

LICENSE AND DEVELOPMENT AGREEMENT

dated as of May 11, 2005

among

COMCAST IP HOLDINGS I, LLC,

COMCAST CORPORATION

and

AGILETV CORPORATION

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LICENSE AND DEVELOPMENT AGREEMENT

This License and Development Agreement (the “**Agreement**”) is made effective as of May 11, 2005 (the “**Effective Date**”), by and among Comcast IP Holdings I, LLC, a Delaware limited liability company, having its principal place of business at 1201 N. Market Street, Suite 1000, Wilmington, Delaware 19801 (“**Comcast**”), Comcast Corporation, a Pennsylvania corporation, having its principal place of business at 1500 Market Street, Philadelphia, Pennsylvania 19102-2148, as guarantor of Comcast’s obligations hereunder (“**Comcast Parent**”), and AgileTV Corporation, a Delaware corporation, having its principal place of business at 333 Ravenswood Avenue, Building 202, Menlo Park, California 94025 (“**AgileTV**”). Comcast, Comcast Parent and AgileTV may sometimes be individually referred to as a “**Party**” or collectively referred to as the “**Parties**.” Unless otherwise defined herein all capitalized terms shall have the respective meanings ascribed thereto in Exhibit A attached hereto and incorporated herein by this reference.

RECITALS

AgileTV and certain Affiliates of Comcast are currently engaged in a trial of certain of AgileTV’s products and services related to the AgileTV Technology.

An Affiliate of Comcast has agreed to lend to AgileTV, and AgileTV has agreed to borrow from such Comcast Affiliate, certain funds (the “**Loan**”) pursuant to the terms of that certain Note Purchase Agreement of even date herewith between such Comcast Affiliate and AgileTV and the Senior Convertible Promissory Note issued by AgileTV thereunder (collectively, the “**Loan Documents**”), in order to provide AgileTV with additional capital for its trial with Comcast and its Affiliates and for its development efforts with respect to products and services to be developed by AgileTV for deployment by Comcast and its Affiliates.

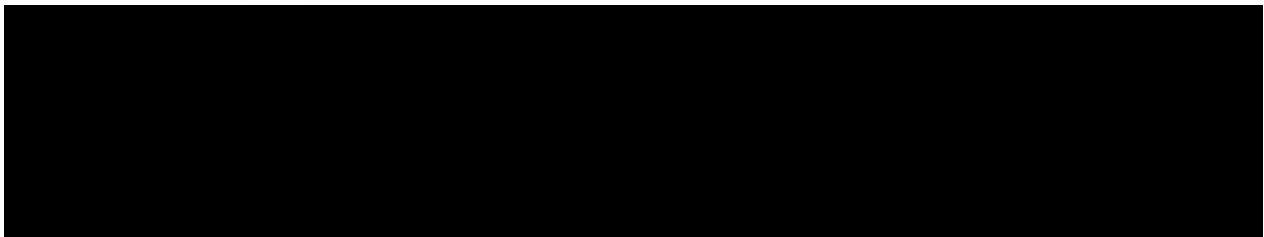
In connection with such trial and Loan, AgileTV desires to grant to Comcast certain rights in and licenses to AgileTV’s technologies, products, services and Intellectual Property Rights.

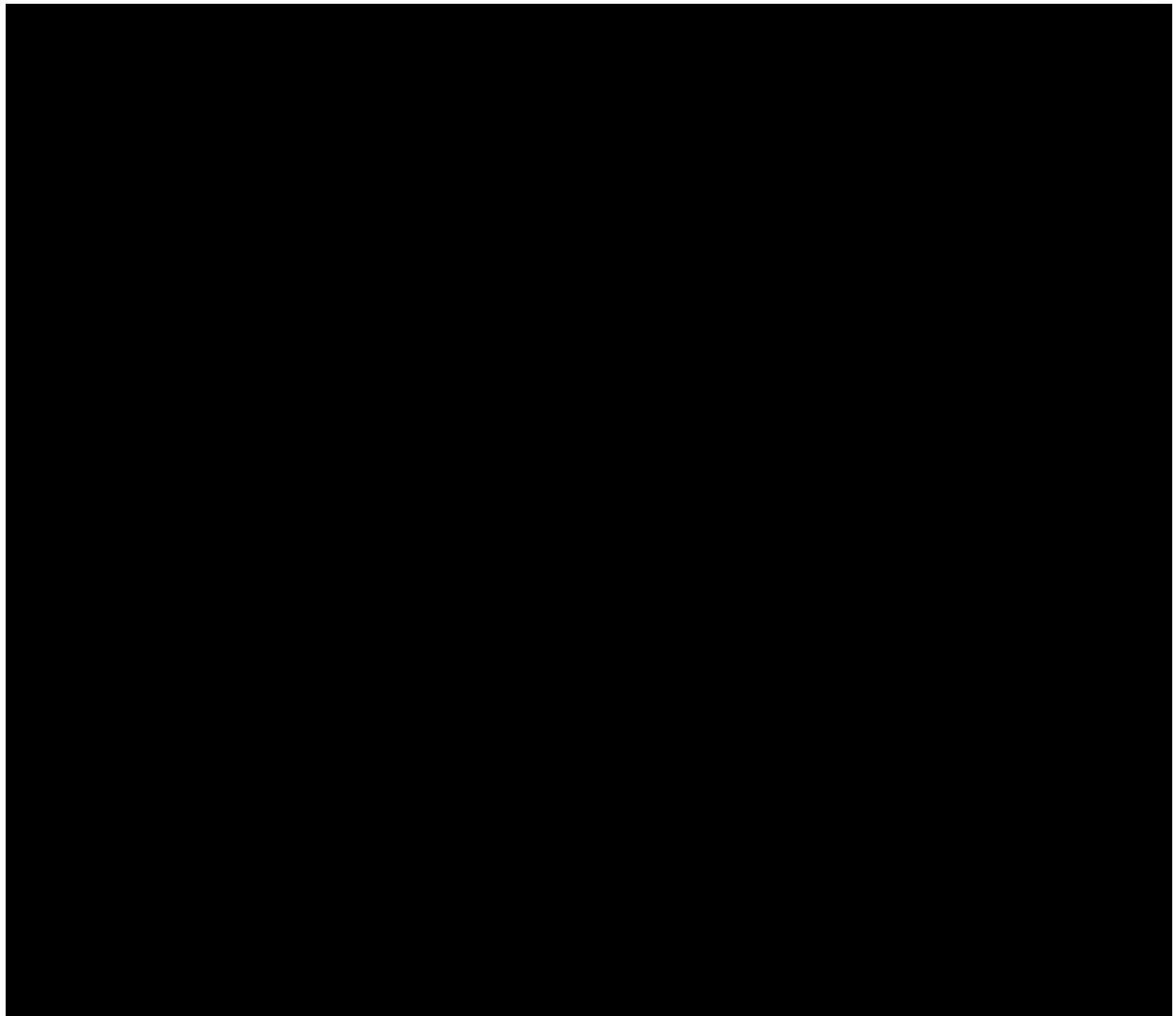
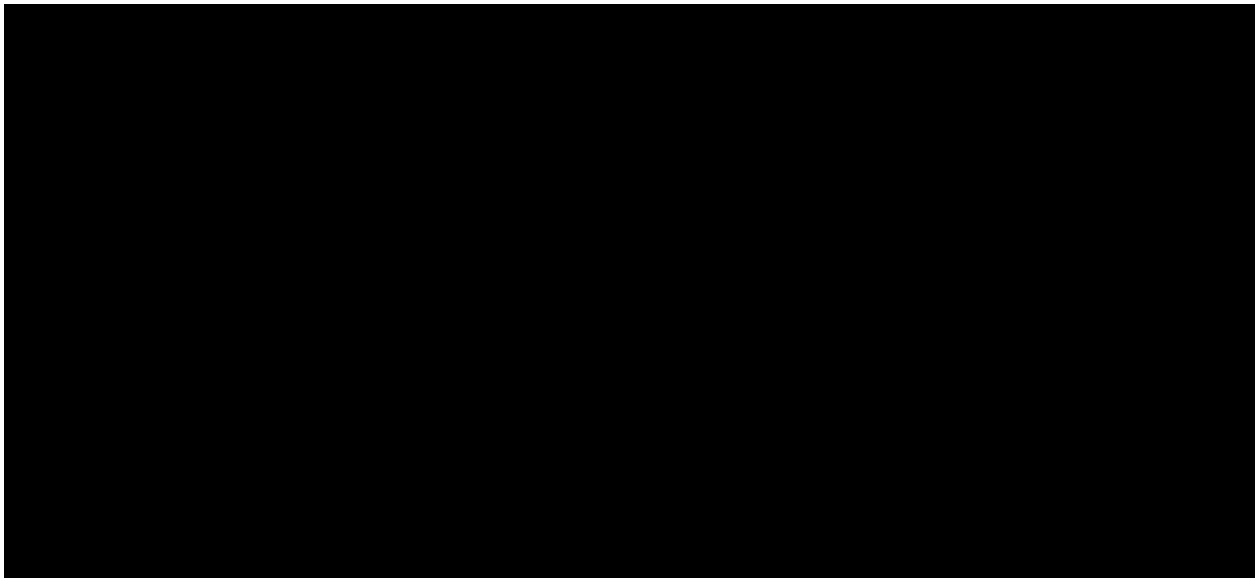
Comcast may desire to integrate certain of AgileTV’s technologies, products, services and Intellectual Property Rights with its own products and services.

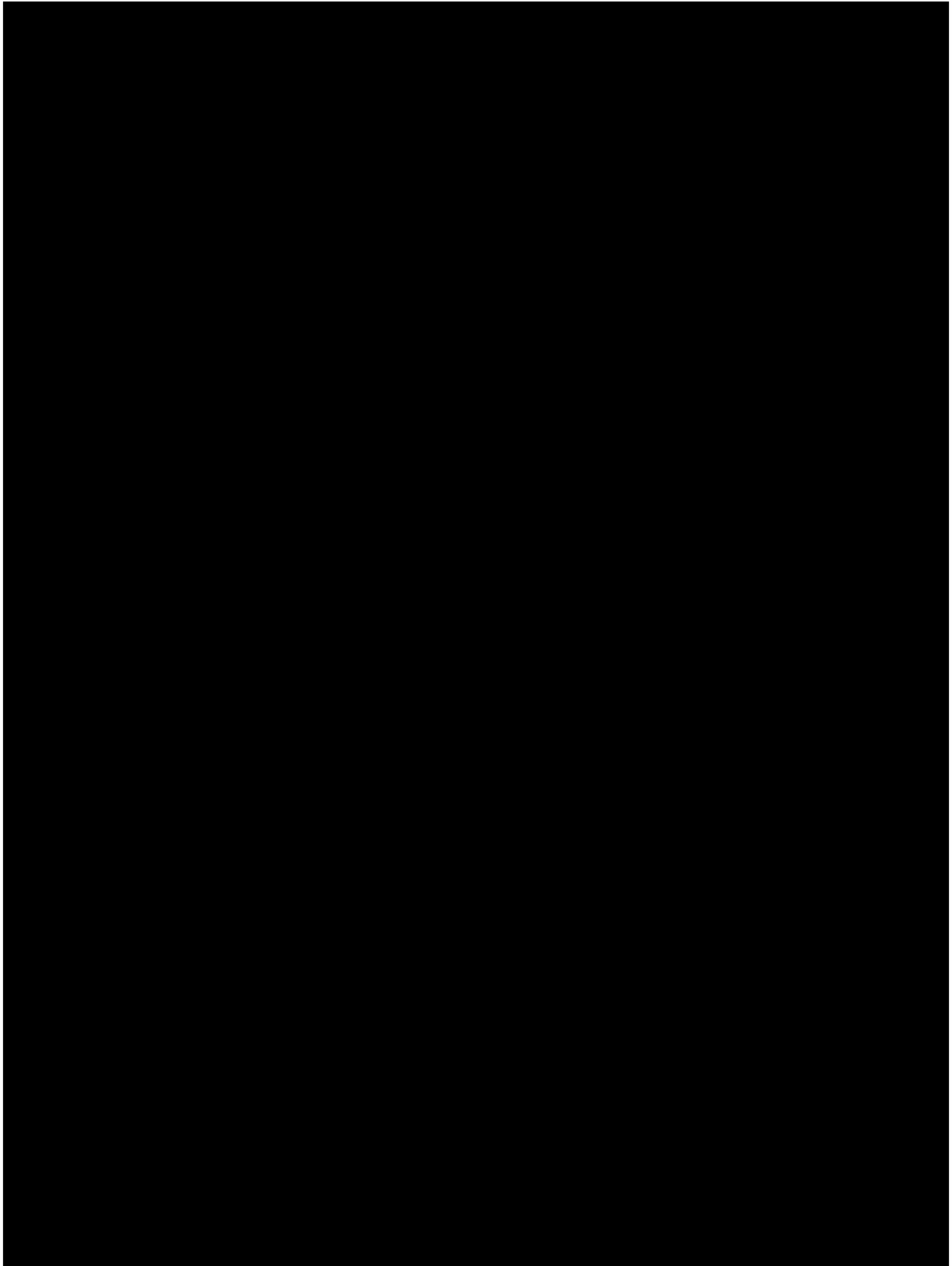
The Parties desire to further these and other similar goals by entering into this Agreement.

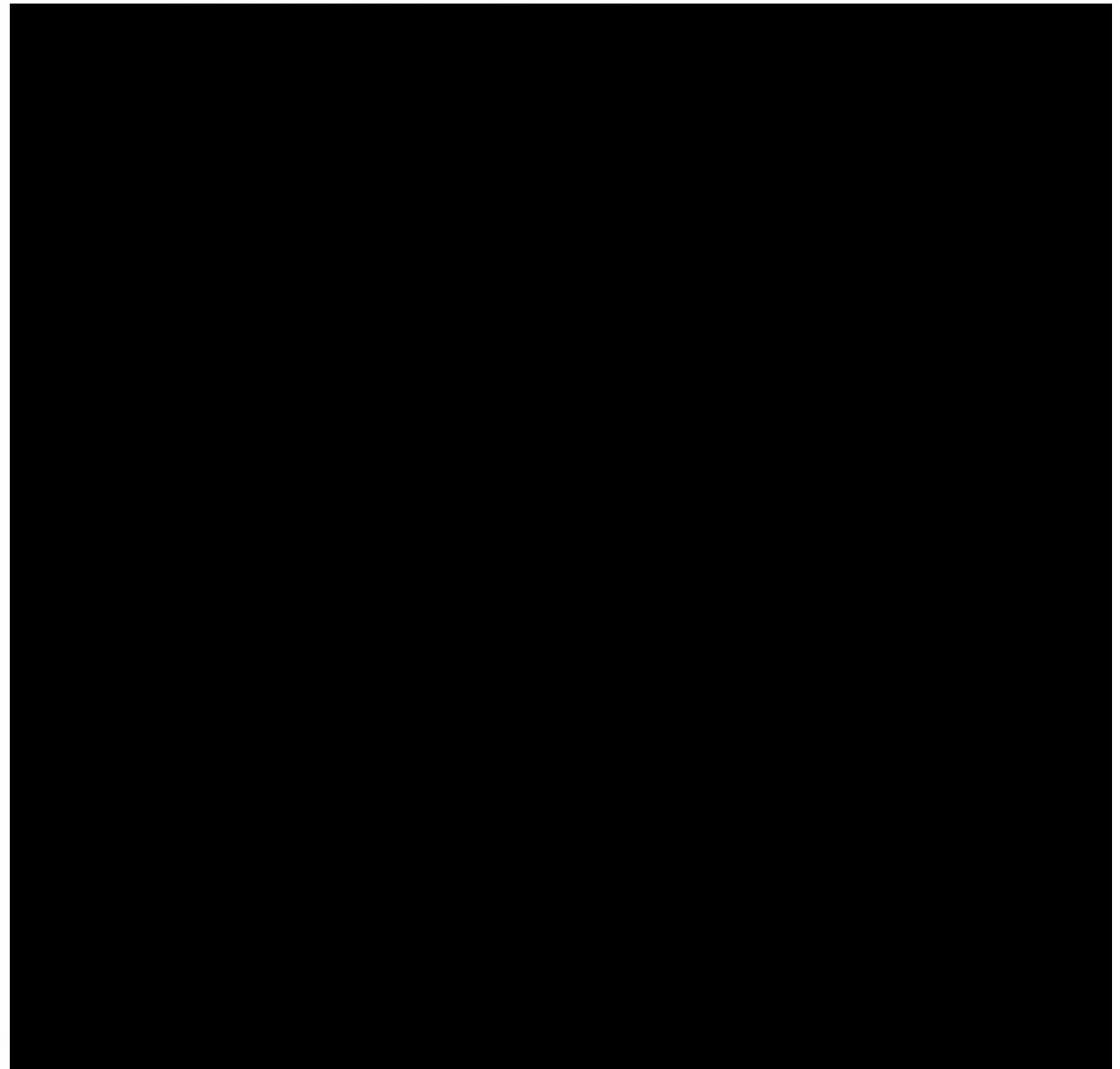
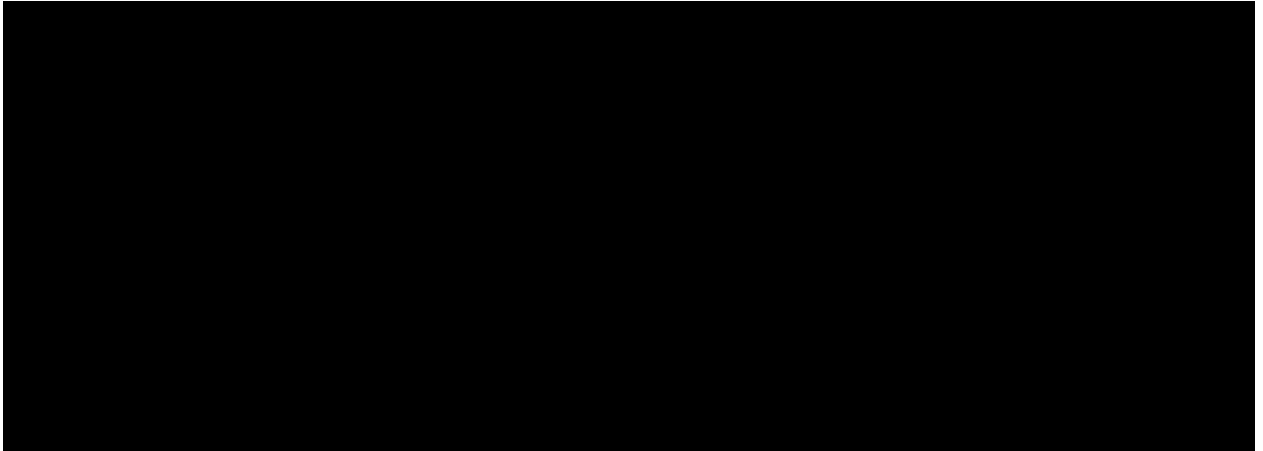
THEREFORE, the Parties, intending to be legally bound, hereby agree as follows:

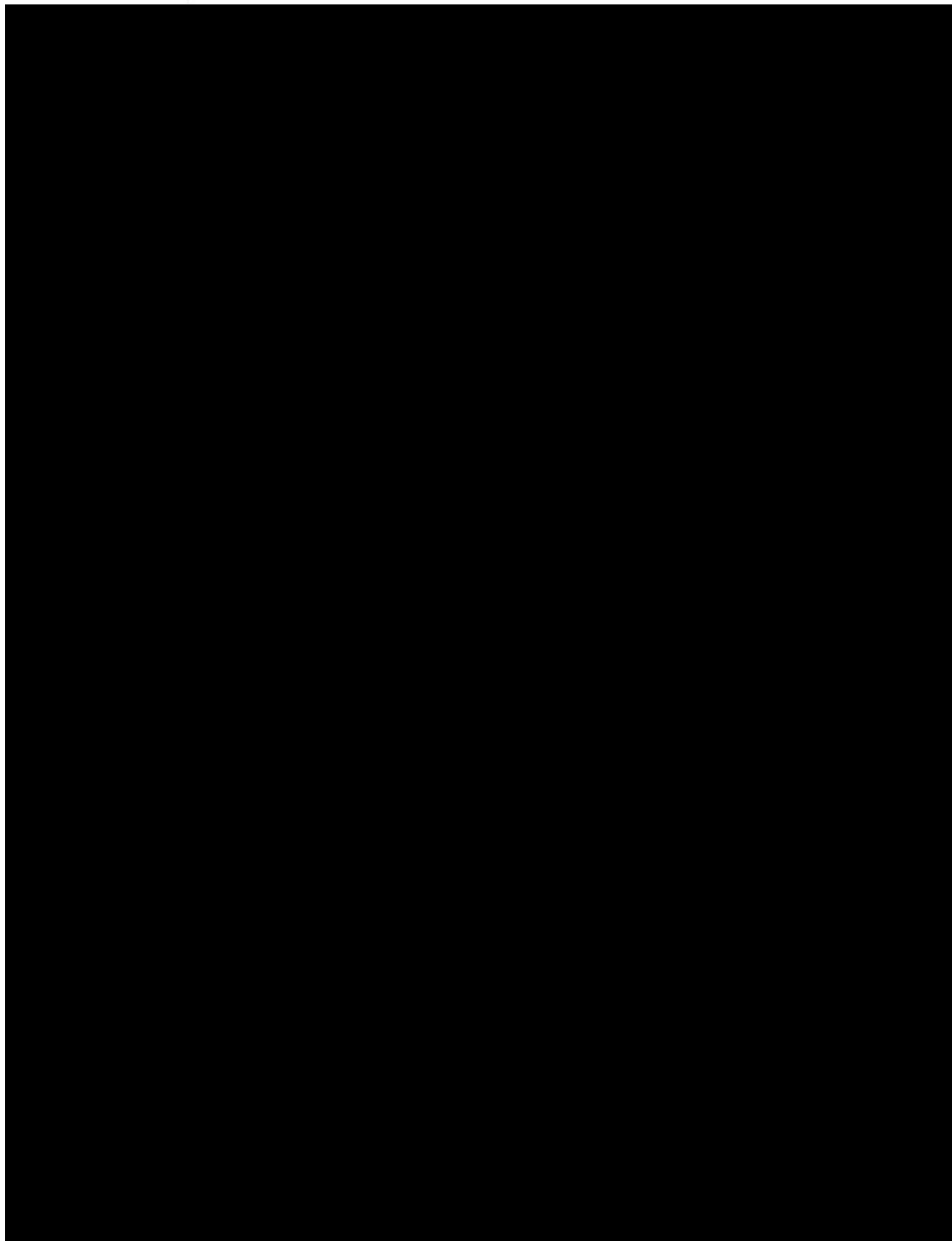
SECTION 1. GRANT OF LICENSE RIGHTS UNDER AGILETV INTELLECTUAL PROPERTY.

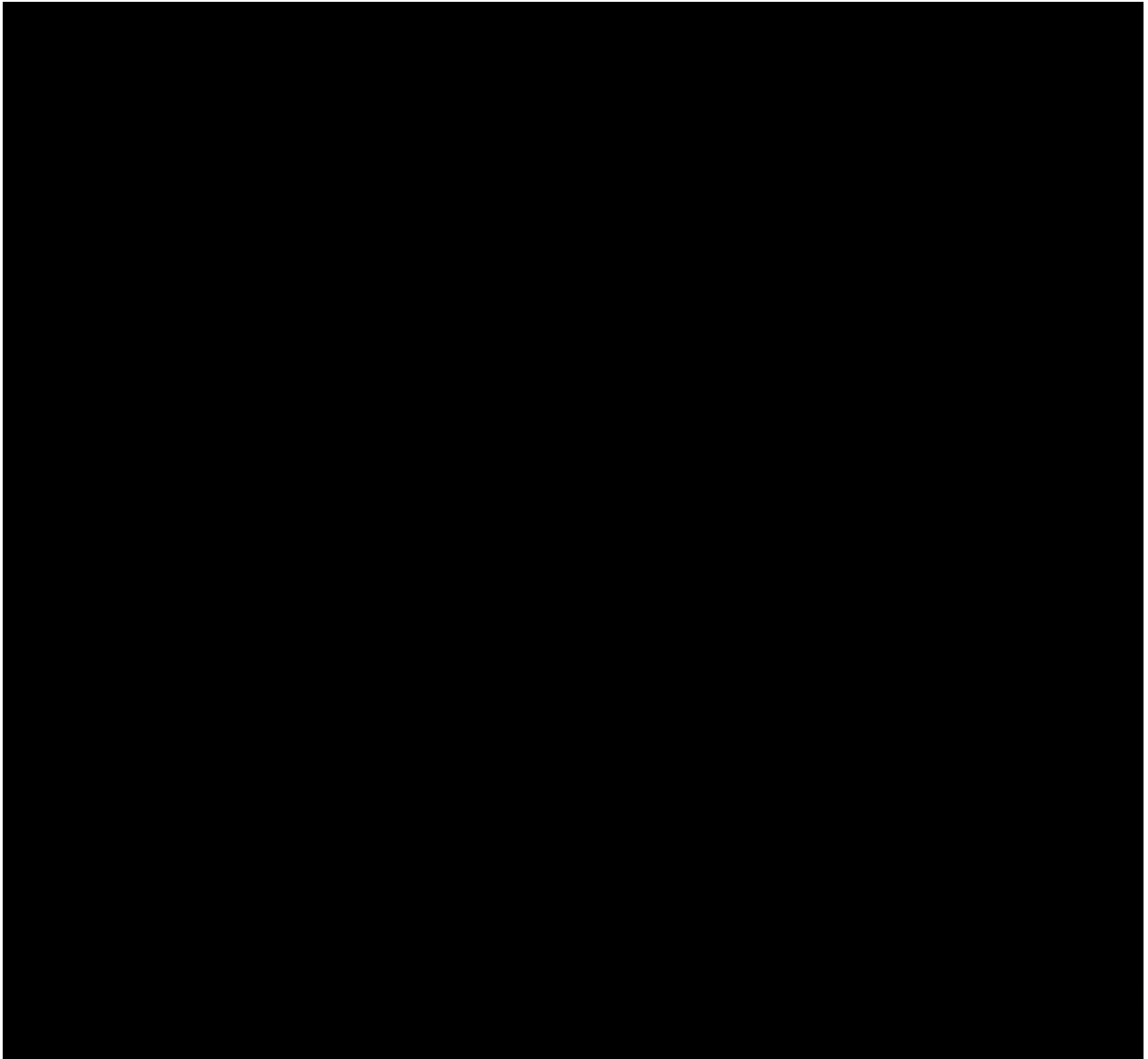




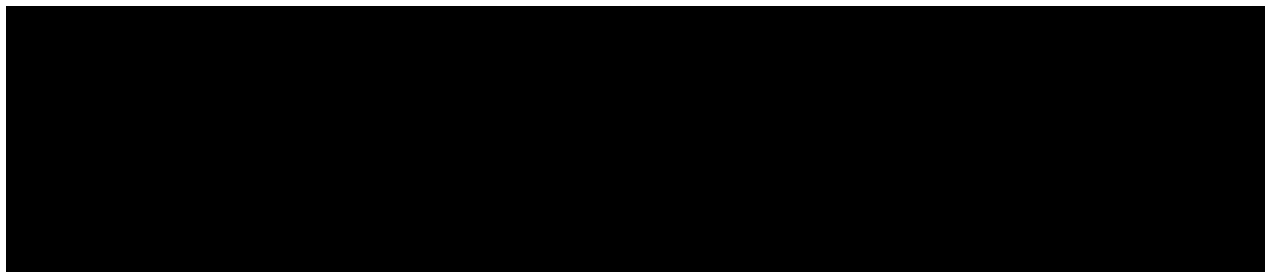








(e) Effective Date of Licenses. If and when Comcast exercises the AgileTV Patent License Option or the One-Time IP License Option (including any extension of such rights to the Excluded Field of Use pursuant to Section 1(d) above) and pays the applicable consideration therefor, all license rights granted upon exercise of such option shall be effective as of, and such license rights shall relate back to, the Effective Date.

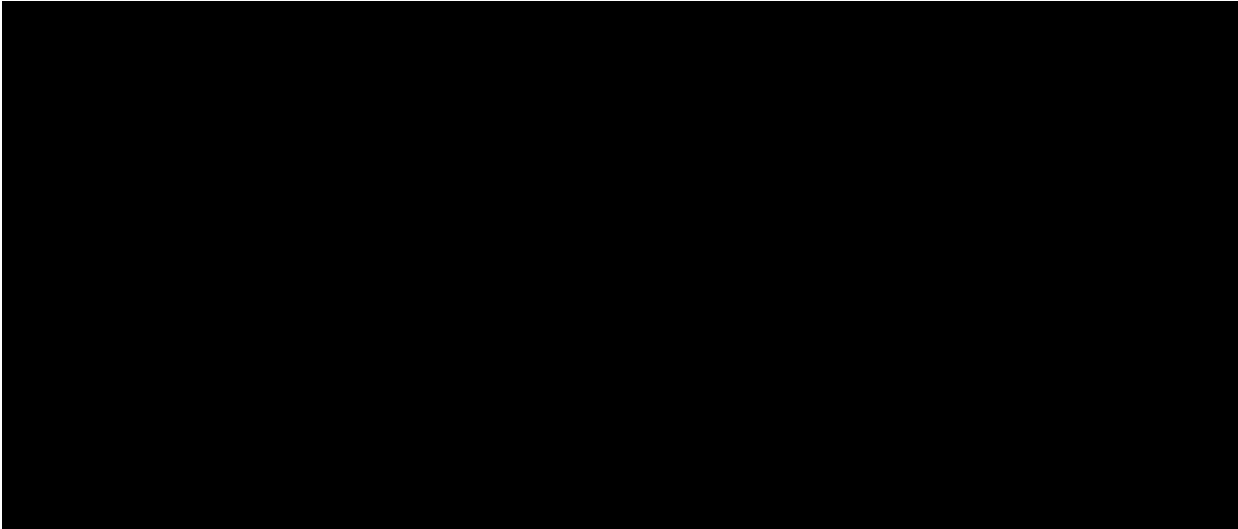


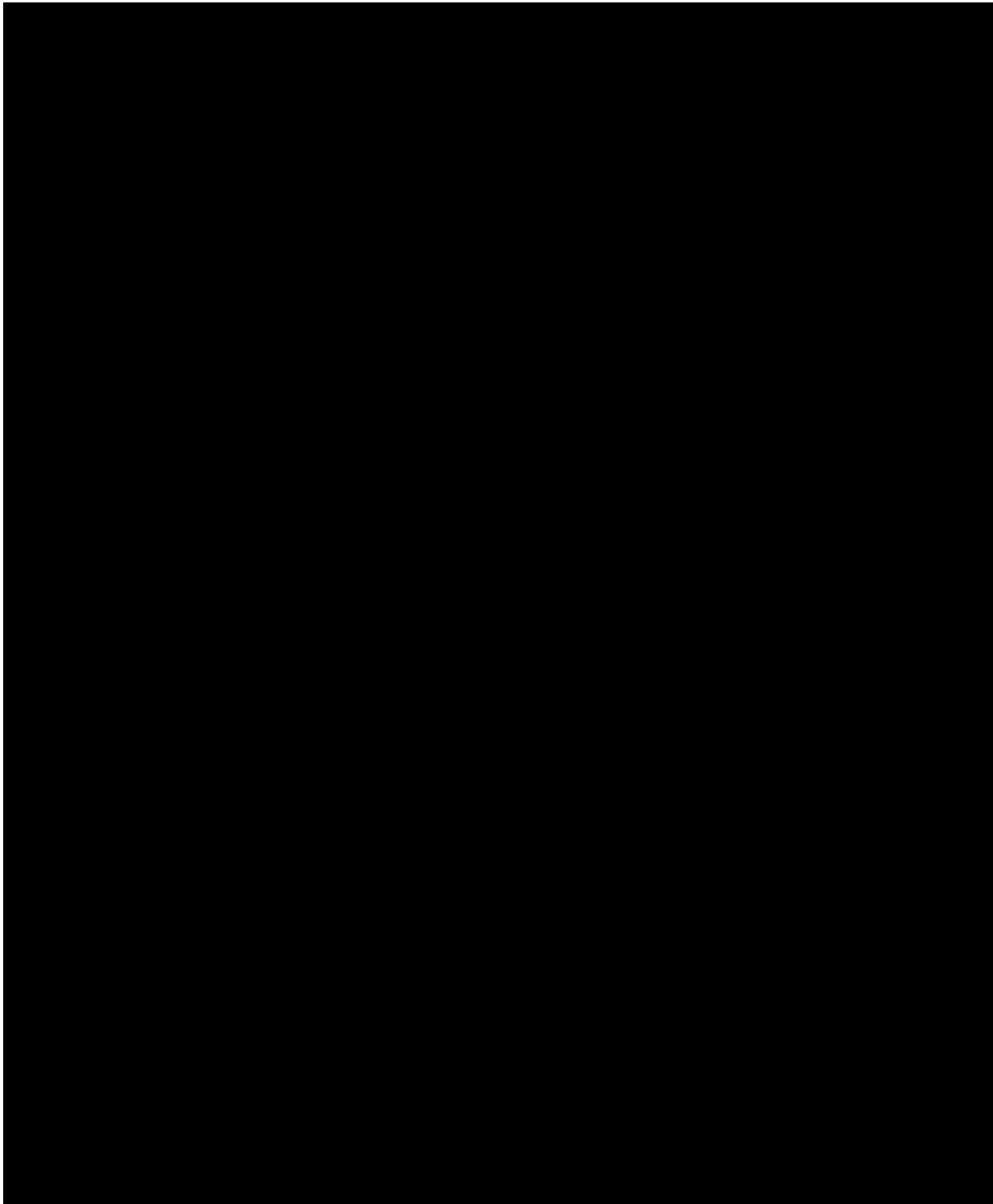


SECTION 2. DEVELOPMENT PROJECT.

(a) Project Purpose. Comcast desires to develop and build a Commercially Deployable architecture, including all technologies, hardware, software, interfaces and protocols, for voice control of Comcast Products, which utilizes AgileTV Technology (including any Updates thereto and New Features based thereon created on or before the Project Commencement Date) and is integrated with one or more Platforms as designated by Comcast (collectively, the “**Architecture**”). The development and building of the Architecture by Comcast in collaboration with AgileTV, as set forth in the Statement of Work, is referred to herein as the “**Project**”; by way of clarification, Comcast shall have the right to proceed with other projects involving the Architecture (whether utilizing AgileTV Technology or not, whether by itself or with the involvement of one or more third parties other than AgileTV, and whether pursued before the Project, during and simultaneously with the Project or following completion or earlier termination of the Project), and none of the rights or obligations described in this Agreement with respect to the Project shall relate to such other Architecture-related projects, but rather shall only relate to the Project in which AgileTV is involved as described in the Statement of Work. Accordingly, if the Parties do not agree in writing upon a Statement of Work, there shall be no “Project,” and neither Party shall have any rights or obligations relating to the Project under this Agreement, provided that such failure to agree upon a Statement of Work shall not affect either Party’s other rights and obligations under this Agreement.

(b) Project Statement of Work. Following the Effective Date, Comcast shall, with AgileTV’s reasonable cooperation, define in greater detail the scope of the Project and the features and functionality required for the Architecture, all of which shall be subject to the reasonable approval of AgileTV and shall be set forth in a mutually acceptable statement of work for the Project (the “**Statement of Work**”). The Statement of Work shall, at a minimum, provide for:

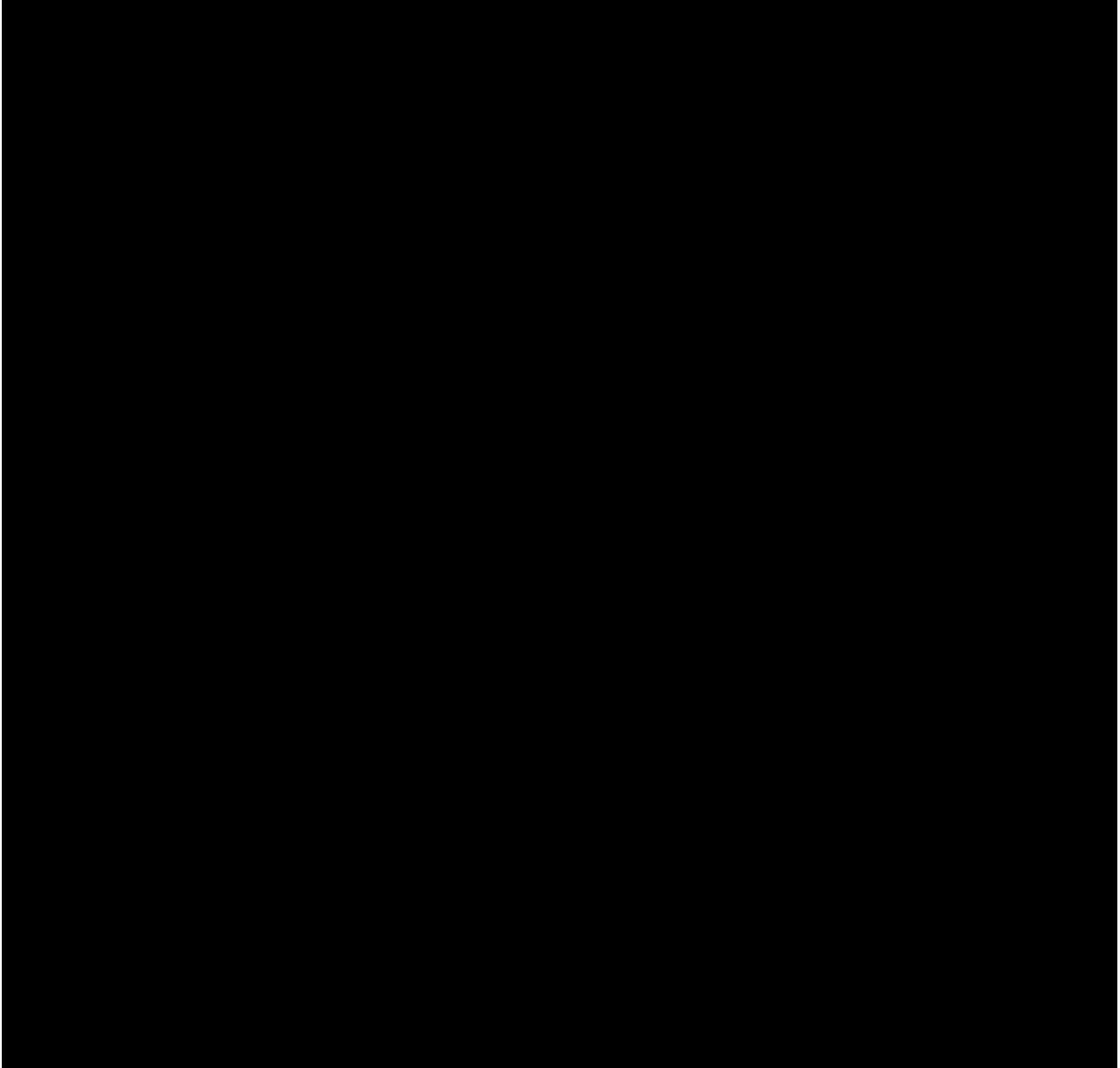


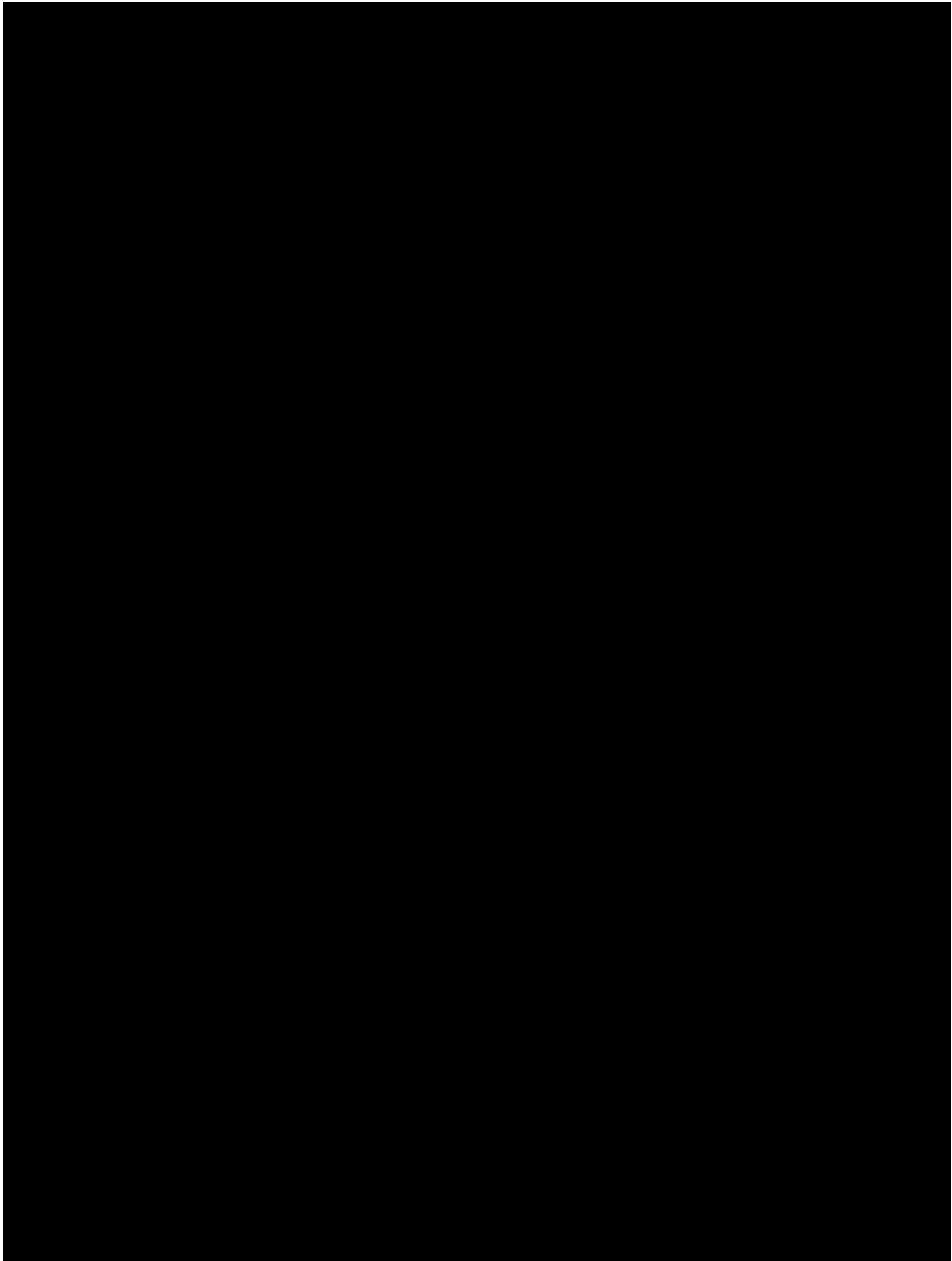


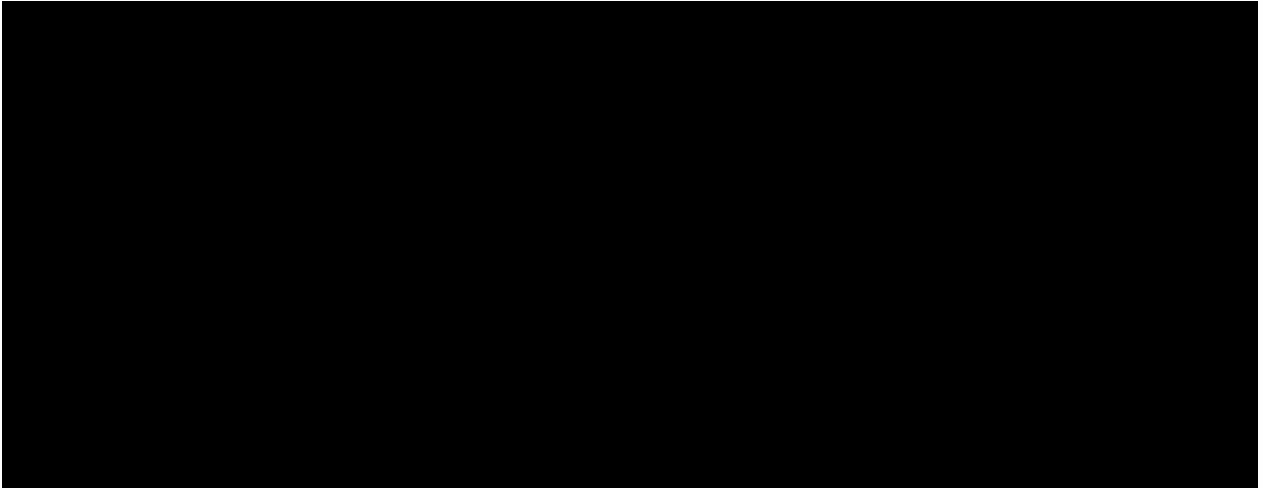
Notwithstanding the foregoing, at any time prior to the Project Commencement Date, Comcast shall have the right, in its sole discretion, to elect to not proceed with the Project and, if the Parties have begun work on the Statement of Work, to discontinue working on the Statement of Work, in which event both Parties shall be relieved of any remaining obligations under this

Section 2, provided that such discontinuation of work on the Statement of Work shall not (A) relieve either Party from any liability for breaches of this Section 2 prior to such discontinuation, (B) affect either Party's other rights and obligations under this Agreement, or (C) affect Comcast's right to continue with any other projects relating to the Architecture without the involvement of AgileTV.

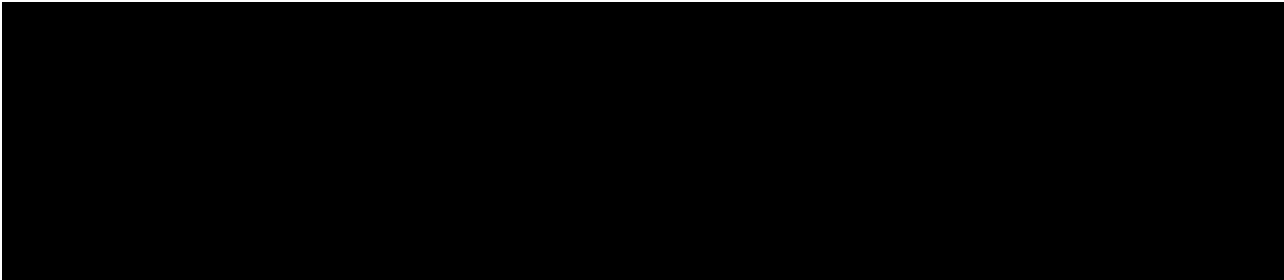
(c) Project Performance. If the Parties agree on a Statement of Work (AgileTV's agreement thereto not to be unreasonably withheld insofar as it relates to the definition of the Project) and Comcast desires, in its sole discretion, to proceed with the Project, the Parties shall execute the Statement of Work and/or otherwise acknowledge in writing the commencement of the Project (the date on which such occurs, the "**Project Commencement Date**"), and AgileTV shall immediately commence performance of its obligations under the Statement of Work, subject to the following:



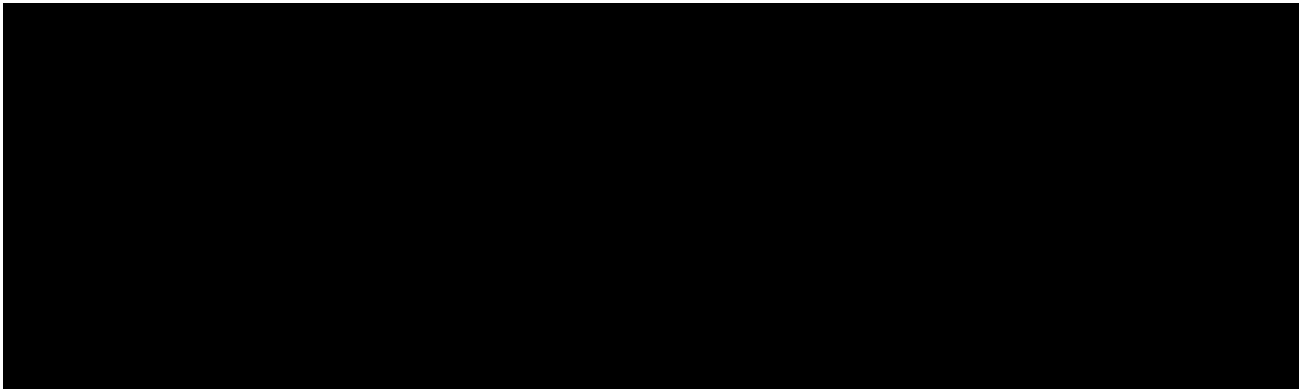


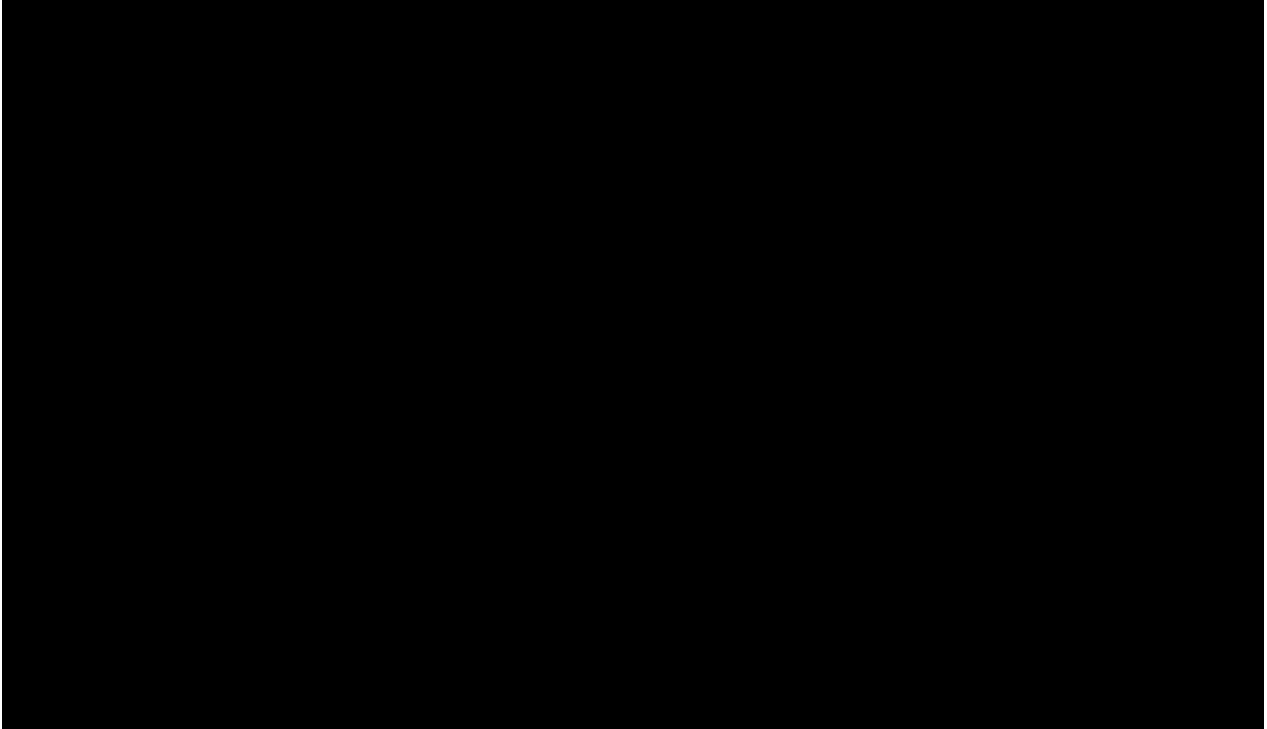


(d) Project Payment. In consideration for the performance by AgileTV of its obligations in respect of the Project and the joint ownership of all rights in, to and under the Project Patents and Project IP, Comcast shall pay AgileTV such amounts as shall be set forth in the final Statement of Work, subject to adjustment to take into account any Credit Amounts or PCR modifications implemented in accordance with the Section 2 and the Statement of Work (the aggregate amount required to be so paid by Comcast to AgileTV pursuant to the Statement of Work, the “**Project Fee**”), in accordance with the following payment guidelines:




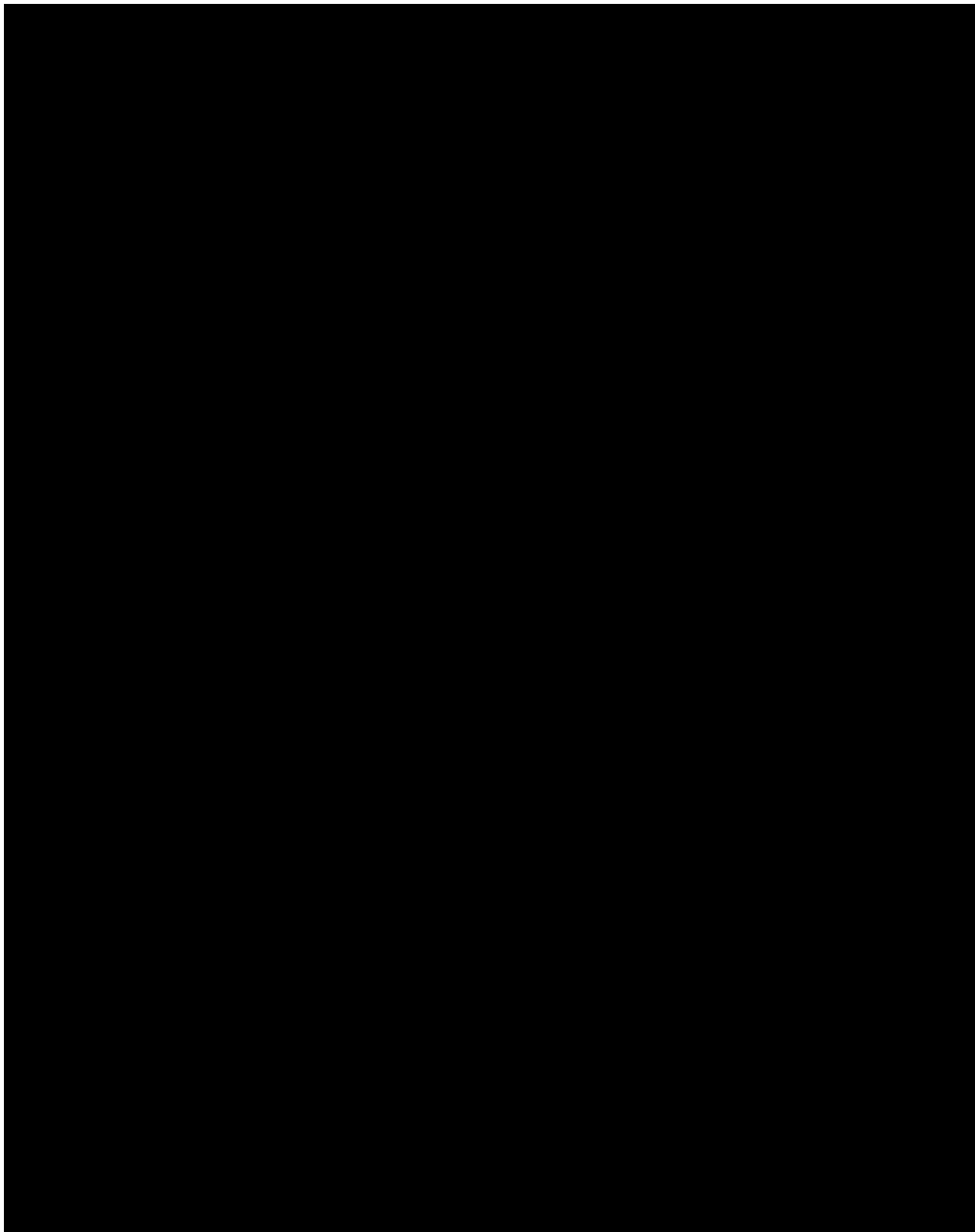
(e) Comcast Consent Rights. From the Effective Date until the earliest to occur of (A) the first anniversary of the Effective Date, (B) the Project Commencement Date or (C) written notice by Comcast to AgileTV that Comcast does not desire to proceed with a Project, AgileTV shall not, without obtaining the prior affirmative written consent of Comcast, take any of the following actions or otherwise permit any of the following to occur:





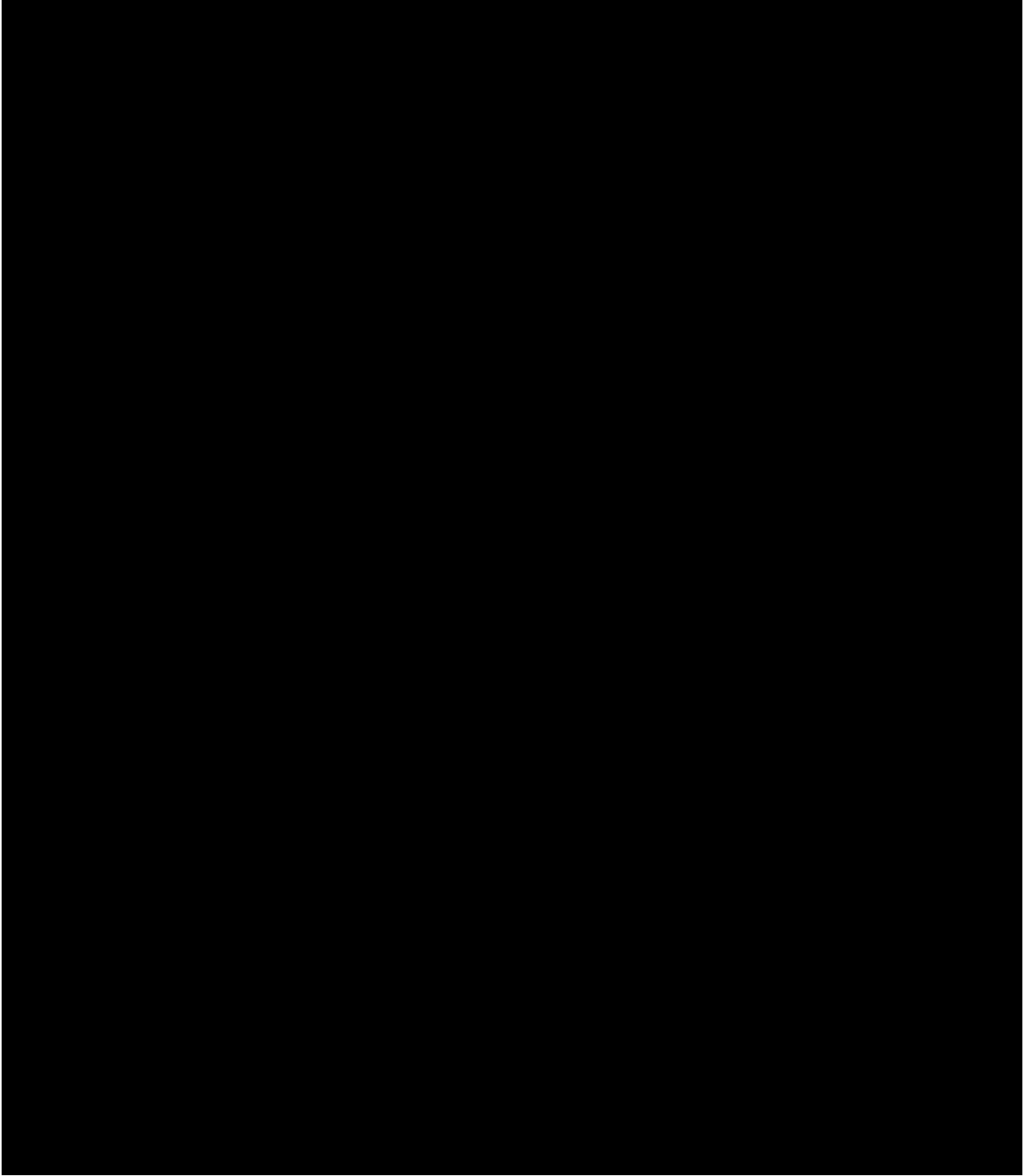
(f) Project Termination. If Comcast elects to proceed with the Project and the Parties reach agreement on the Statement of Work, Comcast may, in its sole discretion, terminate the Project and its funding therefor upon the occurrence of any of the following:

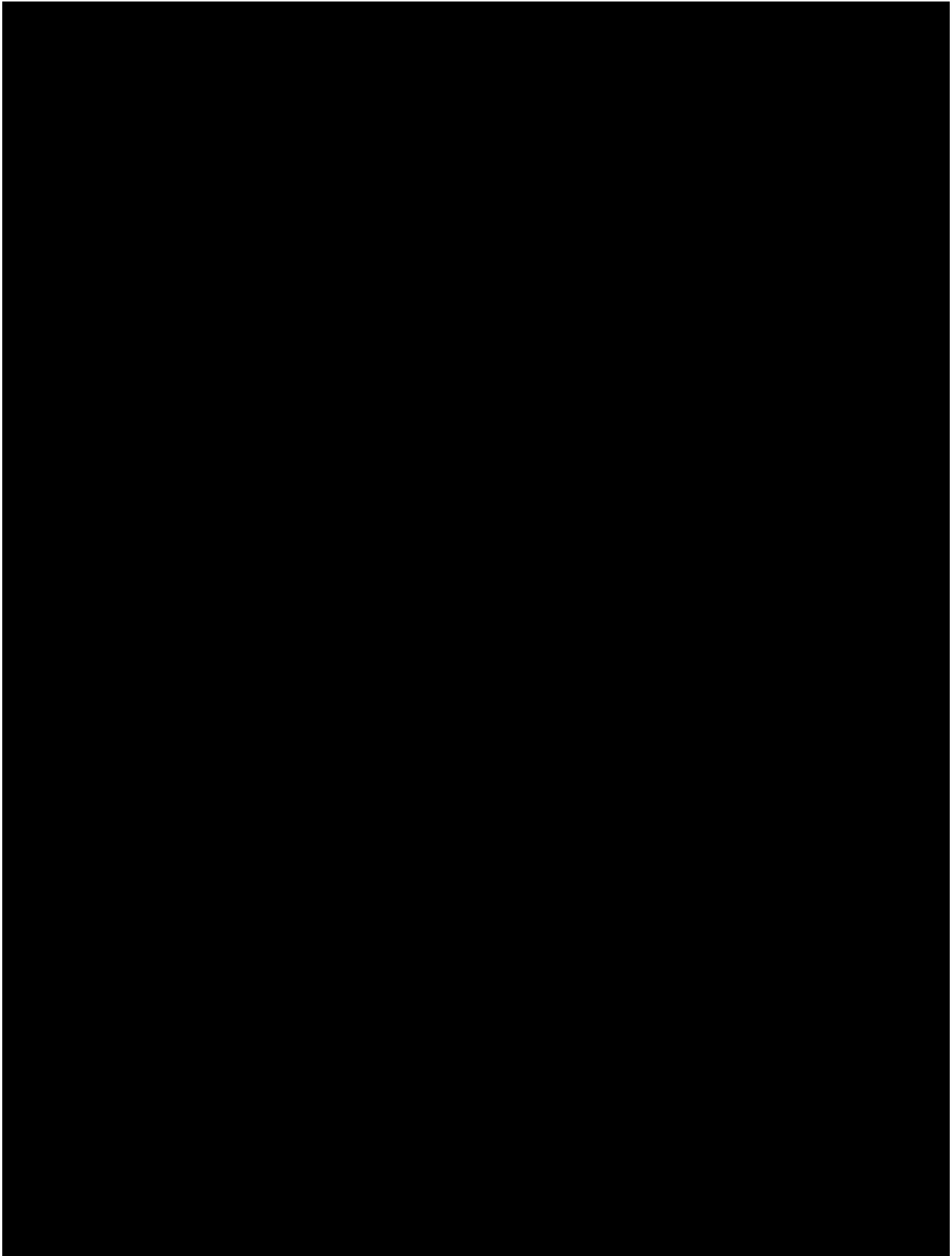


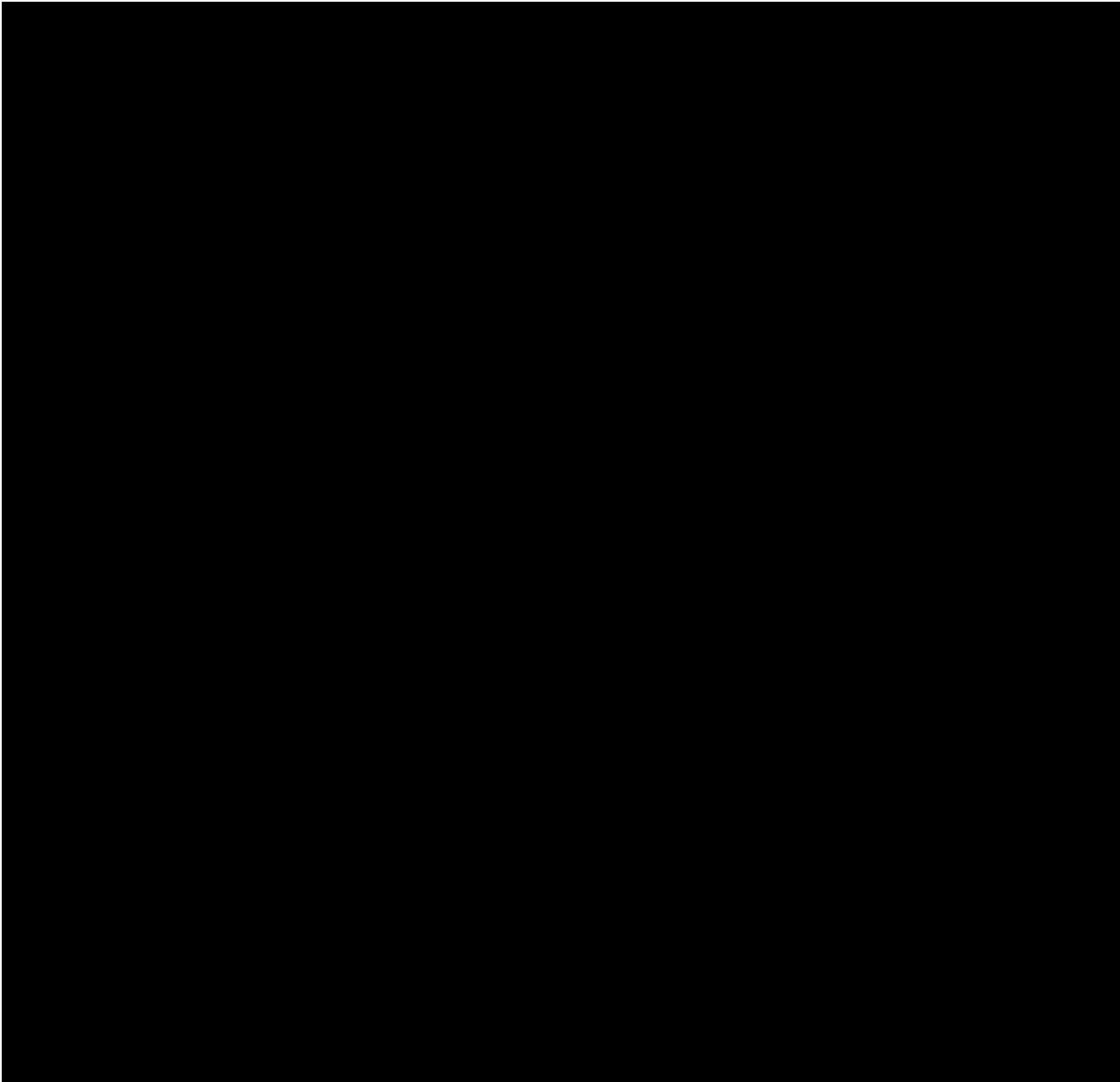


SECTION 3. OWNERSHIP AND RIGHTS IN INTELLECTUAL PROPERTY.

(a) AgileTV Intellectual Property. As between the Parties, all AgileTV Patents, AgileTV IP and AgileTV Marks shall at all times remain the sole and exclusive property of AgileTV, subject to the licenses and other rights expressly granted to Comcast under this Agreement. There are no implied rights granted to Comcast under this Agreement.








(c) Comcast Intellectual Property Rights. As between the Parties, any Intellectual Property Rights that are developed by Comcast or any of its Affiliates (including jointly by Comcast or any of its Affiliates with third parties other than AgileTV or its Affiliates) in connection with the Project shall not constitute Project Patents or Project IP and shall at all times remain the sole and exclusive property of Comcast, and AgileTV and its Affiliates shall not have any license or other rights in, to or under such Intellectual Property Rights.

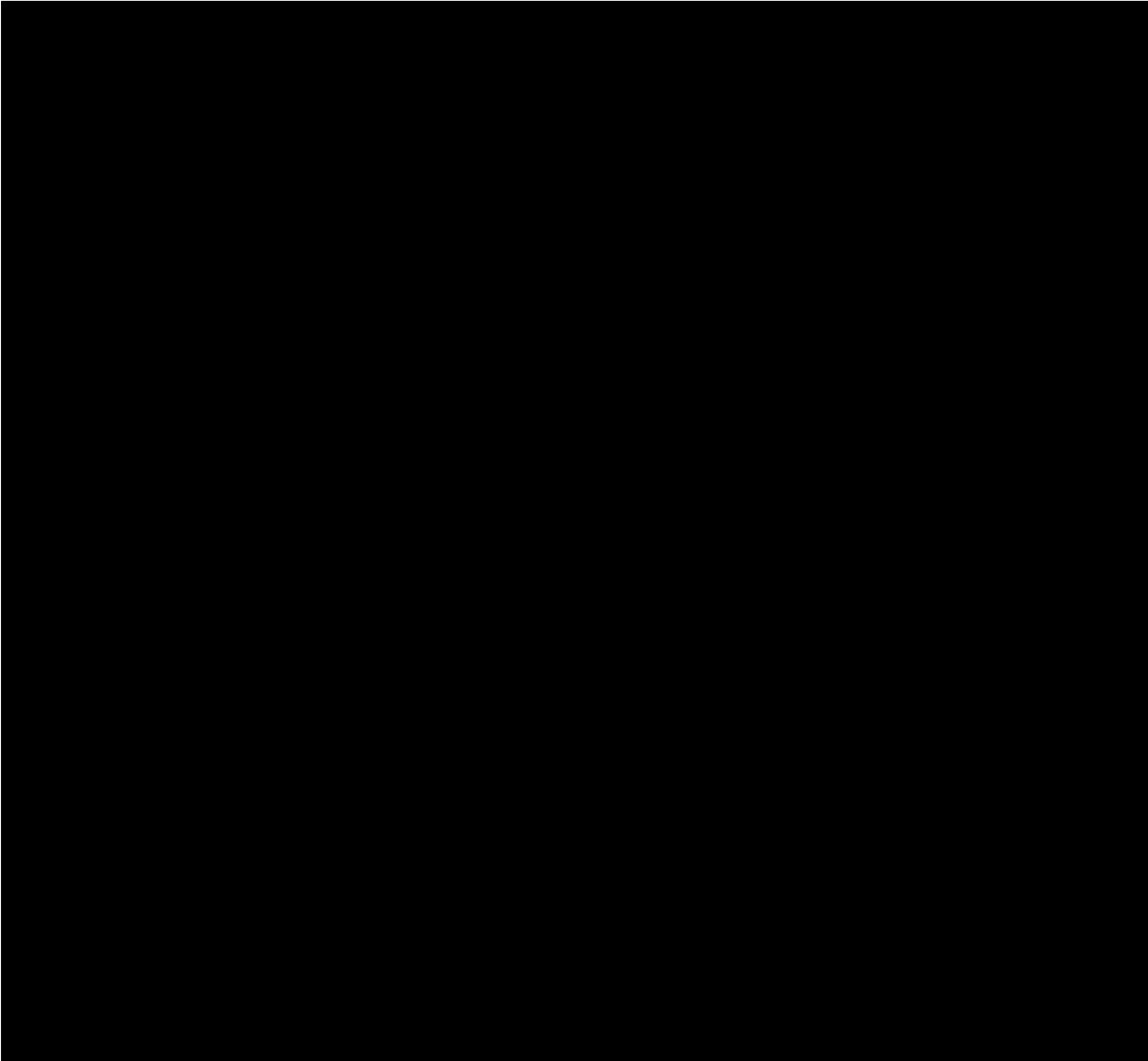
(d) Right to License Future Updates. 





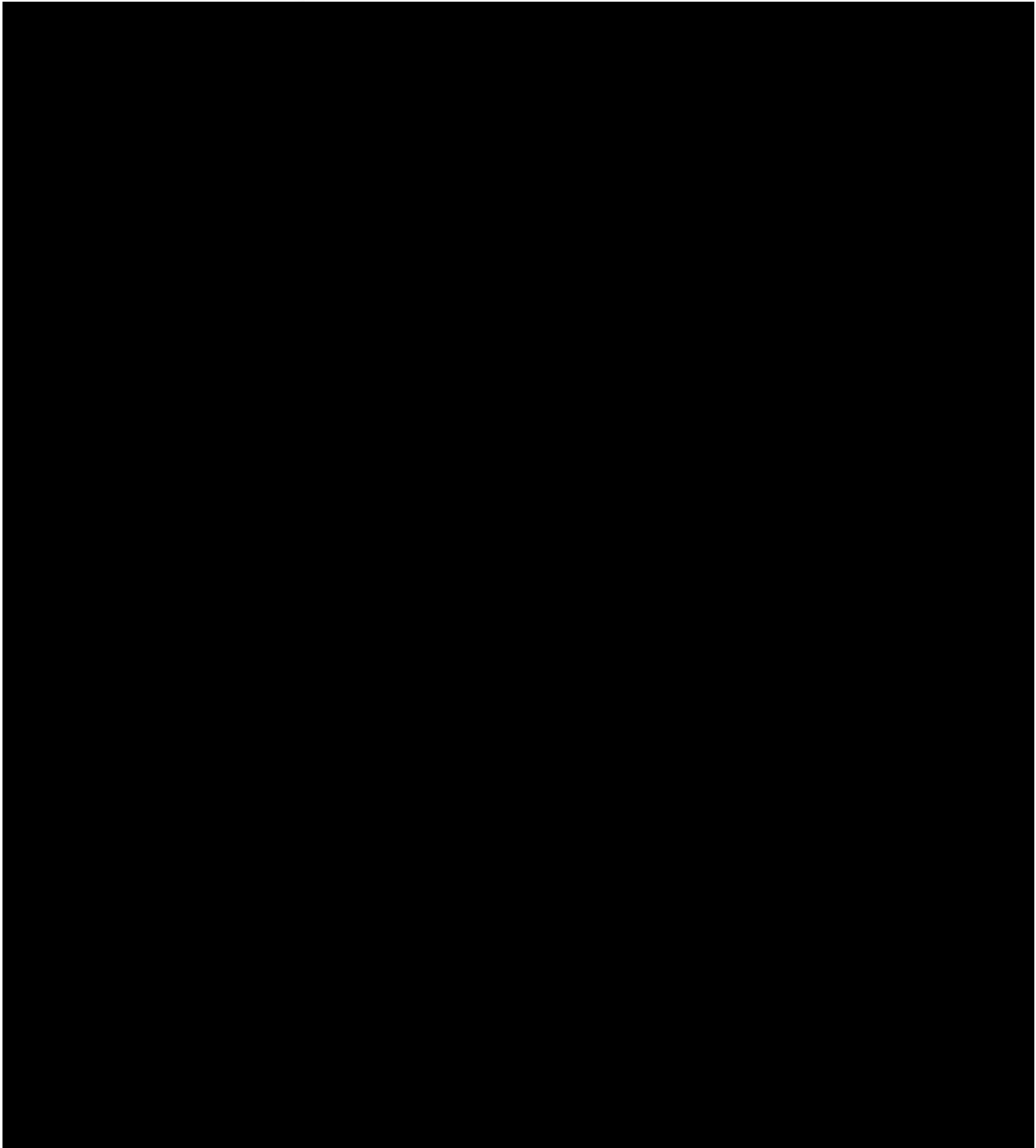
(e) Scope of Ownership Rights. The foregoing allocation of ownership and other rights is as between the Parties only. In the event that any third party (including any Comcast Vendor) participates in the Project, all ownership and other rights in, to and under any Project Patents or Project IP developed by such third party (whether independently or jointly with the Parties) shall be determined separately by each of Comcast and AgileTV, respectively, with such third party.

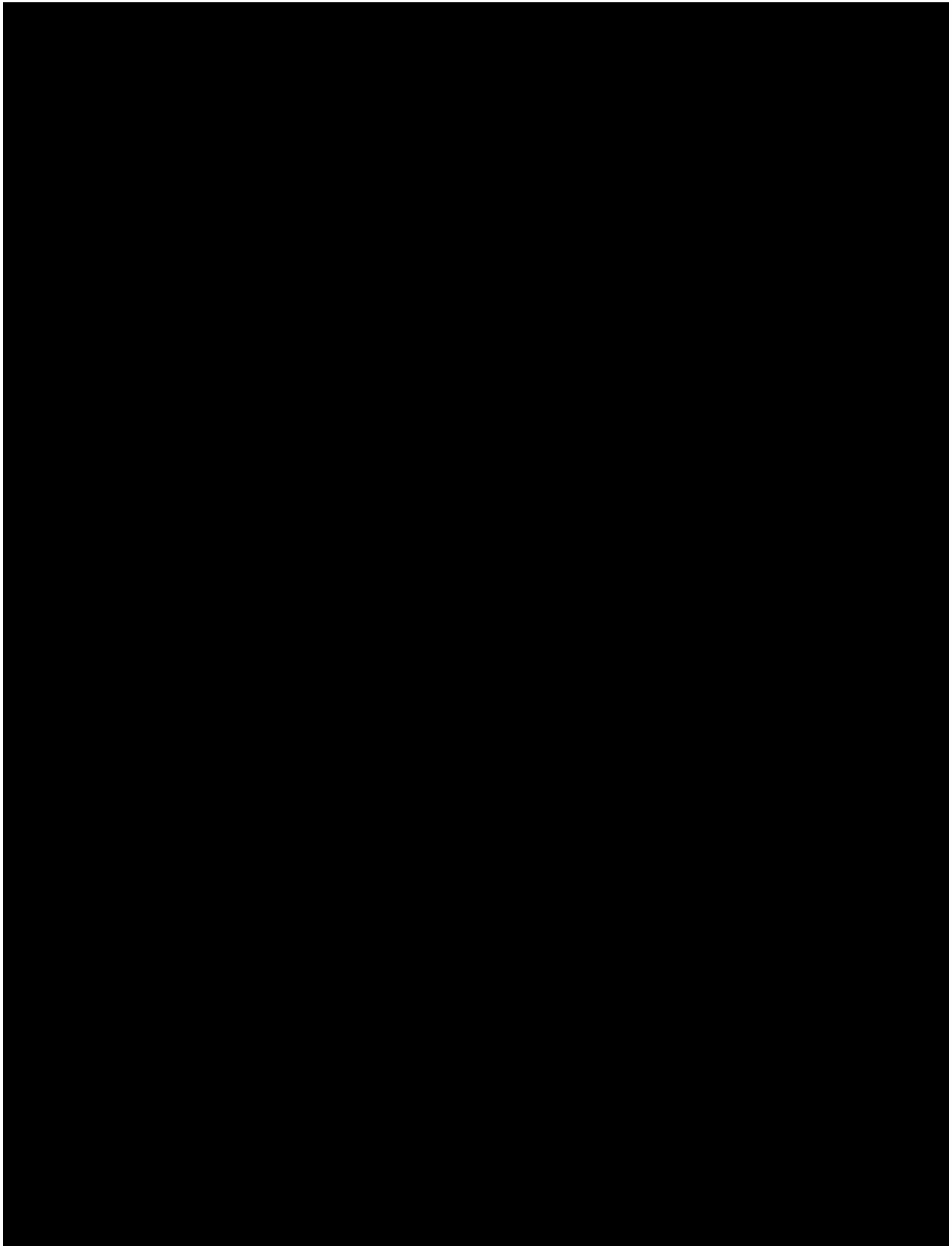
SECTION 4. ADDITIONAL COMCAST RIGHTS.

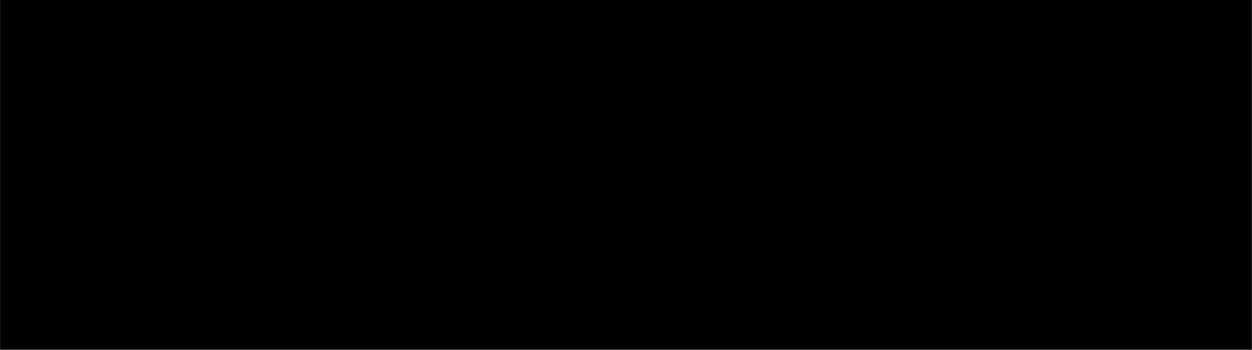




SECTION 5. FEES AND PAYMENTS.







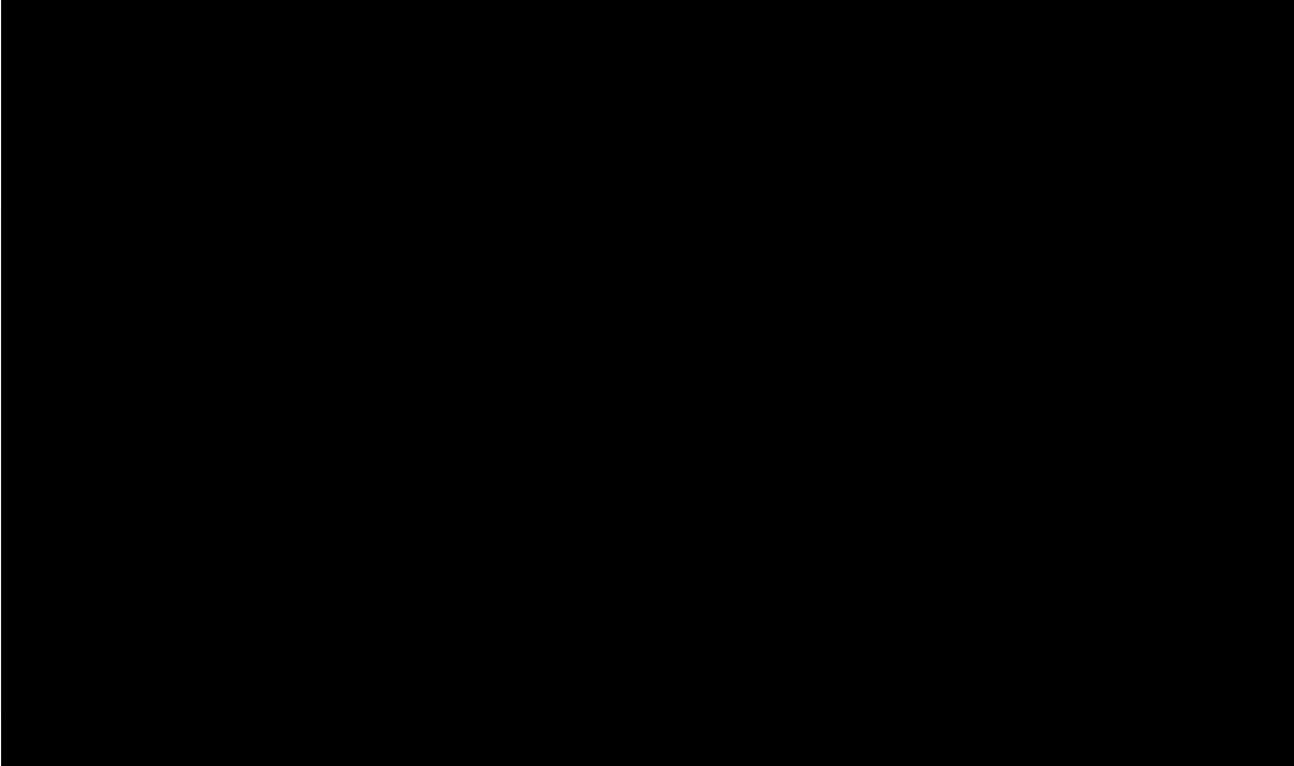
SECTION 6. REPORTS; AUDIT RIGHTS.

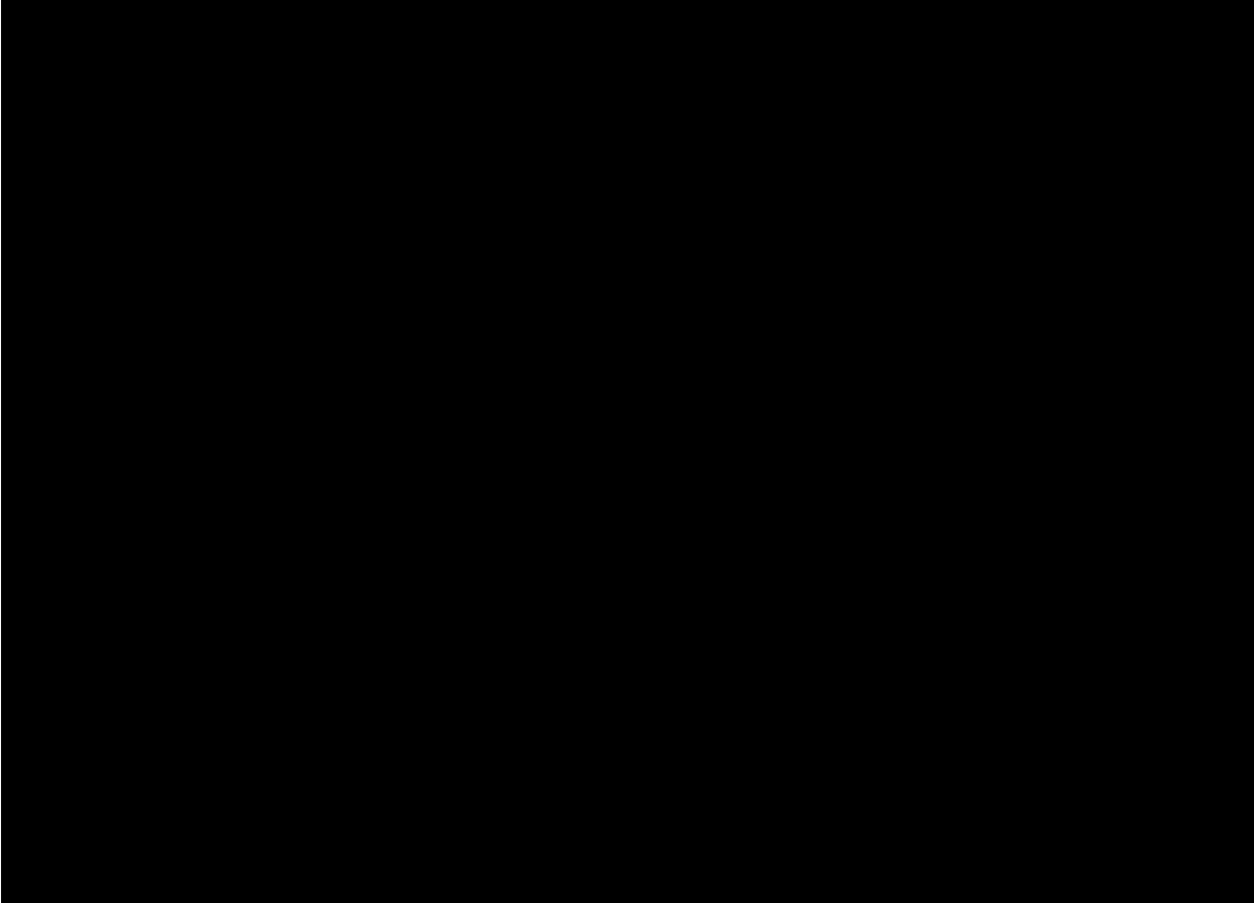
(a) Reports.

(i) For so long as AgileTV is required to pay Revenue Share Amounts to Comcast, AgileTV shall send to Comcast, within 45 days after the end of each calendar month, a statement in a form prepared by AgileTV which sets forth the information that may be necessary for the computation of the Revenue Share Amount due to Comcast for such calendar month.

(ii) For so long as Comcast is required to pay Patent License Royalty Fees to AgileTV, Comcast shall send to AgileTV, within 45 days after the end of each calendar month, a statement in a form prepared by Comcast which sets forth information reasonably necessary for the computation of any Patent License Royalty Fees due to AgileTV for such calendar month.

(b) Audit Rights.





SECTION 7. REPRESENTATIONS AND WARRANTIES.

(a) Comcast Representations and Warranties. Comcast represents and warrants that:

(i) Comcast is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) Comcast has the requisite power and authority to execute and deliver this Agreement and to fully perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all limited liability company actions necessary on the part of Comcast. There are no contractual or other legal obligations which will in any way interfere with Comcast's full performance of this Agreement. The individual executing this Agreement on behalf of Comcast has the authority to do so.

(b) AgileTV Representations and Warranties. AgileTV represents, warrants and covenants that:

(i) AgileTV is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) AgileTV has the requisite power and authority to execute and deliver this Agreement and to fully perform its obligations hereunder. The execution, delivery and

performance of this Agreement have been duly authorized by all corporate actions necessary on the part of AgileTV. There are no contractual or other legal obligations of AgileTV which will in any way interfere with AgileTV's full performance of this Agreement, or restrict or interfere with the full scope of Comcast's license rights under this Agreement. The individual executing this Agreement on behalf of AgileTV has the authority to do so.

(iii) To AgileTV's knowledge (without the duty to conduct any patent searches or investigation), as of the Effective Date, neither the use nor practice of any AgileTV IP or the use or display of any AgileTV Mark within the scope of the licenses set forth in this Agreement violates or infringes the Intellectual Property Rights of any other Person. Neither AgileTV nor any of its Affiliates is aware, or has any reasonable expectation, of any claim, allegation, assertion or notification that the use or practice of any of the AgileTV IP or the use or display of any AgileTV Marks violates or infringes the Intellectual Property Rights of any other Person.

(iv) AgileTV has and will continue to have the right to grant the rights and licenses granted herein, and any and all liens, restrictions, charges, claims and encumbrances on the AgileTV Patents, AgileTV IP and AgileTV Marks are and shall remain subject to the rights and licenses granted herein. AgileTV has obtained and will maintain all licenses, permits, exemptions, authorizations and consents necessary to fully perform AgileTV's obligations under this Agreement.

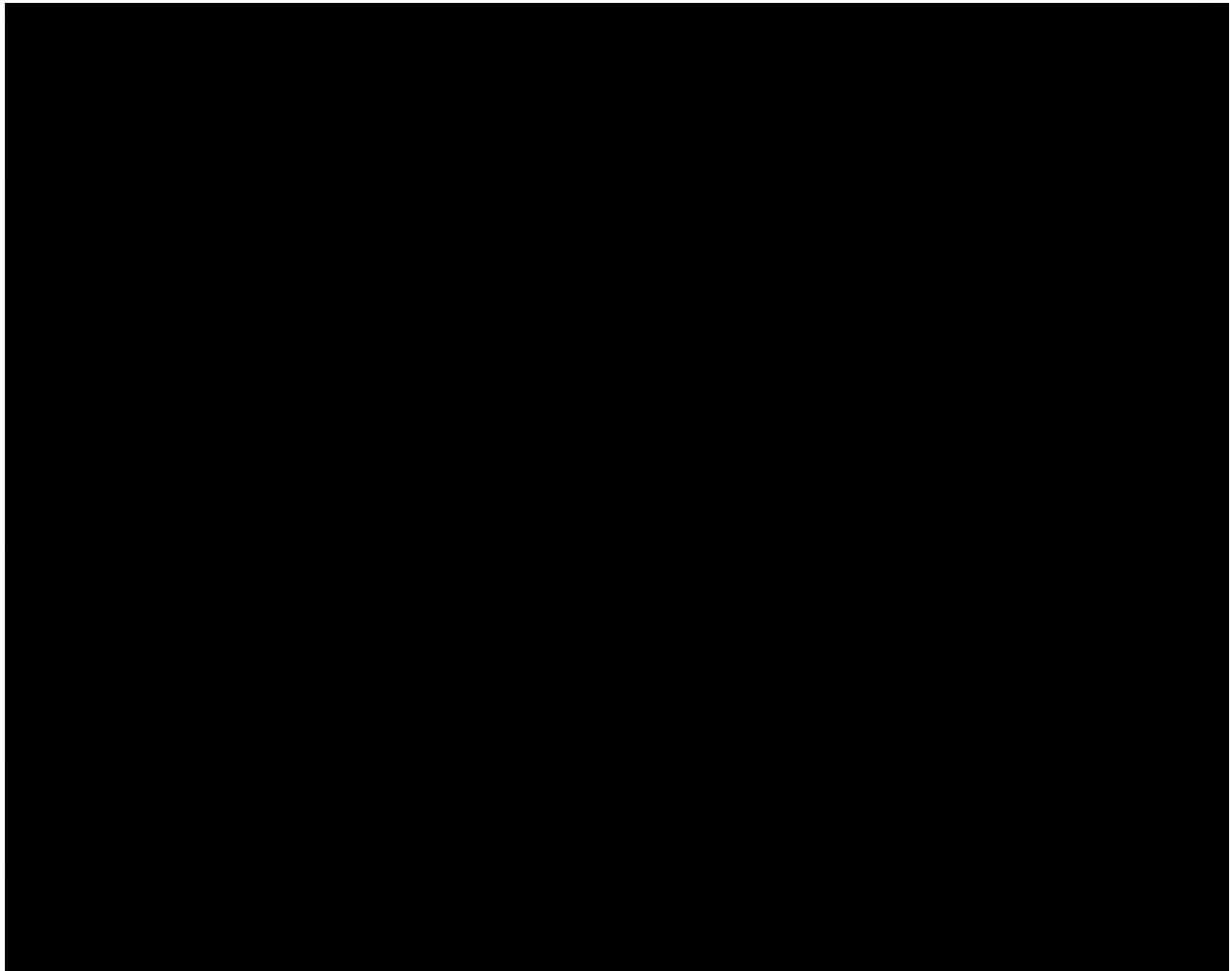
(v) Except as set forth on Exhibit C, AgileTV does not incorporate any third party technology into the AgileTV Technology (as it exists as of the Effective Date) that would impose any obligation on or require any license by Comcast or any Comcast Sublicensee, and, except as otherwise expressly agreed in the Statement of Work, AgileTV will not incorporate any third party technology into any products or services developed by AgileTV for Comcast pursuant to the Project that would impose any obligation on or require any license by Comcast or any Comcast Sublicensee.

(vi) No AgileTV software delivered by AgileTV to Comcast pursuant to this Agreement will contain, as of the date of delivery from AgileTV to Comcast, any virus, worm, trap door, back door, timer, clock, counter, Trojan Horse, or other limiting routine, instruction or design (excluding copy and DRM protection technologies, password implementations or other security features and functionalities).

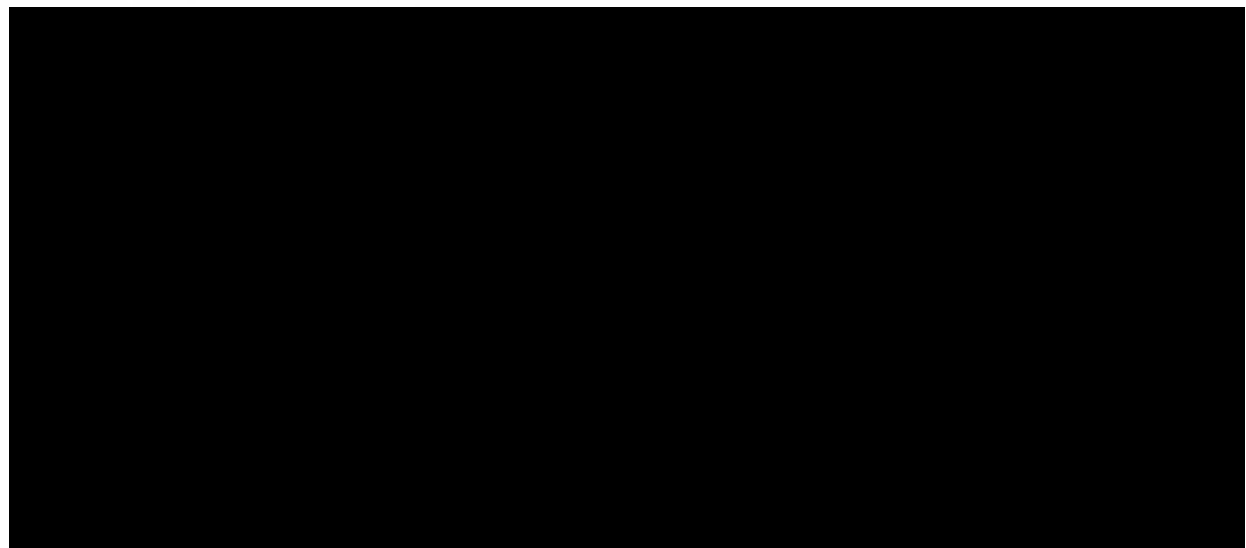
(vii) AgileTV has prosecuted and will continue to prosecute the AgileTV Patents in good faith and has paid and will continue to pay any and all fees of any kind necessary to maintain the AgileTV Patents in full force and effect, except as Comcast may otherwise agree in writing.

SECTION 8. INDEMNIFICATION; LIMITATION OF LIABILITY.

(a) Indemnification. [REDACTED]



(b) Notice; Defense. AgileTV's indemnification obligations under this Section 8(a) shall be subject to the following:



[REDACTED]

(c) Limitation of Liability.

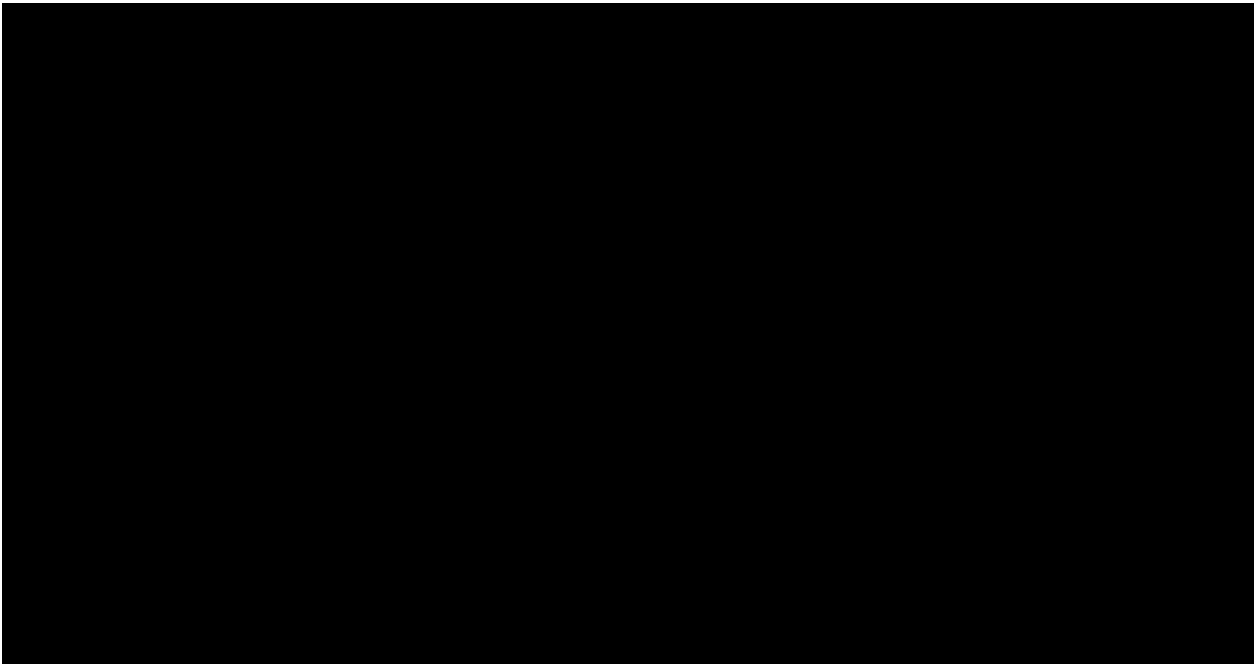
[REDACTED]

SECTION 9. MOST FAVORED NATION.

(a) MFN Covenant. Notwithstanding any other provision in any other agreement entered into between AgileTV (or any of its Affiliates) and Comcast (or any of its Affiliates), Comcast is hereby accorded the right to receive “most favored customer” terms and conditions from AgileTV and its Affiliates, meaning that Comcast shall be entitled to such rights, forbearances and other provisions (each, a “**Provision**”), whether relating to financial matters (such as fees, revenue splits, rates, discounts, credits, commissions, rebates, marketing support or adjustments) or non-financial matters (such as license rights, covenants not to sue, development work, service quality, audit rights, representations, warranties, indemnities or most favored customer terms), with respect to any of the Provisions of this Agreement, that are no less favorable than each of those Provisions offered by AgileTV or any of its Affiliates to any other Person, individually or collectively, at any time and from time to time, without regard to size (through volume discounts or otherwise) or identity of such other Person or their relationship with AgileTV or any of its Affiliates, provided that, in order for Comcast to have the benefit of any such more favorable Provision, Comcast must also accept each other term and condition that bears a direct and tangible relationship to such more favorable Provision and with which Comcast is reasonably capable of complying. For the purpose of determining whether any particular Provision is more favorable, such determination shall focus on such Provision individually for each moment of time during which such Provision is effective, and on the relationship such individual Provision has with the other terms and conditions that bear a direct and tangible relationship to such Provision, rather than on the agreement, understanding or arrangement as a whole.

(b) MFN Notice. If AgileTV or any of its Affiliates agrees to provide, or acquiesces to, any Provision which is more favorable to any other Person than that set forth in this Agreement, AgileTV shall immediately give written notice thereof to Comcast (which notice shall include the actual language of such Provision and all other terms and conditions that AgileTV believes to bear a direct and tangible relationship to such Provision as provided to such other Person, and not a merely summary or interpretation thereof, provided that such actual language may be redacted to the extent reasonably necessary to protect the confidentiality of the identity of the other Person receiving such Provision) (an “**MFN Notice**”) and, at Comcast’s election, this Agreement shall be deemed to have been modified so that, from the date on which such more favorable Provision is first so provided to such other Person and thereafter for so long as such more favorable Provision continues to be so provided, Comcast shall receive such more favorable Provision, subject to Comcast being bound by each other term and condition that bears a direct and tangible relationship to such more favorable Provision and with which Comcast is reasonably capable of complying. AgileTV’s failure to deliver an MFN Notice in accordance with the terms hereof shall not limit or otherwise affect Comcast’s right to enjoy the benefits of this provision.

(c) MFN Audit Rights. AgileTV shall maintain accurate and complete books and records in accordance with generally accepted accounting principles and practices and AgileTV’s records retention policies which, at a minimum, shall contain sufficient information to



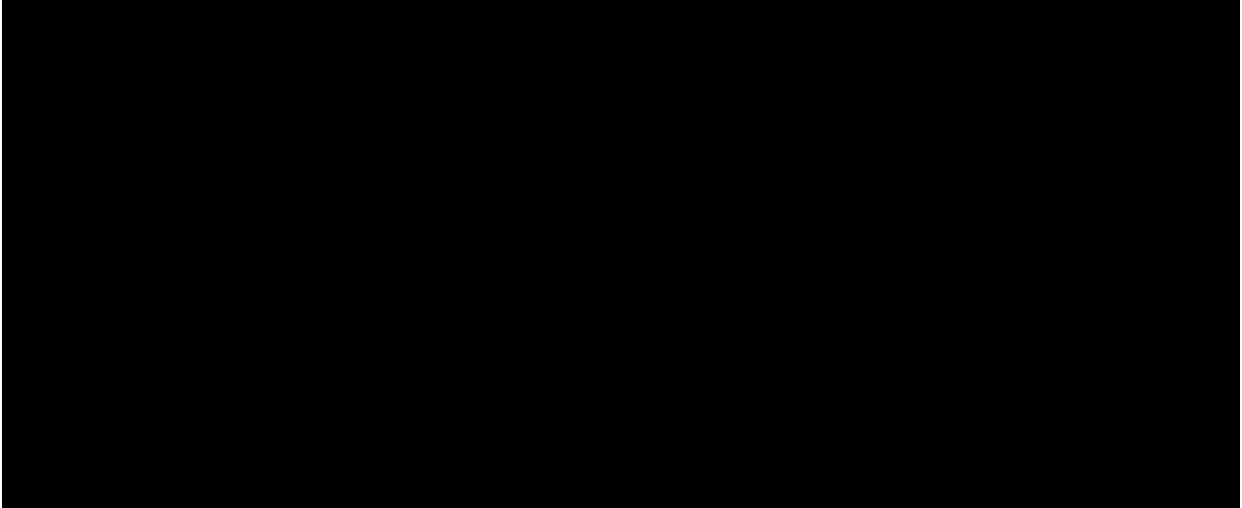
(d) MFN Certification. AgileTV shall provide Comcast with a written certificate on the Effective Date and each anniversary of the Effective Date, signed by AgileTV's President and/or other appropriate officer (or outside counsel), stating that AgileTV is in full compliance with this Section 9.

(e) Applicability to Other Agreements. In the event that Comcast (or any of its Affiliates) and AgileTV (or any of its Affiliates) enter into any other agreement for the grant of a license, release or covenant not to sue in respect of any Intellectual Property Rights or the sale or provision of any products or services by AgileTV (or any of its Affiliates) to Comcast (or any of its Affiliates), the terms and conditions thereof shall be subject to the provisions of this Section 9.

SECTION 10. ADDITIONS AND DIVESTITURES.

(a) Added Comcast Systems. If at the time a Cable System located within the Territory becomes a Comcast System it is subject to any agreement with or obligation to AgileTV or any Affiliate of AgileTV with respect to a license to all or any portion of the AgileTV Patents, AgileTV IP or AgileTV Marks, other than this Agreement, Comcast may elect by written notice to AgileTV to terminate such other agreement or obligation to the extent such agreement or obligation applies to such Comcast System (and such agreement or obligation shall be deemed terminated by mutual consent), and such Comcast System shall thereafter be covered under this Agreement. If at the time a Cable System becomes a Comcast System it is subject to any agreement with or obligation to a third party that conflicts with or is inconsistent with the terms hereof, compliance with such third party agreement shall not be deemed a breach of the terms hereof, provided that Comcast shall use commercially reasonable efforts to terminate any such third party agreement to the extent such third party agreement may be terminated without any significant cost, liability, penalty or other significant adverse impact to Comcast.

(b) Divested Comcast Systems. In the event of the disposition of any Comcast System, upon the written request of Comcast, (i) the purchaser of such system may, at Comcast's election, obtain the benefits of this Agreement solely with respect to any Comcast Products deployed to the former Comcast Subscribers in such divested Comcast System for a one year period after such disposition, and (ii) AgileTV shall negotiate in good faith with such purchaser for the grant of a license, on commercially reasonable terms, permitting such purchaser to continue to deploy products and services incorporating, reading on or practicing AgileTV Patents, containing AgileTV IP or using or displaying AgileTV Marks following the expiration of such one year period.



SECTION 12. SOURCE CODE ESCROW.

(a) Creation of Source Code Escrow. On the Effective Date, the Parties shall enter into a source code escrow agreement (the "**Source Code Escrow Agreement**"), in the form attached hereto as Exhibit D, with Iron Mountain Intellectual Property Management, Inc. or another mutually acceptable escrow agent, which shall provide for the creation and maintenance of a source code escrow (the "**Source Code Escrow Account**") for the Escrowed Materials as provided in this Section 12. The Source Code Escrow Account shall be created with two separate sub-accounts, one for the Option Escrowed Materials and one for the Project Escrowed Materials.

(b) Deposit and Maintenance of Escrowed Materials.

(i) On the Effective Date, AgileTV shall deposit the latest version of the Option Escrowed Materials into the Source Code Escrow Account. From and after the initial deposit of the Option Escrowed Materials, within ten business days after AgileTV commercially deploys any Updates to any of the Option Escrowed Materials, but in any event at least once every six months during the IP Coverage Period and on the last day of the IP Coverage Period, AgileTV shall update the Source Code Escrow Account to include the latest version of the Option Escrowed Materials. The Option Escrowed Materials shall be retained in the Source Code Escrow Account until the expiration of the Option Term, unless sooner released pursuant to Section 12(c) below.

(ii) From and after the Project Commencement Date for the duration of the Project Coverage Period, within ten business days after acceptance of each Milestone or commercial deployment of any Update to any of the Project IP, but in any event at least once every three months during the Project Coverage Period and on the last day of the Project Coverage Period, AgileTV shall deposit the latest version of the Project Escrowed Materials into the Source Code Escrow Account. The Project Escrowed Materials shall be retained in the Source Code Escrow Account until the first anniversary of the expiration of the Project Coverage Period, unless sooner released pursuant to Section 12(c) below.

(iii) Notwithstanding anything to the contrary contained in this Agreement or the Source Code Escrow Agreement, (A) AgileTV shall pay all costs and expenses associated with maintaining the Option Escrowed Materials in escrow (including, without limitation, the fees of the source code escrow agent), provided that if AgileTV fails to timely pay such costs and expenses, Comcast shall be entitled to pay the same and AgileTV shall reimburse Comcast therefor, and (B) Comcast shall pay all costs and expenses associated with maintaining the Project Escrowed Materials in escrow (including, without limitation, the fees of the source code escrow agent).

(c) Release of Source Code Escrow. In accordance with the terms of the Source Code Escrow Agreement, the escrow agent shall be required to release the Escrowed Materials as follows:

(i) The escrow agent shall release the Option Escrowed Materials to Comcast upon certification by Comcast to the escrow agent that it has exercised the One-Time IP License Option and paid the corresponding fees and AgileTV has failed to deliver the Option Escrowed Materials to Comcast within ten business days following such exercise.

(ii) The escrow agent shall release all or any portion of the Project Escrowed Materials to Comcast at any time and from time to time as requested by Comcast, and, in any event, the escrow agent shall release all of the Project Escrowed Materials to Comcast on the first anniversary of the expiration of the Project Coverage Period.

(d) Use of Escrowed Materials. All use, reproduction, sublicensing and disclosure of the Escrowed Materials released pursuant to the Source Code Escrow Agreement shall be strictly in accordance with the terms and conditions of this Agreement.

(e) Bankruptcy Provision. In the event of the insolvency of AgileTV, or the voluntary or involuntary filing of a petition in bankruptcy by or against AgileTV, in order to preserve fully Comcast's rights under Section 365(n) of the Bankruptcy Code of the United States (11 U.S.C. Section 365 (n)) (the "**Bankruptcy Code**"), the following provisions shall apply:

(i) The Parties agree that it is their intent: (A) to obtain for Comcast the broadest possible interpretation of the protection afforded licensees under the provisions of Section 365(n) of the Bankruptcy Code; and (B) that Comcast's business operations not be disrupted in any manner in the event that the AgileTV IP and any related intellectual property

and services that are the subject of this Agreement are not available from AgileTV in the manner contemplated by this Agreement.

(ii) The Parties further agree that to the extent that this Agreement is determined to be an executory contract under Section 365 of the Bankruptcy Code, it is an intellectual property license within the meaning of Section 365(n)(1) of the Bankruptcy Code. The Source Code Escrow Agreement is deemed to be supplementary to this Agreement, and is intended by the Parties to provide certain guidance for the circumstances under which Comcast shall be entitled to protect and retain its license rights in the AgileTV Patents, AgileTV IP and AgileTV Marks (including, without limitations, its options to acquire such license rights).

(iii) If a bankruptcy proceeding is commenced and this Agreement is rejected by AgileTV or, as appropriate, the trustee in bankruptcy, upon such rejection Comcast shall have the right, at Comcast's option, either to terminate this Agreement or elect to retain its rights and licenses (including rights to paid-up licenses therefor) to the AgileTV Patents and AgileTV IP upon payment therefor as provided in this Agreement (whether such payments are made before or after commencement of such bankruptcy proceeding).

SECTION 13. PRIVACY; COMCAST SUBSCRIBER DATA.

(a) Privacy. AgileTV expressly acknowledges and agrees, on behalf of itself and its Affiliates, that neither it nor any of its Affiliates shall collect any personally identifiable information about any Comcast Subscriber in the course of AgileTV's performance under this Agreement (either independently or as part of any Comcast Subscriber Data), including in connection with any work performed as part of the Project or in the course of any testing or trials of AgileTV products or services provided to Comcast, except as and to the extent that Comcast expressly provides Comcast Subscriber Data to AgileTV or expressly agrees in writing that AgileTV may collect such Comcast Subscriber Data. AgileTV further expressly acknowledges and agrees, on behalf of itself and its Affiliates, that any and all such personally identifiable information relating to Comcast Subscribers is subject to the subscriber privacy protections set forth in Section 631 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. § 551). To the extent that Comcast discloses any such personally identifiable information about Comcast Subscribers to AgileTV or any of its Affiliates, or AgileTV or any of its Affiliates collects or otherwise obtains (whether permissibly or impermissibly) any such personally identifiable information as a result of their performance of this Agreement, (i) each does so in furtherance of the terms and conditions of this Agreement and Comcast's rendering of, and legitimate business activities related to, its cable television, Internet, and telephone services, and (ii) each shall comply with and abide by Comcast's privacy policy and other applicable terms of service as in effect from time to time and all applicable laws and regulations relating to privacy.

(b) Comcast Subscriber Data. AgileTV expressly acknowledges and agrees, on behalf of itself and its Affiliates, that all Comcast Subscriber Data (including, without limitation, any such Comcast Subscriber Data made available to AgileTV by Comcast) obtained by either Party or any of its Affiliates as a result of such Party's performance of this Agreement shall at all times remain the sole and exclusive property of Comcast, and shall be deemed to be Confidential Information of Comcast for purposes of Section 23 of this Agreement. AgileTV further expressly acknowledges and agrees, on behalf of itself and its Affiliates, that Comcast and its


Affiliates shall have no obligation to provide AgileTV or any of its Affiliates with any Comcast Subscriber Data, except as and to the extent that Comcast may expressly agree in writing.

SECTION 14. SEPARATE ENTITIES. No officer, employee, agent, servant or independent contractor of either Party hereto or their respective Affiliates shall at any time be deemed to be an employee, servant or agent of the other Party for any purpose whatsoever, and the Parties shall use commercially reasonable efforts to prevent any such misrepresentation. Nothing in this Agreement shall be deemed to create any joint venture, partnership or principal-agent relationship between AgileTV and Comcast, and neither shall hold itself out in its advertising or in any other manner which would indicate any such relationship with the other.

SECTION 15. NOTICES. Except as set forth below, all notices hereunder shall be in writing and delivered personally or sent by certified or registered U.S. mail, postage prepaid and return receipt requested, facsimile transmission (with electronic confirmation of receipt), or nationally recognized overnight delivery service (with next day delivery specified) to the receiving Party at its address set forth below or as otherwise designated by written notice provided by such receiving Party in accordance with this Section 15.


- (a) Notice to AgileTV shall be provided as follows:

AgileTV Corporation
333 Ravenswood Avenue
Building 202
Menlo Park, California 94025




- (b) Notice to Comcast shall be provided as follows:

c/o Comcast Capital Corporation
1201 N. Market Street, Suite 1000
Wilmington, Delaware 19801
Attention: President



With copies (which shall not constitute notice) to:


Comcast Cable Communications, LLC
1500 Market Street
Philadelphia, Pennsylvania 19102-2148
Attention: Executive Vice President, New Business Development



and

Comcast Parent as provided in clause (c) below

(c) Notice to Comcast Parent shall be provided as follows:

Comcast Corporation
1500 Market Street
Philadelphia, Pennsylvania 19102-2148
Attention: General Counsel


Notice shall be deemed to be effectively given and received on the date of receipt by the receiving Party or, if earlier: (i) if delivered by hand, on the date delivered; (ii) if sent by U.S. mail, on the fifth business day after the date of deposit with the U.S. Postal Service; (iii) if sent by facsimile transmission, on the date sent if sent on a business day during normal business hours in the place of receipt (as evidenced by the electronic confirmation) or otherwise on the next business day; and (iv) if sent by overnight delivery service, on the next business day after the date of deposit with such delivery service.

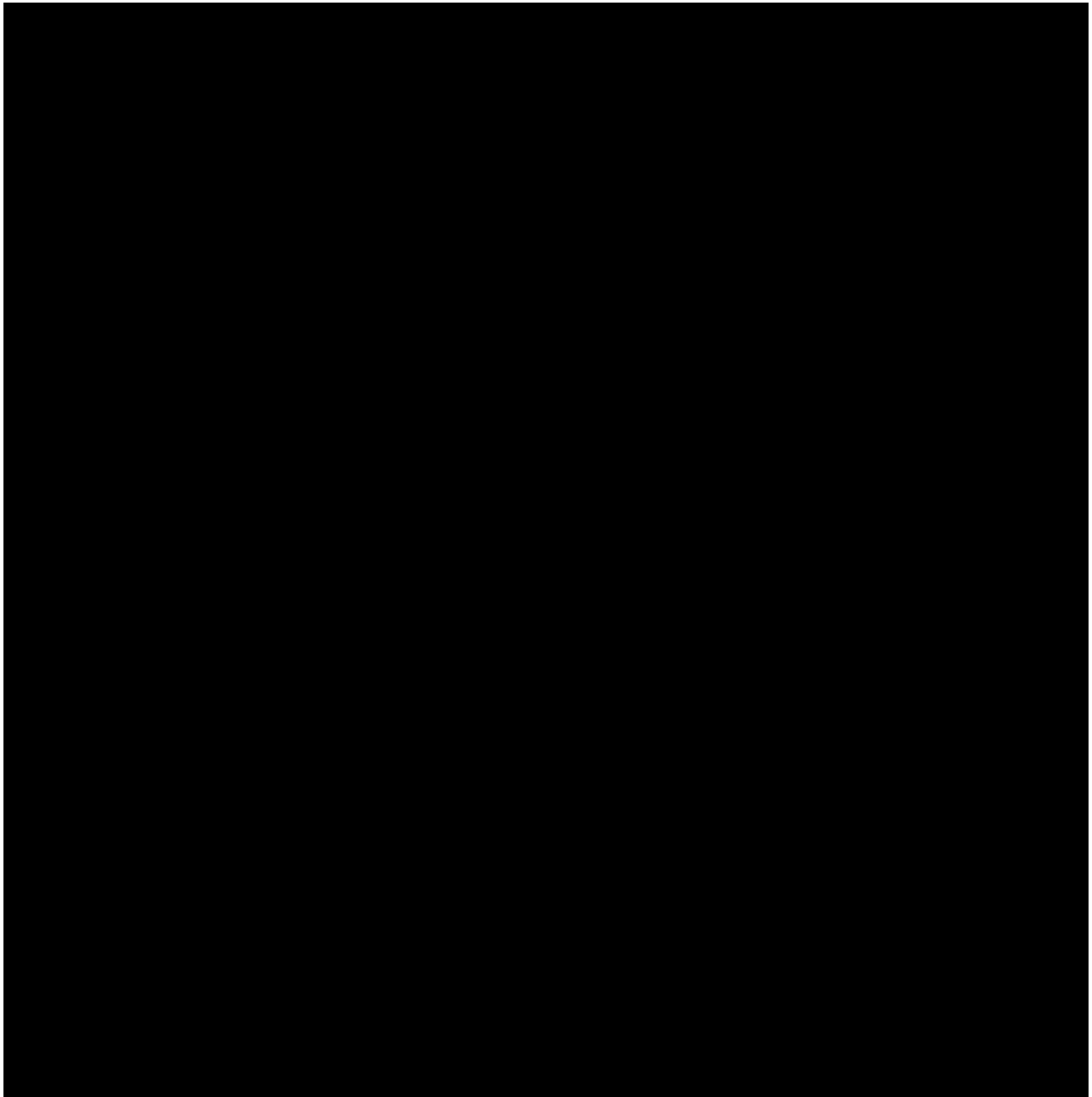
SECTION 16. AMENDMENTS; WAIVERS LIMITED. No amendment, supplement, modification or waiver of any provision of this Agreement shall be binding upon a Party unless such amendment, supplement, modification or waiver is set forth in a written instrument which is executed and delivered on behalf of such Party by, in the case of AgileTV, an officer of AgileTV, and, in the case of Comcast, a senior officer of Comcast, or any designee authorized in writing to execute and deliver such instrument. Such amendment, supplement, modification or waiver shall be effective only to the extent specifically set forth in such written instrument. Neither the exercise (from time to time and at any time) by a Party of, nor the delay or failure (at any time or for any period of time) to exercise, any right, power or remedy shall constitute a waiver of the right to exercise, or impair, limit or restrict the exercise of, such right, power or remedy or any other right, power or remedy at any time and from time to time thereafter. No waiver of any right, power or remedy of a Party shall be deemed to be a waiver of any other right, power or remedy of such Party or shall, except to the extent so waived, impair, limit or restrict the exercise of such right, power or remedy.

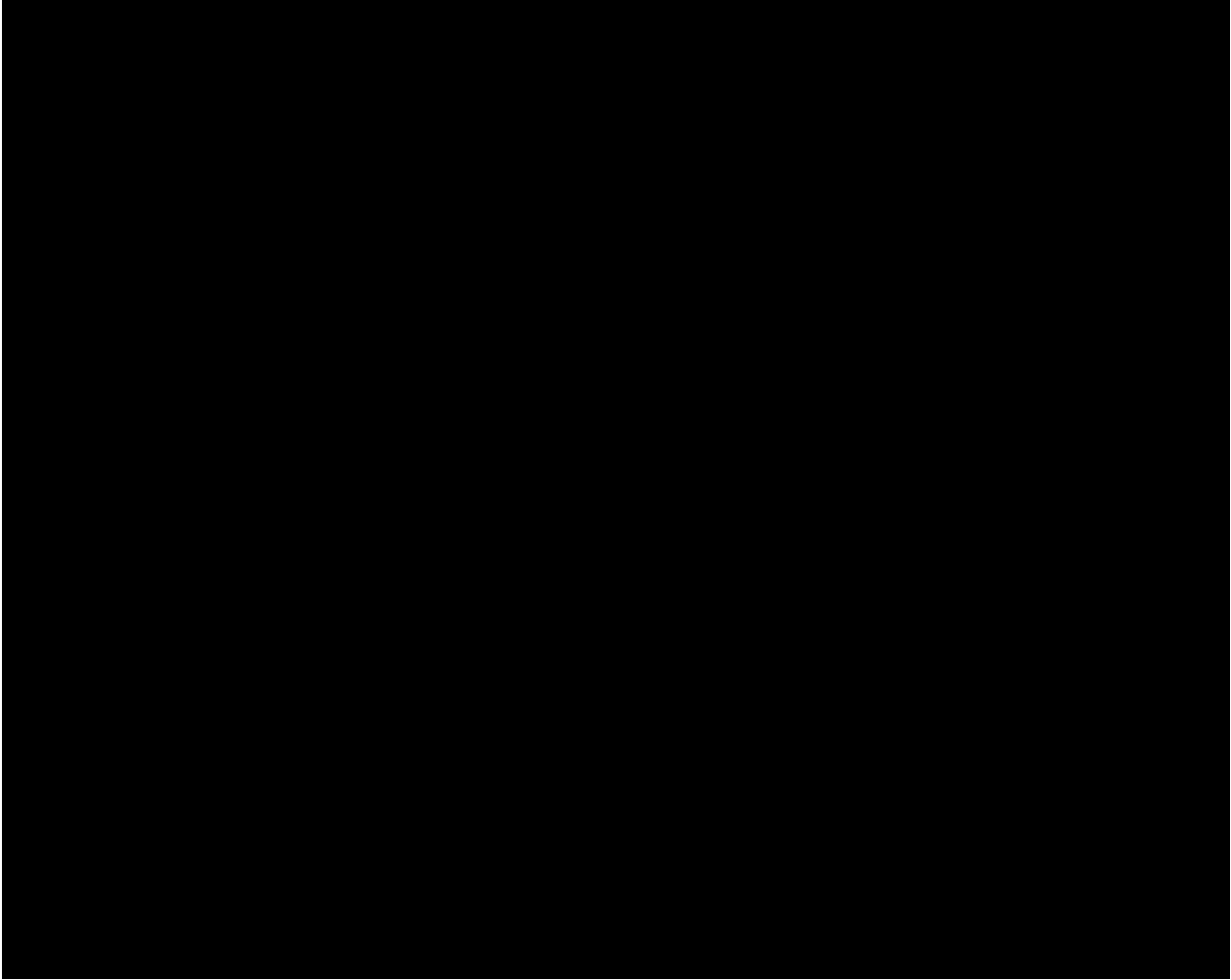
SECTION 17. SUCCESSORS AND ASSIGNS. Neither this Agreement nor either Party's rights or obligations hereunder (including, in the case of AgileTV, its rights in any of the AgileTV Patents, AgileTV IP, AgileTV Marks, Project Patents and Project IP that are the subject of this Agreement) shall be assigned or transferred by either Party without the prior written consent of the other Party, except that either Party may assign its rights and obligations hereunder (including, in the case of AgileTV, its rights in any of the AgileTV Patents, AgileTV IP, AgileTV Marks, Project Patents and Project IP that are the subject of this Agreement), without the prior written consent of the other Party, to (i) a successor entity resulting from a merger, combination, reorganization or consolidation of such Party, (ii) the transferee of all or substantially all of the assets of such Party, or (iii) an Affiliate of such Party, provided that any such assignment by AgileTV shall nevertheless remain subject to Comcast's consent rights set forth in Section 2(e) of this Agreement and Comcast's termination rights set forth in Section 2(f) of this Agreement. Subject to the foregoing, this Agreement shall be binding on the respective transferees and successors of the Parties hereto (including, in the case of AgileTV, any transferee or successor to any of the AgileTV Patents, AgileTV IP, AgileTV Marks, Project Patents and Project IP that are the subject of this Agreement). A permitted assignment under this Section 17

shall not relieve the assigning Party of its duties or obligations hereunder unless the other Party specifically releases the assigning Party in writing.

SECTION 18. GOVERNING LAW. This Agreement shall be deemed to have been executed and delivered in the State of Delaware, and shall be governed by, and construed and enforced in accordance with, the laws of such State without regard to any conflicts of law principles thereof that would require the application of the laws of any other state or jurisdiction. The Parties hereby consent to the non-exclusive jurisdiction and venue of the state and federal courts situated in Wilmington, Delaware, for any dispute arising from this Agreement.

SECTION 19. ARBITRATION.





SECTION 20. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

SECTION 21. GENERAL RELEASE. The Parties acknowledge the existence of Section 1542 of the Civil Code of the State of California, which reads as follows:

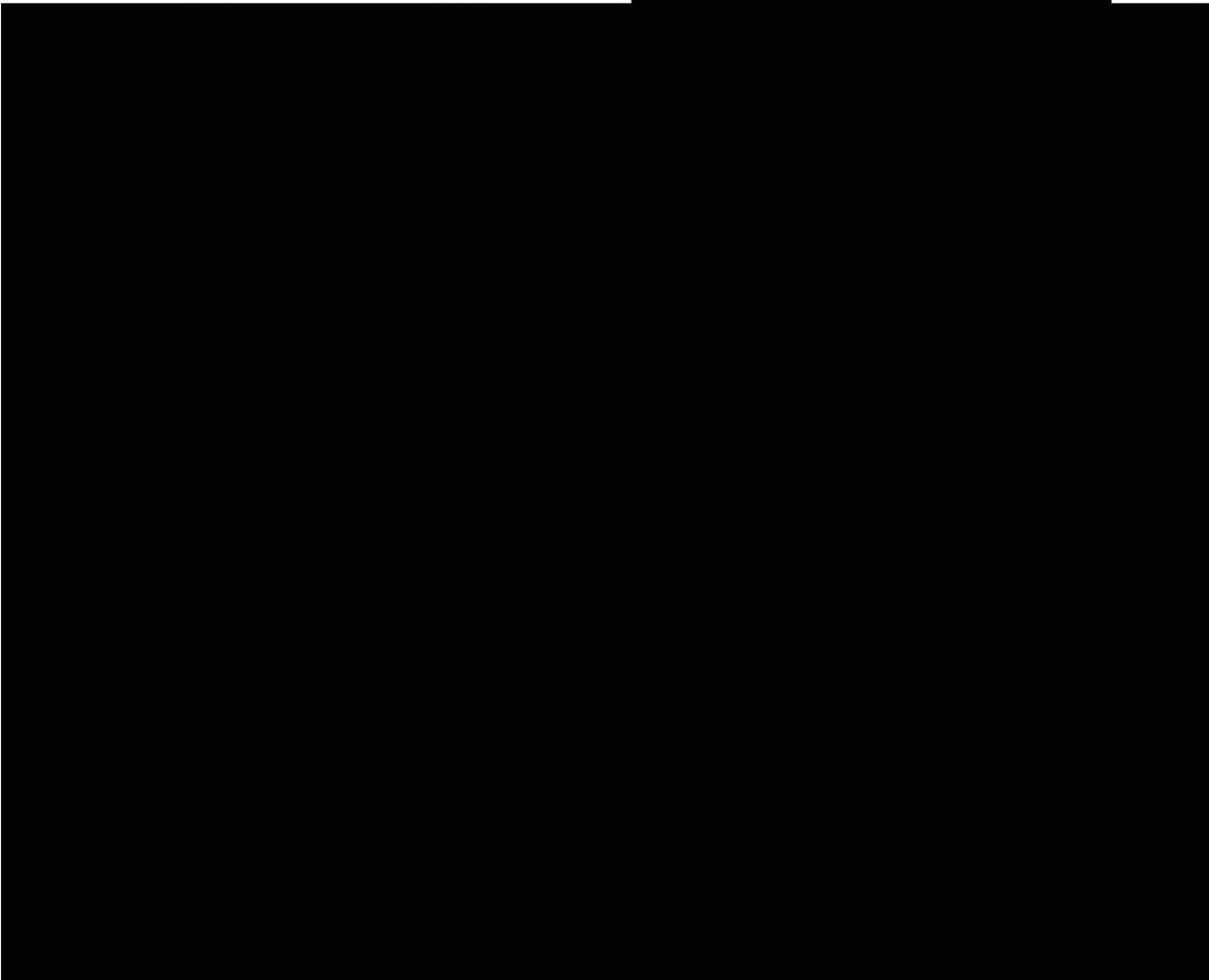
A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected settlement with the debtor.

The Parties hereby respectively expressly waive and relinquish all rights and benefits under that section, if any, and any law or legal principle of similar affect in any jurisdiction with respect to any releases granted in this Agreement.

SECTION 22. SEVERABILITY. Each provision of this Agreement shall be construed as separable and divisible from every other provision, and the enforceability of any

one provision shall not limit the enforceability, in whole or in part, of any other provision hereof. In the event that a court of competent jurisdiction determines that a restriction contained in this Agreement shall be unenforceable because of the extent of time or geography, such restriction shall be deemed amended to conform to such extent of time and/or geography as such court shall deem reasonable.

SECTION 23. CONFIDENTIALITY.



SECTION 24. PUBLIC ANNOUNCEMENT. Neither Party shall issue any press release or make any other formal communication with the news media concerning this Agreement and any commercial relationship between the Parties and/or any of their respective Affiliates, without the prior written consent of the other Party. In addition, each Party shall make only such other, informal communications with the news media (including responses to inquiries from the media) regarding this Agreement and any commercial relationship between the Parties and/or any of their respective Affiliates as are reasonably necessary in the furtherance of such Party's legitimate business interests, and then only in general terms and subject to the confidentiality provisions set forth in Section 23, provided that in no event shall AgileTV make any such communications except to the extent and within the scope that Comcast has already

done so. Without limiting the foregoing, in no event shall AgileTV use Comcast's or any of Comcast's Affiliates' names in any of its publicity or marketing literature or on any website operated by it (including, without limitation, the Promptu.com website) without Comcast's prior written consent.

SECTION 25. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute but one and the same instrument. This Agreement shall be binding upon the delivery by each Party of an executed signature page to the other Party by facsimile transmission, provided that, if signature pages are so delivered by facsimile transmission, each Party shall also immediately deliver an executed original counterpart of this Agreement to the other Party by overnight delivery service (with next day delivery specified).

SECTION 26. TAXES; HOLD HARMLESS. Each of the Parties shall be liable for, and shall pay and forever hold the other Party hereto harmless from, any and all sales, use, excise, income, franchise, corporate and similar taxes (including, without limitation, any fees payable to local or state franchising authorities) and other charges which are or may be imposed upon or assessed against such Party and/or which are based upon or measured by revenues of such Party.

SECTION 27. ATTORNEYS' FEES. In any action to enforce this Agreement which is not submitted to arbitration pursuant to Section 19, the prevailing Party shall be entitled to seek court costs and reasonable attorneys' fees incurred in connection with such action (including in enforcing and collecting any judgment) as part of its award from the non-prevailing Party, and the court shall award such costs and fees as and to the extent that it determines that fairness so dictates.

SECTION 28. THIRD PARTY BENEFICIARIES. No provision of this Agreement is intended to confer upon any person other than the Parties hereto any rights or remedies hereunder, except as otherwise expressly provided in this Agreement.

SECTION 29. ENTIRE AGREEMENT; PRIOR AGREEMENTS. This Agreement sets forth the entire Agreement and understanding of the Parties relating to the subject matter hereof, and supersedes all prior Agreements, arrangements or understandings relating to the subject matter hereof. All prior agreements among the Parties shall be deemed terminated by mutual consent as of the date hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

COMCAST IP HOLDINGS I, LLC

By: _____
Name: _____
Title: _____
President

COMCAST CORPORATION

By: _____
Name: _____
Title: _____

AGILETV CORPORATION

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO LICENSE AND DEVELOPMENT AGREEMENT]

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

COMCAST IP HOLDINGS I, LLC

By: _____
Name:
Title:

COMCAST CORPORATION

By: _____
Name: _____
Title: Senior Vice President

AGILETV CORPORATION

By: _____
Name:
Title:

[SIGNATURE PAGE TO LICENSE AND DEVELOPMENT AGREEMENT]

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

COMCAST IP HOLDINGS I, LLC

By: _____
Name:
Title:

COMCAST CORPORATION

By: _____
Name:
Title:

AGILETV CORPORATION

By: _____
Name:
Title: CEO

[SIGNATURE PAGE TO LICENSE AND DEVELOPMENT AGREEMENT]

DEFINITIONS

As used in the Agreement to which this Exhibit A is attached and into which it is incorporated by reference and the Exhibits (including this Exhibit) attached thereto, the following capitalized terms shall have the following respective meanings ascribed thereto:

“**AAA**” shall have the meaning set forth in Section 19(b) of this Agreement.

“**Affiliate**” shall mean, with respect to any Person on any applicable date of determination, any other Person directly or indirectly controlling, controlled by or under common control with such first Person as of such date. As used herein, the term “**control**” (including any correlative usages such as “**controlling**,” “**controlled by**” and “**under common control with**”) shall mean (i) the legal, beneficial or equitable ownership, directly or indirectly, of at least a majority of the equity interests of a Person; or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person or the election of a majority of the board of directors or comparable governing body of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**AgileTV**” shall have the meaning set forth in the preamble to this Agreement.

“**AgileTV IP**” shall mean each of the following Intellectual Property Rights as to which AgileTV or any of its Affiliates now has, or hereafter during the IP Coverage Period obtains, ownership rights or the right to grant licenses, releases, or covenants not to sue to third parties, in each case to the extent embodying or related to the AgileTV Technology (including any Updates thereto and New Features based thereon developed during the IP Coverage Period): (i) all United States and foreign registered and unregistered copyrights, copyright registrations, mask works and applications therefor and all other rights corresponding thereto throughout the world; (ii) all industrial designs and design patents and any registrations and applications therefor throughout the world; and (iii) all trade secrets and other rights in know-how and confidential or proprietary information; provided, however, that the term “**AgileTV IP**” shall not include (x) any Project IP or (y) any Intellectual Property Rights created after the expiration of the IP Coverage Period, including Updates to or New Features based on the AgileTV Technology.

“**AgileTV Marks**” shall mean any and all trade names, logos, trademarks or service marks now or hereafter owned or controlled by AgileTV or its Affiliates.

“**AgileTV Patent License Option**” shall have the meaning set forth in Section 1(a)(i) of this Agreement.

“**AgileTV Patents**” shall mean (i) all issued United States and foreign patents as to which AgileTV or any of its Affiliates now has, or hereafter during the Patent Coverage Period obtains, ownership rights or the right to grant licenses, releases, or covenants not to sue to third parties or a right to determine whether to enforce against third parties (including, without limitation, those patents identified in Exhibit E attached hereto, but excluding any patent that would require the

payment of additional fees to third parties if Comcast were granted license rights therein, unless Comcast agrees to reimburse AgileTV for such fees in Comcast's sole discretion); (ii) all United States and foreign patents that issue on (A) applications filed with the relevant governmental authority before or during the Patent Coverage Period and as to which AgileTV or any of its Affiliates obtains any of the rights referenced in clause (i) (whether such rights arise before, during or after the Patent Coverage Period) (including, without limitation, those patent applications identified in Exhibit E attached hereto) or (B) applications that are continuations, continuations-in-part, divisions, extensions or provisionals of the applications described in subclause (A) (whether such applications are filed before, during or after the Patent Coverage Period); (iii) all United States and foreign patents that relate to inventions conceived at any time before or during the Patent Coverage Period and as to which AgileTV or any of its Affiliates obtains any of the rights referenced in clause (i) (whether such rights arise before, during or after the Patent Coverage Period); (iv) all United States and foreign patents that claim priority from, or could claim priority from, any of the patents described in clauses (i), (ii) or (iii); and (v) all reissues, reexaminations and renewals of any of the patents described in clauses (i), (ii), (iii) or (iv); provided, however, that the term "**AgileTV Patents**" shall not include any Project Patents.

"**AgileTV Technology**" shall mean AgileTV's server-based voice recognition technology that enables the control of cable services using voice commands, including all software (including source code), hardware and user interface tools related thereto.

"**Agreement**" shall have the meaning set forth in the preamble hereto, including all amendments, supplements and modifications thereto.

"**Arbitration Costs**" shall have the meaning set forth in Section 19(d) of this Agreement.

"**Architecture**" shall have the meaning set forth in Section 2(a) of this Agreement.

"**Attorneys' Fees**" shall have the meaning set forth in Section 19(d) of this Agreement.

"**Average Number of Covered Comcast Subscribers**" shall mean, for any calendar month, the sum of the number of Covered Comcast Subscribers on the first day and the last day of such month, divided by two.

"**Bankruptcy Code**" shall have the meaning set forth in Section 12(e) of this Agreement.

"**Base Amount**" shall mean

"**Base Amount Payment Date**" shall mean the earliest date upon which Comcast shall have paid an aggregate amount pursuant to this Agreement

[REDACTED]

[REDACTED]

“Cable System” shall mean any cable television or other distribution system that receives directly or indirectly programming services and/or other voice, video, audio or data services or content and distributes such services and content to subscribers in a particular geographic market served by a headend or other network.

“Comcast Competitor” shall mean [REDACTED]

[REDACTED]

“Comcast Indemnified Parties” shall mean [REDACTED]

[REDACTED]

“Comcast Products” shall mean any product or service now or hereafter developed, manufactured, licensed to or otherwise acquired by or for Comcast or its Affiliates (whether or not containing any AgileTV IP or Project IP, incorporating, reading on or practicing any AgileTV Patents or Project Patents or otherwise integrated with the Architecture, and including any such products or services purchased from AgileTV or its Affiliates), for deployment to and use by Comcast Subscribers within the Territory, including redistributable portions thereof and combinations with other products or services for use by Comcast Subscribers within the Territory.

“Comcast Sublicensees” shall have the meaning set forth in Section 1(a)(i) of this Agreement.

“Comcast Subscriber” shall mean any customer of any products or services provided by Comcast or any of its Affiliates within the Territory, provided that, for purposes of calculating a number of Comcast Subscribers (including Covered Comcast Subscribers) under this Agreement (including to the extent such a calculation is required for purposes of determining the amount of Patent License Royalty Fees owed by Comcast), such number shall be calculated using the methodology Comcast Corporation uses to count subscribers for purposes of its quarterly earnings release.

“Comcast Subscriber Data” shall mean, whether or not personally identifiable to Comcast Subscribers: (i) any information or data provided by or collected from or about Comcast Subscribers, including, without limitation, voluntarily disclosed data; (ii) any information about a Comcast Subscriber’s access to or use of the Comcast Products; and (iii) all content included in a Comcast Subscriber’s data or media storage and any other information or data received or contributed by a Comcast Subscriber in connection with and stored as part of or in connection with the Comcast Products.

“Comcast System” shall mean a Cable System (i) in which Comcast or any of its Affiliates has a direct or indirect economic ownership interest of more than fifty percent (50%); or (ii) is managed on a day-to-day basis by Comcast or any of its Affiliates.

“Comcast Vendor” shall mean any vendor or supplier (including each of their subcontractors that have been authorized by Comcast) of one or more products or services utilized by, used in connection with, or distributed or deployed in any Comcast System. The term **“Comcast Vendor”** shall include, without limitation, any Affiliate of Comcast that (A) designs, creates or distributes interactive services or user interfaces related to multi-channel video programming (including, without limitation, electronic program guides, interactive program guides, middleware, polling, e-commerce, and digital video recording) or (B) provides infrastructure equipment.

“Comcast” shall have the meaning set forth in the preamble to this Agreement.

“Comcast Parent” shall have the meaning set forth in the preamble to this Agreement.

“Commercial Deployment” (including any correlative usages such as **“Commercially Deploy”**) shall mean the deployment of any Comcast Product by Comcast or its Affiliates to non-employee, non-trial period, paying Comcast Subscribers, provided that the term **“Commercial Deployment”** shall not include deployment of Comcast Products for trial purposes (such trials not to exceed one year in duration) to paying Comcast Subscribers in up to two different Comcast Systems.

“Confidential Information” shall mean all non-public or proprietary information that one Party discloses or makes available to the other Party, including, without limitation, any such information disclosed between the Parties in the course of negotiating or performing this Agreement, but excluding any such information that (i) is or becomes generally available to the public other than as a result of a disclosure by the receiving Party in violation of this Agreement; (ii) was or had become available to the receiving Party on a non-confidential basis from a source which was not prohibited from disclosing such information to the receiving Party by a legal, contractual or fiduciary obligation of confidentiality to the disclosing Party; or (iii) was independently developed by the receiving Party through Persons who have not had, either directly or indirectly, access to or knowledge of the Confidential Information.

“Covered Comcast Product” shall have the meaning set forth in Section 1(a)(i) of this Agreement.

“Covered Comcast Subscriber” shall mean each Comcast Subscriber to which a Covered Comcast Product is Commercially Deployed.

“Credit Amounts” shall have the meaning set forth in Section 2(c)(iii) of this Agreement.

“Demand” shall have the meaning set forth in Section 19(a) of this Agreement.

“Effective Date” shall have the meaning set forth in the preamble to this Agreement.

“Escrowed Materials” shall mean, collectively, the Option Escrowed Materials and Project Escrowed Materials.

“Exchange Act” shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Excluded Field of Use” shall mean



“Expenses” shall mean, collectively, legal, accounting and other fees, costs and expenses.

“Funding Milestone” shall have the meaning set forth in Section 2(b)(viii) of this Agreement.

“Initial Payment” shall have the meaning set forth in Section 2(d)(i) of this Agreement.

“Intellectual Property Rights” shall mean



"TP Coverage Period" shall mean [REDACTED]

"Loan" shall have the meaning set forth in the recitals to this Agreement.

"Loan Documents" shall have the meaning set forth in the recitals to this Agreement.

"Loss" or **"Losses"** shall mean, collectively, losses, settlements, claims, actions, suits, proceedings, investigations, judgments, awards, damages and liabilities, including any related Expenses.

"MFN Notice" shall have the meaning set forth in Section 9(b) of this Agreement.

"Microsoft" shall mean Microsoft Corporation, a Washington corporation, together with all of its Affiliates.

"Milestone" shall have the meaning set forth in Section 2(b)(viii) of this Agreement.

"Milestone Payment" shall have the meaning set forth in Section 2(d)(ii) of this Agreement.

"New Features" shall mean the tangible embodiment of any new features, functionality, applications or products based on the AgileTV Technology (not including bug fixes, error corrections, performance improvements or functionality enhancements).

"One-Time IP License Fee" shall have the meaning set forth in Section 1(b)(ii) of this Agreement.

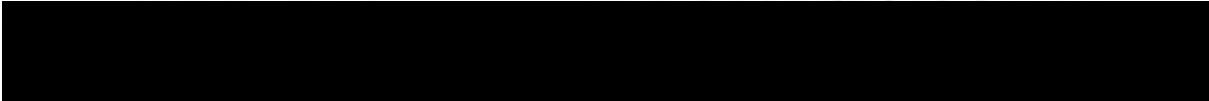
"One-Time IP License Option" shall have the meaning set forth in Section 1(b)(i) of this Agreement.

"Option Escrowed Materials" shall mean all software source code, hardware designs, manufacturing specifications, documentation, third party supplier lists (including contact persons) and all other tangible embodiments of the AgileTV Patents or AgileTV IP.

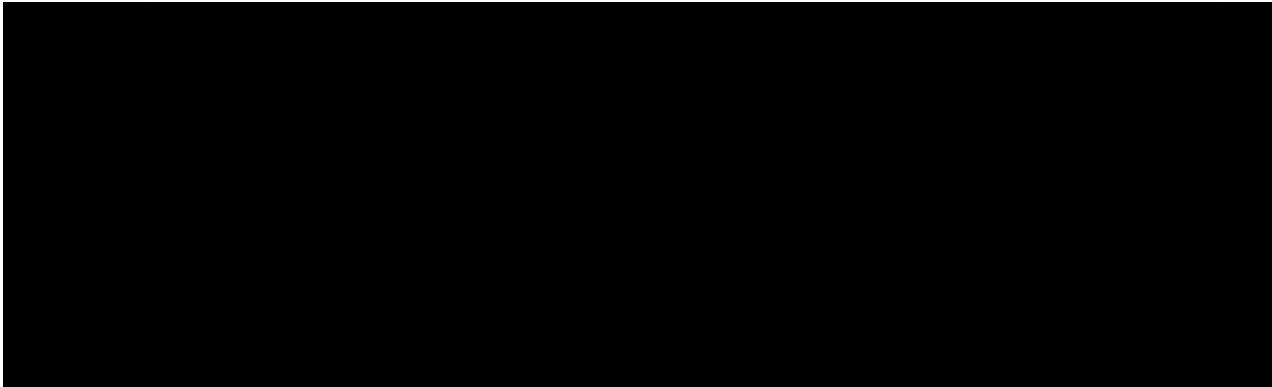
"Option Term" shall mean [REDACTED]

"Party" and **"Parties"** shall have the meanings set forth in the preamble to this Agreement.

"Patent Coverage Period" shall mean [REDACTED]



“Patent License Royalty Fee” shall have the meaning set forth in Section 1(a)(ii)(C) of this Agreement.



“PCR” shall have the meaning set forth in Section 2(b)(xi) of this Agreement.

“Person” shall mean any natural person, corporation, firm, joint venture, partnership, association, enterprise, limited liability company, trust or other entity or organization, or any government or political subdivision or any agency, department or instrumentality thereof.

“Platform” shall mean a client and server software system (or its components) used to operate Comcast Products, regardless of the number of versions of such system or the number of devices on which such system is deployed, including any related user interface tools (e.g., remote control devices).

“Prepaid Amount” shall have the meaning set forth in Section 5(a) of this Agreement.

“Project” shall have the meaning set forth in Section 2(a) of this Agreement.

“Project Commencement Date” shall have the meaning set forth in Section 2(c) of this Agreement.

“Project Escrowed Materials” shall mean all software source code, hardware designs, manufacturing specifications, documentation, third party supplier lists (including contact persons) and all other tangible embodiments of the Project Patents or Project IP.

“Project Coverage Period” shall mean the period commencing on the Project Commencement Date and continuing until the second anniversary of the completion or earlier termination by Comcast (pursuant to Section 2(f) of this Agreement) of the Project.

“Project Fee” shall have the meaning set forth in Section 2(d) of this Agreement.

“Project IP” shall mean

[REDACTED]

“Project Patents” shall mean

[REDACTED]

“Project-related Products” shall mean all products and services (including any related support and maintenance) sold or provided by AgileTV that incorporate, read on or practice any Project Patents or contain or are derivative of any Project IP.

“Provision” shall have the meaning set forth in Section 9(a) of this Agreement.

“Revenue Share Amount” shall have the meaning set forth in Section 4(b) of this Agreement.

“Source Code Escrow Account” shall have the meaning set forth in Section 12(a) of this Agreement.

“Source Code Escrow Agreement” shall have the meaning set forth in Section 12(a) of this Agreement.

“Statement of Work” shall have the meaning set forth in Section 2(b) of this Agreement.

“Territory” shall mean the United States of America and Canada, including all of their respective territories and possessions.

“Update” shall mean all improvements, revisions, enhancements, modifications, derivatives, replacements and additions to any Intellectual Property Rights (including, with respect to the tangible embodiment of any Intellectual Property Rights, any bug fixes, error corrections, performance improvements or functionality enhancements); provided, however, that the term **“Update”** shall not include New Features.

“Voluntary Milestone Payment” shall have the meaning set forth in Section 2(f) of this Agreement.

AGILETV TRADEMARK USAGE GUIDELINES AND POLICIES

The AgileTV Trademark Usage Policy defines the official guidelines for usage of all trademarks and registered trademarks of AgileTV Corporation.

AgileTV trademarks occur in two forms: names and logos.

- Trademarked *names* are specific words, which may be used as such in the text of documents, including those created by other parties. They must always be properly annotated to acknowledge their status as AgileTV trademarks.
- Trademarked *logos* are graphical elements, which sometimes include text rendered in a specific graphical form. A logo, even if it consists entirely of a graphical rendering of a name, may not be used as a word in the text of a document. AgileTV logos may not be used by other parties except under the terms of a license or other written authorization from AgileTV.

All uses of AgileTV trademarks and registered trademarks must include the proper notation after the name or logo, which is TM for trademarks and ® for registered trademarks. When a trademarked name is used in text, only the first instance of the name in a given document needs to be so annotated. After the first instance, the ® or TM after the word may be omitted. Usage of a logo must include the ® or TM annotation in every instance. An appropriate trademark legend (typically a footnote in a text document) should cite all trademarked names used as trademarks or registered trademarks of AgileTV Corporation. Such a citation should take the form:

“AgileTV® is a registered trademark of AgileTV Corporation.”

According to the legal definition of trademarks, a trademarked name should always be used as an adjective. An apparent exception to this is that the name “AgileTV” may be used in text as a proper noun – i.e. as the name of AgileTV Corporation – but note that this is not actually an instance of the trademark, and should not be annotated with the ® that would otherwise be appropriate. Under no circumstances should any AgileTV trademarked name be used as a noun when referring to an AgileTV product or service, or as a verb when describing the use of a product or service. For example, a proper reference to the AgileTV remote control product would be “the VoiceRemoteTM Control”, rather than simply “the VoiceRemoteTM”. Similarly, a statement like “I can find that program using the PromptuTM system” should not be shortened to “I can promptu that program”.

Trademarks should always be used in their full, proper form, and never altered or abbreviated. For Example, “VoiceRemoteTM Control” should never be abbreviated as “VRC” or etc. The capitalization of trademarked names should be preserved, but (unlike logos) they may be recast in the font of the text document in which they are used. Overly artistic fonts (especially those that do not distinguish upper vs. lower case letters) should be avoided.

Approved artwork for AgileTV logos will be provided by AgileTV. Under no circumstances are variants or versions of any AgileTV logo to be created or used in place of the approved artwork.

In cases where the artwork provided specifies Pantone colors, those colors are to be used for the indicated graphical elements, and other colors may not be substituted. Where no Pantone codes are specified, the closest possible match to the colors in the provided artwork should be used. Logos must not be reduced in size to an extent that obscures their graphic features or otherwise renders them unrecognizable. The aspect ratio and other proportions of the logo designs must be maintained.

AgileTV logos must be used as standalone graphical elements, and may never be combined with other textual or graphical elements into a larger design. A rule of thumb for proper spacing is to maintain a distance D between the logo and any adjacent graphical element of at least $D = (W+H)/10$, where W is the width of the logo in question and H is its height. (See Figure B-1)

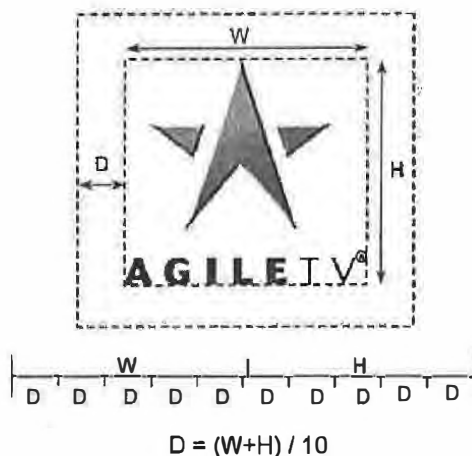


Figure B-1

The exact list of AgileTV trademarks will evolve over time. Current AgileTV trademarks are:

1. Registered trademarks

AgileTV®

(Blue Star logo)®

(Blue Star logo over "AgileTV" graphic)®

2. Other trademarks

Promptu™ Service

VoiceRemote™ Control

VoiceLink™ Receiver

VoiceScan™

VoiceSearch™

VoiceHelp™

VoiceSeek™

REQUIRED THIRD PARTY INTELLECTUAL PROPERTY

AgileTV[®] licenses various software components from other companies. The licensed software falls into two categories, based on its role in AgileTV's currently planned and/or potential future products:

Some software is crucial to AgileTV's current plans for field trials and commercial deployments.

Other software has been licensed, but will not be used in the initial trials and deployments. The corresponding product features are deferred, pending further planning for subsequent product versions.

The remainder of this memo reviews these two categories in turn.

NOTE: The following does not represent a qualified legal opinion. It is simply a good faith attempt to summarize the set of existing contracts. Any questions about the issues should be resolved by direct reference to the actual contracts, copies of which are available.

1. Licensed software essential to the current Plan of Record

Software in this category comprises several key components of the AgileTV product for field trials and commercial launch.

1.1 ScanSoft – OpenSpeech Recognizer and related tools

The software licensed from ScanSoft (formerly SpeechWorks International) provides essential core technology supporting the functionality of the AgileTV product. The complete speech recognition chain includes front-end software in the VoiceRemote[™] control and back-end software on the AgileTV server where most of the work is done. In the current version, both the front-end and back-end components include IP and/or software licensed from ScanSoft. We plan to retain the ScanSoft back-end software on the server but will replace the ScanSoft front-end design with an AgileTV implementation of the ETSI ES 201 108 standard (see below).

AgileTV's license for ongoing use of the ScanSoft software authorizes resale of the software in object-code form bundled with the AgileTV product, and establishes a royalty rate with a steep (x5) volume discount as the total subscriber base ramps up. (The specific rates in the current contract are subject to renegotiation, pending discussions between AgileTV and ScanSoft.) No access to the main body of the ScanSoft source code is included; only two small sections of ScanSoft software have been received in source code form:

- 1) ScanSoft's speech-to-MFCC front-end software has been completely reimplemented for use in the VoiceRemote control. AgileTV will continue to use this code only until the ETSI front-end is operational.
- 2) A key inner-loop module of the ScanSoft back-end has been received and may at some future date be hand-optimized by AgileTV.

Neither of these components embodies any critical AgileTV IP. There is no operational necessity or contractual obligation to return these modifications to ScanSoft, nor is there any particular reason not to do so. All related AgileTV software that *does* embody important AgileTV IP is cleanly separated from the code in question.

Our arms-length (object-code-only) relationship with the bulk of the ScanSoft software leaves us free to create our own speech recognition implementation in the future if appropriate, without any issues of “clean room” isolation of AgileTV personnel who would have been exposed to the corresponding ScanSoft source code.

ScanSoft has no IP rights to any of AgileTV’s IP relating to speech recognition, speaker identification or speech compression. As noted above, there exists a clear division between software owned by ScanSoft and software owned by AgileTV.

1.2 ETSI – Speech Recognition standard ES 201 108

In the next version of the product, we plan to replace the ScanSoft front-end design with an AgileTV implementation of the ES 201 108 standard from the European Telecommunications Standards Institute (ETSI). While ETSI standards are not guaranteed to be free of all IP encumbrances, the ETSI Rules of Procedure define effective safeguards to insure fair and uniform licensing of all patents necessary for standards compliance. We are investigating the specific patents (if any) that would pertain to our implementation of the ES 201 108 standard. AgileTV is subject to the standard ETSI IP licensing policy.

1.3 Tribune Media – Television Listings

AgileTV has a development/demo/trial license for IPG data from Tribune Media Services (TMS). That agreement authorizes non-revenue usage for development, testing, demonstration and field trials. The authorized field trials can include up to 1000 subscribers. To the extent possible, we intend to operate our planned trials under the Tribune licenses held by the respective MSOs. TMS charges a flat monthly rate for our development use of this data, and the existing agreement defines no terms for royalties from commercial deployment. TMS retains ownership of their data, and no other IP terms are included that could be construed as compromising AgileTV’s IP ownership. No restrictions are defined limiting AgileTV’s use of the data, including augmentation using data from other sources.

1.4 Universal Electronics – Remote control firmware

The AgileTV VoiceRemote control supports both speech control and, to ease customer adoption, the complete functionality of a traditional universal remote control. The latter is implemented using keycode software and IR command libraries developed and owned by Universal Electronics, Inc. The development and manufacturing contract with Universal grants AgileTV the necessary rights to sell and deploy remote controls manufactured by Universal that contain and use this software. There is a clean separation between this intellectual property and the rest of the design of the VoiceRemote control, avoiding any risk of confusion regarding ownership and use of each part of the product.

2. Licensed software *not* included in the current Plan of Record

Software in this category will not be included in the AgileTV product for initial field trials and commercial launch. It was licensed to support anticipated product functionality that has been deferred, but will be considered for possible inclusion in later versions of the product.

2.1 OpenTV – DeviceMosaic Browser

A key component in AgileTV's deferred plans to provide TV access to the Worldwide Web was the DeviceMosaic browser, licensed from OpenTV and ported by them to the MIPS architecture server. The contract provides AgileTV with a source license for the Device Mosaic code, including distribution rights to bundle the software with the AgileTV product. Royalties are computed on a per-subscriber basis, with a steep (x5.5) volume discount. (The specific rates in the current contract are subject to renegotiation, pending discussions between AgileTV and OpenTV.)

By running the browser on the server and encoding the resulting screen images as MPEG-2 video, this approach gives the subscriber the use of a full-power browser instead of a stripped-down subset that could run stand-alone on the DCT2000. Since the Web access feature is now deferred until a later release, we are not actively pursuing the use of DeviceMosaic at this time, and by mutual agreement with OpenTV, we have allowed our DeviceMosaic support contract to lapse. If we decide to revive the DeviceMosaic approach, we have agreed to renegotiate the renewal of support at that time.

OpenTV retains their IP ownership in DeviceMosaic. OpenTV has no rights to any AgileTV IP. In all cases, there is a clear line between software owned by OpenTV and software owned by AgileTV

2.2 PixelTools – MPEG-2 video encoding software

The PixelTools MPEG-2 encoder was selected for use in encoding the output of screen-oriented server-based applications like the DeviceMosaic browser. PixelTools performed the port to the MIPS architecture and then licensed the source code and any related patents to AgileTV on a royalty-free basis for a one-time payment. Ownership of IP remains with the respective parties. AgileTV retains IP ownership of any subsequent improvements they may make to the source code licensed from PixelTools.

The contract explicitly acknowledges the encumbrance of the MPEG-2 standard with a suite of essential patents held by various MPEG member companies, and assigns to AgileTV the responsibility to license such patents via the MPEG-LA organization (see below).

2.3 MPEG-LA – License to MPEG-2 video encoding patents

The MPEG Licensing Administrator (MPEG-LA) is an industry consortium charged with providing a neutral, uniform licensing policy for the essential patents for the MPEG-2 video encoding standard.

AgileTV has contracted with MPEG-LA to license the MPEG-2 essential patent portfolio according to standard terms in the MPEG-LA license agreement.

No ownership of any AgileTV IP is conveyed by this contract to MPEG-LA or any of its affiliated patent holders.

2.4 Dolby Laboratories – Dolby Digital audio encoding software & patents

Corresponding to the MPEG-2 license for video encoding, a license for audio encoding may be needed in the future. Since the audio standard for U.S. digital cable is Dolby Digital (aka AC-3), this license must be obtained from Dolby Laboratories.

Discussions with Dolby were in progress when the decision was made to defer implementation of Web access via a server-based Web browser. Those discussions are therefore on hold, and no license has been completed. If and when this process is resumed, no difficulty is anticipated in obtaining the necessary license and software without any risk of excessive costs or compromise of AgileTV's IP position.

2.6 SouceGuide – Look and Feel

AgileTV adapted elements of the SourceGuide user interface for a previous version of its speech-enabled system, but that adaptation did not involve use of or access to any software from SourceGuide. The current version of the AgileTV system implements the new Promptu IPG and VOD system, which is a clean-sheet redesign of the user interface and incorporates neither design nor implementation elements from SourceGuide. AgileTV's license of the SourceGuide software has terminated.

2.7 BravoBrava! – PC demo system

Early in its history, AgileTV contracted with BravoBrava! to build a PC-based early demo of the kind of system that was envisioned for full-scale development. The initial demo was successfully constructed and handed over to AgileTV for further development. The two contracts with BravoBrava! do not place any continuing obligation on AgileTV.

The PC demo has evolved through several revisions since the completion of the contract, but some of the original demo software does still survive in the current version. AgileTV has full rights to this code.

All work product created under the contracts (including any resulting IP) is the sole property of AgileTV, with the condition that such work product be licensed back to BravoBrava solely for use outside AgileTV's field of business. The contract does not convey to BravoBrava! any rights to any other AgileTV IP.

EXHIBIT D

FORM OF SOURCE CODE ESCROW AGREEMENT

See attached.

D-1

THREE PARTY
ESCROW SERVICE AGREEMENT

1. Introduction.

This Escrow Service Agreement (the “Agreement”) is entered into by and among AgileTV Corporation, located at 333 Ravenswood Avenue, Building 202, Menlo Park, California 94025 (☒ **Depositor** - OR - ☐ **Beneficiary**) and its affiliates and subsidiaries, and by any additional party signing the Acceptance Form attached as Exhibit D to this Agreement (☐ **Depositor** - OR - ☒ **Beneficiary**), and by Iron Mountain Intellectual Property Management, Inc. (“**Iron Mountain**”) on this 11th day of May, 2005 (the “**Effective Date**”). Beneficiary, Depositor, and Iron Mountain may be referred to individually as a “**Party**” or collectively as the “**Parties**” throughout this Agreement.

The use of the term “**Services**” in this Agreement shall refer to Iron Mountain Services that facilitate the creation, management, and enforcement of software and/or other technology escrow accounts as described in Exhibit A attached hereto. A Party shall request Services under this Agreement (i) by submitting a work request associated for certain Iron Mountain Escrow Services via the online portal maintained at the Website located at www.ironmountainconnect.com or any other Websites or Web pages owned or controlled by Iron Mountain that are linked to that Website (collectively the “**Iron Mountain Website**”), or (ii) by submitting a written work request attached hereto as Exhibit A (each, individually, a “**Work Request**”).

The Parties acknowledge that this Agreement is being entered into pursuant to that certain License and Development Agreement dated as of May 11, 2005 among Depositor, Beneficiary and Beneficiary’s parent corporation (collectively, together with any other license agreement between Depositor and Beneficiary that includes source code escrow provisions, the “**License Agreement**”). Accordingly, the Parties desire for this Agreement to be supplementary to the License Agreement pursuant to, and as provided in, Section 365(n) of Title 11 of the United States Bankruptcy Code (the “**Bankruptcy Code**”), and Depositor acknowledges that, if Depositor as a debtor in possession or a trustee in bankruptcy in a case under the Bankruptcy Code rejects this Agreement or the License Agreement, Beneficiary may elect to retain its rights under this Agreement and the License Agreement as provided in Section 365(n) of the Bankruptcy Code.

The Parties acknowledge that, during the term of this Agreement, Depositor, using Exhibit D1 as necessary, will be making deposits of two separate types of Deposit Materials – Option Escrowed Materials and Project Escrowed Materials (as such terms are defined in the License Agreement), and each type of Deposit Material, as identified in initial deposit and as identified on Exhibit D1, will be maintained by Iron Mountain separately within the escrow account pursuant to this Agreement.

2. Depositor Responsibilities.

- (a) Depositor shall provide all information designated as required to fulfill a Work Request (“**Required Information**”) and may also provide other information (“**Optional Information**”) at its discretion to assist Iron Mountain in the fulfillment of requested Services.
- (b) Depositor must authorize and designate one or more persons whose action(s) will legally bind the Depositor (“**Authorized Persons**” who shall be identified in the Authorized Persons/Notices Table of this Agreement) and who may manage the Iron Mountain escrow account on behalf of Depositor through the Iron Mountain Website or via written Work Request. Authorized Person(s) will maintain the accuracy of their name and contact information provided to Iron Mountain during the Term of this Agreement (the “**Depositor Information**”). Depositor may update its list of Authorized Persons from time to time at its election.
- (c) Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials comprising the Option Escrowed Materials to Iron Mountain on the Effective Date. Depositor shall make an additional deposit, using Exhibit D1, that is complete and functional of all proprietary technology and other materials comprising the Project Escrowed Materials to Iron Mountain in accordance with the License Agreement. As used in this Agreement, the term “**Deposit Material**” shall refer to all technology and other materials deposited by Depositor, whether comprising Option Escrowed Materials or Project Escrowed Materials. Depositor may also update Deposit Material from time to time during the Term of this Agreement provided a minimum of one (1) complete and functional copy of each type of Deposit Material is deposited with Iron Mountain at all times following the initial deposit of such type of Deposit Material. Prior to each deposit or update, Depositor will conspicuously label for identification each document, disk or other tangible media upon which the Deposit Material is written or stored, including specifying whether such Deposit Material comprises Option Escrowed Material or Project Escrowed Material. In addition, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain via the Iron Mountain Website or using the form attached hereto as Exhibit B.
- (d) Depositor consents to Iron Mountain’s performance of any level(s) of Verification Services described in Exhibit A attached hereto and further consents to Iron Mountain’s use of a subcontractor to provide such Services as needed.

- (e) Depositor represents and warrants as follows:
 - (i) Depositor lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement free of any liens or encumbrances as of the date of their deposit, and any Deposit Material liens or encumbrances made after the date of their deposit will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement;
 - (ii) All Deposit Material is readable and useable in its then current form; if any portion of such Deposit Material is encrypted the necessary decryption tools and keys to read such material are deposited contemporaneously;
 - (iii) All Deposit Materials are free of any computer viruses, worms, other destructive code, expiration dates or master access keys;
 - (iv) None of the Deposit Materials will degrade security by interfering with or modifying the normal functions of the operating system on which the Deposit Materials will reside;
 - (v) All Deposit Material is provided with rights to Iron Mountain who will verify such proprietary technology and materials upon receipt of a Work Request for such Services; and
 - (vi) Iron Mountain's use of the Deposit Material or other materials supplied by Depositor to perform the Verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.
- (f) Depositor agrees to use commercially reasonable efforts to provide Iron Mountain with any necessary use rights or permissions to use materials necessary to perform Verification of the Deposit Material. Depositor agrees to reasonably cooperate with Iron Mountain by providing its facilities, computer software systems, and technical personnel for Verification Services whenever reasonably necessary.

3. Beneficiary Responsibilities.

- (a) Beneficiary shall provide all information designated as required to fulfill a Work Request ("**Required Information**") and may also provide other information ("**Optional Information**") at its discretion to assist Iron Mountain in the fulfillment of requested Services.
- (b) Beneficiary must authorize and designate one or more persons whose action(s) will legally bind the Beneficiary ("**Authorized Persons**" who shall be identified in the Authorized Persons/Notices Table of this Agreement) who shall manage the Iron Mountain escrow account on behalf of Beneficiary through the Iron Mountain Website or via written Work Request. Authorized Person(s) will maintain the accuracy of their name and contact information provided to Iron Mountain during the Term of this Agreement (the "**Beneficiary Information**"). Beneficiary may update its list of Authorized Persons from time to time at its election.
- (c) Beneficiary is responsible for verifying the completeness and/or functionality of all Deposit Material. Beneficiary may submit a Verification Work Request to Iron Mountain for one of more of the Services defined in Exhibit A attached hereto and further consents to Iron Mountain's use of a subcontractor if needed to provide such Services.
- (d) Beneficiary warrants that Iron Mountain's use of any materials supplied by Beneficiary to perform the Services the Verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.

4. Iron Mountain Responsibilities.

- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by authorized Depositor and Beneficiary representatives in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all Required Information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a deposit inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B attached hereto, Iron Mountain will (i) note the discrepancies in writing on such Exhibit B, (ii) date and sign such Exhibit B with the exceptions noted, and (iii) deliver a copy of such signed Exhibit B to Depositor and Beneficiary. Iron Mountain will work directly with the Depositor to resolve any such discrepancies prior to accepting Deposit Material. Iron Mountain will provide notice to Depositor every ninety (90) days for updates to any Deposit Materials.
- (c) Iron Mountain will provide written notice to the Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement.
- (d) Iron Mountain will work with a Party who submits any Verification Work Request for Deposit Material covered under this Agreement to develop a custom Statement of Work ("**SOW**"). Iron Mountain and the requesting Party will mutually agree in writing to an SOW on the following terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of Verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the Paying Party(ies); designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. After the

start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth therein.

- (e) Iron Mountain will hold and protect all Deposit Material in physical and/or electronic vaults that are either owned or under the direct control of Iron Mountain.
- (f) Iron Mountain will permit the replacement and/or removal of previously submitted Deposit Material upon Work Request that may be subject to the written joint instructions of the Depositor and Beneficiary.
- (g) Iron Mountain will strictly follow the procedures set forth in Exhibit C attached hereto to process any Beneficiary Work Request to release Deposit Material.
- (h) Iron Mountain retains the right to terminate this Agreement, return all Deposit Material submitted by Depositor and retain all accrued Services Fees paid hereunder if Depositor is not able – within a reasonable time – to provide an Exhibit B that matches Deposit Material received by Iron Mountain, provided that Iron Mountain provides Beneficiary with reasonable prior written notice of such termination.

5. Payment.

The Paying Party(ies) shall pay to Iron Mountain all fees as set forth in the Work Request form attached hereto as Exhibit A (“Service Fees”). Except as set forth below, all Service Fees are due to Iron Mountain within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. If Iron Mountain rejects all or part of a Work Request, Iron Mountain shall refund any collected Service Fees associated with such rejected Work Request within sixty (60) calendar days of notice of the rejection. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party(ies) during the Term of this Agreement. Each Paying Party is liable for any taxes related to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice, to the extent possible. Notwithstanding the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement. All Service Fees will not be subject to offset except as specifically provided hereunder.

6. Term and Termination.

- (a) The “Term” of this Agreement is for a period of one (1) year from the Effective Date and will automatically renew for successive one (1) year periods until one of the following events occur: (i) Depositor and Beneficiary provide joint written instructions of their intent to cancel this Agreement within sixty (60) days to Iron Mountain; (ii) Beneficiary provides a sixty (60) day written notice regarding cancellation of this Agreement to both Depositor and Iron Mountain; or (iii) Iron Mountain can no longer perform the Services under this Agreement and provides a sixty (60) day written notice thereof to the Depositor and Beneficiary Authorized Persons.
- (b) Depositor and Beneficiary may provide Iron Mountain with joint written instructions authorizing Iron Mountain to forward the Deposit Material to another escrow company and/or agent or other designated recipient. If Iron Mountain does not receive said joint written instructions within sixty (60) calendar days of the date of Iron Mountain’s written termination notice, then Iron Mountain shall destroy or return the Deposit Material.
- (c) In the event of the nonpayment of Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to take any action under this Agreement so long as any Iron Mountain invoice issued for Services rendered under this Agreement remains uncollected.

7. General Indemnity.

Each Party shall defend, indemnify and hold harmless the others, their corporate affiliates and their respective officers, directors, employees, and agents and their respective successors and assigns from and against any and all claims, losses, liabilities, damages, and expenses (including, without limitation, reasonable attorneys’ fees), arising under this Agreement from the negligent or intentional acts or omissions of the indemnifying Party or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them.

8. Warranties.

- (a) Iron Mountain. ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR

PURPOSE, SATISFACTORY QUALITY, AGAINST INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY OF ANY CLAIMED BREACH OF ANY WARRANTIES AND SUCH PARTY'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE RETURN OF THE PORTION OF THE FEES PAID TO IRON MOUNTAIN BY PAYING PARTY FOR SUCH NON-CONFORMING SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE. THE WARRANTY PROVIDED IS SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN SECTION 11 HEREOF.

- (b) **Depositor.** Depositor warrants that all Depositor Information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Depositor Information during the Term of this Agreement.
- (c) **Beneficiary.** Beneficiary warrants that all Beneficiary Information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Beneficiary Information during the Term of this Agreement.

9. **Insurance.**

Iron Mountain shall, at its sole cost and expense, throughout the term of this Agreement, procure and maintain in full force and effect, the following insurance coverage, with an insurance carrier that is rated B+ or better by A.M. Best.

TYPE OF INSURANCE	COVERAGE AMOUNT	TYPE OF INSURANCE	COVERAGE AMOUNT
General Liability	\$2,000,000 General Aggregate	Crime Insurance	\$2,000,000 Each Occurrence
General Liability	\$1,000,000 Each Occurrence	Umbrella Coverage	\$5,000,000 General Aggregate
Professional Liability	\$1,000,000 Each Occurrence		

All certificates of insurance shall name the Parties as additional beneficiaries with respect to General Liability coverage. All certificates of insurance shall require that the Parties be provided with advance written notice of cancellation of the stated coverage, and Iron Mountain shall request that its insurer use its best efforts to provide at least thirty (30) days' advance written notification of such cancellation.

10. **Confidential Information.**

Iron Mountain shall have the obligation to reasonably protect the confidentiality of the Deposit Material. Except as provided in this Agreement Iron Mountain shall not disclose, transfer, make available or use the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third party. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron Mountain will immediately notify the Parties to this Agreement unless prohibited by law. It shall be the responsibility of Depositor and/or Beneficiary to challenge any such order; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order. Iron Mountain will not be required to disobey any order from a court or other judicial tribunal, including, but not limited to, notices delivered pursuant to Section 13(g) below.

11. **Limitation of Liability.**

NOTWITHSTANDING ANYTHING ELSE HEREIN, ALL LIABILITY, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO ONE YEAR OF FEES PAID OR OWED TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS. THIS LIMIT SHALL NOT APPLY TO ANY PARTY FOR: (I) ANY CLAIMS OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY RIGHT; (II) LIABILITY FOR DEATH OR BODILY INJURY; (III) DAMAGE TO TANGIBLE PROPERTY (EXCLUDING THE DEPOSIT ITEMS); (IV) THEFT; OR (V) PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

12. **Consequential Damages Waiver.**

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANOTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR LOST DATA OR INFORMATION, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES, OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

13. **General.**

- (a) Incorporation of Work Requests. All Depositor and/or Beneficiary Work Requests are incorporated into this Agreement.
- (b) Purchase Orders. The terms and conditions of this Agreement prevail regardless of any conflicting or additional terms on any Purchase Order or other correspondence. Any contingencies or additional terms contained on any Purchase Order are not binding upon Iron Mountain. All Purchase Orders are subject to approval and acceptance by Iron Mountain.
- (c) Right to Make Copies. Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform this Agreement. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the Party requesting the copies. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (d) Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of New York, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of laws.
- (e) Right to Rely on Instructions. Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine. Iron Mountain may assume that any employee of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document. Iron Mountain shall not be responsible for failure to act as a result of causes beyond the reasonable control of Iron Mountain.
- (f) Force Majeure. Except for the obligation to pay monies due and owing, no Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- (g) Notices. All notices regarding Exhibit C shall be sent by commercial express mail, overnight delivery service. All other correspondence, including invoices, payments, other required notices, and other documents and communications, shall be sent by (i) electronic mail; (ii) via regular mail to the Parties at the addresses specified in the Authorized Persons/Notices Table which shall include the title(s) of the individual(s) authorized to receive notices; or (iii) via the online portal maintained at the Iron Mountain Website. It shall be the responsibility of the Parties to notify each other as provided in this Section in the event of a change of physical or e-mail addresses. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice or last known address of the other Parties that is relied on herein that is refused, unclaimed, or undeliverable because of an act or omission of the Party to be notified as provided herein shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities by mail, through messenger or commercial express delivery services.
- (h) No Waiver. No waiver of rights under this Agreement by any Party shall constitute a subsequent waiver of this or any other right under this Agreement.
- (i) Assignment. No assignment of this Agreement by Depositor and/or Beneficiary or any rights or obligations of Depositor and/or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed.
- (j) Severability. In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for either Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by notice to the others.
- (k) Independent Contractor Relationship. Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.
- (l) Attorneys' Fees. In any suit or proceeding between the Parties relating to this Agreement, the prevailing Party will have the right to recover from the other(s) its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal,

separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.

- (m) No Agency. No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (n) Disputes. Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the New York Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The arbitrator shall apply New York law. Unless otherwise agreed by the Parties, arbitration will take place in New York City, New York, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If, however, Depositor and/or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise, any costs of arbitration incurred by Iron Mountain, including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary. For clarification purposes, any dispute solely between Depositor and Beneficiary, where Iron Mountain is not required to participate, as to whether Beneficiary is entitled to the release of the Deposit Materials comprising Option Escrowed Materials shall be handled in accordance with the dispute resolution provisions of the License Agreement and not this Agreement.
- (o) Regulations. All Parties are responsible for and warrant - to the extent of their individual actions or omissions - compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import; export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement.
- (p) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (q) Survival. Sections 6 (Term and Termination), 7 (General Indemnity), 8 (Warranties), 10 (Confidential Information), 11 (Limitation of Liability), 12 (Consequential Damages Waiver), and 13 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached hereto.

**NOTE: SIGNATURE BLOCKS, AUTHORIZED PERSON NOTICES TABLE, AND BILLING CONTACT INFORMATION TABLE
FOLLOW ON THE NEXT PAGE**

The Parties agree that this Agreement is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement. This Agreement may only be modified by mutual written agreement of the Parties.

CHOOSE ONE: DEPOSITOR or ☐ BENEFICIARY

**IRON MOUNTAIN INTELLECTUAL
PROPERTY MANAGEMENT, INC.**

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

AUTHORIZED PERSON/NOTICES TABLE

Please provide the name and contact information of the Authorized Person under this Agreement. All Notices will be sent to this individual at the address set forth below.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS 1	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	



BILLING CONTACT INFORMATION TABLE

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS 1	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	



IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmcontracts@ironmountain.com OR Iron Mountain, Attn: Contract Administration, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

EXHIBIT A
ESCROW SERVICE WORK REQUEST

SERVICE Check box (es) to order service	SERVICE DESCRIPTION	ONE-TIME FEES	ANNUAL FEES	PAYING PARTY Check box to identify the Paying Party for each service below.
<input checked="" type="checkbox"/> Add and Manage Escrow Account	Iron Mountain will open a new escrow deposit account that includes a minimum of one (1) Depositor and one (1) complete set of Deposit Material. All Deposit Material will be securely stored in controlled vaults that are owned and/or operated by Iron Mountain. Account services include unlimited deposits, electronic vaulting, access to Iron Mountain Connect™ Escrow Management Center for secure online account management and submission of electronic Work Requests, and secure destruction of deposit materials upon account closure. Iron Mountain will assign a primary and secondary Client Manager for each escrow account. These Managers will provide client training from time to time to facilitate secure Internet access to escrow account(s). Assigned Managers will also ensure timely fulfillment of client Work Requests (e.g., deposit updates, new beneficiary enrollment) and communication of status.	\$1,050	\$950	<input checked="" type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Premium Service Package	Includes: automated notification of deposit activity as well as deposit update notices; deletion of one or more previous unique deposits if there are multiple deposits within an existing escrow account (one complete unique deposit must be maintained at all times). Iron Mountain will identify a specific deposit by the previously submitted Exhibit B information and either securely destroy or return the Deposit Material via commercial express mail carrier as instructed. Iron Mountain may require Joint Instructions from the Depositor and Beneficiary to fulfill such a Work Request.	N/A	\$350	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Add Beneficiary or Depositor	Iron Mountain will fulfill a Work Request to add a new Beneficiary or Depositor to an escrow account, where possible, and provide notice as appropriate to all relevant Parties.	N/A	\$650	<input checked="" type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Add Initial Verification of Deposit Material	Iron Mountain will fulfill a Work Request to perform initial Verification Services, which includes a final report sent to Client, on Deposit Material to ensure consistency between Depositor's representations (i.e., Exhibit B and Supplementary Questionnaire) and stored Deposit Material. For a more detailed description see Verification Services Options below.	N/A	\$800	<input checked="" type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Custom Verification of Deposit Material	Iron Mountain will fulfill a Work Request to perform one or more levels of custom Verification Services, which includes a final report sent to Client, on Deposit Material. Client and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment. For a more detailed description see Verification Services Options below.	Custom Quote Based on SOW	Custom Quote Based on SOW	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Dual Vaulting	Iron Mountain will fulfill a Work Request to store deposit materials in one additional location as defined within the Service Agreement. Duplicate storage request may be in the form of either physical media or electronic storage.	N/A	\$500	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Release Deposit Material	Iron Mountain will process a Work Request to release Deposit Material by following the specific procedures defined in Exhibit C "Release of Deposit Materials" the Escrow Service Agreement.	\$500	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Custom Services	Iron Mountain will provide its Escrow Expert™ consulting Services (e.g., licensing escrow strategy development, dual/remote vaulting, account consolidation) based on a custom SOW mutually agreed to by all Parties.	\$150/hour	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Delete Account	Iron Mountain will fulfill a Work Request to terminate an existing escrow account by providing notice to all Parties to the Agreement, removing Deposit Material from the vault and then either securely destroying or returning the Deposit Material via commercial express mail carrier as instructed. All accrued Services Fees must be collected by Iron Mountain prior to completing fulfillment to terminate an existing escrow account.	No Charge	No Charge	No Charge

Upon Escrow Service Agreement execution, please provide your initials below in the appropriate location to indicate your acceptance of this Escrow Services Work Request inclusive of agreed Services pricing and indication of which Party is financially responsible for payment of specific Services.

☒ DEPOSITOR or ☐ BENEFICIARY INITIALS _____

Note: Clients may submit Work Requests electronically through their escrow account online OR may complete this form along with any other supporting exhibits required and email and/or fax this Work Request to their assigned Client Manager at Iron Mountain for fulfillment.

VERIFICATION SERVICES OPTIONS

1. **Initial Verification - Consistency.**
 - 1.1. Iron Mountain shall perform an initial verification ("Initial Verification") of the Deposit Material upon receipt of the first deposit and for each update. To help perform this evaluation, Iron Mountain will examine the Exhibit B, and request that the Depositor complete an Escrow Deposit Questionnaire. Iron Mountain will then analyze the Escrow Deposit Questionnaire and Exhibit B, prepare and deliver a report to Depositor and Beneficiary containing its finding(s) and opinion(s) as to the Deposit consistency based on the information supplied. Iron Mountain's report will include information regarding:
 - 1.1.1. The hardware and software configuration(s) needed to read the Deposit Material media associated with the Exhibit B;
 - 1.1.2. The software needed to interpret the data read from the media (i.e. Zip, tar, cvs type files); and
 - 1.1.3. The hardware and software configurations needed to compile the software product defined by the Exhibit B.
 - 1.2. Iron Mountain's Systems Analysts will also be available to discuss the Initial Verification's technical consistency evaluation and other deposit Verification issues. Iron Mountain's higher levels of Verification address issues of readability, inventory, ability to be compiled or other testing as requested by a Party.
2. **Level One (1) - Inventory.**
 - 2.1. This series of Verification tests provides insight into whether the necessary information required to recreate the Depositor's development environment has been properly stored in escrow. These tests detect errors that often inhibit effective use of the escrow deposit.
 - 2.2. *Steps include:* Analyzing deposit media readability, virus scanning, developing file classification tables, identifying the presence/absence of build instructions, and identifying materials required to recreate the Depositor's software development environment.
 - 2.3. *Deliverables:* At completion of testing, Iron Mountain will distribute a report to Beneficiary detailing Iron Mountain's investigation. This report will include build instructions, file classification tables and listings. In addition, the report will list required software development materials, including, without limitation, required source code languages and compilers, third-Party software, libraries, operating systems, and hardware, as well as Iron Mountain's analysis of the deposit. When identifying materials required to re-create Depositor's software development environment, Iron Mountain will rely on information provided in Depositor's completed questionnaire (obtained via a Iron Mountain Verification representative) and/or information gathered during Iron Mountain's testing experience.
3. **Level Two (2) – Build.**
 - 3.1. This series of tests includes a standard effort to compile the Deposit Material and build executable code.
 - 3.2. *Steps include:* Recreating the Depositor's software development environment, compiling source files and modules, linking libraries and recreating executable code.
 - 3.3. *Deliverables:* Iron Mountain will provide a report detailing the steps necessary to recreate the software/hardware development environment, problems encountered with testing, and Iron Mountain's analysis of the deposit.
4. **Level Three (3) - Validation.**
 - 4.1. Level III Verification consists of testing the functionality of the compiled Deposit Material (in a production setting or similar environment) and can be accomplished through one of the following three options:
 - 4.1.1. *Option A* – With the Depositor's approval, executables created by Iron Mountain during Level II testing are provided to the Beneficiary for functionality testing.
 - 4.1.2. *Option B* – The Beneficiary provides Iron Mountain with a copy of its licensed executables. Iron Mountain compares the executables created during Level II testing with the licensed executables and provides a comparison report to all Parties.
 - 4.1.3. *Option C* – Iron Mountain recreates the runtime environment for the licensed technology and installs the executables created during the Level II testing into that environment. (The environment is generally "scaled down" from the actual live environment.) Iron Mountain then runs test scripts supplied by the Beneficiary and provides a report of the test results to all Parties. This may require Depositor approval.
 - 4.1.4. Services may be provided by Iron Mountain or individuals or organizations employed by or under contract with Iron Mountain, at the discretion of Iron Mountain.

EXHIBIT B DEPOSIT MATERIAL DESCRIPTION

COMPANY NAME: _____

DEPOSIT NAME _____ AND DEPOSIT VERSION _____ (Deposit Name will appear in account history reports)

DEPOSIT MEDIA (PLEASE LABEL ALL MEDIA WITH THE DEPOSIT NAME PROVIDED ABOVE)

MEDIA TYPE	QUANTITY	MEDIA TYPE	QUANTITY
<input type="checkbox"/> Internet File Transfer	N/A	<input type="checkbox"/> 3.5" Floppy Disk	
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DLT Tape		<input type="checkbox"/> Hard Drive / CPU	
<input type="checkbox"/> DAT Tape		<input type="checkbox"/> Circuit Board	

<input type="checkbox"/> Other (describe here):

DEPOSIT ENCRYPTION (Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted? ☐ Yes or ☐ No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit.

Encryption tool name _____ Version _____

Hardware required _____

Software required _____

Other required information _____

DEPOSIT CERTIFICATION (Please check the box below to Certify and Provide your Contact Information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.	<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.
NAME:	NAME:
DATE:	DATE:
EMAIL ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:

Iron Mountain Intellectual Property Management, Inc.
 Attn: Vault Administration
 2100 Norcross Parkway, Suite 150
 Norcross, GA 30071
 Telephone: (770) 239-9200
 Facsimile: (770) 239-9201

EXHIBIT C

RELEASE OF DEPOSIT MATERIAL

Iron Mountain will use the following procedures to process any Beneficiary Work Request to release Deposit Material.

1. Release Conditions. Depositor and Beneficiary agree that Iron Mountain will provide prompt notice via electronic mail and/or regular mail to the Depositor if the Beneficiary under this Agreement submits a Deposit Material release Work Request.
2. Release Work Request. Beneficiary may give written notice by certified mail, overnight delivery service or hand delivery to Iron Mountain and Depositor of the occurrence of any event under the License Agreement entitling Beneficiary to receive the Deposit Materials comprising Option Escrowed Materials (a “**Release Condition**”), which notice shall be accompanied by a Work Request to Iron Mountain to release such Deposit Material. Beneficiary may submit a Work Request to Iron Mountain to release the Deposit Material comprising Project Escrowed Materials at any time following the initial deposit of such Deposit Materials.
3. **Project Escrowed Materials Release.** In the case of a Work Request to release the Deposit Material comprising Project Escrowed Materials, Iron Mountain is authorized to and shall release such Deposit Material to Beneficiary promptly following the receipt of such Work Request.
4. **Option Escrowed Materials Release.** In the case of a Work Request to release the Deposit Material comprising Option Escrowed Materials, from the date Iron Mountain mails written notice of the Beneficiary Work Request to release such Deposit Material, Depositor representative(s) shall have ten (10) business days to deliver to Iron Mountain contrary instructions (“**Contrary Instructions**”). Contrary Instructions shall mean an affidavit signed by an officer of Depositor affirming that a Release Condition has not occurred.
 - (a) Upon receipt of Contrary Instructions, Iron Mountain shall send a copy to an authorized Beneficiary representative by commercial express mail. Additionally, Iron Mountain shall notify both Depositor representative(s) and Beneficiary representative(s) that there is a dispute to be resolved pursuant to the dispute resolutions provisions of the License Agreement. Iron Mountain will continue to store the subject Deposit Material without release pending (i) joint instructions from Depositor and Beneficiary that accept release of such Deposit Material; or (ii) dispute resolution pursuant to the provisions of the License Agreement; or (iii) receipt of an order from a court of competent jurisdiction.
 - (b) If Iron Mountain does not receive Contrary Instructions from an authorized Depositor representative, Iron Mountain is authorized to and shall release the subject Deposit Material to the Beneficiary.
5. **Payment of Service Fees.** Iron Mountain is entitled to receive any uncollected Service Fees due Iron Mountain from the Paying Party(ies) before fulfilling any Work Request to release Deposit Material covered under this Agreement.
6. **Termination.** This Agreement will terminate only upon the release of all Deposit Material held by Iron Mountain.
7. Right to Use Following Release. Beneficiary has the right under this Agreement to use the Deposit Material for the sole purpose of continuing the benefits afforded to Beneficiary by the License Agreement. Notwithstanding, the Beneficiary shall not have access to the Deposit Material unless there is a release of the Deposit Material in accordance with this Agreement.

EXHIBIT D

ENROLLMENT FORM

Depositor, Beneficiary and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"), hereby acknowledge that AgileTV Corporation is the ☒ Depositor or ☐ Beneficiary referred to in the Escrow Agreement effective May 11, 2005 with Iron Mountain as the escrow agent and Comcast IP Holdings I, LLC is the ☐ Depositor or ☒ Beneficiary enrolling under this Agreement. ☐ Depositor or ☒ Beneficiary hereby agrees to be bound by all provisions of such Agreement.

Deposit Account Number _____

AUTHORIZED PERSON/NOTICES TABLE

Please provide the name and contact information of the Authorized Person under this Agreement. All Notices will be sent to this individual at the address set forth below.

PRINT NAME: [REDACTED]
TITLE: Senior Vice President – Digital TV
COMPANY: Comcast Cable Communications, LLC
EMAIL ADDRESS: [REDACTED]
STREET ADDRESS 1: 1500 Market Street
PROVINCE/CITY/STATE: Philadelphia, PA
POSTAL/ZIP CODE: 19102
PHONE NUMBER: [REDACTED]
FAX NUMBER: [REDACTED]

With a copy to:

PRINT NAME:	[REDACTED]
TITLE:	General Counsel
COMPANY	Comcast Cable Communications, LLC
EMAIL ADDRESS	[REDACTED]
STREET ADDRESS 1	1500 Market Street
PROVINCE/CITY/STATE	Philadelphia, PA
POSTAL/ZIP CODE	19102
PHONE NUMBER	[REDACTED]
FAX NUMBER	[REDACTED]

BILLING CONTACT INFORMATION TABLE

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

PRINT NAME:	[REDACTED]
TITLE:	Senior Vice President – Digital TV
COMPANY	Comcast Cable Communications, LLC
EMAIL ADDRESS	[REDACTED]
STREET ADDRESS 1	1500 Market Street
PROVINCE/CITY/STATE	Philadelphia, PA
POSTAL/ZIP CODE	19102
PHONE NUMBER	[REDACTED]
FAX NUMBER	[REDACTED]

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to [REDACTED] OR Iron Mountain, Attn: Contract Administration, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

DEPOSITOR

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

BENEFICIARY

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	[REDACTED]

EXHIBIT D1

AUXILIARY DEPOSIT ACCOUNT TO ESCROW AGREEMENT

Initial Deposit Account Number: _____

AgileTV Corporation ("Depositor") has entered into an Escrow Agreement with Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"). Pursuant to that Agreement, Depositor may deposit certain Deposit Material with Iron Mountain.

Depositor desires that new Deposit Material be held in a separate account and be maintained separately from the initial account. By execution of this Exhibit D1, Iron Mountain will establish a separate account for the new Deposit Material. The new account will be referenced by the following name: _____.

Depositor hereby agrees that all terms and conditions of the existing Escrow Agreement previously entered into by Depositor and Iron Mountain will govern this account. The termination or expiration of any other account of Depositor will not affect this account.

AGILETV CORPORATION

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

AGILETV PATENTS AND PATENT APPLICATIONS

The table on the following page lists all AgileTV patents, comprising both pending and issued Utility Patents.

As of the Effective Date of this Agreement, the only third-party patents licensed by AgileTV are four SRI patents related to speech recognition. AgileTV has a fully paid-up, royalty-free, irrevocable, worldwide, perpetual, nonexclusive license, within the field of use of spoken language interfaces to a television set, to the following SRI patents:

- 6,742,021 "Navigating Network-Based Electronic Information Using Spoken Natural Language Input with Multimodal Feedback"
- 6,513,063 "Accessing Network-Based Electronic Information Through Scripted Online Interfaces Using Spoken Natural Language Input"
- 6,523,061 "System, Method, and Article of Manufacture for Agent-Based Navigation in a Speech-Based Data Navigation System"
- 6,757,718 "Mobile Navigation of Network-Based Electronic Information Using Spoken Input"

AgileTV Docket #	priority date	serial #	filing date	status	pub date	pub number	Title	Office Action History
1	8-Jun-00	US 08785,375 PCT US01/14760	15-Feb-01 7-May-01	pending national	27-Dec-01 n/a	2001-0056350 A1 n/a	System & Method of Voice Recognition Near a Wireline Node of a Network Supporting Cable Television and/or Video Delivery	OA1(22-Mar-05); allowed with minor formal revisions; in progress.
2	18-Sep-03	US 10943,718 PCT US04/31075	17-Sep-04 17-Sep-04	pending PCT	10-Feb-05 n/a	2005-0035581 A1 n/a	Dual Compression Voice Recombination Non-Redundation System	Awaiting first action
3	16-Mar-01	US 09811,232 PCT US02/07049	16-Mar-01 7-Mar-02	pending lapsed	19-Sep-02 n/a	2002-0139228 A1 n/a	Method, Apparatus & System for Video Delivery Using Head-End Pass Through	OA1 (4-Mar-05) Claims rejection; under review
4	18-Dec-00	US 09874,631 PCT US01/48950	18-Dec-00 12-Dec-01	pending lapsed	20-Jun-02 n/a	2002-0078463 A1 n/a	Method & Processor Engine Architecture for the Delivery of Dynamically Compressed Audio & Video Content Over a Broadband Network	OA1 (29-Mar-05) Partial claims rejection; under review
5	18-Dec-00	US 09874,684 PCT US01/48950	18-Dec-00 12-Dec-01	allowed none	20-Jun-02 n/a	2002-0078462 A1 n/a	Method & Processor Engine Architecture for the Delivery of Audio & Video Content Over a Broadband Network	OA1(20-Oct-04); Partial claims rejection; elect claims (20-Dec-04) OA2(13-Jan-2005); Allowed for issue
6	14-Sep-00	US 09661,486 PCT US01/27253	14-Sep-00 31-Aug-01	pending lapsed	- n/a	- n/a	N-Way Demultiplexer	OA1(18-Oct-04); Partial claims rejection; elect claims (18-Jan-05) (could also file a divisional)
7	7-Nov-00	US 6,480,703 PCT US01/46821	7-Nov-00 7-Nov-01	issued lapsed	n/a n/a	n/a n/a	Common Camera Multiple Output RF Upconverter	Issued (12-Nov-02)
8	7-May-02	US 10140,563 PCT	7-May-02 n/a	pending none	13-Nov-03 n/a	2003-0212845 A1 n/a	Method for High-Speed Data Transfer Across LDT and PCI Buses	OA1(10-Dec-04); Restriction req; elect claims (10-Jan-05) OA2 (15-Apr-05) Claims rejection; under review
9	8-Jan-02	US 10338,441 PCT	7-Jan-03 n/a	pending none	10-Jul-03 n/a	2003-0131225 A1 n/a	Fast Booting of a Flex Array	Awaiting first action
10	8-Jan-02	US 10338,591 PCT	7-Jan-03 n/a	pending none	4-Sep-03 n/a	2003-0161711 A1 n/a	Method & Apparatus for Voice Control of a Television Control Device	Awaiting first action
11	14-Sep-01	US 09953,543 PCT	14-Sep-01 n/a	pending none	20-Mar-03 n/a	2003-0056728 A1 n/a	Method & Apparatus for Increasing Latency in a Data Transmission Scheme Which Employs the Aloha Protocol to Thereby Improve Bandwidth Efficiency	Awaiting first action
12	24-Oct-01	US 09999,515 PCT	24-Oct-01 n/a	pending none	24-Apr-03 n/a	2003-0078781 A1 n/a	System & Method for Speech Activated Navigation	OA1(25-Aug-04); restriction req; elect claims, file divisionals (24-Sep-04) OA2(5-Oct-04); rejected claims; defend (16-Feb-05)
13	24-Oct-01	US 10871,564 PCT	22-Oct-04 n/a	pending none	- n/a	- n/a	System & Method for Speech Activated Navigation	(Divisional of above)
14	24-Oct-01	US 10871,171 PCT	22-Oct-04 n/a	pending none	- n/a	- n/a	System & Method for Speech Activated Navigation	(Divisional of above)
15	3-Oct-01	US 10260,906 PCT	30-Sep-02 1-Oct-02	pending national	24-Apr-03 n/a	2003-0078784 A1 n/a	Global Speech User Interface	Awaiting first action
16	31-Oct-02	US 10699,543 PCT	30-Oct-03 n/a	pending none	30-Sep-04 n/a	2004-0193426 A1 n/a	Speech Controlled Access to Content on a Presentation Medium	Awaiting first action
17	26-Jun-03	US 10877,520 PCT US04/220303	25-Jun-04 25-Jun-04	pending PCT	6-Jan-05 n/a	2005-0004785 A1 n/a	Zero-Search, Zero-Memory Vector Quantization	Awaiting first action
18	18-Sep-03	US 10944,503 PCT US04/30679	16-Sep-04 16-Sep-04	pending PCT	24-Mar-05 n/a	2005-0053493 A1 n/a	Method and Apparatus for Efficient Preamble Detection in Digital Data Receivers	Awaiting first action