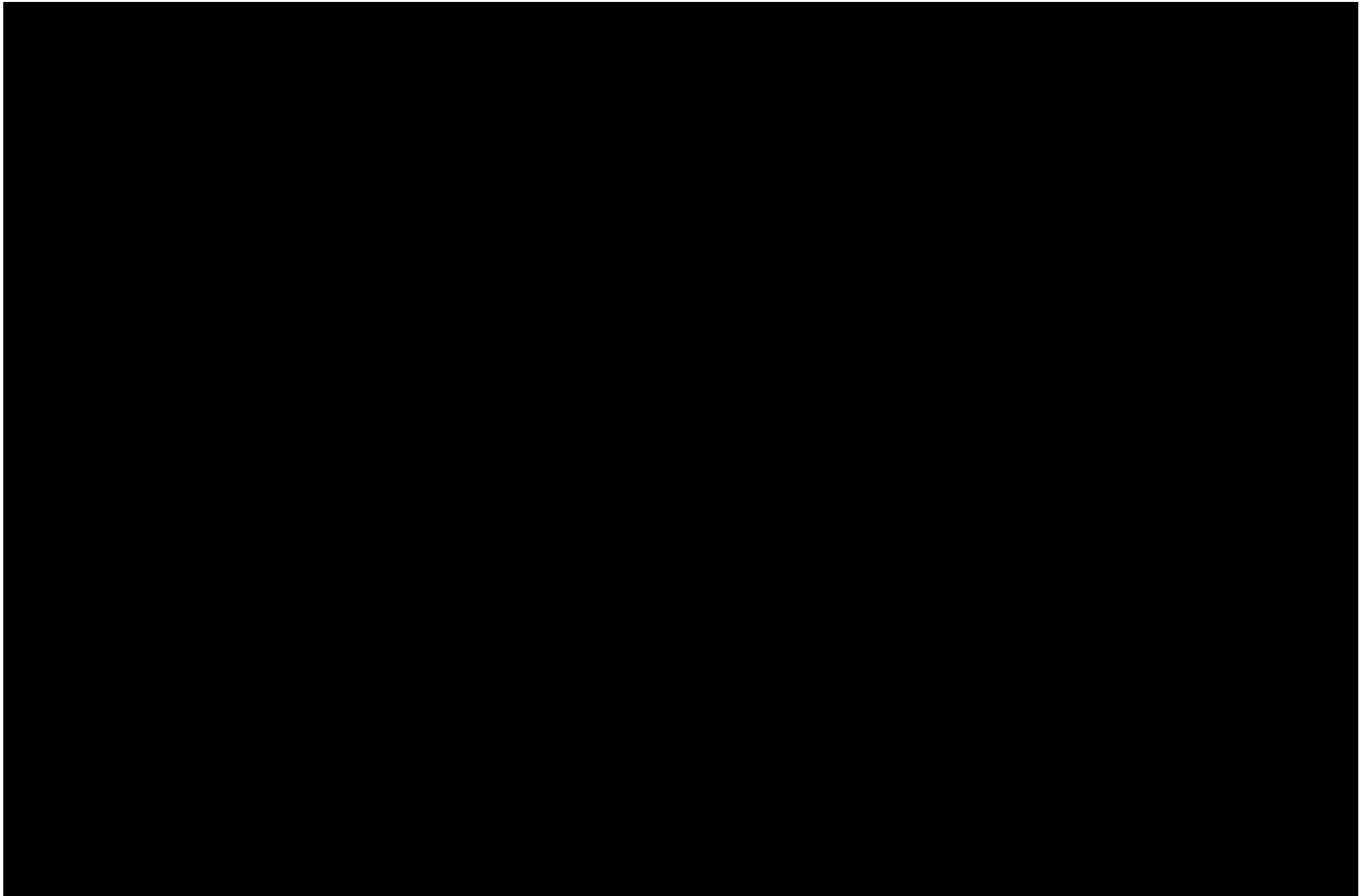


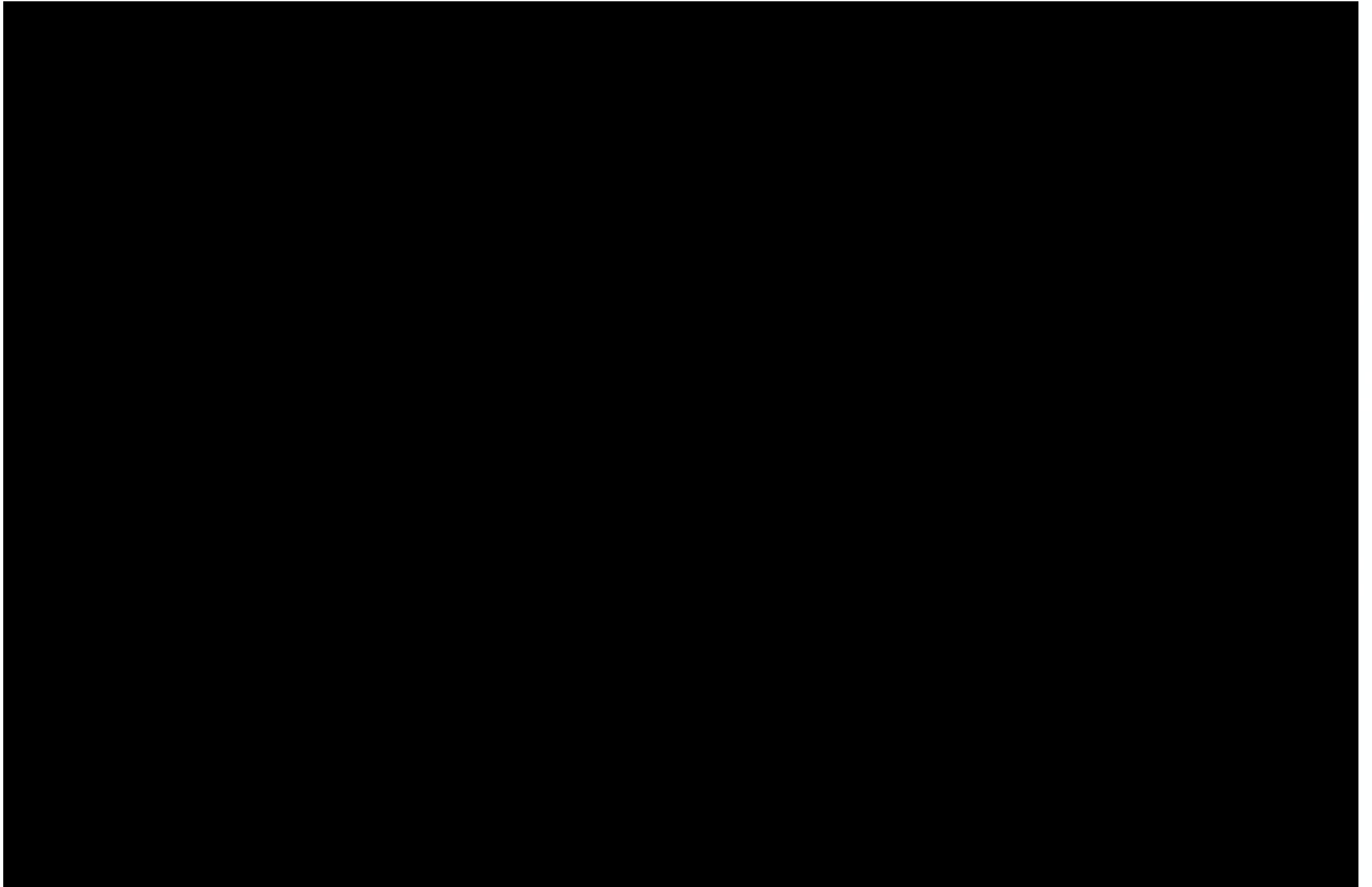


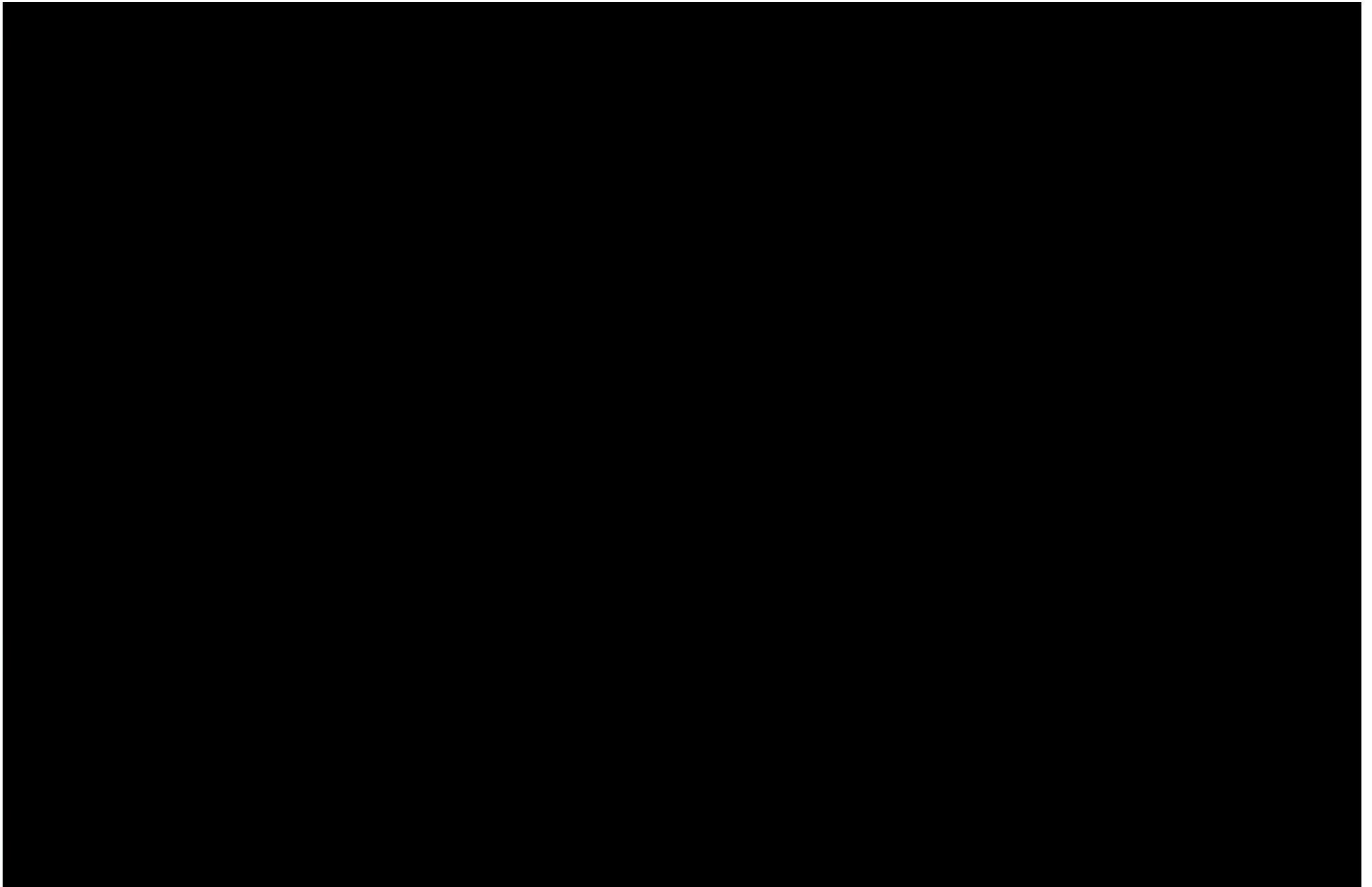


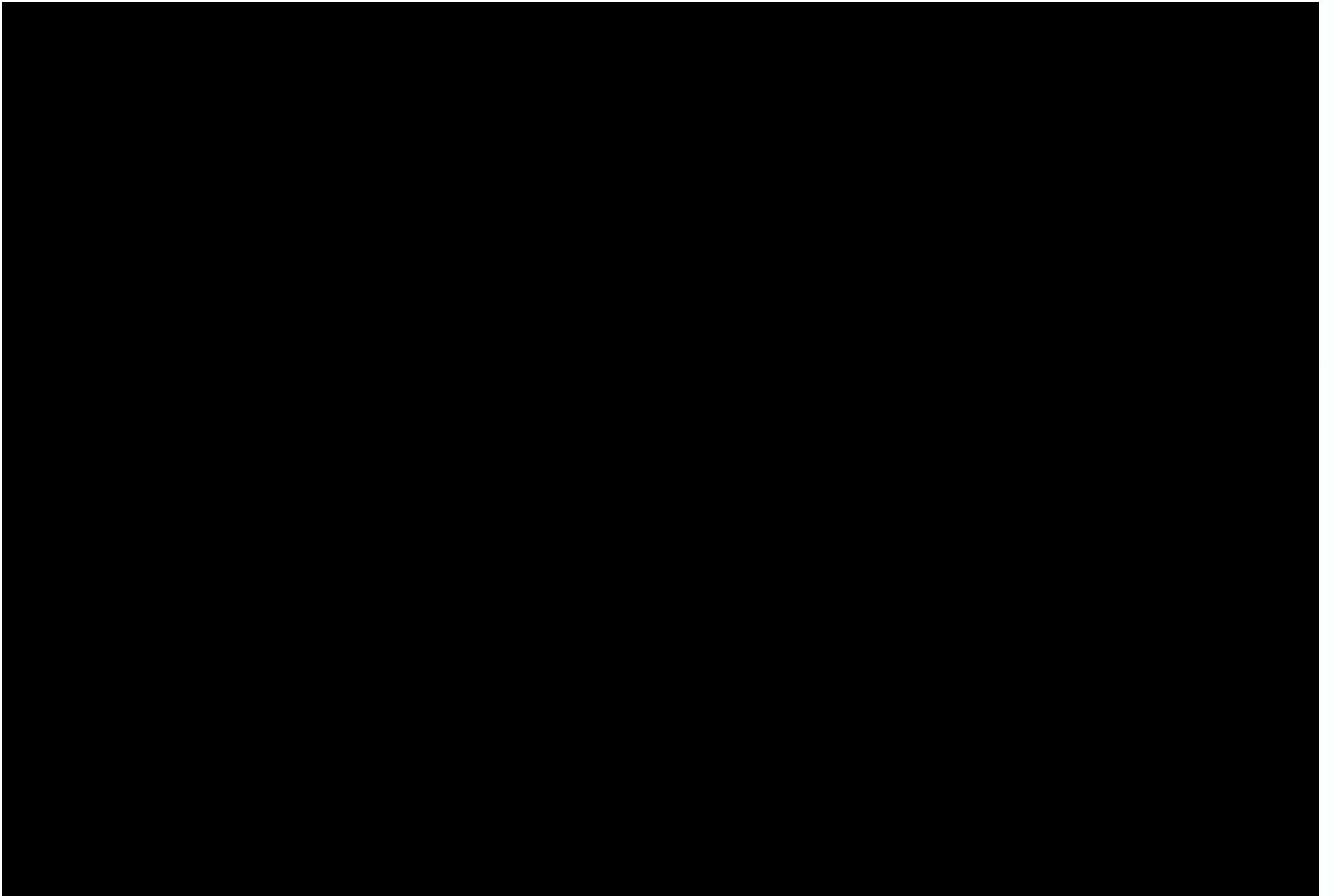




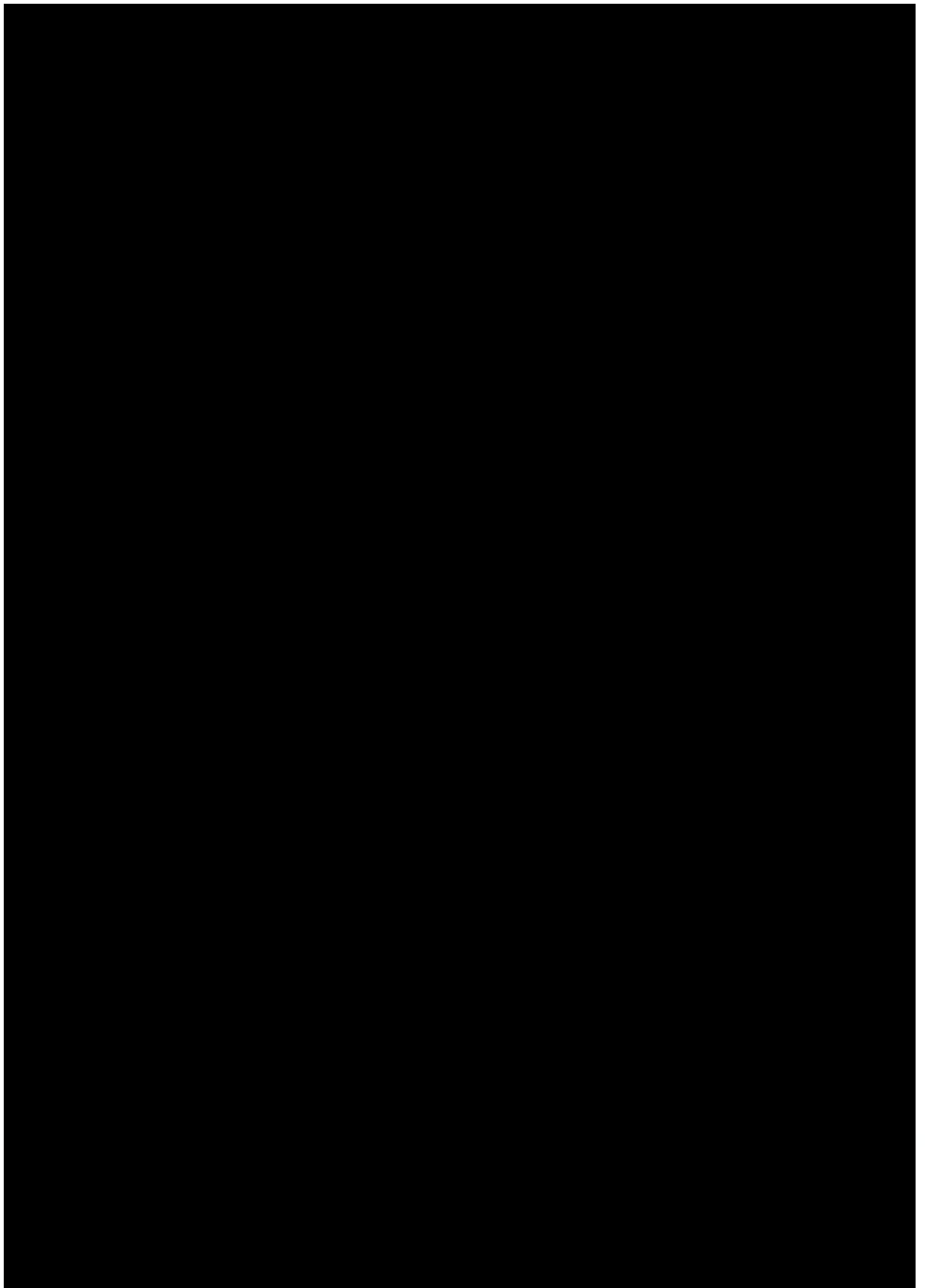


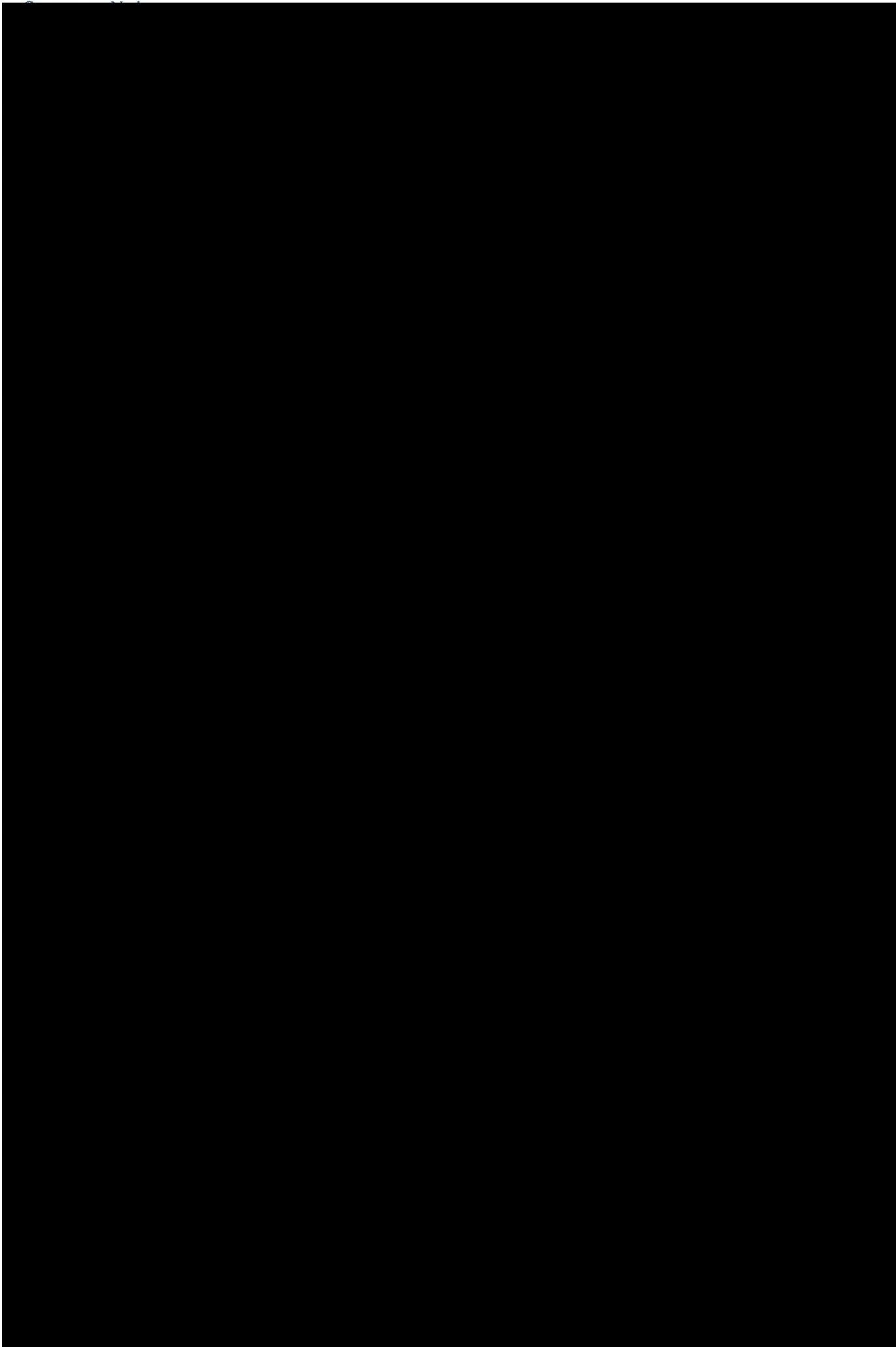


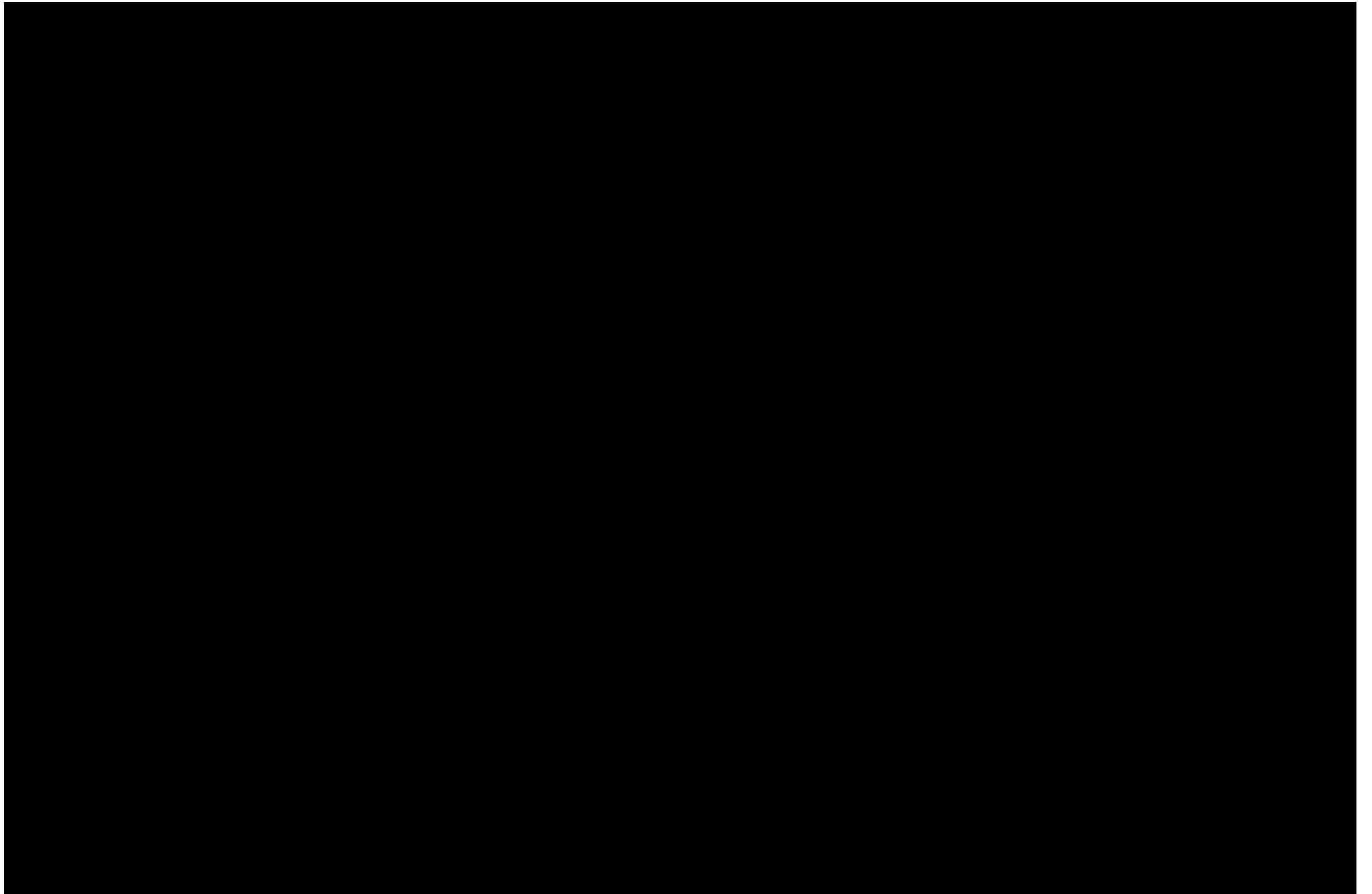




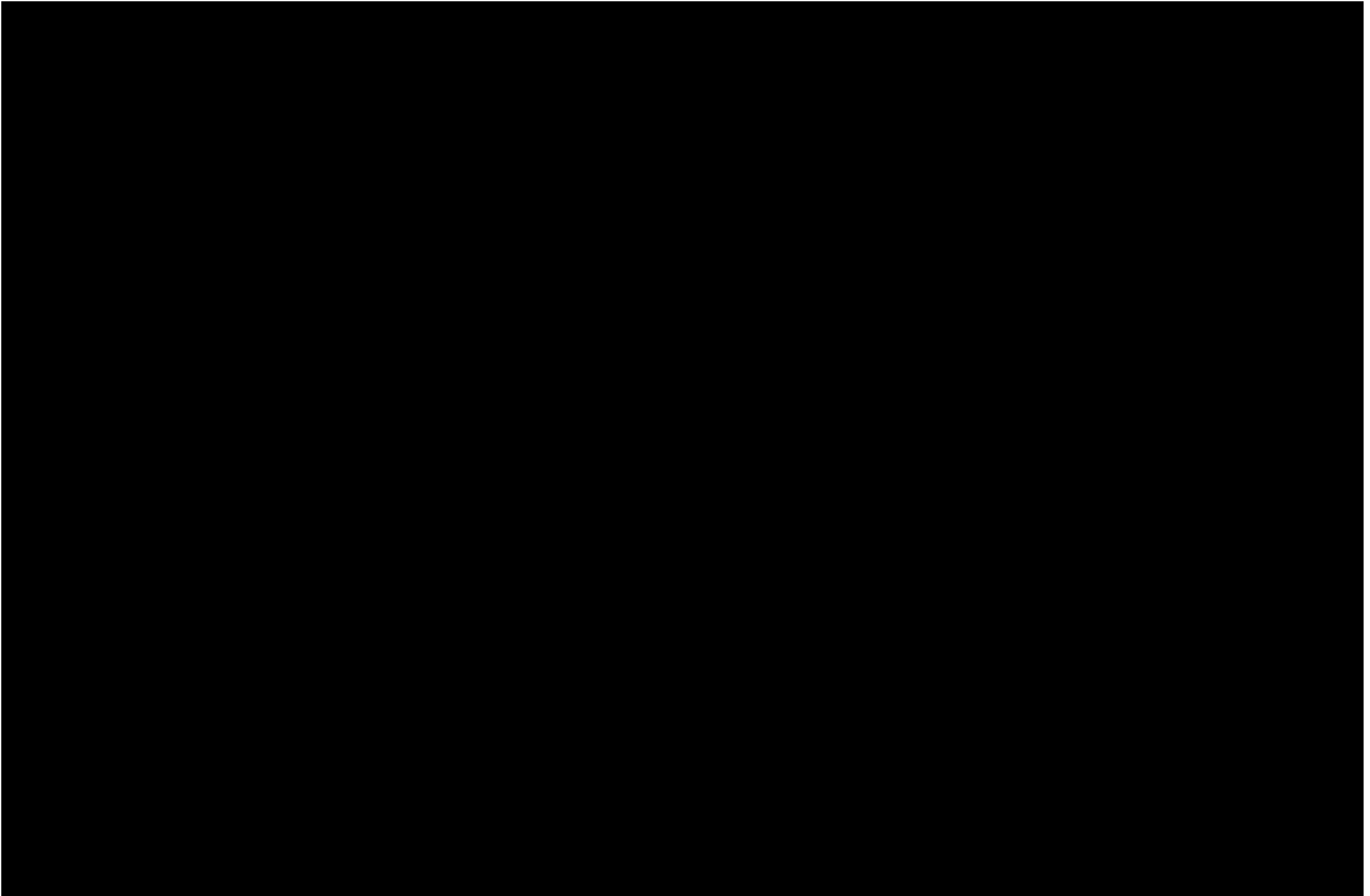


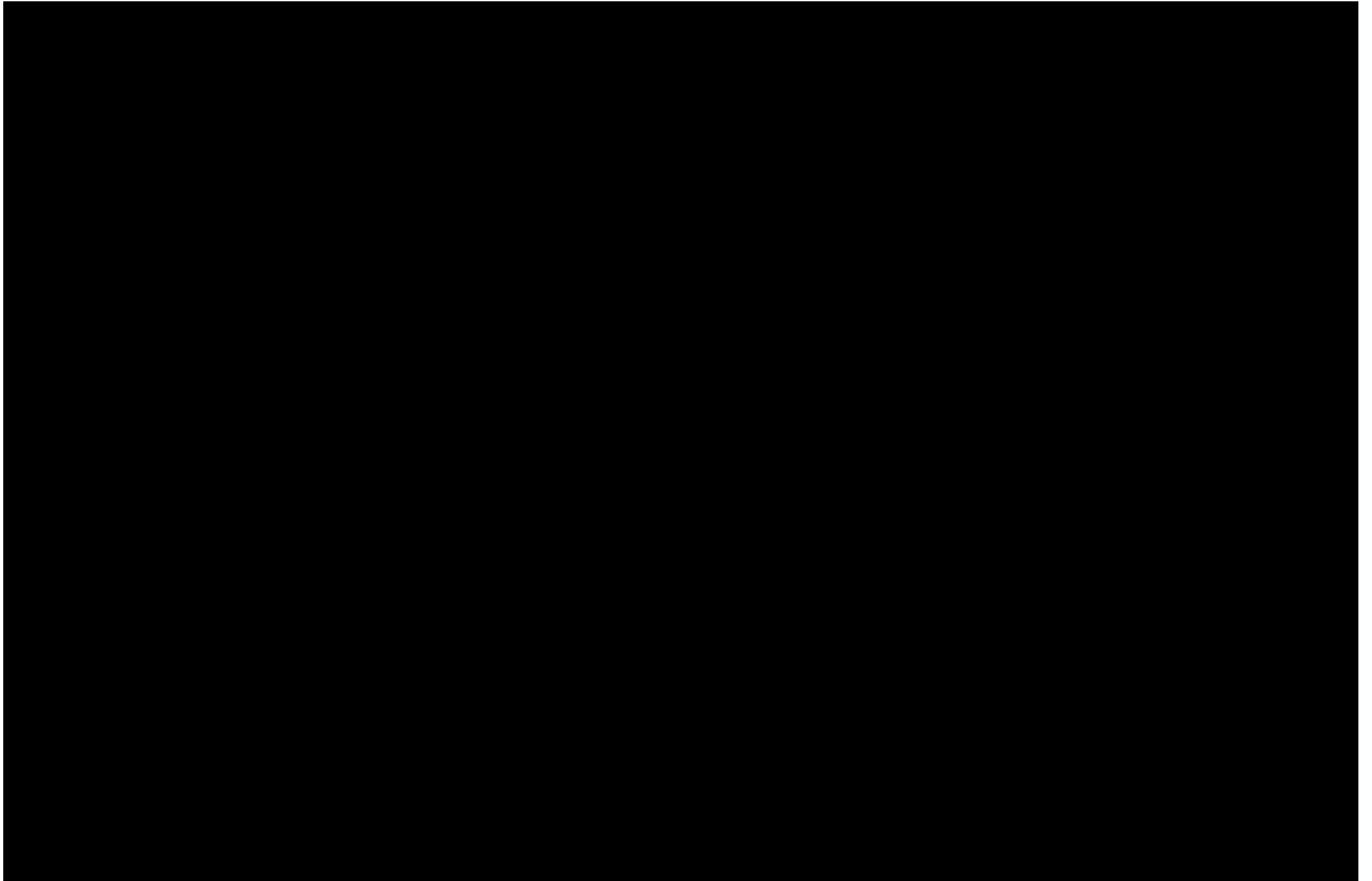


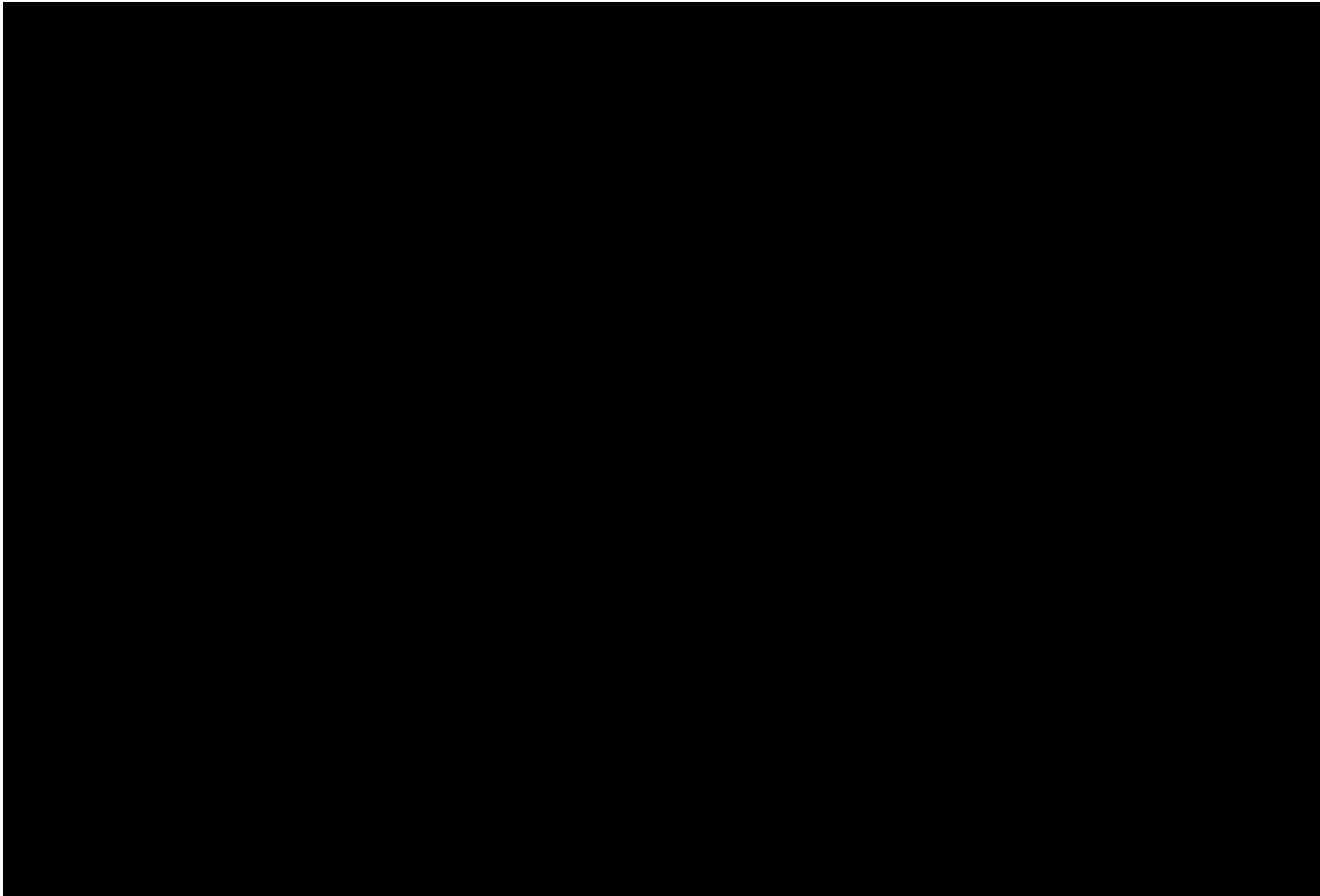


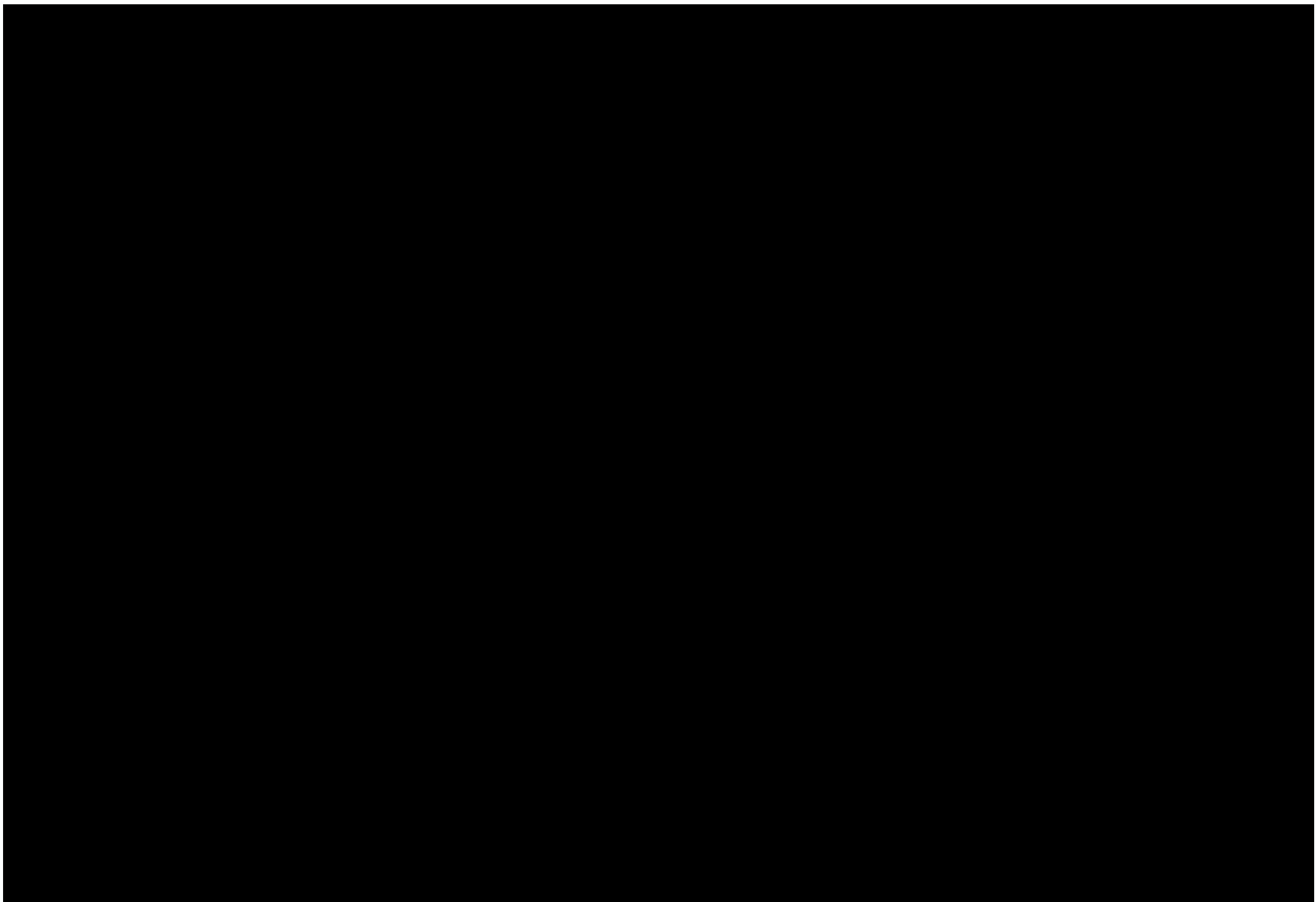






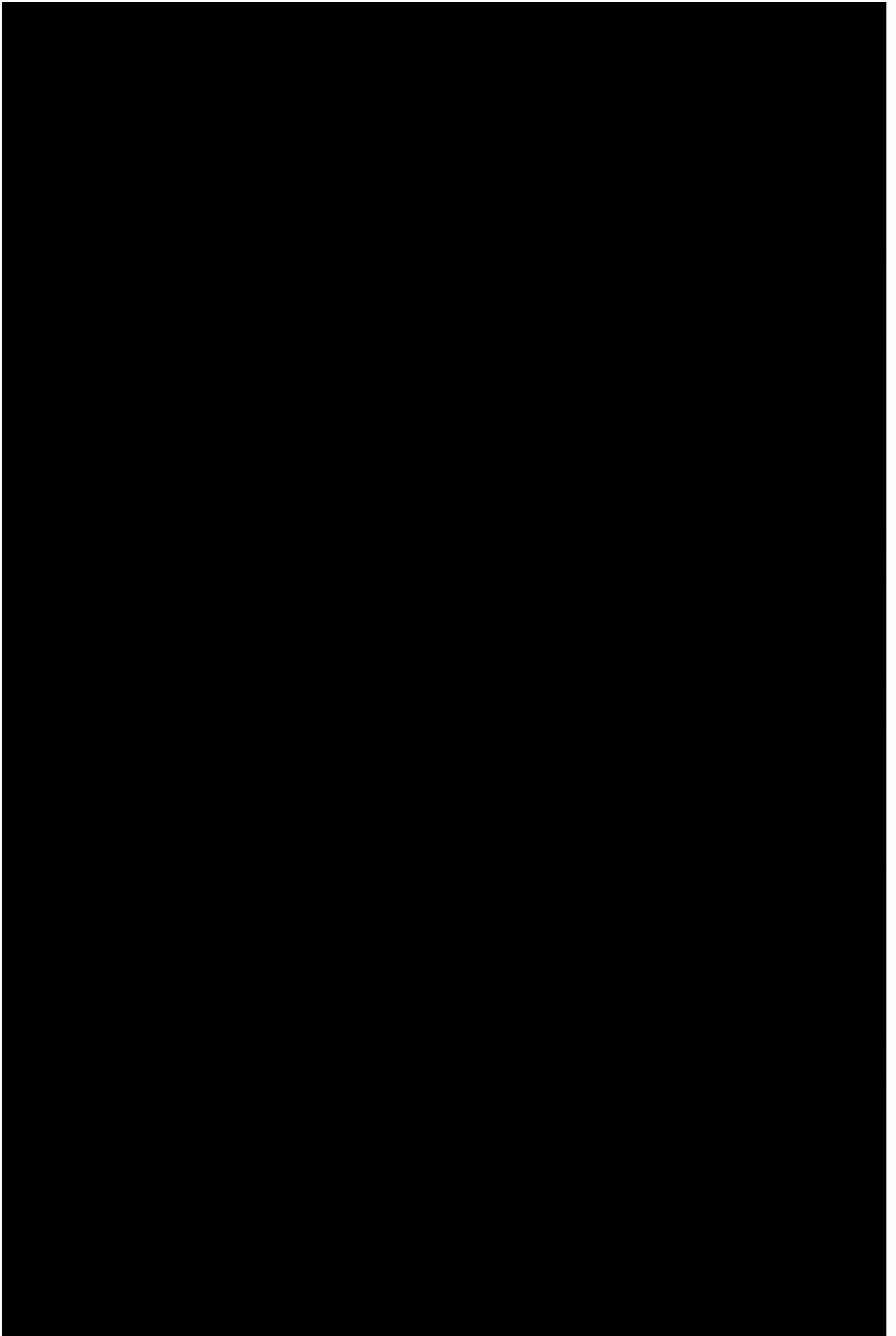


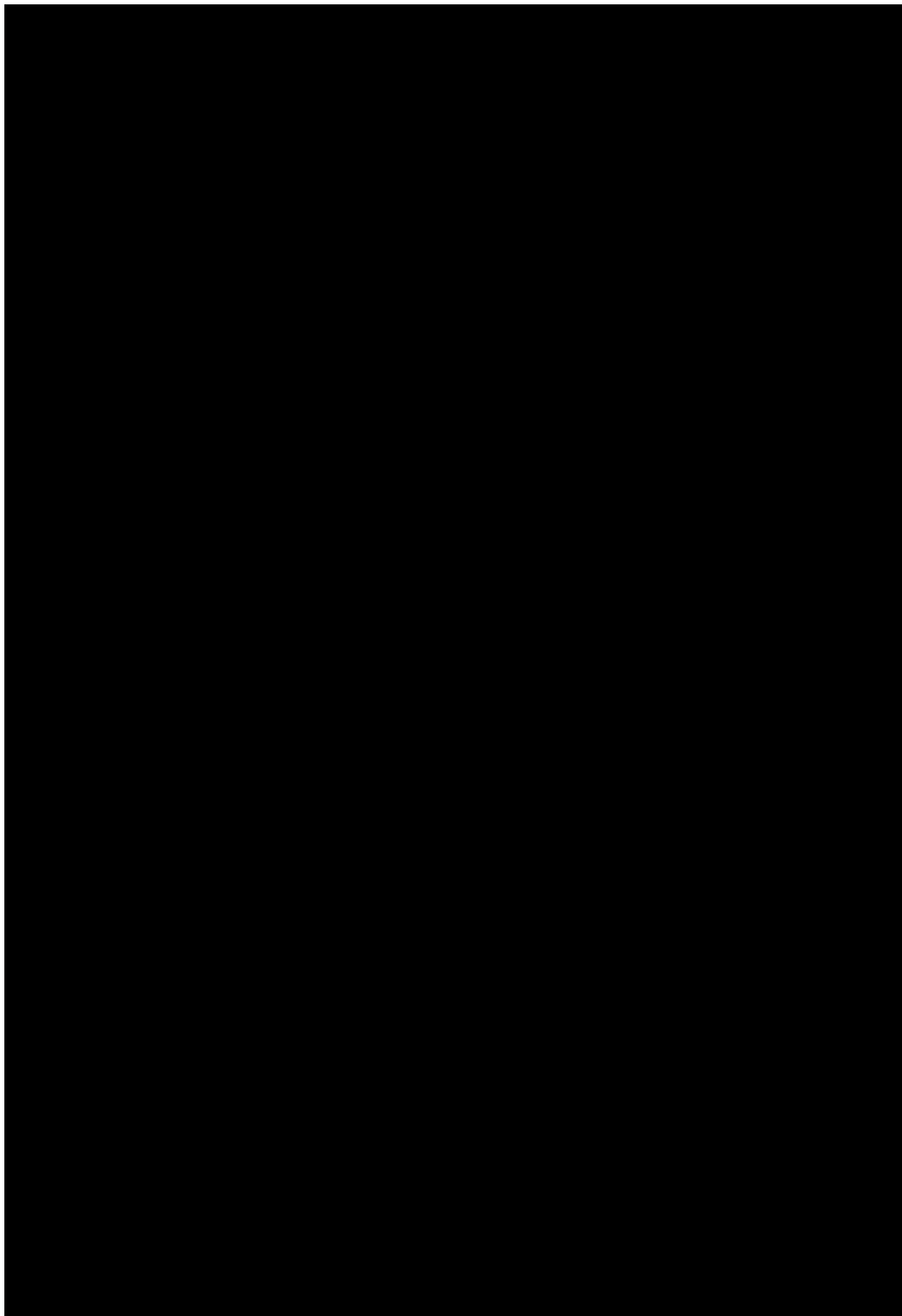


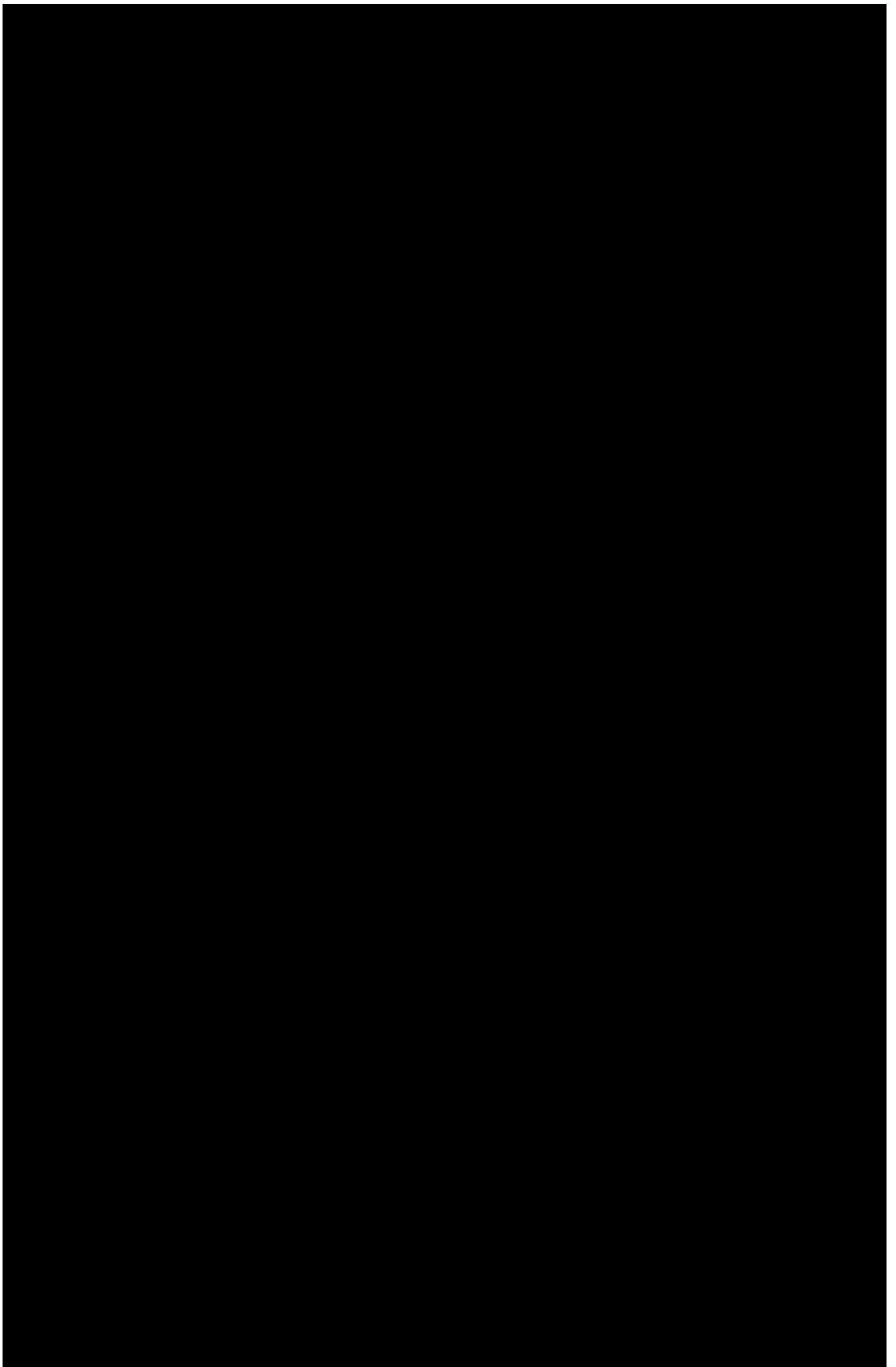


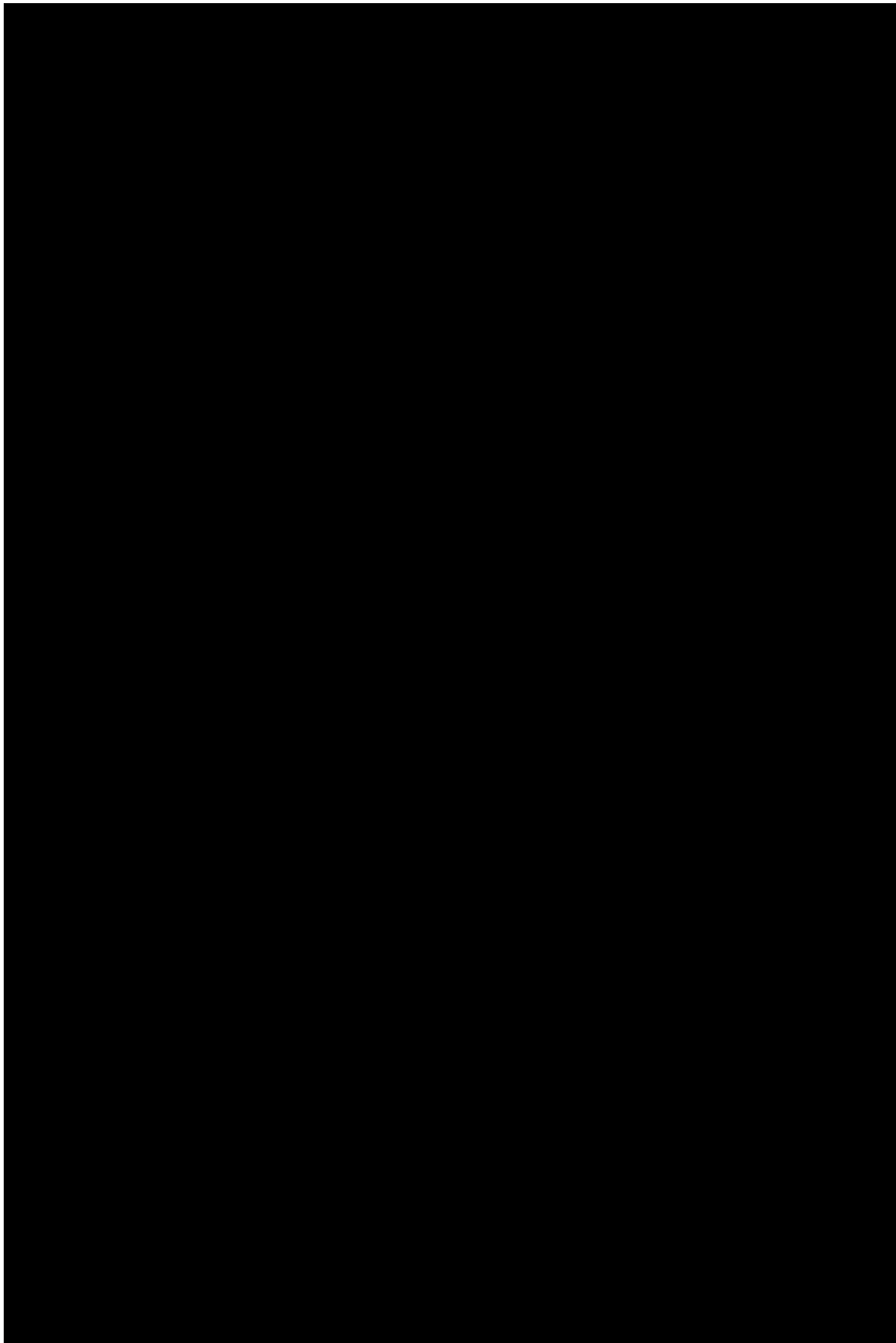


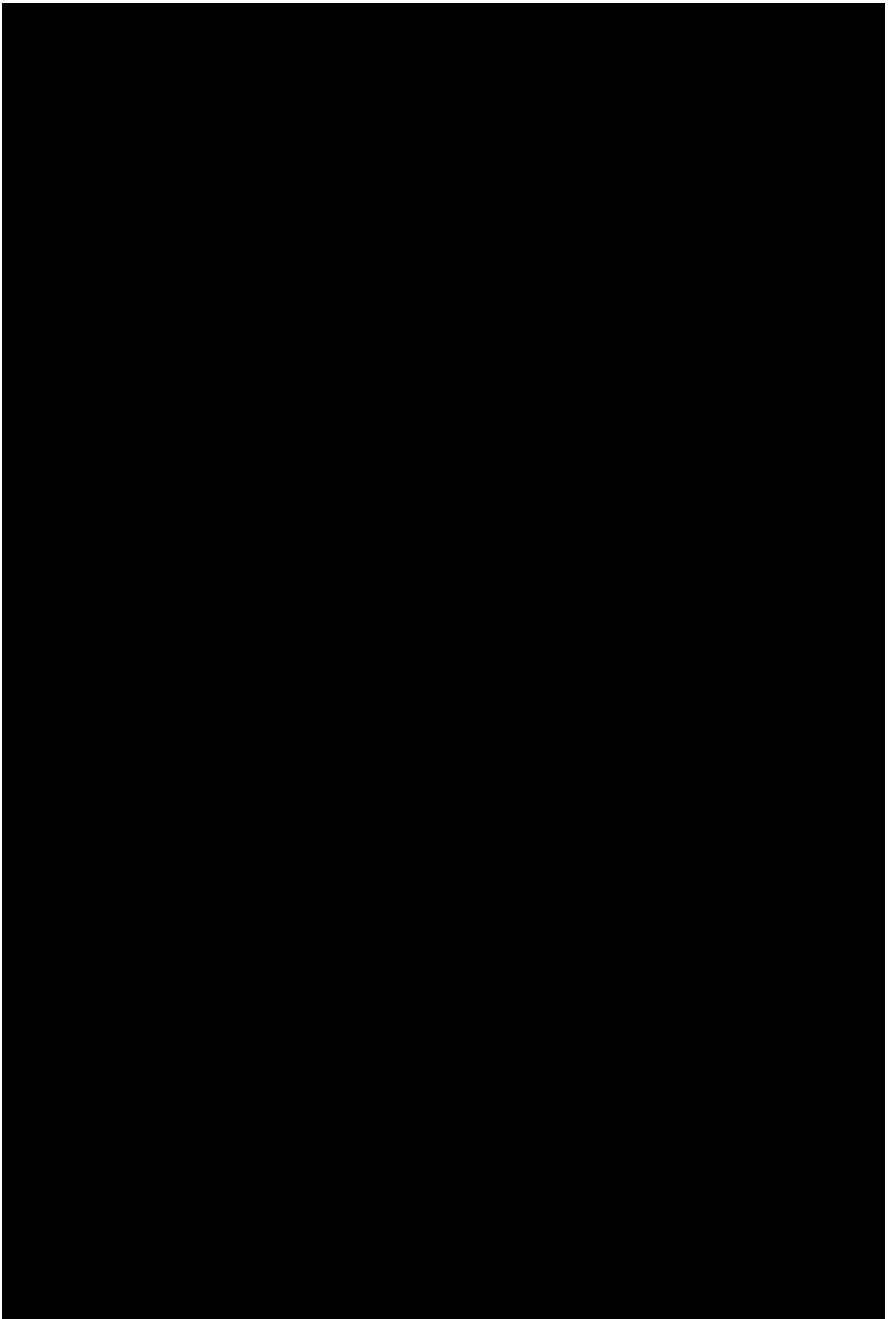


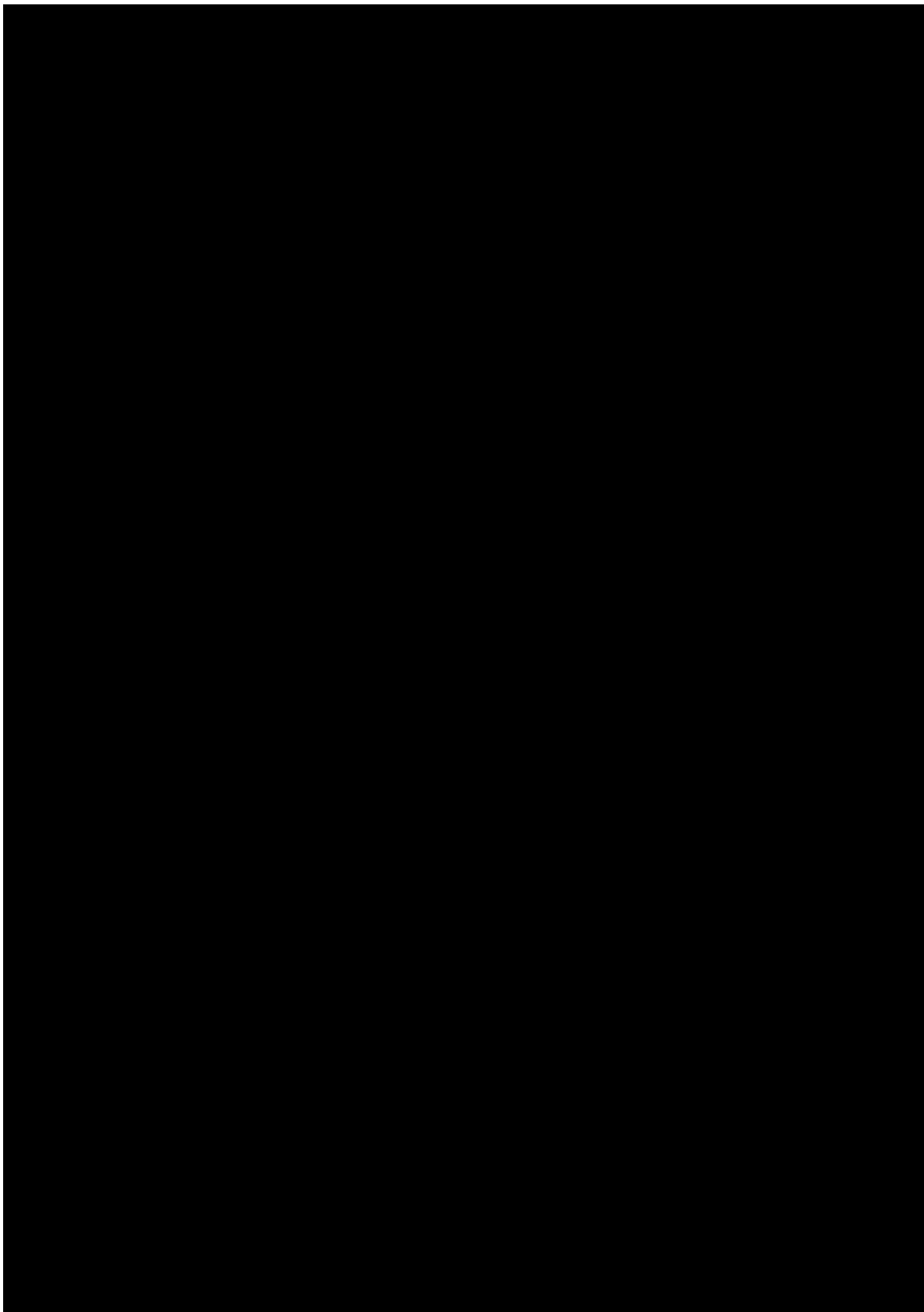


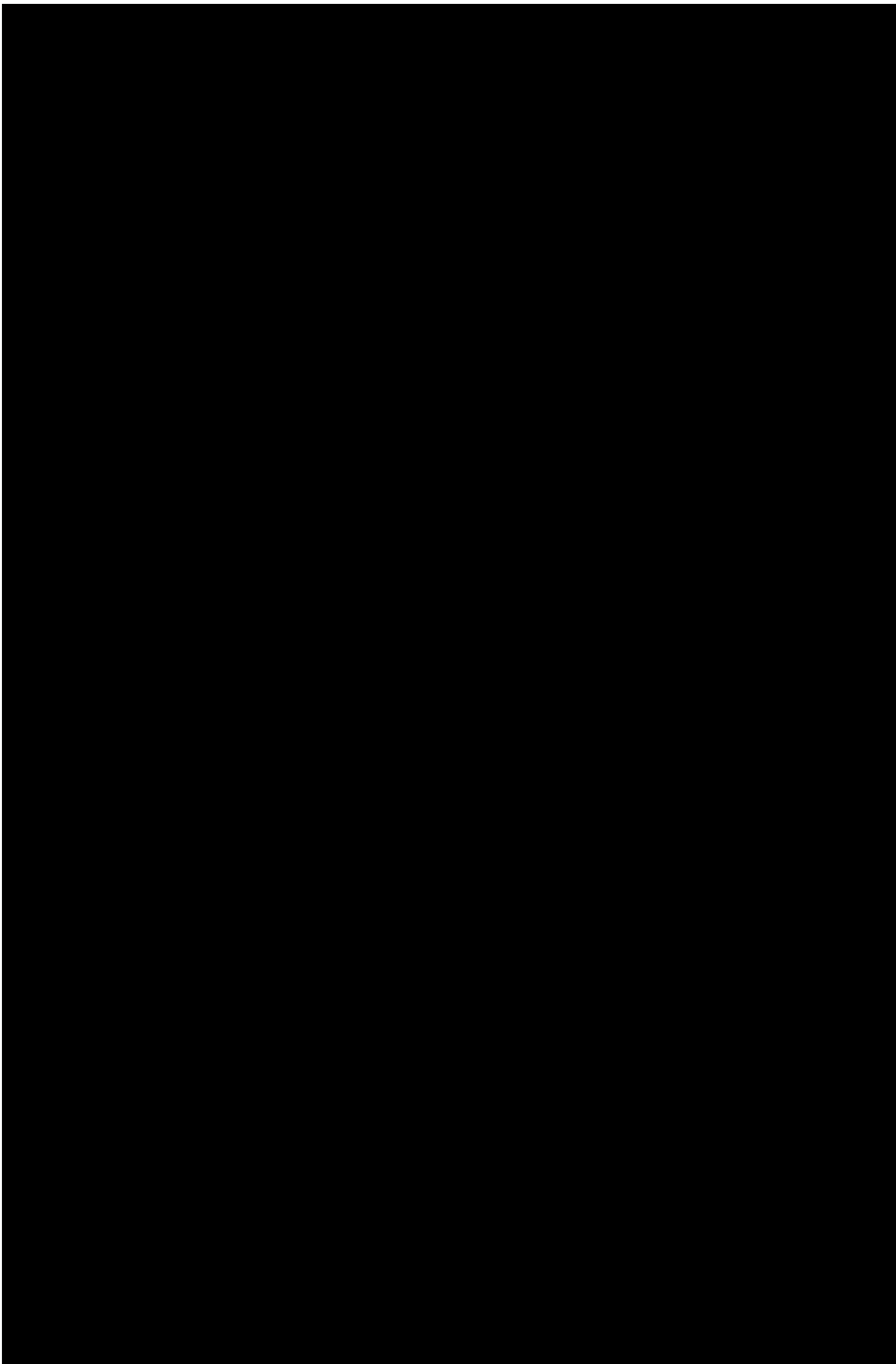




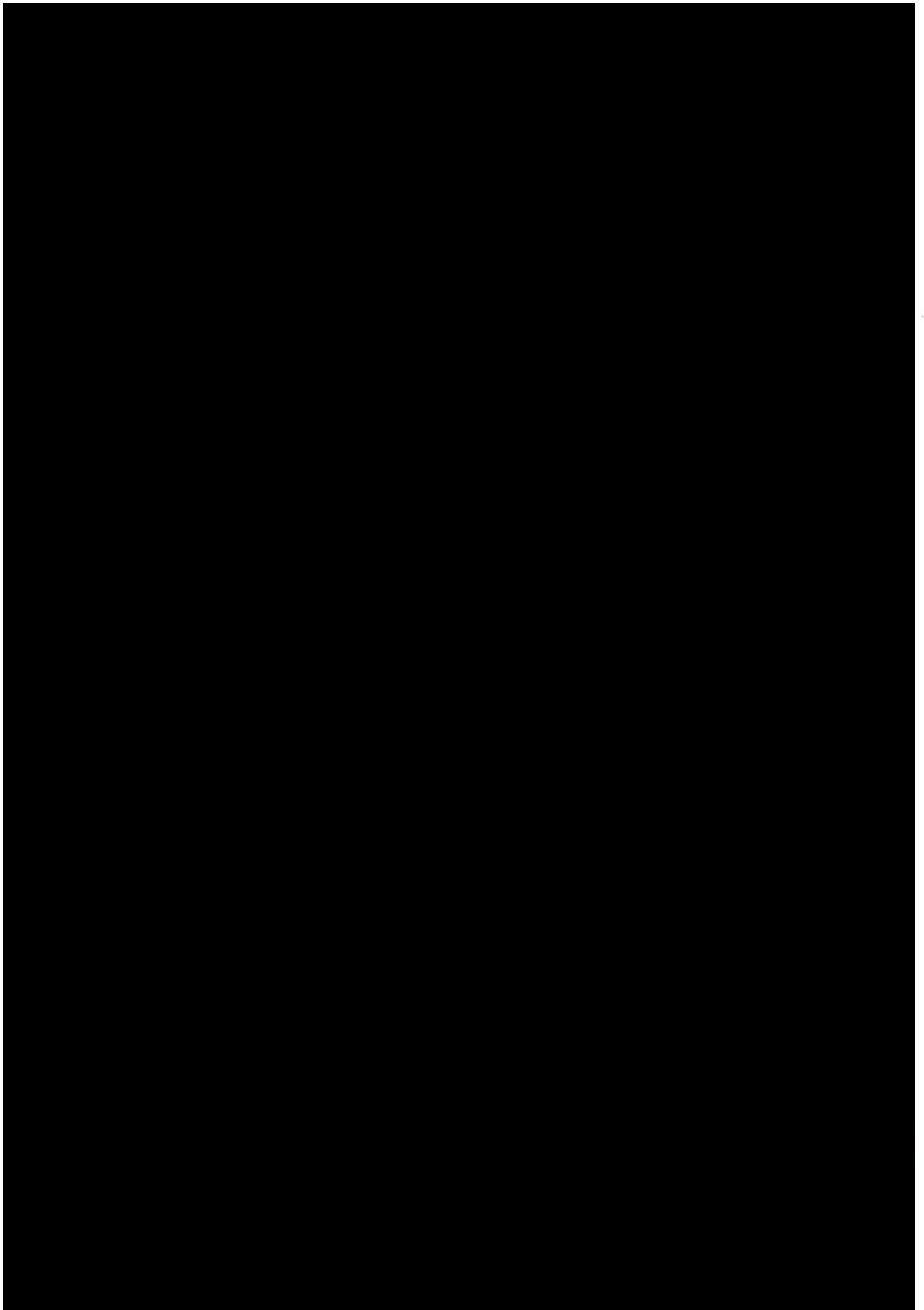


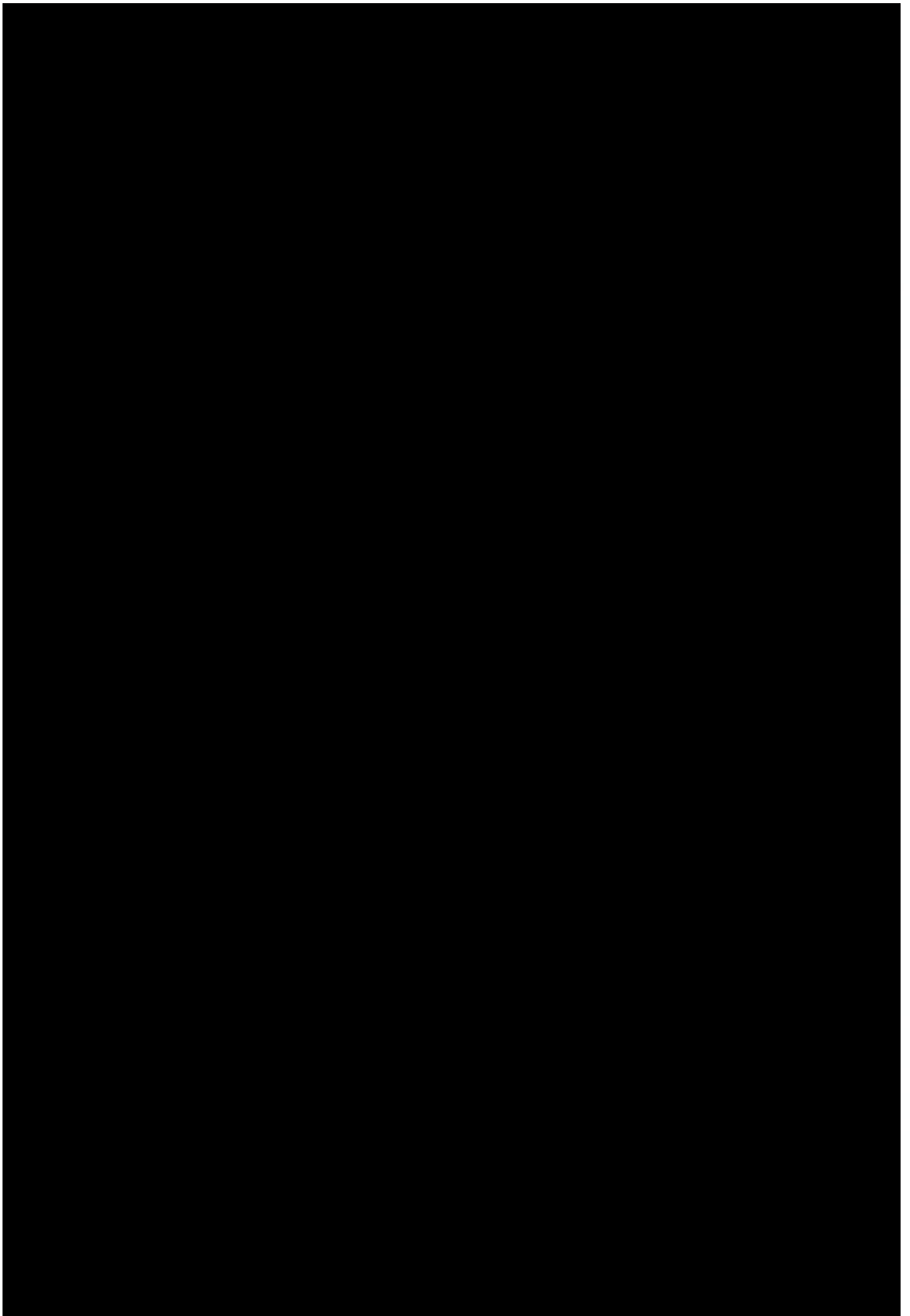


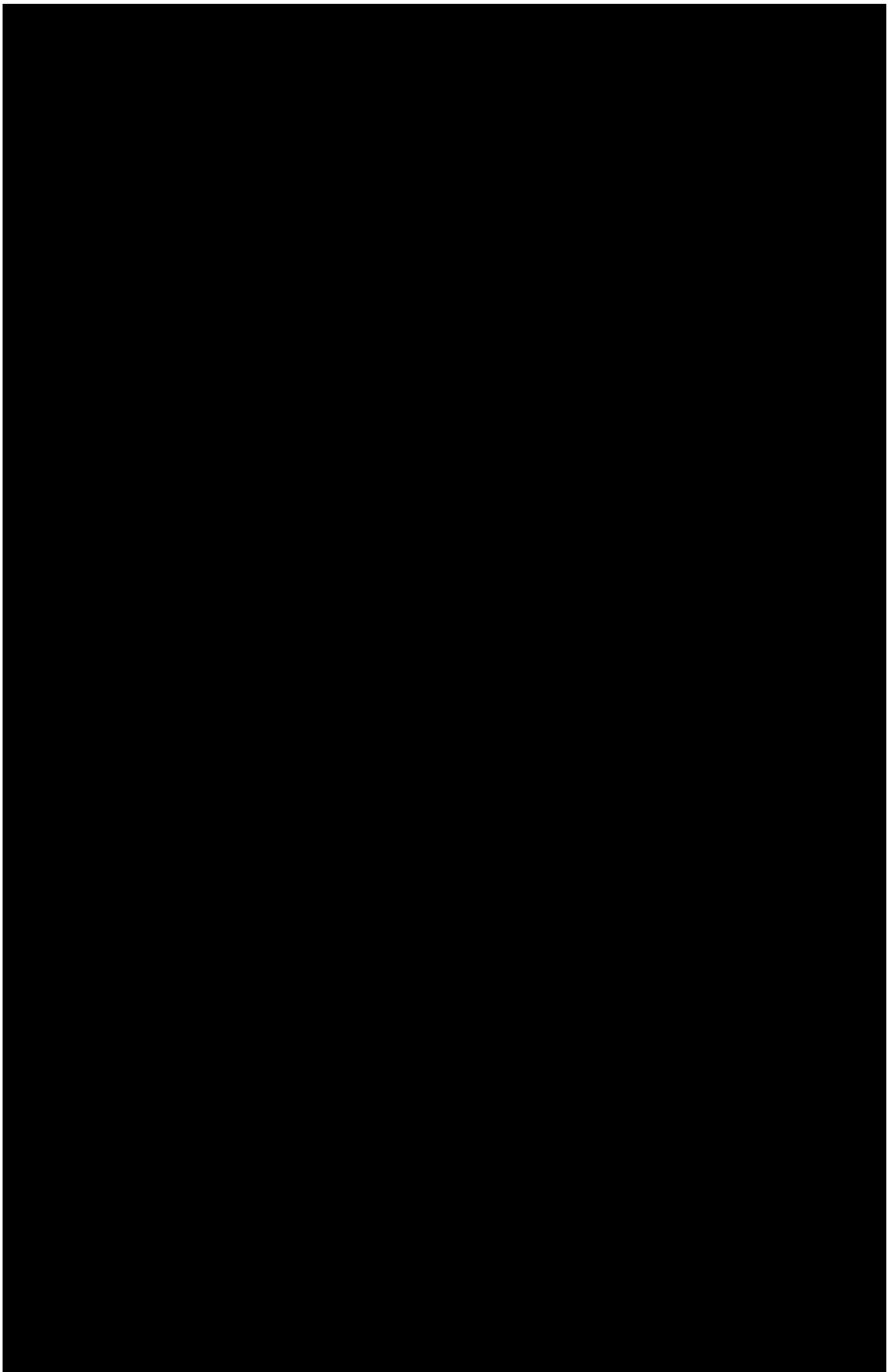


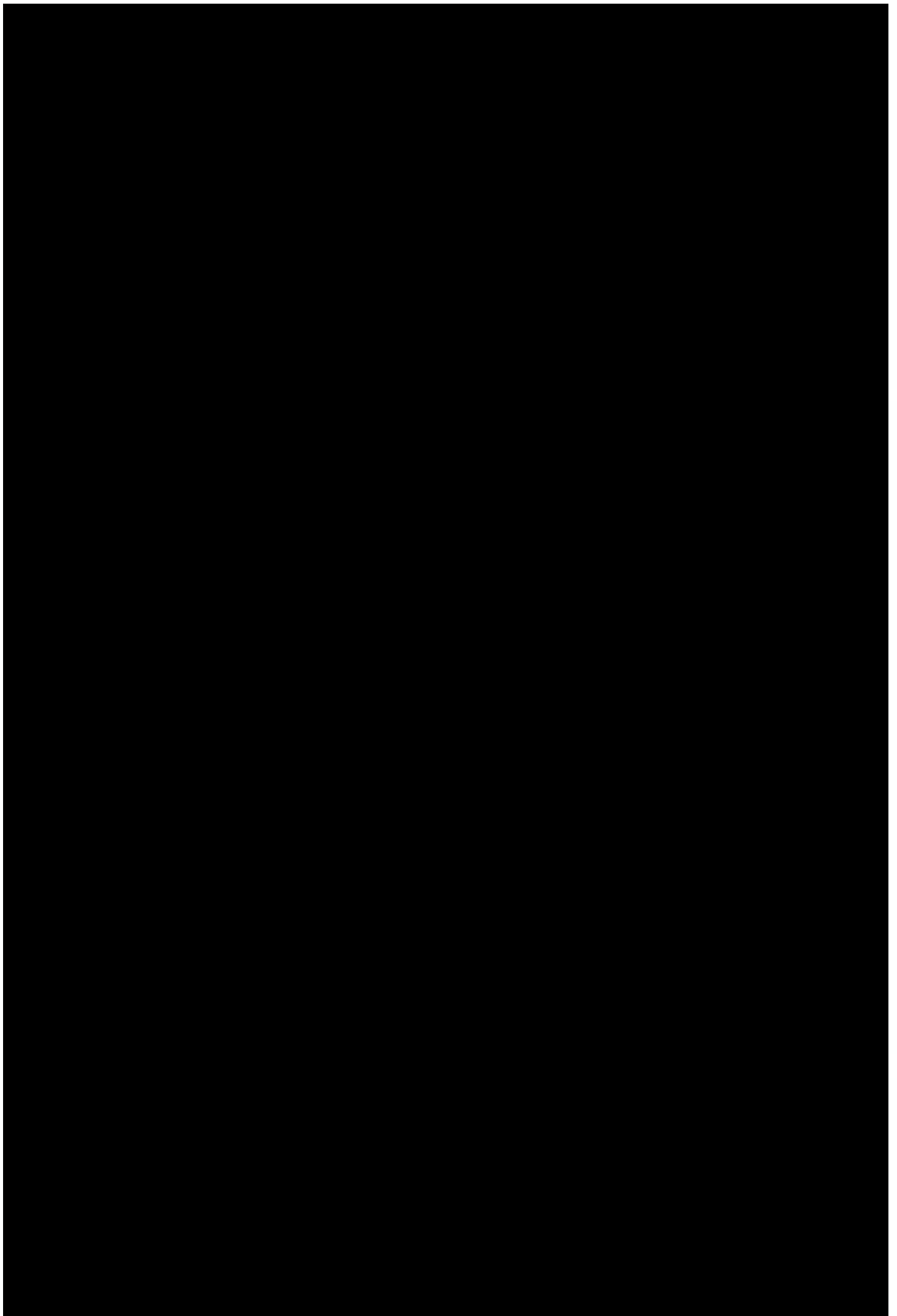


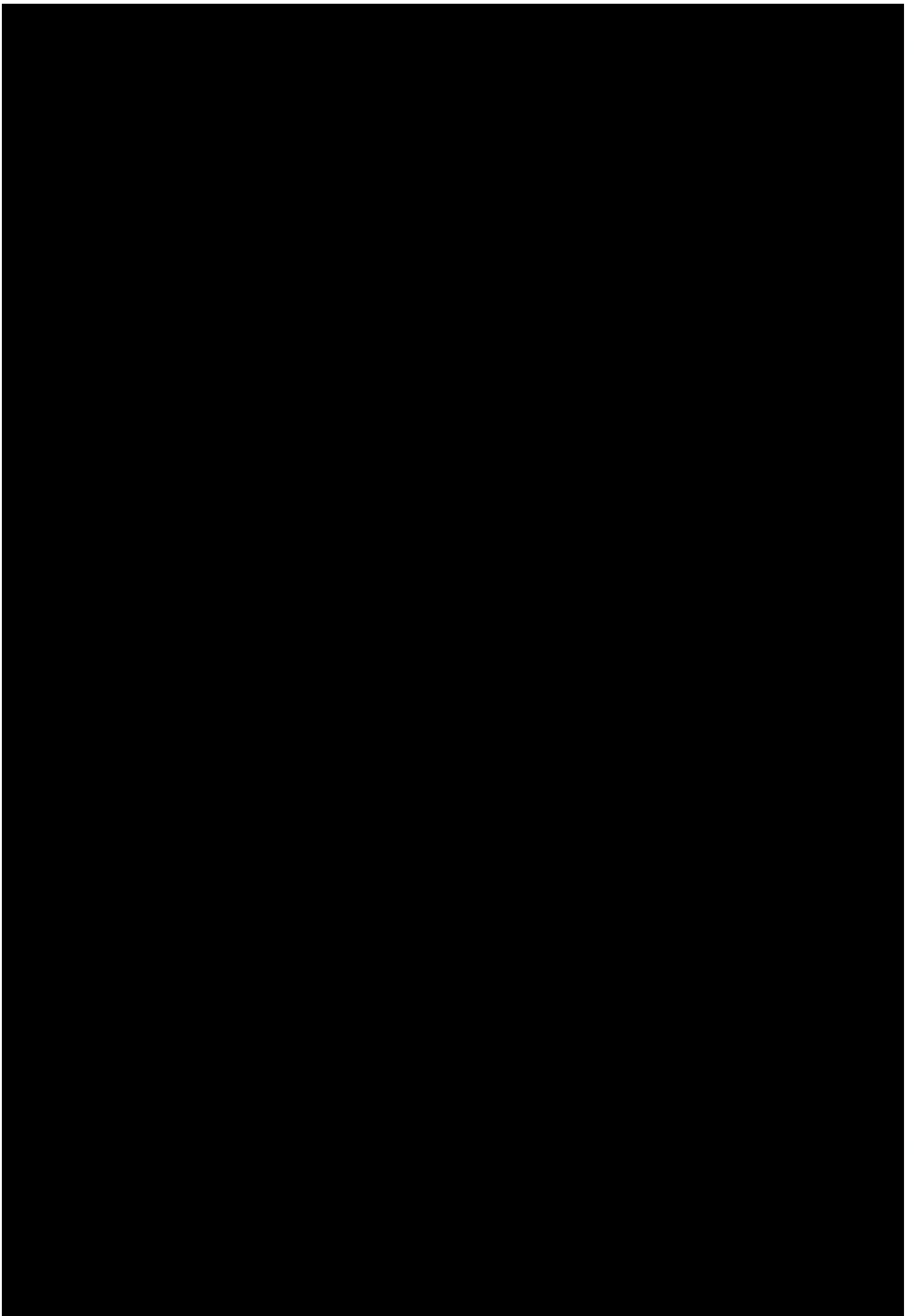


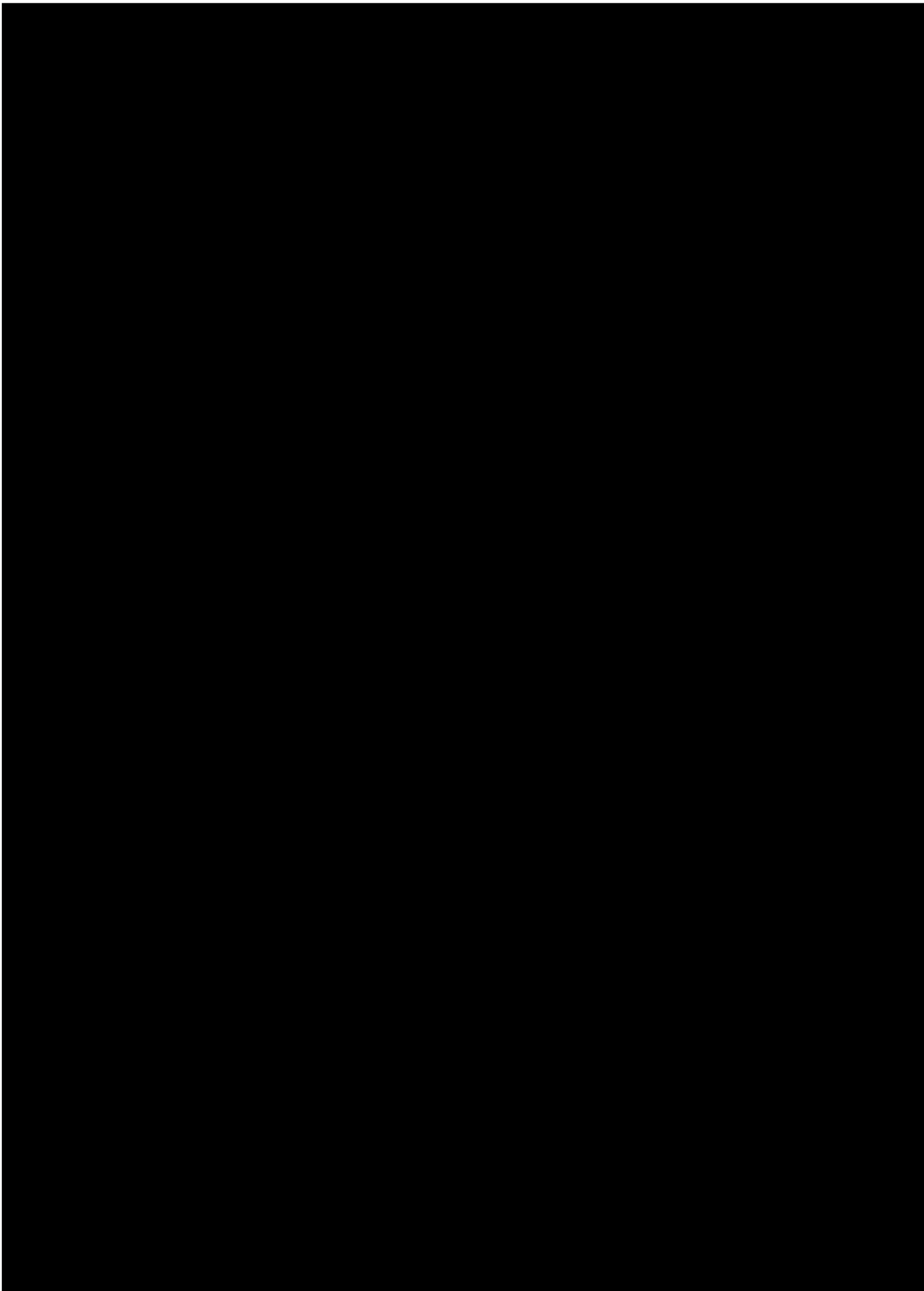


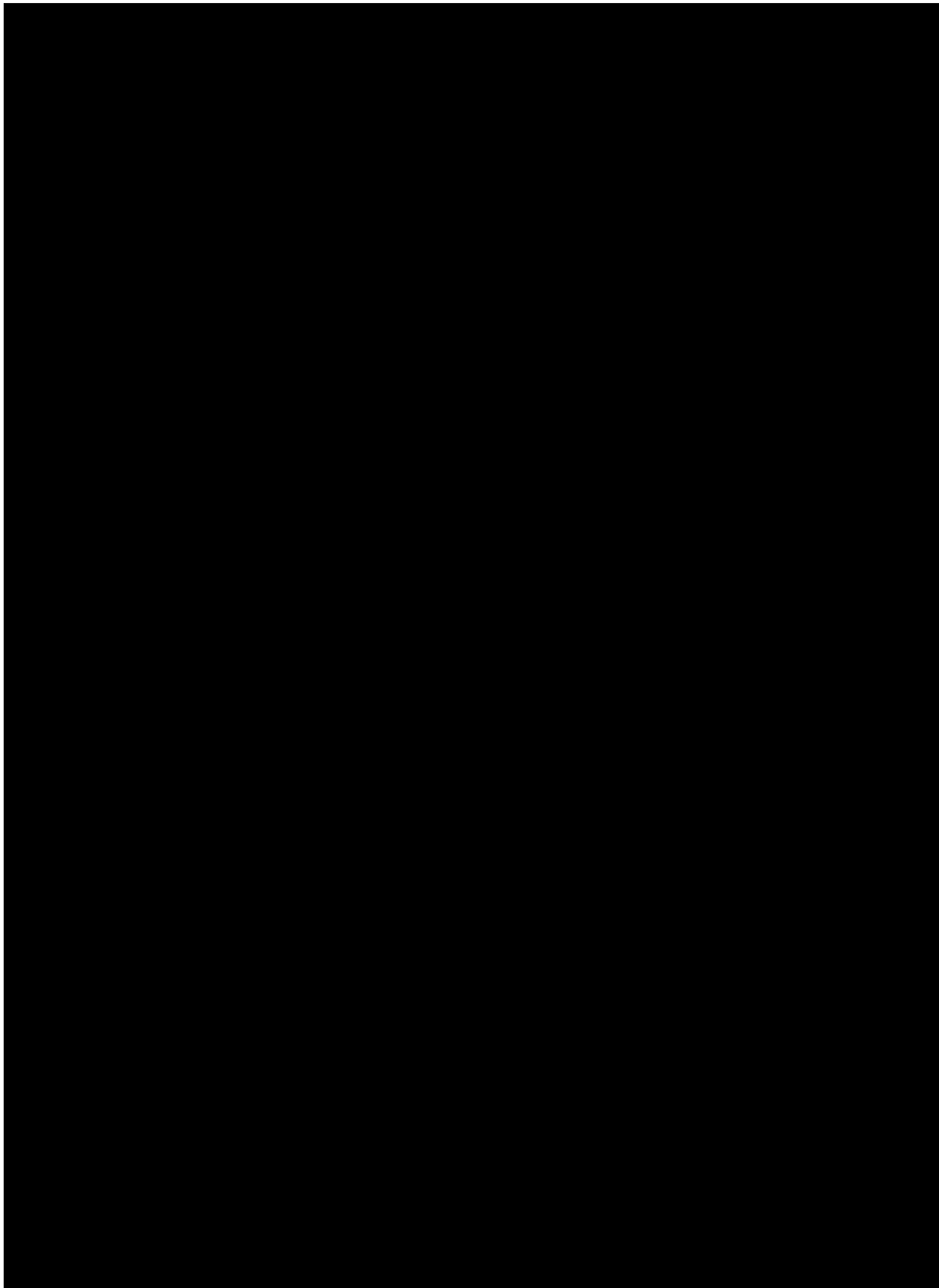


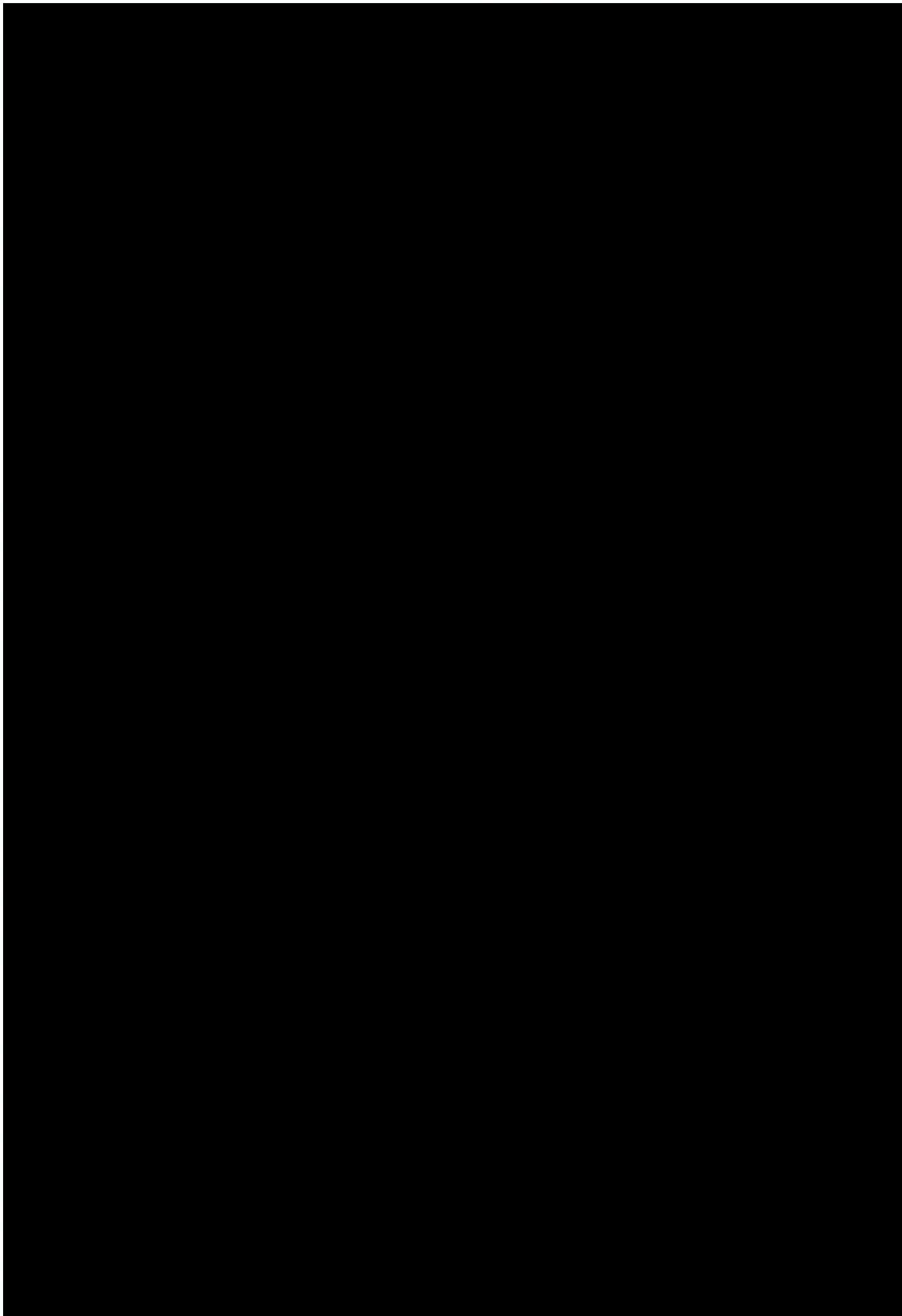




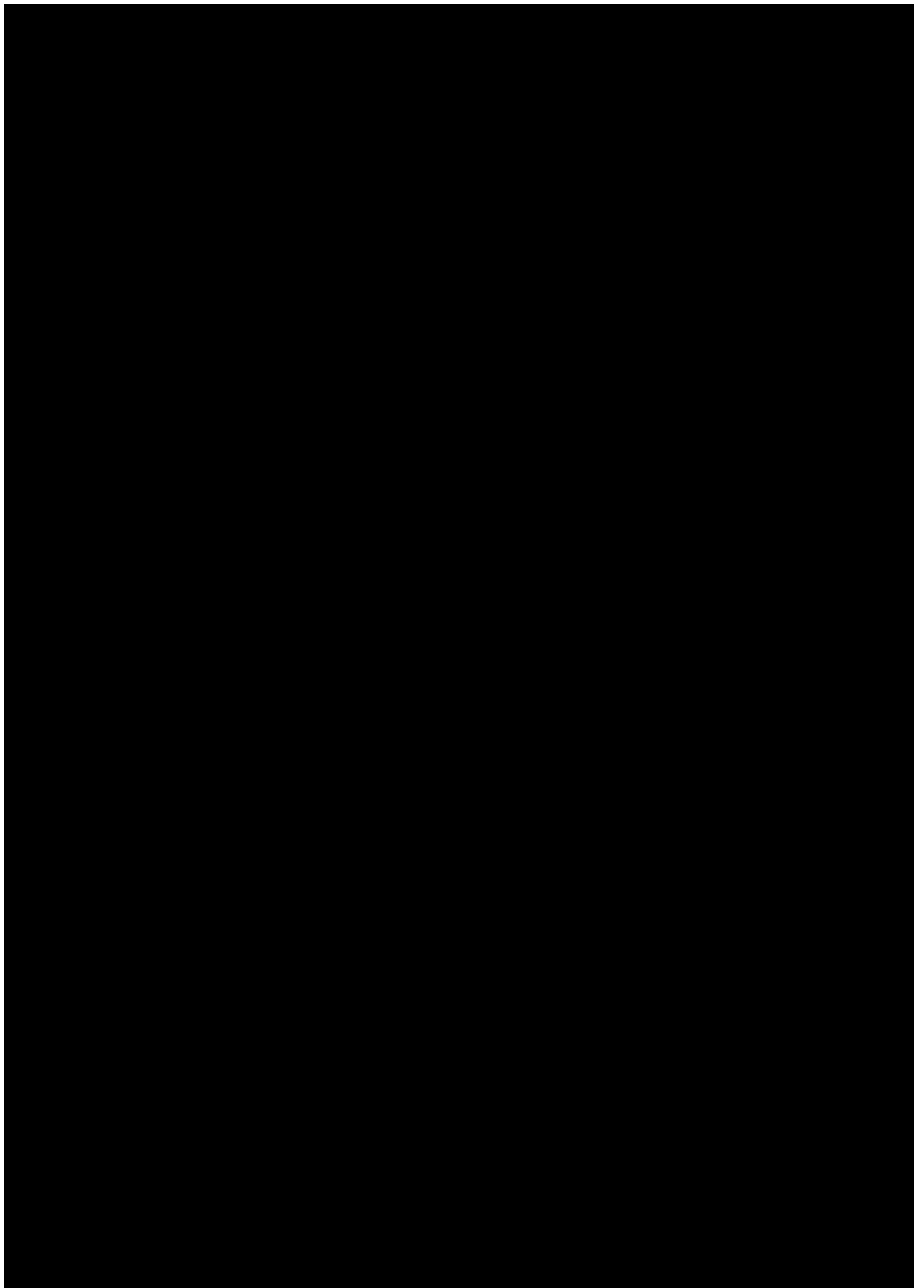


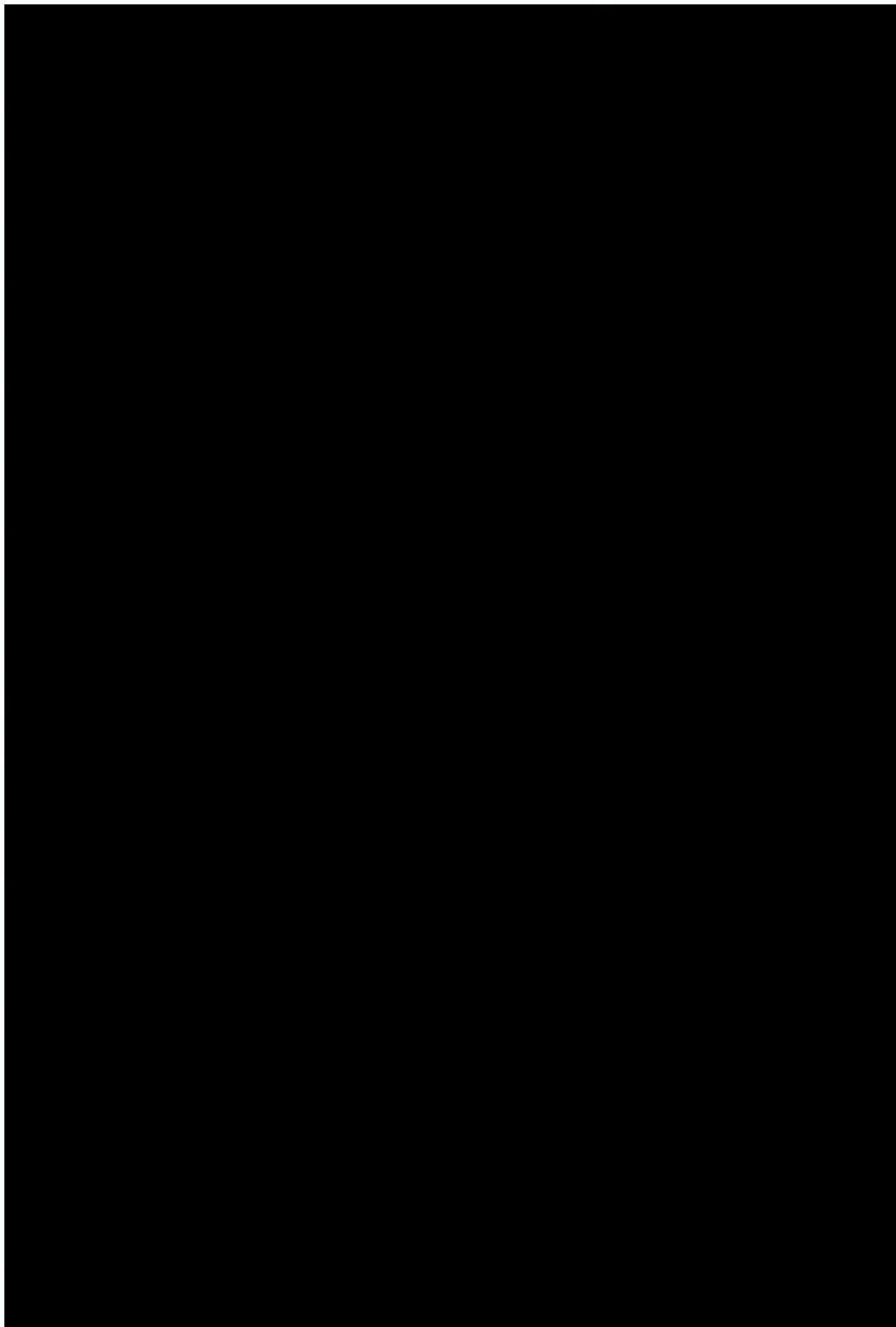


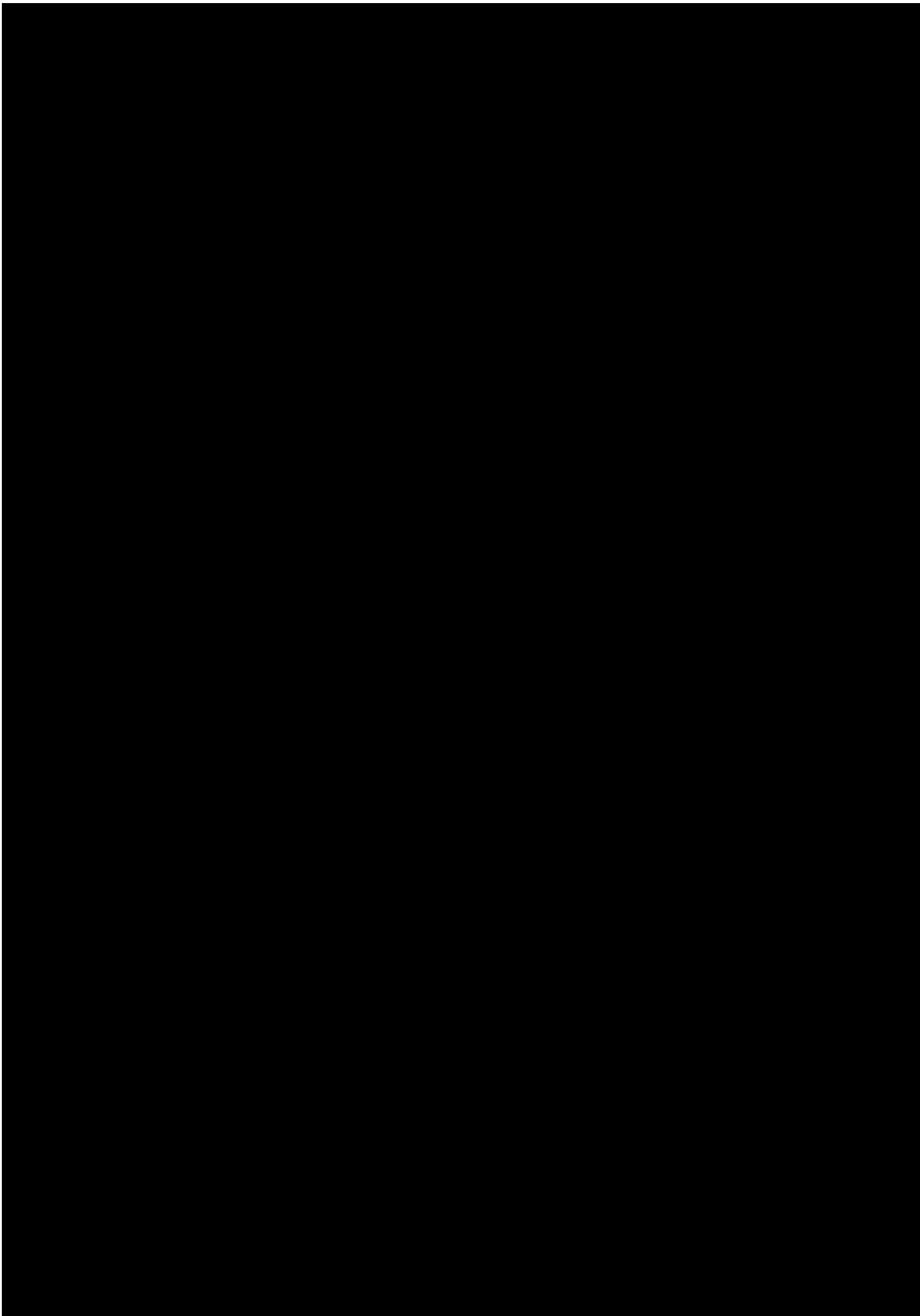


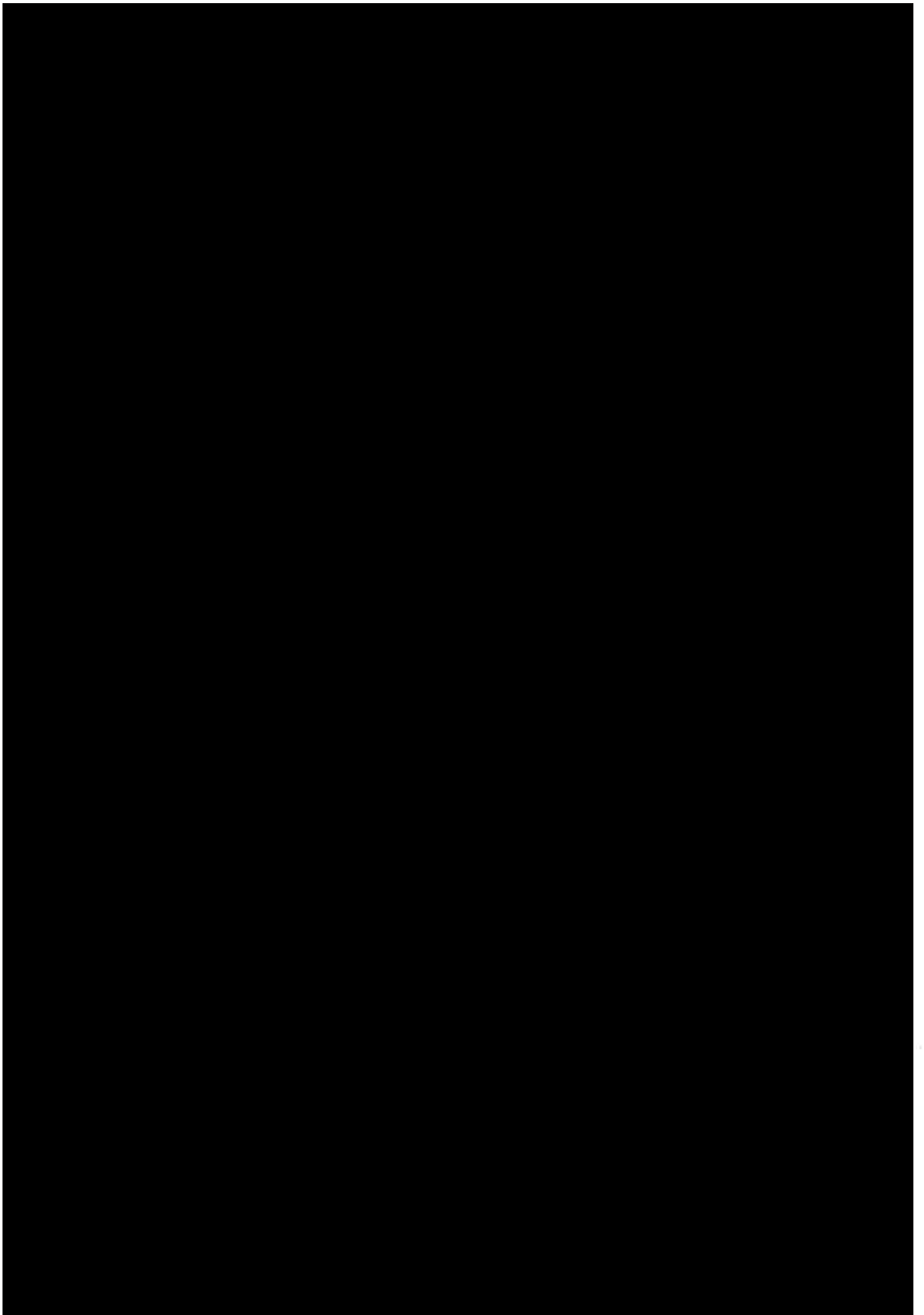


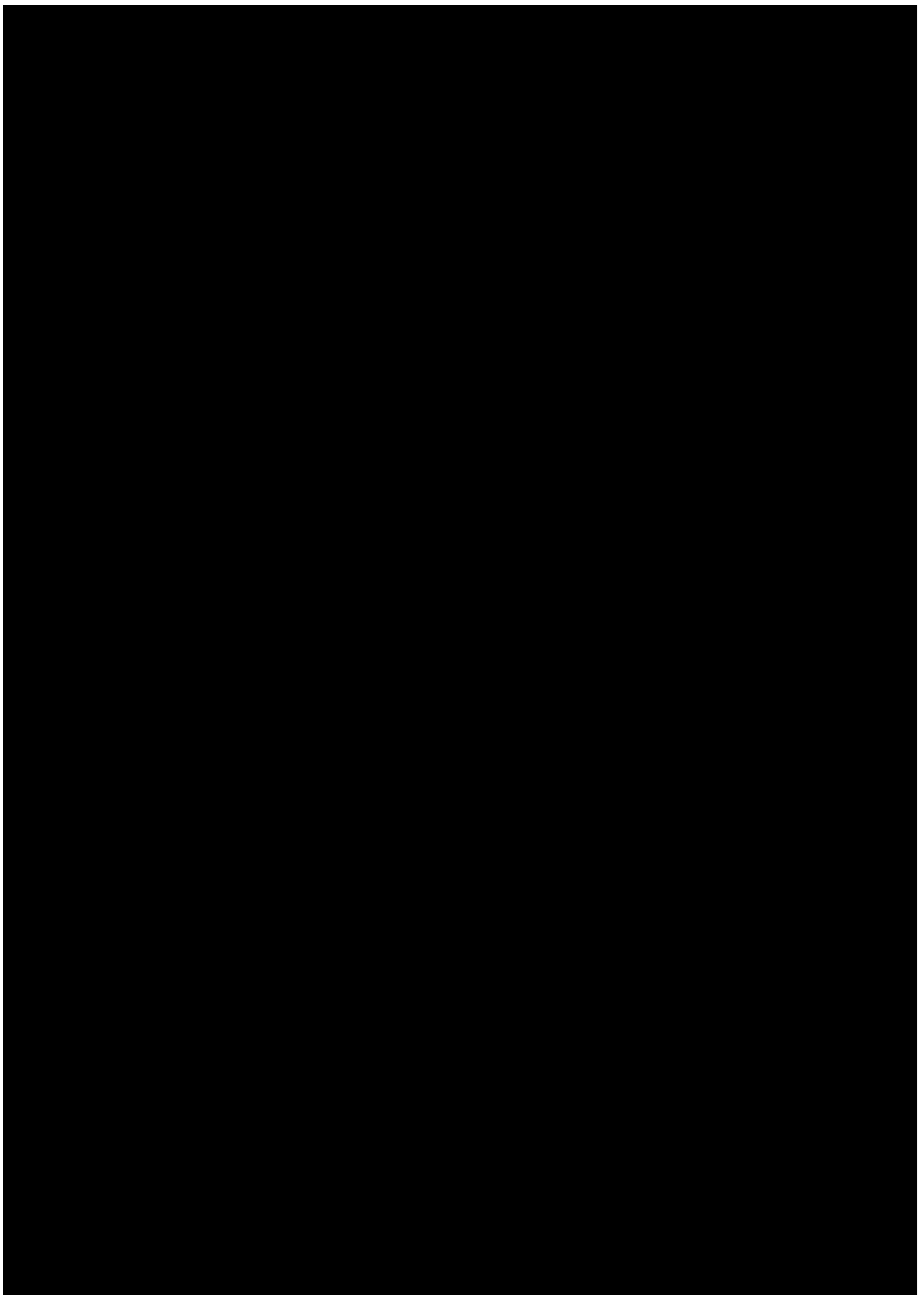


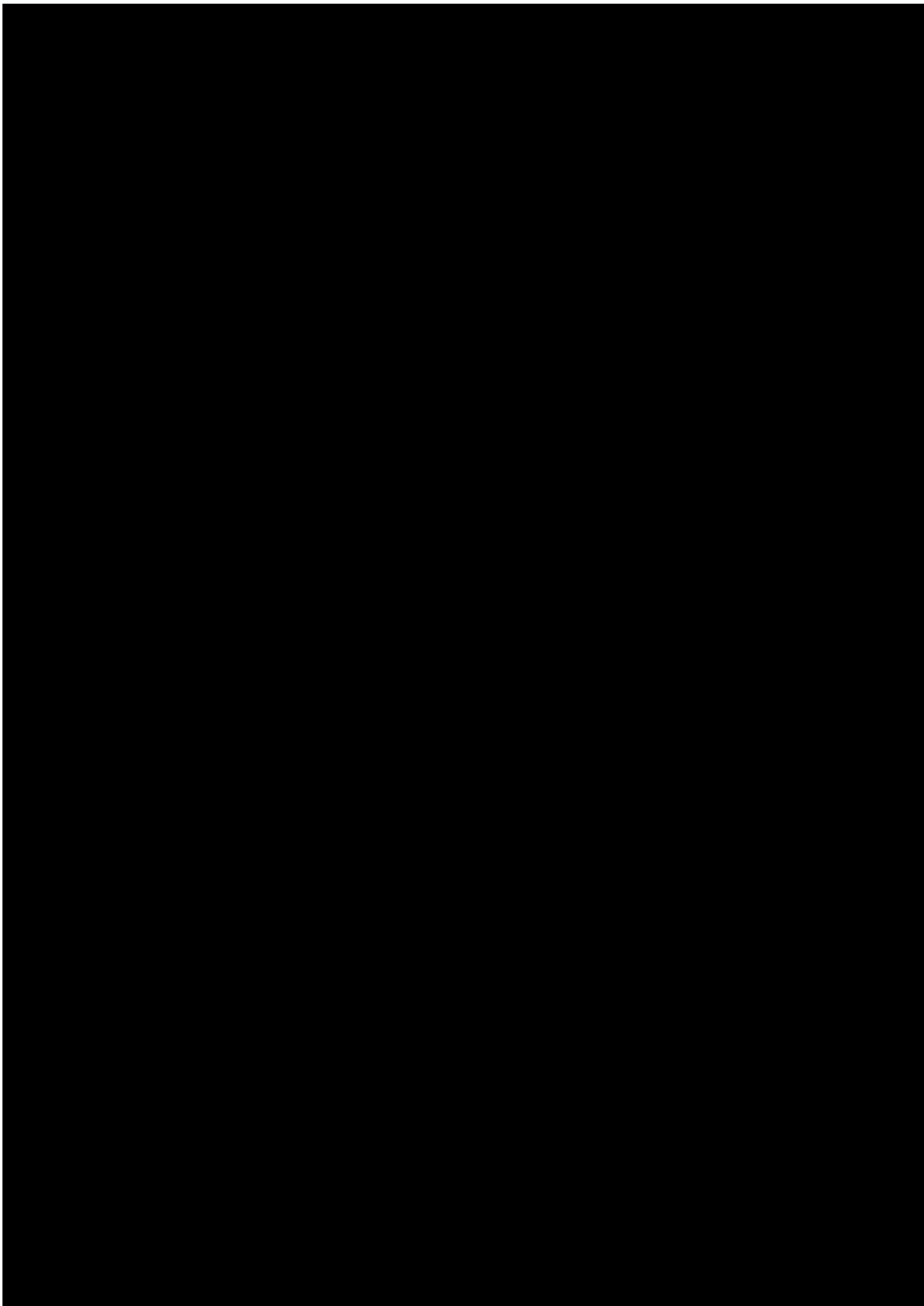


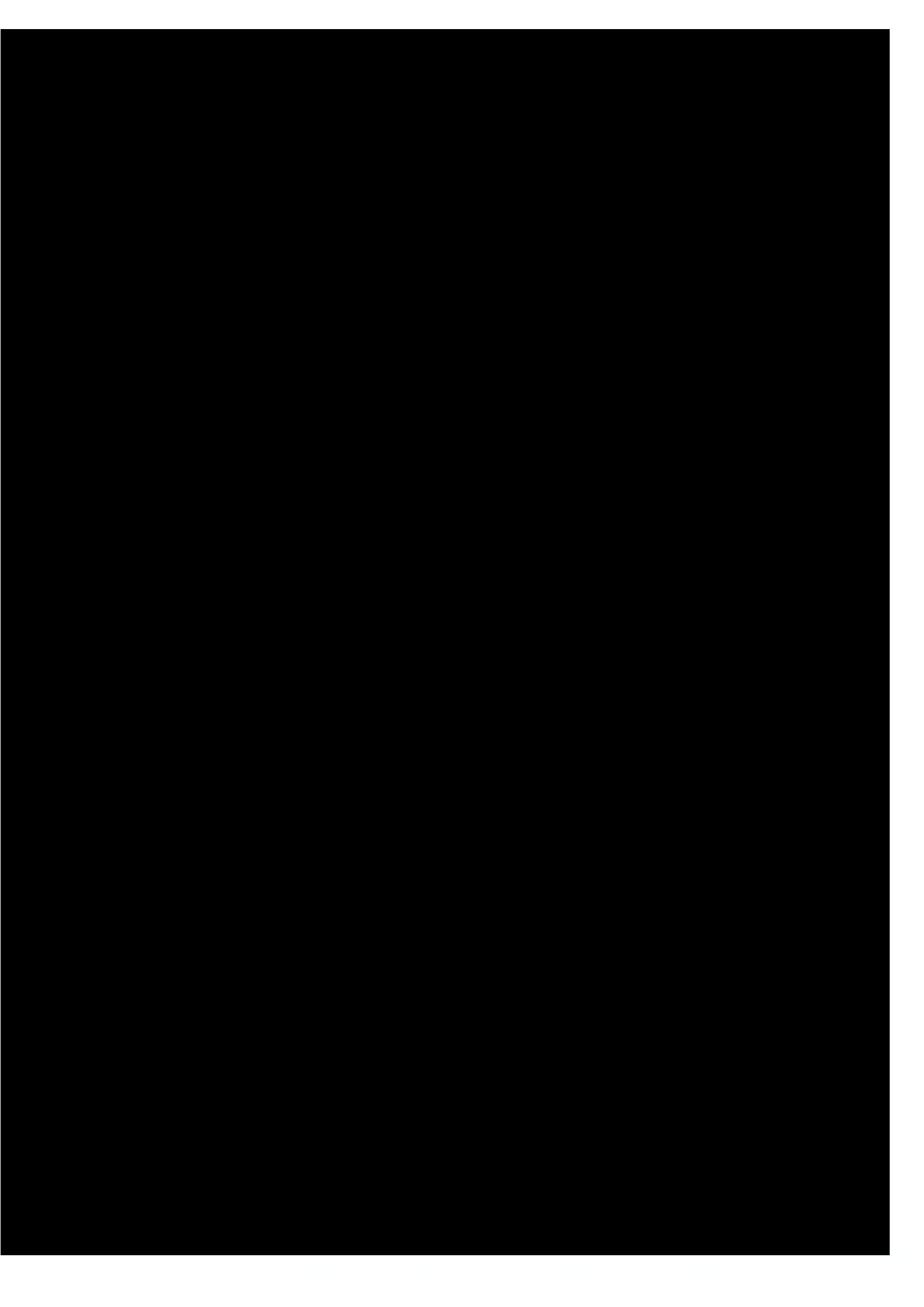


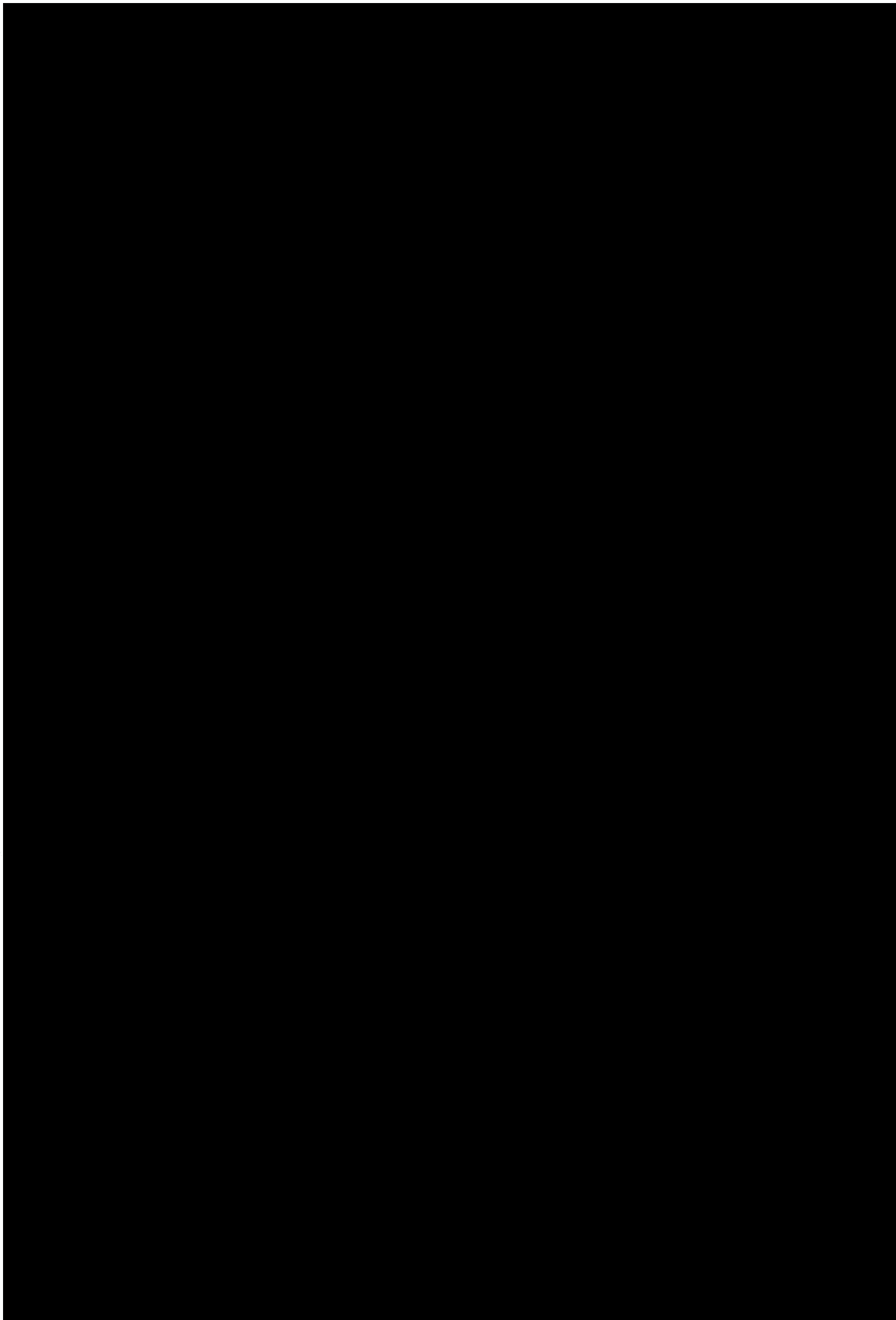




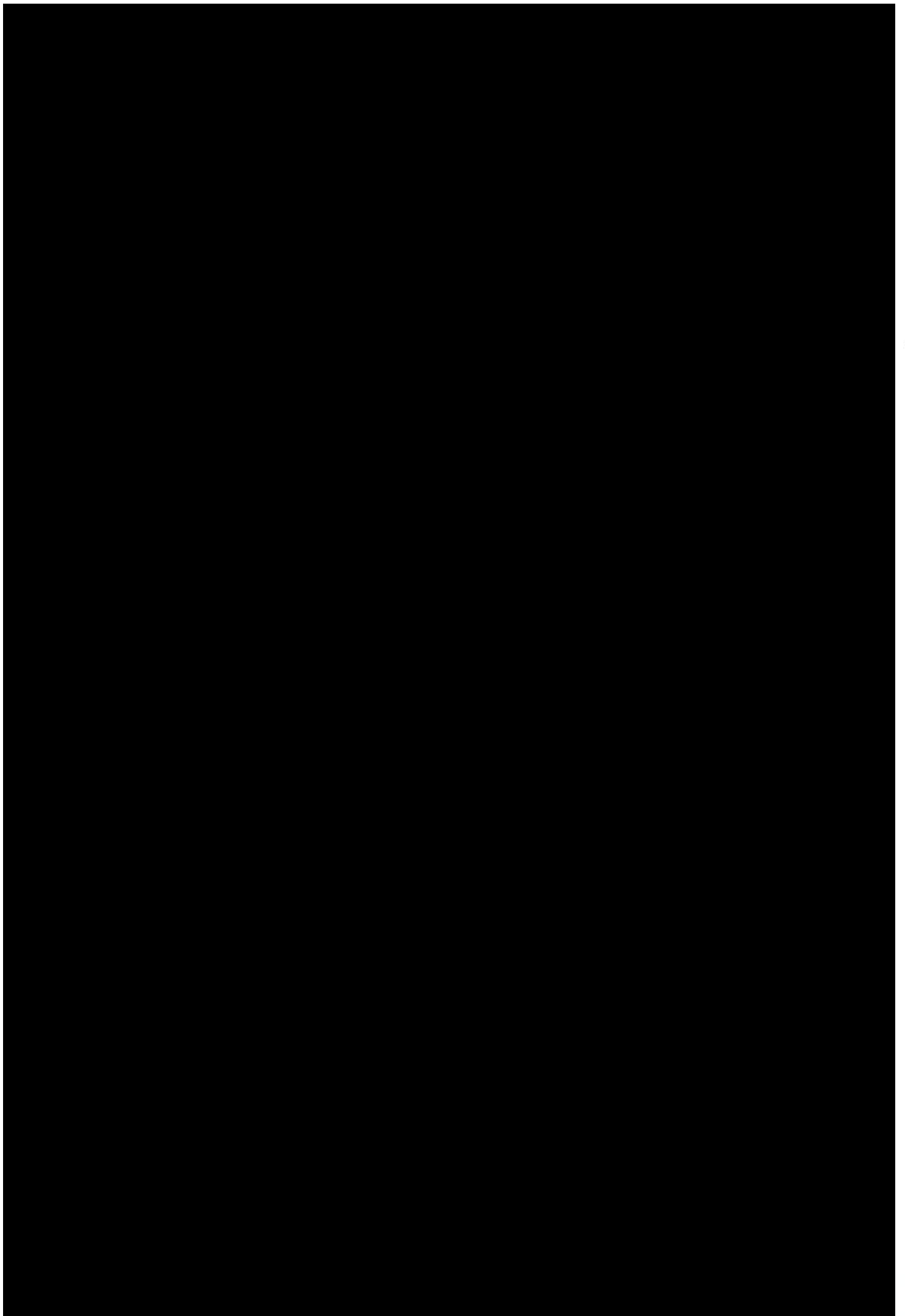


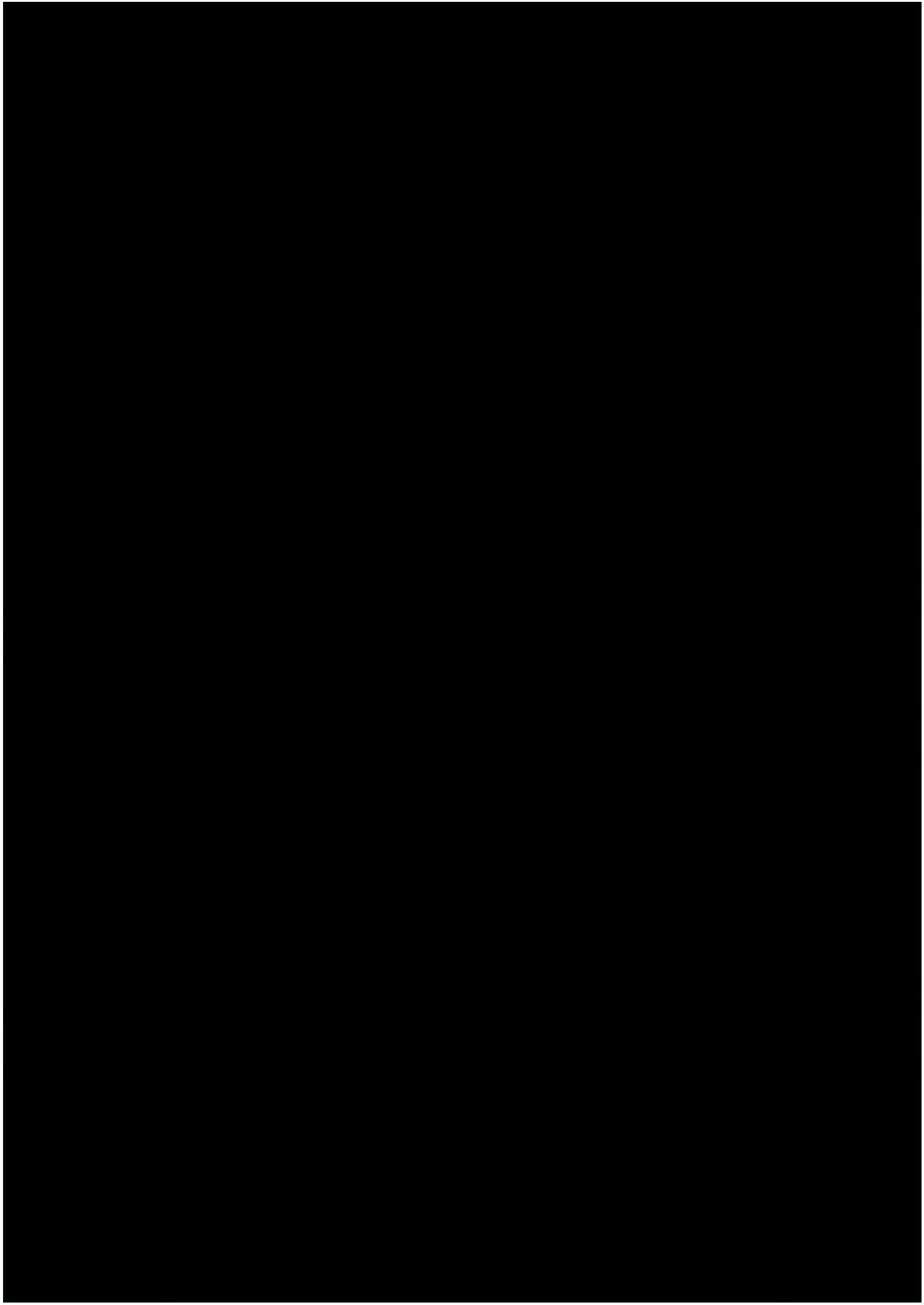


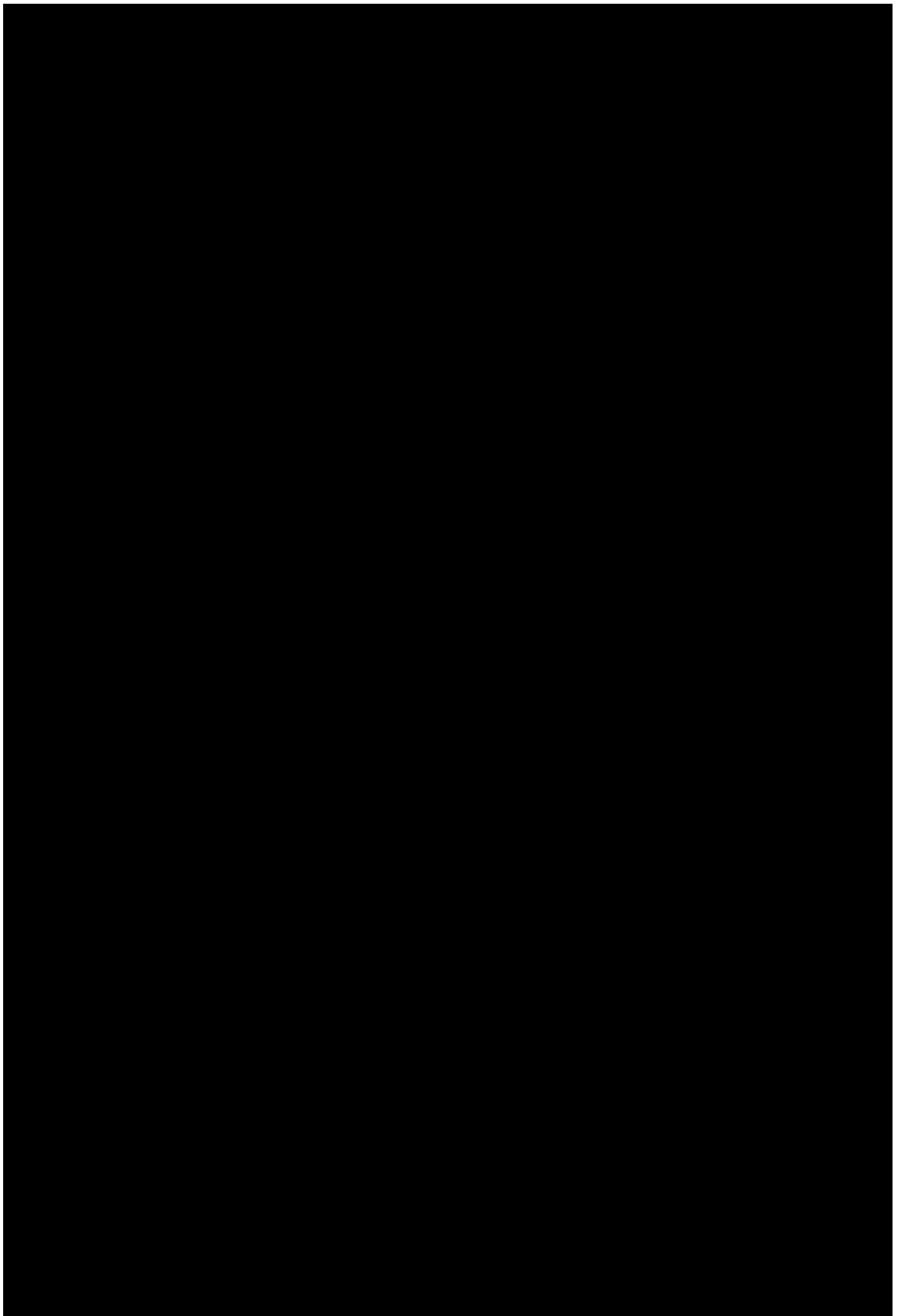


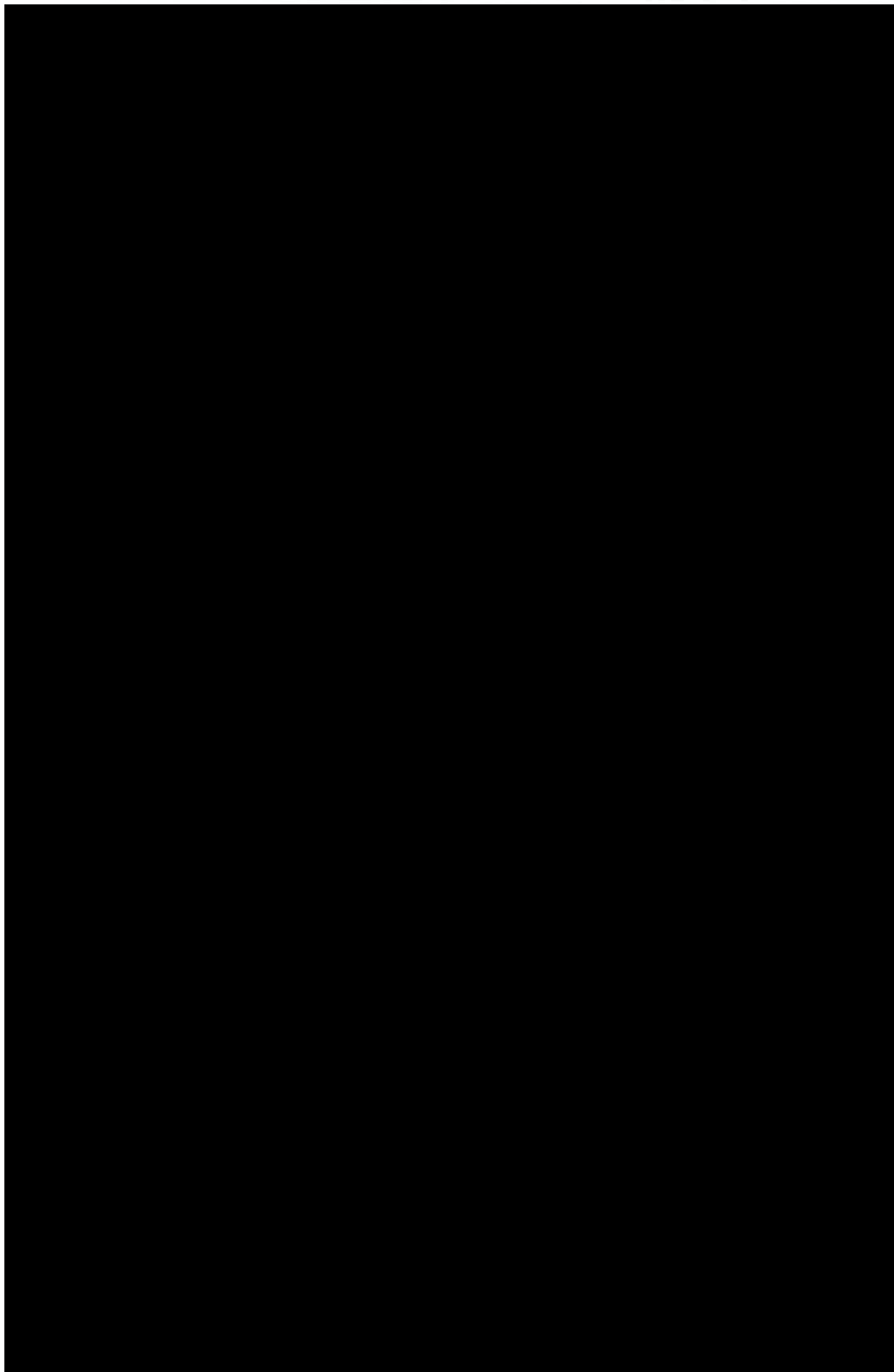


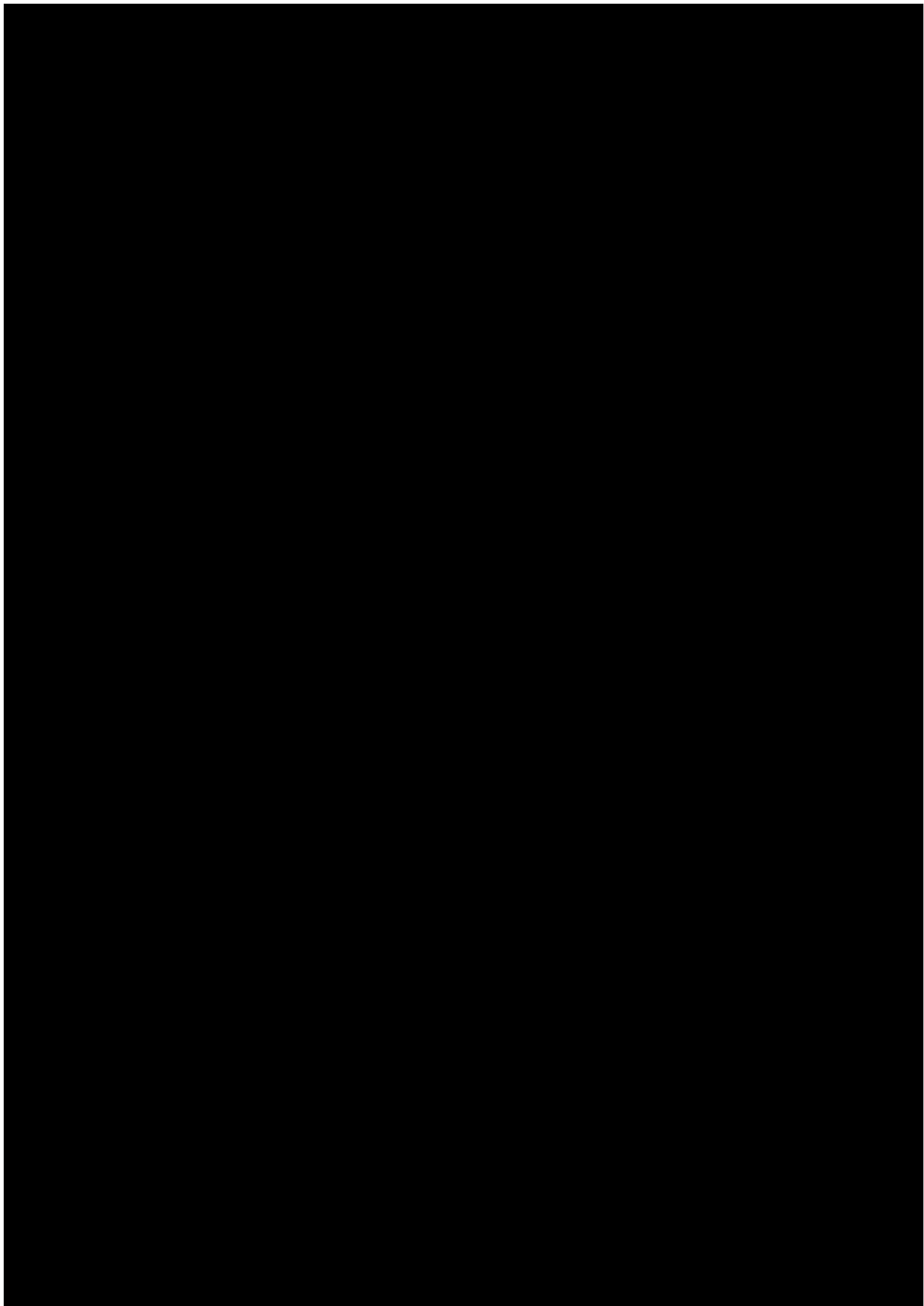


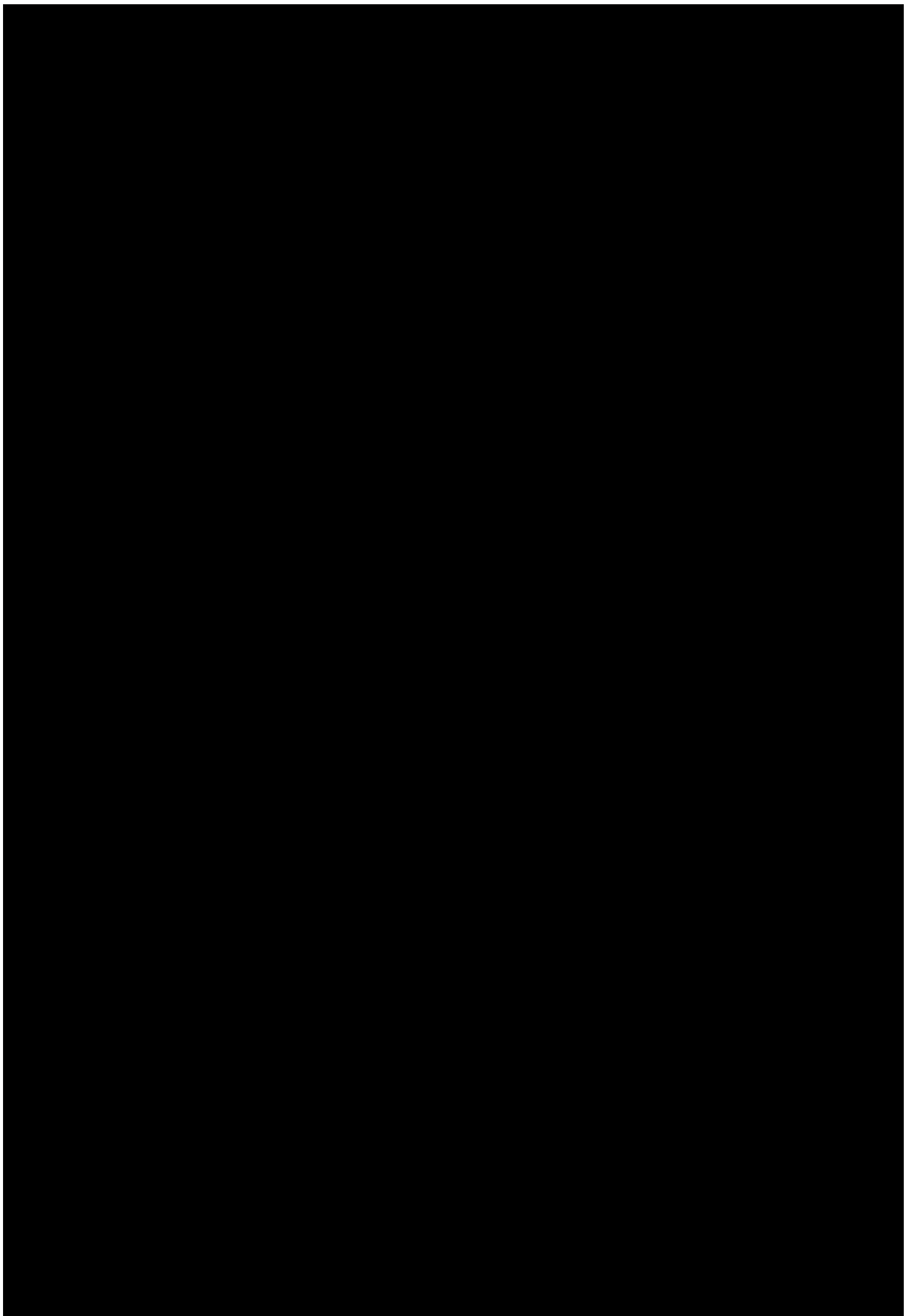


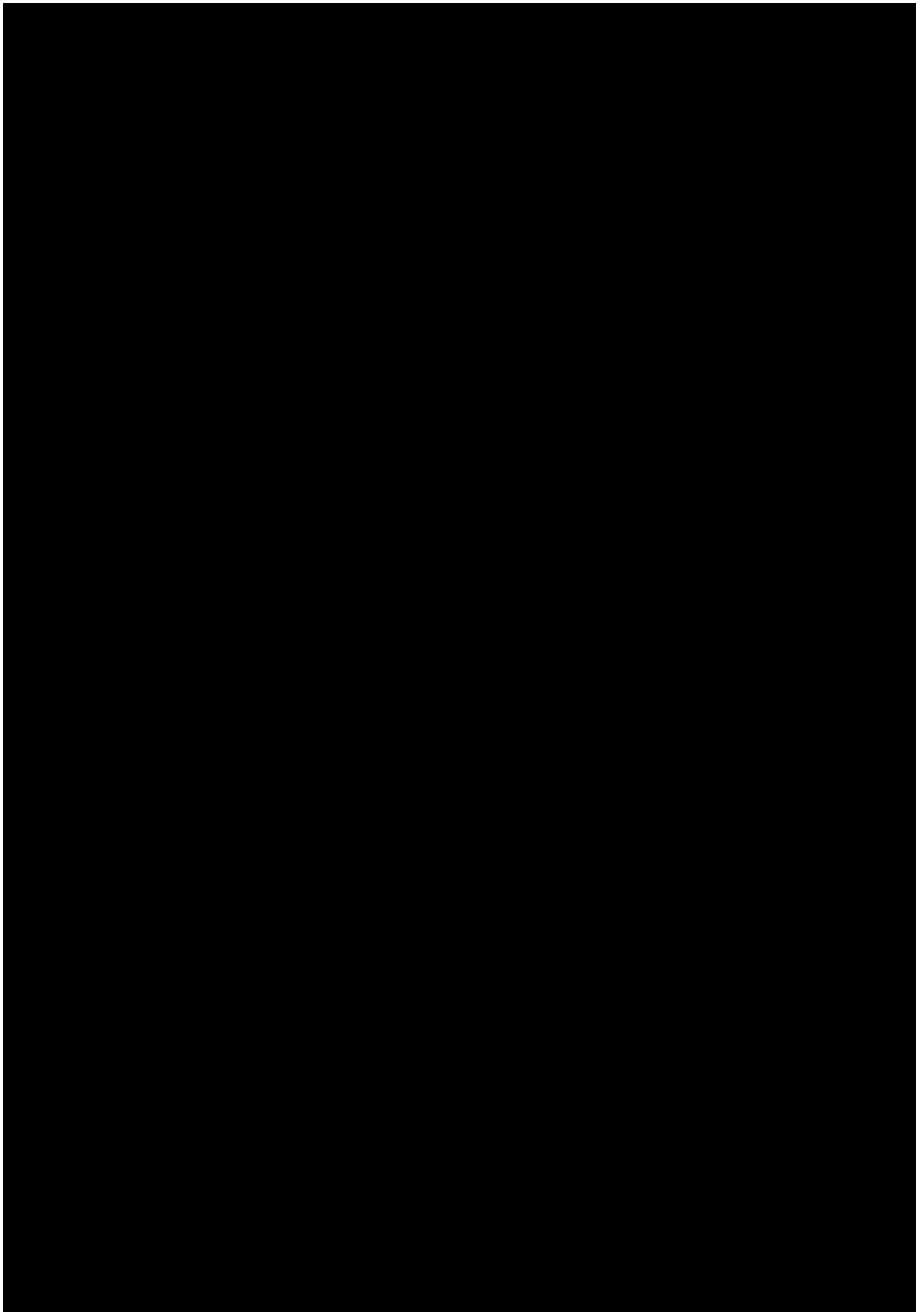


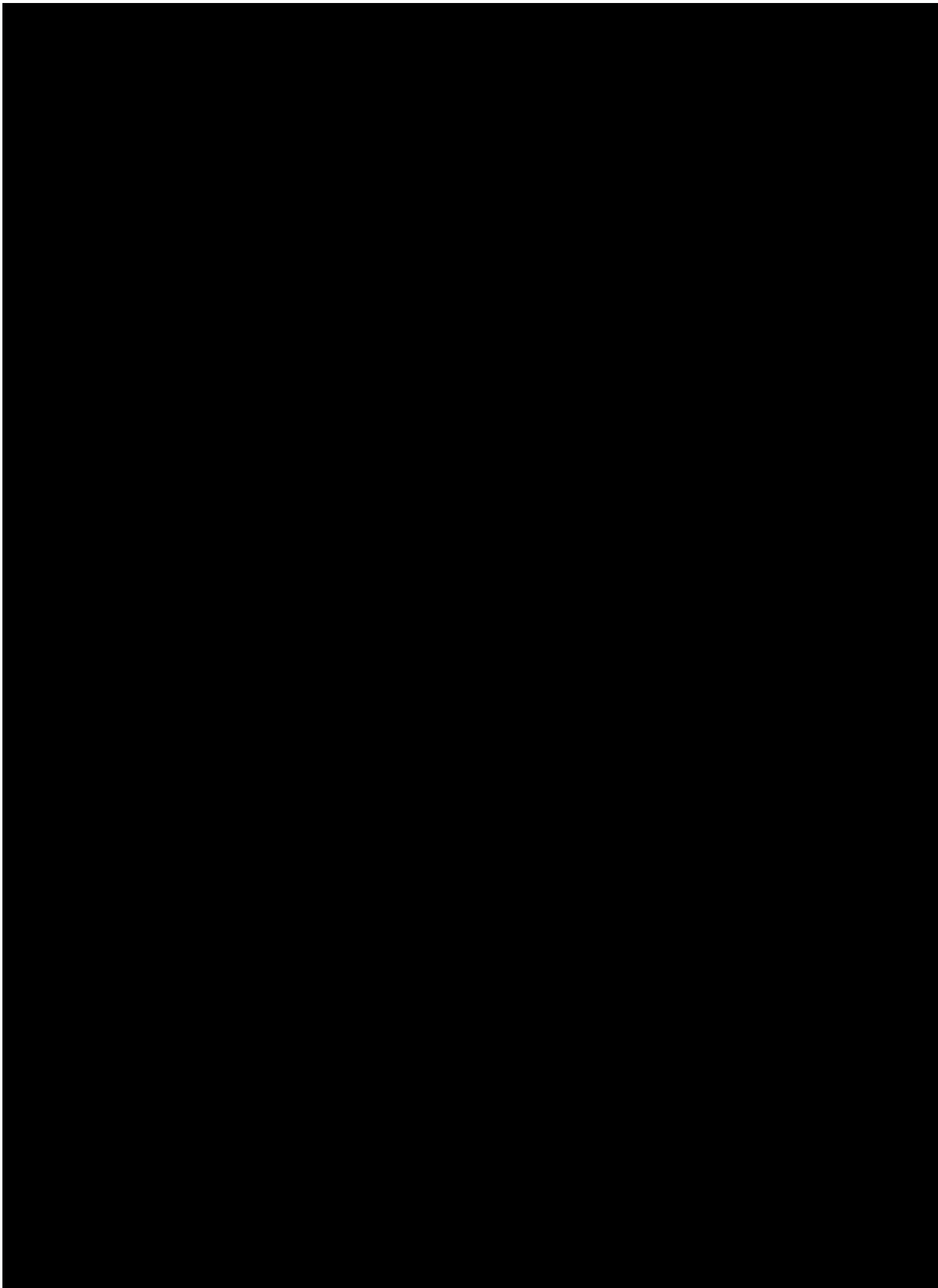




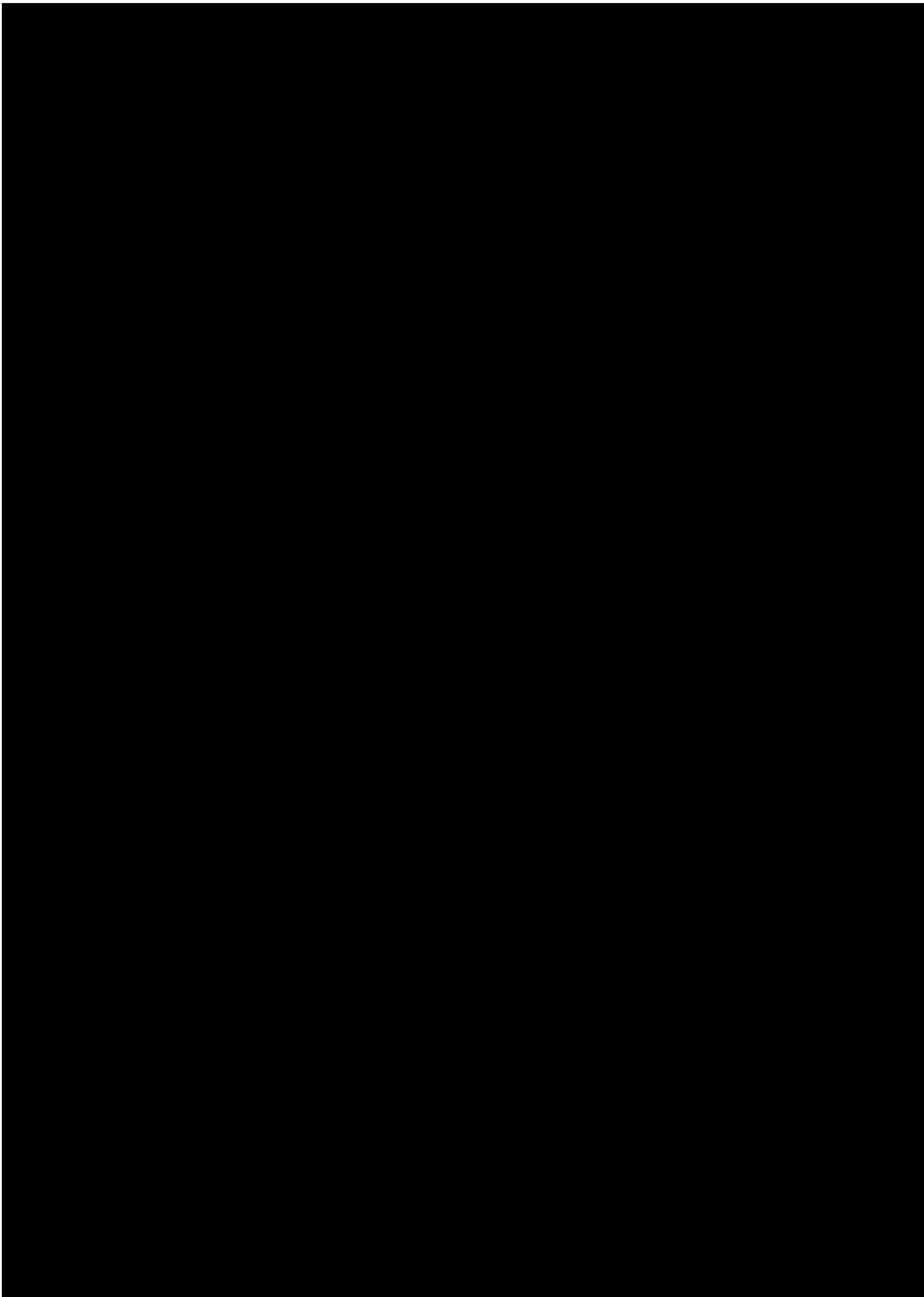


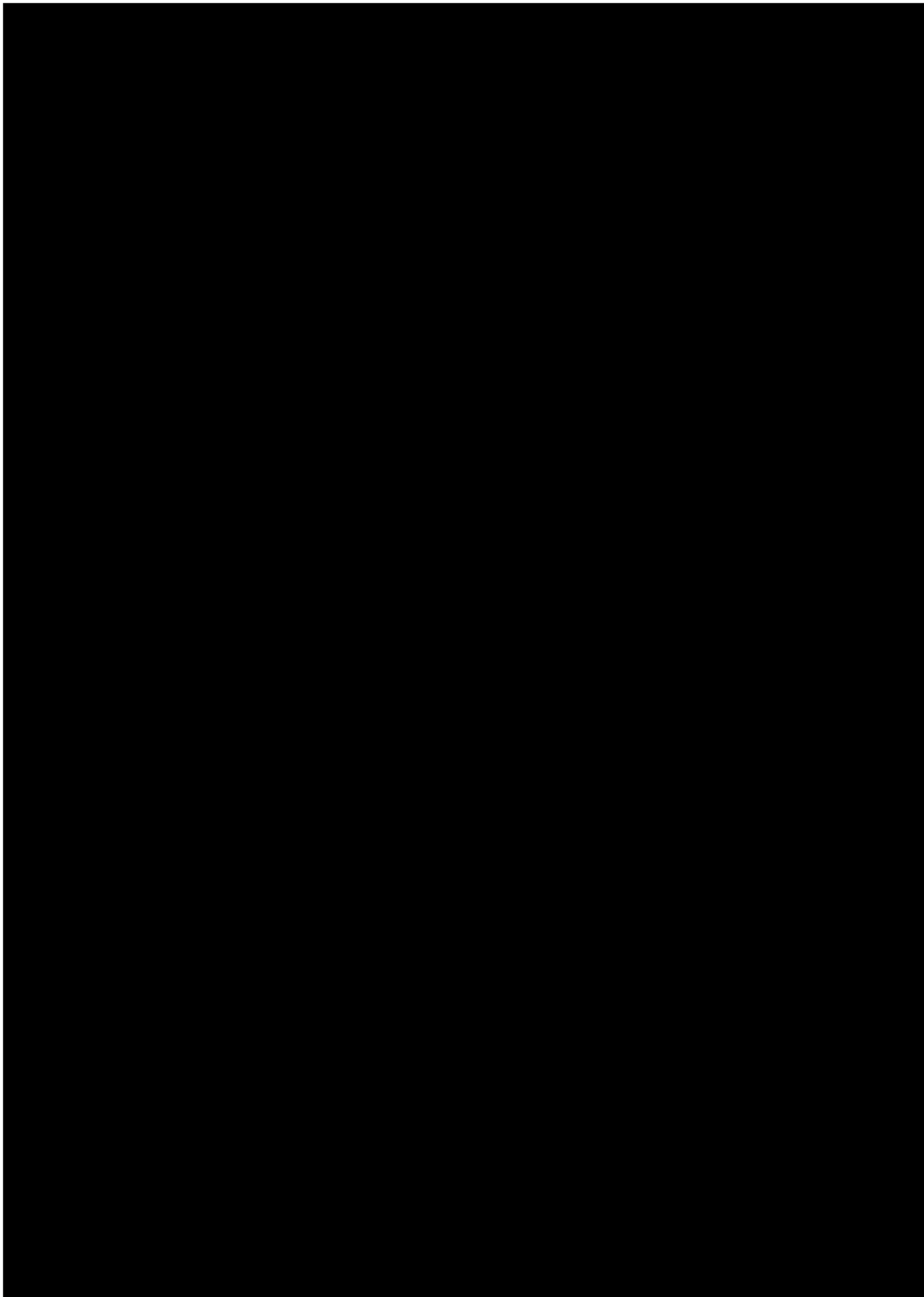


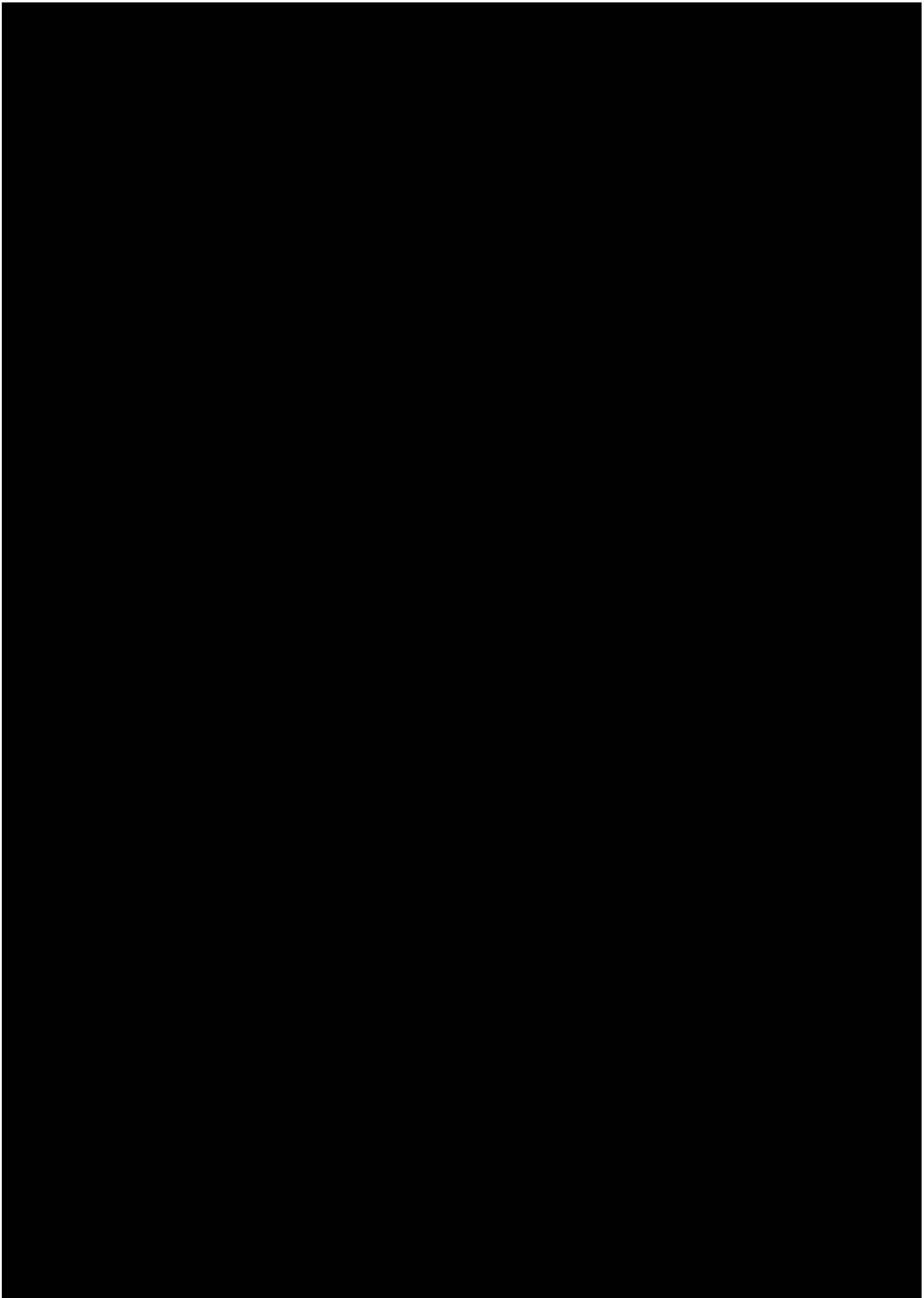


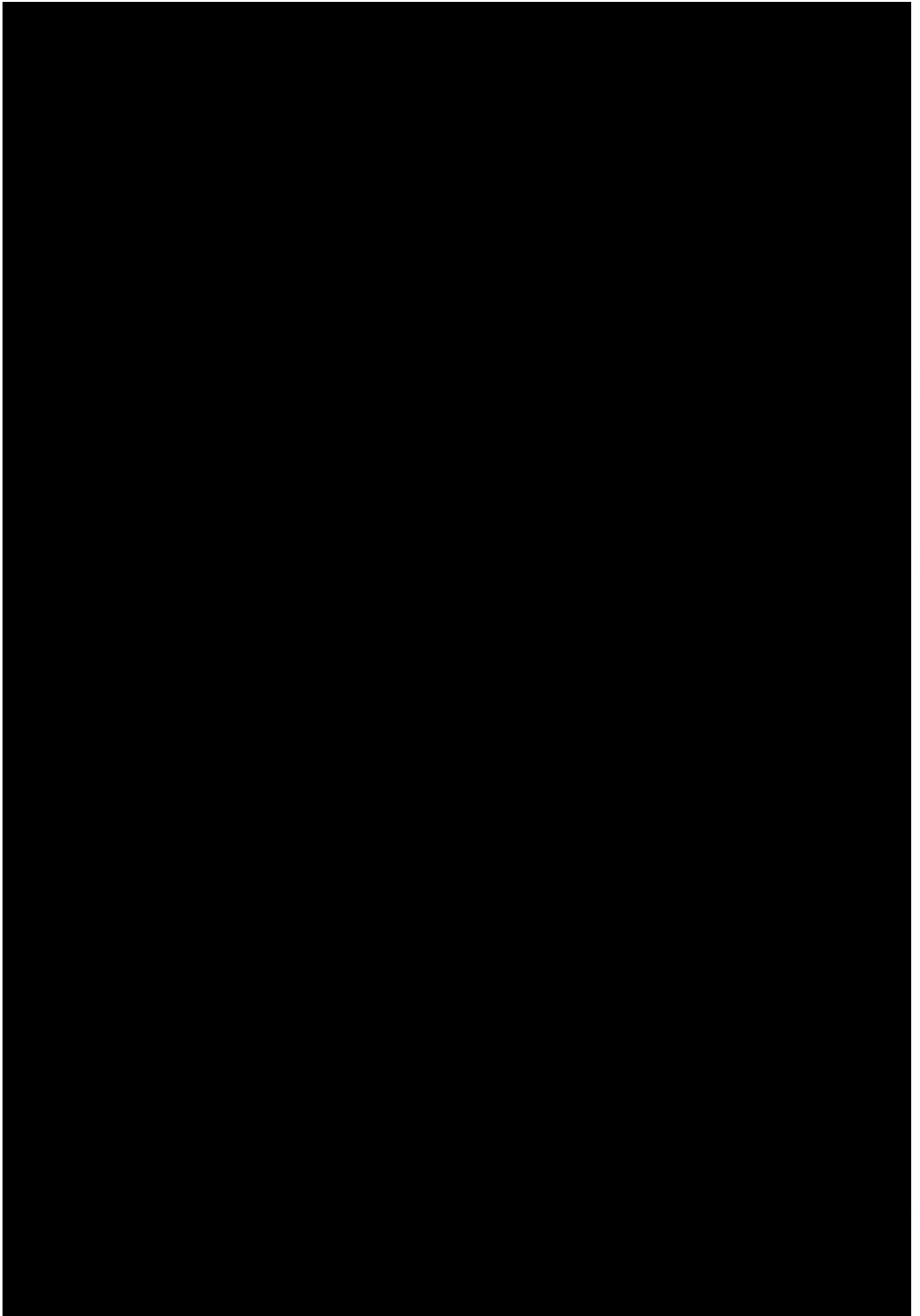


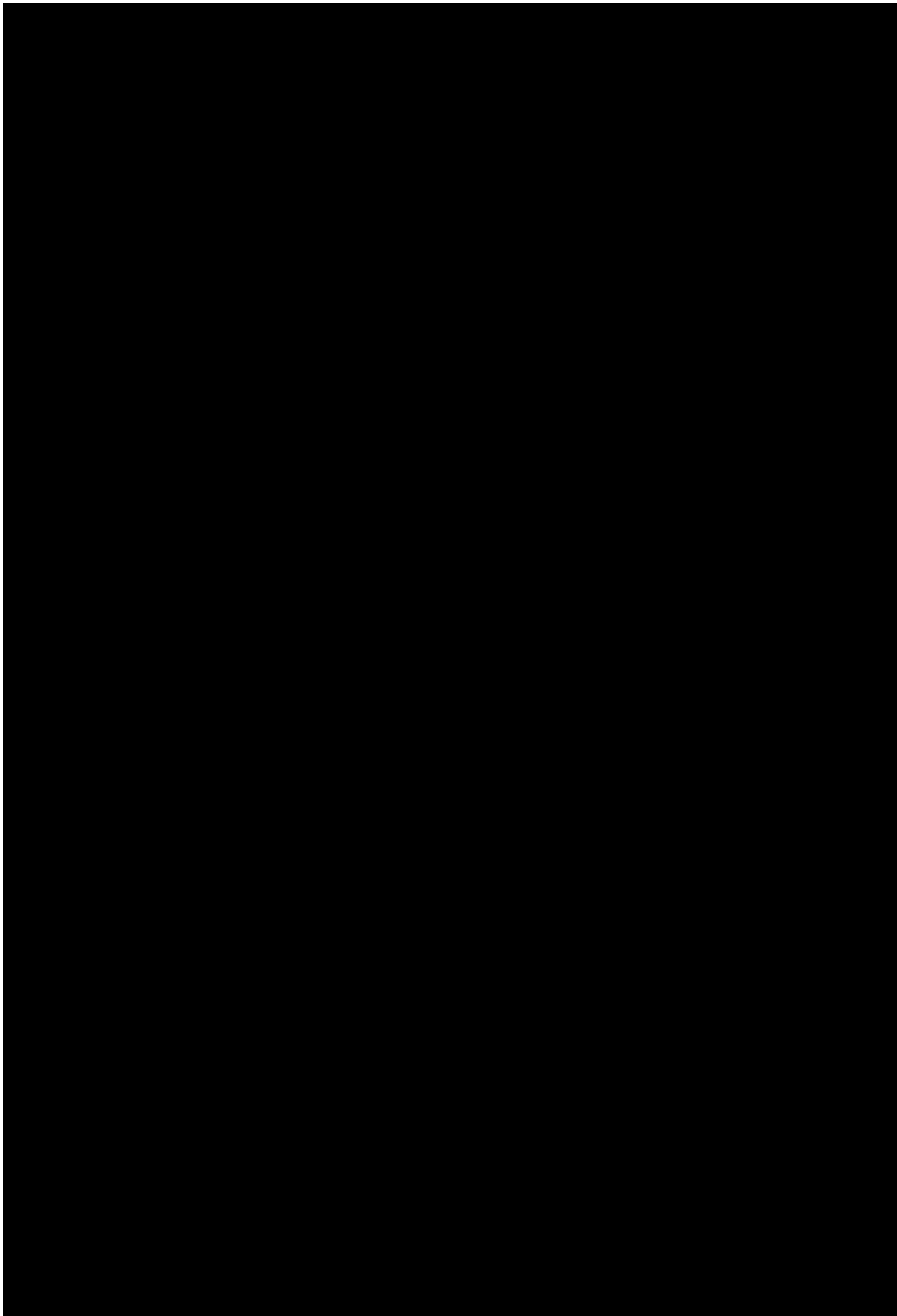


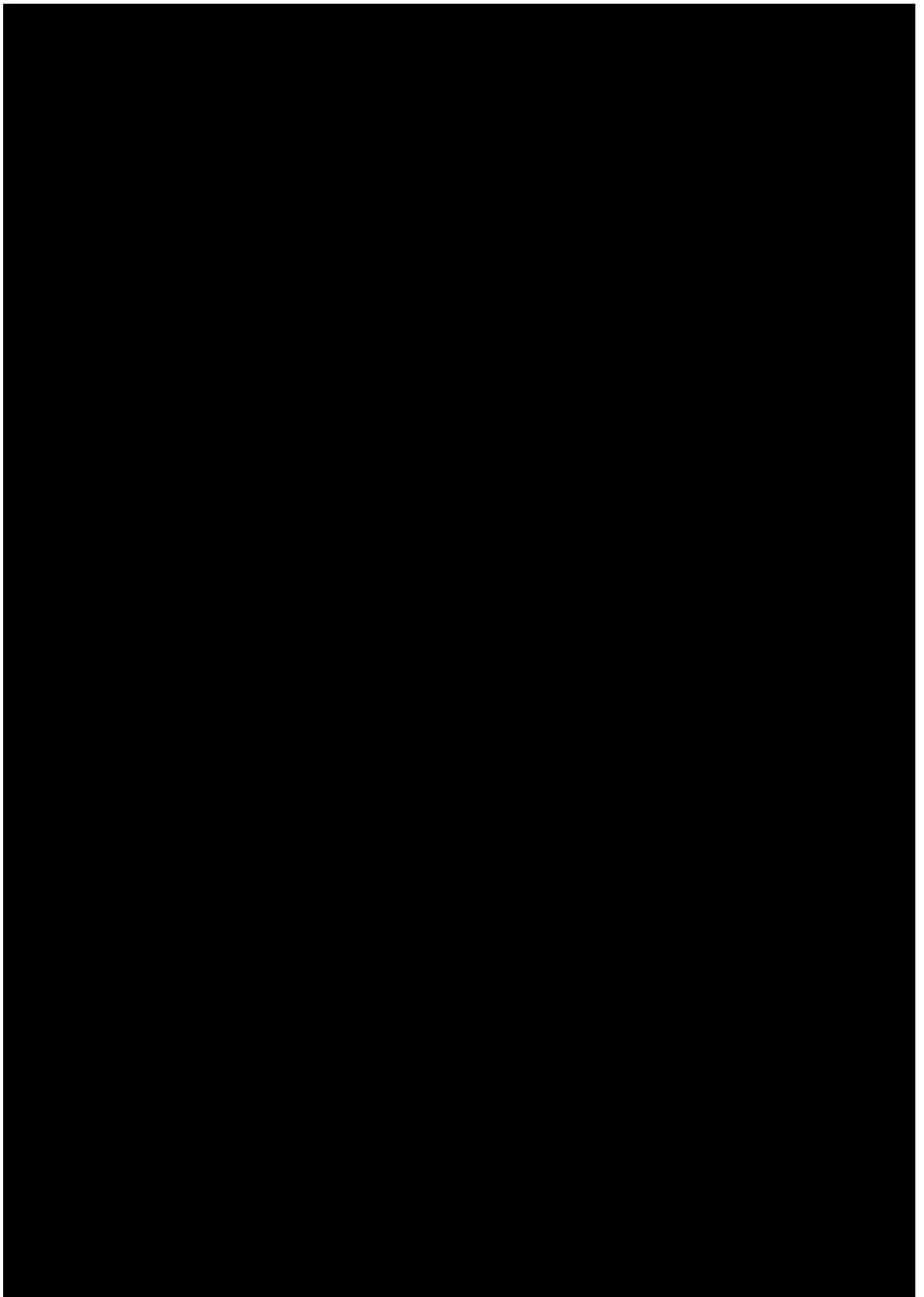


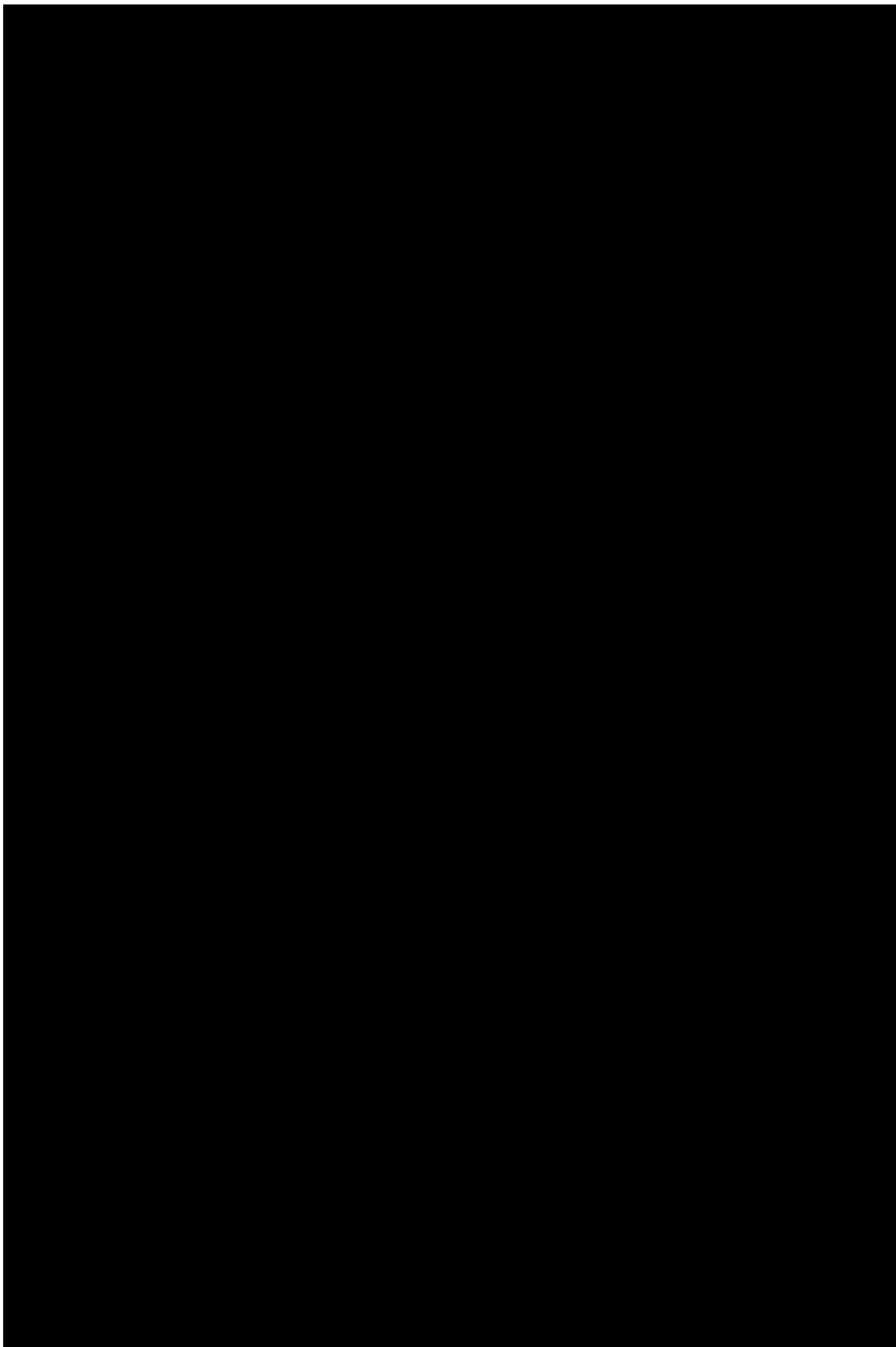


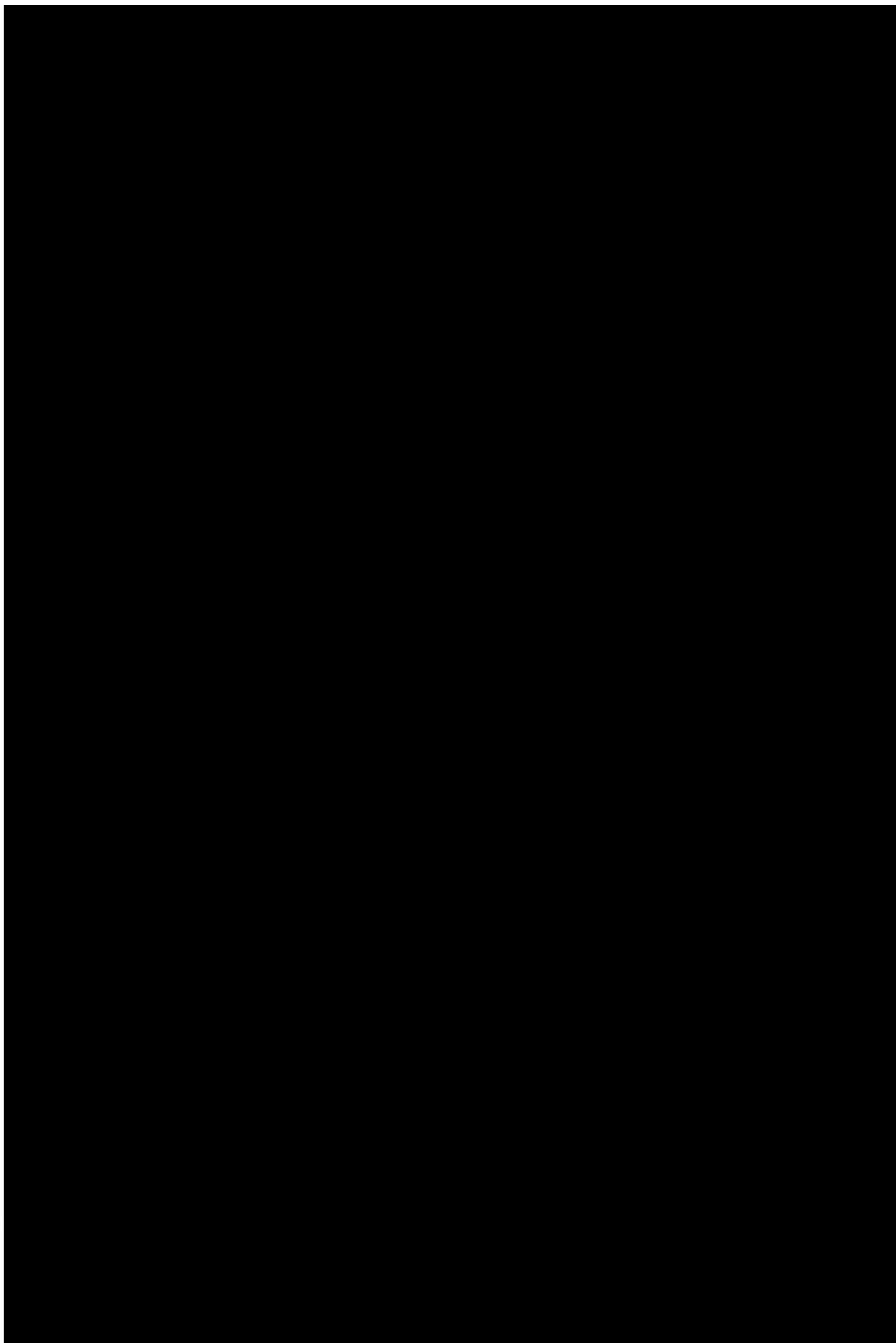




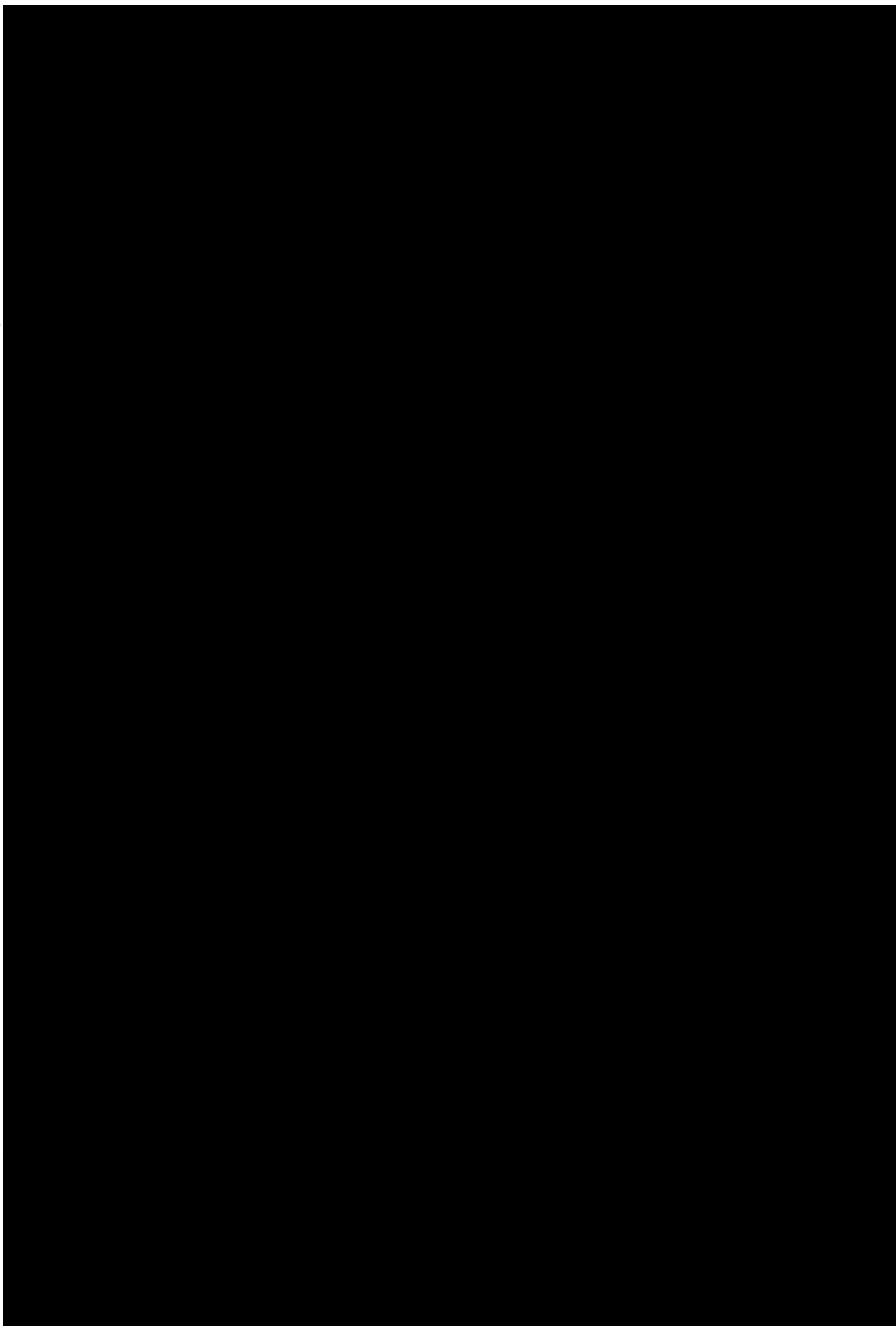


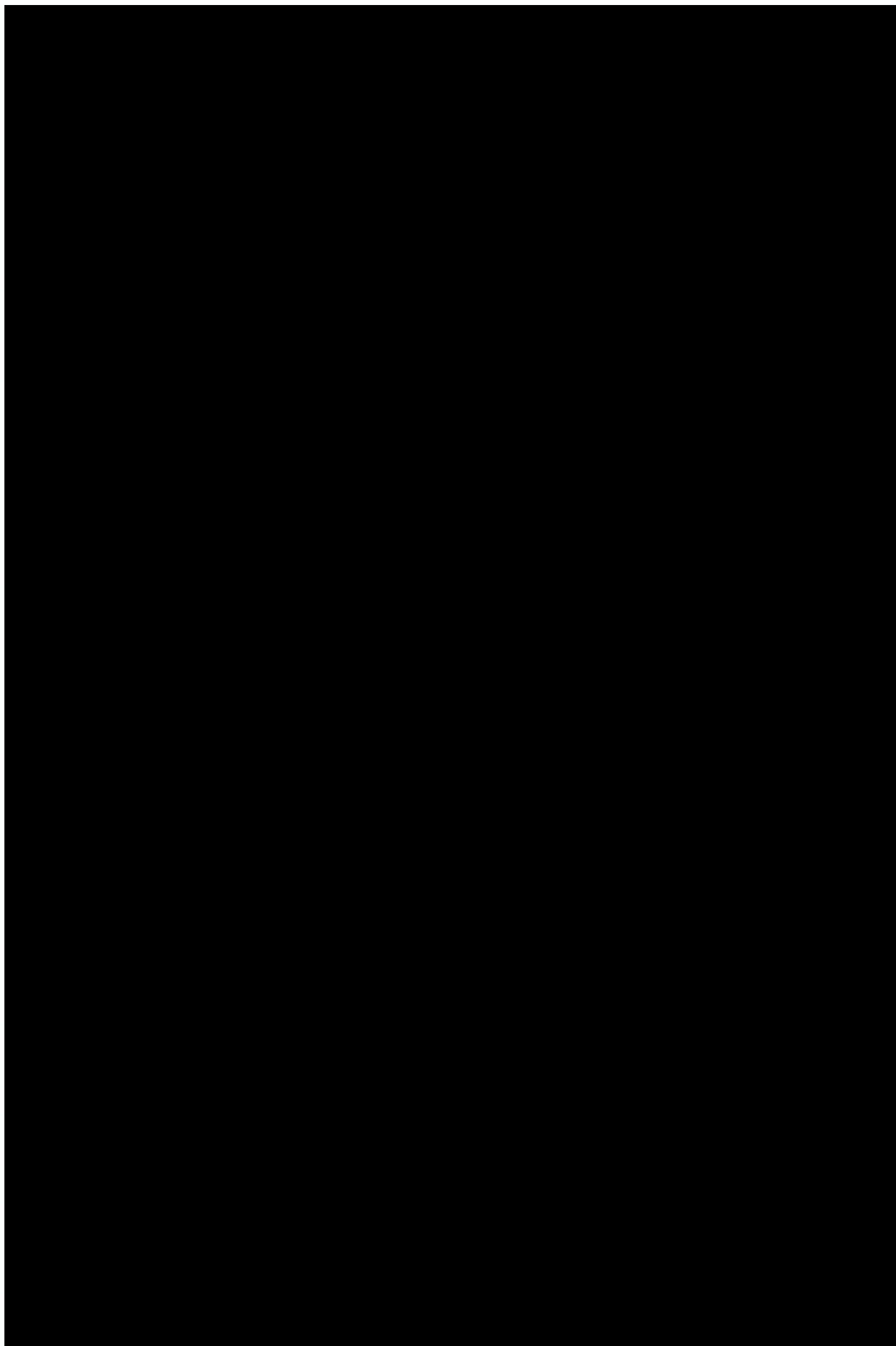


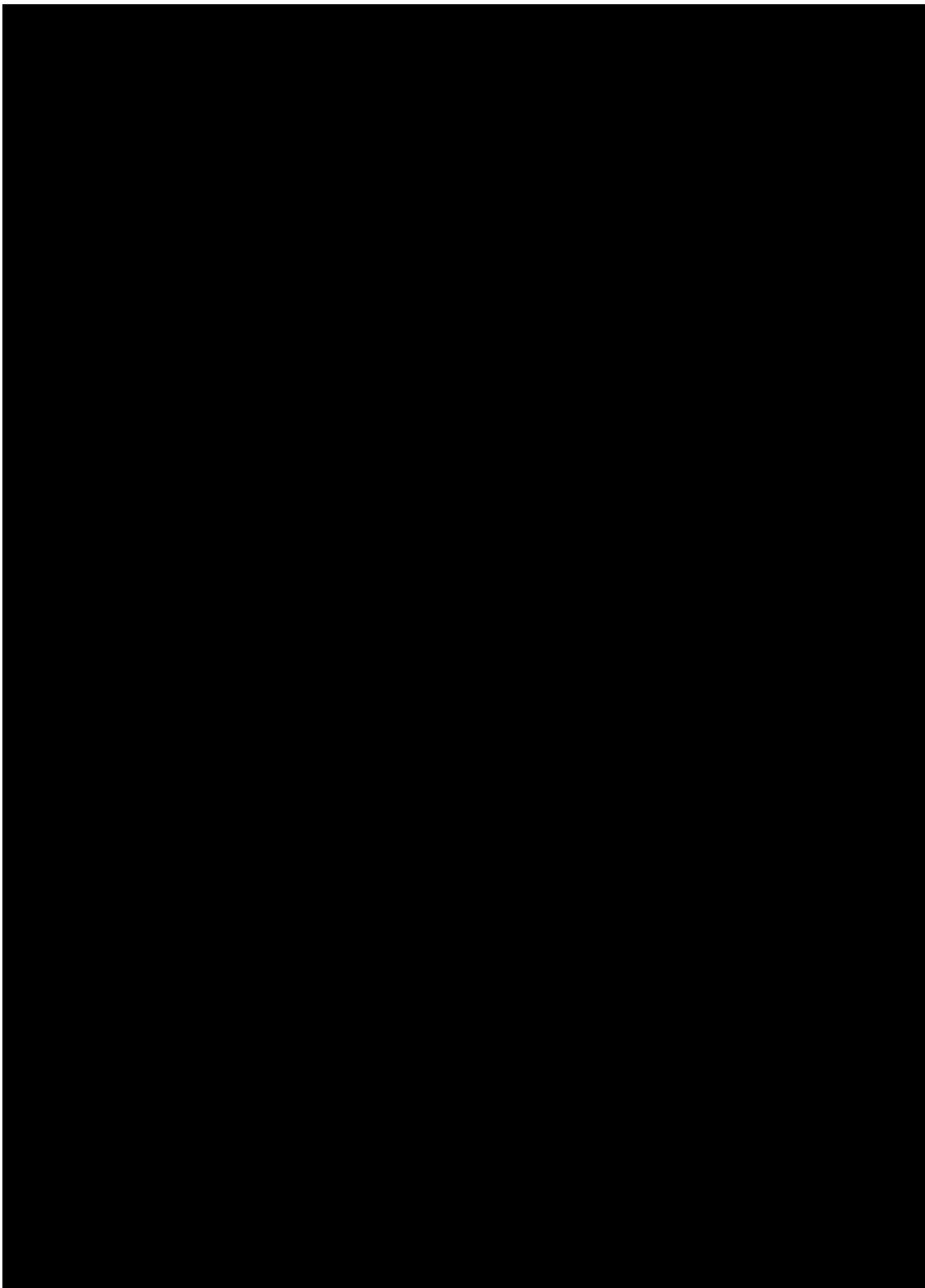


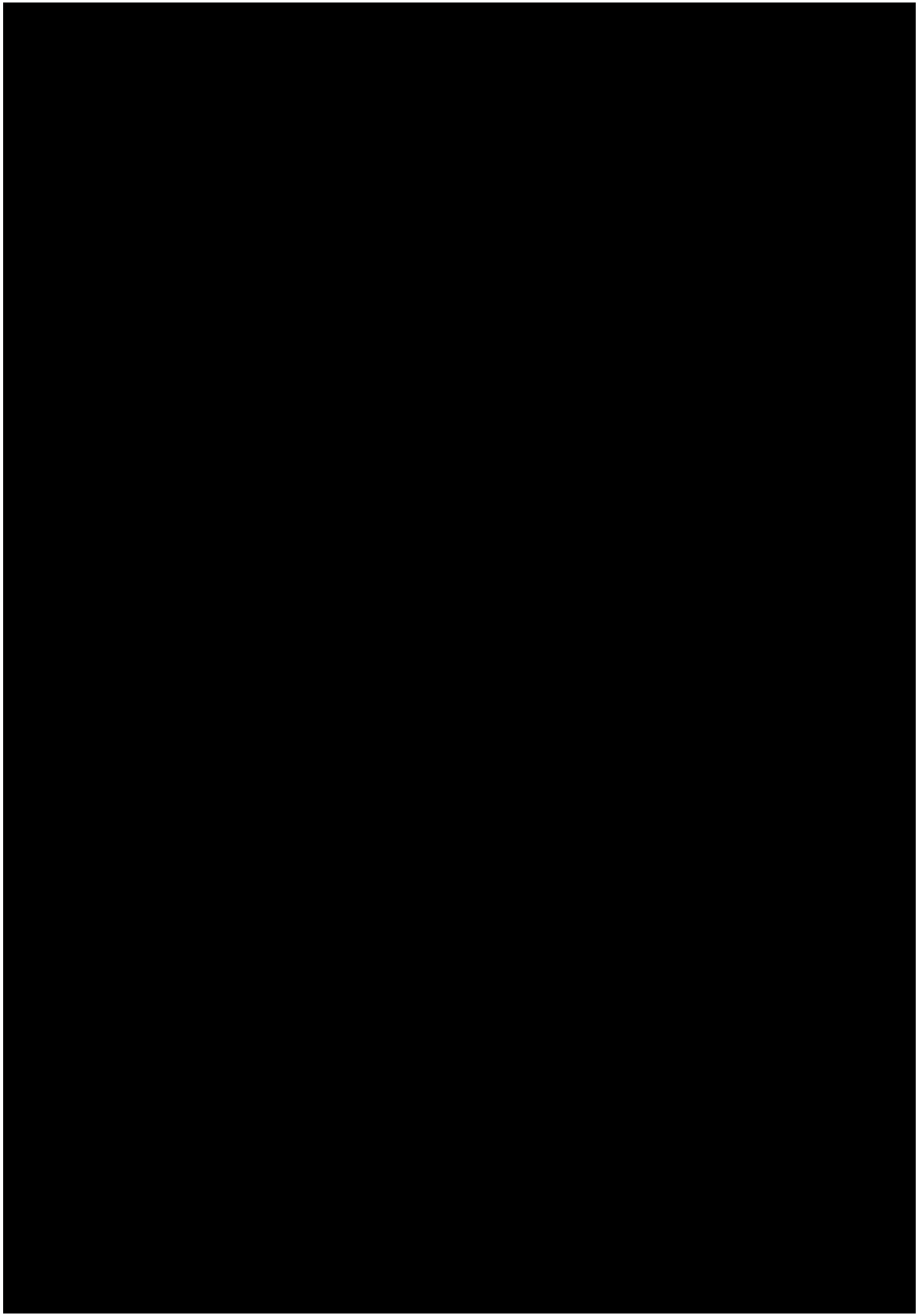


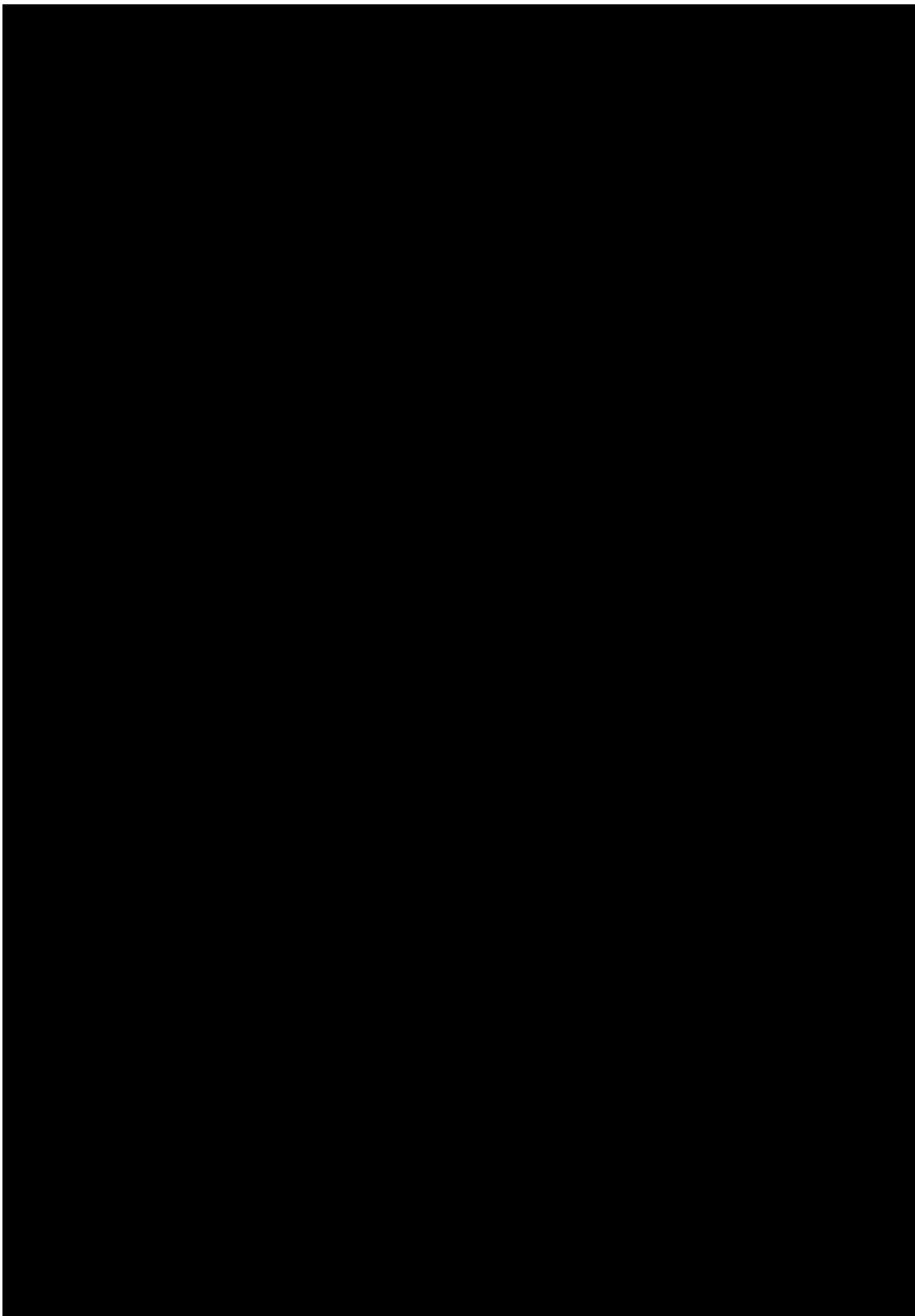


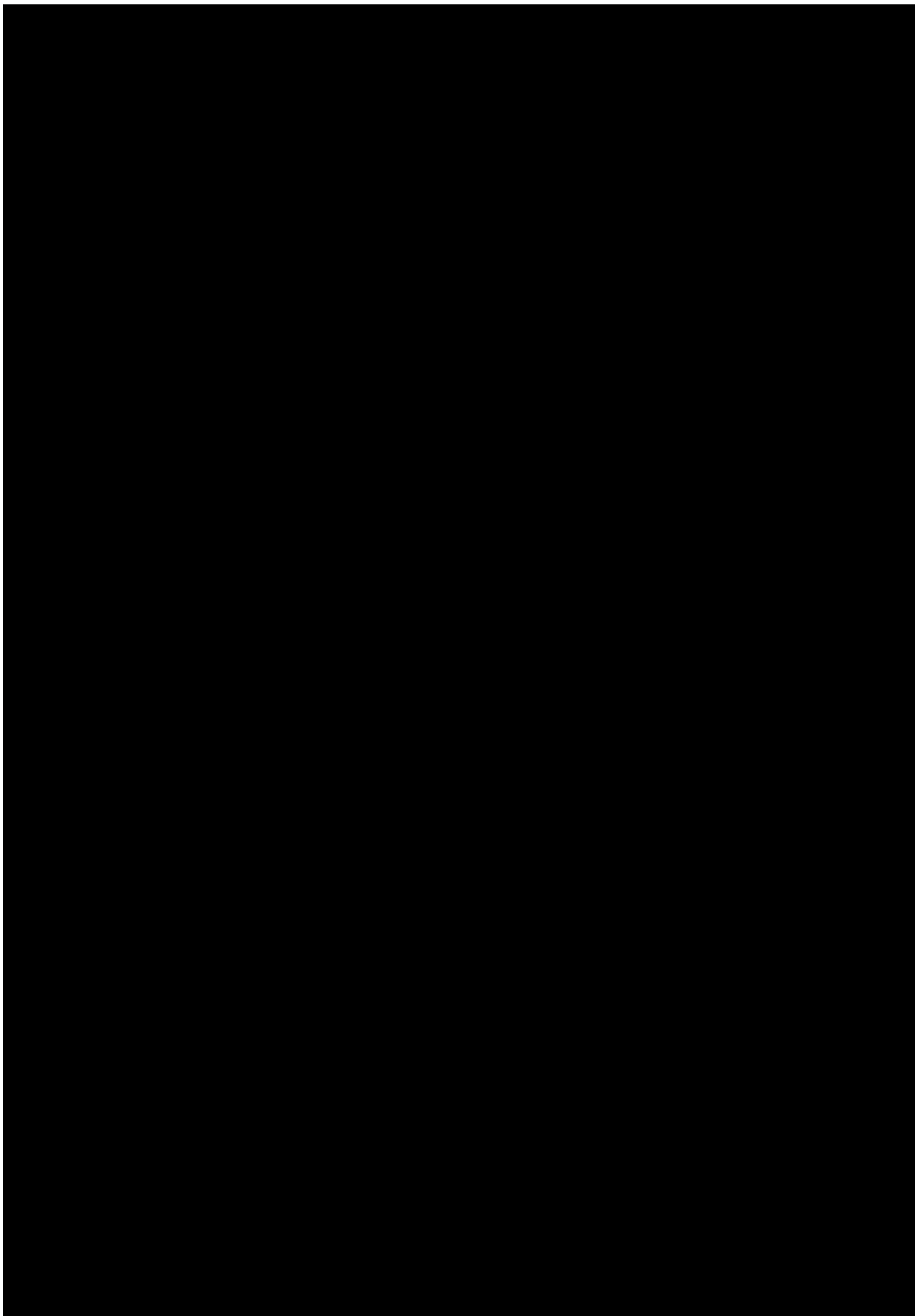




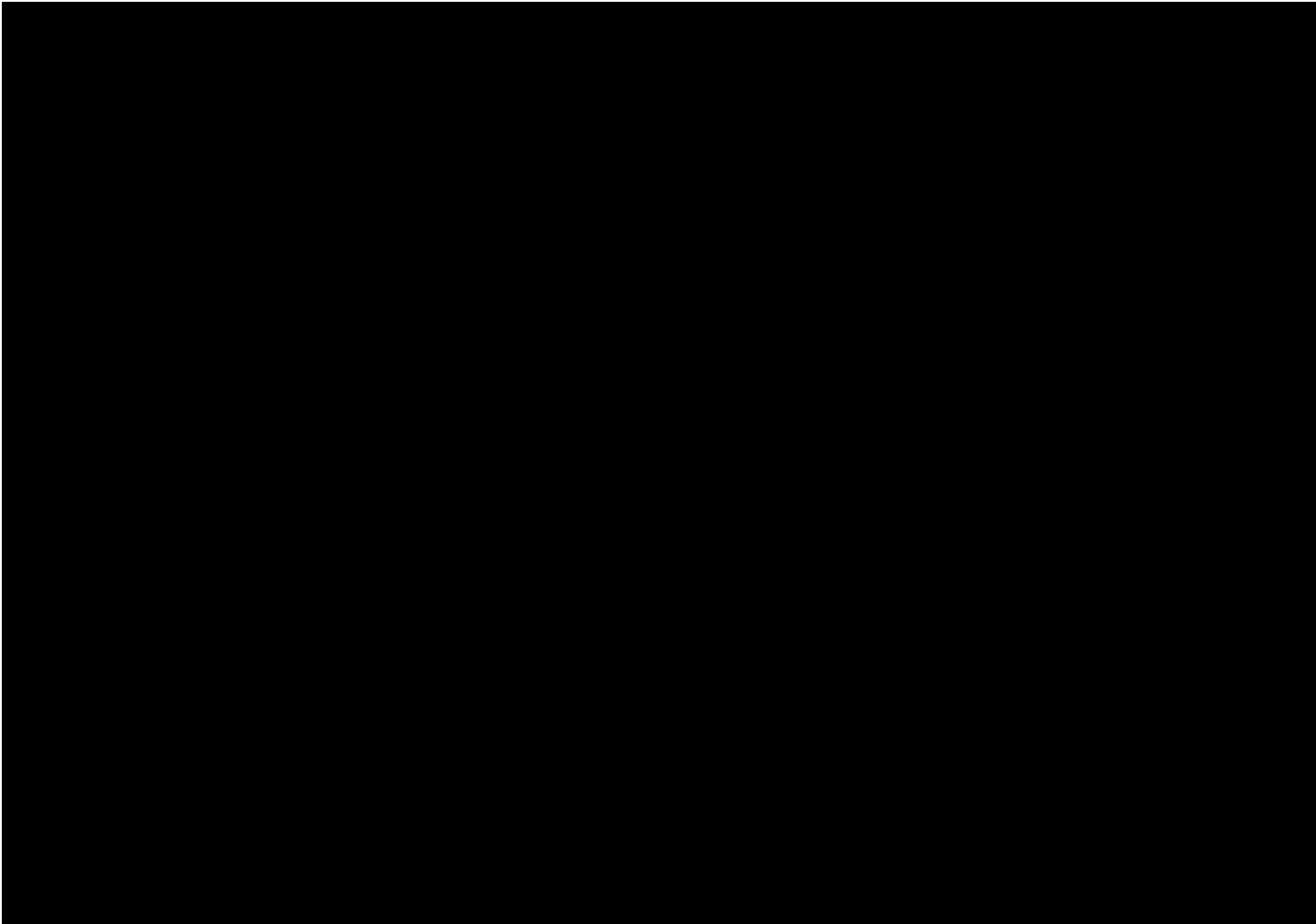




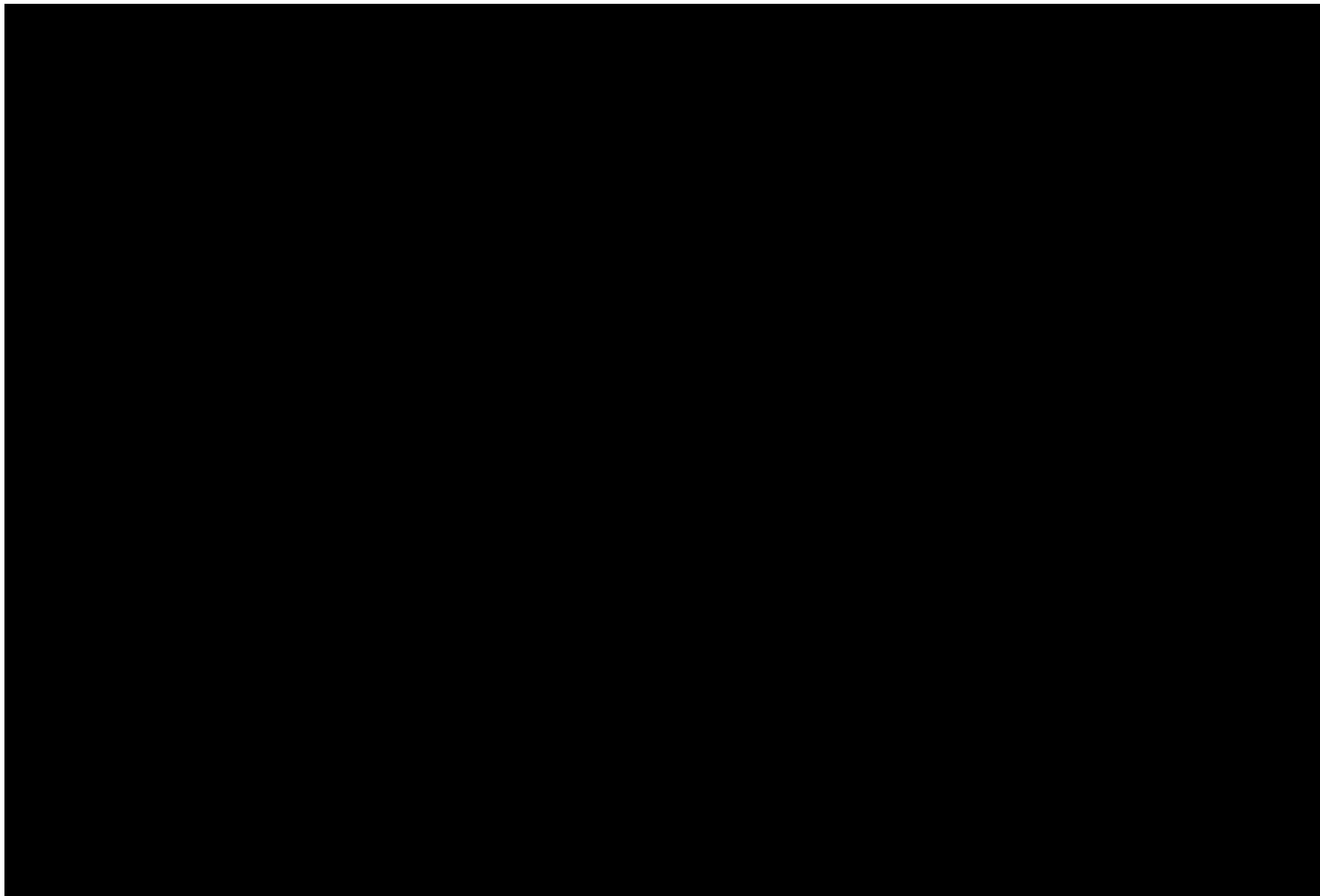


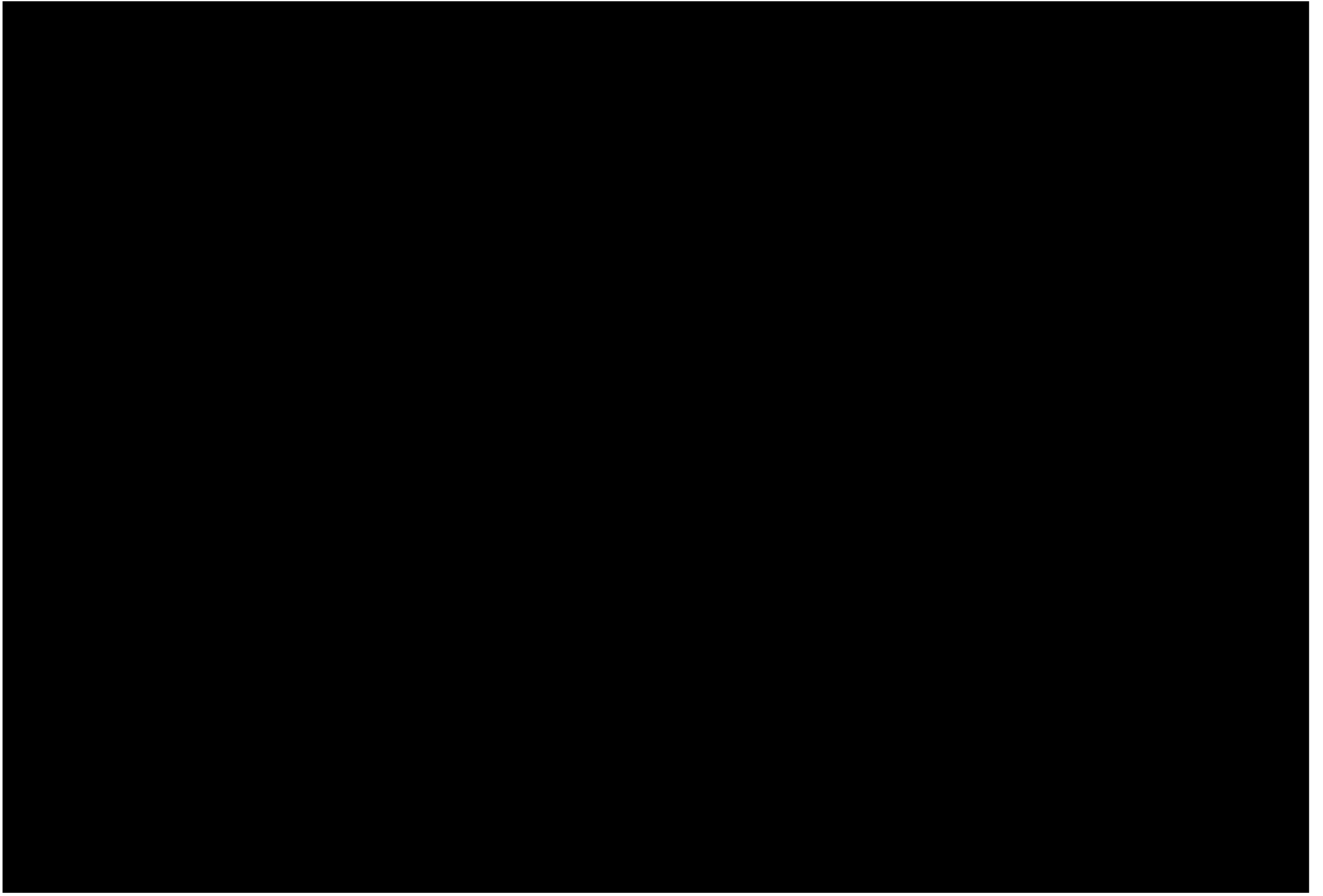


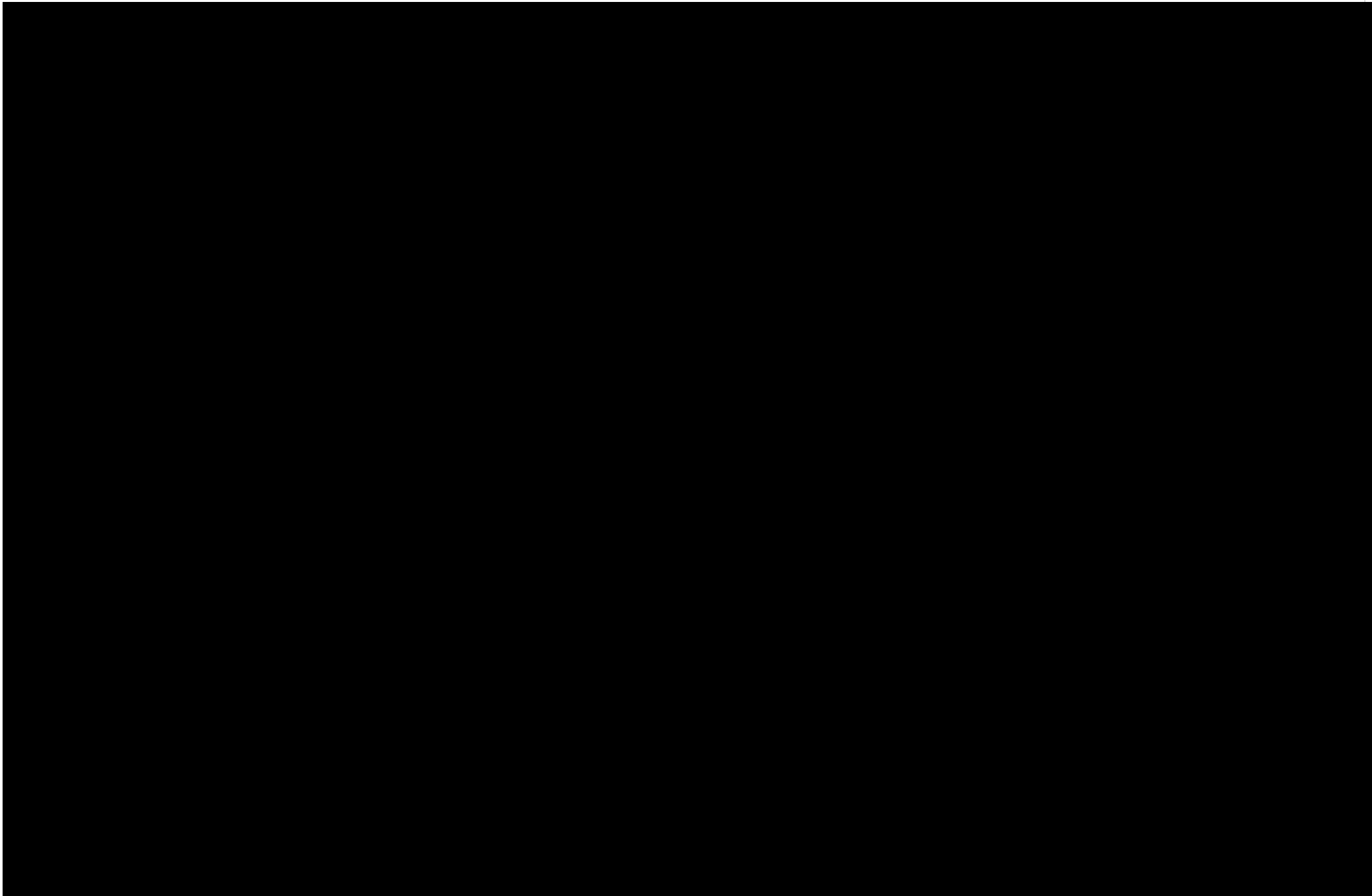


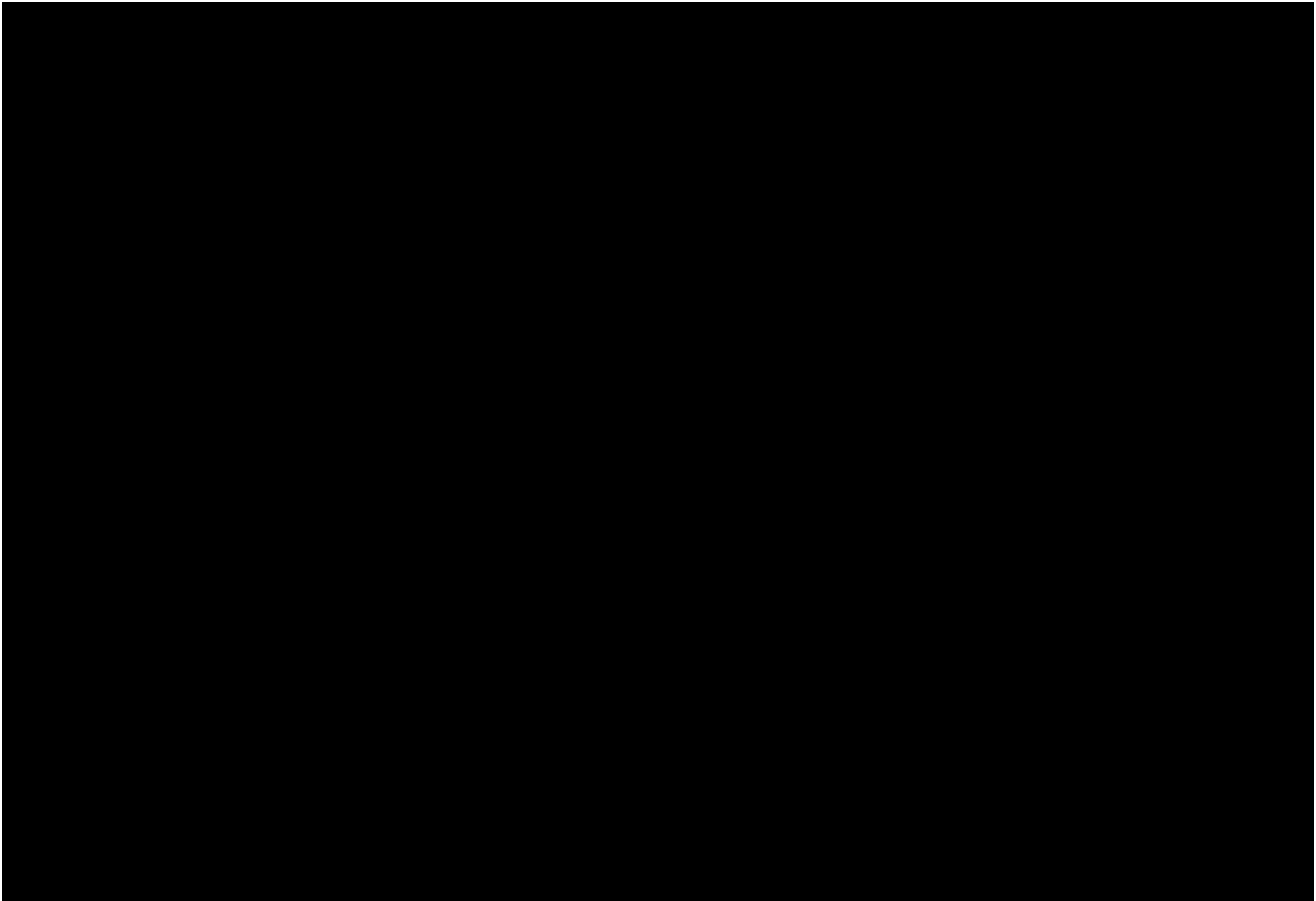


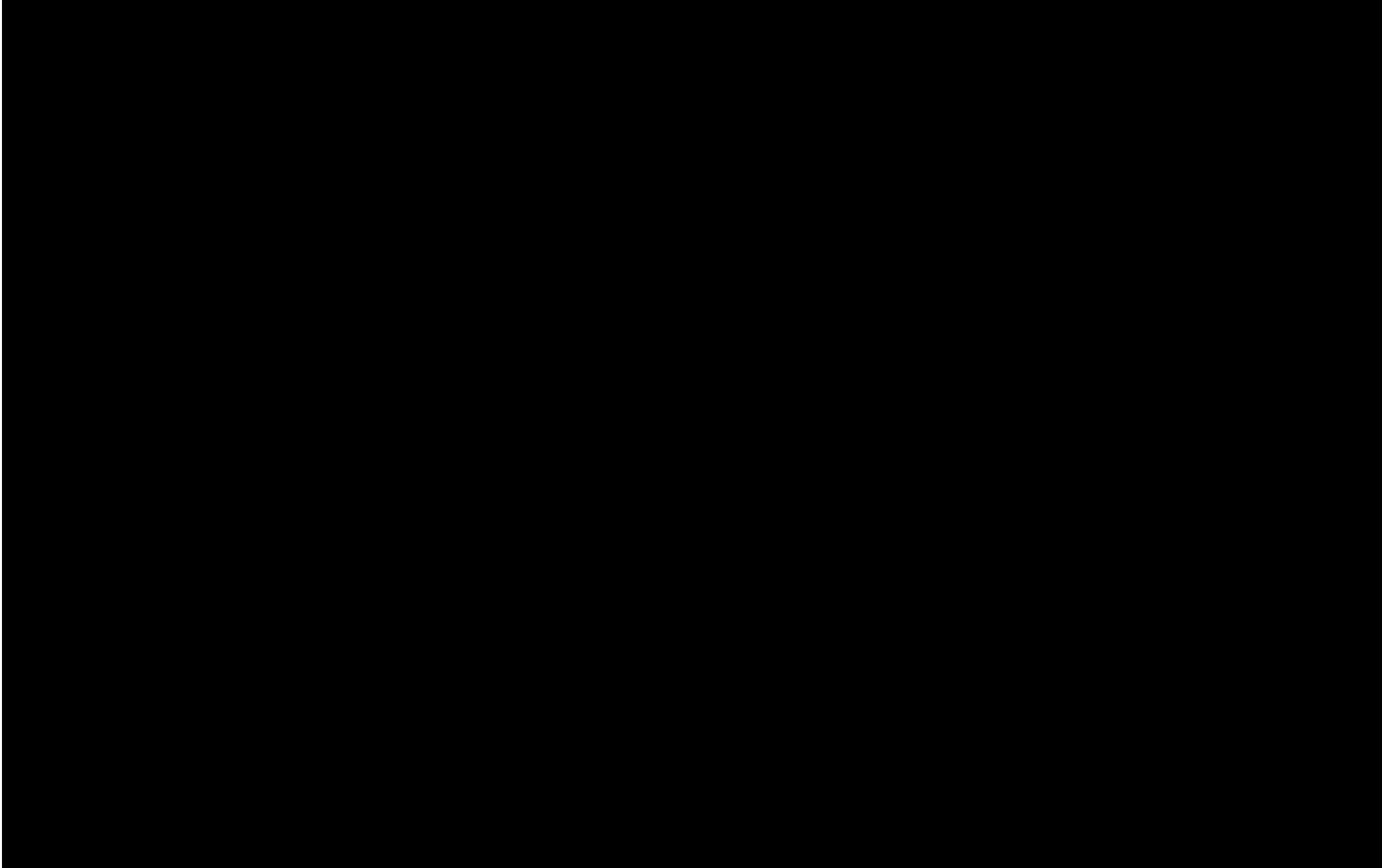


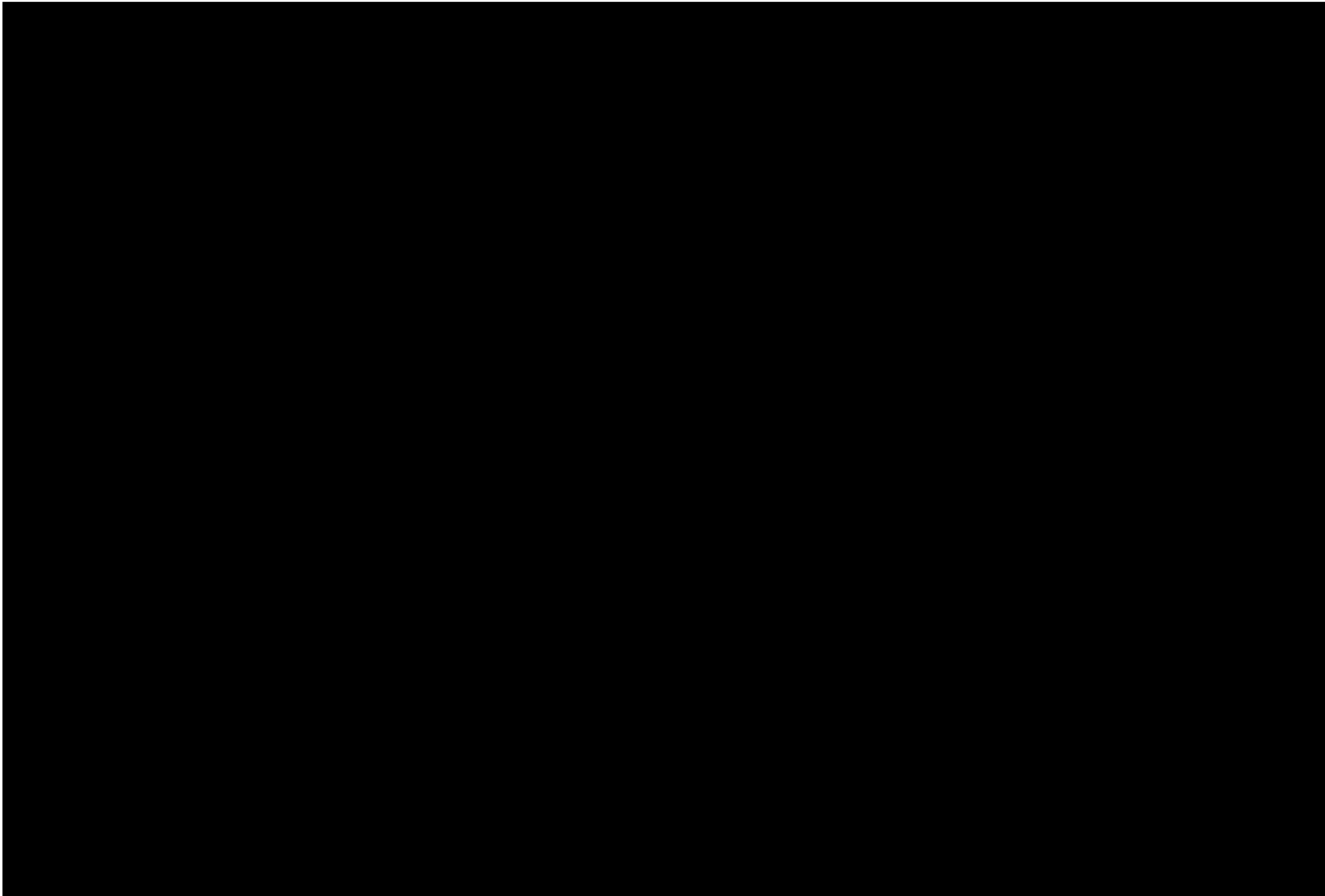


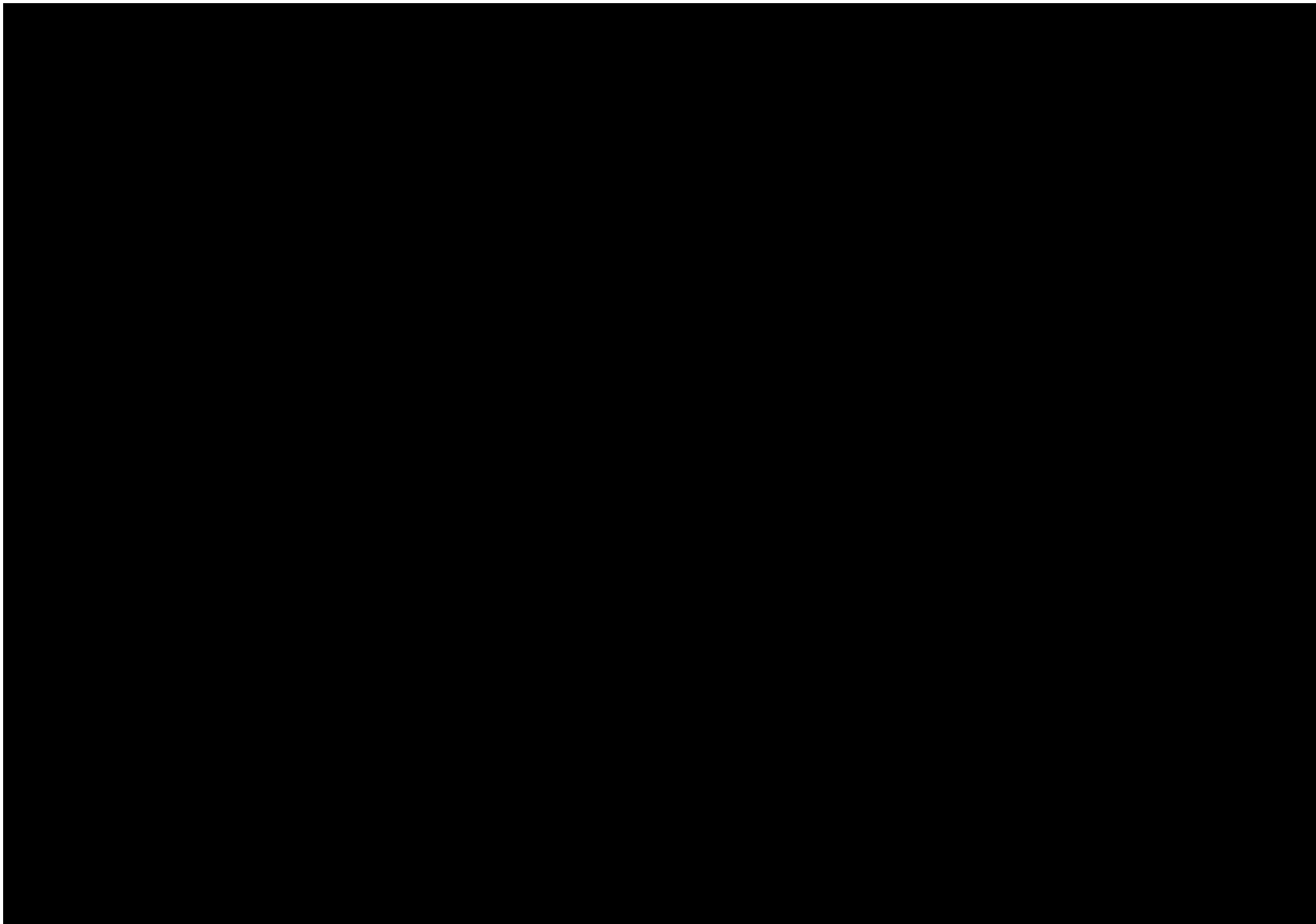






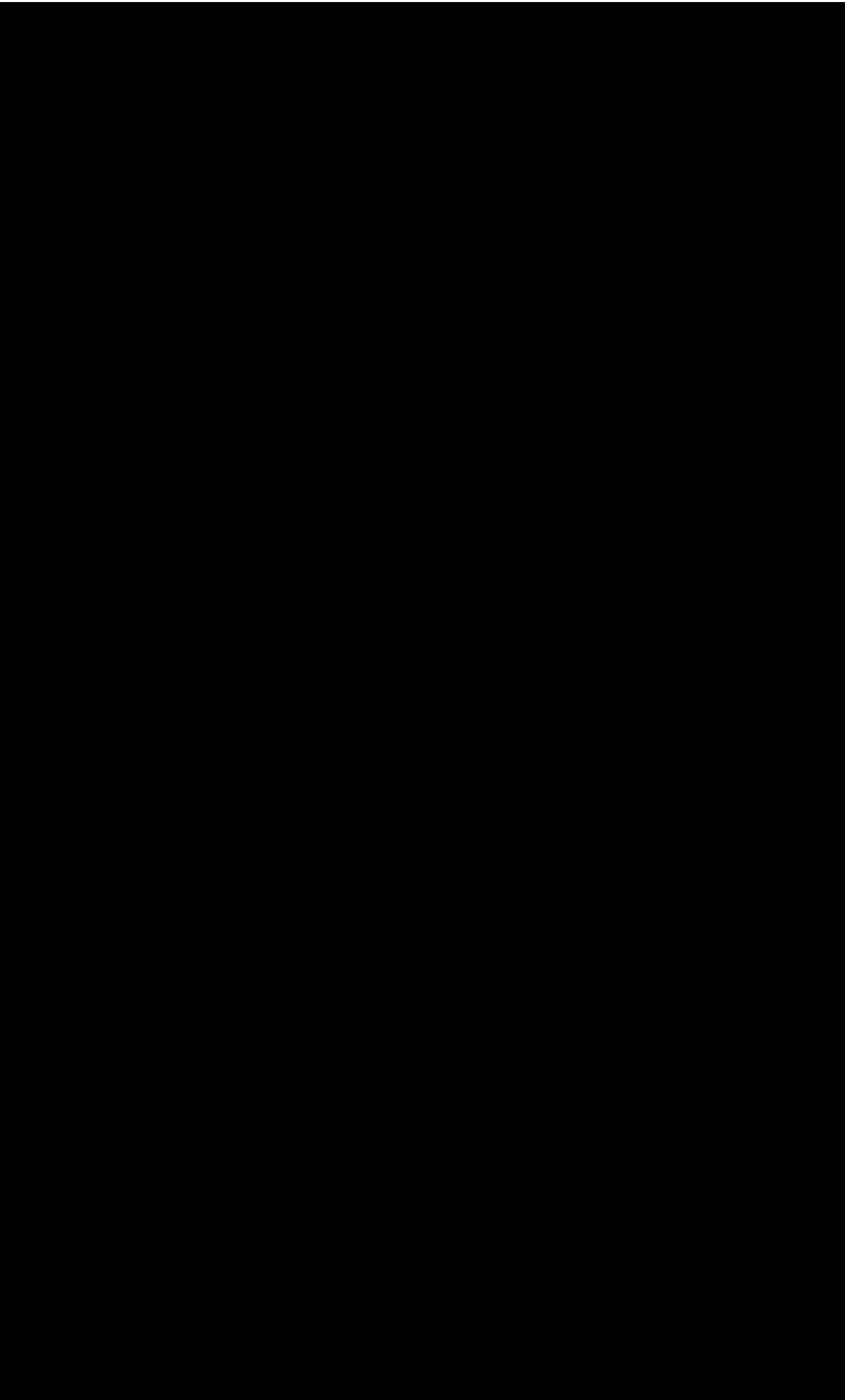


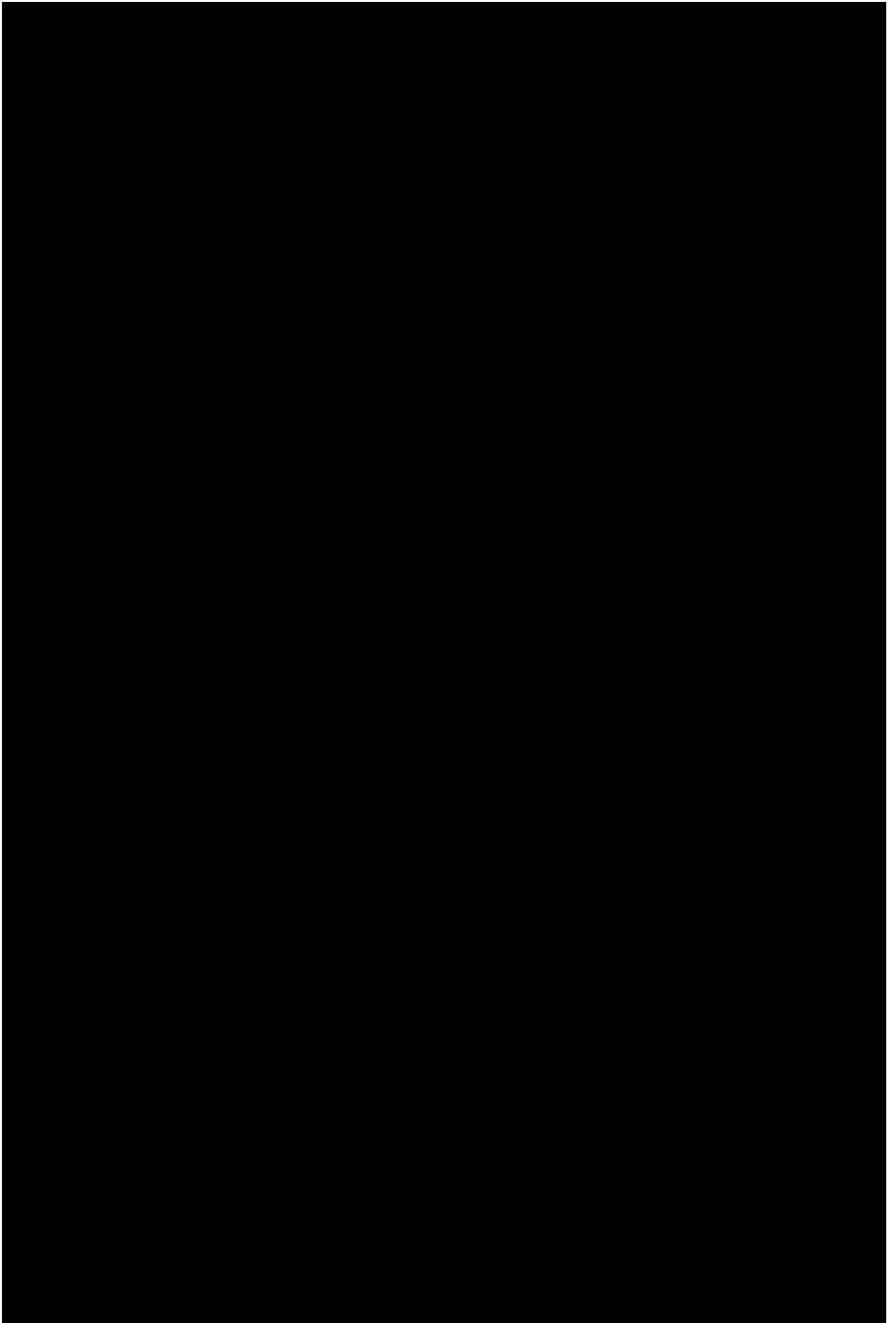


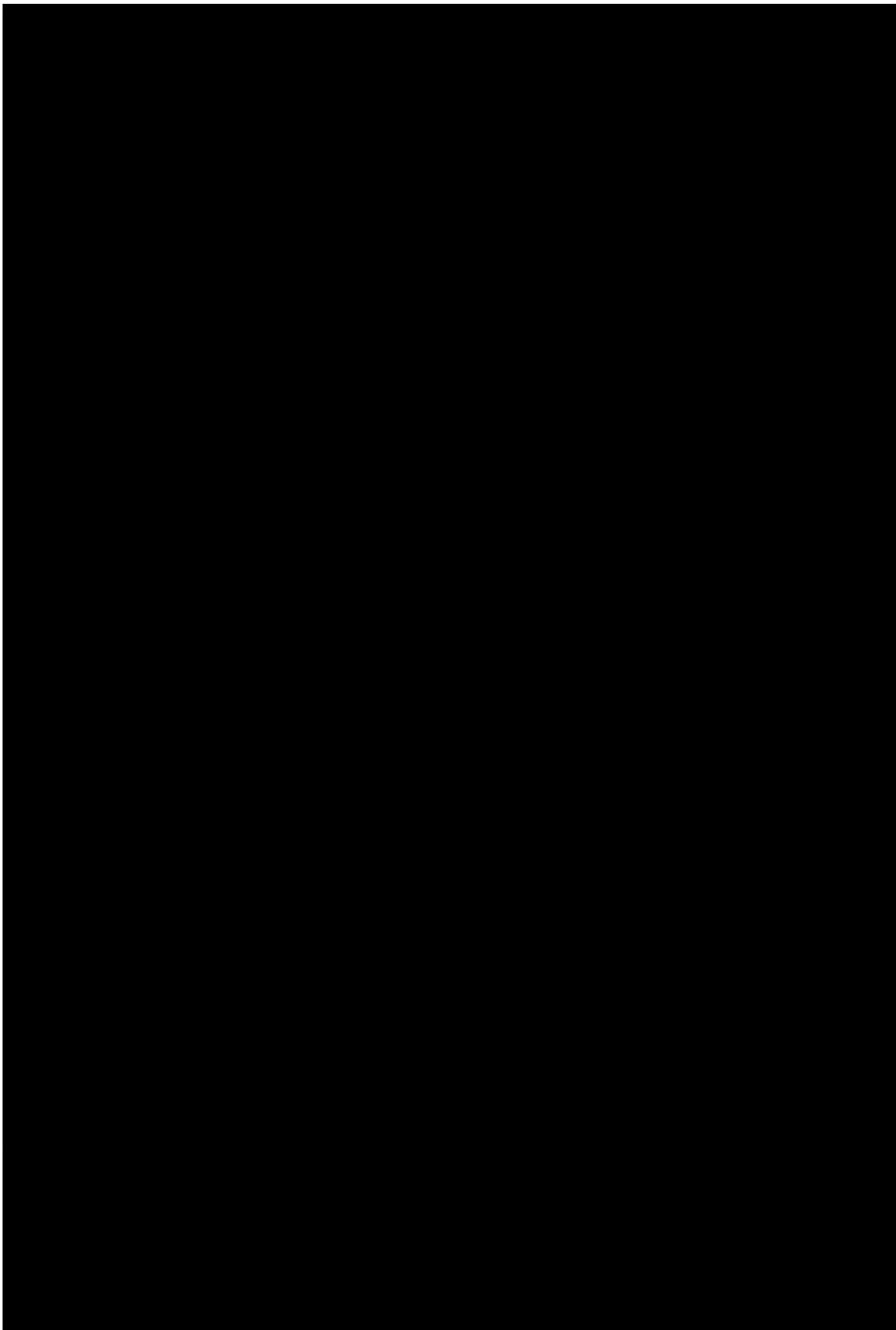


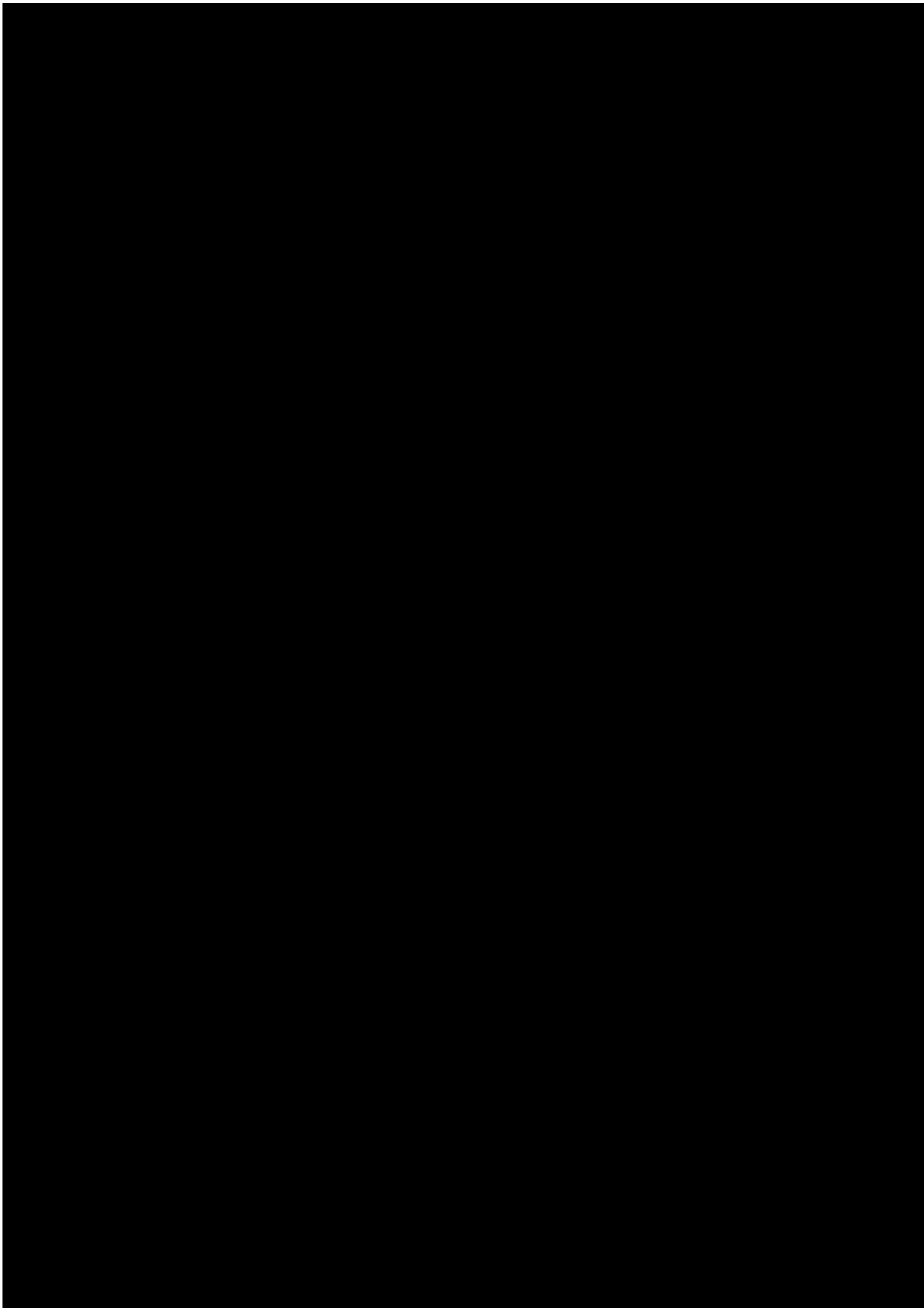




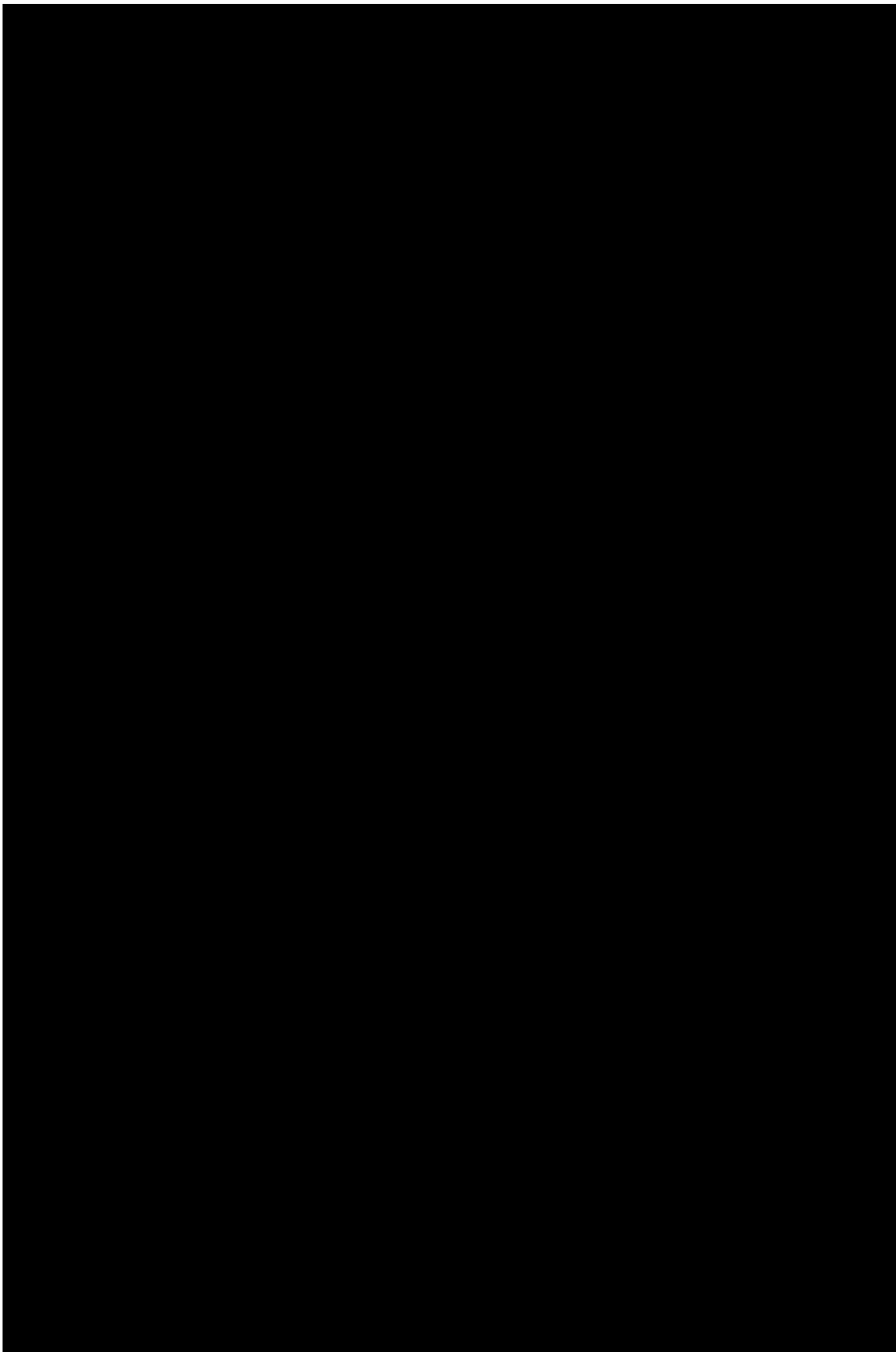




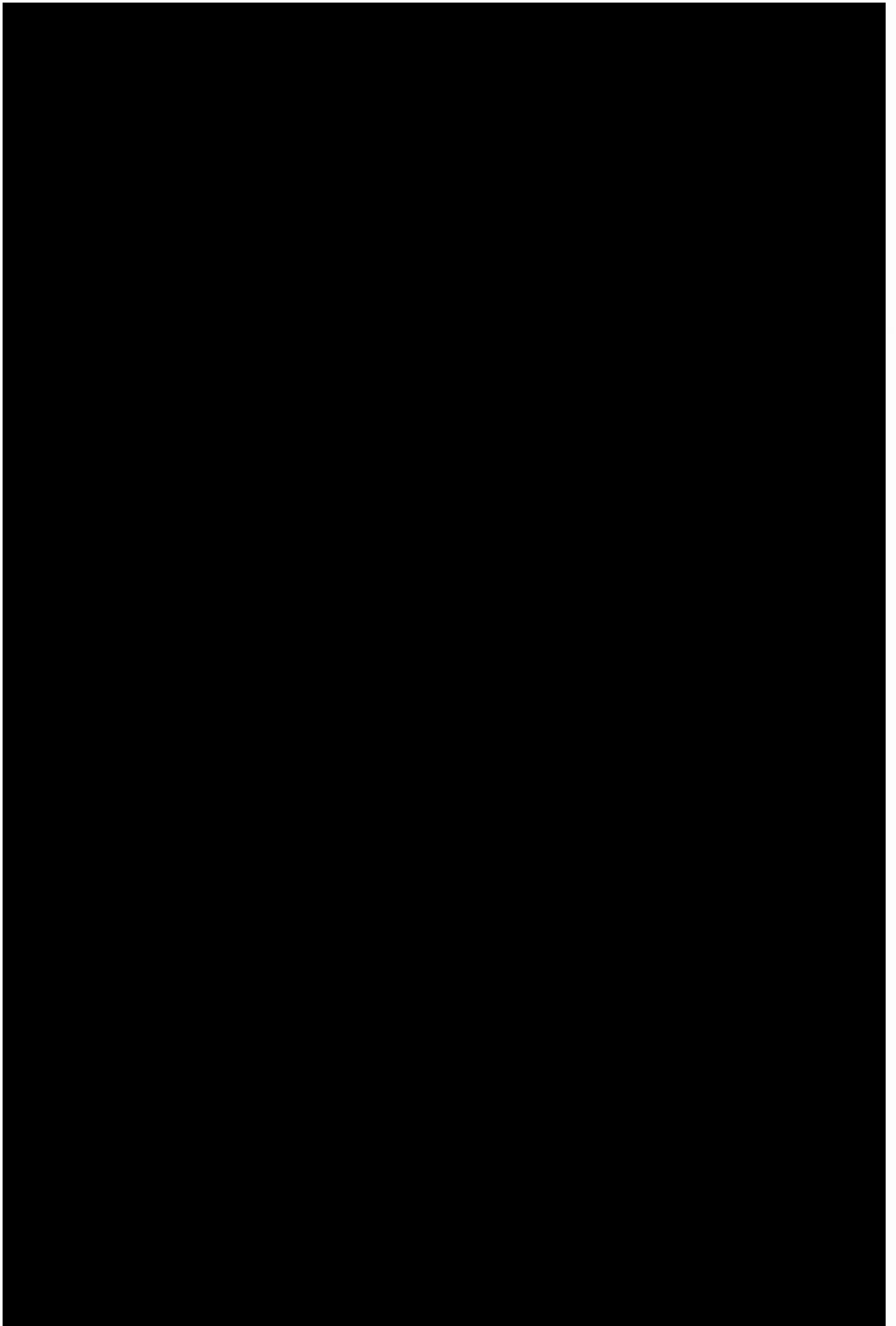






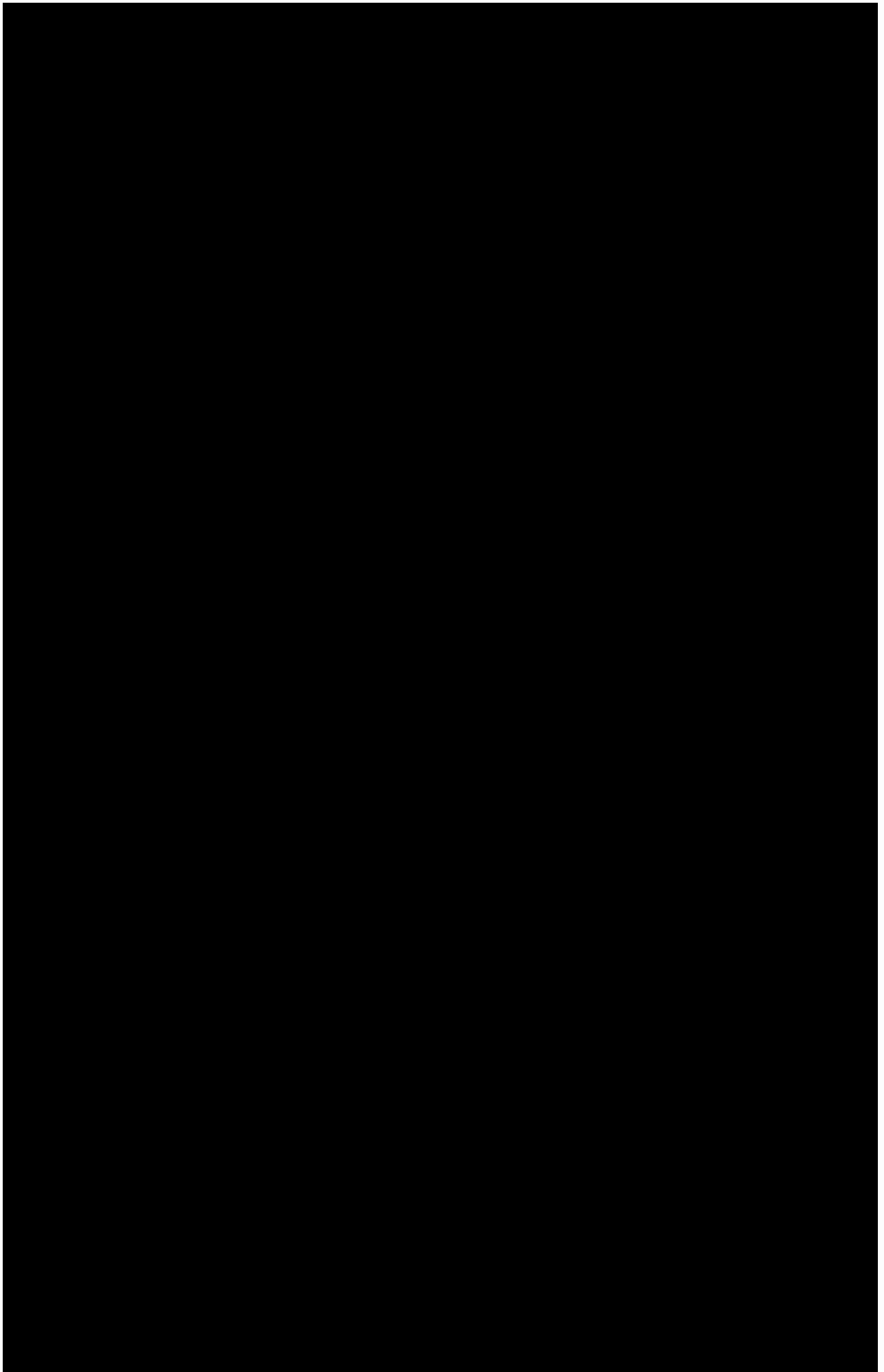




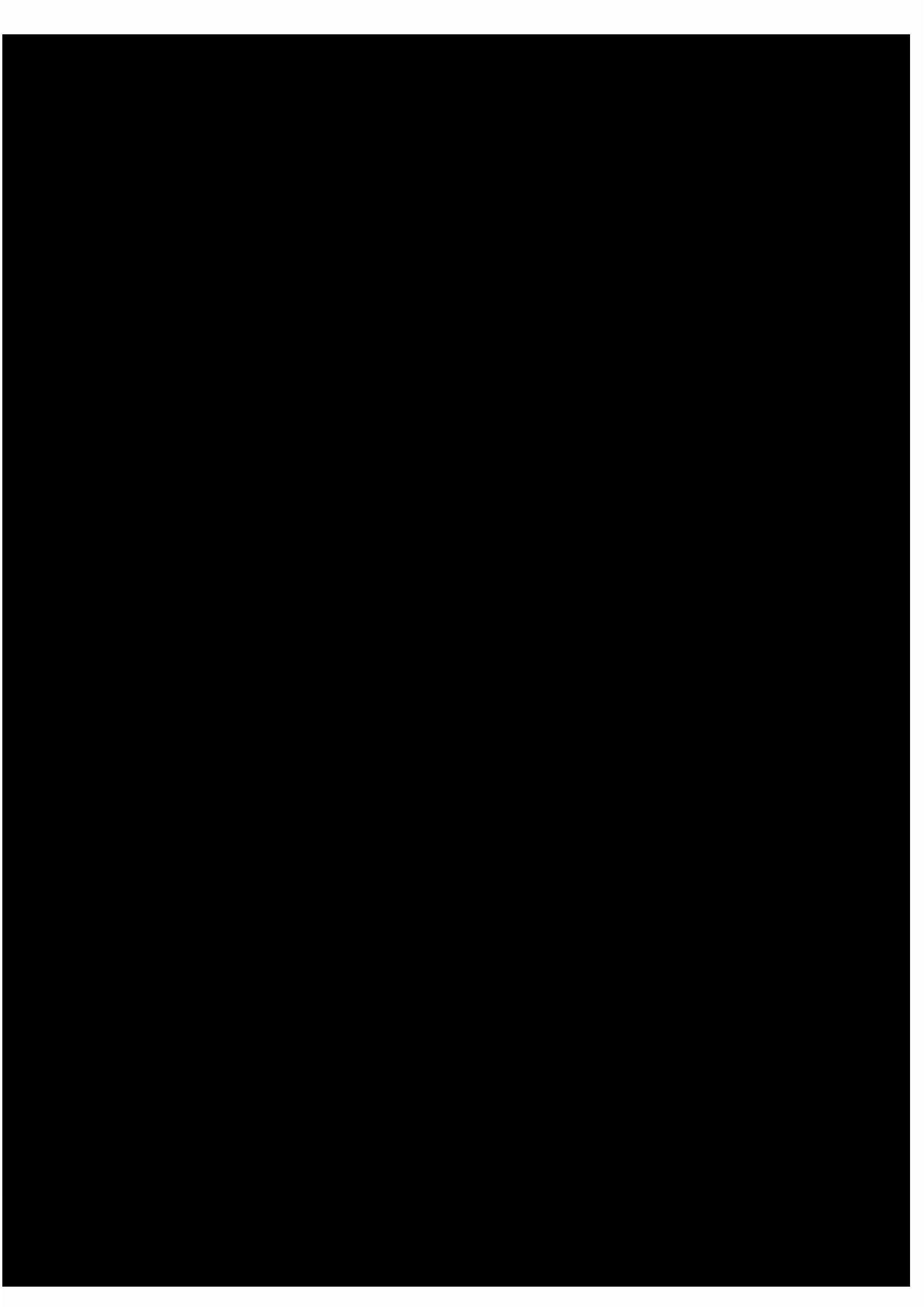














The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses, income, and transfers between accounts.

Next, the document outlines the various methods used to collect and analyze financial data. It mentions the use of spreadsheets, accounting software, and manual ledgers. Each method has its own set of advantages and disadvantages, and the choice of method depends on the size and complexity of the business.

The document then delves into the process of reconciling accounts. This involves comparing the company's records with the bank's records to identify any discrepancies. Common reasons for discrepancies include timing differences, errors in recording, and unauthorized transactions. Reconciling accounts is a critical step in ensuring the accuracy of the financial statements.

Finally, the document discusses the importance of regular audits. An audit is a systematic review of the company's financial records to ensure they are accurate and comply with applicable laws and regulations. Audits can help identify areas of weakness and provide valuable insights into the company's financial performance.









