



Atlassian Central Project Development Agreement

Dated 19 July 2022

Transport for NSW (ABN 18 804 239 602) (**State**)

Dexus Property Services Pty Limited (ABN 66 080 918 252) (**Developer**)

Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Operations Trust (ABN 69 645 176 383) (**Dexus Guarantor 1**)

Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Property Trust (ABN 24 595 854 202) (**Dexus Guarantor 2**)

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Project Development Agreement

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Project Development Agreement

Details

Parties

State	Name	Transport for NSW
	ABN	18 804 239 602
	Address	231 Elizabeth Street Sydney NSW 2000
	Email	[REDACTED]
	Attention	[REDACTED]

Developer	Name	Dexus Property Services Pty Limited
	ABN	66 080 918 252
	Address	Level 25, Australia Square 264-278 George Street Sydney NSW 2000
	Email	[REDACTED]
	Attention	[REDACTED]

Dexus Guarantor 1	Name	Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Operations Trust
	ABN	69 645 176 383
	Address	Level 25, Australia Square 264-278 George Street Sydney NSW 2000
	Email	[REDACTED]
	Attention	[REDACTED]

Dexus Guarantor 2	Name	Dexus Funds Management Limited (ABN 24 060 920 783) as trustee for Dexus Property Trust
	ABN	24 595 854 202

Address Level 25, Australia Square
 264-278 George Street
 Sydney NSW 2000

Email 

Attention 

Governing law New South Wales

**Business Day
place (s)** Sydney, Australia

- Recitals**
- A** The State is the owner of the Land (excluding Lot 201).
 - B** The State and Atlassian have entered into the Tech Precinct Cooperation Agreement in relation to the Project.
 - C** The State and Atlassian SPV have entered into the Framework Agreement in relation to the Project.
 - D** The State and Atlassian have entered into the Deed of Direct Negotiation.
 - E** Under the Framework Agreement, Atlassian SPV has:
 - (a) nominated the Developer to undertake the Works under this deed; and
 - (b) agreed the Minimum Building Requirements and the State Works Project Brief.
 - F** Subject to the terms and conditions of this deed, under this deed:
 - (a) the Developer agrees to carry out the Works;
 - (b) the State will give to the Developer access to the Site for the purposes of carrying out the Works in accordance with this deed;
 - (d) the Dexus Guarantor agrees to guarantee to the State the Guaranteed Obligations.

General terms

Definitions and interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Acceptable Development Consent means a Development Consent issued pursuant to a Development Application, which does not contain or is deemed not to contain an Unacceptable Condition.

Access Commencement Date means the date that the Developer is provided with access to relevant part of the Site as set out in Schedule 5.

Access End Date means the date that the Developer is required to handback a relevant part of the Site as set out in Schedule 5.

Access Ramp Works has the meaning given in the Toga Agreement.

Adjoining Land means Lots 12, 13, 14 and 15 in Deposited Plan 1062447, Lot 30 in Deposited Plan 877478 and Lot 201 but excludes:

- (a) from the date that all or any part of the Lot 13 Lease is surrendered to the State, the part of Lot 13 in Deposited Plan 1062447 the subject of that surrender; and
- (b) Lots 2 and 3 in Deposited Plan 1272208.

Adjoining Owners means:

- (a) the long-term lessees of Lots 12, 13, 14 and 15 in Deposited Plan 1062447, Lot 116 in Deposited Plan 1078271 and Lot 30 in Deposited Plan 877478; and
- (b) TAHE (as the freehold owner of Lot 201).

Adjoining Owners Agreements means the Toga Agreement and the Dexu Agreement.

AEO Authorisation means an authorisation issued by the ASA to a legal entity which verifies that it has the relevant systems in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any conditions of the authorisation.

Agreed Easement has the meaning given to that term in clause 23.5.

Ambulance Avenue Area means the area shown as such on the plan contained in Schedule 10.

Ambulance Avenue Fee [REDACTED]

Ambulance Avenue Fee Commencement Date [REDACTED]

Ambulance Avenue Licence means the licence entered into between the State and the Developer in relation to the Ambulance Avenue Area in accordance with clause 16.1 of this deed.

Appeal Period means the period allowed under the EP&A Act by a person other than the State or the Developer to lodge an appeal in relation to the granting of the Development Consent.

Applicable Cure Period has the meaning given to that term in clause 39.2(d).

Application means an application for any Approval.

Application Plans means in respect of each proposed Application, the plans and specifications which are intended to form part of that proposed Application.

Approvals means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements which may be required by law for the commencement, carrying out, occupation and use of the Works or which may be lawfully imposed on the Improvements by any Public Authority and any variations or modifications to them, including approvals under the EP&A Act, the *National Parks and Wildlife Act 1974* (NSW), AEO Authorisation, Part 6.4 Certificates, Construction Certificates, Occupation Certificates and Complying Development Certificates.

Approved Corrective Action Plan has the meaning given in clause 39.2(d).

Approved Design Documentation means the Design Documentation:

- (a) in respect of the Development Works:
 - (i) which is the subject of a No Objection Statement from the State;
 - (ii) it is otherwise determined by the Independent Certifier to be compliant under clause 6.6; or
 - (iii) it is otherwise determined through the dispute resolution process under clause 38.4 to be compliant; and

in respect of the State Works:

- (iv) which is the subject of a No Objection Statement from the State;
- (v) it is otherwise determined by the Independent Certifier to be approved under clause 6.4; or
- (vi) it is otherwise determined through the dispute resolution process under clause 38.4 to be compliant.

ASA Charter means the document which identifies the ASA's objectives, functions, powers and governance, and the duties of Rail Transport Agencies and AEOs in relation to the ASA (as amended from time to time), a copy of which can be found on www.asa.transport.nsw.gov.au.

ASA Requirements has the meaning assigned to it in the ASA Charter.

Asset Holding Entity has the meaning given in clause 37.2.

Asset Lifecycle has the meaning assigned to it in the ASA Charter.

Asset Management Plan means, in respect of the State Works, a document setting out:

- (a) details of the assets to be maintained;
- (b) their repair and maintenance cycles;
- (c) method of maintenance; and
- (d) replacement cost and time periods.

Asset Standards Authority or **ASA** means the unit within the State, which sets, controls, maintains, owns and publishes the network and asset standards for Transport Assets as defined in the ASA Charter. Information about the ASA and the network and asset standards can be found on www.asa.transport.nsw.gov.au.

Assignment Tests means that a person:

- (a) is solvent;
- (b) is of good financial standing;
- (c) has equity and debt funding available to fund the construction of the Works;
- (d) has a delivery methodology in terms of design, construction, finance, management and maintenance suitable to effect the Project; and
- (e) is otherwise ready, willing and able to carry out the Works as required by this deed.

Atlassian means Atlassian Pty Ltd (ABN 53 102 443 916).

Atlassian AFL means the agreement for lease (if any) between the Developer and Atlassian on or about the date of this deed.

Atlassian Building means the proposed office building and YHA Accommodation, which comprises 63,281m² of GFA of office space, 11,807m² of YHA Accommodation, ground floor retail, lobby and basement space.

Atlassian Premises means all commercial office space within the Atlassian Building.

Atlassian Project Documents means:

- (a) the Atlassian AFL (on and from the date on which that document is executed);
- (b) YHA Development Agreement;
- (c) Building Contract; and
- (d) all Adjoining Owner's Agreements.

Atlassian Security means one or more bank guarantees for an amount equal to the State Reimbursement.

Atlassian SPV means Vertical First Pty Ltd (ACN 636 939 985) as trustee of the Vertical First Trust.

Australian Standards means national standards developed by Standards Australia.

Authorised Engineering Organisation or **AEO** means a legal entity to whom the ASA has issued an AEO Authorisation.

Authorised Officer means:

- (a) in the case of the State, the Deputy Secretary of Infrastructure and Place or a person performing the functions of that position or any other person appointed by the State and notified in writing to the parties to act as an Authorised Officer for the purposes of this deed; and
- (b) in the case of each other party, a person appointed by that party to act as an Authorised Officer for the purposes of this deed.

Bank Bill Swap Reference Rate means the market rate of interest used to price commercial borrowings as published in the Australian Financial Review.

Best Industry Practice means the practices which are adopted by experienced and competent designers, engineers and builders, with respect to works similar to the Works, including:

- (a) using best practice procurement methods;
- (b) complying with all relevant Law;
- (c) using good quality, new, or where appropriate suitable recycled materials, undamaged equipment and materials for the Works, which are suitable for the purpose for which they are required;
- (d) ensuring that all workmanship and construction techniques are of the quality and standards as required by this deed; and
- (e) complying with relevant Codes and Standards.

Builder means a contractor engaged by the Developer under a Building Contract.

Builder's Side Deed means a deed to be entered into in respect of the State Works by the Developer, the State and the relevant Builder generally in the form of Schedule 14 and otherwise in a form acceptable to the State (acting reasonably).

Building Contract means the contract between the Developer, the Dexus Guarantor 1, the Dexus Guarantor 2 and an unincorporated joint venture of Built Pty Limited (ACN 083 928 045) and Obayashi Corporation (ARBN 002 932 756/ABN 86 002 932 756) for the design and construction of the Development Works and the State Works.

Building Contract Notice means a notice issued by the Developer to the State which is in compliance with clause 15.4(b).

Business Day means a day in Sydney which is not:

- (a) a Saturday or Sunday;
- (b) a public holiday in Sydney; or

- (c) any day during the Christmas close down period for the NSW government sector as described in the Premier's Memorandum in M2016-01 and each replacement memorandum.

Cash Deposit has the meaning given in clause 33.5(b).

Cash Deposit Account has the meaning given in clause 33.5(b).

CCU means the construction compliance unit administered by NSW Industrial Relations.

Central Precinct Renewal Program means the redevelopment of the area around and including 24 hectares of government owned land at Central Station where investment and proposed initiatives are being targeted to improve the interchange function and deliver large scale transformation. It includes the Central Station public transport interchange, surrounding public domain, streets, parks and buildings.

Central Station means the improvements, structures and rail infrastructure facilities (as that term is defined in the TAA) located from time to time on Lot 201.

Central Walk means the underground pedestrian link from the eastern side of Central Station, linking the new light rail stop to the new Sydney Metro platforms with direct access to suburban platforms.

Central Walk East means the underground pedestrian connection at Central Station, currently under development as at the date of this deed, that is to be delivered by Sydney Metro. Once complete, it will be a link between the new Central Station entrance, the eastern suburbs railway concourse, suburban platforms 16-23 and the new Sydney Metro north-south concourse.

Central Walk West means a proposed western extension of Central Walk, which will be integrated with Central Walk East and enable a connection at the same level for its entire length. It will form part of the Central Precinct Renewal Program and will provide an additional western exit to Central Station.

Central Walk West Works means the works to be undertaken by the State to deliver Central Walk West.

Certificate of Construction Compliance means a certificate from the Developer in the form and at the times provided in Schedule 35 certifying that the Works comply with the requirements of this deed.

Certificate of Design Compliance means a certificate from the Developer in the form and at the times provided in Schedule 34 certifying that the Design Documentation complies with the requirements of this deed.

Certificate of Practical Completion means in respect of a Works Portion a certificate issued by the Independent Certifier under clause 21.4 certifying that a Works Portion has reached Practical Completion.

Change in Insured Risk has the meaning ascribed to that expression in clause 29.20(c).

Change in Law means:

- (a) any act of the New South Wales parliament;
- (b) any act of the Commonwealth parliament; or
- (c) regulation, subordinate legislation or by-law,

which comes into effect, is repealed or is amended after the date of this deed.

Claim means any claim, action, demand or proceeding for payment of money (including damages), for an extension of time or for any other form of relief:

- (a) under, arising out of or in any way in connection with this deed;
- (b) arising out of, or in any way in connection with, the Works or either party's conduct prior to the date of this deed; or
- (c) otherwise at Law, including:
 - (i) under or for breach of any statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
 - (iii) for restitution, including restitution based on unjust enrichment.

Claim Period has the meaning given to that term in clause 19.3(a).

Clean-up means the taking of all necessary action to Remediate any Contamination.

Codes and Standards means any codes, standards, policies, specifications, guidelines, requirements, by-laws, rules, procedures or other publications from time to time, with which the Developer is legally required to comply.

Commence Construction means in relation to a Works Portion that:

- (a) the requirements of clause 16.4 have been satisfied; and
- (b) the Developer has entered into a Building Contract for the Works in accordance with the Framework Agreement or this deed; and
- (c) site establishment has been completed; and
- (d) demolition of the improvements on the Land as at the Commencement Date which are relevant to the Works have been completed.

Commencement Date is the date of this deed.

Communication has the meaning given in clause 50.1.

Compliance Certificate means a certificate referred to in division 6.5 of the EP&A Act.

Complying Development Certificate means a complying development certificate referred to in division 4.5 of the EP&A Act.

Compound Area means an area not less than the area as generally shown as area '118.1C' Schedule 5, noting that:

- (a) the Compound Area is not finalised and the final extent of the Compound Area is to be agreed between the Developer and State in good faith and acting collaboratively, with each having regard to the requirements of the Project and the Central Walk West Works;
- (b) the proposed offset of the hoarding for the Compound Area will be between 1.75m and 3.5m from Central Station building having regard to any existing vertical access or hoisting equipment in place at the time of determining the Compound Area;
- (c) the parties agree to work together on a vertical exclusion zone for CPRP for the benefit of both parties; and
- (d) both parties will be responsible for the management and movement of stormwater within their respective areas (the area shown and labelled as such in Schedule 5).

Compound Area Licence means the access licence for the Compound Area.

Configuration Management Framework means the State's framework for delivering assurance across the asset lifecycle through configuration management models and processes.

Consent Authority means, in relation to an Application, the Public Authority having the function to determine the Application.

Consequential or Indirect Loss means:

- (a) any Loss that does not flow directly and naturally from the relevant breach of this deed or a duty of care; and
- (b) any loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of contract (other than this deed), loss of goodwill, loss of use, loss of production or failure to realise anticipated savings (whether the loss is direct or indirect).

Construction Certificate means a certificate issued under division 6.4(a) of the EP&A Act.

Construction Licence means the licence, on the terms and conditions set out in Schedule 6.

Contamination means the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Control of a corporation includes the direct or indirect power to directly or indirectly:

- (a) direct the management or policies of the corporation; or
- (b) control the membership of the board of directors,

whether or not the power has statutory, legal or equitable force or is based on statutory, legal or equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of the corporation or otherwise.

Co-ordinating AEO means Arch Artifex or such other AEO organisation as approved in writing by the State.

Corporations Act means the *Corporations Act 2001* (Cth).

Corrective Action Plan means a plan to remedy a Trigger Event prepared by the Developer and approved by the State in accordance with clause 39.

Costs include reasonable costs, charges and expenses, including those incurred in connection with external advisers and consultants.

COVID-19 means the disease identified by the World Health Organisation on or about 11 February 2020 as COVID-19 and declared to be a pandemic by the World Health Organisation on 12 March 2020, and any variants of that disease.

Crane Activities means the passing and re-passing of the crane (with and without materials) for the purpose of carrying out the Works.

Crane Area means the airspace required for the passing and re-passing of the crane.

Date for Commencement means, in respect of the Works, the date specified in the Developer's notice relating to the Works under clause 16.5(a) as varied under clause 16.5(b).

Date for Construction Commencement [REDACTED]

Date for Practical Completion of the Development Works [REDACTED]

Date for Practical Completion of the State Works [REDACTED]

Date of Practical Completion [REDACTED]

Day 2 Works means those works as described in Schedule 29.

Day 2 Works Commence Date [REDACTED]

Decision Period has meaning given in Schedule 8.

Declared Terrorist Incident has the meaning given to that term in section 3 of the *Terrorism Insurance Act 2003* (Cth).

Deed Dispute has the meaning given in clause 38.22(a)(i).

Deed of Direct Negotiation means the deed entitled 'Deed of Direct Negotiations' between the State and Atlassian undated but executed on or around 21 March 2019.

Defects Liability Period means for the State Works:

- (a) a period of 12 months commencing on the Date of Practical Completion for the State Works; or

- (b) a period of not more than 12 months commencing on the date of completion of rectification works, for any make good works required by the State in a Defects Notice issued to the Developer as contemplated in clause 32.3(a)(iii) in relation to the relevant rectification works,

provided that in no circumstance shall the Defects Liability Period exceed 24 months from the Date of Practical Completion.

Defects Notice has the meaning given in clause 32.3.

Delay Event has the meaning given in clause 17.2(b).

Delay Loss has the meaning given in clause 28.5(c).

Design Documentation or Design Documents means:

- (a) all design documentation (including all design standards, concrete mix designs, design reports, durability reports, construction descriptions, specifications, models (including CAD and GIS models or any other digital engineering information), samples, prototypes, calculations, drawings, shop drawings, digital records, computer software and all other relevant data) in electronic, computer readable and written forms, or stored by any other means, required by this deed, required for the performance of the Works, or necessary to be produced by the Developer or a designer to design and construct the Works and documentation (including certificates and check lists) to evidence that the design documentation complies with the requirements of this deed; and
- (b) computer software (including both source code and object code versions) where the computer software has been specifically created or specifically modified for the purposes of the Works.

Design Documentation (Development Works) means the Design Documentation relating to the Development Works.

Design Documentation (Reviewable Development Works) means Design Documentation (Development Works) which:

- (a) requires landowner consent from TAHE;
- (b) may impact on the design, construction, operation, maintenance or occupation of the State Works or any Services to them;
- (c) may impact on:
 - (i) any TfNSW Assets;
 - (ii) the operation and maintenance of Central Station;
 - (iii) the operation and maintenance of any rail infrastructure;
 - (iv) safety of and amenity for the State's customers, road users, pedestrians and staff in and around Central Station; and
 - (v) any other Design Documentation which is necessary to enable the State to properly review the above and comply with this deed; or

- (d) is in relation to Fitout Works on the 'retail and deck level' between RL 30 to RL 39, including any retail amenities, signage, balustrades, planter boxes or outdoor furniture.

Design Documentation (State Works) means the Design Documentation relating to the State Works.

Design Life [REDACTED]

Design Plan means the design plan developed by Atlassian SPV under the Framework Agreement and contained in Schedule 4.

Design Stage in respect of the Design Documentation means the:

- (a) interim design stage, being Design Documentation which has reached 75% design; and
- (b) for construction stage, being "AFC" Design Documentation.

Design Working Group means the group established under clause 17.4.

Developer Controlled State Land has the meaning contained in clause 16.2.

Developer Liability Cap [REDACTED]

Developer Unacceptable Condition [REDACTED]

Developer's Employees and Agents means each of the Developer's employees, officers, agents, contractors, service suppliers, licensees, invitees and representatives (other than the State and the State's Employees and Agents).

Developer's Infrastructure includes all Services, means of access and other infrastructure necessary for the Project but excluding Existing Infrastructure.

Developer's Property means all plant and equipment, fixtures, fittings, furniture, furnishings, decorations and other property not owned by the State which the Developer brings on to the Land or fixes to the Land.

Developer's Rejection Right [REDACTED]



Development Application means the Applications made by the Developer for approval to carry out the Project, the Works and/or subdivide the land the subject of the draft plan of subdivision pursuant to the EP&A Act (including any documents forming part of those Applications).

Development Consent means an Approval or authorisation necessary to enable the carrying out of the Project pursuant to the Development Application, and any modification of it.

Development Consent (Project) means State Significant Development Approval 10405 dated 15 October 2021 and any modifications to that State Significant Development Approval.

Development Program means the program set out in Schedule 3, as updated from time to time in accordance with clause 22.8.

Development Rights Fee



Development Works means all works required:

- (a) to be carried out on the Land as at the Commencement Date;
- (b) to design and construct the Atlassian Building including for the avoidance of doubt the provision of the YHA Accommodation;
- (c) to install the Developer's Infrastructure and any connection to the Existing Infrastructure; and
- (d) to design and construct the Access Ramp Works which comprise of the design and construction of the Lee Street Access Ramp unless clause 12.3(a)(i)(A) of the Toga Agreement applies,

but excluding the State Works and any Fitout Works.

Devonshire Street Tunnel Works means the proposed works which the Developer will carry out in and around the Devonshire Street Tunnel as part of the Project, as defined in the Devonshire Street Tunnel Works Brief (once resolved pursuant to clause 24.11 or approved by the State before the date of the deed).

Devonshire Street Tunnel Works Project Brief means the version of the Draft Devonshire Street Tunnel Works Brief approved pursuant to clause 24.11 or approved by the State before the date of the deed.

Draft Devonshire Street Works Project Brief means the draft of the Devonshire Street Tunnel Works Brief submitted by the Developer to the State which must, in respect of the Developer's proposed works for the area, document the requirements of the State for all infrastructure or assets on land owned or controlled by TAHE and all Rail Assets within or in the vicinity of the Devonshire Street Tunnel (whether owned or operated by TAHE or TfNSW) including:

- (a) civil and structural works;
- (b) electrical, mechanical, fire, and other building services;
- (c) fixtures and finishes;
- (d) security; and
- (e) wayfinding and signage.

Dexus Agreement means the agreement entitled 'Co-operation Agreement' made or to be made between Dexus CPA Pty Limited as trustee for Dexus CPA Commercial Property Trust No. 3, Dexus CPA Pty Limited as trustee for Dexus CPA Commercial Property Trust, Gateway Building Nominees Pty Limited as trustee for the Gateway Building Trust and the Atlassian SPV, as may be varied or amended from time to time.

Dexus Guarantor means:

- (a) in respect of the Dexus Guaranteed Moneys, the Dexus Guarantor 2; and
- (b) in respect of the Guaranteed Obligations (other than the Dexus Guaranteed Moneys), the Dexus Guarantor 1,

and a reference to a Dexus Guarantor is a reference to either the Dexus Guarantor 1 or the Dexus Guarantor 2 (as applicable).

Disclosure Materials means the information and materials contained in the InEight Document system (TeamBinder) made available by the State to the Developer before the Commencement Date.

Discriminatory Change in Law means a Change in Law of the type set out in paragraph (a) and (c) of that definition, provided that in so far as it relates to paragraph (c) of that definition it only applies if it relates to a matter in paragraph (a), which specifically and only affects the Land, the Project, the Improvements or the execution of the Works (and does not affect any other land, improvements or works).

Dispute Notice has the meaning given to that term in clause 38.1.

Division 5.1 Assessment means an assessment pursuant to Part 5, Division 5.1 of the Environmental Planning and Assessment Act (1979) (EP&A Act).

Draft Conditions has the meaning given to that term in clause 4.2(a)(ii).

Draft Corrective Action Plan has the meaning given in clause 39.2(a).

Draft State Works Completion Plan has the meaning given in clause 19.10(b).

Electronic Signature means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this deed by electronic or mechanical means and indicates the

person's intention to sign this deed. **Electronically Signed** has a corresponding meaning.

Emergency means an actual or potential occurrence (including fire, flood, storm, earthquake, explosion, accident, act of terrorism or civil disobedience or other war like action) which:

- (a) seriously endangers or threatens to endanger the safety or health of persons;
- (b) destroys or materially damages, or has the potential to destroy or materially damage property; or
- (c) causes significant disruption to or has the potential to cause significant disruption to the operation of Central Station or any rail infrastructure,

and which requires an urgent response.

Encumbrance means an interest or power:

- (a) reserved in or over an interest in any asset including, but not limited to, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,

by way of security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes, but is not limited to, any agreement to grant or create any of the above.

Environment includes all aspects of the surroundings of human beings.

Environmental Law means any Law concerning the Environment and includes Laws concerning:

- (a) the carrying out of uses, works or development, the erection of a building or the subdivision of land (including the EP&A Act);
- (b) emissions of substances into the atmosphere, waters and land;
- (c) pollution and contamination of the atmosphere, waters and land; and
- (d) production, use, handling, storage, transportation and disposal of:
 - (i) waste;
 - (ii) hazardous substances;
 - (iii) dangerous goods;
 - (iv) threatened, endangered and other flora and fauna species;
 - (v) conservation, heritage and natural resources; and
 - (vi) the health and safety of people,

whether made or in force before or after the Commencement Date.

Environmental Liabilities means any of the following liabilities:

- (a) all Costs associated with undertaking any Clean-up ordered or required by any Public Authority of any land, building or waters;
- (b) any compensation or other monies that a Public Authority requires to be paid to any person under an Environmental Law for any reason;
- (c) any fines or penalties incurred under an Environmental Law;
- (d) all Costs incurred in complying with an Environmental Law; and
- (e) all other claims, demands, suits, proceedings, causes of action, losses (including consequential losses) damages, Costs and interest, payable under an Environmental Law.

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Event of Default [REDACTED]

Executive Director means an employee of the State holding the position of 'executive director'.

Existing Easements mean the easements affecting the Site at the date of this deed.

Existing Infrastructure [REDACTED]

Existing Lease means:

- (a) the Lot 116 Lease; and
- (b) the Lot 13 Lease.

Existing Tenant means a lessee under an Existing Lease.

Extra Land means any land (other than the Land) required by the Developer to undertake the Works.

Final Certificate has the meaning given to that term in clause 19.4(b)(v).

Final Completion means the point in time when the State Works have been completed such that all defects and omissions in the State Works notified during the Defects Liability Period have been rectified.

Final Completion Certificate means in respect of a Works Portion a certificate issued by the Independent Certifier under clauses 21.4 and 32.6 certifying that a Works Portion has reached Final Completion.

Final Design Documentation means the respective Design Documentation for the State Works consented to by the Consent Authority and by the State and for which a Construction Certificate has been issued.

Final Payment has the meaning given to that term in clause 19.4(b)(v).

FIRB Act means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

Fit for Purpose means in respect of the State Works (including any products, materials or other things), that they:

- (a) are fit for their intended purposes, functions and uses as specified in, or reasonably inferred from, the State Works Project Brief, ASA Requirements and TfNSW Requirements;
- (b) will remain fit for their intended purposes, functions and uses in accordance with paragraph (a) for the Design Life, provided the Works are operated and maintained by the State in accordance with the Asset Management Plan; and
- (c) otherwise meet the requirements specified in, or which can be reasonably inferred from, this deed,

provided that in this definition, a reference to inferred 'purposes, functions and uses' are those that can be inferred at the date of this deed.

Fitout Works means the works in relation to the fitout of the Atlassian Premises and the Atlassian Building (including any retail areas) and the non-integrated fitout, partially integrated fitout or specialist works, excluding any work which:

- (a) alters or overloads the structure of the Atlassian Building as outlined in the Approved Design Documentation; or
- (b) alters base building services that impact the State Works (excluding paragraph (d) of that definition),

to be completed under the YHA Development Agreement, the Atlassian AFL or the terms of any retail tenancy (as relevant).

Force Majeure Event means any one of the following events:

- (a) war (undeclared or declared), civil war, civil commotion occurring within Australia;
- (b) a Terrorist Act occurring within Australia;
- (c) earthquakes, substantial fires (not caused by the Developer or the Developer's Employees and Agents), severe tropical cyclone, natural disasters occurring within Australia but excluding weather conditions (other than severe tropical cyclone) regardless of severity and floods,

but only where such events or circumstances:

- (d) are beyond the reasonable control of the affected party;
- (e) where the affected party is the Developer, are such that a competent developer would not have been able to prevent or overcome the effect of such events or circumstances on the performance of the Developer's obligations under this deed if it had exercised the care, skill, diligence, prudence and foresight reasonably or, ordinarily expected of a competent, qualified, skilled and experienced developer developing similar works; and
- (f) are not caused or contributed to in whole or in part by a breach of the affected party (or their associates) of this deed.

Framework Agreement means the agreement entered into between the Crown in right of the State of New South Wales represented by the Department of Premier and Cabinet, the State, Atlassian SPV and Atlassian dated 4 March 2020 (as varied).

Framework Phase means the phase performed under the Framework Agreement.

FRNSW means Fire and Rescue NSW, a NSW Government agency responsible for the provision of fire, rescue and hazmat services in New South Wales in accordance with the *Fire and Rescue NSW Act 1989*, the *State Emergency and Rescue Management Act 1989 (NSW)* and other related legislation.

FRNSW Change means where:

- (a) the Developer cannot satisfy conditions of Development Consent (Project) in relation to FRNSW; or
- (b) FRNSW imposes one or more conditions which is inconsistent with and requires an alteration to the Milestone Design Documents in respect of the Atlassian Building below RL39.

FRNSW Detailed Notice has the meaning given to that term in clause 6.12(b).

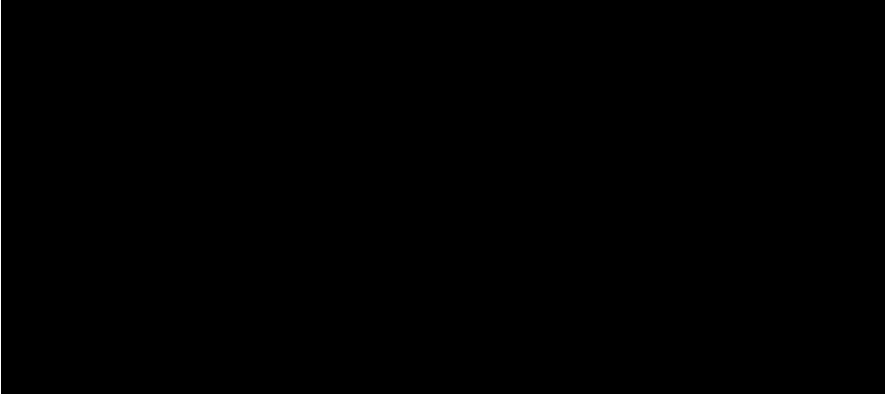
FRNSW Initial Notice has the meaning given to that term in clause 6.12(a).

GBCA means the Green Building Council of Australia or any successor.

GFA or **Gross Floor Area** means the gross floor area as defined in the Standard Instrument (Local Environment Plans) Order 2006.

GIPA Act has the meaning given in clause 51.12(c)(i)(A).

Government Action



Green Star Rating means a 5 Star Green Star Design and As Built Rating.

GST includes amounts defined as "GST" under the GST law and:

- (a) amounts payable on account of a notional liability under Division 177 of the GST Act; and
- (b) "GST equivalents" payments under the *Intergovernmental Agreement Implementation (GST) Act 2000 (NSW)* (or similar payments under corresponding legislation of any State or Territory).

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

GST Amount has the meaning given to that term in clause 49.3.

GST law has the same meaning as in the GST Act.

Guaranteed Obligations means, subject to clause 36, in the case of the Dexus Guarantor 1, all the Developer's obligations under each of the Project Documents to which the State and the Developer are party. This definition applies:

- (a) irrespective of the capacity in which the Developer or the State enter into this deed;
- (b) whether the Developer is liable alone, or jointly, or jointly and severally with another person;
- (c) whether the person entitled to the benefit of a Guaranteed Obligation is the State or an assignee of the Guaranteed Obligations (provided any such assignment is made in accordance with the terms of the Project Documents) and whether or not:
 - (i) the Developer or the Dexus Guarantor consented to or was aware of the assignment; or
 - (ii) the assigned obligation was secured.

Improvements means the improvements and all associated landscaping and public domain to be erected on the Site as part of the Works.

Indemnified Persons means each of the State, TAHE, Sydney Trains, Sydney Metro, NSW Trains, the Crown in right of the State of New South Wales and their respective employees and agents.

Independent Certifier means the person appointed by the State and the Developer to be the Independent Certifier for the purposes of this deed pursuant to clause 15.10.

Independent Certifier's Deed means a deed generally in the form of Schedule 15 and otherwise in a form acceptable to the State (acting reasonably).

Initial Toga Extinguish Easements means each of the following Toga Extinguish Easements:

- (a) right of way variable width burdening the part of Lot 203 designated (N) in Deposited Plan 1062447 (comprised in registered dealing DP1062447);
- (b) easement for parking affecting the part of the leasehold estate in Lot 116 designated (X) in Deposited Plan 1171531 (comprised in registered dealing AG594337); and
- (c) easement for access affecting the part of the leasehold estate in Lot 116 designated (Y) in Deposited Plan 1171531 (comprised in registered dealing AG594337).

Insolvency Event means when:

- (a) one party informs the other party in writing, or its creditors generally, that the party is insolvent or is unable to pay its debts as they fall due;
- (b) execution is levied against a party by a creditor, debenture holders or trustees or under a floating charge;
- (c) the corporation enters or resolves to enter a deed of company arrangement or scheme of arrangement (other than a solvent scheme of arrangement) or composition with creditors;

- (d) an application is made (and is not stayed, dismissed or discontinued within 21 days of the application being made) for, a resolution is passed by the directors for, or an order is made for, the appointment of a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator to be appointed to the corporation;
- (e) a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator is appointed to the corporation and the appointment is not set aside within 21 days of the appointment being made;
- (f) an application is made to a court for the winding up of the corporation and not stayed, dismissed or discontinued within 21 days of the application being made;
- (g) a winding up order is made in respect of the corporation, except for the purpose of an amalgamation, reconstruction, merger or consolidation on terms approved by the State;
- (h) the corporation resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding-up), or a meeting of creditors of a party under administration or a deed of company arrangement resolves that the corporation be wound up;
- (i) a mortgagee of any property of the corporation takes possession of that property; or
- (j) the corporation ceases or threatens to cease the conduct of its business, or disposes or threatens to dispose of its assets,

and “**Insolvent**” will have a comparable meaning.

Insurances means the insurances required to be effected and maintained in connection with the Project under this deed.

Interest Rate

Investor means the entity intending to acquire a long term interest in the Atlassian Building as at Practical Completion of the Development Works.

Investor's Side Deed means a deed in the form of Schedule 13 between the Investor, the State and the Developer.

Land means the land comprising the Site comprised of the following titles as at the date of this deed:

- (a) Lot 116 in Deposited Plan 1078271;
- (b) Lot 117 in Deposited Plan 1078271;
- (c) part of Lot 30 in Deposited Plan 877478;
- (d) part of Lot 13 in Deposited Plan 1062447; and
- (e) Lots 201, 202, 203 and 205 in Deposited Plan 1280430.

Land Transfer Date means the Date for Completion (as defined in the [REDACTED]).

Law means:

- (a) Commonwealth, New South Wales or local government legislation, including ordinances, instruments, requirements, regulations, by-laws and other subordinate legislation;
- (b) principles of law or equity established by decisions of courts;
- (c) Approvals (including any condition or requirement under them); and
- (d) Codes and Standards.

Lee Street Access Ramp has the meaning given to that term in the Toga Agreement.

Liability includes any liability of any kind whether for debt, cost (including legal costs, deductibles or increased premiums), expense, loss, damage, compensation or charge and whether:

- (a) liquidated or not;
- (b) arising from or in connection with any obligation (whether as a principal obligation, a surety or an indemnity);
- (c) legal or equitable, and whether arising under or for breach of contract, in tort (including negligence), restitution or at Law;
- (d) present, prospective or contingent; or
- (e) owed, incurred or imposed by or to or on account of or for the account of any person alone or severally or jointly with another or others.

Liquidated Damages Cap [REDACTED]

Loss means:

- (a) any cost, expense, loss, damage, liability or other amount; and
- (b) without being limited by paragraph (a) and only to the extent not prohibited by law, any fine or penalty,

whether direct, indirect, consequential, present, future, fixed, unascertained, actual or contingent and, for the avoidance of doubt, includes Consequential or Indirect Loss.

Lot 13 Lease means the registered lease AA651831 between the State and Toga in relation to Lot 13 in DP 1062447.

Lot 13A or **Lot 199** means the area shown as such on the site access plan contained in Schedule 5.

Lot 13B or **Lot 198** means that part of Lot 13 in Deposited Plan 1062447 that is not Lot 13A.

Lot 116 Lease means the registered lease AD96764 between the State and YHA dated 16 July 2004 in relation to Lot 116 in DP 1078271.

Lot 2 means that part of the Land shown indicatively as 'Lot 2' on the plan accompanying the Subdivision Strategy, intended to be acquired by the Atlassian SPV from the State upon the Land Transfer Date.

Lot 201 means all of the land in Lot 201 in Deposited Plan 1280430.

LRS means NSW Land Registry Services.

Material Adverse Effect means as the context permits a material adverse effect on:

- (a) the ability of the Developer or the Dexus Guarantor to comply with its material obligations under any Project Document;
- (b) the State's rights under any Project Document; or
- (c) the business or financial condition of the Developer or the Dexus Guarantor.

Material Deterioration means, between the date of the deed and the date on which the Developer intends to have a Building Contract executed by a Pre-Approved Builder, any of the following circumstances has arisen (in the opinion of the State, acting reasonably):

- (a) a material deterioration has occurred in the Pre-Approved Builder's solvency and financial capacity to design and construct the part of the Works which is subject to the proposed Building Contract;
- (b) a material deterioration has occurred in the Pre-Approved Builder's technical capacity and relevant experience in designing and constructing the part of the Works which is subject to the proposed Building Contract; and
- (c) a significant reputational or probity issue has arisen in relation to the Pre-Approved Builder.

Material Provision means the following provisions:

- (a) in relation to this deed:
 - (i) clauses 51.24(b) and Schedule 6(c) of Schedule 6 in relation to the Ambulance Avenue Area (terms of Developer access to the Site);
 - (ii) clause 28.1 (Compliance with Laws);
 - (iii) clause 29 (Insurance);
 - (iv) clause 30 (Work place health and safety);
 - (v) clause 33 (Security); and
 - (vi) clause 36.1 (Prohibition on dealings); and
- (b) in relation to the Toga Agreement:
 - (i) clause 6.5 of the Toga Agreement; and
 - (ii) the Developer's obligation to do all things reasonably necessary to assist in the extinguishment of the Initial Toga Extinguish

Easements in accordance with clause 9.4(a) of the Toga Agreement.

Milestone Date means each of the following:

- (a) in relation to Commence Construction, the Date for Construction Commencement;
- (b) in relation to Practical Completion of the State Works, the Date for Practical Completion of the State Works; and
- (c) in relation to Practical Completion of the Development Works, the Date for Practical Completion of the Development Works.

Milestone Design Documents means:

- (a) Milestone Design Documents (Development Works); and
- (b) Milestone Design Documents (State Works).

Milestone Design Documents (Development Works) means the design for the Development Works prepared and approved under the Framework Agreement as at the date of this deed, which is set out in Schedule 25.

Milestone Design Documents (State Works) means the design for the State Works prepared and approved under the Framework Agreement as at the date of this deed, which is set out in Schedule 26.

Milestones means each of the following:

- (a) Commence Construction;
- (b) Practical Completion of the State Works; and
- (c) Practical Completion of the Development Works.

Minimum Building Requirements means Schedule 6 of the Framework Agreement, as updated and contained in Schedule 1 for the Development Works.

Moral Rights means any moral rights including the rights described in Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under any applicable Law (including the *Copyright Act 1968* (Cth) or any Law outside Australia), that exists or may come to exist anywhere in the world.

NABERS means National Australian Built Environment Rating System.

NABERS Rating means 5 Star Base Building NABERS Energy rating for offices, excluding the YHA Accommodation.

Native Title Claim means any claim or application for a determination of native title under the *Native Title Act 1993* (Cth) or any similar law.

Network Rules means the rules, systems and procedures relating to railway operations established or adopted by a Rail Infrastructure Manager to ensure the safety of the Rail Infrastructure Manager's railway operations for the purposes of section 52(3)(c) and 52(4)(c) (*Duties of rail transport operators*) of the Rail Safety National Law which are available at <https://railsafe.org.au/> or as otherwise advised by the Rail Infrastructure Manager.

Net Financial Impact means, for the purposes of clause 28.5(d)(ii)(C) and 28.5(d)(ii)(D):

- (a) the additional Costs incurred by the Developer in carrying out the Works in accordance with this deed, less;
- (b) any savings in Costs achieved by the Developer in carrying the Works in accordance with this deed,

in each case, as a result of the relevant Discriminatory Change in Law.

No Objection Statement means a notice given by the State under clauses 6.4(a)(iii) or 6.6(a)(iii).

Non-Compliance Notice means a notice given by the State under clauses 6.4(a)(iv) or 6.6(a)(iv).

Non-Integrated Fitout Works means any Fitout Works being performed by Atlassian or its employees, officers, agents, contractors, subcontractors or consultants.

NSW Code means the New South Wales Government Code of Practice for Procurement (January 2005), or any substitute for, or update to, such code as contemplated in the NSW Guidelines.

NSW Government means the government of New South Wales.

NSW Guidelines means the New South Wales Industrial relations Guidelines: Building and Construction procurement (as published by the NSW Treasury July 2013 and updated September 2017).

NSW Trains means the entity by that name constituted by Part 3C of the *Transport Administration Act 1988* (NSW).

Occupation Certificate means an interim or final occupation certificate to be issued under Part 6.4 of the EP&A Act to enable the occupation or use of a Works Portion in accordance with the EP&A Act, and which is to issue on Practical Completion of a Works Portion (if relevant), but excludes any further or additional occupation certificate which may be issued in connection with any further development within a Works Portion after a final occupation certificate has been issued in relation to a Works Portion.

ONRSR means the Office of the National Rail Safety Regulator. .

Other Contractor means any contractor, consultant, artist, tradesperson or other person engaged to do work other than the Developer and its subcontractors.

Other Dispute has the meaning given in clause 38.22(a)(ii).

Outgoings means all amounts and Costs assessed, incurred or levied on the Developer Controlled State Land in accordance with all applicable Laws, including:

- (a) Rates, Taxes and other charges imposed by any Public Authority;
- (b) costs imposed by a Public Authority for installing, connecting, supplying, renting, operating, maintaining, servicing, repairing and replacing Services used by the Developer or the Developer's Employees and Agents in connection with the Project, and upgrading those Services to comply with any Law;

- (c) any amounts payable under Precinct Management Agreement which are attributable to the Site; and
- (d) except where captured in paragraphs (a), (b) or (c), any amounts and Costs in relation to the Site which, if the provisions of the Lot 116 Lease were applied to the entire Site, would be payable by the tenant under the covenants of the Lot 116 Lease.

Paid Party has the meaning given in clause 48.3.

Parent of a person means the person directly or indirectly exercising the decision making power of the first mentioned person including:

- (a) if the first mentioned person is a corporation, a person who:
 - (i) controls the composition of at least half of the board of directors of the first mentioned person; or
 - (ii) is in a position to cast, or control the casting of, at least one half of the maximum number of votes that might be cast at a general meeting of the first mentioned person; or
 - (iii) holds or has a beneficial interest in at least one-half of the issued share capital of the first mentioned person (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (b) if the first mentioned person is a trustee of a unit trust and, in the case of the Developer, its interest in this deed is property subject to that trust, a person who:
 - (i) controls the right to appoint the trustee;
 - (ii) is in a position to cast, or control the casting of, at least one half of the maximum number of votes that might be cast at a meeting of holders of units; or
 - (iii) holds or has a beneficial interest in at least one half of the issued units of that trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (c) if the first mentioned person is a trustee of a trust and, in the case of the Developer, its interest in this deed is property subject to that trust, a person who:
 - (i) is a beneficiary of that trust entitled directly or indirectly to at least one half of the corpus or profits of the trust; or
 - (ii) whose consent is required to:
 - (A) appoint or change the trustee; or
 - (B) give directions to the trustee; or
 - (C) vary the constituent document of the trust; or
 - (D) appoint or remove beneficiaries; or

- (E) decide to whom any distribution is made or the amount of any distribution.

A person is also a Parent of another person if a part of this definition is satisfied in respect of each trust and company in any chain of trusts or companies connecting that person and the other person.

Part 6.4 Certificate means a certificate referred to in part 6.4(a), (c), (d) or (e) of the EP&A Act.

Paying Party has the meaning given in clause 48.3.

Payment Instalment 1 [REDACTED]

Payment Instalment 2 [REDACTED]

Payment Schedule has the meaning given to that term in clause 19.3(c)(iii).

PCG Report has the meaning given to that term in clause 17.2(a).

Pedestrian Through Site Link means the pedestrian concourse (upper and lower levels) forming part of the State Works.

Period for Review has the meaning given to that term in clause 17.6(c)(ii).

Personal Information means information or an opinion (including information or an opinion forming part of a database) collected, held, used or disclosed in connection with this deed or the Project whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Plans mean the plans set out in Schedule 11.

Possession Protection Officer (PPO) means the qualified worker responsible for coordinating protection of worksites under a 'Local Possession Authority' (LPA). See also Protection Officer.

Potential Developer Unacceptable Condition has the meaning given to that term in clause 4.2(a)(iv).

Practical Completion means the point of time at which, in relation to a Works Portion (other than for the Day 2 Works and the Vehicular Link Final Integration Works):

- (a) that every item shown or called for in the Final Design Documentation relevant to that Works Portion has been completed or installed in accordance with:
 - (i) the Works Documents; and
 - (ii) the obligations of the Developer under this deed;except for minor omissions and minor defects:
 - (iii) which do not prevent the Works Portion from being reasonably capable of being used for its stated purpose;

- (iv) which the Independent Certifier determines the Developer has reasonable grounds for not promptly rectifying; and
 - (v) rectification of which will not prejudice the use of the Works Portion;
- (b) the Developer has delivered to the State:
- (i) the "Approved for Construction" Design Documentation for the State Works comprised in the Works Portion;
 - (ii) all maintenance manuals and documents which are essential for the use, operation, occupation and maintenance of the State Works;
- (c) all compliance reports required to be delivered to the relevant Consent Authority for the issue of certificates referred to in paragraphs (d), (e) and (f) in this definition relevant to that Works Portion have been delivered to the relevant Consent Authority;
- (d) (if relevant) a Compliance Certificate for that Works Portion has been issued;
- (e) the works the subject of the Works Portion are fit for use and occupation and capable of being lawfully used and occupied for their intended purpose with the consent of all relevant Public Authorities, and an Occupation Certificate for that Works Portion has been issued;
- (f) (if relevant) a Complying Development Certificate for that Works Portion has been issued;
- (g) (if relevant) all ASA assurance reports prepared and certified by an AEO where the work, the subject of a Works Portion impact a Transport Asset;
- (h) the Subdivision Documents relevant for that Works Portion have been registered at LRS;
- (i) the Developer has carried out and completed any reinstatement and rectification of the Land, any public domain and any infrastructure required as a result of carrying out that Works Portion; and
- (j) the Atlassian Security is delivered by the Developer to the State where the Works Portion is the last Works Portion to achieve Practical Completion,

however, completion of the Day 2 Works or the Vehicular Link Final Integration Works shall not be considered when determining whether or not Practical Completion of any Works Portion has been achieved.

Pre-Approved Builder means a Builder approved by the State pursuant to the Framework Agreement and includes an unincorporated joint venture of Built Pty Limited (ACN 083 928 045) and Obayashi Corporation (ARBN 002 932 756/ABN 86 002 932 756).

Precinct means Lots 12, 13, 14 and 15 in Deposited Plan 1062447, Lots 116, 117 and 118 in Deposited Plan 1078271 and Lot 30 in Deposited Plan 877478.

Precinct Lease means:

- (a) the registered lease AA651830 between the State and Dexus CPA Pty Limited (ABN 90 160 685 156) in relation to Lot 12 in DP 1062447;
- (b) Lot 13 Lease;
- (c) the registered lease AA651832 between the State and Henry Deane Building Nominees Pty Limited (ABN 31 081 941 951) in relation to Lot 14 in DP 1062447;
- (d) the registered lease AA651833 between the State and Gateway Building Nominees Pty Limited (ABN 67 081 951 822) in relation to Lot 15 in DP 1062447;
- (e) Lot 116 Lease; and
- (f) the registered lease 7209347T between the State and Toga in relation to Lot 30 in DP 1062447.

Precinct Management Agreement means the document titled "Central 2000 Western Gateway Precinct Management Agreement" between the State Rail Authority of New South Wales, Toga Pty Limited, Perpetual Nominees Limited, Henry Deane Building Nominees Pty Limited, Gateway Building Nominees Pty Limited and CFS Managed Property Limited dated 7 June 2004, as amended from time to time.

Privacy Laws means:

- (a) the *Privacy Act 1988* (Cth); and
- (b) any other Law, industry code or policy relating to the handling of Personal Information.

Privacy Statement means a statement containing matters about the Developer's information-handling practices as required by the National Privacy Principle 1 in the *Privacy Act 1988* (Cth).

Procedures means procedures issued for the safe conduct of work on the network. To be read in conjunction with the Network Rules.

Progress Payment has the meaning given to that term in clause 19.3(c)(iii).

Prohibited Entity means any person or entity which:

- (a) is a "terrorist organisation" as defined in Part 5.3 of the *Criminal Code Act 1995* (Cth);
- (b) is listed by the Minister for Foreign Affairs in the Government Gazette pursuant to Part 4 of the Charter of the United Nations Act 1945 which list as at the date of this deed is available from the website of the Australian Department of Foreign Affairs and Trade; or
- (c) is listed on any other list of terrorist or terrorist organisations maintained pursuant to the rules and regulations of the Australian Department of Foreign Affairs and Trade or pursuant to any other Australian legislation.

Project means the:

- (a) design, finance, development and delivery of the Development Works to be constructed on or under the Site; and
- (b) design, finance, development and delivery of the State Works to be constructed on or under the Site.

Project Control Group or **PCG** is the group established in accordance with clause 17.1(a).

Project Data Collaboration System or **PDCS** means the web based project data and collaboration system to be provided by the State and used by the parties for submission of Design Documentation and Applications in accordance with this deed.

Project Documents means:

- (a) this deed;
- (b) any Builder's Side Deed;
- (c) any Investor's Side Deed;
- (d) any Independent Certifier's Deed; and
- (e) any document which the State and the Developer acknowledge in writing to be a Project Document.

Project Objectives means the State's objectives and the Developer's objectives set out in clause 2.1.

Proposal Estimate has the meaning given to that term in clause 19.2(c).

Protection Officer means the qualified worker responsible for managing the rail safety component of worksite protection.

Public Authority means a statutory owned corporation, government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body including a joint regional planning panel, and, where applicable, an accredited certifier accredited under part 6.1 of the EP&A Act.

Public Authority Levies means all Costs, levies, contributions and fees of whatever description in cash or kind lawfully imposed by any Public Authority in connection with the Site or the Project.

Public Positive Covenant (Day 2 Works) means a public positive covenant on the terms set out in Schedule 28, duly completed as necessary.

Public Positive Covenant (O&M) means a public positive covenant on the terms set out in Schedule 37, duly completed as necessary.

Qualifying Application means:

- (a) in relation to the Development Works any Application which:
 - (i) requires freehold owner consent from the State;
 - (ii) would cause the Development Works not to comply with:

- (A) Minimum Building Requirements;
- (B) TfNSW Requirements;
- (C) the most recent Approved Design Documents (Reviewable Development Works);
- (iii) impacts on the design, construction, operation, maintenance or occupation of the State Works; or
- (iv) may impact on:
 - (A) TfNSW Assets (other than the Atlassian Building);
 - (B) the operation and maintenance of Central Station;
 - (C) the operation and maintenance of rail infrastructure; or
 - (D) the safety of and amenity for customers, road users, pedestrians and staff in and around Central Station;
- (b) in relation to the State Works, any Application in relation to the State Works of any kind unless otherwise agreed;
- (c) in relation to the Fitout Works, any Development Application or Application for a Complying Development Certificate in relation to the Fitout Works.

Rail Assets means all things in paragraph (a) of the definition of 'Rail Infrastructure Facilities' in the *Transport Administration Act 1988* (NSW).

Rail Corridor means land:

- (a) that is owned, leased, managed or controlled by a public authority for the purpose of a railway or rail infrastructure facilities; or
- (b) that is zoned under an environmental planning instrument predominantly or solely for development for the purpose of a railway or rail infrastructure facilities; or
- (c) in respect of which the Minister has granted approval under Part 3A or Division 5.2 or (before its repeal) Division 4 of Part 5 of the Infrastructure SEPP (2007) ("Act"), or consent under Part 4 of the Act, for the carrying out of development (or for a concept plan for a project comprising or including development) for the purpose of a railway or rail infrastructure facilities.

Rail Corridor Interface Activities has the meaning given to that term in Schedule 36.

Railway has the meaning given to that term in the Rail Safety National Law.

Rail Requirements means the requirements set out in Schedule 36.

Rail Infrastructure Manager (RIM) has the meaning given to that term in the Rail Safety National Law.

Rail Safety National Law means the *Rail Safety National Law 2012 No. 82a* (NSW).

Rail Safety Interface Agreement means the agreement titled 'Rail Safety Interface Agreement' to be entered into between the State and Sydney Trains which governs the safety arrangements between the parties on or about the date of this deed in relation to the Project.

Rail Safety Requirements means the requirements under the Rail Safety National Law.

Rail Transport Agency means Transport for NSW (and each of its divisions, including the Customer Journey Planning (**CJP**), Traffic Control (**TCS**), ASA, TAHE, Sydney Metro, Sydney Trains and NSW Trains).

Ramp Reinstatement Works means those works required to be undertaken by the Developer in order to cause the Atlassian SPV to comply with clause 12.3(b)(1) of the Toga Agreement.

Rates means rates, land taxes, assessments and other charges (excluding any separate charges for consumption and garbage and waste removal required in relation to the Project) imposed by a Public Authority, in respect of the Land together with any interest, fines and penalties in connection with them.

Recipient has the meaning given to that term in clause 49.3.

Recipient Supply has the meaning given to that term in clause 49.5.

Reconfiguration Area means the indicative area set out in Schedule 27, noting that:

- (a) the Reconfiguration Area is not finalised, and the agreed area will be developed:
 - (i) in good faith and collaboratively by the Developer and the State as the Project progresses;
 - (ii) taking into consideration the Reconfiguration Works and the area required for those works;
 - (iii) taking into consideration the area required to safely complete the Reconfiguration Works; and
- (b) the Developer will seek to minimise the area required so as to avoid impact to adjacent areas and Adjoining Land.

Reconfiguration Area Licence means the licence defined under clause 16.3(f).

Reconfiguration Works means all works to be undertaken by the Developer after completion of the Reconfiguration Works (State) to allow the use of the Compound Area for the purposes of the Developer's requirements, including but not limited to the relocation of existing services that have not been encountered under any Reconfiguration Works (State), re-establishment of the Site compound, relocation of the turntable, plant and machinery.

Reconfiguration Works (State) means works to be undertaken by the Developer within the hashed area of the Reconfiguration Area which as at the date of this deed are:

- (a) demolition of the Western Forecourt Heritage Wall, including the potential retaining structure works and any associated and ancillary works excluding any in ground infrastructure;

- (b) earthworks only associated with removing earth to allow the existing levels to be lowered to the dominant level of the existing Ambulance Avenue level, to allow the Compound Area to be occupied; and
- (c) earthworks only associated with the works required to allow the Reconfiguration Area to be safely occupied by the Developer (under their Compound Area Licence) and the State for their future Central Walk West Works,

or as further agreed under clause 16.3(l) (if applicable), but excluding the Reconfiguration Works.

Related Entity of a corporation means:

- (a) a related body corporate of that corporation within the meaning of section 50 of the Corporations Act; and
- (b) a unit trust in relation to which that corporation directly or indirectly:
 - (i) controls the right to appoint the trustee;
 - (ii) is in a position to control the casting of, more than one half of the maximum number of votes that might be cast at a meeting of holders of units in the trust; or
 - (iii) holds or is in a position to control the disposal of more than one half of the issued units of the trust (excluding any of the issued units that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

Relic means:

- (a) minerals of commercial value;
- (b) fossils;
- (c) relics, articles or objects of antiquity or of anthropological or archaeological interest;
- (d) coins and other articles of value;
- (e) historical archaeological sites; and
- (f) Aboriginal archaeological relics.

Remediate includes the investigation removal, abatement, disposal of, containment, encapsulation or other treatment of Contamination and includes the monitoring and risk management of Contamination.

Remedy means, in respect of a Trigger Event, to remedy or cure the Trigger Event or otherwise overcome the consequences of the Trigger Event.

Replacement Builder has the meaning given to it in clause 15.5(c)

Resolution Institute means the Resolution Institute (ABN 69 008 651 232) (being formerly known as Lawyers Engaged in Alternative Dispute Resolution and the Institute of Arbitrators and Mediators Australia) or, if no such organisation exists, then the President of the Law Society of New South Wales.

Safety Protocols means 'Safety Protocols' as provided by Railsafe and ONRSR.

Security [REDACTED]

Security Interest means any bill of sale (as defined in any statute), mortgage, charge, lien, pledge, hypothecation, title retention arrangement, trust or power as or in effect as security for the payment of a monetary obligation or the observance of any other obligation.

Separable Portion means a separable portion as defined in clause 1.9.

Services means power, electricity, gas, water, sewerage and telecommunications, including all pipes, wires, cables, ducts and other conduits and supporting infrastructure in connection with them (and includes Third Party Services).

Shared Digital Engineering Principles means the Central Precinct Renewal Program's Shared Digital Engineering Principles as set out in Schedule 24.

Site means that part of the Land described in Schedule 5 made available pursuant to clause 16 for the purposes of conducting the Works.

Site Conditions means any condition affecting or potentially affecting the Land including, without limitation:

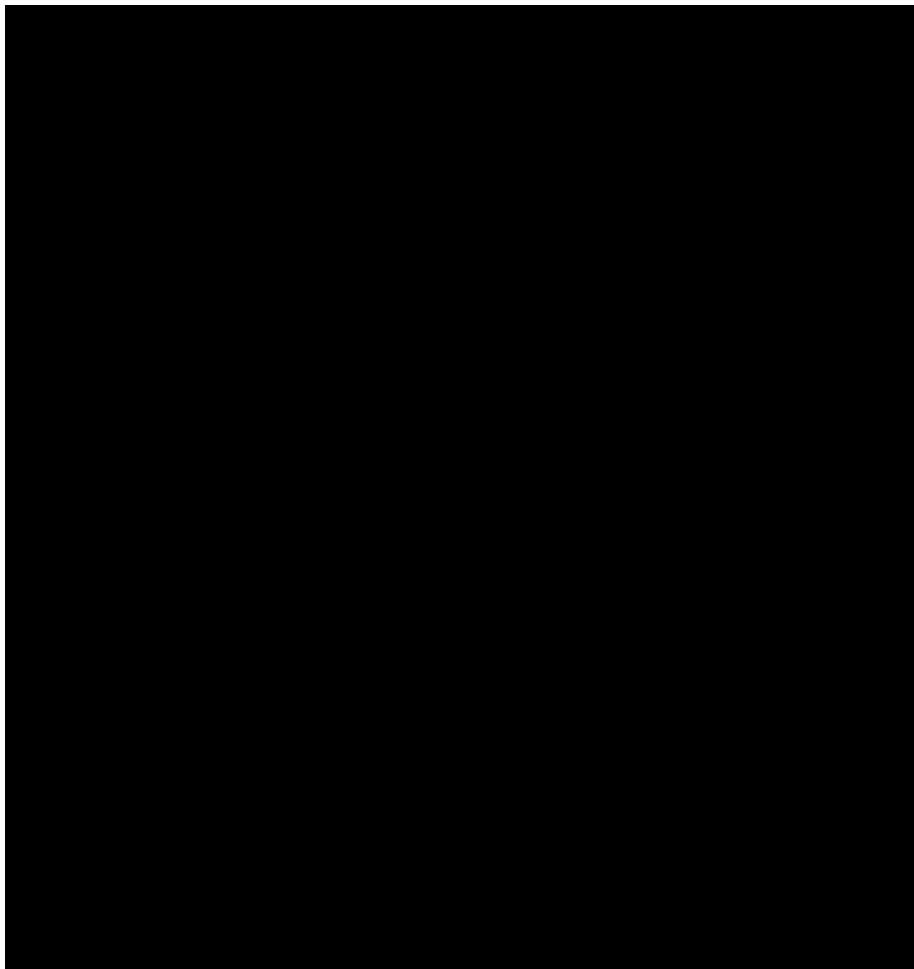
- (a) ground water, ground water hydrology and the effects of any de-watering;
- (b) physical conditions on above or below the surface of the land;
- (c) demography of land surface and sub-surface conditions and geology including rock or other materials encountered on land;
- (d) climatic and weather conditions, rain surface water run-off and drainage, water seepage, wind, wind-blown dust and sand in seasons;
- (e) all existing systems and Services above or below the surface of the land and the location of all facilities with which such systems and Services are connected; and
- (f) all other physical conditions and characteristics of land on, above, adjacent or below the surface (including improvements) which may affect the performance by the Developer of its obligations under this deed, relating to the Land and also the availability and condition of roads and all utility Services servicing or required to the Land and the Project.

Site Establishment means site establishment on the Land including installation of site amenities, connection of temporary services and erection of hoardings.

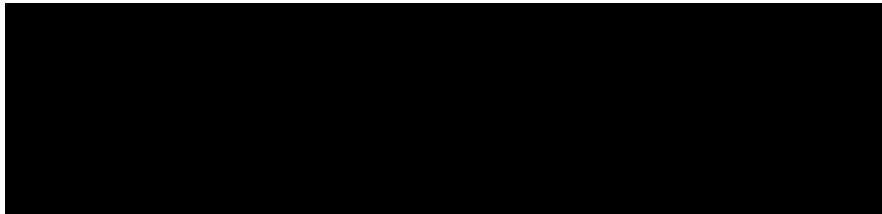
State Initiated Variation means a Variation requested by the State pursuant to clause 19.2.

State Reimbursement has the meaning given to that term in clause 5.6(a).

State Rejection Right [REDACTED]



State Unacceptable Condition [redacted]



State Works means the Works Portions or any parts of the Works Portions carried out by the Developer:

- (a) which provide:
 - (i) upper and lower ground pedestrian links through the Site;
 - (ii) public domain areas in or around the upper carriage ways and within the pedestrian links through the Site;
 - (iii) vehicle access ramps to the relevant areas of the Site and Adjoining Land;
 - (iv) Services to enable the operation, maintenance and occupation of the Works Portion; and

- (v) fixtures fittings, finishes, furniture and landscaping in relation to the Works Portion; or
- (b) which comprise, to the extent the Day 2 Works are carried out by the Developer under clause 16A, the Day 2 Works,

and which are otherwise:

- (c) described in the State Works Project Brief;
- (d) agreed by the State and the Developer to be State Works, or are otherwise taken to be State Works for the purposes of this deed;
- (e) ancillary to those Works; or
- (f) varied in accordance with clause 19.2,

as further defined in the Milestone Design Documents (State Works).

State Works Completion Plan has the meaning given in clause 19.10(d).

State Works Construction Cost [REDACTED]

State Works Cost Cap [REDACTED]

State Works Cost Contribution [REDACTED]

State Works Minimum Requirements means the minimum requirements set out in Schedule 2.

State Works O&M Services means the anticipated services as set out in Schedule 33.

State Works Project Brief means the project brief attached at Schedule 20.

State's Employees and Agents means each of the State's employees, officers, agents, contractors, service suppliers, licensees, invitees and representatives (other than the Developer and the Developer's Employees and Agents).

Subdivision means, registration of one or more:

- (a) plans of subdivision as defined in section 195 of the *Conveyancing Act 1919* (NSW); or
- (b) strata plans, strata plans of consolidation or strata plans of subdivision within the meaning of the *Strata Schemes (Leasehold Development) Act 1986* (NSW).

Subdivision Documents means:

- (a) any plans and documents which would have the effect of:

- (i) Subdividing any part of the Land (excluding Lot 201 and Lot 30 in DP877478), including any plans of subdivision (as defined in section 195 of the Conveyancing Act 1919 (NSW)); or
- (ii) creating or amending easements, covenants or restrictions under the Conveyancing Act 1919 (NSW);
- (b) any building management statement pursuant to section 196D of the Conveyancing Act 1919 (NSW);
- (c) any other land titles dealings (including requests) of a type registrable at LRS; and
- (d) any drafts of the documents referred to in paragraphs (a), (b) or (c) above, including the draft plan of subdivision in Part B of Schedule 23.

Subdivision Strategy means the subdivision strategy in Part A of Schedule 23.

Sunset Date (Commencement) [REDACTED]

Sunset Date (Completion) – Development Works [REDACTED]

Sunset Date (Completion) – State Works [REDACTED]

Supplier has the meaning given to that term in clause 49.3.

Surrender Date means the date of surrender of an Existing Lease.

Surveyor means a surveyor who is a member of the Association of Consulting Surveyors NSW Inc. having at least 5 years' experience in surveying premises of the same type as the Land approved by the State (such approval not to be unreasonably withheld).

Sustainability Benchmarks means the Green Star Rating and the NABERS Rating.

Sustainability Review Date means:

- (a) in respect of the Green Start Rating, 12 months after the Date of Practical Completion of the Development Works; and
- (b) in respect of the NABERS Rating, 24 months after the Occupancy Test has been achieved. For the purpose of this definition, the '**Occupancy Test**' means that the commercial area of the Atlassian Building has achieved 75% occupancy.

Sydney Innovation and Technology Precinct means the Sydney Innovation and Technology Precinct as shown in the plan in Schedule 21.

Sydney Metro means a corporation established by section 3D of the TAA.

Sydney Trains means Sydney Trains constituted under section 36 of the TAA.

TAA means the *Transport Administration Act 1988* (NSW).

TAHE means Transport Asset Holding Company of New South Wales (ABN 59 325 778 353) constituted under section 4 of the TAA.

TAHE Deed Poll means the deed poll set out in Schedule 18.

Taxes means taxes, levies, imposts, deductions, charges and duties (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the State other relevant Public Authority.

Tech Precinct Cooperation Agreement means the agreement entitled "Tech Precinct Cooperation Agreement" between DPC, the State and Atlassian dated 4 March 2020.

Tenancy means any lease, licence or right of occupation or use (including any covenant or contractual right for use).

Terrorist Act means has the meaning given to that term in section 3 of the *Terrorism Insurance Act 2003* (Cth) as at the date of this deed.

TfNSW means Transport for NSW.

TfNSW Assets means any assets of a Rail Transport Agency.

TfNSW Contractor means any relevant Rail Transport Agency or any contractor, consultant or other person engaged by the State, other than the Developer and the Builder.

TfNSW Contractor Works means the investigative works to be undertaken by the TfNSW Contractor in relation to the Central Precinct Renewal Program.

TfNSW Requirements means the State's requirements in Schedule 22.

Threatened Species Claim means a claim made or legal proceedings commenced in connection with the existence of a threatened species, population or ecological community or the habitat of a threatened species, population or ecological community as regulated by the *Threatened Species Conservation Act 1995* (NSW), the *National Parks and Wildlife Act 1974* (NSW) or the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Third Party has the meaning given to it in clause 20.1(a)(ii).

Third Party Appeal means legal proceedings which have been commenced in the Appeal Period by a person other than the State or the Developer in relation to the granting of an Approval.

Third Party Services means electricity, gas or water mains, telephone cabling, signalling cables, drainage, sewerage and other communications infrastructure or equipment installed, operated or owned by the State, other Public Authorities or a third party.

Toga means Toga Pty Limited (ABN 27 000 926 947).

Toga Agreement means the agreement between Atlassian SPV, Toga and Atlassian dated 9 February 2021 as amended by deed of variation dated 29 April 2022.

Toga Develop Scenario has the meaning given in the Toga Agreement as at the date of this deed.

Toga Extinguish Easements means each of the "Extinguish Easements" set out in Part A of Schedule 9 of the Toga Agreement as at the date of this deed.

Toga Land means Lot 13B and Lot 30 in Deposited Plan 877478.

Toga No Develop Scenario has the meaning given in the Toga Agreement as at the date of this deed.

Toga Payment 

Track Possession means any prescribed period that the State notifies the Developer that the Developer may have temporary access to a defined portion of the Railway Corridor for the purposes of carrying out the Works.

Track Possession Schedule means the schedule of Track Possessions as published from time to time by Sydney Trains. A copy of the Track Possession Schedule current as at the date of this deed is attached at Schedule 38. The Track Possession Schedule contained in Schedule 38 is subject to change at the discretion of Sydney Trains.

Transport Asset has the meaning assigned to it in the ASA Charter.

Treasurer means the Treasurer of the Commonwealth of Australia.

A Trigger Event 



Trigger Notice means a notice given by the State under clause 39.1.

Unacceptable Condition means Developer Unacceptable Condition or State Unacceptable Condition, as applicable.

Unobstructed Interior Width means the area between the eastern and western boundary line of the relevant level of the State Works is free from all obstacles and impediments to a pedestrian's movement (either permanent or temporary), including but not limited to columns, stairs, services, vertical transportation, retail trading out areas, awnings, street furniture, outdoor seating and signage.

Variation means any of the following:

- (a) an increase, decrease, deletion or omission, or other change to any part of the State Works or the Development Works;
- (b) the carrying out of additional works;
- (c) the demolition or removal of material or work no longer required,

provided that:

- (d) the Fitout Works or changes to the Fitout Works; and
- (e) design development of the State Works or the Development Works,

do not constitute a Variation.

Variation Costs has the meaning given in clause 19.2(f)(ii).

Variation Order means a Variation approved by the State in accordance with clause 19.2(e)(i).

Variation Proposal has the meaning given in clause 19.2(d).

Vehicular Link Final Integration Works means each of the Basement Breakthrough Works (Atlassian) (as defined in the Dexus Agreement) and the further basement integration works the subject of clauses 5.5(c) and 5.5(d) of the Dexus Agreement.

VFT Lots means Lots 2, 3 and 4 described in the Subdivision Strategy.

Western Forecourt Heritage Wall means the area indicatively hashed in Schedule 27.

WHS Act means the *Work Health and Safety Act 2011* (NSW).

WHS Regulation means the *Work Health and Safety Regulation 2017* (NSW).

Works means the State Works, the Development Works and subject to clause 15.9, the Fitout Works, and all other work required to be performed or carried out to complete the Project.

Works Documents means:

- (a) the Approvals; and
- (b) the Final Design Documentation.

Works Portion means the following portions of the Works:

- (a) State Works;

- (b) Development Works; and
- (c) subject to clause 15.9, Fitout Works.

Works Portion Commencement Date means in respect of a Works Portion the date the Developer commences the carrying out that part of the Works the subject of that Works Portion.

YHA means YHA Limited (ABN 94 008 387 791).

YHA Accommodation means the accommodation to be developed within the Atlassian Building in accordance with the YHA Development Agreement.

YHA Development Agreement means the agreement of that name entered into between YHA and the Developer dated on or about the date of this deed.

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this deed to:

- (a) a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (b) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
- (c) an agreement, representation or warranty by 2 or more persons binds them jointly and severally and each of them individually;
- (d) anything (including an amount) is a reference to the whole and each part of it;
- (e) 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 it;
- (f) a document (including this deed) includes any variation or replacement of it;
- (g) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them) and includes any notice issued by, and any requirements of, a Public Authority;
- (h) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (i) dollars or \$ is a reference to Australian currency;
- (j) a time of day is a reference to Sydney time;
- (k) the word "person" includes an individual, a firm, a body corporate, an unincorporated association and an authority;

- (l) a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (m) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (n) the obligations of the State under and in connection with this deed are limited to those expressly stipulated in this deed; and
- (o) unless the context otherwise requires, defined terms will extend to all parts of speech which are derivative from that term.

1.3 Number

The singular includes the plural and vice versa.

1.4 Headings

Headings are for convenience only and do not affect the interpretation of this deed.

1.5 Developer's Employees and Agents

If this deed prohibits the Developer from doing a thing, then:

- (a) the Developer must do everything necessary to ensure that the Developer's Employees and Agents do not do that thing; and
- (b) the Developer may not authorise or cause any person to do that thing.

1.6 Ambiguity and inconsistency

If there is any ambiguity or inconsistency between any of the documents comprising the Project Documents, that ambiguity or inconsistency will be resolved by interpreting the Project Documents, in the same order of priority that they are referred to in the definition of the 'Project Documents' in clause 1.1.

1.7 Authorities

- (a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of:
 - (i) the State, a state owned corporation or any other Rail Transport Agency to exercise any of their respective functions and powers pursuant to any legislation; or
 - (ii) the ASA to exercise any of its functions and powers pursuant to the ASA Charter, including any functions or powers required to be exercised by the State, a state owned corporation or any Rail Transport Agency pursuant to the Configuration Management Framework.
- (b) Without limiting clause 1.7(a), anything the State, a state owned corporation, any other Rail Transport Agency or ASA does, or fails to do or purports to do, pursuant to their respective functions and powers either as an AEO or under any legislation or the ASA Charter, will be deemed not to be an act or omission by the State under this deed.
- (c) The Developer:

- (i) waives any Claims that it may have against the State as a result of the exercise by the State, a state owned corporation, any Rail Transport Agency or the ASA of their respective functions and powers either as an AEO or under any legislation, the ASA Charter or the Configuration Management Framework;
- (ii) acknowledges and agrees that:
 - (A) there are many Public Authorities with jurisdiction over aspects of the Works, parts of the Site, Land and other areas affecting and affected by the Works;
 - (B) such Public Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the Works (including, the exercise by persons (including individuals) acting on behalf of such Public Authorities of powers and functions including as necessary for such Public Authorities to comply with their statutory functions and powers); and
 - (C) subject to the Developer's express entitlements under this deed, it bears the full risk of all occurrences of the kind referred to in clause 1.7(c)(ii)(B) and will not be entitled to make, any Claim against the State arising out of or in any way in connection with such occurrences or any action it is required to take arising out of such occurrences.
- (d) Clauses 1.7(a), 1.7(b) and 1.7(c)(i) do not limit any liability which the State would have had to the Developer under this deed as a result of a breach by the State of a term of this deed but for the operation of those clauses.
- (e) Nothing in this deed will restrict, or require the exercise of, any right of the State, directly or through any Public Authority, to develop, manage or change New South Wales' transport network or assets or make policy decisions in relation to the development and implementation of transport planning in New South Wales as it sees fit.

1.8 Transfer of functions

- (a) The Developer acknowledges that:
 - (i) the State may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, liabilities or responsibilities of the State may be transferred to or vested in another entity;
 - (ii) if the State is reconstituted, renamed, dissolved, replaced or restructured or if some or all of its powers, functions, assets, liabilities or responsibilities are transferred to or vested in another entity, references in the Project Documents to the State or TfNSW must, subject to any facilitative legislation, be deemed to refer, as applicable, to that reconstituted, renamed, restructured or new entity to the extent that the entity has assumed or has had transferred to it or vested in it those powers, functions, assets, liabilities or responsibilities; and
 - (iii) the State may, or may be, required to (including as a result of changes to New South Wales Government policy or directions)

acquire or dispose of, any property or assets at its absolute discretion.

- (b) The Developer acknowledges and agrees that it must, to the extent required by the State and without limiting any facilitative legislation, negotiate in good faith any variations required to the Project Documents, or any replacement agreement or agreements for the Project Documents to give effect to the State being reconstituted, renamed, dissolved, replaced or restructured.
- (c) Subject to the Developer's right to request that the State consider reasonable amendments to the Project Documents from the matters contemplated in this clause 1.8, the Developer shall be taken for all purposes to have consented to, and the Developer will have no Claim against the State as a result of, any action, matter or circumstance referred to in, or contemplated by, this clause 1.8.
- (d) For the purposes of this clause 1.8, 'another entity' means a Public Authority who is a representative of the State, to whom powers, functions, assets, liabilities or responsibilities are transferred pursuant to any Law.

1.9 Separable Portions

- (a) The Developer and the State may agree in writing, that a Works Portion be carried out in Separable Portions.
- (b) An agreement under clause 1.9(a) must, in respect of each Separable Portion, identify:
 - (i) the extent and scope of the Separable Portion;
 - (ii) the Milestones Dates applicable to that Separable Portion; and
 - (iii) any security for that Separable Portion.
- (c) The interpretations of:
 - (i) Date for Practical Completion of Development Works;
 - (ii) Date for Practical Completion of State Works;
 - (iii) Date of Practical Completion;
 - (iv) Works Portion Commencement Date;
 - (v) Milestone Date; and
 - (vi) Practical Completion,

and clause 32 shall apply separately to each Separable Portion, and references therein to the Works, the State Works or the Development Works (as applicable) shall mean so much of the Works, the State Works or the Development Works (as applicable) as is comprised in the relevant Separable Portion.

1.10 Relationship of this deed, Framework Agreement, Tech Precinct Cooperation Agreement and [REDACTED]

- (a) The parties acknowledge and agree that:

- (i) to the extent that the provisions of this deed deal with the same subject matter as provisions of the Framework Agreement, the provisions of this deed will prevail, and the performance by a party of the relevant obligation under the Framework Agreement will constitute performance of the relevant obligation under this deed;
- (ii) the Framework Agreement will be at an end and the Developer accepts all risk of delivering the Works subject to and in accordance with this deed; and
- (iii) nothing in this clause 1.10 lessens or otherwise affects:
 - (A) any rights or obligations of the State or Atlassian under the Tech Precinct Cooperation Agreement; or
 - (B) any rights or obligations of the State or the Investor under the [REDACTED]
- (b) The Developer warrants that there will be no Change in Control of the Investor from the date of this deed up to and including the date that the [REDACTED] becomes effective, other than the acquisition of units in the in the Vertical First Trust by Dexus Wholesale Management Limited as trustee for Dexus TechCentral Trust which the State agrees will not be a breach of this warranty.
- (c) The Developer must procure that the Investor executes the [REDACTED] within 30 Business Days of the date of this deed. The Developer acknowledges and agrees that a breach by the Developer of this clause 1.10(c) will be a Trigger Event.

1.11 FIRB

The Developer warrants that it either does not require approval under the FIRB Act in relation to the entry into of this deed and the Project Documents or it has, prior to the date of this deed, obtained such approval and provided a copy to the State.

2 Objectives and risks

2.1 Project Objectives

- (a) Each party must, in accordance with and subject to the provisions of this deed, perform its obligations under this deed having regard to and with the aim of enabling the achievement of the Project Objectives.
- (b) The State's objectives for the Project are:
 - (i) a development that:
 - (A) meets the TfNSW Requirements and is aligned with the objectives of the Central Precinct Renewal Program (as set out in the TfNSW Requirements); and
 - (B) facilitates a coordinated and integrated development of the Precinct and broader Central Precinct Renewal Program;
 - (ii) meets the State's safety standards in relation to the design, construction, asset delivery and commissioning of the Works;

- (iii) provides a technology focus for the Sydney Innovation and Technology Precinct including by Atlassian establishing its Australian headquarters in the Atlassian Building and anchoring the Precinct;
 - (iv) delivers the Works in a cooperative manner with adjacent landholders (including TAHE), businesses, stakeholders and the community to minimise disruption and inconvenience;
 - (v) contributes to environmental, social and economic sustainability, while recognising the heritage significance of the surrounding area;
 - (vi) a development that incorporates a combination of commercial, retail and accommodation facilities, achieving the highest quality design outcomes having regard to the Land; and
 - (vii) through the design and delivery of the State Works, provides a positive customer experience and does not negatively impact on the delivery of the Central Walk West.
- (c) The Developer's objectives for the Project are to:
- (i) deliver the Development Works:
 - (A) in accordance with the Development Program; and
 - (B) so that Atlassian can establish its Australian headquarters in the Atlassian Building and anchor the Sydney Innovation and Technology Precinct;
 - (ii) implement the Subdivision Strategy; and
 - (iii) promote and support the establishment of the Sydney Innovation and Technology Precinct through:
 - (A) the delivery of the State Works and Development Works; and
 - (B) Atlassian being an anchor tenant for the Sydney Innovation and Technology Precinct.

2.2 Project risks

Unless otherwise provided in this deed, the Developer accepts all risks in connection with the Project, including as to:

- (a) carrying out all elements of the Project;
- (b) the Site Conditions as at the Commencement Date including Contamination and all matters contained within clause 26.1;
- (c) whether or not the Land is suitable for the Project and the Works;
- (d) whether the actual Cost of the Project is greater than the Cost of the Project as estimated by the Developer;
- (e) whether the actual revenue and profit derived by the Developer from the Project is less than the revenue and profit from the Project estimated by the Developer; and

- (f) obtaining all necessary Approvals and additional consents from Public Authorities and third parties.

2.3 Commitment by the Developer

The Developer acknowledges and agrees that in undertaking the Project it must at its cost and risk, design, carry out and complete each item of Works in accordance with the:

- (a) in respect of the Development Works:
 - (i) TfNSW Requirements;
 - (ii) Minimum Building Requirements; and
 - (iii) ASA Requirements;
- (b) in respect of the State Works:
 - (i) TfNSW Requirements;
 - (ii) State Works Project Brief; and
 - (iii) ASA Requirements;
- (c) Milestone Design Documents, except to the extent that:
 - (i) the Milestone Design Documents have been modified by changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; and
 - (ii) the Milestone Design Documents are replaced by subsequent Approved Design Documents (as varied, if applicable, by: any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or modification by a FRNSW Modified Design); and
 - (iii) the Milestone Design Documents require amendment as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; and
 - (iv) the Milestone Design Documents have been modified by a FRNSW Modified Design.
- (d) Development Consent;
- (e) Approvals;
- (f) Milestone Dates stipulated in the Development Program for the achievement of the Milestones;
- (g) Adjoining Owners Agreements, and the Developer will procure that Vertical First will comply with all of its obligations under the Adjoining Owners Agreement;
- (h) Precinct Management Agreement (as amended from time to time), until such time as the Precinct Management Agreement is terminated;

- (i) Existing Easements (to the extent that these easements have not been released or terminated at the time of conduct of the Works); and
- (j) this deed.

2.4 No reliance on Disclosure Materials

- (a) The Disclosure Materials are provided for the information of the Developer. The State does not warrant the accuracy or completeness of the Disclosure Materials. The Developer acknowledges that it has reviewed the Disclosure Materials and warrants that it has:
 - (i) made its own assessment of the Disclosure Materials and their accuracy; and
 - (ii) not relied on the Disclosure Materials in entering into this deed,but nothing in this subparagraph will limit or otherwise affect the Developer's obligations under this deed.
- (b) The Developer may not make any claim against the State in connection with the Disclosure Materials including in connection with their accuracy or completeness.

2.5 TAHE Deed Poll

The Developer must on the date of execution of this deed execute and deliver to TAHE, with a copy to the State, the TAHE Deed Poll.

3 Not Used

4 Development Consent Conditions

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

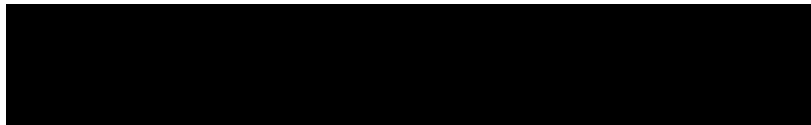
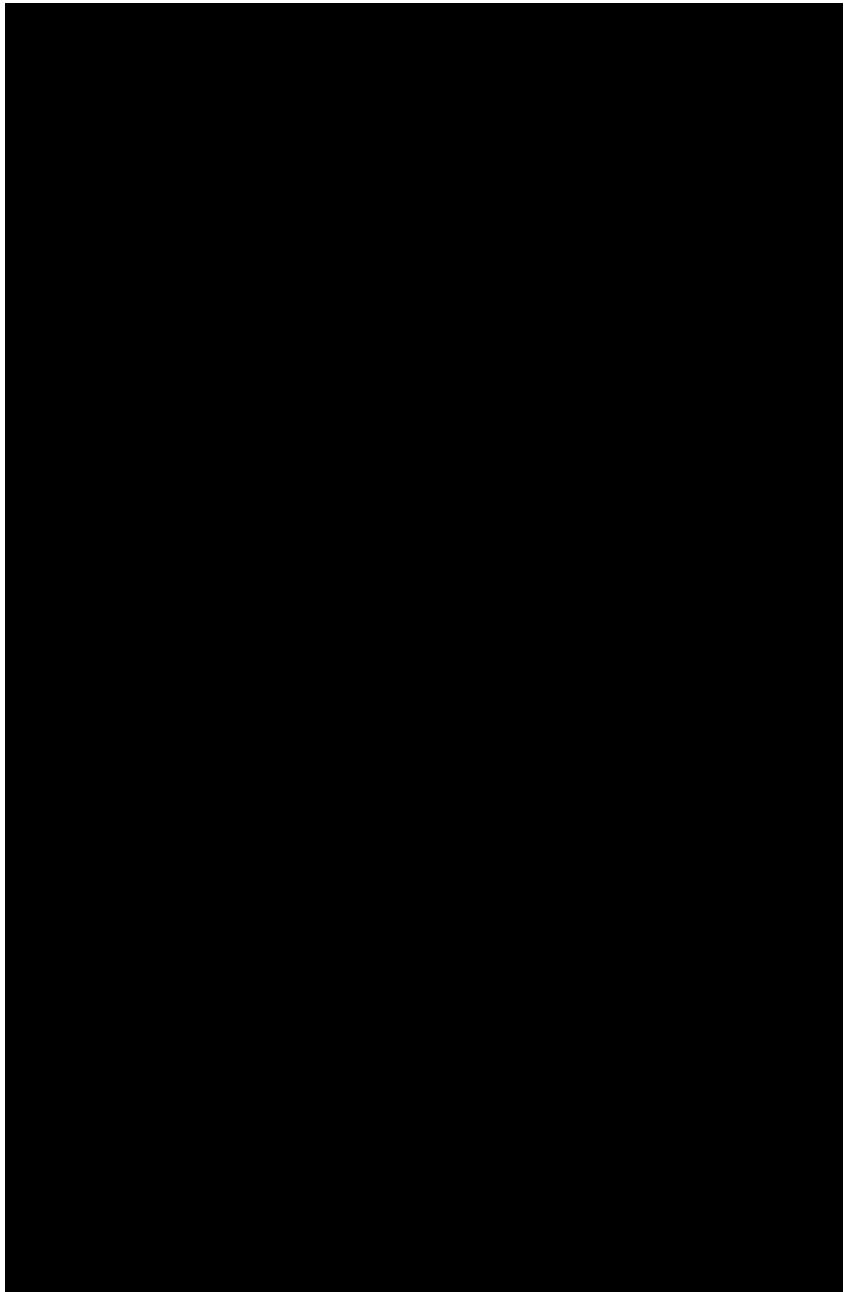
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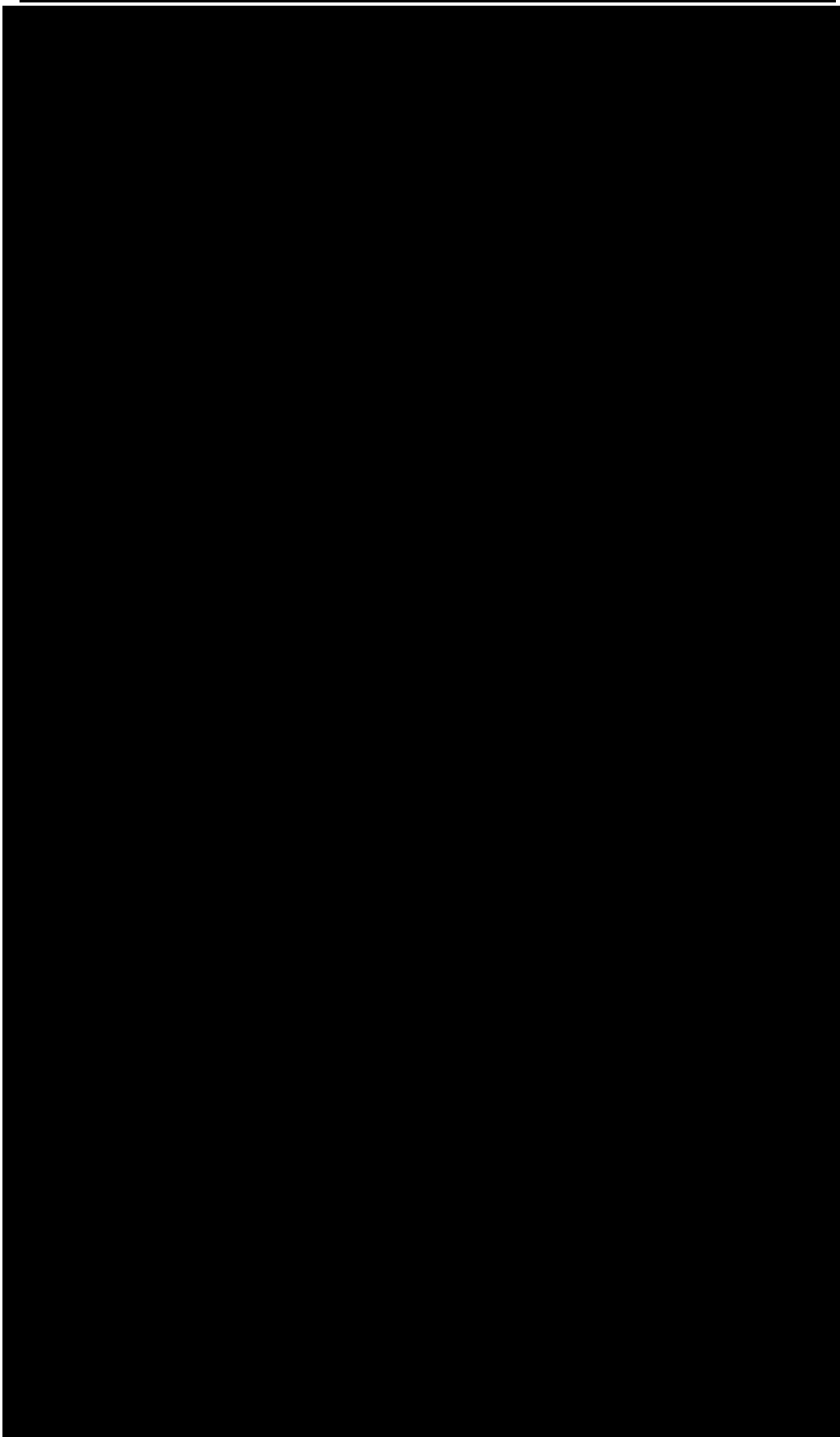
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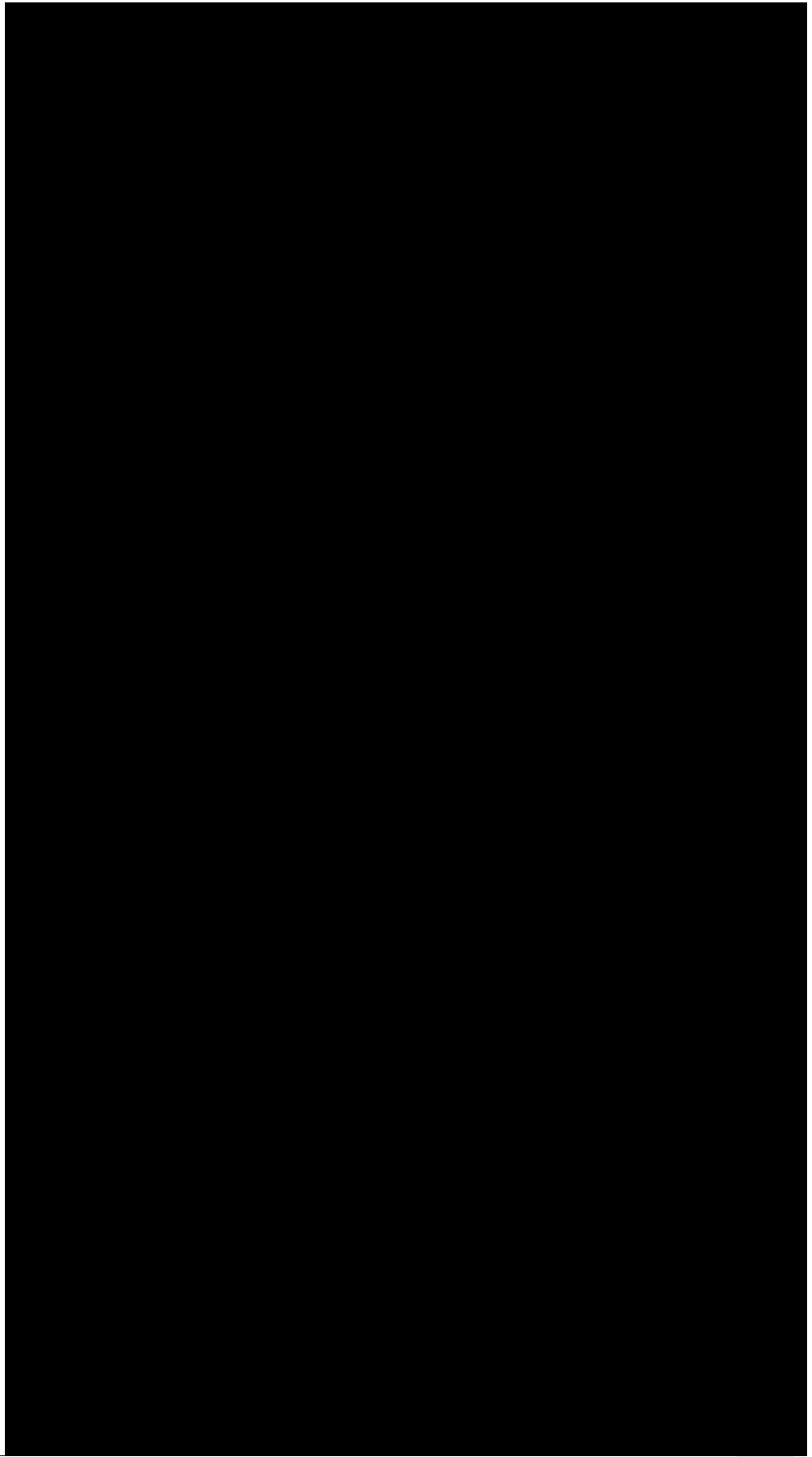
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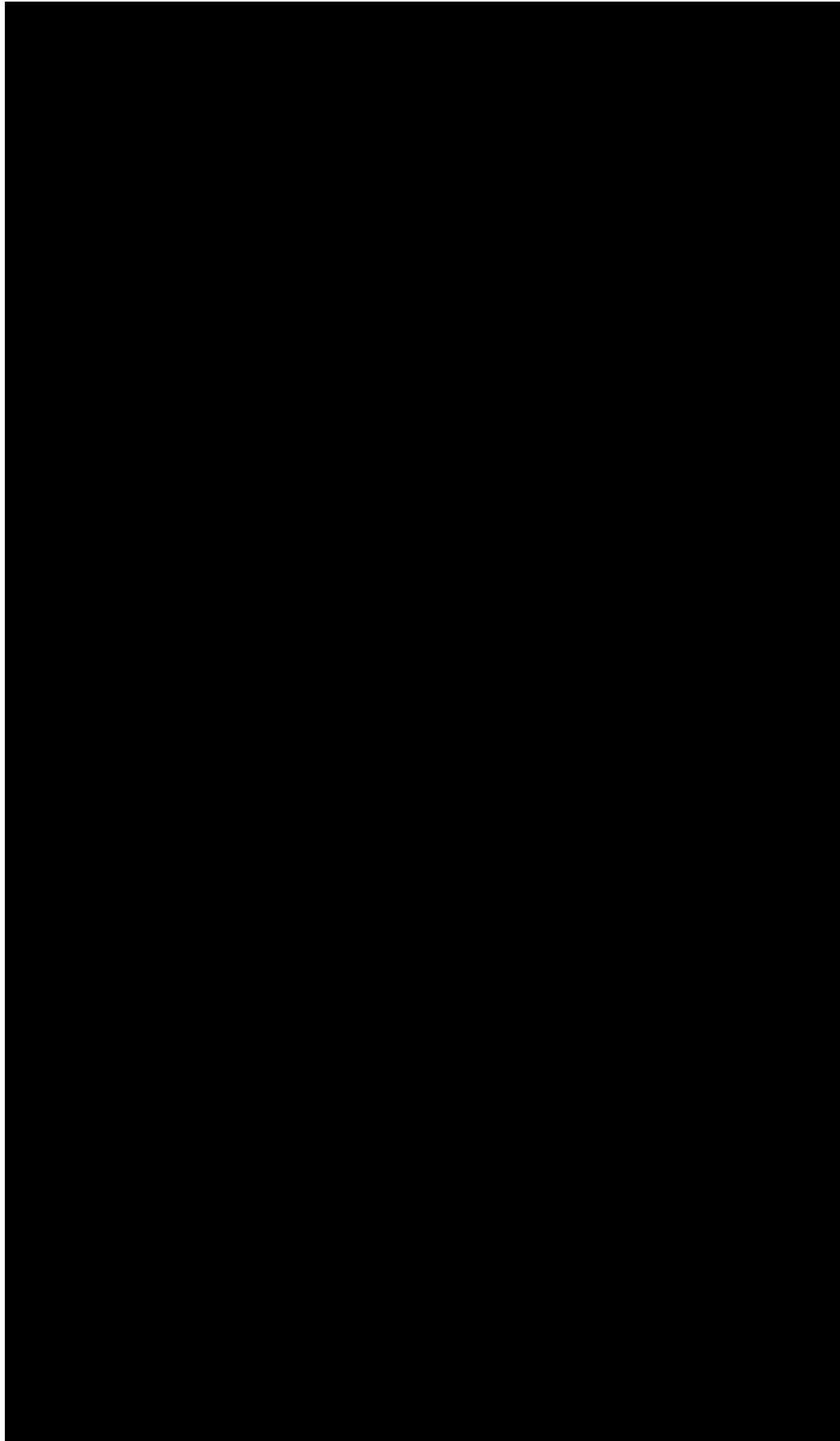
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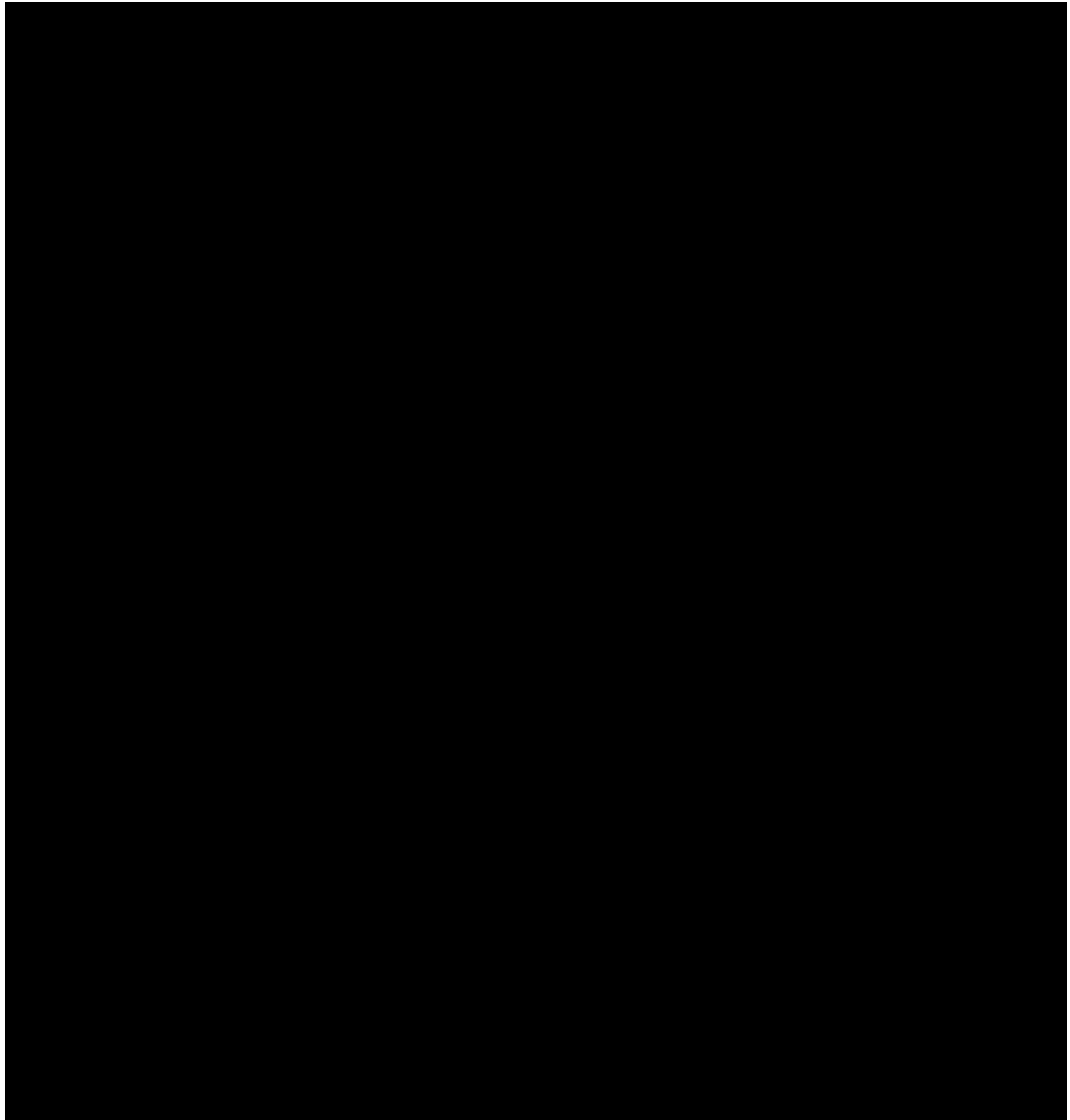
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6 Design

6.1 Framework Phase and design

- (a) During the Framework Phase, Atlassian SPV reviewed:
 - (i) the State Works Minimum Requirements;
 - (ii) the State Works Project Brief; and
 - (iii) the Minimum Building Requirements,and developed these documents with the State.

- (b) The Developer acknowledges and agrees that:
 - (i) the Developer accepts all risk of delivering the Works subject to and in accordance with this deed; and
 - (ii) in reliance on Atlassian SPV's participation in the Framework Phase and it's input into the State Works Project Brief and the Minimum Building Requirements and development of the Design

Plan, the State enters into this deed on the basis of the State Works Project Brief and the Minimum Building Requirements.

- (c) The parties acknowledge and agree that:
 - (i) at the Commencement Date, Atlassian SPV has prepared the Milestone Design Documents for each Works Portion in accordance with clauses 16.4 and 16.6 of the Framework Agreement;
 - (ii) the Milestone Design Documents:
 - (A) are compliant with the Framework Agreement; and
 - (B) have received a 'No Objection Statement' in accordance with clauses 16.5 and 16.7 of the Framework Agreement;
 - (iii) the Milestone Design Documents are deemed to have received a No Objection Statement for the purposes of this clause 6 and are the initial compliant set of Design Documents for the purpose of clause 6.2;
 - (iv) the Developer's obligations under clause 6.2 are not limited or otherwise affected notwithstanding that design work (including preparation of the Milestone Design Documents) has been carried out by or on behalf of Atlassian SPV prior to the date of this deed; and
 - (v) the asset assurance process contemplated in clauses 30.8 and 30.9 is not affected by this clause 6.1.

6.2 Design responsibility

- (a) The Developer must:
 - (i) design, or procure the design of, the Works:
 - (A) so that the design of the Development Works:
 - (aa) is consistent with the Milestone Design Documents (Development Works) (except to the extent that:
 - (1) the Milestone Design Documents (Development Works) have been modified by any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; and
 - (2) the Milestone Design Documents (Development Works) have been superseded by the Approved Design Documents (as varied, if applicable, by: any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; required amendments as a result of a condition in an Approval provided that the relevant condition

- does not trigger a State Unacceptable Condition; or modification by a FRNSW Modified Design); and
 - (3) the Milestone Design Documents (Development Works) require amendment as a result of a condition in an Approval provided that the relevant condition doesn't trigger a State Unacceptable Condition; and
 - (4) the Milestone Design Documents (Development Works) have been modified by a FRNSW Modified Design,
- (ab) satisfy the Minimum Building Requirements;
- (ac) subject to clause 6.2(d) satisfy the TfNSW Requirements; and
- (ad) satisfy the ASA Requirements;
- (B) so that the design of the State Works:
- (aa) is consistent with the Milestone Design Documents (State Works) except to the extent that:
 - (1) the Milestone Design Documents (State Works) have been modified by any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; and
 - (2) the Milestone Design Documents (State Works) have been superseded by the Approved Design Documents (as varied, if applicable, by: any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or modification by a FRNSW Modified Design); and
 - (3) the Milestone Design Documents (State Works) require amendment as a result of a condition in an Approval provided that the relevant condition doesn't trigger a State Unacceptable Condition; and
 - (4) the Milestone Design Documents (State Works) have been modified by a FRNSW Modified Design,

- (ab) subject to clauses 6.2(c) and 6.2(d), satisfy the TfNSW Requirements;
 - (ac) satisfy the requirements of the State Works Project Brief; and
 - (ad) satisfy the ASA Requirements;
 - (C) utilising Best Industry Practice;
 - (D) so that the State Works at Practical Completion will be Fit for Purpose;
 - (E) to satisfy the requirements of:
 - (aa) all relevant Laws, Approvals, Codes and Standards; and
 - (ab) this deed;
 - (ii) perform, or procure the performance of, its design responsibilities under this deed with the skill, care and diligence expected of a professional designer experienced in projects of a similar nature to the Project; and
 - (iii) ensure that each member appointed to the Developer's design team performs its design responsibilities with the skill, care and diligence expected of a professional designer experienced in carrying out those responsibilities.
- (b) The parties acknowledge and agree that to the extent the State Works Project Brief and the TfNSW Requirements address the same requirement, or there is an inconsistency between the requirements of the State Works Project Brief and the TfNSW Requirements, the requirement as stipulated in the State Works Project Brief will prevail over the TfNSW Requirements in respect of that requirement.
- (c) The Developer must complete the Design Documentation, or must procure that the Design Documents are completed, so that the completed design of the State Works and Development Works complies with clause 6.2(a) (as applicable).
- (d) Subject to requirements of Law and the ASA Requirements, the parties acknowledge and agree that the Developer will not be in breach of any obligation or warranty under this deed to the extent that obligation or warranty relates to the width of the Pedestrian Through Site Link and that breach arises solely due to the Unobstructed Interior Width of the Pedestrian Through Site Link being less than the minimum width of the Pedestrian Through Site Link stated in the TfNSW Requirements, provided that the Unobstructed Interior Width of the Pedestrian Through Site Link of the complete length of each level of the Pedestrian Through Site Link is not less than the minimum Unobstructed Interior Width specified in the State Works Project Brief.

6.3 Design Documentation (State Works)

In respect of the Design Documentation (State Works), the Developer must:

- (a) at each Design Stage, prepare and submit to the State and the Independent Certifier all Design Documentation (State Works):

- (i) on a progressive basis (where reasonably practicable);
 - (ii) in accordance with the Design Plan;
 - (iii) at a reasonable rate of submission; and
 - (iv) in sufficient time to allow for review and comment by the State in accordance with the requirements of this clause 6.3;
- (b) in relation to Design Documentation (State Works) prepared in accordance with clause 6.3(a):
- (i) ensure that each package of Design Documentation (State Works) is consistent with the Milestone Design Documents (State Works) except to the extent that:
 - (A) the Milestone Design Documents (State Works) have been modified by any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; and
 - (B) the Milestone Design Documents (State Works) have been superseded by subsequent Approved Design Documents, in which case the package must be consistent with the relevant Approved Design Documentation immediately preceding it (as varied, if applicable, by: any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or modification by a FRNSW Modified Design); and
 - (C) the Milestone Design Documents (State Works) require amendment as a result of a condition in an Approval provided that the relevant condition doesn't trigger a State Unacceptable Condition; and
 - (D) the Milestone Design Documents (State Works) have been modified by a FRNSW Modified Design; and
 - (ii) ensure all Design Documentation (State Works) is of a level of detail appropriate for that Design Stage which is sufficient to permit the State to comment on whether the Design Documentation (State Works) complies with:
 - (A) subject to clause 6.2(d), TfNSW Requirements;
 - (B) State Works Project Brief;
 - (C) ASA Requirements;
 - (D) all relevant Laws, Approvals, Codes and Standards; and
 - (E) this deed; and
 - (iii) include all Design Documentation (State Works) for the State Works that are relevant to that Design Stage.

6.4 Review of Design Documentation (State Works)

- (a) For each Design Stage, the State may within:
- (i) 20 Business Days of the Design Documentation (State Works) being submitted in accordance with clause 6.3(a); or
 - (ii) such other period as agreed by the parties,

(Review Period),

notify the Developer in writing as to whether the State reasonably considers that the relevant Design Documentation (State Works) submitted at that Design Stage is:

- (iii) compliant with the requirements of clause 6.3(b), in which case the State will issue a No Objection Statement; or
 - (iv) not compliant with the requirements of clause 6.3(b), in which case the State will issue a Non-Compliance Notice which provides details of the relevant items of non-compliance.
- (b) Where the State issues a No Objection Statement under clause 6.4(a)(iii), the State acknowledges that the relevant Design Documentation (State Works) addresses the TfNSW Requirements to the State's satisfaction based on the design level as at that Design Stage.
- (c) Where in respect of the 'interim design stage', the State issues a Non-Compliance Notice to the Developer under clause 6.4(a)(iv),

and:

- (i) that Non-Compliance Notice relates to a non-compliance with clauses 6.3(b)(ii)(B), 6.3(b)(ii)(D) or 6.3(b)(ii)(E), then:
 - (A) the Developer may proceed to the 'for construction design stage', provided that the Developer must:
 - (aa) give the State a written response which explains how the Developer will address the non-compliance in sufficient detail to satisfy the State (acting reasonably) that compliance will be achieved in relation to the 'interim design stage' in the subsequent 'for construction design stage'; and
 - (ab) at the time of submitting the Design Documentation (State Works) in relation to which the Non-Compliance Notice was issued at the 'for construction design stage', give the State (with a copy to the Independent Certifier) a written statement which explains how the non-compliance has been addressed in that Design Documentation (State Works).
 - (B) If the State is not satisfied with the written response provided by the Developer pursuant to clause 6.4(c)(i)(A)(aa), the State may within 10 Business Days of receipt of that notice issue a notice to the Developer:

- (aa) stating the State is not satisfied that the Developer's explanation adequately addressed the non-compliance;
 - (ab) stating the specific items of the Developer's explanation that are not satisfactory to the State; and
 - (ac) referring the items set out in the notice referred to in clauses 6.4(c)(i)(B)(aa) and 6.4(c)(i)(B)(ab) to executive negotiation in accordance with clause 38.4;
- (ii) that Non Compliance Notice relates to a non-compliance with clause 6.3(b)(ii)(C), then:
 - (A) the Developer must rectify the non-compliance and resubmit the relevant Design Documentation (State Works) to the State; and
 - (B) clause 6.4 will re-apply except that the Review Period in clause 6.4(a) will be reduced to 10 Business Days; or
 - (C) the Developer may require that:
 - (aa) the State facilitates a discussion between appropriately senior representatives of the Asset Management Branch of the State and the Developer so as to resolve any non-compliance relating to the ASA Requirements. A State representative on the Project will attend the meetings; and
 - (ab) the State's representative and the Developer's representative referred to in clauses 38.4(a)(iii) and 38.4(a)(iv) meet to discuss ramifications for the Project arising out of the non-compliance;
- (iii) that Non Compliance Notice relates to a non-compliance with clause 6.3(b)(ii)(A), then:
 - (A) the Developer must rectify the non-compliance and resubmit the relevant Design Documentation (State Works) to the State; and
 - (B) clause 6.4 will re-apply except that the Review Period in clause 6.4(a) will be reduced to 10 Business Days; or
 - (C) the Developer may issue a notice to the State referring the matter to executive negotiation in accordance with clause 38.4, except that the relevant representative for the purpose of clause 38.4(a)(iii) will be an Executive Director.
- (d) If the representatives of the parties cannot resolve the matter in accordance with clause 38.4, within 10 Business Days of the date of referral under clause 6.4(c)(i)(B) or 6.4(c)(iii) then:

- (i) to the extent that the non-compliance relates to the matters referred to in clauses 6.2(a)(i)(B)(aa), 6.2(a)(i)(B)(ac), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E):
 - (A) the Developer must refer the matter to the Independent Certifier within 2 Business Days; and
 - (B) the Independent Certifier must, within 2 Business Days of the date of the referral under clause 6.4(d)(i)(A), determine the matter (including the Developer's disagreement with the Non-Compliance Notice referred to in clause 6.4(c)(i) or the notice provided by the State in clause 6.4(c)(i)(B)) and notify the parties of that determination; and
 - (C) if the Developer disagreed with the Non-Compliance Notice referred to in clause 6.4(c)(i) and the Independent Certifier determines that there was a non-compliance, clause 6.4(c)(i)(A) will apply; or
- (ii) to the extent that the non-compliance relates to the matters referred to in clause 6.2(a)(i)(B)(ab):
 - (A) the Independent Certifier will not determine the matter; and
 - (B) the Developer may:
 - (aa) issue a notice to the State referring the matter to further executive negotiation in accordance with clause 38.4 and clause 6.4(d) will re-apply; or
 - (ab) re-submit the relevant Design Documentation (State Works) to the State and clause 6.4(a) will re-apply except that the Review Period in clause 6.4(a) will be reduced to 10 Business Days.
- (e) The Independent Certifier's determination will be final and binding subject to manifest error of fact or law.
- (f) Where in respect of the 'for construction design stage', the State issues a Non-Compliance Notice to the Developer under clause 6.4(a)(iv), then if:
 - (i) the Non-Compliance Notice relates to a non-compliance with clauses 6.2(a)(i)(B)(aa), 6.2(a)(i)(B)(ac), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E) the Developer may:
 - (A) notify the Independent Certifier and the State of any disagreement with the Non-Compliance Notice; and
 - (B) request a determination of the matter by the Independent Certifier,

then to the extent that the matter relates to clauses 6.2(a)(i)(B)(aa), 6.2(a)(i)(B)(ac), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E) the Independent Certifier must, within a further 2 Business Days, of the request for determination by the

Developer under clause 6.4(f)(i) determine the matter and notify the parties in writing of that determination;

- (ii) the Non-Compliance Notice relates to a non-compliance to clauses 6.2(a)(i)(B)(ab) or 6.2(a)(i)(B)(ad):
 - (A) the Independent Certifier will not determine the matter; and
 - (B) the Developer may:
 - (aa) issue a notice to the State referring the non-compliant items set out in the Non-Compliance Notice referred to in clause 6.4(f)(ii) to executive negotiation in accordance with clause 38.4 where the Non-Compliance Notice relates to a non-compliance to clause 6.2(a)(i)(B)(ab) except that the relevant representative for the purpose of clause 38.4(a)(iii) will be an Executive Director. If the Developer considers that the executive negotiation has not resolved the matter it may issue a notice to the State referring the matter to further executive negotiation in accordance with clause 38.4; or
 - (ab) issue a notice to the State requiring:
 - (1) the State facilitates a discussion between appropriately senior representatives of the Asset Management Branch of the State and the Developer so as to resolve any non-compliance relating to the ASA Requirements where the Non-Compliance Notice relates to a non-compliance with clause 6.2(a)(i)(B)(ad). A State representative on the Project will attend the meetings; and
 - (2) the State's representative and the Developer's representative referred to in clauses 38.4(a)(iii) and 38.4(a)(iv) meet to discuss ramifications for the Project arising out of the non-compliance; or
 - (ac) re-submit the relevant Design Documentation (State Works) to the State and clause 6.4 will re-apply except that the Review Period in clause 6.4(a) will be reduced to 10 Business Days.
- (g) Where in respect of either the 'interim design stage' or 'for construction design stage', the State fails to provide a written notification to the Developer under either clause 6.4(a)(iii) or 6.4(a)(iv) within the Review Period:
 - (i) the Developer must refer the matter to the Independent Certifier within 2 Business Days of the expiry of the Review Period; and

- (ii) subject to clause 6.4(j)(i), the Independent Certifier must, within 2 Business Days of the date of the referral under clause 6.4(g)(i), determine the matter and notify the parties of that determination.
- (h) Where the Independent Certifier reasonably considers that a matter referred to the Independent Certifier under clause 6.4(g)(i) relates to compliance with clauses 6.2(a)(i)(B)(ab) or 6.2(a)(i)(B)(ad), the Independent Certifier must:
 - (i) immediately refer the matter to executive negotiation in accordance with clause 38.4; and
 - (ii) the Independent Certifier's referral under clause 6.4(h)(i) will be deemed to be a joint referral by the State and the Developer.
- (i) The Independent Certifier's determination will be final and binding subject to manifest error of fact or law.
- (j) The parties acknowledge that:
 - (i) the Independent Certifier cannot determine matters relating to:
 - (A) the ASA Requirements or the asset assurance process; and
 - (B) clause 6.2(a)(i)(B)(ab); and
 - (ii) the Independent's Certifier's determination under clauses 6.4(d) and 6.4(f), will not affect the Developer's obligations under clauses 30.8 and 30.9 or the asset assurance process contemplated in clauses 30.8 and 30.9.
- (k) If, in respect of the 'for construction design stage' only:
 - (i) the State issues a Non-Compliance Notice to the Developer under clause 6.4(a)(iv) and the Developer agrees with that Non-Compliance Notice; or
 - (ii) the Independent Certifier determines that aspects of the Design Documentation (State Works) are not compliant with clauses 6.2(a)(i)(B)(aa), 6.2(a)(i)(B)(ac), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E),

then:

 - (iii) the Developer must promptly amend the relevant part of the Design Documentation (State Works) which was non-compliant and re-submit the relevant part of the Design Documentation (State Works) to the State; and
 - (iv) the process in this clause 6.4 will be reapplied to the amended Design Documentation (State Works) except that:
 - (A) the State's review of the Design Documentation (State Works) will be limited to the non-compliant items stated in the Non-Compliance Notice; and
 - (B) the Review Period in clause 6.4(a) will be reduced to 10 Business Days.

- (l) If at any time the Developer wishes to amend the Design Documentation (State Works) contained in any Approved Design Documentation, the process in this clause 6.4 will apply provided that design development of any Approved Design Documentation does not constitute an amendment for the purpose of this clause.
- (m) The parties acknowledge and agree that the review process set out in this clause 6.4 may be undertaken concurrently with the process set out in clause 10.

6.5 Design Documentation (Reviewable Development Works)

In respect of the Design Documentation (Reviewable Development Works), the Developer must:

- (a) at each Design Stage, prepare and submit to the State and the Independent Certifier all Design Documentation (Reviewable Development Works):
 - (i) on a progressive basis (where reasonably practicable), in accordance with the Design Plan;
 - (ii) at a reasonable rate of submission; and
 - (iii) in sufficient time to allow for review and comment by the State in accordance with the requirements of this clause 6.5;
- (b) in relation to Design Documentation (Reviewable Development Works) prepared in accordance with clause 6.5(a):
 - (i) ensure that each package of Design Documentation (Reviewable Development Works) is consistent with the Milestone Design Documents (Development Works) except to the extent that:
 - (A) the Milestone Design Documents (Development Works) have been modified by any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; and
 - (B) the Milestone Design Documents (Development Works) have been superseded by subsequent Approved Design Documents, in which case the package must be consistent with the relevant Approved Design Documentation immediately preceding it (as varied, if applicable, by: any changes to those documents contained in any Qualifying Applications approved pursuant to clause 10; required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or modification by a FRNSW Modified Design);
 - (C) the Milestone Design Documents (Development Works) require amendment as a result of a condition in an Approval provided that the relevant condition doesn't trigger a State Unacceptable Condition; and
 - (D) the Milestone Design Documents (Development Works) have been modified by a FRNSW Modified Design; and

- (ii) ensure all Design Documentation (Reviewable Development Works) is of a level of detail appropriate for that Design Stage which is sufficient to permit the State to comment on whether the Design Documentation (Reviewable Development Works) complies with:
 - (A) Minimum Building Requirements;
 - (B) TfNSW Requirements;
 - (C) State Works Project Brief;
 - (D) ASA Requirements;
 - (E) all relevant Laws, Approvals, Codes and Standards; and
 - (F) this deed;
- (iii) include all Design Documentation (Reviewable Development Works) for the Development Works that are relevant to that Design Stage;
- (iv) at the time of submitting the Design Documentation (Reviewable Development Works) to the State under clause 6.5(a) submit to the State any other Design Documentation which is necessary to enable the State to properly review Design Documentation (Reviewable Development Works).

6.6 Review of Design Documentation (Reviewable Development Works)

- (a) For each Design Stage, the State may within:
 - (i) 20 Business Days of the Design Documentation (Reviewable Development Works) being submitted in accordance with clause 6.5(a); or
 - (ii) such other period as agreed by the parties,

(Review Period),

notify the Developer in writing as to whether the State reasonably considers that the relevant Design Documentation (Reviewable Development Works) submitted at that Design Stage is:

 - (iii) compliant with the requirements of clause 6.5(b), in which case the State will issue a No Objection Statement; or
 - (iv) not compliant with the requirements of clause 6.5(b), in which case the State will issue a Non-Compliance Notice which provides details of the relevant items of non-compliance.
- (b) Where the State issues a No Objection Statement under clause 6.6(a)(iii), the State acknowledges that the relevant Design Documentation (Reviewable Development Works) addresses the TfNSW Requirements to the State's satisfaction based on the design level as at that Design Stage.
- (c) Where in respect of the 'interim design stage', the State issues a Non-Compliance Notice to the Developer under clause 6.6(a)(iv),

and:

- (i) that Non-Compliance Notice relates to a non-compliance with clauses 6.5(b)(ii)(A), 6.5(b)(ii)(C), 6.5(b)(ii)(E), or 6.5(b)(ii)(F), then:
 - (A) the Developer may proceed to the 'for construction design stage', provided that the Developer must:
 - (aa) give the State a written response which explains how the Developer will address the non-compliance in sufficient detail to satisfy the State (acting reasonably) that compliance will be achieved in relation to the 'interim design stage' in the subsequent 'for construction design stage'; and
 - (ab) at the time of submitting the Design Documentation (Reviewable Development Works) in relation to which the Non-Compliance Notice was issued at the 'for construction design stage', give the State (with a copy to the Independent Certifier) a written statement which explains how the non-compliance has been addressed in that Design Documentation (Reviewable Development Works).
 - (B) If the State is not satisfied with the written response provided by the Developer pursuant to clause 6.6(c)(i)(A)(aa), the State may within 10 Business Days of receipt of that notice issue a notice to the Developer:
 - (aa) stating the State is not satisfied that the Developer explanation adequately addressed the non-compliance;
 - (ab) stating the specific items of the Developer's explanation that are not satisfactory to the State; and
 - (ac) referring the items set out in the notice referred to in clauses 6.6(c)(i)(B)(aa) and 6.6(c)(i)(B)(ab) to executive negotiation in accordance with clause 38.4;
- (ii) that Non-Compliance Notice relates to a non-compliance with clauses 6.5(b)(ii)(D), then:
 - (A) the Developer must rectify the non-compliance and resubmit the relevant Design Documentation (Reviewable Development Works) to the State; and
 - (B) clause 6.6 will re-apply except that the Review Period in clause 6.6(a) will be reduced to 10 Business Days; or
 - (C) the Developer may require that the State:
 - (aa) facilitates a discussion between appropriately senior representatives of the Asset Management Branch of the State and the

Developer so as to resolve any non-compliance relating to the ASA Requirements. A State representative on the Project will attend the meetings; and

- (ab) representative and the Developer representative referred to in clauses 38.4(a)(iii) and 38.4(a)(iv) meet to discuss ramifications for the Project arising out of the non-compliance,
- (iii) that Non-Compliance Notice relates to a non-compliance with clauses 6.5(b)(ii)(B), then:
 - (A) the Developer must rectify the non-compliance and resubmit the relevant Design Documentation (Reviewable Development Works) to the State; and
 - (B) clause 6.6 will re-apply except that the Review Period in clause 6.6(a) will be reduced to 10 Business Days; or
 - (C) the Developer may issue a notice to the State referring the matter to executive negotiation in accordance with clause 38.4, except that the relevant representative for the purpose of clause 38.4(a)(iii) will be an Executive Director.
- (d) If the representatives of the parties cannot resolve the matter in accordance with clause 38.4 within 10 Business Days of the date of referral under clause 6.6(c)(i)(B)(ac) or 6.6(c)(iii)(C), then:
 - (i) to the extent that the non-compliance relates to the matters referred to in clauses 6.2(a)(i)(A)(aa), 6.2(a)(i)(A)(ab), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E):
 - (A) the Developer must refer the matter to the Independent Certifier within 2 Business Days; and
 - (B) the Independent Certifier must, within 2 Business Days of the date of the referral under clause 6.6(d)(i)(A), determine the matter (including the Developer's disagreement with the Non-Compliance Notice referred to in clause 6.6(c)(i) or the notice provided by the State in clause 6.6(c)(i)(B)) and notify the parties of that determination; and
 - (C) if the Developer disagreed with the Non-Compliance Notice referred to in clause 6.6(c)(i) and the Independent Certifier determines that there was a non-compliance, clause 6.6(c)(i)(A) will apply; or
 - (ii) to the extent that the non-compliance relates to the matters referred to in clause 6.2(a)(i)(A)(ac):
 - (A) the Independent Certifier will not determine the matter; and
 - (B) the Developer may:
 - (aa) issue a notice to the State referring the matter to further executive negotiation in accordance

with clause 38.4 and clause 6.6(d) will re-apply;
or

- (ab) re-submit the relevant Design Documentation (Development Works) to the State and clause 6.6(a) will re-apply except that the Review Period in clause 6.6(a) will be reduced to 10 Business Days.
- (e) The Independent Certifier's determination will be final and binding subject to manifest error of fact or law.
- (f) Where in respect of the 'for construction design stage' the State issues a Non-Compliance Notice to the Developer under clause 6.6(a)(iv), then if:
 - (i) the Non-Compliance Notice relates to a non-compliance with clauses 6.2(a)(i)(A)(aa), 6.2(a)(i)(A)(ab), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E) the Developer may:
 - (A) notify the Independent Certifier and the State of any disagreement with the Non-Compliance Notice; and
 - (B) request a determination of the matter by the Independent Certifier,

then to the extent the matter relates to clauses 6.2(a)(i)(A)(aa), 6.2(a)(i)(A)(ab), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E) the Independent Certifier must, within a further 2 Business Days of the request for determination by the Developer under clause 6.6(f), determine the matter and notify the parties in writing of that determination;
 - (ii) the Non-Compliance Notice relates to a non-compliance to clauses 6.2(a)(i)(A)(ac) or 6.2(a)(i)(A)(ad):
 - (A) the Independent Certifier will not determine the matter; and
 - (B) the Developer may:
 - (aa) issue a notice to the State referring the non-compliant items set out in the Non-Compliance Notice referred to in clause 6.6(f)(ii) to executive negotiation in accordance with clause 38.4 where the Non-Compliance Notice relates to a non-compliance to clause 6.2(a)(i)(A)(ac), except that the relevant representative for the purpose of clause 38.4(a)(iii) will be an Executive Director. If the Developer considers that the executive negotiation has not resolved the matter it may issue a notice to the State referring the matter to further executive negotiation in accordance with clause 38.4; or
 - (ab) issue a notice to the State requiring:
 - (1) the State facilitates a discussion between appropriately senior representatives of the Asset Management Branch of the State and

- the Developer so as to resolve any non-compliance relating to the ASA Requirements where the Non-Compliance Notice relates to a non-compliance with clause 6.2(a)(i)(A)(ad). A State representative on the Project will attend the meetings; and
- (2) the State's representative and the Developer's representative referred to in clauses 38.4(a)(iii) and 38.4(a)(iv) meet to discuss ramifications for the Project arising out of the non-compliance; or re-submit the relevant Design Documentation (Reviewable Development Works) to the State and clause 6.6 will re-apply except that the Review Period in clause 6.6(a) will be reduced to 10 Business Days.
- (g) Where in respect of either the 'interim design stage' or 'for construction design stage', the State fails to provide a written notification to the Developer under either clause 6.6(a)(iii) or 6.6(a)(iv) within the Review Period:
- (i) the Developer must refer the matter to the Independent Certifier within 2 Business Days of the expiry of the Review Period; and
- (ii) subject to clause 6.6(h), the Independent Certifier must, within 2 Business Days of the date of the referral under clause 6.6(g)(i), determine the matter and notify the parties of that determination.
- (h) Where the Independent Certifier reasonably considers that a matter referred to the Independent Certifier under clause 6.6(g)(i) relates to compliance with clauses 6.2(a)(i)(A)(ac) or 6.2(a)(i)(A)(ad), the Independent Certifier must:
- (i) refer the matter to executive negotiation in accordance with clause 38.4; and
- (ii) the Independent Certifier's referral under clause 6.6(h)(i) will be deemed to be a joint referral by the State and the Developer.
- (i) The Independent Certifier's determination will be final and binding subject to manifest error of fact or law.
- (j) The parties acknowledge that:
- (i) the Independent Certifier cannot determine matters relating to:
- (A) the ASA Requirements or the asset assurance process; and
- (B) 6.2(a)(i)(A)(ac); and
- (ii) the Independent's Certifier's determination under clause 6.6(d) and 6.6(f) will not affect the Developer's obligations under clauses 30.8 and 30.9 or the asset assurance process contemplated in clauses 30.8 and 30.9.

- (k) If in respect of the 'for construction design stage' only:
- (i) the State issues a Non-Compliance Notice to the Developer under clause 6.6(a)(iv) and the Developer agrees with that Non-Compliance Notice; or
 - (ii) the Independent Certifier determines that aspects of the Design Documentation (Reviewable Development Works) are not compliant with clauses 6.2(a)(i)(A)(aa), 6.2(a)(i)(A)(ab), 6.2(a)(i)(C), 6.2(a)(i)(D) or 6.2(a)(i)(E),
- then:
- (iii) the Developer must promptly amend the relevant part of the Design Documentation (Reviewable Development Works) which was non-compliant and re-submit the relevant part of the Design Documentation (Reviewable Development Works) to the State; and
 - (iv) the process in this clause 6.6 will be reapplied to the amended Design Documentation (Reviewable Development Works), except that:
 - (A) the State's review of the Design Documentation (Reviewable Development Works) will be limited to the non-compliant items stated in the Non-Compliance Notice; and
 - (B) the Review Period in clause 6.6(a) will be reduced to 10 Business Days.
- (l) If at any time the Developer wishes to amend the Design Documentation (Reviewable Development Works) contained in any Approved Design Documentation, the process in clause 6.6 will apply provided that design development of any Approved Design Documentation does not constitute an amendment for the purpose of this clause.
- (m) The parties acknowledge and agree that the review process set out in this clause 6.6 may be undertaken concurrently with the process set out in clause 10.

6.7 Design Liability

- (a) The Developer will not be entitled to make, and the State will not be liable upon, any Claim arising out of or in any way in connection with the State not detecting and notifying the Developer of any errors, omissions or non-compliance with the requirements of this deed in any Design Documentation submitted under clauses 6.4 or 6.6.
- (b) No review of, approval of or comment upon, or failure to review, approve, or comment upon, any Design Documentation prepared by the Developer will:
 - (i) constitute a direction to carry out a Variation pursuant to clause 19.2, unless it is in a Variation Order and describes the nature of the Variation in accordance with clause 19.2;
 - (ii) relieve the Developer from or alter its liabilities or obligations, whether under this deed or otherwise according to any Law; or

- (iii) limit or otherwise affect the State's rights against the Developer, whether under this deed or otherwise according to any Law.

6.8 Consultation with Public Authorities

The Developer must:

- (a) subject to clause 6.9 and unless otherwise agreed by the parties, consult and discuss with all relevant Public Authorities and pay all due regard to any reasonable comments or suggestions any relevant Public Authority may make in respect of:
 - (i) the proposed terms and conditions of each Application; and
 - (ii) the development of the Design Documentation;as would be expected of a competent and prudent developer in conducting projects of the same scale, proximity to rail and complexity as the Project;
- (b) give the State at least 2 Business Days' notice of any proposed meeting with a relevant Public Authority for the purpose of discussing an Application relating to the State Works, giving details of the time, date and the matters to be discussed. The State may attend any proposed meeting; and
- (c) keep the State reasonably informed in relation to the status and content of dealings and discussions with Public Authorities in relation to the Works.

6.9 Pre-Application Requirements

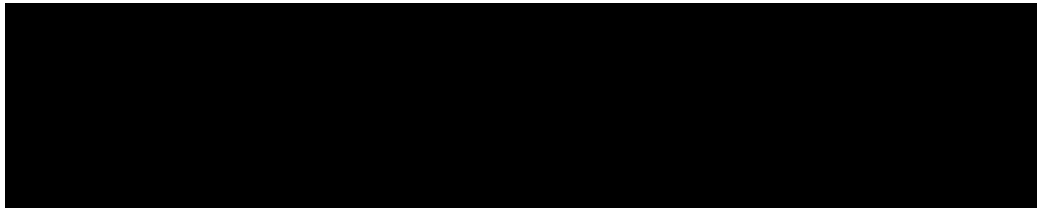
If, during the consultation process referred to in clause 6.8, the Developer receives advice, comments, or recommendations from a relevant Public Authority (which are confirmed in writing, whether by the Public Authority or by correspondence or minutes) in relation to matters that ought to be taken into account when preparing the Application (or related Design Documentation), it must give due consideration (as would be expected of a competent and prudent developer in conducting projects of the same scale and complexity as the Project) to such advice, comments or recommendations and, consider accommodating any such advice, comments or recommendations in its Application.

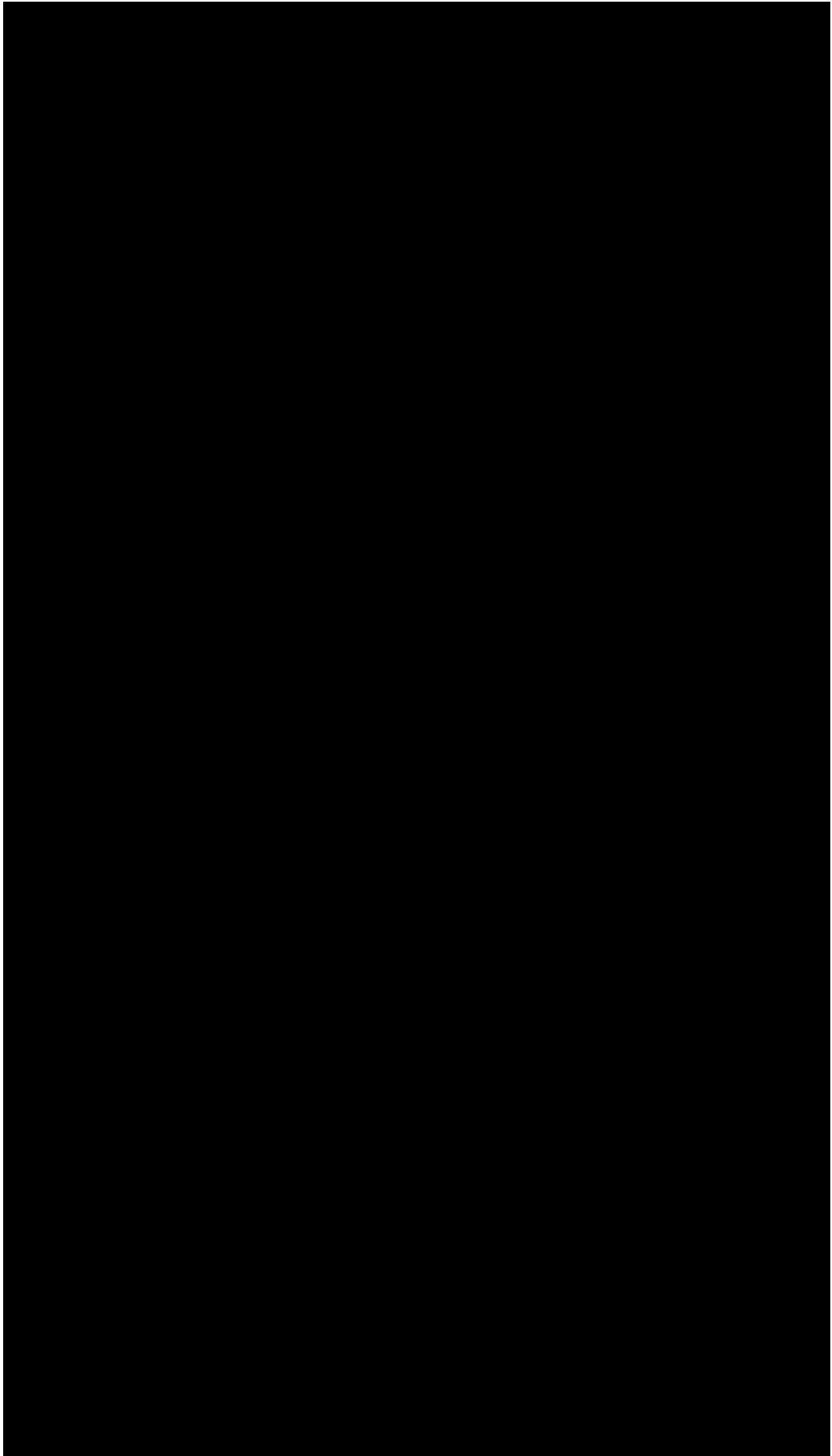
6.10 Submission of digital engineering data

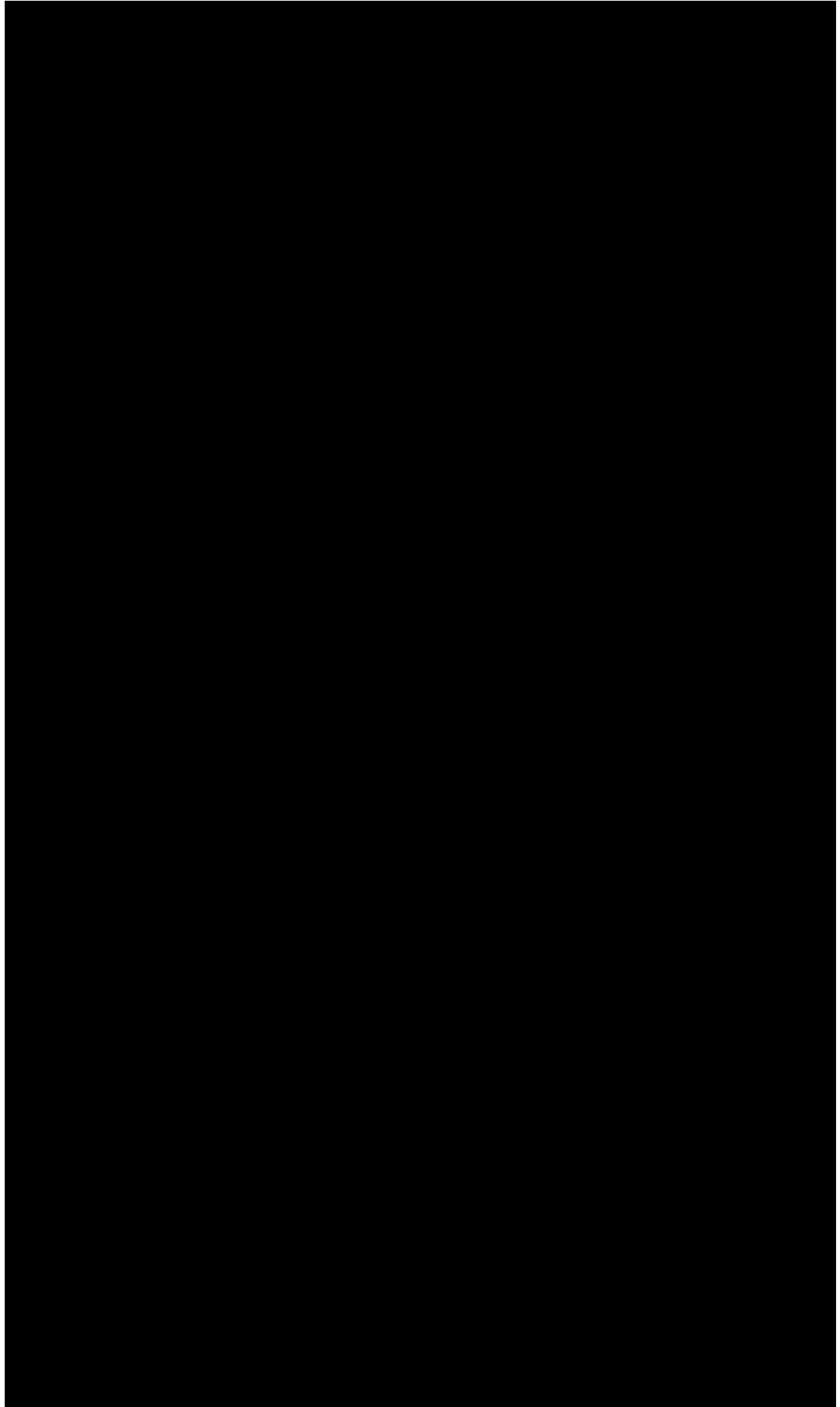
For the purposes of this clause 6 and clause 10, all digital engineering data provided by the Developer must be submitted in accordance with the Shared Digital Engineering Principles.

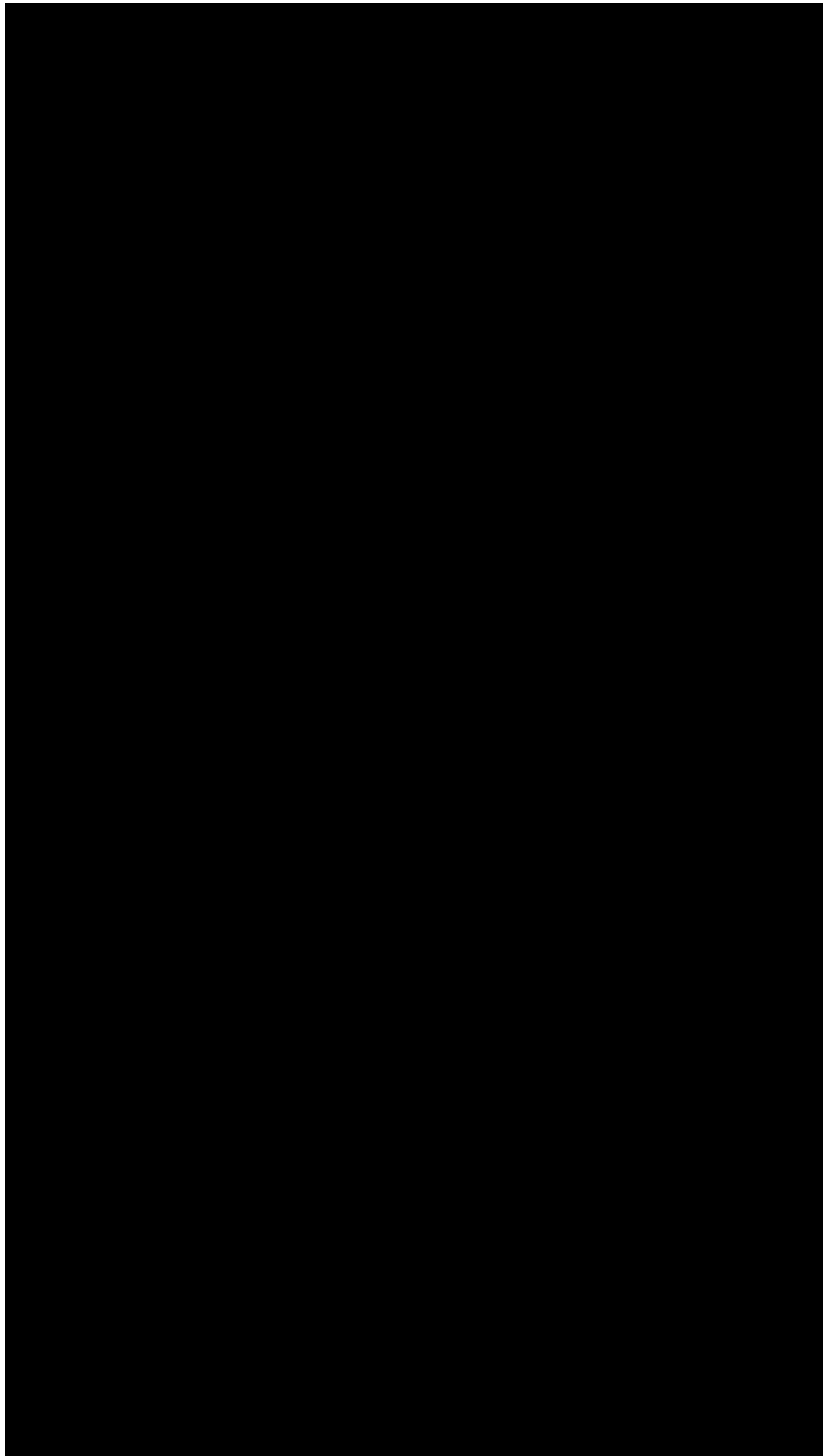
6.11 Certification of Design Documentation

All Design Documentation submitted pursuant to clauses 6.3, 6.4, 6.5, 6.6 must be accompanied by the Certificate of Design Compliance.









7 Preparation of Applications

7.1 Developer to prepare Applications

- (a) The Developer agrees to prepare at its Cost all Applications.
- (b) Subject to clause 10, the State agrees to procure all necessary consents of TAHE as land owner which the Developer requires in relation to:
 - (i) each Application; and
 - (ii) any consents and certificates relevant to the Application.

7.2 State's review of Applications and Application Plans

The Developer acknowledges and agrees that:

- (a) the State:
 - (i) is not obliged to critically analyse any Applications or Application Plans;
 - (ii) has not critically analysed the Milestone Design Documents (Development Works) and Milestone Design Documents (State Works);
 - (iii) is not responsible for any errors, omissions or non-compliance with any Law or the requirements of any Public Authority by reason of not critically analysing the Applications, the Application Plans or Milestone Design Documents (Development Works) or Milestone Design Documents (State Works); and
 - (iv) is not liable for any liability, loss or Cost incurred by the Developer because of any defect in the design or construction of any part of the Works; and
- (b) no comment, review or information supplied to the Developer by the State alters or alleviates the Developer's obligation to design, construct and complete the Works or otherwise undertake the Project in accordance with the requirements of this deed.

7.3 Developer relies on own skill and judgment

Neither the requirement to obtain the State's consent under this deed, nor any consent given by the State, imposes any duty, obligation or liability upon the State in relation to the design or construction of the Project. The Developer acknowledges that:

- (a) it is relying on its own skill and judgment, and that of the Developer's Employees and Agents, in relation to the Works and the Project and is not relying upon the skill and judgement of the State or any of the State's Employees and Agents; and
- (b) any consent of the State is intended as a procedure to enable the State to protect its rights, and perform its obligations, as owner of the Land (excluding Lot 201) (including compliance with the Works Documents) and does not relieve the Developer of its obligations under this deed.

8 Rail requirements

8.1 Rail Requirements

- (a) The Developer:
 - (i) acknowledges and agrees that the Rail Requirements apply to the Rail Corridor Interface Activities; and
 - (ii) must comply with and must ensure that the Developer's Agents and Employees comply with, the Rail Requirements in respect of the Rail Corridor Interface Activities.
- (b) Not used.
- (c) The Developer:
 - (i) acknowledges the existence of electrical currents and noise and vibration within and emanating from the Railway Corridor;
 - (ii) acknowledges that potential increases in the electrical currents, noise and vibration within, and emanating from, the Railway Corridor due to changes in transport operations, may occur;
 - (iii) agrees it must take all steps necessary to protect the Works and all persons connected to the Works from the effects of such electrical currents, noise and vibration; and
 - (iv) releases all Rail Transport Agencies from all Claims to the extent arising out of or in connection with the Works for public or private nuisance or otherwise arising from any electrical currents or noise or vibration within or emanating from the Railway Corridor or emanating from the operation of the Railway, and indemnifies all Rail Transport Agencies from such Claims.
- (d) The State and the Rail Transport Agencies do not accept liability in relation to the Works by the generation of stray currents from an operating electrified Railway.

8.2 Rail Safety Interface Agreement

The Developer must:

- (a) at its cost comply with and must ensure that the Developer's Agents and Employees comply with the Rail Safety Interface Agreement; and
- (b) not put the State in breach of the Rail Safety Interface Agreement.

9 Sustainability

9.1 Commitments by the Developer

- (a) The Developer acknowledges and agrees that in undertaking the Project it must at its cost and risk, subject to 9.1(b), cause the Development Works to meet or exceed the Sustainability Benchmarks on or before each relevant Sustainability Review Date.
- (b) The parties acknowledge that, as a result of the nature and proposed use of the State Works, it may not be possible to obtain a rating from the GBCA or NABERS in relation to the State Works.

- (c) The Developer acknowledges and agrees that the State Works must be designed, constructed and operated so as not to compromise the sustainability targets, ratings and certifications of the Central Precinct Renewal Program as set out in the State Works Minimum Requirements.

9.2 Dealings with the GBCA

The Developer must ensure that:

- (a) the Atlassian Building is registered with the GBCA no later than the first Works Portion Commencement Date and a copy of the certification agreement entered into by the Developer is lodged with the State;
- (b) the State receives a copy of each submission made by the Developer to the GBCA in respect of the certification or validation process; and
- (c) the State receives a copy of the results of that submission.

9.3 Replacement ratings and bodies

If the GBCA ceases to exist at any time, the Developer agrees that any obligation on the Developer with respect to certification by the GBCA will operate as follows:

- (a) where a body replaces the GBCA, and applies a rating or accreditation or similar system which is equivalent to the relevant rating, the reference to the GBCA, will be a reference to that other body instead, and the reference to the relevant rating, will be a reference to that other equivalent system instead; or
- (b) where nobody replaces the GBCA, or the replacement body or system does not apply a rating or accreditation or similar system which is equivalent to the relevant rating developed by the GBCA, the reference to obtaining a certificate from the GBCA, will be a reference to obtaining a written opinion from an independent expert nominated by the Developer and approved by the State as having expertise in certifying similar rating systems as to if a rating equivalent to the relevant rating, as the case may be, has been achieved.

10 Consent to Applications

10.1 Certain Applications must be lodged with the State

- (a) The Developer and the State acknowledge and agree that any Applications that were approved under the Framework Agreement are deemed to be approved for the purpose of, and for the benefit of the Developer under, this deed.
- (b) The Developer must:
 - (i) in substantially the same form it is proposed to be lodged with the Consent Authority, lodge with the State for its consent in accordance with this clause 10 each proposed Qualifying Application, before it is intended to be lodged with the relevant Consent Authority; and
 - (ii) in respect of a Qualifying Application which is a Development Application, provide a copy of that Development Application to the Independent Certifier at the same time.
- (c) The parties acknowledge and agree that:

- (i) subject always to clauses 30.8 and 30.9, but otherwise notwithstanding any other clause to the contrary in this deed, the State may withhold consent to the submission of a Qualifying Application which:
 - (A) is in relation to a Qualifying Application relating to Works (other than Fitout Works);
 - (aa) includes Design Documentation which, except to the extent of:
 - (1) design changes contained in the Qualifying Application or any prior Qualifying Applications approved pursuant to clause 10; or
 - (2) required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or
 - (3) required amendments as a result of a FRNSW Modified Design,

are not consistent with the Milestone Design Documents, or
 - (ab) includes Design Documentation which to the extent that the Milestone Design Documents are replaced by subsequent Approved Design Documents, are not consistent with the Approved Design Documents except to the extent that the Approved Design Documents:
 - (1) are varied (if applicable) by any changes to those documents contained in the Qualifying Application or in prior any Qualifying Applications approved under clause 10; or
 - (2) required amendment as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or
 - (3) required amendment as a result of a FRNSW Modified Design;
 - (ac) is materially inconsistent with the requirements set out in, or does not contain the documents required by, clauses 10.2(a)(i) and 10.2(a)(ii);
 - (ad) does not contain the written statement required by clause 10.2(a)(ii);
 - (ae) is inconsistent with the Developer's obligations under this deed; or

- (af) in relation to a Qualifying Application relating to the Development Works, would trigger a State Rejection Right;
- (B) is in relation to a Qualifying Application relating to the Fitout Works, would trigger a State Rejection Right; and
- (ii) the asset assurance process contemplated in clauses 30.8 and 30.9 is not affected by this clause 10.
- (d) The Developer must comply with the requirements of clause 10.2 when seeking the State's consent to each proposed Qualifying Application.

10.2 Requirements for proposed Applications

- (a) The Developer must give a notice to the State with any Qualifying Application as described in this clause 10.2. The notice must:
 - (i) attach the relevant Application in substantially the same form it is proposed to be lodged with the Consent Authority, including all relevant information and documentation which the State, acting reasonably, requires to consider the Qualifying Application and which has been notified to the Developer under clause 17.1(c)(iv);
 - (ii) include a written statement by the Developer for the benefit of the State that the proposed Application:
 - (A) is developed to a level necessary to support an application for the relevant Approval;
 - (B) meets accepted industry standards;
 - (C) has been prepared by consultants (where relevant) with appropriate professional qualifications and membership of appropriate professional associations;
 - (D) except to the extent that the State expressly waives compliance with this clause 10.2 in relation to any element of an Application arising from any pre-lodgement consultation between the State and the Developer, is consistent with:
 - (aa) the Milestone Design Documents except to the extent of:
 - (1) design changes contained in the Qualifying Application or any prior Qualifying Applications approved pursuant to clause 10; or
 - (2) required amendments as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or
 - (3) required amendments as a result of a FRNSW Modified Design or;

(ab) to the extent that the Milestone Design Documents are replaced by subsequent Approved Design Documents are not consistent with the Approved Design Documents except to the extent that the Approved Design Documents:

- (1) are varied (if applicable) by any changes to those documents contained in the Qualifying Application or any prior Qualifying Applications approved under clause 10; or
- (2) required amendment as a result of a condition in an Approval provided that the relevant condition does not trigger a State Unacceptable Condition; or
- (3) required amendment as a result of a FRNSW Modified Design;

(ac) this deed; and

(ad) any other Approvals relevant to the Project,

and to the extent that any aspect of a proposed Application submitted for approval is not consistent with the above requirements, disclose to the State any material inconsistency and provide clear and detailed reasons explaining the reason for not complying with the relevant requirements;

(E) complies with all Laws that apply to those Works and the Land; and

(F) is consistent, compatible and integrated with the Existing Infrastructure and any other infrastructure or Services servicing the Site; and

(iii) request the State's consent to that Qualifying Application.

(b) The Developer must promptly:

- (i) provide the State with all relevant information and documentation relating to an Application which the State, acting reasonably, has requested from the Developer prior to submission of that Application to the State under clause 10.1(b), and must to the extent practicable, provide such information and documentation with submission of that Application;
- (ii) inform the State of any changes which are made to any Application which has been approved by the State under this clause 10.5 prior to its submission to the relevant Consent Authority; and
- (iii) provide the State with any further information or documentation required by the State in order to consider the proposed Qualifying Application.

10.3 Developer to keep State informed of timing

The Developer agrees to keep the State informed regarding the likely timing of lodgement with the State and the contents of all Applications which this deed contemplates will be lodged with the State.

10.4 Non-conforming Applications

The Developer agrees to disclose to the State by written notice each aspect of a proposed Qualifying Application submitted for consent pursuant to clause 10.1 that is not in conformity with relevant requirements of clause 10.2.

10.5 Timing for State consent

(a) Where the consent of the State is required under clause 10.1 in relation to a Qualifying Application, that consent must be either given or withheld:

- (i) in the case of a Qualifying Application that is a Development Application, within 20 Business Days; and
- (ii) in the case of any other Qualifying Application, within 15 Business Days,

after the State receives:

- (iii) a notice from the Developer requesting the State's consent; and
- (iv) a copy of the proposed Application;

which complies with clause 10.2.

(b) Within 10 Business Days of receiving the documents referred to in clauses 10.5(a)(iii) and 10.5(a)(iv), the State may request any further information and documents which are:

- (i) referred to and omitted from a Qualifying Application submitted to the State in accordance with clause 10.1;
- (ii) reasonably required by the State for the purposes of considering that Qualifying Application; or
- (iii) reasonably required by TAHE for the purposes of providing landowner consent to that Qualifying Application,

provided that the requested further information and documents are in existence at the time of submitting the Qualifying Application to the State in accordance with clause 10.1.

(c) If the State provides the Developer with a notice under clause 10.5(b), the Developer must provide the further information and documents within 2 Business Days of receiving the State's request.

(d) If the Developer:

- (i) provides the further information and documents within 2 Business Days of receiving the request under clause 10.5(b), the applicable timeframes for the State to provide or withhold its consent under clause 10.5(a) will remain unchanged; or
- (ii) does not provide the further information and documents within 2 Business Days of receiving the notice under clause 10.5(b), the

applicable timeframes for the State to provide or withhold its consent under clause 10.5(a) will be suspended until such time that the further information and documents are provided by the Developer to the State.

10.6 Capacity of State and conditional consents

The Developer acknowledges that:

- (a) in giving or withholding its consent to an Application, the State is not acting in the capacity of a Consent Authority; and
- (b) in giving its consent to an Application, the State may (acting reasonably) impose conditions if such conditions are required to ensure compliance with this deed.

10.7 Consequences of withholding consent to proposed Qualifying Applications

- (a) If the State withholds its consent to any Qualifying Application under clause 10.5, it will notify the Developer of its reasons:
 - (i) in the case of a Qualifying Application that is a Development Application, within 20 Business Days; and
 - (ii) in the case of any other Qualifying Application, within 15 Business Days,after the State receives:
 - (iii) a notice from the Developer requesting the State's consent; and
 - (iv) a copy of the proposed Application;which complies with clause 10.2.
- (b) If the State withholds its consent under clause 10.5:
 - (i) on receipt by the Developer of any notice referred to in clause 10.7(a), the Developer must either:
 - (A) as soon as practicable, amend the proposed Qualifying Application taking the State's reasons into account, and re-submit the amended proposed Qualifying Application to the State for its approval; or
 - (B) promptly advise the State that it disagrees with the State's reasons (as applicable), in which case either party may refer the matter to the executive negotiation in accordance with clause 38.4 to determine whether or not the State is entitled under this deed to withhold its consent to the Qualifying Application; and
 - (ii) if the representatives of the parties cannot resolve the matter in accordance with clause 38.4 within 15 Business Days of referral under clause 10.7(b)(i)(B), then:
 - (A) to the extent that the matter relates to the State withholding its consent on the basis that the Qualifying Application is inconsistent with the TfNSW Requirements:

- (aa) the Independent Certifier will not determine the matter; and
- (ab) the Developer may:
 - (1) issue a notice to the State referring the matter to further executive negotiation in accordance with clause 38.4 and clause 10.7(b)(ii) will re-apply; or
 - (2) re-submit the relevant Qualifying Application to the State in accordance with clause 10.2 and clauses 10.5 and 10.7 will re-apply.
- (B) to the extent that the matter does not relate to the State withholding its consent on the basis that the Qualifying Application is inconsistent with the TfNSW Requirements:
 - (aa) the Developer must refer the matter to the Independent Certifier within a further 2 Business Days; and
 - (ab) the Independent Certifier must within 2 Business Days of the referral under clause 13.7(b)(2)(B)(aa) determine the matter, subject to clause 10.7(c)(i), and notify the parties of that determination; and
 - (ac) the Independent Certifier's determination will be final and binding subject to manifest error of fact or law.
- (c) The parties acknowledge and agree that:
 - (i) the Independent Certifier cannot:
 - (A) bind TAHE and Sydney Trains as Authorities; and
 - (B) determine any matter in relation to:
 - (aa) landowner consent, or an issue raised by TAHE or Sydney Trains; and
 - (ab) whether the Qualifying Application is consistent with the TfNSW Requirements; and
 - (ii) if the State withholds its consent under clause 10.5 due to:
 - (A) a matter raised by TAHE or Sydney Trains; or
 - (B) the consistency of the Qualifying Application with the TfNSW Requirements,

such matters must not be referred to the Independent Certifier in accordance with clause 10.7(b)(ii)(B)(aa) and may only be referred to executive negotiation in accordance with clause 10.7(b)(i)(B) or clause 10.7(b)(ii)(A)(ab).

- (d) If, following referral of the matter to the Independent Certifier under clause 10.7(b)(ii)(B), the Independent Certifier determines that:
- (i) the State was entitled to withhold its consent to that proposed Qualifying Application, then clause 10.7(b)(i)(A) will apply; or
 - (ii) the State was not entitled to withhold its consent to that proposed Qualifying Application, then the approval status of that Qualifying Application will be deemed to be in accordance with the Independent Certifier's determination.
- (e) The Developer must not submit a Qualifying Application which is a Development Application to the Consent Authority until such time as it has obtained the State's consent as provided for in clause 10.5 or the Independent Certifier has determined the matter under clause 10.7(b)(ii)(B) in the Developer's favour.
- (f) The parties acknowledge and agree that if a Qualifying Application is not a Development Application and:
- (i) the State has not provided:
 - (A) its consent in accordance with clause 10.5(a); or
 - (B) a notice referred to in clause 10.5(a) within the time period allowed under clause 10.5(a)(ii) or any extended time period under clause 10.5(d)(ii); or
 - (ii) the Independent Certifier has determined the matter under clause 10.7(b)(ii)(B) in the Developer's favour,
- then:
- (iii) the Developer may proceed to submit the Qualifying Application to the relevant Consent Authority provided:
 - (iv) the Developer pays due regard to any comments provided by the State in relation to that Application; and
 - (v) the Developer has provided to the State a certificate signed by Atlassian's Authorised Officer confirming that the Qualifying Application is consistent with the requirements of this deed.
- (g) The parties acknowledge and agree that notwithstanding any other provision of this deed, the Developer is not permitted to, commence construction of the Works the subject of a Qualifying Application, until:
- (i) the State has consented to a Qualifying Application or the Independent Certifier has determined the matter under clause 10.7(b)(ii)(B) in the Developer's favour;
 - (ii) TAHE has provided landowner consent to a Qualifying Application (as applicable); and
 - (iii) the Consent Authority has provided an Approval in respect of that Qualifying Application.

10.8 Landowner consent

- (a) If a Qualifying Application requires landowner consent and provided the Qualifying Application is consistent with the requirements set out in clause 10.2(a), the State will use reasonable endeavours to procure that TAHE in its capacity as landowner to sign all documents, provide all authorisations, consents and approvals as may reasonably be required to enable Atlassian to lodge any Qualifying Application with a Consent Authority within the applicable timeframes for State consent set out in clause 10.5(a).
- (b) If the State has consented to that Qualifying Application under clause 10.5(a), but the State is unable to procure landowner consent within 5 Business Days of the expiry of the applicable timeframes set out in clause 10.5(a) then, subject to clause 10.8(c), the Developer may proceed to submit the Qualifying Application to the Consent Authority.
- (c) The Developer acknowledges and agrees that:
 - (i) if the Developer elects to submit the Qualifying Application to the Consent Authority without landowner consent in accordance with clause 10.8(b), the Developer does so at its own risk;
 - (ii) clauses 10.8(a) and 10.8(b) do not in any way limit, reduce or otherwise affect the rights of TAHE, or require TAHE to provide its consent as landowner; and
 - (iii) the Developer has no Claim against the State if the State is unable to obtain landowner consent within the timeframe set out in clauses 10.5(a) or 10.8(a), or at any time thereafter.

10.9 State not liable in connection with consents

Except to the extent that the State is in breach of any provision of this clause 10, the Developer releases the State from, and agrees that the State is not liable for, liability or loss arising from, and any Costs incurred in connection with the State rejecting or consenting to a Qualifying Application (as applicable) or any delay in giving or refusing that consent.

11 Lodgement and Development Consent procedures

11.1 Lodgement of Applications

After receiving the State's consent to any proposed Qualifying Application which is a Development Application, the Developer agrees to:

- (a) promptly finalise the Qualifying Application paying regard to any reasonable comments or suggestions the State may make in respect of the proposed terms and conditions of the Qualifying Application; and
- (b) submit the Qualifying Application to the relevant Consent Authority after the State consents to that Qualifying Application, or such longer period as may be reasonably required having regard to any comments or conditions of the State's consent.

11.2 Consent procedures

Without limiting any of the Developer's other obligations under this deed, the Developer agrees that it must:

- (a) regularly consult with the State and keep the State fully informed in relation to all its dealings with the Consent Authority including in relation to:
 - (i) any panel of experts or panel of officers;
 - (ii) any environmental assessment, preferred project report, statement of commitments or any revisions of those documents;
 - (iii) any environmental assessment made publicly available and any response to issues raised;
 - (iv) any response to issues raised in submissions or any other document; and
 - (v) all details of any significant changes, modifications or conditions of which the Developer becomes aware, which the Consent Authority may consider in relation to the relevant Qualifying Application; and
 - (vi) seek the State's prior written approval before making any variations or modifications to a Qualifying Application.
 - (vii) In giving or withholding its consent to any such documents or matters, the provisions of clauses 10.1, 10.2, 10.5, 10.7 and 10.9 will apply *mutatis mutandis*.

11.3 Obtaining other Approvals

The Developer agrees to:

- (a) obtain other required Approvals promptly; and
- (b) ensure that those Approvals are consistent with the Development Consent and the Development Consent (Project),

but in any event upon the basis that all conditions of the relevant Approval are fully satisfied.

11.4 Delays in obtaining Approvals

The Developer agrees that, subject to the other provisions of this deed, it accepts all risk of obtaining all Approvals required to carry out the Works as contemplated by this deed.

11.5 State to be informed of progress

The Developer must:

- (a) inform the State of the progress of, and give the State other information in connection with, the Applications; and
- (b) use its reasonable endeavours to identify, and keep the State informed of, the anticipated timing of Applications required to be made to the relevant Public Authorities.

11.6 Copies of Applications, Approvals and associated documents

The Developer must promptly give the State a copy of each of the following in relation to the Project:

- (a) each Development Application;

- (b) any other Qualifying Application;
- (c) any other Application where requested in writing by the State (acting reasonably);
- (d) all significant correspondence between the Developer (or any person on behalf of the Developer) and any Consent Authority in connection with any Qualifying Application, proposed Qualifying Application, Approval or proposed or draft determination of any Qualifying Application;
- (e) all requirements issued by the Consent Authority in relation to any Qualifying Application;
- (f) all environmental assessment requirements or other requirements issued by the Consent Authority in relation to any Qualifying Application;
- (g) all submissions that may be made by or on behalf of the Developer to any panel of experts or panel of officers in relation to any Qualifying Application;
- (h) all submissions received, and any report provided to the Developer by the Consent Authority in relation to any Qualifying Application;
- (i) any response to issues raised in submissions, preferred project report and revised statement of commitments or other document provided by the Developer in relation to any Qualifying Application;
- (j) all written submissions in relation to any Qualifying Application which are received by the Developer or of which it has a copy; and
- (k) all Approvals received and notices gazetted in relation to any Qualifying Application.

12 Third Party Appeals

If a Third Party Appeal occurs, the State and the Developer agree that promptly after either the State or the Developer becomes aware of the Third Party Appeal, the Developer and the State must meet and discuss in good faith (both acting reasonably) the most appropriate action to be taken in respect of that Third Party Appeal, which may include:

- (a) lodging a new (and amended) Development Application with the Consent Authority;
- (b) lodging an application for a modification to the Development Consent; or
- (c) taking whatever action necessary to object to the Third Party Appeal,

and notwithstanding anything to the contrary contained in this deed, if the effective outcome of any such Third Party Appeal is that the Development Consent (including the Development Consent (Project)), is invalid, the parties agree that there is no Development Consent for the Works then the Developer must prepare a new (and amended) Development Application and comply with the provisions of clauses 8, 11 and 12 as regards the new (and amended) Development Application.

13 Copies of Final Design Documentation

The Developer must give the State and the Independent Certifier:

- (a) a consolidated set of the Final Design Documentation for each Works Portion promptly after the Developer receives any Construction Certificate for that Works Portion or, if no Construction Certificate is required by Law, prior to commencement of any works on the Land; and
- (b) written details of any changes to the Final Design Documentation (including copies of the changed plans and specifications), promptly after the Developer receives any other Approval.

14 Objections by the Developer

The Developer must not, and must procure that all Developer's Employees or Agents or other parties reasonably within the Developer's control do not make any claim, objection or complaint in respect of any:

- (a) Development Application that is lodged with a Consent Authority, where such Development Application is consistent with the Approved Design Documentation; or
- (b) any application for Development Consent under the EP&A Act in relation to development of the Precinct.

15 Contractors and Independent Certifier

15.1 Appointment of Builder pursuant to the Framework Agreement

The parties acknowledge and agree that if:

- (a) a Builder has been approved and validly appointed pursuant to the Framework Agreement, then that Builder will be taken to have been validly approved and appointed for the purposes of this deed, and no further consents or approvals will be required from the State under this clause 15 in relation to the appointment of that Builder; and
- (b) a Builder was approved before the date of this deed pursuant to the Framework Agreement but that Builder was not appointed by Atlassian SPV or the Developer as the Builder, then that Builder will be a Pre-Approved Builder for the purposes of clause 15.2 and the State's consent to the Building Contract will be required under clause 15.4.

15.2 Pre-Approved Builders

If:

- (a) there has been no Material Deterioration in relation to a Pre-Approved Builder as at the date on which the Developer intends to execute the Building Contract(s) with that Builder pursuant to this clause 15, then the Developer may appoint the Builder and subject to clause 15.3 execute the Building Contract with that Builder; and
- (b) there has been a Material Deterioration in relation to the Pre-Approved Builder as at the date on which the Developer intends to execute the Building Contract with that Builder pursuant to this clause 15, then the Developer may nevertheless request the State to consider the proposed Builder, provided that the provisions of clause 15.3 will apply.

15.3 Appointment of Replacement Builder

- (a) The Developer must not appoint a Replacement Builder without the prior approval of the State (which approval must not be unreasonably withheld).

- (b) The State will not unreasonably withhold its approval of the Replacement Builder pursuant to clause 15.3(a) if, in the opinion of the State (acting reasonably):
 - (i) the Replacement Builder (and its proposed guarantor) is not Insolvent and has sufficient financial capacity to design and construct the part of the Works which is subject to the relevant Building Contract(s);
 - (ii) the Replacement Builder (together with any guarantor) has sufficient technical capability and has demonstrated relevant experience in designing and constructing the part of the Works which is subject to the relevant Building Contract(s); and
 - (iii) the entry into of the relevant Building Contract(s) will not give rise to material reputational or probity issues for the State.
- (c) If the Developer requires the State to consider a proposed Replacement Builder for approval pursuant to clause 15.3(a), it must provide the State the information set out in Annexure A.

15.4 Providing information about Building Contract for Pre-Approved Builder or Replacement Builder

- (a) The Developer must obtain the State's consent for the Developer to enter into the Building Contract(s) with a Pre-Approved Builder or a Replacement Builder. For the purpose of securing the State's consent the Developer must provide the State with:
 - (i) a copy of the proposed Building Contract(s); and
 - (ii) a Building Contract Notice in respect of each Building Contract.
- (b) A Building Contract Notice must contain a warranty by the Developer to the State that the Building Contract contains provisions:
 - (i) requiring the Builder to comply with Codes and Standards, NSW Code and ASA Requirements in relation to the carrying out of the Works the subject of that Works Portion;
 - (ii) that the Builder may not assign the Building Contract or any payment, right, benefit or interest under it without the consent of the State;
 - (iii) in respect of the Building Contract containing the State Works, requiring the Builder to provide a schedule of rates and an agreed margin for State Initiated Variations and a payment withholding request to the State under section 26A of the *Building and Construction Industry Security of Payment Act 1999* (NSW) where the Builder has served an adjudication application for a payment claim made to the Developer;
 - (iv) requiring that the relevant insurances are in force prior to the relevant Works Portion Commencement Date and that the State is noted as an insured on all policies, provided that the State will not be named as an insured on any professional indemnity insurance or other statutory insurance policy;

- (v) acknowledging that, if the State exercises a right to terminate this deed, the Developer must, at the election of the State, novate the Building Contract to the State; and
- (vi) which are sufficient to enable the Developer to grant the licence required under clause 35.2.
- (c) The State, the Developer and the Pre-Approved Builder or Replacement Builder (or Builders where there is more than one Builder) must enter into a Builder's Side Deed in respect of each Building Contract relating to the State Works.
- (d) The Builder's Side Deed must contain a warranty from the Builder that the design of the State Works will be compliant with the requirements contained in clause 6.

15.5 Restrictions on Building Contract and replacement of Builder

- (a) In respect of the State Works, without limiting its obligations under this deed or the Builder's Side Deed, the Developer must:
 - (i) not vary the terms and conditions of the Building Contract or otherwise waive any of its rights or the Builder's obligations under the Building Contract without the prior written consent of the State;
 - (ii) not exercise any rights under the Building Contract in relation to termination for convenience or otherwise terminate or accept a repudiation of the Building Contract without the consent of the State; and
 - (iii) not instruct or accept any variations under the Building Contract if they would cause the Developer to be in breach of this deed without the prior written approval of the State.
- (b) If the Developer seeks to amend or vary the terms and conditions of the Building Contract so that the State Works are omitted or deleted from the scope of the Building Contract (whether or not to be undertaken by the new builder) then the Developer must obtain the State's prior written approval to such amendment or variation.
- (c) If the Building Contract is at any time terminated then the Developer must comply with clauses 15.2 to 15.5 in relation to the appointment of any replacement Builder (**Replacement Builder**).

15.6 Provisions in third party contracts

- (a) In respect of all contracts entered into by the Developer in connection with the carrying out of the State Works (other than the Building Contract(s), but including architectural, design and engineering contracts) the Developer must:
 - (i) use best endeavours to include provisions in those contracts which enable novation of the contract (or the relevant part of the contract relating to the State Works) to the State;
 - (ii) include provisions which are sufficient to enable the Developer to grant the licence required under clause 35.2; and
 - (iii) to the extent not contained in the Building Contract, procure collateral warranties in accordance with clause 19.9.

- (b) Subject to clause 15.6(c), the Developer must not enter into any contract referred to in this clause 15.6 for the State Works until the Developer has obtained the State's approval (acting reasonably) in relation to the matters referred to in clause 15.6(a).
- (c) The parties acknowledge and agree that, if any contract referred to in clause 15.6(a):
- (i) has been entered by Atlassian SPV pursuant to the Framework Agreement prior to the date of this deed; and
 - (ii) is novated to the Developer for the purpose of this deed,
- then that contract will be taken to have satisfied the requirements of this clause 15.6.

15.7 Quality assurance systems

- (a) The Developer must carry out or procure that the Works are carried out in accordance with quality assurance systems conforming to the ISO 9000 or AS3900 series of standards.
- (b) The Developer must ensure that each Builder engaged in respect of a Works Portion has certified quality assurance systems and have achieved substantial implementation of a quality assurance system conforming to the ISO 9000 series.

15.8 Developer liable for acts of contractors

The entry into of a contract in respect of the Works (or any Works Portion) does not relieve the Developer from any liability or obligation under this deed. The Developer is liable to the State for the acts and omissions of any contractor or person engaged by the Developer in connection with the Works.

15.9 Fitout Works

- (a) The Developer acknowledges and agrees that the entities and persons undertaking the Fitout Works (including Atlassian) constitute Developer's Employees and Agents for the purposes of this deed.
- (b) The parties acknowledge and agree that the provisions of this deed which apply to the Works and Works Portion, apply to the Fitout Works, except to the extent and in the manner noted in the table below:

Clause reference	Principle
1.1 Definition of 'Certificate of Practical Completion'	This does not apply to Fitout Works.
1.1 Definition of 'Commence Construction'	This does not apply to Fitout Works.
1.1 Definition of 'Date of Practical Completion'	This does not apply to Fitout Works.
1.1 Definition of 'Defects Liability Period'	This does not apply to Fitout Works.
1.1 Definition of 'Design Documentation' or 'Design Documents'	This does not apply to Fitout Works, other than to the extent necessary to give effect to paragraph (d) of the definition of Design Documentation (Reviewable Development Works).

Clause reference	Principle
1.1 Definition of 'Design Documentation (Development Works)'	This does not apply to Fitout Works, other than to the extent necessary to give effect to paragraph (d) of the definition of Design Documentation (Reviewable Development Works).
1.1 Definition of 'Developer's Rejection Right'	This does not apply to Fitout Works.
1.1 Definition of 'Discriminatory Change in Law'	This does not apply to Fitout Works.
1.1 Definition of 'Final Completion Certificate'	This does not apply to Fitout Works.
1.1 Definition of 'Milestone Design Documents (Development Works)'	This does not apply to Fitout Works.
1.1 Definition of 'Occupation Certificate'	This does not apply to Fitout Works.
1.1 Definition of 'Net Financial Impact'	This does not apply to Fitout Works.
1.1 Definition of 'Practical Completion'	This does not apply to Fitout Works.
2.1(b)(ii)	This does not apply to Fitout Works.
2.3(a)(i) and (ii)	This does not apply to Fitout Works.
6.1(c)	This does not apply to Fitout Works.
6.2(a)(i)	This does not apply to Fitout Works.
10.2(a)(ii)(D)(aa), 10.2(a)(ii)(D)(ab),	This does not apply in relation to a Qualifying Application in respect of Fitout Works.
12	This does not apply in relation to a Third Party Appeal in respect of a Development Consent for Fitout Works.
13	This does not apply to Fitout Works.
15.7	This does not apply to Fitout Works.
16.4(a)	This does not apply to Fitout Works.
16.4(b)(i), (ii), (iii), (iv), (v), (vi), (viii), (ix), (x)	This does not apply to Fitout Works.
16.4(c)	This does not apply to Fitout Works.
16.5	This does not apply to Fitout Works.
17.2(a)(iii)	This does not apply to Fitout Works.
17.4(d)	This does not apply to Fitout Works.
17.6(a)	This does not apply to Fitout Works.

Clause reference	Principle
19.4(a)	This does not apply to Fitout Works.
21.1(c)	This does not apply to Fitout Works.
21.2	This does not apply to Fitout Works.
21.3	This does not apply to Fitout Works.
21.4	This does not apply to Fitout Works.
21.5	This does not apply to Fitout Works.
21.6	This does not apply to Fitout Works.
21.7	This does not apply to Fitout Works.
21.8	This does not apply to Fitout Works.
21.9	This does not apply to Fitout Works.
21.10	This does not apply to Fitout Works.
22	This does not apply to Fitout Works. The extension of time regime is not applicable to the Fitout Works as the Fitout Works do not form part of Practical Completion.
23.6	This does not apply to Fitout Works.
24.1(a)(i), (ii), (iii), (viii)	This does not apply to Fitout Works.
24.3	This does not apply to Fitout Works.
24.6	This does not apply to Fitout Works.
26.6	This does not apply to Fitout Works.
26.7	This does not apply to Fitout Works.
28.5	This does not apply to Fitout Works.
29.5	This does not apply to Fitout Works.
29.6	This does not apply to Fitout Works.
31.7(a)(iv)	This does not apply to Fitout Works.
31.7(b)	This does not apply to Fitout Works.
32.2	This does not apply to Fitout Works.
34.4(c)	This clause 34.4(c) only applies in relation to Fitout Works on the 'retail and deck level' between RL 30 to RL 39.
36.1	This does not apply to Fitout Works.

- (c) Nothing in this clause 15.9 will limit the operation of, or effect of, any other provision of this deed.

15.10 Appointment of Independent Certifier

- (a) The Developer must enter into Independent Certifier Deed on the same day as the date of this deed.
- (b) The Developer must comply with the Independent Certifier Deed.
- (c) To the extent that there is any inconsistency, ambiguity or discrepancy between this deed and the Independent Certifier Deed then this deed will prevail.
- (d) If, at any time, the Independent Certifier Deed is terminated or the appointment of the Independent Certifier is terminated, the parties must use their respective reasonable endeavours to appoint a replacement Independent Certifier on substantially the same terms as the Independent Certifier Deed. The appointment of such replacement Independent Certifier will be subject to approval of the parties (acting reasonably).
- (e) The parties acknowledge and agree that all certifications and determinations made by the independent certifier under the Framework Agreement will be deemed to be certifications and determinations of the Independent Certifier under this deed.

16 Commencement of Works and Access

16.1 Possession

- (a) Subject to:
 - (i) clause 16.1(b); and
 - (ii) the Developer having satisfied each 'condition precedent to occupation of licence' (if any) set out in Schedule 5 as relevant to that part of the Site to which access is to be granted,

the State must provide the Developer with each relevant part of the Site set out in Schedule 5 free of all Tenancies but remaining subject to all easements and other affectations on or before the relevant Access Commencement Date. The Developer acknowledges that there may be encroachments on the Site in relation to the existing heritage wall in the vicinity of the boundary of Lot 30 in DP877478 and Lot 116 in DP877478 (**Encroachment**) and the Developer will use all reasonable endeavours to work with the Adjoining Owner of Lot 30 in DP877478 to ensure that the Encroachment is removed from proposed Lots 1 and 2 (as shown in the draft subdivision plans contained in part B of Schedule 23) by way of a boundary adjustment.

- (b) The Developer is responsible for and accepts all risks in connection with:
 - (i) obtaining access to and possession from third parties of Lot 116 in Deposited Plan 1078271 for the conduct of the Works;
 - (ii) all arrangements necessary to decant YHA's operations from the premises the subject of the Lot 116 Lease;
 - (iii) securing the surrender of the Lot 13 Lease in so far as it relates to Lot 13A;

- (iv) securing the surrender of any Tenancies in relation to Lot 13A on or prior to the date of the surrender of the Lot 13 Lease in so far as it relates to Lot 13A;
 - (v) compliance with the Existing Easements (to the extent that these easements have not been released or terminated at the time of conduct of the Works);
 - (vi) obtaining access to and possession of any part of Lot 13 in Deposited Plan 1062447 (other than Lot 13A) and access to any part of Lot 30 in Deposited Plan 877478 for the conduct of the Works; and
 - (vii) obtaining access to and possession of any Extra Land for the conduct of the Works.
- (c) Without limiting clause 16.1(b)(vii), where:
- (i) the Developer requires access to and possession of any Extra Land; and
 - (ii) the State or TAHE is the freehold owner of that Extra Land,
- then:
- (iii) the State will act reasonably and (if applicable) will procure that TAHE acts reasonably in considering any request from the Developer in respect of access to and possession of that Extra Land,

however, the State and TAHE are not obliged to provide to the Developer access to any Extra Land and a failure by the State or TAHE to provide the Developer with access to Extra Land will not be a breach of this deed.

16.2 Access to the Site and Construction Licence

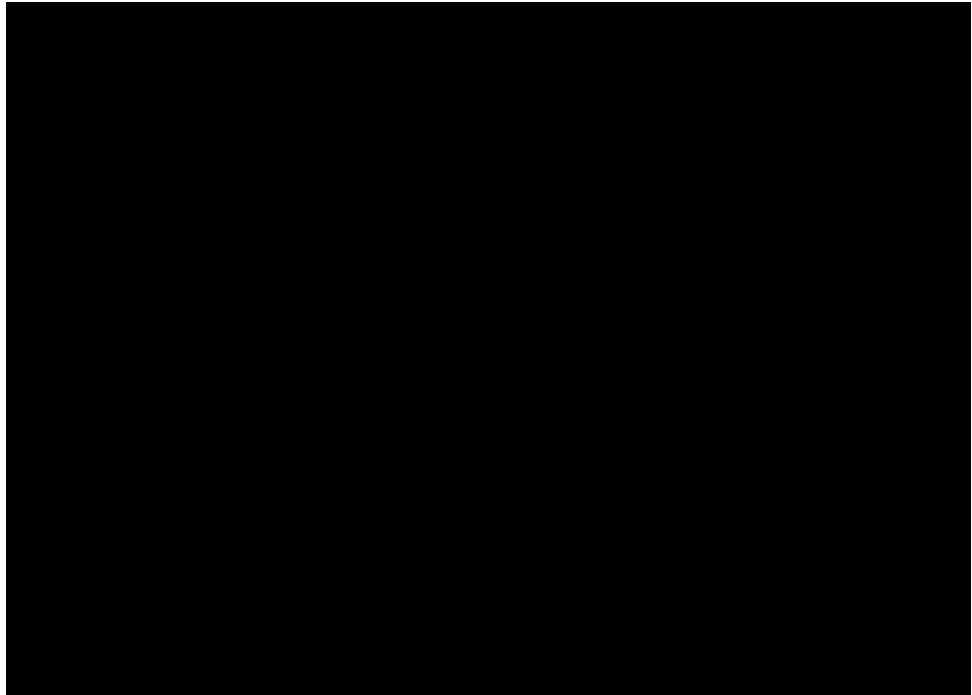
- (a) Subject to clauses 16.1(b) and 39.6, the Developer accepts the grant of the right to access the Site provided or procured by the State pursuant to clause 16.1 on the terms set out in clause 16.3, Schedule 5 and Schedule 6.
- (b) The parties acknowledge that the Developer will obtain access to the part of the Site that comprises of Lot 116 in DP 1078271 pursuant to the Lot 116 Lease.
- (c) Other than where expressly noted in Schedule 5, all parts of the Site which the Developer is granted access to pursuant to clause 16.2(a) becomes Developer Controlled State Land on and from the Access Commencement Date until the Access End Date for those areas.

16.3 Terms of Developer access to the Site

- (a) The access granted pursuant to clause 16.2(a) is for the purposes of the conduct of the Project, including to:
 - (i) obtain Approvals;
 - (ii) carry out the Works; and
 - (iii) comply with its obligations pursuant to this deed,

and for such other purposes set out in Schedule 6.

- (b) The parties acknowledge and agree that:
- (i) the State owns Lot 117 in Deposited Plan 1078271;
 - (ii) the State is entitled to continue to use the parts of the Site which the Developer is granted access to pursuant to clause 16.2(a) for its own purposes until the Access Commencement Date for that part of the Site;
 - (iii) the State must not, between the date of this deed and the "Access Commencement Date" for any parts of the Site which the Developer is granted access to pursuant to clause 16.2(a), permit any structural alterations or other improvements to be conducted on those parts of the Site; and
 - (iv) access to parts of the Site granted under this clause 16 confers on the Developer a right only to such use and control as is permitted under clause 16.3(a).



- (e) Commencing on the date of the State's notice issued in accordance with clause 16.3(d):
- (i) the Developer must commence the Reconfiguration Works and Reconfiguration Works (State) so that the Reconfiguration Works and Reconfiguration Works (State) are completed:
 - (A) no later than six months after the date of the notice issued by the State in accordance with 16.3(d); or
 - (B) the date as otherwise agreed by the parties in accordance with 16.3(l)(iii) or 16.3(n)(ii)(A)(ab); or
 - (C) as determined by the Independent Certifier in accordance with 16.3(n)(ii)(B),

as relevant;

- (ii) the State must provide the Developer with access to the Reconfiguration Area on the terms of the Reconfiguration Area Licence (and the Reconfiguration Area Licence will be deemed to have commenced) with the Reconfiguration Area deemed to comprise Developer Controlled State Land; and
- (iii) the Ambulance Avenue Licence will terminate and the Ambulance Avenue Fee will no longer be payable by the Developer under the Ambulance Avenue Licence.



- (g) Upon completion of the Reconfiguration Works and the Reconfiguration Works (State):
 - (i) the Reconfiguration Area Licence will terminate; and
 - (ii) the Compound Area Licence will commence and the State must provide the Developer with access to the Compound Area on the terms of the Compound Area Licence (and the Compound Area Licence will be deemed to have commenced) with the Compound Area deemed to comprise Developer Controlled State Land.
- (h) The Compound Area Licence will be on substantially the same terms as the Ambulance Avenue Licence except the fee payable by the Developer will be adjusted to reflect the size of the Compound Area.
- (i) Subject to clause 16.6, the State and the State's Employee and Agents will have the right to:
 - (i) in respect of the Reconfiguration Area:
 - (A) pass and repass, with equipment and vehicles, over the Reconfiguration Area to access the Ambulance Avenue Area to undertake the Central Walk West Works; and
 - (B) coordinated access to the Reconfiguration Area to visually inspect, photograph or survey key parts of the heritage wall or other aspects of the Reconfiguration Area to undertake the Central Walk West Works; and
 - (ii) in respect of the Compound Area:
 - (A) coordinated access to the Compound Area to visually inspect, photograph or survey key parts of the heritage wall or other aspects of the Compound Area to undertake the Central Walk West Works.
- (j) The Developer must:
 - (i) subject to the State complying with paragraphs 16.3(k)(i) and 16.3(k)(ii), construct the Reconfiguration Works (State);
 - (ii) design and construct the Reconfiguration Works;

- (iii) obtain all Approvals required to deliver the Reconfiguration Works;
 - (iv) pay all costs associated with the Reconfiguration Works; and
 - (v) comply with clauses 19.3 and 19.4 in respect of submitting progress claims for the Reconfiguration Works (State).
- (k) The State must:
 - (i) design the Reconfiguration Works (State);
 - (ii) obtain all Approvals required to deliver the Reconfiguration Works (State); and
 - (iii) pay all costs associated with the Reconfiguration Works (State), in accordance with clauses 19.3 and 19.4.
- (l) Without prejudice to the State's ability to issue a 'nomination notice for Reconfiguration Scope and Area', the parties agree from the date of this deed to use reasonable endeavours and work together in good faith to discuss and resolve:
 - (i) additional scope items (if any) that need to be included as part of the Reconfiguration Works (State) where the anticipated scope of the Reconfiguration Works (State) exceeds the proposed scope as defined at the date of this deed;
 - (ii) identification of additional Approvals necessary to be obtained to allow the works to proceed;
 - (iii) the required additional time (if any) over and above six months that is required to obtain the additional Approvals and complete the Reconfiguration Works (State) as agreed;
 - (iv) the Reconfiguration Area; and
 - (v) the Compound Area.
- (m) Notwithstanding that an agreement may not have been reached as between the parties in relation to the matters set out in paragraph (j) above, the State may at any time issue to the Developer a 'nomination notice for Reconfiguration Scope and Area' setting out details of:
 - (i) scope of the Reconfiguration Works (State);
 - (ii) time for completion of the Reconfiguration Works (State); and
 - (iii) the Reconfiguration Area; and
 - (iv) the Compound Area,as:
 - (v) nominated by the State in accordance with the principles contained in 16.3(n); or
 - (vi) agreed by the parties in accordance with 16.3(l).

- (n) Where an agreement has not been reached as between the parties in relation to the matters set out in 16.3(l) and the State issues a 'nomination notice for Reconfiguration Scope and Area':
- (i) if the scope of the Reconfiguration Works (State) in the notice is materially consistent with the scope as detailed in paragraphs (i), (ii) and (iii) of the definition of 'Reconfiguration Works (State)' the Reconfiguration Works (State) must be completed no later than six months after the date of the notice issued by the State in accordance with 16.3(d);
 - (ii) if:
 - (A) the scope of the Reconfiguration Works (State) in the 'nomination notice for Reconfiguration Scope and Area' is not materially consistent with the scope as detailed in paragraphs (i), (ii) and (iii) of the definition of 'Reconfiguration Works (State)':
 - (aa) the State will where the parties have not agreed the required additional time (if any) over and above six months to complete the Reconfiguration Works (State) in accordance with 16.3(m)(ii) propose the additional time for completion in the 'nomination notice for Reconfiguration Scope'; and
 - (ab) the parties must within 30 Business Days of receipt of the 'nomination notice for Reconfiguration Scope' including a proposal for additional time for completion meet to resolve the required additional time (if any) to complete the Reconfiguration Works (State); and
 - (B) the parties are unable to resolve the required additional time (if any) within the 10 Business Days in 16.3(n)(ii)(A)(ab) then the additional time (if any) to complete the Reconfiguration Works (State) will be determined by the Independent Certifier within 5 Business Days. In making the determination the Independent Certifier must have regard to the construction program at that time.
- (o) Where an agreement has not been reached as between the parties in relation to the matters set out in paragraph 16.3(l) and the State issues a 'nomination notice for Reconfiguration Scope and Area', the Compound Area must not be any less than the size as detailed in Schedule 27, however the Compound Area may be configured to a layout which is different to that contained in Schedule 27.
- (p) In determining the costs associated with the Reconfiguration Works (State) either as agreed in accordance with clause 16.3(l)(i) or nominated by the State in accordance with clause 16.3(m)(i), the Developer must within 30 Business Days of receipt of the 'nomination notice for Reconfiguration Scope and Area from the State':
- (i) prepare the costs for the Reconfiguration Works (State) in an open and transparent manner with the State, the State's Quantity Surveyor and the Developer's Quantity Surveyor;

- (ii) where able to do so, must use the agreed schedule of rates within the Building Contract to determine the cost of the Reconfiguration Works (State);
- (iii) where not able to use agreed the schedule of rates within the Building Contract, must procure a minimum of three tendered prices from the market to determine the appropriate price;

and the Developer:

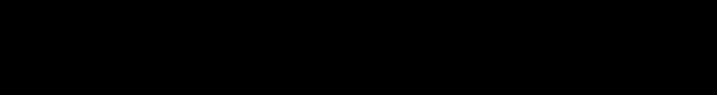
- (iv) is not permitted to apply any Developer margin to the cost of the Reconfiguration Works (State); and
- (v) is permitted to apply 7% for the Builder's preliminaries and 4% for the Builder's margin which will also apply to the preliminaries.

Should the Developer and the State not be able to agree the costs associated with the Reconfiguration Works (State) within 10 Business Days, then the costs shall be determined by the Independent Certifier within 5 Business Days.

- (q) The State shall ensure that the Developer is kept informed of the progress of the State's development, planning and approval of Central Walk West in the Project Control Group meetings, including by providing updates as to the proposed Central Walk West Works and the likelihood of the State directing any Reconfiguration Works or Reconfiguration Works (State) under 16.3(d), in the Project Control Group meetings.
- (r) From the date the Developer is granted access to any Developer Controlled State Land under clause 16.3, the Developer accepts all risks in connection with that Developer Controlled State Land (including the Developer's insurance obligations under clause 29).

16.4 Pre-conditions to commencement of Works Portion

The Developer must not commence construction of any Works Portion:

- (a) subject to clause 16.5(a), before the Date for Commencement of that Works Portion;
- (b) until:
 - (i) 
 - (ii) it has notified the State that all Approvals which are required by Law to be obtained before the relevant work can commence in that Works Portion have been obtained and has provided the State with copies of those Approvals;
 - (iii) it has provided to the State the Builder's Side Deed signed by the Builder and the Developer;
 - (iv) it has warranted to the State that it has, or the Builder or its subcontractors have, complied with such requirements of the Codes and Standards and ASA Requirements as are required to be complied with prior to the commencement of that Works Portion;

- (v) it has warranted to the State that the Developer has entered into a Building Contract or Building Contracts for the:
 - (A) Development Works; and
 - (B) State Works;
- (vi) the design of those aspects of the Works Portion being commenced have reached the "Approved for Construction" Design Stage, unless otherwise agreed with the State;
- (vii) it has effected the Insurances referred to in clause 29 and provided the State with evidence, as reasonably required by the State, of such compliance;
- (viii) it has provided the Security to the State;
- (ix) it has warranted to the State that the Developer has procured equity and financing arrangements sufficient to conduct the Project; and
- (x) to the extent that information has been provided to the Developer, it has resolved the construction staging methodology, construction programming and construction management in a manner that addresses construction interface with:
 - (A) Lots 12, 14 and 15 in Deposited Plan 1062447; and
 - (B) Lot 13 in Deposited Plan 1062447; and
 - (C) Lots 116, 117 in Deposited Plan 1078271; and
 - (D) Lot 201, Lots 203, 202 and 205 in Deposited Plan 1280430; and
 - (E) Lot 30 in Deposited Plan 877478; or
- (c) whilst an Event of Default subsists.

16.5 Notice of Date for Commencement of Works

- (a) Subject to any arrangement to the contrary agreed between the parties, at least 20 Business Days (or as otherwise agreed by the parties) before the Developer wishes to commence a Works Portion, the Developer must give the State a notice specifying the date it expects to commence those works. The Developer must not give the State a notice under this clause 16.5(a) unless it believes, acting reasonably, that all of the pre-conditions in clause 16.4 will be satisfied by the date specified for commencement of the work.
- (b) The Developer may change the date in its notice to the State under clause 16.5(a) one or more times by giving a further notice to the State.
- (c) At least 10 Business Days before the Developer wishes to commence a Works Portion, the Developer must give the State a notice specifying that it expects to commence those works (including any Land establishment, erection of hoardings and works on Services).

16.6 Restriction on entry after Works Portion Commencement Date

When entering the Developer Controlled State Land other than pursuant to clause 31.5(b), the State must procure that the State's Employees and Agents do not enter that part of the Developer Controlled State Land which is affected by the relevant Works Portion at any time after the Works Portion Commencement Date relevant to that Works Portion unless they:

- (a) fully comply with all land safety requirements implemented by the Developer or the Builder, including:
 - (i) any safe work method statement;
 - (ii) any clothing requirements;
 - (iii) any supervision requirements; and
 - (iv) any safety directions issued by the Developer or the Builder; and
- (b) do not interfere with, delay or disrupt the Works;
- (c) do not cause damage to the Works or the Site; and
- (d) comply with all reasonable directions, policies and procedures issued by the Developer or the Builder.

16.7 Staging the Works

- (a) If the Developer proposes to undertake the Works in stages, the Developer must submit a draft staging plan to the State for approval in accordance with clause 16.7(b).
- (b) The State must, within 20 Business Days of receiving the draft staging plan referred to in clause 16.7(a), either:
 - (i) notify the Developer that it approves the draft staging plan; or
 - (ii) notify the Developer that it withholds its approval to the draft staging plan and giving the Developer its reasons (in sufficient detail) for withholding its approval.
- (c) The State must act reasonably in relation to its approval of the draft staging plan.
- (d) Upon receipt by the Developer of any notice under clause 16.7(b)(ii), the Developer must, as soon as practicable, amend the draft staging plan taking the State's reasons into account, and re-submit the amended staging plan to the State for its approval.
- (e) The process set out in clause 16.7(b) will re-apply in respect of the draft staging plan which is amended in accordance with this clause 16.7(c), but the State's applicable review period will reduce to 10 Business Days.
- (f) The draft staging plan approved by the State under clause 16.7(b) will be the staging plan.
- (g) The Developer acknowledges and agrees that:
 - (i) the State:
 - (A) is not obliged to critically analyse any draft staging plan;

- (B) has not critically analysed the draft staging plan;
 - (C) is not responsible for any errors, omissions or non-compliances with any Law or the requirements if any Public Authority by reason of not critically analysing the draft staging plan; and
 - (D) is not liable for any liability, loss or Cost incurred by the Developer because of any error in the staging plan; and
- (ii) no comment, review or information supplied to the Developer by the State alters or alleviates the Developer's obligation to performance of its obligations in accordance with the requirements of this deed.
- (h) Neither the requirement to obtain the State's consent under this deed, nor any consent given by the State, imposes any duty, obligation or liability upon the State in relation to the staging of the Project. The Developer acknowledges that:
 - (i) it is relying on its own skill and judgement, and that of the Developer's Employees and Agents, in relation to the Works and the Project and is not relying on the skill and judgement of the State or any of the State's Employees and Agents; and
 - (ii) any consent of the State is intended as a procedure to enable the State to protect its rights, and perform its obligations, and does not relieve the Developer of its obligations under this deed.

16.8 Transitional access

Where:

- (a) the Development Works have achieved Practical Completion;
- (b) the relevant access licence has expired pursuant to Schedule 5; and
- (c) the Land Transfer Date has not occurred,

then:

- (d) the State grants to the Developer a transitional access licence in respect of the VFT Lots for the period from the date of expiry of the relevant access licence to the Land Transfer Date;
- (e) the Developer's access pursuant to the transitional access licence will be limited to access for emergency purposes, to preserve the safety and security of the Atlassian Building or to comply with the requirements of Authorities or Laws; and
- (f) for the avoidance of doubt, the terms of this deed otherwise apply.

16A Day 2 Works

16A.1 Developer's obligation to carry out Day 2 Works

- (a) If:
 - (i) clause 12.3 of the Toga Agreement applies (as determined under clause 12.3(a) of the Toga Agreement); and

- (ii) Toga has surrendered any easement burdening the Lee Street Access Ramp, to the extent any such easement permits vehicular access across the Lee Street Access Ramp for the benefit of the Toga Land,

have occurred prior to the Day 2 Works Commence Date,

then:

- (iii) the Developer must carry out and complete the Day 2 Works.
- (b) Except as required under clause 16A.1(a), the Developer is not required to undertake the Day 2 Works (including any Ramp Reinstatement Works) as part of the State Works.
 - (c) The parties acknowledge and agree:
 - (i) where the Developer is required under clause 16A.1(a) to undertake the Day 2 Works:
 - (A) the requirements for Practical Completion contained in clause 1.1 do not apply to the Day 2 Works; and
 - (B) the Developer must complete the Day 2 Works;
 - (ii) if the Day 2 Works commence under this deed in accordance with clause 16A.1(a):
 - (A) reach completion under this deed before the Land Transfer Date, the provisions of this deed will continue to apply;
 - (B) do not reach completion under this deed before the Land Transfer Date then those Day 2 Works which remain incomplete must be completed under the Public Positive Covenant (Day 2 Works).
 - (d) The Developer acknowledges that:
 - (i) construction projects are being undertaken on Adjoining Land owned by the State;
 - (ii) Adjoining Land on which construction projects are being undertaken is the subject of construction lease and / or construction licence arrangements with third parties;
 - (iii) Adjoining Land contains pedestrianised areas which are the subject of easements, restrictions on use, covenants, agreements, leases, licenses or other similar arrangements benefitting or burdening the land, right of way or other dealing or interest in favour of any Authority or other person;
 - (iv) it accepts all risk and responsibility in respect of identifying the location and gaining access to that Adjoining Land as necessary for the undertaking of the Day 2 Works; and
 - (v) it has made and will make adequate allowances in its program for the Day 2 Works in circumstances where clause 16A.1(a)(iii) occurs.

16A.2 Registration of Public Positive Covenant (Day 2 Works)

The Developer must on or about the date of registration of the Subdivision Documents subdividing the Land register on title to Lot 2 the Public Positive Covenant (Day 2 Works) if:

- (a) as at the Day 2 Works Commence Date the Developer's obligation to undertake the Day 2 Works has not enlivened under clause 16A.1; or
- (b) as at the Land Transfer Date the Day 2 Works commenced under this deed in accordance with clause 16A.1(a) have not reached completion.

17 Progress of Works - reporting and meetings

17.1 Project Control Group

- (a) The State and the Developer must establish a Project Control Group to be comprised of 2 representatives appointed by the Developer and 2 representatives appointed by the State.
- (b) The Project Control Group must meet every month or such other times as agreed between the parties until the Date of Practical Completion of the last Works Portion, and then quarterly until the expiry of the Defects Liability Period.
- (c) The Project Control Group will be responsible for:
 - (i) reviewing the progress of the Works the subject of that Works Portion and the timing of Practical Completion;
 - (ii) reviewing the State's compliance with its obligations under this deed and the Developer's compliance with its obligations under the Plans and this deed;
 - (iii) updating the State in respect of the Works with a focus on the State Works;
 - (iv) updating the State in respect of forthcoming Applications to be submitted by the Developer to the State and confirming the necessity of these Applications being submitted to the State;
 - (v) updating the Developer in relation to:
 - (A) the information the State is likely to require under clause 10.2(a)(i) to assess an Application; and
 - (B) steps the State is taking to facilitate the progress of submitted Applications and any delays the State anticipates or becomes aware of in respect of submitted Applications;
 - (vi) reviewing matters arising from Design Documentation; and
 - (vii) monitoring on an ongoing basis the status of the Reconfiguration Works and the Day 2 Works.
- (d) To enable the PCG to provide the updates required by clause 17.1(c)(v), Atlassian must provide sufficient detail of the proposed Application to the PCG in sufficient time for the State to consider the documentation that it may require be provided with that draft Application.

- (e) The Developer is responsible for preparing minutes of meetings of the Project Control Group and for preparation of action lists of matters that need to be undertaken or pursued following each such meeting.
- (f) No member of the Project Control Group has any power to bind the parties to any act, matter or thing otherwise than pursuant to an express written authority to do so given from time to time by any party.
- (g) The State and the Developer may invite other persons to attend the Project Control Group meeting from time to time, provided that the party must provide the other party reasonable prior notice of the person they are proposing to invite and the other party does not object (acting reasonably) to the proposed person attending the Project Control Group.

17.2 Reports

- (a) Until the Date of Practical Completion of the last Works Portion, the Developer must prepare and provide to the Project Control Group, every 2 months, a report (**PCG Report**), which contains:
 - (i) details of the Works carried out in the previous 2 months;
 - (ii) details of the progress towards achieving the Milestones including details as to how the progress towards achieving the Milestones is tracking against the Development Program (as updated from time to time in accordance with clause 22.8);
 - (iii) a status program showing progress of the Works against the Development Program (as updated from time to time in accordance with clause 22.8) including details of any delays that the Developer expects to the Development Program;
 - (iv) any Development Program updated pursuant to clause 22.8;
 - (v) details of any environmental, planning or heritage issues which have arisen during the previous two months;
 - (vi) details of the Developer's compliance with all environmental obligations under this deed; and
 - (vii) details of the status and rectification of any defects during the Defects Liability Period.
- (b) Where an event occurs which impacts on the timing of the State Works as set out in the Development Program (**Delay Event**):
 - (i) the Developer must provide reasonable details of the Delay Event to the Project Control Group; and
 - (ii) the Project Control Group must consider the details and make recommendations to the Developer about any remedial action which is reasonably necessary to address the consequences of the Delay Event in relation to the State Works.
- (c) After consulting with the Project Control Group, the Developer will take such action as is reasonably necessary to address the consequences of the Delay Event in relation to the State Works, having regard to the recommendations of the Project Control Group provided it is not required to incur any Costs in doing so and in respect of any Milestone is not required to do anything unless it is obliged to pursuant to any other clause (other than this clause 17) in this deed.

- (d) The Developer must include details of any action taken by it in respect of a Delay Event in the PCG Report immediately following the occurrence of a Delay Event.

17.3 Keeping the State informed

- (a) The Developer must provide to the State any information reasonably requested by the State at any time in connection with the performance of the Works in accordance with the requirements of this deed.
- (b) The State may, on reasonable notice, require the Developer to attend (and may also require the Developer to use its reasonable endeavours to procure that any or all of the Builder, the Dexus Guarantor, the Investor and the Independent Certifier attend) a meeting with the State to discuss any aspect of the performance of the Works in accordance with this deed.

17.4 Design Working Group

- (a) In addition to the requirements of clause 6, the State and the Developer must establish a Design Working Group to be comprised of:
 - (i) 2 representatives appointed by the Developer; and
 - (ii) 2 representatives appointed by the State.
- (b) The State and the Developer acknowledge and agree that the Design Working Group is a forum:
 - (i) for the Developer to keep the State informed as to the development of the Design Documentation and for the parties to discuss the development of the Design Documentation and design packages prior to their submission to the State in accordance with clause 6; and
 - (ii) intended to streamline and expedite the subsequent review and approval of the Design Documentation under this deed.
- (c) The Design Working Group must meet every month or such other times as agreed between the parties to review, discuss and consider the development of the Design Documentation until the Design Documentation prepared in the 'for construction design stage' has been approved by the State.
- (d) The Design Working Group will be responsible for:
 - (i) reviewing the progress of the design of the Works;
 - reviewing the Developer's and the State's compliance with its obligations under this deed; and
 - (ii) updating the State in respect of the design of the Works with a focus on the State Works.
- (e) The Developer acknowledges and agrees that any comments, suggestions or requests made by the State in meetings of the Design Working Group do not:
 - (i) affect the Developer's obligations under clause 16; and

- (ii) constitute State approval of the relevant Design Documentation or other design packages and documents.
- (f) Within 10 Business Days of any meeting of the Design Working Group, the Developer must provide the State:
 - (i) minutes of that meeting of the Design Working Group;
 - (ii) copies of any documents tabled at the Design Working Group meeting which have not already been provided to the State; and
 - (iii) action lists of matters that need to be undertaken or pursued following each such meeting of the Design Working Group.
- (g) No member of the Design Working Group has any power to bind the parties to any act, matter or thing otherwise than pursuant to an express written authority to do so given from time to time by any party.
- (h) The State and the Developer may invite other persons to attend the Design Working Group meeting from time to time, provided that the party must provide the other party reasonable prior notice of the person they are proposing to invite and the other party does not object (acting reasonably) to the proposed person attending the Design Working Group.

17.5 Requirements for Plan

The Developer must develop the Plans in accordance with the requirements of this deed.

17.6 Submission of Plans for State review

- (a) The Developer must submit the draft Plans (and any updated or resubmitted drafts of Plans) to the State progressively and in a timely manner to ensure that the Works are completed by the times required under this deed and by the times or within the periods:
 - (i) identified in the Development Program; or
 - (ii) in the absence of a time or period in the Development Program as reasonably required by the State.
- (b) A Plan will be deemed not to have been submitted to the State unless and until the Developer has complied with this clause 17.6, in addition to any other requirement of this deed relating to the submission of the relevant Plan.
- (c) The State must, after the submission of a Plan which satisfies the requirements of clause 17.6(a) and 17.6(d):
 - (i) review the Plan, or any resubmitted Plan, prepared and submitted by the Developer; and
 - (ii) within 20 Business Days (**Period for Review**) of submission by the Developer of such Plan or resubmitted Plan:
 - (A) reject the Plan if, in its reasonable opinion, the Plan (or any part) does not comply with the requirements of this deed, stating the nature of the non-compliance; or

- (B) notify the Developer in writing prior to the expiry of the Period for Review that it accepts the Plan.
- (d) Each Plan must:
- (i) comply with the terms of the:
 - (A) Minimum Building Requirements;
 - (B) State Works Project Brief;
 - (C) TfNSW Requirements;
 - (D) ASA Requirements; and
 - (ii) comply with the requirements of this deed; and
 - (iii) contain requirements which:
 - (A) are consistent with, and do not cause a breach of, any Approvals or any Laws;
 - (B) will not prevent the State Works from being, once complete, Fit for Purpose;
 - (C) do not adversely affect the Developer's ability to achieve Practical Completion by the Date for Practical Completion of the Development Works or the Date for Practical Completion of the State Works (as applicable); and
 - (D) do not reduce the quality or standard of components of the Works.
- (e) If any Plan is rejected, the Developer must submit an amended Plan to the State within 10 Business Days of the date of receipt of such notice of rejection and this clause 17.6 will re-apply. If the State rejects a Plan on its second submission, the Developer may refer the matter to the Independent Certifier to determine whether or not the Plan complies with the requirements of this document and satisfies the requirements for acceptance in clause 17.6(a) and 17.6(d).
- (f) The Developer must not amend any Plan that has been accepted by the State pursuant to clause 17.6(c)(ii)(B) unless the Developer submits the proposed amendments to the State, in which case this clause 17.6 will re-apply.
- (g) The State does not assume or owe any duty of care or other responsibility to the Developer to review, or in reviewing, a Plan submitted by the Developer, including for errors, omissions or non-compliance with this deed.
- (h) The Developer will not be entitled to make, and the State will not be liable upon, any Claim arising out of or in any way in connection with the State not detecting and notifying the Developer of any errors, omissions or non-compliance with the requirements of this deed in any Plan submitted.

- (i) No review of, comment upon or rejection of, or failure to review or comment upon or reject, a document prepared by the Developer, or any other direction by the State in connection with the Plan, will:
 - (i) constitute a direction to carry out a Variation;
 - (ii) relieve the Developer from or alter its liabilities or obligations, whether under this deed or otherwise according to any Law; or
 - (iii) limit or otherwise affect the State's rights against the Developer, whether under this document or otherwise according to any Law.
- (j) In considering any Plan, the State may consult with and take into account any views or requirements of any relevant Public Authority.

17.7 Compliance with the Plans

- (a) The Developer must comply with, and must procure the Developer's Employees and Agents to comply with, the Plans.
- (b) If it is not feasible or practicable to carry out the Works in accordance with the Plans, the Developer must carry out the Works using whatever methodology, as approved by the State (acting reasonably), may prove to be necessary to complete the Works in accordance with this deed.
- (c) The Developer must update the Plans monthly and within the time stipulated in a written direction of the State, to show how the Developer will carry out the Works.

17.8 Ongoing Plan obligations

The Developer must continue to develop and promptly amend and update the Plans to take into account relevant events and circumstances and as otherwise required by this deed, and promptly submit each further version of the Plans to the State as they are further developed, amended or updated in accordance with clause 17.6.

17.9 Directions by the State

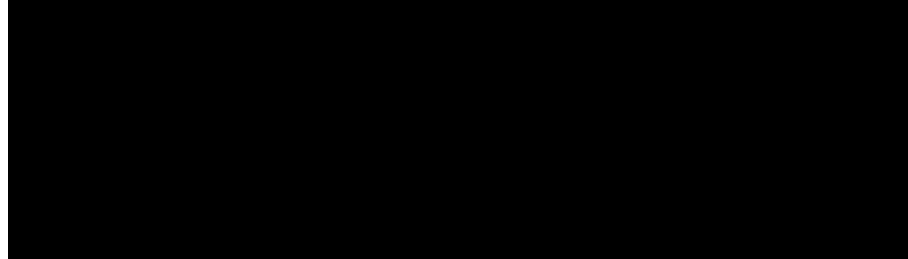
- (a) Provided that the State:
 - (i) acts reasonably; and
 - (ii) does not cause a failure by the Developer to comply with its obligations under:
 - (A) any Approval;
 - (B) this deed; or
 - (C) any Project Document,

the State may at any time by written notice direct the Developer to further develop, update or amend the Plans or any of their parts, specifying the reasons why such development, updating or amending is required. The Developer must submit the further developed, updated or amended Plans to the State as soon as reasonably practicable having regard to the requirements of the State's notice referred to in clause 17.9(a) for review under clause 17.6.

- (b) If the parties are not able to agree upon the further developed, updated or amended Plans under this clause 17.9 then either party may refer the matter to the Independent Certifier to determine whether or not the Plan complies with the requirements of this document.

18 Infrastructure

18.1



18.2



19 State Works

19.1 Commitment by the Developer

Subject to the balance of the provisions of this deed, the Developer acknowledges and agrees that in undertaking the Project it must at its cost and risk, design, carry out and complete each item of State Works in accordance with the requirements of clause 24.1.

19.2 State Initiated Variations

- (a) The State may request Variations in respect of the State Works by giving written notice to the Developer and providing all relevant information sufficient for the Developer to fully consider the request and seek necessary Approvals to the Variations in a timely manner.
- (b) Within 12 Business Days (or such longer period the parties may agree (acting reasonably) having regard to the nature of the size and complexity of the proposed Variation) of receipt of a request from the State under clause 19.2(a), the Developer must consider the State's request and provide written notification to the State of:
 - (i) its consent to the State Initiated Variation; or
 - (ii) its refusal of consent to the State Initiated Variation on the basis that the State Initiated Variation would cause the trigger of a Developer's Rejection Right.
- (c) If the Developer notifies the State of its consent under clause 19.2(b)(i), the Developer must, within 12 Business Days provide to the State an estimate of costs the Developer reasonably anticipates it will incur in preparing a Variation Proposal in accordance with clause 19.2(d) (**Proposal Estimate**).
- (d) If the State approves the Proposal Estimate within 10 Business Days of the date on which the Developer provides the Proposal Estimate to the

State, then the Developer must, within 12 Business Days of such approval (or such longer period the parties may agree (acting reasonably) having regard to the nature of the size and complexity of the proposed Variation) provide a proposal to the State (**Variation Proposal**) which includes details of:

- (i) the price of the proposed Variation (including reasonable details of external and internal costs);
 - (ii) the Developer's payment or funding terms for the Variation, including any interest costs and other financing costs and charges;
 - (iii) any delay which the Variation, if conducted, will cause to any Milestones (including the Dates of Practical Completion of the Works and any other Milestone Dates) and any extension of time required to a Milestone Date;
 - (iv) any delay costs which will arise from the Variation, including delay costs which relate to or arise from:
 - (A) delay costs or damages payable by the Developer to a party under any Project Document or an Atlassian Project Document; or
 - (B) the Developer's payment and funding requirements in relation to the Works or the Project, including any interest costs and other financing costs and charges;
 - (v) any adverse effect which the proposed Variation may have on the Works or the Works being fit for purpose; and
 - (vi) if the proposed Variation would trigger a Developer's Rejection Right, any compensation which would overcome the consequences of, or compensate the Developer for, the circumstances giving rise to the Developer's Rejection Right.
- (e) The State must consider the information provided by the Developer under clause 19.2(d) and, within 5 Business Days of receipt of the Variation Proposal, provide written notification to the Developer:
- (i) authorising the Developer to proceed with the Variation Proposal; or
 - (ii) rejecting the Variation Proposal.
- (f) If the State authorises the Developer to proceed with the Variation Proposal in accordance with clause 19.2(e)(i), then:
- (i) the Works will be varied in accordance with the Variation Proposal;
 - (ii) the State must pay the Developer all costs contained in the Variation Proposal (or such costs as otherwise agreed between the parties) (**Variation Costs**) in accordance with clause 19.3;
 - (iii) where the Variation Costs in the Variation Proposal in aggregate with the Variation Costs in other Variation Proposals reduce the Developer's costs in conducting the State Works below the State Works Cost Cap, the State Works Cost Contribution will be

reduced by the aggregate amount of all the Variation Costs below the State Works Cost Cap;

- (iv) only changes to Milestone Dates set out in the Variation Proposal (or as otherwise agreed between the parties) will take effect;
 - (v) any changes to the Works being fit for purpose set out in the Variation Proposal (or as otherwise agreed between the parties) will take effect; and
 - (vi) adjustment to the rights and obligations of the parties under this deed which are agreed in writing between the parties as part of the Variation process will become effective.
- (g) If the State fails to give the notice required under clause 19.2(e), the State will be deemed to have rejected the Variation Proposal.
 - (h) If the State rejects the Variation Proposal (or is deemed to have rejected the Variation Proposal), the State must, within 20 Business Days of such rejection, pay the Developer the amount referred to in the approved Proposal Estimate.

19.3 Payment of Variation Costs

- (a) On or before the last Business Day of every month, the Developer must submit to the State and the Independent Certifier a progress claim setting out details of any Variation Costs and any costs associated with the Reconfiguration Works (State) incurred since the end of the period in respect of which the previous progress claim was submitted (**Claim Period**).
- (b) The Developer must (at reasonable times and on reasonable notice) permit the State and the Independent Certifier to inspect copies of invoices and such other supporting material as the State or the Independent Certifier reasonably requires to inspect in respect of each progress claim referred to in this clause 19.3. The State may provide comments to the Independent Certifier before the Independent Certifier issues a progress certificate pursuant to clause 19.3(c).
- (c) Within 10 Business Days of receiving a progress claim from the Developer, the Developer and the State must procure the Independent Certifier to issue to the Developer and the State, a progress certificate that identifies each of the following:
 - (i) the amount of Variation Costs and, if applicable, the amount of the costs of Reconfiguration Works (State) which, in the reasonable opinion of the Independent Certifier having regard to the information provided or made available to it under clause 19.3(a), the Developer has incurred during the Claim Period;
 - (ii) the cumulative amount of the Variation Costs and, if applicable, the cumulative amount of the costs of Reconfiguration Works (State), which, in the reasonable opinion of the Independent Certifier having regard to the amount identified in clause 19.3(c)(i) and all amounts identified in previous Payment Schedules in respect of clause 19.3(c)(i), the Developer has incurred up to the end of the relevant Claim Period; and
 - (iii) the amount calculated as follows (the **Progress Payment**):

$$A = B - C$$

where:

- A = the Progress Payment;
- B = the amount in clause 19.3(c)(ii); and
- C = the aggregate of all previous Progress Payments paid to the Developer pursuant to this clause,

to be known as a **(Payment Schedule)**.

- (d) A Payment Schedule issued by the Independent Certifier under this clause 19.3 is agreed to be a payment schedule for the purposes of section 14 of the *Building and Construction Industry Security of Payment Act 1999* (NSW).
- (e) The State must pay to the Developer the Progress Payment within 15 Business Days after the issue of the progress claim.

19.4 Final payment claim

- (a) On the date which is no later than the date 10 days after the last Works Portion achieves Practical Completion, the Developer must submit to the State and the Independent Certifier a final payment claim endorsed "final payment claim" and setting out the Variation Costs and any costs associated with the Reconfiguration Works (State), incurred since the end of the period in respect of which the previous progress claim was submitted. The Developer must (at reasonable times and on reasonable notice) permit the State and the Independent Certifier to inspect copies of invoices and such other supporting material as the State or the Independent Certifier reasonably requires to inspect in respect of the claim referred to in this clause 19.4. The State may provide comments to the Independent Certifier before the Independent Certifier issues a progress certificate pursuant to clause 19.4(b).
- (b) Within 10 Business Days of receiving the final payment claim from the Developer, the Developer and the State must procure the Independent Certifier to issue to the Developer and the State, a final certificate that identifies each of the following:
- (i) the amount of Variation Costs and, if applicable, the amount of the costs of Reconfiguration Works (State), which, in the reasonable opinion of the Independent Certifier having regard to the information provided or made available to it under clause 19.4(a), the Developer has incurred since the previous progress claim;
- (ii) the cumulative amount of the Variation Costs and, if applicable, the cumulative amount of the costs of Reconfiguration Works (State), which, in the reasonable opinion of the Independent Certifier having regard to the amount identified in clause 19.4(b)(i) and all amounts identified in previous Payment Schedules in respect of clause 19.3(c)(i), the Developer has incurred up to the date of the final payment claim;

- (iii) any other amount which, in the reasonable opinion of the Independent Certifier, is payable by the State to the Developer under this deed;
- (iv) all amounts identified in previous Payment Schedules in respect of clause 19.3(c)(iii); and
- (v) the amount calculated as follows (the **Final Payment**):

$$A = B - C$$

where:

- A = the Final Payment;
- B = the sum of the amount in clause 19.4(b)(ii) and 19.4(b)(iii); and
- C = the aggregate of all previous Progress Payments paid to the Developer pursuant to clause 19.3,

to be known as a **(Final Certificate)**.

- (c) A Final Certificate issued by the Independent Certifier under this clause 19.4 is agreed to be a payment schedule for the purposes of section 14 of the *Building and Construction Industry Security of Payment Act 1999* (NSW).
- (d) The State must pay to the Developer the Final Payment within 15 Business Days of the issue of the final payment claim.
- (e) None of the issue of a Payment Schedule, a Final Certificate, nor the payment of moneys shall be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only.

19.5 Omissions

If the State authorises the Developer to proceed with a Variation Proposal in accordance with clause 19.2(e)(i) which involves the omission or deletion of any part of the State Works, the State may at any time after the Date of Practical Completion of the State Works, perform that omitted or deleted work itself or employ or engage Other Contractors to carry out and complete the omitted or deleted work.

19.6 Completed State Works

The Developer must construct the State Works in accordance with the relevant Approved Design Documentation for the State Works and Best Industry Practice and in accordance with clause 24.1, so that the State Works at Practical Completion are Fit for Purpose and otherwise fulfil the requirements of this deed.

19.7 Developer must not suspend the State Works

The Developer must ensure that the progress of the State Works is not suspended without the prior written consent of the State except in the case of:

- (a) Force Majeure Event;
- (b) a suspension required by Law or an order of a court; or

- (c) a suspension required in order to comply with the WHS Act.

19.8 Allocation of State Works delivery risk

Except as otherwise provided in this deed, the delivery of the State Works is at the Developer's sole cost and risk.

19.9 Third party warranties

- (a) To the extent the warranties set out in Schedule 16 are not provided by the Builder under the Building Contract in respect of the relevant part or parts of the State Works, the Developer must procure those warranties from the relevant third party contractors or suppliers undertaking or supplying the work or items the subject of the warranty in respect of any part or parts of the State Works. The warranties:
 - (i) must be in the form set out in Schedule 17 and must be in favour of the State; and
 - (ii) will not derogate from any rights that the State may have against the Developer in respect of the subject matter of these warranties.
- (b) The Developer must procure the provision of all such warranties to the State, and must (at the Developer's cost) do all things reasonably required by the State to enforce any such warranties should the State be unable to do so.
- (c) To the extent the warranties set out in Schedule 16 are not provided by the Builder under the Building Contract in respect of the relevant part or parts of the State Works, promptly following Practical Completion of each relevant Works Portion of the State Works, the Developer must assign and transfer the benefit of all such warranties to the State, and until such assignment or transfer occurs the Developer must hold all such warranties on trust for the benefit of the State.

19.10 Developer's obligation to carry out State Works and the State's right to remove

- (a) The Developer must carry out the State Works in accordance with the deed so that the State Works achieve Practical Completion by the Date for Practical Completion of the State Works.
- (b) If the Developer considers that the State Works are reasonably likely to fail to achieve Practical Completion by the Sunset Date (Completion) – State Works, the Developer may prepare and submit to the State a draft plan:
 - (i) describing the actions and measures which the Developer or the Dexus Guarantor (as applicable) will diligently pursue to minimise delay to the State Works and to achieve Practical Completion of the State Works as soon as practicable after the Sunset Date (Completion) – State Works; and
 - (ii) which may propose a revised Sunset Date (Completion) – State Works (**Draft State Works Completion Plan**).
- (c) Within 15 Business Days after receipt of the Draft State Works Completion Plan, the State must either, in its absolute discretion:

- (i) approve the Draft State Works Completion Plan by notifying the Developer or the Dexus Guarantor (as applicable); or
 - (ii) reject the Draft State Works Completion Plan by notifying the Developer or the Dexus Guarantor (as applicable) and providing reasons to the Developer or the Dexus Guarantor (as applicable), for its decision.
- (d) If the State approves the Draft State Works Completion Plan pursuant to clause 19.10(c)(i) (**State Works Completion Plan**):
- (i) the Developer or Dexus Guarantor (as applicable) must comply with and implement the State Works Completion Plan; and
 - (ii) achieve Practical Completion of the State Works by the revised Sunset Date (Completion) – State Works contained in the State Works Completion Plan.
- (e) If the Developer fails to carry out the State Works so that the State Works achieve Practical Completion by the Sunset Date (Completion) – State Works, then the State may, in its sole and absolute discretion, give notice to the Developer that:
- (i) the Developer has failed to achieve Practical Completion of the State Works by the Sunset Date (Completion) – State Works; and
 - (ii) the State intends to exercise its rights under the remaining provisions of this clause 19.10.
- (f) Following the issue of the Draft State Works Completion Plan pursuant to clause 19.10(b), the State may, in its sole and absolute discretion and despite any other provision of a Project Document:
- (i) direct the Developer and the Builder to cease carrying out any part of the State Works;
 - (ii) terminate any Construction Licence relating to the State Works;
 - (iii) require the Developer and the Builder to vacate the parts of the Site in which the State Works are located within a reasonable period of time, leaving in place any material, improvements, fixtures or structures as directed by the State and removing any rubbish, equipment of the Developer or the Builder and making good any damage to any part of the Site caused by the Developer or the Builder (not being changes to those areas necessarily occasioned as a result of carrying out the State Works up until the date of the State's direction under clause 19.10(f)(i)), to the reasonable satisfaction of the State;
 - (iv) exercise its rights under the Builder's Side Deed to require the Builder to recommence the State Works and bring the State Works to Practical Completion in accordance with the requirements of the Building Contract;
 - (v) appoint another party to carry out the State Works; and
 - (vi) take any other action and do any other thing deemed reasonably necessary by the State to procure the timely and cost efficient

delivery of the State Works in accordance with TfNSW Requirements and the State Works Project Brief.

- (g) For the avoidance of doubt, the State is not entitled pursuant to this clause 19.10, to direct the Developer to cease carrying out any part of the Works which comprises the Development Works or the Fitout Works.
- (h) The State is not obliged to exercise its rights under clause 19.10(b) in any circumstances whatsoever and will only do so at its own election. For the avoidance of doubt, the State is not required to exercise its rights under clause 19.10(b) even in circumstances where the Developer has not delivered the State Works on or before the Sunset Date (Completion) – State Works and may rely solely on its other rights under this deed.
- (i) The State is not liable for any Loss, Cost, liability or damage suffered by the Developer in exercising any of the State's rights under clause 19.10(b) and the Developer must not make any Claim, take any action or assert any right to set-off any amount which it is required to pay under this deed due to any matter arising from or in connection with the State exercising its right under clause 19.10(b), except to the extent caused by or contributed to by the breach of this deed by the State or the State's Employees and Agents or the negligence of the State or the State's Employees and Agents or a wrongful or reckless act or omission of the State or the State's Employees and Agents.
- (j) The Developer acknowledges and agreed that this clause 19.10 does not prejudice any rights the State has in clause 39 of this deed.
- (k) The parties acknowledge and agree that:
 - (i) this clause 19.10 is subject to the Builder Side Deed and Investor Side Deed; and
 - (ii) if the State exercises its rights under this clause in circumstances where the Building Contract is terminated and the State appoints another party to complete the State Works under clause 19.10(f)(v), the Developer may negotiate with that Builder with a view to engaging that Builder to also complete the Development Works.

20 Relocation of Third Party Services

20.1 Relocation works

- (a) The Developer must at its cost:
 - (i) make enquiries as to the location of any Third Party Services located above or below the surface of the Land;
 - (ii) determine the relevant owner, user and/or person responsible for a Third Party Service (**Third Party**);
 - (iii) liaise with the Third Party regarding potential relocation or protection of those Third Party Services; and
 - (iv) relocate, remove, modify, support, protect or reinstate the Third Party Services located above or below the surface of the Site, if required, necessary for the Developer to comply with its obligations under this deed.

- (b) Any betterment requested or directed by the Third Party pursuant to clause 20.1(a) is at the Developer's sole risk.

21 Achieving Practical Completion of each Works Portion

21.1 Developer must progress each Works Portion

Subject to clause 22.1, in respect of each Works Portion, the Developer must:

- (a) carry out that Works Portion in an expeditious, proper and workmanlike manner under adequate and competent supervision, and in accordance with Best Industry Practice;
- (b) carry out the Works in respect of that Works Portion with due skill, care and diligence; and
- (c) ensure that that Works Portion reaches Practical Completion by the relevant Milestone Date (subject to clause 22).

21.2 Notice of anticipated Practical Completion

- (a) In respect of each Works Portion, the Developer must, subject to clause 21.2(b), give the State and the Independent Certifier 60, 30 and 10 Business Days' prior written notice of the date on which the Developer reasonably anticipates that Practical Completion of that Works Portion will be reached.
- (b) The Developer must not provide a notice under clause 21.2(a) in relation to the Development Works without first providing a corresponding notice under clause 21.2(a) in relation to the State Works (on the basis that it is a requirement of the Practical Completion of the Development Works that Practical Completion of the State Works has been achieved).
- (c) The State may request the Independent Certifier to assess the likely date for Practical Completion of a Works Portion and following such assessment, the Independent Certifier must by notice to both the State and Developer certify the anticipated Date of Practical Completion for that Works Portion. The parties acknowledge and agree that the certification provided by the Independent Certifier pursuant to this clause 21.2(c) is for the information of the State only, and otherwise has no effect under this deed.

21.3 Requesting Certificate of Practical Completion

When the Developer is of the opinion that Practical Completion of a Works Portion has been reached, the Developer must:

- (a) request the Independent Certifier to issue a Certificate of Practical Completion in relation to that Works Portion; and
- (b) at the same time give the State a copy of that request.

21.4 Independent Certifier to certify

In respect of a Works Portion, within 5 Business Days after the receipt of the Developer's request, the Independent Certifier must give the Developer (with a copy to the State at the same time) either:

- (a) a Certificate of Practical Completion certifying the Date of Practical Completion of that Works Portion; or

- (b) the reasons for not issuing that certificate, and provide a detailed list of work required to be completed in order for that certificate to be issued.

21.5 Carrying out required work

On receipt of the detailed list referred to in clause 21.4(b), the Developer must carry out the work referred to in that list and, on completion of that work, request the Independent Certifier to issue a Certificate of Practical Completion for the relevant Works Portion, and clauses 21.4, and this clause 21.5 will re-apply.

21.6 Effect of Certificate of Practical Completion

The issue of a Certificate of Practical Completion of a Works Portion is evidence that Practical Completion of that Works Portion has been achieved, but is not otherwise an acknowledgment that the Developer has complied with its obligations under this deed.

21.7 Prerequisite for issue of Certificate of Practical Completion

- (a) A Certificate of Practical Completion for each Works Portion may not be issued unless and until:
 - (i) the Developer has given to the State a copy of a survey prepared by a Surveyor showing that the Works the subject of that Works Portion other than agreed overhangs and encroachments are within the intended area for those Works (as contemplated by this deed);
 - (ii) the Developer has delivered to the State copies of all other certificates, consents and Approvals required of any relevant Public Authority, whose certificate, consent or Approval is required for the erection, use or occupancy of each part of the Works Portion;
 - (iii) the Developer has delivered to the State a Certificate of Construction Compliance; and
 - (iv) in relation to the Development Works, the State Works have achieved Practical Completion (except where the State has exercised its right under clause 19.10).
- (b) Subject to clause 5.6(b), a Certificate of Practical Completion for the last Works Portion to reach Practical Completion may not be issued unless and until the Developer delivers to the State the Atlassian Security.

21.8 Requirements following issue of Certificate of Practical Completion

- (a) The Developer must deliver to the relevant Consent Authority pursuant to any Approvals all as-built drawings, certificates, surveys, a building certificate, compliance reports and other relevant documents required to be delivered to that Consent Authority in relation to that Works Portion.
- (b) These items must be delivered by the dates required under the relevant Approvals or, if the relevant Approval does not contain a required date, then within 40 Business Days of Practical Completion of the relevant Works Portion, or such other period agreed between the Developer and the Consent Authority.

21.9 Providing documents to the State

Promptly, and in any event within 40 Business Days after Practical Completion of a Works Portion, the Developer must do all things required to procure the issue

and delivery to the State of copies of the following items in relation to that Works Portion:

- (a) final as-built drawings of the Works the subject of that Works Portion in a format acceptable to the ASA standards and certified by an AEO;
- (b) all surveys of the Land the subject of that Works Portion in the possession or control of the Developer which have not previously been delivered to the State, including a copy of any survey of the completed Project by a Surveyor in form and substance satisfactory to the State;
- (c) AEO Authorisations held and maintained by the Builder and its subcontractors;
- (d) all Approvals issued by any Public Authority in relation to any part of the Works the subject of that Works Portion which have not previously been delivered to the State; and
- (e) any third party warranties which are the subject of clause 19.9.

21.10 Dispute where no Certificate of Practical Completion

In respect of a Works Portion, if within 10 Business Days after receipt of the Developer's request pursuant to clause 21.3 the Independent Certifier does not:

- (a) issue the Certificate of Practical Completion of that Works Portion; or
- (b) give the Developer reasons for not issuing the certificate,

then either the State or the Developer may regard the circumstances as constituting a dispute between the State and the Developer for the purposes of clause 38.

21.11 Developer's Variations

- (a) The Developer may at any time before the Date for Practical Completion of the Development Works propose a Variation in accordance with this clause 21.11.
- (b) If the Developer wishes to propose a Variation under this clause 21.11, the Developer must submit a notice to the State which includes:
 - (i) a detailed description of the proposed Variation;
 - (ii) Design Documentation in relation to the proposed Variation;
 - (iii) the effect the proposed Variation will have on:
 - (A) the Date for Practical Completion of the State Works; and
 - (B) the program for the completion of the State Works.
 - (iv) the Developer's reasons for the proposed Variation; and
 - (v) either:
 - (A) confirming (together with appropriate substantiating information) that the proposed Variation will not have the effect described in clauses 21.11(c)(iv)(A) and 21.11(c)(iv)(B); or

(B) to the extent that any aspect of the proposed Variation will have the effect described in clauses 21.11(c)(iv)(A) and 21.11(c)(iv)(B), disclosing to the State that effect and providing detailed reasons for such effect and the proposed mitigation strategy in relation to those matters.

(c) The State must reasonably consider the information provided by the Developer under clause 21.11(b) and, within 20 Business Days of receipt of the notice, provide written notification to the Developer:

- (i) authorising the Developer to proceed with the Variation; or
- (ii) notifying the Developer that it cannot proceed with the Variation, and providing supporting reasons,

provided that the State may notify the Developer under clause 21.11(c)(ii) that it cannot proceed with the Variation in relation to the:

- (iii) State Works, at its sole discretion; and
- (iv) Development Works, only if the State considers (acting reasonably) that:
 - (A) the proposed Variation will result in delay to the Date for Practical Completion of the State Works; or
 - (B) the proposed Variation would trigger a State Rejection Right,

and the mitigation strategy proposed by the Developer under clause 21.11(b)(v)(B) will not overcome or otherwise address the matters identified in clauses 21.11(c)(iv)(A) and 21.11(c)(iv)(B) to the State's satisfaction (acting reasonably). If the State fails to give the notice required under this clause 21.11(c), the State will be deemed to have rejected the Variation.

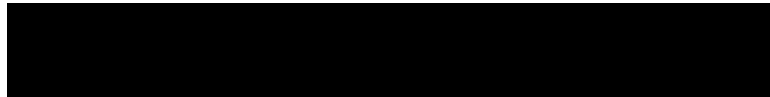
(d) Where either:

- (i) the State fails to give the notice required under clause 21.11(c); or
- (ii) the Developer disagrees with a notice given by the State under clause 21.11(c)(ii) and notifies the State of that disagreement within 5 Business Days of the State's notice under clause 21.11(c)(ii),

then either the State or the Developer may regard the circumstances as constituting a dispute between the State and the Developer for the purposes of clause 38.

(e) If the State approves the Variation the Developer may implement the Variation in the execution of the Works.

(f)



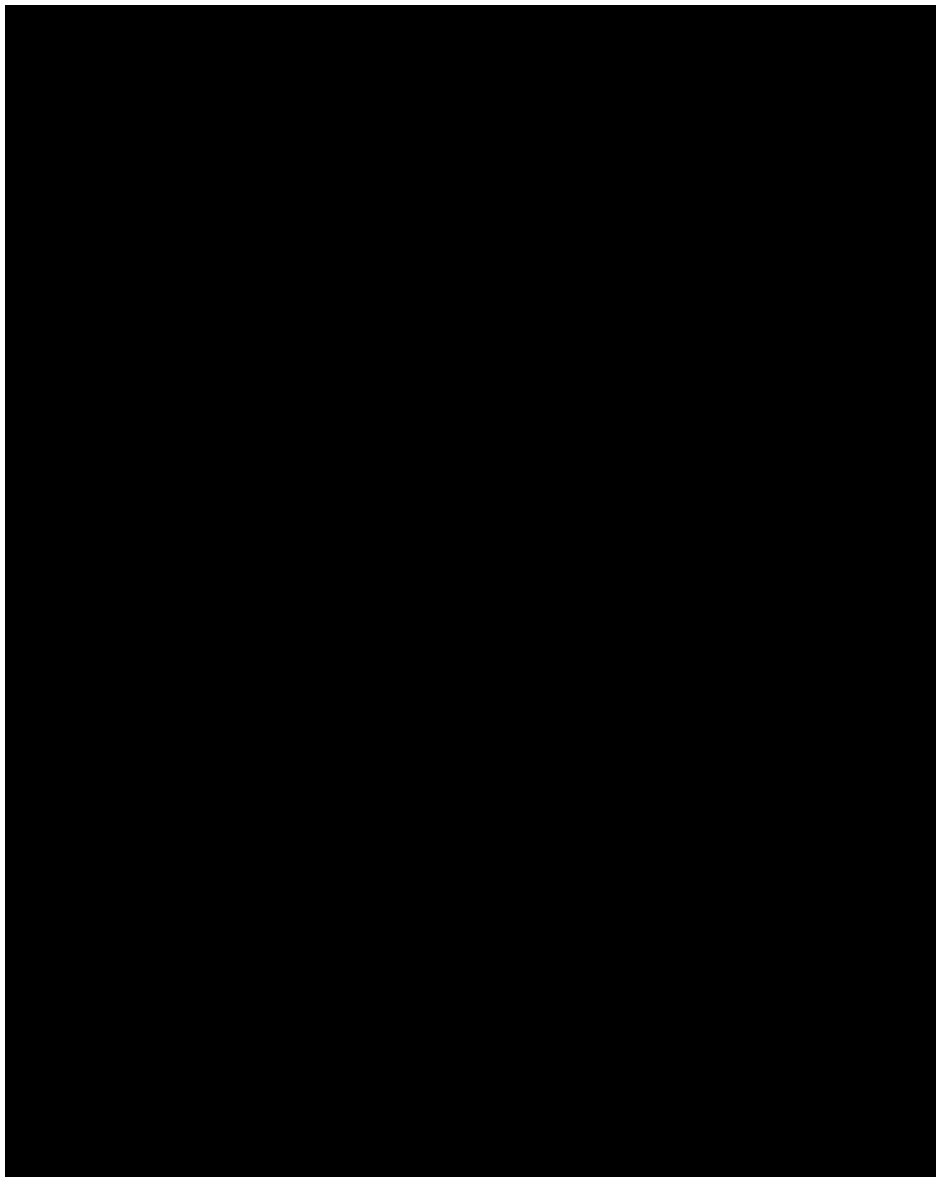
22 Extensions of time

22.1 Milestones

The Developer must, subject to clause 22.2, achieve each Milestone by the relevant Milestone Date.

22.2 Claims for extension of time

An extension of time to each Milestone Date may be claimed by the Developer if the Developer is or is likely to be delayed as a result of one of the following:



22.3 Conditions precedent to extensions of time

- (a) In relation to the events described in clause 22.2(a) to 22.2(k) (inclusive), the Developer is only entitled to an extension of time:
 - (i) if the Developer gives to the State and the Independent Certifier details of the number of days claimed, the date the cause of the delay first arose and the date the delay ceased, within

15 Business Days after the earlier of the day the Developer became aware, and the day the Developer ought reasonably to have become aware, of the cause of the delay ceasing;

- (ii) to the extent the delay has not been caused or contributed to by the Developer or the Developer's Employees and Agents;
 - (iii) to the extent that the Developer has used its reasonable endeavours to remedy the cause of the delay and to minimise the delay, provided the Developer is not obliged to incur any Costs in doing so; and
 - (iv) if the Developer has actually been delayed or will be delayed in carrying out the relevant Works Portion.
- (b) If it is not practicable or possible to include the information referred to in clause 22.3(a)(i) in the notice referred to in this clause, then the Developer must provide the remainder of the information as soon as practicable after issuing the notice.

22.4 Concurrent delays

If, in respect of a Works Portion, more than one event set out in clause 22.2 causes concurrent delays, then to the extent that the delays are concurrent the Developer is not entitled to an additional extension of time for the second delay event.

22.5 Matters for consideration

In determining whether the Developer is or is likely to be delayed in achieving a Milestone by the relevant Milestone Date, the Independent Certifier:

- (a) may take into account whether the Developer has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay provided the Developer is not obliged to incur any Costs in doing so; and
- (b) may not take into account whether the Developer can achieve the relevant Milestone by the relevant Milestone Date without an extension of time.

22.6 Determination of extensions of time

The State and the Developer acknowledge and agree that the Developer will be entitled to an extension of time if the conditions precedent set out in clause 22.3 have been satisfied, and in such case the Independent Certifier must determine the extension of time, acting reasonably, within 10 Business Days after the Developer submits a notice under clause 22.3(a)(i) having regard to clause 22.4 and 22.5.

22.7 Dispute over extensions of time

If, in the reasonable opinion of the Developer, the Independent Certifier fails to make its determination in accordance with clause 22.6 or fails to give sufficient reason for refusing to grant an extension of time, then the Developer may regard the circumstances as constituting a dispute between the State and the Developer for the purposes of clause 38.

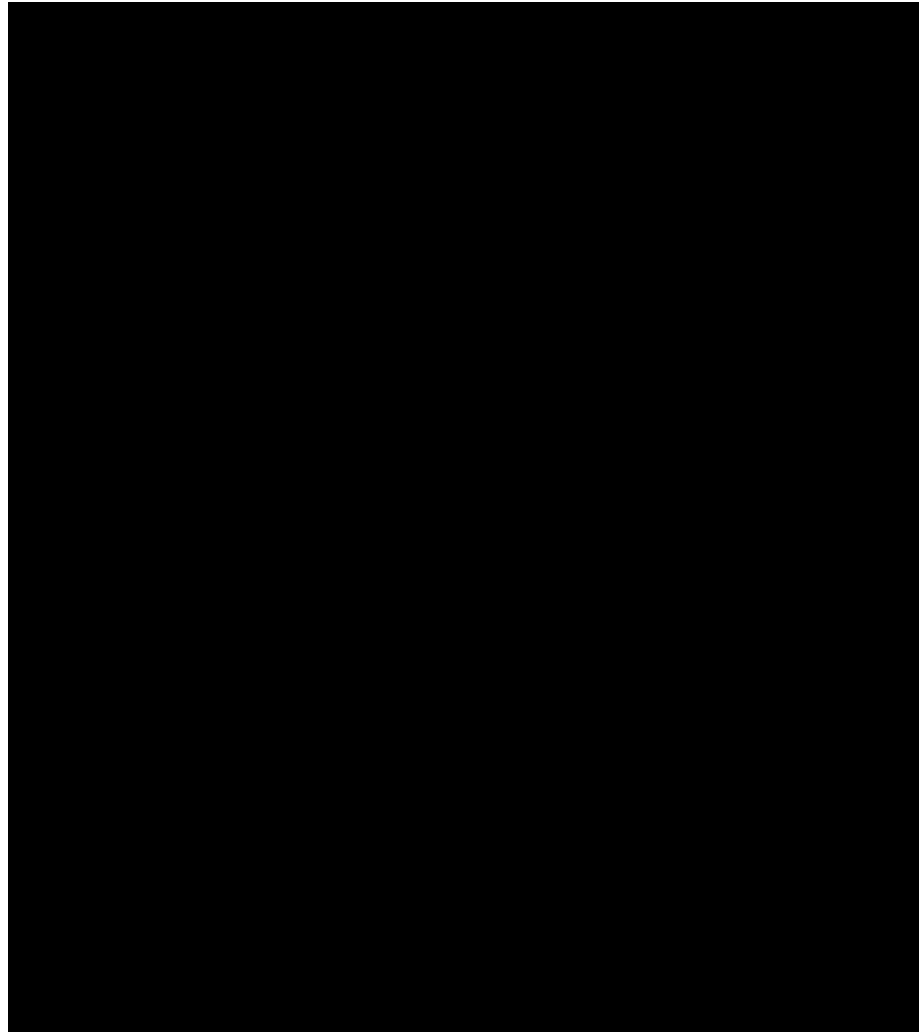
22.8 Changes to the Development Program - extensions of time

- (a) If the Developer obtains an extension of time under to this clause 22, then within 10 Business Days of being granted that extension of time, the

Developer must update the Development Program to reflect the impact of the extension of time on the anticipated timing for achieving each Milestone and provide a copy of the revised Development Program to the State.

- (b) Any updated Development Program must be:
 - (i) a Level 3 Schedule (Project Co-ordination Schedule) appropriate for management reporting, and include:
 - (A) all key Project deliverables;
 - (B) milestone activities;
 - (C) major components by zones;
 - (ii) in PDF and native file format; and
 - (iii) be accompanied by an explanation of the changes to key dates or Milestones in the Development Program and the reason for those changes.

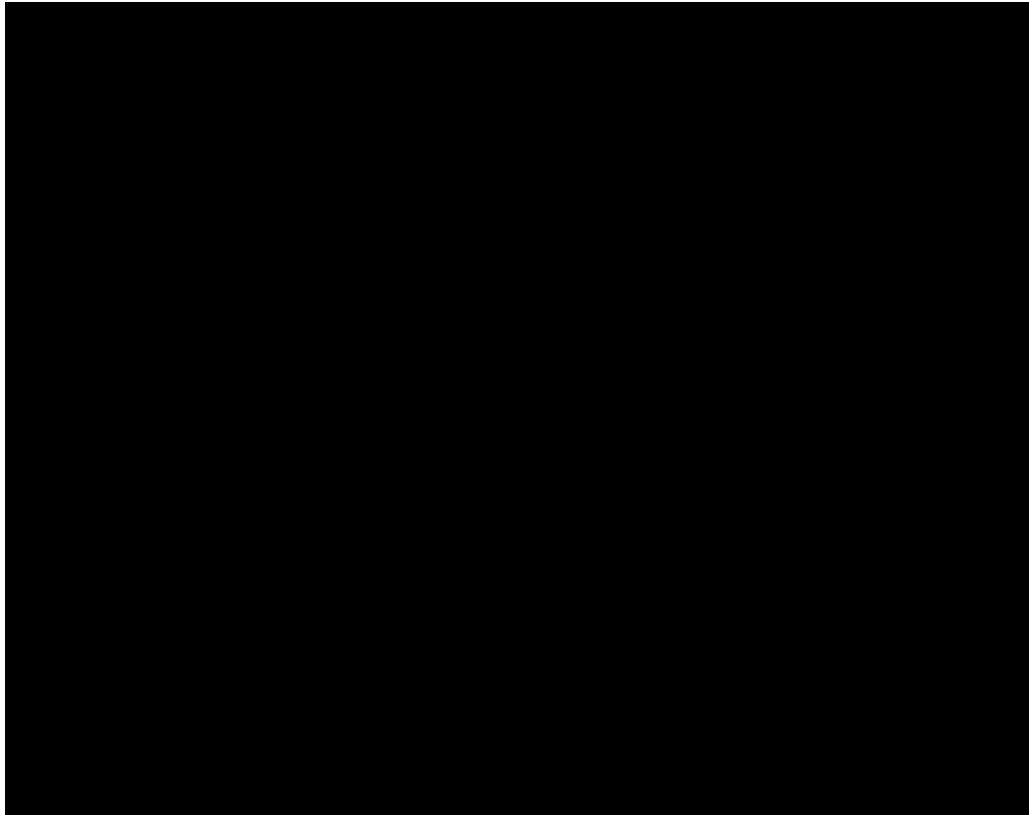
22.9 Liquidated damages

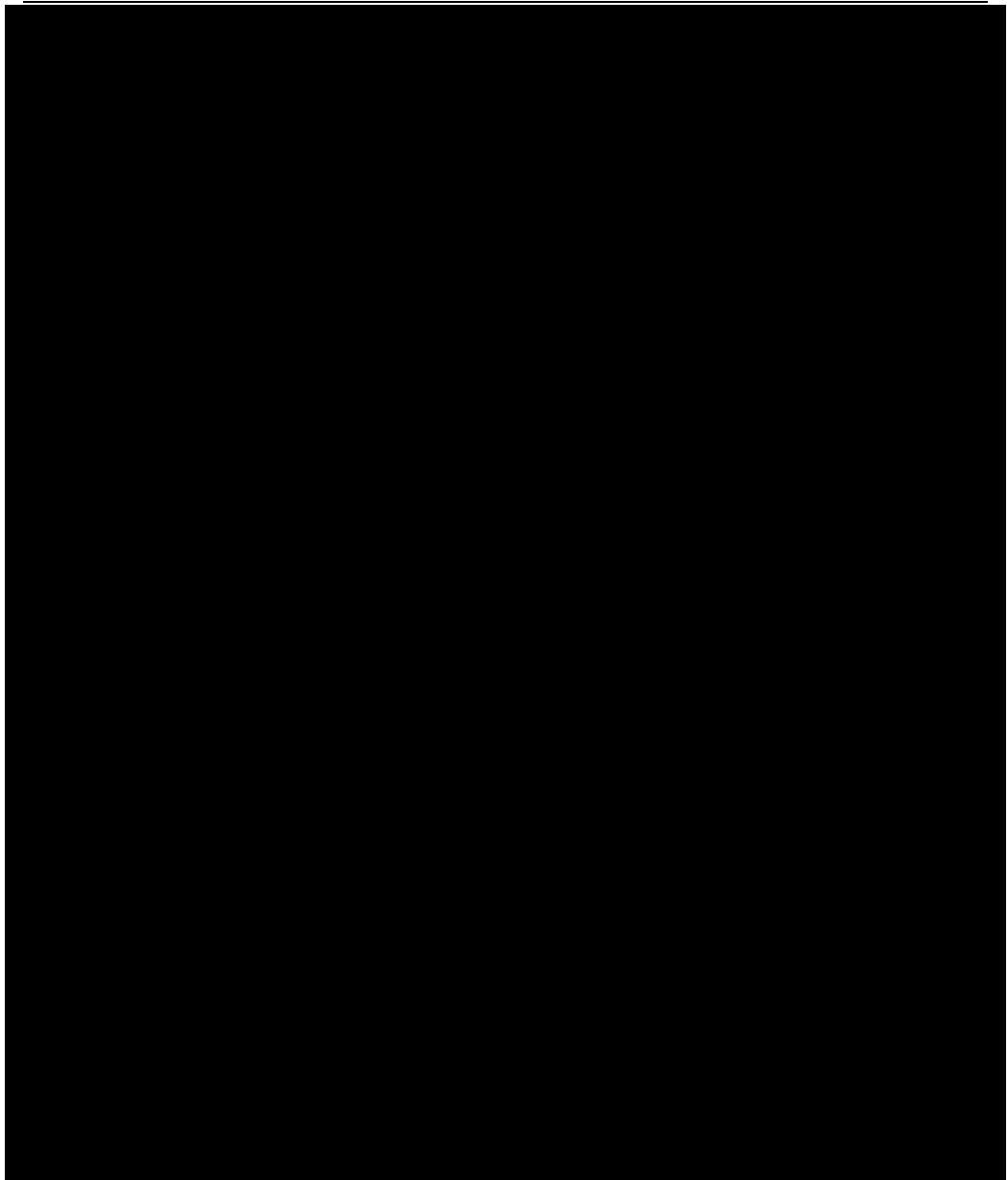
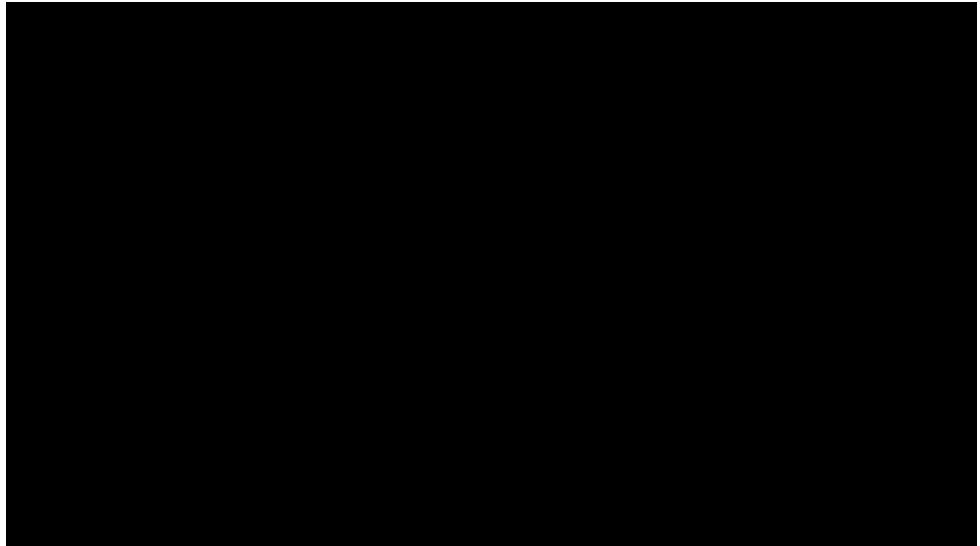


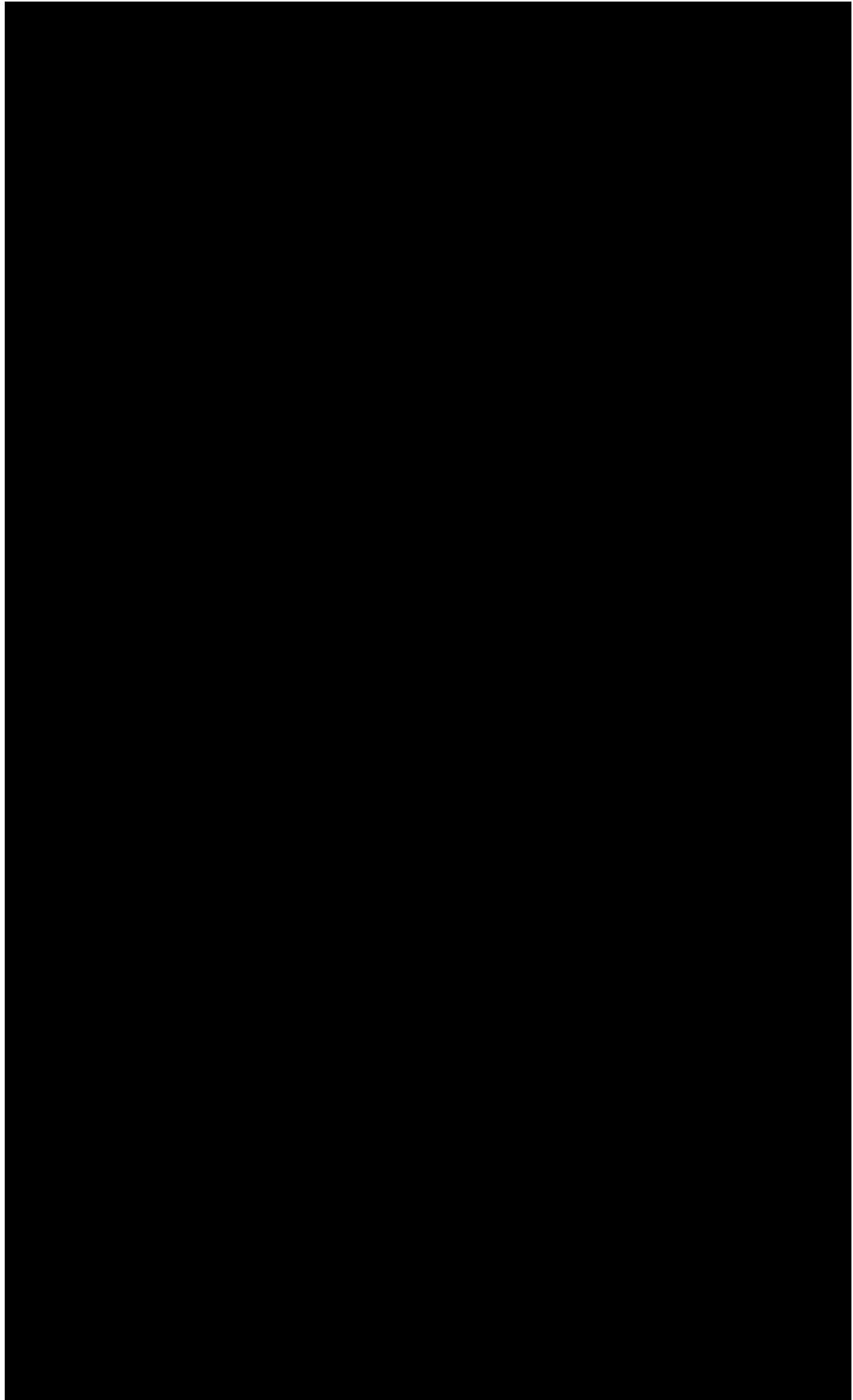


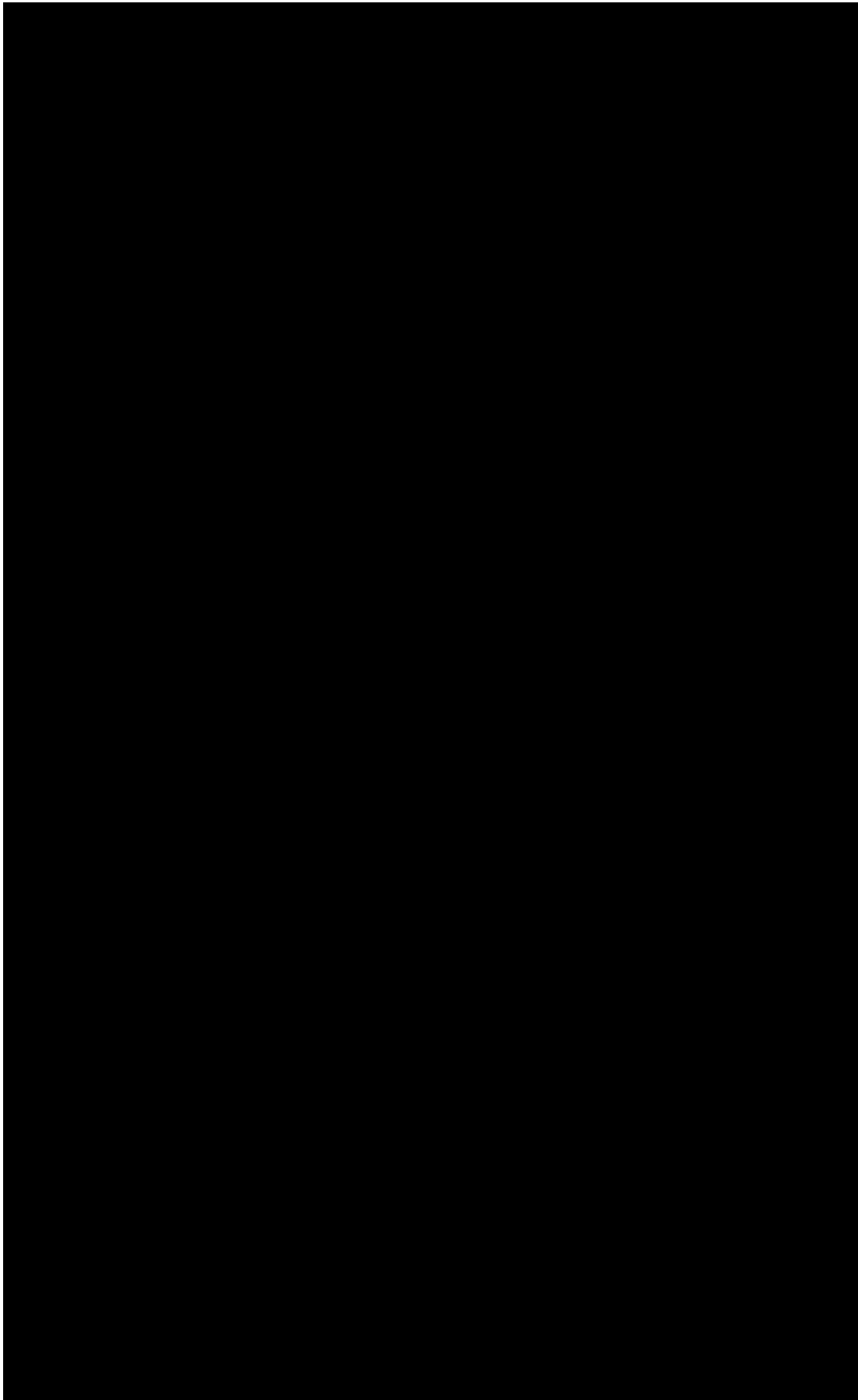
22.10 Unilateral extension of time

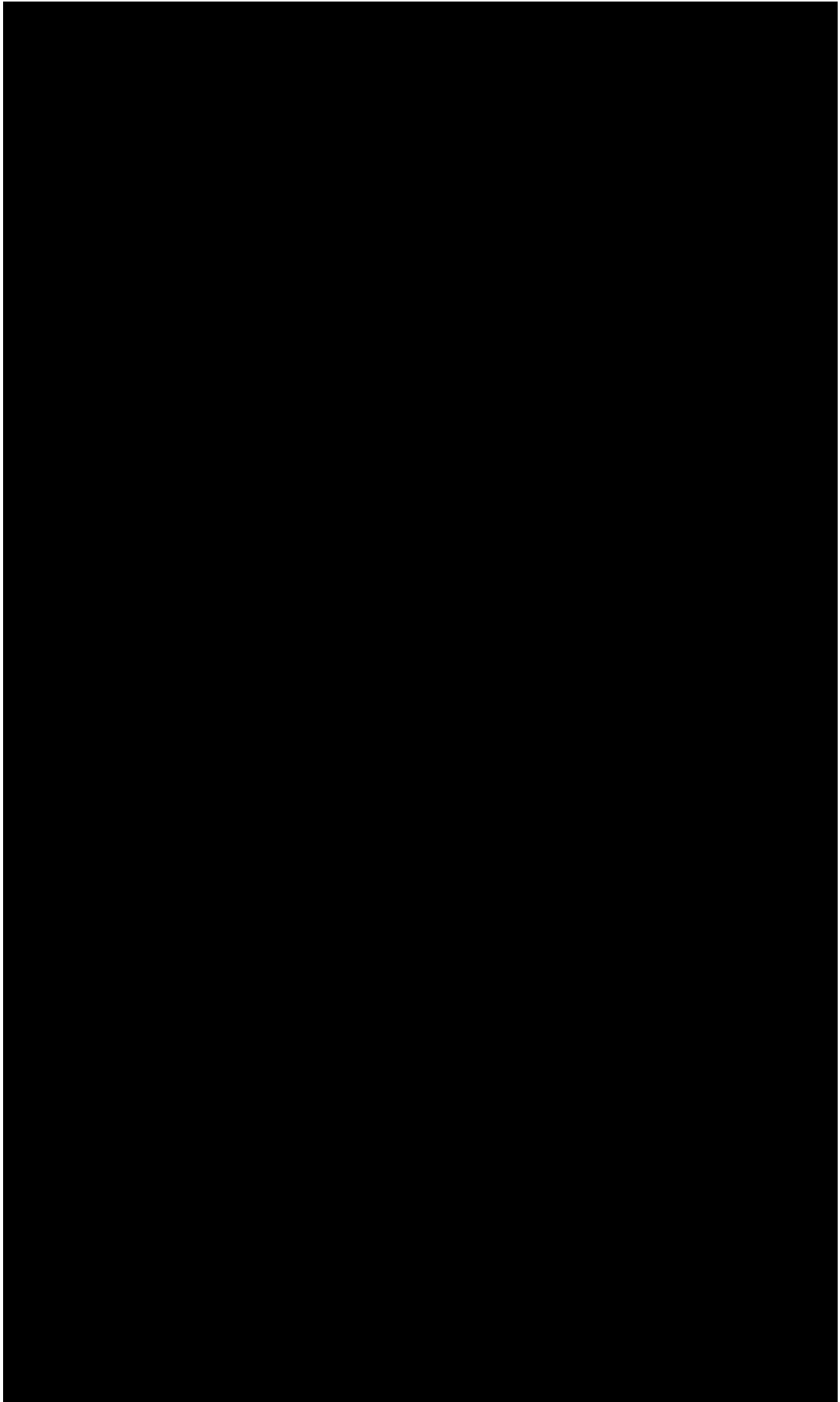
- (a) Whether or not the Developer has made, or is entitled to make, a claim for an extension of time under this clause 22, the State may (in its absolute discretion) at any time and from time to time by written notice to the Developer, unilaterally extend any Milestone Date.
- (b) The Developer acknowledges that:
 - (i) the State is not required to exercise the State's discretion under this clause 22.10 for the benefit of the Developer;
 - (ii) clause 22.10 does not give the Developer any rights, except that if the Developer reasonable considers it would have been entitled to an extension of time under clause 22.6 and the State exercises its rights under this clause 22.10, the Developer can dispute the extension of time provided under clause 22.7 as if the extension of time had been granted under clause 22.6; and
- (c) the exercise or failure to exercise the State's discretion under clause 22.10 is not capable of being the subject of a dispute for the purposes of clause 38 or otherwise subject to review.

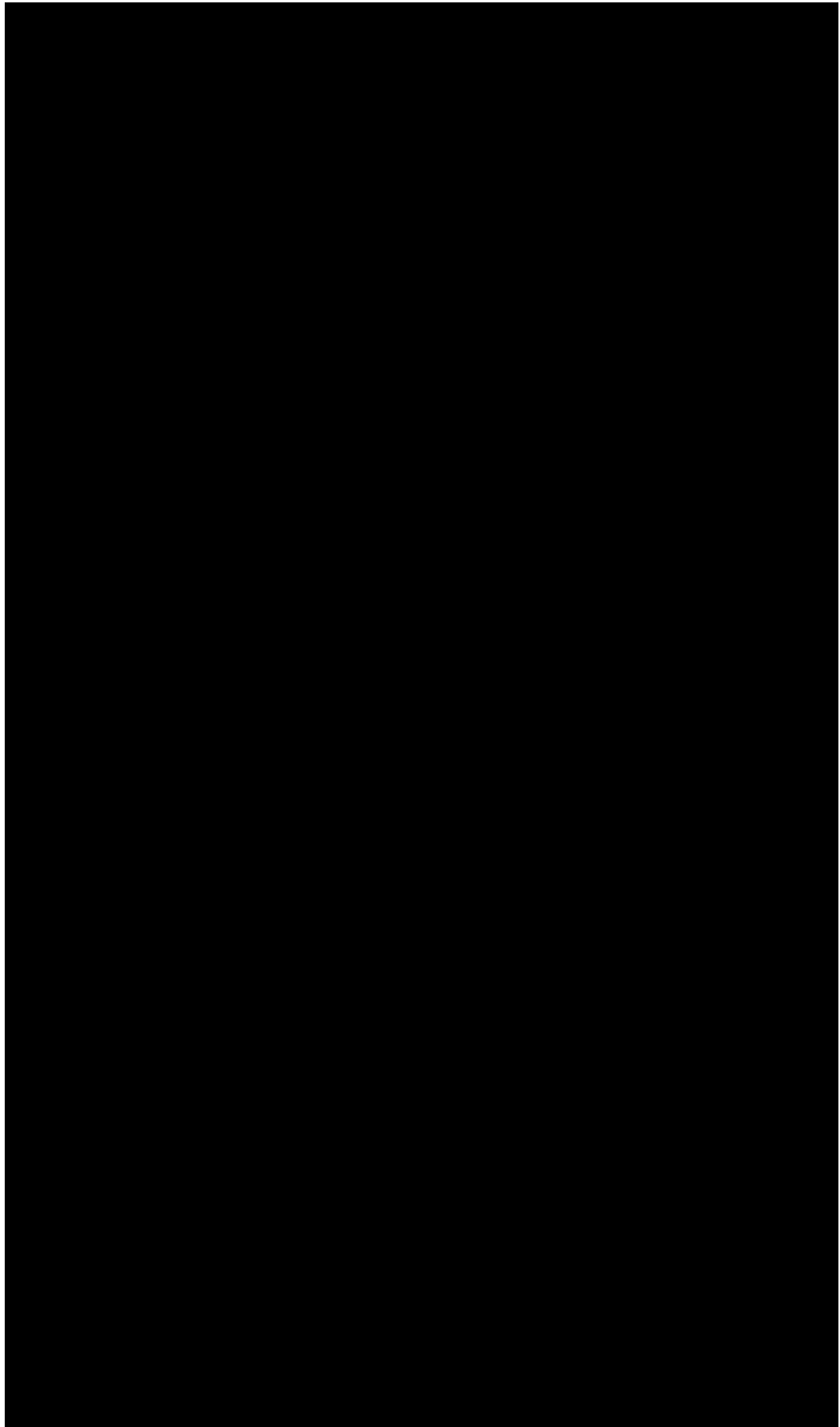


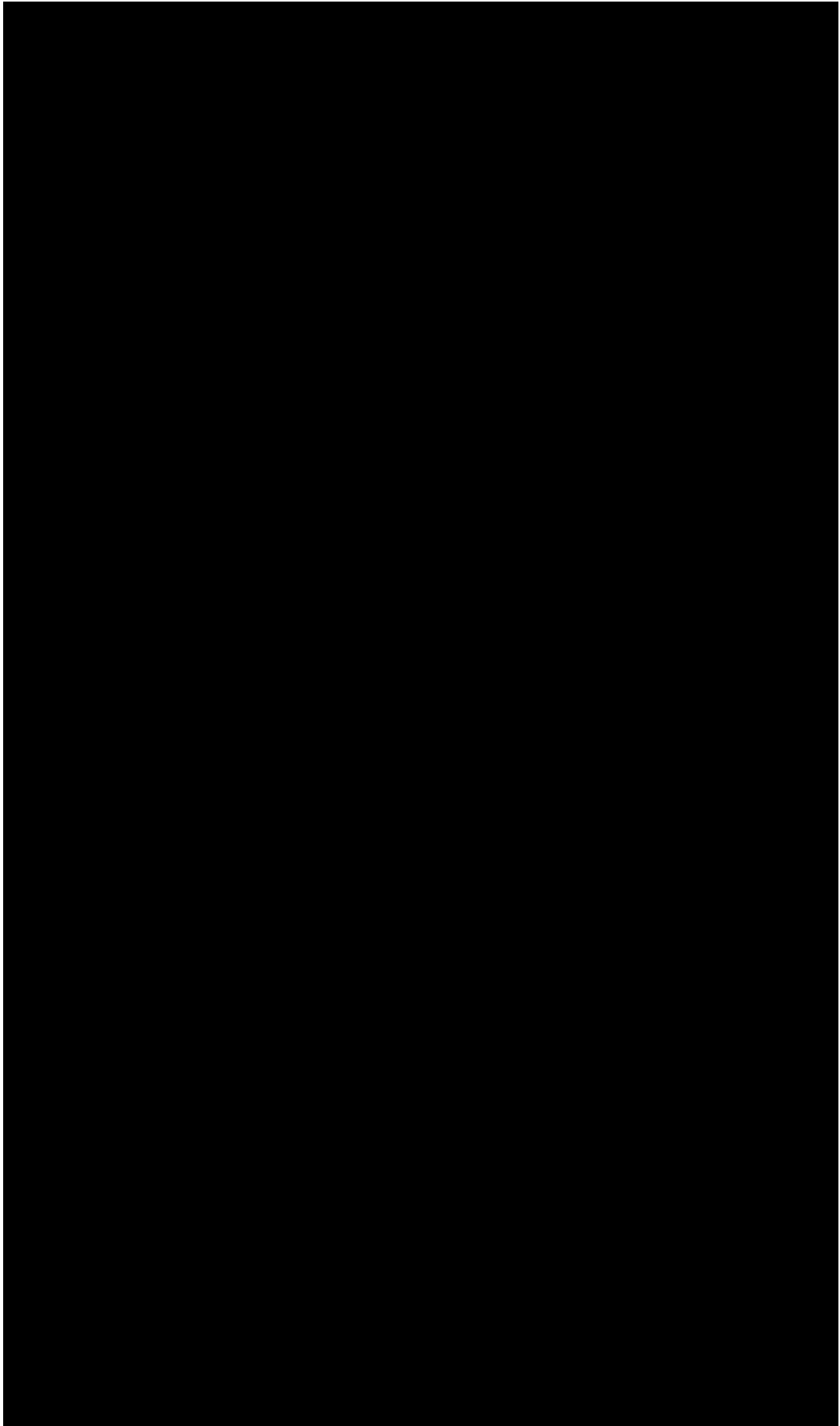


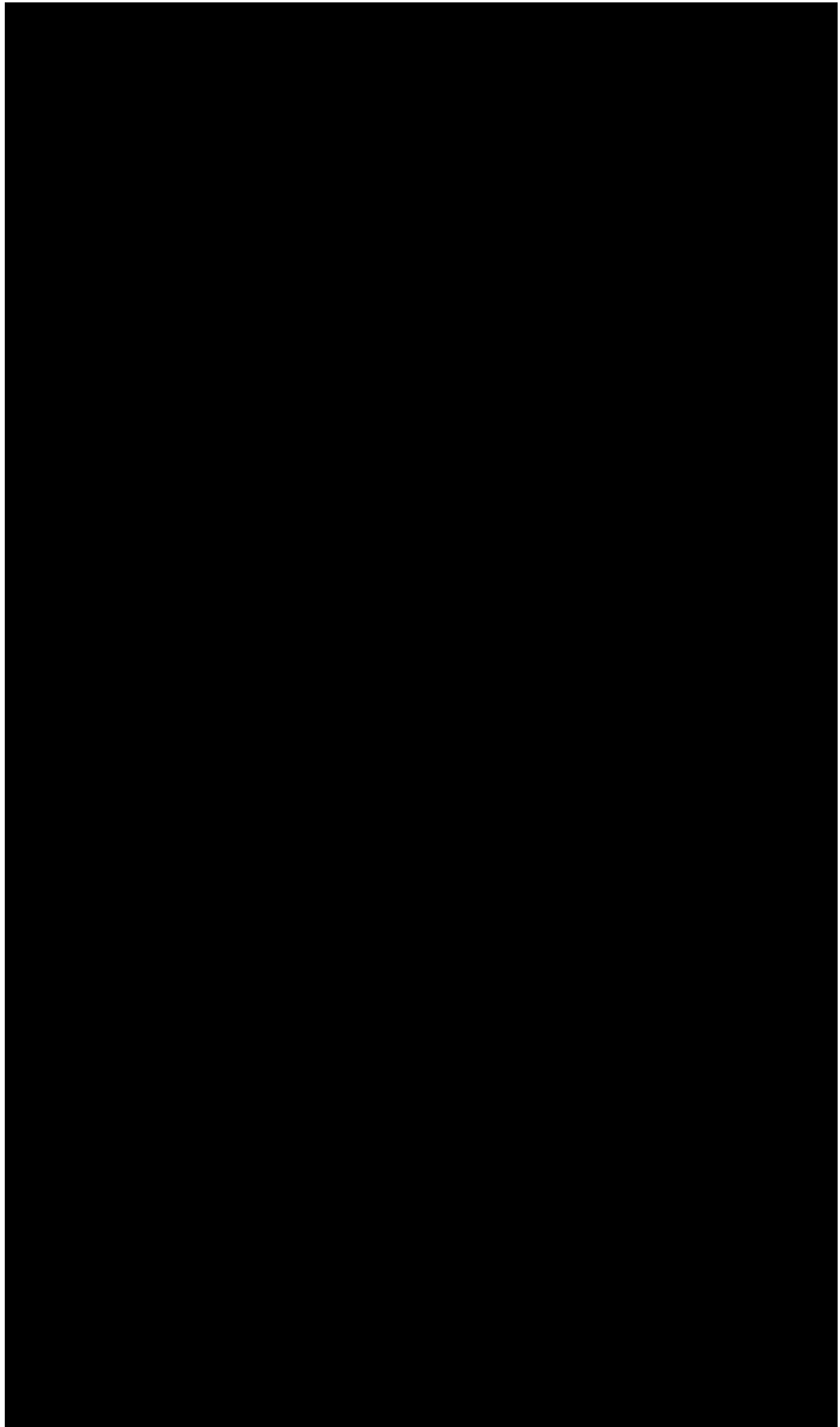




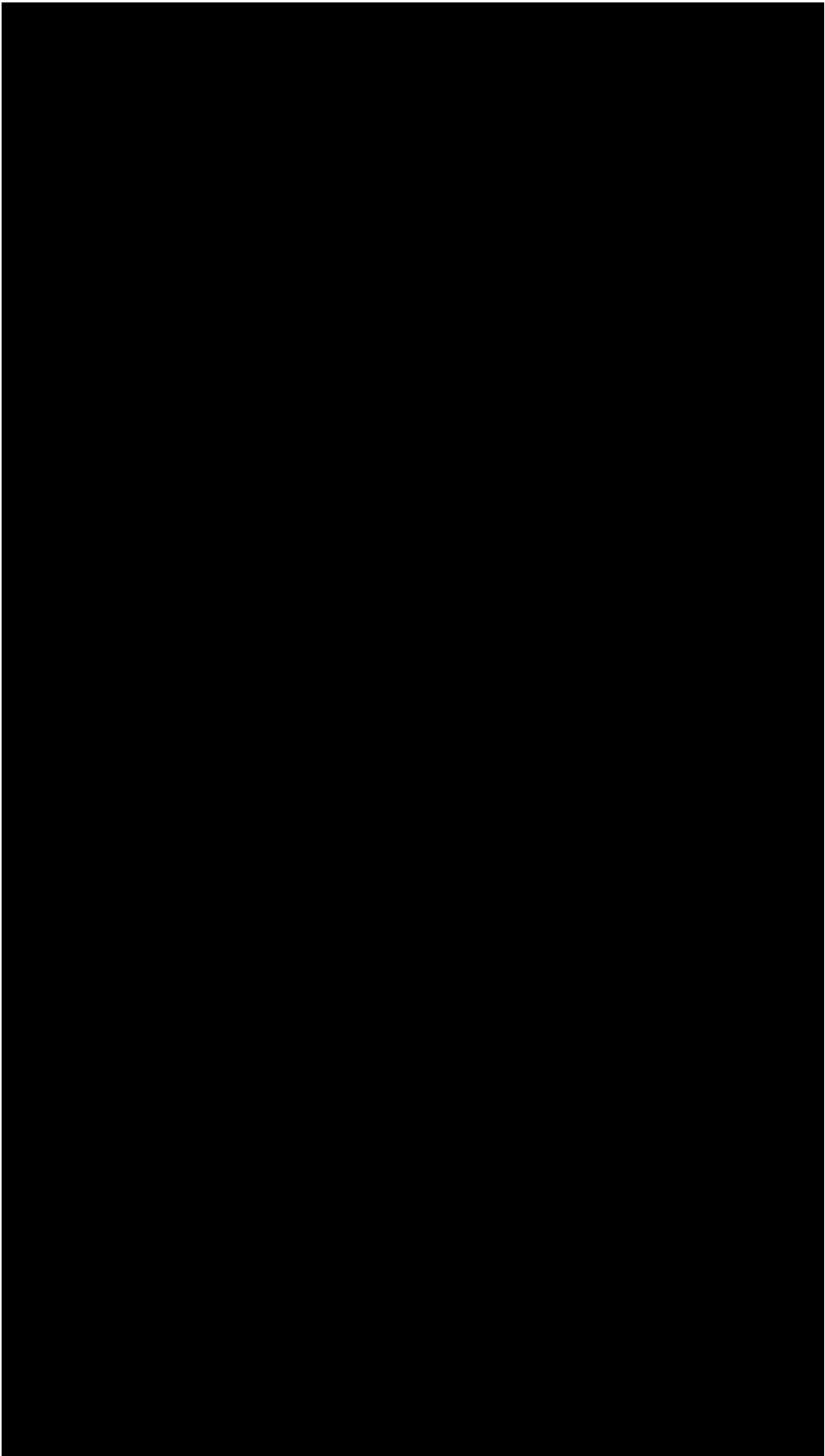


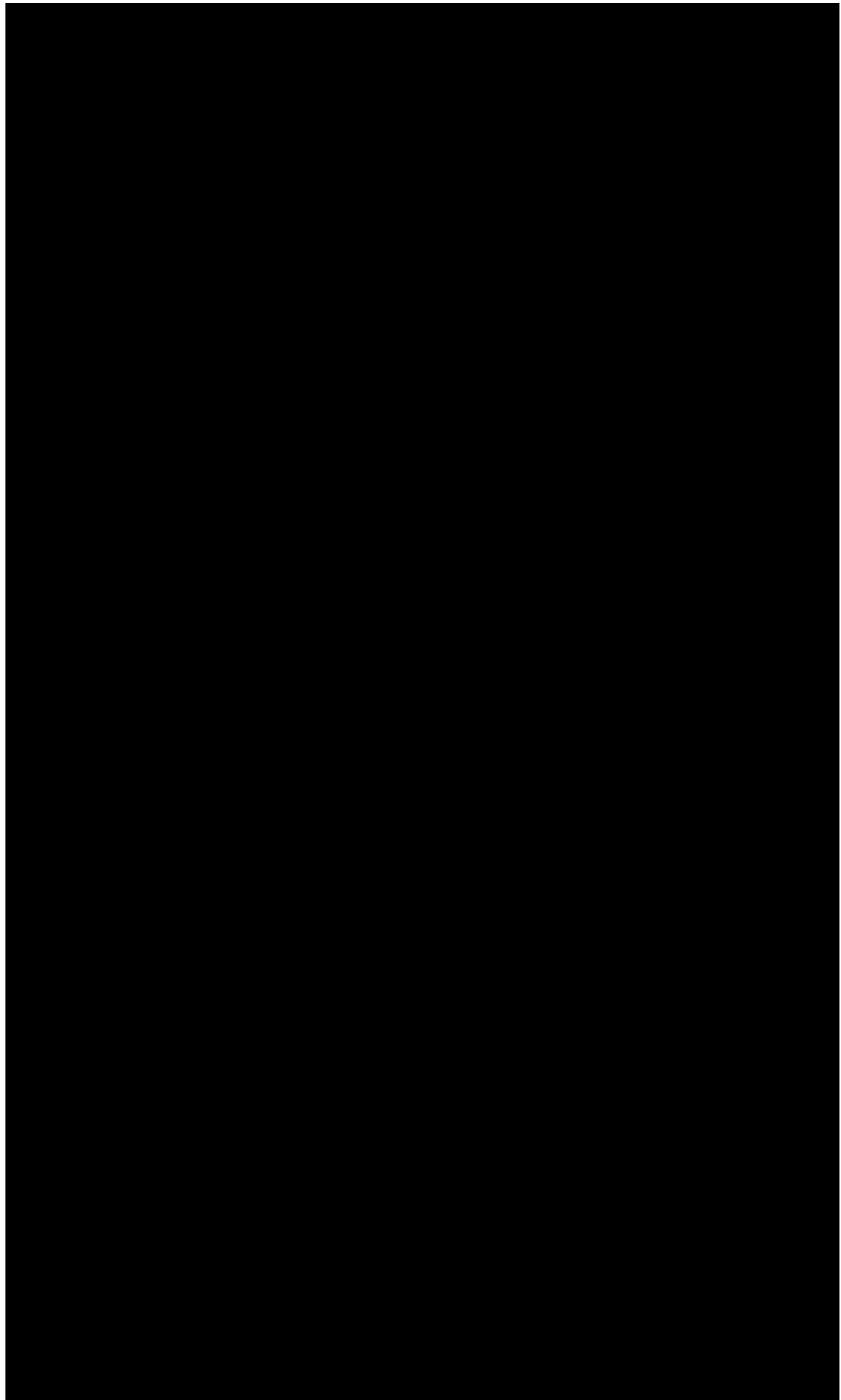


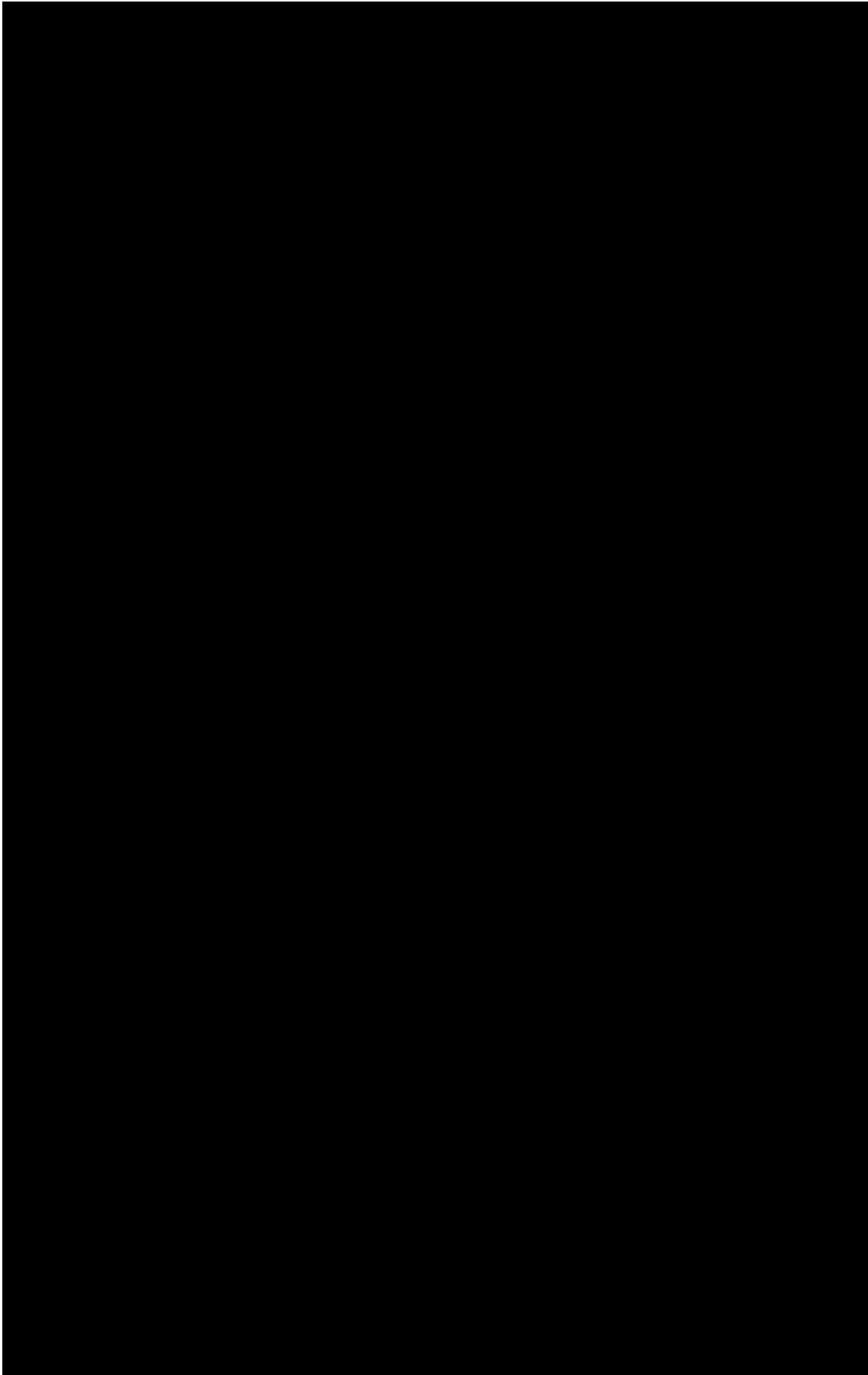


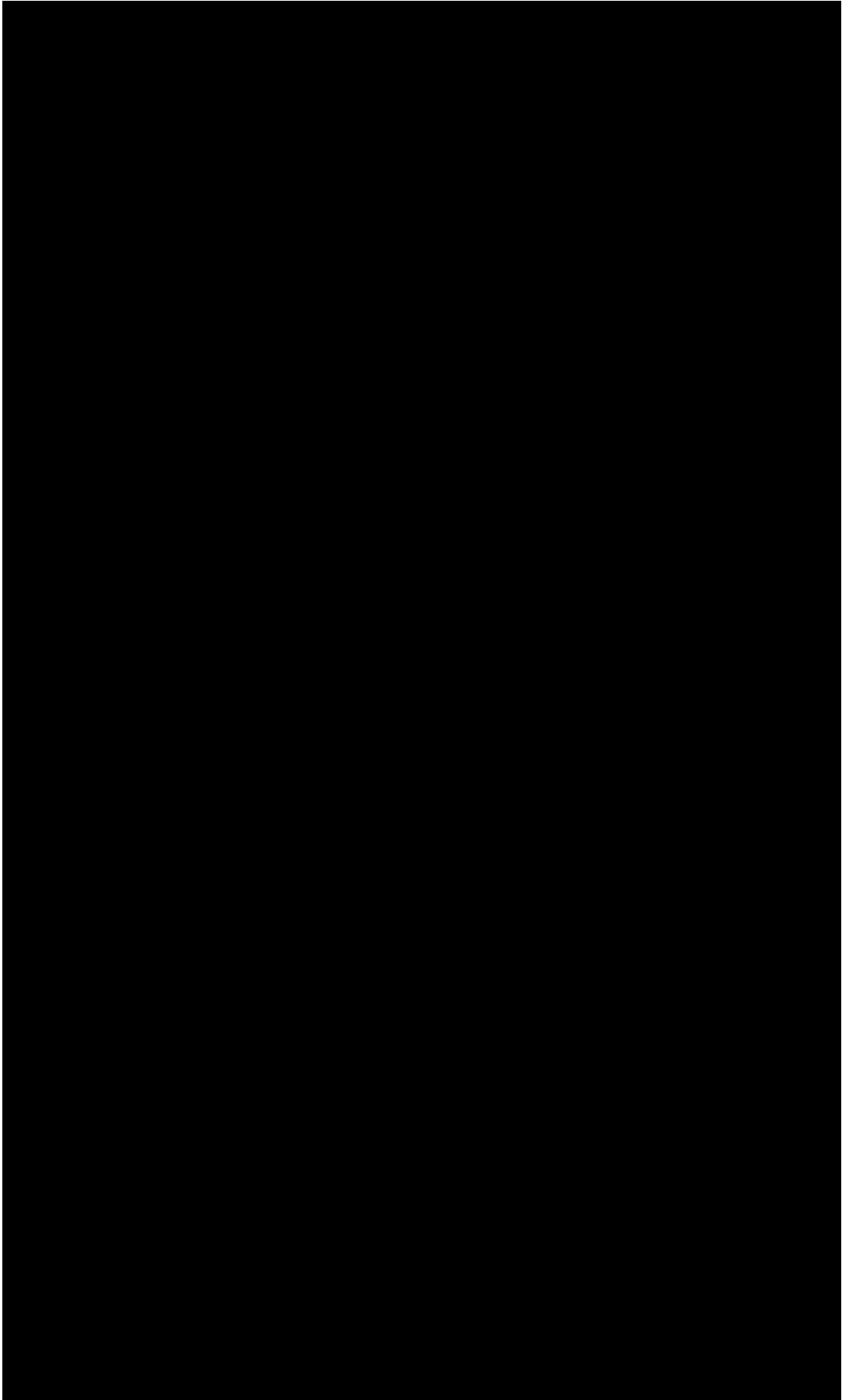


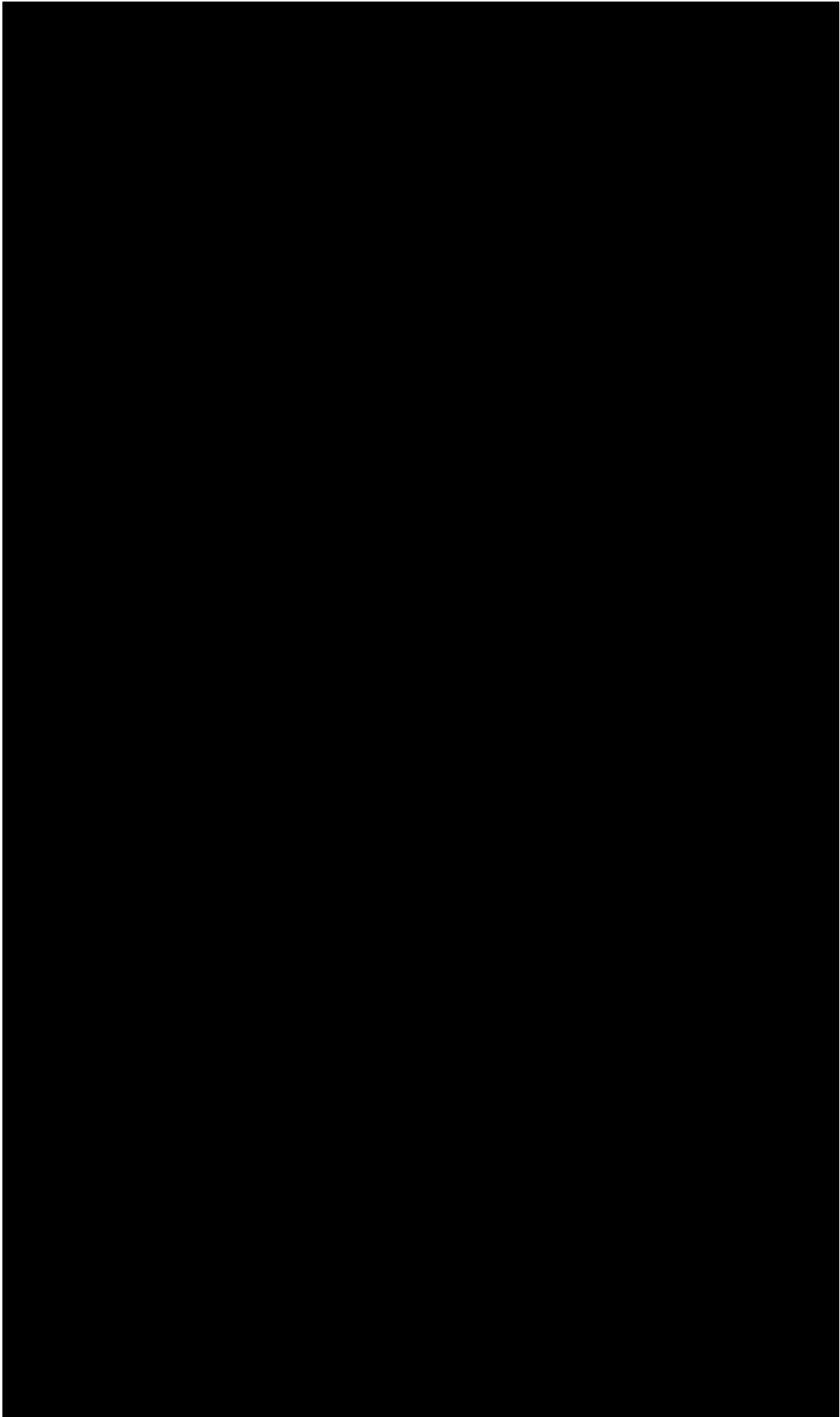


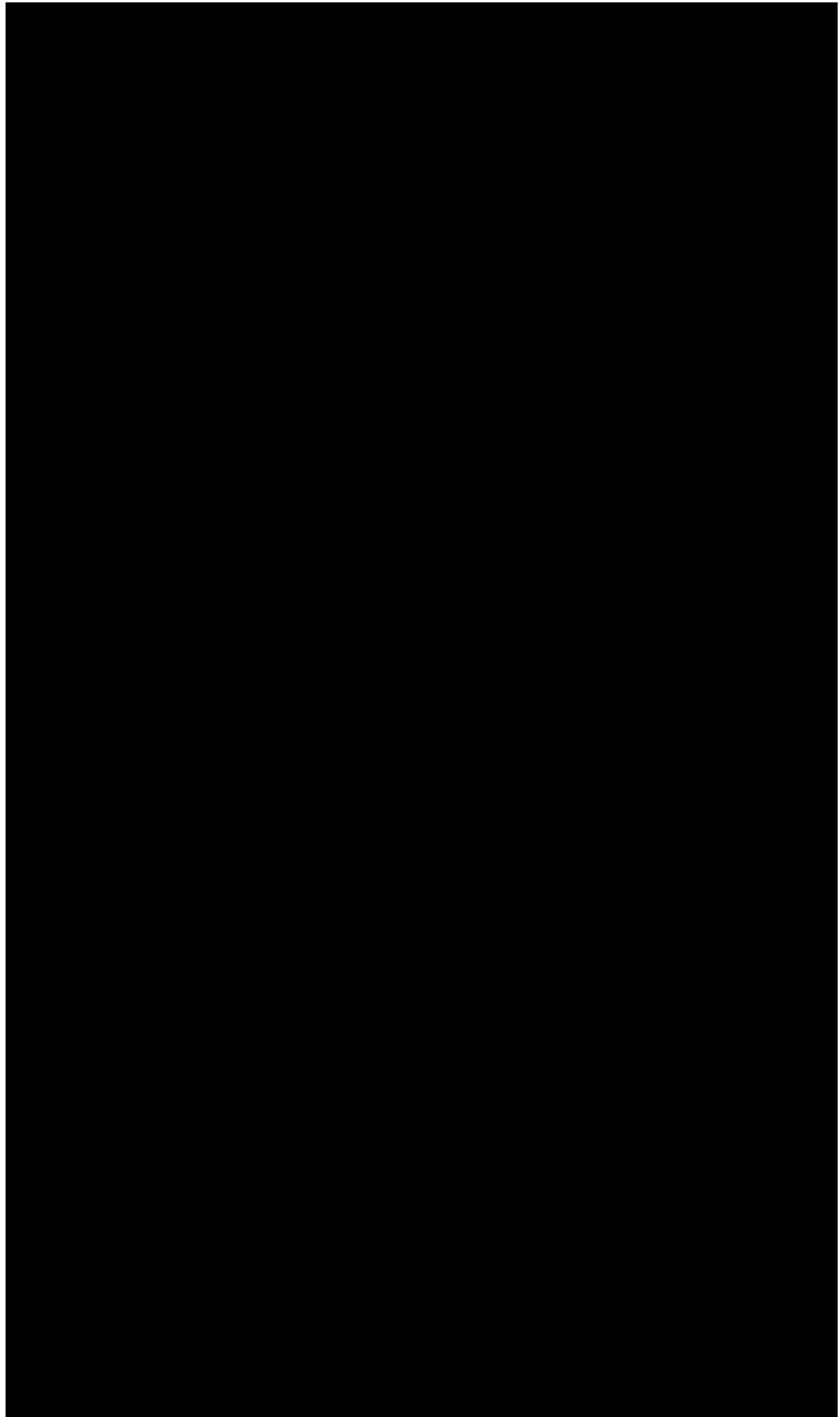


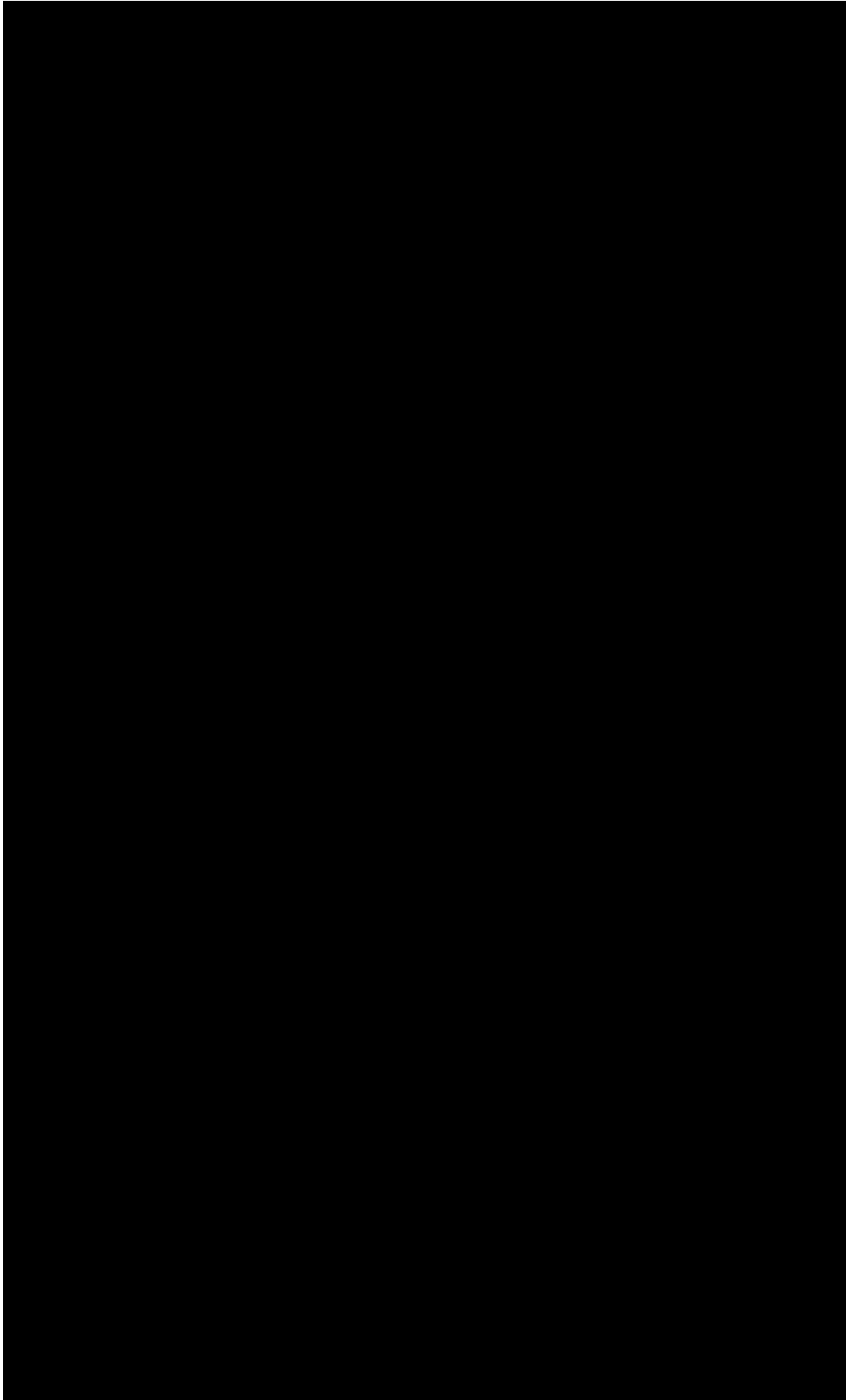


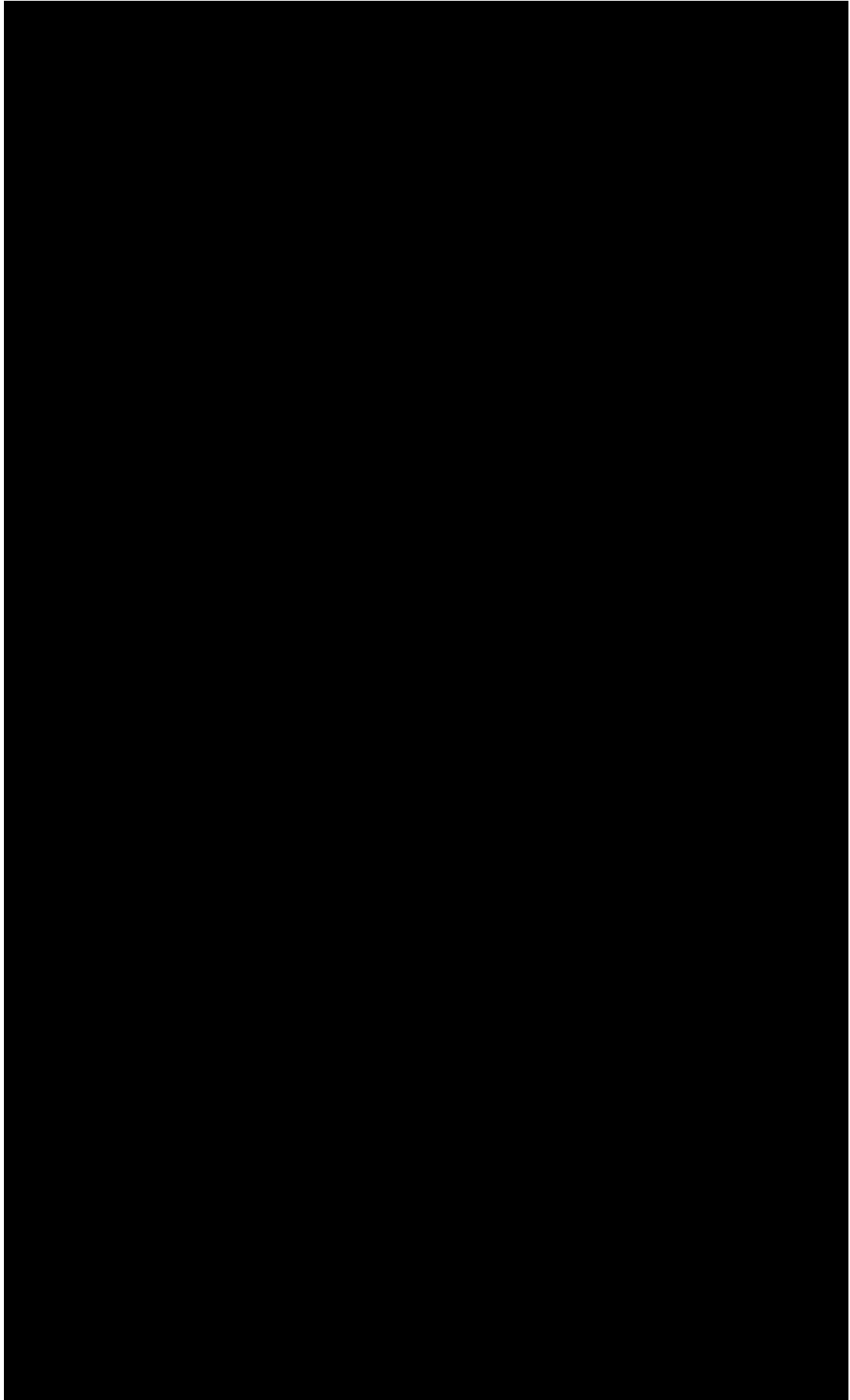


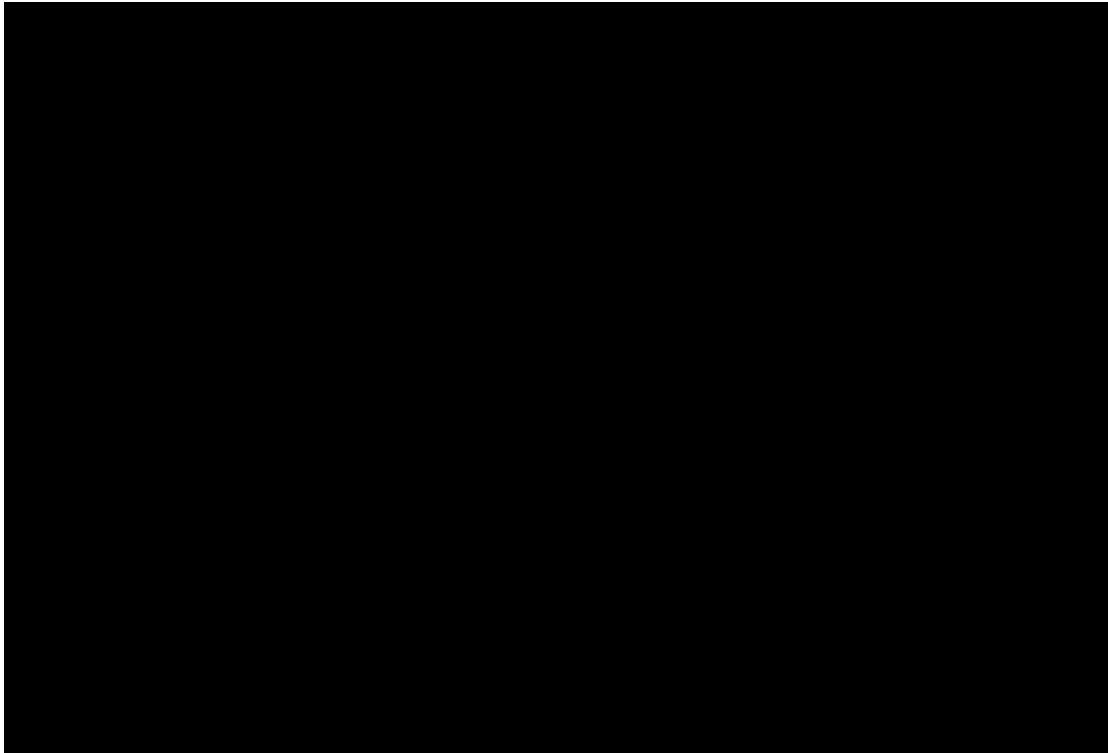












24 General requirements for carrying out Works

24.1 Works to comply

- (a) The Developer must carry out or procure the carrying out of each Works Portion and ensure that each Works Portion is carried out in accordance with:
 - (i) the Minimum Building Requirements;
 - (ii) the State Works Project Brief;
 - (iii) the TfNSW Requirements;
 - (iv) the ASA Requirements;
 - (v) all applicable Approvals;
 - (vi) the Existing Easements (to the extent that these Existing Easements are not released or terminated at the time of conduct of the Works);
 - (vii) the Precinct Management Agreement (as amended from time to time, and to the extent that it has not been terminated at the time of conduct of the Works);
 - (viii) subject to clause 22 the dates stipulated in the Development Program for the achievement of the Milestones;
 - (ix) all applicable Laws;
 - (x) the Codes and Standards; and
 - (xi) this deed,

except as otherwise provided in this deed.

- (b) Subject to clause 22, the Developer and the State agree that should any requirement of the Project Documents be inconsistent with any requirement under clause 24.1(a) inclusive, then clause 24.1(a) will prevail to the extent of the inconsistency.

24.2 Developer must comply with all Approvals

- (a) The Developer must, subject to the terms of this deed, comply on time with all relevant Approvals and all Laws in connection with the Developer's use of the Land and Site at the Developer's sole cost.
- (b) The Developer must ensure that all State Works comply with the requirements of the *Disability Discrimination Act 1992* (Cth), acknowledging that the Developer may propose a performance based solution for the State's consideration and approval, acting reasonably (the Developer must propose options for this solution which may include utilisation of the lifts in the lobby of the Atlassian Building in a Day 1 scenario).

The parties acknowledge that any future pedestrian connections proposed to attach to the State Works at RL21, to be carried out by the State or any party acting on behalf of the State, will not rely on utilisation of the lifts in the lobby of the Atlassian Building.

24.3 Changes to Works Documents

If changes to the Works Documents are required under a Law, then subject to clause 10.1 and 28.5, the Developer must at its own cost:

- (i) cause the Works to be redesigned to accommodate the changes;
- (ii) obtain all necessary Approvals for the changes; and
- (iii) incorporate those changes into the Works.

24.4 State not liable

Subject to any other express provision of this deed, the Developer releases the State from, and agrees that the State is not liable for, liability or loss arising from, and any Costs incurred in connection with:

- (a) any conditions attaching to an Approval; or
- (b) anything contained in the Works Documents.

24.5 Developer's obligation for care of Works

Except as otherwise provided in this deed, the Developer is responsible for the care of each Works Portion at all times, until Practical Completion of that Works Portion (subject to the Developer's obligations under clause 32 during the Defects Liability Period).

24.6 Developer to rectify damage to Works

- (a) The Developer must promptly notify the State of any material loss or material damage to or material defects of which it is aware, or ought reasonably to be aware, in the Works or the Site, occurring prior to Practical Completion, and without limiting its rights to make any claim or take any action in respect of such loss or damage or defects at its Cost,

promptly rectify any loss or damage to or defects in the Works and the Site so that the Works conform in every respect with the requirements of this deed.

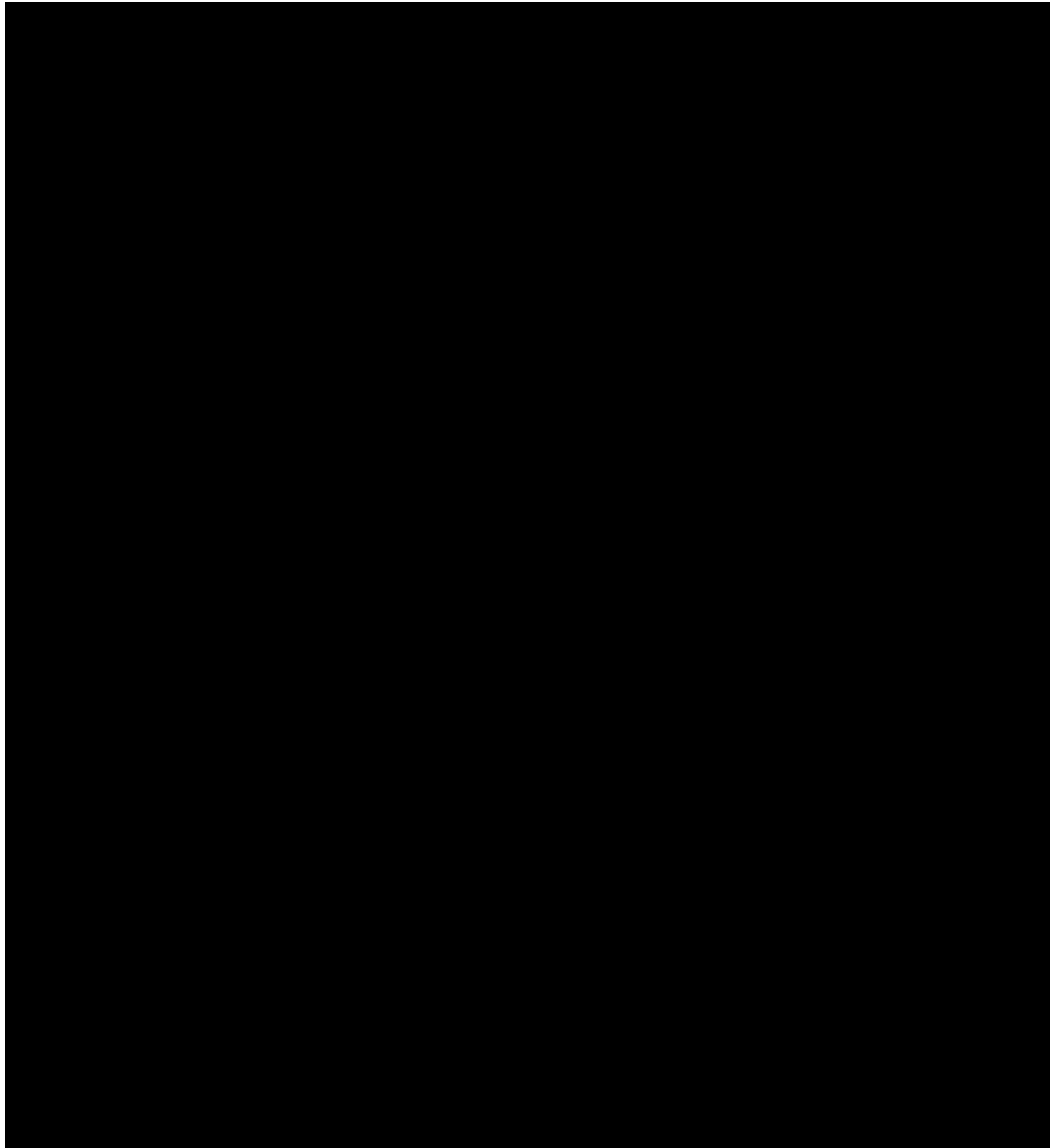
- (b) To the extent any loss or damage the subject of clause 24.6(a) is caused or contributed to by the State or the State's Employees and Agents, the State (and not the Developer) is responsible for any costs incurred by the Developer in rectifying that loss or damage.

24.7 No noxious use

The Developer must not, subject to the limits of any rights granted under any applicable Construction Licence, permit any illegal act, trade, business, occupation or calling at any time to be exercised carried on, permitted or suffered in or on the Site.

24.8 Site Condition

The Developer acknowledges that it is aware of and accepts responsibility for all Site Conditions and that it must construct the Works with proper consideration of the Site Conditions.





24.10 Co-ordination and integration with adjacent development projects, Precinct and Land

- (a) The Developer acknowledges that one or more adjacent development projects may be developed in the Precinct.
- (b) Where:
 - (i) the Basement Commissioning Date occurs (as defined in the Dexus Agreement); and
 - (ii) the Vehicular Link Final Integration Works have not been carried out and completed by that date:
then:
 - (iii) where the Basement Commissioning Date occurs on or prior to the Day 2 Works Commence Date, the Developer must undertake and complete the Vehicular Link Final Integration Works; or
 - (iv) where the Basement Commissioning Date occurs after the Day 2 Works Commence Date, the Developer must procure the Atlassian SPV to undertake and complete the Vehicular Link Final Integration Works.

24.11 Devonshire Street Tunnel

- (a) The parties acknowledges and agree that:
 - (i) as at the date of this deed, the parties may not have agreed upon a project brief which describes the features of the Devonshire Street Tunnel Works;
 - (ii) if the design of the Devonshire Street Tunnel Works has not been resolved or approved between the parties for the purposes of clause 6, while elements of the Devonshire Street Tunnel Works may be depicted in the Milestone Design Documents, the provisions of clause 6.1(c) do not apply to the Devonshire Street Tunnel Works or those elements depicted in the Milestone Design Documents;
 - (iii) the Devonshire Street Tunnel Works Project Brief is required to be prepared by the Developer and approved by the State pursuant to this clause 24.11, with the input of TAHE and Sydney Trains;
 - (iv) the Devonshire Street Tunnel Works will, unless otherwise agreed between the parties (both acting reasonably), constitute State Works;

- (v) until the Devonshire Street Tunnel Works Project Brief is approved in accordance with this clause 24.11, any Design Documentation which includes any Devonshire Street Tunnel Works will comprise Design Documentation (State Works); and
 - (vi) once the Devonshire Street Tunnel Works Project Brief is approved, the Devonshire Street Tunnel Works Project Brief will form part of the Milestone Design Documents (State Works).
- (b) Within 5 Business Days of the date of this deed , the Developer must provide a Draft Devonshire Street Tunnel Works Project Brief to the State, and which must comply with:
- (i) State Works Minimum Requirements;
 - (ii) TfNSW Requirements;
 - (iii) State Works Project Brief;
 - (iv) ASA Requirements;
 - (v) all relevant Laws, Approvals, Codes and Standards; and
 - (vi) this deed.
- (c) The parties acknowledge and agree that they will work together in a collaborative and iterative manner in order for the Developer to complete the Draft Devonshire Street Tunnel Works Project Brief as soon as practicable and prior to the time that the Developer is required to submit the completed Draft Devonshire Street Tunnel Works Project Brief to the State in accordance with clause 24.11(b), with the objective of minimising any comments pursuant to clause 24.11(d).
- (d) Within 20 Business Days of receiving the Draft Devonshire Street Tunnel Works Project Brief under clause 24.11(b) (or such earlier time as is reasonably practicable for the State) the State must issue a notice to the Developer either:
- (i) providing its comments in relation to the Draft Devonshire Street Tunnel Works Project Brief and if the State considers that the Draft Devonshire Street Tunnel Works Project Brief does not satisfy the requirements of clauses 24.11(b)(i) to (v), provide comments in relation to how the Draft Devonshire Street Tunnel Works Project Brief does not satisfy those requirements; or
 - (ii) confirming the State has no comments in relation to the Draft Devonshire Street Tunnel Works Project Brief.
- (e) If the State issues a notice to the Developer under clause 24.11(d)(i), then the Developer must:
- (i) consider the comments provided by the State in relation to the Draft Devonshire Street Tunnel Works Project Brief;
 - (ii) promptly amend the relevant part of the Draft Devonshire Street Tunnel Works Project Brief to address the comments of the State; and
 - (iii) re-issue the Draft Devonshire Street Tunnel Works Project Brief to the State,

and the provisions of clause 24.11(d) will re-apply to that Draft Devonshire Street Tunnel Works Project Brief, except that the State's review of the Draft Devonshire Street Tunnel Works Project Brief will be limited to:

- (iv) those aspects of the Draft Devonshire Street Tunnel Works Project Brief which have been amended in response to the State's previous comments; and
 - (v) any items of the Draft Devonshire Street Tunnel Works Project Brief that have been impacted as a result of the amendments to the Draft Devonshire Street Tunnel Works Project Brief.
- (f) The parties acknowledge that the process in this clause 24.11 will not affect the Developer's obligations under the asset assurance process contemplated in clauses 30.8 and 30.9.
- (g) Subject to clause 24.11(h), the process in clauses 24.11(d) and 24.11(e) will continue to be followed by the parties in relation to the revised iterations of the Draft Devonshire Street Tunnel Works Project Brief produced by the Developer until:
- (i) the State confirms it has no further comments on the Draft Devonshire Street Tunnel Works Project Brief in accordance with clause 24.11(d)(i); or
 - (ii) the Draft Devonshire Street Tunnel Works Project Brief is otherwise determined in accordance with clause 24.11(h) and 24.11(j).
- (h) If:
- (i) at any time either party acting reasonably disagrees with the other party's comments in relation to the Draft Devonshire Street Tunnel Works Project Brief; and
 - (ii) the parties have not resolved the Draft Devonshire Street Tunnel Works Project Brief within 35 Business Days of the date of this deed,

then either party may refer the matter to executive negotiation in accordance with clause 38.4 to determine whether or not the Draft Devonshire Street Tunnel Works Project Brief satisfies the requirements of clause 24.11(b)(i) to (v) (as relevant).

- (i) If the representatives of the parties cannot resolve the matter in accordance with clause 38.4 then, if the State and the Developer agree that the matter should be determined by an expert, either party may refer the matter to expert determination in accordance with clause 38.5.
- (j) Despite clauses 24.11(a)-(i):
 - (i) if the Devonshire Street Tunnel Works Project Brief has been approved by State before the date of this deed, the Devonshire Street Tunnel Works Project Brief will form part of the Milestone Design Documents (State Works) and clauses 24.11(a)-(i) and clause 24.11(j)(ii)(A) will not apply;
 - (ii) the Developer acknowledges and agrees that:
 - (A) if clause 24.11(j)(i) does not apply, the Developer must not commence the Devonshire Street Tunnel Works

until the Devonshire Street Tunnel Works Project Brief has been resolved pursuant to this clause 24.11;

- (B) once approved by the State, the Devonshire Street Tunnel Project Brief will form part of the State Works Project Brief and references in this deed to the State Works Project Brief will be deemed to include references to the Devonshire Street Tunnel Works Project Brief;
- (C) all costs relating to the development of the Devonshire Street Tunnel Works Project Brief and the conduct of the Devonshire Street Tunnel Works are the responsibility of the Developer;
- (D) the Developer accepts all risks in relation to obtaining any approvals required by TAHE in relation to the Draft Devonshire Street Works Project Brief, provided that the State will act reasonably in assisting the Developer to secure TAHE approval;
- (E) the Developer accepts all risks of obtaining Approvals in relation to the Devonshire Street Tunnel Works;
- (F) the Developer will not be entitled to make, and the State will not be liable upon, any Claim arising out of or in any way in connection with:
 - (aa) the resolution of the Devonshire Street Tunnel Works Project Brief pursuant to clause 24.11;
 - (ab) the requirement to conduct the Devonshire Street Tunnel Works in accordance with this deed; or
 - (ac) any delays or additional costs in conducting the Works as a result the Devonshire Street Tunnel Works;
- (G) no review of, comment upon or rejection of, or failure to review or comment upon or reject, the Draft Devonshire Street Tunnel Works Project Brief, will:
 - (aa) constitute a direction to carry out a Variation;
 - (ab) relieve the Developer from or alter its liabilities or obligations, whether under this deed or otherwise according to any Law; or
 - (ac) limit or otherwise affect the State's rights against the Developer, whether under this document or otherwise according to any Law.

25 Condition of Land

25.1 No warranty as to purpose

The State does not warrant that the Land or the Precinct is suitable, or may be used, for any purpose. Subject to any provision of this deed, the Developer represents and warrants that:

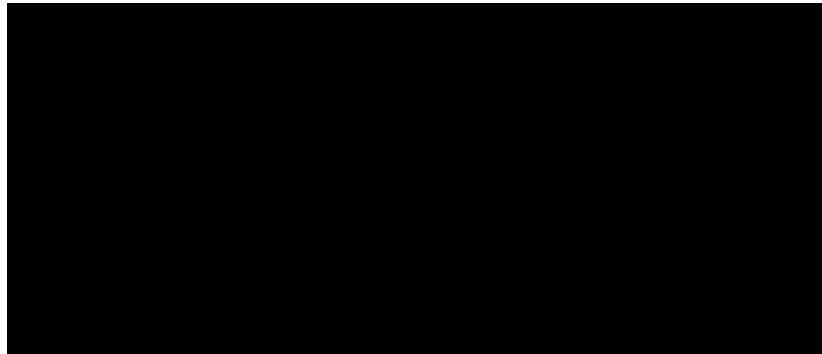
- (a) it has made its own appraisal of, and has satisfied itself in all respects in connection with, the suitability of the Land for the Project and Developer's proposed use of the Site;
- (b) it has had the opportunity to investigate, and has entered into this deed with full knowledge of (other than in relation to any Approval) and subject to, all prohibitions and restrictions applying to the Site (including their use) under any Law, pursuant to any affectation on title or the Precinct Management Agreement as disclosed by the State prior to the Developer entering into the deed;
- (c) it has satisfied itself in all respects in connection with the timetable for the completion of the Project, including the requirements of the Development Program; and
- (d) the encumbrances affecting the Site which are registered in the folios of the register as at the Commencement Date will not prejudice the Developer's ability to complete the Works.

25.2 Land Condition

- (a) The Developer accepts all Costs and risks associated with the condition of the Site, except as otherwise provided in this deed.
- (b) The Developer:
 - (i) represents and warrants to the State that, because of the Developer's own inspection and enquiries, the Developer:
 - (A) is satisfied as to the nature, quality, condition and state of repair of the Site; and
 - (B) accepts the Site as it is and subject to all defects (latent or patent) and all dilapidation and infestation; and
 - (ii) subject to clause 22 and subject to any other provision in this deed to the contrary, may not make any objection or claim for compensation against the State, delay the carrying out of any Works Portion (such that the Developer may not achieve a Milestone in accordance with the Development Program) or terminate this deed because of anything in connection with:
 - (A) any of the matters referred to in this clause 25.2;
 - (B) loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the Land except to the extent caused or contributed to by the State or the State's Employees and Agents after the Commencement Date;
 - (C) the presence in or on the Site of Contamination except to the extent any Contamination was caused or contributed to by the State or the State's Employees and Agents after the Commencement Date;
 - (D) subject to the State exercising its rights under clause 31.7 in accordance with clause 31.7, the condition or existence or nonexistence of Services; or
 - (E) any action or non-action by any person.

25.3 Services

- (a) The Developer must:
- (i) not interrupt any Service to Central Station unless, subject to clause 25.3(a)(ii), it is permitted to do so in accordance with this deed;
 - (ii) obtain and pay for any Service the Developer needs to perform the Developer's obligations under this deed;
 - (iii) relocate, remove, modify and replace all Services as are reasonably necessary for the Developer to comply with its obligations under this deed;
 - (iv) provide and maintain any signage, line marking, flagmen, barriers and other road or pedestrian traffic devices needed by the Developer to comply with its obligations under this deed;
 - (v) take all practicable steps required to ensure that all Services or facilities on or adjacent to or affecting the Site, or affected by the Works, are not interfered with or interrupted during normal operating hours by reason of the performance of the Works, without the prior approval of their owner;
 - (vi) in the event of a Service disruption or in the event of an emergency situation involving Services (in each case arising from the Works) and which affects the Services to Central Station, the Developer must immediately notify the State; and



- (b) Where the Developer becomes aware of a Service on or affecting the Site which requires relocation, removal, modification or replacement to enable the Developer to comply with its obligations under this deed, the Developer must:
- (i) within 5 Business Days of becoming aware of the need to relocate, remove, modify or replace a Service, give the State notice of the discovery of the Service, including any details with regard to location and purpose of the Service; and
 - (ii) relocate, remove, modify or replace the Service.
- (c) The Developer accepts all Costs and risks associated with procuring provision of Services to the Site. Except to the extent of any interruption or failure caused or contributed to by the State's or the State's Employees and Agents negligence, or the wrongful or reckless acts of the State or the State's Employees and Agents, the Developer agrees that the State is not liable for, and the Developer releases the State from,

any liability for any loss, injury, damage or Cost incurred by the Developer or any other person at any time in connection with the existence of, interruption to, or the failure of, the Services to the Site.

25.4 Development of other projects

- (a) The Developer assumes the risk that any planned structure or project for other development projects may not proceed, or may proceed in a different manner than planned or anticipated.
- (b) The State does not accept any responsibility for the Project being developed in a different manner than the Developer anticipated.
- (c) The Developer will not be relieved of its obligations under this deed and may not make any claim against the State for any actual or perceived Loss or damage arising out of the development carried out by other developers or the State in other development projects in the area.
- (d) Nothing in this clause 25.4 limits or otherwise affects the State's obligations under this deed.

25.5 Community objections

- (a) The Developer must use reasonable endeavours to develop the Project in co-ordination and integration with the development of other development projects adjacent to the Project and in the Precinct.
- (b) The Developer accepts all risks and costs of dealing with community and third party objections in relation to the Works. The Developer may not claim compensation from the State as a result of any community or third party objections to the Works and will not be entitled to an extension of time for any Milestone Dates as a result of community or third party objections to the Works.

25.6 Other interests

Subject to clause 16.6, the Developer must permit persons having an estate or interest in the Land (including any registered easement) concurrent with the State's to exercise the State's or that other person's rights, and otherwise perform their obligations, in connection with the Land and comply with any registered easements.

26 Environmental, native title and heritage obligations

26.1 Environmental risk

- (a) The Developer acknowledges and agrees that, subject to the provisions of this deed:
 - (i) there may be Contamination on the Land and Site;
 - (ii) in carrying out the Works, the Developer bears all risks and Costs in relation to:
 - (A) the presence on the Land and Site of any Contamination; and
 - (B) compliance with all Environmental Laws in relation to the conduct of the Works; and
 - (iii) the Developer is not entitled to:

- (A) make a claim, objection or requisition against the State or delay, rescind or terminate any Project Document; or
- (B) request any extension of time to perform its obligations under any Project Document,

in relation to the matters referred to in this clause 26.1.

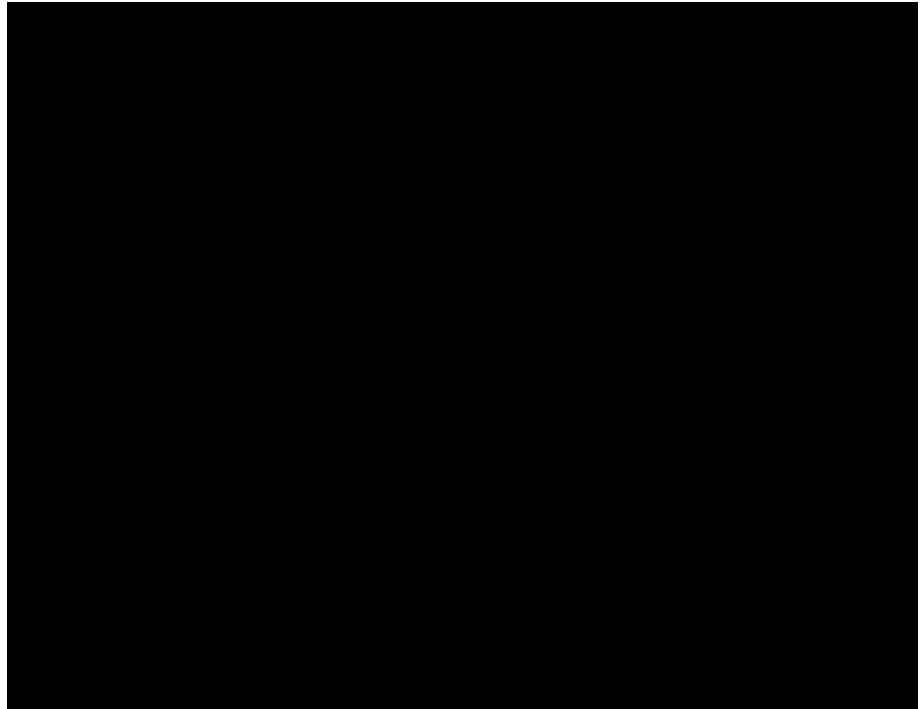
26.2 Environmental Laws

- (a) Without limiting clause 26.1, the Developer must comply with and observe all Environmental Laws in carrying out the Project, undertaking the Works and complying with its obligations under this deed.
- (b) In carrying out the Project, undertaking the Works, and complying with its obligations under this deed, the Developer is responsible for all Contamination:
 - (i) on, in or under the Site;
 - (ii) to the extent that such Contamination is disturbed by, or exacerbated by, the conduct of the Works; or
 - (iii) which migrates from the Site as a result of the conduct of the Works.

26.3 Environmental matters

In addition to the other requirements under this deed, the Developer agrees to keep the State informed in connection with all material environmental aspects of the Works.

26.4 Environmental Liabilities



26.5 Finding of Relics

The Developer:

- (a) acknowledges and agrees that:
 - (i) Relics may be found on, in or under the surface of the Land; and
 - (ii) as between the State and the Developer, any such Relics are and will remain the property of the State; and
- (b) must, upon the discovery of a Relic:
 - (i) promptly notify the State; and
 - (ii) comply with all Laws relating to the discovery of the Relic.
- (c) acknowledges and agrees that where:
 - (i) on or after the Reconfiguration Works Commencement Date a Relic is found on that part of the Developer Controlled State Land where the Reconfiguration Works (State) are being undertaken; and
 - (ii) the Developer is directed, ordered or required to cease to perform the Reconfiguration Works (State) by a third party archaeologist or by a relevant Authority in respect of the Relic,then:
 - (iii) the Developer will be entitled to make a claim for an extension of time under clause 22.2.

26.6 Native Title Claims and Threatened Species Claims

The Developer agrees that if:

- (a) there is a Native Title Claim; or
- (b) a Threatened Species Claim is commenced,

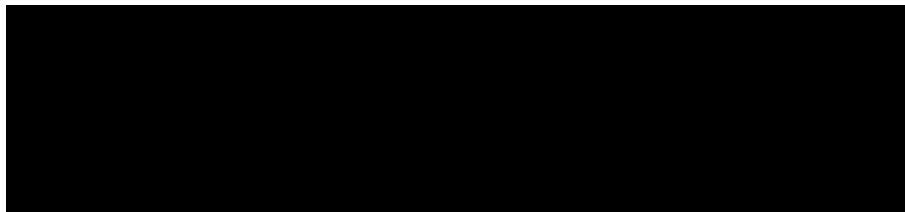
affecting any part of the Site or the carrying out of the Works, the Developer must continue to perform its obligations under this deed and the other Project Documents unless otherwise:

- (c) ordered by any court or tribunal; or
- (d) required by Law.

26.7 No claim by Developer

Except as otherwise provided in this deed, the Developer may not make a claim against the State for any Costs, losses or damages incurred by the Developer arising from or in connection with any of the matters referred to in clauses 26.5 and 26.6.

26.8 Release and Indemnity



27 Care of surrounding areas and safety

27.1 Developer bears risk

The Developer agrees that except to the extent that such risk or Costs are caused by the State's or the State's Employees and Agents' breach of a Project Document or any negligence of the State or the State's Employees and Agents or the wrongful or reckless act or omission by the State or any of the State's Employees and Agents:

- (a) from the earliest Works Portion Commencement Date, it is solely responsible for, and bears all risk and Cost in relation to, the protection of people and property on the Site;
- (b) it must, to the extent consistent with the execution of the Works in accordance with this deed, take reasonable steps to avoid unnecessary interference with the movement of people and vehicles on land adjoining or in the vicinity of the Site; and
- (c) it is solely responsible for, and bears all risk and Cost in relation to any unreasonable nuisance or unreasonable noise and disturbance caused as a result of carrying out the Works.

27.2 Surrounding areas

The Developer must:

- (a) use all reasonable endeavours not to cause:
 - (i) the streets adjoining the Land to be in an unclean or untidy condition throughout construction of the Works; or
 - (ii) any damage to the existing streets, kerbs, services and public utilities and any property located in the vicinity of the Land, except as reasonably necessary for the purposes of the Works;
- (b) not wash or permit the washing of concrete trucks or other vehicles or machinery employed in relation to the Works in the streets or areas surrounding the Land;
- (c) promptly make good any damage, caused or contributed to by the Developer (or the Builder) carrying out the Works, to any part of the Land, including public utilities and services owned or controlled by the State, as soon as practicable after the damage occurs or such longer time as the State permits (acting reasonably); and
- (d) on Practical Completion of each Works Portion, ensure that the access roads to the Land and any adjoining structures or infrastructure, fencing, footpaths or other roadways which have been damaged by the Developer or the Builder are repaired in a timely manner having regard to the future development of the Project, or if repair is not possible the relevant damaged part replaced to the satisfaction of any relevant Public Authority, in compliance with all Laws and otherwise to the reasonable satisfaction of the State.

27.3 Safety of persons

The Developer must:

- (a) before commencing the Works ensure, that appropriate safety measures including safety fencing, barriers, barricades, hoardings and protective coverings are in place to prevent public access to the Site;
- (b) if required as a result of the carrying out of the Works shore up, maintain, underpin and support adjoining structures (including the relevant access roads, buildings, fencing, footpaths and roadways) so as to ensure:
 - (i) stability and continued use of these structures; and
 - (ii) the safety of persons; and
- (c) cause the Works to be carried out in a safe manner.

27.4 Noise

The Developer must use its reasonable endeavours, having regard to the nature of the Works, to:

- (a) ensure that any person involved in the carrying out of the Works complies with any applicable Laws with respect to noise suppression methods for building or construction machinery used in carrying out the Works; and
- (b) subject to the Developer's rights under any Law and this deed, minimise the inconvenience or interference to any owner or occupier of adjoining land.

27.5 Crane usage

- (a) Subject to clause 27.5(b), the Developer must ensure that any land cranes used for construction of the Works remain fully on the Site. Subject to clause 27.5(c), nothing in this clause restricts the boom swing of any crane being above land outside the boundaries of the Site, subject to any requirements of the Precinct Management Agreement, the Adjoining Owners Agreements and all necessary approvals having been obtained from the relevant Public Authorities.
- (b) If, in accordance with ordinary construction practices, the Developer needs to locate any crane outside of the Site the Developer must obtain all relevant Approvals and access to air rights before it may do so.
- (c) Without limiting the Developer's obligations under this deed, the Developer must ensure that it has a co-ordinated Crane Area, Crane Activities, crane strategy and location of cranes with the owners, occupiers, developers or builders of the Adjoining Land throughout the duration of the Works.

27.6 Rights of State to protect persons and property

If the Developer fails to comply with its obligations under clause 27.3, then in addition to the State's other remedies, the State may after giving reasonable written notice to the Developer (except where the State determines that urgent action is required to protect persons or property), carry out or procure the carrying out of the necessary work. The Developer must pay to the State on demand a sum equal to all Costs incurred by the State.

27.7 Monitoring regimes (including track displacement and vibration milestones)

The Developer must:

- (a) before commencing the Works, ensure that a monitoring plan for track displacement and vibration approved by the State is in place; and
- (b) cause the Works to be carried out in a manner that minimises vibration.

27.8 Dilapidation reports and surveys

- (a) Within 20 Business Days of being given access to the Site and at least 10 Business Days prior to commencing the Development Works, the Developer must:
 - (i) identify all retained existing and adjoining buildings, infrastructure (including rail infrastructure), roads and other property in respect of which pre-construction dilapidation reports are required by the Approvals using a suitably qualified structural engineer;
 - (ii) provide to the State the proposed list of all buildings, infrastructure and roads identified under clause 27.8(a)(i) and a draft letter to be sent to all property owners or other interest holders seeking agreement for the Developer to undertake the dilapidation reports; and
 - (iii) in accordance with the Approvals, prepare the pre-construction dilapidation reports for all of the buildings, infrastructure, roads, all matters as identified in Conditions E9(b) and E10 of the Approval and other property identified by the Developer under clause 27.8(a)(ii), including the joint inspection with the State (accompanied (at the State's election) with representatives of any Rail Transport Agency) of the rail infrastructure and property in the vicinity of the Development Works, and submit the dilapidation reports to the State.
- (b) The Developer must provide to the State the pre-construction dilapidation reports referred to in clause 27.8(a)(iii). Subject to the dilapidation report being prepared in accordance with clause 27.8(a)(iii), the state will not request a further pre-construction dilapidation report.
- (c) The Developer must, at least 10 Business Days before the start of any Development Works that potentially put any adjoining buildings, infrastructure (including rail infrastructure), roads and other property at risk, submit to the State the Developer's analysis of the risks and potential for damage and proposed mitigation measures.
- (d) The Developer acknowledges and agrees that:
 - (i) the State is relying on the judgement, experience, skill and knowledge of the Developer in assessing and identifying:
 - (A) all buildings, infrastructure (including rail infrastructure), roads and other property which are likely to be affected by the Development Works; and
 - (B) the extent of the risk of damage involved; and
 - (ii) the preparation of dilapidation reports by the Developer will not affect the Developer's liability for damage to property which is caused by the Developer or its Associates under this deed.
- (e) The dilapidation reports required by clause 27.8(a)(iii) must:

- (i) include all property identified, using geotechnical and other appropriate analysis, as being at risk, including from:
 - (A) the impact of the excavation, ground support and foundation construction methods proposed;
 - (B) the excavation and construction sequences and support methods proposed;
 - (C) geological changes across the Land;
 - (D) the impact of ground water levels and the predicted changes in those levels; and
 - (E) predicted changes with time; and
 - (ii) be selected taking into account the vulnerability and condition of the property involved.
- (f) The Developer must keep a database of all the dilapidation reports' results and information prepared under clause 27.8 and make this database available to the State for inspection and copying at all reasonable times.
 - (g) The dilapidation reports must include the investigation, identification and recording of the condition of all buildings, infrastructure (including rail infrastructure), roads and other property in accordance with clause 27.8(a)(iii) including photographs and videos with a sequential dated log and plan showing the locations of each view.
 - (h) The photographs and video records of all such buildings, infrastructure (including rail infrastructure), roads and other property must be taken by a competent and qualified photographer or cinematographer. The photographic and video images must include a scale reference.
 - (i) All areas that show evidence of existing damage or failure must be photographed and carefully recorded, including the location and extent of the damage and the date when the photograph was taken.
 - (j) The results of each dilapidation report must be embodied in a written report, which must describe and identify the building, infrastructure (including rail infrastructure), road or other property, its owner (with contact details) and its location, detail the existing condition of all such property prior to the commencement of the Development Works, and the activities most likely to cause damage and the monitoring frequency proposed.
 - (k) The relevant part of the applicable dilapidation report record must be submitted by the Developer to the relevant owner of each property. The Developer must use its reasonable endeavours to obtain the agreement of each owner that the dilapidation report information and record represents the state of their property, and provide a copy of the agreement and the dilapidation report record to the owner and relevant Authority in accordance with the Approvals.
 - (l) The condition of the property covered by the dilapidation reports must be regularly monitored during the Development Works and the dilapidation reports augmented to address any change in the conditions observed.

- (m) One month after practical completion of the Development Works the subject of the Approvals, the Developer must:
 - (i) in accordance with the Approvals, prepare post-construction dilapidation reports of any building, infrastructure, road or other property included in the original dilapidation reports, including a joint inspection with the State (accompanied (at the State's election) with representatives of any Rail Transport Agency) of the rail infrastructure and property in the vicinity of the Development Works, and confirm:
 - (A) the condition of the building, infrastructure, road or other property relative to that recorded previously; and
 - (B) that any damage and deterioration caused by the Development Works has been or is in the process of being, repaired;
 - (C) provide a copy of the new dilapidation report to each owner and the relevant Authority in accordance with the Approvals; and
 - (ii) obtain the State's written agreement confirming the State's satisfaction with the post-construction dilapidation reports and/or rectification of any damage relating to any rail infrastructure and property in the vicinity of the Development Works in accordance with the Approvals.
- (n) Unless a property owner otherwise directs, the Developer is responsible for the rectification of any damage to any property contemplated by clause 27.8(m)(m)(i)(B) as evidenced by a discrepancy between the conditions described in the dilapidation reports carried out before the commencement of the Development Works and the actual condition of the identified property after completion of the Development Works.
- (o) The Developer acknowledges and agrees:
 - (i) the Developer will not be entitled to make any Claim for complying with this clause 27.8;
 - (ii) the Developer will not be entitled to an extension of time in respect of delay arising out of or in connection with the discharge of its obligations under this clause 27.8; and
 - (iii) for the avoidance of doubt, this clause 27.8 does not diminish or reduce in any way the Developer's liability to the State under clause 41.2.

28 Compliance with Laws

28.1 Obligations of the Developer

Subject to the terms of this deed, the Developer must in performing its obligations under this deed, on time comply with, and observe at the Developer's expense, all Laws (excluding any judgments issued by any Court or tribunal requiring any payment or action by the State) in connection with the:

- (a) Land;
- (b) Site;

- (c) Works;
- (d) Developer's Property; and
- (e) use or occupation of the Site,

whether or not those Laws are imposed on the State or the Developer.

28.2 Effect of compliance

The Developer expressly acknowledges and agrees that in complying with the Laws referred to in clause 28.1, the Developer may be required to effect demolition, structural or capital works, alterations, additions and improvements to the Land.

28.3 Copies of notices

- (a) The Developer must give the State a copy of any notice relating to the Environment or public safety of the Site notified to, or served on, the Developer or any other notice relating to the Land which is materially relevant to the State.
- (b) The State must give the Developer a copy of any notice relating to the Environment or public safety of the Land notified to, or served on, the State or any other notice relating to the Land which is materially relevant to the Developer.

28.4 Acceptance of risk

Except in respect of:

- (a) any other provision of this deed imposing liabilities, responsibility or obligations on the State;
- (b) any breach by the State of its obligations under the deed;
- (c) any negligence of the State or any of the State's Employees and Agents or wrongful or reckless act or omission by the State or any of the State's Employees and Agents; or
- (d) the State exercising its rights under clause 31.7,

the effect of any Law (excluding any judgments or orders issued by any court or tribunal requiring any payment, action or inaction by the State) on the Developer's use of the Land to carry out the Works is at the sole risk of the Developer.

28.5 Changes in Law

- (a) If there is a Change in Law, the Developer must comply with the Change in Law and will not, subject to clauses 22 and 28.5(b), be entitled to make any Claim against the State arising out of or in any way in connection with the Change in Law.
- (b) If a Discriminatory Change in Law causes the Developer to incur Loss, the Developer may claim compensation in accordance with this clause 28.5.
- (c) To the extent that any Claim for compensation under this clause 28.5 includes a Claim by the Developer for any Loss which arises out of or in connection with any delay to the Works (**Delay Loss**), the Developer is only entitled to compensation for Delay Loss if and only in respect of the

period of time for which it has been granted an extension of time in accordance with clause 22.

- (d) To claim compensation in respect of a Discriminatory Change in Law, the Developer must:
- (i) within 20 Business Days after the earlier of when the Developer becomes aware, or ought reasonably to have become aware, that the Discriminatory Change in Law is likely to cause the Developer to incur Loss, give to the State a written notice, stating:
 - (A) that the Developer proposes to make a Claim; and
 - (B) the Discriminatory Change in Law upon which the Claim will be based; and
 - (ii) within 10 Business Days of giving the notice under clause 28.5(d)(i), give the State a written Claim which must include (to the extent practicable):
 - (A) detailed particulars concerning the Discriminatory Change in Law upon which the Claim is based;
 - (B) details of the obligations which have been affected by the Discriminatory Change in Law;
 - (C) details of any Net Financial Impact of the Discriminatory Change in Law and how it has been calculated;
 - (D) if the Developer is entitled to include in its Claim any Delay Loss, detailed particulars of how the delay for which it has been granted an extension of time has caused a Net Financial Impact; and
 - (E) details of the steps which the Developer has taken to mitigate the effects of the relevant Discriminatory Change in Law.
- (e) It is a condition precedent to the Developer's entitlement to compensation that the Developer has complied with the requirements of this clause 28.5(d). If the Developer fails to comply with the requirements of this clause:
- (i) the State will not be liable (in so far as it is possible to exclude such liability) upon any Claim by the Developer; and
 - (ii) the Developer will be absolutely barred from making any Claim against the State,
- for compensation arising out of or in connection with the relevant Discriminatory Change in Law provided that nothing in this clause 28.5(e) limits or otherwise affects the Developer's rights under clause 22.
- (f) If the condition precedent in clause 28.5(e) has been satisfied, the State must compensate the Developer for the Net Financial Impact of the relevant Discriminatory Change in Law, such compensation to be paid by the State to the Developer within 20 Business Days of the date of the notice given under clause 28.5(d)(ii).

- (g) The Developer must use all reasonable endeavours to:
 - (i) mitigate the effects of any Discriminatory Change in Law, including any delay caused by the Discriminatory Change in Law (including by putting in place temporary measures reasonably acceptable to the State);
 - (ii) minimise any incremental costs or loss of revenue incurred or suffered as a result of any Discriminatory Change in Law; and
 - (iii) maximise any cost savings or additional revenue derived as a result of any Discriminatory Change in Law.
- (h) The Developer's entitlement to compensation under this clause 28.4(c) will be reduced to the extent that the Developer fails to comply with its obligations under clause 28.5(g) or the Loss arises from the act or omission of the Developer or the Developer's Employees and Agents.
- (i) Except as provided for in this clause 28.4(c), the State will not be liable upon any Claim by the Developer arising out of or in connection with a Discriminatory Change in Law.

29 Insurances

29.1 Contract works insurance

Without limiting or affecting the Developer's other obligations under this deed, before commencement of any Works Portion the Developer must (at its own Cost) effect and maintain or cause to be effected and maintained one or more contract works insurance policies. The risks covered under the policies shall include loss, damage or destruction (including, without limitation, caused or contributed to by the Fitout Works, by earthquake, fire, flood, lightning, storm and tempest, theft, malicious damage) and resulting in loss or damage of:

- (a) the relevant Works Portion (including any associated temporary works);
- (b) all materials and things (including plant and equipment used in the execution of the relevant Works Portion) brought onto or in storage on the Land by the Developer, the Developer's Employees and Agents, for the purpose of conduct of the Works other than constructional plant and equipment of contractors and subcontractors unless it is to be incorporated into the relevant Works Portion;
- (c) the Improvements (associated with the relevant Works Portion); and
- (d) all materials and things associated with the relevant Works Portion in storage off Land or in transit to the Land within Australia,

occurring during the period when the Developer is responsible for their care including under the terms of any maintenance or defects liability conditions.

29.2 Amount of insurance

The insurance cover referred to in clause 29.1 must be for an amount [REDACTED]
[REDACTED] which amount must be approved by the State (acting reasonably).

29.3 Public and products liability insurance

Without limiting or affecting the Developer's other obligations under this deed, before the Developer first has access to the Land, the Developer must effect and maintain or cause to be effected and maintained, a policy or policies of public and products liability insurance which covers:

- (a) liabilities to third parties for destruction of, loss of or damage to property (other than property insured under clause 29.1) and the death of, disease or illness to (including mental anguish or mental injury) or injury to any person (other than liability which is required by Law to be insured under a workers compensation policy of insurance);
- (b) the Developer's liability to the State and the State's liability to the Developer, for destruction of, loss of or damage to property (other than property insured under clause 29.1, but including any property of the State in the care, custody or control of the Developer) and the death of, disease or illness to (including mental illness) or injury to any person; and
- (c) subject to standard exclusions generally contained in policies of insurance, the Developer's liabilities under clauses 27.2(c) and 41.2(a)(iii).

29.4 Amount for public and products liability insurance

The policy of public and products liability insurance must be written on an occurrence basis for an amount [REDACTED]

29.5 Environmental impairment liability insurance

Without limiting or affecting the Developer's other obligations under this deed, before the Developer first has access to the Land, the Developer must effect and maintain or cause to be effected and maintained, an environmental impairment liability insurance policy which covers liabilities to third parties arising from or in connection with the release of pollutants or contaminants, including, but not limited to, asbestos. Cover shall not be limited to sudden and accidental occurrences giving rise to losses but shall extend to, but will not be limited to, liabilities arising from or in connection with the gradual seepage or dispersal of contaminants and pollutants in connection with the Works. This clause 29.5 does not apply to Fitout Works.

29.6 Amount for environmental impairment liability insurance

The policy of environmental impairment liability insurance must provide a minimum coverage [REDACTED]

29.7 Employees

- (a) Before commencing the relevant Works Portion, the Developer must effect and maintain workers compensation insurance (unless the Developer is a licensed self-insurer under the relevant statutory scheme) which covers all person employed or deemed to be employed by the Developer for all liabilities required to be insured by the *Workers Compensation Act 1987* (NSW), any other legislation relating to workers' or accident compensation in New South Wales (as well as each other state or territory where the Developer's employees normally reside or

where their contract of employment was made) or imposed at common Law.

- (b) Other than for the Fitout Works, the insurance cover must be effected and maintained for a period ending when the Final Completion Certificate of the relevant Works Portion is issued. For Non-Integrated Fitout Works, the insurance cover must be effected and maintained for a period ending no earlier than completion of the Non-Integrated Fitout Works.
- (c) The Developer must ensure that the Builder and any Developer's Employees and Agents undertaking Fitout Works also insure themselves (and must require the Builder and any Developer's Employees and Agents undertaking Fitout Works to require that subcontractors or contractors engaged by the Builder and any Developer's Employees and Agents undertaking Fitout Works (as applicable) in connection with, or arising out of, the relevant Works Portion insure themselves) against all liabilities which the *Workers Compensation Act 1987* (NSW) (or any other relevant workers' or accident compensation legislation or imposed at common Law) requires it to insure against.

29.8 Workers compensation indemnity

The Developer indemnifies the State against any liability or loss arising from, and any costs incurred by the State in connection with, the Developer failing to comply with the Developer's obligations under the *Workers Compensation Act 1987* (NSW) (and all other relevant workers' or accident compensation legislation), including as a result of:

- (a) any claim made against the State under section 20(1) of the *Workers Compensation Act 1987* (NSW); or
- (b) any increase in the premium payable by the State under the State's own workers compensation insurance.

29.9 Professional indemnity insurance

- (a) Before commencing any Works Portion, the Developer must effect and maintain, or cause to be effected and maintained professional indemnity insurance policies which:
 - (i) for development management services undertaken by Dexus Property Services Pty Limited are [REDACTED]
 - (ii) for all professional services other than development management services undertaken by Dexus Property Services Pty Limited and professional services in respect of the Non-Integrated Fitout Works are [REDACTED]
 - (iii) covers liability of the person providing advice or being retained by the Developer arising from breach of duty owed in a professional capacity; and
 - (iv) must have a definition of professional services wide enough to include all services of a professional nature to be provided by the Developer in the performance of its obligations under this

deed and by such other person contemplated by this clause as requiring insurance.

- (b) The parties acknowledge that in relation to the Fitout Works, where the Fitout Works are being undertaken by a Developer's Employee and Agent other than the Builder, the professional indemnity policy for those Fitout Works will have such level of cover as the Developer determines from time to time.

29.10 Motor vehicle insurance

Before commencing any Works Portion the Developer must supply the State with evidence of motor vehicle insurance covering all motor vehicles used in connection with the Works, which are registered, capable of being registered or required under the Law to be registered, extended specifically to cover the transportation of items and substances, and including:

- (a) insurance against personal injury or death, as required under all applicable Laws; and
- (b) in addition to the coverage provided under clause 29.3, insurance for third party property damage and personal injury or death.

29.11 Insurance requirements generally

- (a) All insurances which the Developer effects and maintains or procures to be effected and maintained under this deed:
 - (i) must be with reputable insurers (reasonably accepted to the State) with a rating [REDACTED] or the equivalent rating with another ratings agency (reasonably acceptable to the State) (or in the case of workers compensation insurance, WorkCover NSW) and who are approved by the State (acting reasonably);
 - (ii) (other than statutory insurances) must be on terms and conditions (including deductible amounts) approved in writing by the State (acting reasonably);
 - (iii) the Insurance specified in clause 29, must provide that in respect of the contract works (other than in respect of the Fitout Works), public and product liability and environmental impairment liability insurance only:
 - (A) name as insureds the State, Sydney Trains, TAHE, the Investor and the Developer (and the Developer's Employees and Agents), and operate as if there was a separate policy of insurance covering the State, Sydney Trains, TAHE, the Investor and the Developer (and the Developer's Employees and Agents) for their respective rights and interests; and
 - (B) include cover for all consultants (for their manual onsite activities only), contractors and subcontractors employed from time to time in relation to any Works Portion.
- (b) Once any Insurance policy is approved by the State, the terms of that insurance policy must not be changed without the State's prior written approval (acting reasonably). The Developer must indemnify the State

for its legal and other Costs (if any) associated with determining whether or not to approve any such change.

29.12 Cross liability

Any Insurance required to be effected in accordance with this deed by the Developer in joint names shall include a cross liability clause in which the insurer agrees:

- (a) to waive all rights of subrogation or action against any of the persons comprising the insured;
- (b) that the term "insured" applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject to the overall sum insured not being increased as a result); and
- (c) that any non-disclosure or misrepresentation by one insured does not prejudice the right of the other insured to claim under any Insurance.

29.13 Periods of Insurance

The Developer must maintain or procure that the following are maintained (in relation to any Works Portion):

- (a) insurance policies that comply with clauses 29.7 and 29.10 until the issue of the Final Completion Certificate of the relevant Works Portion (other than in respect of the Non-Integrated Fitout Works which will be until the completion of the Non-Integrated Fitout Works);
- (b) an insurance policy that complies with clauses 29.1 and 29.3 until the Date of Practical Completion of the relevant Works Portion (other than in respect of the Non-Integrated Fitout Works) and for a further period until the conclusion of the Defects Liability Period (and in respect of the Non-Integrated Fitout Works until the conclusion of the defects liability period for the Non-Integrated Fitout Works);
- (c) an insurance policy that complies with clause 29.9 in the first instance until the issue of the Final Completion Certificate for the relevant Works Portion and then for a further period of 6 years after the issue of the Final Completion Certificate for the relevant Works Portion; and
- (d) an insurance policy that complies with clause 29.5 until the Date of Practical Completion of the relevant Works Portion and for a further 24 month period.

29.14 Premiums

The Developer must punctually pay or caused to be punctually paid, all premiums in respect of all Insurances that it is obliged to arrange under this clause 29 (including any increased premiums payable after claims) and all excesses it may be obliged to pay under the terms of those Insurances (except to the extent that the claim in respect of which the excess is payable, arises out of a breach of this deed by the State, the State's or the State Employees and Agents negligence or the wrongful or reckless act or omission by the State or any of the State's Employees and Agents, which must be paid for by the State).

29.15 Providing information to the State

Before the Developer commences any Works Portion and whenever requested in writing by the State (but no more frequently than twice each year), the Developer

must, in respect of each Insurance required to be effected and maintained under this clause 29:

- (a) give the State copies of all:
 - (i) cover notes and, other than policies that are effected under a global insurance program covering the primary insureds other business activities or insurances required under clauses 29.7 or 29.9, policies (including schedules);
 - (ii) renewal certificates; and
 - (iii) endorsement slips,

as soon as the Developer receives them from the insurer or the party effecting the required Insurances and, in any event, within 20 Business Days of the State making a request; and
- (b) produce evidence satisfactory to the State (acting reasonably) that the Insurances have been effected and maintained prior to the cover being required.

29.16 Failure to produce proof of insurance

If after being requested in writing by the State to do so, the Developer fails to comply with its obligations to effect or cause to be effected any of the Insurances required to be effected and maintained pursuant to this clause 29 the State may (acting in good faith and reasonably) (after giving the Developer 20 Business Days' prior notice of its intention to do so) effect and maintain the Insurances and pay the premiums. The Developer must pay to the State on demand a sum equal to the amount paid by the State.

29.17 Notices of potential claims

In addition to the obligations to notify the insurer under any policy, the Developer must, as soon as practicable after it becomes aware of the relevant claim, inform the State in writing of any claim made under the Insurances referred to in clause 29.1 which is in excess of \$100,000 and must keep the State informed of subsequent developments concerning the claim.

29.18 Additional obligations of Developer

In relation to the insurance policies referred to in this clause 29, the Developer must:

- (a) ensure that insurance premiums are paid on time, deductibles are paid promptly and the conditions of insurance are otherwise complied with;
- (b) comply with the terms of each insurance policy and not do or omit to do anything which if done or not done might vitiate, impair, derogate or prejudice in any way the cover under any Insurance or which might prejudice any claim under any insurance policy;
- (c) if necessary, rectify anything which might prejudice any insurance policy;
- (d) subject to clause 29.14, reinstate an insurance policy if it lapses;
- (e) not cancel, vary or allow an insurance policy to lapse without the prior consent of the State;

- (f) promptly notify the State in writing if an insurer gives notice of cancellation, notice of avoidance or other notice in respect of any insurance policy;
- (g) promptly notify the State of any event of which it is aware which results in:
 - (i) an insurance policy lapsing or being cancelled or avoided; or
 - (ii) the insurer's liability for a claim being able to be reduced (including to nil) or denied; and
- (h) give full, true and particular information to the insurer of all matters and things the non-disclosure or misrepresentation of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance policy.

29.19 Liabilities of Developer not affected

The effecting of Insurances does not limit the liabilities or obligations of the Developer under this deed.

29.20 Change in Insured Risk

- (a) If, after the date by which Insurance is to be effected in accordance with this deed, a Change in Insured Risk occurs, the Developer and the State will promptly meet to discuss, in good faith, the measures which should be undertaken to address the Change in Insured Risk, to place the parties, to the extent reasonably practicable, in the same positions that they would have been in had the relevant Change in Insured Risk not occurred.
- (b) If, within 20 Business Days, the parties are not able to agree on the relevant measures to be adopted, then the matter must be determined in accordance with clause 38.
- (c) For the purposes this clause 29.20, **Change in Insured Risk** means any Insurance required to be effected and maintained under this clause 29 which:
 - (i) ceases to be available from insurers which satisfy clause 29.11(a) (other than where due to any act or omission of the Developer, the Developer's Employees and Agents or any person on their behalf); or
 - (ii) is available, but the terms and conditions (including as to premiums and deductibles) on which the insurance is generally available from insurers which satisfy clause 29.11(a), change such that the risk is not generally being insured against with such insurers by competent and experienced developers of developments such as the Project.

30 Workplace health and safety

30.1 WHS Legislation

In this clause 30.1, the terms "construction project" and "principal contractor" have meanings given to those terms by the WHS Regulation.

30.2 Principal contractor

The parties agree that, for the purposes of Chapter 6 of the WHS Regulation:

- (a) the Developer:
- (i) is a person conducting a business or undertaking that will commission the construction project(s) forming the whole or part of the Works excluding any Non-Integrated Fitout Works; and
 - (ii) in respect of the Development Works, State Works and Fitout Works excluding any Non-Integrated Fitout Works:
 - (A) must engage Built Pty Limited (ACN 083 928 045) (“**Built**”) as the principal contractor under clause 293 of the WHS Regulation for the construction project(s) forming the whole or part of the Development Works, State Works and Fitout Works excluding any Non-Integrated Fitout Works; and
 - (B) must authorise Built to have management or control of those workplaces necessary to discharge its duties as principal contractor under Chapter 6 of the WHS Regulation,

and any engagement of Built and the contractual duties imposed on the parties as a consequence of this engagement will be included in the Builder's Side Deed;
 - (iii) in respect of all Non-Integrated Fitout Works:
 - (A) must ensure that Atlassian, or a principal contractor(s) appointed and engaged by Atlassian, will be the principal contractor(s) under clause 293 of the WHS Regulation for the construction project(s) forming the Non-Integrated Fitout Works; and
 - (B) must ensure that Atlassian, or the principal contractor(s) appointed and engaged by Atlassian will have management or control of those workplaces necessary to discharge its duties as principal contractor under Chapter 6 of the WHS Regulation;
 - (C) must require Atlassian to agree that the principal contractor(s) under clause 293 of the WHS Regulation for the construction project(s) will be responsible for the relevant Non-Integrated Fitout Works until the relevant construction project is completed; and
 - (D) must procure a commitment that the principal contractor(s) under clause 293 of the WHS Regulation will comply with their duties under the WHS Act and WHS Regulation.
- (b) to the extent that the State is a person conducting a business or undertaking that commissions a construction project for the purposes of clause 293 of the WHS Regulation, the Developer engages Built as agent for the State on the basis that the authorisation in sub-clause (a)(ii)(B) above is given on behalf of the State and the State may directly enforce the obligations included in the Builder's Side Deed under sub-clause (a) above against Built; and

- (c) any such agency between the State and the Developer only extends to the matters contained in clause 30.2(a), and the Developer is not otherwise engaged by the State as agent for any other purpose.

30.3 Duration of engagement

The engagement and authorisation of Built as principal contractor pursuant to clause 30.2(a)(ii) must continue:

- (a) subject to clause 30.3(b), until the Practical Completion of each construction project forming the whole or part of the Works for which the Builder has been engaged, or the date that this deed is terminated, whichever first occurs unless sooner revoked including by the State, the Developer or according to Law; and
- (b) in respect of any rectification work under clause 32 that is or forms part of a construction project (as that term is used in the WHS Regulation), during the period any such work is carried out during the Defects Liability Period.

30.4 Developer's obligations

The Developer must ensure, to the extent that it is reasonably able to do so, that:

- (a) in carrying out the Works (other than the Non-integrated Fitout Works) it complies with the WHS Regulation;
- (b) the duties imposed on a principal contractor under the WHS Regulation in respect of the Works (other than the Non-integrated Fitout Works) are discharged;
- (c) the Builder, all subcontractors and consultants and all persons for whom it is responsible or over whom it is capable of exercising control, comply with the requirements referred to in this clause 30, clause 6.5 of the Builder's Side Deed and their respective obligations under the WHS Act and WHS Regulation;
- (d) where a contractor other than Built is engaged as the principal contractor for the Non-Integrated Fitout Works, all subcontractors and consultants and all persons for whom the Developer is responsible or over whom it is capable of exercising control, comply with their respective obligations under the WHS Act and WHS Regulation;
- (e) it complies with its obligation under the WHS Act and WHS Regulation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter;
- (f) it complies with any reasonable direction of the State representatives given following a perceived breach of the WHS Act and WHS Regulation; and
- (g) it does not do anything or fail to do anything that would cause the State to be in breach of the WHS Act and WHS Regulation.

30.5 Copies of documents

In accordance with clause 6.5 of the Builder's Side Deed, the Developer must provide or procure the Builder to provide to the State, on request from the State:

- (a) quarterly or more frequently, a copy of all plans, registers, records and documents that the Builder is required to prepare or maintain as a principal contractor under the WHS Act and WHS Regulation; and
- (b) copies of all approvals, certificates, authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) of the Builder and any other person who will undertake the State Works.

30.6 State may carry out WHS obligations

- (a) If the Developer fails to comply with an obligation under clause 30, the State may perform, or have performed, the obligation on the Developer's behalf and the Developer must pay to the State on demand an amount equal to the Costs incurred, provided that the State has given the Developer prior written notice of its intention and the Developer has not, within a reasonable time, remedied the non-compliance.
- (b) If and to the extent that the State (acting reasonably) considers it necessary to undertake any activity, give any direction or otherwise perform any of the works or services pursuant to clause 30.6(a), the parties acknowledge and agree that in doing so, the State is not acting as a principal contractor, nor is the State to be taken, for any purpose, to be the principal contractor.

30.7 No release

For the avoidance of doubt, nothing in this clause 30 in any way releases the Developer from its obligations to the State under this deed.

30.8 ASA Compliance

- (a) For the purposes of this deed, the Developer acknowledges that the ASA is independent and the State and TAHE cannot direct, bind or influence ASA.
- (b) The Developer must through an AEO retained by the Developer or the Builder:
 - (i) hold and maintain AEO Authorisation as an AEO; and
 - (ii) comply and ensure that its associates and all personnel for which the AEO is responsible comply with the conditions of the AEO Authorisation,

for so long as the Works are carried out.
- (c) The Developer must (and must ensure that its associates and all personnel for which the Developer is responsible):
 - (i) implement and comply with the requirements of any ASA Requirements applicable to the Works;
 - (ii) cooperate fully with the ASA in the performance of the ASA's functions;

- (iii) provide access to the Site and to the premises and resources as reasonably required by the ASA, including so that it can effectively carry out its review, surveillance and audit functions;
 - (iv) comply with the directions, instructions and requirements issued by the ASA in relation to ensuring compliance with the ASA Requirements;
 - (v) provide, or procure that an AEO retained by the Developer or the Builder provides, formally qualified and experienced personnel to perform the Works in a manner that is consistent with the AEO status;
 - (vi) produce, or procure that an AEO retained by the Developer or the Builder, produces, an AEO plan or matrix to show how the specialist engineering services will be assured and integrated;
 - (vii) notify the ASA of any matter that could reasonably be expected to affect the exercise of the ASA's functions;
 - (viii) provide the ASA with any information relating to its activities or any documents or other things reasonably required by the ASA in the exercise of its functions; and
 - (ix) provide the State with such reasonable assistance as may be reasonably required by the State to enable the State to cooperate fully with the ASA and to implement and comply with ASA Requirements.
- (d) The Developer must:
- (i) obtain, or must ensure that the Builder or its subcontractors obtain AEO Authorisation for all specialist engineering services and disciplines required for the Works and across all asset lifecycle stages and activities required to deliver the Works as determined by the ASA, including as to:
 - (A) design;
 - (B) fabrication and manufacturing;
 - (C) installation;
 - (D) integration, testing and commissioning;
 - (E) asset maintenance; and
 - (F) decommission and disposal;
 - (ii) appoint a Co-ordinating AEO.
- (e) The Developer must ensure that each design consultant has and maintains AEO Authorisation for so long as the Works are carried out, to the extent required by the AEO plan or matrix referred to in clause 30.8(c)(vi).
- (f) The Developer acknowledges and agrees that:
- (i) the design process contemplated pursuant to clause 6 has no effect on the process contemplated under this clause 30.8 and

clause 30.9 and the assurance process contemplated by this clause 30.8 and clause 30.9 is separate from the design process under clause 6;

- (ii) decisions, instructions or requirements issued by the ASA or pursuant to the assurance process contemplated by this clause 30.8 and clause 30.9 cannot be the subject of expert determination or dispute under this deed;
- (iii) the Developer accepts all delay risk that may arise out of or in connection with the requirements of ASA and the AEO Authorisation; and
- (iv) it is not entitled to make (and neither the State nor the ASA will be liable upon) any Claim arising out of or in connection with the requirements of ASA and the AEO Authorisation.

30.9 ASA audits and corrective action

- (a) The Developer will be audited on the Developer's continued compliance with the ASA Requirements and the requirements of clause 30.8 and this clause 30.9.
- (b) ASA may periodically perform selective assessments and audits of the components of the Developer's engineering assurance process for the services and disciplines for which the Developer has authorisation to ensure that both process and product are compliant with AEO authorisation requirements.
- (c) Audits by ASA may cover processes, products or facilities.
- (d) Audits may be carried out against predetermined criteria defined in standard audit checklists that are developed from the Developer's specific AEO service areas.
- (e) Audits may also be carried out to determine how the Developer assures the Developer's supply chain including possible sample audits of the Developer's contractors who may or may not be AEOs themselves.
- (f) The Developer must ensure that the Builder and any other contractor performing work within the Site maintain records of all audits, including non-conformances and corrective actions. The State will inspect samples of the Developer's audit records as required.
- (g) During the corrective action process, ASA will:
 - (i) identify findings;
 - (ii) include consultation between the parties to agree on corrective action plans; and
 - (iii) set agreed time frames for implementing corrective actions.
- (h) The Developer may propose alternative solutions to the corrective actions proposed by ASA for consideration. These may be adopted if agreed by ASA.
- (i) In the event of consistently poor performance by the Developer in the AEO service area for which it has been authorised, the State may in

consultation with ASA consider and implement a range of actions, including:

- (i) recommend future improvements (where general compliance is adequate); and
 - (ii) require corrective actions (with timescales to implement corrective action).
- (j) In the event of consistently poor performance by the Developer in the AEO service area for which it has been authorised, ASA may consider and implement a range of actions, including:
- (i) withdraw selected service areas or disciplines or both from the AEO status for a specific project or engagement with the State;
 - (ii) withdraw selected service areas or disciplines or both from the AEO status for all projects and engagements with the State;
 - (iii) withdraw the entire AEO status completely and define supplier corrective actions needed to re-apply for AEO status; and
 - (iv) withdraw the entire AEO status completely on a permanent basis.
- (k) The Developer has progressed and developed the design documentation of the Works in the form required by ASA and will continue to provide the design documentation in a form consistent with the submissions made to TfNSW prior to the date of this deed.

31 State's rights to enter, inspect and carry out work

31.1 State's right to enter and inspect

- (a) Subject to clause 31.1(b), provided the State complies with requirements referred to in clause 16.6 (as if references in that clause to the 'Developer Controlled State Land' were references to the 'Site'), the State may, at its Cost inspect the Works the subject of a Works Portion by entering onto that part of the Land which is being occupied by the Developer to carry out that Works Portion.
- (b) Subject to clause 31.5, the State may only exercise its right to enter onto the relevant part of the Land pursuant to clause 31.1(a) after giving not less than 2 Business Days' prior notice and then only in the presence of a representative of the Developer.

31.2 State's notice to remedy

- (a) If at any time prior to Practical Completion of the State Works, the State reasonably believes that any part of the State Works, or any materials for incorporation into the State Works, are materially inconsistent with:
 - (i) the Final Design Documentation relevant to that State Works (as amended pursuant to this deed); or
 - (ii) the requirements of this deed,

then the State may provide the Developer with a notice containing full details of any such inconsistency to the extent of the information available to the State.

- (b) Subject to clauses 31.2(c) and 31.2(d), the Developer must, within a reasonable time of receiving a notice from the State under clause 31.2(a) having regard to the nature of the inconsistency, provide the State with a plan for remedying any materials or workmanship identified by the State in its notice and implement that plan subject to the State's reasonable requirements and conditions.
- (c) If the Developer reasonably requires any additional details to those contained in the State's notice under clause 31.2(a), it may request that those details be provided, and the State must provide those details within a further 5 Business Days of such request (or such longer period agreed between the parties in the circumstances).
- (d) If the Developer disputes the contents of any notice issued by the State pursuant to clause 31.2(a), then it must give the State a notice to that effect within 10 Business Days after the later of the date it receives that notice and the date the State provides further details following a request under clause 31.2(c), and the provisions of clause 38 will apply to that dispute.

31.3 State may take action

Subject to clause 31.4, the State:

- (a) may do anything which should have been done by the Developer under this deed in relation to the State Works, but which has not been done, or which the State reasonably considers has not been done properly;
- (b) may (and the State's Employees and Agents may) enter and remain on the Land and Site for so long as it is reasonably necessary for that purpose; and
- (c) must (and must procure that the State's Employees and Agents), when exercising rights under this clause 31.3(a) and 31.3(b):
 - (i) use its best endeavours to carry out any activities which it is carrying out under this deed in accordance with the requirements of this deed;
 - (ii) not interfere with, delay or disrupt the Development Works or those parts of the Site not required by the State under this clause 31.3; and
 - (iii) comply with the requirements of clause 16.6 (as if references in that clause to the 'Developer Controlled State Land' were references to the 'Site').

31.4 Notice of exercise of rights

The State may not exercise its rights under clause 31.3 unless:

- (a) the Developer has not remedied the relevant inconsistency in accordance with any plan for remedy agreed between the State and the Developer pursuant to clause 31.2(b), or if no plan for remedy has been provided by the Developer under clause 31.2(b) within a reasonable time after receiving written notice from the State to remedy the inconsistency; and
- (b) the State has first given the Developer reasonable notice of its intention to do so; and

- (c) the Developer has not remedied the relevant inconsistency within a further reasonable period (not to be less than 5 Business Days).

31.5 Emergencies

If there is, or the State or the Developer has reasonable grounds for believing there is, an Emergency in connection with any Works Portion or the Land:

- (a) on becoming aware of the Emergency, the State or the Developer (as applicable) must as soon as practicable advise and cooperate with the other party, and keep the other party fully informed about the nature of the Emergency and any actions being taken by, or on behalf of, the Developer or the State (as applicable) to address the Emergency and ameliorate any risks; and
- (b) whether or not the Developer is aware of the Emergency or is taking any action, the State is permitted to have reasonable access to the Land, having regard to the nature of the Emergency, and to take whatever action it considers is reasonably necessary to eliminate the Emergency or assist the Developer to eliminate the Emergency.

31.6 Costs of taking action

The State's rights under clause 31.3 and 31.5 are in addition to any other remedies of the State for the Developer's non-compliance. The Developer must pay to the State on demand a sum equal to all Costs and liabilities reasonably incurred or suffered by the State in taking the action, to the extent that the action is required as a result of the breach or wrongful or reckless act or omission by the Developer or any of the Developer's Employees and Agents.

31.7 State may carry out service works

- (a) Without limiting clause 2.2 and clause 20.1, but subject to clause 31.7(b) the State (and/or the State's Employees and Agents) may, at the State's sole Cost and risk, carry out works to:
 - (i) install, upgrade, vary, maintain, use, repair, alter or replace Services on the Site; or
 - (ii) pass or convey Services through any pipes, ducts, conduits or wires leading through the Site (including Existing Infrastructure),

provided that, in carrying out those works, the State (and/or the State's Employees and Agents):

 - (iii) gives the Developer reasonable notice of its intention to perform those works and consults with the Developer in relation to the Site access required (including in relation to the specific part of the Site and times for access);
 - (iv) takes any reasonable requirements of the Developer into account including in relation to access times so as to ensure that it does not interfere with, delay or disrupt the Works;
 - (v) ensures that those works comply with all Laws and the requirements of all relevant Public Authorities;
 - (vi) obtains all required consents and approvals in respect of those works; and

- (vii) complies with the requirements of clause 16.6 (as if references in that clause to Developer Controlled State Land were references to the Site).
- (b) Except in the case of an Emergency, if upon receipt of the State's notice under clause 31.7(a)(iii) the Developer considers (acting reasonably) that the performance by the State of the works which the State intends to perform (as set out in that notice), will have an adverse effect on the Works, or the Developer's performance of its obligations under this deed, the Developer may provide notice to the State confirming that adverse effect, and the State will not be entitled to carry out those works and must consult with the Developer in good faith to revise the scope or timing for performance of those works so as to avoid the adverse effect which those works would otherwise have on the Works.

31.8 Cooperation with TfNSW Contractors

- (a) The Developer:
 - (i) acknowledges that the State is undertaking the Central Precinct Renewal Program and as part of the Central Precinct Renewal Program, the TfNSW Contractors will need to access the Ambulance Avenue Area to carry out investigative works at the same time as the Developer is performing the Works;
 - (ii) must procure that its Builder:
 - (A) does not unreasonably obstruct the TfNSW Contractors from carrying out their investigative work;
 - (B) acts reasonably in cooperating with the TfNSW Contractors;
 - (C) coordinates and interfaces the Works with the investigative work carried out or to be carried out by the TfNSW Contractors acting reasonably having regard to the Development Program;
 - (D) carries out the Works so as to minimise any interference with, disruption or delay to the investigative work of the TfNSW Contractors; and
 - (E) otherwise complies with the requirements of clause 16.6.
- (b) The State must:
 - (i) give the Developer programs for, or reasonable notice of, proposed TfNSW Contractor Works, and the likely access requirements (including in relation to the specific part of the Site and times for access); and
 - (ii) procure that each TfNSW Contractor contracting with the State, contracts on the basis that the TfNSW Contractor must:
 - (A) permit the Developer to carry out the Works;
 - (B) cooperate with the Developer;

- (C) coordinate and interface their investigative work with the Works acting reasonably having regard to the Development Program;
 - (D) carry out their investigative work so as to minimise any interference with, disruption to or delay to the Works; and
 - (E) comply with the requirements of a Principal Contractor (as defined in the WHS Regulation) with respect to the Works.
- (c) The State must procure that the requirements set out in clause 31.8(b)(ii) are complied with by the TfNSW Contractors with whom the State has contracted.
- (d) The Developer must subject to clauses 31.8(b) and 31.8(c):
- (i) permit the TfNSW Contractors to execute the TfNSW Contractor Work on the Ambulance Avenue Area while the Developer is performing the Works, at the times agreed with the TfNSW Contractor, or failing agreement, at the times agreed by the State and the Developer having regard to (among other things) the Development Program;
 - (ii) to the extent a TfNSW Contractor is permitted to execute the TfNSW Contractor Work on the Ambulance Avenue Area under clause 31.8(d)(i), carry out the Works in a manner, that will allow the TfNSW Contractor safe access to those parts of the Ambulance Avenue Area required by them for the purpose of carrying out their investigative work; and
 - (iii) coordinate and interface the Works with the TfNSW Contractor Work, and for this purpose:
 - (A) make allowance in all programs for the TfNSW Contractor Work;
 - (B) review all programs provided by the State concerning the TfNSW Contractor Work;
 - (C) notify the State of any interface or sequence of activities that may affect the commencement, progress or completion of the TfNSW Contractor Work; and
 - (D) provide the State with sufficient information about the current and expected Works in order to assist the State to coordinate the TfNSW Contractor Work with the Works.

31.9 State not liable

Excluding clauses 31.7 and 31.2(d), the Developer:

- (a) acknowledges that it is not entitled to make a claim against the State, including a claim for an extension of time to achieve any Milestone for any Works Portion pursuant to clause 22, in respect of anything arising out of clause 31; and

- (b) agrees that the State is not liable for, and releases the State from liability and loss arising from and Costs incurred, in connection with the State's right to:
 - (i) enter and inspect the Works the subject of a Works Portion;
 - (ii) issue a notice to the Developer to remedy any materials or workmanship that the State identifies as materially inconsistent with the Final Design Documentation relevant to the Works Portion and the requirements of this deed;
 - (iii) do anything which should have been done by the Developer under this deed with respect to the State Works but which has not been done or the State reasonable considers has not been done properly; and
 - (iv) anything the State is permitted to do under this clause 31,

except to the extent that any such claim, liability, loss or Costs arises from the State failing to comply with any of its obligations under this clause 31 or by reason of the negligence of the State or the State's Employees and Agents or any wrongful or reckless act or omission by the State or any of the State's Employees and Agents.

32 Defects Liability and Final Certificate for a Works Portion

32.1 Developer to rectify defects

The Developer must rectify any defects notified to it in a Defects Notice in respect of a Works Portion relating to the State Works by the date stated in the Defects Notice, as required under clause 32.3.

32.2 Inspections by Independent Certifier and State

- (a) At any time during the Defects Liability Period, the State may request the Independent Certifier to inspect the works the subject of Works Portion for the purpose of ascertaining what defects and omissions (if any) in those Works referred to in clause 32.1 are required to be made good by the Developer.
- (b) At any time during the Defects Liability Period, the State may inspect the works the subject of that Works Portion for the purpose of ascertaining what defects and omissions (if any) in those Works referred to in clause 32.1 are required to be made good by the Developer.

32.3 Defects Notice given by Independent Certifier or State

- (a) After each inspection by the Independent Certifier or the State, the Independent Certifier or the State (as the case may be) may give a notice (**Defects Notice**) to the Developer of all defects and omissions relating to the State Works (if any) which in the reasonable opinion of the Independent Certifier or the State (as the case may be) are required to be made good. Any Defects Notice:
 - (i) must identify the defect or omission;
 - (ii) state a date by which the Developer must complete the rectification work (being a reasonable date having regard to the relevant defect); and

- (iii) may provide that in respect of the rectification work there shall be a separate Defects Liability Period of a stated duration not exceeding 12 months, commencing on the date the rectification work is completed.
- (b) If the Independent Certifier provides the Defects Notice, the Developer must provide a copy of that Defects Notice to the State, or procure that the Independent Certifier provides a copy to the State.

32.4 Obligations of Developer

The Developer must:

- (a) give a copy of each Defects Notice issued by the State to the Independent Certifier;
- (b) make good any defect or omission specified in the Defects Notice which in the reasonable opinion of the Independent Certifier or the State are required to be made good, within the relevant time specified in the Defects Notice, or if on time is specified in the notice, within a reasonable time; and
- (c) give notice to the State when, in the Developer's opinion, those defects or omissions have been made good.

32.5 State may rectify defects

- (a) If the Developer does not complete the rectification work within the time specified in the Defects Notice (or within a reasonable time if no time is specified in the Defects Notice), the State may provide a written notice to the Developer that it intends to have the rectification works carried out itself or through a third party.
- (b) If the Developer has not completed the rectification work the subject of the notice issued under clause 32.5(a) within 5 Business Days from that date that notice, the State may have the rectification work carried out (and for that purpose the State may call on the Security without prejudice to any other rights that the State may have against the Developer in connection with the defect). The Developer must pay to the State on demand a sum equal to the reasonable cost of the rectification work reasonably incurred by the State.

32.6 Final Completion Certificate

The provisions of clauses 21.2 to 21.6 apply *mutatis mutandis* to the issue of the Final Completion Certificate in relation to the State Works as if the reference in those clauses to:

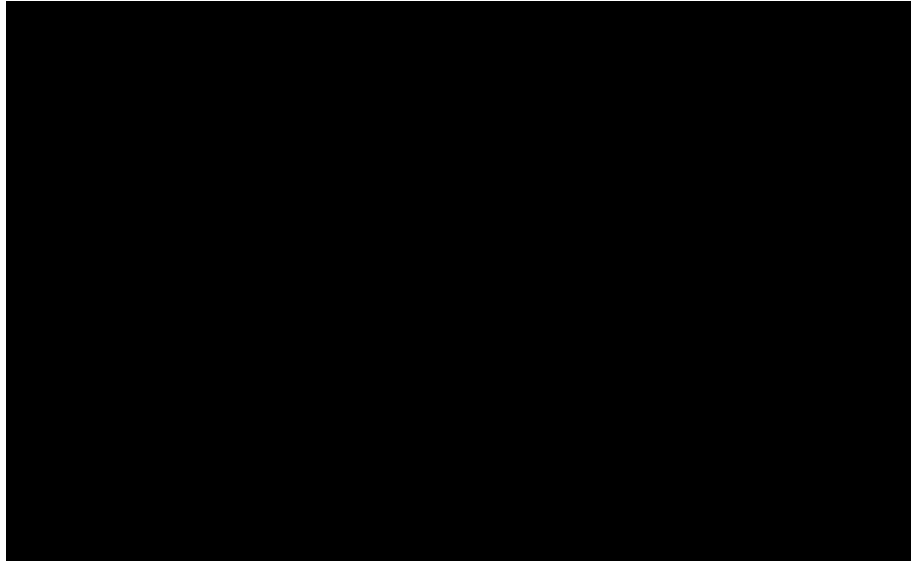
- (a) the Certificate of Practical Completion were a reference to the Final Completion Certificate; and
- (b) the reference to Practical Completion were a reference to Final Completion.

32.7 Access to remedy defects (Developer)

The State must ensure the Developer has reasonable access to the Site for the purposes of remedying defects in accordance with clause 32 and in accessing the Site under this clause the Developer must use its best endeavours not to disrupt or interfere with any tenant's or occupier's use of any part of the Site.

33 Security

33.1 Developer to give Security



33.2 Form of Security

The Security and Atlassian Security must be:

- (a) in the form of an irrevocable and unconditional undertaking to pay on demand the specified amount;
- (b) issued by a bank authorised under section 9 of the *Banking Act 1959* (Cth) or an insurance company that is the holder of a current licence issued by the Australian Prudential Regulation Authority, which, in each case, has its principal place of business in Australia and is approved by the State;
- (c) payable at the office of the issuer in Sydney or such other place as the State may approve; and
- (d) in the form set out in Schedule 7.

33.3 Calling on a Security

- (a) The Developer acknowledges and agrees that the State may make demand on and utilise:
 - (i) the Security:
 - (A) to pay for any costs, expenses or damages which the State has incurred as a consequence of any act or omission of the Developer, which the State asserts constitutes a breach of this deed by the Developer; or
 - (B) to satisfy any amount which the State asserts is payable by the Developer pursuant to this deed, including in the event of termination of this deed by the State;
 - (ii) the Atlassian Security to satisfy any amount which the State asserts is payable by Atlassian SPV to the State in respect of the State Reimbursement as contemplated in clause 5.5(c).

- (b) The Developer must not take any steps whatsoever to injunct the insurer of the unconditional undertaking or the Principal in respect of dealings with any Security or the Atlassian Security or to retain the Principal from utilising the Security or the Atlassian Security.
- (c) If the State makes a valid demand on any Security or the Atlassian Security, the State:
 - (i) does not hold the amount received under the demand on trust for the Developer; and
 - (ii) is not obliged to pay the Developer interest on that amount.

33.4 Replacement of the Security after call

If the State calls on the Security, the Developer must, no later than 20 Business Days after the State gives notice to the Developer requesting any of those Security to be replaced, provide a replacement or additional Security so that the amount held by the State is the full amount of the relevant Security.

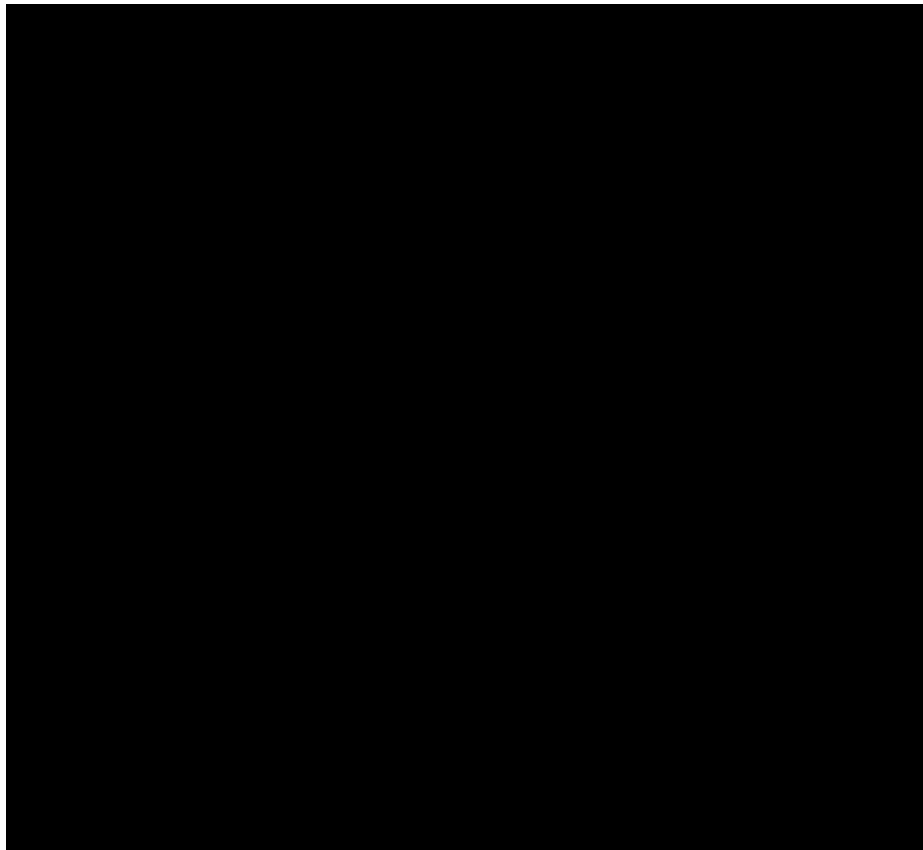
33.5 Replacement of expiring Security

If the Security or Atlassian Security has an expiry date, the Developer must, if the State has not returned the Security or the Atlassian Security to the Developer in accordance with clause 33, provide the State with a replacement Security or Atlassian Security (as relevant) in the same amount no later than 10 Business Days prior to that expiry date in exchange for the State delivering to the Developer the Security or Atlassian Security (as relevant) to be replaced. If the Developer fails to provide the State with the replacement Security or Atlassian Security as required, the State:

- (a) may call on the full amount of the relevant Security or Atlassian Security on 5 Business Days' notice to the Developer unless the Security has 5 Business Days or less before it expires in which event no prior notice is required;
- (b) must hold the amount of that Security or Atlassian Security (as relevant) as a cash deposit (**Cash Deposit**) in a separate bank account in the name of the State (**Cash Deposit Account**);
- (c) may withdraw money (including accrued interest) from the Cash Deposit Account and use that money:
 - (i) in accordance with clause 33.3 as if the Cash Deposit were the amount secured by the Security or Atlassian Security (as relevant); and
 - (ii) to pay all Costs and Taxes payable in connection with that Cash Deposit Account; and
- (d) must return the amount held in the relevant Cash Deposit Account (including accrued interest but less any amounts payable to or by the State under clause 33.5(c)) to the Developer in accordance with clause 33.6 as if the amount in that Cash Deposit Account were the Security or Atlassian Security (as relevant).

33.6 Returning the Security





34 Naming and marketing the Development Works

34.1 Naming the Development Works

- (a) Subject to clause 34.1(b), the State acknowledges and agrees that the Developer has the naming rights in respect of the Development Works.
- (b) The Developer must obtain the State's written consent (such consent not to be unreasonably withheld) to the proposed name being used prior to using the name.

34.2 Marketing the Development Works

- (a) The State and the Developer acknowledge that they wish to jointly promote the Development Works for the mutual benefit of the parties, recognising that the Project is an integral component of Central Precinct Renewal Program.
- (b) At each Project Control Group meeting, the Developer must keep the State reasonably informed of its marketing strategies for the Development Works, which must be in accordance with reasonable standards of industry practice.

34.3 Developer's obligations regarding marketing materials

- (a) The Developer is responsible for all aspects of the marketing and promotion of the Development Works.
- (b) The Developer must ensure that all promotional and marketing materials (including printed or digital materials) issued in connection with the Project do not incorporate the State's logo unless:

- (i) the State's prior consent (which must not be unreasonably withheld) is obtained; or
- (ii) requested in writing by the State.
- (c) If either of clauses 34.3(b)(i) or 34.3(b)(ii) apply, the parties must work together in relation to the incorporation of the State's logo into any promotional and marketing materials issued by the Developer in connection with the Project.
- (d) The Developer must provide all draft media releases to the State's for its review and comment at least 5 Business Days prior to their release.
- (e) If the State provides comments in accordance with clause 34.3(d), the Developer must incorporate the State's comments into the media release prior to the media release being issued.

34.4 Signage and advertising

- (a) No signs or advertisements are to be placed on any part of the Land unless the State's prior consent (such consent not to be unreasonably withheld) is obtained to the size, nature, content, colour and location of those signs or advertisements.
- (b) The State's logo must, if requested in writing by the State, be incorporated into any advertising located around or on the State Works areas.
- (c) The Developer's obligations under clause 34.3 and this clause 34.4 cease after all of the Works Portions to be delivered under this deed have reached Practical Completion.
- (d) The Developer does not otherwise have any right to use the State's logo without the State's prior approval.
- (e) The State will be responsible for all signage and advertising in relation to the State Works.

34.5 Naming and marketing of the Central Precinct Renewal Program and the State Works

- (a) The Developer acknowledges and agrees that the State has the naming rights in respect of:
 - (i) the State Works; and
 - (ii) the Central Precinct Renewal Program.
- (b) The State and the Developer acknowledge that they may wish to jointly promote the Central Precinct Renewal Program and the State Works for the mutual benefit of the parties, recognising that the Project is an integral component of Central Precinct Renewal Program.
- (c) The State is responsible for all aspects of the marketing and promotion of the Central Precinct Renewal Program and State Works.

35 Intellectual property

35.1 Ownership of intellectual property

The Developer:

- (a) warrants that the Developer has or will have a transferable right to use all design, materials, documents and methods of working produced by or on behalf of the Developer for the purpose of the State Works, including the right to use such items for the purpose of operating, maintaining, repairing, rectifying, adding to and altering the State Works; and
- (b) indemnifies the State against any liability or loss arising from and any Costs incurred in connection with any design, materials, documents and methods of working provided by, or on behalf of, the Developer infringing any patent, copyright, registered design, trademark, name or other protected right.

35.2 Licence to use intellectual property

If this deed is terminated, the Developer:

- (a) grants the State a royalty-free, irrevocable, transferable licence to:
 - (i) use and modify the items referred to in clause 35.1 in connection with the State's rights under this deed in respect of the State Works and the basement of the Atlassian Building, ground plane and Adjoining Land, including any additions, alterations and repairs to, and rectification and maintenance of, the State Works to the extent that those items relate to that part of the Site in respect of which this deed has been terminated; and
 - (ii) use, maintain, repair, service (including the supply of replacement parts), integrate other systems with, further enhance or develop, reproduce and adapt, and sublicense, the items referred to in clause 35.1(a) for the operation, maintenance and repair of State Works without the need for consent from the Developer or a third party. The licence arises in respect of each component of the State Works on the later of the date of this deed and the date of creation of the relevant item in clause 35.1(a);
- (b) agrees that such licence will include sufficient rights:
 - (i) in any Approval, and all plans and specifications referred to in any such Approval; and
 - (ii) in any design work relating to the Project which is not incorporated in any Approval,

for the State to:

- (iii) commence or complete any part of those State Works which are not complete at the date of termination, and use (and modify) such Approvals, plans and design work to construct, operate, maintain, repair, rectify, make additions to, and alter those State Works, in the manner contemplated by this deed; and
- (iv) sublicense its rights to third parties engaged by the State to provide goods or services in connection with those State Works,

including any additions, alterations and repairs to, and rectification and maintenance of, those State Works; and

- (c) must deliver to the State all documentation the subject of the licence under this clause 35.2 as is reasonably required by the State, including such documentation as may be required to lodge appeals, or making Applications in respect of any Approval.

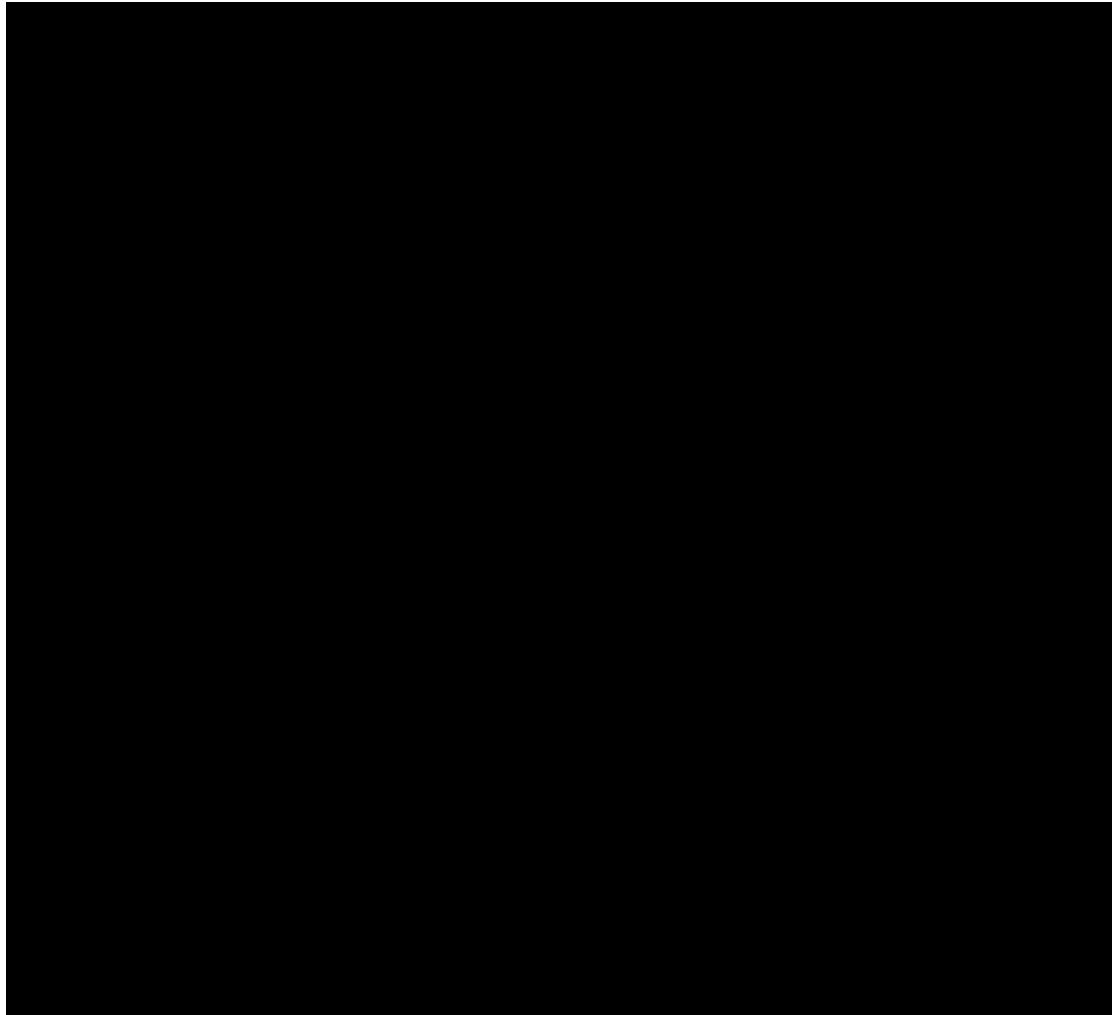
35.3 Moral Rights warranty

The Developer:

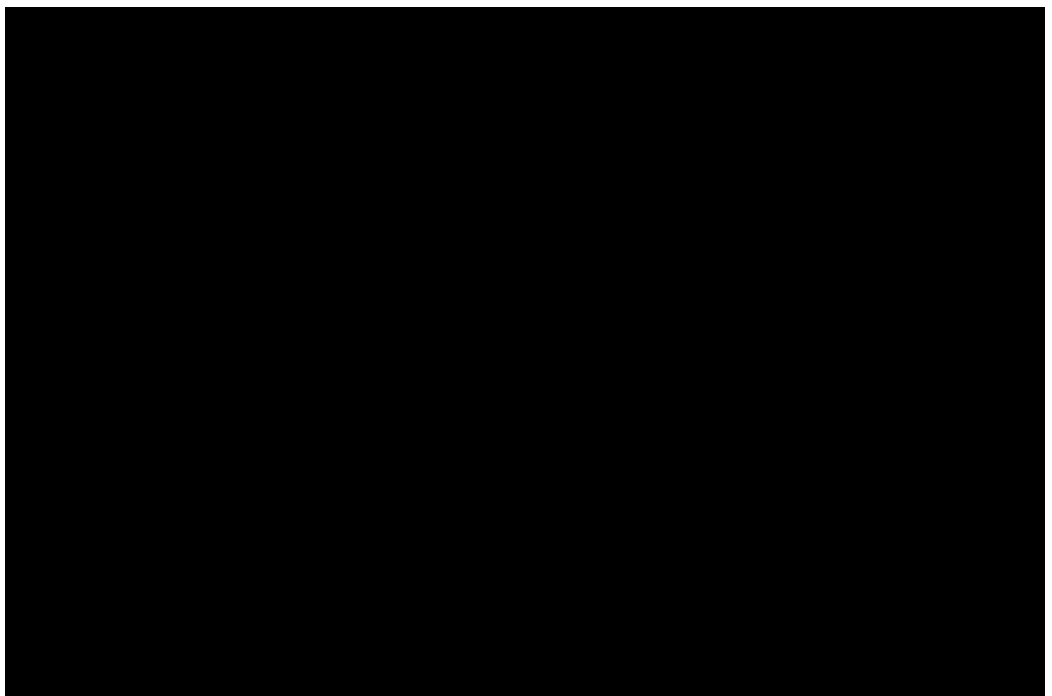
- (a) warrants that it has or will use its best endeavours to obtain an undertaking, from each individual author employed by each party performing any design work in relation to the State Works, not to enforce any Moral Rights that author may have, now or in the future, in any such design work in which copyright subsists, so that the State may freely exercise its rights pursuant to the licence granted under clause 35.2; and
- (b) indemnifies the State against any liability or loss arising from, and any Costs incurred in connection with, an allegation which, if true, would amount to a breach of the warranty in clause 35.3(a).

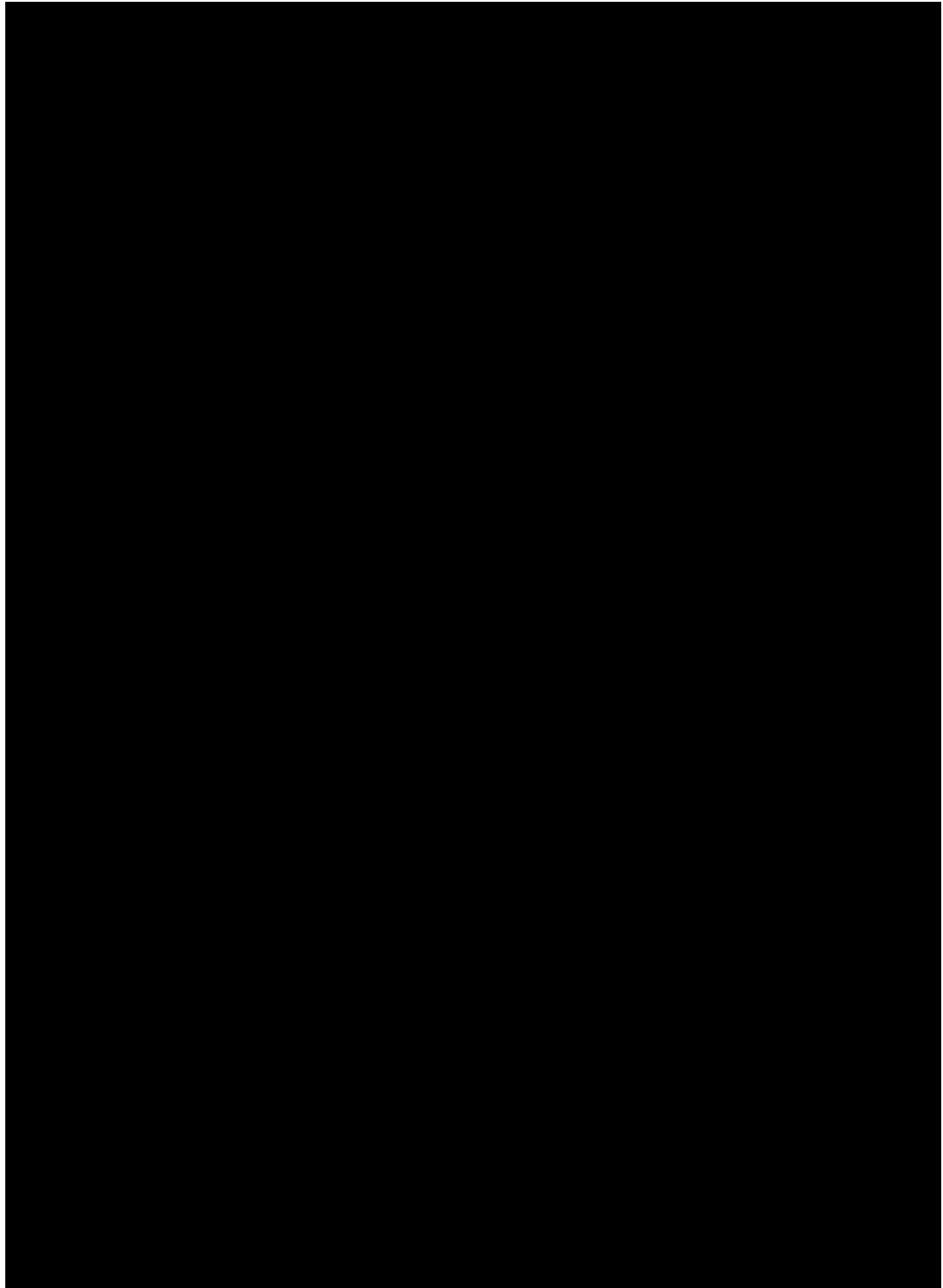
36 Assignment





37 Asset restructure by the State





38 Dispute resolution

38.1 Notice of dispute

If a dispute between any or all of the parties arises in connection with this deed or its subject matter, then the disputing party must give to the other party or parties a notice identifying and providing details of the subject of the dispute (**Dispute Notice**).

38.2 Continuing to perform obligations

- (a) All parties to this deed must continue to perform their respective obligations under this deed if there is a dispute the subject of a Dispute Notice but will not be required to complete the matter the subject of the dispute (while the dispute remains on foot) unless the party requiring that matter to be completed indemnifies the other party against reasonable Costs and losses suffered in completing that matter if the dispute is not resolved in favour of the indemnifying party.
- (b) This clause 38.2 does not limit the right of any party to recover damages (including damages for any delay or other loss and associated costs) if the matter the subject of the dispute is resolved in favour of that party or the other party withdraws its requirement that the dispute be resolved.

38.3 Dispute resolution process

After a party issues a Dispute Notice the parties will seek to negotiate a resolution under clause 38.4.

38.4 Executive negotiation

- (a) Any:
 - (i) dispute the subject of a Dispute Notice; or
 - (ii) referral under clauses 6.4(c)(i)(B)(ac), 6.4(c)(iii), 6.4(f)(ii)(B)(aa), 6.4(h)(i), 6.6(c)(i)(B)(ac), 6.6(c)(iii)(C), 6.6(f)(ii)(B)(aa), 6.6(h)(i) or 10.7(b)(i)(B),

must first be referred to the following representatives of the parties:

- (iii) in the case of the State, the Deputy Secretary of Infrastructure and Place, except that when the matter the subject of the executive negotiation is the TfNSW Requirements, in which case the State representative will be an Executive Director; and
- (iv) in the case of the Developer, the Chief Investment Officer of the Developer,

for executive negotiations, and those representatives must meet within 10 Business Days after the date of the Dispute Notice or referral under clauses 6.4(c)(i)(B)(ac), 6.4(f)(ii)(B)(aa), 6.6(c)(i)(B)(ac), 6.6(f)(ii)(B)(aa) or 10.7(b)(i)(B) for resolution of the dispute and undertake genuine and good faith negotiations with a view to resolving the matter.

- (b) If these persons cannot agree on how to resolve the dispute within 10 Business Days of the date of the:
 - (i) referral under clauses 6.4(c)(i)(B)(ac), 6.4(f)(ii)(B)(aa), 6.4(h)(i), 6.6(c)(i)(B)(ac), 6.6(f)(ii)(B)(aa) or 6.6(h)(i), then clauses 6.6(d) or 6.4(d) will apply;
 - (ii) referral under clause 10.7(b)(i)(B), then clause 10.7(b)(ii) will apply; or
 - (iii) Dispute Notice, then the remaining provisions of this clause 38 will apply.

- (c) Either party may bring to executive negotiations such additional representatives as are reasonably required to advise in respect of and discuss technical issues the subject of the Dispute.

38.5 Disputes for expert determination

If pursuant to clause 38.4, the Deputy Secretary of Infrastructure and Place and the Chief Investment Officer of the Developer cannot agree a resolution of the dispute, then:

- (a) if the State and the Developer agree that the matter should be determined by an expert, either party may refer the matter to expert determination in accordance with clause 38.7; or
- (b) if the State and the Developer do not agree within 3 Business Days that the matter should be determined by an expert, either of them may refer the matter to litigation in accordance with clause 38.20.

38.6 Choice of expert

A dispute to be referred to an expert in accordance with clause 38.7 must be determined by an independent expert of at least 10 years immediate past experience in the relevant field:

- (a) agreed between and appointed jointly by the parties; or
- (b) in the absence of agreement within 5 Business Days after the matter is referred to expert determination, appointed by the President or other senior officer for the time being of the body administering the relevant field and, if the parties cannot agree as to the relevant field within 5 Business Days, by an expert appointed by Resolution Institute.

38.7 Expert

The expert appointed to determine a dispute:

- (a) must have a technical understanding of the issues in contest; and
- (b) must not have a significantly greater understanding of one party's business or operations which might allow the other side to construe this greater understanding as a bias; and
- (c) must inform each disputing party before being appointed the extent of the expert's understanding of each party's business or operations. If that information indicates a possible bias, then that expert must not be appointed except with the approval of both parties.

38.8 Agreement with expert

The parties must enter into an agreement with the expert appointed under clause 38.7 setting out the terms of the expert's engagement (including the time within which the expert must make the determination) and the expert's fees.

38.9 Directions to expert

In reaching a determination in respect of a dispute under clause 38.7, the expert must give effect to the intent of the parties entering into this deed and the purposes of this deed.

38.10 Role of expert

The expert must:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- (c) not accept verbal submissions unless both parties are present;
- (d) on receipt of a written submission from one party ensure that a copy of such submission is given promptly to the other party;
- (e) take into consideration all documents, information and other material which the parties give the expert which the expert in its absolute discretion considers relevant to the determination of the dispute;
- (f) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes);
- (g) issue a draft certificate stating the expert's intended determination within 10 Business Days (or such longer period agreed between the parties) of referral of the dispute to the expert giving each party 10 Business Days to make further submissions;
- (h) issue a final certificate stating the expert's determination having had regard to any further submissions received under clause 38.10(g); and
- (i) act with expedition with a view to issuing the final certificate as soon as practicable, and in any case within 5 Business Days from the date the last submission was received pursuant to clause 38.10(g).

38.11 Complying with directions of expert

The disputing parties must comply with all directions given by the expert in relation to the resolution of the dispute, and must within the time period specified by the expert, give the expert:

- (a) a short statement of facts;
- (b) a description of the dispute; and
- (c) any other documents, records or information the expert requests.

38.12 Expert may commission reports

Subject to obtaining the prior consent of both parties the expert may commission the expert's own advisers or consultants (including lawyers, accountants, bankers, engineers, surveyors or other technical consultants) to provide information to assist the expert in making a determination. Provided that both parties have consented to the Costs the State and the Developer must indemnify the expert for the Cost of those advisers or consultants in accordance with clause 38.18.

38.13 Expert may convene meetings

The expert will hold a meeting with all the parties present to discuss the dispute. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.

38.14 Meeting not a hearing

The parties agree that a meeting under clause 38.13 is not a hearing and is not an arbitration.

38.15 Confidentiality of information

The parties agree, and must procure that each of the expert agrees as a condition of its appointment:

- (a) subject to clause 38.15(b), to keep confidential all documents, information and other material, disclosed to them during or in relation to the expert determination or mediation;
- (b) not to disclose any confidential documents, information and other material except:
 - (i) to a party or adviser who has signed a confidentiality undertaking to the same effect as clause 38.15(a); or
 - (ii) if required by Law to do so; and
- (c) not to use confidential documents, information or other material disclosed to them during or in relation to the expert determination for a purpose other than the expert determination.

38.16 Confidentiality in proceedings

The parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:

- (a) views expressed or proposals or suggestions made by a party or the expert during the expert determination relating to a possible settlement of the dispute;
- (b) admissions or concessions made by a party during the expert determination in relation to the dispute; and
- (c) information, documents or other material concerning the dispute which are disclosed by a party during the expert determination unless such information, documents or facts shall have been otherwise discoverable in judicial or arbitral proceedings.

38.17 Final determination of expert

- (a) The determination of the expert:
 - (i) must be given to the parties in writing;
 - (ii) will be final and binding unless:
 - (A) the amount determined as payable to a party (excluding costs) exceeds \$500,000; and
 - (B) a party gives a notice of appeal to the other party within 5 Business Days of receipt of the determination; and
 - (iii) is to be given effect to by the parties and until it is reversed, overturned or otherwise changes by way of litigation.
- (b) Where a party gives a notice of appeal under clause 38.17(a)(ii), either party may commence litigation in respect of the dispute.

38.18 Expert's Costs

If any expert does not award Costs, the disputing parties must each pay an equal share of the expert's Costs incurred from the date of appointment to the date of the final determination.

38.19 Expert generally not liable

The parties agree that other than where the expert has engaged in fraud, the expert will not be liable to them in any respect in connection with the carrying out of the expert's functions in accordance with this deed.

38.20 Litigation

- (a) If:
- (i) the consultation referred to in clause 38.4 has not resulted in settlement of the dispute and has been terminated and the dispute has not or cannot be referred to expert determination under clause 38.5; or
 - (ii) in the case of a dispute which has been referred to expert determination under clause 38.5:
 - (A) an expert is not appointed in accordance with clause 38.6; or
 - (B) a determination is not made by the expert within the period required by clause 38.10(g),

then either party to the dispute may commence legal proceedings to resolve the dispute.

- (b) If a dispute is referred to the courts due to the operation of clause 38.20(a)(ii), the relevant expert determination must be stayed pending the resolution of the proceedings.

38.21 Not Used**38.22 Consolidation and joinder**

- (a) Where a common question of Law or fact arises in relation to a dispute:
- (i) under this deed that is the subject of an expert determination or proceedings under this clause 38 (**Deed Dispute**); and
 - (ii) arising out of any Project Document, the Building Contract, including questions relating to the existence, validity, interpretation or termination of a Project Document, the Building Contract, (**Other Dispute**),

each party consents to the consolidation of Deed Dispute with the Other Dispute; and

- (b) Each party consents to the joinder of any third party with an interest in a dispute to any dispute which has been consolidated in accordance with clause 38.22(a).

38.23 Survive termination

The provisions of this clause 38 survive termination of this deed.

39 Default

39.1 Trigger Notice

- (a) If a Trigger Event occurs, the State may give the Developer and the Dexus Guarantor a notice specifying the Trigger Event (**Trigger Notice**):
 - (i) stating that it is a notice under this clause 39; and
 - (ii) specifying the nature of the Trigger Event.
- (b) The State may stipulate in the Trigger Notice:
 - (i) if the Trigger Event is capable of cure, that the Developer must comply with the obligations set out under clause 39.2 of this deed; or
 - (ii) if the Trigger Event is not capable of cure, the reasonable requirements of the State (if any) to overcome the consequences of, or compensate the State for, the Trigger Event.
- (c) To the extent that the Trigger Notice contains a statement to the effect of clause 39.1(b)(ii), the Developer must, within 10 Business Days after receipt of the Trigger Notice advise the State that the Developer either:
 - (i) agrees with the State's stipulation of requirements or compensation in the Trigger Notice under clause 39.1(b)(ii); or
 - (ii) disagrees with the requirements or compensation stipulated in the Trigger Notice, in which case the matter must be resolved in accordance with clause 38.

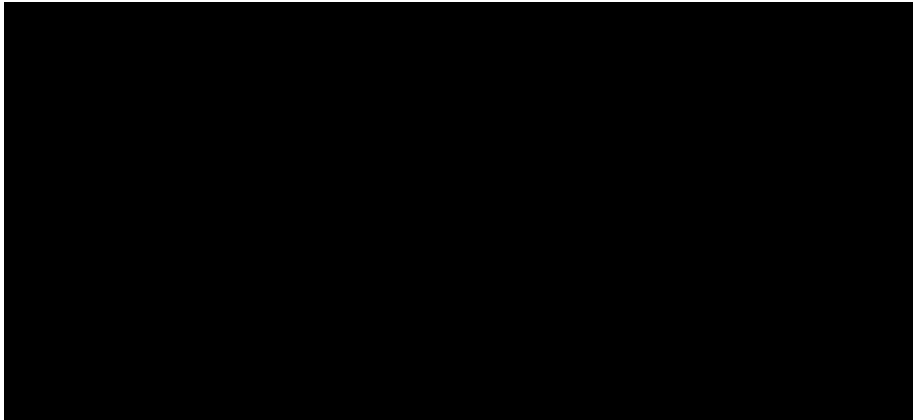
39.2 Remedy of Trigger Event and Corrective Action Plan

- (a) If a Trigger Notice stipulates that a Trigger Event is capable of cure pursuant to clause 39.1(b)(i), the Developer or the Dexus Guarantor (as applicable) must either, within 30 Business Days (or such longer period agreed between the parties) of receipt of the Trigger Notice:
 - (i) Remedy the Trigger Event; or
 - (ii) prepare and submit to the State a draft plan describing the actions and measures which the Developer or the Dexus Guarantor (as applicable) will diligently pursue to Remedy the Trigger Event, including the time that will be taken to Remedy the Trigger Event (**Draft Corrective Action Plan**).
- (b) The Draft Corrective Action Plan must demonstrate that the Developer or the Dexus Guarantor (as applicable) is acting in good faith and is applying measures that are not less than Best Industry Practice in remedying the Trigger Event.
- (c) Within 20 Business Days after receipt of a Draft Corrective Action Plan, the State (acting reasonably) must either:
 - (i) approve the Draft Corrective Action Plan by notifying the Developer or the Dexus Guarantor (as applicable); or
 - (ii) reject the Draft Corrective Action Plan by notifying the Developer or the Dexus Guarantor (as applicable) and providing reasons to

the Developer or the Dexu Guarantor (as applicable), for its decision.

- (d) If the State approves a Draft Corrective Action Plan pursuant to clause 39.2(c)(i) (**Approved Corrective Action Plan**):
 - (i) the period of time in the Approved Corrective Action Plan to Remedy the Trigger Event is the cure period (**Applicable Cure Period**); and
 - (ii) the Developer or Dexu Guarantor (as applicable) must comply with and implement the Approved Corrective Action Plan and Remedy the Trigger Event within the Applicable Cure Period.
- (e) If the State (having acted reasonably) rejects a Draft Corrective Action Plan pursuant to clause 39.2(c)(ii), the Developer, in consultation in good faith with the State, must amend the Draft Corrective Action Plan to meet the State's reasonable requirements and submit the amended Draft Corrective Action Plan to the State for approval within 20 Business Days of the date of the State's rejection, in which case this clause 39.2 will apply to the amended Draft Corrective Action Plan as if it were originally submitted under clause 39.2(a)(ii).
- (f) The Developer will not be relieved of any obligation, liability or responsibility under this deed or otherwise arising under Law by virtue of any notice given under this clause 39.2 or the implementation of any Approved Corrective Action Plan.

39.3 Trigger Event not remedied



39.4 Adjustment of Applicable Cure Period

- (a) If at any time prior to the expiry of an Applicable Cure Period, the Developer reasonably considers that it requires an extension to the Applicable Cure Period it may request an extension to the Applicable Cure Period by notifying the State in writing setting out the reasons for that belief and the reasonable period of time proposed by the Developer for the extension of the Applicable Cure Period.
- (b) If:
 - (i) the Developer gives the State a notice under clause 39.4(a); and
 - (ii) the State is reasonably satisfied that the Developer has diligently pursued and is continuing to diligently pursue a Remedy of the applicable Trigger Event (notwithstanding minor non-

compliances with the Approved Corrective Action Plan) but that Trigger Event cannot, despite such diligence, be Remedied within the Applicable Cure Period,

the State may consider granting an extension of the Applicable Cure Period for such period as the State considers is reasonably required to Remedy the Trigger Event.

39.5 State may rectify

The State may, but is not obliged to remedy (including by entering upon the Land for the purpose of doing so) any Event of Default. The Developer must pay to the State on demand a sum equal to the Costs incurred by the State (including legal Costs) in remedying an Event of Default. This will be a debt due and payable from the Developer to the State.

39.6 State may terminate

- (a) If an Event of Default occurs the State may terminate this deed by notice in addition to its rights under clause 39.5.
- (b) The State acknowledges and agrees that its right to terminate this deed under clause 39.6(a) is without prejudice to the rights (if any) of the Developer under any statute or otherwise at Law including seeking relief against forfeiture, subject always to any defences, counterclaims and other rights available to the State from time to time.
- (c) The State cannot exercise its rights under clause 39.6(a) if:
 - (i) either party has availed itself of the procedures set out in clause 38 until those procedures have been completed in accordance with clause 38; or
 - (ii) the parties have availed themselves of the procedures in clause 38 and it is determined in accordance with those procedures that there is no Event of Default.

39.7 Waiver

Subject to clause 51.4, the State and the Developer agree that:

- (a) the State's failure to enforce any breach of covenant on the part of the Developer is not to be construed as a waiver of that breach, nor shall any custom or practice which may grow up between the parties in the course of administering this deed be construed to waive or lessen the right of the State to insist upon the performance by the Developer of any term, covenant or condition of this deed, or to exercise any rights given to the State on account of any such default; and
- (b) a waiver by the State of a particular breach will not be deemed to be a waiver of the same or any other subsequent breach or default.

39.8 Consequences of State breach

Should the State breach an obligation imposed on it by this deed, the Developer must, if it is aware of such breach, provide written notice to the State describing the nature of the State's breach, when the breach occurred and what action, consistent with the rights and obligations of the parties under this deed, the Developer requires the State to take to remedy such breach.

39.9 State's step-in rights

The State's rights under this clause 39 are without prejudice to the State's other rights under clause 19.10, including the rights under this deed or at Law.

40 Developer's obligations on termination

If this deed is terminated under clause 39.6(a):

- (a) the Developer must, in respect of those parts of the Site and Works Portions for which this deed is terminated:
 - (i) vacate the Site on the date this deed is terminated;
 - (ii) at the request of the State (but not otherwise), within a reasonable time (being not more than 6 months) after the date of that termination demolish and remove from the Site all Works:
 - (A) which have not been carried out in accordance with the Approvals;
 - (B) have not been carried out in a proper and workman like manner and otherwise in accordance with this deed; or

such of them as the State may request and restore the areas and any Services affected by any Works carried out by the Developer to the condition (and, in the case of Services, the location) they were in prior to commencement of those Works or complete the parts of the Works commenced by the Developer;
 - (iii) within 20 Business Days after the completion of that demolition, removal or restoration, give the State a structural engineer's certificate certifying that the Improvements are stable and safe;
 - (iv) leave the Site in a safe and secure condition;
 - (v) remove all rubbish from the Site and leave it clean and tidy;
 - (vi) remove from the Site furniture, loose equipment, materials, goods and other items owned by the Developer but which do not form part of the relevant part of the Site or which are not affixed (or intended to be affixed) to the relevant part of the Site; and
 - (vii) assign to the State all of the Developer's interest in any Approvals obtained by the Developer, and any design documents prepared by or for the Developer, in connection with the Works in accordance with clauses 35.1 and 35.2.

41 Releases and indemnities

41.1 Release of State from liability

- (a) The Developer agrees that, except as otherwise specified in this deed, the Works and all property on the Site, are at the sole risk of the Developer except to the extent of any breach of this deed by the State or the State's Employees and Agents, or the negligence of the State or the State's Employees and Agents or wrongful or reckless act or omission of the State or the State's Employees and Agents.
- (b) Except as otherwise specified in this deed, the Developer releases and forever discharges the State from Claims which the Developer has

against the State in any way relating to or arising out of or in connection with:

- (i) any injury, damage or loss that the Developer or the Developer's Employees and Agents suffer by reason of:
 - (A) the carrying out of the Works;
 - (B) any construction within the Site;
 - (C) the condition of, or from any defect in, the gas, electricity or water supply, connections or fittings within the Site; or
 - (D) the flooding of any part of the Site;
- (ii) loss of or damage to any property or effects of the Developer or any other person on or in the vicinity of the Site howsoever occurring;
- (iii) injury to or the death of any person on the Site however occurring;
- (iv) security of or within the Site;
- (v) any unauthorised entry to the Site; and
- (vi) any loss, injury or damage sustained by the Developer or any other person because of the interruption or failure of any of the Services,

except to the extent that such injury, death, loss or damage is caused or contributed to by the breach of this deed by the State or the State's Employees and Agents or the negligence of the State or the State's Employees and Agents or wrongful or reckless act of the State or the State's Employees and Agents.

41.2 General indemnities

- (a) The Developer indemnifies the State and the State's Employees and Agents from and against:
 - (i) any Loss incurred or suffered by any of the Indemnified Persons; or
 - (ii) any Claim against any of the Indemnified Persons,
 to the extent such Claim or Loss was caused or contributed to by:
 - (iii) loss of or damage to the Site or to any property on or in the vicinity of the Site, or injury to or the death of any person on or in the vicinity of the Site, arising from carrying out of the Works;
 - (iv) any loss, injury or damage sustained because of the interruption or failure of Services caused by the Developer or the Developer's Employees and Agents;
 - (v) the negligent or careless use, misuse, waste or abuse of any Services by the Developer or the Developer's Employees and

Agents or any other person claiming through or under the Developer;

- (vi) overflow or leakage of water emanating from the Site, or from any sprinkler system or device in the Site or arising from any defect in the Services (or any connections or equipment for the Services) caused by the Developer or the Developer's Employees and Agents;
- (vii) any breach by the Developer or the Developer's Employees and Agents of this deed or any Project Document to which the State is a party;
- (viii) any breach by the State or the State's Employees and Agents of a Precinct Lease to which the State is a party caused by the Developer or the Developer's Employees and Agents,
- (ix) loss of or damage to the Adjoining Land caused by, arising out of or in any way in connection with the Works;
- (x) Liability to or Claims by a third party (including an owner or occupier of Adjoining Land) in respect of damage to property, or injury to, illness or death of persons caused by, arising out of, or in any way in connection with, the Works;
- (xi) a Trigger Event;
- (xii) an Event of Default; or
- (xiii) a breach by the Developer of clause 16.3(c),

except to the extent that such Claim or Loss is caused or contributed to by the breach of this deed by the State or the State's Employees and Agents or the negligence of the State, the State's Employees and Agents or any Indemnified Persons or wrongful or reckless act or omission of the State, the State's Employees and Agents or any Indemnified Persons.

- (b) The Developer agrees to pay the State on demand a sum equal to any liability, loss or Cost of the kind referred to in clause 41.2(a) incurred by any of the State's Employees and Agents including legal Costs on a full indemnity basis or solicitor and own client basis, whichever is the higher, subject to the receipt of written evidence and provided that any such Costs are reasonably incurred.
- (c) The indemnity in clause 41.2(a) is not affected or limited, and the State's entitlement to recover damages from the Developer or any other person is not affected or limited by:
 - (i) the State terminating this deed;
 - (ii) the State accepting the Developer's repudiation; and
 - (iii) the Developer abandoning or vacating the Land.
- (d) All indemnities given by the Developer survive the termination of this deed.

41.3 Conduct of proceedings

- (a) In connection with any indemnity provided by the Developer under clauses 24.9(d) or 41.2, the State agrees to:
- (i) act reasonably in considering any request by the Developer with respect to the manner in which any claim that may be made against the State or any legal proceedings that may be commenced against the State are to be conducted, including considering in good faith any request by the Developer that the Developer should have the carriage and conduct of the manner in which any such claims or proceedings are defended, upon the basis that all Costs and risks (including the risks of adverse judgments) that may arise in connection any such claim or proceeding are accepted by the Developer; and
 - (ii) where a claim or any legal proceedings are for an amount that exceeds \$100,000 (excluding costs) procure that TAHE or the relevant Rail Transport Agency (as applicable) also comply with the requirements of clause 41.3(a)(i).
- (b) Without limiting the State's obligations under this clause 41.3, the State agrees that it will:
- (i) not compromise or settle any such claim made against the State without the Developer's prior approval;
 - (ii) procure that TAHE or the relevant Rail Transport Agency does not compromise or settle any such claim for an amount that exceeds \$100,000 (excluding costs) made against TAHE or the relevant Rail Transport Agency (as applicable) without first consulting with the Developer,
- and:
- (iii) the Developer must act reasonably and promptly in relation to any request received from the State, as to the manner in which any such claim ought to be settled or compromised.

41.4 State's ability to enforce the indemnity

The Developer agrees that the State may enforce any indemnity or other covenant in this clause 41 in favour of the person specified in this clause 41 for the benefit of each such person in the name of the State or such person.

41.5 State exclusion

- (a) Despite any other provision of this deed and subject to clause 41.5(b), the State does not have any liability to the Developer or the Developer's Employees and Agents (whether in contract, under an indemnity, tort or otherwise), nor will the Developer or the Developer's Employees and Agents be entitled to make any Claim against the State, in respect of Consequential or Indirect Loss incurred or sustained by the Developer or the Developer's Employees and Agents as a result of any act or omission of the State or the State's Employees and Agents (whether negligent or otherwise).
- (b) Clause 41.5(a) does not operate to limit or restrict the State's liability in respect of Consequential or Indirect Loss:

- (i) to the extent the liability is for loss of profit that would have been earned by the Developer directly from the performance of the State Works;
 - (ii) to the extent included in any interest payable under clause 48.8;
 - (iii) to the extent that the State:
 - (A) has recovered from a third party (including any subcontractor and whether by way of indemnity or otherwise); or
 - (B) would have recovered from a third party, had it diligently pursued a claim against the third party, provided that the State is not required to pursue such a claim where the cost of doing so would be disproportionate to the amount reasonably expected to be recovered by the State,

an amount in respect of that liability;
 - (iv) to the extent that the State:
 - (A) is indemnified in respect of that liability by a policy of insurance required under this deed; or
 - (B) would have been indemnified in respect of that liability by a policy of insurance required under this deed if the State had:
 - (aa) complied with the terms and conditions of that policy of insurance; or
 - (ab) complied with its insurance obligations under this deed;
 - (v) arising from any illegal or unlawful acts or fraud on the part of the State or the State's Employees and Agents;
 - (vi) arising from wilful misconduct on the part of the State or the State's Employees and Agents; or
 - (vii) to the extent to which, by Law, the parties cannot limit or contract out of such liability.
- (c) The parties acknowledge and confirm that for the purposes of the Project and this deed the State are not carrying on a business for the purposes of Part 3 of the *Fair Trading Act 1987* (NSW), including, in particular Division 2, Section 32 and Division 4, section 36 of the *Fair Trading Act 1987* (NSW).

41.6 Developer limitation of liability

- (a) Despite any other provision of this deed, the maximum aggregate liability of the Developer, the Dexus Guarantor 1 and the Dexus Guarantor 2 to the State, the State's Employees and Agents, Indemnified Persons and Rail Transport Agency (whether in contract, under an indemnity, tort or otherwise) under or in connection with this deed and the Project Documents is limited to the Developer Liability Cap.

- (b) The limitation of the Developer's liability contained in this clause 41.6 does not apply to any claim:
 - (i) in respect of any criminal conduct or fraud by the Developer;
 - (ii) in respect of injury to or the death of any person on or in the vicinity of the Site caused by the Developer or the Developer's Employees and Agents in connection with this deed or the Project; and
 - (iii) for payment of the Development Rights Fee.
- (c) The exclusion of liability as set out in clause 41.7 and the liability cap specified in clause 41.6(a) do not limit the liability of the Developer and will not be eroded to the extent that the Developer:
 - (i) recovers in relation to the liability under an insurance policy required to be held under this deed; or
 - (ii) would have been recovered in relation to the liability under an insurance policy required to be held under this deed but for a failure by the Developer to maintain the insurances (for which it is responsible) under this deed.

41.7 Developer Exclusion

- (a) Despite any other provision of this deed and subject to clause 41.7(b), the Developer, the Dexus Guarantor 1 and the Dexus Guarantor 2, does not have any liability to the State, the State's Employees and Agents, Indemnified Persons or any Rail Transport Agency (whether in contract, under an indemnity, tort or otherwise), nor will the State, the State's Employees and Agents, Indemnified Persons or any Rail Transport Agency be entitled to make any Claim against the Developer, the Dexus Guarantor 1 or the Dexus Guarantor 2, in respect of Consequential or Indirect Loss incurred or sustained by the State, the State's Employees and Agents, Indemnified Persons or any Rail Transport Agency as a result of any act or omission of the Developer or the Developer's Employees and Agents (whether negligent or otherwise).
- (b) Clause 41.7(a) does not operate to limit or restrict the Developer's liability in respect of Consequential or Indirect Loss:
 - (i) to the extent that the liability is for any costs or expenses incurred by an Indemnified Person in providing transport services (including replacement and alternative transport services);
 - (ii) to the extent included in any interest payable under clause 48.8;
 - (iii) to the extent that the Developer:
 - (A) has recovered from a third party (including any subcontractor and whether by way of indemnity or otherwise); or
 - (B) would have recovered from a third party, had it diligently pursued a claim against the third party, provided that the Developer is not required to pursue such a claim where the cost of doing so would be disproportionate to the amount reasonably expected to be recovered by the Developer,

an amount in respect of that liability;

- (iv) arising from any illegal or unlawful acts or fraud on the part of the Developer or the Developer's Employees and Agents;
- (v) arising from wilful misconduct on the part of the Developer or the Developer's Employees and Agents; or
- (vi) to the extent to which, by Law, the parties cannot limit or contract out of such liability.

41.8 Effect on other provisions

The parties acknowledge and agree that, while the liability of the Developer pursuant to clauses 41.1 and 41.2 may be reduced to the extent that any Claim or Loss is caused or contributed to by the breach of this deed by the State or the State's Employees and Agents or the negligence of the State or the State's Employees and Agents or wrongful or reckless act or omission of the State or the State's Employees and Agents, those circumstances do not have any effect on the Developer's obligations under this deed other than in relation to clauses 41.1 and 41.2 or as expressly provided in this deed.

41.9 Excepted risks

The parties acknowledge and agree that, despite any other provision in this deed, the Developer:

- (a) is not responsible for and does not bear the risk of destruction, Loss or damage to the Works or the Site; and
- (b) has no liability under clause 41.2 in respect of any Claim or Loss,

to the extent that such destruction, damage, Claim or Loss was caused by a Declared Terrorist Incident occurring at the Site, but only where such destruction, Loss or damage to the Works or the Site, liability under clause 41.2 in respect of any Claim or Loss is not caused or contributed to in whole or in part by:

- (c) a breach by the Developer or the Developer's Employees and Agents of this Deed;
- (d) the negligence of the Developer or the Developer's Employees and Agents; or
- (e) the wrongful or reckless act or omission of the Developer or the Developer's Employees and Agents.

42 Guarantee and indemnity

42.1 Consideration

- (a) Each Dexus Guarantor acknowledges that the State is acting in reliance on the Dexus Guarantor incurring obligations and giving rights under this clause 42.
- (b) Subject to clauses 41.6 and 41.7:
 - (i) the Dexus Guarantor 2 unconditionally and irrevocably guarantees to the State the due and punctual payment of all amounts payable by the Developer to the State under this deed (the **Dexus Guaranteed Moneys**);

- (ii) the Dexus Guarantor 1 unconditionally and irrevocably guarantees to the State the performance and observance by the Developer of the Guaranteed Obligations (other than any such obligations that form part of the Dexus Guaranteed Moneys).
- (c) A demand may be made at any time and from time to time and must be made in accordance with clause 42.4.
- (d) If the Dexus Guaranteed Moneys are not paid by the Developer when due, the Dexus Guarantor 2 must, within 10 Business Days of receiving a demand from the State in accordance with clause 42.4, pay to the State the Dexus Guaranteed Moneys in the same manner and currency as the Dexus Guaranteed Moneys are or were required to be paid by the Developer.
- (e) If the Developer does not perform or observe the Guaranteed Obligations on time and in accordance with the provisions of the Project Documents, then the Dexus Guarantor 1 agrees to perform and observe the Guaranteed Obligations for the benefit of the State on demand from the State (whether or not demand has been made by the State on the Developer). A demand may be made at any time and from time to time.

42.2 Indemnities

Subject to clauses 41.6 and 41.7, the Dexus Guarantor 2 unconditionally and irrevocably indemnifies the State for all losses, Costs, damages and liabilities which it incurs or suffers because the Developer fails to duly and punctually perform and observe the Dexus Guaranteed Moneys.

42.3 Additional indemnities

- (a) Subject to clauses 41.6 and 41.7, whether or not the State exercises any rights it may have under clause 39.6, and without being affected by the exercise of any such rights, the Dexus Guarantor 1 unconditionally and irrevocably indemnifies the State against any loss the State suffers because:
 - (i) the liability to perform or observe the Guaranteed Obligations is unenforceable in whole or in part as a result of lack of capacity, power or authority or improper exercise of power or authority (other than by or in relation to the State); or
 - (ii) the Developer does not observe, perform or comply with (whether full or in part) the Guaranteed Obligations.
- (b) Subject to clauses 41.6 and 41.7, whether or not the State exercises any rights it may have under clause 39.6, and without being affected by the exercise of any such rights, the Dexus Guarantor 2 unconditionally and irrevocably indemnifies the State against any loss the State suffers because:
 - (i) an Insolvency Event occurs with respect to the Developer; or
 - (ii) the Guaranteed Obligations are not or have never been enforceable against the Dexus Guarantor 1 or are not capable of observance, performance or compliance in full because of any other circumstance whatsoever including any transaction relating to the Guaranteed Obligations being void, voidable or unenforceable and whether or not the State knew or should have known anything about that transaction.

42.4 Demand

Any demand under this clause 42 must:

- (a) be in writing and state that it is made under this clause 42;
- (b) state and provide details of the Guaranteed Obligations and/or Dexus Guaranteed Moneys being demanded and confirm that:
 - (i) at least 10 Business Days has passed since the demand on the Developer was made; and
 - (ii) the demand on the Developer remains unsatisfied; and
- (c) be signed by an Authorised Officer of the State.

42.5 Dexus Guarantor as principal debtor

Dexus Guarantor 2 as principal debtor agrees to pay to the State within 10 Business Days of a demand a sum equal to the amount of any loss described in clause 42.2.

42.6 Extent of guarantee and indemnity

The guarantee provided in clause 42.1 and the indemnities provided in clauses 42.2 and 42.3 are continuing security and extend to all of the Guaranteed Obligations and other money payable under this deed. The Dexus Guarantors waive any right they have of first requiring the State to commence proceedings or enforce any other right against the Developer or any other person before claiming from the Dexus Guarantors under this deed.

42.7 Preservation of the State's rights

The liabilities under this deed of each Dexus Guarantor as a guarantor or an indemnifier and the rights of the State against each Dexus Guarantor under this deed are not affected by anything which might otherwise affect them at Law or in equity including, without limitation, one or more of the following (whether occurring with or without the consent of a person):

- (a) the State or another person granting time or other indulgence (with or without the imposition of an additional burden) to, compounding or compromising with, or wholly or partially releasing, the Developer, any other indemnifier or another person in any way;
- (b) laches, acquiescence, delay, acts, omissions or mistakes on the part of the State or another person or both the State and another person;
- (c) any variation or novation of a right of the State or another person, or material alteration of a Project Document, in respect of the Developer, the Dexus Guarantor or another person;
- (d) the transaction of business, expressly or impliedly, with, for or at the request of the Developer, the Dexus Guarantor or another person;
- (e) changes which from time to time may take place in the membership, name or business of a firm, partnership, committee or association whether by death, retirement, admission or otherwise, whether or not the Dexus Guarantor or another person was a member;
- (f) a Security Interest being void, voidable or unenforceable;

- (g) a person dealing in any way with a Security Interest, guarantee, judgment or negotiable instrument (including, without limitation, taking, abandoning or releasing (wholly or partially), realising, exchanging, varying, abstaining from perfecting or taking advantage of it);
- (h) the death of any person or an Insolvency Event occurring in respect of any person;
- (i) a change in the legal capacity, rights or obligations of a person;
- (j) the fact that a person is a trustee, nominee, joint owner, joint venturer or a member of a partnership, firm or association;
- (k) a judgment against the Developer or another person;
- (l) the receipt of a dividend after an Insolvency Event or the payment of a sum or sums into the account of the Developer or another person at any time (whether received or paid jointly, jointly and severally or otherwise);
- (m) any part of the Guaranteed Obligations being irrecoverable;
- (n) the acceptance of repudiation or other termination in connection with the Guaranteed Obligations;
- (o) the invalidity or unenforceability of an obligation or liability of a person other than the Dexus Guarantor;
- (p) invalidity or irregularity in the execution of this deed by any Dexus Guarantor or any deficiency in or irregularity in the exercise of the powers of any Dexus Guarantor to enter into or observe its obligations under this deed;
- (q) any obligation of the Developer or any other Dexus Guarantor being discharged by operation of Law or otherwise; or
- (r) property secured under a Security Interest being forfeited, extinguished, surrendered, resumed or determined.

42.8 Liabilities not affected

The liability of a Dexus Guarantor under a Project Document is not affected:

- (a) because any other person who was intended to enter into this deed, or otherwise become a co-surety or co-indemnifier for payment of the Guaranteed Obligations or other money payable under this deed has not done so or has not done so effectively; or
- (b) because a person who is a co-surety or co-indemnifier for payment of the Guaranteed Obligations or other money payable under this deed is discharged under an agreement or under statute or a principle of law or equity.

42.9 Suspension of Dexus Guarantor's rights

As long as the Guaranteed Obligations or other money payable under this deed remains unpaid, a Dexus Guarantor cannot without the consent of the State:

- (a) in reduction of its liability under this deed, raise a defence, set-off or counterclaim available to itself, the Developer or a co-surety or co-indemnifier against the State or claim a set-off or make a counterclaim against the State;

- (b) make a claim or enforce a right (including, without limitation, an Encumbrance) against the Developer or any other Dexu Guarantor or against their estate or property;
- (c) prove in competition with the State if an Insolvency Event occurs in respect of the Developer or any other Dexu Guarantor whether in respect of an amount paid by the Dexu Guarantor under this deed, in respect of another amount (including the proceeds of a Security Interest) applied by the State in reduction of the Dexu Guarantor's liability under this deed, or otherwise; or
- (d) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of a Security Interest or guarantee or a share in it now or subsequently held for the Guaranteed Obligations or other money payable under this deed.

42.10 Other securities and obligations of Dexu Guarantor

The State's rights under this deed are additional to and do not merge with or affect and are not affected by:

- (a) any Security Interest now or subsequently held by the State from the Developer, the Dexu Guarantor or any other person; or
- (b) any other obligation of the Dexu Guarantor to the State,

notwithstanding any rule of law or equity or any statutory provision to the contrary.

42.11 Reinstatement of State's rights

If a claim is made that all or part of a payment, obligation, settlement, transaction, conveyance or transfer in connection with the Guaranteed Obligations or other money payable under this clause is void or voidable under Law relating to Insolvency Events or the protection of creditors or for any other reason and the claim is upheld, conceded or compromised, then:

- (a) the State is entitled immediately as against the Dexu Guarantor to the rights in respect of the Guaranteed Obligations or other money payable under this deed to which it would have been entitled if all or that part of that payment, obligation, settlement, transaction, conveyance or transfer had not taken place; and
- (b) promptly on request from the State, the Dexu Guarantor agrees to do any act and sign any document to restore to the State any Security Interest or guarantee held by it from the Dexu Guarantor immediately prior to that payment, obligation, settlement, transaction, conveyance or transfer.

42.12 Application of money

- (a) The State may apply money paid by the Developer or the Developer's estate, or the Dexu Guarantor or otherwise towards satisfaction of the Guaranteed Obligations and other money payable under this deed in the manner it sees fit.

42.13 Dexu Guarantor 1 limitation of liability

- (a) Dexu Funds Management Limited (**DG1 Trustee**), where expressed to enter into this deed as Dexu Guarantor 1, enters into this deed in its capacity as trustee of the Dexu Operations Trust (**DG1 Trust**).

- (b) The parties acknowledge and agree that:
- (i) the DG1 Trustee enters into this deed in the capacity stated in clause 42.13(a) and in no other capacity;
 - (ii) except in the case of any liability of the DG1 Trustee under or in respect of this deed resulting from the DG1 Trustee's own fraud, negligence or breach of trust, the recourse for any person to the DG1 Trustee in respect of any obligations and liabilities of the DG1 Trustee under or in respect of this deed is limited to the DG1 Trustee's ability to be indemnified from the assets of the DG1 Trust; and
 - (iii) if any party (other than the DG1 Trustee) does not recover the full amount of any money owing to it arising from non-performance by the DG1 Trustee of any of its obligations, or non-payment by the DG1 Trustee of any of its liabilities, under or in respect of this deed by enforcing the rights referred to in clause 42.13(b)(ii), that party may not (except in the case of fraud, negligence or breach of trust by the DG1 Trustee) seek to recover the shortfall by:
 - (A) bringing proceedings against the DG1 Trustee in its personal capacity; or
 - (B) applying to have the DG1 Trustee wound up.
- (c) This clause 42.13 applies despite any other provision of this document or any principle of equity or law to the contrary.

42.14 Dexus Guarantor 2 limitation of liability

- (a) Dexus Funds Management Limited (**DG2 Trustee**), where expressed to enter into this deed as Dexus Guarantor 2, enters into this deed in its capacity as trustee of the Dexus Property Trust (**DG2 Trust**).
- (b) The parties acknowledge and agree that:
- (i) the DG2 Trustee enters into this deed in the capacity stated in clause 42.14(a) and in no other capacity;
 - (ii) except in the case of any liability of the DG2 Trustee under or in respect of this deed resulting from the DG2 Trustee's own fraud, negligence or breach of trust, the recourse for any person to the DG2 Trustee in respect of any obligations and liabilities of the DG2 Trustee under or in respect of this deed is limited to the DG2 Trustee's ability to be indemnified from the assets of the DG2 Trust; and
 - (iii) if any party (other than the DG2 Trustee) does not recover the full amount of any money owing to it arising from non-performance by the DG2 Trustee of any of its obligations, or non-payment by the DG2 Trustee of any of its liabilities, under or in respect of this deed by enforcing the rights referred to in clause 42.14(b)(ii), that party may not (except in the case of fraud, negligence or breach of trust by the DG2 Trustee) seek to recover the shortfall by:
 - (A) bringing proceedings against the DG2 Trustee in its personal capacity; or

- (B) applying to have the DG2 Trustee wound up.
- (c) This clause 42.14 applies despite any other provision of this document or any principle of equity or law to the contrary.

43 Representations and warranties

43.1 Warranties by Developer and Dexu Guarantor

Each of the Developer and the Dexu Guarantor represents and warrants that at all times during the Project in relation to itself that:

- (a) it has been incorporated as a company limited by shares in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
- (b) it has, or will have (in respect of those Project Documents still to be executed as at the Commencement Date), power to enter into the Project Documents to which it is a party and comply with its obligations under them;
- (c) it has, or will have (in respect of those Project Documents still to be executed as at the Commencement Date) in full force and effect the authorisations necessary for it to enter into the Project Documents to which it is a party, to comply with its obligations under them and to allow them to be enforced;
- (d) its obligations under the Project Documents (once executed) are valid and binding and are enforceable against it in accordance with their terms;
- (e) the Project Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
- (f) it benefits by entering into the Project Documents to which it is a party;
- (g) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- (h) it is not in breach of a Law or obligation affecting it or its assets in a way which is, or is likely to have, a Material Adverse Effect;
- (i) it does not have immunity from the jurisdiction of a court or from legal process;
- (j) no person has contravened or will contravene section 208 or section 209 of the Corporations Act by entering into any Project Document or participating in any transaction in connection with a Project Document; and
- (k) the Treasurer cannot prohibit and has not prohibited the grant of this deed under the FIRB Act.

43.2 Warranties by the State

The State represents and warrants that at all times during the Project in relation to itself that:

- (a) it has power to enter into the Project Documents to which it is a party and comply with its obligations under them;
- (b) it has in full force and effect the authorisations necessary for it to enter into the Project Documents to which it is a party, to comply with its obligations under them and to allow them to be enforced;
- (c) its obligations under the Project Documents are valid and binding and are enforceable against it in accordance with their terms;
- (d) the Project Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
- (e) it benefits by entering into the Project Documents to which it is a party;
- (f) it does not enter into any Project Document in the capacity of a trustee of any trust or settlement;
- (g) it is legally entitled and has all statutory power to enter into and perform its obligations under each Project Document to which it is a party, to carry out the transactions contemplated by those documents, and the entry into of each such document is a proper exercise of its power; and
- (h) it has unencumbered, good and sufficient rights or title to the Land to enter into and perform its obligations under each Project Document to which it is a party and to carry out the transactions contemplated by those documents.

43.3 Developer's privacy warranty

Each of the Developer and the Dexu Guarantor represents and warrants that disclosures of Personal Information which it makes to the State (and which it has consented to the State using and disclosing) are consistent with any Privacy Statement or policy which it has issued and all Privacy Laws by which it is bound.

44 NSW Code of Practice

44.1 NSW Code and NSW Guidelines

In addition to terms defined in this deed, terms used in this clause 44 have the same meaning as is attributed to them in the NSW Guidelines. The NSW Code and NSW Guidelines are available at www.industrialrelations.nsw.gov.au.

44.2 Primary Obligation

- (a) The Developer must at all times comply with, and meet any obligations imposed by the NSW Code and the NSW Guidelines.
- (b) The Developer must notify the CCU and the State of any possible non-compliance with the NSW Code and NSW Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.
- (c) Where the Developer engages a Builder, the Developer must ensure that the contract imposes on the Builder equivalent obligations to those in this clause 44, including that the Builder must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.

- (d) The Developer must not appoint or engage another party in relation to the Works where that appointment or engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

44.3 Access and information

- (a) The Developer must maintain adequate records of compliance with the NSW Code and NSW Guidelines by it, its Builder and related entities.
- (b) The Developer must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:
 - (i) enter and have access to sites and premises controlled by the Developer, including but not limited to the Site;
 - (ii) inspect any work, material, machinery, appliance, article or facility;
 - (iii) access information and documents;
 - (iv) inspect and copy any record relevant to the Works;
 - (v) have access to personnel; and
 - (vi) interview any person,

as is necessary for the authorised personnel to monitor and investigate compliance with the NSW Code and NSW Guidelines, by the Developer, its Subcontractors and related entities.

- (c) The Developer, and its related entities, must agree to, and comply with, a request from authorised personnel (including personnel of the CCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.

44.4 Sanctions

- (a) The Developer warrants that at the time of entering into this deed, neither it, nor any of its related entities, are subject to a sanction in connection with the NSW Code or NSW Guidelines that would have precluded it from responding to a procurement process for work to which the NSW Code and NSW Guidelines apply.
- (b) If the Developer does not comply with, or fails to meet any obligation imposed by, the NSW Code or NSW Guidelines, a sanction may be imposed against it in connection with the NSW Code or NSW Guidelines.
- (c) Where a sanction is imposed:
 - (i) it is without prejudice to any rights that would otherwise accrue to the parties; and
 - (ii) the State of NSW (through its agencies, Ministers and the CCU) is entitled to:
 - (A) record and disclose details of non-compliance with the NSW Code or NSW Guidelines and the sanction; and

- (B) take them into account in the evaluation of future procurement processes and responses that may be submitted by the Developer, or its related entities, in respect of work to which the NSW Code and NSW Guidelines apply.

44.5 Compliance

- (a) The Developer bears the cost of ensuring its compliance with the NSW Code and NSW Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the NSW Guidelines. The Developer is not entitled to make a claim for reimbursement or an extension of time from the State for such costs.
- (b) Compliance with the NSW Code and NSW Guidelines does not relieve the Developer from responsibility to perform the Works and any other obligation under this deed, or from liability for any defect in the Works or from any other legal liability, whether or not arising from its compliance with the NSW Code and NSW Guidelines.
- (c) Where a change in this deed or the Works is proposed, and that change may, or may be likely to, affect compliance with the NSW Code and NSW Guidelines, the Developer must immediately notify the State of the change, or likely change and specify:
- (i) the circumstances of the proposed change;
 - (ii) the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and
 - (iii) what steps the Developer proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a workplace relations management plan or safety management plan),

and the State will direct the Developer as to the course it must adopt within 20 Business Days of receiving notice.

45 Undertakings by Developer and Dexus Guarantor

45.1 Undertakings by Developer

The Developer undertakes to notify the State promptly if any representation or warranty made or taken to be made by or on behalf of the Developer or the Dexus Guarantor in connection with a Project Document is found, having regard to the State's rights under, or by virtue of this deed, to be materially incorrect or materially misleading when made or taken to be made.

45.2 Undertakings by the Dexus Guarantor

The Dexus Guarantor undertakes to the State that it will not take action to reduce its capital or buy back any of its ordinary shares or pass a resolution referred to in Chapter 2J of the Corporations Act if that action or resolution would, or would be likely to have, a Material Adverse Effect.

45.3 Developer's privacy obligations

The Developer and the Dexus Guarantor agree to:

- (a) comply with all Privacy Laws in connection with the use or disclosure of Personal Information disclosed by it to the State in connection with the Project;

- (b) if requested by the State, give the State after the Commencement Date, copies of any updates of Personal Information which the Developer or the Dexus Guarantor has disclosed to the State except where to do so would put the Developer in breach of any Privacy Laws; and
- (c) notify the State if the Developer or the Dexus Guarantor does something of which it is, or ought reasonably to be, aware and which may cause the State to be in breach of any Privacy Law.

45.4 Consent to use and disclose Personal Information

The Developer and the Dexus Guarantor consent to the Personal Information of third persons it gives to the State being:

- (a) used by the State in connection with the State's functions or business, including in connection with:
 - (i) internal reporting;
 - (ii) reporting to any adviser of the State or to any Public Authority;
 - (iii) the management of the Project;
 - (iv) any use specified in any Privacy Statement; and
- (b) disclosed by the State:
 - (i) if required or authorised by law;
 - (ii) to any adviser of the State or any Public Authority; or
 - (iii) if the third person consents.

45.5 Anti-terrorism

The Developer and the Dexus Guarantor:

- (a) represent and warrant that it is not a Prohibited Entity and is not owned or controlled by, or acts on behalf of, any Prohibited Entity; and
- (b) undertake to ensure that it complies with all anti-terrorism legislation in Australia including, without limitation, Part 4 of the Charter of the United Nations Act 1945 and Part 5.3 of the *Criminal Code Act 1995* (Cth).

46 Representatives

46.1 State's representative

The State may from time to time appoint an individual or individuals to exercise any functions of the State under this deed. The appointment of a representative does not prevent the State from exercising any function.

46.2 Notification by State

The State must notify the Developer of:

- (a) the appointment and the name of the State's representative and the functions delegated to that representative; and
- (b) the termination of the appointment of a representative.

46.3 Developer's representative

The Developer must appoint a competent representative in respect of the Project.

46.4 Notification by Developer

The Developer must immediately notify the State of the name of its representative and of any subsequent changes. A direction of the State given to a representative of the Developer prior to the State's receipt of a notification that that person is no longer the Developer's representative shall be taken to have been given to the Developer.

46.5 Objection by the State

If the State makes a reasonable objection to the appointment of a representative, the Developer must terminate the appointment and appoint another representative.

47 Costs



48 General requirements for payments

48.1 Method of payment

The Developer must make payments under this deed to the State (or a person nominated by the State in a notice to the Developer) by the method the State reasonably requires without set off or counterclaim and without deduction, unless prohibited by law or allowed under this deed.

48.2 No demand necessary

The State need not make demand for any amount required to be paid by the Developer under this deed unless this deed expressly specifies that demand must be made.

48.3 Incorrect amount paid

If a party (**Paying Party**) pays an amount to another party (**Paid Party**) and it is found later that the amount payable should have been:

- (a) higher, then the Paid Party may demand payment of the difference; or
- (b) lower, then the Paid Party must repay the difference,

even though the Paid Party has given the Paying Party a receipt for payment of the incorrect amount.

48.4 Ongoing obligation

Subject to any provision in this deed to the contrary, expiry or termination of this deed does not affect a party's obligations to make payments under this deed for periods before then.

48.5 When to make payments

The Developer must make payments to the State under this deed on the due date in immediately available funds.

48.6 If due date not a Business Day

If a payment becomes due for payment on a day which is not a Business Day, then the date for payment is the next Business Day.

48.7 Currency of payment

The Developer waives any right which it has in any jurisdiction to pay an amount in a currency other than the currency payable under this deed.

48.8 Interest on overdue money

The parties agree to pay interest at the Interest Rate on any amount under this deed which is not paid on the due date for payment. That interest:

- (a) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and
- (b) is payable on demand from either party or, if no such demand is made, on the last day of each calendar month.

48.9 Compounding

Interest payable under clause 48.8 which is not paid when due for payment may (at any time before payment) be added to the overdue amount by either party monthly or the last day of each calendar month. Interest is payable on the increased overdue amount at the Interest Rate in the manner set out in clause 48.8 compounding daily.

48.10 Interest on liability merged in judgment or order

If a liability under this deed becomes merged in a judgment or order, then the Developer agrees to pay interest to the State on the amount of that liability as an independent obligation. The interest accrues both before and after that judgment or order from the date the liability was due for payment until it is paid, at a rate that is the higher of the Interest Rate and the rate payable under the judgment or order.

48.11 Tender after termination

Money tendered by the Developer after the termination of this deed and accepted by the State may be applied in the manner the State decides.

49 GST**49.1 Interpretation**

- (a) Except where the context suggests otherwise, terms used in this clause 49 have the meanings given to those terms by the GST Act (as amended from time to time).
- (b) Any periodic or progressive component of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 49.

- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.
- (d) Unless otherwise expressly stated, all consideration to be provided under any other provision of this deed is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 49.
- (e) A reference to GST payable by a party includes any GST payable by the representative member of any GST group of which that party (or the entity on whose behalf that party is acting) is a member.
- (f) A reference to input tax credits includes input tax credits to which an entity is notionally entitled in accordance with Division 177 of the GST Act and a reference to input tax credits to which an entity is entitled includes any input tax credits to which the representative member of any GST group to which that entity may belong is entitled.

49.2 Reimbursements

Any payment, reimbursement, indemnity or similar payment required to be made under this deed that is calculated by reference an amount paid or incurred by another party will be limited to the total amount less the amount of any input tax credit to which the other party is entitled. If the reduced amount is consideration for a taxable supply, clause 49.3 shall apply to the reduced amount.

49.3 Additional amount of GST payable

Subject to clause 49.5, if GST becomes payable on any supply made by a party (**Supplier**) to another party to this deed, whether or not the supply occurs under this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 49), for that supply is exclusive of GST;
- (b) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with clause 49.3(b).

49.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 49.3 and clause 49.5), varies from the additional amount paid by the Recipient under clause 49.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 49.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 49.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or

in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

49.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 49.3 applies is a taxable supply made by the Recipient in the same tax period (**Recipient Supply**), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with clause 49.3 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 49.3 (or the time at which such GST Amount would have been payable in accordance with clause 49.3 but for the operation of clause 49.5(a)).

49.6 Indemnities

- (a) If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST.
- (b) If a party has an indemnity for a cost on which that party must pay GST, the indemnity is for the cost plus all GST (except any GST for which that party can obtain an input tax credit).

49.7 Set off

- (a) If and to the extent that, in the same tax period the State is required to pay the Developer an additional amount under clause 49.3, and the Developer is required to pay the State an additional amount under clause 49.3, the parties agree that such amounts will be offset and only the balance, if any, will be payable.
- (b) For the avoidance of doubt, the offset of any amount under clause 49.3(a) shall not affect the obligations under the remainder of this clause 49.

49.8 No merger

This clause will not merge on completion or termination of the deed.

50 Notices

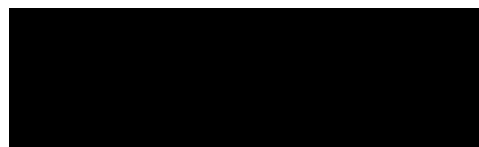
50.1 Form

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed but not including Design Documentation and Applications (**Communication**) must be in writing, signed by an Authorised Officer of the sender and marked for attention as set out below or, if the recipient has notified otherwise, then marked for attention in the way last notified.

State

Name:
Address:

Email:

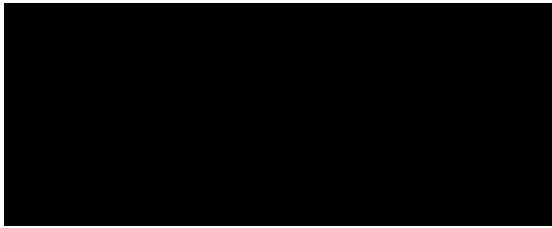


For the attention of:



Developer

Name:



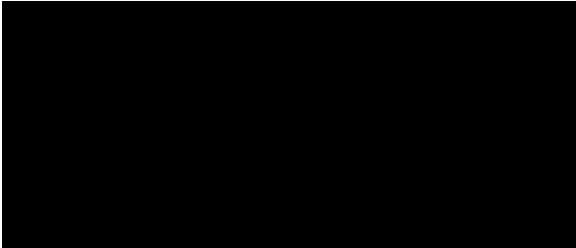
Address:

Email:

For the attention of:

Dexus Guarantor 1

Name:



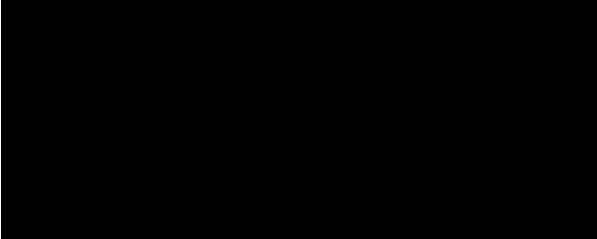
Address:

Email:

For the attention of:

Dexus Guarantor 2

Name:



Address:

Email:

For the attention of:

50.2 Delivery

- (a) Subject to clauses 50.2(c) and 50.6(f), all Communication issued in connection with this deed (including all Design Documentation and Applications):
 - (i) must be uploaded to the PDCS; and
 - (ii) once uploaded, the sender must promptly send an email to the email address referred to in clause 50.1 advising the recipients that the Design Documentation or Application has been uploaded.
- (b) However, if the intended recipient has notified a changed postal address or changes email address, then the communication must be to that address or email address.
- (c) In addition to the requirements under clause 50.2(a), Communication submitted under clauses 36 (Assignment), 38 (Dispute Resolution) or 39 (Default) must be:
 - (i) left at the address referred to in clause 50.1; or
 - (ii) sent by prepaid post (airmail, if appropriate) to the address referred to in clause 50.1.

50.3 When effective

- (a) All Communications take effect from the time they are received unless a later time is specified in them.
- (b) Design Documentation and Applications take effect at the time and date the Design Documentation or Application has been uploaded onto the PDCS.
- (c) If a notice takes effect after 5.00pm on a day, the notice will be deemed to have been received at 9.00am on the next Business Day.

50.4 Receipt - postal

If sent by post, all Communications are taken to be received:

- (a) in the case of all parties other the Dexus Guarantor, 4 Business Days after posting (or 4 Business Days after posting if sent to or from a place outside Australia); and
- (b) in the case of the Dexus Guarantor, on receipt by the Dexus Guarantor.

50.5 Receipt - general

If notices are left at an address or received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

50.6 PDCS

- (a) At any time, the State may notify the Developer that the PDCS will be used for submitting the Communication, Design Documentation and Applications, but prior to the State requiring the use of their own PDCS they will take into consideration the PDCS that the Project has adopted at the time and consider the adoption of same. The State's notice will set out:
 - (i) the commencement date for use of the PDCS; and
 - (ii) any other information reasonably necessary for the effective use and service of notices via the PDCS.
- (b) If a party is unable to use PDCS as a result of the failure of PDCS, that party must deliver the Communication, Design Documentation or Application by hand to the address stipulated in clause 50.1.
- (c) With respect to the Design Documentation or Applications sent through the PDCS:
 - (i) only the text in any Design Documentation or Application, or subject to clause 50.6(c)(ii), any attachments to such Design Documentation or Application which are referred to in the Design Documentation or Application, will form part of the Design Documentation or Application. Any text in the subject line will not form part of the Design Documentation or Application; and
 - (ii) an attachment to Design Documentation or Application will only form part of a notice if it is uploaded to the PDCS in:
 - (A) pdf format;

- (B) a format compatible with Microsoft Office; or
 - (C) such other format required by this deed or as may be agreed between the parties in writing from time to time.
- (d) The Developer must:
- (i) ensure that it has internet access which is sufficient to facilitate use of the full functionality of PDCS;
 - (ii) ensure that relevant personnel log on and use PDCS and check whether notices have been received on each Business Day; and
 - (iii) at all times, ensure that it has access to personnel trained in the use of the PDCS so as to be able to view, receive and submit Design Documentation or Applications using the PDCS, provided that if the PDCS the State elects to use is not a commonly used system, the State must provide training to the Developer's personnel.
- (e) The State has no liability for any losses the Developer may suffer or incur arising out of or in connection with its access to or use of the PDCS or any failure of the PDCS, and the Developer will not be entitled to make, and the State will not be liable upon, any Claim against the State arising out of or in connection with the Developer's access to or use of the PDCS or any failure of the PDCS.
- (f) Prior to the commencement date for use of the PDCS, all Communication submitted under clause 50.2(a) must be issued by the sender by email to the email address referred to in clause 50.1.

50.7 Waiver of notice period

The State may waive a period of notice required to be given by the Developer under this deed.

50.8 Notices by State

Where there is an obligation on the State in this deed to notify the parties, the State will be taken to have complied with that obligation in respect of the Developer where it notifies the Developer in writing.

51 General

51.1 Exercise of rights

Any party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy.

51.2 Partial exercise of rights

A single or partial exercise of a right, power or remedy by the State does not prevent a further exercise of that or an exercise of any other right, power or remedy.

51.3 Delay in exercising rights

Failure by any party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

51.4 Waiver and variation

A provision of or a right created under this deed may not be waived or varied except in writing signed by the party or parties to be bound.

51.5 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Developer or the Dexus Guarantor in connection with this deed with the result that the State's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

51.6 Approvals and consent

The State may (acting reasonably) give conditionally or unconditionally or withhold its approval or consent unless this deed expressly provides otherwise.

51.7 Remedies cumulative

The rights, powers and remedies provided in this deed are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of this deed.

51.8 Indemnities

Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the State, the Developer or the Dexus Guarantors and survives expiry or termination of this deed. Except as otherwise provided for in this deed, it is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this deed.

51.9 Further assurances

If asked by the other party (acting reasonably), then a party must, at its own expense:

- (a) execute and cause its successors to execute documents and do everything else necessary or appropriate to bind it and its successors under this deed; and
- (b) use its reasonable endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this deed.

51.10 Continuing breaches

The expiry or termination of this deed does not affect the rights of the parties to this deed for a breach of this deed by the other party or parties before the expiry or termination.

51.11 Antecedent obligations

The expiry or termination of this deed does not affect a party's obligations:

- (a) to make payments under this deed in respect of periods before the expiry or termination of this deed; or
- (b) to provide information to another party to enable it to calculate those payments.

51.12 Confidentiality

- (a) All information provided under or in relation to the Project Documents:

- (i) by the Developer or the Dexus Guarantor to the State; or
- (ii) by the State to the Developer or the Dexus Guarantor,

and which is identified as confidential at the time it is provided, or which by its nature is confidential, must not be disclosed to any person, except:

- (iii) with the consent of the disclosing party;
 - (iv) if allowed or required by Law or required by any stock exchange;
 - (v) in connection with legal proceedings relating to the Project Documents;
 - (vi) if the information is generally and publicly available; or
 - (vii) to employees, legal advisers, auditors and other consultants to whom it needs to be disclosed.
- (b) The recipient of the information must do all things necessary to ensure that its respective employees, legal advisers, auditors and other consultants keep the information confidential and not disclosed it to any person.
- (c) The parties acknowledge that:
- (i) the State may be required to disclose this deed (and information concerning the terms of this deed) under or in accordance with any one or more of the following:
 - (A) the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**); and
 - (B) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability;
 - (ii) within 10 Business Days of the date of this deed the Developer must notify the State in writing identifying any provisions of this deed it considers to be commercial-in-confidence (as defined in the GIPA Act);
 - (iii) the State will take reasonable steps to consult with the Developer before disclosing any part of this deed that the Developer has notified that it considers to be commercial-in-confidence (as defined in the GIPA Act); and
 - (iv) nothing in clauses 51.12(a) or 51.12(b) will limit or otherwise affect the discharge of the State's obligations under the GIPA Act.
- (d) The Developer must provide to the State any other information which the State reasonably requires to comply with its obligations under clause 51.12(c).

51.13 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction:

- (a) it is severed for that jurisdiction; and
- (b) the remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.

This clause 51.13 has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

51.14 Entire agreement

The Project Documents represent the entire agreement between the parties.

51.15 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this deed or any part of it.

51.16 Effect of moratorium

To the extent permitted by Law the application to this deed of any moratorium or other Act whether State or Federal having the effect of extending the term, reducing or postponing the payment of the Development Rights Fee, or otherwise affecting the operation of the terms of this deed is expressly excluded and negated.

51.17 Proportionate Liability

- (a) To the extent permitted by Law, Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or Liabilities of either party to this deed under or in any way in connection with this deed whether such rights, obligations or Liabilities are sought to be enforced in contract, under an indemnity, tort or otherwise.
- (b) Without limiting clause 51.17(a), the rights, obligations and Liabilities of the State and the Developer under this deed with respect to proportionate liability are as specified in this deed and not otherwise, whether such rights, obligations or Liabilities are sought to be enforced by a claim in contract, under an indemnity, tort or otherwise.
- (c) To the extent permitted by Law:
 - (i) the Developer must not seek to apply the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to any claim by the State against the Developer (whether in contract, under an indemnity, tort or otherwise); and
 - (ii) if any of the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) are applied to any claim by the State against the Developer (whether in contract, under an indemnity, tort or otherwise), the Developer will indemnify the State against any Loss, damage, cost or expense that forms part of a claim by the State against the Developer which the State is not able to recover from the Developer because of the operation of Part 4 of the *Civil Liability Act 2002* (NSW).
- (d) The Developer must:
 - (i) in each Building Contract, subcontract it enters into for the carrying out of the work under this deed or for the supply of materials or services, include a term that (to the extent

permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or Liabilities of either party under or in any way in connection with each Building Contract, subcontract whether such rights, obligations or Liabilities are sought to be enforced by a claim in contract, under an indemnity, tort or otherwise; and

- (ii) require each Builder and subcontractor or supplier of materials or services to include, in any further contract that it enters into with a third party for the carrying out of the work under this deed, a term that (to the extent permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or Liabilities of either party under or in any way in connection with each further contract whether such rights, obligations or Liabilities are sought to be enforced by a claim in contract, under an indemnity, tort or otherwise.
- (e) The Developer must ensure that all policies of insurance covering third party liability it is required by this deed to effect or maintain (including the professional indemnity policy referred to in clause 29.9):
- (i) cover the Developer for potential Liability to the State assumed by reason of the exclusion of Part 4 the *Civil Liability Act 2002* (NSW); and
 - (ii) do not exclude any potential Liability the Developer may have to the State under or by reason of this deed.
- (f) The powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on any arbitrator appointed in accordance with the provisions of this deed.

The arbitrator has no power to make a binding or non-binding determination or any award in respect of a claim by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any dispute referred to the arbitration.

51.18 Governing Law, jurisdiction and service of process

This deed is governed by the Law in force in New South Wales.

51.19 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them.

51.20 Waiver

Each party waives any right it has to object to an action being brought in those courts including by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

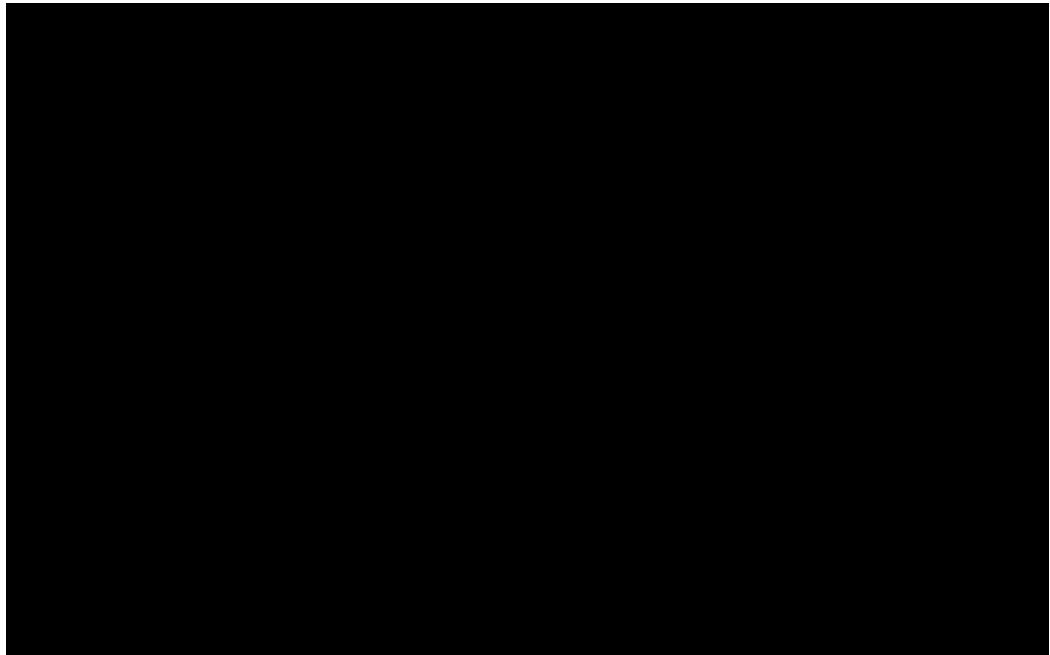
51.21 Counterparts

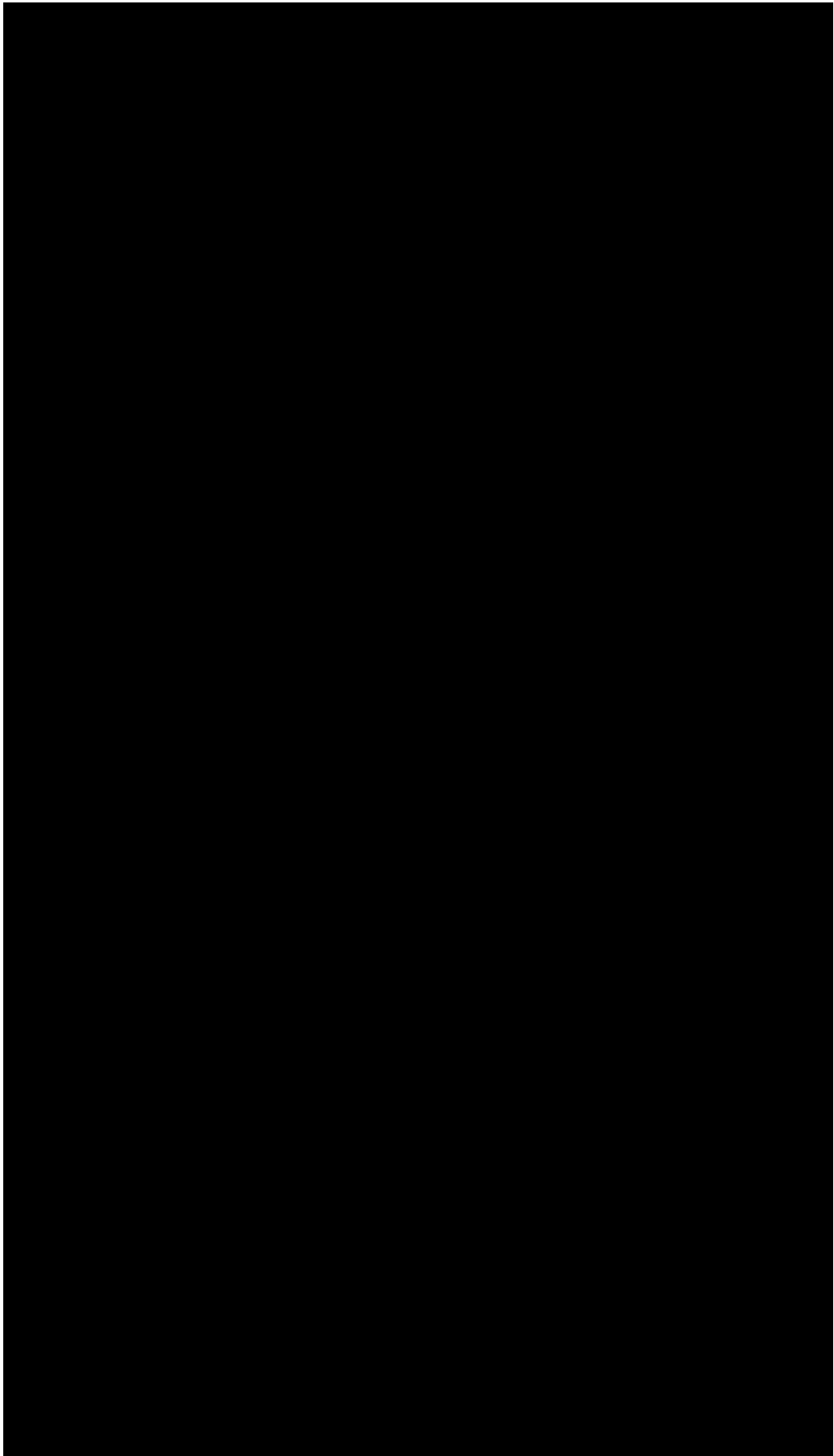
- (a) This deed may be Electronically Signed or executed in any number of counterparts.
- (b) Each counterpart constitutes an original of this deed, all of which together constitute one instrument and the same instrument.

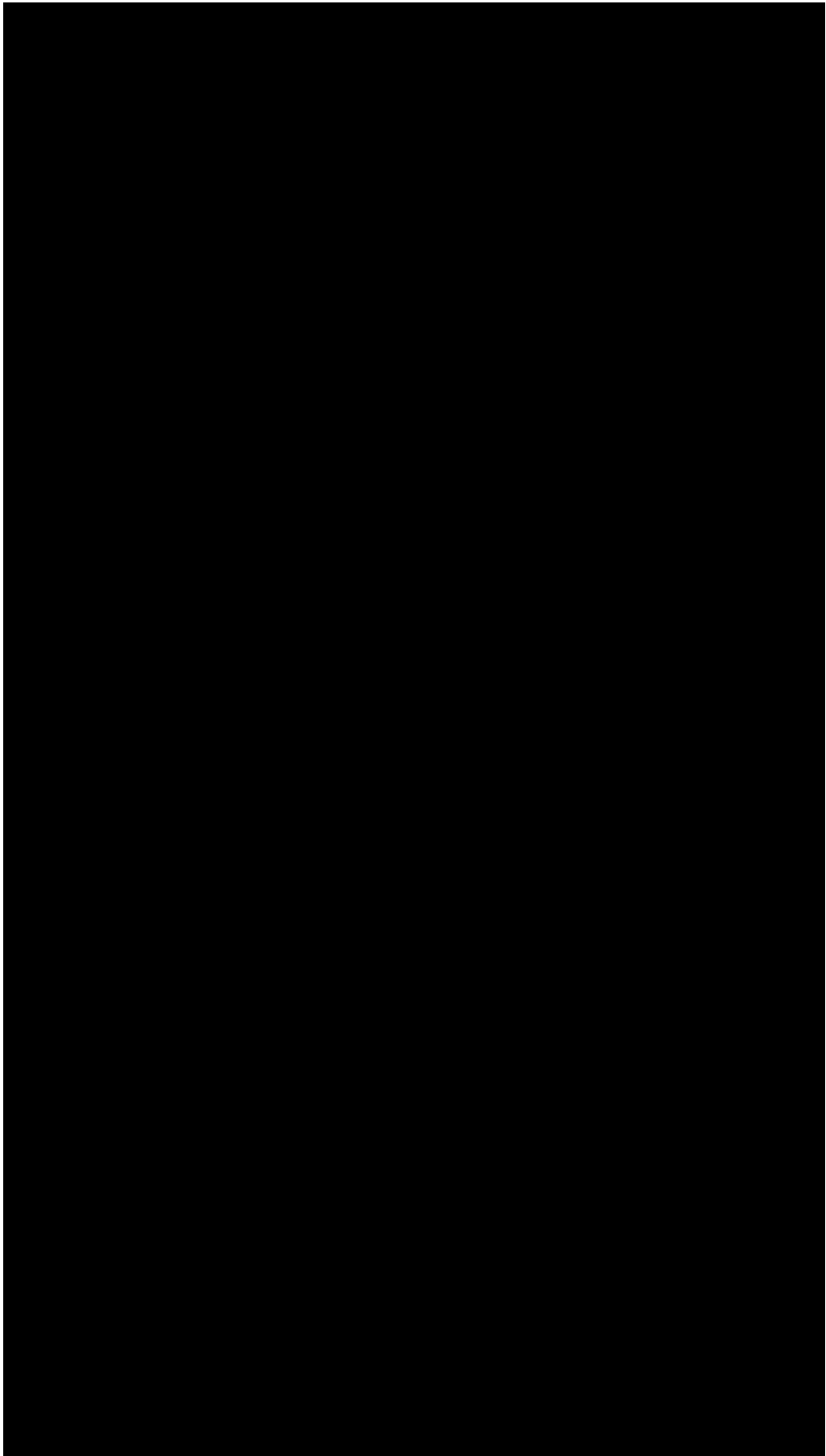
- (c) A party who has Electronically Signed or executed a counterpart of this deed:
 - (i) may exchange it with the other parties by emailing:
 - (A) a copy of the executed counterpart to that other parties; and
 - (B) if this deed has been signed on behalf of a party, all written evidence of the authority of the person that signed on their behalf; and
 - (ii) must, where this deed is executed other than by Electronic Signature, promptly deliver the original executed counterpart to the other parties by hand delivery or prepaid post.
- (d) A failure to deliver an original counterpart of this deed under clause 51.21(c)(ii) does not affect the validity of this deed.

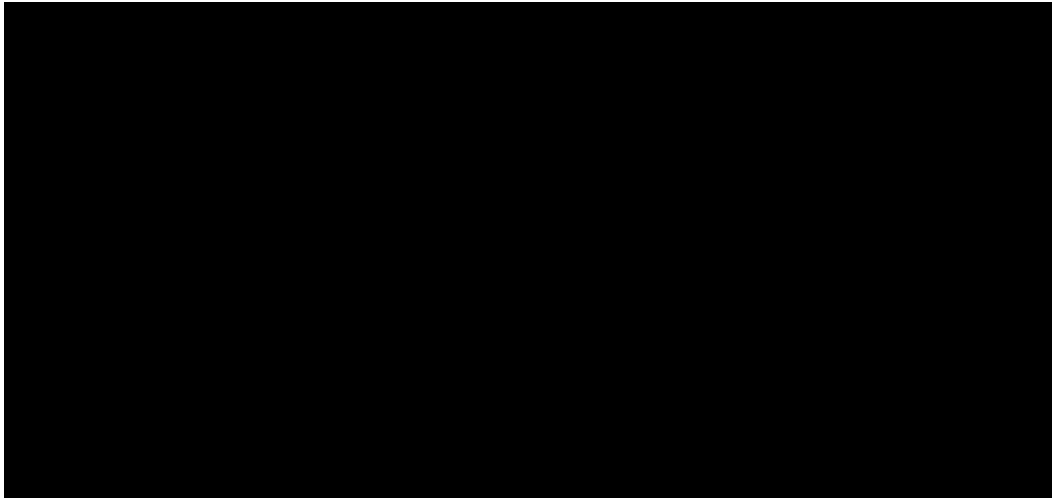
51.21A. Electronic signatures

- (a) The parties consent to this deed being signed by or on behalf of a party by an Electronic Signature.
- (b) The parties intend that any:
 - (i) copy of this deed that has been Electronically Signed by or on behalf of a party will constitute an original counterpart executed by that party; and
 - (ii) print-out of this deed with the relevant Electronic Signatures appearing will also constitute an original counterpart executed by that party.
- (c) Each signatory that signs this deed using an Electronic Signature confirms that their signature appearing in the deed, including any such print-out (irrespective of which party printed it), is their personal signature authenticating it.



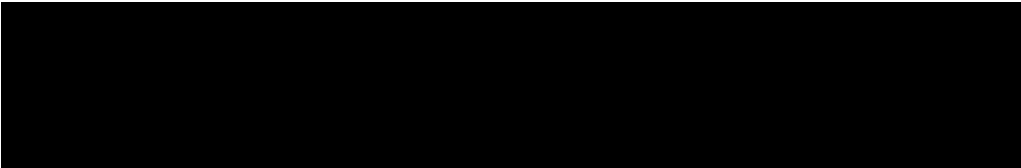






51.23 No interest in land

- (a) The Developer does not have an interest in the Land and cannot lodge a caveat over the Land, subject to the existence of the Lot 116 Lease.
- (b) In the event that the Developer breaches clause 51.23(a), the Developer agrees that the State is entitled to sign and register a dealing releasing the caveat insofar as it affects the Land.



EXECUTED as a deed

Project Development Agreement

Signing page

DATED: 19 July 2022 _____

State

**SIGNED for and on behalf of
TRANSPORT FOR NSW (ABN 18 804 239 602)**
by its authorised delegate in the presence of:

sign here ▶  _____  _____
Signature of Authorised Delegate Signature of Witness

print name ▶  _____  _____


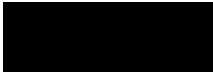
Position held ▶ Secretary Transport for NSW Senior Manager Business Services

Witness statement (delete if not applicable)

The witness states that this deed was signed in counterpart and witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000* (NSW)

Developer

**Signed sealed and delivered by
Dexus Property Services Pty Limited**
(ABN 66 080 918 252) under a Power of Attorney
dated 17 December 2021 in the presence of:

sign here ▶  _____  _____
Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney

name of attorney  _____  _____


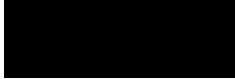


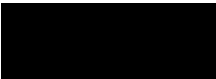
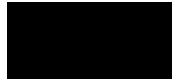


sign here ▶  _____  _____
Signature of witness Signature of witness

name of witness  _____  _____

Project Development Agreement






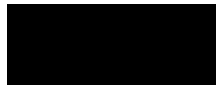


Dexus Guarantor 1

**Signed sealed and delivered by
Dexus Funds Management Limited**
(ABN 24 060 920 783) as responsible entity for
Dexus Operations Trust (ABN 69 645 176 383)
under a Power of Attorney dated 17 December 2021
in the presence of:

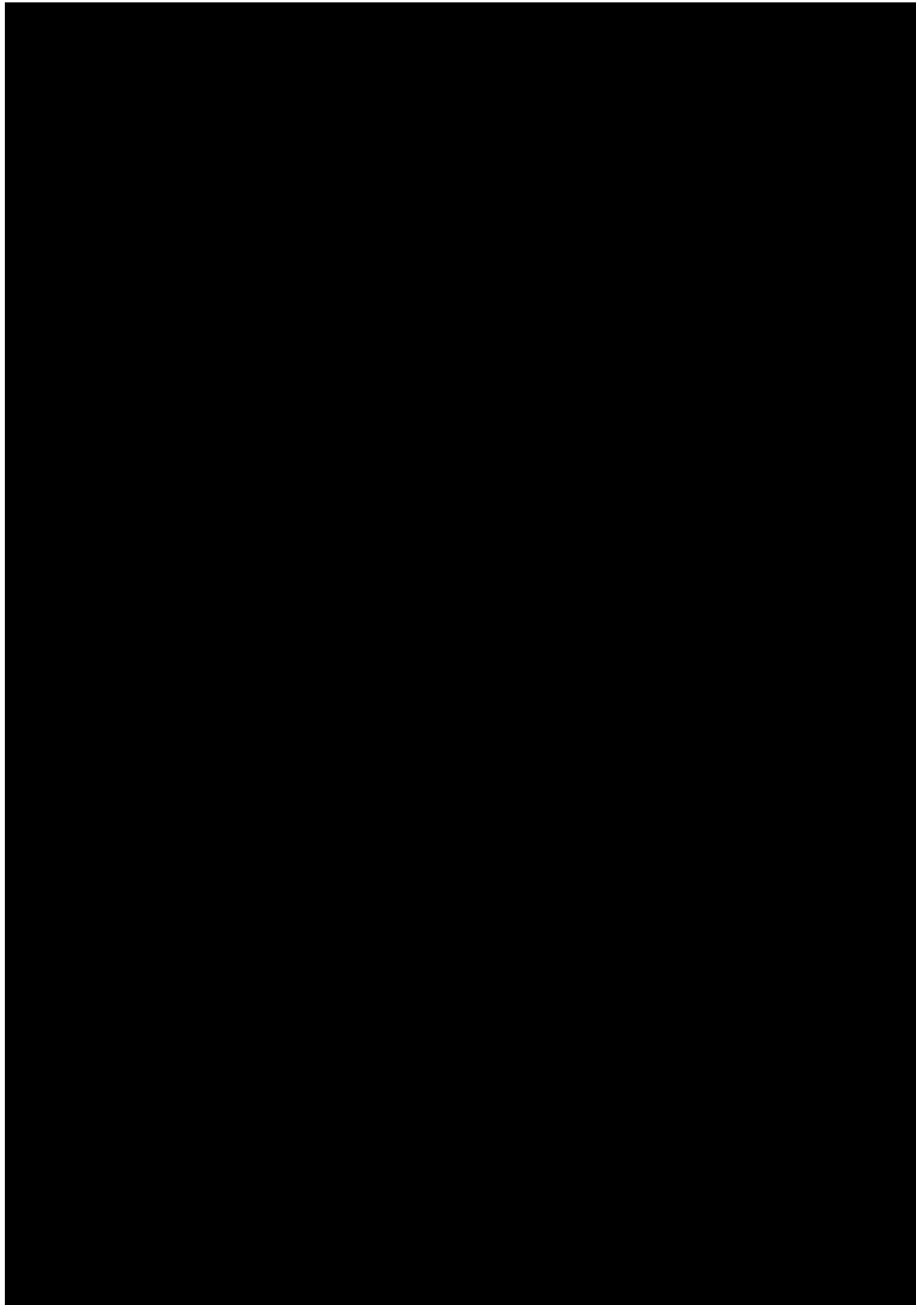
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	Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney	Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney
<i>name of attorney</i>		
<i>sign here</i> ▶		
	Signature of witness	Signature of witness
<i>name of witness</i>		

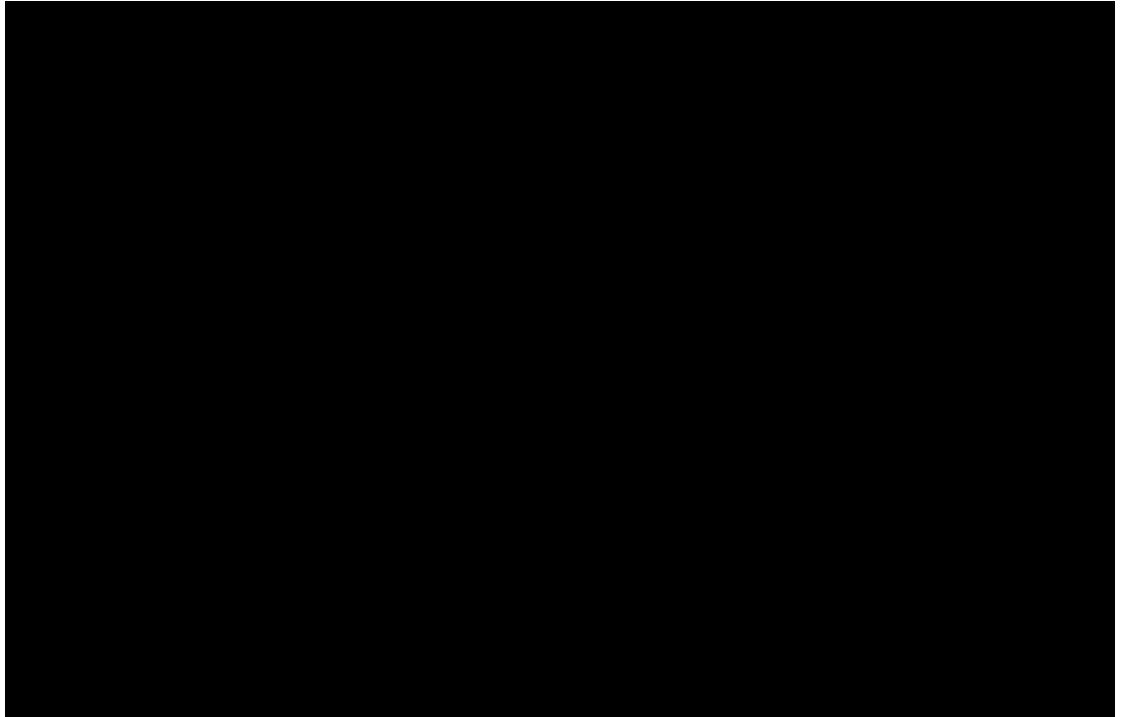
Dexus Guarantor 2

**Signed sealed and delivered by
Dexus Funds Management Limited**
(ABN 24 060 920 783) as responsible entity for
Dexus Property Trust (ABN 24 595 854 202)
under Power of Attorney dated 17 December 2021
in the presence of:

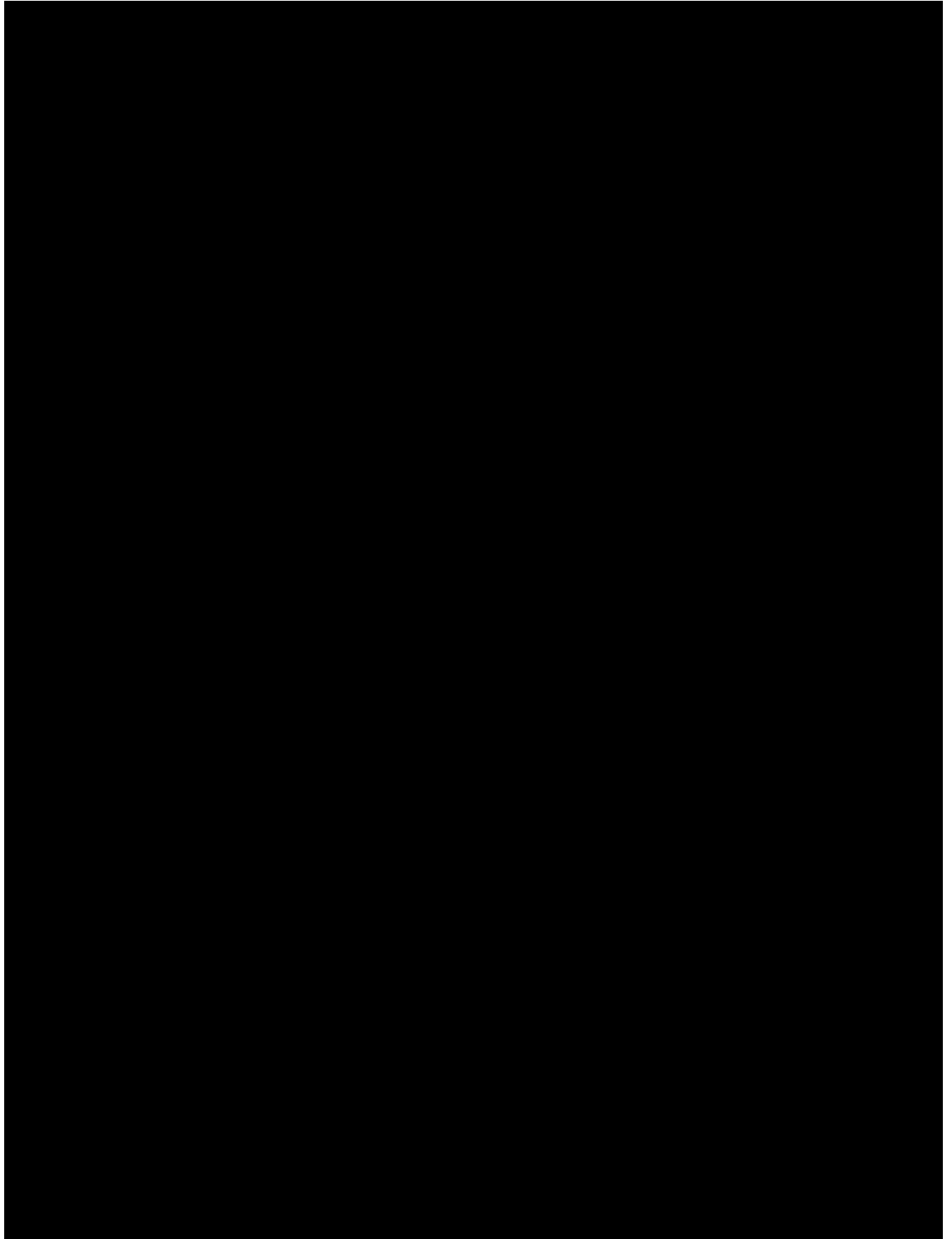
<i>sign here</i> ▶		
	Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney	Signature of attorney who declares that the attorney has not received any notice of the revocation of the Power of Attorney
<i>Name of Attorney</i>		
<i>sign here</i> ▶		
	Signature of witness	Signature of witness
<i>Name of witness</i>		

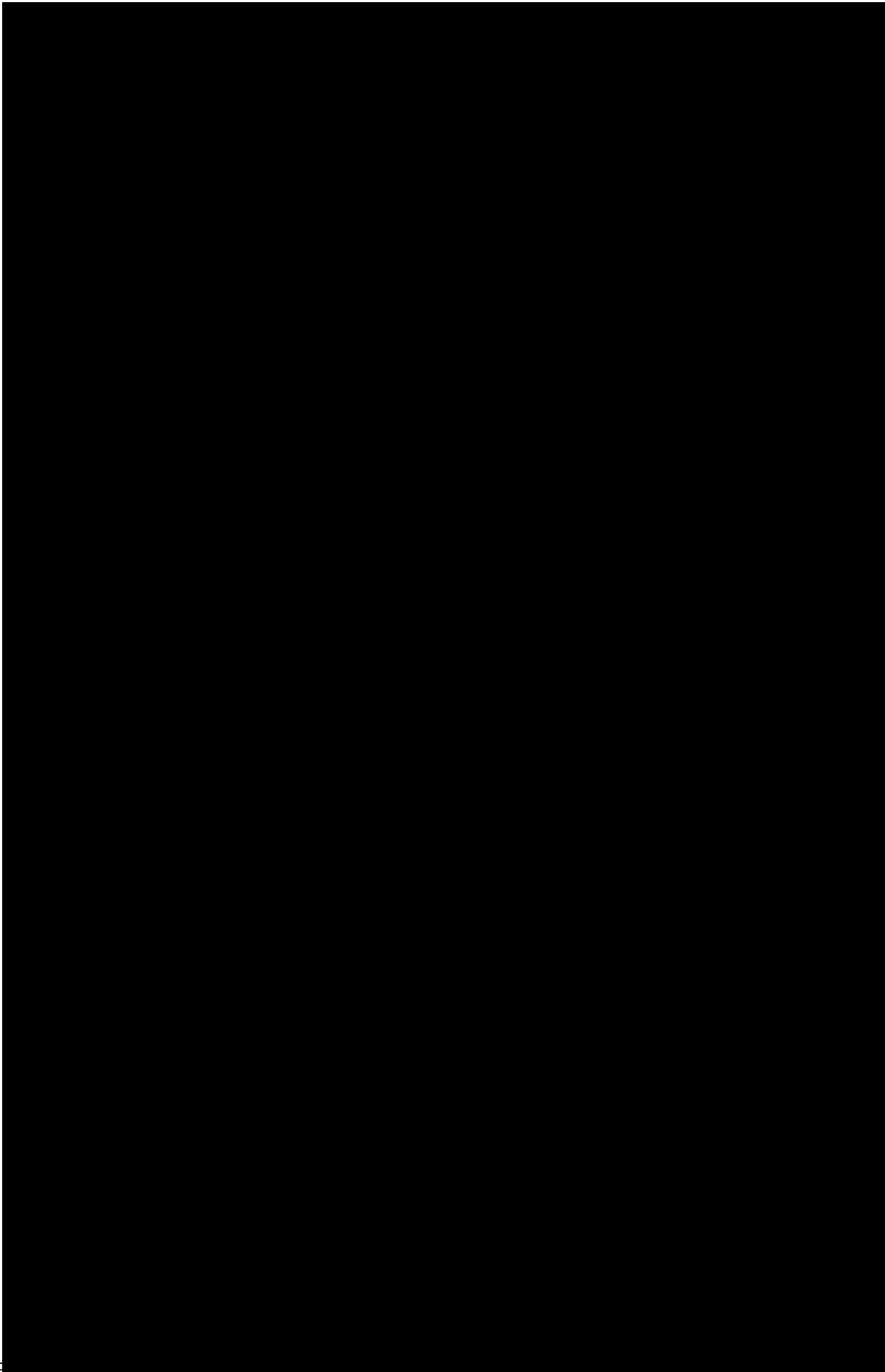
Schedule 1 Minimum Building Requirements

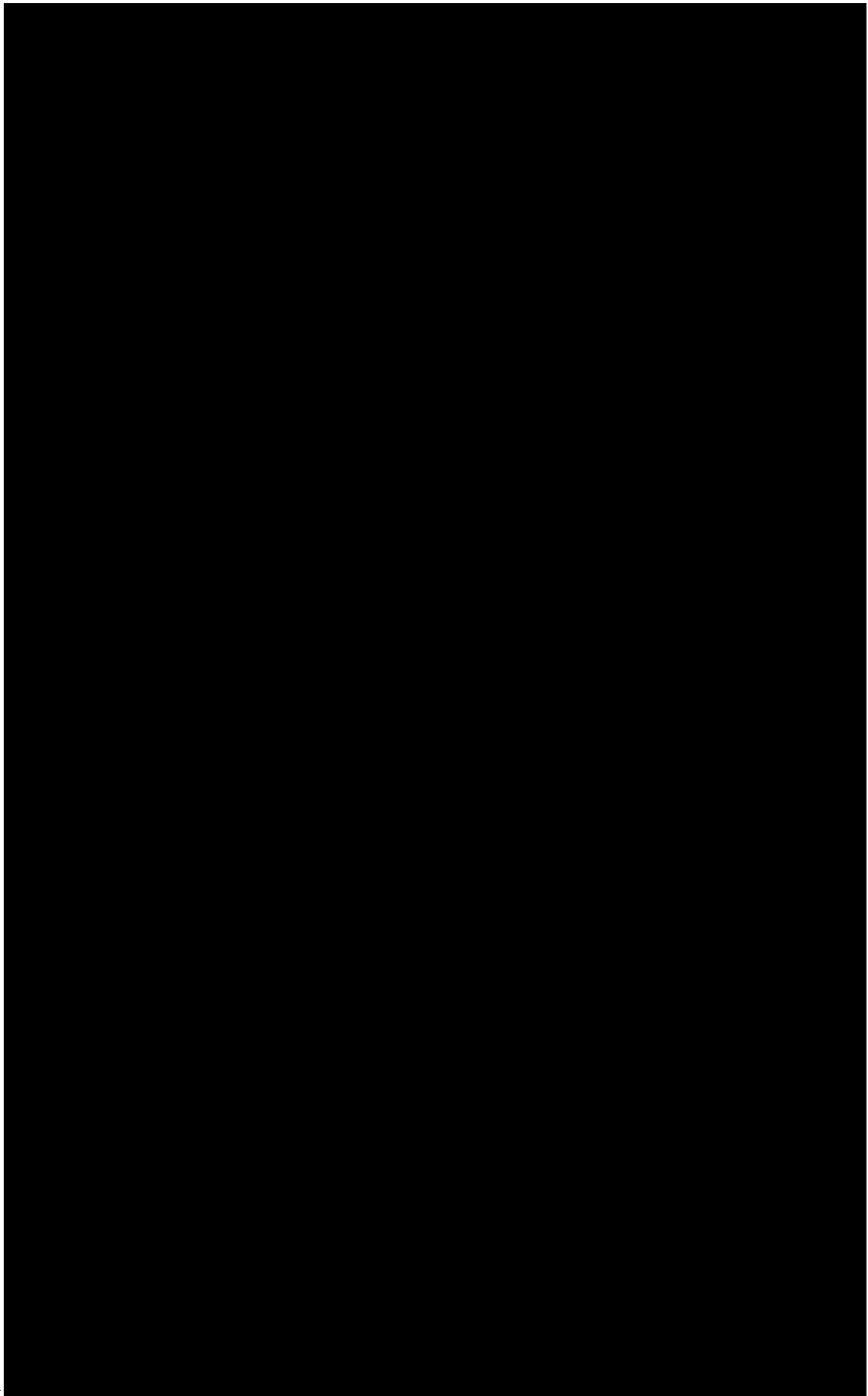


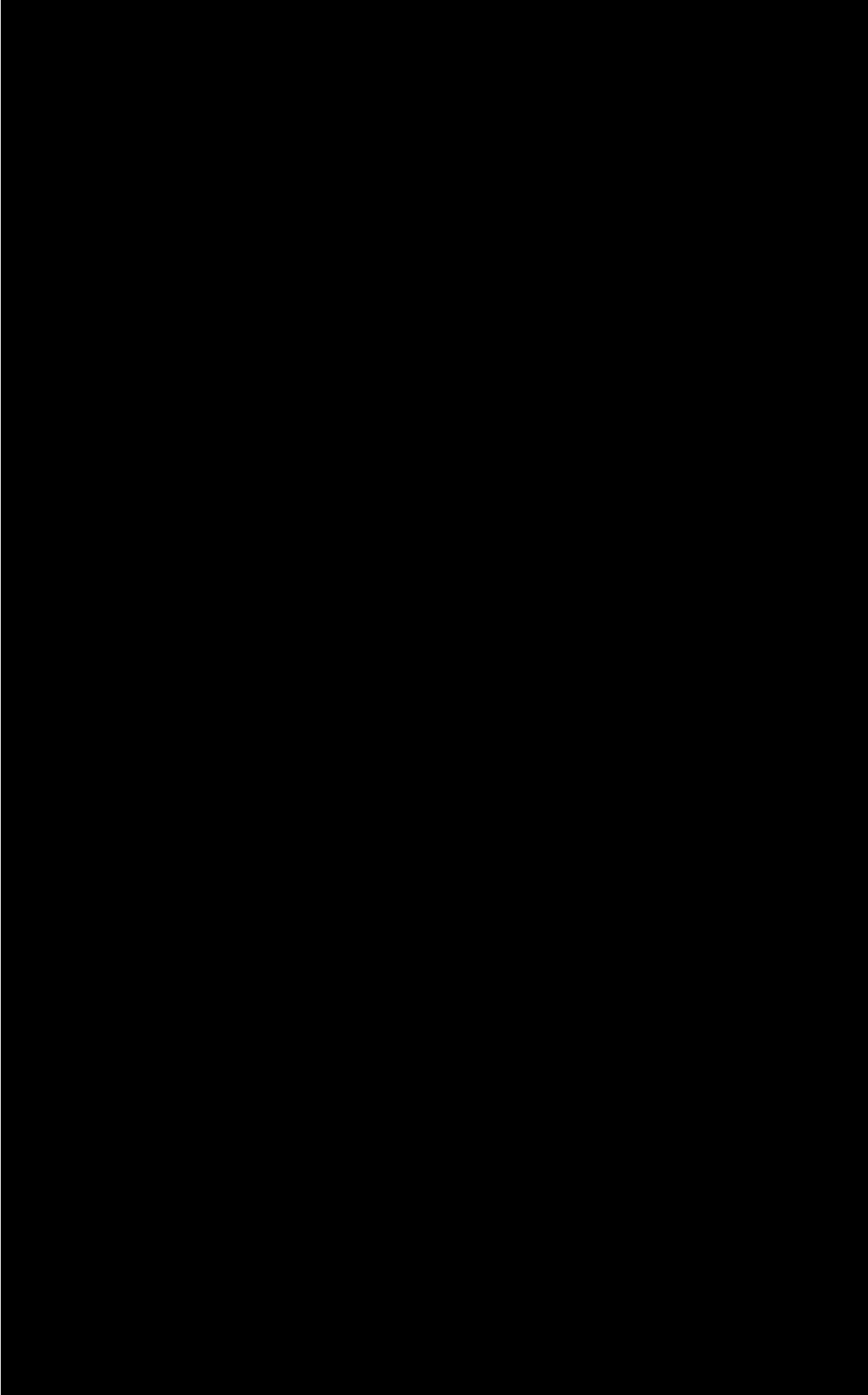


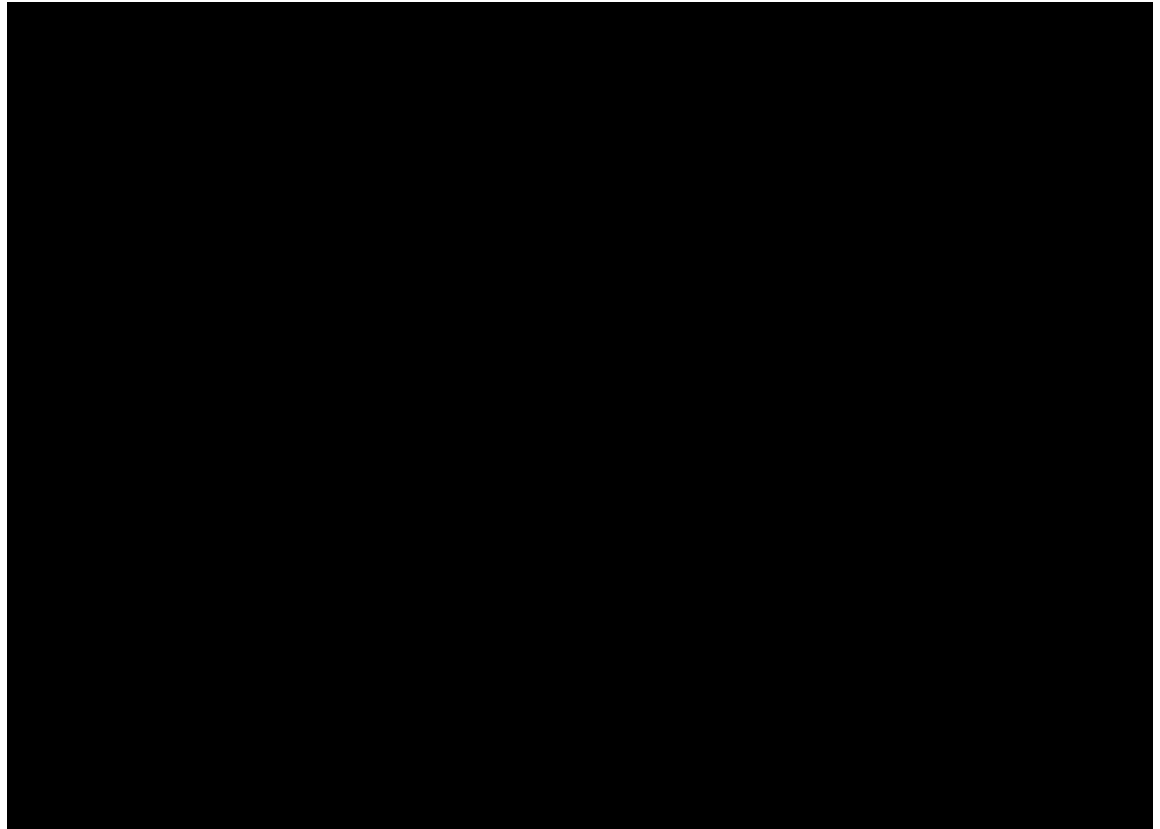
Schedule 2 State Works Minimum Requirements



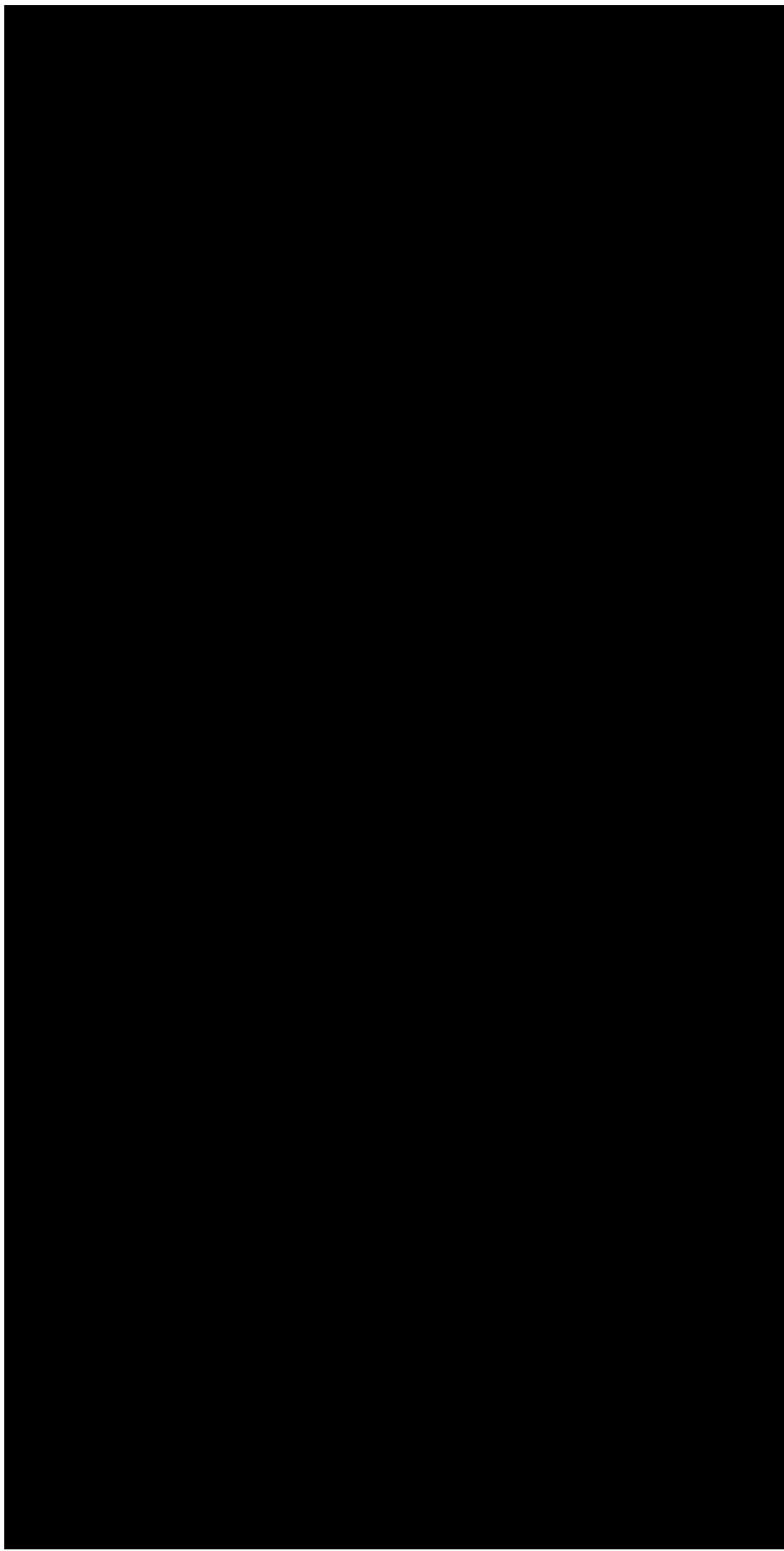








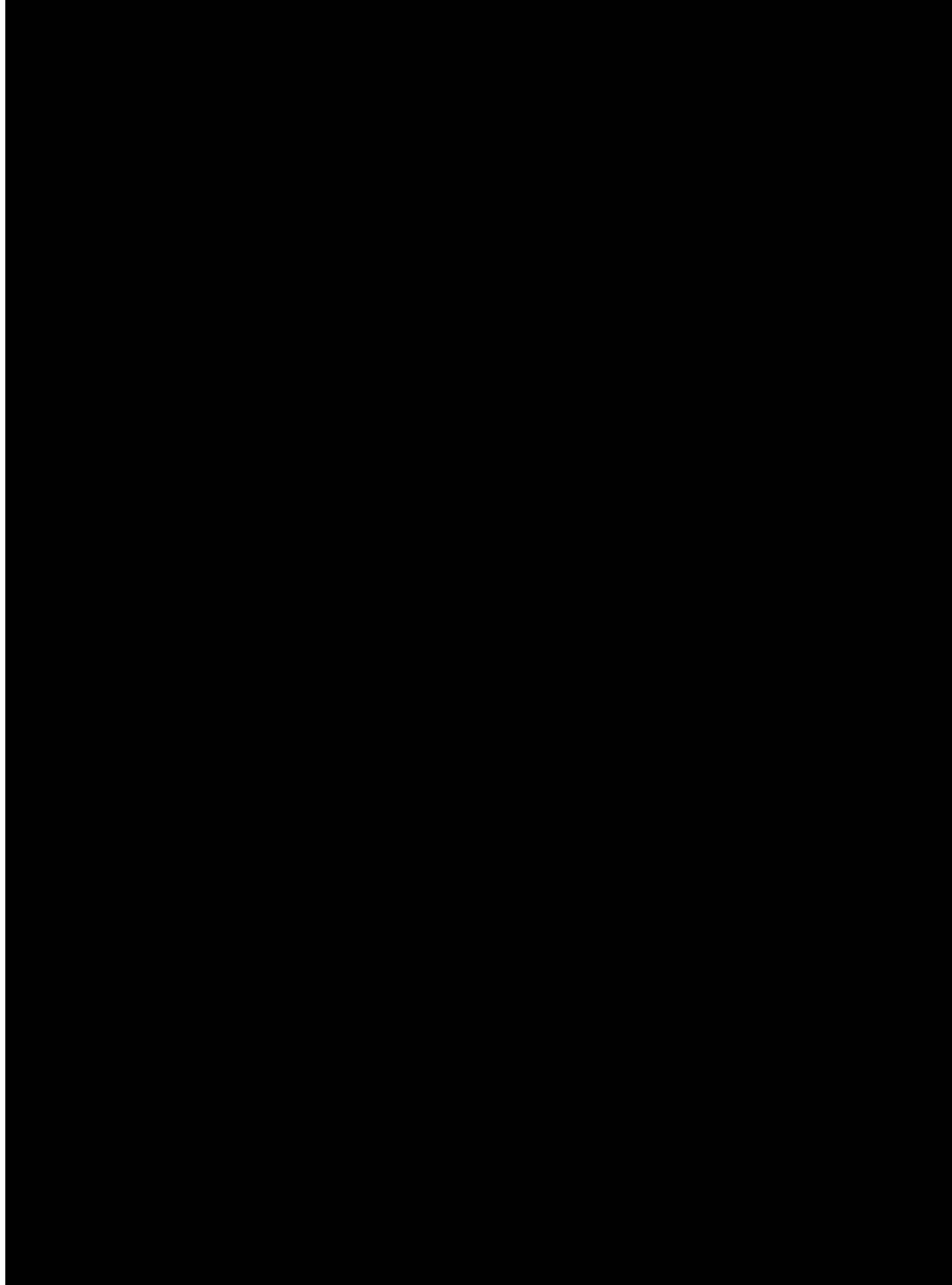
Schedule 3 Development Program

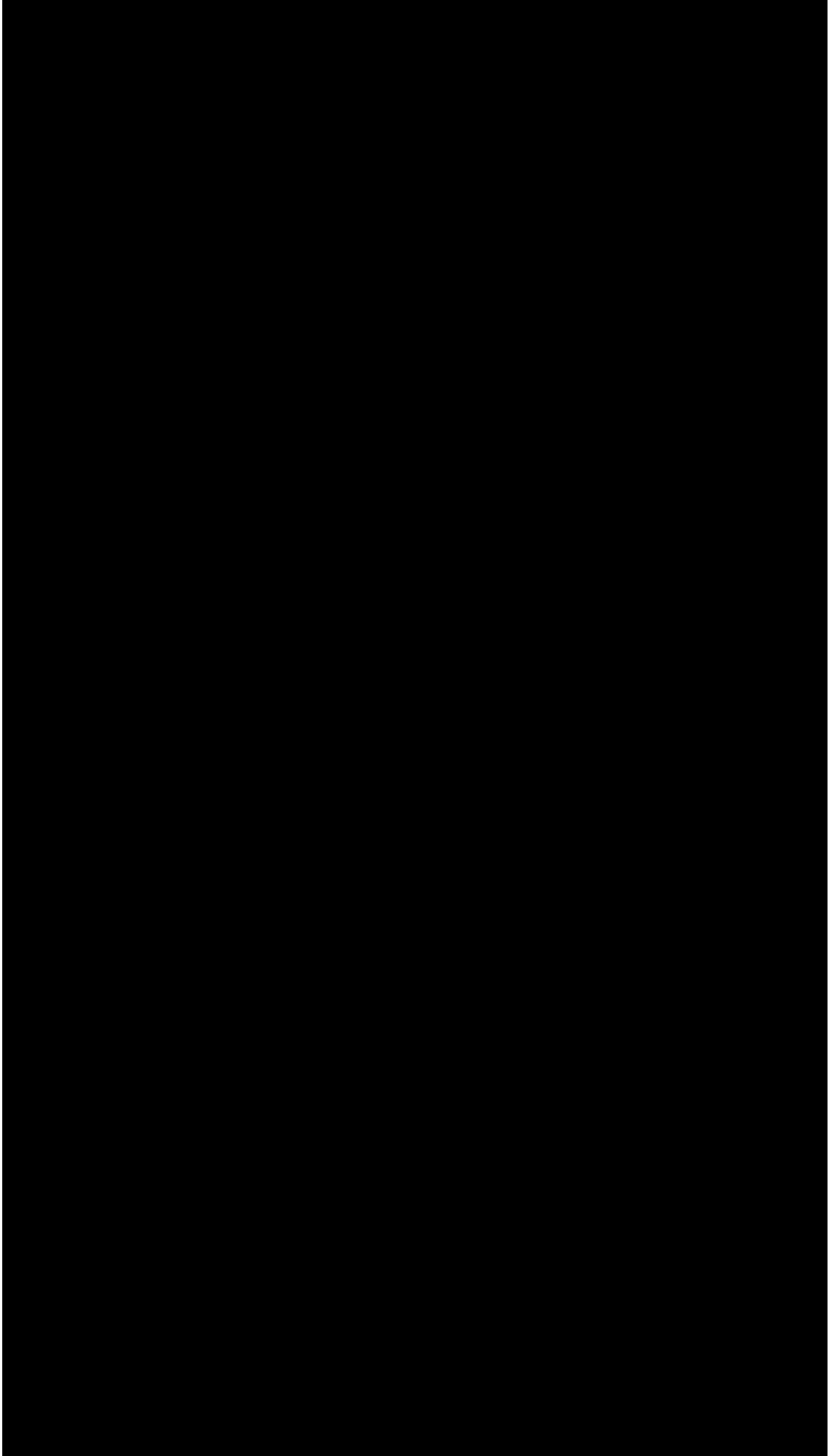


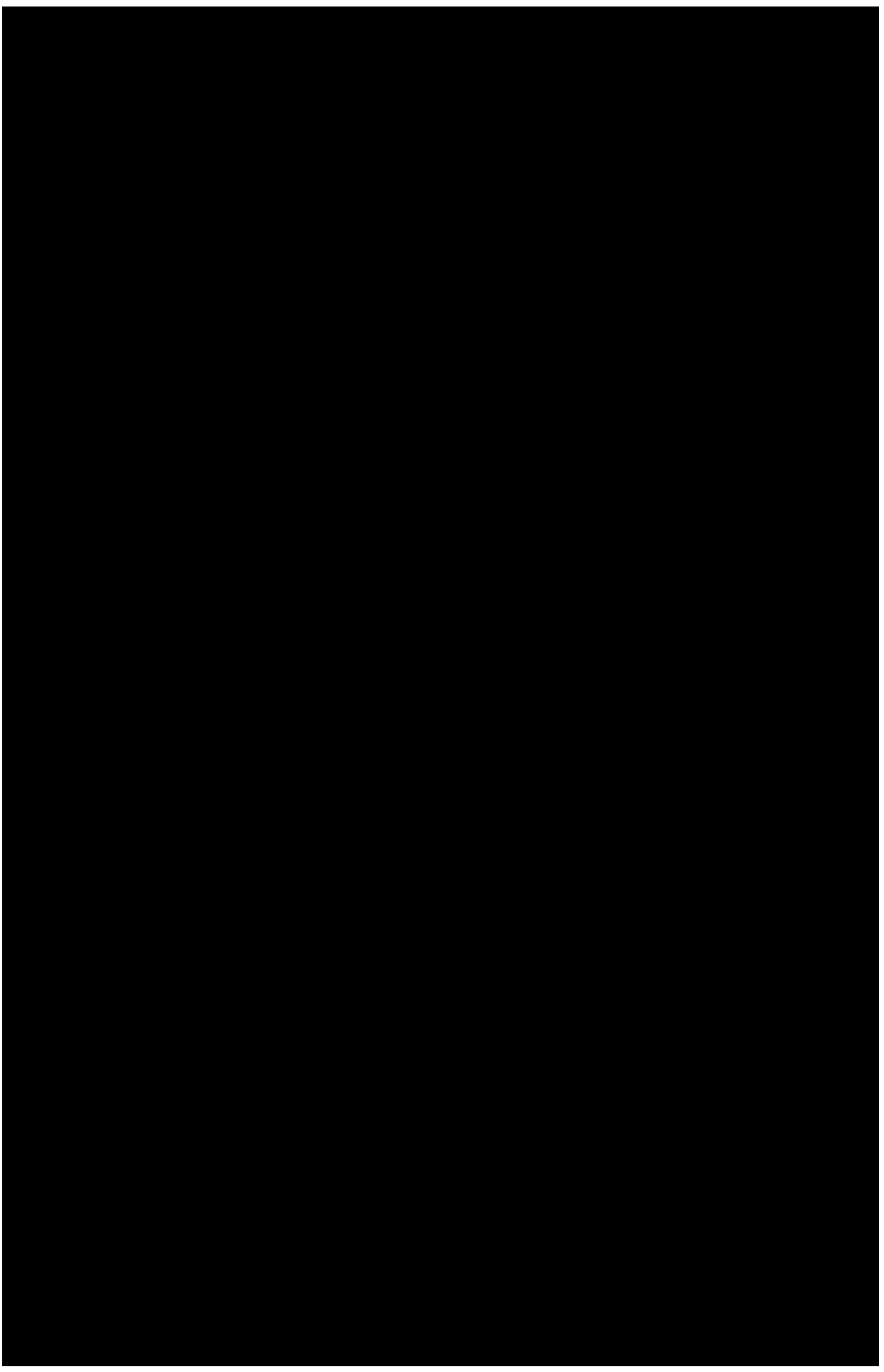
Schedule 4 Design Plan

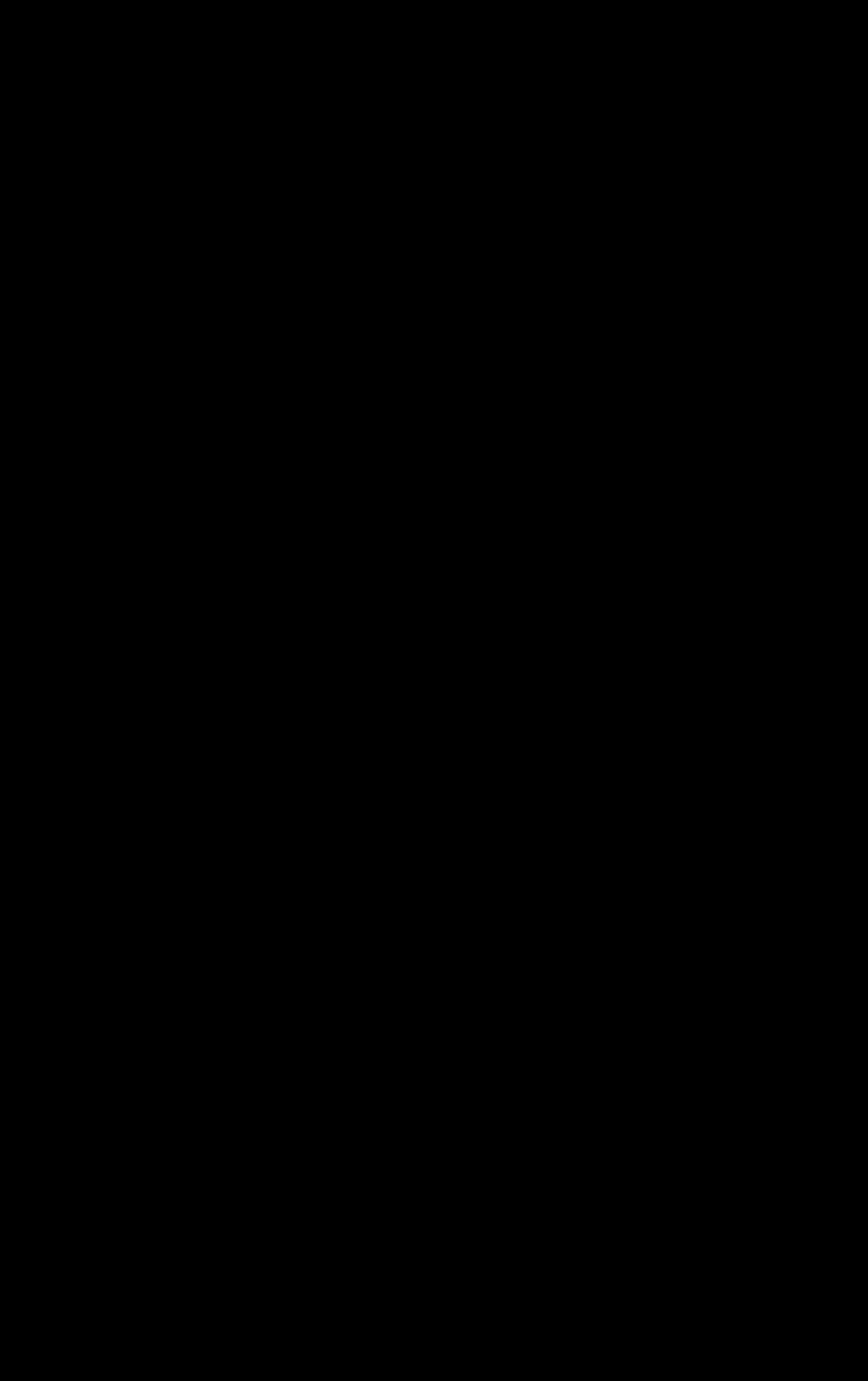
Design Package	Description	75% Design Submission to TfNSW	AFC Design Submission to TfNSW
Design Package 1	Heritage & Demolition	6/10/2021	24/11/2021
Design Package 2	Retention & Earthworks	15/12/2021	25/03/2022
Design Package 3	Core, Basement & Podium Structure	7/11/2022	15/06/2023
Design Package 4	Super Structure	13/12/2022	01/08/2023
Design Package 5	Tower Façade, finishes & Services	28/02/2023	1/10/2023
Design Package 6	Finishes & Heritage	23/06/2023	28/11/2023

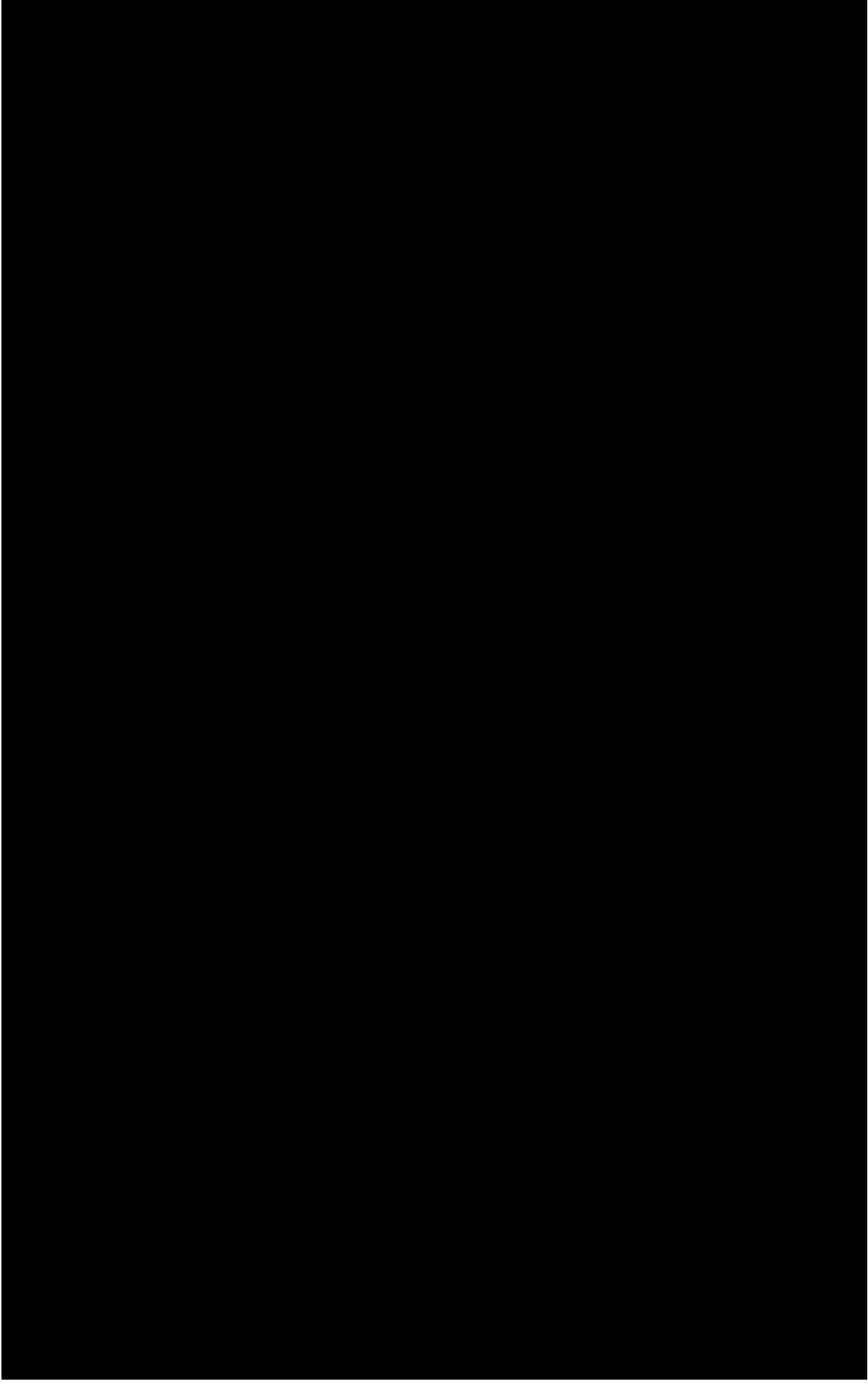
Schedule 5 Site Access Schedule

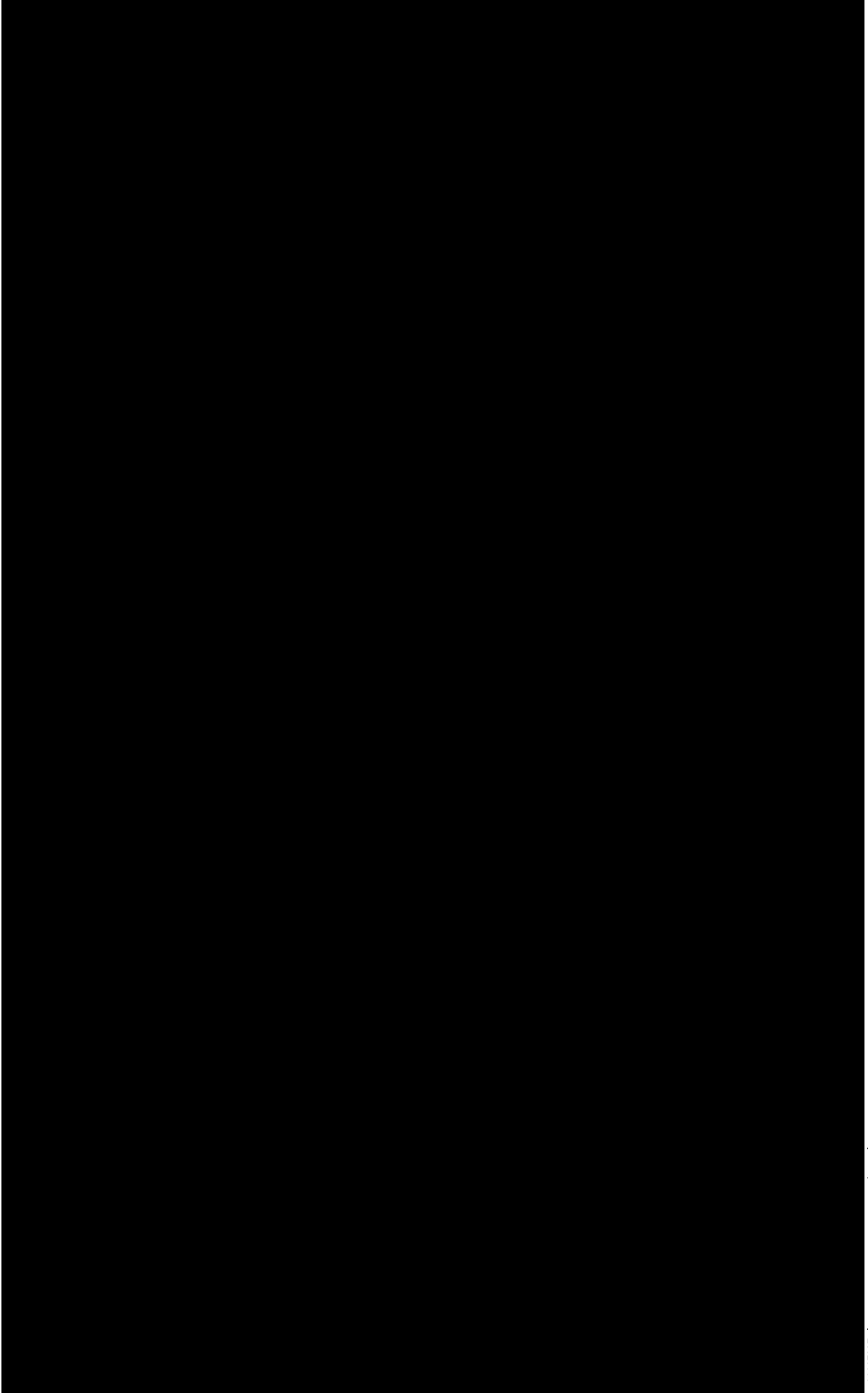


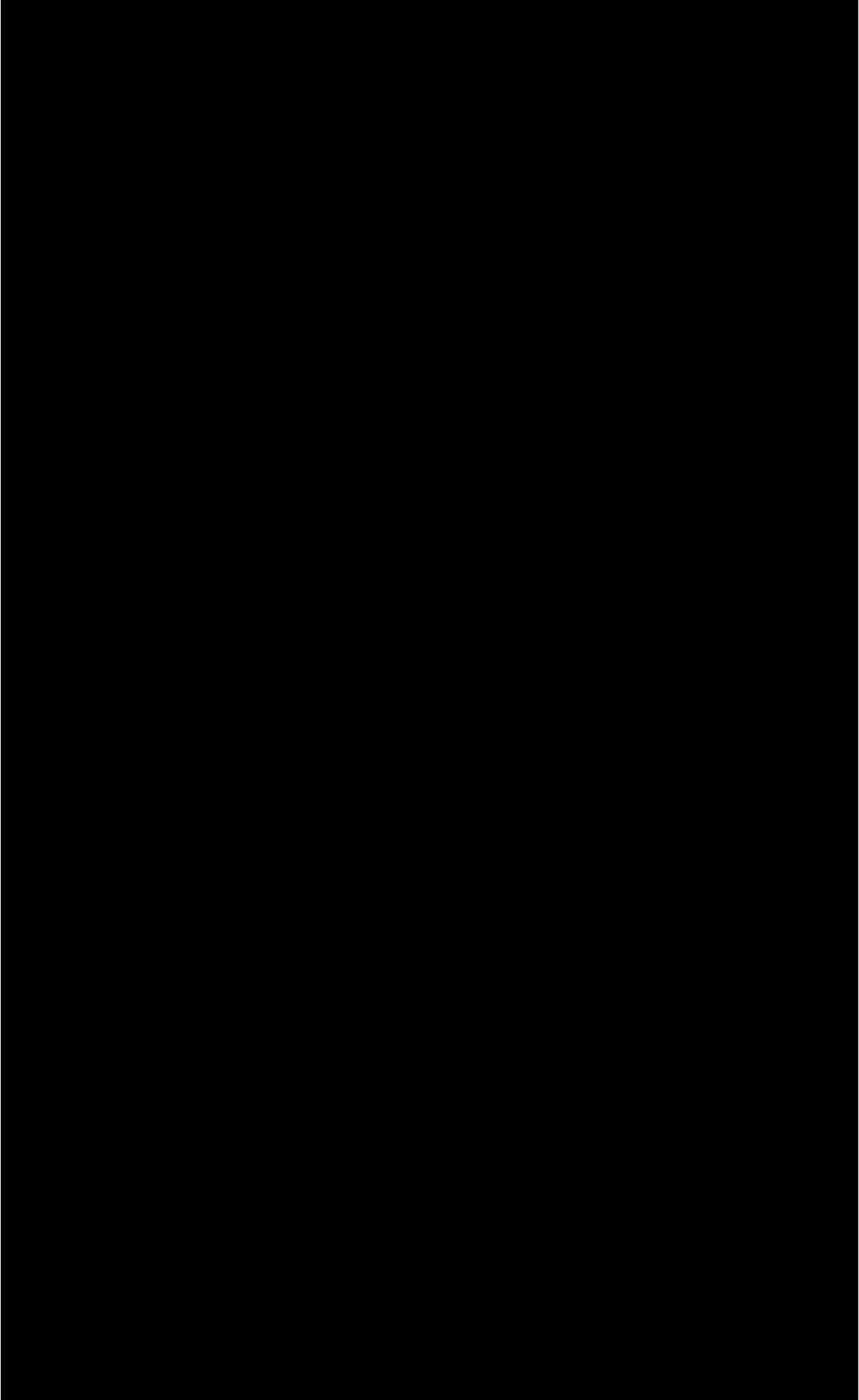


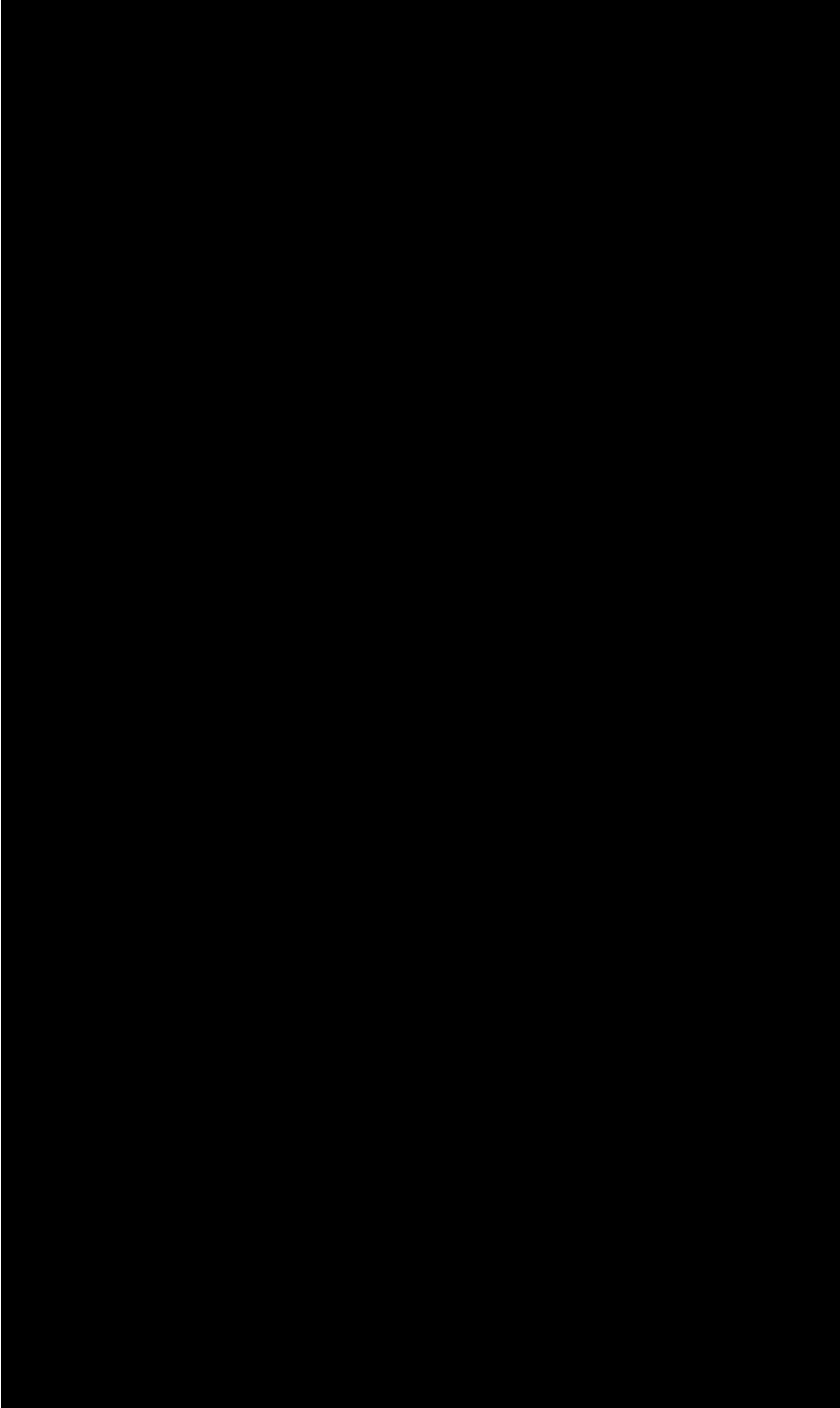


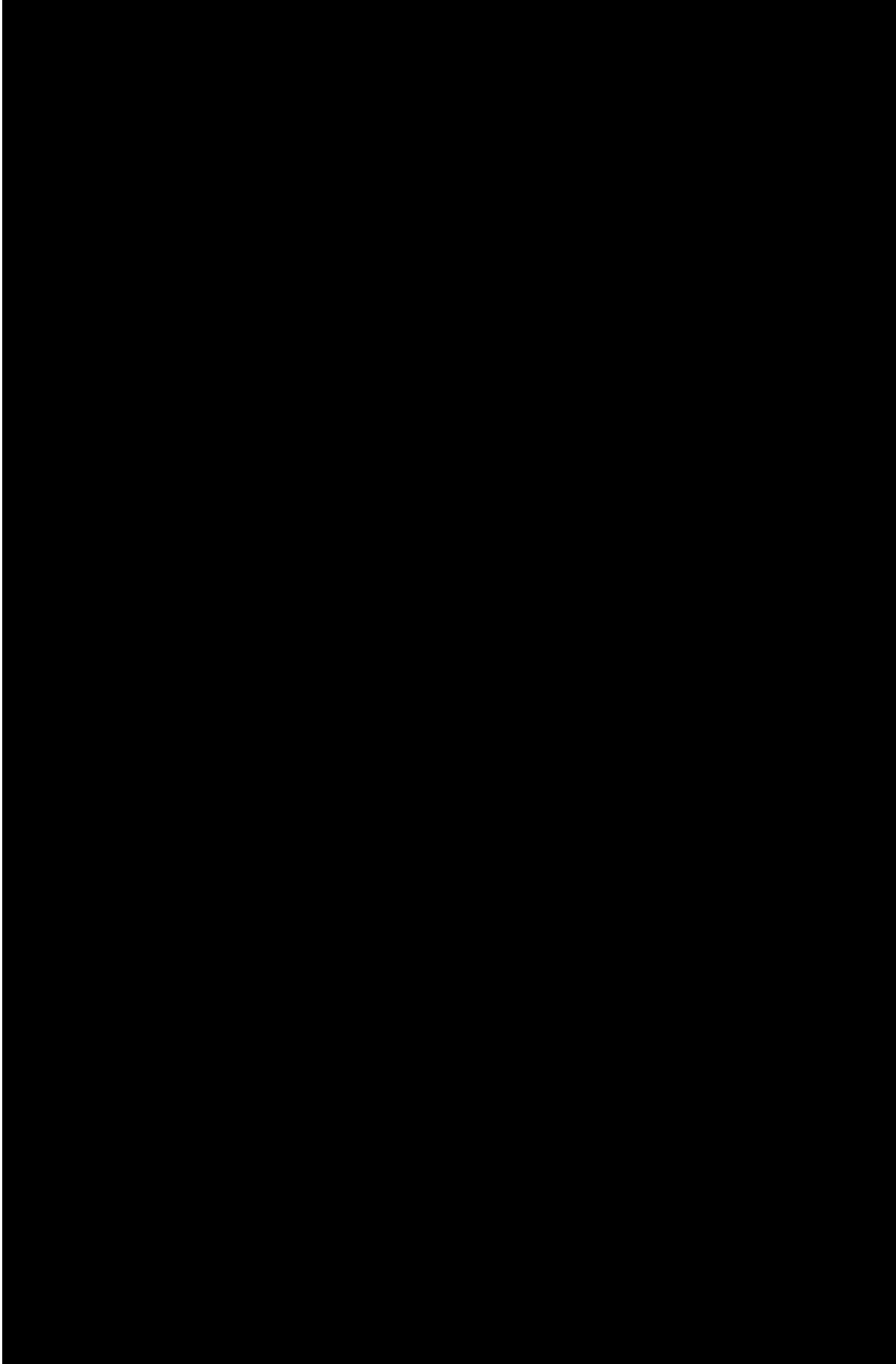


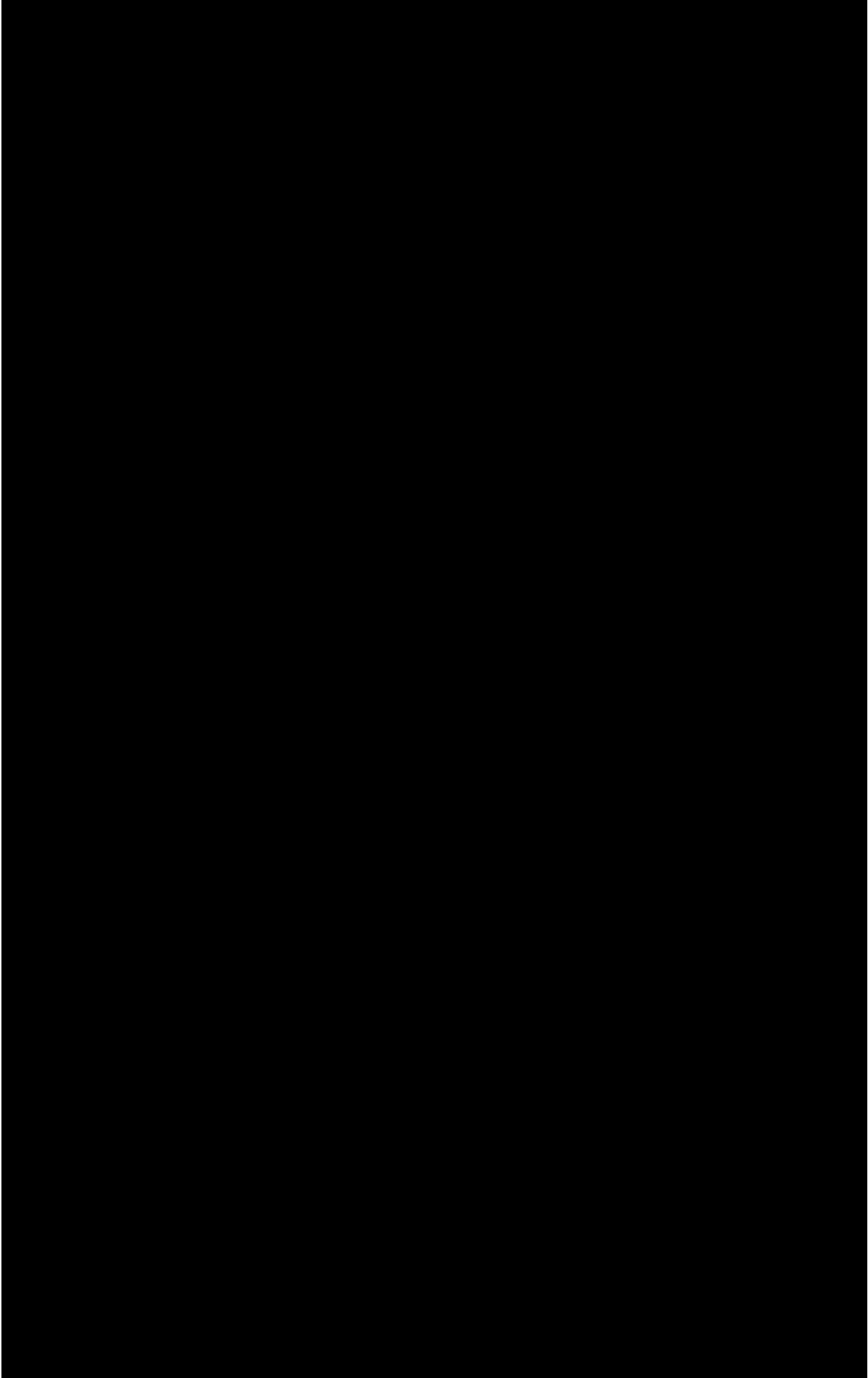


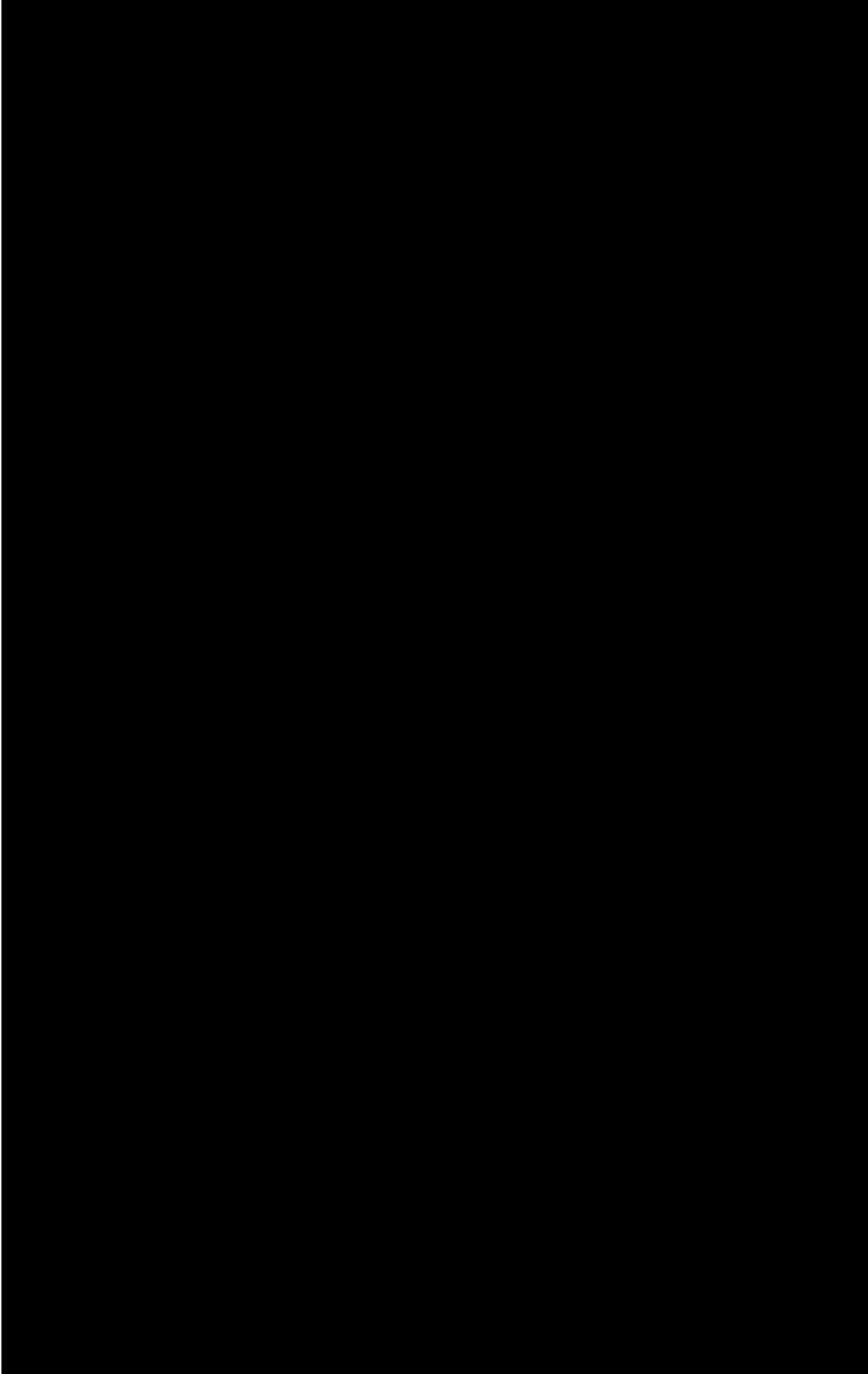


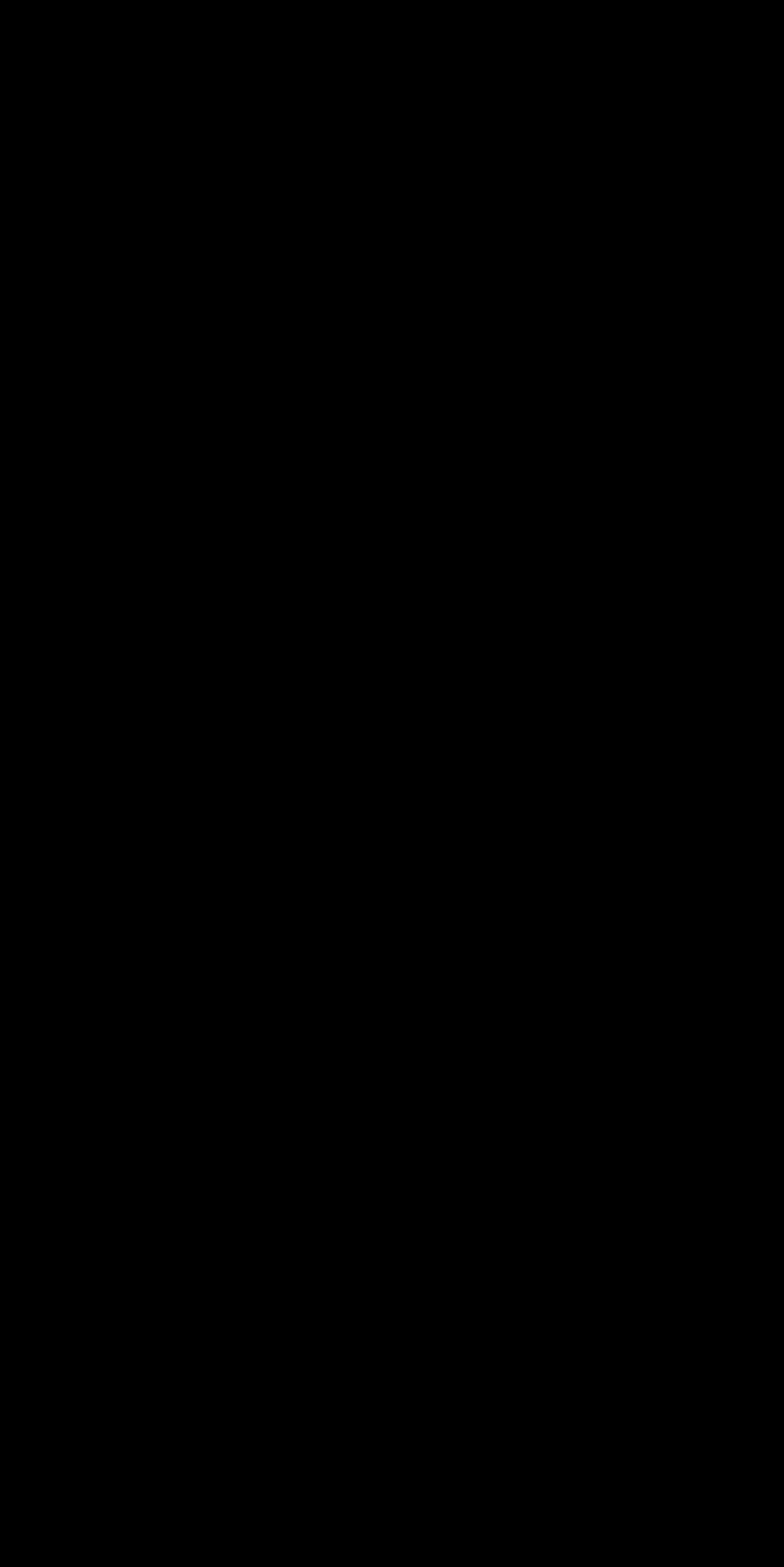


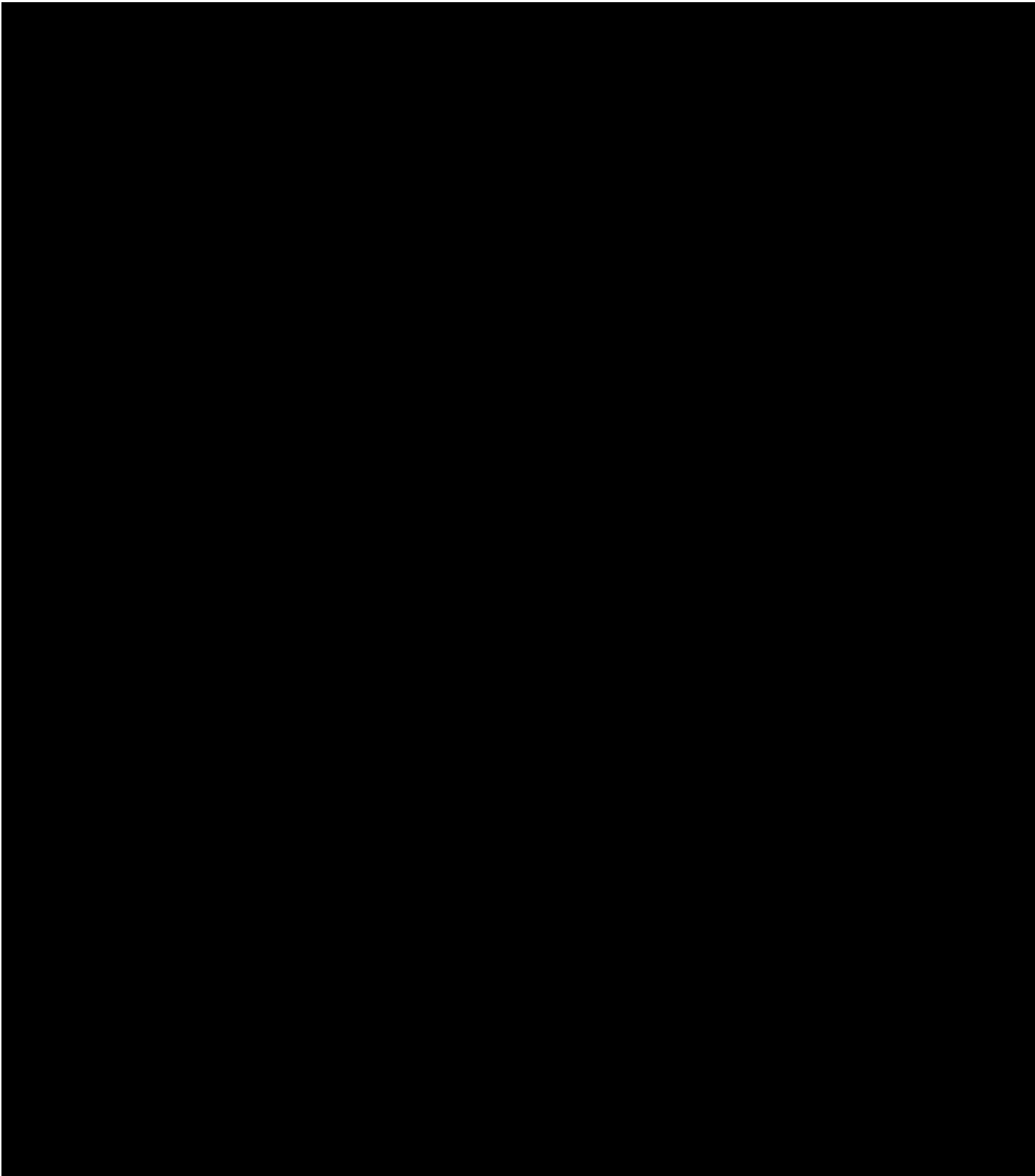












Schedule 6 Construction Licence

The terms and conditions of the Construction Licence granted pursuant to clause 16.2 are set out in this Schedule 6.

1. Grant of non-exclusive licence

- (a) The State grants to the Developer a non-exclusive licence to access and use each Site set out in Schedule 5:
 - (i) to do all things reasonably necessary to deliver the Project, including to:
 - (A) obtain Approvals;
 - (B) carry out the Works; and
 - (C) comply with the Developer's obligations under this deed; and
 - (D) undertake the Fitout Works, in which case for the duration of that access those entities and persons will be the Developer's Employees and Agents;
 - (ii) for any other use which the State approves in its absolute discretion,subject to the conditions contained in this Schedule 6.
- (b) The Developer may grant sublicences to third parties including the Developer's Employees and Agents, YHA, contractors and retail tenants for the purposes permitted under this clause 1, provided that:
 - (i) those sublicences are consistent with the terms of this licence;
 - (ii) the grant of such sublicences does not reduce or waive the obligations of the Developer under this deed; and
 - (iii) the sublicense must be consistent with the terms of access contained in Schedule 5.

2. Licence term

The Construction Licence in respect of each part of the Site referred to in Schedule 5:

- (a) commences on the relevant Access Commencement Date; and
- (b) expires at midnight on the relevant Access End Date.

3. Use of the Land

The Developer must not use (and must procure that any sublicensees must not use) any part of a Site for any purpose other than as provided in clause 1 of this Schedule 6 and the Developer will not (and must procure that any sublicensees do not) do anything in or around any part of the Site which may constitute a breach of the Developer's obligation under the Codes and Standards.

4. Developer Obligation

4.1 No propriety interest

The Developer:

- (a) does not have exclusive possession or occupation of any part of the Site; and
- (b) is not a tenant of the State.

4.2 Care of Site

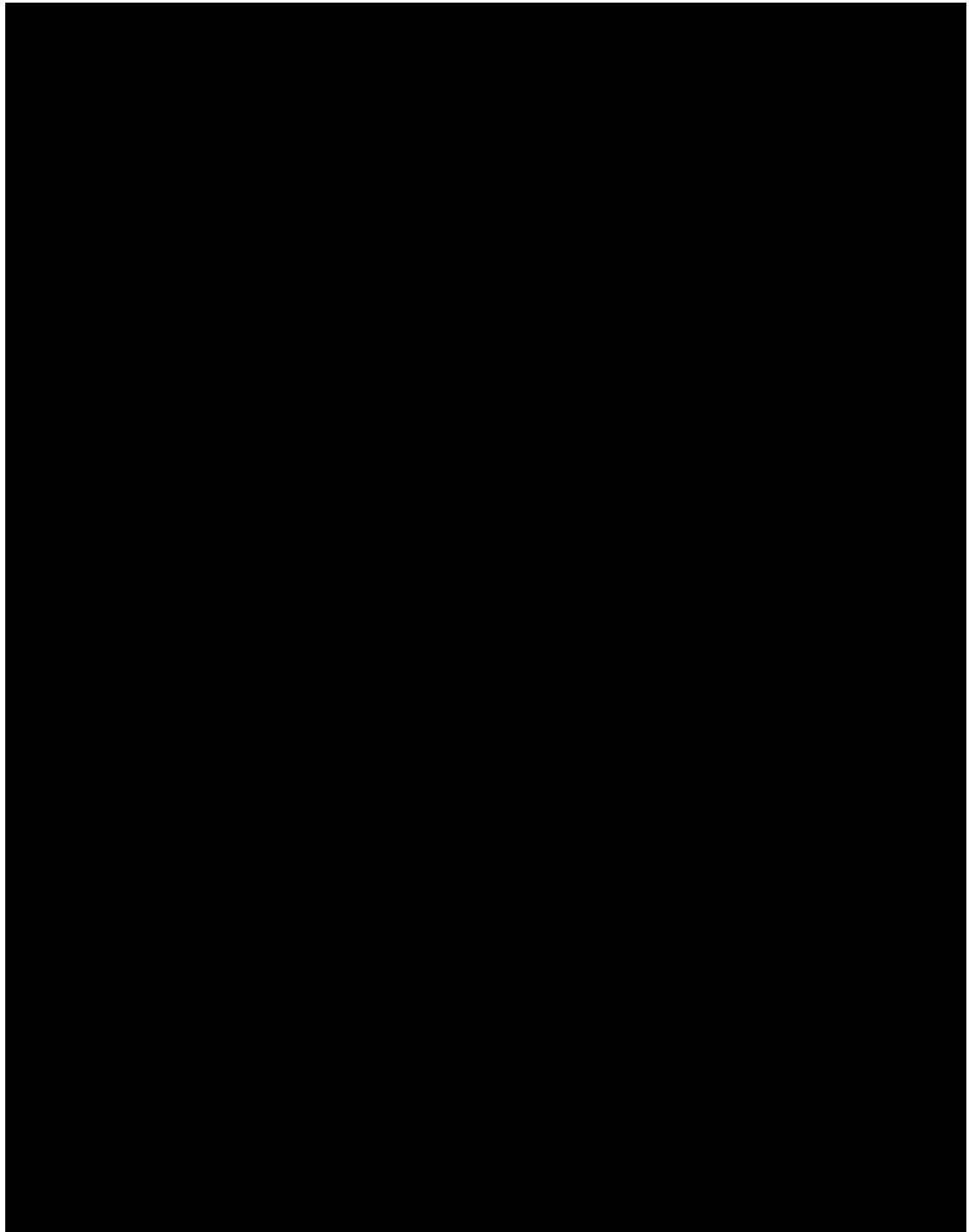
The Developer:

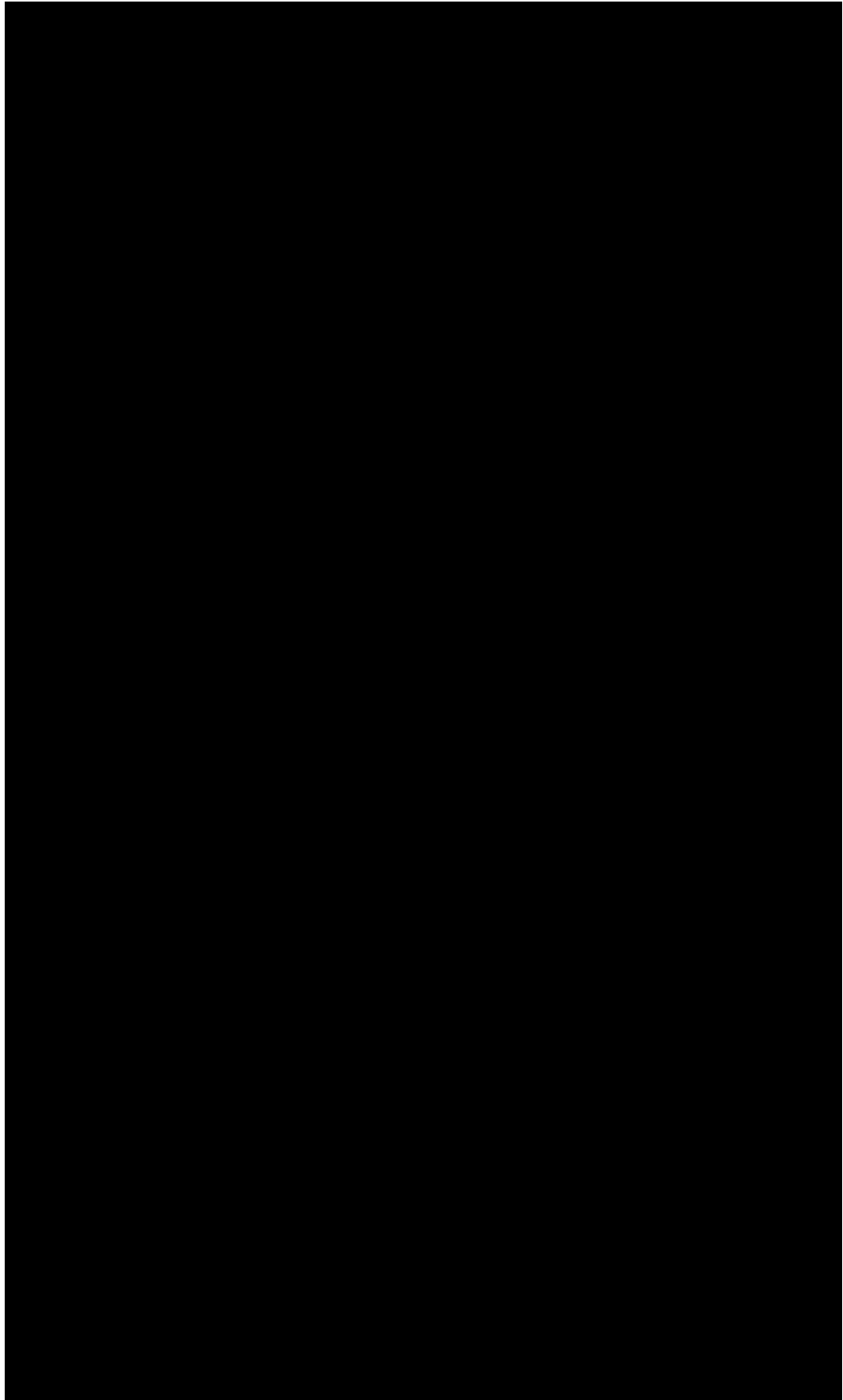
- (a) must not make any structural additions to any part of the Site other than in accordance with this deed;
- (b) must make good damage to any part of the Site caused by the Developer or any sublicensees and return that part of the Site to the State in the same condition it was delivered to the Developer or otherwise in accordance with the relevant "Terms of Handback" set out in Schedule 5;
- (c) must, upon termination of the licences in relation to the Ambulance Avenue Area promptly:
 - (i) remove any rubbish and equipment from the Ambulance Avenue Area and make good the Ambulance Avenue Area to its condition as at the date on which the Ambulance Avenue Area was delivered to the Developer by the State; and
 - (ii) vacate the Ambulance Avenue Area and deliver vacant possession of the Ambulance Avenue Area to the State.

4.3 Transfer and other dealings

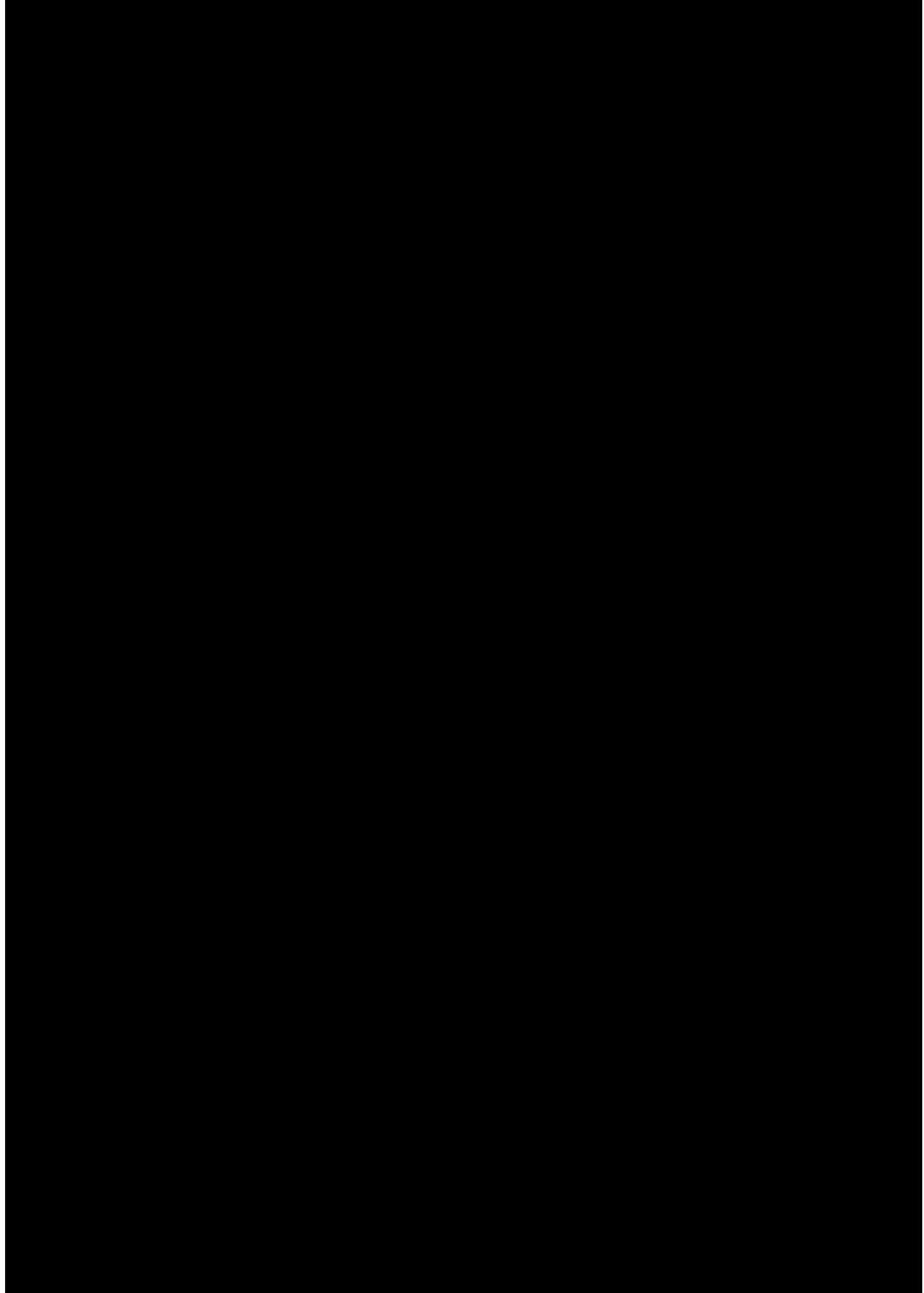
The Developer must not transfer, assign, sub-licence (other than to sublicensees permitted under clause 1(b) of this Schedule 6) or grant any encumbrance over or otherwise deal with a Site or any part a Site or use a Site or any part of a Site other than in accordance with this deed or with the State's prior written consent.

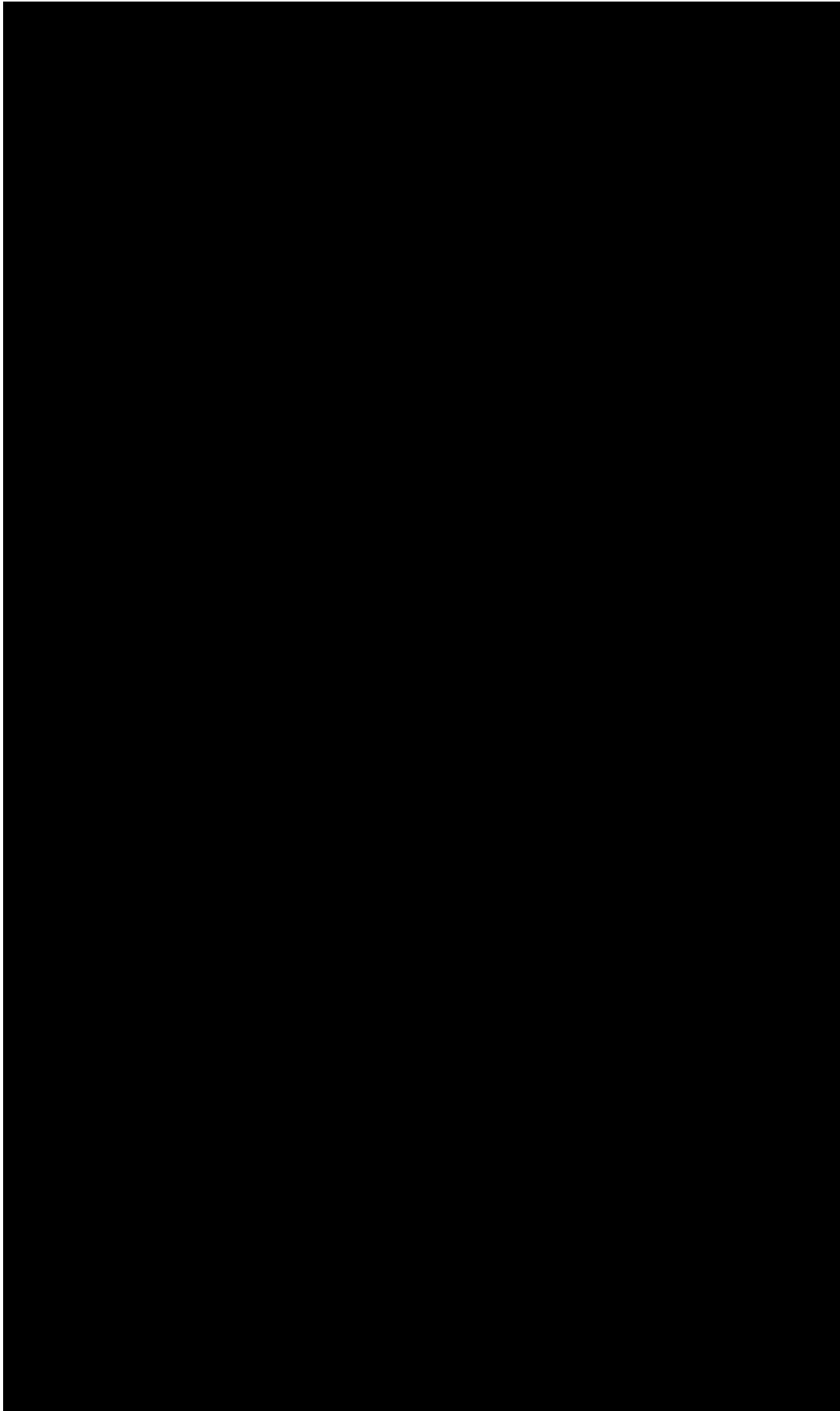
Schedule 7 Form of Security

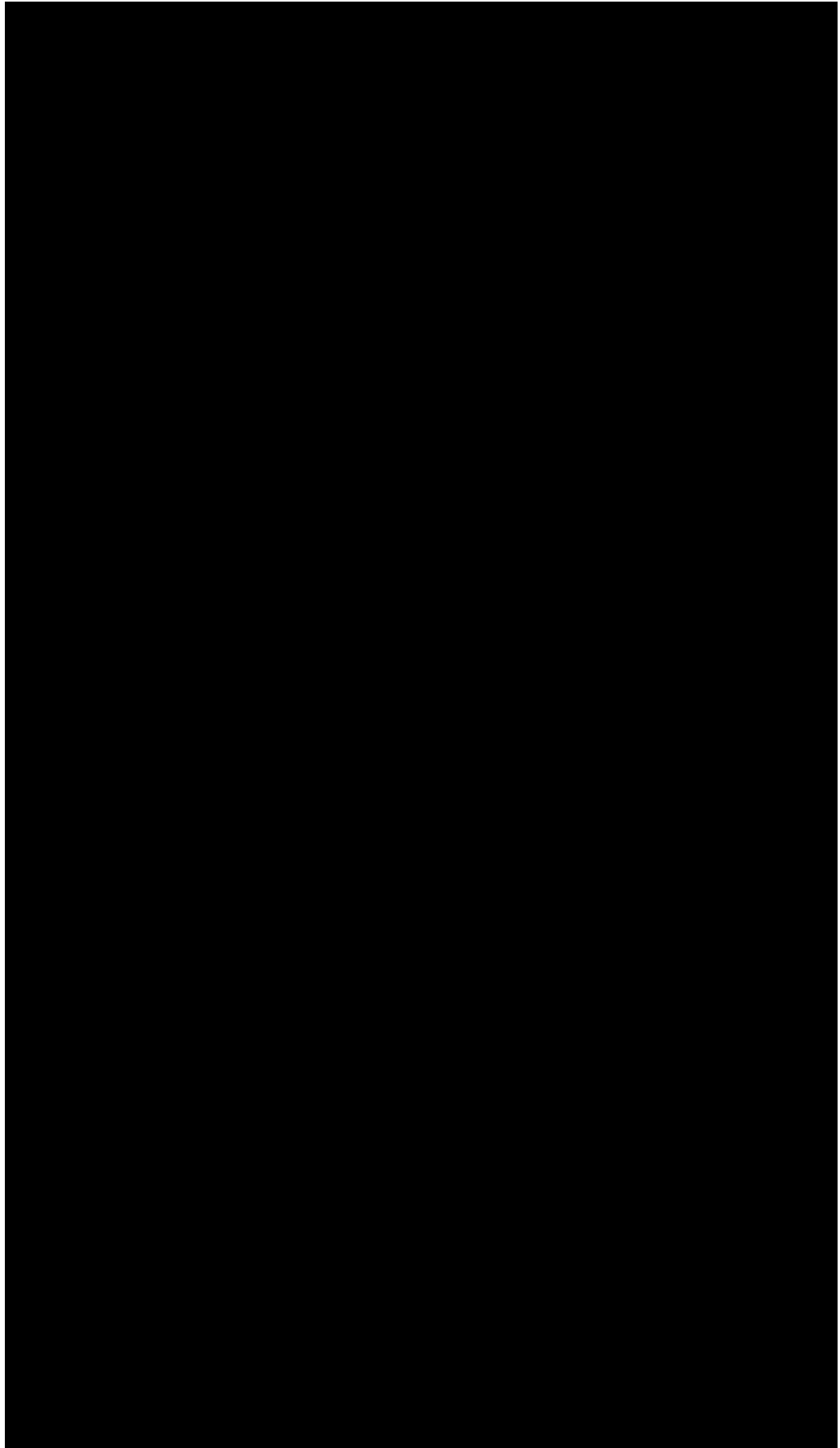




Schedule 8 Unacceptable Conditions

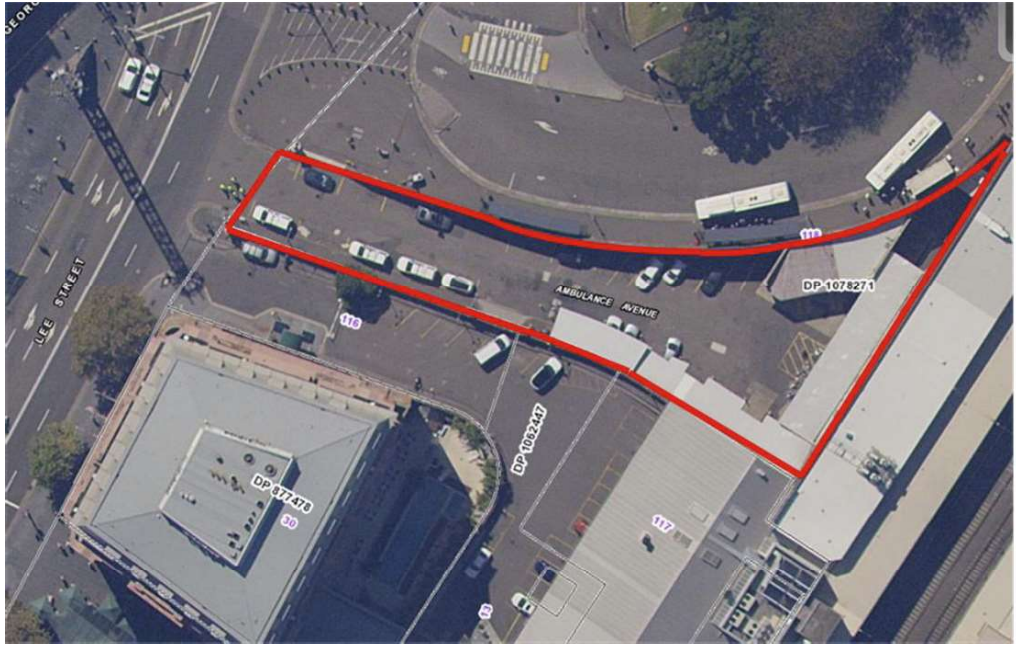






Schedule 9 Not Used

Schedule 10 Ambulance Avenue Area



Schedule 11 Plans

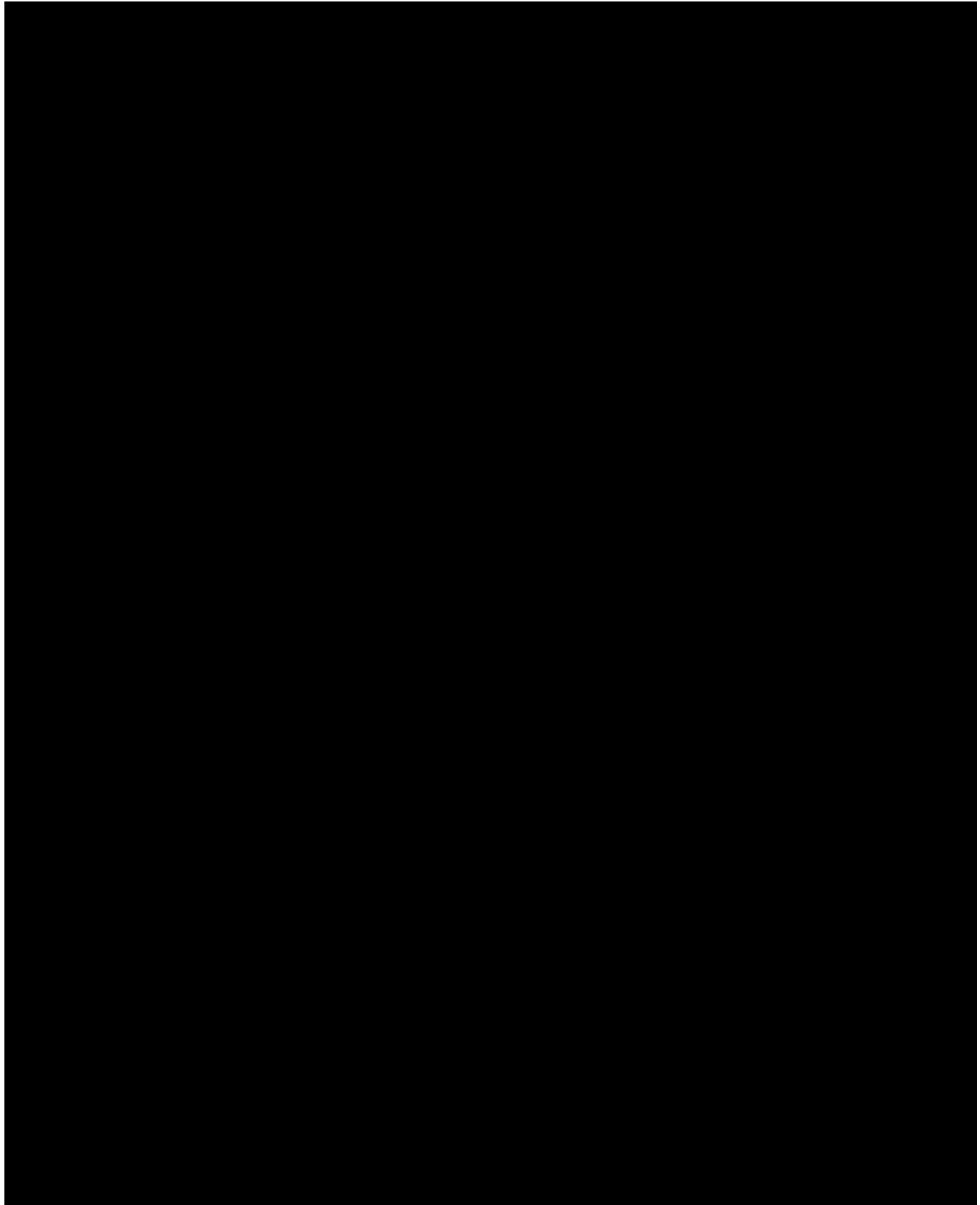
The Plans are as follows:

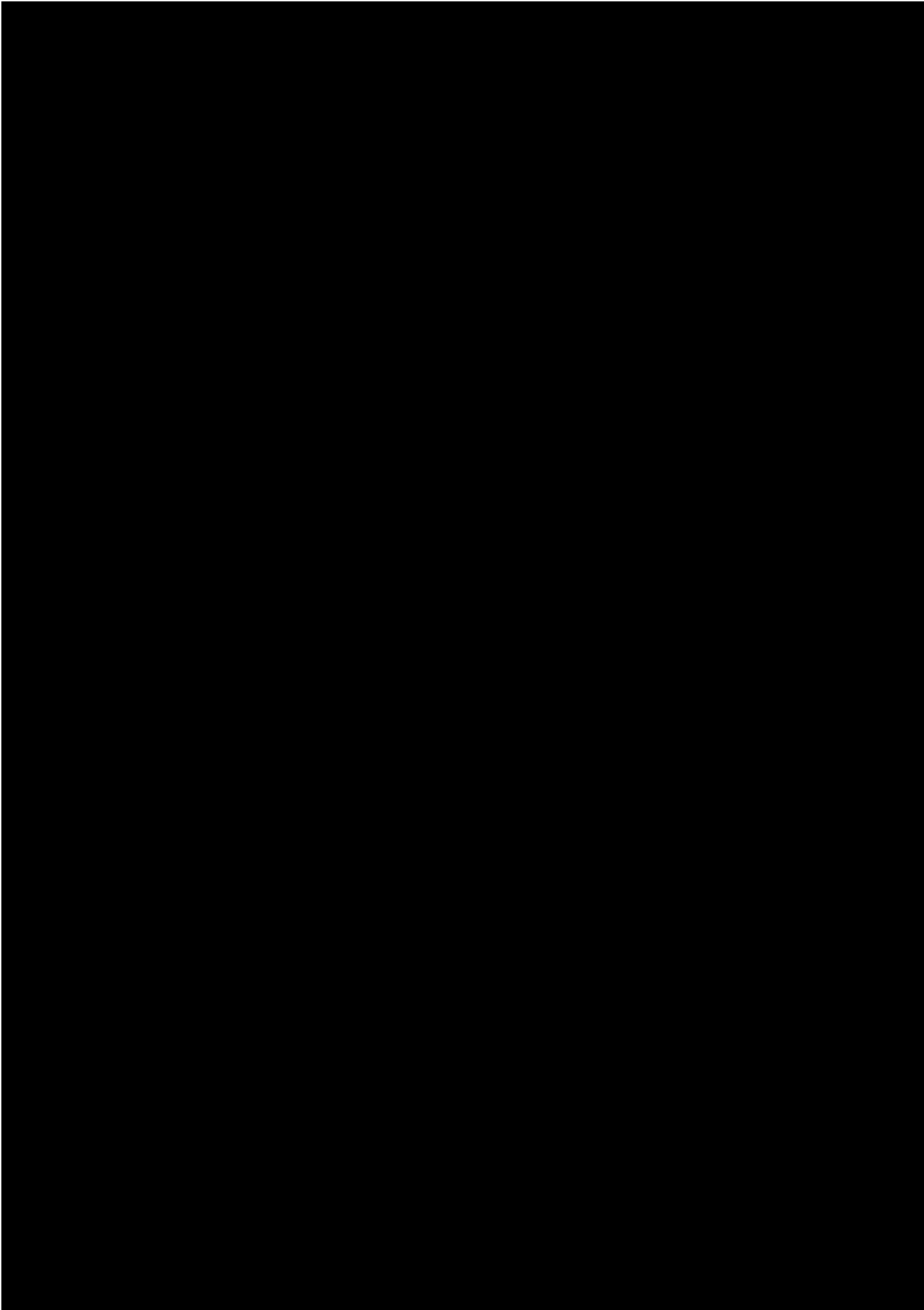
- (a) Construction Management Plan, which will include:
 - (i) demolition methodology;
 - (ii) stakeholder management; and
 - (iii) traffic management;
- (b) Construction Traffic Management Plan; and
- (c) HSE Management Plan, which will include:
 - (i) Project Emergency Response Plan;
 - (ii) Environmental Management Plan; and
 - (iii) Industrial Relations Policy.

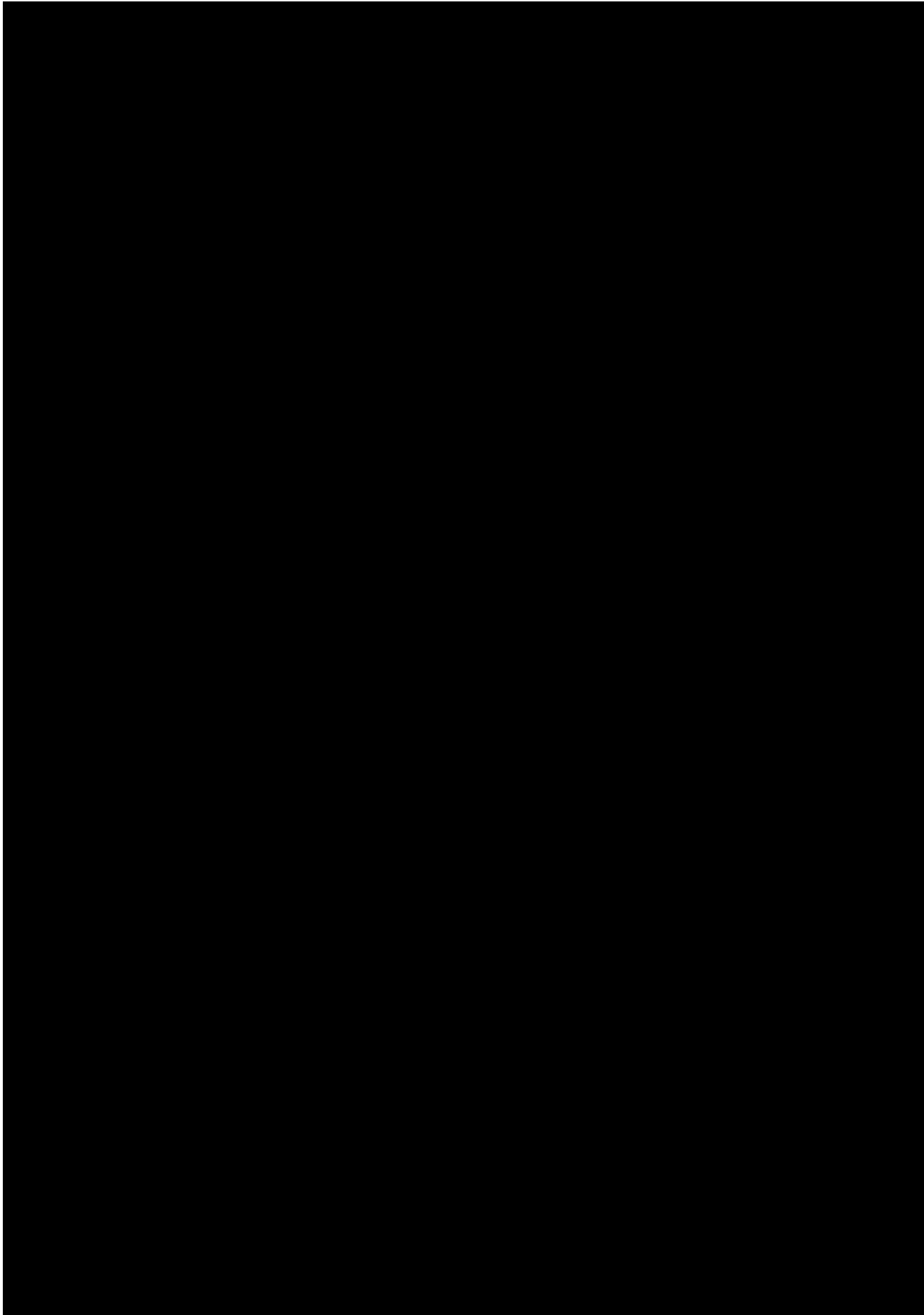
The Plans will also comprehensively address:

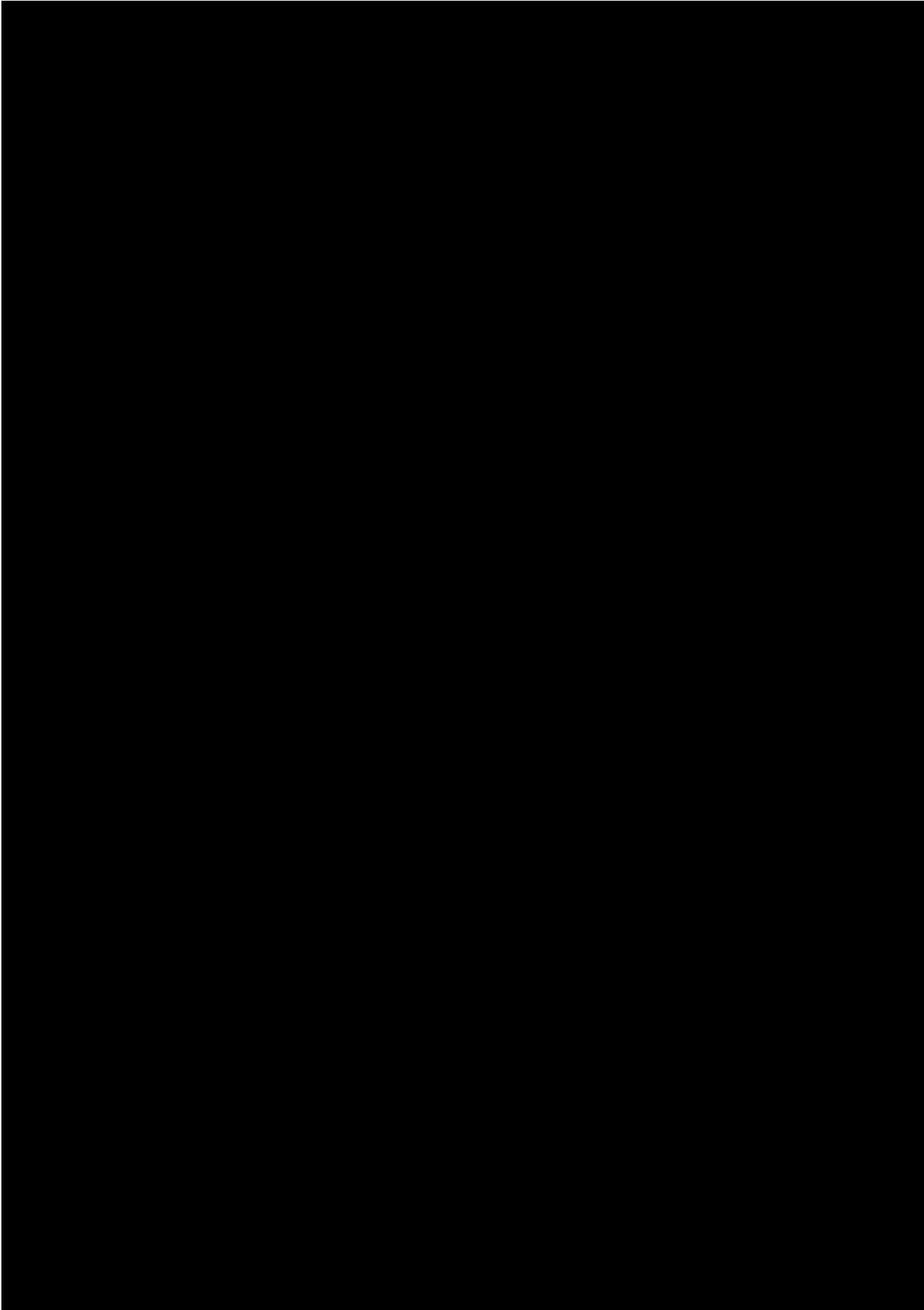
- (a) once appropriate information has been provided by the State for the Developer to review and incorporate, concurrent delivery of Central Walk West and Atlassian tower; and
- (b) Hoarding and site appearances;
- (c) Wayfinding;
- (d) Community engagement;
- (e) Security;
- (f) Railway Colonnade Drive Management Plan;
- (g) Site Establishment Works;
- (h) Possession Plan; and
- (i) in relation to Fitout Works on the 'retail and deck level' between RL 30 to RL 39, deal with any retail amenities, signage, balustrades, planter boxes or outdoor furniture.

Schedule 12 Easements

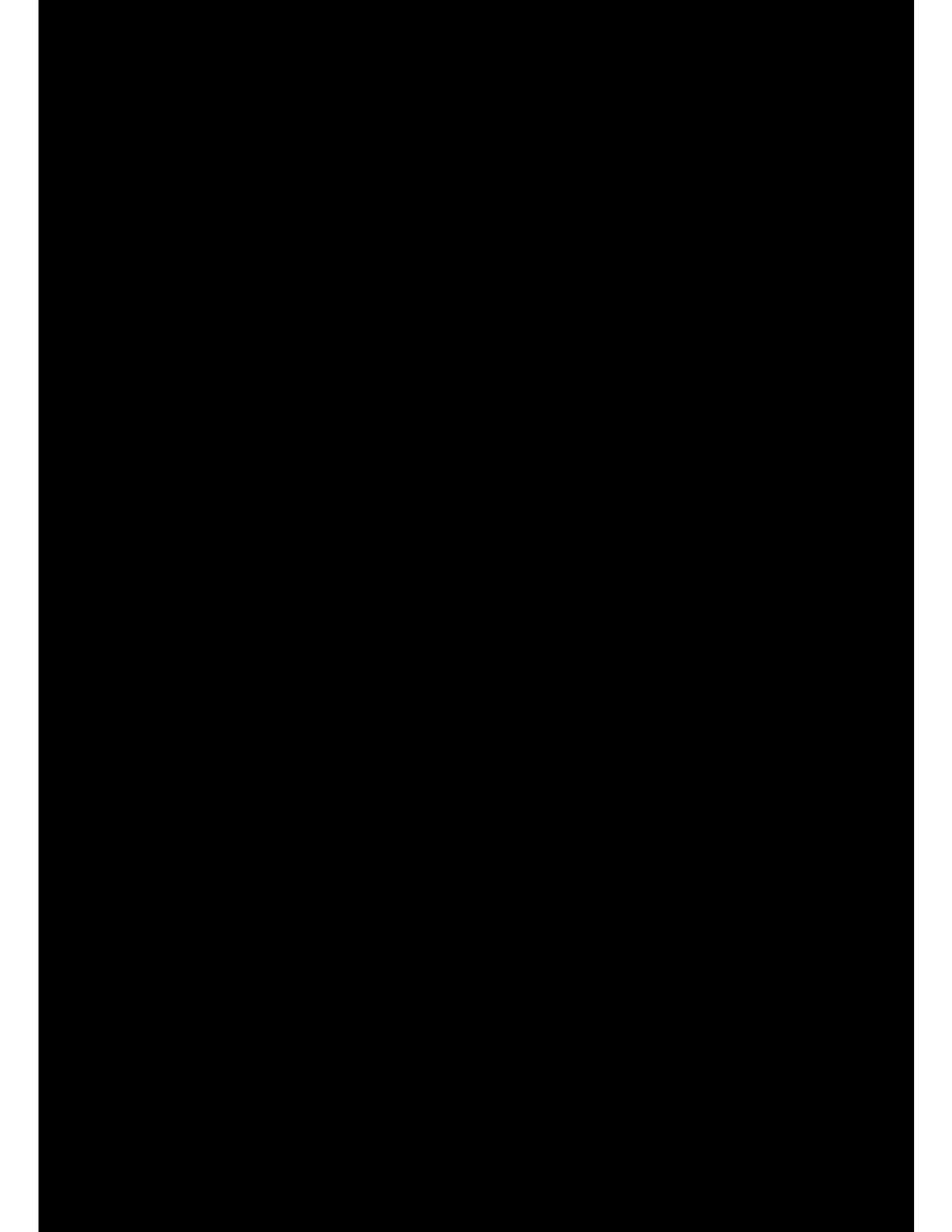








Schedule 13 Investor's Side Deed



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every receipt, invoice, and bill should be properly filed and indexed for easy retrieval. This not only helps in tracking expenses but also ensures compliance with tax regulations.

In the second section, the author provides a detailed breakdown of the company's financial performance over the past year. This includes a comparison of actual results against budgeted figures, highlighting areas of both success and concern. The analysis covers revenue growth, cost management, and overall profitability.

The third section focuses on the company's strategic initiatives and future outlook. It outlines the key goals for the upcoming year and the strategies being implemented to achieve them. This includes plans for market expansion, product development, and operational improvements.

Finally, the document concludes with a summary of the key findings and recommendations. It reiterates the importance of strong financial controls and strategic planning in ensuring long-term success. The author expresses confidence in the company's ability to meet its goals and overcome any challenges that may arise.

the 1990s, the number of people in the UK who are aged 65 and over has increased from 10.5 million to 13.5 million, and the number of people aged 75 and over has increased from 4.5 million to 6.5 million (Office for National Statistics 2000). The number of people aged 65 and over is projected to increase to 16.5 million by 2020, and the number of people aged 75 and over to 8.5 million (Office for National Statistics 2000).

There is a growing awareness of the need to address the needs of older people, and the need to ensure that they are able to live independently and actively in their own homes. This has led to a number of initiatives, including the development of the National Framework for Older People (Department of Health 1999) and the National Strategy for Older People (Department of Health 2000). The National Framework for Older People sets out the government's commitment to older people, and the National Strategy for Older People sets out the government's strategy for addressing the needs of older people.

The National Framework for Older People and the National Strategy for Older People are both important documents, and they provide a clear framework for the development of services for older people. However, there is a need to ensure that these initiatives are implemented effectively, and that the needs of older people are met. This is the focus of the current research, which aims to explore the experiences of older people and their families in relation to the implementation of the National Framework for Older People and the National Strategy for Older People.

The research is based on a series of focus group discussions with older people and their families. The focus groups were conducted in a community centre in a deprived area of London. The participants were recruited through a number of sources, including local health services, social services, and community groups. The focus groups were conducted over a period of six months, and they explored a range of issues, including the experiences of older people and their families in relation to the implementation of the National Framework for Older People and the National Strategy for Older People.

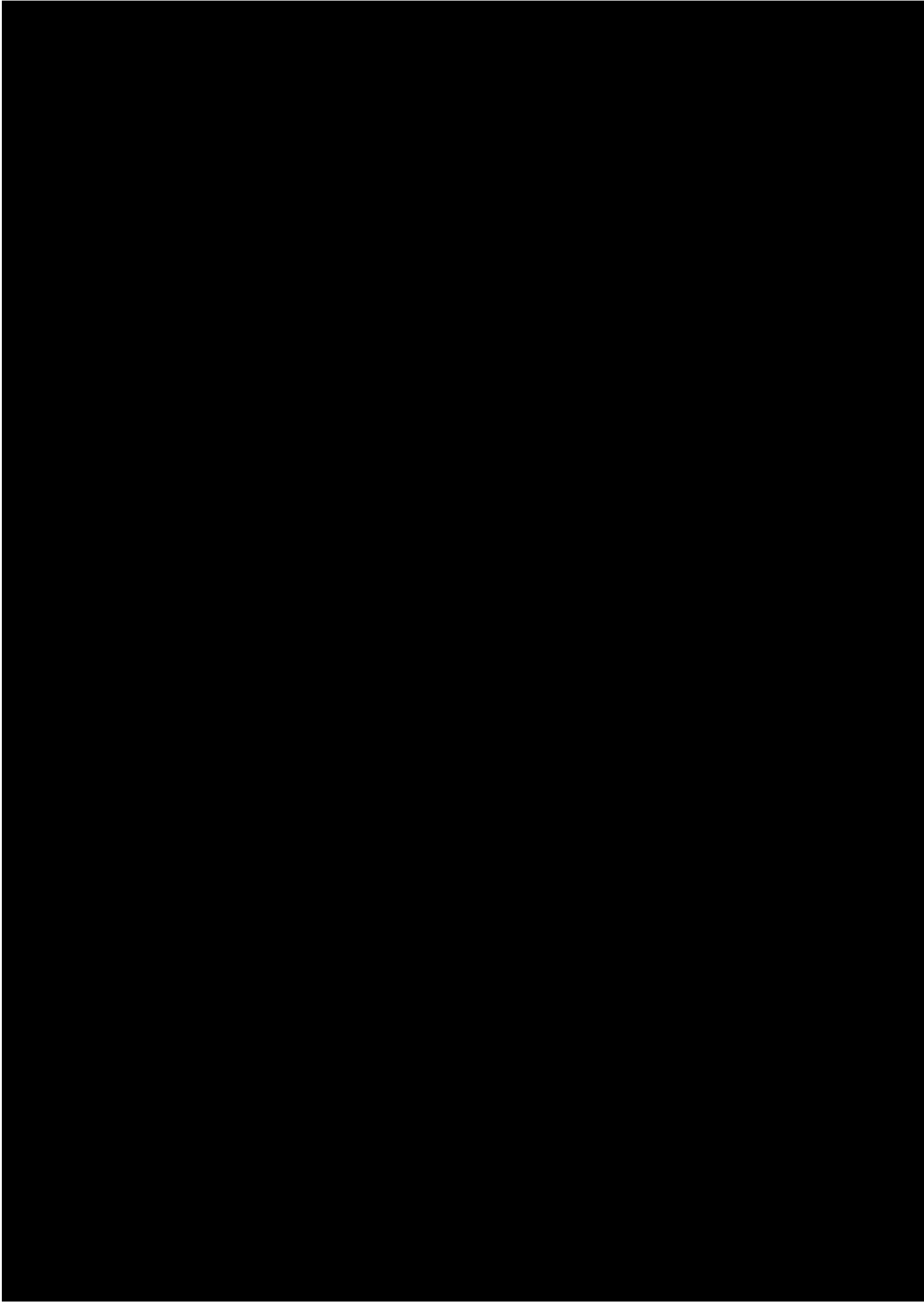
The research found that older people and their families experience a number of difficulties in relation to the implementation of the National Framework for Older People and the National Strategy for Older People. These difficulties include a lack of information, a lack of resources, and a lack of support. The research also found that older people and their families often experience a sense of isolation and a lack of control over their own lives.

The research has a number of implications for practice. It highlights the need for a coordinated approach to the implementation of the National Framework for Older People and the National Strategy for Older People. It also highlights the need for a focus on the needs of older people and their families, and the need to ensure that they are able to live independently and actively in their own homes.

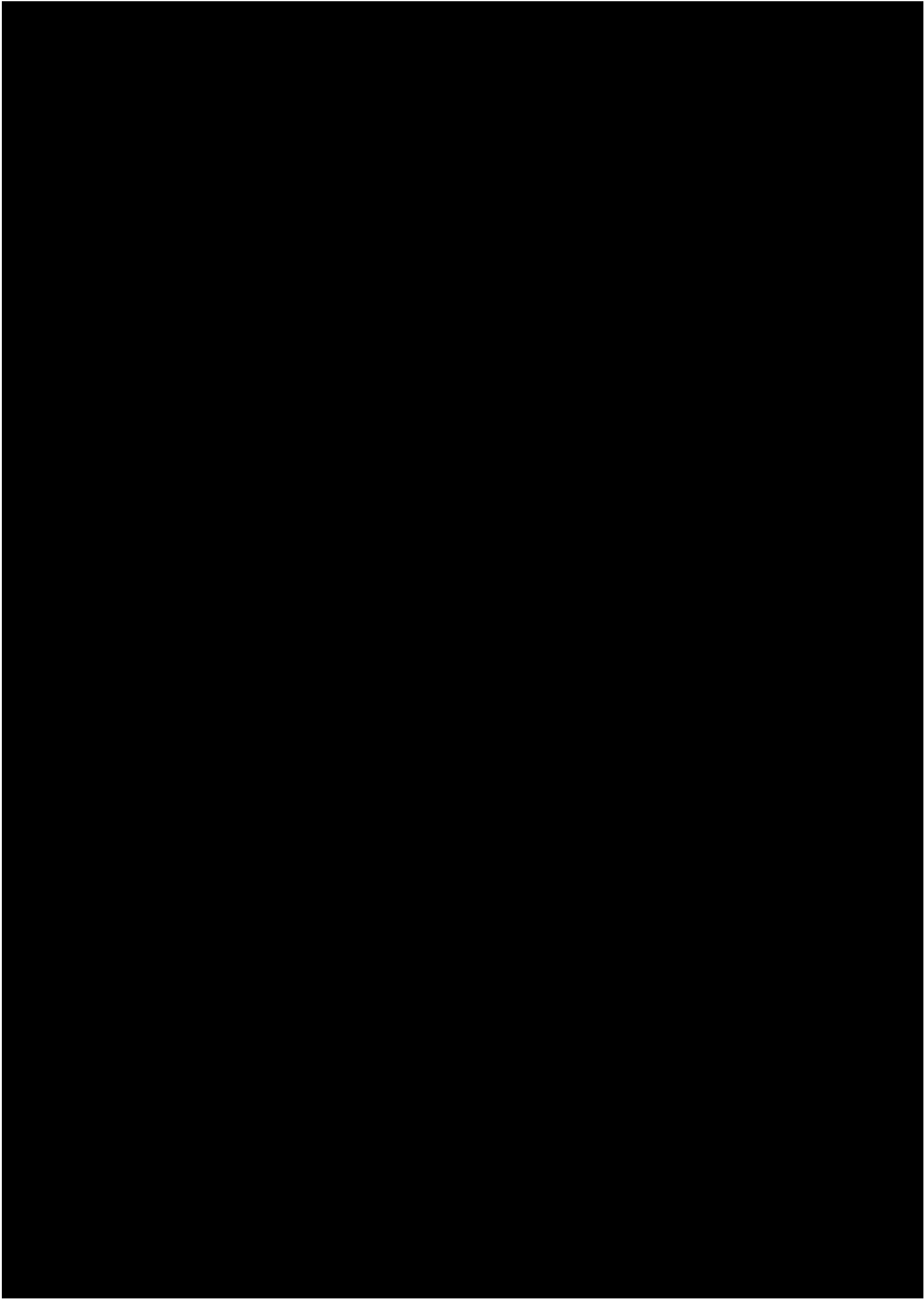
The research also has a number of implications for policy. It highlights the need for a focus on the needs of older people and their families, and the need to ensure that they are able to live independently and actively in their own homes. It also highlights the need for a coordinated approach to the implementation of the National Framework for Older People and the National Strategy for Older People.

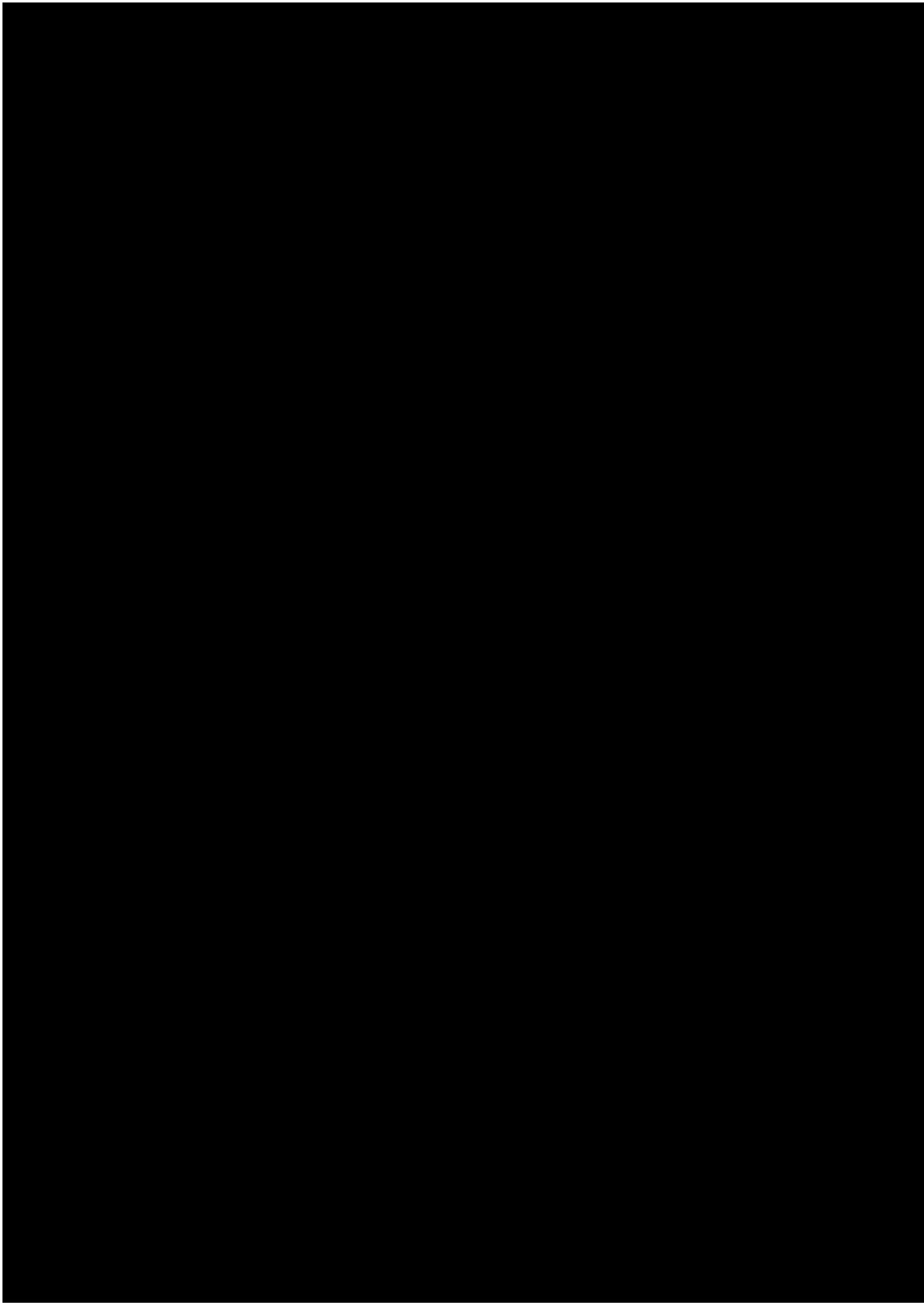
The research is a valuable contribution to the understanding of the experiences of older people and their families in relation to the implementation of the National Framework for Older People and the National Strategy for Older People. It highlights the need for a coordinated approach to the implementation of these initiatives, and the need to focus on the needs of older people and their families.

The research is a valuable contribution to the understanding of the experiences of older people and their families in relation to the implementation of the National Framework for Older People and the National Strategy for Older People. It highlights the need for a coordinated approach to the implementation of these initiatives, and the need to focus on the needs of older people and their families.









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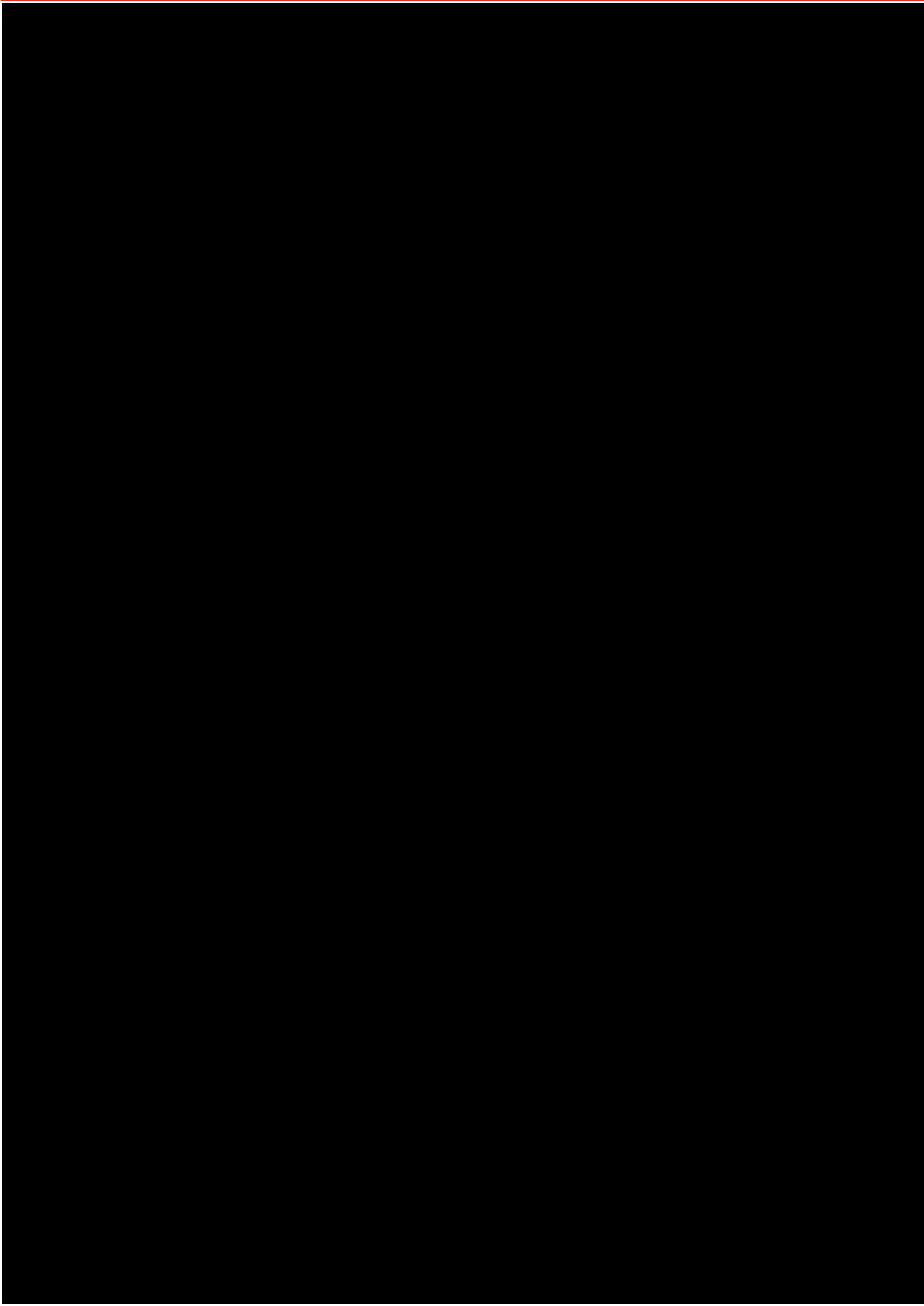
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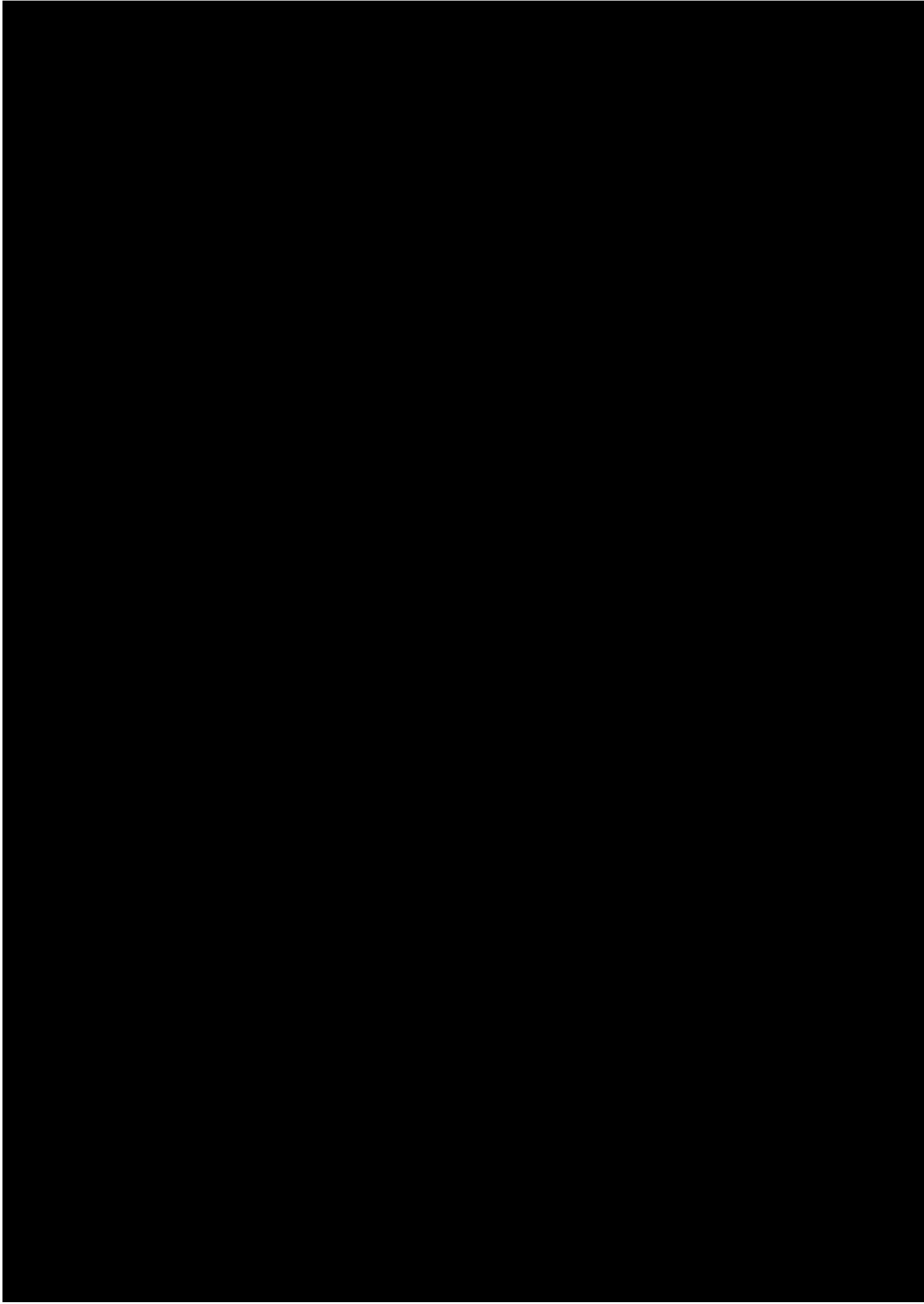
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Next, the document outlines the process of reconciling bank statements. It advises comparing the bank's records with the company's internal accounting records to identify any discrepancies. Regular reconciliation helps in detecting errors or unauthorized transactions early on.

The following section covers the preparation of financial statements. It details the steps involved in calculating net income, preparing the balance sheet, and generating the cash flow statement. Each statement provides a different perspective on the company's financial health.

Finally, the document discusses the importance of budgeting and forecasting. It suggests setting realistic financial goals and creating a budget to guide the company's operations. Regularly reviewing and adjusting the budget based on actual performance is crucial for long-term success.

the 1990s, the number of people with a mental health problem has increased in the UK. The prevalence of mental health problems has increased from 10% in 1986 to 15% in 1999 (Meltzer and Peck 2000). The prevalence of mental health problems has also increased in other countries (Meltzer and Peck 2000).

The increase in the prevalence of mental health problems has been attributed to a number of factors, including changes in the way that mental health problems are diagnosed and reported, changes in the way that mental health problems are treated, and changes in the way that mental health problems are perceived (Meltzer and Peck 2000).

The increase in the prevalence of mental health problems has also been attributed to changes in the way that mental health problems are perceived. In the past, mental health problems were often seen as a sign of weakness or a sign of madness. However, in the 1990s, mental health problems were increasingly seen as a sign of illness, and as a condition that could be treated (Meltzer and Peck 2000).

The increase in the prevalence of mental health problems has also been attributed to changes in the way that mental health problems are treated. In the past, mental health problems were often treated with long-term institutional care. However, in the 1990s, there was a move towards community care, and towards the use of medication (Meltzer and Peck 2000).

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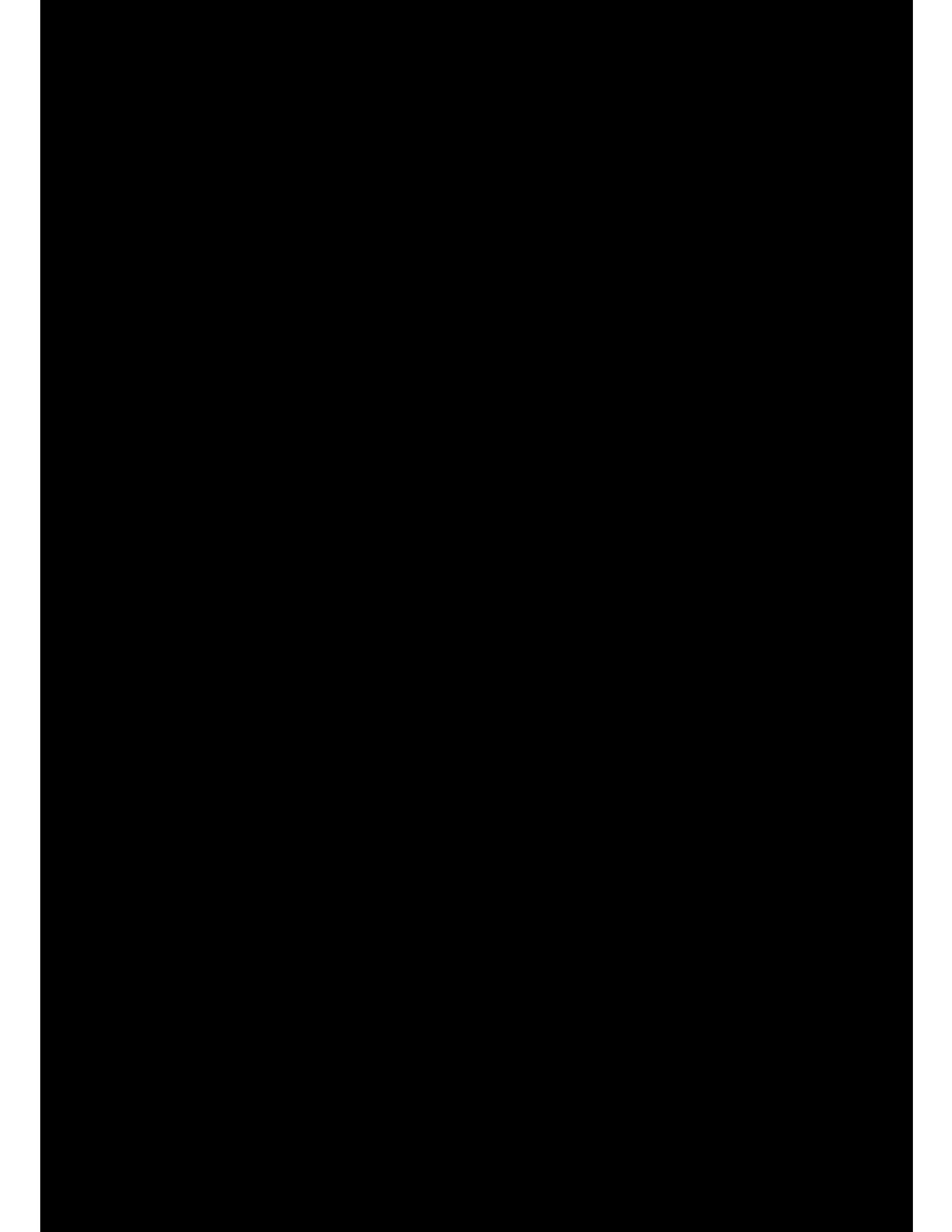
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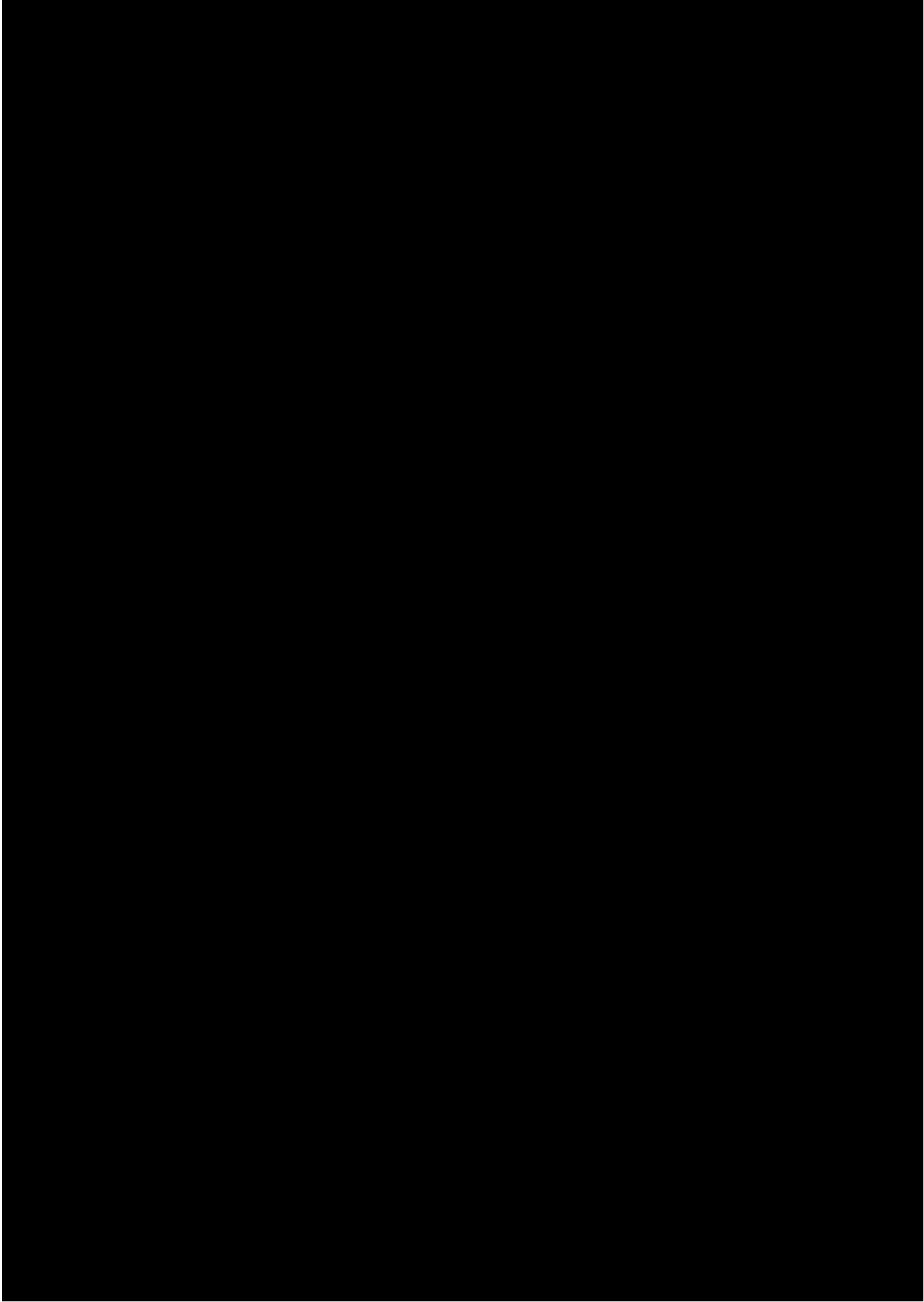
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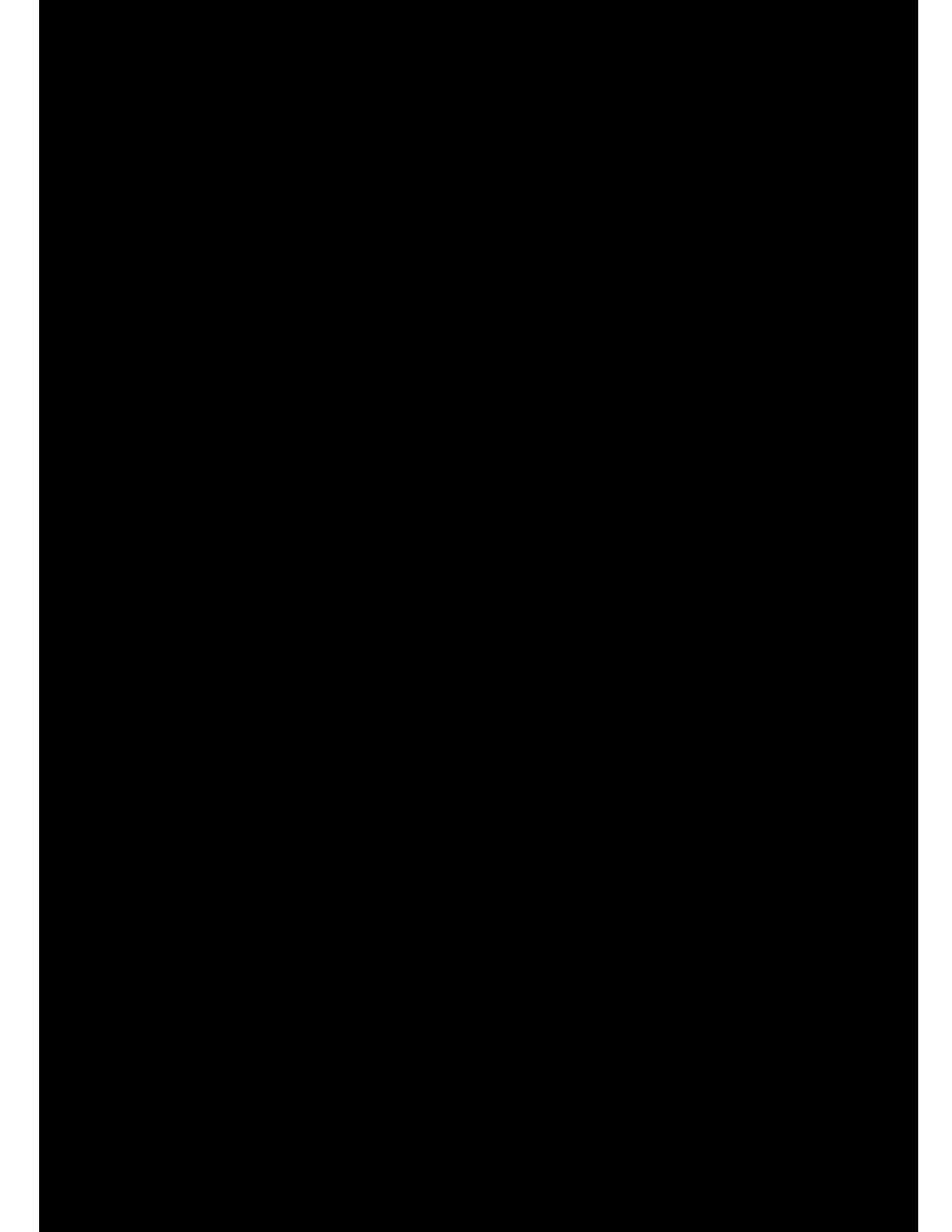
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Schedule 14 Builder's Side Deed

Please refer to the documents identified in the table below, which are included as electronic files on a separate disc or USB. The parties agree that the documents identified below are incorporated by reference to this deed and reflect the versions of the documents located on the disc or USB identified in the table below.

Schedule	Description	Electronic File Name	Electronic File Location
Schedule 14	Builder's Side Deed	Form of Builder's Side Deed	Schedule 14 - Builder's Side Deed [25.3.22].pdf
			<p>The USB entitled and labelled:</p> <p>"PDA – Atlassian Central – July 2022"</p> <p>circulated by MinterEllison to King & Wood Mallesons on or prior to the date of this deed, comprising the documents hosted in the folder entitled "Schedules" in the King & Wood Mallesons Kiteworks Data Room called "TfNSW - Atlassian PDA", as at 5.00pm on 14 July 2022.</p>

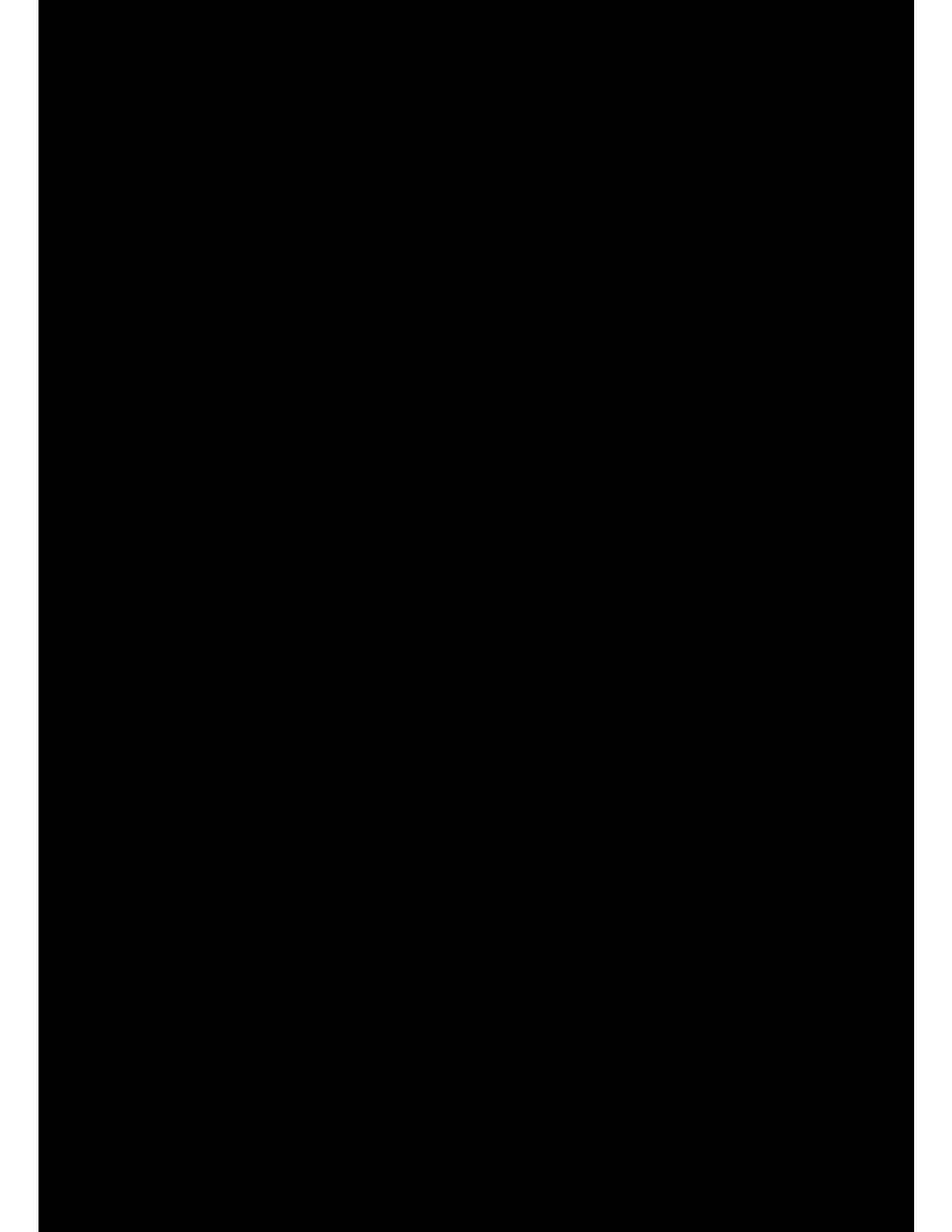
Schedule 15 Independent Certifier's Deed

Please refer to the documents identified in the table below, which are included as electronic files on a separate disc or USB. The parties agree that the documents identified below are incorporated by reference to this deed and reflect the versions of the documents located on the disc or USB identified in the table below.

Schedule		Description	Electronic File Name	Electronic File Location
Schedule 15	Independent Certifier's Deed	Form of Independent Certifier's Deed - Project Development Agreement	Schedule 15 – Independent Certifiers Deed.pdf	The USB entitled and labelled: "PDA – Atlassian Central – July 2022" circulated by MinterEllison to King & Wood Malleons on or prior to the date of this deed, comprising the documents hosted in the folder entitled "Schedules" in the King & Wood Malleons Kiteworks Data Room called "TfNSW - Atlassian PDA", as at 5.00pm on 14 July 2022.

Schedule 16 Third party warranties





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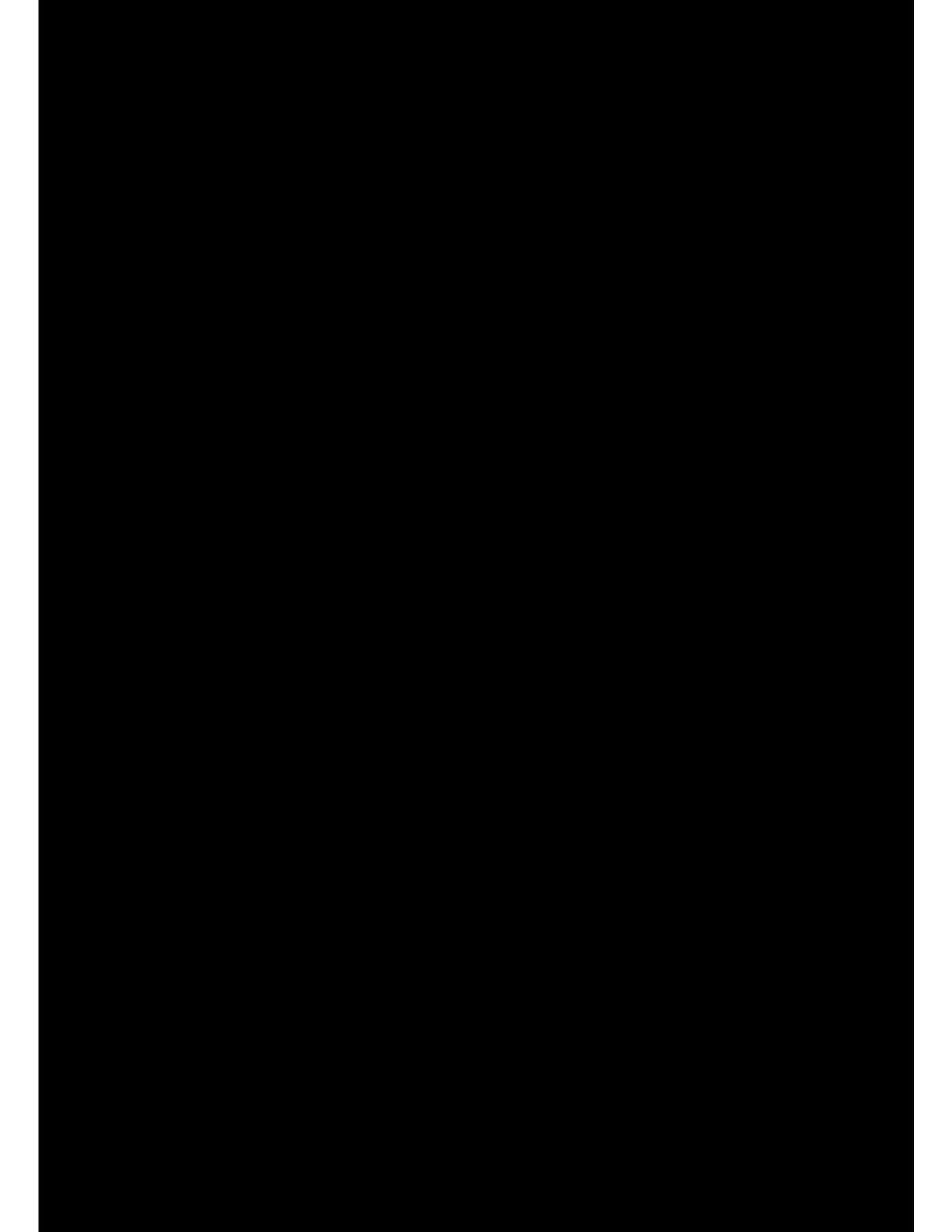
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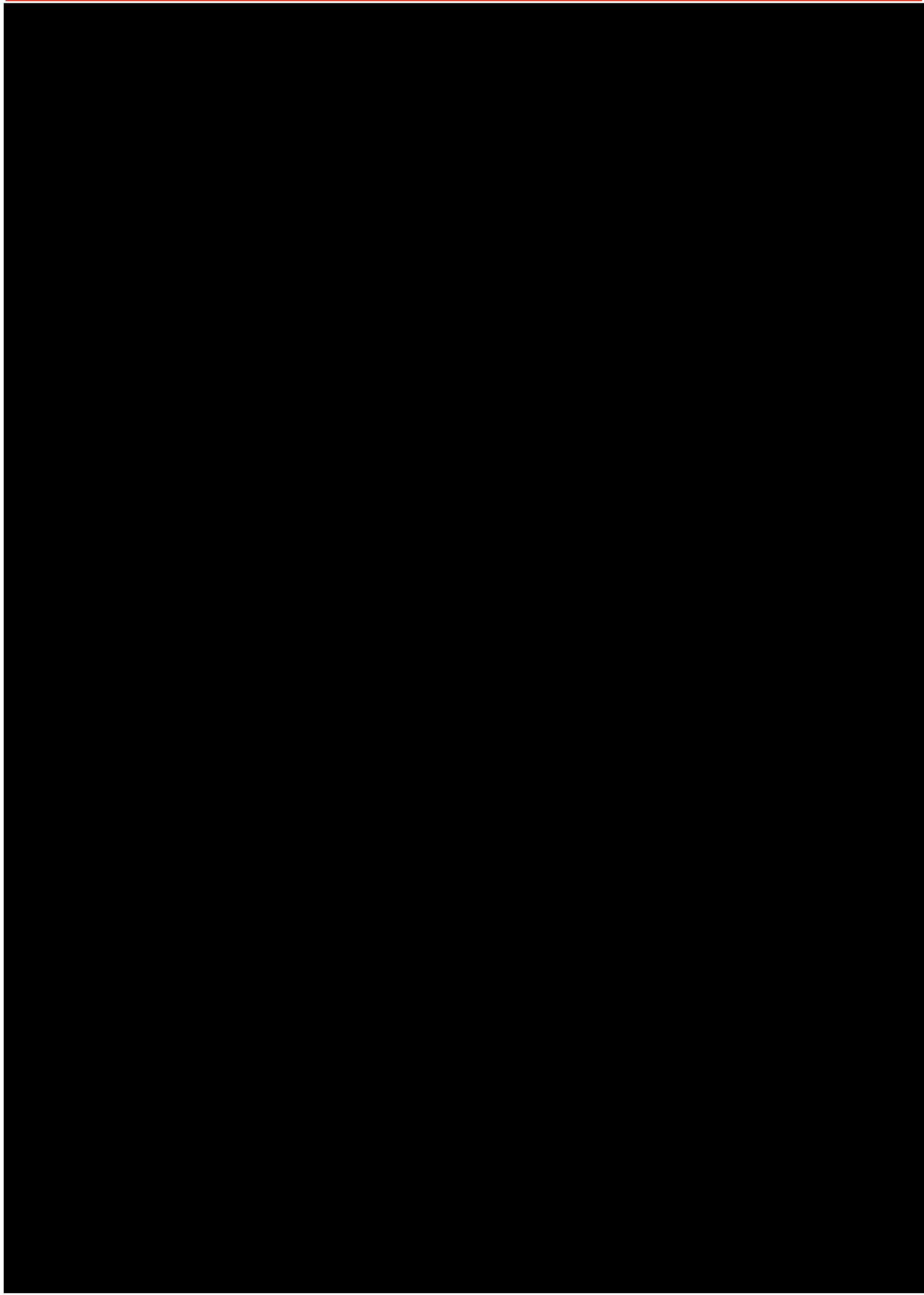
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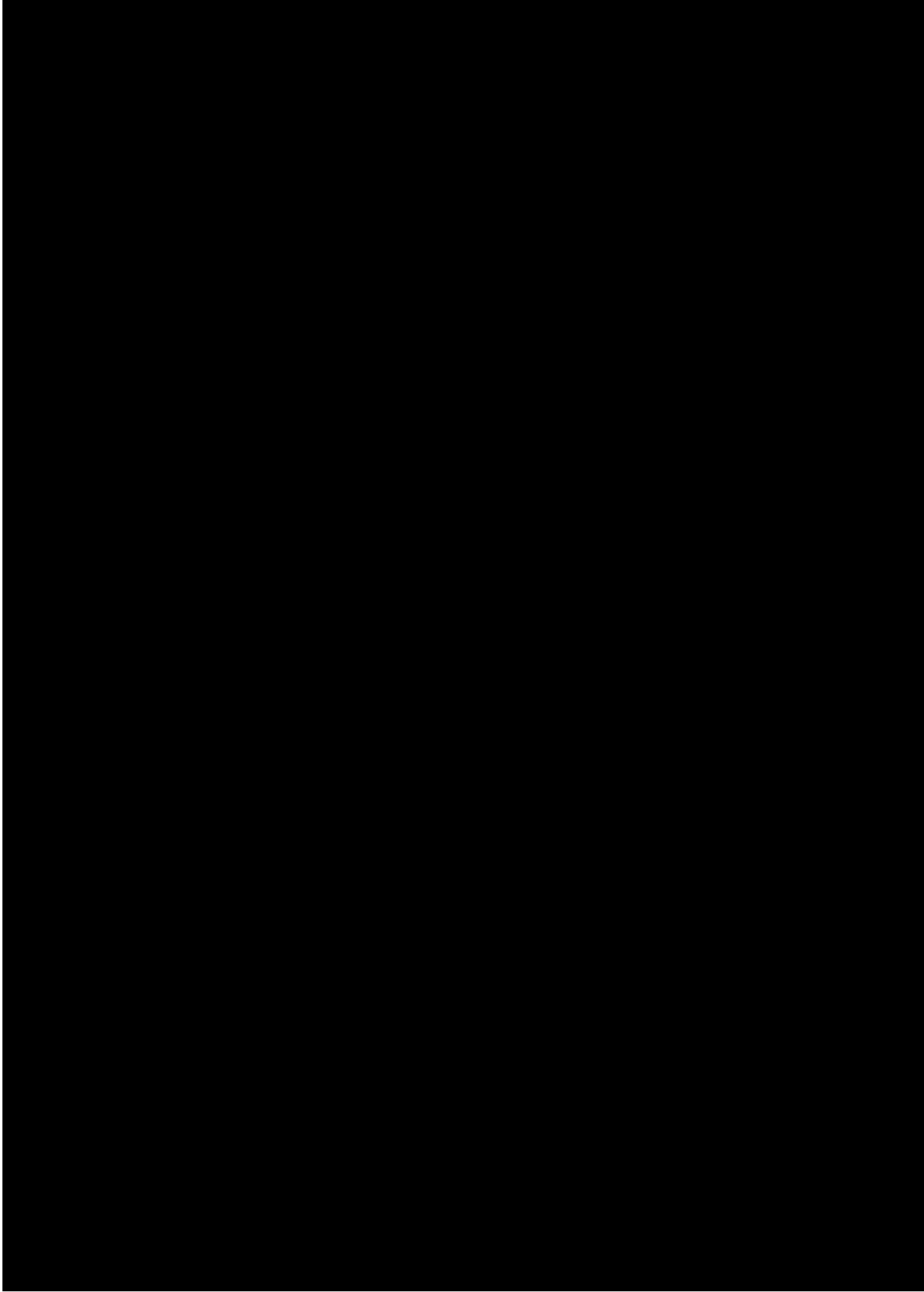
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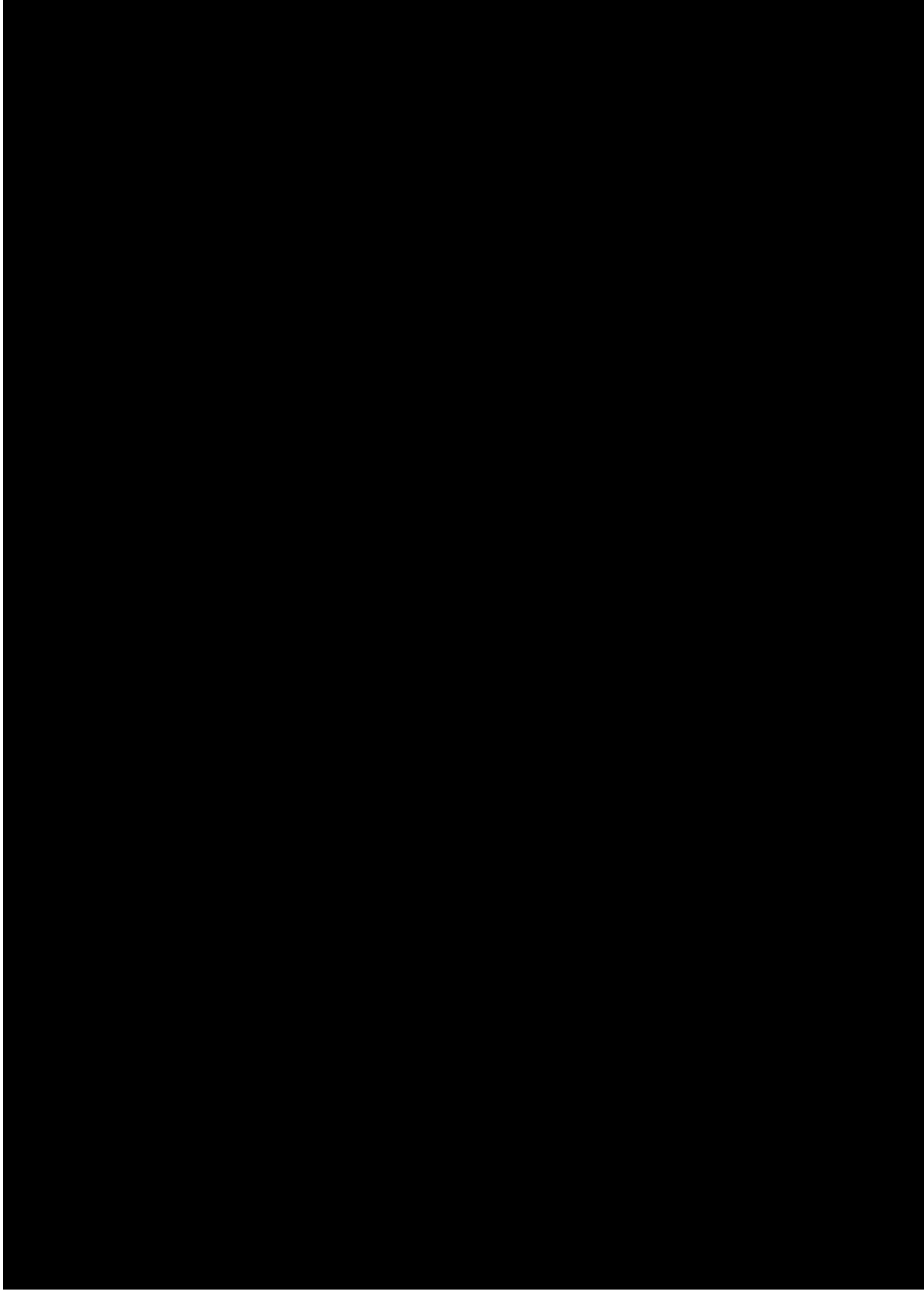
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Schedule 17 Form of third party warranty

WARRANTY DEED POLL made on the day [] of [] 20[]
 (“**Subcontractor**”)

RECITALS

- A. [] (ABN []) of [] [] (“**Builder**”) has entered into a Deed with the Developer identified in Item 1 of the Schedule under which the Builder has agreed to carry out the project described generally in Item 2 of the Schedule (“**Project**”).
- B. The Builder has entered into a contract with the Subcontractor (“**Subcontract**”) under which the Subcontractor has agreed to perform the works described generally in Item 3 of the Schedule (“**Works**”) and supply the items or products identified in Item 4 of the Schedule for the Project (“**Supply**”).
- C. The Subcontractor wishes to provide this Warranty Deed Poll for the benefit of the Developer, Vertical First Pty Ltd (ABN 50 636 939 985) as trustee of the Vertical First Trust (“**Vertical First**”), Atlassian Pty Ltd (“**Tenant**”), the State and the Builder and has agreed to warrant that the Works it has performed and the products it has supplied will satisfy the requirements set out or identified in this Warranty Deed Poll.

OPERATIVE

1 NATURE OF WARRANTY DEED POLL

This Warranty Deed Poll may be relied on and enforced by the Developer, Vertical First, the Tenant, the State and the Builder in accordance with its terms even though none of the Developer, Vertical First, the Tenant, the State or the Builder is a party to it.

2 WARRANTY

- (a) The Subcontractor warrants and guarantees the Works and/or the Supply against any defects of any nature in materials, plant and equipment and workmanship for:
- (i) (i) [] years/months in respect of materials;
 - (ii) (ii) [] years/months in respect of plant & equipment;
 - (iii) (iii) 12 months in respect of workmanship/labour;

commencing upon the completion of the Works (“**Warranty Period**”) in accordance with the Subcontract.

- (b) Without limiting the generality of the foregoing the Subcontractor warrants that during the Warranty Period the Works and/or the Supply shall conform in all respects to the plans, drawings and specification forming part of the Subcontract and identified in item 5 of the Schedule and further the Subcontractor hereby warrants and guarantees:

- (i) to replace and/or make good to the reasonable satisfaction of the Developer or the State, so much of the Works and/or the Supply as within the Warranty Period shall be found to be of a lower quality or standard than that referred to herein and or in the Subcontract or shall show deterioration of such extent that in the opinion of the Developer or the State it ought to be made good or replaced in order to conform in all respects to the plans, drawings and specification forming part of the Subcontract and identified in item 5 of the Schedule whether on account of utility, performance, appearance or otherwise; and
 - (ii) to meet the cost of all work undertaken by the Developer, Vertical First, the Tenant, the State, or the Builder necessary to make good any failure or Defect in any part of the Works and/or the Supply or damage resulting therefrom where the Subcontractor fails to undertake such work within a reasonable period of having been notified by the Developer, the State or the Builder of the need to do so together with any loss, expense or damage including consequential damage resulting from any such failure or Defect in any part of the Works and/or the Supply or damage resulting therefrom.
- (c) In respect of the Supply, the Subcontractor warrants to each of the Developer, Vertical First, the Tenant, the State and Builder that the items, plant or equipment or products supplied by it in connection with the Project will satisfy all of the requirements of the plans, drawings and specification forming part of the Subcontract and which are identified in Item 5 of the Schedule and, without limiting the foregoing, that those items, plant or equipment or products supplied are fit for the purposes for which such items, plant or equipment or products are ordinarily used.
- (d) The Subcontractor will provide with this Warranty Deed Poll all coincidental product warranties available on items, products, plant or equipment incorporated into the Works by virtue of the fact that the manufacturer of the items, product, plant or equipment has published such warranty in connection with purchasers and users of the items, product, plant or equipment without regard to specific applications.

3 AMENDMENT AND TERMINATION

This Deed may be amended or terminated only by another deed approved by the Developer and the State and executed by the Subcontractor.

4 ASSIGNMENT

- (a) This Warranty Deed Poll and the rights and benefits conferred upon the Developer, Vertical First, the Tenant and the State hereunder may be assigned or dealt with by the Developer, Vertical First, the Tenant or the State without the consent of the Subcontractor by notice in writing from the Developer, Vertical First, the Tenant or the State (as applicable) to the Subcontractor specifying such assignment.
- (b) The rights and obligations of the Subcontractor under this Warranty Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with without the prior written consent of the Developer, Vertical First, the Tenant and the State.

5 GENERAL

- (a) No failure to exercise and no delay in exercising any right, power or remedy under this Warranty Deed Poll will operate as a waiver. Nor will

any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

- (b) This Warranty Deed Poll shall not in any way relieve the Subcontractor from any liability under any law or statute for the consequences of any negligence on its part or on the part of any of its servants, agents or subcontractors.
- (c) The rights and obligations of the Subcontractor, the Builder, Vertical First, the Tenant, the State and the Developer will not merge on completion of this Warranty Deed Poll or any transaction under or contemplated by this Warranty Deed Poll.
- (d) The warranties provided by the Subcontractor to each of the Developer, Vertical First, the Tenant, the State and the Builder shall be capable of enforcement independently by each of the Developer, Vertical First, the Tenant, the State and the Builder and any acts or omissions or waiver by the Developer, Vertical First, the Tenant, the State or the Builder shall not prejudice the rights of the other.
- (e) To the extent that the terms, conditions or provisions of this Warranty Deed Poll offend any legislative provision or are required by any such legislative provision or by any order of a competent court having jurisdiction in relation thereto to be varied, modified or reduced, such terms, conditions and provisions shall be read down and construed only to the extent necessary or required either to meet such legislative provisions or to take account of such variation, modification or reduction.
- (f) This Warranty Deed Poll is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

Schedule to Warranty Deed Poll

Item 1: The Developer is **Dexus Property Services Pty Limited ABN 66 080 918 252**
(Recital A)

Item 2: The Project is **Atlassian Building Central**
(Recital A)

Item 3: The Subcontract
work is
(Recital B)

Item 4: The items, plant
equipment or products
(Recital B)

Item 5: The plans, drawings
and specifications are
(Clause 2(a))

EXECUTED as a Deed Poll

Signed, sealed and delivered by)
[Subcontractor])
in accordance with section 127 of the)
Corporations Act 2001 (Cth):)
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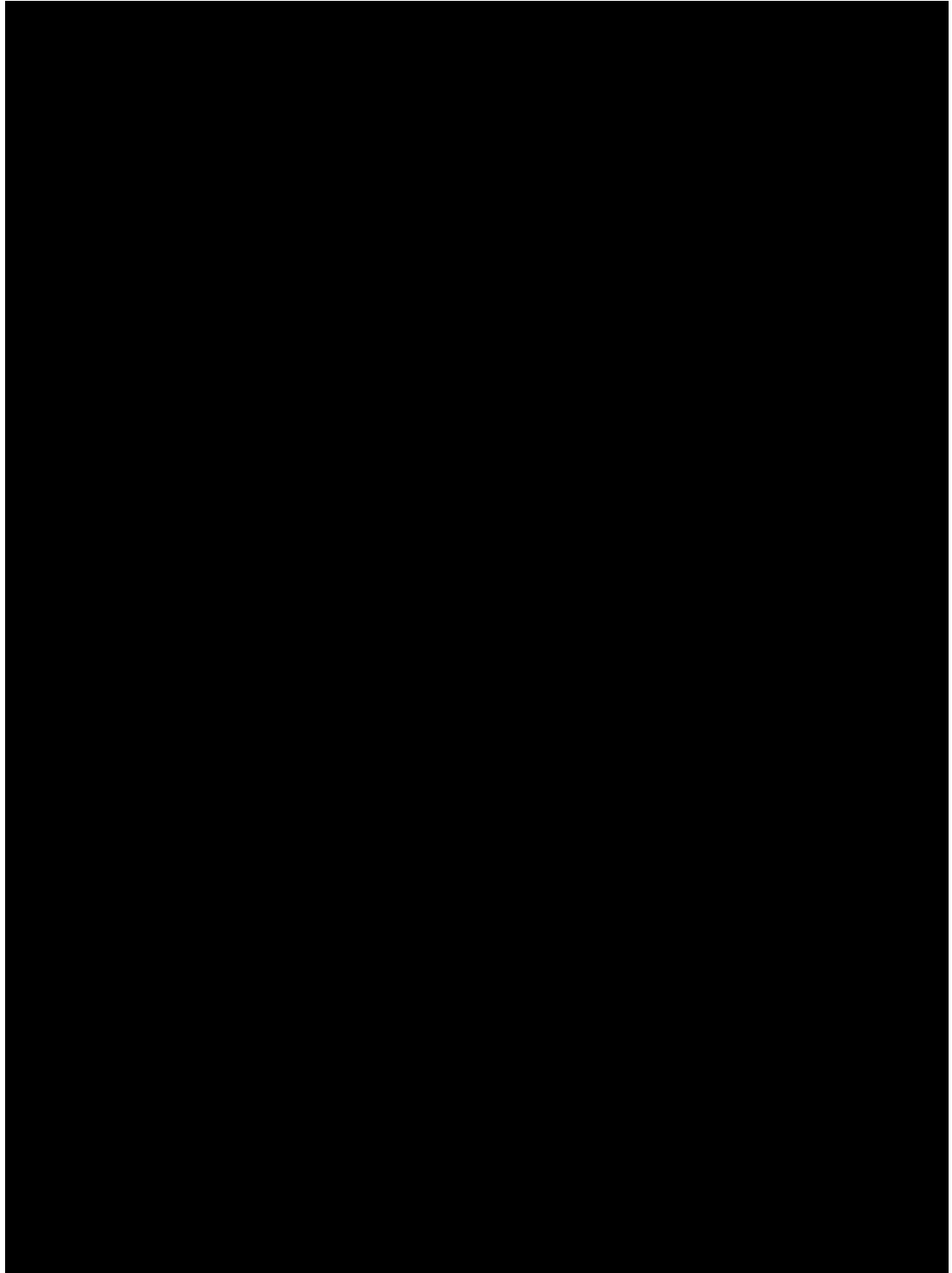
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Director / Company Secretary

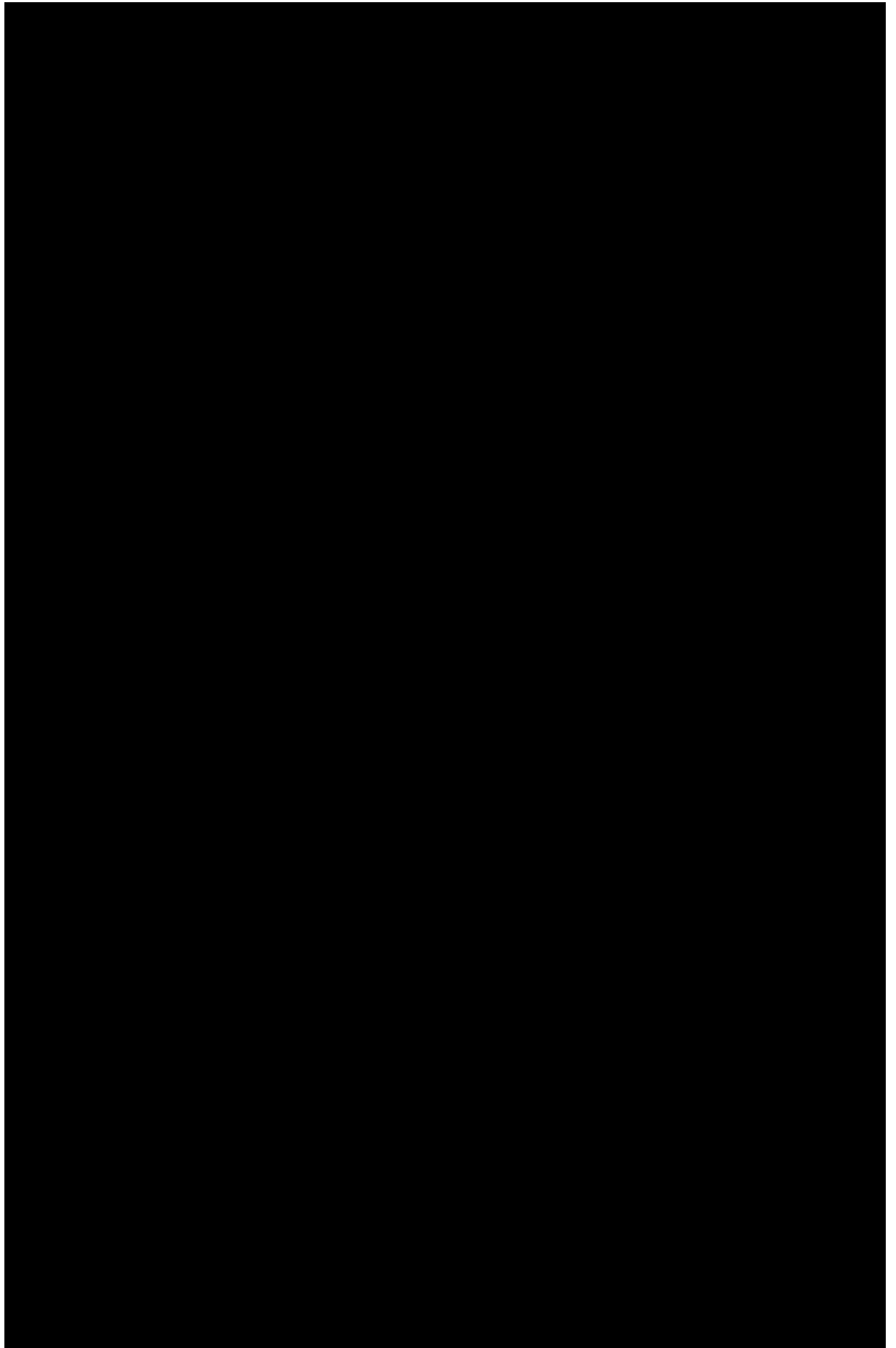
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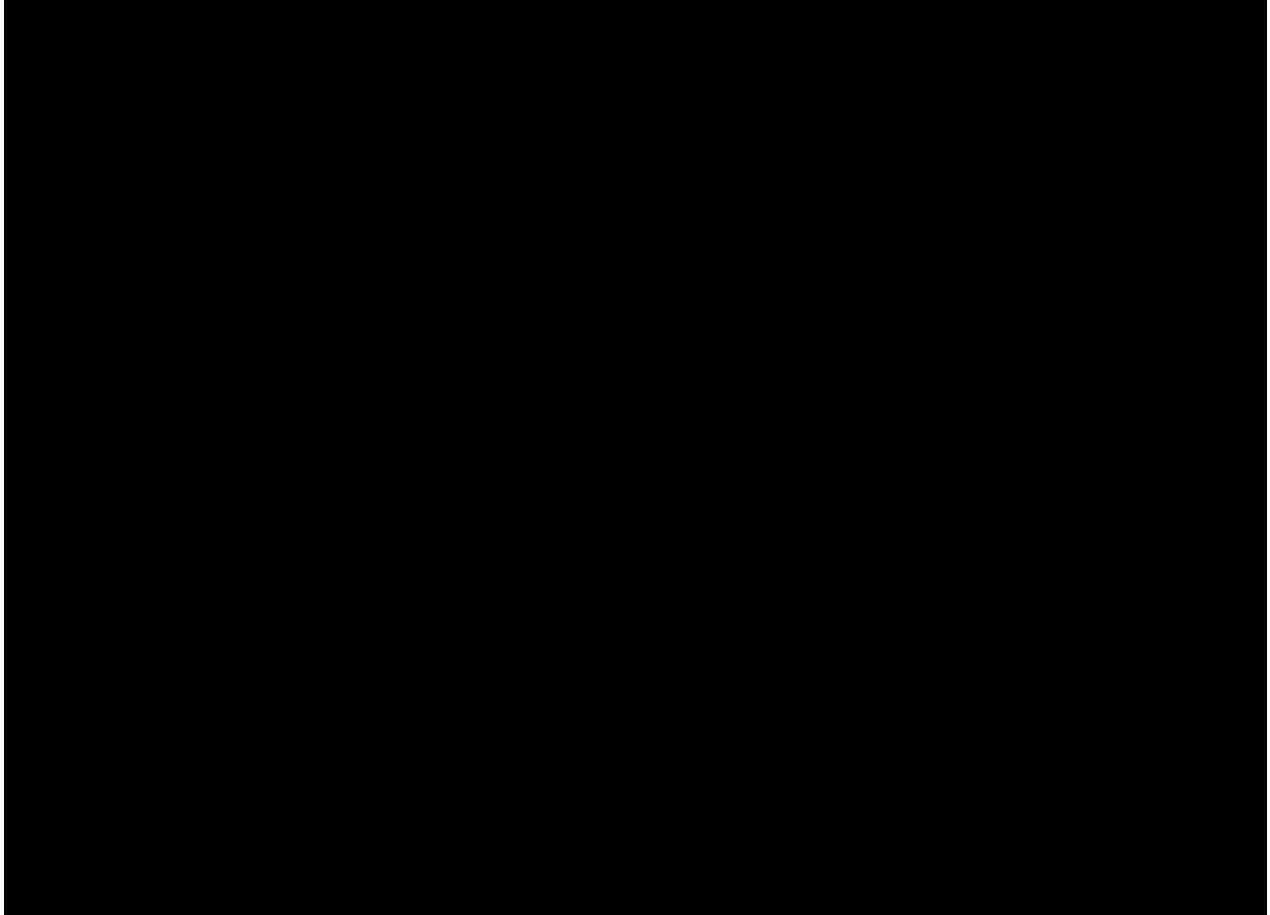
Schedule 18 TAHE Deed Poll



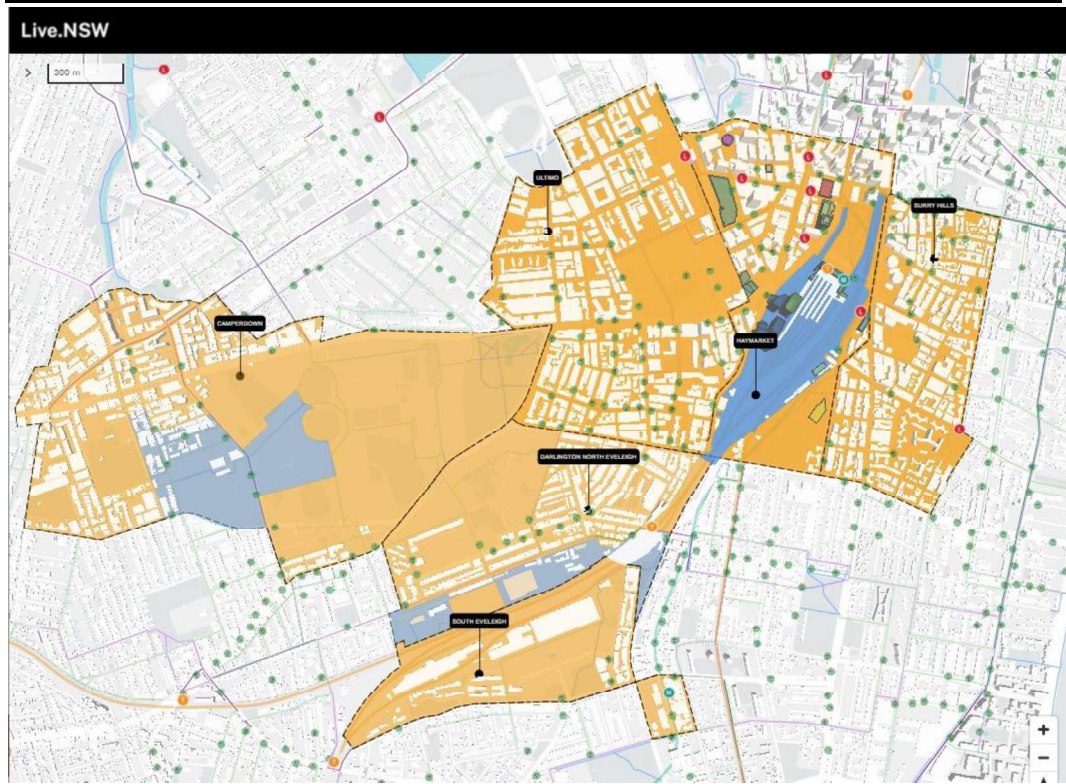


Schedule 19 Not used

Schedule 20 State Works Project Brief



Schedule 21 Sydney Innovation and Technology Precinct Plan

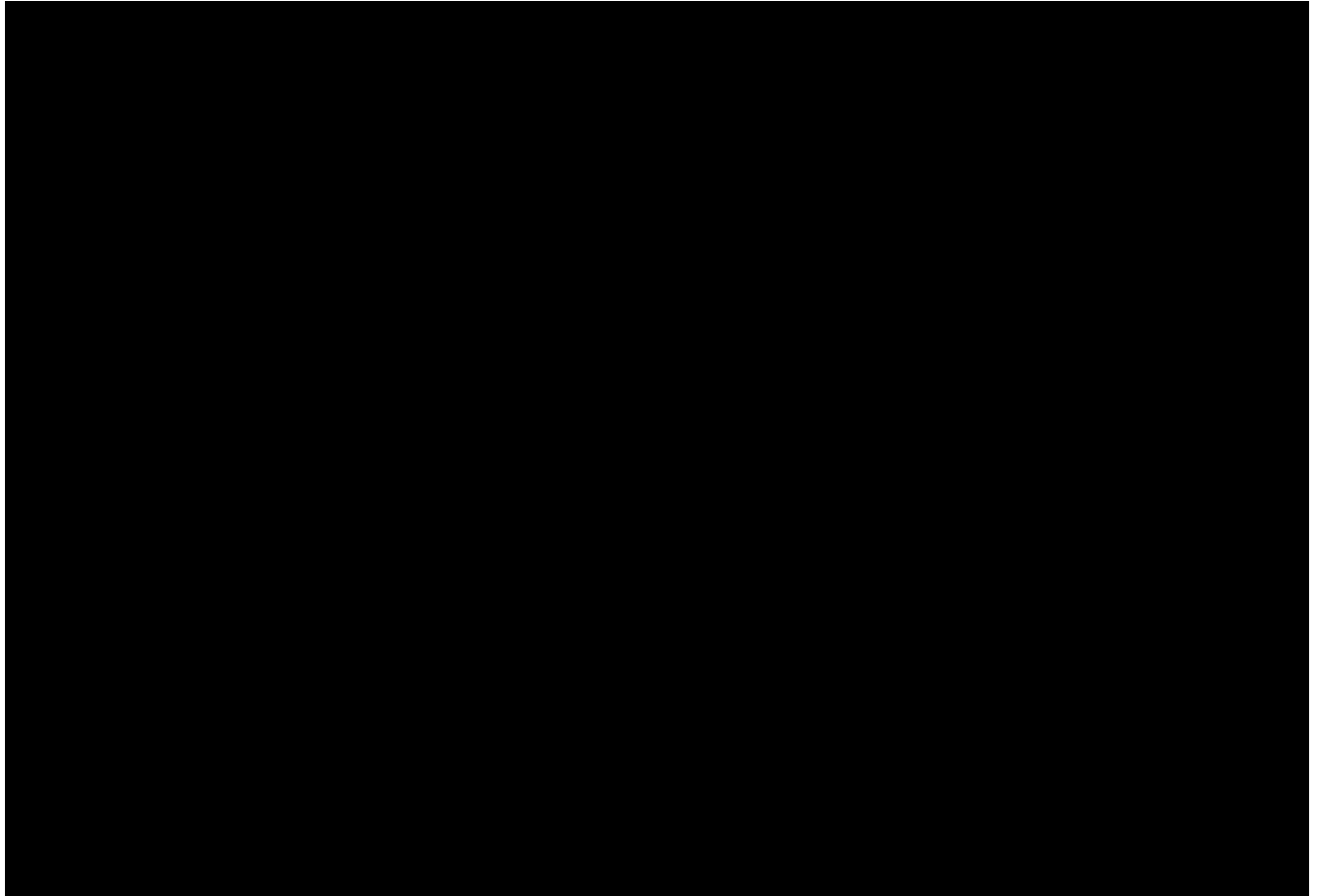


Schedule 22 TfNSW Requirements

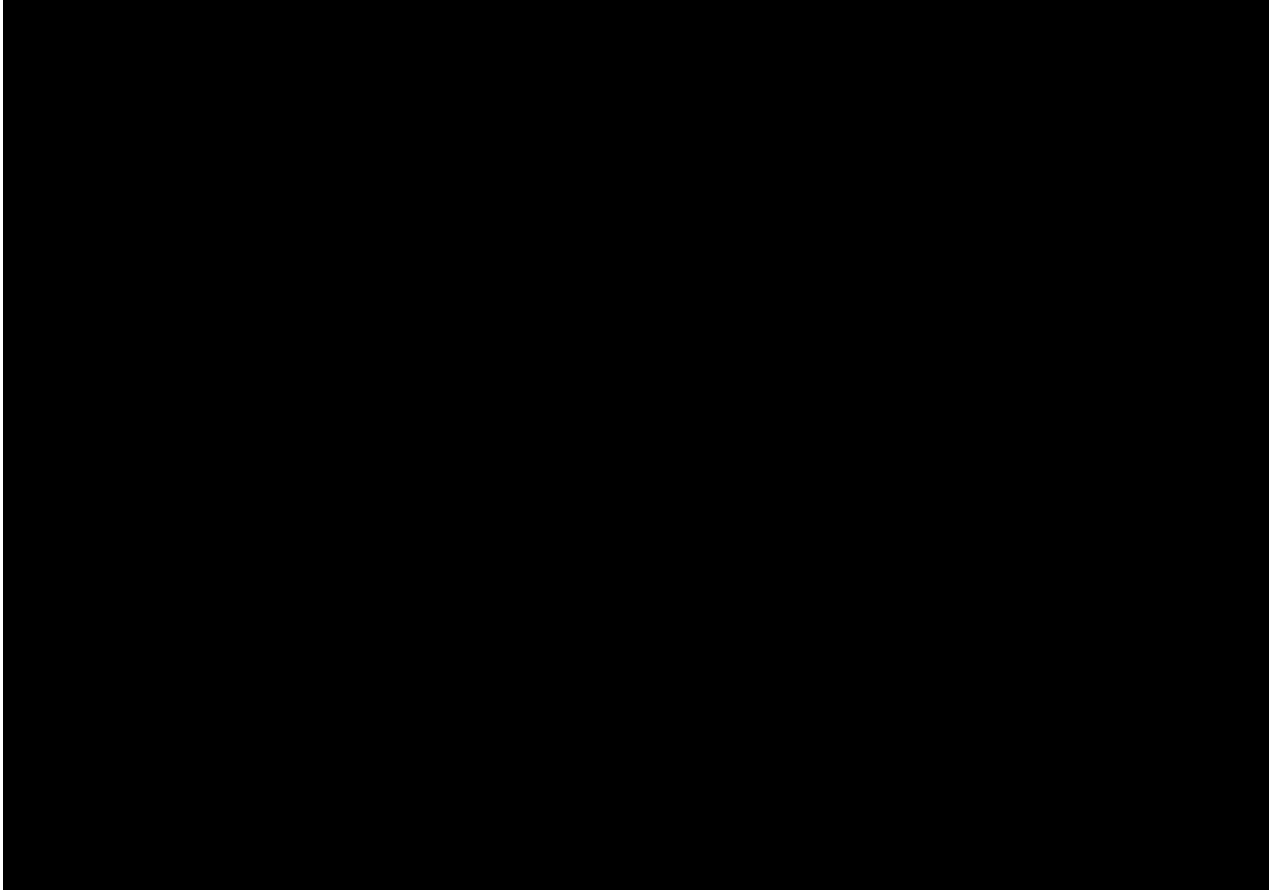
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Schedule		Description	Electronic File Name	Electronic File Location
Schedule 22	TfNSW Requirements	TfNSW Requirements	PDA Schedule 22 - TfNSW Requirements.pdf	<p>The USB entitled and labelled:</p> <p>"PDA – Atlassian Central – July 2022"</p> <p>circulated by MinterEllison to King & Wood Mallesons on or prior to the date of this deed, comprising the documents hosted in the folder entitled "Schedules" in the King & Wood Mallesons Kiteworks Data Room called "TfNSW - Atlassian PDA", as at 5.00pm on 14 July 2022.</p>

Schedule 23 Subdivision Strategy



Schedule 24 Shared Digital Engineering Principles



Schedule 25 Milestone Design Documents (Development Works)

Please refer to the documents identified in the table below, which are included as electronic files on a separate disc or USB. The parties agree that the documents identified below are incorporated by reference to this deed and reflect the versions of the documents located on the disc or USB identified in the table below.

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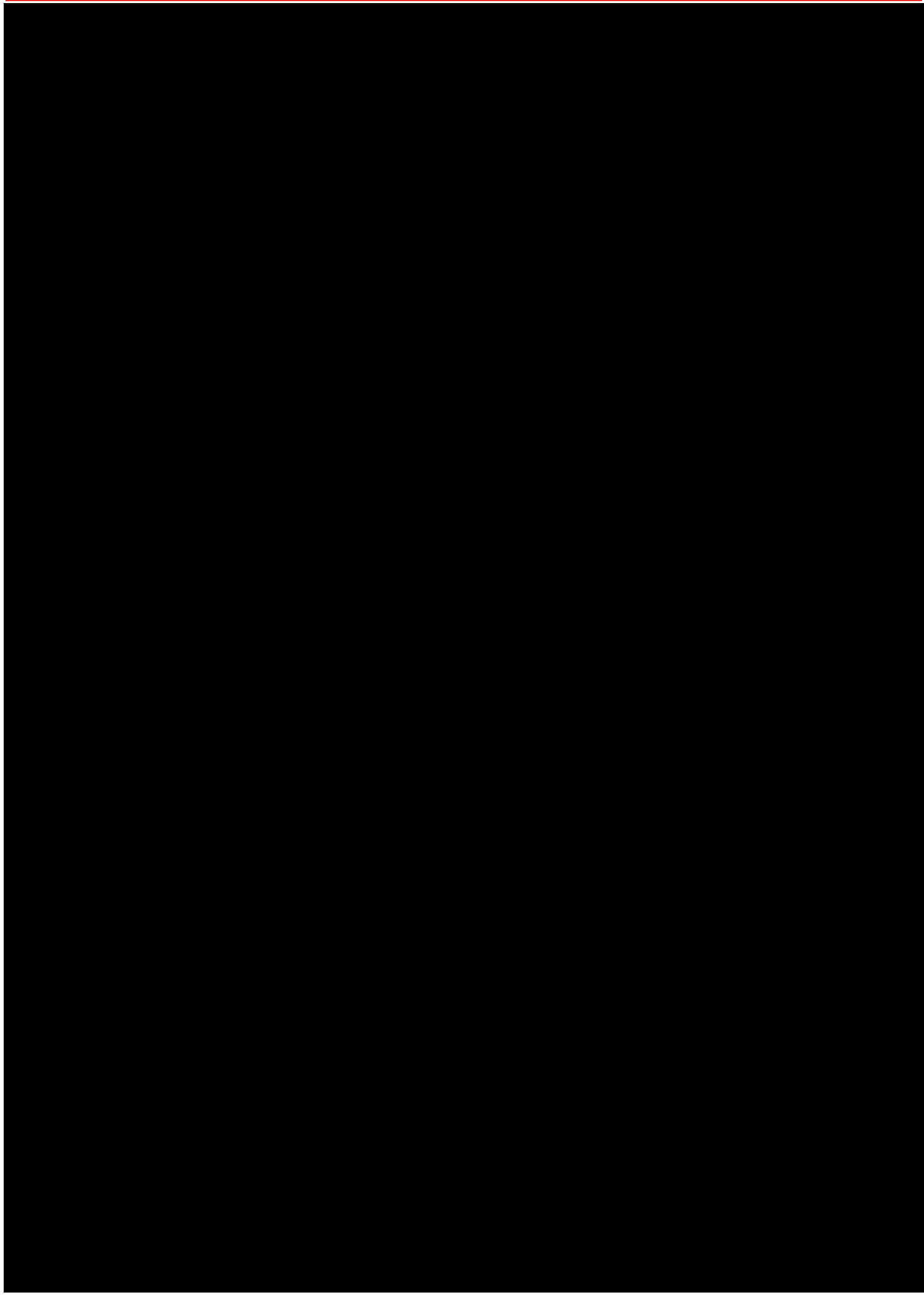
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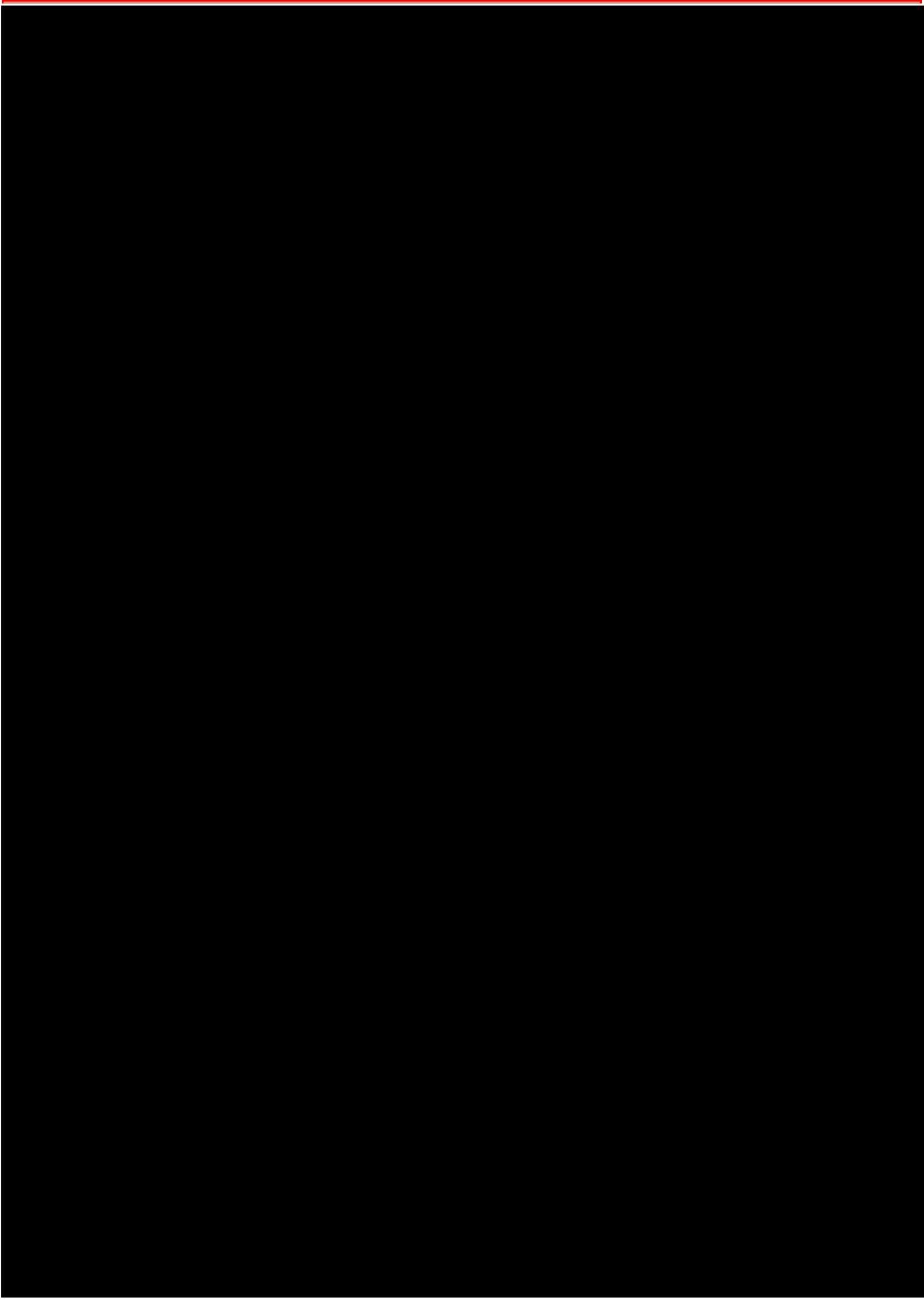
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every receipt, invoice, and bill should be properly filed and dated. This not only helps in tracking expenses but also provides a clear audit trail for tax purposes. The text further explains that consistent record-keeping is essential for identifying trends in spending and for ensuring that all financial obligations are met on time.

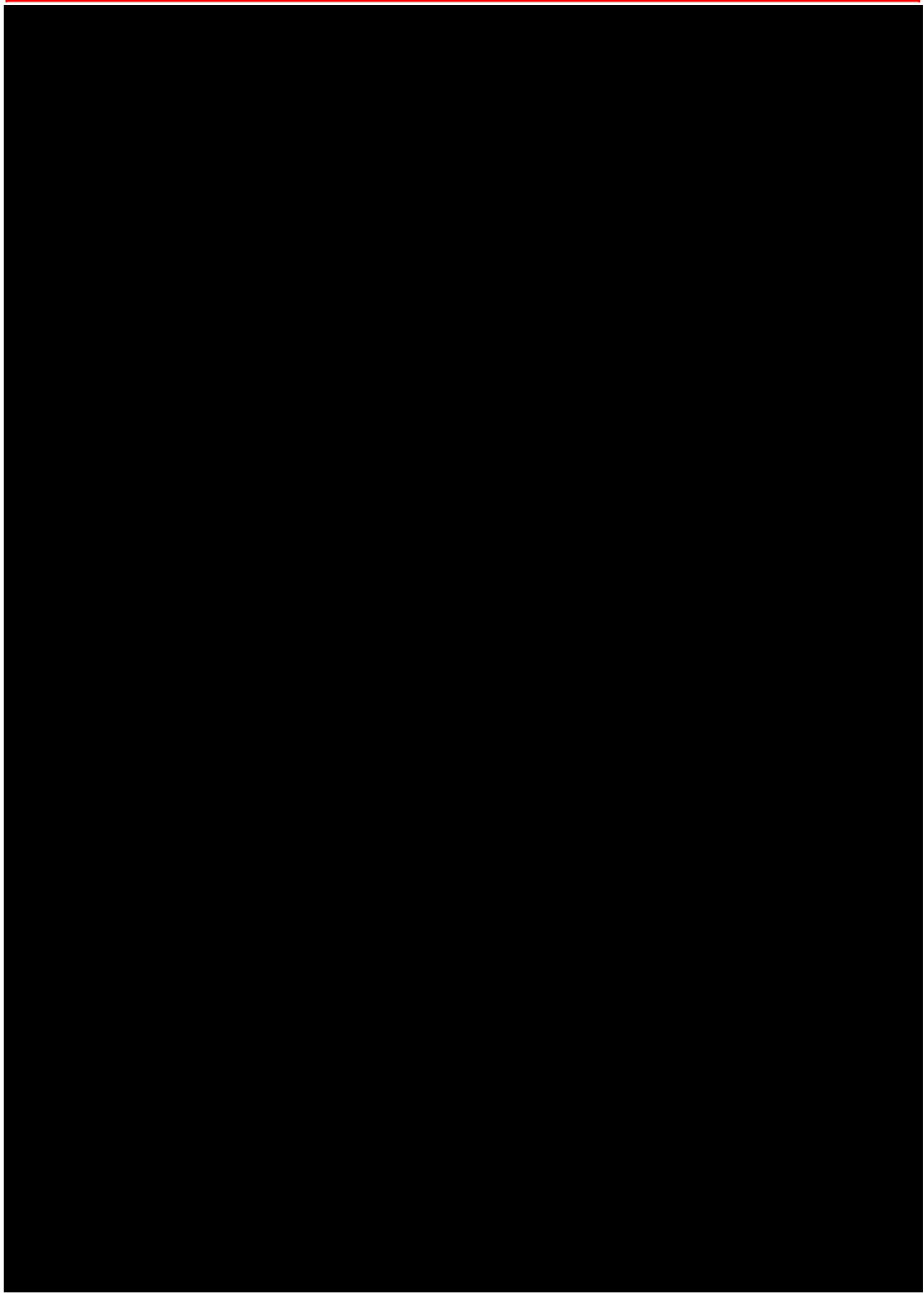
In the second section, the author provides a detailed overview of the budgeting process. It starts with identifying all sources of income and then lists all necessary expenses, from housing and utilities to groceries and entertainment. The goal is to create a realistic budget that allows for a comfortable lifestyle while saving for future goals. The author suggests using spreadsheets or budgeting apps to help manage these numbers effectively.

The third part of the document focuses on debt management. It discusses the pros and cons of different types of loans and credit cards, and offers strategies for paying them off efficiently. The author stresses the importance of understanding the interest rates and terms of any debt, and advises against accumulating unnecessary debt. Practical tips are provided for negotiating better terms with creditors and for prioritizing payments to avoid late fees and penalties.

Finally, the document touches upon investment strategies for long-term wealth building. It introduces the concept of diversification and discusses various options such as stocks, bonds, and real estate. The author encourages readers to consult with a financial advisor to tailor an investment plan to their specific needs and risk tolerance. The overall message is that with careful planning and disciplined execution, financial success is within reach.



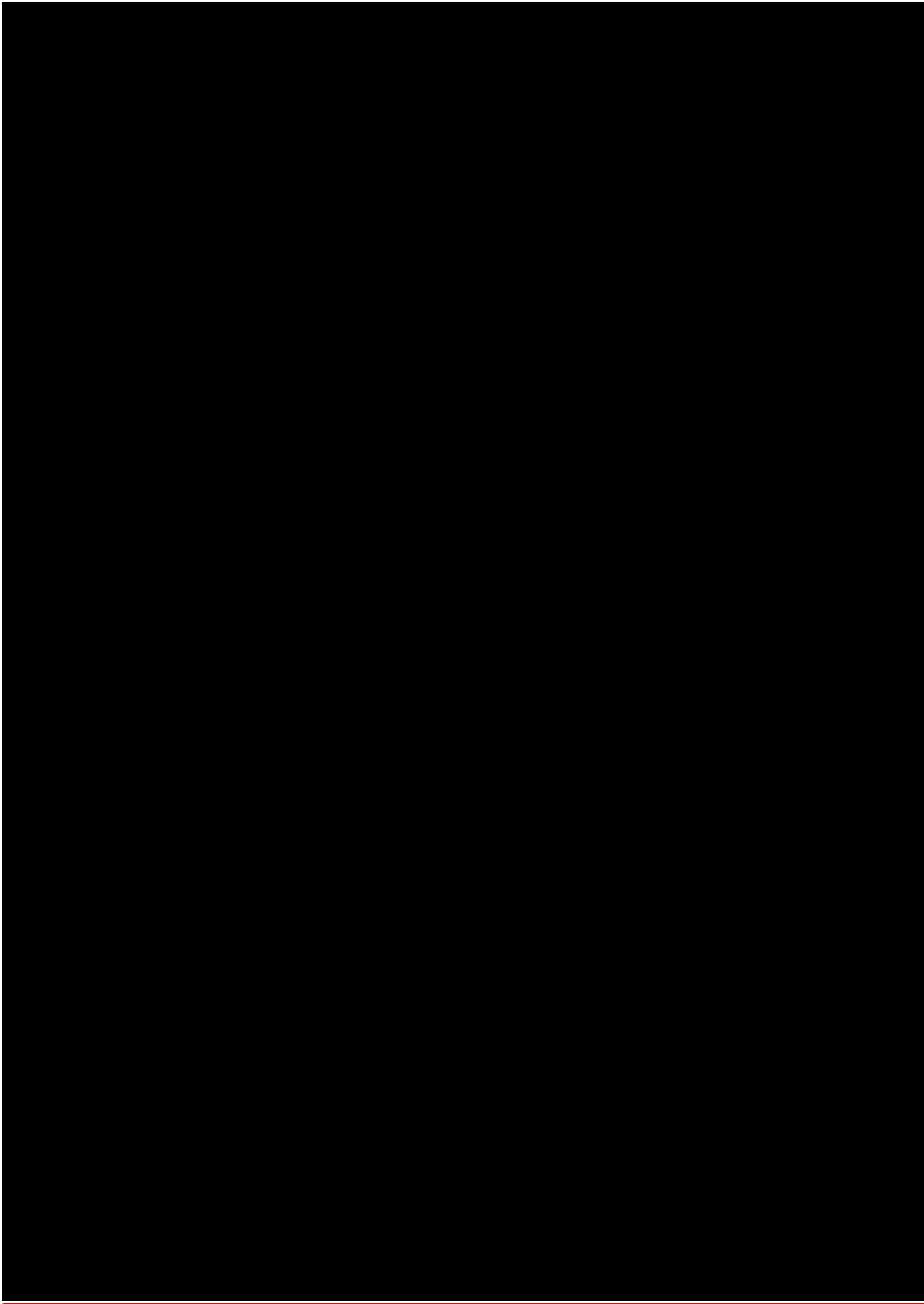


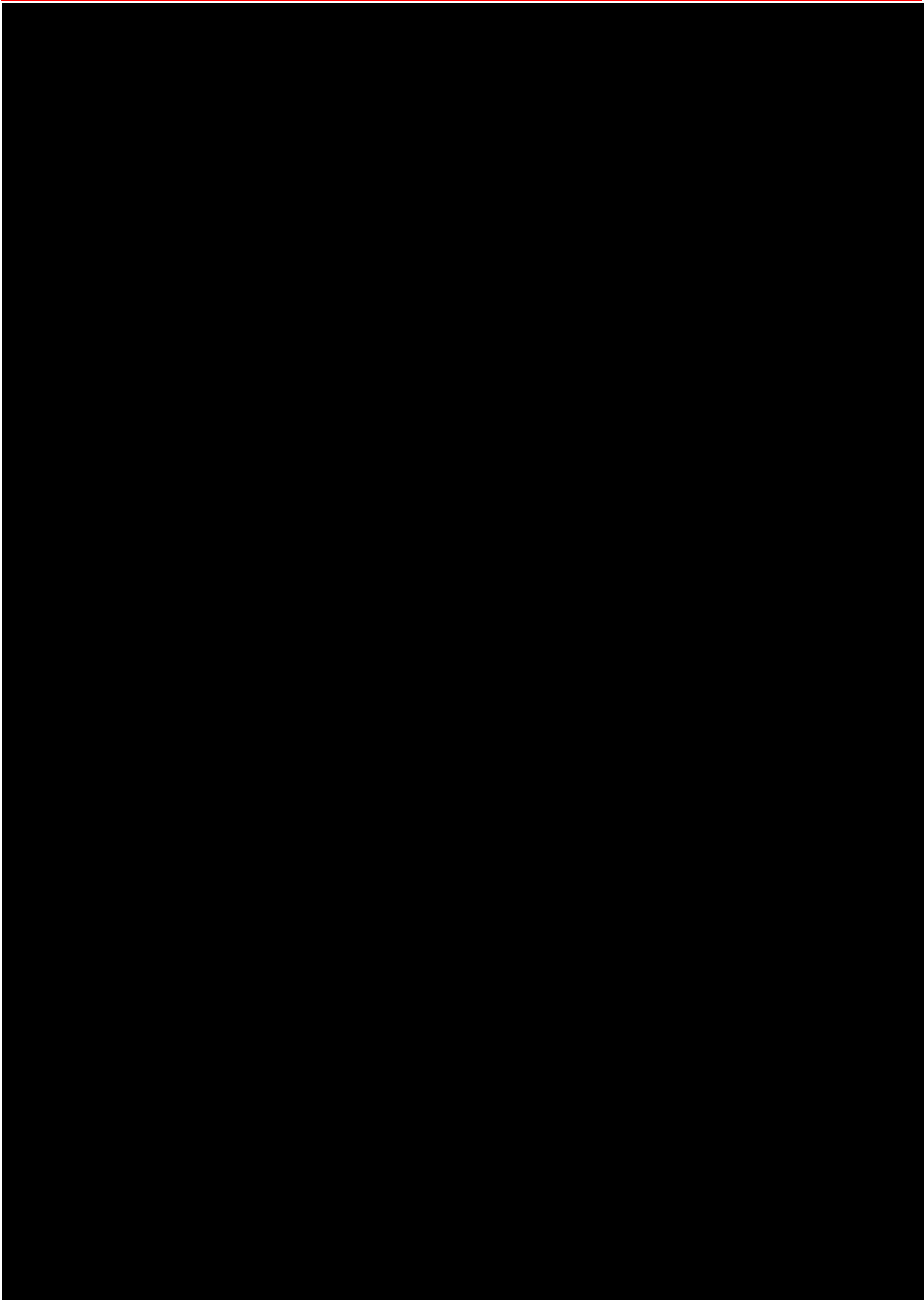


The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The document provides a detailed list of items that should be tracked, such as inventory levels, supplier payments, and customer orders. It also outlines the procedures for recording these transactions, including the use of specific forms and the assignment of responsibilities to different staff members.

The second part of the document focuses on the analysis of the recorded data. It describes various methods for identifying trends and anomalies in the financial records. This includes comparing current performance with historical data and industry benchmarks. The document also discusses the importance of regular audits to verify the accuracy of the records and to detect any potential fraud or errors. It provides a step-by-step guide for conducting these audits, from the selection of samples to the final reporting of findings.

The final part of the document addresses the communication of the results of the financial analysis. It emphasizes the need for clear and concise reporting to management and other stakeholders. The document provides a template for these reports, including sections for executive summaries, detailed data analysis, and recommendations for future actions. It also discusses the importance of transparency and accountability in the reporting process, and provides guidelines for how to handle any questions or concerns that may arise.



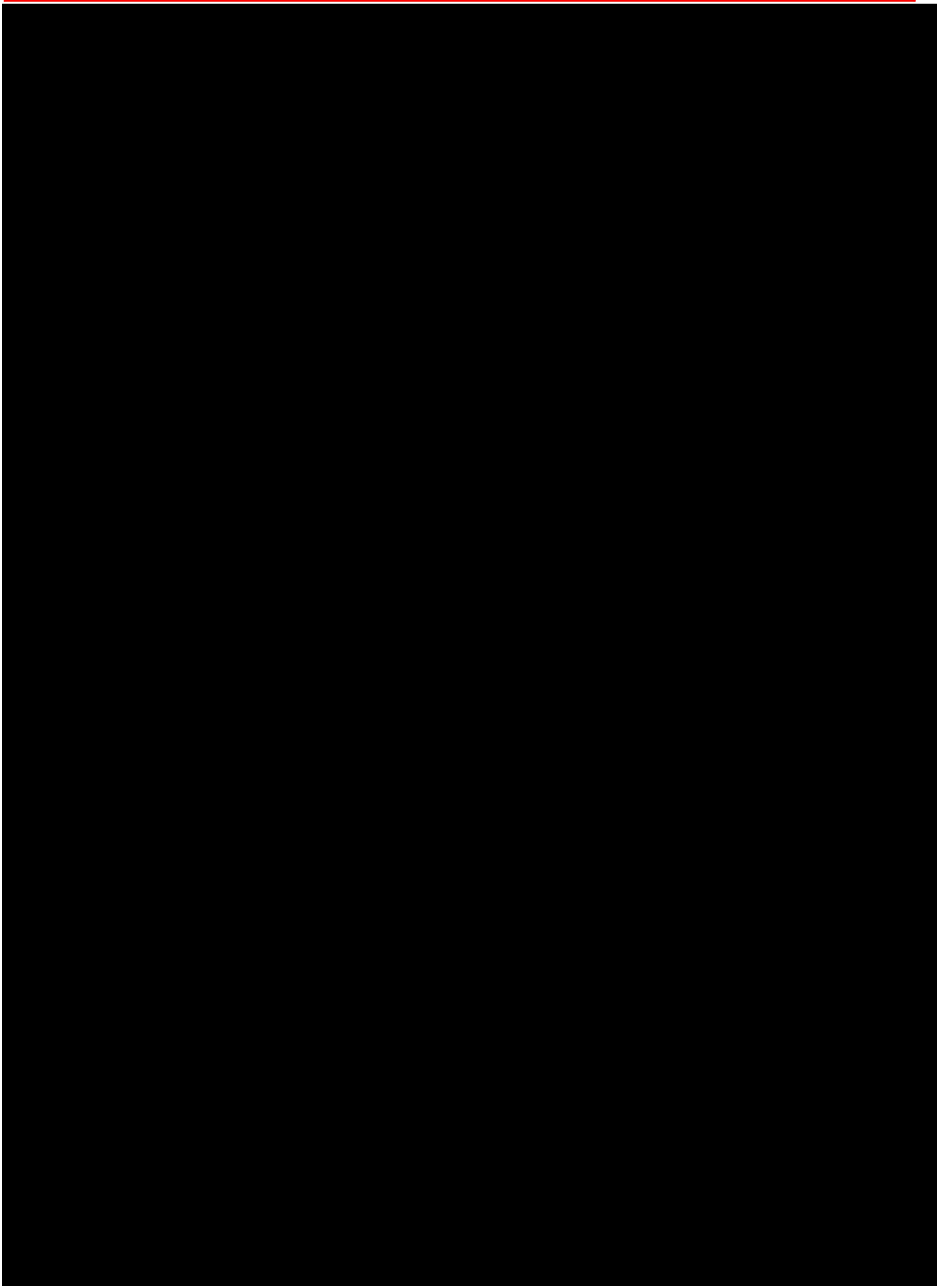


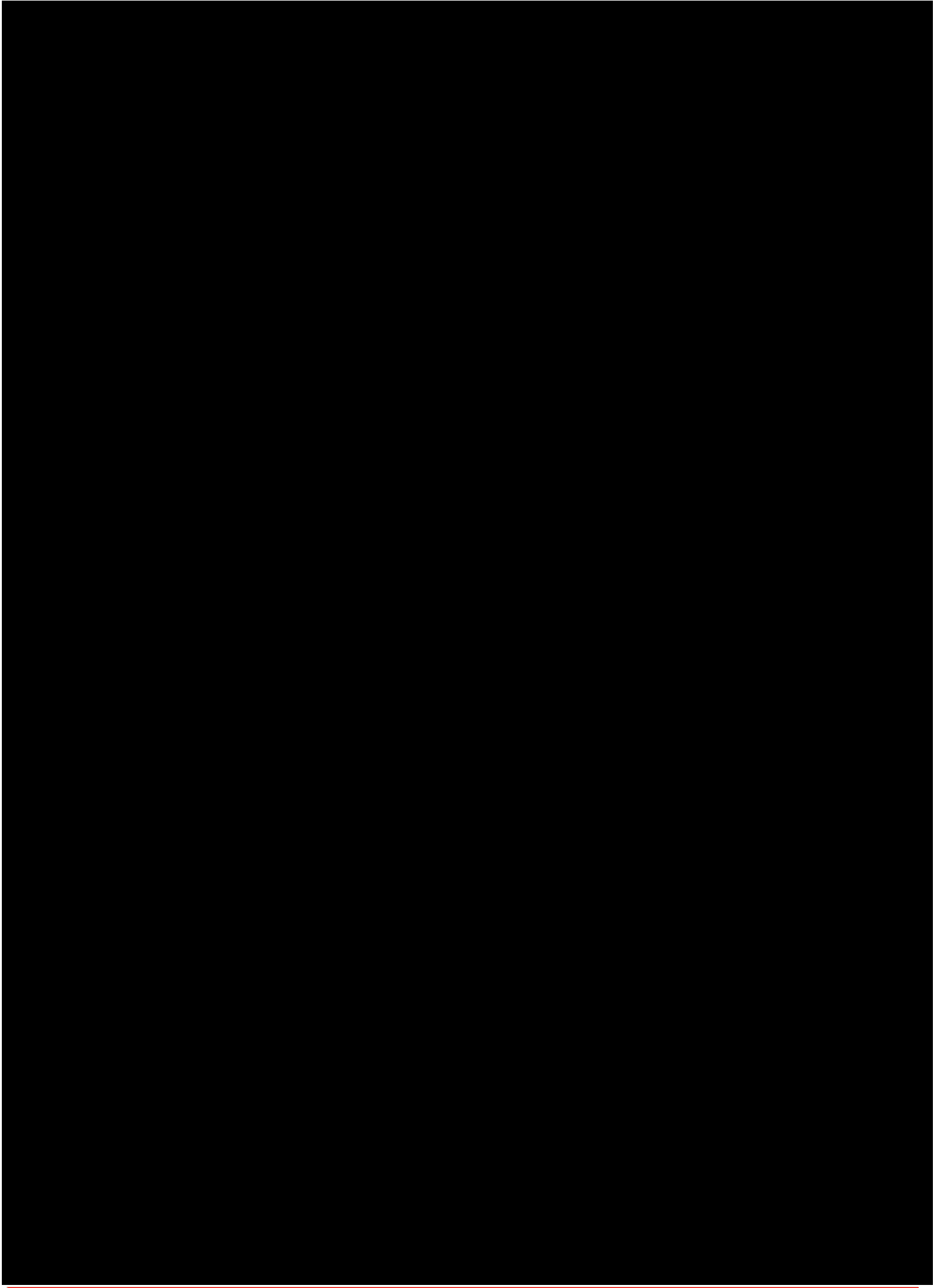
The first part of the document discusses the importance of maintaining accurate records in a business setting. It highlights how proper record-keeping can help in decision-making, legal compliance, and financial management. The text emphasizes that records should be organized, up-to-date, and easily accessible.

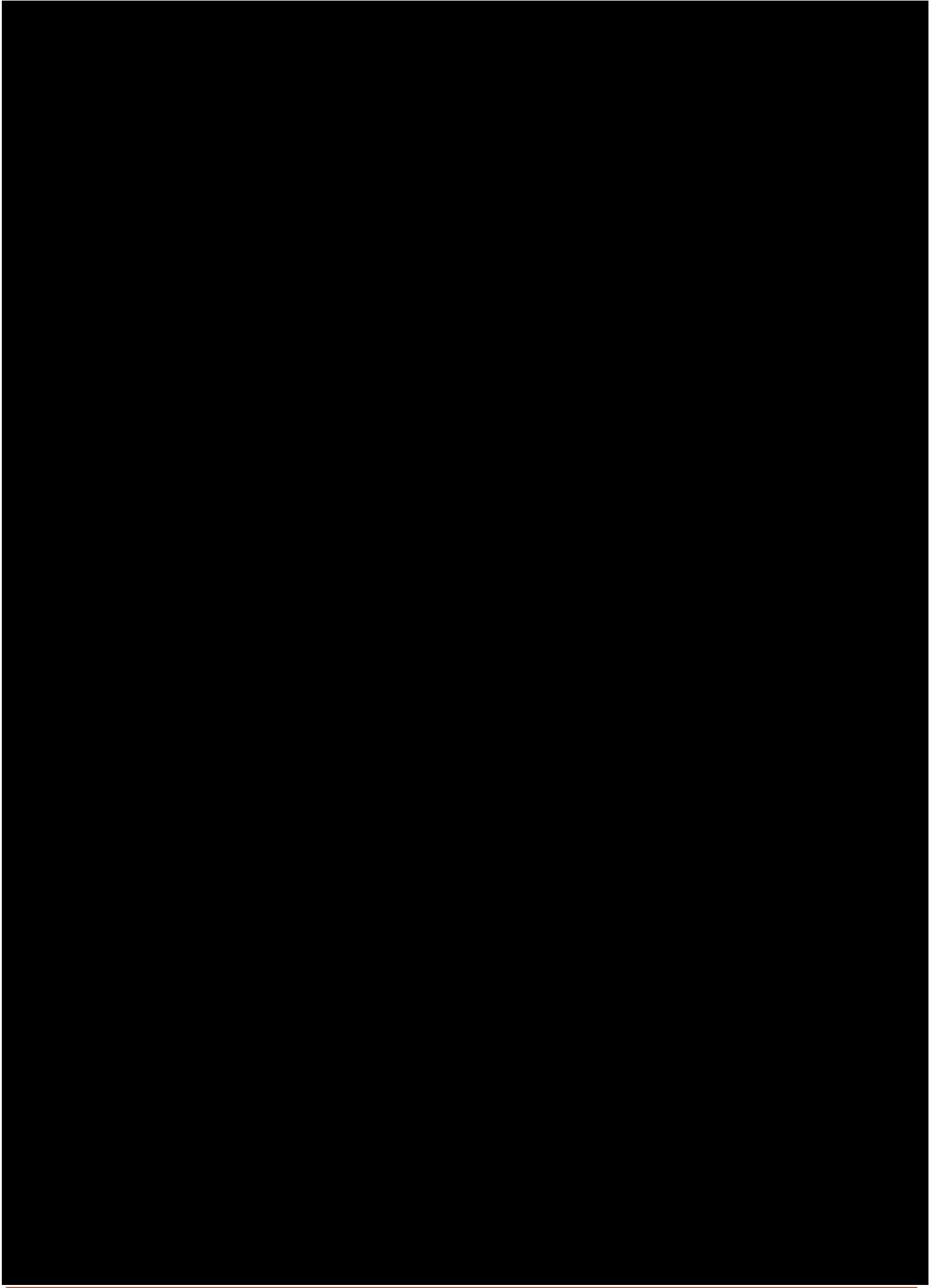
Next, the document addresses the challenges of data management in the digital age. It notes that while digital storage offers convenience, it also introduces risks such as data loss, security breaches, and information overload. Solutions like cloud storage, encryption, and regular backups are suggested to mitigate these risks.

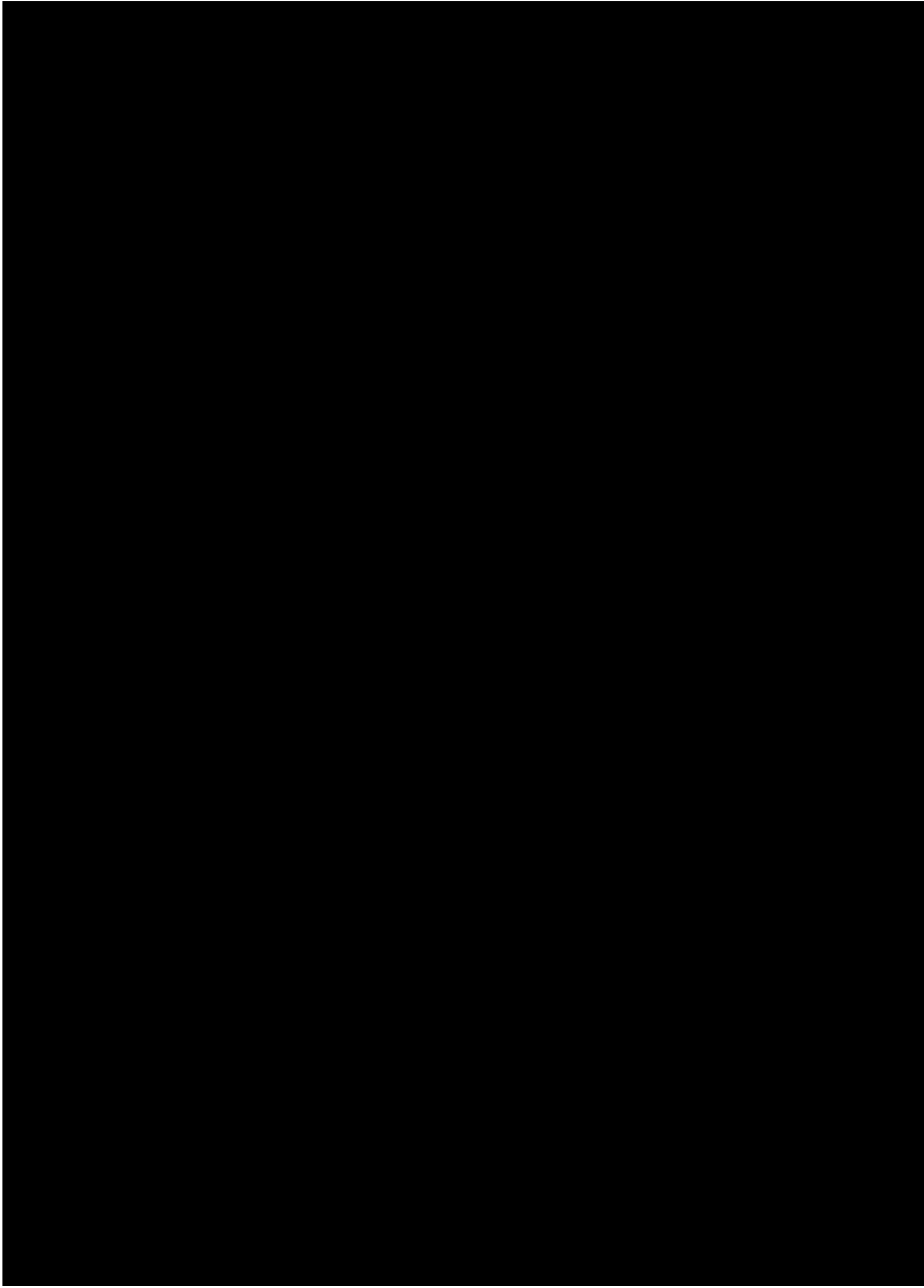
The third section focuses on the role of technology in streamlining business processes. It describes how automation and software solutions can reduce manual errors, save time, and improve overall efficiency. Examples of such technologies include accounting software, project management tools, and customer relationship management (CRM) systems.

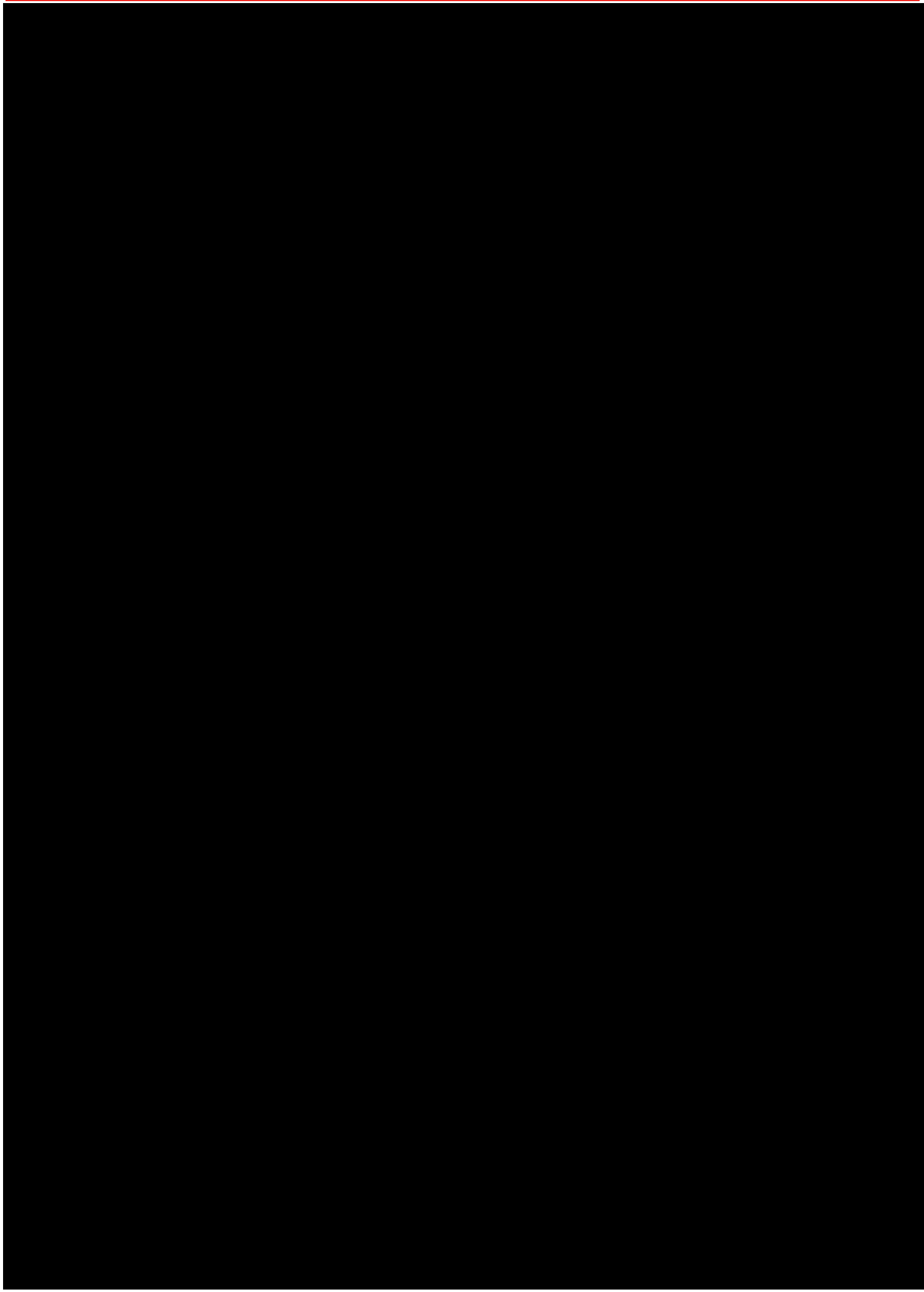
Finally, the document concludes by stressing the importance of employee training and awareness. It suggests that investing in education and skill development can lead to a more productive and adaptable workforce. Regular training sessions and workshops are recommended to keep employees updated on the latest industry trends and technologies.











The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every sale, purchase, and expense must be properly documented to ensure compliance with tax laws and to provide a clear audit trail. The text highlights the need for consistency in record-keeping and the potential consequences of failing to do so, such as penalties and interest charges.

Next, the document addresses the issue of depreciation. It explains how assets used in a business can be depreciated over their useful life, allowing for a more accurate representation of their value on the balance sheet. The text provides examples of different depreciation methods and discusses the factors that influence the choice of method, such as the nature of the asset and the company's financial goals.

The third section focuses on the treatment of interest income and expense. It details the rules for reporting interest received from various sources, including banks, bonds, and other financial institutions. It also discusses the deductibility of interest on loans used for business purposes, providing guidance on how to properly allocate interest between different types of debt.

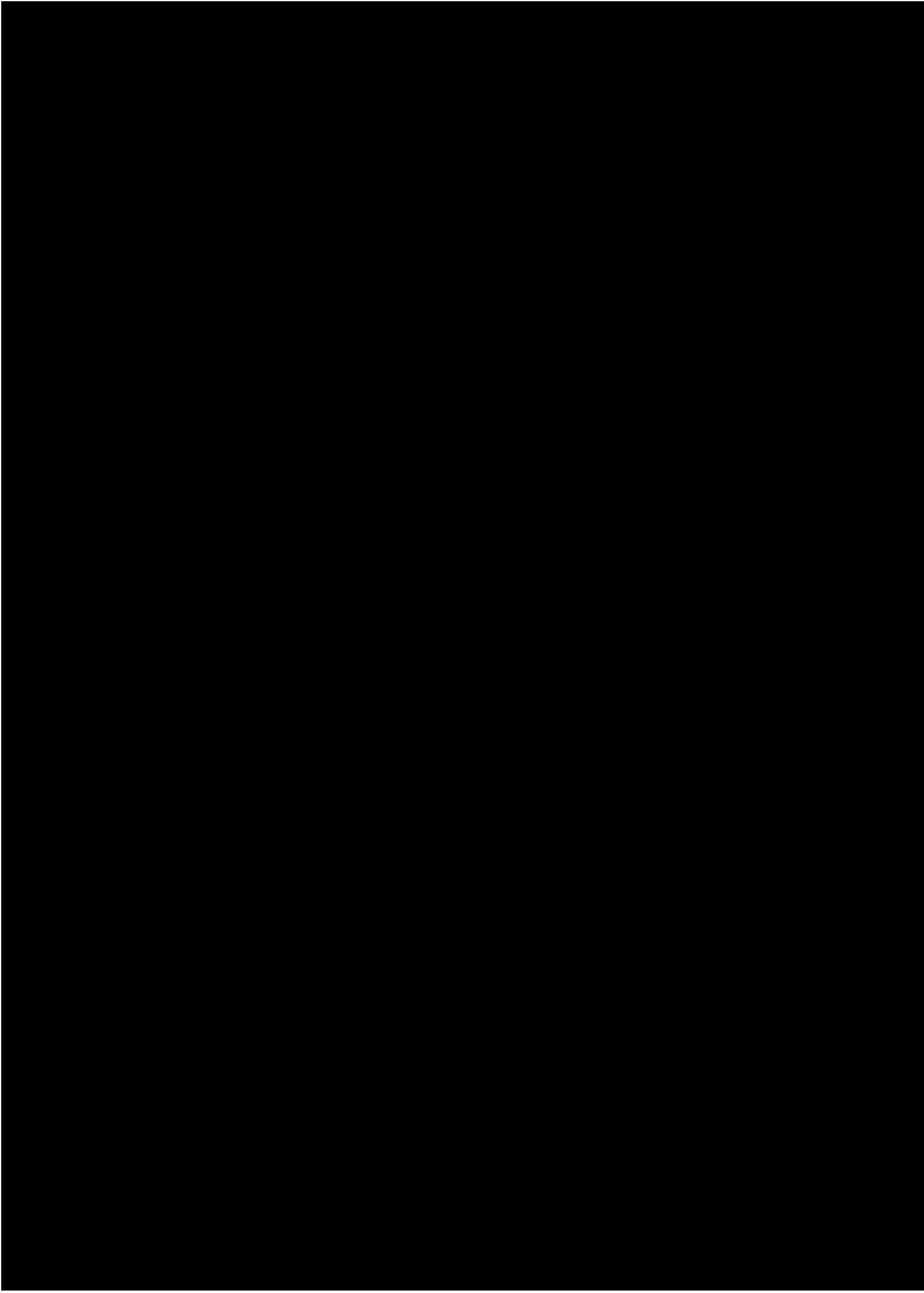
Finally, the document concludes with a summary of the key points discussed and offers some practical advice for businesses looking to optimize their tax reporting. It encourages businesses to consult with a professional tax advisor to ensure they are fully compliant with all applicable laws and regulations.

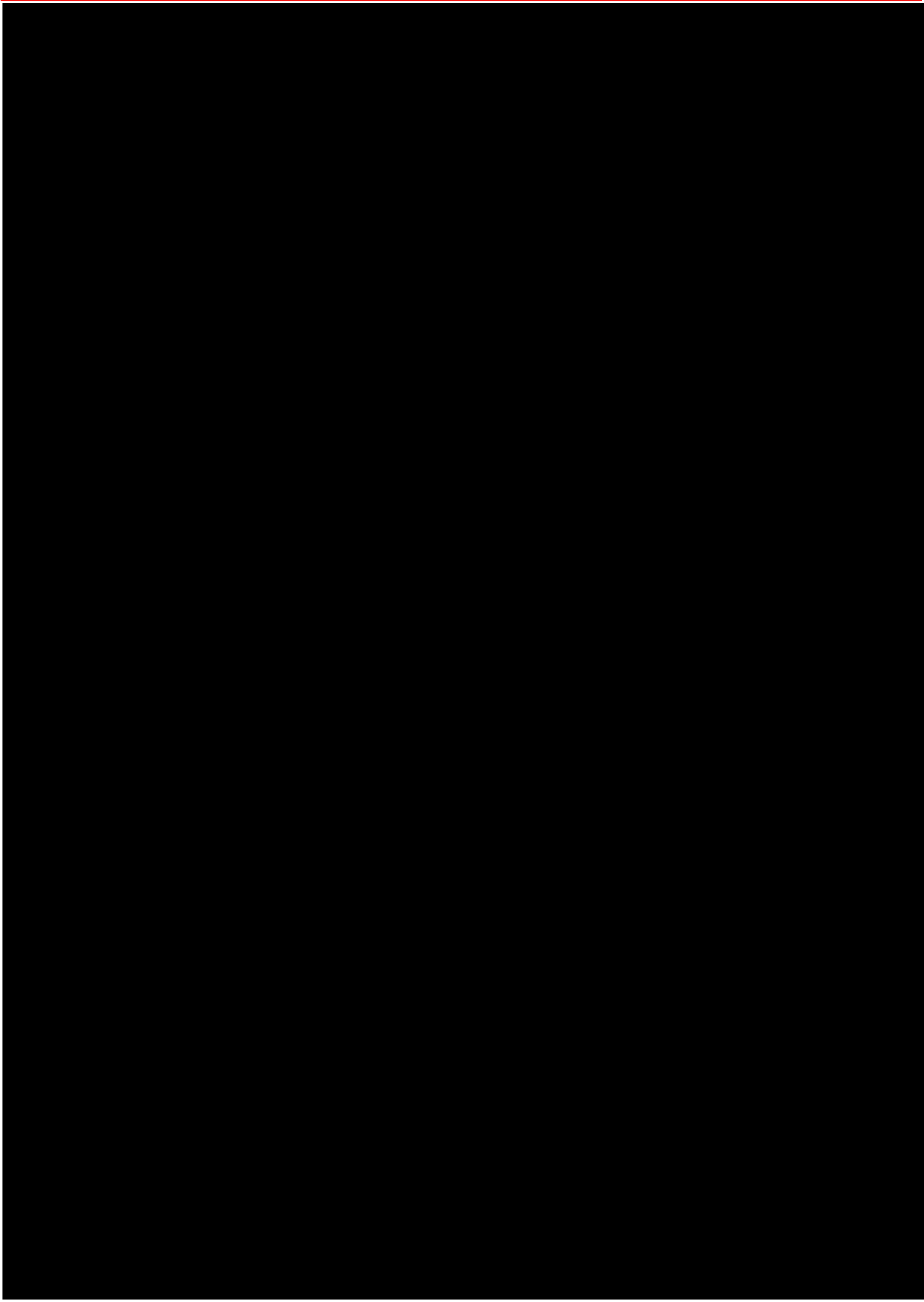
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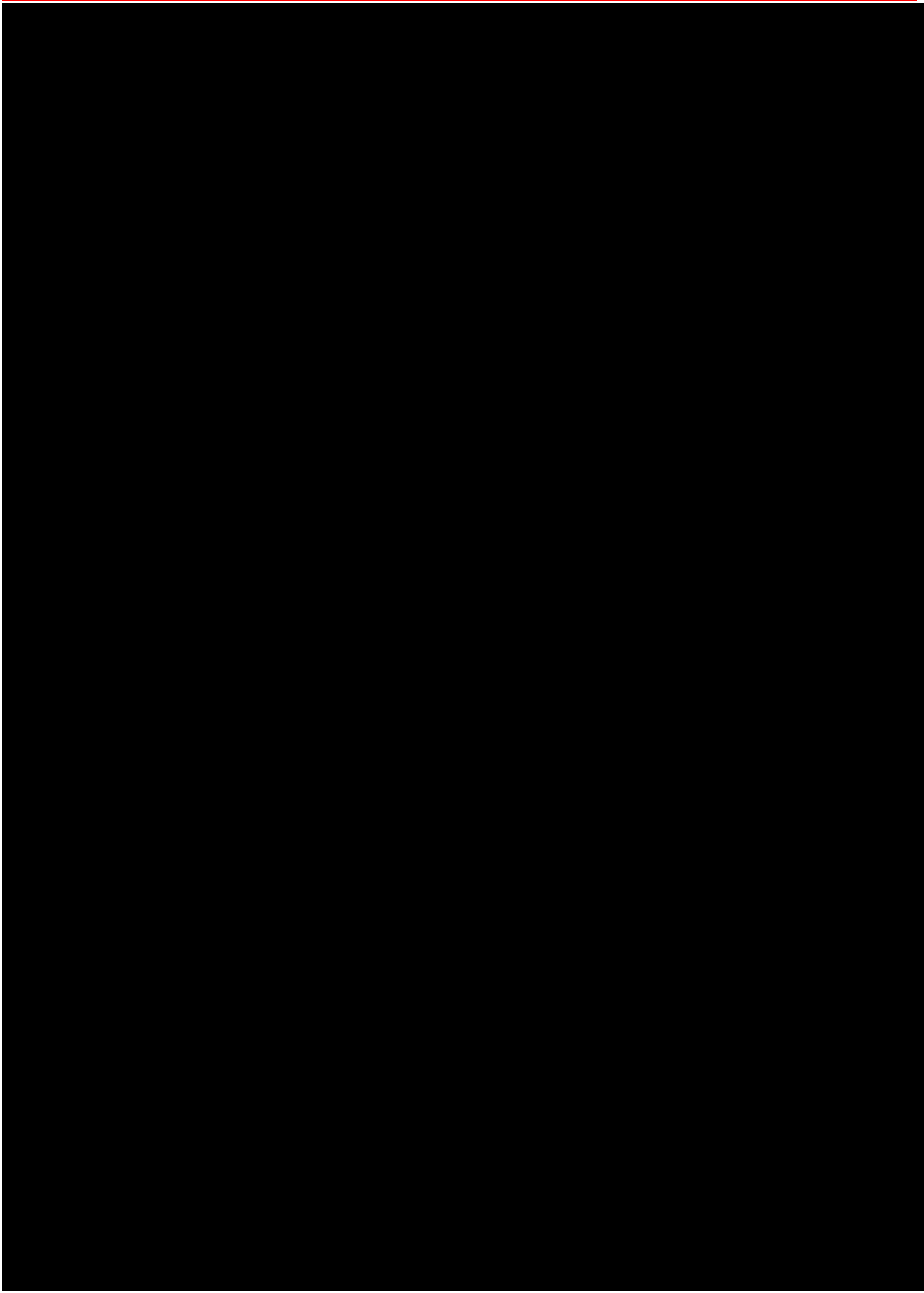
Next, the document addresses the challenges of data management in the digital age. It notes that while digital storage offers convenience, it also introduces risks such as data loss, security breaches, and information overload. Solutions like cloud storage, encryption, and regular backups are suggested to mitigate these risks.

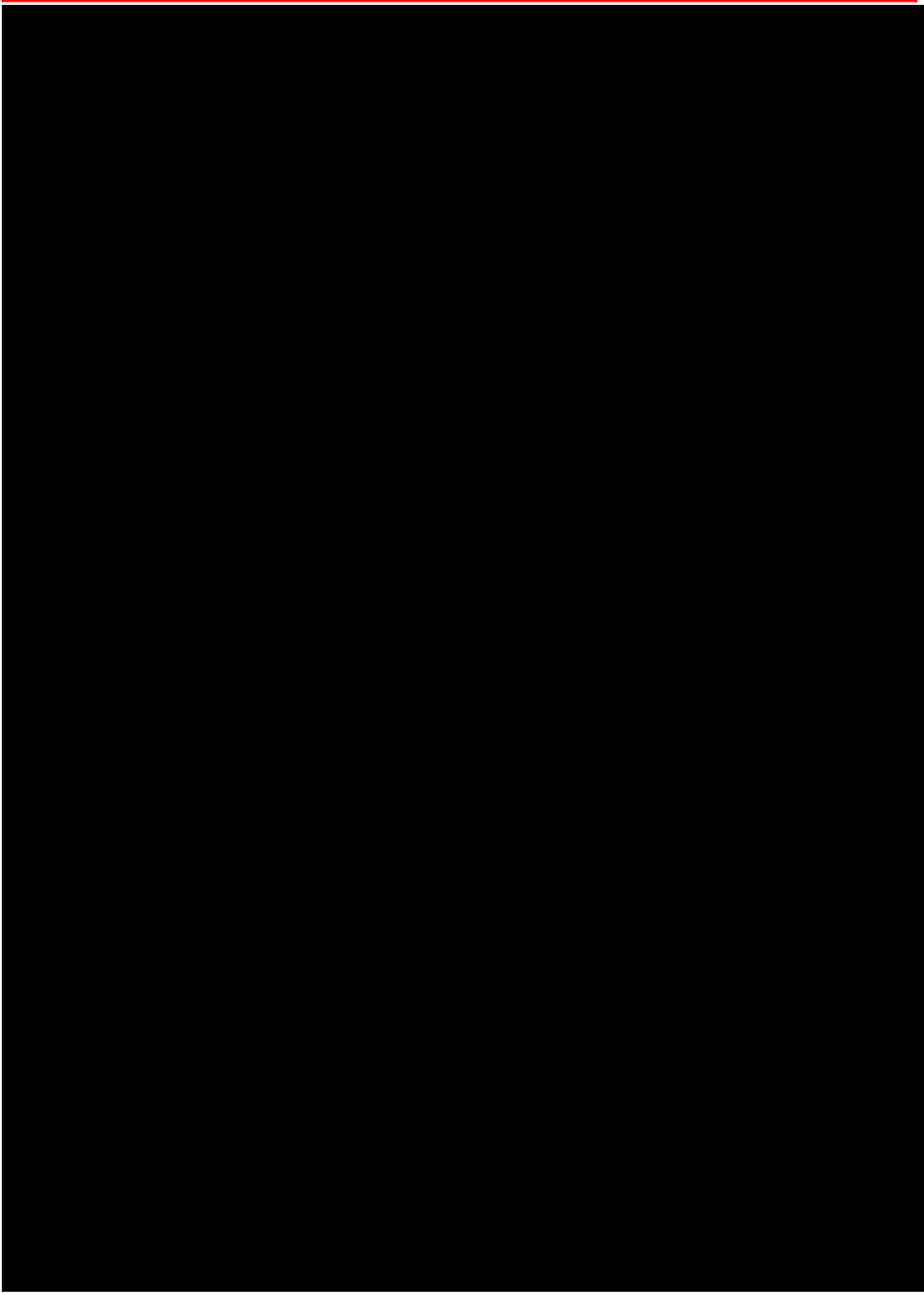
The third section focuses on the role of technology in streamlining business processes. It describes how automation and software tools can reduce manual errors, save time, and improve overall efficiency. Examples of such technologies include accounting software, project management tools, and customer relationship management (CRM) systems.

Finally, the document concludes by stressing the need for continuous learning and adaptation. As technology and market conditions evolve, businesses must stay informed and be willing to adopt new practices to remain competitive. Regular training and updates are essential for long-term success.









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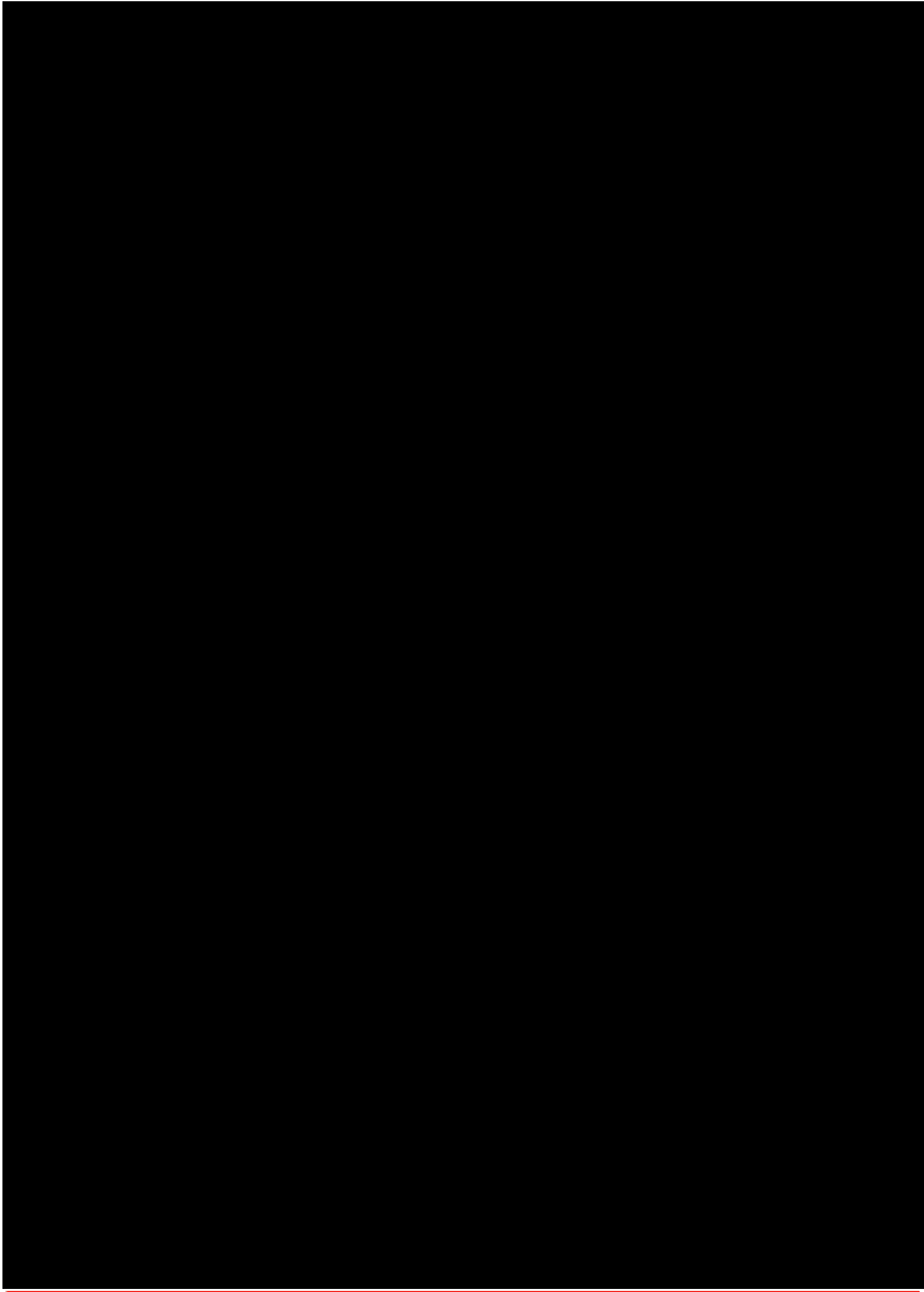
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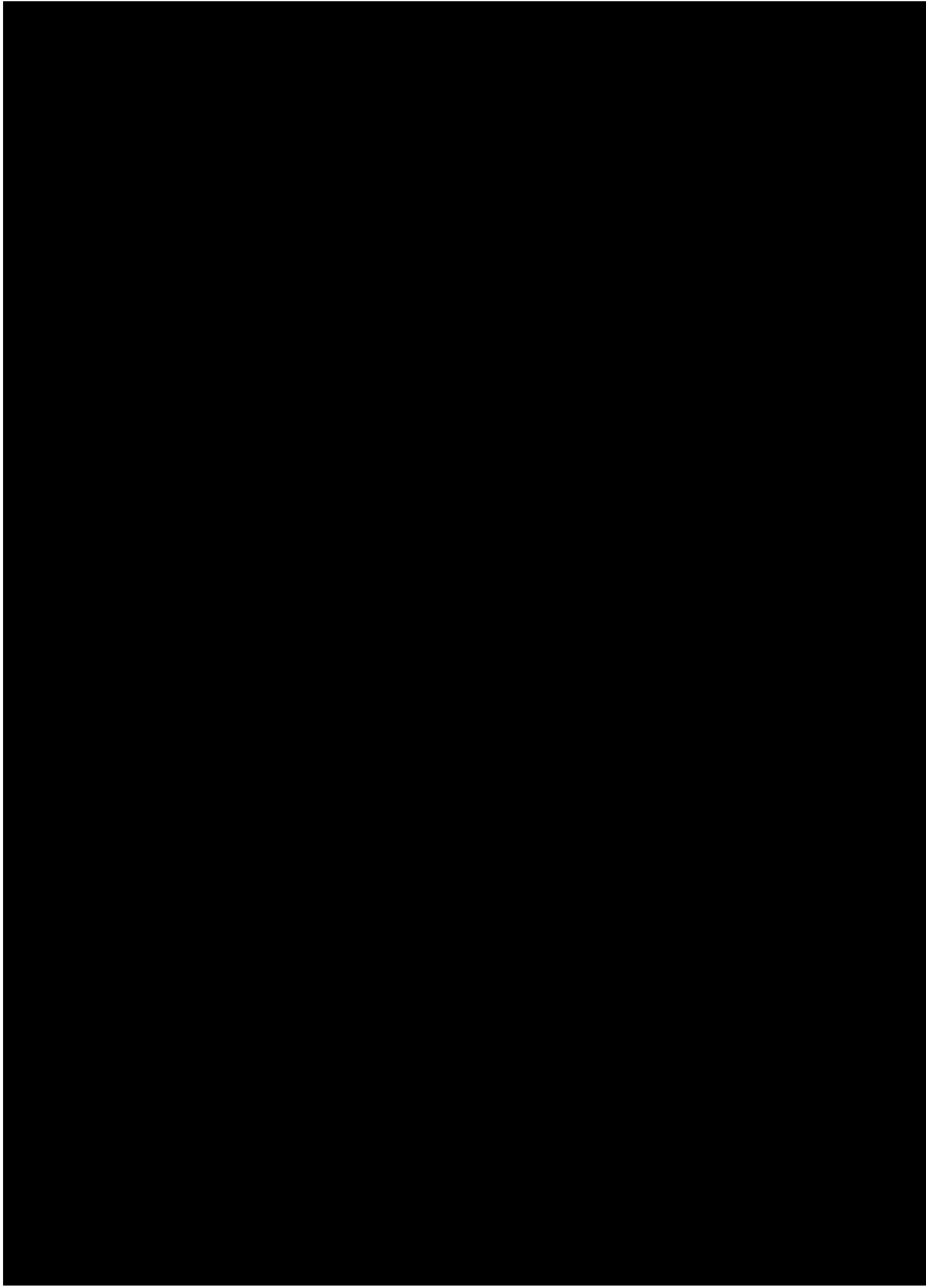
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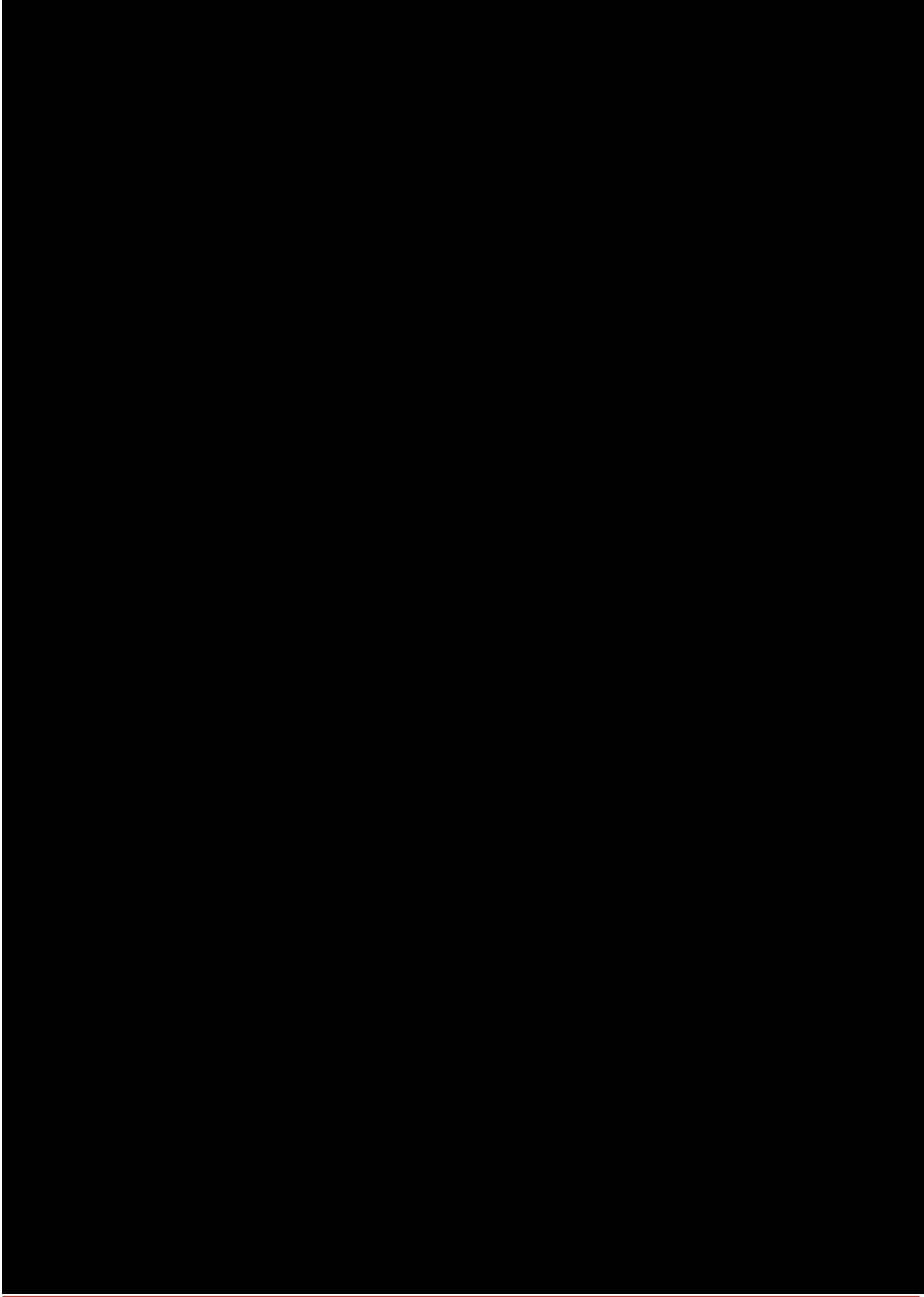


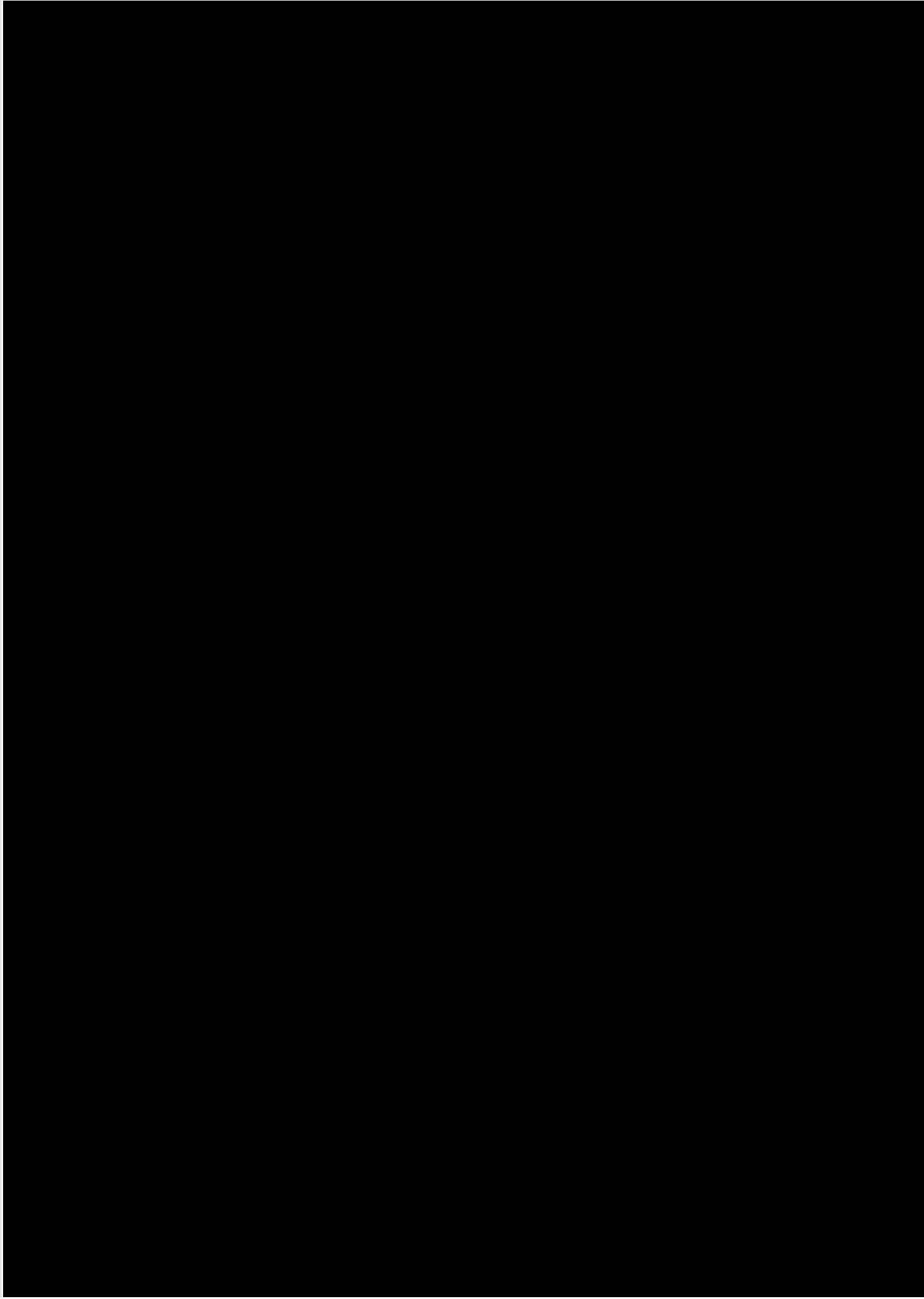
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every sale, purchase, and expense must be properly documented to ensure compliance with tax laws and to provide a clear audit trail. The text highlights the need for consistency in record-keeping and the potential consequences of failing to do so, such as penalties and interest charges.

Next, the document addresses the issue of depreciation. It explains how assets used in a business can be depreciated over their useful life, allowing for a deduction of their cost against taxable income. The text provides a detailed overview of the different depreciation methods available, including straight-line, declining balance, and accelerated depreciation, and discusses the factors that influence the choice of method.

The third section focuses on the treatment of interest and taxes. It details the rules for deducting interest on business loans and the treatment of taxes paid on business income. The text also discusses the impact of state and local taxes on federal taxable income and provides guidance on how to properly allocate these expenses for tax purposes.

Finally, the document concludes with a summary of the key points and offers some practical advice for business owners. It stresses the importance of consulting with a qualified tax professional to ensure that all tax obligations are met and that the most advantageous tax strategies are implemented. The text also provides a list of resources for further information and a glossary of key terms.





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the 1990s, the number of people in the UK who are employed in the public sector has increased from 10.5 million to 12.5 million, and the number of people in the public sector who are employed in health care has increased from 2.5 million to 3.5 million (Department of Health 2000).

There are a number of reasons for the increase in the number of people employed in the public sector. One reason is that the public sector has become a more important part of the economy. Another reason is that the public sector has become a more attractive place to work. A third reason is that the public sector has become a more important part of the welfare state.

The increase in the number of people employed in the public sector has led to a number of changes in the way that the public sector is organized. One change is that the public sector has become more decentralized. Another change is that the public sector has become more competitive. A third change is that the public sector has become more customer-oriented.

The changes in the way that the public sector is organized have led to a number of challenges for the public sector. One challenge is that the public sector has become more complex. Another challenge is that the public sector has become more expensive. A third challenge is that the public sector has become more difficult to manage.

The challenges facing the public sector have led to a number of reforms. One reform is that the public sector has been reorganized. Another reform is that the public sector has been privatized. A third reform is that the public sector has been restructured.

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The challenges facing the public sector have led to a number of reforms. One reform is that the public sector has been reorganized. Another reform is that the public sector has been privatized. A third reform is that the public sector has been restructured.

The reforms have led to a number of changes in the way that the public sector is organized. One change is that the public sector has become more decentralized. Another change is that the public sector has become more competitive. A third change is that the public sector has become more customer-oriented.

The first part of the document discusses the importance of maintaining accurate records in a business setting. It highlights how proper record-keeping can help in decision-making, legal compliance, and financial management. The text emphasizes that records should be organized, up-to-date, and easily accessible.

Next, the document addresses the challenges of data management in the digital age. It notes that while digital storage offers convenience, it also introduces risks such as data loss, security breaches, and information overload. Solutions like cloud storage, encryption, and regular backups are suggested to mitigate these risks.

The third section focuses on the role of technology in streamlining business processes. It describes how automation and software tools can reduce manual errors, save time, and improve overall efficiency. Examples include using accounting software for invoicing and project management tools for task delegation.

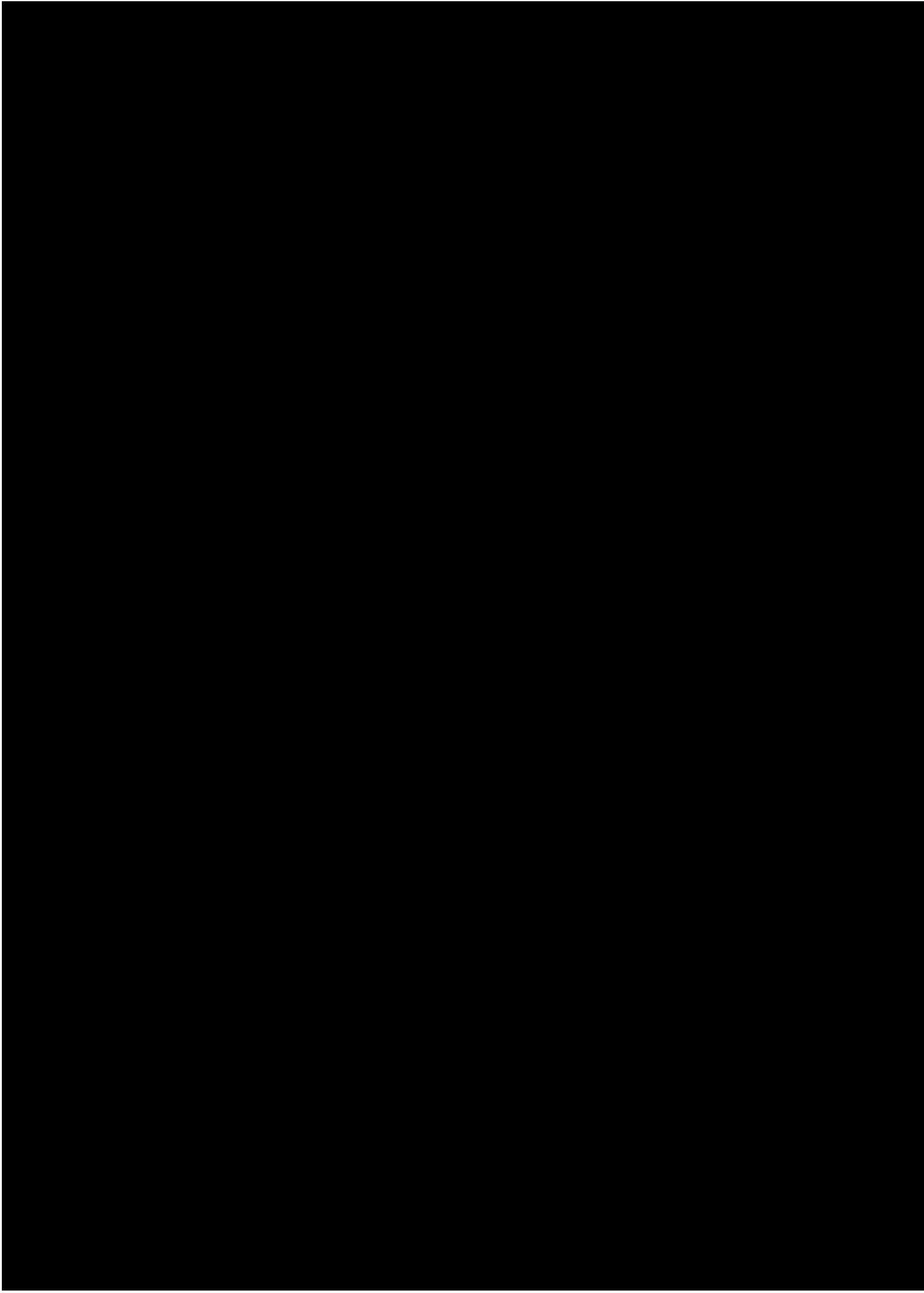
Finally, the document concludes by stressing the importance of employee training and awareness. It suggests that regular training sessions can help employees understand the value of data and the correct procedures for handling information. This, in turn, leads to a more professional and organized business environment.

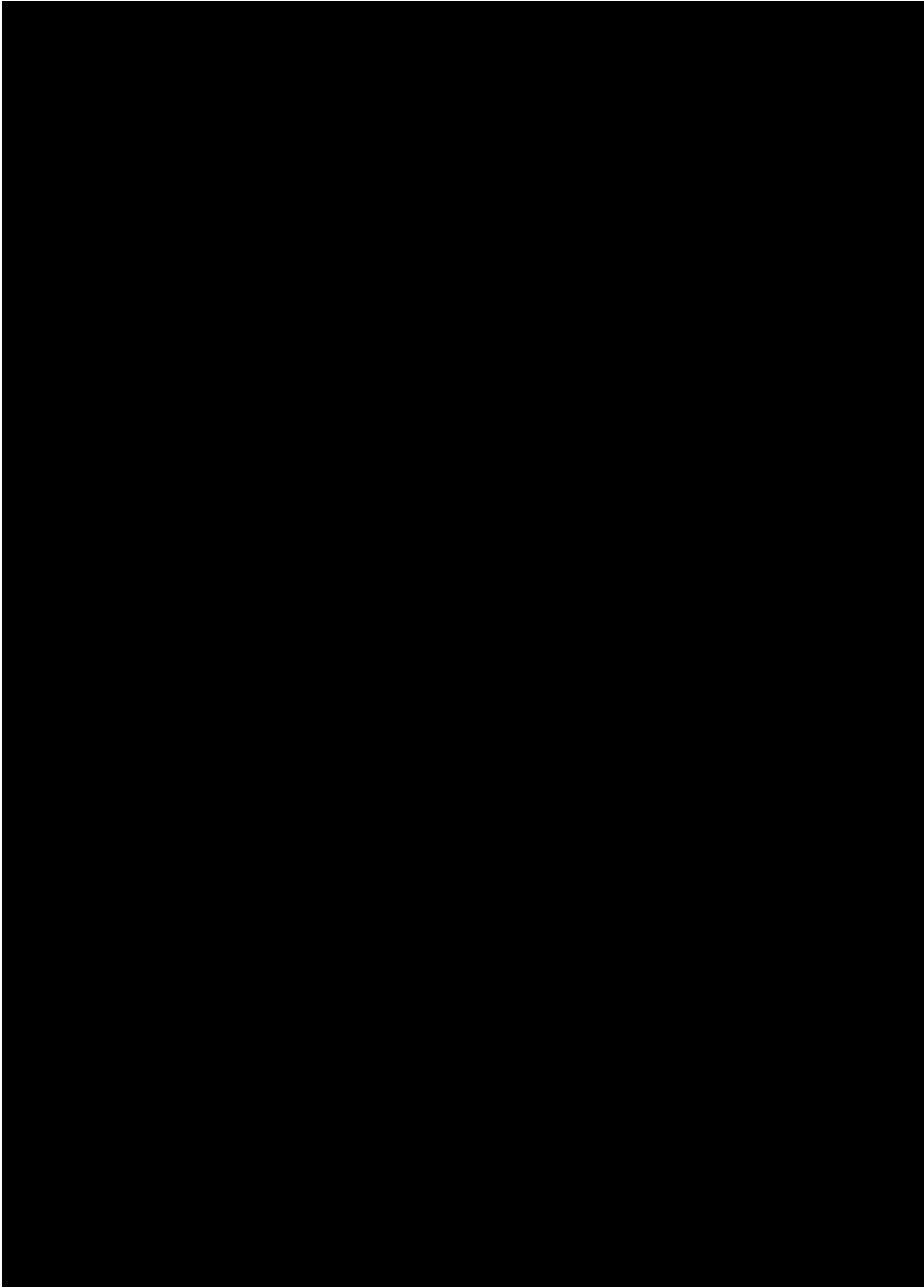
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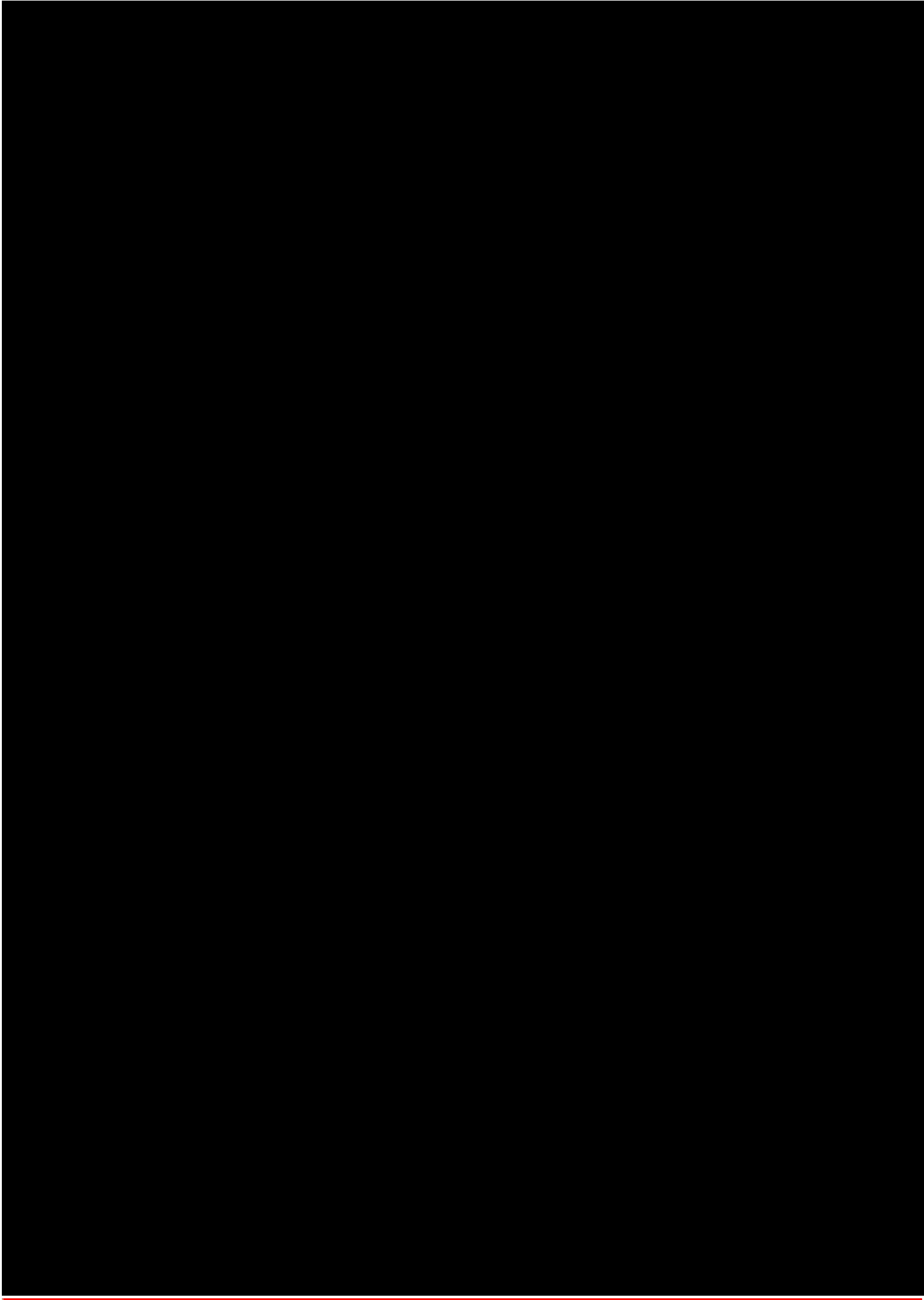
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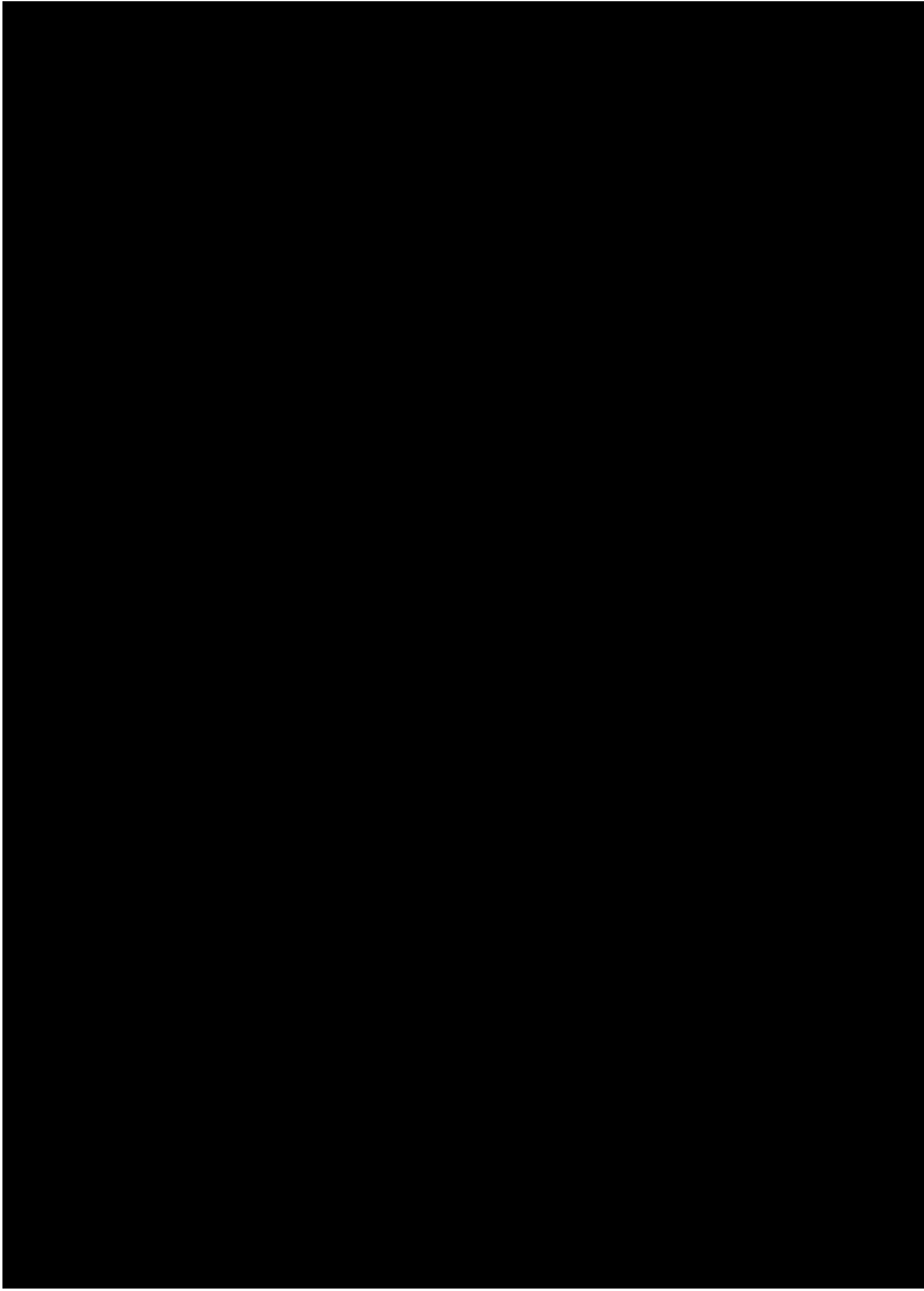


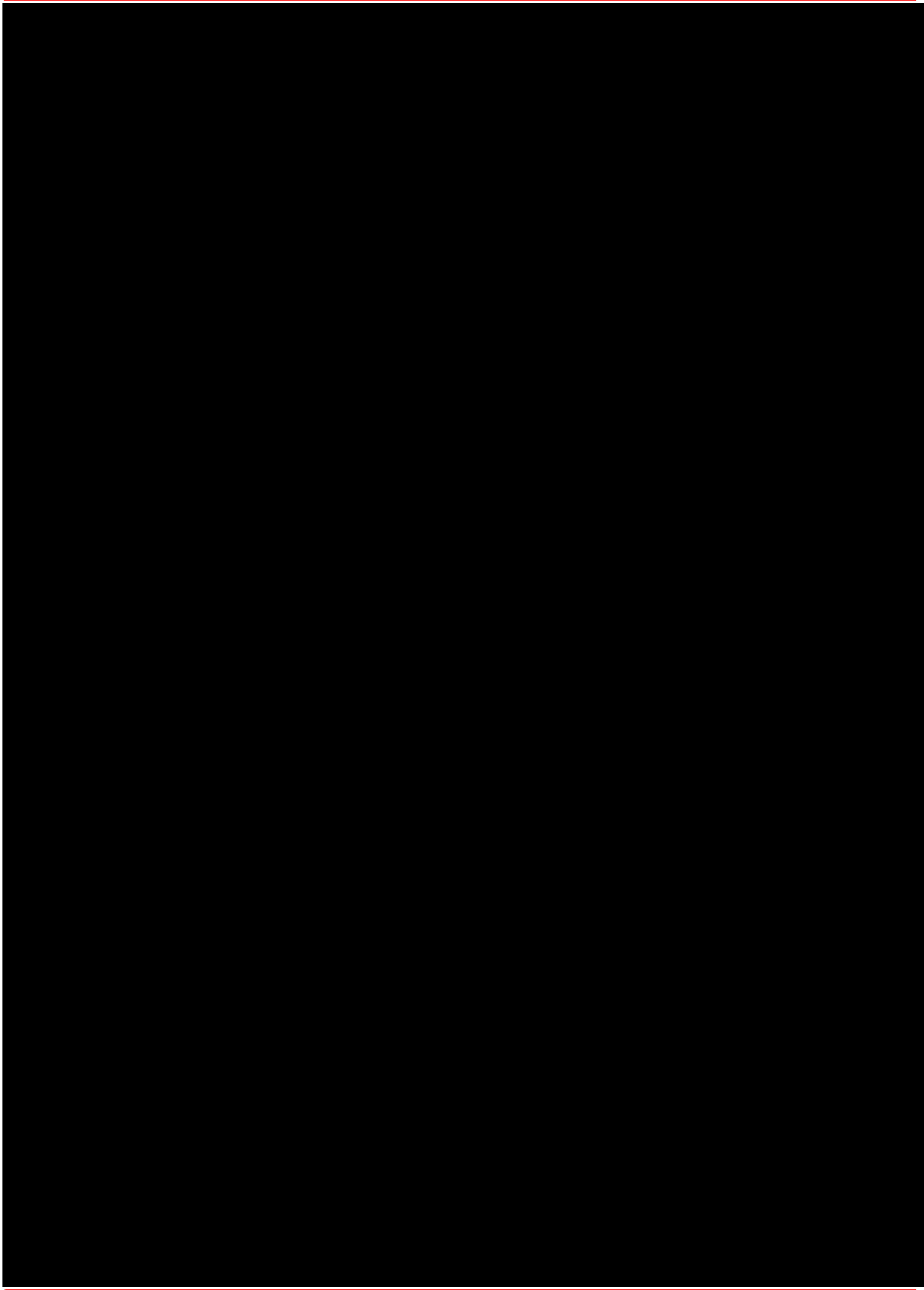


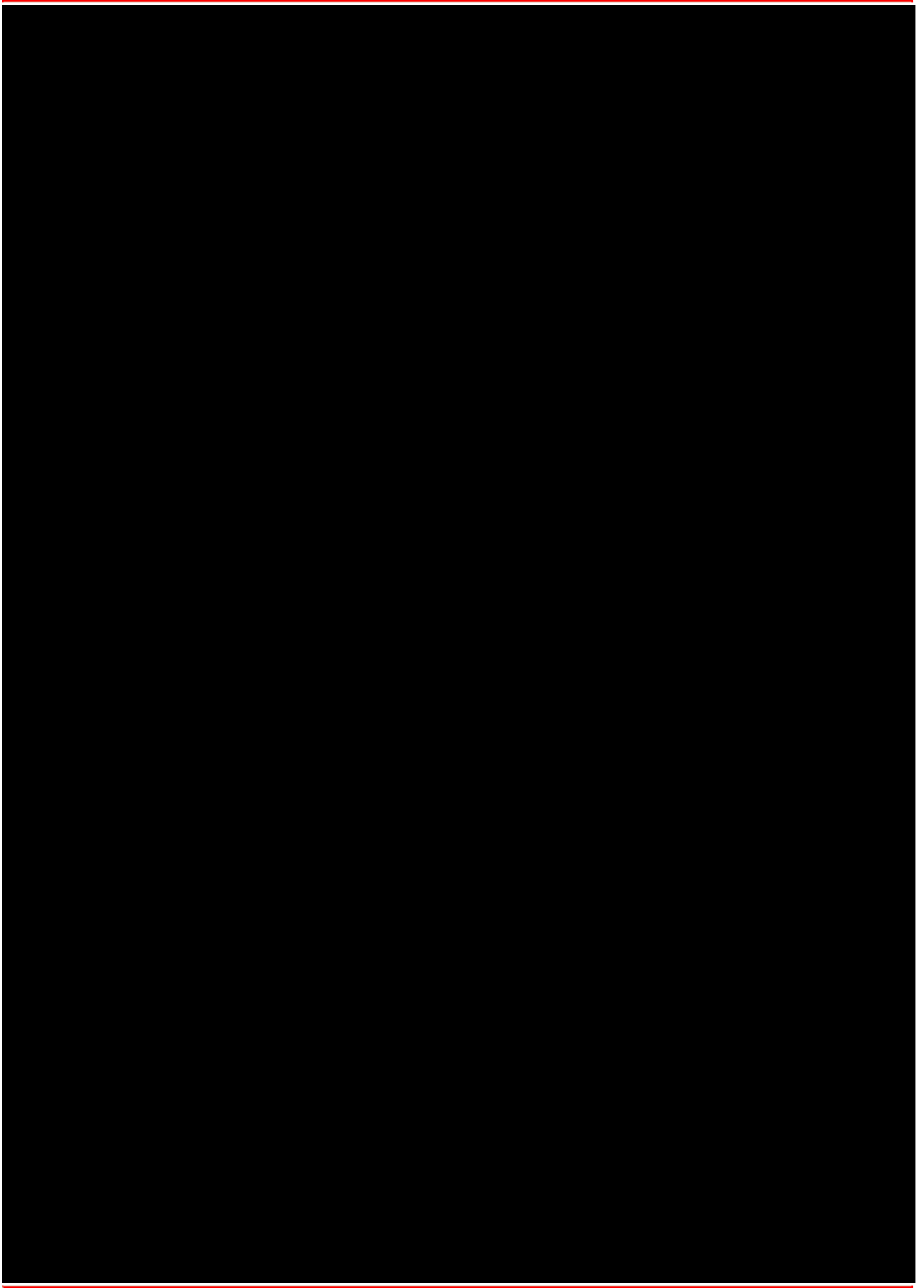
The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses, income, and any other financial activities. The document provides a detailed list of items that should be tracked, such as dates, amounts, and descriptions of each transaction. It also outlines the proper format for recording these entries, including the use of specific columns and headings to organize the information clearly.

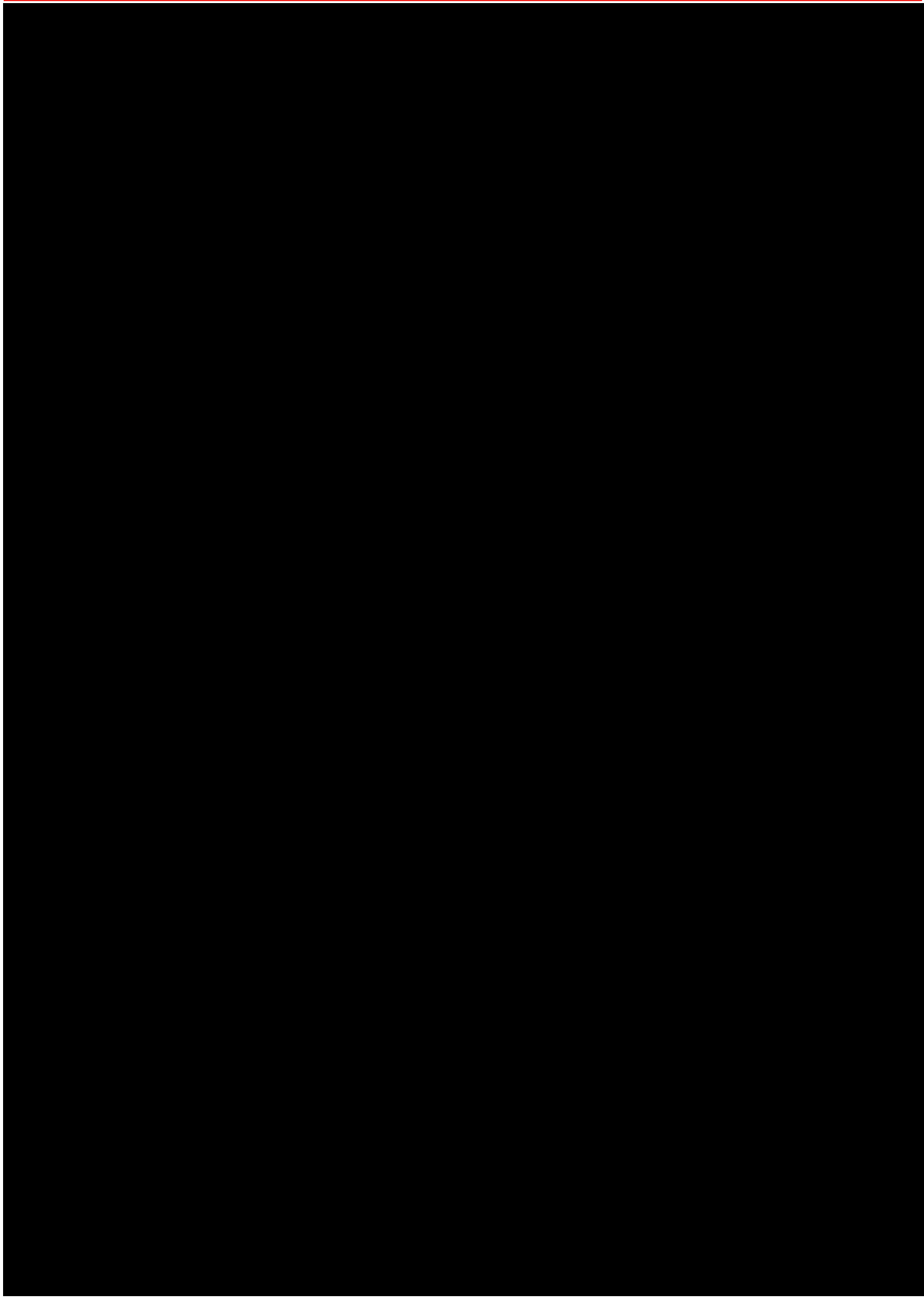
The second part of the document focuses on the process of reconciling the records. It explains how to compare the recorded transactions against bank statements and other external sources to identify any discrepancies. This step is crucial for detecting errors, such as double entries or missing transactions, and for ensuring that the internal records match the actual financial activity. The document provides a step-by-step guide to performing a reconciliation, including instructions on how to investigate and resolve any differences that arise.

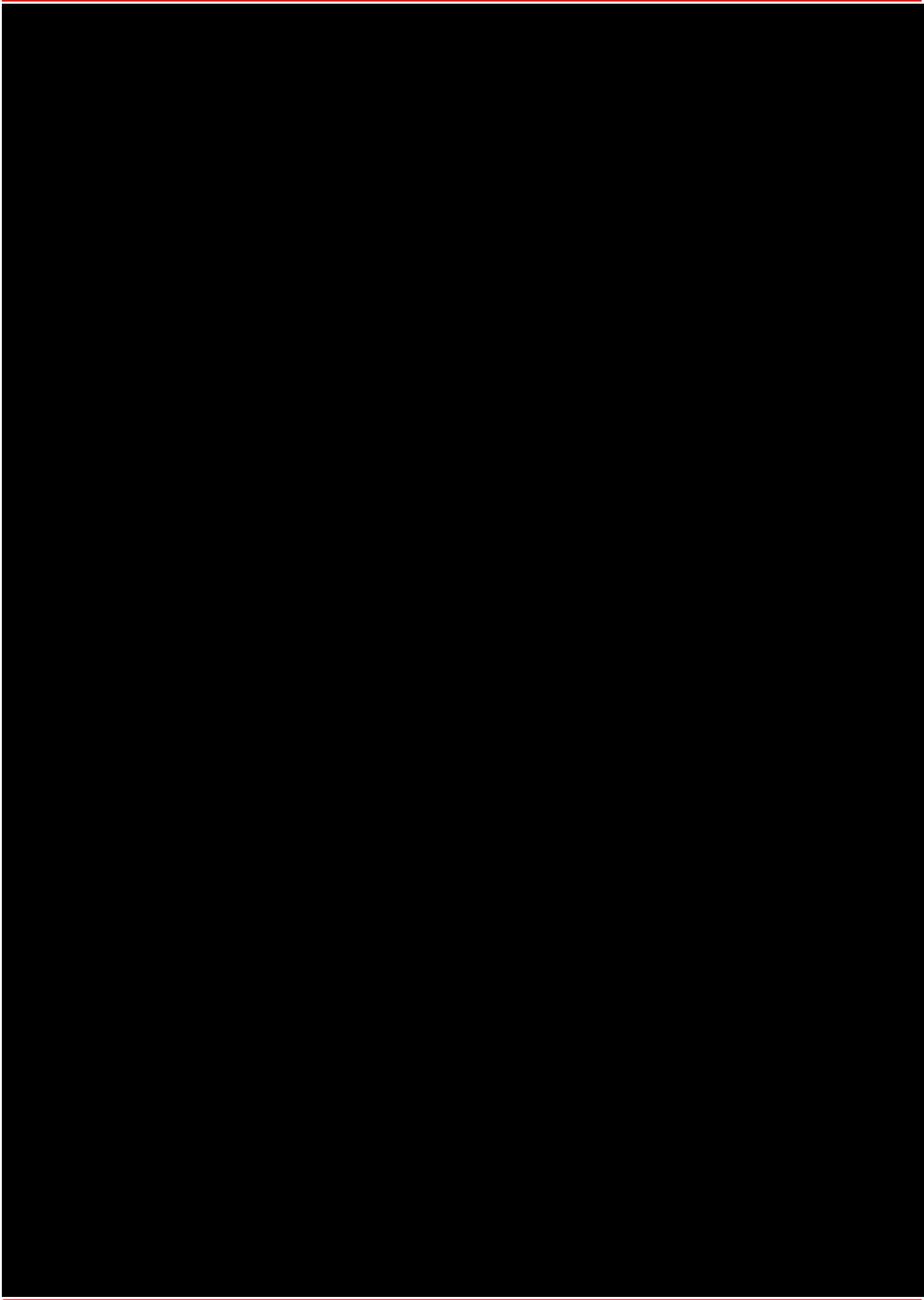
The final part of the document discusses the importance of regular reviews and audits. It stresses that financial records should be reviewed periodically to ensure their accuracy and to identify any trends or potential issues. This includes conducting internal audits and, if necessary, engaging external auditors to provide an independent assessment of the financial statements. The document also provides guidance on how to prepare and present the financial records to management and other stakeholders, ensuring that the information is clear, concise, and easy to understand.

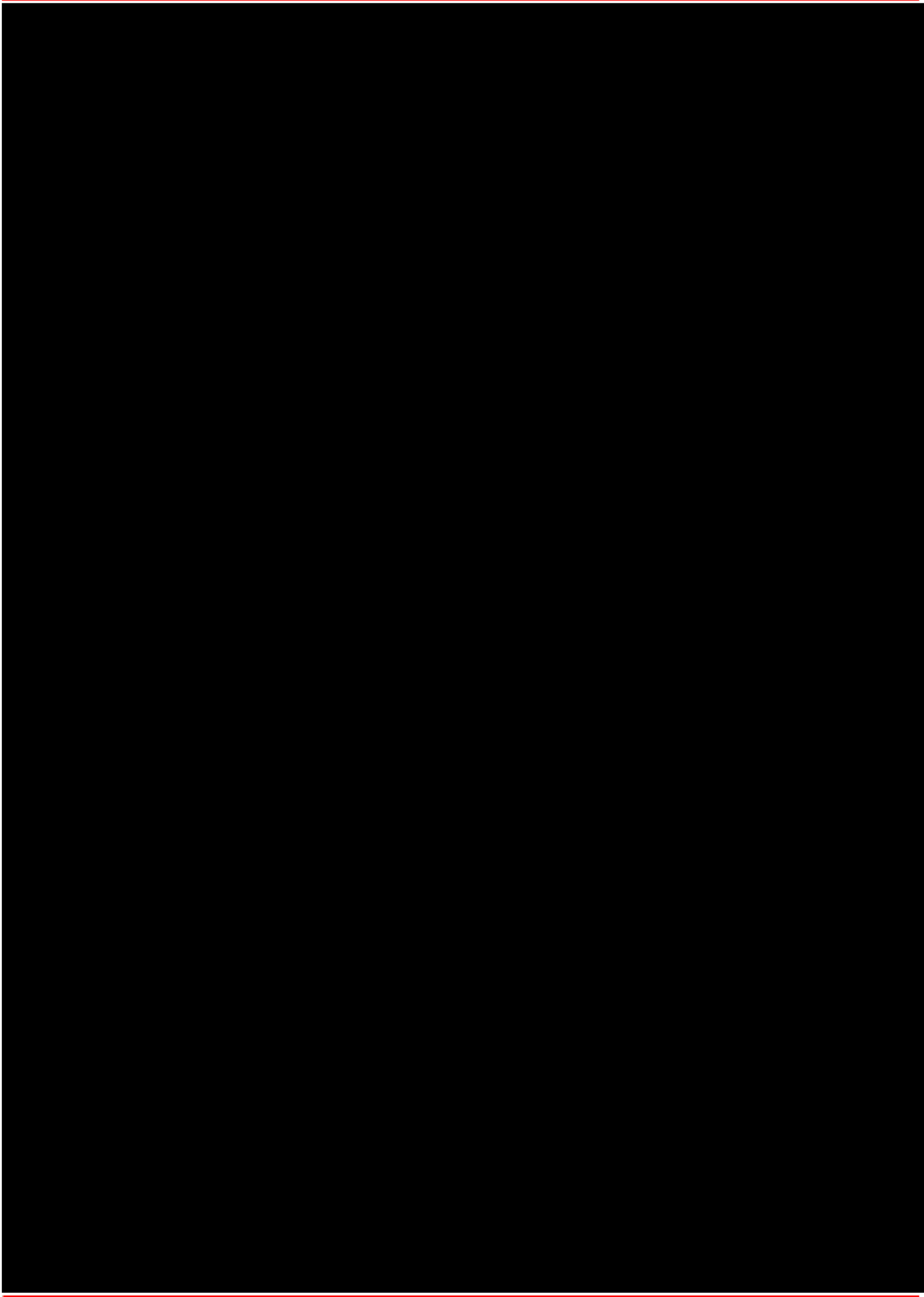












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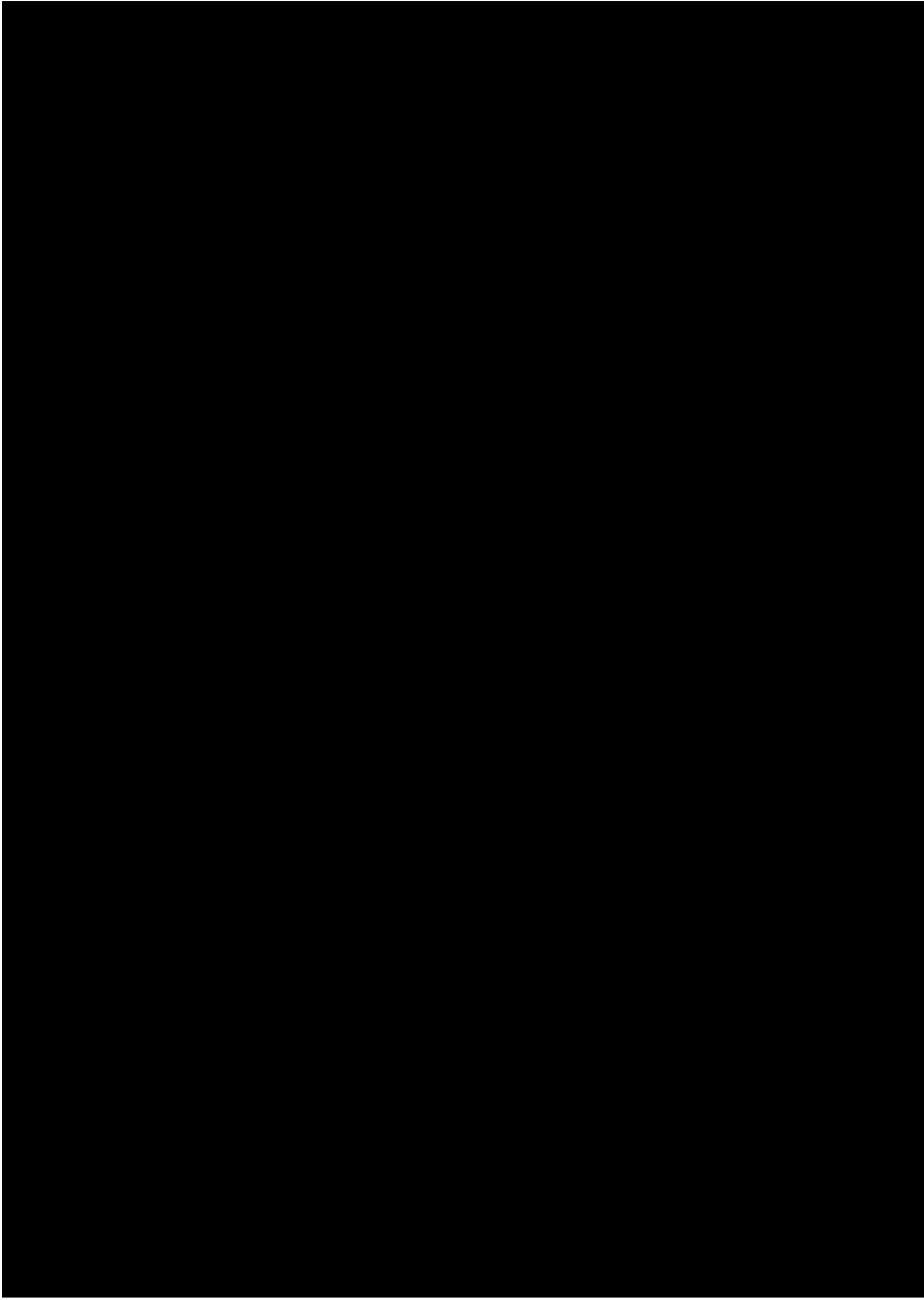
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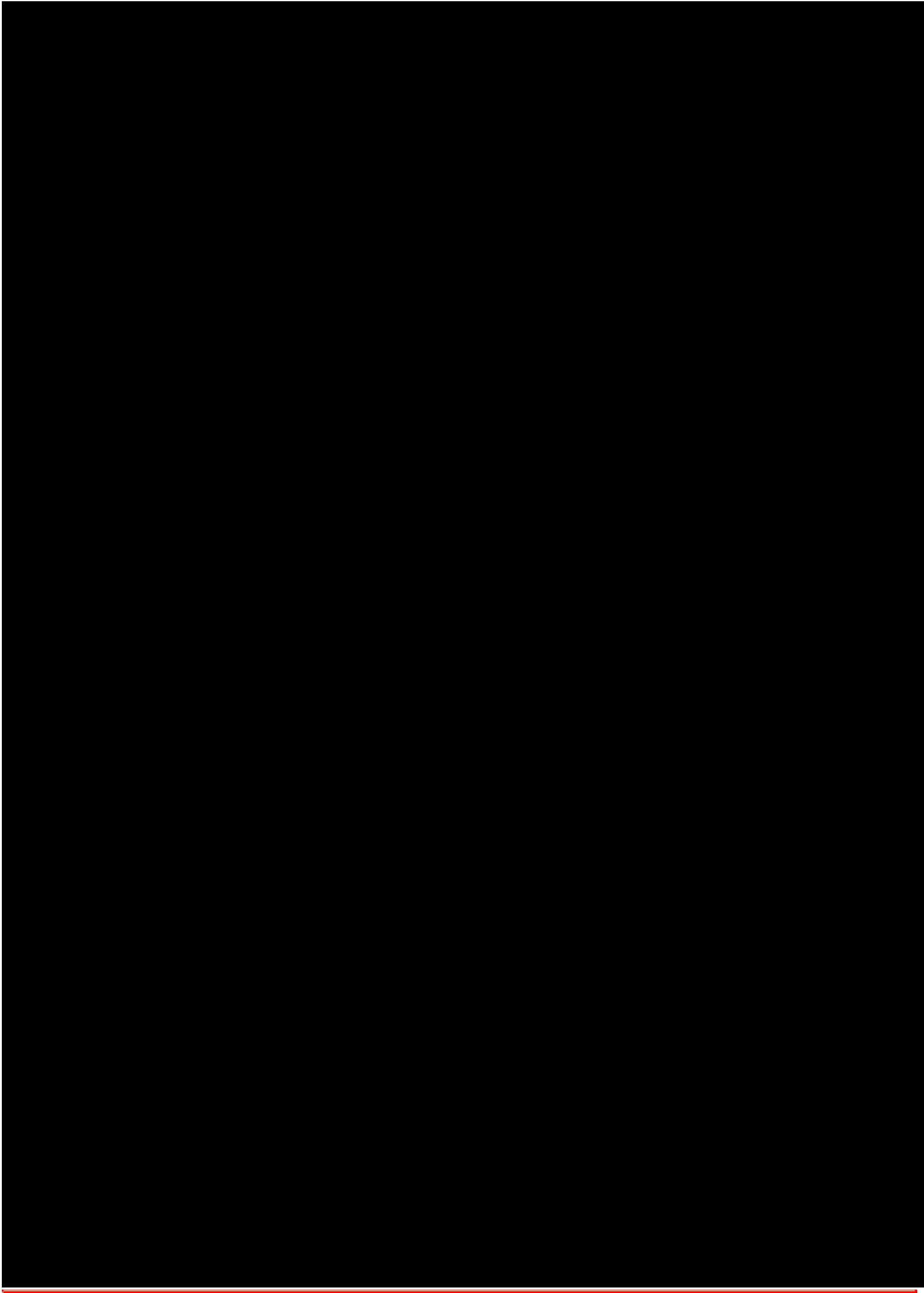
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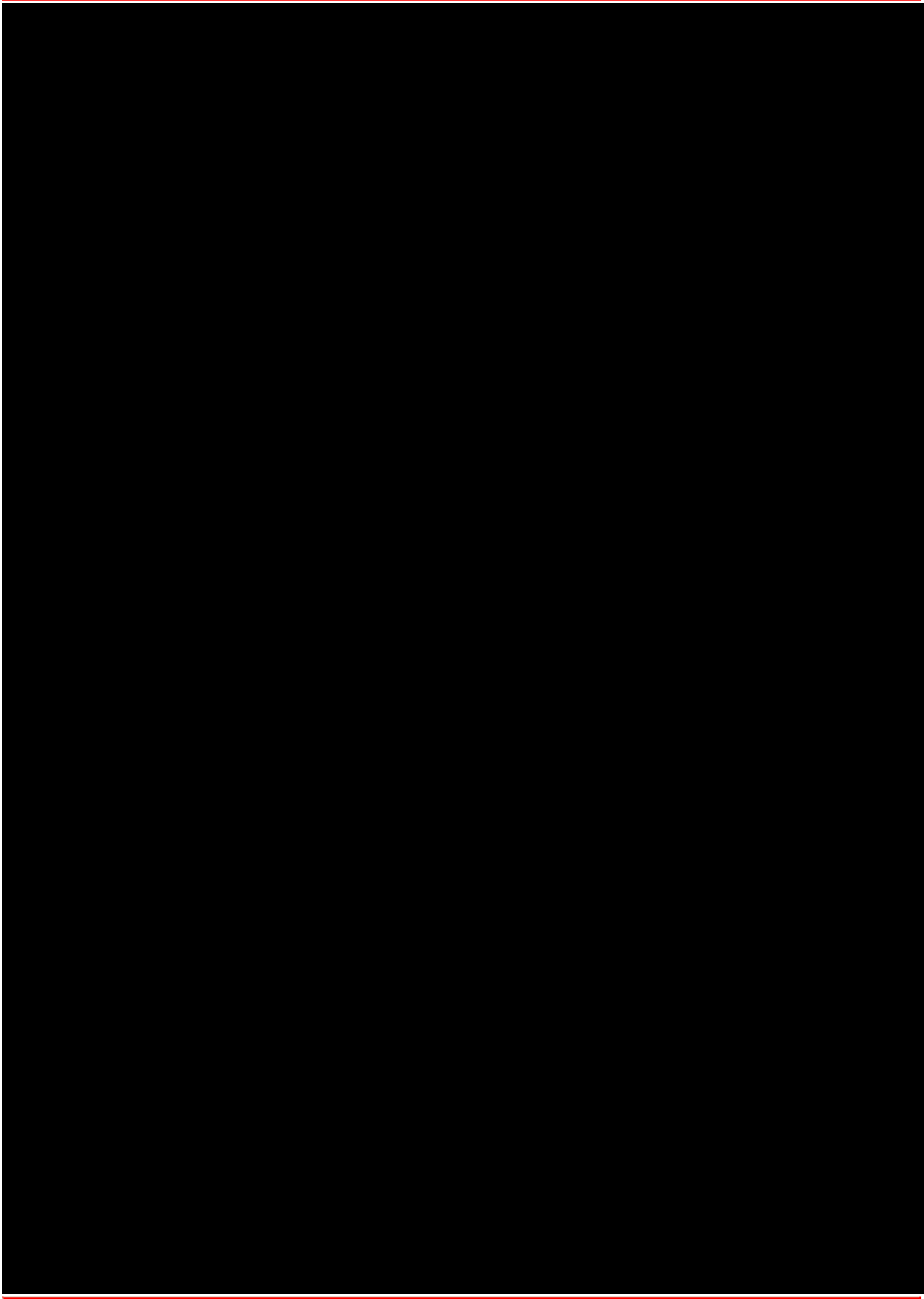


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Next, the document addresses the challenges of data management in the digital age. It notes that while digital storage offers convenience, it also introduces risks such as data loss, security breaches, and information overload. Solutions like cloud storage, encryption, and regular backups are suggested to mitigate these risks.

The third section focuses on the role of technology in streamlining business processes. It describes how automation tools can reduce manual errors and save time. Examples include using software for invoicing, inventory management, and customer relationship management (CRM).

Finally, the document concludes by stressing the need for continuous learning and adaptation. As technology and market conditions evolve, businesses must stay informed and be willing to adopt new practices to remain competitive.



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The text suggests that a systematic approach to record-keeping is essential for identifying trends and making informed decisions.

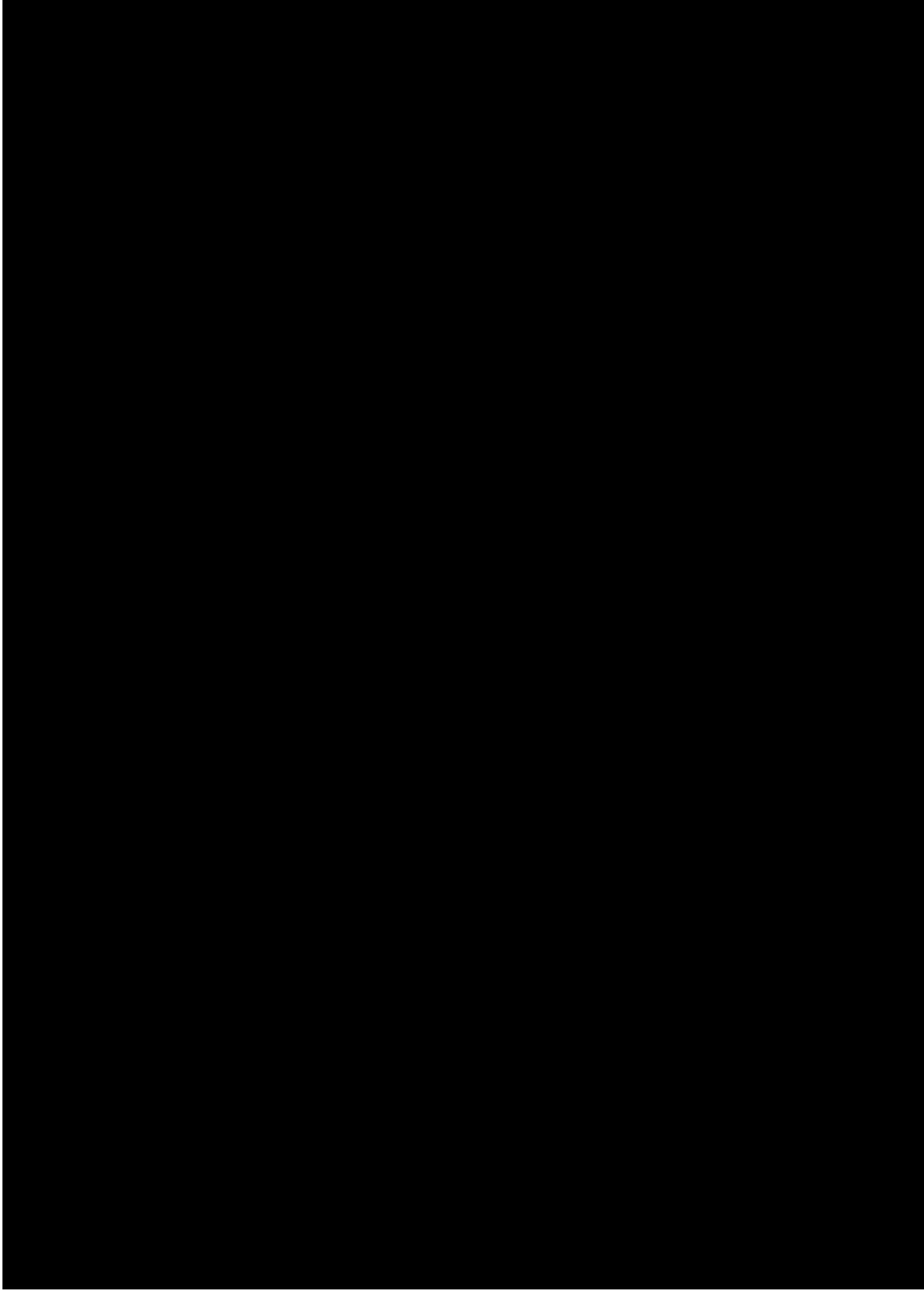
Next, the document addresses the issue of budgeting. It states that a well-defined budget is crucial for controlling costs and maximizing resources. By setting clear financial goals and allocating funds accordingly, businesses can avoid overspending and ensure that they are on track to meet their objectives. The text provides several tips for creating an effective budget, such as reviewing it regularly and adjusting it as needed.

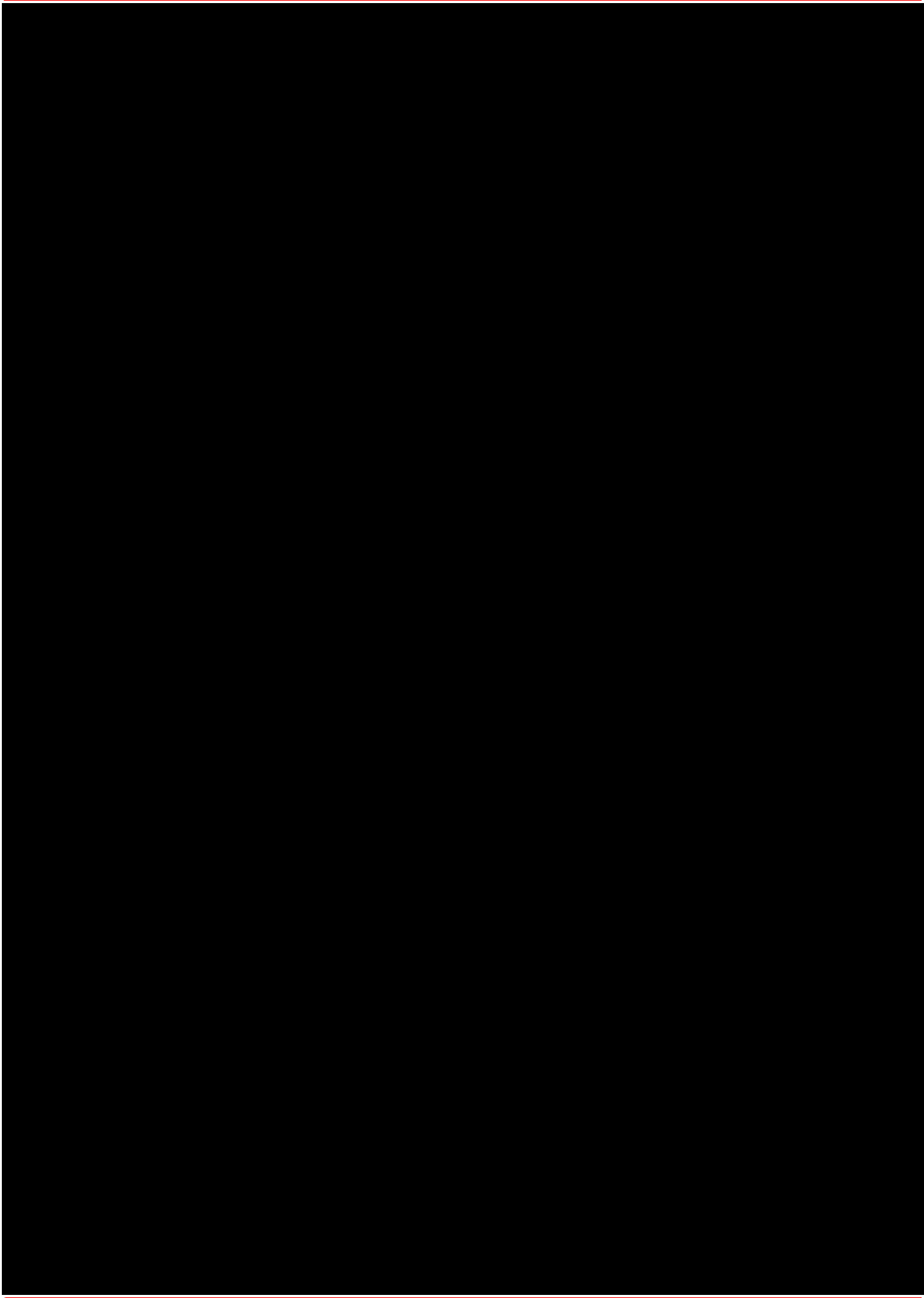
The third section focuses on the importance of cash flow management. It explains that maintaining a healthy cash flow is vital for the survival and growth of any business. The text discusses various strategies for improving cash flow, including negotiating better payment terms with suppliers and offering discounts to customers who pay early. It also highlights the risks of poor cash flow management, such as the inability to pay bills or invest in new opportunities.

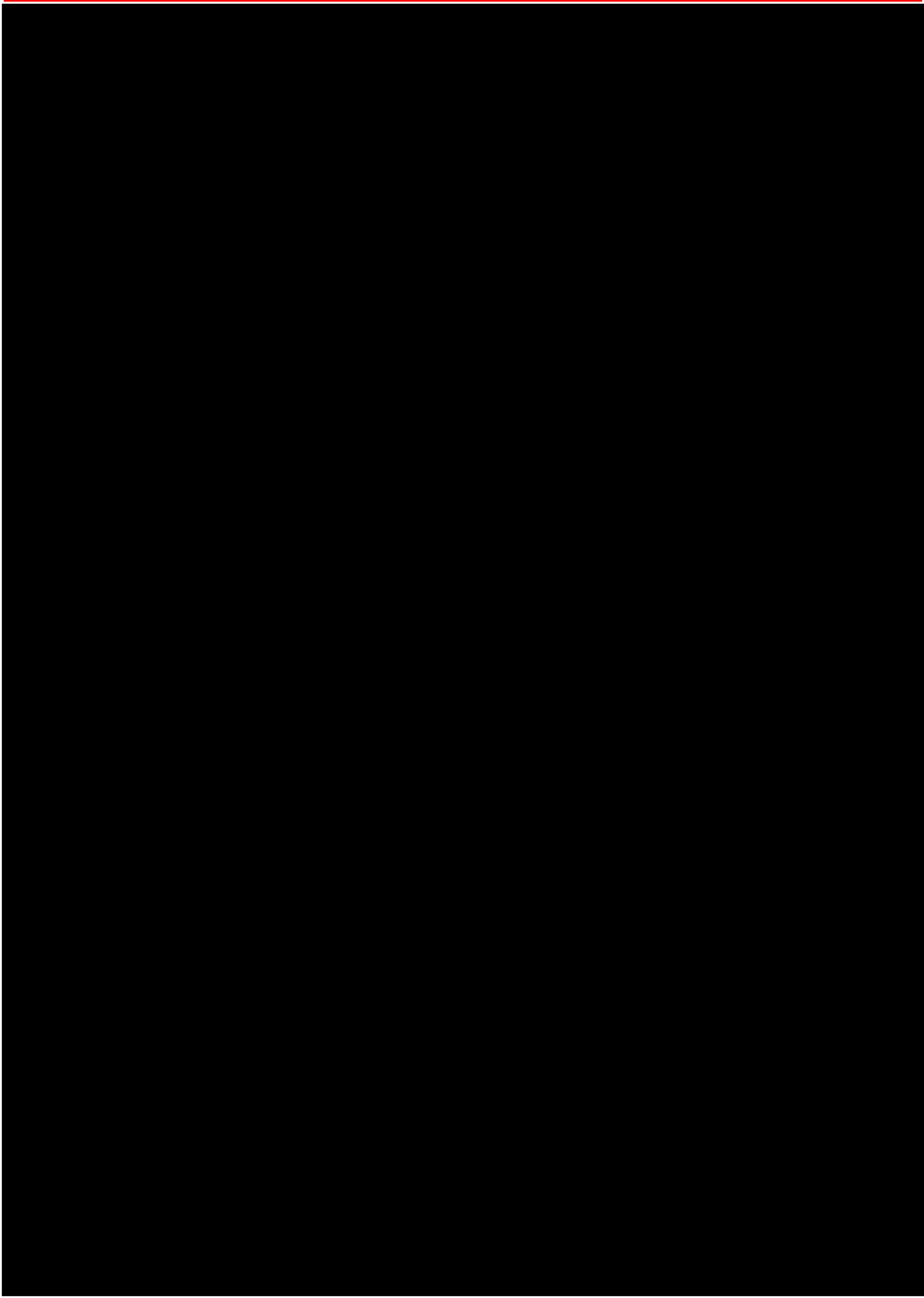
Finally, the document concludes by emphasizing the need for transparency and accountability in financial reporting. It states that providing accurate and timely reports to stakeholders is essential for building trust and ensuring the long-term success of the organization. The text encourages businesses to adopt a proactive approach to financial management and to seek professional advice when needed.

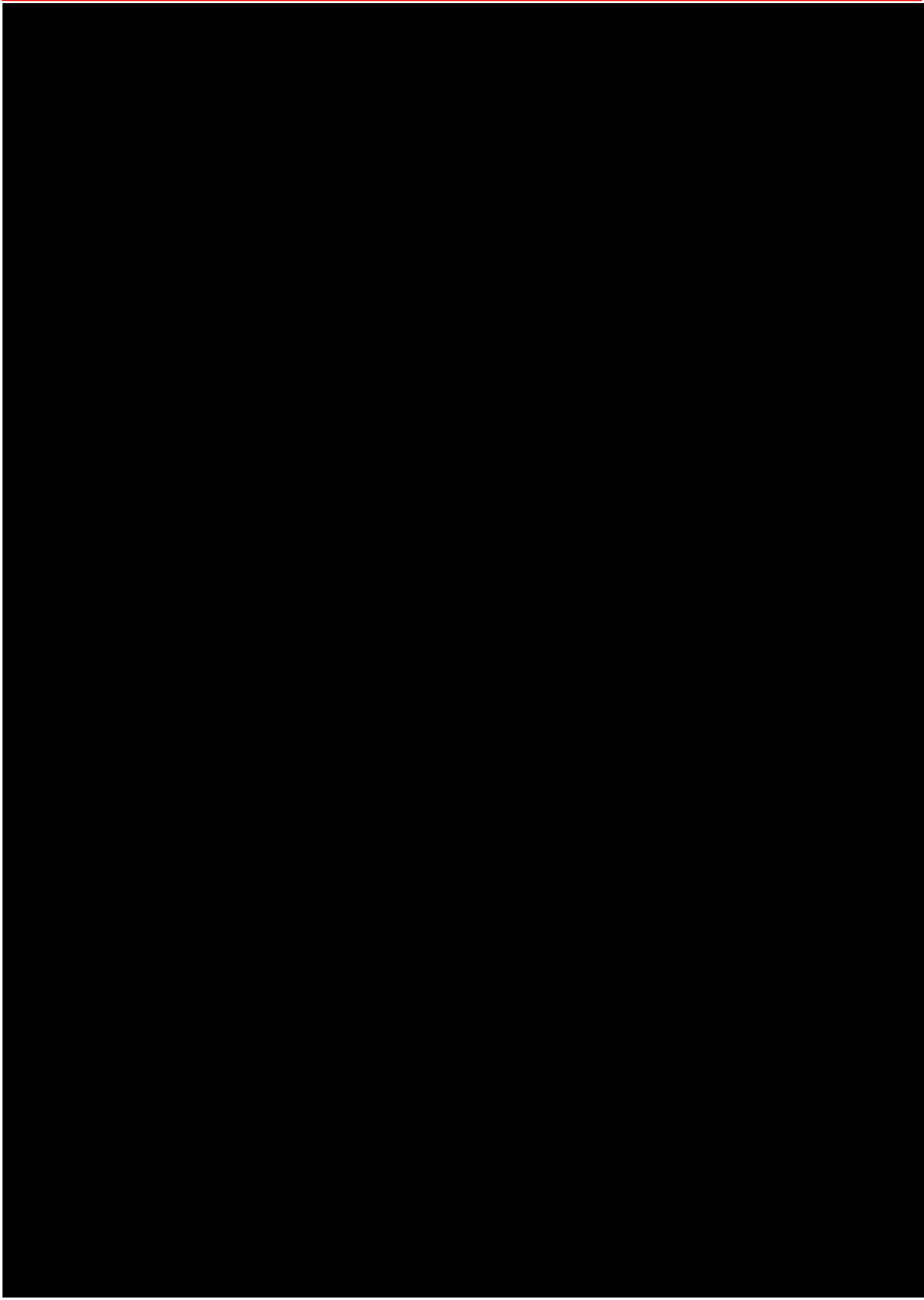
Schedule 26 Milestone Design Documents (State Works)

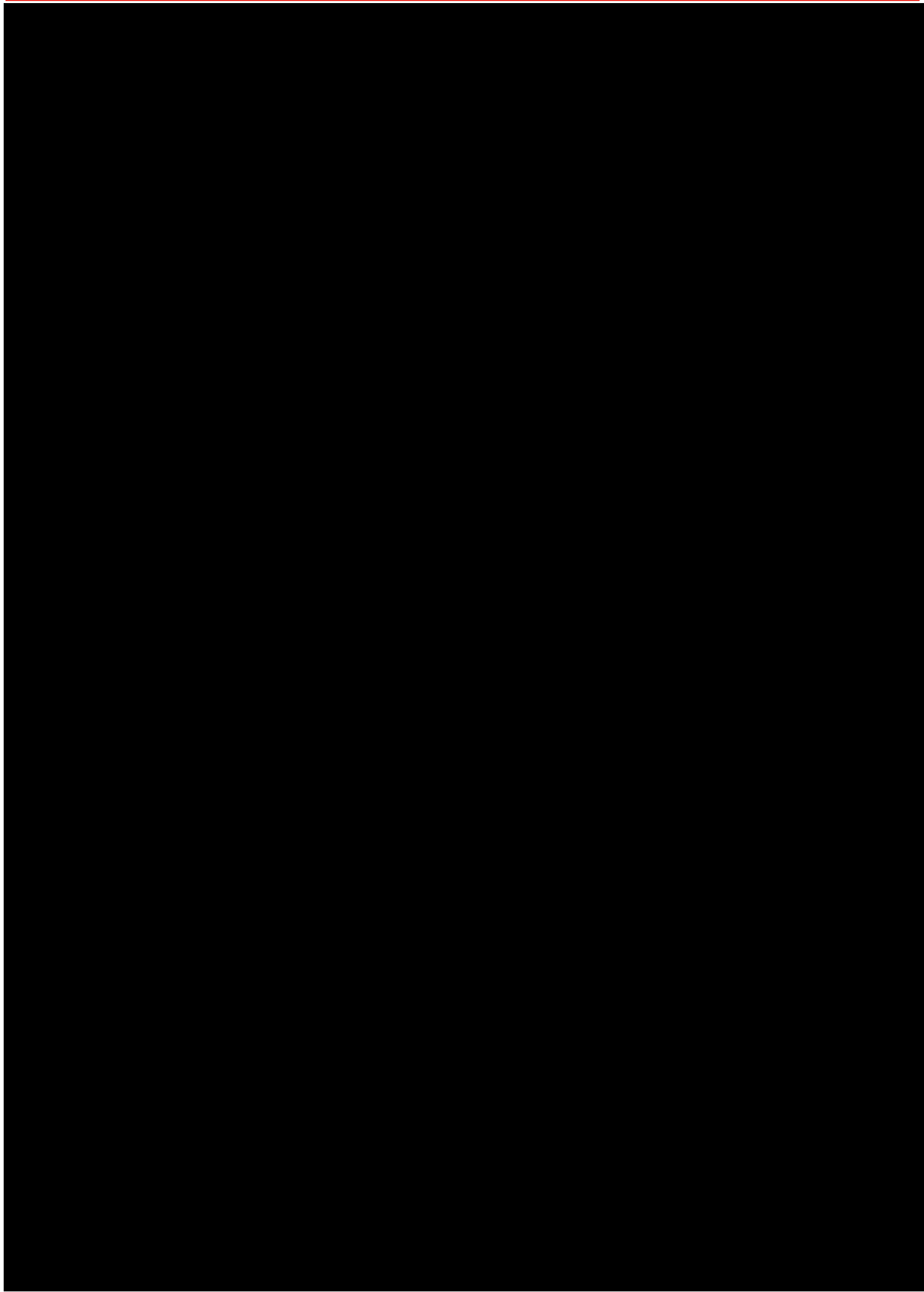
Please refer to the documents identified in the table below, which are included as electronic files on a separate disc or USB. The parties agree that the documents identified below are incorporated by reference to this deed and reflect the versions of the documents located on the disc or USB identified in the table below.











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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every sale, purchase, and expense must be properly documented to ensure compliance with tax laws and to provide a clear audit trail. The text highlights the need for consistency in record-keeping and the potential consequences of inadequate documentation.

Next, the document addresses the various methods available for tracking business expenses. It compares traditional paper-based systems with modern digital solutions, such as cloud-based accounting software. The benefits of digital systems, including real-time data access and automated reporting, are discussed in detail. The text also provides guidance on selecting the most appropriate system for a business's specific needs and budget.

The following section focuses on the classification of expenses for tax purposes. It explains the difference between deductible and non-deductible expenses and provides examples of each. Key considerations, such as the business purpose of the expense and the availability of receipts, are discussed. The text also covers the rules regarding the deductibility of entertainment and travel expenses, which have been subject to significant changes in recent years.

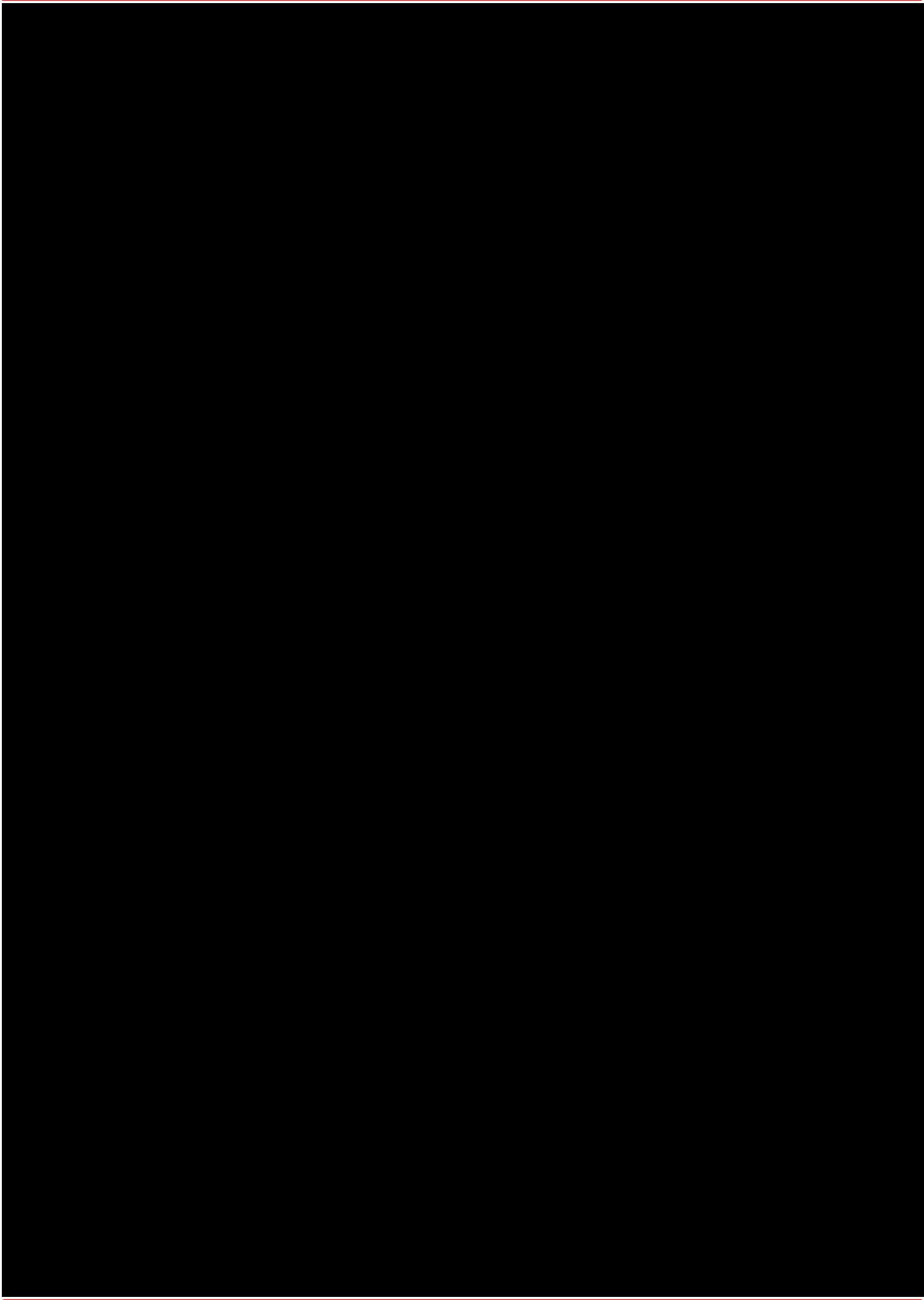
In the final part of the document, the author provides practical advice on how to organize and maintain business records. This includes recommendations for creating a systematic filing system, both physically and electronically. The importance of regular backups and secure storage of digital records is also emphasized. The document concludes by encouraging businesses to seek professional advice from accountants or tax advisors to ensure they are fully compliant with all applicable regulations.

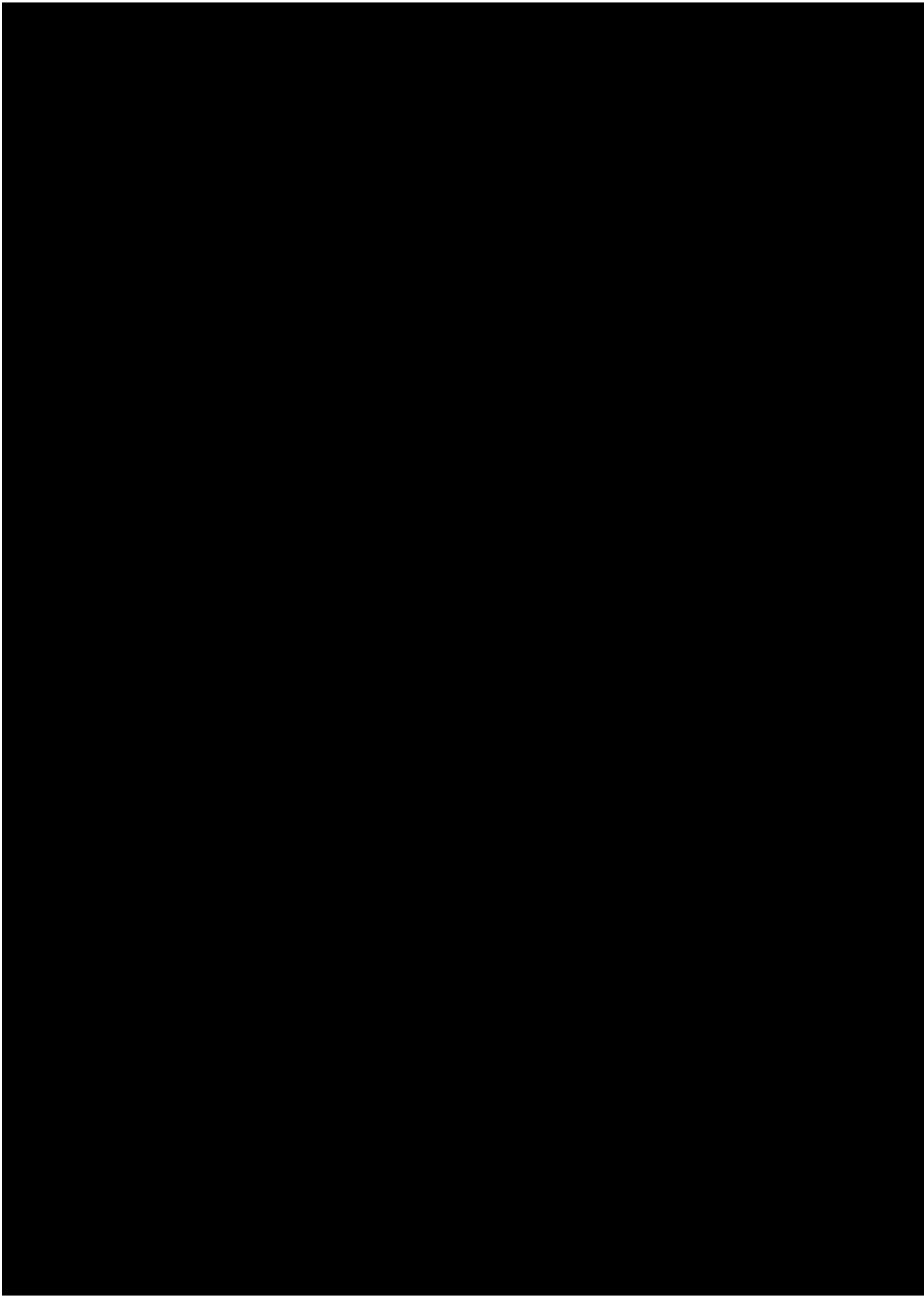
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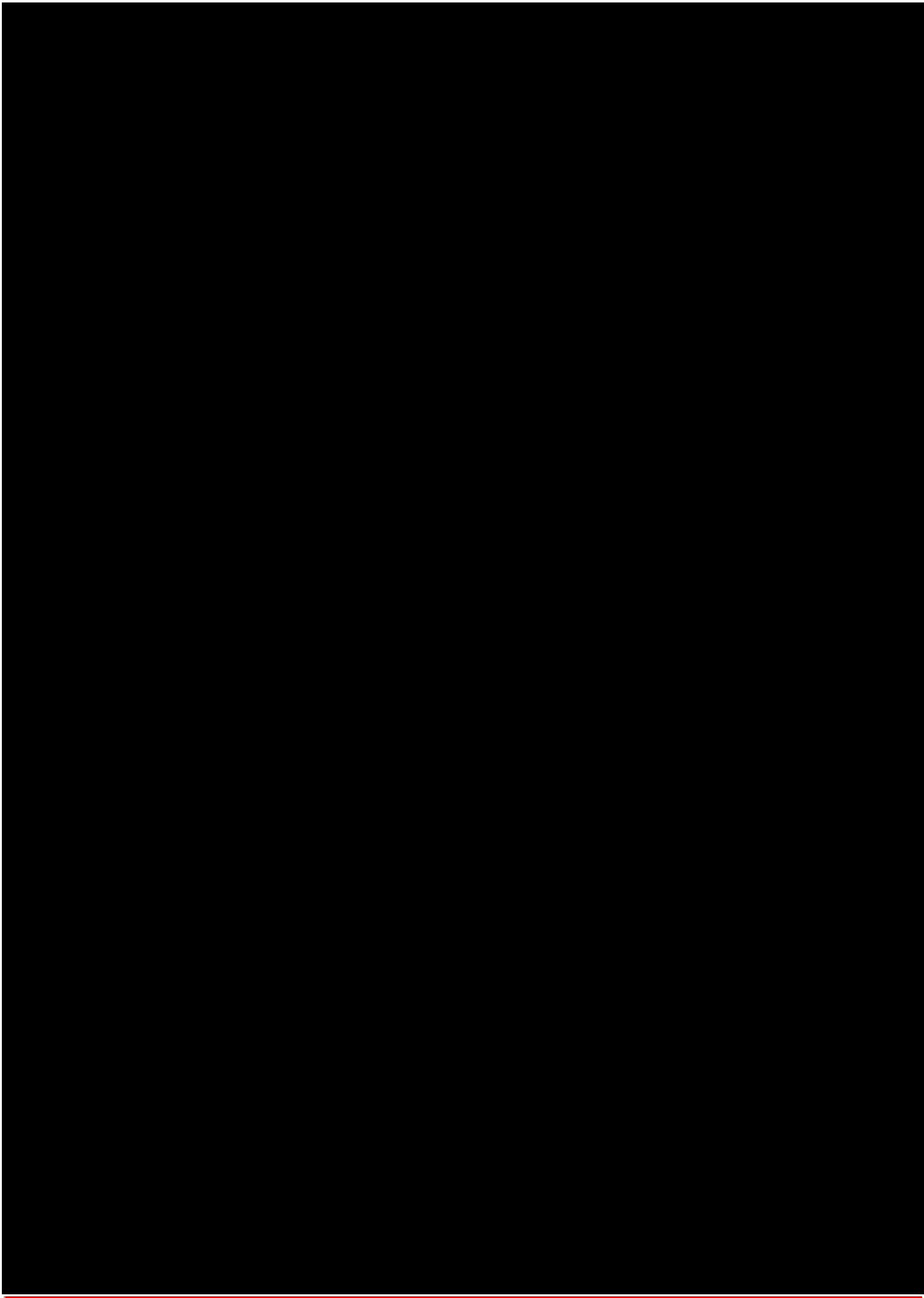
The second part of the document provides a detailed explanation of the double-entry accounting system. It describes how every transaction is recorded in two accounts, one as a debit and one as a credit, ensuring that the accounting equation remains balanced. This system is fundamental to modern accounting and helps in identifying errors and maintaining the accuracy of the books.

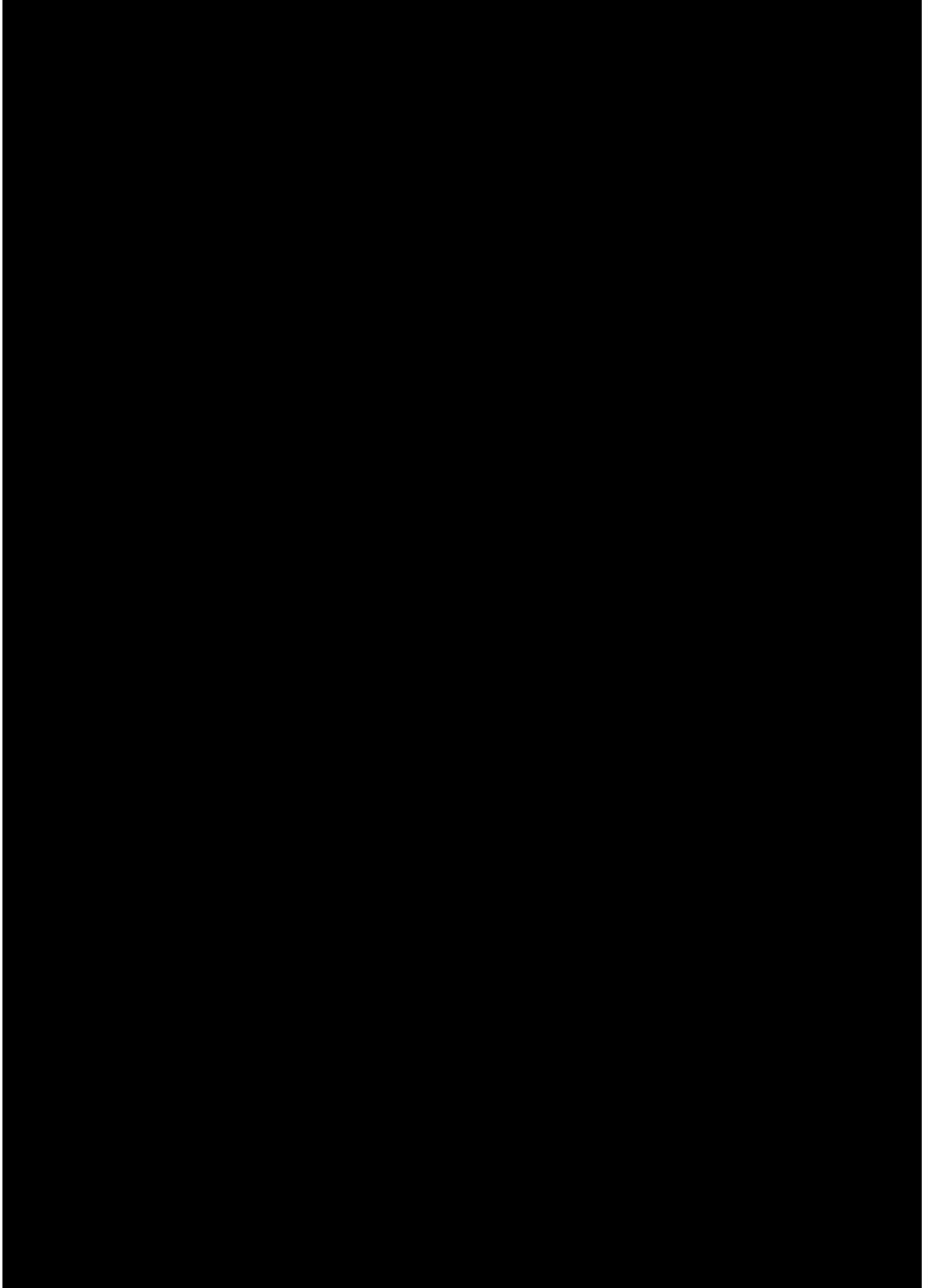
The third part of the document outlines the steps for preparing financial statements. It starts with the trial balance, which is used to verify that the debits equal the credits. From there, it guides the reader through the process of calculating net income, preparing the income statement, the balance sheet, and the statement of cash flows. Each step is explained in detail, with examples and practical advice.

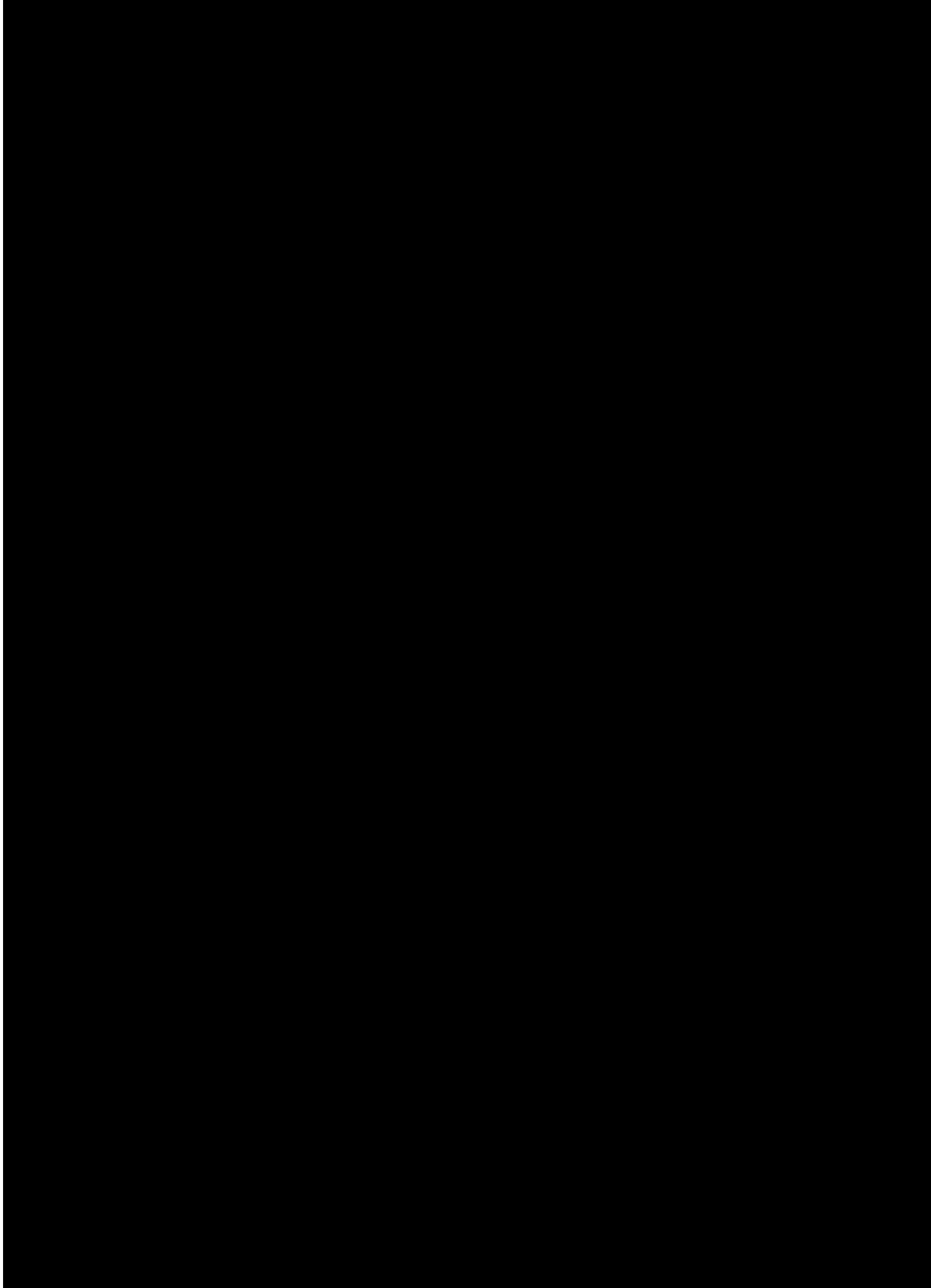
The final part of the document discusses the importance of internal controls and the role of the accountant in ensuring the reliability of the financial information. It highlights the need for a strong system of checks and balances to prevent fraud and errors, and the importance of regular audits and reconciliations.

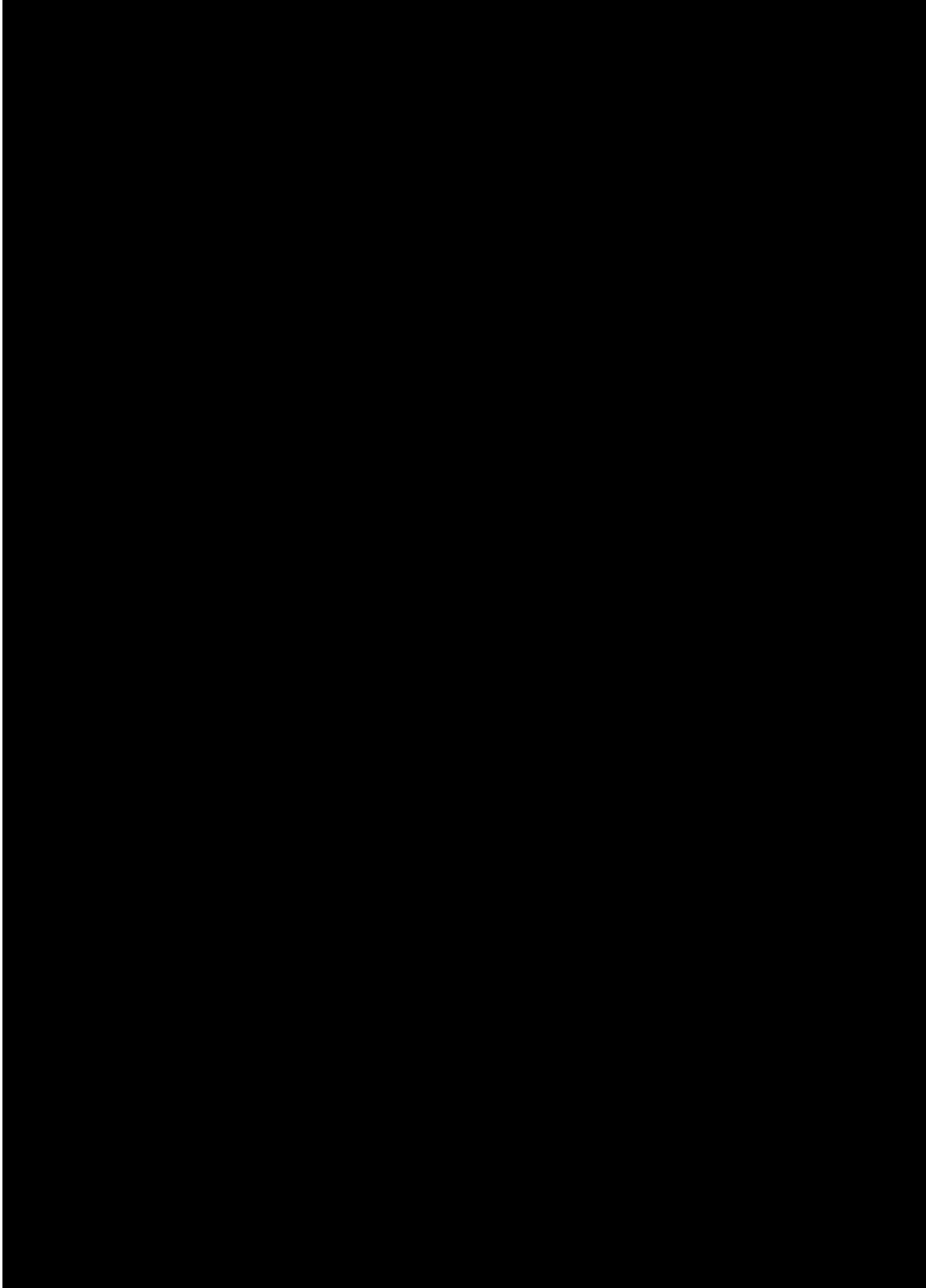


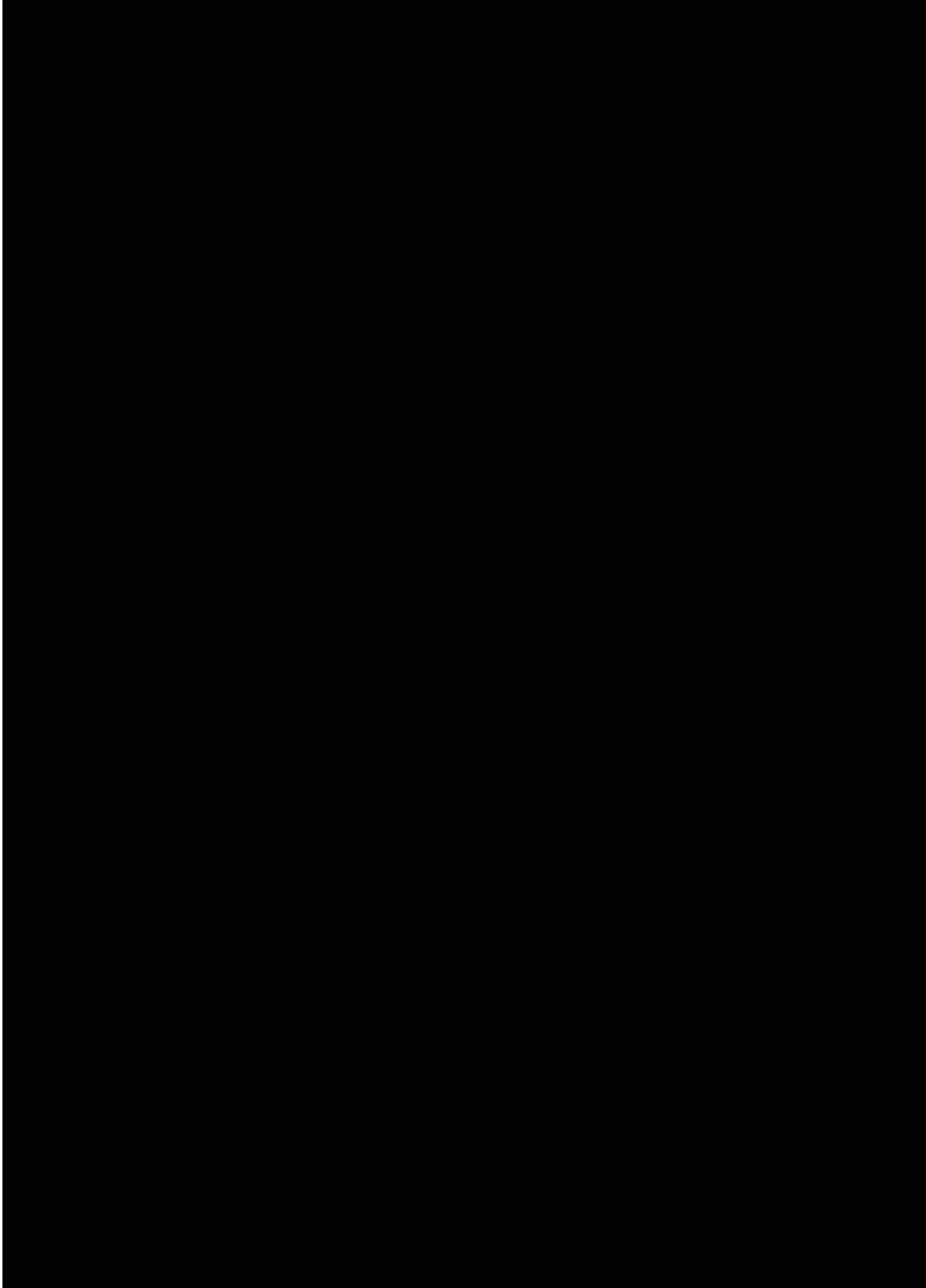




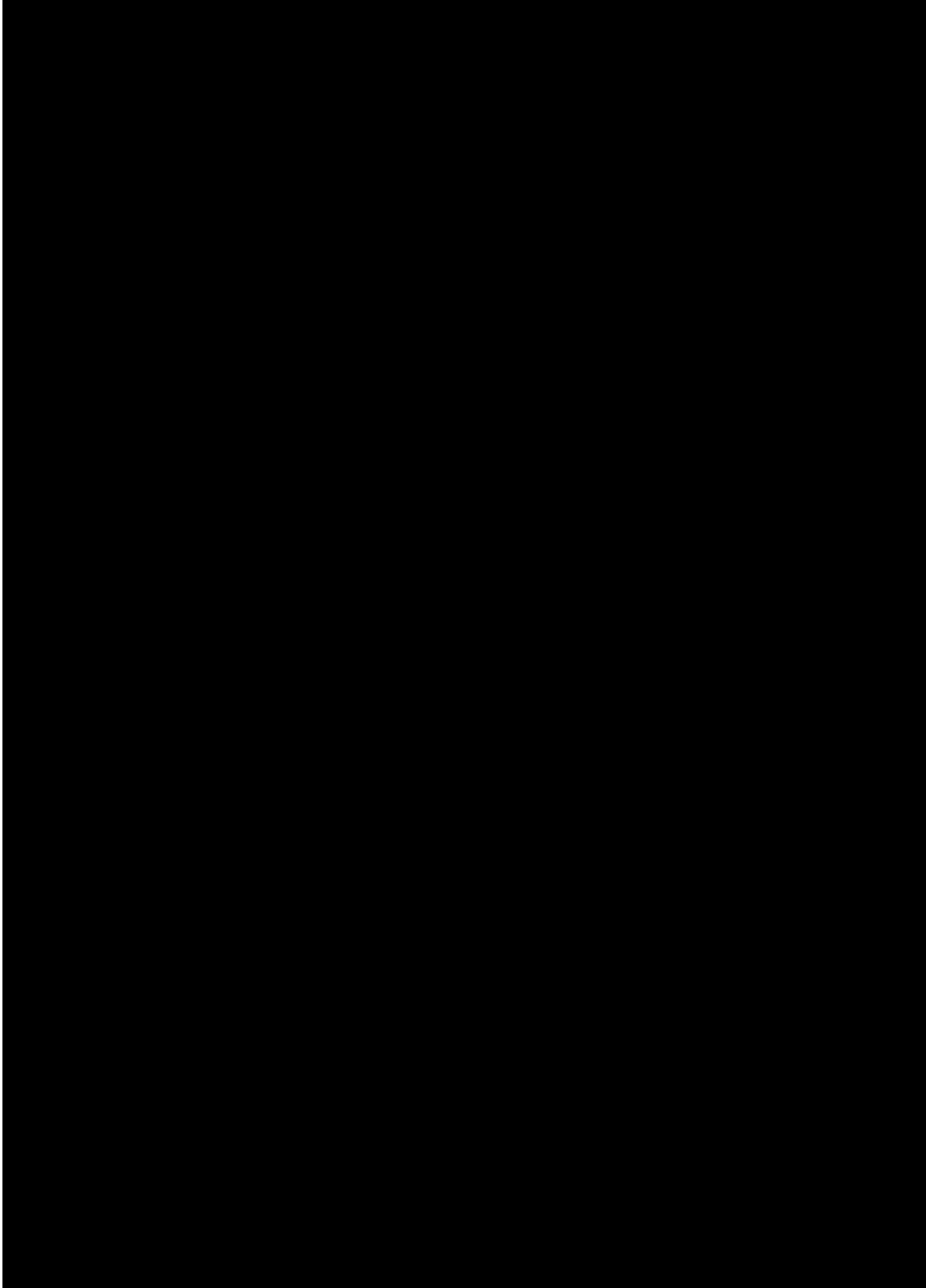




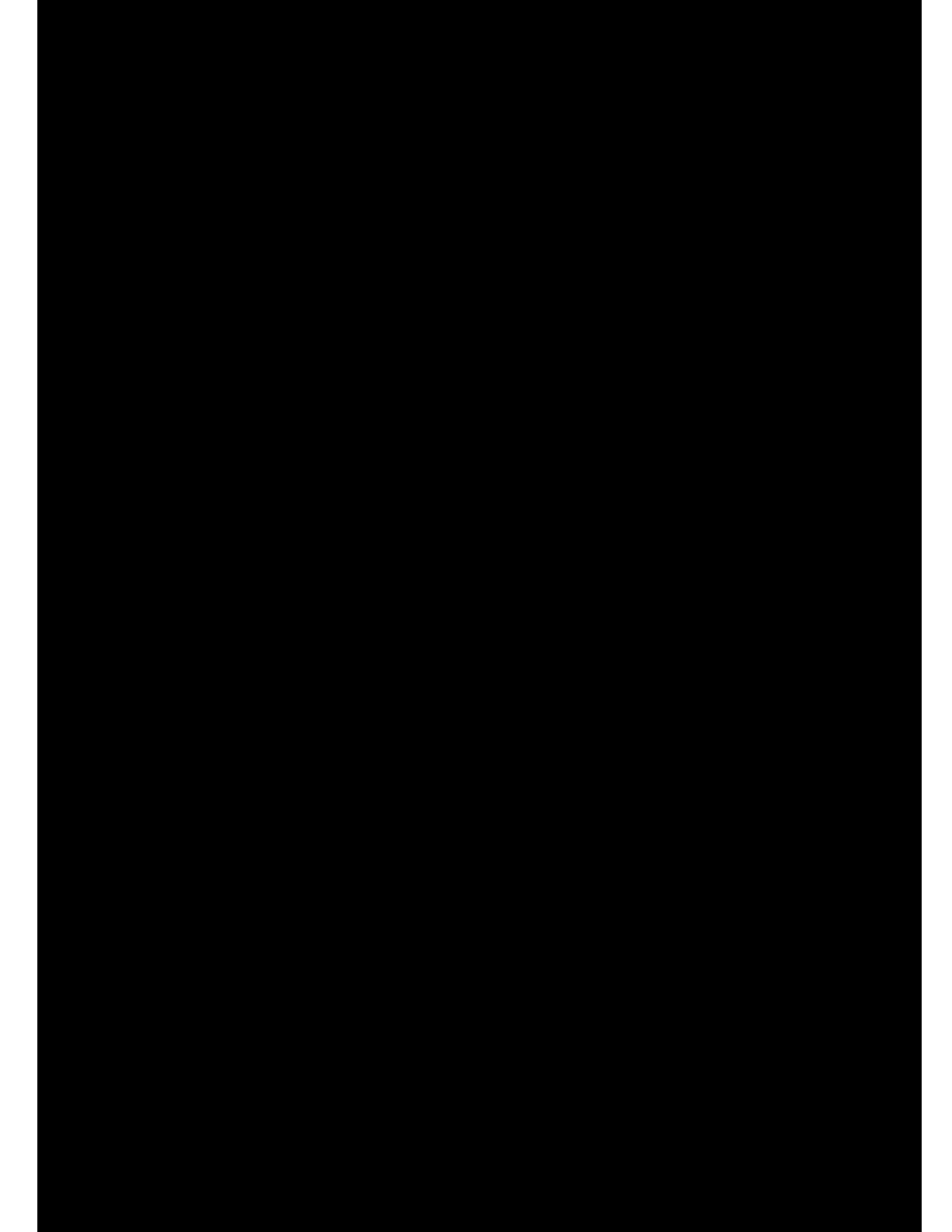


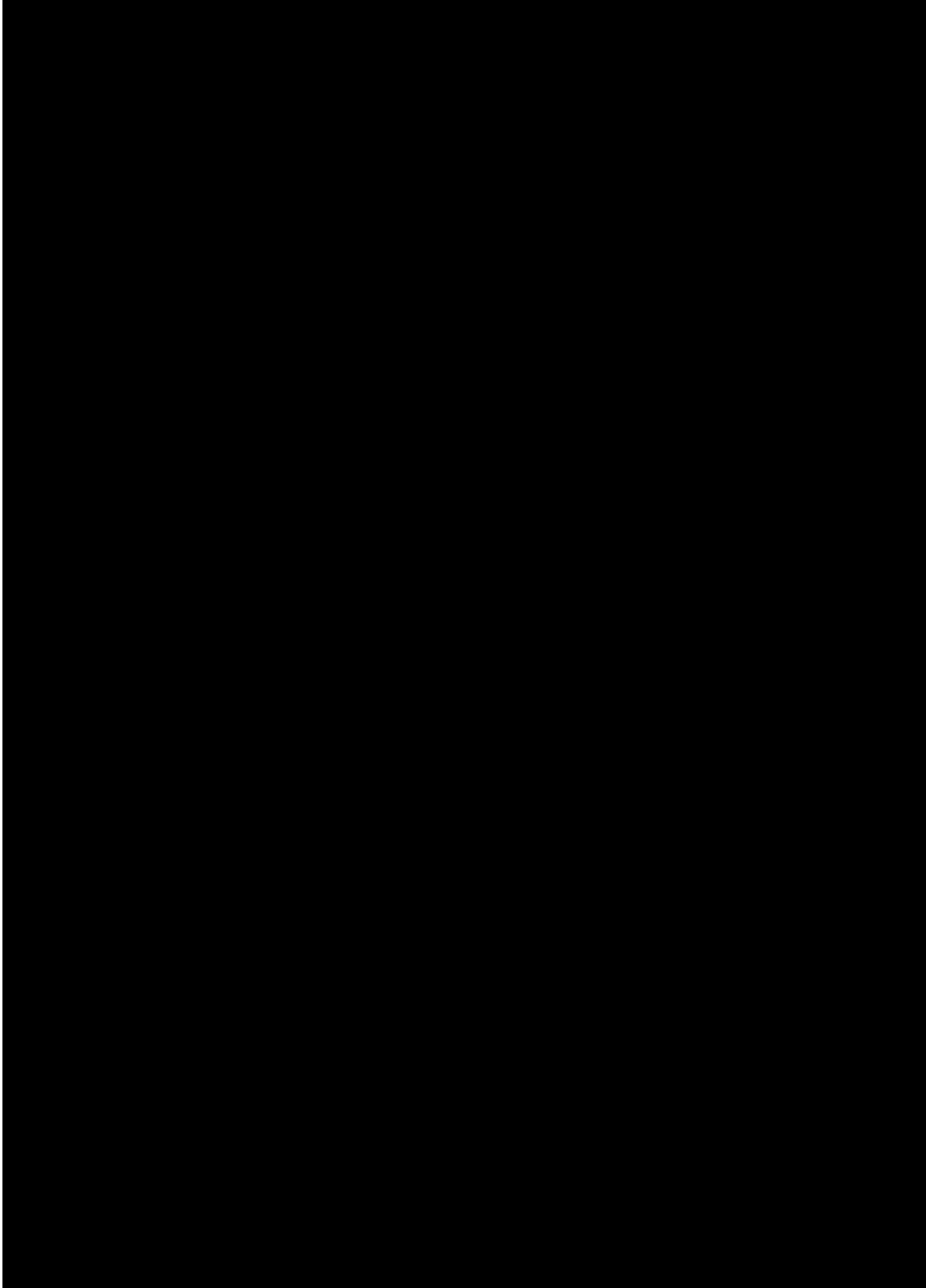


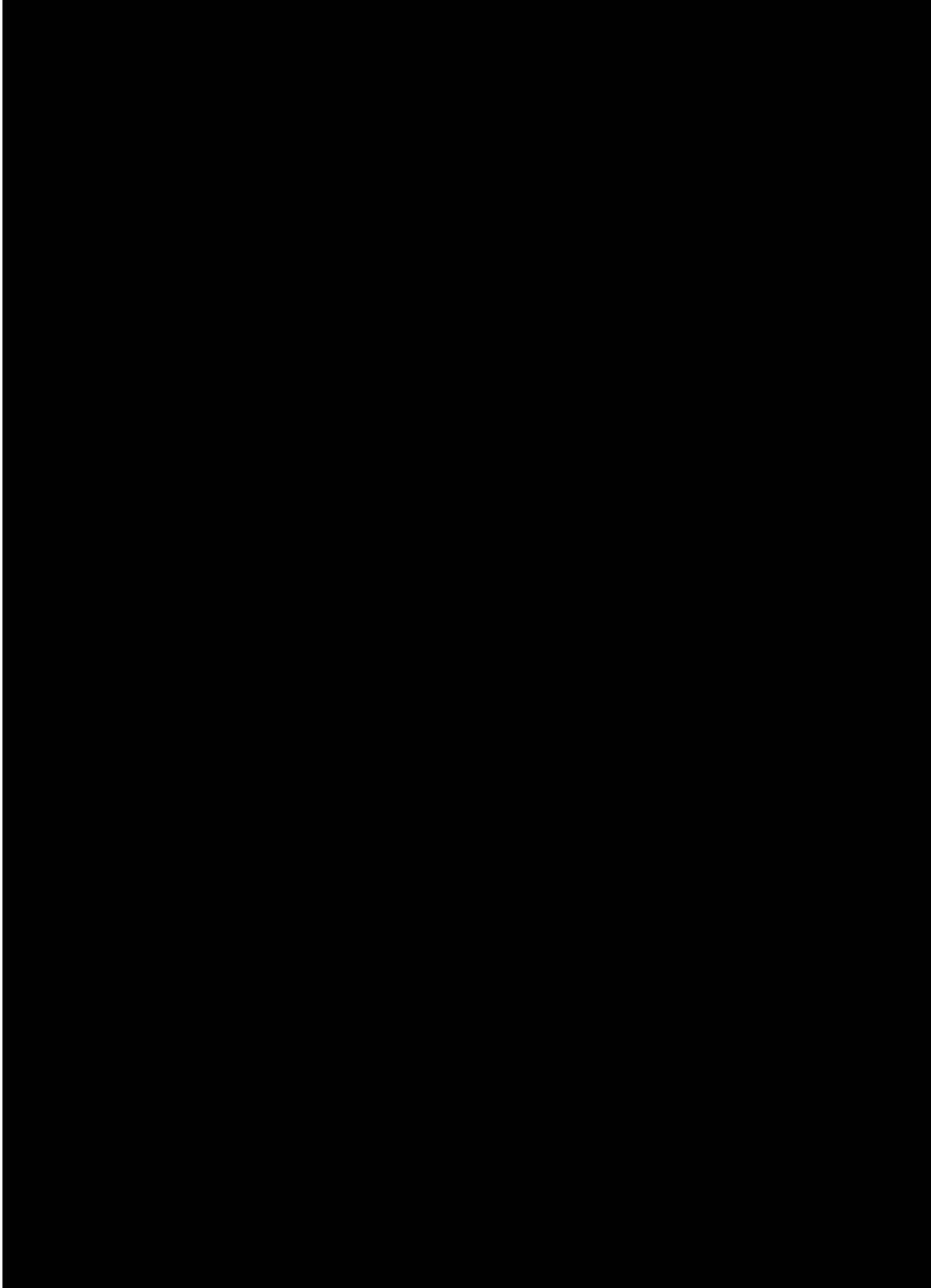










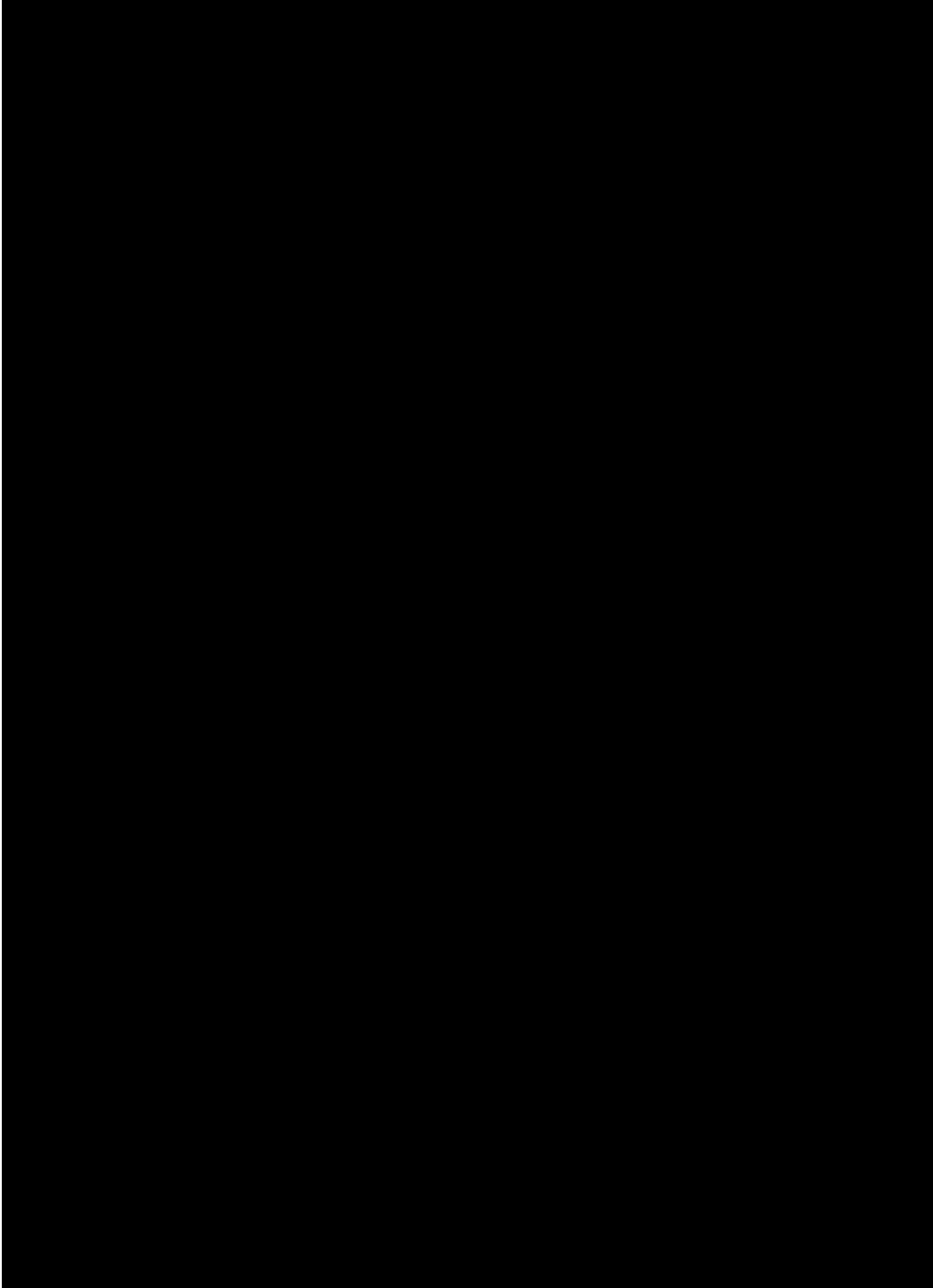




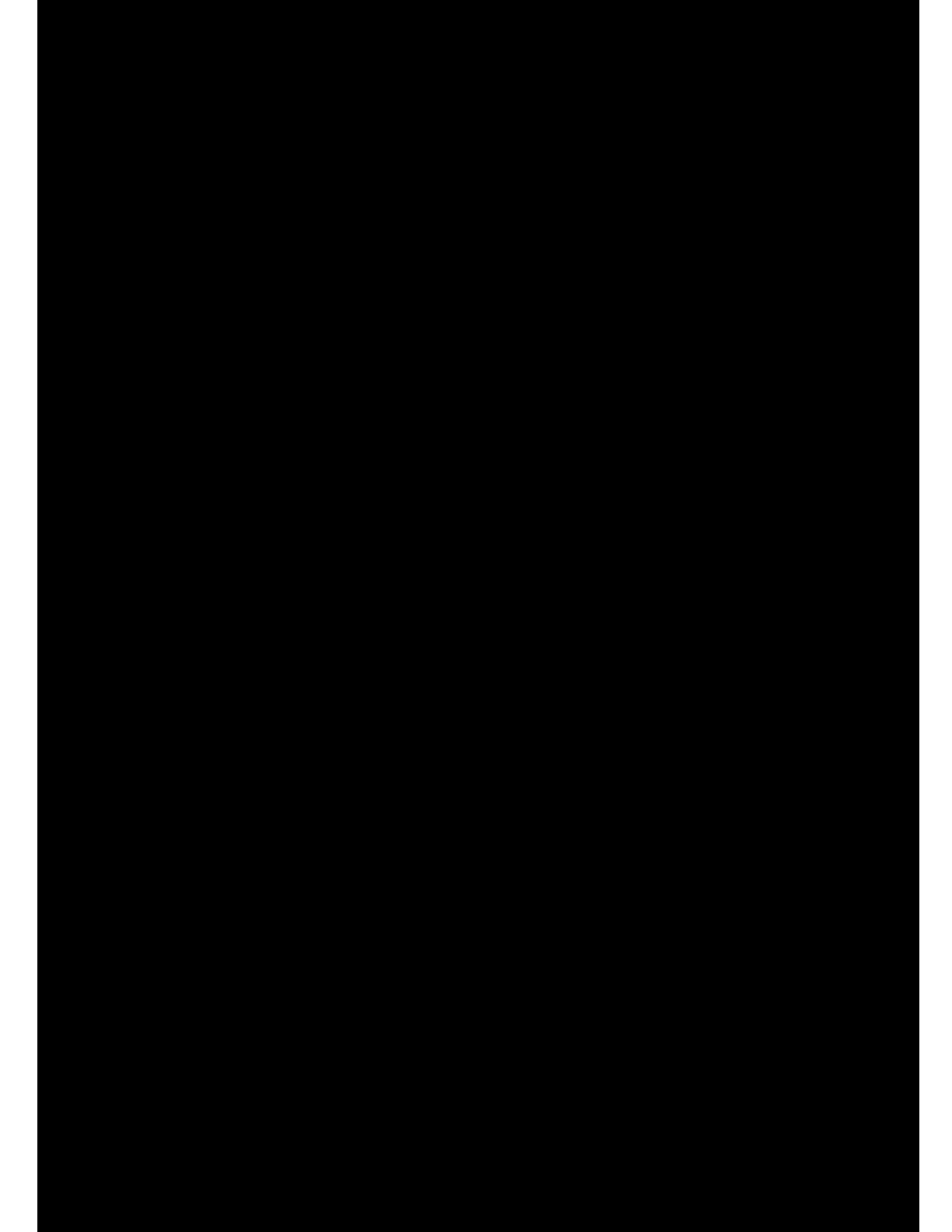


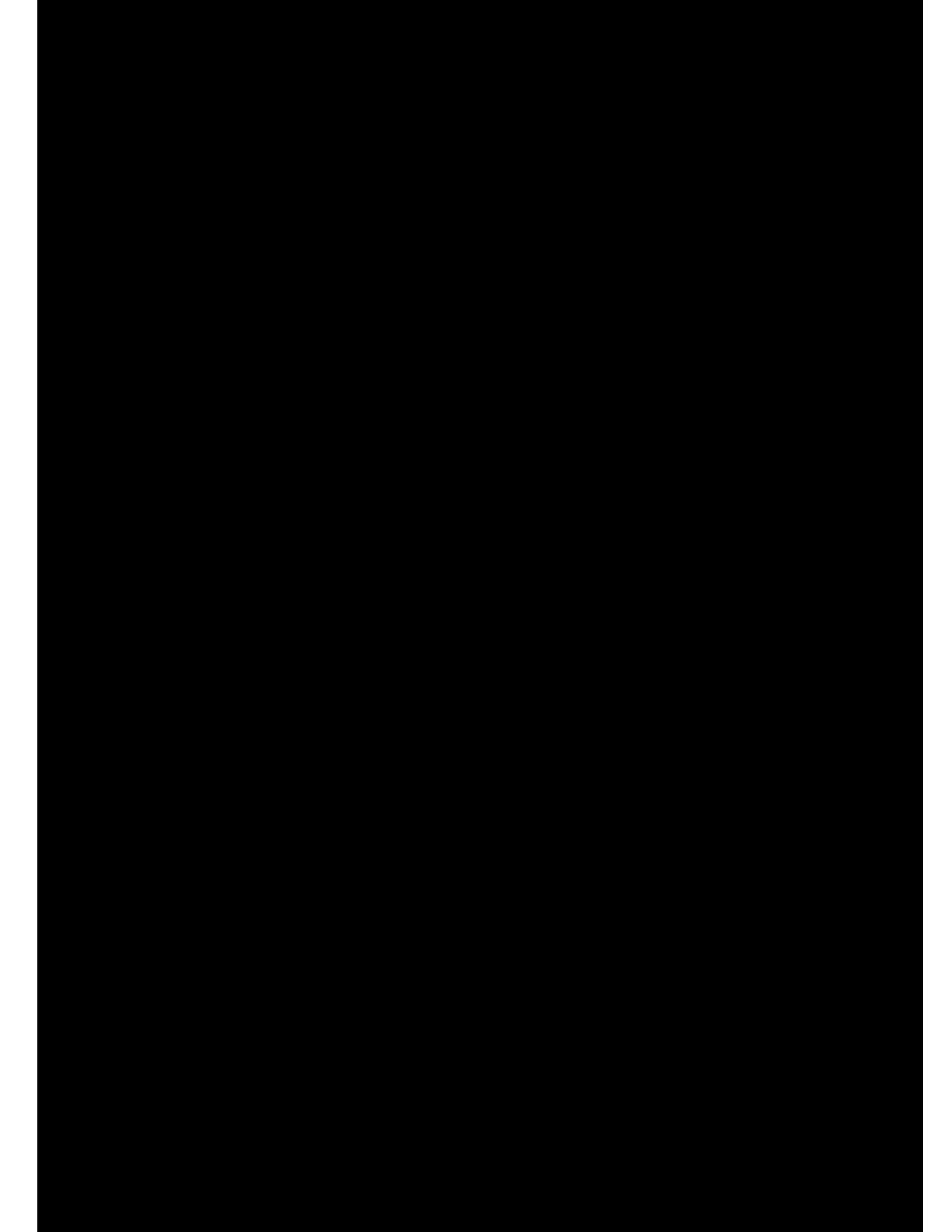


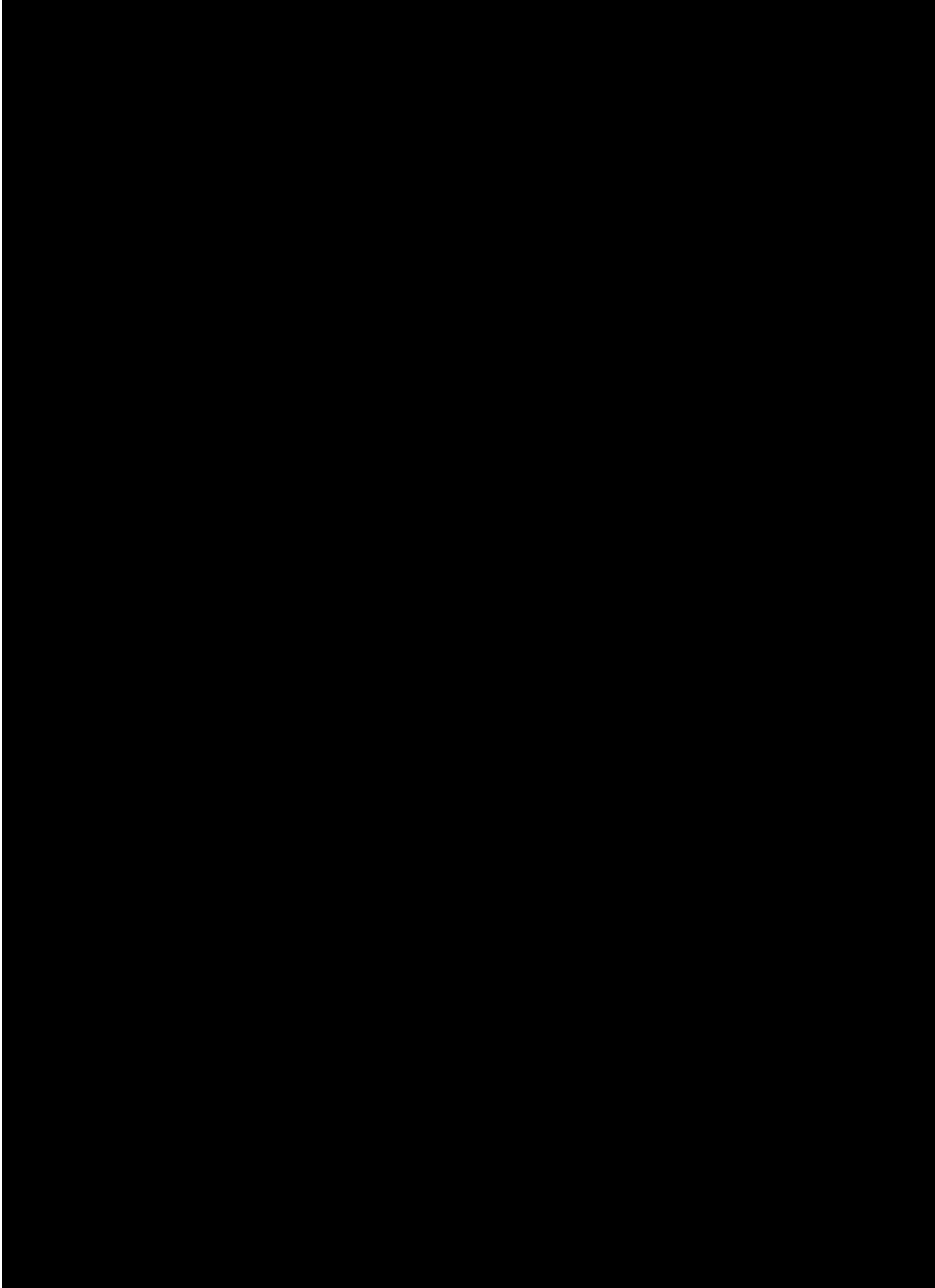


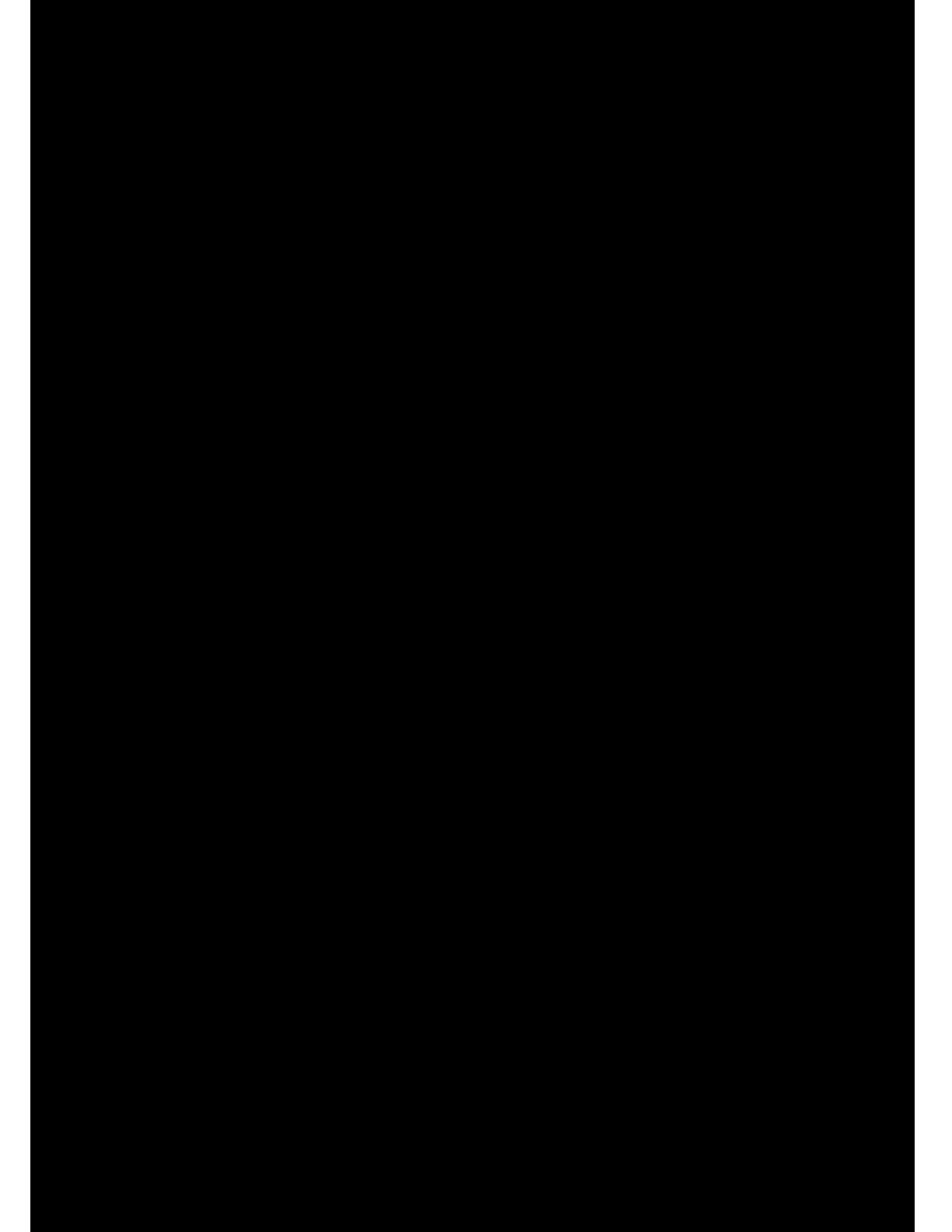




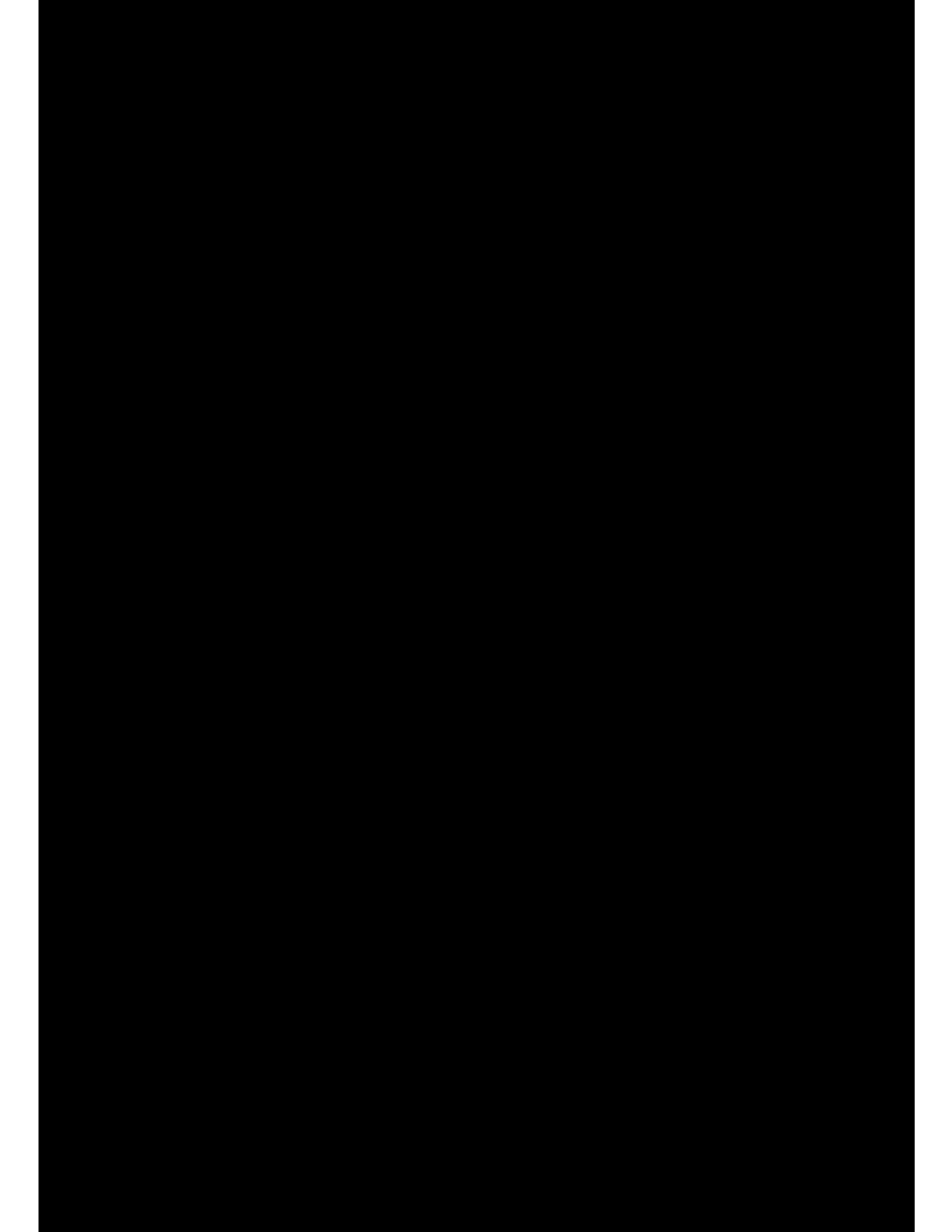






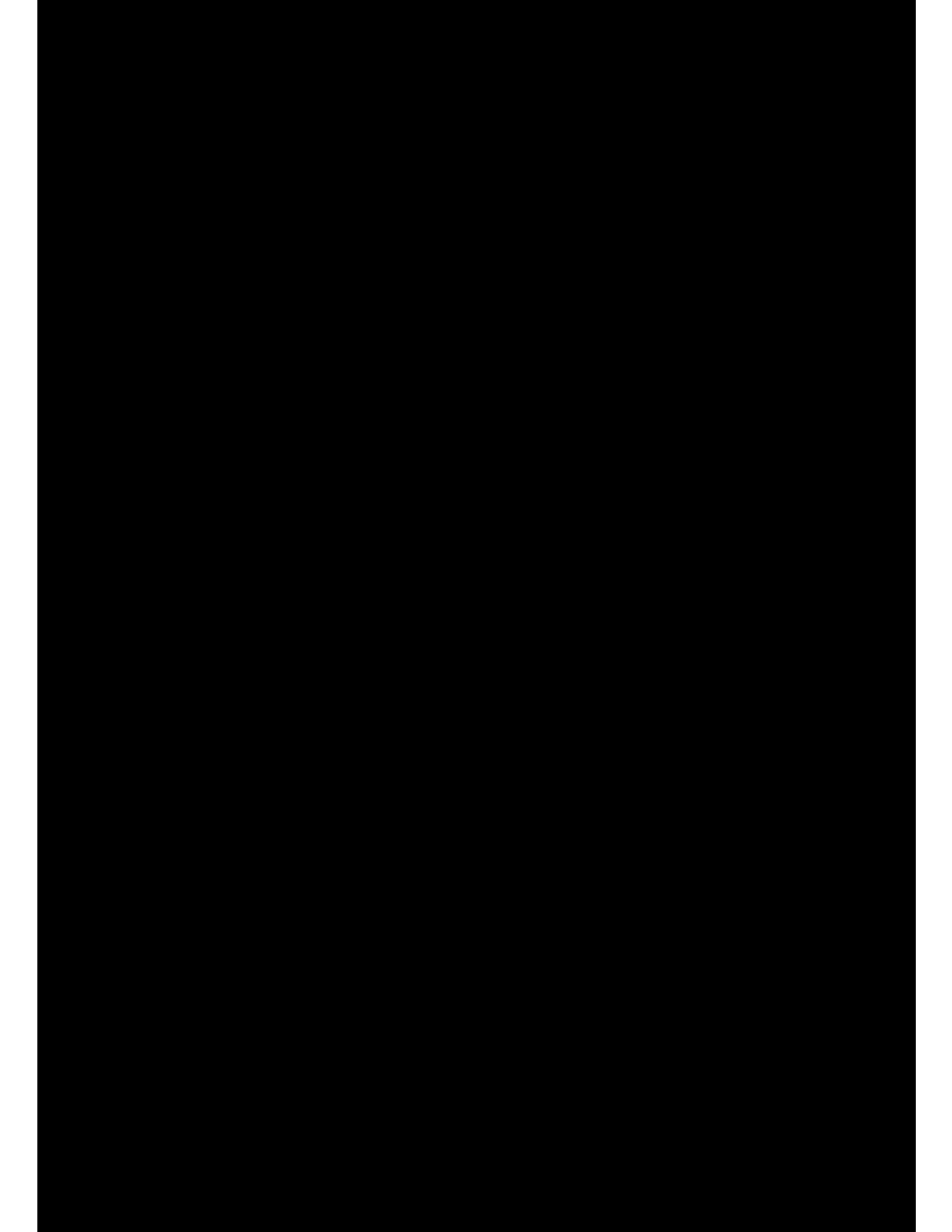


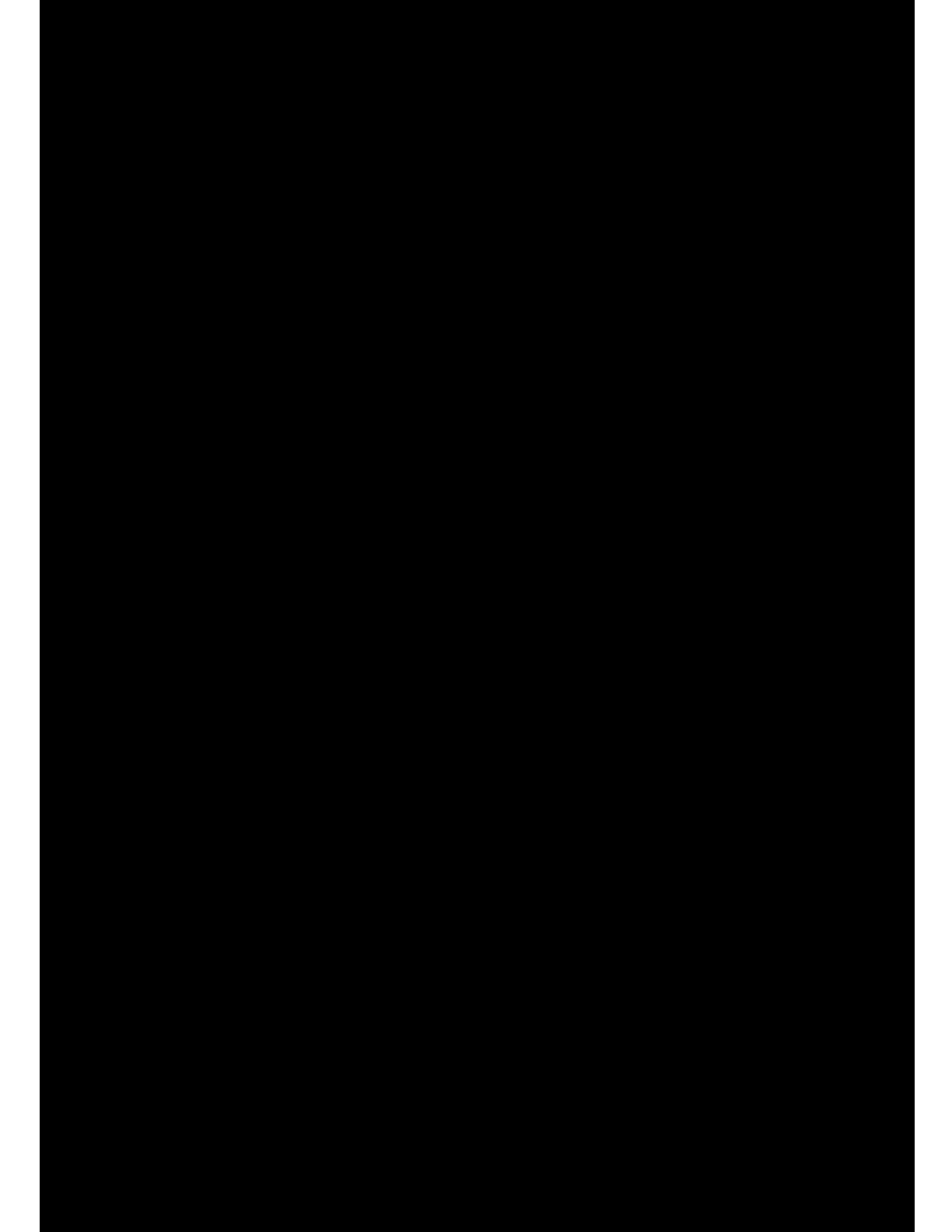


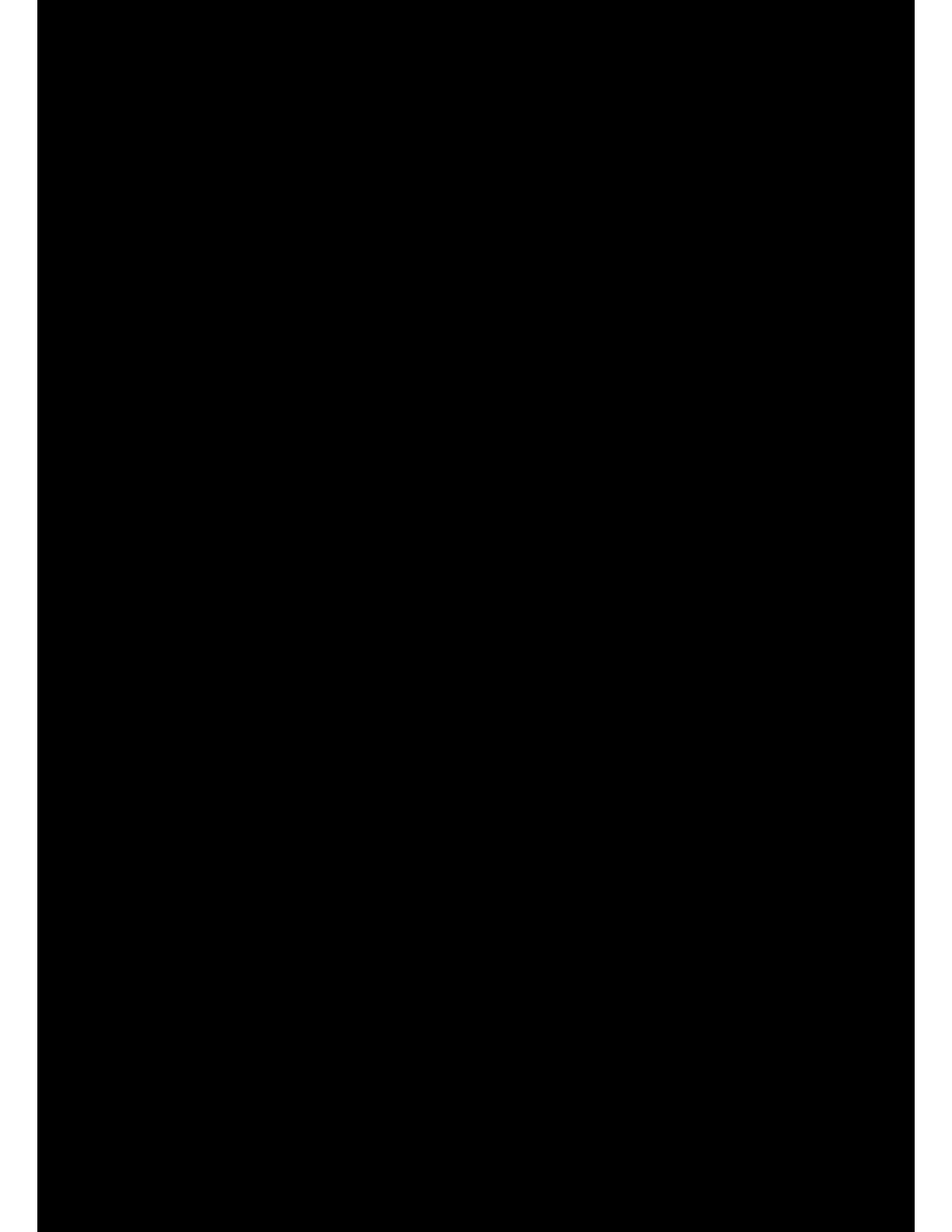


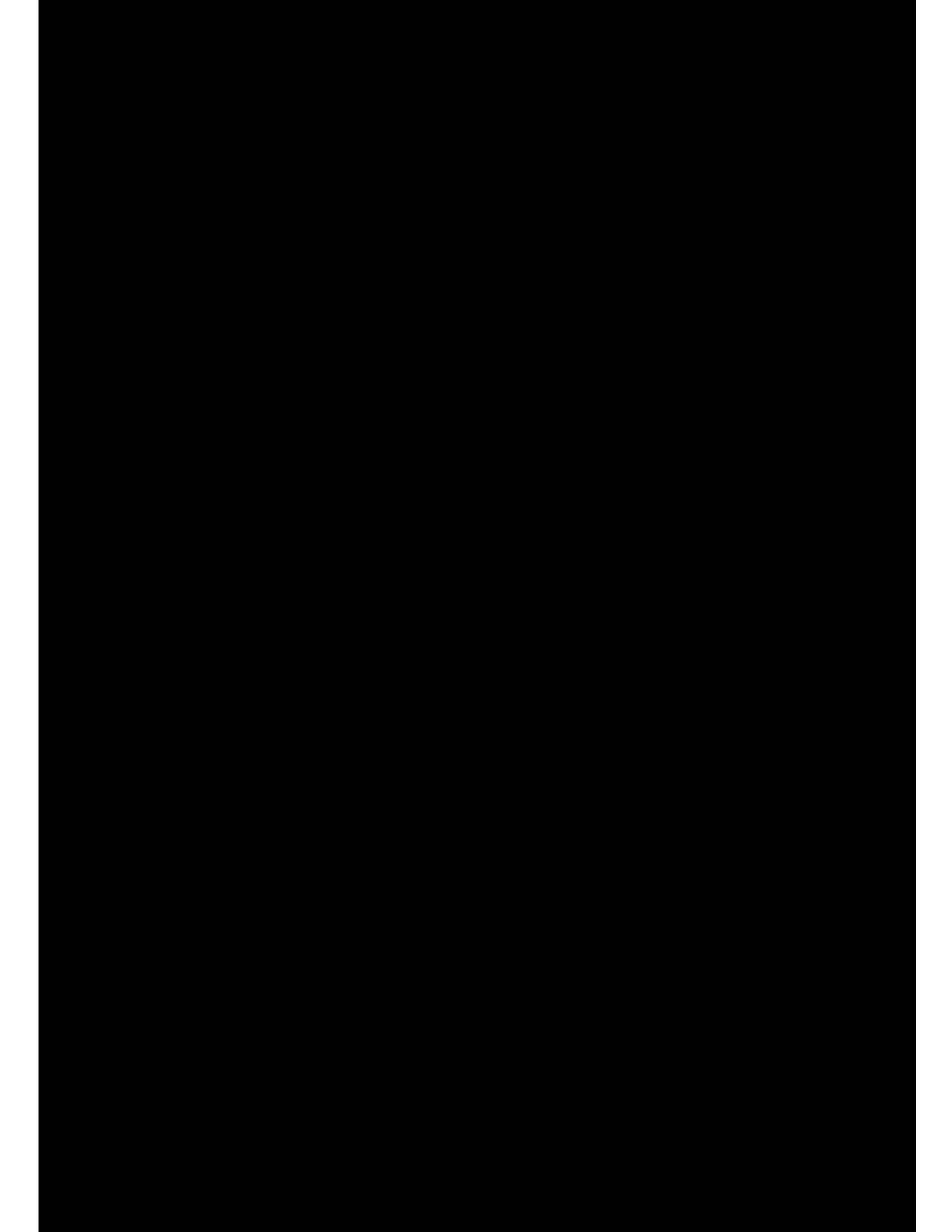


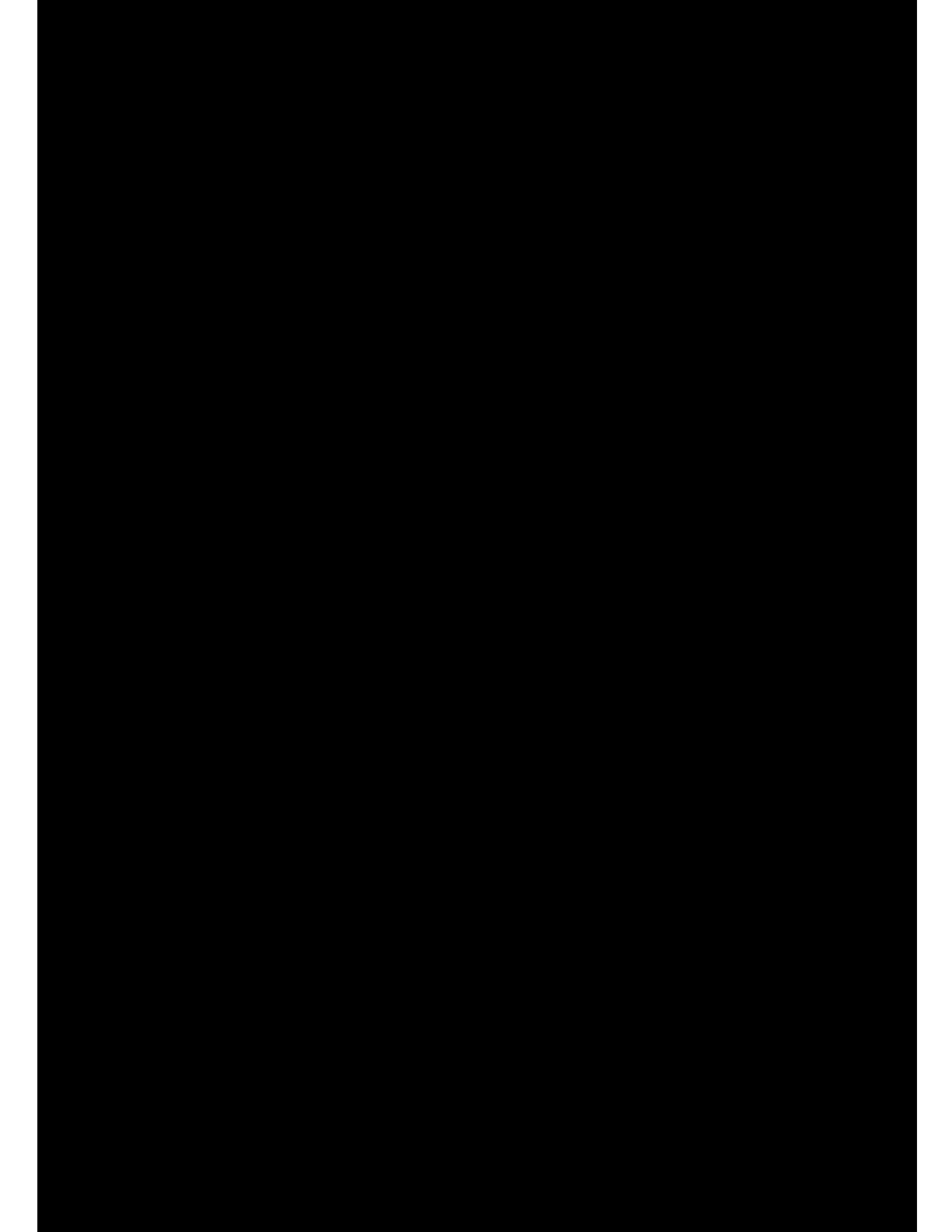


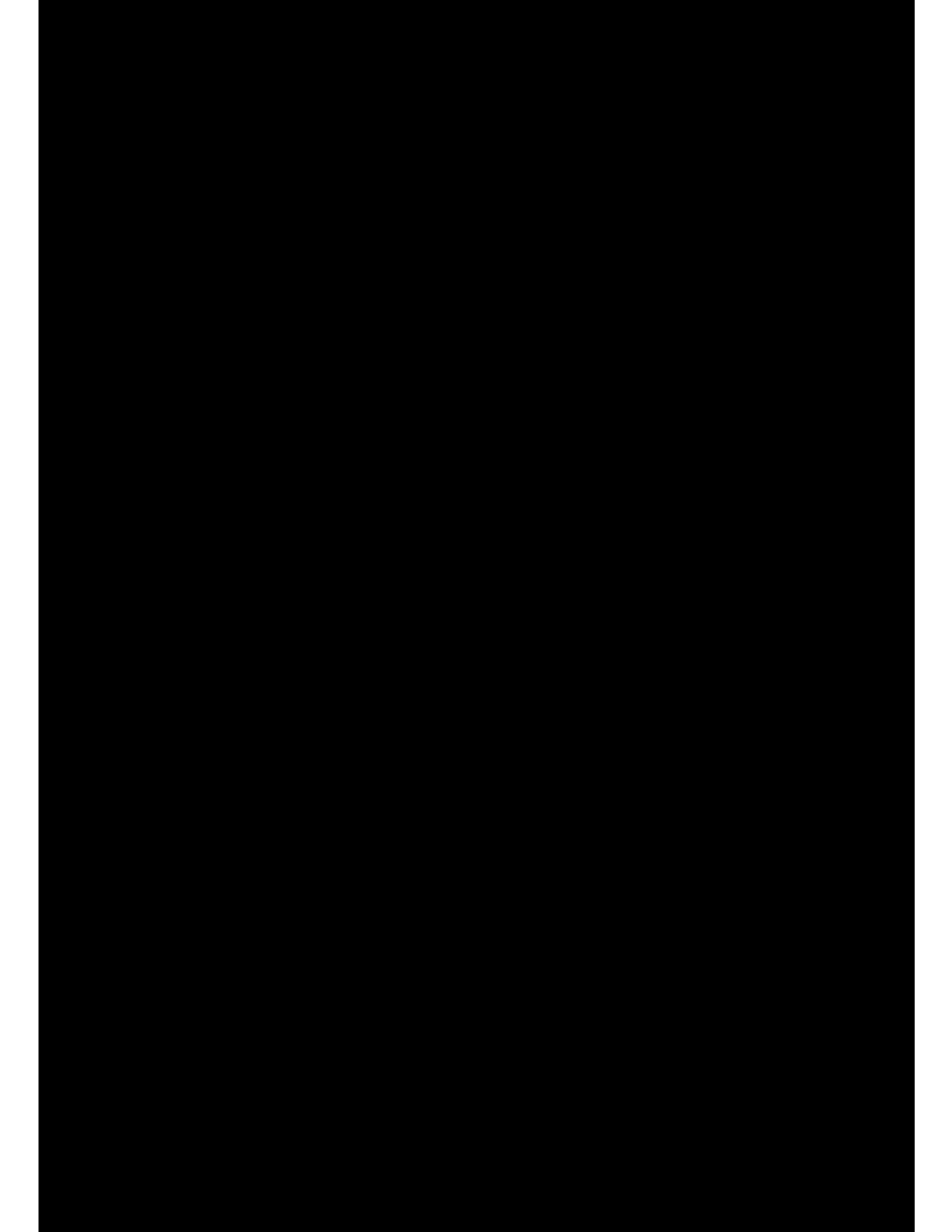




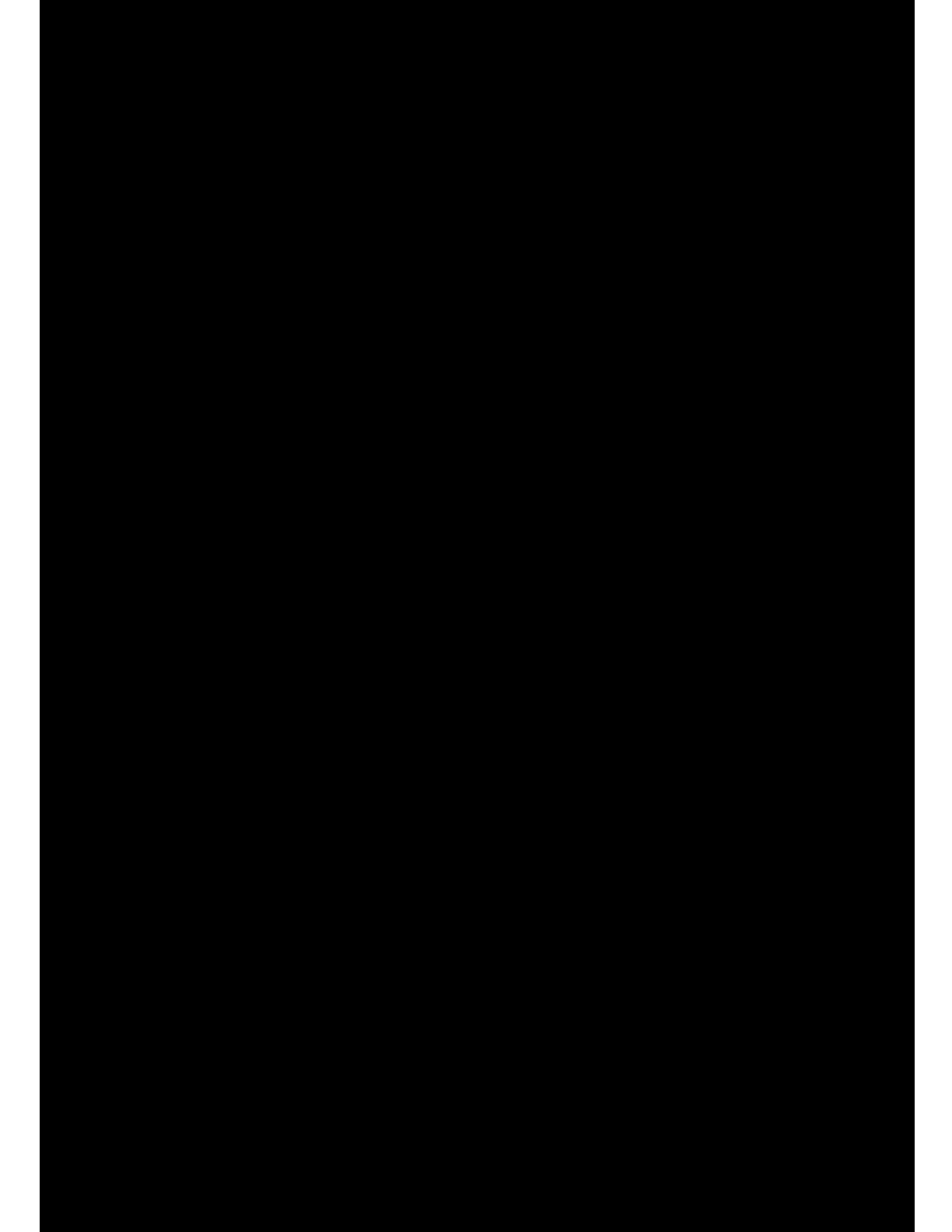


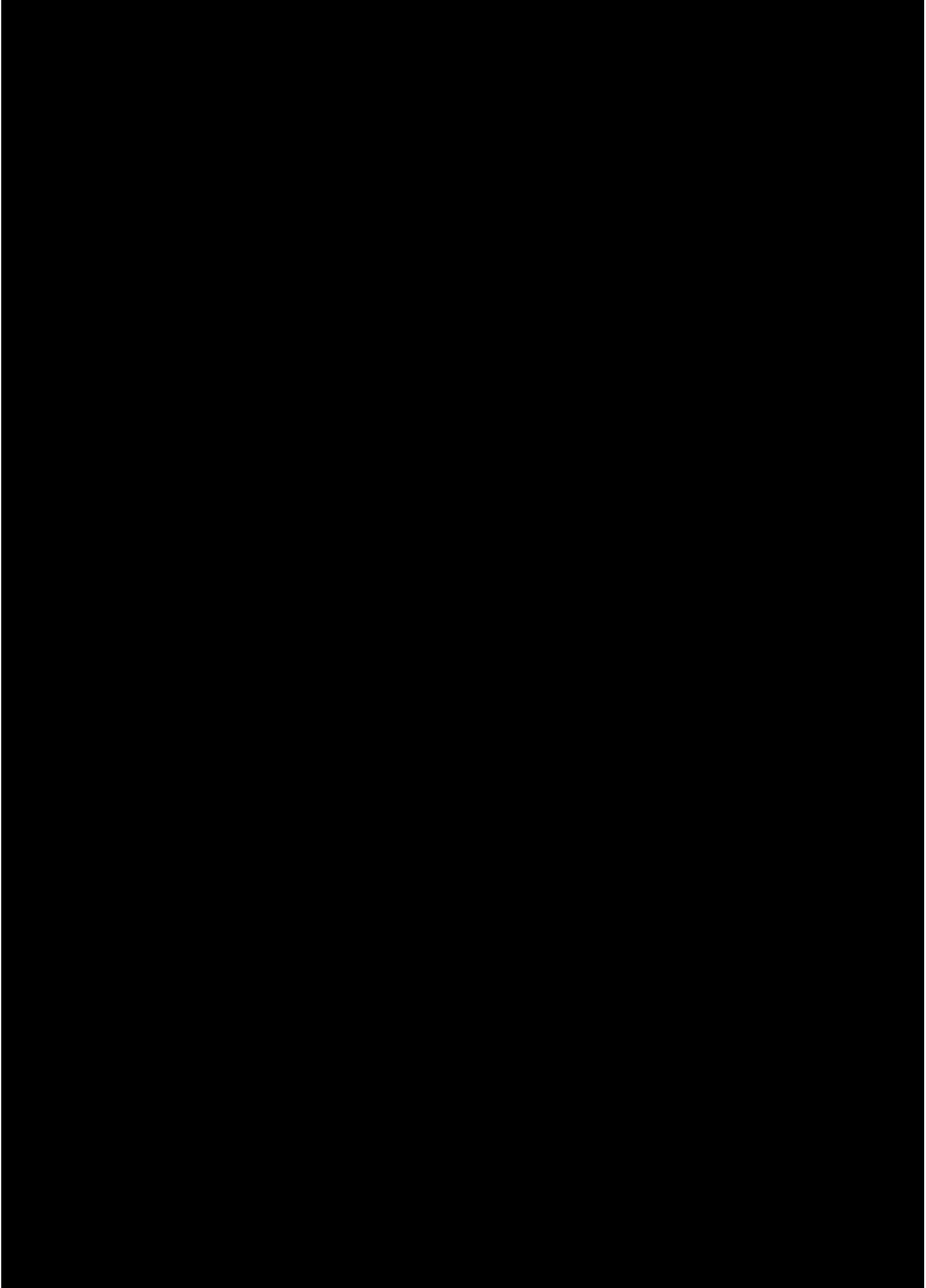


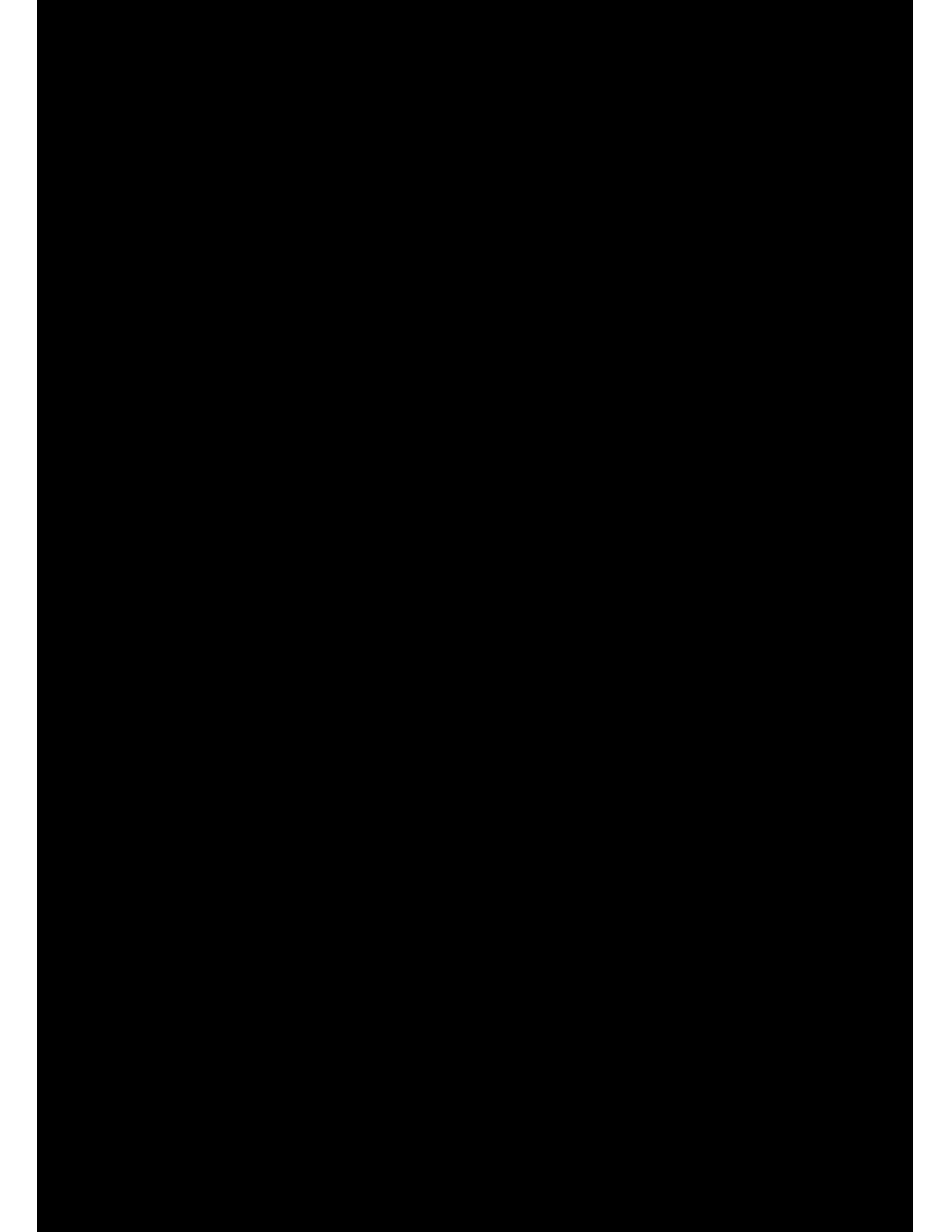




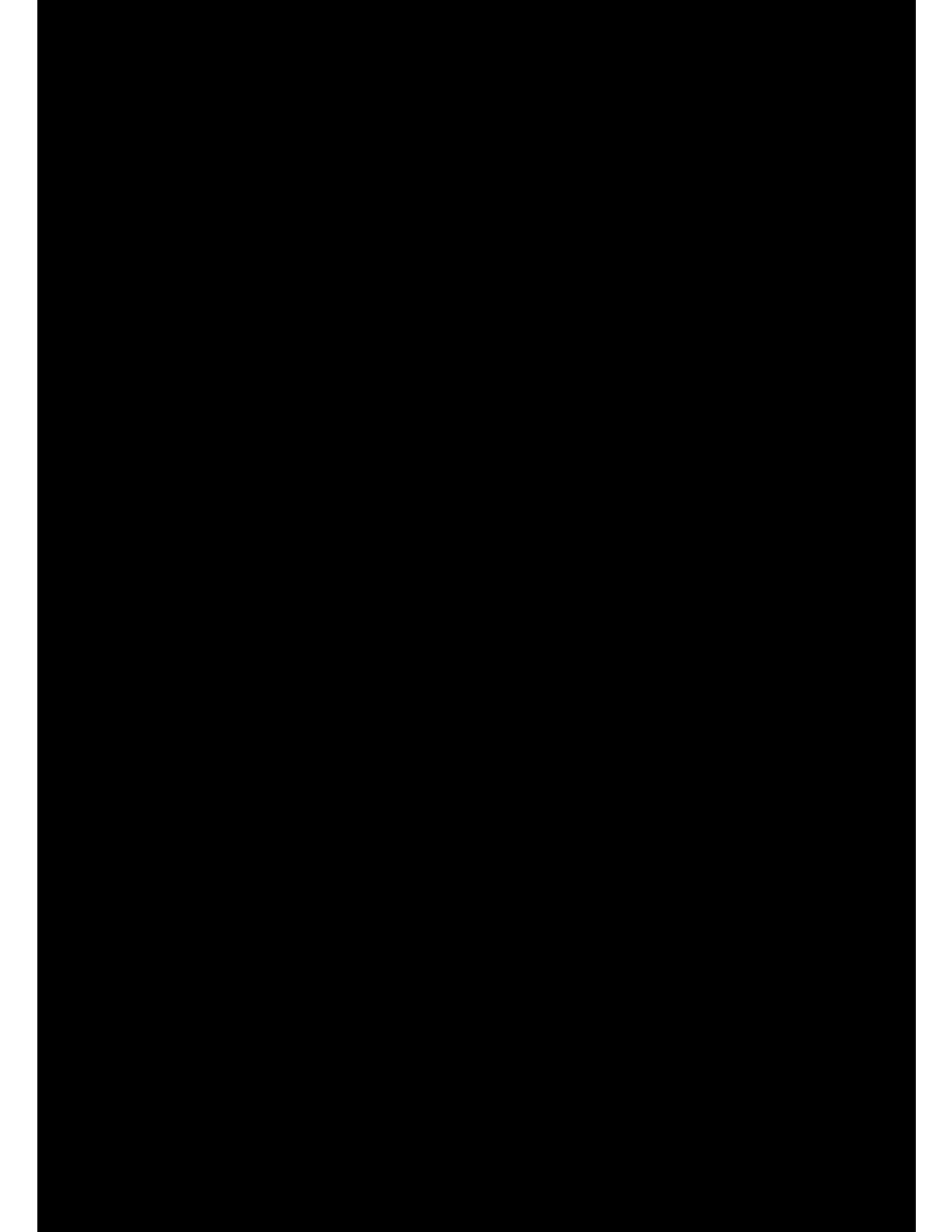




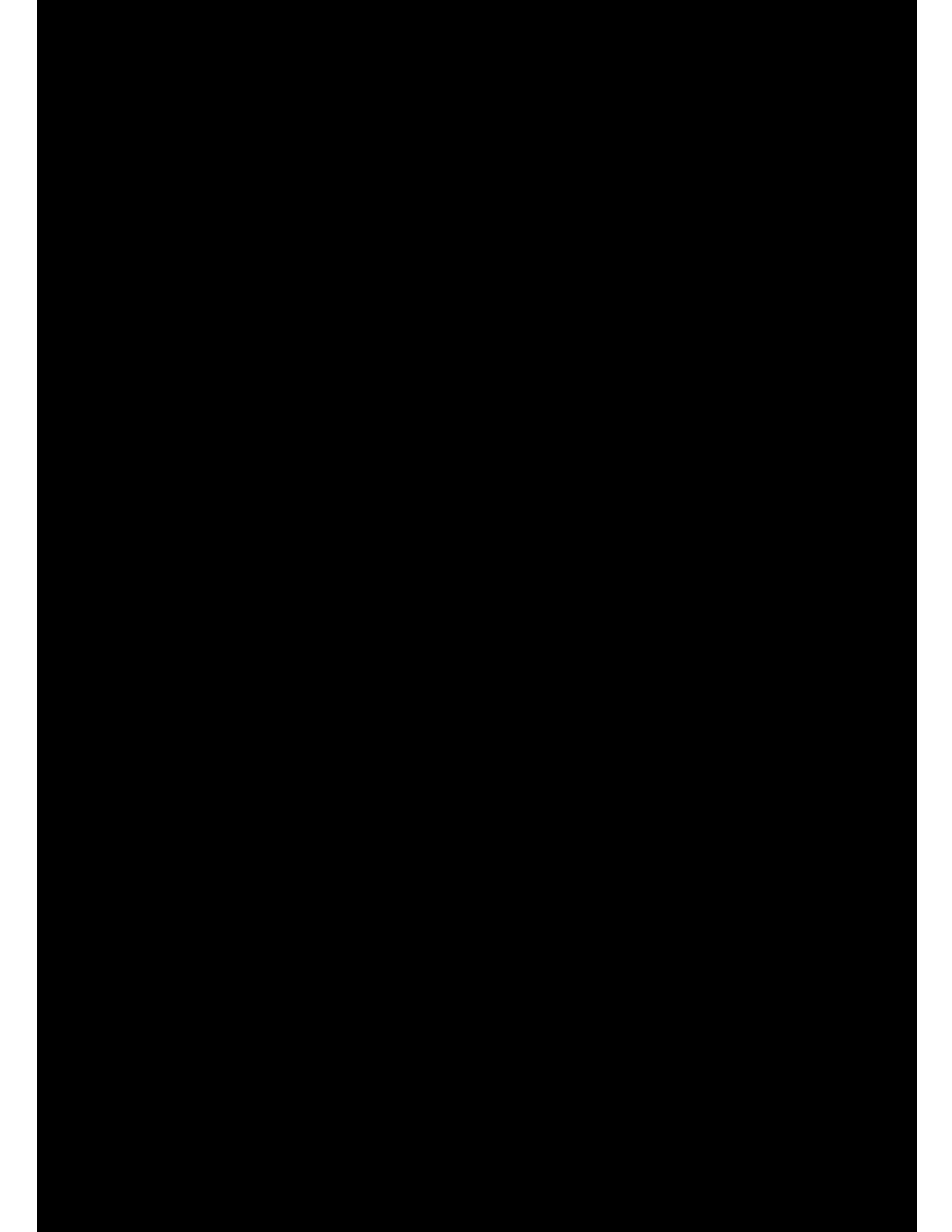


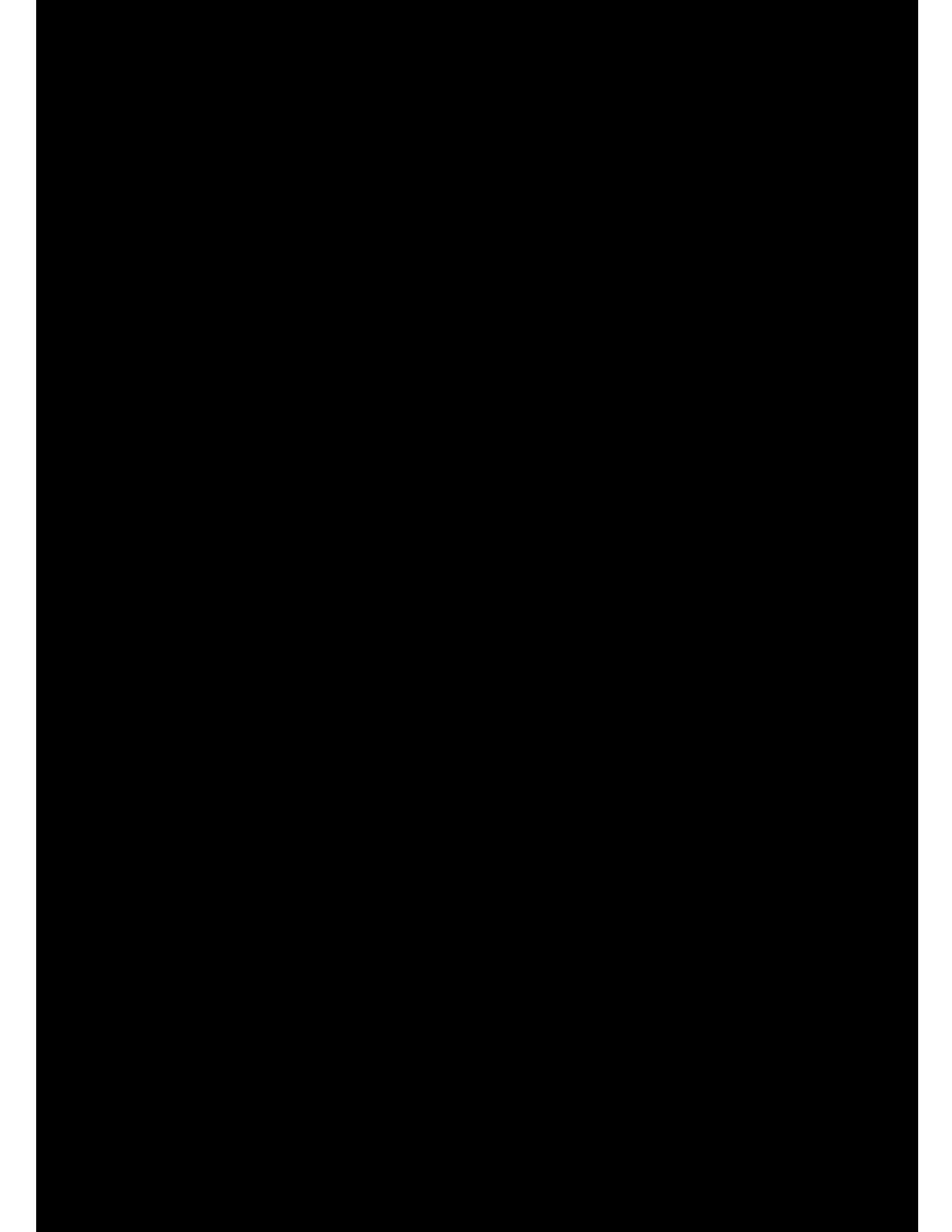




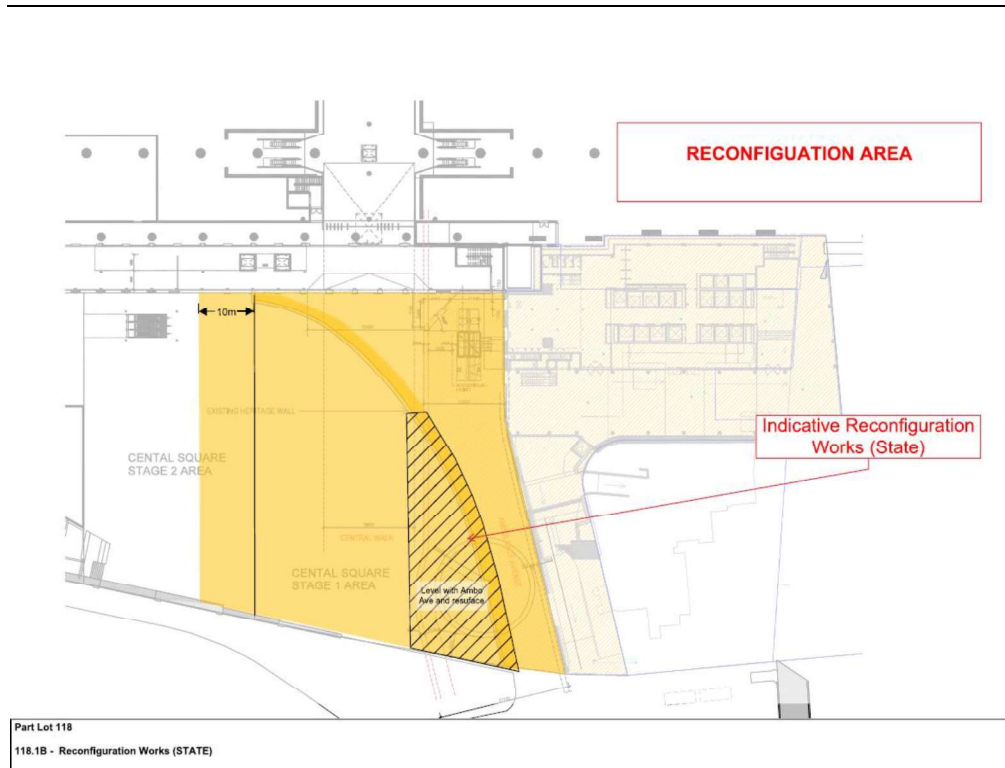




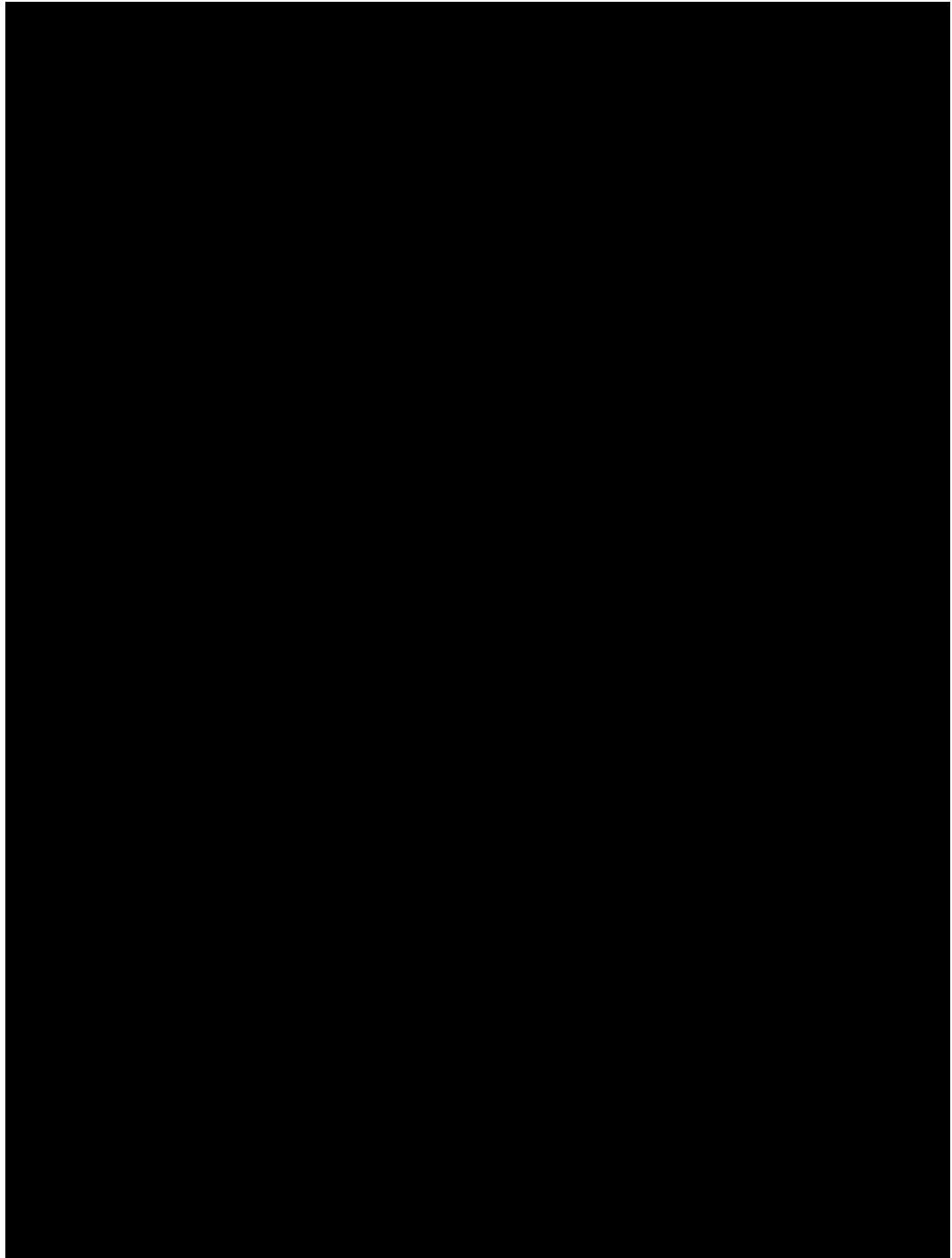


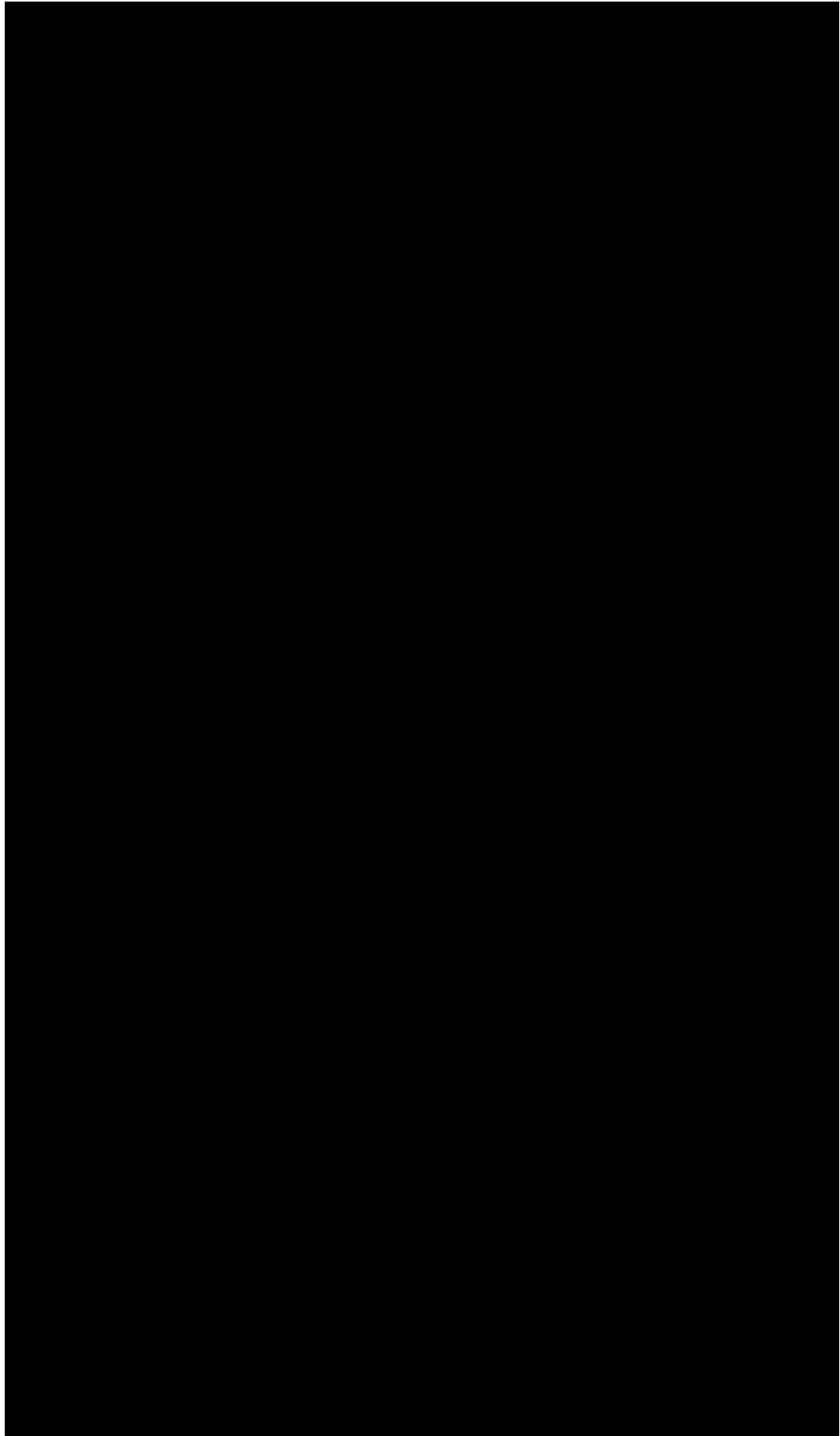


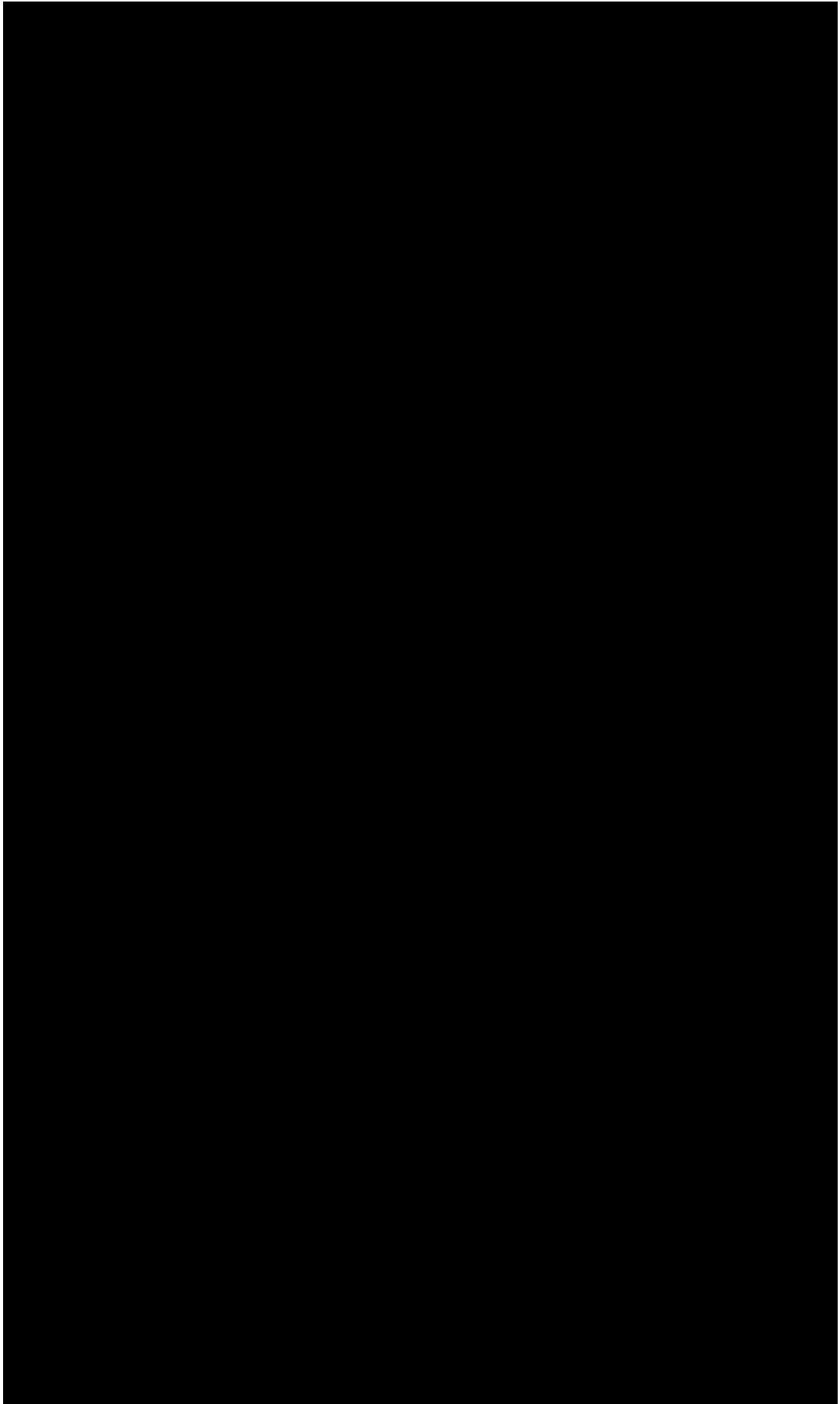
Schedule 27 Reconfiguration Area

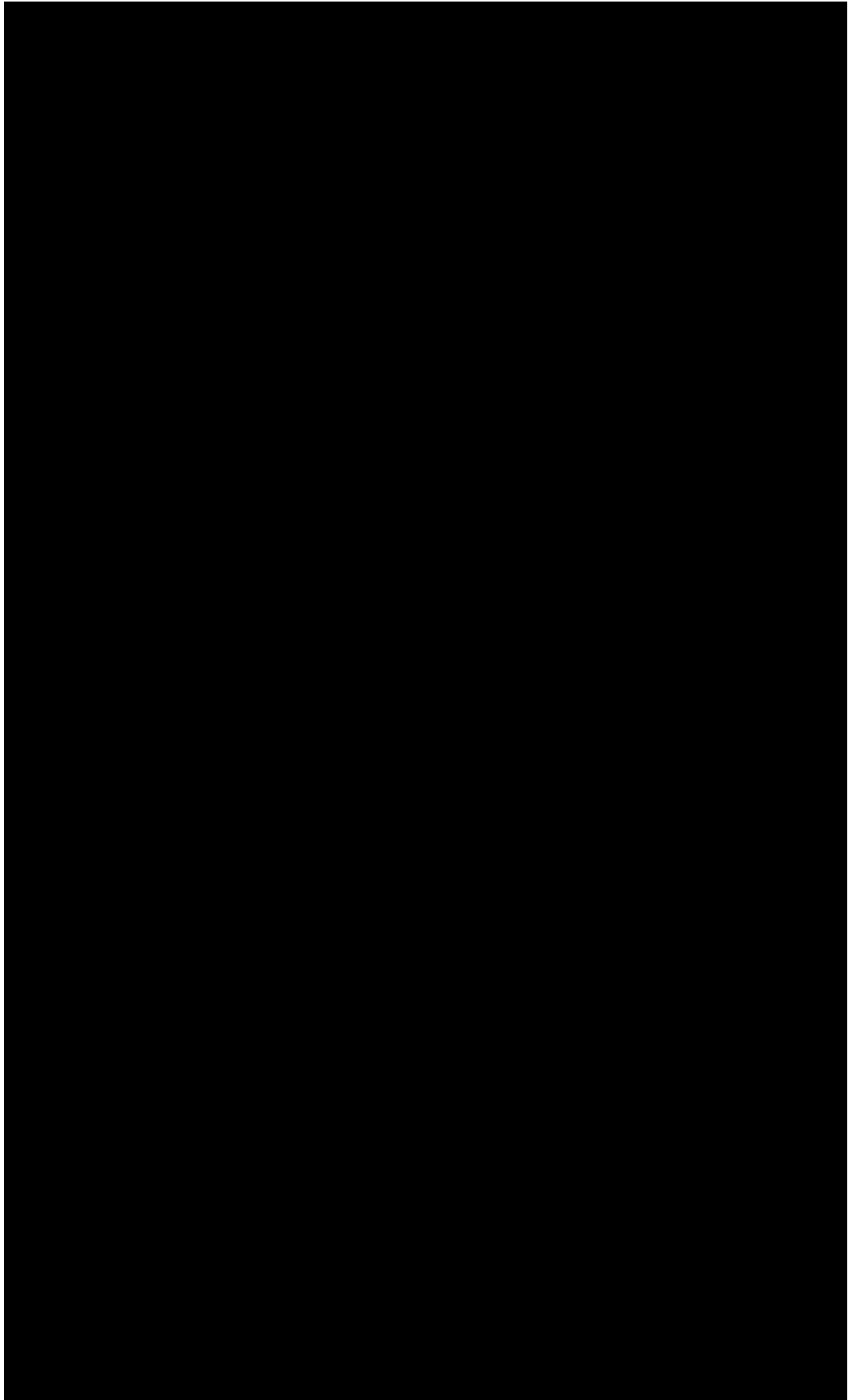


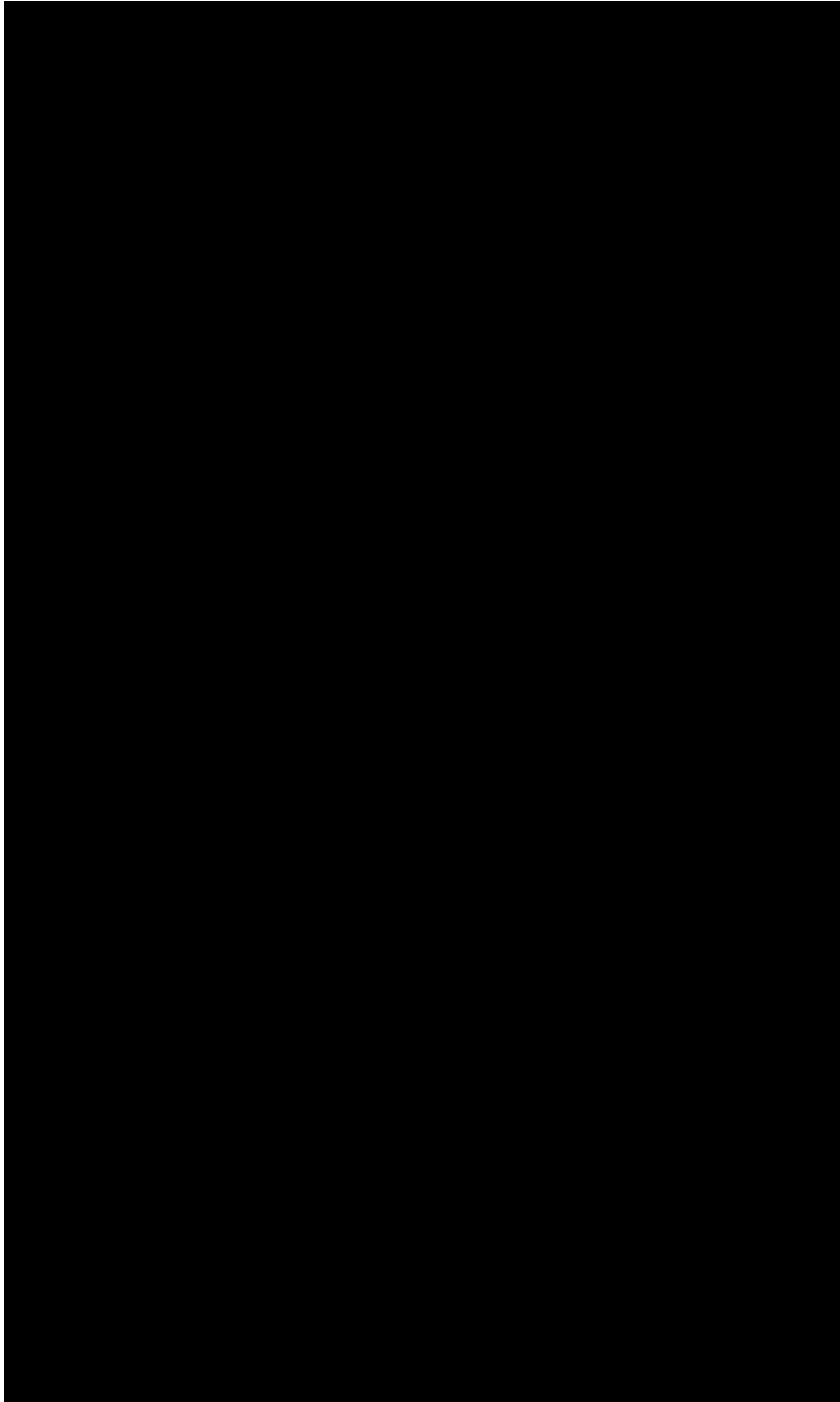
Schedule 28 Public Positive Covenant (Day 2 Works)

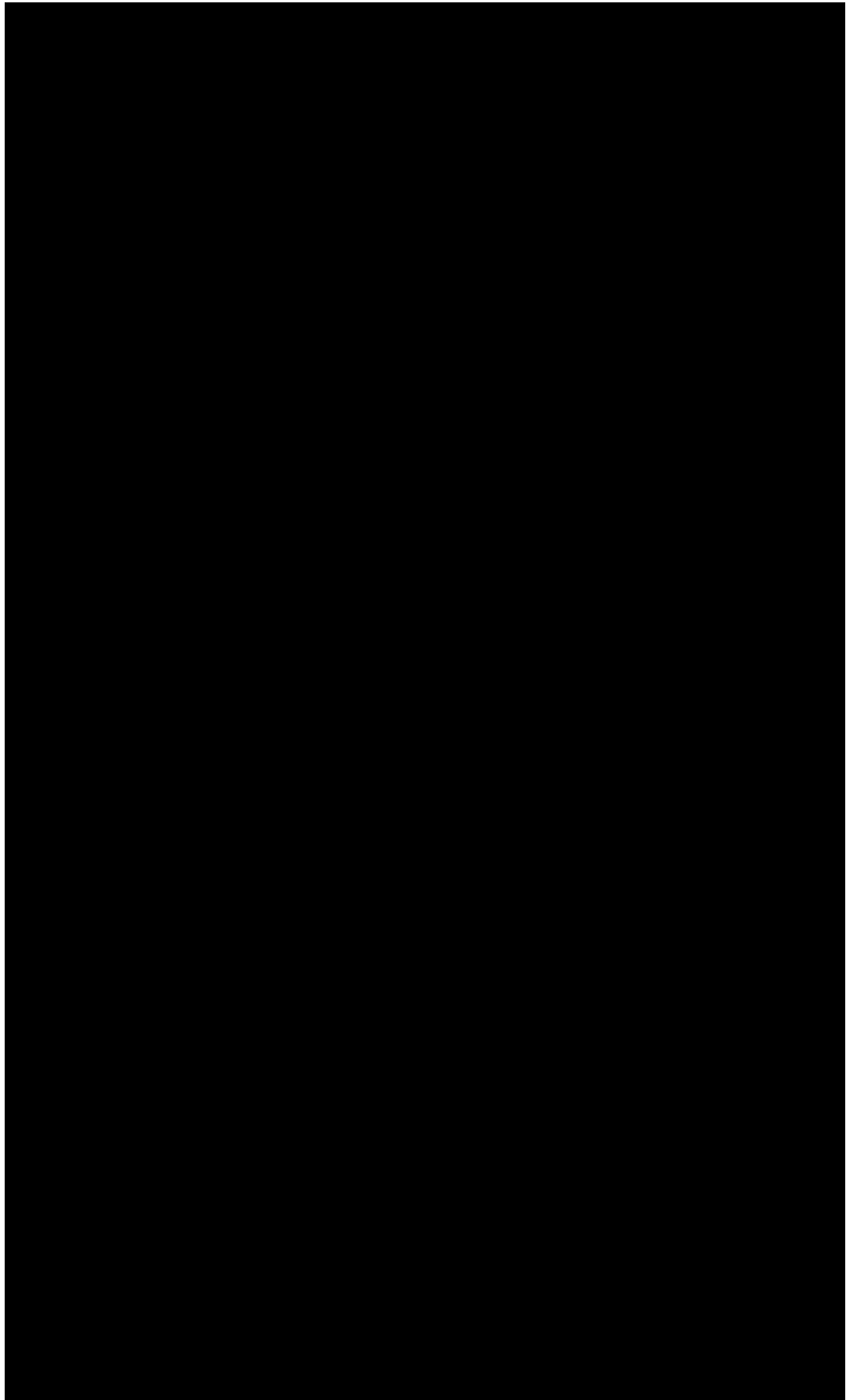




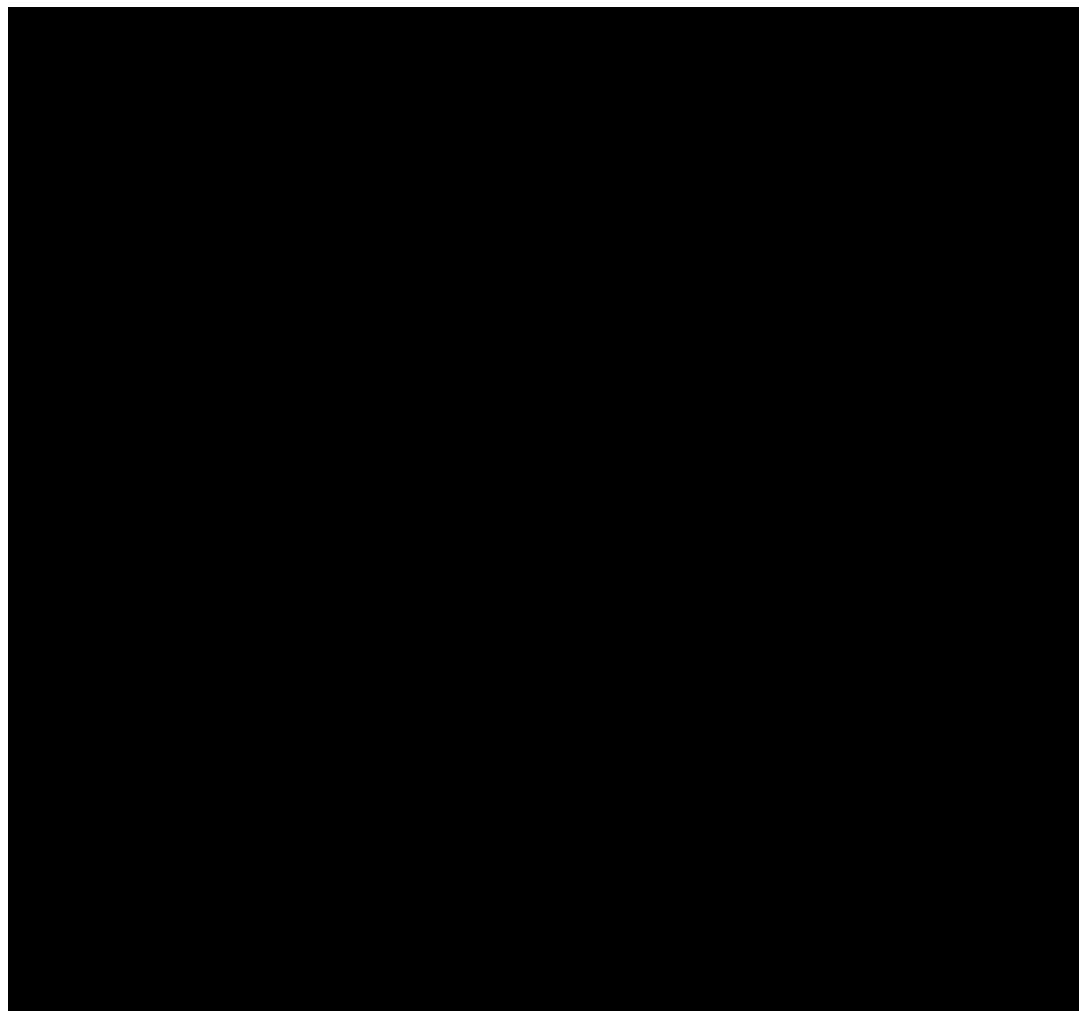




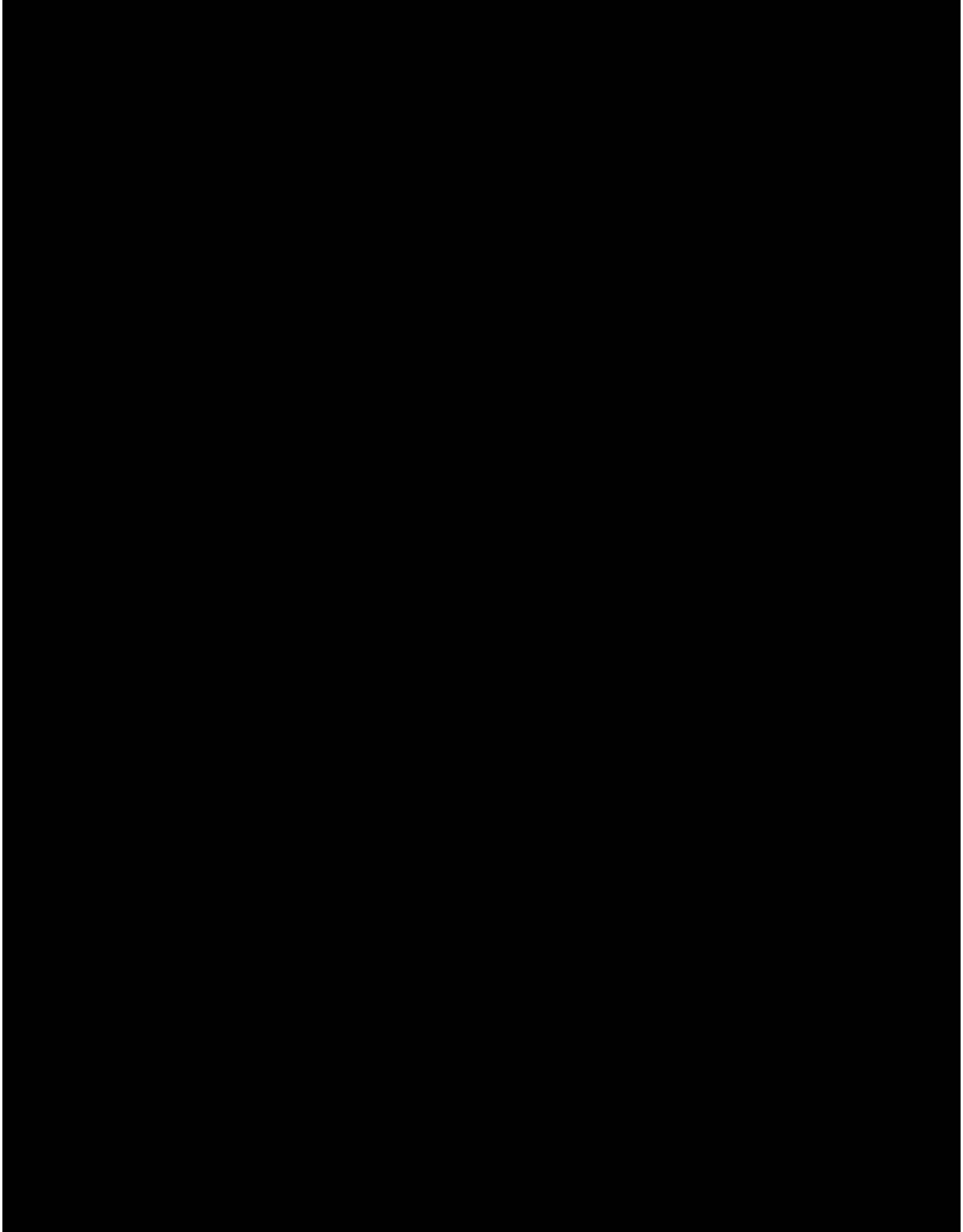


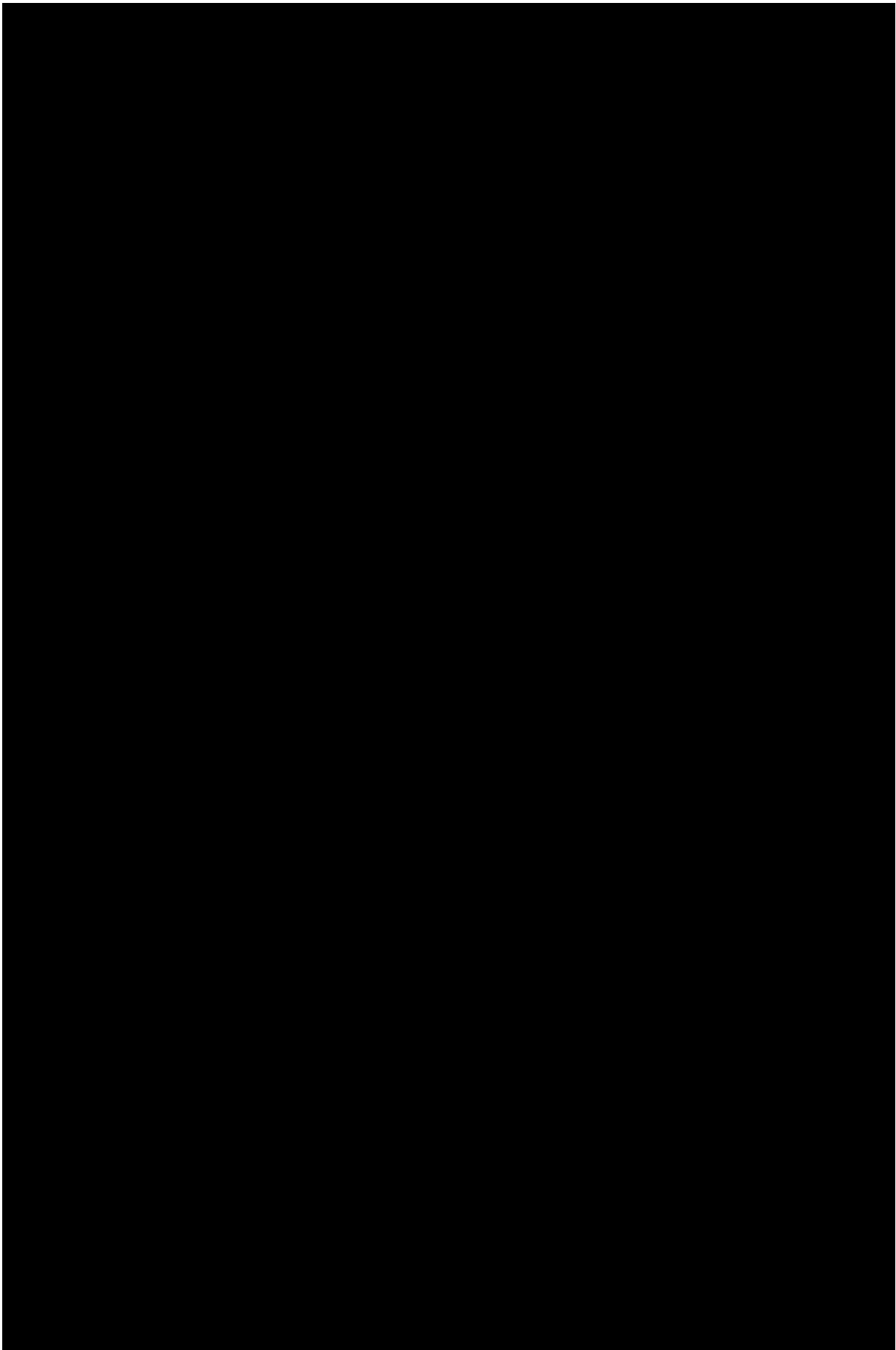


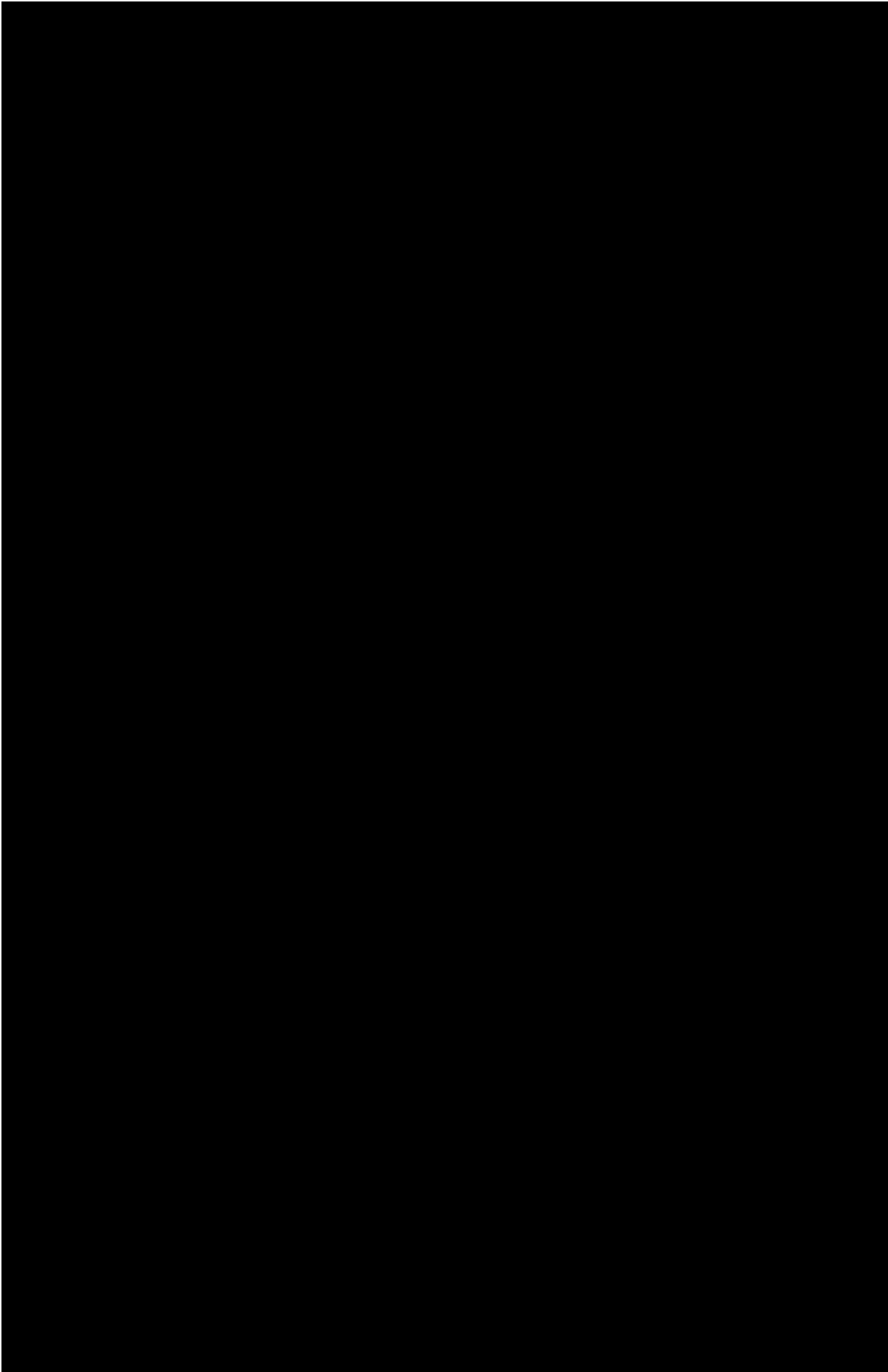
Schedule 29 Day 2 Works

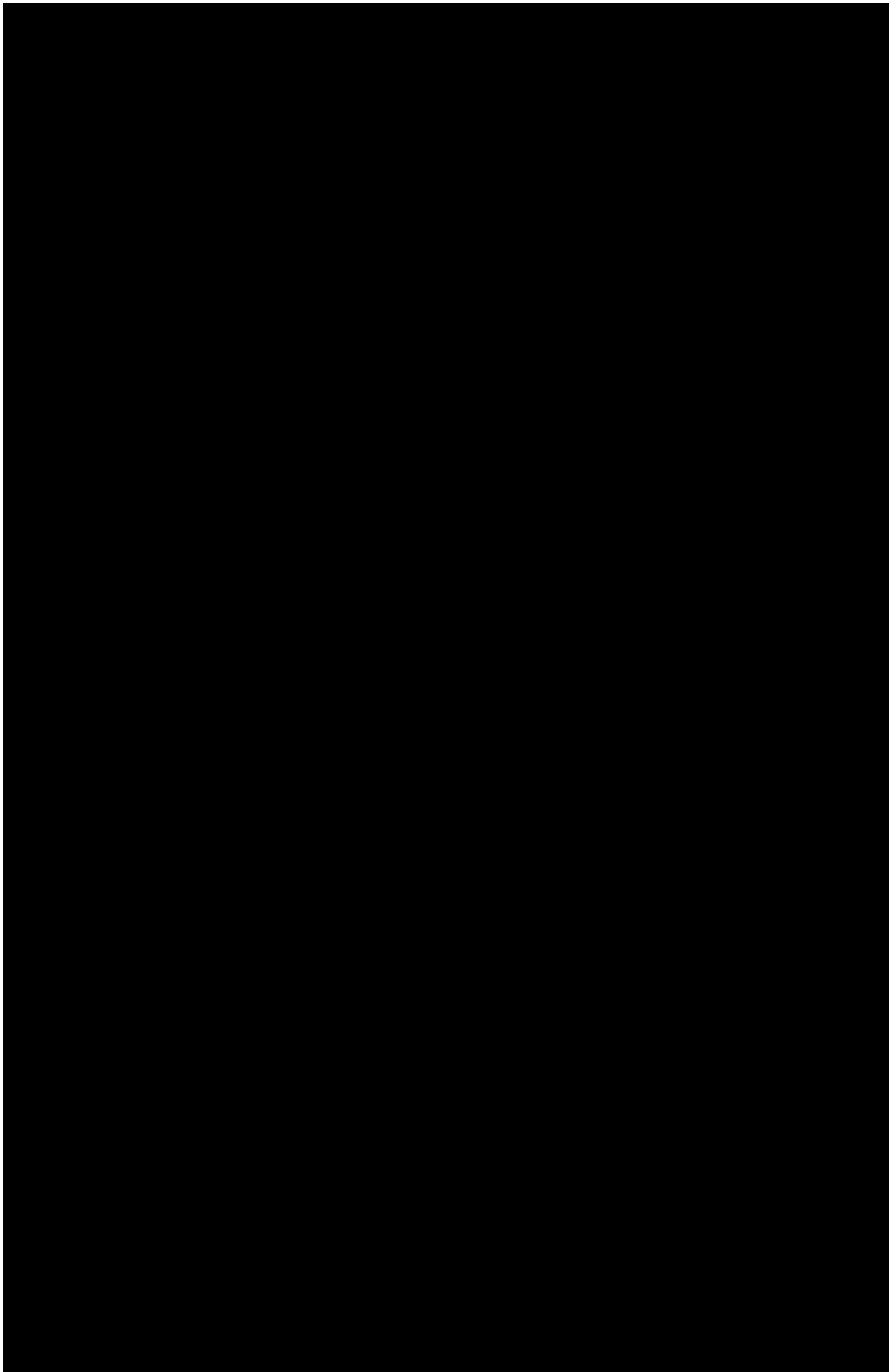


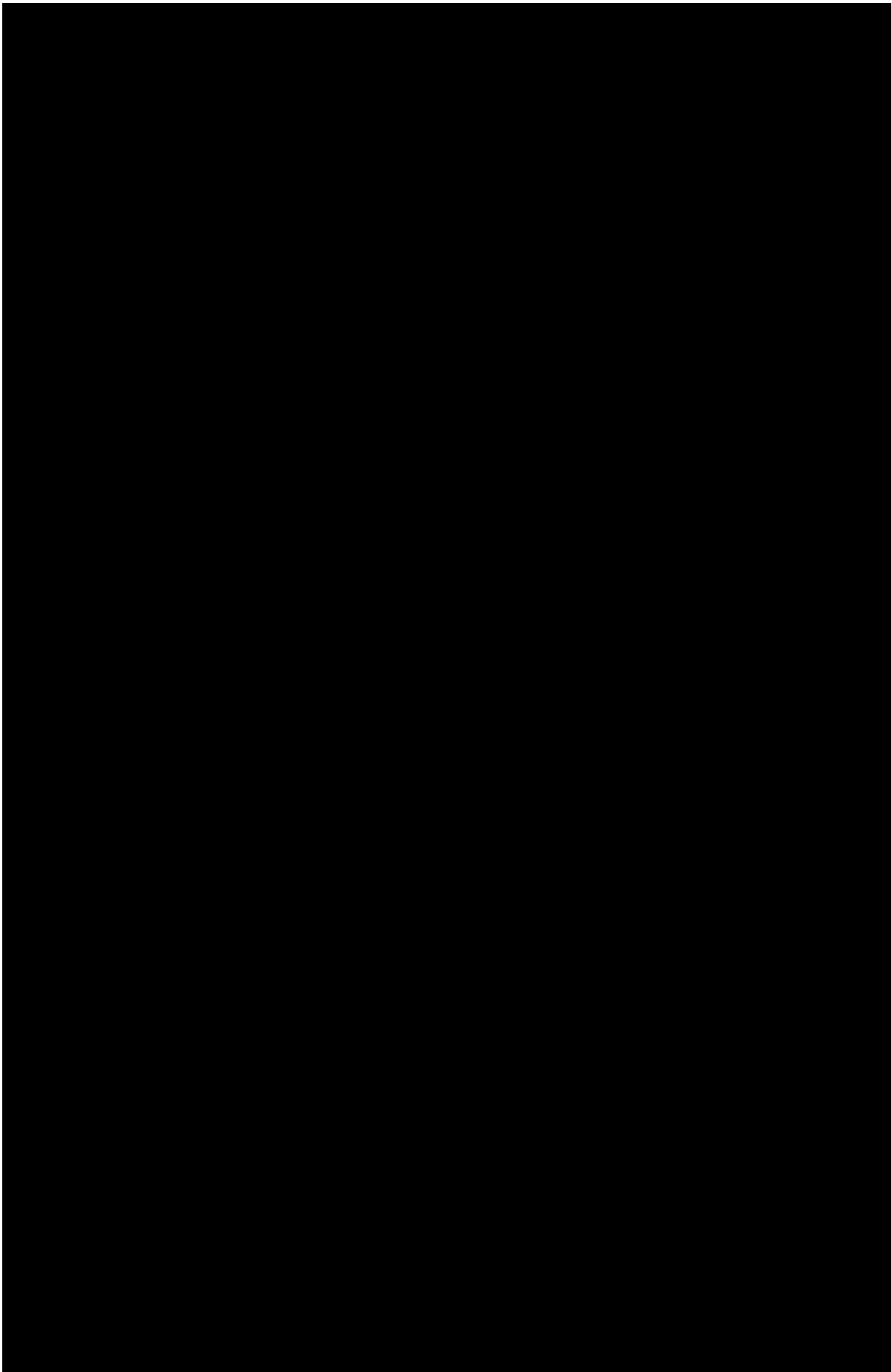
Schedule 30 Covenant

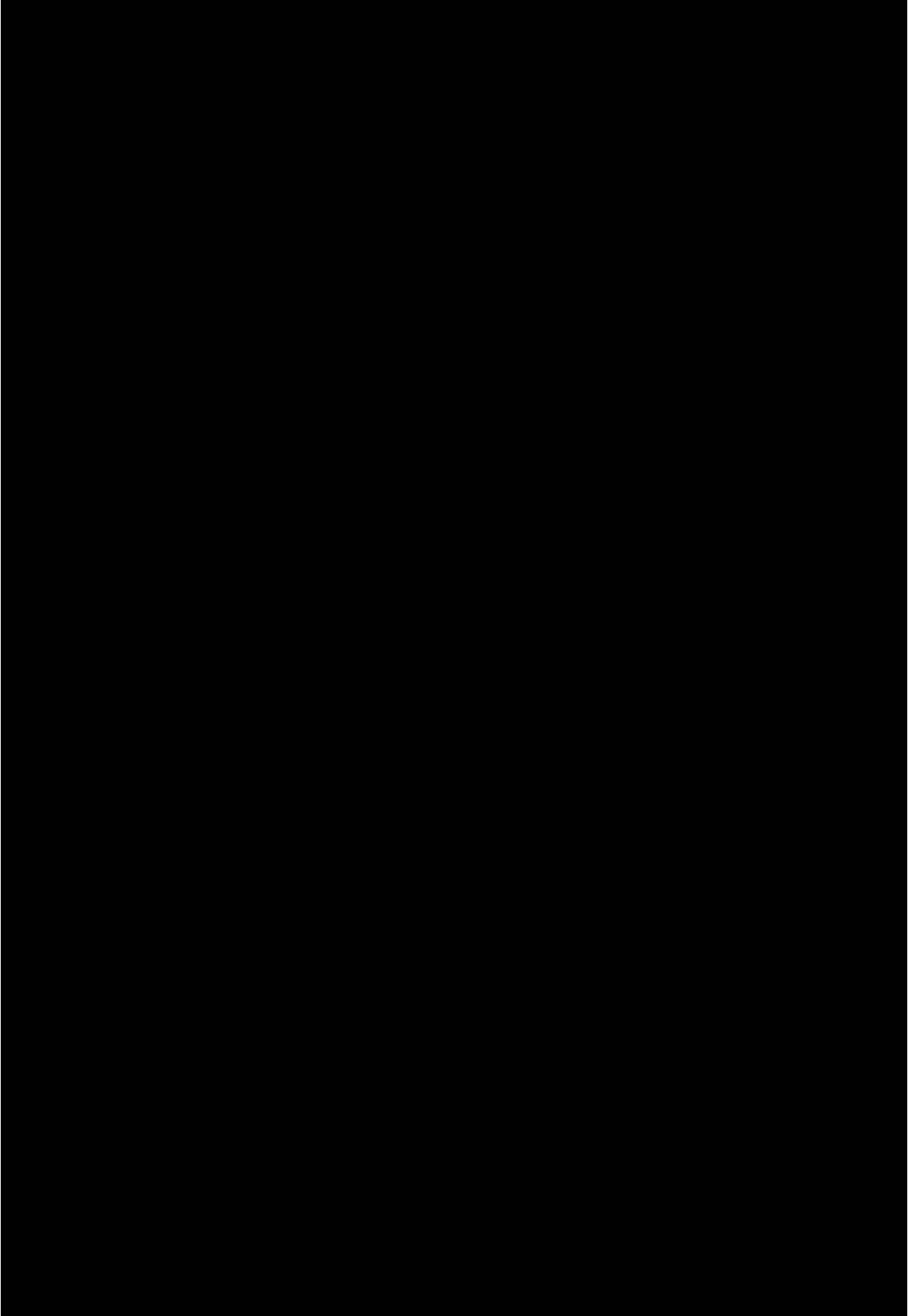






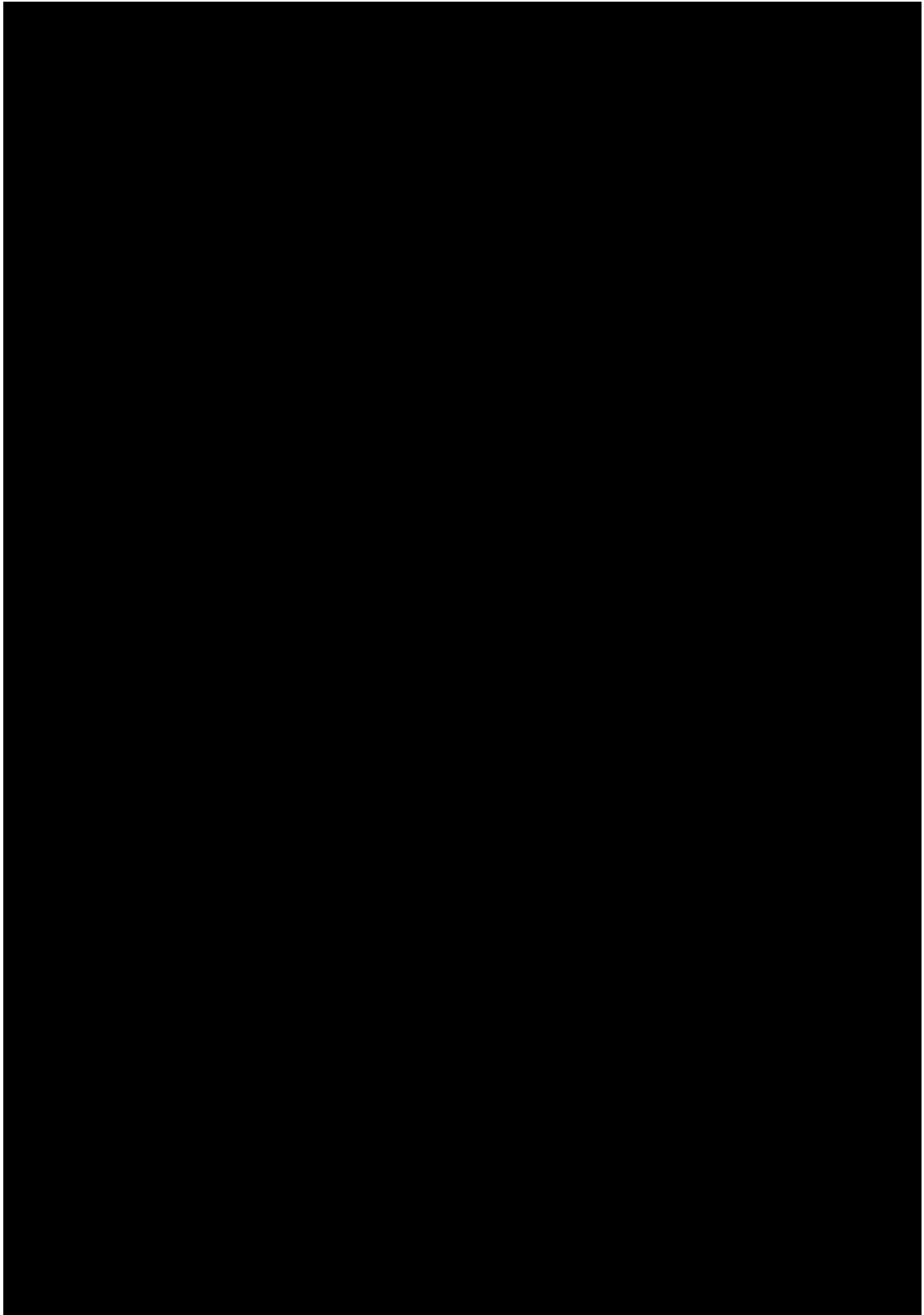


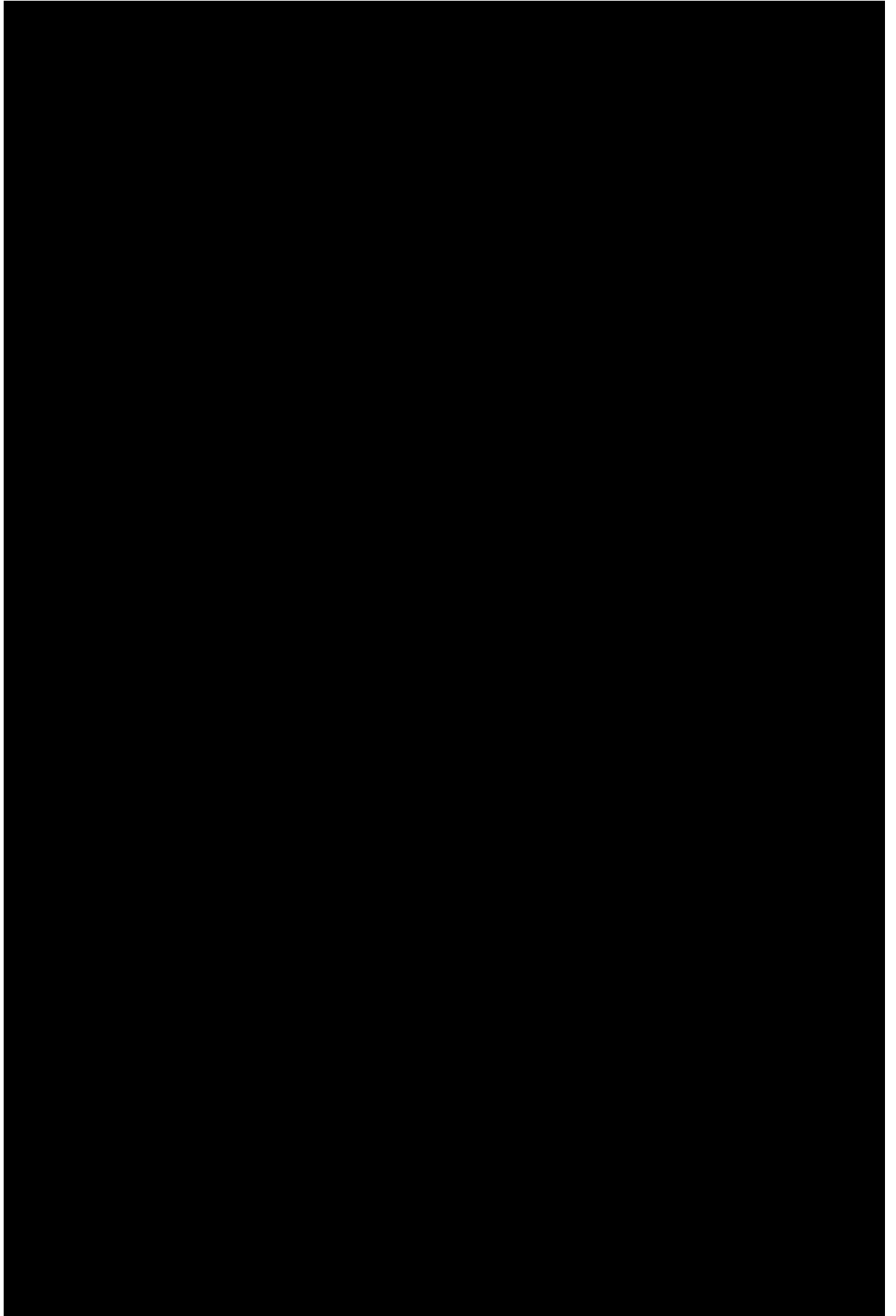




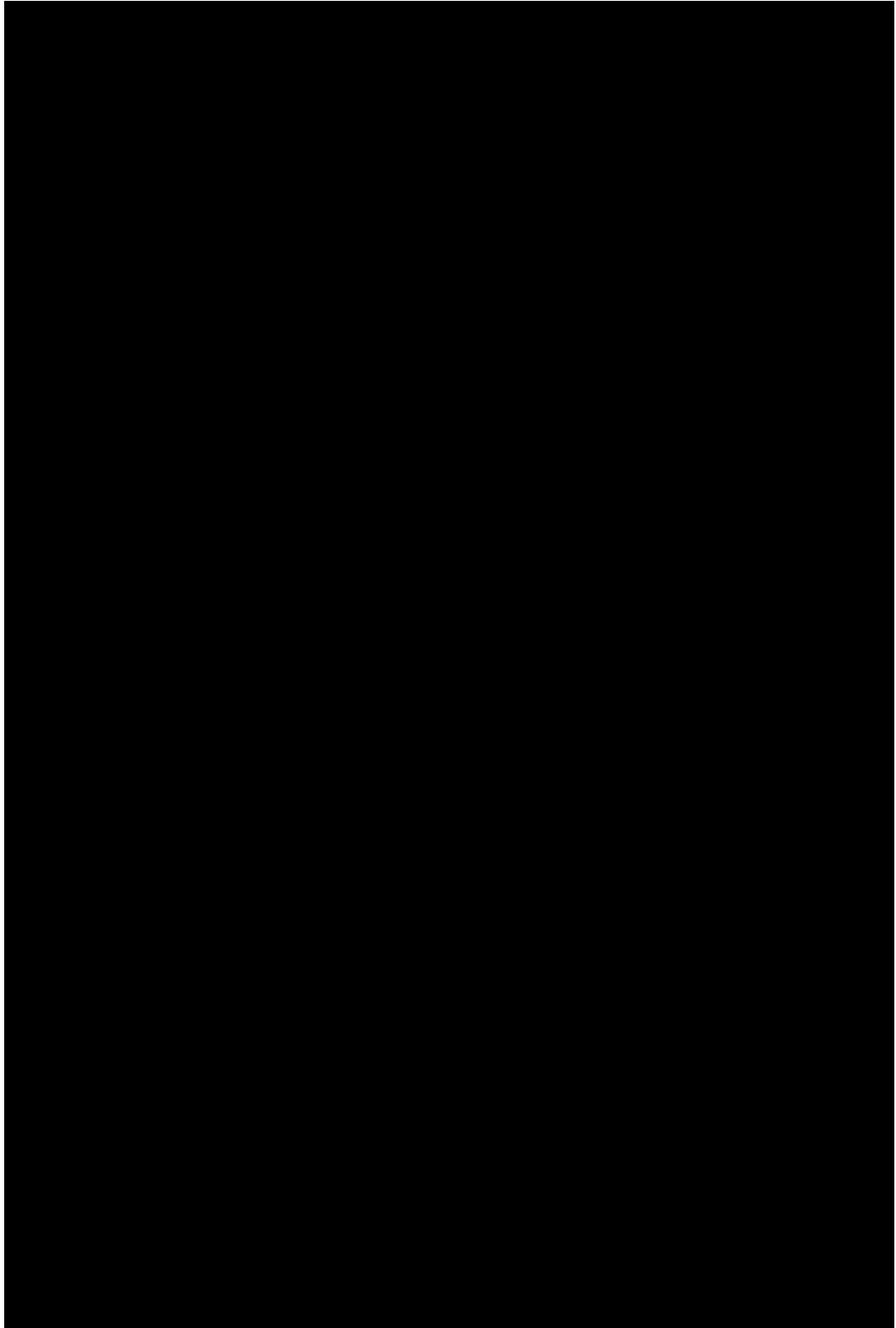


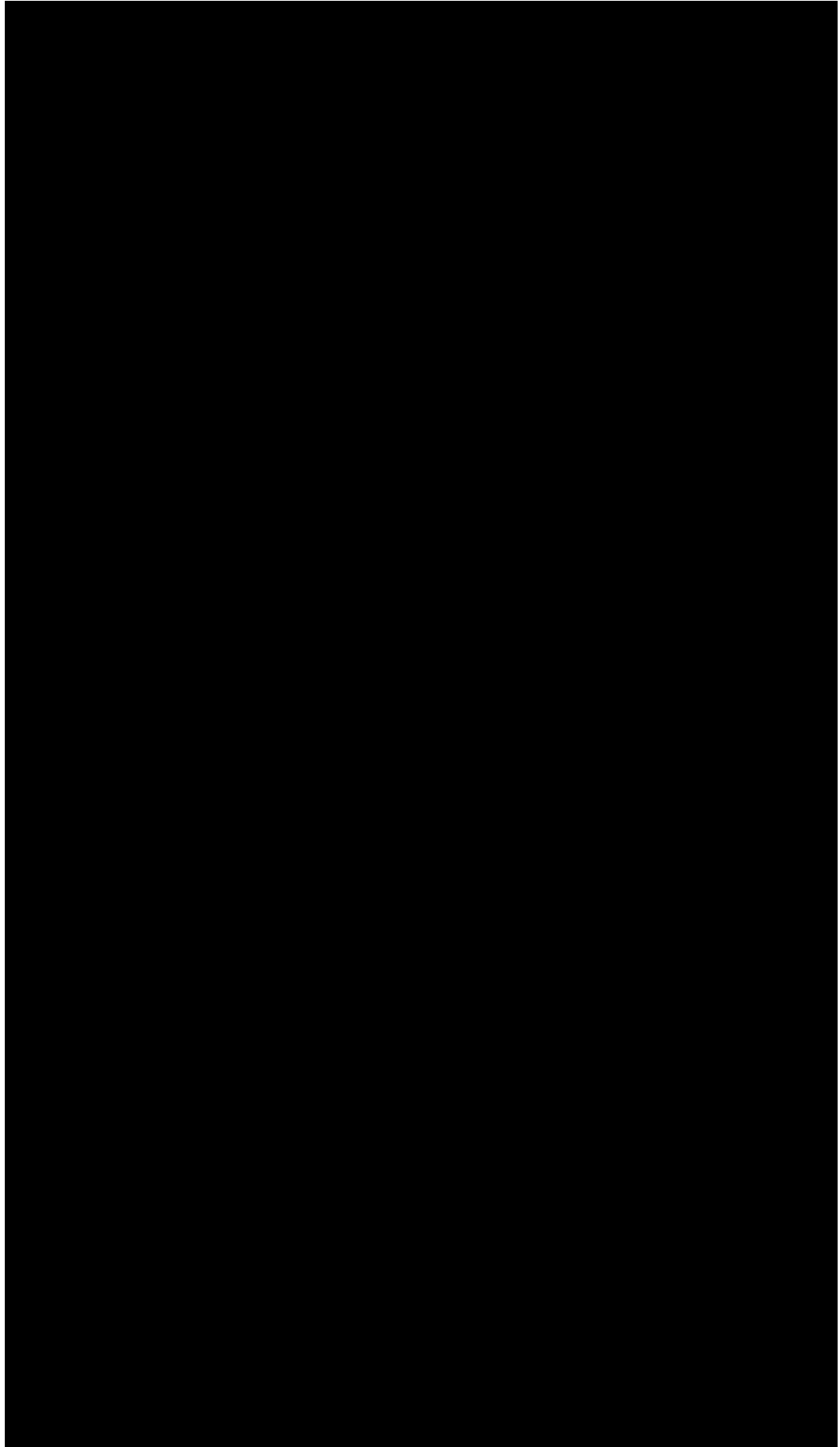
Schedule 31 Atlassian SPV Deed Poll





Schedule 32 Lot 201 Services





Schedule 33 State Works O&M Services

Anticipated State Works O&M Services	Description
Anticipated State Works O&M Services up to and including the date of completion of Central Walk West	<ul style="list-style-type: none"> ▪ Council rates ▪ Land Tax ▪ Water Rates ▪ Other rates <ul style="list-style-type: none"> ▪ Insurance ▪ Cleaning ▪ Pest Control ▪ Security ▪ Plants and Gardens (Upper Link Zone and ramp Landscaping) ▪ Energy ▪ Electrical Services ▪ Fire Protection ▪ Mechanical Services ▪ Lift Services ▪ Building Fabric ▪ Hydraulic Services ▪ Minor Costs and Fees ▪ Facilities Management ▪ Bank and Other Charges ▪ Any other reasonable operations and maintenance expenses
Anticipated State Works O&M Services from the date of completion of Central Walk West	<p>Statutory Charges:</p> <ul style="list-style-type: none"> ▪ Council rates ▪ Land tax ▪ Water rates ▪ Other Rates

Anticipated State Works O&M Services	Description
	<p data-bbox="846 247 1068 275">Operating Expenses:</p> <ul data-bbox="846 296 1386 1010" style="list-style-type: none"><li data-bbox="846 296 980 323">▪ Insurance<li data-bbox="846 344 971 371">▪ Cleaning<li data-bbox="846 392 1003 420">▪ Pest Control<li data-bbox="846 441 964 468">▪ Security<li data-bbox="846 489 954 516">▪ Energy<li data-bbox="846 537 1062 564">▪ Electrical Services<li data-bbox="846 585 1024 613">▪ Fire Protection<li data-bbox="846 634 1084 661">▪ Mechanical Services<li data-bbox="846 682 1003 709">▪ Lift Services<li data-bbox="846 730 1029 758">▪ Building Fabric<li data-bbox="846 779 1062 806">▪ Hydraulic Services<li data-bbox="846 827 1084 854">▪ Minor costs and fees<li data-bbox="846 875 1105 903">▪ Facilities Management<li data-bbox="846 924 1117 951">▪ Bank and other charges<li data-bbox="846 972 1386 1010">▪ Any other reasonable operations and maintenance expenses

Schedule 34 Certificate of Design Compliance

The Developer must submit to the State the following certificates at the times set out in the table below:

Required certificates	Timing
Certificate of Design Compliance	With submission of Design Documentation

1.1 Certificate of Design Compliance

DEVELOPER'S CERTIFICATE OF DESIGN COMPLIANCE	
DEVELOPER:	
WORK PACKAGE	DESCRIPTION
<i>Attach schedule of work packages if insufficient space</i>	
<p>This certificate is given in accordance with the document titled "Atlassian Central Project Development Agreement", as executed between Transport for NSW (ABN 18 804 239 602), Dexus Property Services Pty Limited (ABN 66 080 918 252), Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Operations Trust (ABN 69 645 176 383) and Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Property Trust (ABN 24 595 854 202) (Contract). Words defined in the Contract have the same meaning in this certificate.</p> <p>The Developer certifies that the Design Documentation for the package or part thereof described above has been completed to the extent indicated above in accordance with the requirements of the Contract and the Approvals, except for the non-conformances and unresolved issues identified in the attached list, and addresses the safety requirements of the Contract and at Law.</p> <p>The Developer further certifies that the attached compliance records as required by the Contract reflect the true status of the design packages.</p>	
NAME:	SIGNATURE:..... DATE / / .
.....	
<i>(Developer's Representative)</i>	

Design Documentation the subject of this certificate:

[Attach list]

Attachment – List of non compliances

No.	Minor error or omission	Action to be taken by Developer to address minor error or omission
1.	[to be inserted]	[to be inserted]

Schedule 35 Certificate of Construction Compliance

The Developer must submit to the State the following certificates at the times set out in the table below:

Required certificates	Timing
Certificate of Construction Compliance	[#]

1.1 Certificate of Construction Compliance

CERTIFICATE OF CONSTRUCTION COMPLIANCE – NO OBJECTION TO CONSTRUCT			
Project Name:	Atlassian Central	Contract Number:	
Work Package:	[to be inserted]	Document Number:	[to be inserted]
		Revision:	
Reviewer:	Builder / Project Manager	Issue Date:	[to be inserted]

This certificate is given in accordance with the document titled "Atlassian Central Project Development Agreement", as executed between Transport for NSW (ABN 18 804 239 602), Dexus Property Services Pty Limited (ABN 66 080 918 252), Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Operations Trust (ABN 69 645 176 383) and Dexus Funds Management Limited (ABN 24 060 920 783) as responsible entity for Dexus Property Trust (ABN 24 595 854 202) (**Contract**). Words defined in the Contract have the same meaning in this certificate.

Review Documents

The documents reviewed are:

- [Insert list]

The Builder confirms that it has reviewed the above mentioned documentation provided by [insert contractor / consultant] in relation to the [insert AEO submission details] for the [insert works package or part of package], and:

- Each design element has been verified by an AEO certified company related to that filed

- All comments from the State and stakeholders have been addressed
- All relevant stakeholders have been consulted in accordance with the Contract.

As the verifier for [insert], I hereby certify that the Design Documentation that has been provided has been completed to the extent above in accordance with the requirements of the [Contract and Approvals], except as identified in the design deliverables and as communicated with stakeholders.

This certificate is to the effect that I have no objection to the Design Documentation listed in Appendix A progressing to the construction phase,

NAME	POSITION	SIGNATURE	DATE

Appendix A: Document List

#	DOCUMENT NUMBER	TITLE	Rev

Schedule 36 Rail Requirements

Defined terms which are not otherwise defined in this Schedule 36 have the meaning given to them in the deed.

For the purposes of this document, the rail corridor is defined as the Lot 201 boundary as at the date of this deed.

Rail Corridor Interface Activities

Rail Corridor Interface Activities are all activities or works (being part of the Works) which interface with the Rail Corridor and/or TAHE land. These include, but are not limited to, the following activities or works:

- Demolition of existing structures and services on Site which are within 25m of the Rail Corridor
- Excavation and retention works within 25 metres of the Rail Corridor
- All works within Rail Corridor
- All temporary works required in within 10 metres of the Rail Corridor required for the Project
- All Works which encroach within the Rail Corridor airspace (if authorised by TfNSW)
- All Works which require co-ordination with other Transport projects (for example OHWMP)
- All Works which involve pedestrian management of users of the Devonshire Street Tunnel
- All Works which have the potential to impact Station operations
- All Works relating to Eastern Façade of the Atlassian Central Tower that have the ability to impact the Rail Corridor
- New wall abutting Platform 1

The below Rail Requirements relate to the Rail Corridor Interface Activities.

1.1 Rail Safety

(a) Without limiting any other obligations of the Developer under the deed (including compliance with the Rail Requirements and standards), the Developer must, in respect of the Rail Corridor Interface Activities, comply (and procure that the Developer's Employees and Agents comply) with:

- (i) Network Rules and Procedures;
- (ii) Safety Protocols; and
- (iii) all applicable safety standards,

with which TAHE, Sydney Trains as Rail Infrastructure Manager are obliged to comply with under all relevant Laws (including Australian Standard AS 4292 (Railway Safety Management) and any other safety requirements set out in Schedule 5.

- (b) The Developer must not do anything, and procure that the Developer's Employees and Agents do not do anything, in respect of the carrying out of the Rail Corridor Interface Activities, that would:
 - (i) interfere with, or compromise, the safe operation of transport operations so far as is reasonably practicable;
 - (ii) place any Rail Transport Agency in its capacity as Rail Infrastructure Manager in breach of its RIM accreditation.
- (c) The Developer must ensure that it does not do anything or fail to do anything, and procure that the Developer's Employees and Agents do not do anything or fail to do anything, in respect of the carrying out of the Rail Corridor Interface Activities, that would cause the Rail Transport Agency or any of their employees and agents to be in breach of the Rail Safety Requirements.
- (d) The Developer acknowledges and agrees that:
 - (i) each review by TfNSW of required Design Documentation, applications for Approval or other documentation may involve a review:
 - (A) for compliance with ASA assurance processes and asset handover; and
 - (B) by the relevant TfNSW Network Assurance Committee for comment;
 - (ii) the Developer must, at its own cost and risk (but without limiting its express entitlements under this document subject to its obligations under this document), amend and incorporate into all relevant documentation the changes required to ensure compliance with ASA Requirements applicable to the Works and any relevant TfNSW Network Assurance Committee comments and inputs (in relation to in relation to ensuring compliance with the ASA Requirements) and also the Rail Safety Requirements.
- (e) Nothing within these Rail Requirements detracts from any obligation of the Developer under WHS Laws or any other Law.
- (f) The Developer must ensure at all times:
 - (i) safety within the Railway Corridor in connection with the Rail Corridor Interface Activities so far as is reasonably practicable; and
 - (ii) the Rail Corridor Interface Activities are performed in such a manner so as to not endanger, impede, obstruct or interfere in any manner whatsoever with the safe operation of the Railway or the safety of Railway passengers, station patrons or representatives of the Rail Transport Agency so far as is reasonably practicable.

1.2 Rail Transport Agency

- (a) The Rail Transport Agencies have various rights under this deed which are designed to give the Rail Transport Agencies the ability to monitor (but not to co-ordinate or supervise) the performance of the Developer's obligations under the Project Documents. Neither the exercise of, nor the failure to exercise, such rights by a Rail Transport Agency:

(i) relieve the Developer from, or alter or affect, the Developer's Liabilities, obligations or responsibilities or preclude a Rail Transport Agency from subsequently asserting that the Developer has not fulfilled its obligations; or

(ii) prejudice or limit the rights of a Rail Transport Agency,

whether under this deed or otherwise at Law.

(b) Unless otherwise expressly provided for in this deed:

(i) acceptance of any certificate, assessment or report provided by the Developer, the Developer Representative or the Independent Certifier or other person is not approval by the Rail Transport Agency or the TfNSW Representative of the Developer's performance of its obligations under this deed; and

(ii) The Developer will not be relieved from compliance with any of its obligations under this document or from any of its liabilities as a result of:

(A) compliance with any Plan;

(B) any certification or assessment by or on behalf of the Independent Certifier or TfNSW (including Sydney Trains);

(C) any audits or other monitoring by the Rail Transport Agency or the TfNSW Representative;

(D) any failure by the Rail Transport Agency or the TfNSW Representative to detect any non-compliance;

(E) any consent provided by or not provided by the Rail Transport Agency or the TfNSW Representative.

1.3 Not Used

1.4 Not Used

1.5 Not used

1.6 Rail specific technical requirements

(a) Without limiting any other provision in this clause, the Developer must ensure that the Design Documentation, Plans and other documentation includes and complies with the following specific requirements:

(i) preservation of unimpeded access by the Rail Transport Agency at all times to and along the Railway Corridor, except where a construction licence (including any licence or corridor access granted under Schedule 5) has been granted or as agreed via Sydney Trains Possession Co-ordination;

(ii) other than where a No Objection Statement has been provided for Design Documentation under clause 6 of the PDA, a concession to comply with a specific alternative to an ASA Requirement or, no additional loading on the Railway Corridor or rail facilities or any structural or geotechnical impact on the Railway Corridor or any Rail Assets except to the extent as consented to in writing by TfNSW (including Sydney Trains) and subject to the conditions of TfNSW (including Sydney Trains);

- (iii) not used;
- (iv) not used;
- (v) the Rail Requirements and relevant Codes and Standards; and

other than where a No Objection Statement has been provided for Design Documentation under clause 6 of the deed, a concession to comply with a specific alternative to an ASA Requirement, no adverse impact on the operational or safety requirements of TfNSW, including as to maintenance or construction works being undertaken, except as expressly agreed by TfNSW in writing.

1.7 Access

- (a) The Developer and the Developer's Employees and Agents will be prohibited from entering any part of the Rail Corridor other than any area to which access is provided in accordance with Schedule 5.
- (b) Except where a Construction Licence under Schedule 5 of the PDA has been granted, in conducting the Project the Developer must ensure that continued pedestrian access and other access is available to Central Station, the full length of Platform 1, Platform 0, Devonshire Street Tunnel, Gate Gourmet catering facilities, the Platform 1 goods lift, the baggage tunnels, and all other Transport / TAHE owned areas that are not licenced to the Developer for the full duration of construction, including defined suitable and adequate:
 - (i) fire and life safety egress paths;
 - (ii) pedestrian walkways; and
 - (iii) vertical transportation routes,

maintained during the entire period of construction subject to agreements or Construction Licences with TfNSW (including Sydney Trains) as set out in Schedule 5.
- (c) The Developer must regularly consult with TfNSW in relation to the requirements of TfNSW under paragraph (a) to ensure that those requirements are known to the Developer and are complied with by the Developer and the Developer's Employees and Agents at all times.
- (d) The parties acknowledge and agree that:
 - (i) the pedestrian underpass (Devonshire Street Tunnel) will, subject to the approvals set out in 1.7(d)(iii), be closed to pedestrians for the access period as set out in Schedule 5 to undertake the Development Works; and
 - (ii) for the period of time referred to in paragraph 1.7(d)(i) above, pedestrians will be redirected in a manner determined suitable by TfNSW (including Sydney Trains). The Developer must use appropriate wayfinding signage and safety equipment and comply with all Laws and Approvals in this respect; and
 - (iii) not used.

1.8 Track Possessions timing and procurement

- (a) Prior to the Commencement Date, TfNSW provided the Developer with the Track Possession Schedule. The parties acknowledge that whether or not a Track Possession is required to gain access to various parts of the Railway Corridor to undertake works or other activities is determined pursuant to the Rail Requirements and Standards.
- (b) If, in order to carry out the Rail Corridor Interface Activities, the Developer requires a Track Possession:
- (i) at least 20 weeks prior to intending to perform works under a Track Possession, the Developer must make enquiries as to whether the Track Possession schedule is current and acknowledges that any special or unplanned Track Possessions are subject to the review and approval of TfNSW and Sydney Trains;
 - (ii) if the Track Possession Schedule has changed, the TfNSW Representative and the Developer Representative will meet and choose an available date (or dates) from the then current Track Possession timetable;
 - (iii) the date (or dates) chosen from the Track Possession schedule or paragraph (b)(ii) (as applicable) will be set aside for the Developer to perform the required works, unless the TfNSW Representative notifies the Developer Representative that such dates are no longer available;
 - (iv) at least 20 weeks prior to intending to perform the Rail Corridor Interface Activities, the Developer must provide to the TfNSW Representative details of:
 - (A) any electrical isolations required; and
 - (B) the scope of works to be performed and the construction methodology;
 - (v) during the possession planning stage and the possession itself, the Developer must comply with all TfNSW (and Sydney Trains) possession procedures;
 - (vi) as advised by the TfNSW Representative and prior to handback of the possession, the Developer is to provide all necessary documentation to confirm that the rail infrastructure is fit for service, all personnel and plant have left the Rail Corridor and electrical permits have been handed back.
- (c) The Developer acknowledges and agrees that:
- (i) TfNSW (and Sydney Trains) cannot, and will never, guarantee the Track Possession Schedule is current or that any date chosen for a Track Possession as fixed;
 - (ii) TfNSW (and Sydney Trains) may be required to change the date for a Track Possession on short notice or without notice;
 - (iii) In the event of 1.8(c)(ii) TfNSW will act in good faith and use best endeavours to assist the Developer to procure a replacement possession in the soonest time practicable;

- (iv) TfNSW (and Sydney Trains) may be required to provide other persons access to the Railway Corridor during any Track Possession, including for the performance of works on the Railway Corridor; and
- (v) access by the Developer and its Developer's Employees and Agents to the Railway Corridor is subject to any obligations of TfNSW (and Sydney Trains) to other persons during a Track Possession and priority will be given to all maintenance and operational requirements of TfNSW (including Sydney Trains) over any aspect of the Project and the Works and, accordingly, the Railway Corridor may be unavailable at certain times, including during the dates chosen for a Track Possession under this clause.
- (d) The Developer must attend all necessary Sydney Trains possession planning meetings leading up to a possession.
- (e) The Developer expressly releases the Rail Transport Agency from and indemnifies the Rail Transport Agency in relation to all Claims by the Developer or its Developer's Employees and Agents in connection with the Works (of whatsoever kind and howsoever arising) in connection with any delay in granting or refusing to grant a Track Possession or during a Track Possession or the loss of the date (or any part of the date) chosen for a Track Possession under this clause, including any Track Possession time set out in the Track Possession Schedule.
- (f) The above provisions for Track Possessions also apply to Devonshire Street Tunnel or other parts of the station vicinity and the rail corridor not licenced to the Developer. TfNSW will act in good faith and use best endeavours to assist the developer to procure access to Devonshire Street Tunnel in the date range set out in Schedule 5.

1.9 Track Possession procedure

In respect of any Track Possession given pursuant to this deed:

- (a) the process in clause 1.8(b) will apply; and
- (b) The Developer must reimburse the Rail Transport Agency all costs reasonably incurred by the Rail Transport Agency in providing the Developer with a Track Possession including, without limitation:
 - (i) arranging the Track Possession or any alternative transport operation required due to the Track Possession; and
 - (ii) any site protection or security measures required.

1.10 Not Used

1.11 Personnel

- (a) If required by the TfNSW Representative, the Developer must appoint or procure the Builder to appoint a safety liaison representative '**Safety Liaison Representative**' for the Railway Corridor.
- (b) The Developer must ensure that the Safety Liaison Representative:
 - (i) complies with and procures that each of the Developer's Employees and Agents comply with the matters referred to in this deed;

- (ii) complies with and procures that each of the Developer's Employees and Agents comply with the matters referred to in the Rail Safety Interface Agreement;
- (iii) is present and on duty whenever the Rail Corridor Interface Activities are being carried out;
- (iv) is present and on duty at such other times as may be required by the TfNSW Representative, a Protection Officer or a Possession Protection Officer;
- (v) is responsible for the safety of the Developer's Employees and Agents, plant and equipment so far as is reasonably practicable;
- (vi) receives directions from the TfNSW Representative on matters relating to Railway Legislation or Network Rules and Procedures and fully complies with and procures that the Developer's Employees and Agents comply with such directions;
- (vii) quickly and effectively reports to a Protection Officer any illness or injury at the Railway Corridor;
- (viii) provides or procures the provision of immediate transport for any injured persons to hospital or a medical centre or other relevant medical services facility; and
- (ix) ensures that, if the Safety Liaison Representative leaves the Railway Corridor at any time while the Rail Corridor Interface Activities are being undertaken, a replacement representative is appointed and this is notified to the TfNSW representative prior to leaving the Railway Corridor.

1.12 Protection Officers

- (a) If required by the TfNSW Representative, the Developer must:
 - (i) appoint, or procure the Builder to appoint, an appropriately qualified and certified Protection Officer for the Railway Corridor;
 - (ii) ensure that the Protection Officer at all times performs its duties in accordance with the Network Rules and Procedures; and
 - (iii) not give any instruction to a Protection Officer which the Developer is aware will be in conflict with the Network Rules and Procedures.
- (b) The Developer must inform the TfNSW Representative in writing of the identity and contact details of the persons appointed under paragraph (a) at least one week prior to the Track Possession.
- (c) Protection Officers are entitled to:
 - (i) direct the Safety Liaison Representative in relation to compliance with any hazards arising out of or in relation to the operation of the Railway;
 - (ii) if they believe there is a possibility of loss of life, personal injury or damage to property, give directions directly to any of the Developer's Employees and Agents; and

- (iii) stop or direct the movement of the Developer's Employees and Agents, plant and equipment (including that such Developer's Employees and Agents be temporarily or permanently removed from the Railway Corridor).

1.13 Safety Personnel

If required by the TfNSW Representative, the Developer will appoint, or procure the Builder to appoint, an appropriate number of qualified and certified safety personnel, commensurate with the Rail Corridor Interface Activities proposed in relation to managing risks and hazards arising out of or relating to the operation of the Railway and maintaining safety within the Railway Corridor.

1.14 The Developer's Employees and Agents

The Developer must ensure that, in carrying out the Works:

- (a) only persons as are reasonably necessary to carry out the Works will be present on the Railway Corridor;
- (b) all of the Developer's Employees and Agents involved in the Works are fully informed of hazards arising out of or relating to the operation of the Railway and procedures to be adopted while performing the Works; and
- (c) all of the Developer's Employees and Agents involved in the Works undertake rail safety training required by TfNSW.

1.15 Exclusion from the Railway Corridor

The Rail Transport Agency may exclude from the Railway Corridor any person who cannot produce evidence required by the Rail Transport Agency in relation to qualifications and certifications for access to or work at the Railway Corridor. All workers engaged by the Developer and accessing the Rail Corridor must have the competence and training required by the Rail Safety National Law (NSW).

1.16 Not Used

1.17 Alert Events

- (a) An Alert Event means:
 - (i) an exceedance of an alert level identified in the Rail Safety Interface Agreement;
 - (ii) an actual or likely event or circumstance (including any breach of this deed) which arises out of the Rail Corridor Interface Activities and which may interfere with or threaten:
 - (A) Railway operations;
 - (B) the safe operation of the Railway;
 - (C) the operational capacity or efficiency of the Railway; or
 - (D) the future safe operation of the Railway or the future operational capacity or efficiency of the Railway,
 including (without limitation) any event or circumstance which has or is likely to have a material detrimental effect on:
 - (E) Railway operations;

- (F) safety of Railway passengers and patrons or the employees and agents of the Rail Transport Agency; and
- (G) exercise of the statutory powers and functions of the Rail Transport Agency or TfNSW as those powers and functions relate to Transport Operations,

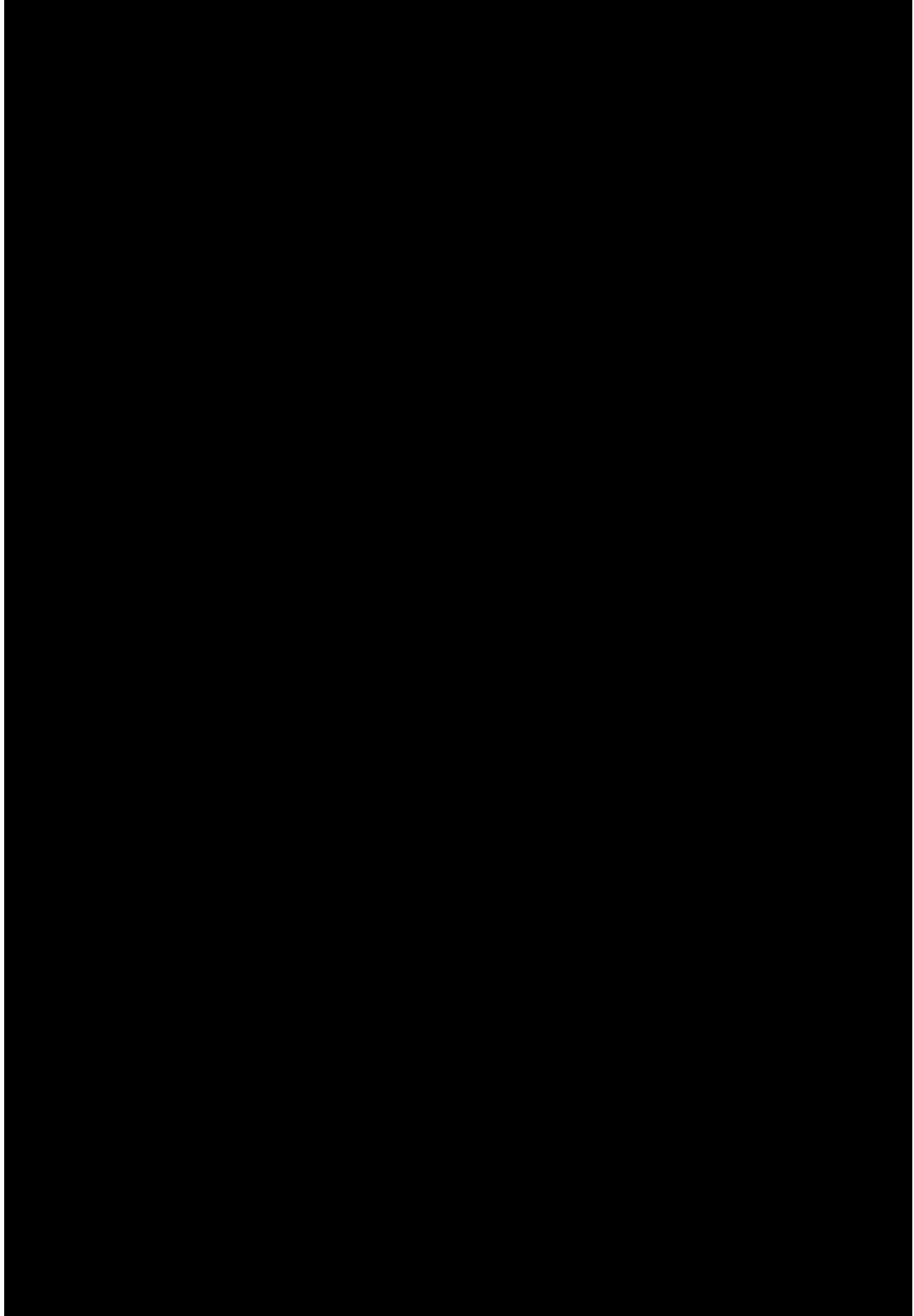
as determined by the Rail Transport Agency.

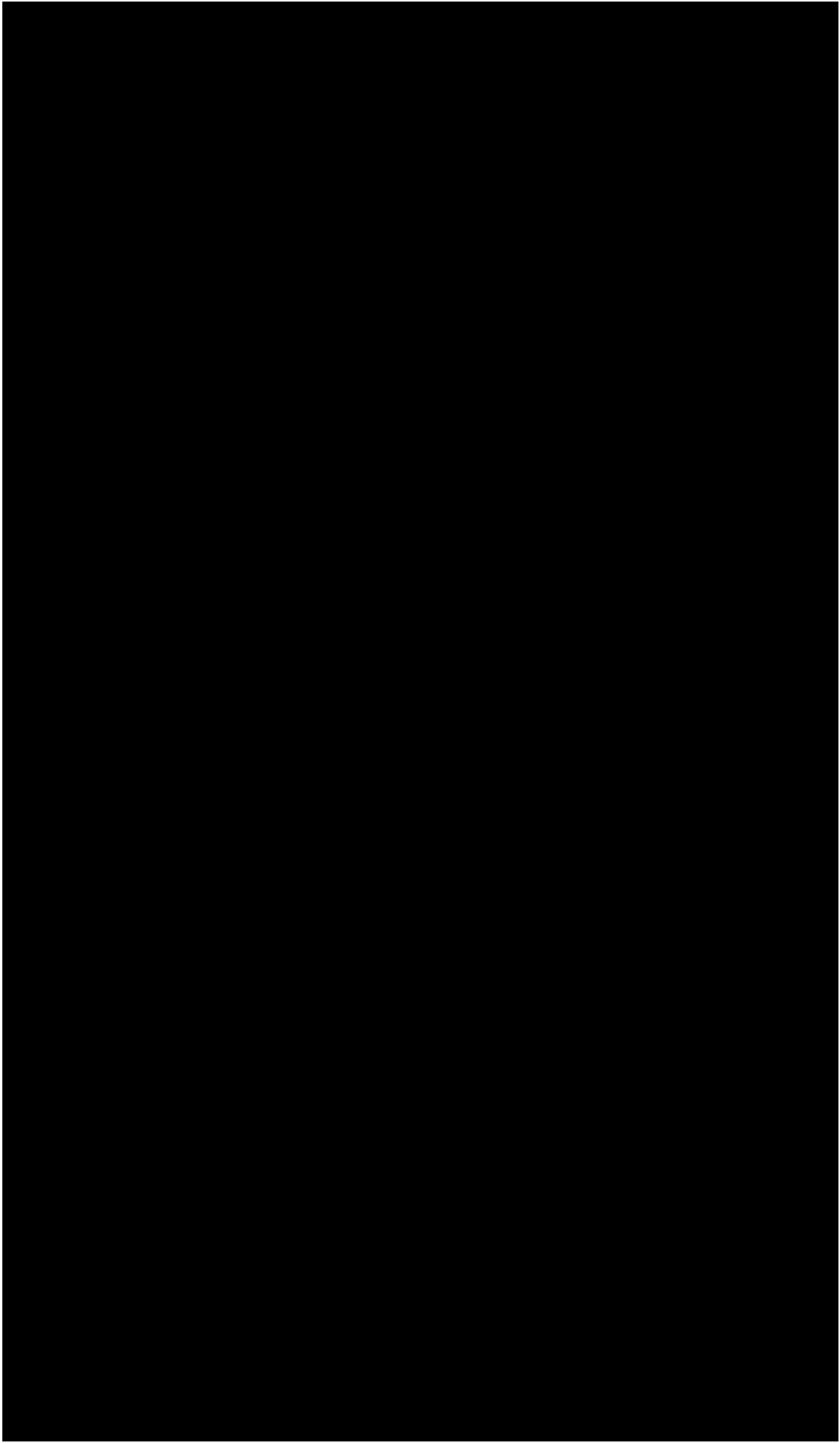
- (b) The procedures that the Developer must follow in relation to Alert Events are to:
 - (i) immediately inform the TfNSW and Sydney Trains Representatives of any Alert Event;
 - (ii) immediately call emergency services;
 - (iii) keep the TfNSW and Sydney Trains Representative informed in respect of the Alert Event;
 - (iv) provide the TfNSW and Sydney Trains Representatives with sufficient information to enable them to assess the nature of the Alert Event and the likely effect of the Alert Event;
 - (v) co-operate with the TfNSW and Sydney Trains Representative (including by ceasing to carry out that part of the Rail Corridor Interface Activities in respect of which the Alert Event applies) and comply with any direction given by the TfNSW and Sydney Trains Representatives which is necessary to avert danger and ameliorate the risk;
 - (vi) assist TfNSW and Sydney Trains to take such action as the TfNSW and Sydney Representatives direct is necessary to avert any danger and/or minimise or remove the risk or adverse impact; and
 - (vii) provide access for TfNSW and Sydney Trains to any areas for the purpose of taking any action to avert any danger and ameliorate the risk.
- (c) The Developer's Safety Liaison Representative and the TfNSW Representative (or a delegate/replacement representative nominated by them) must be available on a 24 hour call basis to respond to any issues arising in relation to Alert Events.
- (d) Without prejudice to TfNSW's rights under the deed, the TfNSW Representative may issue a direction requiring the Developer to suspend the carrying out of the whole or any part of the Works in the event of an Alert Event. The Developer will not be entitled to make, and TfNSW (including Sydney Trains) will not be liable upon, any claim for any cost, expense, Loss, Liability, delay, disruption or penalty arising out of or in connection with any suspension due to a direction to suspend issued in the circumstances set out in this clause 1.17(d).
- (e) Subject to 1.17(f), TfNSW (including Sydney Trains) may, in its absolute discretion, take rectification action in relation to the Project where in the reasonable opinion of TfNSW (including Sydney Trains):
 - (i) there is an Alert Event; and

- (ii) in the reasonable opinion of TfNSW (including Sydney Trains) it is necessary to avoid:
 - (A) loss of life; or
 - (B) personal injury; or
 - (C) serious damage to property or the environment; or
 - (D) serious interruption to transport operations.
- (f) TfNSW (including Sydney Trains) may only take rectification action if:
 - (i) it has notified the Developer of its intention to do so; and
 - (ii) the Developer does not itself procure the taking of such rectification action within a reasonable time (having regard to the rectification action),

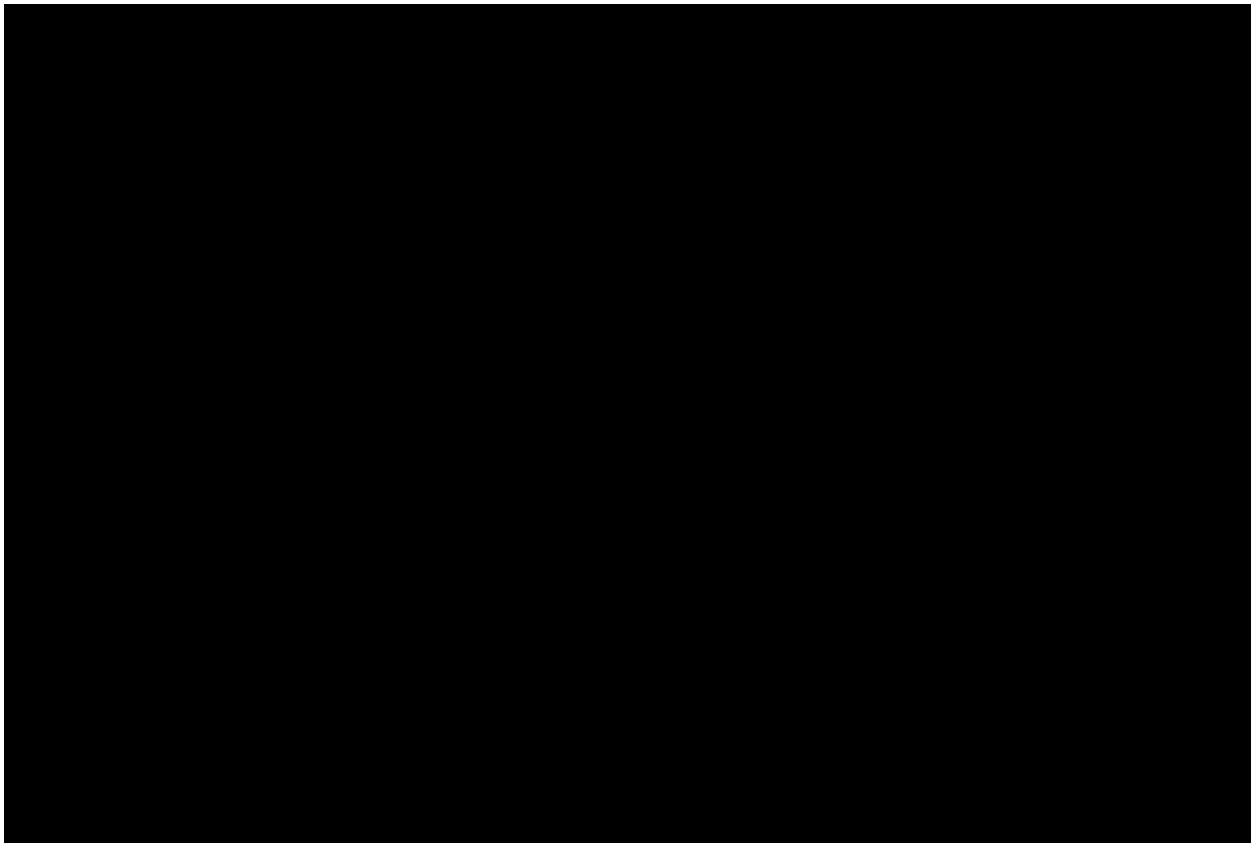
provided that such period must not exceed 10 Business Days, except in the case of an emergency or where TfNSW (including Sydney Trains) considers, in its absolute discretion, urgent action is required to be undertaken by TfNSW (including Sydney Trains), in which case, TfNSW (including Sydney Trains) may undertake the rectification action.
- (g) The Developer must comply with any and all directions of TfNSW (including Sydney Trains) including participations in investigations as required where:
 - (i) there is an Alert Event; and
 - (ii) in the reasonable opinion of TfNSW (including Sydney Trains) it is necessary to avoid:
 - (A) loss of life; or
 - (B) personal injury; or
 - (C) serious damage to property or the environment; or
 - (D) serious interruption to transport operations.
- (h) Where TfNSW (or Sydney Trains) take any rectification action, TfNSW (or Sydney Trains) will be entitled to and the Developer must pay to TfNSW (or Sydney Trains) all costs and expenses incurred by the Rail Transport Agency arising out of or in connection to any rectification action.
- (i) The Rail Transport Agencies have no Liability (including to pay any compensation or damages) to the Developer or any other person and is not Liable for any Loss resulting from or in connection with the management of Alert Events.

Schedule 37 Public Positive Covenant (O&M)

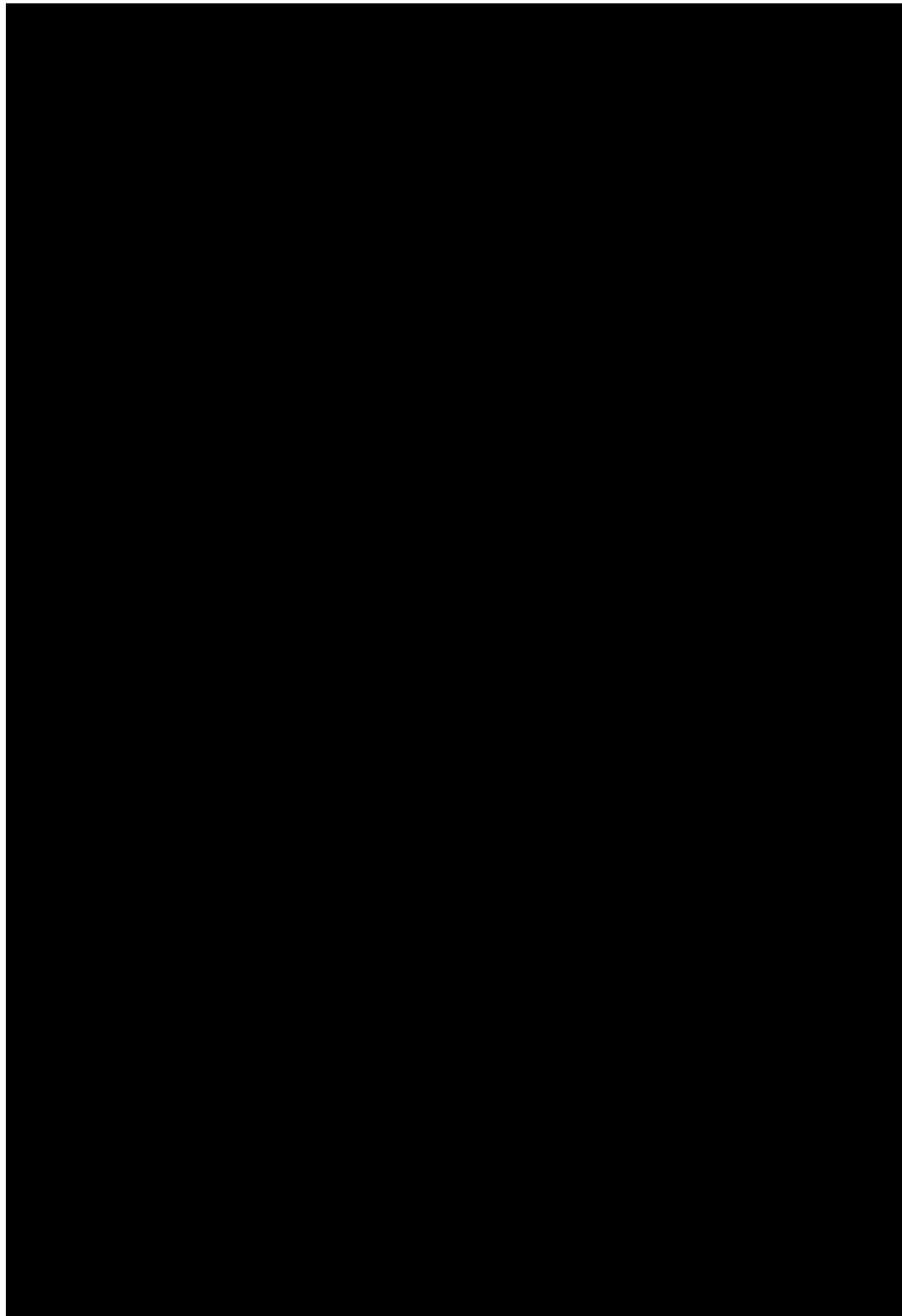


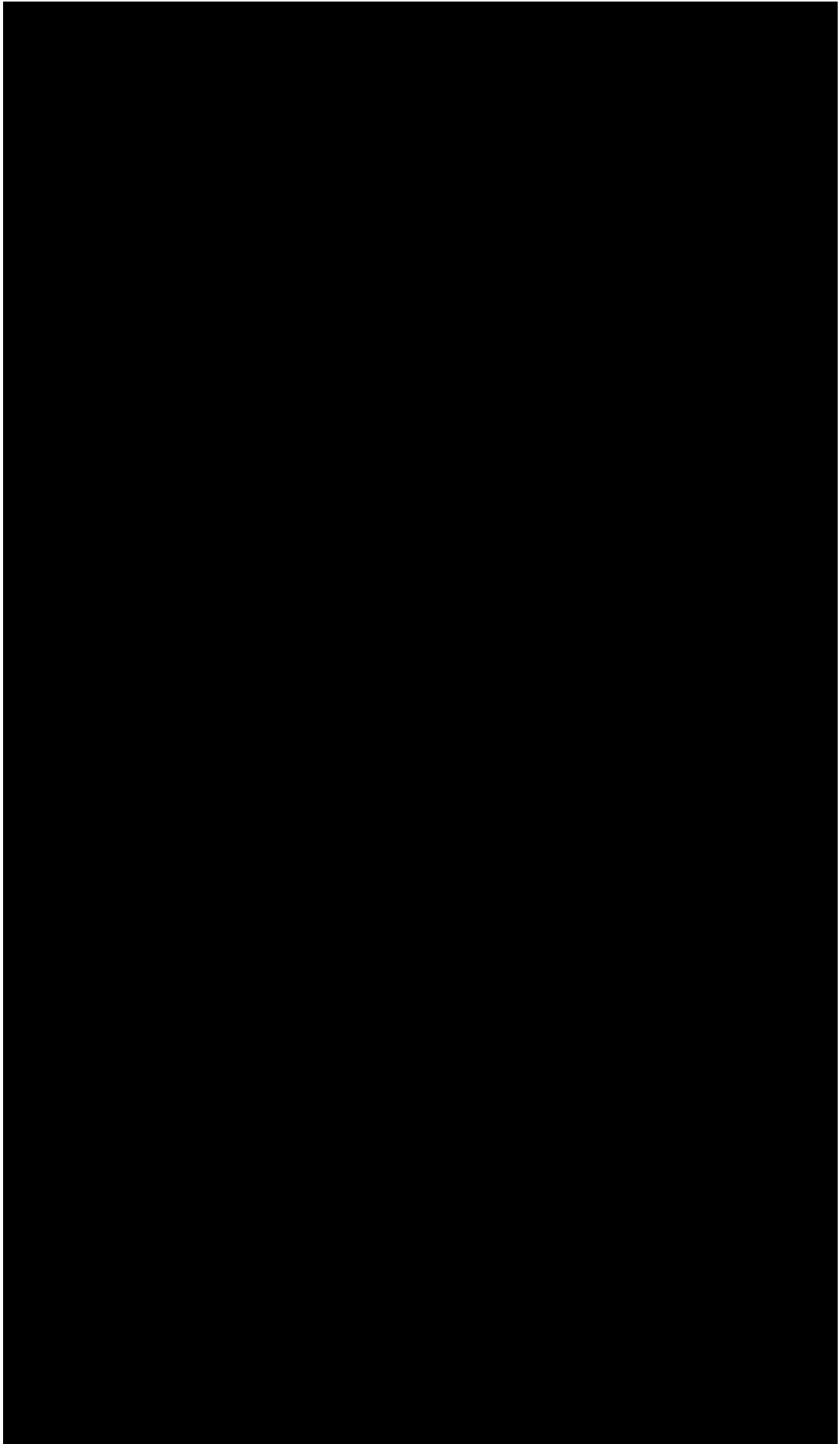


Schedule 38 Track Possession Schedule



Schedule 39 State BMS requirements





Annexure A Builder Approval Information Requirements

