

## NOTICE OF FILING

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Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59  
Rule 29.02(1)

## Affidavit

No. 527 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and another  
Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others  
Respondents

Affidavit of: **Michael George Masterman**  
Address: Unit 1, 19 Oxleigh Drive, Malaga Western Australia 6090  
Occupation: Chief Executive Officer  
Date: 20 June 2024

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I **Michael George Masterman** of Unit 1, 19 Oxleigh Drive, Malaga Western Australia 6090,  
Chief Executive Officer of Element Zero, say on oath:

Filed on behalf of (name & role of party) The First, Second and Fourth Respondents  
Prepared by (name of person/lawyer) Michael John Williams, Partner  
Law firm (if applicable) Gilbert + Tobin  
Tel (02) 9263 4271 Fax (02) 9263 4111  
Email mwilliams@gtlaw.com.au

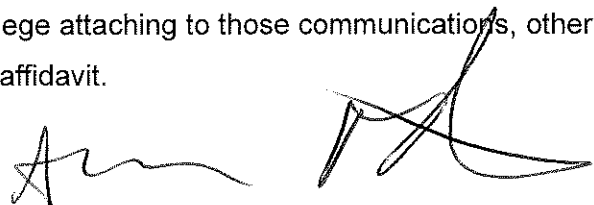
**Address for service** Level 35, International Tower Two  
(include state and postcode) 200 Barangaroo Avenue, Barangaroo NSW 2000

## INTRODUCTION

1. I am the Fourth Respondent and the Chief Executive Officer of the First Respondent (**Element Zero**).

### Search Orders

2. Element Zero was served with the search orders on 14 May 2024 (the **Search Orders**) and a number of other documents including the affidavits referred to at Schedule C of the Search Orders.
3. In this affidavit I respond to parts of the following affidavits:
  - (a) Affidavit of Adrian Huber sworn 1 May 2024;
  - (b) Affidavits Mr Paul Dewar affirmed 1, 9 and 14 May 2024;
  - (c) Affidavit of Mr John Paul Olivier affirmed 2 May 2024; and
  - (d) Affidavit of Mr Anand Bhatt affirmed 1 May 2024,which I am aware were relied on by Fortescue when it obtained the search orders from the Court on 14 May 2024 (the **Search Orders**)
4. I have responded to certain aspects of those affidavits below. Where I do not respond to parts of the affidavits I should not be taken to have agreed with those parts.
5. While I do not know Mr Bhatt, I do know Mr Huber, Mr Dewar and Mr Olivier.
6. I have known Mr Huber since around 2021 when we worked together at Fortescue Future Industries. While we worked in different parts business, we worked relatively closely together on some technology acquisition transactions we were both involved in.
7. As for Mr Dewar, I have met him before, in a meeting I describe at paragraph 77 below, which took place before this proceeding commenced and the Search Orders were made. Mr Dewar omitted this information from his affidavit.
8. I know Mr Olivier well. We worked together at Fortescue, and had a positive working relationship. Our work together included structuring Fortescue “think tanks” and, strategy events and co-drafting strategy documents including key FFI presentations.
9. The contents of this affidavit are based on my own knowledge or, where otherwise indicated, on information provided to me by the sources identified, which information I believe to be true.
10. By referring in this affidavit to any communications, I do not waive or intend to waive – nor am I authorised to waive – any privilege attaching to those communications, other than where expressly referred to in this affidavit.

The image shows two handwritten signatures in black ink. The signature on the left is a cursive, flowing script, likely belonging to the affiant. The signature on the right is more stylized and angular, likely belonging to a witness or legal representative.

## Exhibits

11. Exhibited to me at the time of swearing this affidavit are the following bundles of documents to which I refer in this affidavit:
  - (a) a bundle marked "**Confidential Exhibit MGM-1**";
  - (b) a USB marked "**Confidential Exhibit MGM-2**";
  - (c) a document marked "**Confidential Exhibit MGM-3**";
  - (d) a document marked "**Confidential Exhibit MGM-4**".
12. A reference to a page number of **Confidential Exhibit MGM-1** is a reference to the document which appears on the corresponding page of that exhibit.
13. **Confidential Exhibit MGM-1, Confidential Exhibit MGM-2, Confidential Exhibit MGM-3, and Confidential Exhibit MGM-4** contain information that is confidential, that is commercially sensitive to Element Zero, and potentially to the Applicants. I respectfully request that access **Confidential Exhibit MGM-1, Confidential Exhibit MGM-2, Confidential Exhibit MGM-3, and Confidential Exhibit MGM-4** be restricted to external legal advisors for the parties.

## MY BACKGROUND

### My Experience

14. I have almost 40 years of experience in executive and consulting roles, primarily within the mining, energy and climate technology sector both in Australia and internationally.
15. I have structured and completed some of the largest Australian mining and metal transactions including the first ever US Capital Markets issue for a greenfield mining project, and one of the largest investments by a Taiwanese company in Australia.
16. In the early to mid-90s, I held various consultancy roles, including acting as a junior partner at consultancy firm McKinsey & Company for 8 years, and later working at Port Jackson Partners (now part of Ernst & Young).
17. In 1996, I was appointed CFO and Executive Director of Anaconda Nickel Limited, a mining start-up based in Western Australia whose founder and CEO was Dr Andrew Forrest, the founder and Executive Chairman of Fortescue Ltd, the First Applicant. I held that role for over 5 years. While I was with that company, I was responsible for financing the \$1.2bn Murrin nickel cobalt mining project and the first US Capital markets issue for a greenfield mining project.
18. In 2002, I founded gas development company Po Valley Energy, a business based in Italy. During my tenure as CEO of that business, I navigated the company through an

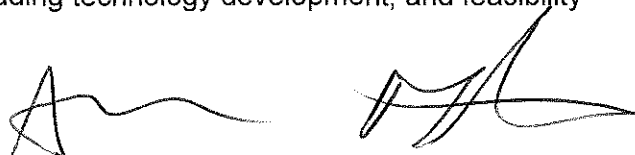


ASX listing, the exploration and development of 3 Italian gas fields and the development of a portfolio of large proven but undeveloped natural gas fields.

19. In 2010 I was appointed as General Manager Magnetite and CEO of FMG Iron Bridge, a Fortescue/Boasteel (now BoaWu) joint venture sitting within the Fortescue Metals Group. In that role I was responsible for exploring and monetising Fortescue's largest iron ore deposit. This included a 2013 investment in the project of \$1.2bn by Formosa Plastics, then Taiwan's largest company. This transaction freed up significant capital for Fortescue.
20. In 2020, I became Executive Chairman of Squadron Energy, a business within the Tatterang Group (the investment group of Dr Forrest and Nichola Forrest). During my time as Executive Chairman I transformed the company from a small business to the largest operator in, and developer of, renewable energy projects in Australia. In this role, from around 2022, I worked closely with Julie Shuttleworth (former CEO of Fortescue) on the establishment of Fortescue Future Industries (FFI).
21. In October 2020, I took up the formal role of CFO of FFI, the division of the Fortescue Metals Group responsible for Fortescue's large-scale renewable and hydrogen projects. As CFO, I oversaw the growth of FFI from a 7-person company in February 2020 to a business with over 1,400 staff, operating in 8 major regions across 30 countries. In my role as a core part of the executive team, I led financing, marketing and shipping. I resigned in July 2022.
22. While I worked for Fortescue as a contractor or employee, I was involved in multiple key and high impact roles in Australia and China, including working on the first T45 mine rail and port development and associated \$2bn financing. I also worked on the start-up structuring and development of FMG Iron Bridge, and on the establishment and global expansion of Fortescue Future Industries (now under the Fortescue Energy brand).
23. I hold a Bachelor of Economics (Honours) degree from Sydney University (1984).

#### **Element Zero**

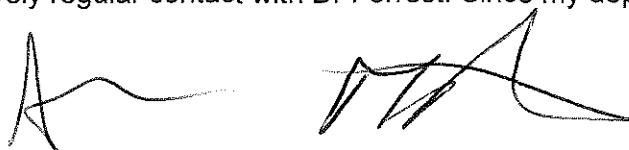
24. Element Zero was incorporated on 7 December 2022. I am a director and shareholder and have formally held the position of CEO of the company since August 2023.
25. I manage the day-to-day operations of Element Zero, and in particular, I oversee:
  - (a) Corporate and business development strategy including contract negotiation, and relationship development;
  - (b) Research and development including technology development, and feasibility studies;



- (c) Financial strategy including capital and financial management, and funding negotiation and management;
  - (d) Customer marketing and offtake with global iron and steel companies; and
  - (e) Leading and managing core relationships with major global iron ore and other metals companies including engagement on iron ore supply and potential future investment.
26. Element Zero is a start-up business that has the technology to convert metal ores such as iron and nickel to pure metal using intermittent renewable energy. Since incorporation at the end of 2022, Element Zero has scaled up to a business that now employs or engages around 20 people and operates across multiple Australian premises. I have set out at paragraphs 1 to 3 of **Confidential Exhibit MGM-4** some details about the development of Element Zero's pilot plant.
27. Senior employees of Element Zero include Dr Bart Kolodziejczyk, the Chief Technology Officer and Mr Steve Nethery, the Chief Renewables Officer. During his time at Element Zero, Dr Bjorn Winther-Jensen was Research & Development manager.
28. So far in 2024, Element Zero has secured venture capital financing from Playground Global, (a leading Silicon Valley deep tech venture capital firm with \$1.2bn in funds under management), won the 2024 Global Bloomberg Pioneers (Wildcard) Award, and has been named one of the best clean energy and climate tech start-ups for 2024 in Start Up Energy Transition's (**SET's**) "SET100" list for 2024. The SET100 list is an annual list of the most promising climate tech and energy start-ups, compiled by SET which is an energy and sustainability innovation platform.

### **My resignation from FFI**

29. In paragraph 63 of his affidavit, Mr Huber says that section F of his affidavit sets out "*the history of contact between the Respondents and Fortescue after the termination of their employment, and further investigations concerning the behaviour of the Respondents*".
30. If Mr Huber is suggesting that my employment with FFI was "terminated", I disagree. I resigned and the end of my employment was the subject of a confidential Separation Deed between me, Fortescue and FFI. A copy of that document is reproduced at pages 2 to 16 of **Confidential Exhibit MGM-1**. That is not mentioned by Mr Huber in his affidavit.
31. I left the Fortescue Group on what I considered to be good terms.
32. I have stayed in regular contact with many of my Fortescue colleagues in a personal capacity, including having relatively regular contact with Dr Forrest. Since my departure I



have been invited to Fortescue events, and also to events held by Dr Forrest in his personal capacity, as described below.

33. If Mr Huber is suggesting that Dr Kolodziejczyk and Dr Winther-Jensen's employment was terminated, then that is contrary to my understanding.

#### **DEALINGS BETWEEN FORTESCUE AND ELEMENT ZERO IN 2023 AND 2024**

34. Mr Huber's account of the dealings between the Respondents and Fortescue following the end of my employment, in section F of his affidavit, omits information and is therefore incomplete. In particular, there were ongoing dealings between Fortescue and Element Zero from April 2023 to January 2024, including commercial discussions that Mr Huber has not informed the Court about and which I address below.

#### **Iron Ore Sampling**

35. In 2023 and 2024, Element Zero obtained samples of iron and other metal ores from a number of operators in the mining industry, for the purposes of testing Element Zero's iron ore process (which I otherwise tend to refer to as Element Zero's technology) and the quality of those ore samples.
36. The testing of a range of iron ore samples from different mining companies was mutually beneficial to Element Zero and the mining companies. It enabled Element Zero to test how its technology performed with different quality samples of magnetite and hematite, while the mining companies were provided (without charge) with test results and information about the quality of their iron ore once the samples were processed, and would potentially benefit from use of the technology if it could be perfected.
37. The Element Zero technology is also capable of processing iron ore that has lower levels of iron in it (i.e. lower purity iron ore, commonly referred to as 'sub-55%'), which I understand is something other than so called "green iron" technologies cannot do. This means that hematite (which has a lower iron content than magnetite) can be processed by the Element Zero technology in an economically feasible way. I am aware from my experience, that typically mining companies have tended to stockpile sub-55% iron ore, as the impurities make these uneconomic to sell. The Element Zero technology can process core Australian export grades of iron ore (between 57%-63% and sub-economic grade, often called "sub 55%").



*Mr Huber's account*

38. Fortescue was one of approximately 7 parties from whom Element Zero obtained iron ore and other metal ore samples in 2023 and 2024. With the exception of Fortescue, Element Zero continues to work with the other industry operators.
39. Mr Huber refers briefly in his affidavit to Fortescue "providing support" to Element Zero in the form of supplying iron ore samples.
40. At paragraph 67, Mr Huber states that on about 15 August 2023, Phil McKeiver (Chief General Counsel of the First Applicant) informed him that Mr McKeiver was in turn informed by Mr Andrew Hamilton (Technical Director of Fortescue's Metals Technology Department) that Mr Hamilton had concerns about me and my team that may cause Mr Hamilton's department to "reassess" providing iron ore samples to Element Zero. Mr Huber goes on to say I was "*requesting further samples in July/August 2023*".
41. I understand that neither Mr McKeiver nor Mr Hamilton made an affidavit in support of the Applicants' application for search orders. I have known Mr Hamilton, the Technical Director of the Metals Technology Department, since around 2010, when I worked for FMG Iron Bridge. During my tenure at Iron Bridge I worked closely with Mr Hamilton during the first phase of engineering and development as part of a US\$1.2bn transaction with Formosa Plastics. Mr Hamilton also worked at Fortescue while I was CFO of FFI from 2020-2022 (although we did not work together). Reproduced at pages 18 to 30 of **Confidential Exhibit MGM-1** are a number of screenshots of my text messages with Mr Hamilton between March 2023 and January 2024, to which I refer in this affidavit.
42. I have known Mr McKeiver since he joined the Fortescue business in 2022. My work as CFO of FFI required me to work closely with Mr McKeiver from time to time. My recollection is that we had a positive working relationship while I was at FFI.
43. Mr Hamilton did not express any concerns to me about me or my 'team', or about the provision of samples to test the Element Zero technology, as suggested by Mr Huber. I would have expected, based on my longstanding relationship with Mr Hamilton, that if he had any such concerns, he would have informed me of them.
44. At paragraph 70, Mr Huber says that I "*contacted Mr Hamilton again*" on 5 September 2023 to request further iron ore samples. I did do this, for the reasons explained in this section of my affidavit.

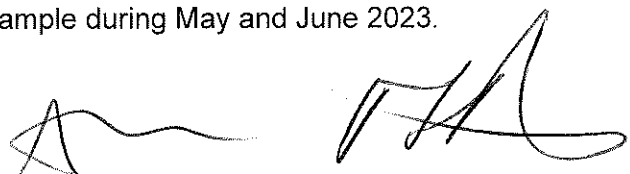
*Magnetite testing phase*

45. While Mr Huber says at paragraph 63 that he has set out "*the history of contact between the Respondents and Fortescue*" in relation to Fortescue's supply of iron ore samples to Element Zero, I have been able to identify a number of additional communications which



I had with Fortescue in relation to obtaining iron ore samples. I describe these communications in the following sections of my affidavit.

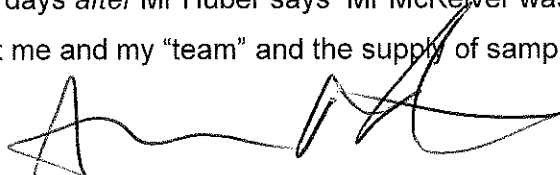
46. In April 2023, I approached Mr Hamilton to discuss an arrangement under which Fortescue would provide Element Zero with magnetite iron ore samples for testing by Element Zero. A 6 April 2023 text message exchange between myself and Mr Hamilton is reproduced at page 18 of **Confidential Exhibit MGM-1**.
47. During May 2023, Mr Hamilton and I exchanged text messages and had telephone calls about Element Zero testing Fortescue magnetite iron ore. A copy of my text messages with Mr Hamilton is reproduced at pages 19 to 21 of **Confidential Exhibit MGM-1**. We discussed that these samples would be tested using Element Zero's iron ore process. Mr Hamilton expressed interest in providing Element Zero with iron ore samples for testing to provide Fortescue with information about the conversion of iron ore into iron using Element Zero's technology, including the ore's saturation point, chemical composition, rate of dissolution and the amount of non-soluble material the iron ore contained.
48. I considered the arrangements we were discussing would be mutually beneficial to both Fortescue and Element Zero because Element Zero would be able to continue to test how its technology performed with magnetite and hematite, and Fortescue would obtain information about how its ore behaved using the Element Zero technology, which it may be able to use for its commercial benefit in the future. In addition, the fact that the Element Zero technology is capable of processing lower iron content hematite and other by-products (see paragraph 37 above) would provide potential future commercial opportunities.
49. During these discussions, Mr Hamilton asked me to put the proposal for the magnetite testing phase in an email to him.
50. On 19 May 2023 I sent Mr Hamilton an email summarising our discussions about Element Zero testing Fortescue magnetite samples. A copy of that email, and Mr Hamilton's reply the same day, is reproduced at pages 35 to 37 of **Confidential Exhibit MGM-1**.
51. Shortly after 19 May 2023, Fortescue provided Element Zero with a small sample of Fortescue magnetite iron ore for testing. Mr Hamilton and Mr Gerard LaRosa (manager of Process Engineering at Fortescue, whom I know and am aware works under and reports to Mr Hamilton) arranged for the samples to be available for collection by Element Zero from the reception of Fortescue's office in Perth.
52. Element Zero tested the magnetite sample during May and June 2023.



53. On 26 June 2023, I attended a meeting with Mr Hamilton at the Fortescue offices in Perth to discuss what we had learned from testing the Element Zero technology on the magnetite sample. While I was at the Fortescue offices, I also met briefly with Mr Dino Otranto (whom I also know and who was at that time the COO of Fortescue Metals and is now CEO), and briefly discussed with him the purpose of my meeting with Mr Hamilton that day.
54. During the meeting with Mr Hamilton, I informed Mr Hamilton of the outcomes of the magnetite testing phase. I raised the possibility of Element Zero also testing samples of Fortescue hematite iron ore (because around 95% of Australia's ore is hematite, and so I was interested to test the Element Zero technology's capacity to convert hematite iron ore to pure iron). I discussed technical and commercial matters with Mr Hamilton, such as how the end-product (iron) could in theory be transported to its destination after being processed using the Element Zero technology. I also raised the idea of Element Zero and Fortescue executing a non-disclosure agreement (**NDA**) so that we could share technical information about the Element Zero technology as we discussed commercial opportunities.
55. Copies of the text messages I exchanged with Mr Hamilton to arrange the 26 June 2023 meeting are reproduced at pages 21 to 23 of **Confidential Exhibit MGM-1**.

*Hematite testing phase*

56. On 31 July 2023, Mr Hamilton and I exchanged the text messages that appear at page 24 of **Confidential Exhibit MGM-1** about Element Zero testing Fortescue hematite samples. Later that same day I sent Mr Hamilton the emails which appear at pages 34 to 35 of **Confidential Exhibit MGM-1**.
57. In early August 2023 Mr Hamilton and I exchanged the text messages that appear at pages 24 to 25 of **Confidential Exhibit MGM-1** to set up a meeting about the proposed testing of hematite iron ore by Element Zero.
58. On or around 8 August 2023, I attended a meeting with Mr Hamilton, Mr LaRosa and Dr Winther-Jensen at the Fortescue Centre offices in Perth to discuss the hematite sample testing phase, and future commercial collaboration between Fortescue and Element Zero. Following this discussion, Mr Hamilton sent me the email which is reproduced at pages 33 to 34 of **Confidential Exhibit MGM-1**.
59. On 13 August 2023 I sent Mr Hamilton the email which is reproduced at page 33 of **Confidential Exhibit MGM-1** following up on the collection of hematite ore samples.
60. On 21 August 2023, (which was six days *after* Mr Huber says Mr McKeiver was told by Mr Hamilton of his "concerns" about me and my "team" and the supply of samples to us),

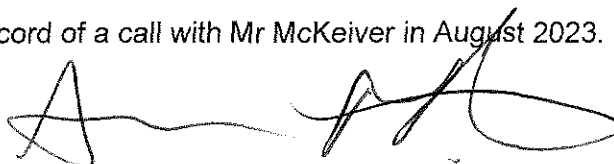


Mr Hamilton's subordinate, Mr LaRosa, and I exchanged emails (copying Mr Hamilton) about the logistics of Element Zero picking up 2 tonnes of hematite ore samples from Fortescue. Copies of those emails are reproduced at page 38 of **Confidential Exhibit MGM-1**.

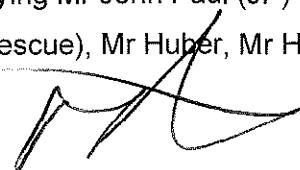
61. On or around 26 August 2023 (eleven days after Mr Huber says that Mr McKeiver was told by Mr Hamilton of his "concerns"), Dr Forrest held a 20th Anniversary party for Fortescue in the Pilbara, which I was invited to and attended. Dr Forrest arranged for me and around 40 others to fly from Sydney on a charter plane to attend the party. At the party, I had a conversation with Mr McKeiver that I recall was friendly and collegiate. Mr McKeiver introduced me to the new CFO of Fortescue Metals Group (Ms Christine Morris). Mr McKeiver did not raise any "concerns" with me at the 26 August 2023 party.
62. On 5 September 2023, I sent Mr LaRosa an email following up on the supply of the hematite samples. A copy of that email is reproduced at pages 31 to 32 of **Confidential Exhibit MGM-1**.
63. On 19 September 2023, Mr Hamilton emailed me to say that he had "been asked not to supply 'material' until further notice". A copy of that email and my reply is reproduced at page 31 of **Confidential Exhibit MGM-1**. I was surprised to receive this email. I did not know why someone would have asked Mr Hamilton not to supply further samples, especially given the commercial interactions we had had up to then.
64. After I received Mr Hamilton's email on 19 September 2023, I sent a text message to Mr Hamilton asking: "*got your email on not testing the Fortescue blend and sub 55% - what's the story*" (the sub 55% I have explained at 37 above). A screenshot of that text is reproduced at page 26 of **Confidential Exhibit MGM-1**. Mr Hamilton did not reply to that text message, so I rang Mr Hamilton to ask what the issue was with providing hematite samples. Mr Hamilton told me to speak to Mr McKeiver. I did not immediately reach out to Mr McKeiver in September 2023, because I became busy with other work. The next contact I had with Mr McKeiver was October 2023, as described at paragraph 70 below.

#### **Other commercial discussions during 2023 omitted from Mr Huber's affidavit**

65. At paragraph 68 of Mr Huber's affidavit, he says he was present on a call between Mr McKeiver and me in August 2023 to "*raise concerns regarding potential intellectual property infringement*". I did not have a call with Mr Huber in August 2023. If he was on any call that I was on in that month, he did not announce himself. Further, I do not recall speaking with Mr McKeiver on the telephone in August 2023. I have checked my phone records and cannot find any record of a call with Mr McKeiver in August 2023.

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a series of loops and a long horizontal stroke.

66. I do not recall Mr McKeiver telling me that Fortescue had concerns about intellectual property infringement in August 2023 and do not believe that he did.
67. If I had been told by Mr McKeiver in August 2023 Fortescue had concerns about potential intellectual property infringement, this would have been significant to me in the context of my ongoing dealings with Fortescue about testing its iron ore samples with Element Zero's technology, that were progressing throughout August 2023 in the manner that I have described above.
68. If such a serious allegation had been made in August 2023, I believe it would have altered the way I approach the various meetings and commercial discussions with Fortescue described above.
69. If Mr McKeiver had raised concerns with me in August 2023, I would not have been surprised to receive Mr Hamilton's 19 September 2023 email described at 63 above. As I describe above, I was surprised by that email, and did not know at that point the reason Mr Hamilton had been asked to not to supply further samples.
70. On 1 October 2023, I attended Dr Forrest's father's funeral, on the Munderoo Station in the Pilbara. Tattarang arranged for me to fly up in a chartered plane with Mr Otranto (CEO of Fortescue Metals), Mr Mark Hutchison (CEO of Fortescue Energy) and Mr John Hartman (CEO of Tattarang and Munderoo). During the flight and at the funeral, I had discussions with all three CEOs. No representative of Fortescue mentioned any issues or concerns to me regarding Element Zero's technology. I discussed with Mr Hartman that we were testing nickel ore from Mincor and Poseidon, 2 Tattarang portfolio companies.
71. Mr McKeiver and I exchanged two text messages in October 2023 (that appear at page 44 of **Confidential Exhibit MGM-1**), but as far as I can recall, we did not speak in October 2023, as I was busy with other work.
72. The earliest record I can find of a call between Mr McKeiver and me is on 1 November 2023. I was in Singapore. Our conversation, lasted less than 5 minutes. Mr McKeiver said he wanted to catch up with me when I returned from Singapore. I understood from the call that Mr McKeiver wanted to discuss the supply of ore samples for Element Zero's ongoing testing of Fortescue's iron ore, and I reiterated that we should get an NDA in place so that I could explain Element Zero's technology to the Fortescue team in more detail. Mr McKeiver may have briefly raised potential overlap between Element Zero and Fortescue technologies but I do not have a clear recollection of this.
73. On 3 November 2023 Mr McKeiver sent me an email, copying Mr John Paul (JP) Olivier (Director of Innovation & Technology Development at Fortescue), Mr Huber, Mr Hamilton

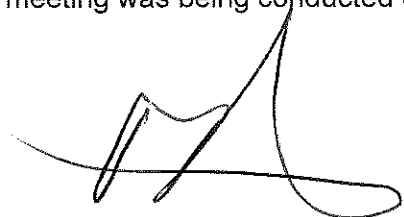


and Mr Michael Dolan (Director of Science and Technology at FFI). A copy of that email is reproduced on page 45 of **Confidential Exhibit MGM-1**. I also know Mr Dolan, we worked together while I was at Fortescue and travelled extensively with him and Dr Forrest in 2021 through North and South-East Asia, the United States, Europe and the UAE.

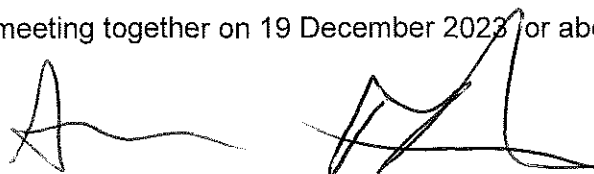
74. Mr Huber does not refer to Mr McKeiver's email in his affidavit, nor does he annex a copy.

*19 December meeting with Mr McKeiver and Mr Dewar*

75. I sent a draft NDA to Mr Hamilton on 23 November 2023. A copy of that email without its attachment is reproduced at page 49 of **Confidential Exhibit MGM-1**. I followed up Mr Hamilton by text about the NDA on 12 December 2023. A copy of that text message is reproduced at page 27 of **Confidential Exhibit MGM-1**. I also exchanged text messages with Mr McKeiver on 23 November 2023. A copy of those text messages is reproduced at pages 44 of **Confidential Exhibit MGM-1**.
76. Following Mr McKeiver's 3 November 2023 email, a meeting was arranged for 19 December 2023. I recall that Mr Huber was initially meant to attend the meeting with Mr McKeiver, but it turn out he was not available (as far as I understood). I exchanged emails with Mr McKeiver (copying Mr Huber) to arrange the meeting. Copies of these emails appear at pages 46 to 47 of **Confidential Exhibit MGM-1**. A copy of the calendar invite circulated by Jo Free (Fortescue Legal) to me is reproduced at page 48 of **Confidential Exhibit MGM-1**.
77. The 19 December 2023 meeting was held in-person at Fortescue's offices on Bennett Street in Perth. It lasted about forty-five minutes. Mr McKeiver and I were physically present, and Mr Dewar from Davies Collison Cave dialled in to the meeting via video link. I was surprised that Mr Dewar was in the meeting, because I had expected the meeting to be an informal discussion between Mr McKeiver and me, and Mr McKeiver had not told me Fortescue would be bringing an external lawyer to the meeting.
78. Before the meeting started, I objected to Mr Dewar being in the meeting by saying to Mr McKeiver: *"I wasn't expecting a meeting with an external lawyer"*. Mr McKeiver apologised, but did not ask Mr Dewar to leave the meeting. I felt I had to continue with the meeting. I am familiar with the terminology of meetings being held on a 'without prejudice basis'. I did not and do not think this meeting was held on such a basis. Neither Mr McKeiver nor Mr Dewar suggested that the meeting was being conducted on a without prejudice basis.

79. I had understood from Mr McKeiver's 3 November 2023 email that the meeting was intended to be a discussion about the Element Zero technology and Fortescue's technology. Despite this, we ended up discussing the Element Zero technology for only about 10-15 minutes at the end of the meeting. While we were discussing the Element Zero technology, I told Mr McKeiver and Mr Dewar that the Element Zero technology is very different from Fortescue's, that Element Zero's technology does not use a membrane, operates at a different temperature range and uses a non-aqueous alkaline solution. I also told them that we had done extensive "Freedom to Operate" searches which had cleared Element Zero's technology and found no overlap with the Fortescue technology.
80. Mr Dewar said that Fortescue would be interested in seeing the Freedom to Operate searches. I told Mr McKeiver and Mr Dewar that we would be happy to share information once the NDA was executed and that I had sent a draft through in November. Mr Dewar said that he had marked-up the draft NDA and would send it back the next day.
81. Most of the remainder of the 19 December 2023 meeting was taken up with discussions about a matter which Mr McKeiver had not mentioned to me before the meeting, being an allegation by Fortescue that I had contacted a particular representative of the Australian Renewable Energy Agency (**ARENA**) about a grant application made by Fortescue.
82. I was surprised by this allegation because I had not met or contacted the ARENA representative, nor (since leaving Fortescue) contacted anyone at ARENA in relation to any Fortescue applications. I indicated this to Mr McKeiver and Mr Dewar. After the 19 December 2023 meeting, in February 2024, I received an email from a representative of ARENA confirming that on 17 November 2023 someone at ARENA had inadvertently emailed Fortescue in response to a question I submitted about an *Element Zero* grant application. The confusion had arisen because the ARENA representative had incorrectly assumed I still worked at Fortescue. A copy of the email I received from ARENA is reproduced at pages 50 to 51 of **Confidential Exhibit MGM-1**.
83. I did not receive an amended NDA from Mr McKeiver or Mr Dewar in the days following the 19 December 2023 meeting. On 21 December 2023 I sent Mr Hamilton a text about the 19 December 2023 meeting and the outstanding NDA. A copy of that text message is reproduced at page 27 of **Confidential Exhibit MGM-1**.
84. I have read Mr Dewar's affidavits sworn on 1 May 2024, 9 May 2024 and 14 May 2024 in these proceedings. Mr Dewar did not tell the Court in any of these affidavits that he has met me before, that we were in a meeting together on 19 December 2023 or about the



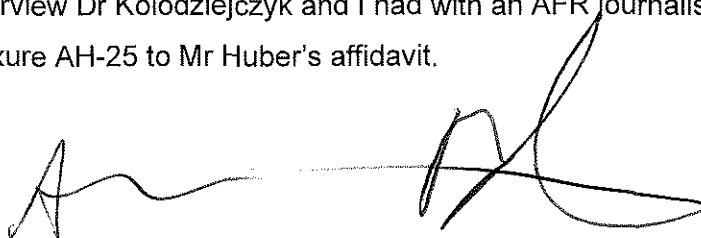
discussion that took place at that meeting. Nor did Mr Dewar tell the Court about the NDA.

#### **Discussions with Fortescue in 2024**

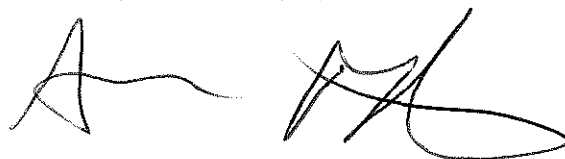
85. In January 2024, I continued to have discussions with various Fortescue representatives, including Mr Huber, Mr McKeiver, Mr Hamilton and Mr Olivier. Those discussions included the negotiation of the NDA and arrangements to set up a further meeting to discuss the Element Zero technology and are described below.
86. The discussions are not referred to in any of the affidavits of Mr Huber, Mr Olivier and Mr Dewar, and so I have set them out in some detail.

#### *Negotiation of NDA*

87. On 11 January 2024, I sent Mr Hamilton an email following up on the draft NDA I had sent in November 2023. Mr Hamilton replied on 12 January 2024 that he was on leave and would follow up upon his return. A copy of those emails is reproduced at page 52 of **Confidential Exhibit MGM-1**.
88. Also on 11 January 2024 I sent an email to Mr McKeiver (copying Mr Hamilton) following up on the NDA with Mr Dewar's comments. Mr McKeiver responded saying he had a "catch up with Adrian tomorrow and we should be able to get an NDA over to you by tomorrow." I understood the reference to Adrian to be a reference to Mr Adrian Huber. Copies of those emails appear at pages 53 to 54 of **Confidential Exhibit MGM-1**.
89. On 12 January 2024, Mr Huber emailed me (copying Mr McKeiver and Mr Hamilton) attaching a revised NDA. A copy of that email without its attachment is reproduced at page 53 of **Confidential Exhibit MGM-1**. I did not immediately become aware of or read this email, as it went into my junk mail folder. I first became aware that it had been sent to my email on 18 January 2024 (see paragraph 94 below).
90. On 15 January 2024 I emailed Mr Otranto and Mr Hamilton to set up a time to meet with them to discuss the Element Zero technology. On 17 January 2024, I received a reply from Mr Otranto's executive assistant copying Mr Olivier, Mr Hamilton and Mr McKeiver, indicating that I should meet with them because Mr Otranto was travelling. A copy of those emails and my reply are reproduced at pages 56 to 57 of **Confidential Exhibit MGM-1**.
91. On 17 January 2024, the Australian Financial Review published an article about Element Zero. It was based on an interview Dr Kolodziejczyk and I had with an AFR journalist. That article appears at Annexure AH-25 to Mr Huber's affidavit.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned at the bottom of the page.

92. I exchanged a number of text messages with Mr McKeiver on the morning of 17 January 2024 about setting up a meeting to discuss the Element Zero technology. I have not at this stage reproduced those text messages because Mr McKeiver marked his original 17 January 2024 text "without prejudice". However, I note that at the time of these text messages, the emails referred to at 93 below were also being exchanged, and those emails are not marked "without prejudice" and I do not consider them to have been exchanged on any without prejudice basis (there was nothing we were seeking to compromise).
93. Also on the morning of 17 January 2024, I emailed Mr Otranto and Mr Hamilton (copying Mr McKeiver) seeking again to schedule a meeting to discuss the Element Zero technology. Mr McKeiver and I then exchanged a number of emails on 17 January 2024 about signing the NDA and scheduling a meeting. At this stage, I was not aware that Fortescue had sent a revised NDA on 12 January 2024 (see paragraph 89 above). Copies of these emails are reproduced at pages 60 to 62 of **Confidential Exhibit MGM-1**.
94. On 18 January 2024, Mr Hamilton replied to Mr McKeiver (copying me) confirming that we had set up a technical discussion for 24 January 2024, subject to an NDA being in place. I replied saying that I had found the NDA sent by Fortescue earlier that week in my junk mailbox, and that my lawyers were in the process of reviewing the Fortescue amendments. A copy of these emails are reproduced at pages 59 to 60 of **Confidential Exhibit MGM-1**.
95. Mr McKeiver then tried to call me and texted me asking me to call him. I replied both via text and email, noting I was travelling that day and that a technical meeting had been set up to "*quickly provide comfort and technical understanding*" to Fortescue. I offered my lawyer Ms Katrina O'Leary's contact details to Mr McKeiver so he could speak to her that day about the technology if required. A copy of that email and Mr McKeiver's reply is reproduced at pages 58 to 59 of **Confidential Exhibit MGM-1**.
96. On 21 January 2024, I emailed Mr Hamilton (copying my lawyers Ms O'Leary and Mr Bartlett, and Mr McKeiver and Mr Huber), attaching a revised NDA and indicating: "*...we have aligned it with purpose that we have discussed – to share our respective iron ore to iron technologies in a constructive way and also enable ongoing testing and feedback on Fortescue iron ore*".
97. On 22 and 23 January 2024, Mr Huber and Ms O'Leary exchanged emails discussing further amendments to the NDA. The final NDA was signed on 23 January 2024. Copies of the email chain and signed NDA are reproduced at pages 63 to 65 of **Confidential Exhibit MGM-1**.

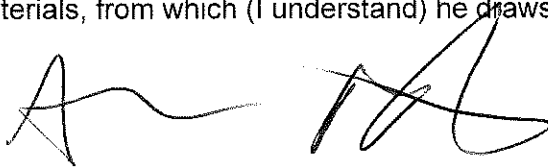




98. On 23 January 2024, I exchanged a series of text messages with Mr Hamilton about the upcoming 24 January 2024 meeting. A copy of those text messages is reproduced at pages 28 to 30 of **Confidential Exhibit MGM-1**.

*Meeting on 24 January 2024*

99. The meeting went ahead on 24 January 2024 as planned. The meeting was held in person at Fortescue's Bennett Street offices in Perth. It lasted for about an hour. I attended on behalf of Element Zero. The attendees on behalf of Fortescue were Mr Hamilton and Mr Dolan. Mr LaRosa joined the meeting shortly after it had started.
100. Before the meeting began, I asked whether Mr Hamilton and Mr Dolan would be happy for me to take an audio recording of the meeting. Mr Hamilton and Mr Dolan said they had no issue with me making a recording, so I recorded the meeting on my mobile phone. I placed my phone on the table in front of me, so people could see that I was recording. A copy of the recording I made is reproduced electronically on **Confidential Exhibit MGM-2**.
101. I do not ordinarily record meetings I attend on my phone. I asked and did so here because the meeting concerned discussing confidential aspects of Element Zero's and Fortescue's technology and, by this time, I has started to become concerned based on my communications with Mr McKeiver before the meeting and Mr Dewar's attendance at the 19 December 2023 meeting that Fortescue had concerns that Element Zero's technology may overlap with Fortescue's technology. I was also the only Element Zero representative at the meeting and I thought it was helpful to have the recording so I could recall the details in briefing the Element Zero technical team. Given those issues and the background to the meeting, I considered it prudent to have a record of the conversation.
102. During the meeting, we had what I thought was a productive and open discussion about Element Zero technology, the future of Fortescue's technology and the possibility of a commercial relationship between Fortescue and Element Zero in future, including the continued testing of Fortescue ore by Element Zero. We also discussed the planned Element Zero plant site in Port Hedland.
103. A large portion of the meeting was taken up with discussion of the Element Zero technology. I observed that the Fortescue attendees were taking notes during the course of our discussion.
104. In section F of Dr Bhatt's affidavit, he said that because there is no publicly available information that completely describes how the Element Zero technology works, he has reviewed some publicly available materials, from which (I understand) he draws the



inferences at paragraph 98 and 99 of his affidavit. Dr Bhatt does not mention in his affidavit that Fortescue officers were told by me at the 24 January 2024 how the Element Zero technology worked. Dr Bhatt did not attend that meeting. The attendees at the meeting did not give evidence about the meeting or what was discussed, such as the differences between the Fortescue and Element Zero technologies.

105. The 24 January 2024 meeting ended with the following exchange:

Mr Hamilton said: So let us go away, mull what we're going to do.

I said: OK.

Mr Hamilton said: I guess also just need to think what's in it for us, and to, it's iron ore I... you're not really asking us for any help as such. So I guess we can stay in the tent and...

I said: Well like the conversation in when was it, October?

Mr Hamilton said: Yeah.

I said: Let's start with some iron ore, let's run it through our lab, then we can run it through the... we're not short of iron ore.

Mr Hamilton said: Sure, sure.

I said: But that's where we got to and that's what we said we'd do.

Mr Hamilton said: Yep.

Mr Dolan said: Yep.

I said: We've got paperwork in place.

106. I understood Mr Hamilton's reference to thinking about "what's in it for us" to mean he would consider future a commercial relationship with Element Zero, and his reference to staying "in the tent" to mean that because we now had an NDA in place, we would be able to openly communicate and share confidential information with each other about Element Zero's technology and progress testing. When I said "we're not short of iron ore", this was a reference to the fact that, as described at paragraph 38 above, Element Zero was and is working with a number of different parties in the industry to obtain iron ore samples, and is not dependent on obtaining Fortescue samples.

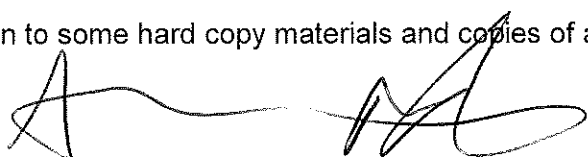
107. Following the 24 January 2024 meeting, I did not receive any requests from Fortescue to share any further information about the Element Zero technology with Fortescue, pursuant to the NDA or otherwise. I believe I would have provided them under the NDA if I had been asked.

Two handwritten signatures in black ink are located at the bottom of the page. The signature on the left is a simple, stylized 'A' followed by a horizontal line. The signature on the right is more complex, featuring a large, looped initial 'A' followed by a horizontal line.

## IMPACT OF SEARCH ORDERS

### Surveillance on Element Zero

108. I refer below to particular aspects of two of Mr Dewar's affidavits, being the affidavit affirmed 1 May 2024 (**Mr Dewar's first affidavit**) and the affidavit affirmed 9 May 2024 (**Mr Dewar's second affidavit**). Annexure PAD-2 to Mr Dewar's first affidavit, and Annexure PAD-6 to Mr Dewar's second affidavit, contain reports from the private investigation company Lancasters Investigations (the **surveillance reports**).
109. I understand that the surveillance reports formed part of the evidence before the Court when Fortescue sought Search Orders. Once I received the material filed by Fortescue in support of the application for the Search Orders, I learned that surveillance had been conducted for weeks on me, Dr Kolodziejczyk, Dr Winther-Jones, Element Zero's premises, Element Zero's employees, and members of the public who visited Element Zero's premises. That surveillance extended to following Element Zero employees and others as they went about their business, including at shopping centres, restaurants and private homes unconnected with any of the Respondents.
110. The surveillance reports record attendance at my home, and the searching of my mailbox and garbage bins. At page 32 of Annexure PAD-6, the surveillance report observes that what it terms as "two new letters" in my mailbox, and reproduces pictures of envelopes containing letters addressed to me (and my superannuation fund) from the Government of Western Australia and State Farm. I have not been able to locate those letters and am concerned that they were removed from my property.
111. The surveillance reports also record operatives following numerous Element Zero employees and members of the public from the Element Zero premises to their homes, recording address details and title searches (as well as photographs of those employees and their homes).
112. The extent and nature of the surveillance conducted was a shock to me. It occurred in the wake of the ongoing dealings I (and Element Zero) had with Fortescue, including the productive meeting I had with Fortescue representatives on 24 January 2024 (described at paragraphs 99 to 107 above). At the end of that meeting, I had proceeded on the basis that there would be further information sharing and joint pursuit of commercial opportunities. Against that background, and my previous history with Fortescue, I do not understand why the level and nature of the surveillance on me was necessary.
- 113. Scope and content of material captured by the Search Orders**
114. I am concerned about scope of the material that was taken as a result of the Search Orders. As I understand it, in addition to some hard copy materials and copies of a broad



range of Dr Kolodziejczyk's personal material, virtually every electronic record of the Element Zero business since its inception was captured in the execution of the Search Orders.

115. The Element Zero business records captured by the Search Orders include the following categories of confidential and privileged material:

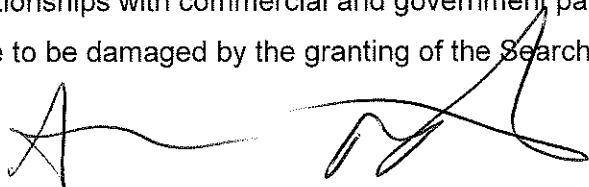
- (a) All privileged communications that Element Zero representatives have sent to external lawyers and patent attorneys since the Element Zero email system was first established;
- (b) Highly confidential material provided by third parties (including Fortescue's competitors) to Element Zero under non-disclosure agreements or strict confidentiality regimes. I describe this category in more detail below, but this includes material relating to ongoing projects of third parties, which are highly confidential;
- (c) Confidential Element Zero business material including:
  - i. Financial records such as management reports, revenue and profit information, capitalisation tables, budgets and forecasts;
  - ii. Banking and payroll information of the company, its officers and employees;
  - iii. Employee information including employment contracts, remuneration information, potentially sensitive personal information such as health data and other personal records, home addresses and phone numbers, and performance review information;
  - iv. Information about third parties Element Zero deals with such as suppliers, including names, addresses, contact information, contracts, pricing, confidential information about future customers including memoranda of understanding and letters of intent;
  - v. Stakeholder liaison and negotiation including with domestic and international government and other bodies, feasibility studies and applications for grants;
  - vi. Investment records for the business including future investment;
  - vii. Business strategies, investor negotiations, roadmap documents and pitch decks, and drafts of those documents; and
  - viii. Technical data including experimental data, specifications, pilot plant design documents and technical analyses.



116. As described above, Element Zero works with many commercial third parties that are key competitors of Fortescue. Reproduced at page 2 of **Confidential Exhibit MGM-3** is a confidential list of some examples of third parties which have non-disclosure agreements in place with Element Zero. Many of those third parties have trusted Element Zero with their confidential information including information that would be very valuable to a competitor, such as confidential information about their resources, experiment data, and other commercial information. At paragraphs 4 to 5 of **Confidential Exhibit MGM-4**, I provide further details about the nature of Element Zero's relationships with the third parties.
117. Element Zero also works with a number of departments of the Australian Government, both at the Federal and State level. Information held by Element Zero as a result of those relationships highly confidential to the Australian Government. If a foreign government were to obtain that information, it could be a matter of national significance.
118. Similarly, Element Zero works with international government bodies. Information held by Element Zero as a result of those relationships is confidential to those international government bodies.
119. As described in this affidavit, I am familiar with Fortescue and that it is seeking to develop or purchase iron ore technology that may compete with Element Zero's. As such I consider that many of Element Zero's business records captured by the Search Orders would be very commercially valuable to Fortescue if Fortescue were to obtain copies of those records.

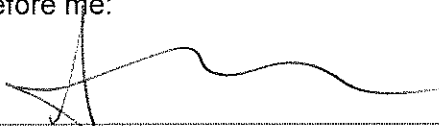
#### **Damage caused to Element Zero**

120. The Search Orders have already caused significant damage to Element Zero's reputation and interfered with its operations.
121. Since the proceedings have become public, I have been contacted by commercial parties and others with whom Element Zero has contracts on foot, expressing significant concern about the situation and asking questions about the execution of the Search Orders and Fortescue's claims. For example, one party has indicated that they may cancel their NDA and ongoing discussions with Element Zero as a result of the Search Orders. I have also recently had communications from the various State and Federal Government departments with whom Element Zero has relationships. Again, representatives of the Government have expressed very serious concerns about what is taking place and about the material taken as a result of the Search Orders. I am very concerned that Element Zero's relationships with commercial and government parties have already been and will continue to be damaged by the granting of the Search Orders.

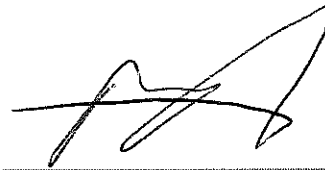


122. The timing of the Search Orders is particularly damaging. As Element Zero is still in the start-up phase, its relationships with potential clients and investors are fundamental to the success or failure of the business. In this context, the total damage done to the Element Zero business will be difficult for me to quantify at this stage, but I expect that very substantial engagement with commercial and government stakeholders, and with the market more broadly, will be required as a result of the reputational damage done by the Search Orders. I expect that even with significant engagement, and with cost involved, the reputational damage done already will seriously impact Element Zero's growth prospects.
123. I have read a number of the media reports about these proceedings. I consider that the damage done to Element Zero is exacerbated by the inflammatory language used in Fortescue's submissions in support of the Search Orders, referring to there having been "industrial scale misuse" of Fortescue's confidential information, which was picked up by most (if not all) of the media articles about the proceedings.

Sworn by the deponent  
at Barangaroo  
in New South Wales  
on 20 June 2024  
Before me:



Signature of witness  
Amelia Anne Gough Cooper, Solicitor  
Level 35 200 Barangaroo Avenue  
Barangaroo NSW 2000



Signature of deponent

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and another

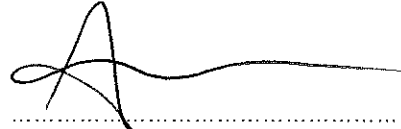
Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others

Respondents

**Confidential Exhibit MGM-1**

This is the bundle of confidential documents marked "**Confidential Exhibit MGM-1**" to the Affidavit of **Michael George Masterman** sworn before me on 20 June 2024.



Signature of witness

Name: *Amelia Anne Gough Cooper*

Level 35 Tower Two  
International Towers Sydney  
200 Barangaroo Avenue  
Barangaroo NSW 2000  
Solicitor

Filed on behalf of (name & role of party)	<i>The First, Second and Fourth Respondents</i>
Prepared by (name of person/lawyer)	<i>Michael John Williams, Partner</i>
Law firm (if applicable)	<i>Gilbert + Tobin</i>
Tel	<i>(02) 9263 4271</i>
Fax	<i>(02) 9263 4111</i>
Email	<i>mwilliams@gtlaw.com.au</i>
<b>Address for service</b>	<b>Level 35, International Tower Two</b>
(include state and postcode)	<b>200 Barangaroo Avenue, Barangaroo NSW 2000</b>

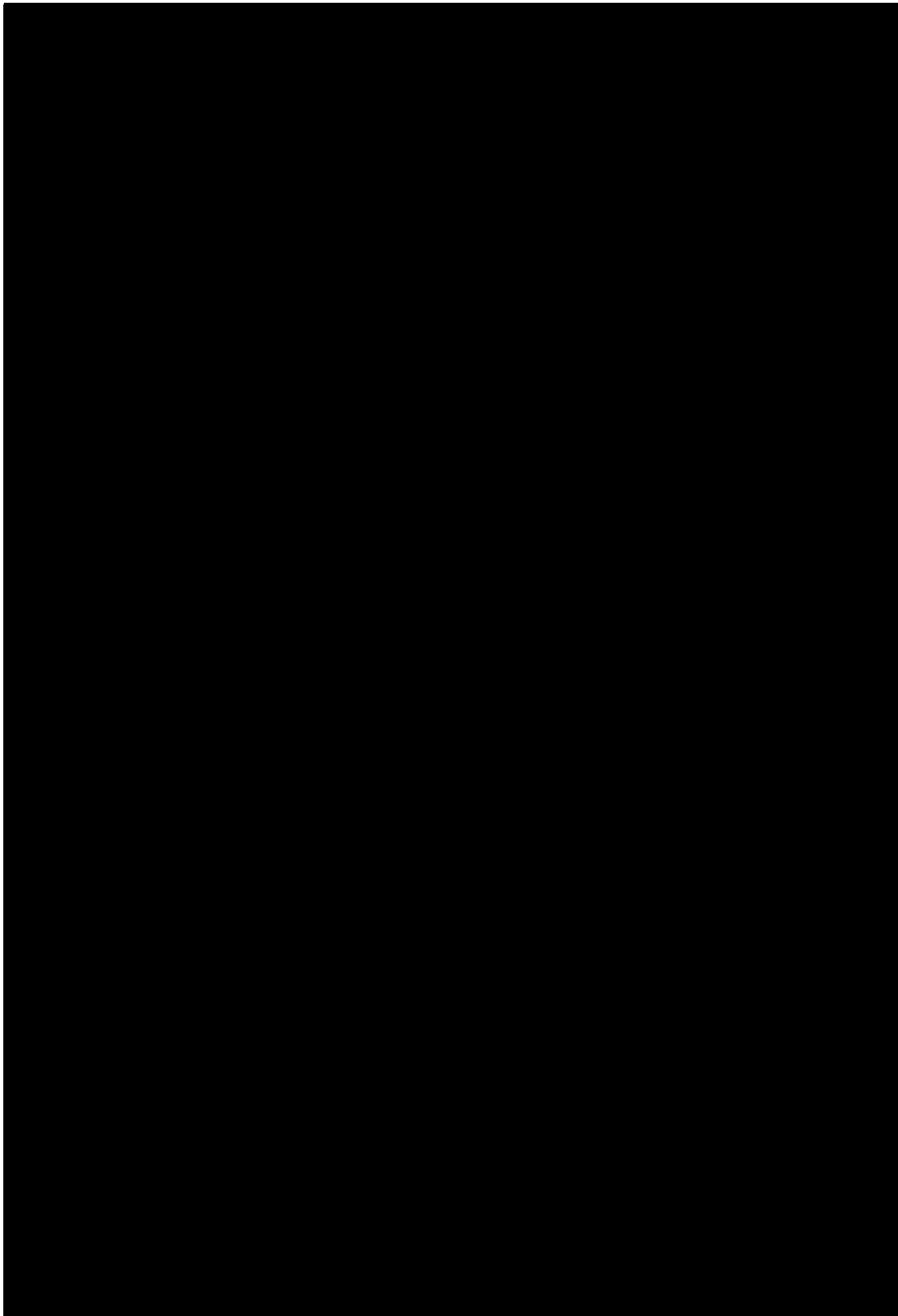
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial statements. This includes not only sales and purchases but also expenses and income. The document provides a detailed list of items that should be tracked, such as inventory levels, accounts receivable, and accounts payable. It also outlines the procedures for reconciling these accounts and identifying any discrepancies.

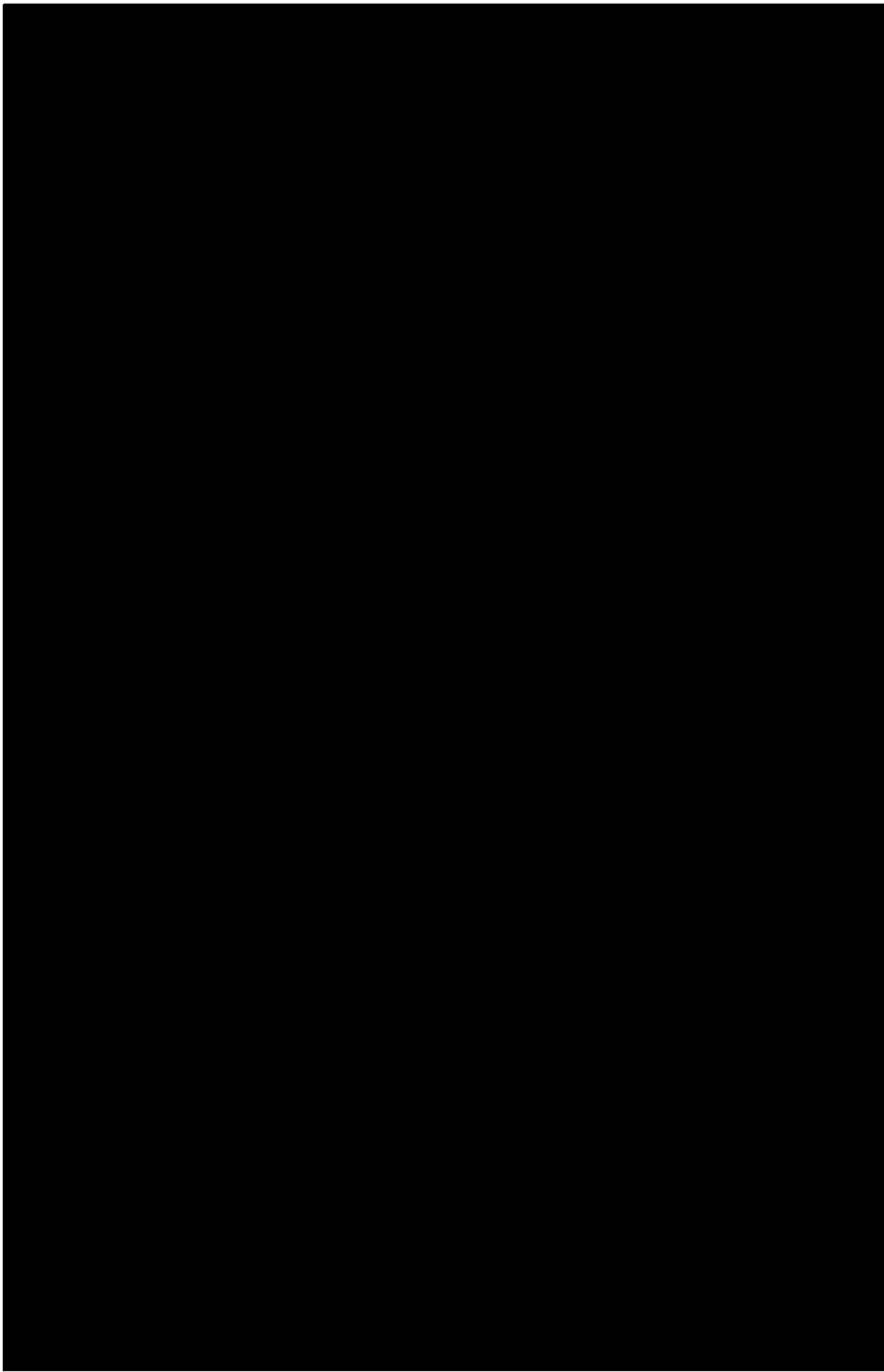
The second part of the document focuses on the classification of expenses. It explains how to distinguish between capital expenditures and operating expenses, and how to allocate costs to different departments or projects. This section includes a table that categorizes various types of expenses, such as salaries, rent, utilities, and depreciation. The document also discusses the importance of proper documentation for all expenses, including receipts and invoices, to support the accounting entries.

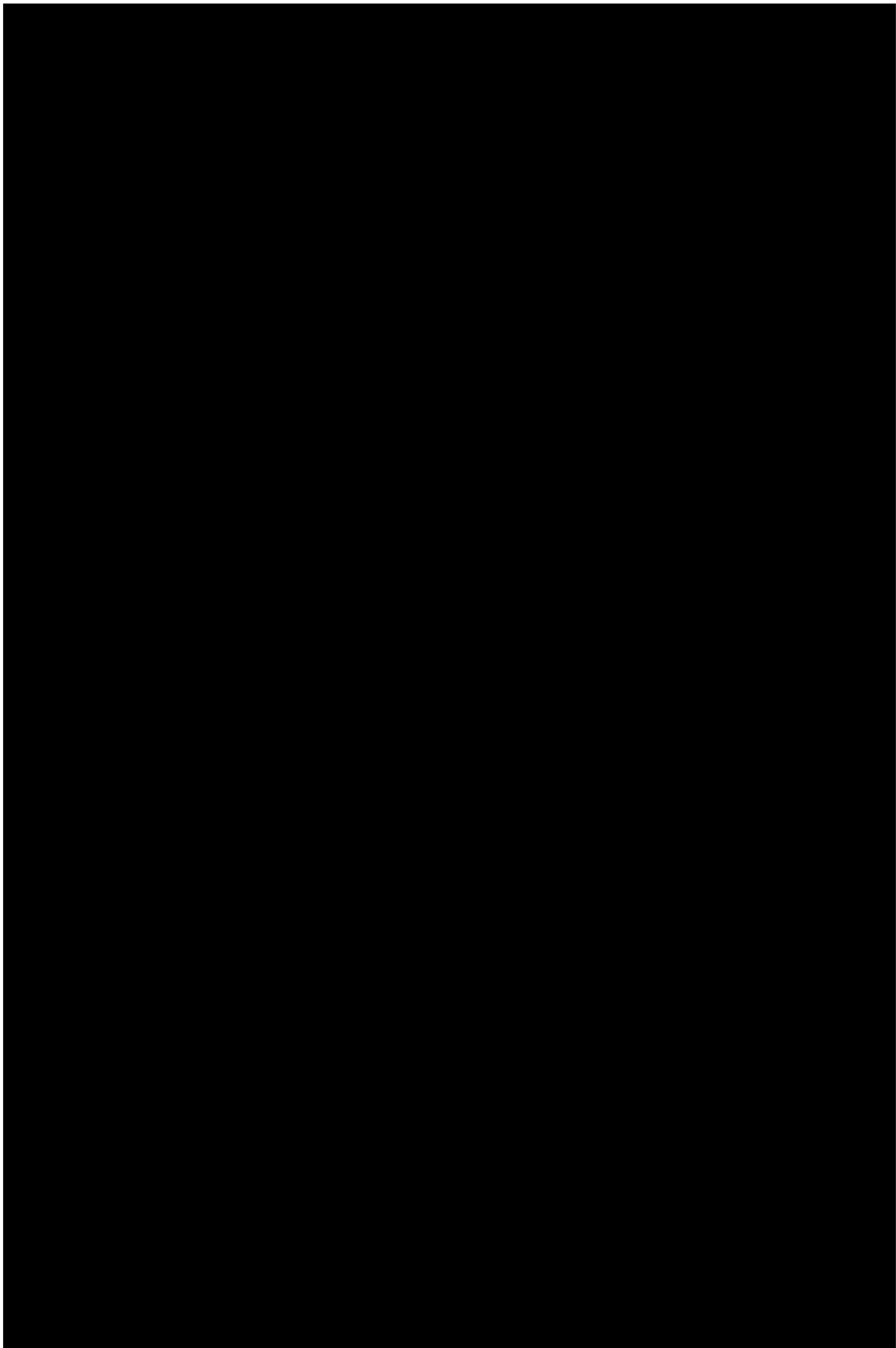
The third part of the document addresses the issue of depreciation. It explains how to calculate the depreciation expense for different types of assets, such as buildings, equipment, and vehicles. The document provides a step-by-step guide to determining the useful life of an asset and the appropriate depreciation method to use. It also includes a table that shows the calculation of depreciation expense for a specific asset over its useful life.

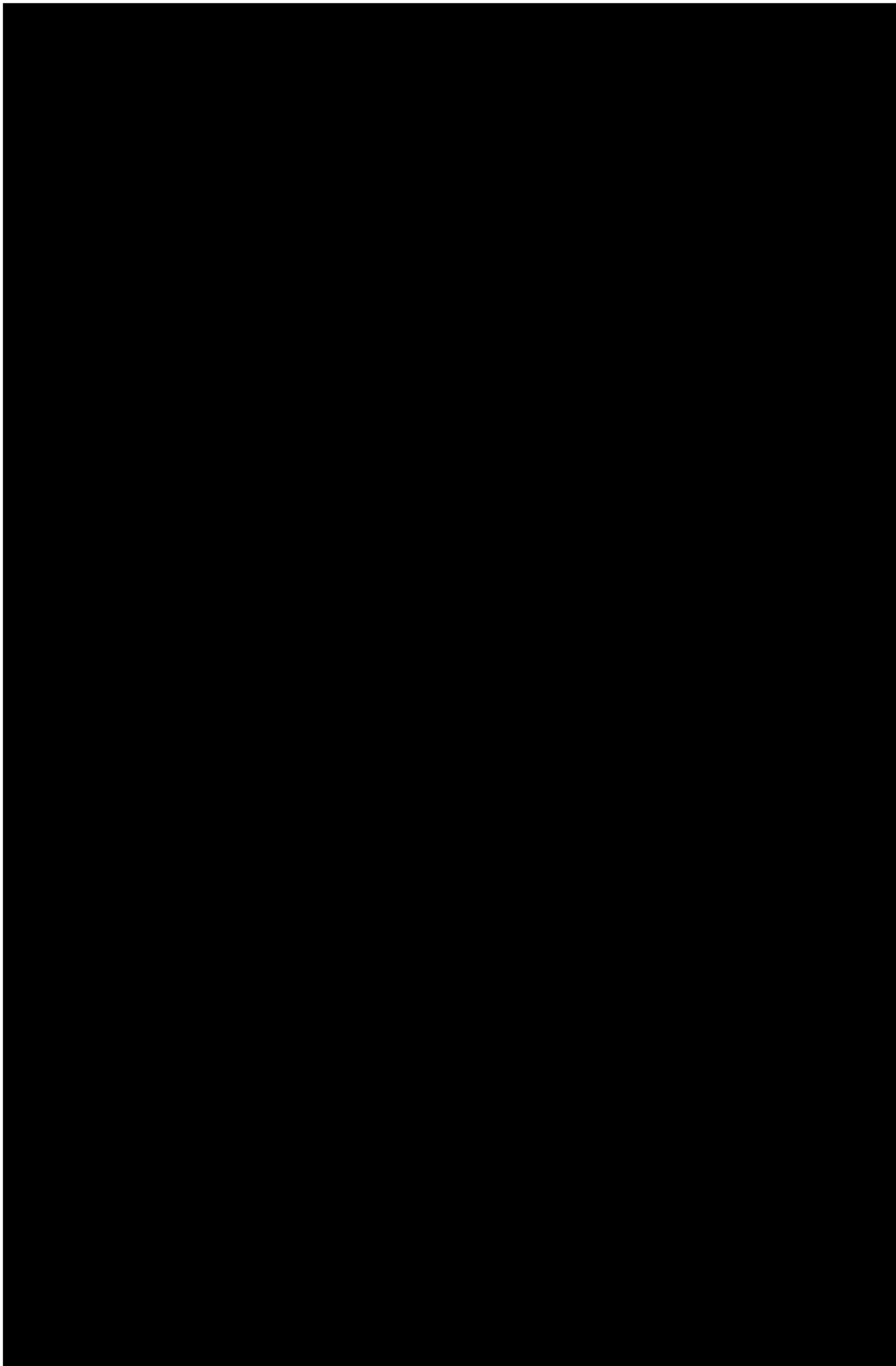
The final part of the document discusses the preparation of financial statements. It explains how to use the accounting records to prepare the balance sheet, income statement, and statement of cash flows. The document provides a detailed explanation of each statement and how they are related to each other. It also includes a table that shows the components of each statement and how they are calculated. The document concludes by emphasizing the importance of reviewing the financial statements for accuracy and consistency.

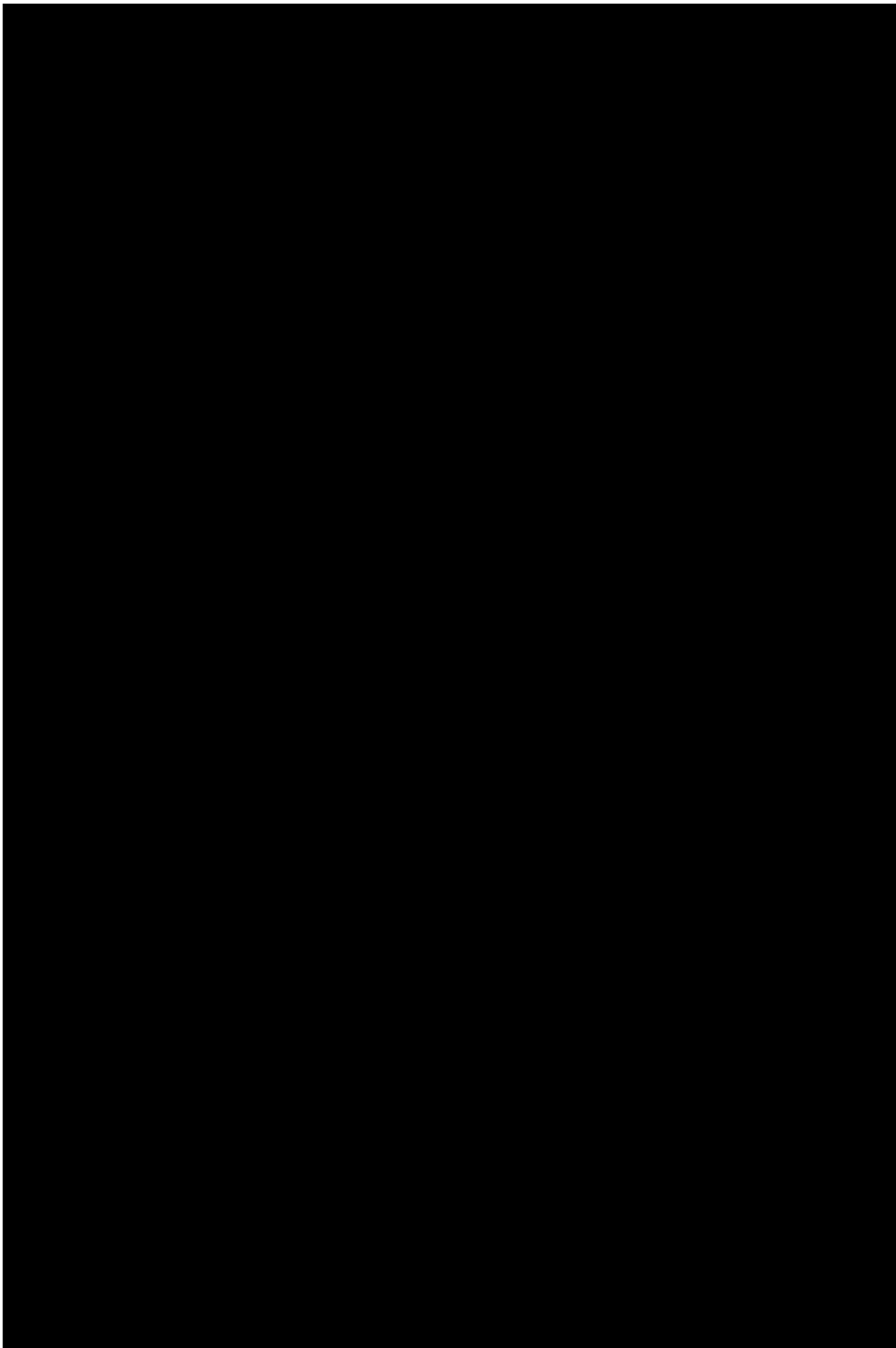


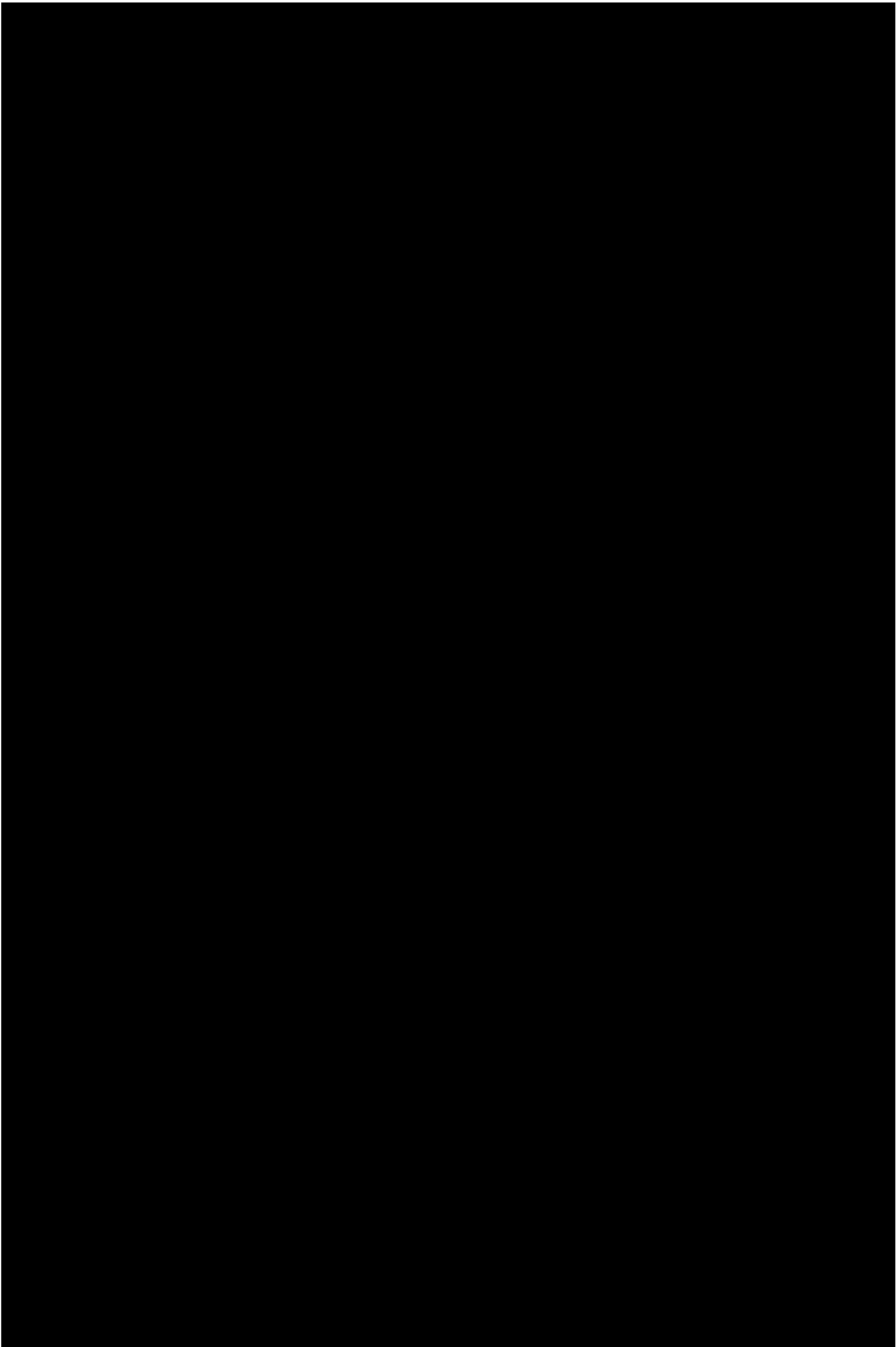












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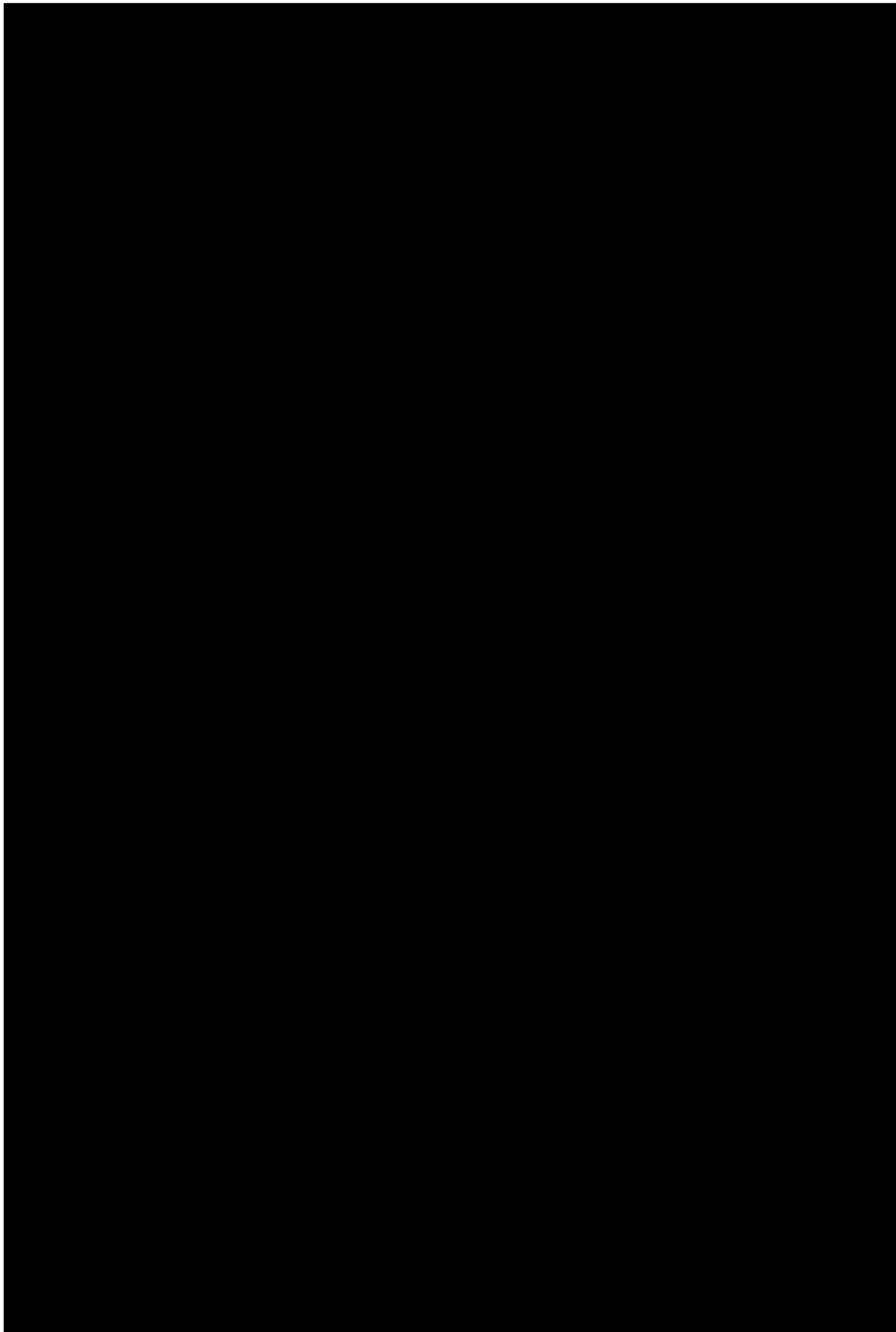
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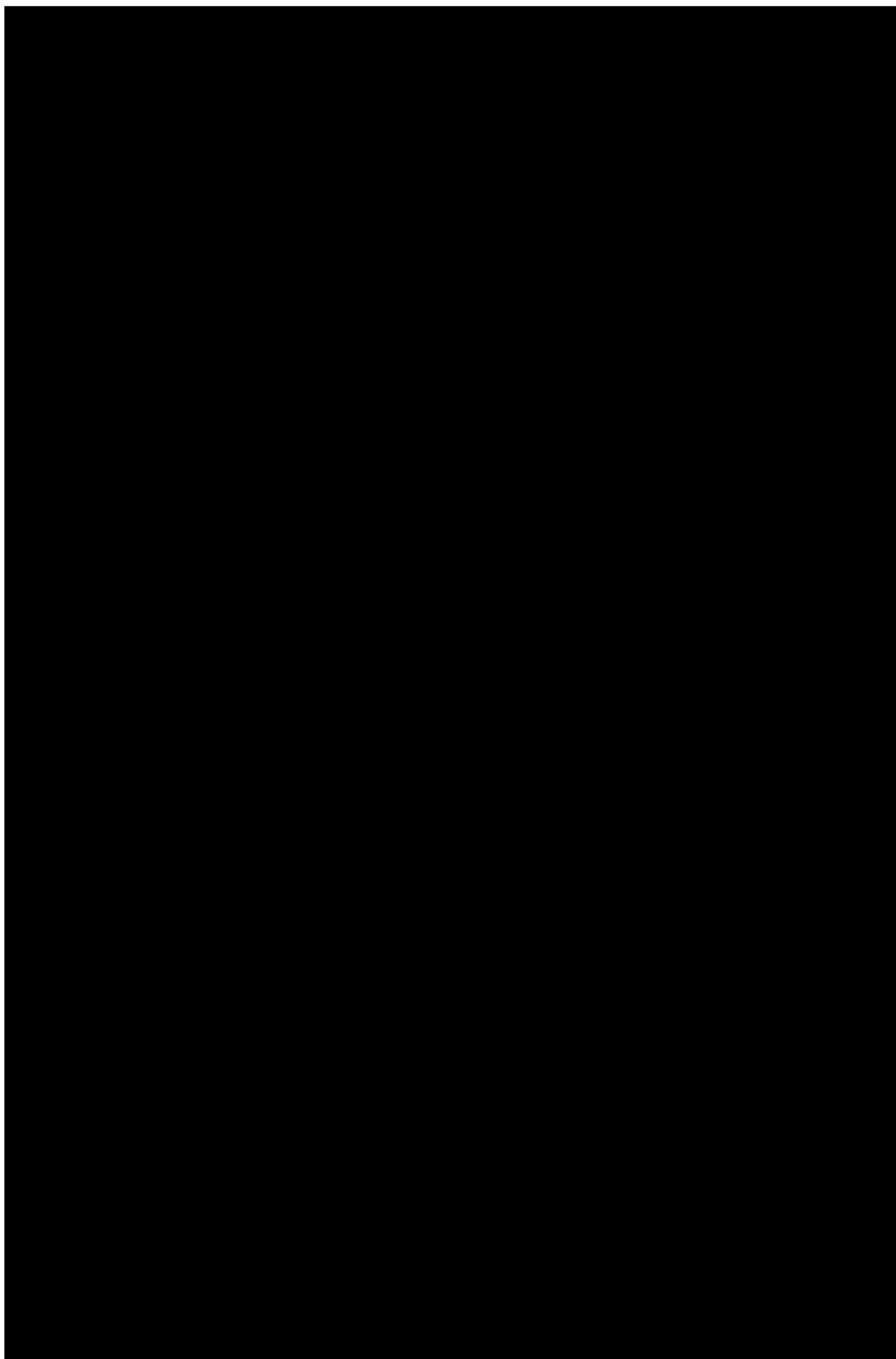
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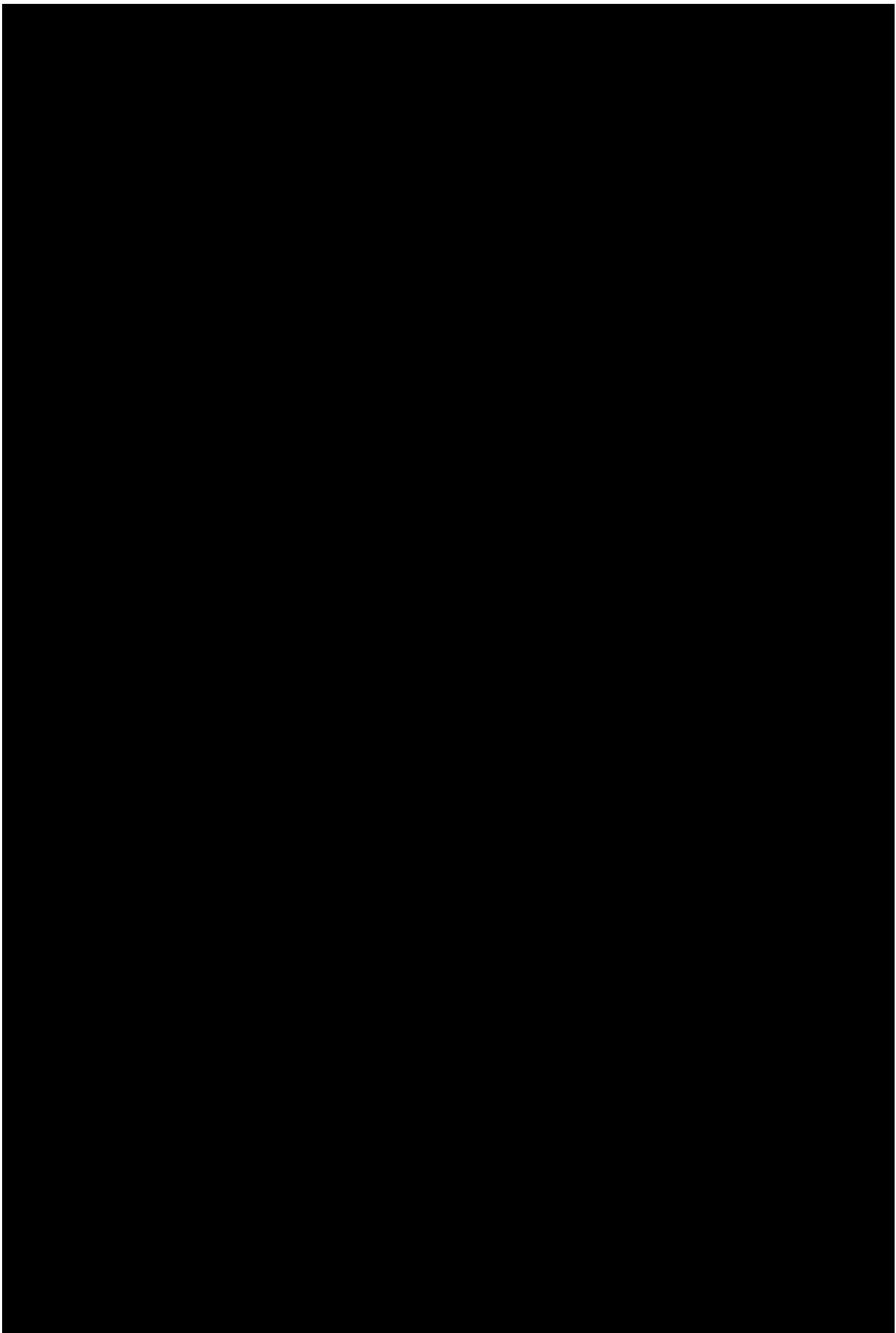
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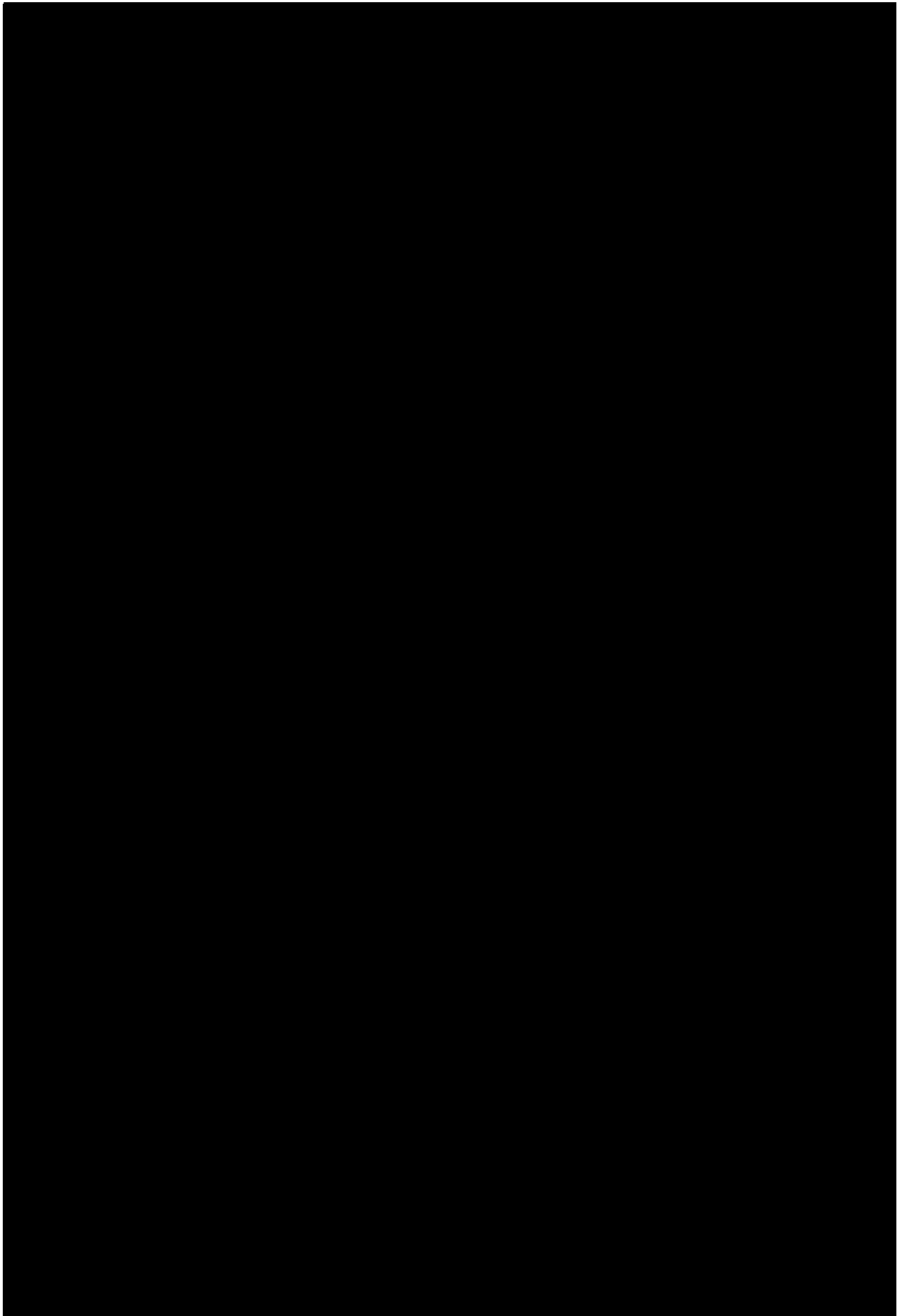


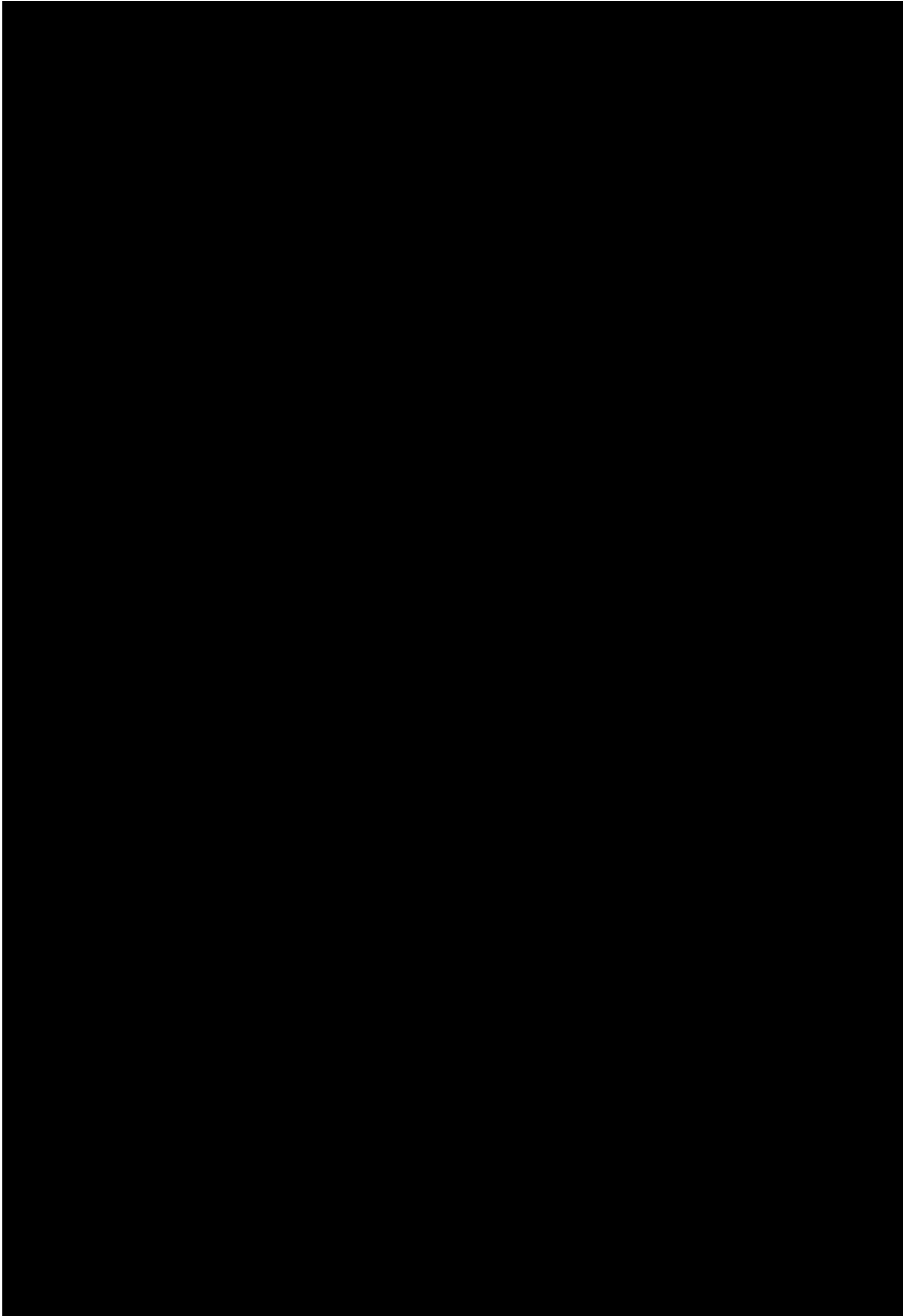


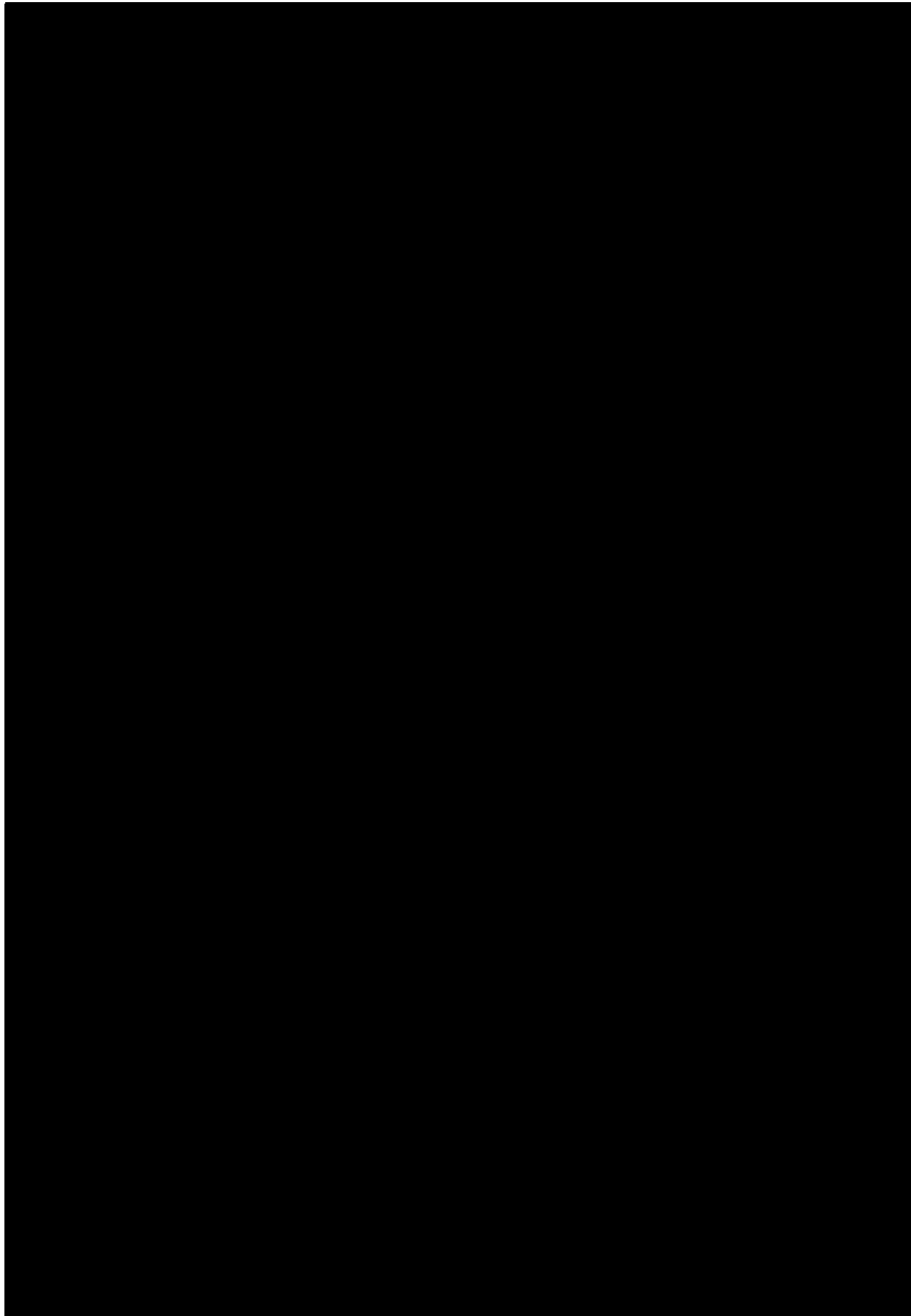


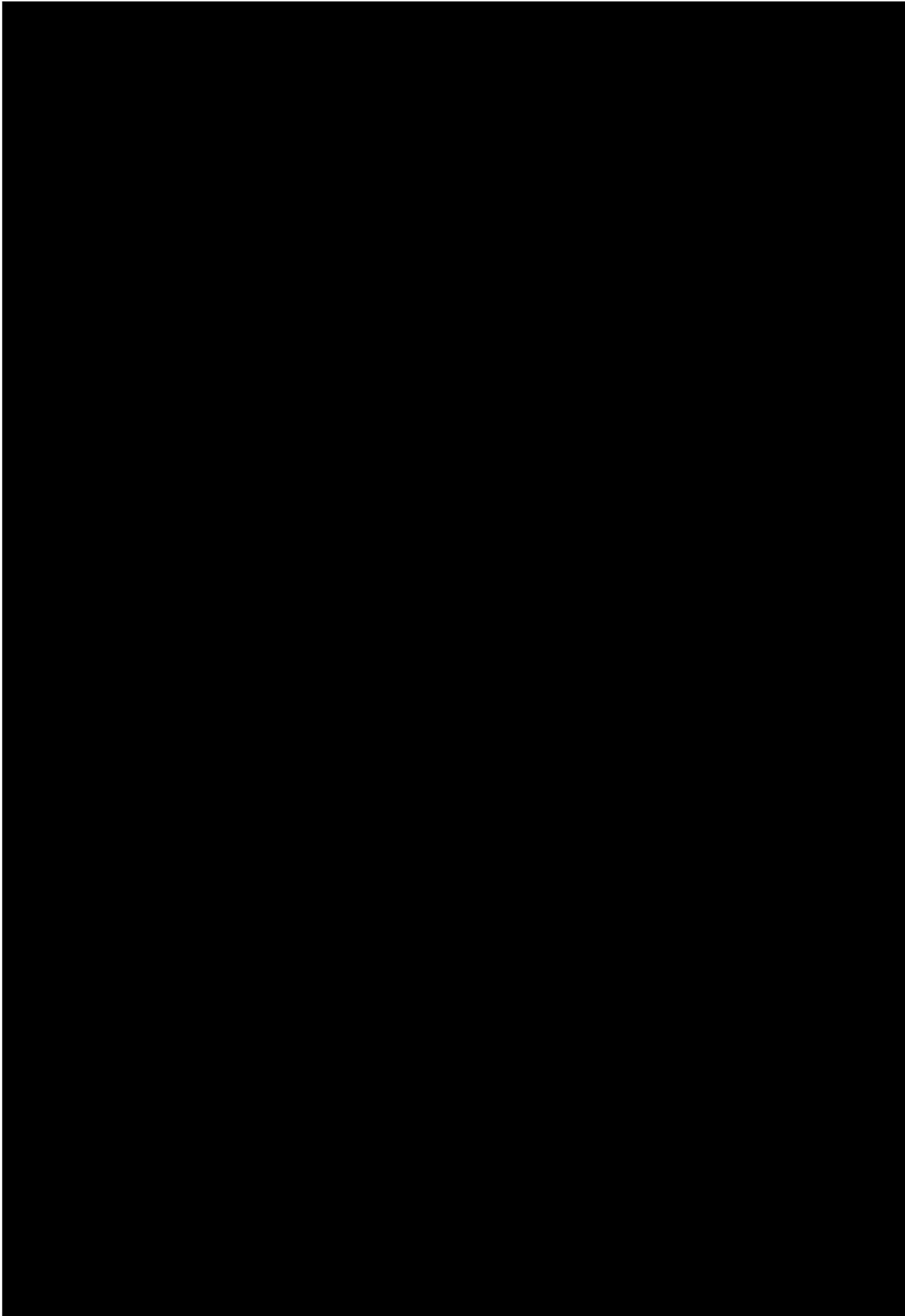






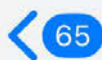






10:46

18



Andrew >

27 Mar 2023 at 3:15 PM

Andrew - can you give me a call when you get a chance - thanks Michael M

6 Apr 2023 at 9:16 AM

Andrew - was keen to do some test work on some new technologies on iron bridge magnetite - just need a crushed sample of ROM and final concentrate - can be stage 1 concentrate if that is easier. Does not need to be representative. What's the best way to get 1kg of each? I can organise pick up in Perth. Michael M

6 Apr 2023 at 10:17 AM

Michael would need to be made up and got down from site ...so would be guaranteed by week ending 21st.... Will give you a ring to discuss

Ok thanks - no old material in Perth. End of the month is fine if that is the easiest. M



iMessage





10:46

19

62

< 65

AH



Andrew >

16 May 2023 at 4:07 PM

Hi andrew - I should be in Perth Thursday Friday and be great to catch up. How did you go getting some iron bridge ore and concentrate to do some testing on? Look forward to talking Michael

16 May 2023 at 5:21 PM

Hi Michael .... Will give you a call in the morning

16 May 2023 at 7:52 PM

Ok great

19 May 2023 at 10:07 AM

Quick question - where is the current small iron bridge pilot plant

Getting scrapped along with the big demo

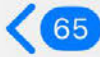
We have another pilot plant in 40' containers

19 May 2023 at 1:16 PM



iMessage





Andrew >

19 May 2023 at 1:16 PM

What is the big demo? Happy to collect. What is in the 40 foot container plant

1 Reply

Will send you that email I promised today

Time for coffee tomorrow morning in Perth?

Heading out of town tomorrow..... can do next week

What is the big demo? Happy to collect. What is in the 40 foot container plant

Containers plural, ....HPGR, bag house, HIG Mill , magnetic drums wet and dry, screens wet and dry

Ok let me get you the wording on magnetite testing now

Have sent email with a description of what we plan to do with



iMessage





Andrew &gt;

Ok let me get you the wording on magnetite testing now

Have sent email with a description of what we plan to do with samples. Will give you a more detailed explanation when you are back. Michael

Be great if you can send the instructions to send to lab before you head out thanks

I'll be in office on Monday... it's just tomorrow Saturday I couldn't make

Let's plan to catch up when I am back 2 June - in the Northern Territory next week

Michael

Sun, 18 Jun at 11:12 AM

Andrew - just to confirm let's catch up 26 June when you are back from Europe (if I got the date wrong and you are back this coming week we can catch up). Michael

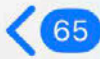


iMessage



10:47

22



Andrew >

Sun, 18 Jun at 2:13 PM

Yes to 26th 👍

Fri, 23 Jun at 1:55 PM

What time works to catch up Monday morning

Fri, 23 Jun at 6:15 PM

9:30?

Apologies for delay just coming into land at Perth

Not best experience with emirates

Welcome home

See you Monday

See you Monday 930

Sun, 25 Jun at 6:55 PM

Andrew any chance we could move the meeting to either 9am or 11? Thanks

Sun, 25 Jun at 9:28 PM

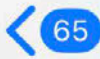


iMessage



10:47

23



Andrew >

Sun, 25 Jun at 9:28 PM

Yes to 9:00am

See u then

Mon, 26 Jun at 8:58 AM

Assume we are meeting face to face at FMG?

Yes

Mon, 26 Jun at 11:01 AM

Great to catch up - can we get some samples of the 50-55% Christmas Creek material to test. I will send a formal email to document

Yes

Mon, 31 Jul at 9:16 AM

Andrew - when is a good time to catch up in Perth this week. We should get that NDA in place. I will send an email now on the testing of the 55% - I think we can make the economics work well but should test



iMessage



10:47

24

61

< 65

AH



Andrew >

Mon, 31 Jul at 9:16 AM

Andrew - when is a good time to catch up in Perth this week. We should get that NDA in place. I will send an email now on the testing of the 55% - I think we can make the economics work well but should test.

Overseas until Monday.... Work

Are you around next week

Monday?

Be good to get that 55% Fe sample - think we can make economics work

Yes to Monday... will get samples organised

Fri, 4 Aug at 11:56 AM

How is Monday morning or alternatively Tuesday morning. Be great to get 1-2 tonnes of hematite - let's discuss when we meet.

Mon, 7 Aug at 7:20 AM

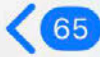


iMessage



10:47

25



Andrew >

Mon, 7 Aug at 7:20 AM

Hi **Michael** back in office... could move things around this morning or pretty free tomorrow (Tuesday) morning... time?

Let's do Tuesday morning - what's a good time?

Sent 9:30-10:30am ...

Mon, 7 Aug at 9:26 AM

See you there Bjorn one of the technical guys will join me.

Mon, 7 Aug at 10:32 AM

I will get Jerry LaROSA to join also

Mon, 7 Aug at 12:48 PM

Ok great

Tue, 19 Sep at 6:24 PM

Michael just in china ... travelling at moment ... back in oz on Wednesday 27th...

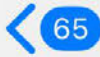


iMessage



10:48

26



Andrew >

Tue, 19 Sep at 7:46 PM

No problem - got your email on not testing the Fortescue blend and sub 55% - what's the story?

Fri, 29 Sep at 12:22 PM

Beer on Saturday?

Text Message  
Wed, 11 Oct at 8:44 AM

You missed a call, but the caller didn't leave a message.

iMessage  
Wed, 22 Nov at 10:50 AM

Can I call you later?

Text Message

You missed a call, but the caller didn't leave a message.

iMessage



iMessage

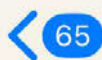




10:48

27

61



Andrew >

Thu, 23 Nov at 1:29 PM

Andrew - how is Monday morning to catch up? Michael

Mon, 11 Dec at 2:28 PM

In a meeting...

Tue, 12 Dec at 10:50 AM

How are you going with the NDA is sent? Be good to have a general chat.

Tue, 12 Dec at 1:59 PM

Sorry, I can't talk right now.

Can call after 2:30pm

Text Message  
Thu, 21 Dec at 9:10 AM

You missed a call, but the caller didn't leave a message.

iMessage

Hi Michael... apologies for delay in returning call



iMessage





Andrew &gt;

Thu, 21 Dec at 11:53 AM

No problem - saw Phil Mc Tuesday - slightly wierd conversation but ok. He promised to send back - NDA - have not seen anything yet



...we can build a 1000kg a day plant in the time it takes to get a NDA back from FMG :)

Wed, 17 Jan at 2:30 PM

Andrew when is a good time to catch up?

Tue, 23 Jan at 3:41 PM

Based on last email from Katrina L, do I read between the lines you will be bringing others to meeting

I will be there. Jodie who is no technical but deals with all our iron ore and other metal ore sourcing will be there. No lawyers

Who is joining from your side



iMessage



10:49

29

61

< 65

AH



Andrew >

Who is joining from your side

Michael Dolan wants to join?

Otherwise it was just going to be myself .... Can bring Jerry LaROSA if you want?

Not fussed...

Tue, 23 Jan at 5:27 PM

You and Jerry are good - is Dolan attending?

Up to you

Apparently I have been asked to fwd invite to michael

Dolan

Ok - the main internal stress seems to be around the FFI LTE patent - so we should clear the air on that.

Ok ... I will forward to Jerry and michael

See you at Brenner street at 9:00am



iMessage



10:49

30

61

< 65

AH



Andrew >

You and Jerry are good - is Dolan attending?

Up to you

Apparently I have been asked to fwd invite to michael

Dolan

Ok - the main internal stress seems to be around the FFI LTE patent - so we should clear the air on that.

Ok ... I will forward to Jerry and michael

See you at Brenner street at 9:00am

Bennett

Wed, 24 Jan at 9:00 AM

How far away are you?

Wed, 24 Jan at 10:21 AM

Just saw this now

Delivered



iMessage



**Daisy Cullen**

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Tuesday, 19 September 2023 8:26 PM  
**To:** Andrew Hamilton  
**Cc:** Gerald La Rosa  
**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Andrew

Thanks for update

Give me a call if you want to run through the results with the Iron Bridge magnetite - which are good!

We are good for overall magnetite and hematite iron ore supply.

Let me know when it makes sense to cross check if the results on the Fortescue blend and sub 55% ores line up with the other ores we are testing.

Michael

On Tue, Sep 19, 2023 at 7:20 PM Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)> wrote:

Hi Michael

Apologies for the delayed response....

We have been asked not to supply "material" until further notice.

Thanks

Andrew

+61 409 176 

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Tuesday, September 5, 2023 3:43 PM  
**To:** Gerald La Rosa <[glarosa@fmgl.com.au](mailto:glarosa@fmgl.com.au)>  
**Cc:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Jerry

How are we going with the 2 tonnes of material in bulka bags

We can pick up from Henderson or BV at Canning Vale.

Thanks

Michael

Michael Masterman

+61418951792

---

**From:** Gerald La Rosa <[glarosa@fmgl.com.au](mailto:glarosa@fmgl.com.au)>  
**Sent:** Monday, August 21, 2023 3:48 am  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Cc:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Subject:** RE: Iron ore and lower grade Hematite Ore testing

Hi Michael,

For the 2 tonnes of material, are you able to handle 1 tonne bulky bags on pallets? Or do you require it split into 200 litre drums (with max sample weight of??).

Also, where do you want it shipped? Or are you happy to pick up from Henderson when it is in Perth?

Regards,

**Jerry La Rosa**

Manager Process Engineering,

Metals Technology Development, Corporate Strategy

**Fortescue**

Level 2, 87 Adelaide Terrace East Perth WA 6004

+61 439 516 [REDACTED]

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Sunday, August 13, 2023 3:34 PM  
**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Cc:** Gerald La Rosa <[glarosa@fmgl.com.au](mailto:glarosa@fmgl.com.au)>  
**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Andrew

What do you think the timing would be on delivery/pick up of the FB ore and circa 55% lower grade

Thanks

Michael

Michael Masterman

+61418951792

---

**From:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Sent:** Tuesday, August 8, 2023 2:18:13 PM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>

**Cc:** Gerald La Rosa <[glarosa@fmgl.com.au](mailto:glarosa@fmgl.com.au)>

**Subject:** RE: Iron ore and lower grade Hematite Ore testing

Michael

Following up from today (Tuesday 8<sup>th</sup> August ) discussion...

1. Fortescue: Organise 2T of FB
2. Fortescue: 150kg (drum) of ~Fe55% (eg low grade stockpiles)
3. Michael M: for NDA ...Supply entity details....name, address, ACN/ABN, plus an intent clause, what info want to share and protect.

Thanks

Andrew

0409 176 [REDACTED]

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>

**Sent:** Monday, July 31, 2023 12:32 PM

**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>

**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Andrew

It would be good to get a sample of circa 58% Fe for a control vs the 55%

At some point we would like to get 5 tonnes of 58% hematite.

Michael

Michael Masterman

+61418951792

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>

**Sent:** Monday, July 31, 2023 9:21:48 AM

**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>

**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Dear Andrew

Good to talk and thank you for organising for some samples of magnetite ore and magnetite concentrate to be tested. We look forward to briefing you on the results.

As discussed in our meeting it would be very useful to investigate using the process and technology on the lower grade stockpiles of ore at the FMG mines. You indicated that average grade is 55%

Could you please provide some samples of the circa 55% ore and we can run through our testing program.



The focus of the testing is on dissolution of iron ore as set out below

### **Dissolution of iron ore**

The following characteristics can be determined/measured for a particular ore:

§ **Saturation point.** Measured at 300 °C. Determining the maximum amount of ore that can be dissolved and subsequently chemically converted in the electrolyte expressed as % wt ore in the molten hydroxide electrolyte. (This parameter depends on ore quality, i.e., especially the amount of silica and alumina in the ore)

§ **Chemical composition and ratio of dissolved and undissolved phase.**

§ **Rate of dissolution.** Time required to dissolve given ore as a function of operating temperature and feedstock particle size.

§ **Determination of non-soluble species below the saturation point.**

We will provide you with the results of the test work.

Michael Masterman  
+61418951792

---

**From:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Sent:** Friday, May 19, 2023 2:34:34 PM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Subject:** RE: Iron ore and Magnetite Ore testing

Michael

The 2x kilograms (1 of feed and 1 of concentrate) will be at Fortescue Hyatt office on Monday (22<sup>nd</sup>) after 1:30pm.

Thanks

Andrew  
0409 176 [REDACTED]

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Friday, May 19, 2023 2:13 PM  
**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Subject:** Iron ore and Magnetite Ore testing

Dear Andrew

Good to talk and thank you for organising for some samples of magnetite ore and magnetite concentrate to be tested. The focus of the testing is on dissolution of iron ore (and concentrate) as set out below

### **Dissolution of iron ore**

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We will provide you with the results of the test work.

If you could kindly send the samples in Fremantle to the lab in Malaga

Unit 2/30 Oxleigh

Malaga 6090

If you would like us to organise pick up we can do so.

Thank you

Michael Masterman

--

Michael Masterman  
+61418951792

| +447791288381

--

Michael Masterman

+61418951792

+447791288381

**Daisy Cullen**

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Monday, 21 August 2023 3:31 PM  
**To:** Gerald La Rosa  
**Cc:** Andrew Hamilton; Jodie McIntosh  
**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Jerry

Yes we can handle 1 tonne bulka bags on pellets at BV in Canning Vale.

If you can deliver direct to BV in Canning Vale that simplifies the process (I am pretty sure FMG uses BV in Canning Vale)

If needed we can organise pick up from Henderson. We can pick up the 150kg of circa from Henderson or have it at BV.

Thanks

Michael

On Mon, Aug 21, 2023 at 11:48 AM Gerald La Rosa <[glarosa@fmgl.com.au](mailto:glarosa@fmgl.com.au)> wrote:

Hi Michael,

For the 2 tonnes of material, are you able to handle 1 tonne bulky bags on pallets? Or do you require it split into 200 litre drums (with max sample weight of??).

Also, where do you want it shipped? Or are you happy to pick up from Henderson when it is in Perth?

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Metals Technology Development, Corporate Strategy

**Fortescue**

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+61 439 516 [REDACTED]

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**Subject:** Re: Iron ore and lower grade Hematite Ore testing

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Michael Masterman

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3. Michael M: for NDA ...Supply entity details....name, address, ACN/ABN, plus an intent clause, what info want to share and protect.

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0409 176 [REDACTED]

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Michael Masterman

+61418951792

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Monday, July 31, 2023 9:21:48 AM  
**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
**Subject:** Re: Iron ore and lower grade Hematite Ore testing

Dear Andrew

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Michael Masterman

+61418951792


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**Sent:** Friday, May 19, 2023 2:34:34 PM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Subject:** RE: Iron ore and Magnetite Ore testing

Michael

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Thanks

Andrew

0409 176 

---

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**Sent:** Friday, May 19, 2023 2:13 PM  
**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>  
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Unit 2/30 Oxleigh

Malaga 6090

If you would like us to organise pick up we can do so.

Thank you

Michael Masterman

--

Michael Masterman

+61418951792

+447791288381

--

Michael Masterman

+61418951792

+447791288381

10:39

44

64

< 65

PM



Phil >

Hi Michael,

This is Phil McKeiver from Fortescue.

Please can you give me a call on [0458558 \[REDACTED\]](tel:0458558[REDACTED])

Regards  
Phil

Wed, 18 Oct at 11:31 PM

Phil - did not see your details. As discussed at Solomon I will follow up and get you the NDA mentioned. Trust all is well.  
Michael

Thu, 23 Nov at 10:31 AM

Phil - missed your call yesterday. FYI I have sent an NDA to Andrew Hamilton and will follow up with a technical meeting Michael

Thu, 23 Nov at 12:51 PM

thanks Michael. I do need to speak with you directly .



iMessage



**Daisy Cullen**

---

**From:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Sent:** Friday, 3 November 2023 7:13 PM  
**To:** mgmasterman@gmail.com  
**Cc:** John Paul Olivier; Adrian Huber; Michael Dolan; Andrew Hamilton  
**Subject:** RE: Green iron processes

Michael

Resending as I got a bounce back.

---

**From:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Sent:** Friday, November 3, 2023 4:09 PM  
**To:** mailto:mgmasterman@gmail.com <mgmasterman@gmail.com>  
**Cc:** John Paul Olivier <johnpaul.olivier@fortescue.com>; Adrian Huber <adrian.huber@fortescue.com>; Michael Dolan <michael.dolan@fortescue.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>  
**Subject:** Green iron processes

Hello Michael

Just confirming my telephone call on Wednesday this week, to say that our team would like to meet with you, Bjorn and Bart as soon as possible, to get comfortable that:

- our respective green iron processes do not infringe each other's; and
- that your green iron processes do not incorporate any IP from your time at Fortescue.

You suggested a low key technical meeting under an NDA as a first step. That works for us.

It is best I now hand this over to our IP specialist [@Adrian Huber](#) to coordinate next steps as I have regrettably been a bottleneck in progressing this.

Adrian will make contact next week.

Regards  
 Phil

**Phil McKeiver**

Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]

[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

fortescue.com



**Daisy Cullen**

---

**From:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Sent:** Tuesday, 19 December 2023 10:30 AM  
**To:** Michael Masterman; Adrian Huber; Joanne Free  
**Subject:** Re: Catch up Tuesday

Yes I can do 2 pm and will ask Jo to find a meeting room at Bennett Street.

Regards  
Phil  
Get [Outlook for iOS](#)

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Tuesday, December 19, 2023 6:59:04 AM  
**To:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Subject:** Re: Catch up Tuesday

Phil

I can't do 12 - how is 2pm

Michael

Michael Masterman  
+61418951792

---

**From:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Sent:** Monday, December 18, 2023 6:11:57 PM  
**To:** Michael Masterman <mgmasterman@gmail.com>; Adrian Huber <adrian.huber@fortescue.com>  
**Subject:** Re: Catch up Tuesday

Michael

How are you placed at 12 pm tomorrow Tuesday at Bennett Street office?

Get [Outlook for iOS](#)

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Monday, December 18, 2023 2:25:33 PM  
**To:** Phil McKeiver <phil.mckeiver@fortescue.com>  
**Subject:** Catch up Tuesday

Phil  
Happy to catch up Tuesday 19 if that works

We are still waiting for feedback on NDA

Thanks  
Michael

Michael Masterman

+61418951792

**Daisy Cullen**

---

**Subject:** Fortescue Meeting | Phil & Michael Masterman  
**Location:** 6 Bennett St; [ FFI Office G - PNG - 8 - AV ]

**Start:** Tue 19/12/2023 5:00 PM  
**End:** Tue 19/12/2023 5:30 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Organizer:** Phil McKeiver

Morning Michael

Further to your emails with Phil, please find meeting invitation for today.

Kind regards

**Jo Free**

Legal

**Fortescue**

Ground Floor, 6 Bennett Street, East Perth WA 6004

+61 8 6218 8888 | +61 418 842 587

[joanne.free@fortescue.com](mailto:joanne.free@fortescue.com)

[fortescue.com](http://fortescue.com)



**Daisy Cullen**

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Thursday, 23 November 2023 1:21 PM  
**To:** Andrew Hamilton  
**Subject:** NDA For FMG and North WA Iron  
**Attachments:** 20231023 - NWA I FMG NDA.docx

Andrew

Good to talk yesterday.

As long promised attached is a draft two way NDA between FMG and North WA Iron to cover technical exchanges.

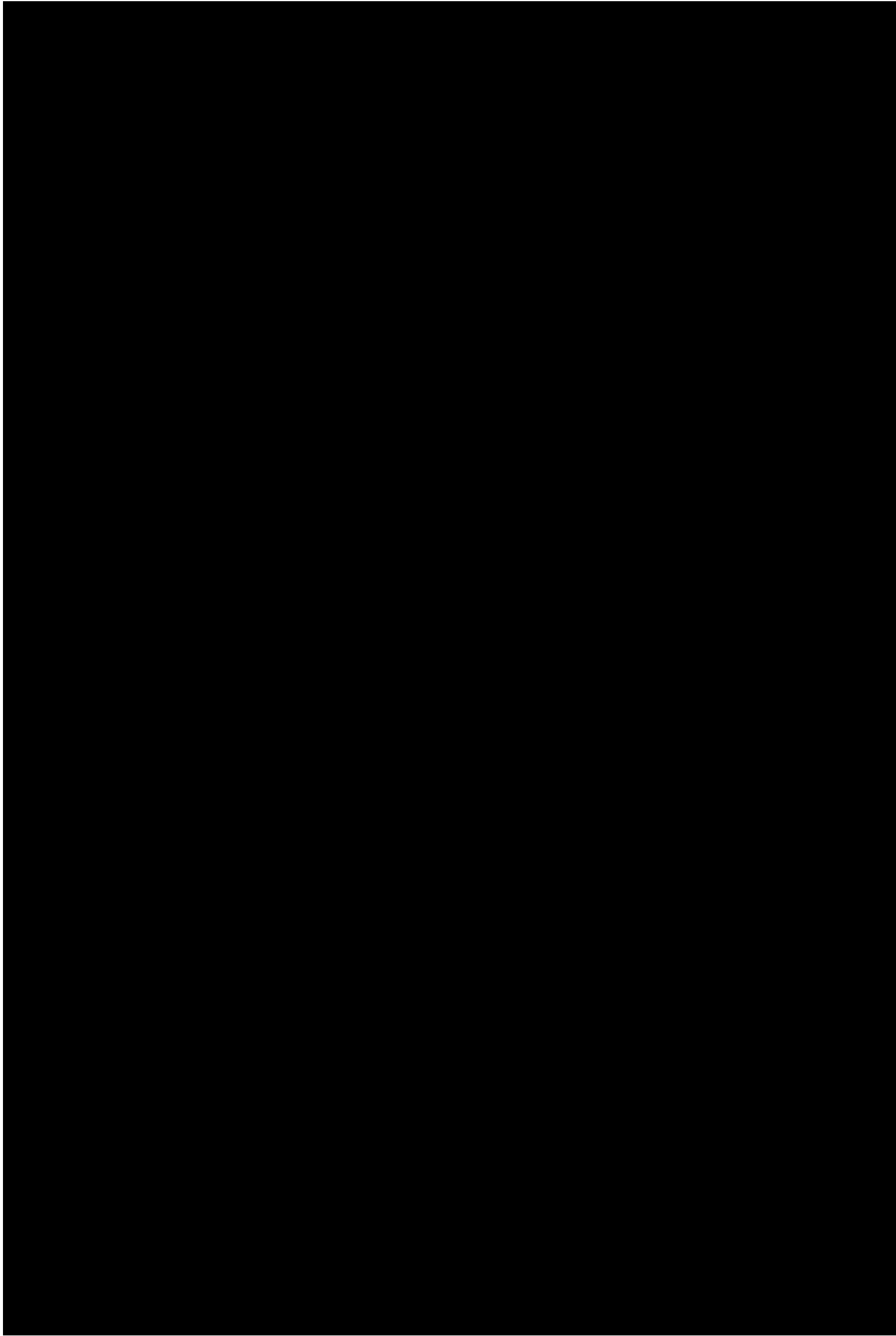
Look forward to giving you an update briefing

Best Regards

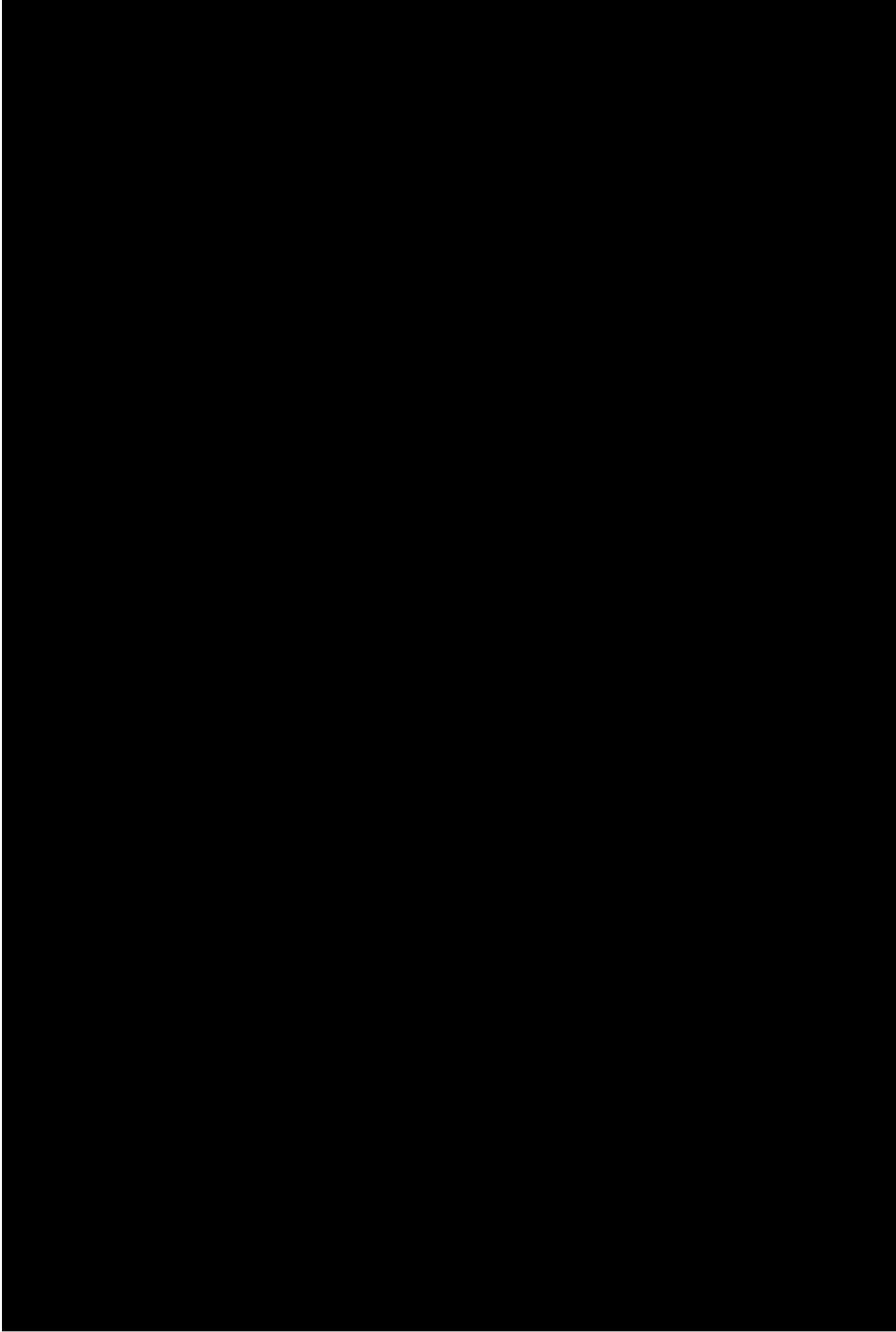
Michael

--

Michael Masterman  
+61418951792  
+447791288381







**Daisy Cullen**

---

**From:** Andrew Hamilton <andrew.g.hamilton@fortescue.com>  
**Sent:** Friday, 12 January 2024 5:33 PM  
**To:** Michael Masterman; Andrew Hamilton  
**Subject:** Re: NDA

Hi Michael

On leave until 16th ... will follow up then...

Thanks

Andrew

Get [Outlook for iOS](#)

---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Thursday, January 11, 2024 3:33:22 PM  
**To:** Andrew Hamilton <ahamilton@fmgl.com.au>  
**Subject:** NDA

Andrew  
Happy new year

Any progress on the NDA we sent last year.

When I met with Phil, the external lawyer on the VC indicated it was complete and ready to send to us? Could you kindly follow up.

Michael

--

Michael Masterman  
+61418951792  
+447791288381

**From:** [Adrian Huber](#)  
**To:** [mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)  
**Cc:** [Phil McKeiver](#); [Andrew Hamilton](#)  
**Subject:** RE: Fortescue Meeting | Phil & Michael Masterman  
**Date:** Friday, 12 January 2024 1:03:26 PM  
**Attachments:** [image001.png](#)  
[NDA - Fortescue - Element Zero.docx](#)

---

Hi Michael

Further to Phil's e-mail below, please find **attached** an NDA we have prepared. We have a preference for using a short-form NDA.

We look forward to receiving a signed copy in due course and meeting with your technical team to discuss these matters further.

Kind regards,

Adrian

---

**From:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Sent:** Thursday, January 11, 2024 6:02 PM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Cc:** Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; Adrian Huber <[adrian.huber@fortescue.com](mailto:adrian.huber@fortescue.com)>  
**Subject:** RE: Fortescue Meeting | Phil & Michael Masterman

Thanks for reaching out on this, Michael.

I have a catch up with Adrian tomorrow and we should be able to get an NDA over to you by tomorrow.

Regards

**Phil McKeiver**

Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]

[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

[fortescue.com](https://www.fortescue.com)



---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Thursday, January 11, 2024 3:49 PM  
**To:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>

**Cc:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>

**Subject:** Re: Fortescue Meeting | Phil & Michael Masterman

Phil

Hope you are well and happy 2024.

When we met in December and you had the external lawyer Paul on the VC, Paul indicated that the NDA was reviewed and ready to send to me. We have not received anything - could you send through.

On the other issue you raised - we checked our emails and correspondence. I have never met or emailed Tania from ARENA. A colleague had some minimal communication with Tania on our grant application. We have never asked her or any ARENA officer about any FFI grant. It is possible in the early FFI days when employed at FFI that I may have participated in a VC conference that Tania attended but I do not recall.

I do know Darren Miller well and catch up from time to time with him. I have asked him for an update a few times on some of our grant applications - never Fortescue. He clearly knows I left Fortescue in 2023..

Regards

Michael Masterman

On Tue, Dec 19, 2023 at 5:00 PM Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)> wrote:

Morning Michael

Further to your emails with Phil, please find meeting invitation for today.

Kind regards

**Jo Free**

Legal

**Fortescue**

Ground Floor, 6 Bennett Street, East Perth WA 6004

+61 8 6218 8888 | +61 418 842 587

[joanne.free@fortescue.com](mailto:joanne.free@fortescue.com)

[fortescue.com](http://fortescue.com)



---

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---

--

Michael Masterman

+61418951792

+447791288381

**From:** [Michael Masterman](#)  
**To:** [Katelin Bettella](#)  
**Cc:** [Phil McKeiver](#); [John Paul Olivier](#); [Andrew Hamilton](#); [Dino Otranto](#)  
**Subject:** Re: Catch up  
**Date:** Thursday, 18 January 2024 7:50:05 PM  
**Attachments:** [image001.png](#)

---

Thanks Katelin and great to get the feedback.

Andrew Hamilton has penciled in a technical meeting for Wednesday - so all in order.

Hope Dino has a fantastic holiday

Michael

Sent from [Outlook for iOS](#)

---

**From:** Katelin Bettella <[katelin.bettella@fortescue.com](mailto:katelin.bettella@fortescue.com)>  
**Sent:** Wednesday, January 17, 2024 3:38:47 PM  
**To:** [mgmasterman@gmail.com](mailto:mgmasterman@gmail.com) <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Cc:** [Phil McKeiver](mailto:phil.mckeiver@fortescue.com) <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; [John Paul Olivier](mailto:johnpaul.olivier@fortescue.com) <[johnpaul.olivier@fortescue.com](mailto:johnpaul.olivier@fortescue.com)>; [Andrew Hamilton](mailto:andrew.g.hamilton@fortescue.com) <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; [Dino Otranto](mailto:dino.otranto@fortescue.com) <[dino.otranto@fortescue.com](mailto:dino.otranto@fortescue.com)>  
**Subject:** RE: Catch up

Hi Michael,

Thank you for reaching out to Dino, he is currently travelling therefore has asked that I respond on his behalf with the request for you to meet with JP Oliver, Andrew Hamilton and Phil McKeiver to discuss in his absence.

It is important to us that we schedule this meeting as soon as possible.

I have cc'd them in so you can connect directly.

Regards,

**Katelin Bettella**  
Executive Assistant | Chief Executive Officer Metals – Dino Otranto

Fortescue Metals Group Ltd  
Level 2, 87 Adelaide Terrace East Perth WA 6004

**M:** +61 437 736 [REDACTED]  
**E:** [katelin.bettella@fortescue.com](mailto:katelin.bettella@fortescue.com)  
**Twitter:** @FortescueNews | [www.fmg.com.au](http://www.fmg.com.au)



---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>

**Sent:** Monday, January 15, 2024 2:54 PM

**To:** Dino Otranto <[dino.otranto@fmgl.com.au](mailto:dino.otranto@fmgl.com.au)>; Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>

**Subject:** Catch up

Dino, Andrew H

Happy New Year to both of you

Looking forward to a great year for Fortescue metals!

Be great to brief both of you on the climate tech we have advanced for converting iron ore and nickel or to Iron and Nickel

As Andrew H knows it's is very different from the Fortescue tech but always good to have cable commercial tech options on the table.

Let me know when is a good time to update you guys

Michael

Michael Masterman  
+61418951792

**From:** [Phil McKeiver](#)  
**To:** [Michael Masterman](#); [Andrew Hamilton](#)  
**Cc:** [John Paul Olivier](#); [katrina@ipko.com.au](#)  
**Subject:** RE: Briefing on New Iron ore technology  
**Date:** Thursday, 18 January 2024 3:56:27 PM  
**Attachments:** [image001.png](#)

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Thank you for your messages, Michael. I didn't appreciate you were in transit.

**Phil McKeiver**

Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]

[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

[fortescue.com](http://fortescue.com)



---

**From:** Michael Masterman <mgmasterman@gmail.com>  
**Sent:** Thursday, January 18, 2024 12:45 PM  
**To:** Phil McKeiver <phil.mckeiver@fortescue.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>  
**Cc:** John Paul Olivier <johnpaul.olivier@fortescue.com>; katrina@ipko.com.au  
**Subject:** Re: Briefing on New Iron ore technology

Phil

I got your text message - as mentioned I am in flight

Phil - we are doing exactly what we agreed - getting the NDA sorted which we have been trying to do for over 3 months and scheduling a technical meeting so we can quickly provide comfort and technical understanding. It's all on track.

I am in flight today - if you need to talk to someone familiar with the IP please call Katrina O'leary on +61 408 334 277. Katrina (copied) has some constructive suggestions.

Given we need the constructive technical discussion first and I agree asap - be great if you can outline the aim of you and I speaking?

We are being proactive, agreeable and responsive.

Michael



Michael Masterman  
+61418951792

---

**From:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Sent:** Thursday, January 18, 2024 10:21:14 AM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>  
**Cc:** John Paul Olivier <[johnpaul.olivier@fortescue.com](mailto:johnpaul.olivier@fortescue.com)>  
**Subject:** RE: Briefing on New Iron ore technology

Thanks Michael and Andrew. I will call you this morning Michael.

**Phil McKeiver**  
Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]  
[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

[fortescue.com](http://fortescue.com)



---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Thursday, January 18, 2024 10:19 AM  
**To:** Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Subject:** Re: Briefing on New Iron ore technology

Thanks Andrew

Agreed for meeting time and as you note subject to NDA being in place.

We found a new one that Adrian had sent through I think this week in the junk mail. It has different parties and a different purpose than the one we sent in November. Our lawyers are reviewing the two documents and will revert.

Michael

Michael Masterman  
+61418951792

---

**From:** Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>  
**Sent:** Thursday, January 18, 2024 9:35:37 AM  
**To:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Subject:** RE: Briefing on New Iron ore technology

Phil

Michael and I have organised a “technical discussion”, booked for Wednesday 24<sup>th</sup> January '24 (Bennet Street office).....**SUBJECT to, an NDA being in place.**

Michael (his legal team), has some concerns with NDA supplied, but will discuss with “you” directly.

Thanks

Andrew

0409 176 [REDACTED]

---

**From:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Sent:** Wednesday, January 17, 2024 10:12 AM  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; Dino Otranto <[dino.otranto@fortescue.com](mailto:dino.otranto@fortescue.com)>  
**Subject:** RE: Briefing on New Iron ore technology

Thanks Michael. If you could send the signed NDA it would be appreciated.

**Phil McKeiver**

Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]

[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

[fortescue.com](http://fortescue.com)



---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Wednesday, January 17, 2024 10:01 AM  
**To:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; Dino Otranto <[dino.otranto@fortescue.com](mailto:dino.otranto@fortescue.com)>  
**Subject:** Re: Briefing on New Iron ore technology

Phil

We met before Christmas and I understood covered cleanly the issues you raised. Your external lawyer said he had the mark ups on the draft of the NDA we sent in November and would send through within a day. This did not happen.

We agreed that I would meet with Andrew Hamilton when he returned from holidays (which was yesterday) and we will do so. I sent Andrew an email Monday.

I have no requests for a new meeting with you.

Michael

Michael Masterman  
+61418951792

---

**From:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Sent:** Wednesday, January 17, 2024 9:48 am  
**To:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>; Dino Otranto <[dino.otranto@fortescue.com](mailto:dino.otranto@fortescue.com)>  
**Subject:** RE: Briefing on New Iron ore technology

Thanks Michael.

Further to my call and text today, please call me today to schedule the meeting which we have been trying to get into the diary for several weeks now.

Please also return the signed NDA that we recently sent so that we can progress our discussions.

Regards

**Phil McKeiver**

Legal

**Fortescue**

+61 8 6218 8888 | +61 458 558 [REDACTED]

[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)

[fortescue.com](http://fortescue.com)



---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Wednesday, January 17, 2024 9:28 AM  
**To:** Andrew Hamilton <[ahamilton@fmgl.com.au](mailto:ahamilton@fmgl.com.au)>; Dino Otranto <[dino.otranto@fmgl.com.au](mailto:dino.otranto@fmgl.com.au)>  
**Cc:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>  
**Subject:** Briefing on New Iron ore technology

Dino, Andrew Hamilton

Be great to catch up and schedule a meeting to talk through the next generation mineral processing technology we have been working on. It allows metal ores such as Nickel and Iron Ore to be converted efficiently to metal.

The technology is completely different from the FFI LTE tech and H2 DRI.

I have kept Andrew Forrest generally updated and let him know that I would follow up with you guys.

Michael

Michael Masterman  
+61418951792

**From:** [Adrian Huber](#)  
**To:** [Katrina O'Leary](#); <mailto:mgmasterman@gmail.com>  
**Cc:** [Phil McKeiver](#); [Andrew Bartlett](#); [Andrew Hamilton](#)  
**Subject:** RE: Revised NDA  
**Date:** Tuesday, 23 January 2024 7:26:25 PM  
**Attachments:** [image001.png](#)  
[EZ - FMG NDA \(23 01 24\) - Signed PMcK.pdf](#)

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Hi Katrina

Thank you and please find **attached** our executed counterpart.

And your assumption is correct: no legal representatives will be joining tomorrow's meeting.

We look forward to receiving your executed counterpart(s) shortly.

Kind regards,

Adrian

---

**From:** Katrina O'Leary <[katrina@ipko.com.au](mailto:katrina@ipko.com.au)>  
**Sent:** Tuesday, January 23, 2024 3:36 PM  
**To:** Adrian Huber <[adrian.huber@fortescue.com](mailto:adrian.huber@fortescue.com)>; <mailto:mgmasterman@gmail.com>  
<[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Cc:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; Andrew Bartlett  
<[ABartlett@steinpag.com.au](mailto:ABartlett@steinpag.com.au)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>  
**Subject:** Re: Revised NDA

Hi Adrian,

Thank you for your email, and explanation regarding the appropriate Fortescue entity to enter into the NDA. We have marked up changes to the NDA to more explicitly include related body corporates. We anticipate from your email that these revisions will be acceptable. Just let us know if you have any concerns.

Otherwise, we are comfortable with Fortescue's proposed revisions to the NDA, and the attached marked up version of the NDA has accepted these changes.

A clean copy of the NDA is also attached reflecting all changes. Michael will arrange for a copy of this document to be signed on behalf of North WA Iron Pty Ltd and Element Zero Pty Limited and sent to you today.

We look forward to receipt of a copy of the NDA signed by Fortescue Future Industries International Pty Ltd ahead of the meeting.

In this regard, it is our understanding that tomorrow's meeting will be attended only by technical and operational personnel. That is, we don't anticipate any legal representatives of either party (internal or external) to be present at this initial stage. Please advise if this assumption is incorrect.

Should you have any queries do not hesitate to contact me.

Kind regards,

Katrina

**Katrina O'Leary**

**Ipko Law**

INTELLE©TUAL PROPERTY

+61 408 334 277 [katrina@ipko.com.au](mailto:katrina@ipko.com.au)



On 22/01/2024 6:49 pm, Adrian Huber wrote:

Hi Michael and Katrina

My apologies – I previously attached the version without the name change.  
Please now find **attached**.

Kind regards,

Adrian

---

**From:** Adrian Huber <[adrian.huber@fortescue.com](mailto:adrian.huber@fortescue.com)>

**Sent:** Monday, January 22, 2024 3:41 PM

**To:** <mailto:mgmasterman@gmail.com> <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>; Katrina O'Leary <[Katrina@ipko.com.au](mailto:Katrina@ipko.com.au)>

**Cc:** Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; Andrew Bartlett <[ABartlett@steinpag.com.au](mailto:ABartlett@steinpag.com.au)>; Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>

**Subject:** RE: Revised NDA

Hi Michael and Katrina

Please find **attached** our mark-ups to the proposed NDA.

As a general comment, there were several mechanisms that were simply not applicable nor appropriate for our proposed discussion on Wednesday and so we have simplified the NDA greatly.

The Fortescue party has also changed following alignment with our internal policy.

I'm available tomorrow if Katrina would like to discuss further. Otherwise, we

look forward to your signed counterpart tomorrow.

Finally, we propose that Michael Dolan join the meeting in a technical capacity given his familiarity with the development of our technologies.

Kind regards,

Adrian

---

**From:** Michael Masterman <[mgmasterman@gmail.com](mailto:mgmasterman@gmail.com)>  
**Sent:** Sunday, January 21, 2024 5:02 PM  
**To:** Andrew Hamilton <[andrew.g.hamilton@fortescue.com](mailto:andrew.g.hamilton@fortescue.com)>  
**Cc:** Katrina O'Leary <[Katrina@ipko.com.au](mailto:Katrina@ipko.com.au)>; Phil McKeiver <[phil.mckeiver@fortescue.com](mailto:phil.mckeiver@fortescue.com)>; Adrian Huber <[adrian.huber@fortescue.com](mailto:adrian.huber@fortescue.com)>; Andrew Bartlett <[ABartlett@steinpag.com.au](mailto:ABartlett@steinpag.com.au)>  
**Subject:** Revised NDA

Andrew Hamilton

Hope you have had a good weekend.

Attached is an update of the NDA - we have added both North WA Iron and Element Zero as counterparties.

We have aligned it with purpose that we have discussed - to share our respective iron ore to iron technologies in a constructive way and also enable ongoing testing and feedback on Fortescue iron ore.

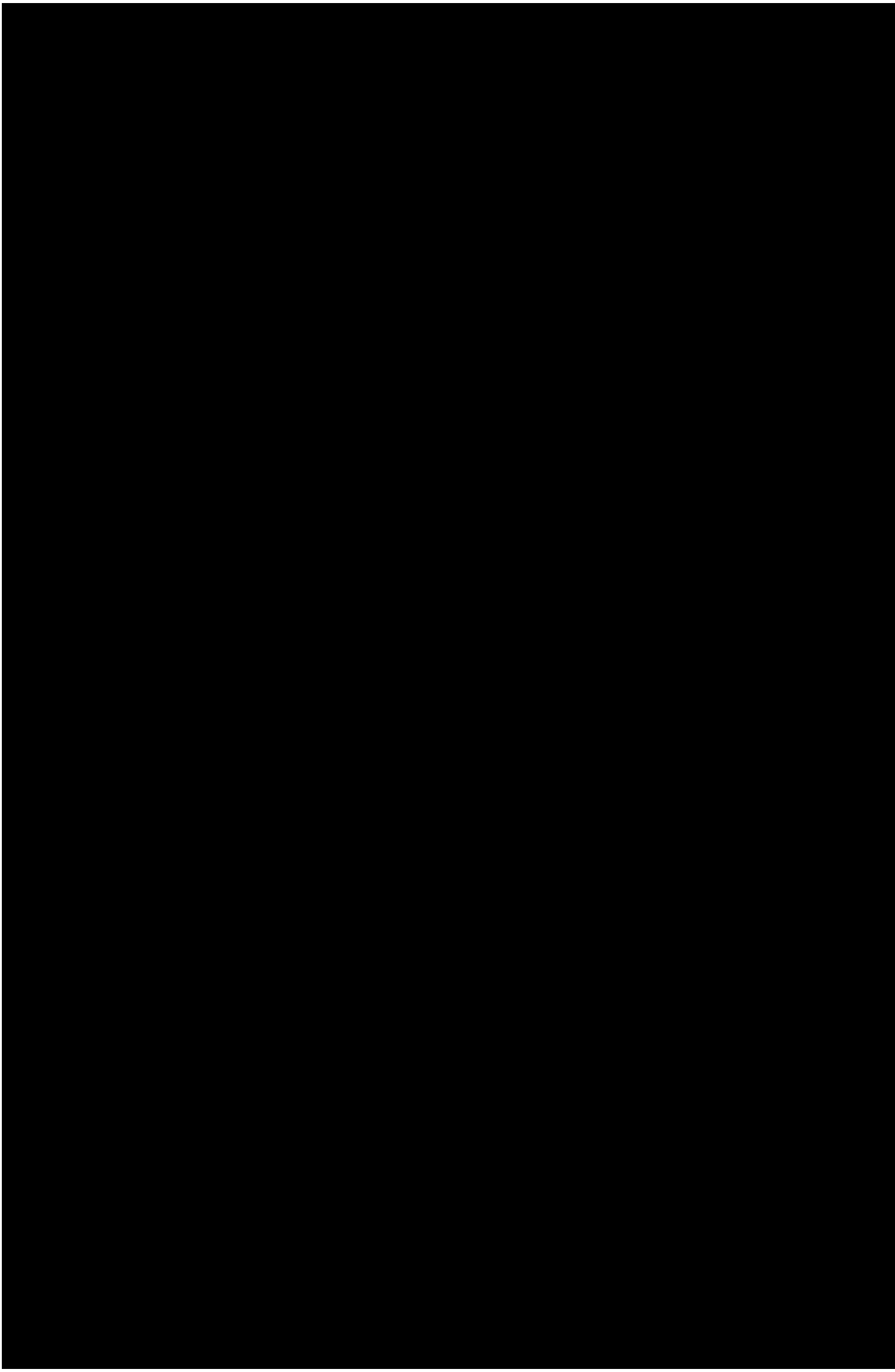
We expect under this NDA there can be open and transparent technical discussion and sharing of documents.

Phil, Adrian

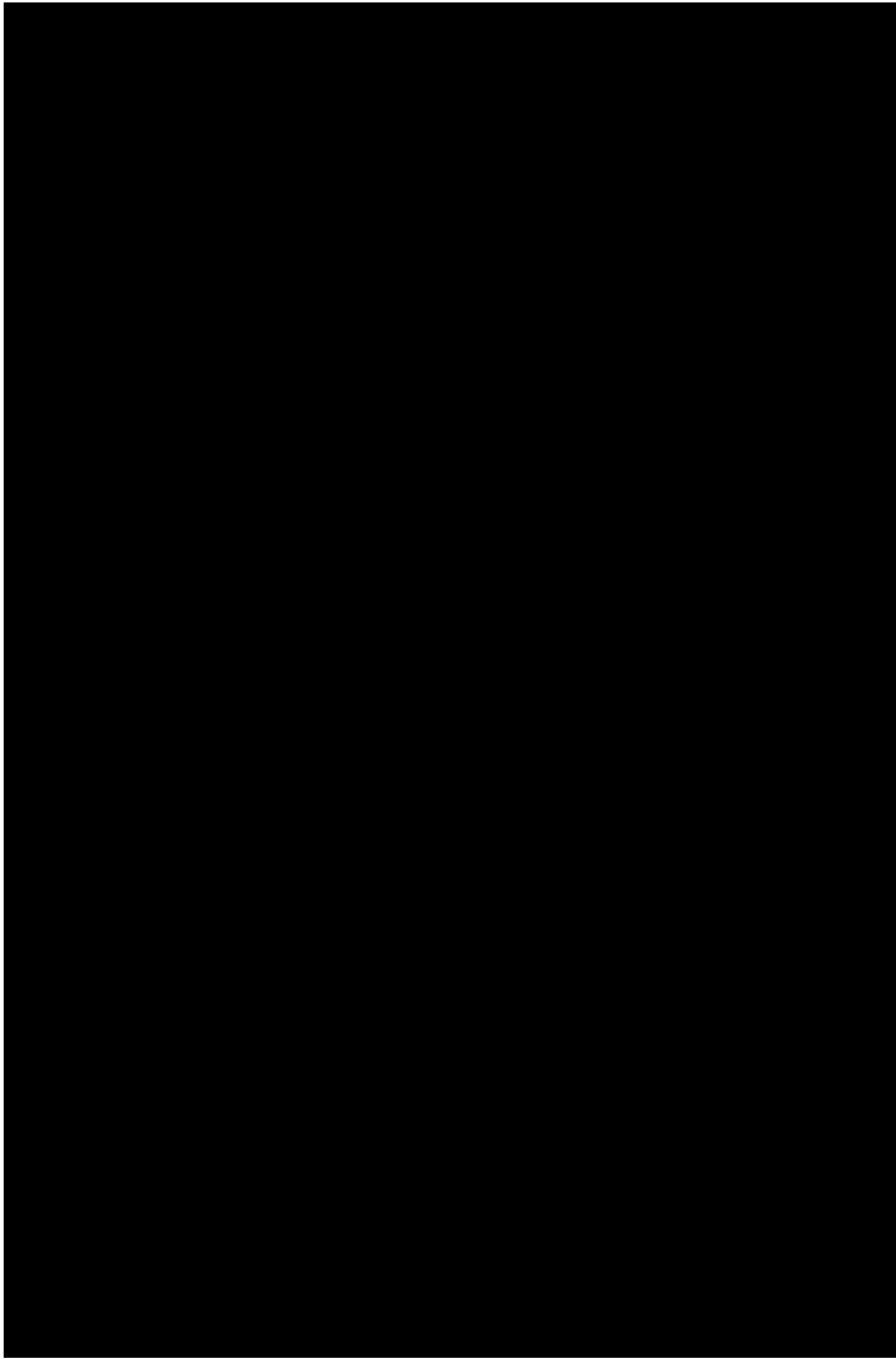
Katrina O'Leary (copied) is our legal advisor on this matter and if you have any suggested edits or modifications to the NDA, Katrina is available to talk directly to you to finalise the agreement.

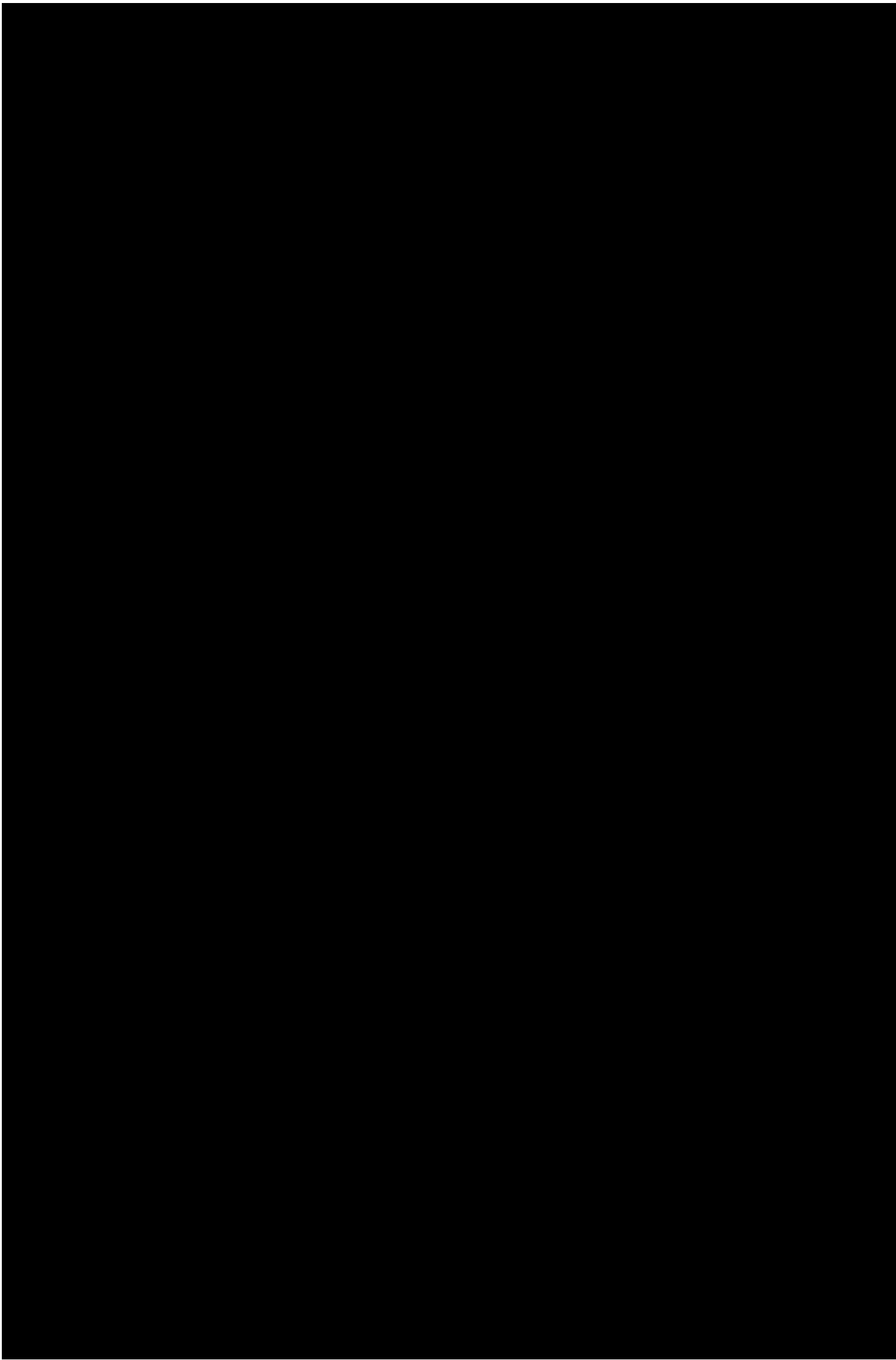
Best Regards

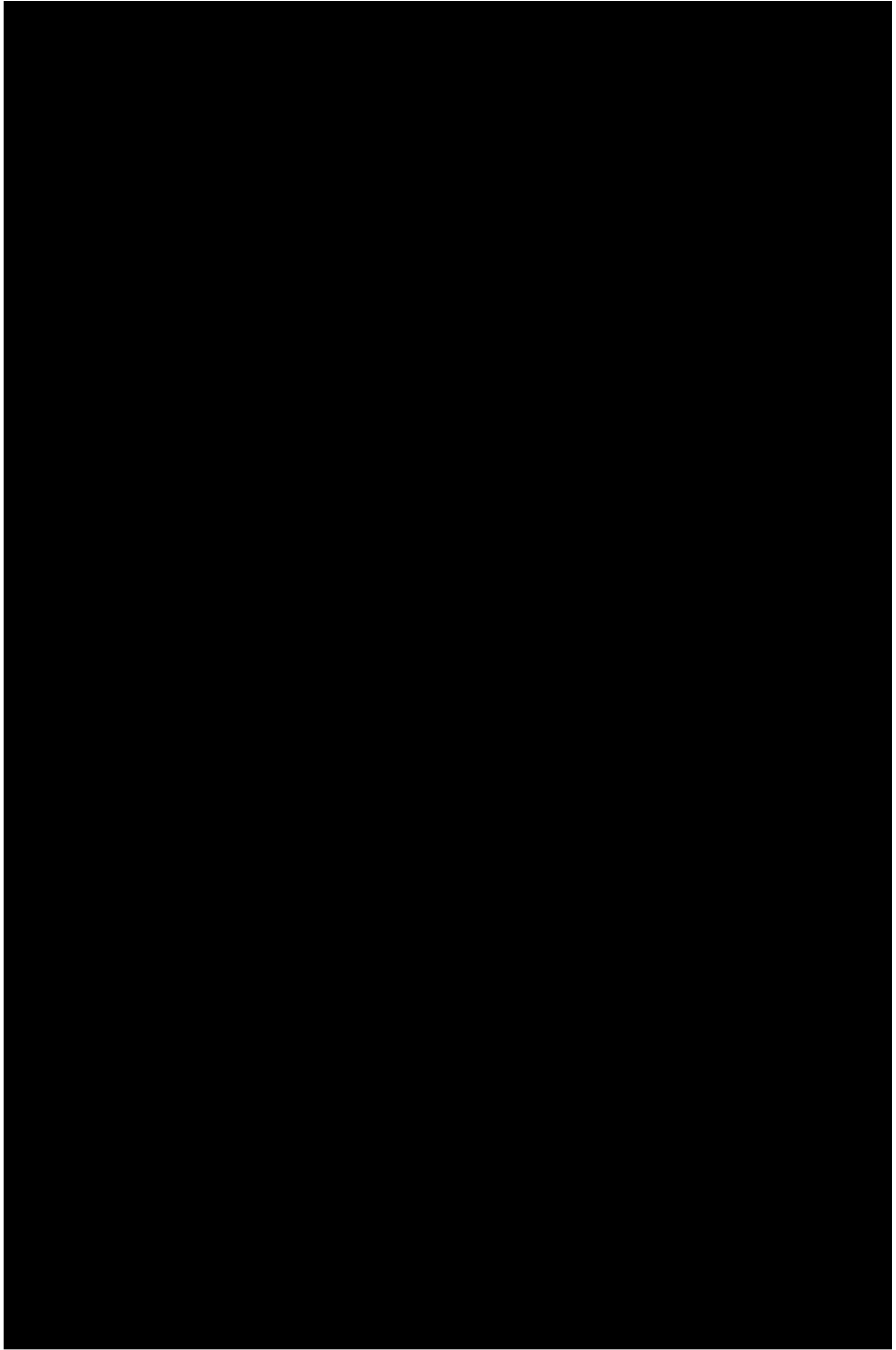
Michael Masterman

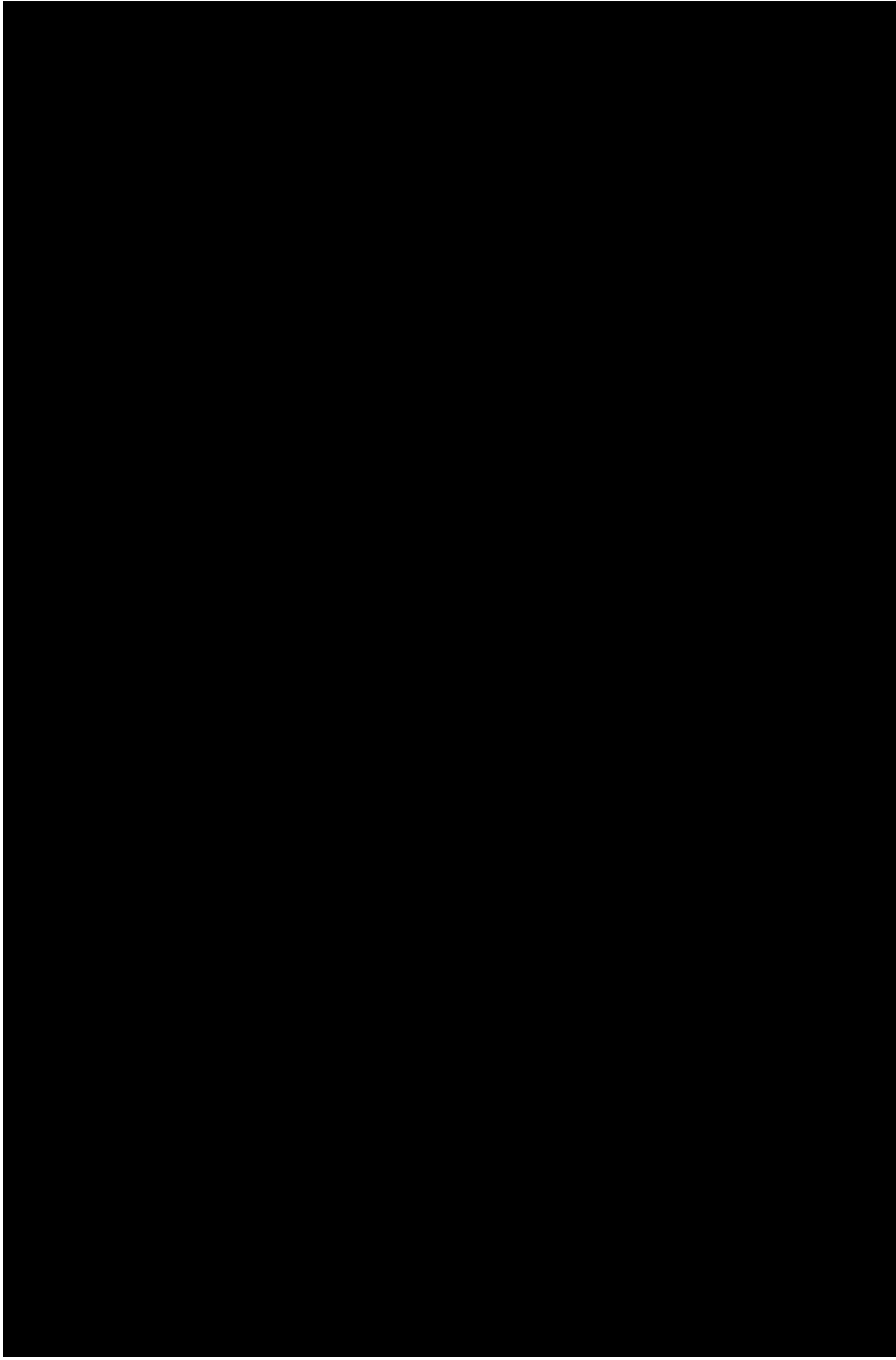


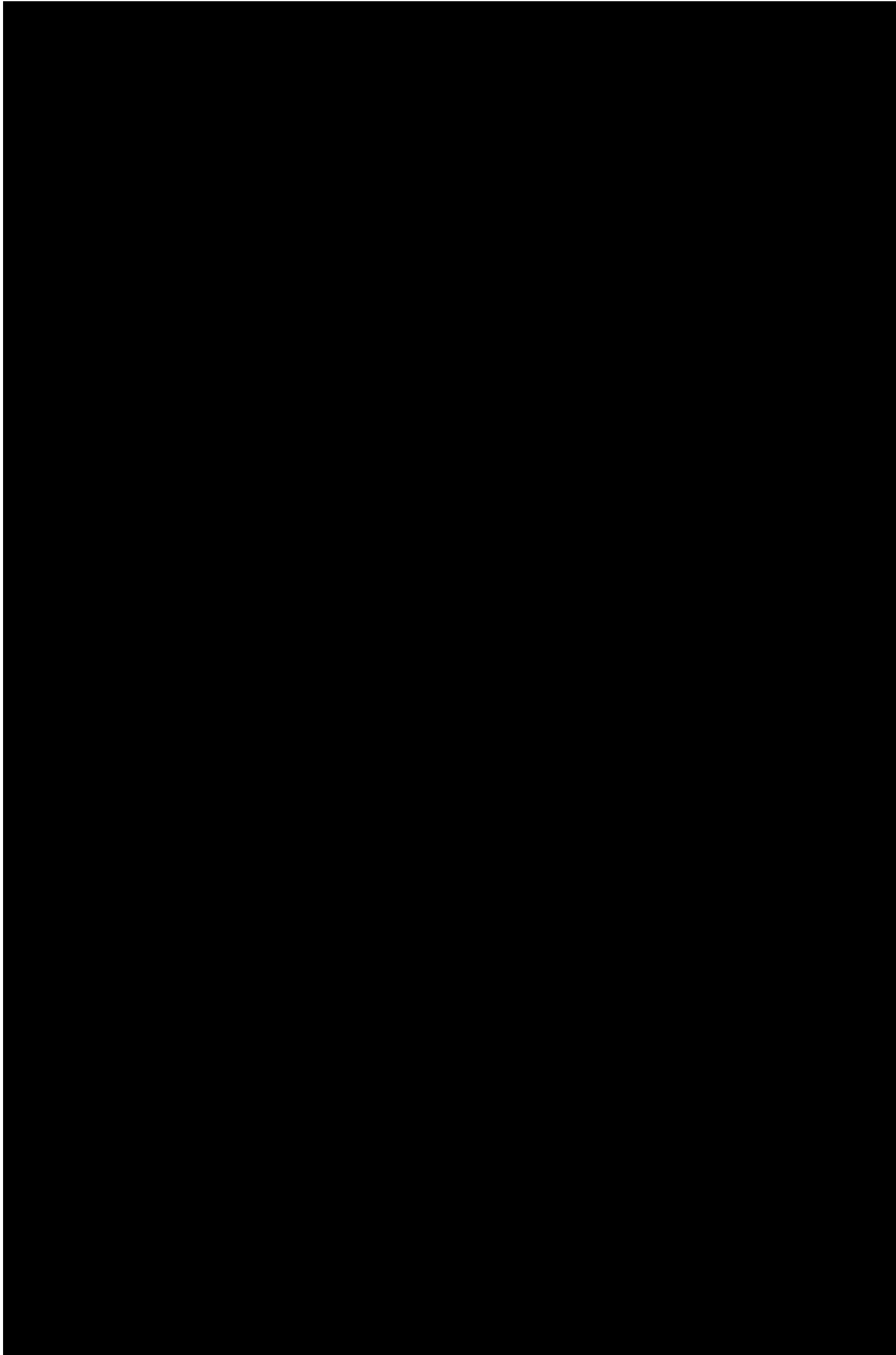


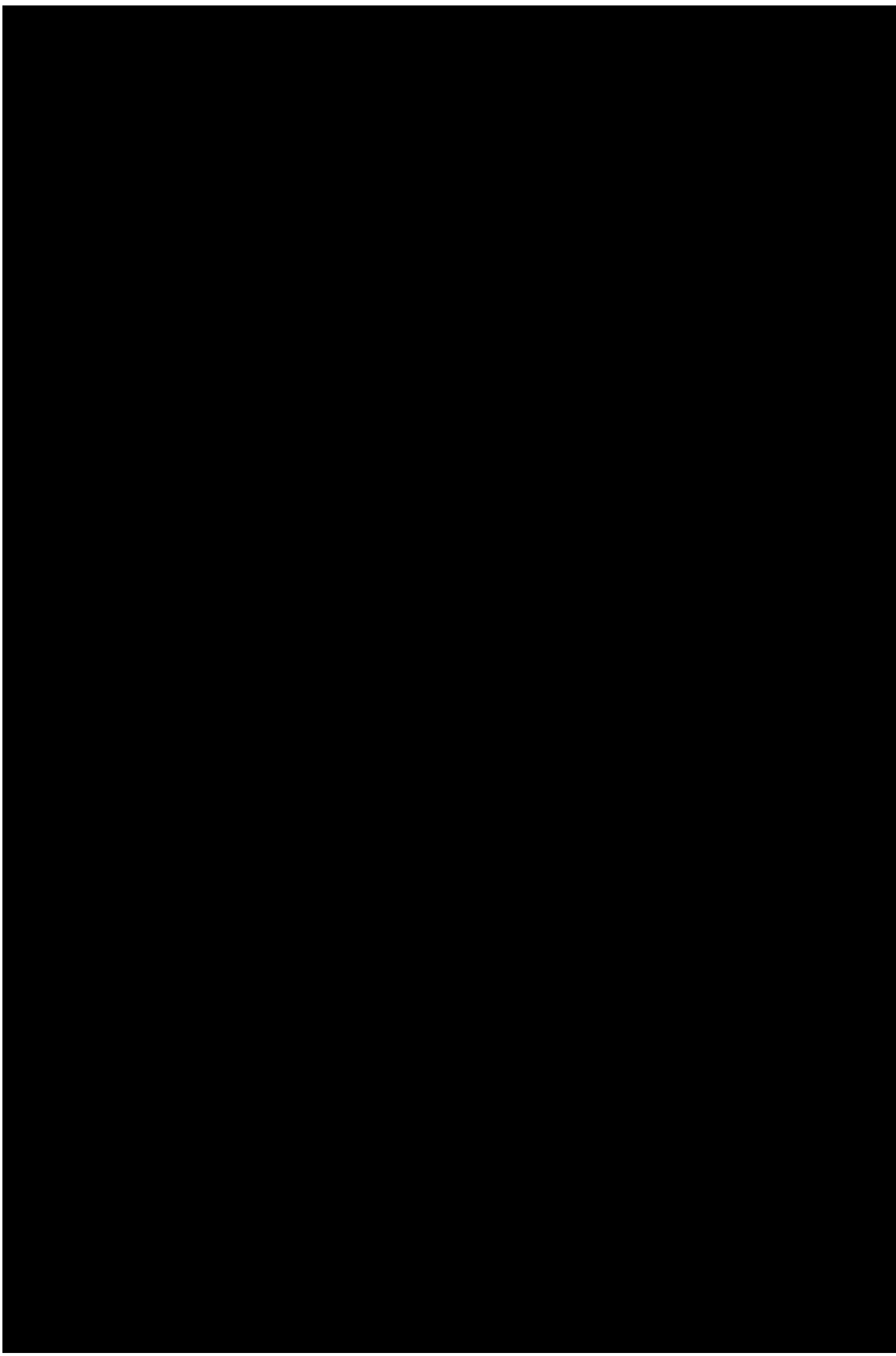


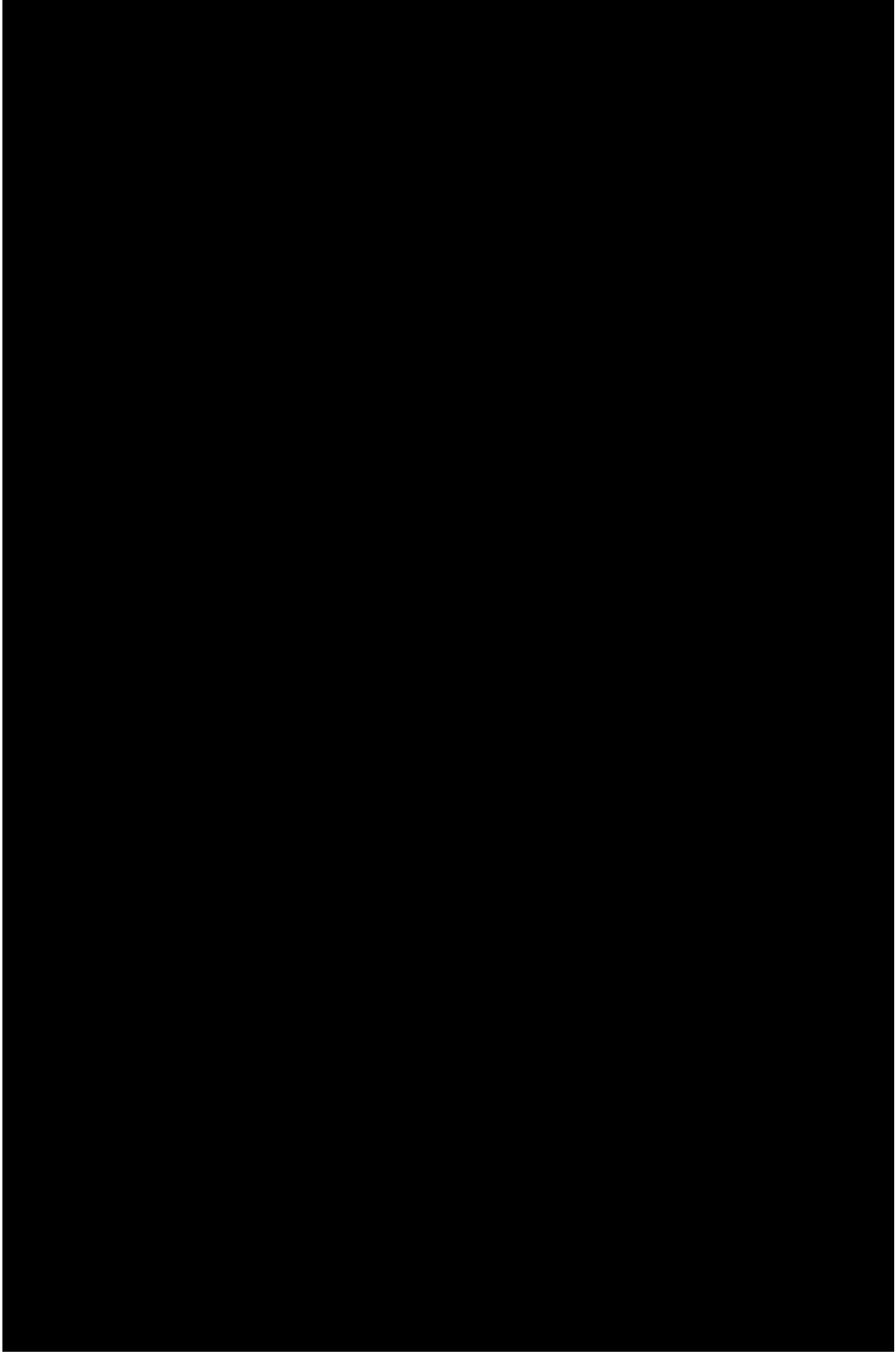


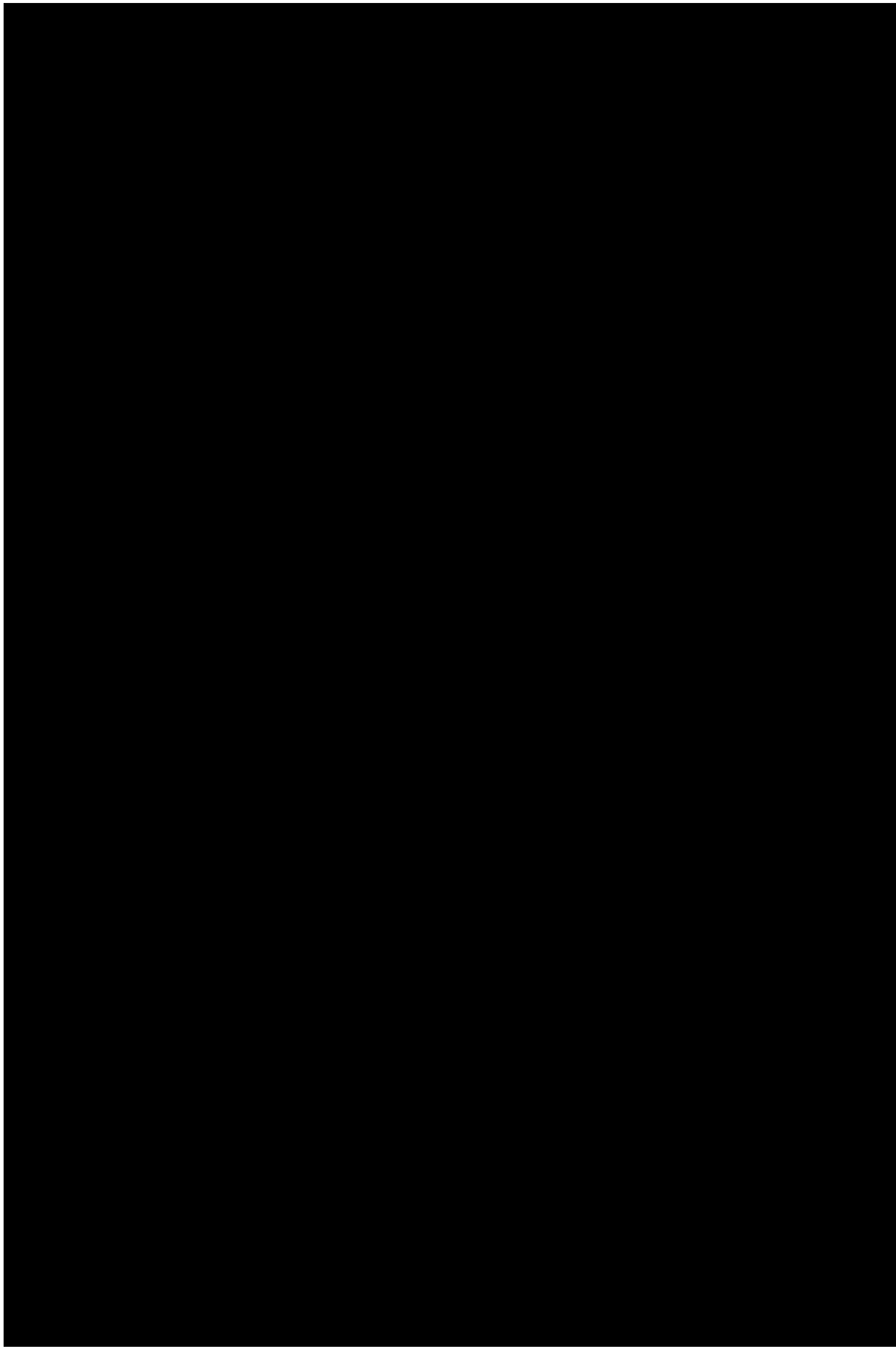




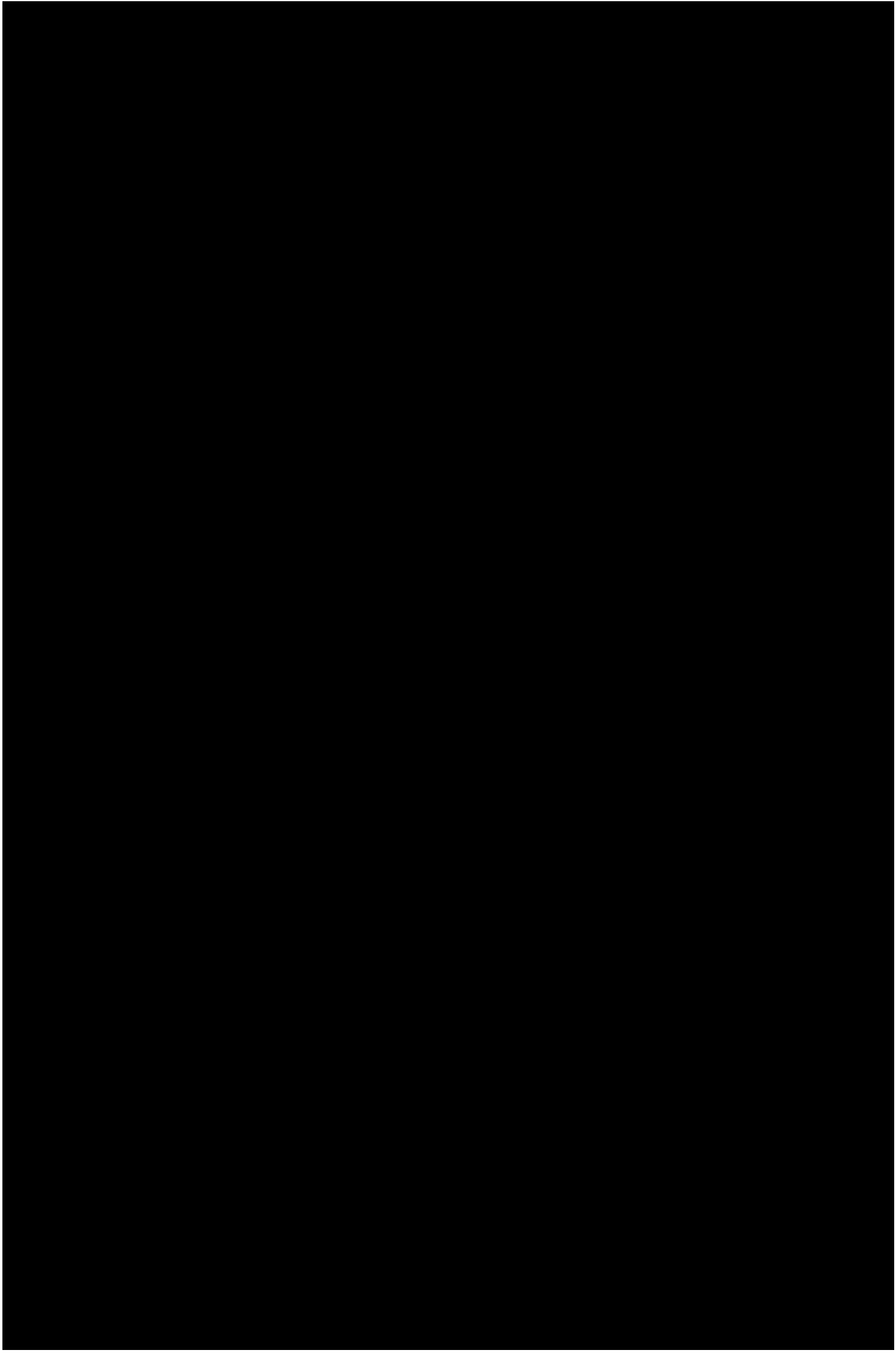


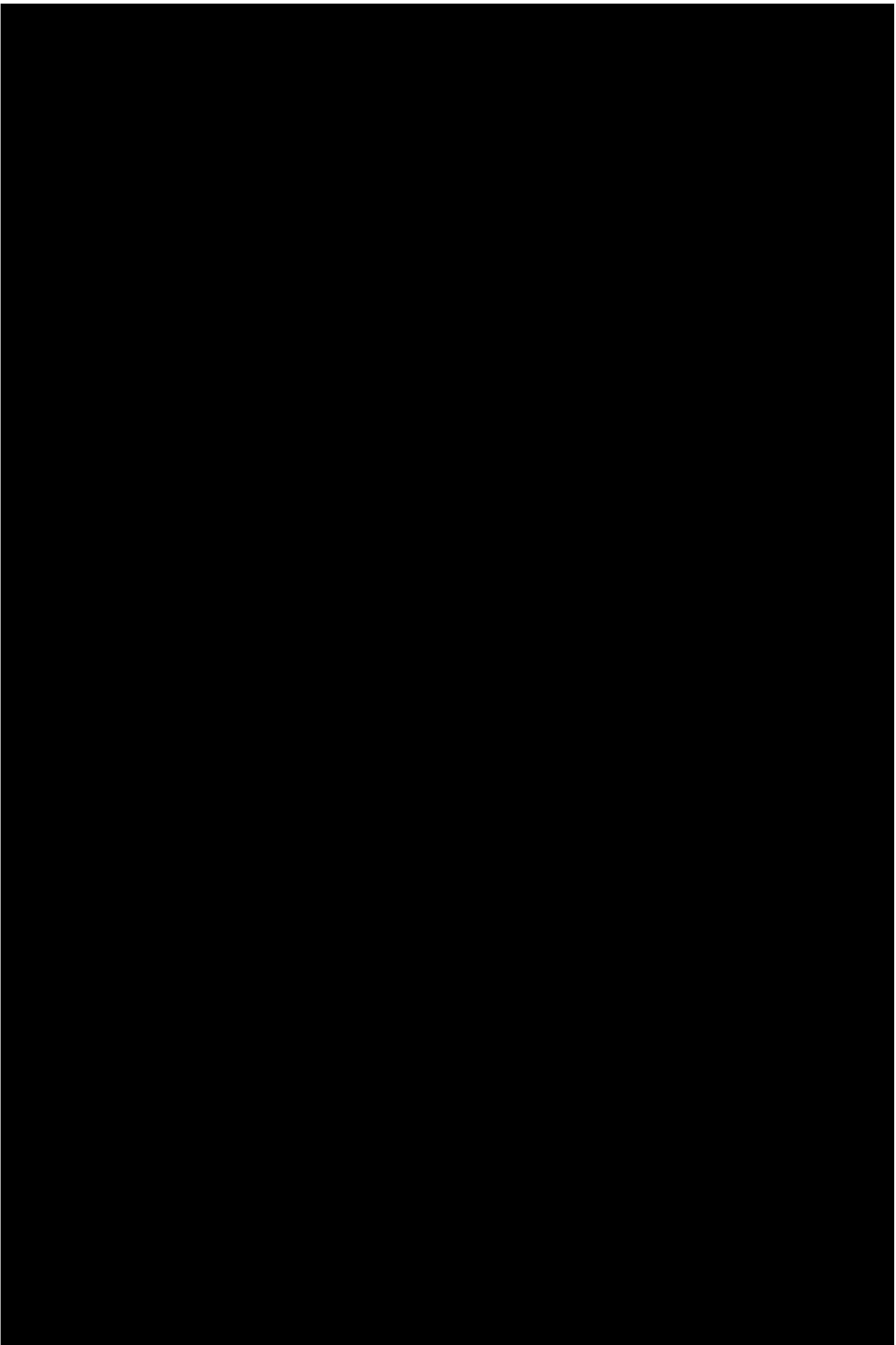


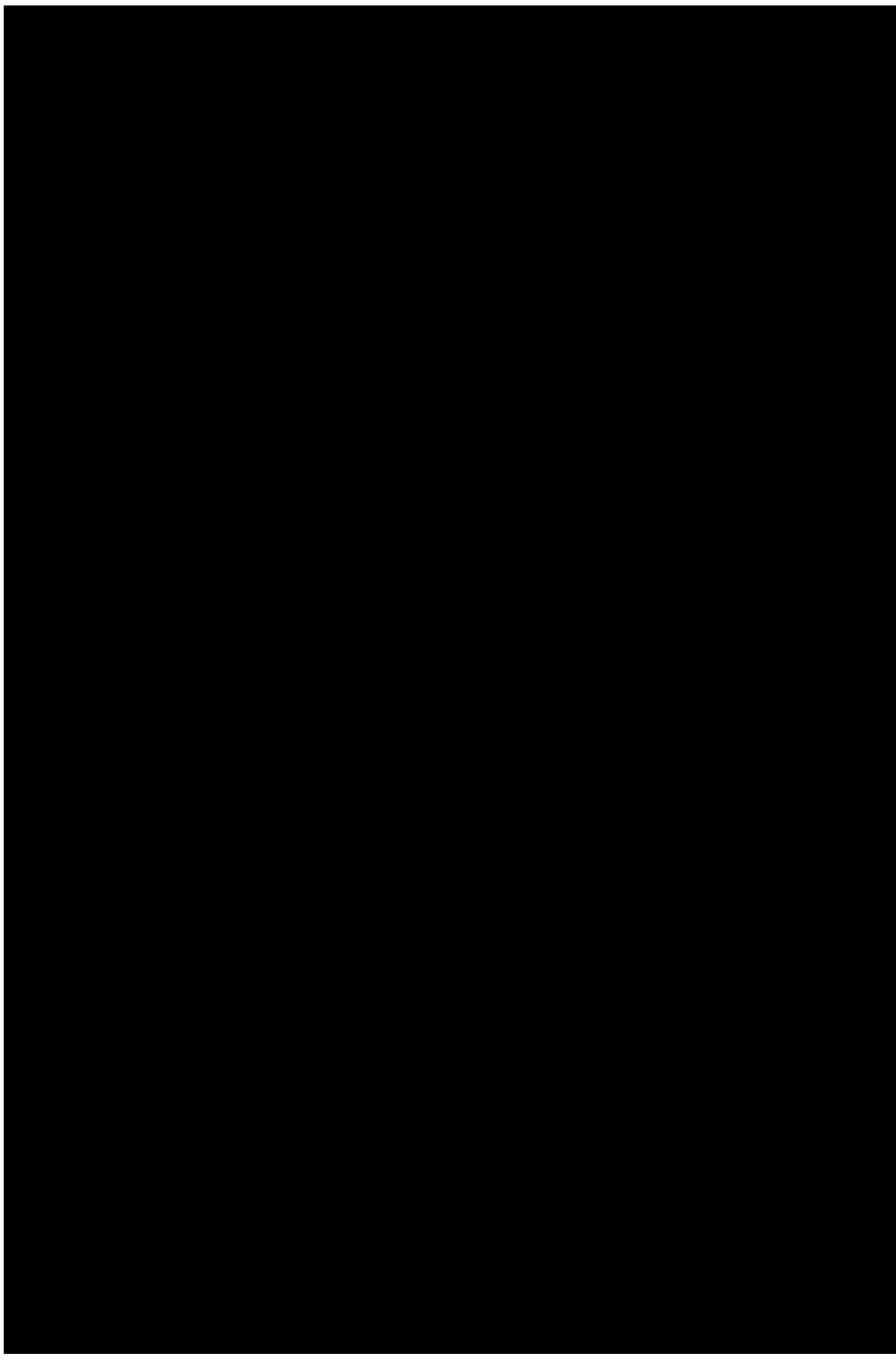


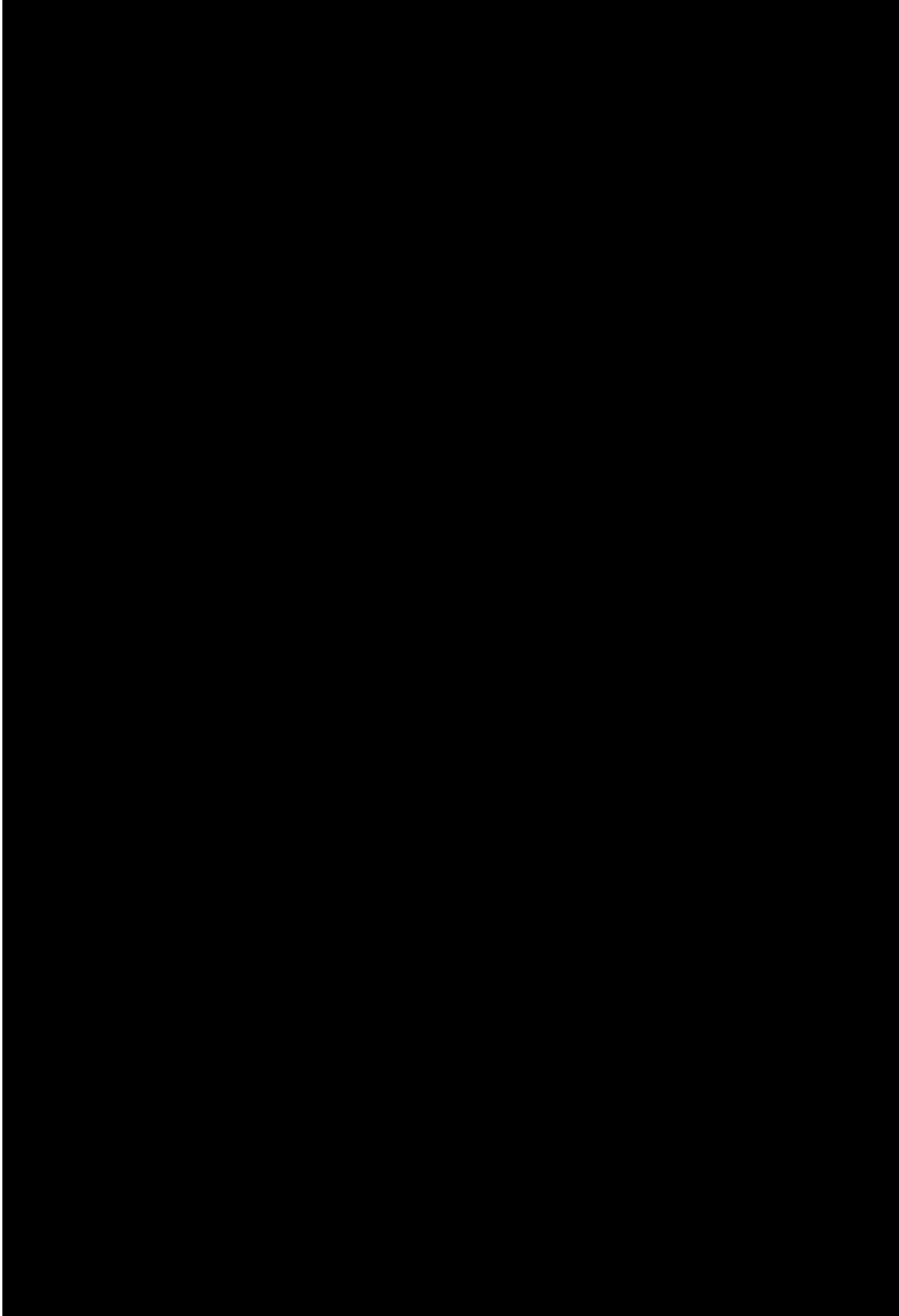












Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and another

Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others

Respondents

**Confidential Exhibit MGM-2**

This is the confidential exhibit referred to as "**Confidential Exhibit MGM-2**" in the Affidavit of **Michael George Masterman** sworn before me on 20 June 2024.



.....  
Signature of witness

Name: *Amelia Anne Gough Cooper*

Level 35 Tower Two  
International Towers Sydney  
200 Barangaroo Avenue  
Barangaroo NSW 2000  
Solicitor

Filed on behalf of (name & role of party)	<u><i>The First, Second and Fourth Respondents</i></u>		
Prepared by (name of person/lawyer)	<u><i>Michael John Williams, Partner</i></u>		
Law firm (if applicable)	<u><i>Gilbert + Tobin</i></u>		
Tel	<u><i>(02) 9263 4271</i></u>	Fax	<u><i>(02) 9263 4111</i></u>
Email	<u><i>mwilliams@gtlaw.com.au</i></u>		
<b>Address for service</b>	Level 35, International Tower Two		
(include state and postcode)	<u><i>200 Barangaroo Avenue, Barangaroo NSW 2000</i></u>		

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and another

Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others

Respondents

**Confidential Exhibit MGM-3**

This is the confidential exhibit referred to as "**Confidential Exhibit MGM-3**" in the Affidavit of **Michael George Masterman** sworn before me on 20 June 2024.



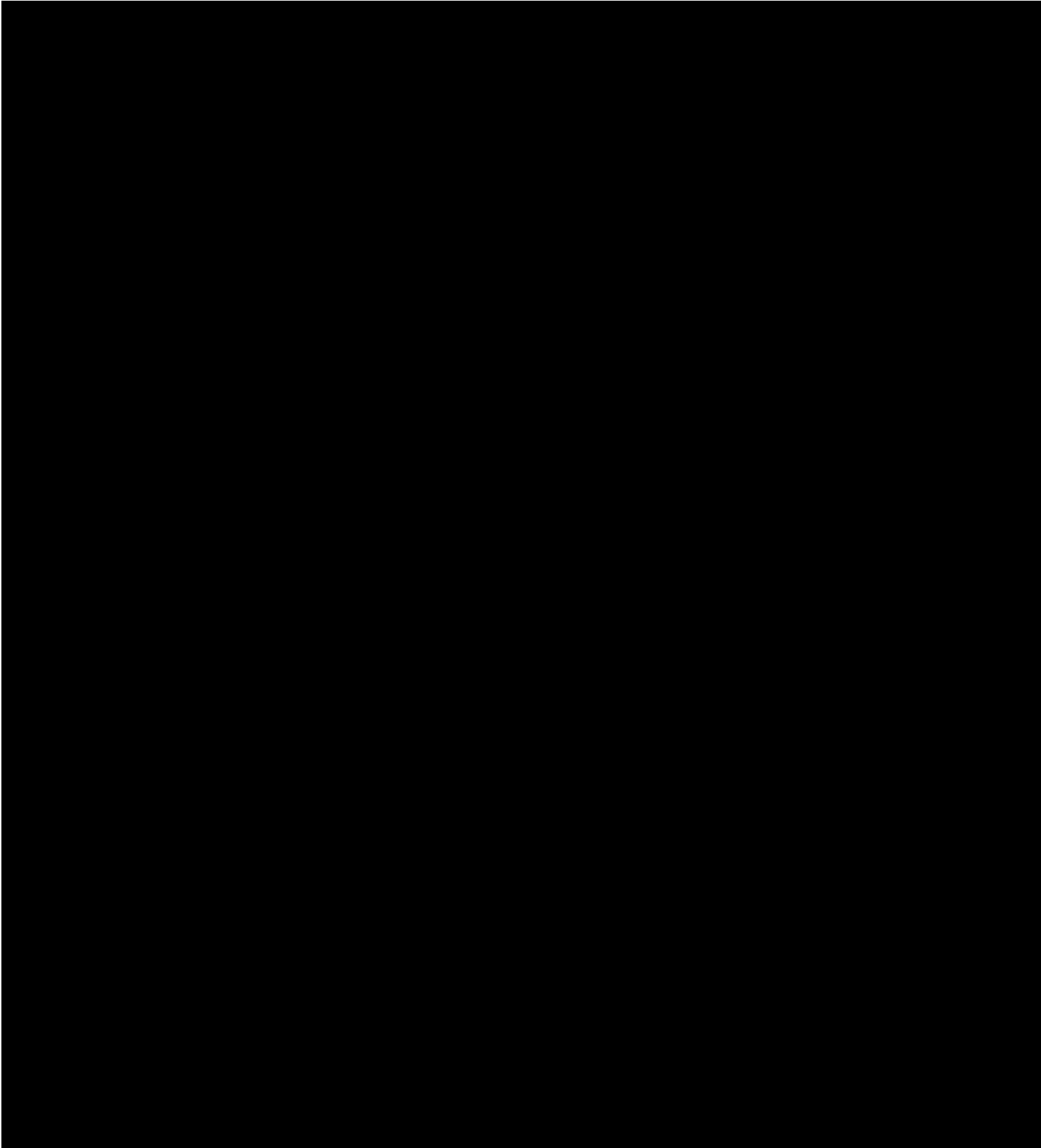
Signature of witness

Name: *Amelia Anne Gough Cooper*

Level 35 Tower Two  
International Towers Sydney  
200 Barangaroo Avenue  
Barangaroo NSW 2000  
Solicitor

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Filed on behalf of (name & role of party) *The First, Second and Fourth Respondents*  
Prepared by (name of person/lawyer) *Michael John Williams, Partner*  
Law firm (if applicable) *Gilbert + Tobin*  
Tel *(02) 9263 4271* Fax *(02) 9263 4111*  
Email *mwilliams@gtlaw.com.au*  
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(include state and postcode) *200 Barangaroo Avenue, Barangaroo NSW 2000*



Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and another

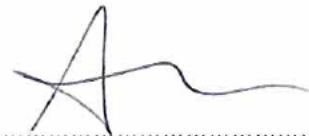
Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others

Respondents

**Confidential Exhibit MGM-4**

This is the confidential exhibit referred to as "**Confidential Exhibit MGM-4**" in the Affidavit of **Michael George Masterman** sworn before me on 20 June 2024.



Signature of witness

Name: *Amelia Anne Gayle Cooper*

Level 35 Tower Two  
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200 Barangaroo Avenue  
Barangaroo NSW 2000  
Solicitor

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Filed on behalf of (name & role of party) The First, Second and Fourth Respondents  
Prepared by (name of person/lawyer) Michael John Williams, Partner  
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