

EXHIBIT H

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "DISPATCHHEALTH MANAGEMENT, LLC", FILED IN THIS OFFICE ON THE THIRTY-FIRST DAY OF MARCH, A.D. 2017, AT 2:48 O`CLOCK P.M.



6365504 8100
SR# 20172175755

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 202317746
Date: 04-03-17

CONFIDENTIAL

DHNotice00580

State of Delaware
Secretary of State
Division of Corporations
Delivered 02:48 PM 03/31/2017
FILED 02:48 PM 03/31/2017
SR 20172175755 - File Number 6365504

CERTIFICATE OF FORMATION

OF

DISPATCHHEALTH MANAGEMENT, LLC

The undersigned, for the purpose of forming a limited liability company under the Delaware Limited Liability Company Act, 6 Del. § 18 - 101, et seq. (the "Act"), as amended and supplemented, hereby adopts the following Certificate of Formation:

ARTICLE 1 - NAME


The name of the limited liability company (the "Company") is: DispatchHealth Management, LLC.

ARTICLE 2 - REGISTERED OFFICE AND REGISTERED AGENT

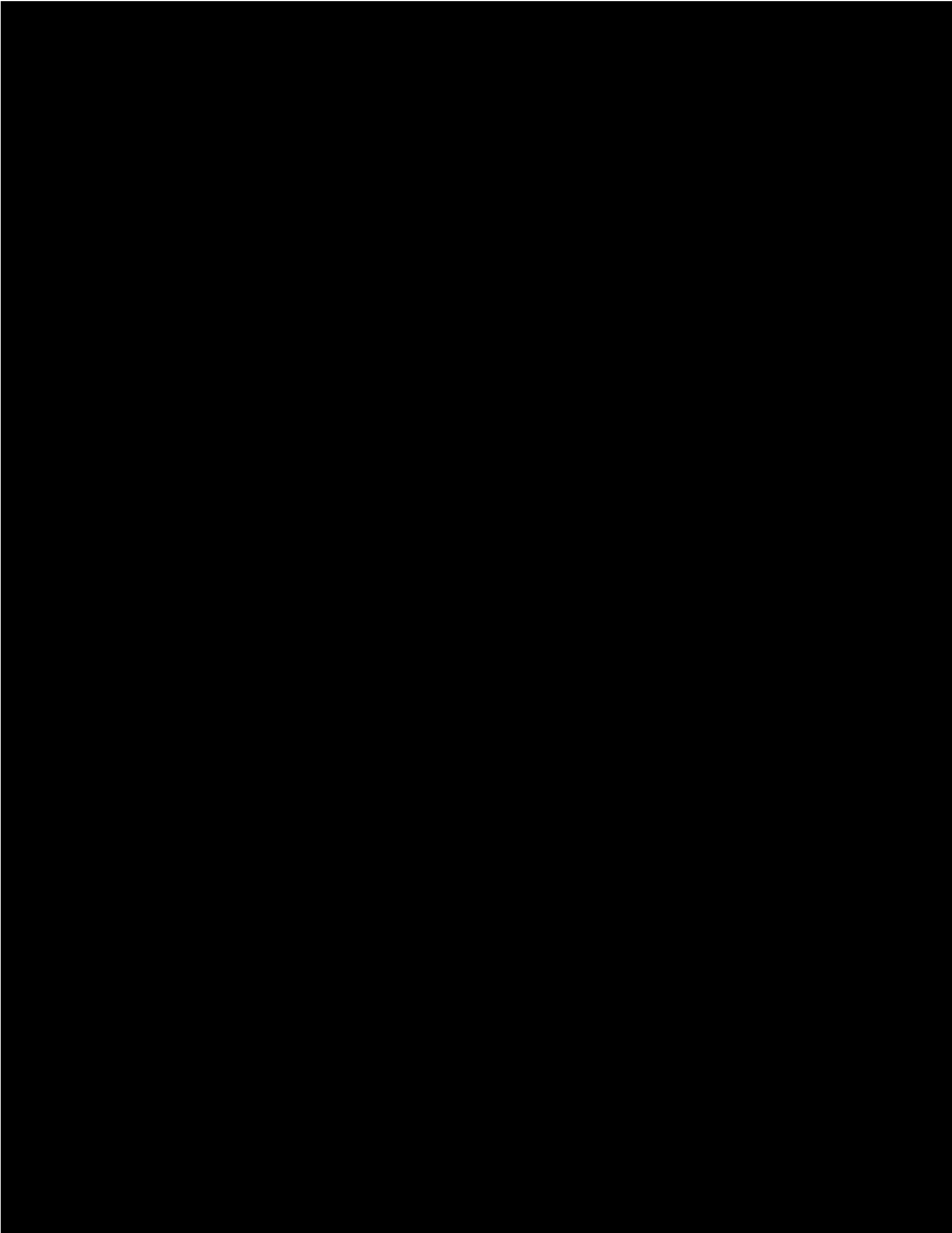
The address, including street, number, city, and county, of the registered office of the Company in the State of Delaware is: 1675 South State Street, Suite B, Dover, County of Kent, Delaware 19901. The name of the Company's resident agent at such address is: Capitol Services, Inc.

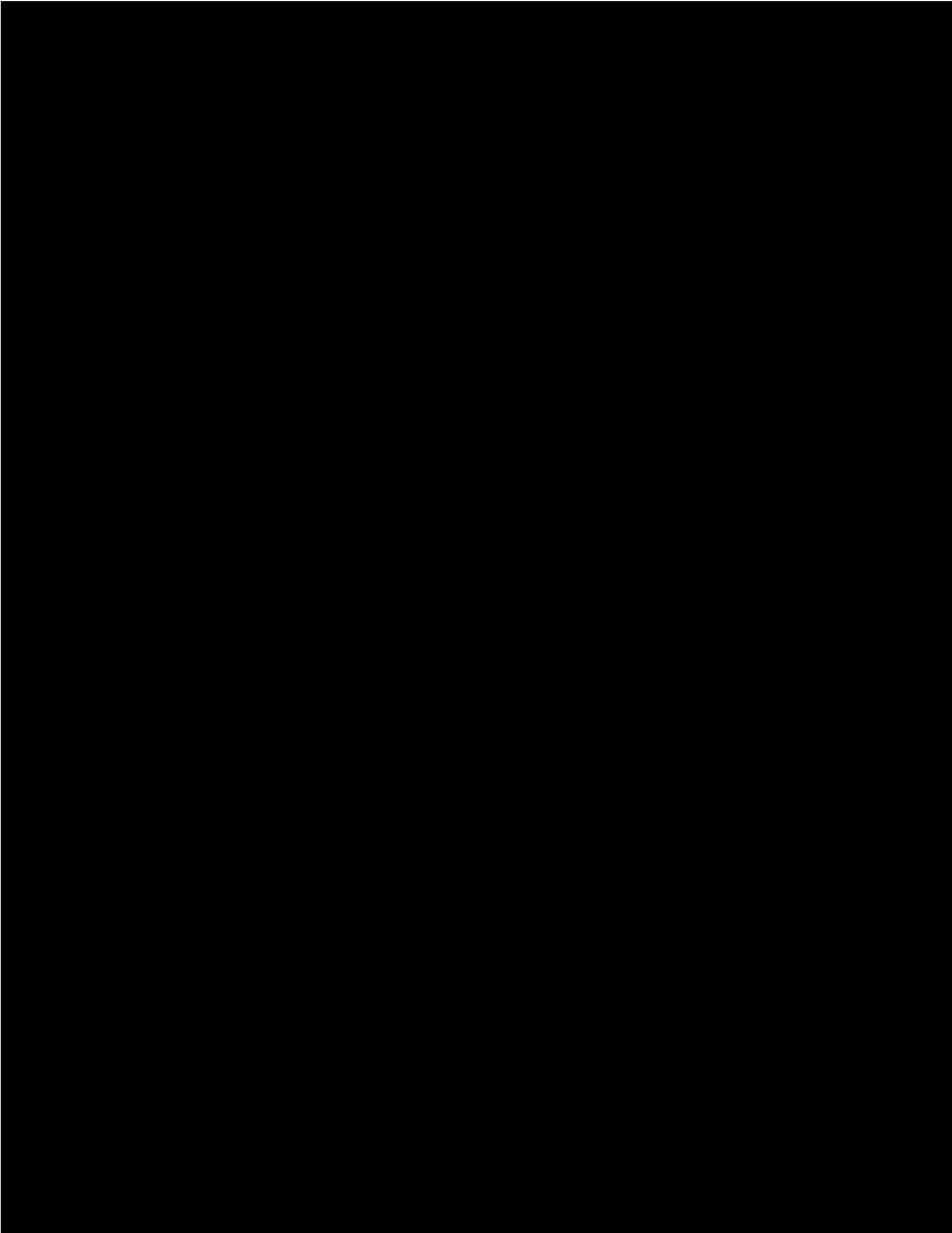
The undersigned hereby declares, under penalty of perjury, according to the laws of Delaware, that the foregoing is true and correct.

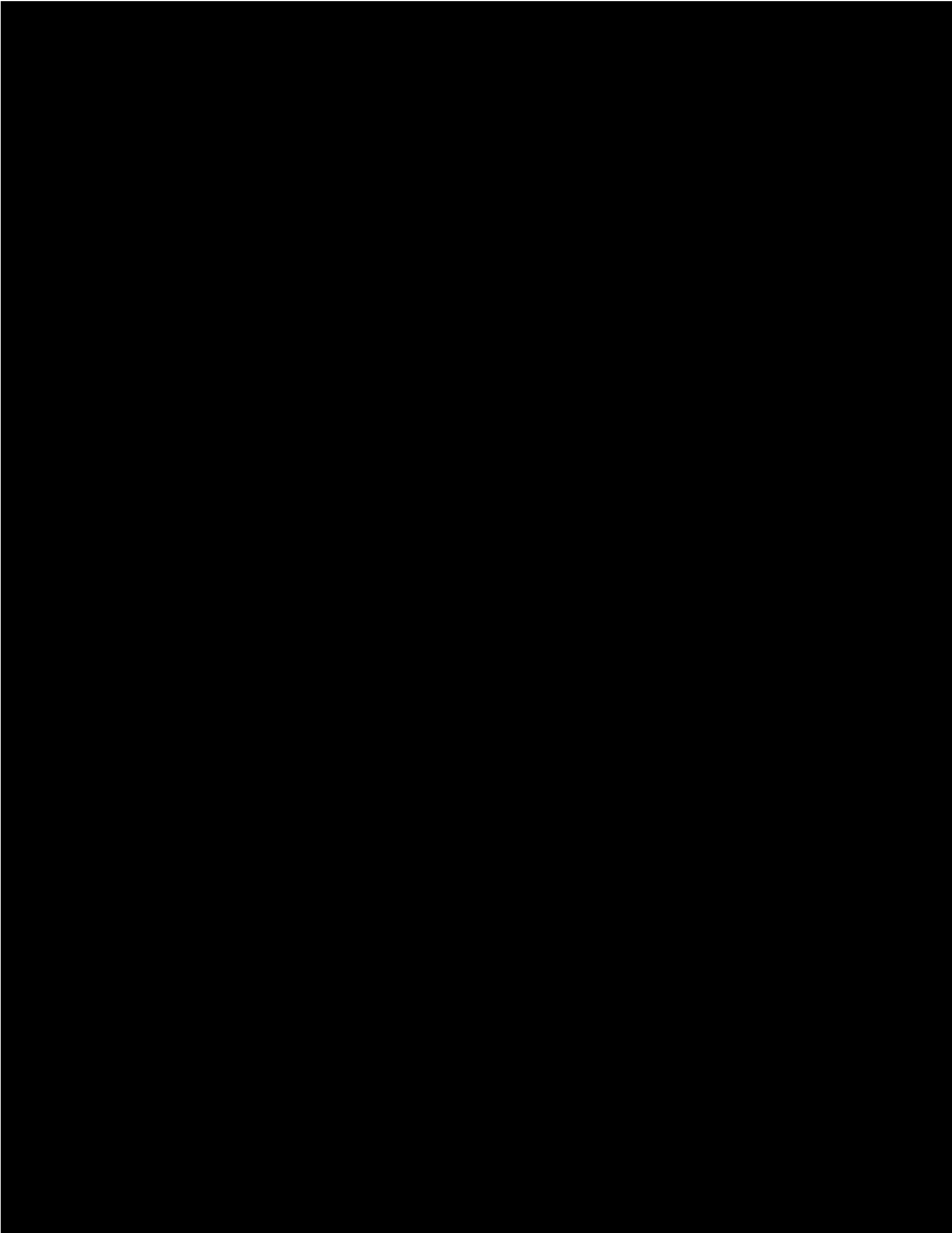
Dated: March 30, 2017

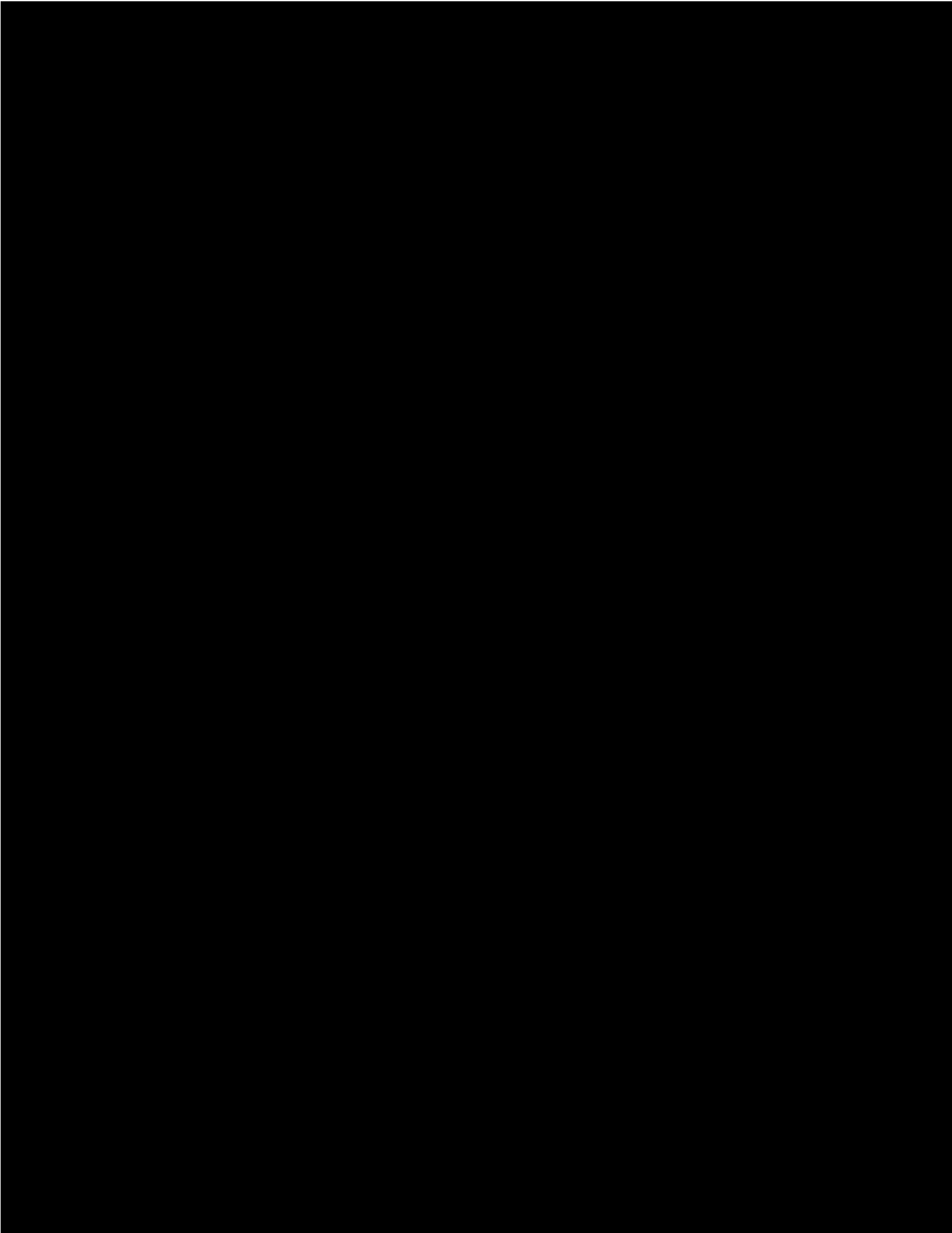


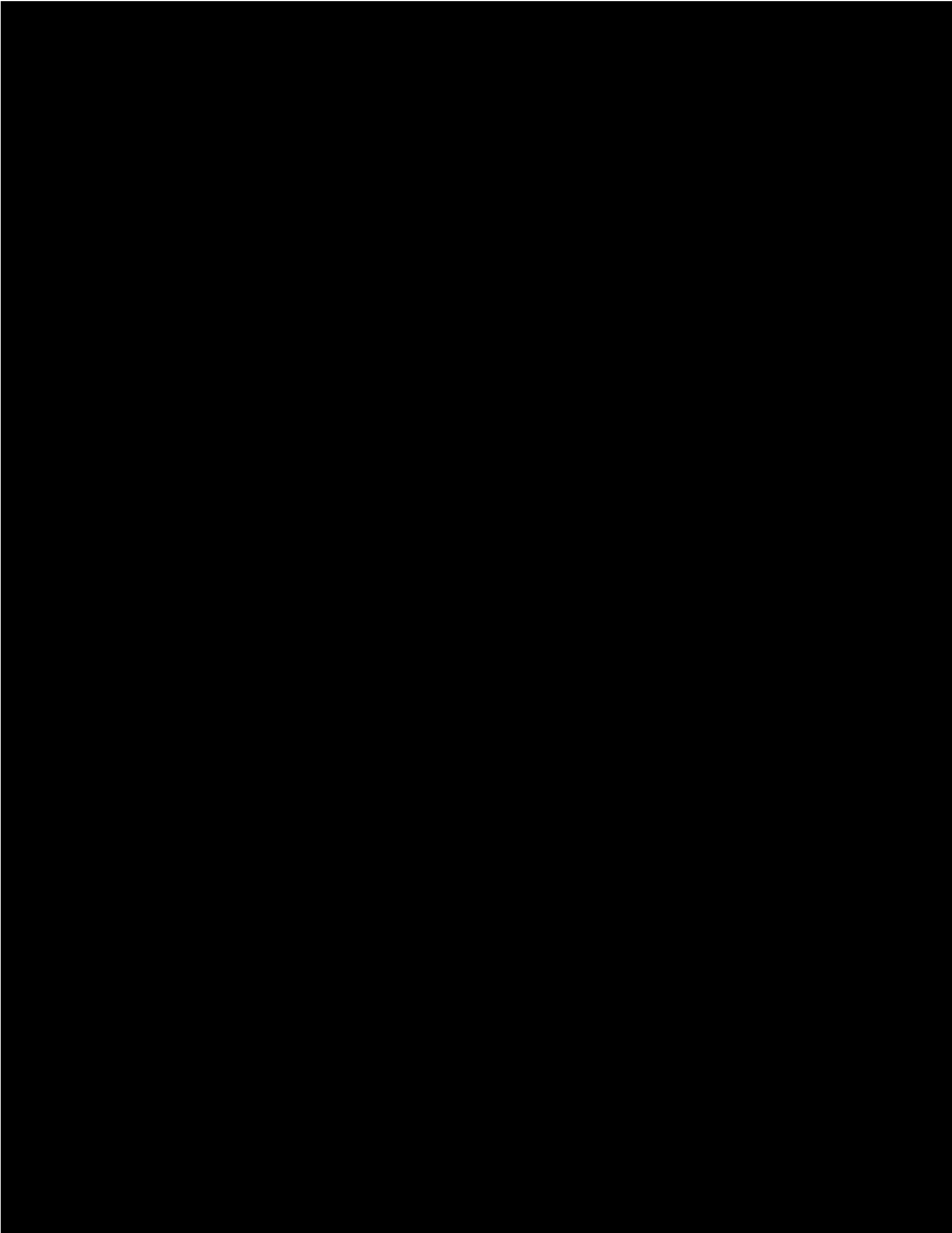
Mark Prather, M.D., Authorized Person

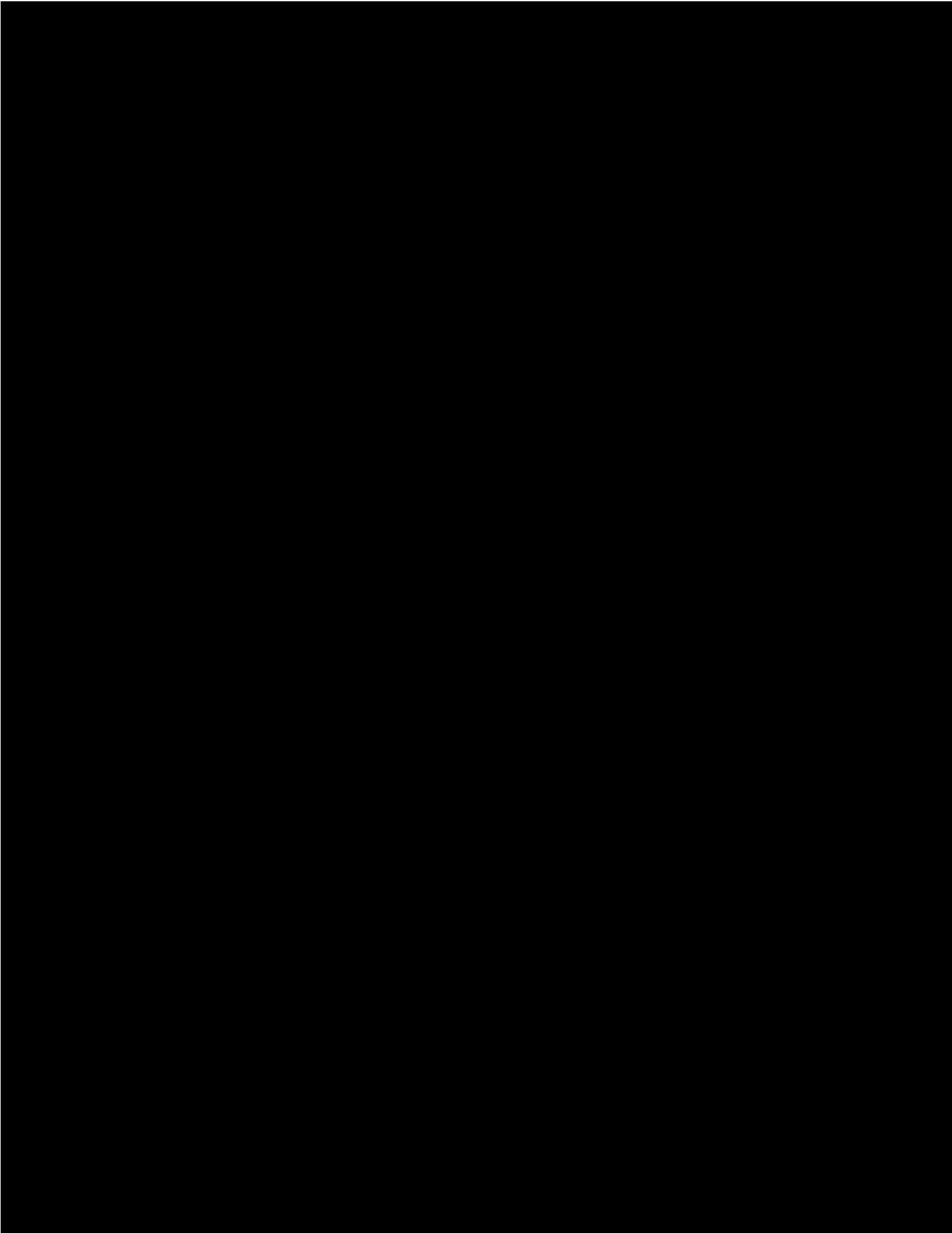


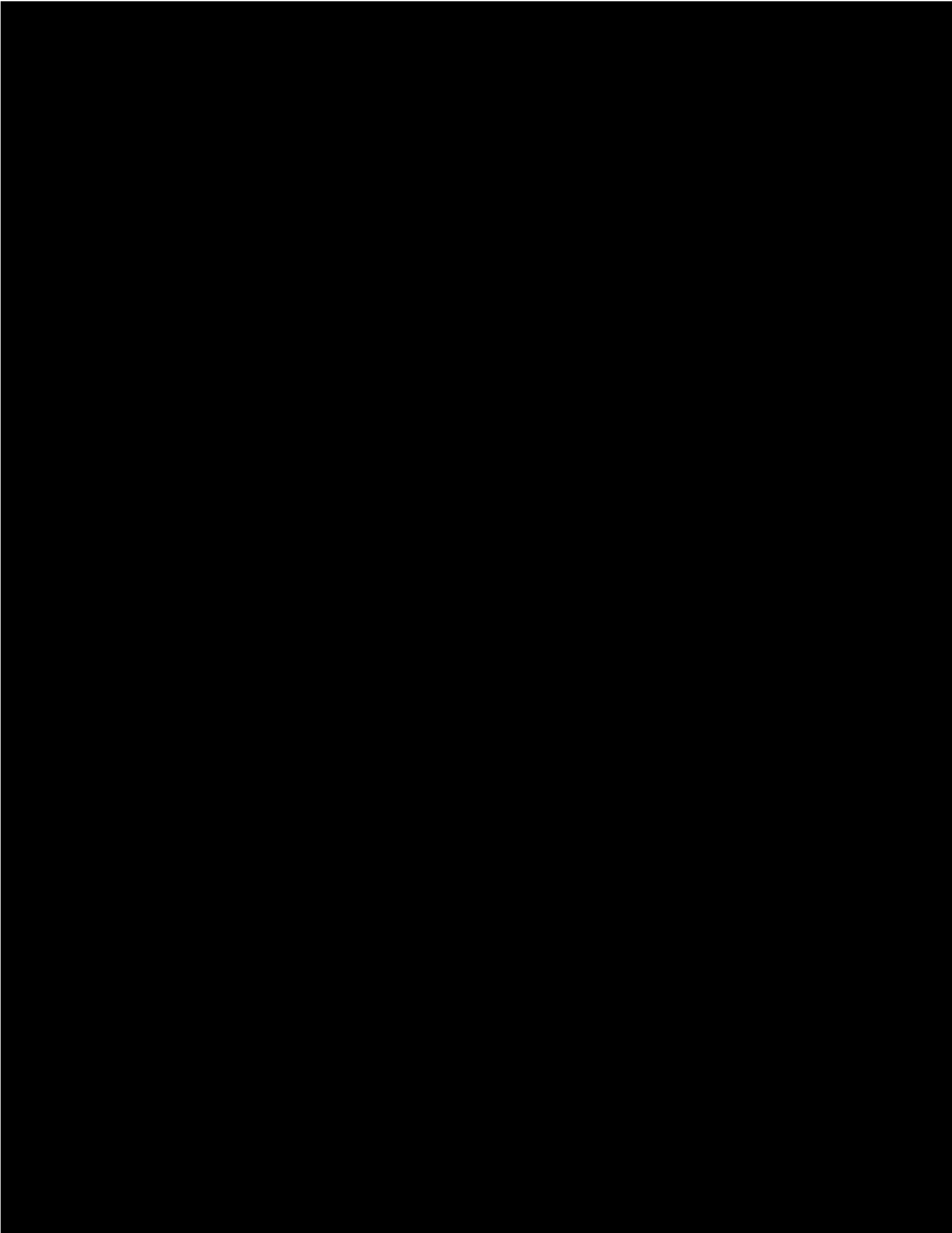


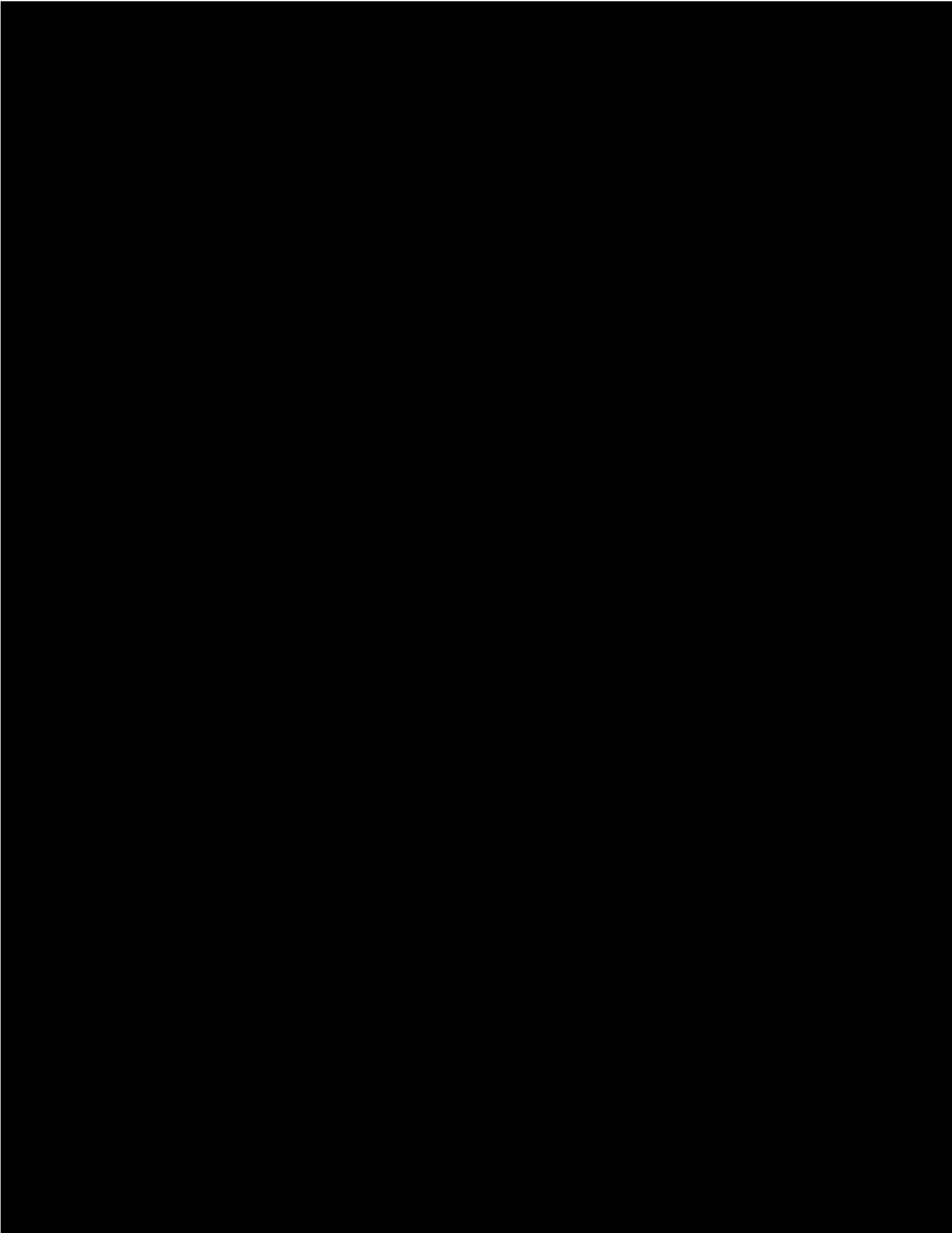


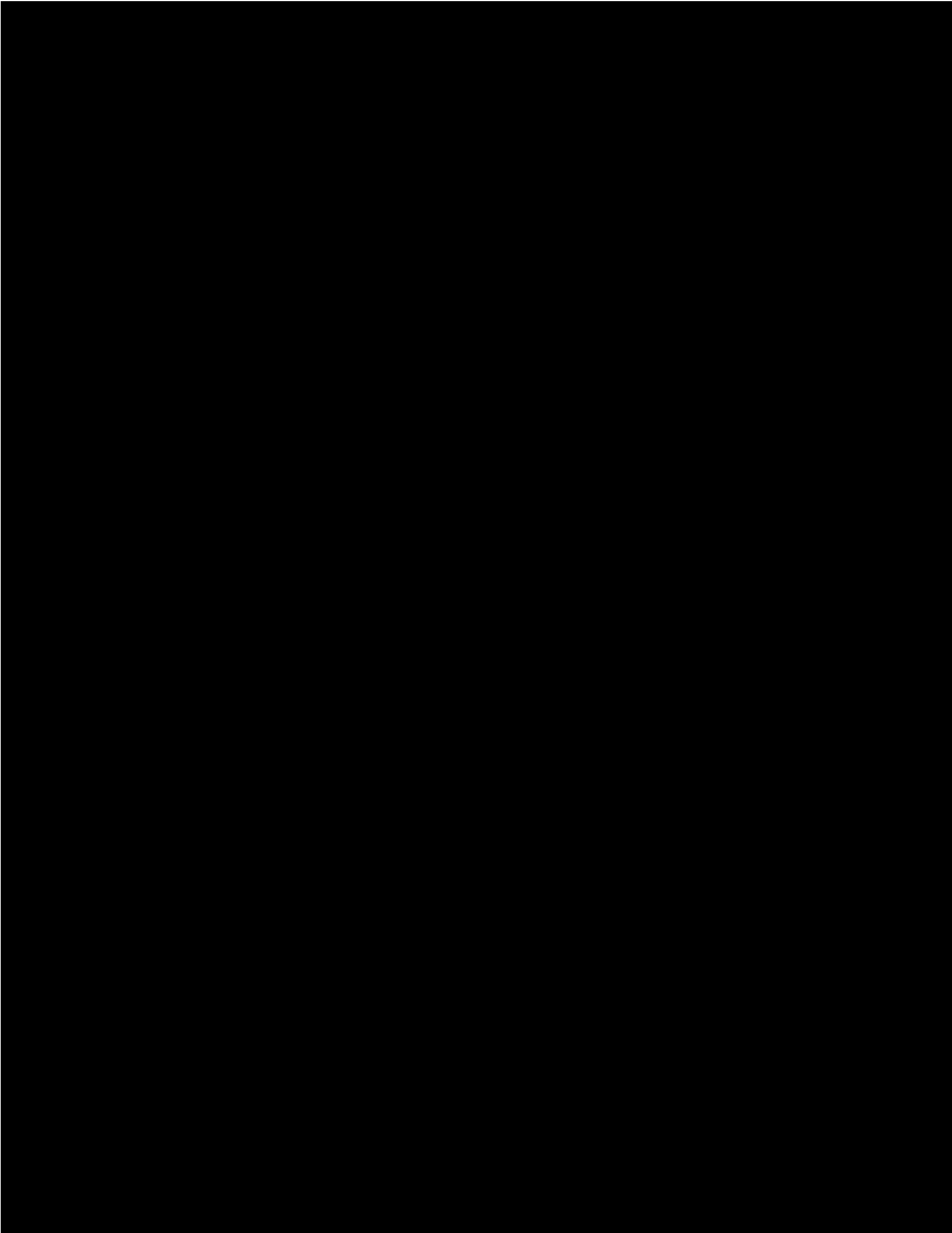


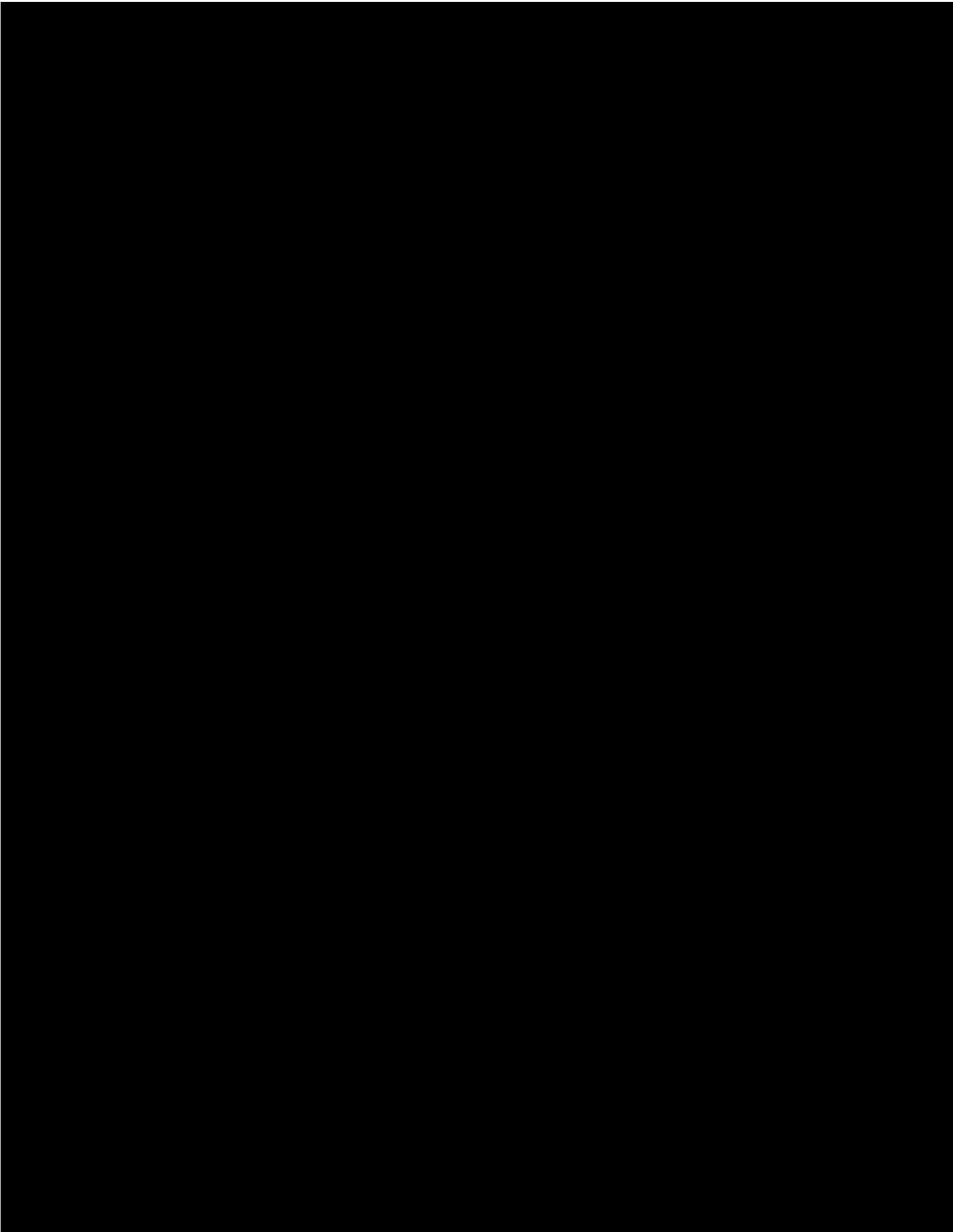


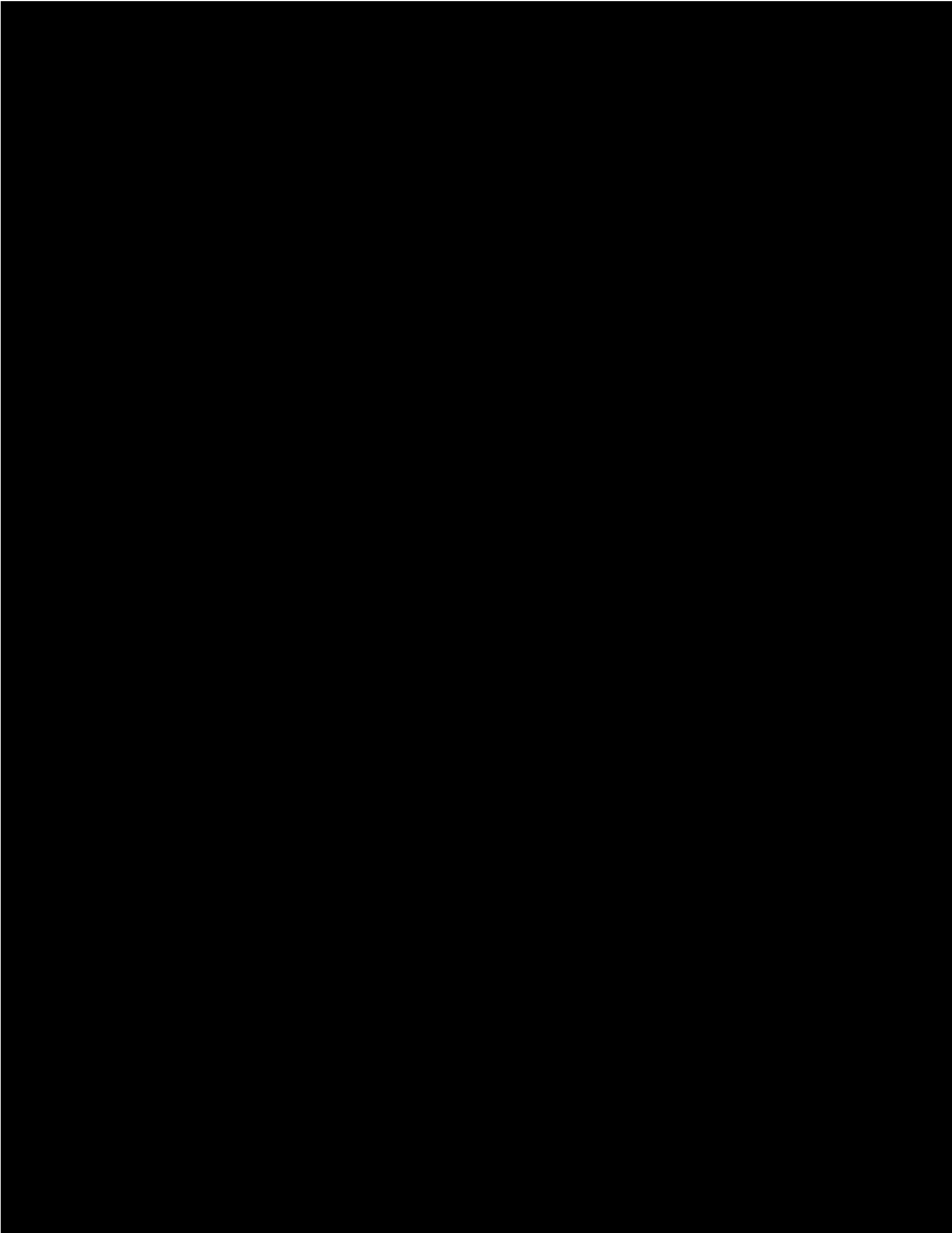


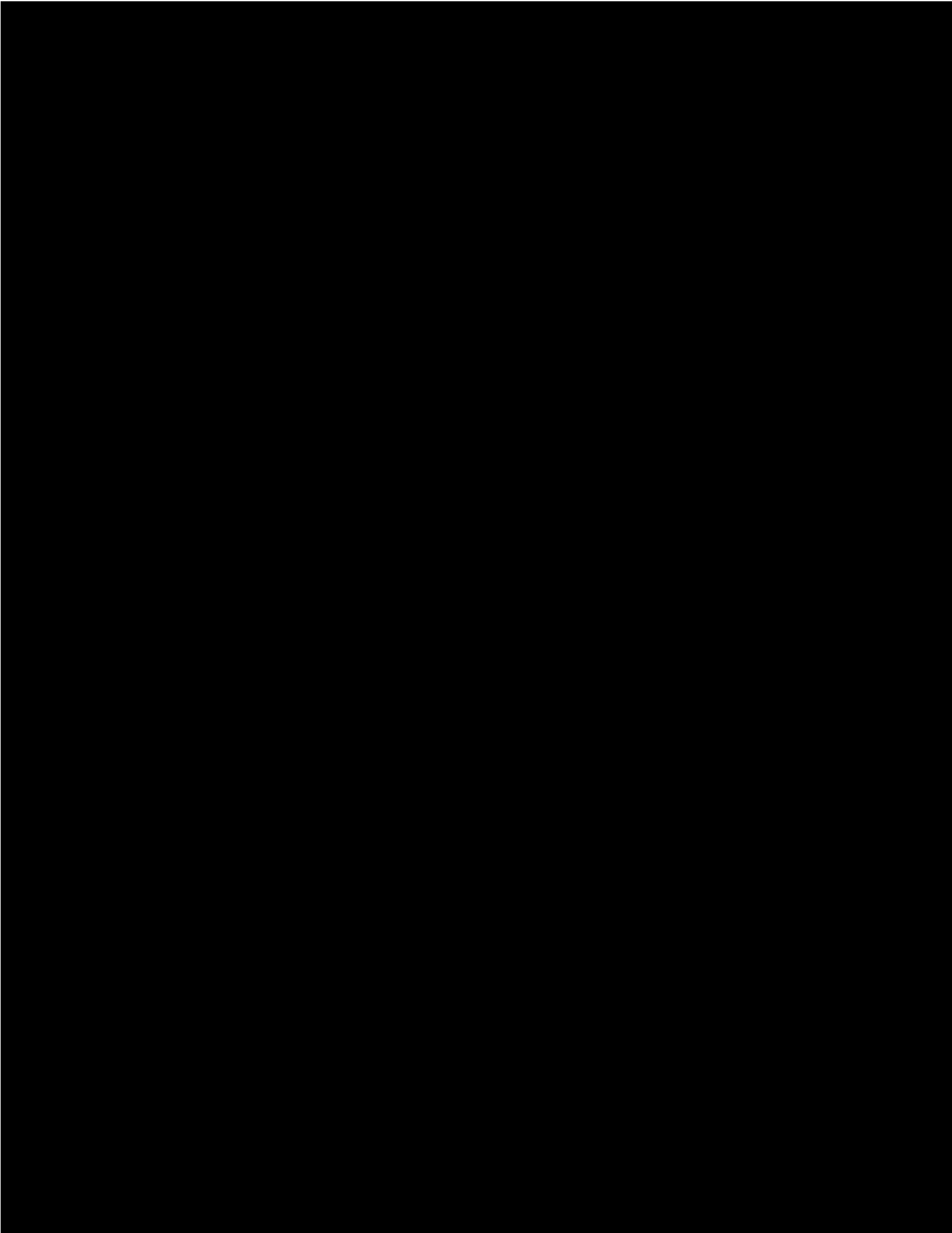


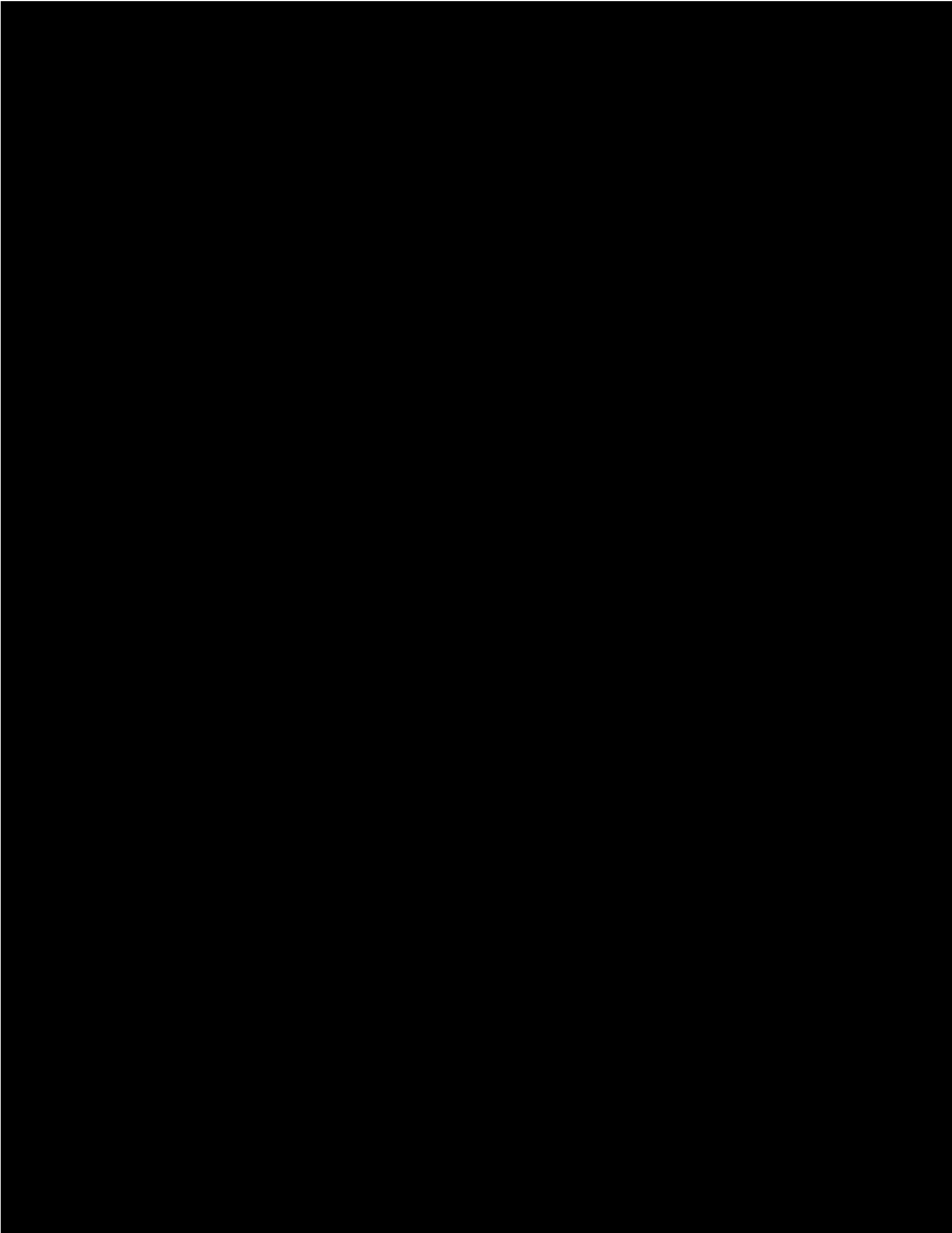














Articles of Incorporation - Business/Professional

Secretary of State - Corporation Division - 255 Capitol St. NE, Suite 151 - Salem, OR 97310-1327 - sos.oregon.gov/business - Phone: (503) 988-2200

BUSINESS CORPORATION (Complete Items 1, 2, 3, 4, 5, 6, 9 and 12. Items 7, 8, 10 and 11 are optional.)

PROFESSIONAL CORPORATION (Complete all Items. Note: Item 8, 10 and 11 are optional.)

REGISTRY NUMBER: 1570281-93

FILED

JUN 24 2019

For office use only

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1. NAME OF CORPORATION: DispatchHealth-Oregon, PC

OREGON SECRETARY OF STATE

NOTE: For a BUSINESS CORPORATION, the name must contain the word "Corporation", "Company", "Incorporated", or "Limited" or an abbreviation of one of such words. For a PROFESSIONAL CORPORATION, the name must contain the words "Professional Corporation", or abbreviations thereof, i.e., "P.C.", or Prof. Corp".

2. PRINCIPAL OFFICE: (Must be a physical street address)

3455 Ringsby Court, Unit 102

Denver, CO 80216

3. REGISTERED AGENT: (Individual or entity that will accept legal service for this business)

Capitol Corporate Services, Inc.

4. REGISTERED AGENT'S PUBLICLY AVAILABLE ADDRESS:

(Must be an Oregon Street Address, which is identical to registered agent's office.)

325 13th Street NE, Suite 404

Salem, Oregon 97301

5. ADDRESS WHERE THE DIVISION MAY MAIL NOTICES:

3455 Ringsby Court, Unit 102

Denver, CO 80216

6. NUMBER OF SHARES: (At least one share must be listed.)

1,000

7. IF RENDERING A LICENSED PROFESSIONAL SERVICE OR SERVICES, DESCRIBE THE SERVICE(S) BEING RENDERED: (PROFESSIONAL CORPORATION ONLY) ORS 58.015(5)(m) Health Care Services

8. OPTIONAL PROVISIONS: (Attach a separate sheet if necessary.)

BENEFIT COMPANY: The Corporation is a benefit company subject to ORS 60.750 - 60.770. (additional requirements apply)

INDEMNIFICATION: The corporation elects to indemnify its directors, officers, employees, agents for liability and related expenses under ORS 58.185 or 60.387 - 60.414.

SEE ATTACHED

9. WHO IS FORMING THIS BUSINESS? (INCORPORATORS)

List names and addresses of each incorporator. Attach a separate sheet if necessary.

Andrew J. Wagner, M.D.

3455 Ringsby Court, Unit 102

Denver, CO 80216

LIST INITIAL PRESIDENT AND SECRETARY NAMES AND ADDRESSES (MAY BE REQUIRED BY YOUR BANK)

10. INITIAL PRESIDENT (Name and Address)

Andrew J. Wagner, M.D.

3455 Ringsby Court, Unit 102

Denver, CO 80216

11. INITIAL SECRETARY (Name and Address)

Mark Prather, M.D.

3455 Ringsby Court, Unit 102

Denver, CO 80216

12. INDIVIDUAL WITH DIRECT KNOWLEDGE

List the name and address of at least one individual who is a director, or controlling shareholder of the corporation or an authorized representative with direct knowledge of the operations and business activities of the corporation.

Andrew J. Wagner, M.D.

3455 Ringsby Court, Unit 102

Denver, CO 80216

18. EXECUTION/SIGNATURE OF EACH PERSON WHO IS FORMING THIS BUSINESS: (Incorporator)

I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any officers, directors, employees or agents of the corporation. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment or both.

Signature:

[Handwritten Signature]

Printed Name:

Andrew J. Wagner

Title:

Incorporator/President

CONTACT NAME: (To resolve questions with this filing) PHONE NUMBER: (Include area code)

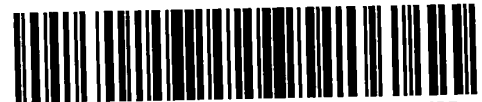
Deb Nihiser

303-583-8210

Articles of Incorporation - Business/Professional Corporation (12/18)

FEES
Requir
Process
Division
Free cop
program

DISPATCHHEALTH-OREGON, PC



157028193-20155674

NEWINC

**ATTACHMENT TO ARTICLES OF INCORPORATION
DISPATCH HEALTH OREGON, PC**

13. Purpose

The purpose for which the Corporation is organized is to render professional health care services, pursuant to Or. Rev. Stat. § 58.376, by and through officers, directors, and other persons duly licensed or otherwise meeting the requirements of Oregon law to render professional health care services in the state of Oregon.

14. Authorized Shares

Shares of the Corporation's common stock may be issued upon such terms and conditions as shall be prescribed by the Board of Directors of the Corporation and may be issued in exchange for cash, services or anything of present right or value, but not for a promissory note. The judgment of the Board of Directors as to the value of property or services taken in exchange for stock, as to the determination of cash reserves and operating capital and as to the value of consideration received from time to time for the sale of stock, shall be conclusive in the absence of fraud. The stock of this Corporation shall be fully paid for when issued and shall be forever non-assessable. Each shareholder in this Corporation shall, at all shareholders' meetings, whether general or special, be entitled to one (1) vote for every share of common stock that he or she shall hold, except as otherwise provided by Oregon law.

15. Indemnity

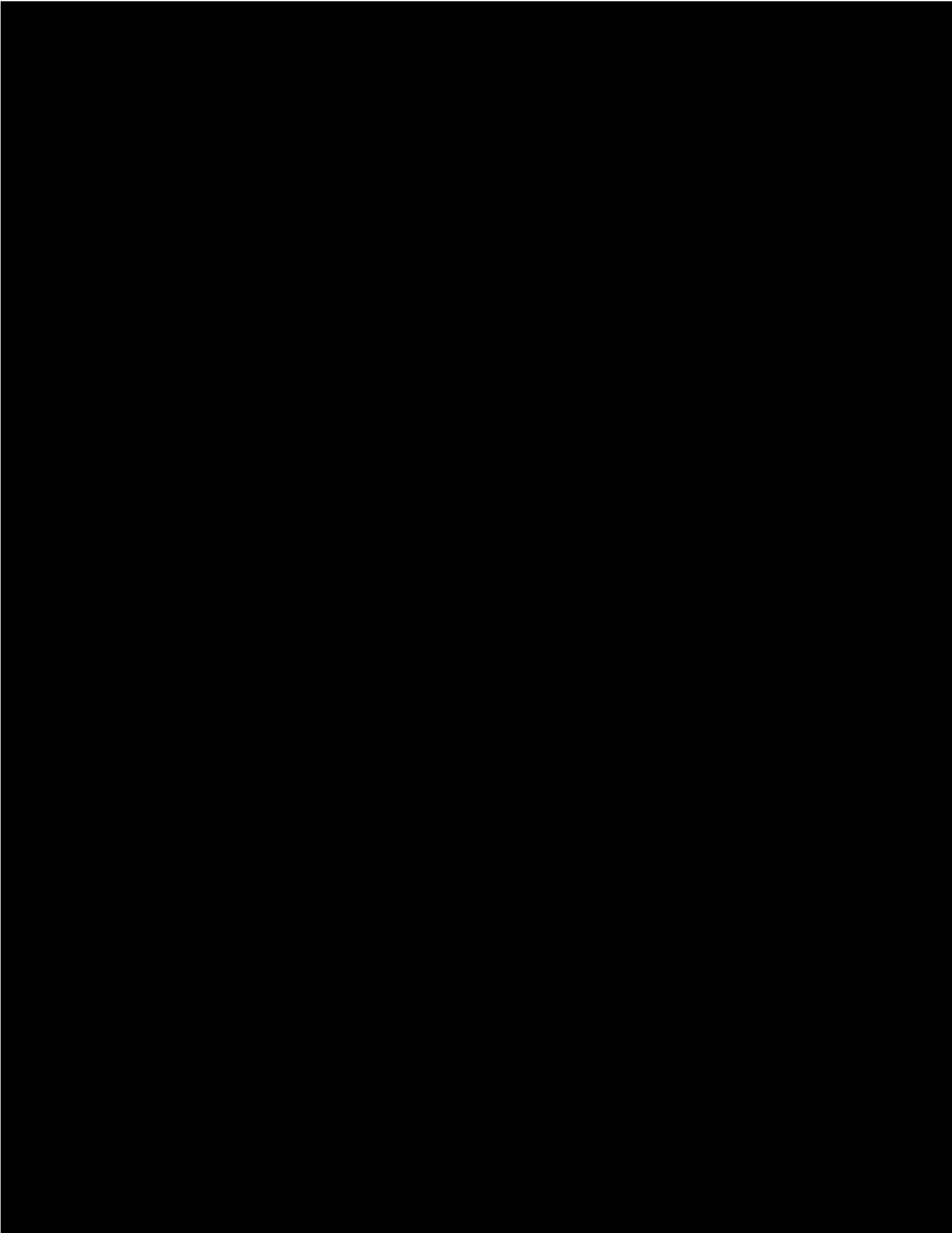
The Corporation shall indemnify any person who incurs expenses or liabilities by reason of the fact he or she is or was an officer, director, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by law.

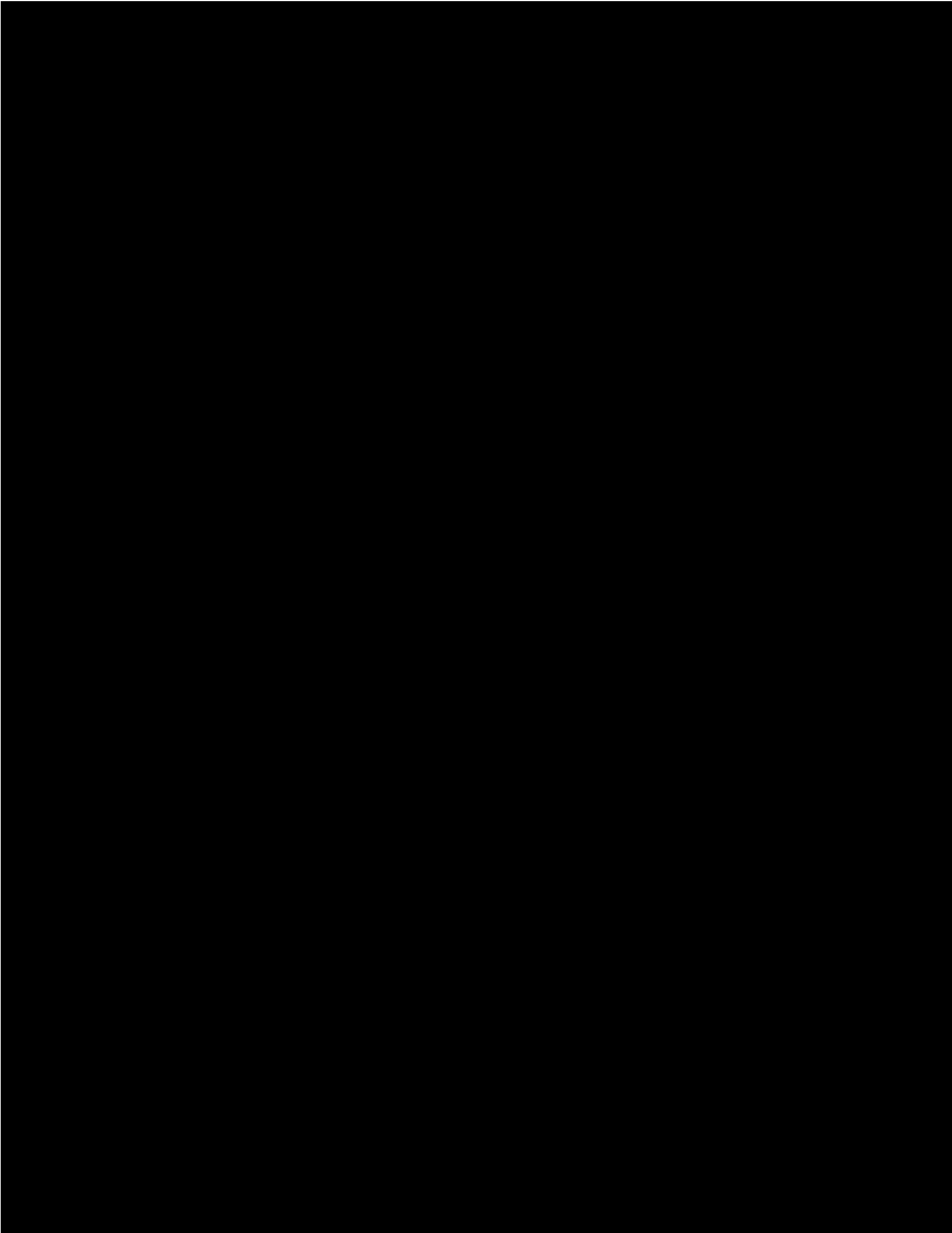
16. Limitation of Director Liability

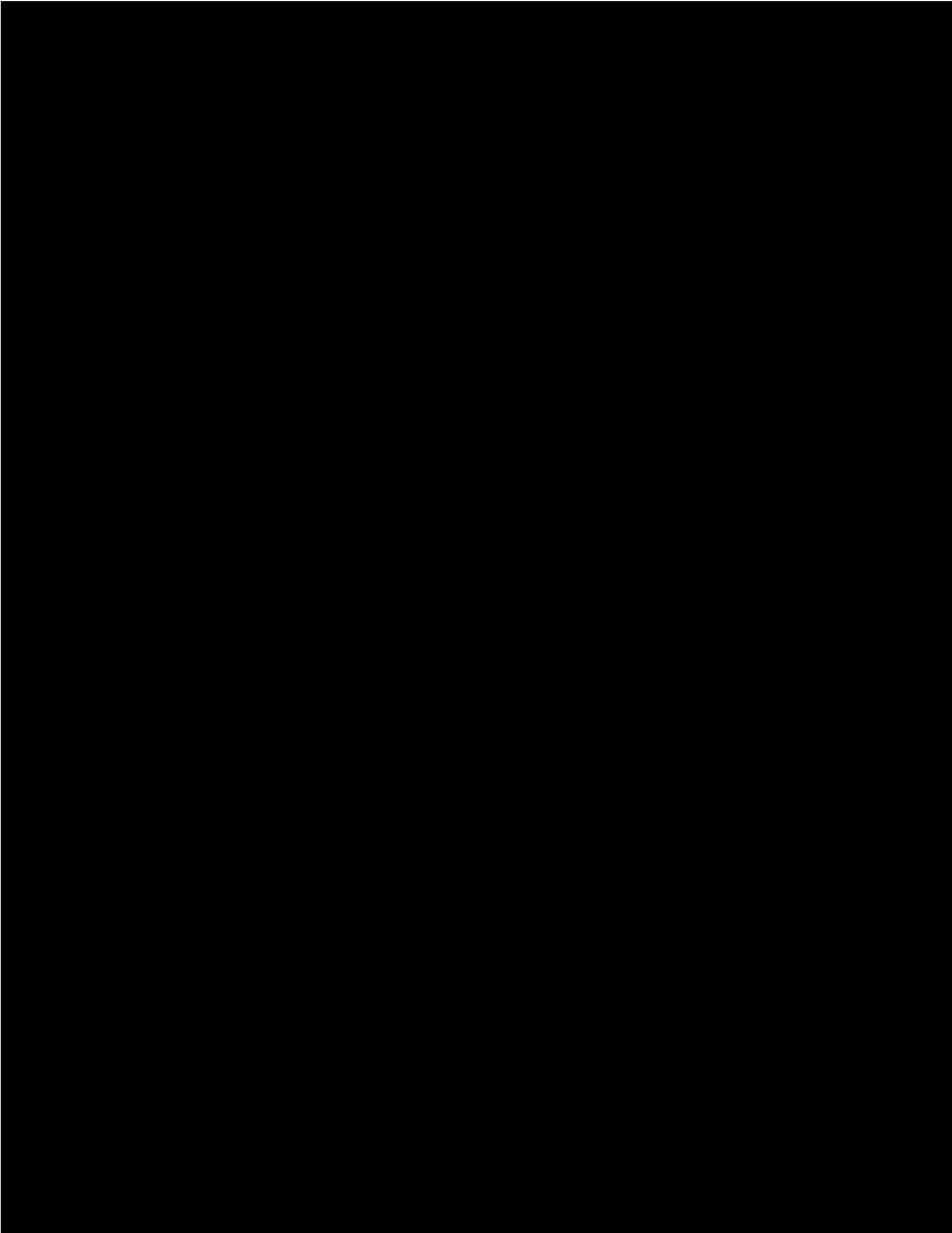
No director of the Corporation shall be liable to the Corporation or its shareholders for the performance of his duties if he relies on information, opinions, reports or records, including financial statements, books of account and other financial records, in each case presented by or prepared by or under the supervision of (1) one or more officers or employees of the corporation whom the director, officer or incorporator reasonably believes to be reliable and competent in the matters presented, or (2) counsel, public accountants or other persons as to matters which the director, officer or incorporator reasonably believes to be within such person's professional or expert competence, or (3) in the case of a director, a duly constituted committee of the board upon which he does not serve, as to matters within its delegated authority, which committee the director reasonably believes to merit confidence, but he shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

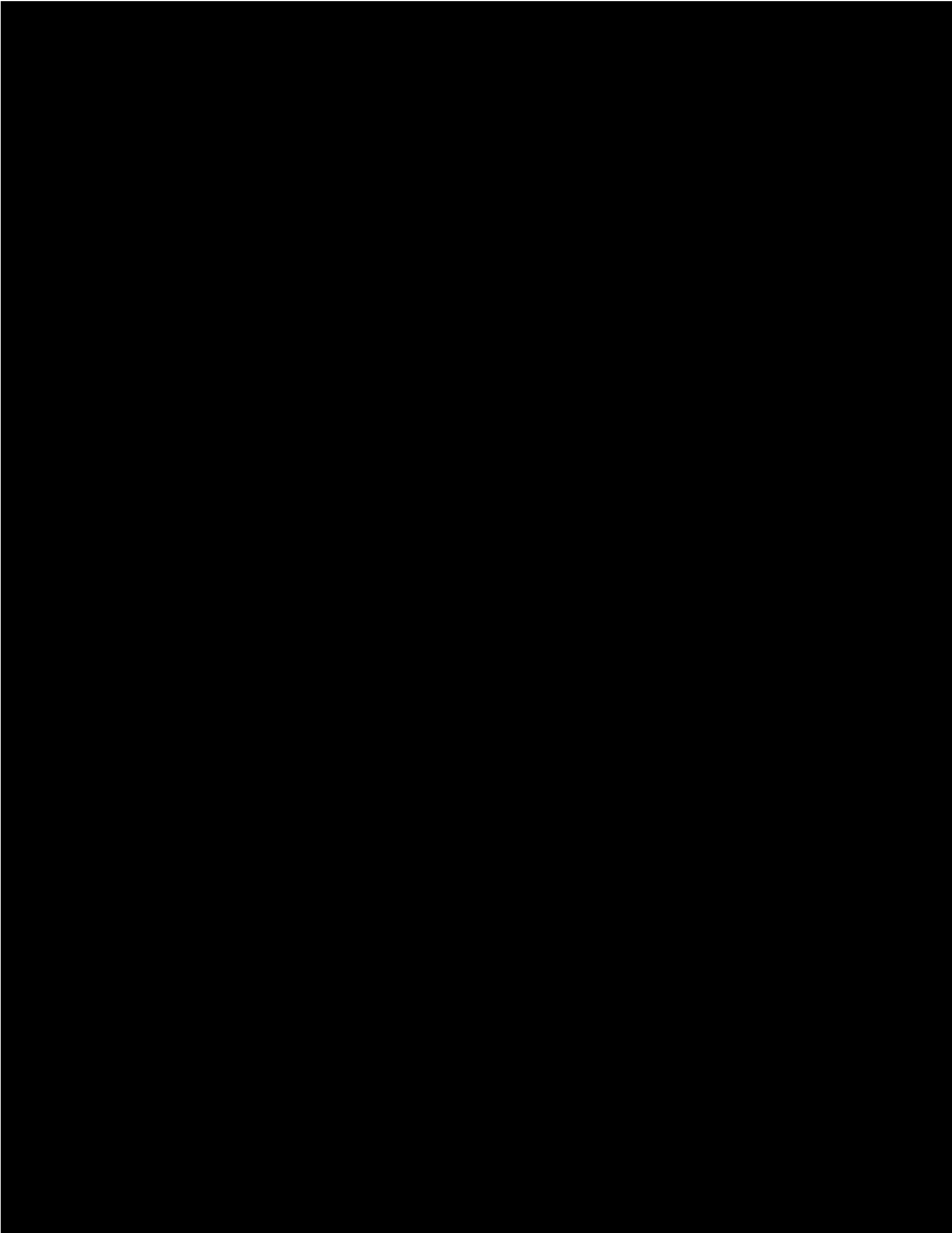
17. Limitation of Shareholder Liability

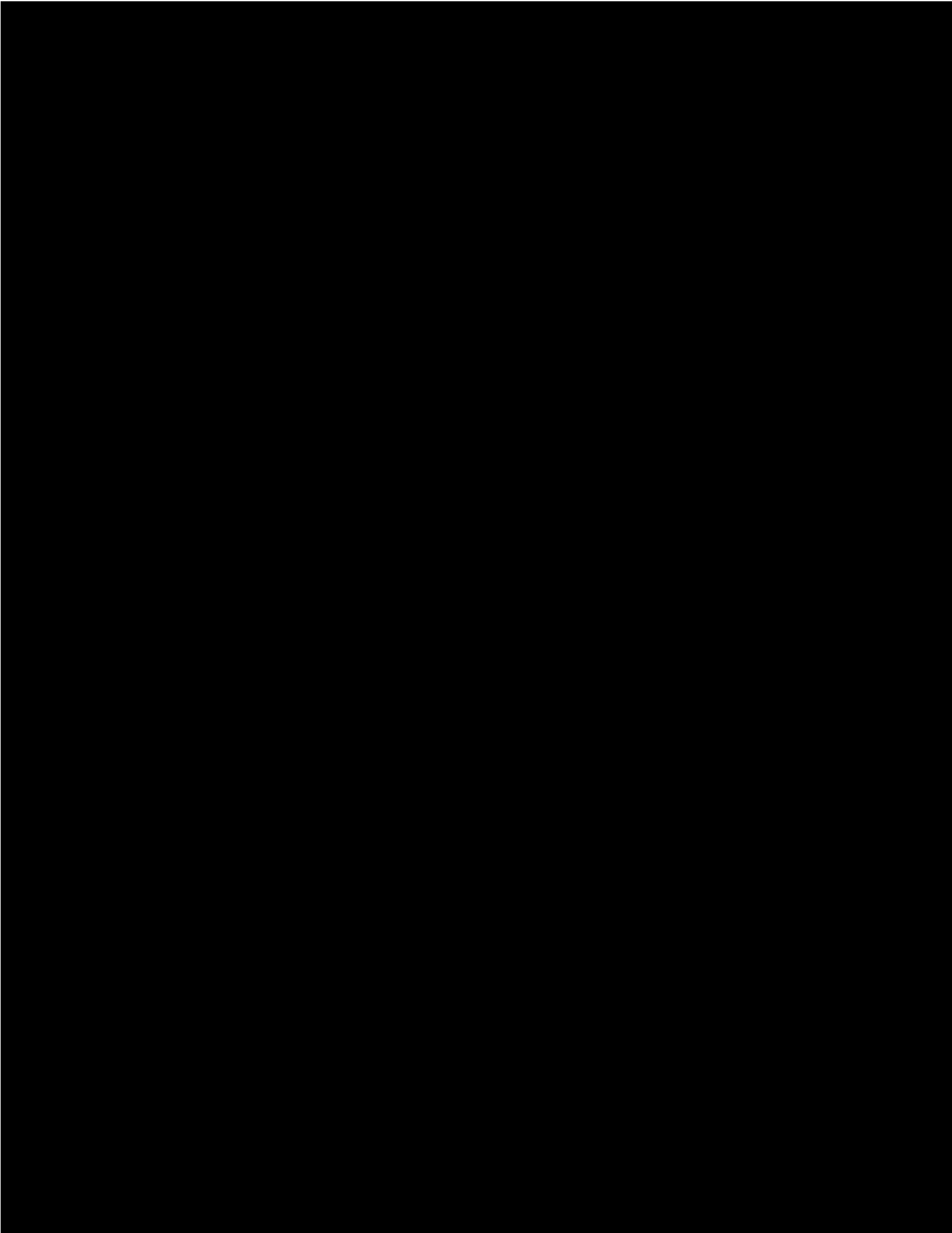
The private property of the shareholders shall be exempt from liability for corporate debts except as otherwise provided under the applicable laws of the State of Oregon.

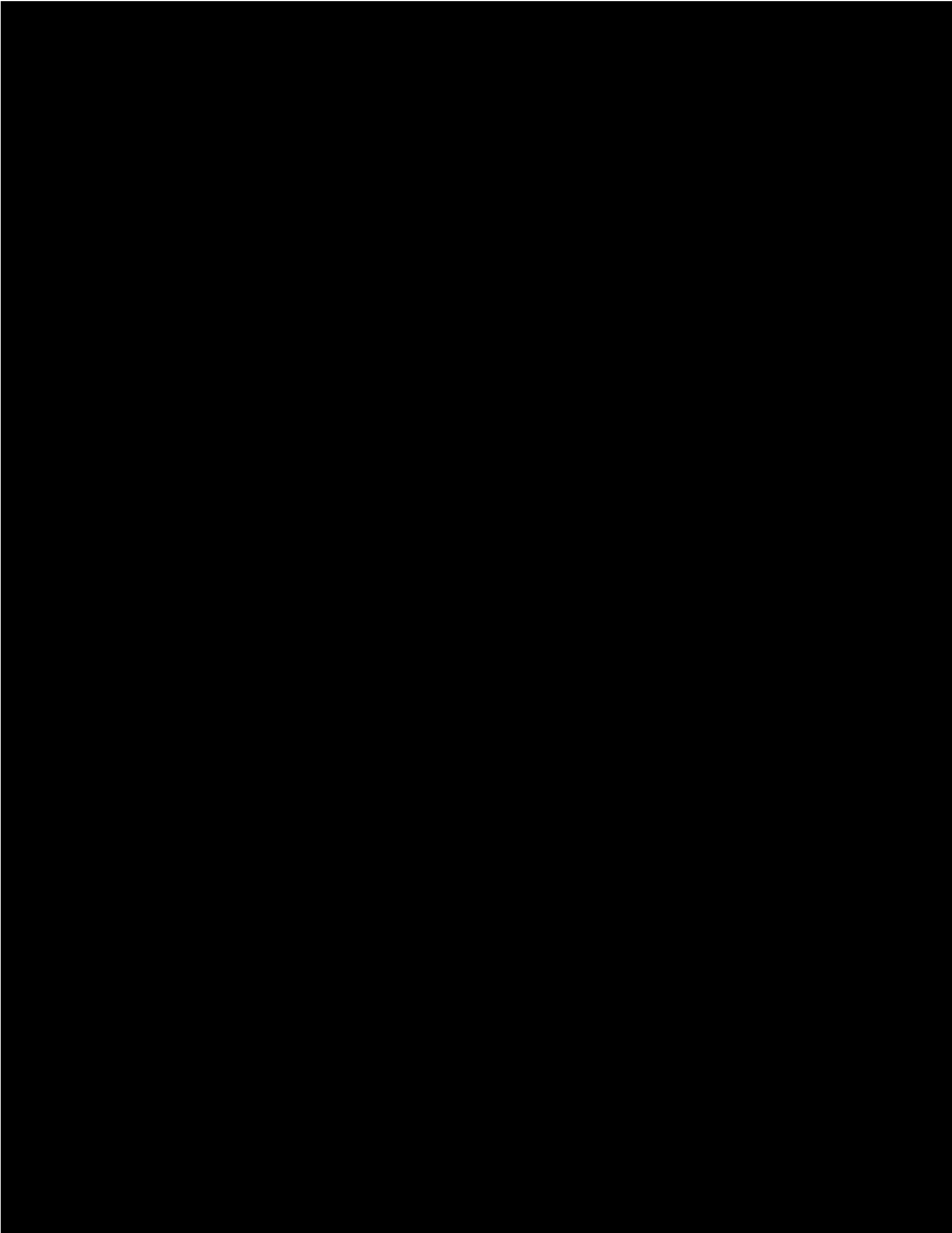


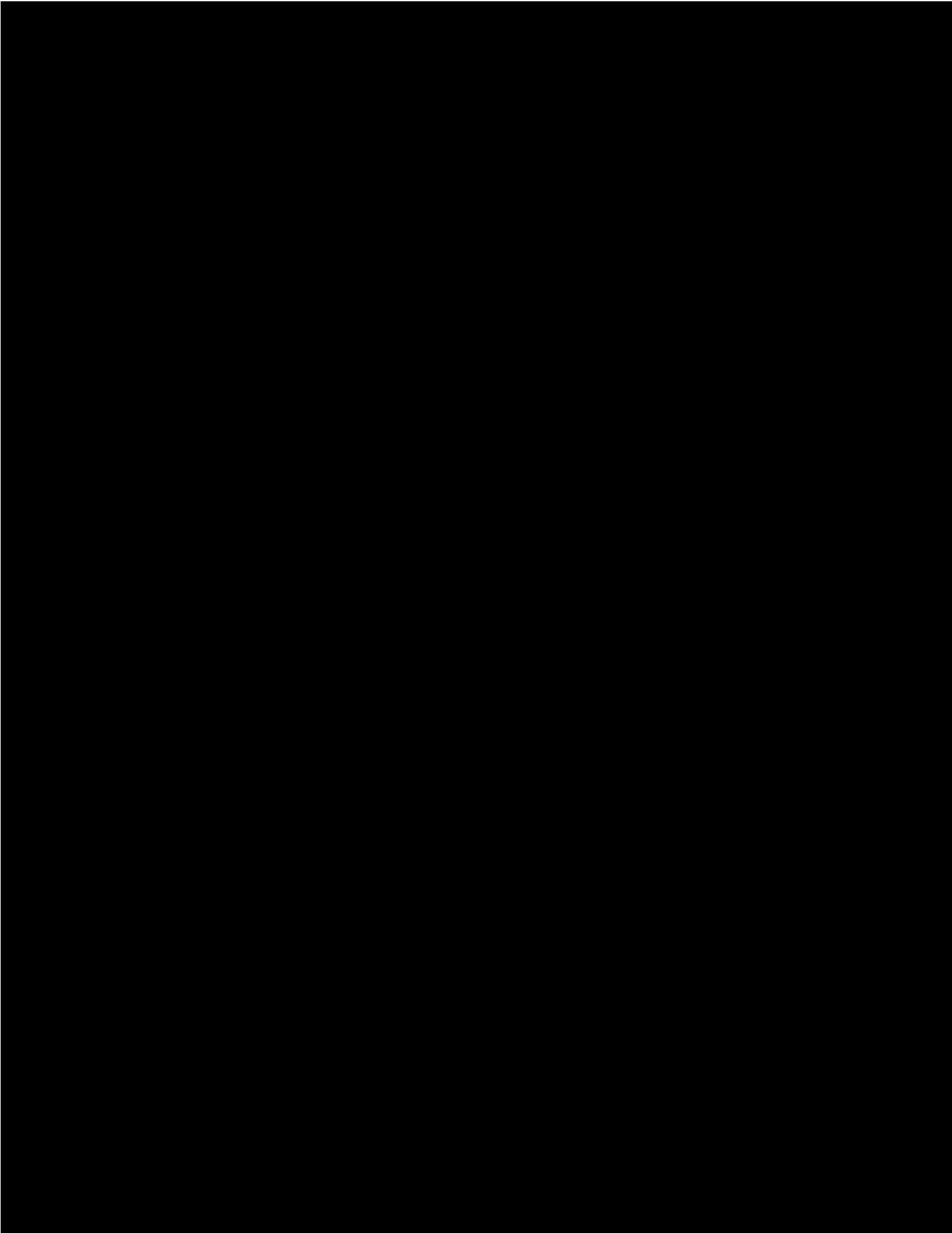


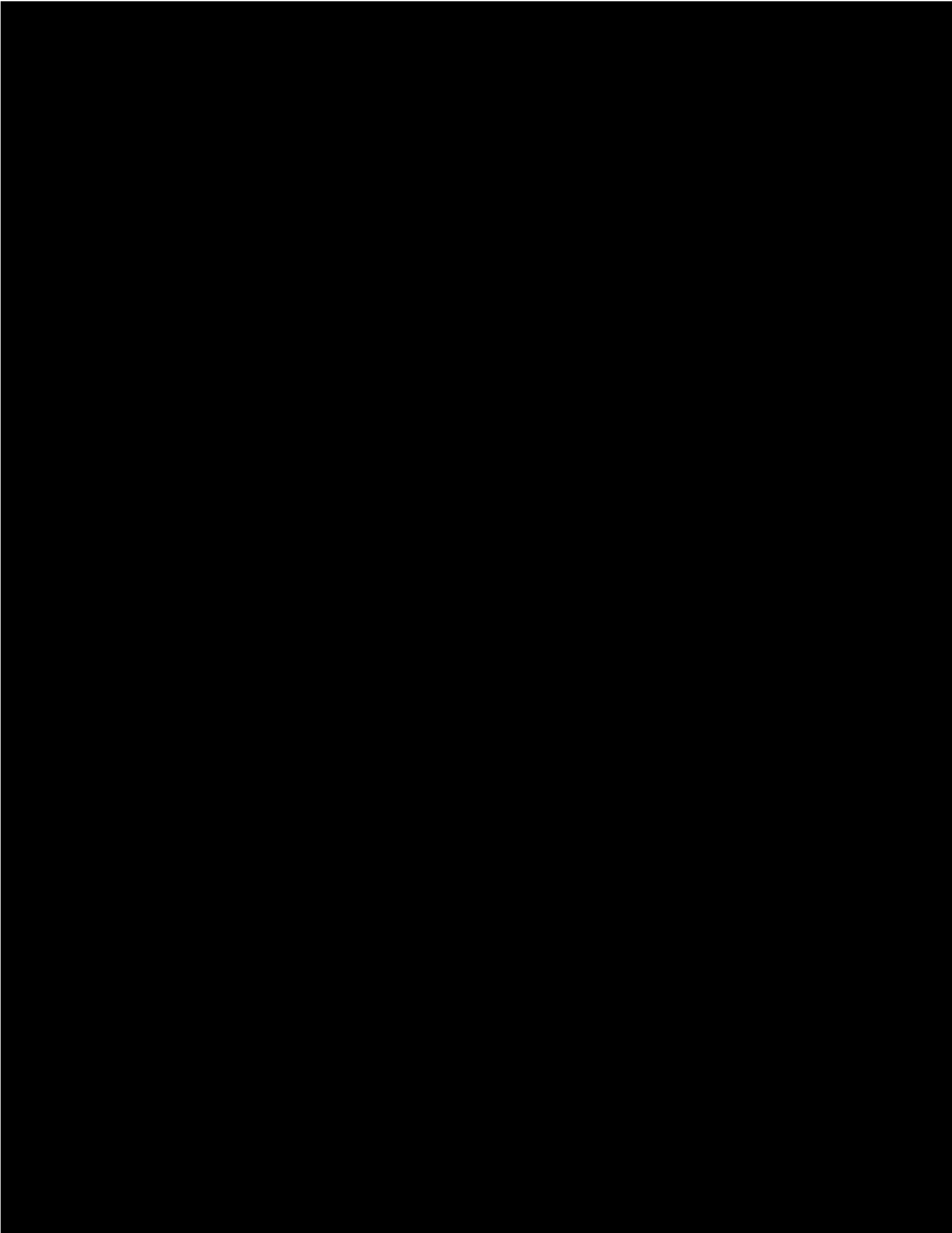


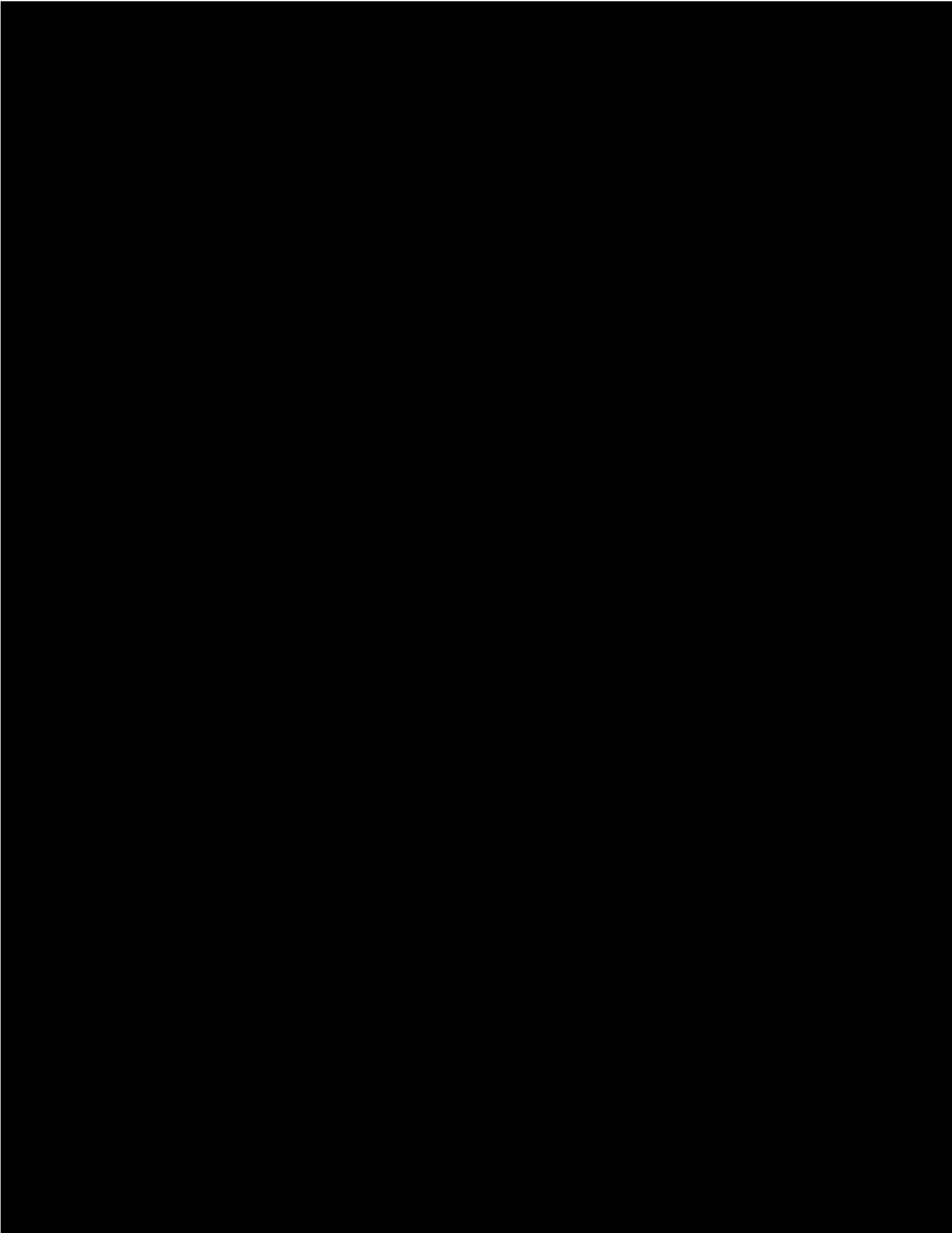


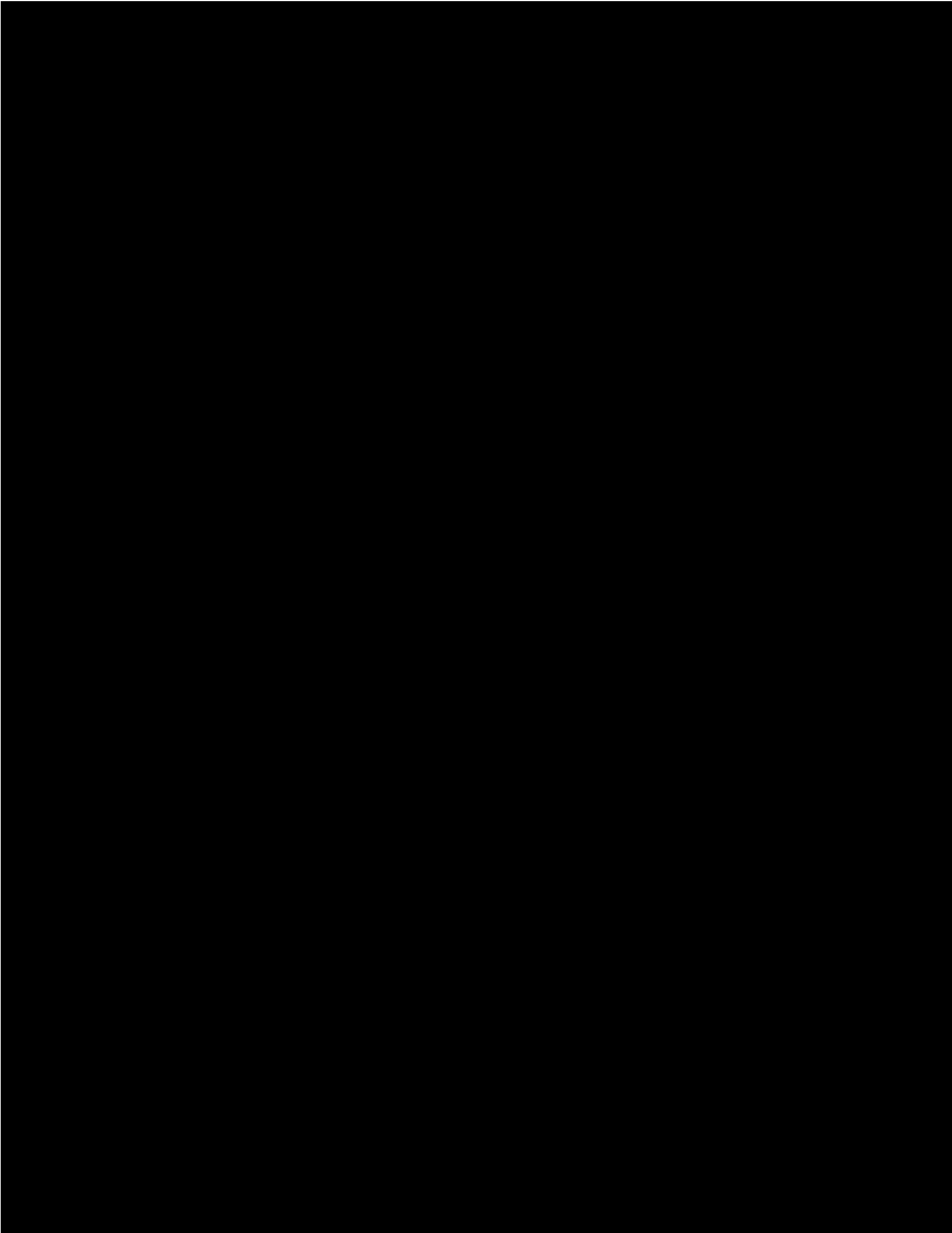


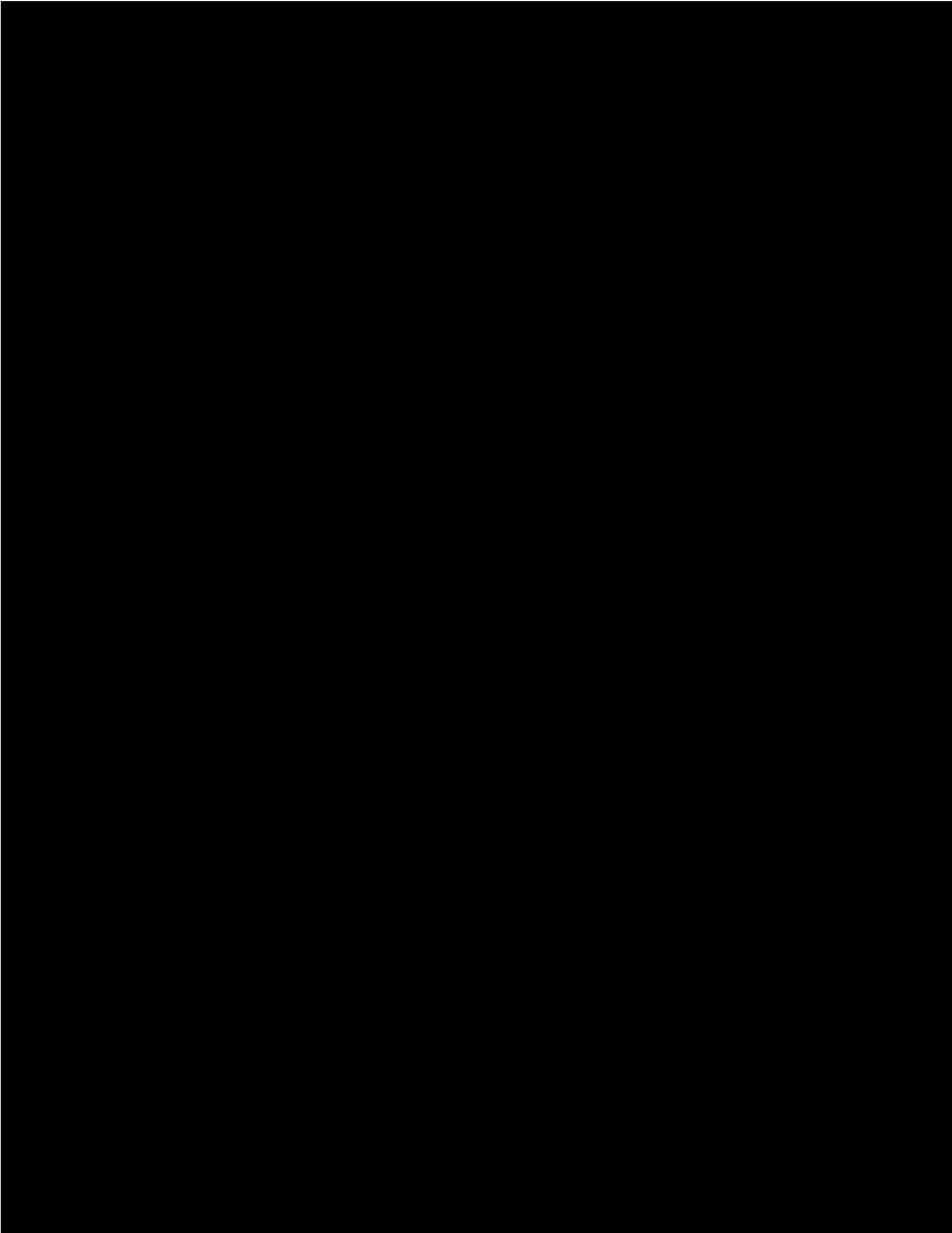


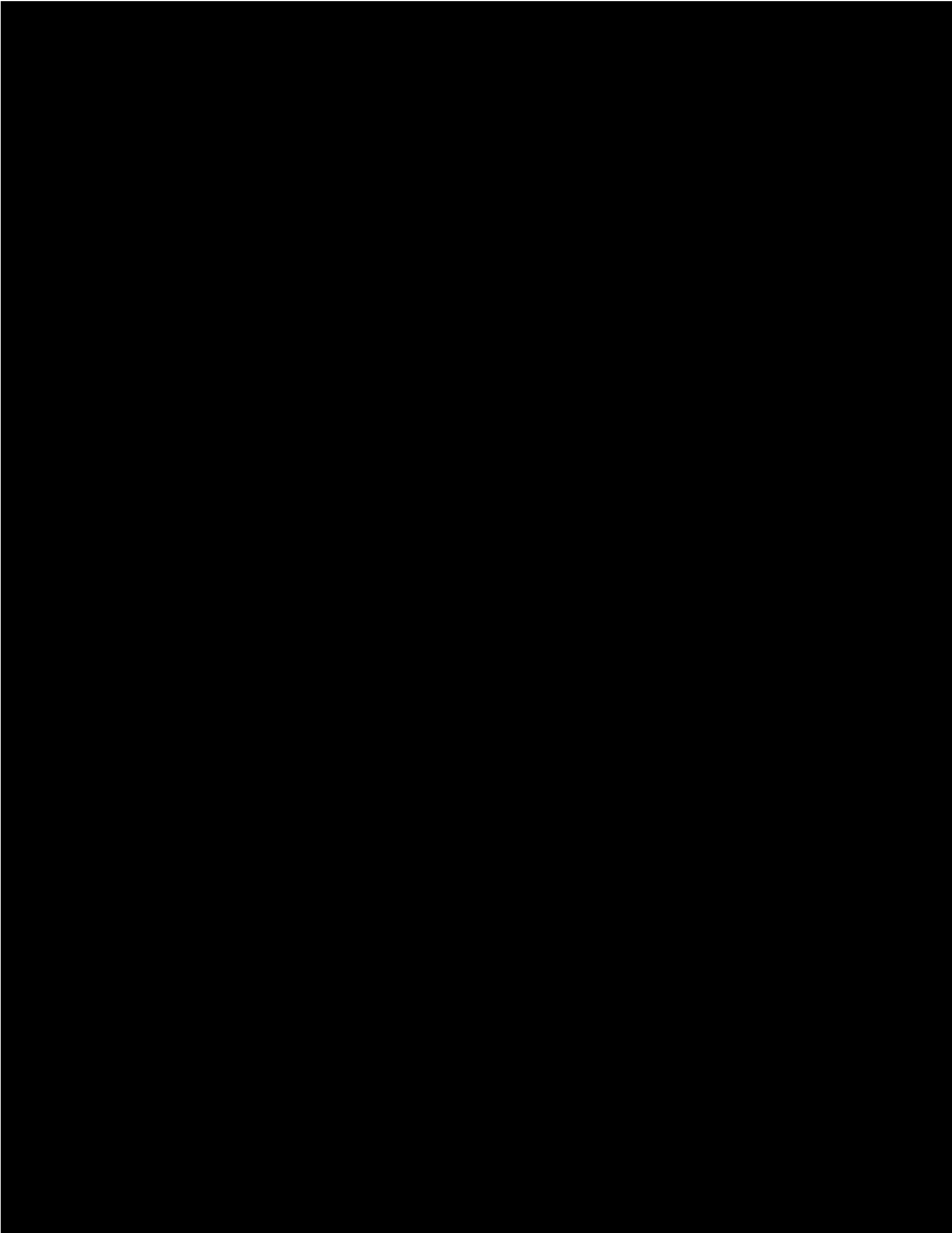


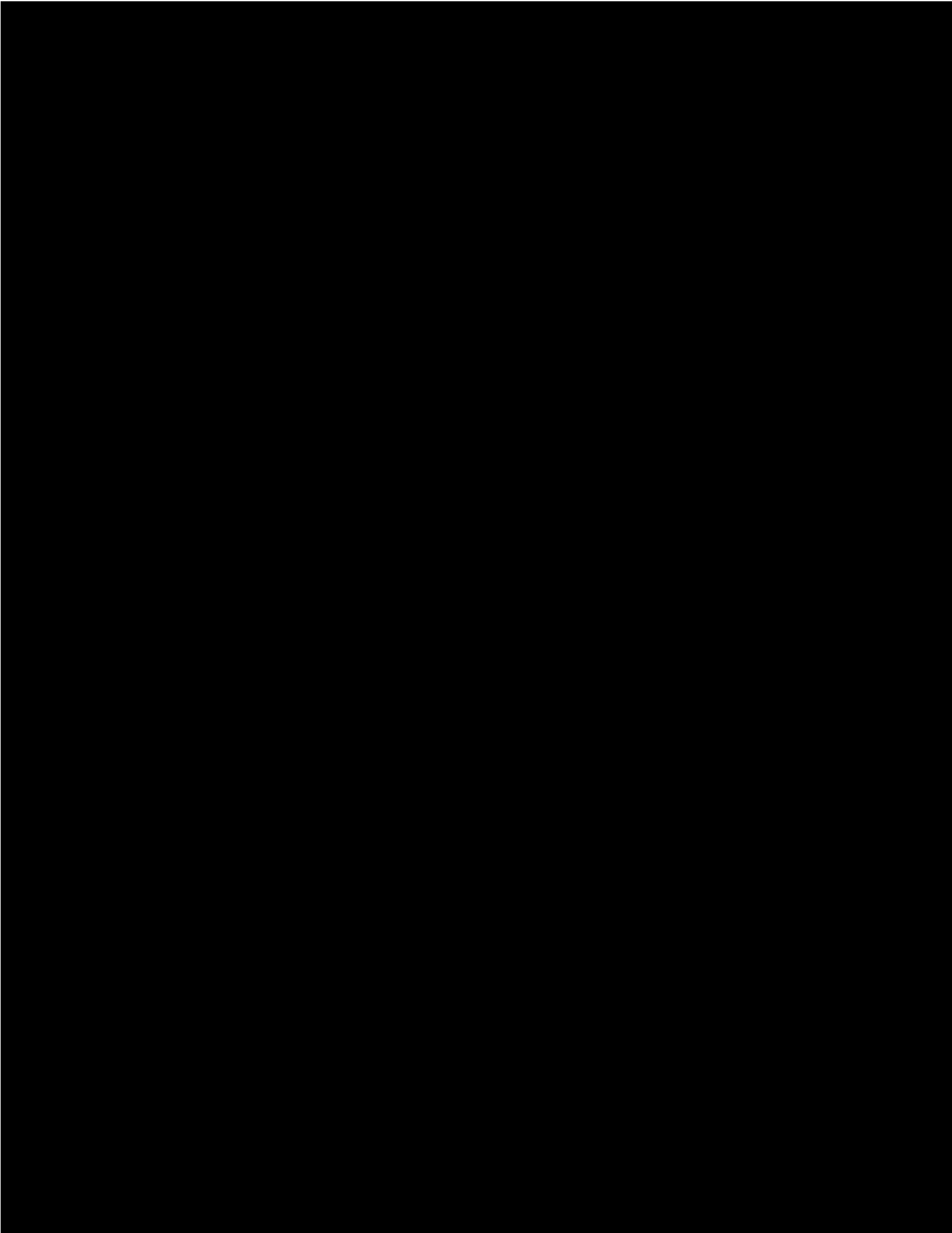


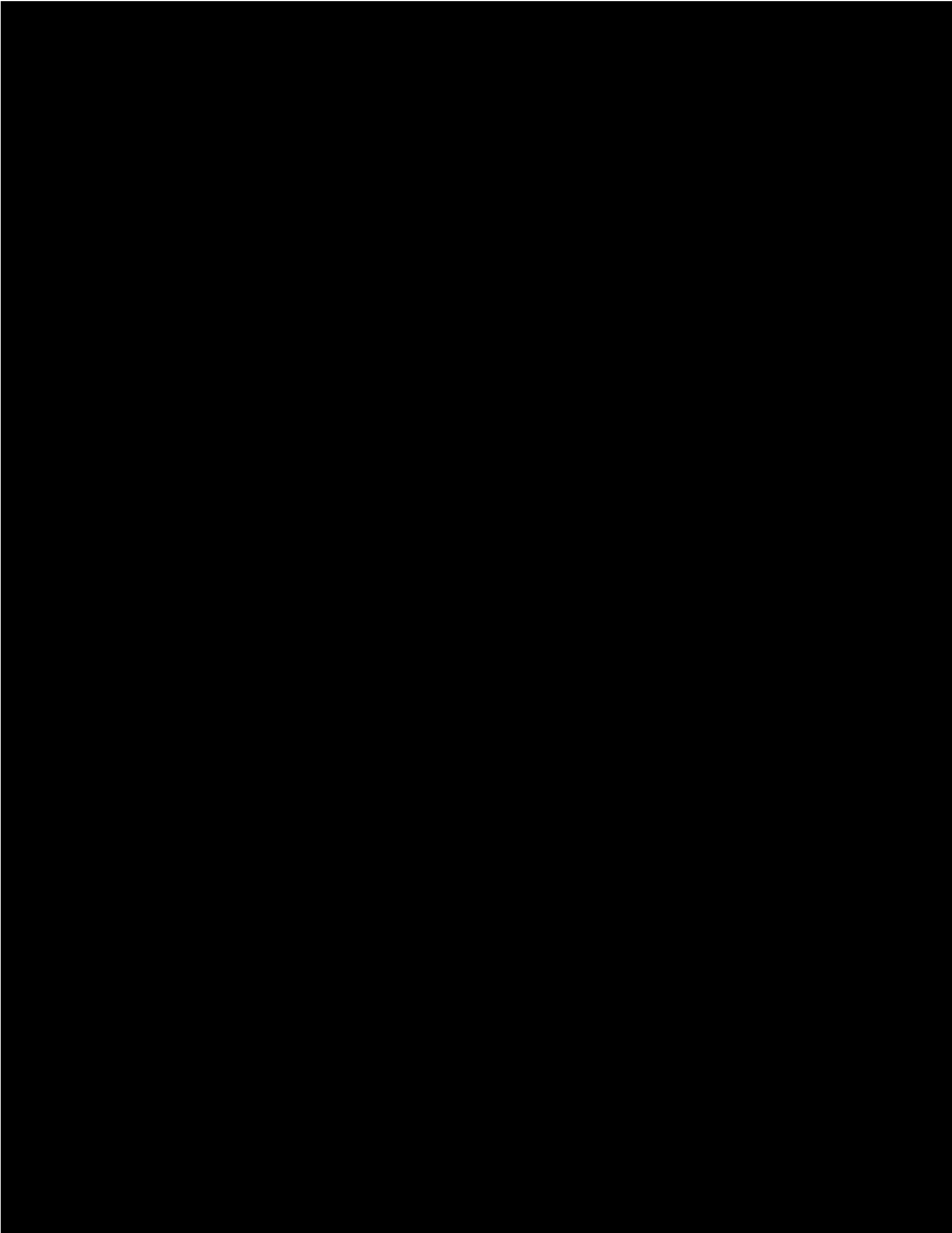


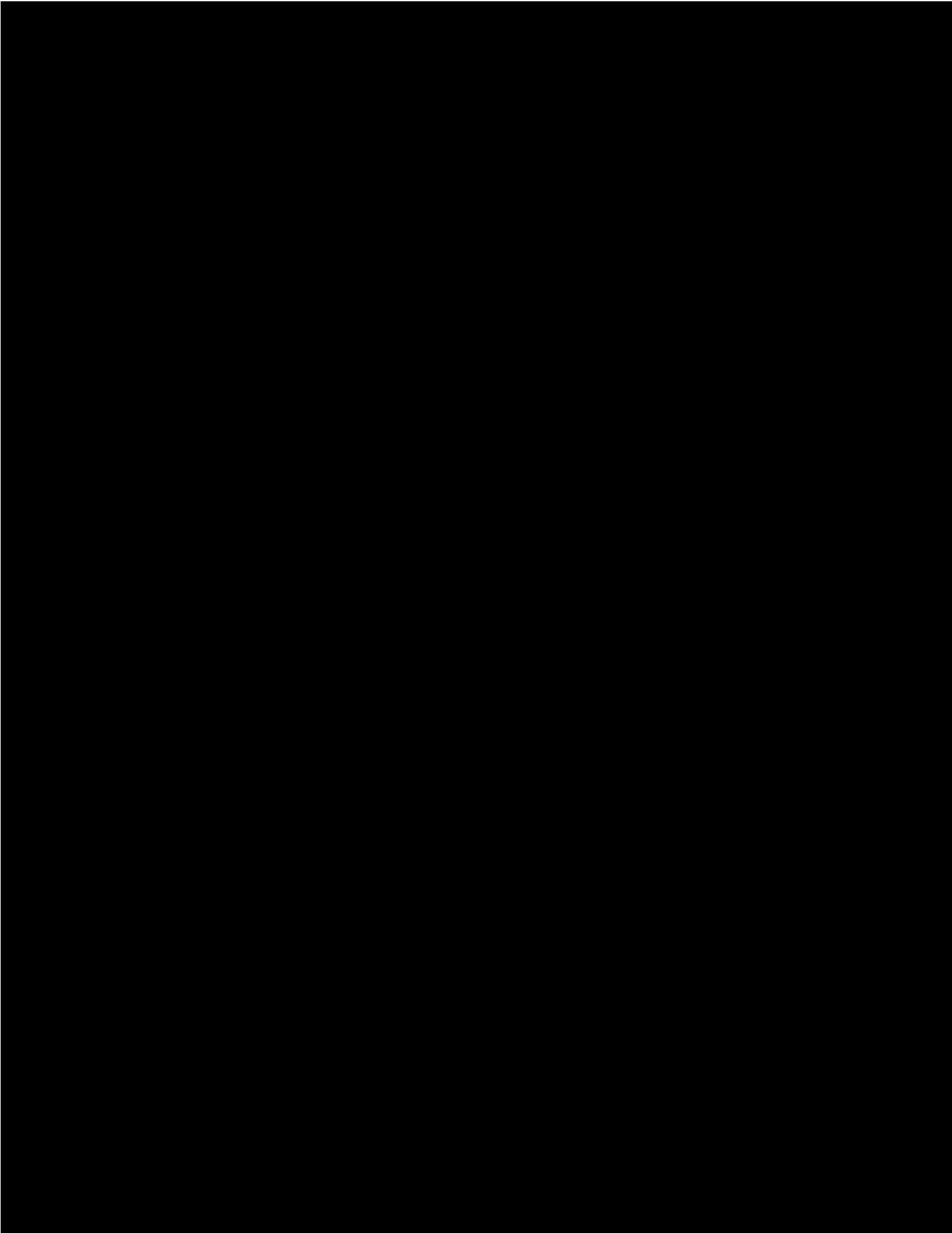


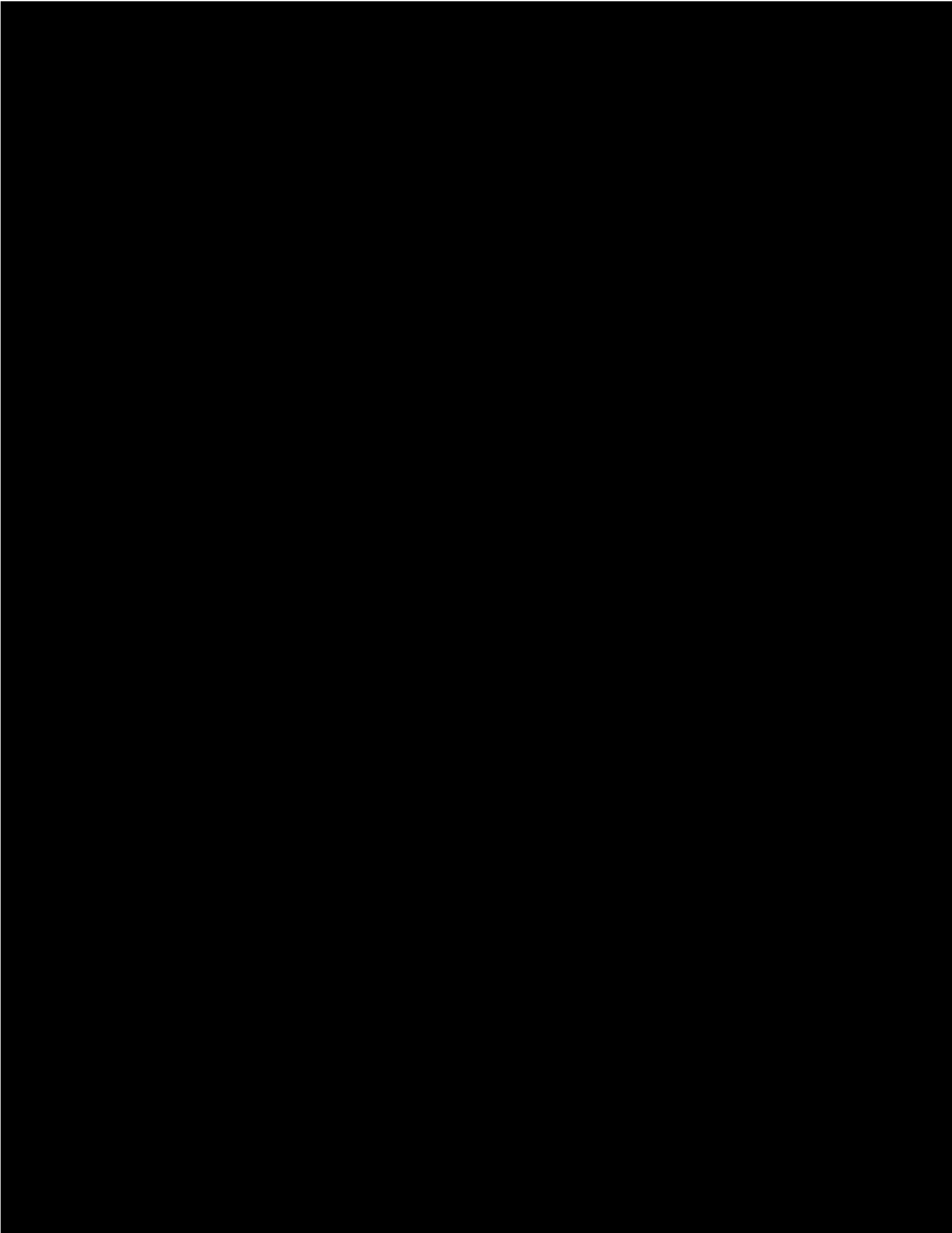


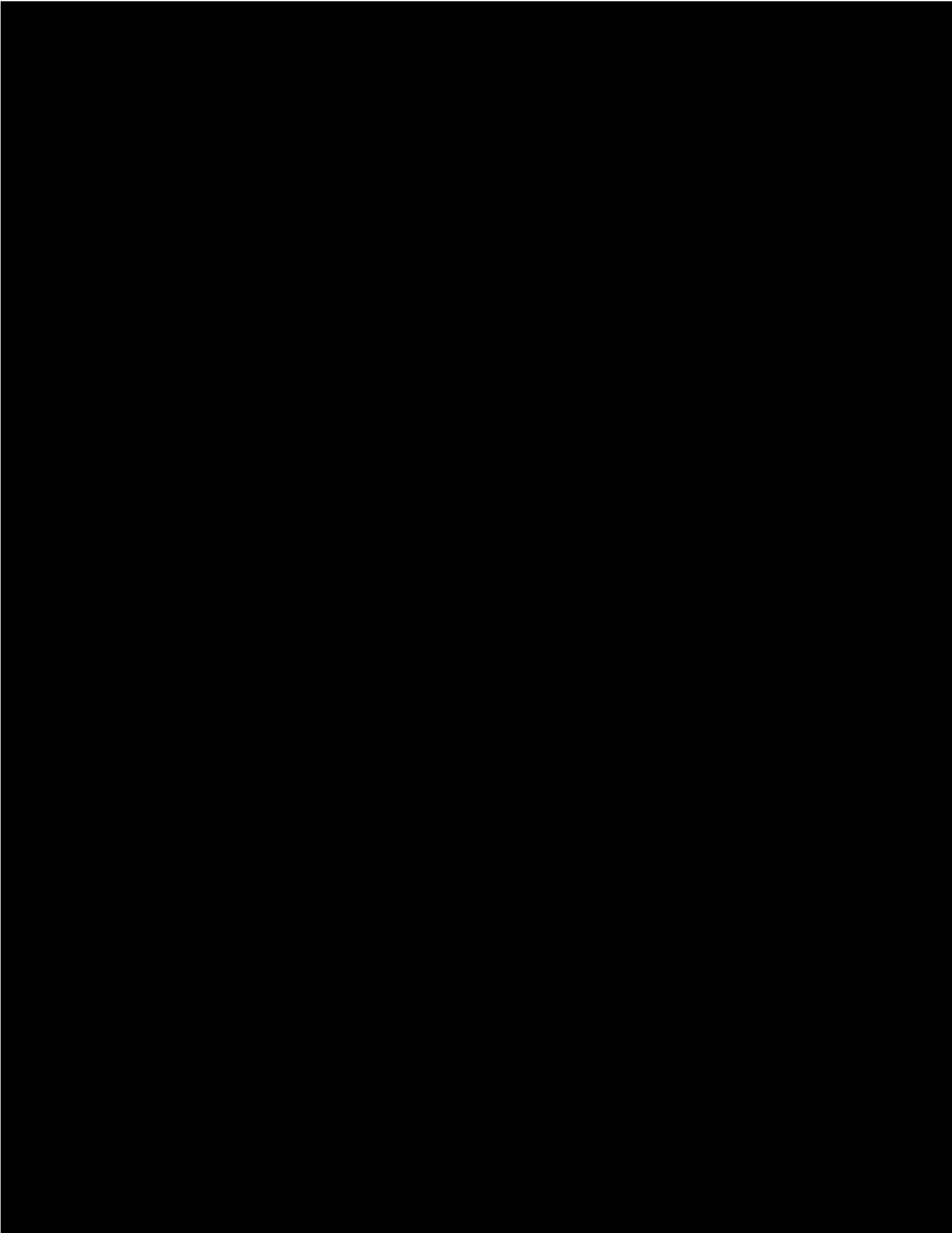


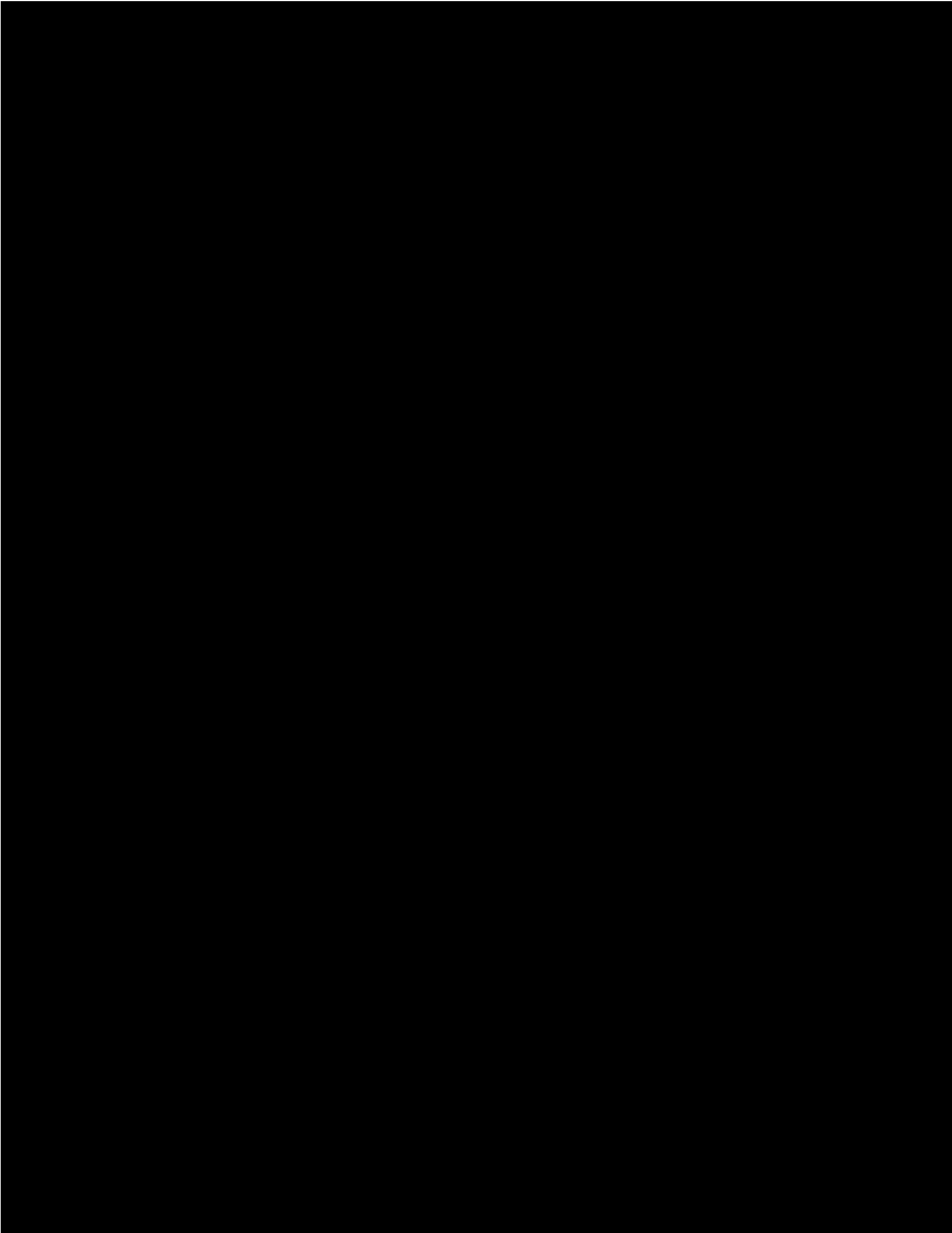


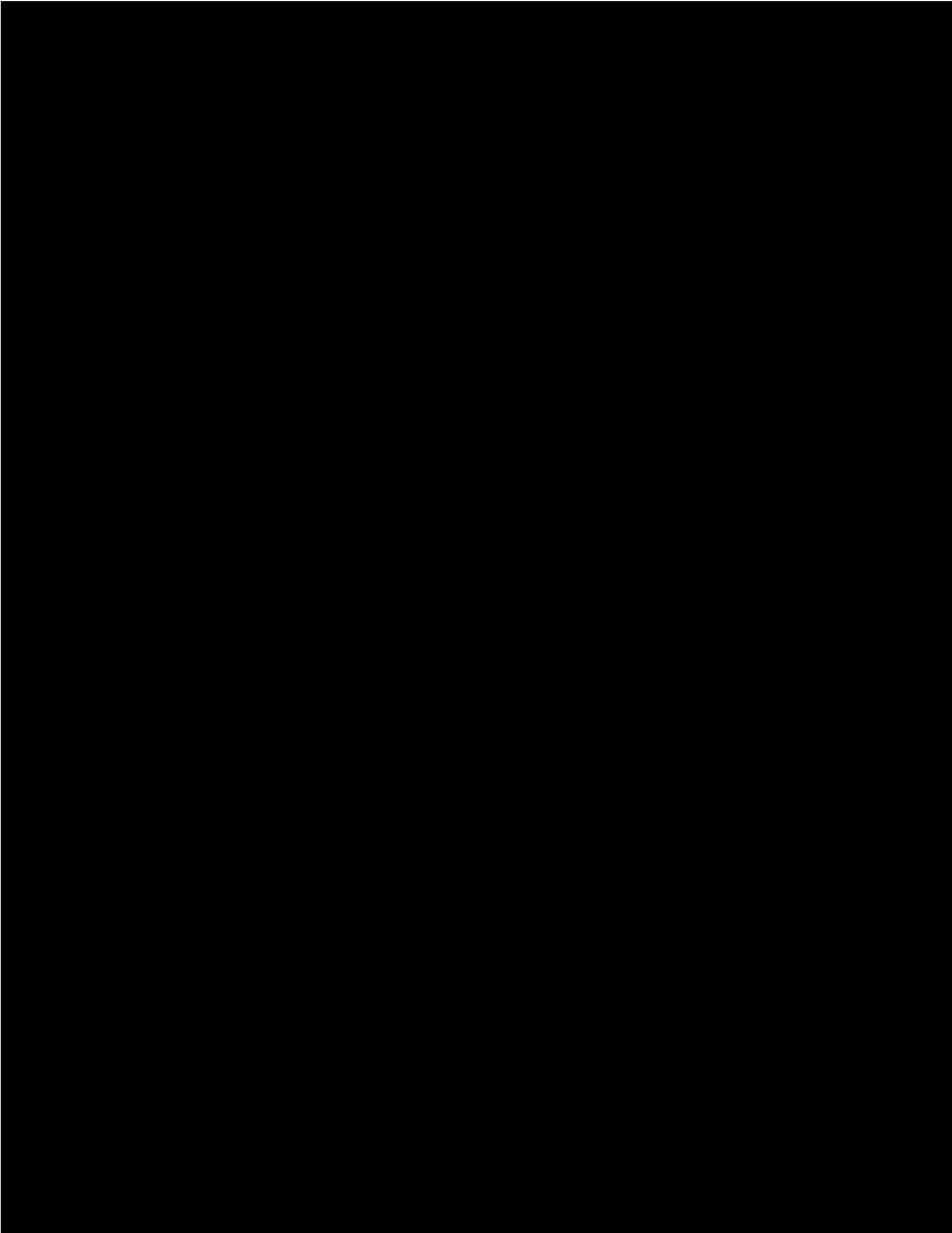


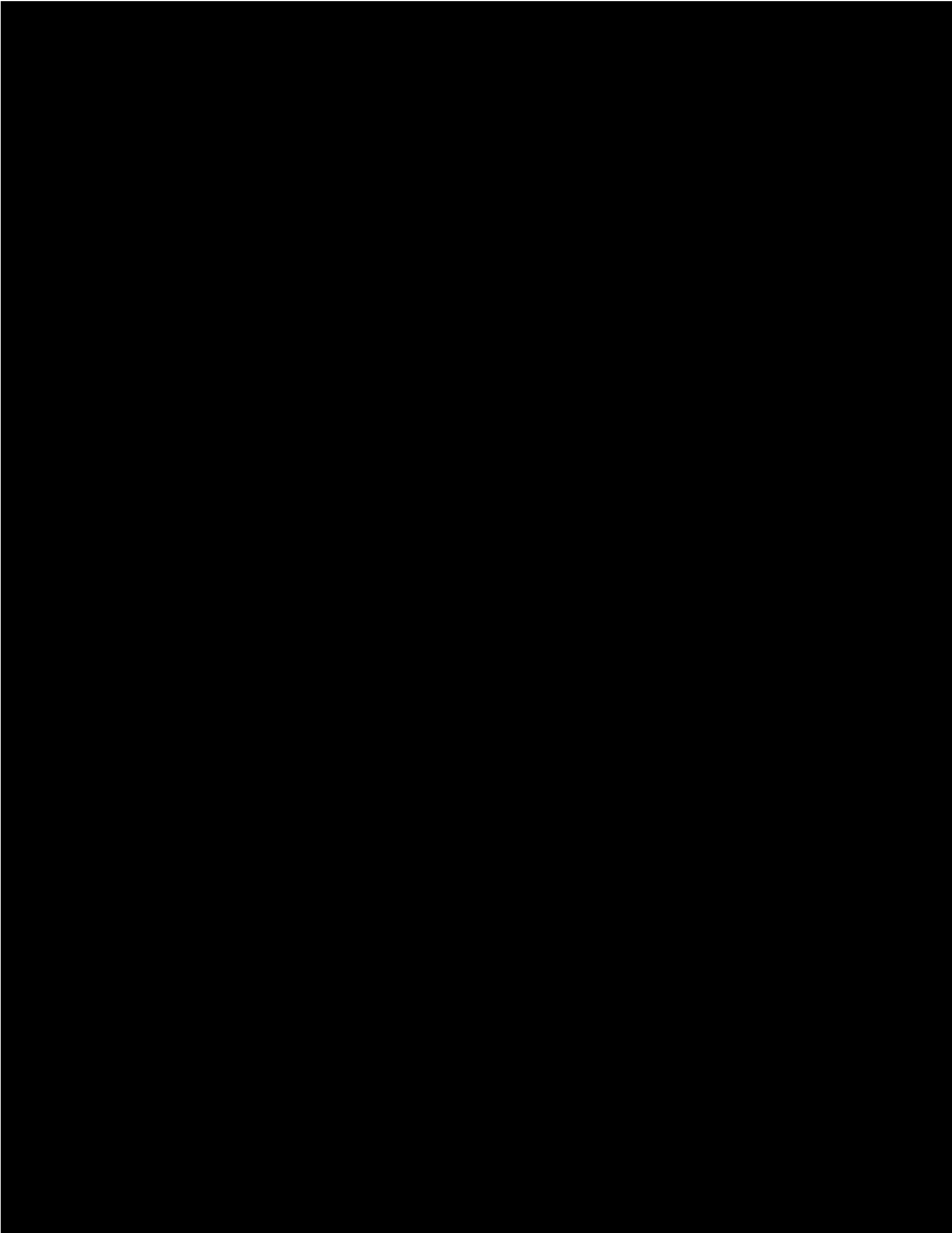


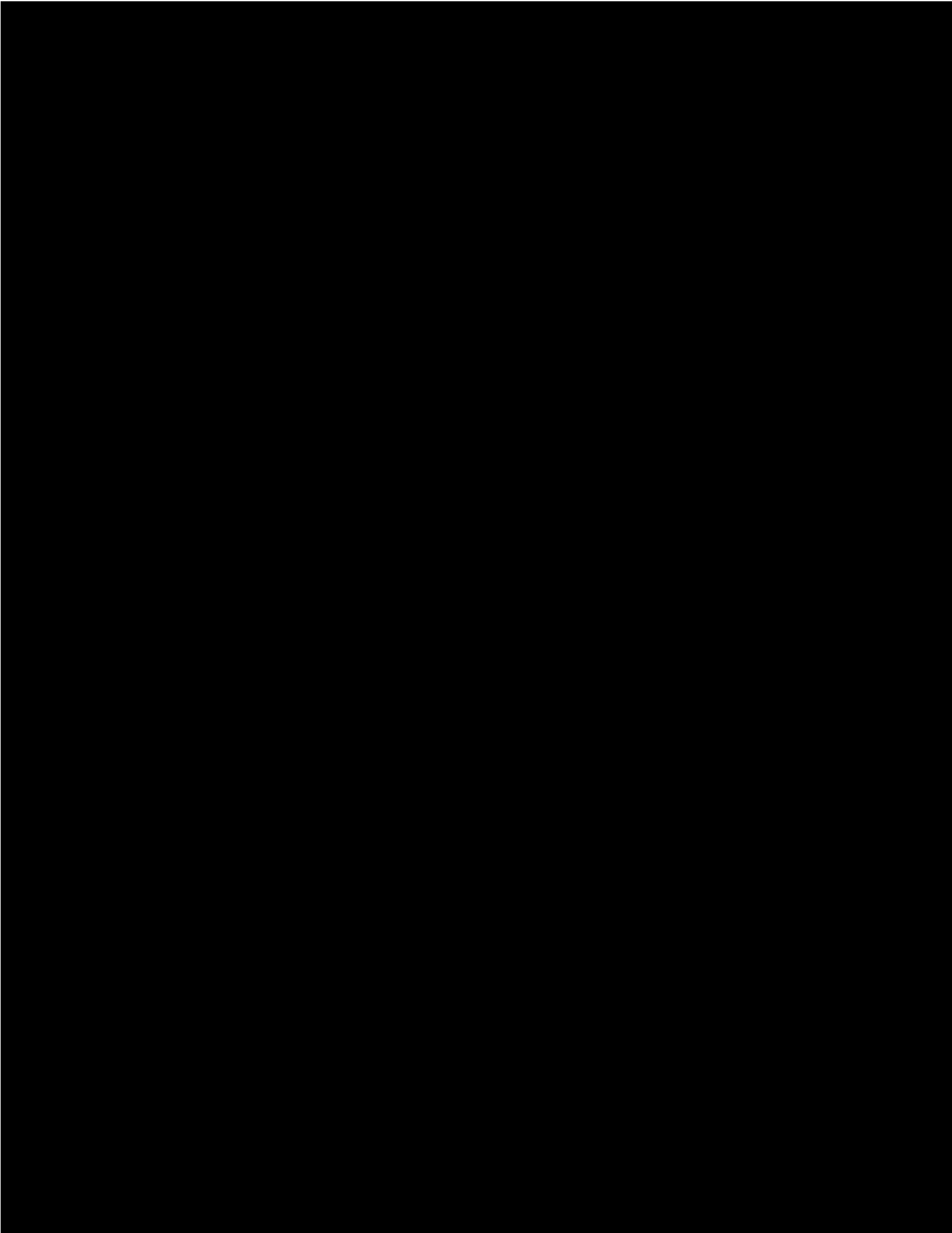


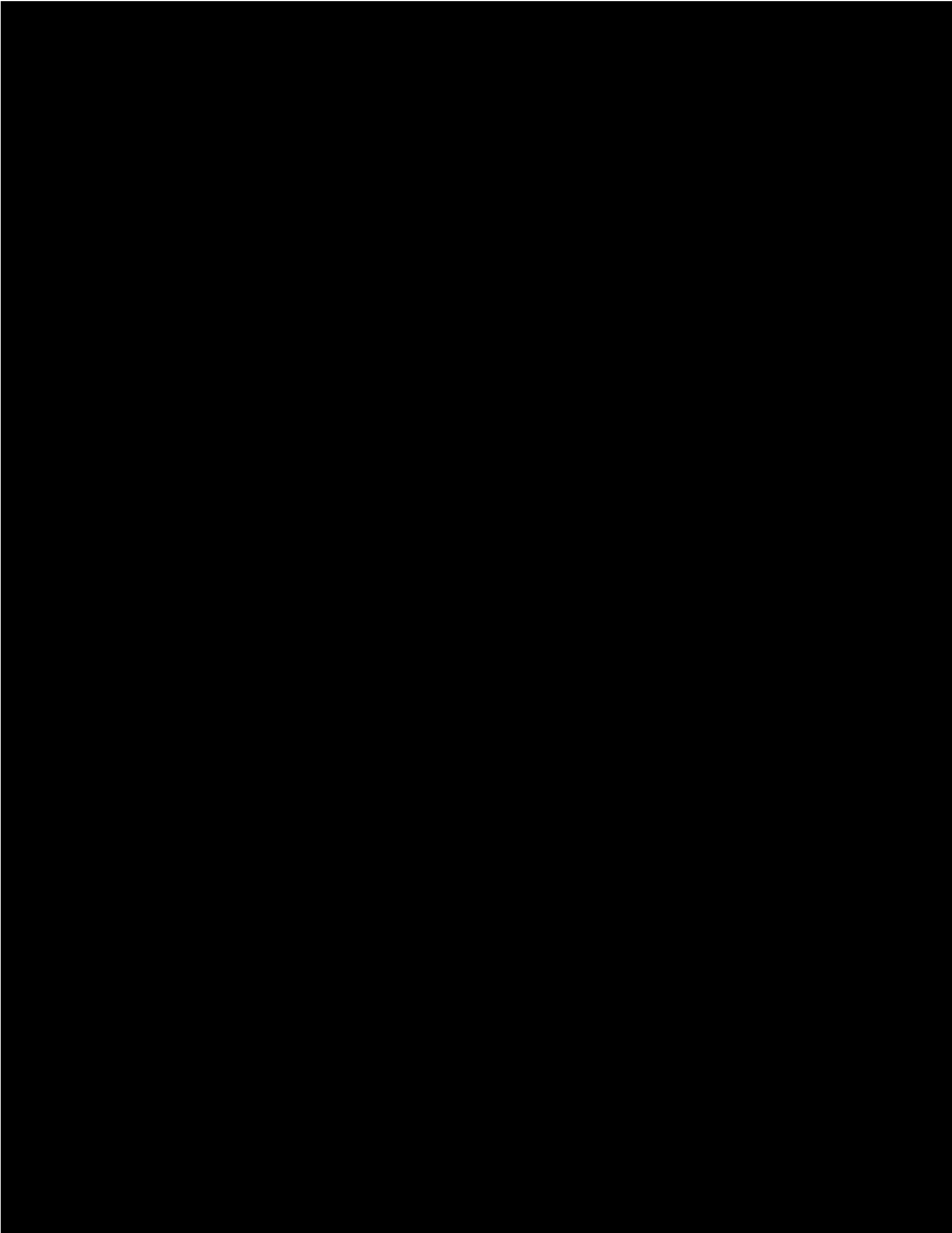


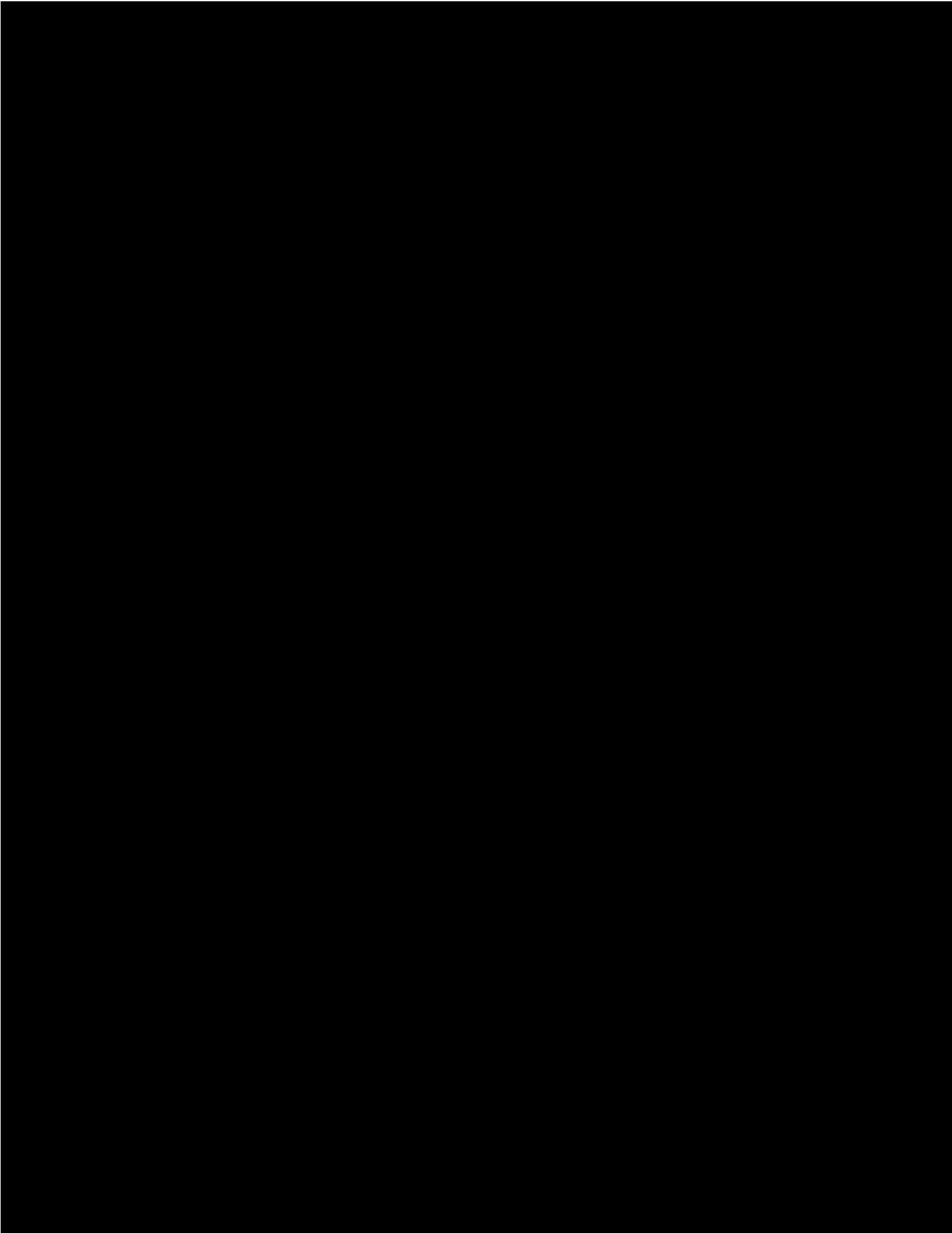


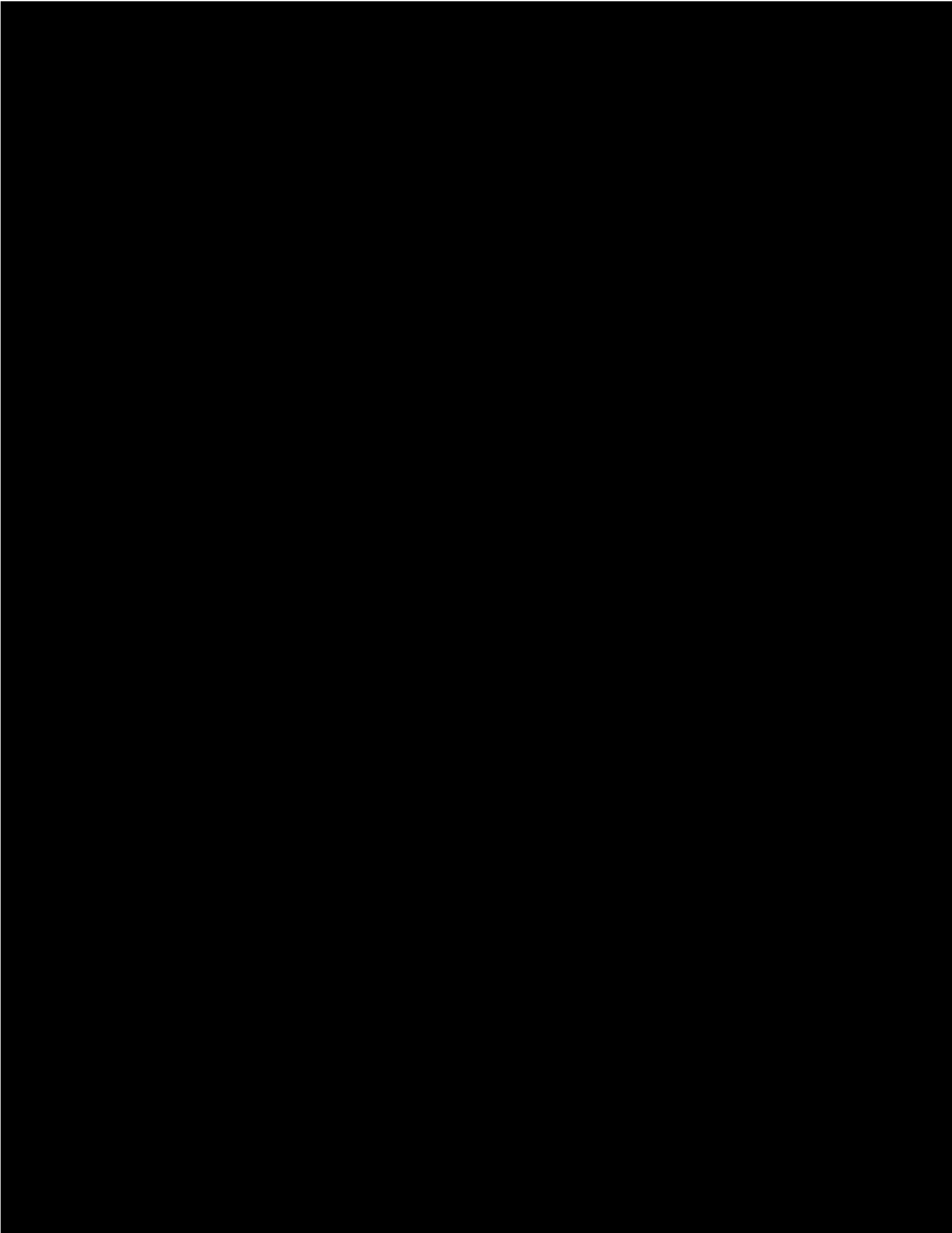


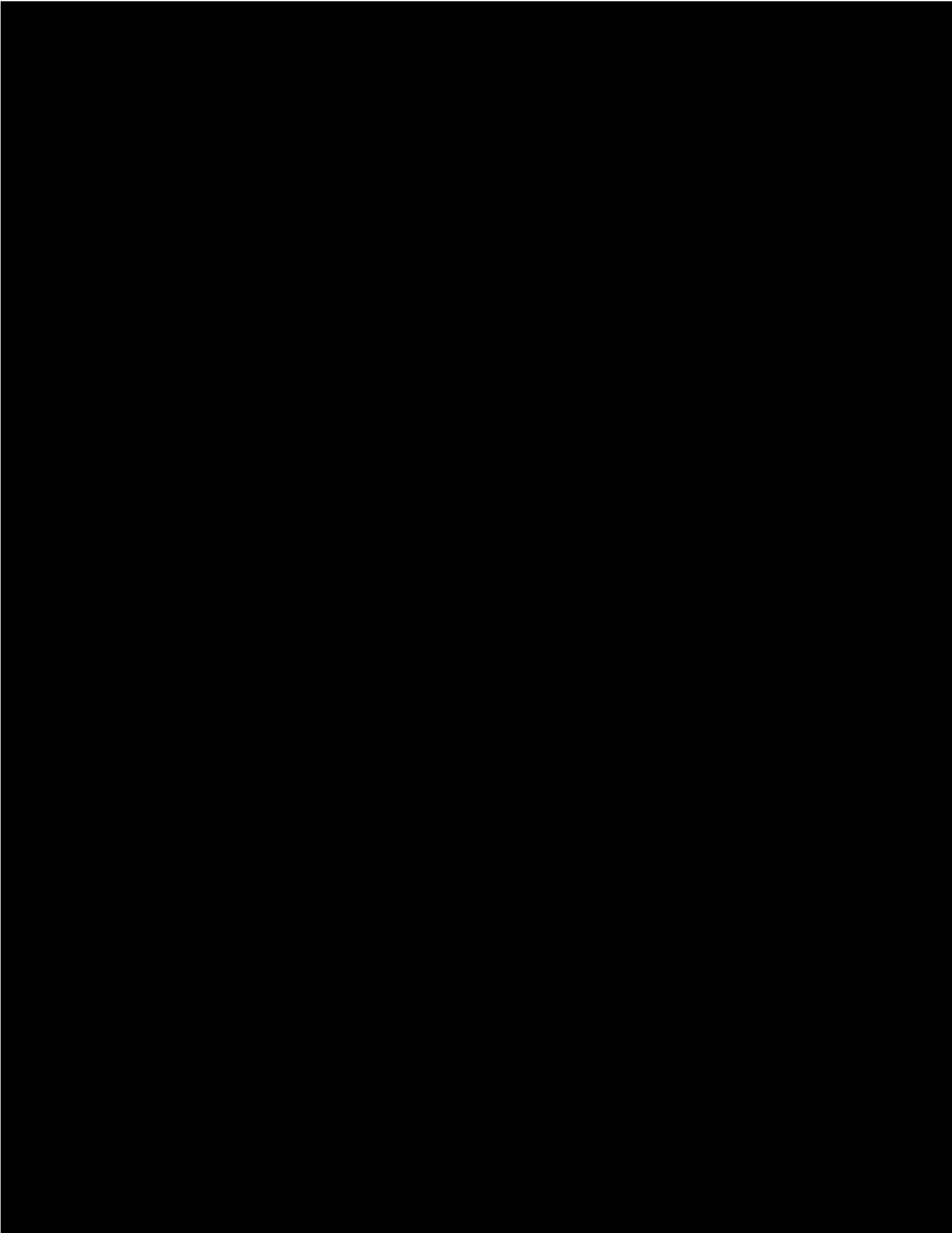


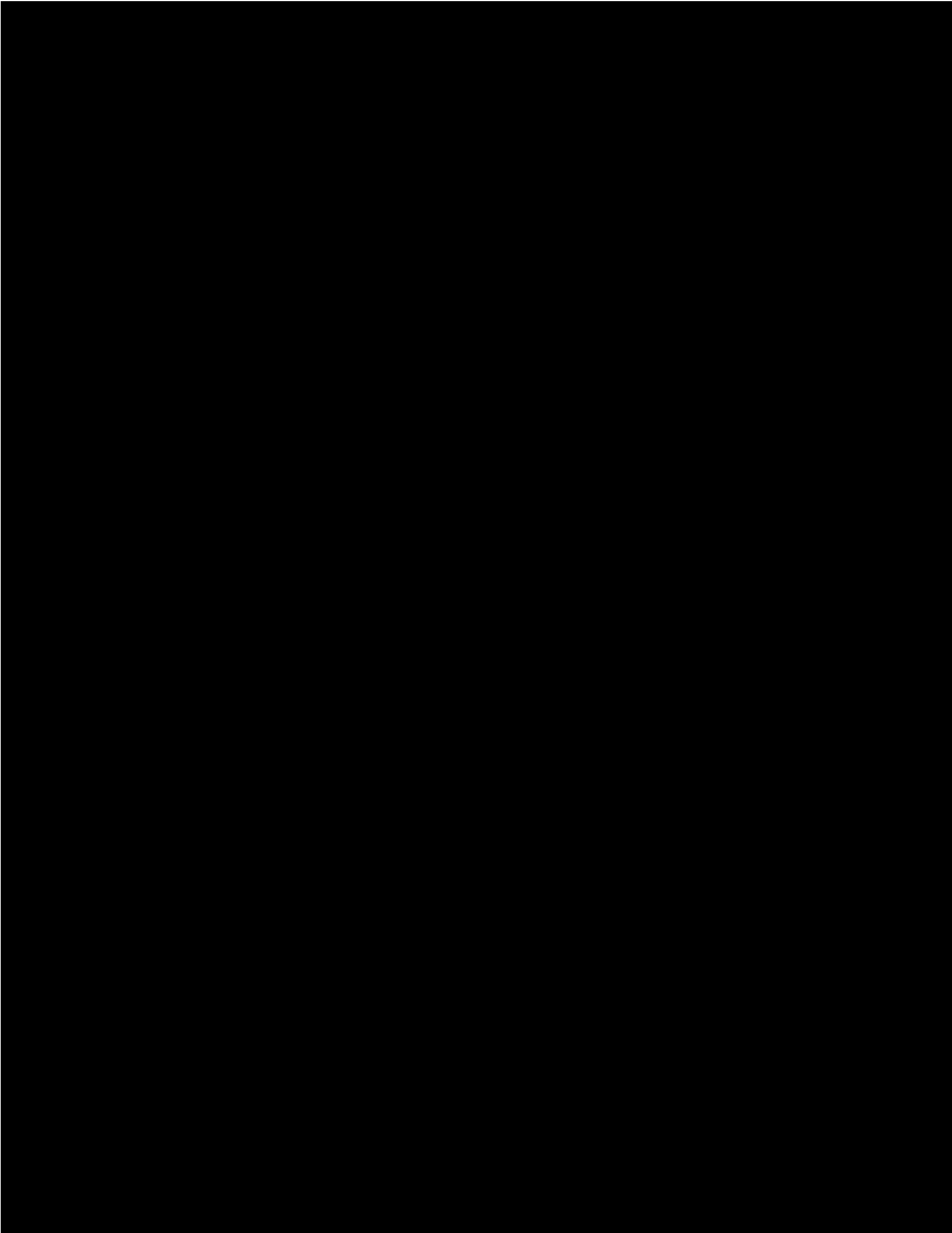












Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "DISPATCHHEALTH HOLDINGS, INC.", FILED IN THIS OFFICE ON THE THIRTY-FIRST DAY OF OCTOBER, A.D. 2022, AT 10:32 O`CLOCK A.M.



6365502 8100
SR# 20223896616

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK". Below the signature is a horizontal line, and underneath the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 204740102
Date: 10-31-22

CONFIDENTIAL

DHNotice00625

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:32 AM 10/31/2022
FILED 10:32 AM 10/31/2022
SR 20223896616 - File Number 6365502

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
DISPATCHHEALTH HOLDINGS, INC.**

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

DispatchHealth Holdings, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the “**General Corporation Law**”),

DOES HEREBY CERTIFY:

1. That the name of this corporation is DispatchHealth Holdings, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on March 31, 2017 under the name DispatchHealth Holdings, Inc.

2. That the Board of Directors duly adopted resolutions proposing to amend and restate the Amended and Restated Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Amended and Restated Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

FIRST: The name of this corporation is DispatchHealth Holdings, Inc. (the “**Corporation**”).

SECOND: The address of the registered office of this corporation in the State of Delaware is 108 Lakeland Avenue, Dover, County of Kent, Delaware 19901. The name of its registered agent at such address is Capitol Services, Inc.

THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 2,171,025 shares of Common Stock, \$0.0001 par value per share (“**Common Stock**”) and (ii) 1,578,045 shares of Preferred Stock, \$0.0001 par value per share (“**Preferred Stock**”).

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock set forth herein.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). Unless

required by law, there shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Amended and Restated Certificate of Incorporation (this "**Certificate**")) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

B. PREFERRED STOCK

The Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers and preferences, and the qualifications and limitations with respect thereto, as stated or expressed herein. As of the effective date of this Certificate, 60,463 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series Seed Preferred Stock**," 492,366 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**," 295,162 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series B Preferred Stock**," 315,864 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series C Preferred Stock**," 200,546 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series D Preferred Stock**," and 213,644 shares of the authorized Preferred Stock of the Corporation are hereby designated "**Series E Preferred Stock**," in each case with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. The Series Seed Preferred Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall be referred to collectively herein as the "**Junior Preferred Stock**." Unless otherwise indicated, references to "sections" or "subsections" in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Dividends.

1.1 Priority Payment of Dividends on Preferred Stock. The holders of the Series A Preferred Stock, the holders of the Series B Preferred Stock, the holders of Series C Preferred Stock, the holders of Series D Preferred Stock and the holders of Series E Preferred Stock shall receive an annual dividend on each share of Preferred Stock then outstanding in an amount equal to six percent (6%) of the applicable Original Issue Price (as defined below) for such share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or Series E Preferred Stock, as applicable, payable to each holder of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and/or Series E Preferred Stock on a pari passu basis, when and if declared by the Board of Directors of the Corporation (the "**Preferred Dividend**"). Such Preferred Dividends shall not be cumulative. The Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation (other than dividends on shares of Common Stock payable in shares of Common Stock) unless and until (in addition to the obtaining of any consents required elsewhere in this Certificate) the Corporation has paid to the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock then outstanding the annual Preferred Dividend.

1.2 Participating Dividends. After the payment of the Preferred Dividend, if the Corporation declares or pays a dividend on the Common Stock, the holders of the Preferred Stock then outstanding shall participate in such dividend by the Corporation as if each share of Preferred Stock had been converted into Common Stock immediately prior to the record date of the applicable dividend (or if no record date is fixed, the date as of which the record holders of Common Stock entitled to such dividends are to be determined).

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Preferential Payments to Holders of Preferred Stock.

2.1.1 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of Common Stock or Junior Preferred Stock by reason of their ownership thereof, the holders of shares of Series E Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders an amount per share of Series E Preferred Stock equal to the greater of (i) an amount equal to two (2) times the Series E Original Issue Price (as defined below), plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of Series E Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series E Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1.1, the holders of shares of Series E Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares of Series E Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.1.2 In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Series E Preferred Stock as provided in Subsection 2.1.1, and before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, the holders of shares of Junior Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders an amount per share of Junior Preferred Stock equal to the greater of (i) the applicable Original Issue Price for such share of Junior Preferred Stock, plus any dividends declared but unpaid thereon, or (ii) such amount per share as would have been payable had all shares of the applicable series of Junior Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution or winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Junior Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1.2, the holders of shares of Junior Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares of Junior Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

The “**Original Issue Price**” shall mean, (i) with respect to the Series Seed Preferred Stock, \$52.83 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series Seed Preferred Stock) (the “**Series Seed Original Issue Price**”), (ii) with respect to the Series A Preferred Stock, \$69.19 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series A Preferred Stock) (the “**Series A Original Issue Price**”), (iii) with respect to the Series B Preferred Stock, \$144.86 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series B Preferred Stock) (the “**Series B Original Issue Price**”), (iv) with respect to the Series C Preferred Stock, \$429.9296 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series C Preferred Stock) (the “**Series C Original Issue Price**”), (v) with respect to the Series D

Preferred Stock, \$997.2768 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series D Preferred Stock) (the “**Series D Original Issue Price**”), and (vi) with respect to the Series E Preferred Stock, \$1,170.09495 per share (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization of the Series E Preferred Stock) (the “**Series E Original Issue Price**”). The “**Liquidation Amount**” shall mean, (i) with respect to the Series Seed Preferred Stock, the aggregate amount which a holder of Series Seed Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series Seed Liquidation Amount**”), (ii) with respect to the Series A Preferred Stock, the aggregate amount which a holder of Series A Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series A Liquidation Amount**”), (iii) with respect to the Series B Preferred Stock, the aggregate amount which a holder of Series B Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series B Liquidation Amount**”), (iv) with respect to the Series C Preferred Stock, the aggregate amount which a holder of Series C Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series C Liquidation Amount**”), (v) with respect to the Series D Preferred Stock, the aggregate amount which a holder of Series D Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series D Liquidation Amount**”) and (vi) with respect to the Series E Preferred Stock, the aggregate amount which a holder of Series E Preferred Stock is entitled to receive under Subsection 2.1 (the “**Series E Liquidation Amount**”).

2.2 Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock and the holders of any then outstanding phantom shares or other phantom equity awards issued by the Corporation under any equity incentive plan, pro rata based on the number of shares held or deemed to be held by each such holder.

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**” unless (i) the holders of a majority in interest of the outstanding shares of Preferred Stock, voting together as a single class on an as-converted basis, (ii) the holders of a majority of the outstanding shares of Series C Preferred Stock, voting exclusively as a separate class, (iii) the holders of a majority of the outstanding shares of Series D Preferred Stock, voting exclusively as a separate class, and (iv) the holders of a majority of the outstanding shares of Series E Preferred Stock, voting exclusively as a separate class, elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

- (a) a merger or consolidation in which
 - (i) the Corporation is a constituent party or
 - (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of

another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, including without limitation, the sale or exclusive license of substantially all of the intellectual property of the Corporation or any subsidiary of the Corporation, or the sale or disposition (whether by merger, consolidation or otherwise and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

2.3.2 Effecting a Deemed Liquidation Event.

(a) The Corporation shall not have the power to effect a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(i) unless the agreement or plan of merger or consolidation for such transaction (the “**Merger Agreement**”) provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections 2.1 and 2.2.

(b) In the event of a Deemed Liquidation Event referred to in Subsection 2.3.1(a)(ii) or 2.3.1(b), if the Corporation does not effect a dissolution of the Corporation under the General Corporation Law within ninety (90) days after such Deemed Liquidation Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the ninetieth (90th) day after the Deemed Liquidation Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause to require the redemption of such shares of Preferred Stock, and (ii) if the holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted basis, so request in a written instrument delivered to the Corporation not later than one hundred twenty (120) days after such Deemed Liquidation Event, the Corporation shall use the consideration received by the Corporation for such Deemed Liquidation Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors (as defined below) then in office, if any), together with any other assets of the Corporation available for distribution to its stockholders, all to the extent permitted by Delaware law governing distributions to stockholders (the “**Available Proceeds**”), on the one hundred fiftieth (150th) day after such Deemed Liquidation Event (the “**Liquidation Redemption Date**”), to redeem on a pari passu basis all outstanding shares of Preferred Stock at a price per share (the “**Redemption Price**”) equal to the applicable Liquidation Amounts. Notwithstanding the foregoing, in the event of a redemption pursuant to the preceding sentence, if the Available Proceeds are not sufficient to redeem all outstanding shares of Preferred Stock, the Corporation shall redeem in accordance with the priority set forth in Subsection 2.1 each holder’s shares of Preferred Stock to the fullest extent of such Available Proceeds, and shall redeem the remaining shares as soon as it may lawfully do so under Delaware law governing distributions to stockholders in accordance with the priority set forth in Subsection 2.1. Prior to the distribution or redemption provided for in this Subsection 2.3.2(b), the Corporation shall not expend or dissipate the consideration received for such Deemed Liquidation Event, except to discharge expenses incurred in connection with such Deemed Liquidation Event.

(c) In the event of a redemption of Preferred Stock pursuant to Subsection 2.3.2(b), the Corporation shall send written notice of redemption (the “**Redemption Notice**”)

to each holder of record of Preferred Stock not less than ten (10) days prior to the Liquidation Redemption Date. Each Redemption Notice shall state:

- (i) the number of shares of Preferred Stock held by the holder that the Corporation shall redeem on the Liquidation Redemption Date;
- (ii) the Liquidation Redemption Date and the applicable Redemption Price;
- (iii) the date upon which the holder's right to convert such shares terminates (as determined in accordance with Subsection 4.2); and
- (iv) for holders of shares in certificated form, that the holder is to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Preferred Stock to be redeemed.

(d) On or before the Liquidation Redemption Date, each holder of shares of Preferred Stock, unless such holder has exercised his, her or its right to convert such shares as provided in Section 4, shall, if a holder of shares in certificated form, surrender the certificate or certificates representing such shares (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation, and thereupon the Redemption Price for such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof.

2.3.3 Amount Deemed Paid or Distributed. The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any.

2.3.4 Allocation of Escrow and Contingent Consideration. In the event of a Deemed Liquidation Event pursuant to Subsection 2.3.1(a)(i), if any portion of the consideration payable to the stockholders of the Corporation is payable only upon satisfaction of contingencies (the "**Additional Consideration**"), the Merger Agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the "**Initial Consideration**") shall be allocated among the holders of capital stock and phantom shares or other phantom equity awards of the Corporation in accordance with Subsections 2.1 and 2.2 as if the Initial Consideration were the only consideration payable in connection with such Deemed Liquidation Event; and (b) any Additional Consideration which becomes payable to the stockholders and phantom shares or other phantom equity awards of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of capital stock and phantom shares or other phantom equity awards of the Corporation in accordance with Subsections 2.1 and 2.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Subsection 2.3.4, consideration placed into escrow or

retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Deemed Liquidation Event shall be deemed to be Additional Consideration.

3. Voting.

3.1 General. Except as otherwise expressly provided herein or as required by law, on any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter; provided, however, that the Series D Preferred Stock and Series E Preferred Stock shall not have a right to vote on matters which the stockholders of the Corporation shall be entitled to vote to the extent, and solely to the extent, such matter relates to the election of the directors on the Board of Directors, and the shares of Series D Preferred Stock and Series E Preferred Stock shall not be included in determining the number of shares voting or entitled to vote on any such matters related to the election of the directors of the Board of Directors. Except as provided by law or by the other provisions of the Certificate, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class and on an as-converted to Common Stock basis.

3.2 Election of Directors. The holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect two directors of the Corporation (the “**Series A Directors**”), the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect two directors of the Corporation (the “**Series B Directors**”), the holders of record of the shares of Series C Preferred Stock, exclusively and as a separate class, shall be entitled to elect two directors of the Corporation (the “**Series C Directors**”) and together with the Series A Directors and Series B Directors, the “**Preferred Directors**”) and the holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect one director of the Corporation. Any director elected as provided in the preceding sentence may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. If the holders of shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Common Stock, as the case may be, fail to elect a sufficient number of directors to fill all directorships for which they are entitled to elect directors, voting exclusively and as a separate class, pursuant to the first sentence of this Subsection 3.2, then any directorship not so filled shall remain vacant until such time as the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Common Stock, as the case may be, elect a person to fill such directorship by vote or written consent in lieu of a meeting; and no such directorship may be filled by stockholders of the Corporation other than by the stockholders of the Corporation that are entitled to elect a person to fill such directorship, voting exclusively and as a separate class. The holders of record of the shares of Common Stock and of any other class or series of voting stock (including the Series A Preferred Stock, Series B Preferred Stock, and Series C Preferred Stock) then outstanding, exclusively and voting together as a single class on an as-if converted basis, shall be entitled to elect the balance of the total number of directors of the Corporation. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Except as otherwise provided in this Subsection 3.2, a vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Subsection 3.2.

3.3 Protective Provisions.

3.3.1 Preferred Stock Protective Provisions. At any time when any shares of Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate) the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Preferred Stock, voting together as a single class on an as-converted basis, given in writing or by vote at a meeting, consenting or voting (as the case may be) together as a single class on an as-if converted basis, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(a) liquidate, dissolve or wind-up the business and affairs of the Corporation, effect any merger or consolidation, or any other Deemed Liquidation Event, or consent to or permit any of the foregoing;

(b) license, or consent to license, any intellectual property out of the ordinary course of business of the Corporation;

(c) amend, alter or repeal any provision of this Certificate or the Bylaws of the Corporation;

(d) increase the authorized number of shares of Preferred Stock or Common Stock or engage in any reclassification or recapitalization of the outstanding capital stock of the Corporation;

(e) create, or authorize the creation of, or issue or obligate itself to issue shares of, any additional class or series of capital stock (including by reclassification or otherwise) unless the same ranks junior to the Preferred Stock with respect to its rights, preferences and privileges;

(f) unless approved by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any, create, or hold capital stock in, any subsidiary that is not wholly owned (either directly or through one or more other subsidiaries of the Corporation) by the Corporation, or permit any subsidiary to create, or authorize the creation of, or issue or obligate itself to issue, any shares of any class or series of capital stock, or sell, transfer or otherwise dispose of any capital stock or other ownership interest of any direct or indirect subsidiary of the Corporation, or permit any direct or indirect subsidiary to sell, lease, transfer, exclusively license or otherwise dispose (in a single transaction or series of related transactions) of all or substantially all of the assets of such subsidiary;

(g) purchase or redeem (or permit any subsidiary to purchase or redeem) or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than (i) redemptions of or dividends or distributions on the Preferred Stock as expressly authorized herein, or (ii) repurchases of stock from former employees, officers, directors, consultants or other persons who performed services for the Corporation or any subsidiary in connection with the cessation of such employment or service at the lower of the original purchase price or the then-current fair market value thereof;

(h) enter into any agreement regarding an asset transfer, license of intellectual property or acquisition outside of the ordinary course of business consistent with past practices;

(i) other than in connection with capital leases, equipment leases, automobile leases, automobile purchases or trade payables incurred in the ordinary course of business, create, or authorize the creation of, or issue, or authorize the issuance of any debt security, or permit any subsidiary to take any such action with respect to any debt security, or the guaranty thereof, if the aggregate indebtedness of the Corporation and its subsidiaries for borrowed money, including amounts guaranteed by the Corporation and its subsidiaries, following such action would exceed \$1,000,000, unless such debt security is included in the Corporation's annual budget or operating plan as approved by the Board of Director, or has otherwise received the prior approval of the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any;

(j) increase or decrease the authorized number of directors constituting the Board of Directors of the Corporation, change the number of votes entitled to be cast by any director or directors on any matter or adopt any provision inconsistent with Article Sixth;

(k) enter into or be a party to any transaction with any director, officer or employee of the Corporation or any of its subsidiaries, or any "associate" (as defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended) of any such person, except transactions made in the ordinary course of business and pursuant to reasonable requirements of the Corporation's or its subsidiary's business and upon fair and reasonable terms that are approved by the Board of Directors of the Corporation, including a majority of the disinterested members of the Corporation's Board of Directors then in office, if any, which shall include a majority of the Preferred Directors to the extent that a majority of the Preferred Directors constitutes a disinterested member of the Corporation's Board of Directors; or

(l) increase the number of shares reserved for issuance to officers, employees or consultants under any stock option or other equity incentive plan of the Corporation or any of its subsidiaries.

3.3.2 Special Series B Protective Provisions. At any time when any shares of Series B Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series B Preferred Stock, exclusively and as a separate class, given in writing or by vote at a meeting, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(a) increase or decrease the number of authorized shares of Series B Preferred stock;

(b) amend, alter or repeal any provision of this Certificate or the Bylaws of the Corporation in a manner which adversely affects the rights, powers or preferences of the Series B Preferred Stock; or

(c) amend or change the rights, powers or preferences of any existing equity security of the Corporation (including by reclassification or otherwise) if such amendment or change would render such security senior to the Series B Preferred Stock with respect to such rights, powers and preferences, if such security is currently *pari passu* with the Series B Preferred Stock with respect to such rights, powers and preferences, or senior or *pari passu* to the Series B Preferred Stock if such existing security is currently junior to the Series B Preferred Stock with respect to such rights, powers and preferences.

3.3.3 Special Series C Protective Provisions. At any time when any shares of Series C Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series C Preferred Stock, exclusively and as a separate class, given in writing or by vote at a meeting, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(a) increase or decrease the number of authorized shares of Series C Preferred Stock;

(b) amend, alter or repeal any provision of this Certificate or the Bylaws of the Corporation in a manner which adversely affects the rights, powers or preferences of the Series C Preferred Stock; or

(c) amend or change the rights, powers or preferences of any existing equity security of the Corporation (including by reclassification or otherwise) if such amendment or change would render such security senior to the Series C Preferred Stock with respect to such rights, powers and preferences, if such security is currently pari passu with the Series C Preferred Stock with respect to such rights, powers and preferences, or senior or pari passu to the Series C Preferred Stock if such existing security is currently junior to the Series C Preferred Stock with respect to such rights, powers and preferences.

3.3.4 Special Series D Protective Provisions. At any time when any shares of Series D Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series D Preferred Stock, exclusively and as a separate class, given in writing or by vote at a meeting, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(a) increase or decrease the number of authorized shares of Series D Preferred Stock;

(b) amend, alter or repeal any provision of this Certificate or the Bylaws of the Corporation in a manner which adversely affects the rights, powers or preferences of the Series D Preferred Stock; or

(c) amend or change the rights, powers or preferences of any existing equity security of the Corporation (including by reclassification or otherwise) if such amendment or change would render such security senior to the Series D Preferred Stock with respect to such rights, powers and preferences, if such security is currently pari passu with the Series D Preferred Stock with respect to such rights, powers and preferences, or senior or pari passu to the Series D Preferred Stock if such existing security is currently junior to the Series D Preferred Stock with respect to such rights, powers and preferences.

3.3.5 Special Series E Protective Provisions. At any time when any shares of Series E Preferred Stock are outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without the written consent or affirmative vote of the holders of a majority of the then outstanding shares of Series E Preferred Stock, exclusively and as a separate class, given in writing or by vote at a meeting, and any such act or transaction entered into without such consent or vote shall be null and void ab initio, and of no force or effect:

(a) increase or decrease the number of authorized shares of Series E Preferred Stock;

(b) amend, alter, or repeal any provision of this Certificate or the Bylaws of the Corporation in a manner which adversely affects the rights, powers or preferences of the Series E Preferred Stock;

(c) amend or change the rights, powers or preferences of any existing equity security of the Corporation (including by reclassification or otherwise) if such amendment or change would render such security senior to the Series E Preferred Stock with respect to such rights, powers and preferences, if such security is currently pari passu with the Series E Preferred Stock with respect to such rights, powers and preferences, or senior or pari passu to the Series E Preferred Stock if such existing security is currently junior to the Series E Preferred Stock with respect to such rights, powers and preferences;

(d) enter into a transaction or series of transactions by merger, consolidation, share exchange or otherwise with a publicly traded “special purpose acquisition company” or its subsidiary in which (1) the common stock or share capital of such entity or its successor entity is listed on a national securities exchange, and (2) the stockholders of the Corporation receive upon conversion or exchange of their outstanding shares of capital stock of the Corporation securities constituting, or upon conversion would constitute (assuming conversion on such date), more than 50% of the outstanding share capital of such “special purpose acquisition company”; or

(e) approve any Direct Listing. A “**Direct Listing**” shall mean an initial listing of the Corporation’s outstanding Common Stock on a national securities exchange by means of an effective registration statement on Form S-1 filed by the Corporation with the Securities and Exchange Commission other than in connection with an underwritten offering. For the avoidance of doubt, a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “**Securities Act**”) shall not be deemed a Direct Listing.

4. Optional Conversion.

The holders of the Preferred Stock shall have conversion rights as follows (the “**Conversion Rights**”):

4.1 Right to Convert.

4.1.1 Conversion Ratio. Each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and non-assessable shares of Common Stock as is determined by dividing the Original Issue Price of such share of Preferred Stock by the Conversion Price (as defined below) for such Preferred Stock in effect at the time of conversion. The “**Conversion Price**” shall initially mean, (i) with respect to each share of Series Seed Preferred Stock, an amount per share equal to the Series Seed Original Issue Price, (ii) with respect to each share of Series A Preferred Stock, an amount per share equal to the Series A Original Issue Price, (iii) with respect to each share of Series B Preferred Stock, an amount per share equal to the Series B Original Issue Price, (iv) with respect to each share of Series C Preferred Stock, an amount per share equal to the Series C Original Issue Price, (v) with respect to each share of Series D Preferred Stock, an amount per share equal to the Series D Original Issue Price and (vi) with respect to each share of Series E Preferred Stock, an amount per share equal to the Series E Original Issue Price.

4.1.2 Termination of Conversion Rights. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of such Preferred Stock, or the last full day preceding the Liquidation Redemption Date, if applicable; provided that the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Subsection 2.1 to the holders of Preferred Stock pursuant to such liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event.

4.2 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent) that such holder elects to convert all or any number of such holder's shares of Preferred Stock and, if applicable, any event on which such conversion is contingent and (b), if such holder's shares are certificated, surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the specified shares shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates or evidence of book entry position for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

4.3.2 Reservation of Shares. The Corporation shall at all times when any Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of Preferred Stock, such number of its duly

authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate. Before taking any action which would cause an adjustment reducing the Conversion Price of any series of Preferred Stock below the then par value of the shares of Common Stock issuable upon conversion of such series of Preferred Stock, the Corporation will take any corporate action which may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and non-assessable shares of Common Stock at such adjusted Conversion Price applicable to such series of Preferred Stock.

4.3.3 Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

4.3.4 No Further Adjustment. Upon any such conversion, no adjustment to the applicable Conversion Price shall be made for any declared but unpaid dividends on the Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5 Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

4.4 Adjustments to Conversion Price for Diluting Issues.

4.4.1 Special Definitions. For purposes of this Article Fourth, the following definitions shall apply:

(a) **“Option”** shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

(b) **“Series E Original Issue Date”** shall mean the date on which the first share of Series E Preferred Stock was issued.

(c) **“Convertible Securities”** shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

(d) “**Additional Shares of Common Stock**” shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the Series E Original Issue Date, other the following (“**Exempted Securities**”):

- (i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;
- (ii) shares of Common Stock, Options or Convertible Securities issued by reason of a dividend, stock split, split-up or other distribution on shares of Common Stock that is covered by Subsection 4.5, 4.6, 4.7 or 4.8;
- (iii) shares of Common Stock or Options issued to employees or directors of, or consultants or advisors to, the Corporation or any of its subsidiaries pursuant to a plan, agreement or arrangement approved by the Board of Directors of the Corporation, provided, that if such plan, agreement or arrangement is approved by the Board of Directors of the Corporation after the Series E Original Issue Date, then such approval must include a majority of the Preferred Directors then in office, if any;
- (iv) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security;
- (v) shares of Common Stock issued in a Qualified IPO (as defined below);
- (vi) shares of Common Stock, Options or Convertible Securities issued pursuant to the acquisition of another corporation by the Corporation by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement; provided that such issuances are approved by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any;
- (vii) shares of Common Stock, Options or Convertible Securities issued to banks or equipment lessors or other financial institutions, or to real property lessors, pursuant to a debt financing, equipment

leasing or real property leasing transaction approved by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any;

- (viii) shares of Common Stock, Options or Convertible Securities issued to suppliers or third party service providers in connection with the provision of goods or services pursuant to transactions approved by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any; or
- (ix) shares of Common Stock, Options or Convertible Securities issued pursuant to strategic transactions entered into for primarily non-equity financing purposes approved by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any.

4.4.2 No Adjustment of Conversion Price. No adjustment in the Conversion Price applicable to a share of Preferred Stock shall be made as the result of the issuance or deemed issuance of Additional Shares of Common Stock if (a) the consideration per share (determined pursuant to Subsection 4.4.5) for such Additional Shares of Common Stock issued or deemed to be issued by the Corporation is equal to or greater than the Conversion Price applicable to such share of Preferred Stock in effect immediately prior to the issuance or deemed issuance of such Additional Shares of Common Stock; or (b) the Corporation receives written notice from the holders of a majority of the then outstanding shares of the applicable series of Preferred Stock, voting together as a single class on an as-converted basis, agreeing that no such adjustment for the applicable series of Preferred Stock shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock. For the sake of clarity, (i) no waiver under clause (b) of this Subsection 4.4.2 shall be effective as to the Series C Preferred Stock unless the Corporation receives written notice from the holders of a majority of the then outstanding shares of Series C Preferred Stock, agreeing that no such adjustment for the Series C Preferred Stock shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock, and (ii) no waiver under clause (b) of this Subsection 4.4.2 shall be effective as to the Series D Preferred Stock unless the Corporation receives written notice from the holders of a majority of the then outstanding shares of Series D Preferred Stock, agreeing that no such adjustment for the Series D Preferred Stock shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock, and (iii) no waiver under clause (b) of this Subsection 4.4.2 shall be effective as to the Series E Preferred Stock unless the Corporation receives written notice from the holders of at least sixty six and two-thirds percent (66.67%) of the then outstanding shares of Series E Preferred Stock, agreeing that no such adjustment for the Series E Preferred Stock shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

4.4.3 Deemed Issue of Additional Shares of Common Stock.

(a) If the Corporation at any time or from time to time after the Series E Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating

thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date.

(b) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the Conversion Price for the applicable series of Preferred Stock (the “**Applicable Conversion Price**”) pursuant to the terms of Subsection 4.4.4, are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the Applicable Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such Applicable Conversion Price as would have been obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (b) shall have the effect of increasing the Applicable Conversion Price to an amount which exceeds the lower of (i) the Applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the Applicable Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(c) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4 (either because the consideration per share (determined pursuant to Subsection 4.4.5) of the Additional Shares of Common Stock subject thereto was equal to or greater than the Applicable Conversion Price then in effect, or because such Option or Convertible Security was issued before the Series E Original Issue Date), are revised after the Series E Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Subsection 4.4.3(a)) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(d) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4, the Applicable Conversion Price shall be readjusted to such Applicable Conversion Price as would have been obtained had such Option or Convertible Security (or portion thereof) never been issued.

(e) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events, any adjustment to the Applicable Conversion Price provided for in this Subsection 4.4.3 shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (b) and (c) of this Subsection 4.4.3). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended, any adjustment to the Applicable Conversion Price that would result under the terms of this Subsection 4.4.3 at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the Applicable Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

4.4.4 Adjustment of Applicable Conversion Price Upon Issuance of Additional Shares of Common Stock. In the event the Corporation shall at any time after the Series E Original Issue Date issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Subsection 4.4.3), without consideration or for a consideration per share less than the Applicable Conversion Price in effect immediately prior to such issue, then the Applicable Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of a cent) determined in accordance with the following formula:

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) “CP₂” shall mean the Applicable Conversion Price in effect immediately after such issue or deemed issue of Additional Shares of Common Stock

(b) “CP₁” shall mean the Applicable Conversion Price in effect immediately prior to such issue or deemed issue of Additional Shares of Common Stock;

(c) “A” shall mean the number of shares of Common Stock outstanding immediately prior to such issue of Additional Shares of Common Stock (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options outstanding immediately prior to such issue or upon conversion or exchange of Convertible Securities (including the Preferred Stock) outstanding (assuming exercise of any outstanding Options therefor) immediately prior to such issue);

(d) “B” shall mean the number of shares of Common Stock that would have been issued if such Additional Shares of Common Stock had been issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Corporation in respect of such issue by CP₁); and

(e) “C” shall mean the number of such Additional Shares of Common Stock issued in such transaction.

4.4.5 Determination of Consideration. For purposes of this Subsection 4.4, the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

- (a) Cash and Property: Such consideration shall:
 - (i) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation, excluding amounts paid or payable for accrued interest;
 - (ii) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any; and
 - (iii) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (i) and (ii) above, as determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any.

(b) Options and Convertible Securities. The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Subsection 4.4.3, relating to Options and Convertible Securities, shall be determined by dividing:

- (i) The total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

- (ii) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities.

4.4.6 Multiple Closing Dates. In the event the Corporation shall issue on more than one date Additional Shares of Common Stock that are a part of one transaction or a series of related transactions and that would result in an adjustment to the Applicable Conversion Price pursuant to the terms of Subsection 4.4.4, and such issuance dates occur within a period of no more than ninety (90) days from the first such issuance to the final such issuance, then, upon the final such issuance, the Applicable Conversion Price shall be readjusted to give effect to all such issuances as if they occurred on the date of the first such issuance (and without giving effect to any additional adjustments as a result of any such subsequent issuances within such period).

4.5 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the Series E Original Issue Date effect a subdivision of the outstanding Common Stock, the Applicable Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase in the aggregate number of shares of Common Stock outstanding. If the Corporation shall at any time or from time to time after the Series E Original Issue Date combine the outstanding shares of Common Stock, the Applicable Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.6 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series E Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Applicable Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Applicable Conversion Price then in effect by a fraction:

(1) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and

(2) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing (a) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Prices shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Prices shall be adjusted pursuant to this subsection as of the time of actual payment of such dividends or distributions; and (b) that no such adjustment shall be made if the holders of Preferred Stock simultaneously receive a dividend or other distribution of shares of Common Stock in a number equal to the number of shares of Common Stock as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.7 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Series E Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other property and the provisions of Section 1 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

4.8 Adjustment for Merger or Reorganization, etc. Subject to the provisions of Subsection 2.3, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Subsections 4.4, 4.6 or 4.7), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of such share of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation, including a majority of the Preferred Directors then in office, if any) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock. For the avoidance of doubt, nothing in this Subsection 4.8 shall be construed as preventing the holders of Preferred Stock from seeking any appraisal rights to which they are otherwise entitled under the General Corporation Law in connection with a merger triggering an adjustment hereunder, nor shall this Subsection 4.8 be deemed conclusive evidence of the fair value of the shares of Preferred Stock in any such appraisal proceeding.

4.9 Possible Adjustment of Conversion Price of Series E Preferred Stock Upon Qualifying IPO. In the event of a Qualified IPO (as defined below) in which the initial price per share to the public for the Corporation's Common Stock as set forth in the final prospectus for such Qualified IPO (the "**IPO Price**") is less than \$1,755.14 (subject to appropriate adjustment in the event of any share dividend, share split, combination or other similar recapitalization) (the "**Target Price**"), then the then-existing Conversion Price for the Series E Preferred Stock shall be adjusted so that, as of immediately prior to the completion of such Qualified IPO, each share of Series E Preferred Stock shall convert into (A) the number of shares of Common Stock issuable on conversion of such share of Series E Preferred Stock

pursuant to the other provisions of this Section 4; and (B) an additional number of shares of Common Stock equal to (x) the difference between the Target Price and the IPO Price, (y) divided by the IPO Price.

4.10 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of any Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than ten (10) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which such holder's Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Preferred Stock (but in any event not later than ten (10) days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (i) the applicable Conversion Price then in effect for such holder's Preferred Stock, and (ii) the number of shares of Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of such holder's Preferred Stock.

4.11 Notice of Record Date. In the event:

(a) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Preferred Stock a notice specifying, as the case may be, (i) the record date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. Such notice shall be sent at least ten (10) days prior to the record date or effective date for the event specified in such notice.

5. Mandatory Conversion.

5.1 Trigger Events. Upon either (a) the closing of the sale of shares of Common Stock to the public at a price per share of at least \$997.2768 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock) in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act, resulting in at least \$50,000,000 of net proceeds to the Corporation (a "**Qualified IPO**"), or (b) the date and time, or the occurrence of an event, specified by vote or written consent of (i) the holders of a majority of the then outstanding shares of Preferred Stock, voting together as

a single class on an as-converted basis, (ii) with respect to the Series C Preferred Stock, the holders of a majority of the then outstanding shares of Series C Preferred Stock, exclusively and as a separate class, (iii) with respect to the Series D Preferred Stock, the holders of a majority of the then outstanding shares of Series D Preferred Stock, exclusively and as a separate class, and (iv) with respect to the Series E Preferred Stock, the holders of at least sixty six and two-thirds percent (66.67%) of the then outstanding shares of Series E Preferred Stock, exclusively and as a separate class, (the time of such closing of such Qualified IPO or the date and time specified or the time of the event specified in such vote or written consent is referred to herein as the “**Mandatory Conversion Time**”), all outstanding shares of Preferred Stock shall automatically be converted into shares of Common Stock, based on the then effective Conversion Prices, and such shares of Preferred Stock may not be reissued by the Corporation.

5.2 Procedural Requirements. All applicable holders of record of shares of Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock subject to mandatory conversion pursuant to this Section 5. Such notice need not be sent in advance of the occurrence of the applicable Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Preferred Stock in certificated form shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice. If so required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. All rights with respect to any Preferred Stock converted pursuant to Subsection 5.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the applicable Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender any certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of any certificate or certificates of such holders (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Subsection 5.2. As soon as practicable after the applicable Mandatory Conversion Time and, if applicable, the surrender of any certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall (a) issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates or evidence of book entry position for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof and (b) pay cash as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly. Such converted shares of Preferred Stock may not be reissued, and the Corporation may thereafter take such appropriate action (without the need for shareholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock accordingly.

6. Redeemed or Otherwise Acquired Shares. Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following redemption.

7. Waiver. Unless provided otherwise in this Certificate, any of the rights, powers, privileges and other terms of any series of Preferred Stock set forth herein may be waived on behalf of all holders of such series of Preferred Stock, and solely the holders of such series of Preferred Stock, by the

affirmative written consent or vote of the holders of a majority of the outstanding shares of such series of Preferred Stock.

8. **Notices.** Any notice required or permitted by the provisions of this Article Fourth to be given to a holder of shares of any series of Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

FIFTH: Subject to any additional vote required by the Certificate or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Corporation's Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

SIXTH: Subject to any additional vote required by the Certificate, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation. Each director shall be entitled to one vote on each matter presented to the Board of Directors.

SEVENTH: Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

EIGHTH: Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Corporation's Board of Directors or in the Bylaws of the Corporation.

NINTH: To the fullest extent permitted by law, a director or officer of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article Ninth to authorize corporate action further eliminating or limiting the personal liability of directors or officers, then the liability of a director or officer of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended. Solely for purposes of this Article Ninth, "officer" shall have the meaning provided in Section 102(b)(7) of the General Corporation Law as amended from time to time.

Any repeal or modification of the foregoing provisions of this Article Ninth by the stockholders of the Corporation shall not adversely affect any right or protection of a director or officer of the Corporation existing at the time of, or increase the liability of any director or officer of the Corporation with respect to any acts or omissions of such director or officer occurring prior to, such repeal or modification.

TENTH: To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

Any amendment, repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ELEVENTH: The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “**Excluded Opportunity**” is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, “**Covered Persons**”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation.

* * *

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this Corporation in accordance with Section 228 of the General Corporation Law.

4. That this Amended and Restated Certificate of Incorporation, which restates and integrates and further amends the provisions of this Corporation’s Amended and Restated Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 31st day of October, 2022.

By: Mark Prather

Name: Mark Prather
Title: President and Chief Executive Officer

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "DISPATCHHEALTH HOLDINGS, INC.", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF NOVEMBER, A.D. 2022, AT 7:54 O`CLOCK P.M.



A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

6365502 8100
SR# 20224014841

Authentication: 204855328
Date: 11-15-22

You may verify this certificate online at corp.delaware.gov/authver.shtml

CONFIDENTIAL

DHNotice00651

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:54 PM 11/14/2022
FILED 07:54 PM 11/14/2022
SR 20224014841 - File Number 6365502

**CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
DISPATCHHEALTH HOLDINGS, INC.**

DispatchHealth Holdings, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “**Corporation**”), does hereby certify that:

FIRST: The original name of this Corporation was “DispatchHealth Holdings, Inc.” and the date of filing of the original Certificate of Incorporation of this Corporation with the Secretary of State of the State of Delaware was March 31, 2017.

SECOND: The Board of Directors of the Corporation, acting in accordance with the provisions of Sections 141 and 242 of the General Corporation Law of the State of Delaware, adopted resolutions to amend the Corporation’s Amended and Restated Certificate of Incorporation as follows:

The first sentence of the **FOURTH** Article of the Corporation’s Amended and Restated Certificate of Incorporation shall be amended and restated in its entirety to read as follows:

“The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 2,179,368 shares of Common Stock, \$0.0001 par value per share (“**Common Stock**”) and (ii) 1,585,991 shares of Preferred Stock, \$0.0001 par value per share (“**Preferred Stock**”).”

The first two sentences of Paragraph B. **PREFERRED STOCK** of the **FOURTH** Article of the Corporation’s Amended and Restated Certificate of Incorporation shall be amended and restated in its entirety to read as follows:

“The Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers and preferences, and the qualifications and limitations with respect thereto, as stated or expressed herein. As of the effective date of this Certificate, 60,463 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series Seed Preferred Stock**,” 492,366 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series A Preferred Stock**,” 295,162 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series B Preferred Stock**,” 315,864 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series C Preferred Stock**,” 200,546 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series D Preferred Stock**,” and 221,590 shares of the authorized Preferred Stock of the Corporation are hereby designated “**Series E Preferred Stock**,” in each case with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations.”

THIRD: Thereafter, pursuant to a resolution by the Board of Directors of the Corporation, this Certificate of Amendment was submitted to the stockholders of the Corporation for their approval in accordance with the provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware. Accordingly, said proposed Certificate of Amendment has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

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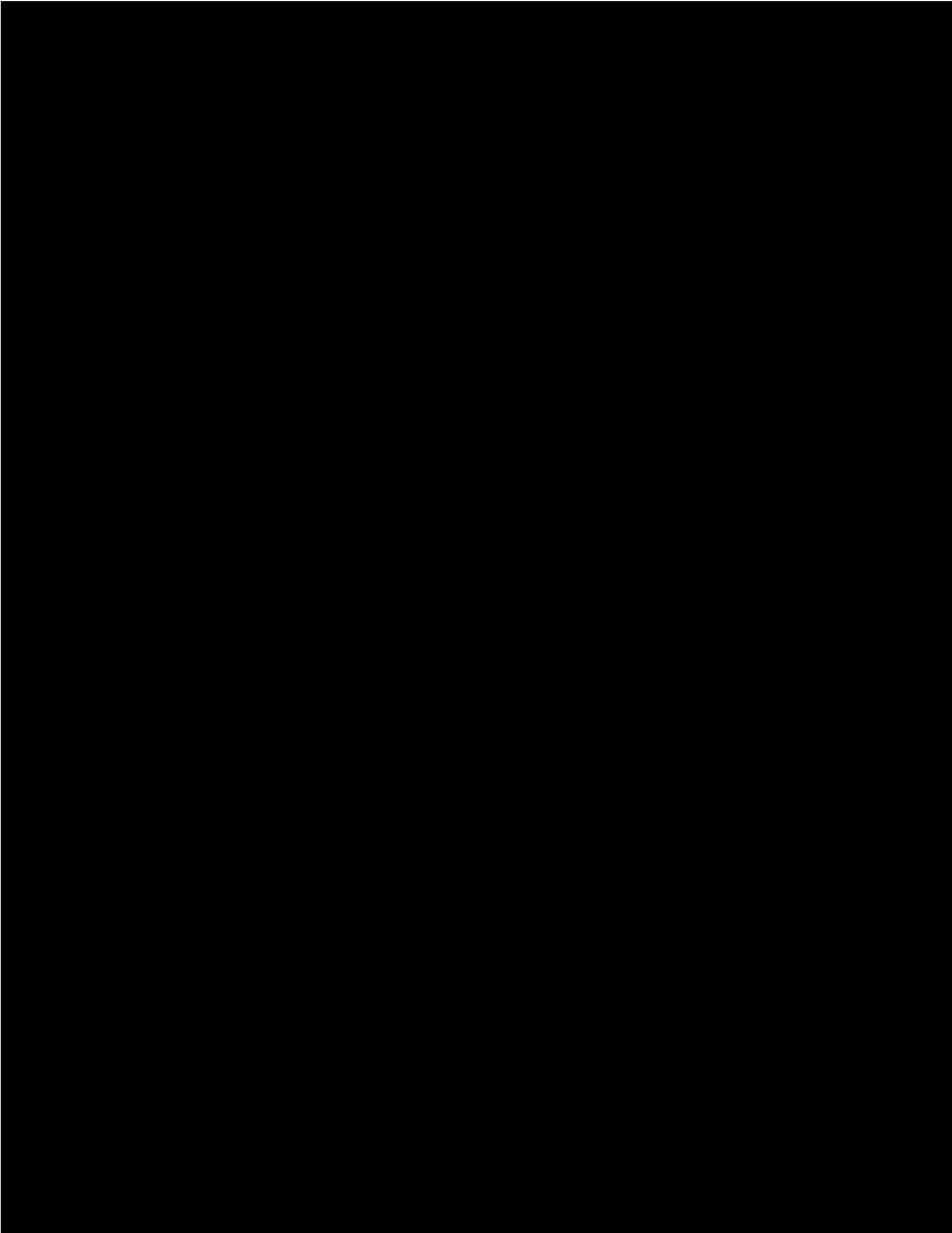
IN WITNESS WHEREOF, DispatchHealth Holdings, Inc. has caused this Certificate of Amendment to its Amended and Restated Certificate of Incorporation to be signed by its President and Chief Executive Officer this 14th day of November, 2022.

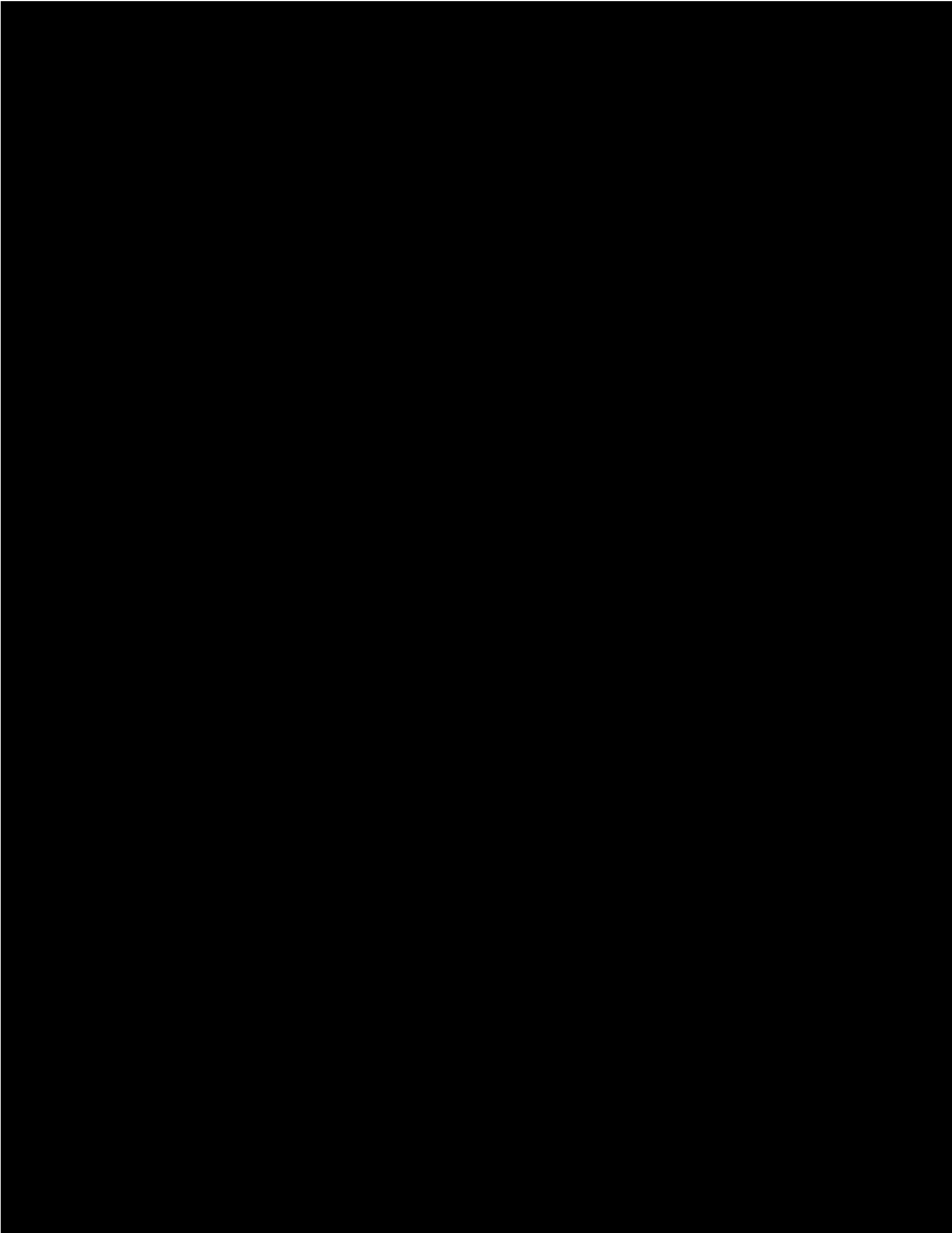
DISPATCHHEALTH HOLDINGS, INC.

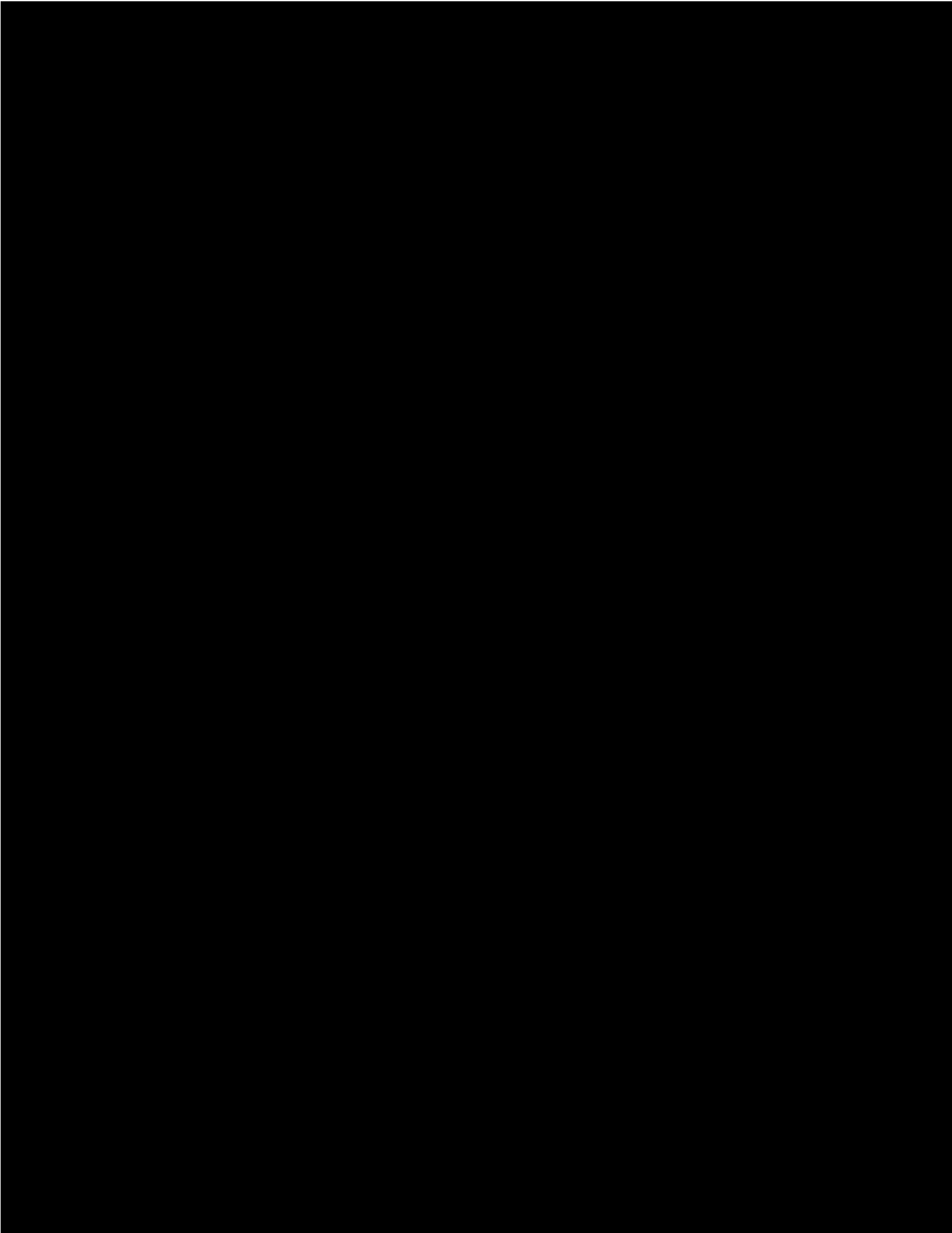
By: Mark Prather

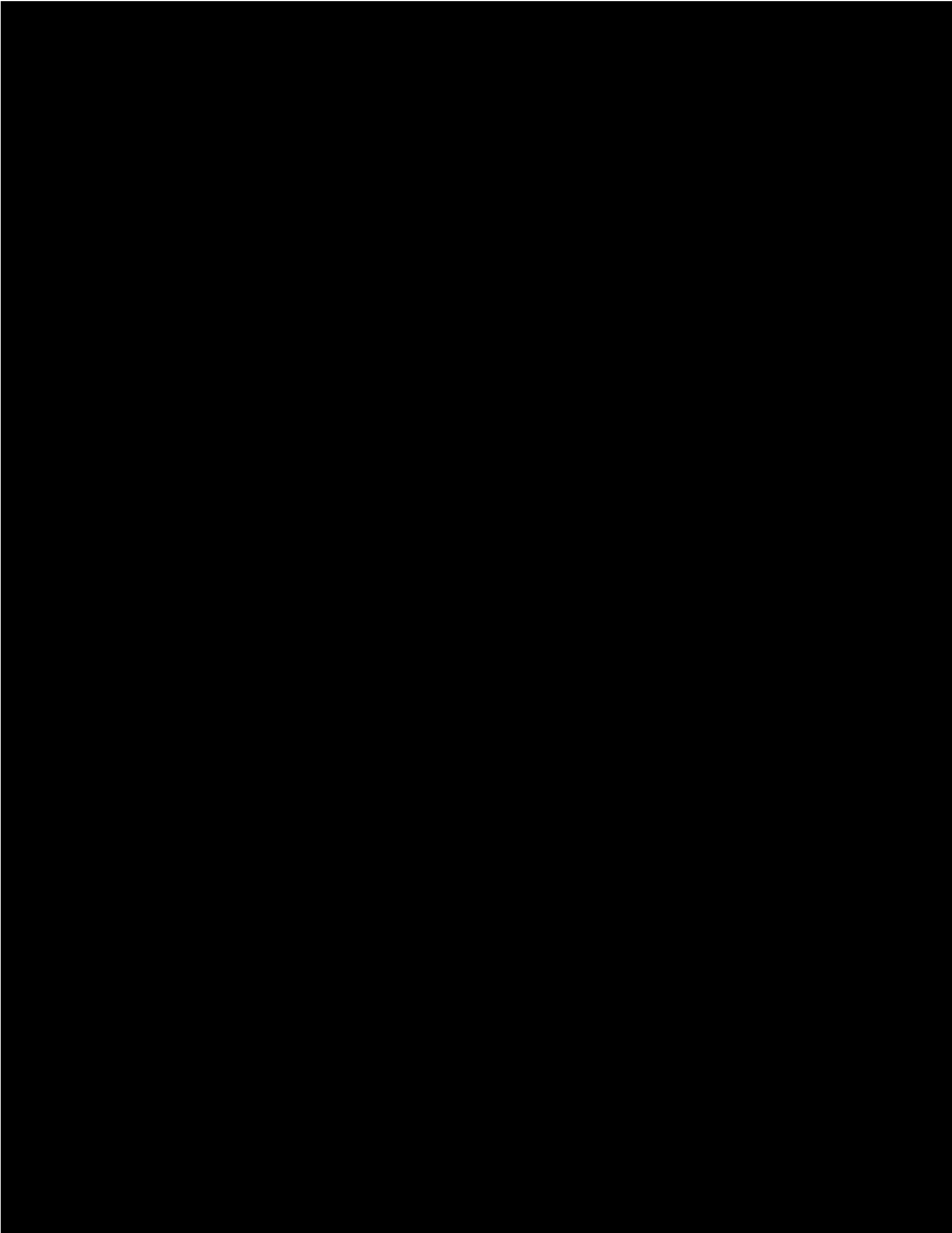
Name: Mark Prather
Title: President and Chief Executive Officer

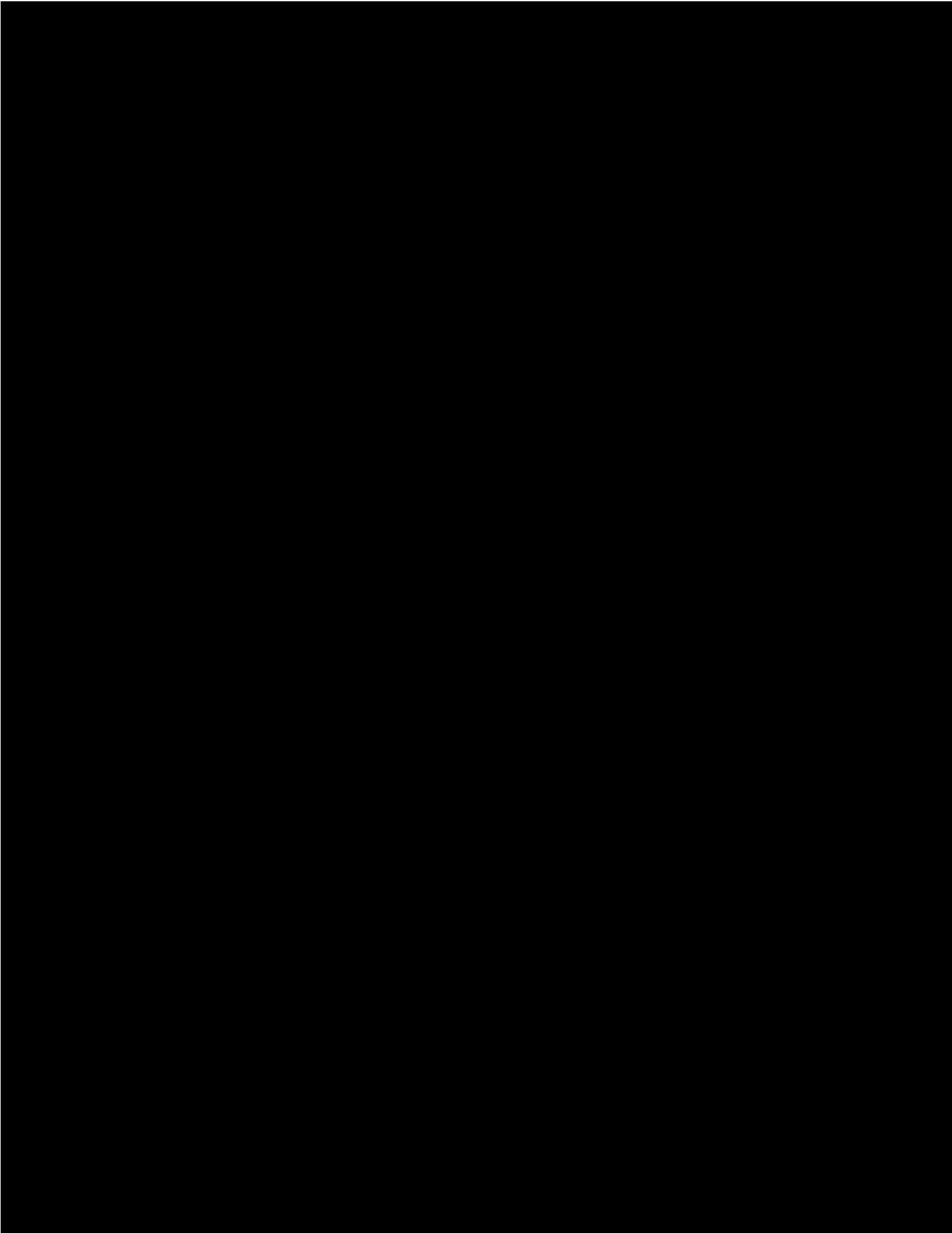
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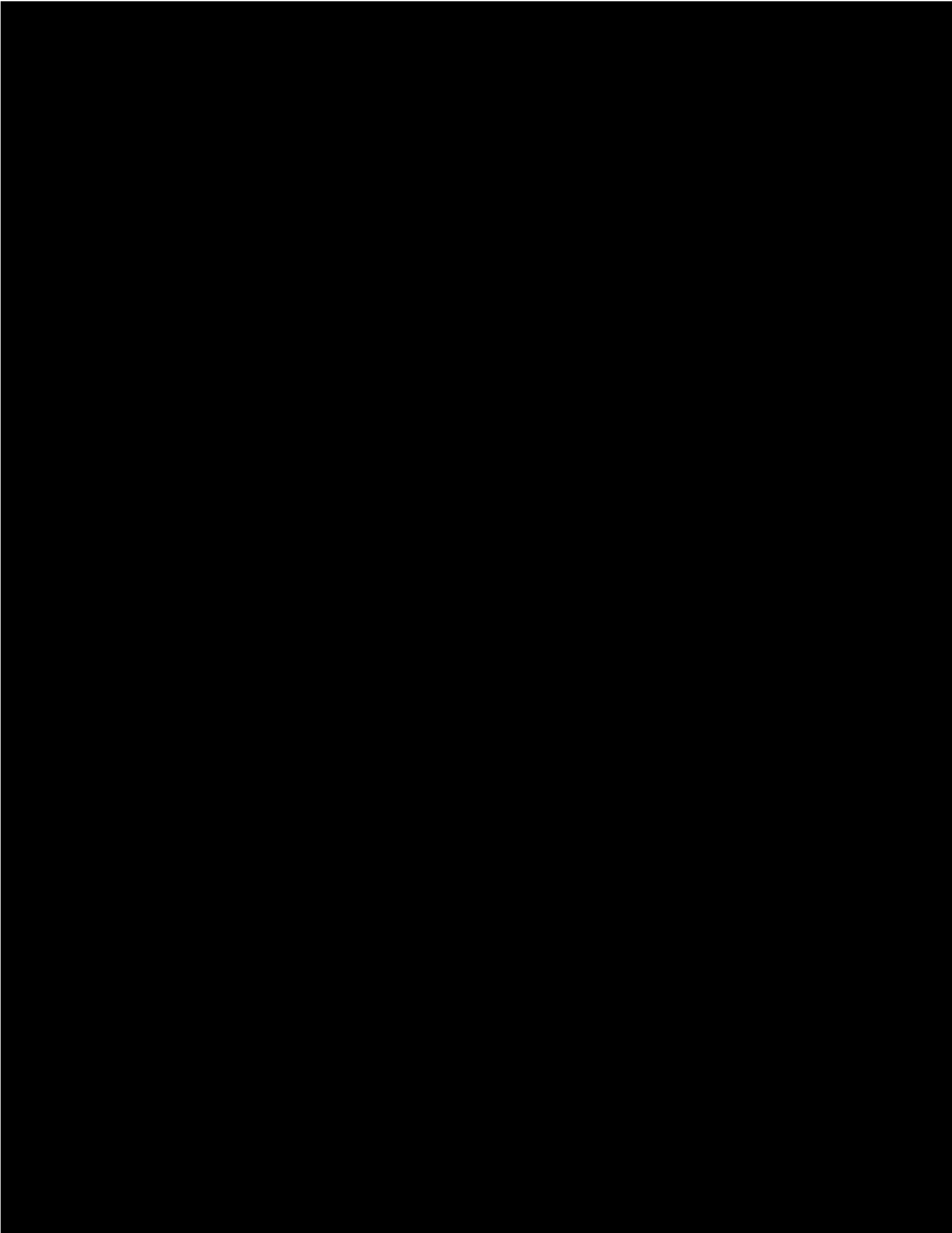


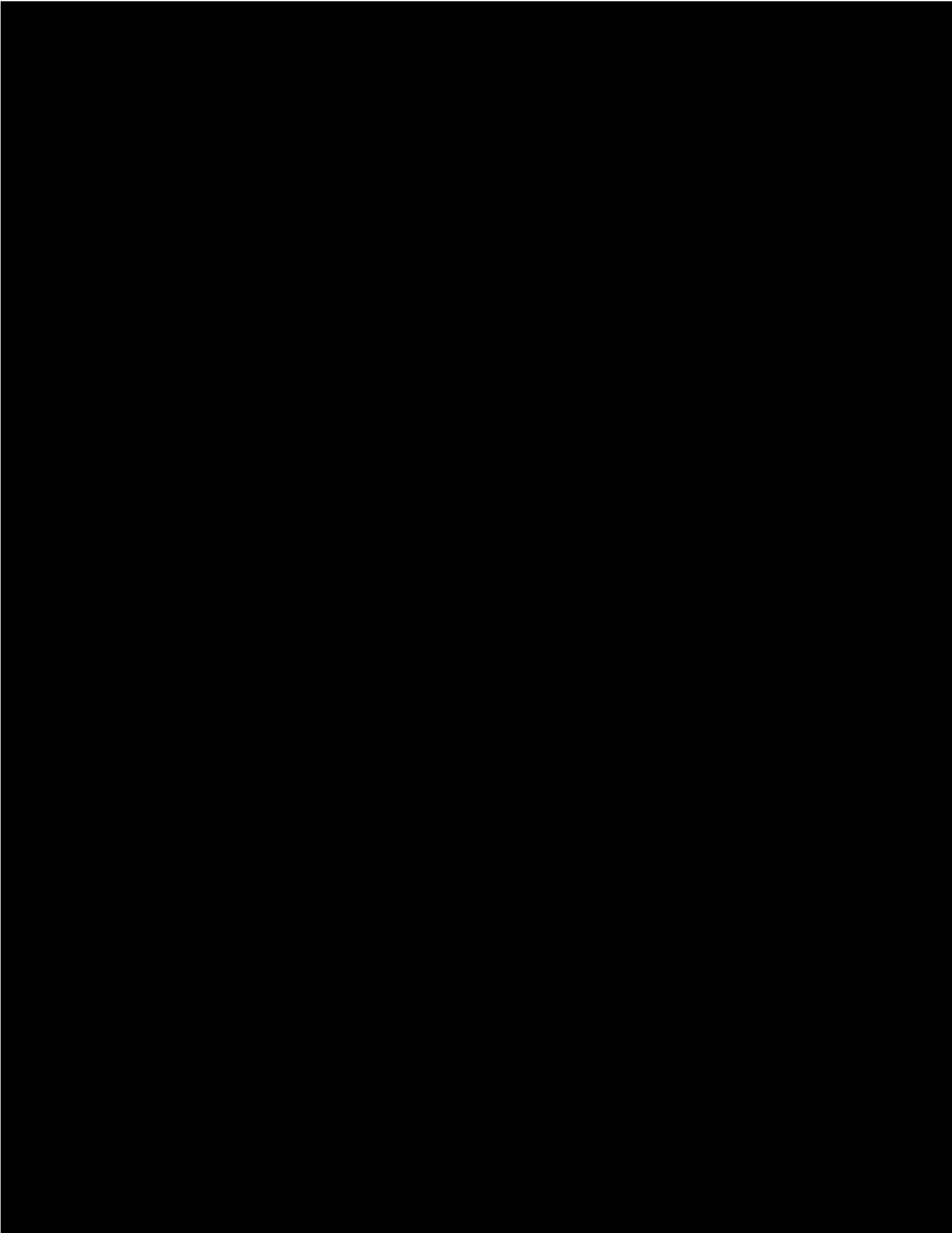


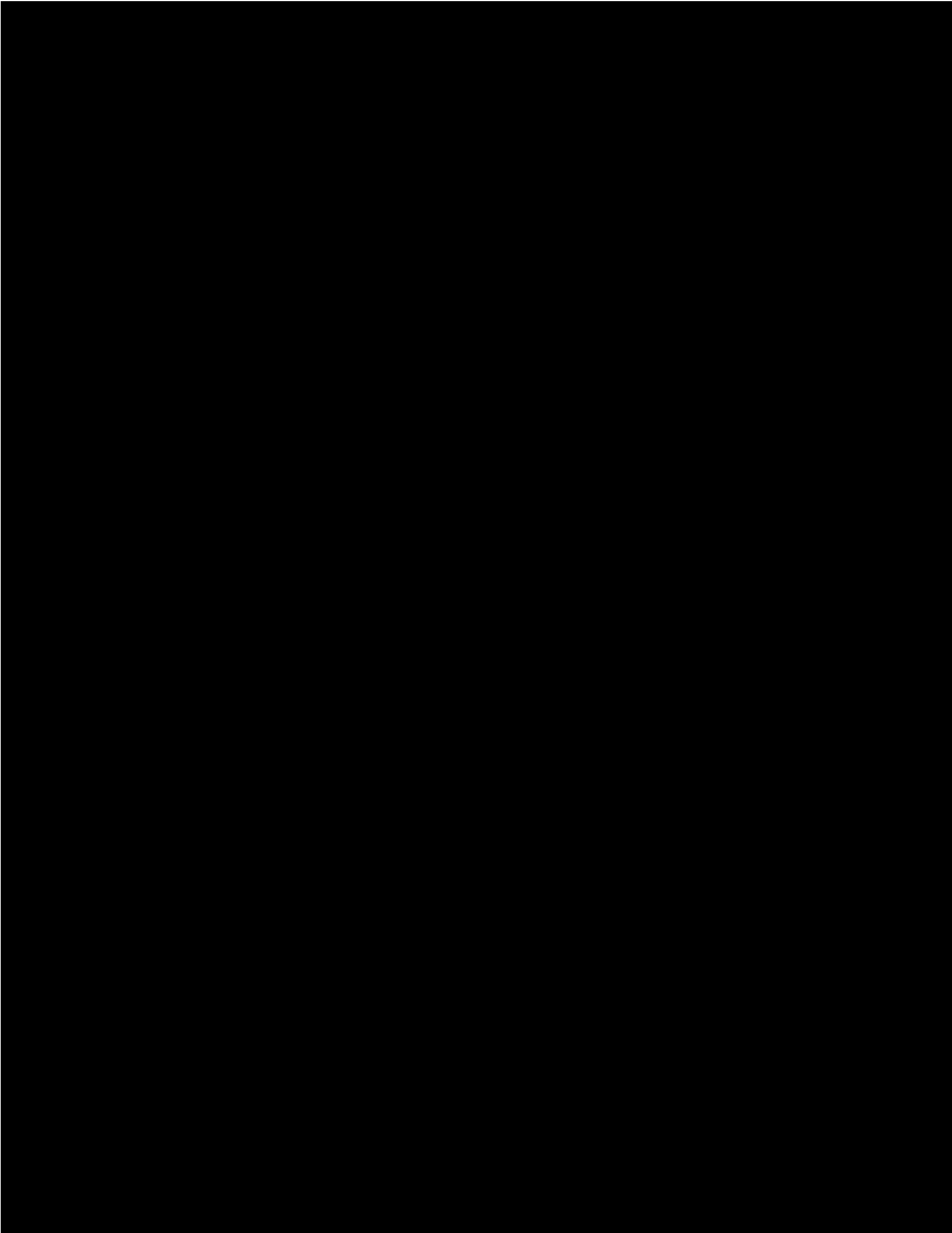


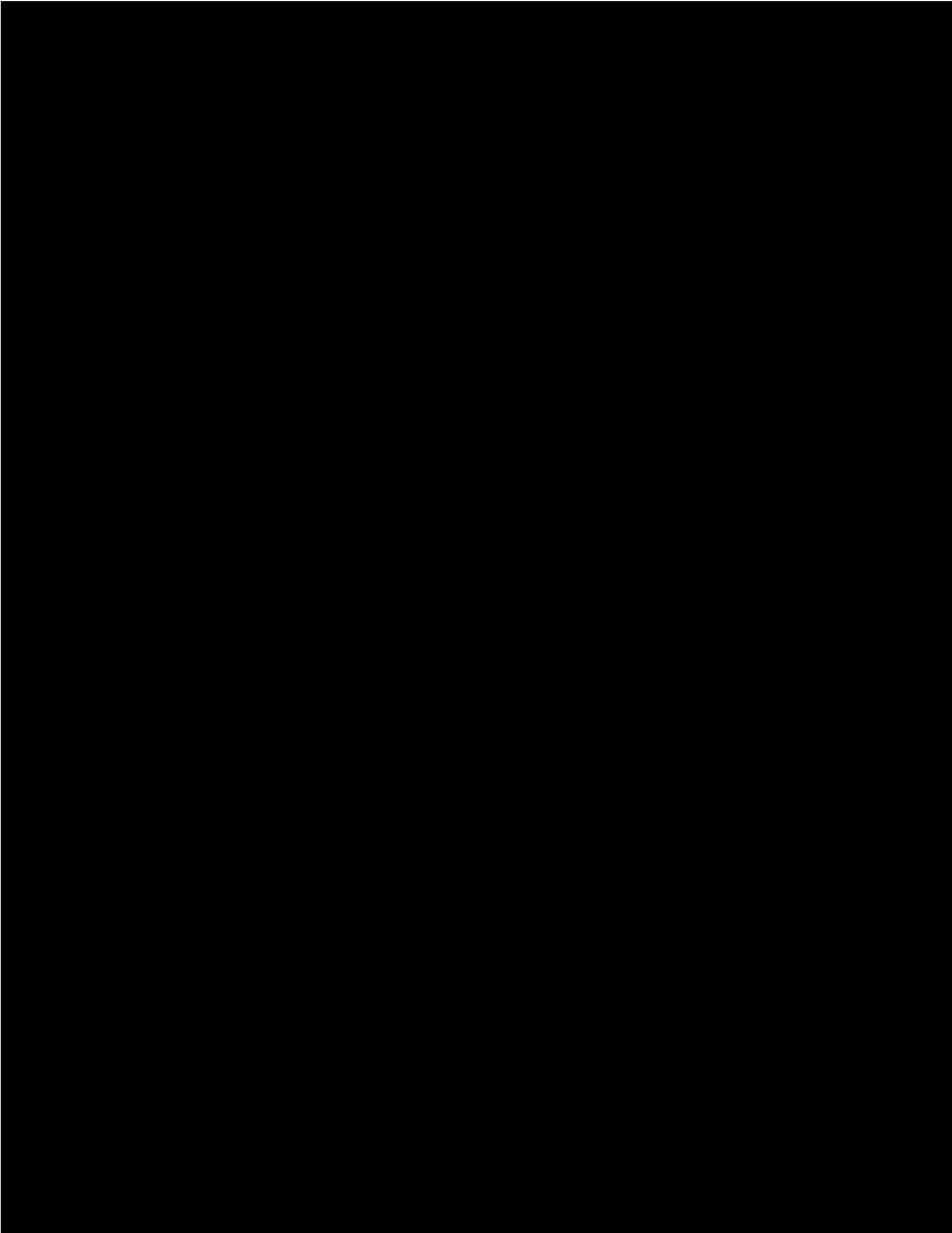


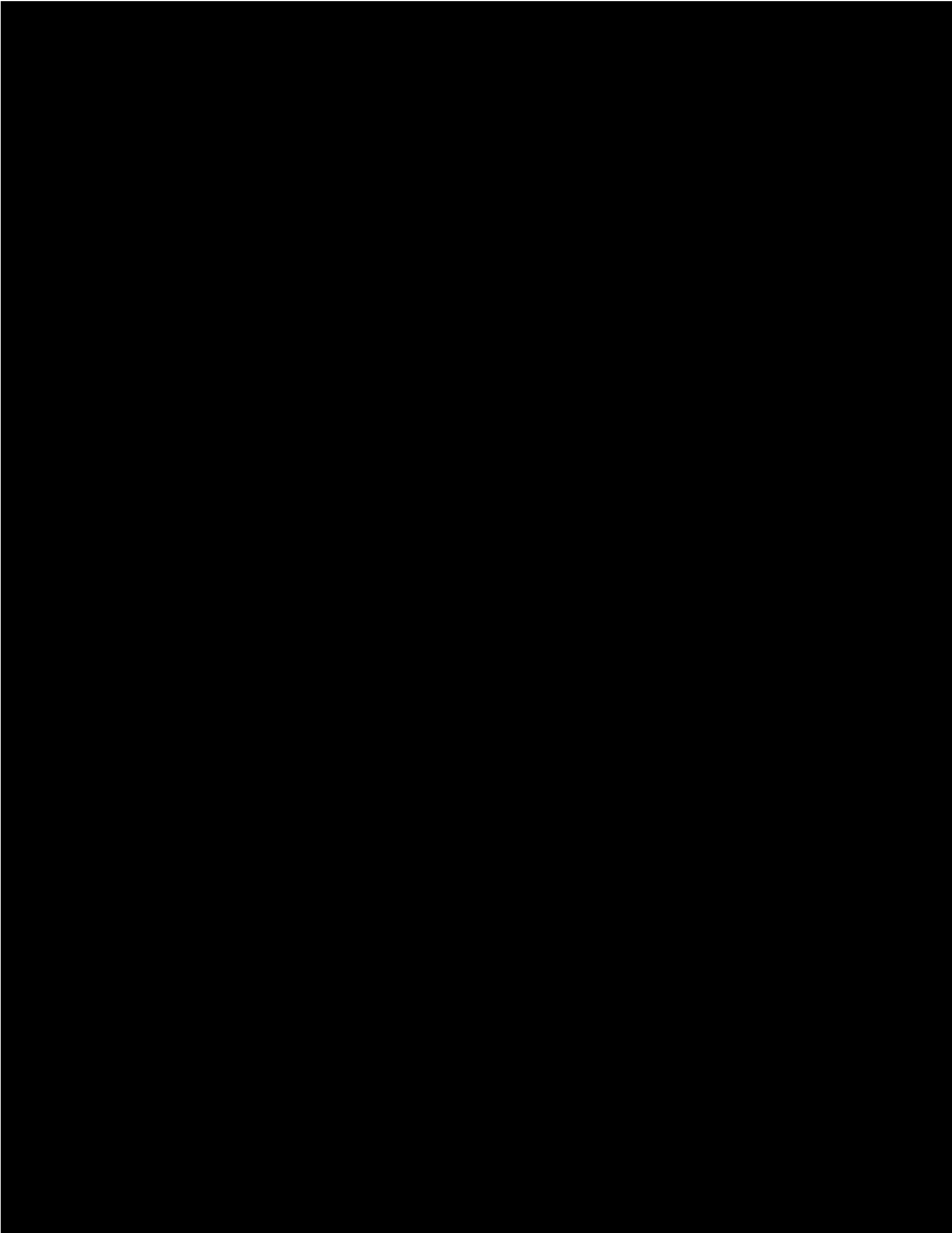


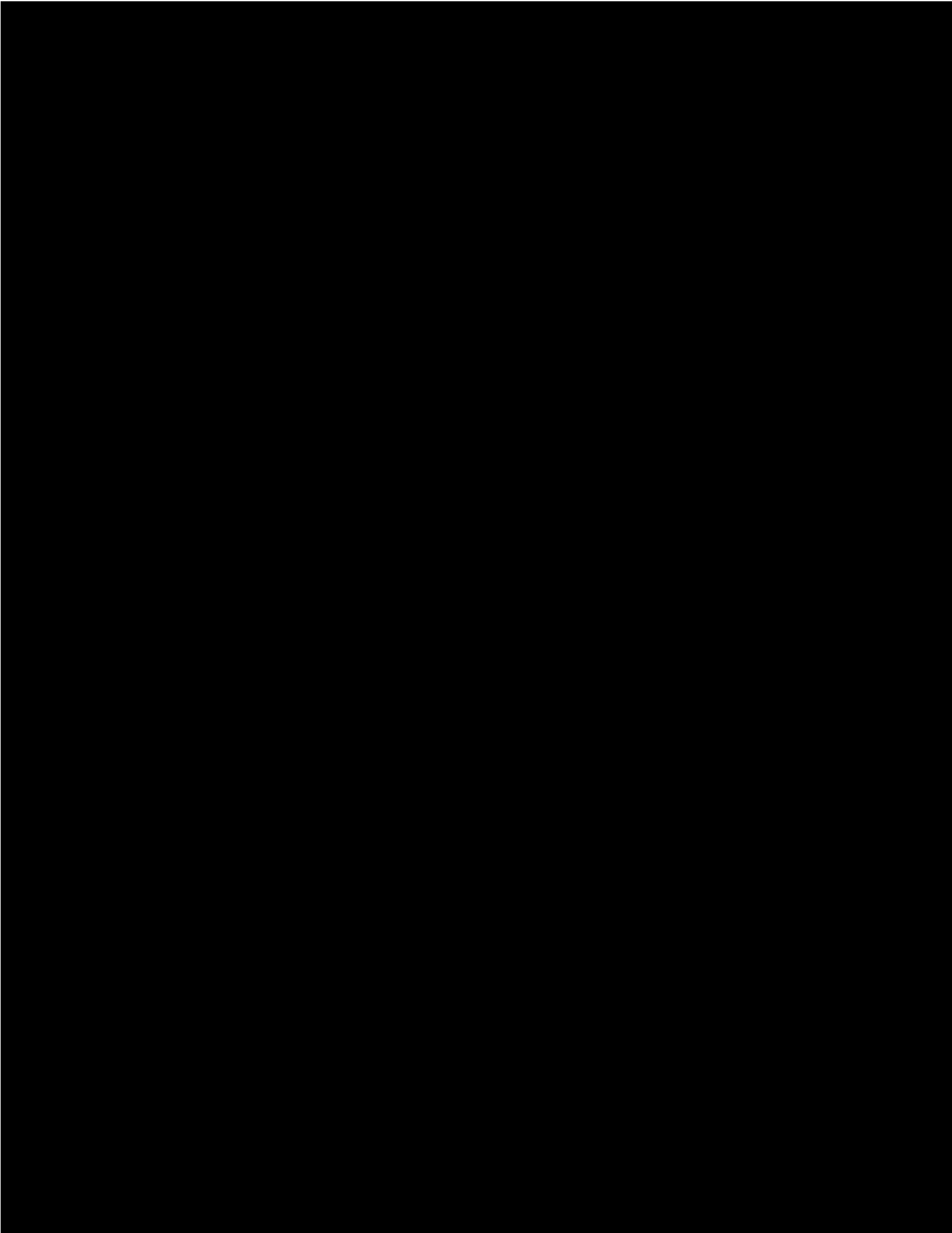


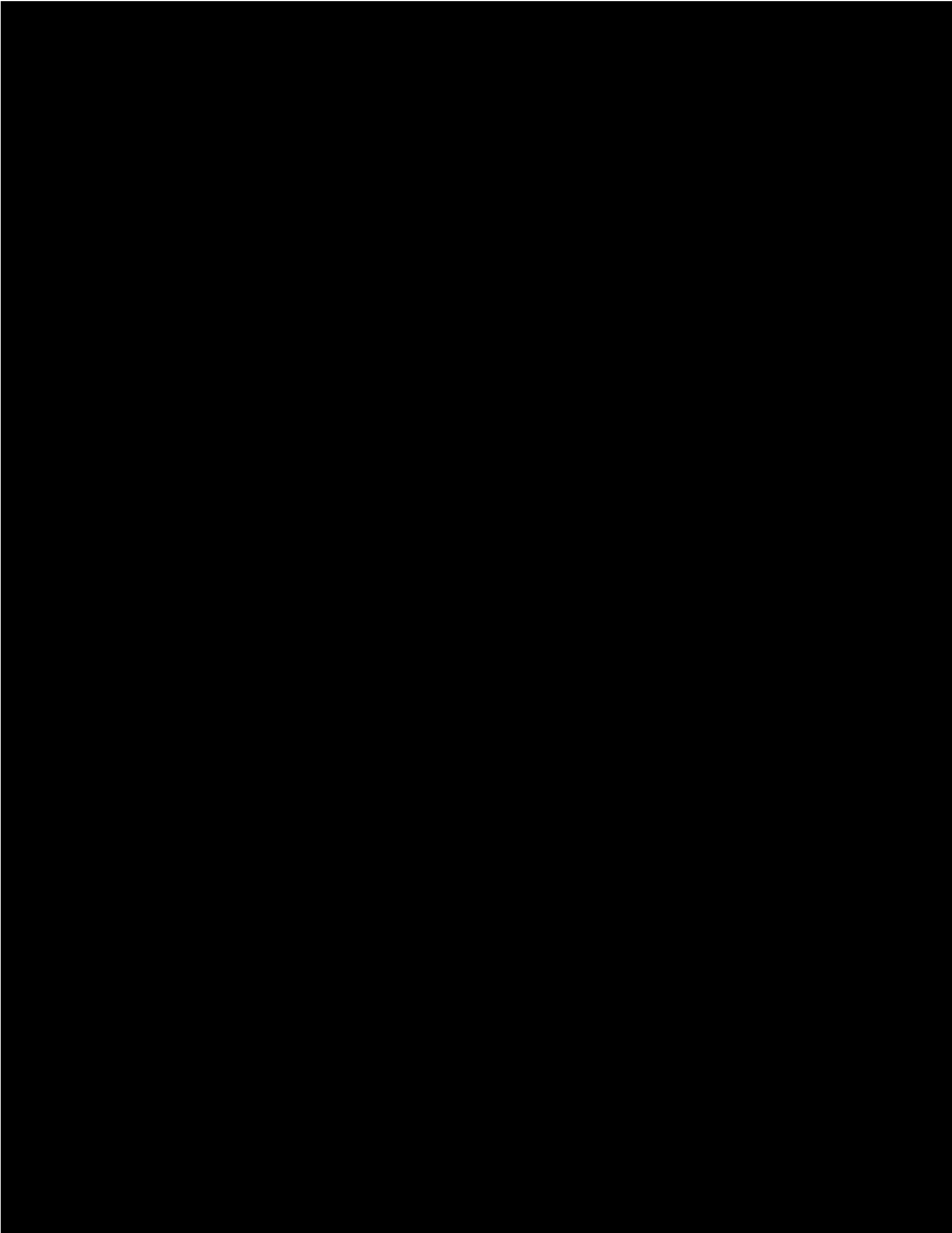


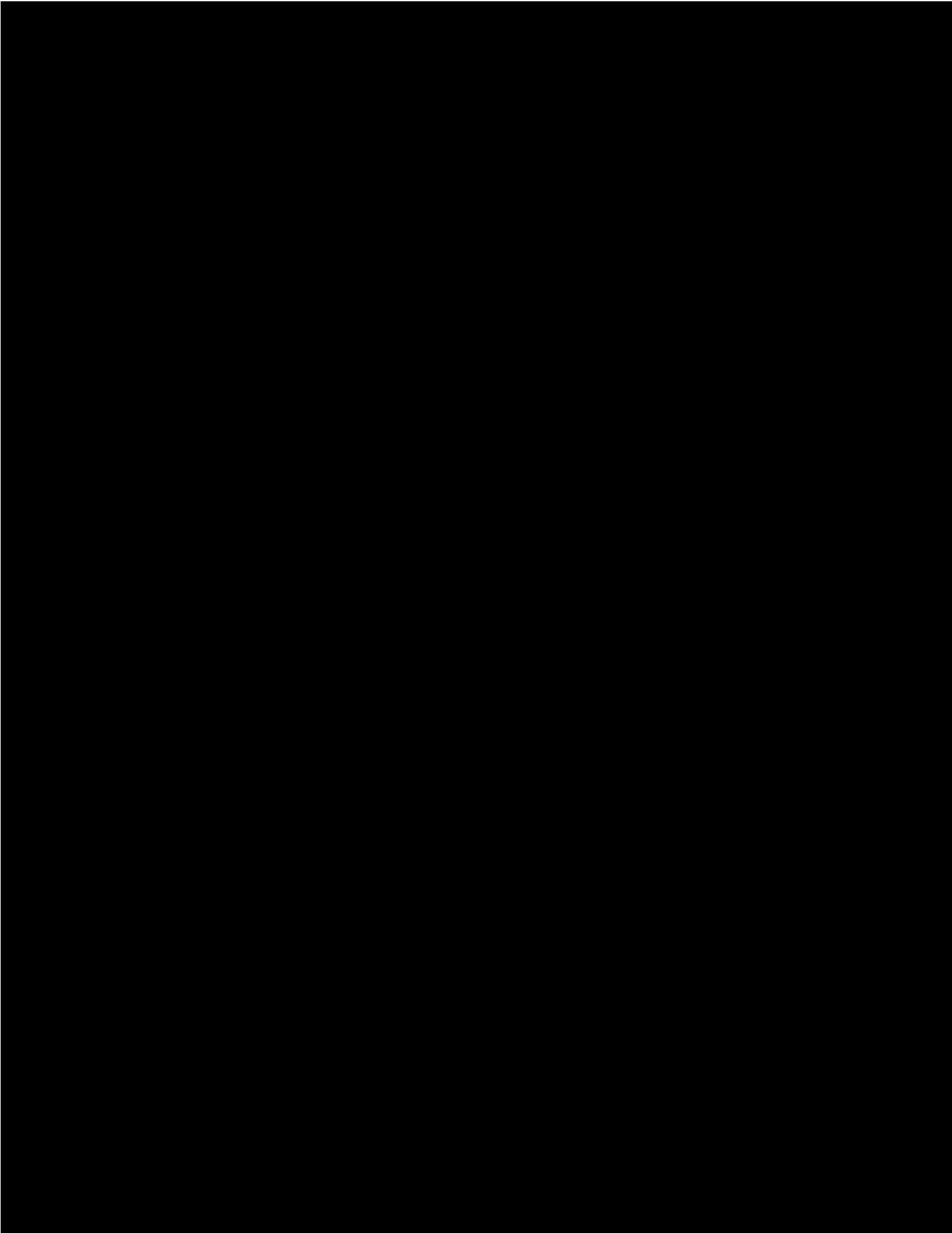


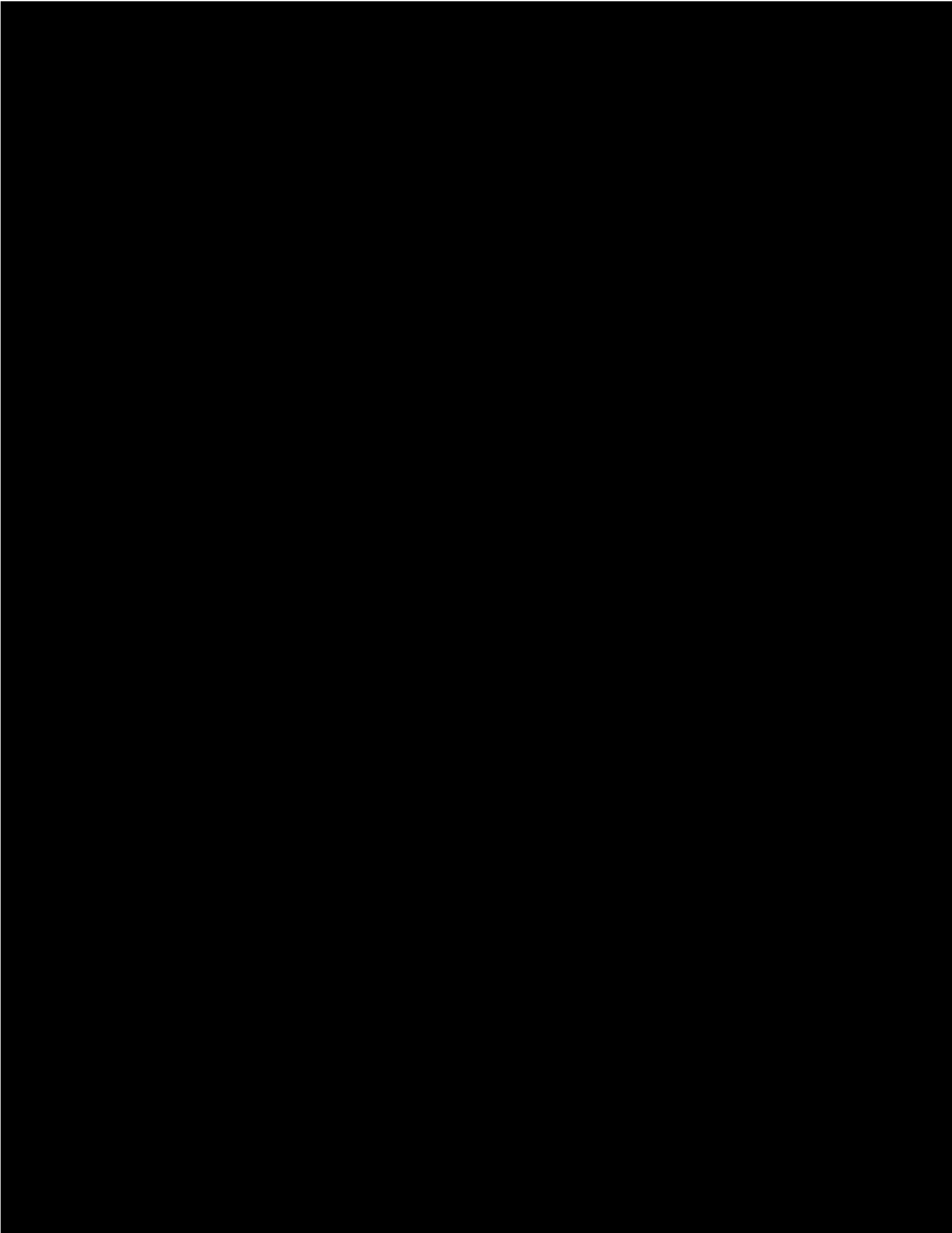


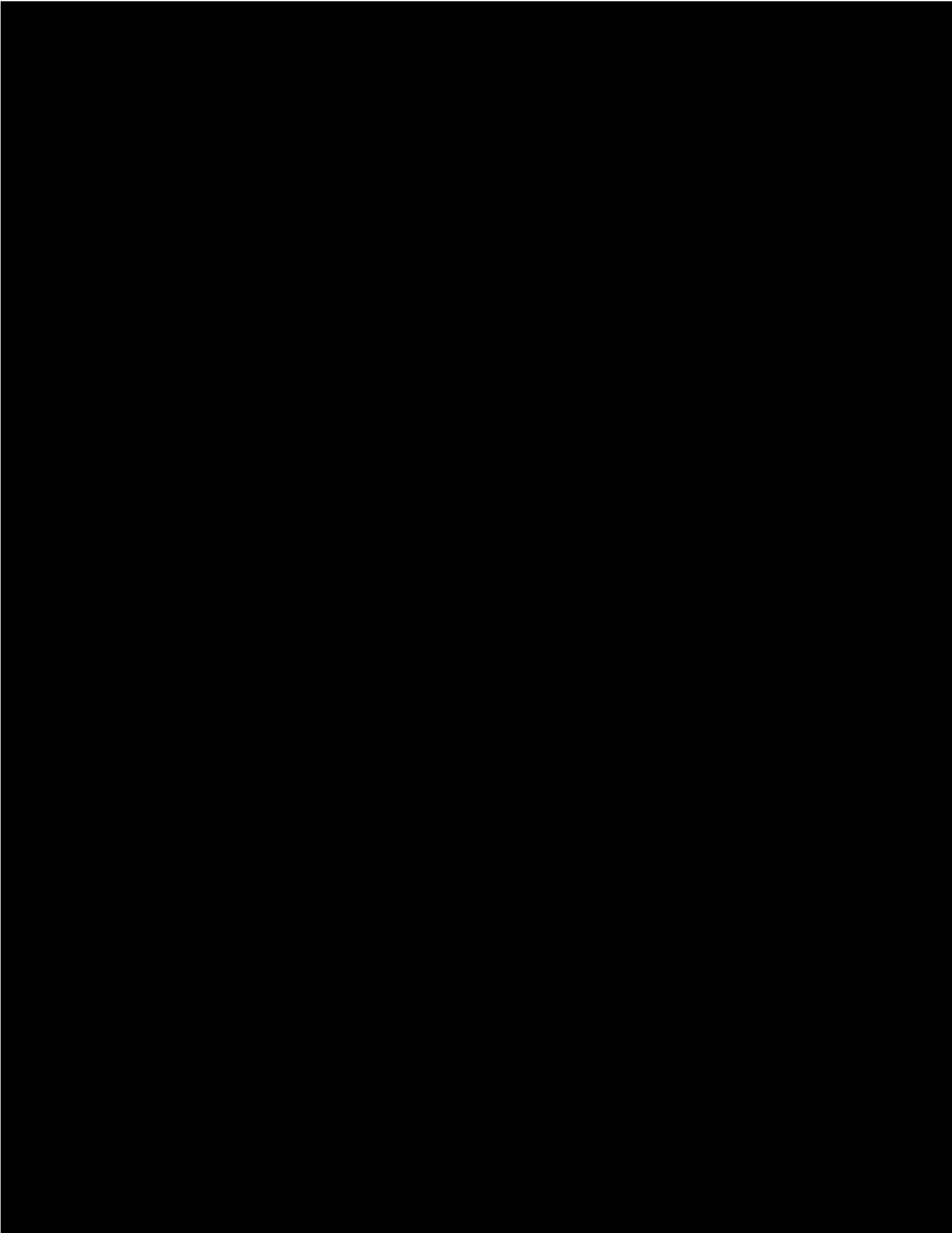


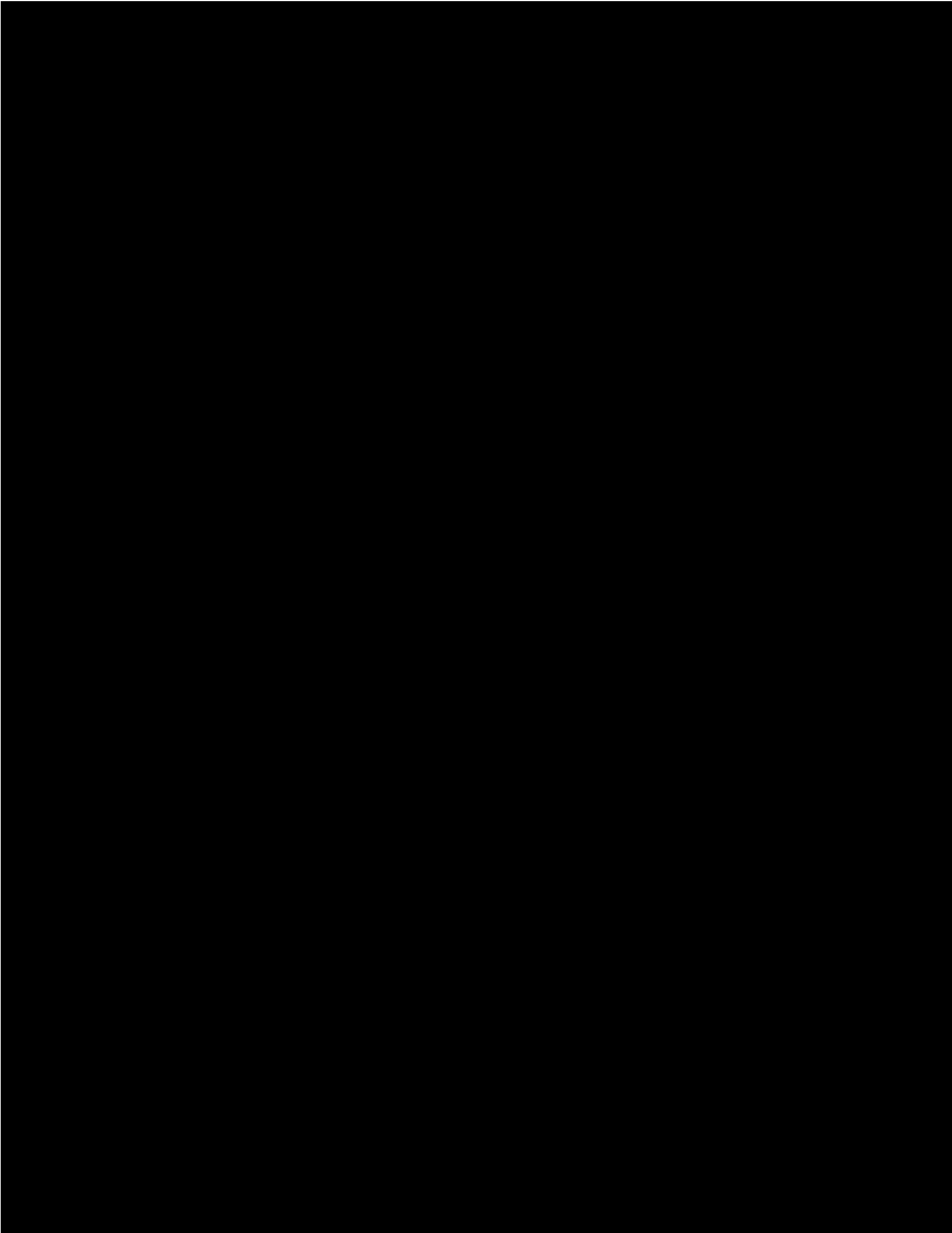


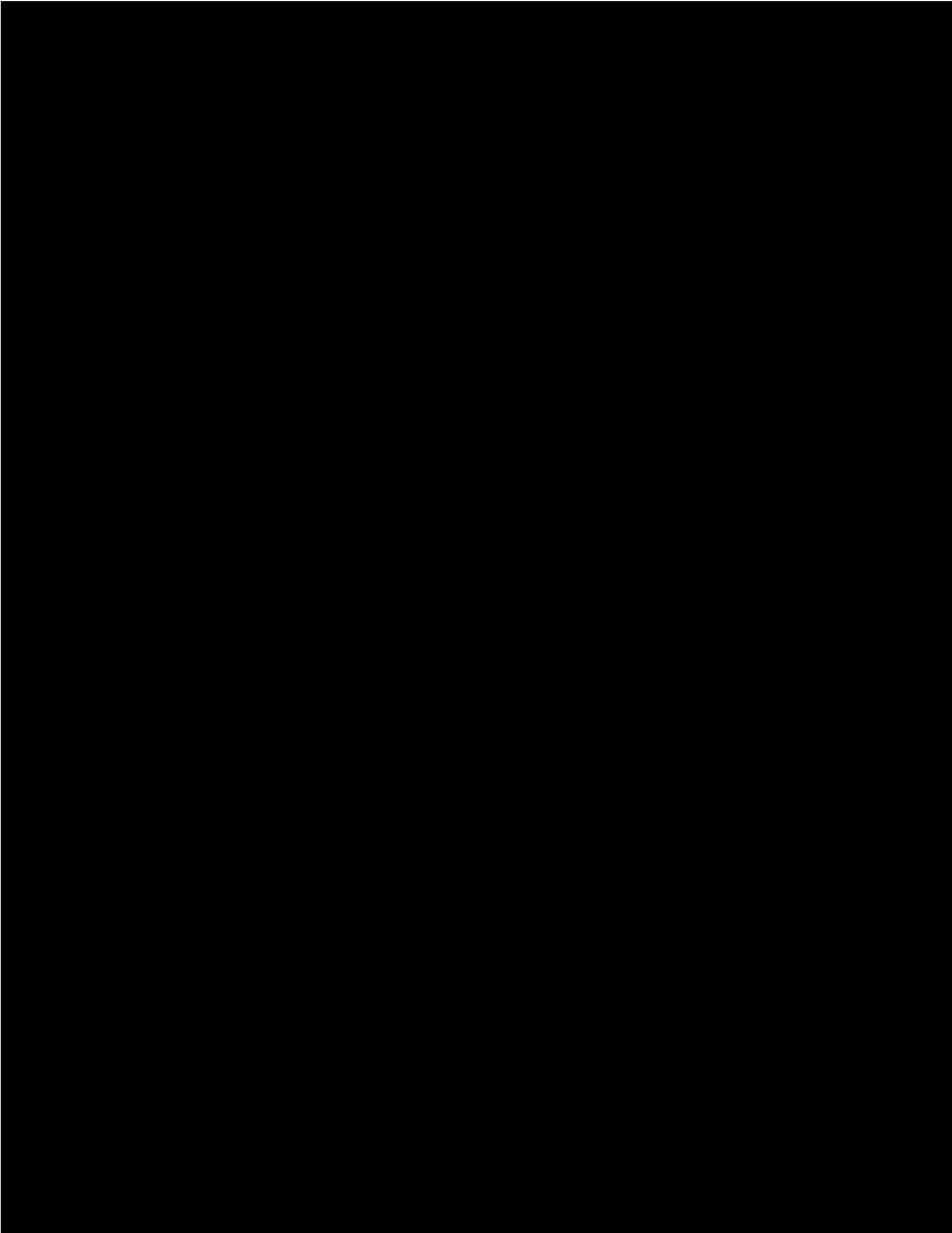


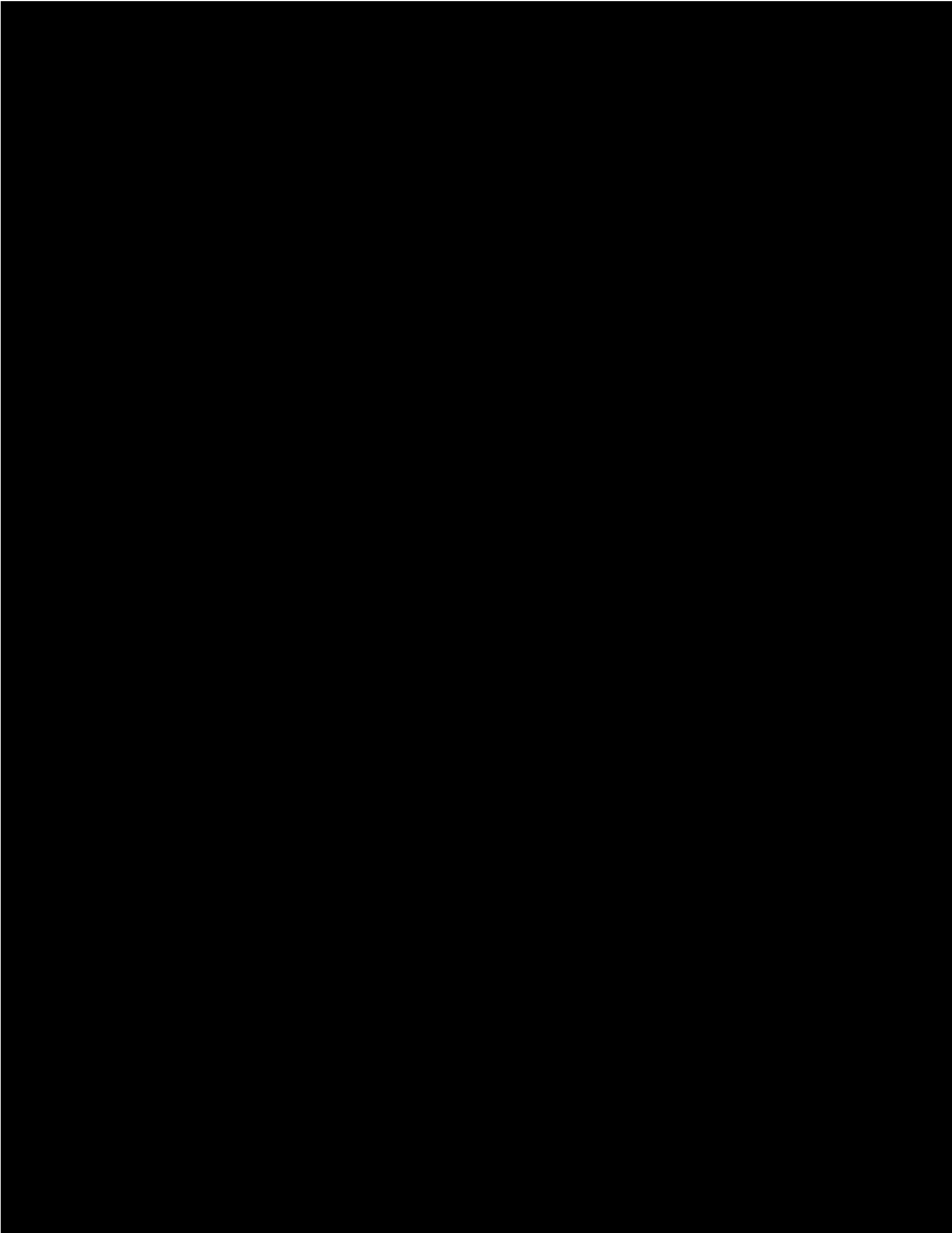


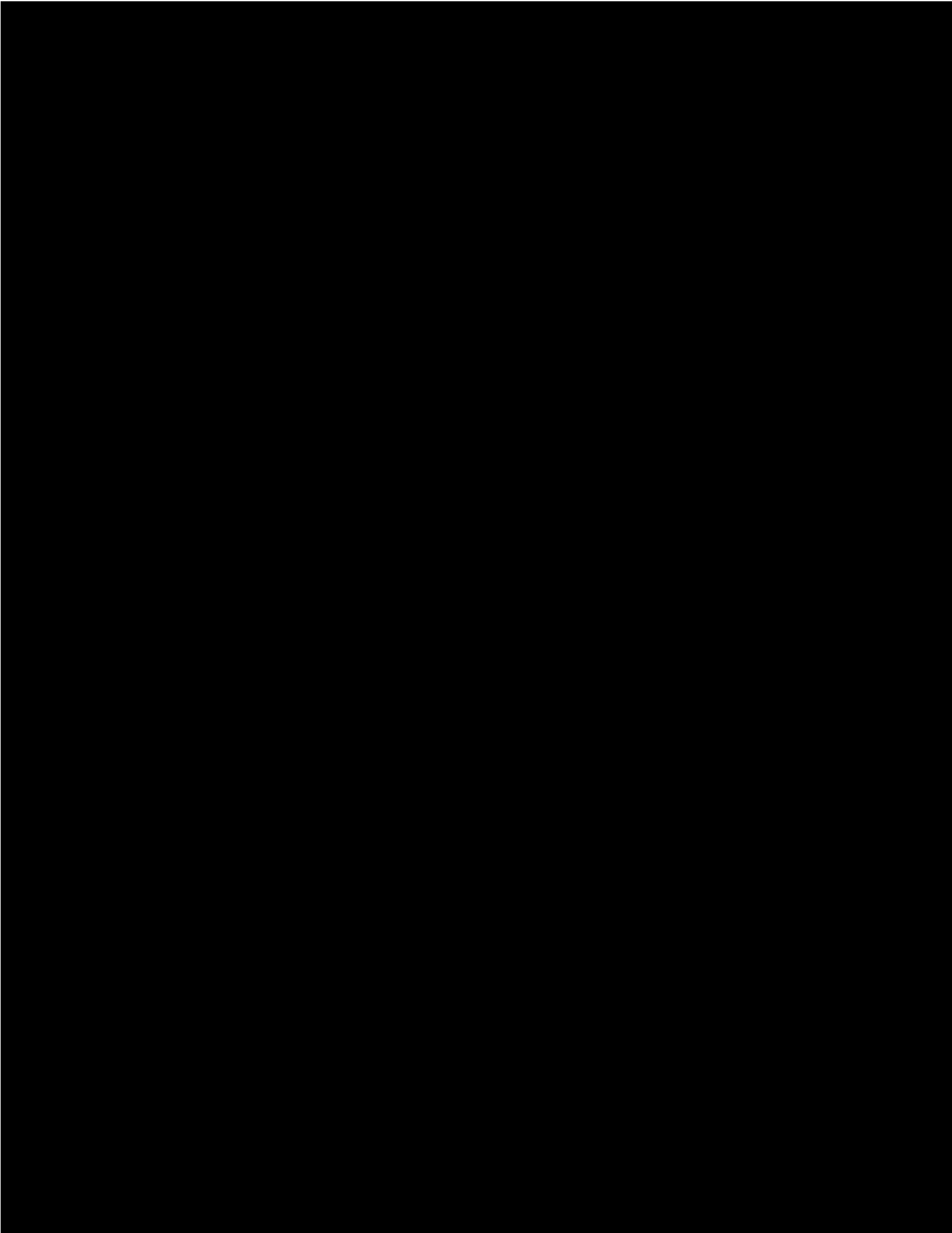


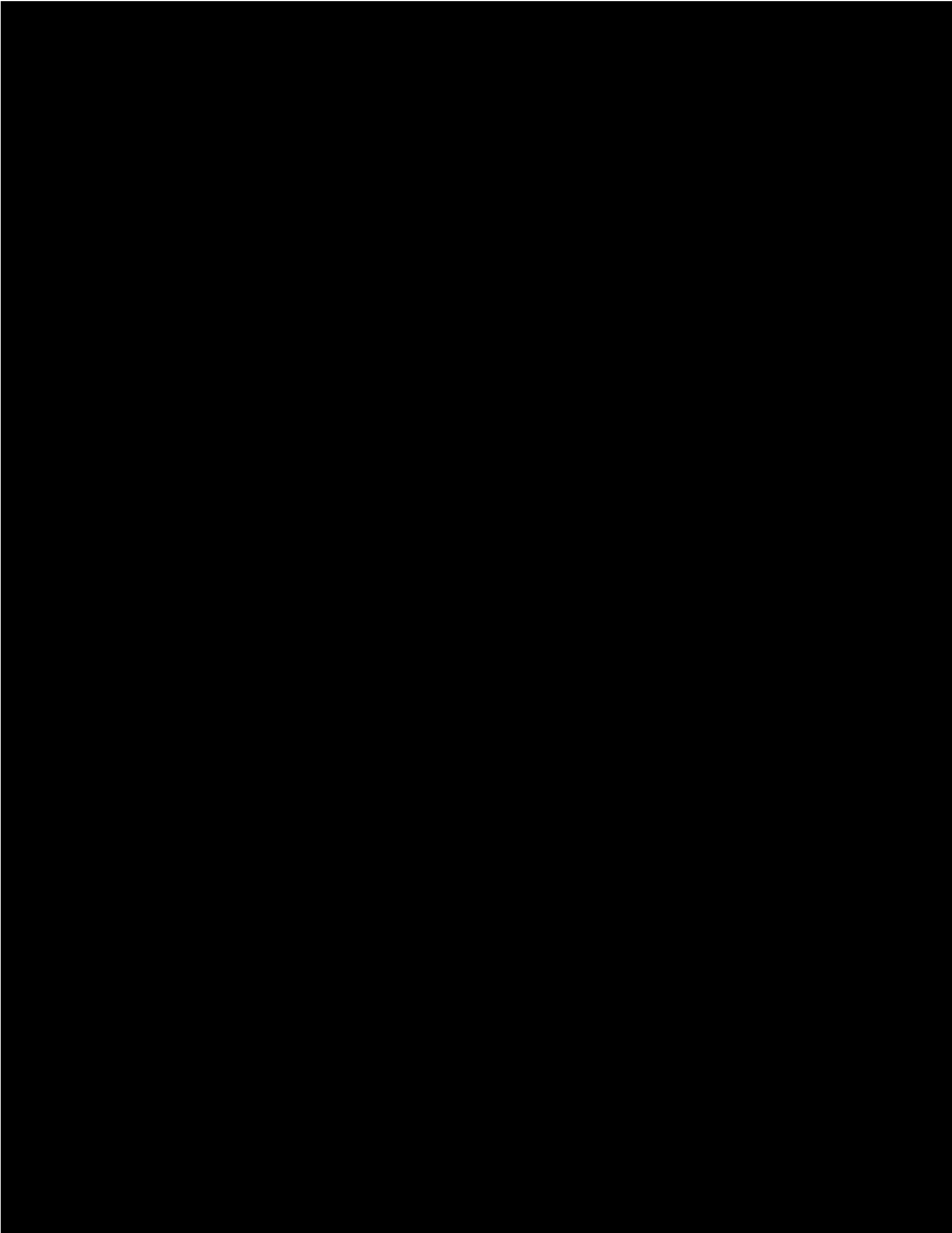


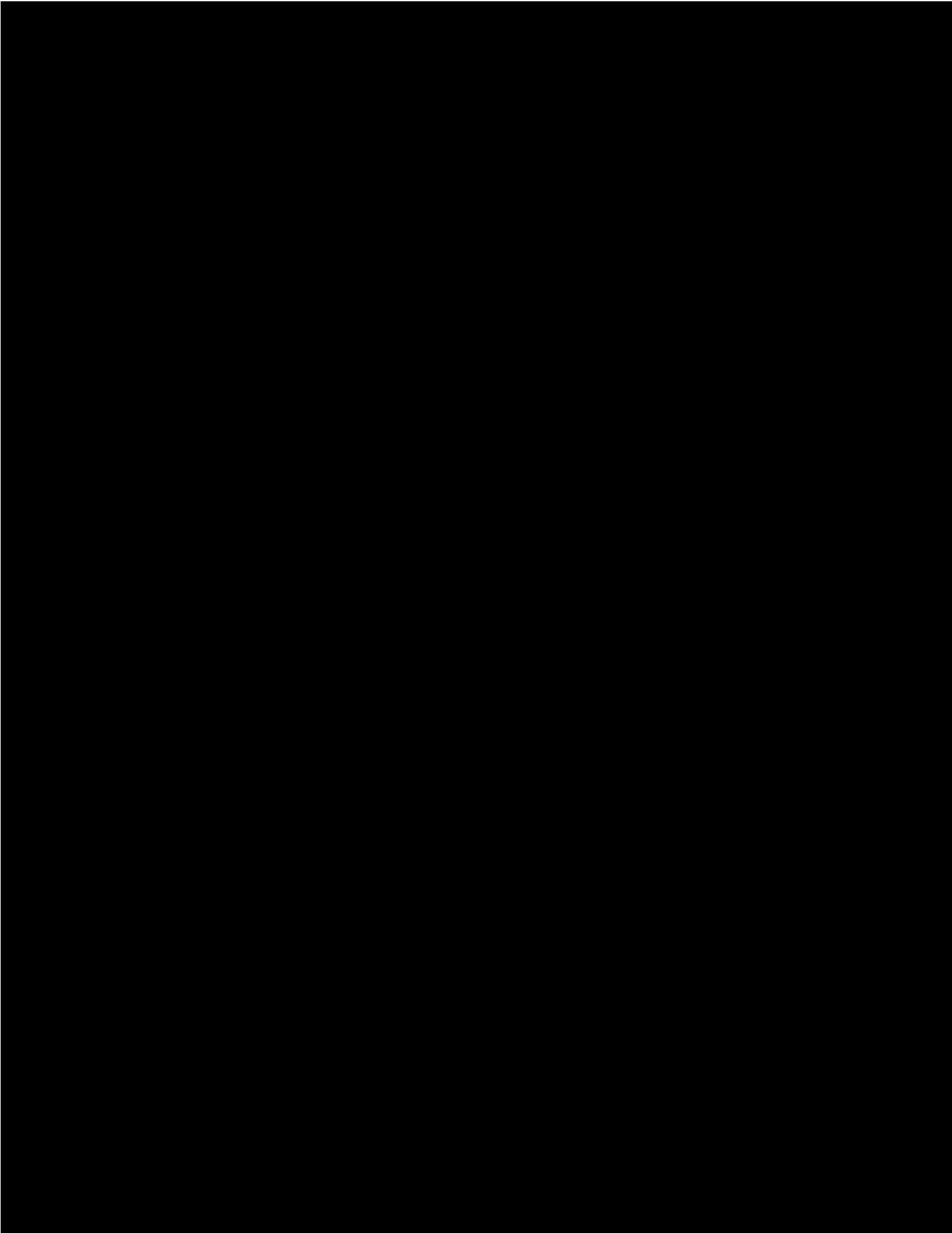


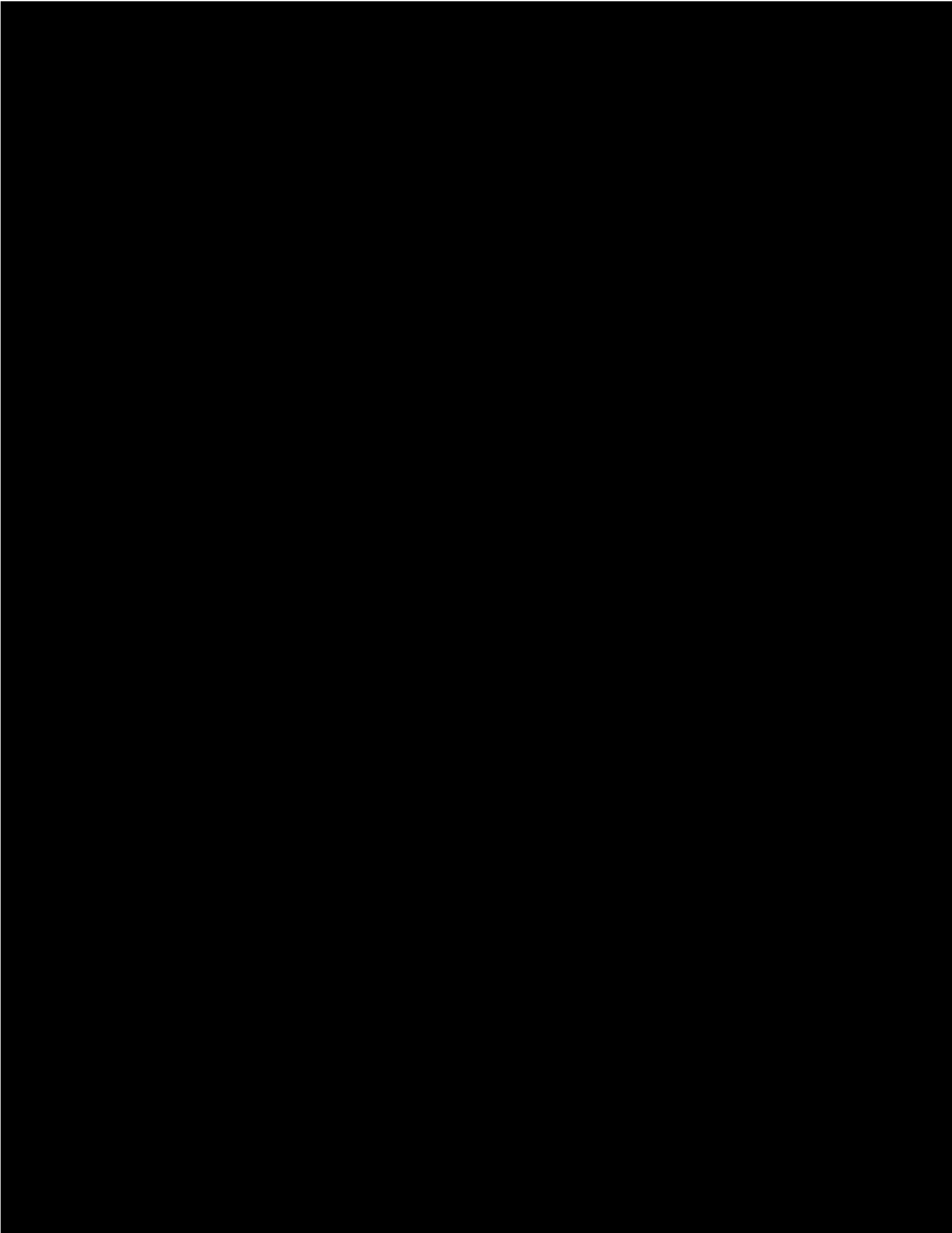


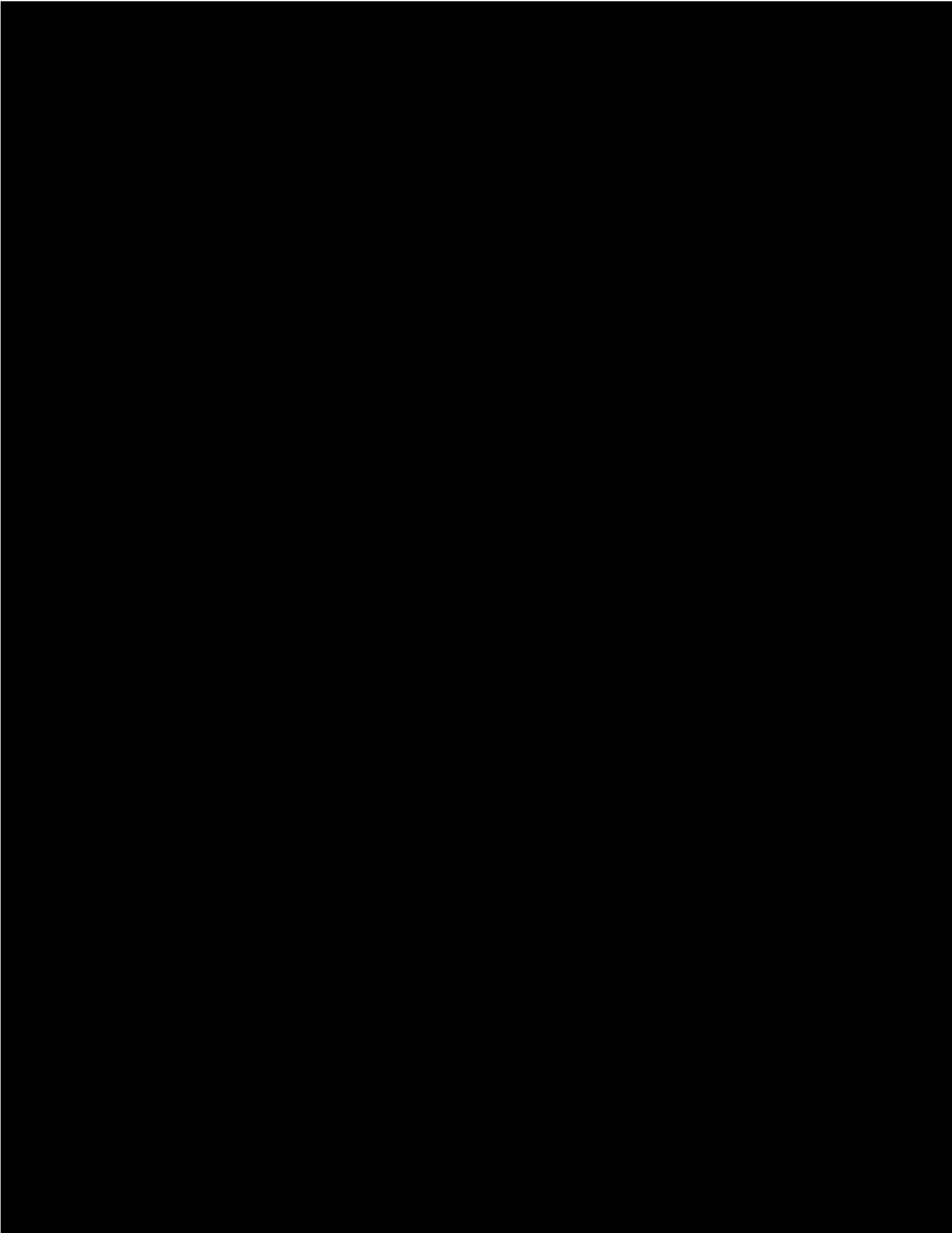


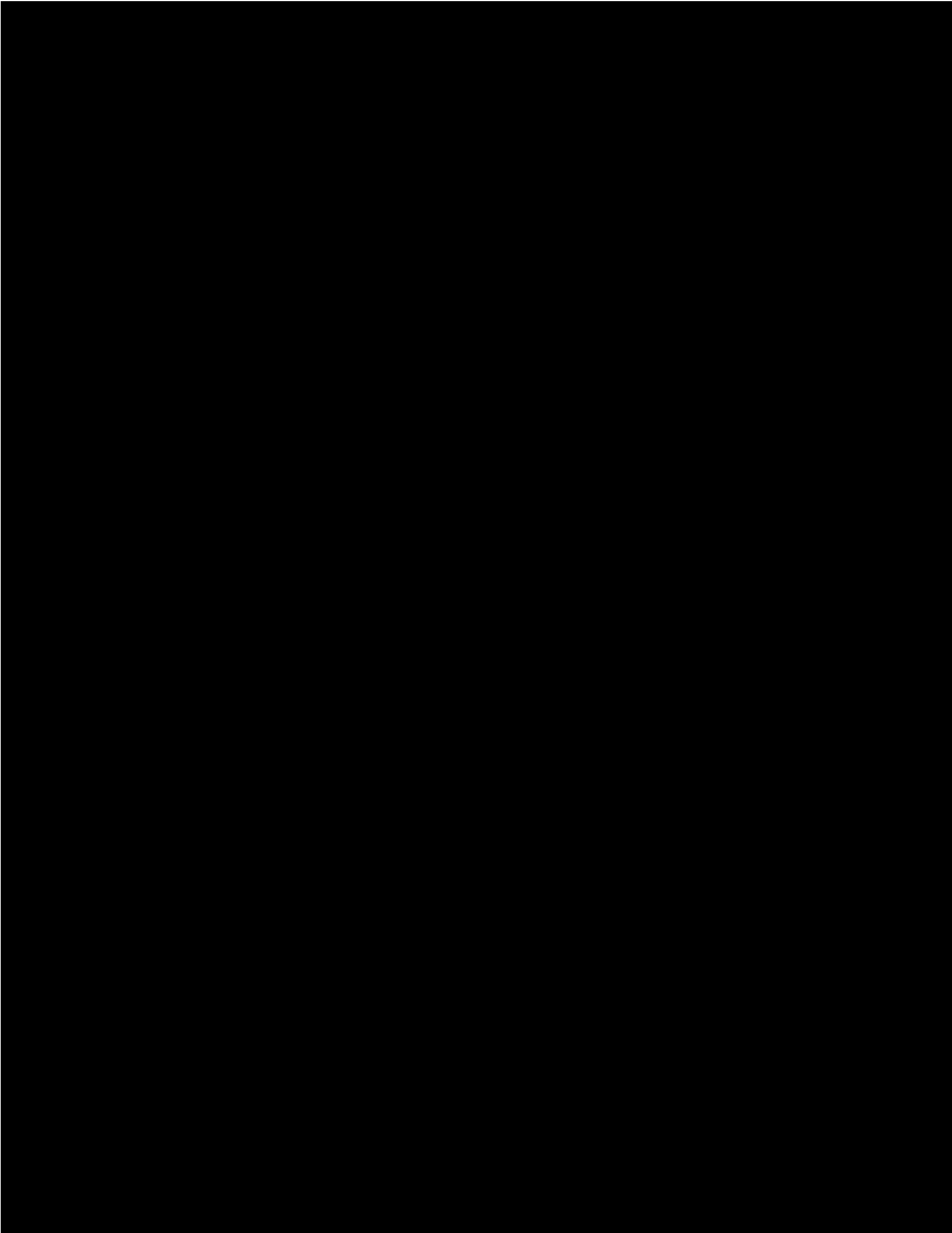


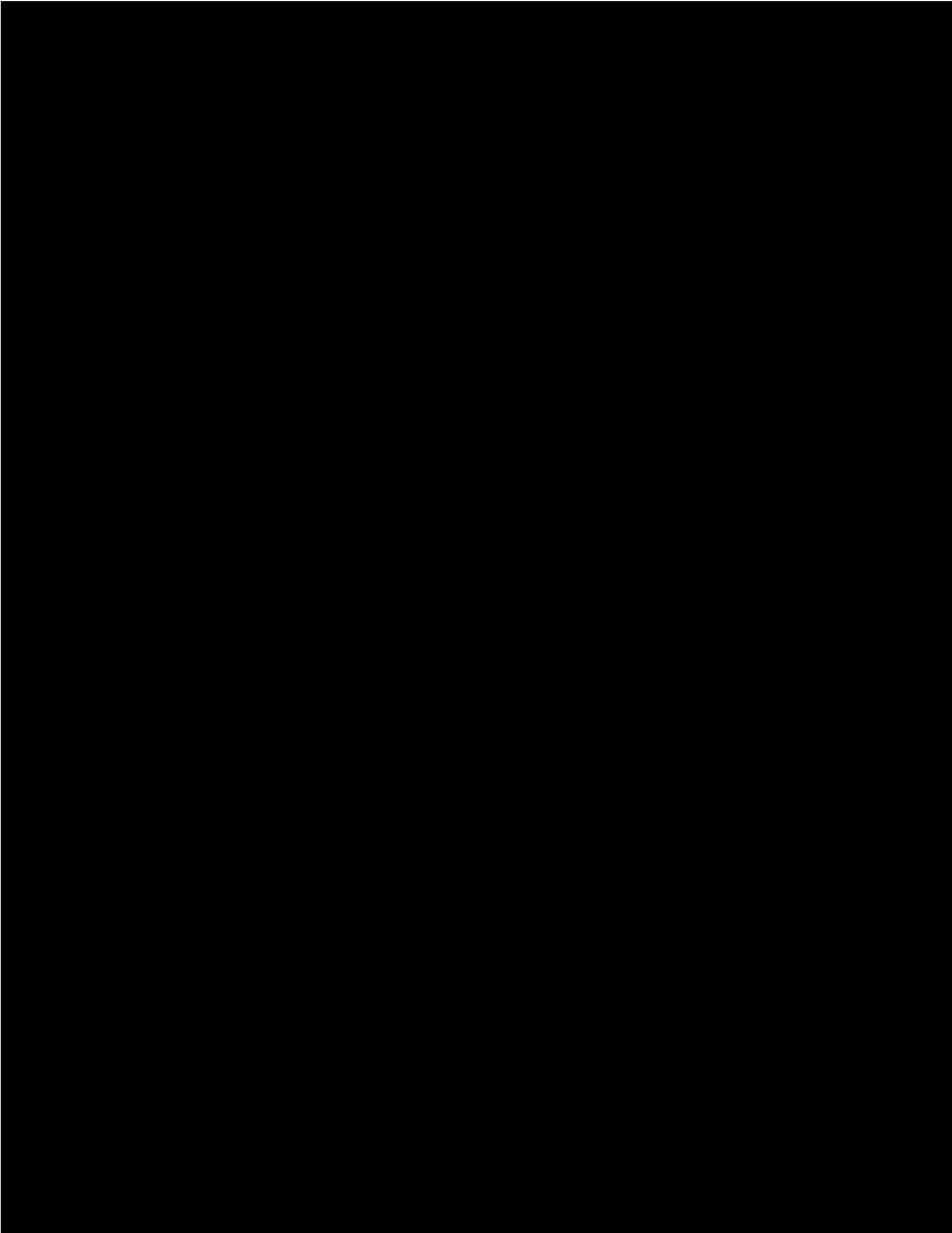


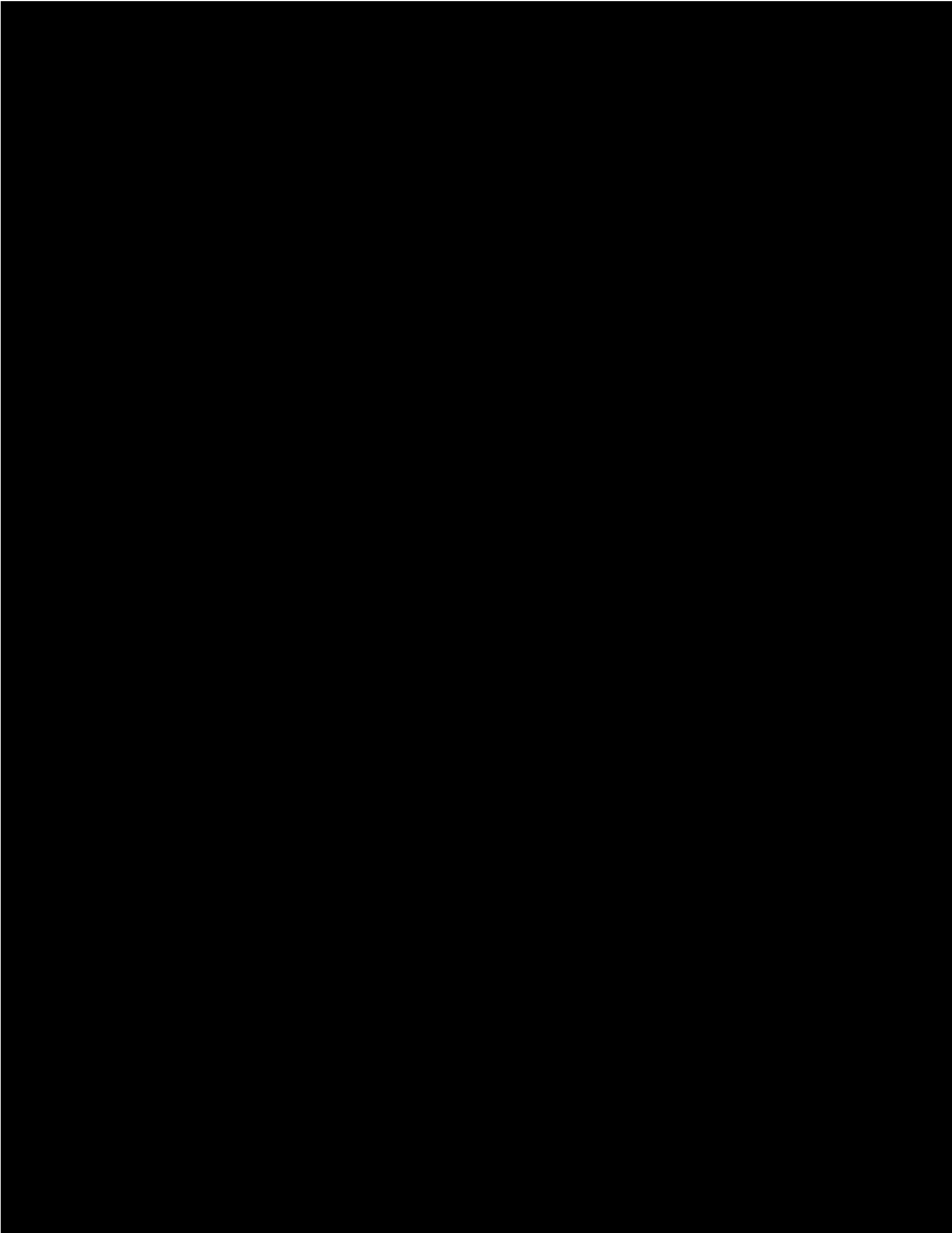


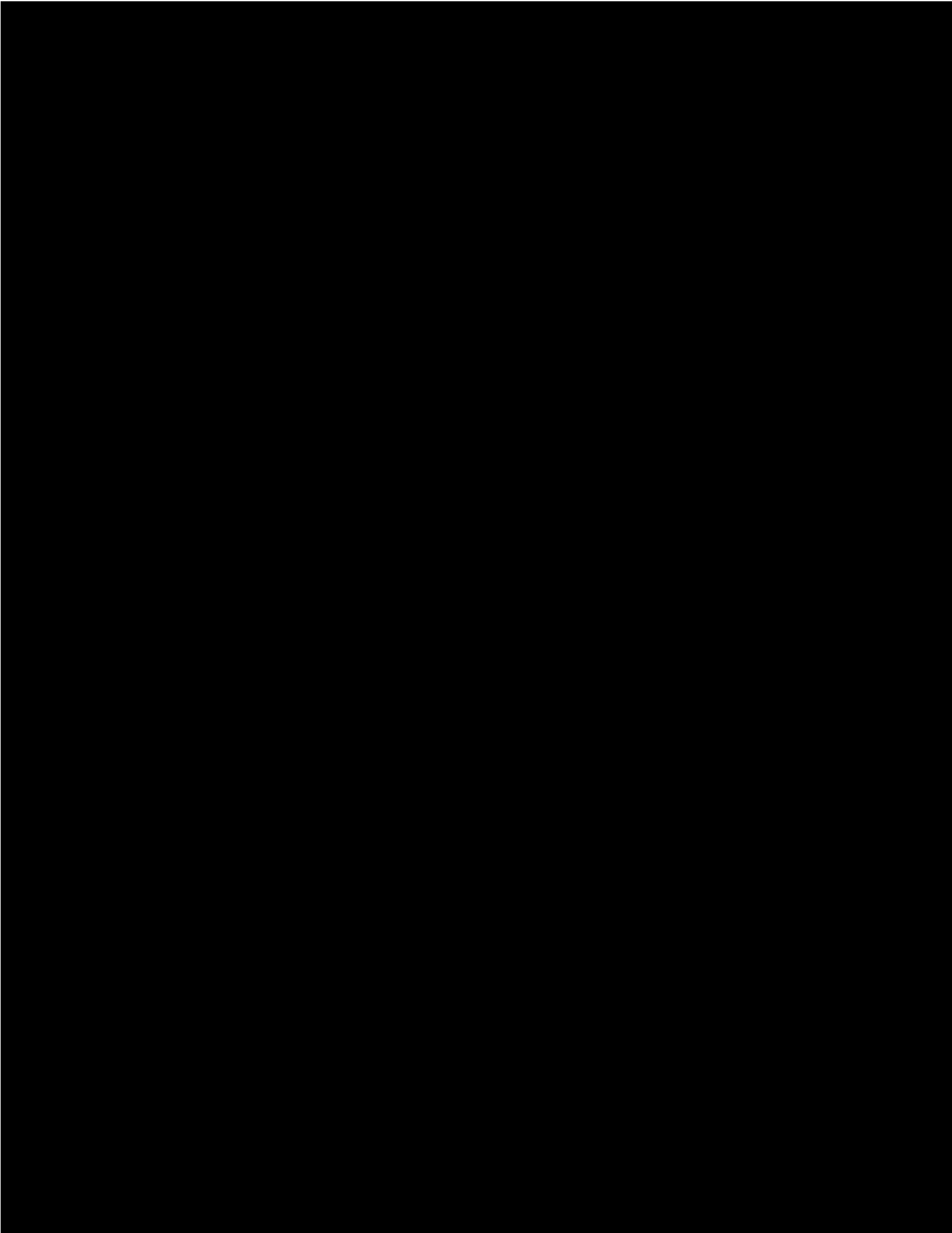


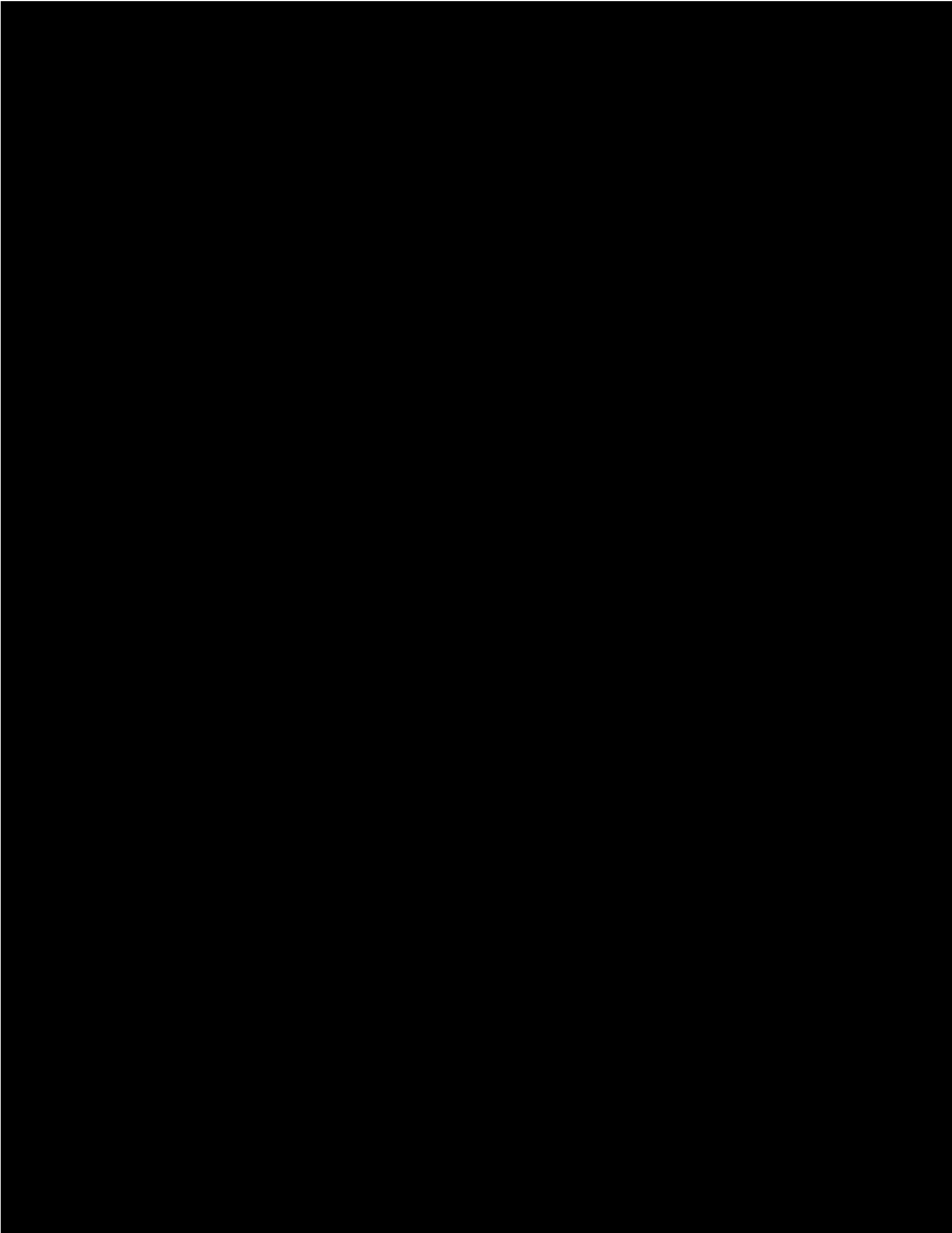


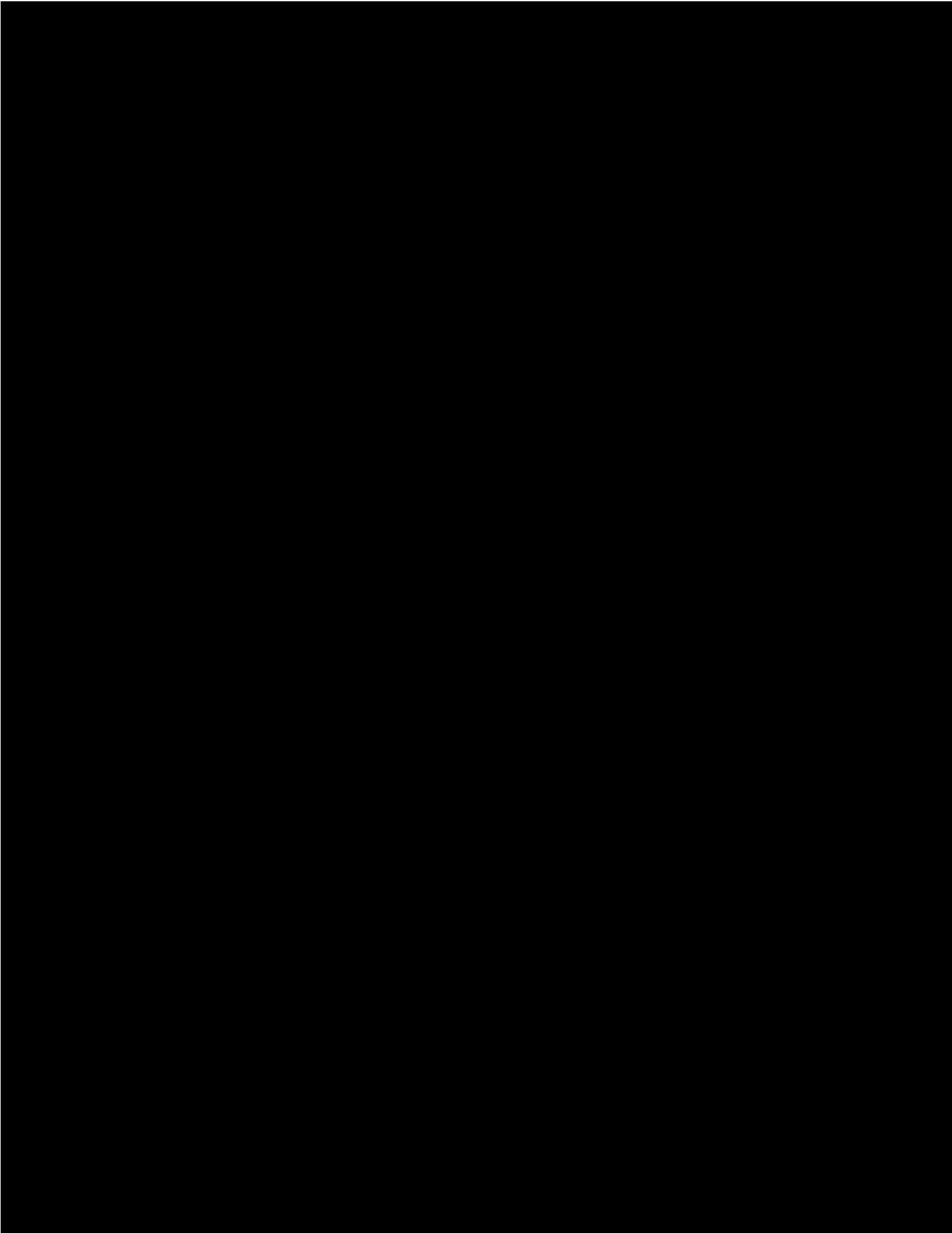


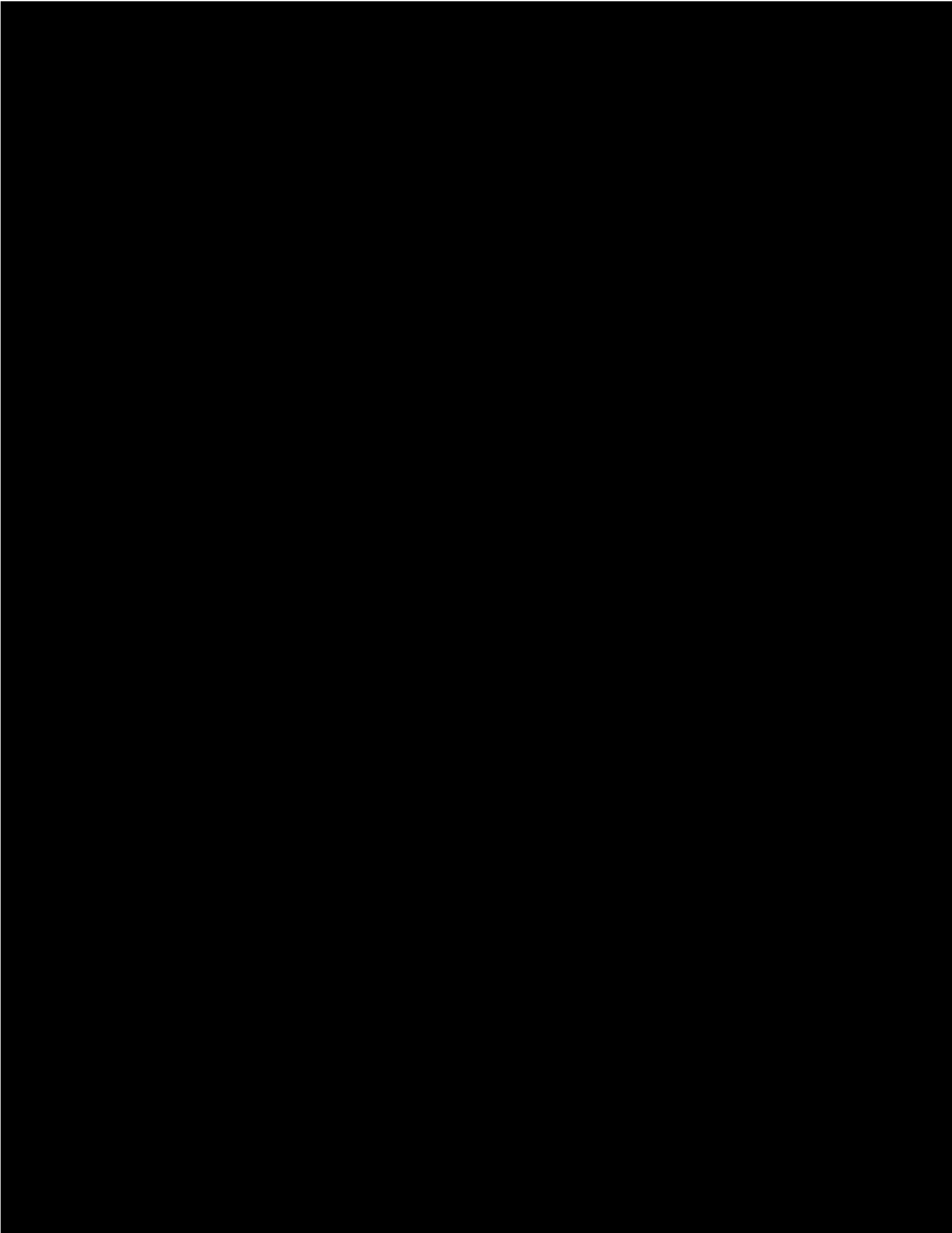


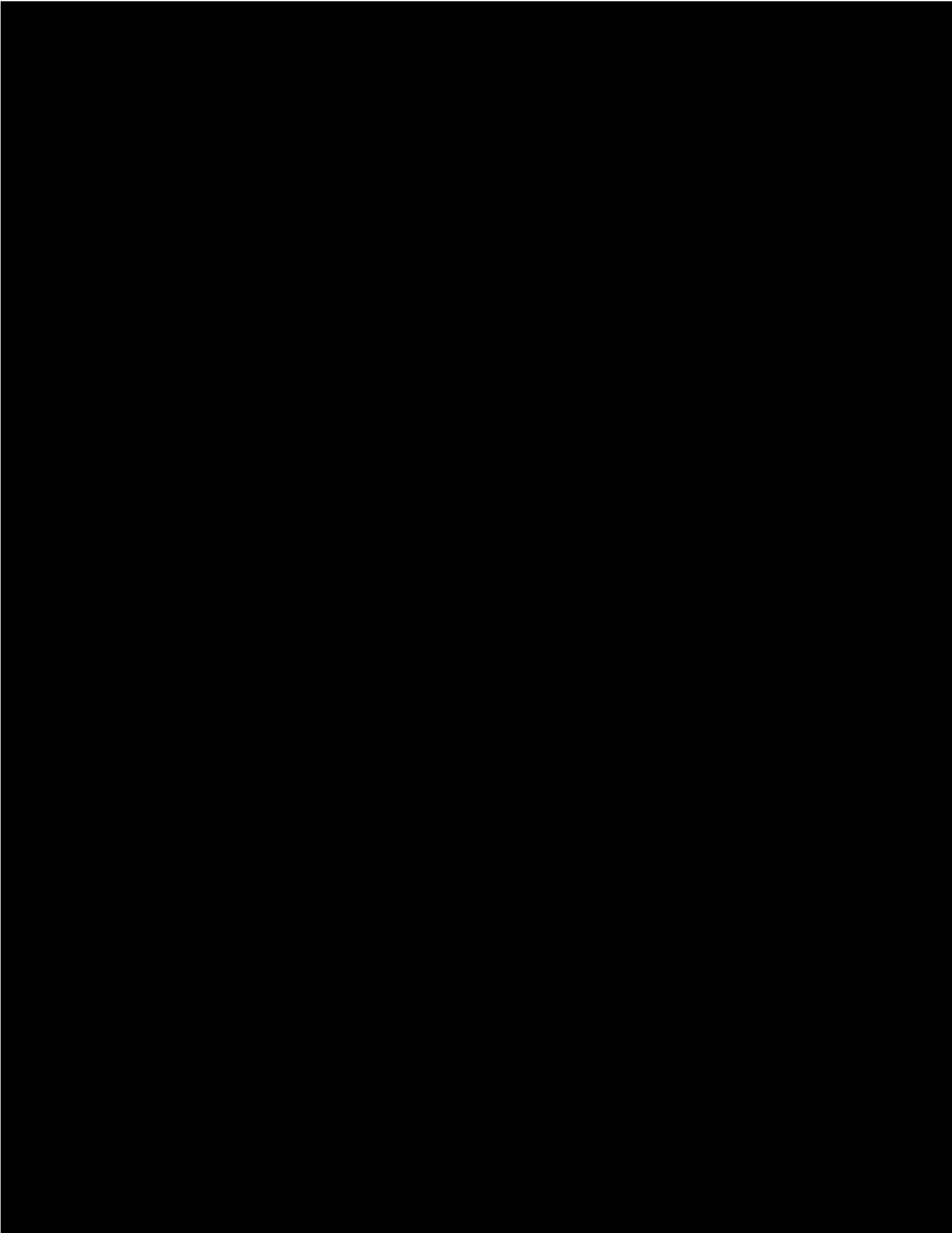


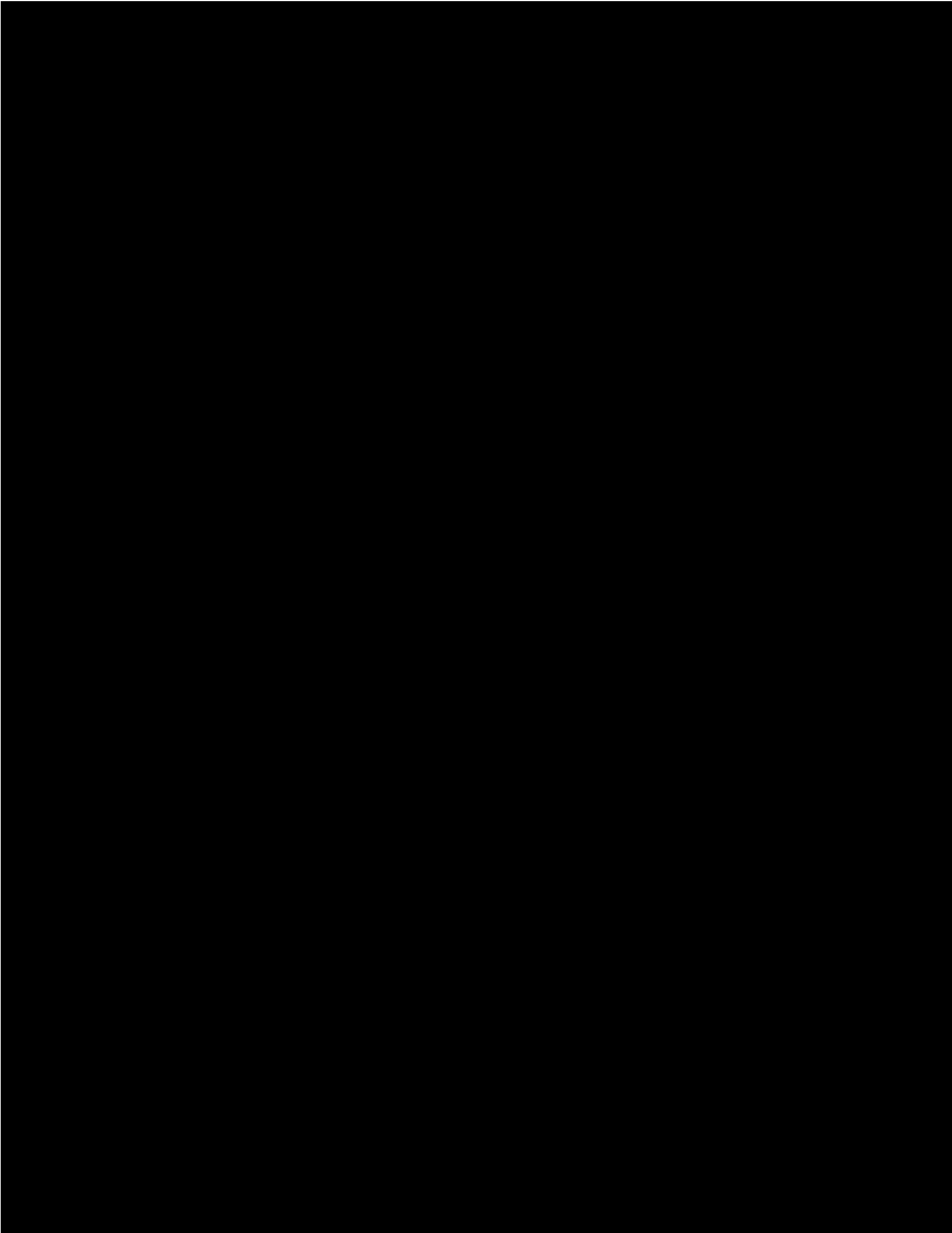


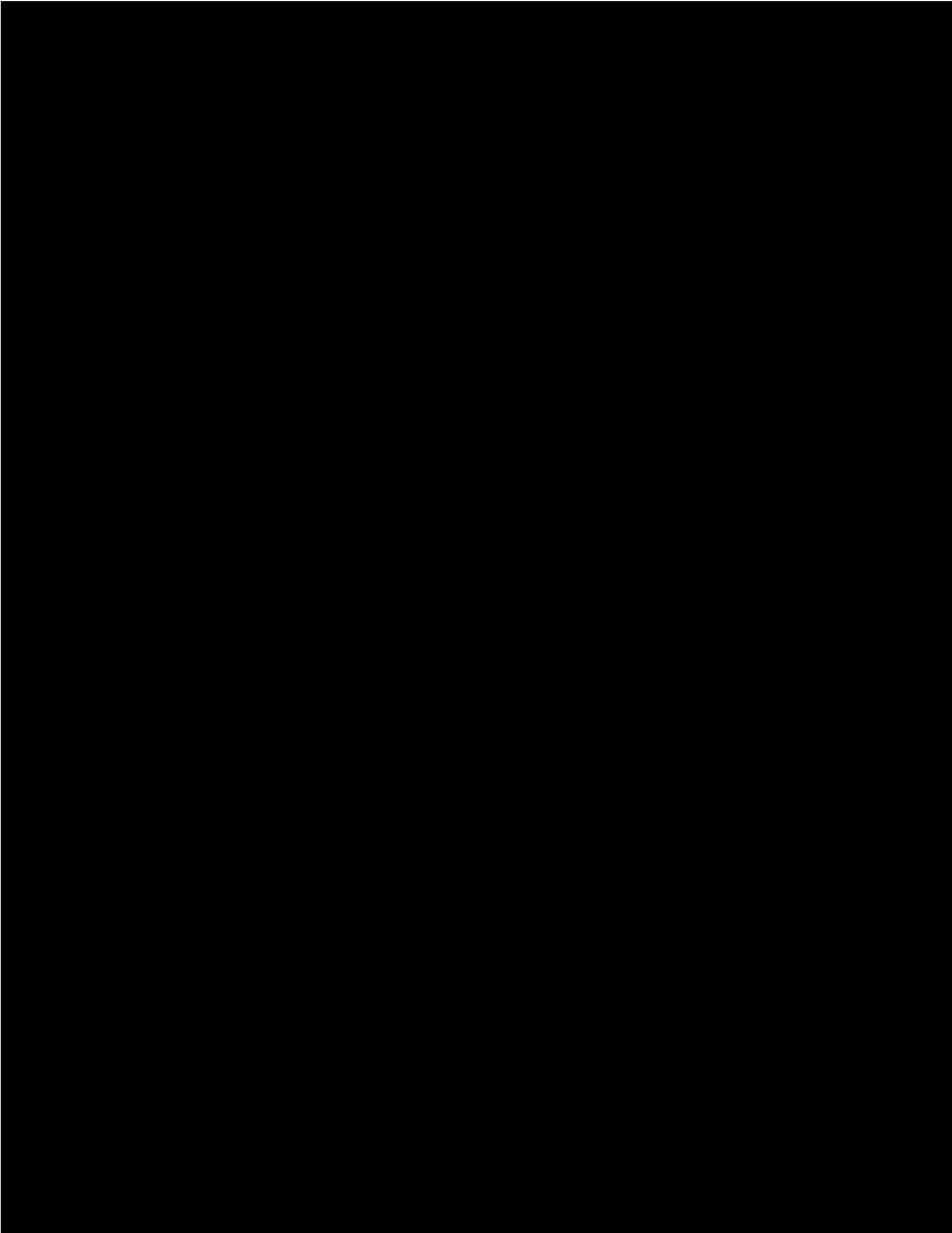


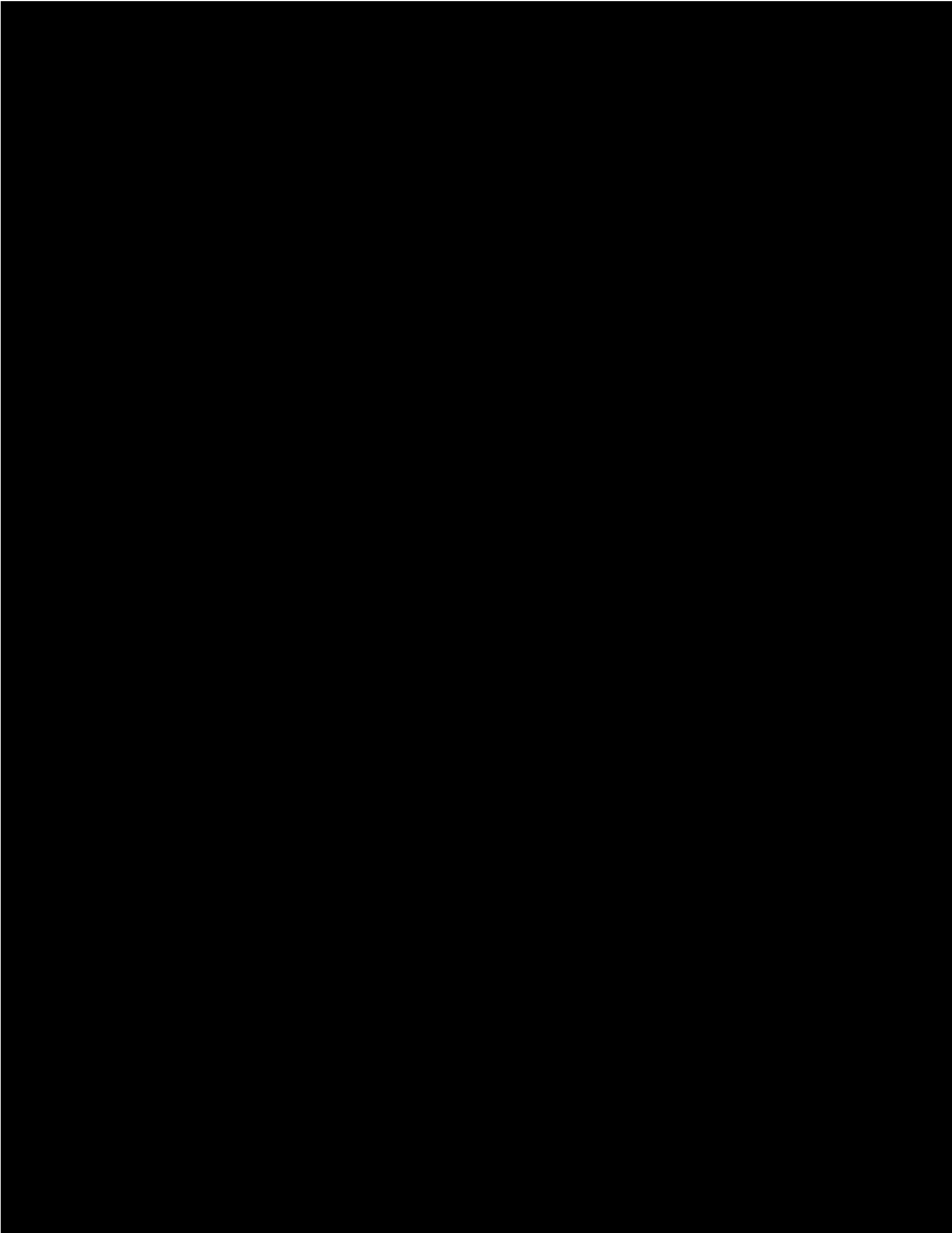


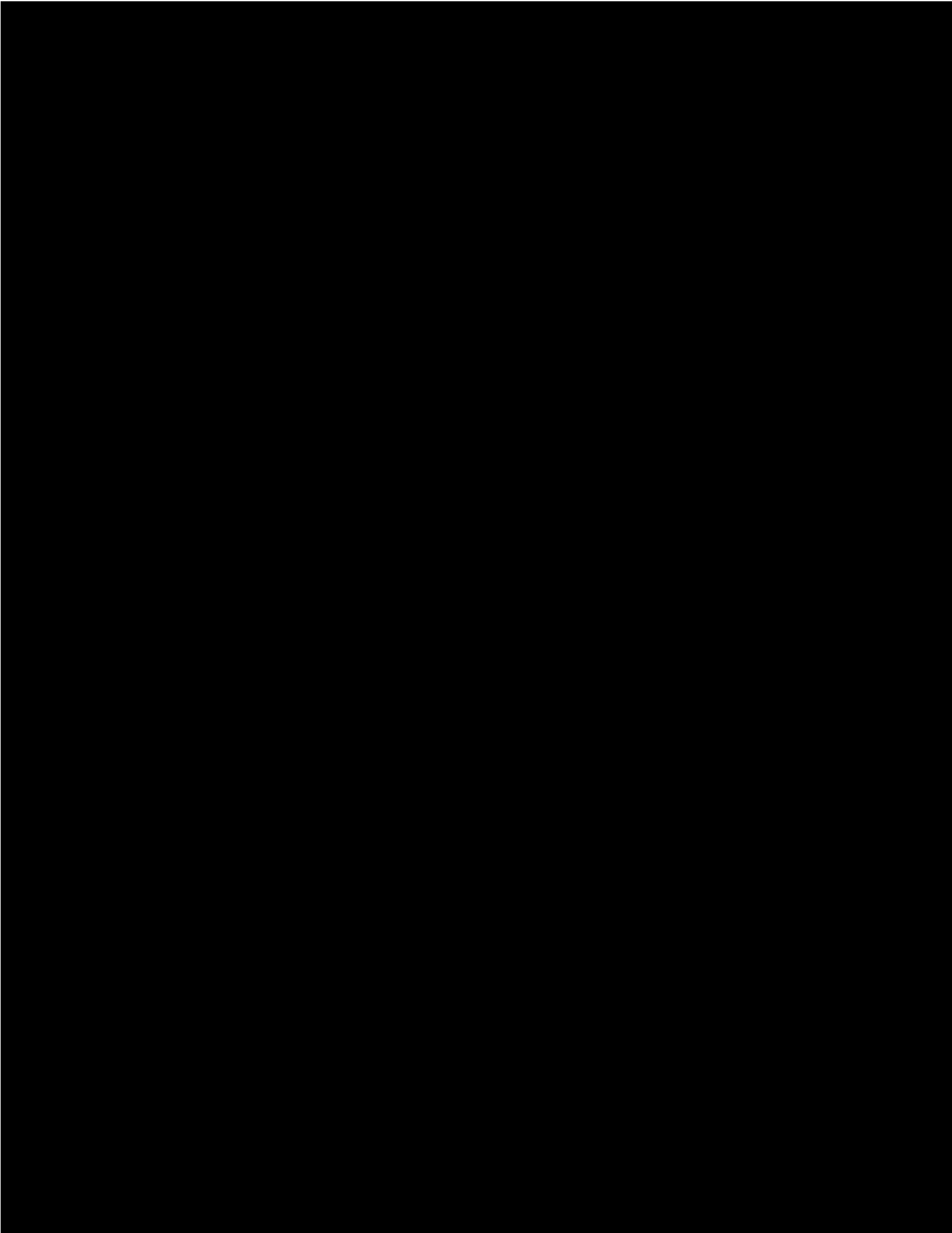


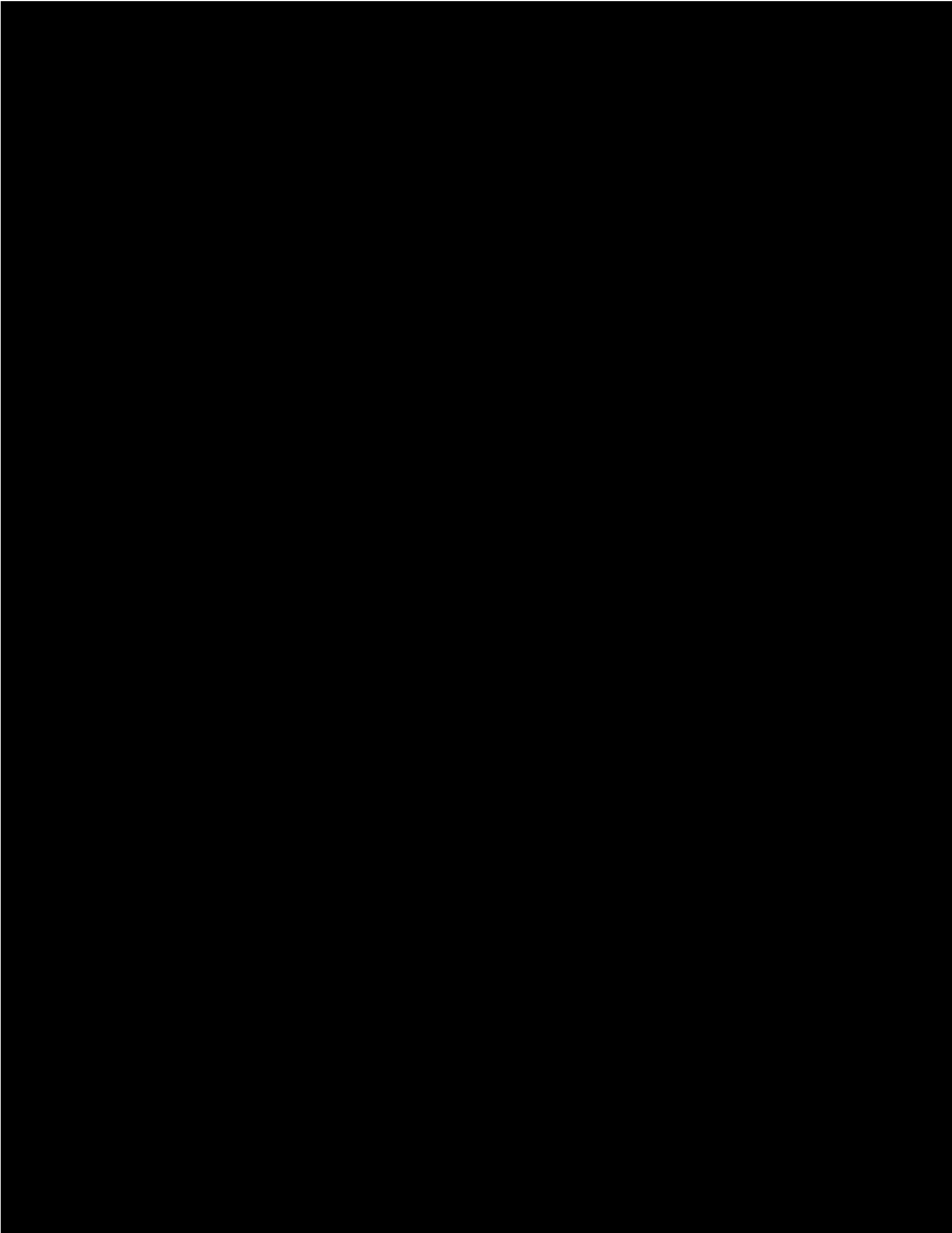


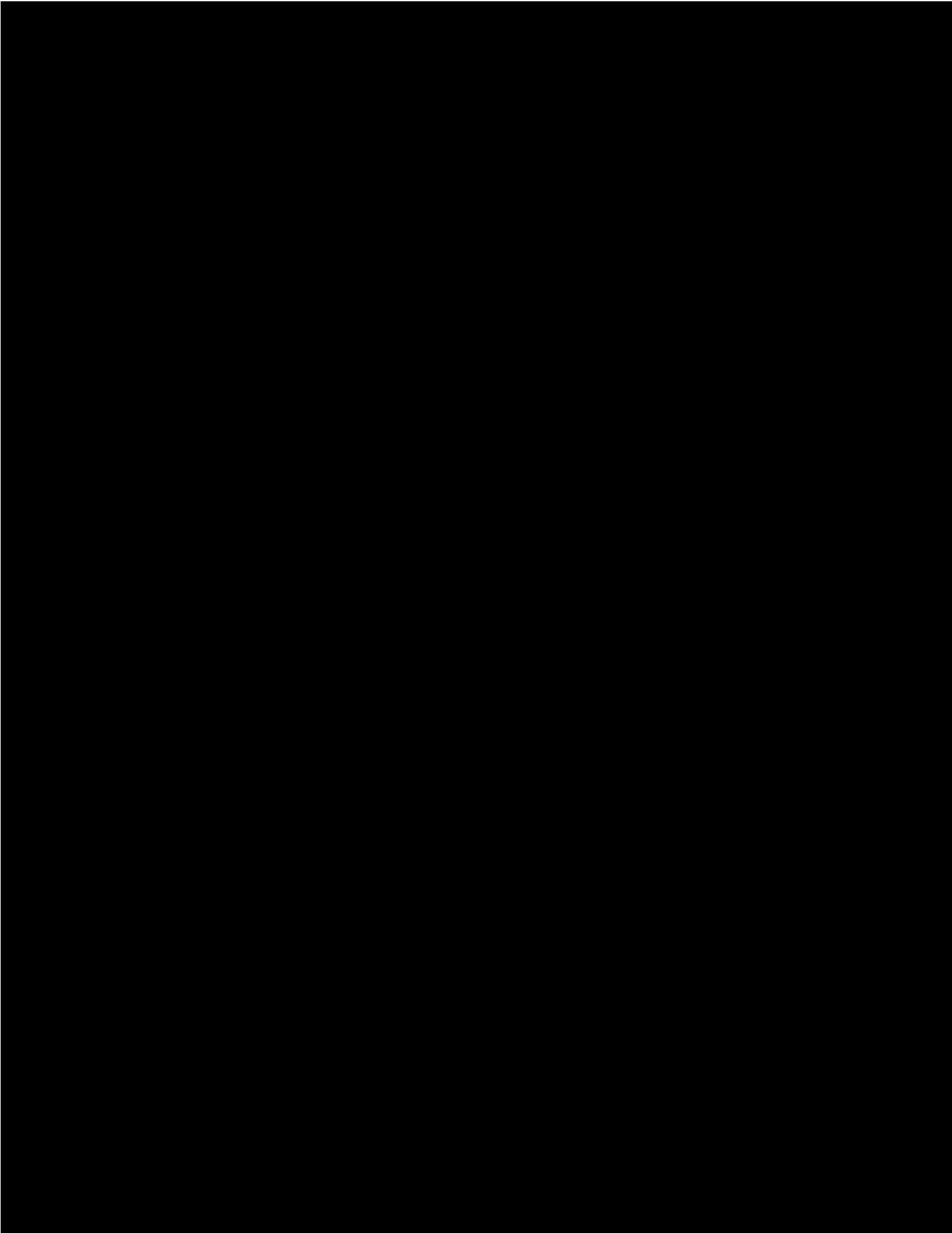


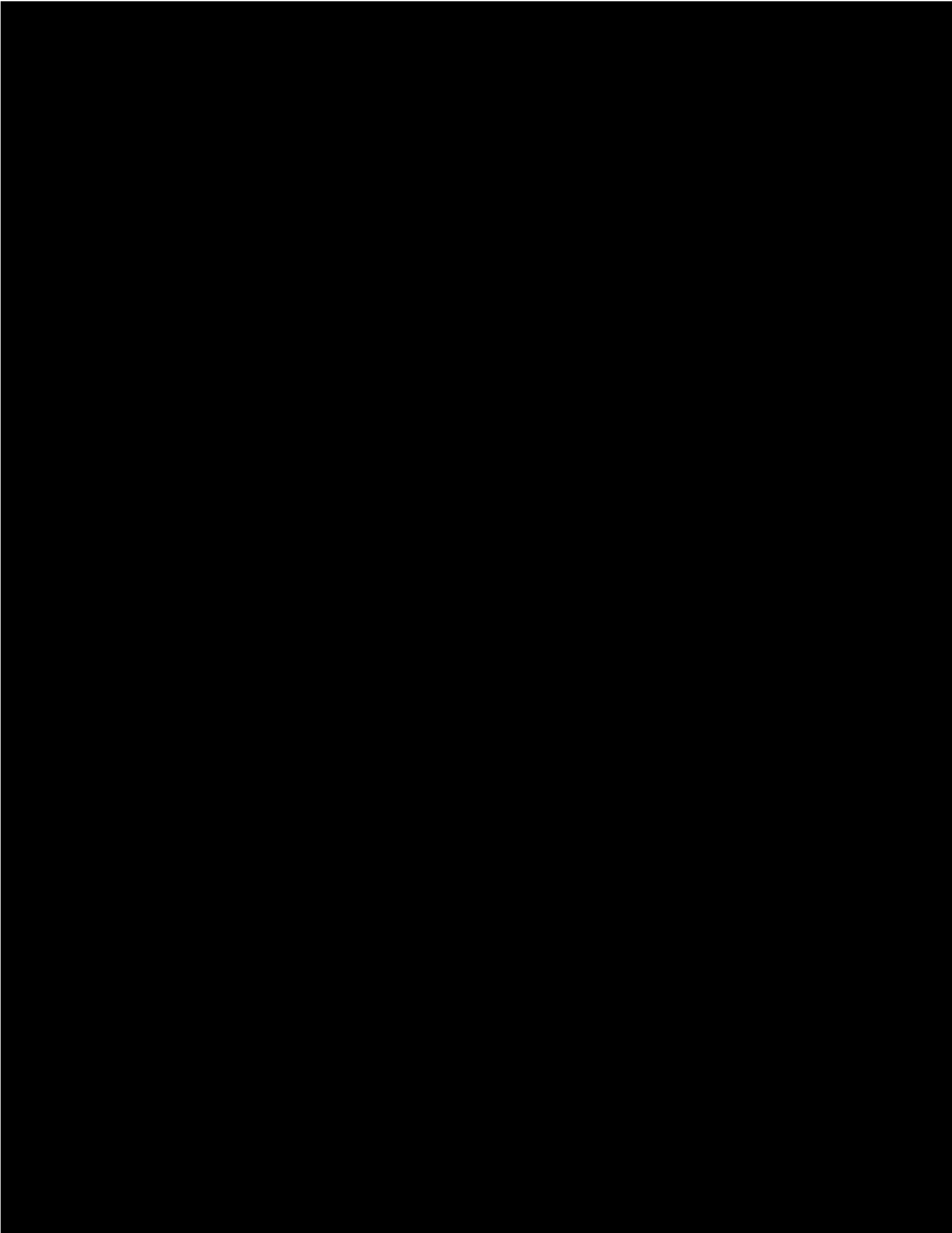


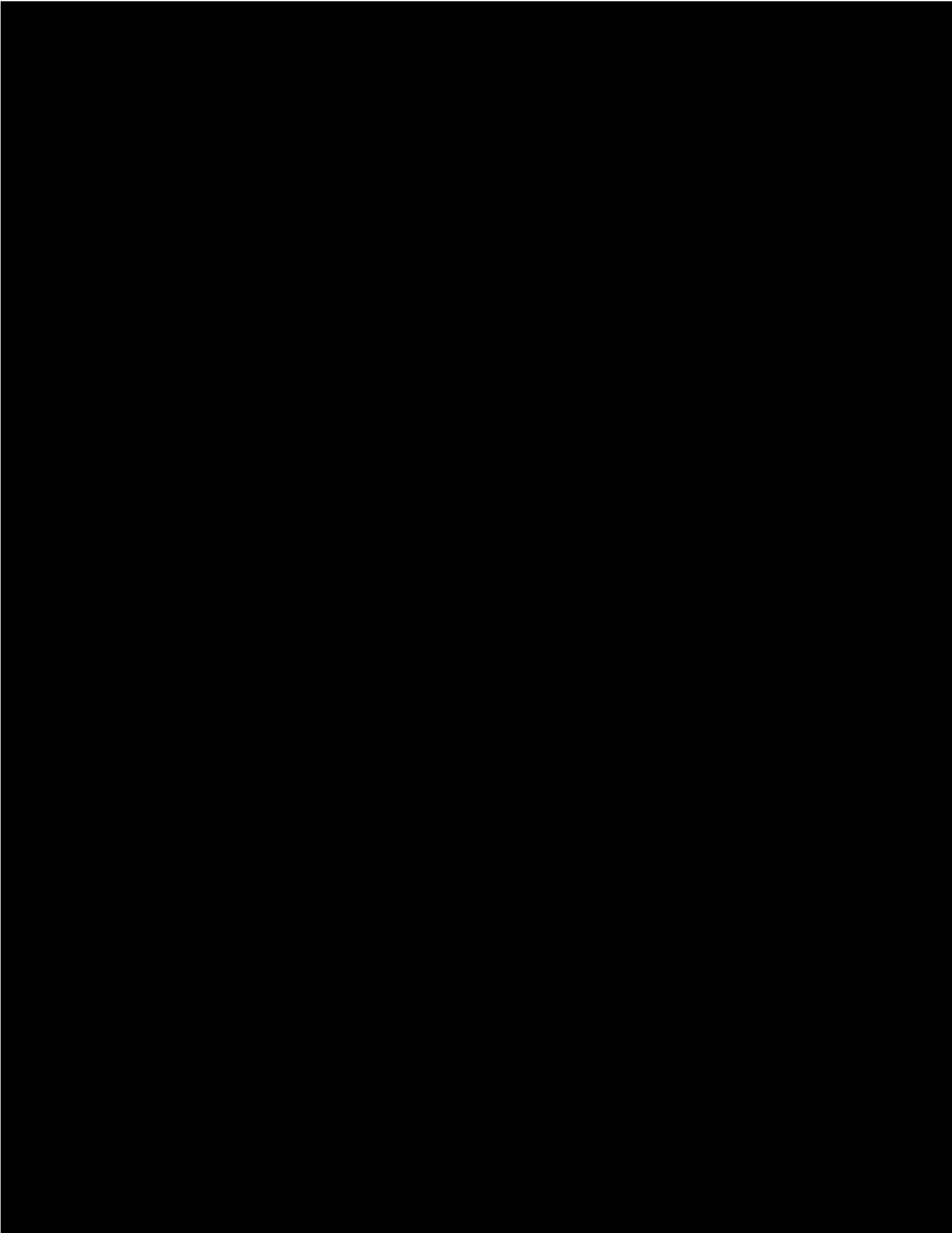












APPLICATION FOR AUTHORITY



Corporation Division
www.filinginoregon.com

E-FILED
Mar 16, 2020
OREGON SECRETARY OF STATE

REGISTRY NUMBER

165028995

TYPE

FOREIGN LIMITED LIABILITY COMPANY

1. ENTITY NAME

MHG CLINICAL SERVICES, LLC

2. MAILING ADDRESS

133 BROOKLINE AVENUE
BOSTON MA 02215 USA

3. NAME & ADDRESS OF REGISTERED AGENT

76621987 - CAPITOL CORPORATE SERVICES, INC.

698 12TH ST SE STE 200
SALEM OR 97301 USA

4. MEMBERS/MANAGERS**MEMBER**

ROBERT ROTHSTEIN

133 BROOKLINE AVE
BOSTON MA 02215 USA

5. MANAGEMENT

This Limited Liability Company will be member-managed by one or more members

6. DATE OF ORGANIZATION

08-30-2018

7. DURATION

PERPETUAL

8. JURISDICTION

IN

9. PRIMARY PHYSICAL LOCATION

133 BROOKLINE AVENUE
BOSTON MA 02215 USA



I declare, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any officers, managers, members or agents of the limited liability company on behalf of which the person signs. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

ELECTRONIC SIGNATURE

NAME

ROBERT ROTHSTEIN, M.D.

TITLE

MEMBER

DATE SIGNED

03-16-2020

ARTICLES OF ORGANIZATION



Corporation Division
www.filinginoregon.com

E-FILED
Mar 17, 2020
OREGON SECRETARY OF STATE

REGISTRY NUMBER

165607590

TYPE

DOMESTIC LIMITED LIABILITY COMPANY

1. ENTITY NAME

MHG PHYSICIAN SERVICES - OREGON, LLC

2. MAILING ADDRESS

133 BROOKLINE AVE
BOSTON MA 02215 USA

3. PRINCIPAL PLACE OF BUSINESS

133 BROOKLINE AVENUE
BOSTON MA 02215 USA

4. NAME & ADDRESS OF REGISTERED AGENT

76621987 - CAPITOL CORPORATE SERVICES, INC.

698 12TH ST SE STE 200
SALEM OR 97301 USA

5. ORGANIZERS

ERIN THOMPSON

234 E MILLSAP RD STE 200
FAYETTEVILLE AR 72703 USA

6. INDIVIDUALS WITH DIRECT KNOWLEDGE

WILLIAM KRAMER

133 BROOKLINE AVE
BOSTON MA 02215 USA

7. INITIAL MEMBERS/MANAGERS

MEMBER

ROBERT ROTHSTEIN

133 BROOKLINE AVE
BOSTON MA 02215 USA

8. DURATION

PERPETUAL



9. MANAGEMENT

This Limited Liability Company will be member-managed by one or more members

10. PROFESSIONAL SERVICES

Physicians

11. OPTIONAL PROVISIONS

The company elects to indemnify its members, managers, employees, agents for liability and related expenses under ORS 63.160 to 63.170.

I declare, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any officers, managers, members or agents of the limited liability company on behalf of which the person signs. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

ELECTRONIC SIGNATURE

NAME

ROBERT ROTHSTEIN, M.D.

TITLE

MEMBER

DATE SIGNED

03-17-2020

