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1400 16TH STREET
SUITE 200
DENVER, CO 80202
720.437.2000 TEL
720.437.2200 FAX
FOLEY.COM

WRITER'S DIRECT LINE
720.437.2034
dhazel@foley.com

October 16, 2024

Via Email

April Tabor
Secretary of the Commission
U.S. Federal Trade Commission
electronicfilings@ftc.gov
atabor@ftc.gov

Re: In the Matter of Civil Investigative Demand to
Hargrove & Associates, Inc, FTC File No. 211-0191

Dear Ms. Tabor:

On behalf of Hargrove & Associates, Inc. ("HAI"), we are submitting the following materials in support of HAI's Petition to Quash the Civil Investigative Demand dated September 16, 2024:

- HAI's Petition to Quash or Limit the Civil Investigative Demand;
- Exhibit A, the Civil Investigative Demand to HAI;
- Exhibit B, Affidavit of Todd Snell;
- Exhibit B-1, HAI Bylaws;
- Exhibit B-2, Master Services Agreement;
- Exhibit B-3, AEM Market Share Statistics Policy & Procedure Manual;
- Exhibit C, FTC Email Correspondence dated September 12, 2024;
- Exhibit D, FTC Letter dated October 4, 2024;
- Exhibit E, FTC Letter dated October 10, 2024;
- Statement of Counsel Pursuant to 16 C.F.R. § 2.10; and
- Request for Confidential Treatment.

In accordance with HAI's request for confidential treatment, we are submitting a public version of the filing and a non-public, confidential version of the filing. The public version of the filing includes a redacted version of the Petition to Quash and a redacted version of Exhibits B, B-1 and B-2. Please let us know if you have any questions.

Sincerely,

/s/ Diane R. Hazel
Diane R. Hazel

Enclosures

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of Civil Investigative Demand to
Hargrove & Associates, Inc.

FTC File No. 211-0191

**Hargrove & Associates, Inc.'s Petition to Quash or Limit
Civil Investigative Demand**

October 16, 2024

Michael J. Lockerby
Foley & Lardner LLP
3000 K Street N.W., Suite 600
Washington, D.C. 20007
P: 202.945.6079
MLockerby@foley.com

Diane R. Hazel
Foley & Lardner LLP
1400 16th Street, Suite 200
Denver, CO 80202
P: 720.437.2000
DHazel@foley.com

William C. McCaughey
Foley & Lardner LLP
90 Park Ave, 37th Floor
New York, NY 10016
P: 212.338.3425
WMccaughey@foley.com

Quynh-Nhu Truong
Foley & Lardner LLP
1000 Louisiana St., Suite 2000
Houston, Texas 77007
P: 713.276.5070
Qtruong@foley.com

Counsel for Petitioner

INTRODUCTION

Hargrove & Associates, Inc. (“HAI”) hereby files its Petition to Quash or Limit the Civil Investigative Demand, FTC File No. 211-0191 (“HAI’s CID”) issued by the Federal Trade Commission (the “FTC”) and served on September 16, 2024.¹ HAI is a Minnesota based data processing and business analytics company. (Ex. B, Todd Snell Decl. ¶ 3.) HAI creates, develops, and operates managed data and information systems for trade associations to compile and publish key aggregated industry statistics that companies then use to plan and manage their businesses. (*Id.* ¶ 5.)

The stated purpose of the FTC’s CID is “[t]o determine whether Deere & Company, or any other person, has engaged in or is engaging in unfair, deceptive, anticompetitive, collusive, coercive, predatory, exploitative, or exclusionary acts or practices in or affecting commerce related to the repair of agricultural equipment in violation of Section 5 of the Federal Trade Commission Act.” (Ex. A.)² The CID consists of seven specifications requesting various data sets and reports relating to agricultural equipment from January 1, 2015, to present. Notably, Specification 1 seeks confidential information submitted to HAI from members of the Association of Equipment Manufacturers (“AEM”) that report their sales information through HAI’s portal, and Specification 2 seeks confidential market share information that HAI provides to individual AEM members reflecting each individual member’s respective shares. FTC staff have assured counsel that neither HAI nor AEM is the target of the FTC investigation at issue.

HAI seeks to quash or limit the CID because it is overbroad and unduly burdensome to HAI. The CID seeks confidential and commercially sensitive information belonging to individual

¹ A true and correct copy of the CID is attached as **Exhibit A**.

² The FTC’s resolution attached to the CID to HAI also makes clear that the FTC’s investigation is directed at “any repair restrictions.”

AEM members that submit data to HAI for aggregate reporting. HAI's business model is built on the trust of the manufacturers that belong to trade associations for which HAI provides services and in the ability of HAI to secure and maintain the confidentiality of their proprietary business information. (Ex. B, Snell Decl. ¶ 5.) Disclosing the confidential data of AEM members would subject HAI to potential claims for breach of contract and unauthorized disclosure of trade secrets and also threatens to undermine trust in HAI among AEM members that submit confidential information to HAI on the condition that it not be disclosed to any third parties without the AEM member's consent. (*Id.* ¶ 15.) The production of this proprietary member data threatens not only HAI's reputation and customer goodwill but also its viability as a going concern. (*Id.*) Accordingly, the CID should be quashed in its entirety, or at the very least, Specifications 1 and 2 should be quashed.

BACKGROUND

I. AEM AND HAI'S RELATIONSHIP

HAI works with trade associations such as AEM to create, develop, and operate managed data and information systems. (Ex. B, Snell Decl. ¶ 5.) HAI has provided data processes and analytical services to AEM and its members since 1989. (*Id.* ¶ 6.) HAI's data collection and reporting services are governed by a Master Services Agreement dated January 1, 2022, between HAI and AEM (the "MSA").³ (*Id.* ¶ 7.)⁴ Under the MSA, HAI hosts a portal to which AEM members submit their proprietary sales data about the volume of their agricultural equipment sales with the understanding that their sales data will not be shared at an individual level with anyone else. (*Id.* ¶ 9.) In return, AEM members receive aggregate, anonymized reports showing total

³ See **Exhibit B-2**.

⁴ HAI and AEM previously entered into Master Services Agreements on March 1, 2016, and January 1, 2019. (Ex. B.)

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industry sales and the portion of total sales accounted for by that particular manufacturer (*i.e.*, market share calculations). The reports do not show other manufacturers' individual sales or market shares. (*Id.*) The portal on which member manufacturers submit their data is solely controlled by HAI; AEM has no access to individual data through the portal or otherwise. (*Id.* ¶ 10.) Each individual manufacturer, however, has access to the information that it submits to HAI through the portal and the reports specific to it that the manufacturer receives from HAI. (*Id.*) Therefore, the FTC could obtain the exact same information it seeks by serving CIDs on the individual manufacturer(s) from which it seeks data for its investigation.

The AEM member data submitted through HAI's portal is highly confidential and very sensitive because manufacturers of agricultural equipment do not want their competitors to know their sales data for various products in particular geographic areas. HAI takes AEM's member data and aggregates and anonymizes this industry data to provide to AEM upon request. (*Id.*) As part of AEM's services, AEM uses certain aggregated data from HAI to provide industry analyses and public reports for all its members. (*Id.*)

On January 4, 2018, AEM publicly announced its acquisition of HAI. (*Id.* ¶ 6.) Despite the acquisition of HAI, the two entities operate as separate and distinct entities. (*Id.*) HAI and AEM do not participate in each other's day-to-day operations; AEM does not have access to any of HAI's files, systems, or data; AEM and HAI have separate boards of directors; and each maintains its own accounting and computer systems, assets, headquarters, and employees. (*Id.*) AEM may not access individual member data that is submitted to HAI in the ordinary course of business. (*Id.* ¶ 11.) Further, HAI will make individual manufacturer data available to AEM only upon request and written consent of the manufacturer that owns the data and for limited, specified purposes.

(*Id.*) Moreover, HAI's bylaws⁵ expressly prohibit HAI from sharing individual member data with AEM, any of AEM's agents, or third parties absent these specific purposes. (*Id.* ¶ 8.)⁶ These safeguards were implemented to protect the disclosure of members' confidential data to third parties, including the government, and to protect HAI from potential misappropriation of trade secrets and breach of contract claims by its members.

II. HISTORY OF CONFERRALS AND CID COMPLIANCE

Initially, the FTC served a Civil Investigative Demand to AEM on August 15, 2024 ("AEM CID"). The AEM CID requested the same information as the later served HAI CID. As required by the FTC's Rules of Practice for Nonadjudicative Procedures ("Rules of Practice"), 16 C.F.R. § 2.7(k), AEM first met and conferred with FTC staff regarding the AEM CID on August 29, 2024.⁷ During the initial meet and confer, AEM described the organizational structure of AEM and its relationship with HAI and relayed its concerns regarding the CID to AEM. These concerns include Specification 1, which requests "all Data Sets relating to the sale of Agricultural Equipment in the United States, including all Data Sets relating to AEM's reports and market share/size statistics for Agricultural Equipment and Data Sets submitted by Agricultural Equipment manufacturers to AEM, with all available fields," which FTC staff confirmed was meant to include individual manufacturer data. AEM also identified its confidentiality and non-disclosure obligations and legal bases for its objections to producing such individual manufacturer data. In particular, AEM stated it did not have access to sales data that its manufacturer members submit to HAI or the market share data that HAI reports to individual members; therefore, such data was not in its possession, custody, or control. AEM can access only certain aggregate data, but it must first request such data

⁵ See **Exhibit B-1**.

⁶ *Id.* at p. 5.

⁷ AEM also served responses and objections to the CID on August 28, 2024 ahead of the meet and confer with FTC staff.

from HAI. In response to the FTC's request, AEM made an initial production of documents on September 5, 2024, supporting its position that it did not have possession, custody, or control of individual manufacturer data and showing its confidentiality and non-disclosure obligations through its Master Services Agreements with HAI, AEM's Market Share Statistics Policy & Procedure Manual,⁸ and HAI's bylaws.

On August 29, 2024, counsel for AEM and FTC staff held another meet and confer to continue discussions related to the AEM CID. On September 12, 2024, in response to Specification 2 of AEM's CID, AEM produced AG Tractor and Combine monthly reports that represent preliminary monthly retail sales of Agricultural Equipment, such as 2WD and 4WD Farm Tractors, made by AEM members that report their statistical data through HAI's portal. Additionally, on September 20, 2024, AEM produced quarterly agriculture Industry Conditions Survey and Reports, which contain aggregated agricultural industry data. In response to Specification 5 of the AEM CID, AEM produced model chart spreadsheets.⁹ The model charts, which are available for purchase on the AEM website, show—with respect to each category of agricultural equipment—the identity of the AEM members that report their sales to HAI, the product offerings of each manufacturer, and the geographic areas in which each manufacturer reports its sales. Finally, on October 2, 2024, AEM provided information in response to Specification 4.

The model charts AEM produced do not show total industry sales or the sales of any particular manufacturer. AEM does not have access to individual manufacturer sales data, which is maintained by HAI. Manufacturers that report their sales to HAI do so by submitting a spreadsheet, known as the iSTAT import format, through the HAI portal. (Ex. B, Snell Decl. ¶ 9.)

⁸ See **Exhibit B-3**.

⁹ The produced spreadsheets do not reflect actual data. Furthermore, although AEM made this production, HAI does not concede that it is authorized to produce actual individual company data to the FTC without company consent.

In exchange, each manufacturer receives through the HAI portal a completed data format spreadsheet comparing its sales of products in the designated geographic area with the industry totals. (*Id.*) No manufacturer receives any information about the sales or market share of any of its competitors. (*Id.*)

On September 12, 2024, the FTC confirmed in an email to AEM's counsel that AEM need only produce documents within AEM's possession, custody, and control, and it did not intend to seek duplicative data from HAI and AEM.¹⁰ On September 16, 2024, the FTC served an almost identical CID to HAI as the AEM CID. HAI served the FTC with responses and objections to the CID on September 20, 2024. To show the type of data that a manufacturer submits and receives through the HAI portal, HAI prepared and produced to the FTC a sample data format spreadsheet.¹¹ The sample data format spreadsheet did not contain any actual sales data or market shares but did show the data columns used for industry and market share reporting on HAI's portal. Participating companies cannot access other companies' individual data, only their own data and industry totals for their respective products. Every AEM member reporting its sales to HAI could retrieve and produce its own data format spreadsheet if served with a CID from the FTC.

Pursuant to the FTC's Rules of Practice, counsel for HAI¹² and the FTC held a meet and confer on September 23, 2024, to discuss the HAI CID. Consistent with the discussion during the prior AEM meet and confer sessions, HAI identified its confidentiality and non-disclosure contractual obligations and discussed the legal basis for its objections to the CID. At the FTC's request, HAI provided FTC staff with a letter outlining the legal and factual bases for objecting to

¹⁰ A true and correct copy of the FTC's Correspondence is attached as **Exhibit C**.

¹¹ AEM produced documents and information responsive to Specifications 2, 3, 4, and 5. Both AEM and HAI objected to Specifications 6 and 7 in their respective Responses and Objections to all Specifications, though HAI's production of the data format spreadsheet is responsive to Specification 7. Specifications 1 and 2 appear to be the remaining specifications in dispute between the FTC and HAI unless the FTC intends to pursue information responsive to Specification 6 and additional information responsive to Specification 7.

¹² AEM and HAI are represented by the same counsel for this matter.

the FTC's request for individual manufacturers' Company Data. HAI and the FTC held additional meet and confers relating to HAI's CID on October 1, 2024, October 3, 2024, October 4, 2024, October 9, 2024, and October 15, 2024. After the meet and confer on October 4, 2024, the FTC granted deadline extensions for compliance to October 21, 2024, and the Petition to Quash to October 10, 2024.¹³ On October 10, the FTC granted another deadline extension for the Petition to Quash to October 16, 2024.¹⁴ So far, the FTC has refused to limit the scope of Specifications 1 and 2 of the HAI CID despite HAI's repeated requests. HAI has serious concerns about the detrimental effects the overbroad and unduly burdensome CID would have on its business and ability to continue operating. For these and the foregoing reasons, HAI files this Petition to Quash or Limit the Civil Investigative Demand.

ARGUMENT

III. LEGAL STANDARD

Although the FTC may have broad authority in its investigations, that authority is not limitless. *F.T.C. v. Ken Roberts Co.*, 276 F.3d 583, 586 (D.C. Cir. 2001). The information sought by a CID must also be reasonably relevant. *Id.* "The relevance of an F.T.C. subpoena request is measured against the purpose and scope of its investigation" to which the agency is authorized to conduct. *F.T.C. v. Turner*, 609 F.2d 743, 745-46 (5th Cir. 1980). Although Congress has provided the FTC with authority to conduct reasonable investigations using CIDs, CIDs are not meant to provide agencies with unlimited power, and federal courts must safeguard against abusive CIDs. *See SEC v. Arthur Young & Co.*, 584 F.2d 1018, 1024 (D.C. Cir. 1978).

Even if the information requested by a CID is relevant, the FTC exceeds its investigatory power where it seeks information that is "unduly burdensome or unreasonably broad." *F.T.C. v.*

¹³ See **Exhibit D**, FTC letter dated October 4, 2024.

¹⁴ See **Exhibit E**, FTC letter dated October 10, 2024.

Invention Submission Corp., 965 F.2d 1086, 1089 (D.C. Cir. 1993); *see F.T.C. v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977). Although some burden on subpoenaed parties is to be expected, subpoenaed parties have the right to show any serious hindrance to their business by adherence to the subpoena's provisions. *Texaco*, 555 F.2d at 882; *see also Walsh v. Alight Sols. LLC*, 44 F.4th 716, 726 (7th Cir. 2022) ("Agencies should not read this result as granting leave to issue administrative subpoenas that are overly cumbersome or that seek information not reasonably relevant to the investigation at hand."). An administrative subpoena may be deemed unduly burdensome if "compliance threaten[s] to unduly disrupt or seriously hinder normal operations." *Dow Chemical Co. v. Allen*, 672 F.2d 1262, 1274 (7th Cir. 1982) (citing *F.T.C. v. Texaco, Inc.*, 555 F.2d 862, 882 (D.C. Cir. 1977)) (upholding a finding that a subpoena was unduly burdensome after balancing the burdens and benefits of compliance with the subpoena). A court may impose reasonable conditions and restrictions on the subpoena's scope if it finds the subpoena is unduly burdensome. *Texaco*, 555 F.2d at 882.

IV. THE FTC'S CID IS UNDULY BURDENSOME BECAUSE IT SERIOUSLY THREATENS HAI'S BUSINESS REPUTATION AND OPERATIONS

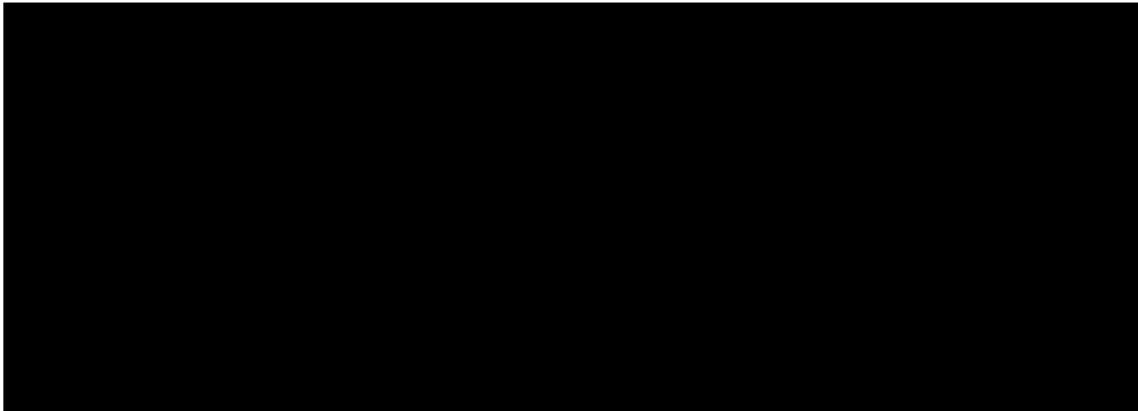
The CID to HAI is unduly burdensome because complying with the CID would seriously threaten HAI's business. Specification 1 seeks confidential AEM member data submitted to HAI through HAI's portal. Specification 2 seeks reports, including market share/size statistics reports that HAI provides to individual members reflecting their respective market shares. Production of this requested information would likely result in (1) legal exposure for HAI of potential misappropriation of trade secrets and breach of contract claims; (2) potential loss of business from existing or future trade associations; and (3) duplicative production of documents the FTC already has in its possession (with respect to Specification 2) or can easily obtain through CIDs to individual manufacturers, including any target(s) of its investigation.

A. Compliance with the CID Could Potentially Cause HAI to Breach Its Contracts and Governance Documents

HAI's disclosure of individual AEM member data may cause HAI to breach its contractual obligations to AEM and its members. Section 3.3 of the MSA, dated January 1, 2022, provides:



Further, Section 8 of the MSA limits HAI's use of confidential data, including AEM member data submitted to HAI, without notice and consent. Section 8 states:



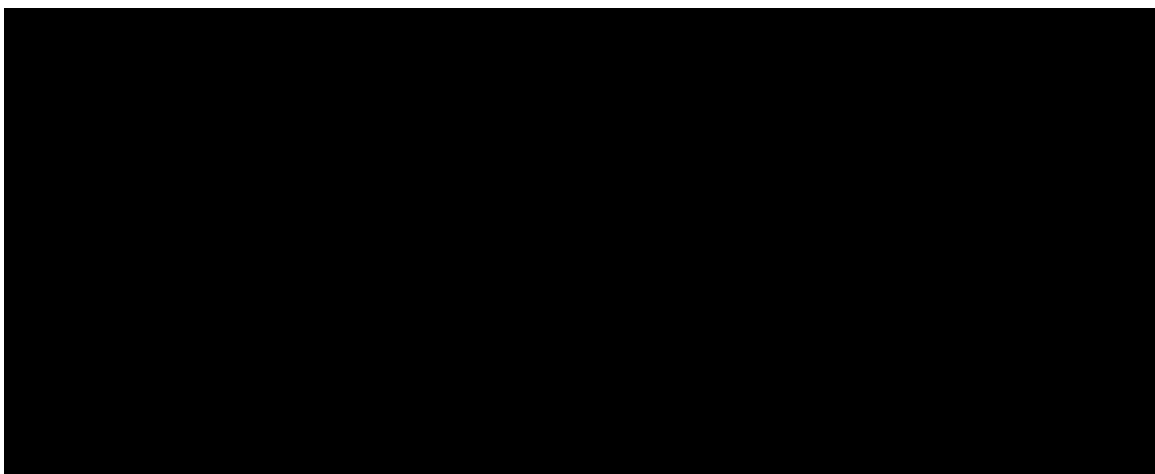
HAI's Bylaws similarly restrict HAI's disclosure of confidential information. The Bylaws reflect HAI's understanding of its obligations to AEM members with respect to their data. Section 2.9 of HAI's Bylaws states:



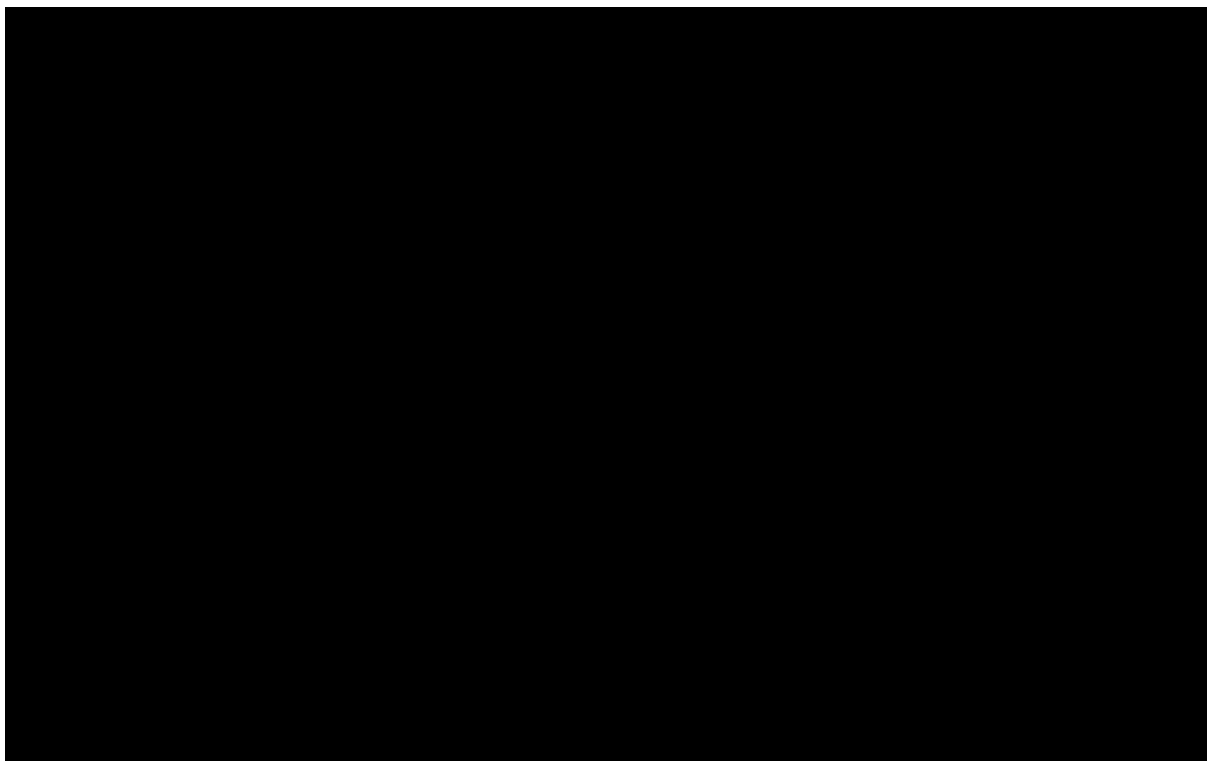
¹⁵ See **Exhibit B-2** at p. 3-4 (emphasis added).

¹⁶

¹⁷ *Id.* at p. 6.



Finally, AEM's Market Share Statistics Policy & Procedure Manual is publicly available on AEM's website and helps inform and set an expectation of privacy and confidentiality among AEM members. AEM members expect their data to be protected and handled in accordance with its procedures. Section II-E.4 of the Manual states:



¹⁸ See **Exhibit B-1** at p. 5.

¹⁹ [Redacted]

²⁰ In preparing information in response to the CID, AEM learned that an addition to the Market Share Statistics Policy & Procedure Manual clarifying the requirement of consent was inadvertently not incorporated in 2016. HAI produced to the FTC information reflecting the correction to the Market Share Statistics Policy & Procedure Manual on October 15, 2024, and intends to produce the revised version once corrected.



The foregoing documents specify the very limited circumstances when and how disclosure of individual member data to AEM may occur and the specific steps that would need to be taken. Based on the provisions quoted above, consent is a prerequisite for HAI to disclose member data to any third party, including the government.

Notwithstanding the specific provisions of the MSA prohibiting the disclosure of “Company Data,” FTC staff claims that HAI only needs to notify member companies to disclose the data. In support of this position, FTC staff cite [REDACTED]



[REDACTED] First, this provision does not apply because AEM and HAI have not *exchanged* any “Company Data.” Second, this general provision could not—under basic principles of contract interpretation—negate the more specific prohibitions contained in other sections of the MSA, [REDACTED]. See *Stanley v. George Washington Univ.*, 394 F. Supp. 3d 97, 110 (D.D.C. 2019); *Ohio Power Co. v. FERC*, 744 F.2d 162, 168 n. 7 (D.C.Cir.1984) (“where both the specific and general provisions may be given reasonable effect, both are retained.”). [REDACTED]

²¹ See **Exhibit B-3** at p. 28 and p. 47-48.



²³ *Id.* at p. 1.

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[REDACTED]

[REDACTED]

HAI to seek and obtain consent from each individual member before producing confidential Company Data to the FTC to avoid any potential claim that HAI is in breach of its obligations and operating and governance documents.

AEM members own and provide commercially sensitive data to HAI. In turn, members expect HAI to fully follow its Bylaws and the AEM Policy & Procedure Manual to protect their confidential data from undue disclosure, even to government entities. Noncompliance could potentially cause members to assert claims for misappropriation of trade secrets and breach of contract as third party beneficiaries against HAI. *See Talton v. Behncke*, 199 F.2d 471,473 (7th Cir. 1952) (“Whether such association acts properly is to be determined by the authority granted, not by virtue of any statute but by virtue of the Constitution and By-Laws under which it exists and by which the propriety of all its actions is measured.”); *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 361 (D.C. 2005) (“It is well established that the formal bylaws of an organization are to be construed as a contractual agreement between the organization and its members.”); *see also Welsh v. McNeil*, 162 A.3d 135, 158 (D.C. 2017) (holding just as parties to a contract may provide for enforcement by an intended third-party beneficiary, the bylaws of an organization may also provide for enforcement by individual members).

B. The CID Threatens HAI With Potential Loss of Business and Goodwill

FTC staff confirmed that Specification 1 seeks information about 85 product categories from over 500 agricultural equipment manufacturers. To comply with its confidentiality and non-disclosure obligations, HAI would need to give notice and seek and obtain consent from every agricultural equipment manufacturer member that submits data to its portal for all 85 product

categories. (Ex. B, Snell Decl. ¶ 14.) Providing notice and seeking consent to potentially over 500 agricultural manufacturers would be unduly burdensome on HAI's staff and disruptive to HAI's day-to-day operations. (*Id.*)

If HAI were to disclose individual AEM member data without the requisite consent, it would suffer irreparable harm to its trade association customers and their members (*Id.* ¶ 15.) AEM members would be discouraged from submitting data to HAI in fear their highly confidential and sensitive information could be disclosed without their consent to third parties. Without the member data, HAI would not be able to provide accurate and meaningful aggregated data to AEM, which AEM uses in its reports and industry analyses. Moreover, requiring HAI to produce individual manufacturer data would have detrimental consequences for HAI's ability to provide similar services on behalf of other trade associations for which it currently provides services or in the future would seek to provide similar services. (*Id.*) Complying with the CID would therefore unduly burden all of HAI's business relationships, not just its relationship with AEM.

C. The CID Is Duplicative Because It Seeks Documents and Information to Which the FTC Already Has Access

HAI's CID is unduly burdensome because the FTC requests information that the target of this investigation and others can produce to the FTC if they have not already. The FTC has served CIDs on the target and on the plaintiffs' class action lawyers pursuing right to repair claims in federal court. Market share data produced by the target or any other manufacturer would show—in addition to the manufacturer's market share—the total industry sales for the type of product in question. There is no legitimate reason to have HAI produce data that the FTC can obtain or already has obtained through the target of its investigation.

The FTC may not use its subpoena powers to go on fishing expeditions. *FTC v. Am. Tobacco Co.*, 264 U.S. 298, 306 (1924). It is a burden to compel third parties to produce duplicative

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information that is available from other sources, particularly when the target of the investigation has already produced or can produce such information. *See FTC v. Carter*, 464 F. Supp. 633, 641 (D.C. Cir. 1979); *Ameritox, Ltd. v. Millennium Labs., Inc.*, 2012 WL 6568226 (N.D. Ill. Dec. 14, 2012) (granting a motion to quash a subpoena because it was unduly burdensome for a third party to produce documents that a party to the litigation had already produced).

Complying with the CID would be overly burdensome and unreasonable because the FTC already possesses or can easily obtain most, if not all, of the information requested of HAI from the target of its investigation. *See Ameritox, Ltd. v. Millennium Labs., Inc.*, No. 12-cv-7493, 2012 WL 6568226, at *3 (N.D. Ill. Dec. 14, 2012) (granting a third party's motion to quash because many of the requests were duplicative and cumulative of discovery requests issued to a party in the litigation). AEM has already produced information responsive to Specification 2, and the FTC can or will obtain market share information from individual manufacturers, including the actual target of this investigation. Accordingly, HAI's CID is unduly burdensome because it requests duplicative information to which the FTC already has access.

CONCLUSION

Hargrove & Associates, Inc. respectfully requests that its Petition to Quash be granted in its entirety because AEM already produced documents responsive to Specifications 2, 3, 4, and 5 of the CID that does not cause an undue burden on HAI, or in the alternative that the HAI CID be limited to remove Specifications 1 and 2.

Dated: October 16, 2024

Respectfully submitted,

HARGROVE & ASSOCIATES, INC.

By: /s/ Michael J. Lockerby

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Michael J. Lockerby
FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 600
Washington, D.C. 20007
P: 202.945.6079
MLockerby@foley.com

Diane Hazel
FOLEY & LARDNER LLP
1400 16th Street, Suite 200
Denver, CO 80202
P: 720.437.2000
DHazel@foley.com

William C. McCaughey
FOLEY & LARDNER LLP
90 Park Ave, 37th Floor
New York, NY 10016
P: 212.338.3425
WMccaughey@foley.com

Quynh-Nhu Truong
FOLEY & LARDNER LLP
1000 Louisiana St., Suite 2000
Houston, Texas 77007
P: 713.276.5070
Qtruong@foley.com

Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that, on October 16, 2024, an electronic copy of the foregoing and exhibits thereto were served via electronic mail upon the following:

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite CC-5610
Washington, D.C. 20580
electronicfilings@ftc.gov
atabor@ftc.gov

Ethan Stevenson
Melissa Westman-Cherry
Joseph Conrad
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
estevenson1@ftc.gov
mwestman@ftc.gov
jconrad2@ftc.gov

Dated: October 16, 2024

Respectfully submitted,

HARGROVE & ASSOCIATES, INC.

By: /s/ Diane R. Hazel

Diane Hazel
FOLEY & LARDNER LLP
1400 16th Street, Suite 200
Denver, CO 80202
P: 720.437.2000
DHazel@foley.com

Counsel for Petitioner

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of Civil Investigative Demand to
Hargrove & Associates, Inc.

FTC File No. 211-0191

REQUEST FOR CONFIDENTIAL TREATMENT

Hargrove & Associates, Inc. (“HAI”) requests that the following be afforded confidential treatment pursuant to 16 C.F.R. § 4.2(d) as they contain information that is secret and material to HAI’s business and the disclosure of such information would result in serious competitive injury: (1) sections of the Affidavit of Todd Snell, attached as Exhibit B; (2) Master Services Agreement between HAI and the Association of Equipment Manufacturers (“MSA”), attached as Exhibit B-2; (3) HAI’s Bylaws, attached as Exhibit B-1; and (4) provisions of the MSA and HAI’s Bylaws within the Petition to Quash.¹ *See General Foods Corp.*, 95 F.T.C. 352, 355 (1980) (noting serious competitive injury can be shown by establishing the documents are secret and material to a business and then balancing that factor against the importance of the information in explaining the rationale of Commission decisions).

The aforementioned documents contain competitively sensitive information about HAI’s business operations, its confidential contractual arrangements with AEM, its practices and trade secrets and other confidential proprietary information. Such information and documents are not available to the public in the ordinary course of business. This is the type of “confidential business information” that the commission routinely affords confidential treatment to protect

¹ HAI is simultaneously submitting both a public and non-public version of its Petition to Quash. The non-public version contains redactions for the sections of the Petition to Quash that HAI has requested confidential treatment.

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from “unnecessary airing.” *See, e.g., In re H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961) (“[T]he confidential records of businesses involved in Commission proceedings should be protected insofar as possible.”). Confidential treatment is particularly important where, as here, the information concerns a third party in an investigation. *See In re Kaiser Aluminum & Chern. Corp.*, 103 F.T.C. 500, 500 (1984) (explaining that a non-party’s confidential information deserves “special solicitude”).

If this information is made public, HAI, its current trade association customers, and members of those trade associations would suffer irreparable harm. Disclosure of this information would reveal proprietary information about HAI’s practices, operations, and contracts that it maintains as confidential and private in the ordinary course to protect its trade secrets and competitive position.

Therefore, the MSA, HAI’s Bylaws, and provisions of the MSA and HAI’s Bylaws within the Petition to Quash and Affidavit of Todd Snell should be afforded confidential treatment to prevent the disclosure of competitively sensitive information of HAI, a third party not the target of the FTC investigation. If the Commission determines to disclose some or all of the confidential information, please notify the counsel named below.

Dated: October 16, 2024

Respectfully submitted,

/s/ Diane R. Hazel

Diane R. Hazel
FOLEY & LARDNER LLP
1400 16th Street, Suite 200
Denver, CO 80202
P: 720.437.2000
DHazel@foley.com

Counsel for Hargrove & Associates, Inc.

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of Civil Investigative Demand to
Hargrove & Associates, Inc.

FTC File No. 211-0191

STATEMENT OF COUNSEL PURSUANT TO 16 C.F.R. § 2.10

I, Diane R. Hazel, state as follows:

1. I am a partner at Foley & Lardner LLP and one of the attorneys representing third-party, Hargrove & Associates, Inc (“HAI”).
2. I make this statement upon personal knowledge.
3. Prior to filing the accompanying Petition to Quash, I and my colleagues, Michael J. Lockerby, William McCaughey, and Quinny Truong, conferred with Commission staff pursuant to 16 C.F.R. § 2.7(k) in a good faith effort to resolve by agreement the issues raised by the Civil Investigative Demand (“CID”) to HAI, but we have been unable to reach an agreement as to those issues.
4. As required by FTC Rule of Practice 2.10(a)(2), the following are the dates, times, and place of each conference between counsel, and the names of all parties participating in each such conference. These conferences are described in further detail in the Petition to Quash.
 - a. At 10:30 a.m. EST on September 23, 2024, after serving Responses and Objections to the CID on September 20, 2024, counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, Joseph Conrad, and Xiaowei Yu.

- b. At 3:00 p.m. EST on October 1, 2024, counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, and Xiaowei Yu.
- c. At 4:22 p.m. EST on October 2, 2024, counsel for HAI, Diane Hazel, held a telephone conference with FTC staff attorney, Ethan Stevenson.
- d. At 11:00 a.m. EST on October 3, 2024, counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, Joseph Conrad, and Xiaowei Yu.
- e. At 3:00 p.m. EST on October 4, 2024, counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, Joseph Conrad, Xiaowei Yu, and Chamaree Shelton. Following the conference, on October 4, 2024, FTC staff, Ethan Stevenson, with Melissa Westman-Cherry and Joseph Conrad in copy, sent correspondence extending the deadline to October 10, 2024 for compliance with the CID and deadline for Petition to Quash to counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong.
- f. At 4:00 p.m. EST on October 9, 2024, counsel for HAI, Michael J. Lockerby, Diane Hazel, and William McCaughey participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, Xiaowei Yu, and Chamaree Shelton. Following the conference, on October 10,

2024, FTC Staff, Ethan Stevenson, with Melissa Westman-Cherry and Joseph Conrad in copy, sent correspondence extending the deadline to October 21, 2024 for compliance with the CID and deadline to October 16, 2024 for the Petition to Quash, to counsel for HAI, Michael J. Lockerby, Diane Hazel, William McCaughey, and Quinny Truong.

g. At 2:30 p.m. EST on October 15, 2024, counsel for HAI, Diane Hazel, William McCaughey, and Quinny Truong participated in a Microsoft Teams conference with FTC staff, Ethan Stevenson, Melissa Westman-Cherry, Joseph Conrad, Xiaowei Yu, and Chamaree Shelton.

5. Pursuant to FTC email correspondence on September 12, 2024, FTC staff Ethan Stevenson stated that FTC did not intend to seek duplicative data from HAI and AEM, to which the FTC had served an earlier, almost identical CID. Below is a status of the productions made by AEM and HAI for each specification:

- a. Specifications 3, 4, 5: AEM produced responsive information.
- b. Specification 2: AEM produced responsive information; FTC seeks further information from HAI to which HAI objects.
- c. Specification 6: HAI objected to Specification 6 in its Responses and Objections to all Specifications, and the FTC has not pursued information responsive to Specification 6 at this time.
- d. Specification 7: HAI produced information responsive to Specification 7.

Based on these productions, HAI counsel considers compliance with Specifications 3, 4, 5, 6, and 7 of the HAI CID resolved. At this time, Specifications 1 and 2 of the HAI CID appear to be the remaining unresolved

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issues unless the FTC intends to pursue information responsive to Specification 6
and additional information responsive to Specification 7.

Dated: October 16, 2024

Respectfully submitted,

Hargrove & Associates, Inc.

By: /s/ Diane R. Hazel

Diane Hazel
Foley & Lardner LLP
1400 16th Street, Suite 200
Denver, Colorado 80202
P: 720.437.2000
DHazel@foley.com

Counsel for Hargrove & Associates, Inc.

EXHIBIT A



United States of America
Federal Trade Commission

Civil Investigative Demand

1. TO Hargrove & Associates, Inc. c/o Diane Hazel, Foley & Lardner LLP 1400 16th St., Suite 200 Denver, CO 80202	<input type="checkbox"/>	1a. MATTER NUMBER FTC File No. 211-0191
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This demand is issued pursuant to Section 20 of the Federal Trade Commission Act, 15 U.S.C. § 57b-1, in the course of an investigation to determine whether there is, has been, or may be a violation of any laws administered by the Federal Trade Commission by conduct, activities or proposed action as described in Item 3.

2. ACTION REQUIRED <input type="checkbox"/> You are required to appear and testify.	
LOCATION OF HEARING	YOUR APPEARANCE WILL BE BEFORE No appearance required
	DATE AND TIME OF HEARING OR DEPOSITION

- You are required to produce all documents described in the attached schedule that are in your possession, custody, or control, and to make them available at your address indicated above for inspection and copying or reproduction at the date and time specified below.
- You are required to answer the interrogatories or provide the written report described on the attached schedule. Answer each interrogatory or report separately and fully in writing. Submit your answers or report to the Records Custodian named in Item 4 on or before the date specified below.
- You are required to produce the tangible things described on the attached schedule. Produce such things to the Records Custodian named in Item 4 on or before the date specified below.

DATE AND TIME THE DOCUMENTS, ANSWERS TO INTERROGATORIES, REPORTS, AND/OR TANGIBLE THINGS MUST BE AVAILABLE
 October 2, 2024, at 5:00pm ET

3. SUBJECT OF INVESTIGATION See attached.
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4. RECORDS CUSTODIAN/DEPUTY RECORDS CUSTODIAN Geoffrey M. Green, Assistant Director Joseph R. Baker, Deputy Assistant Director	5. COMMISSION COUNSEL Melissa Westman-Cherry Federal Trade Commission 600 Pennsylvania Avenue NW Washington, DC 20580 (202) 326-2338 mwestman@ftc.gov
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DATE ISSUED 09/16/24	COMMISSIONER'S SIGNATURE
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<p style="text-align: center;">INSTRUCTIONS AND NOTICES</p> <p>The delivery of this demand to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. The production of documents or the submission of answers and report in response to this demand must be made under a sworn certificate, in the form printed on the second page of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances of such production or responsible for answering each interrogatory or report question. This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.</p> <p style="text-align: center;">PETITION TO LIMIT OR QUASH</p> <p>The Commission's Rules of Practice require that any petition to limit or quash this demand be filed within 20 days after service, or, if the return date is less than 20 days after service, prior to the return date. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 5.</p>	<p style="text-align: center;">YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS</p> <p>The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.</p> <p>The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.</p> <p style="text-align: center;">TRAVEL EXPENSES</p> <p>Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this demand should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this demand and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel.</p> <p>A copy of the Commission's Rules of Practice is available online at http://bit.ly/FTCSRulesofPractice. Paper copies are available upon request.</p>
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**CIVIL INVESTIGATIVE DEMAND ISSUED TO
HARGROVE & ASSOCIATES, INC.**

File No. 211-0191

Unless modified by agreement with the staff of the Federal Trade Commission (the “Commission” or the “FTC”), each Specification of this Civil Investigative Demand requires a complete search of the Company as defined in the Definitions, which appear after the following Specifications. Pursuant to the Commission’s Rules of Practice, 16 C.F.R. § 2.7(k), a Company representative must confer with the Commission representative identified in the final instruction of this Civil Investigative Demand within fourteen days after receipt of this Civil Investigative Demand or before the deadline for filing a petition to quash, whichever is first. If the Company believes that the required search or any other part of this Civil Investigative Demand can be narrowed in any way that is consistent with the Commission’s need for information, it is encouraged to discuss such possible modifications with the Commission representative. All modifications to this Civil Investigative Demand must be agreed to in writing pursuant to the Commission’s Rules of Practice, 16 C.F.R. § 2.7(l).

SUBJECT OF THE INVESTIGATION

To determine whether Deere & Company, or any other person, has engaged in or is engaging in unfair, deceptive, anticompetitive, collusive, coercive, predatory, exploitative, or exclusionary acts or practices in or affecting commerce related to the repair of agricultural equipment in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, or any other statutes or rules enforced by the Commission, and to determine the appropriate action or remedy. See also the attached resolution.

SPECIFICATIONS

1. Submit all Data Sets relating to the sale of Agricultural Equipment in the United States, including all Data Sets relating to AEM’s or HAI’s reports and market share/size statistics for Agricultural Equipment and Data Sets submitted by Agricultural Equipment manufacturers to HAI, with all available fields.
2. Submit all reports, including United States Ag Tractor and Combine reports and market share/size statistics, issued, created, or distributed by HAI relating to the sale of Agricultural Equipment in the United States.
3. Submit all documents sent by HAI to Agricultural Equipment manufacturers relating to the submission of data to HAI, including any manuals, instructions, or specifications relating to data submissions.

4. Provide a list of Agricultural Equipment manufacturers that sell Agricultural Equipment in the United States but do not participate in HAI's reporting programs in the United States.
5. Submit documents sufficient to show the relationship between each Agricultural Equipment manufacturer's product name/number and AEM or HAI's product categorization (e.g., 2WD farm tractors < 40 HP).
6. Submit a Data Map reflecting the relationship among all Data Sets, reports, and market share/size statistics responsive to any other Specification of this Civil Investigative Demand.
7. For each Data Set provided in response to any Specification in this Civil Investigative Demand, provide a data dictionary that includes:
 - a. a list of field names and a definition for each field contained in the Data Set;
 - b. the meaning of each code that appears as a field value in the Data Set; and
 - c. the primary key in the Data Set or table that defines a unique observation.

DEFINITIONS

For the purposes of this Civil Investigative Demand, including the instructions, the following definitions apply:

- A. “**AEM**” means the Association of Equipment Manufacturers.
- B. “**Agricultural Equipment**” means equipment that has a primary purpose for use in the production of agricultural products, including: large, medium, and utility tractors, regardless of whether two-wheel drive or four-wheel drive; tractor loaders; combines, cotton pickers, cotton strippers, and sugarcane harvesters; harvesting front-end equipment; sugarcane loaders and pull-behind scrapers; tillage, seeding and application equipment, including sprayers, nutrient management and soil preparation machinery; and hay and forage equipment, including self-propelled forage harvesters and attachments, balers, and mowers.
- C. The terms “**and**,” as well as “**or**” shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any specification all information that otherwise might be construed to be outside the scope of the specification.
- D. The term “**any**” shall be construed to include “**all**,” and “**all**” shall be construed to include “**any**.”
- E. “**Company**,” “**HAI**,” or “**you**” means Hargrove & Associates, Inc. and its directors, officers, trustees, employees, attorneys, agents, consultants, representatives, parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, including AEM, and the directors, officers, trustees, employees, attorneys, agents, consultants, and representatives of its parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures.
- F. “**Data Map**” means an organized list, schematic, diagram, or other representation sufficient to show where and how the Company stores all physical and electronic information in its possession, custody, or control, including information systems (e.g., email messages, voice-mail messages, communications logs, enterprise content management, instant messaging, database applications), locations where information is stored, including servers and backup systems (e.g., physical Company facility, third-party vendor location, cloud), and the physical and logical network topology of the Company’s computer systems.
- G. “**Data Set**” means all or a subset of data held by, or accessible to, the Company in the normal course of business.

- H. “**Documents**” means all written, recorded, transcribed, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, including communications, analyses, letters, memoranda, reports, contracts, books, accounts, statements, studies, surveys, pamphlets, notes, charts, maps, plats, tabulations, graphs, tapes, data sheets, data processing cards, printouts, net sites, microfilm, indices, calendar or diary entries, manuals, guides, outlines, abstracts, histories, agendas, minutes or records of meetings, conferences, electronic mail, text messages, instant messages via chat programs (such as Slack, Cisco Jabber, Microsoft Teams, Google Hangouts Chat, or Cisco WebEx Teams) or mobile applications (such as WhatsApp, iMessage, Signal, Telegram, or Zoom), voice messages, recordings of meetings, telephone calls, or other conversations or communications, as well as films, tapes, or slides, and all other data compilations in the possession, custody, or control of the Company, or to which the Company has access.

The term “document” includes the complete original document (or a copy thereof if the original is not available), all drafts (whether or not they resulted in a final document), and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original.

The term “other data compilations” includes information stored in, or accessible through, computer or other information retrieval systems, together with instructions and all other material necessary to use or interpret such data compilations as set out in Instruction 2.

If the name of the person or persons who prepared, reviewed, or received the document and the date of preparation, review, or receipt are not clear on the face of any document, such information should be provided separately.

Unless otherwise specified, the term “document” excludes bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature.

Documents shall be produced in accordance with the instructions set out in Instruction 2.

- I. The term “**each**” shall be construed to include “every,” and “**every**” shall be construed to include “each.”
- J. The term “**including**” shall be construed to mean “including without limitation.”
- K. The term “**person**” includes the Company, and shall mean any natural person, corporate entity, partnership, association, joint venture, governmental entity, trust, or any other organization or entity engaged in commerce.

- L. The terms “**relate(s) to**”, “**relating to**”, or “**related to**” shall mean, in whole or in part, constituting, containing, concerning, embodying, reflecting, discussing, explaining, describing, analyzing, identifying, stating, reporting, forecasting, referring to, dealing with, or in any way pertaining to.
- M. The term “**Technology Assisted Review**” means any process that utilizes a computer algorithm to limit the number of potentially responsive documents subject to manual review. A keyword search of documents with no further automated processing is not a Technology Assisted Review.
- N. The singular form of a noun or pronoun includes its plural form, and vice versa; and the present tense of a verb includes the past tense, and vice versa.

INSTRUCTIONS

For the purposes of this Civil Investigative Demand, the following instructions apply:

1. Do not produce any Sensitive Personally Identifiable Information (“Sensitive PII”) or Sensitive Health Information (“SHI”) prior to discussing the information with a Commission representative.

The term “Sensitive Personally Identifiable Information” means an individual’s Social Security Number alone; or an individual’s name, address, or phone number in combination with one or more of the following:

- date of birth
- driver’s license number or other state identification number, or a foreign country equivalent
- passport number
- financial account number
- credit or debit card number

The term “Sensitive Health Information” includes medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. Sensitive Health Information relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

2. Form of Production: The Company must submit Documents as instructed below absent written consent.
 - a. Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
 - i. Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.
 - ii. Submit emails in TIFF (Group IV) format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.

Metadata/Document Information	Description
Bates Begin	Beginning Bates number of the email.
Bates End	Bates number of the last page of the email.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the person from whom the email was obtained.
Email BCC	Names of person(s) blind copied on the email.
Email CC	Names of person(s) copied on the email.
Email Date Received	Date the email was received. [MM/DD/YYYY]
Email Date Sent	Date the email was sent. [MM/DD/YYYY]
Email From	Names of the person who authored the email.
Email Message ID	Microsoft Outlook Message ID or similar value in other message systems.
Email Subject	Subject line of the email.
Email Time Received	Time email was received. [HH:MM:SS AM/PM]
Email To	Recipients(s) of the email.
Email Time Sent	Time email was sent. [HH:MM:SS AM/PM]
Page Count	Number of pages in record.
File Size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Folder	File path/folder location of email.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.

Metadata/Document Information	Description
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt

- iii. Submit email attachments and hyperlinked attachments/documents (i.e., materials referenced as a link in an email that were originally stored or accessed on a share drive or cloud drive hosted by the Company or any other Person) other than those described in subpart (a)(i) in TIFF (Group IV) format. Hyperlinked attachments/documents should be treated as normal attachments and therefore produced with family identifying metadata accordingly. For all email attachments and hyperlinked documents, provide extracted text and the following metadata and information as applicable:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of person from whom the file was obtained.
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.

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Metadata/Document Information	Description
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Native Link	Relative file path to submitted native or near native files. Example: \NATIVES\001\FTC000309.xlsx
Parent ID	Document ID or beginning Bates number of the parent email.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- iv. Submit all other electronic documents, other than those described in subpart (a)(i), in TIFF (Group IV) format accompanied by extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the original custodian of the file.
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY HH:MM:SS AM/PM]
Page count	Number of pages in record.

Metadata/Document Information	Description
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC-0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- v. Submit documents stored in hard copy in TIFF (Group IV) format accomplished by OCR with the following information:

Metadata/Document Information	Description
Bates Begin	Beginning Bates number of the document.
Bates End	Bates number of the last page of the document.
Custodian	Name of person from whom the file was obtained.

- vi. Submit redacted documents in TIFF (Group IV) format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and

information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction 4.

- b. Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact.
- c. Produce electronic file and TIFF submissions as follows:
 - i. For productions over 10 gigabytes, use USB compatible hard drives or thumb drives, in Microsoft Windows format;
 - ii. For productions under 10 gigabytes, Secure FTP of materials is also permitted. The FTC uses Kiteworks for Secure File Transfer. To request an invitation, please contact the FTC representative identified below;
 - iii. For productions under 10 gigabytes, CD-ROM (CD-R, CD-RW) optical disks and DVD-ROM (DVD+R, DVD+RW) optical disks for Windows-compatible personal computers may be used;
 - iv. All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of your compliance with this Civil Investigative Demand; and
 - v. Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.
- d. Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; list of custodians and document identification number range for each; total number of documents; and a list of load file fields in the order in which they are organized in the load file.
- e. If the Company intends to utilize Email threading, Technology Assisted Review, deduplication, or similar technologies when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media, or if the Company's computer systems contain or utilize such software, the Company must contact a Commission representative to determine, with the assistance of the appropriate government technical officials, whether and in what manner the Company may use such software or services when producing materials in response to this CID.

3. All documents responsive to this Civil Investigative Demand:
 - a. shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in the Company's files;
 - b. shall be marked on each page with corporate identification and consecutive document control numbers when produced in TIFF format (e.g., ABC-00000001);
 - c. shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph) makes any substantive information contained in the document unintelligible, the Company must submit the original document, a like-colored photocopy, or a JPEG format TIFF);
 - d. shall be accompanied by an index that identifies: (i) the name of each Person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that Person's documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that Commission representatives determine prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission representative will provide a sample index upon request; and
 - e. shall be accompanied by an affidavit of an officer of the Company stating that the copies are true, correct, and complete copies of the original documents.
4. If any material called for by this Civil Investigative Demand is withheld based on a claim of protected status, 16 C.F.R. § 2.7(a)(4), the claim must be asserted no later than the return date of this Civil Investigative Demand. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Unless modified by Commission staff, submit the log in a searchable and sortable electronic format, and, for each document, including attachments, provide:
 - a. Document control number(s);
 - b. The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
 - c. A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;

- d. The date the material was created;
- e. The date the material was sent to each recipient (if different from the date the material was created);
- f. The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
- g. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
- h. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
- i. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
- j. The factual basis supporting the claim that the material is protected; and
- k. Any other pertinent information necessary to support the assertion of protected status by operation of law.

In the log, identify by an asterisk (*) each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log. However, provide in the log the information required by Instruction 4(f). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest, in writing, to the log.

A document, including all attachments, may be withheld or redacted only to the extent necessary to preserve any claim of protected status. Unless otherwise provided in the instructions accompanying this Civil Investigative Demand, and except for information and material subject to a valid claim of protected status, all responsive information and material shall be produced without redaction.

5. Before using software or technology (including search terms, email threading, Technology Assisted Review, deduplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this CID, the Company must submit a written description of such software or technology and any related processes and workflows used to conduct any part of its search. In addition:

- a. if you use Technology Assisted Review to identify documents and information responsive to this CID or to exclude documents and information from further review, describe your collection and review methodology, including:
 - i. how any software is used to identify responsive documents or exclude nonresponsive documents;
 - ii. the process to identify and validate any seed set documents, if applicable;
 - iii. the process to determine and validate accuracy of the automatic determinations of responsiveness and nonresponsiveness; and
 - iv. the collection and review process for foreign language documents, whether reviewed manually or by some technology-assisted method;
 - b. if you use search terms to identify documents and information responsive to the CID or to exclude documents or information from further review, then for each custodian, search location, or document population provide:
 - i. a list of proposed terms;
 - ii. a tally of all the terms that appear in the collection and the frequency of each term;
 - iii. a list of stop words and operators for the platform being used; and
 - iv. a glossary of industry and company terminology;
 - c. provide recall, precision, and confidence-level statistics (or an equivalent);
 - d. provide access to randomized, statistically significant samples of non-privileged documents excluded from review or production by use of keyword search terms, Technology Assisted Review software, or any other means;
 - e. identify the person(s) able to testify on your behalf about information known or reasonably available to the organization relating to your use of software or technology in responding to this CID.
6. Unless otherwise specified, each Specification of this Civil Investigative Demand calls for Documents and/or information from January 1, 2015 to the present.
 7. In order for the Company's response to this Civil Investigative Demand to be complete, the attached certification form must be executed by the official supervising compliance with this Request, notarized, and submitted along with the responsive materials.

8. Any questions you have related to the scope or meaning of anything in this Civil Investigative Demand or suggestions for possible modifications thereto should be directed to **Ethan Stevenson** at estevenson1@ftc.gov or (202) 531-8971. Please provide responses to the above specifications in electronic format via FTP. For electronic transmission of materials, please request an FTP link to transmit the materials. All electronic submissions must be accompanied by an email notification of such submission to the FTC staff attorney identified above. If you wish to submit your response by other means, please call the FTC staff attorney listed above for instructions.

CERTIFICATION OF COMPLIANCE

Pursuant to 28 U.S.C. § 1746

I, _____, certify the following with respect to the Federal Trade Commission’s (“FTC”) Civil Investigative Demand issued on [_____] and directed to Hargrove & Associates, Inc. (FTC File No. 211-0191):

1. The Company has identified all documents, information, and/or tangible things (“responsive information”) in the Company’s possession, custody, or control responsive to the Civil Investigative Demand and either:
 - a. provided such responsive information to the FTC; or
 - b. for any responsive information not provided, given the FTC written objections setting forth the basis for withholding the responsive information.
2. I verify that the responses to the Civil Investigative Demand are complete and true and correct to my knowledge.

I certify under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature

Printed Name

Title

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

**RESOLUTION DIRECTING USE OF COMPULSORY PROCESS
REGARDING REPAIR RESTRICTIONS**

File No. 212 3126

Nature and Scope of Investigation:

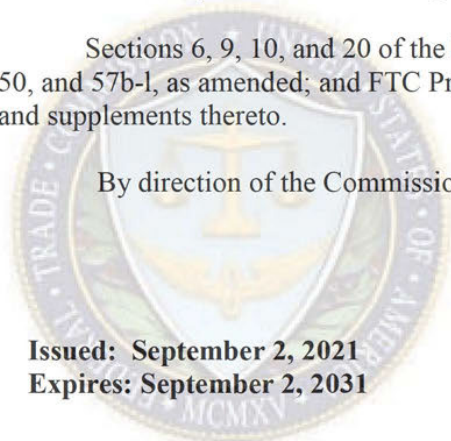
To investigate whether any persons, partnerships, or corporations have engaged or are engaging in unfair, deceptive, anticompetitive, collusive, coercive, predatory, exploitative, or exclusionary acts or practices, in or affecting commerce, related to any repair restrictions, including but not limited to restrictions related to any hardware and any software, imposed by manufacturers or sellers in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*, or any statutes or rules enforced by the Commission; and to determine the appropriate remedy, including whether injunctive and monetary relief would be in the public interest.


The Federal Trade Commission hereby resolves and directs that any and all compulsory processes available to it be used in connection with this investigation for a period not to exceed ten years. The expiration of this ten-year period shall not limit or terminate the investigation or the legal effect of any compulsory process issued during the ten-year period. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the ten-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; and FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 *et seq.*, and supplements thereto.

By direction of the Commission.




April J. Tabor
Secretary

Issued: September 2, 2021
Expires: September 2, 2031

EXHIBIT B

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of Civil Investigative Demand to
Hargrove & Associates, Inc.

FTC File No. 211-0191

AFFIDAVIT OF TODD SNELL

STATE OF IOWA

§

COUNTY OF POLK

§

§

Todd Snell, being duly sworn, deposes and says as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Affidavit. The information set out in the foregoing Affidavit is based on my personal knowledge and upon business records to which I have access in my capacity as the Vice President and Chief Operating Officer at Hargrove & Associates, Inc. ("HAI"), a position that I have held since January 2021.
2. My duties include overseeing the daily operations of HAI, implementing the company strategy, and advising on the overall company direction. I serve on company budgeting, forecasting, and planning leadership teams. I also manage the production team responsible for operating the Association of Equipment Manufacturers ("AEM") statistics program for HAI.
3. HAI is a data processing and business analytics company that specializes in creating, developing, and operating managed data programs for professional trade groups. HAI's headquarters is 100 North 6th Street, Suite 306B, Minneapolis, MN 55403. HAI has ten full-time employees.

4. HAI collects data and provides analytics services to a variety of trade associations, including AEM and the Committee for European Construction Equipment.
5. HAI works with trade associations, like AEM, to create, develop, and operate managed data collections and reporting. When trade associations engage HAI, association members voluntarily submit highly confidential and competitively sensitive information through the HAI portal. Both the associations and their members trust and expect that HAI will secure and maintain confidentiality of the proprietary business information. HAI has implemented restrictions and structures to protect the confidentiality of association member data so that individual member data is not improperly shared with other members or third parties.
6. HAI has provided data processing and analytics services for AEM's predecessor, the Equipment Manufacturers Institute ("EMI"), AEM, and AEM's members since 1989. On January 4, 2018, AEM publicly announced its acquisition of HAI. HAI and AEM, however, operate as two separate entities. AEM does not have access to HAI's files, systems, or data in the ordinary course of business. AEM does not participate in the day-to-day decision making of HAI. HAI maintains its own executive team that oversees the day-to-day operations of HAI. AEM and HAI maintain separate boards of directors. Finally, HAI maintains its own bank accounts, assets, headquarters, and employees.
7. The business records governing the relationship between AEM and HAI to which I have access include: [REDACTED]
[REDACTED]
[REDACTED]; and (3) AEM's Policy & Procedure Manual, the current version of which is dated August 7, 2024 ("PPM") (Ex. B-3). HAI's understanding, based on the provisions quoted

below, is that these documents restrict the ability of HAI to share with third parties certain data submitted by AEM's members to HAI.

HAI's Bylaws

8. HAI's Bylaws state: [REDACTED]
[REDACTED]
[REDACTED] HAI and AEM interpret the foregoing provision of the Bylaws as preventing HAI from disclosing AEM members' confidential business information to AEM without the consent of the member company that owns the confidential business information.

HAI-AEM Master Services Agreement

9. HAI believes that its interpretation of the Bylaws is consistent with the provisions of the MSA [REDACTED]
[REDACTED] Under the MSA, HAI agrees to host a portal through which AEM members may submit sales data and receive aggregated and anonymized industry data. Manufacturers report their sales data through HAI's portal by manually entering data or submitting a spreadsheet known as an iSTAT import format. Each manufacturer then through HAI's portal receives access to the data, comparing its respective sales of products in the designated geographic area with the industry totals. Manufacturers do not receive any information regarding the sales or market share data of any other manufacturer.
10. HAI's portal is hosted on a server controlled by HAI. Each manufacturer may access its own information that it submits to HAI and any reports from HAI specific to it comparing its sales to industry totals. HAI may provide aggregated and anonymized data to AEM upon AEM's request. AEM has limited access to HAI's portal and can only access and

download data at an industry level and not any company-specific data. AEM usually requests that HAI provide it the aggregated data and does not use the portal itself. I understand that AEM uses this aggregated data for its industry analysis services that it provides to members and/or for its public reports.

11. Under the MSA, AEM cannot obtain individual AEM member data submitted to HAI in the ordinary course of business: [REDACTED]
[REDACTED] HAI may make member data available to AEM only [REDACTED]
[REDACTED]

AEM's Policy & Procedure Manual

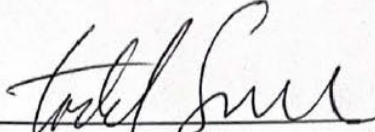
12. AEM's Policy & Procedure Manual dated August 7, 2024 further restricts HAI's use of member data. The PPM states: "The IPC¹ shall not share or disclose any data to any persons or entities other than authorized AEM Statistics staff and authorized participating company representatives." (Ex. B-3, § II-E.4; IV-F.) Severe consequences—including termination, litigation, potential monetary damages for breach of trust and contract, and other relief—may result if IPC or AEM staff inappropriately disclose company or industry data. (*Id.*)
13. HAI may disclose member data to AEM Statistics staff only in three situations: (1) upon request during the second round of audits and only member data related to the specific audit case; (2) if outside the audit process, HAI may disclose member data only after the AEM Statistics Executive Committee votes in a simple majority to approve access to member data upon receiving a request and explanation from AEM Statistics staff and if the

¹ "IPC" is defined in the PPM at section I-B as the "Information Processing Company," which is HAI.

member company gives consent; or (3) a member company voluntarily authorizes AEM Statistics staff to access the data. (Ex. B-3, § II-E.4; IV-F.)

14. HAI's understanding is that the disclosure restrictions implemented by HAI's Bylaws, the MSA, and the Policy & Procedure Manual apply not only to HAI and AEM but also prohibit disclosure to all third parties, including the government. To uphold its contractual obligations and protect itself from potential litigation, HAI understands that it must give notice to and obtain consent from each manufacturer owning the data before disclosing member data to any third party. Providing notice and securing consent to potentially hundreds of participating companies would disrupt HAI's normal business operations and be heavily burdensome on its staff.
15. Disclosure of AEM's members' confidential information without their consent to third parties, including the government, would harm HAI's reputation among its current trade association customers, members of those trade associations, and other trade associations HAI may seek to provide similar services for in the future. Producing such confidential information would not only undermine HAI's reputation and customer goodwill, but also threaten HAI's viability as a business. HAI views the production of confidential AEM member data without consent as an existential threat to HAI.

FURTHER THE AFFIANT SAYETH NOT.



Todd Snell

Subscribed and sworn to before me
this 16th day of October, 2024



Notary Public, State of Iowa

My commission expires: Aug 4th, 2025

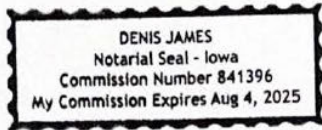
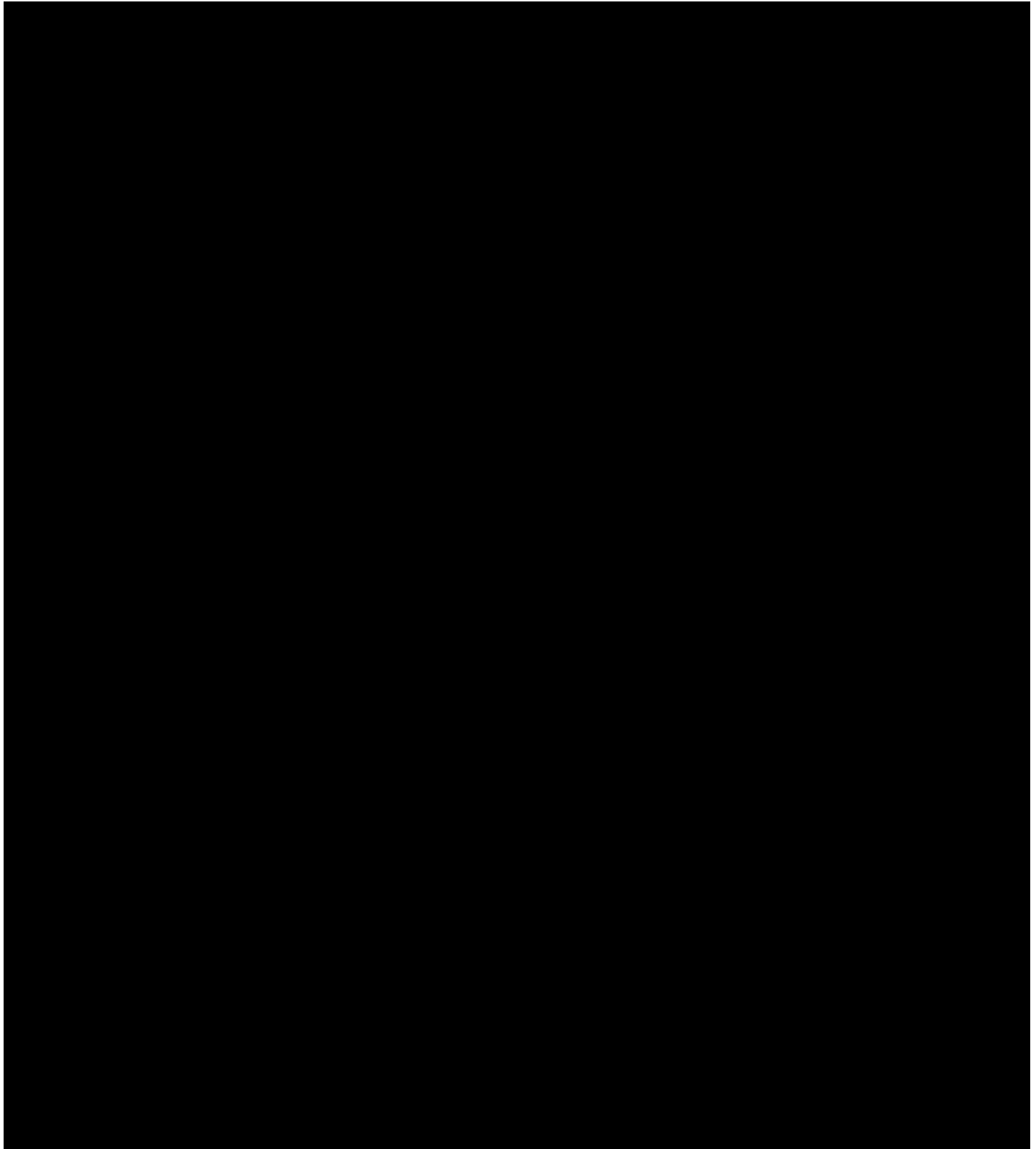


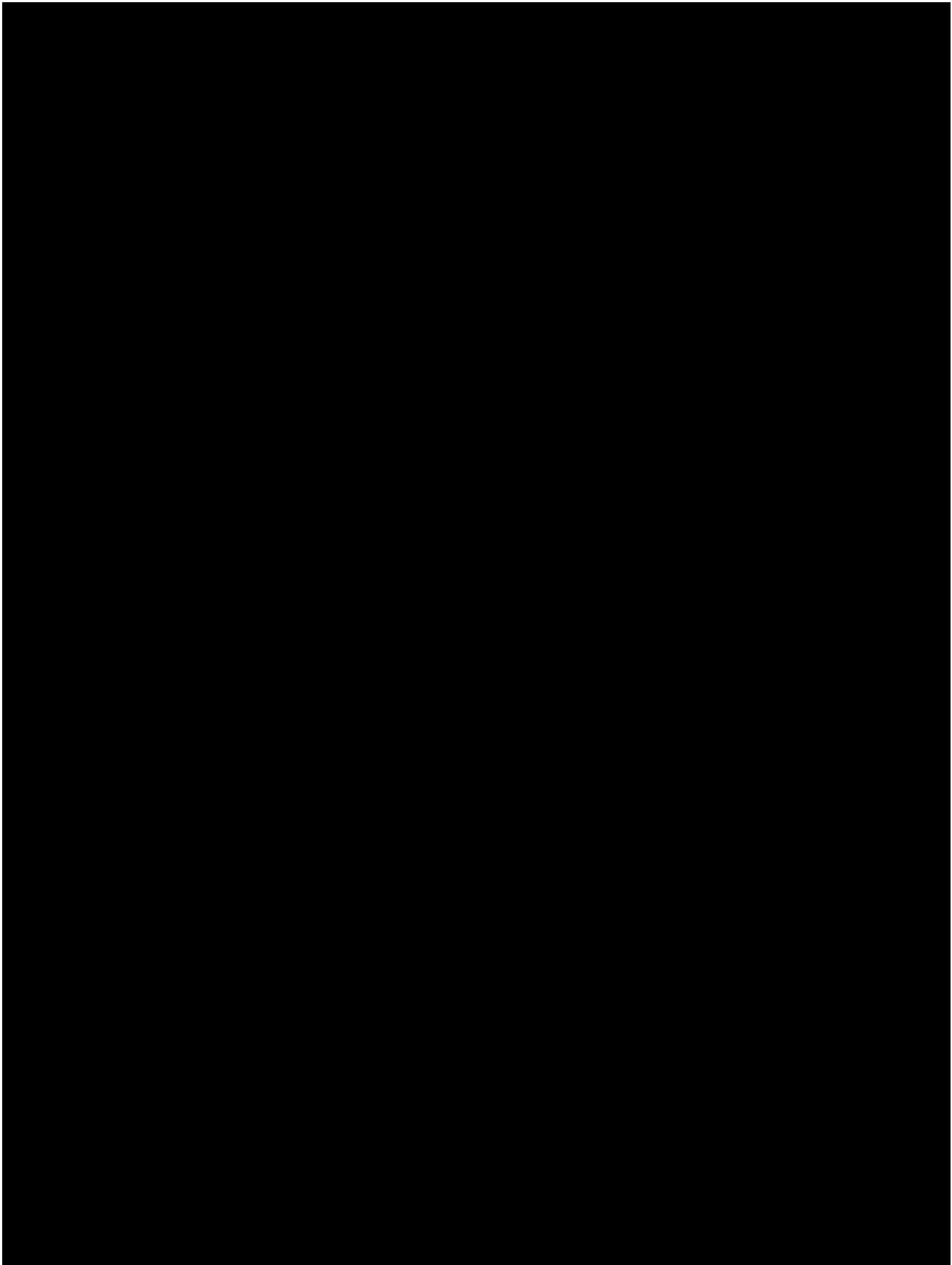
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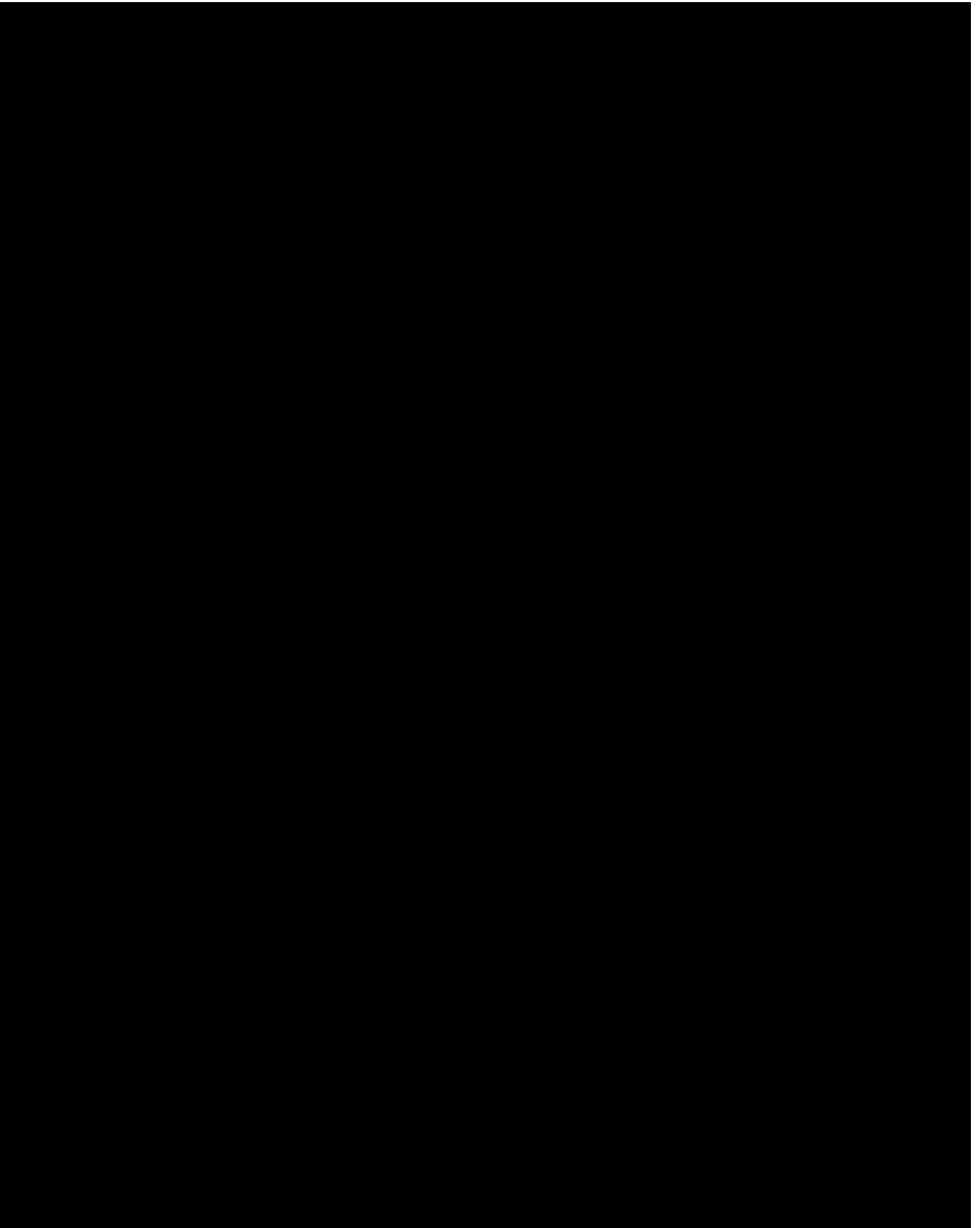
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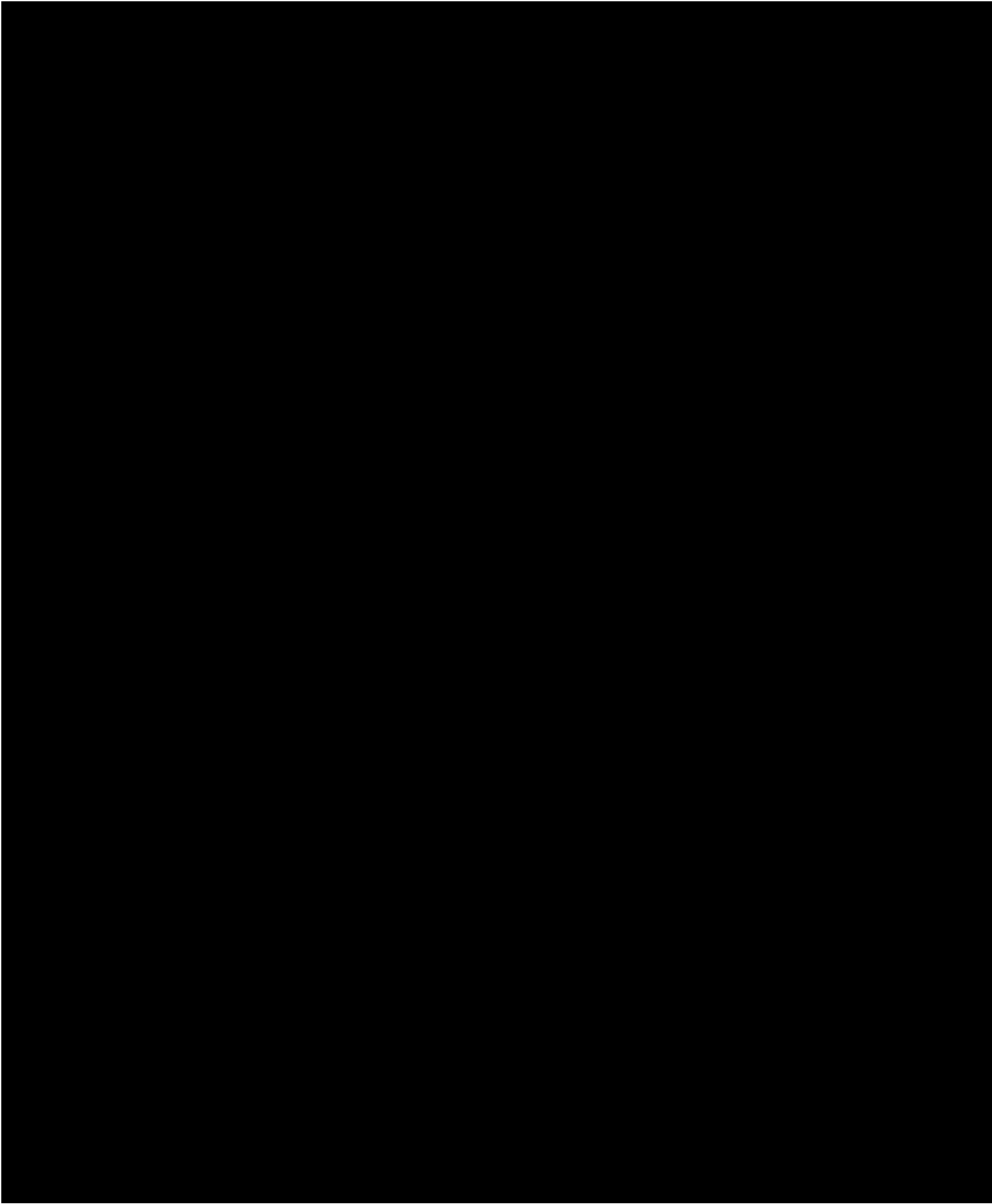
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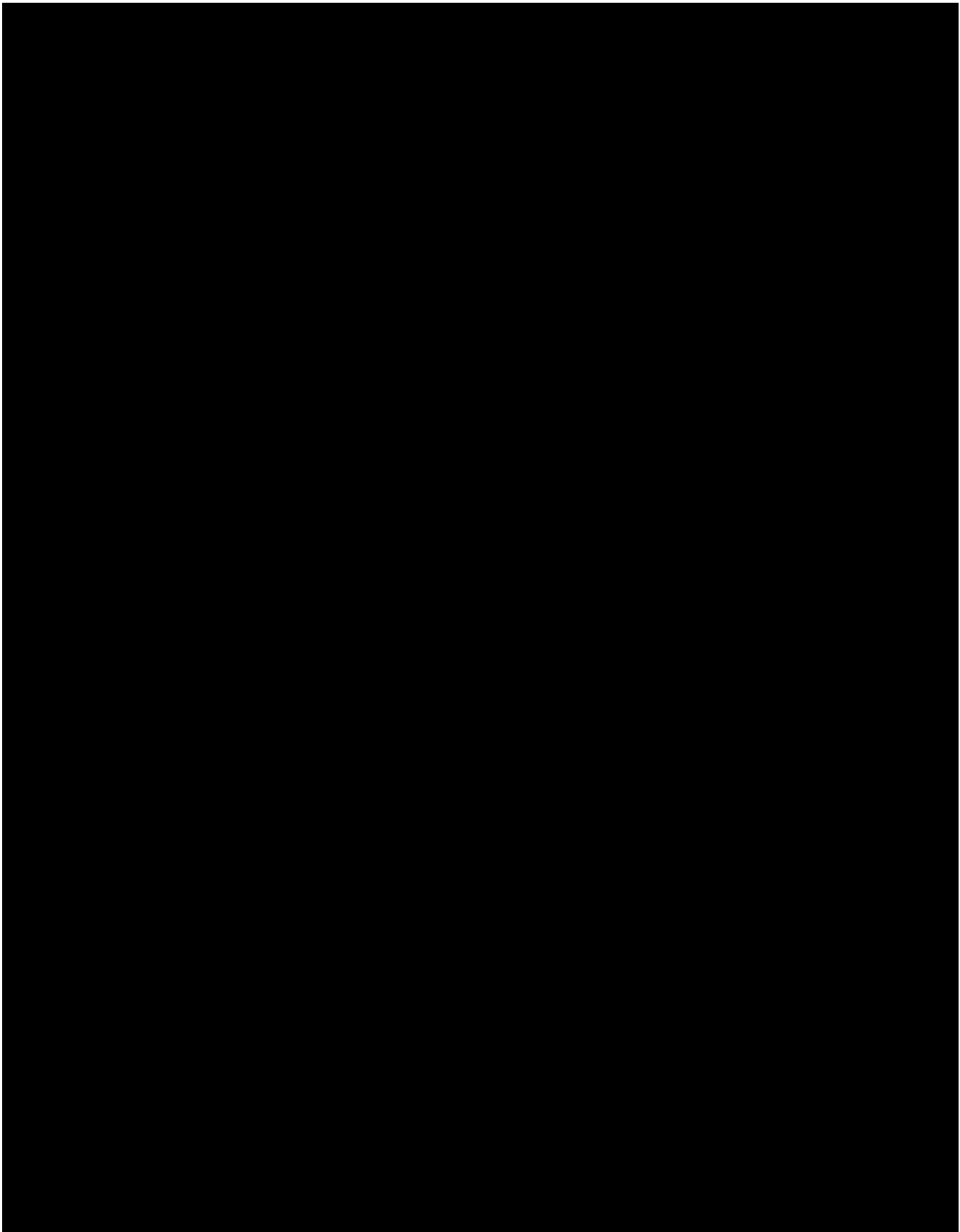
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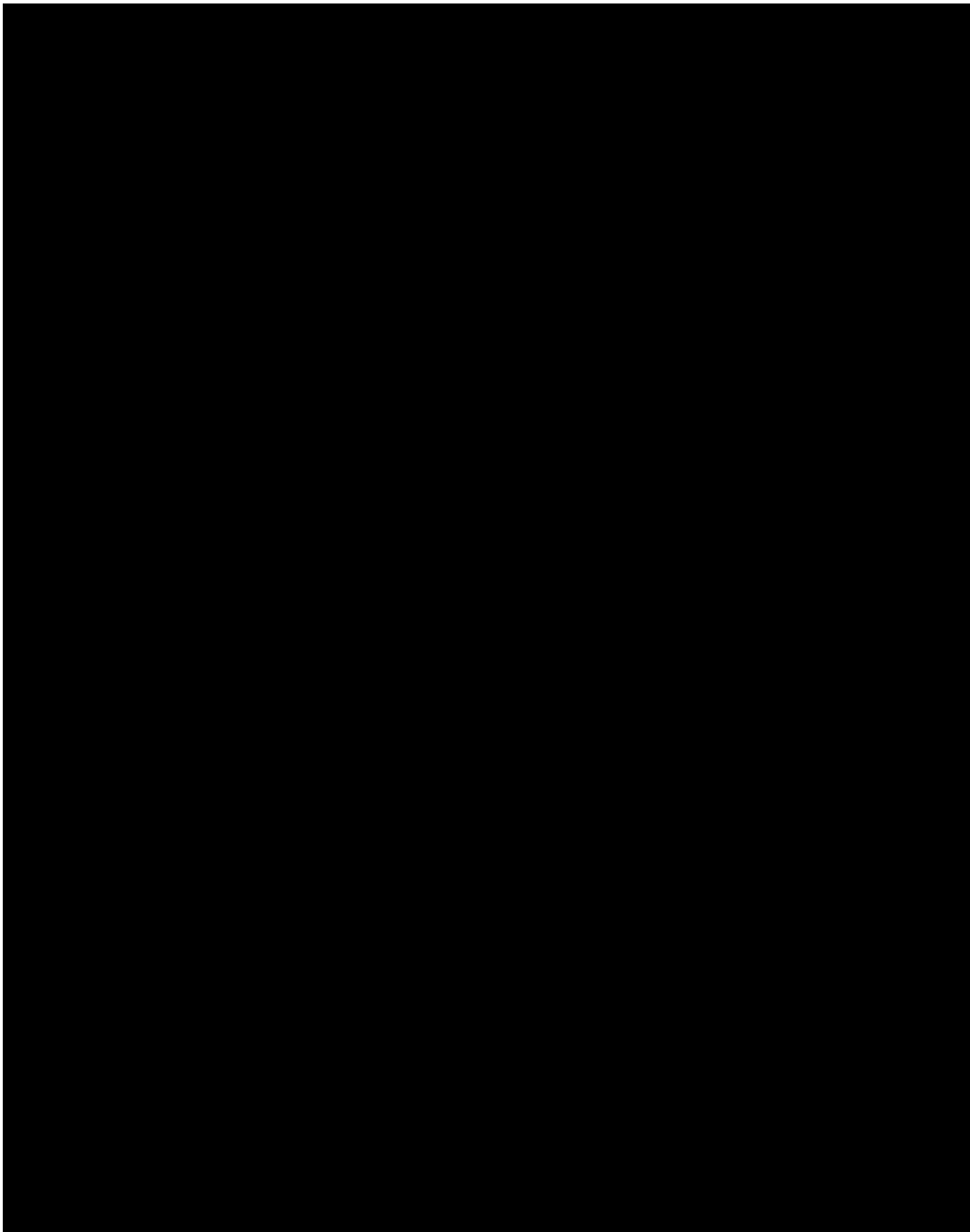
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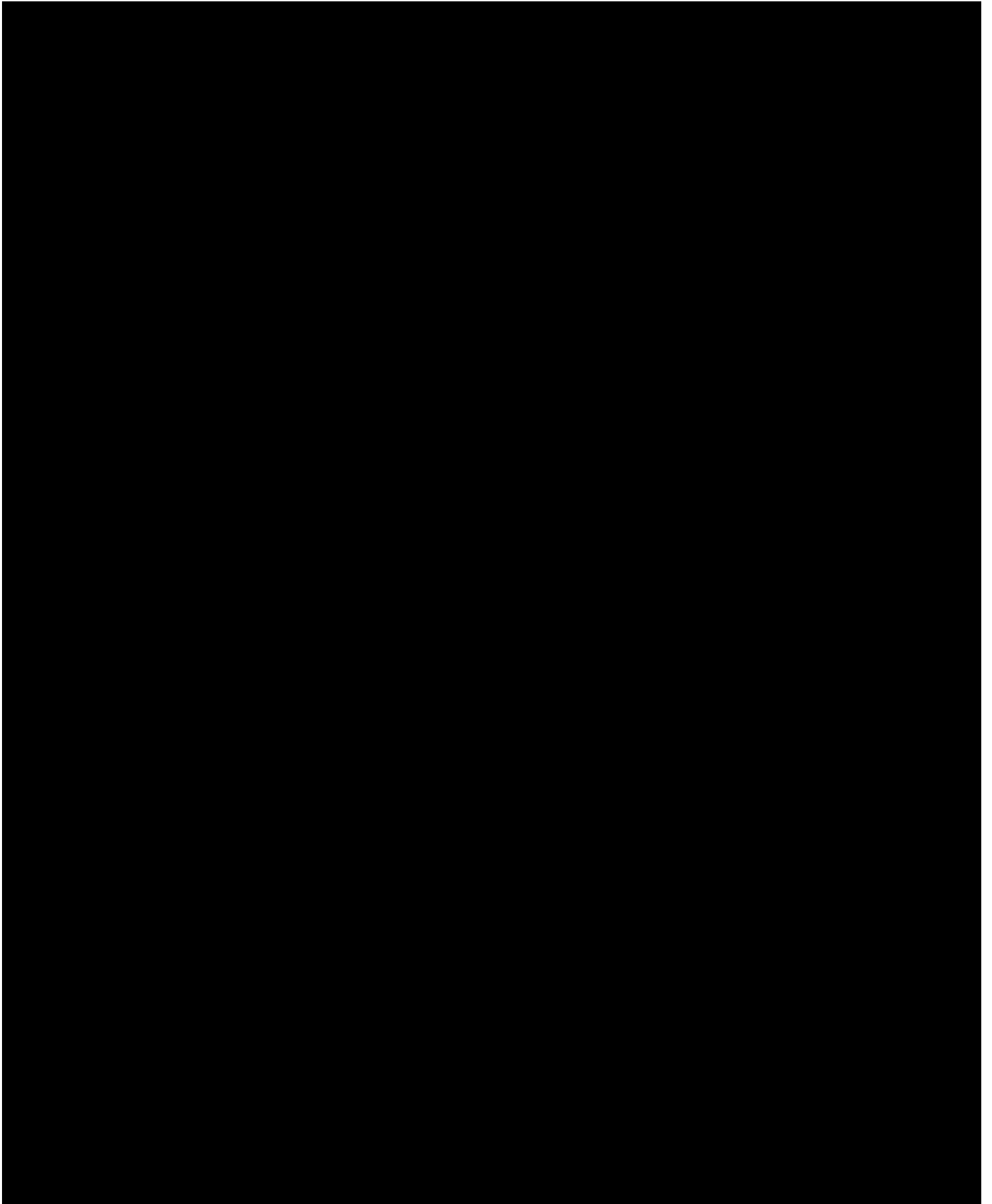
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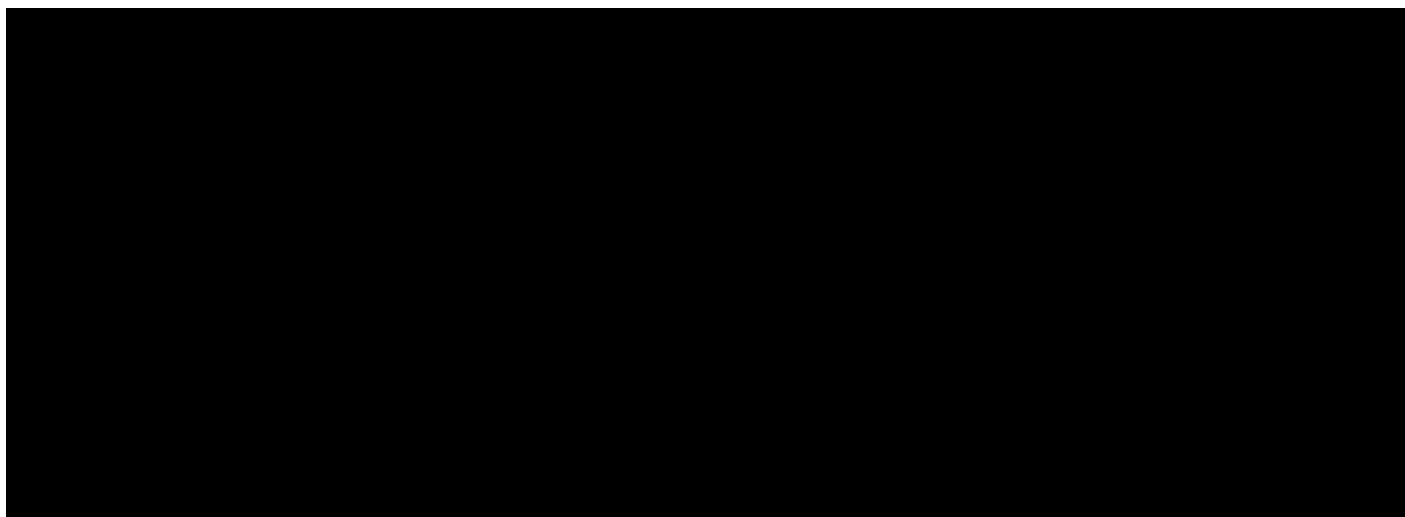
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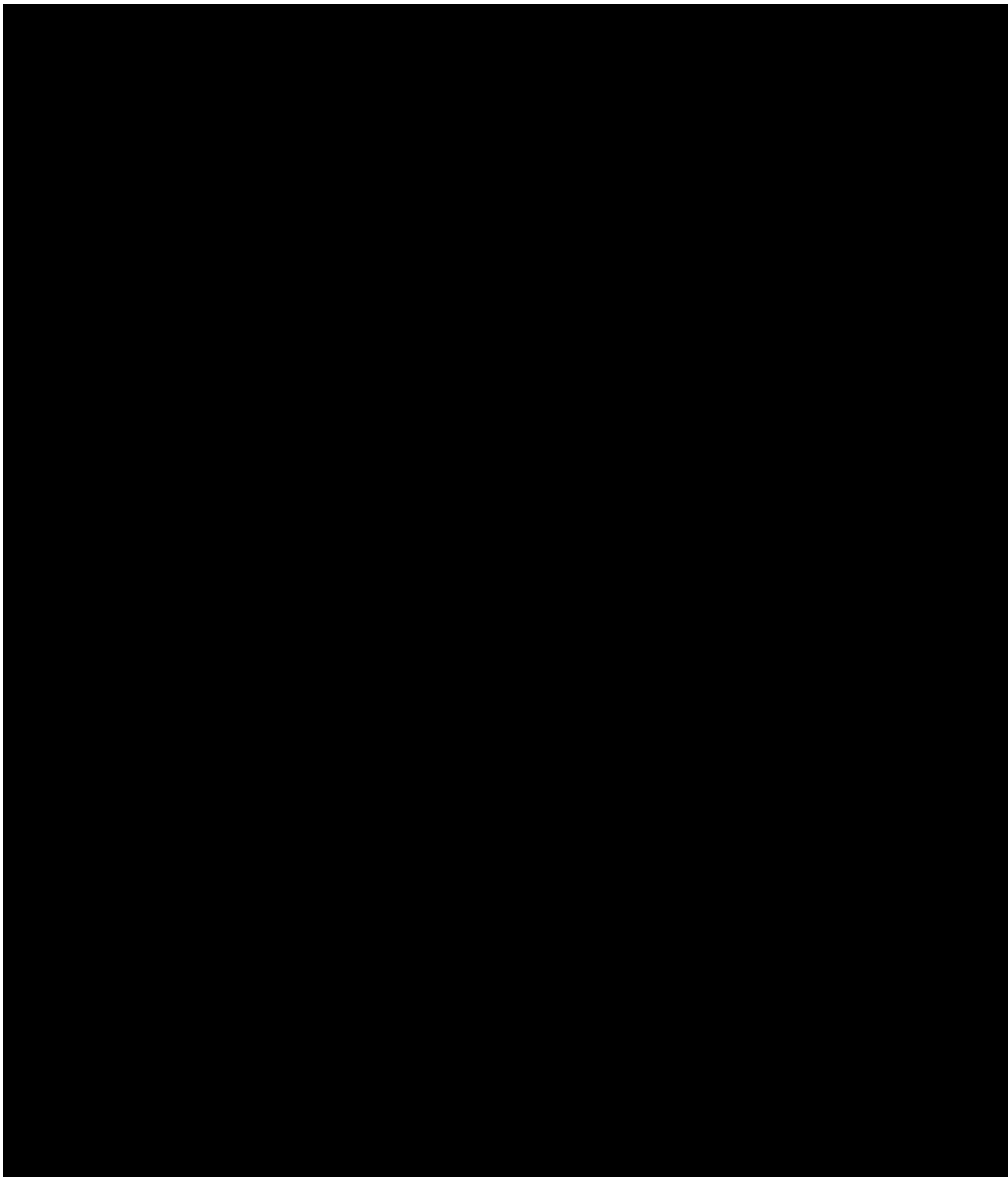
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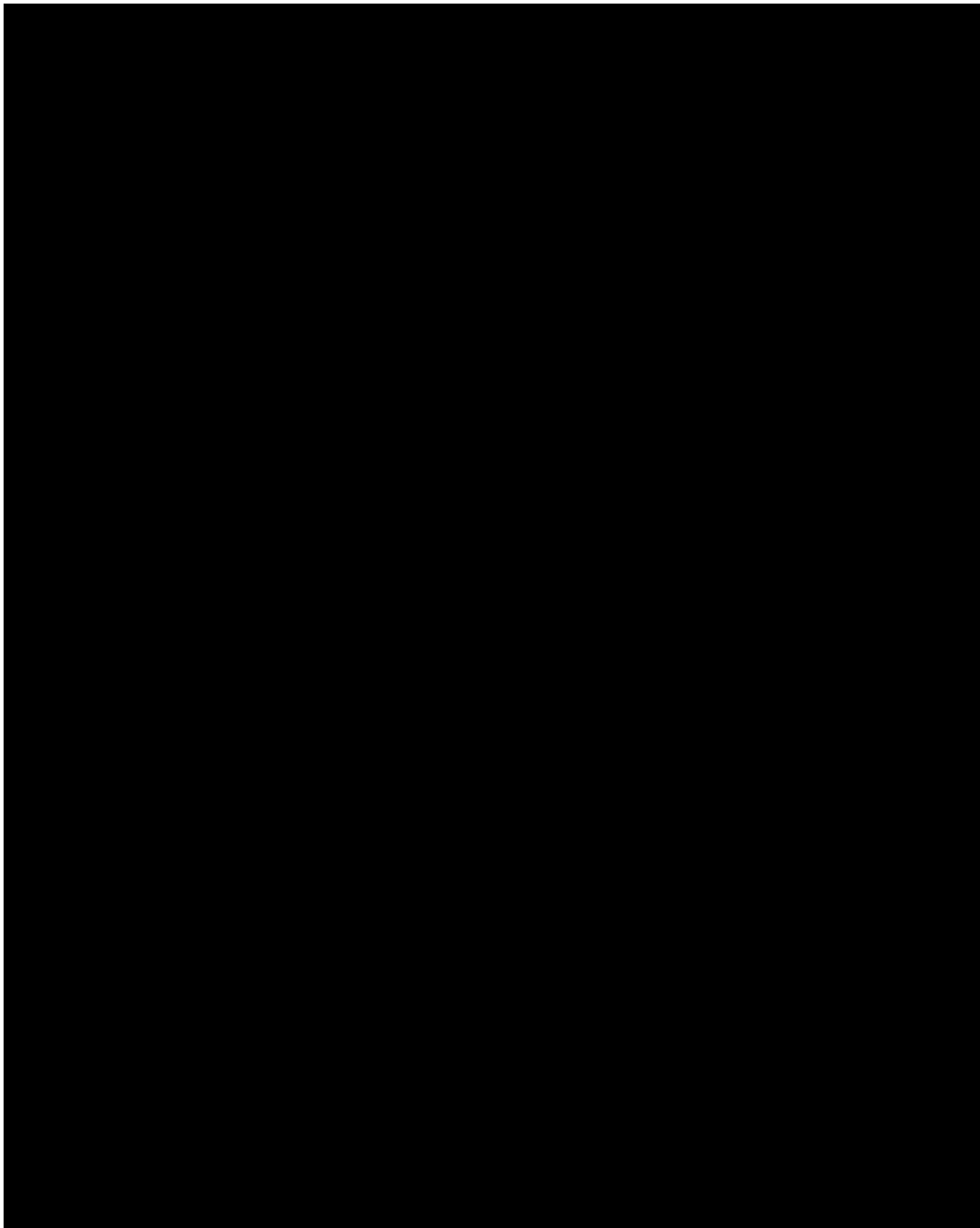
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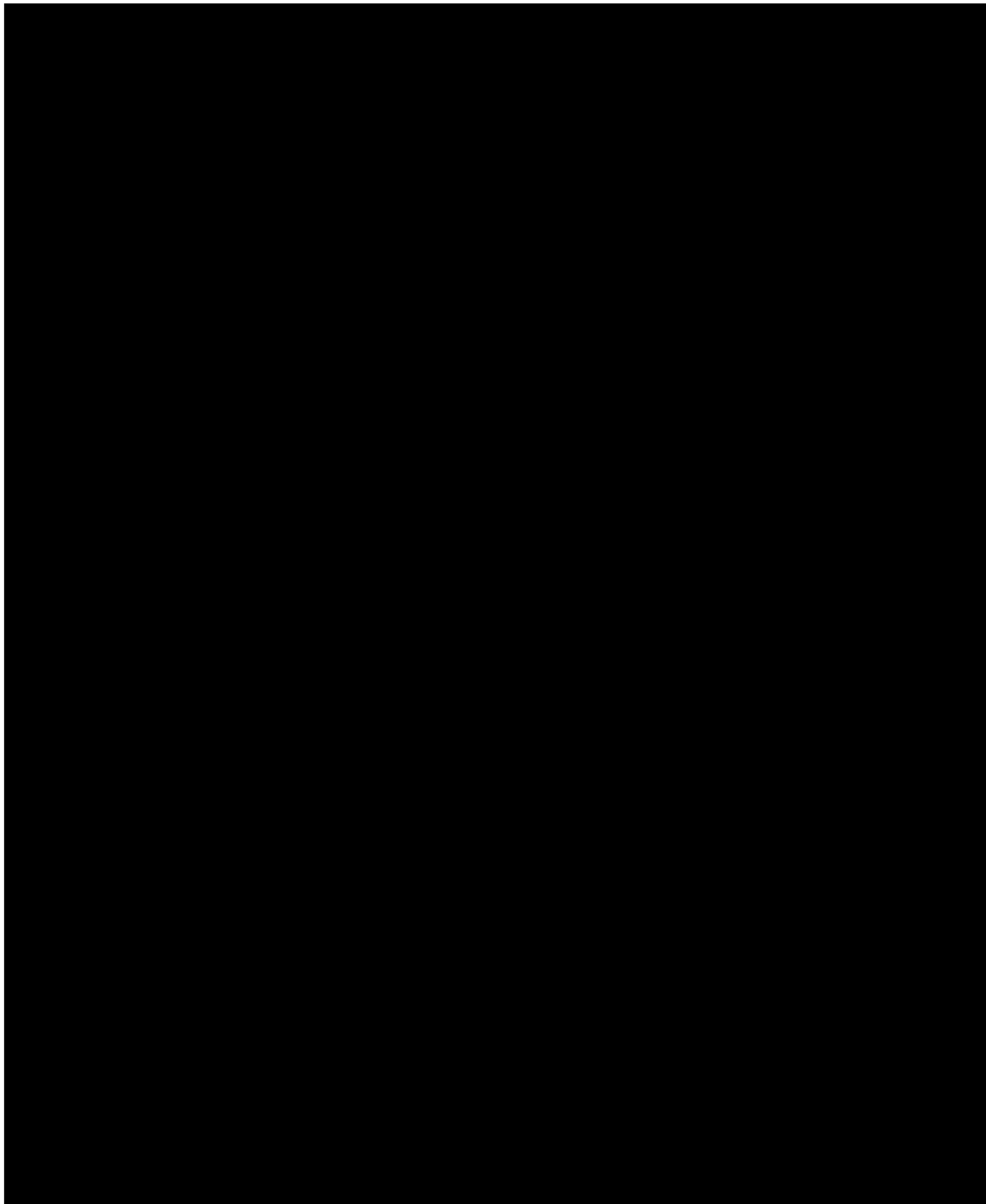
MASTER SERVICES AGREEMENT



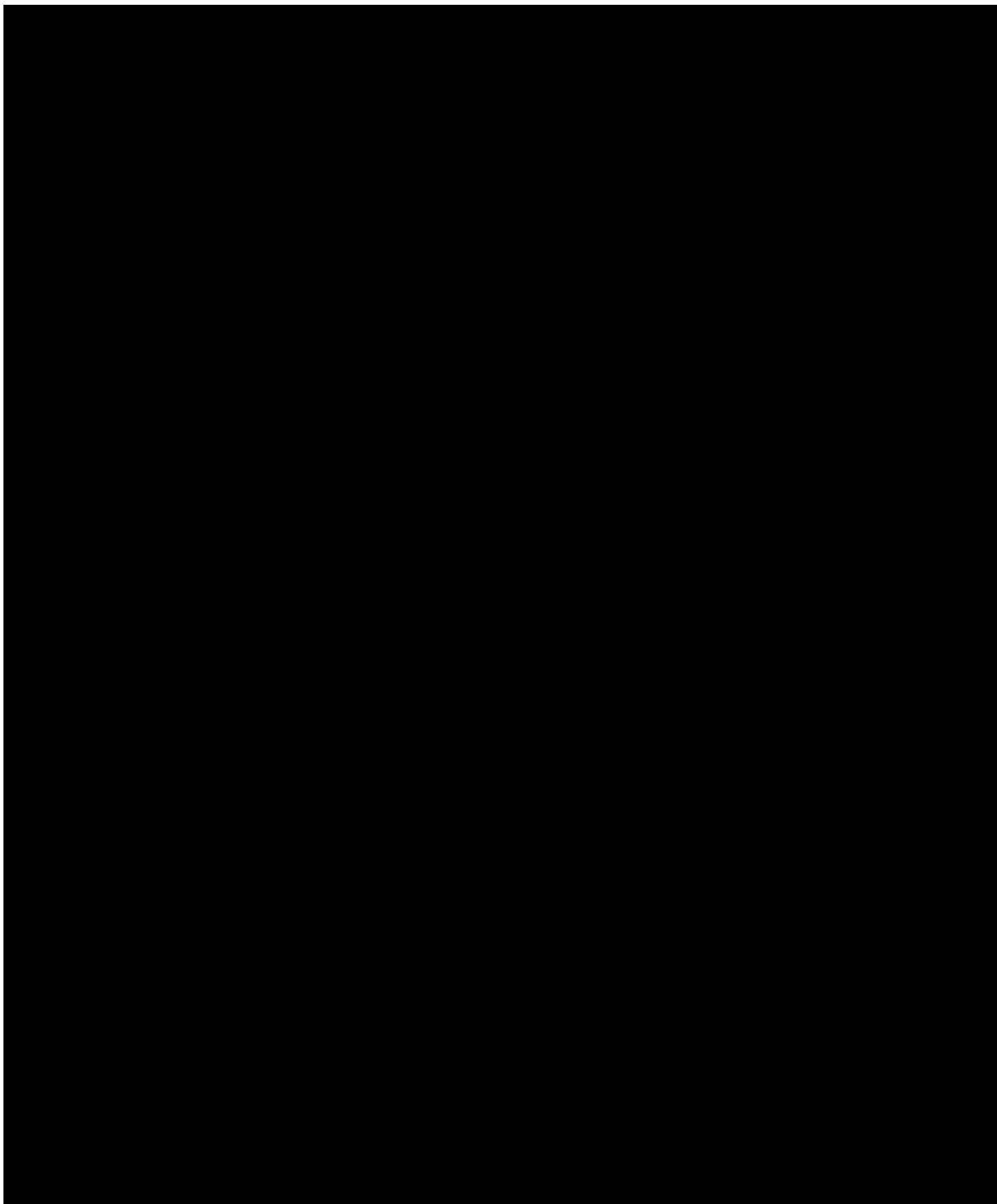
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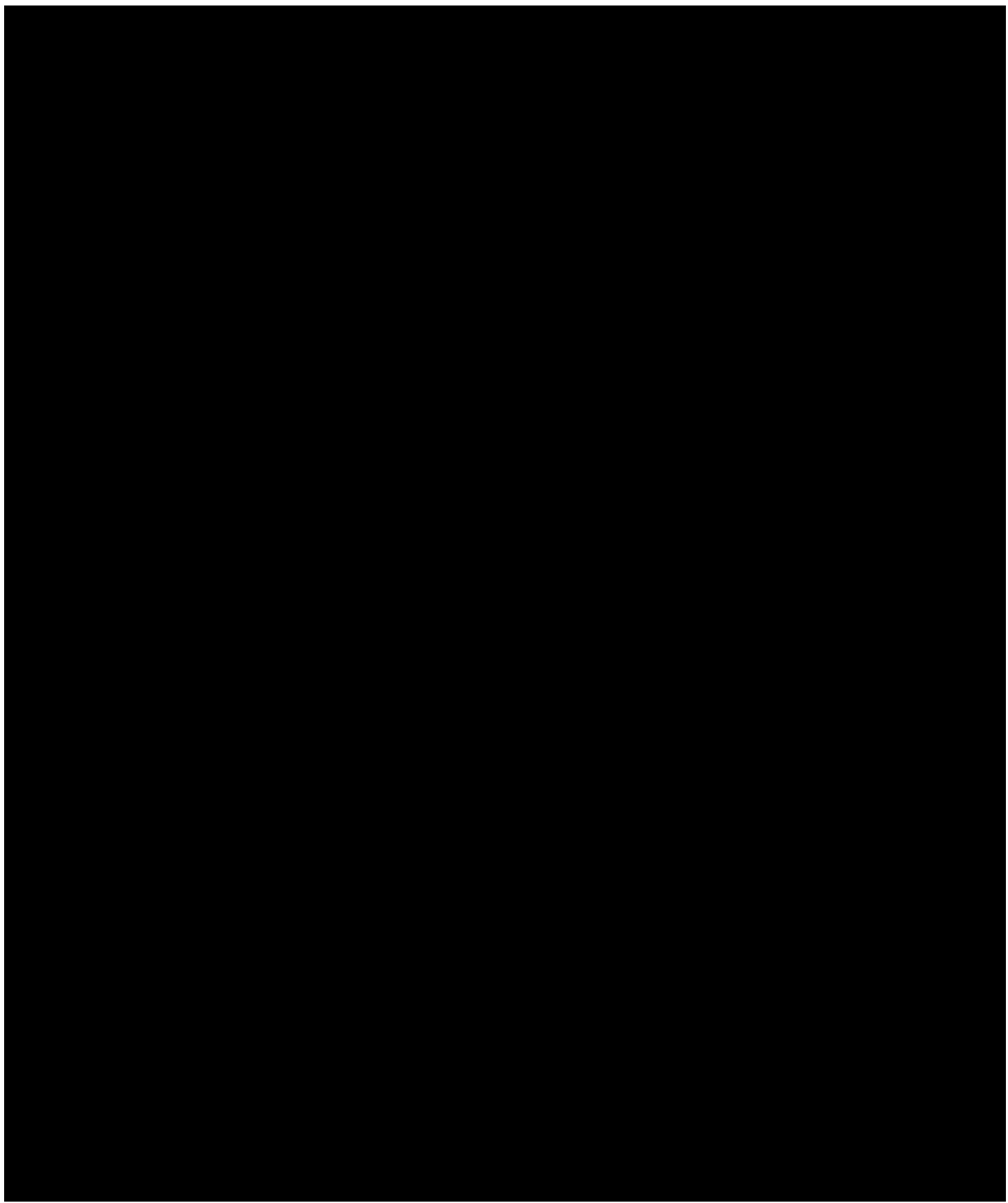
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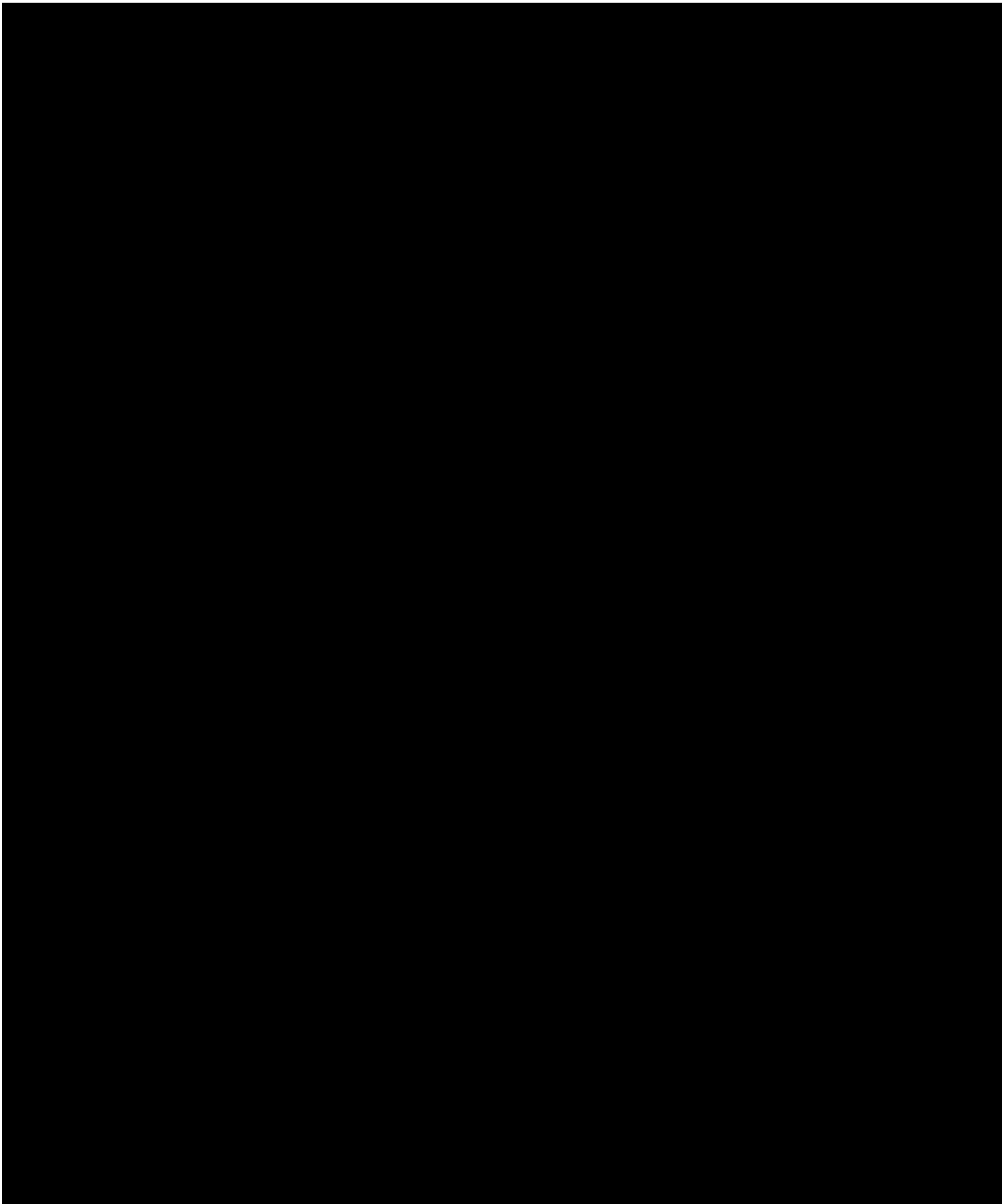
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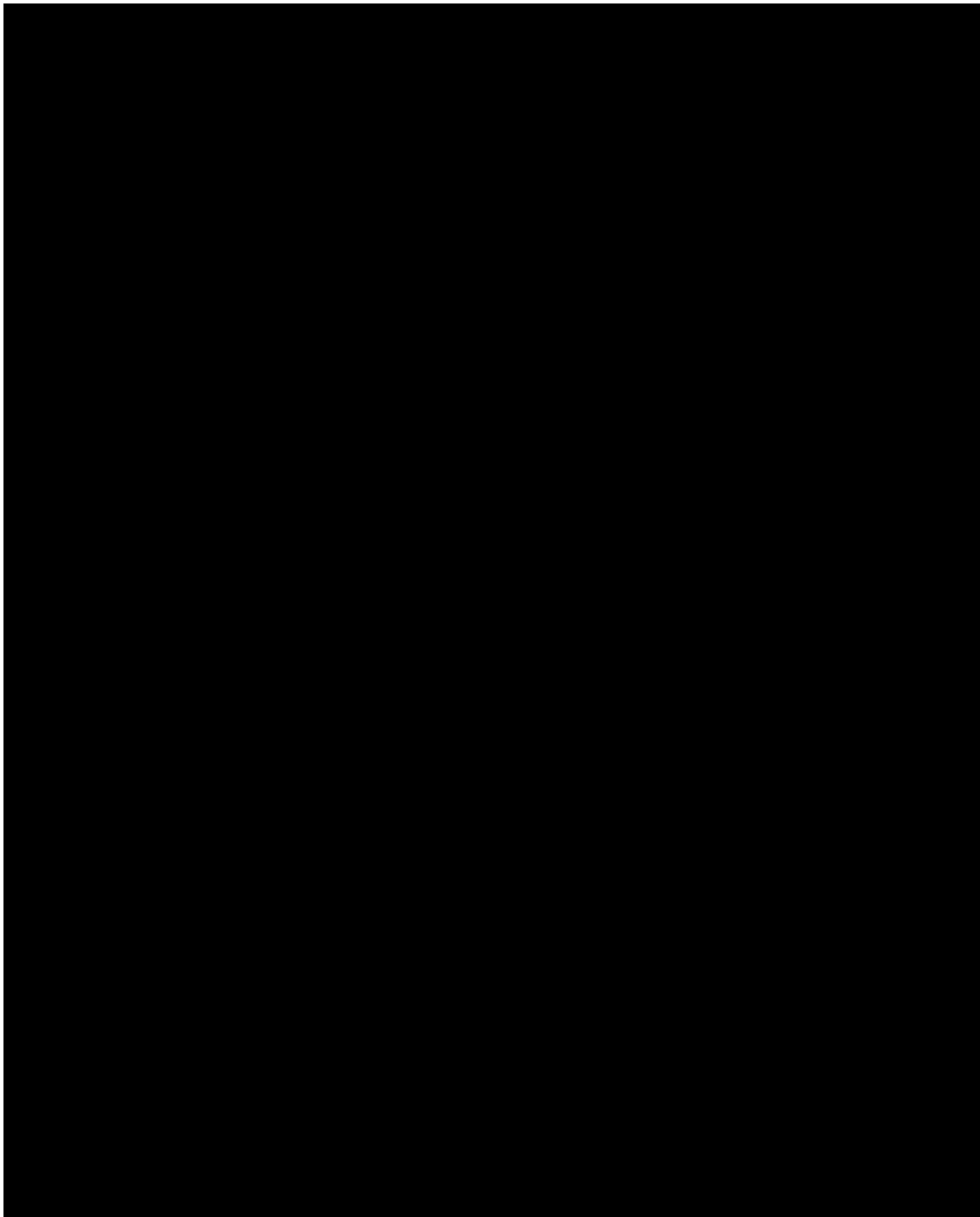
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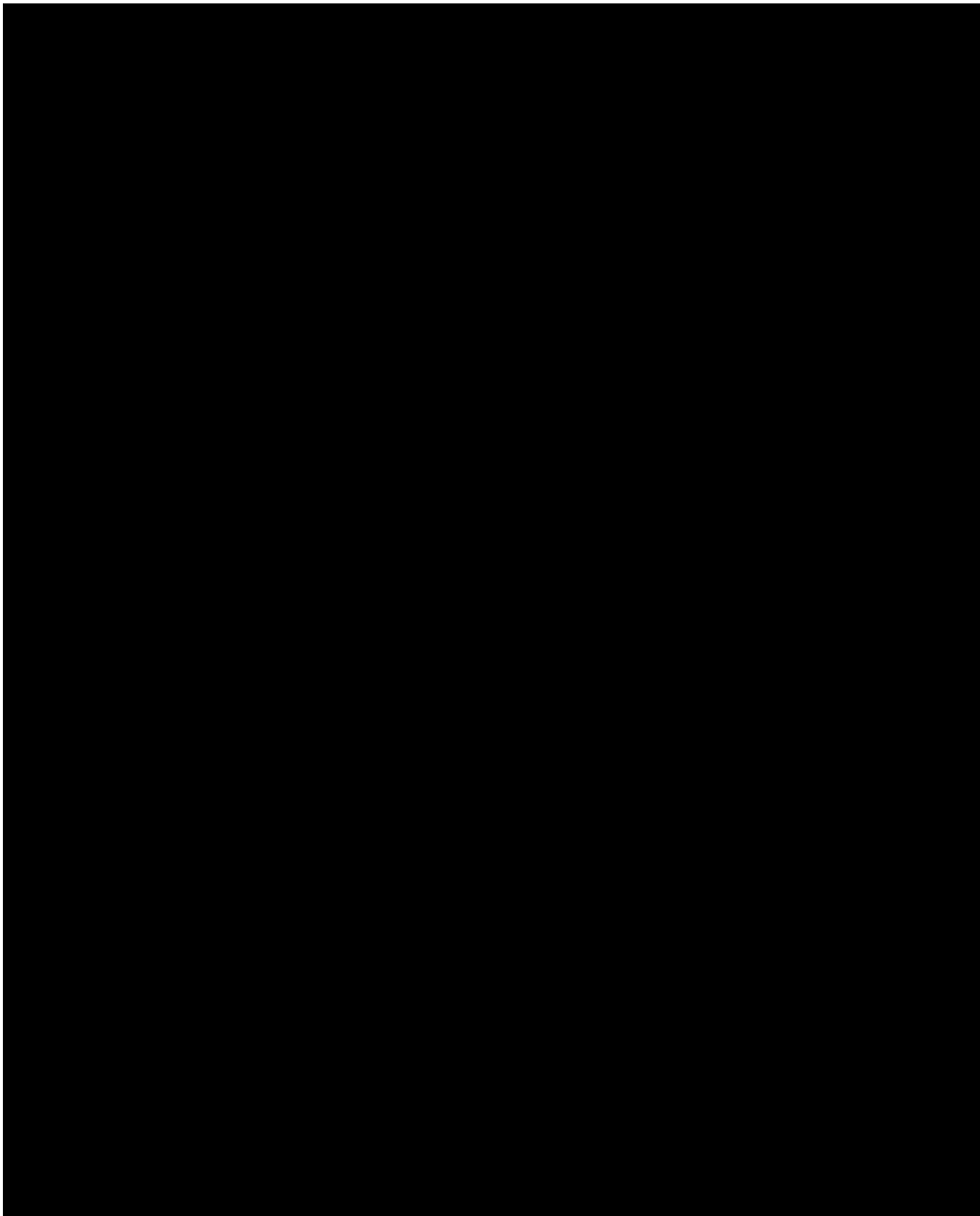
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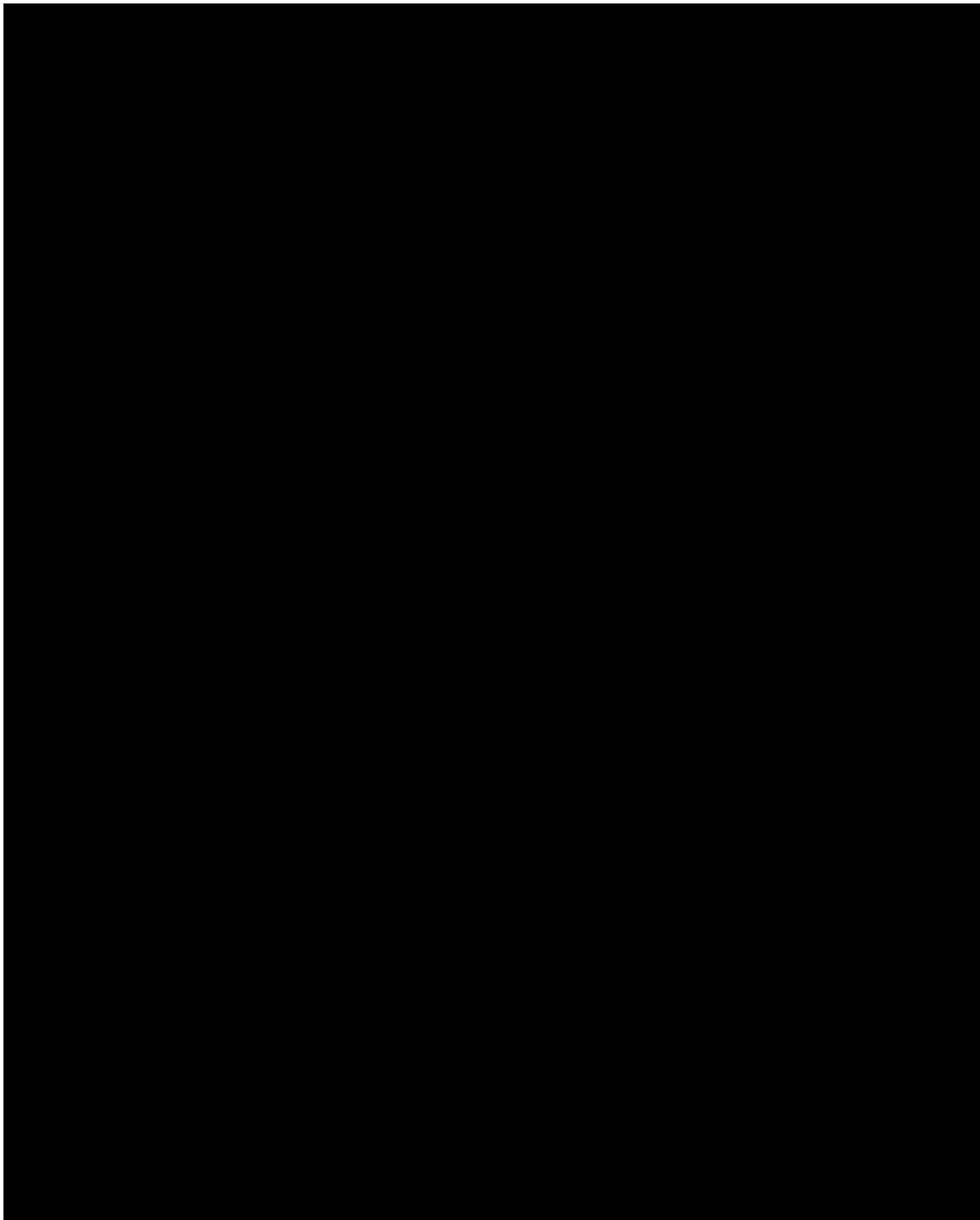
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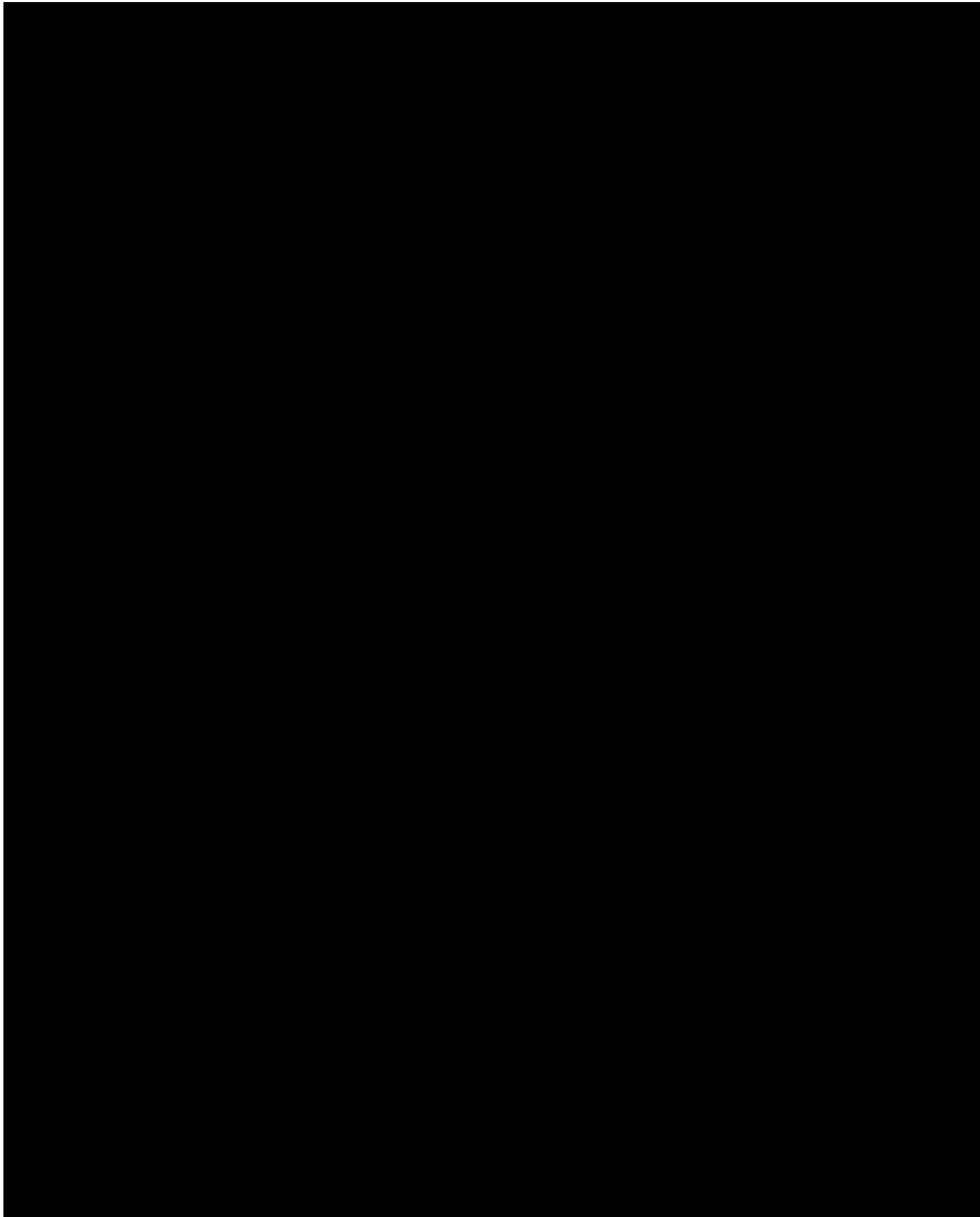
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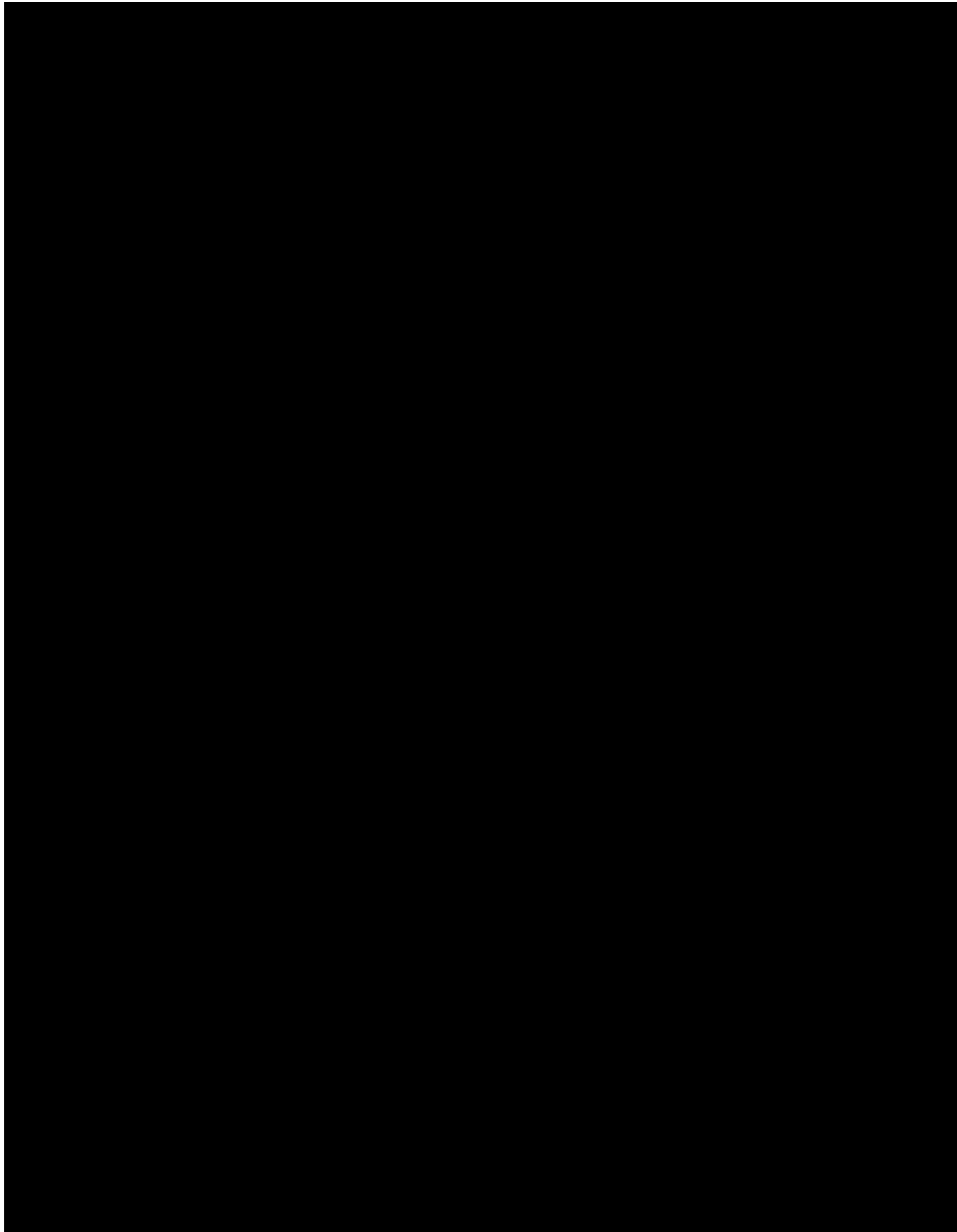
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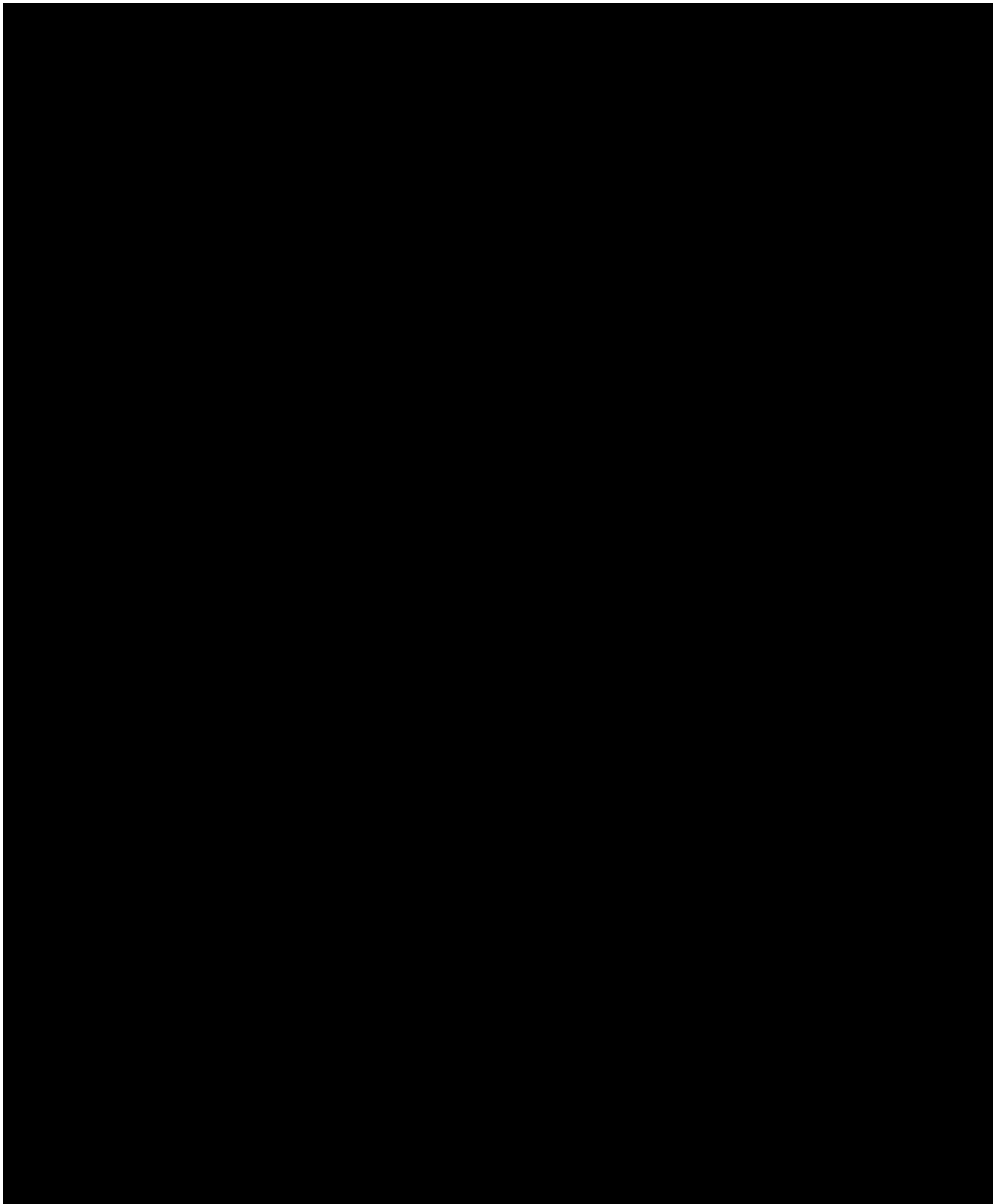
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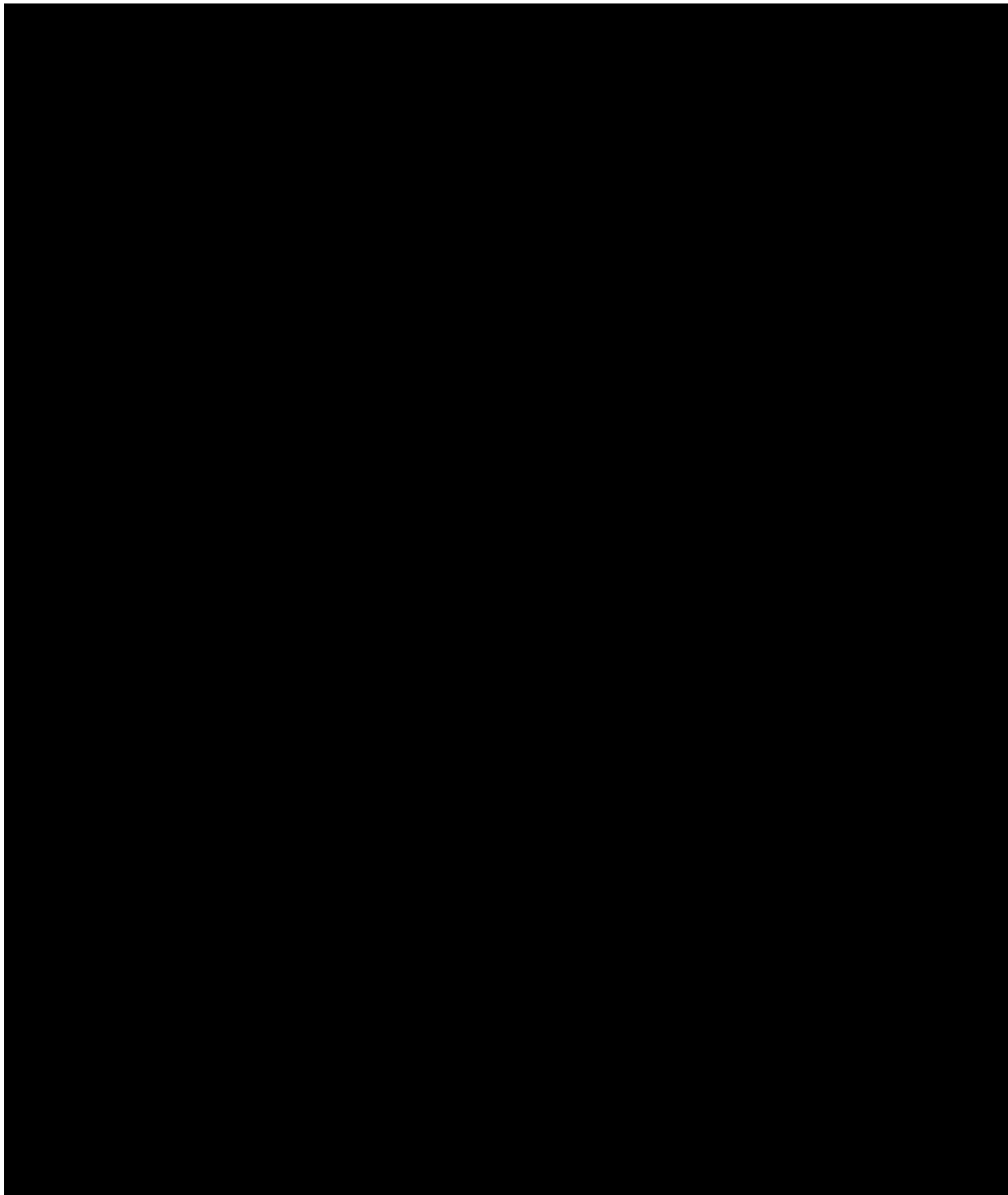
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

HAI:

AEM:

HARGROVE & ASSOCIATES, INC.

**ASSOCIATION OF EQUIPMENT
MANUFACTURERS**

By: Todd Snell

By: Lawrence Buzicky

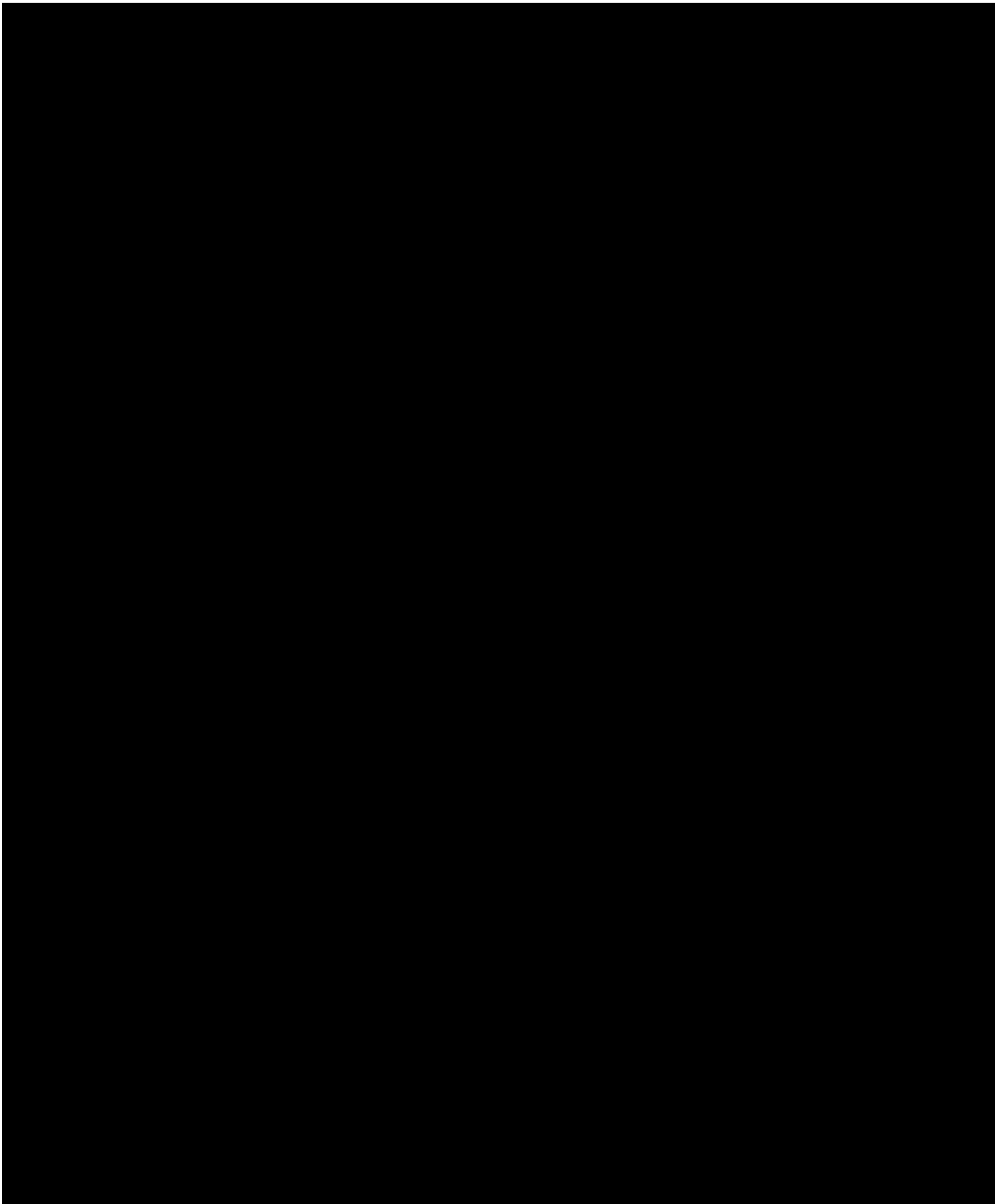
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Name: Lawrence Buzicky

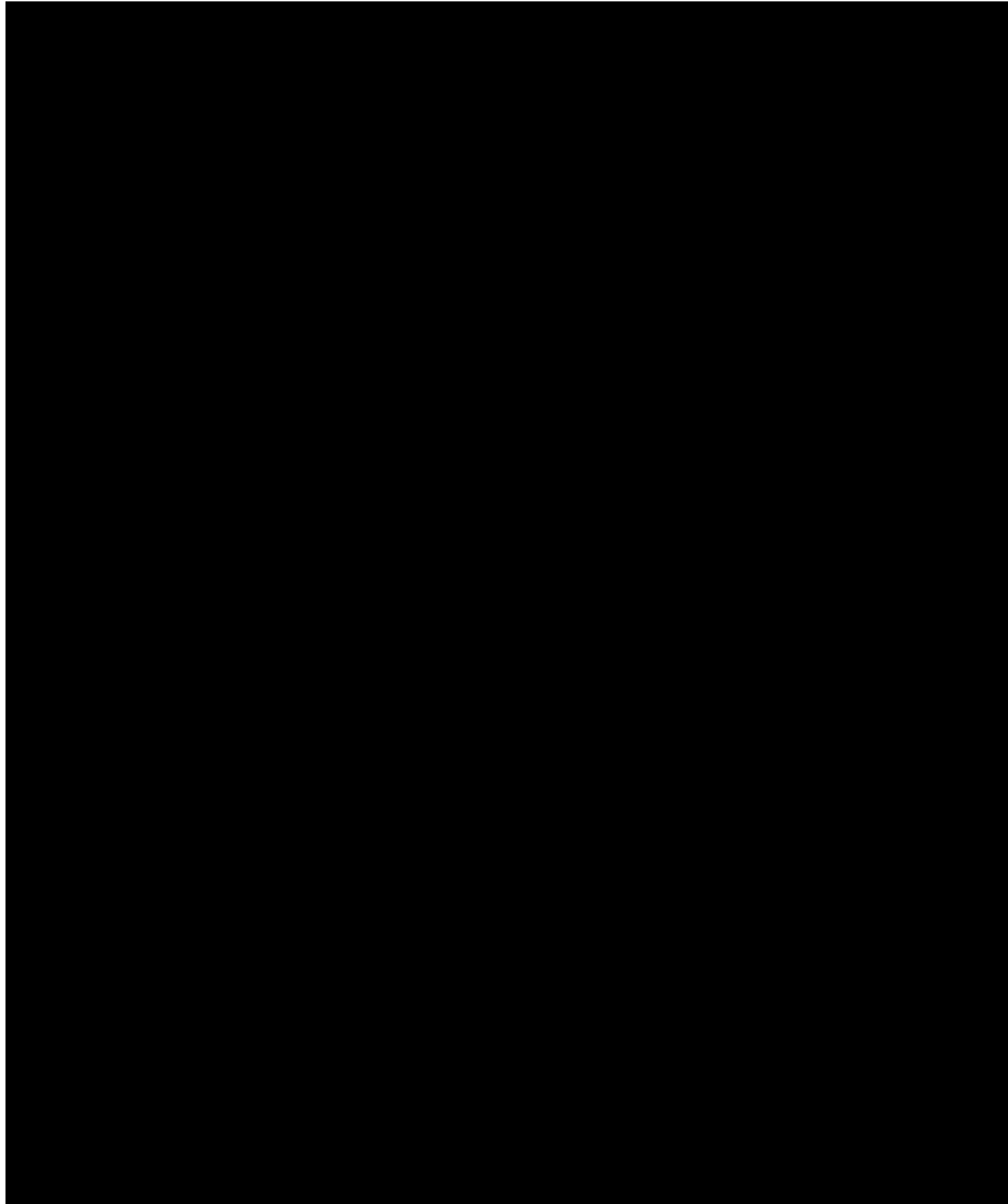
Title: VP / COO

Title: VP Business Intelligence

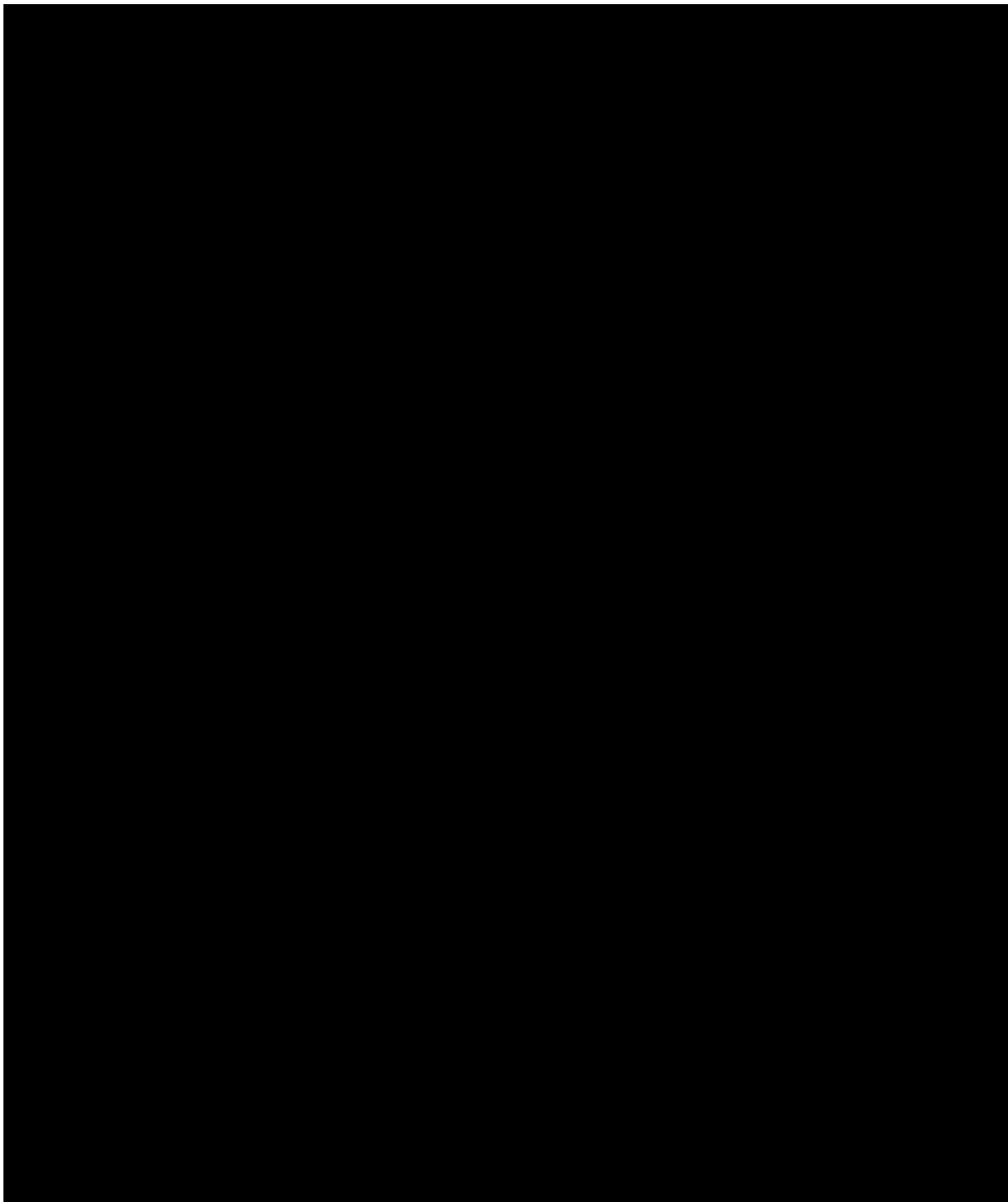
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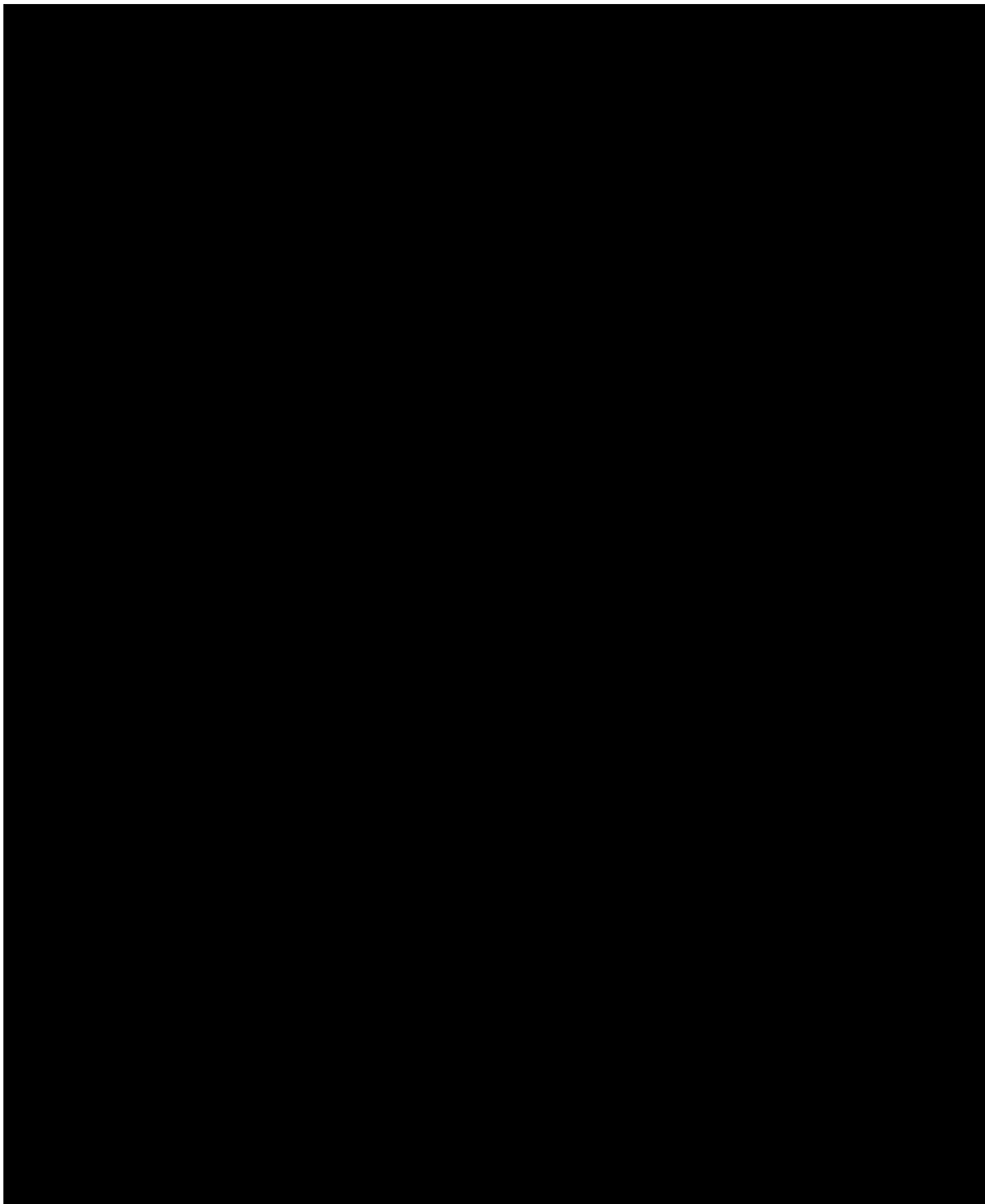
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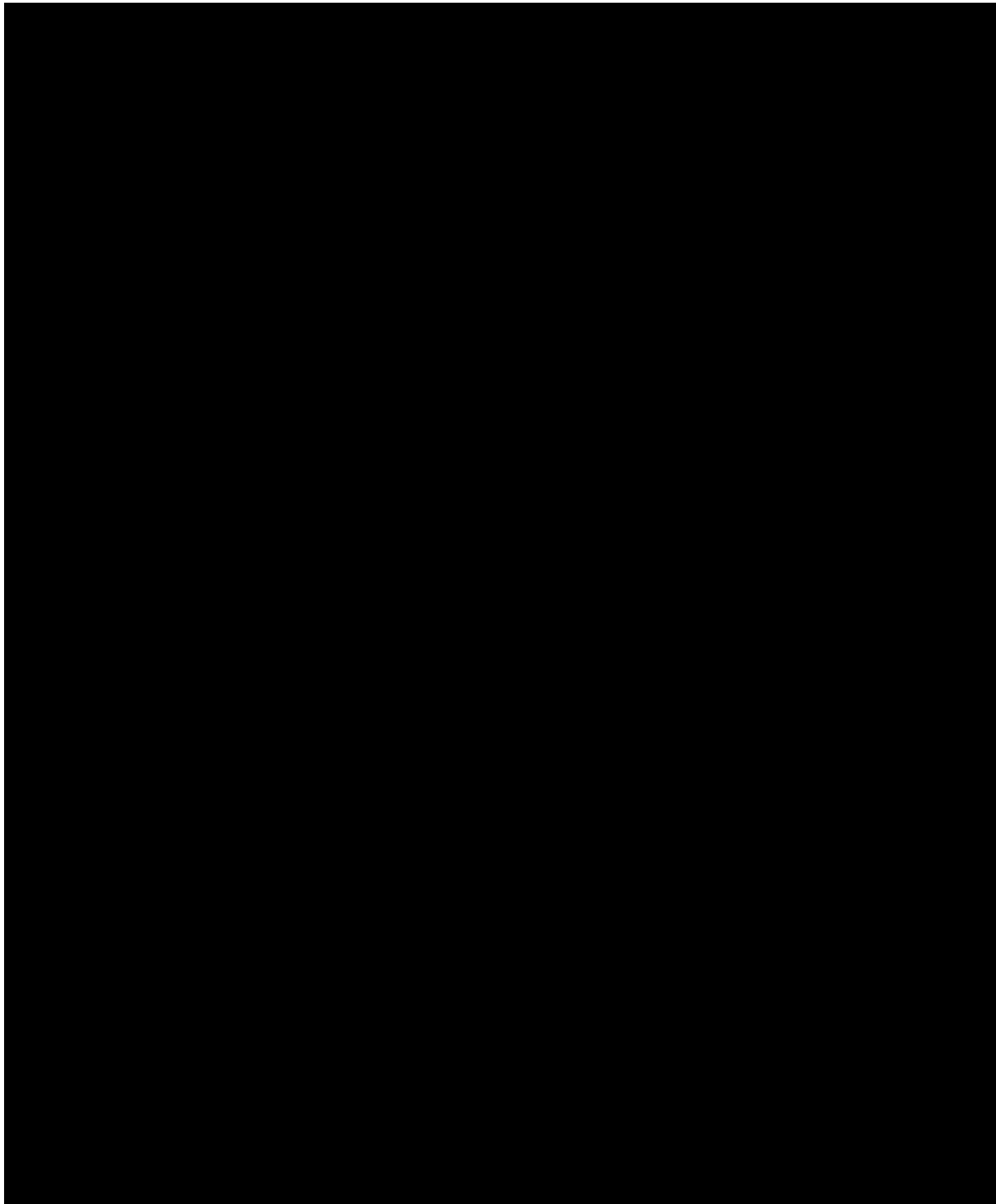
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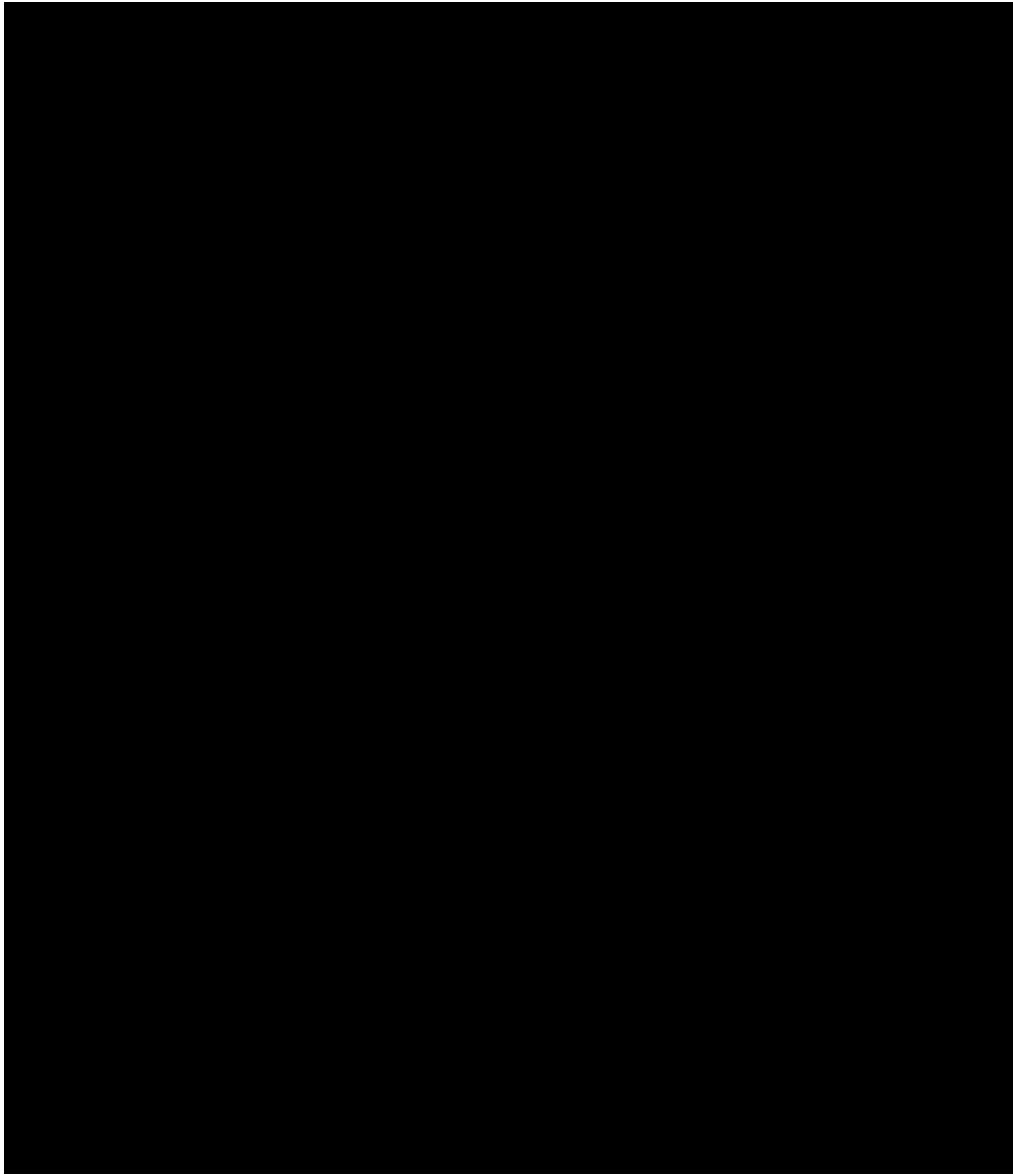
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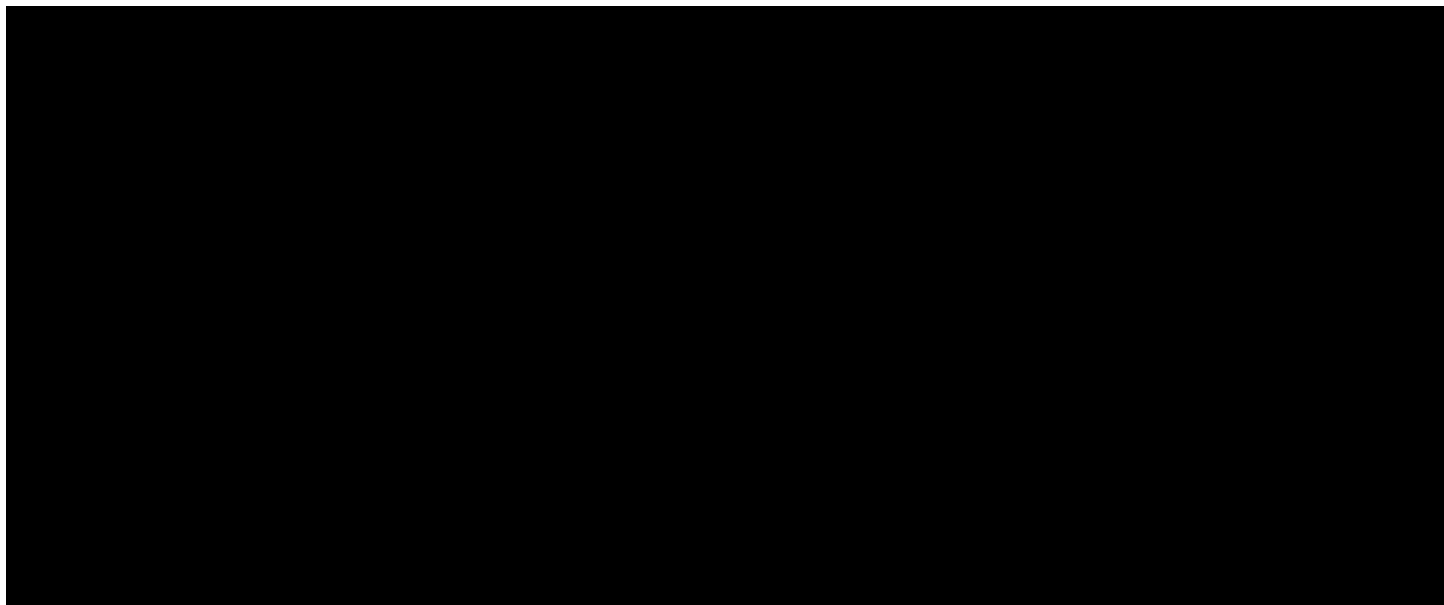


EXHIBIT B-3

Updated: August 7, 2024



MARKET SHARE STATISTICS POLICY & PROCEDURE MANUAL

**For all AEM Statistics Committees, Bureaus
and Product Councils with Statistics Programs**

Milwaukee, Wisconsin

Note: As directed by the STATISTICS EXECUTIVE COMMITTEE (SEC) and with the recommendation of the AEM Board of Directors, this manual is the master policy and procedure document for AEM statistics programs.

Updated 8/7/2024 EVT

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SECTION I - INTRODUCTION

SECTION I-A: MISSION

Mission Statement

AEM will provide participating companies with the timeliest, most accurate, useful, and consistent market statistics data possible within legal parameters by providing the systems, support, and leadership to achieve an ever-increasing level of excellence in the performance of the statistical reporting function.

SECTION I-B: TERMINOLOGY

Due to the nature of the various organizations involved, terminology used to clearly identify various groups is rather lengthy and complex. Frequent repeated usage of full terminology makes the manual unnecessarily large and cumbersome. To make the manual easier to understand, use, and maintain, a set of standardized abbreviations, acronyms, and shorthand phrases will be used throughout this manual. These are:

AEM – Association of Equipment Manufacturers, often combined staff and members, also referred to as “the association.”

Ag – Agricultural.

Board – The AEM Board of Directors.

CE – Construction equipment.

Committee – A collection of companies that produce products in the same product segments that meet for the purpose of Market Share Statistics Data Exchanges. May also be a bureau or council that does not have a separate statistics committee but participates in reporting programs, or a collection of trade organizations that meet for the same purposes.

Committee Acronyms – Acronyms to identify various committees are frequently used. These include but are not limited to:

Acronym	Description
AESC	Agricultural Equipment Statistics Committee
AGLASPSC	Agricultural Latin America Statistics Program Subcommittee
ASC	Aggregate Statistics Committee
ATC	Agricultural Tire Committee
CECE	Committee for European Construction Equipment
CELASTF	Construction Equipment Latin America Statistics Task Force
CEMA	Japan Construction Equipment Manufacturers Association

CPB	Contractor Pump Bureau
CSC	Crane Statistics Committee
CWE	Commercial Worksite Equipment
DESC	Dairy Equipment Statistics Committee
DQTF	Data Quality Task Force (advisory)
FEE	Forestry, Earthmoving, & Excavator
GIG	Geospatial Industry Group
ICE	International Crane Exchange
ISC	Intercontinental Statistics Committee
KOCEMA	Korea Construction Equipment Manufacturers Association
MBMB	Mounted Breaker Manufacturers Bureau
MEWP	Mobile Elevating Work Platforms
MHTC	Material Handling Tires Committee
PPSC	Portable Power Statistics Committee
PTMB	Pneumatic Tool Manufacturers Bureau (suspended)
RMSC	Road Machinery Statistics Committee
SEC	Statistics Executive Committee
TMSG	Troweling Machine Statistics Group
UESC	Utility Equipment Statistics Committee

Committee Leadership Roles – Chair and Vice Chair of a committee.

Company – Manufacturer that participates in AEM reporting product programs. Must be an AEM member company; a parent or subsidiary; sometimes a distinct reporting location within a company.

Data Processor – Collects, organizes and reports market data for AEM statistics programs, also referred to as a IPC. Also see **IPC**.

Entity – See **Reporting Entity**.

IPC – Information Processing Company.

ISTAT – proprietary name for the data processing platform of Hargrove and Associates.

LA – Latin America.

Member – Company that participates in reporting programs and is an AEM member. See also **Company** or **Reporter**.

OCR – Official Company Representative to AEM.

Participant – See **Company** or **Reporter**.

Product – That which is manufactured for sale by a company.

Product Program - A voluntary data exchange within the Market Share Statistics Program that collects and reports a single manufactured good to program participants.

Product Segments – Groupings of committees and/or product groups having similar interests, applications, constituencies, etc.

Reporter – Individual responsible for the input of market data on behalf of a company or reporting entity. See **Reporting Entity**.

Reporting Entity – A company, a company division, or an association that submits data to the IPC/Data Processor.

Representative – Company's appointee to a committee.

Sector Board – The AEM Board of Directors are divided into Sector Boards for the Agriculture and Construction equipment areas. They set policy on behalf of other members in their industries.

Size Class – A statistical data grouping within a product program; often a measurable range of values, such as a range of engine horsepower or operating weights; sometimes a general classification of product, such as folding versus non-folding.

Staff – Any member of the AEM Market Share Statistics Department.

Statistics Program – A number of voluntary data exchanges administered by AEM staff in which AEM members are able to discern the market dynamics of products they manufacture. This is achieved through the sharing of such data as shipments, retailed units, etc..

WW - Worldwide

SECTION I-C: ANTITRUST CONSIDERATIONS AND GUIDELINES

As a trade association, The Association of Equipment Manufacturers (AEM, or the Association) is subject to both federal and state antitrust laws. As a matter of law, a trade association and its members stand in the same position under the antitrust laws as any other group of persons or firms. Thus, the legality of association activities is judged by the same standards as are applied to other entities.

AEM recognizes the need to be constantly vigilant to assure full compliance in all respects with the antitrust laws and in furtherance thereof hereby endorses the basic principles contained in this guide for members and staff of the Association.

The purpose of the antitrust laws is to preserve a competitive economy in which free enterprise can flourish. The Association's long insistence upon full compliance with all legal requirements in the antitrust field is based not only on a desire to stay within the bounds of the law, but also on the Association's conviction that the preservation of a free competitive economy is essential to the welfare of the Association, the industry it represents, and the nation.

The following policy statements regarding antitrust considerations and guidelines are published in the AEM Bylaws.

ANTITRUST CONSIDERATIONS

This statement is intended to codify the Association's existing policy and to provide guidelines for compliance with the law.

The Association unequivocally supports the policy of competition served by the antitrust laws and reaffirms its uncompromising intent to comply strictly in all respects with those laws.

It is the responsibility of every member and staff person of AEM to be guided by AEM policy of strict compliance with the antitrust laws in all AEM activities. It shall be the special responsibility of Association officers, Bureaus, Council and Committee Chairmen to ensure that this policy is known and adhered to in the course of activities pursued under their leadership.

To assist the staff and all officers, Bureaus, Council and Committee Chairmen in recognizing situations which may raise the appearance of an antitrust problem, the Association shall furnish to each of such persons a copy of this antitrust guide for AEM Members and Staff and will make available general legal counsel when questions arise as to the manner in which the antitrust laws may apply to the activities of AEM or any Bureau, Council or committee of AEM.

ANTITRUST GUIDELINES

Membership

1. Any firm meeting the requirements of membership as set forth in the Bylaws shall be admitted to membership in AEM on a non-discriminatory basis.
2. Participation in any and all Association activities by a member company is wholly voluntary.
3. No member of the Association shall have authority to represent that he/she is communicating on behalf of and as an official representative of the Association without prior approval of the Association.

Meetings

1. All Association meetings shall be regularly scheduled and attended by AEM staff. Secret or "rump" meetings shall be strictly avoided.
2. In conducting AEM meetings, the Chair thereof shall follow a formal agenda.
3. Minutes of all meetings shall be kept by a designated party who shall accurately record what actions were taken at the meeting. Minutes of all meetings shall be approved by legal counsel, when necessary, then Chair and Vice Chair and then shall be submitted to the group for approval at its next meeting.
4. Legal counsel shall be present at all meetings of the Association's Board of Directors and at any other meeting at which sensitive issues may be discussed.
5. In informal or social discussions at the site of a AEM meeting, which are beyond the control of its officers and Chairs, all members and staff are expected to observe the same standards of personal conduct required of the Association in its compliance with these antitrust guidelines.

Topics of Discussion

1. AEM activities or communications shall include discussion or action on matters of interest to the industry.
2. No AEM activity or communication shall include any discussion or action, for any purposes or in any fashion, of prices or pricing methods, production quotas or other limitations on production or sales.
3. No AEM activity or communication shall include discussion or action which might be construed as an attempt to prevent any person or entity from gaining access to any customer, goods or services, to boycott any person or entity, or to prevent any person or entity from purchasing goods or services freely in the market.

4. No AEM activity or communication shall include discussion or action which might be construed as an agreement or understanding to refrain from purchasing materials, equipment, services, or other supplies from any supplier.
5. No AEM activity or communication shall include any other discussion or action which would tend to restrict competition in any manner between members or within the industry.

General Operating Procedures

1. Guest speakers at Association functions and authors of Association materials shall be informed of the need to comply with Association antitrust guidelines in the preparation and presentation of matters to the membership.
2. Handouts at meetings conducted by the Association and, when possible, outlines or texts of presentations, shall be reviewed whenever practical by staff and when appropriate by legal counsel in advance.
3. In making this guide available to Association members, AEM intends it to serve as a practical aid to members and staff in dealing with the antitrust laws which have particular application to Association activities. The guide is by no means an attempt to provide a detailed analysis of the antitrust laws or as a substitute for individual legal advice in handling specific matters.
4. Just as membership and participation in AEM activities is a good investment for members, so too is an effective antitrust compliance program a good investment for the members of the Association.

SECTION II - OPERATIONAL ORGANIZATION

SECTION II-A: STATISTICS EXECUTIVE COMMITTEE – ARTICLE X

On January 1, 2003, AEM adopted its Constitution and Bylaws. Article X, reprinted here from those Bylaws, establishes the Statistics Council as a function council to provide related services to members. Pursuant to Article X, the STATISTICS EXECUTIVE COMMITTEE (SEC) has been established by the membership and approved by the Board to function as the executive committee of the Statistics Council, reporting to the appropriate Sector Board.

ARTICLE X

Councils, Bureaus, and Committees

Section 1. Function or product councils, bureaus, or committees may be created in the organization following Board approval. The Board will establish standing Board-level committees and task forces as needed for such areas as membership, government affairs, trade shows, finance, long-range planning, and the annual conference.

Section 2. Eligibility. To be eligible for participation in a function or product council, bureau, or committee, a company must manufacture one or more products included within the designated area of interest. Furthermore, to be eligible for participation, a company must be engaged in the relevant discipline or activity on an ongoing basis.

Function councils are operated to provide services to members that cut across all product areas and interests. Job-related councils operate along the lines of the areas of responsibility of member representatives.

Section 3. Executive Committees and Officers. A member who is a qualified participant in a product group is eligible to serve as a Chair or on the Executive Committee of that group. Any member representative who qualifies to participate in a council (i.e., Parts, Service, Training, Safety, Marketing Communications, and International) is eligible to serve as a Chair and on the Executive Committee of that council. Function councils serving such service areas as statistics, international marketing, and technical services will have Chairmen, Vice Chairmen, and Executive Committees, which will report to the Board.

SECTION II-B: STATISTICS EXECUTIVE COMMITTEE (SEC)

SECTION II-B-3: SEC ORGANIZATION

The SEC will consist of the following:

- The eight companies that report in the most product programs, based on IPC count of input reporting records, with the representative to be appointed by the company.

Reporting records of each subsidiary or marketing company are combined under the parent company when evaluating which companies are the eight largest.

- A representative from each active Statistics Committee with each segment determining its representative for a one-year term. There are no limits on the number of terms a representative may serve.
 - Aggregates
 - Agricultural Equipment
 - Commercial Worksite Equipment & Forestry, Earthmoving & Excavators
 - Components/Tires
 - Dairy Equipment
 - Geospatial Industry Group
 - Cranes
 - Light Equipment
 - Mobile Elevating Work Platforms
 - Portable Power
 - Road Machinery
 - Utility Equipment
- Up to 5 at-large members when Product Segment seats are filled.
- The SEC will elect a Chair and a Vice Chair annually, usually at the last meeting of the year. The Vice Chairmanship is not considered an automatic succession position to the Chairmanship.

SEC Membership Selection Process

- The 8 largest system users will be determined annually by the IPC staff and the AEM staff will announce in advance of the last regularly scheduled SEC meeting of the year.
- The Committees will elect a representative annually, after the announcement of the 8 automatic seats.
- The at-large members will be recommended to the SEC by a nominating committee consisting of the newly elected SEC Chair and Vice Chair, the immediate past SEC Chair and Vice Chair, and an AEM staff person. If there is no immediate past Chair or Vice Chair on the committee, those positions on the nominating committee may be filled by current SEC members recommended by the Chair, Vice Chair and AEM staff.

SEC Terms of Office

- SEC membership and officer terms begin on January 1, except when filling vacated positions, which will take effect upon succession.
- Each Committee representative serves a one-year term. There are no limits on the number of terms.
- At-large members serve one-year terms. There are no limits on the number of terms.
- The Chair and Vice Chair serve one-year terms. They may stand for re-election but are limited to no more than 3 consecutive terms in that capacity.
- If a mid-term replacement needs to be made for Chair or Vice Chair, if made before July 1, the first year will be counted as a full 1-year term complete. If July 1 or later, it will not be considered a full 1-year term completed.

SEC Membership Qualifications

- No parent company may have more than one SEC representative.
- The SEC Chair cannot simultaneously be the Chair or Vice Chair of another statistics committee.
- It is recommended that persons serving in the elected positions have at least one year of experience as a company representative to a committee, with a high level of performance and leadership skills. It is preferred the persons being elected as Chair and Vice Chair of the SEC have at least one year of experience on the SEC.
- SEC meeting attendance is essential. A candidate should make a firm commitment before election or appointment and be expected to attend at least the majority of the meetings.
 - Should a Product Segment representative not be able to attend, the elected representative must select an alternative representative from that Product Segment, and that person will have voting responsibilities.
 - Automatic seats must appoint a substitute from their company if the designated representative is unable to attend, and that person will have voting responsibilities.
 - At-Large seats must appoint a substitute from their company if the designated representative is unable to attend, and that person will have voting responsibilities.
- SEC meetings are open to any representative who wishes to attend on his/her own initiative or at the request of the Chair. Such attendees may participate in the meeting at the discretion of the Chair but have no vote. The only exception would be during

time periods when an executive session is declared by the Chair to address a sensitive issue.

Quorum

A quorum is defined as 51% of the SEC membership for holding an official meeting and for approval of business before the Committee.

1. Operating guidelines enumerated in the Statistics Committees and Bureaus section apply to the SEC unless otherwise noted.
2. The nomination and election process for the Chair, Vice Chair, and Product Segment positions will be as follows:
 - a. Members will be given the opportunity to submit nominations prior to the time of the vote.
 - b. If the voting is to take place during a meeting, members will be provided the opportunity to nominate candidates during the meeting. At the discretion of the Chair or other presiding officer, voting may be by oral response, written ballot, or show of hands.
 - c. If voting is not to be conducted at a meeting, it is conducted by electronic ballot, or in rare occasions by AEM staff via telephone – with confirmation. Votes are to be submitted to the designated AEM staff as directed by the Chair or presiding officer.
 - d. A majority of votes cast is required for election. If no nominee receives a majority, a run-off election of the 2 highest vote recipients will be held until a majority is achieved.
 - e. When electing the Chair and Vice Chair, the Chair will be elected first. Candidates for the Chair position will automatically be nominated for the Vice Chair office.

SECTION II-B-4: SEC RESPONSIBILITIES

In addition to the responsibilities enumerated herein, many of the ones listed in the Statistics Committees and Bureaus section are applicable to the SEC. Generally, the exceptions are those that deal with product specific responsibilities, proposals, etc.

SEC Responsibilities

1. Ensure that the actions, programs, and activities of the Statistics Council are consistent with the policies and determinations of AEM and its Board.

2. The SEC will resolve any conflicts in the relationship of product reporting versus committee. If companies petition the SEC to establish a new committee, the SEC will review and guide the group in organizing a committee or determine if it best fits in an existing committee.
3. Guidance and direction for the individual committees. Act as final authority on disputed issues at the committee level.
4. Define the structure of the Product Segments and how they relate to mandatory reporting requirements and SEC membership.
5. Provide input on the future of statistical, system, and program activities to the committees, staff, IPC, and Board.
6. Oversight and resolution of data integrity issues.
7. Monitor and update the AEM Statistics Policy and Procedures Manual.
 - a. Vice Chair may opt to form a Policy and Procedures Review subcommittee.
 - b. Review and approve or decline changes presented by the subcommittee.
8. Maintain liaison as appropriate with Intercontinental Statistical Committee.

SEC Chair's Responsibilities

1. Call meetings of the SEC.
2. Review, provide input, and approve Meeting Agenda.
3. Preside at the meetings.
4. Review, comment, and approve Meeting Minutes.
5. Appoint and oversee such subcommittees of the SEC as deemed appropriate.

SEC Vice Chair's Responsibilities

1. Act in place of the Chair in his/her absence or inability to function.
2. Chair the Policy and Procedures Manual Review Subcommittee.
 - a. Appoint up to 3 subcommittee members from the SEC.
 - b. Review specific committee policy and procedure variations drafted and approved at the committee level.
 - c. Review the manual annually. draft, and recommend changes to keep it current.
 - d. Present recommendations for changes to be made or requests that should be declined to the SEC.
 - e. Coordinate maintenance of the manual with staff, assuring publication of the updated manual by publication on the web within 30 days.

SECTION II-C: STATISTICS COMMITTEES AND BUREAUS

SECTION II-C-1: ORGANIZATION

Statistics committees in AEM are organized by sets of related product groups as well as by the mix of companies involved in the market and commonality of interests. No committee may report a product already the responsibility of another committee. The SEC will resolve any conflicts in the relationship of product reporting versus committee. If companies wish to start new programs for a unique line of products and they believe a new committee should be established, they will petition the SEC.

1. Company representation:

- a. Each company participating in a program is a member of the committee responsible for that program and shall appoint a person to represent it on the committee. An alternate representative is to be appointed to serve in case of the unavoidable absence of the regular representative.
- b. Each company representative shall be qualified to present the company's position on meeting agenda items that are pertinent to its product group(s) and to make appropriate decisions regarding these items at the committee meetings.

2. Each committee will elect a Chair and a Vice Chair:

- a. Committee members elect AEM officers, usually at the last meeting of the year. Elections may also be conducted by mail or electronic ballot.
- b. Candidates for committee offices must represent an AEM member company in good standing; it is recommended that officers have represented their company on the committee for at least one year and have a good committee attendance and performance record.
- c. The Vice Chairmanship is not considered an automatic succession position to the Chairmanship.
- d. Officer terms begin on January 1, except when filling vacated positions.
- e. The officers serve terms as defined by their respective committee as listed in Appendix J.

3. Nomination and election process for Officers:

- a. Members will be given the opportunity to submit nominations by mail or electronic transmission prior to the time of the vote.
- b. If the voting is to take place during a meeting, members will be provided the opportunity to nominate candidates during the meeting. At the

discretion of the Chair or other presiding officer, voting may be by oral response, written ballot, or show of hands.

- c. If voting is not to be conducted at a meeting, it may be conducted by mail or electronic ballot. Votes are to be submitted to the designated AEM staff or legal counsel as directed by the Chair or presiding officer.
- d. A majority of votes cast is required for election. If no nominee receives a majority, a run-off election of the 2 highest vote recipients will be held until a majority is achieved.
- e. The Chair will be elected first. Candidates for the Chair position will automatically be nominated for the Vice Chair office.

4. Product Specialists:

1. Each product included in a program shall have a person designated as Product Specialist.
2. Product Specialists are normally drawn from volunteers of the committee membership and approved by election.
3. When there is not a volunteer for the Product Specialist role for a product or group of products, a committee Chair may work with AEM staff to identify a willing specialist by appointment.
4. If a Product Specialist needs replacement midyear, the committee Chair, assisted by AEM staff, will name a temporary replacement and the position will come to a vote at the next meeting of the statistics committee to which the Product Specialist belongs.

SECTION II-C-2: OPERATING GUIDELINES

Each committee will conduct its business in accordance with the following guidelines. Most of the practices also apply to the SEC, except for specific product and report references.

- A quorum of participating companies must be present at each meeting in order to make overall committee decisions. Each committee shall define what constitutes a quorum for its committee. The staff person serving the committee shall determine if a quorum is present and record such in the minutes. If a quorum is not present, business matters can be discussed, but no decisions can be made except product specific issues where attendance meets product specific requirements. It is permissible to take a vote of members present with follow-up ballot of those absent to reach a decision. The quorum requirements for each committee are listed in Appendix A. If the number of participants for quorum is not decided on, refer to Roberts Rules regarding Simple Majority.

- Each committee shall decide what percentage of companies participating in a product program can approve product-specific decisions. Committees should attempt to achieve a unanimous vote. The requirements to approve a product-specific motion for each committee are listed in Appendix A. Product-specific decisions can be made at committee meetings or at AEM facilitated meetings of only those companies participating in the product-specific program.
- Although normal practice is to meet once or twice a year, each committee may schedule the number of meetings it believes necessary to conduct its business. Each committee should inform staff of its schedule well ahead of time so that a staff representative will be present.
- Committee members will be informed of the meeting time and place at least 30 (and preferably 60) days ahead of the meeting so they can plan their attendance. A second announcement and meeting agenda will be available to all committee members 30 days ahead of the meeting.
- Issues requiring a vote at a committee meeting should be clearly specified on the agenda so that company representatives can discuss the issues with their company management.
- Major decisions to be made at a scheduled meeting include, but are not limited to, the addition, expansion, contraction, or deletion of reports. Major decisions require the following procedural safeguards:
 - A formal motion, second, and vote on the issue.
 - If attendance sufficient to meet the passage requirements is not present, a follow-up ballot will be sent to those absent for timely completion.
- All committee decisions affecting policy are subject to review and approval by the SEC to ensure consistency and compliance.
- For Latin American programs, the AG LA SPSC and CE LA STF operate independently from any other statistics product committees and/or hierarchical AEM statistics committees. Nevertheless, their recommendations and/or decisions affecting statistics policy(ices) are subject to review and approval by the Statistics Executive Committee (SEC) to ensure consistency and compliance. Both AG LA SPSC and CE LA STF strive to align and harmonize with Worldwide market data programs when possible while still observing the geographical requirements (i.e.: size classes, end-user's requirements/preferences) in the Latin American towards maintaining their competitiveness and market presence.
- Decisions made outside of a regularly scheduled committee meeting will be conducted by electronic ballot (e.g., survey, e-mail, etc.), or voice vote on a conference call.
- New programs can begin any time during the year. Program changes normally occur at the beginning of the year but based on the urgency may be voted to be made during the year.

- In considering adoption of proposed new programs or changes to existing programs, the committee will determine whether participating companies have the capability to comply with the proposals. If it is discovered that a member in a product program is not capable of reporting the proposed required data, the proposal will be considered unviable.
- Questions regarding input data or system operation are to be directed to the IPC.
- Questions concerning the consolidated industry data should be directed to the IPC or AEM staff as appropriate.
- All questions regarding the policies of the reporting programs should be directed to AEM staff.
- There will be no audio or video recording of the proceedings of the meetings of either the SEC, any of the committees, any task group, or subcommittee.
- No meeting of the SEC, any committee, any task group, or subcommittee may be conducted without an AEM staff person present.
- Meeting minutes must be taken for each meeting of the SEC, committees, task groups, or subcommittees. Meeting minutes generally should consist of a concise record of actions taken at the meeting and should not reflect the author's editorial comments or other content regarding statements made or actions taken outside the meeting in question. The procedure for taking and processing meeting minutes is as follows:
 - Draft meeting minutes must be prepared by an AEM staff member acting as recording secretary.
 - The draft minutes are then reviewed by any other AEM staff members present at the meeting.
 - Legal counsel may conduct a review, following the staff review of the meeting minutes of the SEC and any other meetings as deemed appropriate for legal review by AEM senior staff or the Chair of the SEC.
 - The draft minutes are then sent to the appropriate Chair or Vice Chair for approval.
 - The Chair or Vice Chair will inform staff of their approval or their proposed changes.
 - In the event of changes proposed by the Chair or Vice Chair, staff will decide if the proposed changes are of a substantive nature and merit further review by legal counsel.
 - Following approval by the Chair or Vice Chair, the draft minutes, labeled "unapproved," are posted on the AEM website for access by the committee members.
- Committee members may propose specific amendments to the unapproved minutes any time up to the time of the next meeting when there is a call on the agenda to

approve the minutes. Proposed amendments should be forwarded to AEM staff, who will post them on the AEM website along with the unapproved minutes.

- At the next meeting of the SEC, committee, subcommittee, or task group, the unapproved meeting minutes and any proposed amendments are discussed and voted upon. Upon approval, they become an official record of that meeting.
- If an error or omission is discovered in approved minutes, those minutes may be amended subsequent to a motion, second, and passing vote, as per Robert's Rules.
- Meetings will be conducted according to Robert's Rules of Order. AEM staff shall ensure that the rules are followed.

SECTION II-C-3: RESPONSIBILITIES

Chair's Responsibilities

1. Call meetings of the committee and oversee meeting preparations through staff or personal involvement.
 - a. Prepare jointly with staff the agenda for future meetings.
 - b. Consult with staff on various aspects of the meeting, which may include hotel, meeting room arrangements, breaks, meals, refreshments, visual aids, and the fee to be charged to participants, if applicable.
 - c. Promote upcoming meetings among the committee members and encourage their attendance.
2. Preside at the meetings and oversee the general function of the committee.
 - a. Confirm with staff, upon arrival at a meeting site, that all meeting arrangements are in proper order.
 - b. Recognize first time attendees and encourage them to meet other committee members and become involved in committee activities.
 - c. Keep the committee focused on business items at all times.
3. Follow-up on meeting results with staff and IPC.
 - a. Summarize with the Vice Chair and staff at the end of each meeting, the agreed upon actions on significant items and the person responsible for such actions.

- b. Following each committee meeting, meet with staff, the IPC, and the Vice Chair and SEC Chair, if available, to discuss and confirm what needs to be done, who does it, and appropriate time frames.
 - c. Review and approve meeting minutes promptly within 6 business days when received from staff. If the draft is not received from staff within two weeks of the meeting, contact staff and ask when the minutes will be received so they can be posted for committee members within the thirty-day schedule.
4. Appoint such subcommittees as deemed appropriate.
5. Follow up with subcommittee Chairs and other committee members with assignments on the progress of their assignments.
6. Review on a regular basis the various control reports in the system including the status report, reporter logs, audit status report, model chart annual startup tracking report, etc., and confer with staff regarding any required actions.
7. Call for nominations for any elections as required.
8. Appoint product specialists who are responsible for monitoring the statistics program in terms of products, models, and participants related to their product(s).

Vice Chair's Responsibilities

1. Act in place of the Chair in his/her absence or inability to function.
2. Review the meeting minutes promptly when received from staff. Inform the committee Chair and staff of any changes or approval.
3. Maintain a summary of important decisions made during the meeting. Review with the Chair and/or participate in discussions following the meeting with staff and the IPC on the work to be done as a result of the decisions made.
4. Represent the committee as liaison with the Policy and Procedure Review Committee of the SEC.
5. Serve the committee in other capacities as directed by the committee Chair.

Committee Member Responsibilities

1. Submit all company input data no later than the report deadline, preferably early. Be available to answer questions concerning the data, enabling the IPC to resolve issues without delaying the compilation of industry data.

2. Submit accurate data that are consistent with the rules of the programs.
3. Update all model information according to procedures, deadlines, and appropriate classifications.
4. Prepare requests to the committee for changes to existing programs or proposals for new programs using the form for this purpose as a guideline. These are to be provided to staff preferably by e-mail, with copies to the Chair, Vice Chair, and product specialist, 45 days prior to the meeting so they may be made available to committee members in advance of the meeting (see Appendix G). Except in rare cases, proposals will be considered *only* during the meetings. Proposals will not be balloted in advance of the meetings.
5. Attend meetings, usually one or two per year, of all committees in which your company participates.
 - a. Be prepared to represent your company on issues listed on the agenda. It is expected that meeting preparation includes a review of all agenda items and related documents with company management to agree on a company position on these issues.
 - b. Participate fully in the meeting by responding to committee issues, expressing your company's position, volunteering for work of the committee, and stating your opinions and alternatives on various issues listed in the agenda.
 - c. Report to your company's management following each statistics committee meeting regarding the issues and proposals discussed and the accomplishments of the meeting.
6. Read and abide by the Policy and Procedure Manual.
7. Respond on time to all committee surveys, audits, ballots, action items as noted in the committee meeting minutes, and other requests.
8. Should your company enter into the market with new products for which you will be reporting data, notify AEM staff and supply product specifications in a timely manner to allow verification and setup procedures in time for reporting.
9. Notify AEM staff and the IPC of any acquisitions, mergers, etc. that affect the parent/company structure, model chart considerations and possible disclosure, data access security, profile updates, and reporting responsibilities.
10. Become an active advocate in your company to report all data accurately and in accordance with the policies and procedures of the committee and the statistics program.
11. Become knowledgeable of your company's reporting procedures to the IPC if you are not responsible for this function in your company. This will enable you to

discuss reporting issues at meetings and take the results of the discussions back to your company.

12. Become knowledgeable of your company's products and models in order to discuss and act upon the discussion of proposals and other reporting issues.
13. Complete all procedures involved with the annual model chart review and program start-up and sign-off that your company has complied with all the requirements.

Product Specialists' Responsibilities

1. Attend all meetings of the committee. If attendance is not possible, arrange for a substitute from your company to attend that has extensive product knowledge.
2. Review model charts for the product program assigned to ensure that there is no disclosure of company data (i.e., three distinct competing parent companies in each size class).
3. Ensure that the model charts are current for all reporting companies. Best practice is continual monitoring of the specialist's assigned products in the market to assure all active products are represented properly. A minimum of two complete reviews per year (suggested midyear and the mandatory year end process) should be executed. This is understood to be in conjunction with participating companies, who are responsible for the accuracy of their own model charts for all markets and programs.
4. Review the models of new/current reporters to ensure their models are reported in the correct product program and size class, collaborating with peer companies in the product program, as needed.
5. Assist, when needed, in the development of proposals for product changes.
6. Validate or propose product definition changes for the assigned products.
7. The product specialist review process begins after the company model review signoff on or around December 1 and should aim to be completed by December 31. Completion is dependent upon resolution of challenges of the model chart documented through iSTAT. For support and customer service, include AEM & HAI on direct communications with reporters.
8. Product Specialist will receive best practice training when available by conference of other Product Specialists and/or the data processor of record.
9. A Product Specialist is responsible for monitoring the statistics programs related to their assigned products, including the review of model charts for their assigned products and markets/programs (e.g., NA; WW; Regional), and that participating companies report all their products in their proper categories. The qualifications to become a Product Specialist include:
 - A. Membership in the committee.

- B. Represent a company that reports the products that are assigned.
- C. Assignment to a specific product(s) by the Committee Chair.
- D. Ability to access all necessary platforms and applications.
- E. Have knowledge of, or access to someone who has knowledge of, the products to which they are assigned.

SECTION II-D: AEM MARKET SHARE STATISTICS STAFF

The primary responsibilities of AEM and the Market Share Statistics Department staff include, but are not limited, to the following:

1. Providing appropriate staff and resources to administer the AEM statistics programs according to the approved Policies and Procedures of the association, and the rules of the various programs, including:
 - a. Monitoring conformance by participating companies.
 - b. Identifying policy and rules conformance concerns.
 - c. Developing plans to address conformance concerns.
 - d. Providing orientation sessions/information for new reporters.
 - e. Oversee and manage annual Confidentiality Agreement by all participants (see Appendix N).
2. Liaison with the IPC for contractual, operational, and financial matters, such as:
 - a. Budgets, contracts, and scope of work documents.
 - b. Review of IPC compliance with policies and procedures, security guidelines, and IPC systems-improvement proposals.
 - c. Implementation of new programs and revisions to existing programs.
 - d. Direction on the distribution of data (who gets what).
 - e. Being the primary contact with the IPC regarding company questions on policy and procedure matters.
 - f. Notification of new participants into any program(s), including all relevant contact information.
 - g. Notification of companies withdrawing from programs.
3. Working with the committees on the design, implementation, and on-going operations of the statistics programs.
 - a. Coordinate with IPC to prepare, by 1 October, a document identifying all reporting changes in statistics programs for the following year as approved by the committees and distributing the document to the IPC and program participants.
 - b. Monitoring Model Charts, including consultation with Product Specialists and the IPC, to help assure non-disclosure.

- c. Development and delivery of orientation sessions for representatives of new participants and new reporters of current participants.
 - d. Administering the public release and/or sale of the farm equipment monthly Tractor and Combine reports and North American Model charts.
 - e. Subscribing to the standard listings for geographical codes of US states and counties; Canadian provinces, counties, and census sub-divisions; and countries of the world; and make such information available to the IPC and participants.
4. Providing legal counsel, as appropriate, to review proposed programs, agendas, minutes, policy and procedure manuals, and any other business of the committees.
5. Coordinating statistics meetings, projects, and events by:
 - a. Making and communicating arrangements regarding meeting dates, locations, and times.
 - b. Distributing meeting announcements, agendas, and other related materials at least thirty (30) days prior to the meeting.
 - c. Notifying participants to submit proposals in writing to AEM staff at least forty-five days prior to the meeting for posting on the website so committee members can study them and be prepared to respond. This allows AEM Staff to resolve issues within the proposal and distribute it to committee members at least 30 days in advance of a meeting.
 - d. Prior to the meeting, confirm with those committee members who are to present or lead discussion in the meeting that they plan to attend and are prepared.
 - e. Recording minutes of each meeting for review as prudent by legal counsel, providing draft copies to the Chair and distributing completed minutes within thirty (30) days following the meeting.
6. Supporting the interests of the committees by:
 - a. Providing appropriate access to the AEM Board, product groups, and other entities within the association to facilitate communication on statistical matters.
 - b. Communicating with the AEM President and the SEC on matters of budget, policy, legal concerns, and special projects administration.
 - c. Recruitment of new participants, either current or prospective AEM members that will further improve the quality of statistics being collected and distributed.
 - d. Advising the SEC on member needs for changes in statistics and statistical services.
 - e. Using the SEC as a resource to resolve issues regarding the use of statistics about the industry, including information published by other

- organizations such as the U.S. Government or other private statistics groups.
- f. Managing the statistics related information on the AEM website, including complete and current committee rosters.
 - g. Representing AEM in activities of the Intercontinental Statistical Committee (ISC) and the International Crane Exchange (ICE).
 - h. Conducting and posting the results of an applicable committee's annual Reporting Procedures Survey among all program participants via the Internet.

SECTION II-E: INFORMATION PROCESSING COMPANY (DATA PROCESSOR)

The fundamental responsibilities of the IPC include developing, maintaining, and operating the iSTAT platform and databases and the performance of other services per the AEM contract and the annual Scope of Work document. Specific IPC responsibilities of which participating companies should be aware include the following:

1. Providing data acquisition, processing, and dissemination services:
 - a. Processing and making available, per committee specifications, the industry output information (including all revisions) within three working days after receiving the last company's correct input data.
 - b. Make available flash reports to all reporters within one day of receipt of the latest correct data input.
 - c. Provide the ability to maintain all model charts, including updates and printing capability, on the iSTAT platform.
 - d. Providing data processing services and associated software support to enable input and transfer of data between the companies and the IPC.
2. Providing database / data warehouse services:
 - a. Maintaining individual company data in the AEM databases indefinitely unless otherwise directed in writing by the individual company, subject to a minimum retention of 24 months plus the current year.
 - b. Maintaining industry data, model charts, and support/control tables in the databases indefinitely.
 - c. Develop and maintain internal coding/control mechanisms for items such as products and sizes, companies, and parents, etc. necessary for processing and presenting data and provide the means to export these tables for participant use.
 - d. Incorporate into the database and software the uniform geographic coding system and updates provided by AEM for countries, states, provinces, counties, and sub-counties.

3. Providing coordination, quality, and data integrity facilities:
 - a. Contacting, as needed, participating companies to help ensure reports are submitted accurately and on-time. The IPC will contact late reporters and request assistance from AEM staff as needed to maintain the processing schedule.
 - b. Maintaining online status reports to provide visibility of reporting and audit activities.
 - c. Administering data audits per the approved audit procedure (see Section IV.G)
 - d. Conduct iSTAT platform training, normally via teleconference, for reporters from new participating companies, and new reporters from existing reporting companies.
 - e. Consulting with participating companies regarding the gathering and transmitting of input data, and the processing and publishing of output data.
 - f. Produce reporter's logs and report cards.
 - g. To maintain and provide AEM access to the names and contact information of all persons at participating companies who create, transmit and have access to data.

4. Security, privacy, backup, and recovery:
 - a. All data reported into AEM statistics programs is treated in a confidential manner that does not allow any reporting company to see any other company's data. Only those IPC staff with a need-to-know will have access to individual company data. The IPC shall not share or disclose any data to any persons or entities other than authorized AEM Statistics staff and authorized participating company representatives. AEM Statistics staff are only authorized to view member data during the second round of an audit request and only member data related to the specific audit case. Outside of the audit process, if AEM Statistics staff require access to member data, they must provide an explanation to and request approval from the Statistics Executive Committee. The explanation must include a description of the data that needs to be accessed. If the Statistics Executive Committee votes in a simple majority to approve AEM Statistics staff access to member data, the IPC will then provide Statistics staff with access to the specific data described in the request. If a member company voluntarily authorizes AEM Statistics staff to have access to its data, additional authorization from the HAI Board of Directors is not required, and the voluntary authorization must come in a documented format (for example, e-mail). In a fully disclosed statistics program (be it Domestic, Worldwide, Regional), AEM Statistics staff has access to member company data. AEM Statistics staff shall not share or disclose any data to any persons or entities outside of the Statistics department. Inappropriate disclosure of company or industry data

- by either the IPC or AEM staff will result in immediate and severe consequences that may include termination.
- b. To contact reporters when a company has a product(s) or model(s) for which no data have been reported for the last twelve (12) months and suggest the company end-date the model(s). If end-dating is not carried out, notify AEM staff for further follow-up with the company.
 - c. Make provisions to ensure that all electronic data transfer (input and output) is performed in a secure, encrypted environment that is protected from interception.
 - d. Employ a firewall to prevent unnecessary access and malicious attacks from Internet hackers to the IPC network. Access to servers and some portion of the iSTAT platform are password encrypted, with no record of passwords kept after delivery.
 - e. Providing continual updates of virus protection software.
 - f. Maintaining a security system to prevent unauthorized entry and theft of data, and daily backup and storage of the database information at an off-site location.
 - g. The IPC will assign individual Usernames, User Credentials and Passwords to authorized AEM participants. The IPC will authorize the first two (2) User Credentials; member companies requiring additional Passwords will need to purchase them directly from the IPC. The IPC will monitor use of these accounts to deter sharing of Usernames. The IPC will maintain a system allowing and requiring regular changes in passwords by the participants and algorithms to help insure strong, unpredictable passwords. The IPC will respond immediately to deactivate User Credentials instructed by companies or AEM.
5. The IPC may not consult with any company for marketing or strategic analysis or interpretation of data where the IPC's knowledge of industry data would create potential conflict of interest.

SECTION III - COMPANY PARTICIPATION

SECTION III-A: REQUIREMENTS FOR COMPANY PARTICIPATION

All companies participating in AEM statistics programs must understand and meet the following basic requirements and must comply with all other policies and procedures contained in this Manual.

1. Participation in AEM statistics programs is voluntary.
2. Companies that are engaged in the manufacture and/or distribution of machinery or equipment and meet the requirements of the specific programs in which they wish to participate must be admitted to the programs, provided that they agree in writing to comply with the program rules, pay any required fees, and participate in all programs within a Product Segment (see # 4 below) for which they have products.
3. Data must be reported by or on behalf of all participants for all models and products that are manufactured by them, or on their behalf, for all programs that are included in any statistics Product Segment in which they participate. A company (parent and all affiliates) may choose to participate in one product segment, but not another.
 - a. For North American programs, AEM member companies must report all activity/data from all worldwide sources including licensees, subsidiaries, joint ventures, and any other manufacturing/marketing arrangements to destinations in the United States and Canada.
 - b. For worldwide programs, AEM member companies must report all activity/data from all worldwide sources including licensees, subsidiaries, joint ventures, and any other manufacturing/marketing arrangements, to all destinations in the world. Anytime this results in worldwide data not being reported by the AEM member company, that AEM Member Company will not have access to worldwide data.
 - c. Participation in any North American programs requires participation in any corresponding international statistics program for those products except for the International Crane Exchange (ICE) and Agrievolution Statistics Program (ASP) which have voluntary participation. Anytime this results in worldwide data not being reported by the AEM member company, that AEM Member Company will not have access to worldwide data.
 - d. For Latin American programs, AEM member companies must report all activity/data from all worldwide sources including licensees, subsidiaries,

joint ventures, and any other manufacturing/marketing arrangements, to all destinations within each respective Latin American regions as defined by each of the Latin American statistics program(s). The mandatory reporting requirement is specific to participation within a chart and not the geographic region.

Product Segments (see Terminology) are defined by the SEC. They consist of groupings of committees and/or product groups having similar interests, applications, constituencies, etc.

Selective reporting (cherry picking) within a Product Segment is not permitted. An entity (Corporation, LLC, etc.) that participates in one or more product program within a Product Segment is required to participate in all product programs within that Product Segment in which the entity (and any other entity it controls, as defined below) is eligible to participate.

Entity A *controls* Entity B if A owns or controls, directly or indirectly, more than 50% of the total voting power of share of capital stock or other equity interest entitled to vote for B's board of directors or other members of B's governing body. If A does not control B, then A cannot be expected to require B to report its data within a Product Segment.

Note: If A and B are related (e.g., A owns a non-controlling interest in B, or A and B are sister companies owned by the same parent company) and B does not report its data, A is prohibited from sharing any of its AEM market data with B.

4. Each participating company must agree to abide by the spirit and the specifics of the policies and procedures contained in this manual, and to report company input on or before the program due dates. Early submission of data is encouraged.
5. The company must maintain adequate systems to properly comply with the requirements of the program(s) in which it participates.
6. Companies must inform the AEM staff of the name, address, phone/fax numbers, and e-mail address of the person(s) who will represent the company on statistics matters and an alternate.
7. Companies must inform the IPC of the name, address, phone/fax numbers, and e-mail address of the person(s) who will submit company data and access the consolidated industry information and an alternate. Passwords issues by the IPC to reporters are unique, user specific and may not be shared within a company. When personnel changes occur, the AEM staff and IPC shall be informed immediately to avoid potential security exposure.

8. Participating companies and their personnel must treat AEM industry data as proprietary and confidential. This data is not to be divulged outside the participating companies, except to their authorized dealers/distributors. Company and dealer personnel should not have access to this data unless and until they have been informed of this policy and have agreed to comply with it. If necessary to provide data to an outside organization such as a consultant, a written non-disclosure agreement is required. Each participating company is required to sign an Agreement every year confirming this Agreement.
9. Participants who experience timeliness, data integrity, and/or compliance problems may be required to enter the Participant Assistance Program. Details of this program are listed in Section III-E of this Manual.
10. Program participants must respond completely and on-time to surveys and other requests for information as directed by AEM.

SECTION III-B: ADDITIONAL REQUIREMENTS FOR NEW COMPANY PARTICIPANTS

Following are the additional requirements for new participants in the statistics programs. It is important they be informed of the requirements set forth here and in the preceding section and agree to comply with such requirements prior to joining the program.

1. It is preferred that new participants enter a program at the beginning of a year, with the January data cycle. To allow adequate time for orientation, system setup, model chart preparation, training, and any needed company process changes, their entry must be approved by November 1. They may enter a program during the year if approved by the committee but must back-report data to the beginning of the year in the same detail and time periods as if they had started in January, at the risk of having their data for those periods disclosed to others in the program. If a company does decide to start mid-year, they must be unanimously approved by all participants in each product they would be reporting and sign a Waiver of Disclosure Mid-Year Entry, before any industry data is received (see Appendix M).
2. Complete a market share statistics orientation by AEM Staff prior to reporting any data. The orientation may be conducted at the company office, via teleconference, or in a group meeting, at the discretion of the AEM statistics staff based upon knowledge of the company, complexity of the program(s), and prior reporting experience, if any. Attendees should include, at a minimum, the person who will be the company statistics representative, the person who will report the company data and receive the industry output, and the company executive responsible for this activity. There is no charge for this session. The orientation will cover the following:
 - a. Information about AEM
 - b. Requirements of statistical program reporting

- c. The data they will be required to collect and input
 - d. Statistical program policies and procedures
 - e. Information on the committees and how they work
 - f. Responsibilities of committee members (all participants)
3. At the orientation, member company representative/department head must sign an agreement:
 - a. Verifying that a duly authorized representative of the company has read and understands the reporting requirements of the statistics programs in which it will participate and can comply with them beginning with the first reporting period.
 - b. Acknowledging that the company may be subject to monetary penalty, suspension, or expulsion for failure to comply with these reporting requirements as outlined herein.
4. Prior to reporting any data, complete a training program conducted by the IPC on the use of the iSTAT platform for updating model charts, reporting company input, and receiving industry output. Such training is normally conducted by video conference; however, if an on-site visit by the IPC is required, the company would be responsible for all travel expenses of the trainer.

SECTION III-C: MERGERS AND ACQUISITIONS

1. When a participant purchases a non-reporting company, or a product line of a non-reporting company, whose products qualify for inclusion in any Product Segment(s) in which the purchaser is reporting, the purchased company must start reporting, or the purchaser must withdraw from the segment.
2. When a non-participating company purchases a participating company, and the non-participating company has products that qualify for the product segment(s) in which the purchased company reports, the non-participating purchaser's products must be reported, or the purchased company must withdraw from participation in the segment.
3. When a participating company purchases another participating company and both report products in a product segment, it is expected that reporting will continue uninterrupted.
4. If one company in a merger/acquisition situation is a participant and one company is not a participant, in consideration of the purchasing company providing AEM staff a written commitment to initiate reporting as required, a

reasonable amount of time will be allowed for the non-reporting company to prepare to participate, not to exceed the following:

- a. If the purchase is completed in the first 8 months of a calendar year, the non-reporting company must report starting in January of the following year, unless an extension is requested and approved.
- b. If the purchase is completed in the last 4 months of a calendar year, the non-reporting company must start reporting no later than the second January following the date of purchase.
- c. If the required written commitment is not received by AEM staff within 45 days of the completed purchase date, the participating company will be excluded from further reporting.

Access to Historical Data

- a. Historical data for purchased reporting companies will be made available to the purchasing company, whether the purchaser is a reporting company or a non-reporting company, only if the company agrees in writing (see 4 above) to comply with the provisions of this manual.
- b. Historical data is only available during the time for which the purchased company has been reporting into a particular program.

SECTION III-D: ENFORCEMENT POLICIES

AEM staff is to make all statistics committee Chairs/Vice Chairs aware of the following enforcement policies, noting they should compare the proposed standard to any existing policy of that particular committee. If a committee has an established policy, or if a committee without a policy wishes to create a unique one, it must be submitted to the SEC for review and inclusion as an appendix to this manual. For committees having no such existing policy and not wishing to create a new one, the following policy will apply.

AEM Participant Assistance Program

1. AEM staff and the IPC will monitor statistics participant's performance. A company may be placed in the AEM assistance program based on any of the following criteria:
 - a. Timeliness - the company is consistently late in reporting data.
 - b. Compliance - the company does not follow all standard committee rules and procedures.

- c. Data Integrity - the company is not supplying all the required data, and/or the data submitted is likely erroneous.
2. For companies reporting from more than one source, all involved representatives and the parent company are responsible for ensuring compliance with all reporting policies and procedures. Once notified by the IPC there is a potential for double counting or omission, these companies are responsible for correcting the issue.

Timeliness

1. All companies who are late on flash and/or actual reporting of data *four times* during a rolling 12-month period move into the AEM *Timeliness Assistance* program.
2. On the first late reporting occurrence, the IPC will talk to the reporter to determine the reason for tardiness and explain the importance of timeliness.
3. On the second tardiness occurrence, the IPC will notify AEM and offer additional training to the reporter with the IPC and AEM staff.
4. On the third occurrence of tardiness, AEM staff will contact the company's senior management reinforcing the importance of timely reporting and encouraging the company to improve.
5. If the company is late four times during the next 12-month period, it must drop out of the program or post a *performance guarantee* of 25% of its annual AEM dues or \$5,000, whichever is smaller.
6. After posting the performance guarantee, if the company is not late four times during the next 12-month period, the performance guarantee will be returned to the company.
7. If the company is late four times during the next 12-month period after posting the performance guarantee, it will forfeit the guarantee and will be suspended from the statistics programs until the company can satisfy AEM statistics staff and the appropriate committee that it is capable of compliance.
8. If approved, the company may re-enter the statistics program by meeting the same requirements as a new participant.
9. If training on the AEM software is necessary at any time during the Timeliness Assistance program, AEM will pay ½ the professional fee for the trainer. The

company will be responsible for the other half of the professional fee plus all travel costs for the trainer if training is done on-site.

Compliance

1. A company is moved into the *Compliance Assistance* program if it scores below 70% on the AEM annual report card (Outstanding Merit Award points) but has reported late less than four times during a 12-month period. Report card measurement criteria are found in Appendix I.
2. The first year a company is in the Compliance Assistance program, the statistical reporter and the OCR of the company will receive a letter from AEM senior management reinforcing the importance of the statistics programs and encouraging the company to improve its score.
3. AEM staff will contact the company to assist the company in improving its score and consult with the company to develop a compliance plan.
4. The company must agree in writing to the compliance plan. Failure to agree to the compliance plan could result in expulsion or suspension from the statistics program, as determined by the SEC.
5. If the company scores below 70% in the year following its adoption of the compliance plan, it will have to post a *performance guarantee* of 25% of its annual AEM dues or \$5,000, whichever is smaller.
6. If the company raises its report card score above 70% during the year (12 months) after posting the performance guarantee, the performance guarantee will be returned to the company.
7. If the company does not raise its score above 70% during the next year (12 months) after posting the performance guarantee, it will forfeit the guarantee and will be suspended from the statistics programs until the company can satisfy AEM statistics staff and the appropriate committee that it is capable of compliance.
8. If approved, the company will re-enter the statistics program by meeting the same requirements as a new participant.
9. If training on the AEM software is necessary at any time during the Compliance Assistance program, AEM will pay $\frac{1}{2}$ of the professional fee for the trainer. The company will be responsible for the other half of the professional fee plus all travel costs for the trainer if training is done on-site.

Data Integrity Issues

1. When it is determined that a company has data integrity issues, AEM staff will determine whether it should contact the company and develop a compliance plan.
2. The company must agree, in writing, to the compliance plan. Failure to agree to the compliance plan could result in expulsion or suspension from the statistics program, as determined by the SEC.
3. The IPC will notify AEM staff of any companies reporting zero (0) data for any productor size class for the current rolling 12-month period, following which AEM staff will notify the company contact to determine the cause of the omissions. The committee will be asked to consider the circumstances, and the company reporting zero data *could* face possible expulsion or suspension from the statistics program or other sanctions. Prior to the imposition of any expulsion or suspension, the committee will make a recommendation for approval by the SEC.

Other data integrity issues that will be monitored include (but are not limited to) the following:

- a. Illogical data combinations
- b. Failure to report rental conversions if the company is reporting “first rentals.”
- c. Others - to be developed.

SECTION III-E: PARTICIPATION RECRUITMENT

AEM staff is expected to recruit new member participation all year long. However, the following schedule should be followed for a new January 1st participant:

Dates	Description
Jan. - Oct.	AEM staff recruits new participants.
As needed	AEM staff sends spec sheets to the Product Specialist for approval in all programs.
No later than	
Nov. 1	AEM staff notifies IPC of the new participant and performs association orientation.
Dec. 1-15	AEM staff provides model charts and reporter (and back-up reporter) information to IPC.
Dec. 16-31	IPC provides data entry training.

Note: Some participants (with committee approval) can join mid-year. In this case a signed Disclosure Form is required as well as back-reporting to January of the current year.

SECTION IV - REPORTING PROGRAMS

SECTION IV-A: PRODUCT REPORTING CRITERIA

To be eligible for reporting, each product must be distinguishable by the critical technical specifications of the product, as designated by the appropriate committee. Each committee will develop product definitions, reporting criteria, model charts, and other procedures to ensure accurate reporting.

It is common practice that the data pertaining to a product is reported by size class or other type category. Each product and size class must include the products of at least three distinct and separate parent companies to prevent disclosure in non-disclosed reports (see Section IV-F).

Products sold by a manufacturer on an OEM basis to another reporting company shall be reported by the marketing company and not the manufacturing company. The goal is to obtain accurate data and the marketing company should have the more direct link to the actual customer. If the manufacturer actually receives better timely data than the marketing company, an exception could be made whereby the manufacturer reports the data, provided there is no double reporting. The policy regarding products sold on an OEM basis to a non-reporting company varies by committee or program from being reported as “special geography” to not being reported at all. Refer to the “OEM sales to non-participating companies” in Appendix E.

Statistics programs for new products or product groups may be created upon request by the participants involved. If the products seem to fit within the domain of an existing committee, the proposal should originate within that committee, with review by the Statistics Executive Committee. If there is reason to believe a new committee should be formed, then the proposal would be made directly to the SEC. A factor in the consideration of the request is that the proposed product group will not infringe on an existing program already organized for that product. The SEC will provide counsel to resolve if the product group should be made a part of an existing committee or be established on its own. For new product groups that are outside the current purview of AEM, the SEC will provide a recommendation to the AEM Board of Directors.

SECTION IV-B: DATA, REPORTS, ACTIVITIES, AND PROFILES

The following information applies to the majority of the programs but not all programs. This may not be all-inclusive.

The AEM reporting system was designed and developed with centralized databases at its core. These contain all the company and industry statistical data, including model charts. Some of the database components serve as control tables that not only control many of the system’s main functions, but also provide flexibility whereby the companies can choose variations or combinations of reports in addition to accessing the “standard” reports as approved by the committees. For example, the activities of first rental and new machine retail sales can be combined to form the value “first-in-the-dirt.”

In the scheme of submitting company input and retrieving output, the term “report” is used to identify a unique combination of product, activity, frequency, and model chart as defined by the committee. An activity identifies an event that is tracked in the life of a machine, such as shipment, rental, or retail sale, or a state of a machine, such as being in dealer inventory. All reporting is based on model charts. In this context of defining a report, “model chart” distinguishes, for example, between the model charts for the North American market versus the one for the worldwide market. Codes and meanings are assigned by the IPC as needed and communicated to the reporters.

Reports may be added or deleted, or the details included can be expanded or contracted, as approved by the vote of the reporting companies with products involved in such reports. Companies have access to reports covering all available details of the products they report. Policy regarding data distribution to non-reporting companies is determined by the members of the committee and/or participating product reporters involved.

One of the more important control mechanisms of the system is the profile. For each reporting entity there is an input (company) and an output (industry) profile. The input profile defines exactly what a company (reporter) is expected to input. Each entry defines a “report” (as explained above) and characteristics, such as what geography and what attributes are required. The output profile defines similar information pertaining to the consolidated industry data. The profiles can be viewed and analyzed through the system and thereby provide a complete list of what is available to each company. The profiles provide a high degree of flexibility and can be tailored to each company. For example, a company may elect to input data by county even though an industry program is by state. This profile concept simplifies the addition, deletion, or modification of reports thereby reducing or eliminating application programming changes, while literally driving the system. Each company needs to verify its profiles, especially the committee-approved changes, at the start of each year in coordination with the IPC.

SECTION IV-C: DATA REPORTING PROCESS

The standard method of reporting original data and revisions, for distribution of consolidated industry data, and for updating model charts is through the use of the HAI software, on the Internet, by the reporter. The software provides reporting companies access to model charts, consolidated industry data, and the company’s reported data. As a secure web-based system, online access can be granted to many users at a company’s discretion.

Data Accuracy and Timeliness

To promote data accuracy and enhance value, each company will comply with the following data input requirements:

1. The due dates (see Appendix B) are the latest dates by which input data should be submitted, usually by 12:00 noon Central Time. Participants are strongly

encouraged to submit their data as soon as accurate and complete data is available prior to the due date. In so doing, delays caused by errors or questionable data are sharply reduced, if not eliminated, and publication of industry data occurs earlier.

2. If at any time the reporter cannot meet the due date, it is his/her responsibility to inform the AEM staff and the IPC in advance and state the reason for the delay and the date when the data will be submitted.
3. The due dates and times for each general category of data and each committee are enumerated in the appendices to this manual. There are variations on the due date when it falls on Saturday, Sunday, or holiday.
4. All data input will be prepared in conformance with the provisions of this manual, the input profile, and the system requirements.
5. All data will be based upon permanent company records and will not duplicate any previously reported data.
6. The IPC will maintain a status report on the Internet depicting the current status of data input, processing, and output publication. Information will be shown by product, model chart, and company reporting entity.
7. Entities must continually work on their internal reporting systems to assure that they can report the required data on time.
8. If a company does not have 100% of its expected data ready to report when it is due, and the wait for all of that data to be prepared is significant (i.e. more than 24 hours), the company should input the data they have to honor the due date and time. When the full data is received, the company must revise its submission as described in the revision section.

Input Reports

The basic premise of the iSTAT platform is one-time reporting of all information pertaining to a particular activity and chart, i.e., input report. For example, a retail sale transaction may be by county and contain customer type, first use, and dollar values. Some of these elements may be accessible in the consolidated data at different times and in different detail, such as some dollar values being released annually and summarized by country.

There is a primary exception to the one-time reporting premise: flash reports versus actuals.

Flash Report

A flash report normally includes retail sales activity or subsets, like 3-part reporting. It is regarded as the first, early estimate of retail sales activity for the United States and Canada, although companies are strongly encouraged to submit the actual numbers, and many do. If actual data is entered, the system calculates flash input from the actuals. Flash input is normally due a few days before actuals with results published separately.

Actuals

Actuals are a comprehensive, complete reporting of data. Data is reported with all the detail required for a particular program, i.e., full geographic detail, final delivery, new retail, first rental, rental conversion, customer type, first use, dollar value, front wheel drive, etc.

Input Data Reporting Requirements

Input data must be submitted to the IPC on or before the required date as described below:

1. Data may be entered via online entry or by importing a company-created computer file according to IPC specs, or a combination thereof.
2. Most North American input data are submitted by model or further by serial number at company discretion. Exceptions to that norm would be data previously reported under different committee rules with input by size class. Similarly, worldwide data reporting may be by size class, serial number, or by model. To enter data by model, the model must have been previously entered into the appropriate model chart (see Model Chart Section IV-E). When a company enters data by size class, it must have a model in that size class, but there is no link between the data and a valid model number. The input method is indicated in the input profile.
3. The iSTAT platform provides the option of entering company data by serial number. This has often proven to enhance data quality, while allowing data to be input throughout the month, rather than aggregating totals at month-end. Data quality enhancement results from elimination of duplicate transactions for a machine and from other rules that can be employed, such as a machine cannot have a rental conversion that has not first been rented, nor can a machine be rented that has not been shipped.
4. The software performs various data quality checks as the data are entered and as the company-approved data are submitted to the IPC. If problems are detected, error messages alert the reporter, who must correct the data before the

system will proceed. Additional quality checks are performed by the IPC *after* input data are received from each and from all participants. The reporter is informed of any concerns or corrective actions required.

5. Every report must be submitted even if the total activity is zero.
6. Revisions to earlier reported months' data are transmitted at the same time as the data for the current month. (Procedures for reporting revisions follow below.)
7. For a program requiring first-use, if the first use of a machine is not known at the time of reporting, it can be reported as "not yet known" until it is known. The correct first use for that product should be reported as soon as possible but within no more than 3 months. However, the use of "not yet known" is strongly discouraged.

Publication by the Information Processing Company

No data will be published until 100% of each reporter's data within a product has been received, checked, and processed by the IPC. As industry data are completed for an individual product or groups of related products, publication may occur. Industry data will be released to all recipients of a product program/model chart at the same time, regardless of the form of distribution.

If a company is entering a product program for a product that is new to them, the IPC will withhold data from that company until they have recorded activity.

Method of Data Distribution

The iSTAT platform on the Internet is the standard for data distribution. A statistics group may decide to have more than the standard method of distribution after consultation with the IPC, approval by the SEC, and the appropriate assessment of a fee for the additional form. The fee assessed should at least cover the cost to the IPC for providing the service.

The committee, the IPC, and AEM staff may, for some low data-volume statistics programs, decide on another standard form of distribution.

1. All companies that access data via the iSTAT platform are simultaneously notified by e-mail when the consolidated industry data are available.
2. The data distributed in a reporting cycle includes the last reported period data and any revisions to previous periods.
3. The software is designed to allow reporters to produce market share reports for their company as well as separate reports of industry or company data.

4. No company can access another company's data without permission of the company originally submitting the data.

Revisions

Revisions to previously reported data should be reported when known. The AEM software provides the means to report revisions. Each committee may establish policy regarding the time period in which the revisions are to be registered on a consistent basis. The methods adopted by each committee are enumerated in Appendix D: Revision Time Periods. Either:

1. All revisions must be applied to the month when the unit(s) was originally reported, not the current reporting month. In this manner, a cancelled sales report is treated as if it never existed. Negative industry numbers or industry numbers exceeding a company total cannot exist at even the finest level of detail. This is prevented by audits within the system, or
2. Returns or repurchases must be applied to the current reporting period. This is consistent with the typical accounting view of the world. Negative industry numbers and industry totals exceeding company totals may exist, particularly at detail levels.
3. Corrections to elements such as geography are to be applied to the month when originally reported.

Questions Regarding Data

All questions regarding data should be directed to the IPC. Questions concerning the policies of the statistics programs should be directed to the AEM staff.

SECTION IV-D: DATA DISTRIBUTION POLICY

Recipients

Each committee may determine the distribution policy for the consolidated industry data of that particular group. At a minimum, all participants can receive all the data for the products they reported. In a few instances an exception is made to restrict access to the size classes within a product in which the company reports. Whether companies are eligible to receive any data for products they do not report and any limitations on the amount of detail available to them is to be determined by the committee. In some instances, the rules can vary by sets of products. The distribution policy *exceptions* are enumerated in the "Data distribution to non-participating companies" Appendix C.

Participants may receive industry data for only the specific time period in which they participated in the given program. Historical data are not available to new participants.

It is the responsibility of the recipients to treat AEM industry data as proprietary. *Industry data are not to be divulged outside their company/dealer organization.* An exception would be to provide data to a consultant contracted by the company, provided the consulting firm signs a non-disclosure agreement regarding the data. Participants should inform those in their company who have access to the data of this policy. All reports should be identified as confidential. It is the responsibility of all participants, AEM staff, and the IPC to institute steps to enforce confidentiality, including practices such as shredding hard copy reports no longer needed and protecting individual passwords.

Public Information

Pursuant to separate votes that were approved unanimously by the AEM sector boards in August 2021 (CE) and November 2021 (Ag, CE), the AEM Market Share Statistics department may use elements of highly aggregated data for the promotion of the industries AEM serves.

Ag Sector:

“[The] Ag Sector Board voted and approved to allow for the limited use of aggregated data to support AEM initiatives and communication. [Ag Sector Board Minutes, November 2021]”

CE Sector:

“The CE Sector Board approved sharing the underlying aggregated data for products currently listed in the AEM CE Index segments, in line with procedural oversight, with the condition that any data sets will be brought back to the CE Sector Board for review and approval prior to releasing any information *to the public*. [CE Sector Board Minutes, August and November 2021, italics added]”

Only Construction Equipment *not* included in the AEM CE Index requires additional Sector Board review and approval for release to the public.

Any similar requests for aggregated data not in the Construction Equipment or Agricultural Sectors will require a unanimous vote of the AEM members who produce that equipment and participate in market share statistics. This includes products in Geospatial Industries Group; Agricultural or Material Handling Tires Committees; Contractor Pumps Bureau Statistics; Portable Power Statistics Committee; Saw Manufacturers' Institute; and Mounted Breakers.

Any requests through AEM for this highly aggregated data will be approved or denied by the AEM Leadership Team member responsible for the Market Share Statistics department. Of requests gaining approval, data will be provided at the highest level of aggregation that suits the purpose of the request. *At no time will individual company data be disclosed.*

North American model charts, source country information, and Ag Tractor and Combine historical data are available for purchase by the public through the AEM web store.

Latin America Regional Programs

Unless otherwise noted on this document, Latin America Regional Program participants will follow the distribution rules as described in this manual.

SECTION IV-E: MODEL CHARTS

Model charts control the input of data into the system for processing. A product program must have a model chart in order to be operative. Model charts identify commercially available models including those phased out of production but still available, along with the size rating, the name of the marketing and manufacturing companies, and the country of origin. In addition, parent/subsidiary relationships are identified and maintained. Participants must keep the model listing up to date in order to input data into the system each reporting period, particularly when data are input by model or serial number.

Model charts serve as the means to check that there are at least three independent parent companies in each size class in order to avoid the disclosure of individual company data. This is done with respect to both marketing and manufacturing organizations. They also serve to check machine ratings with the product specification sheets published by the reporting company.

Generally, the policies and procedures for model charts are the same for all charts - North American, Worldwide, and Western Europe. One major difference is that the North American model chart maintenance program, by committee policy, automatically places each model in the size class consistent with the actual machine rating, while in the Worldwide and Western Europe model charts, participants specify the size class for each model as deemed appropriate, again as a matter of member policy. The latter also applies in North America when input is by size class rather than model.

It is recommended that those participants that report North American and worldwide data from more than one location assign one location the responsibility for all model chart maintenance. If this is not possible, the company should establish procedures for the coordination of communications from the various locations to ensure that all models are listed properly and consistently.

1. Participants may make changes to their own models only. If a participant questions the model listing of another company, the question should be sent in writing to the Product Specialist. If no Product Specialist is assigned, then forward the question to AEM staff.
2. The model chart identifies the participants.

3. The company will enter new models in the model charts when the first commercially available unit is shipped, or sooner at the company's discretion.
4. Companies that have models with activity to report prior to the official public introduction date and do not want the model data available to other participants in the program may elect to utilize the "hidden models" feature of the system as follows:
 - a. Only models shipped or in inventory may be reported under this feature.
 - b. Hidden models can be reported for a maximum of 3 months. This is accomplished by noting the start date in the model chart as up to 3 months after the unit is entered into the company's model library. The start date cannot be changed once data are entered for the unit.
 - c. The start date entered by the company should indicate the month, for which the unit will be reported, i.e., if the company enters a start date of September, it indicates that the unit will be reported in the September data that is due in October.
 - d. This feature cannot be used for companies entering a new product program, but only for product programs in which a company already participates.
 - e. Once retail activities are entered for a "hidden model," the "hidden model" feature is released, and the model is shown on the model chart.

Phased-out models are to be included in data reported until all inventory is depleted. In a retail sales program, this includes depletion of both factory and dealer inventory, with all rental units converted (sold) to an end use customer. Once the model is no longer available, an end date should be entered into the model chart(s). The end-dated models will remain on the model chart through the end of the year specified in the end date.

Note: Models may be reported in DORF programs even though they do not appear in the model chart.

5. Regularly, the data included in the model charts should be reviewed for accuracy.
 - a. Updates to the model charts are made "real time" and are available to all users of the iSTAT platform as they are made, within the constraints of start dates.

- b. Each company must edit its list of models for accuracy and make any additions, deletions, or changes as they are known.
- c. Product Specialists should review model charts for accuracy, completeness, and disclosure at the beginning of each year and periodically throughout the year.
- d. IPC staff should be informed of any irregularities.
- e. If an active model on a model chart has no transaction activity for 13 months, that model will be end-dated. HAI applies end-dating once per year as a clean-up effort. A reporter may remove the end-date upon resuming transactions for that model. A transaction includes retail sales, shipment, rental, or inventory. Models with activity in any market in the last 13 months counts for activity across all markets – and model-markets will not be ended.

SECTION IV-F: DISCLOSURE PREVENTION

These provisions establish the minimum requirements necessary to prevent disclosure of individual company data:

1. All AEM statistics program data must be processed by an independent firm under contract to AEM. No data shall be processed by the AEM staff. All data reported into AEM statistical programs is treated in a confidential manner that does not allow any reporting company to see any other company's data. Only those IPC staff with a need-to-know will have access to individual company data. The IPC shall not share or disclose any data to any persons or entities other than authorized AEM Statistics staff and authorized participating company representatives. AEM Statistics staff are *only* authorized to view member data during the second round of an audit request and only member data related to the specific audit case. Outside of the audit process, if AEM Statistics staff require access to member data, they must provide an explanation to and request approval from the Statistics Executive Committee. The explanation must include a description of the data that needs to be accessed. If the Statistics Executive Committee votes in a simple majority to approve AEM Statistics staff access to member data, the IPC will then provide Statistics staff with access to the specific data described in the request. If a member company voluntarily authorizes AEM Statistics staff to have access to its data, additional authorization from the Statistics Executive Committee is not required, and the voluntary authorization must come in a documented format (for example, e-mail). In a fully disclosed statistics program, AEM Statistics staff has access to member company data. AEM Statistics staff shall not share or disclose any data to any persons or entities outside of the Statistics department. Inappropriate disclosure of company or

industry data by either the IPC or AEM staff will result in immediate and severe consequences that may include termination.

2. The IPC and AEM staff must commit in writing to the confidential handling of the data. Only those employees with a need to know would have access to company data. This includes situations like audit requests, data accuracy checks, regional programs, and company-initiated assistance. Unauthorized distribution of data by the IPC or AEM staff to other than eligible participants is not tolerated and constitutes grounds for termination. In the case of regional programs, the North American representative of the company involved will be notified of the individual who has requested assistance. Individual company data will be provided by the company on a voluntary basis.
3. The model charts for the U.S. and Canada, one per product reported, will be used to determine disclosure for the data reported in the North American statistics program.
4. The model charts for the worldwide reporting programs will be used to determine disclosure for the worldwide shipments and retail sales programs.
5. The disclosure test will not be applied to states, provinces, counties and census subdivisions or other reported geographic detail, and will not be applied by country in the worldwide program.
6. If disclosure is found in any size class, the appropriate participants will determine how the size classes will be handled - by combining with the next higher or lower size class, eliminating the size class, or the suppression of the data. Decisions on combining classes should be based on previously combined classes existing in historical data when practical.
7. The restriction that at least three companies must report in a size class may be exempted by written waiver of disclosure furnished to AEM by all the companies involved. A form (Appendix H) for such purpose is available from the AEM office.

SECTION IV-G: AUDITS

If a reporter has reason to question the accuracy of any specific industry data, a formal audit can be requested. Before making a request for a formal audit, the reporter will contact AEM to discuss the issue and AEM can facilitate an attempt to resolve the matter.

The formal audit procedure is:

1. An audit request is to include:
 - a. Product
 - b. Time period in question

- c. Report (activity) in question
 - d. Size class(es)
 - e. Geographical area
 - f. Other values being questioned such as customer type or first use.
 - g. The nature of the problem, such as: quantity too high or too low, incorrect county reported, inappropriate customer type or first use.
 - h. Any supporting explanation or commentary that can assist the IPC or competitive reporters in reviewing the situation and/or support your concern.
2. The North America data audit request must be submitted via online form found at <https://support.haiint.com/>. Audit process instructions including how to gain access to Zoho Desk can be found at <https://www.aem.org/groups/market-share-statistics/market-share-statistics-program-resources>
 3. The IPC will first attempt to identify the source of the questioned information by reviewing relevant input data, and then contact the source for verification and correction of misreported data. If such a data review does not identify a likely source, the IPC will issue an audit request (and copy AEM Staff) to all reporters in the particular segment to verify the questioned data, reply to the audit, and file appropriate revisions.
 4. Company response to audits should be completed within 3 weeks of the request.
 5. All reporters of the data involved in the audit request will be informed of the audit results.
 6. A status report for each audit will be maintained on the IPC website.
 7. Audits will be treated with priority similar to regularly reported data, as program credibility is essential.
 8. Upon completion of an audit for which results are not satisfactory to the requesting company, a second request may be submitted. The IPC will issue a second audit request to the companies in the particular segment that reported suspect data, requesting further investigation (with notification to AEM staff). If the companies do not submit revisions, the IPC is to request that an explanation be provided in writing to both the IPC and AEM staff explaining why corrections are not in order.
 9. If no response has been received to an audit request within 6 months of the audit's issuance, the IPC will ask AEM to assist in contacting the nonresponding

companies to encourage response – regardless of which level request the audit is in.

10. Upon completion of second audit, where the petitioning company is still unsatisfied with the results, AEM staff will work with IPC and audited companies in an attempt to resolve the matter. Upon completion of AEM's investigation, all parties involved will be notified of the final result.

Revisions resulting from an audit must be made within two reporting periods after the audit is completed.

During the Audit process, it is required that, in the event of an audit, if a company with questioned data has telematics data available and permission to use, this company must confirm on AEM/HAI's official Audit Response Form that location telematics data has been checked, and they certify either that the location of first substantial use is correct with anonymized data/evidence provided (not mandatory) to back the certification, or they communicate that erroneous data will be changed.

Despite the best efforts of IPC and AEM, if an audit has had no conclusion or lacks full responses one year after the initial 3-week response period, the audit shall be closed. The company requesting the audit will be alerted that this is the case.

First Substantial Use for Audit Purposes with Examples

For audits related to first substantial use location, companies with telematics data and permission to use this data must use the majority of its questioned machine's first 100 hours of engine operation to determine county location. Until the machine's first 100 hours of engine operation have been completed (or over 50 hours of engine operation have been recognized in the same county, whichever is first), it is the responsibility of the responding company to monitor the equipment in question weekly until a conclusive determination can be made. The results must then be reported back to the data processor as expeditiously as possible in order to resolve the audit, while submitting a revision if necessary.

Example 1: *An audit has been initiated against Company Q regarding their machine QA's first substantial use location. Company Q does collect telematics data from its equipment but does not have permission from their end users to access and analyze that data. Company Q would report back using the AEM Statistics Program Audit Response Form that they do not have permission to utilize their telematics data for analysis and therefore must resort to other means to verify first substantial use location, such as requesting location information from the dealer that sold QA if available. The result would be the same if Company Q does not collect telematics data, or if the equipment does not have telematics installed, or if the equipment has telematics installed but it has not been activated.*

Example 2: *An audit has been initiated against Company X regarding their machine XA's first substantial use location. Company X does collect telematics data from its equipment and has permission to access and analyze that data. Company X has ascertained that XA has had its engine running a total of 51 hours of its first 100 hours of use in County Z. The majority of its first 100 hours of use in a specific county has been established and Company X should report back to the data processor that first substantial use location for machine XA has been established and either rejects the audit request to pin the location to a different county or adjusts the location as determined by their telematics analysis. There is no need for machine XA to run a total of 100 hours before county location has been established if the majority of those first 100 hours is already pinned to a specific county.*

Example 3: *An audit has been initiated against Company Z regarding their machine ZA's first substantial use location. Company Z does collect telematics data from its equipment and has permission to access and analyze that data. Company Z has ascertained that ZA has had its engine running a total of 60 hours of its first 100 hours of use - 30 hours of run-time have been pinned to County V, 30 hours of run-time have been pinned to County W. The majority of its first 100 hours of use in a specific county has not yet been established and Company Z should report back to the data processor that they are still waiting for ZA to run long enough to establish a county of first substantial use location, and they will continue to monitor the equipment weekly and report back with their determination as expeditiously as possible. Frequent updates from Company Z regarding their progress toward 100 hours to the data processor helps the data processor relieve any perception by the company initiating the audit that Company Z is being non-responsive in their audit response.*

SECTION IV-H: ANNUAL START-UP PROCESS

Annually the model charts and profiles must be updated and prepared for reporting activity in the following year. The "startup" procedure is as follows:

Dates	Description
1 Oct.	AEM staff submits to the IPC all program changes for the next year for modification of the company and industry profiles.
Month of Oct.	The IPC updates profiles and releases them to reporters for verification and correction if necessary. The system provides year-over-year comparison and analysis tools to assist reporters in reviewing. Companies are strongly urged to utilize these tools and closely check results to avoid costly problems with their data and delays in processing.
Nov. 15	Reporters must begin review of the model charts and make additions or corrections as needed, particularly recording end

	dates on now obsolete models, and adding new models that can be acknowledged publicly.
Dec. 15	Deadline for reporters to complete model chart updates to start the new year and sign-off on the survey center. This is the starting point for review by product specialists.
Jan. 15	Deadline for product specialists to complete the review of model charts for completeness and accuracy, review and resolve disclosure problems uncovered, and to sign-off through the formal review process in the AEM Processing website.

New year model charts must be complete, approved, and available to all participants before the first industry reports can be distributed.

SECTION IV-I: PROPOSALS FOR NEW OR REVISED PROGRAMS

Refer to the Product Reporting Criteria (Section IV-A) for additional guidelines and requirements regarding the initiation of reporting programs for products not currently covered.

Guidelines for Submitting a Proposal for Either a Change in an Existing Program or a New Program

AEM committee members should use the following guidelines for preparing a proposal for either a new statistics program or a change to an existing program. Following these guidelines will help other affected representatives to understand the proposal, will help AEM and the IPC evaluate the effects of the proposal on budget and the reporting system, and could enhance the potential for early passage. The AEM staff and the IPC will assist in developing a proposal as requested.

The proposal should be submitted to AEM staff 45 days prior to the meeting in which it is to be introduced. The proposal will be distributed or made accessible to the appropriate committee members 30 days prior to the meeting. This will allow committee members to have sufficient time to study it, discuss in advance with the originator or other reporters, and to obtain reactions to it from their management personnel.

Questions about the use of these guidelines should be directed to AEM staff or your committee Chair. A corresponding Proposal form (see Appendix F) is available on the AEM website that can be filled out and submitted.

SECTION IV-J: REGIONAL REPORTING PROGRAMS

Definition

A regional program is comprised of a specific country or group of countries where statistics are reported at a granular geographic level. The regional program(s) may be administered by AEM and/or a local trade association.

In general, the programs will follow the AEM Statistics Policy & Procedures Manual, with the understanding that local trade association rules and business practices may apply.

For a listing of the current regional programs see Appendix K. See Appendix L for the Funding Model fees that may apply.

SECTION V - ONLINE DOCUMENTATION

Several committee listings, definitions, and documentation, plus system components including codes and values, structures, and control tables serve in effect as extensions to the main policy and procedure manual. These are separately documented and accessible to participants online, either on the AEM website or through the IPC websites. Since these are authoritative sources of information that must be kept up to date, they are not duplicated in this manual, but simply identified here to call them to the participant's attention.

1. Committee documentation accessible on the AEM website
 - a. Policy and procedures manual and appendices
 - b. Meeting agendas
 - c. Meeting minutes
 - d. Committee rosters
 - e. Product Specialist contact lists
 - f. Product definitions and reporting classification methods
 - g. Program Proposal Request form
 - h. Customer type and first use definitions
 - i. Outstanding Merit Award criteria (see Appendix H)

2. System components accessible in the HAI statistics processing website
 - a. Reporting and processing status reports
 - b. Company report cards

3. System components accessible in the HAI processing system
 - a. Companies and parents
 - b. Company input profile, annual changes, and summaries
 - c. Industry output profile, annual changes, and summaries
 - d. Master industry profile (all data available)
 - e. Master industry profile cross reference lists
 - f. Customer Type and First Use lists
 - g. Geography lists - regions of the world, countries, states and provinces, counties, and census consolidated sub-divisions (sub-counties)
 - h. Size classifications, company, and industry
 - i. Reporter logs

SECTION VI - DEFINITION OF TERMS

The following definitions are those currently in effect for all AEM statistics programs. This list does not preclude any statistics program adding to this list or modifying any of these definitions to better fit the product or type of program of their group. Any new or modified definitions must be added to this list with an explanation of why it differs from a similar term.

All terms are listed in alphabetical order.

Activity – Events or states in the life of a product that are reported in the various AEM statistics programs, both domestic and worldwide. Activities are defined in the iSTAT platform and identified by an activity-ID. They can include events/states such as: shipments, “first in the dirt” retail sales, final delivery retail sales, first rentals, rental conversions, retail sales of new machines (not previously rented), field inventories, Dealer Owned Rental Fleet (DORF) inventories, sales by customer type and sales by first use.

Auctions – Items sold at auctions are to be reported into the county of first use (if known); if this is not known, they will be reported into the dealer’s home county until a more accurate county is known, at which time revisions are required.

Attribute – Characteristic of a product or additional information reported as a subset of an activity as input and output for the product (e.g., company direct sales, mechanical front wheel assist, zero tail swing, etc.).

Ballot – Means by which a binding vote can be registered on an issue. A ballot may be secret or public and may be cast electronically. At a meeting, a ballot may be conducted in paper form, or by “raising of the hand” or by registering a “yea” or “nay.” Absentee ballots are allowed in the AEM statistics programs, but no proxies.

Bookings – Report all shipment “bookings” by worldwide geographic location . When entering data, note that entries for this report should be in the following order:

1. **Net orders booked** - Booked orders received (#2 below) minus cancellations received (#3 below).
2. **Booked orders received** by your company during the report month.
3. **Cancellations received** which occurred in the current month to orders which were previously booked (in either current or previous months).

Bucket – Most widely accepted bucket size and mounting configuration used for a specific machine model recognizing that pin-on type is the most widely accepted bucket attachment method. In the event that no pin-on bucket is available to be used for the calculation, then the tipping load for the model attachment coupler version with typical bucket should be calculated and reported. For wheel loaders < 40 ton operating weight, a general purpose bucket with Bolt-on edge is recommended the calculation. For wheel

loaders > 40 ton operating weight, a spade nose rock bucket with teeth and segments is recommended for the calculation.

Census Consolidated Subdivision (CCS) – Grouping of Canadian census subdivisions within a containing census subdivision. They were created by Statistics Canada (Canada's national statistical agency) for ease of geographical referencing. They are also more stable than census subdivisions because most boundary changes involve the units contained in the group.

Census Division (CD) – Canadian geographical areas established by provincial law, which are intermediate between the census consolidated subdivision and the province. In some provinces, these are equivalent to counties in the U.S. They were created to facilitate regional planning and the provision of services that can be more effectively delivered on a scale larger than a municipality.

In Newfoundland and Labrador, Manitoba, Saskatchewan, and Alberta, provincial law does not provide for such administrative geographical areas; therefore, equivalent census divisions have been created by Statistics Canada in cooperation with these provinces. There are no census divisions in the Yukon Territory.

In Quebec, the “municipalité régionale de comté” (MRC), or its equivalent (communauté urbaine,” “territoire conventionné,” or group of MRCs) has been adopted as the CD level of the classification. This represents a completely new census division structure within Quebec since 1986.

CD boundaries tend to be relatively stable over many years.

Census Subdivision (CSD) – Term applied to municipalities as determined by provincial legislation or their equivalent: Indian reserves, Indian settlements, and organized territories. Beginning with the 1981 Census, each Indian reserve and Indian settlement recognized by the census has been treated as a separate CSD. Prior to the 1981 Census, all Indian reserves in a census were grouped together and classified as one census subdivision.

Census subdivisions have been created for the unorganized territories of Newfoundland and Labrador, Nova Scotia, and British Columbia by Statistics Canada in cooperation with the provinces, as equivalents for municipalities. Each of the parts of a census subdivision that straddles provincial boundaries is treated as a separate CSD.

Codes – General term for specific values assigned to identify and be equivalent to entities and provide control of the data processed by the IPC. All codes except geographic are developed and assigned by the IPC. There are four main sets of geographic codes used in the programs administered by AEM as follows:

Canada – Codes developed and maintained by Statistics Canada identify provinces, census divisions, census subdivisions, and consolidated census subdivisions. Changes in geography and codes are generally published every five years after the Canadian Census.

United States – Codes developed and maintained by the federal government, as part of the Federal Information Processing Standards (FIPS). Included are codes for states and counties. Changes in codes made in any given year are adopted by AEM at the beginning of the following year.

Worldwide Codes – Codes developed and maintained by the International Standards Organization (ISO) and includes identification of all countries of the world. Changes in countries and codes announced by ISO in any given year are adopted by AEM at the beginning of the following year.

Latin America – HAI codes in iSTAT use ISO codes for Latin America states within countries and has created a code when none is provided.

Company – Corporation or other business entity actively engaged in the manufacture and/or sale, directly or through affiliates of farm, industrial, or construction equipment. All business entities having a common parent corporation or other form of common majority ownership, constitute one company, whether they participate individually or collectively.

Company Direct Sales – Sales made by the corporation (manufacturer and/or marketer) itself, rather than by the affiliated dealers or distributors. The manufacturer direct sale is made by the company and the opportunity for those sales is not available to any dealer. Company direct sales often involve large quantities and significant discounts. Typically, these sales would be made to:

- Federal government agencies
- State/Provincial government agencies
- County governments
- City, Town, and other local governments
- Independent rental companies, like Hertz and Prime
- Large national accounts, such as large contractors, railroads, etc.
- Auctions

Dealers/distributors may sell to any and all of these same types of customers.

The intent of identifying direct sales is to enable companies to treat dealers more fairly as identified by the company and at the company's discretion.

Consignment Units – Units for which the manufacturer retains title and risk regardless of where the inventory resides – until such time as the unit is sold to an end-customer or put into a first-use situation. At this time, the title and risk is conferred to the consumer.

County – Largest geopolitical subdivision of states in the U.S. and in some provinces of Canada.

Custom Operator – A service provider (person or entity) that provides a service targeted at the producer/farmer. They usually purchase a fleet of machines and may contract in advance with producers, in some cases over a multi-state/province geography. Typical operations include custom harvesting done with combines, forage harvesters, large mower conditioners, large balers, or windrowers, as well as custom spraying, fertilizer application, and land leveling. This does not include producer/farmers who purchase a machine for their own use and also provide services to neighboring farmers. Sales to custom operators are to be reported into the county that is the operating base of the custom operator.

Customer Type – Category of customer/business or government entity that purchases or rents a unit. See Online Documentation section for list.

Dealer Owned Rental Fleet (DORF) – Primary purpose is renting or leasing machines to customers, i.e., the rent-to-rent business. The renter generally would have no option to purchase the machine and would be building no equity by way of rental payment for use of the machine. The machines would have been purchased by the DORF, either as a new retail or a rental conversion, from the affiliated dealer.

Dollar Value – The company-invoiced amount in U.S. dollars to a dealer after identifiable discounts and incentives. Sometimes called “Dealer Net Cost.” Exceptions: For agricultural equipment only, data for Canada are reported in Canadian dollars. For Crushers, the data are reported by “list price,” also known as manufacturer’s suggested retail price

DORF Fleet Conversion – Sale/title transfer of a machine from the inventory of a Dealer Owned Rental Fleet to a third party

DORF Inventory – All machines owned as part of a dealer owned rental fleet.

End-Use – Function for which a unit will primarily be used. See Section V - Online Documentation for list.

First Use – Function for which a new machine will see its first substantial use as a new machine, not previously rented, and typically a first rental or a retail sale.

First-In-the-Dirt (FID) – Combination of new retails plus first rentals, the common element being the first transaction with a customer of a new machine.

First Rental – Units that are rented, not sold, to the first user. Also, units in rental programs (owned by the manufacturer/marketer – at dealer locations). These include “rental purchase” and “rent-to-sell” units. Excluded are sales to dealer owned rental fleets (see **DORF**).

First Substantial Use – First work application of a product (machine) after purchase or rental in terms of where it is used the majority of time during its first 100 hours of engine operation and type of project for which it is used. Typically, a short-term job would not be recorded.

First Substantial Use Location – Retail activity should be reported by the location of the projected or intended county for first substantial use. First substantial use location is determined by where a piece of equipment is used the majority of time during its first 100 hours of engine operation for purposes of settling a dispute of an audited claim.

This definition applies to any sale of equipment, including a direct sale such as a sale to a producer/farmer, as well as to an independent rental company (IRC), or dealer owned rental fleet (DORF). This definition is written assuming county (U.S.), or census sub-division/consolidated census sub-division (Canada), or state/province/department-level (Latin America/Regional), or nation (Worldwide) reporting. Products not reported at these geographic subdivisions would be reported by the appropriate geography as defined by the product program's reporting parameters.

For customers/operators that will use equipment in multiple geographic subdivisions, for example multiple counties, such as producers/farmers that farm in multiple geographic subdivisions or construction companies that work in several sites located in multiple geographic subdivisions, the designated county should be the county within which the equipment will be used the majority of time during its first 100 hours of engine operation, but if the use cannot be determined at the time of purchase the designated county should comprise at a minimum 25% of the customer's overall use of the product.

In the event the sale is to a DORF/IRC and there is a time delay to first substantial use, the projected or intended county the machine will be more frequently used during its first 100 hours should be reported as county of first use. Lacking insight to use location in these cases, the location of the fleet should be used.

The customer's residence or office location should not be used to determine first substantial use location, unless a customer's residence is their farm, in which case it may be used.

Please see **Custom Operator** and **Government Sales** for other exceptions.

Final Delivery (FD) – Combination of new retails plus rental conversions, the common element being the title transfer of a new machine.

Flash Report – Preliminary report of the prior month's market activity, by product. The market activity shown in a flash report may differ between programs, as may the geographic scope, which is usually at a high level, e.g., country. The data may be reported with or without size classifications.

Frequency – Time periods in a year in which an industry report is published. Typically, each report is published monthly, but variations can be accommodated.

Fuel Tank and Other Options – Calculation assumes a full fuel tank and no other optional equipment which could influence the tipping load, such as an optional counterweight, heavy guardings, etc.

Full Turn Static Tipping Load – The following shall serve as a guideline for determining and calculating the full turn tipping load: The calculation of the full turn tipping load

should be based on a manufacturer's Standard Configuration (options, bucket, tires, etc.) handling 16-32 mm crushed stone (aggregate).

Standard Configuration – Tipping load for a particular model should be based upon the machine model's most widely accepted lifting arm system, utilizing the model's most widely accepted bucket mounting configuration. Please see **Bucket**.

Most Widely Accepted Lifting Arm System – Refers to the primary, and most frequently purchased, lifting arm for a given machine model. Examples include Z-Bar or Parallel linkage, or any other type of linkage purchased in considerable numbers.

Hinge Pin Height – Vertical distance in mm from ground reference plane to the center of bucket or coupler hinge pin with the boom of the most common configuration in the fully raised position (with empty bucket). Report in millimeters (mm).

Tires – Highest percentage usage tires should be utilized for the calculation. Tires with ballast should not be used. The tipping load should be calculated without deflection of the tires. Tires are specified under a Declaration of Machine Configuration and the air pressure should follow the manufacturer's recommendations.

Government Sales

Retail sales or rentals to a Federal Government agency should be reported as "U.S. Government or Canadian Government." This includes, but is not limited to, machines designed specifically for use by the Federal Government. Geographic and other coding can vary by program or committee. Generally, these units should be reported into working location if sold by a dealer or distributor or into the pseudo state code for the U.S. or Canada government if a company direct sale and should be classified using the Federal Government customer type code.

- **Native Americans** – Should be coded as US-Federal Government.
- **Inuit People Land** – Should be coded as Canada-Private.
- **Retail Sales or Rentals to State Governments** – Should be reported in the state/province and county/census division of first use. These units should be classified using the State Government customer type code.
- **Retail Sales or Rentals to County/Local/City/Village/Township Governments** – Should be reported in the state/province and county/census division of first use. These should be classified using the county or local government customer type code as appropriate.

Horsepower

- **Net Horsepower** - SAE Net Horsepower as defined by SAE J1349.
- **PTO Horsepower (Horsepower Measured at the Power Take Off of Farm Tractors)** – Ratings measured by either the University of Nebraska or the Organization for Economic Co-operation and Development (OECD). Ratings for Nebraska tested unit will be shown on the Model Charts to two decimals: OECD units

to one decimal. Manufacturers estimated PTO HP will be shown as a whole number followed by an “E” for estimated, when identified as such by the estimated HP attribute. Estimated ratings will be replaced when actual test data (Nebraska or OECD) are available. Units without a power take off (i.e., large four-wheel drive tractors) will receive an estimated PTO rating by multiplying the net engine horsepower by .86. This rating will also be marked with an “E”.

Independent Rental Company – Company not affiliated with a manufacturer or dealership, whose main business activity is renting or leasing equipment, i.e., rent-to-rent.

Inventory

- **New Inventory** – New unused units that have been shipped and invoiced, but never reported as either a first rental, new retail, or rental conversion as of the end of each month.
- **Rental Inventory** – Total company and dealer inventory of rental units not yet sold, i.e., not yet reported as “rental conversions.” This would include all units in rental inventory at the end of each month regardless of whether they are in the dealer’s yard or out on rent. Rental inventory excludes dealer owned rental fleet (DORF) units.
- **Consignment Inventory** – Should **not** be reported as inventory until invoiced to a dealer or end user.
- **Demonstration Inventory** – Should **not** be reported until invoiced to a dealer or end user.
- **Inventory Units Purchased “Used” by Dealer** – Should **not** be reported in inventory.

MARF (Manufacturer Affiliated Rental Fleet) – A manufacturer-affiliated rental business whose primary purpose is renting or leasing machines to customers, i.e., the rent-to-rent business. The renter would generally have no option to purchase the machine and would be building no equity by way of rental payment for use of the machine. MARFs have a close relationship between the manufacturer and the rental business. For example, a MARF may have the name of the manufacturer as part of its own name. The MARF will not rent equipment from any other manufacturer except in those products or product sizes the affiliated manufacturer does not sell in the same territory as the MARF.

Marketing Company – Company that sells the model. This is also generally the company that reports into the statistical program.

Model Chart – Set of database files that define the models of a product and their specific characteristics. The files are used to create a display or report also referred to as a model chart. Collectively these become an important control mechanism in the iSTAT platform. Model charts are used to determine potential disclosure in the reporting

categories or size classes of a product. The same model chart may be used for one or more activities, while variations may exist depending on the general market and reporting controls, such as North American versus worldwide. The document and files, containing relatively static data by product, include the identification of the marketing company, model number, size rating of the model, company, and industry size classes to which it belongs, country of origin, and company that manufactures the product. Model charts provide a key control mechanism governing the input of activity data into the system and output for distribution. A model must be defined in the model chart before data can be reported for that model.

Month – Although it is recommended to use calendar months, it is acceptable to use whatever a company defines as its working month. The most important factor is consistency.

New Retail – First-time title transfer of a new, never rented, unused and previously unsold machine from a dealer, distributor, or manufacturer to an end-use customer at the time of first substantial use. This includes the sale of units to “dealer owned rental fleets” (DORFs) or to an independent rental company.

North America – For most of the AEM statistics programs, North America is defined as the combination of the United States and Canada.

North American Marketing – A company will be considered a participating company in the North American statistics programs if it meets the following criteria in North America:

- a. Has an established sales/marketing branch or headquarters office.
- b. Supports a dealer/distributor network.
- c. Provides readily and commercially available product to the company’s dealers/distributors.
- d. Aggressively markets and sells product.
- e. Maintains adequate inventory to support sales of dealers.
- f. Can adequately collect data to satisfy all programs in which the company participates.
- g. Publishes and has available to customers, specification sheets and price lists for all the products marketed.
- h. “Test” marketing of products will not be considered as marketing criteria.

Official Company Representative (OCR) – Person officially designated to represent a company in AEM affairs, usually an officer of the company and in a number of instances a member of the AEM Board of Directors.

Original Equipment Manufacturer (OEM) Sale – Sale of a unit from one manufacturer to another. Generally, the marketing company should report these products, as they know the details of activity with customers and dealers. Products sold on an OEM basis

to non-reporting companies should usually not be reported, especially if they are modified outside the bounds of the product definition. Rules regarding the reporting of OEM activity may vary by committee. It is important to prevent double reporting by the manufacturer and marketer.

Participating Company – An AEM member company that participates in the statistics programs, or a non-member company that participates in the AEM statistics programs and has paid the non-member participation fee.

Phase-out Models – Models no longer considered current by a reporting company, but for which company and/or dealer inventory remains. All models must remain on the Model Chart until the end of the year when the last unit is sold.

Province – Largest geopolitical subdivisions within Canada. Activity reported by province should reflect the location of the first substantial use.

Rental Conversion – Sale/title transfer to an end-user of any product previously reported as a first rental. This includes the sale of previously rented units to dealer owned rental fleets (DORFs). Conversion also applies to exported (usually by dealers), scrapped, or otherwise retired machines. A rental unit sold at auction should be reported as a conversion in the county of the auction.

Retail Sale – Consists of both the delivery of a unit to the end-user and the settlement/title transfer for the unit by the retailer. The sequence of the two events is not significant. Also see **Final Delivery**.

Revision – Any change to the data that was originally submitted to the IPC. Examples of a revision include a change in state, county, country, customer type, first use, cancellation of a sale with return to inventory, etc. Refer to Section IV — Reporting Programs for further details.

Shipment – Transport of a unit from the manufacturer to an end-user, retail outlet, wholesale outlet or rental/leasing pool as defined below. Units shipped to a company's trans-shipment pools or staging areas shall not be reported until shipped to entities listed above and invoiced. Units shipped to a facility where substantial changes are made to the basic product should not be reported. These machines should be reported when shipped after the changes have been made if there is a reporting program for the new product. Exceptions to this rule are explained below.

End-user – Any establishment or individual who puts the product to use i.e., the consumer.

Retail Outlet – Any establishment, including company stores, dealers, or distributors, that sells product to the end-user.

Wholesale Outlet – Any establishment, including company branch houses, that sells to a single destination country or independent or unrelated establishment that sells to an unknown destination.

Rental/Leasing Pool – Any establishment that places equipment with the end-user through a lease, rent-to-rent, or rental-purchase agreement.

Boom Trucks (CSC) – Shipped as kits to various dealers/distributors who mount them on chassis prior to delivery to end-users. The chassis is irrelevant to reporting. The kit shipment should be reported.

Size Class – Series of graded classifications of measure into which products are divided. Size may include classifications of horsepower, dig depth, width of cut, carrying capacity, etc. Size may also express the specific rating of a machine or classes of sizes used in the statistics programs. Size classes span an interval of size measurement. For example, using horsepower levels such as 100 & under 110 HP in order to express clearly the specific sizes to be included in the interval.

State – Largest geopolitical subdivision within the United States. Activity reported by state should reflect the location of the first substantial use.

Survey – Non-binding request for information or a non-binding request for a position on a certain issue.

Three-Part Reporting – Refers to the reporting of new retails, rentals, and rental conversions.

Operating Weight – Working weight of a machine, often expressed in metric tons.

Year – Calendar year (1 January through 31 December).

APPENDIX A: QUORUMS AND VOTING

The following matrix identifies, by statistics committee or group, the quorum requirements for holding a meeting and the quorum requirements for product-specific reporting programs.

All participants of a product for a given chart are eligible to vote on proposals impacting that product, regardless of if they have a model in a size class impacted by the proposal. As an example: Company A, B, C, and D are all participants of a product program, but a new proposal seeks to split a size class including models from companies A, B, and C. Company D does not participate in that size class. Company D still has voting rights because they participate in the product.

Committee/Group	Meeting Quorum	Product/Program Approvals Voting Requirement (at a meeting or by ballot)
Agricultural Latin America Statistics Program Subcommittee (AG LA SPSC)	Simple Majority	Simple Majority
Agricultural Equipment Statistics Committee (AESC)	Seven (7) reporting companies in attendance	80% of product participants, less abstentions*

Aggregates Statistics Committee (ASC) - crushers, screens, feeders	Simple Majority of all reporting companies	Simple Majority of reporting companies in that product unless there are three reporting companies, then unanimous
Agricultural Tire Committee (ATC)	Simple Majority of all reporting companies	Simple Majority of reporting companies
Construction Equipment Latin America Statistics Task Force (CE LA STF)	Simple Majority	Simple Majority
Cranes Statistics Committee (CSC) - hydraulic cranes, truck- mounted cranes, tower cranes	Five (5) reporting companies in attendance	Simple Majority of reporting companies
Commercial Worksite Equipment (CWE)	30% of all reporting companies	Simple Majority of reporting companies
Dairy Equipment Statistics Committee (DESC)	Simple Majority of all reporting companies	Simple Majority of reporting companies
Forestry, Earthmoving & Excavators (FEE)	30% of all reporting companies	Simple Majority of reporting companies
Geospatial Industry Group (GIG)	Simple Majority of all reporting companies	Simple Majority of reporting companies
Material Handling Tires Committee (MHTC)	Simple Majority of all reporting companies	Unanimous vote for major structural change; Simple majority for program change.
Mobile Elevating Work Platforms (MEWP)	Five (5) reporting companies in attendance	Simple Majority of reporting companies unless there are three (3) reporting companies, then unanimous
Statistics Executive Committee (SEC)	Simple Majority of SEC Members	Not applicable
Portable Power Statistics Committee (PPSC)	Simple Majority of all reporting companies	Simple Majority of reporting companies
Road Machinery Statistics Committee (RMSC) - pavers, planers, soil stabilizers	Six (6) RMSC Participants	Unanimous among Reporting Companies for that Product
Road Machinery Statistics Committee (RMSC) - compaction	Six (6) RMSC Participants	$\frac{3}{4}$ majority among Reporting Companies for that Product
Utility Equipment Statistics Committee (UESC)	Six (6) reporting companies in attendance	Simple Majority of reporting companies

Note: Any committee not having rules established will refer to Roberts Rules of Order.

ABSTENTIONS EXPLAINED (IN ACCORDANCE WITH ROBERTS RULES)

Abstentions reduce the total number of participants before the calculation takes place.

If a company cannot attend a meeting in which a vote will take place, they may submit a written confirmation to AEM of their vote, received by 5:00 pm CT the working day before the meeting.

If a proposal is amended at a meeting, companies that voted via absentee ballot will be balloted on the amended version of the proposal, unless the proposal has satisfactory support or opposition to determine the outcome without the absentee company's vote. Additionally, attending members may request to vote by ballot or written confirmation after the meeting and must do so within 10 working days (5:00pm, US Central Time) of the meeting, unless otherwise specified by the Chair. After 10 days, any non-responding companies will be counted as abstentions, and subsequently not included in the calculation for determining approval.

For any proposal which has not been fully approved or rejected and announced by AEM as such, companies that have already cast a vote may change that vote until the results are officially announced by AEM.

For all proposals and votes that take place outside of a formal AEM meeting, the standard voting window will be 10 working days to respond back to AEM by ballot or written confirmation, unless otherwise specified by the Chair. After 10 days, any non-responding companies will be counted as abstentions, and subsequently not included in the calculation for determining approval. AEM will send out reminders to any companies with an outstanding vote after 5 days have passed for any given proposal, including any other points of contact on record at the company.

APPENDIX B: DUE DATES FOR COMPANY REPORTING

Committee or Group	Product	NA Flash		NA Actuals				WW Retails		WW Ship			
				Date	Time	If Sat	If Sun	Date	Time	Date	Time	If Sat	If Sun
				All									
AESC	All	9 th	12:00	12 th	12:00	Fri	Mon						
ASC	All			13 th	12:00	Fri	Mon	15 th	17:00	15 th	17:00	Fri	Mon
ATC	All			15 th	12:00	Fri	Mon						
CPB	All			20 th	17:00	Mon	Mon						
CSC	All			15 th	17:00	Mon	Mon	15 th	17:00	15 th	17:00	Mon	Mon
CWE	All			10 th	12:00	Fri	Mon	15 th	17:00	20 th	17:00	Mon	Mon
CWE	IF01, IF31			15 th	12:00	Fri	Mon						
CWE	IF02, IF03, IF43, IF18, DB01			13 th	12:00	Fri	Mon						
DESC	All			15 th	12:00	Fri	Mon						
FEE	All			10 th	12:00	Fri	Mon	15 th	17:00	20 th	17:00	Mon	Mon
FEE	EM71			15 th	12:00	Fri	Mon	15 th	17:00	20 th	17:00	Mon	Mon
FEE	EM07, EM08, EM58			9 th	12:00	Fri	Mon						
GIG	All		Qtly.	Feb, May, Aug, Nov 20 th	12:00	Fri	Mon						
Generators	All			15 th	12:00	Fri	Mon						
Light Towers	All			15 th	12:00	Fri	Mon						
MBMB	All			15 th	17:00	Mon	Mon						
MEWP	All			15 th	12:00	Fri	Mon			15 th	17:00	Mon	Mon
MHTC	All			15 th	12:00	Fri	Mon						
PACB	All			15 th	17:00	Mon	Mon						
PTMB	All			15 th	17:00	Mon	Mon						
RMSC	All			10 th	17:00	Mon	Mon			15 th	17:00	Mon	Mon
SMI	All			15 th	17:00	Mon	Mon						
UESC	All			15 th	17:00	Mon	Mon						
LAAG	All, except Mexico			9 th	12:00	Fri	Mon						
LAAG	Mexico only			15 th	12:00	Fri	Mon						
LACE	All			9 th	12:00	Fri	Mon						

APPENDIX C: DATA DISTRIBUTION TO PRODUCT NON-PARTICIPANTS

The standard AEM policy regarding data distribution is that companies participating in North American product programs receive reports at the same level of detail for *all* active product programs and published output size classes in which they participate.

Each committee and/or the company's marketing certain groups of products within a committee *may* elect to extend eligibility for some reports to companies that market some, but not all, products within the group. The data made available may have restricted content, such as aggregated geography or activity types, or certain details may be eliminated, such as customer type or first use. There are no instances where data from one committee is shared in any form with another committee.

This document delineates the policy regarding distribution of specific data under extended eligibility rules to *qualifying companies*. In other words, it itemizes the **exceptions** to standard policy of industry data distribution to only the participants in a specific product program. If a program is not listed, it reverts to the default distribution of only receiving the products reported into.

In the pages that follow:

- FD = "Final Deliveries" (a combination of new machine retail sales and rental conversions)
- FID = "First in the Dirt" (a combination of first rentals and new machine retail sales)

AGRICULTURAL LATIN AMERICA STATISTICS PROGRAM SUBCOMMITTEE (AG LA SPSC)

Industry Output reports for the following are available only to those members that report into the specific product program(s):

iSTAT Code	Product Program	iSTAT Code	Product Program
FE01	Two Wheel Drive Farm Tractors	FE22	Four Wheel Drive Farm Tractors
FE05	Rectangular Balers	FE06	Large Round Balers
FE23	Self-Propelled Combines	FE27	Self-Propelled Forage Harvesters
FE52	Corn Heads	FED1	Drum & Disk Mowers
FERO	Rotary Rakes	FETD	Tedders
FE15	Pull Type Planters	FESG	Sugar Cane Harvester
FESP	Self-Propelled Sprayers (high clearance)	FEPX	Combine Platforms – Flexible Type

FEPR	Combine Platform - Rigid	FEDX	Combine Draper Heads-Flexible
FER1	Rigid Rotary Cutters	TPGD	Grain Drills
FEM1	Side-Pull Mower Conditioner (Suspended)	FEM2	Mid-pivot Mower Conditioner (Suspended)

AGGREGATES: CRUSHERS, SCREENS, FEEDERS (ASC)

Industry Output reports are available only for the products in which a participant reports:

iSTAT Code	Product Program Name
PSCC	Cone Crushers
PSJC	Jaw Crushers
PSVS	Vertical Shaft Impactors

The following output reports are available to all participants:

iSTAT Code	Product Program Name
VS2C	Incline Screens (2 & 4 Bearing Screens)
VSH2	Horizontal Screens
VSFD	Feeders

AGRICULTURAL TIRE (ATC)

The following reports are available only for those ATC members that report the specific product(s) :

iSTAT Code	Sector	Application
TR01	Agriculture	Front, Implement, Small, Flotation Tires
TR02	Agriculture	Tractor, Combine-Harvester, Applicator-Sprayer/Floater, Grain Cart-Wagon
TR03	Forestry	Skidder-Cable/Grapple, Forwarders-Cut to length (CLT)
TR04	Industrial/Construction	Skid Steer, Mini-Loader, Industrial Tractor-Backhoe, Telehandlers

AGRICULTURAL EQUIPMENT (AESC)

“Tractor and Implements” Product Group

Industry Output reports for all products listed under “Tractor and Implements” are available (upon request) to AESC participants *reporting into any one of the following products:*

iSTAT Code	Product Program	iSTAT Code	Product Program
FE01	Two Wheel Drive Farm Tractors	FE22	Four Wheel Drive Farm Tractors
FE31	Front End Loaders	FEBA	Tractor Backhoe Attachments
FEFS	Flail Shredder	FELL	Box Scraper
FEPH	Post Hole Diggers	FER1	Rigid Rotary Cutters
FER2	Flexible Rotary Cutters	FER3	Multi-Spindle Rotary Finishing Mower, Rigid Rear
FER4	Multi-Spindle Rotary Finishing Mower, Flexible Rear	FERM	Multi-Spindle Rotary Finishing Mowers, mid-mounted
FESB	Snow Blowers (tractor-mounted)	FETB	Tractor Mounted Blades

Note: Companies will receive county level reporting for programs they report into and have county level. Companies will receive state/province level reporting if they do not report into the product. For those products you must request a report from the Data Processor.

“Forage and Harvest Equipment” Product Group

Industry Output reports for all products listed under “Forage and Harvest Equipment” are available (upon request) to AESC participants *reporting into any one of the following products:*

iSTAT Code	Product Program	iSTAT Code	Product Program
FE05	Rectangular Balers	FE06	Large Round Balers
FE23	Self-Propelled Combines	FE27	Self-Propelled Forage Harvesters
FE52	Corn Heads	FED1	Drum & Disk Mowers
FEDR	Combine Draper Heads-Rigid	FEDX	Combine Draper Heads-Flexible

FEFT	Forage Harvester Headers	FEM1	Side-Pull Mower Conditioner
FEM2	Mid-Pivot Mower Conditioner	FEM3	Mounted Mower Conditioner
FEPC	Combine Pickup Headers	FEPX	Combine Platforms – Flexible Type
FERO	Rotary Rakes	FETD	Tedders
FEW2	Windrower Rotary Auger Heads	FEW3	Windrowers, Self-Propelled
FEWC	Windrower Draper Heads	FEWR	Finger Wheel Rake

Note: Companies will receive county level reporting for programs they report into and have county level. Companies will receive state/province level reporting if they do not report into the product. For those products you must request a report from the Data Processor.

“Crop Production Equipment” Product Group

Industry Output reports for all products listed under “Crop Production Equipment” are available (upon request) to AESC participants *reporting into any one of the following products:*

iSTAT Code	Product Program	iSTAT Code	Product Program
FE15	Pull Type Planters	FE16	Mounted Planters
FE56	Mounted Planters	FECD	Compact Disc
FED3	Disk Harrows, Offset	FER5	Rotary Tillers
FESP	Self-Propelled Sprayers (high clearance)	FEST	Strip Tillage
TP11	Air Hole Drill Standard Trip	TP12	Air Disc Drill Int Tank
TP13	Air Disc Drill No Tank	TP53	Plows, Moldboard
TPA3	Air Delivery Systems	TPCC	Combination Chisel Plows
TPCP	Chisel Plows	TPFP	Field Cultivator, Pull
TPG1	3-Point Mounted Drills	TPG2	Pull-Type Rigid Drills
TPG3	No-Till Drills	TPGF	Folding Grain Drills
TPMP	Minimum Tillage Primary	TPTP	Combination Primary Tillage
TPTS	Combination Secondary Tillage	TPVT	Vertical Tillage

Note: Companies will receive county level reporting for programs they report into and have county level. Companies will receive state/province level reporting if they do not report into the product. For those products you must request a report from the Data Processor.

“Ag Precision Guidance” Product Group

Output_reports are available only for the product(s) into which a member participant reports:

iSTAT Code	Product Program Name
PG01	Receivers
PG02	Steering Kits
PG03	Activation Upgrades
PG04	Monitors

- Monthly shipments with Quarterly Output

CONSTRUCTION EQUIPMENT LATIN AMERICA STATISTICS TASKFORCE (CE LA STF)

Industry Output reports for the following products are available only to those reporting into the specific product:(s)

iSTAT Code	Product Program	iSTAT Code	Product Program
EM01	Crawler Tractors	EM04	4WD Loaders
EM07	Motor Graders	EM08	Rigid Frame Haulers
EM58	Articulated Haulers	IF11	Skid Steer Loaders
IF18	Loader Backhoes	EXHW	Wheel Excavators
EXHC	Crawler Excavators		

CONTRACTOR PUMP BUREAU (CPB)

Industry Output reports for the following products are available to all participants in the CPB:

iSTAT Code	Product Program	iSTAT Code	Product Program
CB20	Auto-Prime Solids Hand	CB21	Auto-Prime Non Solids

CB22	Wet Prime Non-Trash	CB23	Wet Prime Trash
CB24	Wet Prime-Rotary	CB25	Diaphragm Pumps
CB34	SPEP Elec. Sub-1 Phase	CB35	SPEP Elec. Sub-3 Phase
CB37	Sound Attenuated Pumps (Suspended)	CB38	Pump Heads, Hydraulic Sub
CB39	Hydraulic Power Units (Suspended)	CB40	Alternative Fuel Pumps (Suspended)

- Monthly Shipment report by total

COMMERCIAL WORKSITE EQUIPMENT (CWE)

Industry Output reports are available to all CWE_participants *reporting into any one of these products:*

iSTAT Code	Product Program Name
IF21	Rough-Terrain Forklifts - 2WD vertical mast
IF23	Rough-Terrain Forklifts - 4WD vertical mast
IF26	Telescopic Handlers

- Monthly flash reports
- Monthly retails (FID) by state and province,
- excluding customer type, first use, and attribute data
- Monthly shipments by state and province
- Monthly shipments by countries of the world
- Monthly worldwide retail sales by country

Industry Output reports are available only for the following products into which a CWE participant reports:

iSTAT Code	Product Program	iSTAT Code	Product Program
IF01	Pedestrian Trenchers (Suspended)	IF02	Riding Trenchers (Suspended)
IF03	Vibratory Plows (Suspended)	IF11	Skid Steers

IF12	Compact Track Loaders	IF31	Tracked Utility Loaders
IF43	Backhoes <12	DB01	Directional Borers (Suspended NA)

CRANES (CSC)

Industry Output reports are available only for the following products into which a CSC participant reports:

ISTAT Code	Product Program Name
CRHO	Hydraulic Rough Terrain Cranes
CRHM	Hydraulic Truck Cranes
CRAT	Hydraulic All Terrain Cranes
	<ul style="list-style-type: none"> ○ Monthly Shipments by state, province
CRHH	Hammerhead Tower Cranes
CRSE	Self-erecting Tower Cranes
CRLB	Luffing Jib Tower Cranes
	<ul style="list-style-type: none"> ○ Monthly shipments by total US and Canada Regions
TA01	Boom Trucks
	<ul style="list-style-type: none"> ○ Monthly Shipments by state, province, and countries of the world

Reported into ICE (International Crane Exchange) Only

ISTAT Code	Product Program Name
CRLC	Lattice Crawler Cranes
	<ul style="list-style-type: none"> ○ Worldwide Shipments by countries of the world
CRTC	Telescopic Crawler Crane
	<ul style="list-style-type: none"> ○ North America by US and Canada ○ Rest of the World

DAIRY EQUIPMENT (DESC)

Industry Output reports are available only for the products into which a DESC participant reports:

ISTAT Code	Product Program	ISTAT Code	Product Program
MMAD	Behavior Monitors	MMBT	Bulk Milk Farm Tanks
MMCH	Chillers	MMCT	I.D. Transponders
MMCU	Condensing Units	MMDS	Variable Frequency Drive
MMER	Energy Recovery Units	MMFB	Footbaths
MMFC	Footbath Controls	MMFP	Feed Pusher
MMIN	Milk Yield Indicators	MMMM	Electronic Milk Meters
MMPA	Parlor Stalls	MMPI	ISO Parlor IS Systems
MMPM	Pipeline Milking UNits	MMPS	Pulsators of any Type
MMPW	Automatic Pipeline Washers	MMRG	Milk Receiving Groups
MMRB	Robotic Milker	MMRR	Plate Coolers
MMRU	Automatic Removal Unit	MMSD	Software Auto Data Collection
MMSG	Sort Gate	MMVP	Vacuum Pumps

- Monthly shipments by US

FORESTRY, EARTHMOVING, AND EXCAVATOR (FEE)

Earthmoving Products

The following North American reports are available to North American participants reporting into any one of these products:

For shipments by country only

iSTAT Code	Product Program Name
EM01	Crawler Tractors
EM02	Crawler Loaders
EM04	Wheel Loaders

EM07	Motor Graders
EM08	Rigid Frame Haulers
EM58	Articulated Haulers
EM60	Wheel Dozers (Suspended)

- Monthly retails (FID) by state and province, excluding customer type, first use, and attribute data
- Monthly dealer inventory, with new and rental inventory breakout
- Annual dollar value
- Monthly worldwide shipments by country
- Monthly worldwide retail sales by country

Industry Output reports are available to all FEE_participants *reporting into any one of these products:*

iSTAT Code	Product Program Name
IF14	Loader Wheel Tractors
IF18	Loader Backhoes

- Monthly retails (FID) by state and province, excluding customer type, first use, and attribute data
- Monthly dealer inventory, with new and rental inventory breakout
- Annual dollar value
- Monthly worldwide shipments by country
- Monthly worldwide retail sales by country

For the following products, Industry Output reports are available only to those who are participating in the specific program(s):

iSTAT Code	Product Program Name
EM71	Pipelayers
EM72	Scrapers
EM80	Underground Haulers
EM81	Underground Loaders

Hydraulic Excavators

For the following products, Industry Output_reports are available to all participants reporting into any one of these products and to participants in the crawler excavator-based forestry products identified below:

iSTAT Code	Product Program Name
EXHC	Crawler Excavators
EXHW	Wheel Excavators

- Monthly retails (FID) by state and province, excluding customer type, first use, and attribute data
- Monthly dealer inventory, with new and rental inventory breakout
- Annual dollar value
- Monthly worldwide shipments by country
- Monthly worldwide retail sales by country

Forestry Products

For the following products, Industry Output_reports are available to all participants reporting into any one of these products and to participants in the *hydraulic excavator programs*:

iSTAT Code	Product Program Name
EX01	Crawler Log Loaders
EX02	Crawler Tree Harvesters
EX03	Crawler Delimbers (Suspended)
EX05	General Forestry Crawler Swing Machine

- Monthly retails (FID) by state and province, excluding customer type, first use, and attribute data
- Monthly dealer inventory, with new and rental inventory breakout
- Annual dollar value
- Monthly worldwide shipments by country
- Monthly worldwide retail sales by country

All Industry Output reports for these forestry products are *restricted* to only the participants in the *North American* programs for these individual products:

iSTAT Code	Product Program Name
EX04	Swing-to-Tree Feller Bunchers
EX06	Wheeled Tree Harvester
IF10	Wheel Log Skidders
IF51	Forwarders
IF61	Knuckle-boom Loaders
IF62	Drive-to-tree Feller Bunchers

For the following products, Industry Output reports are only available to those who are participating in the specific product program(s):

iSTAT Code	Product Program Name
EV01	Brush Chippers
EV02	Whole Tree Chippers
EV03	Horizontal Grinders
EV04	Stump Cutters (suspended)

- Monthly retails by state and province

GENERATORS

For the following products, Industry Output reports for all products are available to Generator participants, by sizes:

iSTAT Code	Product Program Name
GN01	Portable Generators
GN02	Mobile Generators
GN03	Standby Generators

- Monthly shipments by US, Canada

GEOSPATIAL INDUSTRY GROUP (GIG)

For the following products, Industry Output reports are available to all GIG_participants.

iSTAT Code	Product Program	iSTAT Code	Product Program
------------	-----------------	------------	-----------------

GI01	Automatic Levels with Circle	GI02	Automatic Levels Without Circle
GI03	Electronic Theodolites	GI04	Integrated Electronic Theodolite EDM Unit
GI05	Data Recorders/Collectors	GI06	Bar Coded Digital Levels
GI07	Motorized Stations Under 2”& Under and 3” and Over	GI08	Integratee FReflectorless Total Stations
GI09	Survey Grade GNSS (Global Navigation Satellite Sys.) Receivers - Dual Frequency Rx	GI10	Machine Mounted GNSS-Dual Frequency On-Board and Dual Frequency Off-Board
GI11	Motorized Scanning and or Imaging Total Stations	GI12	Triple Frequency GNSS
GI14	Terrestrial Laser		

- Quarterly shipments/retails by US, Canada, Latin America

LIGHT TOWERS

For the following products, Industry Output reports are available to all LTSC participants:

iSTAT Code	Product Program Name
LT01	Light Towers
LT02	Light Towers, Non-Internal Combustion

- Monthly shipments by size by State and Province
- Monthly shipments by size by North America Exports
- Monthly shipments by countries of the world

MOUNTED BREAKER MANUFACTURERS BUREAU

For the following, Industry Output reports for all products are available to all Mounted Breaker participants:

Mounted Breakers

iSTAT Code	Product Program Name
MB01	Mounted Breakers
	<ul style="list-style-type: none"> ● Monthly shipments by State and Province and LA by Country
MBPC	Plate Compactors
	<ul style="list-style-type: none"> ● Monthly shipments by total US and Total Canada

Portable Air Compressors

For the following, Industry Output reports for all products are available to all Portable Air Compressor participants.

iSTAT Code	Product Program Name
PA04	Portable Air Compressors

- Monthly shipments by State and Province

ROAD MACHINERY (RMSC)

If you only report light equipment, you only receive light equipment (CEL1, CEL2, CEM0).

SAW MANUFACTURERS INSTITUTE (SMI)

The following reports for all products are available to participants reporting into the individual program:

iSTAT Code	Product Program Name
SM20	Power Trowels

APPENDIX D: REVISION TIME PERIODS

Standard Policy: All revisions (i.e., changes to previously reported information) are to be made in the time period in which the original activity was reported.

Exceptions to the standard policy, by Product Segment, are as follows:

- Road Machinery (Asphalt Pavers, Cold Planers, Compaction, Soil Stabilizers)
- Lifting (Cranes)

A unit previously reported as a shipment or retail sale, which is returned to the factory as new, should be reported in the month in which the unit is returned.

APPENDIX E: OEM SALES TO NON-PARTICIPANTS

The standard policies for OEM sales apply as described below, with the exceptions as noted.

SHIPMENTS REPORTING PROGRAMS

Shipments made on an OEM basis to a non-participating (i.e., non-reporting) manufacturer should not be reported as a shipment.

RETAIL SALES REPORTING PROGRAMS

In retail sales reporting programs, OEM sales to a non-participating company should not be reported, with the following exceptions:

- Asphalt Pavers
- Cold Planers
- Contractors Pump Bureau
- Soil Stabilizers

For these four committees, OEM sales (the sale of a unit from one manufacturer to another) are to be reported as *miscellaneous sales* to avoid distorting the geographic distribution of retail sales. Report only OEM sales to non-participating companies to avoid double reporting of units.

APPENDIX F: STATISTICS PROGRAM PROPOSAL FORM

FIND IT HERE: [MARKET SHARE STATISTICS - PROGRAM RESOURCES - AEM | ASSOCIATION OF EQUIPMENT MANUFACTURERS](#)

AEM Market Share Statistics Program Proposal

Today's Date

08/07/2024



1. Email address (used to send a copy of your proposal upon completion) *

2. Company name *

3. Is this proposal for a new program or is it a change to an existing program? *

New

Change

4. Select the Statistics Committee(s)/Subcommittee(s)/Group(s) that this proposal will impact. Use CTRL+Click to select multiple, if applicable. *

- AESC - Agricultural Equipment Statistics Committee
- AG LA SPSC - Agricultural Latin America
- ASC - Aggregates Statistics Committee
- ATC - Agricultural Tires Committee
- CE LA SPSC - Construction Equipment Latin America
- CSC - Cranes Statistics Committee
- CP - Contractor Pumps
- CWE - Commercial Worksite Equipment
- DESC - Dairy Equipment
- FEE - Forestry, Earthmoving, & Excavators

5. Describe your proposal in detail. Please include the size metric and size classes you wish to capture. *

APPENDIX G: WAIVER OF DISCLOSURE

WAIVER OF DISCLOSURE

On behalf of the Association of Equipment Manufacturers (AEM) statistics program participant company identified below, I confirm and acknowledge that my company has been informed of the disclosure of its data in conjunction with the following AEM statistics program reports for (Year) _____, Nevertheless, our company requests that AEM and its statistics program service provider process and report such data to other participating companies that are otherwise eligible to receive them.

List Program(s): _____

In addition, this will confirm and acknowledge that my company waives and releases AEM, its statistics program service provider, (Name of IPC) _____, and their respective officers, directors, employees, agents, representatives and successors (collectively, the Releasees) from any and all claims and liabilities of any kind or nature that may arise as a result of the disclosure identified above.

I have full authority to execute this Waiver of Disclosure on behalf of the AEM statistics program participant company identified below.

Signed: _____

Print Name: _____

Participant Company: _____

Dated: _____

Signed: _____

Print Name: _____

Participant Company: _____

Dated: _____

APPENDIX H: REPORT CARD CRITERIA

Revised: 11/29/2021

Outstanding Merit Award Criteria 2022-2023	Possible Points
TIMELINESS (60%)	
Data - 5 points for each month on time.	60
POLICIES AND PROCEDURES (20%)	
<ul style="list-style-type: none"> Annual Start-Up completed correctly and on time. 	5
<ul style="list-style-type: none"> Reporting Procedures Survey completed on time. 	10
<ul style="list-style-type: none"> Company Sponsored Proposal Passes by Vote of Committee. 	5
CORPORATE CITIZENSHIP (20%)	
<ul style="list-style-type: none"> *Company representative attends at least one statistics meeting. 	10
<ul style="list-style-type: none"> *Participation in an Orientation, Education or Training Session. 	5
<ul style="list-style-type: none"> Current representative has served in one of the following capacities: Chair, Vice Chair, SEC Rep, Task Group, or Product Specialist 	5
<ul style="list-style-type: none"> Company has a documented Backup Reporter 	5
TOTAL POINTS POSSIBLE	105
<i>*In-person or via telephone</i>	
Outstanding Merit Award is based on points achieved as indicated below:	
<ul style="list-style-type: none"> 90 – 105 points = Outstanding 	
<ul style="list-style-type: none"> 70 – 89 points = Acceptable 	
<ul style="list-style-type: none"> 0 – 69 points = Not Acceptable 	

APPENDIX I: ELECTED CHAIRMEN TERM LENGTHS

Committee Acronym	Committee or Product Group	Elected Term Length	Comments**
AESC	Agricultural Equipment	1 year	It is expected the Chair and Vice Chair will be reelected for two successive one-year terms.
ASC	Aggregate Statistics Committee	2 years	No limit on re-election for additional terms
ATC	Agricultural Tire Committee	1 year	No limit on re-election for additional terms
MEWP	Mobile Elevating Work Platforms	1 year	No limit on re-election for additional terms
CPB	Contractor Pumps	No Statistics Committee	Included with the technical committee
CWE	Commercial Worksite Equipment	1 year	It is expected the Chair and Vice Chair will be reelected for two successive one-year terms.
CSC	Crane Statistics Committee	2 years	No limit on re-election for additional terms
DESC	Dairy Equipment Manufacturers	2 years	No limit on re-election for additional terms
FEE	Forestry, Earthmoving, & Excavators	1 year	It is expected the Chair and Vice Chair will be reelected for two successive one-year terms.
GIG	Geospatial Industry Group	Indefinite	It is expected the Chair and Vice Chair will be reelected automatically until the committee chooses to establish different terms.
MBMB	Mounted Breakers Manufacturers Bureau	No Statistics Committee	Included with the technical committee
MHTC	Material Handling Tire Committee	1 year	No limit on re-election for additional terms
PPSC	Portable Power Statistics Committee	1 year	No limit on re-election for additional terms
PTMB	Pneumatic Tools Manufacturers Bureau	No Statistics Committee	Included with the technical committee
RMSC	Road Machinery (Asphalt Pavers, Compaction, Soil Stabilizers, Cold Planers)	2 years	No limit on re-election for additional terms
SMI	Saw Manufacturers Institute (Concrete Saws)	No Statistics Committee	Included with the technical committee
UESC	Utility Equipment Statistics Committee	2 years	No limit on re-election for additional terms

** Solicitations for Nominations will be distributed, requested by AEM staff in writing prior to meetings where elections are held.

APPENDIX J: REGIONAL REPORTING PROGRAMS

LIST OF CURRENT REGIONAL PROGRAMS

Brazil – Selected construction equipment, retails reported by state with “Level 2” segmentation code. The report distribution: you receive the industry data only for the products reported.

Latin America Regional Statistics Program – Selected construction equipment, retails reported by state with Level 2 segmentation code. The report distribution is that you receive industry data only for the products reported.

Latin America Expandable Region (Argentina, Chile, Colombia, Panama, Peru) – Construction equipment retails, reported by state, within country.

Latin America – Forestry equipment retails reported by nation.

Latin America (less Brazil & Mexico) – Construction equipment retails reported by state

Latin America Ag Programs – Agriculture equipment, shipments reported by nation, except Brazil, Argentina, and Mexico, which are reported by state.

Mexico – Construction equipment retails reported at the state level. The report distribution states that members receive the industry data only for the products they have reported.

APPENDIX K: GLOBAL FUNDING MODEL

SPECIAL AEM STATISTICS-ONLY REGIONAL MEMBERSHIP

A one-time set-up fee of \$1,000 will apply to companies joining either the Ag, CE, or Forestry Regional Programs. An annual membership fee of \$2,000, is available only to those companies who do not market their products in the US or Canada (once products are marketed in the US or Canada, regular AEM membership rules will apply).

LATIN AMERICA STATISTICS PROGRAM FEES

The following requirements for the Self-funded Latin America Regional programs apply:

- To participate, eligible companies must be an AEM member.
- Companies must report all products within the specific program they participate in (Ag, CE, or Forestry); however, company may choose the region(s).
- Within any specific geographic reporting area, participants must all report at the same level of detail. For example, where state level reporting is required for a specific country, all participants must be able to report the state level data.
- Unless otherwise specified, the AEM Statistics Policy & Procedures will apply, and products will be reported as they are in North America.
- The input file format will be consistent, while the output format and content may vary, depending upon the consensus of the participating companies and approval of AEM and the data processor.

Invoices for participation in the Latin America regional program(s) will be based upon the total number of products reported within each regional program.

SPECIAL AEM STATISTICS-ONLY REGIONAL MEMBERSHIP

- AEM Membership Dues for the Limited Latin American AEM Membership would be a flat fee of USD\$2,000 annually and an additional USD\$1,000 one-time set-up fee for the first year.
- Dues include participation in up to two statistics programs at no charge for any Agricultural, Construction, and Forestry products.
- A member would be charged a statistics program fee of USD\$375, USD\$405, and USD\$405 respectively for any additional products for Agriculture, Construction, and Forestry programs over the initial two product programs.
- The dues structure covers all sectors for which AEM has statistics programs, including: agriculture, construction, mining, utility, and forestry.
- The dues structure does not supersede any existing dues structure currently in place in North America or for worldwide programs.

- Dues are subject to change based on additional services that AEM may offer in the region in the future.

OTHER POTENTIAL FEES

- Fees related to any program system configuration and/or set-up of new products, with related program launches during the course of the year, as requested by the agriculture, construction, or forestry equipment groups.
- Applied fees as described above will include associated costs (but not limited) to back reporting, processing, code changes, system configuration, and data collection efforts based upon a Statement of Work (SOW) provided by the data processor.
- Participating companies (within the program and/or product being launched/developed, requiring any data processing configuration/activity as described above) will be asked to contribute an equal amount of the total fees divided by the total number of program participants.
- Fees are subject to approval by each respective regional group based upon their quorum and voting requirements.

APPENDIX L: WAIVER OF DISCLOSURE MID-YEAR ENTRY

WAIVER OF DISCLOSURE

A downloadable version of AEM Statistics' Waiver of Disclosure can be found on the [Program Resources](#) page on AEM.org. A plain text version is below for reference:

On behalf of the Association of Equipment Manufacturers (AEM) statistics program participant company identified below, I confirm and acknowledge that my company has been informed of the disclosure of its data in conjunction with the following AEM statistics program reports for (Year) _____, as a result of our company's desire to begin participation in this program(s) mid-year, which requires us to back-report our company data from the beginning of this year. Nevertheless, our company requests that AEM and its statistics program service provider process and report such data to other participating companies that are otherwise eligible to receive them.

List Programs: _____

In addition, this will confirm and acknowledge that my company waives and releases AEM, its statistics program service provider, (Name of IPC) _____, and their respective officers, directors, employees, agents, representatives and successors (collectively, the Releasees) from any and all claims and liabilities of any kind or nature that may arise as a result of the disclosure identified above.

I have full authority to execute this Waiver of Disclosure on behalf of the AEM statistics program participant company identified below.

Signed: _____

Print Name: _____

Participant Company: _____

Dated: _____

Signed: _____

Print Name: _____

Participant Company: _____

Dated: _____

APPENDIX M: LETTER OF CONFIDENTIALITY

Get this form here: <https://www.aem.org/groups/statistics>



Print Form

Clear Form

Acknowledgement of Confidentiality Obligations with Respect to AEM Industry Data and Reports

The Official Company Representative (OCR) or other authorized representative for the undersigned Company, as a voluntary participant in the Association of Equipment Manufacturers (AEM) Statistical Data Programs, acknowledges and agrees to follow the confidentiality requirements that apply to all, or any part, of the compiled data in the AEM Statistical Reports that the Company receives in tangible form or has access to via electronic or other means (AEM Industry Data) and accepts the data security guidelines and protocols followed by the information processing company for the AEM programs.

The AEM Statistics Policy & Procedure Manual states the confidential and proprietary nature of AEM Industry Data. The Manual may be viewed at: <http://www.aem.org/groups/statistics/>.

Section IV-D of the Manual, Data Distribution Policy, states each Company's Confidentiality Obligations: *It is imperative that each Company participating in the AEM Statistical Programs and your personnel understand the above Confidentiality Obligation and comply with it. This includes advising those persons in your organization with access to the AEM Statistical Reports of the foregoing Confidentiality Obligation and securing adequate assurance to comply. Any release of the AEM Statistical Reports to third Parties except as authorized above is a violation of AEM Policy and may result in a monetary penalty, suspension or termination from the Program. This includes the use of all or any portion of AEM Statistical Reports in reports prepared by the Company and disseminated to the public or to select investor or other groups.*

If there is any question or doubt whether any proposed use of AEM Statistical Reports by your Company could possibly be a non-permitted use, please contact AEM in advance for guidance. You may contact Jacquelyn La Favor, Statistics Manager, 414-298-4151 or jlafavor@aem.org.

Please sign below and return this acknowledgment form to AEM (email to Jacquelyn La Favor, jlafavor@aem.org). Thank you for your support and participation in AEM's Statistical Programs.

Company Name:

Representative Name:

Signature:

Today's Date:

APPENDIX N: NDA FOR AEM PARTICIPANTS' CONSULTANT

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Agreement, dated as of _____, 2024 is by and between _____ (“Company”) and _____ (“Consultant”), for the benefit and protection of AEM Industry Data as defined below that is provided by Company to Consultant for Company’s specific business purpose (“Purpose”). AEM Industry Data means all information and data supplied to Company as a participant in the statistical information programs conducted by the Association of Equipment Manufacturers (AEM), whether in tangible form or access via electronic or other means. All such information shall be collectively called the “Information”. Company is a participant in AEM statistical programs.

Consultant shall maintain all Information in strict confidence and not disclose the Information to any other person or entities, and exercise the same degree of care to protect such Information from any possession, use or disclosure that Consultant generally uses to protect its own confidential information, but no less than a reasonable standard or care. Consultant may disclose Information to its employees on a strict “need to know” basis and solely for the Purpose, provided that each such person to whom such disclosure is made in notified of the confidential nature of the disclosure and is under an obligation to hold the Information in confidence under the terms and conditions of this Agreement.

Should third parties request Consultant to submit the Information to them pursuant to subpoena, summons, search warrant, governmental order, statute or regulation, or otherwise, Consultant will notify the Company immediately upon receipt of such request, and thereafter promptly deliver written notice of the request to Company so that Company and/or AEM may seek at its sole expense an appropriate protective order or other remedy. Nothing herein shall preclude the disclosure of any Information compelled by law.

In the event Company breaches its obligations under this Agreement, Company and/or AEM shall have available all its rights and remedies at law and in equity, including the right to seek injunctive relief.

The obligation to protect the confidential nature of the Information received by the Consultant shall survive the termination or expiration of this Agreement or Consultant’s consulting engagement by either party for any reason. At the request of Company, Consultant shall promptly deliver to Company all copies of Information in Consultant’s possession without retaining any copies and make no further use of the Information.

Company _____

Consultant _____

By: _____

By: _____

Name/Title: _____

Name/Title: _____

Date: _____

Date: _____

EXHIBIT C

PUBLIC

From: [Stevenson, Ethan](#)
To: [Hazel, Diane](#); [McCaughey, William C.](#)
Cc: [Lockerby, Michael J.](#); [Conrad, Joseph](#); [Westman-Cherry, Melissa](#)
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191
Date: Thursday, September 12, 2024 4:07:49 PM

**** EXTERNAL EMAIL MESSAGE ****

Thanks, Diane.

As you correctly noted in your September 5th letter, 15 U.S.C. § 57b-1(c)(1) requires that the recipient of an FTC subpoena or CID to produce responsive materials in its possession, custody, or control. Therefore, the CID to AEM only seeks those materials in fact in AEM's possession, custody, or control. To the extent certain data responsive to the AEM CID is in the possession, custody, or control of HAI but not AEM (as you have asserted), there is no need to limit or set aside the relevant Specifications in the CID to AEM. Additionally, we do not intend to seek duplicative data from HAI and AEM. If HAI produces the requested data, we would not expect to challenge the above assertion and require AEM to produce that same data.

Best,
Ethan

From: Hazel, Diane <dhazel@foley.com>
Sent: Wednesday, September 11, 2024 5:43 PM
To: Stevenson, Ethan <estevenson1@ftc.gov>; McCaughey, William C. <wmccaughey@foley.com>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Ethan,

We are confirming if we are authorized to accept service on behalf of HAI and will get back to you.

Also, by service of a CID on HAI, does this mean the FTC is setting aside Specification 1 as to AEM, or otherwise limiting the CID to aggregate data in AEM's possession, custody, or control? This would be helpful to know with the petition to quash due next week.

Finally, as an update, we will be making a production this week on behalf of AEM.

Thank you,
Diane

Diane Hazel
Partner

Foley & Lardner LLP | Denver, CO
Phone 720.437.2034

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From: Stevenson, Ethan <estevenson1@ftc.gov>
Sent: Wednesday, September 11, 2024 11:56 AM
To: McCaughey, William C. <wmccaughey@foley.com>; Hazel, Diane <dhazel@foley.com>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

**** EXTERNAL EMAIL MESSAGE ****

Diane,

We are preparing to issue a CID to HAI. Will you accept service?

Best,
Ethan

From: Stevenson, Ethan
Sent: Thursday, September 5, 2024 7:18 PM
To: McCaughey, William C. <wmccaughey@foley.com>; Hazel, Diane <dhazel@foley.com>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Received. Thanks, Bill.

From: McCaughey, William C. <wmccaughey@foley.com>
Sent: Thursday, September 5, 2024 7:12 PM
To: Hazel, Diane <dhazel@foley.com>; Stevenson, Ethan <estevenson1@ftc.gov>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>
Subject: [Not Virus Scanned] RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Evening Ethan,

Please see the attached correspondence and production of documents, as requested.

We look forward to connecting tomorrow.

Regards,
Bill

William C. McCaughey

PUBLIC

Associate

Foley & Lardner LLP | New York, NY

Phone 212.338.3425

[View My Bio](#) | [Visit Foley.com](#) | wmccaughey@foley.com



From: Hazel, Diane <dhazel@foley.com>

Sent: Thursday, September 5, 2024 2:07 PM

To: Stevenson, Ethan <estevenson1@ftc.gov>

Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; McCaughey, William C. <wmccaughey@foley.com>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>

Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Ethan,

We will be sending over some documents today and authority substantiating our position.

Speak to you tomorrow.

Thank you,

Diane

Diane Hazel

Partner

Foley & Lardner LLP | Denver, CO

Phone 720.437.2034

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From: Stevenson, Ethan <estevenson1@ftc.gov>

Sent: Wednesday, September 4, 2024 4:35 PM

To: Hazel, Diane <dhazel@foley.com>

Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; McCaughey, William C. <wmccaughey@foley.com>; Westman-Cherry, Melissa <MWESTMAN@ftc.gov>

Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

**** EXTERNAL EMAIL MESSAGE ****

Diane,

During our August 29 meet and confer, AEM stated that much of the data requested by our CID is not in AEM's custody, possession, or control. Please provide the legal and factual basis for your position in writing in advance of our meeting on Friday. Should AEM maintain this position, we will prepare a CID to issue directly to HAI.

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Best,
Ethan

From: Stevenson, Ethan
Sent: Tuesday, September 3, 2024 3:25 PM
To: 'Hazel, Diane' <dhazel@foley.com>
Cc: 'Lockerby, Michael J.' <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>;
'McCaughey, William C.' <wmccaughey@foley.com>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Diane,

Please see the attached correspondence regarding confidentiality.

Best,
Ethan

From: Stevenson, Ethan
Sent: Tuesday, September 3, 2024 12:39 PM
To: Hazel, Diane <dhazel@foley.com>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; McCaughey,
William C. <wmccaughey@foley.com>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Thanks, Diane. Let's take the 12 ET slot on Friday 9/6. I'll send an invite.

From: Hazel, Diane <dhazel@foley.com>
Sent: Friday, August 30, 2024 4:45 PM
To: Stevenson, Ethan <estevenson1@ftc.gov>
Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>; McCaughey,
William C. <wmccaughey@foley.com>
Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Ethan,

Thank you for confirming the extension of the deadline to file a petition to quash to September 18. In the meantime, we will work on getting the information requested ready for production to substantiate the position articulated during yesterday's meet and confer. We unfortunately are not available those times next Thursday but are available Friday the 6th at 12 ET or 5 ET. We also can provide availability for the next week if those times do not work.

Have a good Labor Day weekend.

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Best,
Diane

Diane Hazel*Partner***Foley & Lardner LLP | Denver, CO**

Phone 720.437.2034

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From: Stevenson, Ethan <estevenson1@ftc.gov>**Sent:** Friday, August 30, 2024 10:13 AM**To:** Hazel, Diane <dhazel@foley.com>**Cc:** Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>**Subject:** RE: CID to Association of Equipment Manufacturers, File No. 211-0191**** EXTERNAL EMAIL MESSAGE ****

Diane,

Please see the attached letter extending AEM's deadline to file a petition to quash the CID. As I said yesterday, I think it'd be useful to check in next week. Are you available Thursday 9/5 between 1-2:30 pm or 4-5 pm ET?

Thanks,
Ethan

From: Hazel, Diane <dhazel@foley.com>**Sent:** Monday, August 26, 2024 10:34 AM**To:** Stevenson, Ethan <estevenson1@ftc.gov>**Cc:** Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>**Subject:** RE: CID to Association of Equipment Manufacturers, File No. 211-0191

Thank you, Ethan. We look forward to speaking with you and Joe on Thursday.

Diane Hazel*Partner***Foley & Lardner LLP | Denver, CO**

Phone 720.437.2034

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From: Stevenson, Ethan <estevenson1@ftc.gov>**Sent:** Monday, August 26, 2024 7:17 AM

PUBLIC

To: Hazel, Diane <dhazel@foley.com>

Cc: Lockerby, Michael J. <MLockerby@foley.com>; Conrad, Joseph <jconrad2@ftc.gov>

Subject: RE: CID to Association of Equipment Manufacturers, File No. 211-0191

**** EXTERNAL EMAIL MESSAGE ****

Diane,

Thanks for reaching out. I'm CC'ing my colleague Joe Conrad who'll be working with me on the CID. Let's do 10:30 ET on Thursday. I'll send an invite.

Best,
Ethan

From: Hazel, Diane <dhazel@foley.com>

Sent: Saturday, August 24, 2024 3:18 PM

To: Stevenson, Ethan <estevenson1@ftc.gov>

Cc: Lockerby, Michael J. <MLockerby@foley.com>

Subject: CID to Association of Equipment Manufacturers, File No. 211-0191

You don't often get email from dhazel@foley.com. [Learn why this is important](#)

Ethan,

We represent Association of Equipment Manufacturers (AEM). The FTC served AEM with a CID, and we are reaching out to schedule the meet and confer on Thursday, August 29. We are available at 10:30 or 12 ET on Thursday. Please let us know if one of those times works for you.

Thank you,
Diane

Diane Hazel

Partner

Foley & Lardner LLP

1400 16th Street, Suite 200, Denver, CO 80202

Phone 720.437.2034

[View My Bio](#) | [Visit Foley.com](#) | dhazel@foley.com



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EXHIBIT D

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Ethan Stevenson
Bureau of Competition
(202) 531-8971
Estevenson1@ftc.gov

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 4, 2024

By Email

Diane Hazel, Esq.
Foley & Lardner
1400 16th St., Suite 200
Denver, CO 80202

Re: Deere & Company, FTC File No. 211-0191

Dear Diane:

I write regarding the Federal Trade Commission's Civil Investigative Demand ("CID") issued to Hargrove & Associates ("HAI") on September 16, 2024. The deadline for compliance was previously extended to October 21, 2024, and the deadline to file a petition to limit or quash the CID is October 8, 2024.

We met and conferred about the CID and the CID issued to HAI's parent organization, the Association of Equipment Manufacturers ("AEM"), on September 23, October 1, October 3, and October 4. During our conferences, HAI maintained that it could not produce responsive data under the CID without the consent of third parties who submitted the data. Staff explained that we disagree that HAI must obtain third-party consent to produce responsive data. And we do not believe such a requirement would excuse CID noncompliance. But we agreed to consider whether certain aggregate data sets possessed by AEM can satisfy the needs of our investigation without requiring the production of the third-party data submissions in HAI's possession. Staff emphasized that whether AEM's aggregate data will satisfy the needs of our investigation is highly uncertain because the contents of AEM's aggregate data are unknown to us.

Pursuant to Commission Rule 2.7(*l*), 16 C.F.R. § 2.7(*l*), and to allow AEM to produce, and staff to review, a representative sample of AEM's aggregate data, the deadline to file a petition to limit or quash the CID is hereby extended to October 10, 2024.

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Diane Hazel, Esq.
October 4, 2024
Page 2

Sincerely,

/s/ Ethan D. Stevenson
Ethan D. Stevenson

Approved:

/s/ Geoffrey M. Green
Geoffrey M. Green
Assistant Director
Anticompetitive Practices I Division
Bureau of Competition

EXHIBIT E

PUBLIC



Ethan Stevenson
Bureau of Competition
(202) 531-8971
Estevenson1@ftc.gov

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 10, 2024

By Email

Diane Hazel, Esq.
Foley & Lardner
1400 16th St., Suite 200
Denver, CO 80202

Re: Deere & Company, FTC File No. 211-0191

Dear Diane:

I write regarding the Federal Trade Commission's Civil Investigative Demand ("CID") issued to Hargrove & Associates ("HAI") on September 16, 2024. The deadline for compliance was previously extended to October 21, 2024, and the deadline to file a petition to limit or quash the CID was previously extended to October 10, 2024.

On October 8, HAI produced a sample of aggregate and anonymized data responsive to the CID. In our previous conferences, staff agreed to consider whether this type of aggregate data can satisfy the needs of our investigation without requiring the production of the third-party data submissions in HAI's possession. We met and conferred on October 9. During our conference, staff explained that the FTC's investigation requires more granular data than what HAI produced on October 8, including, for example, data that breaks out products by the individual columns in model charts provided by HAI's parent company the Association of Equipment Manufacturers' (e.g. 0–20 horsepower 2WD tractors). HAI agreed to investigate whether HAI or AEM possesses more granular aggregate data and requested an extension of the deadline to file a petition to limit or quash the CID. Staff remains willing to continue negotiating with HAI regarding the production of aggregate data that may satisfy our investigative needs but is unlikely to grant a further extension of the deadline to file a petition to limit or quash the CID.

Pursuant to Commission Rule 2.7(*l*), 16 C.F.R. § 2.7(*l*), the deadline to file a petition to limit or quash the CID is hereby extended to October 16, 2024.

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Diane Hazel, Esq.
October 10, 2024
Page 2

Sincerely,

/s/ Ethan D. Stevenson
Ethan D. Stevenson

Approved:

/s/ Geoffrey M. Green
Geoffrey M. Green
Assistant Director
Anticompetitive Practices I Division
Bureau of Competition