

NOTICE OF FILING

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A handwritten signature in blue ink that reads "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.

The date of the filing of the document is determined pursuant to the Court's Rules.



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 (currently described in the proceeding by the pseudonym QFM1) and another
Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 (currently described in the proceeding by the pseudonym RAB1) and others
Respondents

Affidavit of: **Michael John Williams**
Address: Level 35, International Tower Two, 200 Barangaroo Avenue
Barangaroo NSW 2000
Occupation: Solicitor
Date: 29 May 2024

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Filed on behalf of (name & role of party) The First, Second and Fourth Respondents
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Made

I **Michael John Williams** of Level 35, International Tower Two, 200 Barangaroo Avenue Barangaroo NSW 2000, Solicitor, say on oath:

Introduction

1. I am the solicitor on record for the First, Second and Fourth Respondents. I have sworn one previous affidavit in these proceedings, on 29 May 2024.
2. For the purpose of making this affidavit I have read the affidavit of Adrian Huber sworn 1 May 2024. In this affidavit I provide a response, including on information and belief, to certain statements made in Mr Huber's affidavit. While I respond to certain statements in that affidavit, where I do not do so, I do not intend to agree with those parts of the affidavit or annexures or be taken to agree to them.
3. I have prepared this affidavit and have made enquiries with the First, Second and Fourth Respondents on an urgent basis in the time available.
4. 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.
5. By referring in this affidavit to any information or instructions I received or obtained, I do not waive or intend to waive – nor am I authorised to waive – any privilege attaching to those instructions or any work I performed as a result of those instructions, other than where expressly referred to in this affidavit.

Exhibits

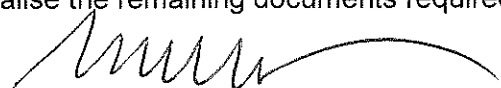
6. Exhibited to me at the time of swearing this affidavit is a paginated bundle of documents marked "**Confidential Exhibit MJW-3**" which I refer to in this affidavit. A reference to a page number of **Confidential Exhibit MJW-3** is a reference to a document which appears on that page of that exhibit.
7. **Confidential Exhibit MJW-3** contains documents and information which I understand to potentially be confidential and commercially sensitive to the Applicants (collectively, **Fortescue**). I respectfully request that access to **Confidential Exhibit MJW-3** and be restricted to the parties' external legal advisors.

Documents the subject of paragraph 19 of the Statement of Claim

8. At paragraph 77 of Mr Huber's affidavit, he summarises the results of a forensic investigation undertaken by Mr Rodney McKemmish of Cyter in April 2024. That report appears at Annexure AH-27 to Mr Huber's affidavit (the **McKemmish Report**).



9. At subparagraph 77(a), Mr Huber observes that the McKemish Report found that at least 2 USB devices were connected to Dr Kolodziejczyk's Fortescue laptop between September 2021 and November 2021.
10. I am informed by Dr Kolodziejczyk, and believe, that he used USBs to access documents he was working on at Fortescue in the ordinary course of his employment. That is recognised in paragraph 52(c) of Mr Huber's affidavit, being that Fortescue employees were permitted to use USB ports on Fortescue issued laptops in order to share documents for work purposes.
11. At subparagraphs 77(b), (d), (e), (f) and (g) of Mr Huber's affidavit, he observes that Dr Kolodziejczyk's laptop was used to access certain files while a USB device was connected to the laptop, including documents accessed on 26 October and 1 November 2024 (after Dr Kolodziejczyk resigned, see subparagraph (e)), and documents accessed on 22 October 2024 (the day Dr Kolodziejczyk resigned, see subparagraphs (d), (f) and (g)).
12. I am informed by Dr Kolodziejczyk, and believe:
- (a) Dr Kolodziejczyk resigned on 22 October 2021 and gave 3 months' notice.
 - (b) On or around 22 October 2021 or 25 October 2021 (shortly after Dr Kolodziejczyk's resignation) Dr Kolodziejczyk attended a meeting in the board room at Fortescue with Jim Herring (Head of Green Energy for the Third Applicant (FFI)), Emily Ward (Chief Legal Counsel for FFI), Kara Vague (HR Manager for Fortescue), and Mathew Roper (IP Manager for Fortescue).
 - (c) During the meeting referred to in subparagraph (b) above, Ms Ward or Ms Vague told Dr Kolodziejczyk that:
 - i. because of his position, he would not be permitted to serve the full notice period, and he needed to finish up at the end of the week (by 29 October 2024); and
 - ii. he would need to work outside the office for the remainder of his employment and not contact colleagues.
 - (d) At some time after the meeting, Ms Ward or Ms Vague conveyed an offer to Dr Kolodziejczyk from Mr Andrew Forrest (Executive Chairman of Fortescue) that Dr Kolodziejczyk could work in office space at Swan Brewery, the location of the Tattarang Group and the Minderoo Foundation offices. Dr Kolodziejczyk did not take up this offer, and worked from home.
 - (e) During the meeting referred to in subparagraph (b) above, Mr Roper told Dr Kolodziejczyk that he would need to finalise the remaining documents required



for the IP protection of the technologies that he was working on at Fortescue and that it was up to Dr Kolodziejczyk to determine what documents he would need to work on.

- (f) At some point during the week of 25 October 2021 (prior to 29 October 2021), Dr Kolodziejczyk realised that he would not be in a position to complete all of his work prior to 29 October 2021.
- (g) On or before 29 October 2021 Dr Kolodziejczyk had a telephone call with Mr Roper (and possibly Ms Vague) during which he was told by Mr Roper:
 - i. to continue working for another week, but that he would need to return his Fortescue laptop on 29 October 2021;
 - ii. Dr Kolodziejczyk could make copies and use the documents he needed in order to finish the rest of his work, and it was up to Dr Kolodziejczyk to decide what documents he needed to use to finish up his work; and
 - iii. Dr Kolodziejczyk should delete everything saved locally on his Fortescue laptop before returning it to Fortescue, because Fortescue had copies of the documents in its SharePoint.
- (h) On 29 October 2021, Dr Kolodziejczyk returned his Fortescue laptop to Fortescue.
- (i) From 29 October 2021 up until 5 November 2021, Dr Kolodziejczyk continued his work for Fortescue. That work included preparing and advancing documents relevant to applications for patents for technologies Dr Kolodziejczyk had worked on at Fortescue, such as a beneficiation process to be contained in a patent.
- (j) From 29 October 2021 to 5 November 2021 (when Dr Kolodziejczyk did not have access to his Fortescue email account), Dr Kolodziejczyk had text message and email exchanges with Mr Roper about the work he was undertaking, including as follows:
 - i. On 29 October 2021, a text message exchange with Mr Roper, which appears at page 1 of **Confidential Exhibit MJW-3**.
 - ii. On 29 October 2021, an email from Dr Kolodziejczyk from his personal email address to Mr Roper containing a "further descriptor" for a forecasting algorithm titled "Forecasting of Power Generation". A copy of that email and its attachments appear at pages 2 to 7 of **Confidential Exhibit MJW-3**.
 - iii. On 3 November 2021, Mr Roper sent Dr Kolodziejczyk and Dr Winther-Jensen (the Third Respondent) a draft patent specification for the "method of beneficiation of iron ore" invention prepared by Justin Negler of the law firm



Davies Collison Cave. Both Dr Kolodziejczyk and Dr Winther-Jensen respond to the draft with comments. Copies of those emails and its attachment appear at pages 8 to 33 of **Confidential Exhibit MJW-3**.

- iv. On 5 November 2021, an email from Dr Kolodziejczyk to Mr Roper sending information on the "iron flow battery" in which he says: "I have done an extensive search and have described the prior art. I have also emphasised the novelty or point of difference of the current invention.". Mr Roper responds. A copy of that email and attachment appears at pages 34 to 38 of **Confidential Exhibit MJW-3**.

13. In relation to the documents referred to at subparagraphs 77(d), (e), (f), and (g) of Mr Huber's affidavit, I am informed by Dr Kolodziejczyk and believe:

- (a) Dr Kolodziejczyk has not seen the documents to be able to verify what they are. In the absence of having access to the documents, his recollection of these documents is unclear.
- (b) Based on the titles of the documents, his best understanding at this stage is that:
 - i. the document referred to at subparagraph 77(d) ("FFI0302-10000-00-EG-BOD-0001_A(002)(BK).docx" may have related to the beneficiation patent;
 - ii. the document referred to at subparagraph (f) ("Green Iron Update (02.08.2021).pdf") may have contained an update of his work related to the beneficiation patent and he thinks was a presentation given to Mr Forrest by Dr Kolodziejczyk;
 - iii. the documents referred to at subparagraph(g) ("35557986AU-Drawings as filed (35557986).pdf" and "35557986AU-Specification as filed (35557986).pdf") are likely to be specifications for previous patents on which Dr Kolodziejczyk was an inventor which were relevant to the beneficiation patent; and
 - iv. the title of the document referred to at subparagraph (e) ("Bumblebee PID markups 26_10_21.pdf") suggests to Dr Kolodziejczyk that it relates to the Fortescue pilot plant project because "Bumblebee" was the project code.
- (c) Based on the titles of the documents and the timing of access, Dr Kolodziejczyk considers it likely that they related to the work he was undertaking in the final two weeks of his employment (as set out at paragraph 12(i) above).
- (d) Dr Kolodziejczyk did not use those documents after his employment at Fortescue.




- (e) Those documents do not relate to any work undertaken by Dr Kolodziejczyk at Element Zero or any of the Element Zero technology.
14. At subparagraph 77(c) of his affidavit, Mr Huber suggests that the McKemmish Report identifies that a folder called "TempSD" was deleted on 22 October 2021. I have reviewed the McKemmish Report and note that it concludes that Mr McKemmish "is unable to determine when the "TempSD" folder and contents were deleted" but based on the last modified date, he assumes it took place after 22 October 2021 at 9.05am (see page 27 of the McKemmish Report at Annexure AH-27).
15. I am informed by Dr Kolodziejczyk, and believe, that he recalls that the "TempSD" folder contained personal files, which he accessed when travelling with the Fortescue laptop. He deleted files from his Fortescue laptop prior to returning it, as instructed.

Relationship between Fortescue and Element Zero in 2023-2024

16. Section F of Mr Huber's affidavit is entitled "Contact with Respondents and Further Investigation in 2023-2024". I am informed by Michael Masterman (the Fourth Respondent and the CEO of the First Respondent), and believe, that the account given in Mr Huber's affidavit about the interactions between Fortescue representatives and Element Zero in 2023 and 2024 is incomplete. I have set out below, on information and belief, further details of the commercial discussions between Fortescue and Element Zero from August 2023 to January 2024, which were not included in Mr Huber's account.
17. At paragraph 70 of Mr Huber's affidavit, he states that he is informed by Mr Hamilton that on or about 5 September 2023, Mr Masterman contacted Mr Hamilton to request further iron ore samples, but that Fortescue did not ultimately provide any further ore samples. I am informed by Mr Masterman, and believe:
- (a) Element Zero and Fortescue had entered into an arrangement in May 2023 under which Fortescue provided Element Zero with iron ore samples for testing by Element Zero. A copy of emails from 19 May 2023 to 19 September 2023 between Mr Masterman, Mr Hamilton and Gerald LaRosa (Manager of Process Engineering for Fortescue) in relation to the arrangement appears at pages 39 to 44 of **Confidential Exhibit MJW-3**.
- (b) The arrangement was mutually beneficial as it enabled Element Zero to test its technology on commercially available iron ore, and it provided Fortescue with information about the the results from using Element Zero's process on the iron and allow a technical discussion.
- (c) From around 19 May 2023, Element Zero had tested a small amount of Fortescue magnetite iron ore under this arrangement, and Element Zero and Fortescue were

Alleade

Masterman

continuing discussions about the provision of further iron ore for testing and the potential for future commercial collaboration.

- (d) As part of the discussions about future collaboration, Mr Masterman and Mr Hamilton discussed the execution of a Non-Disclosure Agreement (**NDA**) to enable the sharing of information.

18. I refer to paragraph 68 of Mr Huber's affidavit, in which he describes a call between Phil McKeiver (Chief General Counsel, Fortescue) and Mr Masterman (with Mr Huber on the line). I am informed by Mr Masterman, and believe:

- (a) He did not have a call with Mr Huber in August 2023.
- (b) If Mr Huber was on a call, he did not announce himself and Mr Masterman was not aware of his presence.
- (c) The first record of a call between Mr Masterman and Mr McKeiver on Mr Masterman's phone is on 1 November 2023 (as to which, see subparagraphs 19(a) to 19(d) below).

19. Annexure AH-24 to Mr Huber's affidavit is an email chain between Mr Huber and Dr Kolodziejczyk. The last email in the chain is dated 11 September 2023. That email is the last record in Mr Huber's affidavit of dealings between Fortescue and Element Zero in 2023 and 2024. I am informed by Mr Masterman and believe that:

- (a) Mr Masterman recalls speaking with Mr McKeiver on the telephone on 1 November 2023 when Mr Masterman was in Singapore. The conversation was less than 5 minutes long.
- (b) In that call, Mr McKeiver said that he wanted to catch up with Mr Masterman and they agreed that they would do so when Mr Masterman was back in Australia.
- (c) During that call, Mr McKeiver did not raise concerns regarding potential intellectual property infringement and Element Zero's activities.
- (d) Mr Masterman understood that Mr McKeiver wanted to discuss the continuing work Element Zero was doing with Fortescue (in terms of testing its iron ore, as discussed above).
- (e) Following the call on 1 November 2023, Mr McKeiver sent Mr Masterman an email in relation to a potential meeting. A copy of that email appears on page 45 of **Confidential Exhibit MJW-3**.
- (f) On 23 November 2023, Mr Masterman sent Mr Hamilton a draft NDA.
- (g) Mr Masterman scheduled a meeting with Mr McKeiver on 19 December 2023.

- (h) On 19 December 2023, Mr Masterman attended the meeting at Fortescue's offices. When he arrived at that meeting at Fortescue, he found that the meeting attendees were Mr McKeiver and Mr Masterman (both in person) and Mr Paul Dewar from Davies Collison Cave (via video link).
- (i) Mr Masterman was surprised to see Mr Dewar in the meeting, as he had not been given forewarning that an external lawyer would be attending the meeting, and did not have the opportunity to bring one of his own.
- (j) At the beginning of the meeting, Mr Masterman objected to Mr Dewar's participation in the meeting, but continued the meeting.
- (k) During the meeting:
 - i. Mr McKeiver and Mr Dewar raised a matter which had not been foreshadowed, namely whether Mr Masterman had communicated with the Australian Renewable Energy Agency (ARENA) about an application made by Fortescue. Mr Masterman indicated he had never met or had any email correspondence with the relevant person at ARENA, including about any application by Fortescue. This topic took up the majority of the meeting.
 - ii. the attendees also spent about five to ten minutes discussing the Element Zero technology.
 - iii. Mr Masterman advised Mr McKeiver and Mr Dewar that the Element Zero technology is very different from the Fortescue technology, including because the Element Zero does not use a membrane, operates at a different temperature range, and uses a non-aqueous alkaline solution.
 - iv. Mr Masterman advised Mr McKeiver and Mr Dewar that Element Zero has completed extensive Freedom to Operate searches which cleared the technology, and found no overlap with the Fortescue technology.
 - v. Mr Dewar indicated he would be very interested to see the Freedom to Operate searches, and Mr Masterman said he was happy to share the information when the NDA is in place, and that a draft had been sent through in November. Mr Dewar indicated that he had some mark ups to the draft and that they would be sent back tomorrow.
- (l) Mr Masterman did not receive an email from Fortescue or Mr Dewar about the NDA the following day. I have read Mr Dewar's affidavits filed in this proceeding, and he does not refer to or describe the meeting on 19 December 2023.
- (m) On 11 and 12 January 2024, Mr Masterman exchanged emails with Mr McKeiver, Mr Huber and Andrew Hamilton regarding the NDA. An email from Mr Huber to Mr



Masterman on 12 January 2024 attached a new NDA. Mr Masterman did not see that email on 12 January 2024 as it went to his junk email (he saw it on or about 18 January 2024, see further email chain extracted at subparagraph 19(p) below).


- (n) On 15 January 2024, Mr Masterman sent an email to Mr Hamilton and Mr Dino Otranto (the Chief Executive Officer for Fortescue Metals) following communication with Dr Forrest. A copy of that email and the response from Mr Otranto's Executive Assistant appears at pages 46 to 47 of **Confidential Exhibit MJW-3**.
- (o) On 17 January 2024, an article about Element Zero's technology was published in the Australian Financial Review. That article is at Annexure AH-25 to Mr Huber's affidavit.
- (p) Between 17 and 18 January 2024, Mr Masterman exchanged emails with Mr McKeiver, Mr Hamilton and Mr Otranto. A copy of that email chain appears at pages 48 to 50 of **Confidential Exhibit MJW-3**.
- (q) On 21 January 2024, Mr Masterman sent Mr Hamilton a revised NDA. A copy of that email chain appears at pages 51 to 53 of **Confidential Exhibit MJW-3**. In that email Mr Masterman said the following words:

"...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".
- (r) The NDA was signed on 23 January 2024. A copy of the final, signed NDA appears at pages 54 to 65 of **Confidential Exhibit MJW-3**. There is no reference to the NDA in Mr Huber's affidavit.
- (s) On 24 January 2024, Mr Masterman attended a meeting at Fortescue with Mr Hamilton and Michael Dolan (Director of Science and Technology at FFI) and Mr LaRosa. Mr Masterman indicated that the meeting involved an open and constructive discussion. Mr Masterman explained the nature of Element Zero's technology, and Mr Hamilton and Mr Dolan explained the current nature of Fortescue's technology. There was discussion about future sharing of information, testing by Element Zero of further Fortescue iron ore, and future commercial opportunities.


20. Section I of Mr Huber's affidavit refers to the risk of destruction of documents by the Respondents in the event the search orders were not granted. The affidavit does not refer to the commercial discussions and arrangements which took place between Fortescue and Element Zero from May 2023 to January 2024, as outlined in paragraphs 17 to 19 above. I am informed by Mr Masterman and believe:

- (a) Fortescue never raised any concerns with Mr Masterman about the destruction of documents. If any concerns had been raised, he indicates that he would not have deleted any documents. He was actively offering Fortescue documents to explain Element Zero's technology and the differences between it and the Fortescue LTE technology. Mr Masterman has never destroyed any documents relevant to the concerns which have now been raised.
- (b) The commercial arrangements, and in particular the NDA signed by the parties, was designed to and did enable the two-way sharing of information, including about Element Zero technology and Freedom to Operate searches,
- (c) Mr Masterman expected Fortescue to make requests for documents regarding the Element Zero technology and the Freedom to Operate searches we had conducted following the meeting on 24 January 2024, and was ready to provide material to Fortescue upon request. No such requests were made.

Sworn by the deponent
at Barangaroo
in New South Wales
on 29 May 2024
Before me:

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)
)
)


Signature of deponent



Signature of witness
Caitlin Aisling Meade
Solicitor
level 35, Tower Two
200 Barangaroo Avenue
BARANGAROO NSW 2000

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

FORTESCUE LIMITED ACN 002 594 872 (currently described in the proceeding by the pseudonym QFM1) and another named in the schedule


Applicants

ELEMENT ZERO PTY LIMITED ACN 664 342 081 (currently described in the proceeding by the pseudonym RAB1 and others named in the schedule

Respondents

CONFIDENTIAL EXHIBIT MJW-3

This is the Exhibit marked **Confidential Exhibit MJW-3** to the Affidavit of **Michael John Williams** sworn before me on 29 May 2024.


.....

Witness

Name: Caitlin Aisling Meade, Solicitor

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09:30

1

VoLTE 4G LTE 62%

<  **Matthew ROPER** ▾



Friday, 29 October 2021

Hi Bart how are you travelling? Can I expect any IDs today?

Matthew

08:56

Read
11:04

Hi Matt what is your fmg email address?

Matthew.roper@fmgl.com.au

11:06





Bart Kolodziejczyk <kolodziejczykbartlomiej@gmail.com>

Forecasting Algorithm Description

Bart Kolodziejczyk <kolodziejczykbartlomiej@gmail.com>
To: matthew.roper@fmgl.com.au

29 October 2021 at 14:07

Hi Matt,

Please find attached further description for forecasting algorithm.

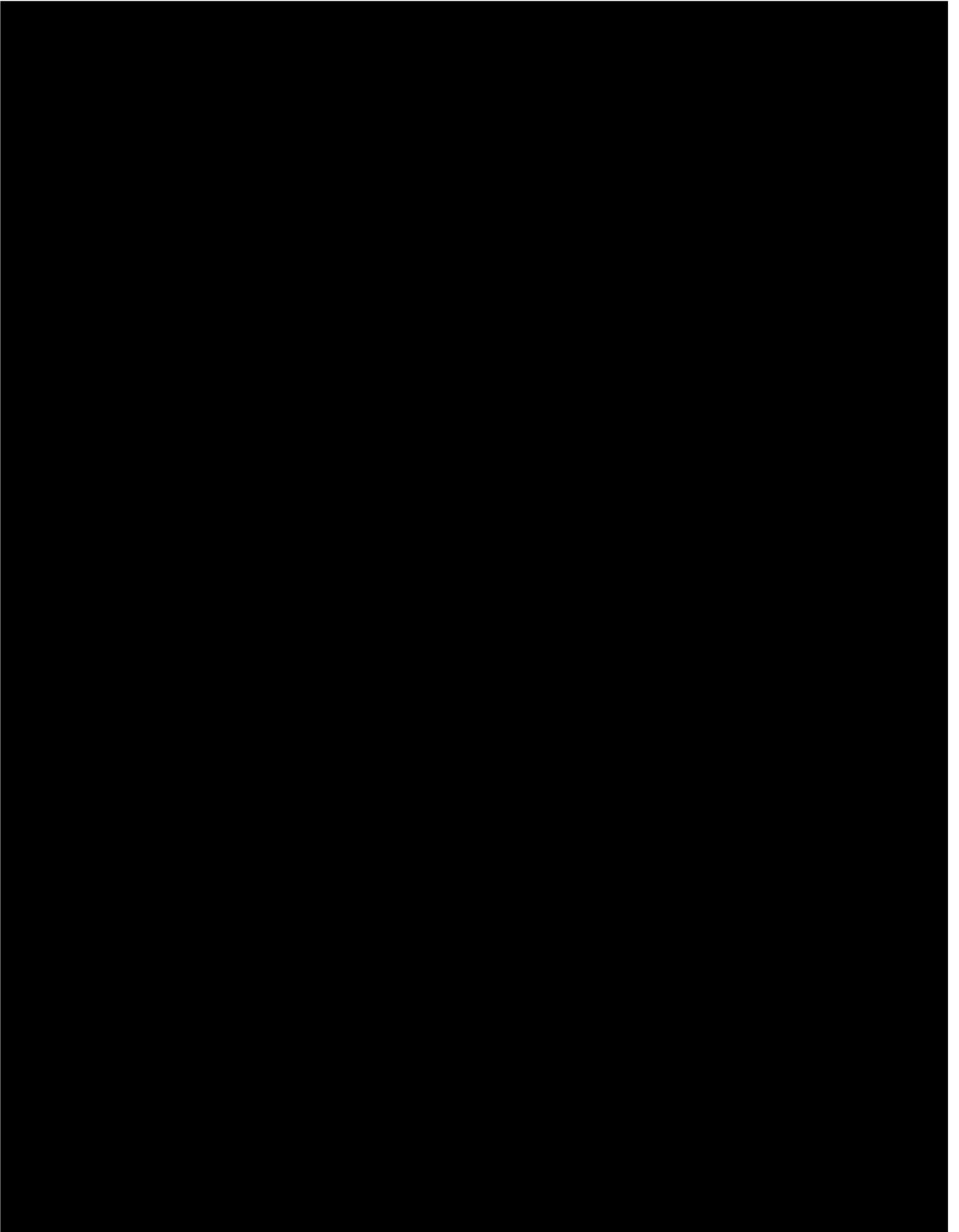
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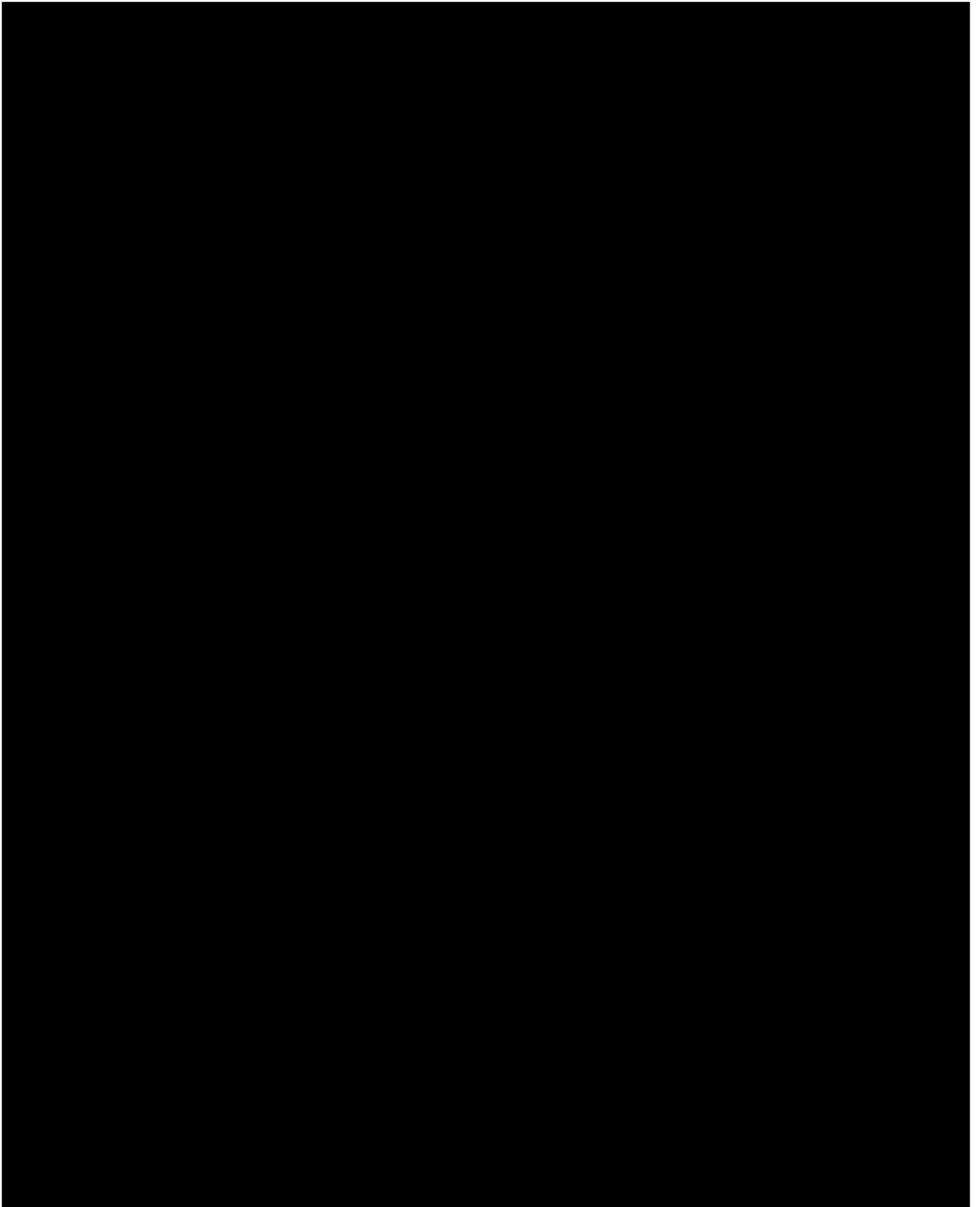
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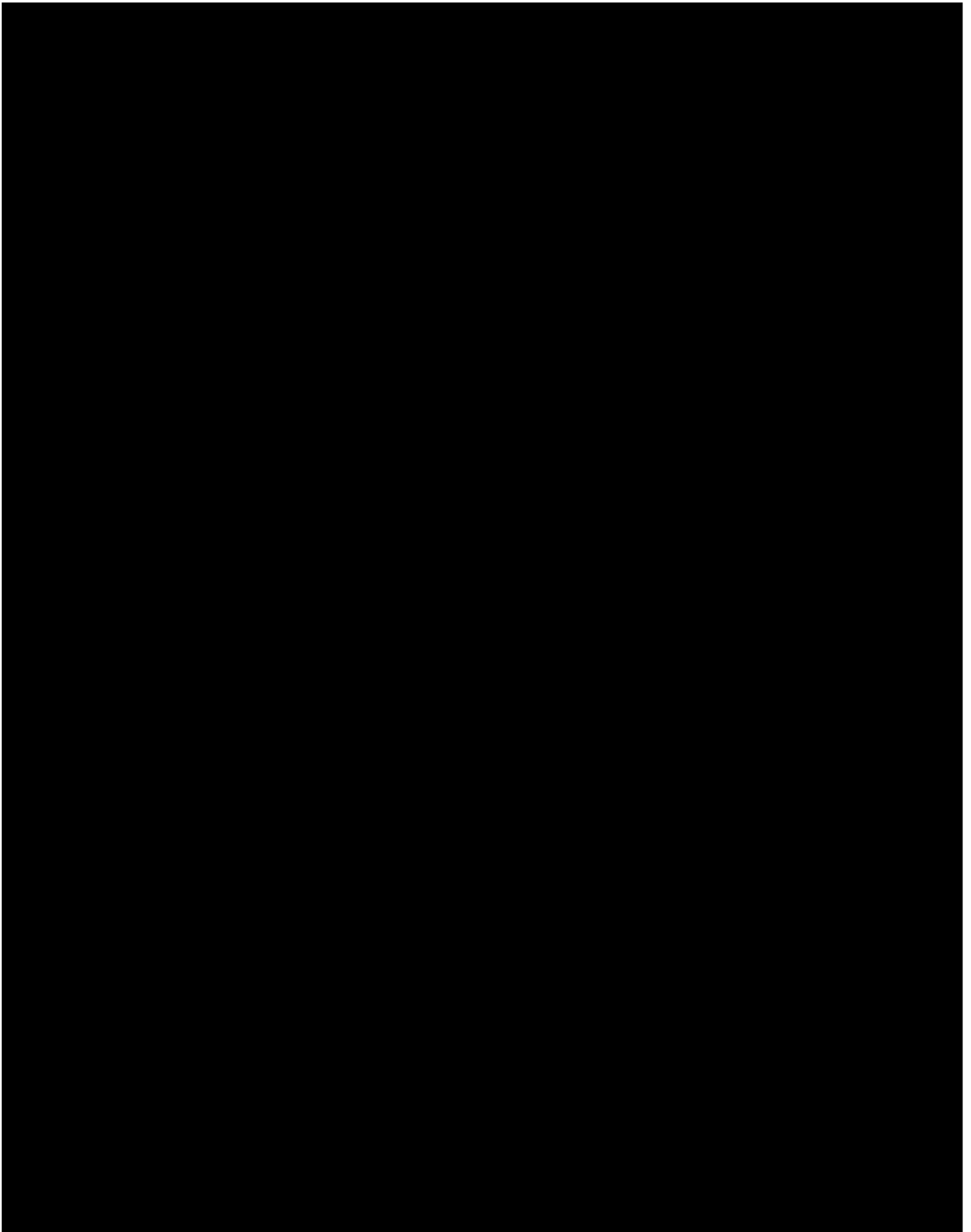
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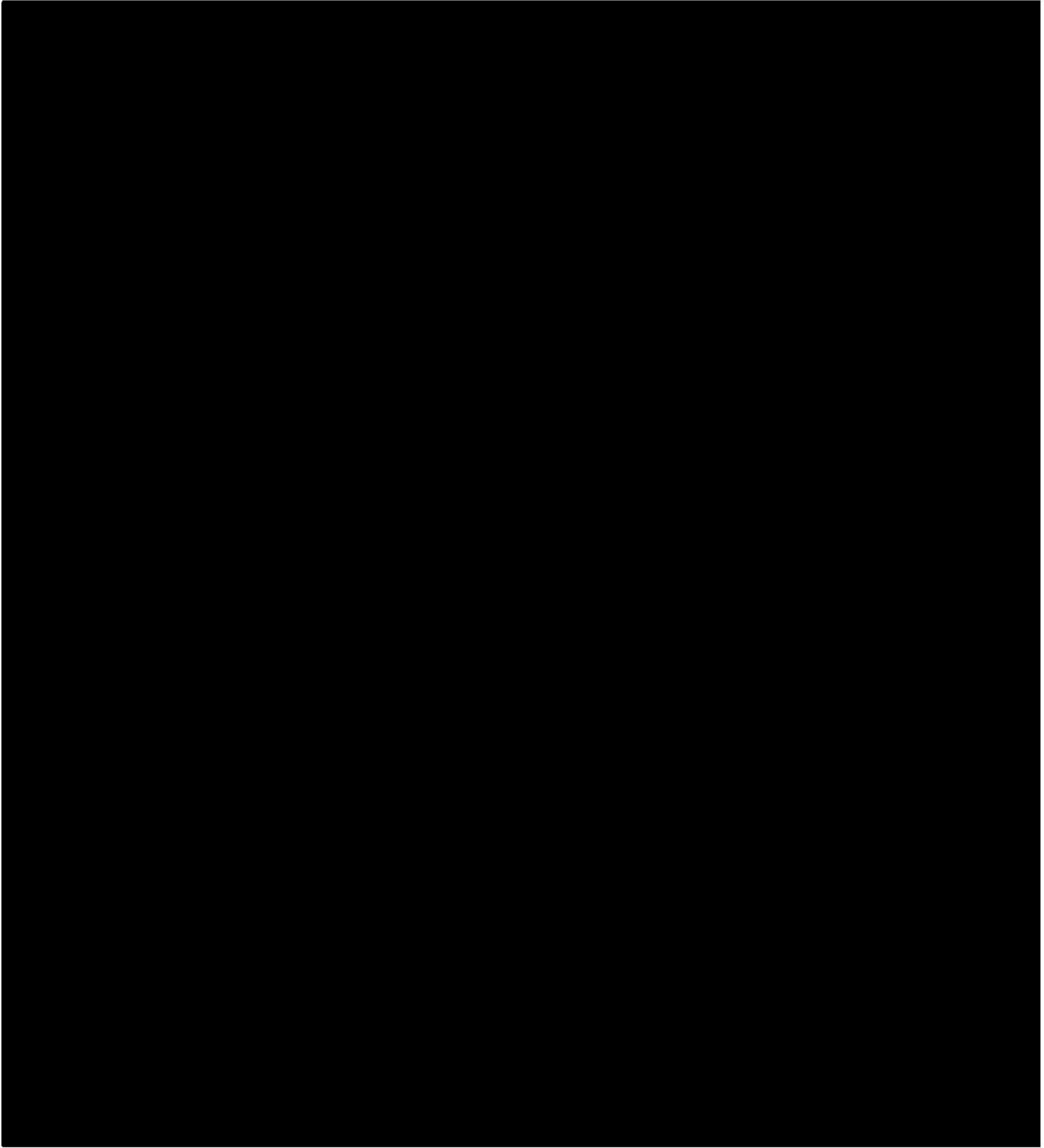
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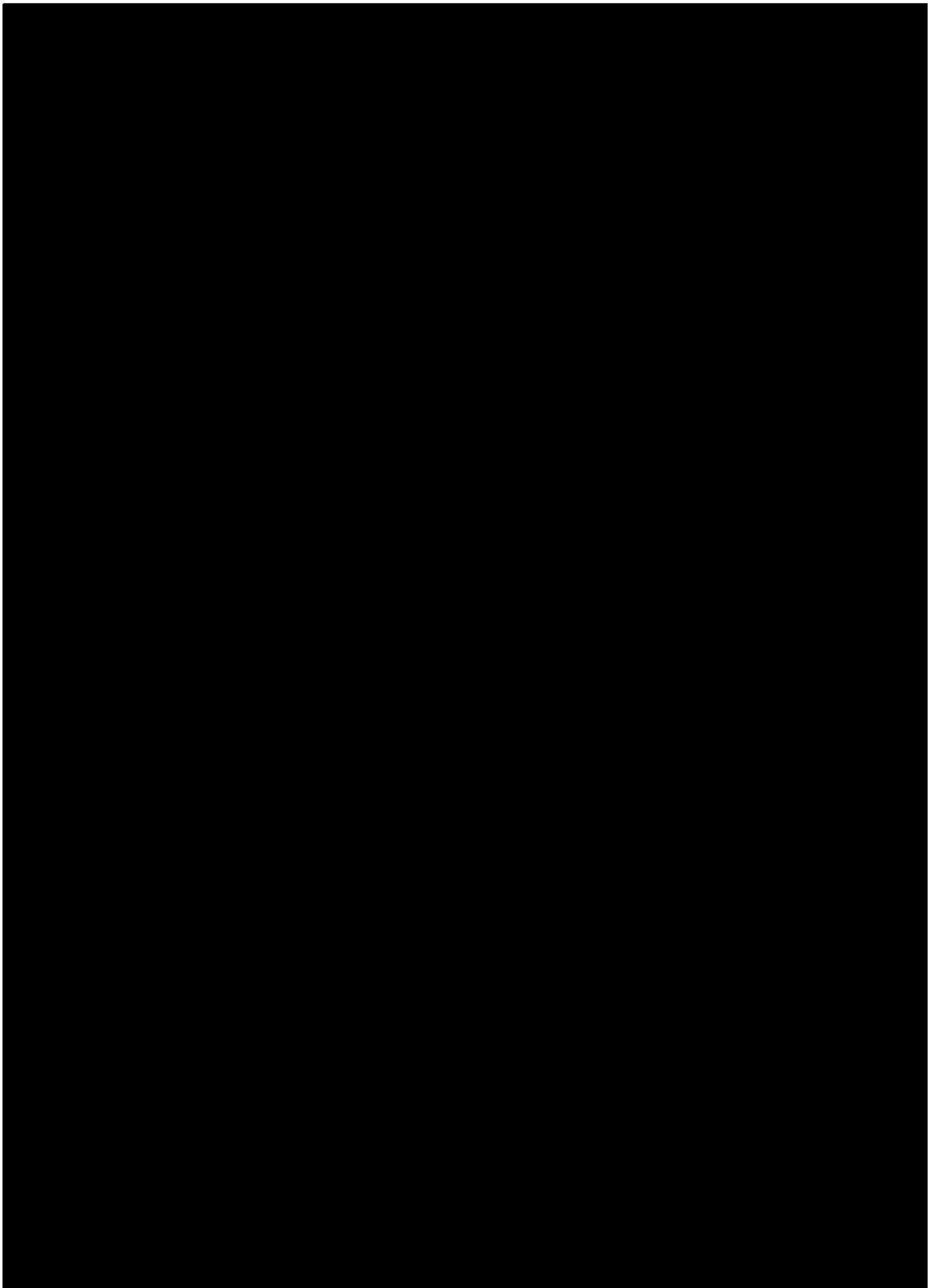
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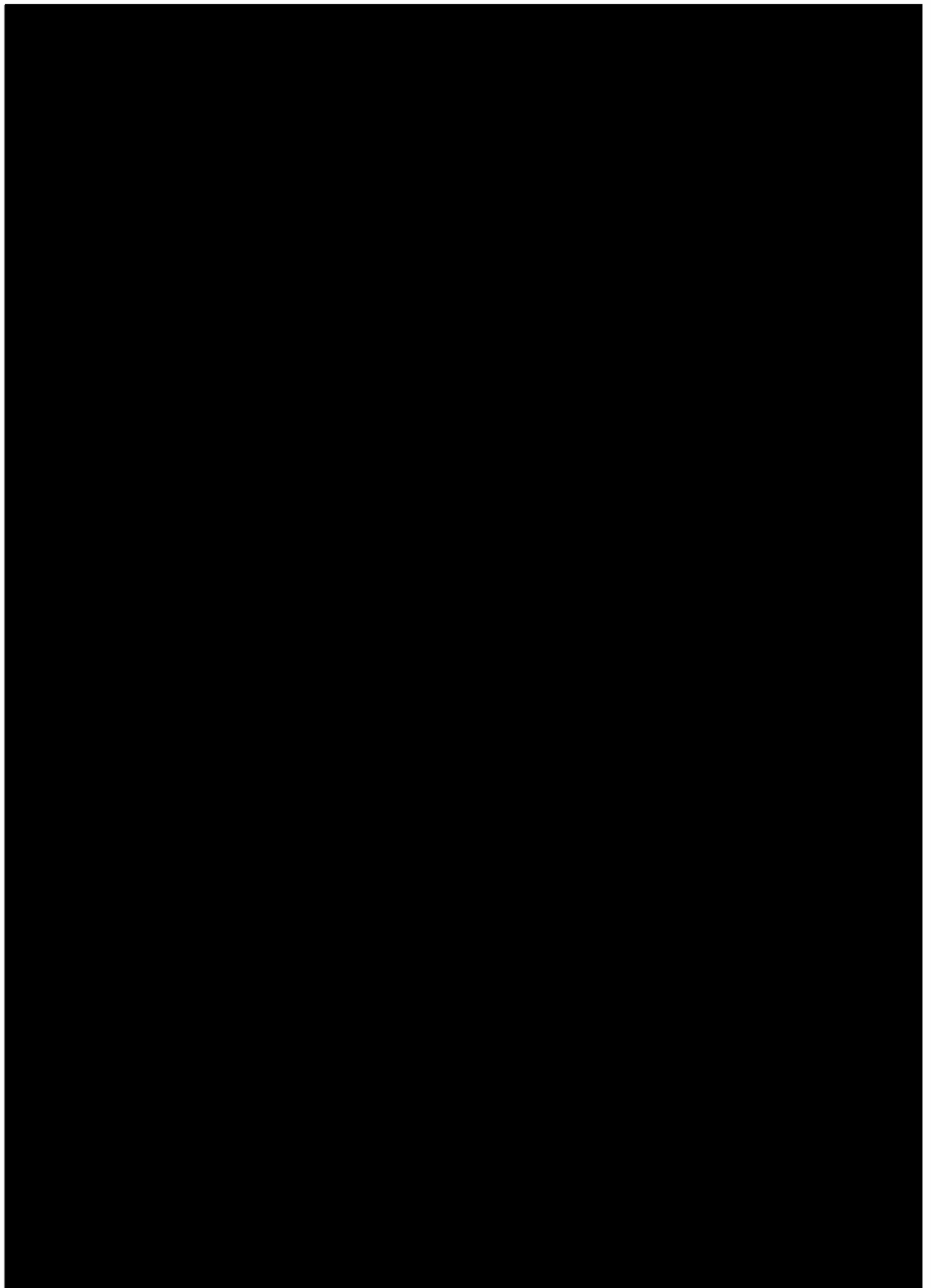


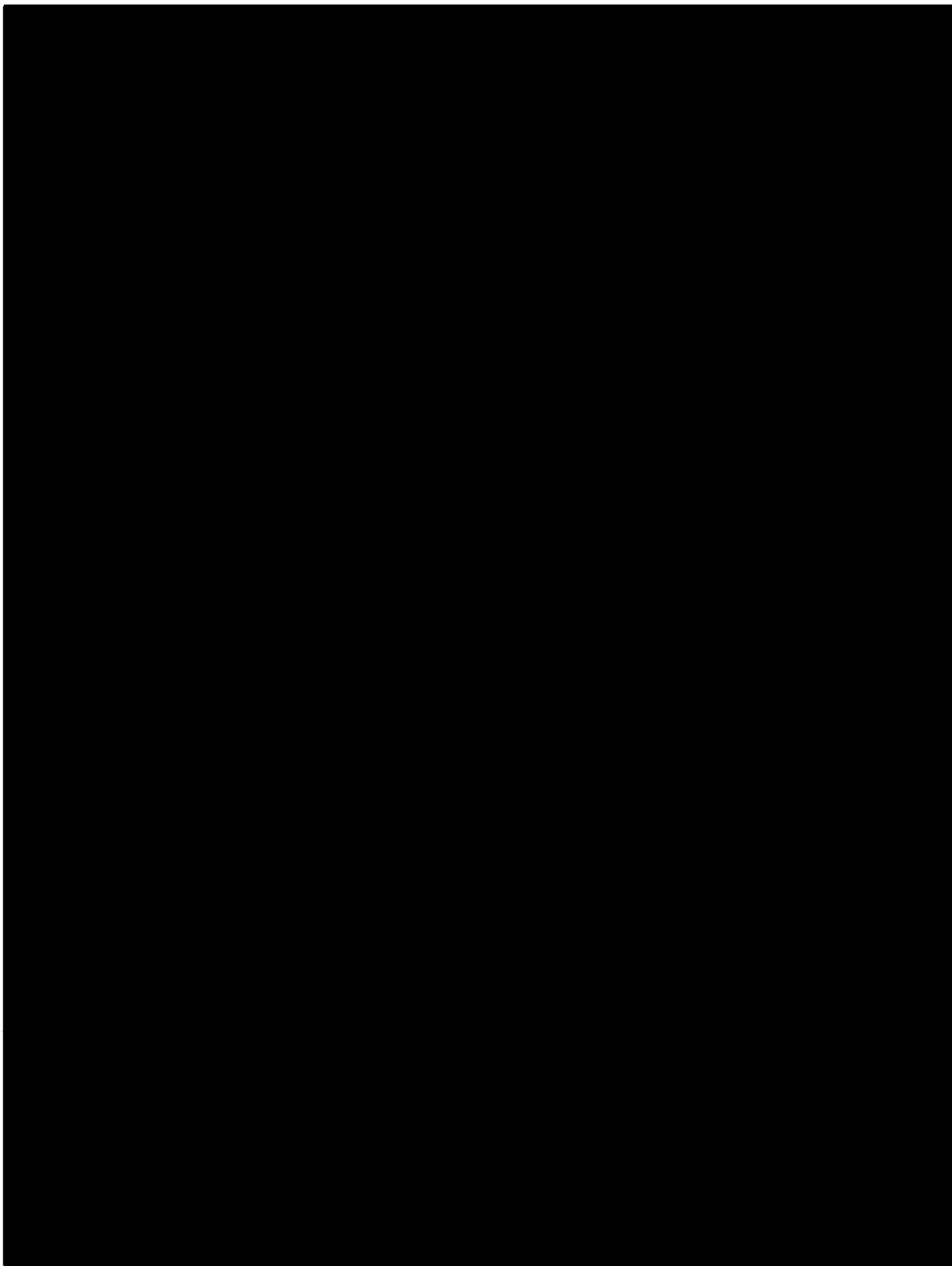


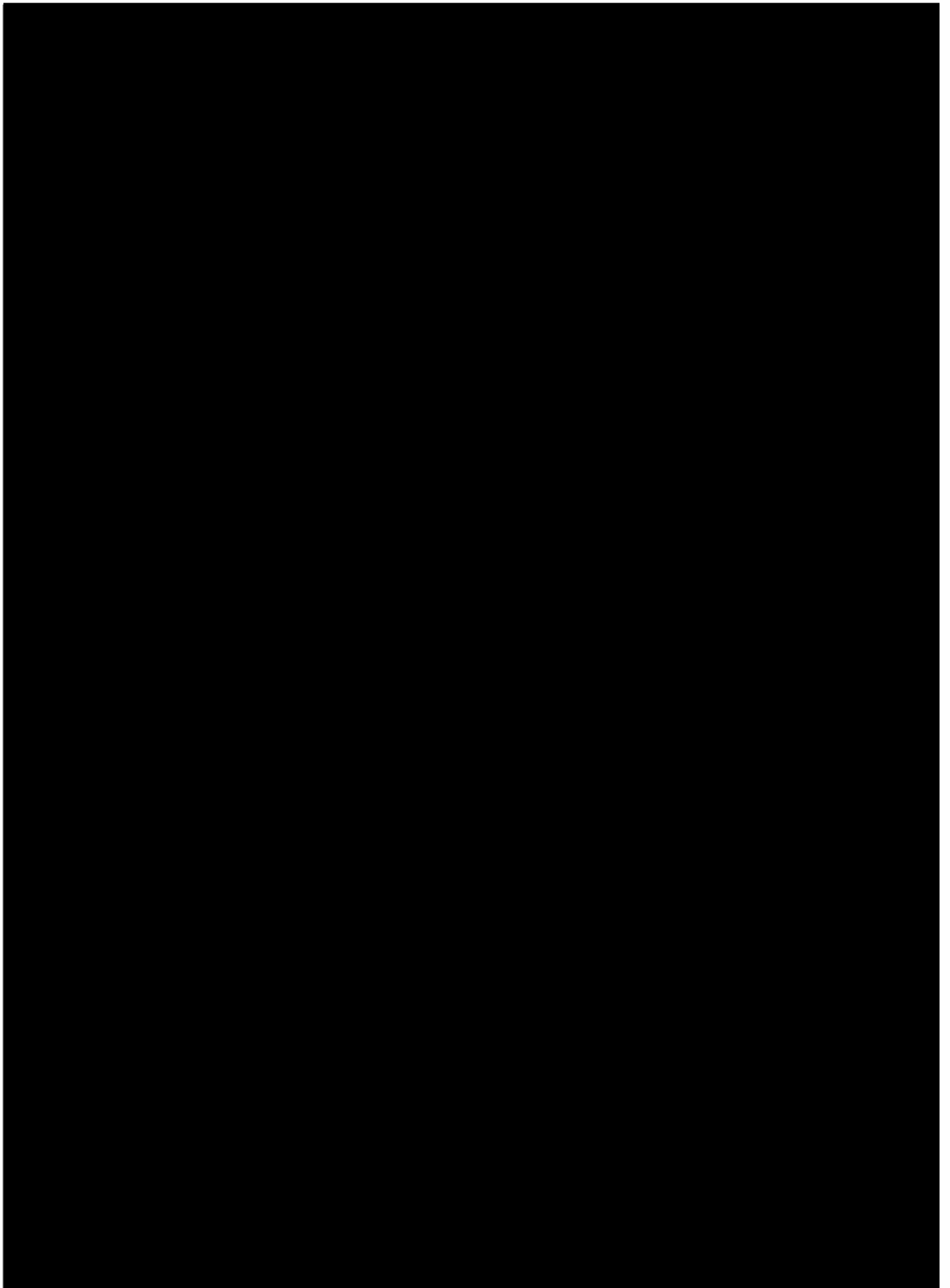


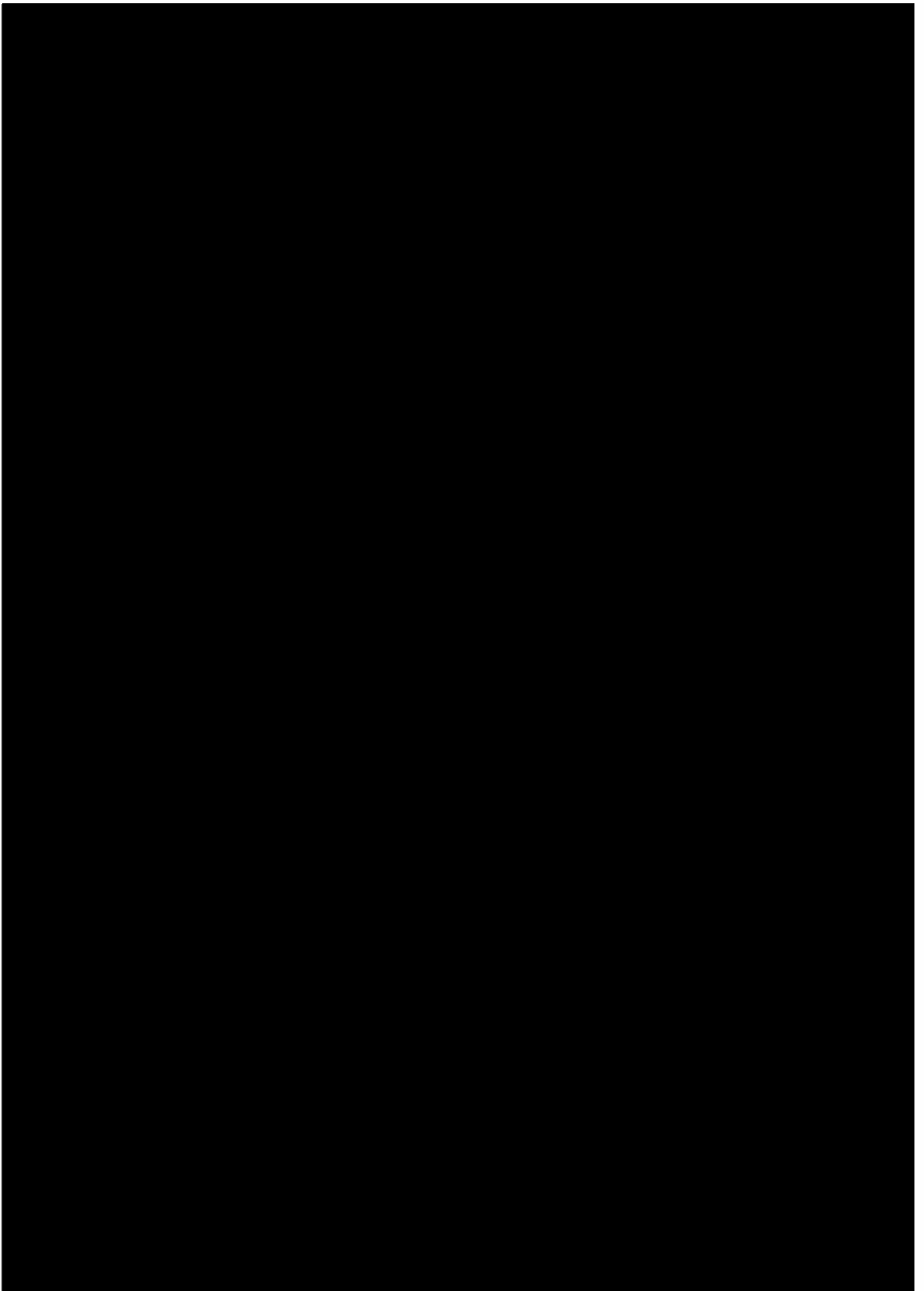


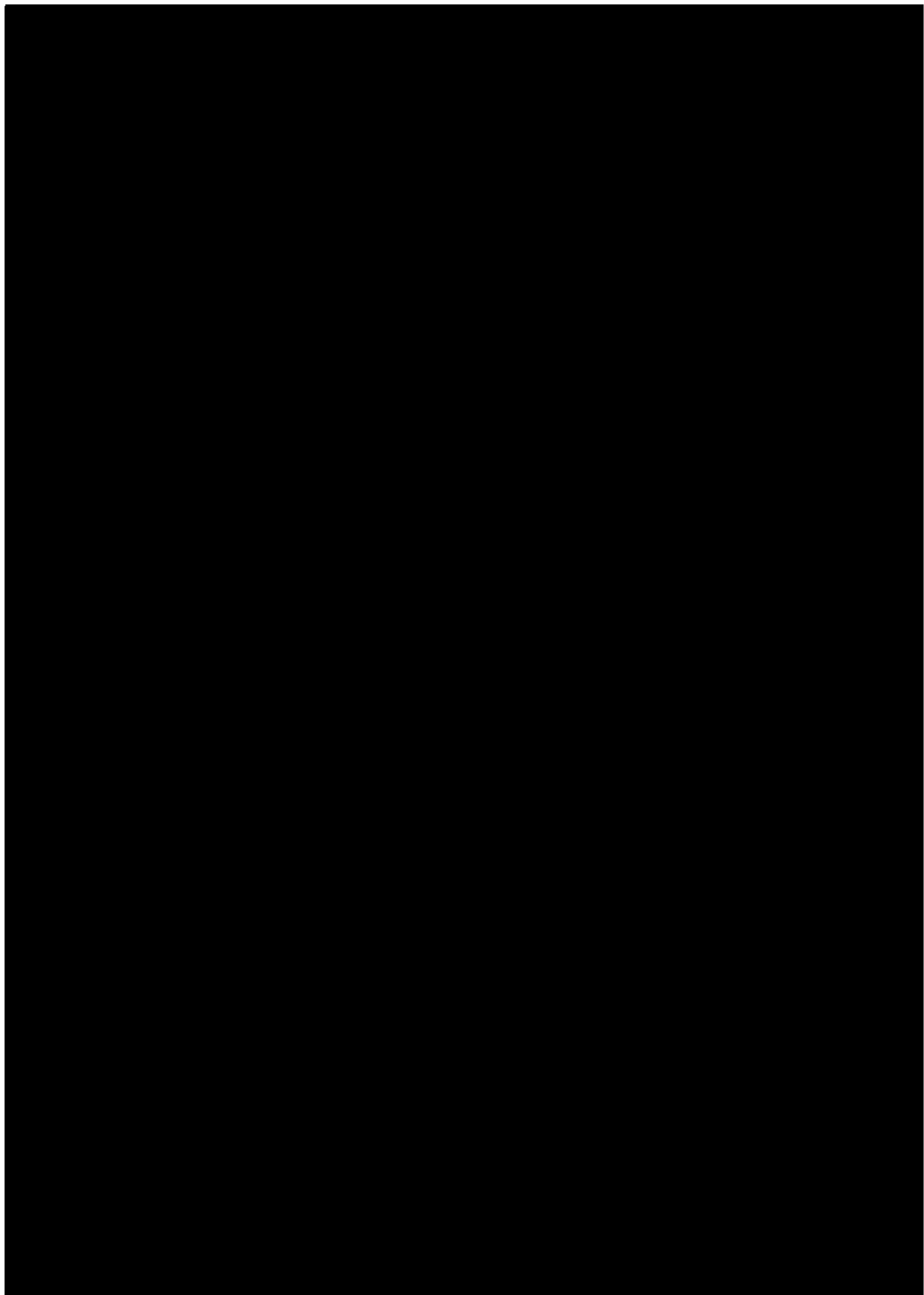


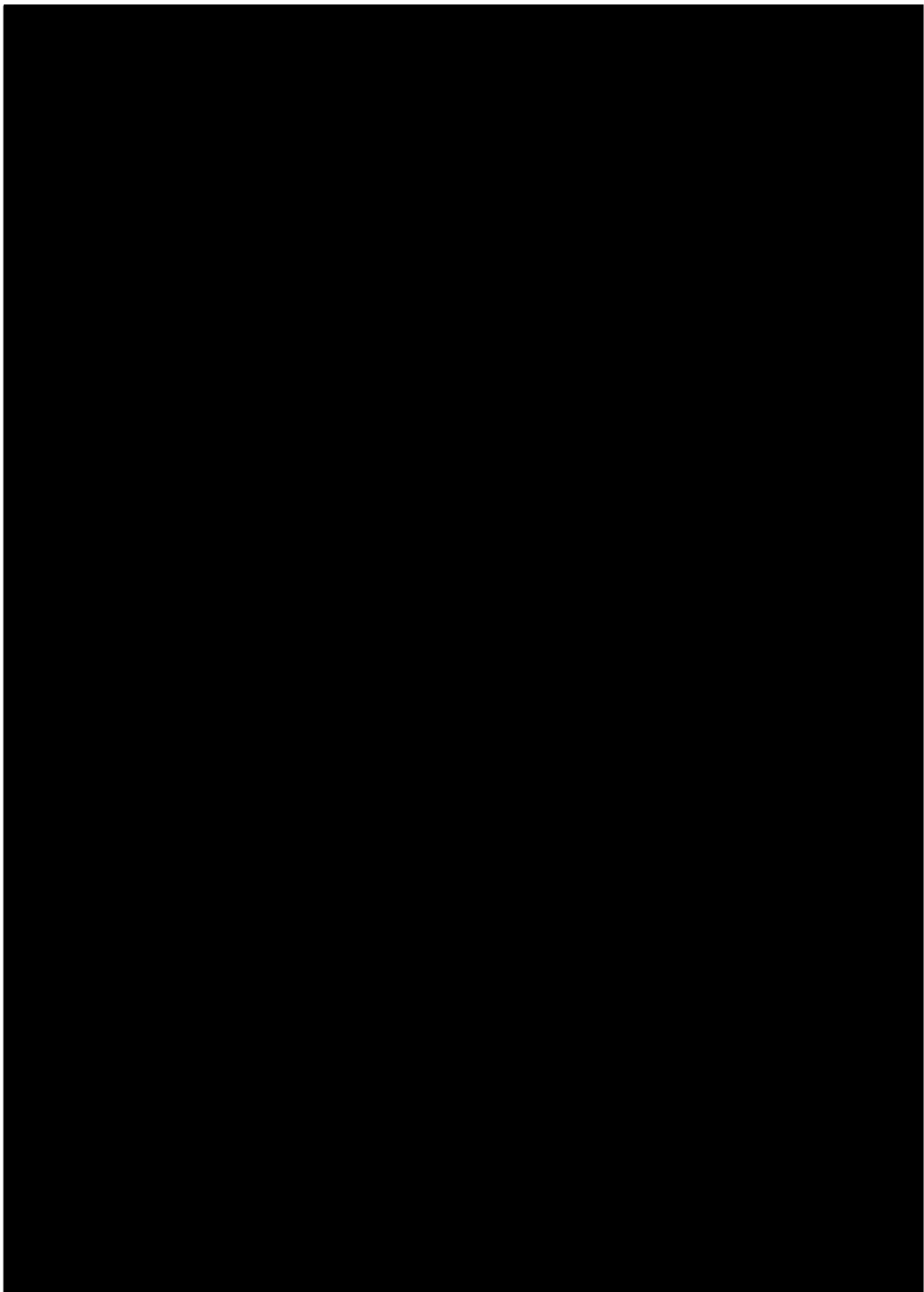


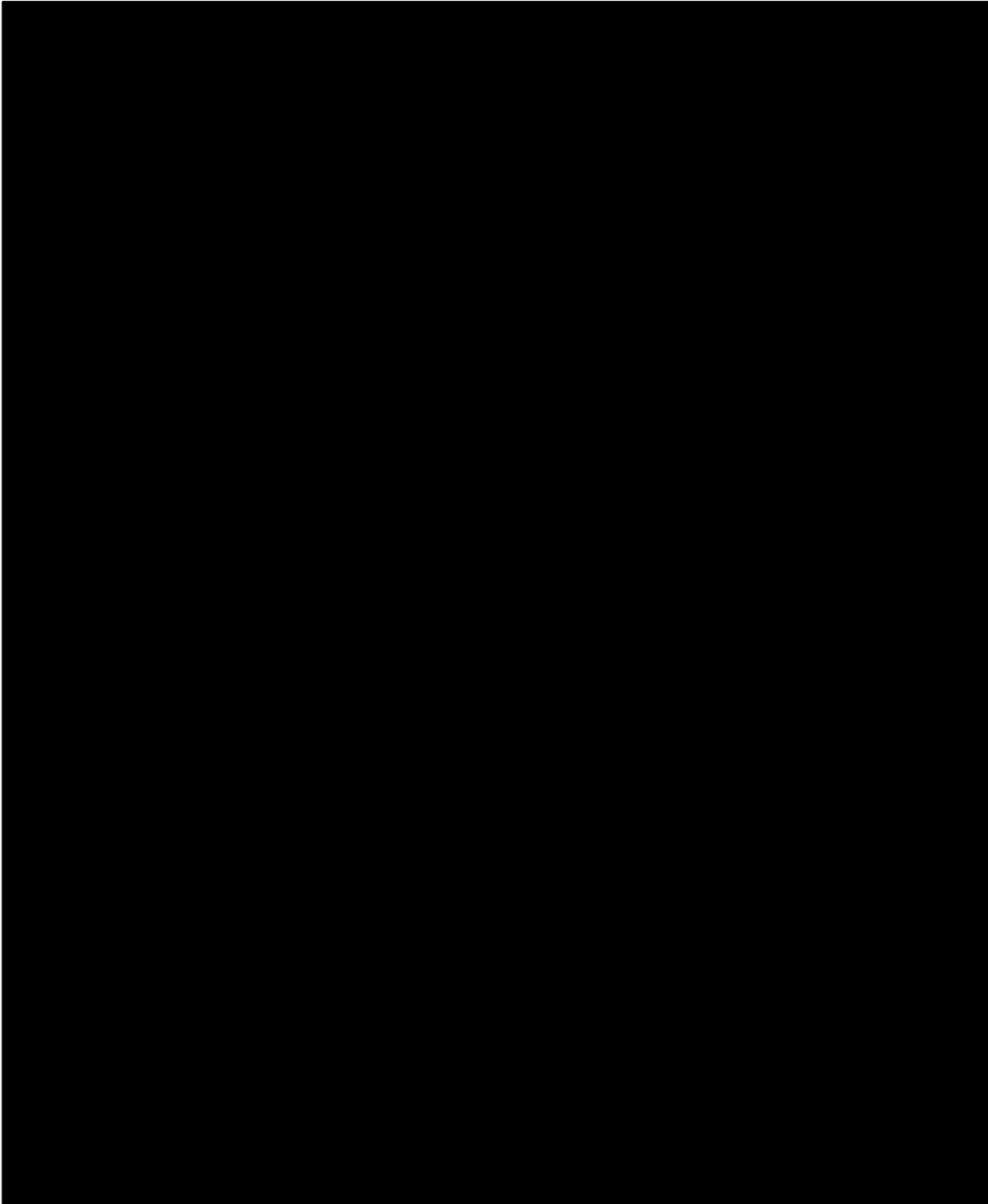


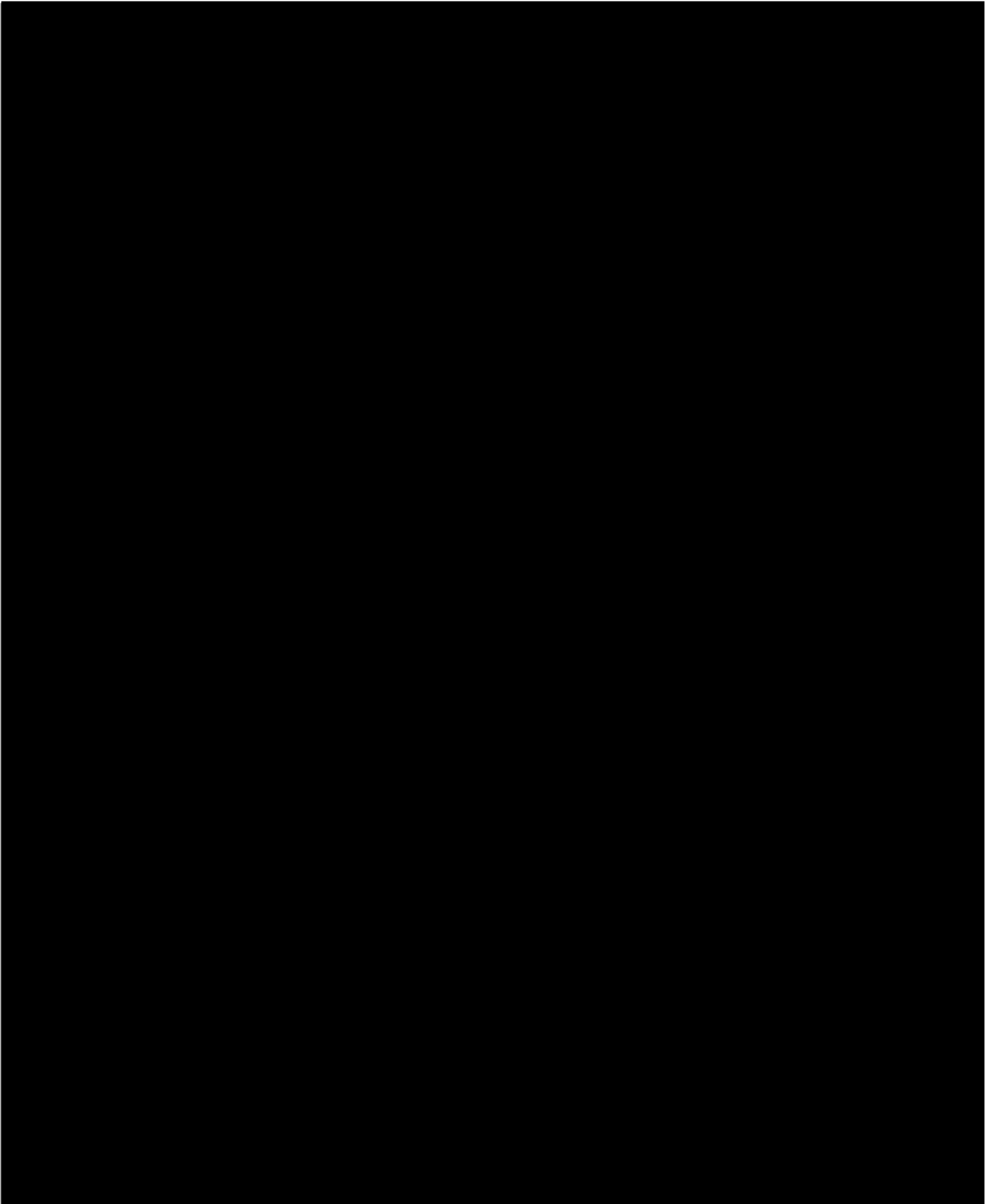


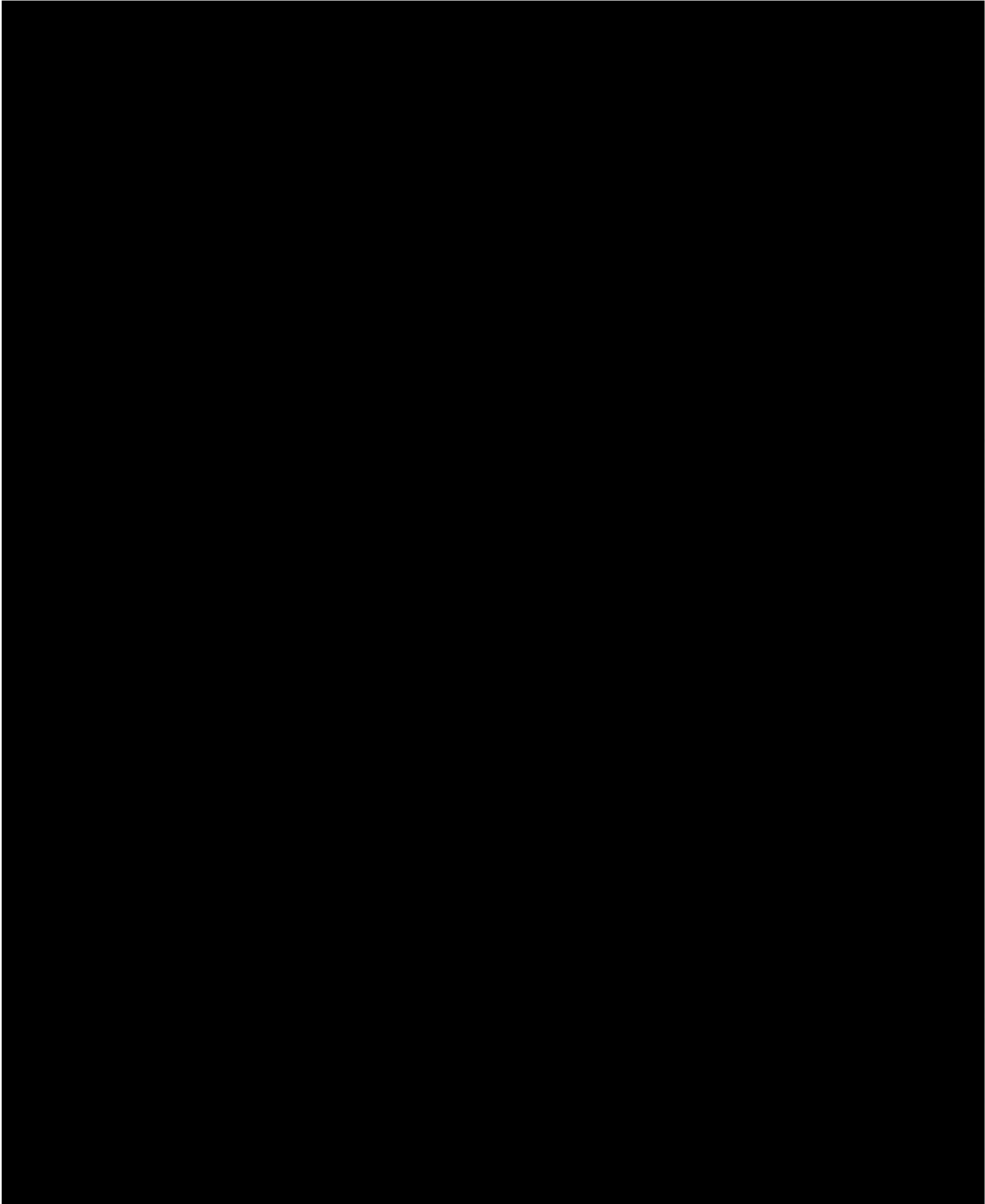


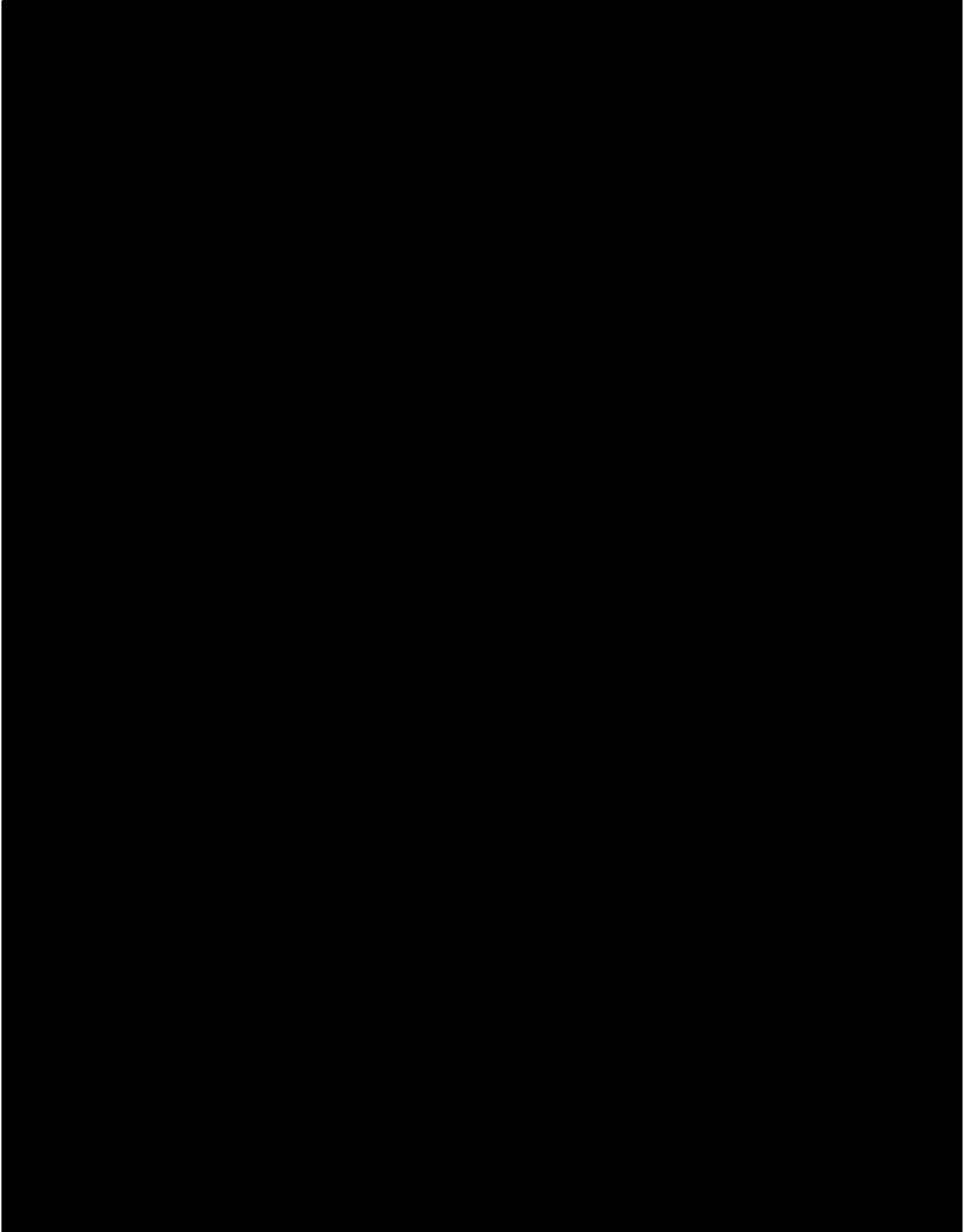


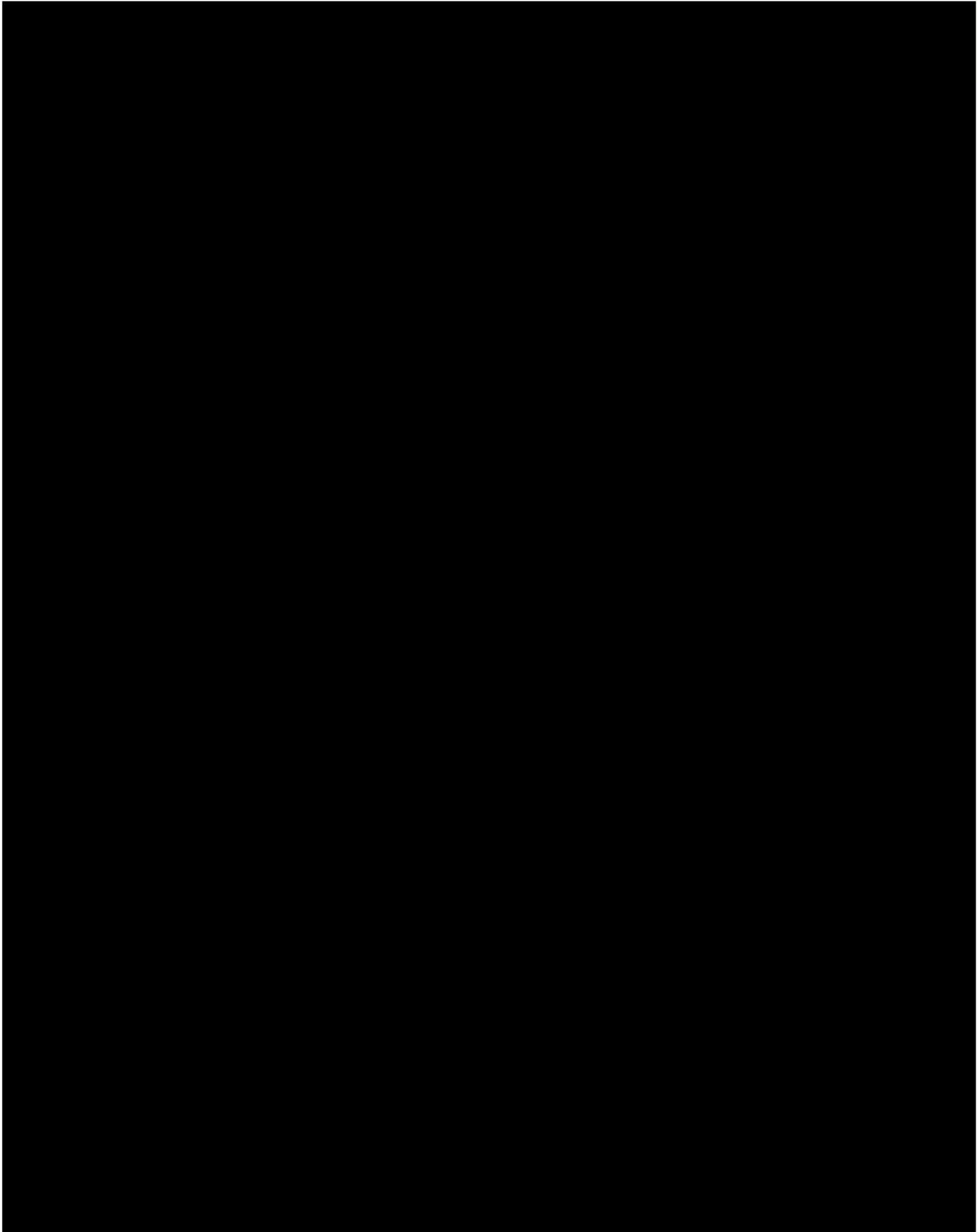


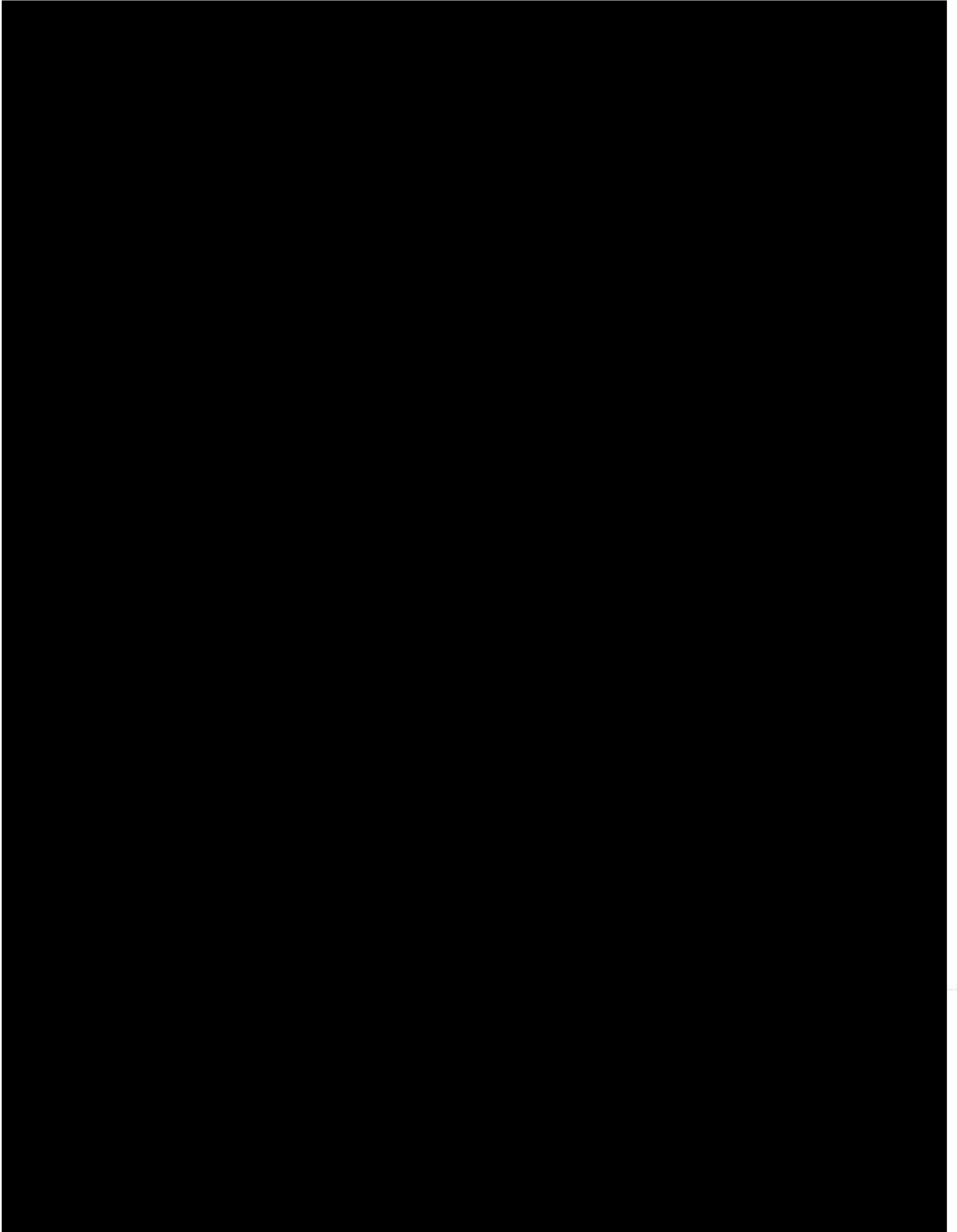


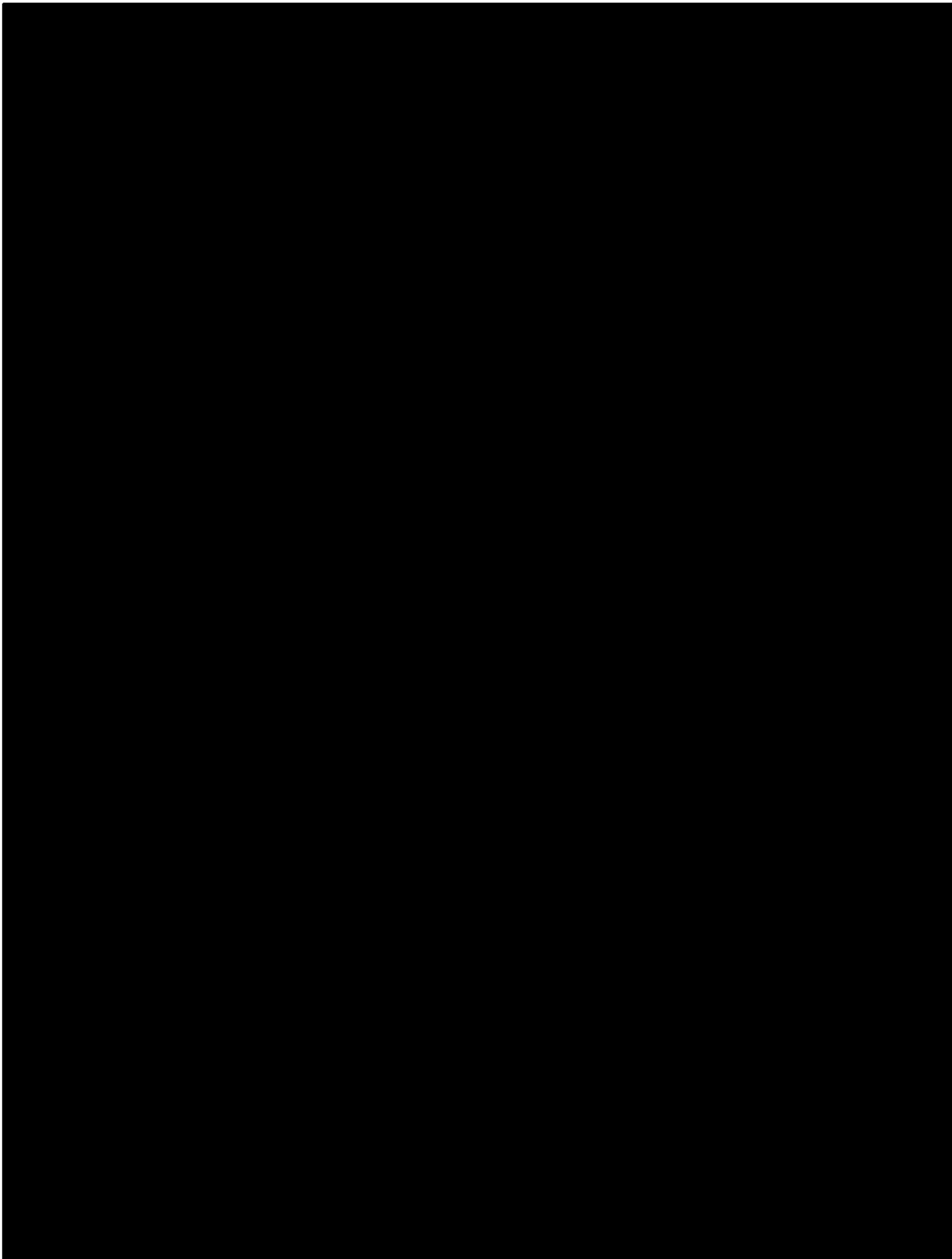


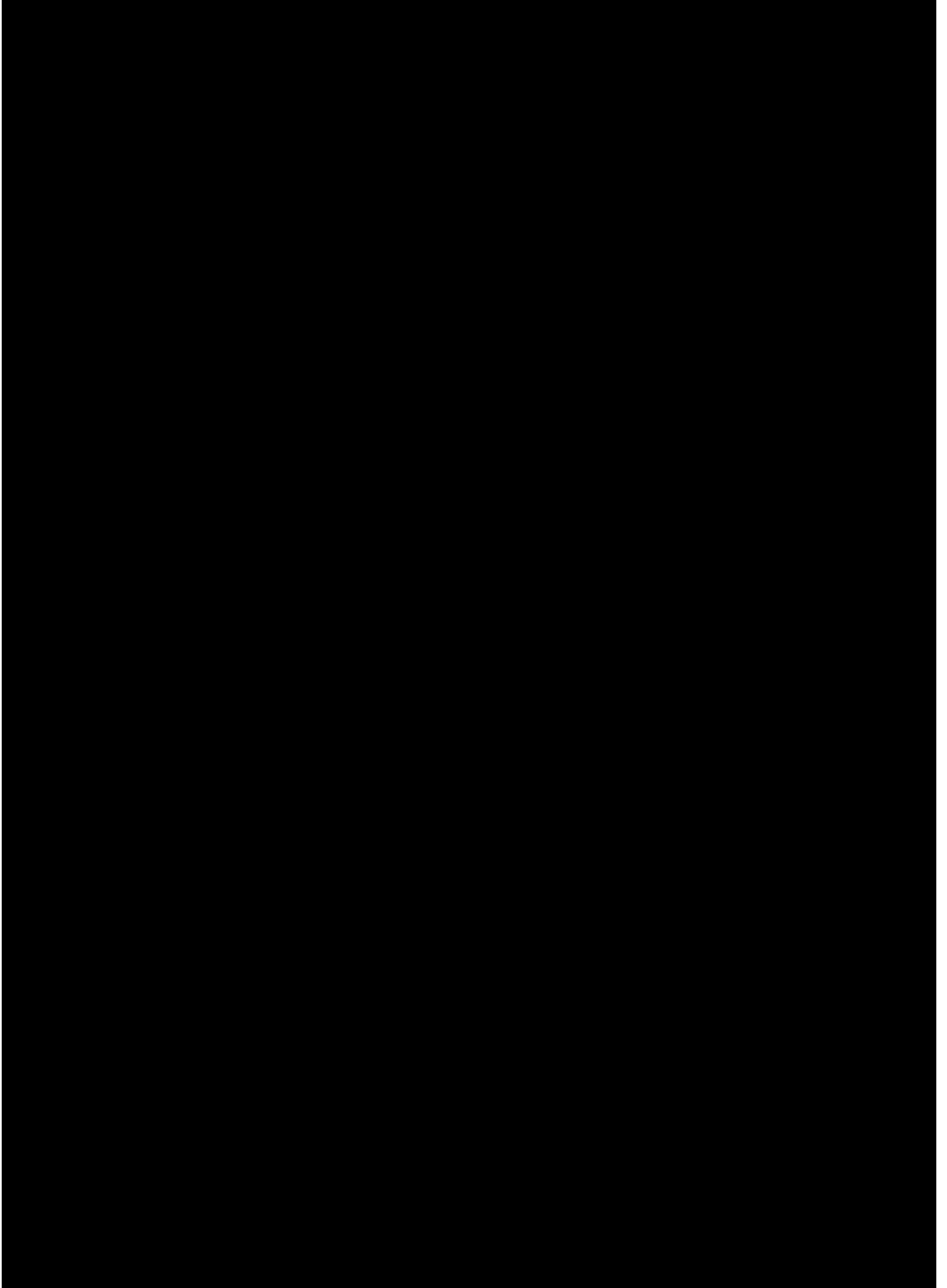


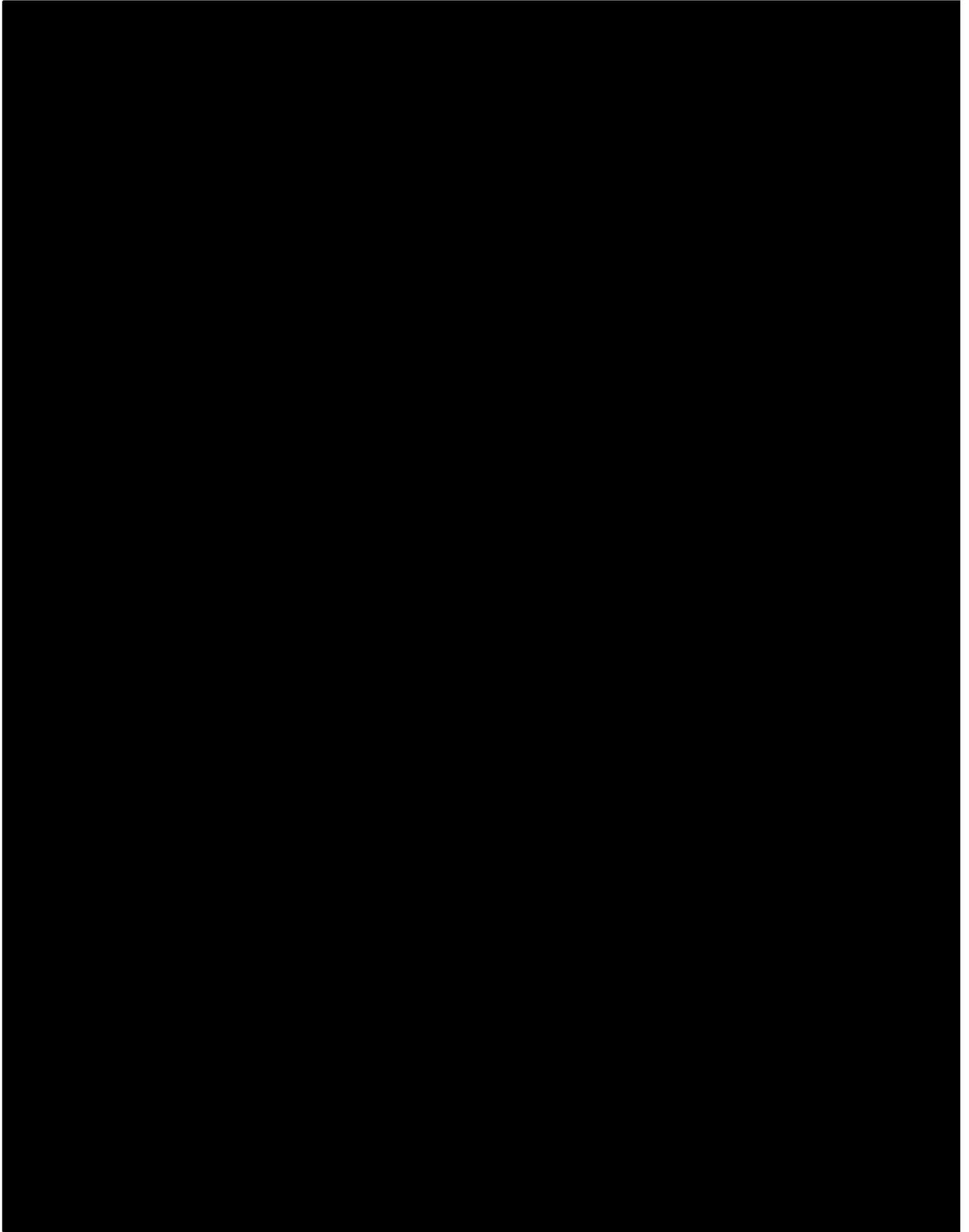


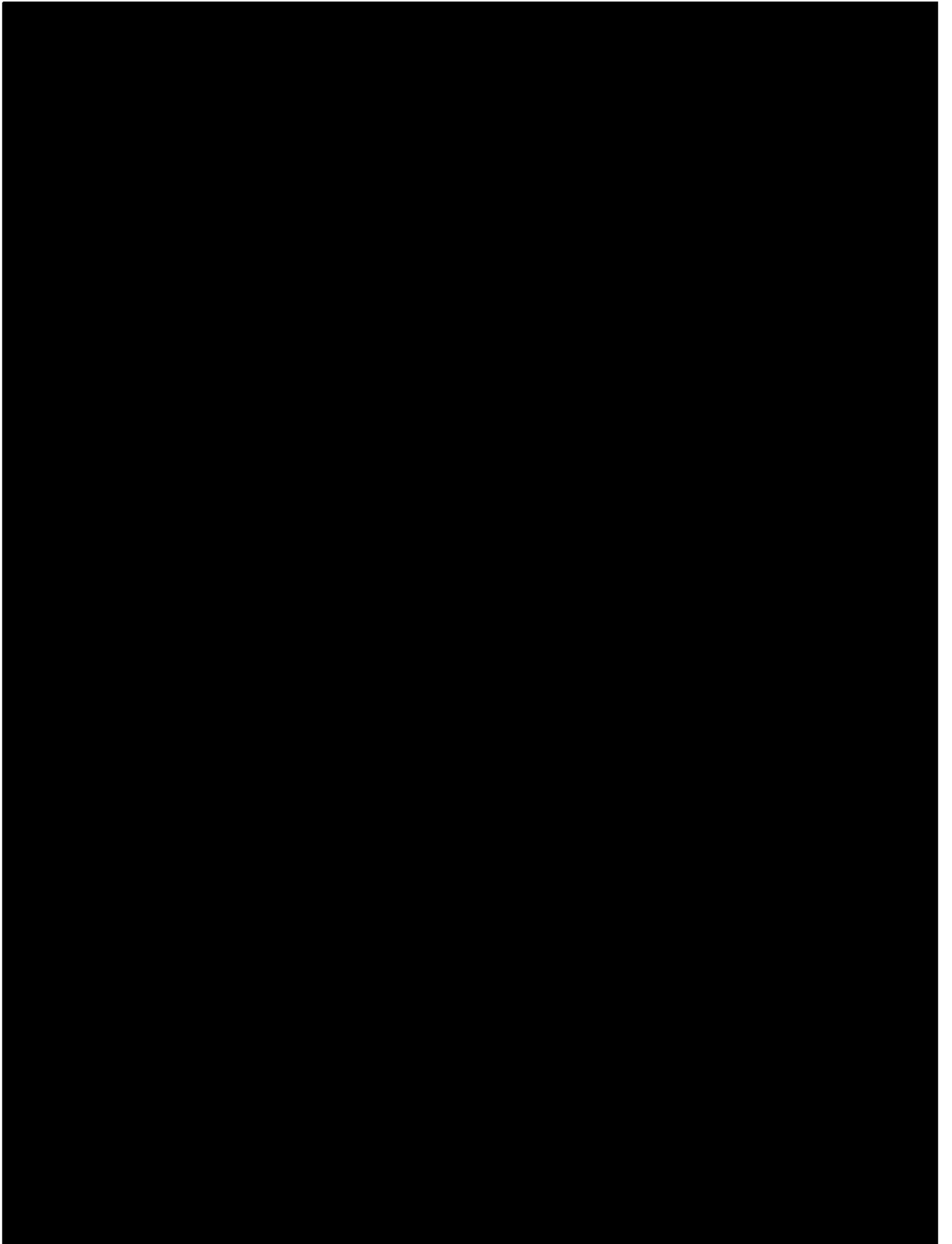


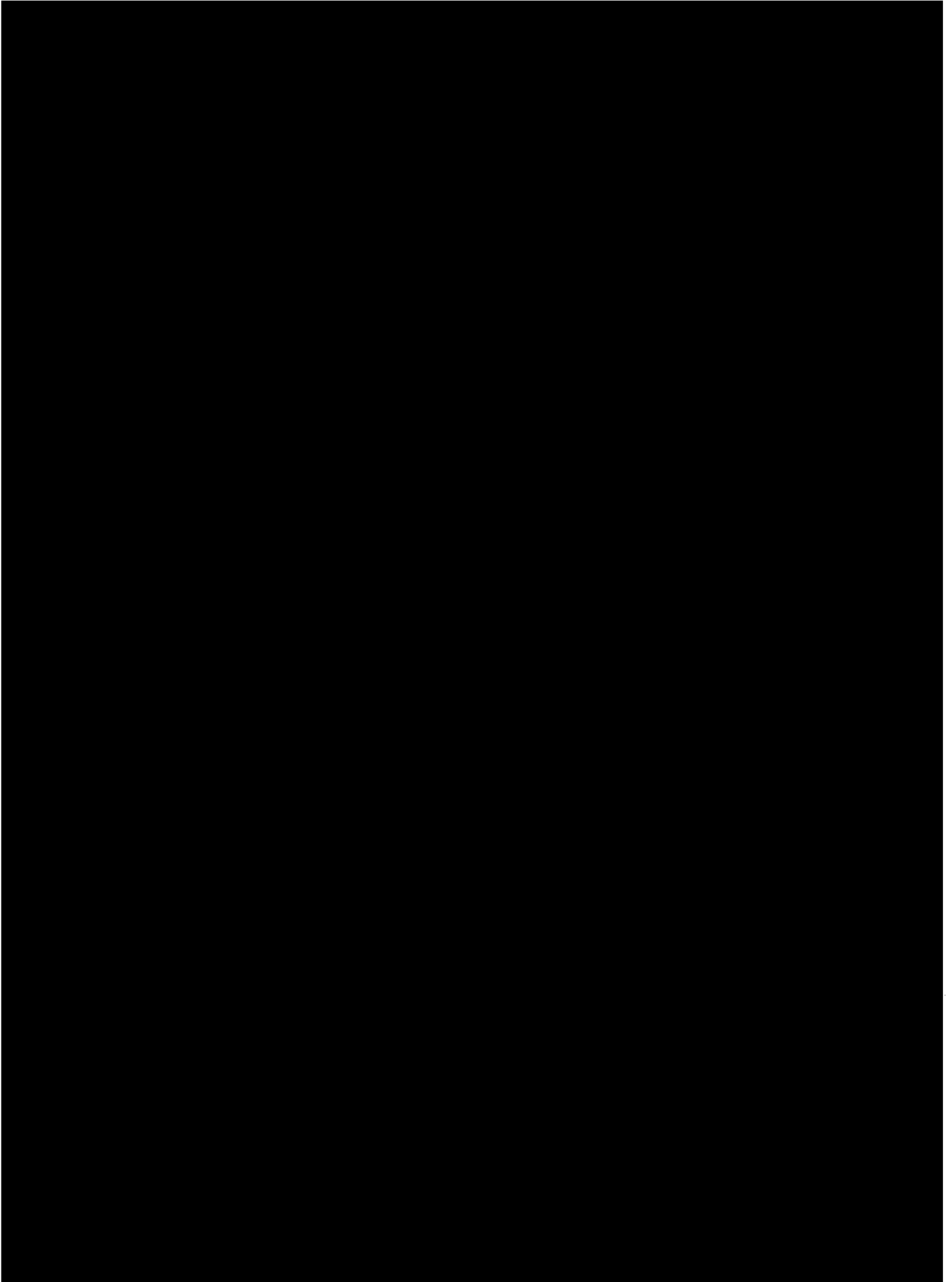


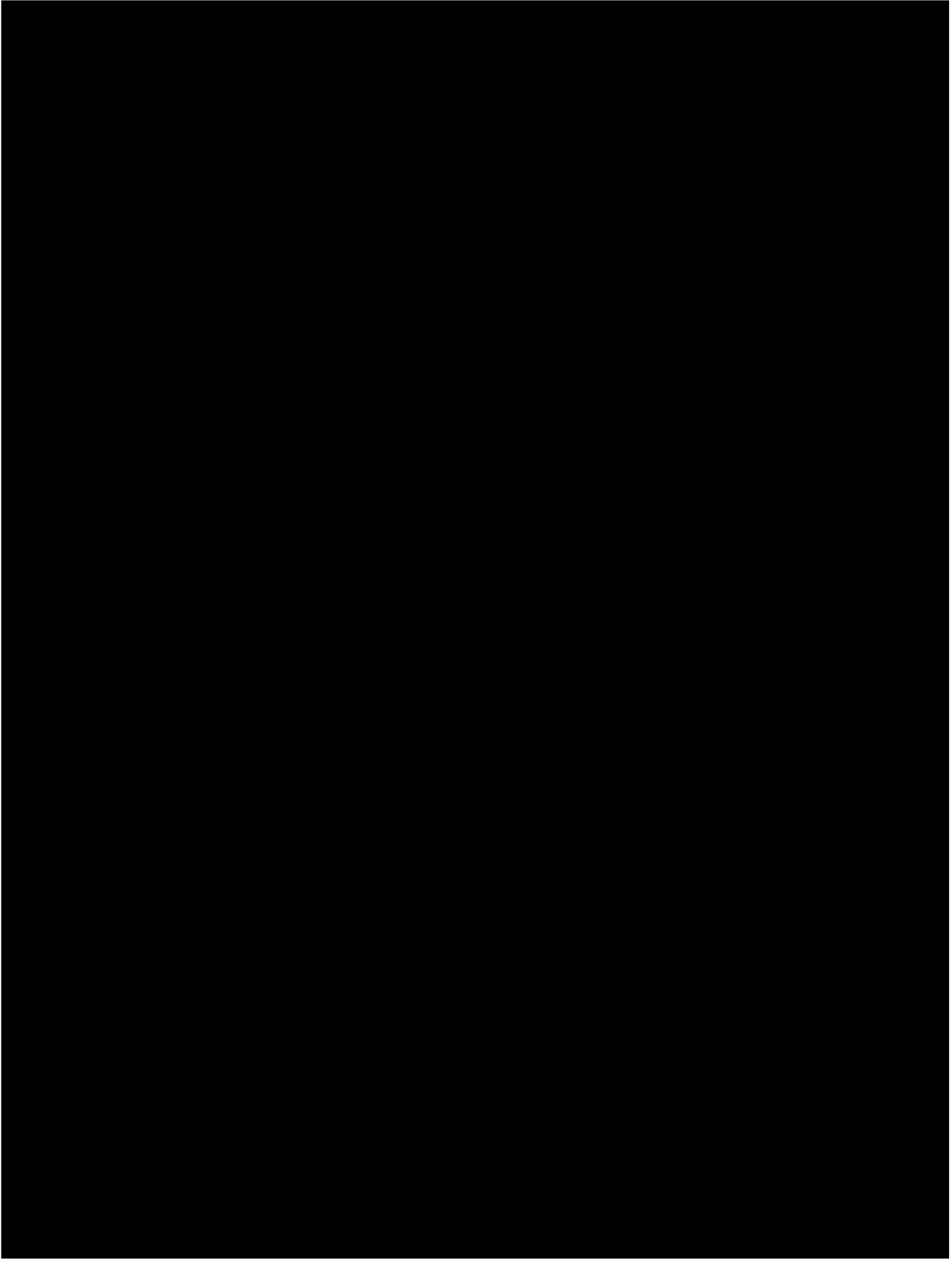


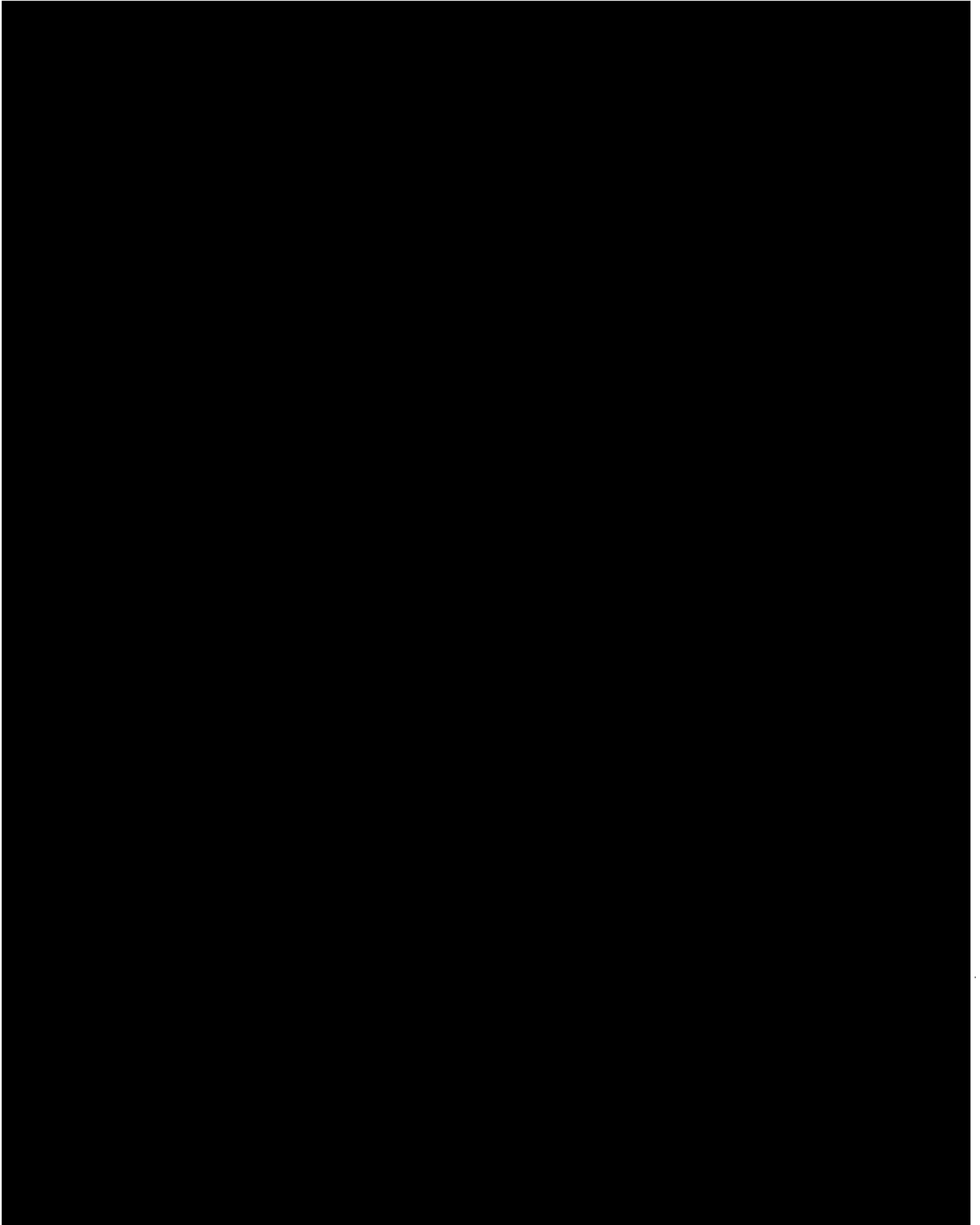


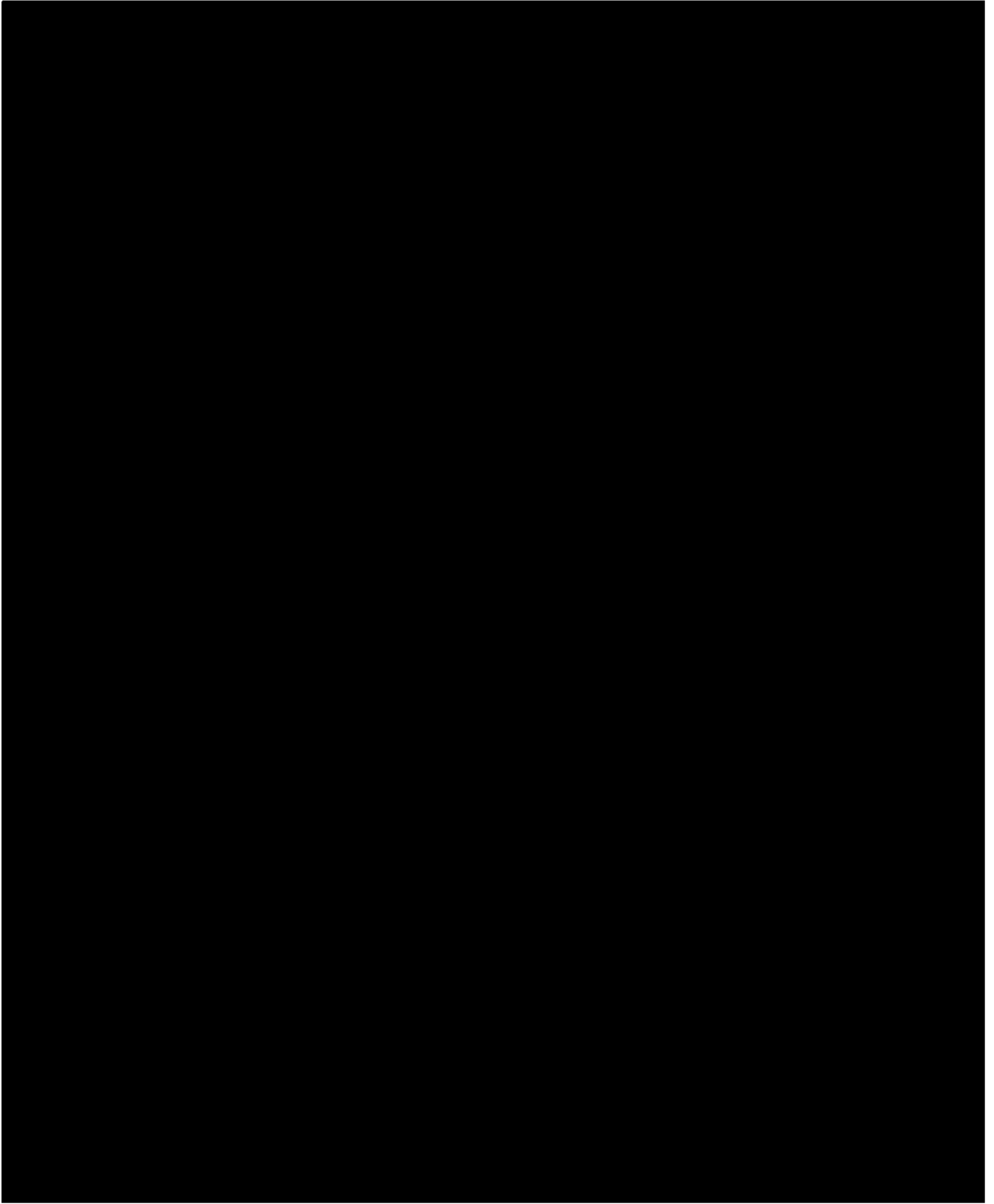


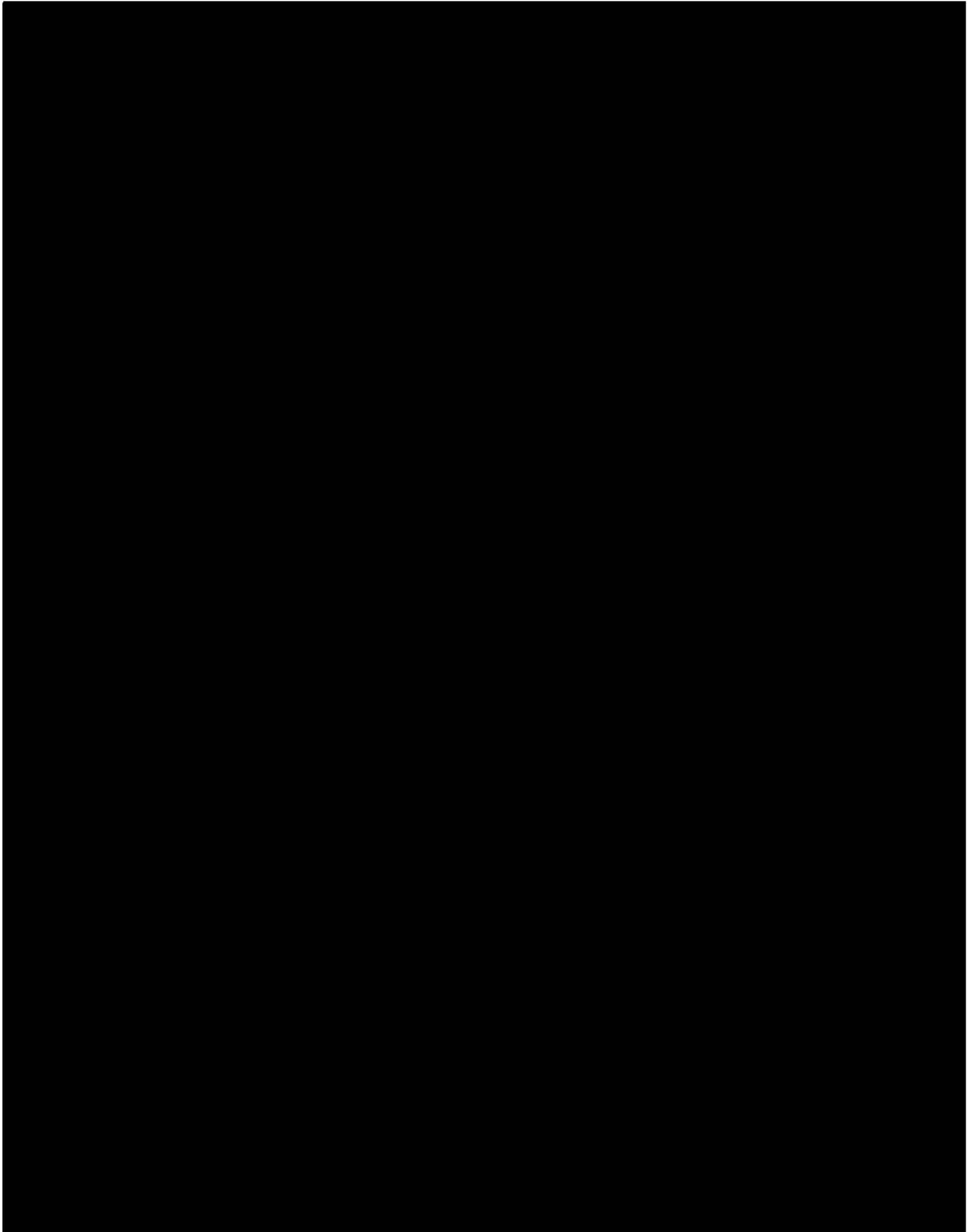


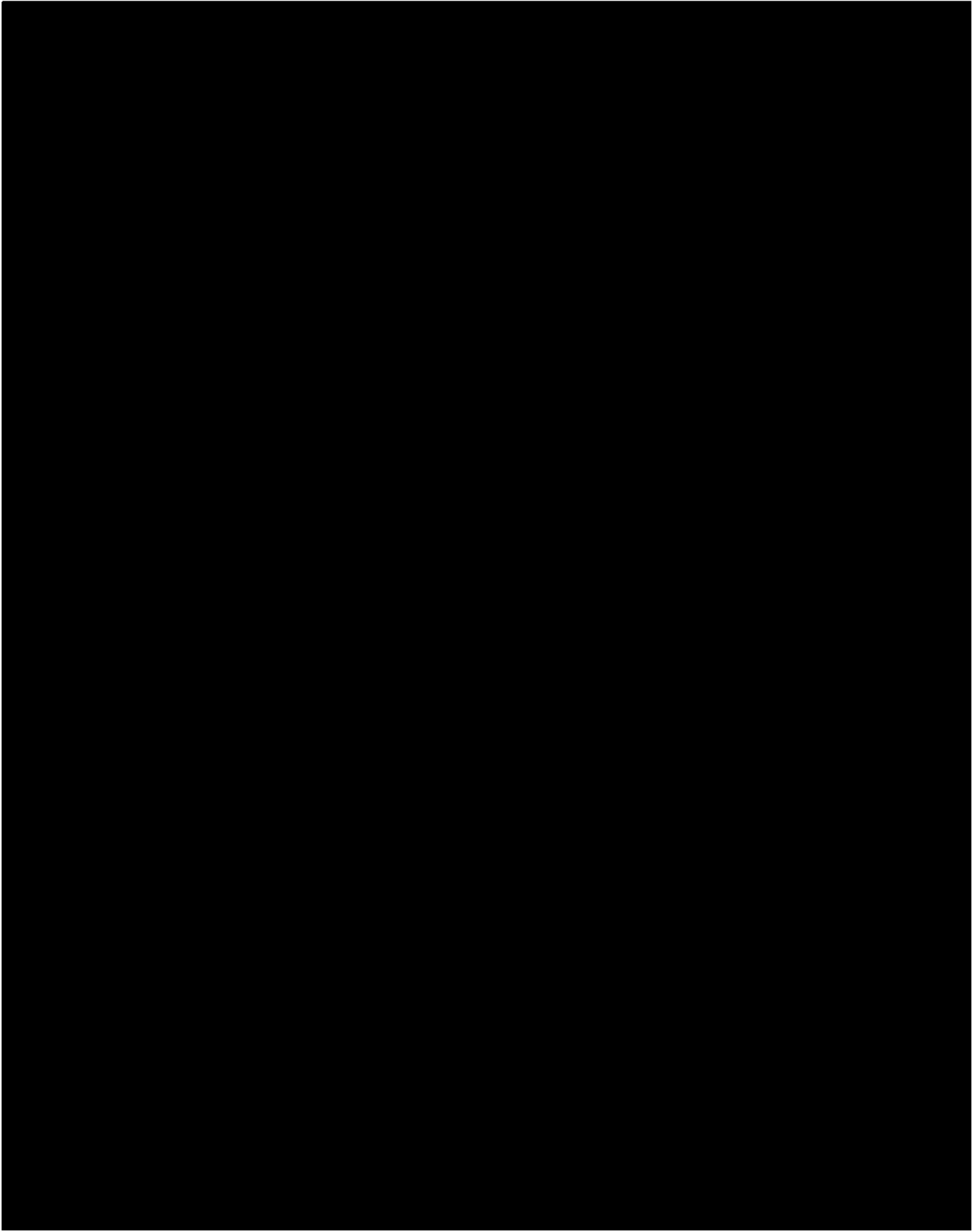


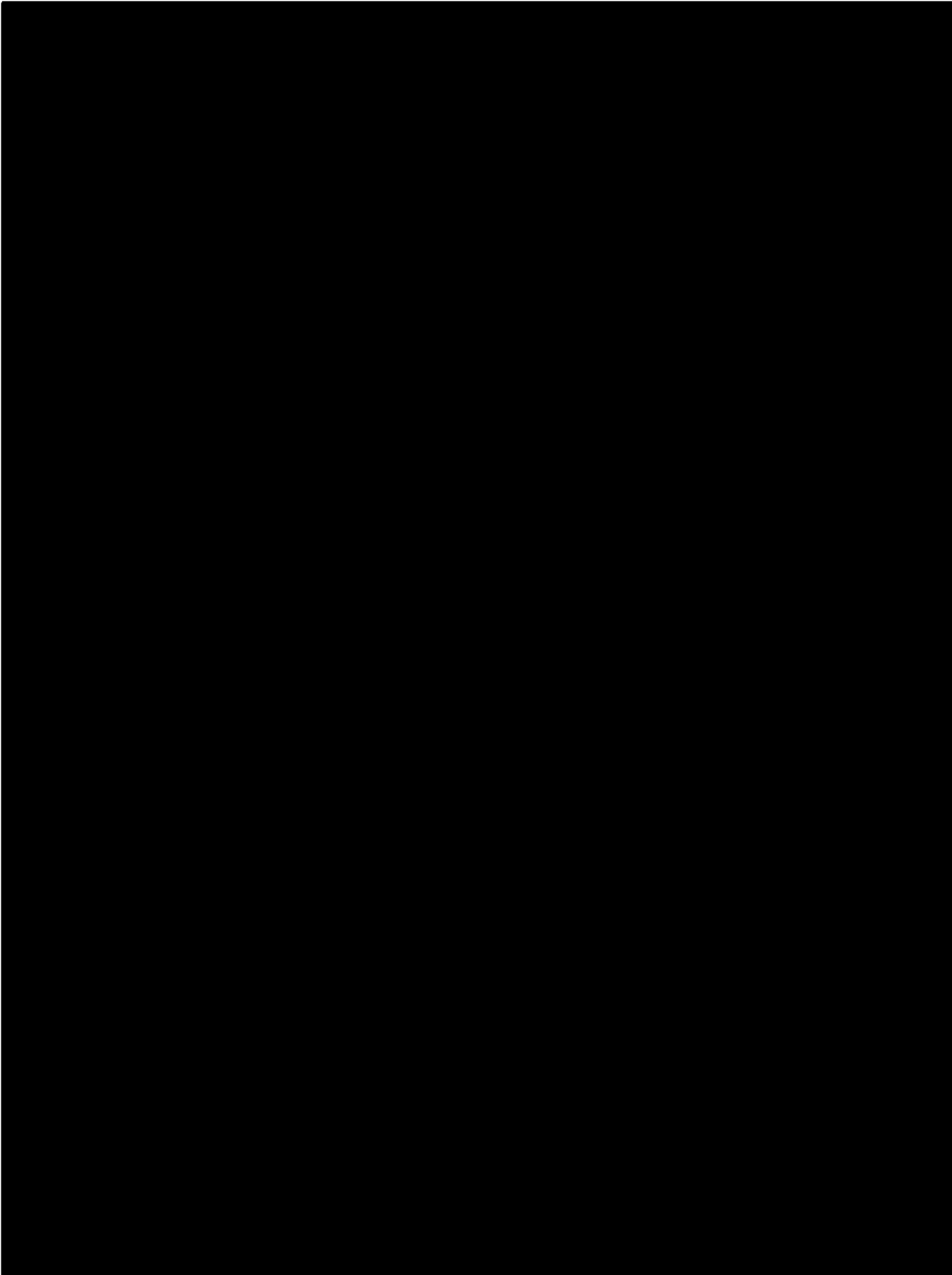


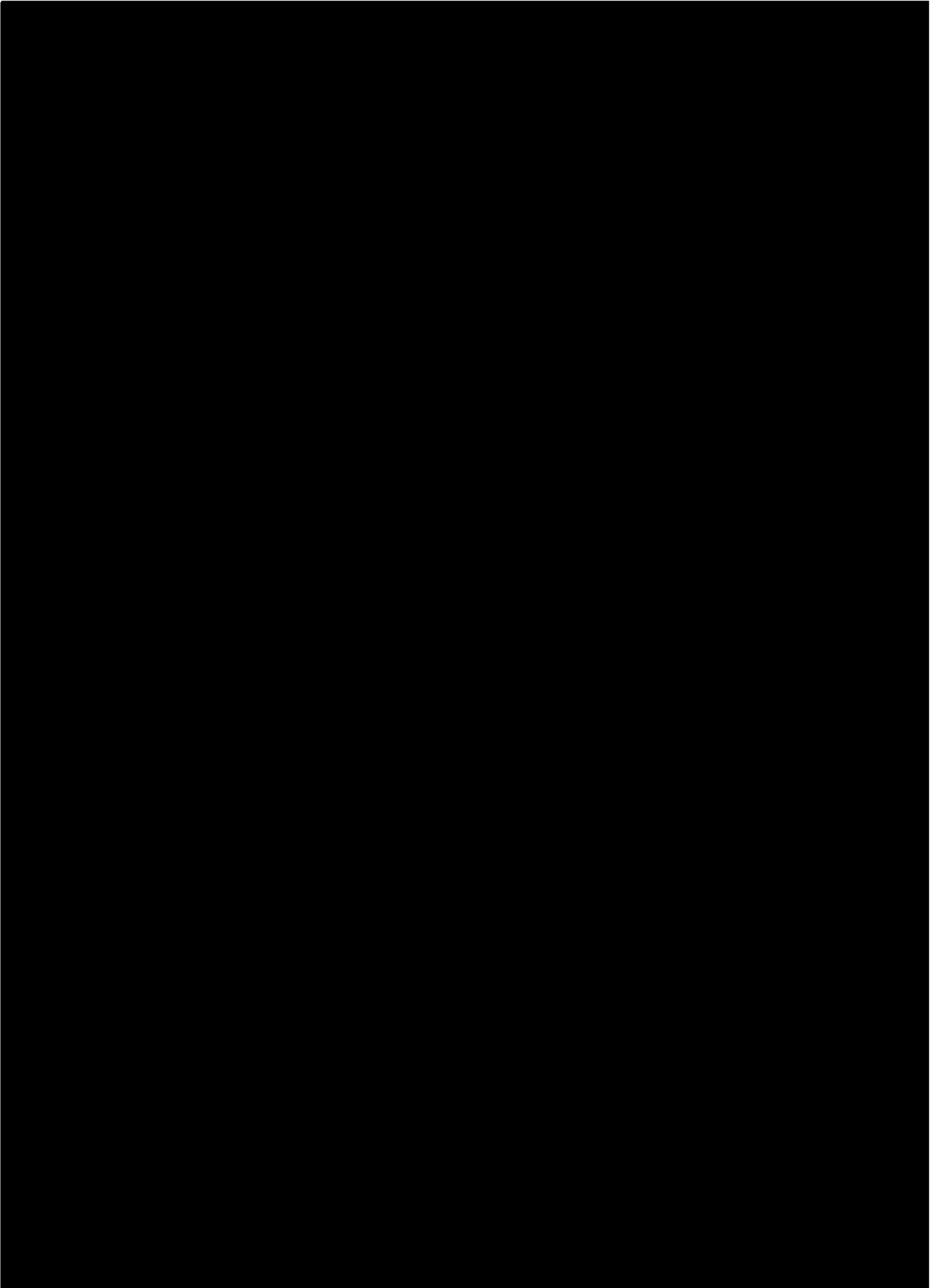


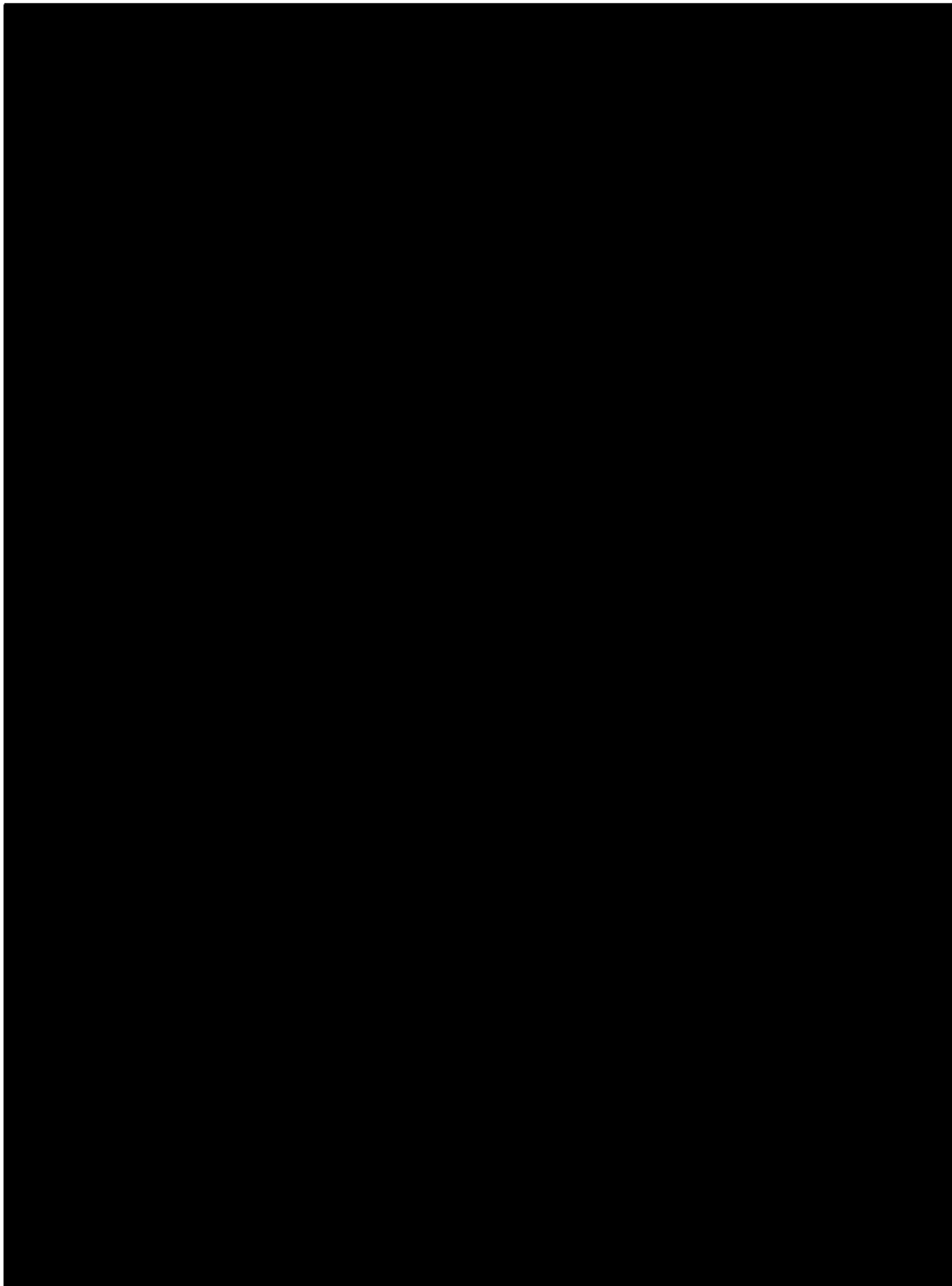


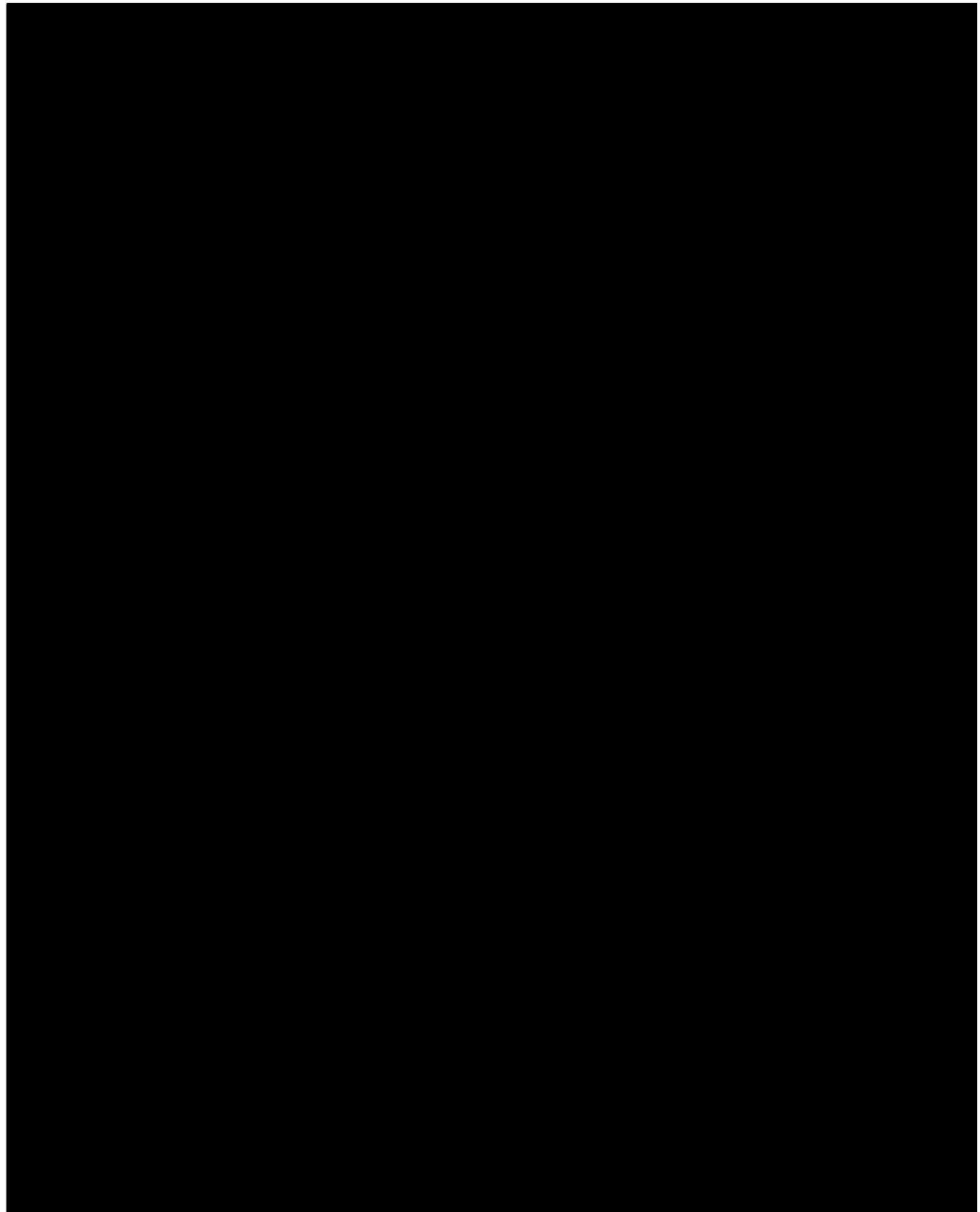














Bart Kolodziejczyk <kolodziejczykbartlomiej@gmail.com>

Iron flow battery - prior art and novelty of current invention

Matthew Roper <matthew.roper@fmgl.com.au>
To: Bart Kolodziejczyk <kolodziejczykbartlomiej@gmail.com>

5 November 2021 at 12:21

Great Thankyou Bart! to give a quick answer now without having reviewed I would say we will file the patent.

Best Regards,

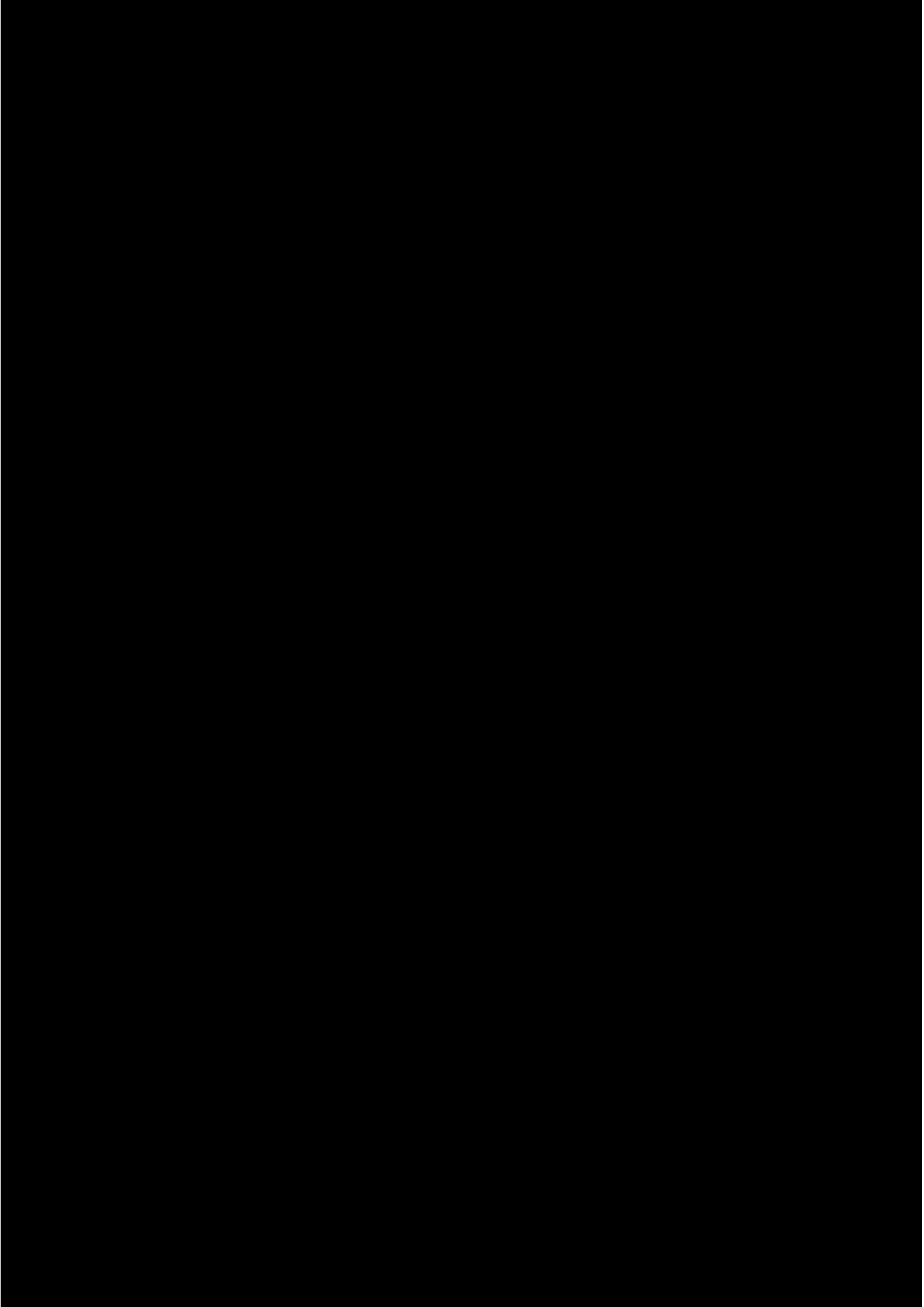
Matthew Roper

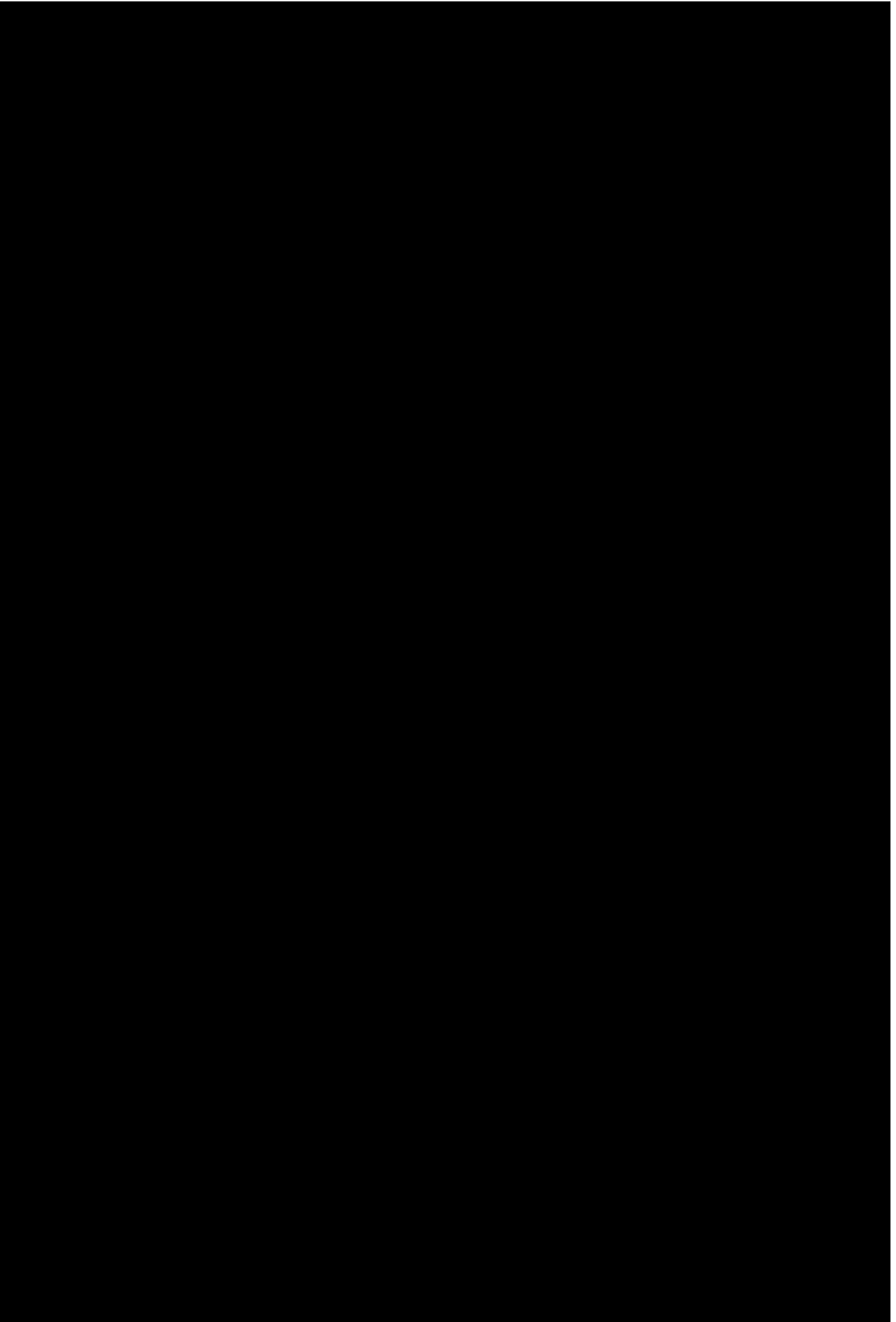
From: Bart Kolodziejczyk <kolodziejczykbartlomiej@gmail.com>
Sent: Friday, 5 November 2021 9:32 AM
To: Matthew Roper <matthew.roper@fmgl.com.au>
Subject: Iron flow battery - prior art and novelty of current invention

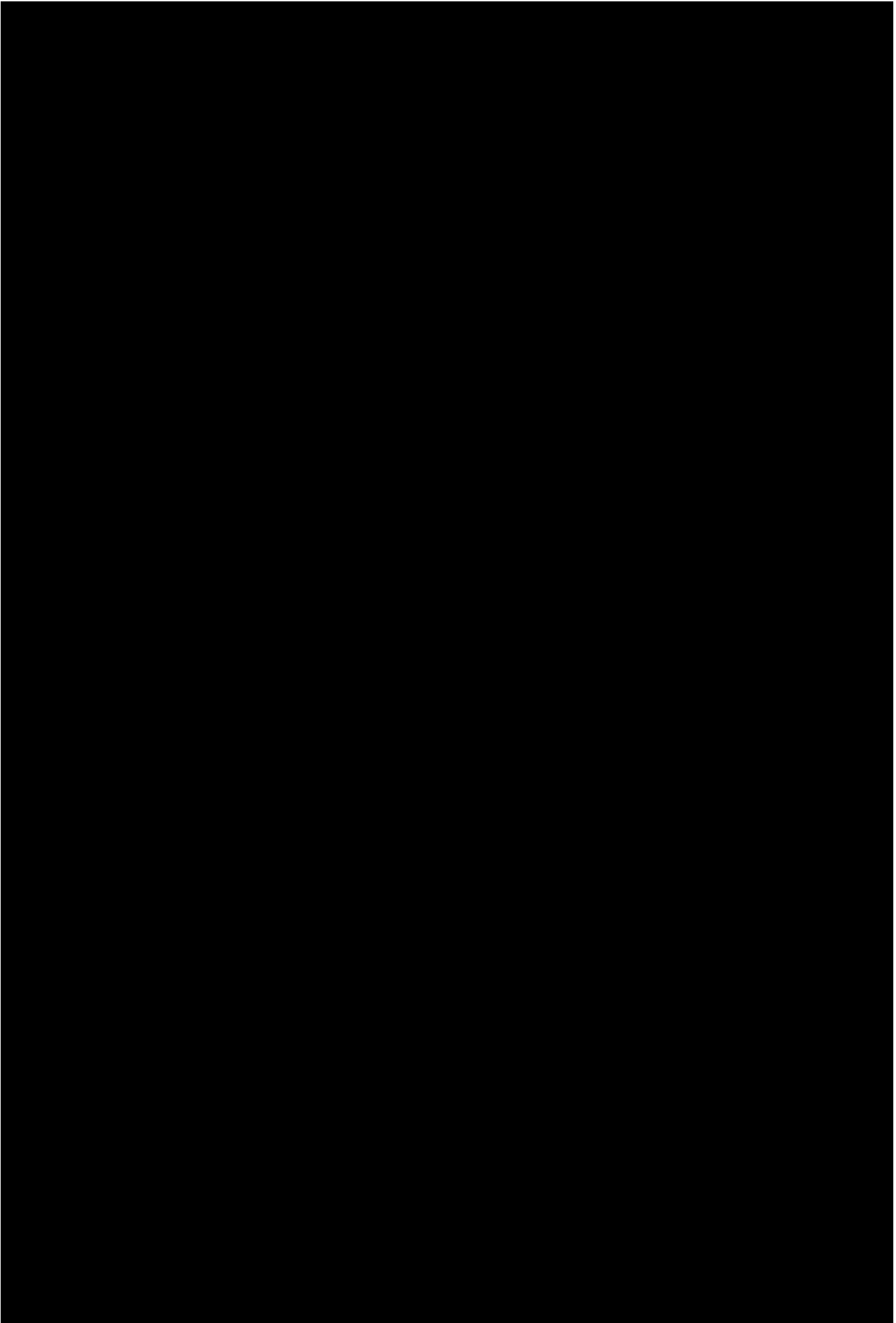
Hi Matt,

In addition to the invention disclosure shared before, I am sending further information on the iron flow battery. I have done an extensive search and have described prior art. I have also emphasised the novelty or point of difference of the current invention.

Let me know what you want to do next. If we are not filing this patent then there's no point for me to do a follow-up on the electrode.







From: [Michael Masterman](#)
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 magnetic - 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> wrote:

Hi Michael

Apologies for the delayed response....

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

Thanks

Andrew

+61 409 176 [REDACTED]

From: Michael Masterman <mghmasterman@gmail.com>
Sent: Tuesday, September 5, 2023 3:43 PM
To: Gerald La Rosa <glarosa@fmgl.com.au>
Cc: Andrew Hamilton <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>
Sent: Monday, August 21, 2023 3:48 am
To: Michael Masterman <mgmasterman@gmail.com>
Cc: Andrew Hamilton <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>
Sent: Sunday, August 13, 2023 3:34 PM
To: Andrew Hamilton <ahamilton@fmgl.com.au>
Cc: Gerald La Rosa <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>
Sent: Tuesday, August 8, 2023 2:18:13 PM
To: Michael Masterman <mgmasterman@gmail.com>
Cc: Gerald La Rosa <glarosa@fmgl.com.au>
Subject: RE: Iron ore and lower grade Hematite Ore testing

Michael

Following up from today (Tuesday 8th 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>
Sent: Monday, July 31, 2023 12:32 PM
To: Andrew Hamilton <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>
Sent: Monday, July 31, 2023 9:21:48 AM
To: Andrew Hamilton <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>
Sent: Friday, May 19, 2023 2:34:34 PM
To: Michael Masterman <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 (22nd) after 1:30pm.

Thanks

Andrew
0409 176 [REDACTED]

From: Michael Masterman <mgmasterman@gmail.com>
Sent: Friday, May 19, 2023 2:13 PM
To: Andrew Hamilton <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

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.

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

Lucy Miller

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

fortescue.com



Lucy Miller

From: Michael Masterman <mgmasterman@gmail.com>
Sent: Thursday, 18 January 2024 7:50 PM
To: Katelin Bettella
Cc: Phil McKeiver; John Paul Olivier; Andrew Hamilton; Dino Otranto
Subject: Re: Catch up

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>
Sent: Wednesday, January 17, 2024 3:38:47 PM
To: mgmasterman@gmail.com <mgmasterman@gmail.com>
Cc: Phil McKeiver <phil.mckeiver@fortescue.com>; John Paul Olivier <johnpaul.olivier@fortescue.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>; Dino Otranto <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
 Twitter: @FortescueNews | www.fmgl.com.au



From: Michael Masterman <mgmasterman@gmail.com>
Sent: Monday, January 15, 2024 2:54 PM
To: Dino Otranto <dino.otranto@fmgl.com.au>; Andrew Hamilton <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

Lucy Miller

From: Phil McKeiver <phil.mckeiver@fortescue.com>
Sent: Thursday, 18 January 2024 1:21 PM
To: Michael Masterman; Andrew Hamilton
Cc: John Paul Olivier
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

fortescue.com



From: Michael Masterman <mgmasterman@gmail.com>
Sent: Thursday, January 18, 2024 10:19 AM
To: Andrew Hamilton <andrew.g.hamilton@fortescue.com>; Phil McKeiver <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>
Sent: Thursday, January 18, 2024 9:35:37 AM
To: Phil McKeiver <phil.mckeiver@fortescue.com>; Michael Masterman <mgmasterman@gmail.com>
Subject: RE: Briefing on New Iron ore technology

Phil

Michael and I have organised a "technical discussion", booked for Wednesday 24th 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>
Sent: Wednesday, January 17, 2024 10:12 AM
To: Michael Masterman <mgmasterman@gmail.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>; Dino Otranto <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

fortescue.com



From: Michael Masterman <mgmasterman@gmail.com>
Sent: Wednesday, January 17, 2024 10:01 AM
To: Phil McKeiver <phil.mckeiver@fortescue.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>; Dino Otranto <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>
Sent: Wednesday, January 17, 2024 9:48 am
To: Michael Masterman <mgmasterman@gmail.com>; Andrew Hamilton <andrew.g.hamilton@fortescue.com>; Dino Otranto <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

fortescue.com



From: Michael Masterman <mgmasterman@gmail.com>
Sent: Wednesday, January 17, 2024 9:28 AM
To: Andrew Hamilton <ahamilton@fmgl.com.au>; Dino Otranto <dino.otranto@fmgl.com.au>
Cc: Phil McKeiver <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](#)

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>
Sent: Tuesday, January 23, 2024 3:36 PM
To: Adrian Huber <adrian.huber@fortescue.com>; <mailto:mgmasterman@gmail.com>
<mgmasterman@gmail.com>
Cc: Phil McKeiver <phil.mckeiver@fortescue.com>; Andrew Bartlett
<ABartlett@steinpag.com.au>; Andrew Hamilton <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



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>

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

To: <mailto:mgmasterman@gmail.com> <mgmasterman@gmail.com>; Katrina O'Leary <Katrina@ipko.com.au>

Cc: Phil McKeiver <phil.mckeiver@fortescue.com>; Andrew Bartlett <ABartlett@steinpag.com.au>; Andrew Hamilton <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>
Sent: Sunday, January 21, 2024 5:02 PM
To: Andrew Hamilton <andrew.g.hamilton@fortescue.com>
Cc: Katrina O'Leary <Katrina@ipko.com.au>; Phil McKeiver <phil.mckeiver@fortescue.com>; Adrian Huber <adrian.huber@fortescue.com>; Andrew Bartlett <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

