

GB-Shrewsbury: DMNH 014 – Property Flood Resilience (PFR) Surveying, Design and Installation across Shropshire

Competitive Contract Notice

1. Title: GB-Shrewsbury: DMNH 014 – Property Flood Resilience (PFR) Surveying, Design and Installation across Shropshire
2. Awarding Authority:
Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom
Tel. +44 1743252993, Fax. +44 1743253910, Email: procurement@shropshire.gov.uk, URL: www.shropshire.gov.uk
Contact: Procurement, Attn: Procurement
3. Contract Type: Works
Sub Type: Realisation, by whatever means of work, corresponding to the requirements specified by the contracting authorities
4. Description: Flood-prevention works. Contract for surveying, design and installation of Property Flood Resilience (PFR) measures to a number of domestic properties that are at serious risk of flooding. Properties are located in Shifnal and Westbury with individual properties also located across Shropshire.

This project is funded by Flood Defence Grant in Aid, Regional Flood and Coastal Committee Local Levy which are provided by central government and administered by the Environment Agency. Shropshire Council's Flood and Water Management team are also contributing financially to the scheme.

5. CPV Codes:
45246400 - Flood-prevention works.
6. NUTS Codes :
UKG22 - Shropshire CC
7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,
8. Reference Attributed by the Awarding Authority: DMNH 014
9. Estimated Value of Requirement: Category H: 100K to 500K
Currency: GBP
10. Deadline for Expression of Interest: 19/02/2018 12:00:00
11. Address to which they must be sent:
Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom
Tel. +44 1743252993, Fax. +44 1743253910, Email: procurement@shropshire.gov.uk, URL: www.shropshire.gov.uk
Contact: Procurement, Attn: Procurement

12. Other Information:
Other Information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.
For more information about this opportunity, please visit the Delta eSourcing portal at:
<https://www.delta-esourcing.com/tenders/UK-GB-Shrewsbury:-DMNH-014-%E2%80%93-Property-Flood-Resilience-%28PFR%29-Surveying%2C-Design-and-Installation-across-Shropshire/RJZF292NYT>

To respond to this opportunity, please click here:
<https://www.delta-esourcing.com/respond/RJZF292NYT>

Suitable for VCO: Yes
Procedure Type: OPEN
Period of Work Start date: 05/03/2018
Period of Work End date: 28/09/2018

Commissioning & Procurement

Shirehall, Abbey Foregate
Shrewsbury, SY2 6ND



Tel: (01743) 252993

Fax: (01743) 255901

Please ask for: [REDACTED]

24th January 2018

Email: procurement@shropshire.gov.uk

Dear Bidder

DMNH 014 – PROPERTY FLOOD RESILIENCE (PFR) SURVEYING, DESIGN AND INSTALLATION ACROSS SHROPSHIRE

SHROPSHIRE COUNCIL

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Instructions for Tendering (for completion and return)
2. Tender Response Document (for completion and return)
3. Schedule of Works (for completion and return)
4. Tender Response Question 2.1 Scenario Attachment
5. DRAFT NEC3 Short Contract
6. Shropshire Council General Terms and Conditions

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned together with a signed copy of the 'Instructions for Tendering' through our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on 19th February 2018**, any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
 - Please ensure that you allow yourself at least two hours when responding prior to the closing date and time, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
 - Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.

Tenders **cannot** be accepted if:

personal info

- Tenders are received by post, facsimilie or email
- Tenders are received after **12 noon on the given deadline**

Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore, if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

Other Details

Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender.

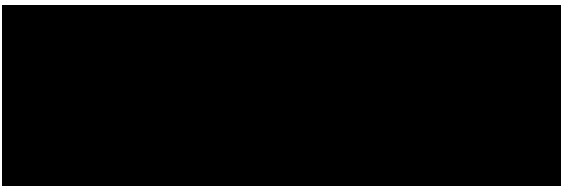
As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at www.shropshire.gov.uk/doing-business-with-shropshire-council.

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 252993.

Yours faithfully



Procurement Manager
Commissioning & Procurement
Enc



INSTRUCTIONS FOR TENDERING

**DMNH 014 – PROPERTY FLOOD
RESILIENCE (PFR) SURVEYING,
DESIGN AND INSTALLATION
ACROSS SHROPSHIRE**

Shropshire Council Instructions for tendering

Contract Description:

Contract for surveying, design and installation of Property Flood Resilience (PFR) measures to a number of domestic properties that are at serious risk of flooding. Properties are located in Shifnal and Westbury with individual properties also located across Shropshire.

This project is funded by Flood Defence Grant in Aid, Regional Flood and Coastal Committee Local Levy which are provided by central government and administered by the Environment Agency. Shropshire Council's Flood and Water Management team are also contributing financially to the scheme.

Tenders are to be submitted in accordance with draft NEC3 Short Contract and the General Terms and Conditions of Shropshire Council included with the tender documentation.

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1.0 Invitation to Tender

- 1.1 You are invited to tender for the provision of property flood resilience (PFR) surveying, design and installation across Shropshire as detailed in the Tender Response Document.
- 1.2 Tenders are to be submitted in accordance with the NEC3 Short Contract and the General Terms and Conditions of Shropshire Council included with the tender documentation.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

2.0 Terms and Conditions

- 2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.
- 2.2 The Tenderer is advised that in the event of their Tender being accepted by the

Council, they will be required to undertake the required services.

3.0 Preparation of Tenders

3.1 Completing the Tender Response Document

3.1.1 Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

3.1.2 All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

3.1.3 The Invitation to Tender Documents are and shall remain the property and copyright of the Council

3.2 Tender Preparation and Costs

3.2.1 It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

3.2.2 Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

3.2.3 Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

3.2.4 The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

3.2.5 Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.

3.2.6 It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.

- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

3.3 Parent Company Guarantee

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

3.4 Warranty

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

4.0 Tender Submission

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 19th February 2018**.
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.

- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

5.0 Variant Bids

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

6.0 Tender Evaluation

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

7.0 Clarifications

- 7.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 7.2 If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
- 7.3 Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 7.4 All queries should be raised as soon as possible (in writing), in any event not later than 12th February 2018.
- 7.5 All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 7.6 Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

8.0 Continuation of the Procurement Process

- 8.1 The Council shall not be committed to any course of action as a result of:
- i) issuing this Invitation to Tender;
 - ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
 - iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.
- 8.2 The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.
- 8.3 At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

9.0 Confidentiality

9.1 All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

9.2 The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

9.3 Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.

9.4 The contents of this Invitation to Tender are being made available by the Council on condition that:

9.4.1 Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

9.4.2 Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

9.4.3 Tenderers shall not undertake any publicity activity within any section of the media.

9.5 Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:

9.5.1 this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or

9.5.2 the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or

9.5.3 the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or

9.5.4 the Tenderer is legally required to make such a disclosure.

9.6 The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

9.7 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

10.0 Freedom of Information

10.1 Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

10.2 In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

10.3 If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

10.4 Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

10.5 In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

11.0 Disqualification

11.1 The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:

11.1.1 The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to

Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or

11.1.2 The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.

11.1.3 The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

11.1.4 The Tenderer :

a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or

b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or

c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

11.2 Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

11.3 The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

12.0 E-Procurement

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

13.0 Award of Contract

13.1 Award Criteria

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

13.2 Award Notice

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

13.3 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

14.0 Value of Contract

Shropshire Council cannot give any guarantee in relation to the value of this contract.

15.0 Acceptance

15.1 Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

15.2 The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

15.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract being **5th March 2018**.

16.0 Payment Terms

Tenderers should particularly note that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a

pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

17.0 Liability of Council

17.1 The Council does not bind himself to accept the lowest or any tender.

17.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

17.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

17.4 The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.

17.5 Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

18.0 The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

19.0 Declaration

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) Status.....

Signed (2) Status.....

(For and on behalf of)

Date

Scheme: Shropshire PLR

BILLS OF QUANTITIES

Quantities shown in this schedule are indicative of the number in total that may be used on all properties to aid tenderers in the pricing exercise. This does not constitute the maximum or minimum quantity that may be required for all of the properties. Please note if you fail to submit a price for individual items the Contracting Authority will insert the highest tendered price received for that item for the purposes of evaluation.

Item No.	Description	Quantity	Unit	Rate	Total
	PRELIMINARIES				
	<i>Items 1.01 to 1.13 are based on installation works for 21 properties.</i>				
1.01	Carry out initial site manufacture survey producing a survey report to enable an accurate BoQ to be produced for each property.	21	No.		
1.02	Manufacturers 'works inspection' of property to design and agree all necessary detail to enable products to be ordered and preparation for installation arranged by Contractor at time agreed with resident.	21	No.		
1.03	Attendance and input at evening public surgery during sign up period following property surveys.	2	No.		
1.04	Resident liaison throughout installation phase, from contract award to test event.	21	No.		
1.05	Mobilise and maintain site compound including welfare facilities for duration of installation phase				
1.06	Procuring Gas Safe engineers to modify vents servicing combustible of sump pumps.				
1.07	Procuring Electrical Compliance engineers to ensure the safe installation of sump pumps.				
1.08	Attendance at community engagement event prior to surveying. Where necessary providing demonstrations, advise and support to residents with queries regarding the products.				
1.09	Attendance at test event following completion of installation works, providing support to residents during test event.	21	No.		
1.10	Provision of all necessary information to property resident to enable operation and maintenance of the flood resistance measures provided	21	No.		
1.11	Issue of completion certificate to homeowner	21	No.		
	WET TESTING				
1.12	Wet testing				
	MAINTENANCE				
1.13	Provision of a 2 year maintenance package, if the residents desire				
1.14	Provision of a 5 year maintenance package, if the residents desire				
	<i>For works not covered by items above or with prices that are agreed by reasonable assessment in line with:</i>				
1.12	Labour		£	%	
1.13	Plant		£	%	
1.14	Materials		£	%	

Item No.	Description	Quantity	Unit	Rate	Total
	FLOOD DOORS				
2.01	Provision and installation of basic standard white uPVC flood door opening up to 0.9m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.02	Provision and installation of basic standard oak uPVC flood door opening up to 0.9m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.03	Provision and installation of basic standard composite flood door opening up to 0.9m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.04	Provision and installation of basic standard white uPVC flood door opening greater than 0.9m wide up to 1.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.05	Provision and installation of basic standard oak uPVC flood door opening greater than 0.9m wide up to 1.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.06	Provision and installation of basic standard composite flood door opening greater than 0.9m wide up to 1.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.07	Provision and installation of basic standard white uPVC flood door opening greater than 1.5m wide up to 2m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.08	Provision and installation of basic standard oak uPVC flood door opening greater than 1.5m wide up to 2m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.09	Provision and installation of basic standard composite flood door opening greater than 1.5m wide up to 2m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.10	Provision and installation of basic standard white uPVC flood door opening greater than 2m wide up to 2.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.11	Provision and installation of basic standard oak uPVC flood door opening greater than 2m wide up to 2.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.12	Provision and installation of basic standard composite flood door opening greater than 2m wide up to 2.5m wide including removal and disposal of existing door, all modifications to enable completion of installation of door.		No.		£0.00
2.13	Provision and installation of basic standard white uPVC flood side panel opening up to 0.9m wide including removal and disposal of existing panel all modifications to enable completion of installation of panel.		No.		£0.00
2.14	Provision and installation of basic standard oak uPVC flood side panel opening up to 0.9m wide including removal and disposal of existing panel all modifications to enable completion of installation of panel.		No.		£0.00
2.15	Provision and installation of basic standard composite flood side panel opening up to 0.9m wide including removal and disposal of existing panel all modifications to enable completion of installation of panel.		No.		£0.00
2.16	Contractor is to add further flood door items for anticipated works.		No.		£0.00
	<i>Price for doors/windows greater than 2.5m wide are to be agreed in advance of works and to be in line with prices for sizes above.</i>				

Item No.	Description	Quantity	Unit	Rate	Total
	DOOR BARRIERS				
	Rates for door/window barriers to include for all necessary modifications to existing door				
3.01	Provision and installation of flood barrier for "clip in to pre-installed frame" type door/window barrier, width less than 1.2m.		No.		£0.00
3.02	Provision and installation of flood barrier for "clip in to pre-installed frame" type door/window barrier, width 1.2m to less than 1.5m.		No.		£0.00
3.03	Provision and installation of flood barrier for "clip in to pre-installed frame" type door/window barrier, width 1.5m to less than 2.5m.		No.		£0.00
	<i>Price for door barriers greater than 2.5m wide are to be agreed in advance of works and to be in line with prices for sizes above.</i>				
3.04	Provision and installation of flood barrier for "free standing expanding into recess/reveals" type door/window barrier, width less than 0.9m.		No.		£0.00
3.05	Provision and installation of flood barrier for "free standing expanding into recess/reveals" type door/window barrier, width greater than 0.9m up to 1.5m wide.		No.		£0.00
3.06	Provision and installation of flood barrier for "free standing expanding into recess/reveals" type door/window barrier, width greater than 1.5m up to 2m wide.		No.		£0.00
3.07	Provision and installation of flood barrier for "free standing expanding into recess/reveals" type door/window barrier, width greater than 2m up to 2.5m wide.		No.		£0.00
3.08	Provision and installation of flood barrier for "free standing expanding into recess/reveals" type door/window barrier, width greater than 2.5m up to 3m wide.		No.		£0.00
	<i>Price for door/window barriers greater than 3m wide are to be agreed in advance of works and to be in line with prices for sizes above.</i>				
3.09	Provision and installation of flood barrier for "screw in to pre-installed sockets" type door/window barrier, width less than 0.9m.		No.		£0.00
3.10	Provision and installation of flood barrier for "screw in to pre-installed sockets" type door/window barrier, width greater than 0.9m up to 1.5m wide.		No.		£0.00
3.11	Provision and installation of flood barrier for "screw in to pre-installed sockets" type door/window barrier, width greater than 1.5m up to 2m wide.		No.		£0.00
3.12	Provision and installation of flood barrier for "screw in to pre-installed sockets" type door/window barrier, width greater than 2m up to 2.5m wide.		No.		£0.00
3.13	Provision and installation of flood barrier for "screw in to pre-installed sockets" type door/window barrier, width greater than 2.5m up to 3m wide.		No.		£0.00
	<i>Price for door/window barriers greater than 3m wide are to be agreed in advance of works and to be in line with prices for sizes above.</i>				
3.14	Extra over door flood barriers for installation in flood wall or embankment.		No.		£0.00
	AIR BRICK REPLACEMENTS				
4.01	Provision and installation of automatic closing airbrick of standard brick size, including removal and disposal of existing airbrick, and all necessary modifications to install replacement.		No.		£0.00
4.02	Provision and installation of automatic closing airbrick of double standard brick size, including removal and disposal of existing airbrick, and all necessary modifications to install replacement.		No.		£0.00
4.03	Provision and installation of manual fit airbrick cover for standard single brick size, including all modifications to fit cover.		No.		£0.00
4.04	Provision and installation of manual fit airbrick cover for double standard brick size, including all modifications to fit cover.		No.		£0.00

Item No.	Description	Quantity	Unit	Rate	Total
	WATERPROOFING				
6.01	Waterproof spray to external walls, external perimeter up to 15m.		m		£0.00
6.02	Waterproof spray to external walls, external perimeter 15m or greater.		m		£0.00
6.03	Waterproof render to single skin wall including, preparation of surfaces, waterproofing tape to joints and painted finish for up to 5m ² wall area.		No.		£0.00
6.04	Waterproof render to single skin wall including, preparation of surfaces, waterproofing tape to joints, including all metal trims into corners & stops and painted finish for between 5m ² and 10m ² wall area.		No.		£0.00
6.05	Application of sealant to individual utility entry points.		No.		£0.00
	NON RETURN VALVES				
	<i>Rates for full port non return valves in new chamber include for excavation and make good in general soft landscaped garden areas and medium duty cover.</i>				
7.01	Provide and install 100mm diameter full port non return valve in existing chamber, including breaking out and benching of chamber to suit amendments.		No.		£0.00
7.02	Provide and install 100mm diameter full port non return valve in new chamber not greater than 1m depth, including construction of chamber with benching walls and cover.		No.		£0.00
7.03	Provide and install 100mm diameter push fit non return valve in existing chamber up to 1.5 depth including breaking out and benching of chamber to suit amendments.		No.		£0.00
7.04	Provide and install 10/20mm diameter non return valve to external waste pipe.		No.		£0.00
7.05	Provide and install 40/50mm diameter non return valve to external waste pipe.		No.		£0.00
7.06	Extra over full port non return valve in new chamber for construction in hard landscaping area. Including for breaking out and reinstatement and heavy duty cover.		No.		£0.00
7.07	Provision of pan-seal.		No.		£0.00
7.08	Provision of toilet bung.		No.		£0.00
	PUMPS				
8.01	Provision of electric puddle sucking pump for internal use within property with 10 metre length of flexible hose for discharge of water.		No.		£0.00
8.02	Provision and installation of electric sump pump with sump in sub-floor void space and permanent pipework for discharge of water.		No.		£0.00
8.03	Provision and installation of electric sump pump in new chamber externally with permanent pipework connections to sub-flood void space for discharge of water. To include construction of chamber, benching and cover slab.		No.		£0.00
8.04	Extra over electric puddle sucking pump for generator.		No.		£0.00
	MISCELLANEOUS				
9.01	Provision and installation of 150mm wide channel drain with grating including excavation and disposal of existing material.		m		£0.00
9.02	Provision and installation of 150mm diameter outfall pipe in trench depth to invert not exceeding 1.0m. To include excavation, backfill and disposal of existing material.		m		£0.00
9.03	Extra over 150mm diameter bend/junction.		No.		£0.00
9.04	Contractor to add further items for anticipated works.		No.		£0.00
				Total	£0.00



**NEC3
Engineering and Construction
Short Contract**

A contract between Shropshire Council
and **XXXXXXXXXX**
for **Property Flood Resilience (PFR) in Shropshire**

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Contract Data

The *Employer* is

Name Shropshire Council

Address Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

Telephone

E-mail address

The *works* are Installation of Property Flood Protection (PFR) in Shropshire

The *sites* are Located across Shropshire as per Table 1 in Works Description.

The *starting date* is XXXXXXXXXX

The *completion date* is XXXXXXXXXX

The *period* for reply is 2 weeks

The *defects date* is 52 weeks after Completion

The *defects correction period* is 4 weeks

The *delay damages* are

The *assessment day* is the last working day of each month

The *retention* is

The *Adjudicator* is the person appointed as follows:

In the event that a first dispute is referred to adjudication, the referring Party at the same time applies to the Institution of Civil Engineers to appoint an Adjudicator. The application to the Institution includes a copy of this definition of the *Adjudicator*. The referring Party pays the administrative charge made by the Institution. The person appointed is also *Adjudicator* for later disputes.

The interest on late payment is 2% per annum above the Bank of England Base Rate.

The *Contractor* is not liable to the *Employer* for loss of or damage to the *Employer's* property in excess of £ 1,000,000 for any one event

Contract Data

The *Employer* provides this insurance None

Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	The replacement cost	The <i>Employer's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost	The Defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	

The *Adjudicator* nominating body is The Institution of Civil Engineers

The *tribunal* is litigation in the courts

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract (June 2005), and as amended June 2006 and September 2011, and the following additional conditions

Z1 Sub-Contracting

Z1.1 The *Contractor* submits the name of each proposed Subcontractor to the *Employer* for acceptance. A reason for not accepting the Subcontractor is that his appointment will not allow the *Contractor* to Provide the Works. The *Contractor* does not appoint a proposed Subcontractor until the *Employer* has accepted him.

Z1.2 Payment to sub contractors and suppliers will be no more than 30 days from receipt of invoice.

Z2 Shropshire Council as regulatory authority – not used

Z3 Delete the text of Clause 60.1(12) and replace by:

The *works* are affected by any one of the following events

- War, civil war, rebellion revolution, insurrection, military or usurped power
- Strikes, riots and civil commotion not confined to the employees of the Contractor and sub-contractors
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel

- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device
- Natural disaster
- Fire and explosion
- Impact by aircraft or other device or thing dropped from them

Z4 Confidentiality & Publicity

Z4.1 The *Contractor* may publicise the works only with the *Employer's* written agreement

Z5 Correctness of Site Information

Z5.1 Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the *Employer* but is not warranted correct. The *Contractor* checks the correctness of any such Site Information he relies on for the purpose of Providing the Works.

Z6 The Contracts (Rights of Third Parties) Act 1999

Z6.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999, nothing in this contract confers or purports to confer on a third party any benefit or any right to enforce a term of this contract.

Z7 Design – Not Used

Z8 Framework Agreement – Not Used

Z9 Data And Information Management Intellectual Property Rights (IPR)

Z9.1 The Shropshire Council Project Manager is to consider any Intellectual Property (IPR) issues with the data that will be used for this commission. All of the data shared with the supplier remains the IP of Shropshire Council.

Any material prepared by or on behalf of the Supplier for the purposes of the Contract shall be the property of the Employer and the supplier shall have no rights, either expressly or impliedly therein. No use may be made by the Supplier of any material prepared for this contract by them, for purposes other than those stated in the Scope without the Employer's prior agreement.

Z10 Data Security

Z10.1 All model and survey information will be provided to the supplier via email and is not to be used for alternative purposes or given to third parties. It is expected that once the commission is completed, all the original data sent to the supplier, which is classed as commercially sensitive, is stored securely.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be stored securely by the supplier.

Works Information

Description of the Works

To provide survey, supply and installation of PFR measures on 21 properties within Shropshire. Locations of properties are indicated below, full addresses and contact details to be given on the award of the contract with the permission of the property owner.

Scheme	Postcode	Number of properties
Shifnal Flood Alleviation Scheme – Phase 1: PLR	TF11 8??	5
Westbury Flood Alleviation Scheme	SY5 9??	10
Individual Property Protection Phase 2	Throughout Shropshire	6

Works Information

Specifications

All products are to comply with BSi PAS 1188-1:2009 unless agreed with the *Employer*.

Sustainable solutions are to be used where possible.

The images below are indicative of the products suitable for each product type:

Title	Date or Revision	Publicly available
BSi PAS 1188-1:2009	2009	Yes
BS EN 1504-2:2004	2004	Yes
BS 8102:2009	2009	Yes

Constraints on how the Contractor Provides the Work

Works Information

Requirements for the programme

The Contractor submits his programme with the *Contractor's* offer for acceptance. The *Contractor* shows on each programme which he submits for acceptance (in the form of a Gantt chart showing the critical path, proposed order and timing to undertake the *works* and proposed plant and labour resources) the following:

- (a) Period required for mobilisation/planning, *Employers* activities and post contract award
- (b) *starting date*
- (c) Each of the activities listed within the Price List
- (d) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/waste permits; stated constraints; *Contractors* risks.
- (e) Completion date

The *Employer* has provided an indicative programme of works. The *Contractor* is to use this to inform their programme. Durations of any activity owned by the *Employer* will not be reduces or the start dates changed. The logic of the activities within each *site* will not be altered.

The programme will be updated **weekly** detailing the progress on each of the *sites*.

Item	Date by which it will be supplied
Location Plan for each scheme	Tender
Property Survey Reports	Part of contract
Homeowner Agreement for Works	Post Award

Site Information

Ground Conditions.

Site Boundaries and Access Routes

None provided

Utilities

Public utility information held by the *Employer* will be provided to the *Contractor*. The *Contractor* is responsible for confirming the location of all services before carrying out any excavation. The *Employer* has no information for local service connections to individual properties.

Existing Structures

The *Contractor* is to exercise due care when working to minimise the risk of damage throughout the installation works. Any damages caused by the *Contractor* be reported to the *Employer* and remains the responsibility of the *Contractor*.

Contract Data

The Contractor's Offer

The *Contractor* is

Name

Address

Telephone

Fax

E-mail address

The *Contractor* offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The offered total of the Prices is

Enter the total of the Prices from the Price List.

We declare that this tender was prepared and is submitted in good faith. We declare that we have not communicated to any person other than the *Employer* the amount or the approximate amount of the offered total of the Prices and the Prices have not been adjusted or fixed by arrangement or in collusion with any third party (other than in confidence to obtain insurance quotations or finance required in connection with the tender). We undertake that we will not enter into any such communication or enter into a collusive arrangement whether in relation to this tender or a tender submitted or to be submitted by a third party.

We also undertake that we have not and will not

- (a) corruptly solicit, receive or agree to receive; or
- (b) offer or agree to give directly or indirectly to any employee, consultant or contractor of the *Employer*;

any thing, service or money for doing or not doing anything or showing favour or disfavour to any person, in relation to this contract or any other contract to which the *Employer* is party.

If we or an employee or authorised agent or subcontractor or consultant are in breach of the above declarations and undertakings we agree that the *Employer* may terminate the contract and the payment due is assessed as if clause 90.3 (Reason 3) applied.

Signed on behalf of the
Contractor

Name

Position

Signature Date

Price List

Item Nr	Description	Unit	Quantity	Rate	Price

TOTAL FIXED PRICE (transferred to Contractor's Offer) £					

Proposed Sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	Form of Contract:	
2.	Form of Contract:	

The Employer's Acceptance

The *Employer* accepts the *Contractor's* Offer to Provide the Works.

Signed on behalf of the
Employer

Name

Position

Signature Date

SHROPSHIRE COUNCIL

GENERAL TERMS

AND

CONDITIONS

FOR

THE SUPPLY

OF

GOODS SERVICES AND WORKS

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These General Terms and Conditions are incorporated in contracts **of all values and types** made between Shropshire Council and a Contractor for the supply of Goods and Services (as defined below).

Only those Terms and Conditions denoted with the suffix **"W"** (**Property Services contracts**) or **"Z"** (**Highways contracts**) will be incorporated into those agreements where a standard form contract is being used to provide Works (as defined below)

1. **DEFINITIONS**

1.1 In this document the following words shall have the following meanings:

'Agreement'	means the Agreement between the Council and the Contractor consisting of the Purchase Order or Form of Agreement, these General Terms and Conditions and any other documents (or parts thereof) specified in the Purchase Order or Form of Agreement.
'Associated Person'	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest.
'Bribery Act'	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
"Council Data"	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (a) supplied to the Contractor by or on behalf of the Council; or which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Council is the Data Controller;
"Council Software"	software which is owned by or licensed to the Council, including software which is or will be used by the Contractor for the purposes of providing the Services but excluding the Contractor Software;
"Council System"	the Council's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Council or the Contractor in connection with this Agreement which is owned by or licensed to the Council by a third party and which interfaces with the Contractor System or which is necessary for the Council to receive the Services;
"Council Representative"	the representative appointed by the Council
"Council"	means Shropshire Council
"Commercially Sensitive Information"	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
"Confidential Information"	any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") ;
"Contractor"	means the person, firm or company or any other organisation specified in the Agreement contracting with the Council.
"Contractor Equipment"	the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub contractors (but not hired, leased or loaned from the Council) for the provision of the Services;
"Contractor Software"	software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services;

"Contractor System"	the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Council System);
"Contractor Personnel"	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
"Data Controller"	means: (i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, shall have the meaning given to such term in the DPA; and (ii) once the GDPR comes into force and becomes applicable within the United Kingdom, shall have the meaning given to the term "controller" as set out in Article 4 thereof;
"Data Processor"	means: (i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, shall have the meaning given to such term in the DPA; and (ii) once the GDPR comes into force and becomes applicable within the United Kingdom, shall have the meaning given to the term "processor" as set out in Article 4 thereof
"Data Protection Legislation"	the Data Protection Act 1998, the GDPR, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
"DPA"	Means the Data Protection Act 1998
"Data Subject"	shall have the same meaning as set out in the Data Protection Act 1998;
"EIR"	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
"Exempt Information"	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
"FOIA"	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause
"FOIA notice"	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner
"Form of Agreement"	means the contract document (other than a Purchase Order) to which these General Terms and Conditions are attached or referred to
"GDPR"	Means the General Data Protection Regulation in force in the UK with effect from 25 th May 2018
"Goods"	means all goods specified in the Agreement.
"Hazardous Goods"	means any solid, liquid, or gas that can cause harm to humans and other living organisms due to being radioactive, flammable or explosive, irritating or damaging the skin or lungs, interfering with oxygen intake and absorption (asphyxiants), or causing allergic reactions (allergens).
"Information"	has the meaning given under section 84 of the Freedom of Information

	Act 2000;
"Intellectual Property Rights"	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
"Law"	any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"Packages"	includes bags, cases, cylinders, drums, pallets and other containers
"Personal Data"	shall have the same meaning as set out in the Data Protection Act 1998;
"Personal Data Breach"	means: (i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, any unauthorised or unlawful processing, use of, access to, theft of, loss of, damage to or destruction of Personal Data processed in accordance with this Contract; and once the GDPR comes into force and becomes applicable within the United Kingdom, anything which constitutes a "personal data breach" as set out in as set out in Article 4 thereof;
"Price"	means the price of the Goods and/or charge for the Services or Works being provided by the Contractor
'Prohibited Act'	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; (c) committing any offence: (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or (d) defrauding, attempting to defraud or conspiring to defraud the Council.
"Public body"	as defined in the FOIA 2000
'Purchase Order'	means the Council's official order which encompasses orders written or electronically generated via any of the Council's ordering systems and to which these General Terms and Conditions are attached or referred to
"Receiving Party"	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
'Regulated Activity'	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

‘Regulated Provider’	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
“Regulatory Bodies”	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
“Request for Information”	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
"Security Policy"	the Council's security policy as updated from time to time;
“Services”	means any and all of the services to be provided by the Contractor under this Agreement including those set out in any schedules or service descriptions.
'Software'	Specially Written Software, Contractor Software and Third Party Software;
'Specially Written Software'	any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Agreement;
‘Sub-Contract’	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Goods, Works or Services or any part thereof, or facilities or services necessary for the provision of the Goods, Works or Services or any part of the Goods, Works or Services, or necessary for the management, direction or control of the Goods, Works or Services or any part of thereof.
‘Sub-Contractor’	the third parties that enter into a Sub-Contract with the Contractor.
"Third Party Software"	software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services
“Working Day”	any day other than a Saturday, Sunday or public holiday in England and Wales.
“Works”	means all civil engineering and building works of whatever nature to be provided by the Contractor to the Council
‘Writing’	includes facsimile transmission and electronic mail, providing that the electronic mail is acknowledged and confirmed as being received.

- 1.2 Clause and paragraph headings shall not affect the interpretation of these terms and conditions.
- 1.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.
In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
- (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
 - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.6 Words in the singular shall include the plural and vice versa.

- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.
- 1.10 Any obligation in these terms and conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 References to clauses are to the clauses of these terms and conditions.
- 1.12 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.13 Where there is any conflict or inconsistency between the provisions of these terms and conditions or any other document forming part of the agreement with the Council, such conflict or inconsistency shall be resolved in a manner at the Council's sole discretion.

2 GENERAL

- 2.1 When requested, the Contractor shall specify the Goods, Services or Works to be provided at the price payable.
- 2.2 No variation of these General Terms and Conditions shall be binding unless agreed expressly in Writing by both the Council and the Contractor.
- 2.3 These General Terms and Conditions shall apply to the exclusion of any other terms or conditions submitted, proposed or stipulated by the Contractor, whether in Writing or orally, and any such other term or condition is hereby expressly excluded or waived.
- 2.4 The Contractor shall complete the Works or Services or supply the Goods within the agreed times but time shall not be of the essence in the performance of any services unless expressly stated in Writing by the Council.
- 2.5 The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council **(W) (Z)**

3 SPECIFICATION AND QUALITY OF THE GOODS, SERVICES AND WORKS

- 3.1 The quantity, quality and description of the Goods or Services shall comply in all respects with any quoted British Standards and the specification or illustration contained in any product pamphlet or other sales or marketing literature of the Contractor or drawings, samples and patterns specified in the Agreement or any modifications thereof that may be agreed by the Council in Writing.
- 3.2 All Goods will be of good construction, sound materials, and of adequate strength, shall be free of defects in design materials and workmanship, and shall comply with the requirements of the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982, as applicable to this Agreement and as amended by any related statutes, and any statutory re-enactment(s) or modification(s) thereof.

4 ALTERATIONS TO THE SPECIFICATION OF GOODS AND SERVICES

- 4.1 The parties may at any time mutually agree upon and execute alterations in the scope of Goods, Works or Services to be provided under this Agreement
- 4.2 On receipt of a request from the Council for alterations the Contractor shall, within 5 working days or such other period as may be agreed between the parties, advise the Council by notice in Writing of the effect of such alterations, if any, on the price and any other terms already agreed between the parties

4.3 Where the Contractor gives written notice to the Council agreeing to perform any alterations on terms different to those already agreed between the parties, the Council shall, within 5 working days of receipt of such notice or such other period as may be agreed between the parties, advise the Contractor by notice in Writing whether or not it wishes the alterations to proceed thereafter the Contractor shall perform this Agreement upon the basis of such amended terms

5 PRICE AND PAYMENT

5.1 The price for the supply of Goods and Services are as set out in the Agreement and the Contractor shall invoice the Council at the time the Goods are despatched or the Services are provided.

5.2 The Price, which shall include all charges for delivery to the Council, packaging, insurance and carriage, shall be exclusive of VAT and shall be a fixed price for the duration of the Agreement and shall not be varied without prior written consent of the Council.

5.3 The Council reserves the right to set off against the price of the Goods or Services any sums owed or becoming due to the Council from the Contractor.

5.4 Provided that a nominated employee or authorised signatory of the Council has signed for Goods or Services the Council will make payment to the Contractor by BACS (Bank Automated Clearing System) within 30 days following of receipt of the relevant undisputed invoice or acceptance of the relevant Goods or Services. No other method of payment shall be acceptable and the Contractor shall ensure that their bank account details are provided to the Council at least 30 days prior to payment becoming due to enable the payment to be made. The Council shall not be liable for any late payment charges where the Contractor fails to provide the Council with their correct bank account details in accordance with this clause.

5.5 If the Council fails to make any payment due to the Contractor under this agreement by the due date for payment, then the Council shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.

5.6 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra, the Invoice must comply with VAT rules and regulations. The correct Purchase Order number must be quoted on all invoices, and the Council will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear such Purchase Order numbers.

5.7 The Council reserves the right to refuse payment of sums invoiced in excess of the prices stated in the Agreement.

5.8 Unless otherwise agreed in Writing by the Council the Contractor will pay any of its appointed sub-contractors within 30 days from receipt of an undisputed invoice.

6 DELIVERY

6.1 The Agreement will specify the quantity of Goods and the nature of the Services required and the date or dates and place of delivery of the Goods or provision of the Service or Services. The Contractor shall provide such programmes of manufacture and delivery as the Council may require. Each delivery or consignment shall have a packing note quoting the reference number of the Purchase Order (where applicable) prominently displayed, and the Council may reject quantities delivered in excess of those stated on the Agreement.

- 6.2 If Goods are in any respect incorrectly delivered the Contractor shall immediately affect correct delivery and shall be responsible for any additional costs or expenses incurred by both parties in so doing.
- 6.3 If Services are provided by the Contractor otherwise than in accordance with the terms of the Agreement, the Contractor shall immediately affect correct provision of the Services and shall be responsible for any additional costs or expenses incurred by the Council or the Contractor in so doing.
- 6.4 The Council may reject any Goods which are not in accordance with the Agreement and the Council shall not be treated as having accepted any Goods until the Council has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after a latent defect in the Goods has become apparent.
- 6.5 The Contractor shall comply with all applicable regulations or other legal requirements as regards the manufacture, packaging, labelling, and delivery of the Goods. The Contractor shall deliver the Goods properly and securely packed and supply the Services during the Council's usual business hours (8:45 to 17:00 Monday to Thursday and 8:45 to 16:00 Friday) or in accordance with the instructions shown on the Agreement.
- 6.6 Where Goods are delivered by road vehicle, available empty Packages may be returned by the same vehicle.
- 6.7 Where the Council has an option to return Packages and does so, the Council will return such Packages empty and in good order and condition (consigned 'carriage paid' unless otherwise agreed) to the Contractor's supplying works or depot indicated by the Contractor, and will advise the Contractor of the date of despatch.
- 6.8 Packages and containers of all kinds are supplied free by the Contractor and are non-returnable unless otherwise clearly stated, in the first instance, on quotations and subsequently on all Packages, advice notes and delivery notes.

7. LOSS OR DAMAGE IN TRANSIT

- 7.1 The Contractor shall promptly make good, free of charge to the Council, any loss in transit of the Goods if notified within 21 days of delivery or any damage to or defect in the Goods if notified within 10 days of delivery.

8. INSPECTION

- 8.1 The Contractor shall be responsible for the inspection and testing of the Goods and shall ensure that they comply with the Agreement prior to delivery to the Council. The Council shall have the right to inspect the Goods at the Contractor's works and those of its Sub-Contractors at all reasonable times and to reject any part thereof that does not comply with the terms of the Agreement.
- 8.2 The Contractor shall ensure that rights of access, inspection and rejection at premises of any sub-Contractor of the Contractor are given to the Council in sub-agreements between the Contractor and the Contractor's Sub-Contractors. Any inspection, checking, approval or acceptance given on behalf of the Council shall not relieve the Contractor or its Sub-Contractors from any obligations or liabilities set forth in this Agreement.

9. REJECTION

- 9.1 The Council shall have the right to reject any Goods or Services which do not comply with the Agreement, and are, without limitation, not of a stipulated quality or quantity or measurement, unfit for the purpose for which they are required or non-compliant with a

description or specification or sample, and the Council may return such rejected Goods to the Contractor at the Contractor's cost and expense.

- 9.2 If the Contractor is unable to supply acceptable replacement Goods or Services within the time specified in the Agreement, or within any extension of such time as the Council may grant, the Council will be entitled to purchase elsewhere other Goods or Services, as near as is practicable to the same Agreement specifications as circumstances shall permit, but without prejudice to any other right which the Council may have against the Contractor including, but not limited to, payment by the Contractor of any excess costs incurred by the Council in doing so.
- 9.3 The making of such payment shall not prejudice the Council's right of rejection and the Contractor shall immediately reimburse the Council with an amount equal to that paid by the Council in respect of the Goods or Services and any applicable taxes. Before exercising the said right elsewhere the Council shall give the Contractor reasonable opportunity to replace rejected Goods or Services with Goods or Services that conform to the Agreement.
- 9.4 The Council is under no obligation to test or inspect the Goods before or on delivery.

10 TITLE - PASSING PROPERTY

- 10.1 Property and risk in the Goods will remain with the Contractor until the Goods are delivered to the place specified in the Agreement and a nominated employee of the Council has signed a delivery note for them, whereupon title will pass to the Council, without any limitation, constraint or encumbrance.
- 10.2 If payment for the Goods is made prior to delivery, property in the Goods shall pass to the Council once payment has been made and the Goods have been unconditionally appropriated by the Council.
- 10.3 In these circumstances the Contractor will set aside the Goods and store them separately from similar Goods held at the Contractors premises specified in the Agreement and ensure that they are securely, clearly and visibly marked with the wording "Property of Shropshire Council" so as to identify those Goods as having been unconditionally appropriated by the Council to whose order they are held
- 10.4 The Contractor will allow a named representative of the Council reasonable accompanied access to its premises specified in the Agreement to verify compliance with clause 10.3 herein and will immediately rectify any non-compliance as identified by the Council's named representative
- 10.5 The Contractor will indemnify the Council for any loss of or damage to the Goods until delivered on-site.
- 10.6 Without prejudice to this indemnity the Contractor will have appropriate and adequate insurance cover against any such loss or damage with a reputable insurer from the time that title in the materials or Goods passes to the Council until they are delivered on-site and the Contractor shall provide the Council with certified copies of the relevant policy upon request.
- 10.7 The Contractor agrees that the Council has the right to enter the Contractor's premises specified in the Agreement where Goods are being held in order to recover the said materials or Goods in the event of the Contractors' insolvency

11 THE COUNCIL'S OBLIGATIONS

- 11.1 To enable the Contractor to perform its obligations under this Agreement the Council shall:

- a) co-operate with the Contractor;
- b) provide the Contractor with any information reasonably required by the Contractor;
- c) obtain all necessary permissions and consents which may be required before the commencement of the Services or the supply of Goods; and
- d) comply with such other requirements as may be otherwise agreed between the parties.

11.2 Without prejudice to any other rights to which the Contractor may be entitled, in the event that the Council unlawfully terminates or cancels the Goods or Services agreed to in the Agreement the Council shall be required to pay to the Contractor as agreed damages and not as a penalty the full amount of any third party costs to which the Contractor has reasonably committed and in respect of cancellations on less than five working days' written notice the full amount of the Goods and Services.

12. WARRANTIES

12.1 The Contractor warrants that as from the date of delivery for a minimum period of 12 months the Goods and all their component parts, where applicable, are free from any defects in design, workmanship, construction or materials. Where certain Goods carry warranties for longer periods the Contractor will notify the Council of these from time to time as appropriate.

12.2 The Contractor warrants that the Services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

13 INDEMNIFICATION

13.1 The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.

13.2 The Contractor shall indemnify the Council against all reasonable damage, liability, costs, claims, actions and proceedings arising out of the performance, defective performance or otherwise of this Agreement by the Contractor, its employees, servants or agents

14 TERMINATION AND CANCELLATION

14.1 The Council upon giving the Contractor notice in Writing may cancel any Agreement at any time. A fair and reasonable price will be paid for all work in progress at the time of the cancellation, providing all such work is delivered to, and/or performed for the Council and is accepted as described in Clauses 6 to 9 herein. The Council's liability is strictly limited to work in progress and no further loss or liability will accrue.

14.2 Either party may terminate this Agreement forthwith by notice in Writing to the other if:

- a). the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in Writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.
- b). the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- c). the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

d). the other party ceases to carry on its business or substantially the whole of its business;
or

e). the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

15 PREVENTION OF BRIBERY (W) (Z)

15.1 The Contractor:

- a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;
- b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

15.2 The Contractor shall:

- a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause 15 and provide such supporting evidence of compliance with this clause 15 by the Contractor as the Council may reasonably request.

15.3 If any breach of clause 15.1 is suspected or known, the Contractor must notify the Council immediately.

15.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 15.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.

15.5 The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 15.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 15.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

- a) with the authority; or,
- b) with the actual knowledge;
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
- c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.

15.6 Any notice of termination under clause 15.5 must specify:

- a) the nature of the Prohibited Act;
- b) the identity of the party whom the Council believes has committed the Prohibited Act; and
- c) the date on which this Agreement will terminate.

- 15.7 Despite clause 42 (Disputes), any dispute relating to:
- a) the interpretation of clause 15; or
 - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 15.8 Any termination under clause 15.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

16 INTELLECTUAL PROPERTY RIGHTS

- 16.1 Any specification, drawing, sample and pattern supplied by the Council to the Contractor, or specifically produced by the Contractor for the Council in connection with this Agreement, together with the copyright, design rights or any other intellectual property rights thereto shall be the exclusive property of the Council. On payment of the price and for no further consideration the Contractor assigns to the Council with full title guarantee all such copyright, design and other intellectual property rights.
- 16.2 The Contractor shall not disclose to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) or provide any such specification, drawing, sample or pattern to any third party or use the same except to the extent that it is or becomes public knowledge through no fault of the Contractor, or as is required for the purposes of the Agreement.
- 16.3 This provision shall survive the expiration or termination of the Agreement.

17 INDEPENDENT CONTRACTORS

- 17.1 The Contractor and the Council are independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in Writing by both parties.

18 SEVERABILITY

- 18.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

19 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

- 19.1 The Council may, subject to clause 19.2:
- (a) assign any of its rights under the Agreement; or
 - (b) transfer all of its rights or obligations by novation, to another person.
- 19.2 The consent of the Contractor is required for an assignment or transfer by the Council unless:
- (a) the assignment or transfer is to an Associated Person of the Council; or
 - (b) either the Council or the Contractor have committed a breach of this Agreement which gives the other party the right under the terms of this Agreement to terminate the Agreement.
- Any such consent must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 19.3 The Contractor may not assign any of its rights, or transfer any of its rights or obligations under the Agreement.

19.4 The Contractor will not, without the written consent of the Council sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through his own employees and using his own equipment.

19.5 In the event that the Council has consented to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the Contractor to the Council immediately it is issued.

19.6 Notwithstanding the Contractor's right to sub-contract pursuant to this clause 19, the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. An obligation on the Contractor to do, or to refrain from doing, any act or thing shall include an obligation upon the Contractor to procure that its employees, staff, agents and Sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

20 WAIVER

20.1 The failure by either party to enforce at any time or for any period any one or more of these General Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

21 HAZARDOUS GOODS

21.1 Hazardous Goods must be marked by the Contractor with International Danger Symbol(s) and display the name of the material in English. Transport and other documents must include declaration of the hazard and name of the material in English. Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings. The Contractor shall observe the requirements of UK and international laws, regulations and agreements relating to the packing, labelling and carriage of hazardous Goods.

21.2 All information known, held by, or reasonably available to, the Contractor regarding any potential hazards known or believed to exist in transport, handling or use of the Goods supplied shall be promptly communicated to the Council.

22 NOTICES

22.1 Unless otherwise communicated to the party in Writing any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury. SY2 6ND

22.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

23 CONFIDENTIALITY (W) (Z)

23.1 All plans, drawings, designs or specifications supplied by the Council to the Contractor shall remain the exclusive property of, and shall be returned to the Council on completion of the Agreement and shall not be copied, and no information relating to the Goods or the Services shall be disclosed to any third party, except as required for the purpose of this Agreement.

23.2 No photographs of any of the Council's equipment, installations or property shall be taken without the Council's prior consent in Writing. The Contractor shall keep secret and shall not

divulge to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) all information given by the Council in connection with the Agreement or which becomes known to the Contractor through his performance of the Agreement or use the same other than for the purpose of executing the Agreement.

23.3 The Contractor shall not mention the Council's name in connection with the Agreement or disclose the existence of the Agreement in any publicity material or other similar communication to third parties without the Council's prior consent in Writing.

23.4 The Contractor will keep confidential any information it becomes aware of by reason of the operation of this Agreement.

23.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

23.5.1 treat the other party's Confidential Information as confidential; and

23.5.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent

23.6 Clause 23.5 shall not apply to the extent that:

23.6.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to the above clause regarding Freedom of Information;

23.6.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

23.6.3 such information was obtained from a third party without obligation of confidentiality;

23.6.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

23.6.5 it is independently developed without access to the other party's Confidential Information.

23.7 The Contractor may only disclose the Council's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.

23.8 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement

23.9 Nothing in this Agreement shall prevent the Council from disclosing the Contractor's Confidential Information:

23.9.1 to any consultant, contractor or other person engaged by the Council;

23.9.2 for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council;

23.10 The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to this Agreement is made aware of the Council's obligations of confidentiality.

23.11 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.

23.12 The provisions of this Clause shall survive the expiration or termination of this Agreement.

23A AGREEMENT STATUS AND TRANSPARENCY (W) (Z)

23A.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

23A.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.

23A.3 The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

23A.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

24 COUNCIL DATA

24.1 The Contractor shall not delete or remove any copyright or proprietary notices contained within or relating to the Council Data.

24.2 The Contractor shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council and in particular the Contractor shall not store any Council Data, which the Council has notified the Contractor requires storage in an encrypted format, on any portable device or media unless that device is encrypted.

24.3 To the extent that Council Data is held and/or processed by the Contractor, the Contractor shall supply that Council Data to the Council as requested by the Council in any format specified in this Agreement or if none specified in any format reasonably requested by the Council.

24.4 The Contractor shall take responsibility for preserving the integrity of Council Data and preventing the corruption or loss of Council Data and shall take such back up copies of the Council Data at regular intervals appropriate to the frequency of the revision of the Council Data.

24.5 The Contractor shall ensure that any system on which the Contractor holds any Council Data, including back-up data, is a secure system that complies with the Security Policy to include, but not limited to, the following requirements in the Security Policy:

24.5.1 Access to the system is restricted to Contractor Personnel with a legitimate need to access the Council Data; and

24.5.2 The system is kept up to date with the latest versions of operating system and anti-virus updates; and

24.5.3 Transfer of data to and from the system is conducted in a secure manner.

24.6 If the Council Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Council may:

- 24.6.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Council Data as soon as practicable; and/or
- 24.6.2 itself restore or procure the restoration of Council Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so including the restoration of the Council Data.

24.7 If at any time the Contractor suspects or has reason to believe that Council Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Council via the Council's ICT Helpdesk immediately and inform the Council of the remedial action the Contractor proposes to take.

24.8 The Contractor shall check for and delete Malicious Software and if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Council Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

24.9 Any cost arising out of the actions of the parties taken in compliance with the provisions of sub-clause .8 above shall be borne by the parties as follows:

24.9.1 by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Council Data (whilst the Council Data was under the control of the Contractor); and

24.9.2 by the Council if the Malicious Software originates from the Council Software or the Council Data (whilst the Council Data was under the control of the Council).

25 PROTECTION OF PERSONAL DATA

25.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that the Council is the Data Controller and that the Contractor is the Data Processor.

25.1.1 The Contractor shall (and shall procure that any Sub-Contractor and Contractor Personnel involved in the provision of the Services shall):

25.1.2 Process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Council to the Contractor during the term of this Agreement);

25.1.3 at all times observe and comply with the Data Protection Legislation and shall comply with any notification requirements under the DPA and the Data Protection Legislation and both Parties shall duly observe all their obligations under the DPA and Data Protection Legislation, which arise in connection with this Agreement;

25.1.4 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

25.1.5 implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and to enable it to comply with its obligations under Article 32 of the GDPR and

(a) provide the Council with such information as the Council may reasonably require to satisfy itself that the Contractor is complying with its obligations under the Data Protection Legislation and DPA;

(b) notify the Council of any actual or potential Personal Data Breach within twenty-four (24) hours of its becoming aware of its occurrence (or, in the case of a potential breach, the Contractor becoming aware of such breach), along with all supporting

facts and information sufficient to allow the Council to make any required report(s) to any relevant Data Subjects, the Information Commissioner or other regulatory or governmental body or bodies to which it is subject; and

- (c) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Legislation and will at all times indemnify fully the Council from and/or against any cause or action which may be brought against the Council consequent to any breach or non-observance of the Data Protection Legislation and DPA by the Contractor, its agents and servants;

25.1.6 take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

25.1.7 obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

25.1.8 ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause ;

25.1.9 ensure that no Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;

25.1.10 notify the Council (within five Working Days) if it receives:

- a) a request from a Data Subject to have access to that person's Personal Data; or
- b) a complaint or request relating to the Council's obligations under the Data Protection Legislation;

25.1.11 provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:

- a) providing the Council with full details of the complaint or request;
- b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions;
- c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council); and
- d) providing the Council with any information requested by the Council;

25.1.12 permit the Council or the Council Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with the Audit clause, the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Contractor is in full compliance with its obligations under this Agreement;

25.1.13 provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Council); and

25.1.14 not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:

- a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- b) any reasonable instructions notified to it by the Council

25.1.15 The Contractor shall ensure that its employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

26 COUNCIL DATA AND PERSONAL INFORMATION AUDITS

- 26.1 Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 26.1.1 to review the integrity, confidentiality and security of the Council Data;
 - 26.1.2 to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;
- 26.2 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- 26.3 Subject to the Council's obligations of confidentiality, the Contractor shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 26.3.1 all information requested by the Council within the permitted scope of the audit;
 - 26.3.2 reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - 26.3.3 access to Contractor Personnel
- 26.4 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.
- 26.5 The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 26.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 26.7 This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

27. PUBLIC INTEREST DISCLOSURE ('WHISTLE BLOWING') (W)(Z)

- 27.1 The Contractor will ensure that his employees and agents are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request

28 INSURANCE

- 28.1 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all legal liability which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum indemnity limit of £5,000,000 (FIVE MILLION POUNDS).
- 28.2 If appropriate and requested in Writing, the Contractor may also be required to provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim.

28.2 Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain policy cover which indemnifies the contractor for negligent acts arising out of the performance of this Agreement. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) in respect of each and every claim.

28.3 The Contractor shall hold and maintain the insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement

28.4 The Contractor warrants that it has complied with this clause 28 and warrants that any insurance policy or policies effected and maintained in accordance with this clause do not contain any endorsements or exclusions which have the effect of voiding, reducing or limiting the cover required in respect of the Services.

28.5 The Contractor shall prior to commencement of this Agreement provide the Council and thereafter upon request, or at least annually during the Term, with:

- (a) copies of the relevant insurance policy documents (including details of any warranties or exclusions); and
- (b) receipts or other evidence of payment of the latest premiums due under those policies; and
- (c) any other evidence reasonably requested by the Council to confirm that the required insurances are in force and effect and meet in full the requirements of this Clause 28.

Receipt of such evidence by the Council shall not in itself constitute acceptance by the Council or relieve the Contractor of any of its liabilities and obligations under this Agreement.

28.5 The Contractor shall:

- (a) ensure nothing is done to invalidate any insurance policy or cause the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part, including ensuring that any warranties under the policy are complied with;
- (b) notify the Council as soon as reasonably practicable when it becomes aware of any relevant fact, circumstance or matter which, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

28.6 For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Agreement.

28.7 Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

28.7.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Council:

- (i) details of the policy concerned; and

- (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and
- 28.7.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:
- (i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
 - (ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

29. EQUALITIES (W) (Z)

- 29.1 The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age in the supply and provision of Goods, Services or Works under this Agreement, or in its employment practices.
- 29.2 Without prejudice to the generality of the foregoing, the Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate within the meaning and scope of the Equalities Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof.
- 29.3 In addition, the Contractor and any Sub-Contractor employed by the Contractor in providing services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it .
- 29.4 The Contractor and any Sub-Contractor employed by the Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by the Equalities and Human Rights Commission, which give practical guidance to employers on the elimination of discrimination.
- 29.5 In the event of any finding of unlawful discrimination being made against the Contractor or any Sub-Contractor employed by the Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equalities and Human Rights Commission over the same period, the Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 29.6 The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.

30 HUMAN RIGHTS (W) (Z)

- 30.1 The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.

31 HEALTH AND SAFETY AT WORK (Z)

- 31.1 The Contractor will at all times in providing Goods, Services or Works to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request.

32 FREEDOM OF INFORMATION ACT 2000 (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR) (W) (Z)

- 32.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
- 32.2 The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.
- 32.3 The Contractor shall and shall procure that its Sub-contractors shall:
- 32.3.1 transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
- 32.3.2 provide the Council, at the Contractor's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
- 32.3.3 provide, at the Contractor's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 32.4 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Contractor prior to making any decision or considering any exemption.
- 32.5 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 32.6 The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:
- 32.6.1 in certain circumstances without consulting the Contractor; or
- 32.6.2 following consultation with the Contractor and having taken their views into account;
- provided always that where sub-clause 32.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 32.7 The Contractor shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by Law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.

- 32.8 The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other Law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.
- 32.9 Where the Contractor is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledge and agree that:
- 32.9.1 as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party;
- 32.9.2 they are required by law to consider each and every Request for Information made under FOIA;
- 32.9.3 that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.
- 32.9.4 Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:
- (a) confirm or deny that information is held by the other party, or
 - (b) disclose information required
- to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.
- 32.9.5 each party shall bear its own costs of:
- a) assessing the application of any exemption under FOIA and/or
 - b) responding to any FOIA notice and/or
 - c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure
- 32.9.6 the Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other party.
- 32.9.7 the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

33 SAFEGUARDING(W) (Z)

- 33.1 Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Contractor shall :
- (a) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
 - (b) monitor the level and validity of the checks under this clause 33.1 for each member of the Contractor's Personnel.
- 33.2 The Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 33.3 The Contractor shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 33 have been met.

33.4 The Contractor shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service users, children or vulnerable adults.

33.5 The Contractor shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service users.

33.6 Where the service requirement, specification or Purchase Order specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Contractor, acting reasonably, that the Contractor's Personnel are required to be subject to a Disclosure and Barring Service check, the Contractor shall comply with clause 33.1 above..

34 SUSTAINABILITY

34.1 Contractors should at all times demonstrate how they contribute to the achievement of the Council's Sustainability Policy

35 EXPIRY

35.1 The Contractor will on the expiry or termination of the Agreement and, at its own cost, return (or at the request of the Council destroy) all information obtained in undertaking the performance of the Agreement.

36 AUDIT AND MONITORING (W) (Z)

36.1 The Contractor will allow access for the Council's officers to all relevant information for the purposes of audit and the monitoring of the Agreement.

37 RIGHTS OF THIRD PARTIES

37.1 The parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

38 ENTIRE AGREEMENT

38.1 This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

39 FORCE MAJEURE

39.1 Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-

39.1.1 any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and

39.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

39.2 If the Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

39.2.1 it promptly notified the Council in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

39.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

39.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

39.3.1 any costs arising from that delay will be borne by the Party incurring the same; and

39.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

40 GOVERNING LAW AND JURISDICTION (W)

40.1 It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts

41 COMPLAINTS PROCEDURE (W) (Z)

41.1 The Contactor shall operate a complaints procedure in respect of any goods, services or works provided under these terms & conditions, to the entire satisfaction of the Council, and comply with the requirements of any regulatory body to which the Contractor is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:

41.1.1 is easy to access and understand

41.1.2 clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;

41.1.3 provides confidential record keeping to protect employees under this contract and the complainant

41.1.4 provides information to management so that services can be improved

41.1.5 provides effective and suitable remedies

41.1.6 is regularly monitored and audited and which takes account of complainant and Council feedback

41.2 The Contactor shall ensure that:

41.2.1 under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.

41.2.2 someone who is independent of the matter complained of carries out the investigation

41.2.3 the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Contactor's investigations

41.2.4 the Contactor will ensure that it responds to the complainant within a max of 10 days of receiving the complaint

- 41.3 The Contactor will make its complaints procedure available on request
- 41.4 The Contactor shall ensure that all its employees and persons employed under this contract are made aware of its complaints procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint
- 41.5 The Contactor shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council on request or at 12 monthly intervals in any event.
- 41.6 Where the Council is investigating a complaint the Contactor is required to participate fully in all investigations within the timescales requested by the Council
- 41.7 The Contractor should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

42 DISPUTES

- 42.1 If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
- 42.1.1 In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
- 42.1.2 If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive or the Contractor's senior officer or such other authorised officer of either party whose details have been notified to the other party, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

Additional definitions for clauses 43 and 44	
"Security Plan"	the Contractor's security plan prepared pursuant [<i>to paragraph 3 of schedule 2.5 (Security Requirements and Plan) an outline of which is set out in Appendix of schedule 2.5 (Security Requirements)</i>];
"Staff Vetting Procedures"	the Council's procedures and policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures.

43 STAFFING SECURITY

- 43.1 The Contractor shall comply with the Staff Vetting Procedures in respect of all Contractor Personnel employed or engaged in the provision of the Services. The Contractor confirms that all Contractor Personnel employed or engaged by the Contractor at the commencement of this agreement were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 43.2 The Contractor shall provide training on a continuing basis for all Contractor Personnel employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan

44 SECURITY REQUIREMENTS

- 44.1 The Contractor shall comply, and shall procure the compliance of the Contractor Personnel, with the Security Policy and the Security Plan and the Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- 44.2 The Council shall notify the Contractor of any changes or proposed changes to the Security Policy.
- 44.3 If the Contractor believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a request for the Agreement to be varied in respect of any charges or fees payable under the Agreement. In doing so, the Contractor must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs.
- 44.4 Until and/or unless a change to the charges or costs is agreed by the Council pursuant to this clause the Contractor shall continue to perform the Services in accordance with its existing obligations



Tender Response Document

DMNH 014 – PROPERTY FLOOD RESILIENCE (PFR) SURVEYING, DESIGN AND INSTALLATION ACROSS SHROPSHIRE

Name of TENDERING
ORGANISATION
(please insert)

Flood Control (NI) Ltd Trading as Watertight

Please also add your company name to the footer of each page of the returned document

Shropshire Council Tender Response Document

Contract Description/Specification:

Contract for surveying, design and installation of Property Flood Resilience (PFR) measures to a number of domestic properties that are at serious risk of flooding. Properties are located in Shifnal and Westbury with individual properties also located across Shropshire.

This project is funded by Flood Defence Grant in Aid, Regional Flood and Coastal Committee Local Levy which are provided by central government and administered by the Environment Agency. Shropshire Council's Flood and Water Management team are also contributing financially to the scheme.

Tenders are to be submitted in accordance with draft NEC3 Short Contract and the General Terms and Conditions of Shropshire Council included with the tender documentation.

Instructions for the completion of this document

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
 - a) Where the tenderer is an individual, by that individual;
 - b) Where the tenderer is a partnership, by two duly authorised partners;
 - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1 (a). All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the electronic copy of your Tender Response Document.

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You must sign all 4 certificates in sections A1 to A4		
B Part 1	Supplier Information– For information only	13
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Evaluation Criteria

Tenders will be evaluated on the answers provided in this 'Tender Response Document' in the Standard Selection Questionnaire part. The following criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

Selection Criteria Pass/Fail Questions (Sections B Part 1 – Part 3)

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competency, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B Part 1	Supplier Information– For information only
Section B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion
Section B Part 3 Section 3	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 3):-

Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.

Award Criteria – Weighted Marked Questions

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Price 60% (600 marks)		
Section C / Q 1	Price	600 max marks
Total for price		600 max marks
Quality 40% (400 marks)		
Section C / Q 2.1	Scenario	5 / 50 max marks
Section C / Q 2.2	Communication	5 / 50 max marks
Section C / Q 2.3	Quality Assurance	10 / 100 max marks
Section C / Q 2.4	Methodology and Case Study of Previous Experience	10 / 100 max marks
Section C / Q 2.5	Delivery Timescale	10 / 100 max marks
Total for quality		40 / 400 max marks

Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

Assessment	Mark	Interpretation
Excellent	10	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	9	
Good	8	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	7	
Acceptable	6	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	5	
Minor Reservations	4	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	3	
Serious Reservations	2	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	1	
Unacceptable	0	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

The tender receiving the highest initial mark for Quality Criteria overall will receive the full 600 marks available for Quality. Other tenders will receive a final mark that reflects the % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.

Price Evaluation and scoring

The most competitively priced tender will receive the maximum mark for price being **400**. **Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

The total price for allocation of the marks as described above will be calculated by using a pre prepared Price Evaluation model, which will contain quantities. The Council will prepare the financial tender assessment model prior to the return of tenders. This model will not be divulged to bidders until after the closing date for receipt of tenders.

The Procurement Manager will maintain the model as confidential until the time and date for tender returns. Tenders will not be opened until the Procurement Manager has sent a copy of the model to the Tenderers.

Section A:
1. Form of Tender

Form of Tender

Shropshire Council

Tender for DMNH 014 – Property Flood Resilience (PFR) Surveying, Design and Installation across Shropshire

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of Property Flood Resilience (PFR) Surveying, Design and Installation across Shropshire at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signe

[Redacted Signature]

Name:

[Redacted Name]

Date: 13th February 2018

Designation: Managing Director

Company: Flood Control (NI) Ltd Trading as Watertight

Address: 7 Seven Houses, Upper English Street, Armagh,

.....

.....

Post Code: BT61 7LA

Tel No

[Redacted Tel No]

Fax No

.....

E-mail address:

[Redacted E-mail address]

Web address: <http://www.watertightinternational.com/>

Section A:
2. Non – Canvassing Certificate

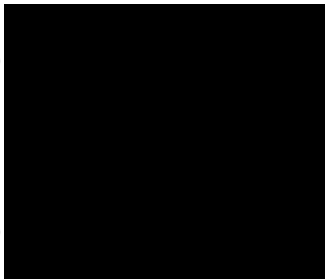
Non-Canvassing Certificate

To: Shropshire Council (hereinafter called “the Council”)

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Signed (1)



Status:  Managing Director)

Signed (2)

.....

Status:  (General Manager)

(For and on behalf of Flood Control (NI) Ltd Trading as Watertight)

Date 13th February 2018

Section A:
3. Non-Collusive Tendering Certificate

Non-collusive Tendering Certificate

To: Shropshire Council (hereinafter called “the Council”)

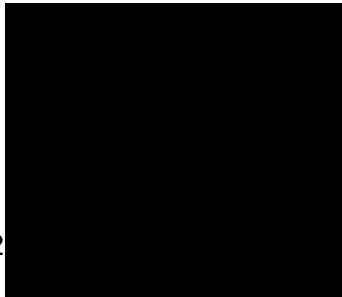
The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1)



Status: [REDACTED] (Managing Director)

Signed (2)

Status: [REDACTED] (General Manager)

(For and on behalf of Flood Control (NI) Ltd Trading as Watertight)

Date: 13th February 2018

Section A:
4. Declaration of Connection with Officers or Elected Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

No

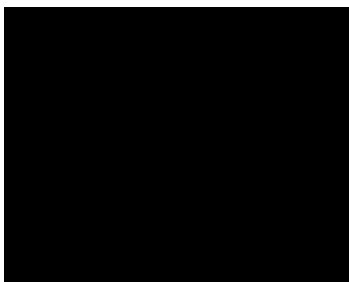
If yes, please give details:

Name	Relationship

Please note:

This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.

Signed (1)



Status: [REDACTED] (Managing Director)

Signed (2)

Status: [REDACTED] (General Manager)

(For and on behalf of Flood Control (NI) Ltd Trading as Watertight)

Date: 13th February 2018

SECTION B

Standard Selection Questionnaire

Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

For the list of exclusion please see

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

Supplier Selection Questions: Part 3

This document provides instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

Consequences of misrepresentation

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

Notes for completion

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.


2. "You" / "Your" refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term "potential supplier" is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the "regulations") and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state 'N/A'. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	Flood Control (NI) Ltd Trading as Watertight
1.1(b) – (i)	Registered office address (if applicable)	7 Seven Houses, Upper English Street, Armagh, BT61 7LA
1.1(b) – (ii)	Registered website address (if applicable)	http://www.watertightinternational.com/
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	Limited Company
1.1(d)	Date of registration in country of origin	1 st December 2013
1.1(e)	Company registration number (if applicable)	NI069120
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	177 2966 61
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A X
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular	Yes X No <input type="checkbox"/>

	organisation in order to provide the services specified in this procurement?	
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	Property Care Association
1.1(k)	Trading name(s) that will be used if successful in this procurement.	<i>Watertight</i>
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	<i>N/a</i>
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) ² ?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: ³ - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	<i>N/a</i>

1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	N/a
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Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

2 See EU definition of SME - https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

3 UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

Please provide the following information about your approach to this procurement:

Section 1	Bidding Model	
Question number	Question	Response
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	Yes <input type="checkbox"/> No X If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3. If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.
1.2(a) - (ii)	Name of group of economic operators (if applicable)	
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Yes X No <input type="checkbox"/>
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.	

Name	██████	██████████ ██████████ ██████████			
Registered address	██████████ ██████████ ██████████ ██████████ ██████████	██████████ ██████████ ██████████ ██████████ ██████████ ██████████			
Trading status	██████████ ██████████	██████████ ██████████			
Company registration number	██████████	██████████			
Head Office DUNS number (if applicable)					
Registered VAT number	██████████				
Type of organisation	██████████ ██████████	██████████ ██████████			

SME (Yes/No)	█				
The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables	█ █	█ █ █ █			
The approximate % of contractual obligations assigned to each sub-contractor	█	█			

Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.
 I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	██████████
1.3(b)	Name of organisation	Flood Control NI T/a Watertight
1.3(c)	Role in organisation	Managing Director
1.3(d)	Phone number	██████████
1.3(e)	E-mail address	██
1.3(f)	Postal address	7 Seven Houses, Upper English Street, Armagh, BT61 7LA
1.3(g)	Signature (electronic is acceptable)	██
1.3(h)	Date	13 th February 2018

Part 2: Exclusion Grounds

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p>Regulations 57(1) and (2) The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>	
	Participation in a criminal organisation.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Corruption.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Fraud.	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	Yes <input type="checkbox"/> No X If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	Yes <input type="checkbox"/> No <input type="checkbox"/>

2.3(a)	<p>Regulation 57(3) Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	Yes <input type="checkbox"/> No X
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j) - (ii)	The organisation has withheld such information.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.	Yes <input type="checkbox"/> No X If yes please provide details at 3.2
3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant	

Part 3: Selection Questions

Section 4	Economic and Financial Standing	
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide one of the following: answer with Y/N in the relevant box.	Yes X No <input type="checkbox"/>
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	Yes X No <input type="checkbox"/>
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	Yes X No <input type="checkbox"/>
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	Yes X No <input type="checkbox"/>
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	Yes X No <input type="checkbox"/>

Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:	
Name of organisation	N/a	
Relationship to the Supplier completing these questions		

5.1	Are you able to provide parent company accounts if requested to at a later stage?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section 6	Technical and Professional Ability
6.1	<p>Relevant experience and contract examples</p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>

Flood Control (NI) Ltd Previous Experience

	Contact 1	Contact 2	Contact 3
Name of customer organisation	[REDACTED]	[REDACTED]	[REDACTED]
Point of contact in the organisation	[REDACTED]	[REDACTED]	[REDACTED]
Position in the organisation	[REDACTED]	[REDACTED]	[REDACTED]
E-mail address	[REDACTED]	[REDACTED]	[REDACTED]
Description of contract	[REDACTED]	[REDACTED]	[REDACTED]

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Contract Start date	[REDACTED]	[REDACTED]	[REDACTED]
Contract completion date	[REDACTED]	[REDACTED]	[REDACTED]
Estimated contract value	[REDACTED]	[REDACTED]	[REDACTED]

Select List of Approved Contractors - Performance Monitoring Form

Please complete the form below for each contractor working on a project, using the scoring criteria below. Please leave blank if no comment / not applicable.

Project	Contractor	Time Management	Financial Management	Health and Safety	Management of Sub-contractors	Quality of Workmanship	Progress in Making Good Defects	Collaborative Approach	Contractor Performance	Contractor Design (If Applicable)	Customer Satisfaction	Total Project Score	Overall Project Percentage
<i>Example</i>	<i>Example</i>	5	4	3	3	4	2	3	2	2	2	30	60%
												0	0%
Project	Contractor	Comments / justification for low scoring											
Form completed by:		Quarter:					Date:						

Performance Measure	Definition		Scoring Criteria
Time Management	How well did the contractor plan and progress the works? Was the contractor proactive in resolving or minimising programme issues or delays?	5	Excellent; significant savings in time realised by contractor
		4	Good; proactive approach, potential delays minimised by contractor
		3	Average; delays neither caused nor minimised by contractor
		2	Below Average; minor programme issues/delays possibly caused by contractor
		1	Poor; programme issues/delays caused or exacerbated by contractor
		0	Unacceptable; major programme issues/delays caused by contractor
Financial Management	How well did the contractor manage costs? Was cost reporting timely and accurate? Was change agreed expeditiously? Was there prudent management of the provisional sums and/or risk?	5	Excellent; contractor was proactive, identified major cost savings through innovation
		4	Good; contractor was proactive in managing all cost issues
		3	Average; contractor was fairly proactive in managing cost issues
		2	Below Average; cost management was neither proactive nor reactive
		1	Poor; cost management was reactive and at times antagonistic
		0	Unacceptable; cost management was antagonistic resulting in major cost issues
Health and Safety	How well did the contractor manage health and safety? Consider quality of H&S documentation, management of H&S on site, compliance with H&S plan, accidents and incidents, site safety checks and audits.	5	Excellent; H&S management was exemplary with no issues or concerns throughout the project
		4	Good; only very minor issues or concerns
		3	Average; few minor incidents not caused by contractor

		2	Below Average; few minor incidents due to poor site management
		1	Poor; reportable incident resulting in contractor being placed on additional monitoring
		0	Unacceptable; contractor suspended following major incident
Management of Sub-contractors	Were sub-contractors appointed at the right time, did the contractor manage performance and quality of work and co-ordinate different sub-contractors?	5	Excellent; sub-contractors involved early, mostly through established supply chains. Excellent co-ordination and management.
		4	Good; sub-contractors involved at right time; well co-ordinated/managed
		3	Average; late appointments and/or lack of co-ordination/management
		2	Below Average; some issues due to late appointments and/or lack of co-ordination/management
		1	Poor; several issues due to late appointments and lack of co-ordination/management
		0	Unacceptable; major issue(s) due to late appointments and/or lack of co-ordination/management
		Quality of Workmanship	Did the contractor achieve a high quality of work first time or was a need for re-work prompted by other parties?
4	Good; workmanship, minor snagging required		
3	Average; workmanship, but some isolated areas requiring re-work		
2	Below Average; workmanship, but several minor issues requiring re-work		
1	Poor; workmanship, some significant issues requiring re-work		
0	Unacceptable; workmanship, major re-work required.		
Progress in Making Good Defects	How quickly did the contractor resolve defects after practical completion?	5	Excellent; all defects resolved within 1 week of practical completion
		4	Good; all defects resolved within 1 month of practical completion
		3	Average; all defects resolved within 3 months of practical completion
		2	Below Average; majority of defects resolved within 3 months of practical completion
		1	Poor; some defects outstanding after 3 months; contractor reluctant to attend site
		0	Unacceptable; major defects outstanding after 3 months; contractor unwilling to resolve
Collaborative Approach	Did the contractor take on their responsibilities as a team player enthusiastically? Were they an active participant in the decision making or issue resolution processes throughout the project, or did they prefer to wait to be instructed?	5	Excellent; contractor took the lead in collaborative team working
		4	Good; contractor was a positive, proactive member of the team
		3	Average; contractor worked well with the team but did not add value
		2	Below Average; contractual approach
		1	Poor; required instruction in collaborative team working
		0	Unacceptable; adversarial approach resulting in ongoing dispute or claim
Contractor Performance	Consider the contractor's communication, planning and organisation; site management; consideration for other site users.	5	Excellent; contractor performance was exemplary in all these areas
		4	Good; contractor performance was good in all these areas
		3	Average; contractor performance was average in all these areas
		2	Below Average; issues/room for improvement in some areas
		1	Poor; several issues due to poor performance in one or more of these areas
		0	Unacceptable; major issue(s) due to poor performance in one or more of these areas

Contractor Design	How well did the contractor fulfil their responsibilities, including the quality and timeliness of information? For design and build projects - how well did the contractor manage and co-ordinate the design contractors? How good was the quality of the design information?	5	Excellent; quality, contractor was proactive and design provided well in advance of construction
		4	Good; quality, design provided in accordance with agreed programme
		3	Average; quality, design provided in sufficient time to avoid delay to construction
		2	Below Average; quality, design provided on time but putting pressure on programme
		1	Poor; quality, design provided late putting pressure on programme
		0	Unacceptable; quality, design information only provided when pressure applied by other parties with subsequent delays to programme
Inclusive Access & Corporate Standards	Confirmation that reasonable provision has been made for people to (a) gain access to; and (b) use the building / building extension and its facilities. Any reasons for departing from KCC's Technical Standards, Approved Document M or BS8300 have been fully justified in the Access Statement.	5	Excellent; reasonable provision has been made for people to gain access to and use the building/building extension and its facilities. Also excellent understanding of KCC's requirements.
		4	Good; performance good throughout project with regards to inclusive design
		3	Average; Inclusive design provided throughout each stage of project
		2	Below Average; several minor issues resulting in delays and further advice to be given
		1	Poor; lack of understanding leading to management issues surrounding inclusive design
		0	Unacceptable; no consideration of inclusive design
Customer Satisfaction	Customer satisfaction.	5	Excellent
		4	Good
		3	Average
		2	Below Average
		1	Poor
		0	Unacceptable

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	N/A X (Less than £36m turnover)
	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Yes <input type="checkbox"/> Please provide the relevant url to view the statement ... No <input type="checkbox"/> Please provide an explanation

7. Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 8	Additional Questions
8.1	Insurance
	<p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y/N</p> <p>Employer's (Compulsory) Liability Insurance = £5,Million</p> <p>Public Liability Insurance = £5Million</p> <p>*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p> <p>Flood Control (NI) Ltd T/a Watertight can confirm that we have secured the appropriate insurance cover for this contract</p>

8.2 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	<input type="checkbox"/> No
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring. You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>	<input type="checkbox"/> No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	<input type="checkbox"/> Yes

8.3 – Environmental Management

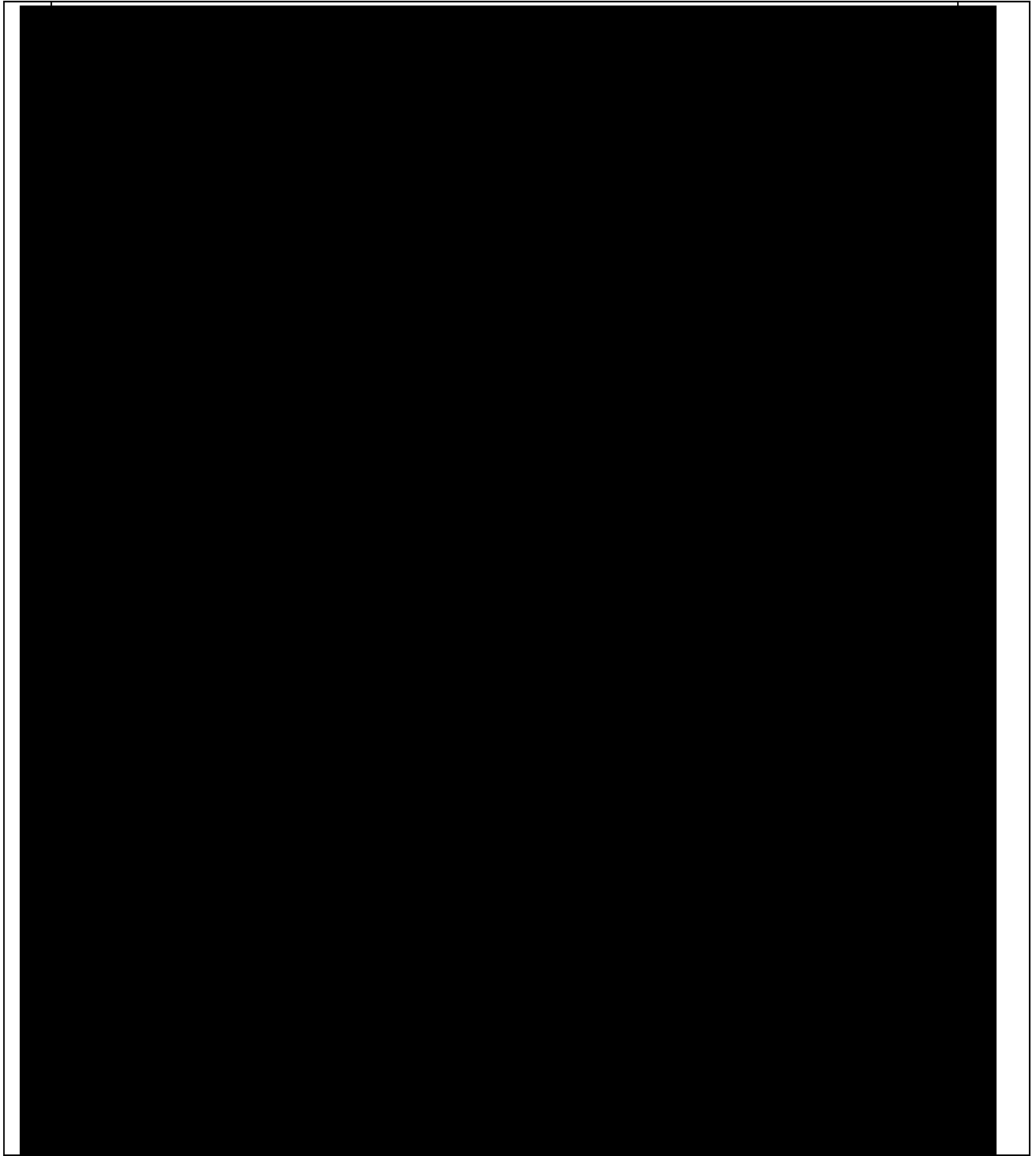
1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)? If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	<input type="checkbox"/> No
2.	<p>If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?</p>	<input type="checkbox"/> Yes

8.4 – Health & Safety

1.	<p>Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.</p>	<input type="checkbox"/> Yes
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	<input type="checkbox"/> No
3.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?</p>	<input type="checkbox"/> Yes
4.	<p>What range of products do you provide? Please give details of all the products manufactured by yourselves and other suppliers who you work with. Details regarding the product warranties and if the products are BSI Kitemark should be included.</p> <p>(See below)</p>	

Shropshire PFR Product and Services (local) List

Product	Manufacturer	Manufactured Direct by Watertight or by Preferred Supplier (agreements in place as per ISO9001 standards)	Kite-Marked	Accreditation	Rigorously Tested / Reliability / Track Record	Reliability Rating	Used by Watertight on previous Scheme	Warranty Period (years)	Choices available for Residents
Flood Doors	Floodark	Preferred Supplier	Yes	PAS 1188	Live tested	5	Brampton (Chesterfield)/ Bewdley / Dorset	1	Yes
Flood Doors	Aquobex	Preferred Supplier	Yes	PAS 1188	Live tested	5	Bewdley	1	Yes
Automatic Sump Pumps	Zoeller	Preferred Supplier	N/a	CE / WEE	Live Tested	5	Bewdley	2	N/a
Flood Walls	Flood Angel	Preferred Supplier	Yes		Live tested	4	Mayo	2	Yes
Floodgates	Flood Divert	Preferred Supplier	Pending	Tested to PAS 1188	Live tested	5	No	2	Yes
Floodgates	Wilkinson Environmental	Preferred Supplier	Pending	Tested to PAS 1188	No evidence of live testing	4	No	2	Yes
Flood Walls/Barriers	Caro	Preferred Supplier	Pending	Tested to PAS 1188	Live tested	5	Bewdley, UMBERLEIGH, Mayo, Dorset	2	Yes
Non Return Valves	Watertight	Direct	N/a	WRC	Live tested	5	All projects	2	N/a
Airbricks	Eco-Coverage	Preferred Supplier	N/a	BBA	Live tested	5	All projects	1	N/a
Waterproofing (external walls)	Stonewater Guard	Preferred Supplier	N/a	BBA	Live tested	5	All projects	2	N/a
Domestic NRVs	McAlpine	Preferred Supplier	N/a	WRC	Live tested	5	All projects	1	N/a



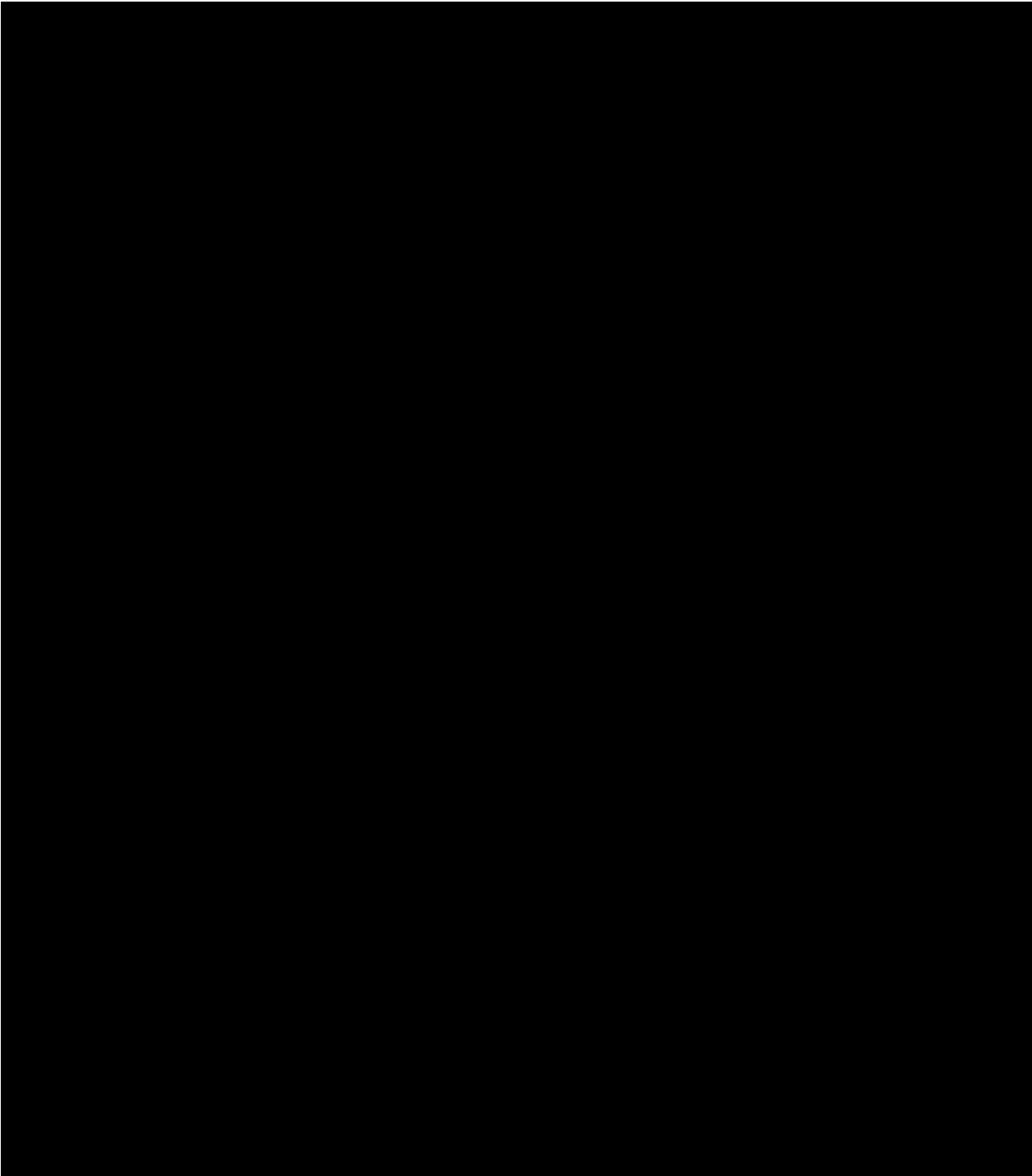
8.6 It is a requirement within the terms and conditions for this Contract that where requested in writing during the term of the Agreement that the Contractor will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council. Please confirm your acceptance of this term by ticking the box below:

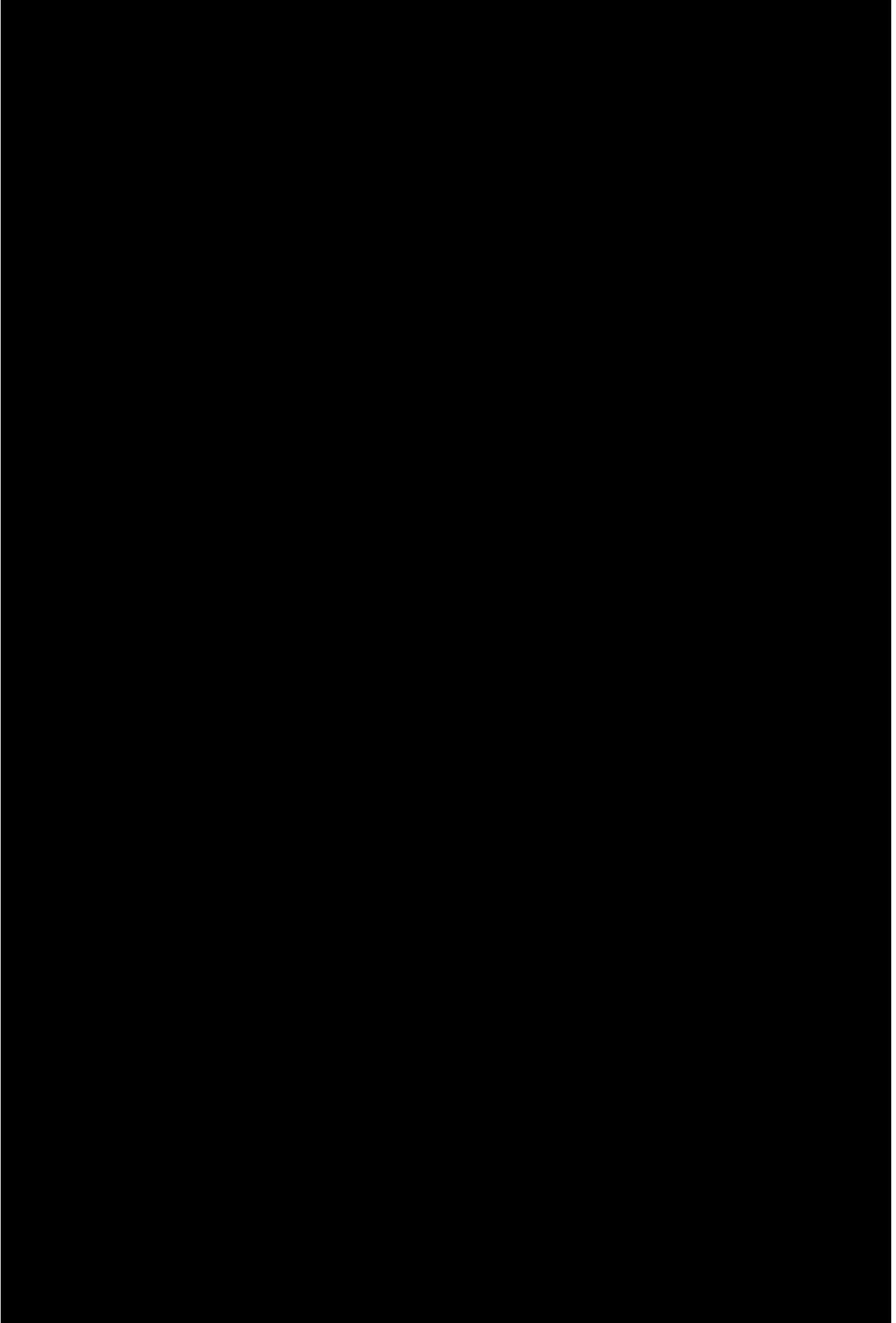
Flood Control (NI) Ltd can confirm our acceptance of this term.

SECTION C – TENDER SCHEDULE

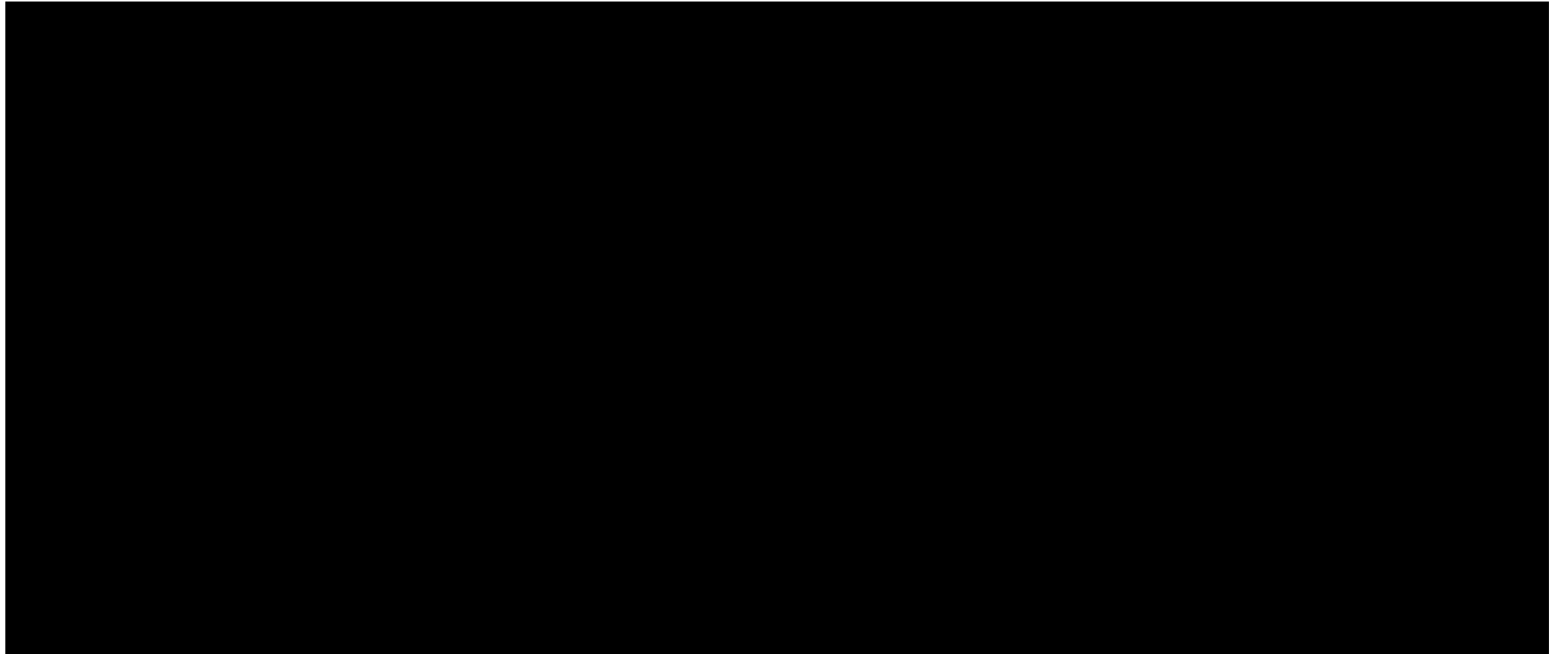
	Pricing
1.	<p>The most competitively priced tender will receive the maximum mark for price being 400. Less competitive tenders will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.</p> <p>The total price for allocation of the marks as described above will be calculated by using a pre prepared Price Evaluation model, which will contain quantities. The Council will prepare the financial tender assessment model prior to the return of tenders. This model will not be divulged to bidders until after the closing date for receipt of tenders.</p> <p>The Procurement Manager will maintain the model as confidential until the time and date for tender returns. Tenders will not be opened until the Procurement Manager has sent a copy of the model to the Tenderers.</p>

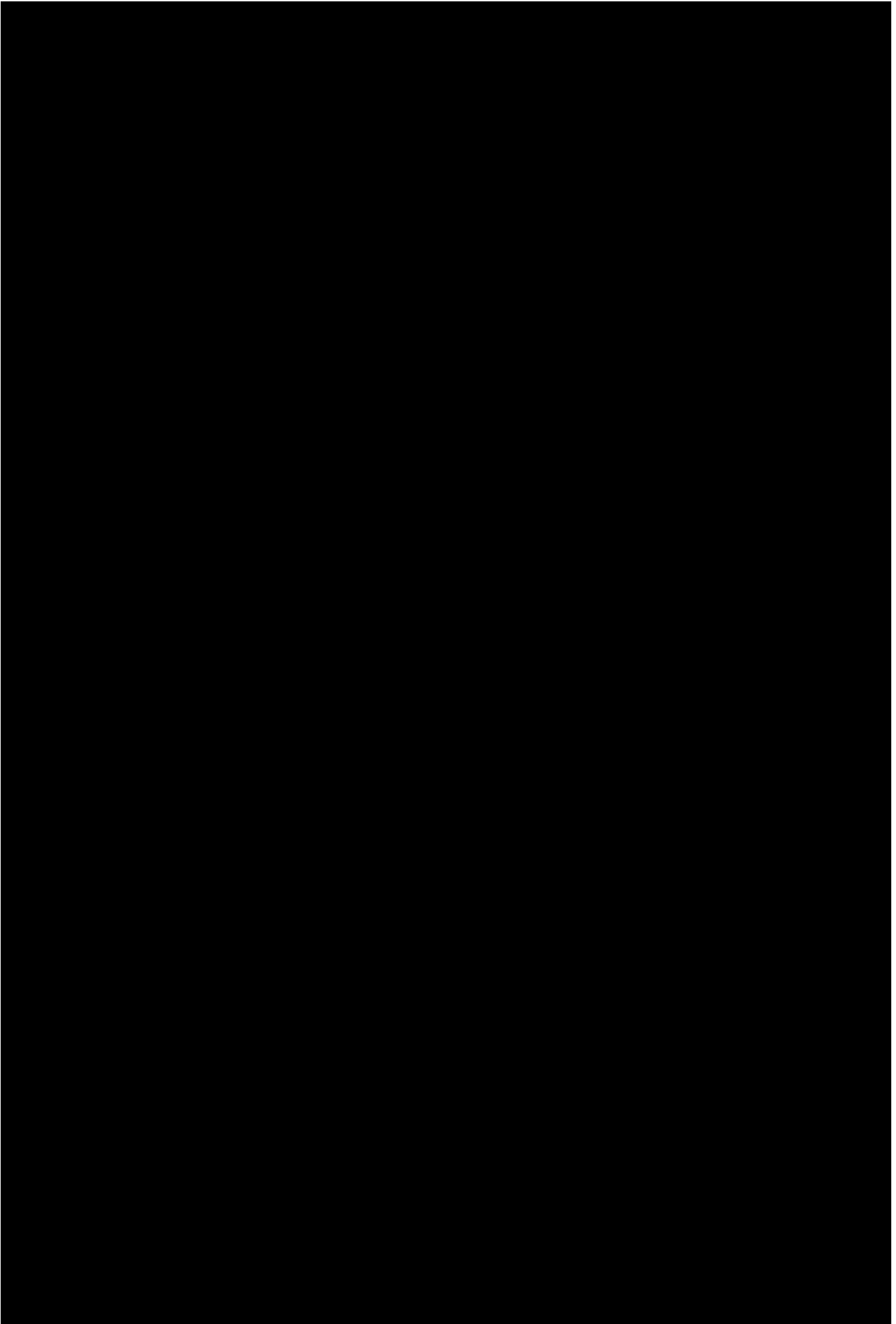
2.	Tender Quality Response	
2.1	<p><i>A property is at risk of flooding, see attached plan & photos. Water from the highway flows down the driveway and floods the house, there is also a watercourse at the rear of property which is susceptible to flashy flooding. Please provide a description of the solution you would recommend. Give details of products and systems which you would use.</i></p>	5 / 50 max marks
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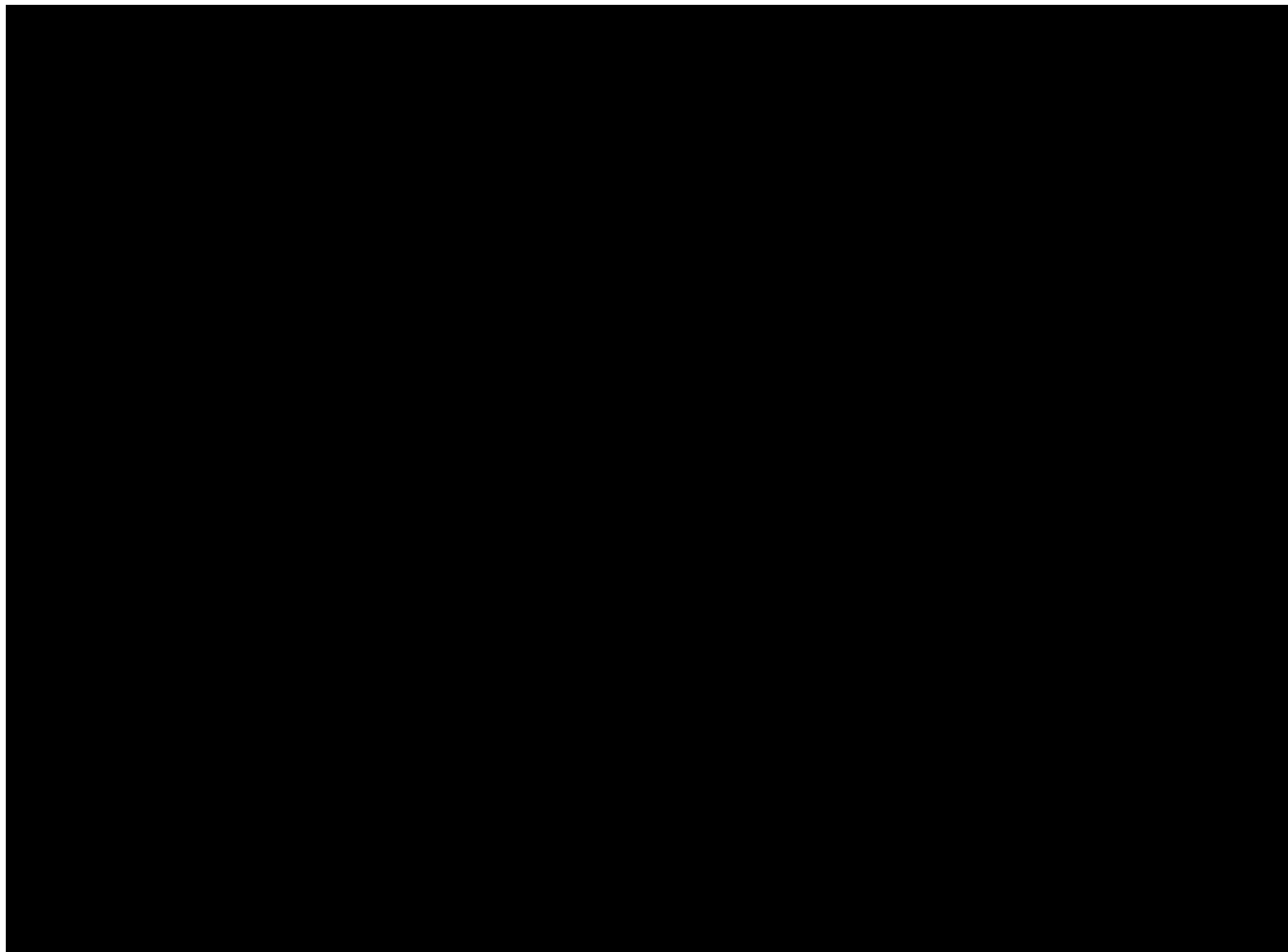





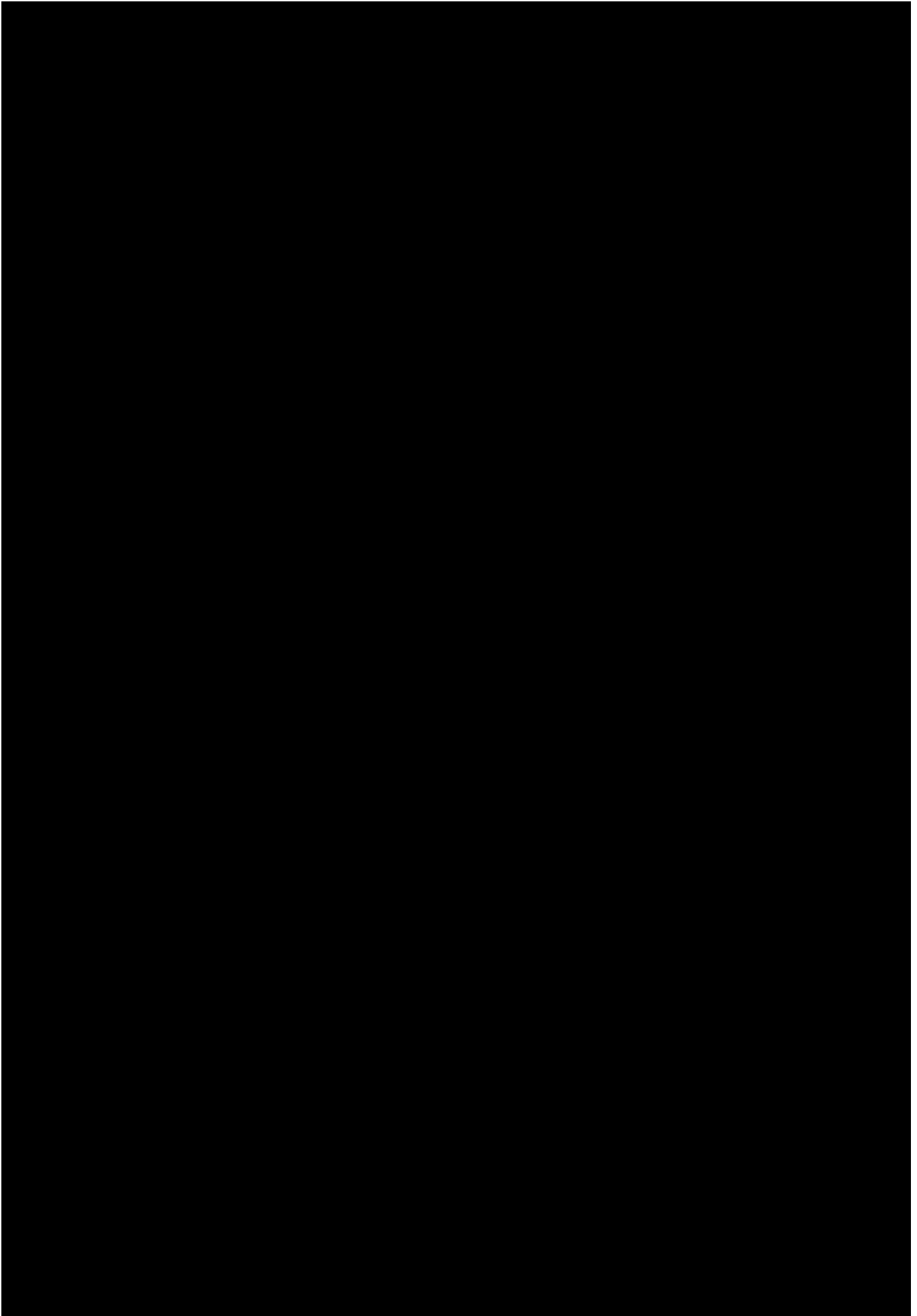
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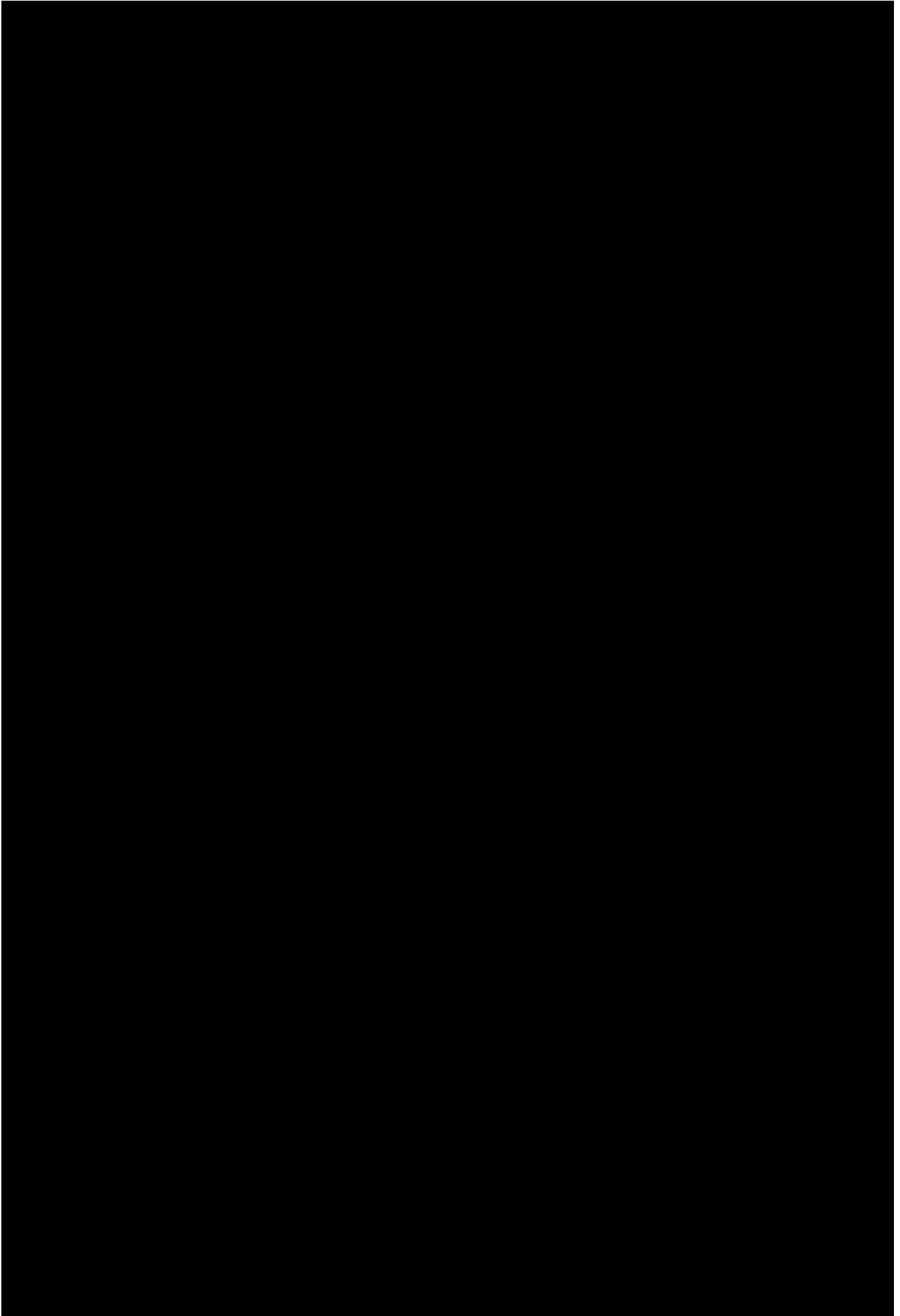


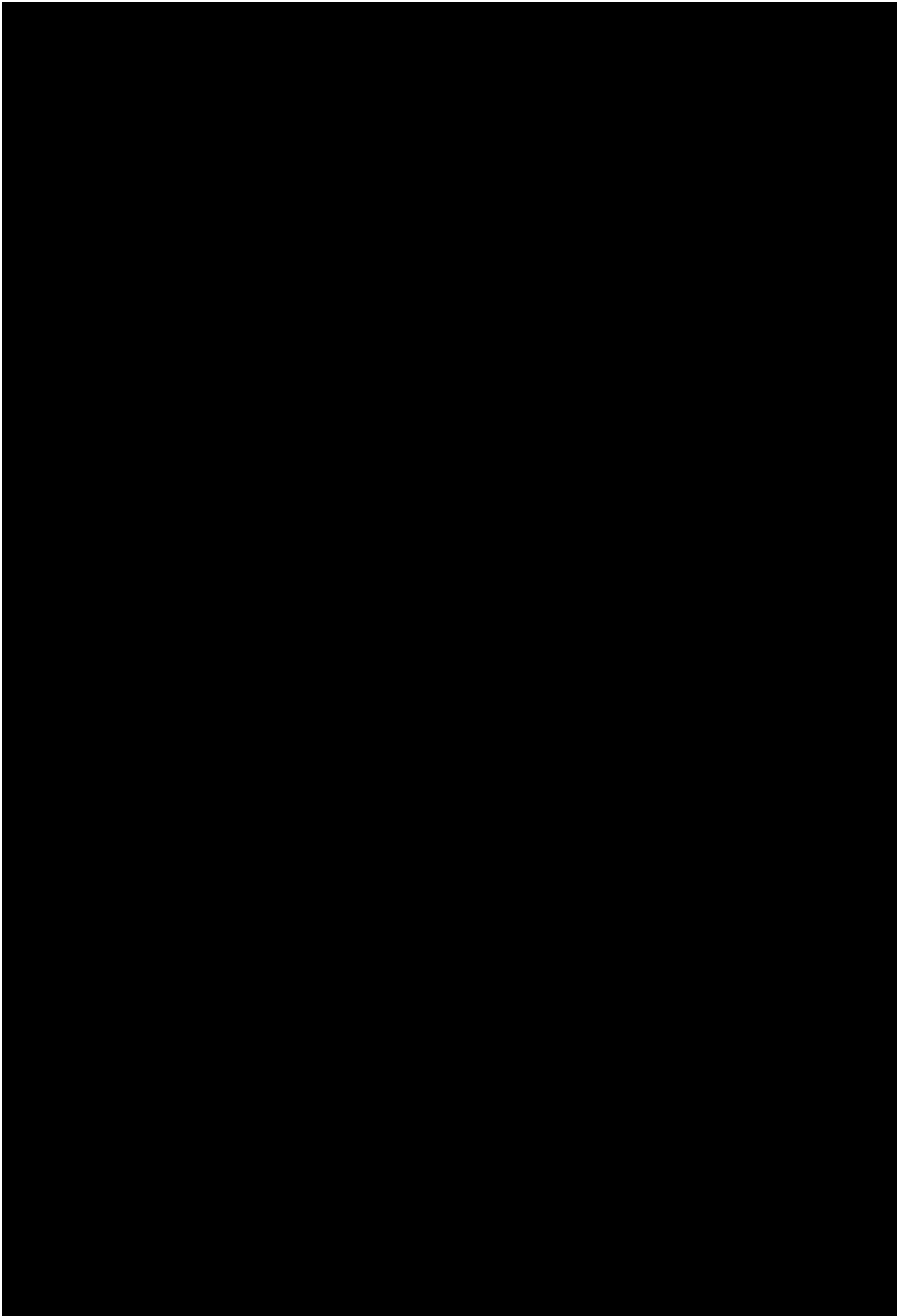


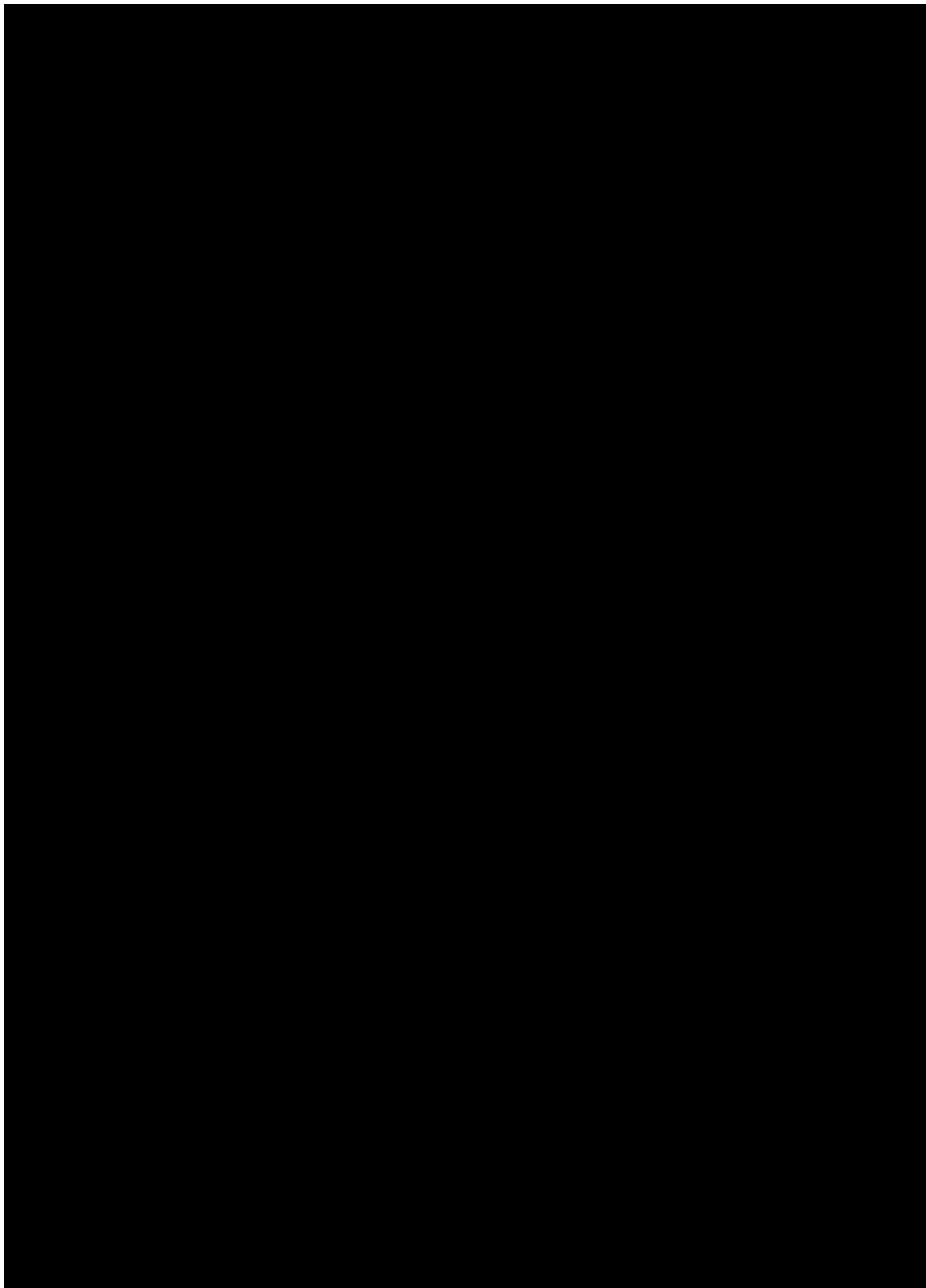


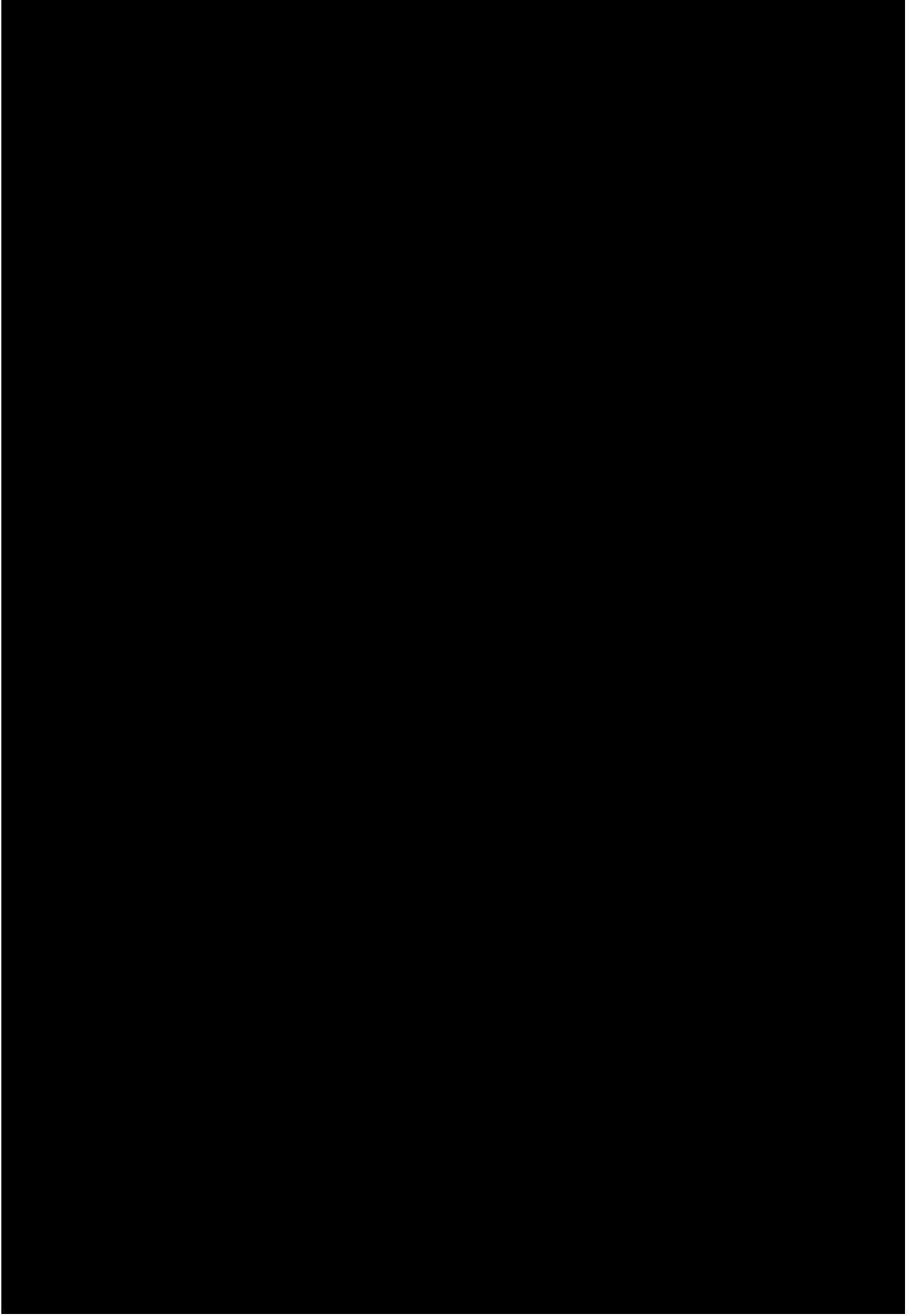
2.2	<i>In order to show you will deliver the required services to the Council, please illustrate how you would communicate and work collaboratively with Shropshire Council and the homeowner. Evidence where you have used this approach should be included.</i>	5 / 50 max marks
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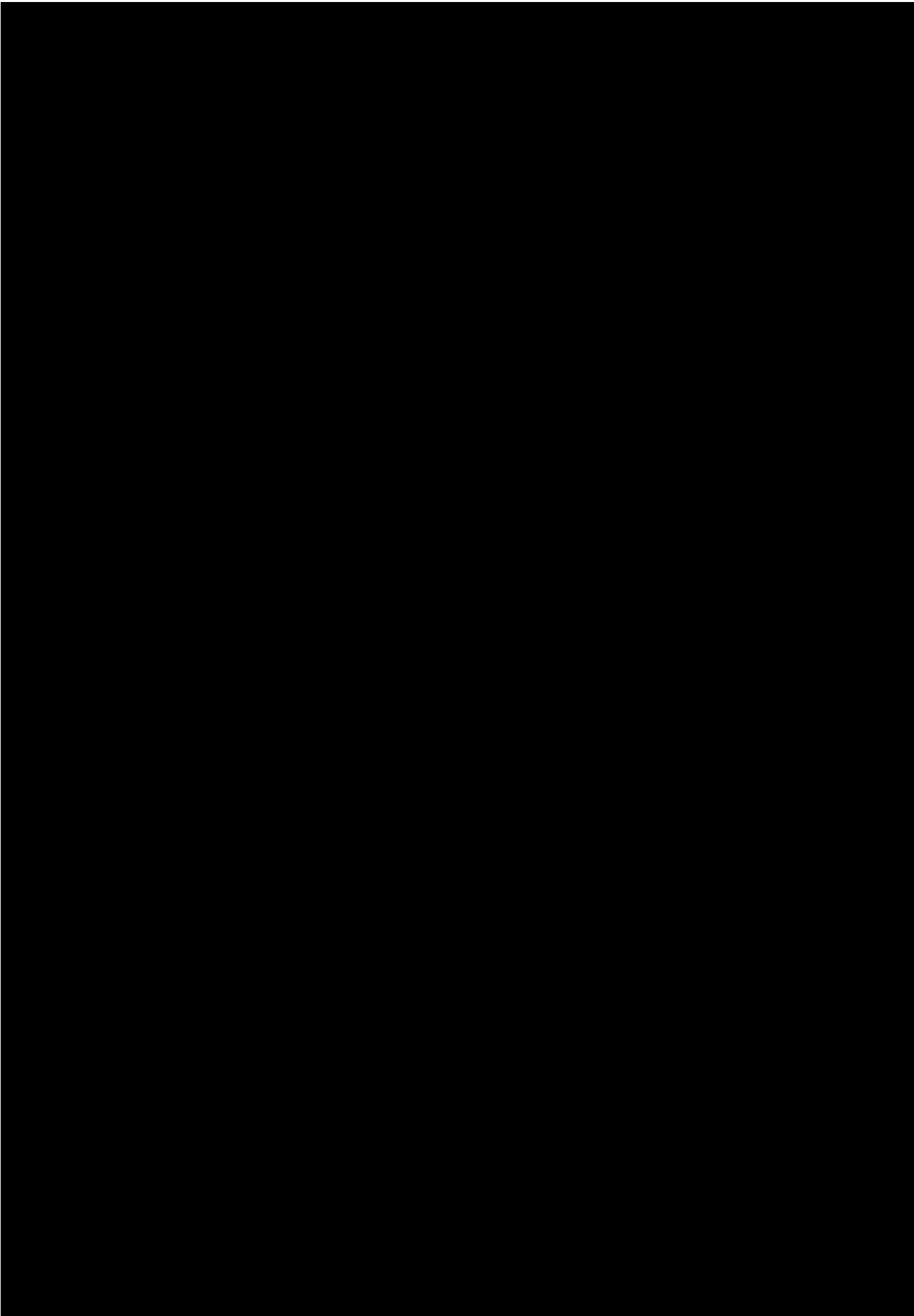


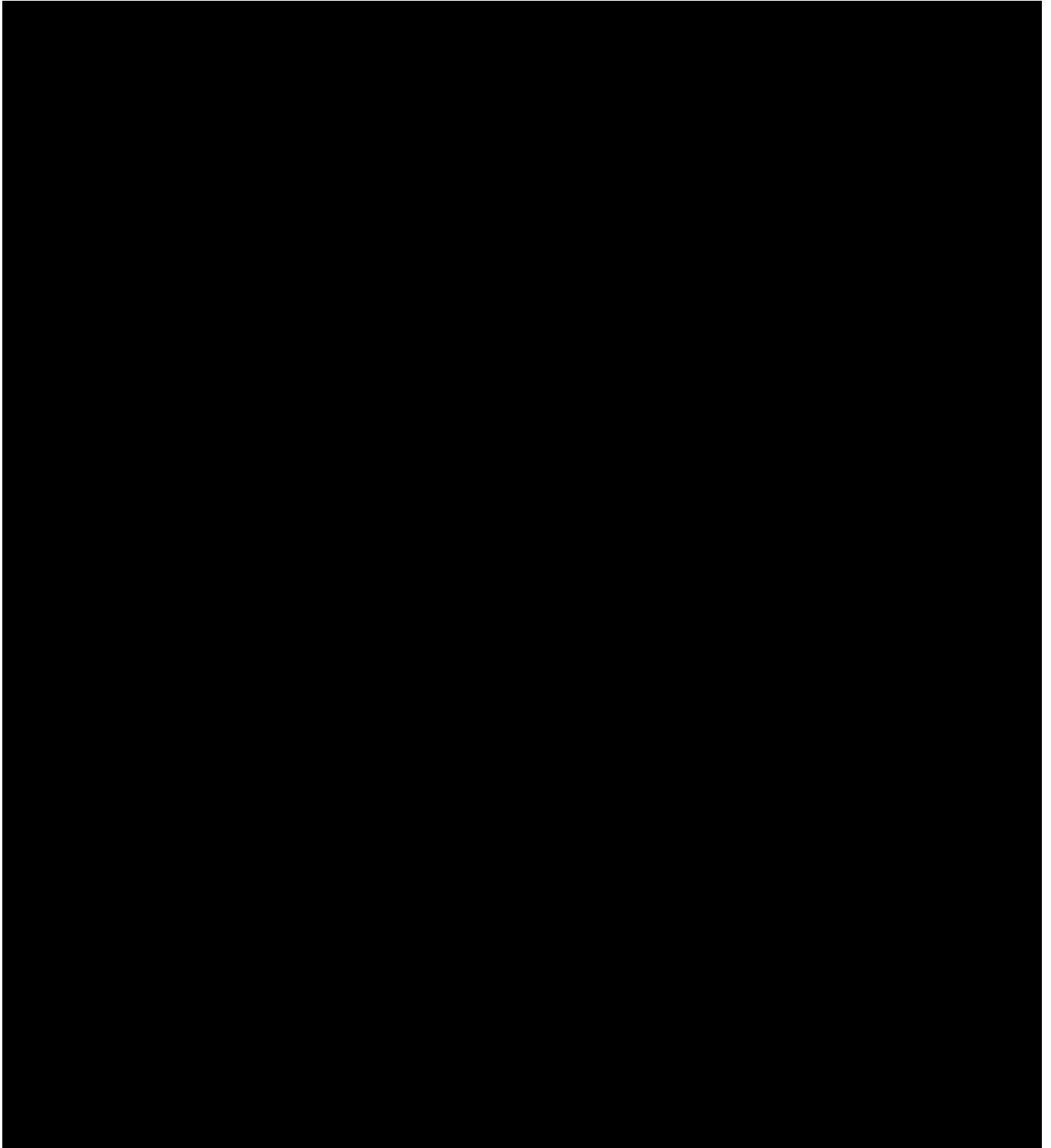


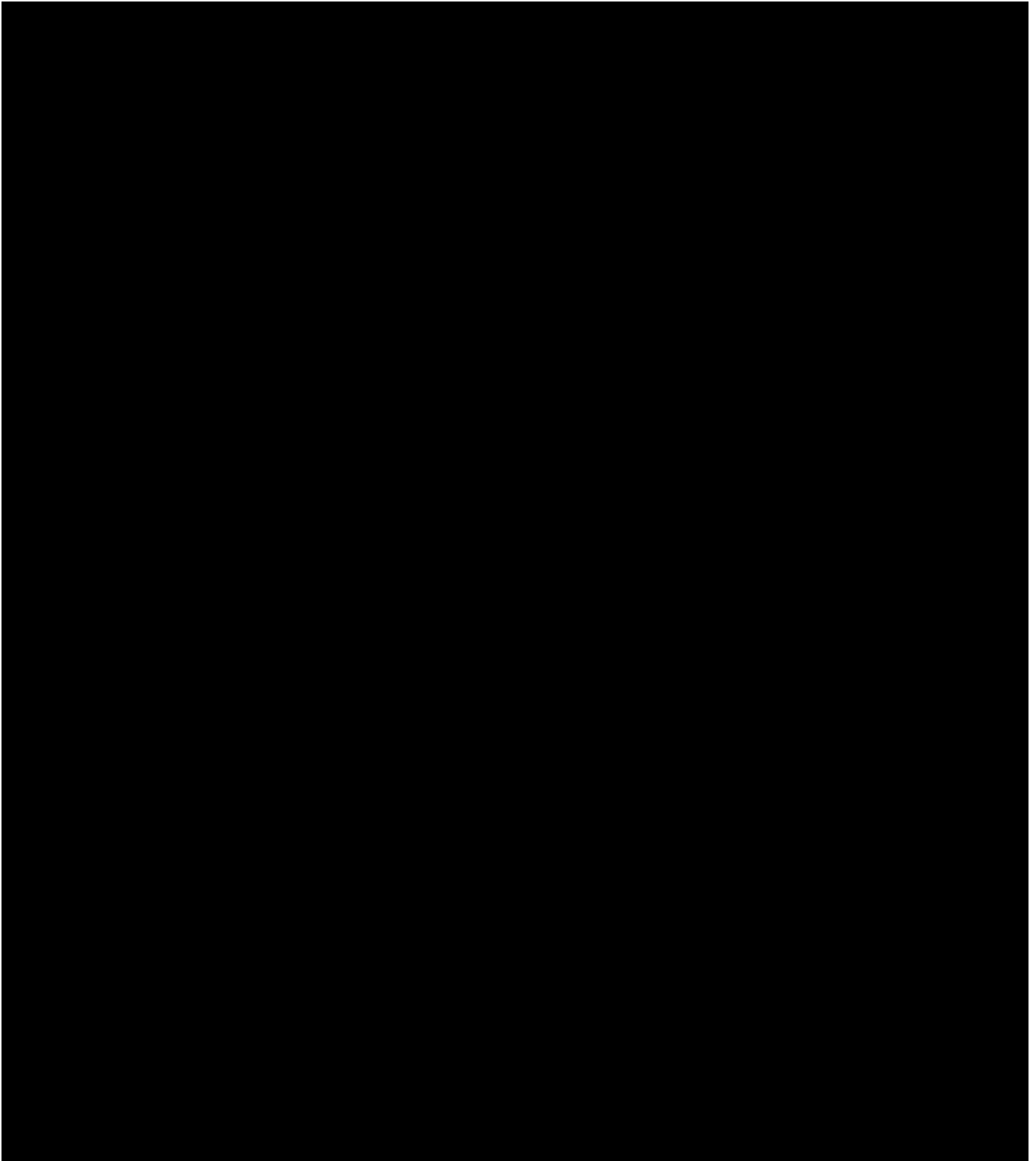




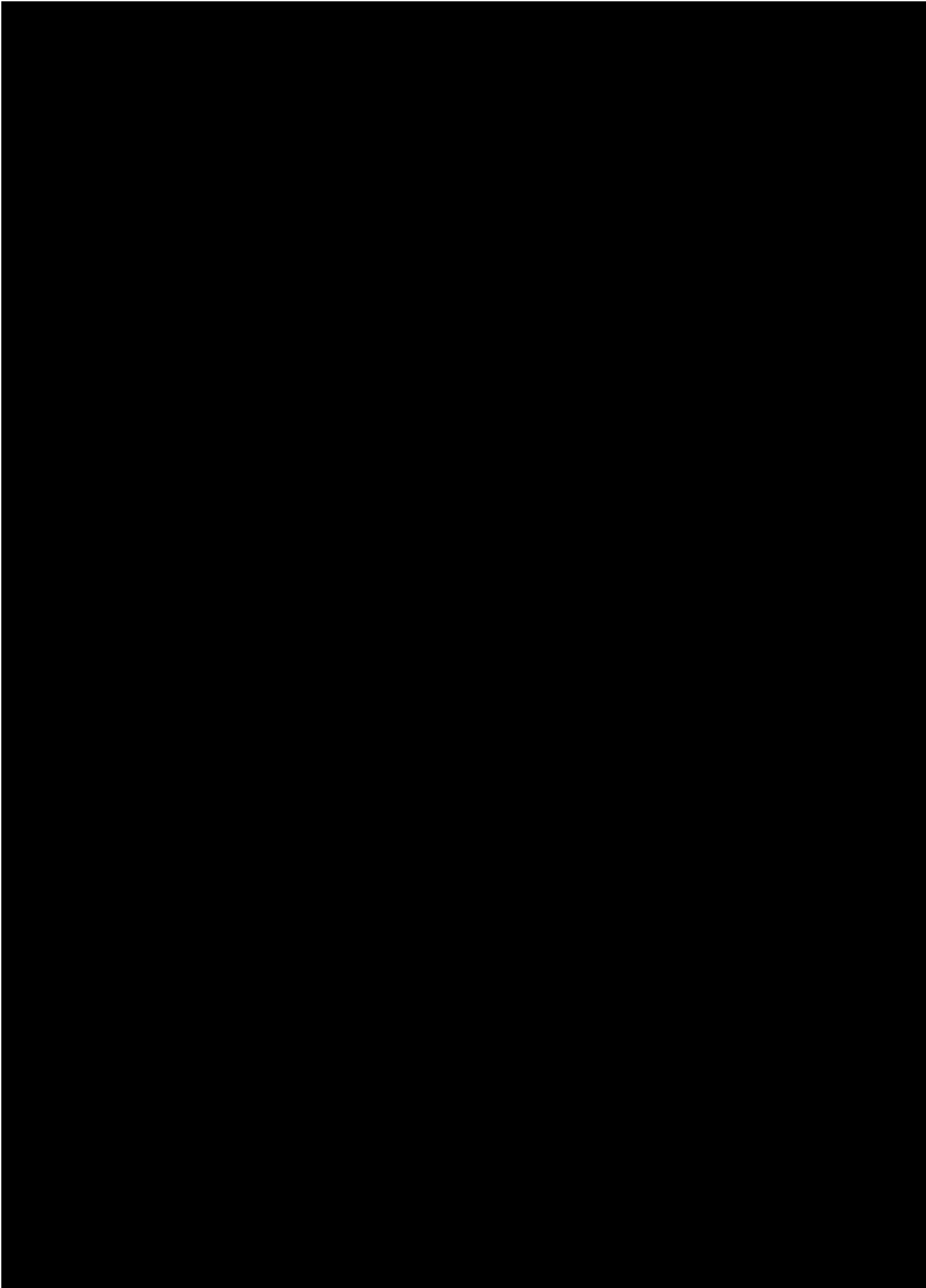




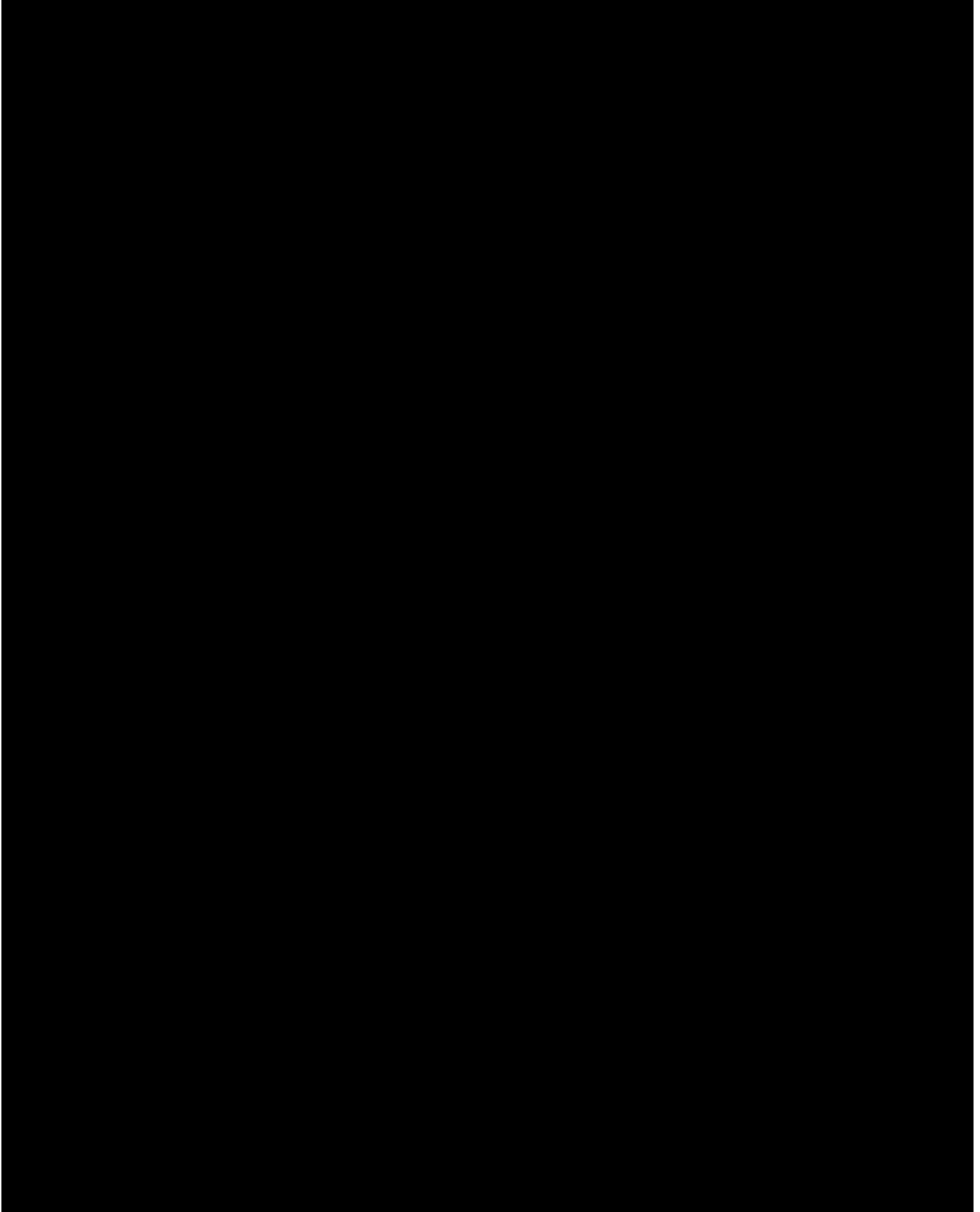


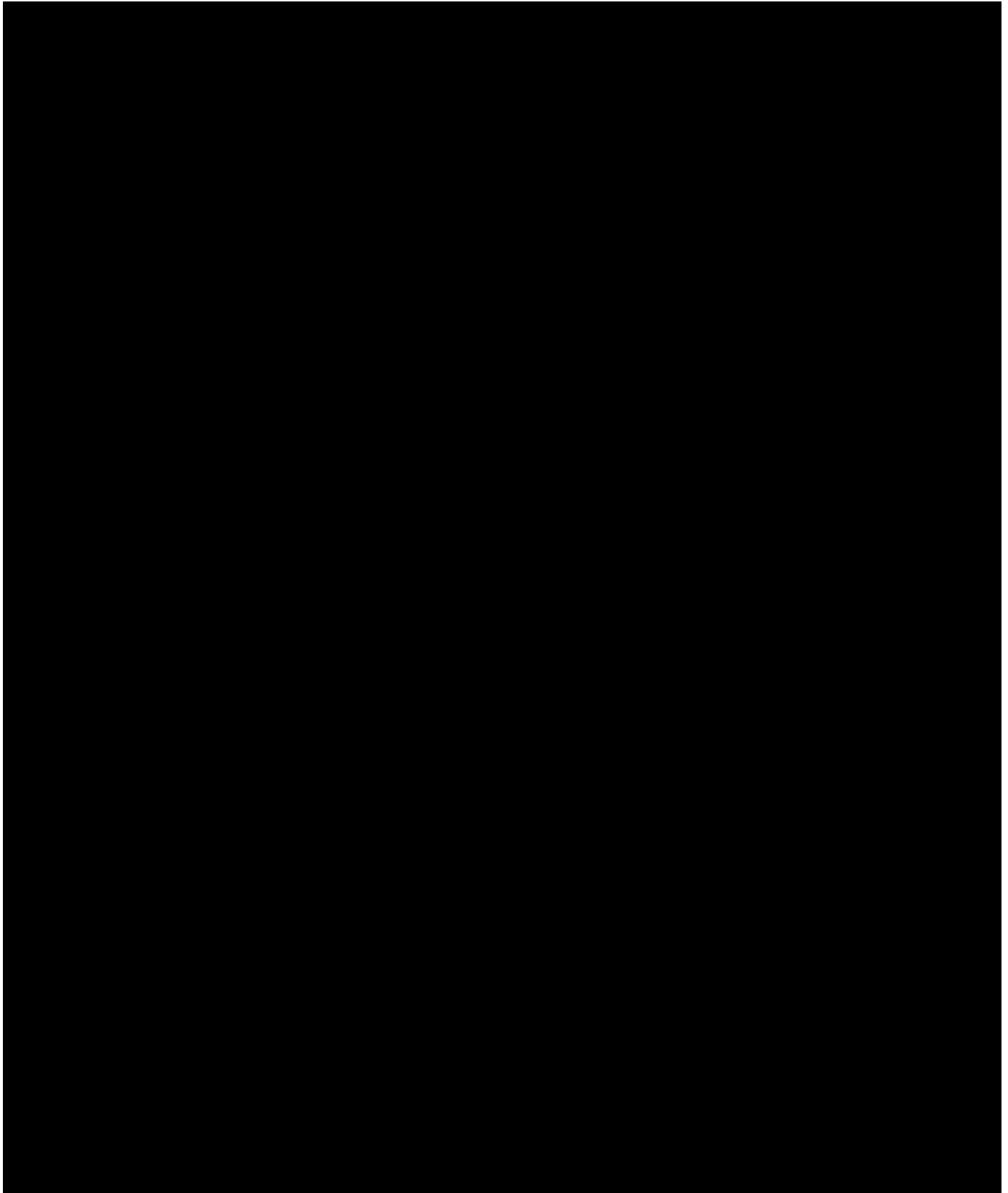


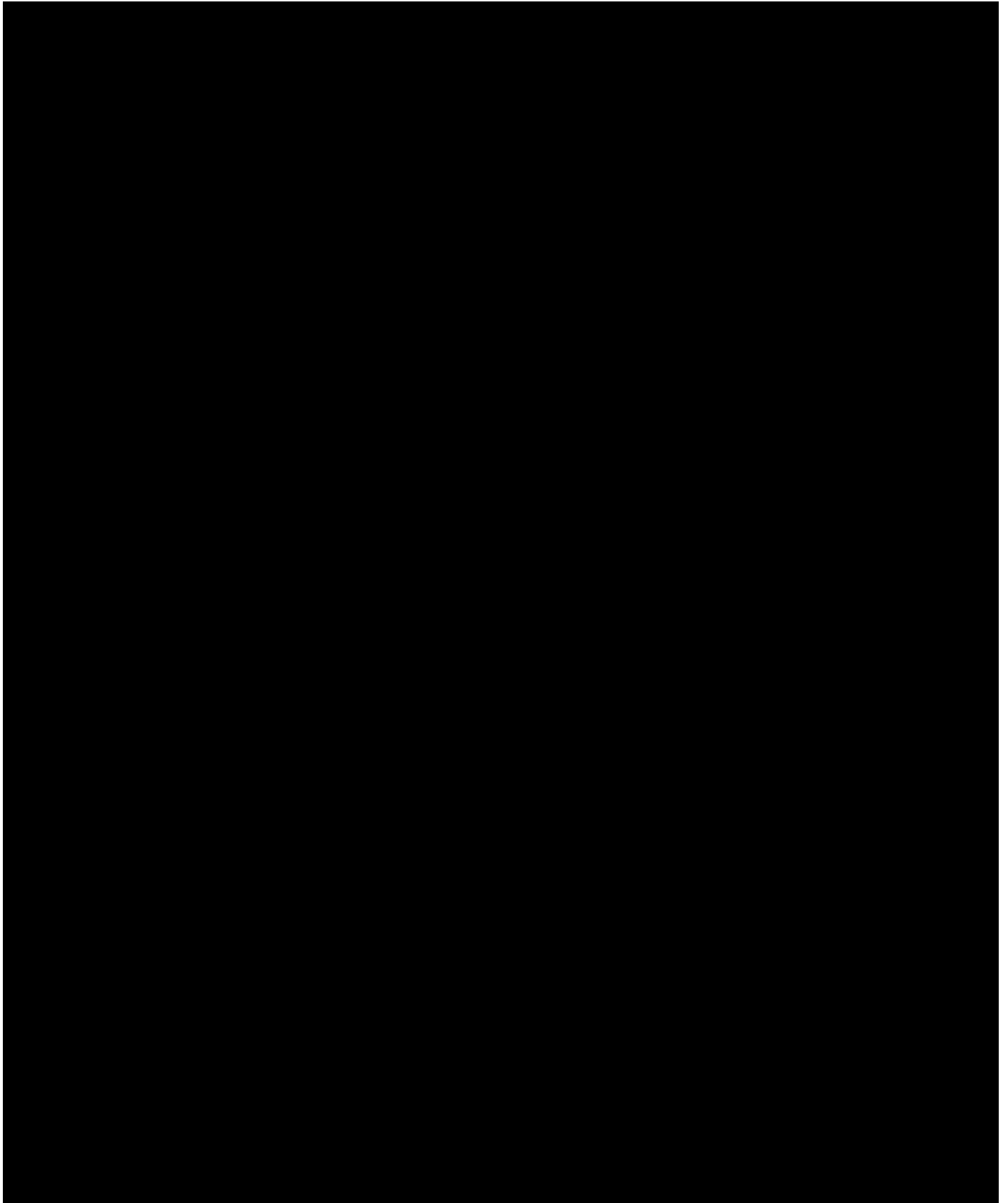
<p>2.3</p>	<p><i>Describe the quality systems you have in place. Please include details demonstrating how quality is managed at each stage, ensuring that the products are fit for purpose, to the specification and installed correctly. Where you employ sub-contractors, include details. Evidence where you have used this approach should be included.</i></p>	<p>10 / 100 max marks</p>															
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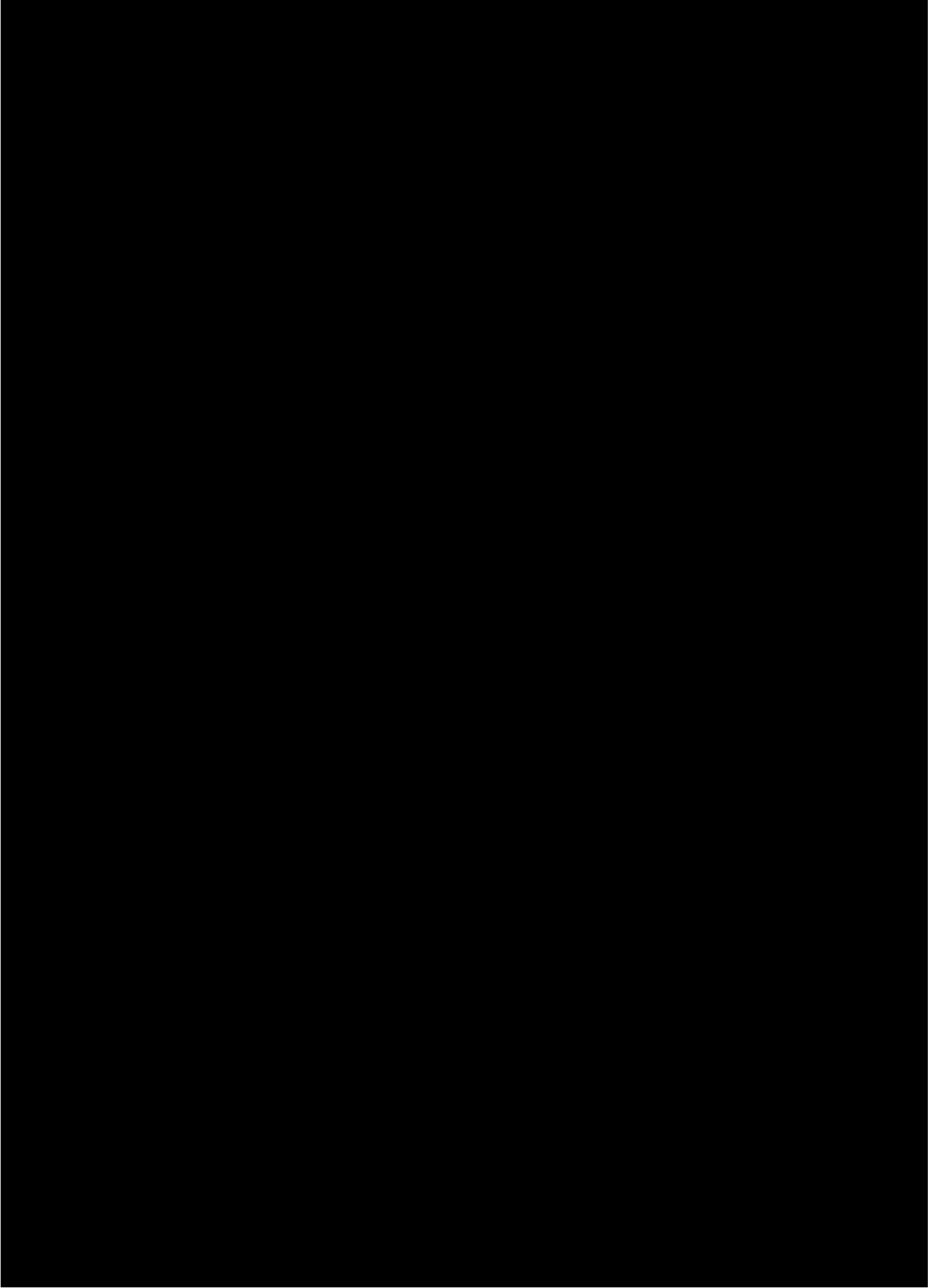


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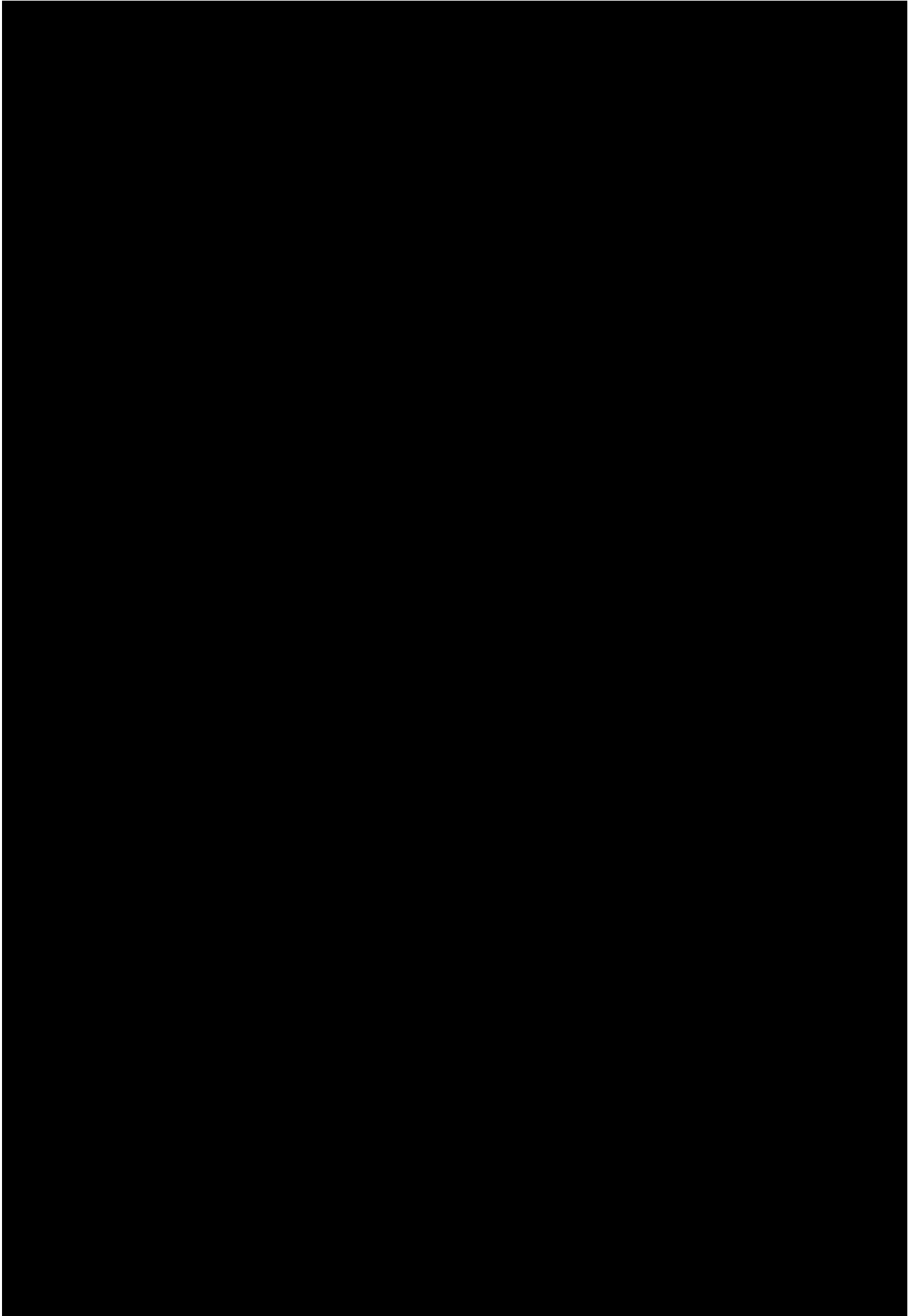
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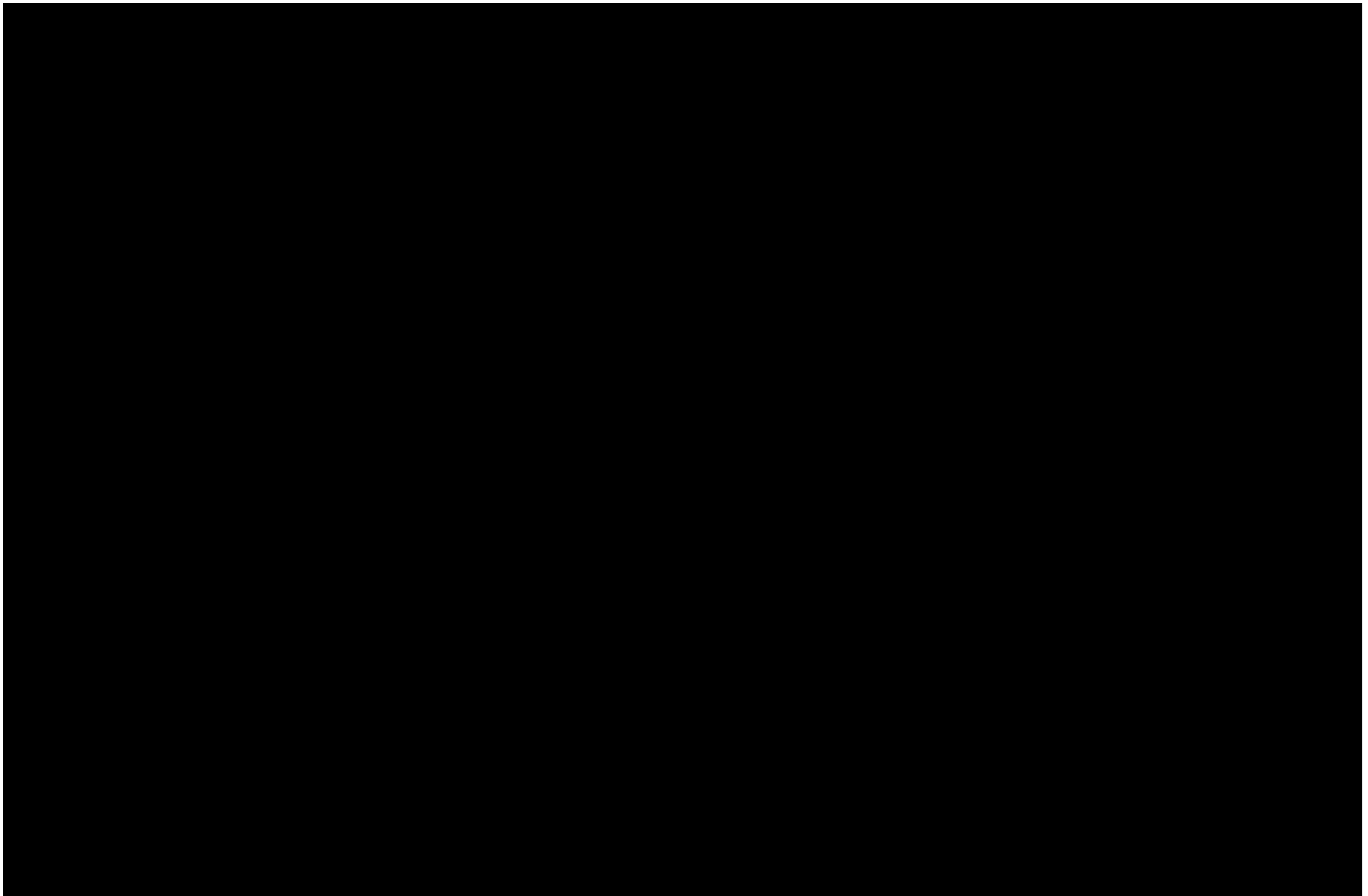
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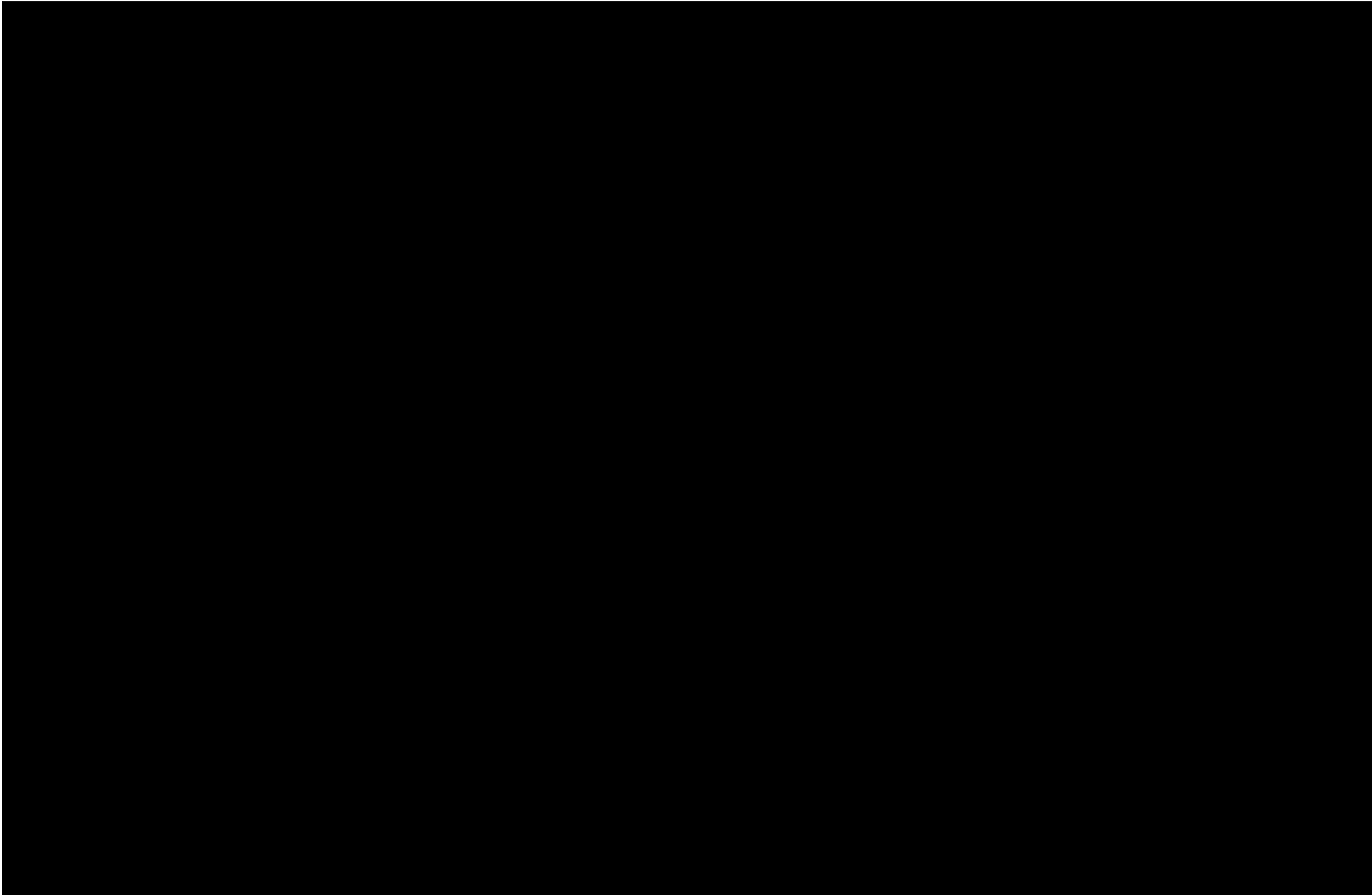
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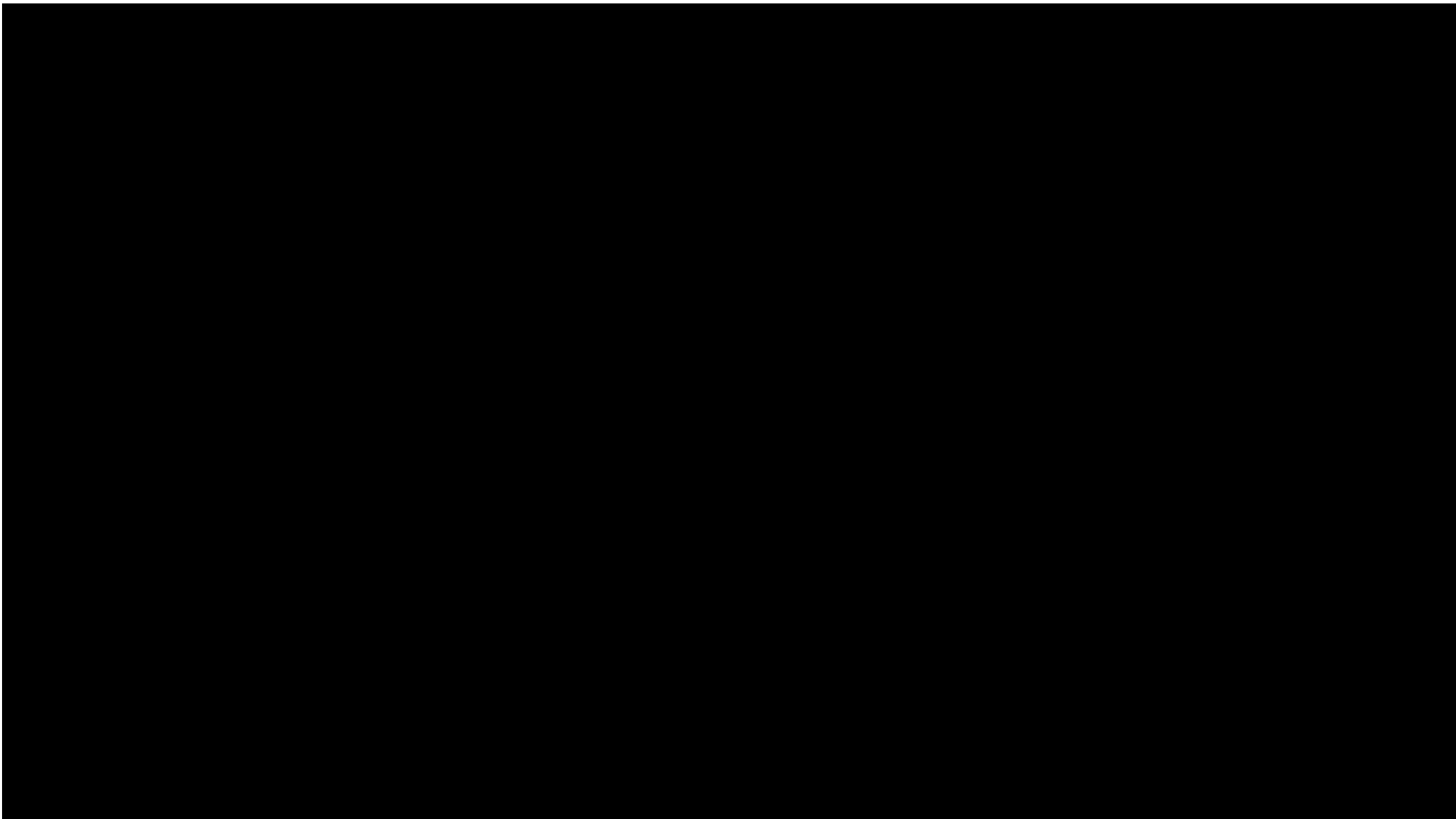
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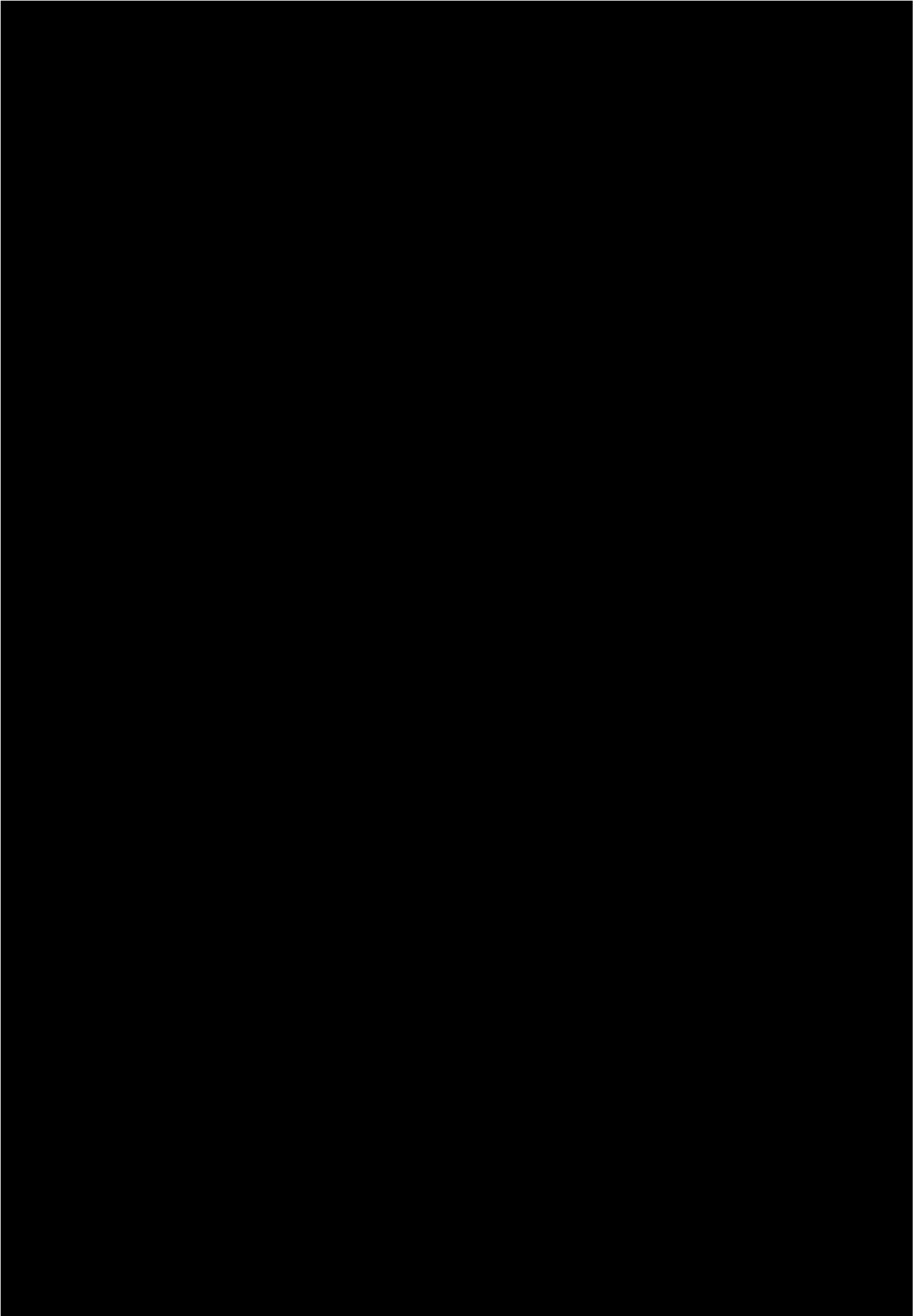
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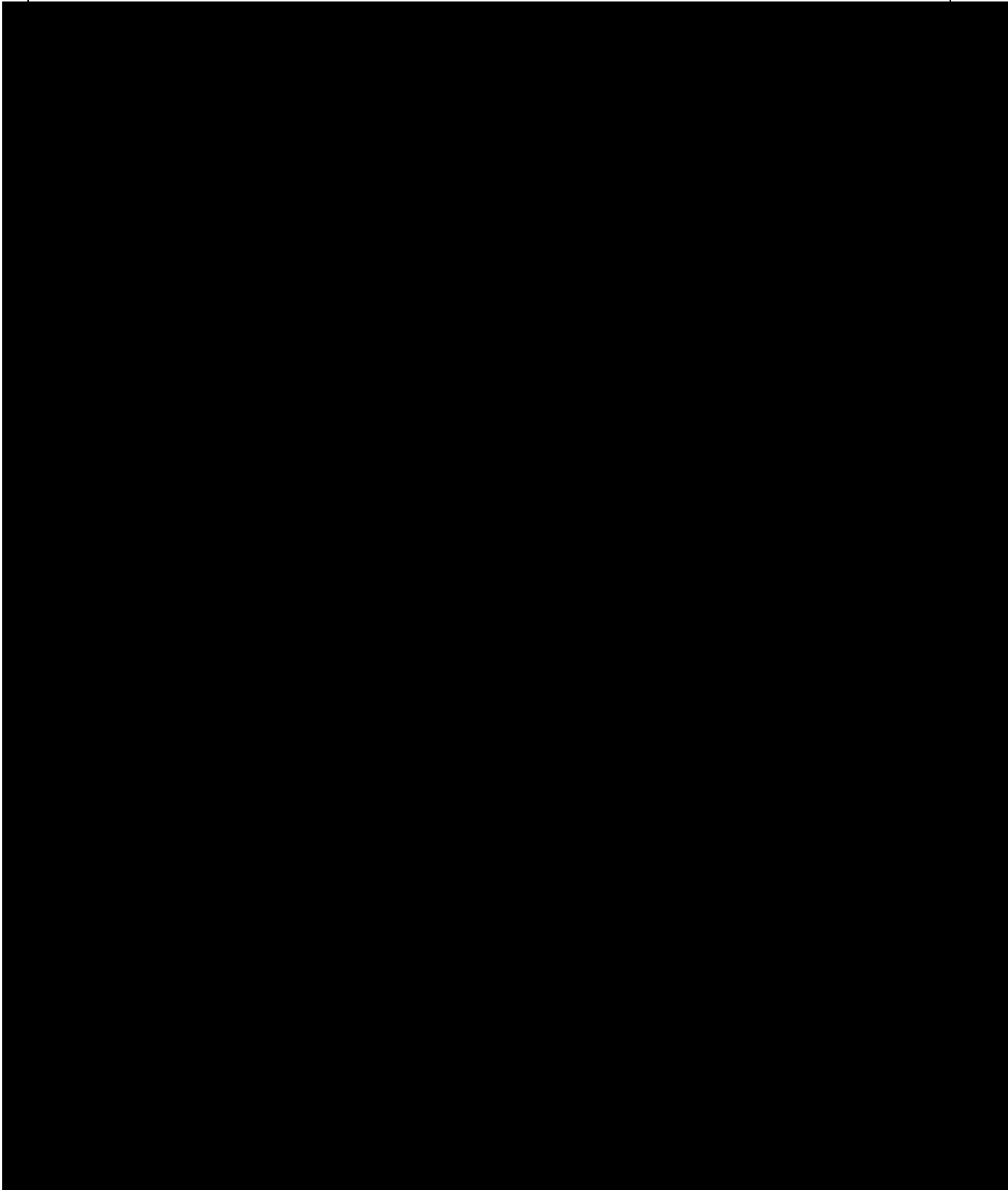
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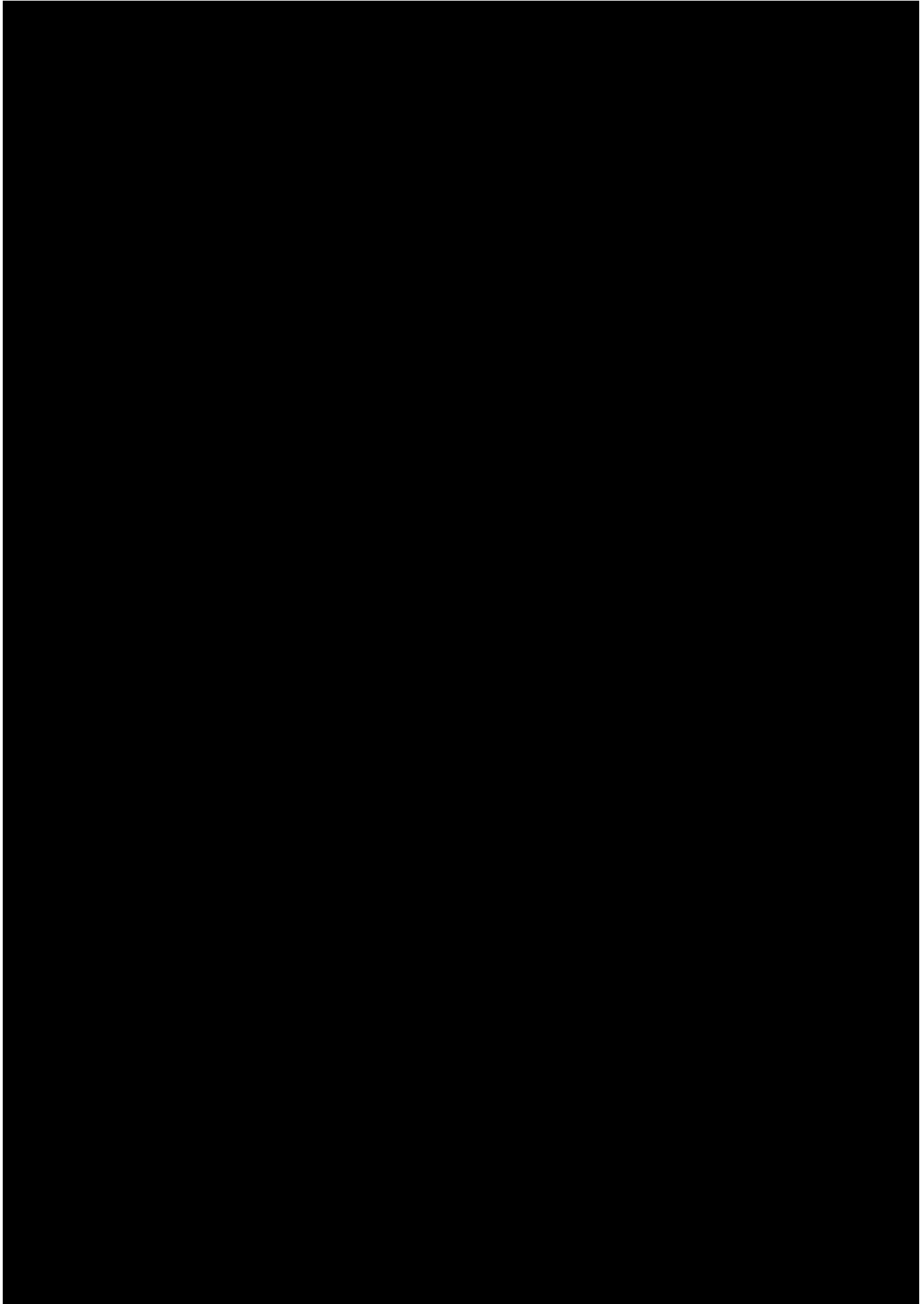
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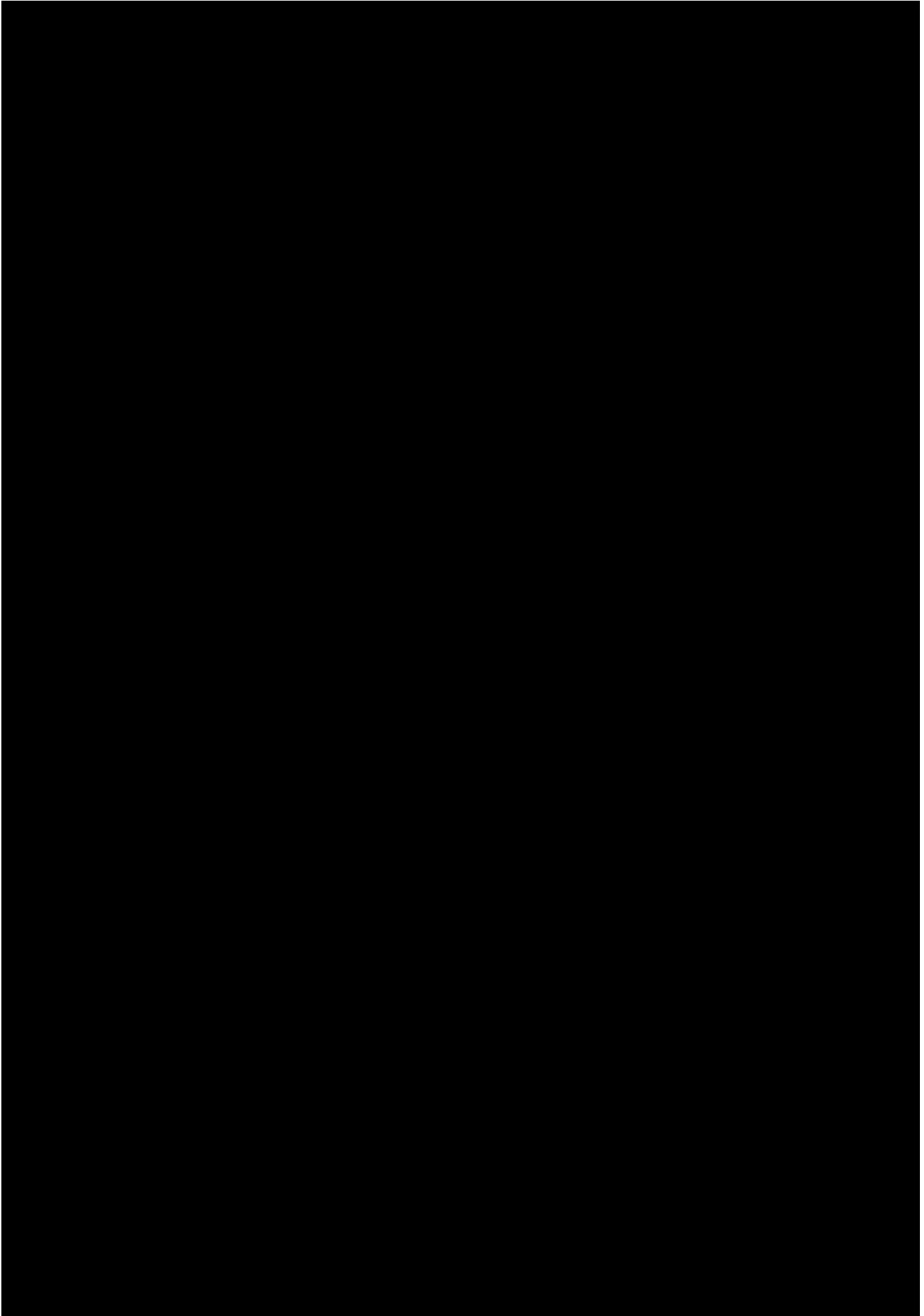
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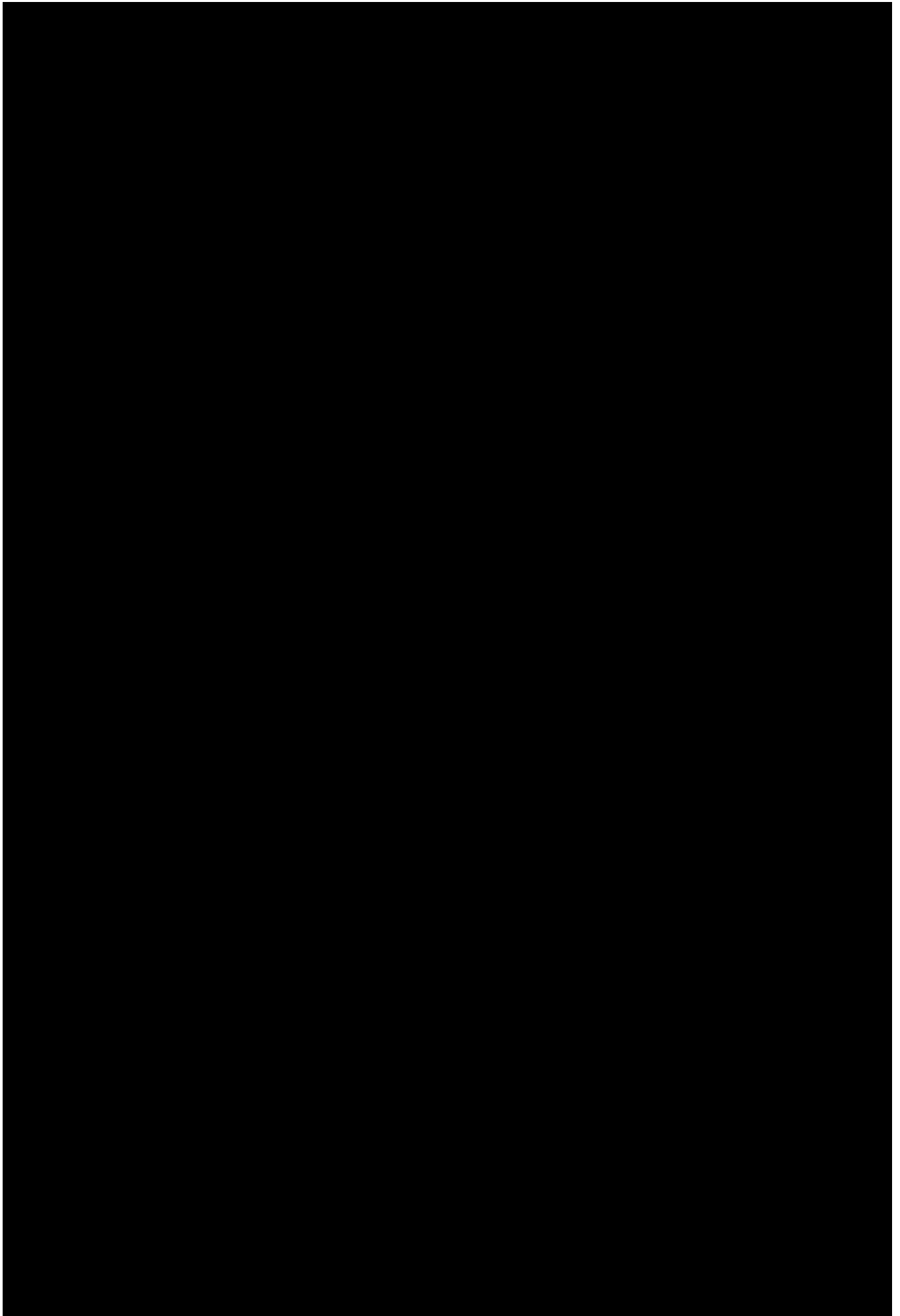
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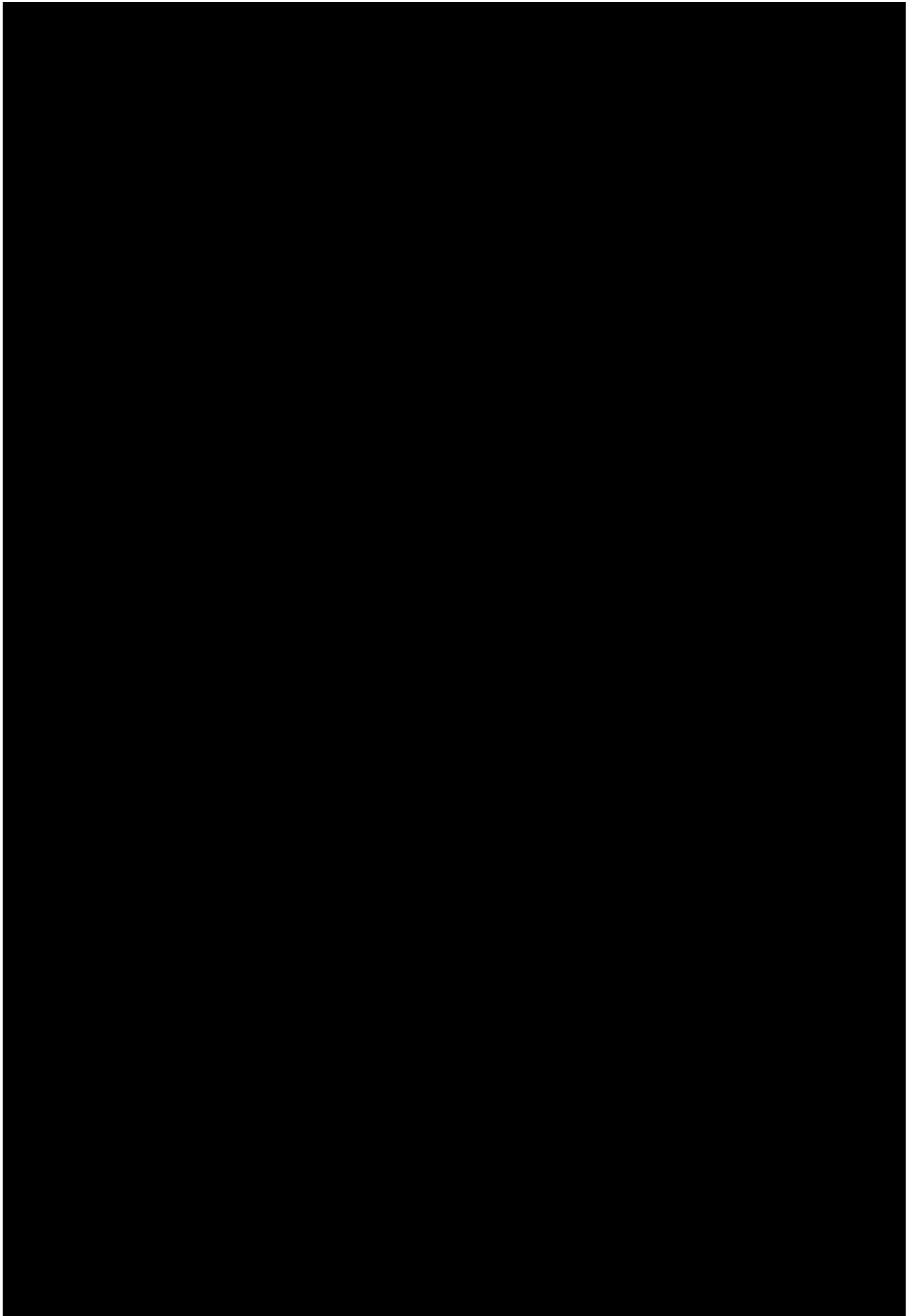
2.4	<i>In order to illustrate the methodology that you will use to undertake this contract if you were successful please provide a case study of a previous similar contract and provide full details of how that project was delivered and the methodology you used</i>	10 / 100 max marks
<p>Shropshire County Council has identified 18 to 24 properties that are at risk from flooding and wish to engage with a specialist company with proven experience and capability. SCC requires the services of a highly experienced and competent contracting and project management team, with a proven project delivery methodology in order to ensure that the flood defences are surveyed, designed and installed to the highest standards.</p>		

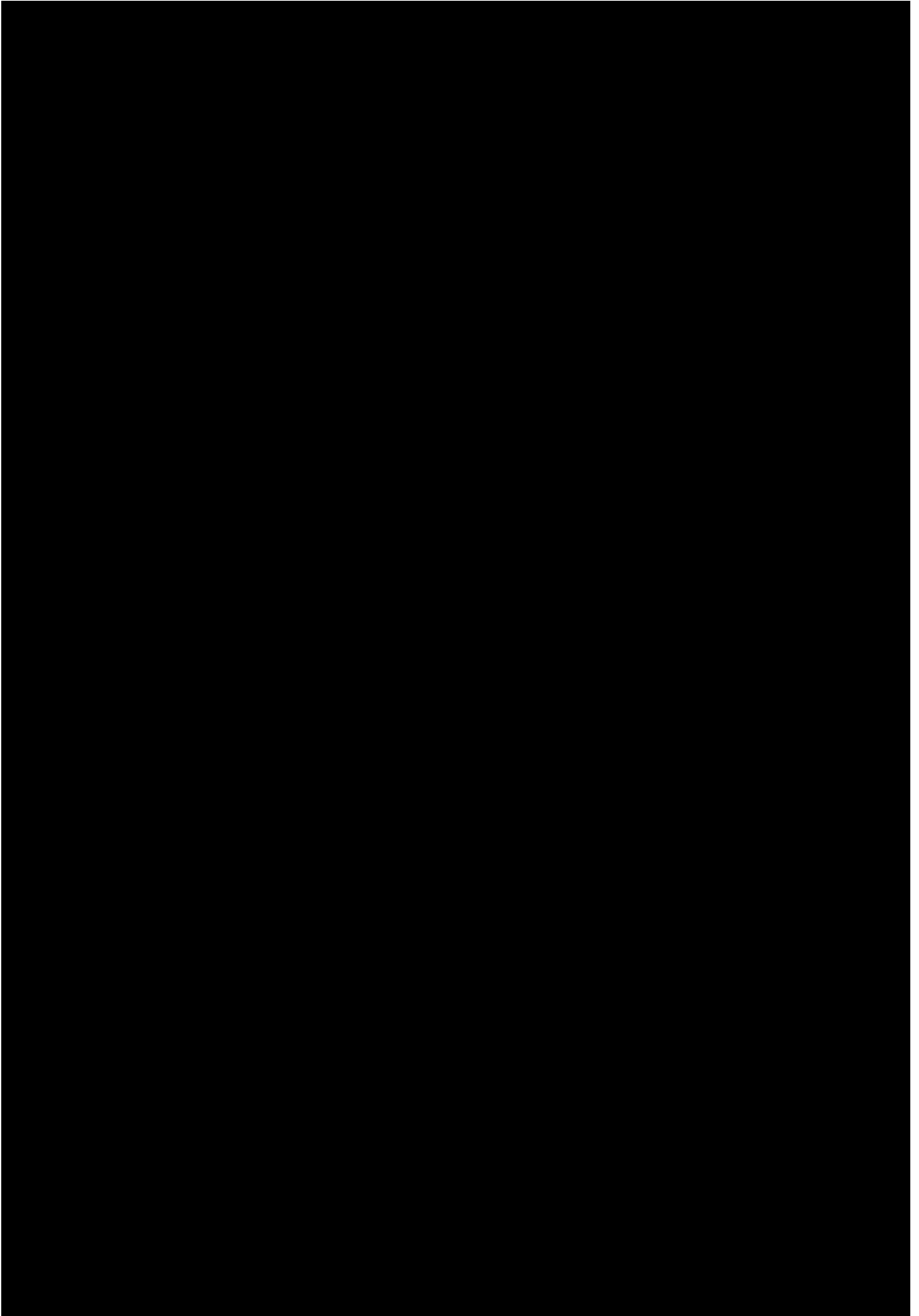


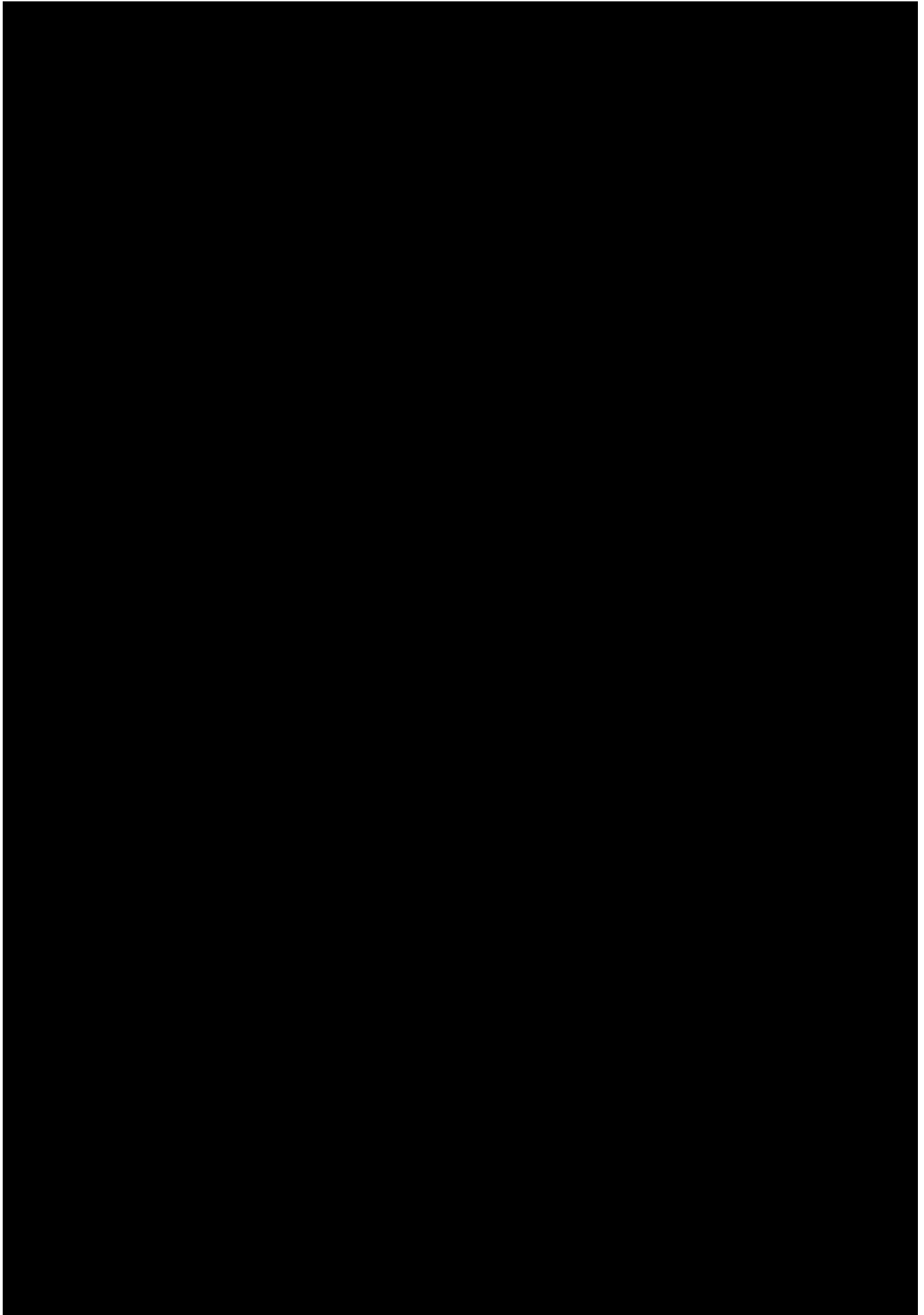


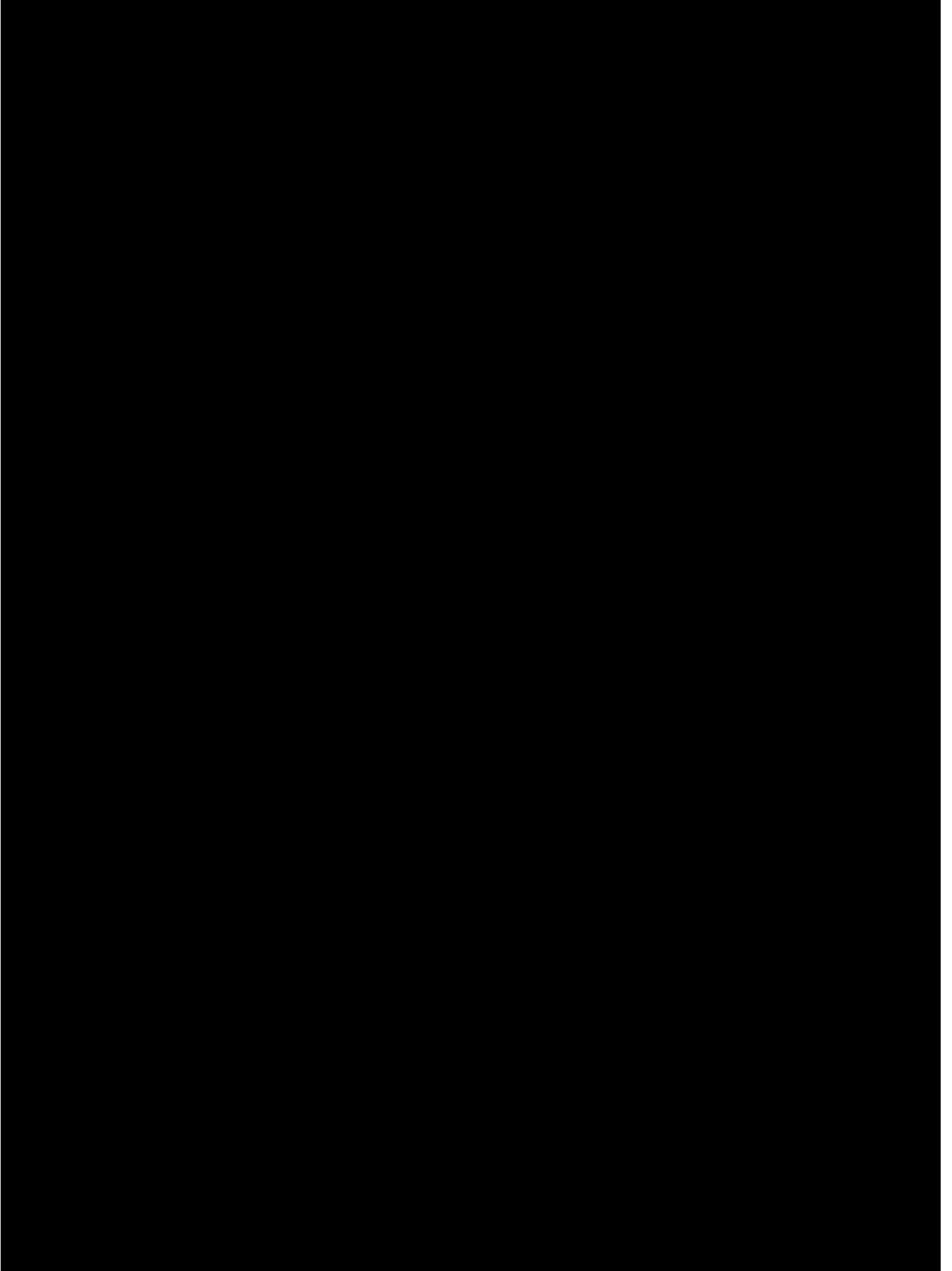


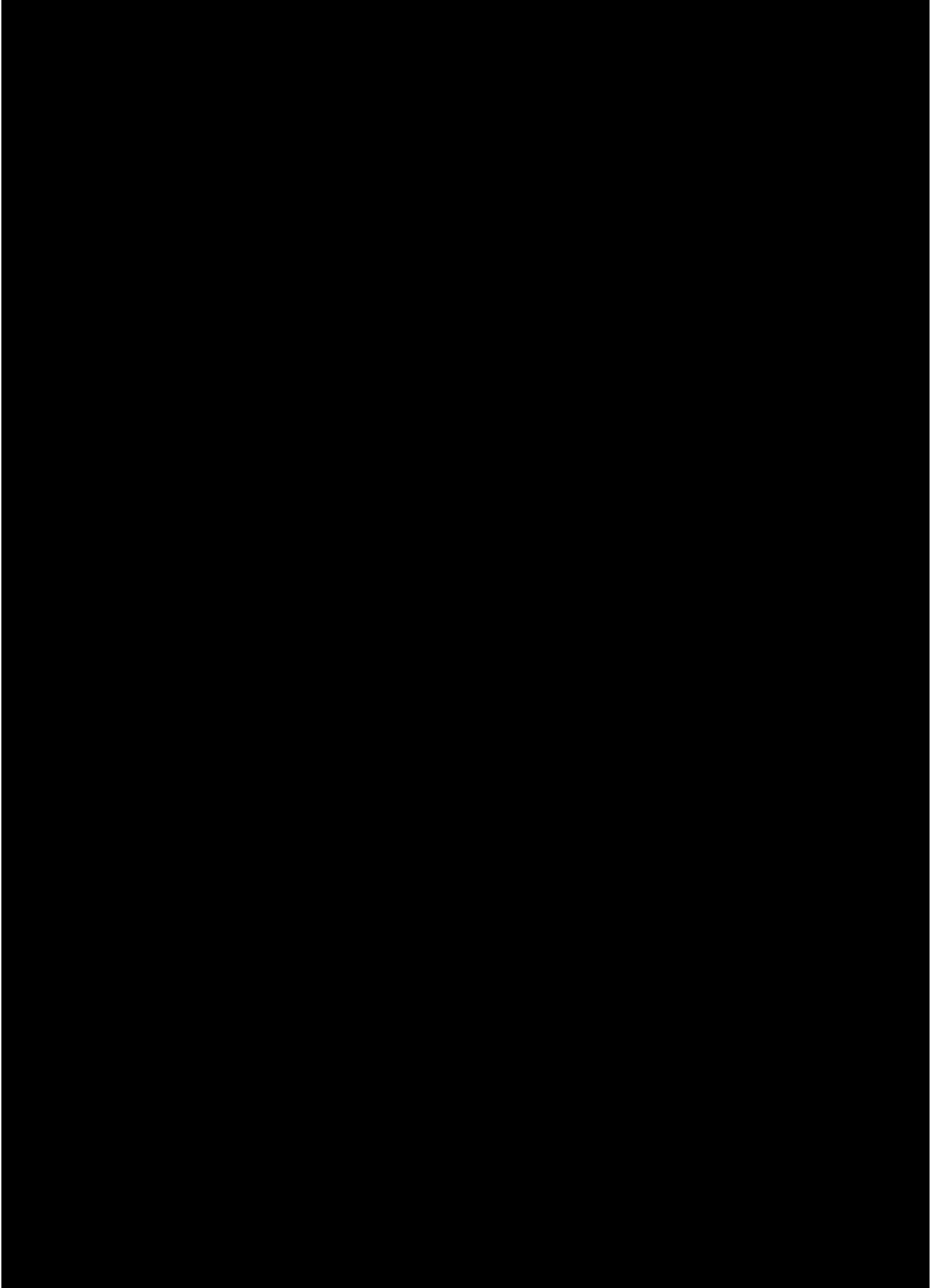


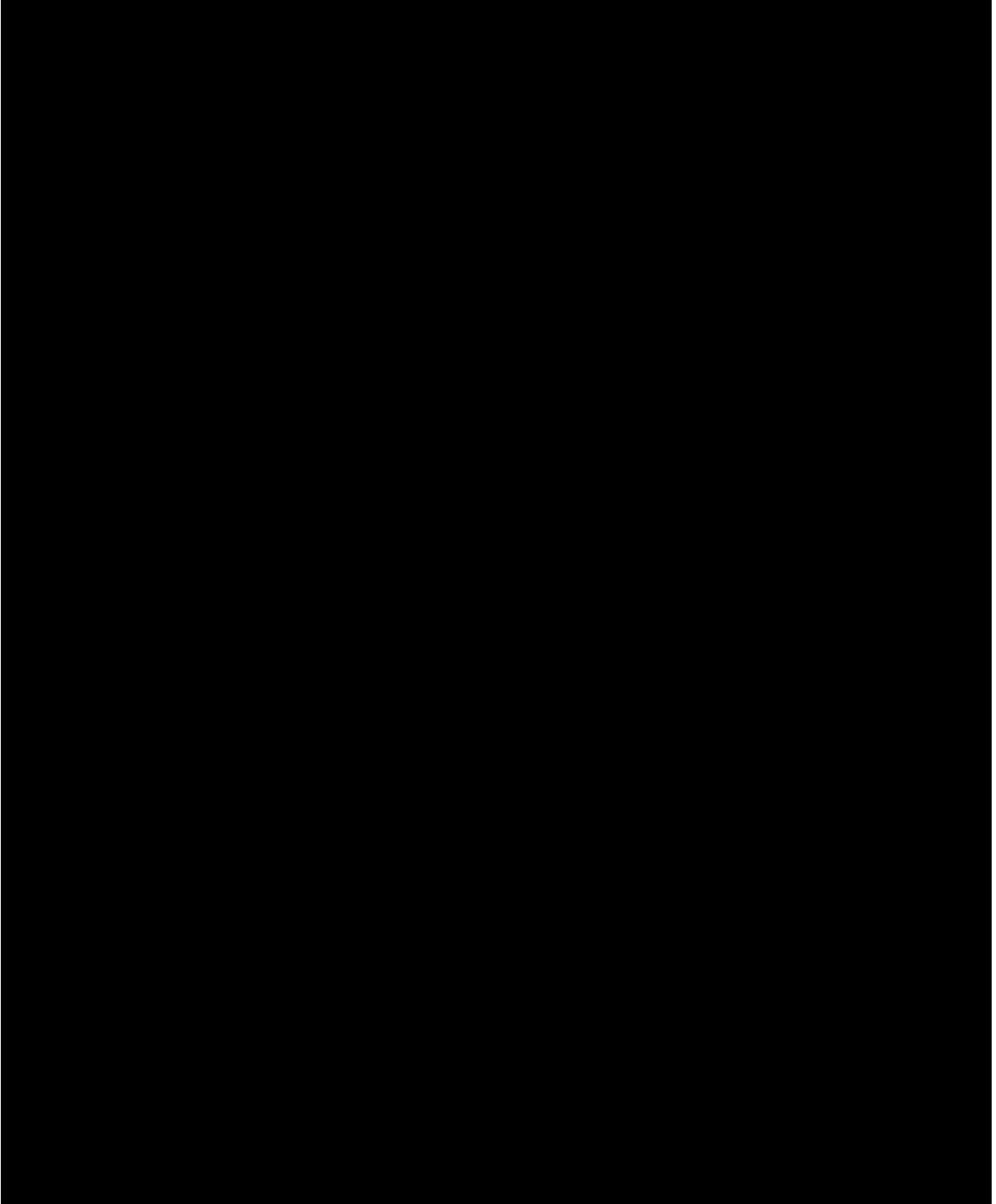


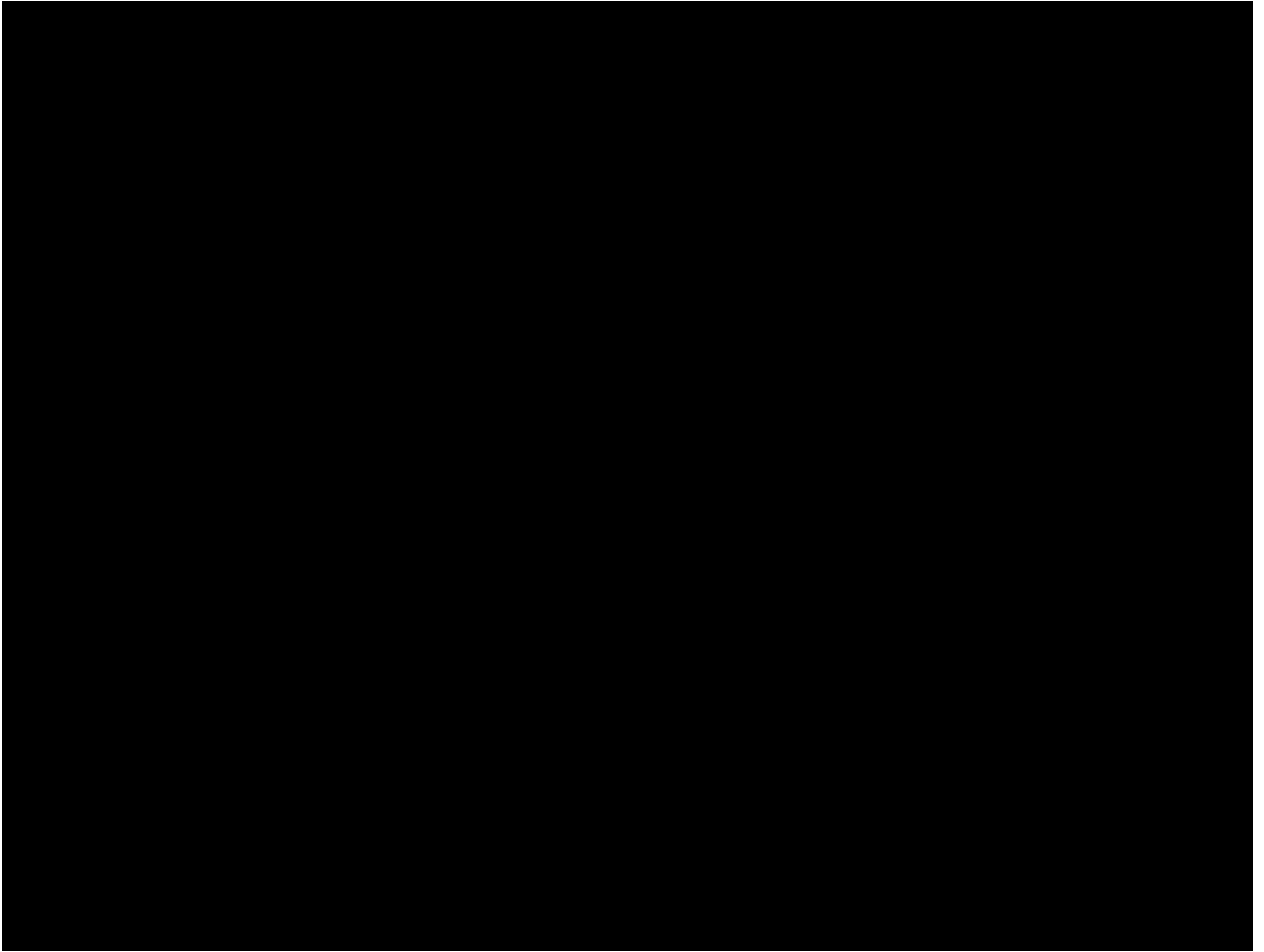


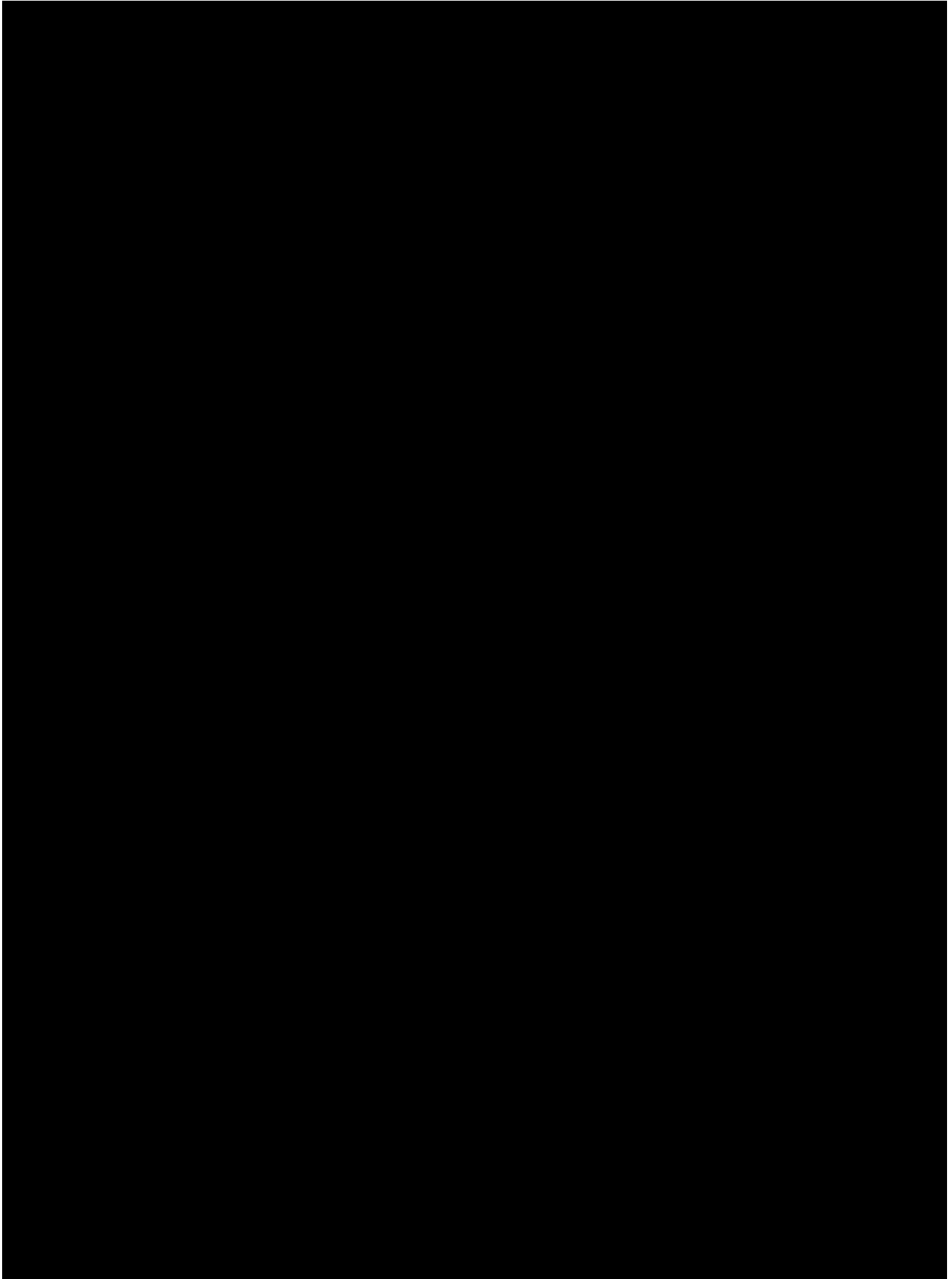


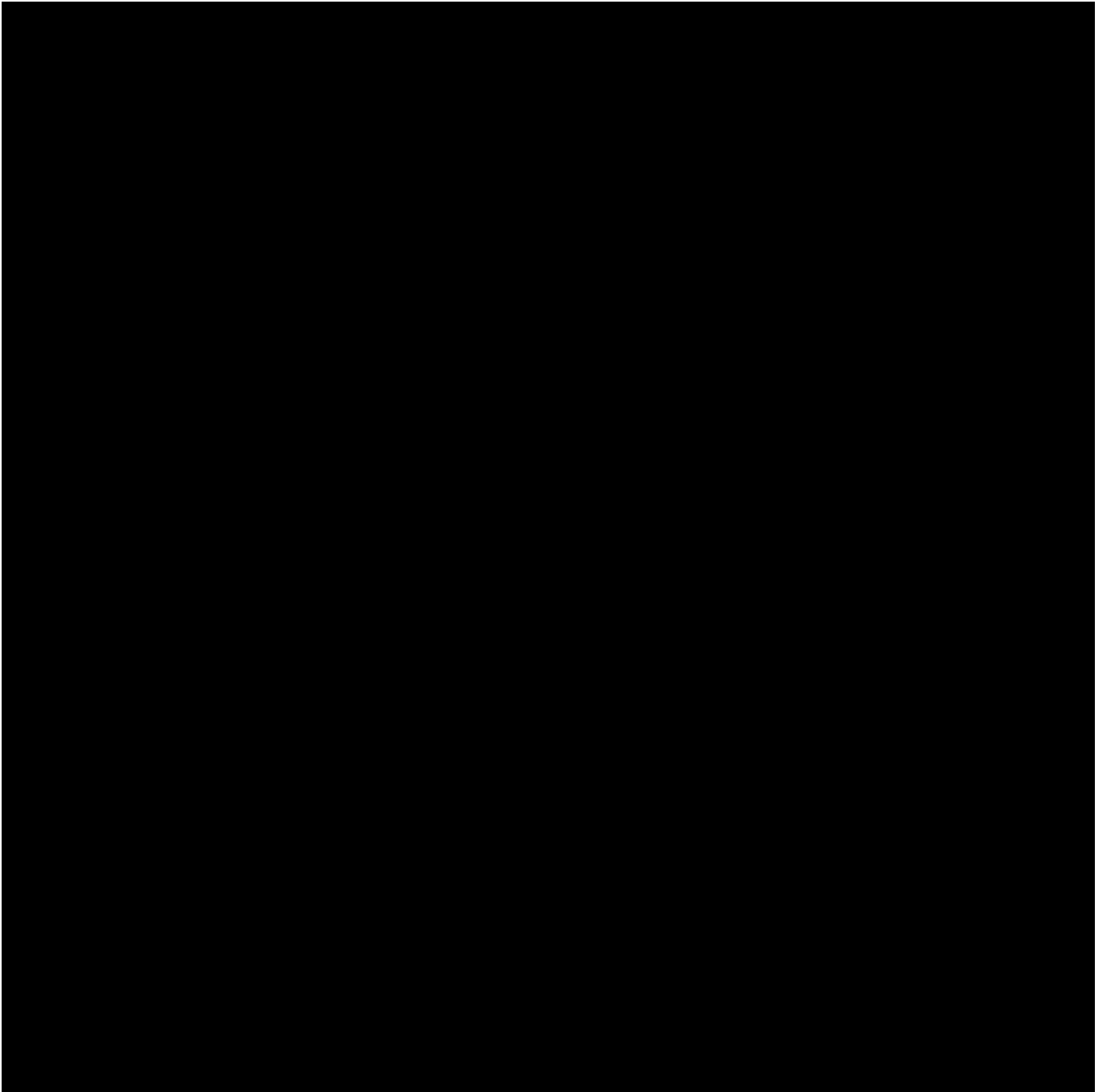


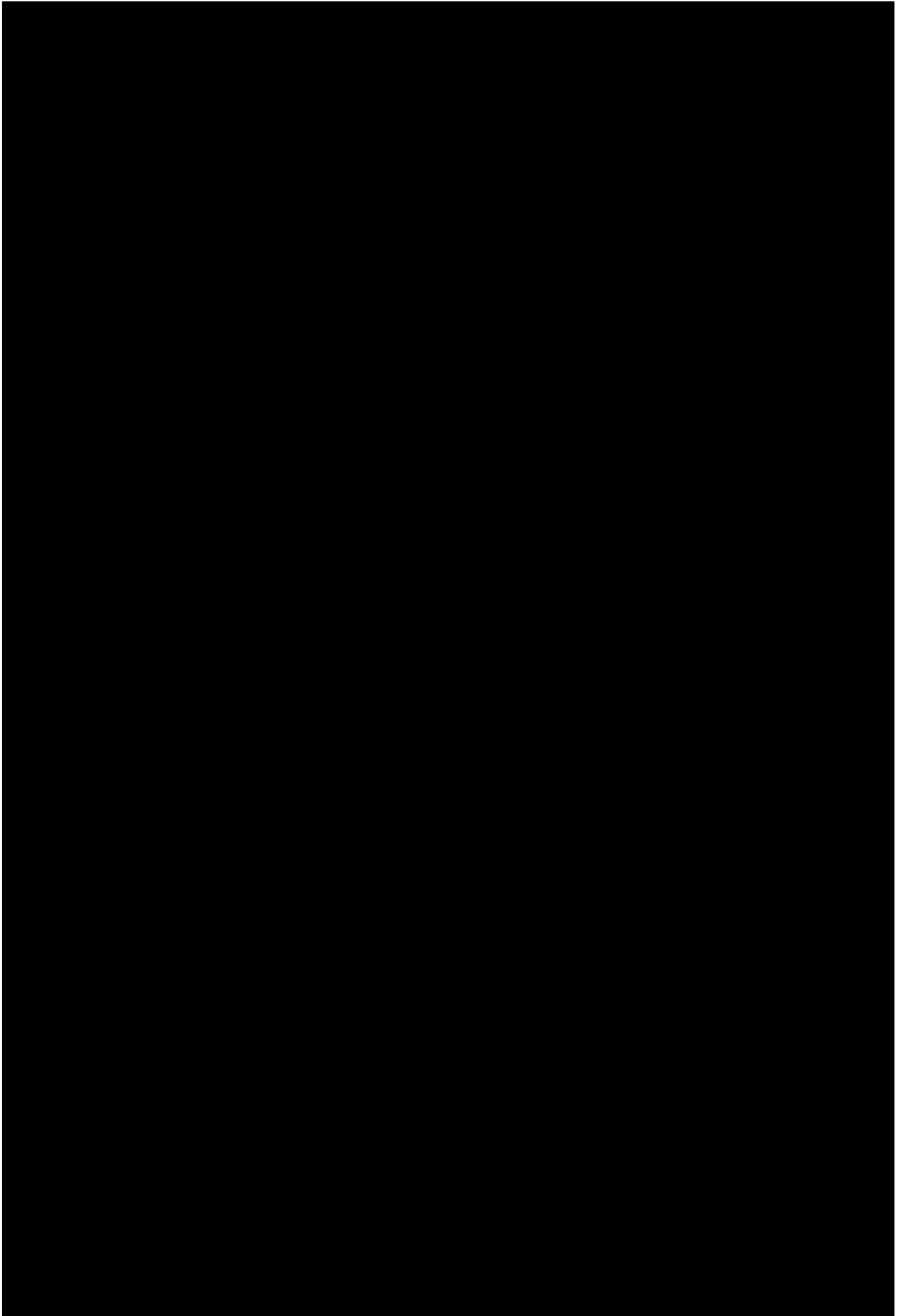


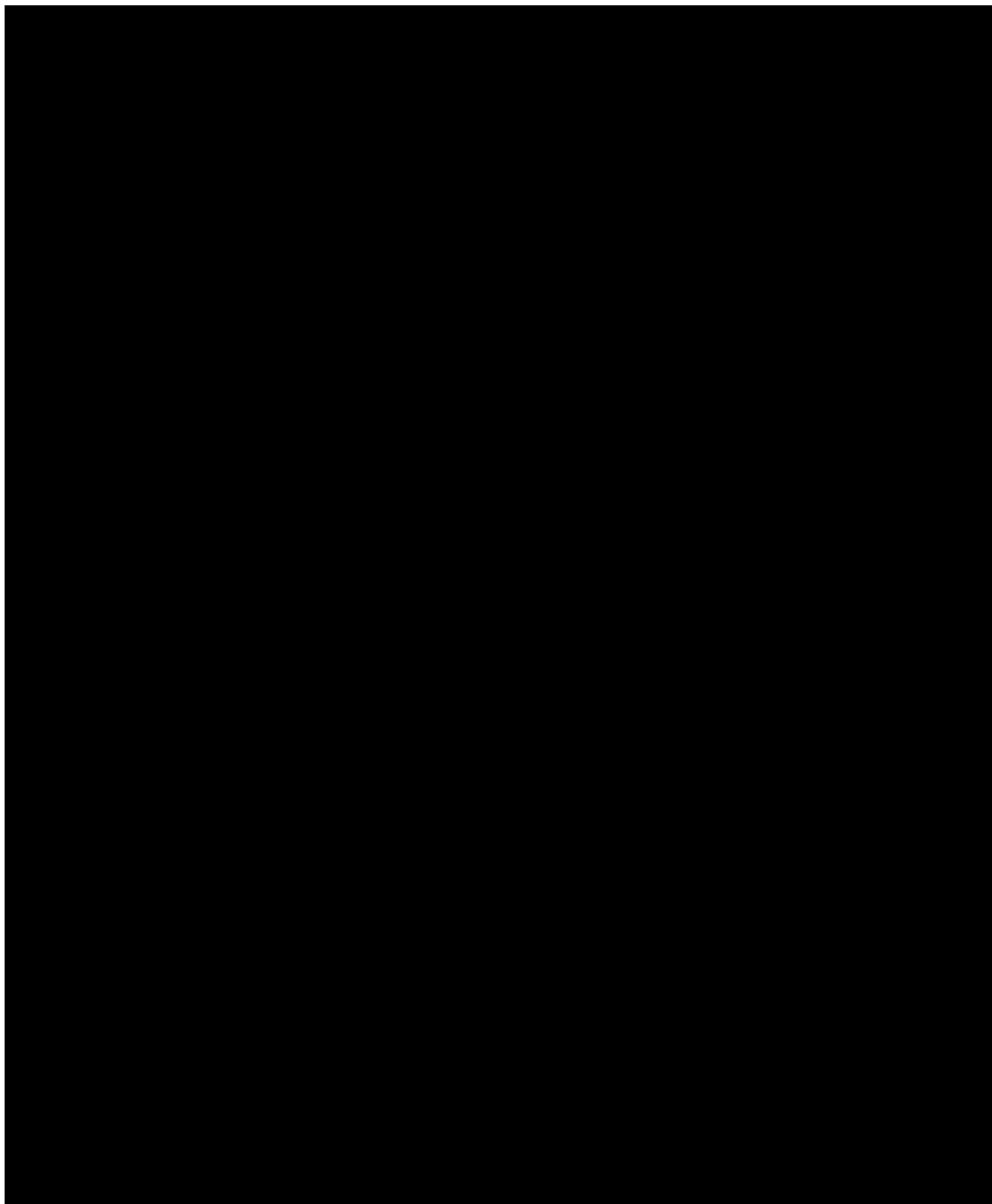


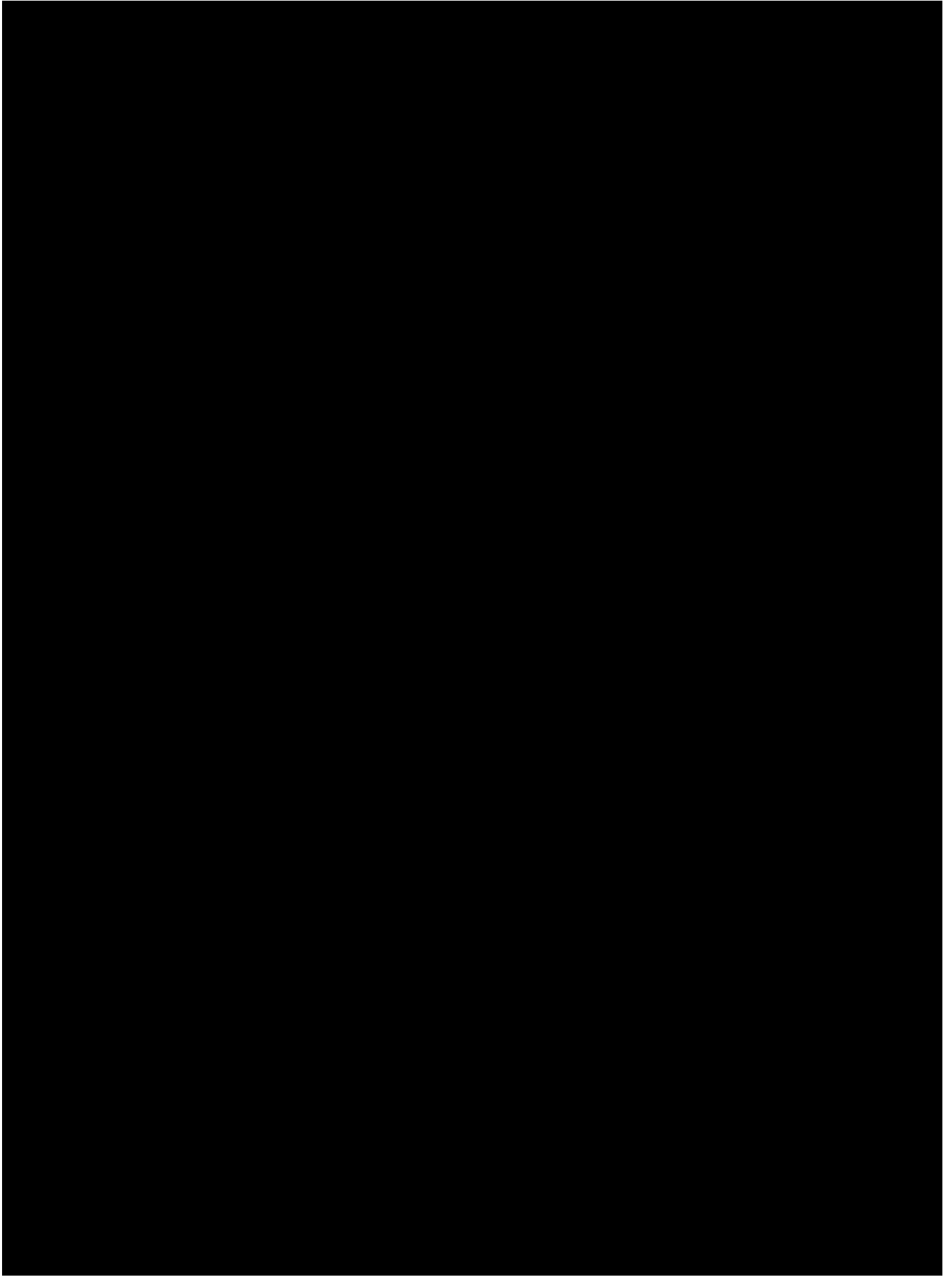


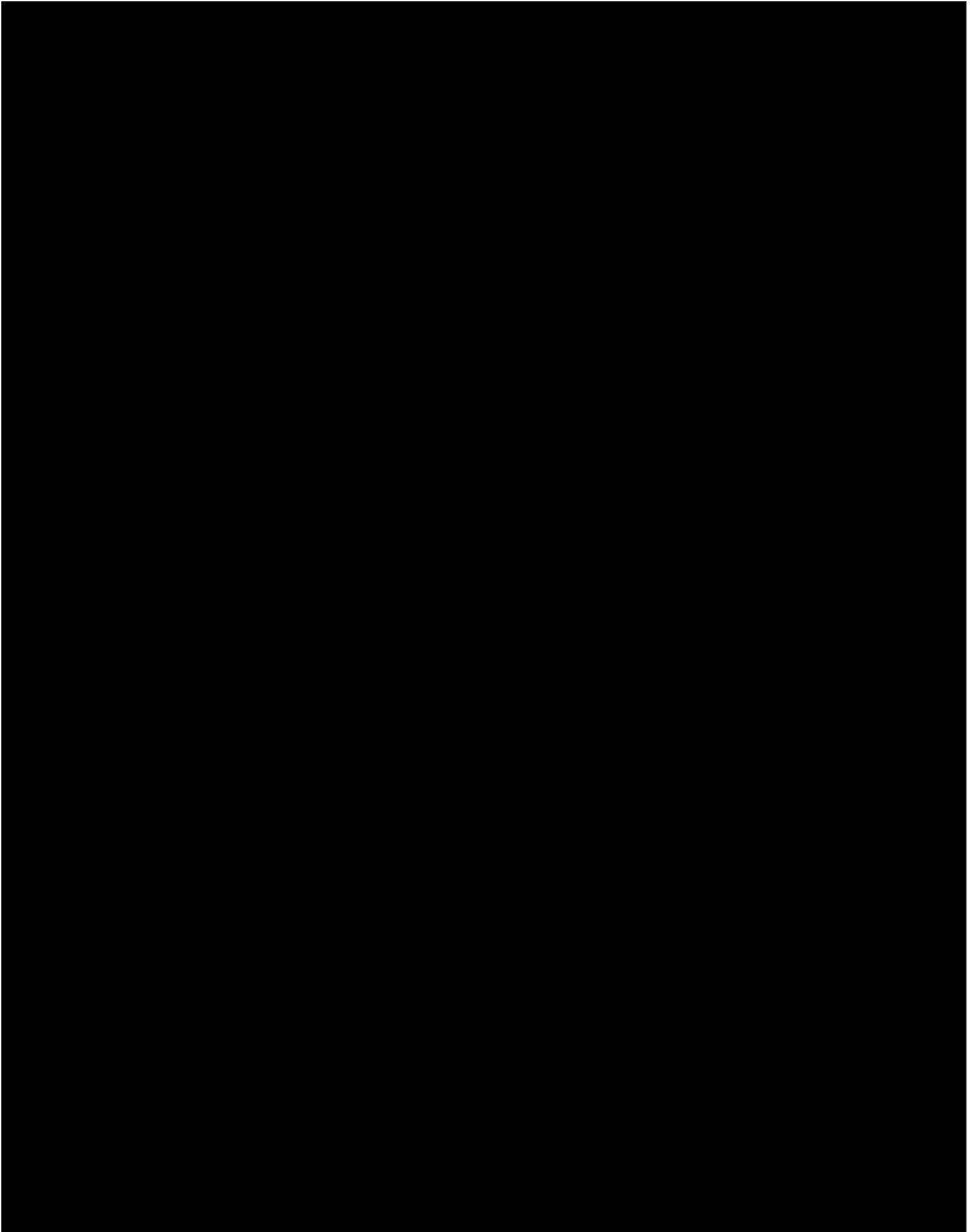


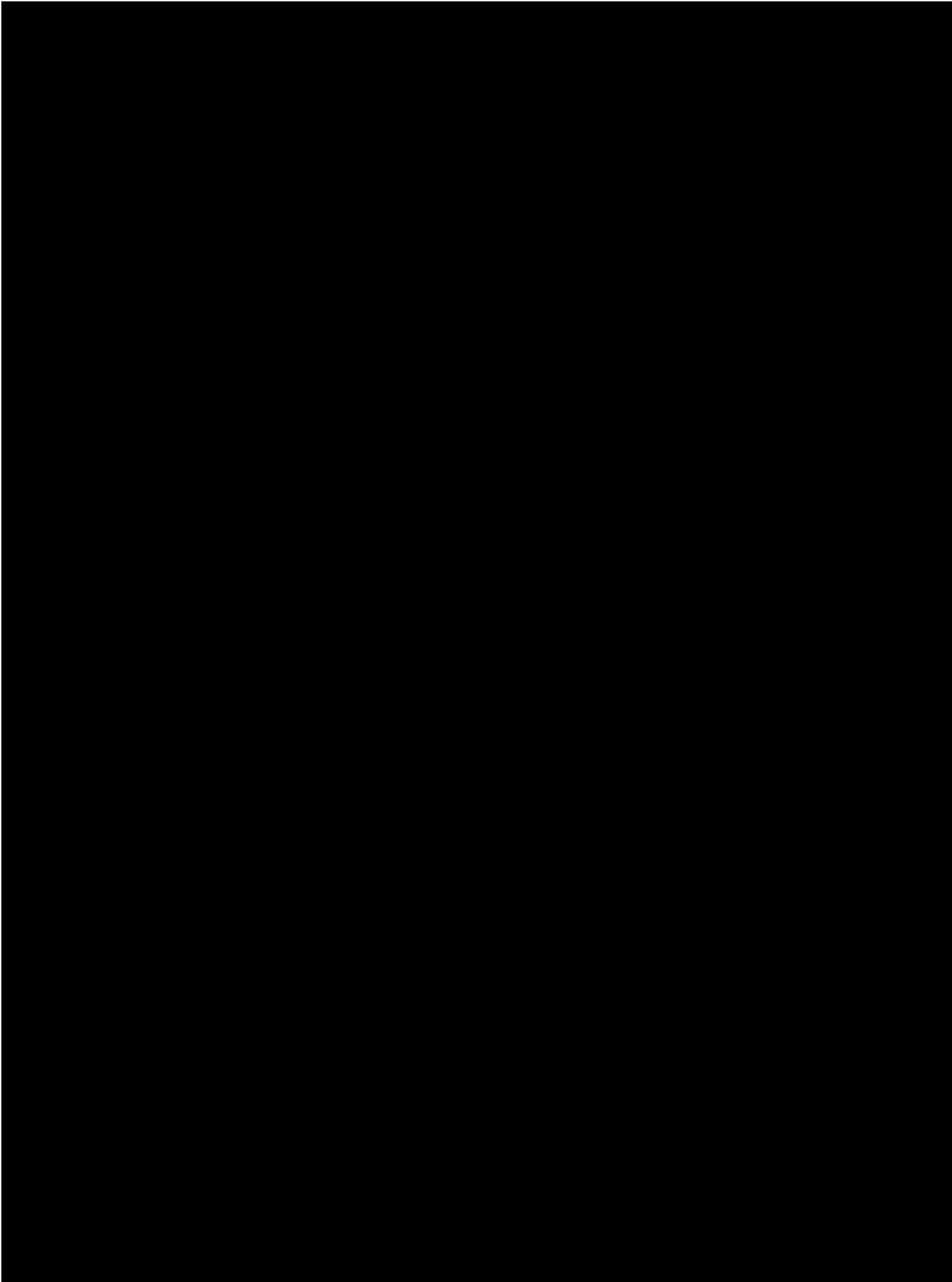


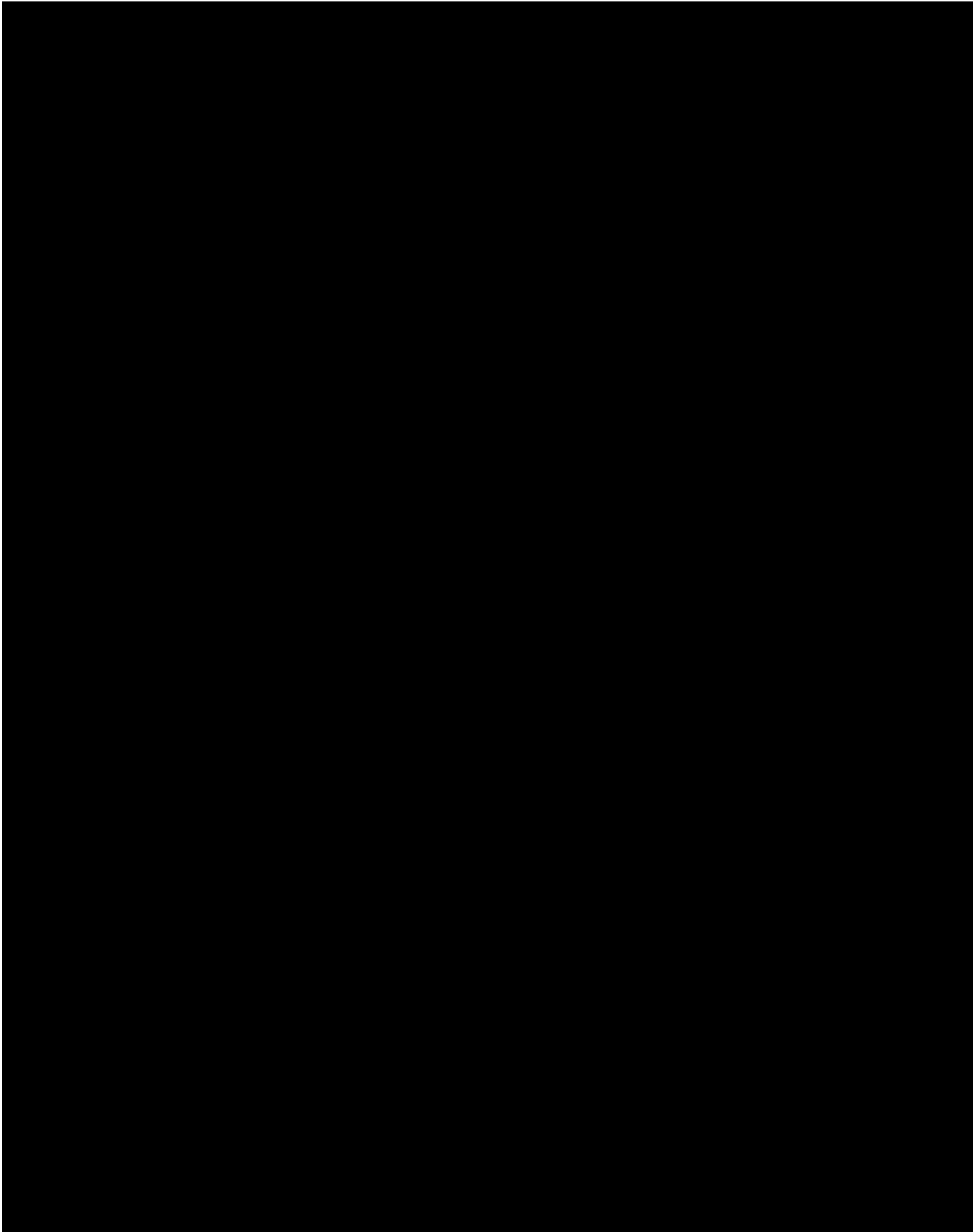


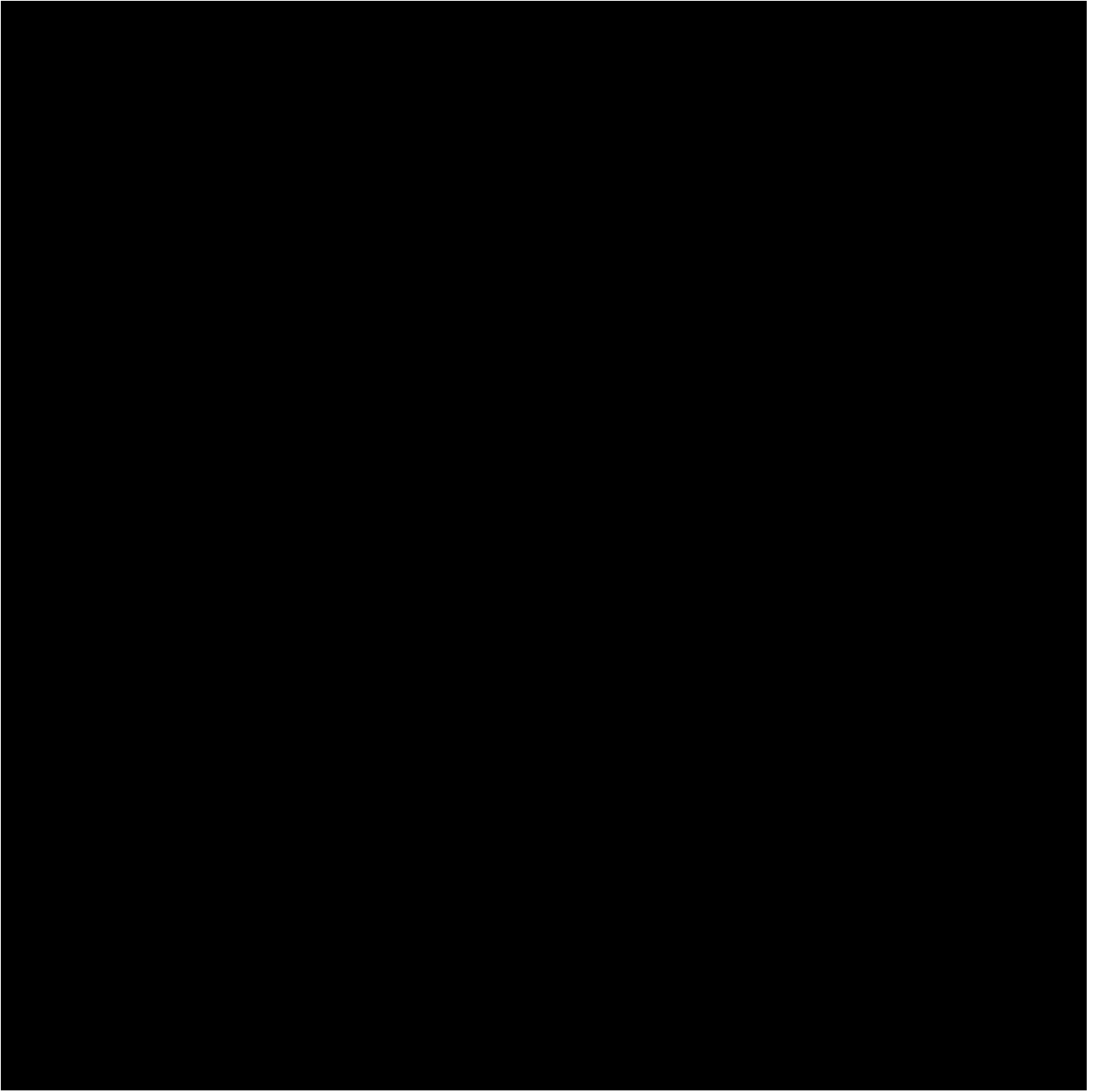


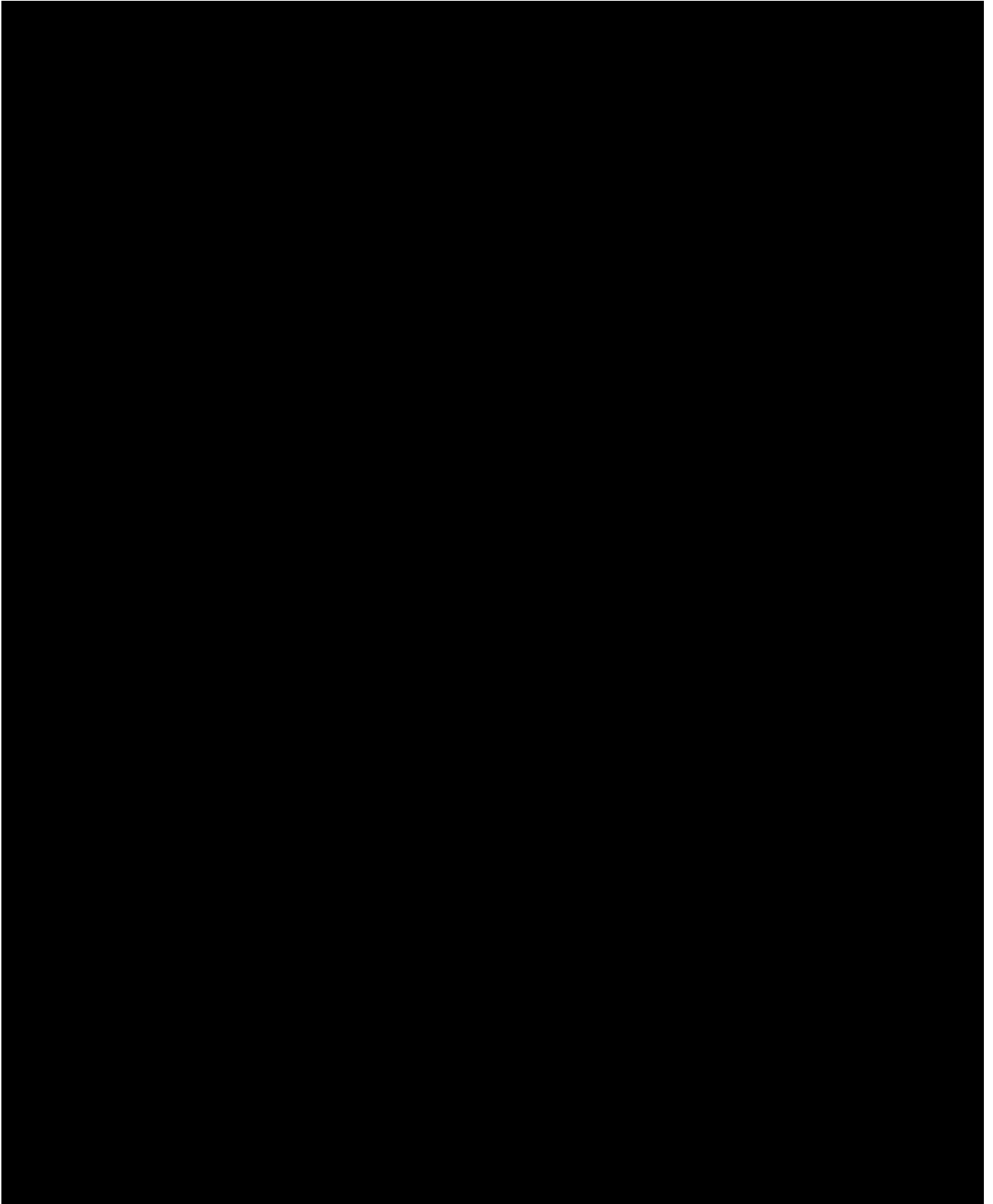


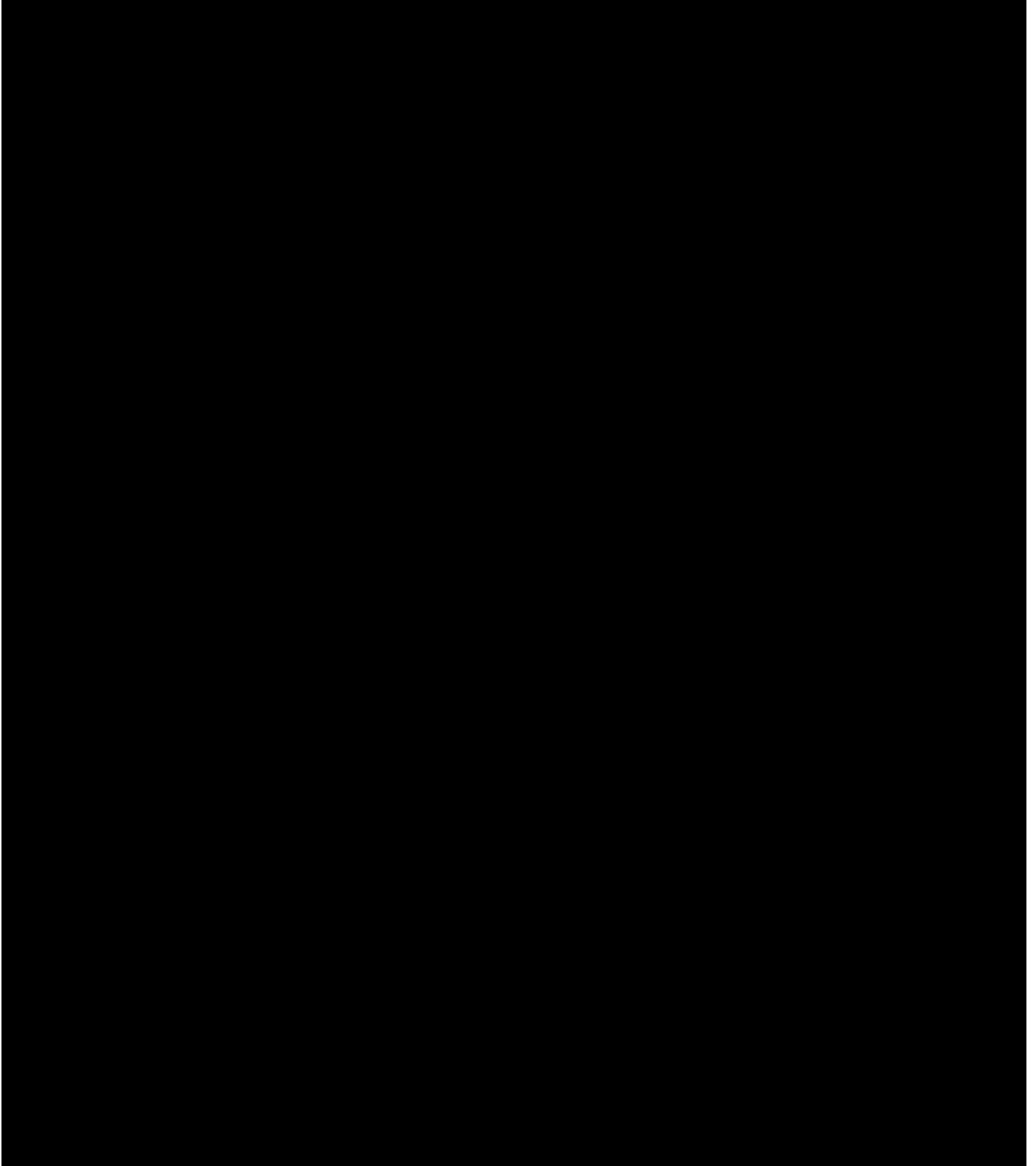


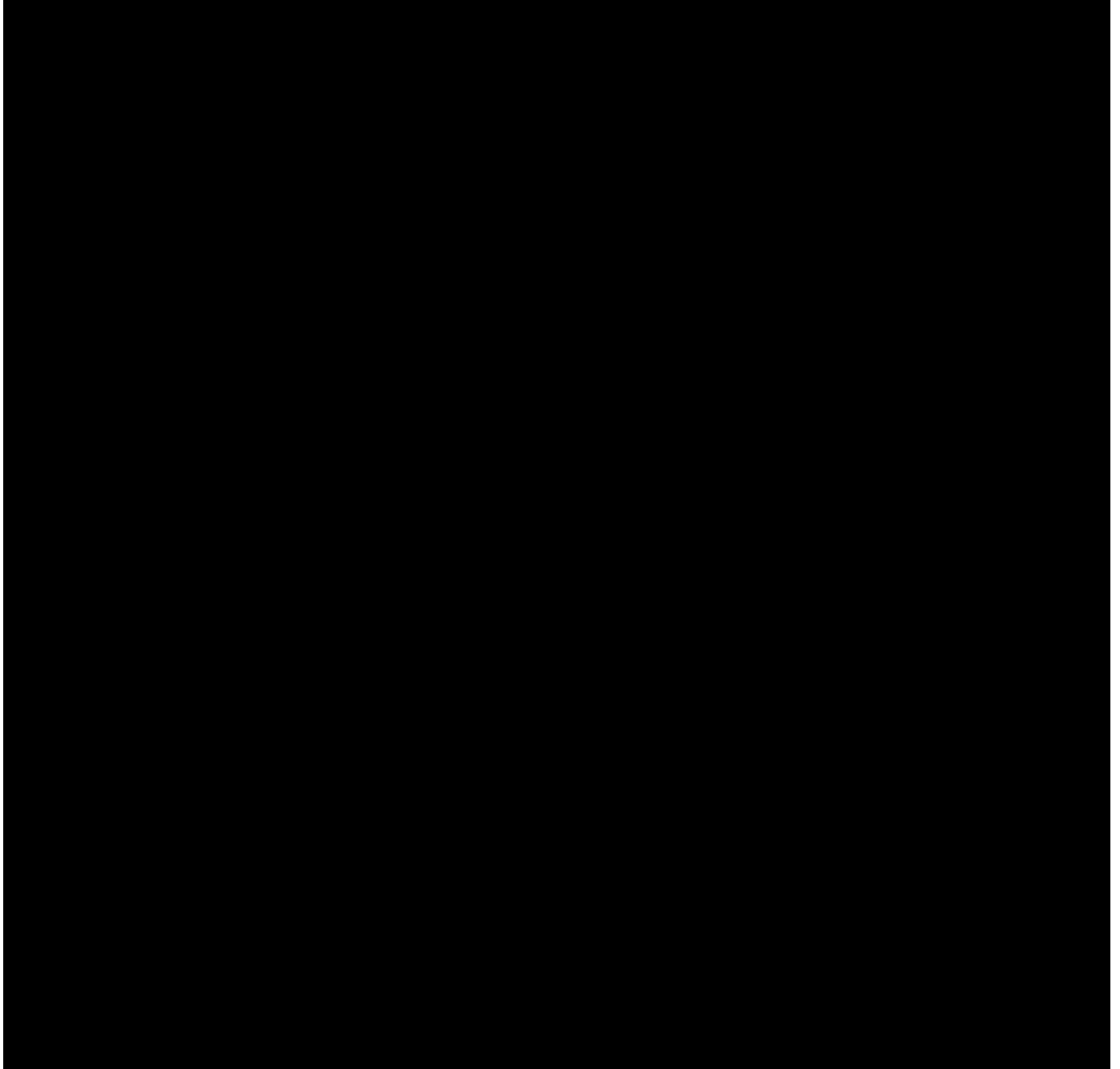


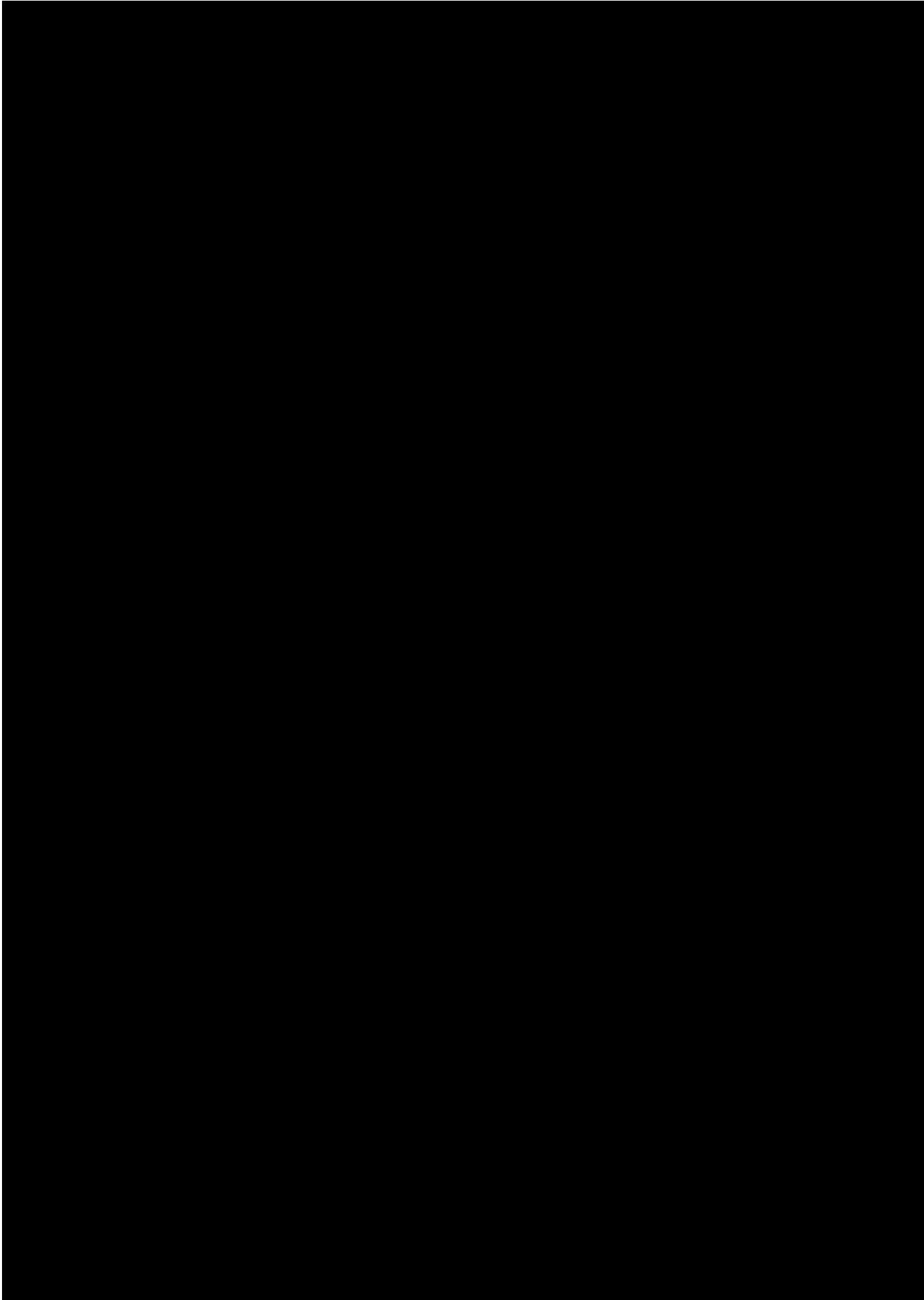


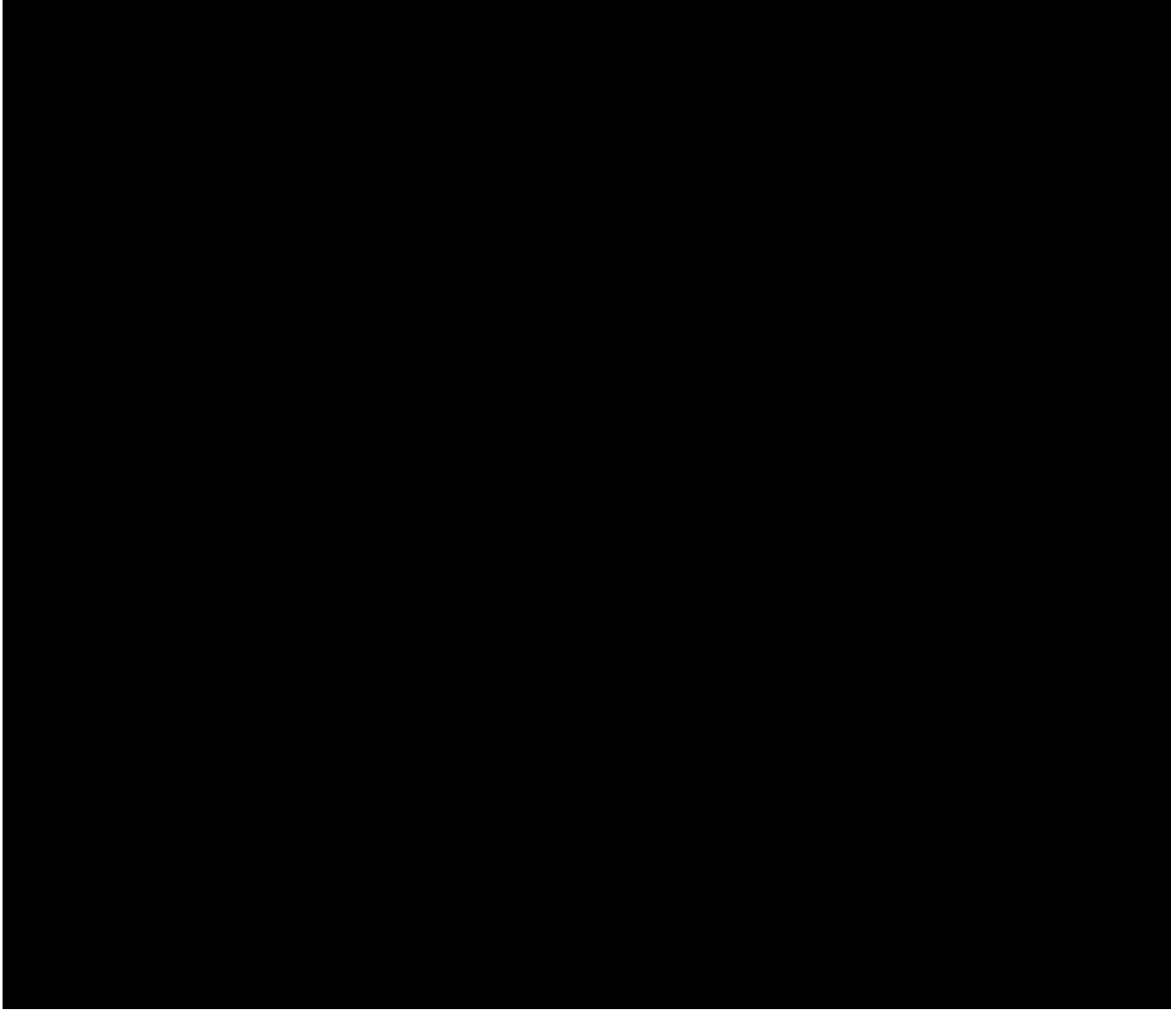


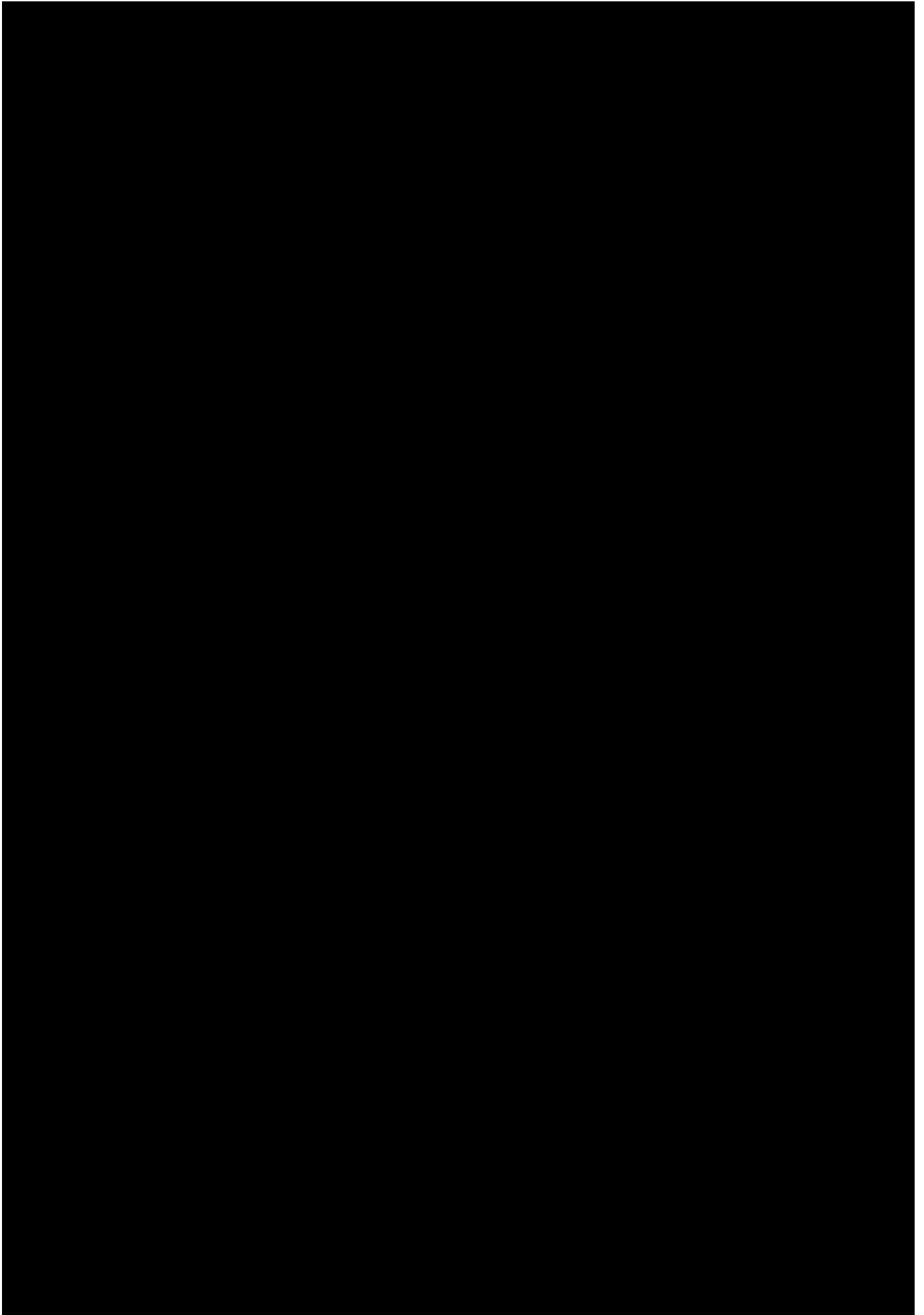


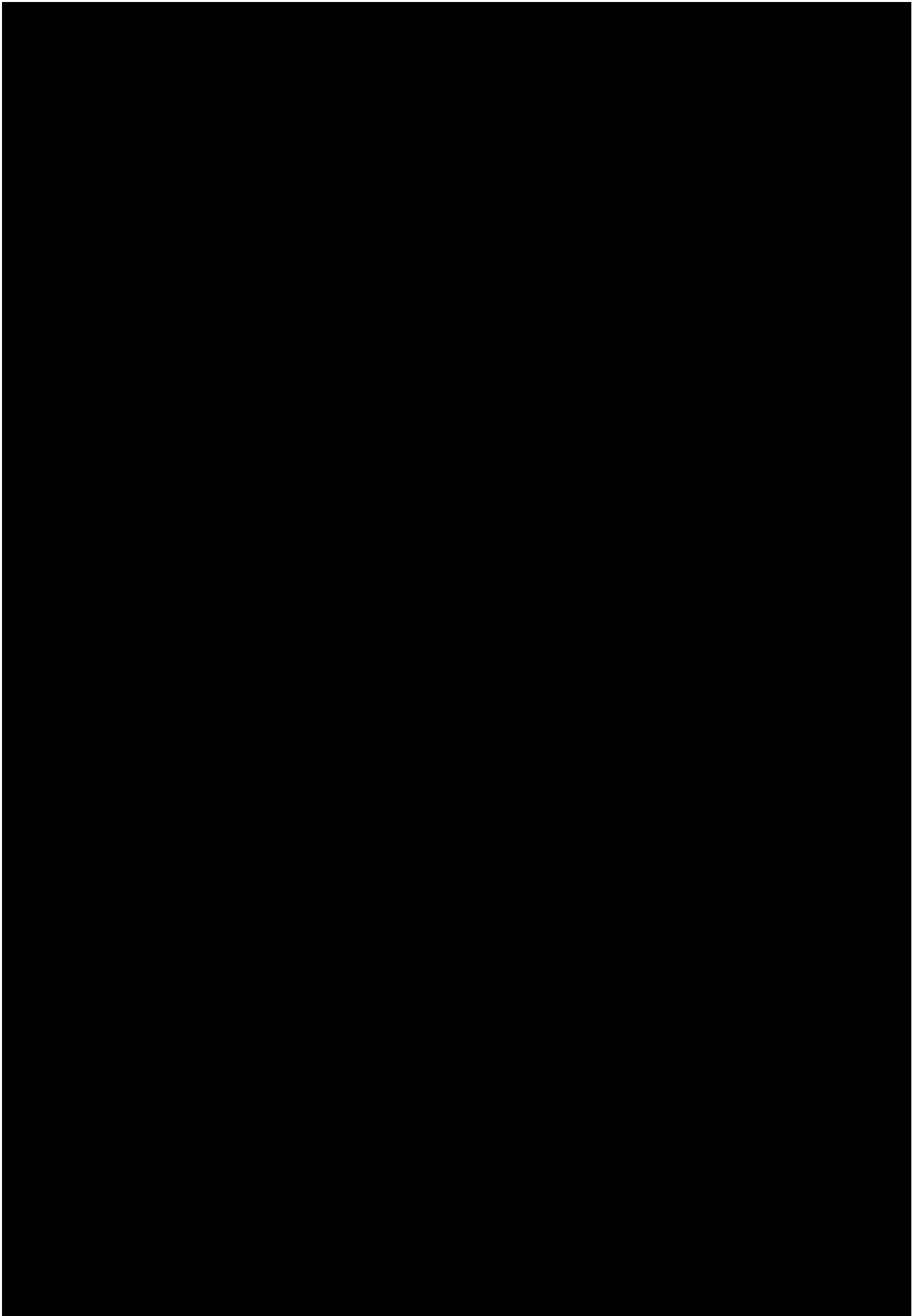


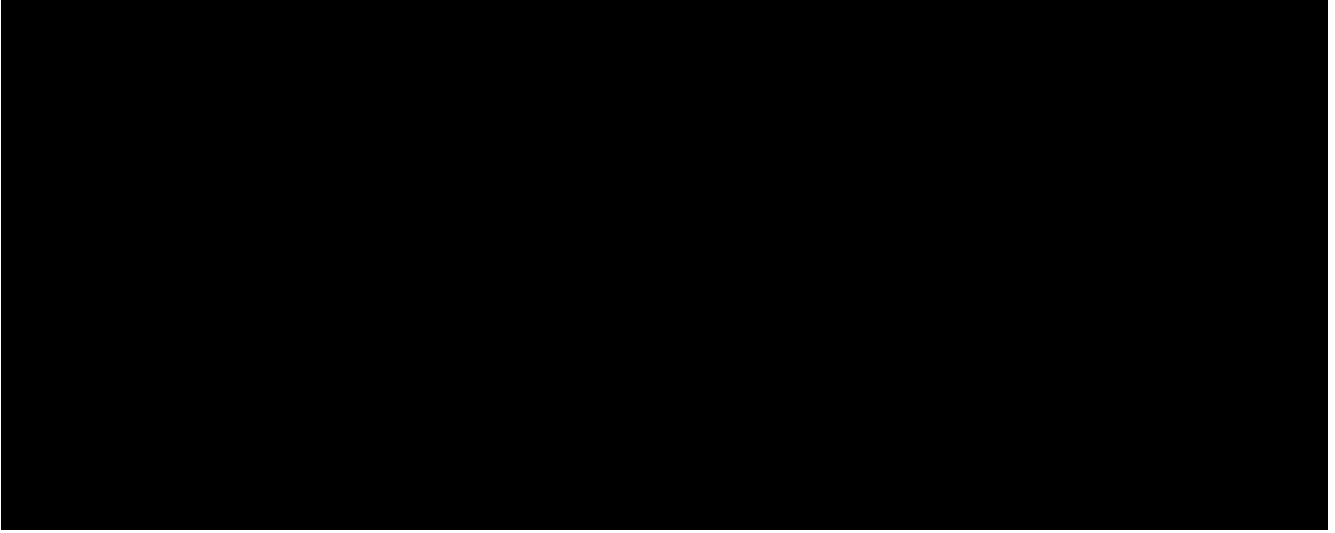












Select List of Approved Contractors - Performance Monitoring Form

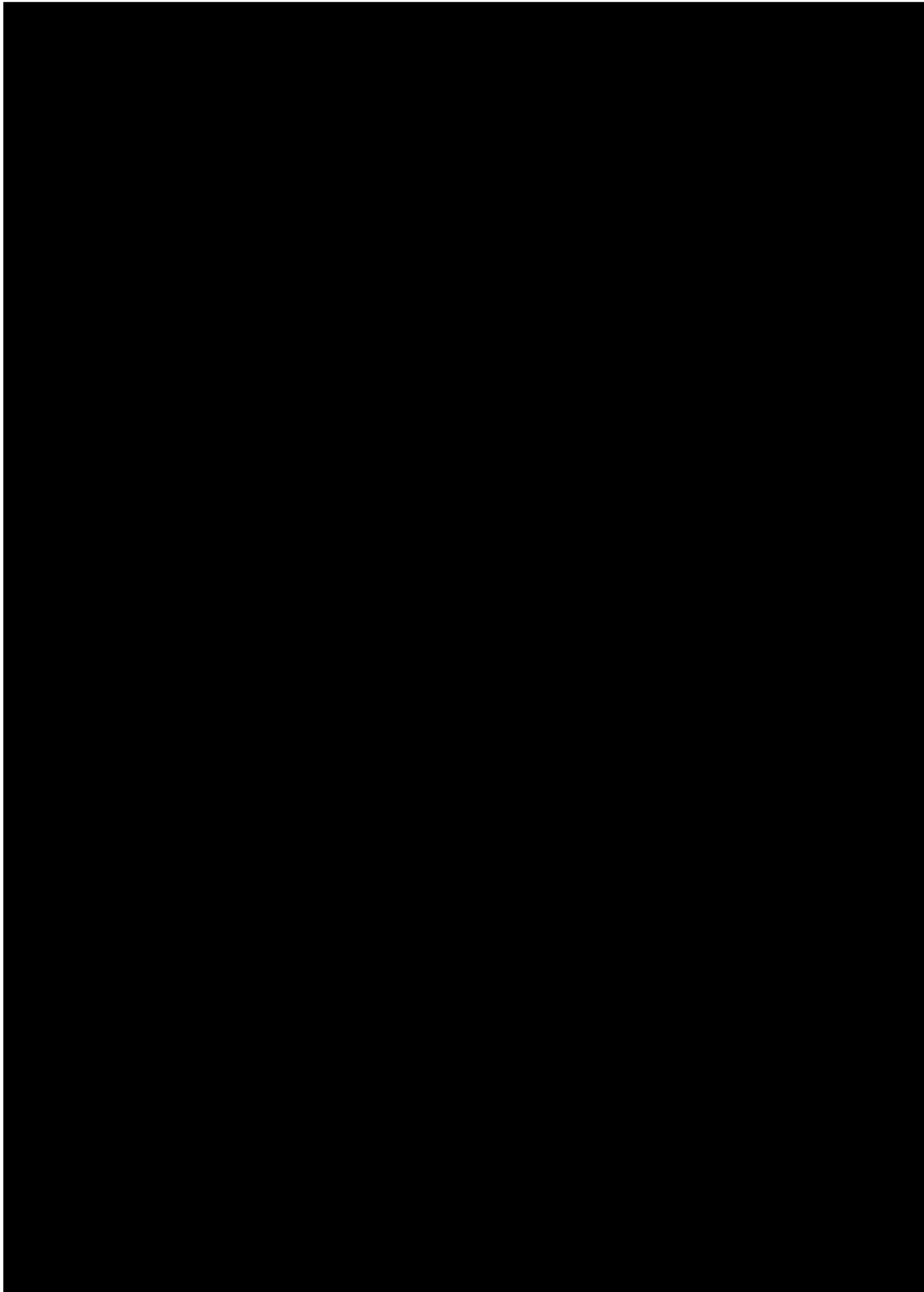
Please complete the form below for each contractor working on a project, using the scoring criteria below. Please leave blank if no comment / not applicable.

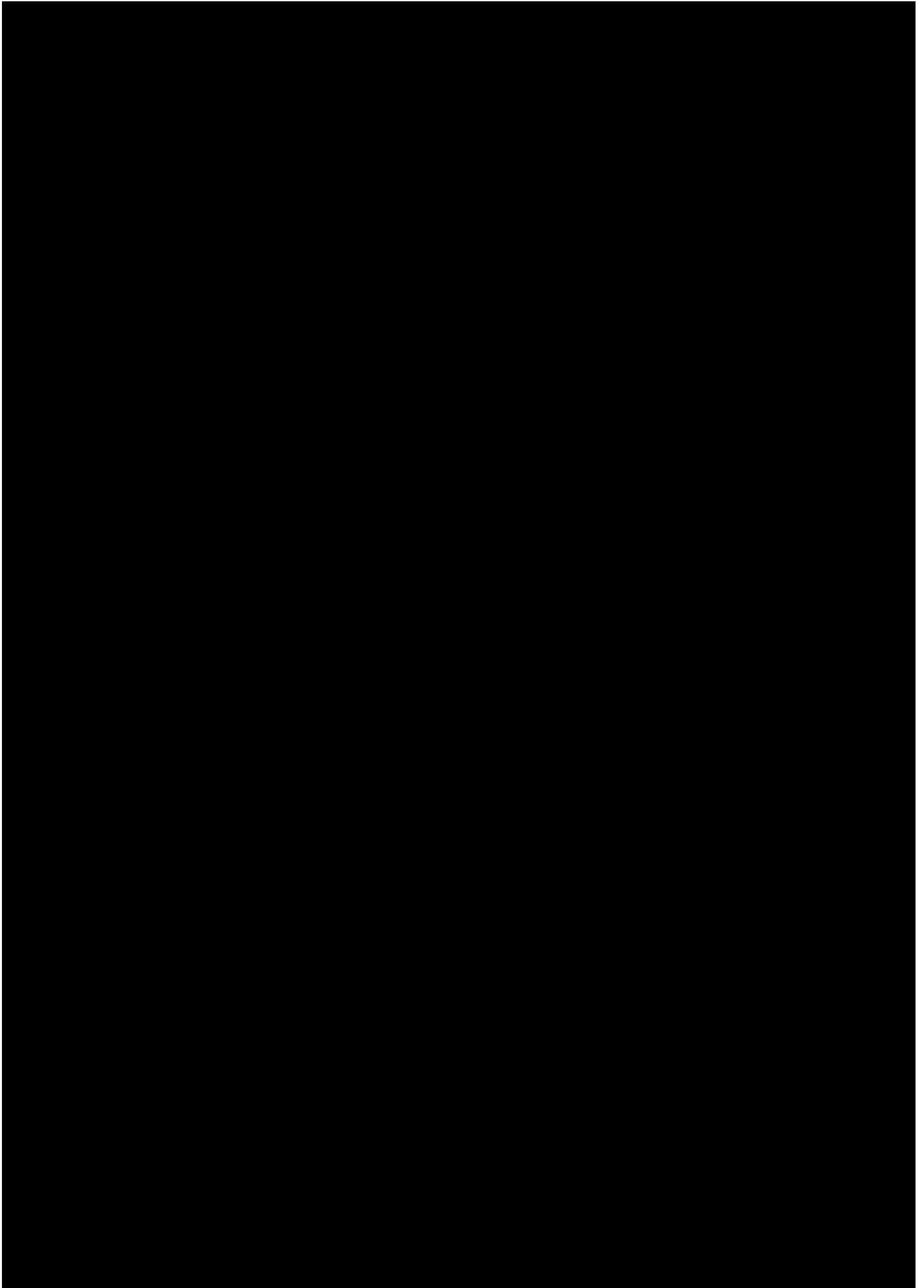
Project	Contractor	Time Management	Financial Management	Health and Safety	Management of Sub-contractors	Quality of Workmanship	Progress in Making Good Defects	Collaborative Approach	Contractor Performance	Contractor Design (If Applicable)	Customer Satisfaction	Total Project Score	Overall Project Percentage
<i>Example</i>	<i>Example</i>	5	4	3	3	4	2	3	2	2	2	30	60%
												0	0%
Project	Contractor	Comments / justification for low scoring											
Form completed by:				Quarter:				Date:					

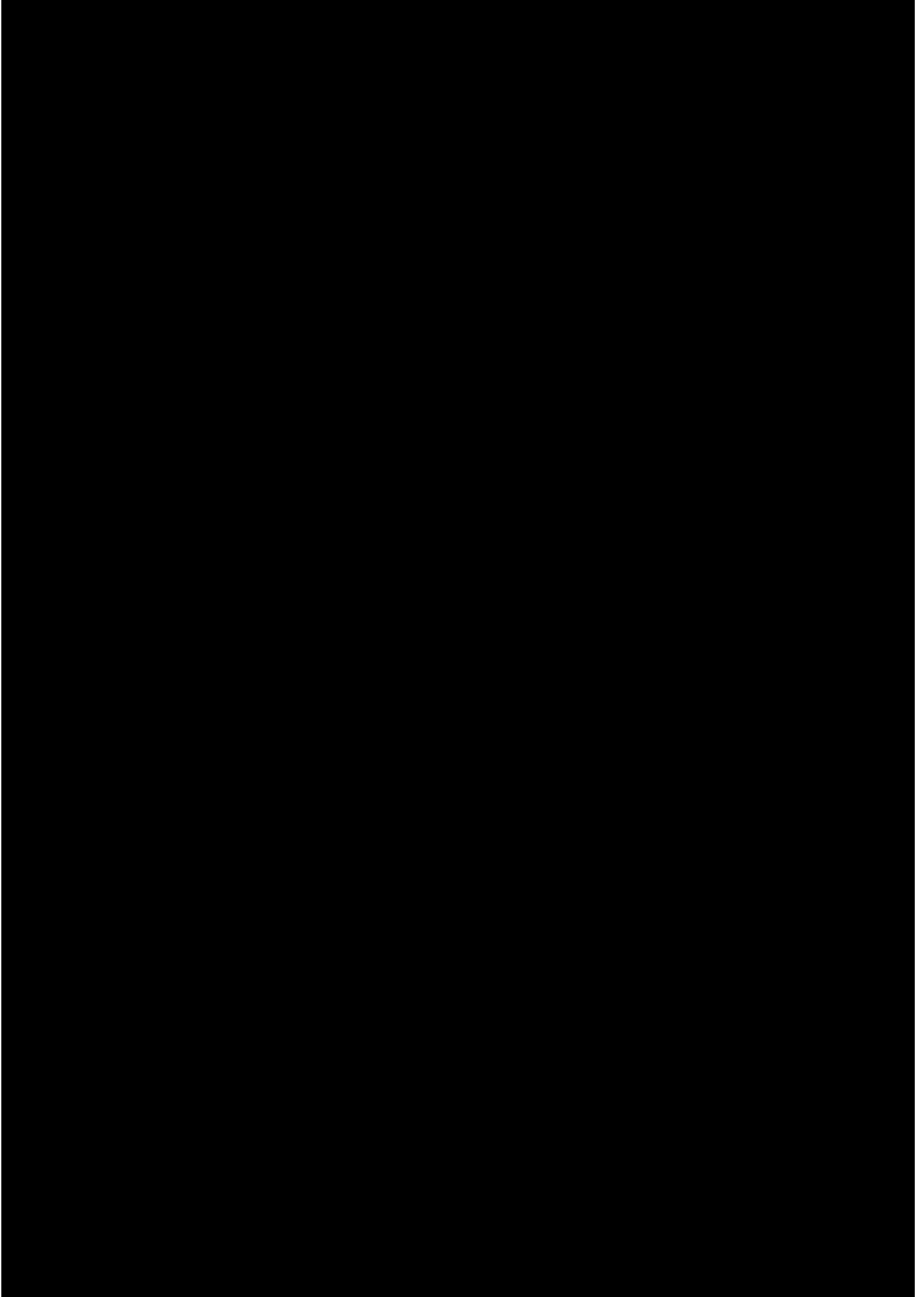
Performance Measure	Definition	Scoring Criteria	
Time Management	How well did the contractor plan and progress the works? Was the contractor proactive in resolving or minimising programme issues or delays?	5	Excellent; significant savings in time realised by contractor
		4	Good; proactive approach, potential delays minimised by contractor
		3	Average; delays neither caused nor minimised by contractor
		2	Below Average; minor programme issues/delays possibly caused by contractor
		1	Poor; programme issues/delays caused or exacerbated by contractor
		0	Unacceptable; major programme issues/delays caused by contractor
Financial Management	How well did the contractor manage costs? Was cost reporting timely and accurate? Was change agreed expeditiously? Was there prudent management of the provisional sums and/or risk?	5	Excellent; contractor was proactive, identified major cost savings through innovation
		4	Good; contractor was proactive in managing all cost issues
		3	Average; contractor was fairly proactive in managing cost issues
		2	Below Average; cost management was neither proactive nor reactive
		1	Poor; cost management was reactive and at times antagonistic
		0	Unacceptable; cost management was antagonistic resulting in major cost issues
Health and Safety	How well did the contractor manage health and safety? Consider quality of H&S	5	Excellent; H&S management was exemplary with no issues or concerns throughout the project
		4	Good; only very minor issues or concerns
		3	Average; few minor incidents not caused by contractor

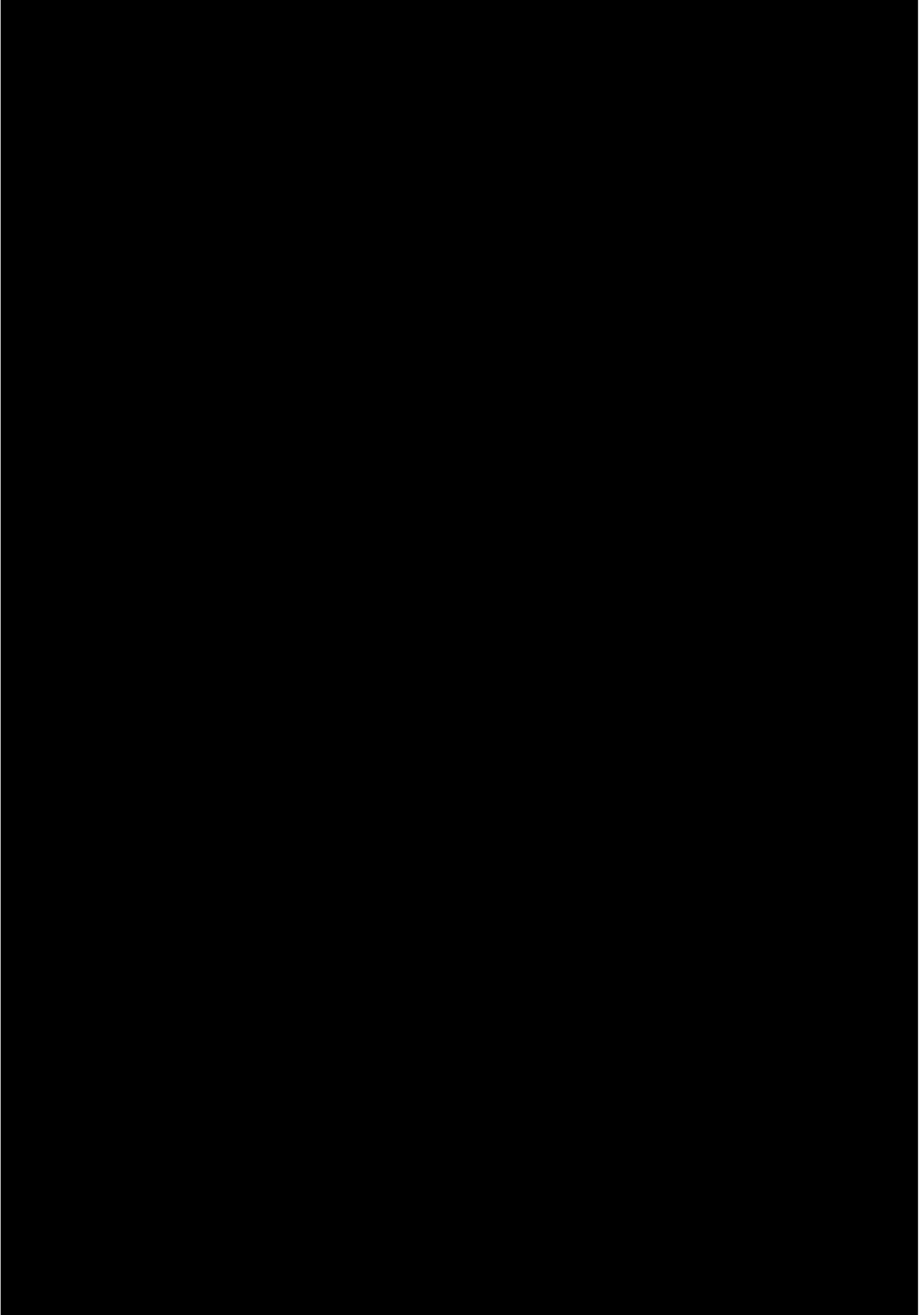
	documentation, management of H&S on site, compliance with H&S plan, accidents and incidents, site safety checks and audits.	2	Below Average; few minor incidents due to poor site management
		1	Poor; reportable incident resulting in contractor being placed on additional monitoring
		0	Unacceptable; contractor suspended following major incident
Management of Sub-contractors	Were sub-contractors appointed at the right time, did the contractor manage performance and quality of work and co-ordinate different sub-contractors?	5	Excellent; sub-contractors involved early, mostly through established supply chains. Excellent co-ordination and management.
		4	Good; sub-contractors involved at right time; well-coordinated/managed
		3	Average; late appointments and/or lack of co-ordination/management
		2	Below Average; some issues due to late appointments and/or lack of co-ordination/management
		1	Poor; several issues due to late appointments and lack of co-ordination/management
		0	Unacceptable; major issue(s) due to late appointments and/or lack of co-ordination/management
Quality of Workmanship	Did the contractor achieve a high quality of work first time or was a need for re-work prompted by other parties?	5	Excellent; workmanship, 'right first time'
		4	Good; workmanship, minor snagging required
		3	Average; workmanship, but some isolated areas requiring re-work
		2	Below Average; workmanship, but several minor issues requiring re-work
		1	Poor; workmanship, some significant issues requiring re-work
		0	Unacceptable; workmanship, major re-work required.
Progress in Making Good Defects	How quickly did the contractor resolve defects after practical completion?	5	Excellent; all defects resolved within 1 week of practical completion
		4	Good; all defects resolved within 1 month of practical completion
		3	Average; all defects resolved within 3 months of practical completion
		2	Below Average; majority of defects resolved within 3 months of practical completion
		1	Poor; some defects outstanding after 3 months; contractor reluctant to attend site
		0	Unacceptable; major defects outstanding after 3 months; contractor unwilling to resolve
Collaborative Approach	Did the contractor take on their responsibilities as a team player enthusiastically? Were they an active participant in the decision making or issue resolution processes throughout the project, or did they prefer to wait to be instructed?	5	Excellent; contractor took the lead in collaborative team working
		4	Good; contractor was a positive, proactive member of the team
		3	Average; contractor worked well with the team but did not add value
		2	Below Average; contractual approach
		1	Poor; required instruction in collaborative team working
		0	Unacceptable; adversarial approach resulting in ongoing dispute or claim
Contractor Performance	Consider the contractor's communication, planning and	5	Excellent; contractor performance was exemplary in all these areas
		4	Good; contractor performance was good in all these areas

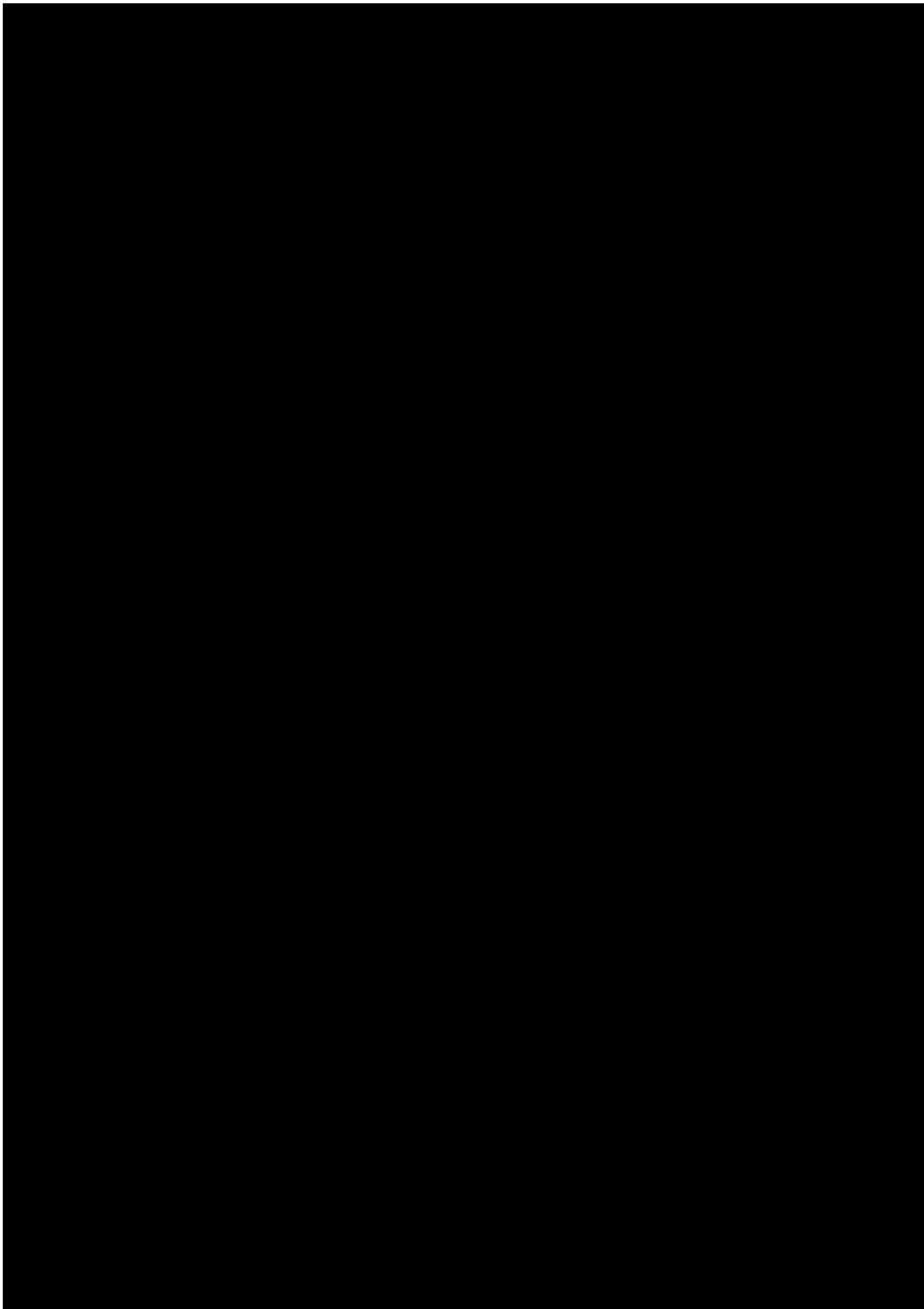
	organisation; site management; consideration for other site users.	3	Average; contractor performance was average in all these areas
		2	Below Average; issues/room for improvement in some areas
		1	Poor; several issues due to poor performance in one or more of these areas
		0	Unacceptable; major issue(s) due to poor performance in one or more of these areas
Contractor Design	How well did the contractor fulfil their responsibilities, including the quality and timeliness of information? For design and build projects - how well did the contractor manage and co-ordinate the design contractors? How good was the quality of the design information?	5	Excellent; quality, contractor was proactive and design provided well in advance of construction
		4	Good; quality, design provided in accordance with agreed programme
		3	Average; quality, design provided in sufficient time to avoid delay to construction
		2	Below Average; quality, design provided on time but putting pressure on programme
		1	Poor; quality, design provided late putting pressure on programme
		0	Unacceptable; quality, design information only provided when pressure applied by other parties with subsequent delays to programme
Inclusive Access & Corporate Standards	Confirmation that reasonable provision has been made for people to (a) gain access to; and (b) use the building / building extension and its facilities. Any reasons for departing from KCC's Technical Standards, Approved Document M or BS8300 have been fully justified in the Access Statement.	5	Excellent; reasonable provision has been made for people to gain access to and use the building/building extension and its facilities. Also excellent understanding of KCC's requirements.
		4	Good; performance good throughout project with regards to inclusive design
		3	Average; Inclusive design provided throughout each stage of project
		2	Below Average; several minor issues resulting in delays and further advice to be given
		1	Poor; lack of understanding leading to management issues surrounding inclusive design
		0	Unacceptable; no consideration of inclusive design
Customer Satisfaction	Customer satisfaction.	5	Excellent
		4	Good
		3	Average
		2	Below Average
		1	Poor
		0	Unacceptable

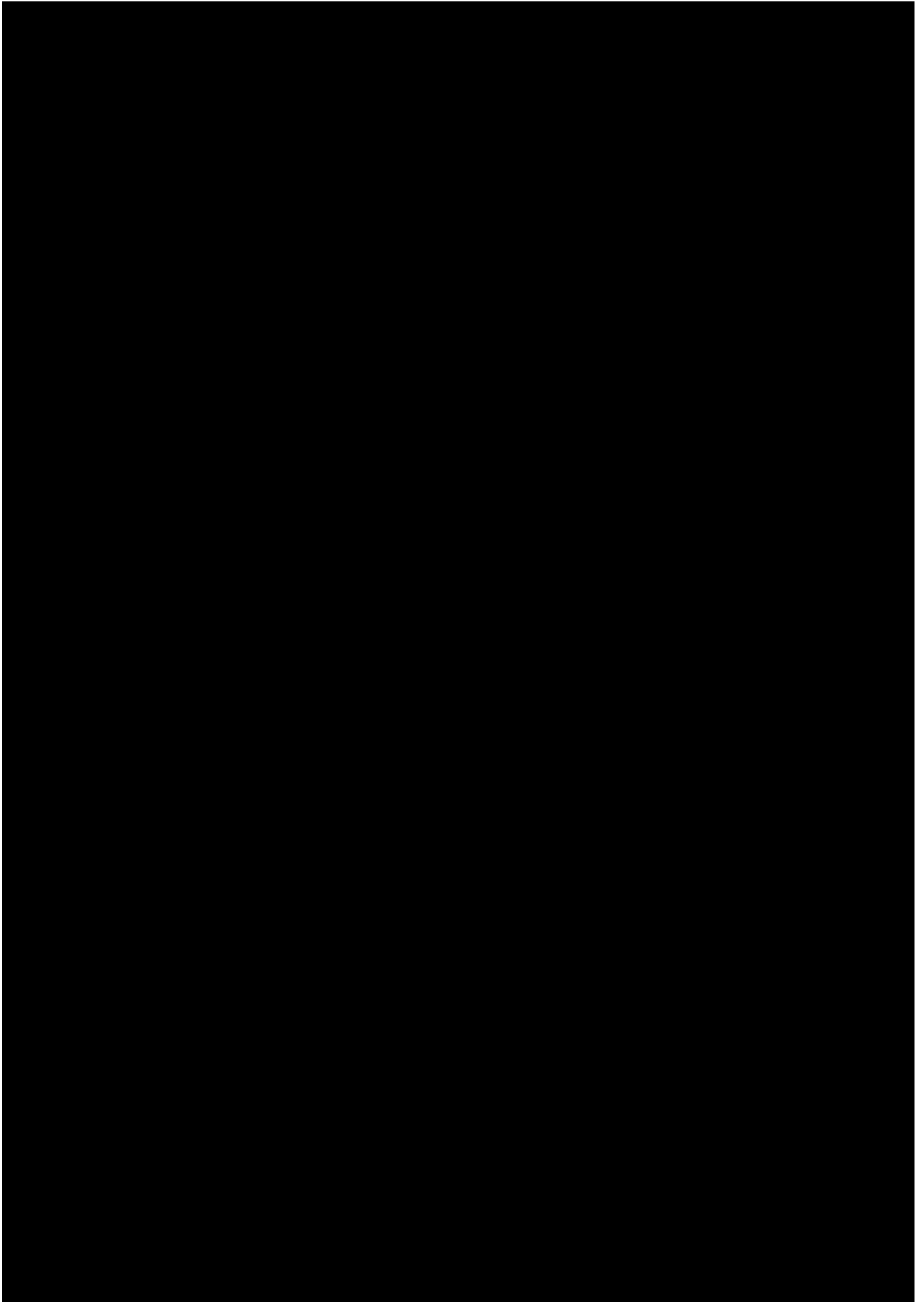


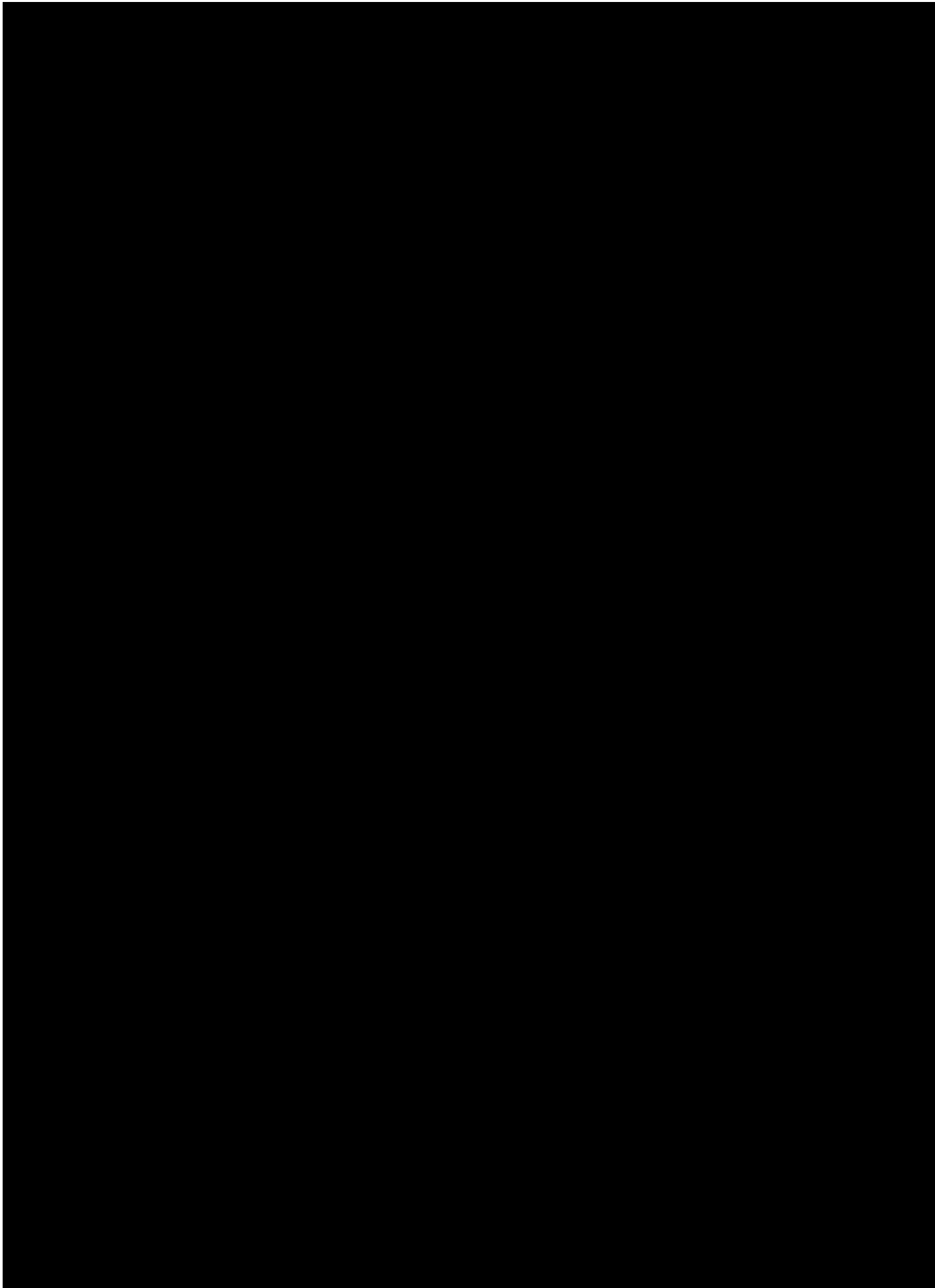


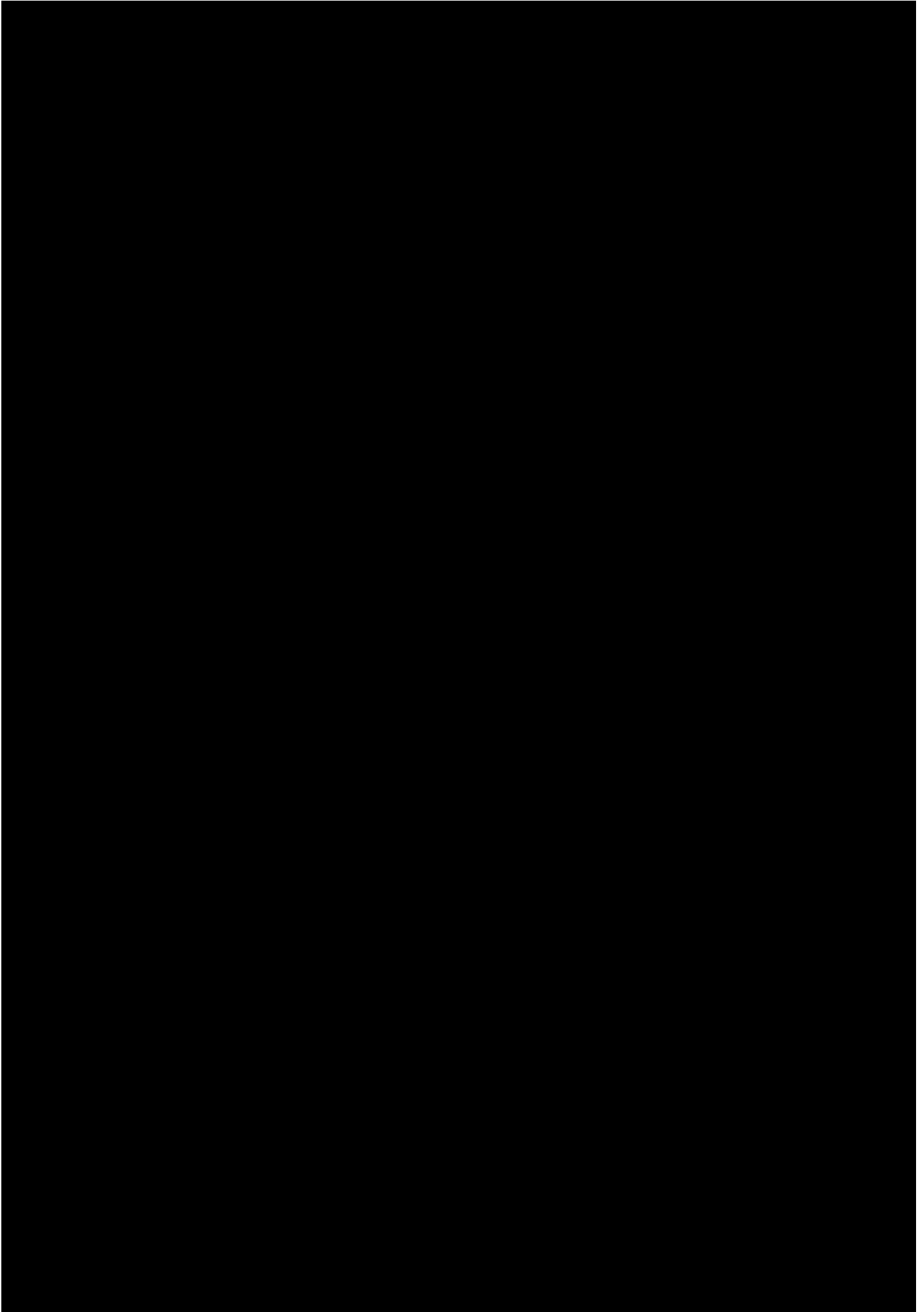


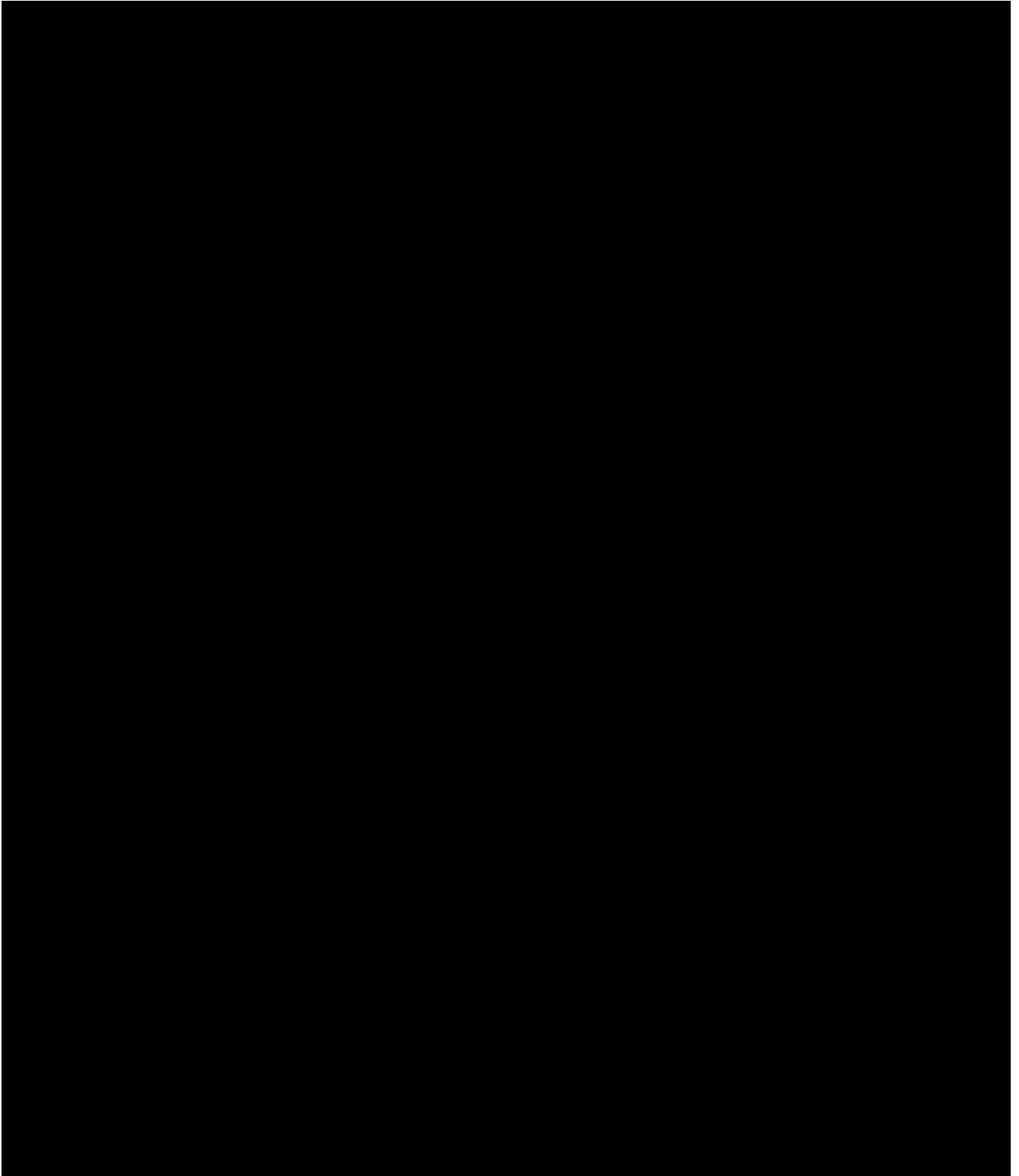


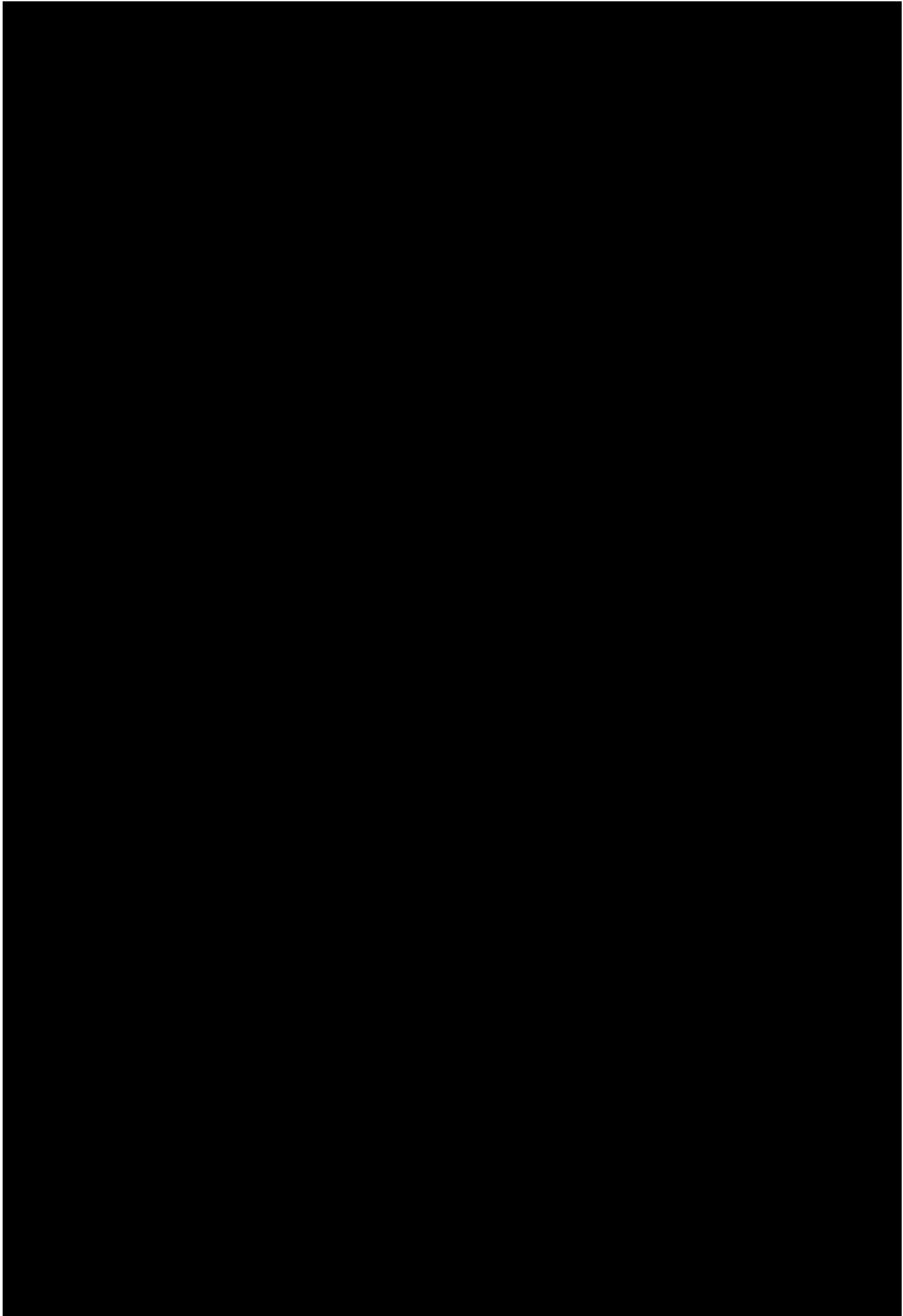


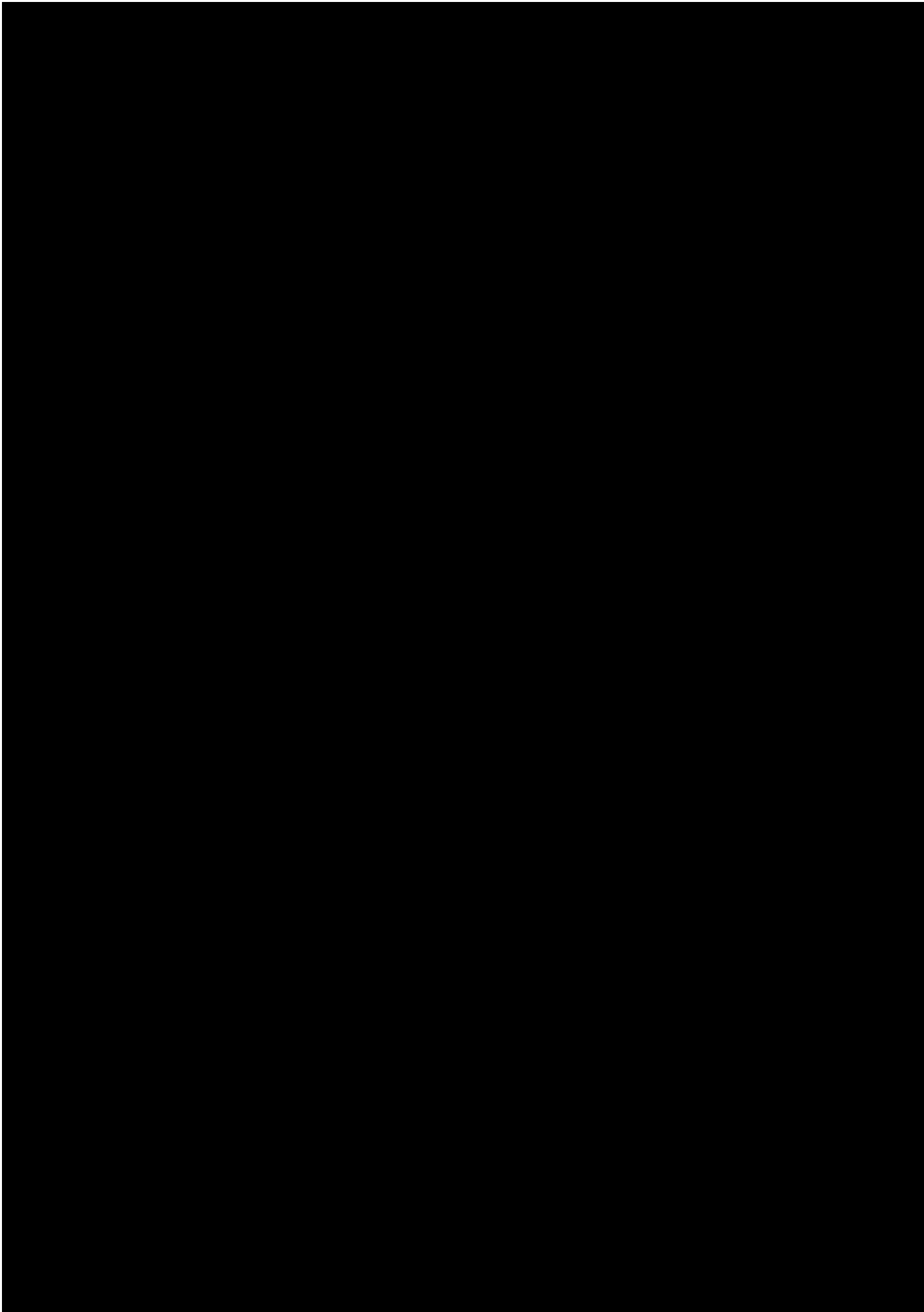


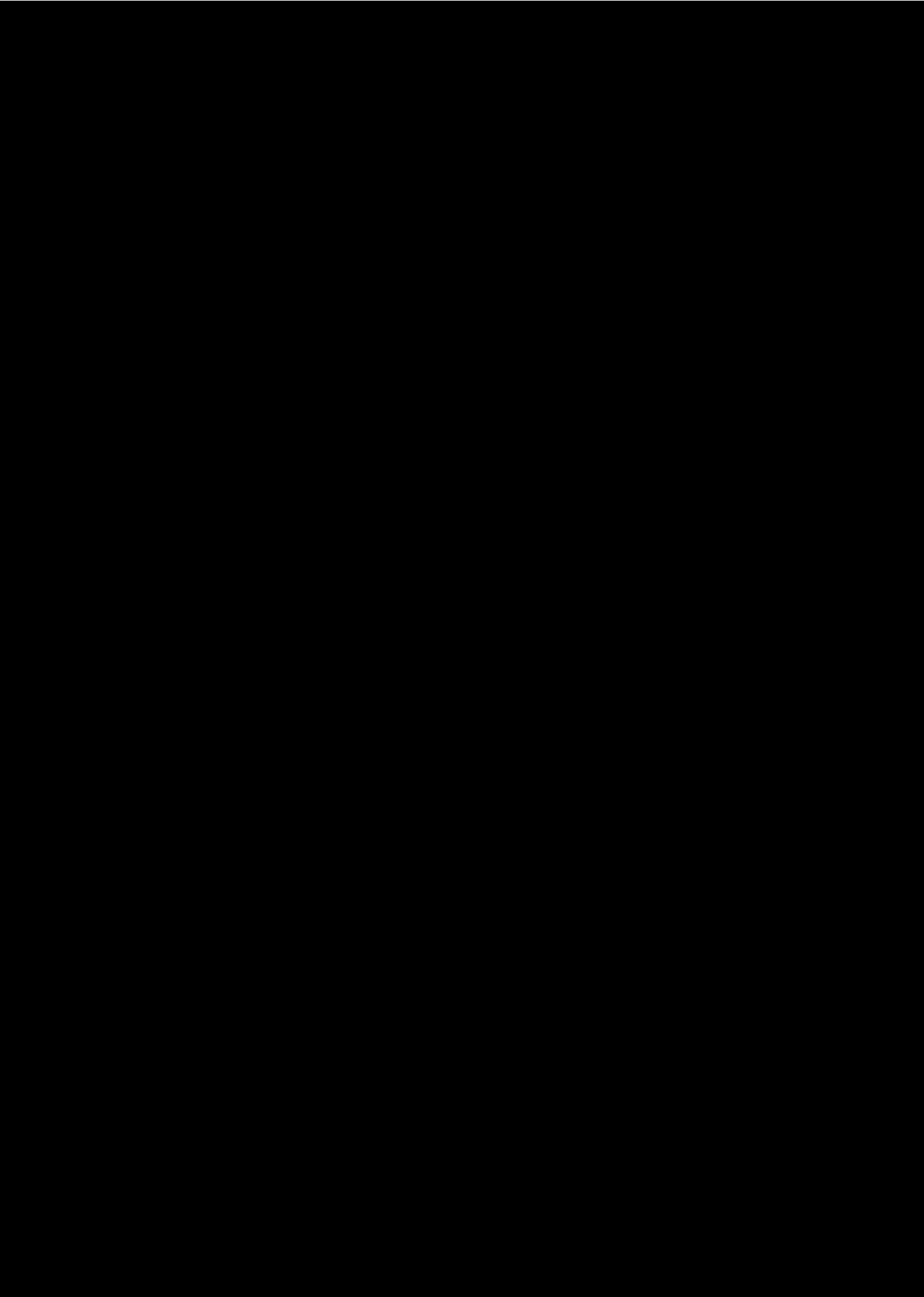


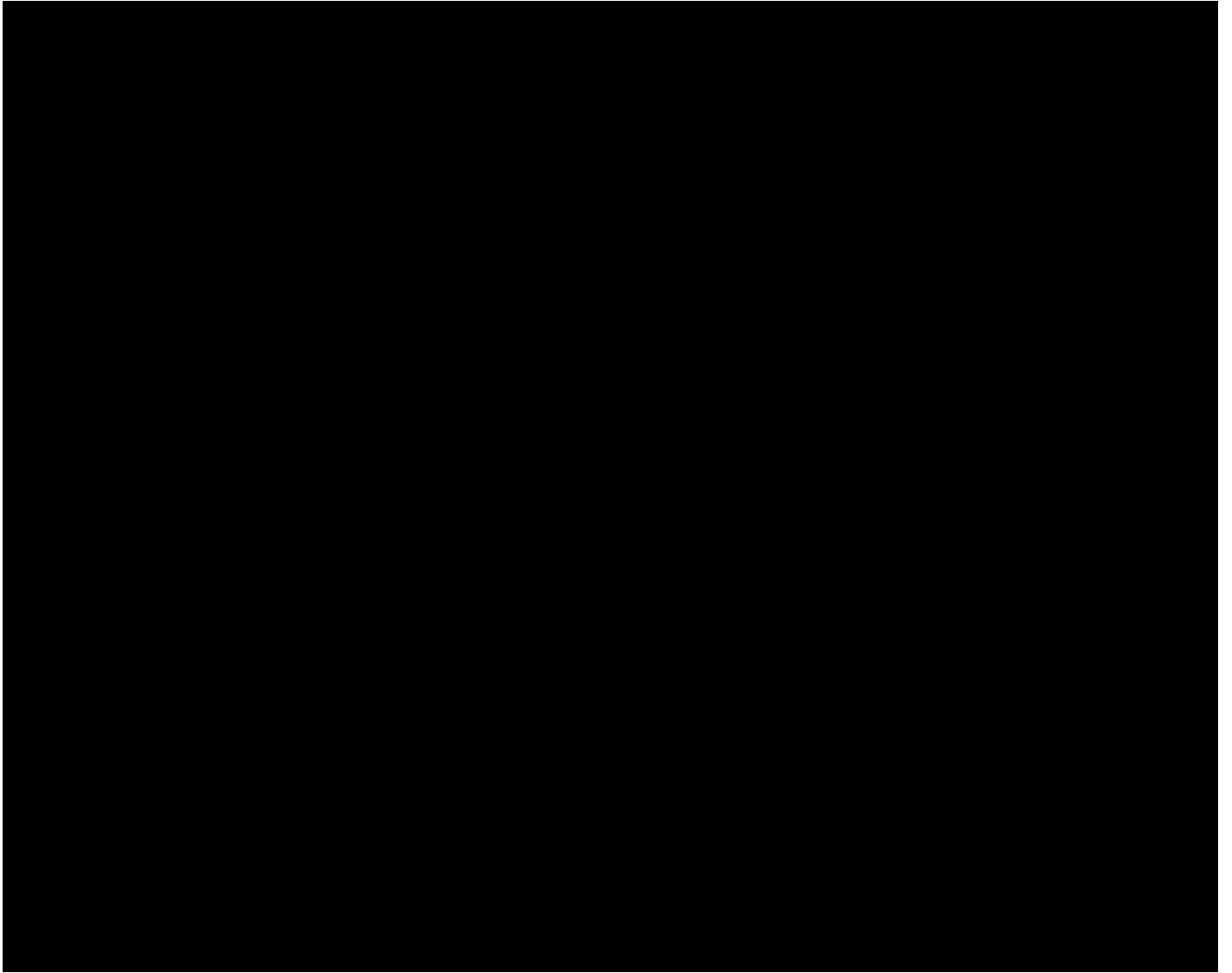




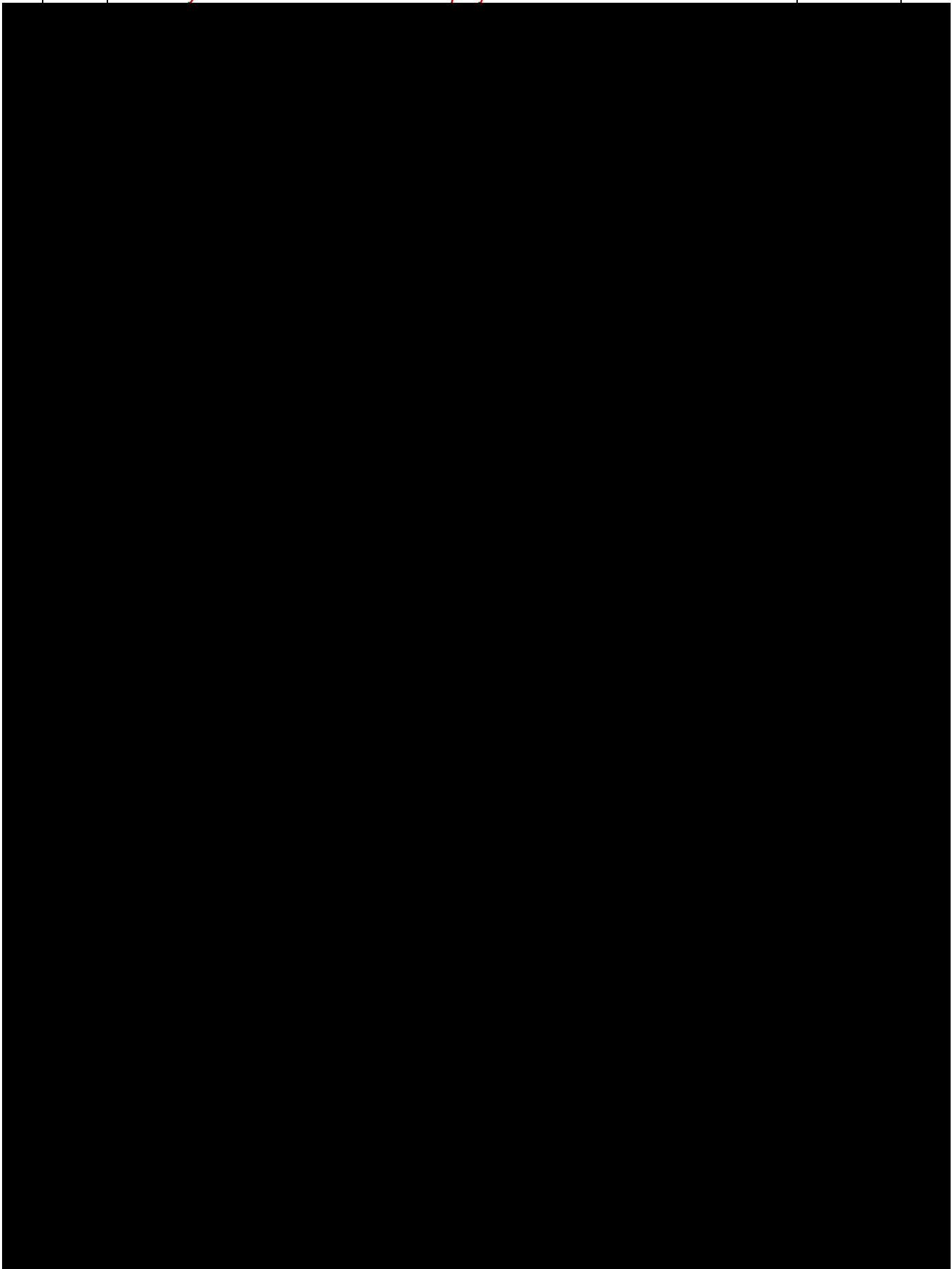


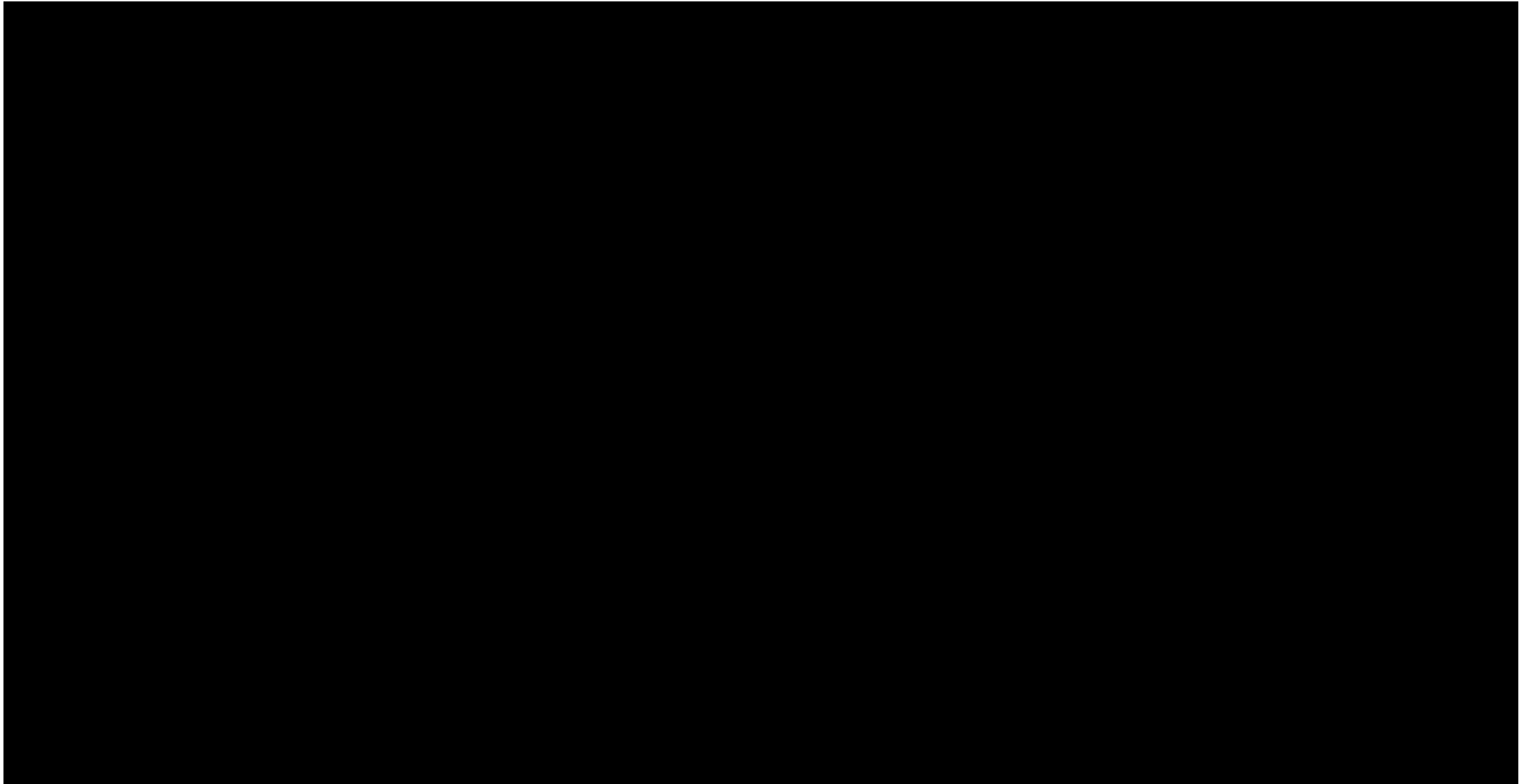


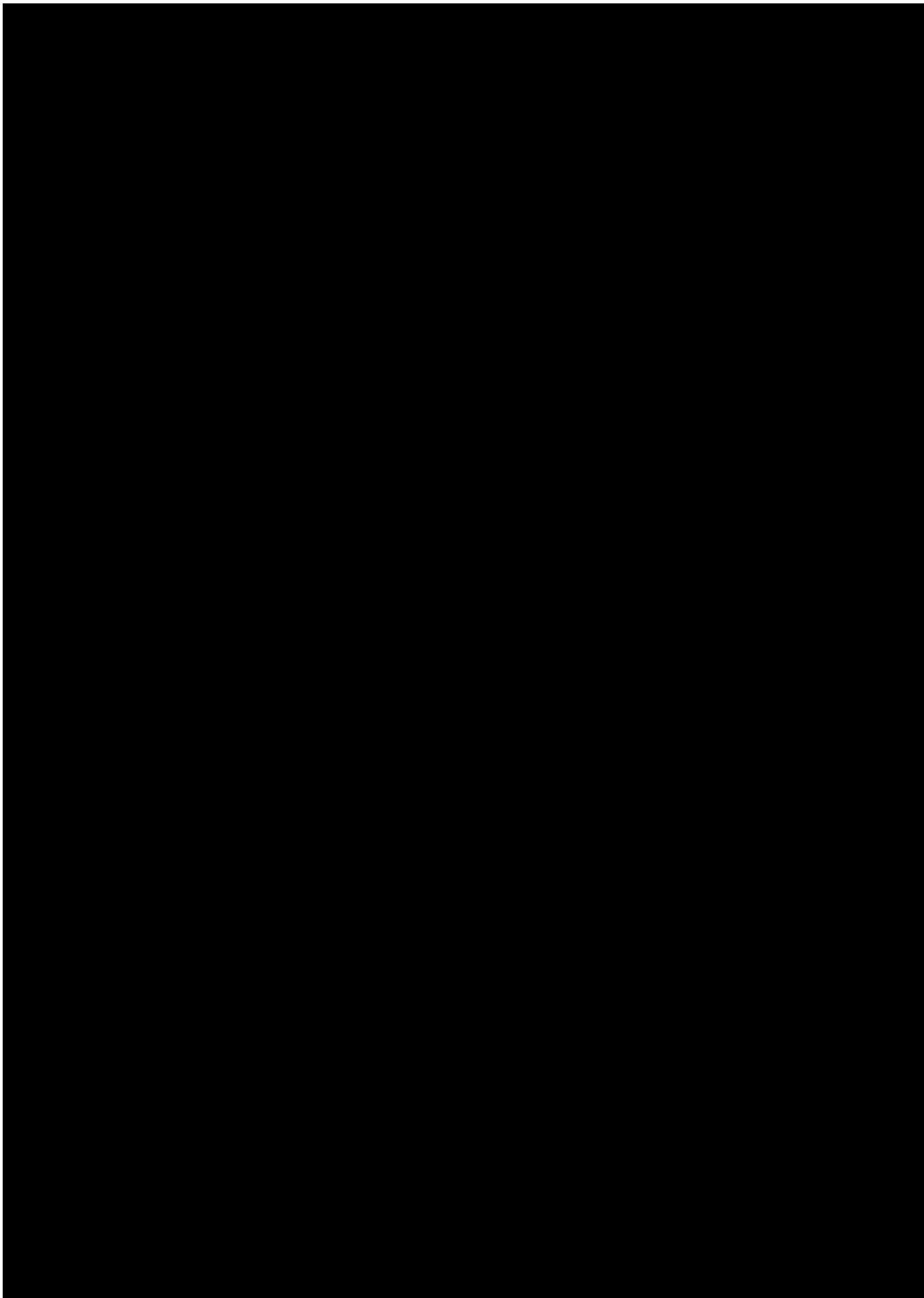


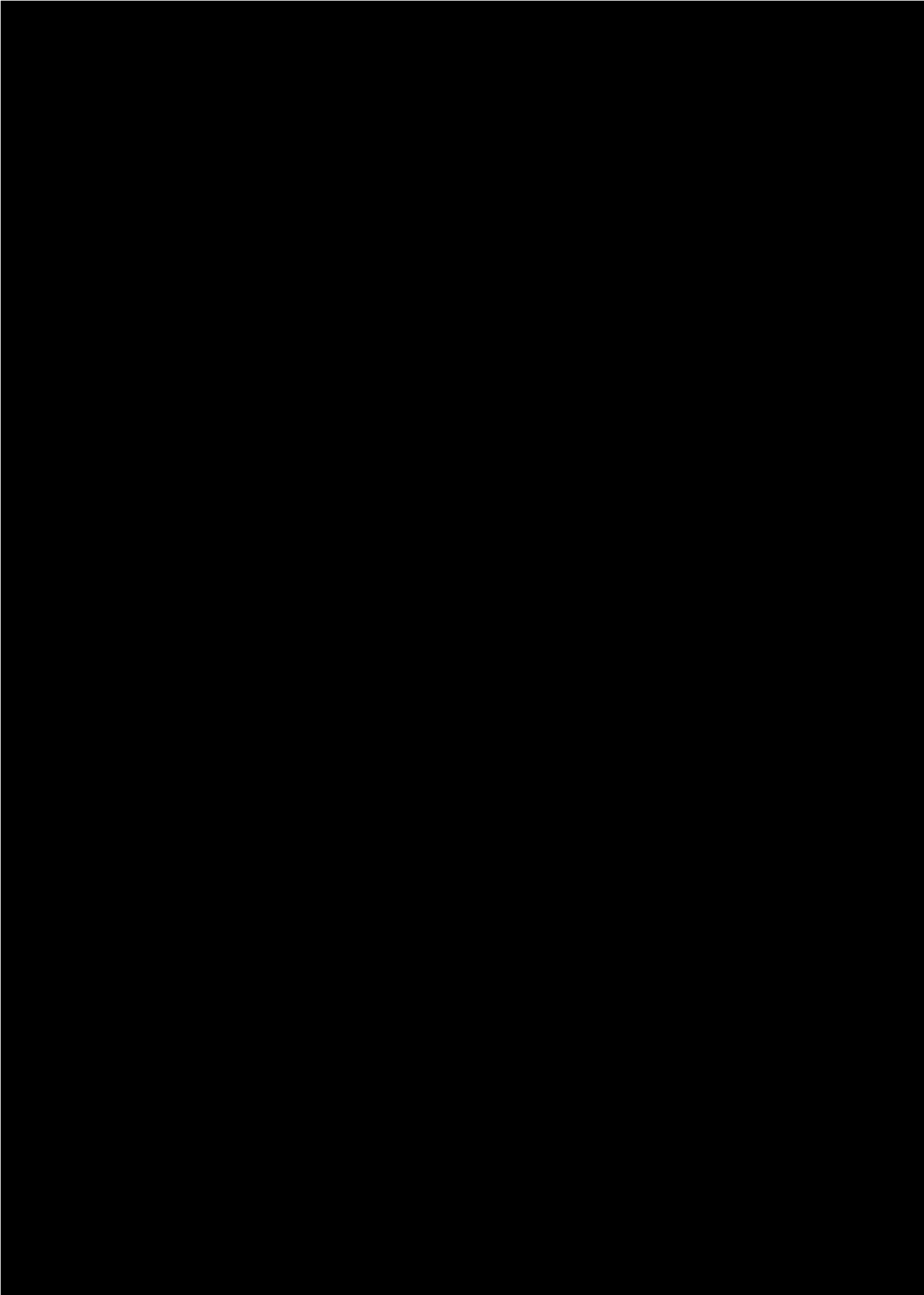


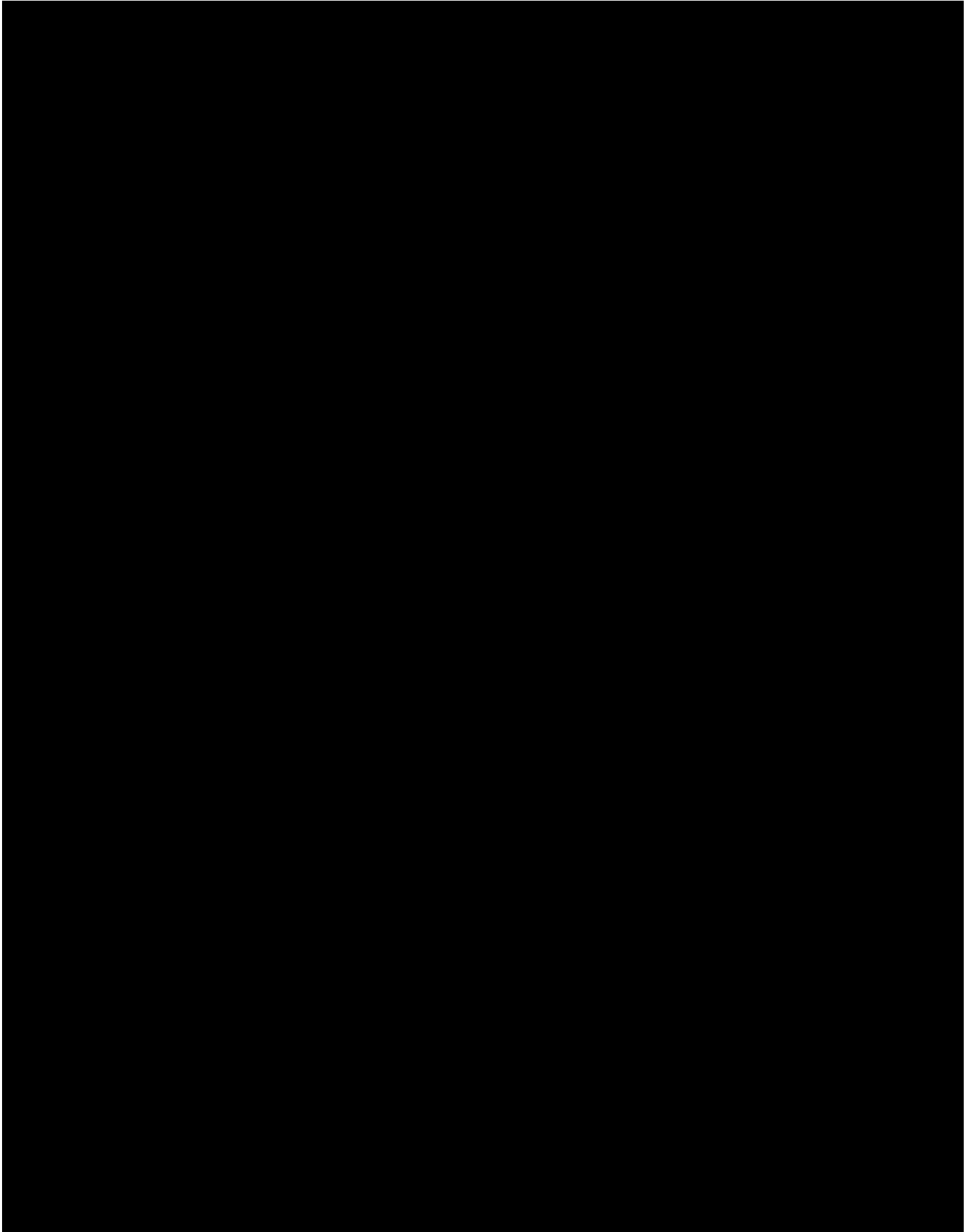
2.5	<i>Please give details of your proposed work programme with anticipated timescales for delivery for each element of the project. Please indicate the earliest you could start and finish the project.</i>	10/100 max marks
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personal & commercial info

Flood Control NI Limited T/a Watertight
7 Seven Houses
Upper English Street
Armagh
BT61 7LA
FAO Chris Kerr, Managing Director

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Emailed to: [REDACTED]

1st March 2018

Dear Bidder

DMNH 014 – PROPERTY FLOOD RESILIENCE (PFR) SURVEYING, DESIGN AND INSTALLATION ACROSS SHROPSHIRE

SHROPSHIRE COUNCIL

SUBJECT TO CONTRACT

This is an Award Decision Notice. We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council’s formal acceptance of your bid. A mandatory “standstill” period is now in force; this period will end at midnight on 12th March 2018.

This award notification is also subject to you now providing copies of your relevant insurance certificates together with confirmation from your insurance brokers that:-

1. The insurance does not contain any exclusions, which would void the policy in relation to this contract.
2. Details within the insurance cover of any warranties, which need to be complied with to ensure that the cover remains in place.
3. Confirmation that there have be no erosion through claims made to the limits of indemnity.
4. Confirmation that all premiums due have been paid together with the date of renewal.

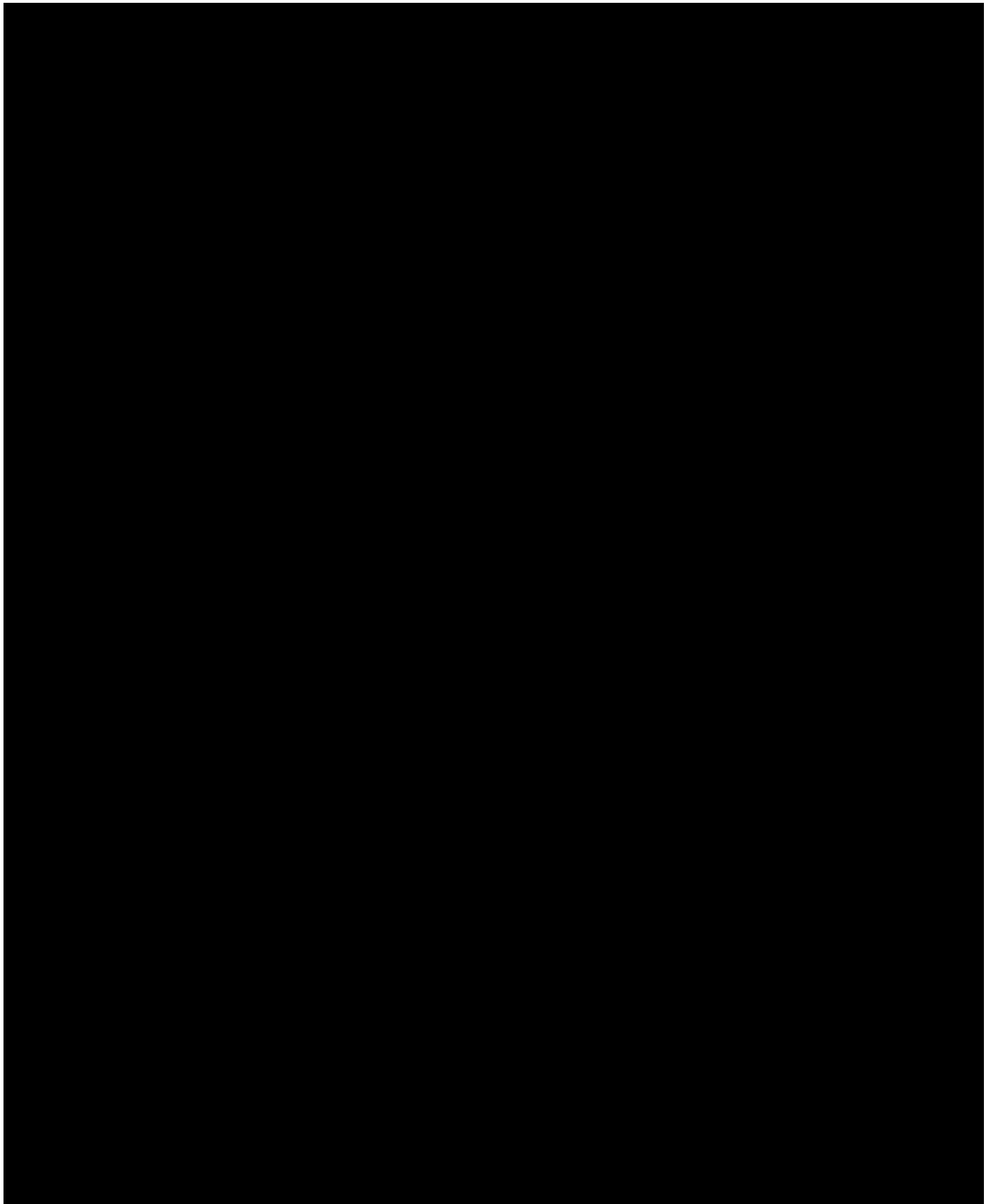
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Score	Winning Tenderer Total Score	Your Rank (out of all 9 tenders received)
Quality	[REDACTED]	[REDACTED]	[REDACTED]
Price	[REDACTED]	[REDACTED]	[REDACTED]
Overall	[REDACTED]	[REDACTED]	[REDACTED]

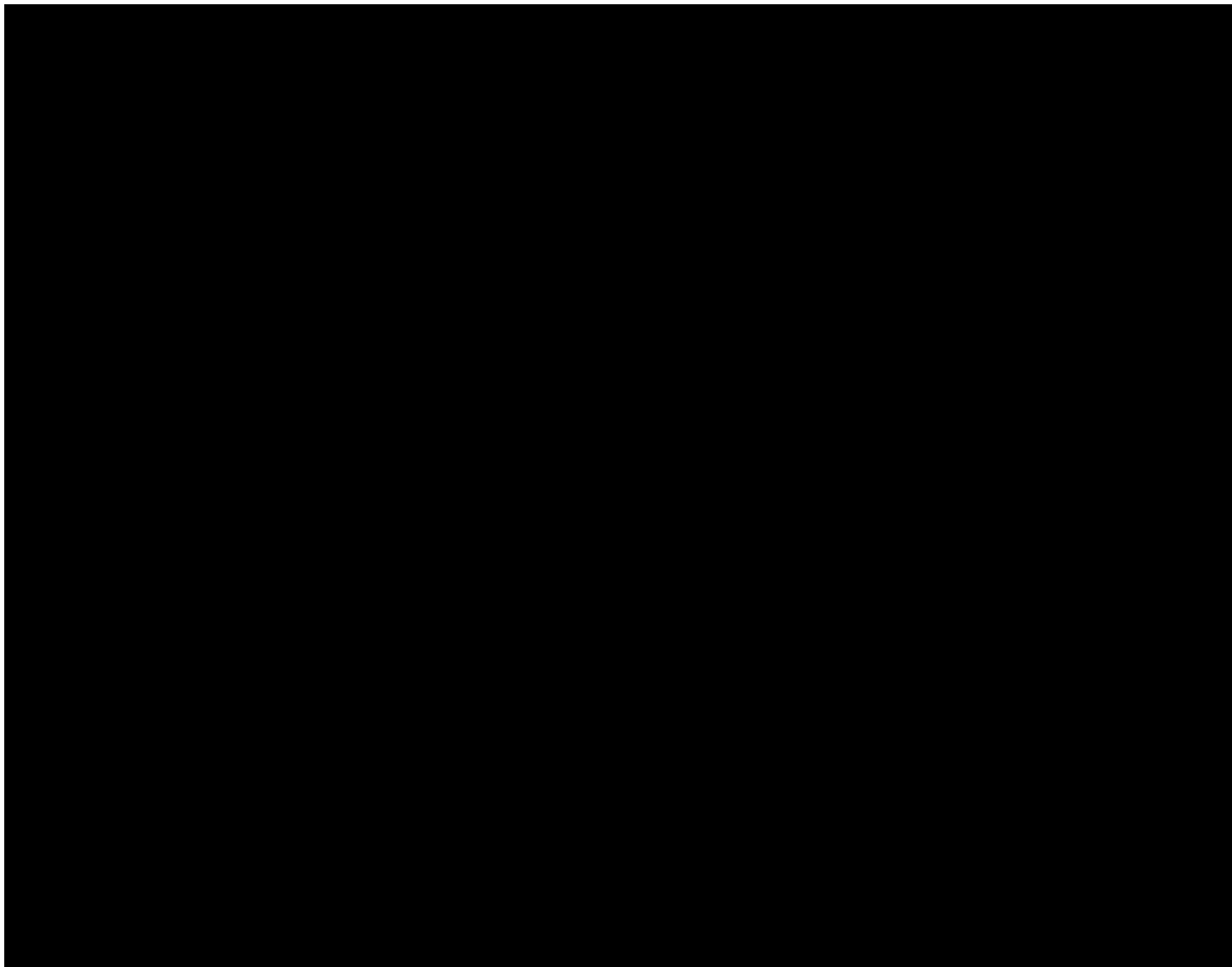
For your further information, we would confirm that your quality submission was scored against the published scoring scheme and the stated award criteria and received the



commercial info

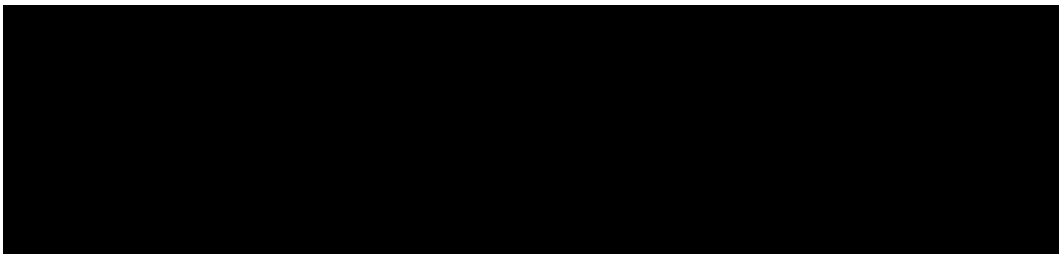


commercial & personal info



We will be in touch with you again at the end of the standstill period.

Yours faithfully



Environmental
Maintenance Service
Manager
Shropshire Council

Interim Flood and
Water Manager
Shropshire Council