



Deed of release and amendment

Transport for NSW (ABN 18 804 239 602)
Principal

Great River City Light Rail Pty Ltd (ACN 622 239 605)
Contractor

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Contents

- 1. Definitions and interpretation 1**
 - 1.1 Definitions 1
 - 1.2 Interpretation 4
- 2. Agreement 5**
- 3. The Contract terms 5**
 - 3.1 General Condition 5
- 4. The Contract and the work scope 5**
 - 4.1 Work scope 5
 - 4.2 Contract Sum 5
- [REDACTED]**
- [REDACTED]**
- [REDACTED]**
- [REDACTED]**
- 6. SOM Program 11**
- 7. [REDACTED]**
- [REDACTED]**
- 8. Warranty 12**
- [REDACTED]**
- 10. Acknowledgment and affirmation of Contract 13**
- 11. Inconsistencies 13**
- 12. Further acts 13**
- 13. Binding effect of this Deed 13**
- [REDACTED]**
- 15. Costs 13**
- 16. General 13**
 - 16.1 Governing law 13
 - 16.2 Disputes 13
 - 16.3 Clauses incorporated into this deed 14
- [REDACTED]**
- [REDACTED]**
- Schedule 3 – Not used 29**
- Schedule 4 - Contract Amendments 30**
- [REDACTED]**
- [REDACTED]**
- [REDACTED]**



Deed of Release and Amendment

Date 27/06/2022

Parties Transport for NSW, ABN 18 804 239 602 a NSW Government agency constituted under s3C of the *Transport Administration Act 1988* (NSW) of Level 10, 130 George Street, Parramatta NSW 2150
(Principal)

Great River City Light Rail, ACN 622 239 605 of Level 8, 469 La Trobe St, Melbourne VIC 3000
(Contractor)

Recitals

A. On 19 December 2018, the Principal and the Contractor entered into the Contract to carry out the Project.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this deed (including the Recitals):

- (a) any word, expression, reference or term used in this deed which is defined in the Contract and is not specifically defined in this deed shall, unless the context otherwise indicates, have in this deed the same meaning as in the Contract; and
- (b) each term set out below has the meaning given to it in this clause.

■ [REDACTED]

Claim means any action, suit, claim, demand, cause of action or notice, of any nature whatsoever, (whether at law, equity or statute) including:

- (a) in contract whether for breach or for an entitlement under a contract;
- (b) in tort for negligence, negligent misrepresentation or otherwise;
- (c) for contribution, reimbursement or indemnity;
- (d) for unjust enrichment, restitution or quantum meruit; and

- (e) under or for breach of statute including the Australian Consumer Law in Schedule 2 to the Competition and Consumer Act 2010 (Cth) or any equivalent State or Territory legislation,

whether for a Loss or a Remedy, and includes any "Claim" as that term is defined in the Contract.

[REDACTED]

Contract means the deed entitled "PLR Stage 1 Supply Operate and Maintain Contract" between the parties dated 19 December 2018, as amended.

Contract Amendment means an amendment to the Contract set out in Schedule 4 to this deed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Effective Date means:

- (a) if counterparts of this deed are not used, the date upon which all parties have signed the deed; or
- (b) if counterparts of this deed are signed, the date upon which the final counterpart is exchanged.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

Loss means money, cost, expense, loss, damage, damages, interest, penalty, fine, delay, disruption or any other detriment of any kind whatsoever.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Related Body Corporate means, in relation to a body corporate, a body corporate which is related to it within the meaning of section 50 of the Corporations Act 2001 (Cth).

[REDACTED]

Related Persons means in respect of the Principal or the Contractor, any past, present or future officer, employee, servant or agent or Related Body Corporate of the Principal or Contractor, as the case may be.

[REDACTED]

Remedy means any entitlement, right (contractual, equitable or otherwise) damages, restitution, interest, compensation, contribution, indemnity, injunction, specific performance, extension of time or other legal, equitable or statutory remedy of any kind whatsoever.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.2 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
- (b) an obligation or liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally;
- (c) person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee and further includes any person claiming on behalf of or through a party to this deed;
- (e) unless otherwise stated a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute or statutory provision includes a statutory modification or re-enactment of it or a statutory provision substituted for it, and each ordinance, by-law, regulation, rule and statutory instrument (however described) issued under it;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to this deed;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "includes" in any form is not a word of limitation;



- (k) a reference to \$ or dollar is a reference to Australian currency; and
- (l) no term or provision of this deed shall be construed against a party on the basis that the deed or the term or provision was put forward or drafted by that party.

2. Agreement

The parties enter into this deed in consideration of the promises contained in it.

3. The Contract terms

3.1 General Condition

The Contract is amended as set out in the Contract Amendments. The Contract Amendments take effect on and from the Effective Date.

4. The Contract and the work scope

4.1 Work scope

The parties acknowledge and agree that:

- (a) the Contractor's Activities and the SOM Works include all changes to the SOM Works, the Temporary Works or the Contractor's Activities [redacted] and [redacted]
- (b) without limiting or otherwise affecting clause 4.1(a) above or any of the Contractor's obligations under any provision of the Contract:

- (i) all works or other activities required to store the LRVs; and

[redacted]

constitute part of the Contractor's Activities and:

[redacted]

4.2 Contract Sum

- (a) The parties acknowledge and agree that, as at the Effective Date:

- (i) the Delivery Contract Sum is \$536,208,685.82, [redacted] and all adjustments to the Delivery Contract Sum to which the Contractor is entitled under the Contract;

- (ii) the LRV Price is \$118,185,003.00, and includes all adjustments to the LRV Price to which the Contractor is entitled to under the Contract;

[redacted]

[redacted]

[redacted]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

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■ [Redacted]

■ [Redacted]

[REDACTED]

[REDACTED]

6. SOM Program

(a) The parties acknowledge and agree that, as at the Effective Date, the SOM Program is the program attached to the Contractor's correspondence of 23 February 2022 (Ref PLR-PLR1SOM-GLR-TFNSW-RFC-000002) with file name 'PLR.ASP.SOM.011.00' (the **Agreed SOM Program**).

[REDACTED]

(c) For the avoidance of doubt, the SOM Program may be updated from time to time in accordance with the Contract and nothing in clause 6(b) limits or otherwise affects the Contractor's obligations under clause [REDACTED] of the Contract in respect of any proposed change to the SOM Program after the Effective Date.

[REDACTED]

(e) Without limiting the Contractor's obligations under the Contract, and subject to the amendments to the Contract set out in Schedule 4 to this Deed, the Contractor must correct all non-compliances referred to in clause 6(d) in the next version of the SOM Program which the Contractor submits under clause 10.2 of the Contract after the Effective Date.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Warranty

(a) Notwithstanding anything in this deed, the Contractor acknowledges, undertakes and warrants:

■ [REDACTED]

(ii) that it has taken independent legal advice as to the nature, effect and extent of this deed;

(iii) that the Principal and each of its Related Persons have not made any promise, representation or inducement or been party to any conduct material to the Contractor entering into this deed other than as set out in this deed;

(iv) that it will not make any Claim based upon any allegation that, prior to the Effective Date:

- A. any of the Principal or any of its Related Persons engaged in misleading or deceptive conduct arising out of, or in any way in connection with the entry into this deed;
- B. it has been misled or deceived by the conduct of any of those persons;
- C. it has relied on any such conduct of any of those persons; and
- D. it has suffered or incurred loss or damage by reason of any such conduct of any of those persons;

(b) the Contractor is aware that the Principal is relying on the acknowledgements and warranties in this clause in executing this deed; and

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

10. Acknowledgment and affirmation of Contract

This deed is supplemental to the Contract and, except to the extent otherwise stated in this deed, the parties:

- (a) expressly ratify and confirm the terms and conditions of the Contract;
- (b) acknowledge, affirm and agree to perform their obligations under the Contract; and
- (c) acknowledge and agree that their respective rights and obligations under, or in connection with, the Contract are unaffected by this deed.

11. Inconsistencies

As and from the Effective Date, the Contract will be read and construed subject to the terms and conditions of this deed. To the extent that there is any inconsistency between the terms and conditions of the Contract and the terms and conditions of this deed, this deed will, to the extent of such inconsistency, prevail.

12. Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents required by law or reasonably requested by any other party to give effect to this deed.

13. Binding effect of this Deed

This deed binds the parties and any executor, administrator, transferee, assignee, liquidator or trustee in bankruptcy appointed in respect of it.

15. Costs

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed.

16. General

16.1 Governing law

This deed is governed by and must be construed according to the laws of New South Wales.

16.2 Disputes

Any disputes arising out of or in connection with this deed must be resolved in accordance with clause 18 of the Contract.

16.3 Clauses incorporated into this deed

The following clauses of the Contract are incorporated into this Deed as if set out in full in this deed:

- (a) clause 1.3 (No bias against drafter);
- (b) clause 1.11 (Transfer of functions);
- (c) clause 19.7 (No waiver);
- (d) clause 19.8 (Entire agreement);
- (e) clause 19.9 (Joint and several liability);
- (f) clause 19.10 (Severability);
- (g) clause 19.11 (Indemnities to survive);
- (h) clause 19.14 (Confidentiality);
- (i) clause 19.19 (No Partnership, joint venture or other fiduciary relationship);
- (j) clause 19.34 (Counterparts); and
- (k) clause 20 (General Provisions Relating to GST).



Executed as a deed.

Signed, sealed and delivered as a deed.

Signed, sealed and delivered for and on behalf of Transport for NSW (ABN 18 804 239 602) by its authorised delegate in the presence of:



Signature of witness

GABRIEL GONZALEZ

Full name of witness



Signature of authorised delegate

Alexander Craig Paterson

Full name of authorised delegate

By signing this document, the witness states that they witnessed the signature of the signatory over audio visual link in accordance with section 14G of the Electronic Transactions Act 2000 (NSW).

Executed by Great River City Light Rail Pty Ltd (ACN 622 239 605) in accordance with ~~the~~ Companies Act 2001 (Cth):



Signature of director

Luke Agati

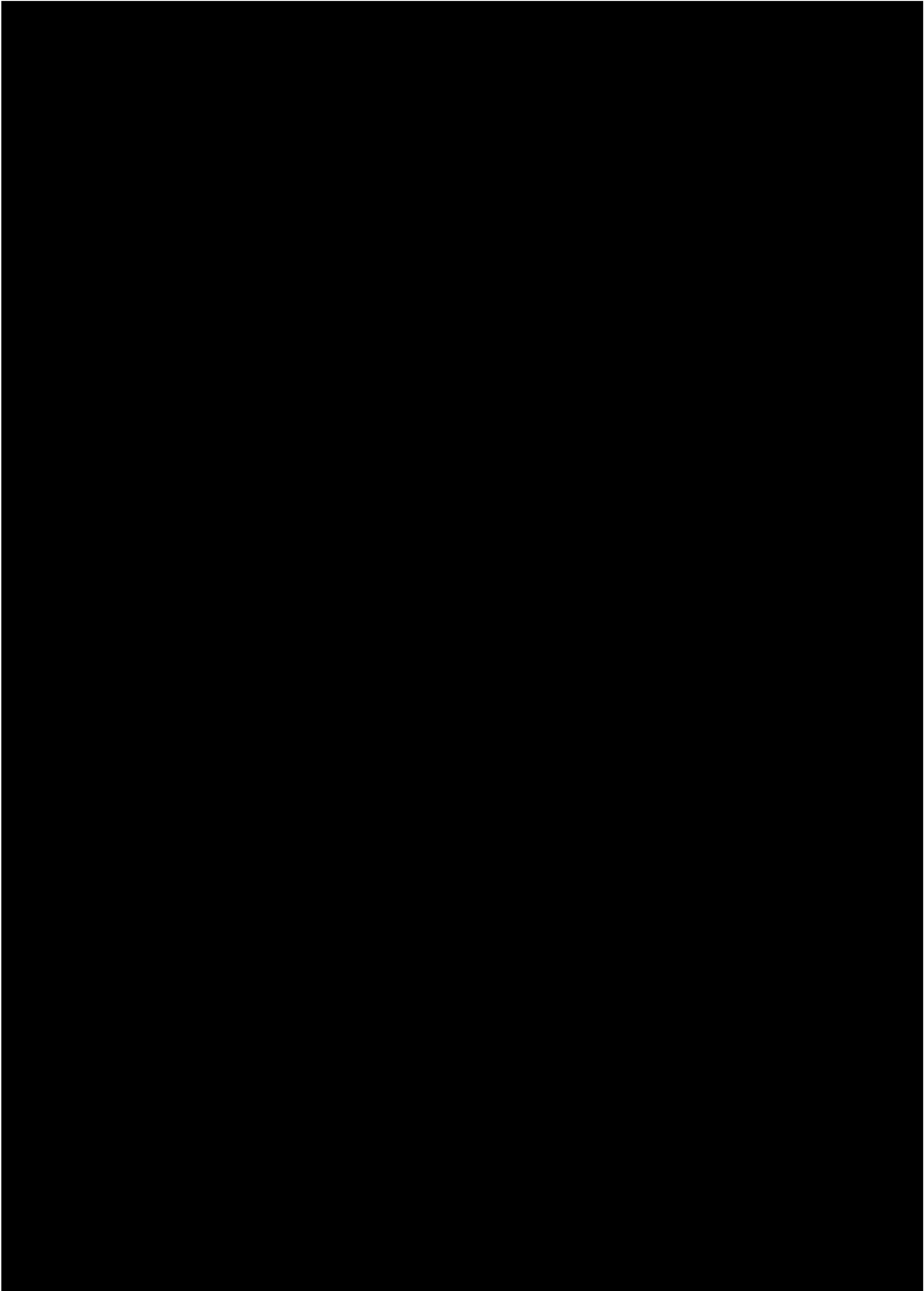
Full name of director who states that they are a director of **Great River City Light Rail Pty Ltd (ACN 622 239 605)**

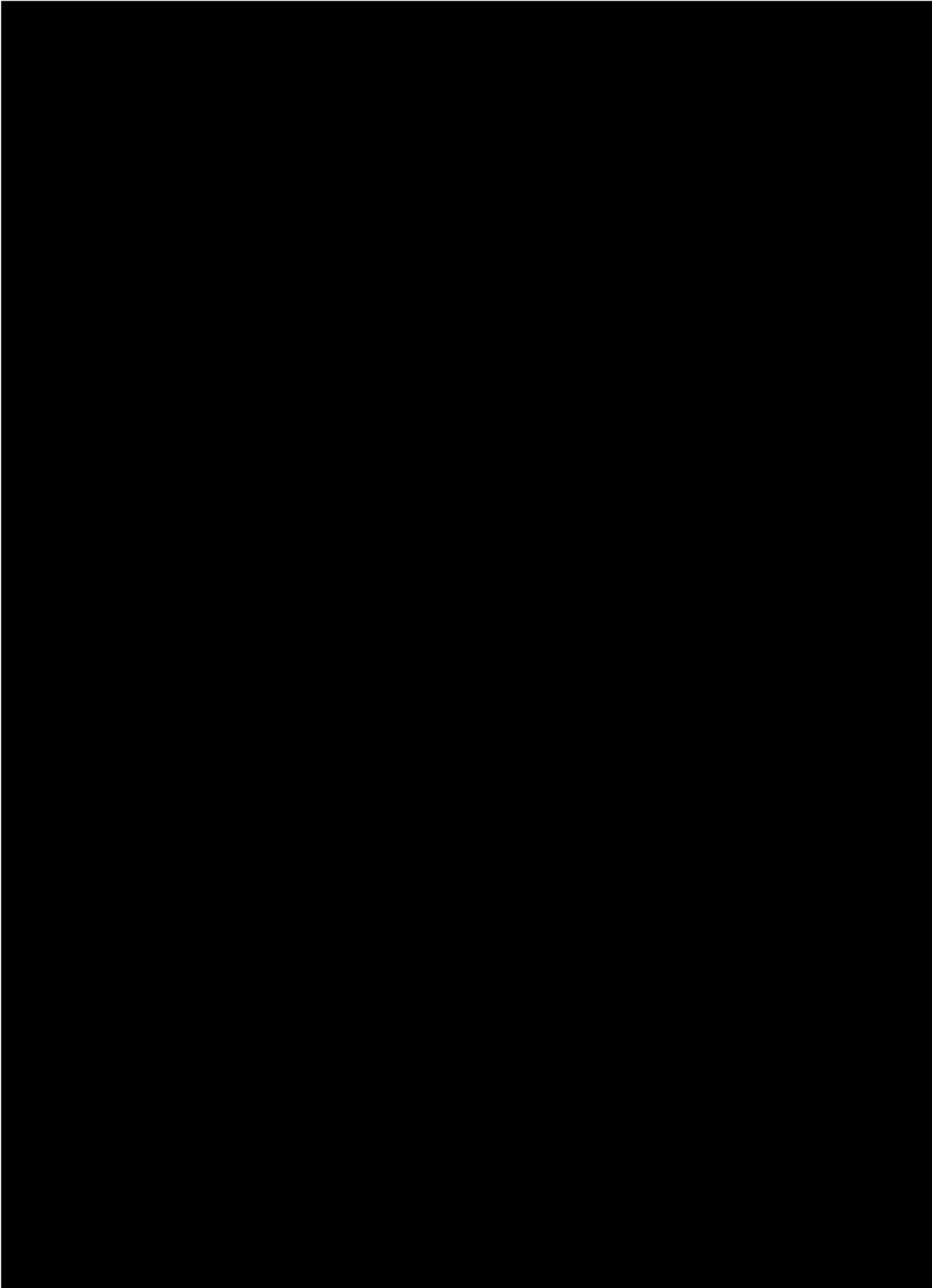


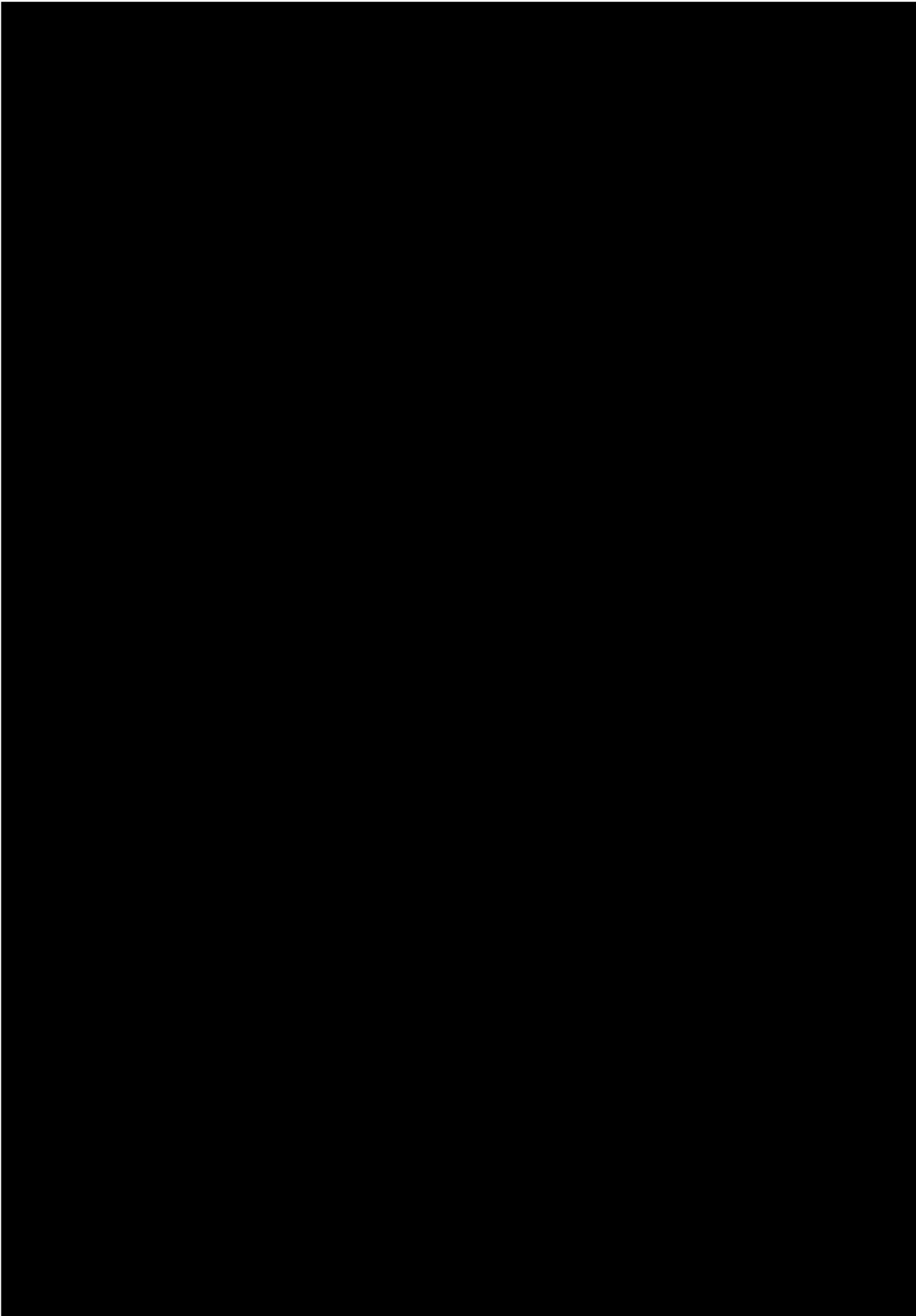
Signature of ~~company secretary~~/director [~~delete position as appropriate~~]

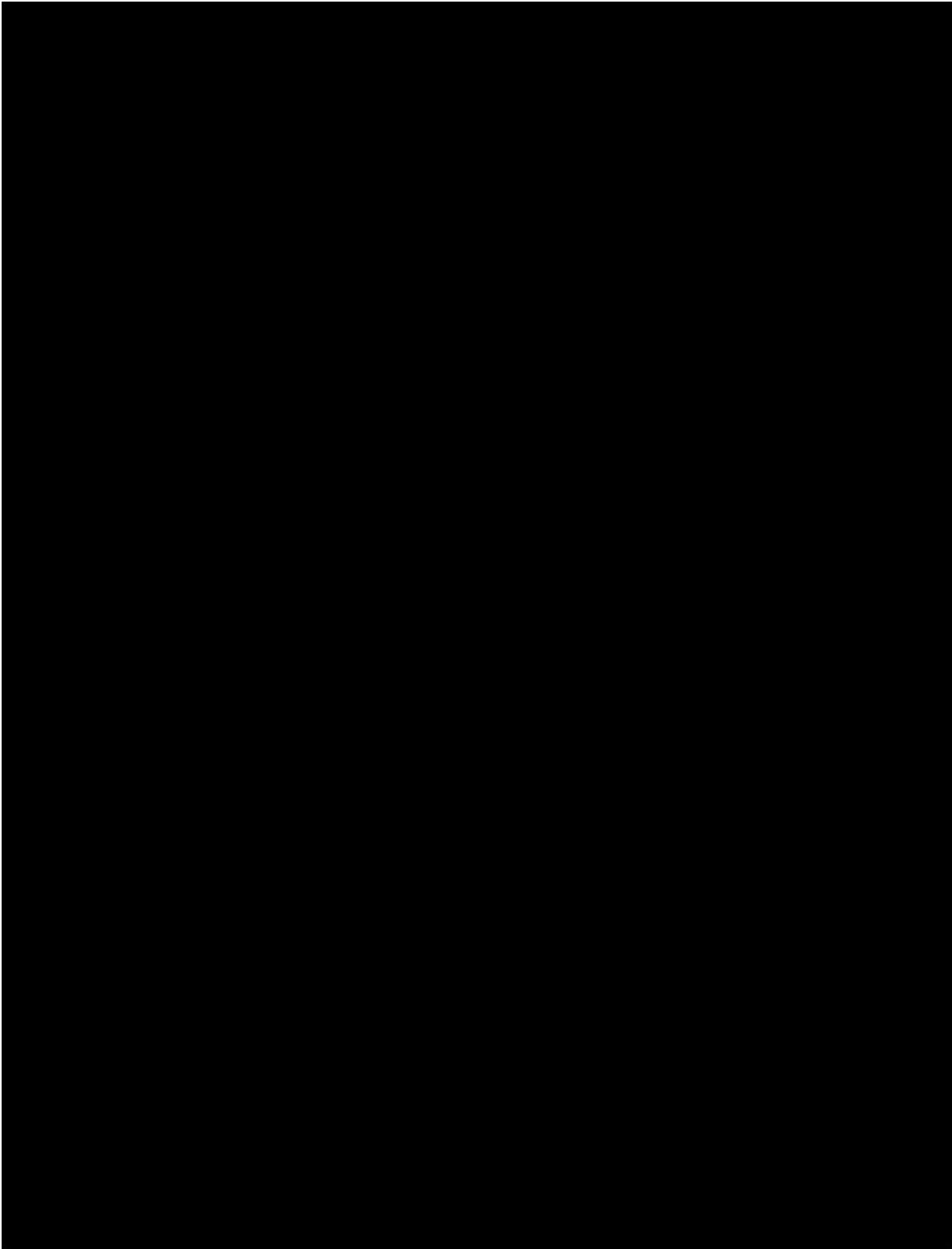
Nathan Lanthois

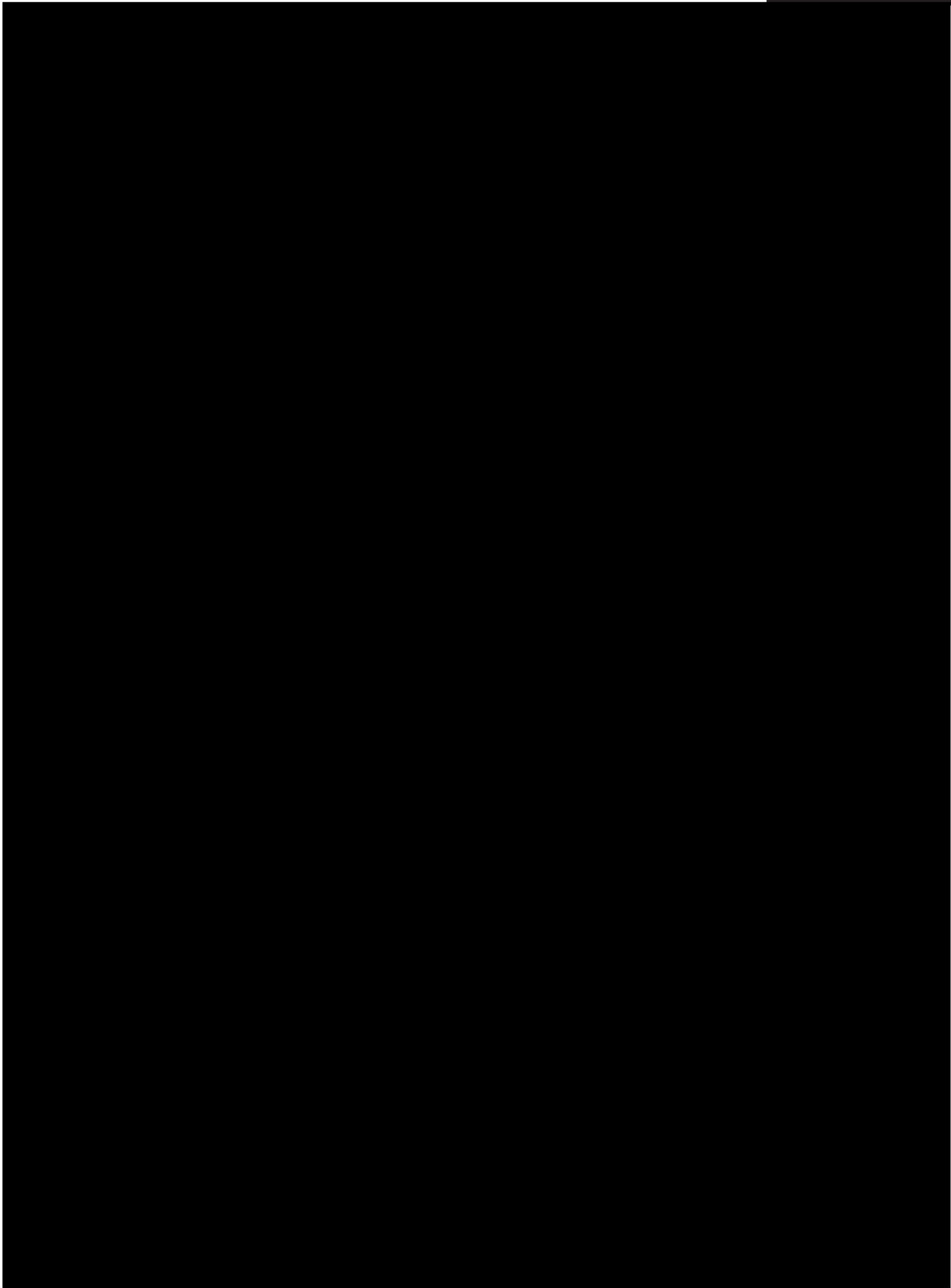
Full name of ~~company secretary~~/director [~~delete position as appropriate~~] who states that they are a ~~company secretary~~/director [~~delete position as appropriate~~] of **Great River City Light Rail Pty Ltd (ACN 622 239 605)**

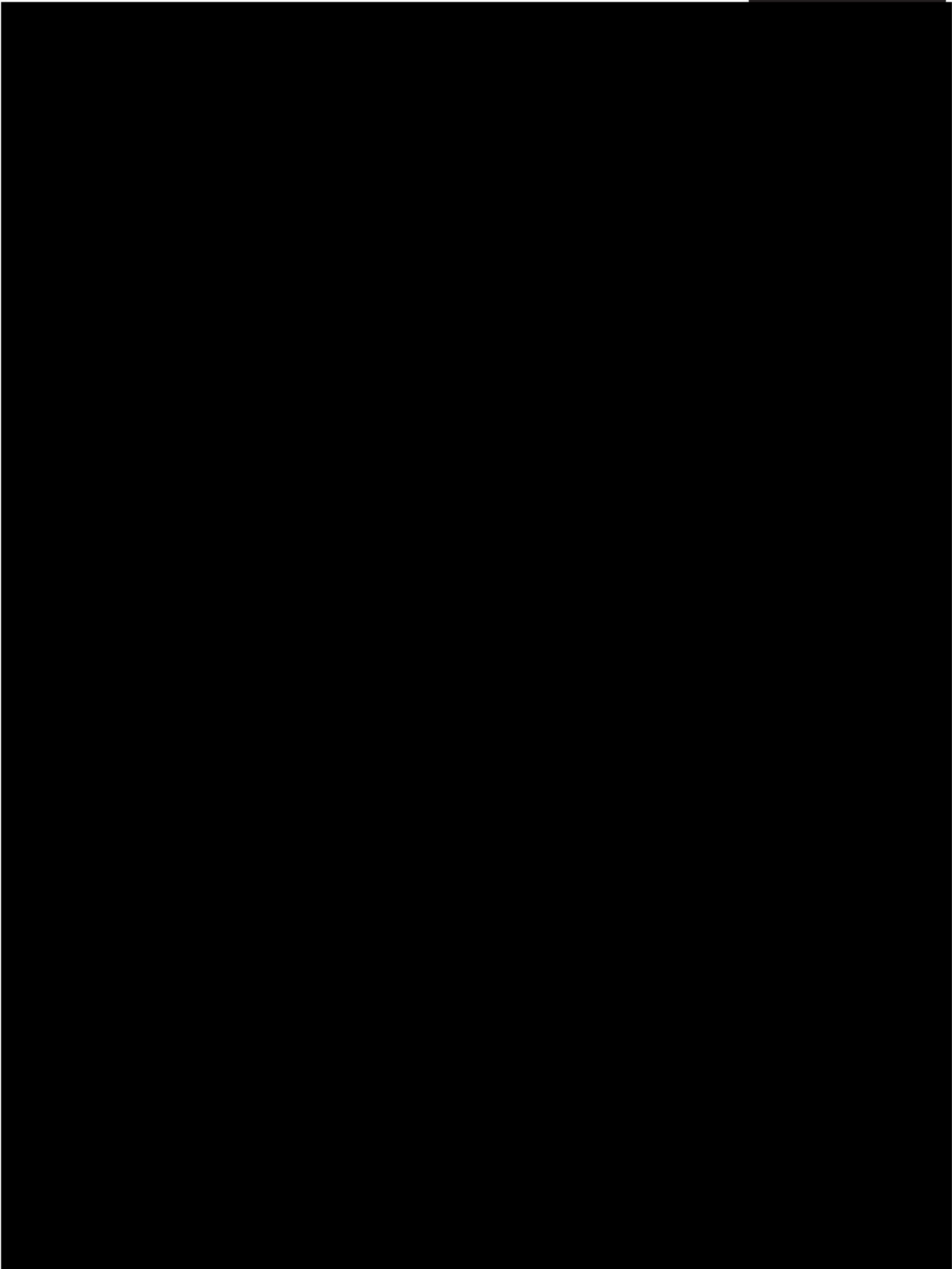


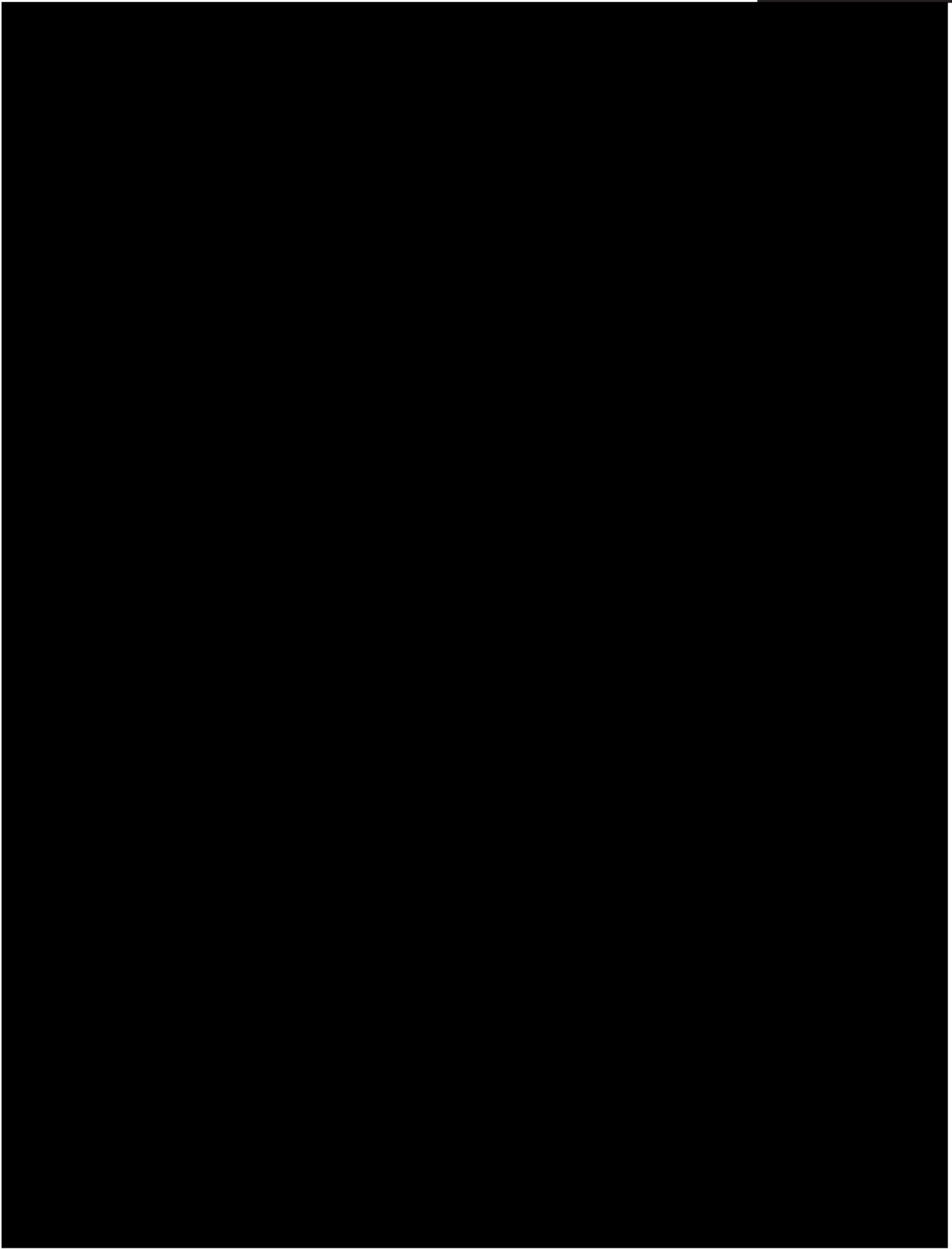


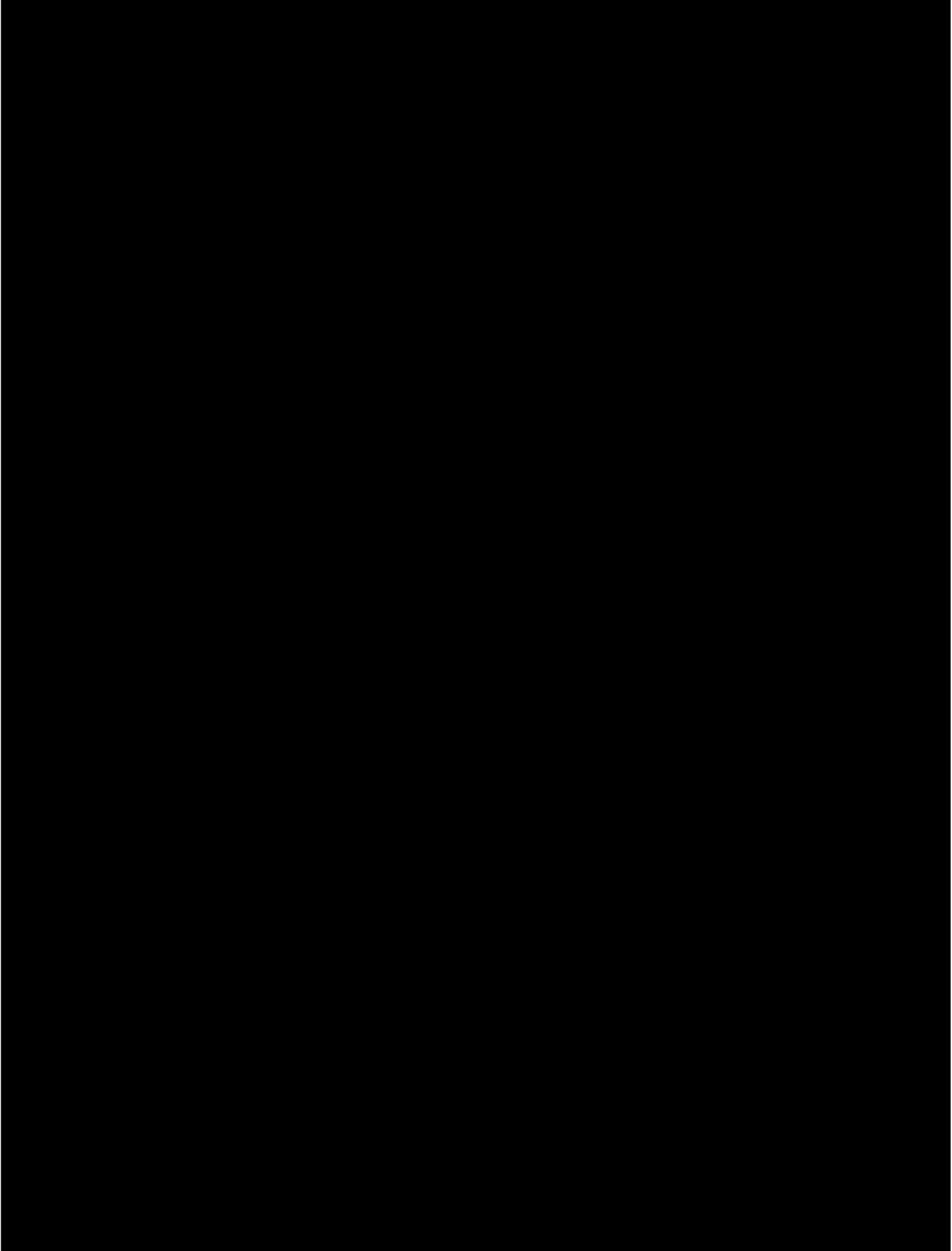


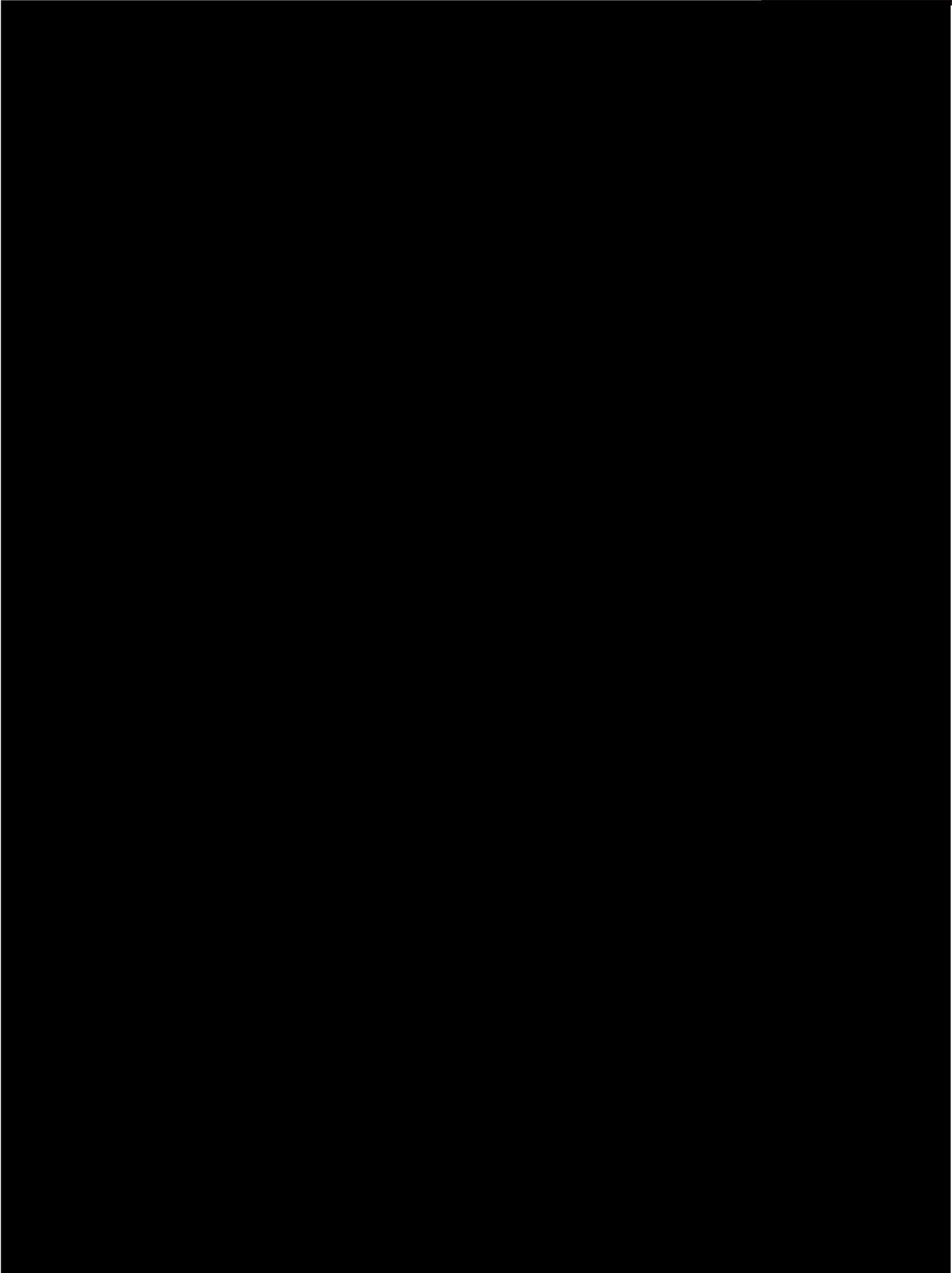


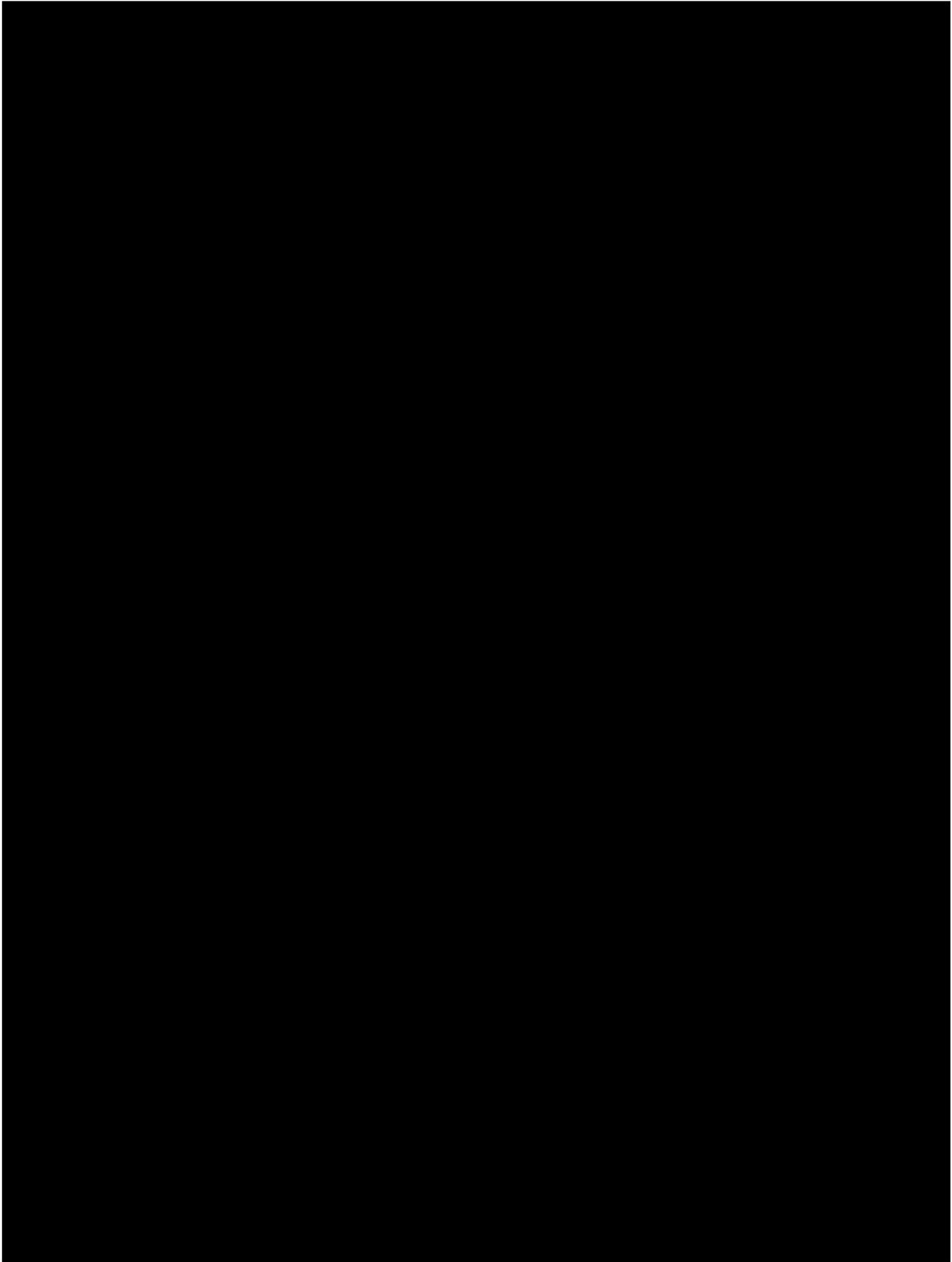


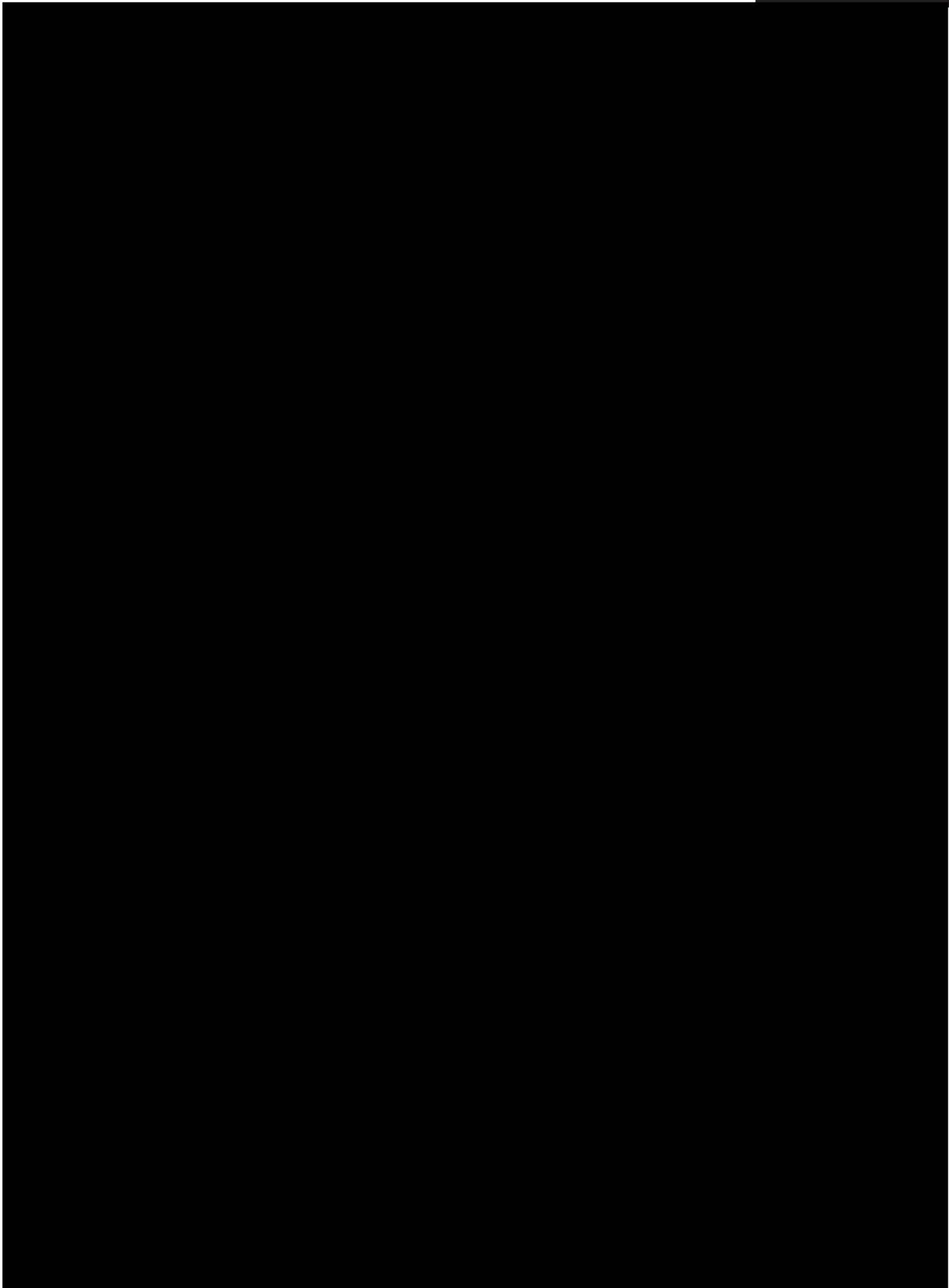


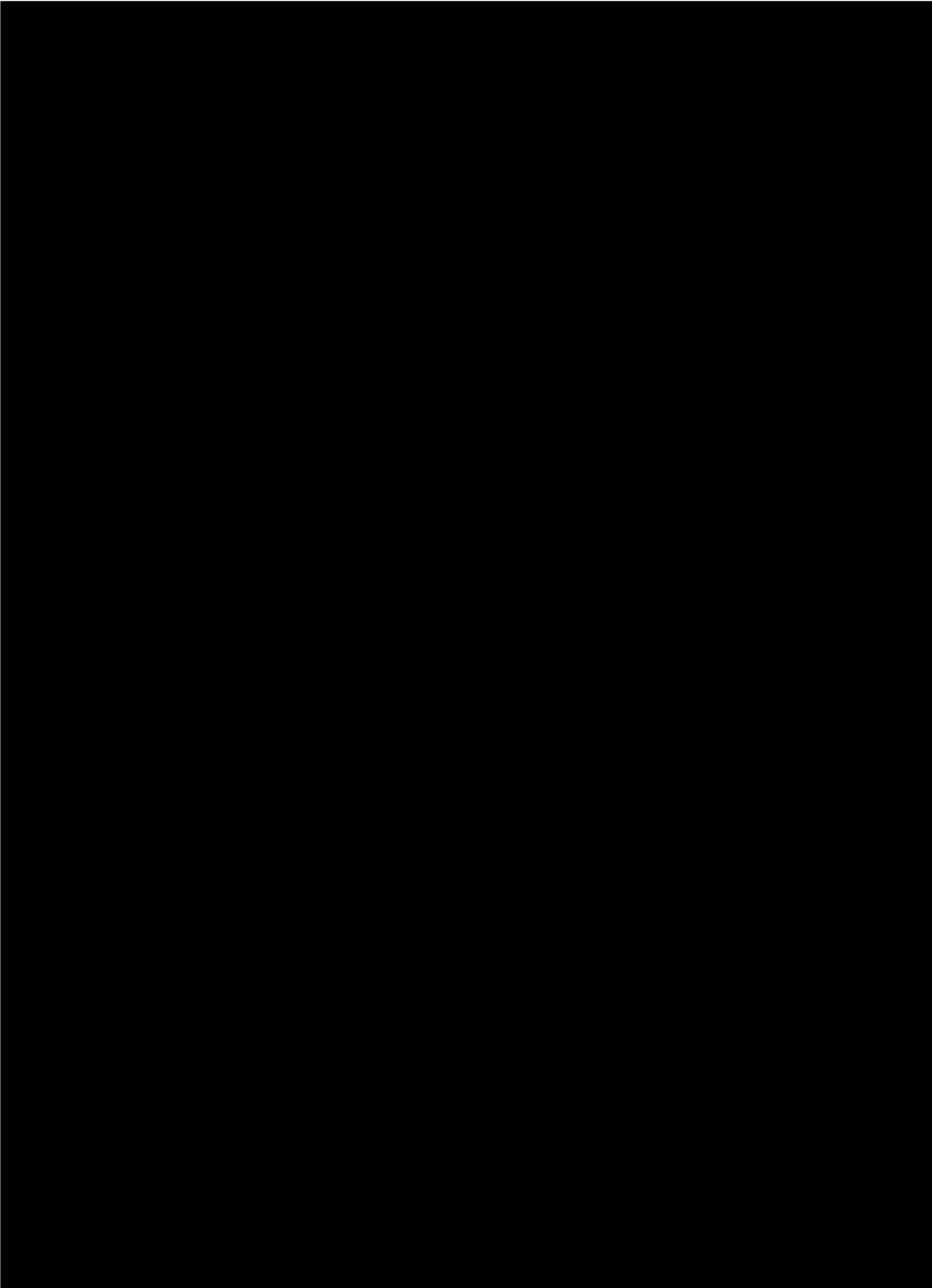


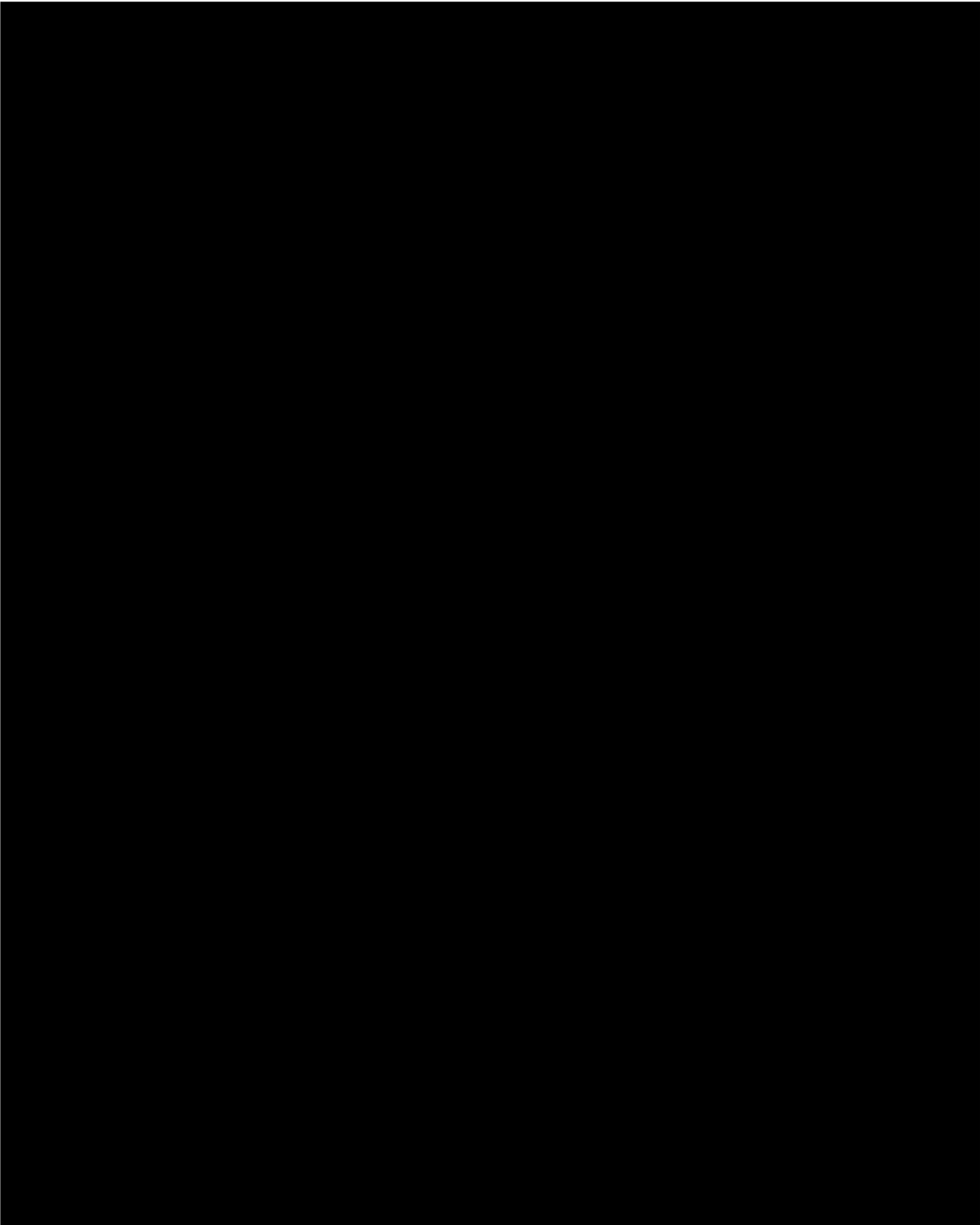














Schedule 3 – Not used



- (c) Insert the following definition after the definition of 'Unknown Utility Services' in clause 1.1 of the Contract:

"Relevant Portion of the SaM Site has the meaning given to that term in the Deed of Release and Amendment."

- (d) Amend clause 12.1 of the Contract as follows:

"(a) The Contractor must give the Principal's Representative and the Independent Certifier written notice on each date that is:

- (i) 180 days;
- (ii) 90 days;
- ~~(ii2) 60 days;~~
- (iii) 30 days; and
- (iv) 7 days,

before the date on which the Contractor estimates that Readiness for First Passenger Service will be achieved."

- (e) Amend clause 11.10(c) of the Contract as follows:

"(c) If:

- (i) the Principal does not issue a notice under clause 12.9(a) within [REDACTED] of the Date of Readiness for First Passenger Service;
- (ii) the delay is not attributable to any act or omission of the Contractor; and
- (iii) the Contractor is able to commence Passenger Services,

then:

- (iv) the Principal must commence the payment of the Monthly Service Payments as though the Date of First Passenger Service was that date which is [REDACTED] after the Date of Readiness for First Passenger Service."

- (f) Amend clause 11.10(d) of the Contract as follows:

"(d) If the Principal issues its notice under clause 12.9(a) in the period which is between [REDACTED] of the Date of Readiness for First Passenger Service then an adjustment will be made to the first Monthly Service Payment to reflect any amounts properly due to the Contractor pursuant to clause 11.10(c)(iv)."

- (g) Amend clause 12.9 of the Contract as follows:

"(a) The Principal's Representative will issue a notice to commence Passenger Services following the issue of a Certificate of Readiness for First Passenger Service.

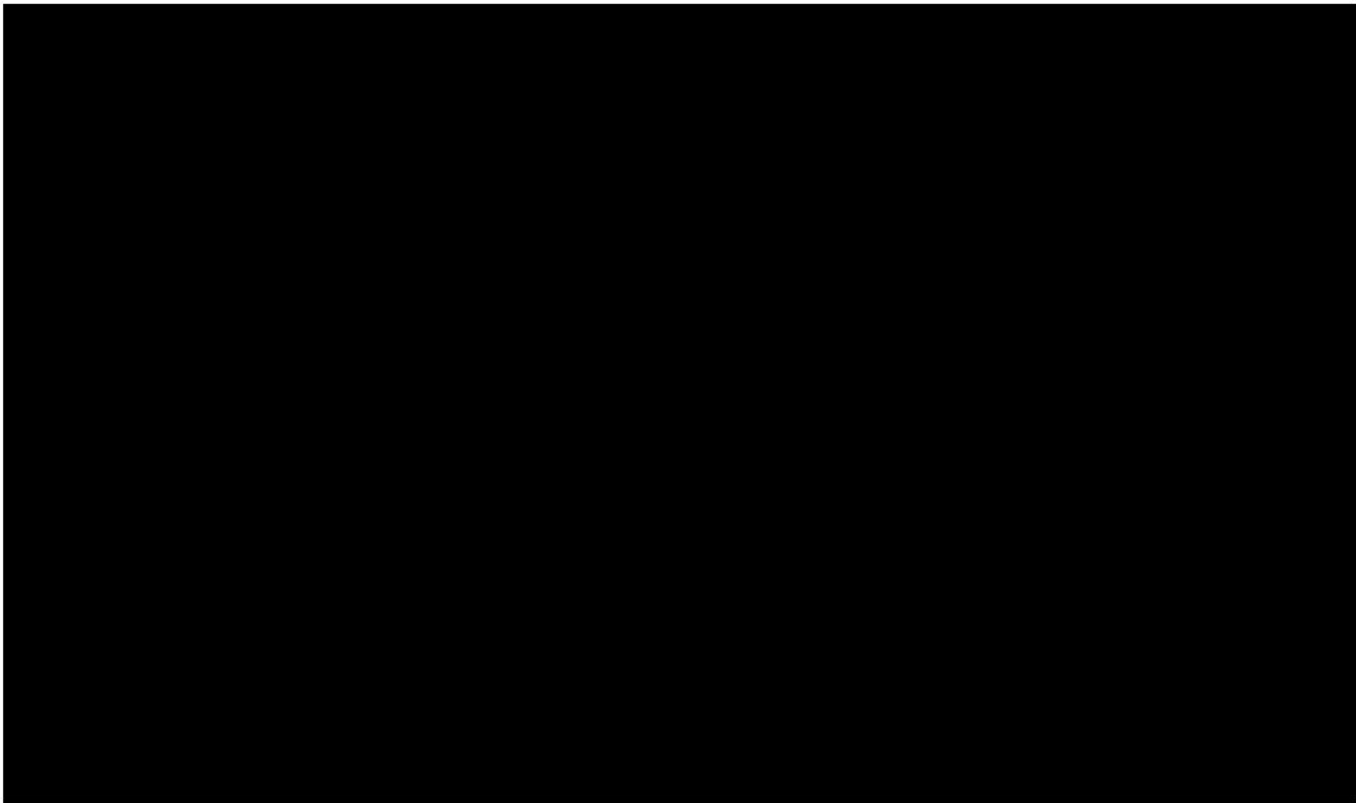


(b) The Principal will use its best endeavours to issue a notice to commence Passenger Services within [redacted] of the Date of Readiness for First Passenger Service.

(bb) Prior to the Principal issuing a notice to commence Passenger Services, the Contractor must provide whatever assistance and information the Principal's Representative reasonably requests in connection with the commencement of Passenger Services. The Contractor must provide such assistance and information within such time as reasonably directed by the Principal's Representative and in any event within 10 Business Days.

(c) The Contractor must commence the provision of Passenger Services within [redacted] of the notice to commence Passenger Services from the Principal.”

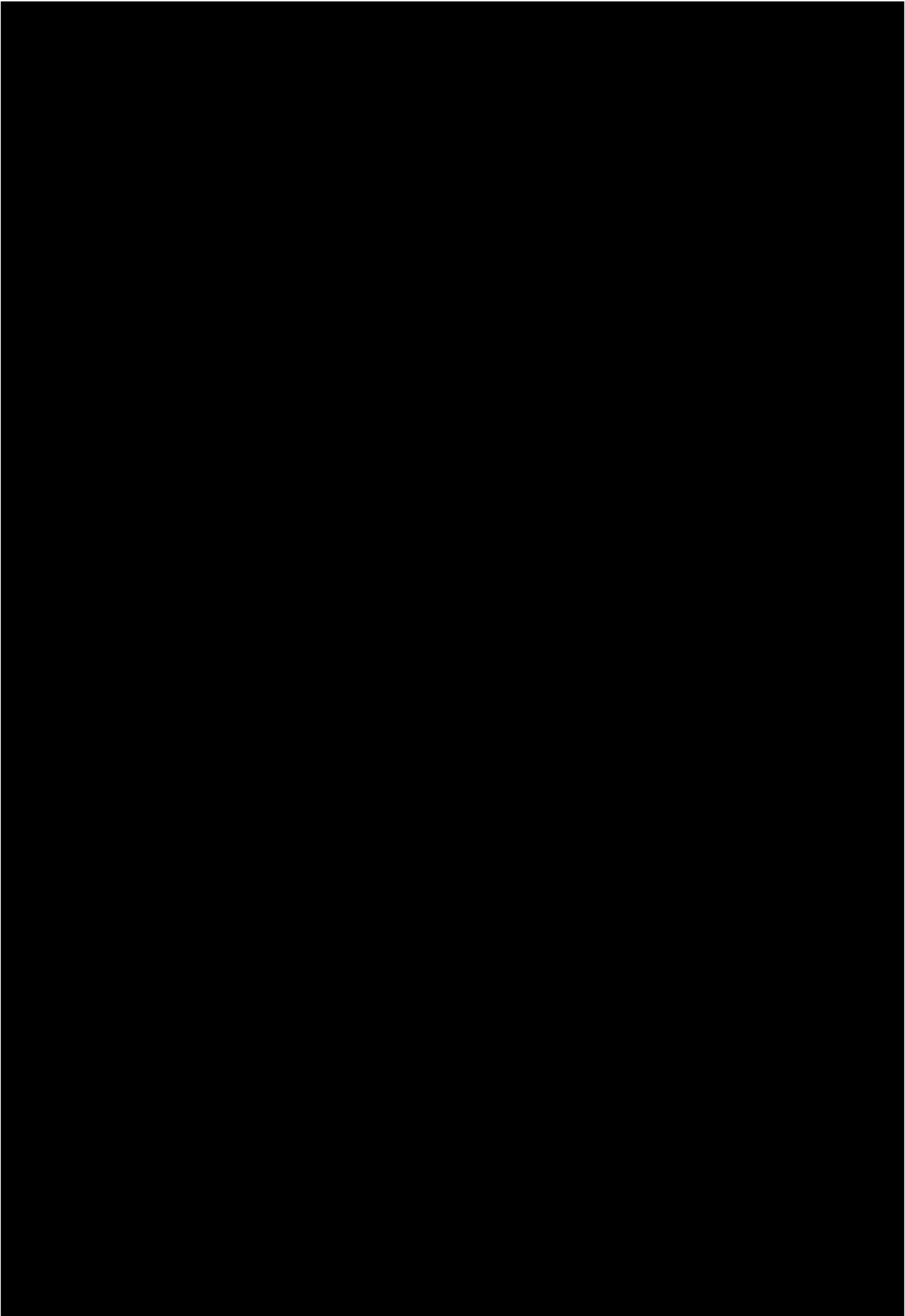
2. Schedule 1 Contract Particulars



(b) Amend the Date for Readiness for First Passenger Service specified in Schedule 1 as follows:

Date for Readiness for First Passenger Service ~~17 May 2023~~ 15 May 2024
(Clause 1.1)







5. Exhibit A – Management Requirements – Annexure 13 Reporting Requirements

(a) Amend clause 1.1(b)(iii) of Annexure 13 of Exhibit A of the Contract as follows:

“(iii) develop the SOM Program using the Principal’s Primavera P6 .xer WBS template supplied as a Reference Document, unless otherwise agreed with the Principal’s Representative.



6. Exhibit B – SPR

(a) Amend clause 9.3.5.5(b) of Exhibit B of the Contract as follows:


“(b) SITs must be carried out on integrated systems forming part of the SOM Works. A SIT must not be carried out until all the equipment ~~to be tested~~ subject to the SIT has already been subject to and passed the necessary Site Acceptance Tests.”

(b) Amend clause 9.4.2.1(b) of Exhibit B of the Contract as follows:

“(b) Prior to entering into driver training and public familiarisation the Contractor must Submit for Review to the Principal evidence that:

(i) all track, points, points control and indication, substations, signals, overhead line, LRV driver signage, radio, remote control of power supply, corridor lighting, and Wire-free equipment are present, substantially functional and that no safety-related functionality or operationally necessary functionality have been isolated;

(ii) all track, points, points control and indication, substations, signals, overhead line, LRV driver signage, radio, remote



control of power supply, corridor lighting, and Wire-free equipment which is subject to and required to be operational in order to commence driver training and public familiarisation have passed all the applicable Testing and Commissioning activities;

- (iii) the number of alarms being raised in the OCC is sufficiently low to allow safe operation with minimal risk of a genuine safety critical alarm being overlooked;
- (iv) the Contractor has sufficient trained and demonstrably competent personnel to operate the OCC whilst LRVs are operating or OLE is live;
- (v) the Contractor has complied with the requirements for supply of Manuals, tools and equipment, training, and Spares and consumables for all equipment in compliance with the requirements of this SPR; and
- (vi) all Assets which are in use are registered in the Asset Information System and, where they are to be Maintained Assets, that maintenance requirements have been identified and documented, and that they are being carried out and recorded in compliance with the requirements of this SPR.”

