

PATENT SUBLICENSE AGREEMENT

This Patent Sublicense Agreement (this "Agreement") is effective as of October 18, 2002 (the "Effective Date"), between BRILLIANT DIGITAL ENTERTAINMENT, INC., a Delaware corporation having its principal place of business at 6355 Topanga Canyon Boulevard, Suite 120, Woodland Hills, California 91367 ("Brilliant"), ALINET, INC., a Delaware corporation having its principal place of business at 6355 Topanga Canyon Boulevard, Suite 120, Woodland Hills, California 91367 ("Alinet" and, together with Brilliant, the "Sublicensator") and SHARMAN NETWORKS LIMITED, a company incorporated in Vanuatu and located at 1st Floor BDO House, PO BOX 240, Port Villa, Vanuatu ("Sublicensee").

RECITALS

A. Sublicensator is the licensee of Kinectech Inc., a Delaware corporation ("Master Licensor") of the rights to use and to sublicense for use United States Patent No. 5,978,791 and all related intellectual property pursuant to the Patent License Agreement, dated October 18, 2002, by and among Kinectech, Inc., Brilliant and Alinet (the "Master License"), a copy of which has been delivered to Sublicensee.

B. Sublicensee desires to obtain a sublicense of Sublicensator's rights to use the Sublicensed Rights (as defined in Section 1.1 below) within the Permitted Use (as defined in Section 1.1 below) in the Territory (as defined in Section 1.1 below) ("Business"). Sublicensator is willing to provide Sublicensee with a license to use the Sublicensed Rights in connection with Sublicensee's Business upon the terms of this Agreement.

AGREEMENT

In consideration of the foregoing and the various obligations and rights set forth below, the parties agree as follows:

ARTICLE I
LICENSE

1.1 *Definitions.* As used in this Agreement, the following terms are defined as follows:

1.1.1 "Affiliate" shall mean, with respect to any entity, any other entity that, directly or indirectly, controls, is controlled by or is under common control with that entity, provided, however, that in each case any such other entity shall be considered to be an Affiliate only during the time period during which such control exists. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any entity, shall mean the possession, directly or indirectly, of the power to direct and/or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.



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1.1.2 "Confidential Information" shall mean all non-public information, know-how and data which a party acquires from the other party including, in the case of information acquired by Sublicensee, information concerning the Patent, development, technical specifications or use of the Sublicensed Rights, and in the case of information acquired by the Sublicensor, any information relating to the business of Sublicensee, including but not limited to, formulas, patterns, compilations, programs, devices, methods, techniques and processes of Sublicensee, business plans, business strategies, marketing plans, customer lists, price lists, cost information, information about employees, descriptions of inventions, process descriptions, descriptions of technical know-how, engineering and technical specifications and documentation, and pending or abandoned patent applications.

1.1.3 "Improvements" shall mean all developments, adaptations, enhancements or modifications that constitute improvements in or to the Patent or otherwise fall within the scope of the Patent claims.

1.1.4 "Patent" shall mean (i) U.S. Patent No. 5,978,791; (ii) all improvements, modifications, continuations, continuations-in-part, divisions, re-issues and re-examinations thereof (including any patent claiming priority from or derived from application no. 08/425,160), copies of which, to the extent filed with the United States Patent Office prior to the Effective Date, are attached as Exhibit "A" hereto, and (iii) any other United States or foreign patent filed by, or issued or assigned to the Master Licensor or Sublicensor (or for which Sublicensor otherwise has a right or ability to grant a sublicense under) that would be necessary for Sublicensee to make, have made, use, import, sell and offer for sale Sublicensee's Product, within the constraints of the Permitted Use.

1.1.5 "Permitted Use" shall mean the permitted uses set forth in Schedule 1.1 attached hereto and by this reference incorporated herein.

1.1.6 "Sublicensed Rights" shall mean the Patent, the Improvements, and all additional applications for, corresponding to and claiming the benefit of, and continuations, divisions, reissues and foreign counterparts of the Patent and Improvements.

1.1.7 "~~Sublicensee's Product~~" shall mean the peer-to-peer technology platform currently known as the Kazaa Media Desktop, which includes the searching and file-sharing technology currently known as the "FastTrack Technology", and any future fixes, updates, upgrades and replacements to or for the Kazaa Media Desktop.

1.1.8 "Territory" shall mean the United States of America, its territories, and its possessions, as well as any other country or geographic region for which a patent application has been filed by the Master Licensor or Sublicensor, or a patent has been issued to the Master Licensor or Sublicensor that is substantially similar to the Patent or any of its claims.

1.2 Sublicense Grant. Subject to the terms and conditions set forth in this Agreement, Sublicensor grants Sublicensee a limited, non-exclusive, non-transferable (except as set forth in



Section 9.7 below), irrevocable license, non-sublicensable right (the "Sublicense"), to use the Sublicensed Rights, restricted to the Permitted Use, to make, have made, use, import, export, distribute, subdistribute, sell and offer for sale Sublicensee's Product within the Territory.

1.3 *Sublicense Restrictions.* Sublicensee may not sublicense any of the rights granted to Sublicensee hereunder; provided, however that Sublicensee may distribute to end users Sublicensee's Product for use by such end users within the constraints of the Permitted Use. Sublicensee shall not cause any of the Sublicensed Rights to become subject to any liens, claims or encumbrances. In the event that Sublicensee requests that a third party distributor of the searching and file-sharing technology known as the "FastTrack Technology" be extended a sublicense of the Sublicensed Rights, Sublicensee may present to Sublicensor for review, approval and execution, which approval is expected by both parties to be provided and not be unreasonably withheld (it being understood however, that it shall not be unreasonable for Sublicensor to withhold its consent on the basis that the Master Licensor has failed to approve such sublicense), a sublicense agreement between Sublicensor and such third party in which Sublicensor licenses the Sublicensed Rights to such third party. The parties agree that Sublicensee shall be entitled to 100% of any license fees received from those parties who currently distribute the searching and file-sharing technology known as the "FastTrack Technology", and that Sublicensor and Sublicensee shall negotiate in good faith for a division of any license fees received from any other third party authorized licensee of the FastTrack Technology.

1.4 *Retention of Right.* Sublicensor reserves the right to use all or any portion of the Sublicensed Rights in any manner, or license, assign, convey, transfer, sell or otherwise alienate any portion of or all the Sublicensed Rights to any third party, whether or not such use by Sublicensor or such third party is in direct competition with the business of Sublicensee.

1.5 *Consideration.*

1.5.1 Commencing on the Effective Date, in consideration of the rights granted hereunder solely as it relates to those parties (including Sublicensee) who currently distribute the searching and file-sharing technology known as the "FastTrack Technology", Sublicensee shall pay to Sublicensor the following:

- (1) upon signing of this Agreement, a lump sum payment of \$500,000.00 for the period from the Effective date through and including March 31, 2003; provided that Sublicensee may deduct from such payment all amounts that are currently due to Sublicensee from Brilliant as of the date of such payment;
- (2) upon signing of this Agreement, a lump sum payment of \$150,000.00 representing the monthly fee for the month of April 2003; and
- (3) on or before the first day of each calendar month of the Term commencing May 1, 2003, \$120,000.00 per month for each month of the Term from and after April, 2003.

All payments shall be paid in U.S. dollars. All payments shall be wired to:

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Chase Manhattan Bank, New York, NY
Beneficiary: Salomon Smith Barney
ABA # 021-000-021
Acct # 066-198-038
For further credit to: Brilliant Digital Entertainment, Inc.
Acct # 571-0435-16-386

1.6 *Status.* The status of Sublicensee under this Agreement is that of an independent contractor and not an agent or employee of Sublicensor for all purposes, including without limitation payment of all taxes and assessments which any state, federal, municipal or other taxing authority may impose.

ARTICLE 2 OWNERSHIP RIGHTS

2.1 *Exclusive Rights in Master Licensee.* Sublicensee acknowledges that, as between Sublicensee and Master Licensee, Master Licensee owns all right, title and interest, including intellectual property rights, in and to the Patent, subject to the exclusive license granted to Sublicensor and the Sublicense granted to Sublicensee hereunder. Except for the Sublicense granted to Sublicensee hereunder, no title or ownership of the Patent in any form is transferred to Sublicensee. This Agreement shall be deemed inferior and subject to any rights reserved by Master Licensee in the Master License. All rights, not expressly granted to Sublicensee, are expressly reserved by Sublicensor. In the event of any conflict between rights granted hereunder and the rights retained by Master Licensee in the Master License, the Master License shall be deemed controlling; provided, however, nothing herein shall diminish the representations and warranties or obligations that Sublicensor has made or owes to Sublicensee.

2.2 *Improvements.*

2.2.1 *Improvements to Sublicensed Rights.* Sublicensee agrees that, as between Sublicensee and Master Licensee, Master Licensee will have the sole and exclusive right, title and interest (both legal and equitable) to all of the intellectual property rights in Improvements to the Patent made by any of Master Licensee, Sublicensor or Sublicensee. Sublicensor agrees that the Improvements will be deemed (without the payment of additional royalties) part of the Sublicense granted hereunder to Sublicensee. None of Master Licensee, Sublicensor or Sublicensee is, however, obligated to make any Improvements. Furthermore, Sublicensee hereby acknowledges and agrees that any Improvements made by Sublicensee shall be considered a "work made for hire" and Master Licensee shall own all right, title and interest therein. To the extent that the Improvements do not automatically vest in Master Licensee, Sublicensee hereby grants, assigns and transfers to Master Licensee all right, title and interest in and to the Improvements to the extent that Sublicensee has had or will have any

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right, title or interest therein. Master Licensor shall have the sole and exclusive rights to all the improvements and any additions and modifications thereto throughout the world, whether such rights currently exist or are recognized in the future, and in all media and languages, whether now or subsequently existing. Sublicensee shall execute such further instruments as Master Licensor may reasonably request to evidence, establish, maintain or protect Master Licensor's rights in and ownership of the Improvements.

2.2.2 Improvements to Processes and Know-How Ancillary to the Sublicensed Rights. Subject to the terms and conditions contained herein and notwithstanding any provisions of this Agreement to the contrary, the parties agree that Sublicensee shall own any improvement in, modification to or development of any method or apparatus used for manufacturing and/or using products or services embodying the Sublicensed Rights as well as any improvement in, modification to or development of any know-how used for manufacturing and/or using products or services embodying the Sublicensed Rights, to the extent that the foregoing is developed by Sublicensee (collectively, "Related Development"). The definition of "Related Development" specifically excludes the Patent. Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that, as between Licensor and Sublicensee, Sublicensee has the exclusive, proprietary ownership and use rights to the Kazaa Media Desktop, together with all code and other components thereof, whether developed by or for, or licensed to, Sublicensee and any improvements or modifications thereto, including all know-how, techniques, inventions and code relating thereto (collectively, the "Sharman Software").

2.3 Patent Markings. Sublicensee agrees to cause any products made by or for Sublicensee, which are covered by one or more claims of the Patent to have clearly marked thereon a patent notice listing the number of the Patent.



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