

DATED

SUPPLY OF SERVICES AGREEMENT

in respect of the supply of services to

**DISTRIBUTED COMPUTING
PARTNERS LLP**

CHALLINORS

SOLICITORS

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CONTENTS

CLAUSE

1.	Interpretation	3
2.	Commencement and duration.....	5
3.	Supplier's responsibilities	6
4.	Licence	7
5.	Customer's obligations	7
6.	Charges and payment	8
7.	Price protection.....	8
8.	Supplier's warranties/Quality of services.....	8
9.	Intellectual property rights	9
10.	Confidentiality and the Customer's property	9
11.	Anti-bribery	10
12.	Termination	10
13.	Post Termination Payments	11
14.	Remedies	11
15.	Force majeure	11
16.	Variation.....	11
17.	Waiver	12
18.	Severance	12
19.	Entire agreement.....	12
20.	Assignment.....	13
21.	No partnership or agency.....	13
22.	Rights of third parties	13
23.	Notices.....	13
24.	Governing law and jurisdiction	14

SCHEDULE

SCHEDULE 1	SERVICES	15
SCHEDULE 2	PRICING	16
SCHEDULE 3	PROFIT-RELATED FEE DISTRIBUTION FORMULA	18
SCHEDULE 4	SOFTWARE LICENCE	20

THIS AGREEMENT is provided in “clickwrap” form, and is made and dated when accepted by the Supplier.

PARTIES

- (1) The person whose details have been furnished to the Customer and who has accepted this agreement (**Supplier**).
- (2) Distributed Computing Partners LLP incorporated and registered in England and Wales with number 0C344018 whose registered office is at Faraday Wharf, Holt Street, Birmingham Science Park, Aston, Birmingham, B7 4BB, United Kingdom (**Customer**).

BACKGROUND

- (A) The Customer requires for the purposes of its business a supply of data achieved through the use, by others, of its software and/or software available to it and the provision, by such others, of appropriate bandwidth therefor.
- (B) The Supplier is able to make such Supply.
- (C) Accordingly, the parties have entered into this Agreement.

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Acceptance Date: the date on which the Supplier accepts this agreement.

Authorised Service Recipients: Majestic-12 Limited (company number 05269210) and/or such of it’s holding company and subsidiaries as may be notified by the Customer to the Supplier from time to time.

Charity: a UK registered charity.

Crawling Services: the provision of crawl data to the Customer or Majestic-12 Limited.

Customer's Equipment: any equipment, systems or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

Data Limit: the maximum amount of data to be comprised in the Services.

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Formula: the formula set out in Schedule 3.

Holding company and subsidiary: mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006.

In-put Material: all Documents, information and materials provided by the Customer relating to the Services.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

MB: MegaBytes

Price: the price referred to in clause 6.1.

Profits: the income of the Customer less any of its expenses (management, legal, accountancy, tax or otherwise).

Qualified Service Provider: an individual who has, at some point, entered into an agreement on similar terms to this agreement. For the avoidance of any doubt, Majestic-12 Limited is not, never has been and will not be, a Qualified Service Provider.

Qualified Crawling Services: the proper provision (being in accordance with the User Manual (or other instructions and requirements of the Customer or Majestic 12 Limited at the time of provision)) of at least 20,000 MB of crawl data to the Customer or Majestic-12 Limited, and also, at least 90 days of Crawling Services activity (in which, on each day, at least 1MB is crawled).

Quarters: the quarterly periods referred to in Schedule 2.

User Manual: the manual to be provided (by whatever means or media), and all updates variations and amendments thereto so provided, by the Customer to the Supplier setting out the basis on which and the manner in which the Services are to be provided from time to time.

Services: the services to be provided by the Supplier under this agreement, as set out in Schedule 1, and the Supplier's obligations under this agreement, together with any other services which the Customer agrees to take from the Supplier.

Software: the Customer's computer program(s) and all updates, patches, editions and replacements therefore to be used in the provision of the Services in accordance with the Software Licence.

Software Licence: the Licence in the form set out in Schedule 4 granted herein pursuant to which the Supplier is to use the Software only in the provision of the Services.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided and/or used by the Supplier in the supply of the Services.

VAT: value added tax chargeable under English law for the time being and any similar, additional tax chargeable by the Supplier on the supply of Services hereunder.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives.

1.4 The schedules and background form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the schedules and background.

1.5 Words in the singular shall include the plural and vice versa.

1.6 A reference to **writing** or **written** includes e-mail.

1.7 Where the words **include(s)**, **including** or **in particular** are used in this agreement, they are deemed to have the words **without limitation** following them. Where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.8 Any obligation in this agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce to that thing being done.

1.9 References to clauses and schedules are to the clauses and schedules of this agreement.

2. COMMENCEMENT AND DURATION

2.1 The Supplier shall provide the Services to the Customer and the Authorised Service Recipients on the terms and conditions of this agreement.

2.2 The Supplier shall provide the Services from the date this agreement is made.

2.3 The Services supplied under this agreement shall continue to be supplied unless and until this agreement is terminated by one of the parties giving the other notice in accordance with clause 12.

3. SUPPLIER'S RESPONSIBILITIES

- 3.1 The Supplier shall provide the Services to the Customer or to any Authorised Service Recipients in such volumes as the Supplier decides from time to time save that the Supplier shall not exceed, or attempt to exceed, the Data Limit notified by the Customer to the Supplier from time to time.
- 3.2 The Supplier shall be responsible for, bear, pay, discharge and indemnify the Customer against any charge, duty, tax, levy or other payment due to enable the Services to be provided in accordance with clause 3.1.
- 3.3 The Supplier shall meet, and time is of the essence as to, any performance dates specified from time to time by the Customer acting reasonably.
- 3.4 The Supplier shall:
- (a) co-operate with the Customer in all matters relating to the Services and the use of the Software;
 - (b) provide maintain and keep in its own possession at all times such Supplier's Equipment as is necessary to properly perform the Services and not allow any third party to use or have access to the same.
- 3.5 The Supplier shall:
- (a) observe all health and safety rules and regulations and any other security requirements that apply to its provision of the Services;
 - (b) not itself respond to, but immediately refer to the Customer, any enquiry, query, complaint, alleged claim or other like matter made by or received from a third party in relation to the Services and, after referral, respond thereto (if so required) as the Customer directs;
 - (c) before the date on which the Services are to start, obtain, and at all times maintain, all necessary licences and consents and comply with all relevant legislation in relation to:
 - (i) the Services;
 - (ii) the Supplier's Equipment;
 - (iii) the use of In-put Material;
 - (iv) the use of all Documents, information and materials provided or used by the Supplier; and
 - (v) the use of the Customer's Equipment in relation to the Supplier's Equipment.
 - (d) fully indemnify the Customer in the event of any claim against it following a breach of this clause.

- 3.6 The Supplier acknowledges and agrees that if it considers that the Customer is not, or may not, be complying with any of the Customer's obligations, it shall only be entitled to rely on this as relieving the Supplier's performance under this agreement:
- (a) to the extent that it restricts or precludes performance of the Services by the Supplier; and
 - (b) if the Supplier, promptly after the actual or potential non-compliance has come to its attention, has notified details to the Customer in writing.

3.7 The Supplier shall:

- (a) at all times provide the Services in accordance with, and otherwise observe and perform the provisions and requirements of and in the User Manual. The Supplier acknowledges that the User Manual can and may be updated, varied and changed by the Customer from time to time and at any time, and that the obligations in this clause 3.7(a) apply to the User Manual as updated, varied or changed at any time. Accordingly the Supplier undertakes, for the avoidance of doubt, to implement any such update, variation or change at or within the time required by the Customer when introducing the same, or if no time is so required within 14 days of such introduction;
- (b) strictly observe the provisions of the Software Licence;
- (c) not use the Software for any purpose other than the provision of the Services; and
- (d) regularly access and pay proper attention to notices, blogs and the like entered or displayed by the Customer on any forum or website created by the Customer to facilitate the provision to it of Services generally.

4. LICENCE

In order that the Supplier may provide the Services in accordance with the provisions of this agreement the Customer hereby grants to the Supplier a licence to use the Software on the terms of the Software Licence.

5. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide such information as the Supplier may reasonably request and the Customer considers reasonably necessary, in order to carry out the Services and ensure that it is accurate in all material respects; and

- (c) without in any way allowing the Supplier to derogate from its obligations in clause 3.6(a), use reasonable endeavours to avoid unnecessary and unduly onerous changes to the User Manual.

6. CHARGES AND PAYMENT

- 6.1 In consideration of the provision of the Services by the Supplier (and historic services provided by the Supplier), the Customer shall pay the Price as calculated in accordance with Schedule 2 and Schedule 3.
- 6.2 The Customer may, without limiting any other rights or remedies it may have, set off any amounts owed or allegedly owed to it by the Supplier against any amounts payable by it to the Supplier.

7. PRICE PROTECTION

In acknowledgement of the fact that the Price for the Services is calculated with reference to the profits of the Customer, the Customer warrants to the Supplier that it will not sell, transfer, assign or in any way part with, any of its assets (including its shareholding in Majestic-12 Limited) at an undervalue.

8. SUPPLIER'S WARRANTIES/QUALITY OF SERVICES

- 8.1 The Supplier warrants and represents to the Customer that the Supplier is a natural person, and does not provide the Services as the employee, agent or contractor for, or for the benefit of, any third party.
- 8.2 The Supplier warrants to the Customer that:
 - (a) the Supplier will perform the Services with all reasonable care and skill and in accordance with generally recognised commercial practices and standards in the industry for similar services;
 - (b) the Services will conform with all specifications and requirements provided to the Supplier by the Customer; and
 - (c) the Services and Deliverables will be provided in accordance with this agreement and the User Manual.
 - (d) all the Supplier's Equipment is and will remain the absolute property of the Supplier and is and will remain free from any charge, lien or other encumbrance.
 - (e) no third party has or will have access to, or uses or will use, the Supplier's Equipment.

8.3 The Customer's rights under this agreement are in addition to the statutory terms implied in favour of the Customer by the Supply of Goods and Services Act 1982 and any other statute, law, rule or regulation.

8.4 The provisions of this clause 8 shall survive any performance, acceptance or payment pursuant to this agreement and shall extend to any substituted or remedial services provided by the Supplier.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in the products of the Services (including the Deliverables).

9.2 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of this agreement, including all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to the Customer in accordance with clause 9.1.

9.3 The Supplier shall obtain waivers of any moral rights in the products of the Services (including the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

10. CONFIDENTIALITY AND THE CUSTOMER'S PROPERTY

10.1 The Supplier shall keep in strict confidence all In-put Material and all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Customer, and any other confidential information concerning the Customer's or any Authorised Service Recipient's business which the Supplier may obtain.

10.2 All In-put Materials, Customer's Equipment and all other materials, equipment, specifications and data supplied by the Customer to the Supplier shall, at all times, be and remain as between the Customer and the Supplier the exclusive property of the Customer, but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the Customer. They shall not be disposed of or used other than in accordance with the Customer's written instructions or authorisation.

11. ANTI-BRIBERY

The Supplier shall:

- (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption;
- (b) not engage in any activity, practice or conduct which would constitute an offence under or a breach of any of the same in any jurisdiction;
- (c) comply with any Customer Ethics and Anti-bribery Policy as the Customer may adopt from time to time; and
- (d) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement.

12. TERMINATION

12.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this agreement immediately on giving written notice to the other at any time.

12.2 On termination of this agreement for any reason, the Supplier shall immediately delete from and permanently remove from all and every storage device used by the Supplier:

- (a) all In-put Material and all copies of information and data provided by the Customer to the Supplier for the purposes of this agreement. The Supplier shall certify to the Customer that it has not retained any copies of In-put Material or other information or data; and
- (b) all specifications, programs (including source codes) and other documentation comprised in the Deliverables and existing at the date of such termination, whether or not then complete. All Intellectual Property Rights in such materials shall automatically pass to the Customer (to the extent that they have not already done so by virtue of clause 9.1), who shall be entitled to enter the premises of the Supplier to take possession of them.

12.3 The Customer may at any time access (whether by physical or remote means) the Supplier's Equipment to verify, ensure and if necessary effect compliance with clause 12.2.

12.4 On termination of this agreement (however arising) the accrued rights and liabilities of the parties as at termination, and the following clauses and Schedules, shall survive and continue in full force and effect:

- (a) Clause 6;
- (b) Clause 9;

- (c) Clause 10;
- (d) Clause 12;
- (e) Clause 24;
- (f) Schedule 2; and
- (g) Schedule 3.

13. POST TERMINATION PAYMENTS

Following termination, notwithstanding any other provision of this agreement, the Supplier shall (in recognition of its historic Crawling Services) still be entitled to the percentage of Profits properly owed to it by the Customer under the Formula (to be paid in accordance with Schedule 2) for as long as the Customer continues to exist.

14. REMEDIES

If any Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of this agreement, the Customer shall be entitled (without prejudice to any other right or remedy) to exercise any one or more of the following rights or remedies:

- (a) to rescind this agreement; or
- (b) to require the Supplier, without charge to the Customer, to carry out such additional work as is necessary to correct the Supplier's failure; and
- (c) in any case, to claim such damages as it may have sustained in connection with the Supplier's breach (or breaches) of this agreement not otherwise covered by the provisions of this clause 14.

15. FORCE MAJEURE

The Customer reserves the right to defer the date for performance of, or payment for, the Services, or to terminate this agreement, if it is prevented from, or delayed in, carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lockouts or other industrial disputes (whether involving the workforce of the Customer or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

16. VARIATION

DRAFT DRAFT -- EXACT TERMS TO BE CONFIRMED -- DRAFT DRAFT

17. WAIVER

- 17.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 17.2 No single or partial exercise of any right or remedy provided under this agreement or by law shall preclude or restrict the further exercise of that right or remedy.
- 17.3 A waiver (which may be given subject to conditions) of any right or remedy provided under this agreement or by law shall only be effective if it is in writing. It shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party who has given the waiver from subsequently relying on the right or remedy in other circumstances.
- 17.4 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

18. SEVERANCE

- 18.1 If any provision of this agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the agreement, and the validity and enforceability of the other provisions of the agreement shall not be affected.
- 18.2 If a provision of this agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19. ENTIRE AGREEMENT

- 19.1 This agreement and any documents referred to in it constitutes the entire agreement between the parties and supersedes and extinguish all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this agreement.
- 19.2 The Supplier acknowledges that, in entering into this agreement, it does not rely on, and shall have no remedies in respect of, any representation warranty (whether made innocently or negligently) on the part of, as made by the Customer.
- 19.3 Nothing in this clause shall limit or exclude any liability for fraud.

20. ASSIGNMENT

- 20.1 The Supplier shall not assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.2 The Customer may, at any time, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.3 Each party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

21. NO PARTNERSHIP OR AGENCY

Nothing in this agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

22. RIGHTS OF THIRD PARTIES

A person who is not a party to this agreement shall not have any rights under or in connection with it.

23. NOTICES

- 23.1 A notice or other communication given to a party under or in connection with this agreement:
- (a) shall be in writing in English;
 - (b) shall be signed by or otherwise authenticated on behalf of the party giving it;
 - (c) shall be sent for the attention of the person, at the e-mail address specified in this clause (or to such other e-mail address, as that party may notify to the other, in accordance with the provisions of this clause); and
 - (d) shall be sent by e-mail, or, in the case of notice provided by the Customer by a general notice posted on the Majestic-12 forum at <http://www.majestic12.co.uk/forum>.
- 23.2 The e-mail addresses for service of a notice or other communication are as follows:

- (a) Supplier: the email address furnished by the Supplier on acceptance of this agreement
- (b) Customer: contact@dcpartners.co.uk

23.3 If a notice or other communication has been properly sent or delivered in accordance with this clause, it will be deemed to have been received at the time of transmission:

23.4 For the purposes of this clause if deemed receipt under this clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice or other communication is deemed to have been received when business next starts in the place of receipt.

23.5 To prove delivery, it is sufficient to prove that:

- (a) the notice or other communication was transmitted by e-mail to the other party and in the case of notice served on the Customer a delivery receipt was obtained therefor.

23.6 The provisions of this clause 23 shall not apply to the service of any process in any legal action or proceedings.

24. GOVERNING LAW AND JURISDICTION

24.1 This agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

24.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1 Services

The provision in accordance with the provisions of this agreement by the Supplier of data required by the Customer or any Authorised Service Recipient using only the Software and of appropriate bandwidth therefor.

Schedule 2 Pricing

1. PRICING

- 1.1 The Price is the Profit-Related Fee, which shall be calculated and payable on a quarterly basis as follows and according to the Formula detailed in Schedule 3.
- 1.2 The relevant Quarters in respect of any year shall be as follows:-
- (a) 02 January to 01 April;
 - (b) 02 April to 01 July;
 - (c) 02 July to 01 October; and
 - (d) 02 October to 01 January.
- 1.3 The Customer shall have a period of 28 days from the expiry of each Quarter to calculate the applicable Profit-Related Fee for that Quarter and to notify it to the Supplier (**Profit-Related Fee Notice**)
- 1.4 The Customer's calculation of the Profit-Related Fee is, in the absence of manifest error, binding on the Supplier.
- 1.5 The Profit-Related Fee stated as payable to the Supplier in the Profit-Related Fee Notice shall be payable by the Customer to the Supplier within 28 days of the provision by the Customer of the Profit Related-Fee Notice.
- 1.6 The Profit-Related Fee is inclusive of all and any VAT or like imposition chargeable by the Supplier thereon. If so chargeable the Supplier shall promptly on receipt of payment forward to the Customer a proper tax invoice therefor.
- 1.7 In the event that the Supplier has not accepted any payment which the Customer has attempted to make to it:-
- (a) within 3 months of the first of any such attempts by the Customer, the Customer shall be entitled (at its sole discretion) to instead make such payment to a Charity of its choice and the Supplier shall no longer be entitled to the receipt of such monies;
 - (b) within 6 months of the first of any such attempts by the Customer, the Customer shall be obliged to instead immediately make such payment to a Charity of its choice and the Supplier shall no longer be entitled to the receipt of such monies.

- 1.8 In the event that the Customer is unable to make any payment to the Supplier as a result of it holding incorrect contact or payment details for the Supplier:-
- (a) within 3 months of the intended payment date by the Customer, the Customer shall be entitled (at its sole discretion) to instead make such payment to a Charity of its choice and the Supplier shall no longer be entitled to the receipt of such monies;
 - (b) within 6 months of the intended payment date by the Customer, the Customer shall be obliged to instead immediately make such payment to a Charity of its choice and the Supplier shall no longer be entitled to the receipt of such monies.
- 1.9 In the event that the Profit-Related Fee payable to the Supplier for any one Quarter is less than £5 (sterling), the Customer shall withhold the payment of such monies until the time for payment of the Profit-Related Fee for the Quarter ending 01 April (**Year End Quarter**), at which point it shall pay any such retained Profit-Related Fees over the previous 3 Quarters and the Profit-Related Fee for the Year End Quarter together (the **Accrued Payment**) to the Supplier.
- 1.10 Notwithstanding clause 1.9 above, in the event that the Accrued Payment is less than £5, the Customer shall not pay it to the Supplier, but shall instead be obliged to pay it to a Charity and the Supplier shall no longer be entitled to receipt of such monies.

Schedule 3 Profit-Related Fee Distribution Formula

1. FORMULA

1.1 In respect of each Quarter, the Profits of the Customer for that Quarter shall be divided up between the Supplier and all of the Customer's other suppliers in accordance with the following formula:-

- (a) 5% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2005 (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (b) 7.5% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2006 (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (c) 10% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2007 (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (d) 12.5% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2008 (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (e) 15% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2009; (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (f) 15% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in 2010; (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that year);
- (g) 35% of the Profits shall be divided between the Qualified Service Providers who provided Qualified Crawling Services in the period from 01 January 2011 until the expiry of the Quarter in question (on a pro rata basis related to amount of data crawled by each such Qualified Service Provider in that period).

(each a Formula Period and together the Formula Periods).

1.2 If, in any Formula Period, there are no Qualified Service Providers that provide Qualified Crawling Services, the percentage of the Profits that should be applied to that Formula Period in accordance with the Formula shall not be reallocated across

the other Formula Periods but, instead, shall be paid by the Customer to a Charity of its choice.

- 1.3 If any Qualified Service Provider that provides Qualified Crawling Services does not accept any payment to it in lieu of the percentage of Profits owed to it under the Formula, or the Customer is otherwise unable to make such payment to that Qualified Service Provider, that payment shall not be reallocated across the other Qualified Service Providers but shall, instead, be paid by the Customer to a Charity of its choice.
- 1.4 Any calculation under the Formula shall (except in the case of manifest error) be based on Majestic-12 Limited's published statistics as to Crawling Services from time to time.

Schedule 4 Software Licence

For the purposes of this Schedule the following definitions shall apply:-

Maintenance Release: release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software.

Modification: any Maintenance Release.

Open-Source Software: open-source software as defined by the Open Source Initiative (<http://opensource.org>) or the Free Software Foundation (<http://www.fsf.org>).

1. GRANT

In order that the Supplier may provide the Services, the Customer hereby sub-licences to the Supplier a non-exclusive sub-licence for the full period of this agreement to use the Software.

2. SCOPE OF USE

2.1 In relation to scope of use:

- (a) for the purposes of clause 1 above, use of the Software shall be restricted to use of the Software in object code form for the purpose of providing the Services; and
- (b) except as expressly stated in this agreement, the Supplier has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part.

2.2 The Supplier may not use any such information provided by the Customer or the Authorised Service Recipients to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.

3. ASSIGNMENT, SUB-LICENCE AND NOVATION

The Supplier shall not sub-license, assign or novate the benefit or burden of this sub-licence in whole or in part.

4. WARRANTIES

4.1 The Customer does not warrant that the use of the Software will be error-free.

4.2 Any Open-Source Software provided by the Customer may be used according to the terms and conditions of the specific licence under which the relevant Open-Source Software is distributed, but is provided "as is" and expressly subject to the disclaimer in clause 4.3.

4.3 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

5. INTELLECTUAL PROPERTY RIGHTS

The Supplier acknowledges that all Intellectual Property Rights in the Software and any Modifications belong and shall belong to the Authorised Service Recipients, and the Supplier shall have no rights in or to the Software other than the right to use it in accordance with the terms of this sub-licence.

6. LIMITATION OF LIABILITY

6.1 Save for as provided in clause 6.2, in respect of the Supplier's use of the Software, the Customer shall have no liability for any losses or damages which may be suffered by the Supplier (or any person claiming under or through the Supplier), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (i) loss of profits;
- (ii) loss of anticipated savings;
- (iii) loss of business opportunity;
- (iv) loss of goodwill; or
- (v) loss or corruption of data.

6.2 The exclusions in clause 6.1 shall apply to the fullest extent permissible at law, but the Customer does not exclude liability for:

- (a) death or personal injury caused by the negligence of the Customer, its officers, employees, contractors or agents;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any other liability which may not be excluded by law.