

**IN THE MATTER OF AN ARBITRATION UNDER
CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE AGREEMENT
AND THE UNCITRAL RULES OF 1976**

BETWEEN:

**WILLIAM RALPH CLAYTON, WILLIAM RICHARD CLAYTON, DOUGLAS
CLAYTON, DANIEL CLAYTON AND BILCON OF DELAWARE, INC.**

Claimants/Investors

AND:

GOVERNMENT OF CANADA

Respondent

WITNESS STATEMENT OF

MICHAEL G. WASHER

December 8, 2016

1. I am a Professional Engineer and Vice President of LB&W Engineering Inc. ("LB&W"). LB&W is an engineering firm based in Allentown, Pennsylvania that specializes in minerals processing engineering, including the design of aggregate crushing plants.

A. PROFESSIONAL BACKGROUND AND ROLE WITH LB&W

2. I obtained a Bachelors of Engineering from Stevens Institute of Technology, in Hoboken, New Jersey, in 1974. I qualified as a Professional Engineer in 1981. I am recognized as a Professional Engineer in 17 states, including the states of New York, New Jersey and Pennsylvania. I am a member of the American Institute of Steel Construction (AISC), American Society of Civil Engineers (ASCE), and am registered with the National Council of Examiners for Engineering and Surveying.
3. I have spent virtually all of my engineering career in the field of bulk material handling. I started as an entry level structural engineer and advanced to engineer, principal engineer and, eventually, project engineer.
4. In 1992, I co-founded LB&W with George Bickford and Ted Litke. I have been a practicing engineer and Engineer of Record with LB&W at all times since 1992.
5. My role with LB&W includes reviewing and, when required, sealing the engineering drawings issued on behalf of LB&W and preparing detailed project budgets or costing estimates for LB&W's clients.
6. Typically, at the start of a new project, LB&W provides the client with a rough order-of-magnitude budget. LB&W usually updates the order-of-magnitude budget as the conceptual design stage proceeds, although the overall estimate remains preliminary and a detailed costing analysis is not performed.

7. Once the client confirms the project design and LB&W begins the detail design stage, I prepare a detailed costing estimate for the client. To prepare the detailed costing estimate, I work closely with others at LB&W, the client and third parties to account for and cost the planned design elements, including raw materials, equipment, shipping, fabrication and construction.
8. Over the course of approximately 25 years with LB&W, I have prepared well over 75 detailed costing estimates for projects ranging from \$25,000 to \$30,000,000.

B. COSTING OF WHITES POINT CRUSHING PLANT

9. In 2003, LB&W was engaged by Bilcon to provide design engineering services for a new quarry in Nova Scotia, Canada. LB&W prepared a preliminary budget estimate, but did not get to the point of preparing detailed costing because the project did not receive regulatory approval.
10. In 2016, in preparation for this arbitration and under instructions from Nash Johnston LLP, I prepared detailed costing for the plant and infrastructure for the Whites Point quarry. I based my detailed costing work on the “Revision D” plant design described in George Bickford’s witness statement, and I took into account the subsequent changes to the Revision D design that Mr. Bickford outlines at paragraphs 64 and 65 of his witness statement.
11. Attached is a copy of my detailed costing for the Whites Point crushing plant infrastructure titled “Plant/Infrastructure Costing 2008 USD”.¹ I concluded that the grand total plant and infrastructure cost in [REDACTED]
12. Also in 2016 and in preparation for this arbitration, I prepared a costing of the mobile equipment required for operating the Whites Point quarry. To determine

¹ Plant/Infrastructure Costing [REDACTED] (Washer Exhibit 1; *Investors’ Schedule of Documents, Tab C1011*).

the required mobile equipment, I referred to information from the Whites Point quarry manager, John Wall, and relied on my experience given the quarry design. Attached is a copy of my costing for the Whites Point quarry mobile equipment titled "Quarry Mobile Equipment Costing in 2008 USD".² I concluded that the total mobile equipment cost [REDACTED]

13. With regard to the Plant/Infrastructure Costing and the Mobile Equipment Costing, I also prepared the attached "Cash Flow Projection"³, and I analysed the likely maintenance and repair costs associated with the plant and mobile equipment on the basis of a 50 year life for the quarry, which are attached and titled "Maintenance/Replacement Cost Projection".⁴

Dated: December 8, 2016


MICHAEL G. WASHER

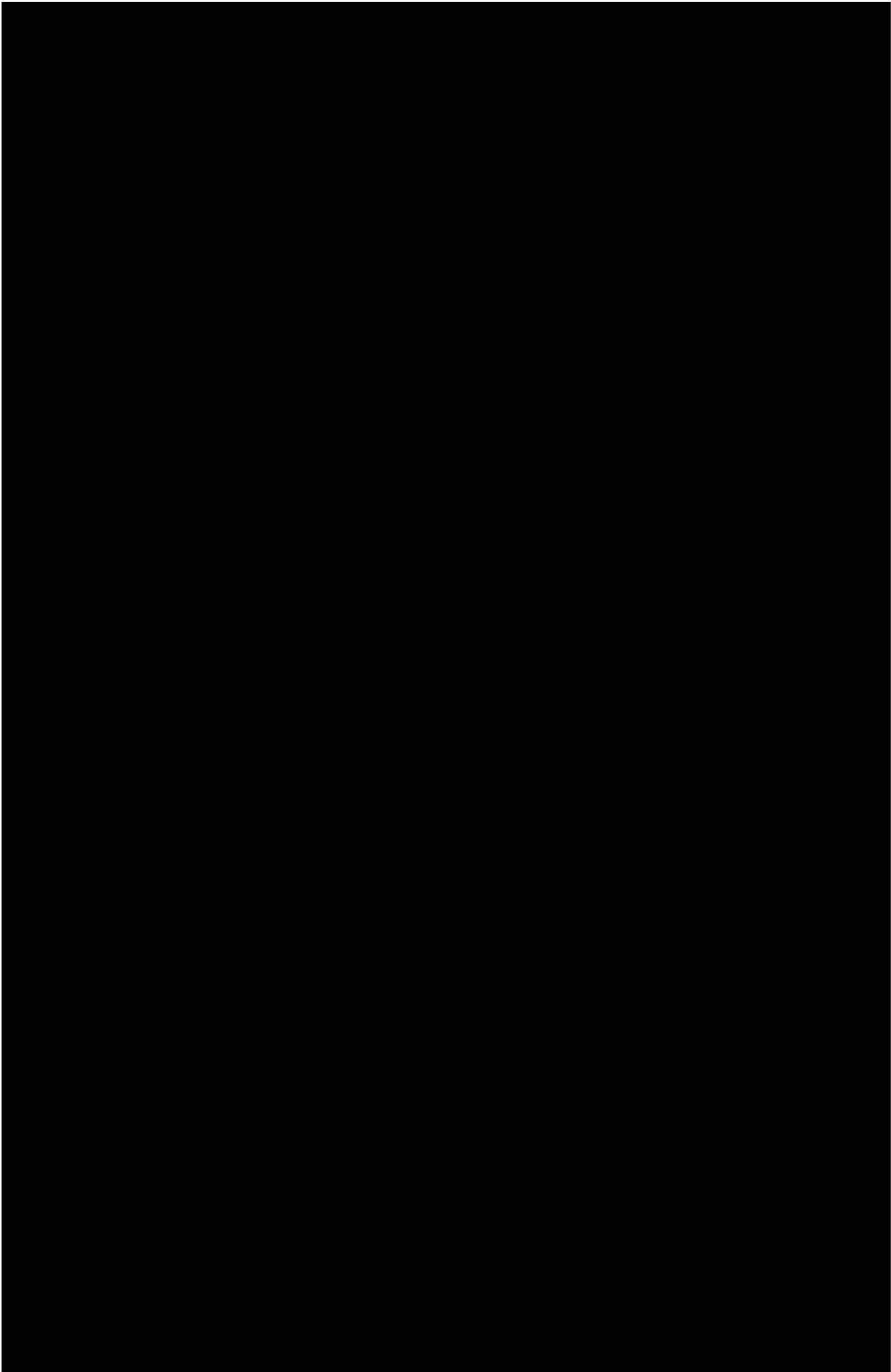
² Quarry Mobile Equipment Costing [REDACTED] (Washer Exhibit 2; *Investors' Schedule of Documents, Tab C1012*).

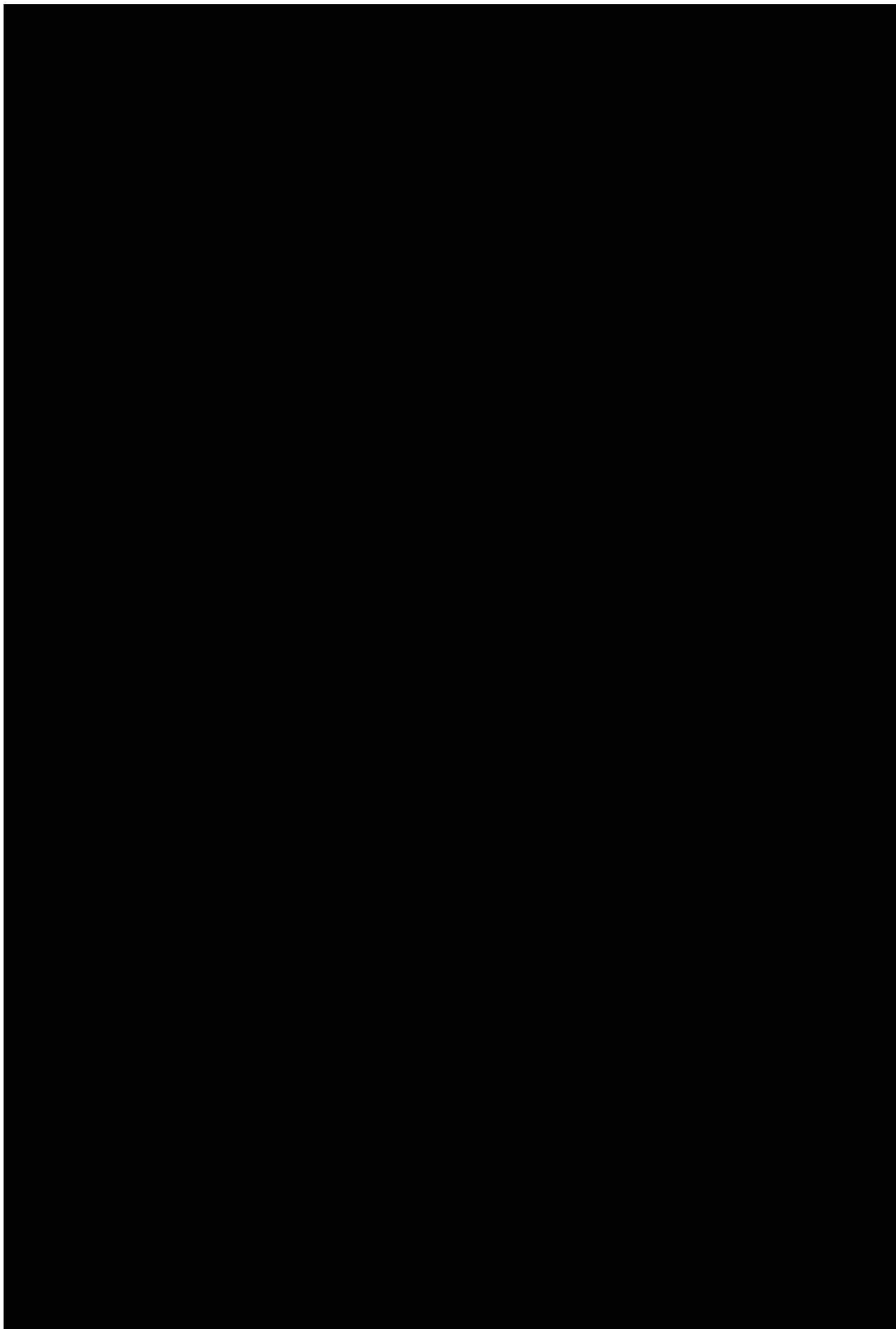
³ Cash Flow Projection (Washer Exhibit 3; *Investors' Schedule of Documents, Tab C1014*).

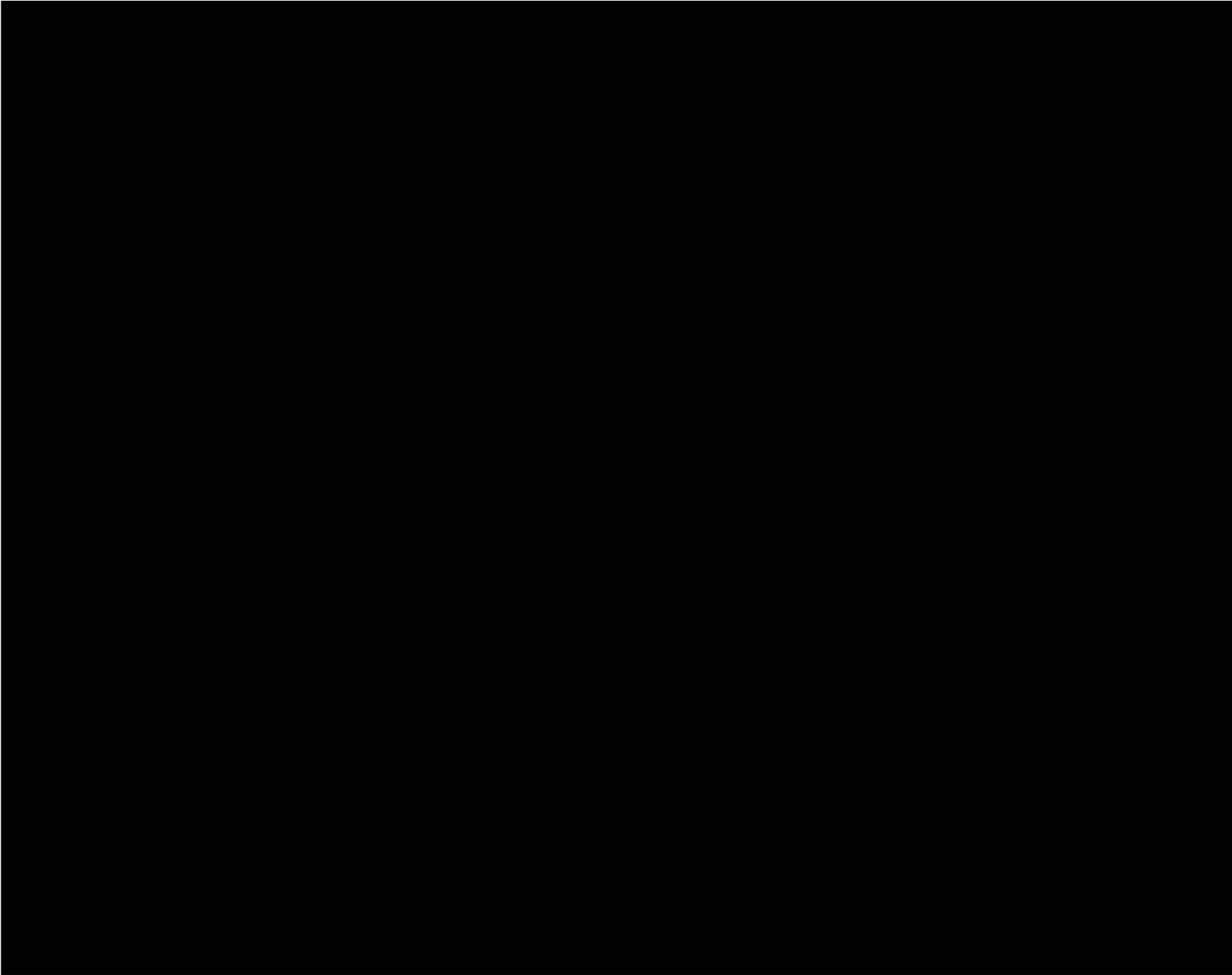
⁴ Maintenance/Replacement Cost Projection (Washer Exhibit 4; *Investors' Schedule of Documents, Tab C1013*).

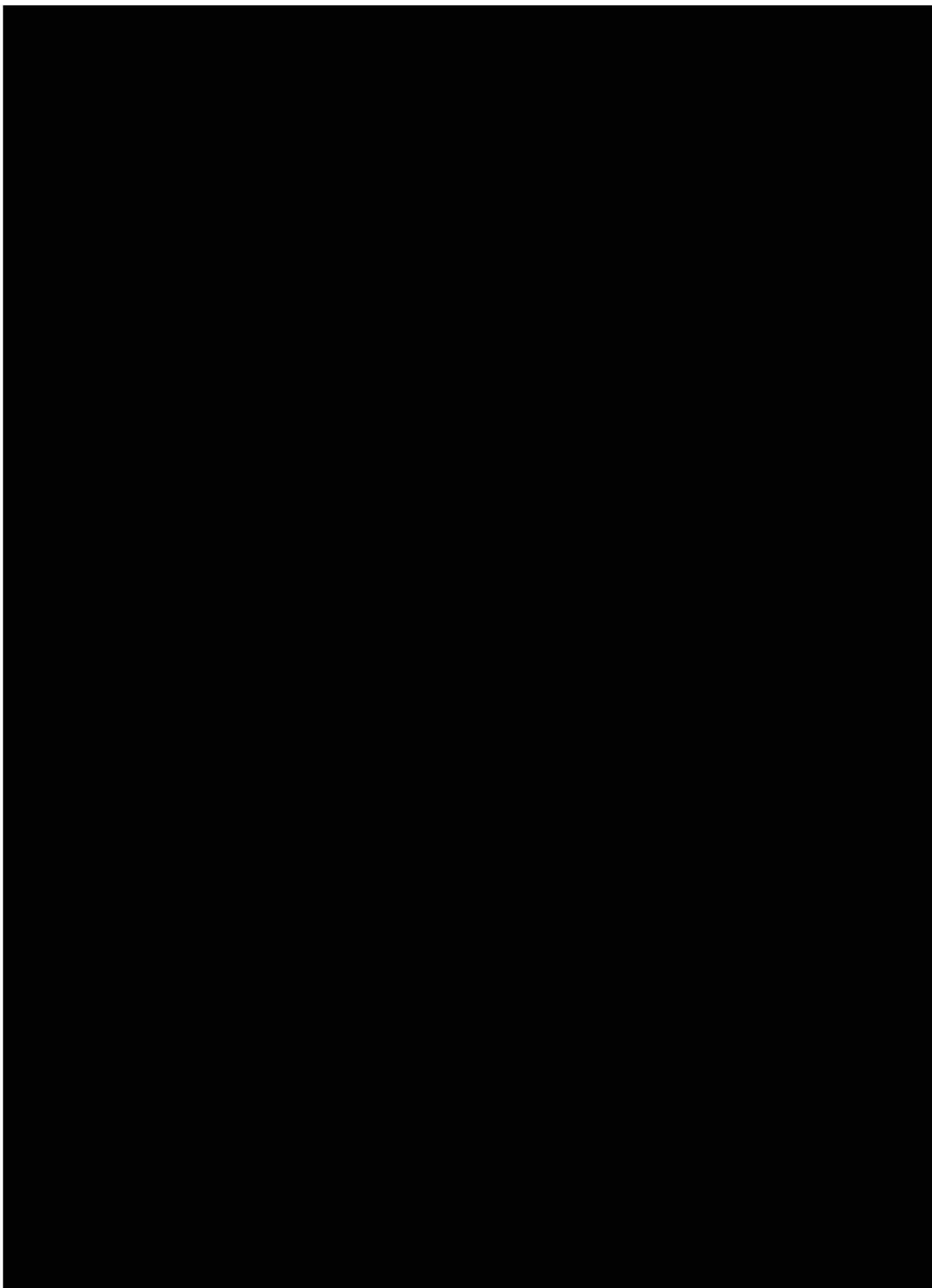
EXHIBIT 1

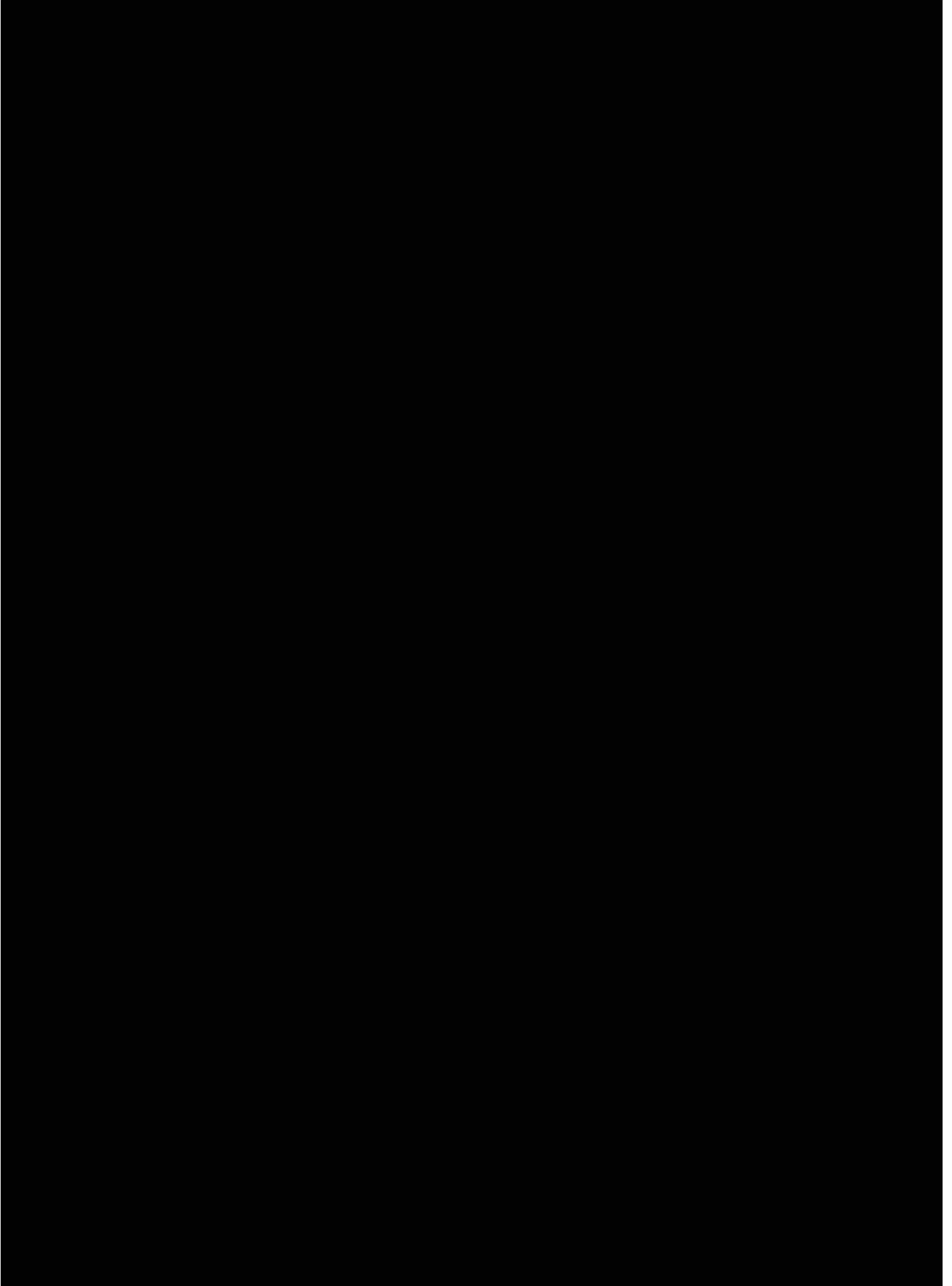
WITNESS STATEMENT OF MICHAEL G. WASHER

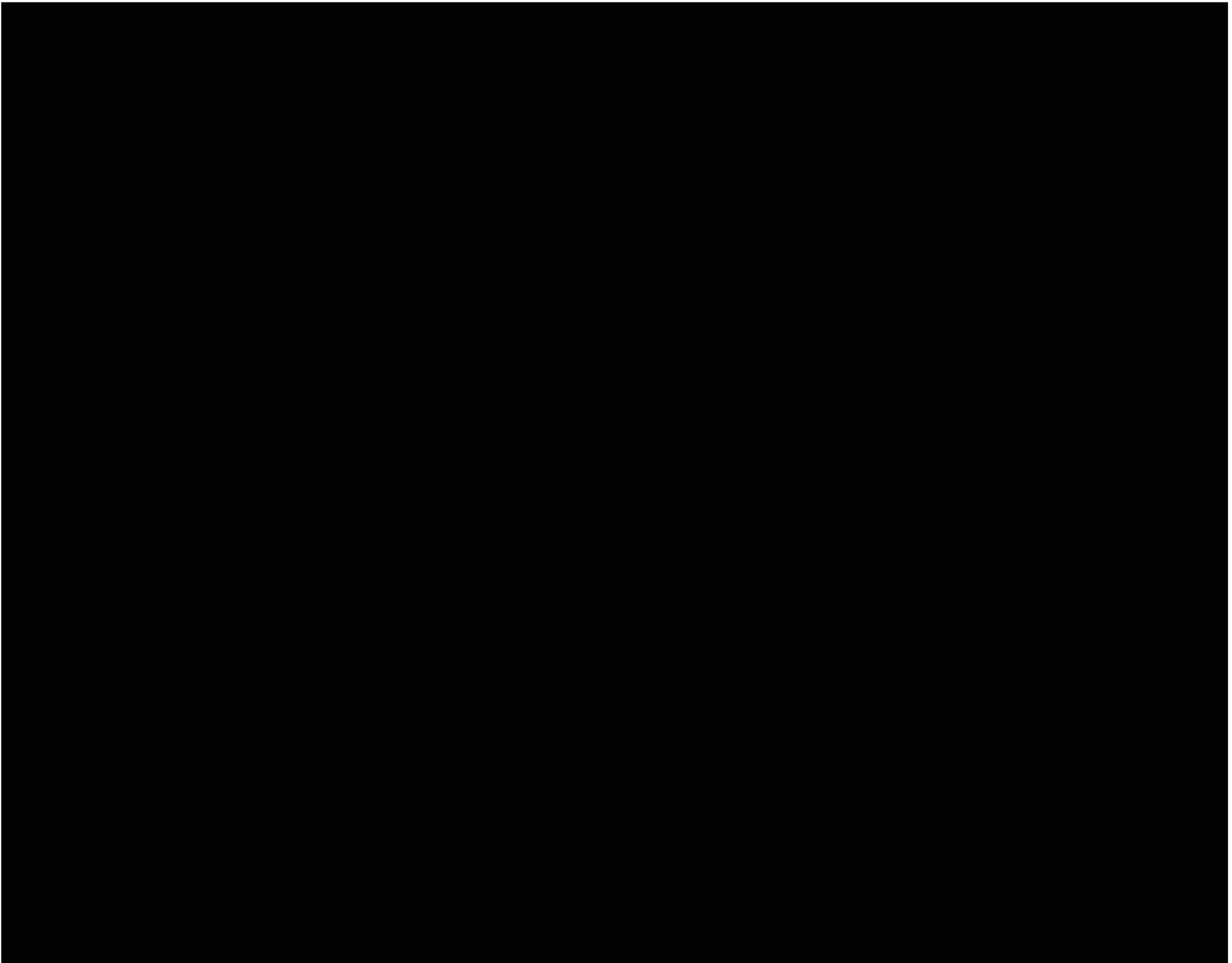


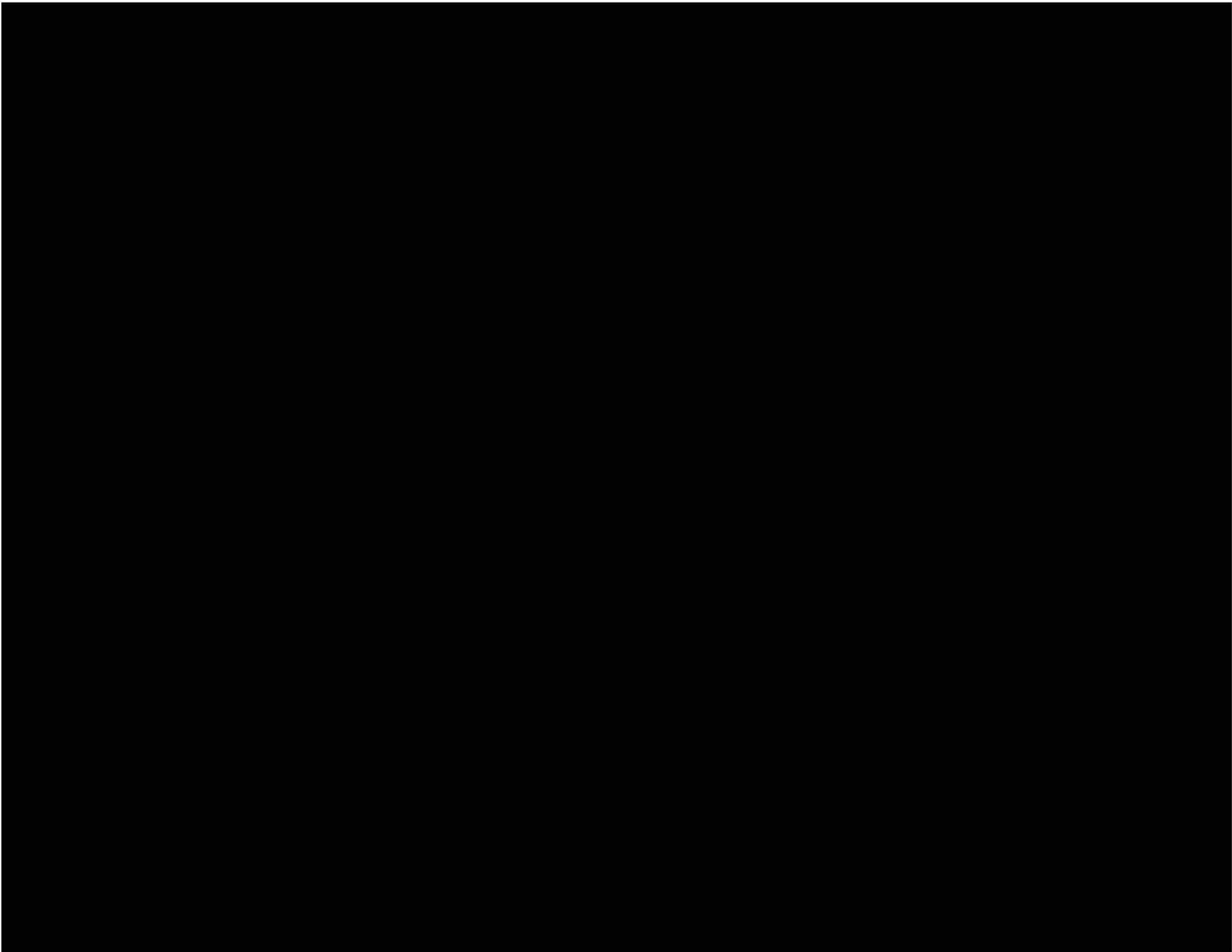


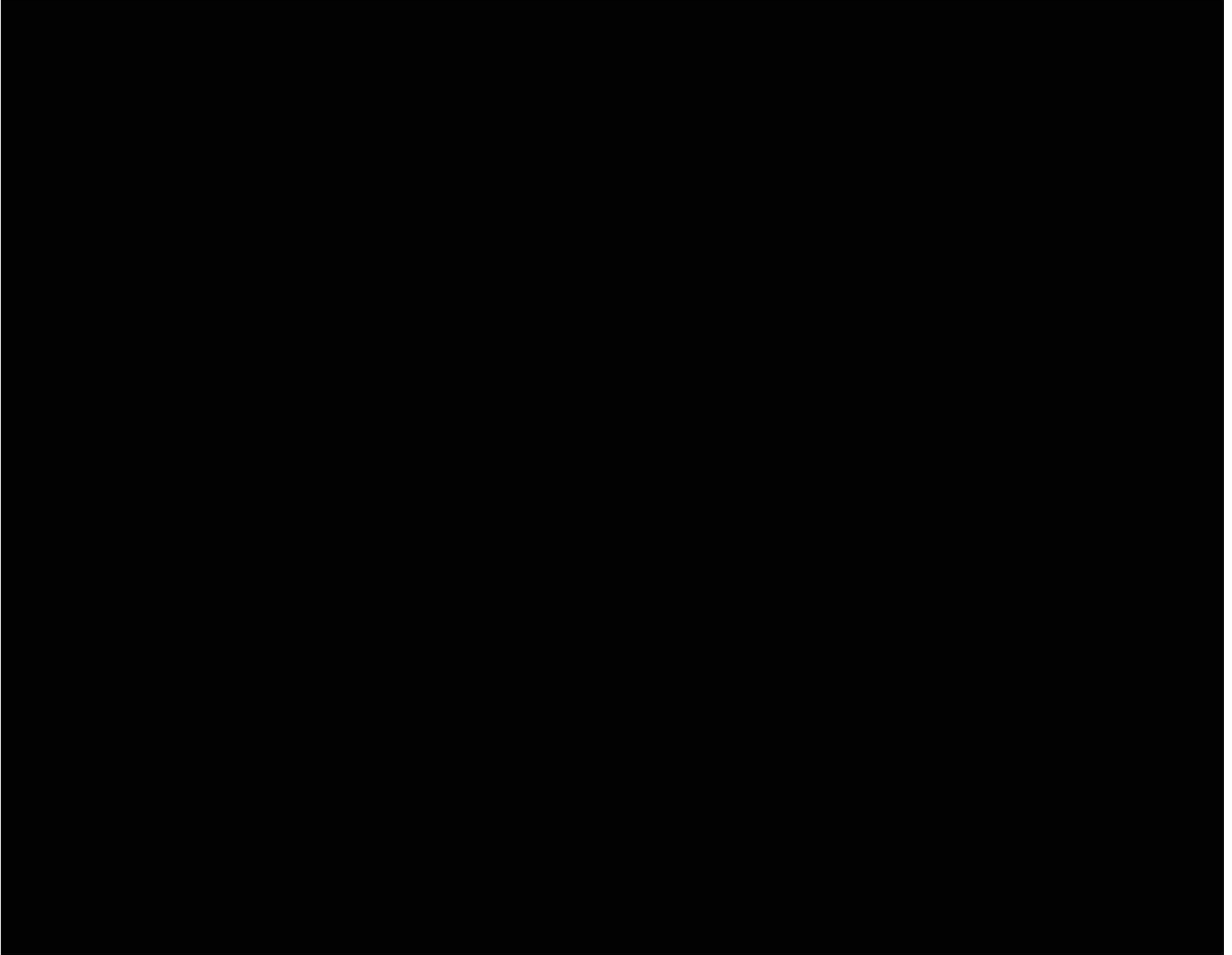


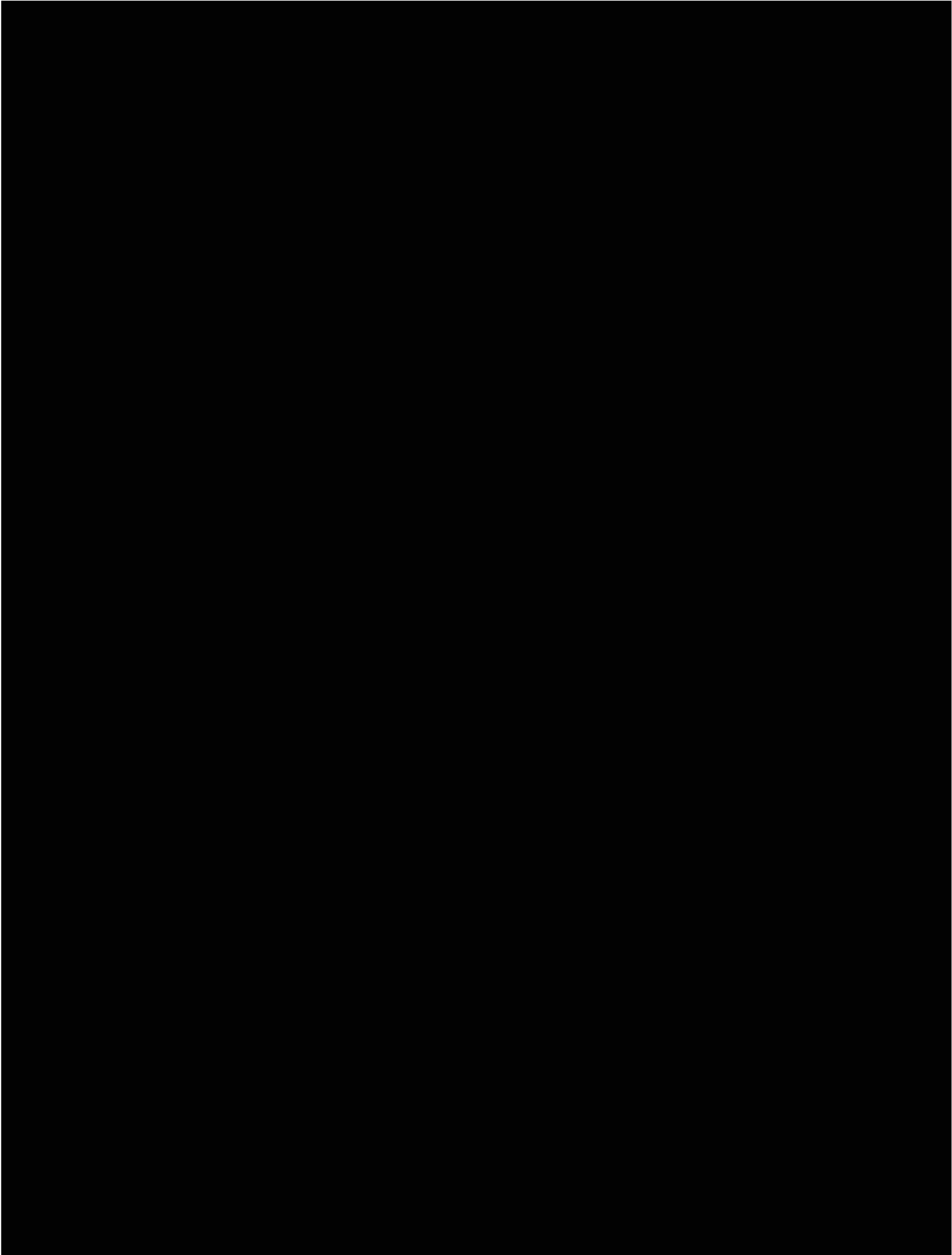


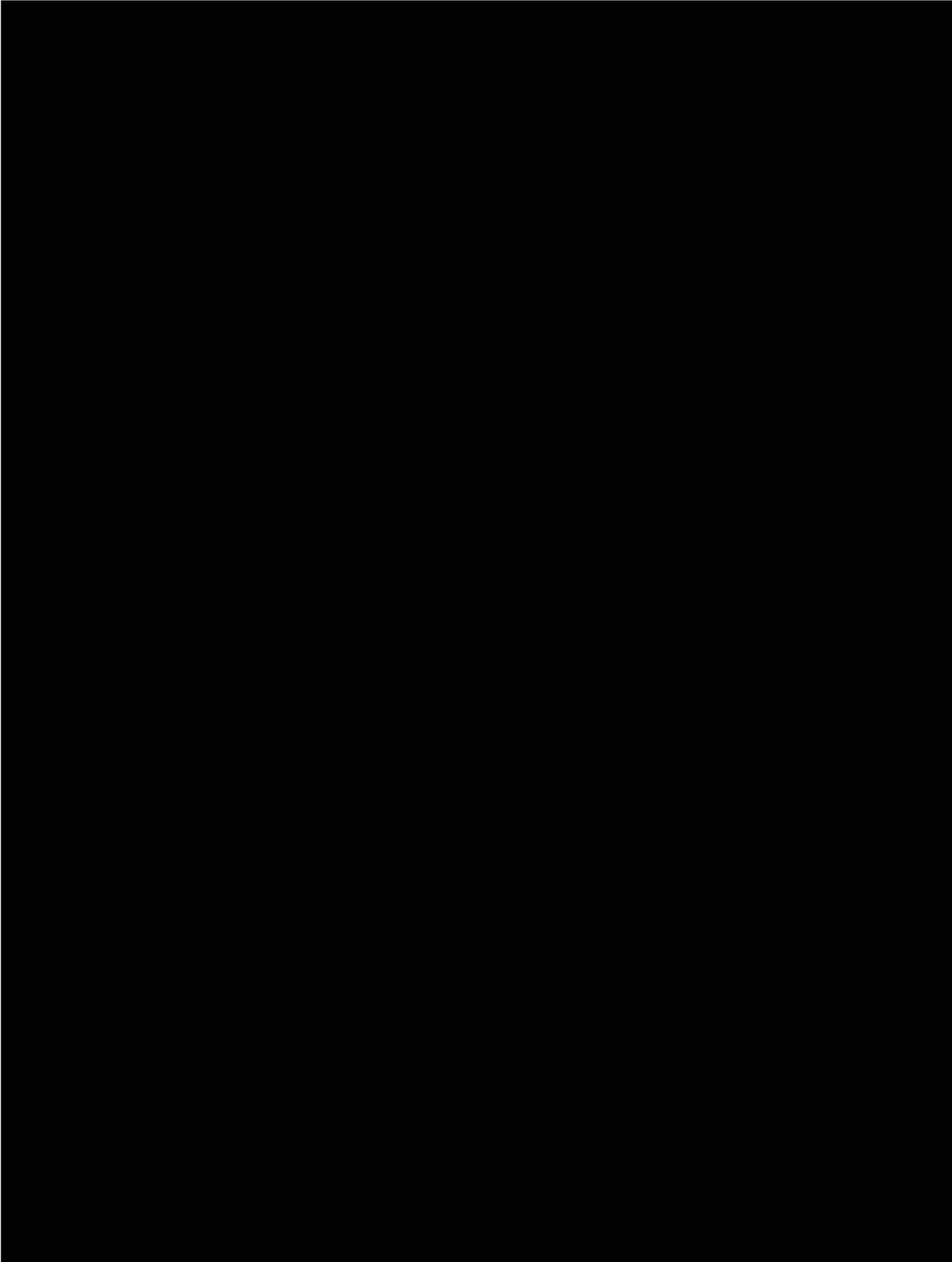


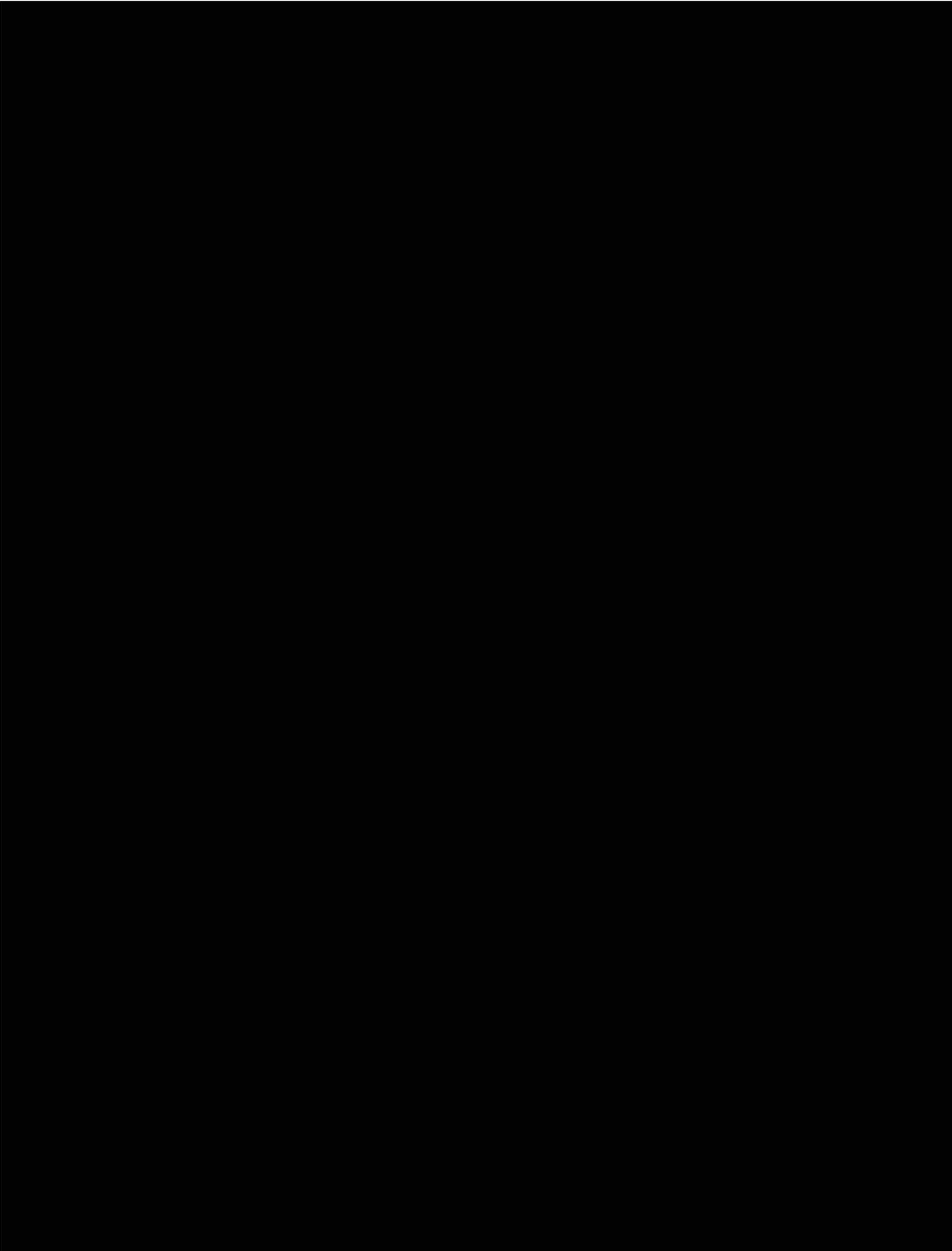


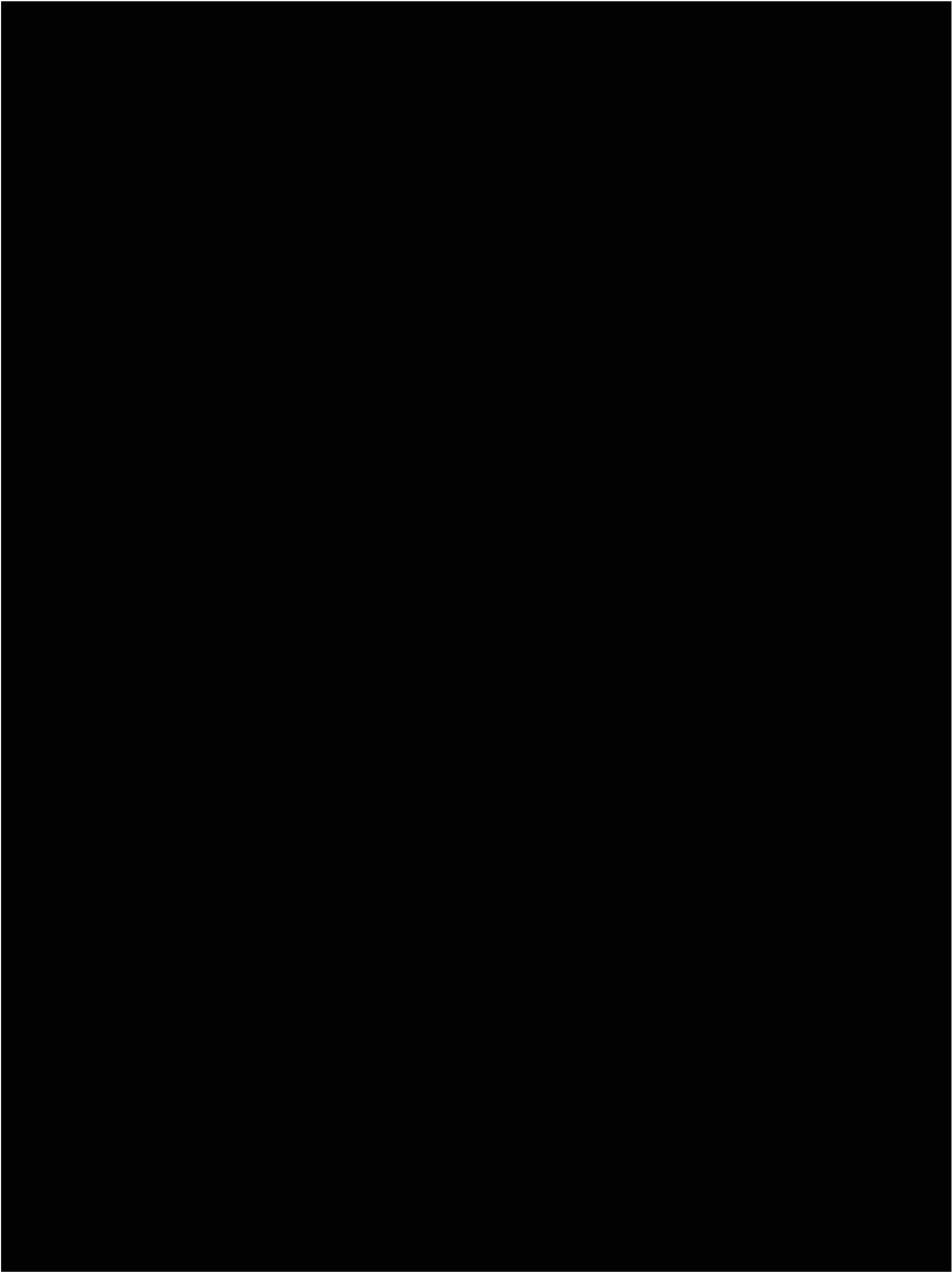


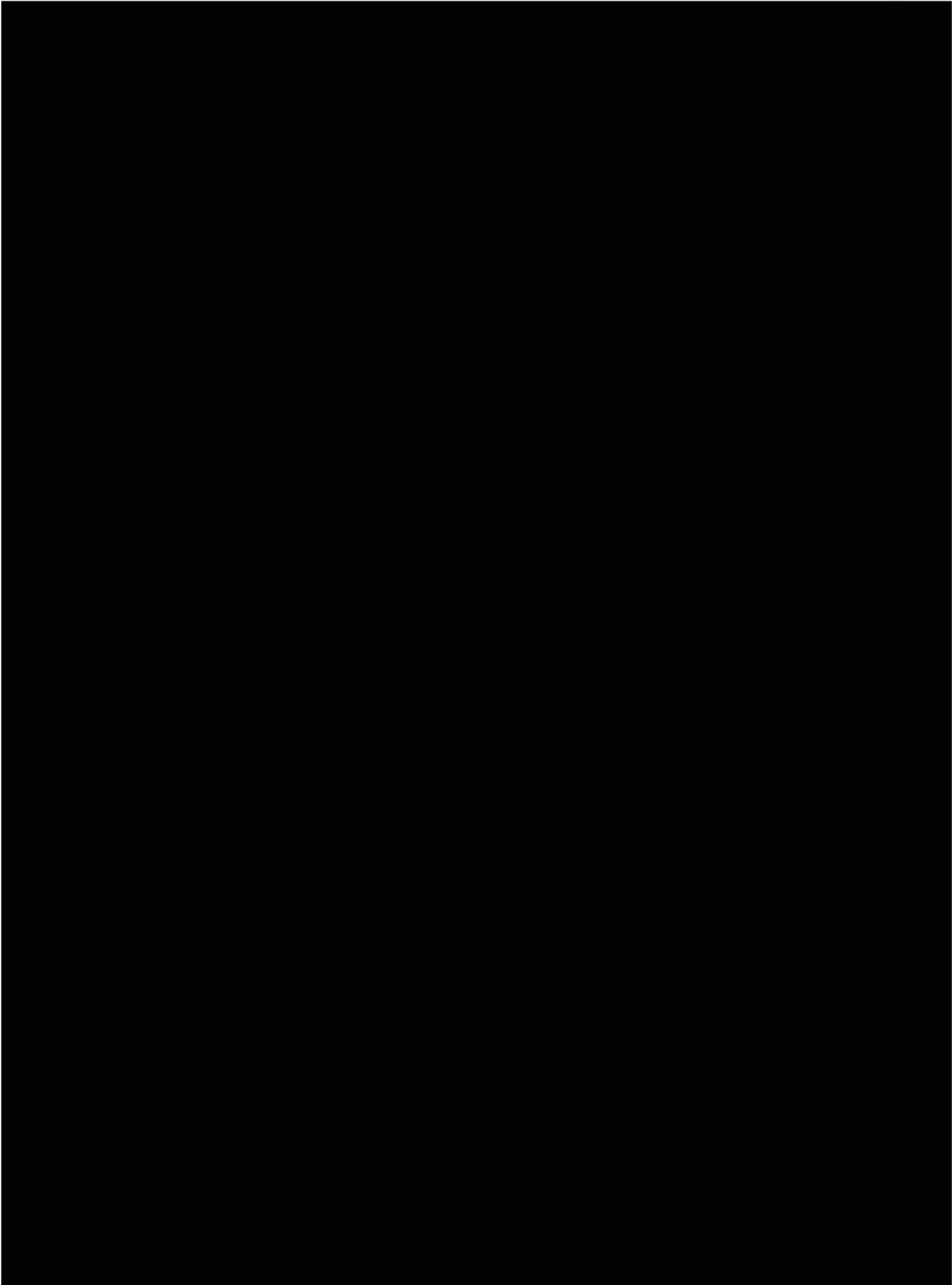


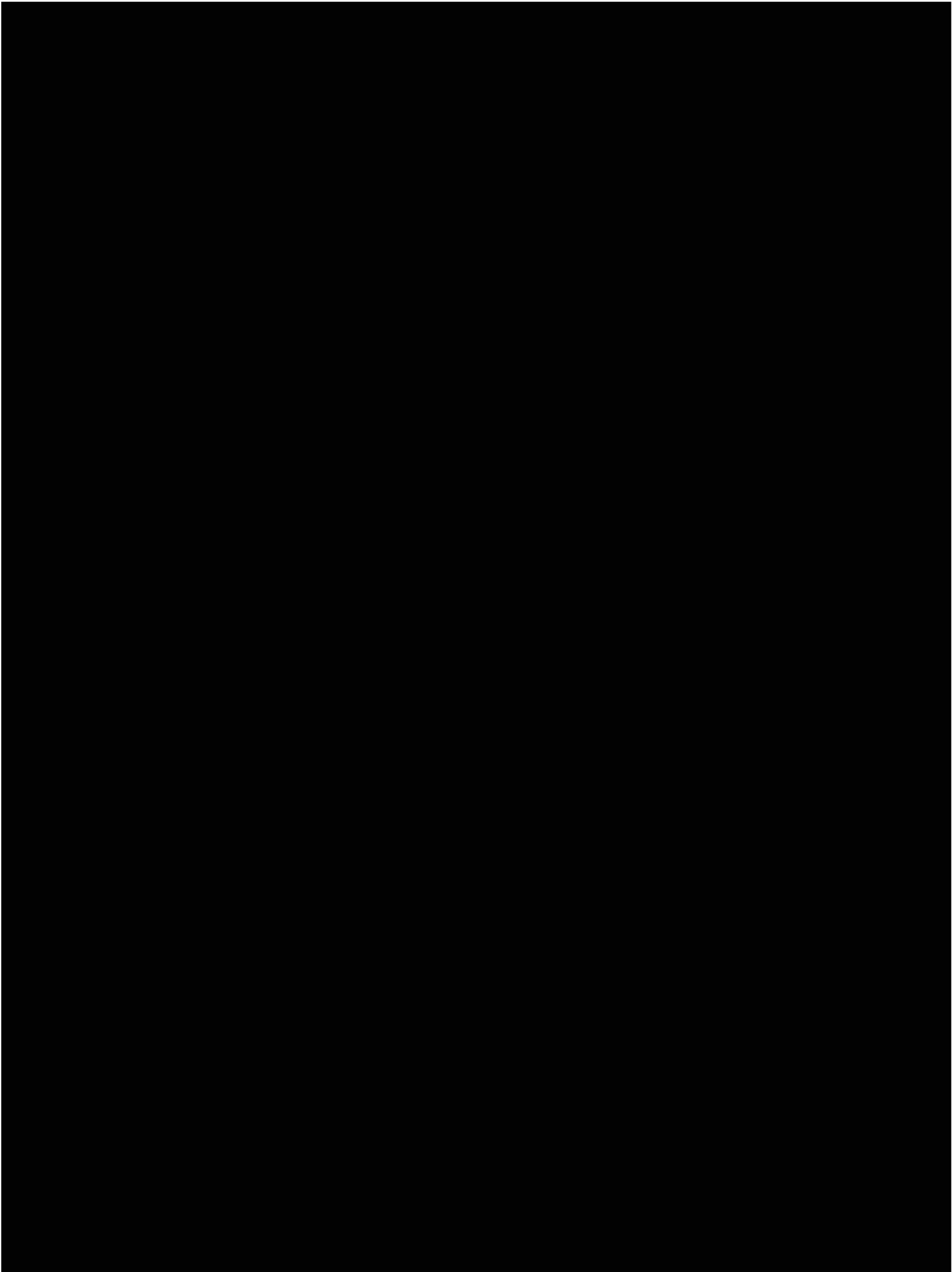


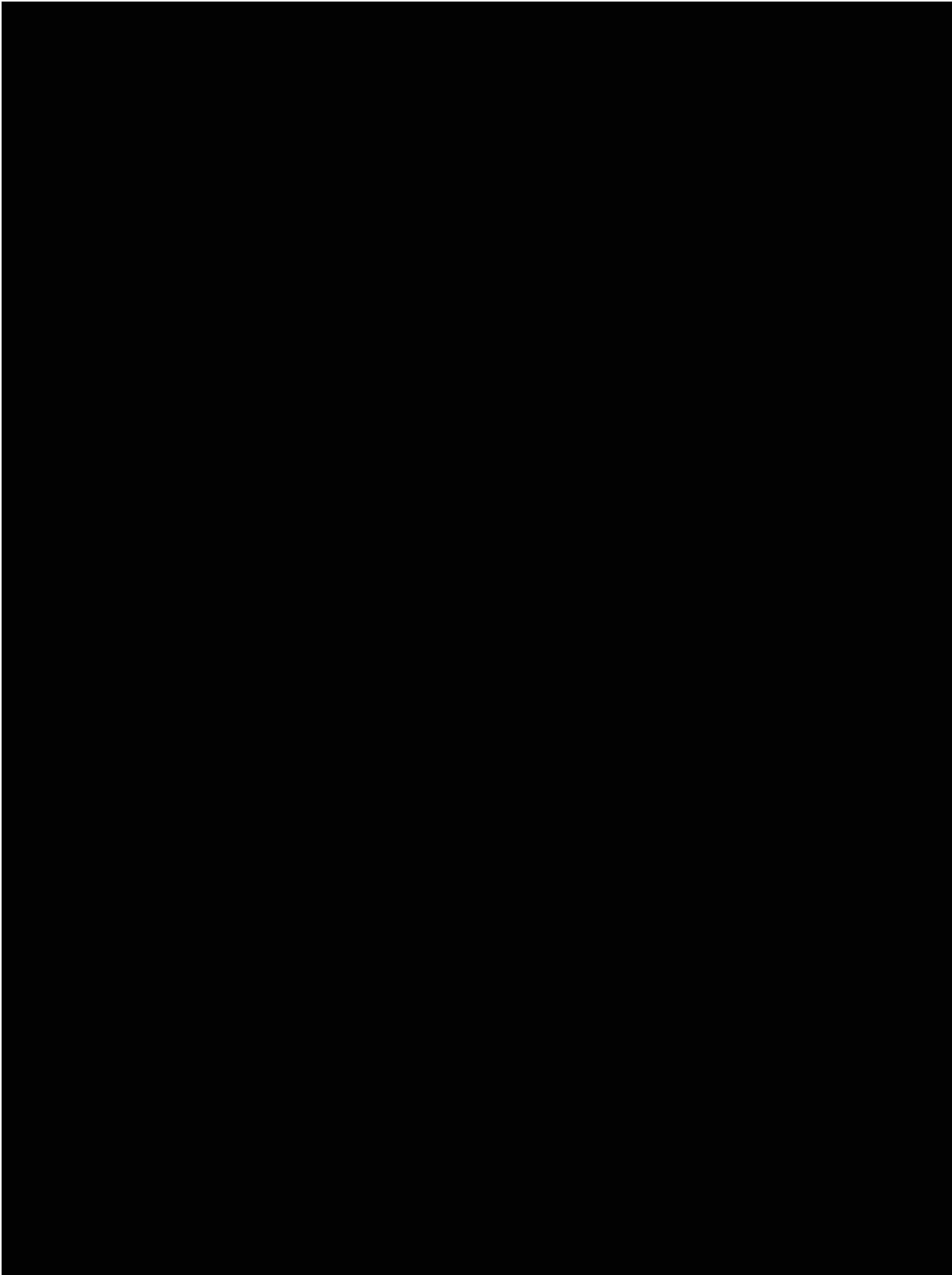


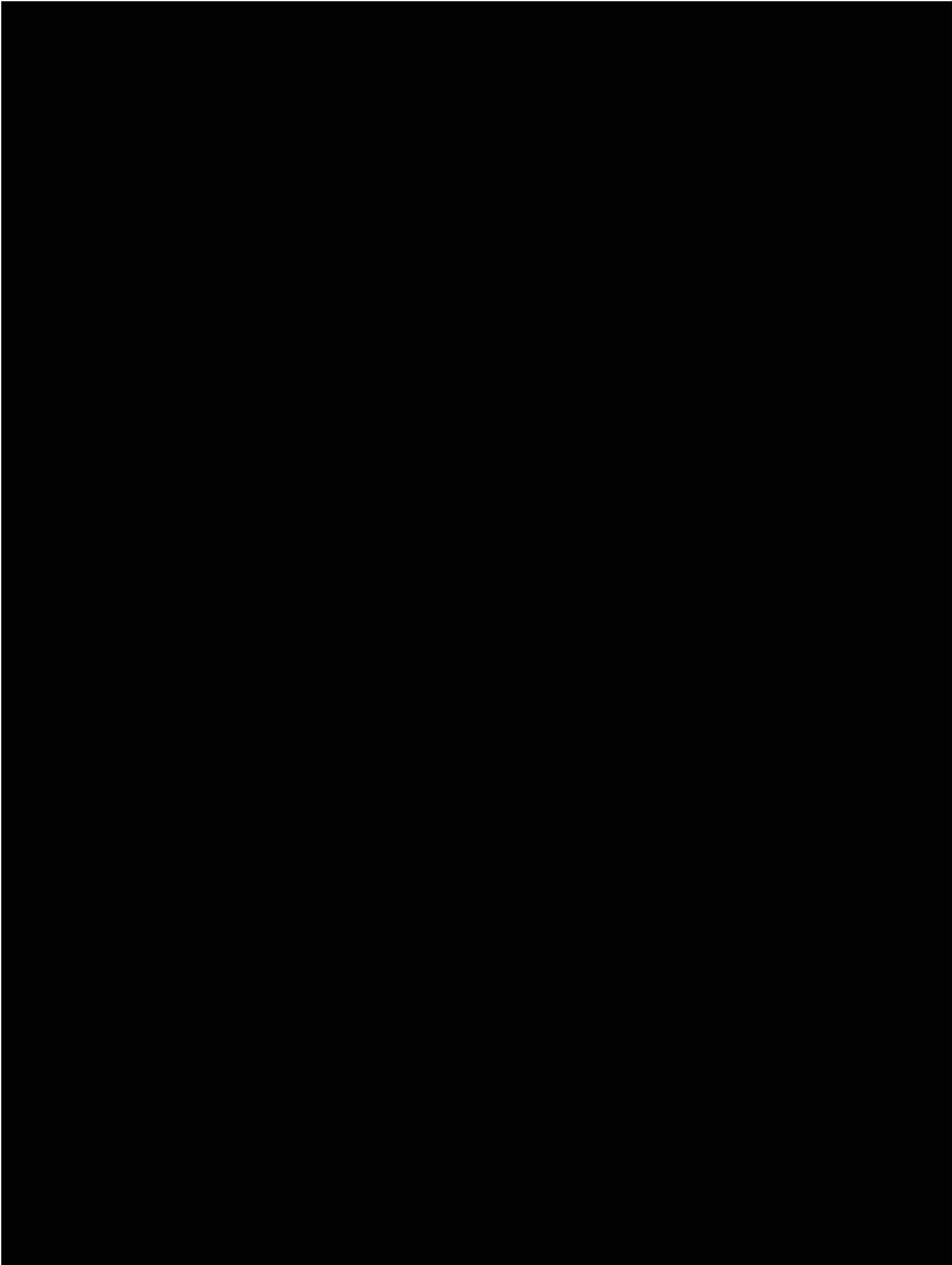


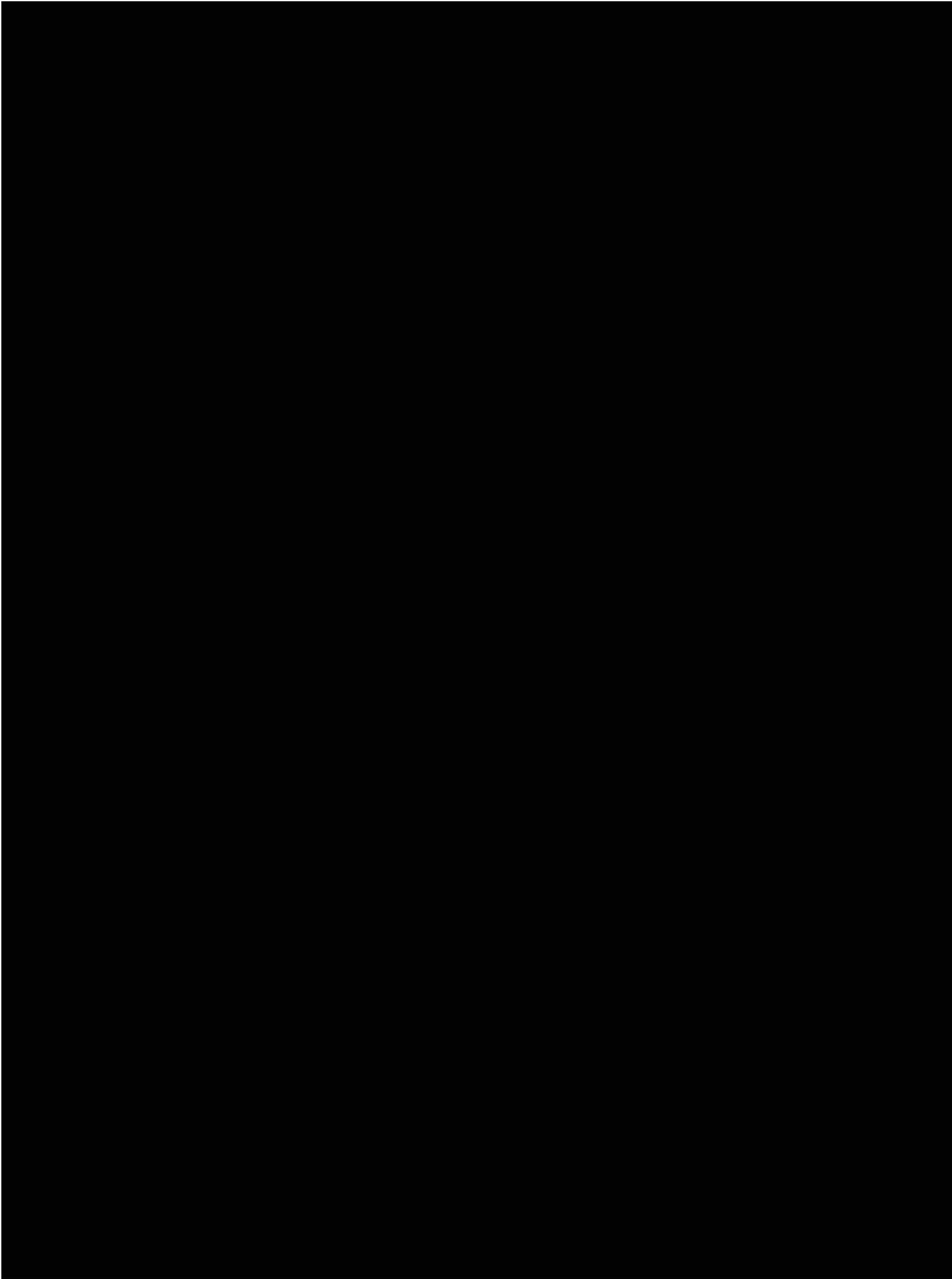


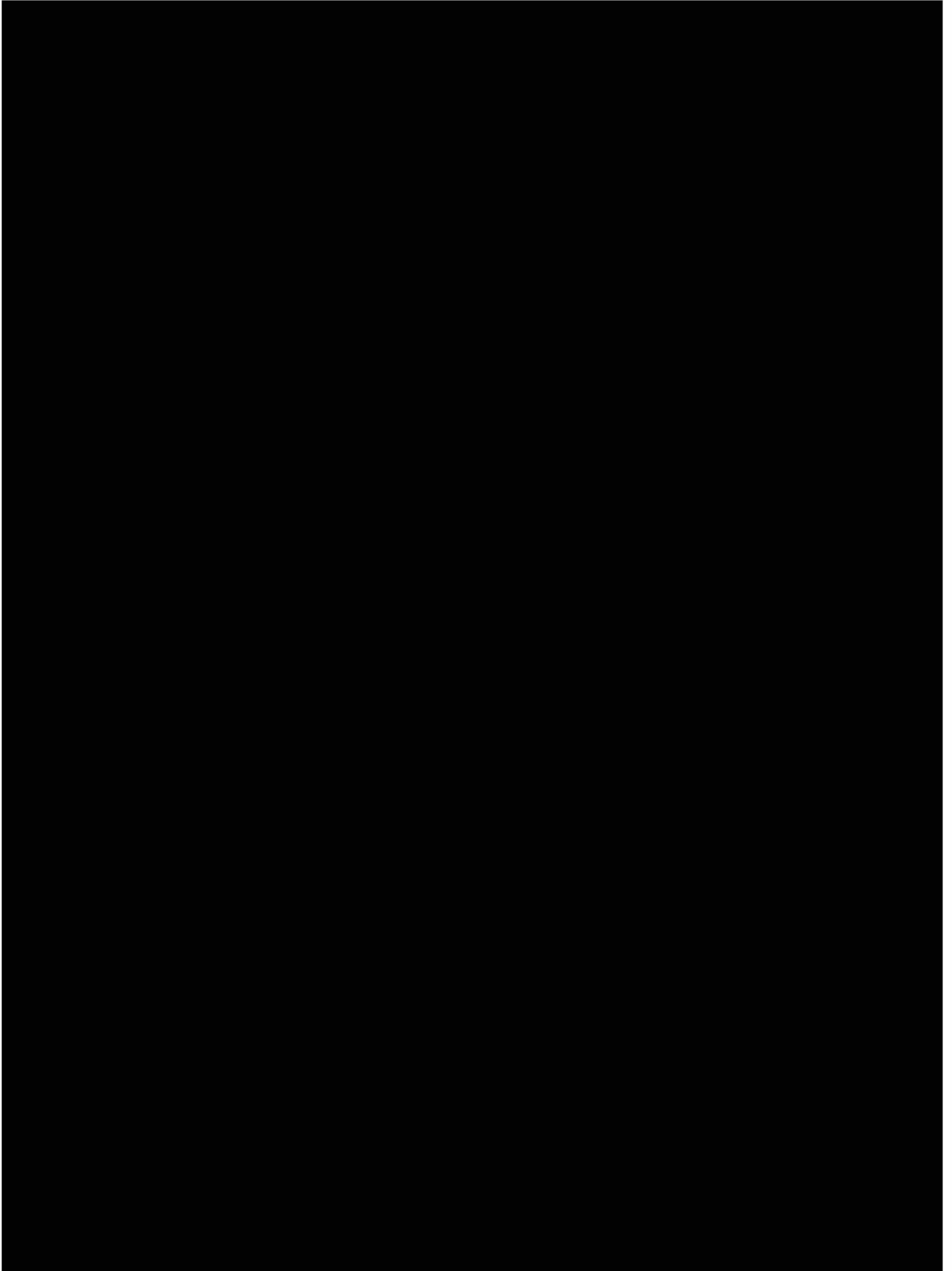


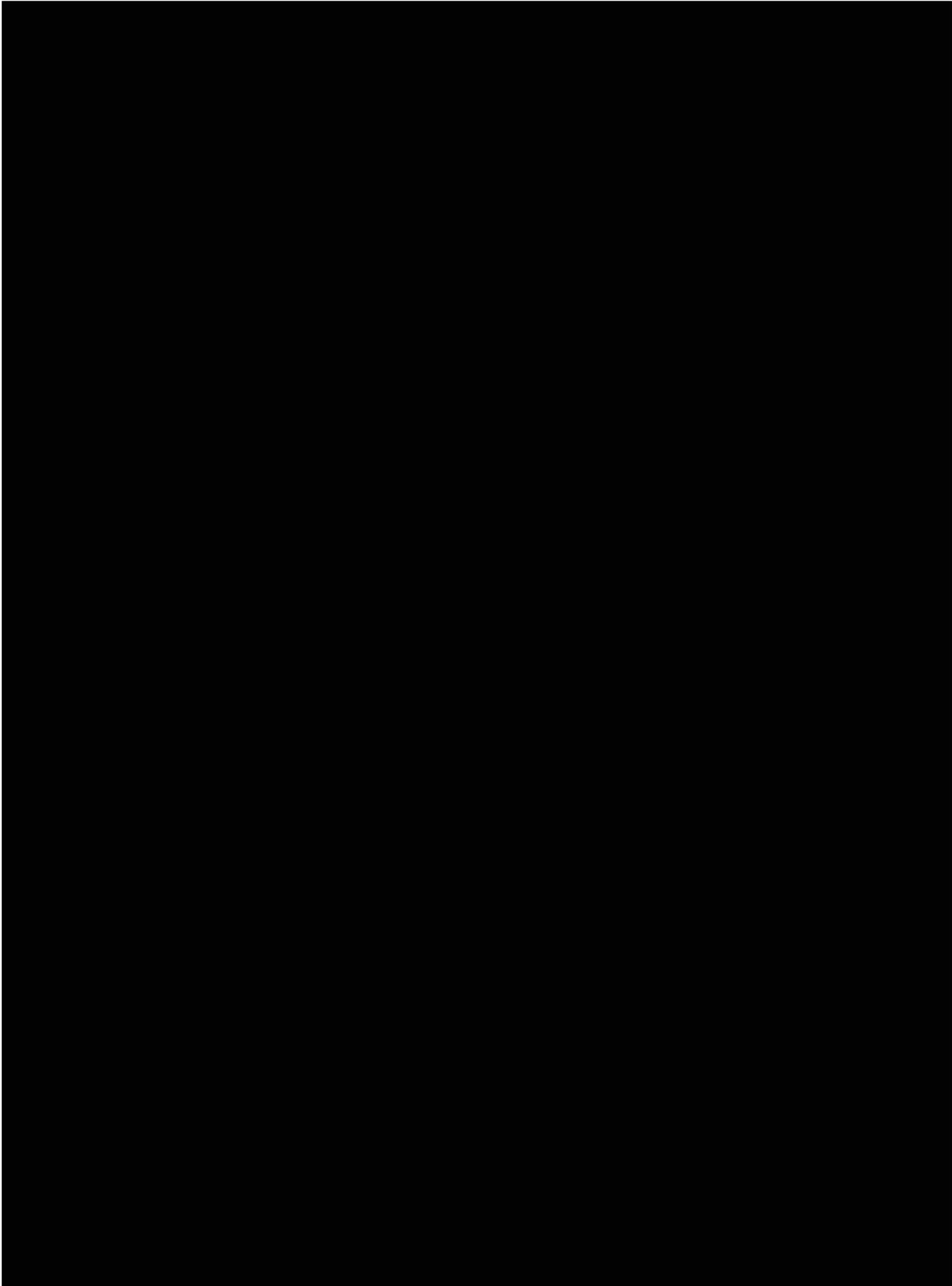


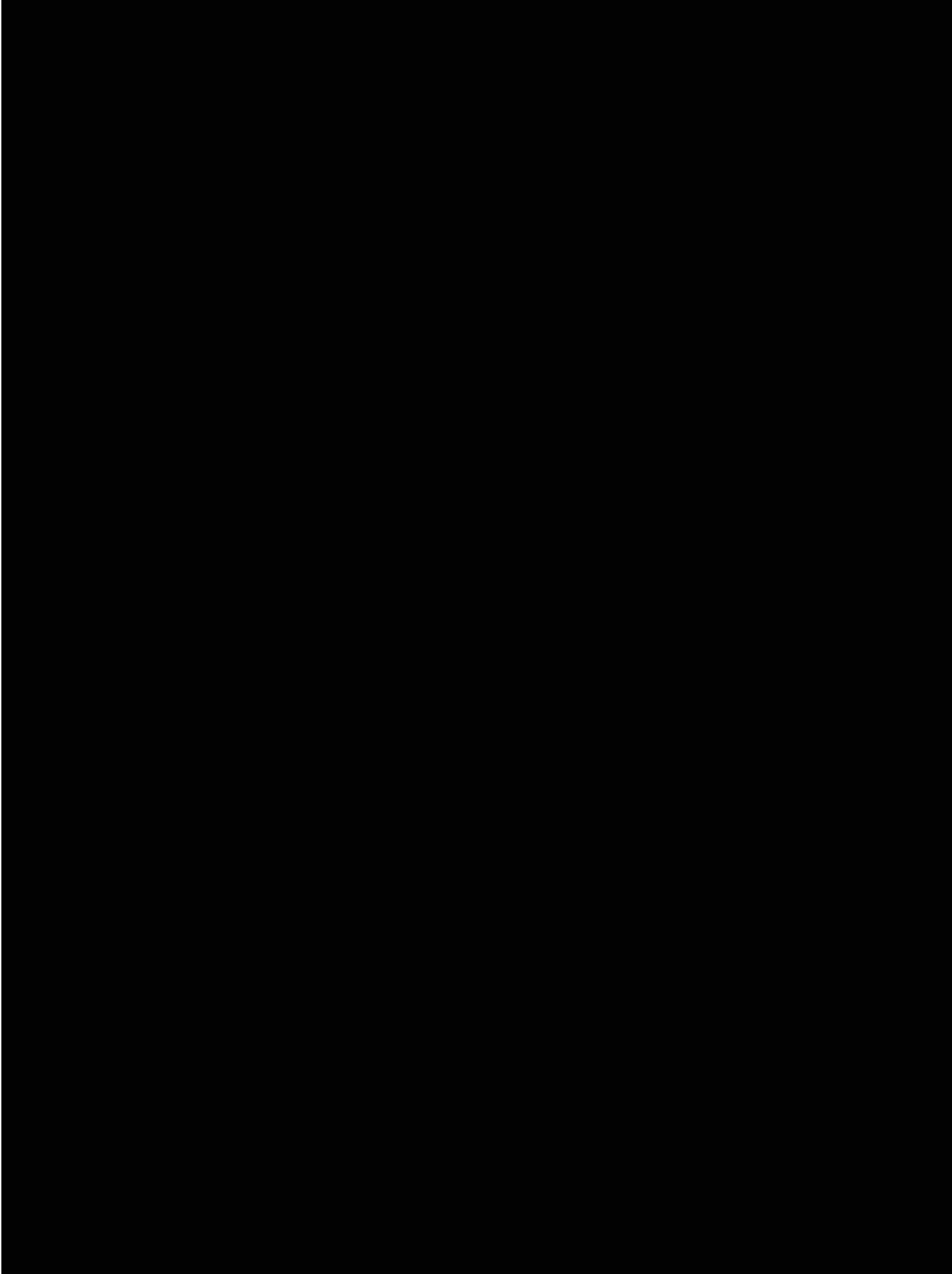


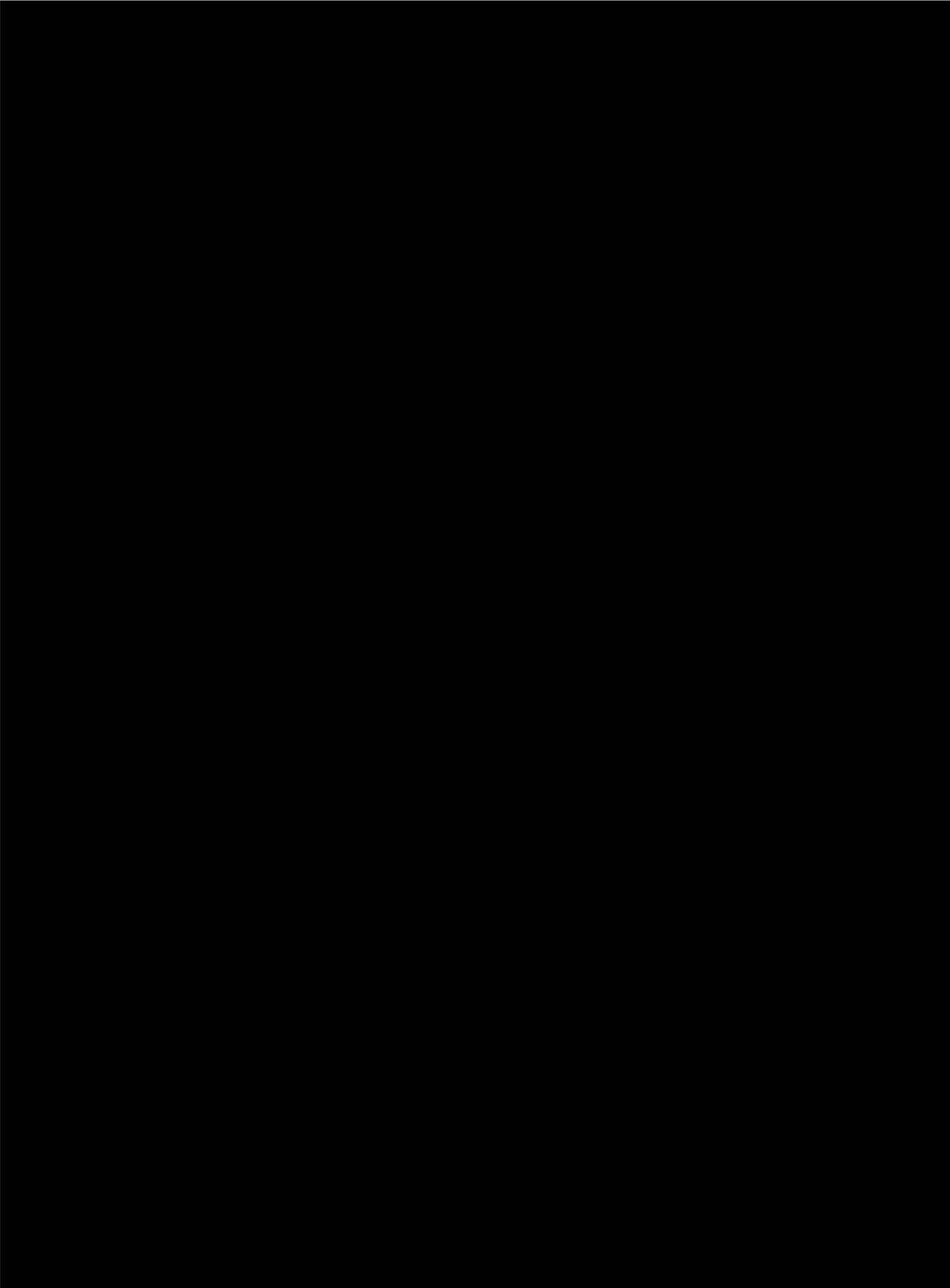


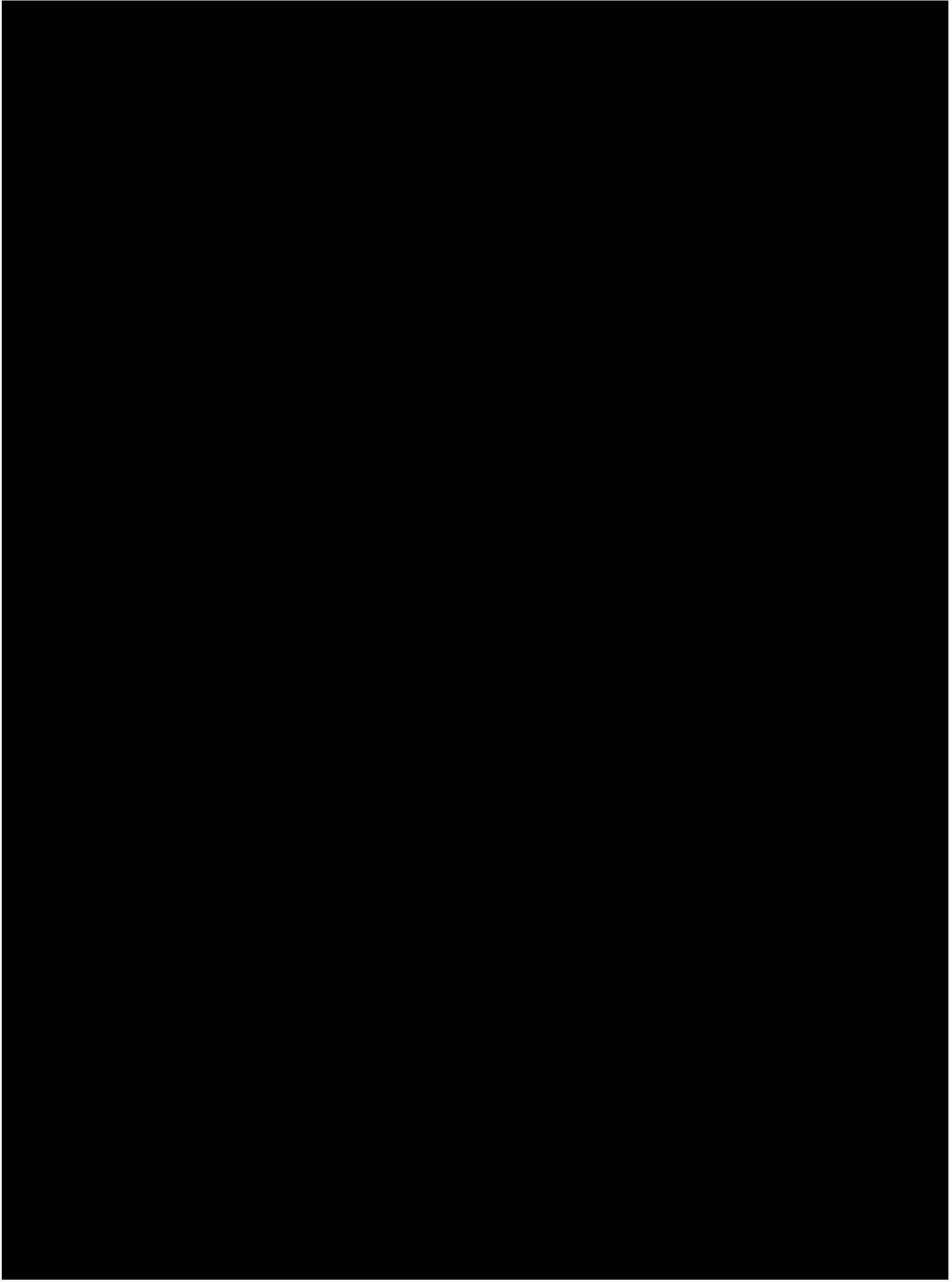


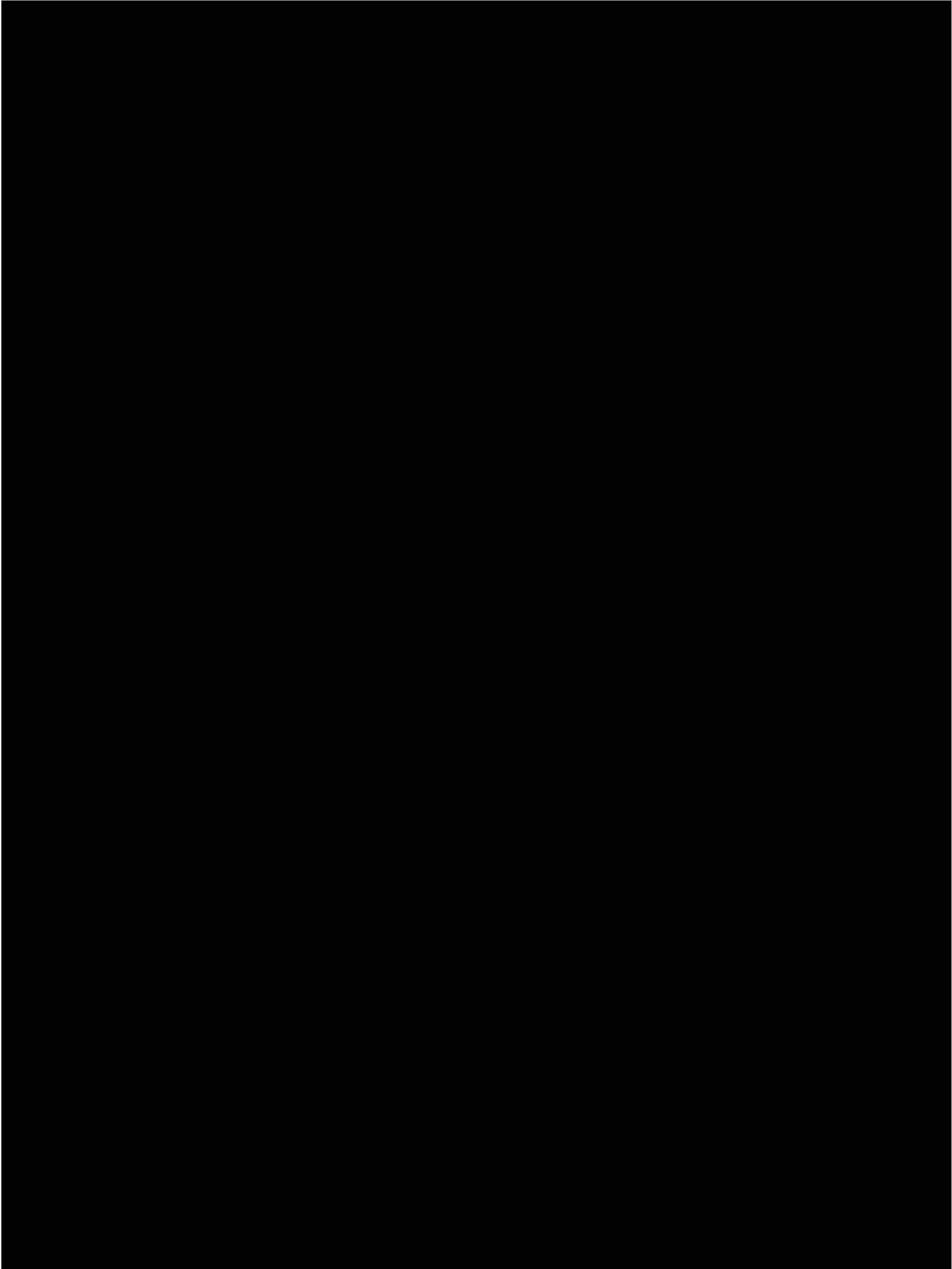


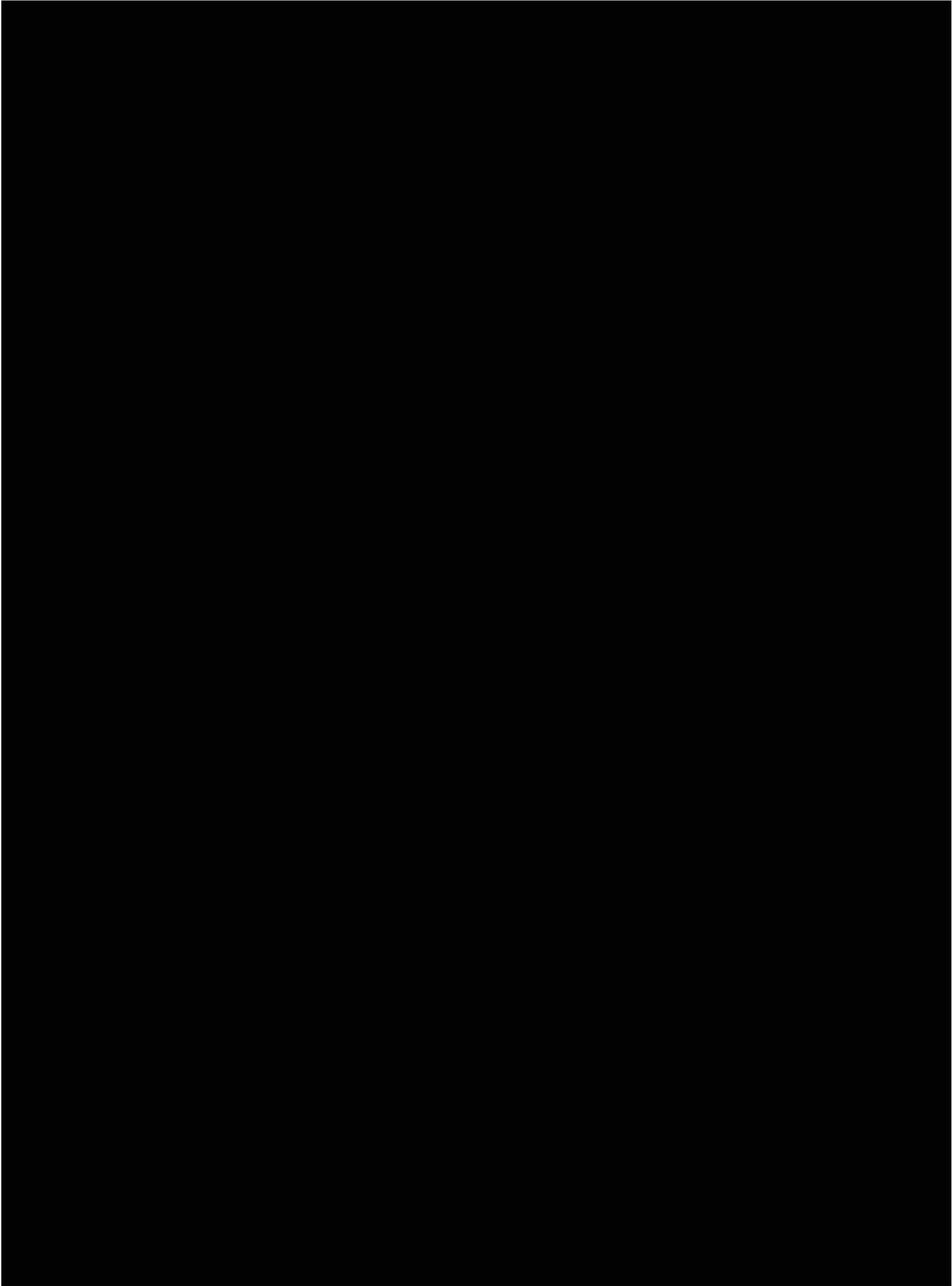


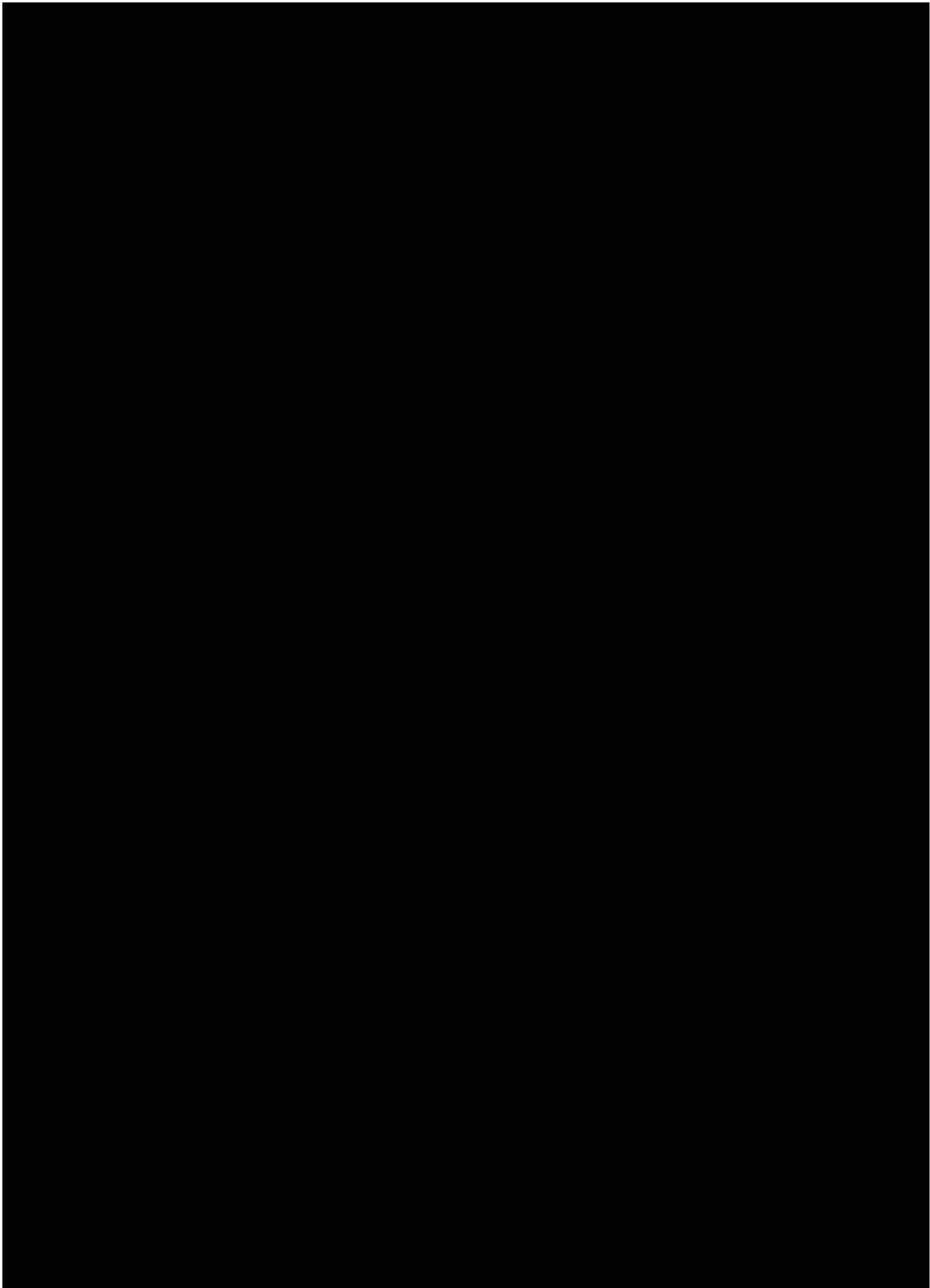


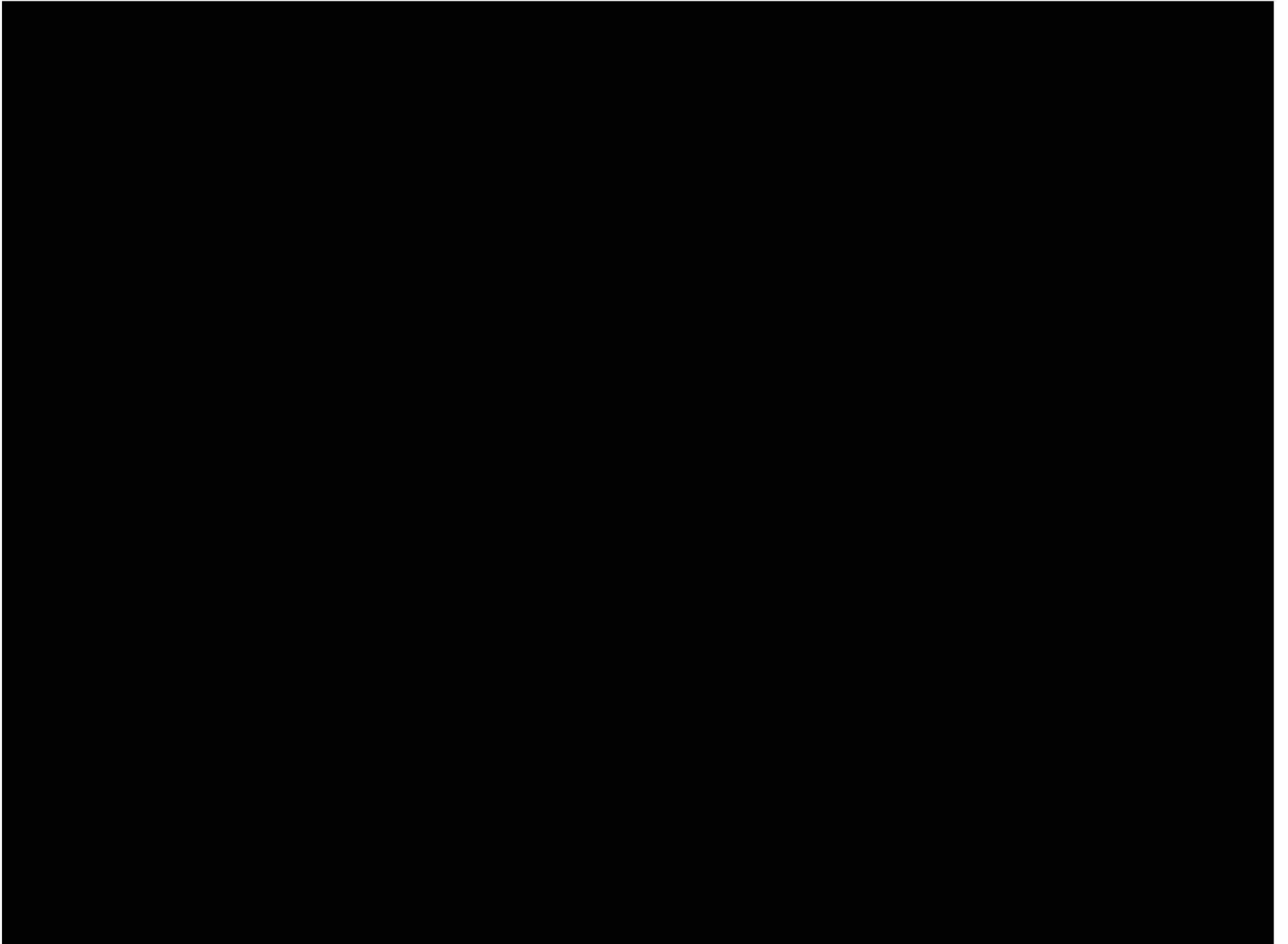


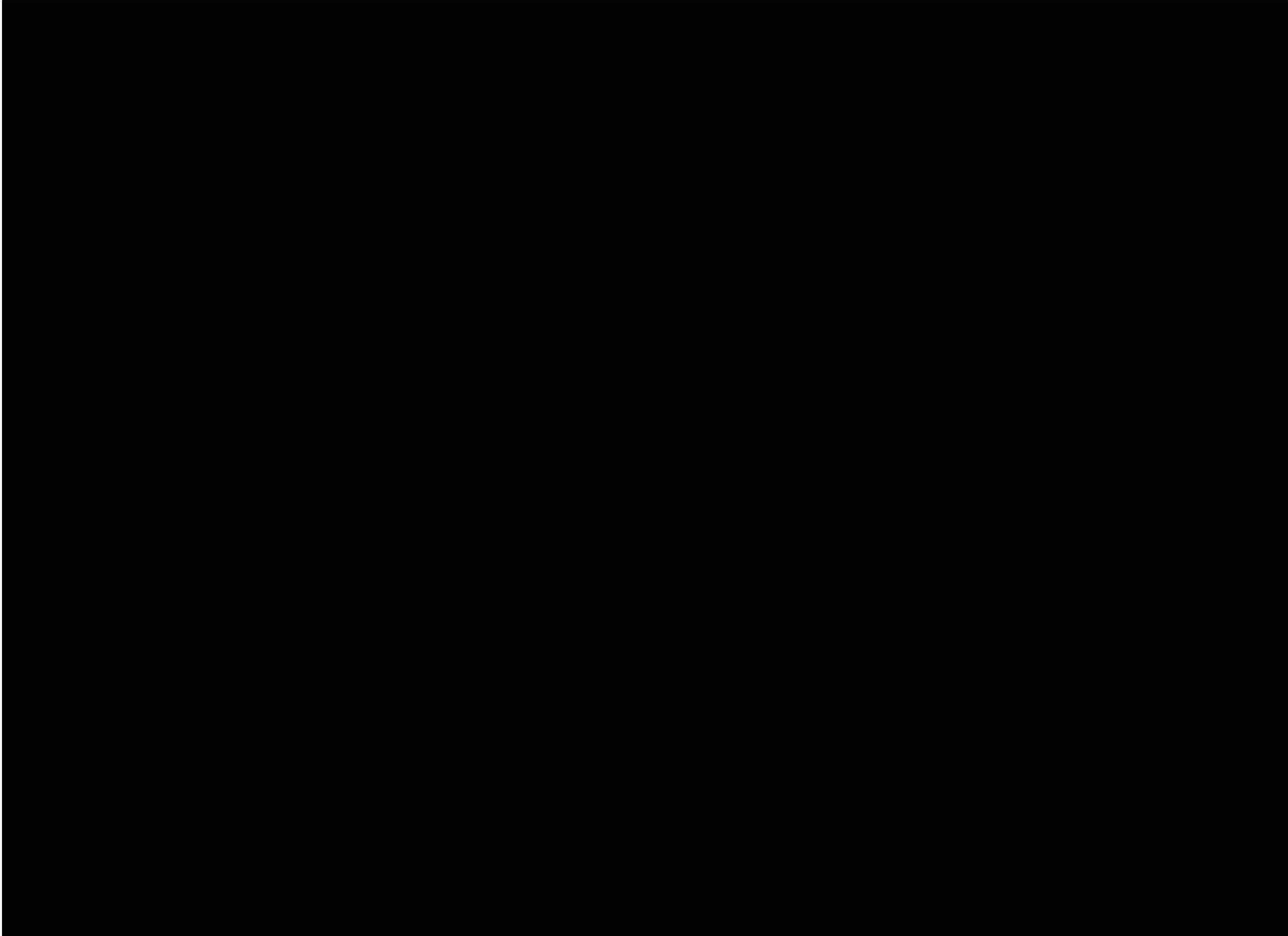


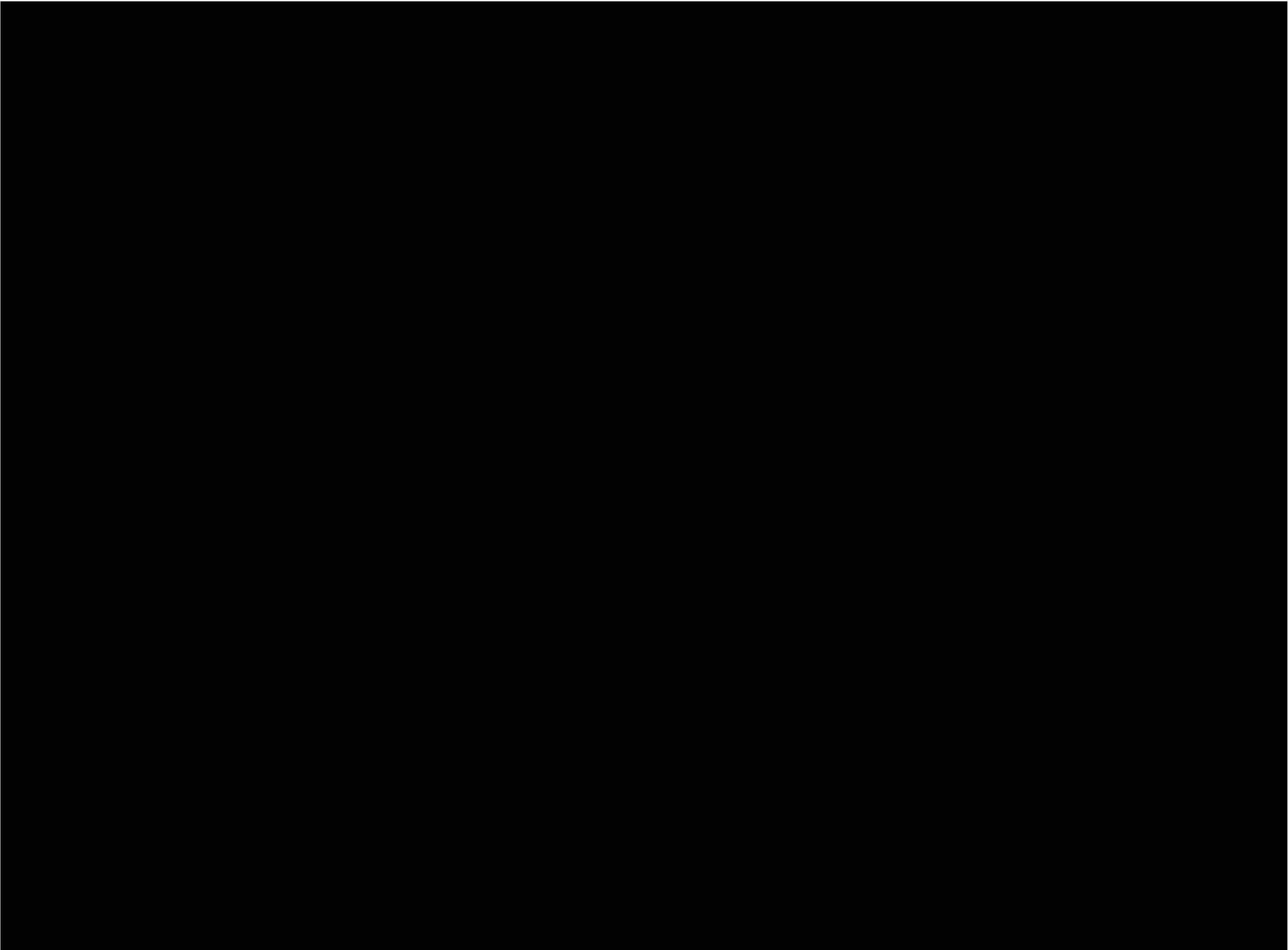


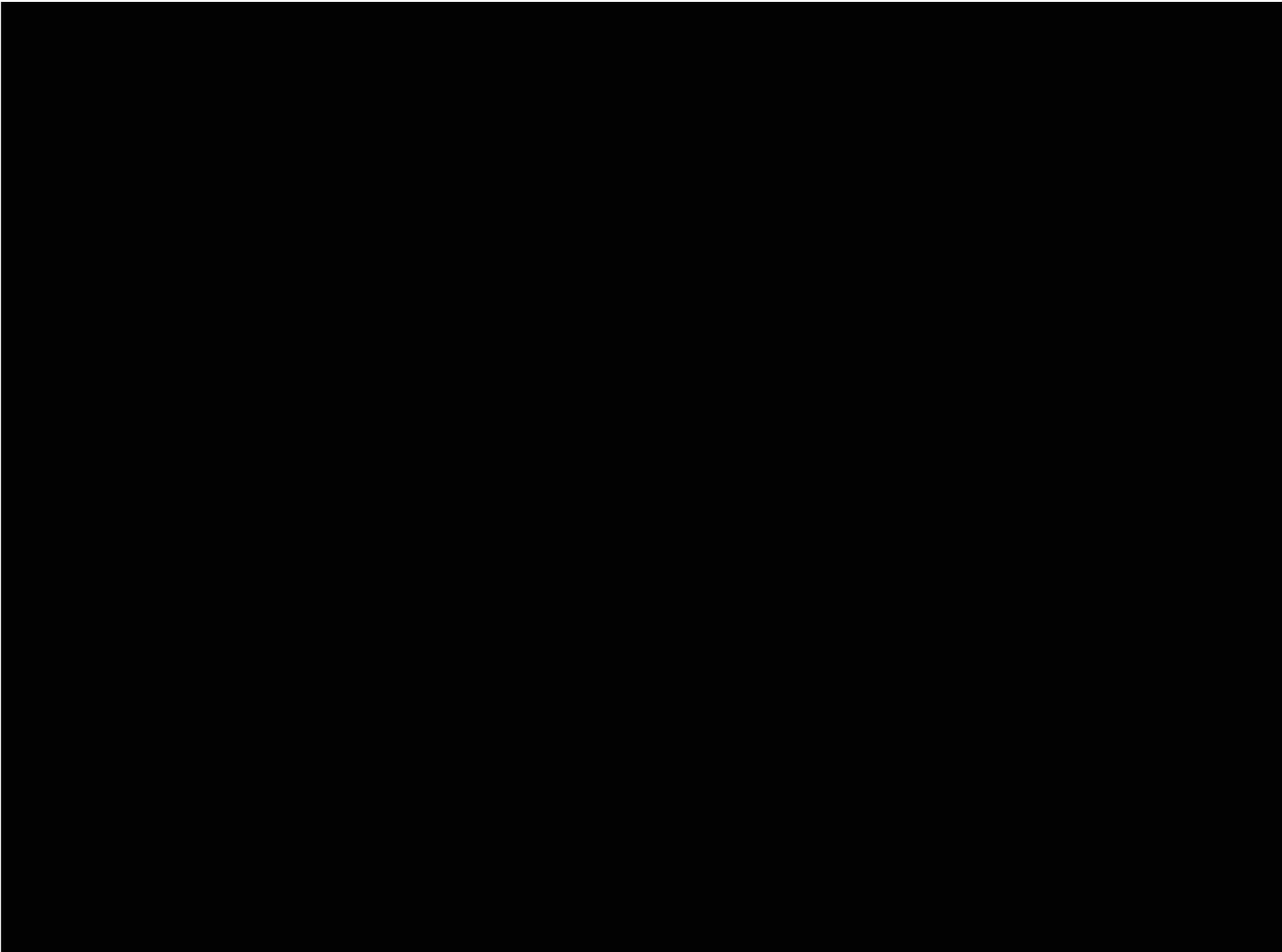


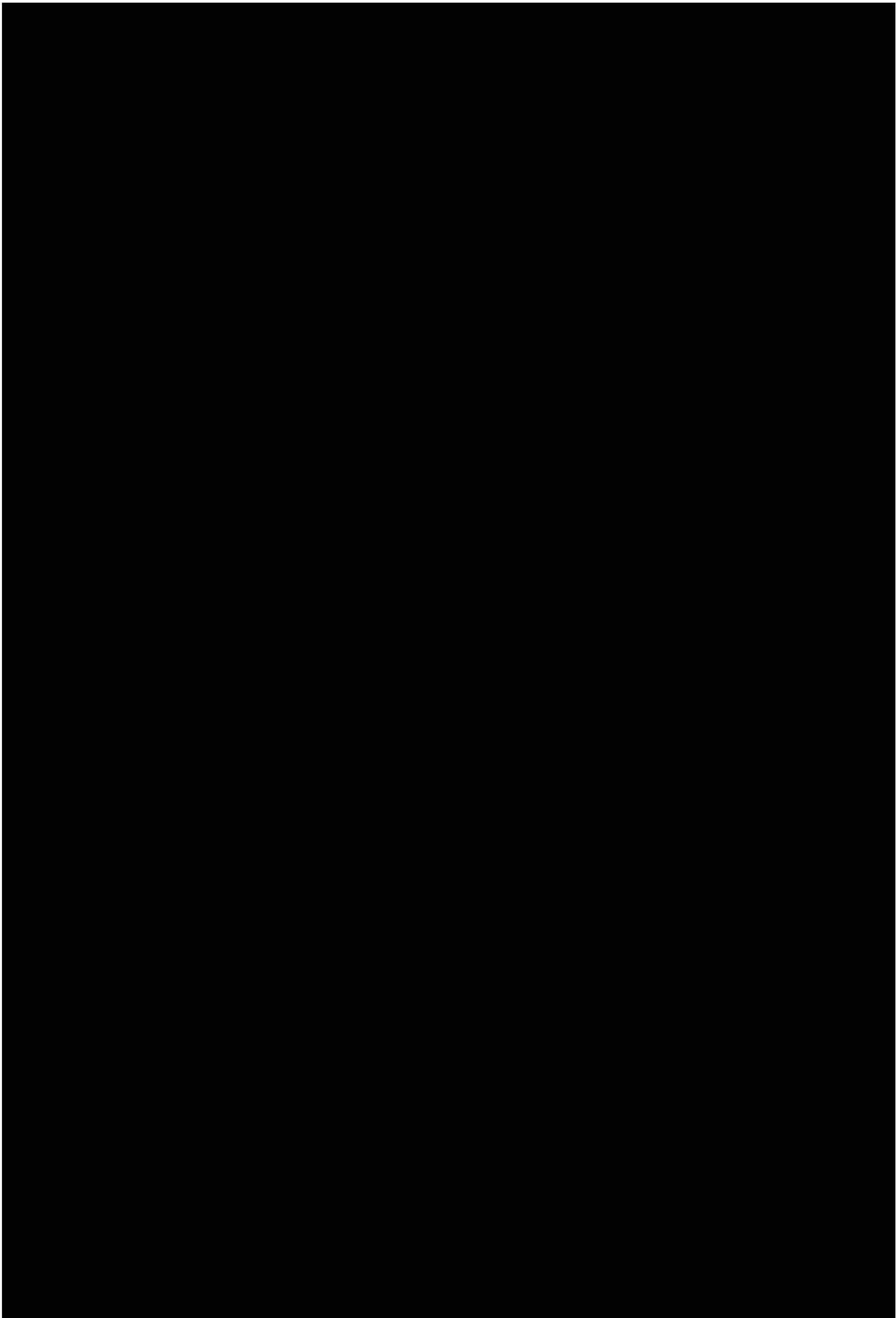


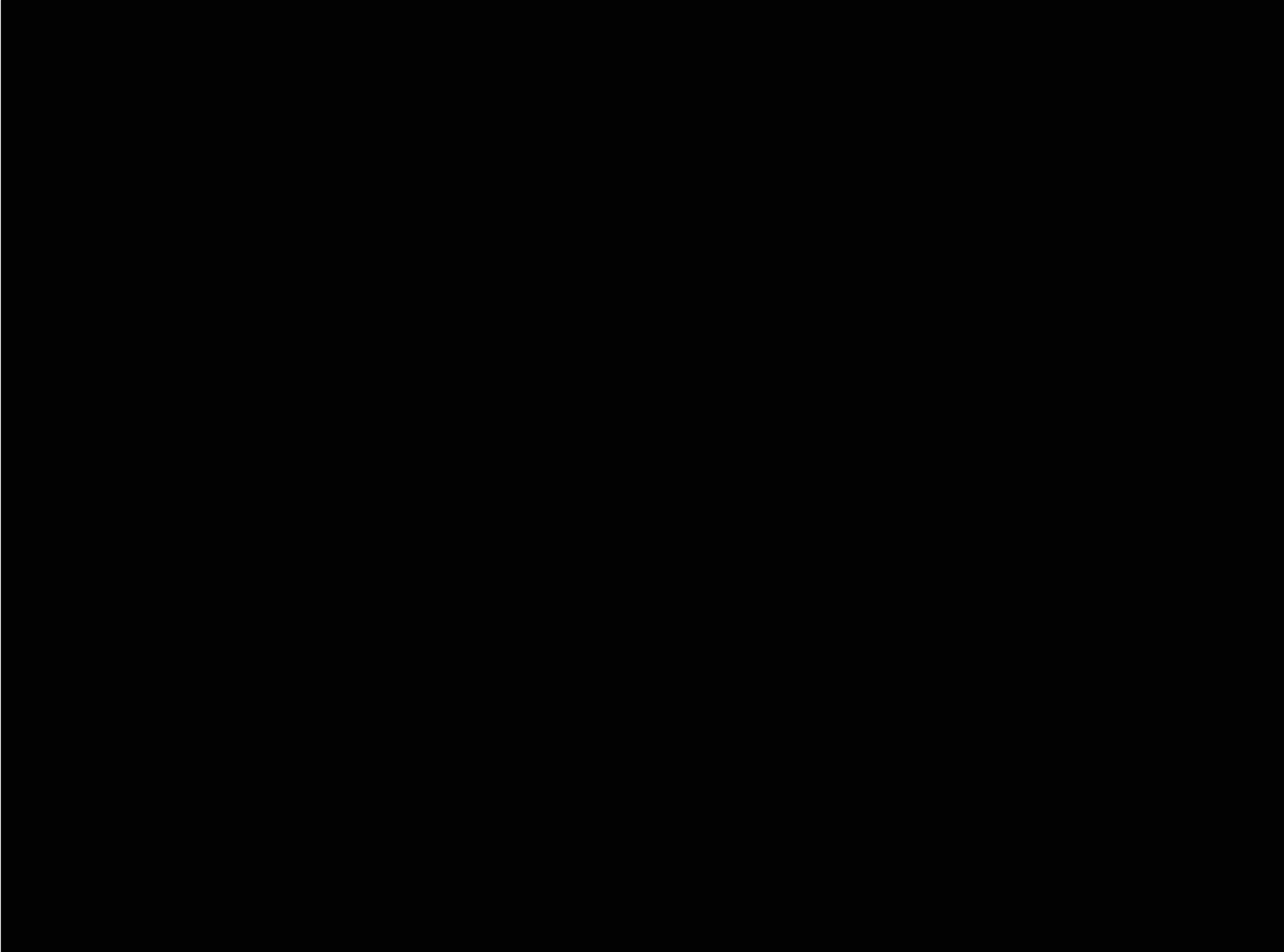


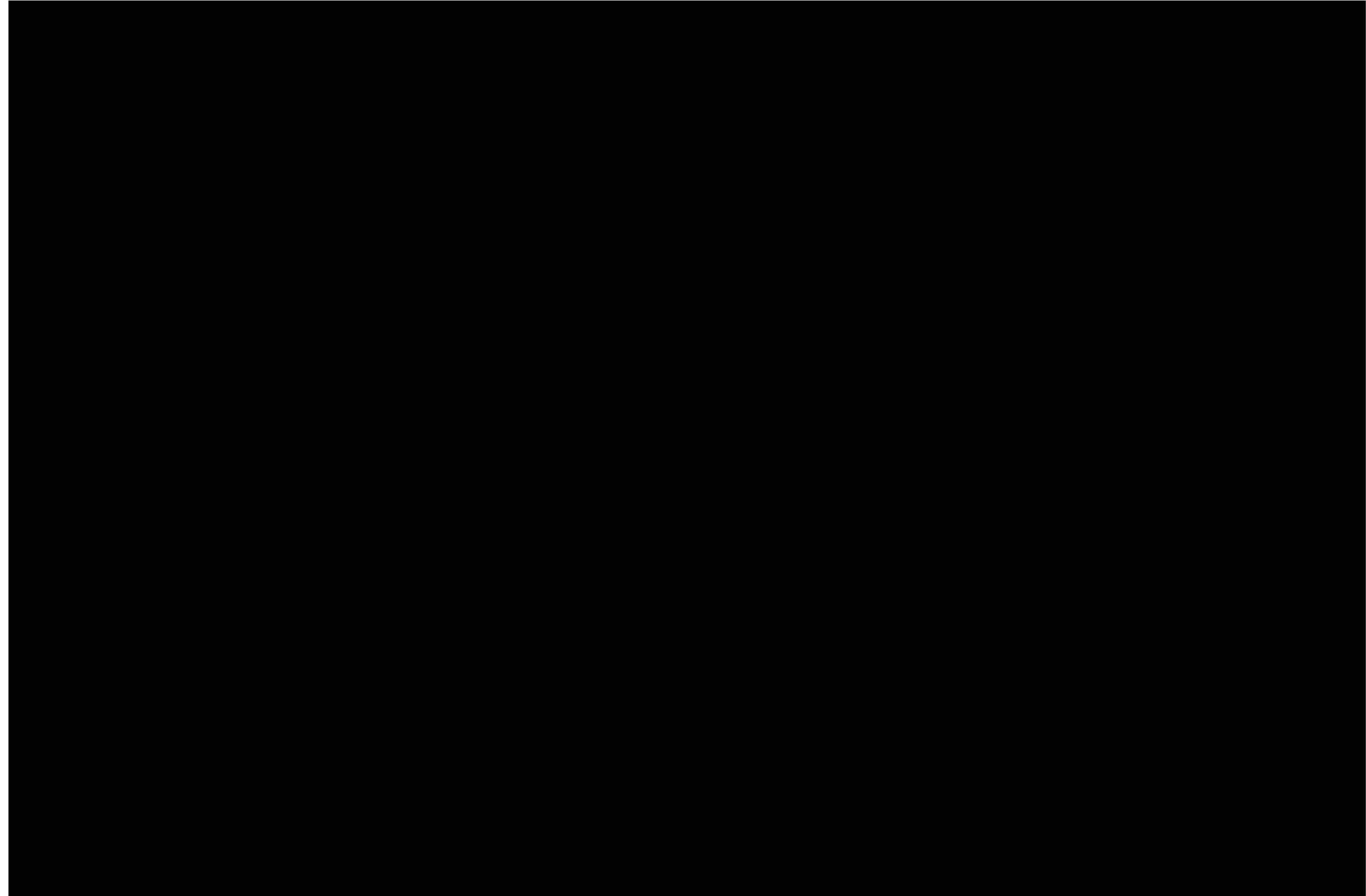


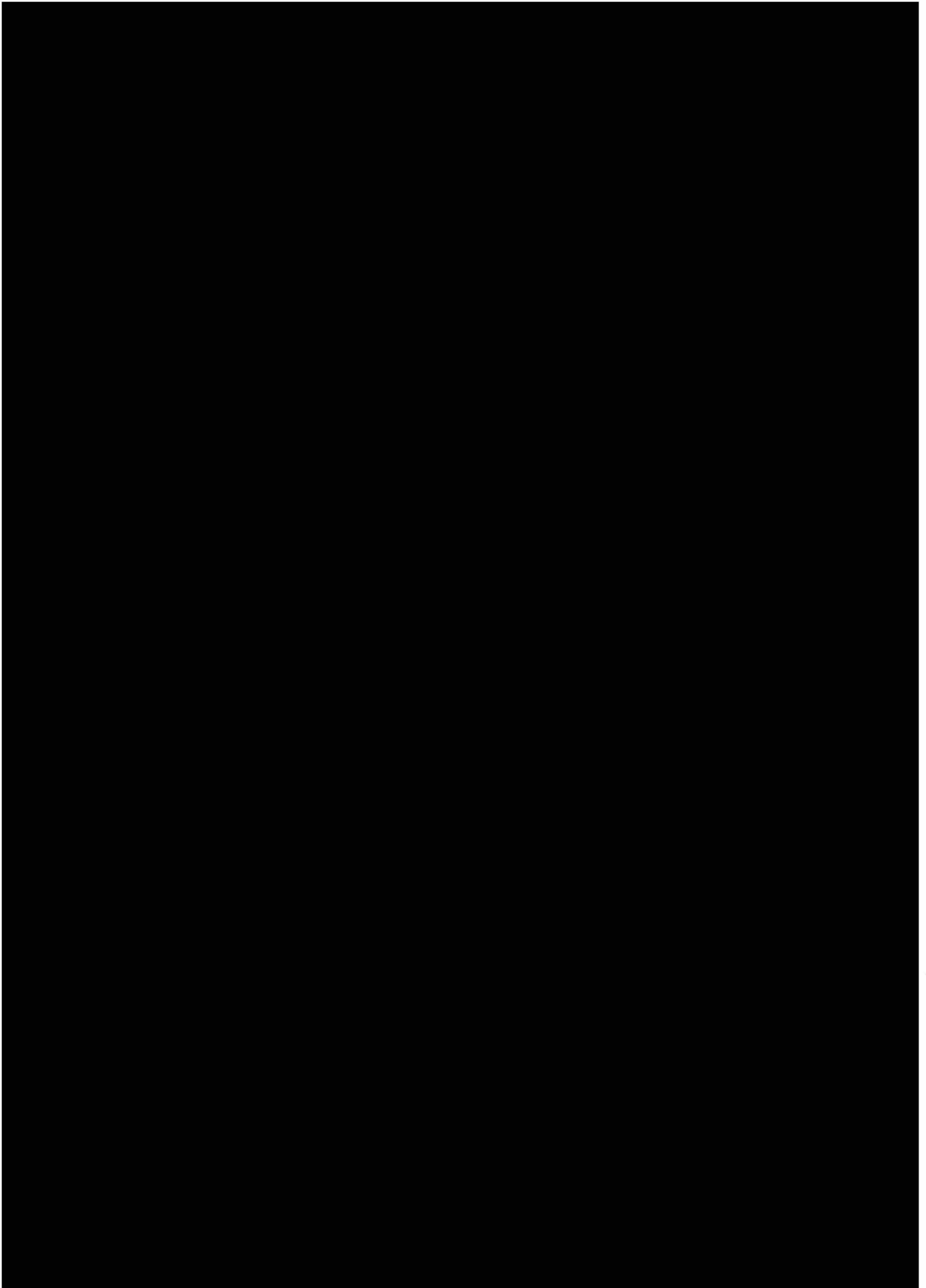


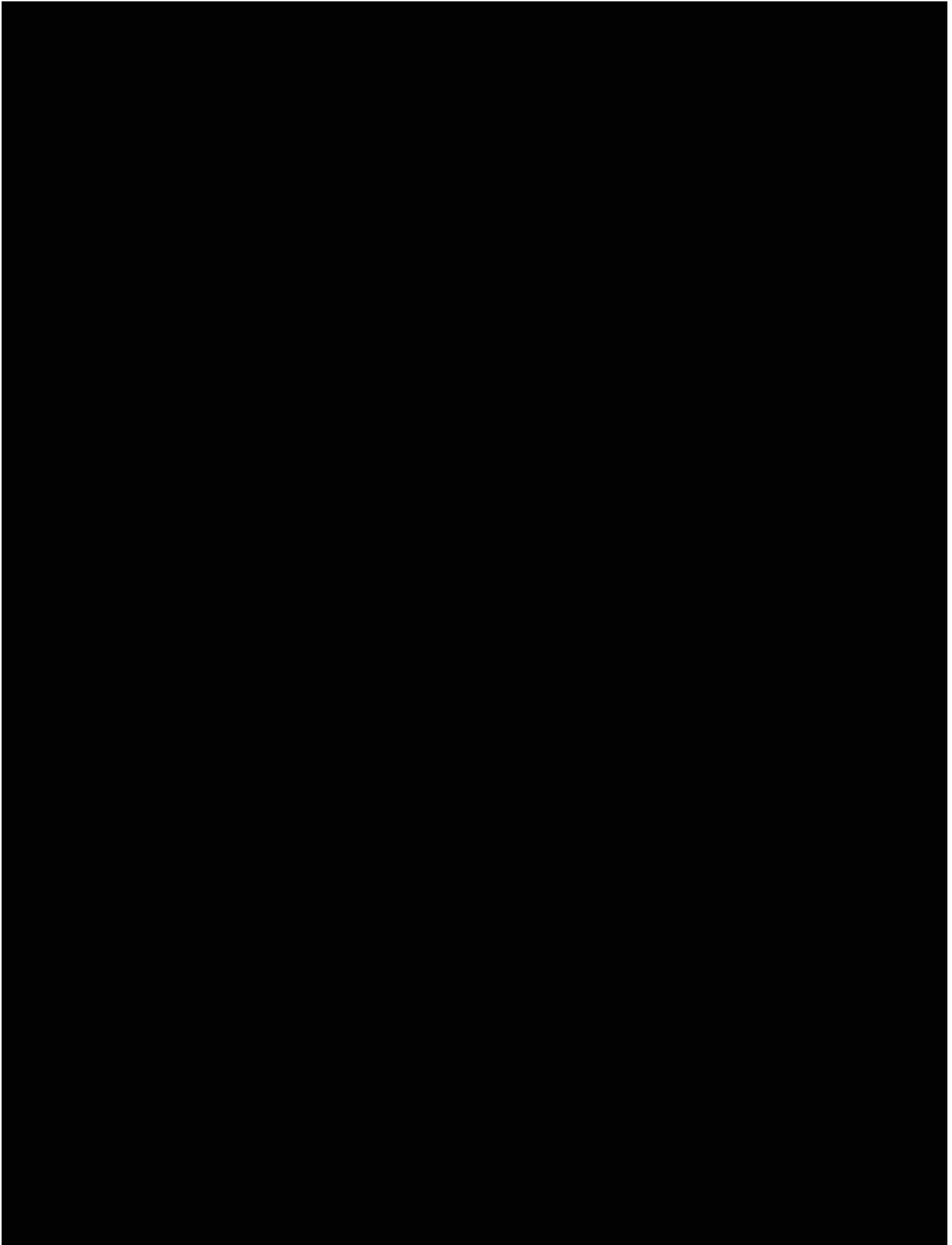


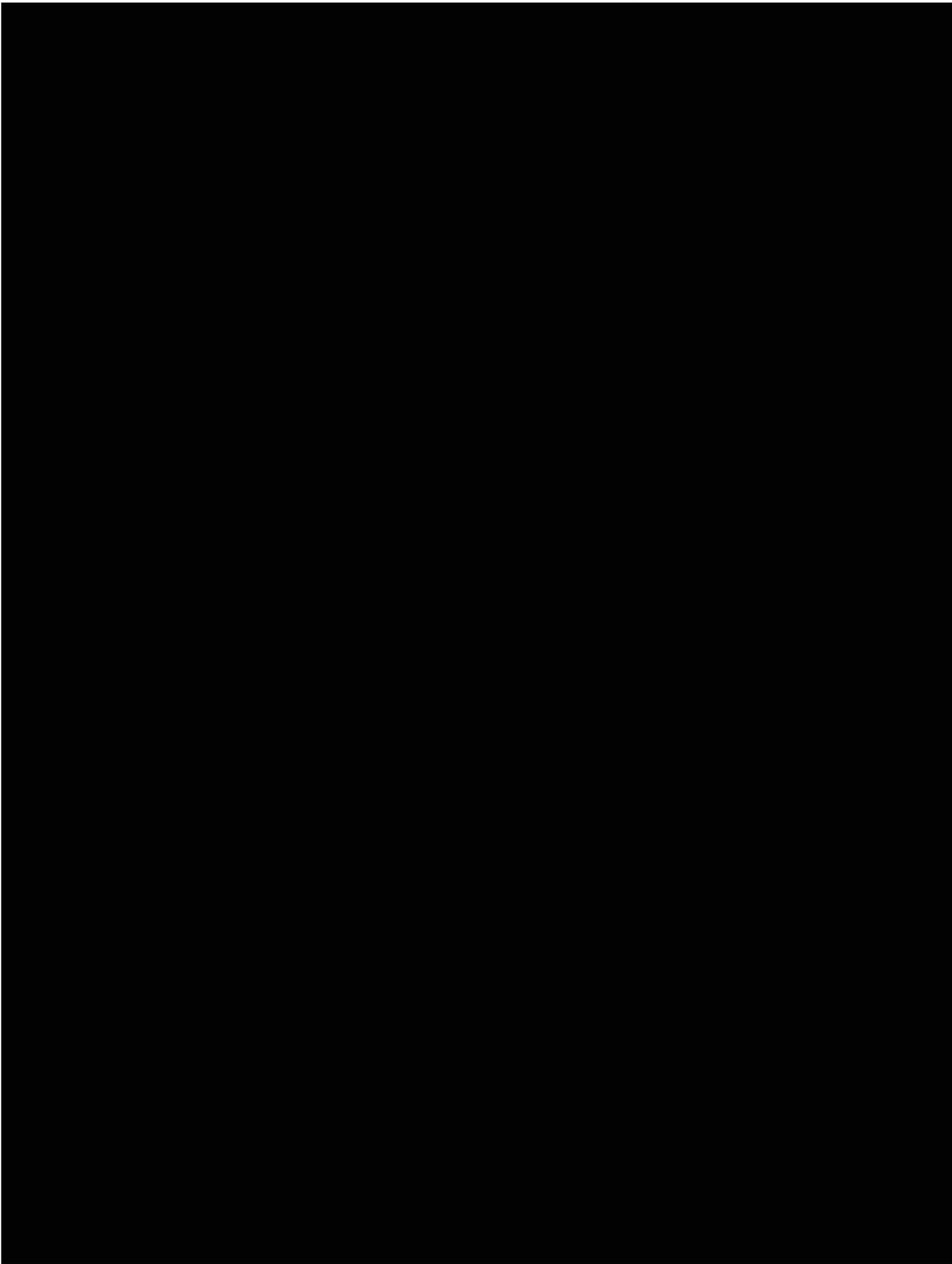


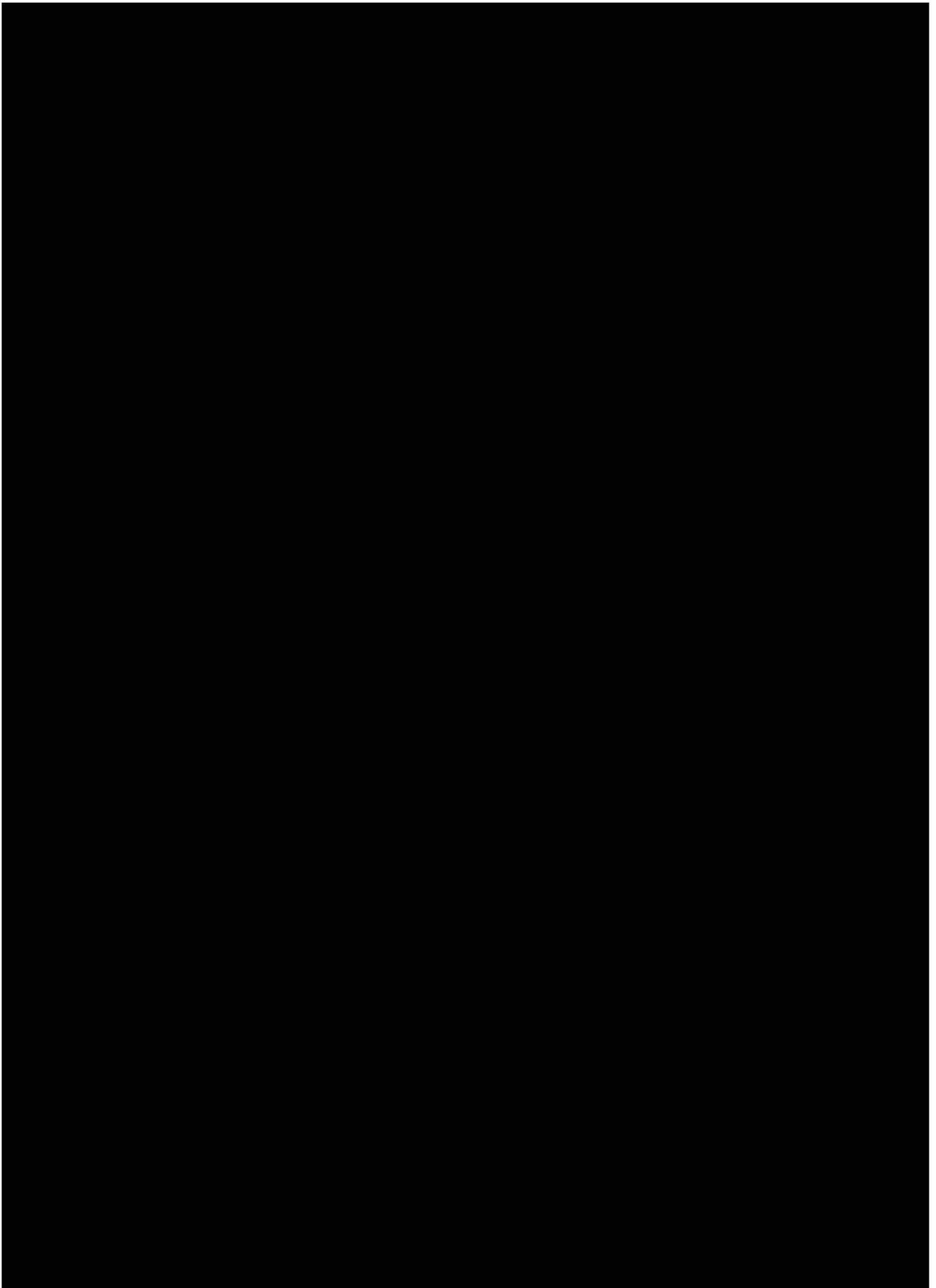


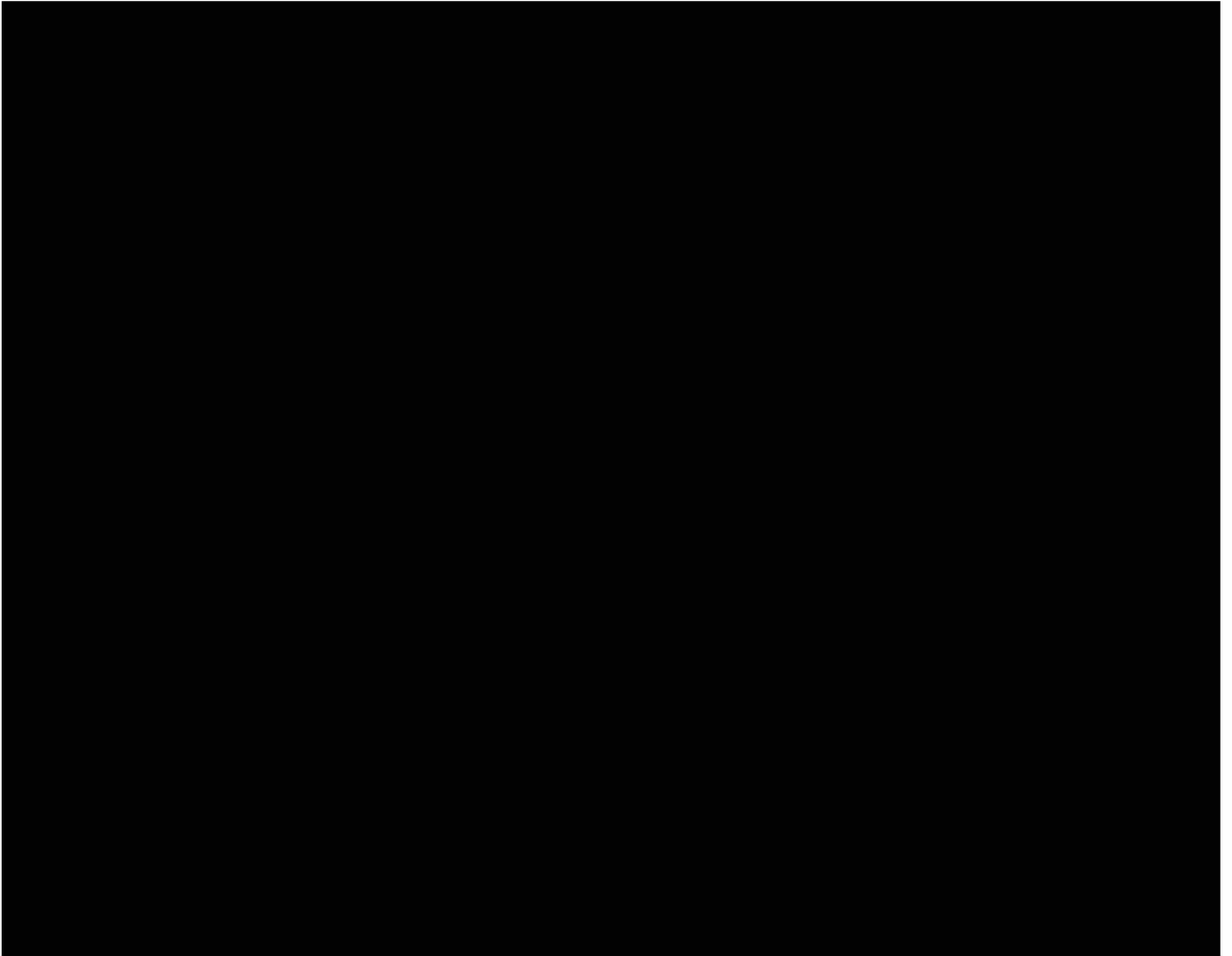


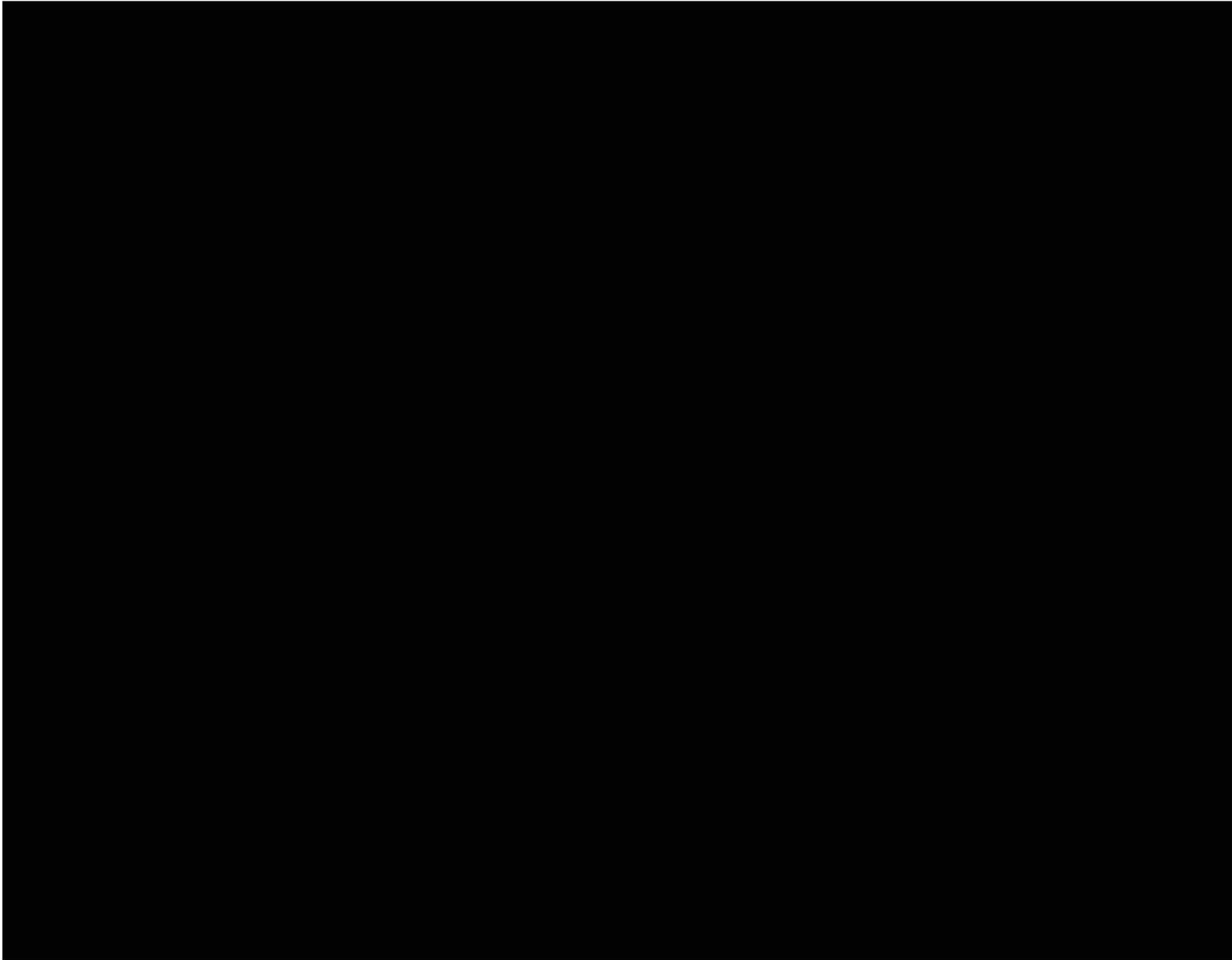


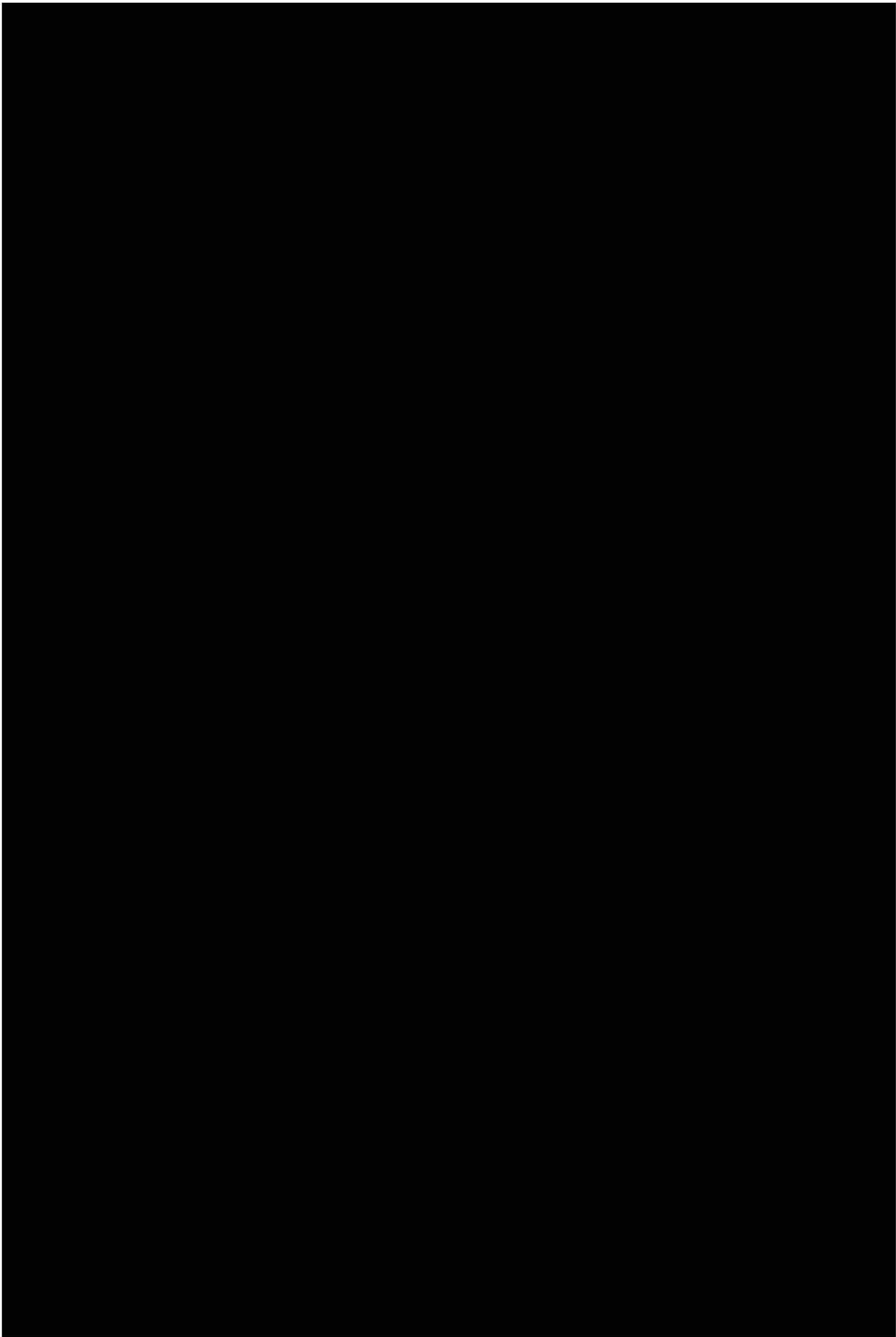


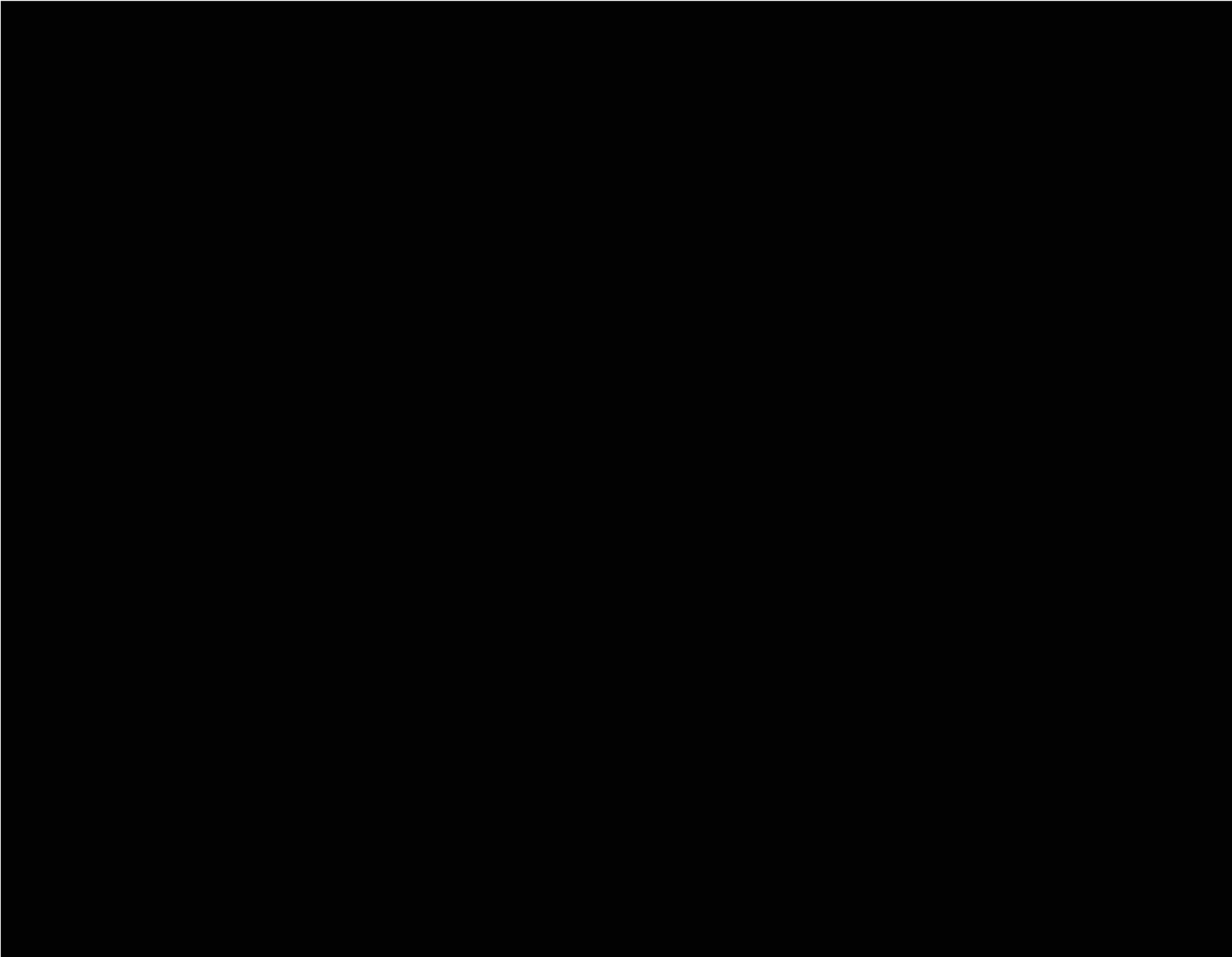


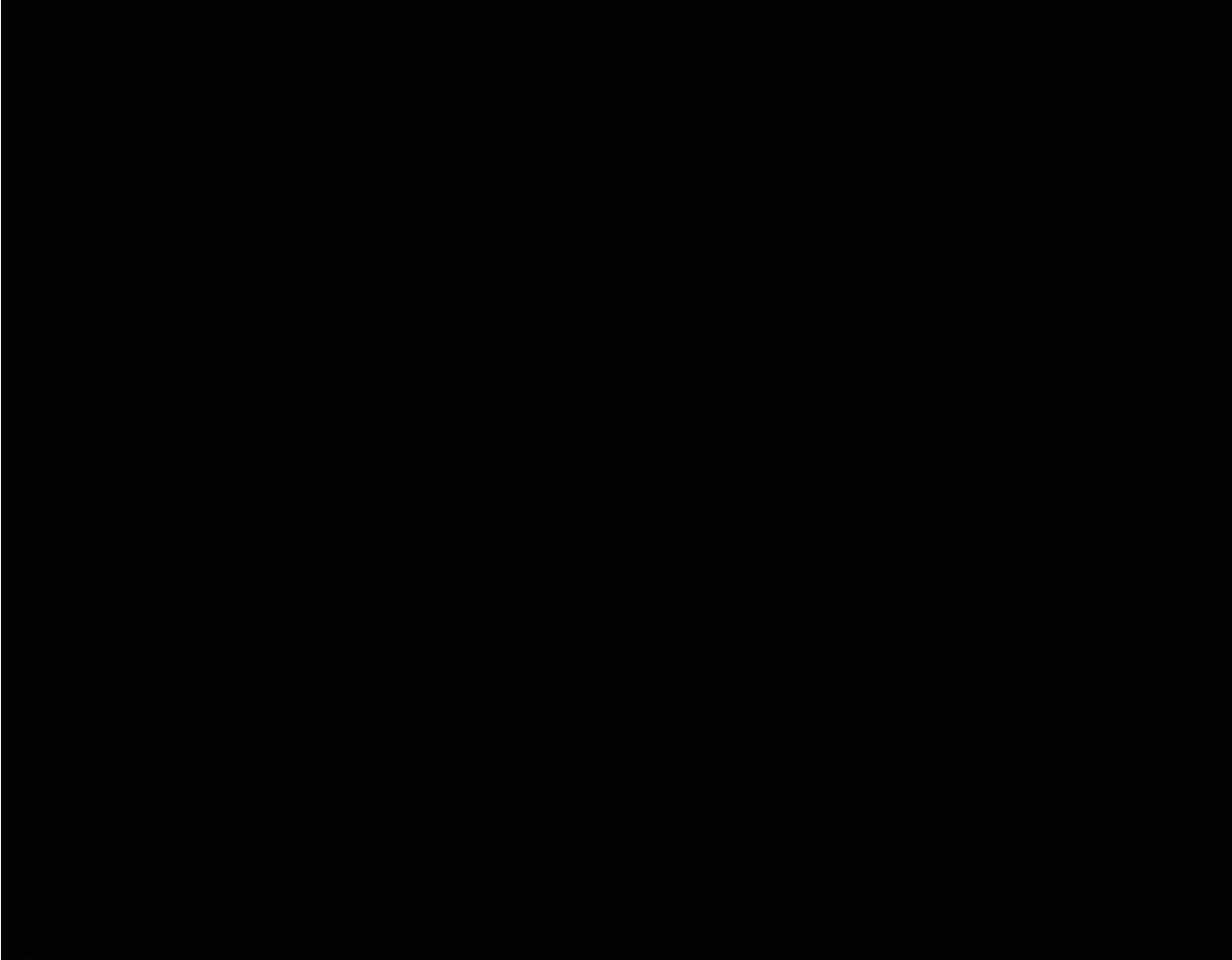


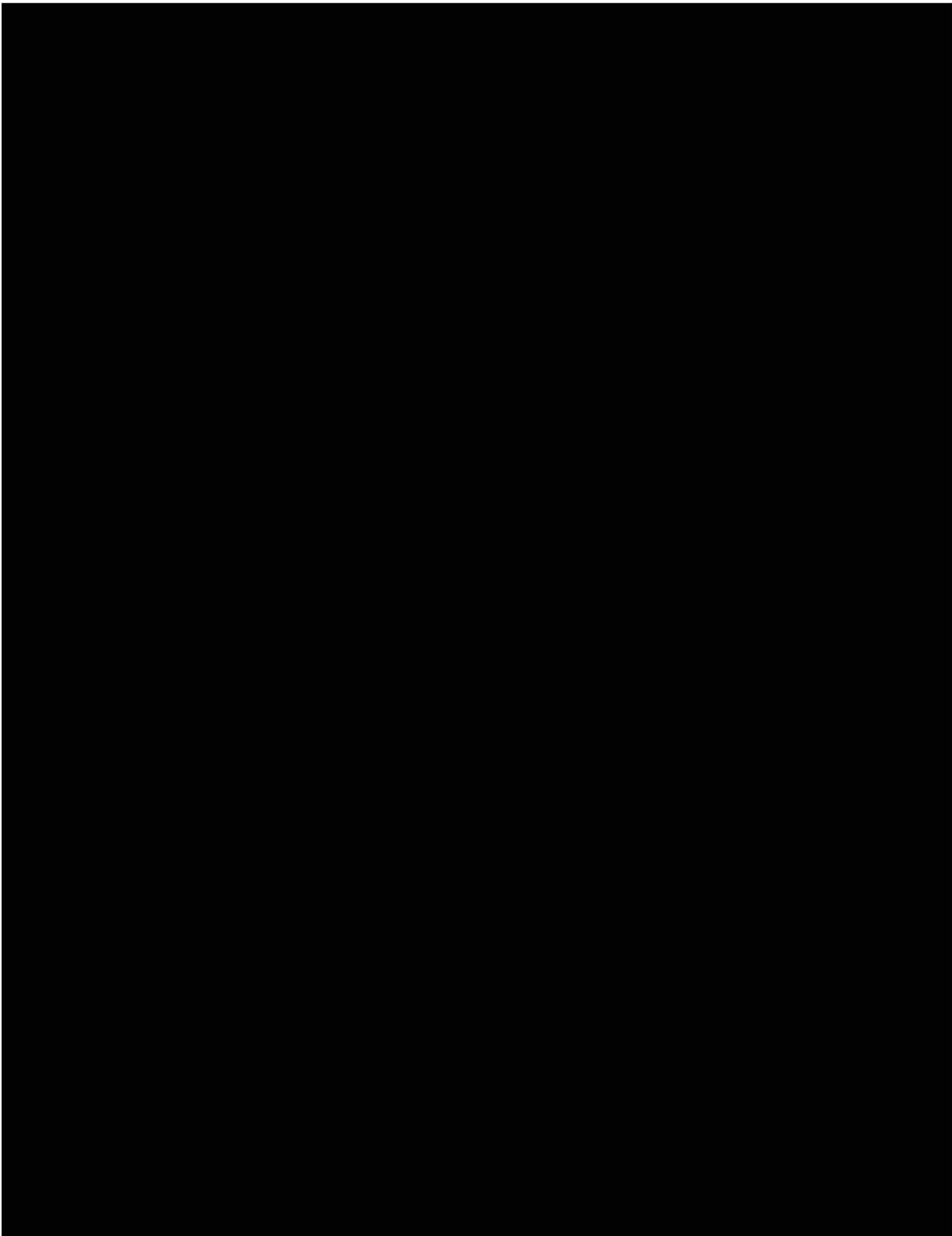


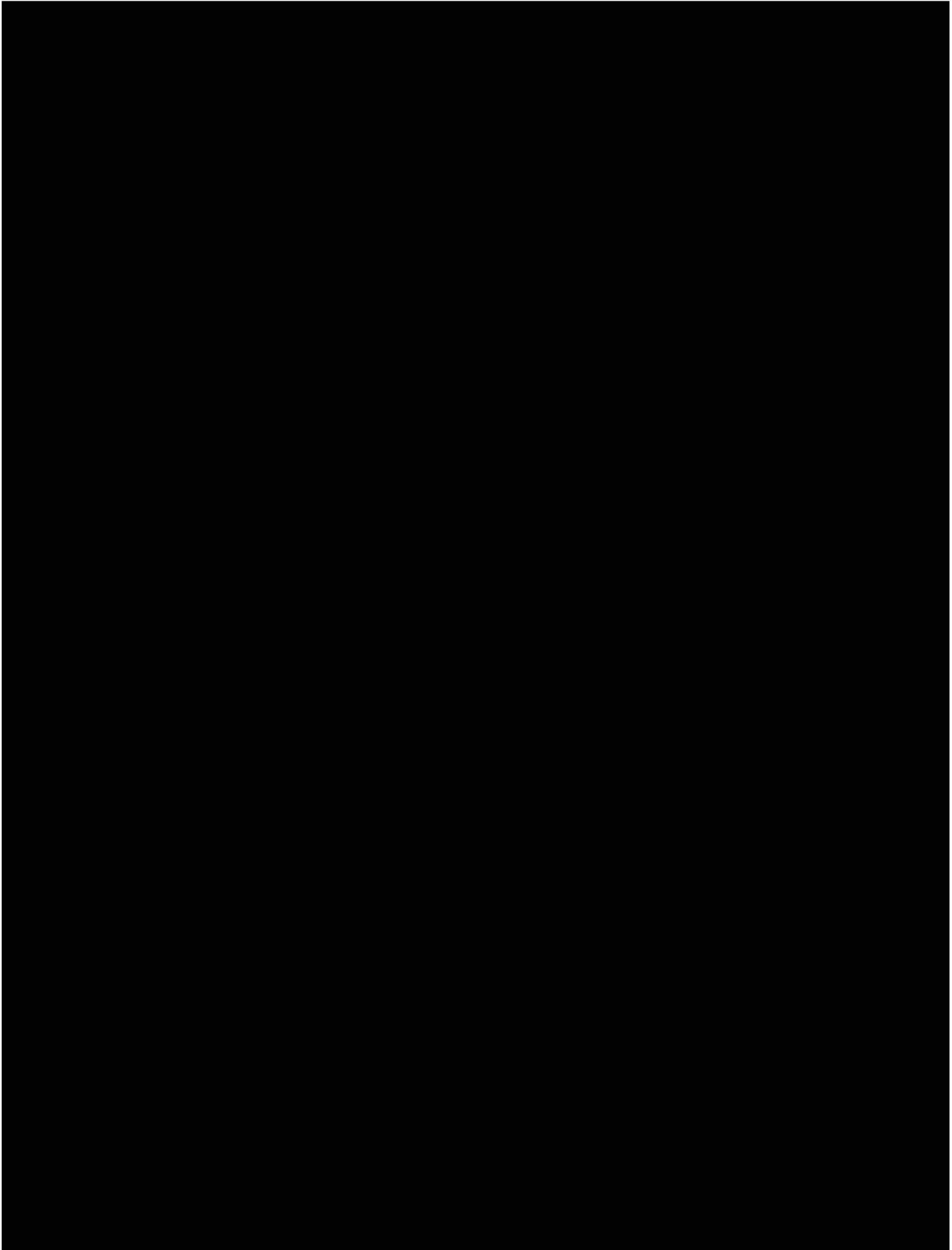


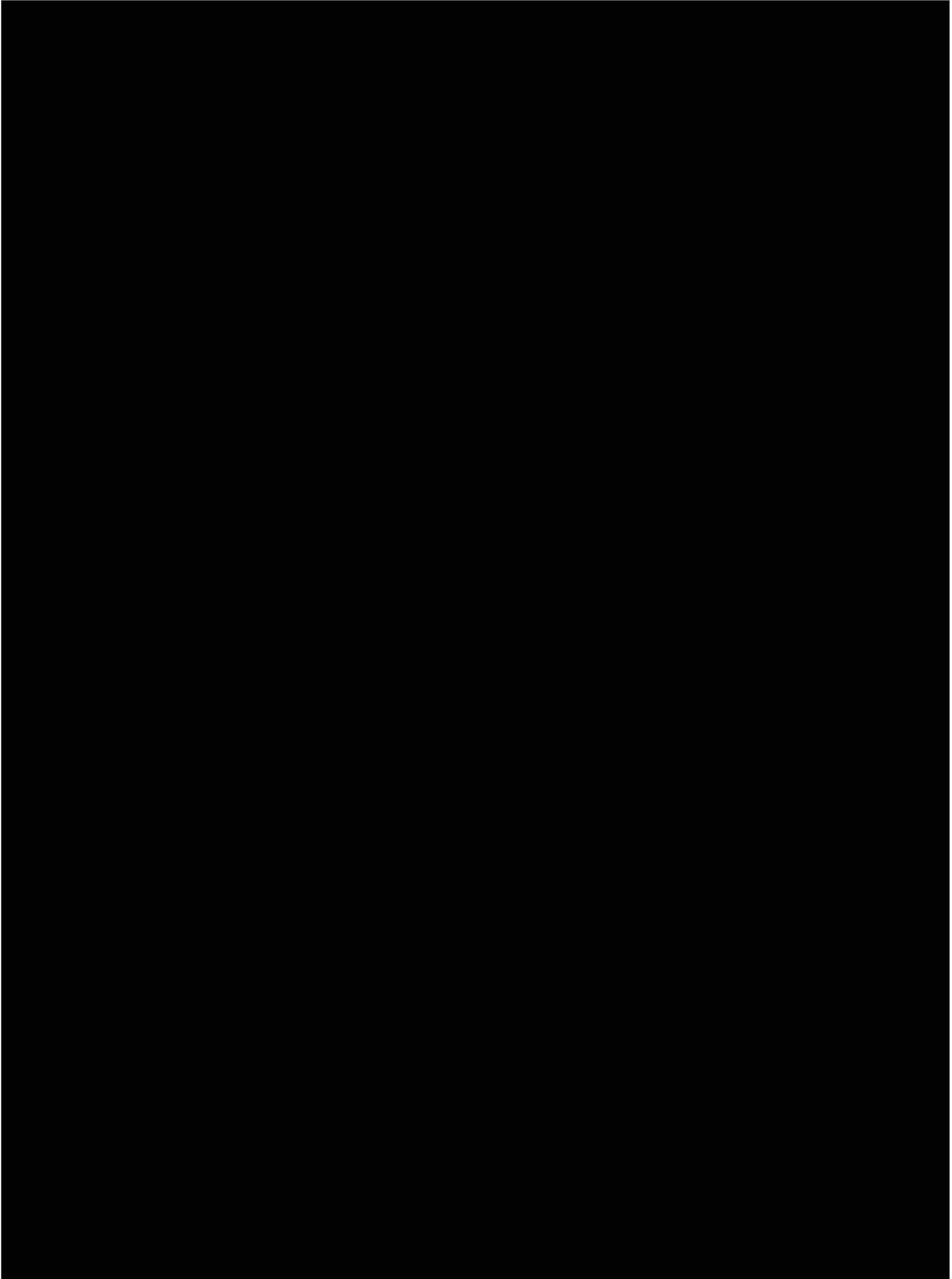


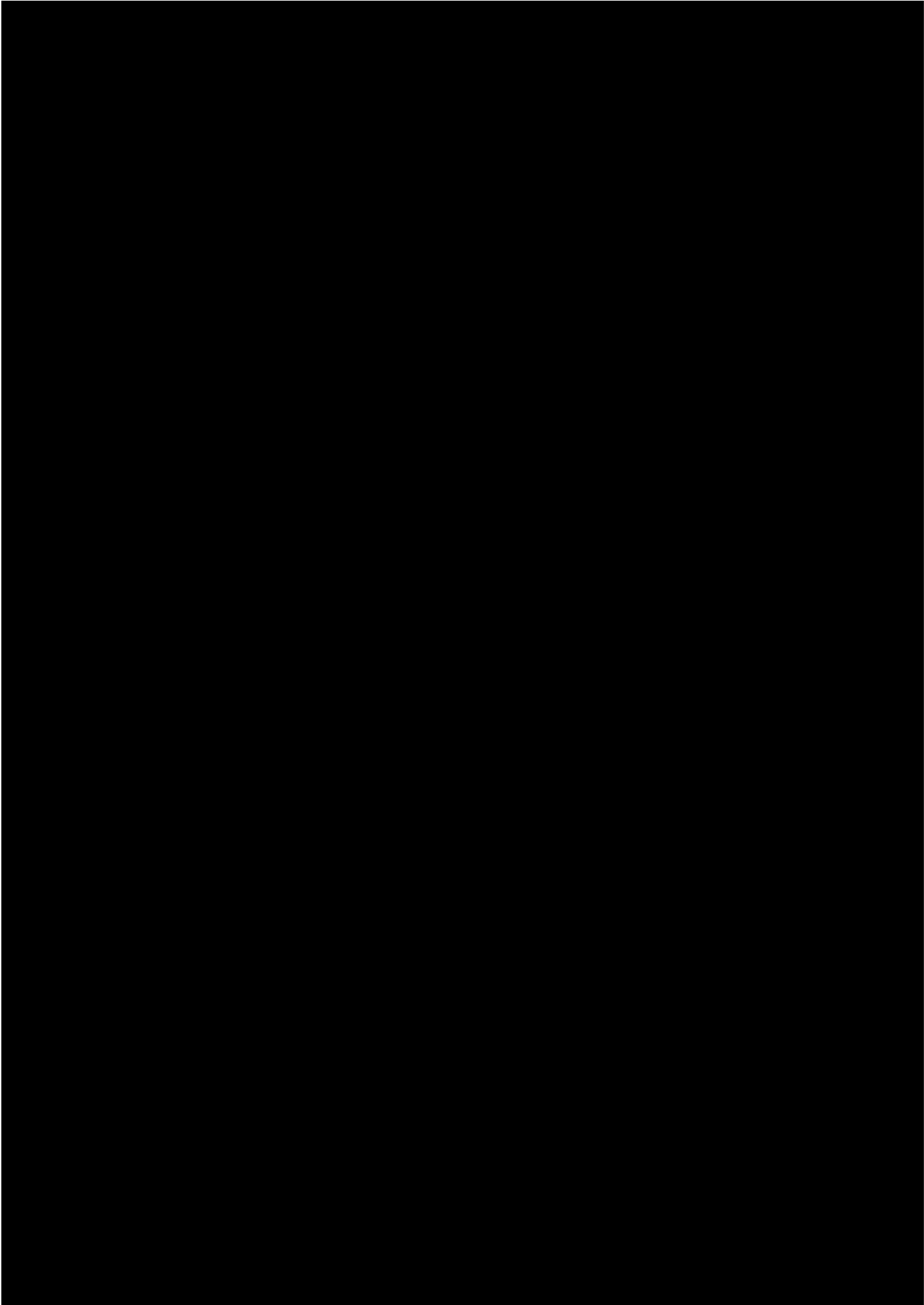


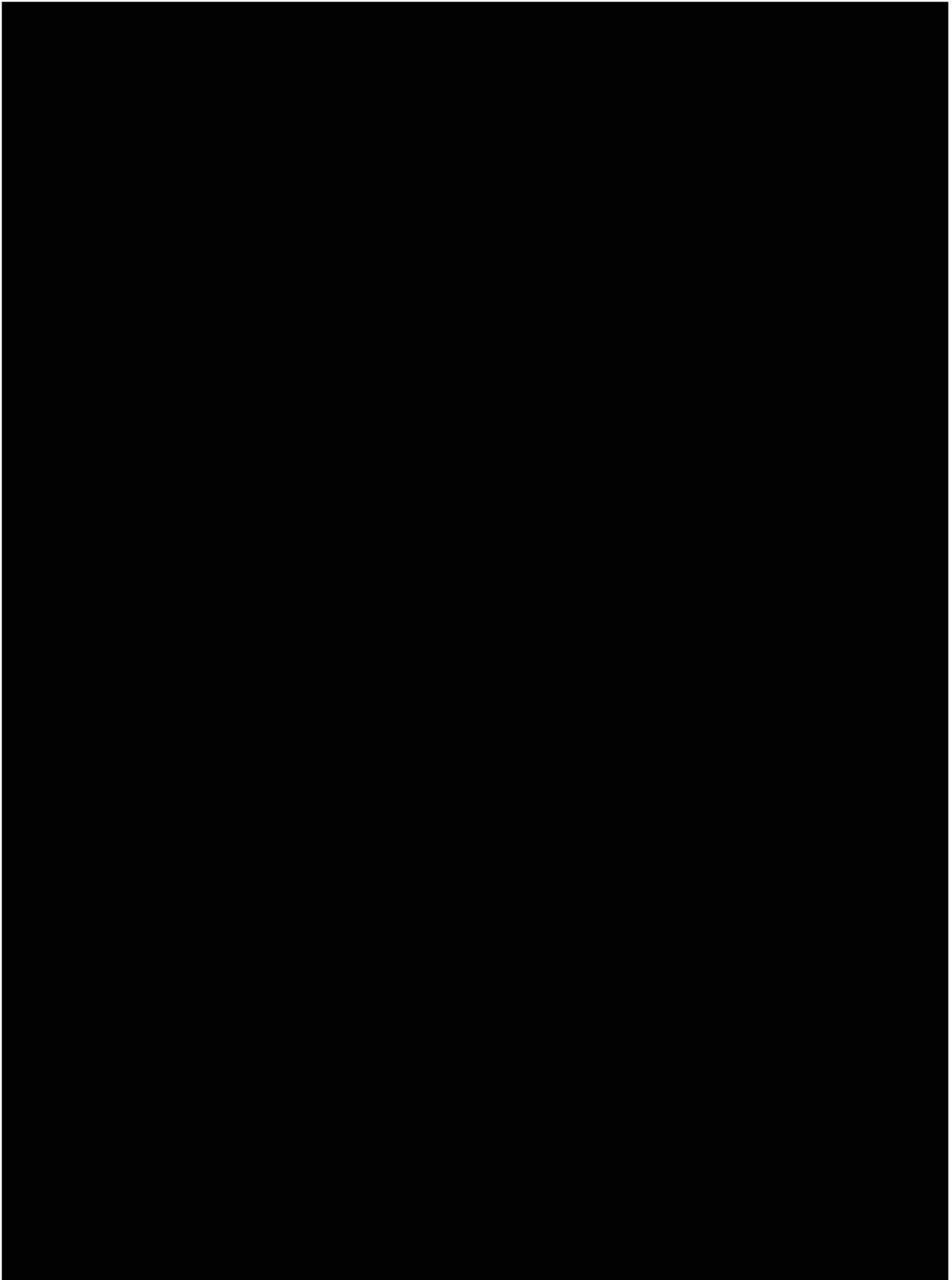


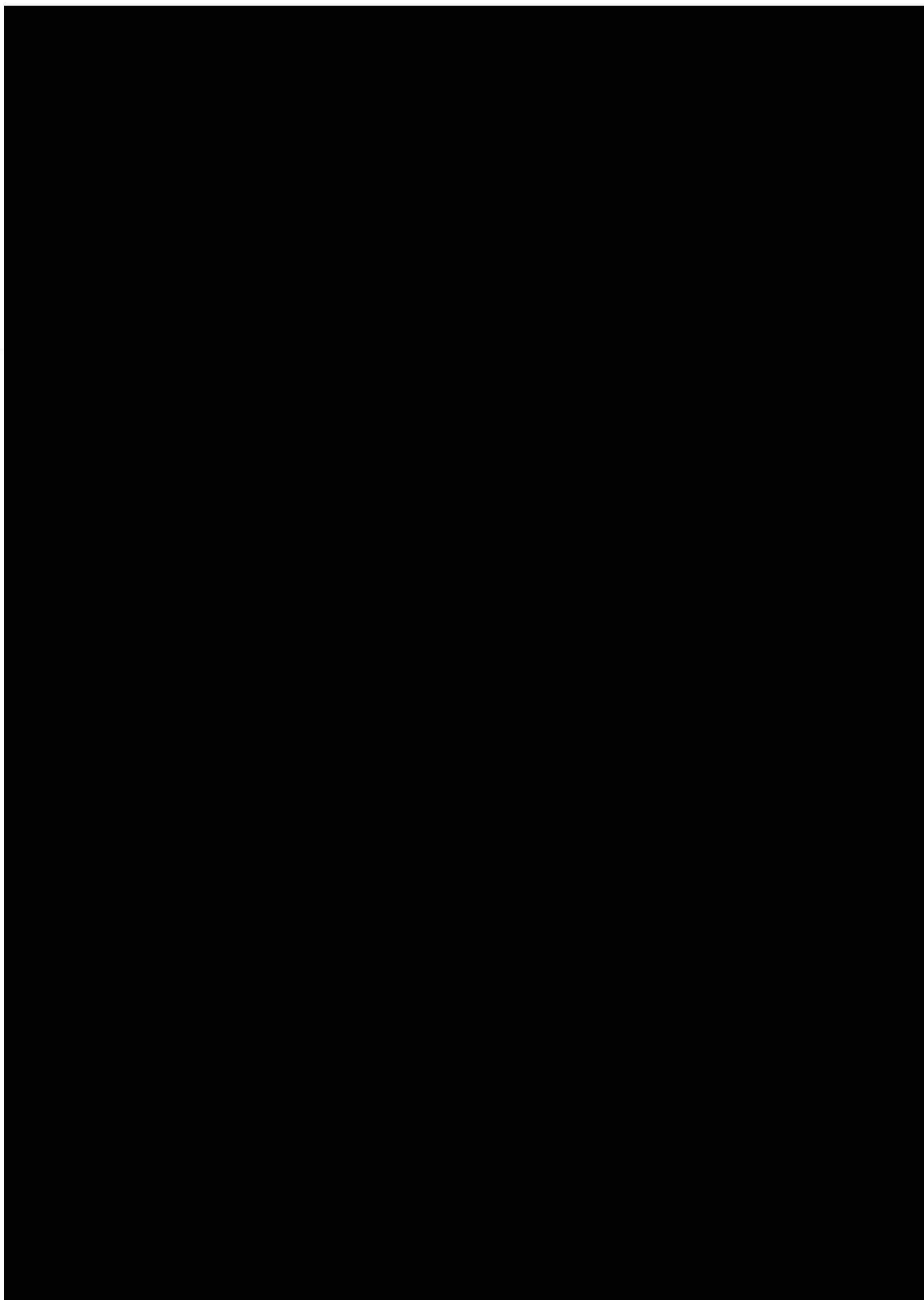


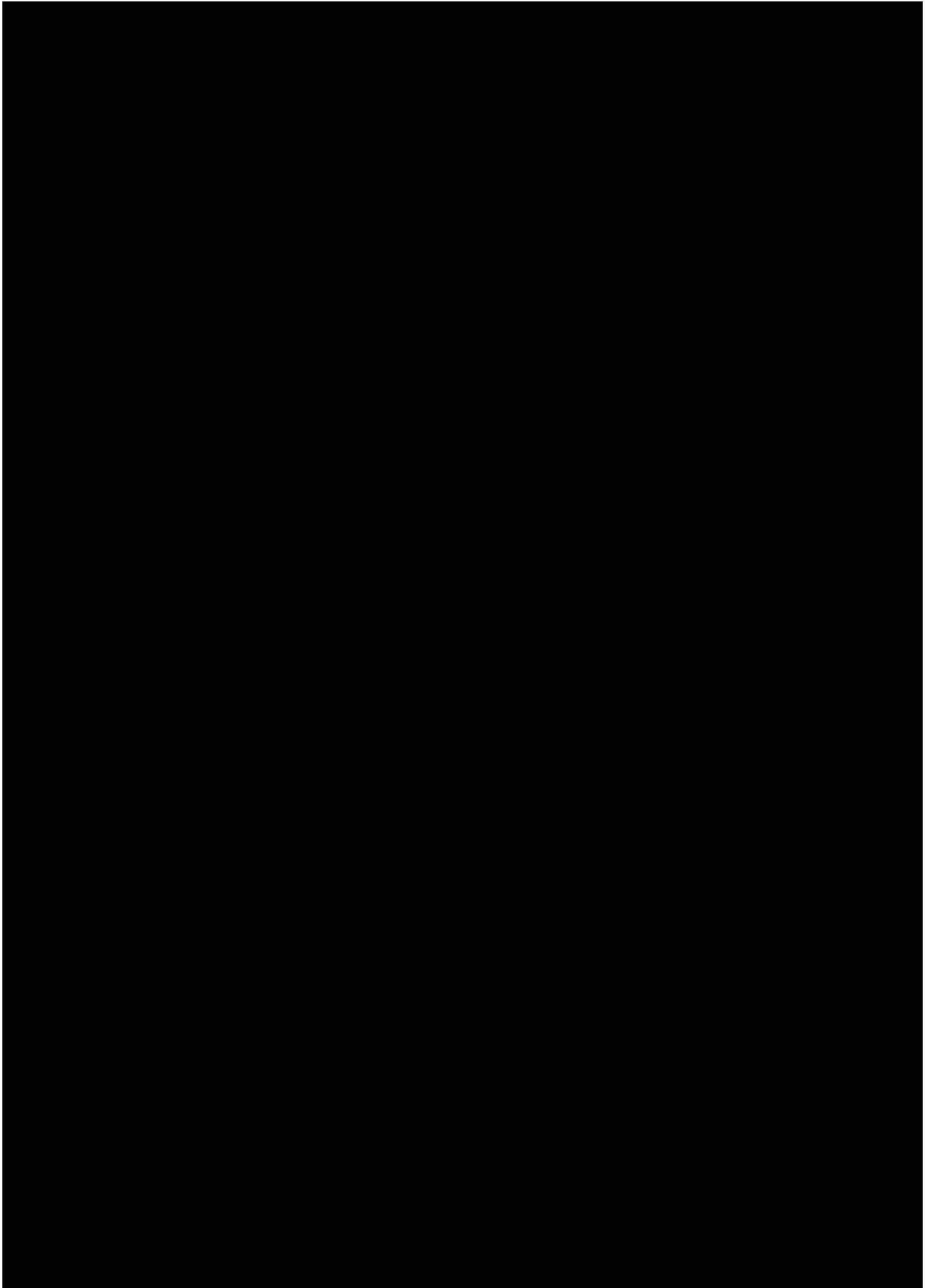


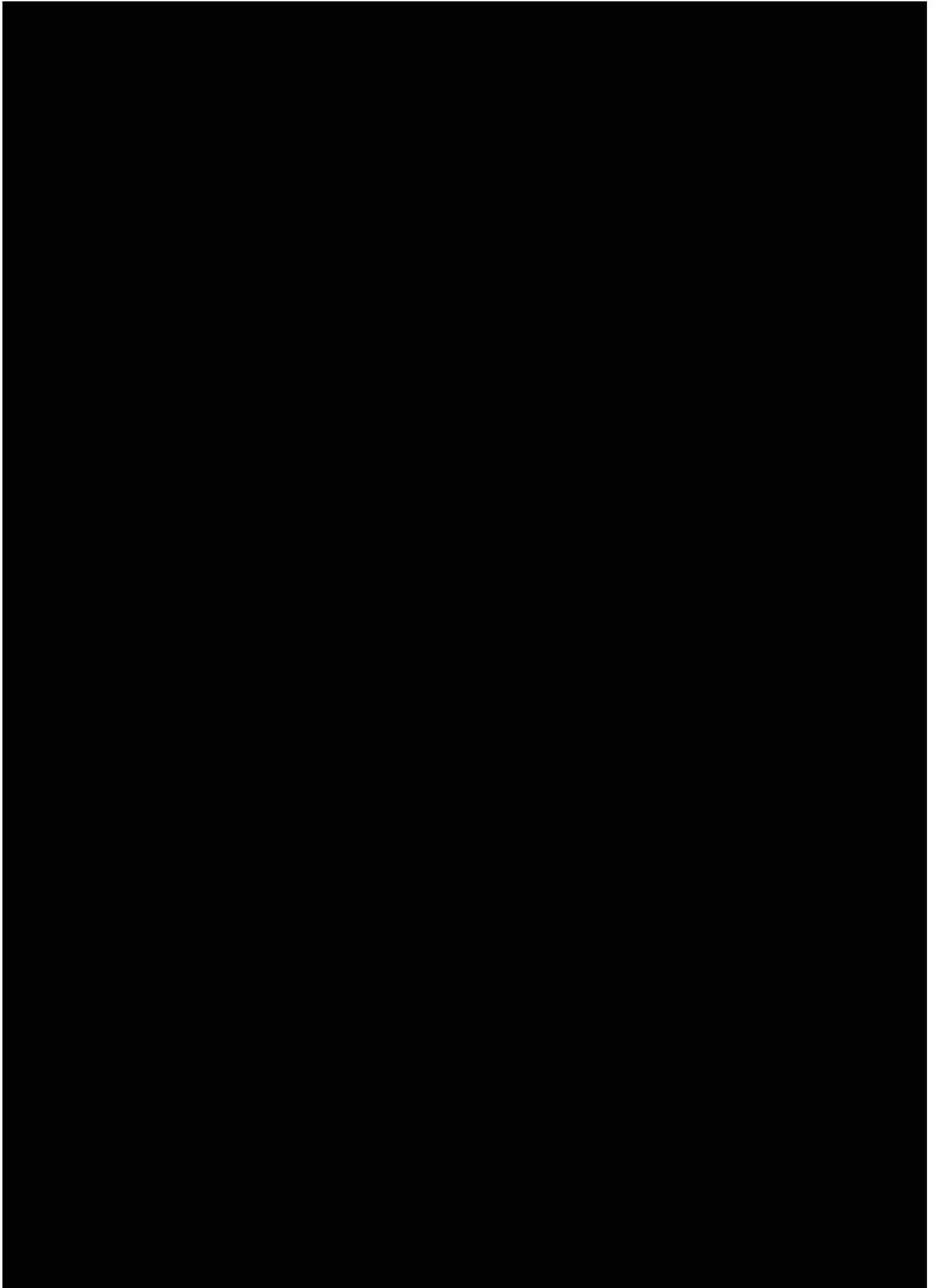


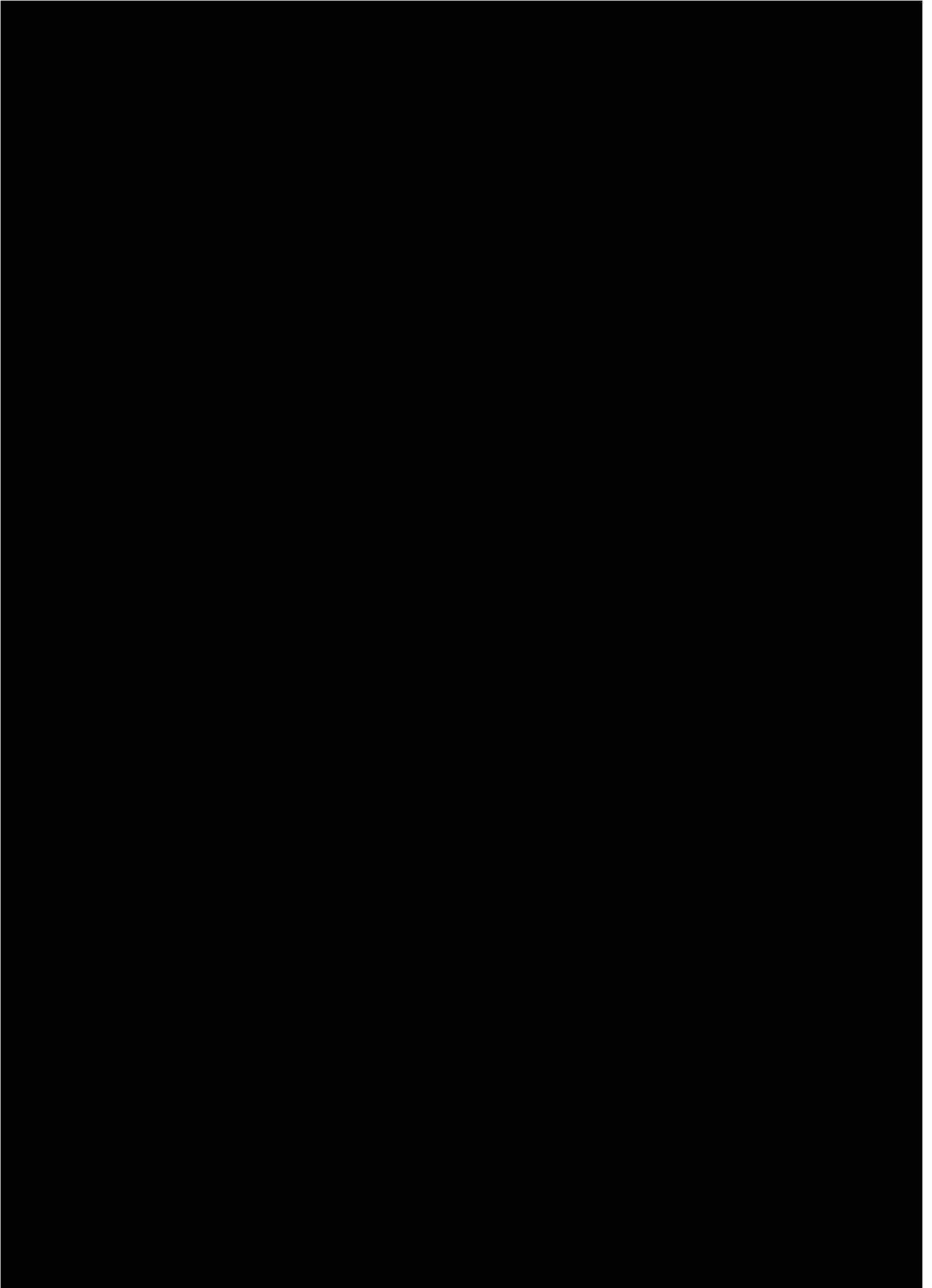


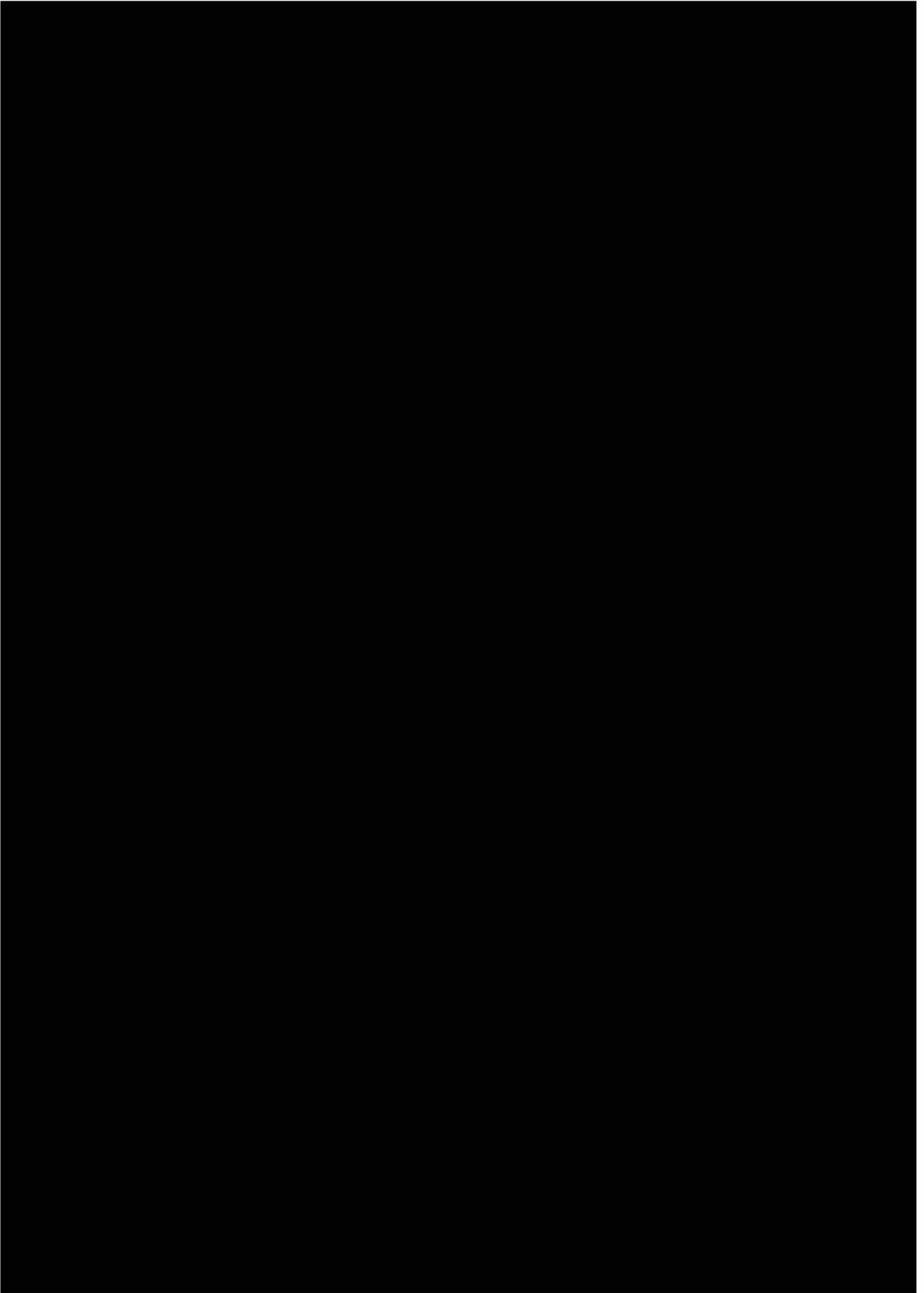


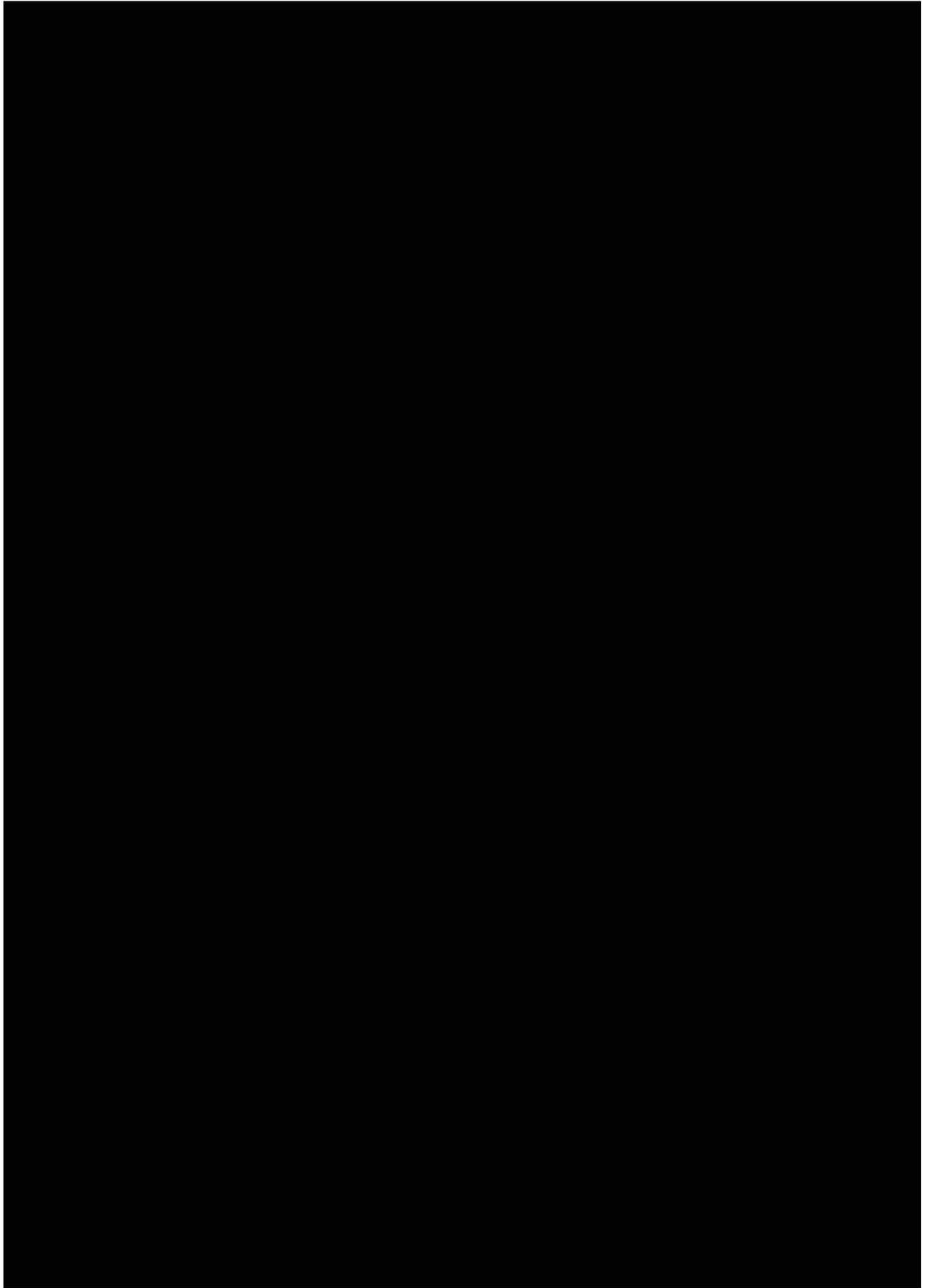


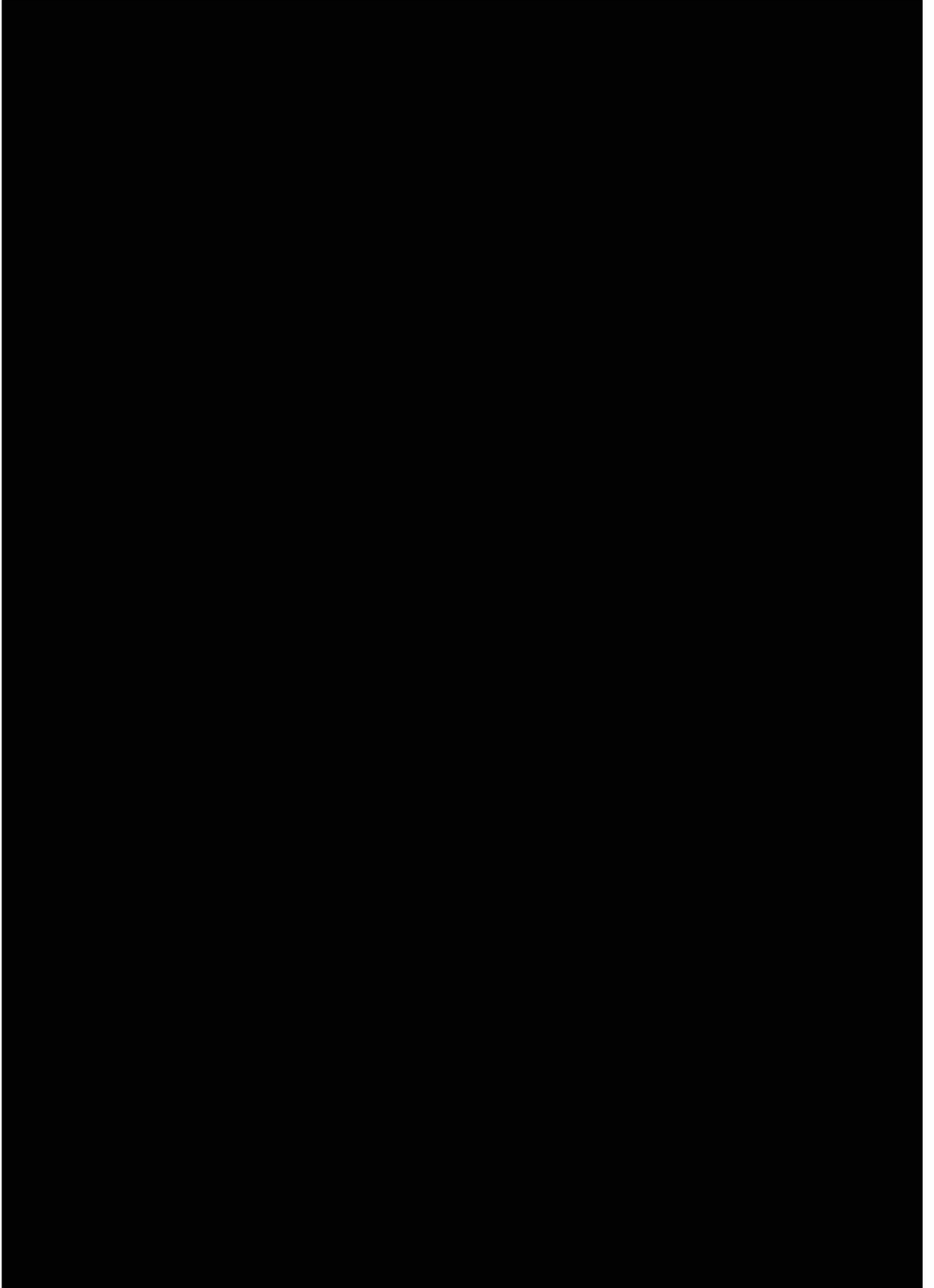


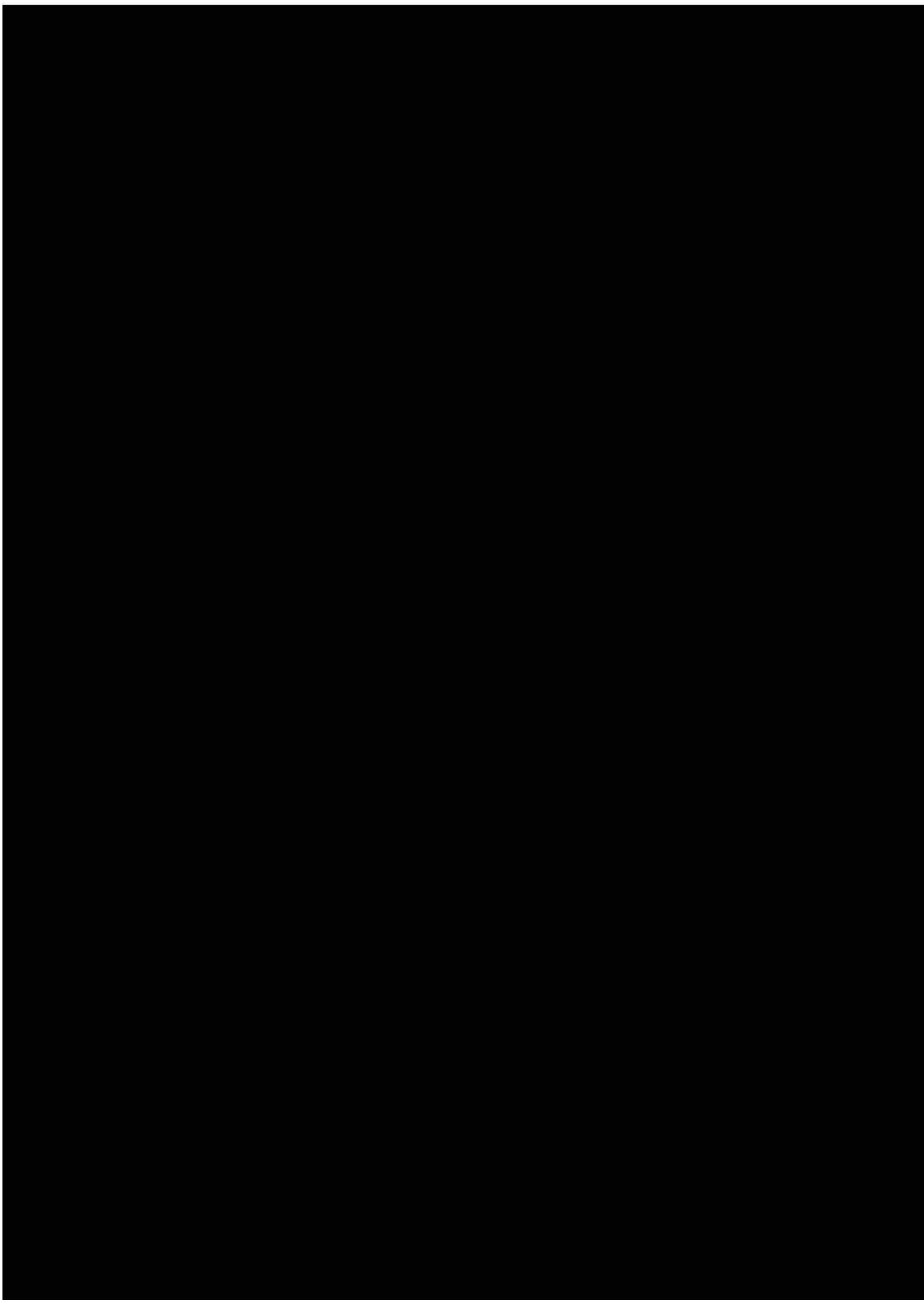


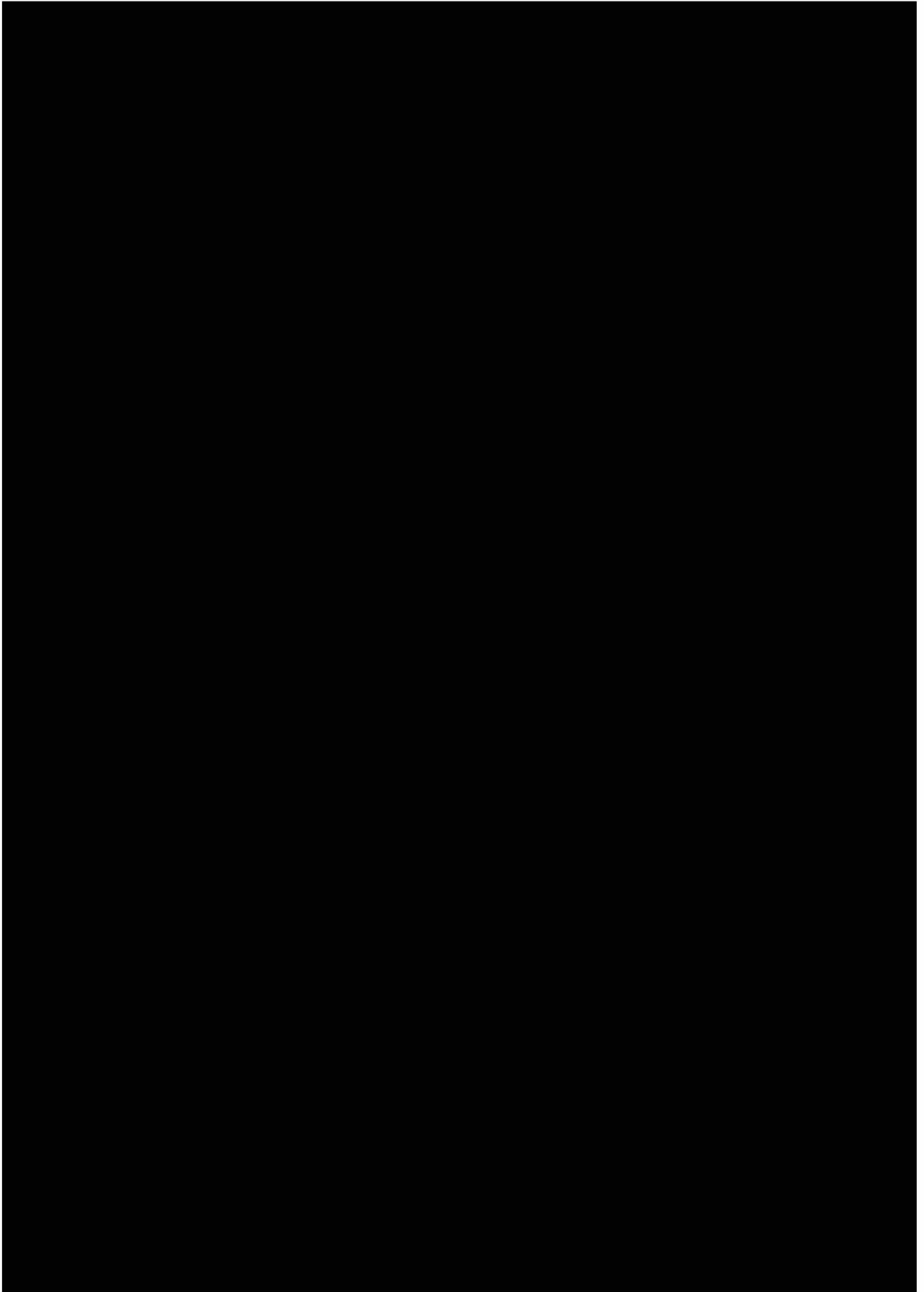


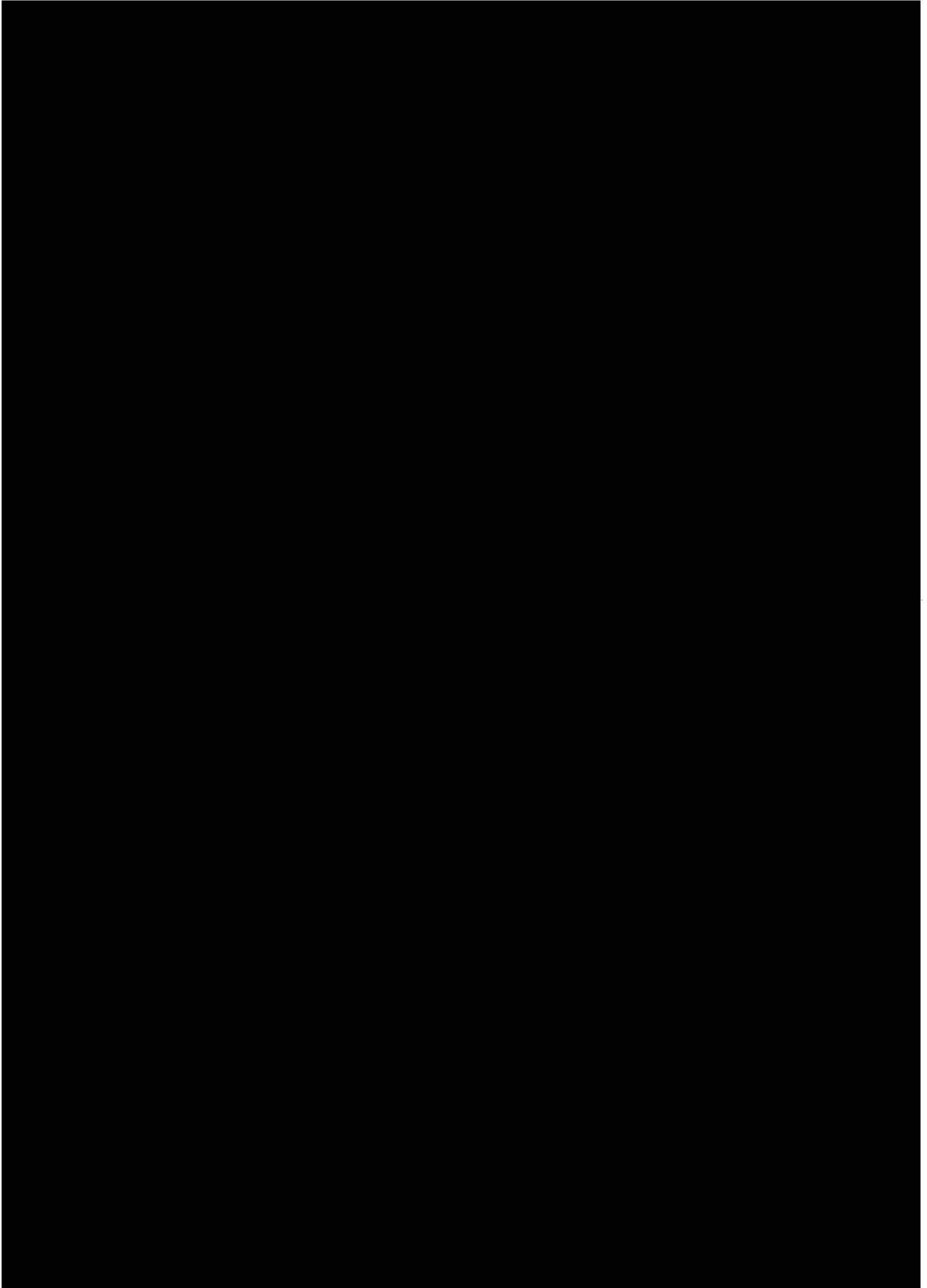


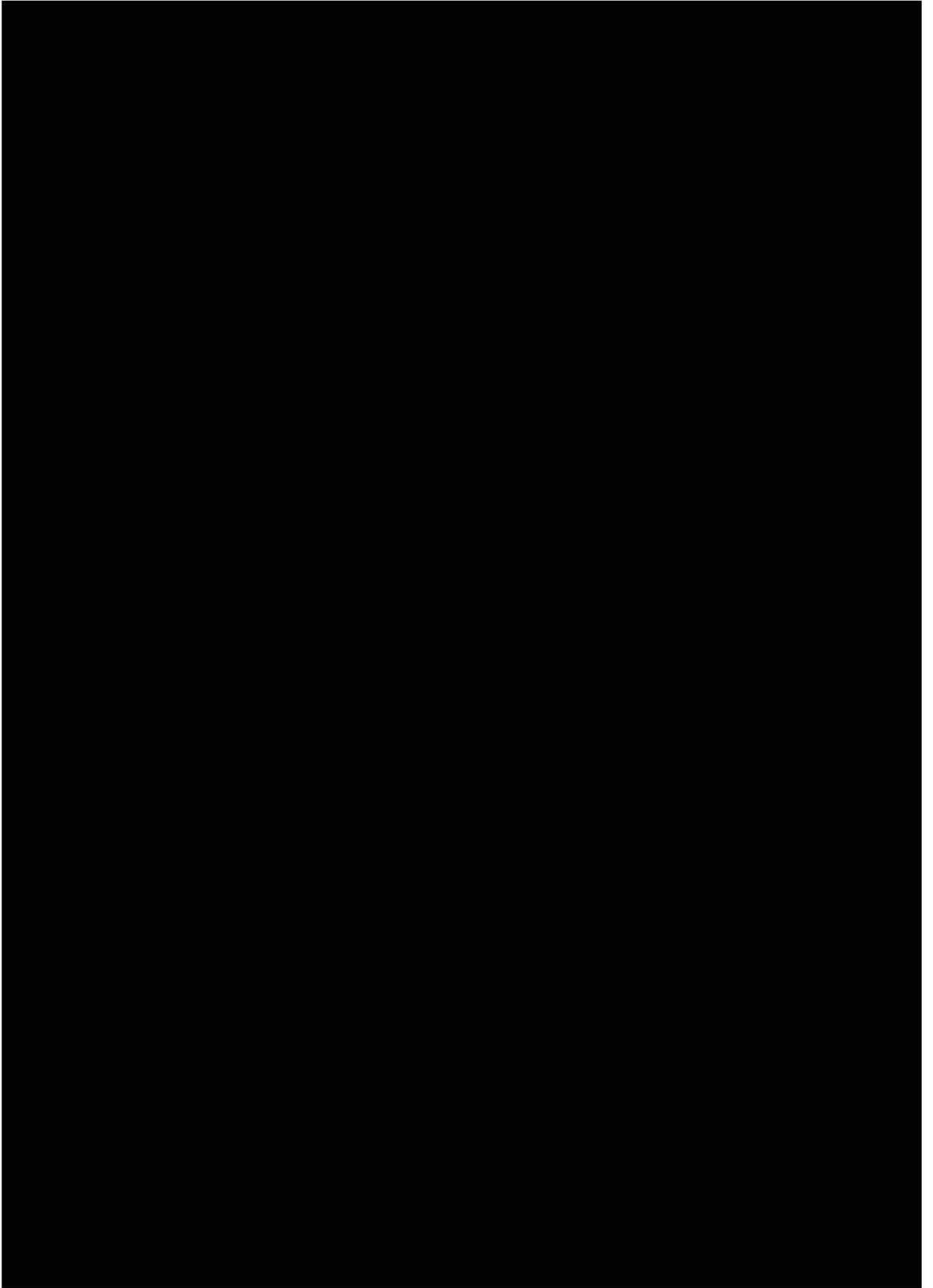


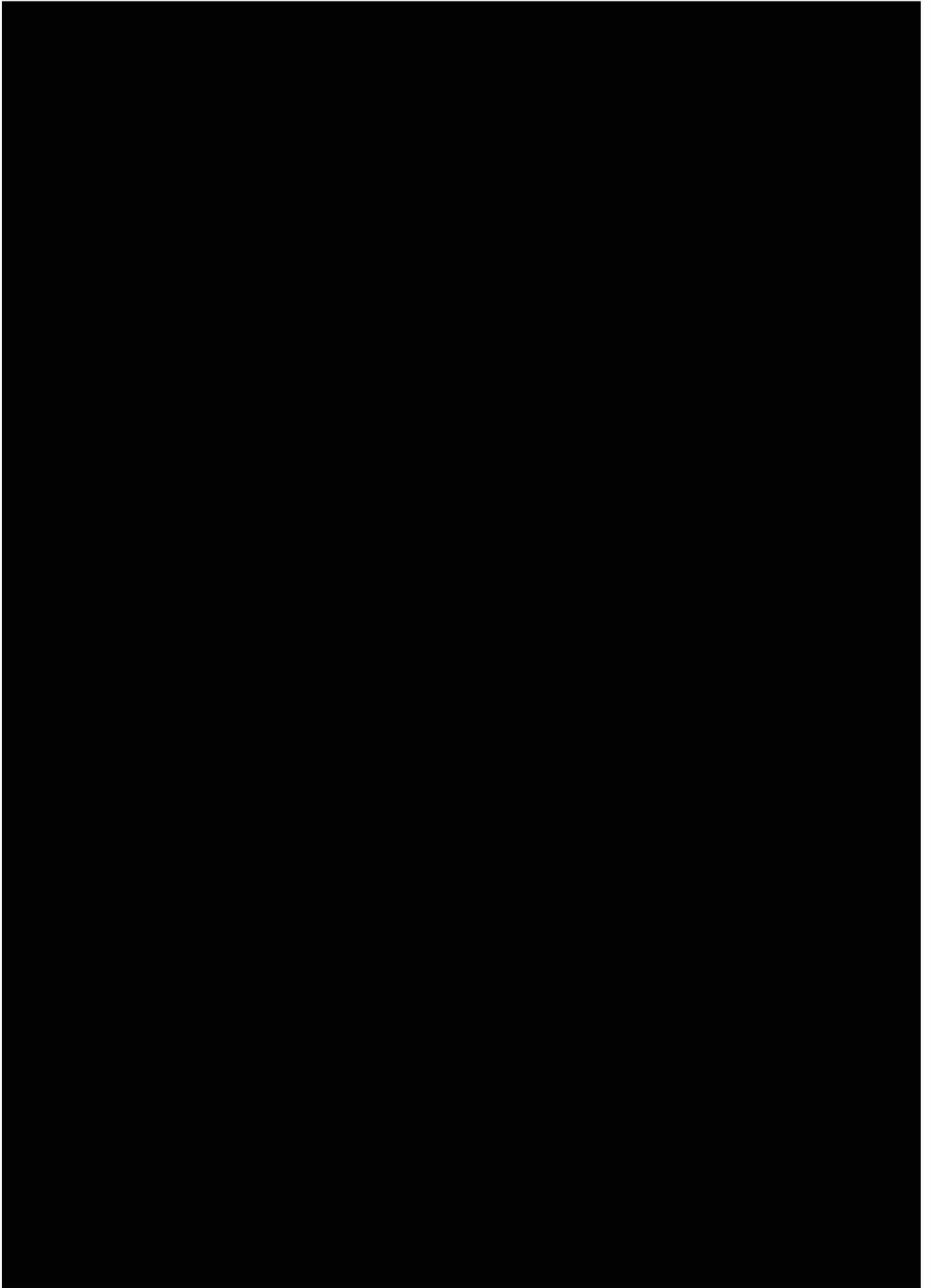


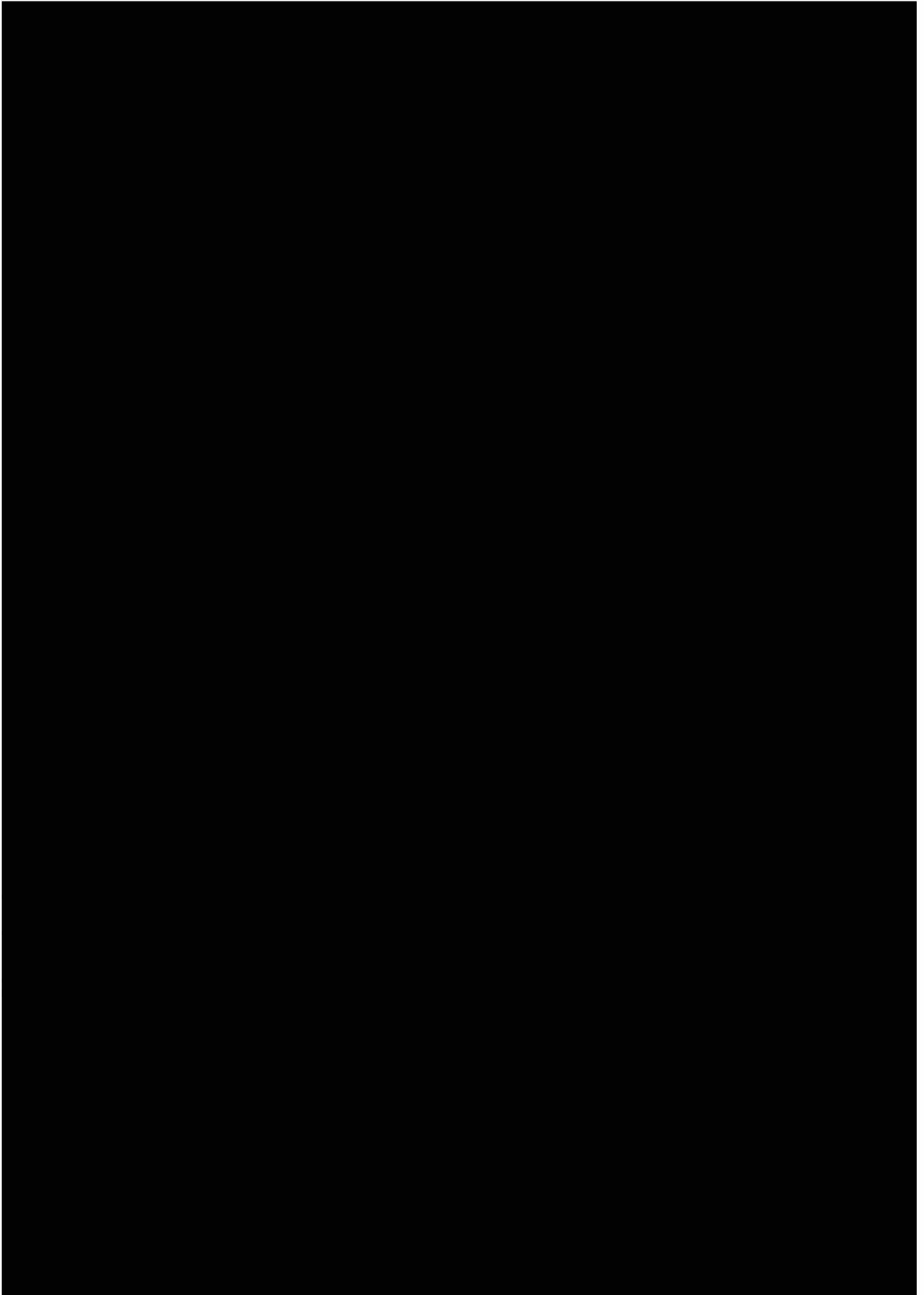


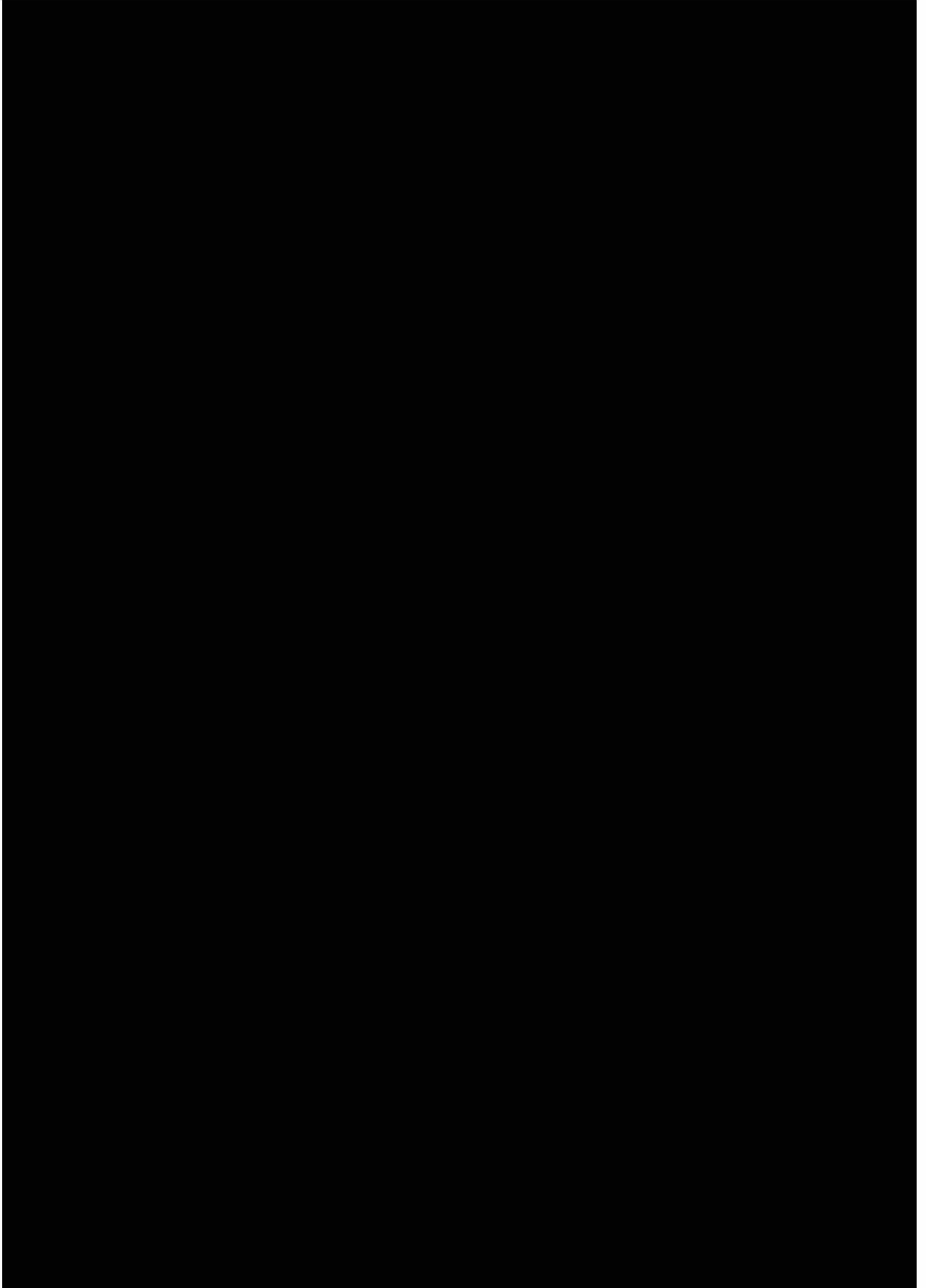


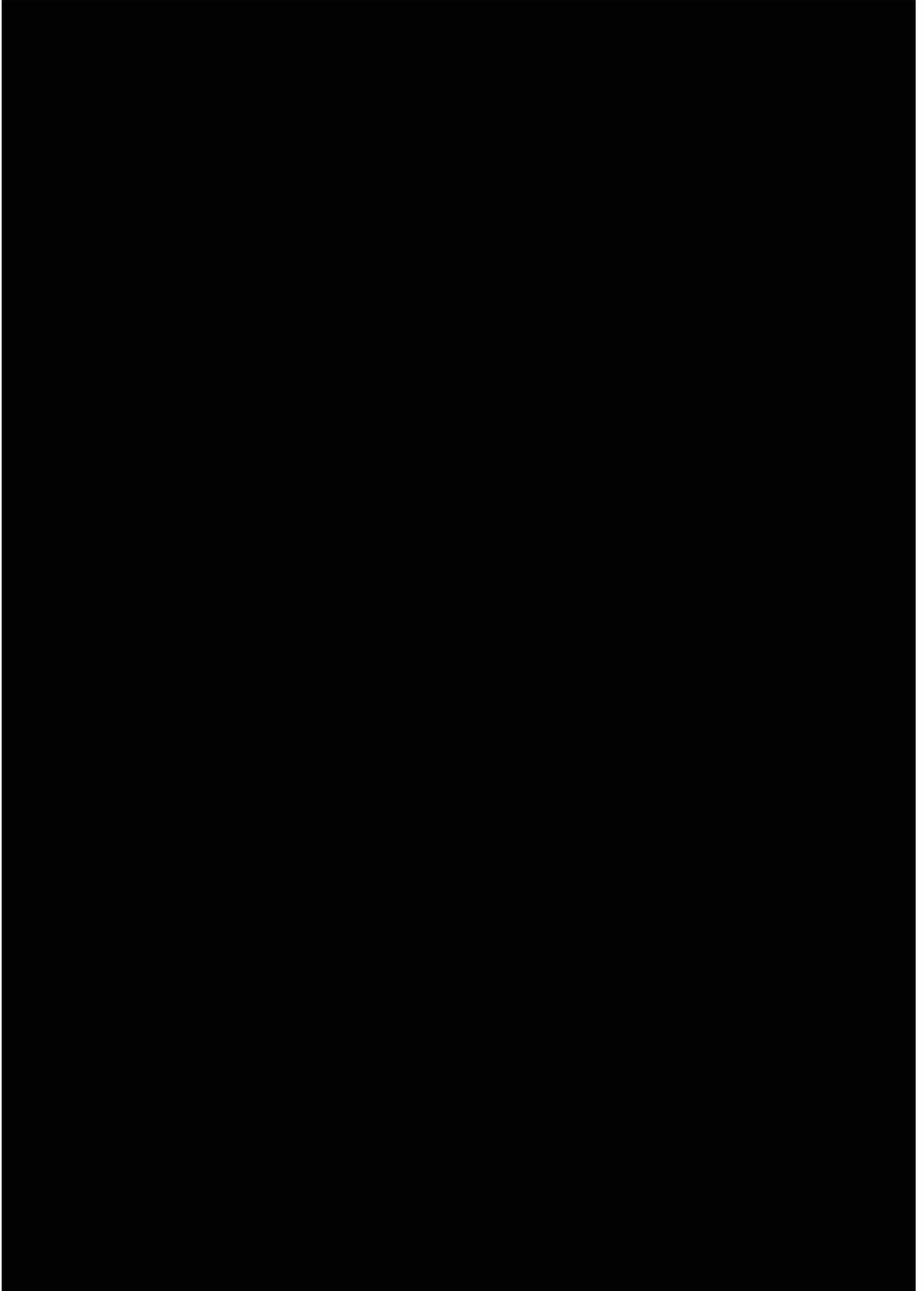


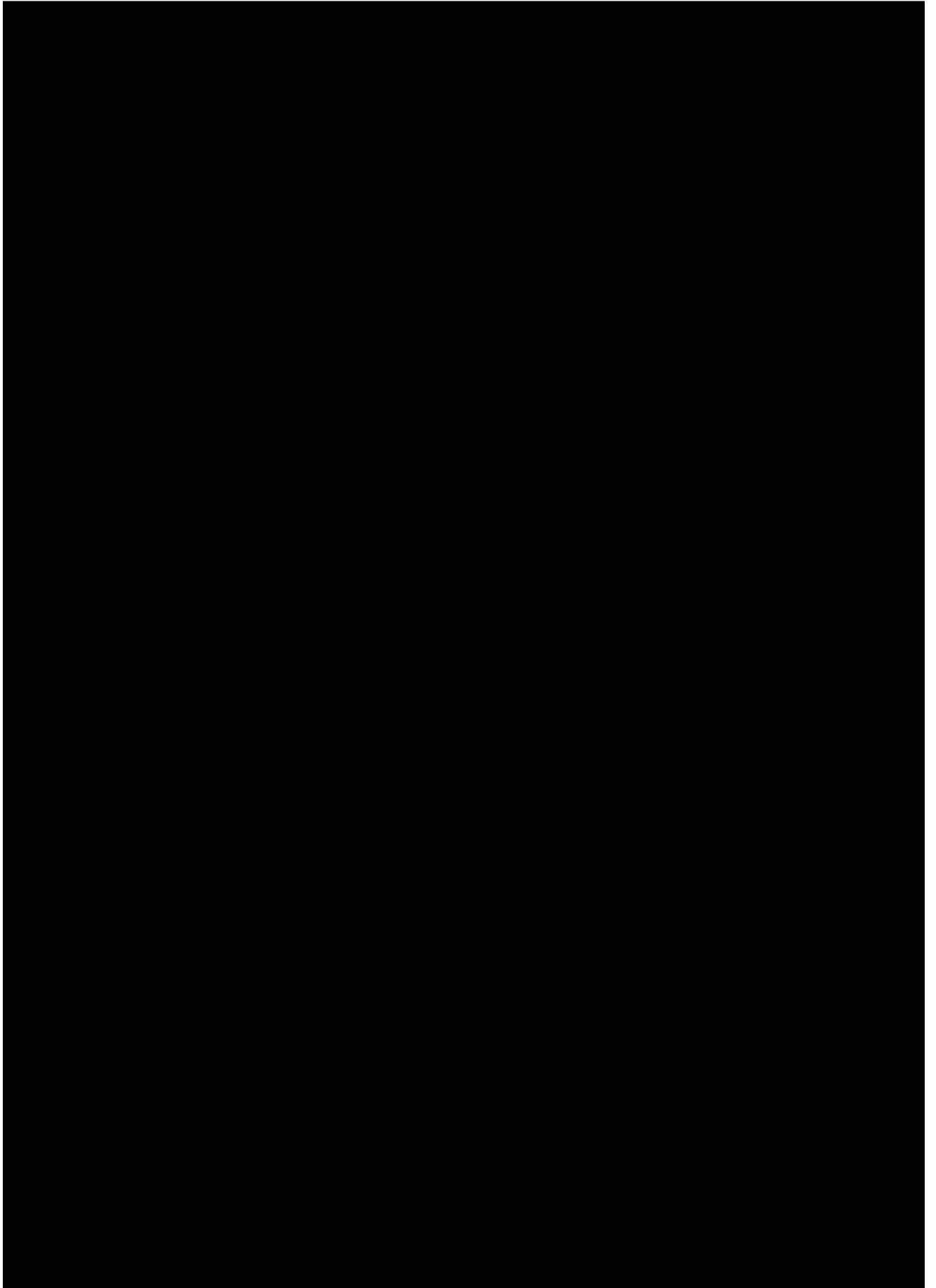


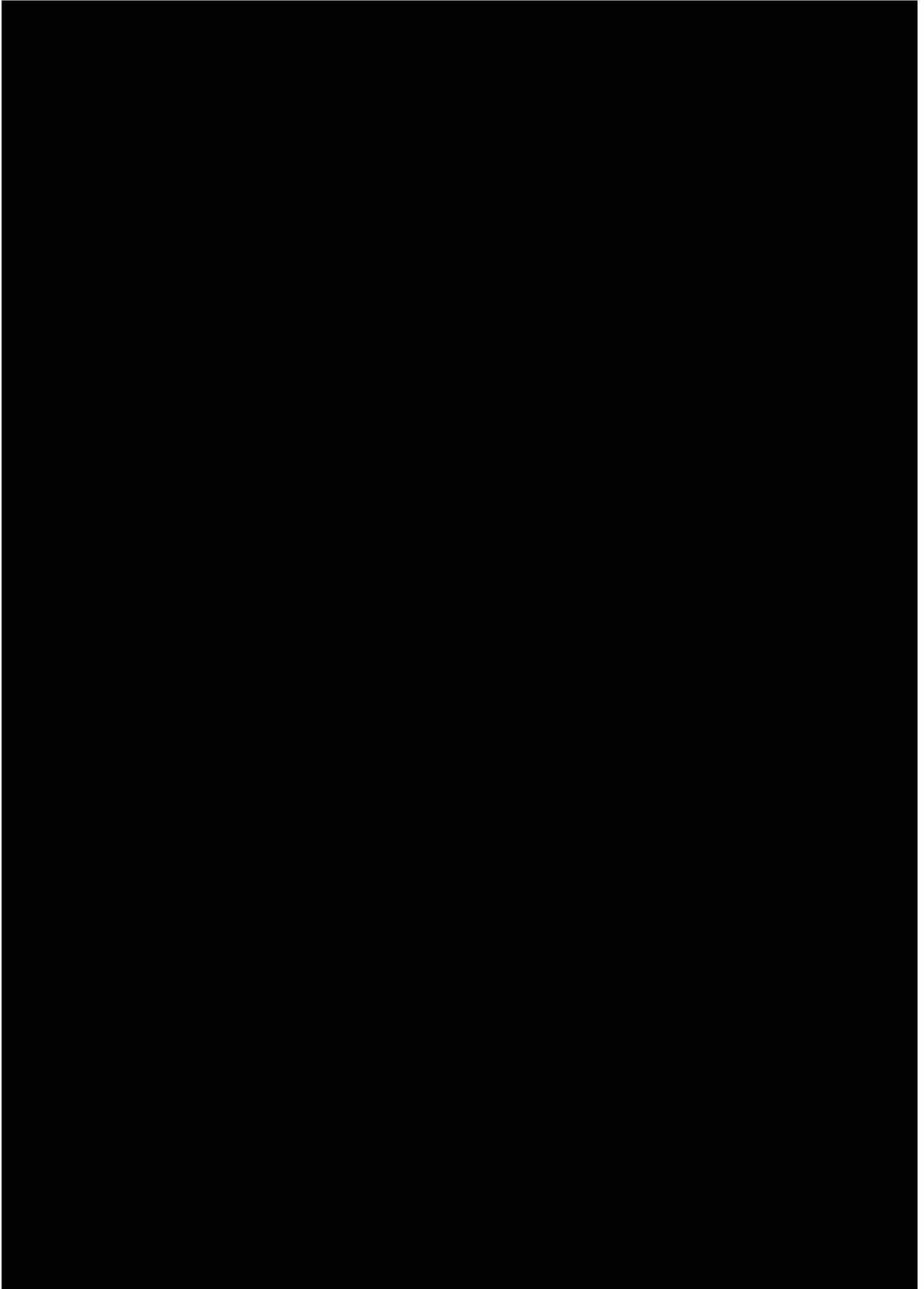


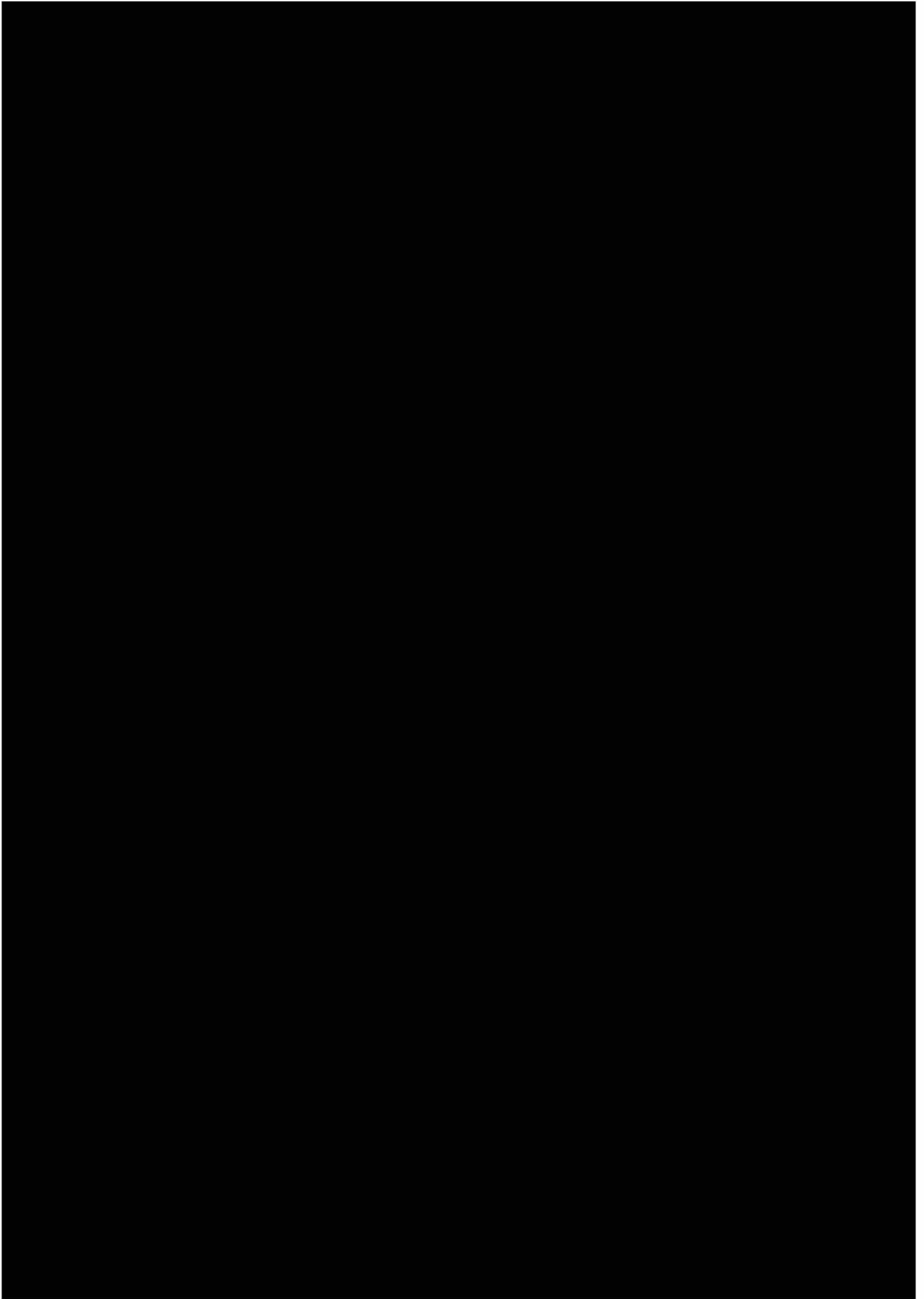


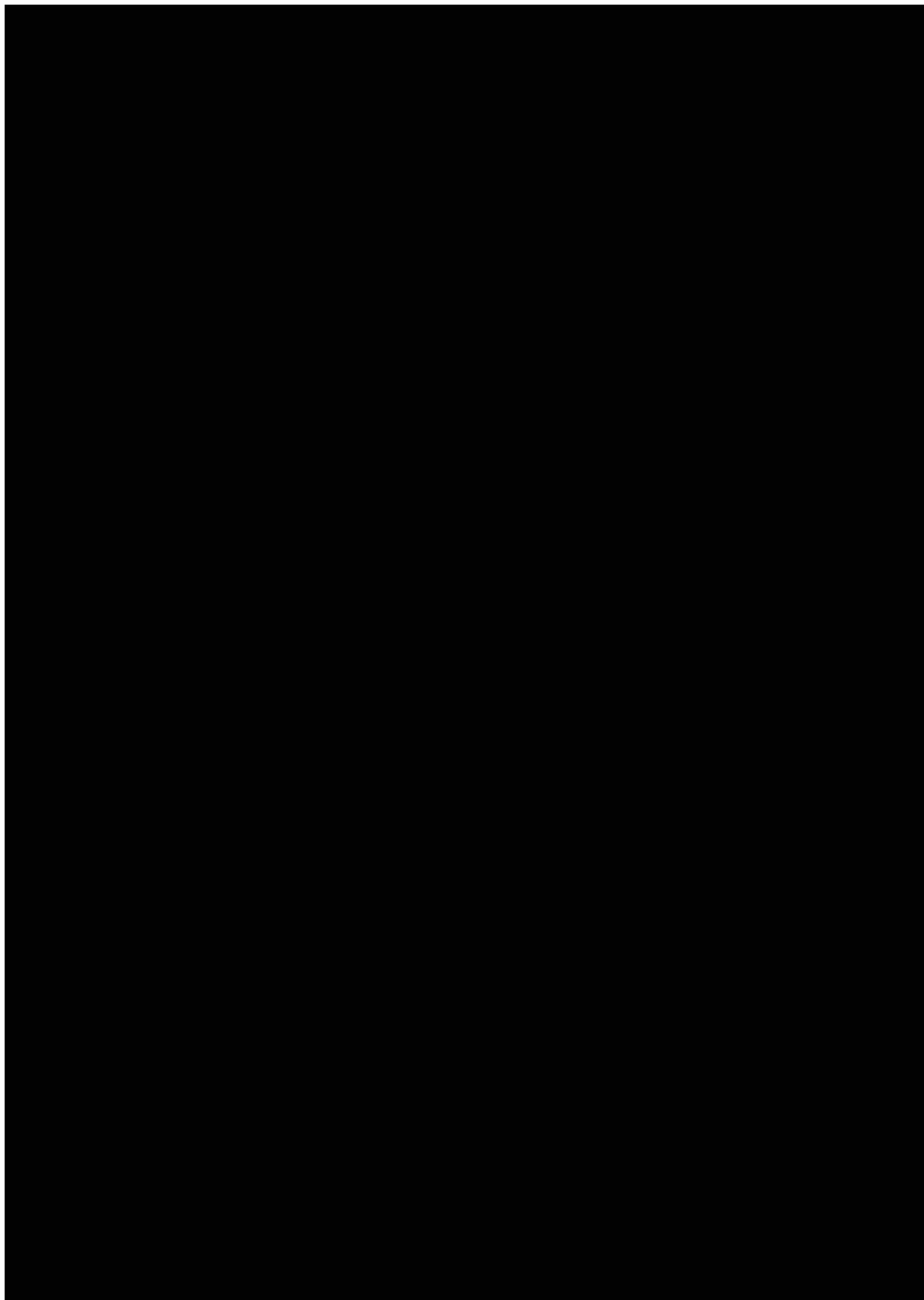


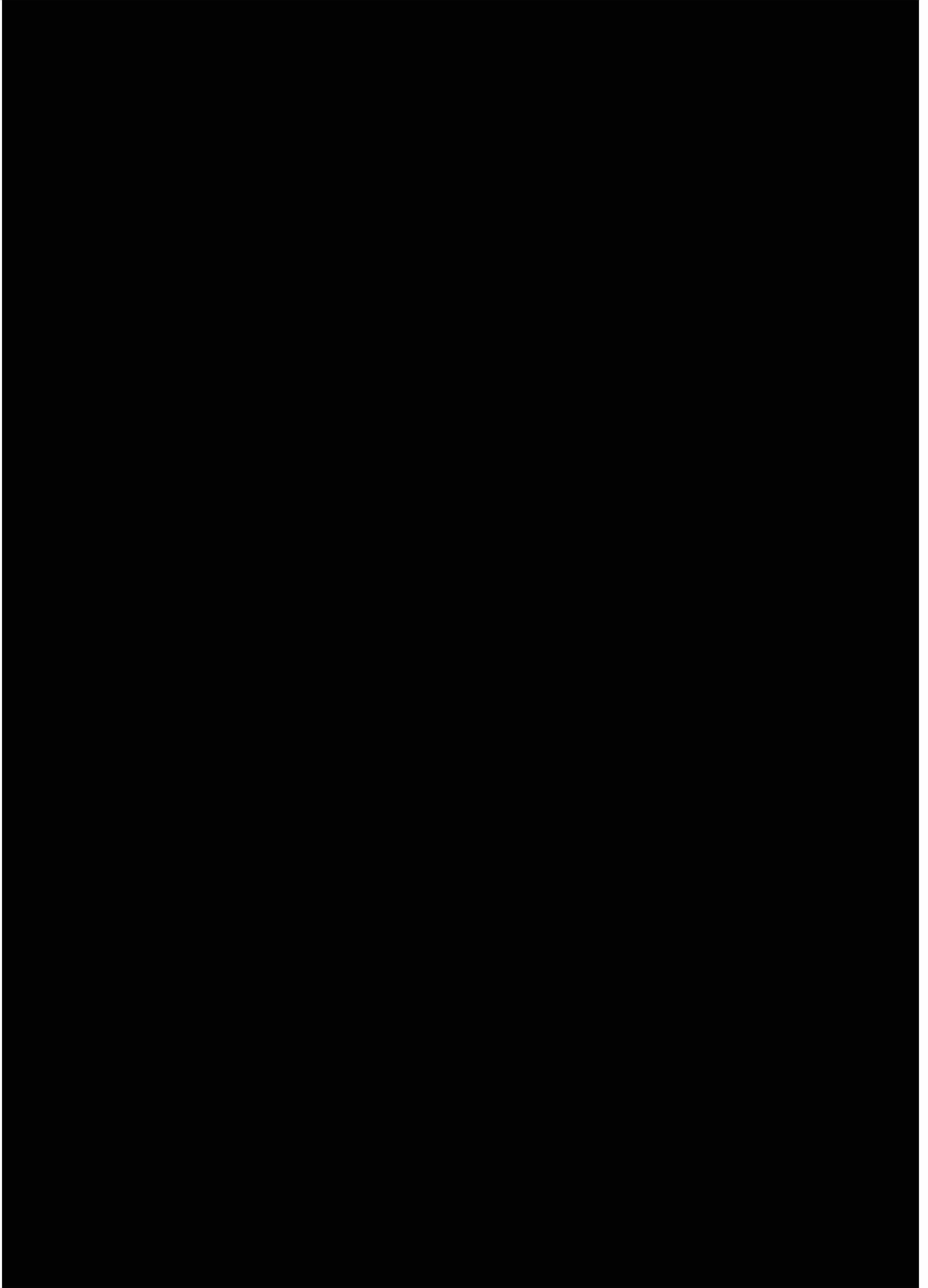


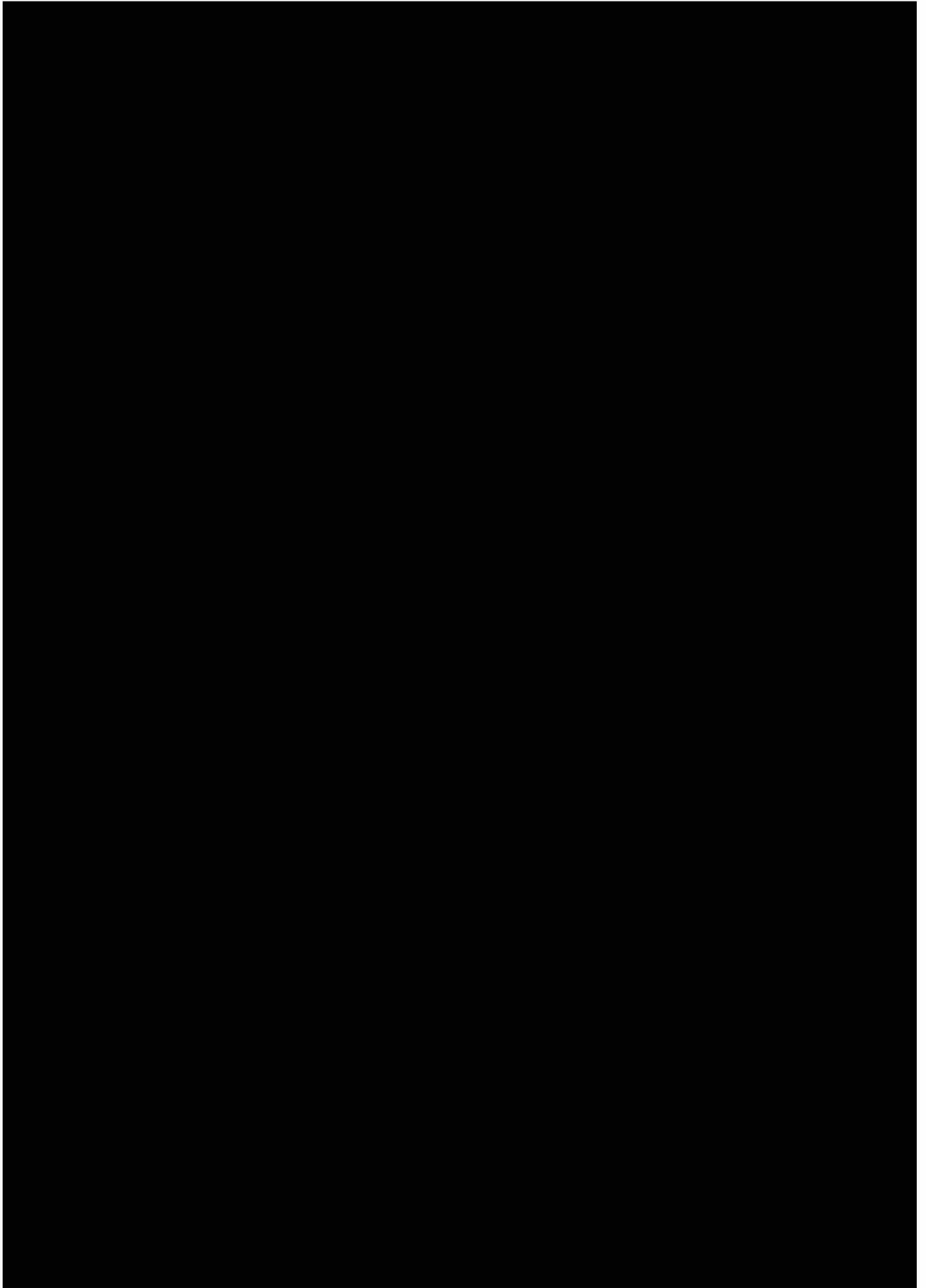


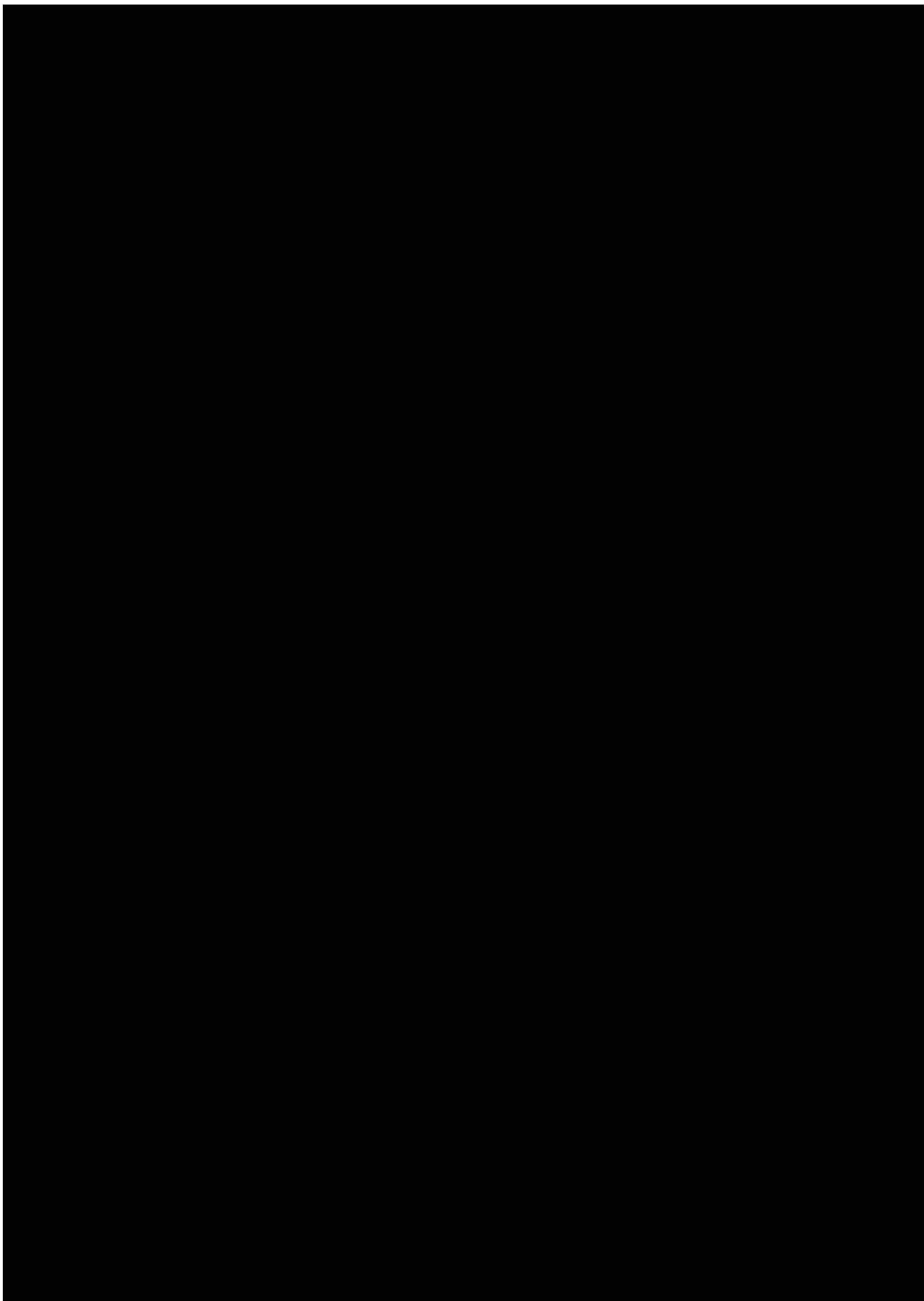


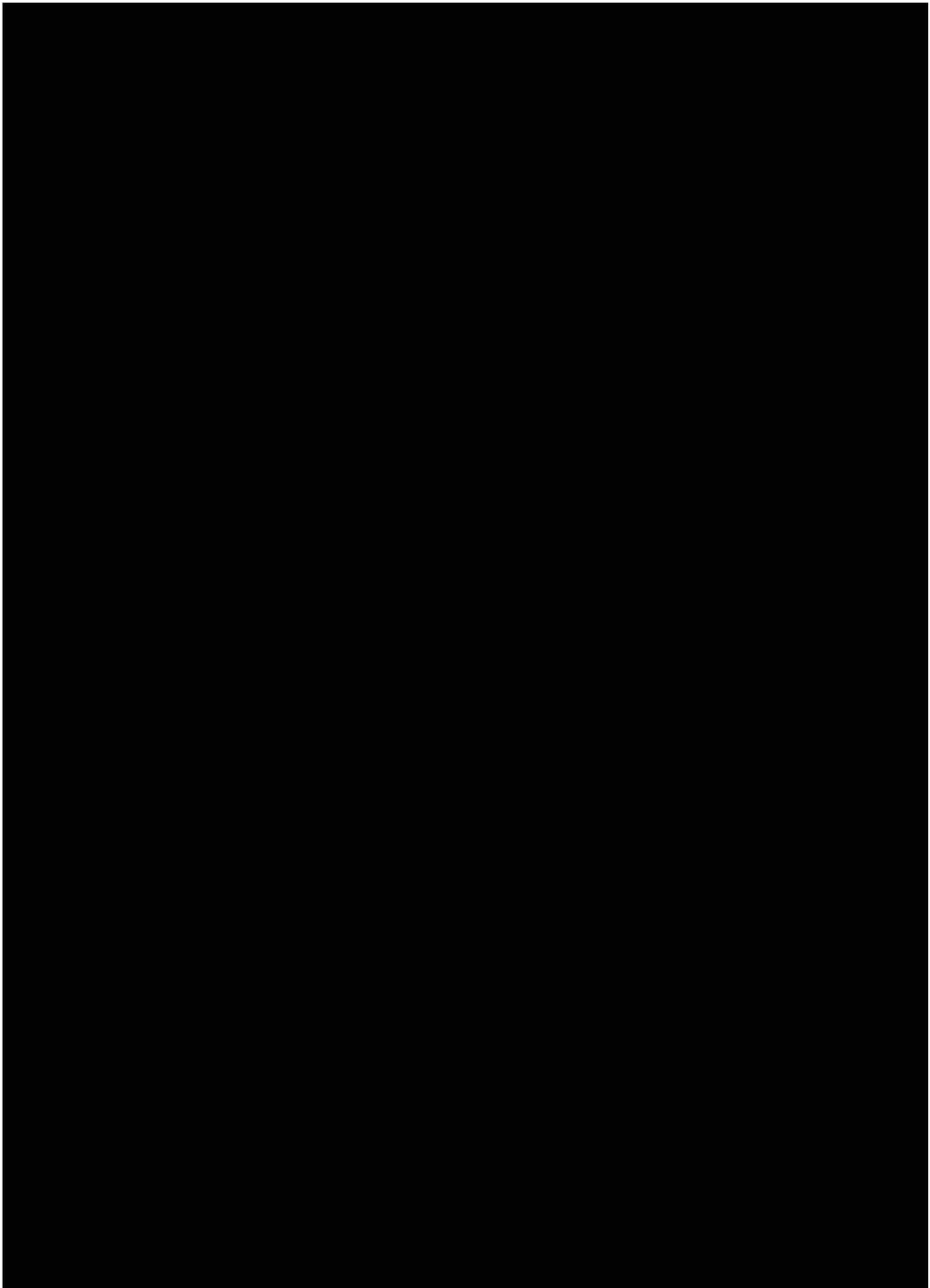












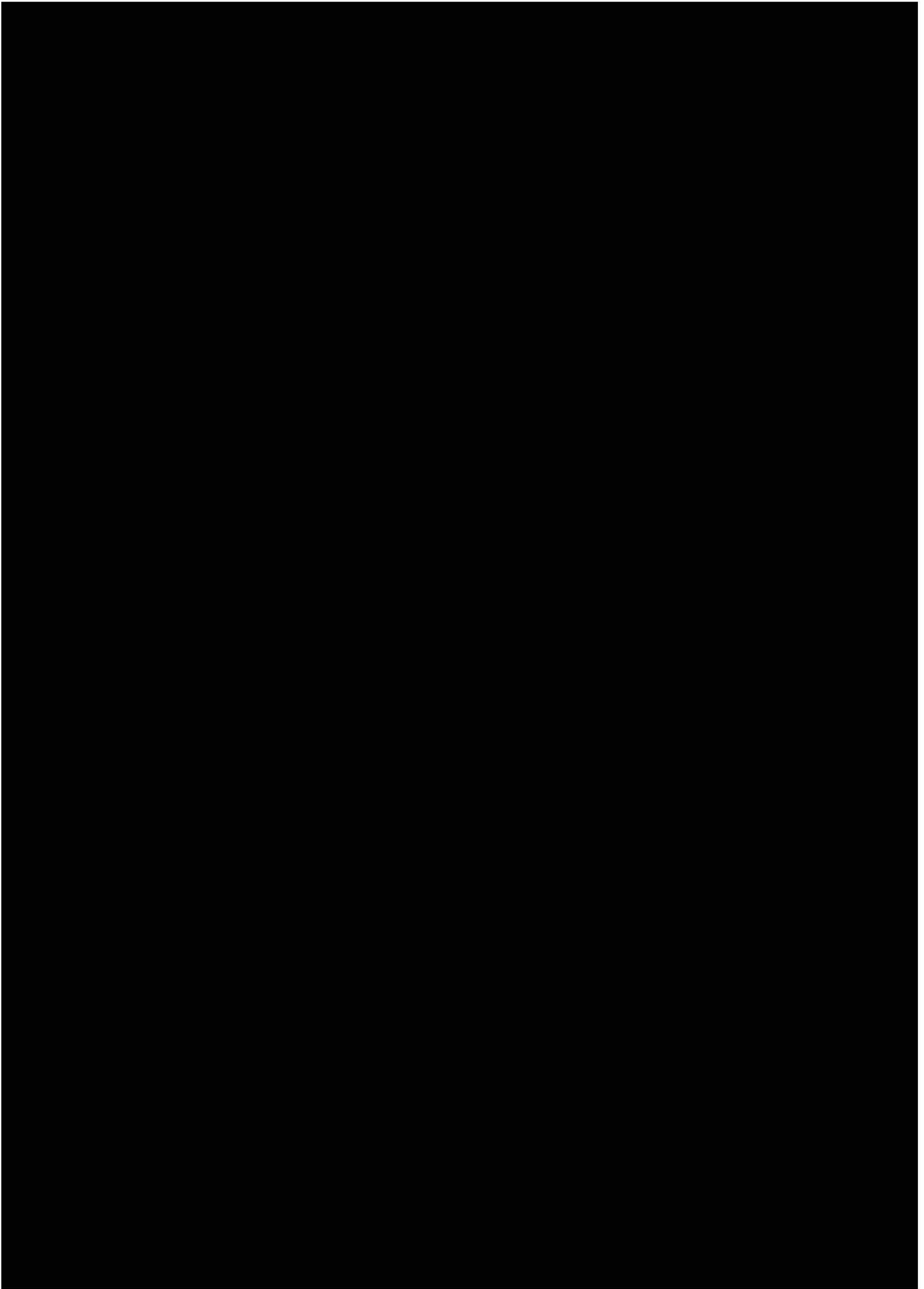


EXHIBIT 2

WITNESS STATEMENT OF MICHAEL G. WASHER

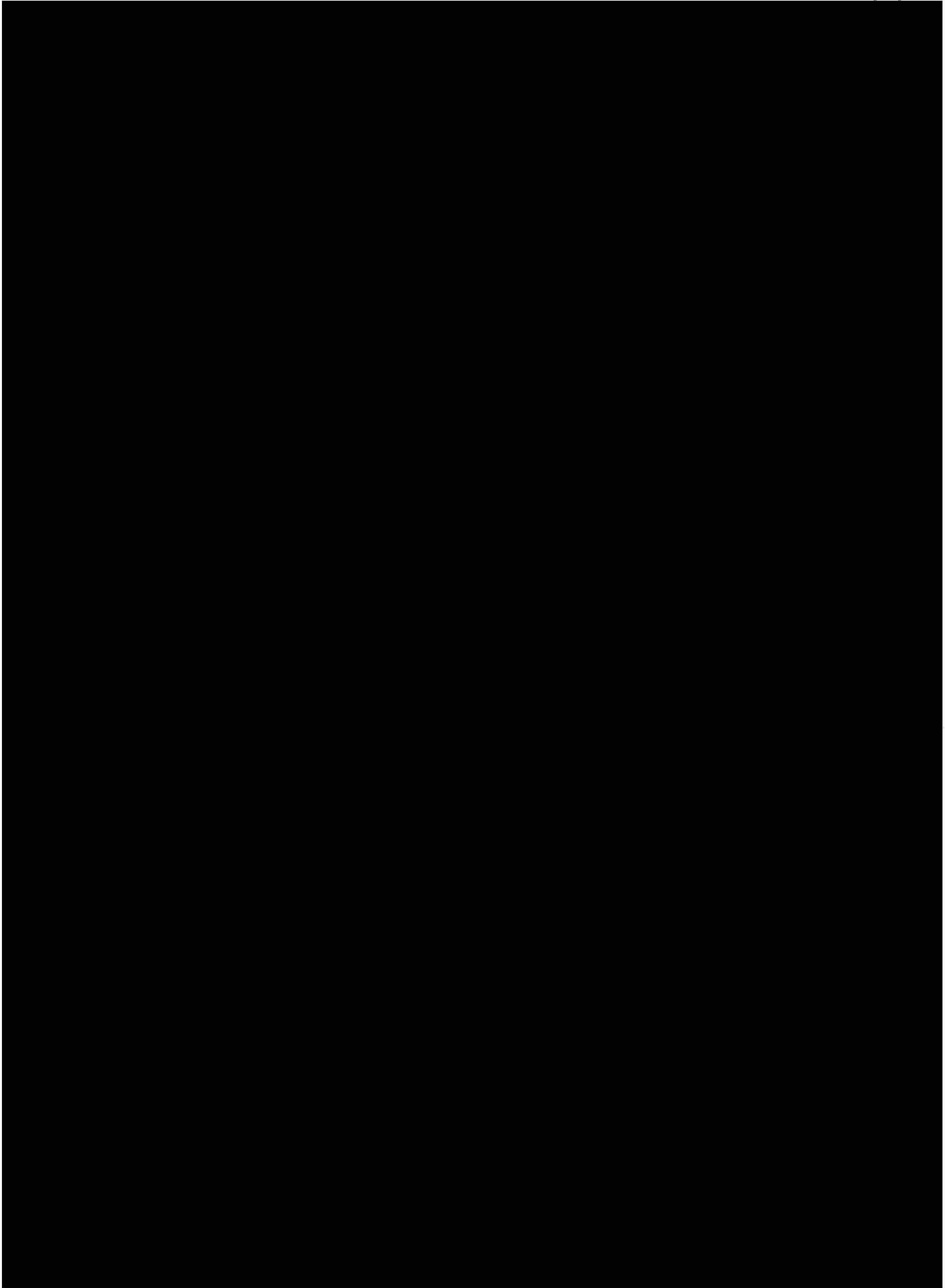
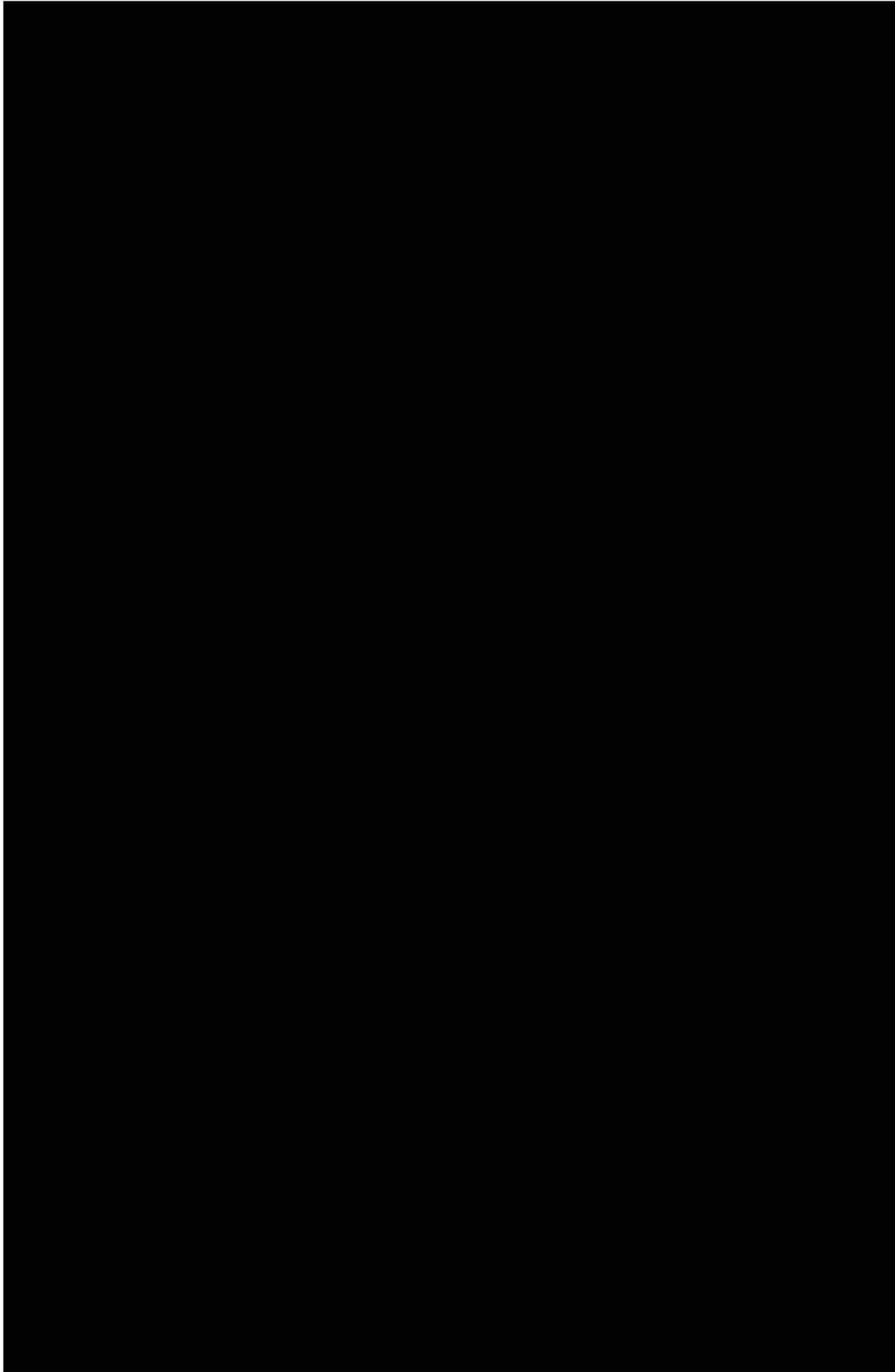
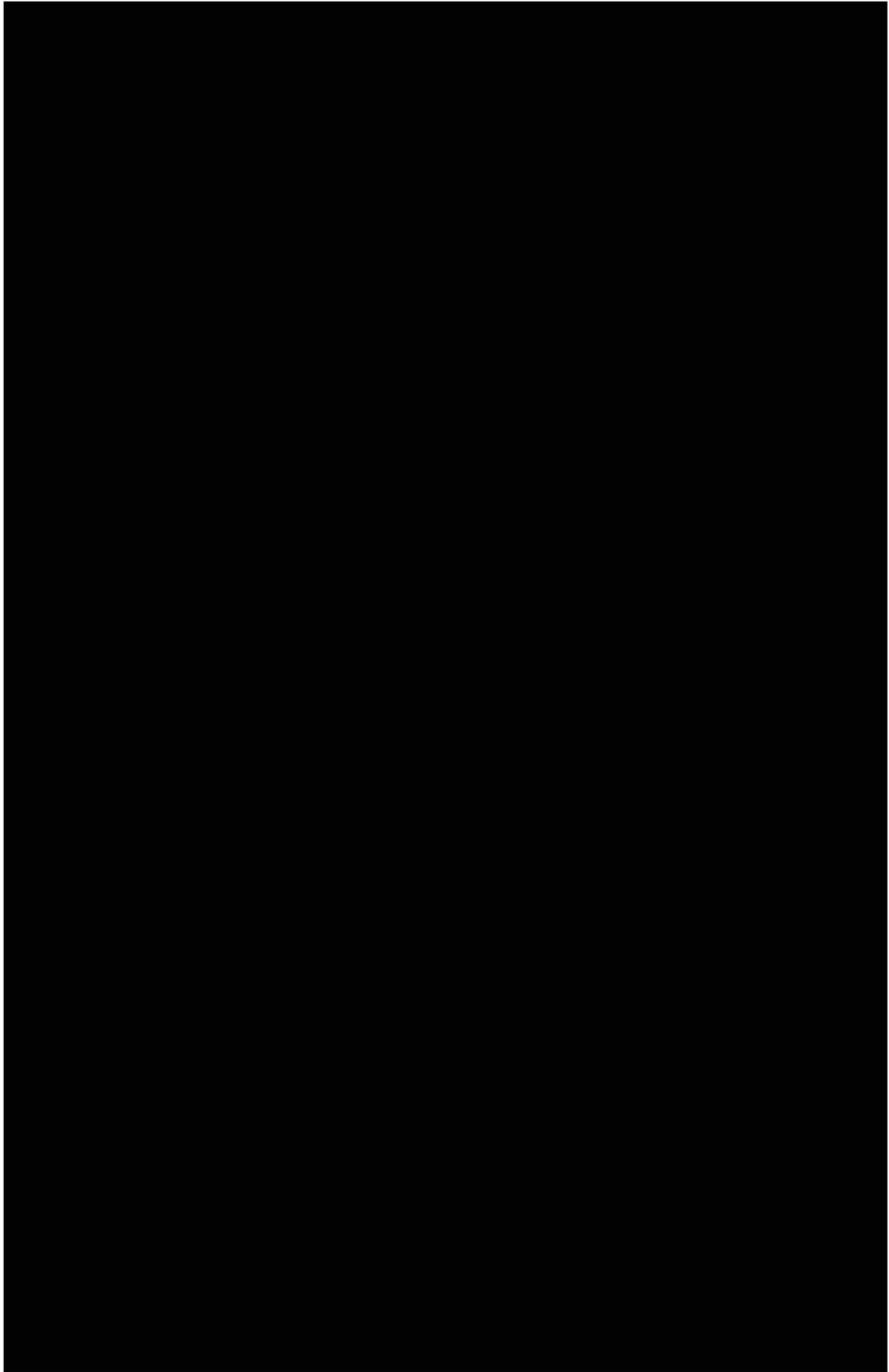


EXHIBIT 3

WITNESS STATEMENT OF MICHAEL G. WASHER





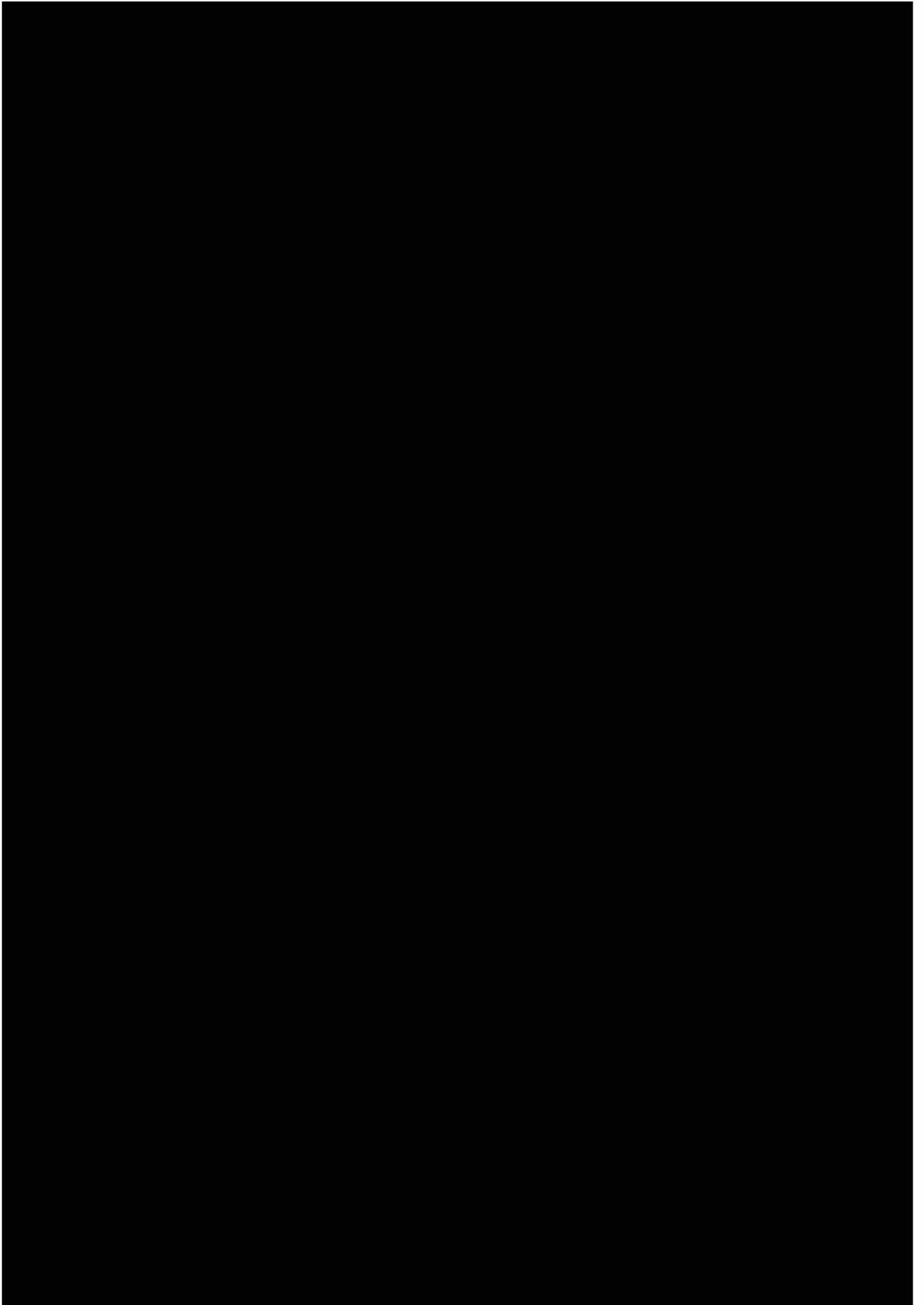


EXHIBIT 4

WITNESS STATEMENT OF MICHAEL G. WASHER

