



# Martin Place Metro Station Amendment Deed (No. 5) Over Station Development Project Delivery Agreement

**Sydney Metro**

ABN 12 354 063 515

and

**Macquarie Group Limited**

ABN 94 122 169 279

in relation to the Martin Place Metro Station Project Over Station  
Development Project Delivery Agreement (Contract No. 507)

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**THIS DEED** is made on 3 May 2022

**BETWEEN:**

- (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 New South Wales 2000 (**Principal**); and
- (2) **Macquarie Group Limited** (ABN 94 122 169 279) of Level 6, 50 Martin Place, Sydney NSW 2000 (**Macquarie**).

**RECITALS:**

- (A) The Principal and Macquarie have entered into the Base OSD PDA to, among other things, investigate, finance, plan, design, construct, commission and complete the OSD Works.
- (B) The parties wish to amend the Base OSD PDA in the manner set out in this deed.

**THE PARTIES AGREE AS FOLLOWS:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this deed:

**Amending Deeds** means:

- (a) the deed titled "Martin Place Metro Station Deed of Variation (Pending Changes) Over Station Development Project Delivery Agreement" between the Principal and Macquarie dated 20 November 2019;
- (b) the deed titled "Martin Place Metro Station Project Deed of Amendment – Over Station Development Project Delivery Agreement" between the Principal and Macquarie dated 22 June 2020;
- (c) the deed titled "Martin Place Metro Station Deed of Variation ( [REDACTED] ) – Third Deed of Variation of Over Station Development Project Delivery Agreement" between the Principal and Macquarie dated 29 October 2020; and
- (d) the deed titled "Martin Place Metro Station Deed of Variation (Caverns Scope) Over Station Development Project Delivery Agreement" between the Principal and Macquarie dated 11 December 2020.

**Authorisation** means:

- (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

**Base 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 12 September 2018, as amended by the Amending Deeds, but without the amendments effected by this deed.

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

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

**General Conditions** means clauses 1 to 49 (inclusive) of the OSD PDA.

**Government Agency** means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

**Revised OSD PDA** means the Base OSD PDA, as amended by this deed.

## 1.2 **Terms defined in the Revised OSD PDA**

A term (other than a term defined in clause 1.1) that is defined in the Revised OSD PDA has the same meaning in this deed.

## 1.3 **Rules for interpreting this deed**

Clause 1.2 of the Revised OSD PDA will apply to the interpretation of this deed as if set out in full in this deed.

## 2. **CONSIDERATION**

Each party acknowledges that it has received valuable consideration for entering into this deed.

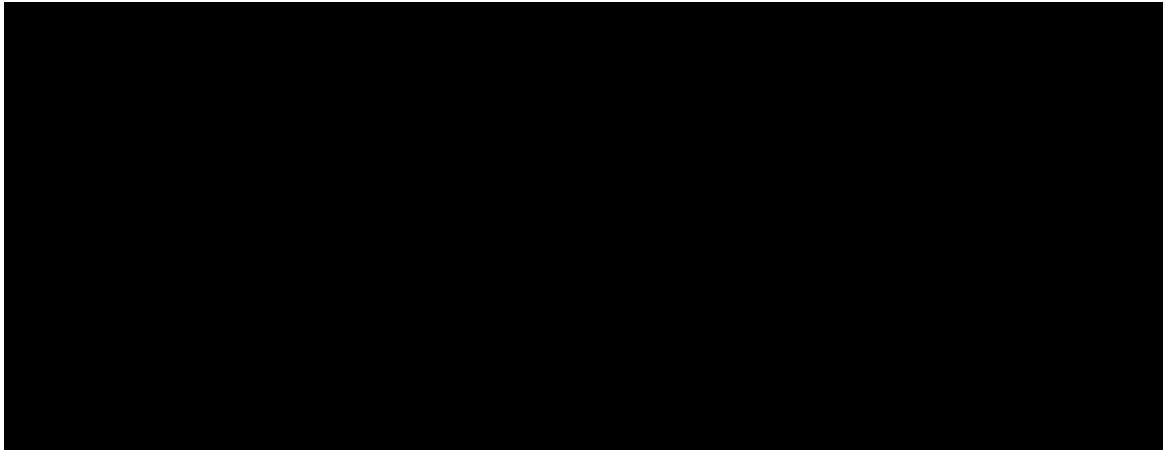
## 3. **AMENDMENT**

### 3.1 **Amendment to the Base OSD PDA**

- (a) On and from the Effective Date, the Base OSD PDA is amended as follows:
  - (i) Schedule A10 (Part 1) of the Base OSD PDA is amended as set out in Schedule 1 (*Amendments to Schedule A10 (Part 1) of the Base OSD PDA*) of this deed;
  - (ii) Schedule A10 (Part 2) of the Base OSD PDA is amended as set out in Schedule 2 (*Amendments to Schedule A10 (Part 2) of the Base OSD PDA*) of this deed; and
  - (iii) Schedules B2 and B4 of the Base OSD PDA are amended as set out in Schedule 3 (*Amendments to Schedules B2 and B4 of the Base OSD PDA*).
- (b) Clause 3.1(a) does not affect any right or obligation of either party that arises before the Effective Date.

### 3.2 **Amendments to Schedule A10 of the Base OSD PDA**





### 3.3 **Effect of amendment**

Except as expressly amended by this deed, no changes to the Base OSD PDA are to be inferred or implied, and in all other respects the Base OSD PDA is confirmed and remains in full force and effect.

## 4. **CONFIDENTIALITY AND PERMITTED DISCLOSURE**

The parties acknowledge and agree that clause 37 of the Base OSD PDA applies to this deed as if set out in full in this deed.

## 5. **REPRESENTATIONS AND WARRANTIES**

### 5.1 **Representations and warranties of the Principal**

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 this deed (or will have them in full force and effect at the time the obligations is to be performed);
- (c) this deed constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (d) the execution, delivery and performance of this deed 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.

### 5.2 **Representations and warranties of Macquarie**

Macquarie represents and warrants for the benefit of the Principal that:

- (a) **(status)** it is a company limited by shares under the *Corporations Act 2001* (Cth);
- (b) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this deed and to carry out the transactions that it contemplates;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this deed and to carry out the transactions contemplated;

- (d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
- (i) enable it to properly execute this deed and to carry out the transactions that it contemplates;
  - (ii) ensure that this deed is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business as it is now being conducted,
- and it is complying with any conditions to which any of these Authorisations is subject;
- (e) **(deed is effective)** this deed constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (f) **(no contravention)** neither its execution of this deed, nor the carrying out by it of the transactions that this deed contemplates, does or will:
- (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
  - (ii) contravene any Authorisation;
  - (iii) contravene any agreement binding on it or any of its property; or
  - (iv) contravene its constitution or the powers or duties of its directors;
- (g) **(commercial benefit)** the execution by it of this deed, and the carrying out by it of the transactions that this deed contemplates, is for its corporate benefit and in its commercial interests; and
- (h) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable.

### 5.3 **Reliance on representations and warranties**

Each party acknowledges that the other party has executed this deed and agreed to take part in the transactions that it contemplates in reliance on the representations and warranties that are made in this clause 5.

## 6. **GENERAL**

### 6.1 **Governing law**

- (a) This deed is governed by and must be construed according to the law applying in New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of New South Wales and courts of appeal from them, in respect of any proceedings arising out of or in connection with this deed.

### 6.2 **Liability for expenses**

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this deed.

**6.3 Giving effect to this deed**

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 deed.

**6.4 Operation of this deed**

- (a) Subject to clause 6.4(b), this deed contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this deed and has no further effect.
- (b) Any right that a person may have under this deed is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this deed which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this deed enforceable, unless this would materially change the intended effect of this deed.

**6.5 Exclusion of contrary legislation**

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this deed is excluded to the full extent permitted by law.

**6.6 Amendment**

This deed can only be amended or replaced by another deed executed by or on behalf of both the Principal and Macquarie.

**6.7 Counterparts**

This deed may be executed in counterparts.

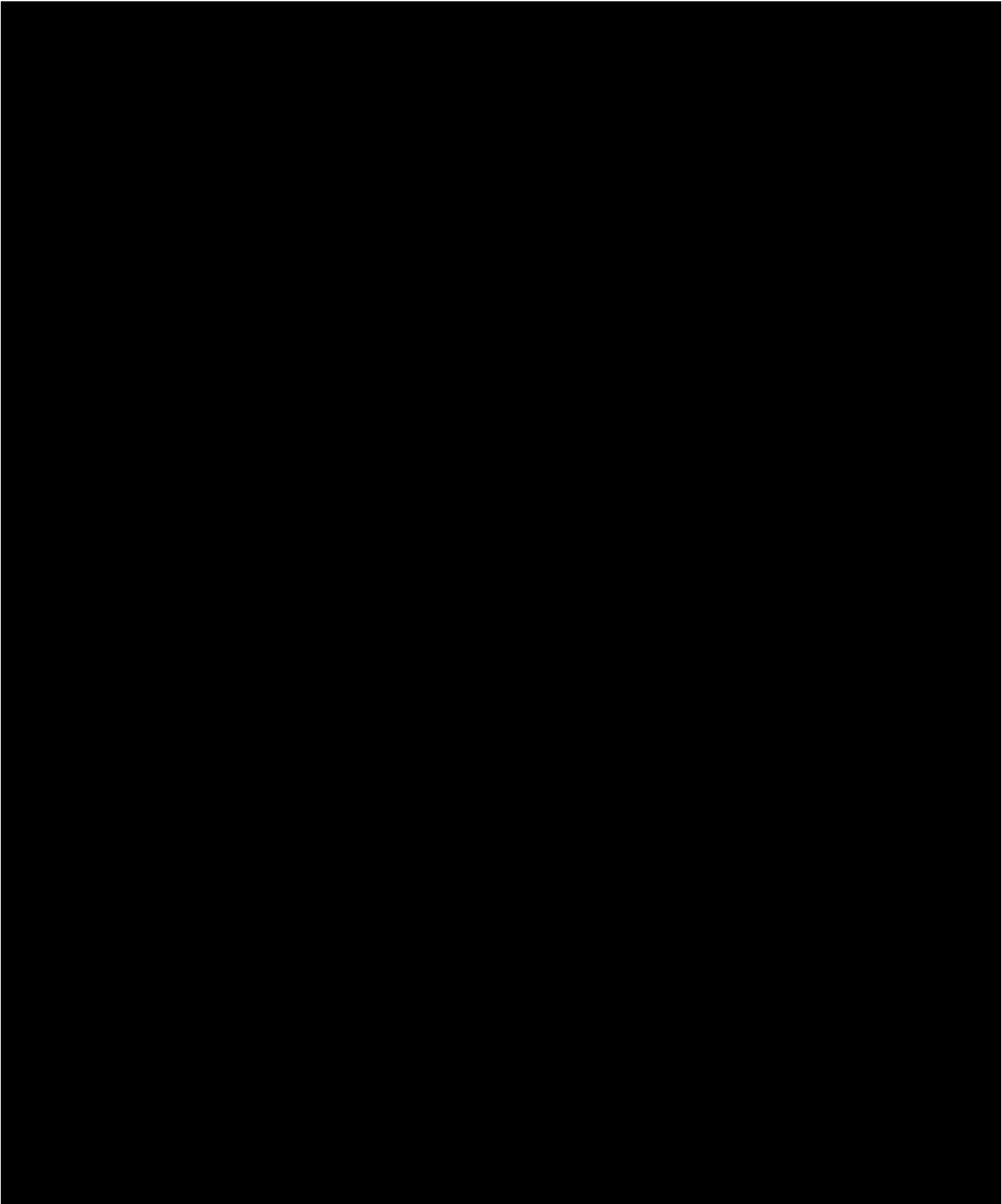
## **SCHEDULE 1**

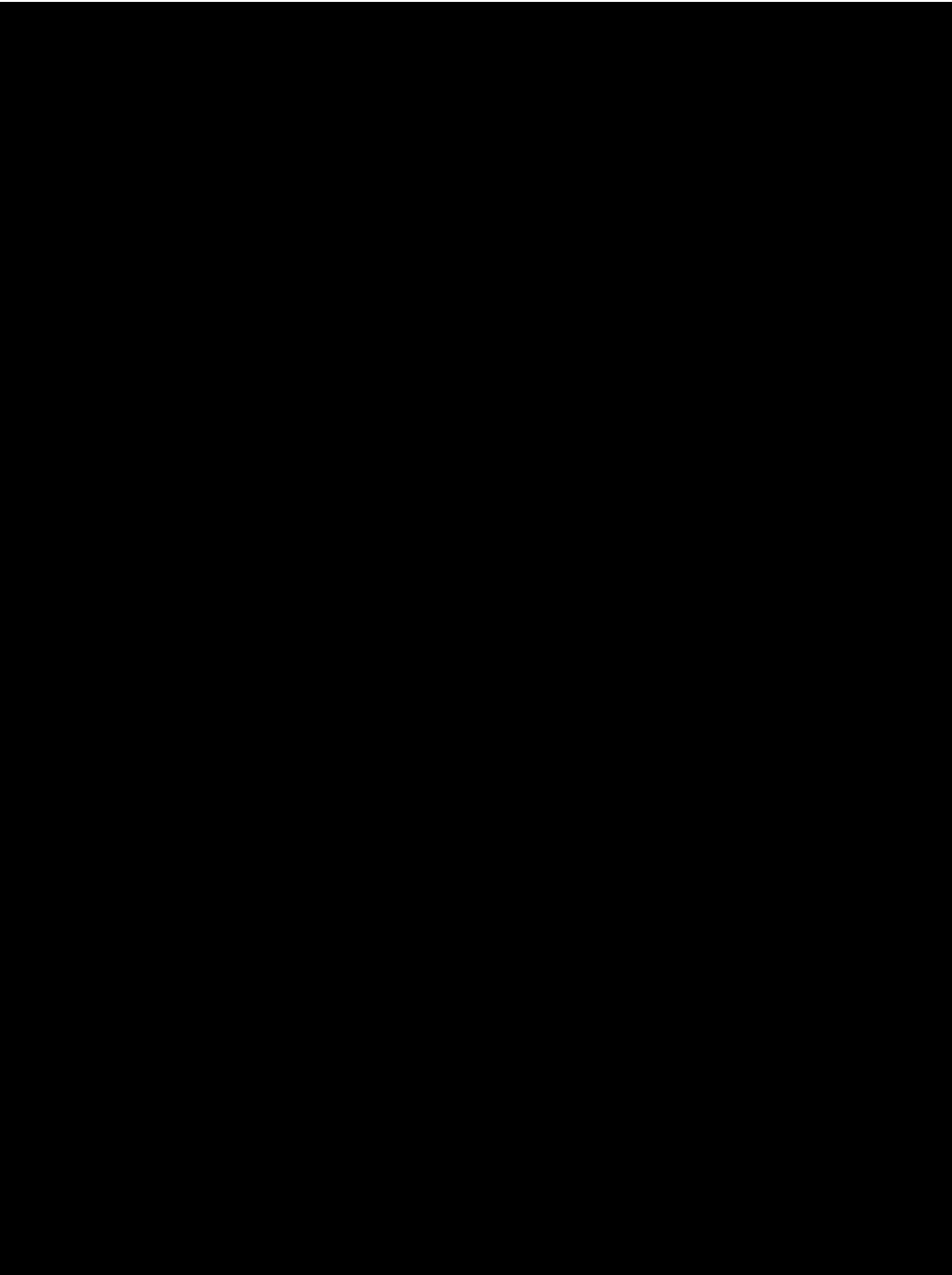
### **Amendments to Schedule A10 (Part 1) of the Base OSD PDA**

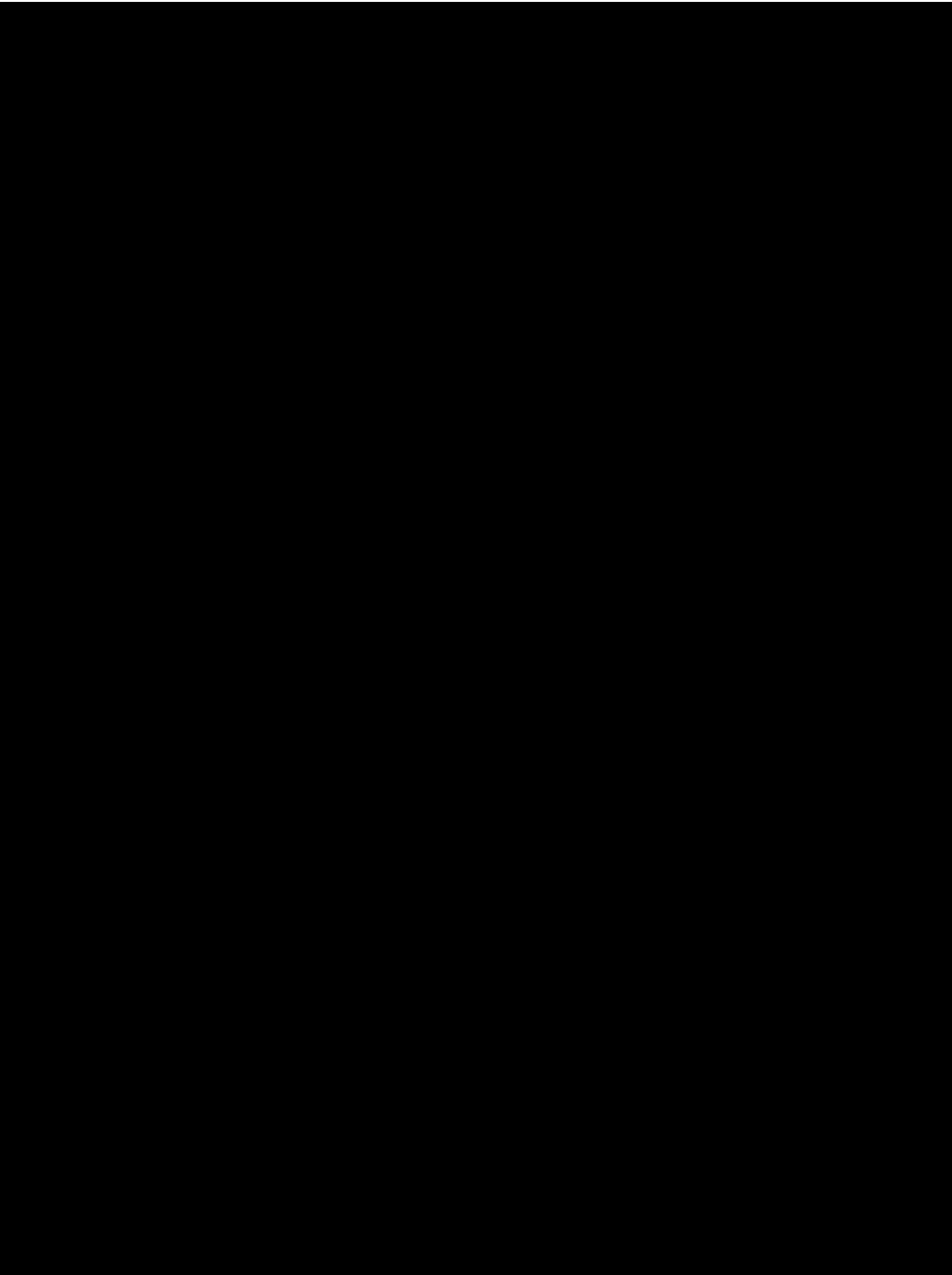
With effect on and from the Effective Date, Schedule A10 (Part 1) of the Base OSD PDA is deleted and replaced with the version **included** in this Schedule 1, with the amendments to the version included in the Base OSD PDA shown in mark-up.

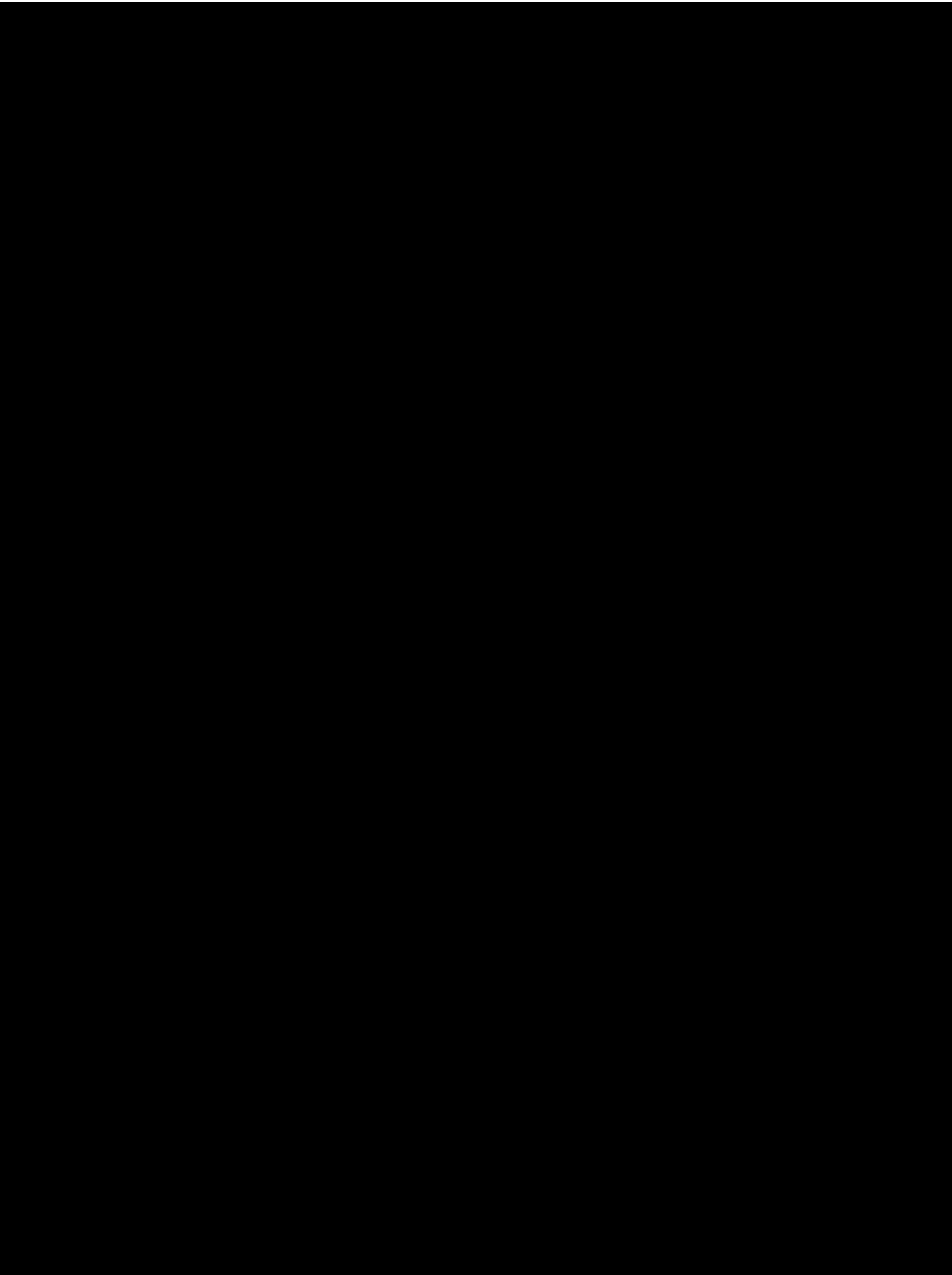


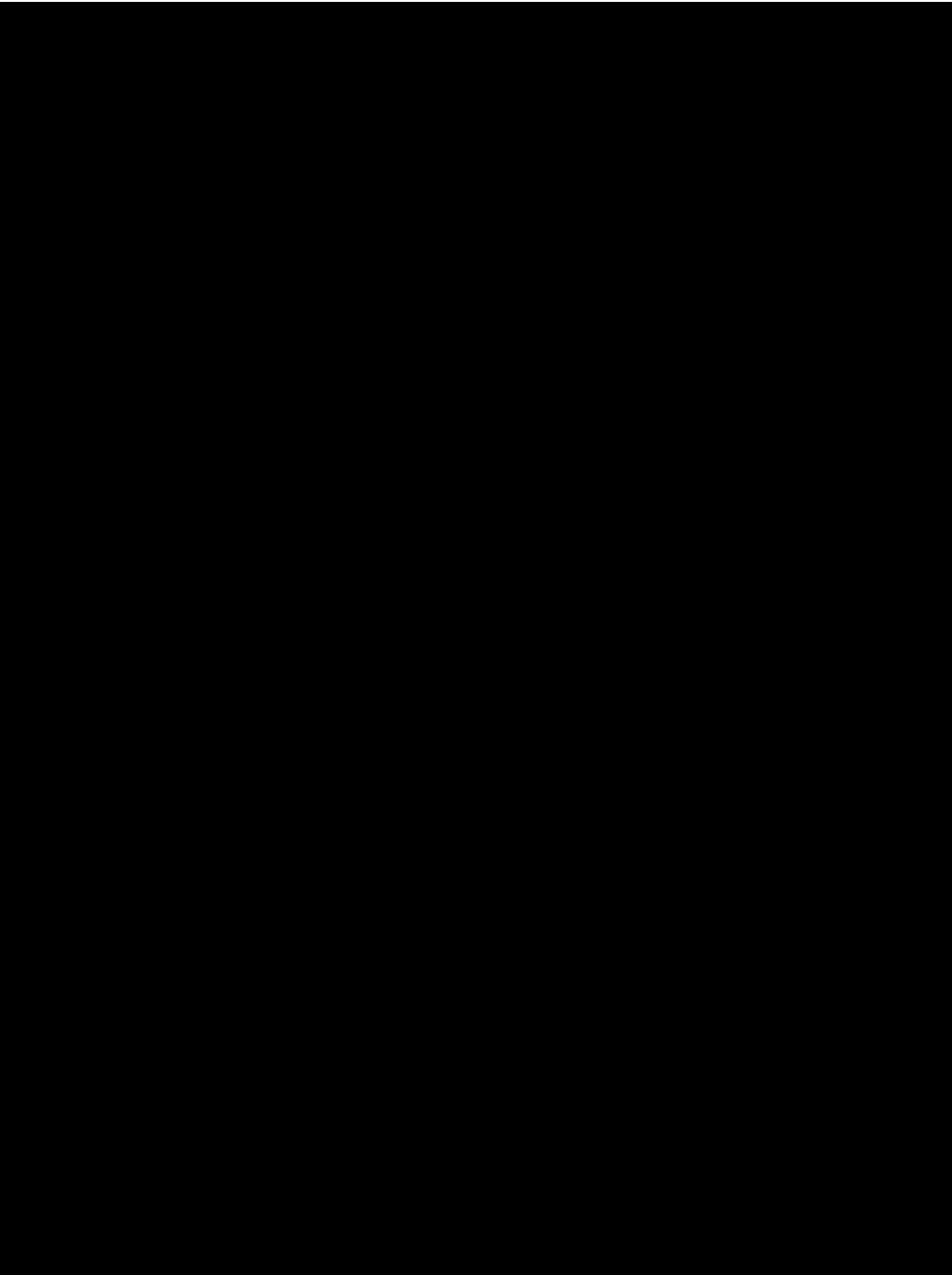
**SCHEDULE A10**  
**Follow-on Contractor Cooperation and Integration Deed**

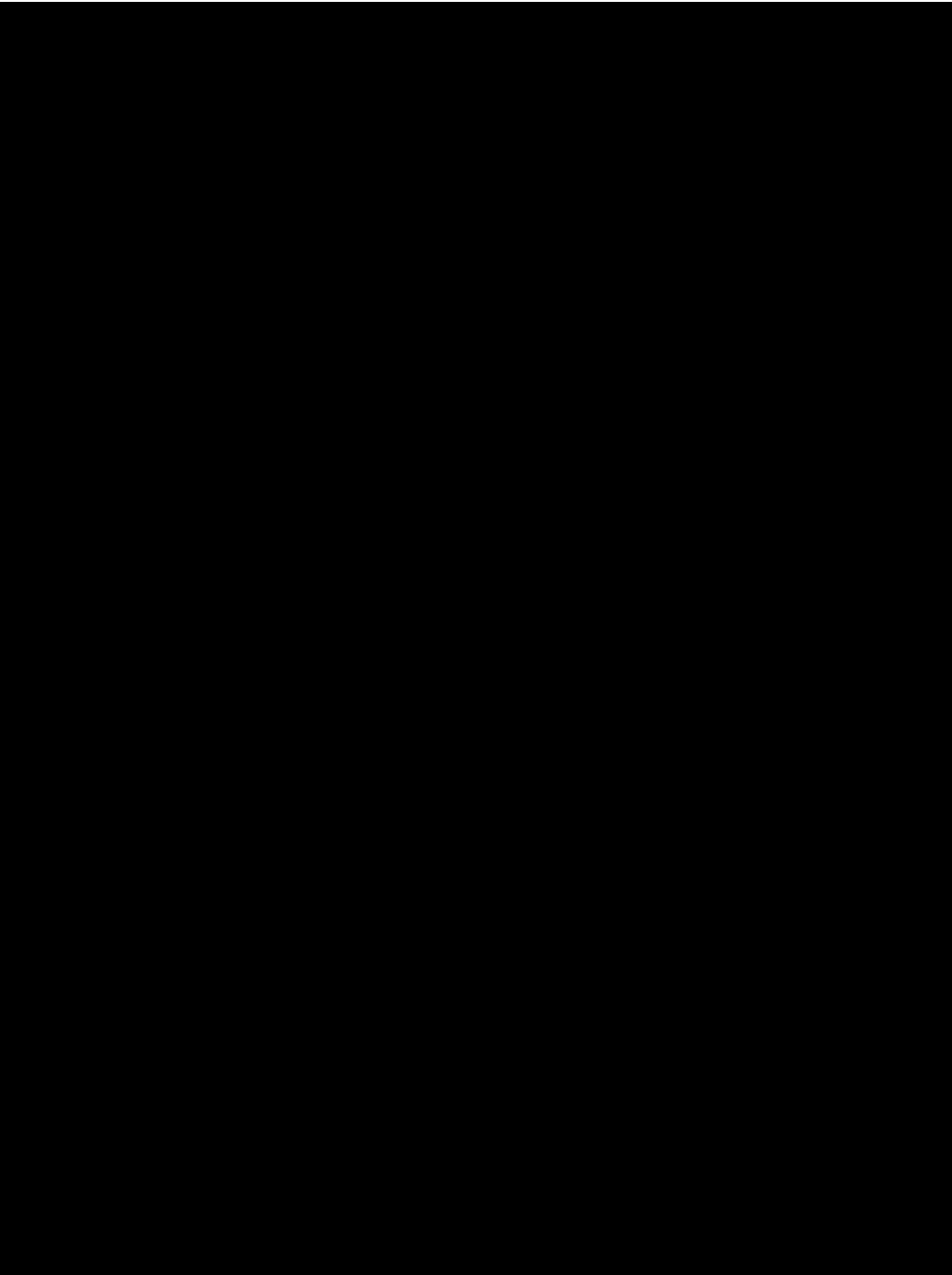


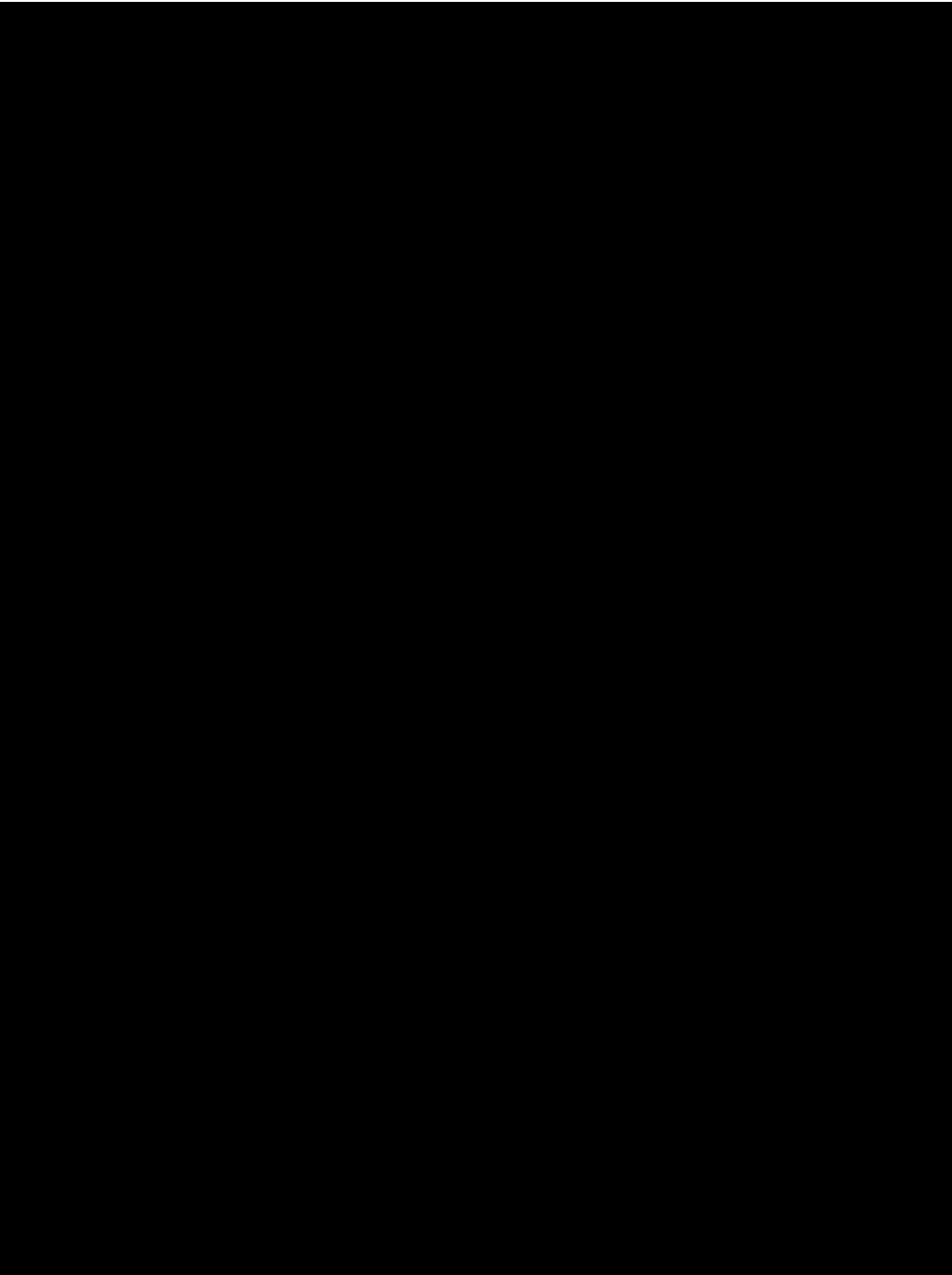


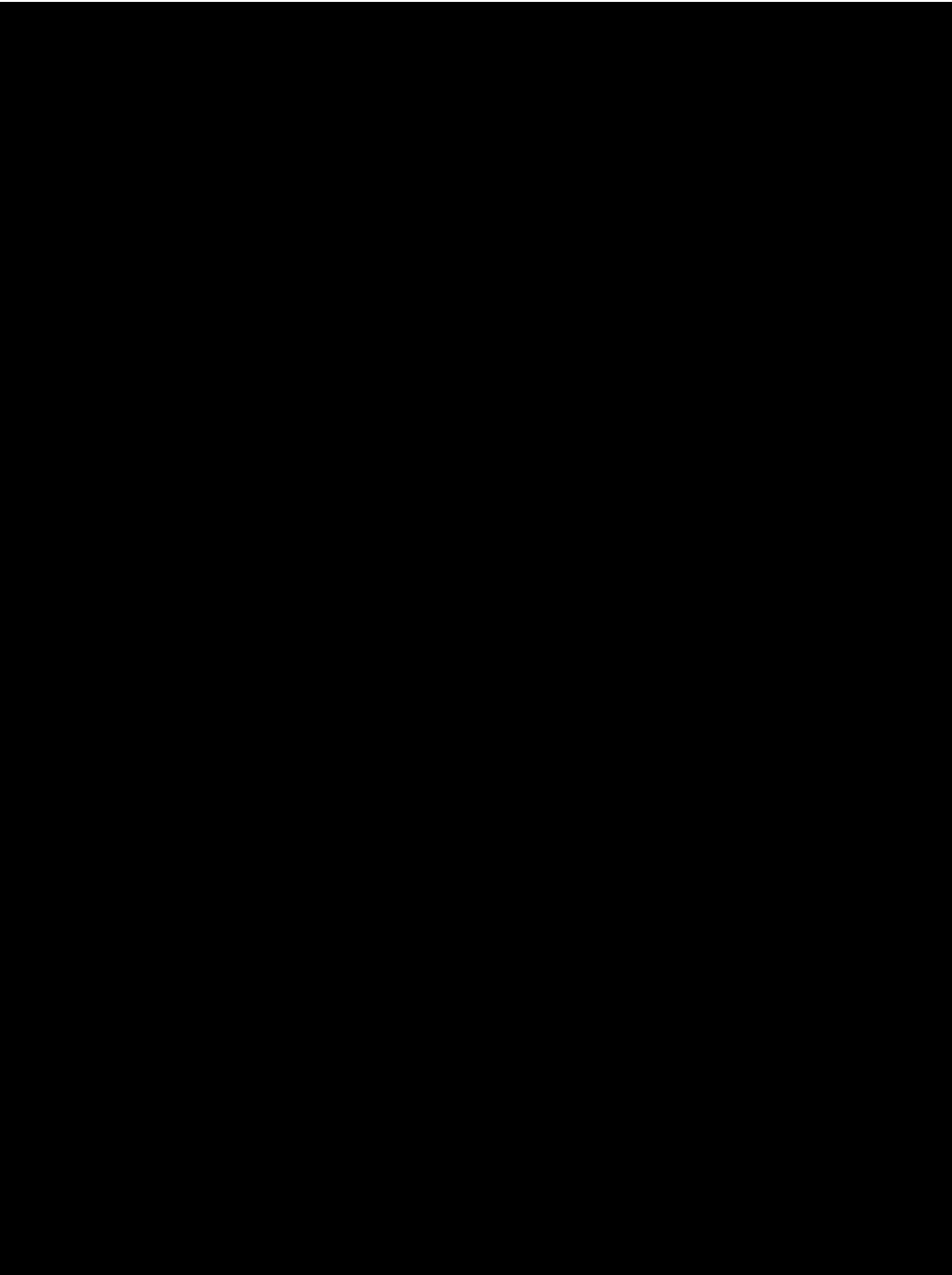




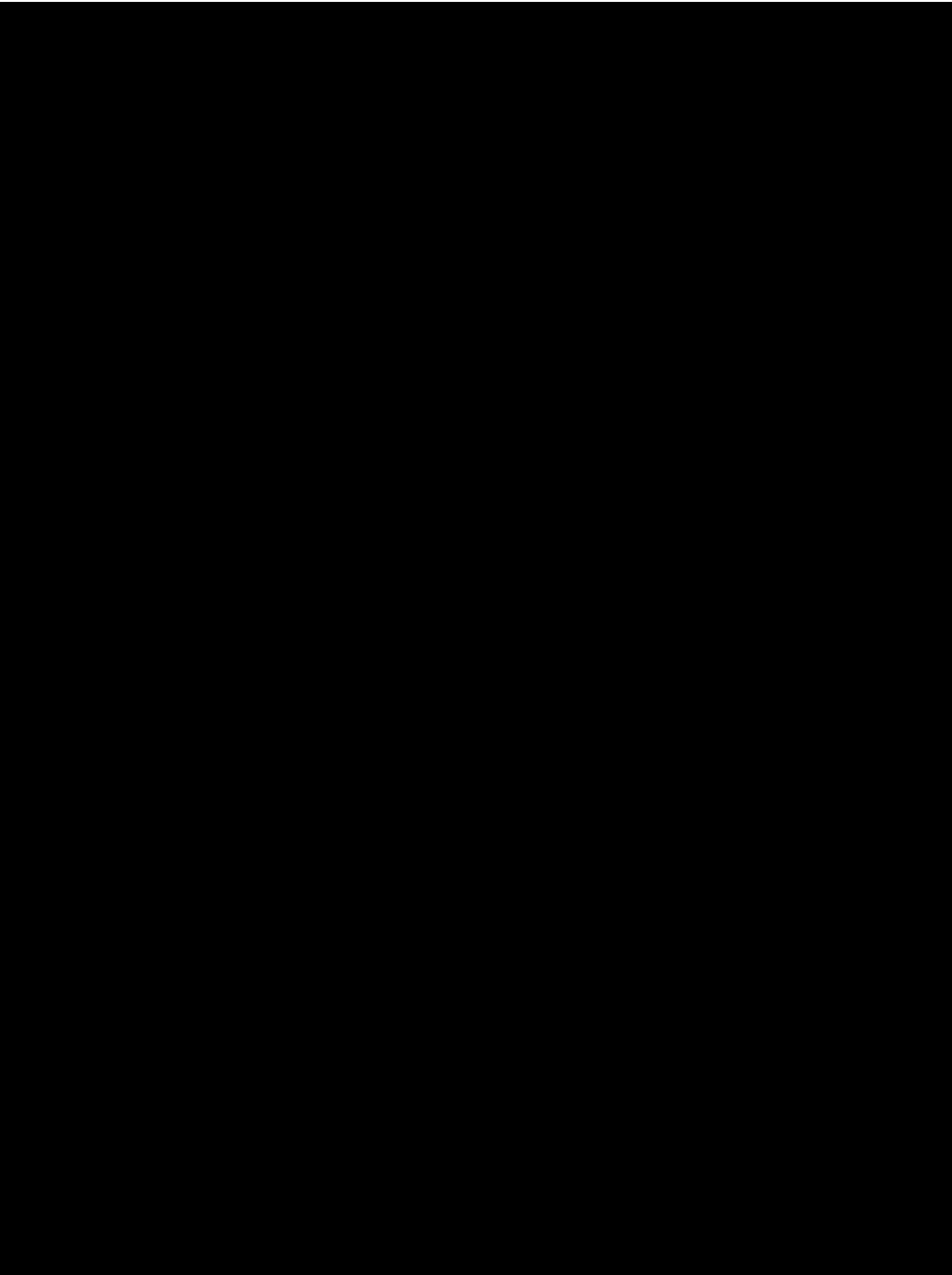


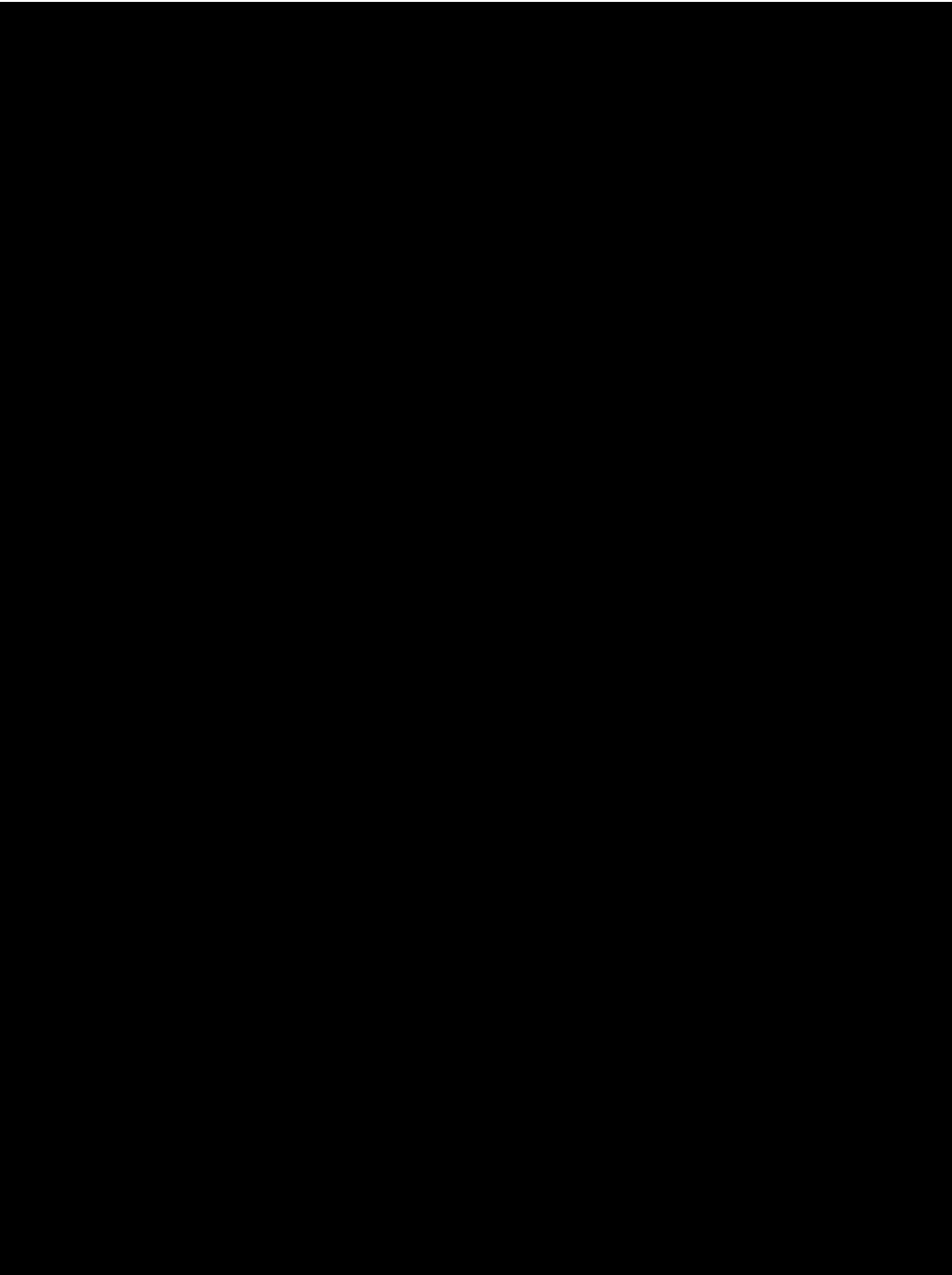


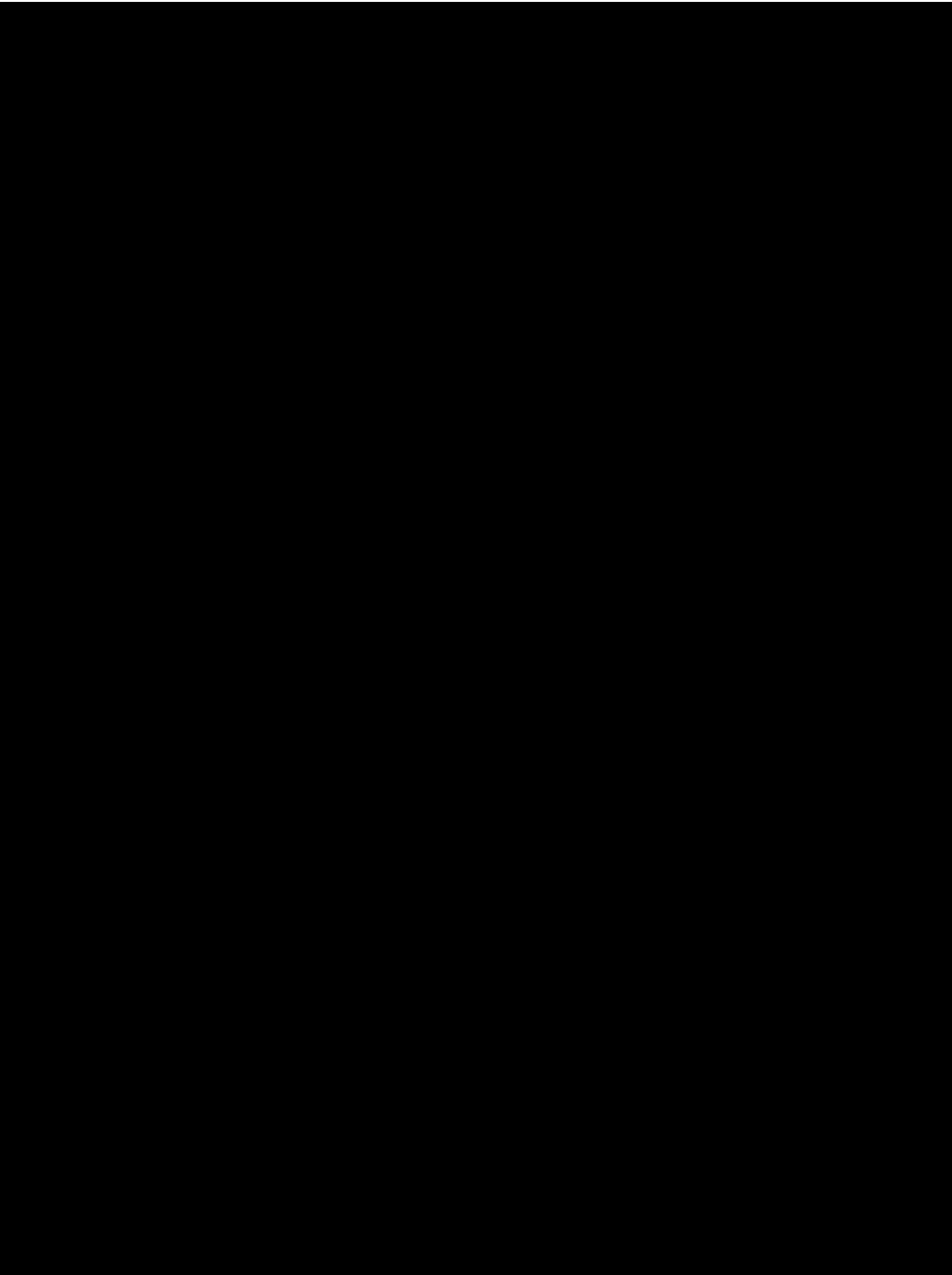


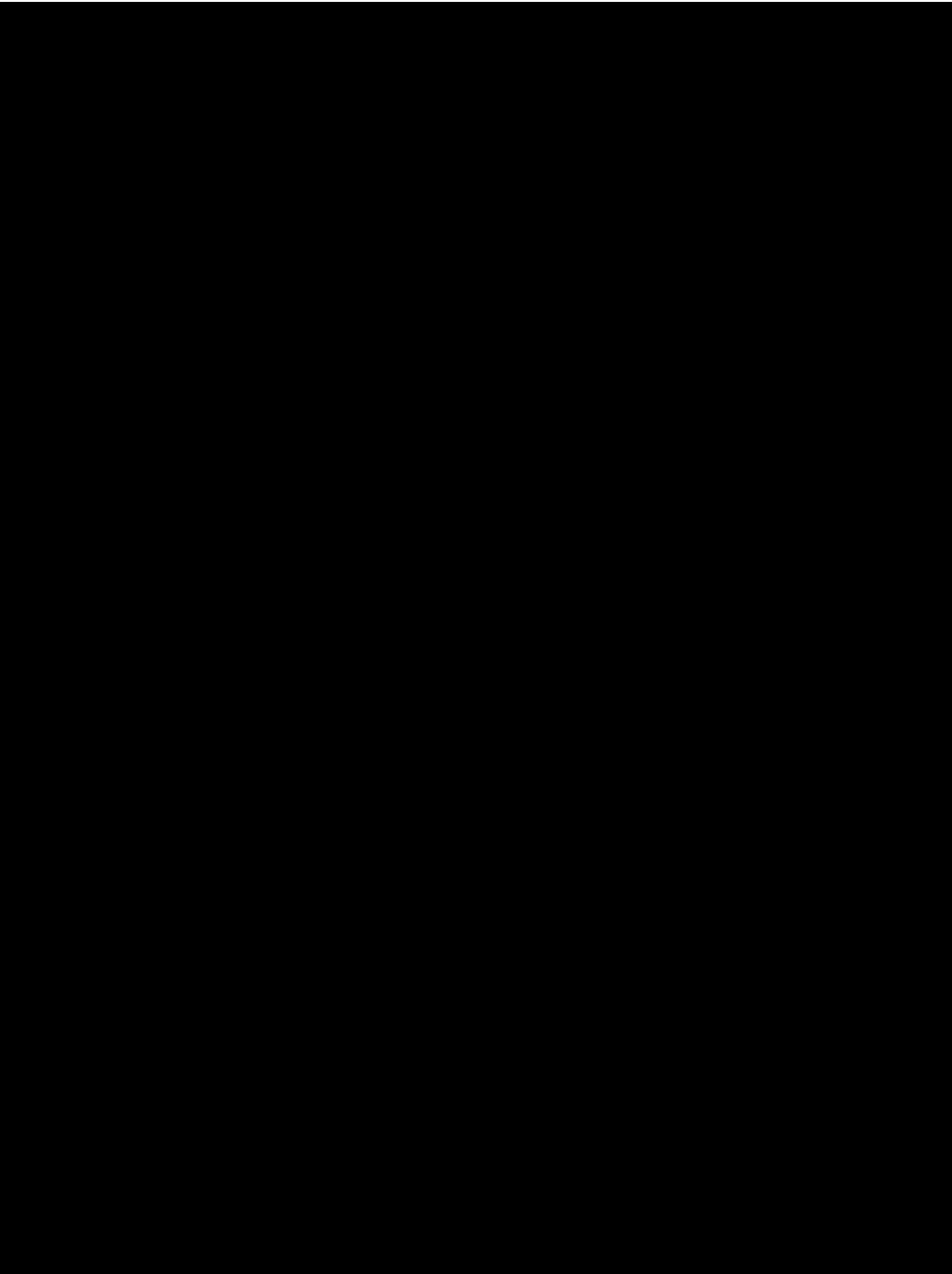


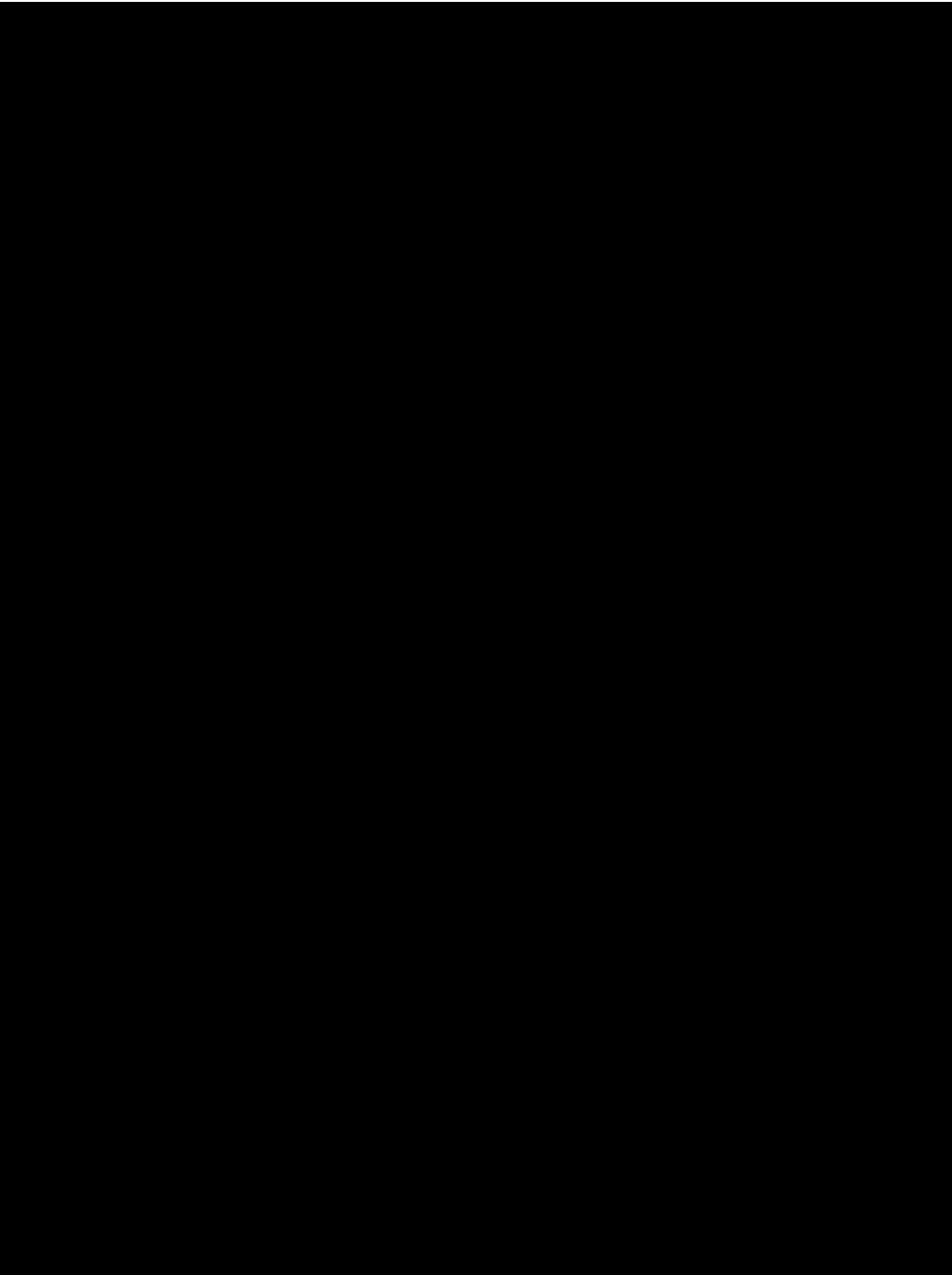


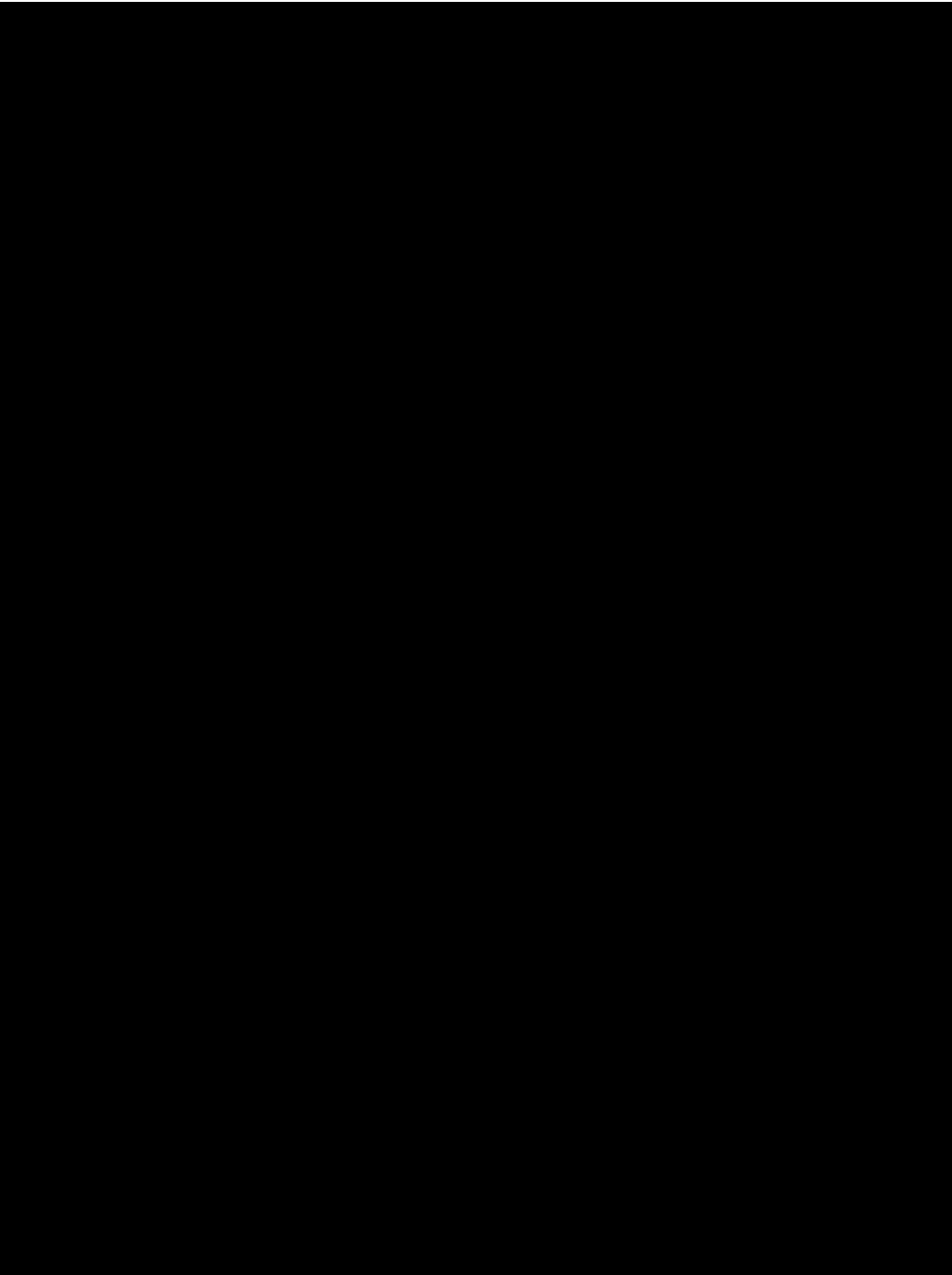


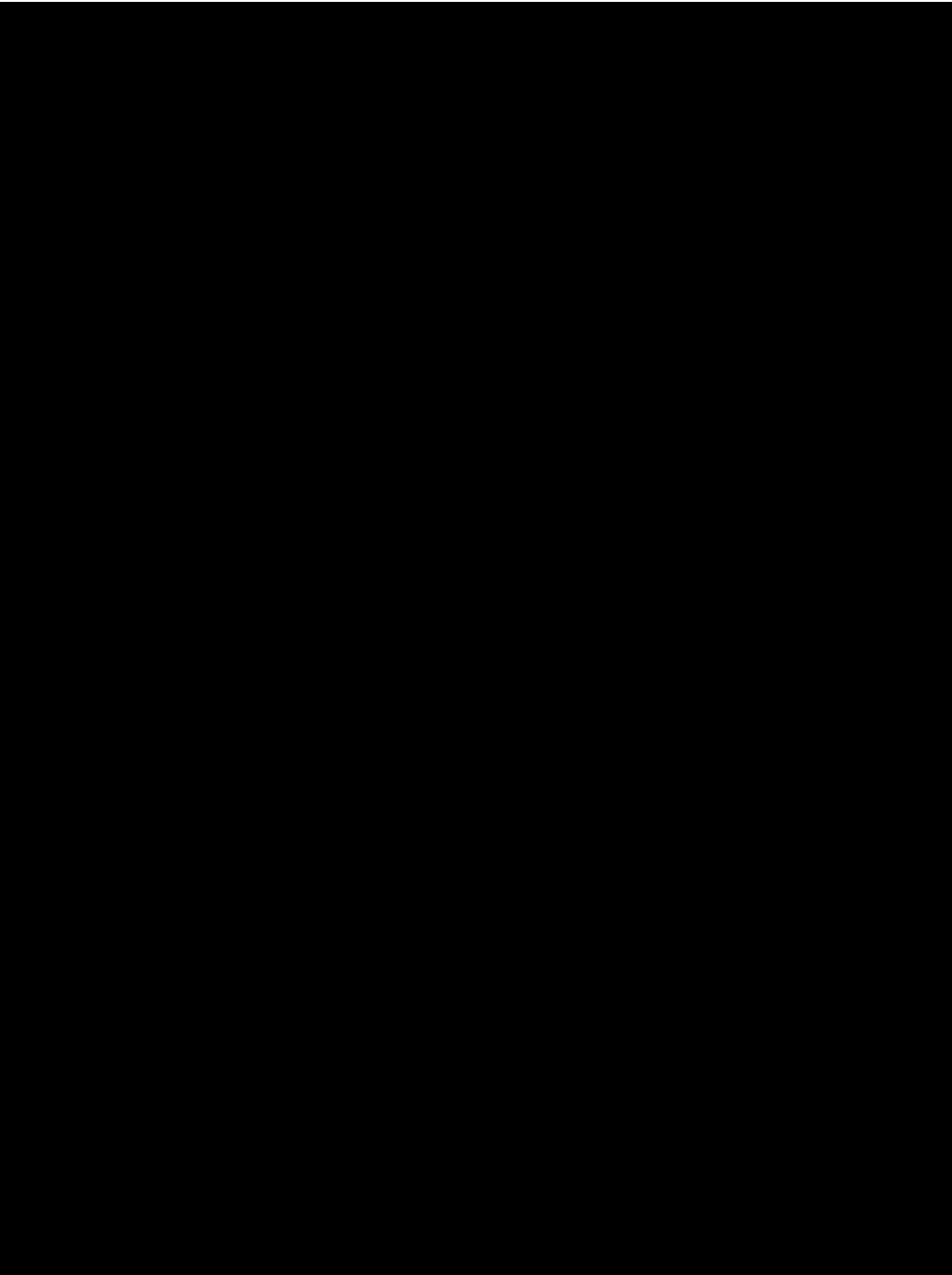


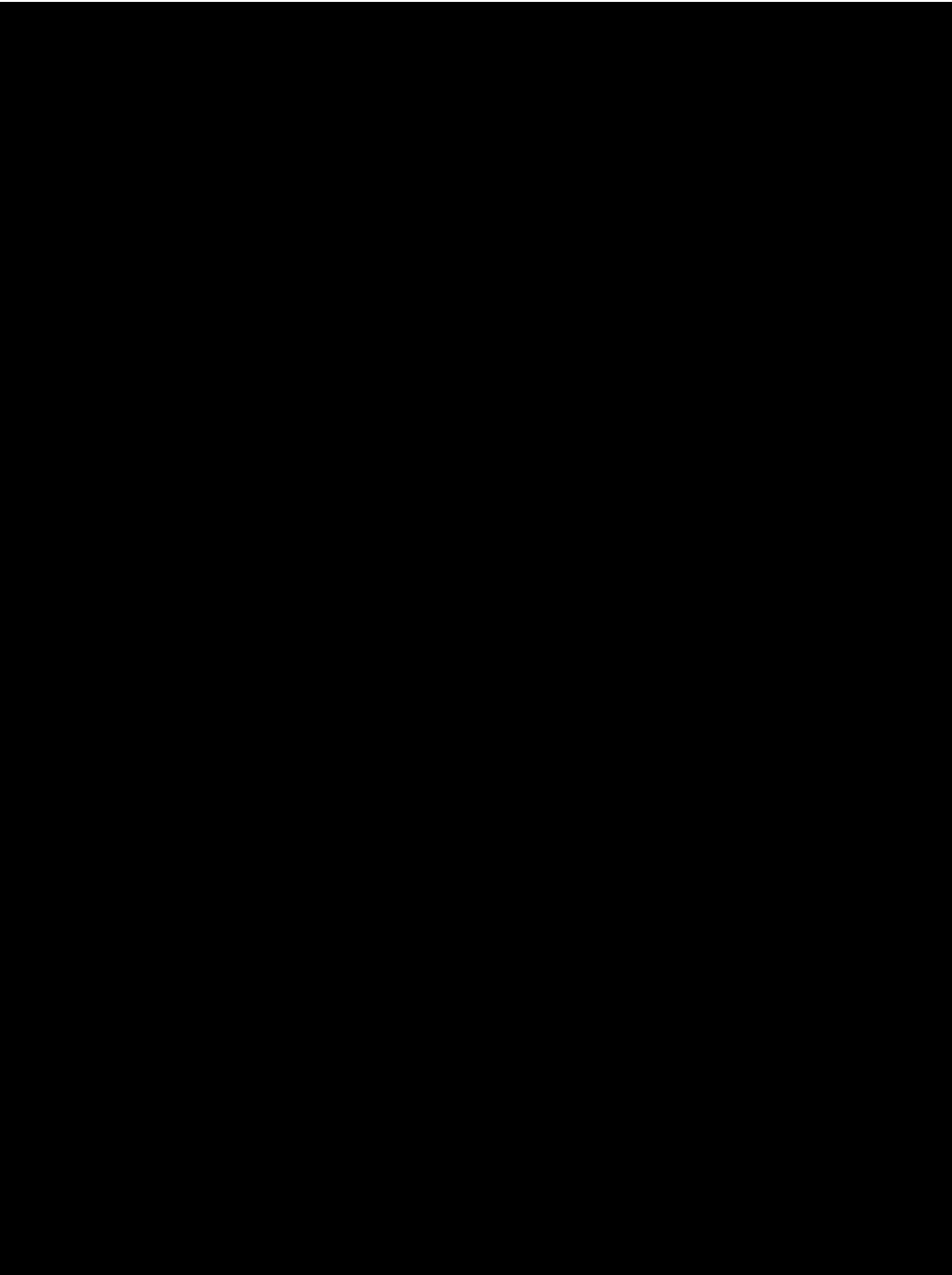




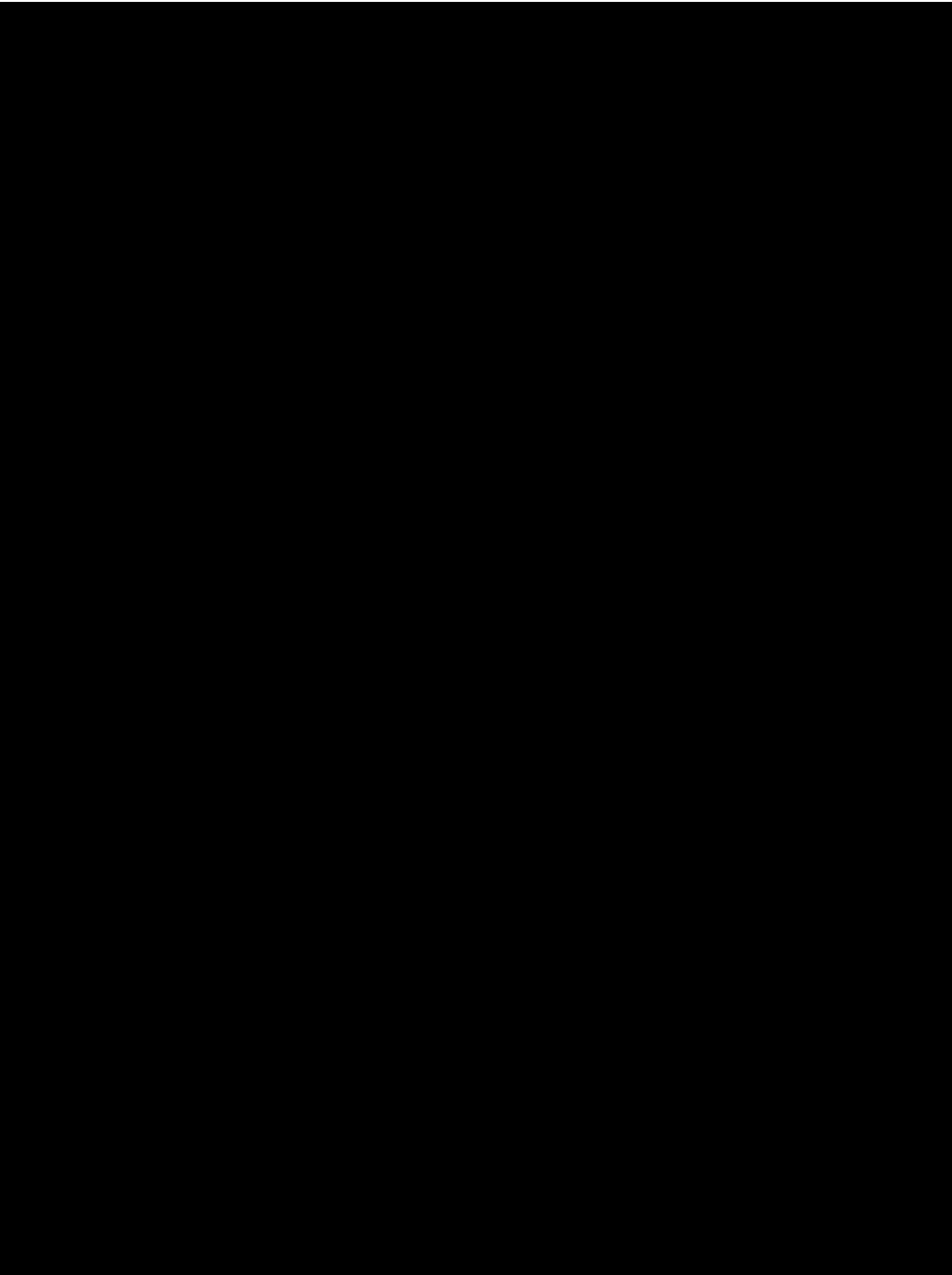


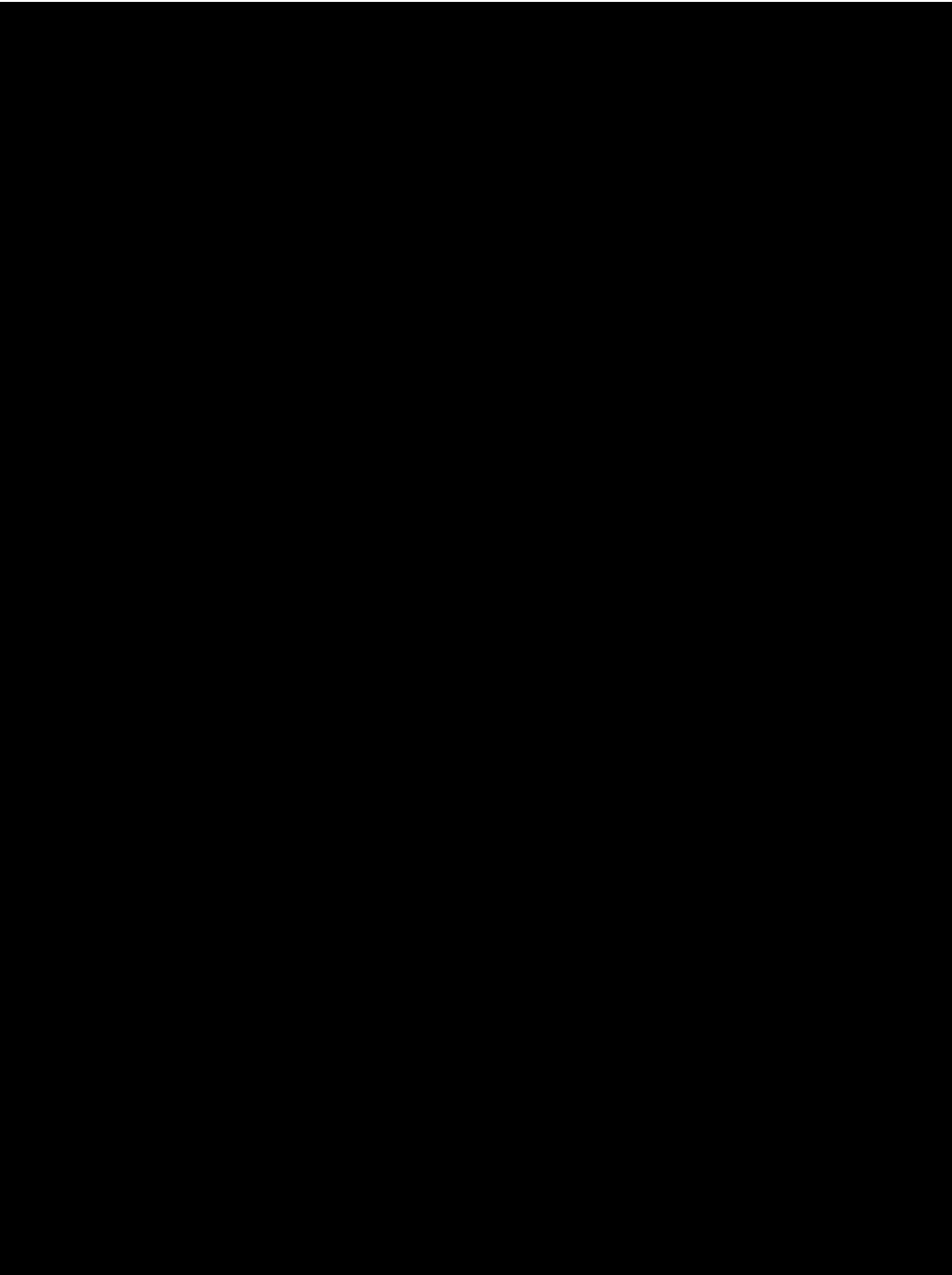


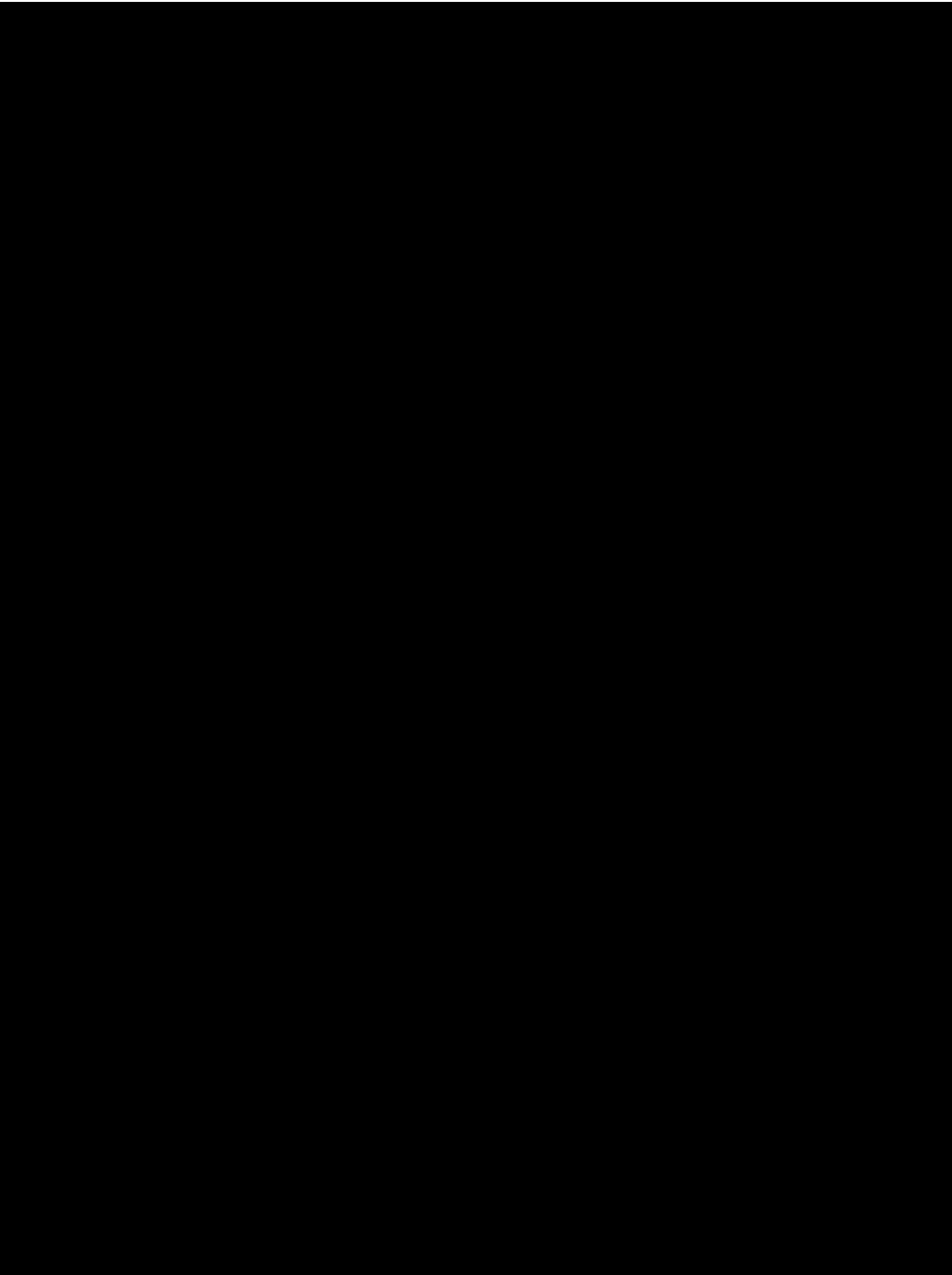


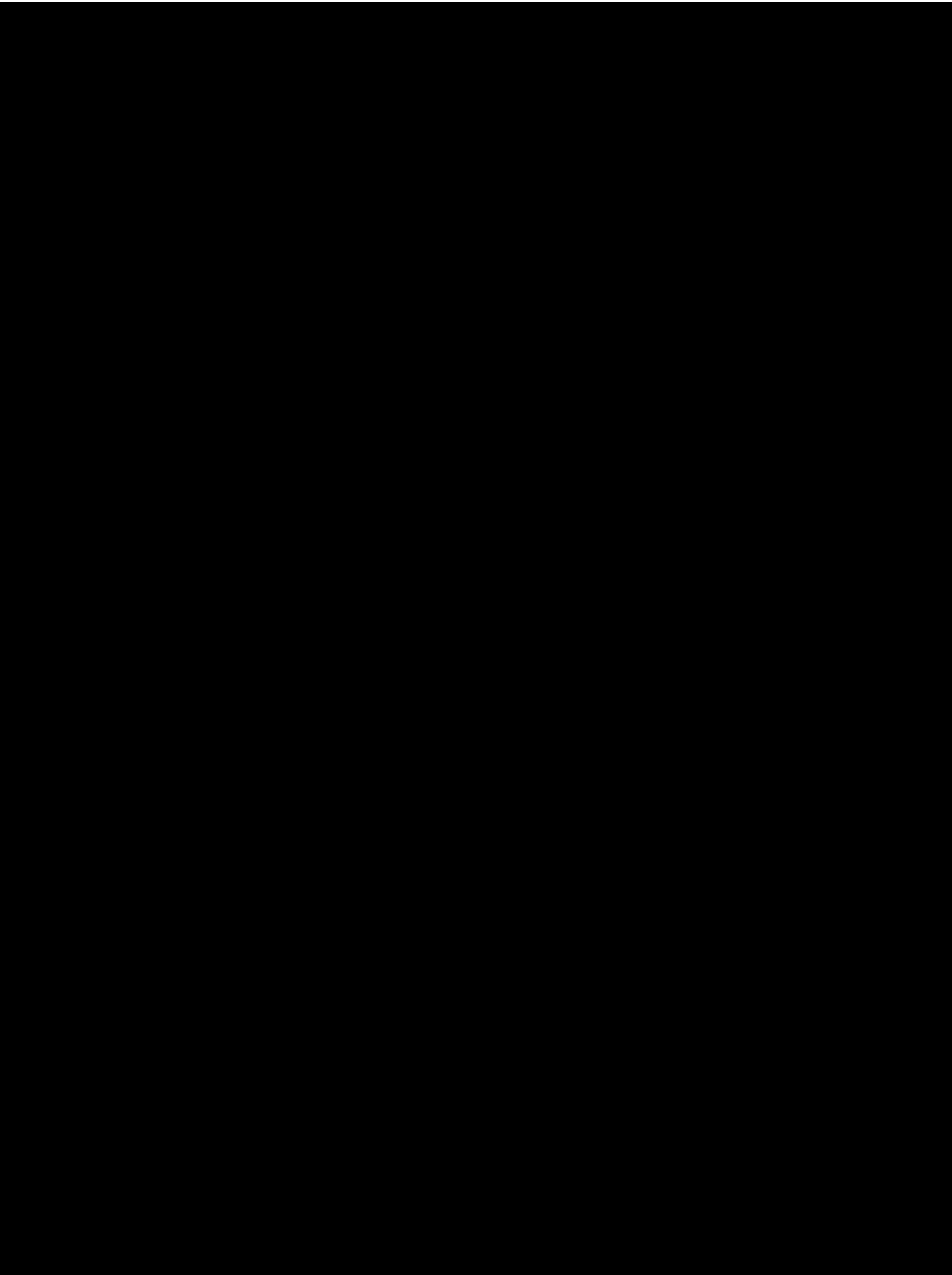


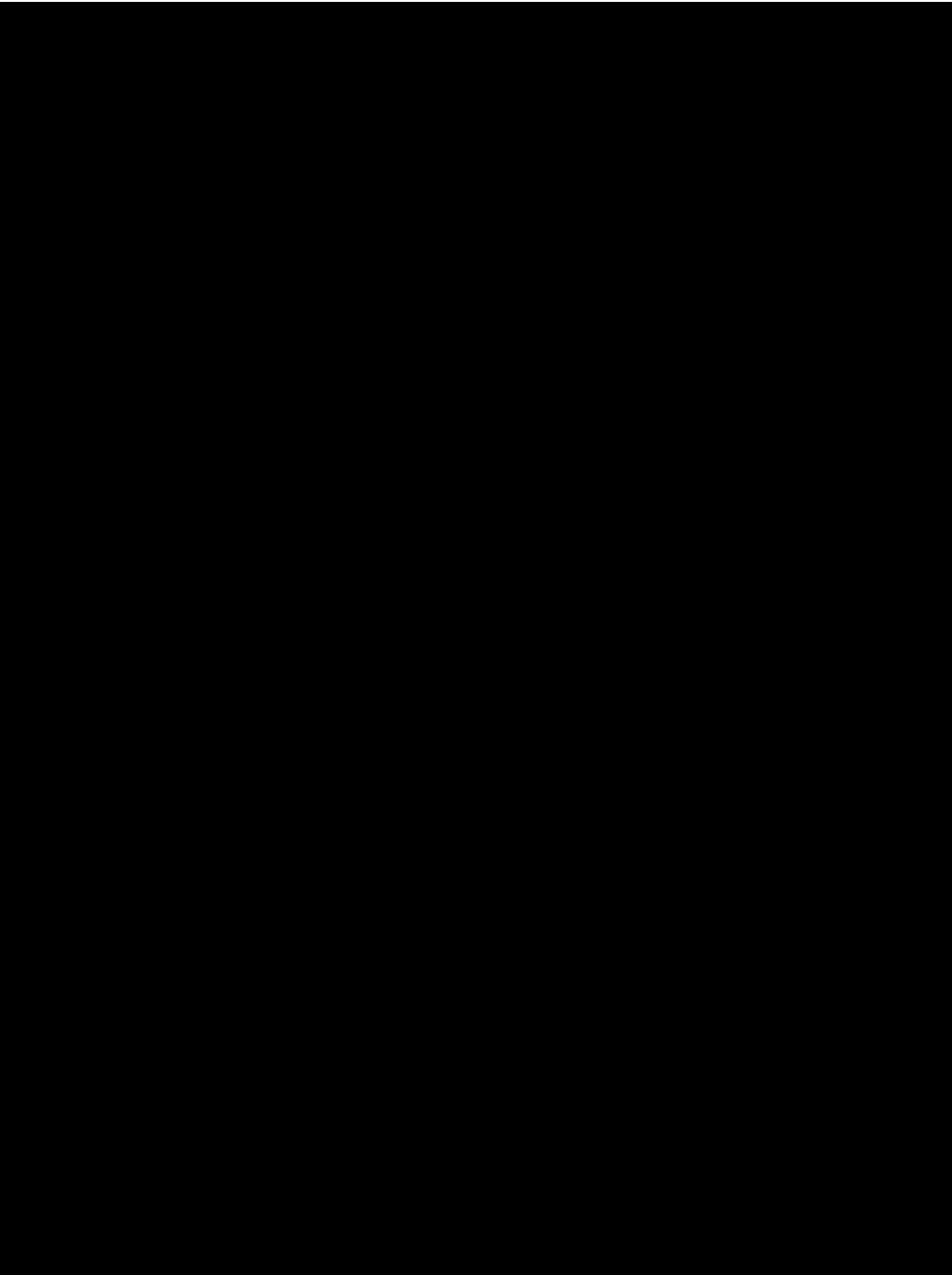


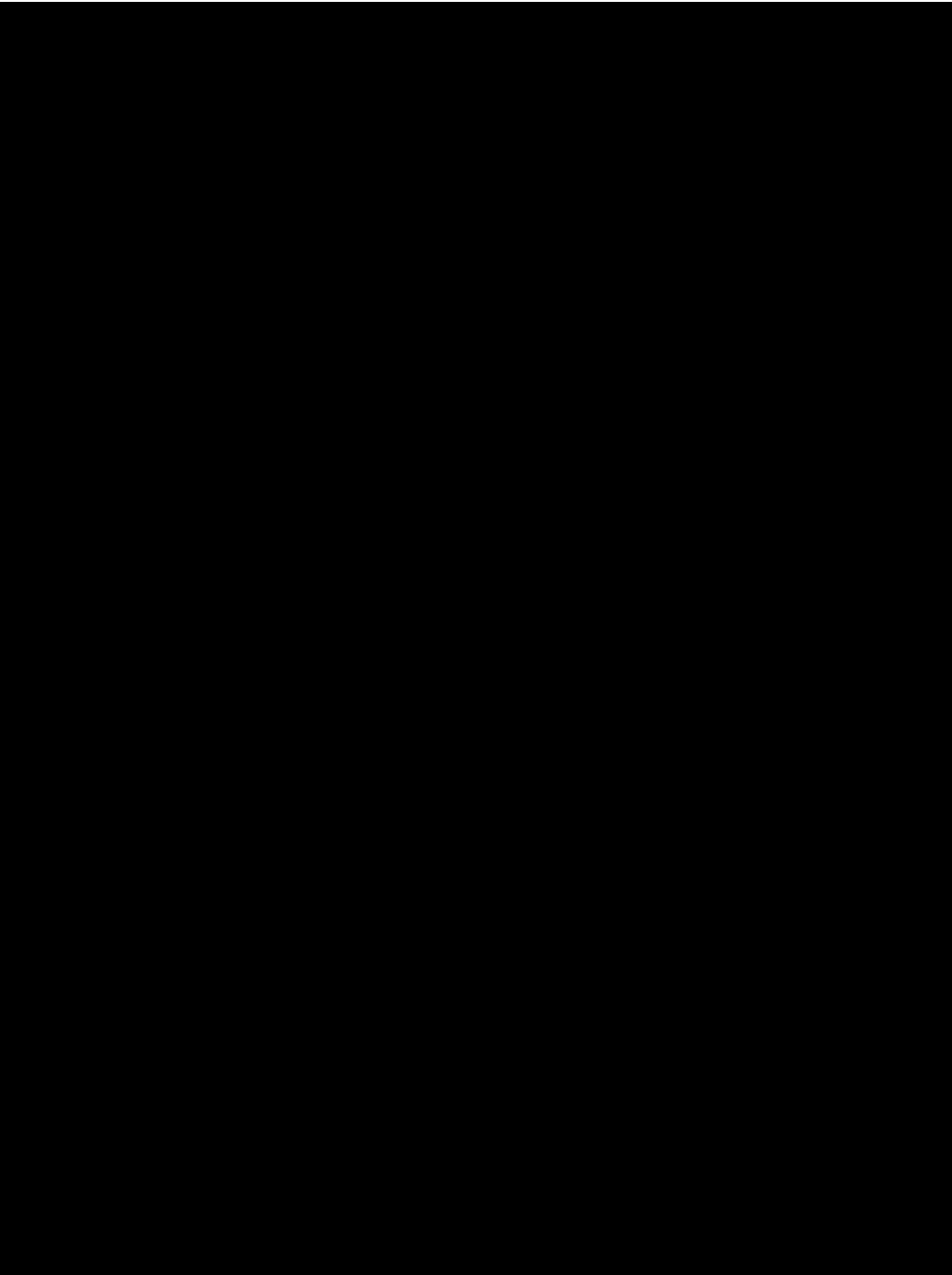


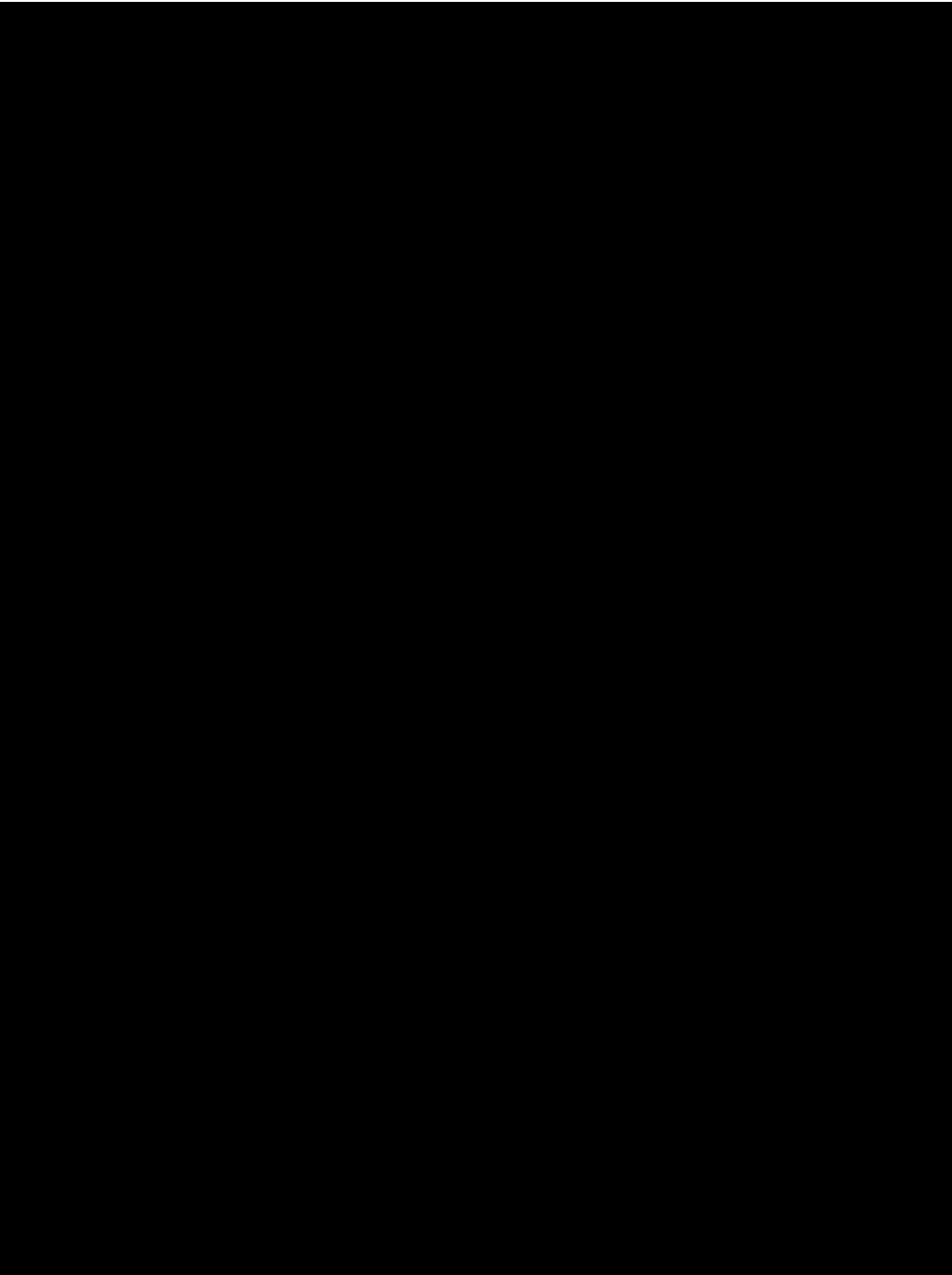


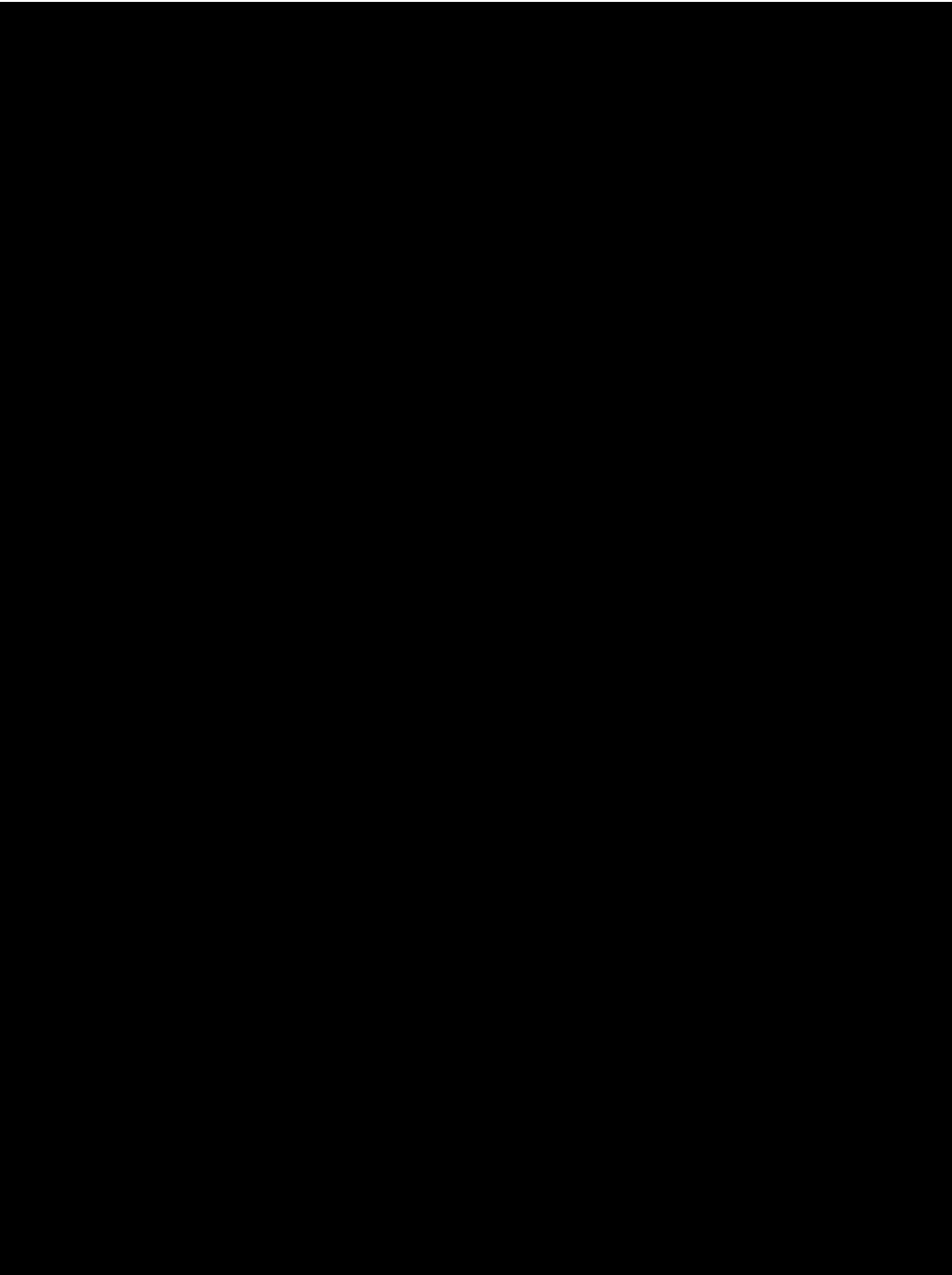




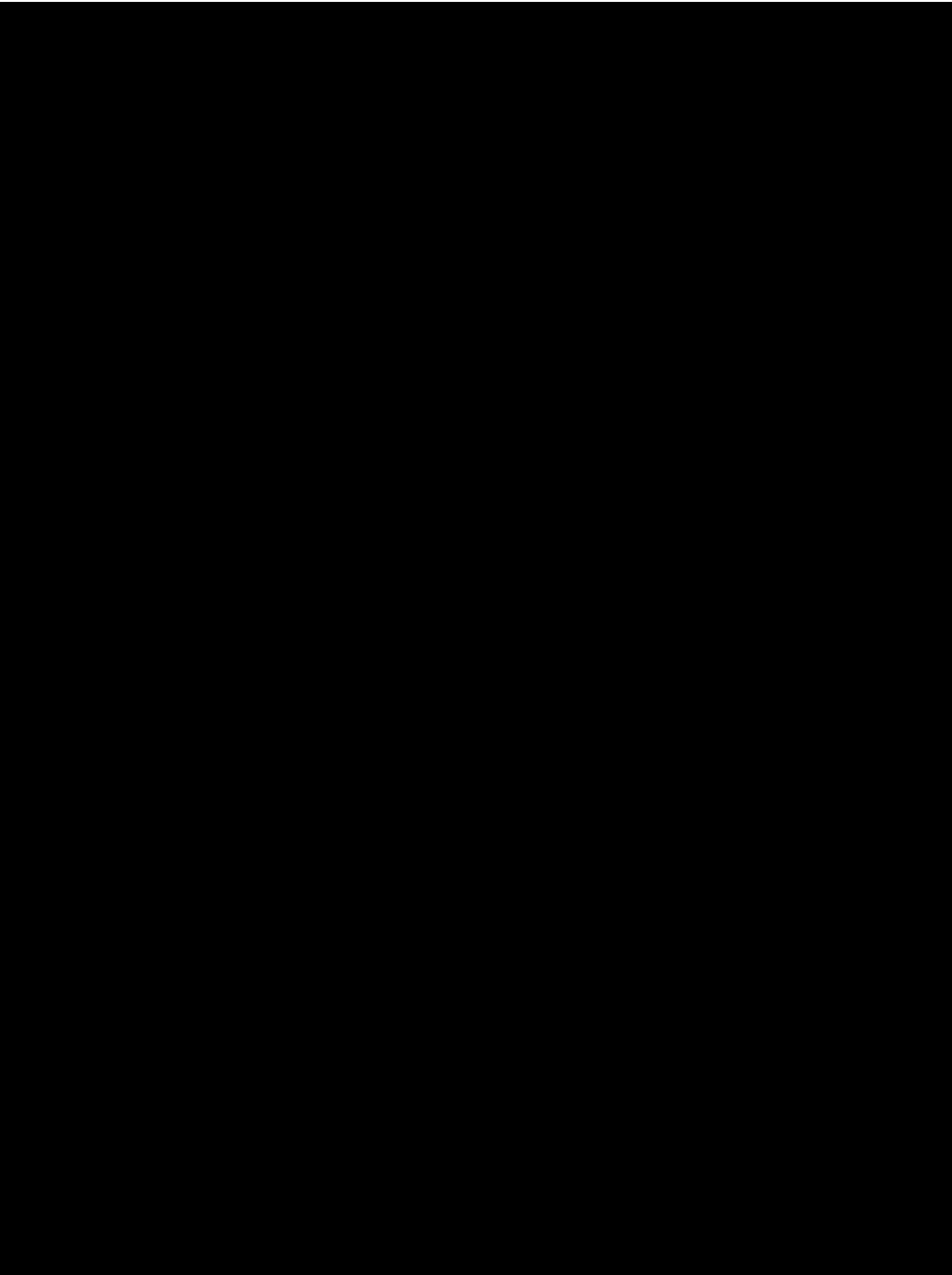


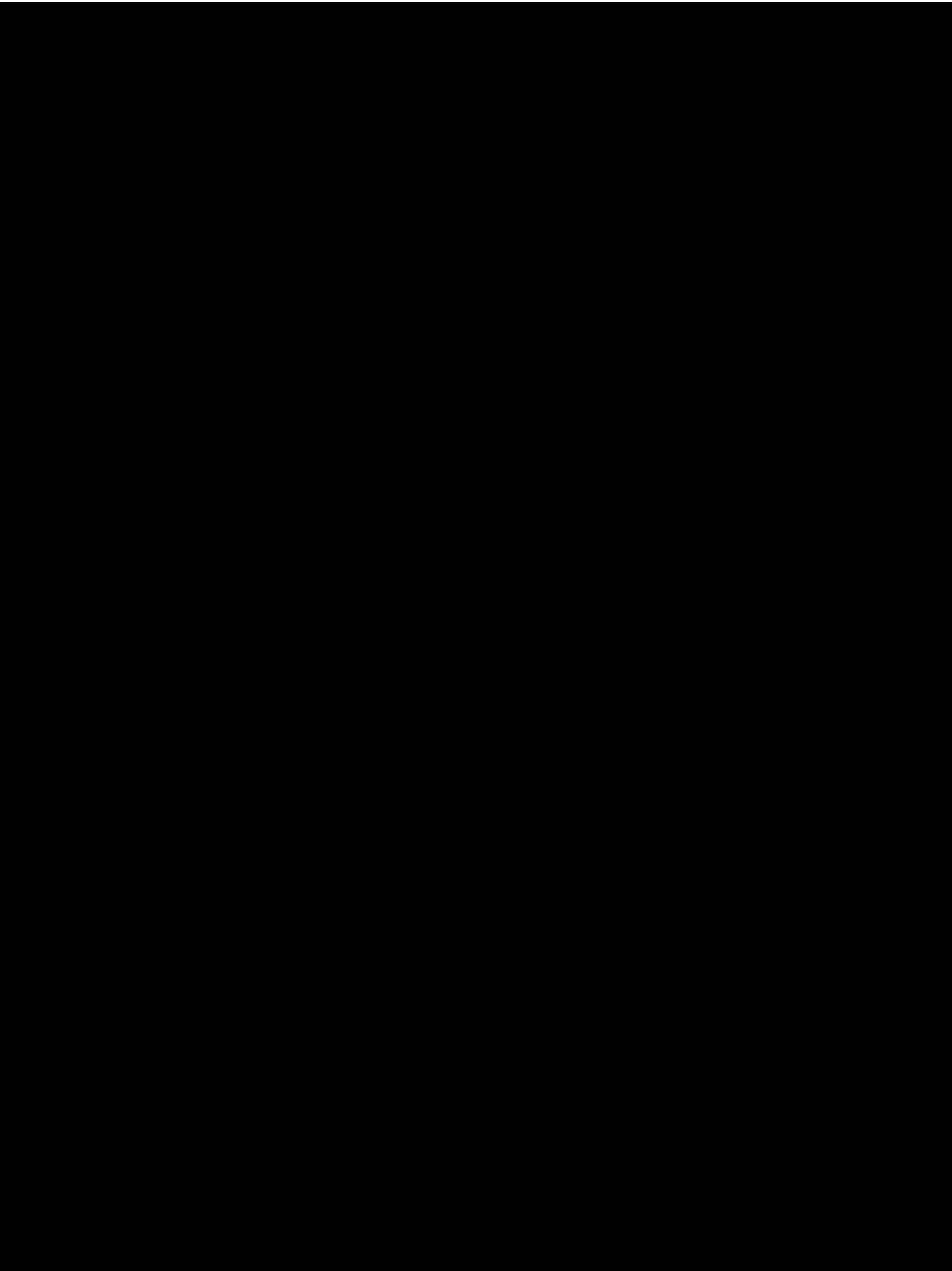


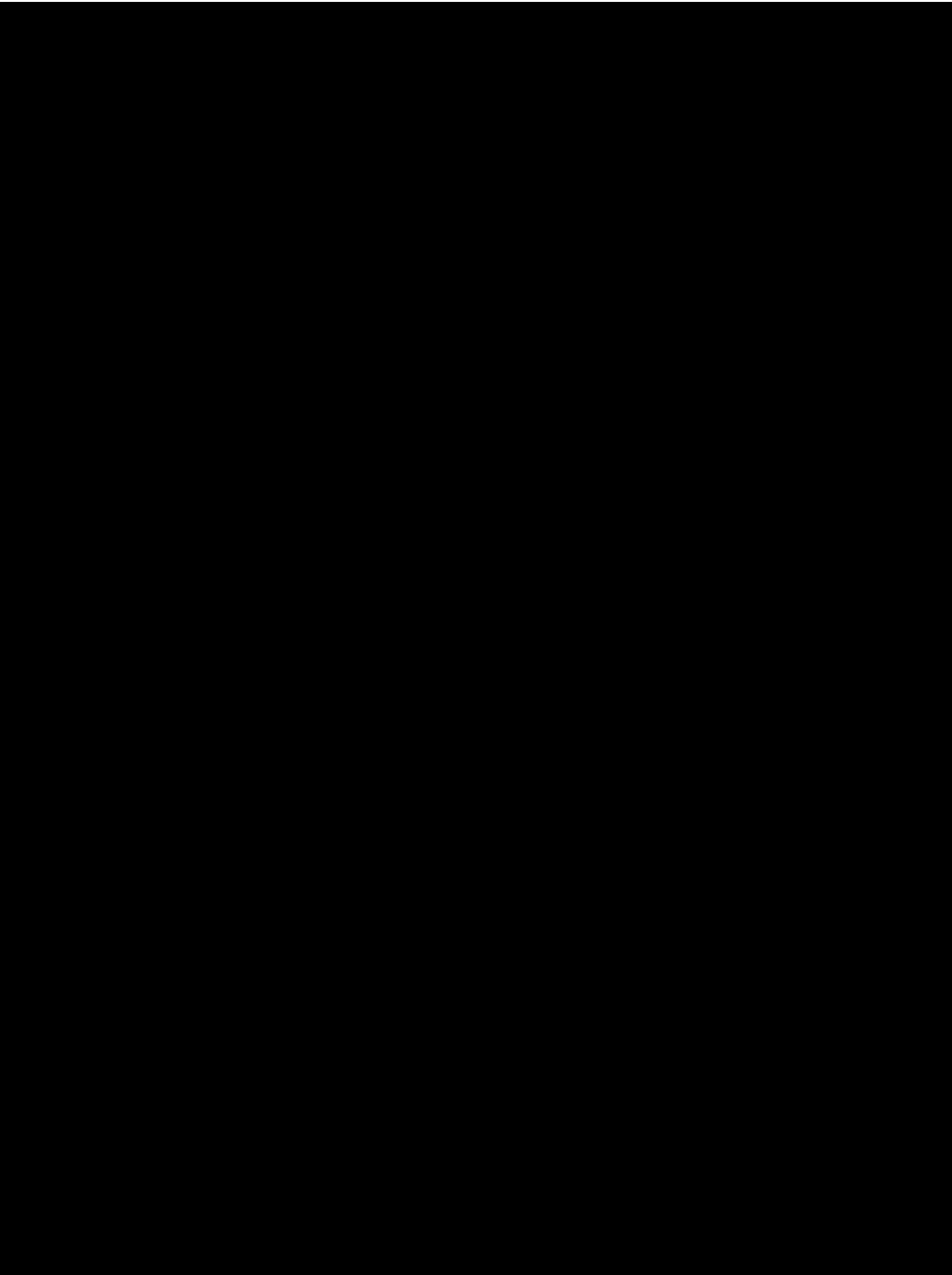


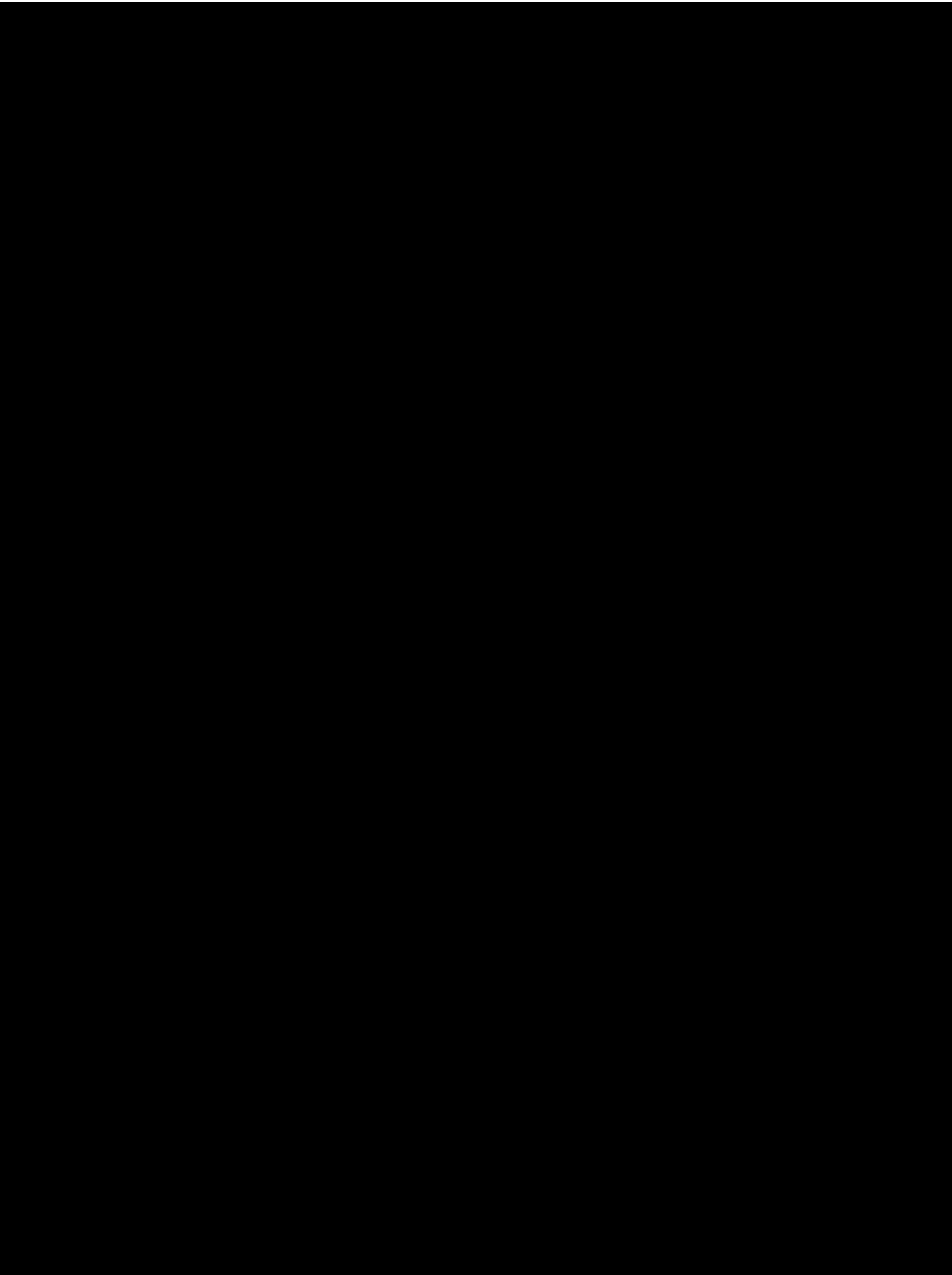


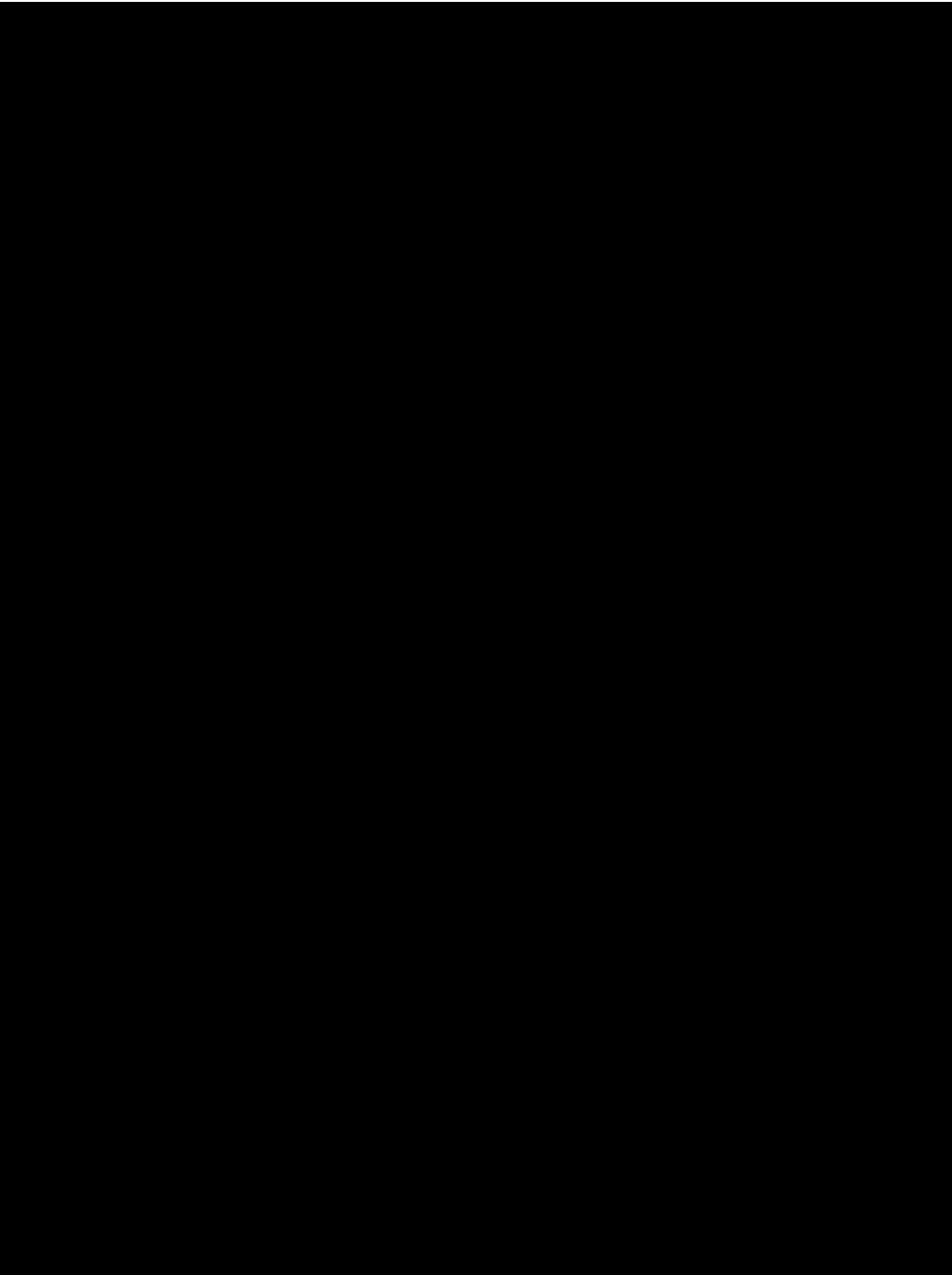


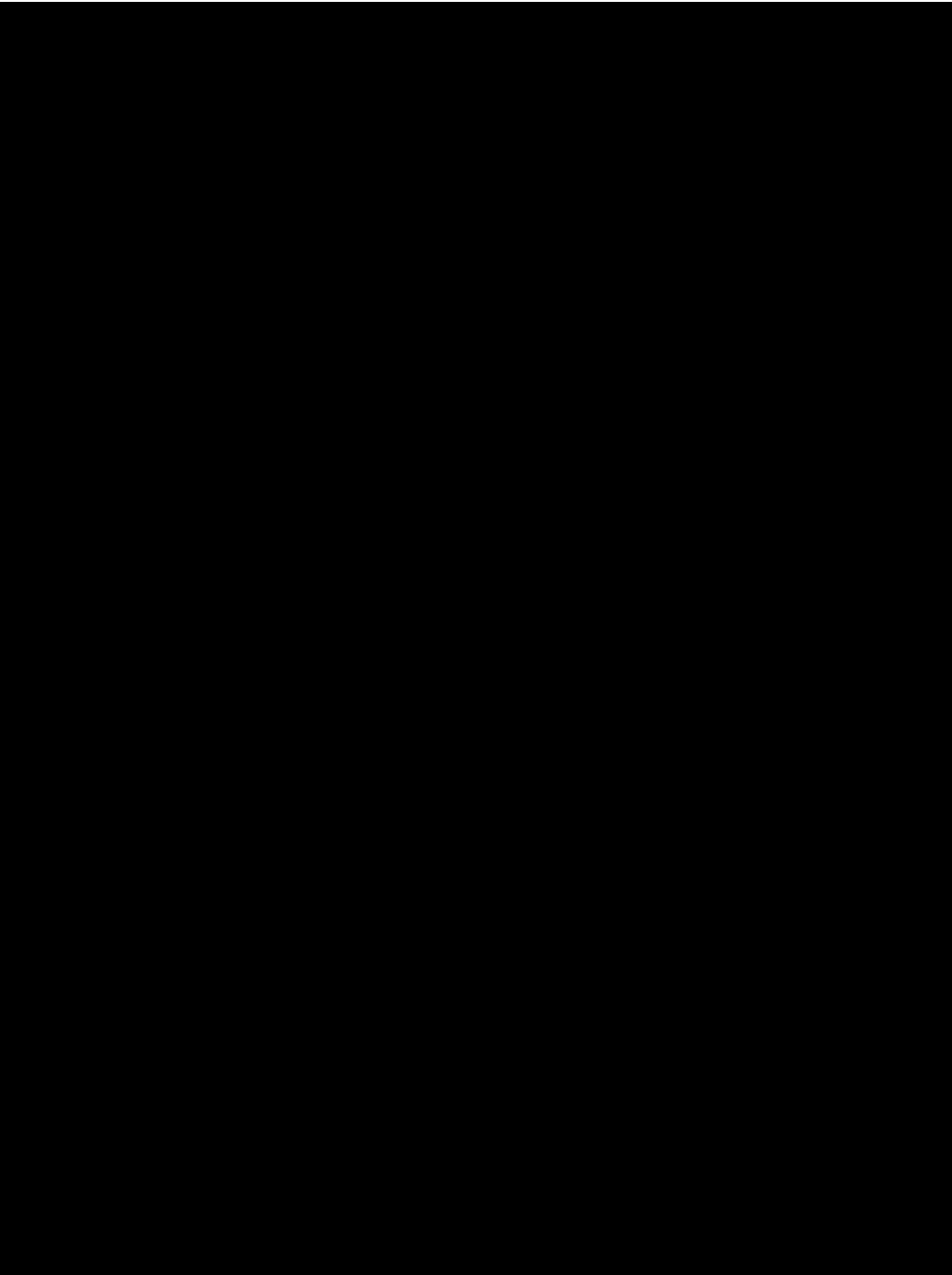


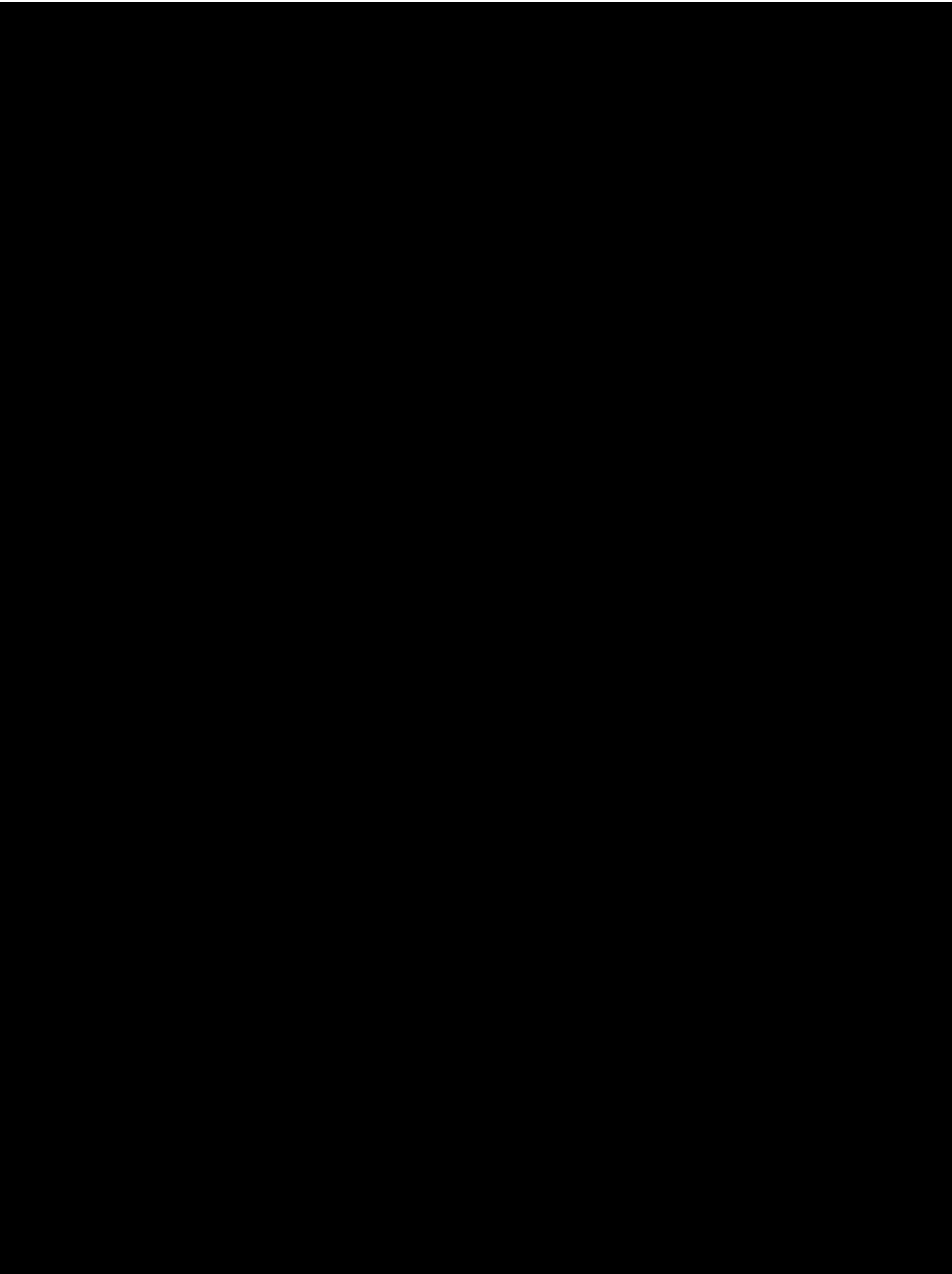


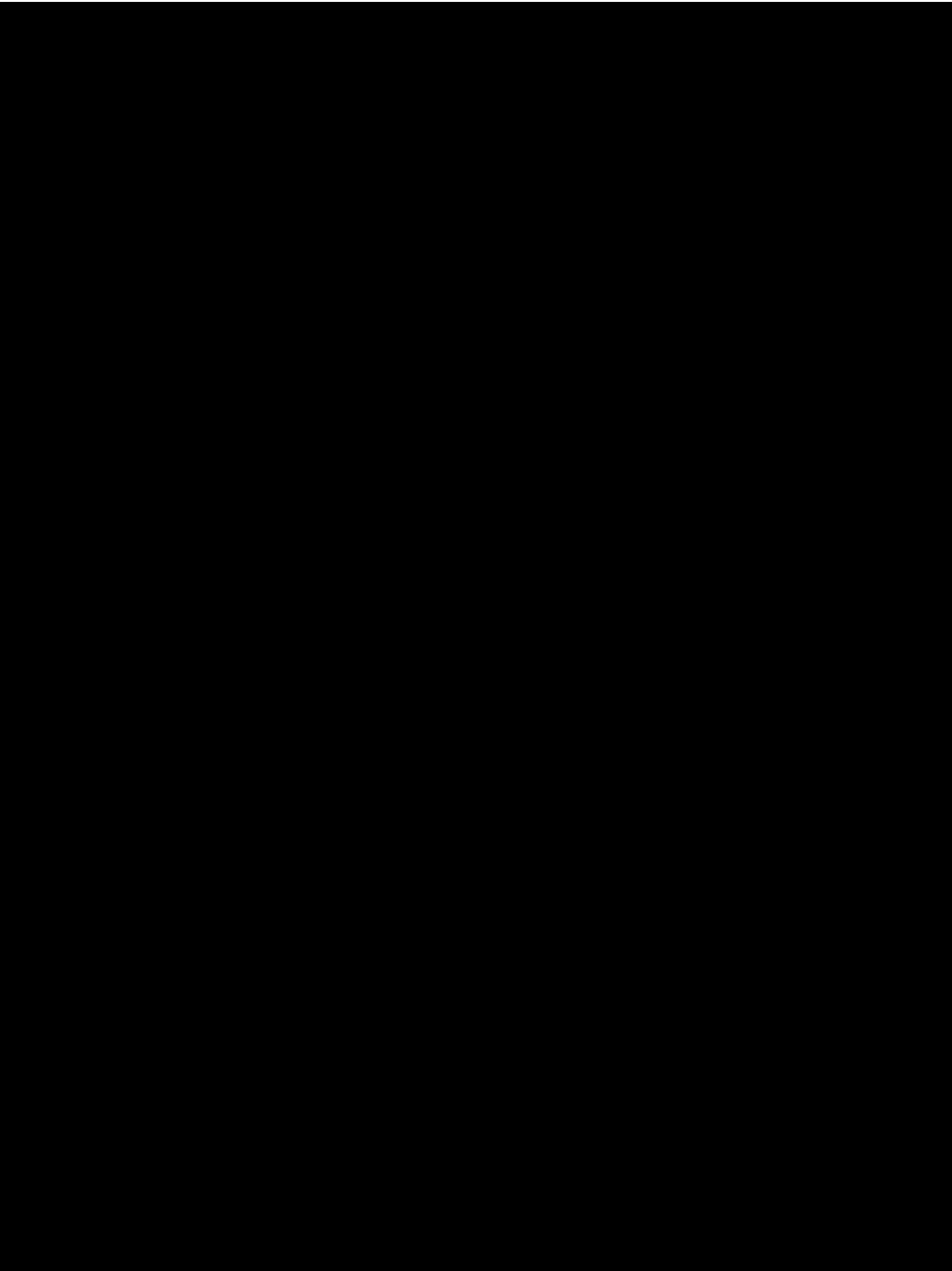




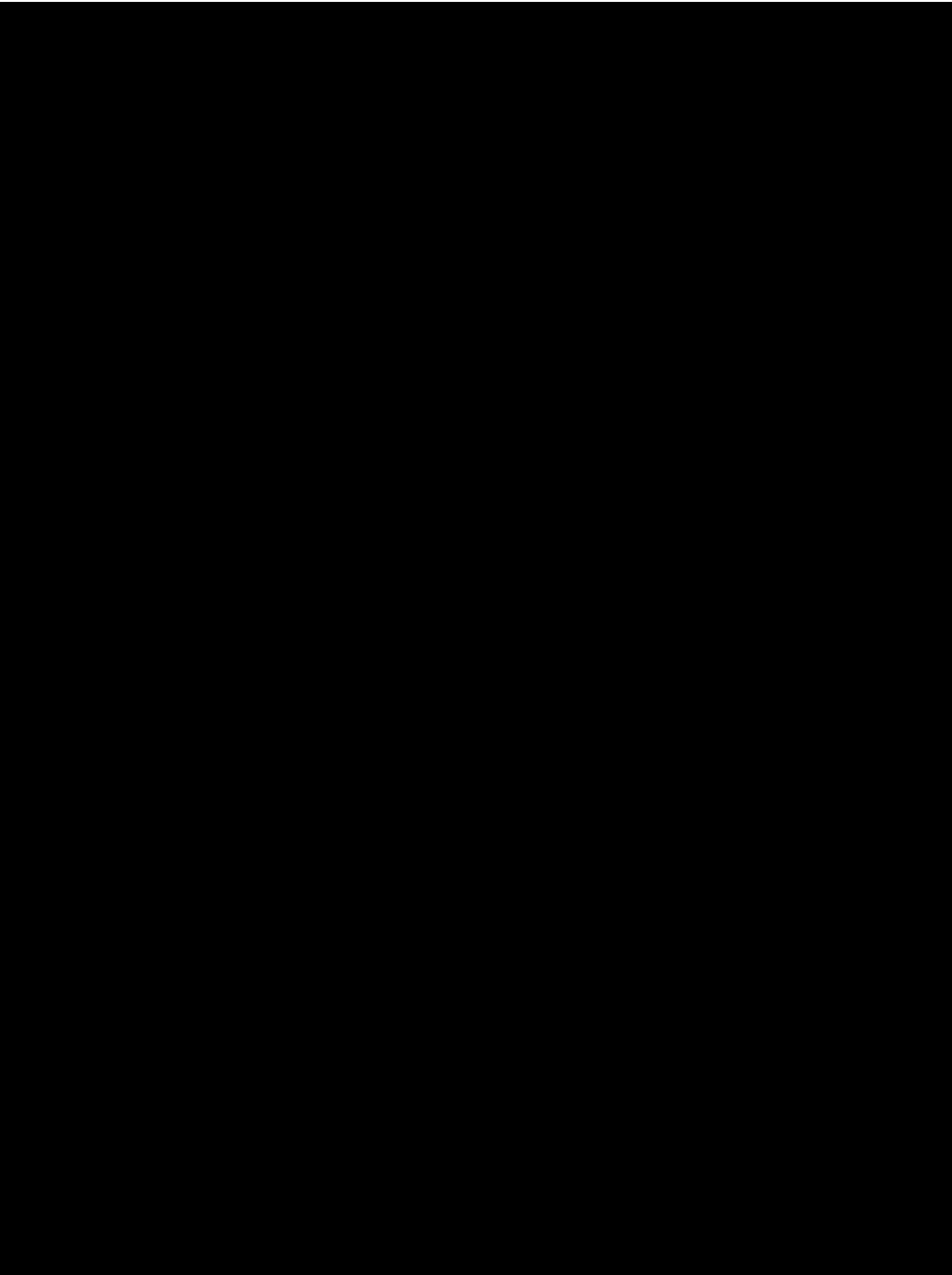


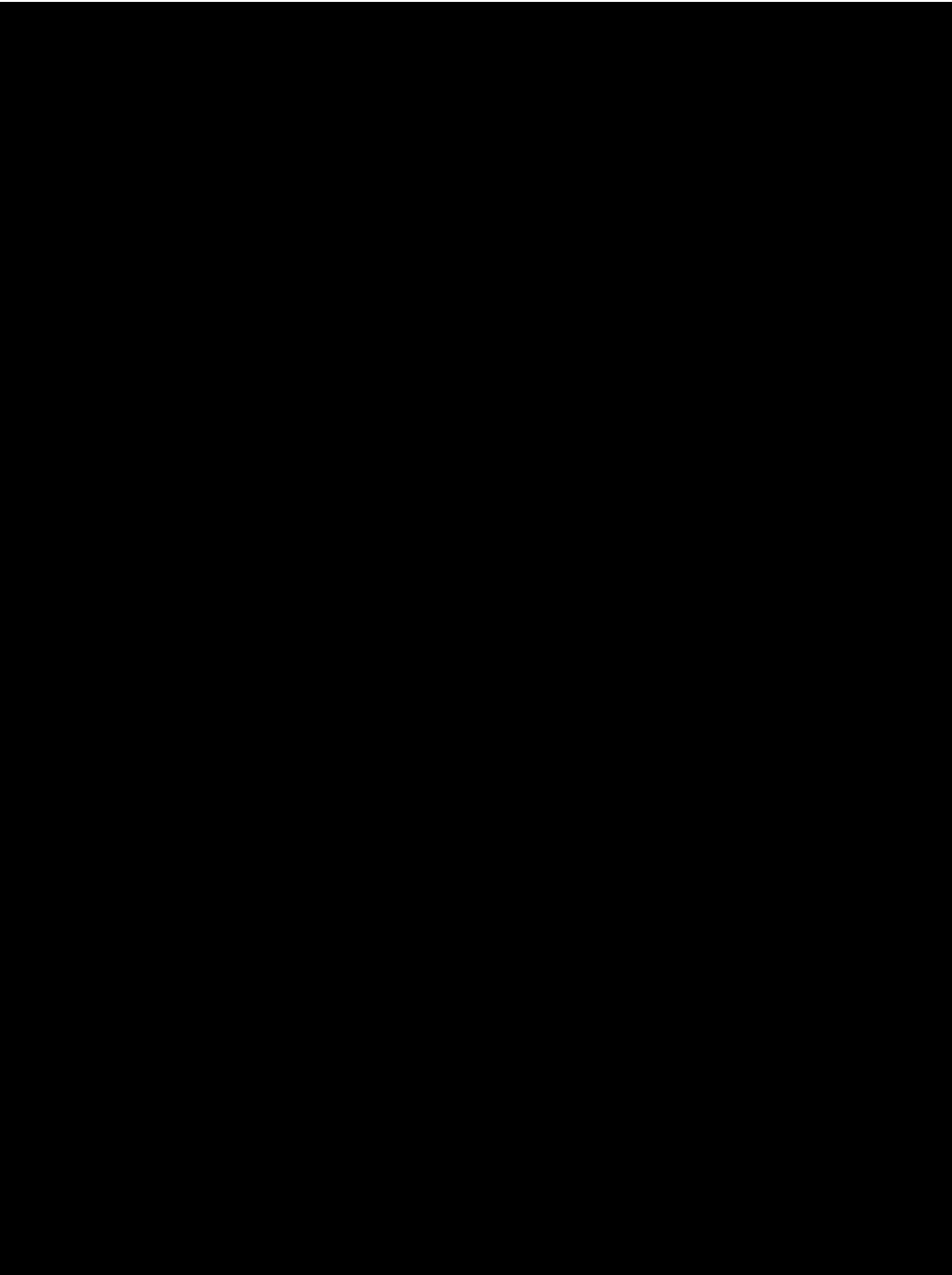


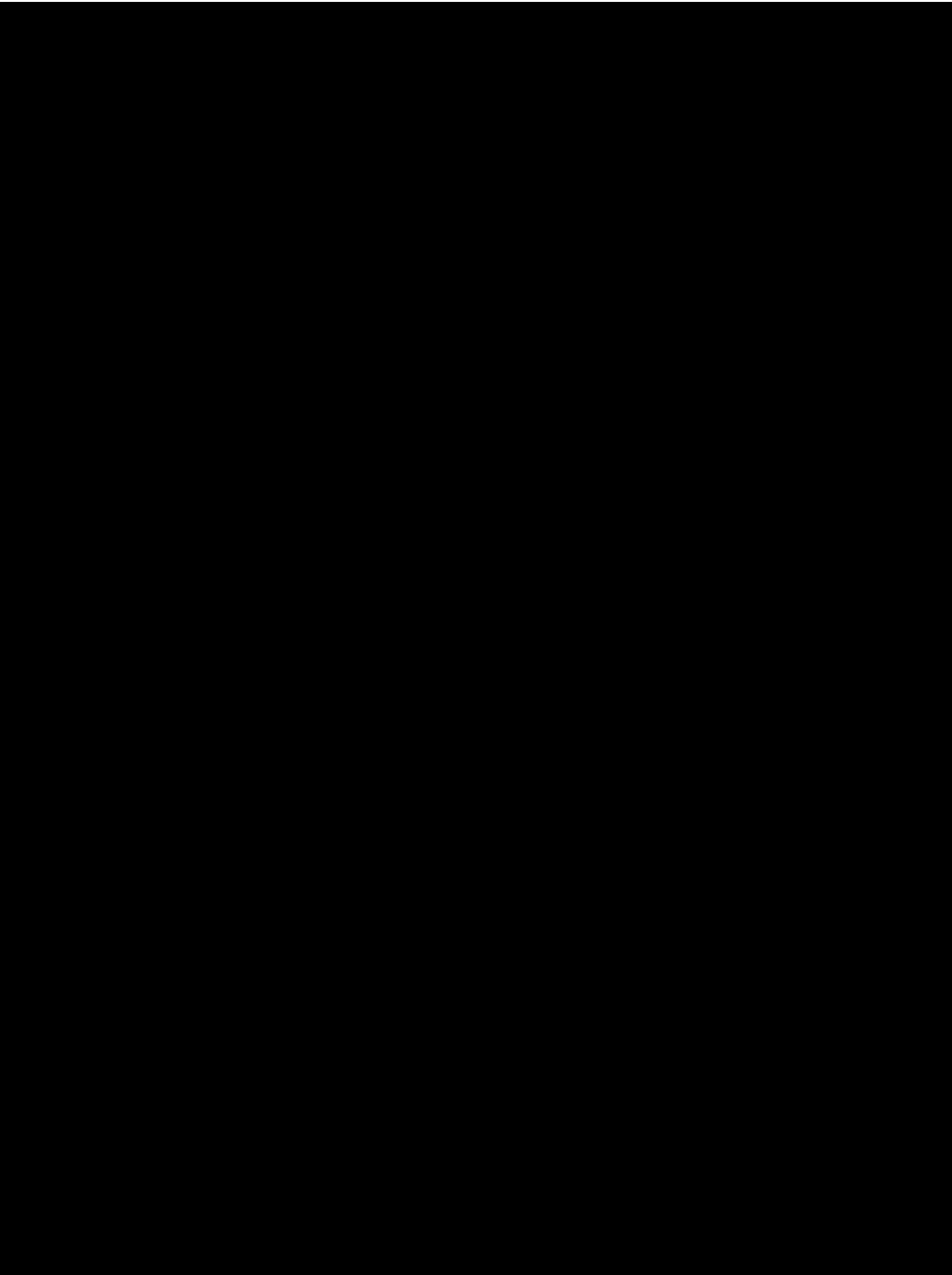




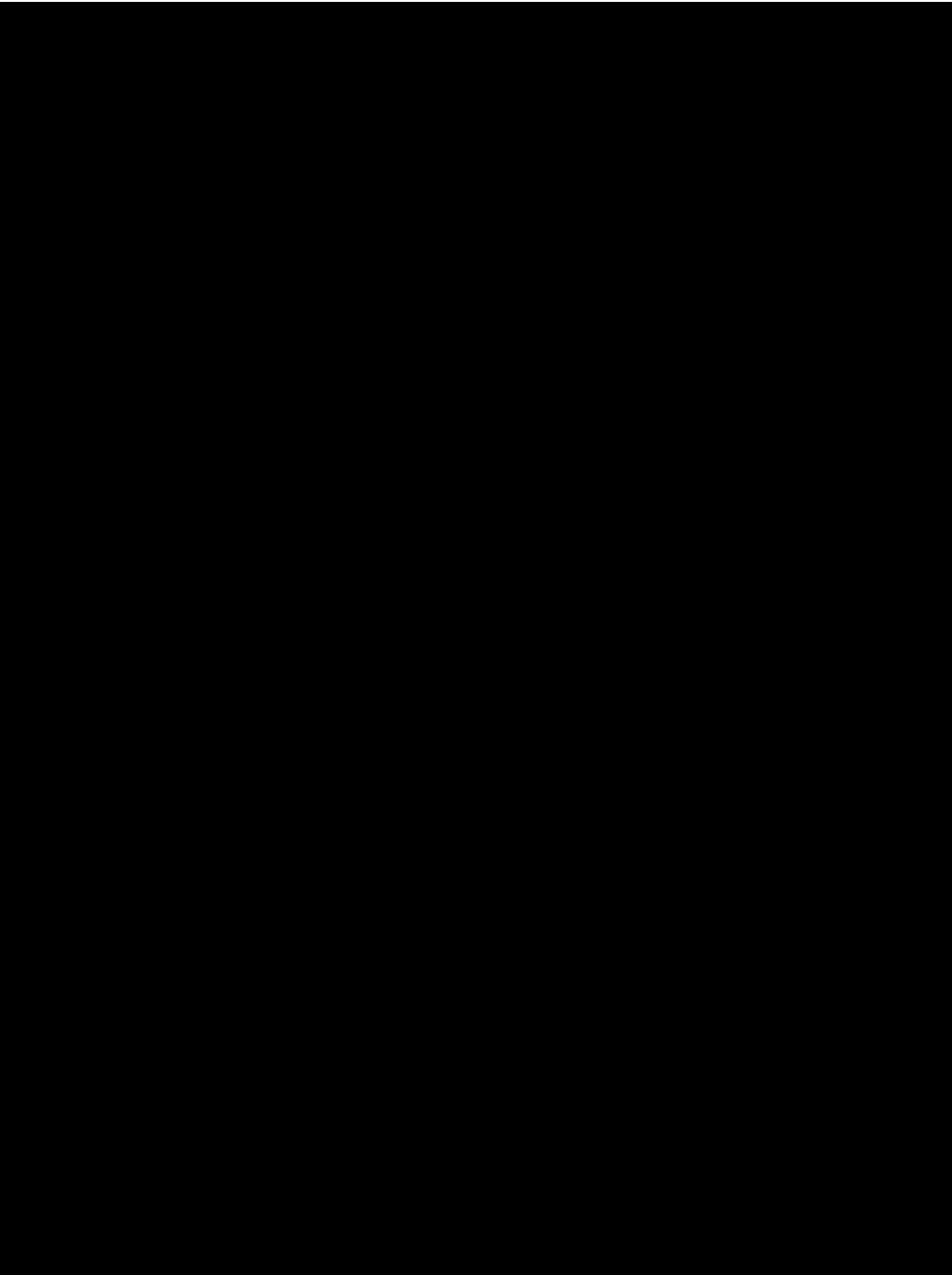


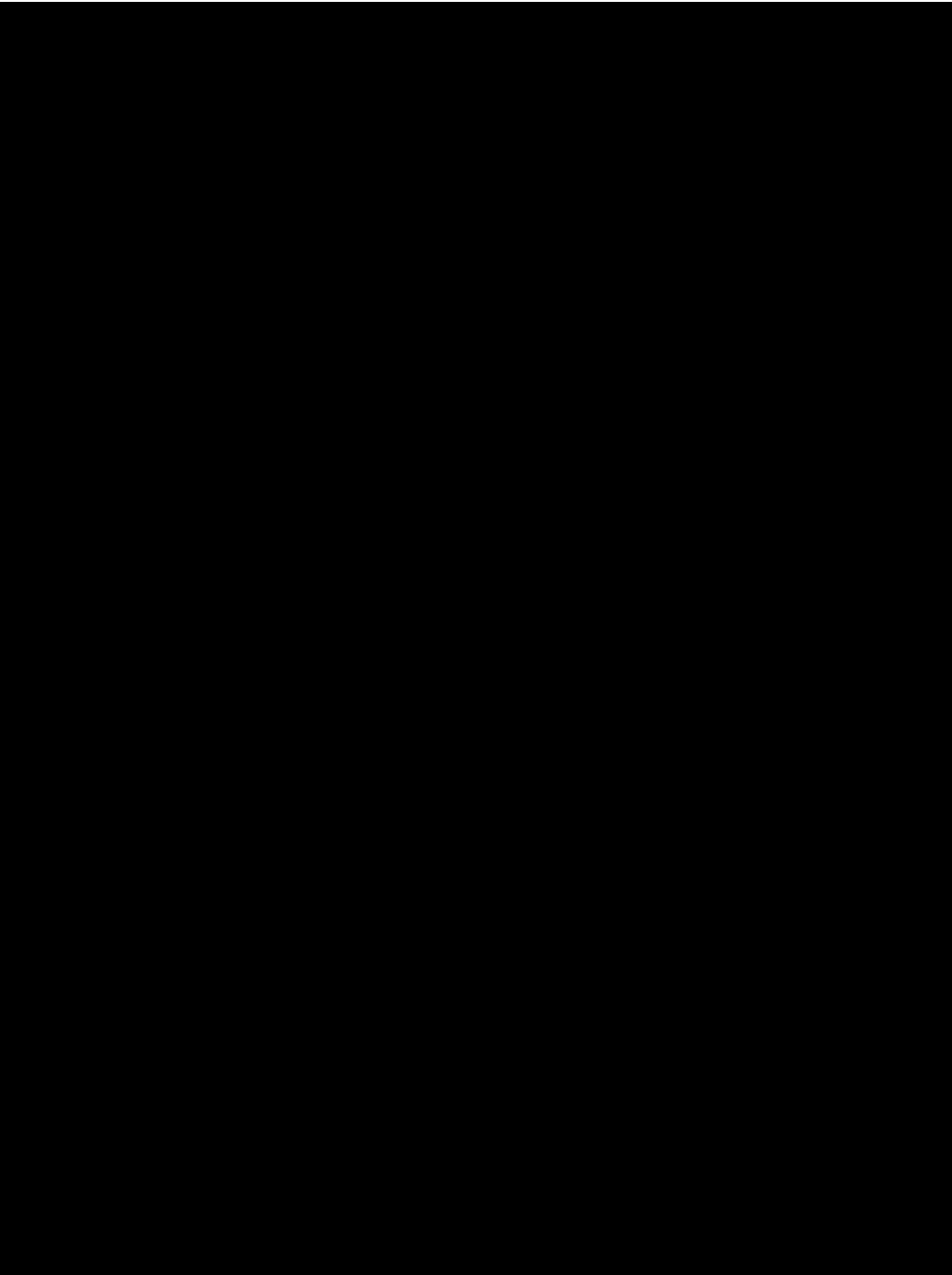


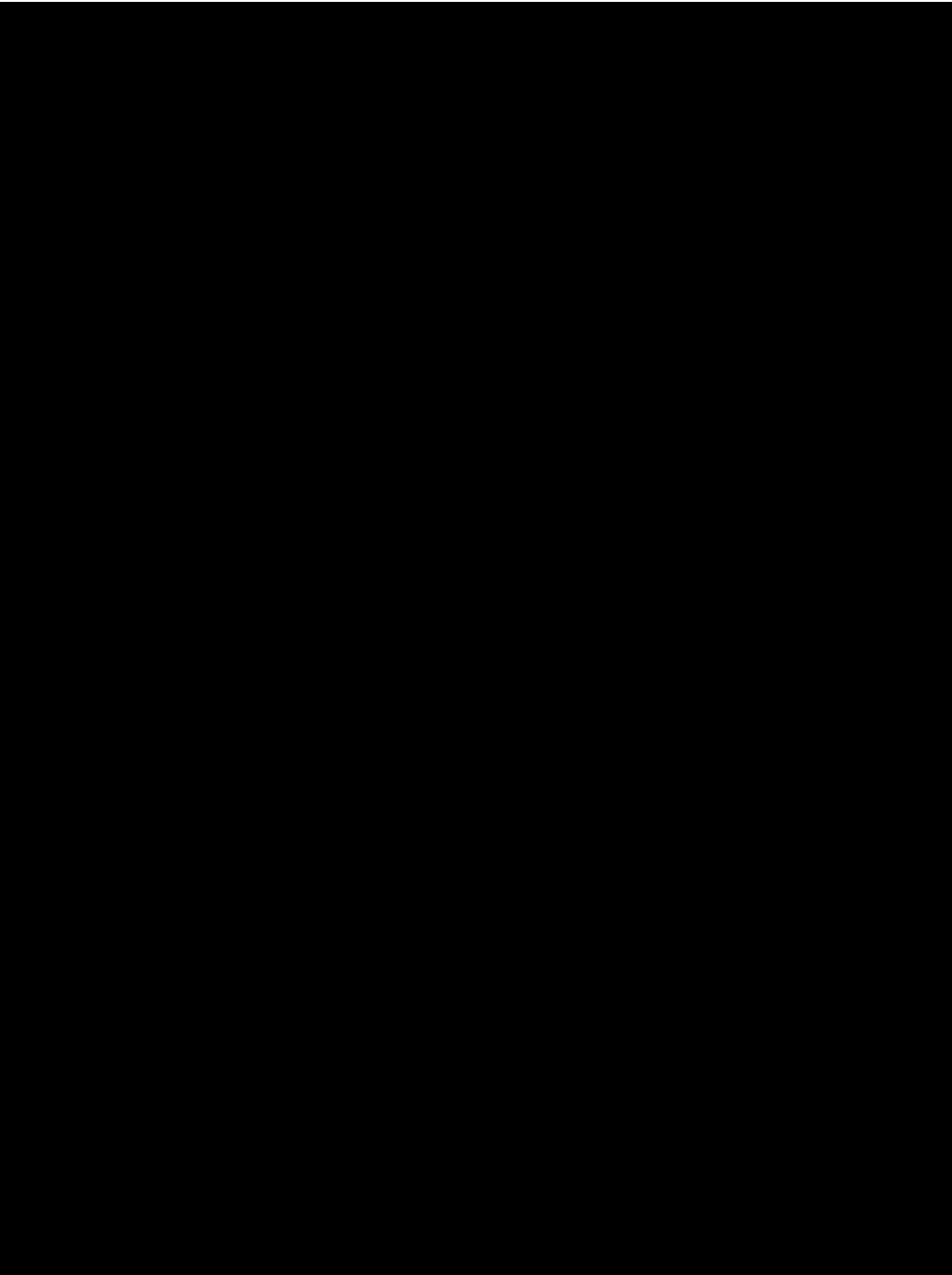


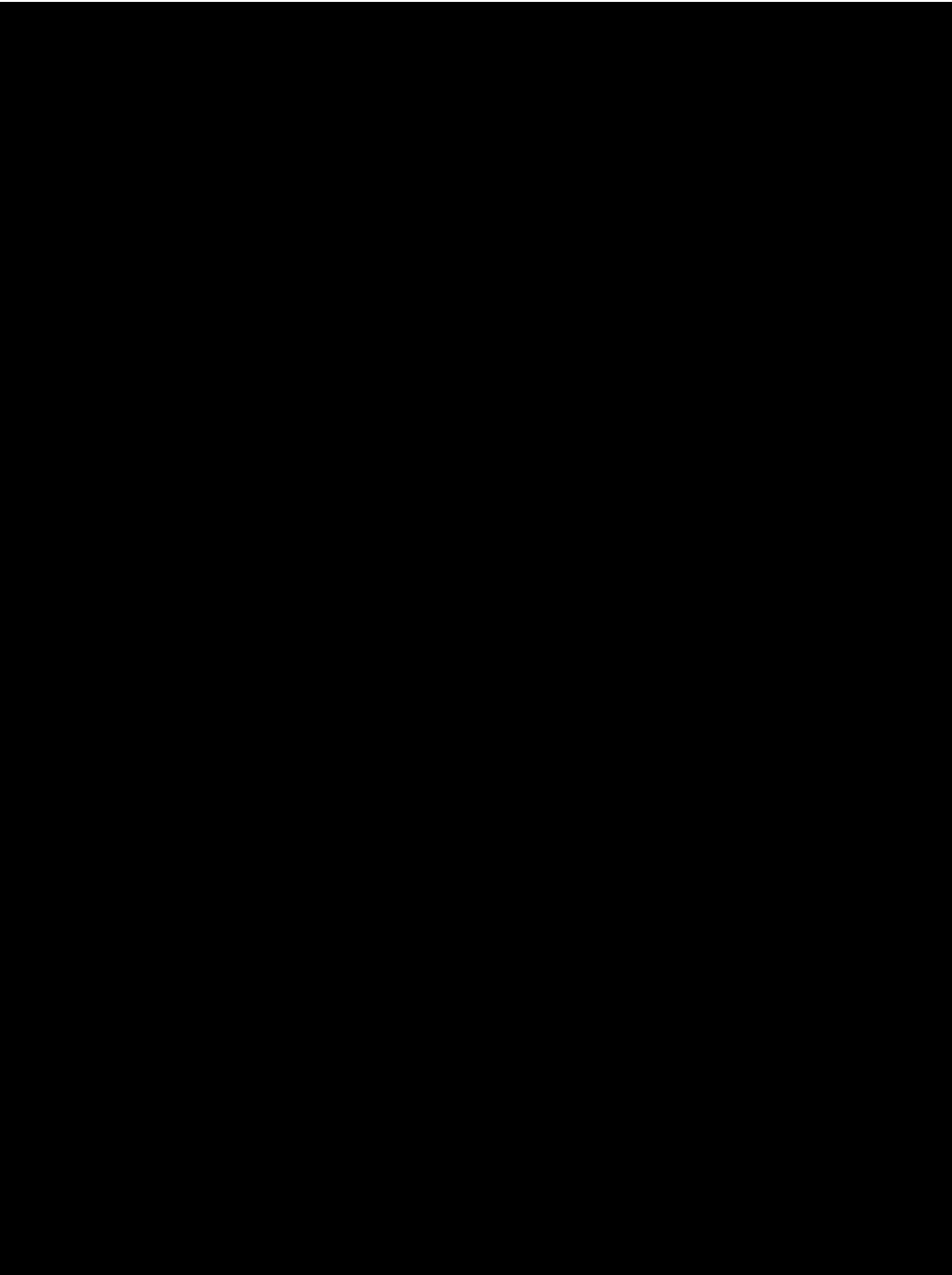




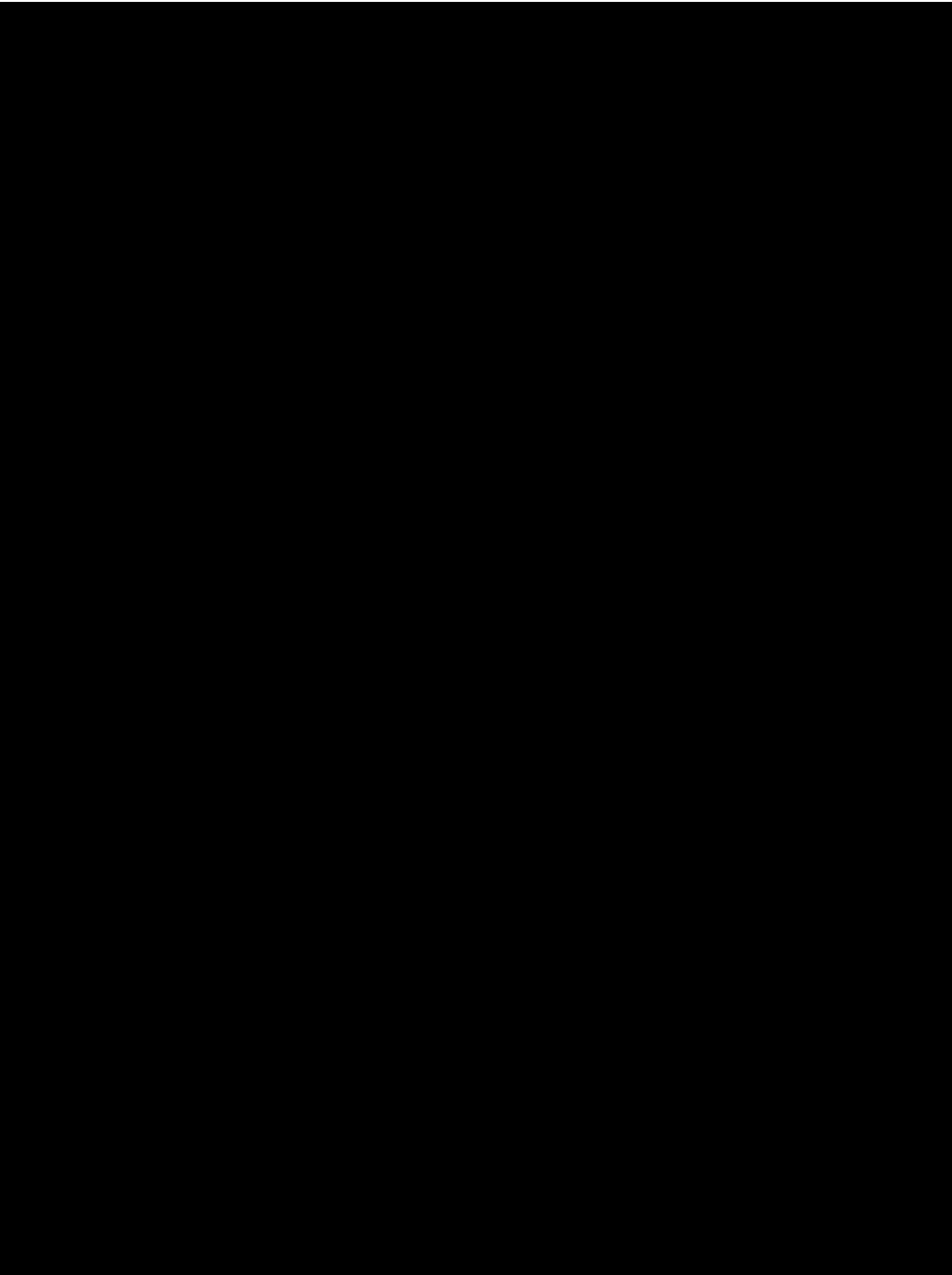


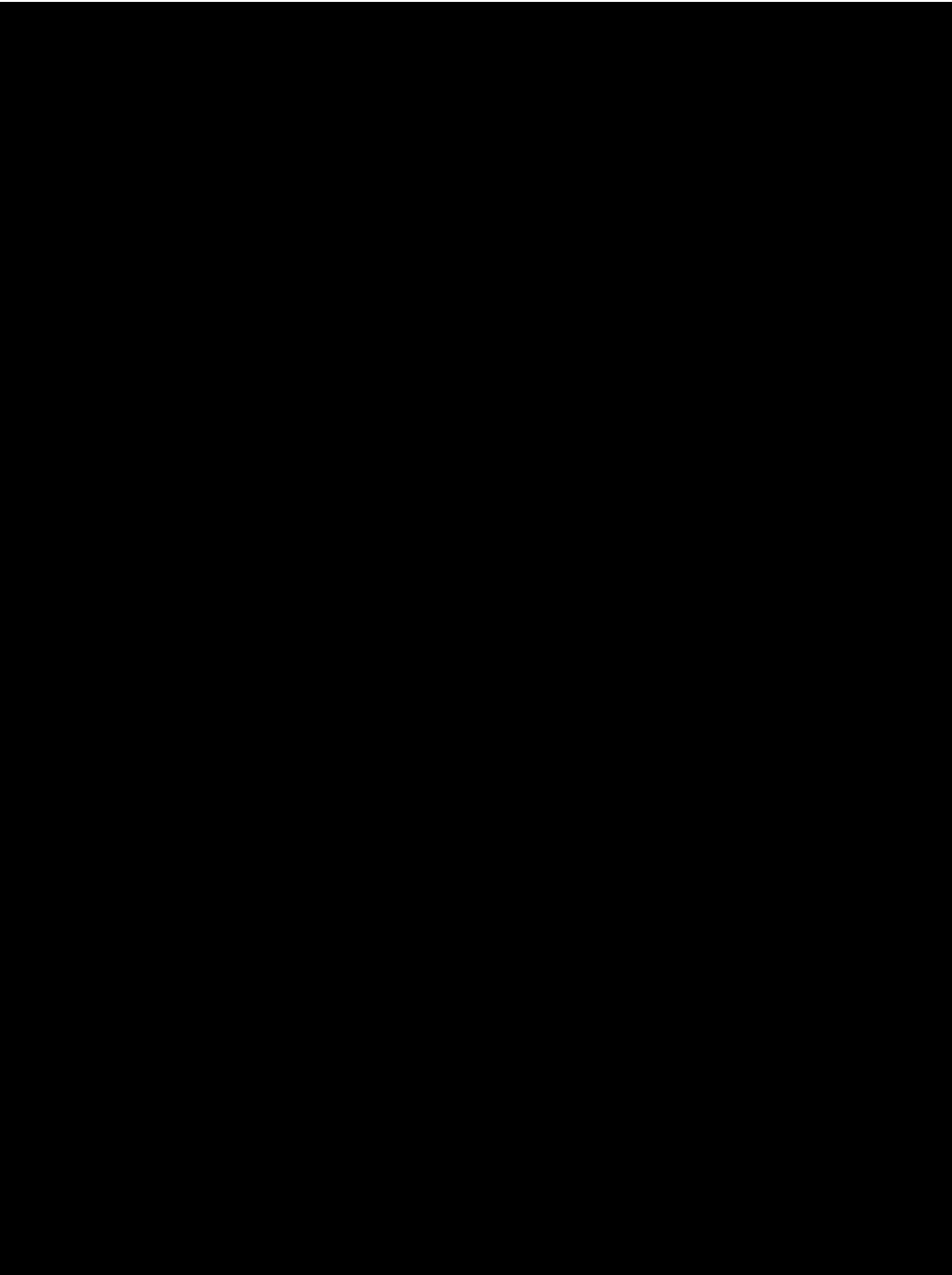


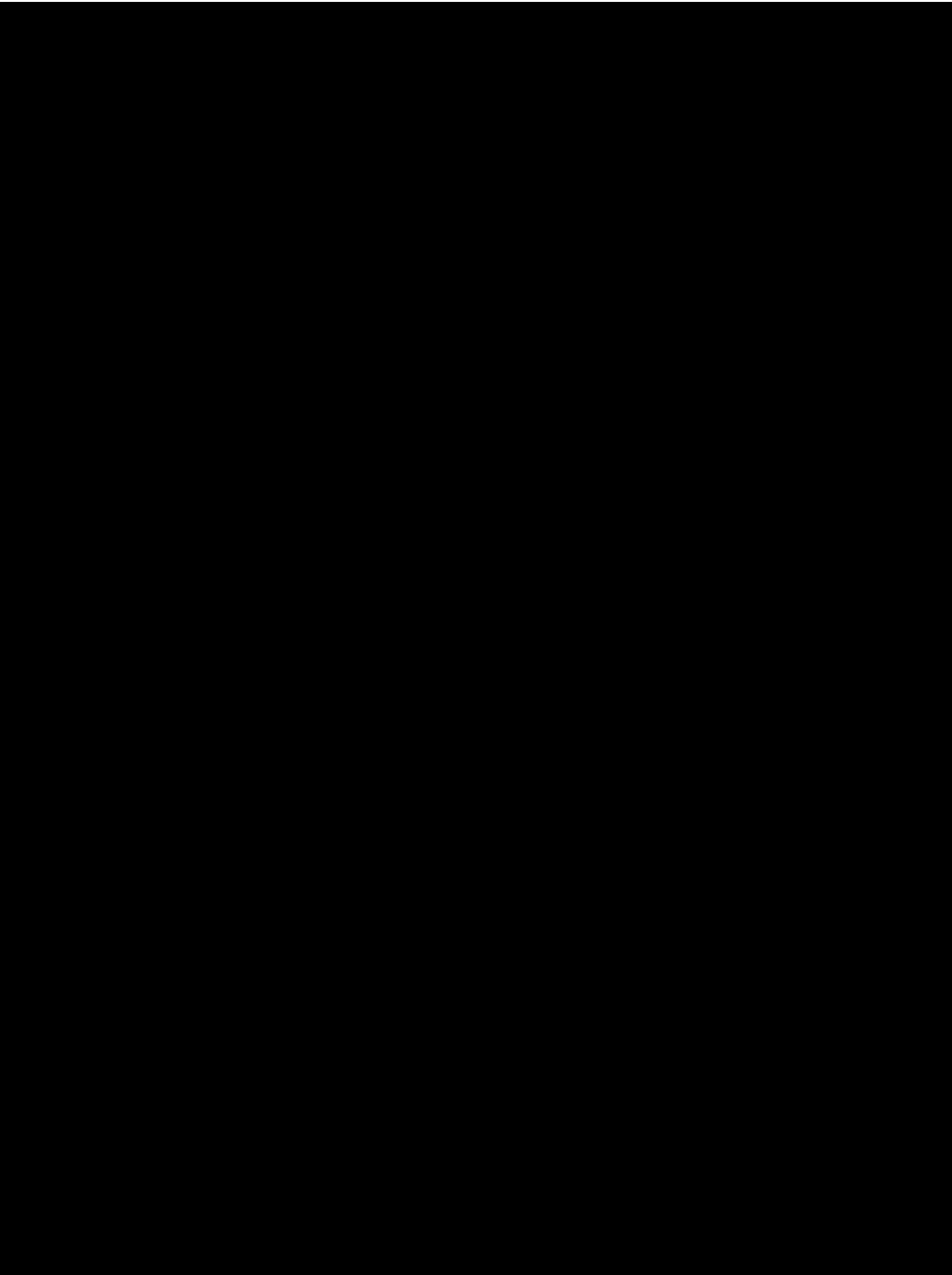


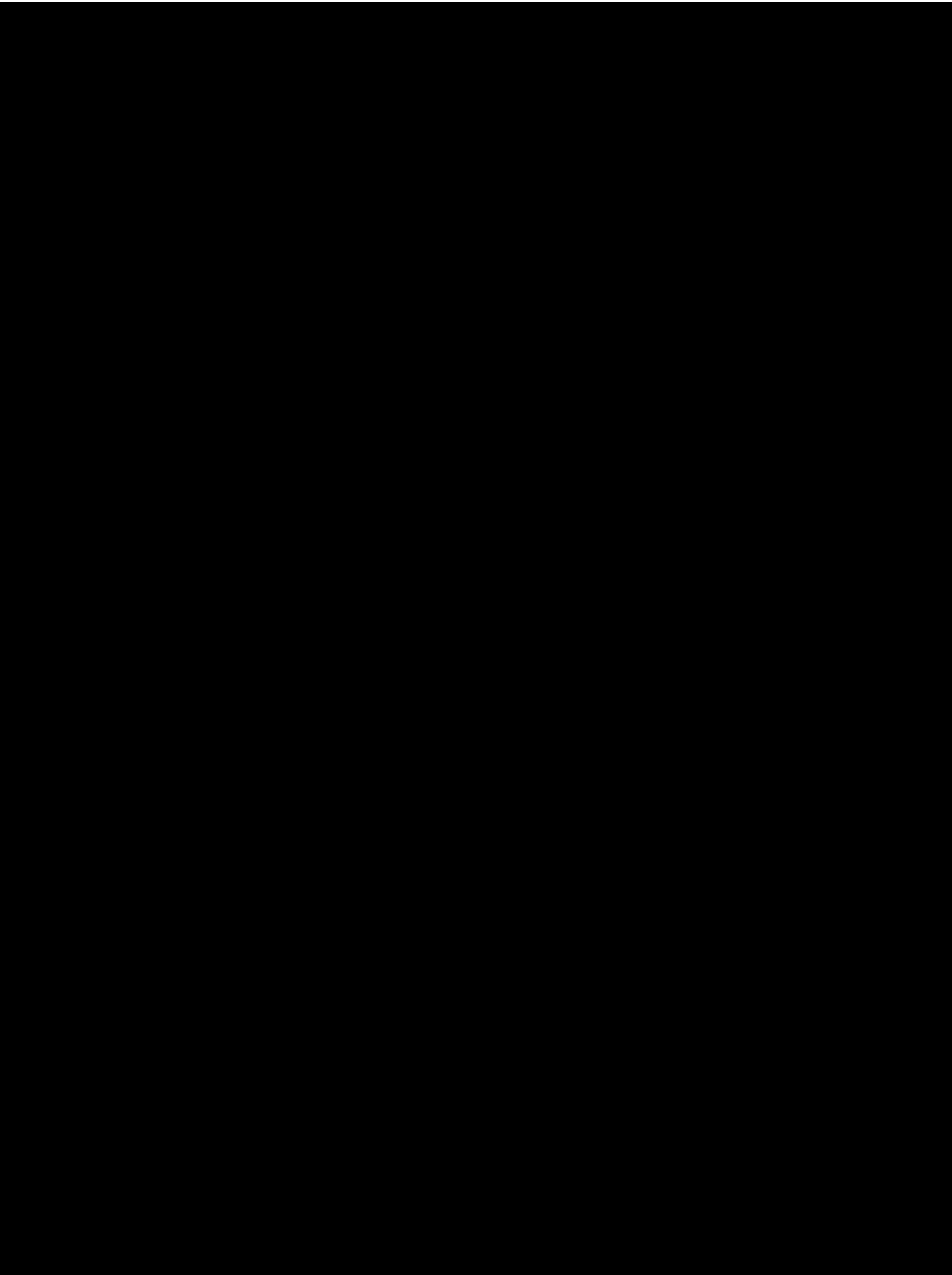


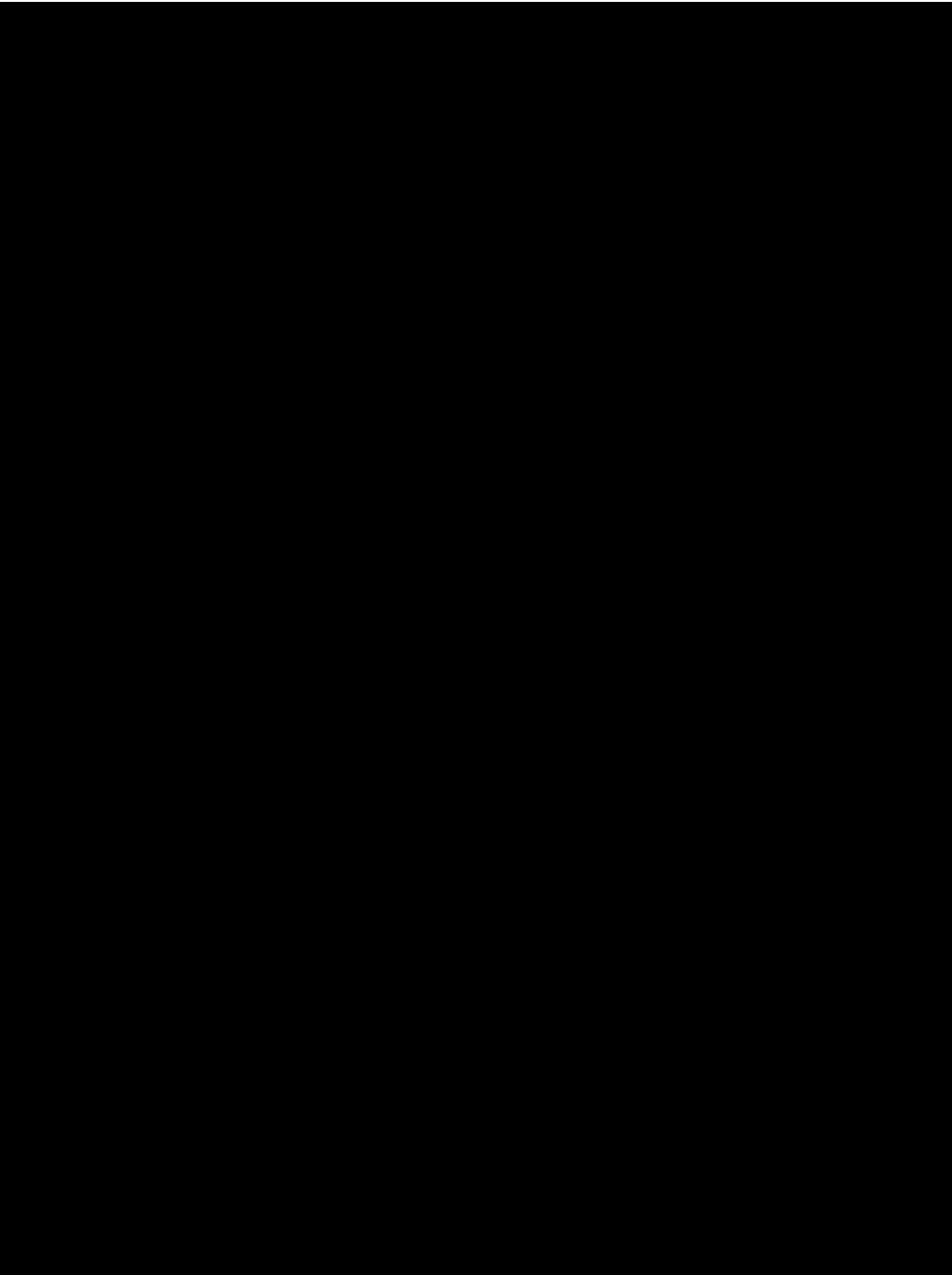


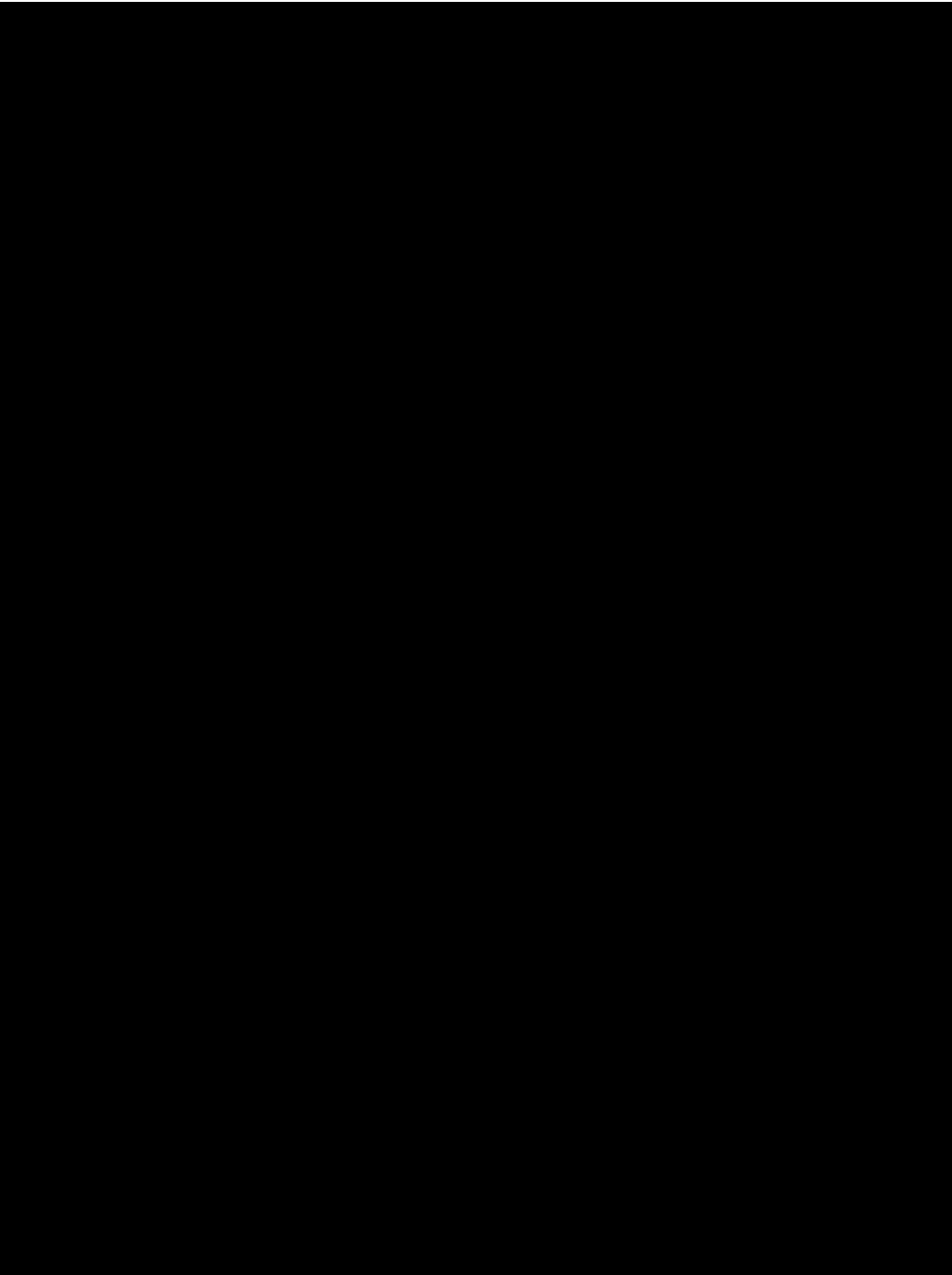


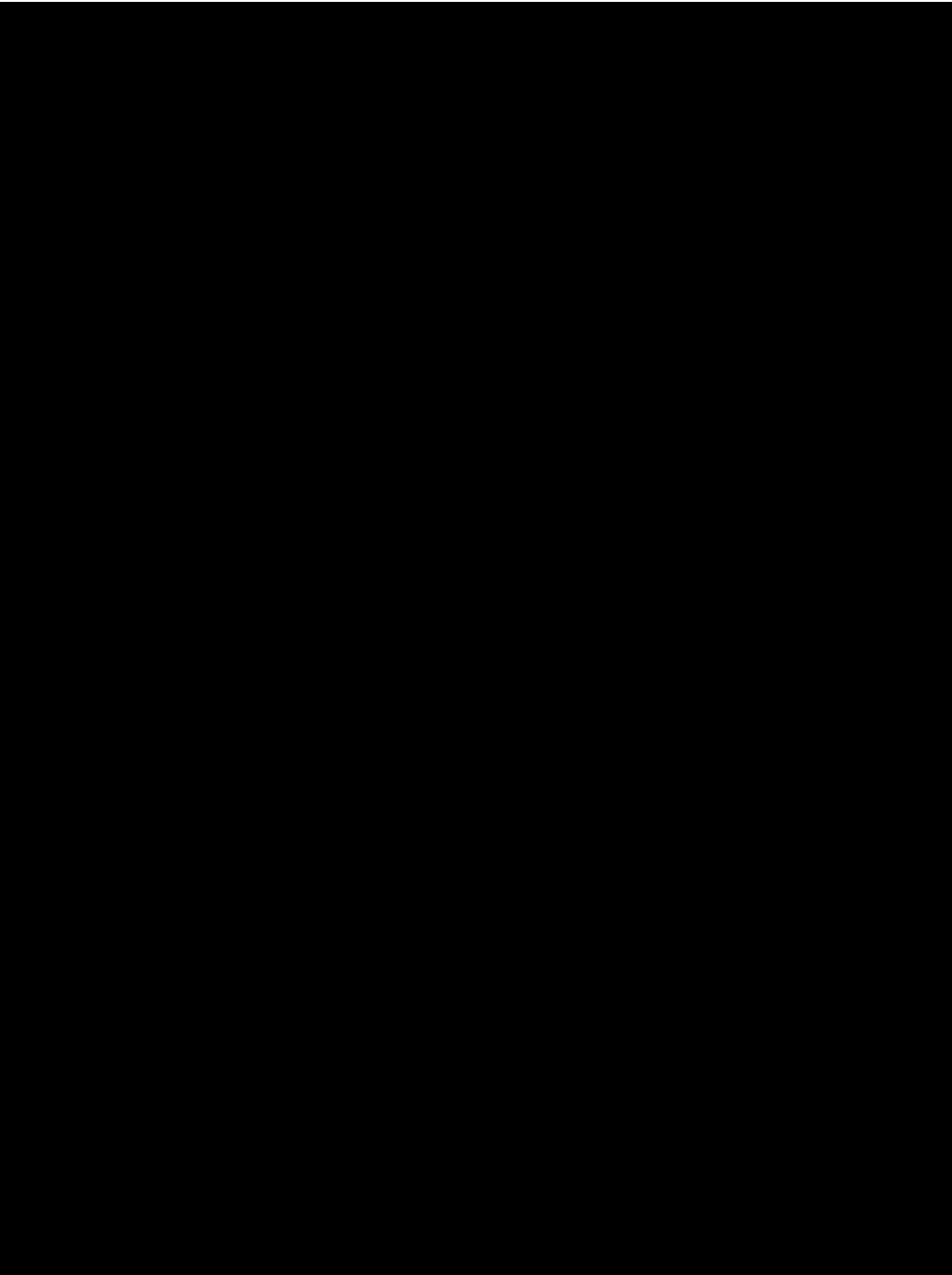


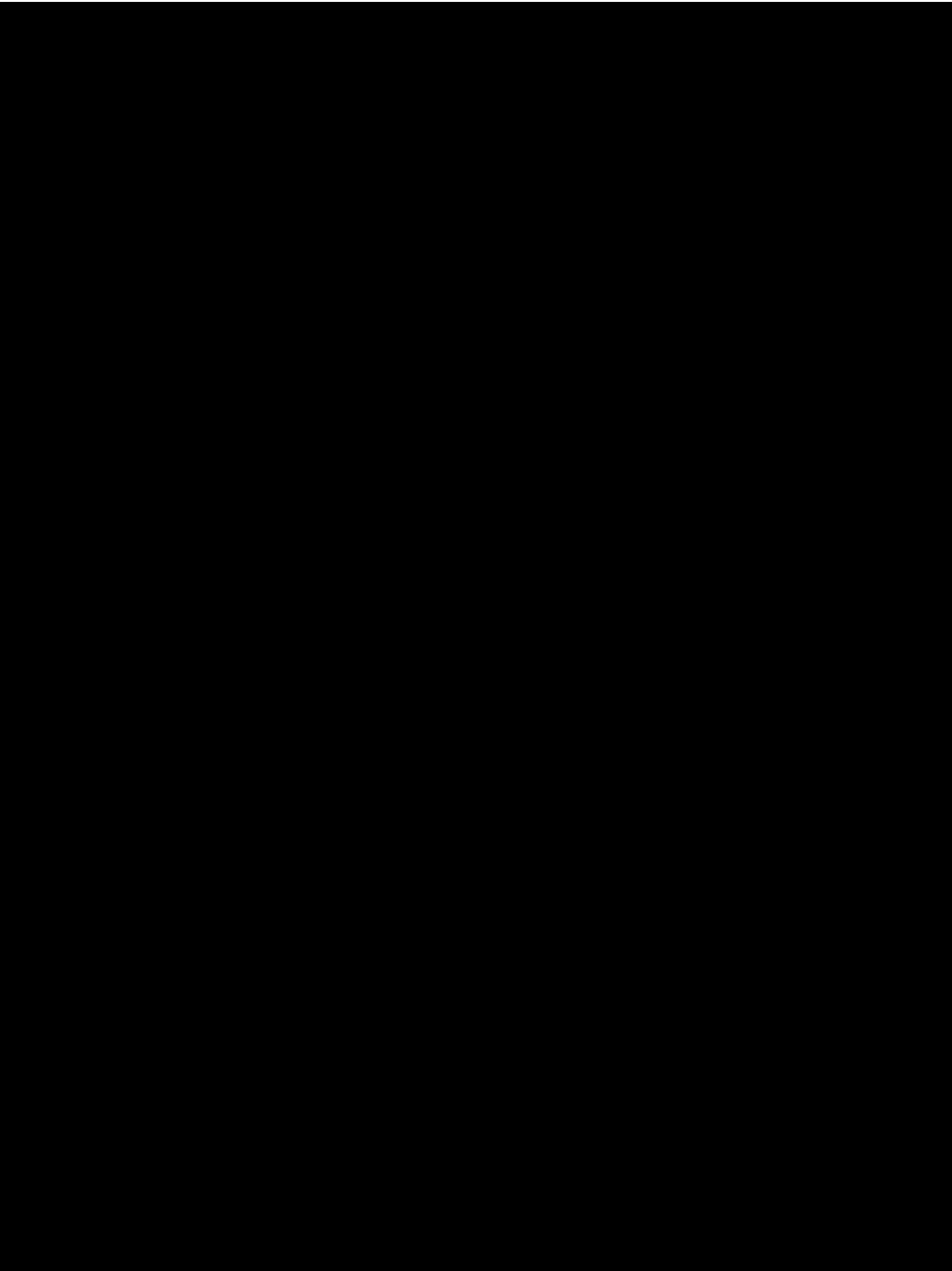




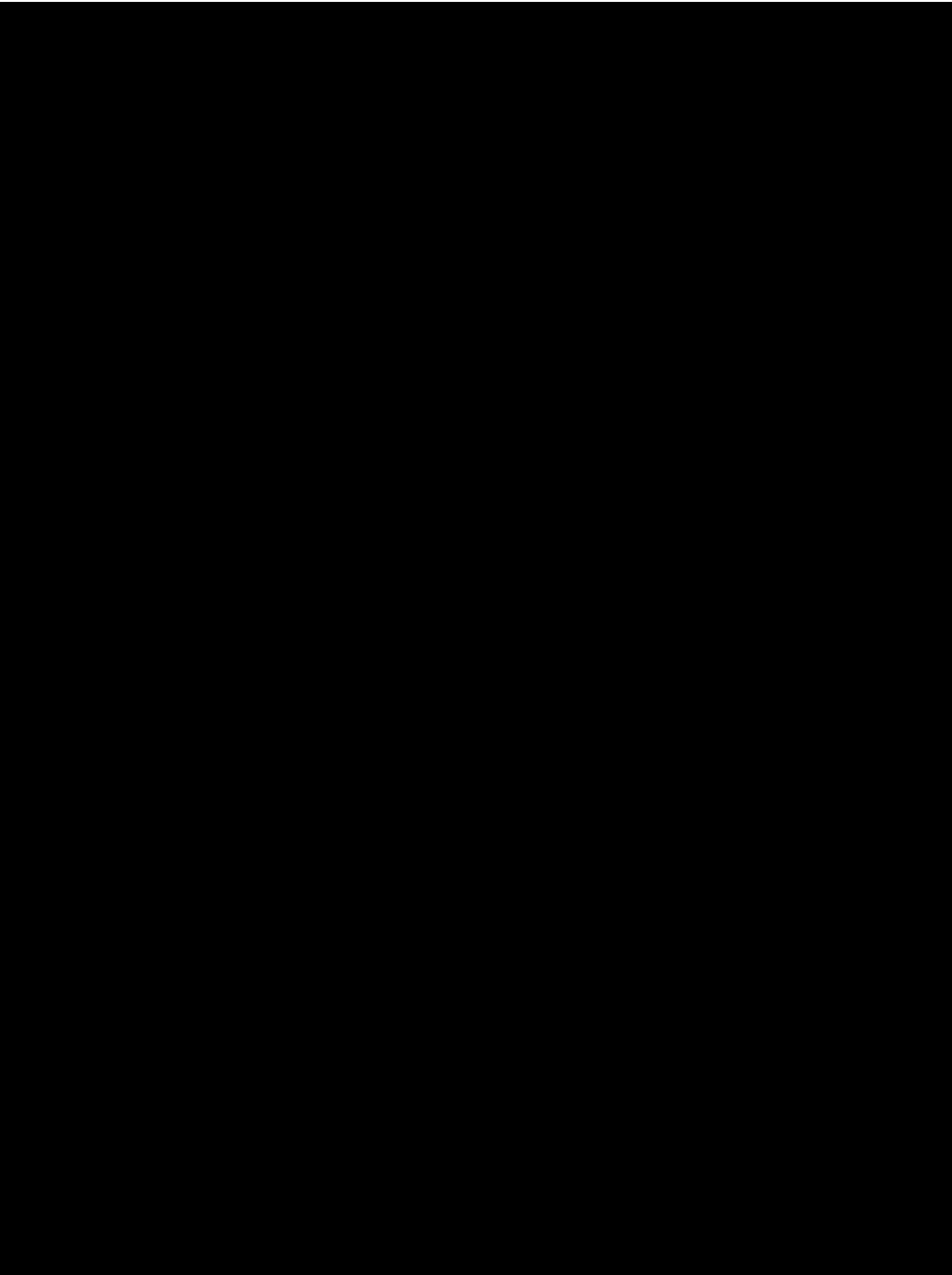


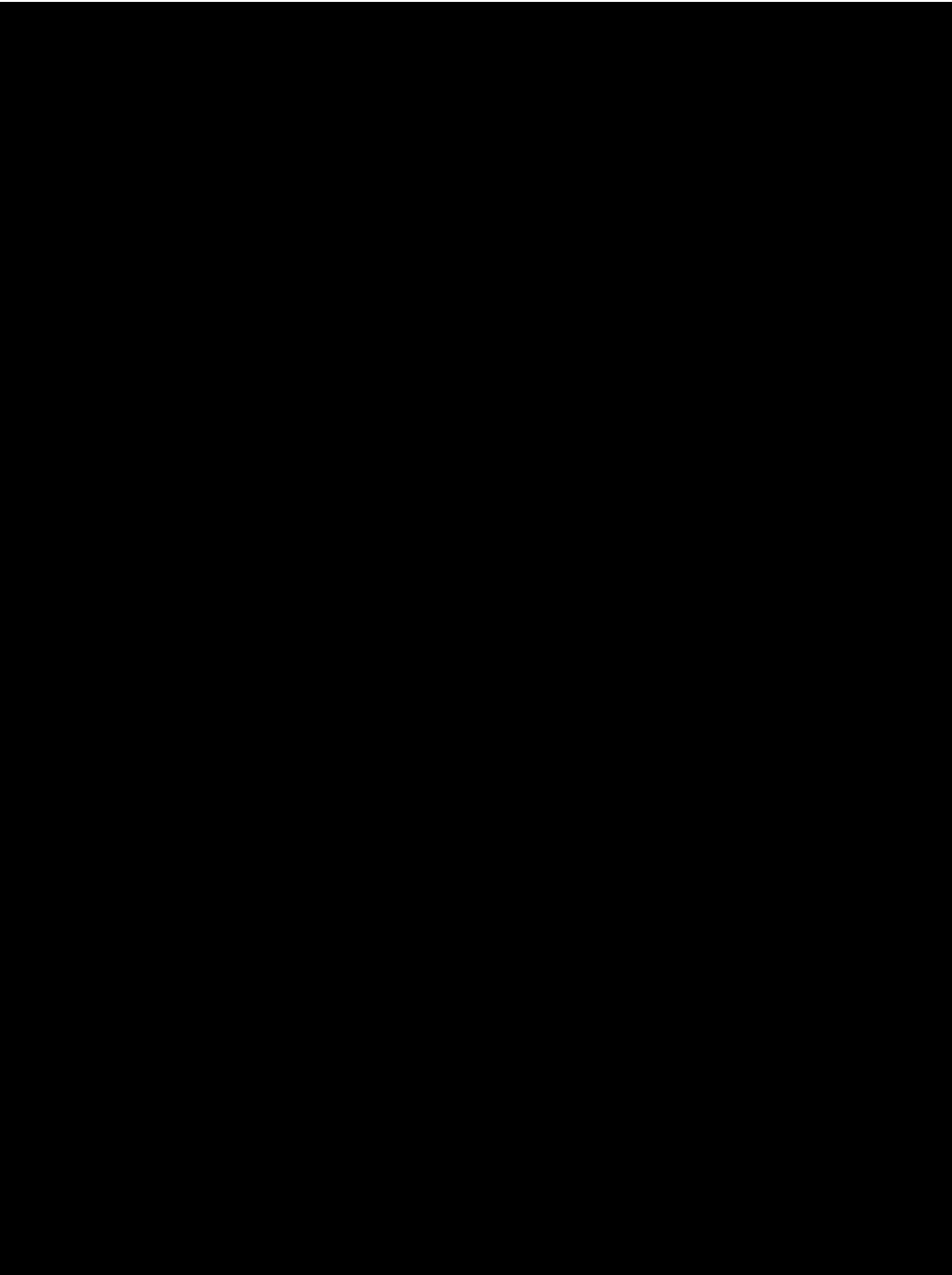


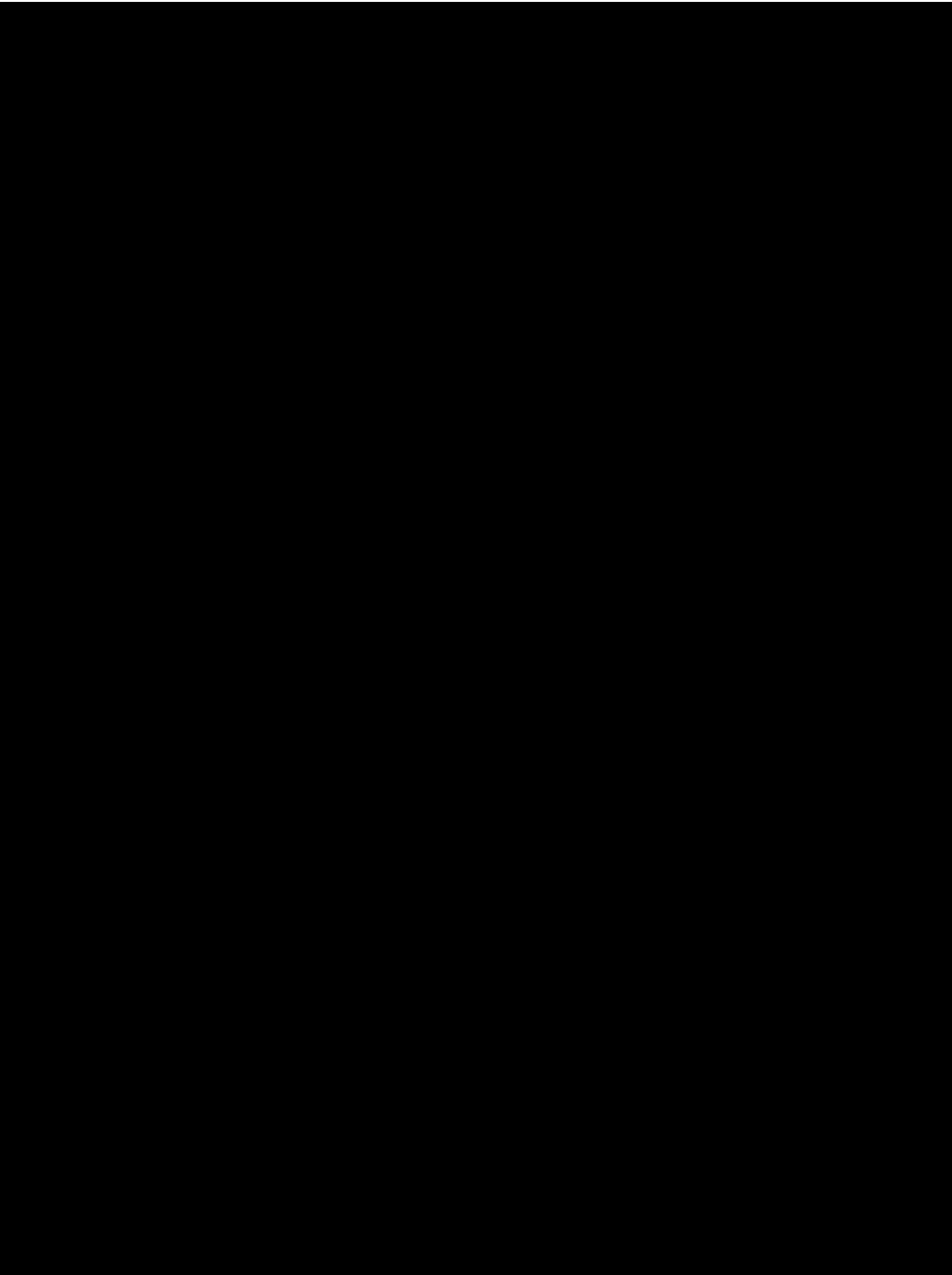


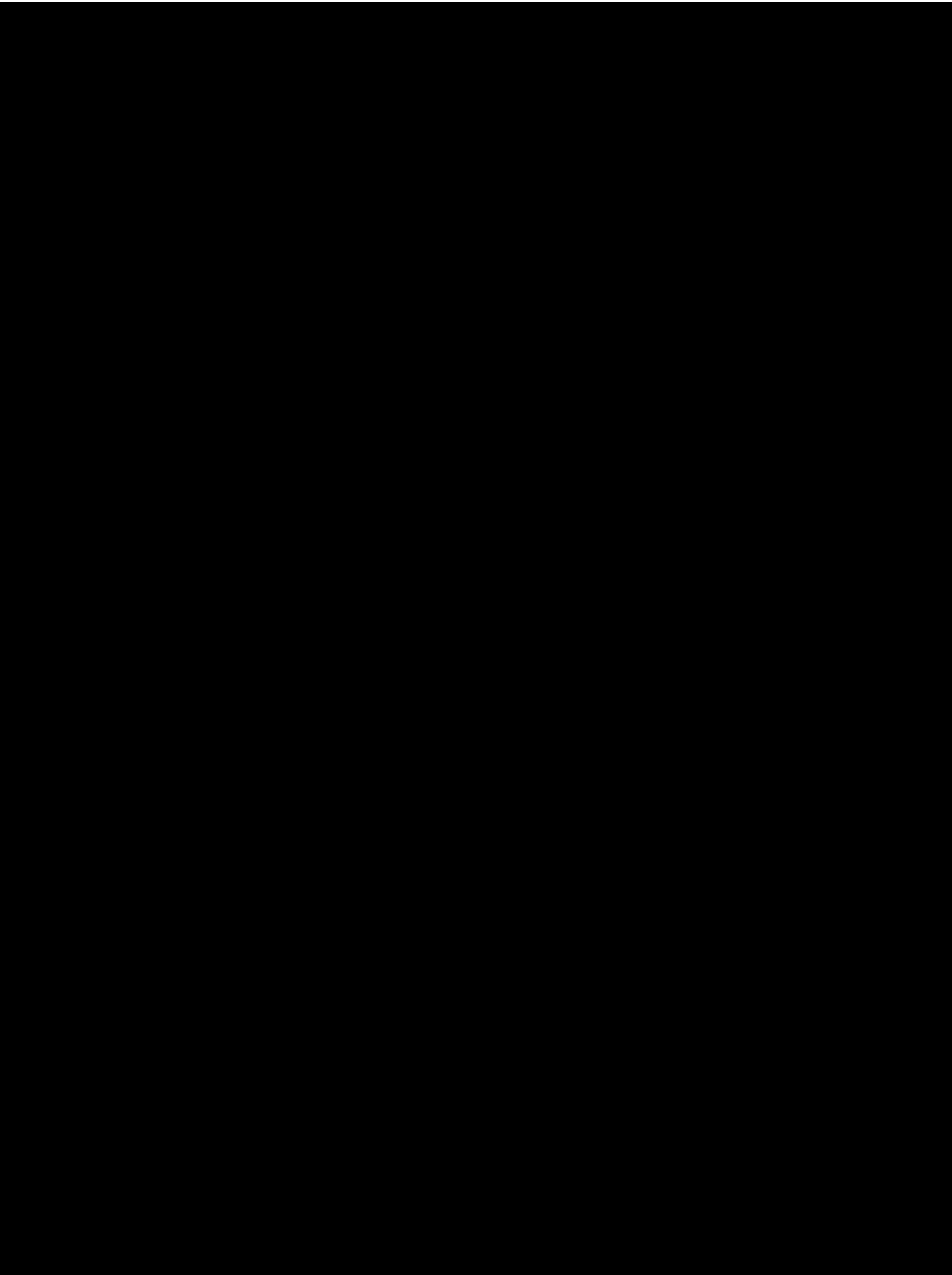


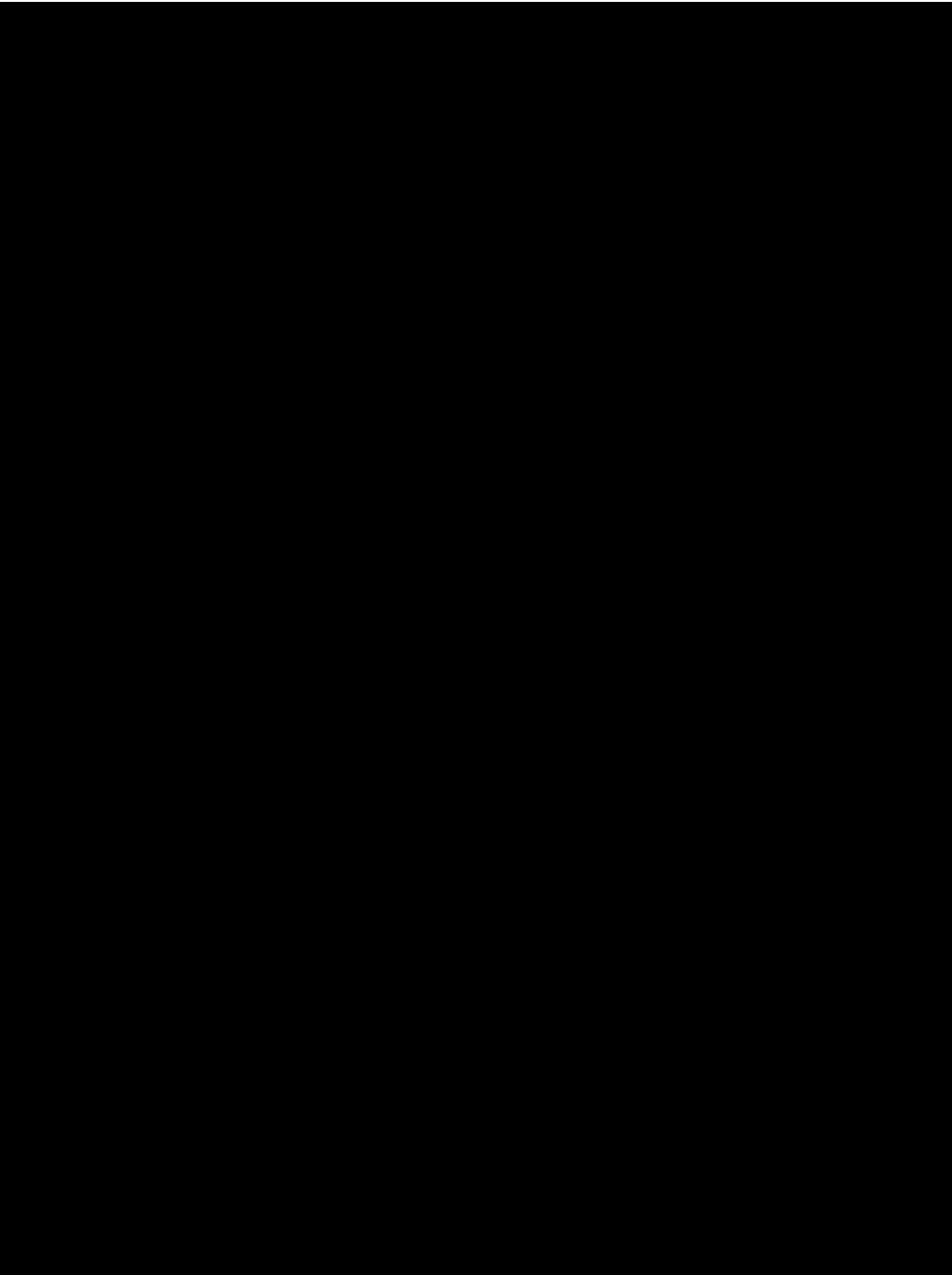


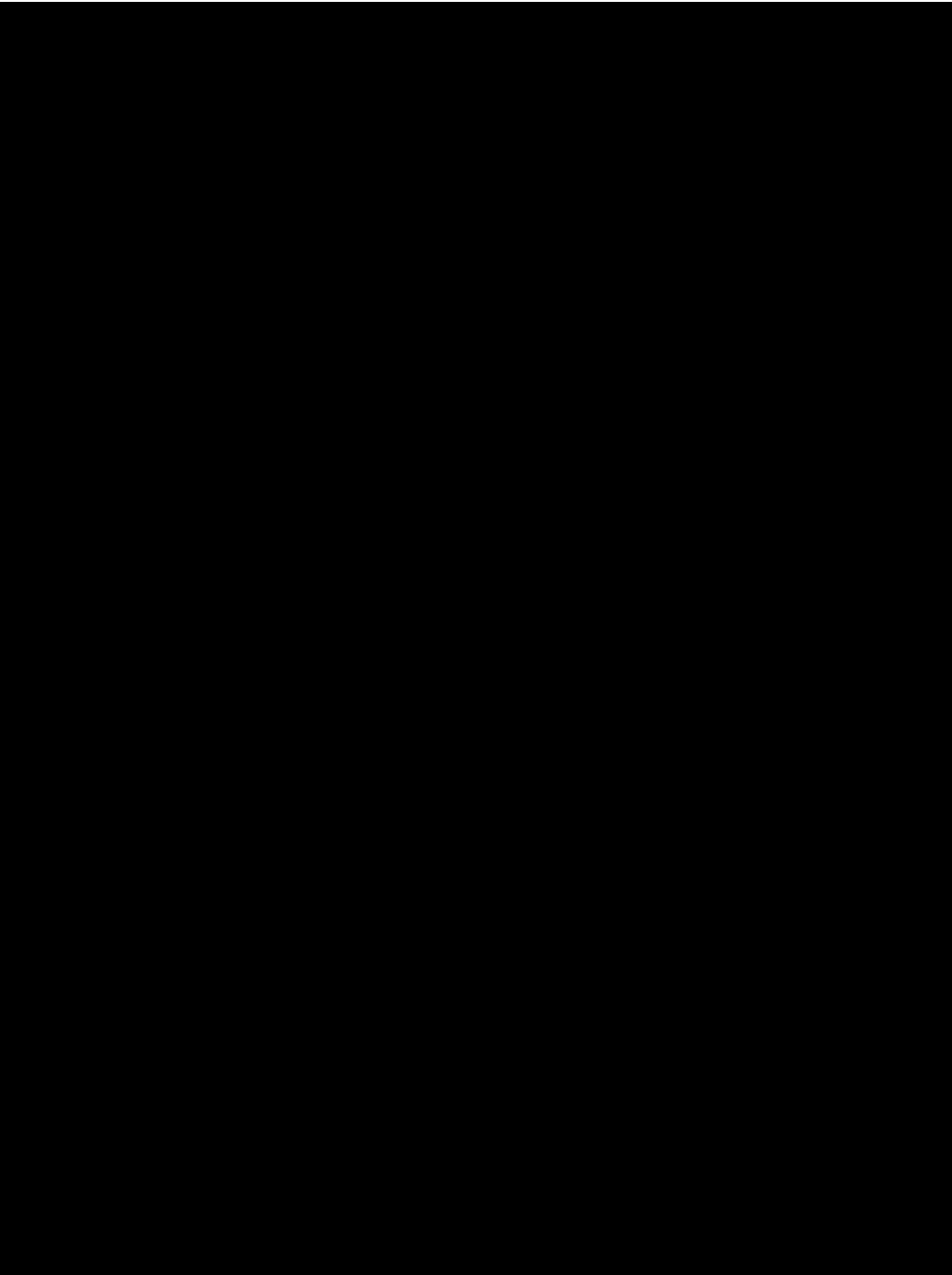


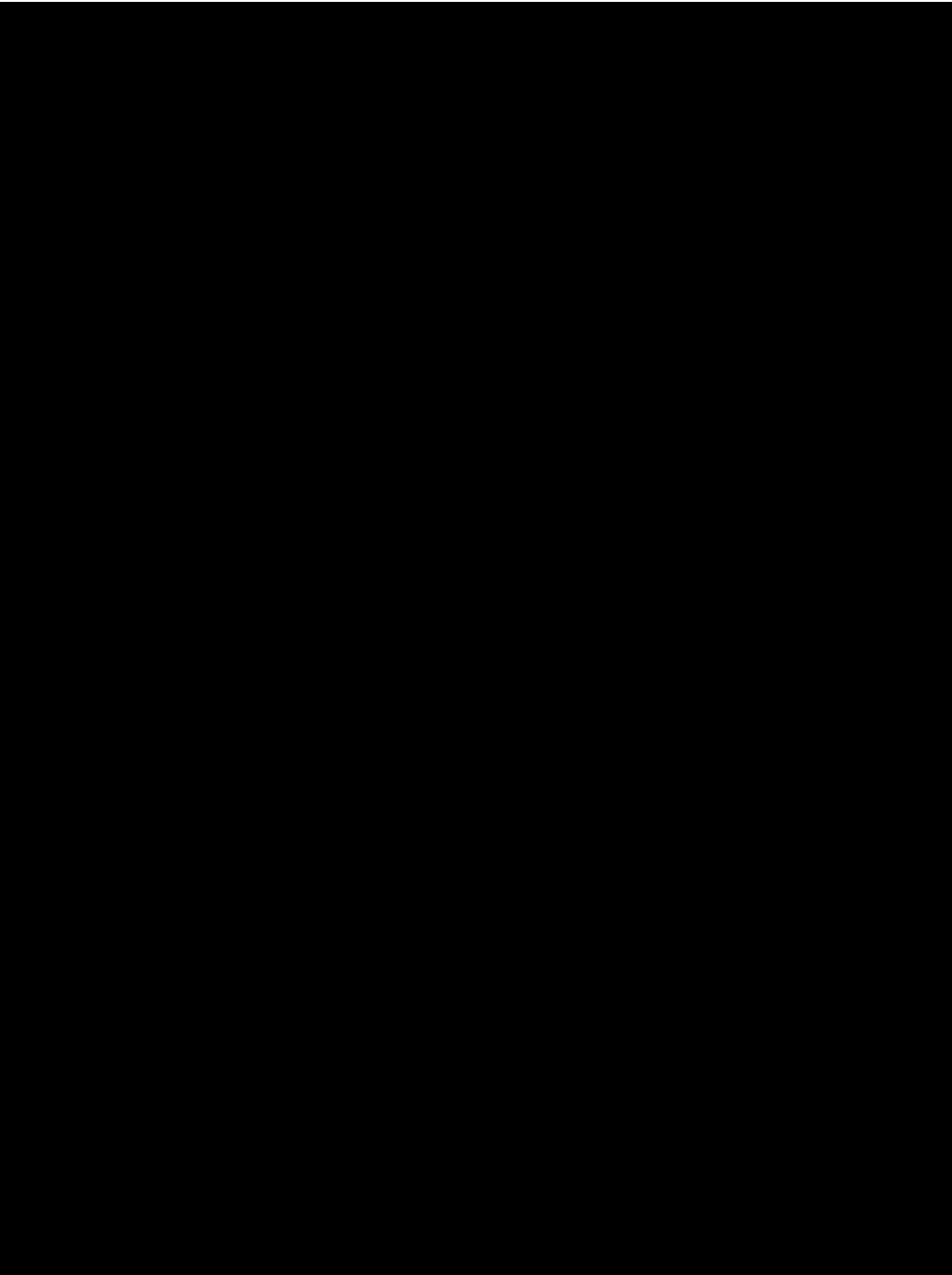


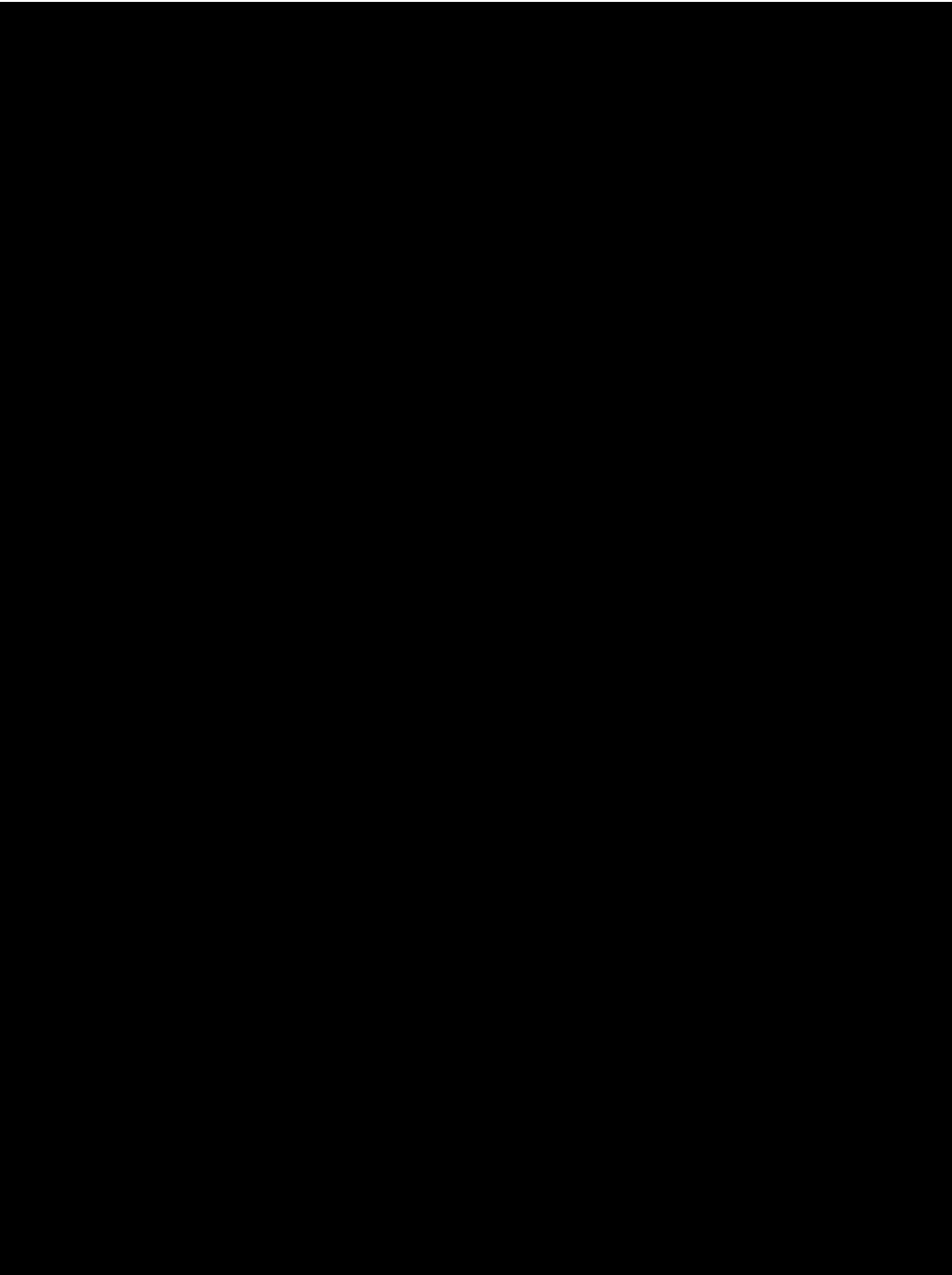




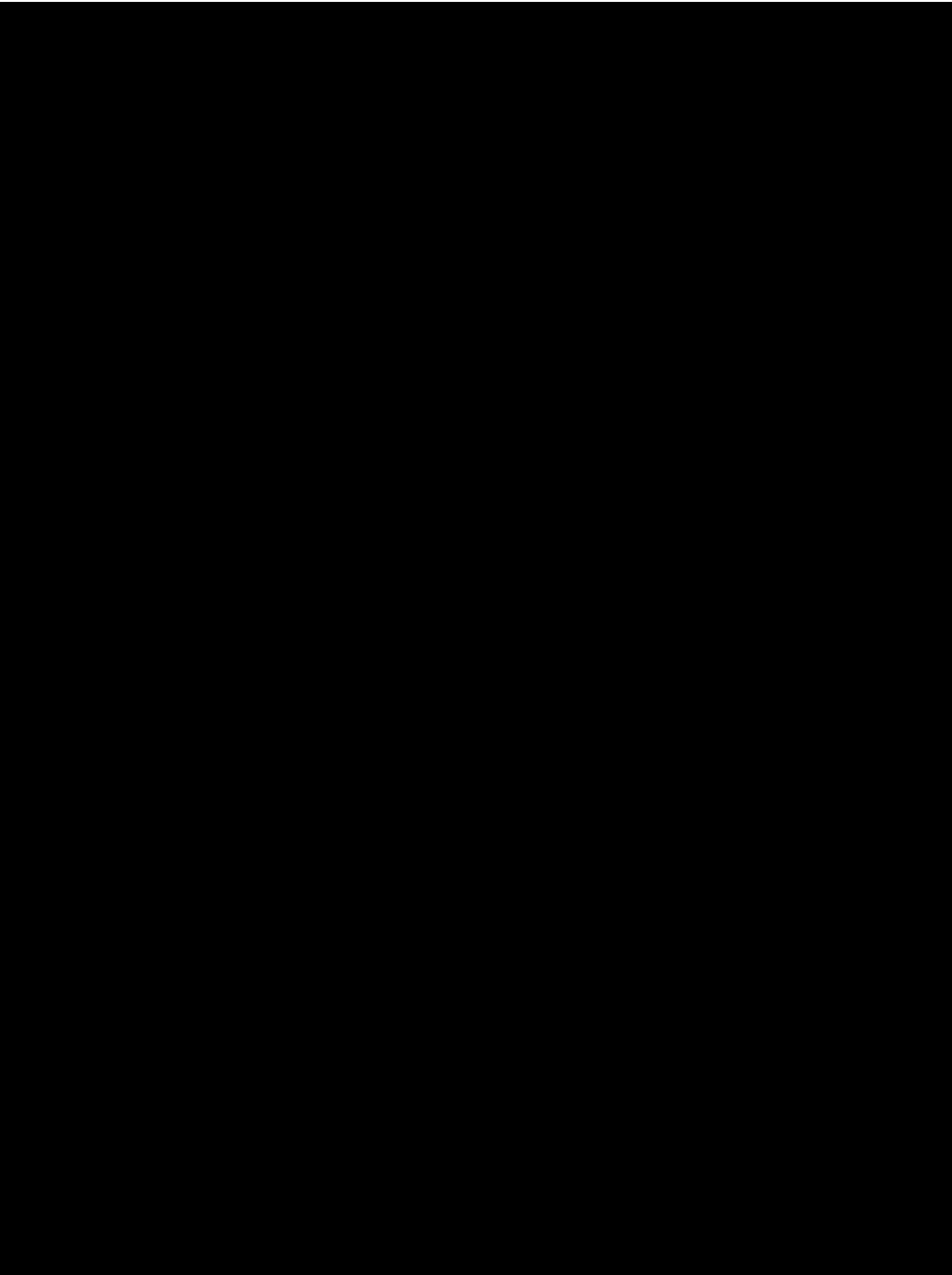


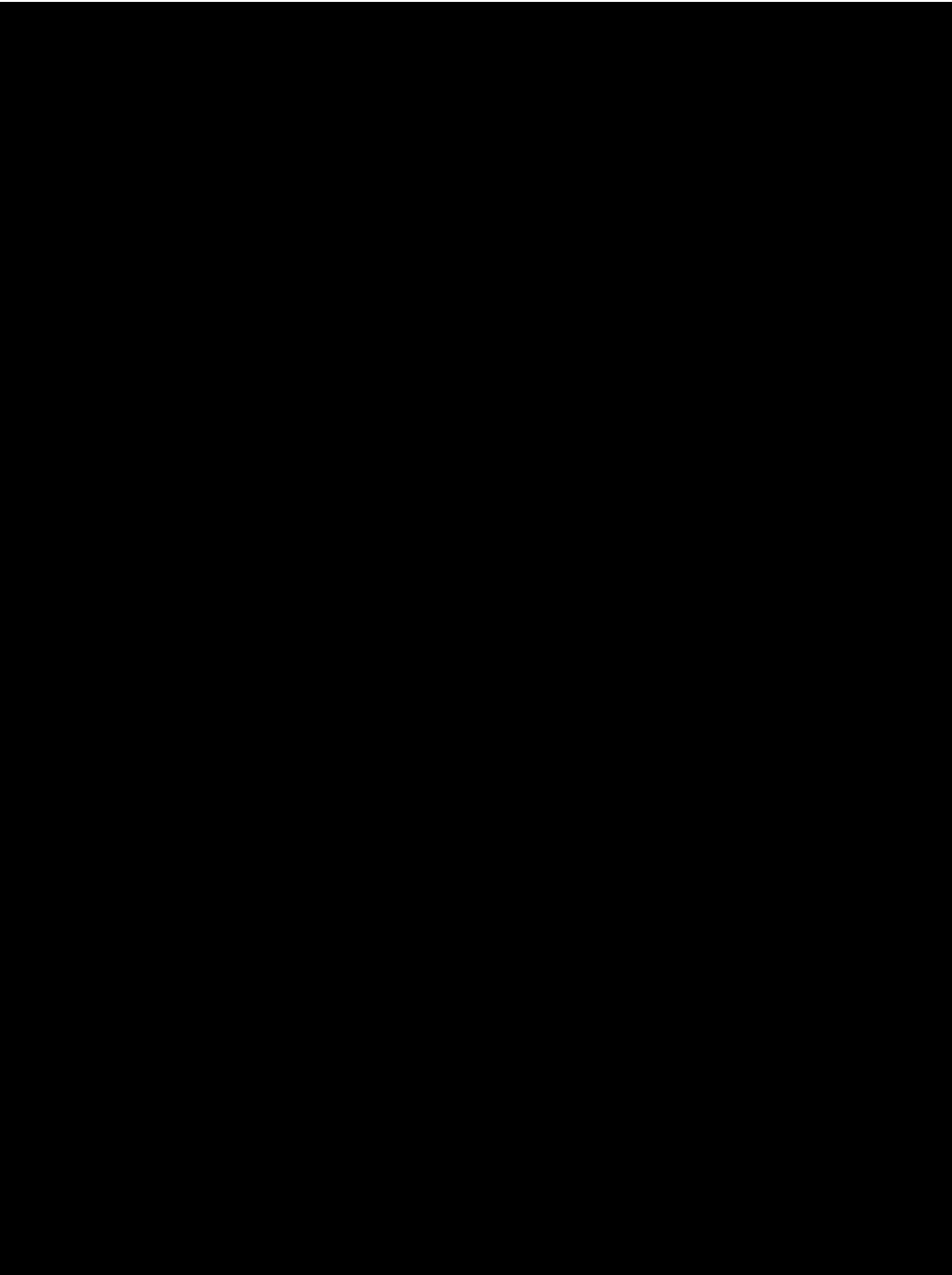


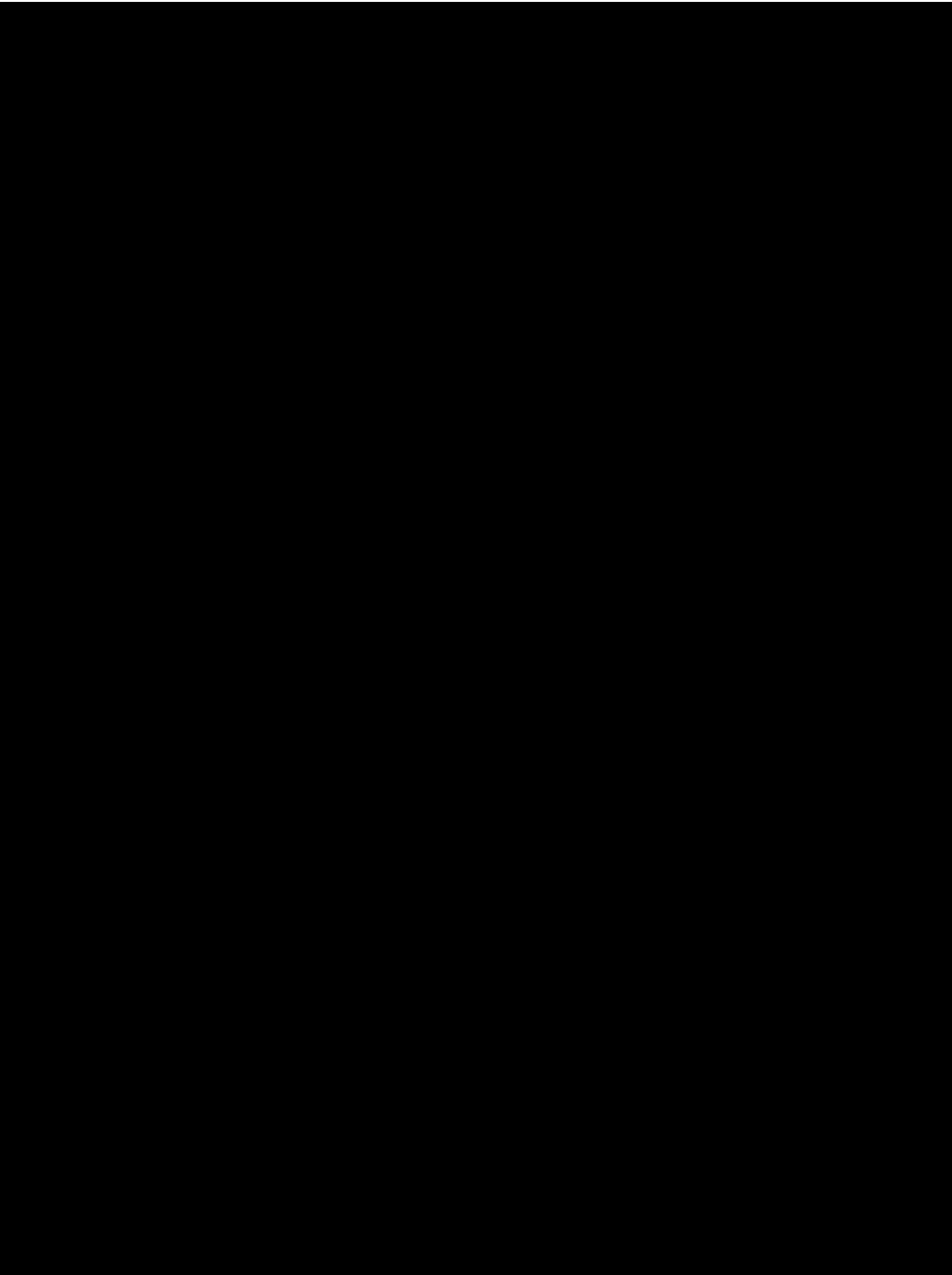


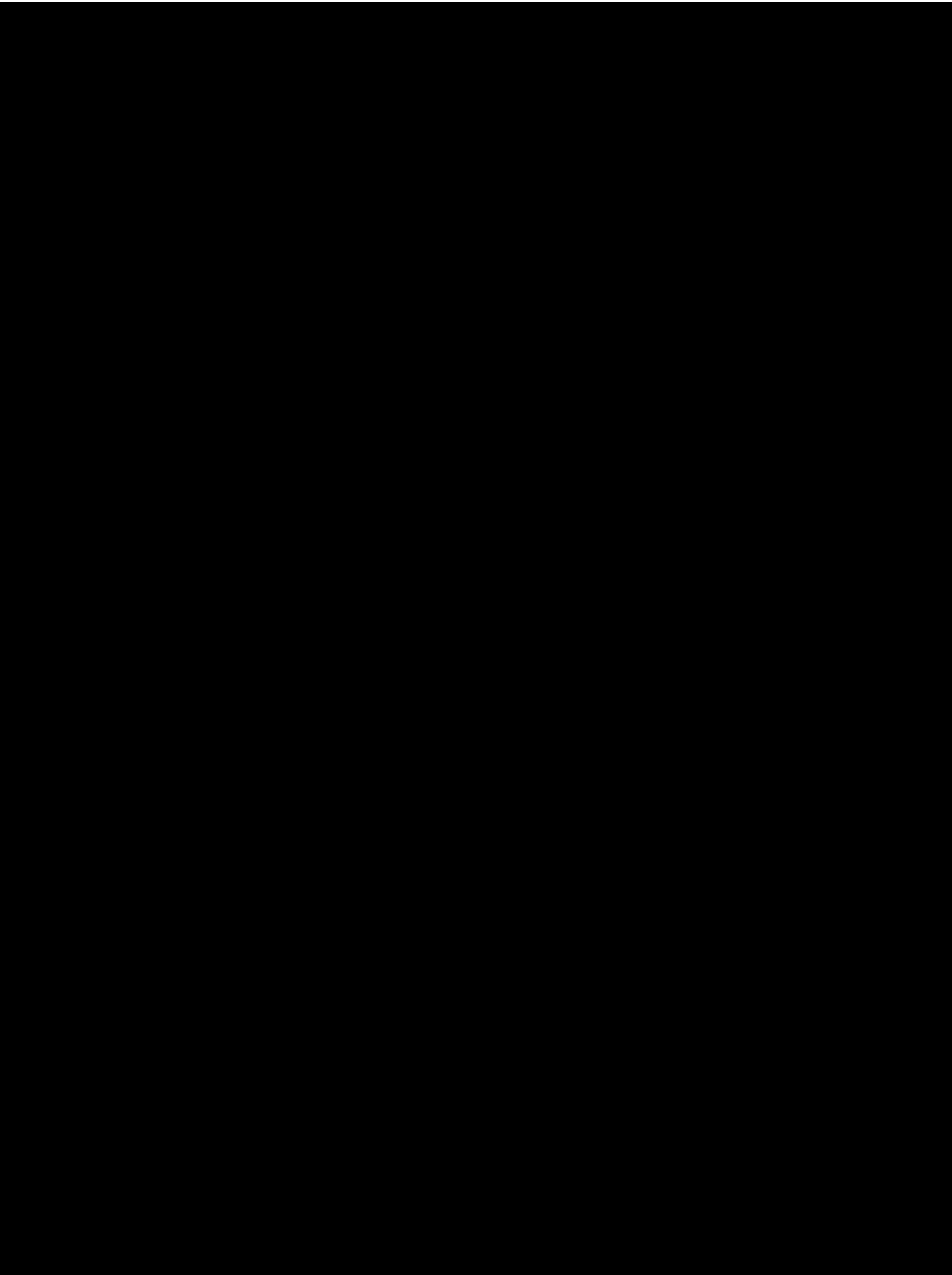


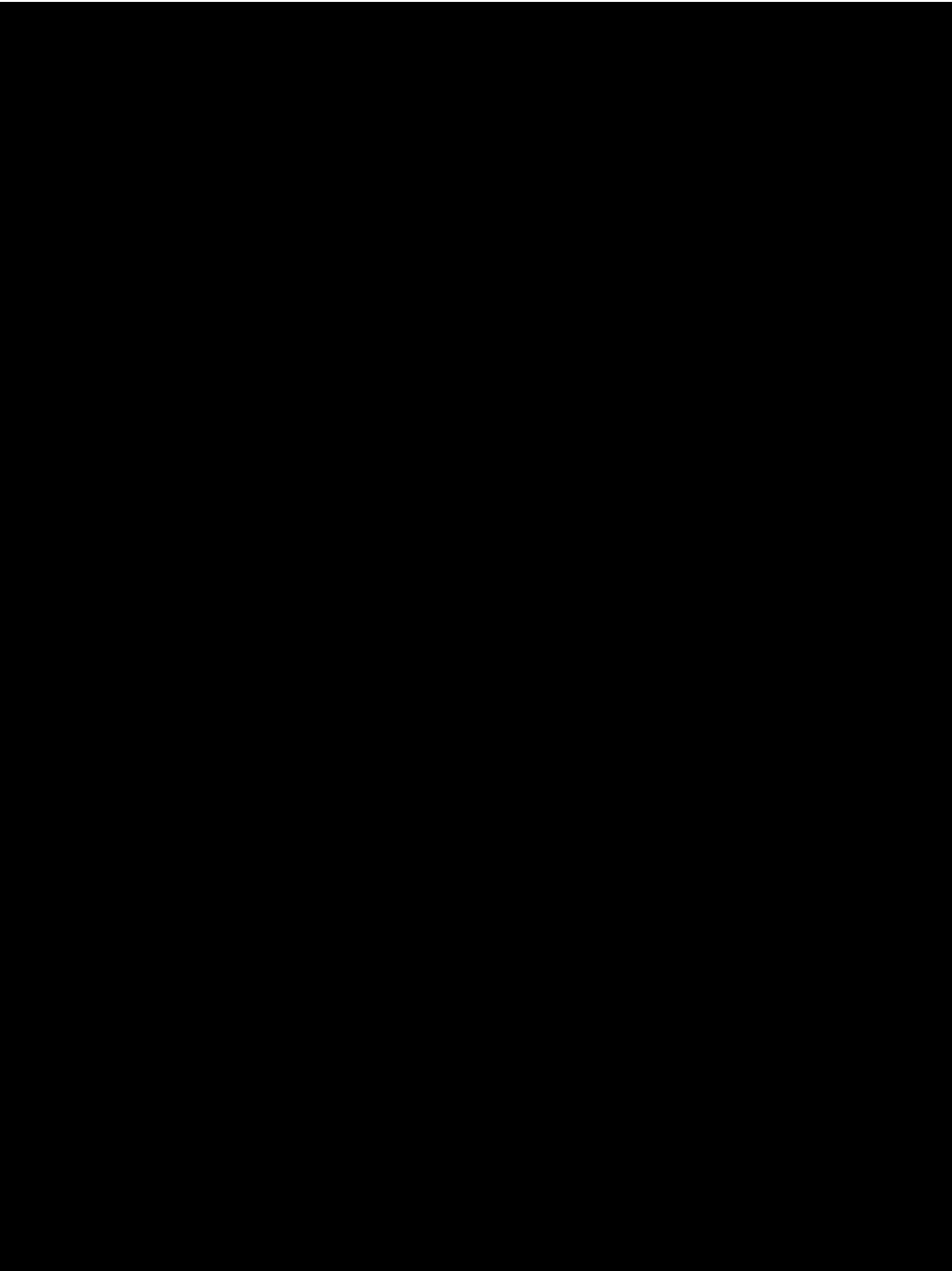


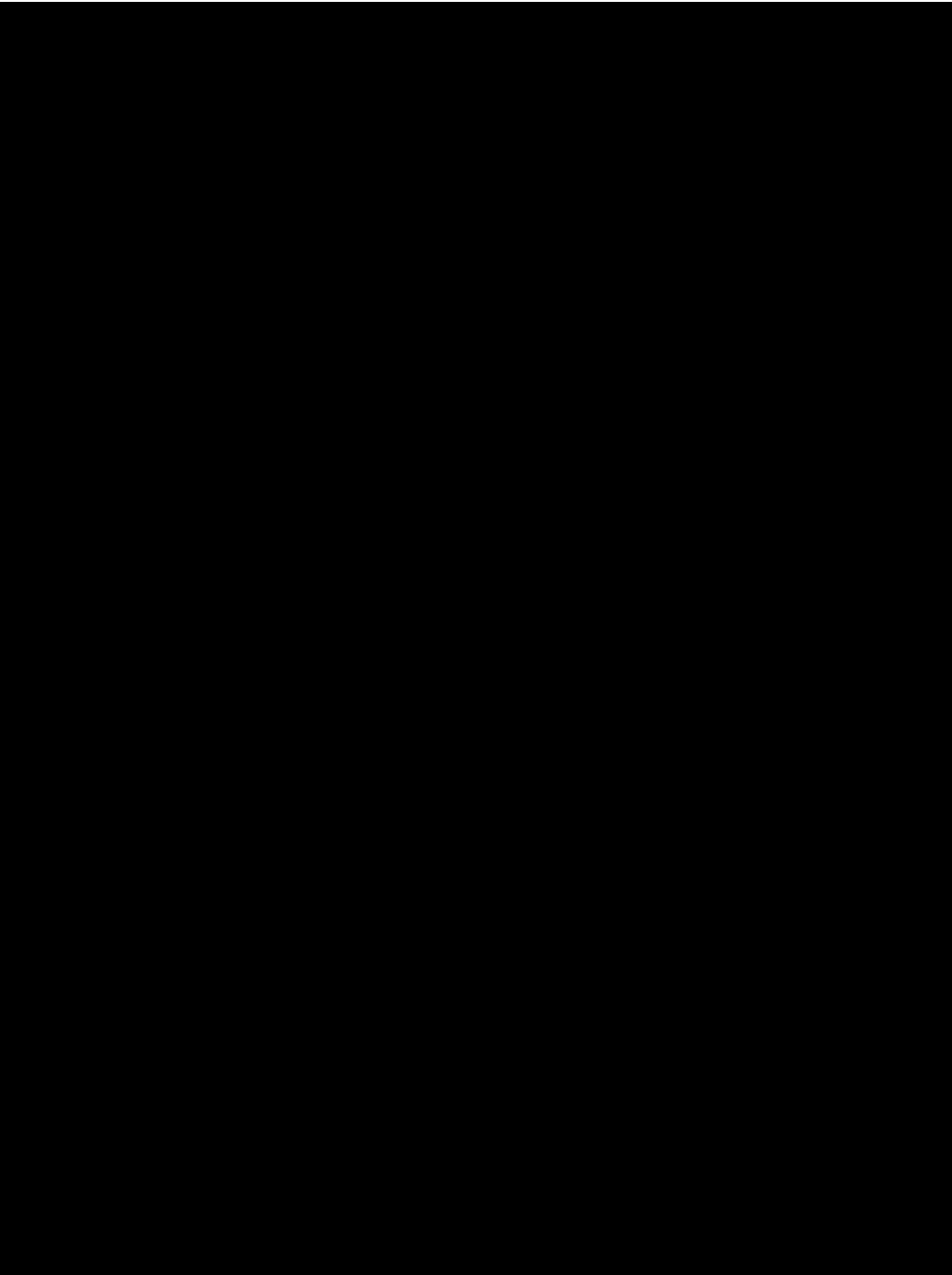


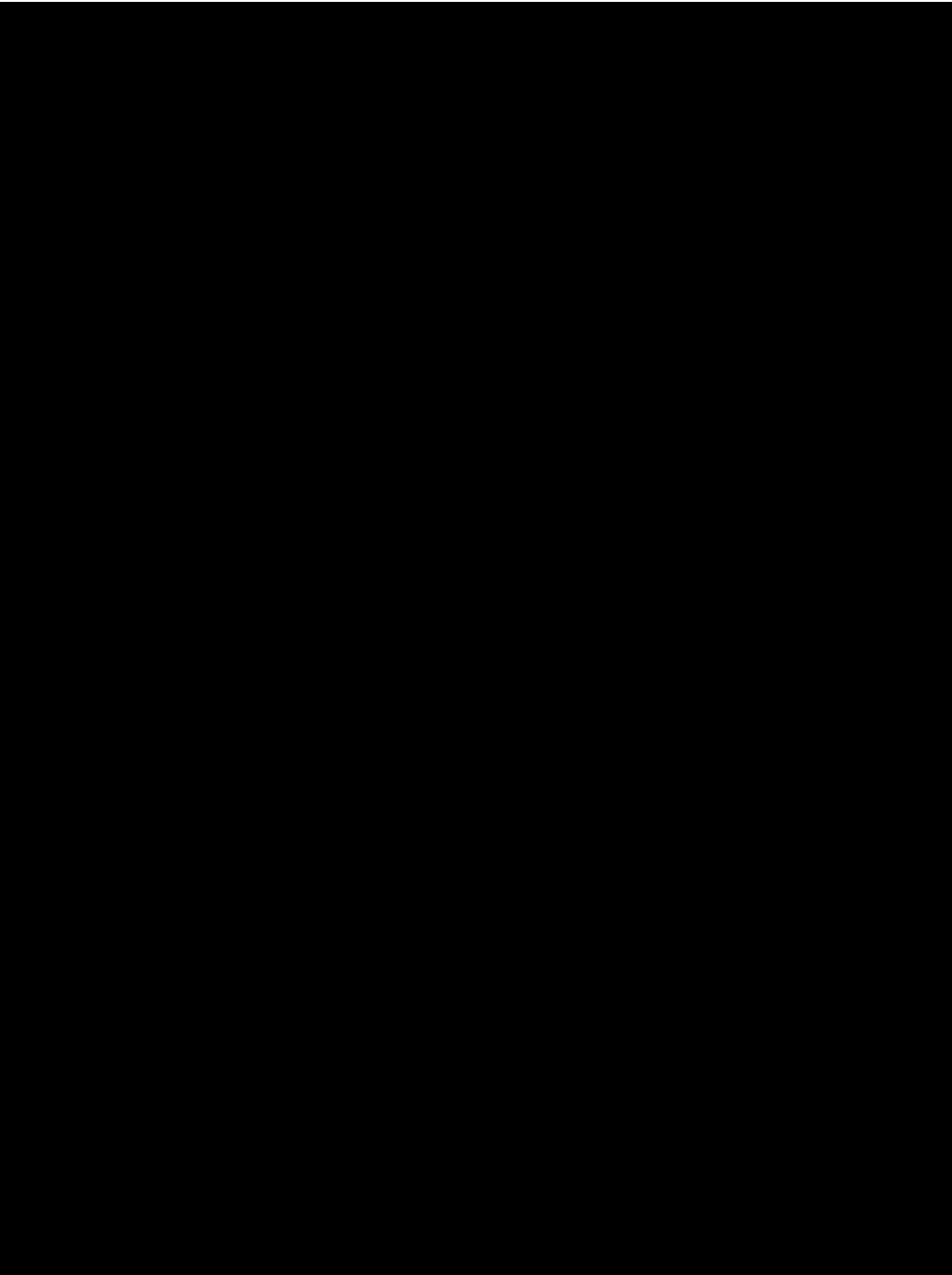


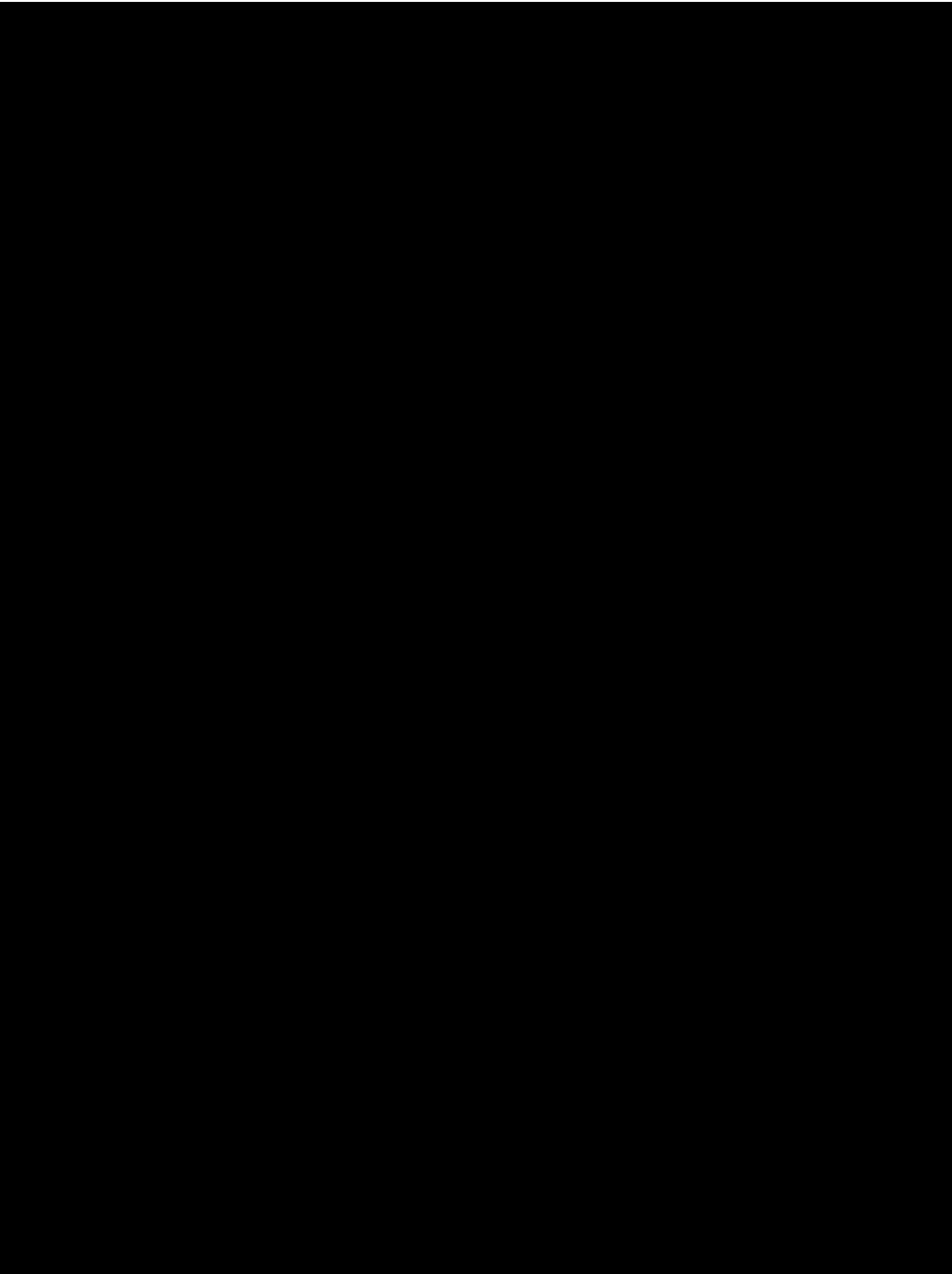




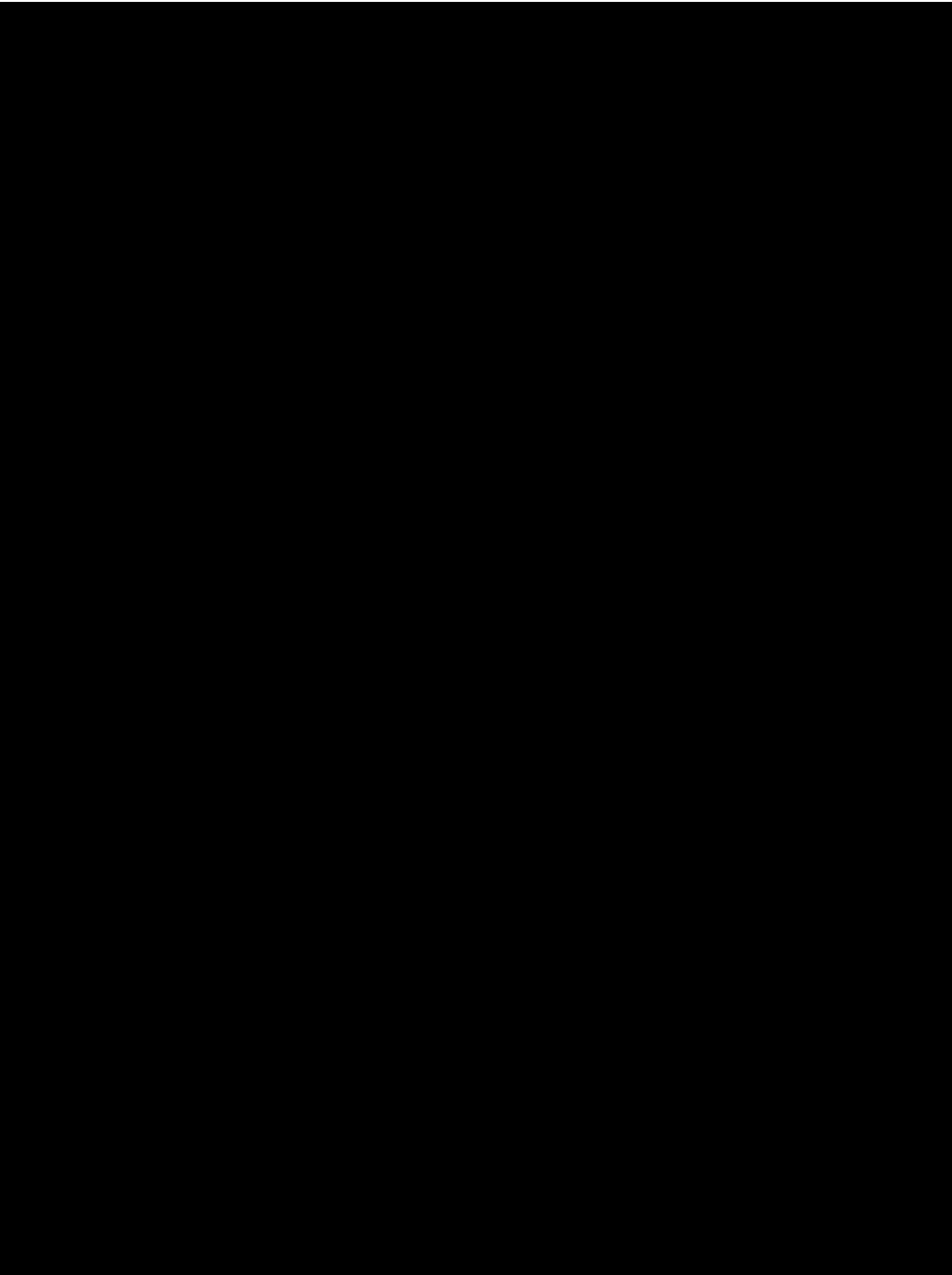












**SCHEDULE 3****Amendments to Schedules B2 and B4 of the Base OSD PDA**

With effect on and from the Effective Date, Schedules B2 and B4 of the Base OSD PDA, are amended as follows (with text shown in underline indicating additions to the Base OSD PDA and text shown in ~~strikethrough~~ indicating deletions from the Base OSD PDA):

1. In Parts A, B, C, D and E of Schedule B2 of the Base OSD PDA, the definition of "OSD PDA" is amended as follows:

*"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~~], as amended from time to time (OSD PDA).*

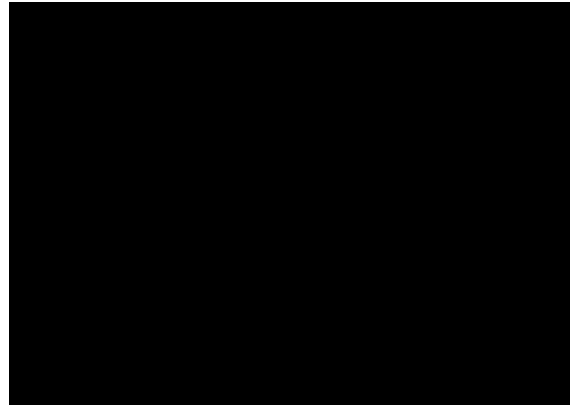
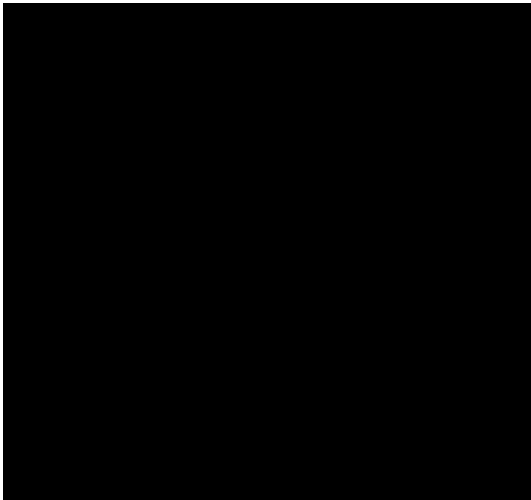
2. In Schedule B4 of the Base OSD PDA, the definition of "OSD PDA" in the first paragraph is amended as follows:

*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~~], as amended from time to time (OSD PDA) and the D&C Contract [**North Tower / South Tower**] OSD in relation to the relevant parties.*

**EXECUTED** as a deed.

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.

**SIGNED, SEALED AND DELIVERED** for and on behalf of **SYDNEY METRO (ABN 12 354 063 515)**, by its authorised delegate, in the presence of:



**SIGNED, SEALED AND DELIVERED** by **MACQUARIE GROUP LIMITED (ABN 94 122 169 279)** by its duly authorised attorneys who hereby state at the time of executing this instrument they have no notice of the revocation of the power of attorney dated

.....

in the presence of:

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Name of Attorney in full

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Name of Attorney in full

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness