

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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| | § | |
| In re: | § | Case No. 24-90448-ARP |
| | § | |
| RHODIUM ENCORE LLC, et al.¹ | § | Chapter 11 |
| | § | |
| Debtor. | § | |
| | § | |

**WHINSTONE US, INC.’S MOTION FOR PARTIAL SUMMARY JUDGMENT
AND BRIEF IN SUPPORT**

(Relates to Docket Nos. 7 and 32)

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 7056, Whinstone US, Inc. (“**Whinstone**”), hereby submits this *Motion for Partial Summary Judgment* (the “**Motion**”) in response to *Debtors’ Motion to Assume Certain Executory Contracts with Whinstone US, Inc.* [Docket No. 7] (the “**Motion to Assume**”) and *Debtors’ Supplemental Motion to Assume Certain Executory Contracts with Whinstone US, Inc.* [Docket No. 32] (the “**Supplemental Motion to Assume**,” together with the Motion to Assume, the “**Rhodium Motions**”). In support of this Motion, Whinstone states the following:

¹ The Debtors in these chapter 11 cases and the last four digits of their corporate identification numbers are as follows: Rhodium Encore LLC (3974), Jordan HPC LLC (3683), Rhodium JV LLC (5323), Rhodium 2.0 LLC (1013), Rhodium 10MW LLC (4142), Rhodium 30MW LLC (0263), Rhodium Enterprises, Inc. (6290), Rhodium Technologies LLC (3973), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Shared Services LLC (5868), Rhodium Ready Ventures LLC (8618), Rhodium Industries LLC (4771), Rhodium Encore Sub LLC (1064), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), and Rhodium Renewables Sub LLC (9511). The mailing and service address of the Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.



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I.
SUMMARY OF THE MOTION

1. This summary judgment presents two issues for the Court’s consideration:

Issue No. 1: Does the Rhodium JV December Hosting Agreement² supersede the twenty 5MW agreements³ between Rhodium JV, LLC (“**Rhodium JV**”) and Whinstone? Yes, because the Rhodium JV December Hosting Agreement and the twenty 5MW agreements are between the exact same parties (Rhodium JV and Whinstone), cover the exact same subject matter in precise detail (namely Whinstone’s obligations to provide power and hosting services to Rhodium JV in exchange for payment), and such agreements cannot coexist at the same time. The Rhodium JV December Hosting Agreement contains an integration clause, which expressly provides “[t]his Agreement is **the only agreement** between the Parties relating to the subject matter hereof and **supersedes all prior and contemporaneous agreements, understandings, and negotiations...**”⁴ Accordingly, as a foundation of Texas contract law, the Rhodium JV December Hosting Agreement supersedes and replaces the twenty 5MW agreements.⁵

Issue No. 2: Did Rhodium JV breach the Rhodium JV December Hosting Agreement by not owning either the cryptocurrency or the equipment used in its mining operations at Whinstone’s Rockdale facility (the “**Facility**”)? Yes. The Rhodium JV December Hosting Agreement requires Rhodium JV to pay Whinstone a share of the profits generated from its operations at the Facility.⁶ To ensure that Whinstone received its full share of the profits generated from the operations, Rhodium JV represented and warranted in the Rhodium JV December Hosting Agreement that it owned both the equipment and the cryptocurrency.⁷ Rhodium JV breached the Rhodium JV December Hosting Agreement by allowing its subsidiary entities to own the equipment and cryptocurrency, which in turn allowed the Debtors to divert assets away from Rhodium JV and avoid paying Whinstone the full amount it is contractually owed.

² The term “**December Hosting Agreements**” refers collectively to (i) the December 31, 2020 Hosting Agreement between Whinstone US, Inc. and Rhodium JV, LLC (the “**Rhodium JV December Hosting Agreement**”); and (ii) the December 31, 2020 Hosting Agreement between Whinstone US, Inc. and Air HPC, LLC (“**Air**”) (the “**Air December Hosting Agreement**”), true and correct copies of which are attached hereto as **Exhibits 1** and **2**, respectively, and incorporated by reference for all purposes.

³ True and correct copies of the twenty 5MW agreements between Whinstone and Rhodium JV are attached hereto as **Exhibit 3** and incorporated by reference for all purposes.

⁴ Ex. 1 at § 23.10.

⁵ *Id.*

⁶ Ex. 1 at § 6.1, Annex 2.

⁷ Ex. 1 at §§ 10.1-10.2.

2. There is no genuine issue of material fact on these two issues. Accordingly, Whinstone requests that the Court grant partial summary judgment in Whinstone's favor finding that the Rhodium JV December Hosting Agreement supersedes the twenty 5MW agreements, and that Rhodium JV breached the Rhodium JV December Hosting Agreement by failing to own the equipment and cryptocurrency mined at the Facility.

II.
SUMMARY OF THE EVIDENCE

3. Whinstone attaches the following summary judgment evidence to this Motion and incorporates such evidence by reference as if set forth fully herein:

- Exhibit 1:** December 31, 2020 Hosting Agreement between Whinstone and Rhodium JV.
- Exhibit 2:** December 31, 2020 Hosting Agreement between Whinstone and Air HPC.
- Exhibit 3:** July 9, 2020 New Hosting Service Agreements between Whinstone and Rhodium JV (twenty 5MW agreements).
- Exhibit 4:** July 7, 2020 New Hosting Service Agreement between Whinstone and Rhodium 30MW.
- Exhibit 5:** November 2, 2020 Colocation Agreement between Whinstone and Jordan.
- Exhibit 6:** Operating Agreement for Rhodium JV, LLC.
- Exhibit 7:** December 31, 2020 Withdrawal, Dissociation, and Membership Interest Redemption Agreement between Whinstone and Imperium.
- Exhibit 8:** Transcript of December 5, 2023 Temporary Injunction Hearing.
- Exhibit 9:** Defendants' Plea in Abatement, Motion to Compel Arbitration and Stay Litigation, and Original Answer Subject to Plea in Abatement and Motion to Compel Arbitration and Stay Litigation filed in the 20th Judicial District Court of Milam County, Texas on June 12, 2023.
- Exhibit 10:** November 27, 2023 Termination Notice.

- Exhibit 11:** May 17, 2022 Notice of Default.
- Exhibit 12:** April 28, 2023 Notice of Default.
- Exhibit 13:** April 22, 2024 Termination Notice.
- Exhibit 14:** May 8, 2021 Private Placement Memorandum.
- Exhibit 15:** April 2, 2024 Hearing Transcript.
- Exhibit 16:** March 1, 2024 Hearing Transcript.
- Exhibit 17:** May 20, 2022 Notice of Default Response.
- Exhibit 18:** May 3, 2023 Notice of Default Response.

III. **FACTUAL BACKGROUND**

A. The Rhodium-Whinstone Relationship and the Whinstone Contracts.

4. Whinstone hosts cryptocurrency mining operations at the Facility.⁸ It provides services (*e.g.*, power, cooling, and internet connectivity) necessary to support high volumes of cryptocurrency mining equipment for customers seeking capacity to house and operate their mining equipment.⁹

5. In early 2020, principals for the Debtors proposed a joint venture with Whinstone,¹⁰ which culminated in the newly formed Rhodium JV.¹¹ To facilitate Rhodium JV's operations at the Facility, Whinstone and Rhodium JV executed twenty substantially similar "New Hosting Services Agreement(s)" in July 2020 (collectively, the "**5MW agreements**"), each of which obligated Whinstone to provide 5MW of electricity (for a total of 100MW) to Rhodium JV at a set price well below market rate for a period of ten years.¹²

⁸ See Ex. 1 at 1.

⁹ *Id.*

¹⁰ See generally, the Operating Agreement for Rhodium JV. A true and correct copy of the Operating Agreement for Rhodium JV is attached hereto as **Exhibit 6** and incorporated by reference for all purposes.

¹¹ *Id.*

¹² Ex. 3 at §§ 3.11, 3.13, and 3.18.

6. In December 2020, Whinstone agreed, for business and tax reasons, to redeem its equity interests Rhodium JV.¹³ To account for the changing nature of the parties' relationship, the parties executed the December Hosting Agreements, which superseded all prior agreements¹⁴ and expressly contained the complete terms of their go-forward relationship.¹⁵ The Rhodium JV December Hosting Agreement explicitly supersedes all prior and contemporaneous agreements, understandings, and negotiations between the parties relating to the subject matter thereof, namely the hosting of cryptocurrency miners at the Facility.¹⁶ Specifically, the Rhodium JV December Hosting Agreement states:¹⁷

23.10. Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

B. Other Material Terms to the Rhodium JV December Hosting Agreement.

7. The Rhodium JV December Hosting Agreement contains a number of material terms.

The material terms relevant to this Motion are discussed below.

¹³ See generally, the Withdrawal, Dissociation, and Membership Interest Redemption Agreement (the "**Redemption Agreement**"). A true and correct copy of the Redemption Agreement is attached hereto as **Exhibit 7** and incorporated by reference for all purposes.

¹⁴ The Rhodium JV December Hosting Agreement supersede the 30MW agreement between Whinstone and Rhodium 30MW, LLC ("**Rhodium 30MW**") (the "**Rhodium 30MW Agreement**") and the Air December Hosting Agreement supersedes the 25MW agreement between Whinstone and Jordan HPC, LLC ("**Jordan**") (the "**Jordan Agreement**"). True and correct copies of the Rhodium 30MW Agreement and Jordan Agreement are attached hereto as **Exhibits 4** and **5**, respectively, and incorporated by reference for all purposes. These contracts were superseded through the doctrine of novation. To find novation, however, the Court will likely be required to resolve fact issues. Therefore, Whinstone does not seek summary judgment on whether the Rhodium 30MW Agreement and the Jordan Agreement were superseded; it is reserving these issues for trial.

¹⁵ Ex. 1 at § 23.10.

¹⁶ *Id.*

¹⁷ *Id.*

8. Under the Rhodium JV December Hosting Agreement, Whinstone was entitled to receive, among other payments, a 12.5% revenue share.¹⁸ To ensure those payments, Rhodium JV made two important and independent representations and warranties. *First*, Rhodium JV “acknowledge[d] and agree[d] that the Customer Equipment is the sole property of the Customer [*i.e.*, Rhodium JV].”¹⁹ Further, Rhodium JV represented that “[u]nless specifically disclosed otherwise, Customer Equipment is owned by Customer [*i.e.*, Rhodium JV] and is free of any lien or other interest or encumbrance of any third-party.”²⁰ *Second*, Rhodium JV “acknowledge[d] and agree[d] that any generated digital assets [*i.e.*, cryptocurrency], including but not limited to blockchains, hash and digital currencies, generated from the operation of the Customer Equipment, are the sole property of the Customer [*i.e.*, Rhodium JV].”²¹ These provisions operated as a contractual adequate assurance against dilution of Whinstone’s Rev Share Payments under the Rhodium JV December Hosting Agreement by ensuring that both the equipment mining cryptocurrency and the cryptocurrency mined remained with Rhodium JV.

C. Whinstone Terminated the Rhodium JV December Hosting Agreement in Response to Rhodium JV’s Repeated and Uncured Material Breaches.

9. Issues emerged between Whinstone and Rhodium JV right from the start. It quickly became clear that Rhodium JV had no intention of fulfilling its obligations under the Rhodium JV December Hosting Agreement. For purposes of this Motion, Whinstone focuses on Rhodium JV’s breaches of its representations and warranties.

10. Rather than own the equipment and cryptocurrency generated from operations at Building C of the Facility, Rhodium JV created numerous subsidiary entities to own the equipment

¹⁸ *Id.* at § at § 6.1, Annex 2.

¹⁹ *Id.* at § 10.1.

²⁰ *Id.* at § 12.2.

²¹ *Id.* at § 10.2.

and cryptocurrency generated from operations.²² [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. Debtors concede that “significant portions of those profits” generated by the cryptocurrency produced at Building C of the Facility “belong to other Rhodium entities, in which outside investors have an economic stake.”²⁴ That admission is directly at odds with Rhodium JV’s representations and warranties that it owned the equipment that mines cryptocurrency at the Facility, along with the cryptocurrency generated from mining operations²⁵ and constitutes a breach of the Rhodium JV December Hosting Agreement.²⁶

D. Whinstone’s Notices of Default and Initial Termination of the December Hosting Agreements.

12. Whinstone issued default notices in 2022 and 2023 outlining numerous defaults under the December Hosting Agreement.²⁷ The Debtors failed to cure the defaults.²⁸ Accordingly, Whinstone issued a termination notice on or about November 27, 2023 (the “**2023 Termination Notice**”),²⁹ which

²² See, e.g., **Exhibit 8** Hr’g Tr. (Dec. 5, 2023) at 5:22-6:2, 22:21-23:23, 35:19-37:8.

[REDACTED]

²⁴ See **Exhibit 9**, Defendants’ Plea in Abatement, Motion to Compel Arbitration and Stay Litigation, and Original Answer Subject to Plea in Abatement and Motion to Compel Arbitration and Stay Litigation filed in the 20th Judicial District Court of Milam County, Texas (Jun. 12, 2023) at ¶ 60.

²⁵ See Ex. 1 §§ 10.1, 10.2, and 12.2.

²⁶ *Id.*

²⁷ True and correct copies of the May 17, 2022 default notice (the “**2022 Default Notice**”) and April 28, 2023 default notice (the “**2023 Default Notice**”) are attached hereto as **Exhibits 11** and **12**, respectively, and incorporated by reference for all purposes.

²⁸ See, e.g., May 20, 2022 default notice response and May 3, 2023 default notice response, true and correct copies of which are attached hereto as **Exhibits 17** and **18**, respectively, and incorporated for all purposes.

²⁹ A true and correct copy of the 2023 Termination Notice is attached hereto as **Exhibit 10** and incorporated by reference for all purposes.

terminated the Rhodium JV December Hosting Agreement effective immediately.³⁰ Out of an abundance of caution and in light of arguments raised by the Debtors in the pre-bankruptcy litigation, Whinstone issued another termination notice on April 22, 2024 identifying additional grounds for terminating the Rhodium JV December Hosting Agreement and, to the extent the twenty 5MW agreements existed and were not previously superseded, Whinstone terminated those agreements, as well, due to existing, uncured defaults (the “**2024 Termination Notice**”).³¹

IV. **LEGAL STANDARD**

13. Summary judgment is required if the movant establishes that there is no genuine dispute of material fact and the law entitles it to judgment. FED. R. CIV. P. 56(c). Disputes about material facts are “genuine” if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The plain language of Rule 56(c) mandates “the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986).

14. A party moving for summary judgment “must ‘demonstrate the absence of a genuine issue of material fact,’ but need not negate the elements of the nonmovant’s case.” *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (quoting *Celotex*, 477 U.S. at 325). Once the moving party meets this burden, Rule 56(c) requires the nonmovant to go beyond the pleadings and show by competent summary judgment evidence that specific facts exist over which there is a genuine issue for trial. *Id.* The nonmovant may not rely merely on allegations, denials in a pleading

³⁰ *See id.*

³¹ A true and correct copy of the 2024 Termination Notice is attached hereto as **Exhibit 13** and incorporated by reference for all purposes.

or unsubstantiated assertions that a fact issue exists but must set forth specific facts showing the existence of a genuine issue of material fact concerning every element of its cause(s) of action. *Morris v. Covan World Wide Moving, Inc.*, 144 F.3d 377, 380 (5th Cir. 1998). Conclusory allegations unsupported by evidence will not preclude summary judgment. *Nat'l Ass'n of Gov't Emps. v. City Pub. Serv. Board*, 40 F.3d 698, 713 (5th Cir. 1994).

V.
ARGUMENTS & AUTHORITIES

A. The Rhodium JV December Hosting Agreement Superseded the 5MW Agreements.

15. Prior to the Rhodium JV December Hosting Agreement, Whinstone and Rhodium JV were parties to twenty 5MW agreements.³² The parties renegotiated these agreements and entered into the Rhodium JV December Hosting Agreement.³³ The Rhodium JV December Hosting Agreement expressly superseded the twenty 5MW agreements by the Rhodium JV December Hosting Agreement's integration clause and application of the merger doctrine.

16. Under Texas law, integration clauses, like the one found in Section 23.10 of the Rhodium JV December Hosting Agreement, contractually memorializes the doctrine of merger. *Smith v. Smith*, 794 S.W.2d 823, 828 (Tex. App.—Dallas, 1990, no writ). For two contracts to merge, the subsequent contract: (1) must be between the same parties as the first contract; (2) must embrace the same subject matter; and (3) must have been so intended by the parties. *Kona Tech. Corp. v. S. Pac. Transp. Co.*, 225 F.3d 595, 612 (5th Cir. 2000) (applying Texas law) (citing *Leon Ltd. v. Albuquerque Commons Partnership*, 862 S.W.2d 693, 701 (Tex. App.—El Paso 1993, no writ) and *Smith*, 794 S.W.2d at 827)).

17. Moreover, when parties to one contract execute another contract with terms that are so inconsistent with the first that both contracts cannot stand, the first agreement is conclusively

³² Ex. 3.

³³ See generally Ex. 1.

presumed to have been superseded by the second. *Smith*, 794 S.W.2d at 827-28. “When a contract contains a merger or integration clause, the contract’s execution presumes that all prior negotiations **and agreements** relating to the transaction have been merged into the contract, and it will be enforced as written and cannot be added to, varied, or contradicted by parol evidence.” *Bandera Drilling Co., Inc. v. Sledge Drilling Corp.*, 293 S.W.3d 867, 871 (Tex. App.—Eastland 2009, no pet.) (emphasis added) (citing *ISG State Operations, Inc. v. Nat’l Heritage Ins. Co.*, 234 S.W.3d 711, 719 (Tex. App.—Eastland 2007, pet. denied)).

18. The Rhodium JV December Hosting Agreement contains comprehensive integration clause crafted specifically to supersede all prior agreements.³⁴

23.10. Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

19. First, it is beyond dispute that Whinstone and Rhodium JV were the only parties to the twenty 5MW agreements **and** the Rhodium JV December Hosting Agreement. The parties are identified on the first page of each of the twenty 5MW agreements as Whinstone US, Inc. and Rhodium JV LLC:³⁵

³⁴ Ex. 1 § 23.10.

³⁵ Ex. 3, p. 1, 24, 47, 70, 93, 116, 139, 162, 185, 208, 231, 254, 277, 300, 323, 346, 369, 392, 415, 438.

New Hosting Service Agreement No. #R-5MW-004

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 ("Whinstone")

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the "Customer").

Whinstone and the Customer are referred to individually as "Party" and collectively as "Parties".

The parties are similarly identified on the first page of the Rhodium JV December Hosting Agreement.³⁶

Hosting Agreement

This Hosting Agreement (this "Agreement") is made as of December 31, 2020 (the "Effective Date") between Whinstone US, Inc., a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA ("Provider"), and Rhodium JV LLC, a limited liability company organized and existing under the laws of Delaware, having its principal office at 7546 Pebble Drive, Fort Worth, Texas 76118 ("Customer"). Provider and Customer are hereinafter together referred to as the "Parties" and each as a "Party."

20. Second, the agreements embrace the same subject matter, including, among other things, the 100MW of power originally provided under the twenty 5MW agreements and other hosting services at the Facility for Rhodium JV's mining operations.³⁷

21. Third, the inclusion of the integration clause in the Rhodium JV December Hosting Agreement presumes that all prior agreements relating to this transaction merged into this contract. *Bandera Drilling Co.*, 293 S.W.3d at 871. Thus, the precise terms of the contract evidence the parties' intent for the Rhodium JV December Hosting Agreement to replace the twenty 5MW agreements between Whinstone and Rhodium JV. Chase Blackmon, the co-CEO of Rhodium

³⁶ Ex. 1 at p. 1.

³⁷ *Id.* at §§ 1.1, 3, 4; Ex. 3 at p. 1 and §§ 2, 3.13, 4.7.

Enterprises, Inc., testified during the temporary injunction hearing in the state court litigation that the Rhodium entities, collectively, have only contracted for a total of 155MW of power at the Facility.³⁸ Further, Mr. Blackmon agreed, albeit reluctantly, that the December Hosting Agreements collectively require Whinstone to provide up to 155MW of power—130MW of which is governed by the Rhodium JV December Hosting Agreement. The December Hosting Agreements are comprehensive agreements that outline the entire scope of Rhodium JV and Whinstone’s contractual relationship; they are not merely profit share agreements as the Debtors now contend.³⁹

22. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The only contracts prior to the December Hosting

³⁸ Ex. 8 at 104:21-105:1, 108:21-25.

³⁹ *Id.* at 106:22-107:21, 108:21-25.

[REDACTED]

Agreements were (a) the twenty 5MW agreements between Whinstone and Rhodium JV; (b) the 30MW Agreement between Whinstone and Rhodium 30MW; and (c) the Jordan Agreement between Whinstone and Jordan.⁴¹ [REDACTED]

23. Fourth, the terms of the twenty 5MW agreements and the Rhodium JV December Hosting Agreement cannot coexist. Of the twenty-five⁴² agreements that Debtors seek to assume, twenty-four set forth Whinstone’s obligations to provide power and services, including the “Specified Power Draw,” to Debtors’ operations at the Facility. The twenty-four agreements can be broken down into two categories: (i) the twenty-two pre-December Hosting Agreements (which includes the twenty 5MW agreements); and (ii) the two December Hosting Agreements. The twenty-two pre-December Hosting Agreements cannot coexist with the two December Hosting Agreements because the two sets of agreements provide for the same amount of power usage as illustrated below:

| Maximum Power = 155MW | |
|---|---|
| Pre-December 2020 Hosting Agreements | December 2020 Hosting Agreements |
| <ul style="list-style-type: none"> • Rhodium JV LLC – 5MW x20 • Rhodium 30mw LLC – 30MW • <u>Jordan HPC LLC – 25MW</u> <p>TOTAL = 155MW</p> | <ul style="list-style-type: none"> • Rhodium JV LLC = 130MW • <u>Air HPC LLC = 25MW</u> <p>TOTAL = 155MW</p> |

24. Mr. Blackmon, the co-CEO for the Debtors, conceded that Debtors have only contracted for a maximum of 155MW of electricity at the Facility.⁴³ But the “Specified Power

⁴¹ Exs. 3, 4, and 5.

⁴² There are twenty-six agreements listed in the Rhodium Motions, but one of those listed agreements is “Rhodium 2.0 Hosting Agreements,” which does not exist and appears to be a typographical error.

⁴³ Ex. 8 at 104:21-105:1, 108:21-25.

Draw” under the twenty-four agreements Debtors attempt to assume would require a total of 310MW. Even if just the twenty 5MW agreements and the Rhodium JV December Hosting Agreement were assumed, Whinstone would be required to provide 230MW of power, 75MW more than what was admittedly agreed to by the parties or even available at the Facility. Debtors attempt to rewrite the agreements by ignoring the fact that the December Hosting Agreements require the provision of power. But the Debtors cannot reconcile the agreements by after-the-fact picking and choosing which provisions it favors from each contract and then simply ignoring overlapping provisions. Such a position is not supported by either the Bankruptcy Code or Texas law.

25. Whinstone is entitled to the presumption that, based on the plain language of the agreement, the Rhodium JV December Hosting Agreement superseded the twenty 5MW agreements. *Smith*, 794 S.W.2d at 827-28. Accordingly, this Court should enter summary judgment that the Rhodium JV December Hosting Agreement superseded the twenty 5MW agreements between Whinstone and Rhodium JV under the merger doctrine.

B. The Terminated Rhodium JV December Hosting Agreement Cannot Be Assumed.

26. Section 365 of the Bankruptcy Code only applies to a contract in existence at the commencement of the bankruptcy proceeding. *See* 3 Collier on Bankruptcy P 365.02 (16th 2024). Contracts terminated prior to bankruptcy cannot be assumed or rejected in bankruptcy because there is nothing left to assume or reject. *See Endeavour GP, LLC v. Endeavour Highrise, L.P. (In re Endeavour Highrise, L.P.)*, 432 B.R. 583, 658 (Bankr. S.D. Tex. 2010) (“Thus, the Contracts were terminated prior to the filing of the [d]ebtor’s bankruptcy and could not be assumed or rejected in bankruptcy.”); *see also In re C.M. Turtur Invest., Inc.*, 93 B.R. 526, 535 (Bankr. S.D. Tex. 1988) (“The contract, having been terminated, cannot be executory”).

27. In short, if a contract was properly terminated under the applicable state law prior to the commencement of a bankruptcy proceeding, then Section 365 does not apply. 3 Collier on Bankruptcy P 365.02 (16th 2024). It is axiomatic under Texas law that “[b]reach of [a] contract occurs when a party fails to perform a duty required by the agreement.” *In re Texans CUSO Ins. Group, LLC*, 426 B.R. 194, 205 (Bankr. N.D. Tex. 2010) (citing *Smith Int’l, Inc. v. Egle Group, Ltd. Liab. Co.*, 490 F.3d 380, 387 (5th Cir. 2007)).

28. The Rhodium JV December Hosting Agreement empowers a non-breaching party to terminate that agreement “with immediate effect as of the date set forth in a written notice thereof provided to” the defaulting party⁴⁴ if:

- Material Breach “If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within ten (10) Business Days after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.”⁴⁵

29. Rhodium JV materially breached the Rhodium JV December Hosting Agreement by (a) failing to own the cryptocurrency generated through operations in Building C at the Facility; and (b) failing to own the mining equipment used at the Facility free of any liens by third-parties.⁴⁶

30. Rhodium JV’s ownership of the equipment and cryptocurrency generated at the Facility provide Whinstone assurance that it would receive its 12.5% Rev Share Payment from Building C cryptocurrency mining operations. Rhodium JV breached these provisions of the Rhodium JV December Hosting Agreement because its operating subsidiary companies admittedly own the equipment and cryptocurrency generated by the equipment.⁴⁷ It was through this machination that

⁴⁴ Ex. 1 at § 17.2.

⁴⁵ Ex. 1 at § 17.1; Ex. 2 at § 17.1.

⁴⁶ **Exhibit 15** Hr’g Tr. (Apr. 2, 2024) at 70:16-71:23, 72:20-73:6, 75:6-12, 76:12-18, 106:1-14.

⁴⁷ See Ex. 9 at ¶ 60.

Debtors diverted assets (which Whinstone contends to be millions of dollars in revenue) to other struggling Debtor-related businesses.

31. Rhodium JV failed to cure its breaches of the Rhodium JV December Hosting Agreement upon receiving numerous notices of its breaches.⁴⁸ As such, Whinstone terminated the Rhodium JV December Hosting Agreement effective November 27, 2023.⁴⁹ After Whinstone discovered additional breaches, Whinstone issued a supplemental termination of the Rhodium JV December Hosting Agreement on April 22, 2024, more than four months before Debtors filed for bankruptcy.⁵⁰ Each of Rhodium JV's breaches provides an independent basis for Whinstone's termination of the Rhodium JV December Hosting Agreement, which in turn means that agreement cannot be assumed. *In re Endeavour Highrise*, 432 B.R. at 658; *In re C.M. Turtur Invest., Inc.*, 93 B.R. at 535; 3 Collier on Bankruptcy P 365.02 (16th 2024). Accordingly, the Court should enter summary judgment that Whinstone properly terminated the Rhodium JV December Hosting Agreement before the Debtors initiated this bankruptcy proceeding and the Debtors, therefore, cannot assume the Rhodium JV December Hosting Agreement.

VI.
RELIEF REQUESTED

WHEREFORE, Whinstone respectfully request that the Court enter summary judgment in its favor:

1. that the Rhodium JV December Hosting Agreements superseded the twenty 5MW agreements;
2. that Rhodium JV breached the Rhodium JV December Hosting Agreement because Rhodium JV did not own unencumbered equipment or the cryptocurrency generated at the Facility;

⁴⁸ Exs. 10, 11, 12, and 13.

⁴⁹ Ex. 10.

⁵⁰ Ex. 13.

3. that the Rhodium JV December Hosting Agreement was terminated and cannot be assumed; and
4. that the Court award to Whinstone such other and further relief to which the Court deems just and proper.

DATED: October 3, 2024

Respectfully submitted by:

/s/ Mark C. Moore

Robert T. Slovak (TX 24013523)

Steven C. Lockhart (TX 24036981)

J. Michael Thomas (TX 24066812)

Mark C. Moore (TX 24074751)

Brandon C. Marx (TX 24098046)

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bmarx@foley.com

COUNSEL TO WHINSTONE US, INC.

CERTIFICATE OF SERVICE

I certify that I caused the foregoing document to be filed on October 3, 2024, using the Court's CM/ECF System which caused it to be served upon those parties registered in the system to receive such service.

/s/ Mark C. Moore

Mark C. Moore

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

| | | |
|---|---------------------------------|---|
| In re: RHODIUM ENCORE LLC, et al.¹ <p style="text-align: center;">Debtor.</p> | § § § § § § § | Case No. 24-90448-ARP Chapter 11 |
|---|---------------------------------|---|

DECLARATION OF J. MICHAEL THOMAS

Pursuant to 28 U.S.C. § 1746, J. Michael Thomas hereby declares under the penalty of perjury that the following is true and correct:

1. My name is J. Michael Thomas. I am of sound mind, over the age of twenty-one (21), competent to make this declaration, and have personal knowledge of the facts stated herein, which are true and correct. If called upon to do so, I could and would competently testify to the matters stated herein.

2. I am a Partner at the law firm of Foley & Lardner LLP and counsel for Whinstone US, Inc. (“**Whinstone**”).

3. I submit this Declaration in support of Whinstone’s *Motion for Partial Summary Judgment* (the “**Motion**”).

4. Attached to the Motion as **Exhibit 8** is a true and correct copy of the transcript from the December 5, 2023 hearing on the Application for Temporary Injunction filed by Rhodium

¹ The Debtors in these chapter 11 cases and the last four digits of their corporate identification numbers are as follows: Rhodium Encore LLC (3974), Jordan HPC LLC (3683), Rhodium JV LLC (5323), Rhodium 2.0 LLC (1013), Rhodium 10MW LLC (4142), Rhodium 30MW LLC (0263), Rhodium Enterprises, Inc. (6290), Rhodium Technologies LLC (3973), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Shared Services LLC (5868), Rhodium Ready Ventures LLC (8618), Rhodium Industries LLC (4771), Rhodium Encore Sub LLC (1064), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), and Rhodium Renewables Sub LLC (9511). The mailing and service address of the Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

30MW LLC (“**Rhodium 30MW**”), Rhodium JV, LLC (“**Rhodium JV**”), Air HPC LLC (“**Air**”), and Jordan HPC LLC (“**Jordan**”) in Cause No. CV41873 in the 20th Judicial District Court of Milam County, Texas.

5. Attached to the Motion as **Exhibit 9** is a true and correct copy of the Plea in Abatement, Motion to Compel Arbitration and Stay Litigation, and Original Answer Subject to Plea in Abatement and Motion to Compel Arbitration and Stay Litigation filed by Rhodium 30MW, Rhodium JV, Air, and Jordan in Cause No. CV41873 in the 20th Judicial District Court of Milam County, Texas on June 12, 2023.

6. Attached to the Motion as **Exhibit 14** is a true and correct copy of the May 8, 2021 Private Placement Memorandum as produced by the Debtors in this matter as RHOD-BK-00058602-58648.

7. Attached to the Motion as **Exhibit 15** is a true and correct copy of the transcript from the April 2, 2024 hearing in Rhodium JV, LLC et al v. Whinstone, AAA No. 01-23-0005-7116 in the American Arbitration Association Commercial Arbitration Division.

8. Attached to the Motion as **Exhibit 16** is a true and correct copy of the transcript from the March 1, 2024 hearing in Rhodium JV, LLC et al v. Whinstone, AAA No. 01-23-0005-7116 in the American Arbitration Association Commercial Arbitration Division.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 2nd day of October, 2024.

A handwritten signature in black ink, appearing to read "Michael Thomas", with a long horizontal flourish extending to the right.

J. Michael Thomas

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

| | | |
|---|---------------------------------|---|
| In re: RHODIUM ENCORE LLC, et al.¹ <p style="text-align: center;">Debtor.</p> | § § § § § § § | Case No. 24-90448-ARP Chapter 11 |
|---|---------------------------------|---|

DECLARATION OF DAVID SCHATZ

Pursuant to 28 U.S.C. § 1746, David Schatz hereby declares under the penalty of perjury that the following is true and correct:

1. My name is David Schatz. I am of sound mind, over the age of twenty-one (21), competent to make this declaration, and have personal knowledge of the facts stated herein, which are true and correct. If called upon to do so, I could and would competently testify to the matters stated herein.

2. I am the Senior Vice President of Operations at Whinstone US, Inc. (“**Whinstone**”).

3. I submit this Declaration in support of Whinstone’s *Motion for Partial Summary Judgment* (the “**Motion**”).

4. Attached to the Motion as **Exhibit 1** is a true and correct copy of the December 31, 2020 Hosting Agreement between Whinstone and Rhodium JV LLC (“**Rhodium JV**”).

¹ The Debtors in these chapter 11 cases and the last four digits of their corporate identification numbers are as follows: Rhodium Encore LLC (3974), Jordan HPC LLC (3683), Rhodium JV LLC (5323), Rhodium 2.0 LLC (1013), Rhodium 10MW LLC (4142), Rhodium 30MW LLC (0263), Rhodium Enterprises, Inc. (6290), Rhodium Technologies LLC (3973), Rhodium Renewables LLC (0748), Air HPC LLC (0387), Rhodium Shared Services LLC (5868), Rhodium Ready Ventures LLC (8618), Rhodium Industries LLC (4771), Rhodium Encore Sub LLC (1064), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), and Rhodium Renewables Sub LLC (9511). The mailing and service address of the Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

5. Attached to the Motion as **Exhibit 2** is a true and correct copy of the December 31, 2020 Hosting Agreement between Whinstone and Air HPC LLC (“**Air HPC**”).

6. Attached to the Motion as **Exhibit 3** are true and correct copies of the twenty 5MW New Hosting Service Agreements entered into by Whinstone and Rhodium JV on or about July 9, 2020.

7. Attached to the Motion as **Exhibit 4** is a true and correct copy of the July 7, 2020 New Hosting Service Agreement between Whinstone and Rhodium 30mw LLC (“**Rhodium 30MW**”).

8. Attached to the Motion as **Exhibit 5** is a true and correct copy of the November 2, 2020 Colocation Agreement between Whinstone and Jordan HPC LLC (“**Jordan**”).

9. Attached to the Motion as **Exhibit 6** is a true and correct copy of the Operating Agreement for Rhodium JV.

10. Attached to the Motion as **Exhibit 7** is a true and correct copy of the December 31, 2020 Withdrawal, Dissociation, and Membership Interest Redemption Agreement between Whinstone and Imperium Investments Holdings LLC.

11. Attached to the Motion as **Exhibit 10** is a true and correct copy of the November 27, 2023 Termination Notice Whinstone sent to Rhodium JV and Air HPC.

12. Attached to the Motion as **Exhibit 11** is a true and correct copy of the May 17, 2022 Notice of Default Whinstone sent to Rhodium Enterprises, Inc., Rhodium JV, Air HPC, and Rhodium 30MW.

13. Attached to the Motion as **Exhibit 12** is a true and correct copy of the April 28, 2023 Notice of Default Whinstone sent to Rhodium JV and Air HPC.

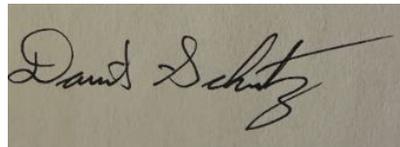
14. Attached to the Motion as **Exhibit 13** is a true and correct copy of the April 22, 2024 Termination Notice Whinstone sent to Rhodium JV, Rhodium 30MW, Air HPC, and Jordan.

15. Attached to the Motion as **Exhibit 17** is a true and correct copy of correspondence Whinstone received from Rhodium Enterprises, Inc., Rhodium JV, Air, and Rhodium 30MW on or about May 20, 2022.

16. Attached to the Motion as **Exhibit 18** is a true and correct copy of correspondence Whinstone received from Rhodium JV, Air, Rhodium 30MW, Rhodium 2.0 LLC, Rhodium Encore LLC, Rhodium 10MW LLC, and Jordan on or about May 3, 2023.

17. Exhibits 1-7, 10-13, and 17-18 are true and correct copies of records that are kept by Whinstone in the regular course of business. It was the regular course of business of Whinstone for an employee or representative of Whinstone, with knowledge of the act or event recorded, to make the record or to transmit the information thereof to be included in such records. The records were made at or near the time or reasonably soon thereafter.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 2nd day of October, 2024.

A rectangular box containing a handwritten signature in black ink. The signature is written in a cursive style and appears to read "David Schatz".

David Schatz

EXHIBIT 1

Hosting Agreement

This Hosting Agreement (this “**Agreement**”) is made as of **December 31, 2020** (the “**Effective Date**”) between **Whinstone US, Inc.**, a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA (“**Provider**”), and **Rhodium JV LLC**, a limited liability company organized and existing under the laws of Delaware, having its principal office at 7546 Pebble Drive, Fort Worth, Texas 76118 (“**Customer**”). **Provider and Customer are hereinafter together referred to as the “Parties” and each as a “Party.”**

WHEREAS, Provider operates a hosting data center facility the primary business purposes of which is to make the facilities (e.g., power, cooling, and Internet connectivity) necessary to support high volumes of cryptocurrency mining devices available to customers that have, or desire to obtain, such devices, and are seeking an off-premises location to store and operate such devices;

WHEREAS, Customer currently owns or desires to procure dedicated Bitcoin mining devices, and desires to install such devices in a facility at which Customer may manage and operate such devices remotely;

WHEREAS, Provider is willing to provide such hosting services to Customer, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1. Key Terms

- 1.1. The table below sets forth a summary of the principal terms of the hosting arrangement under this Agreement (the “**Key Terms**”). Each of the terms in the leftmost column of this table will have the meaning set forth in the respective row(s) in the column(s) to the right.

| | | |
|----------------------------------|---|------------|
| Target Ready-for-Use Date | December 31, 2020 | |
| Initial Term Length | 120 months | |
| Customer Equipment | (To be specified in writing by Customer and document here) | |
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit*: | _____ TH/s |
| | Power usage per unit*: | _____ W/GH |
| Hardware Unit | | |
| Unit type: | _____ | |
| Number of units: | _____ | |
| Hash rate per unit: | _____ TH/s | |
| Power usage per unit: | _____ W/GH | |
| Specified Power Draw | Up to 130 MW (30 MW as of the Effective Date, which may be increased to up to 130MW pursuant to the requirements of this Agreement) | |
| Hosting Fees | As defined in Section 6.1 of this Agreement | |
| Provider Account | _____ | |
| Customer Account | _____ | |

*The "hash rate per unit" and "power usage per unit" values (i) are estimates included for reference purposes only, (ii) do not constitute a service level, guarantee, or other obligation of Provider, (iii) may vary significantly from time to time and from the estimated values, and (iv) have no impact on pricing or amounts owed under the Agreement.

2. Definitions

2.1. Defined Terms

The terms listed below, when used in this Agreement, shall have the following meaning

"Advanced Remote Hands Service" is defined in Section 3.4.

"Applicable Law" means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, interpretation, writ, judgment, injunction, license, or permit, issued or enacted by any Governmental Authority, which is applicable to a Party under this Agreement, including securities laws, tax laws, tariff and trade laws, and data laws.

"AUP" or "Acceptable Usage Policy" means Provider's then-current acceptable use policy, which may be referenced at www.whinstone.us.

"Basic Remote Hands Service" is defined in Section 3.3.

"Building Unit" means each separate building within the Facility.

"Business Day" means a day which is not a Saturday, Sunday or a public holiday in Texas.

"Confidential Information" means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs.

"Connection" means the connection between Customer Equipment and the internet.

"Customer" is defined in the preamble to this Agreement.

"Customer Area" means the part of the Facility that is designated for the installation of the Customer Equipment.

"Customer Equipment" means the hardware equipment (including required PDUs) that is provided by Customer and installed in the Customer Area, including all software and firmware on such equipment other than any software and firmware owned or licensed by Provider.

"Customer Representative" means any officer, employee, agent, sub-contractor or other person identified by Customer as acting on Customer's behalf.

"Data Center Rules" means the then-current rules and procedures relating to physical access to the Facility.

"Data Center Specifications" is defined in Section 3.1.

"Defaulting Party" is defined in Section 17.1.

"Deinstallation Commencement Date" is defined in Section 17.3.

"Demand Reduction Benefit Program" means any scheme initiated by a power supplier, power network supplier or other third party in the power market area managed by the Electric Reliability Council of Texas, under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage.

"Deposit" is defined in Section 6.3.

"Disposal Charge" is defined in Section 17.3.

"Engineering Services" means services relating to Facilities engineering in connection with Customer's increase in power consumption requirements and the related increases in Customer Equipment associated therewith.

"Facility" means the data center operated by Provider at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

"Force Majeure Event" means any event beyond the reasonable control of a Party, including, without limitation, war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law, regulation, rule, or any act, order, direction, or ruling of a Governmental Authority coming into force after the date of this Agreement, tornado, hurricane, severe storms, earthquake, lightning, fire, flood or other natural or environmental disaster, temperature and humidity above the cooling capabilities of the Facility, epidemic, quarantine, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, acts of God, failure of a part of the power grid or related substation failure of the Internet, failure or delay in the performance of Provider's third-party suppliers or of other third-party suppliers, including the supplier under the Power Supply Contract, and strikes, slowdowns, lockouts or other labor stoppages.

"Governmental Authority" means any domestic or foreign, supra-national, national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, taxing authority, agency (public or otherwise), or governmental entity or quasi-governmental entity (including any subdivision thereof), in each case anywhere in the world, having competent jurisdiction over a Party.

"Hardware Control App" means the application that is made available by Provider to permit Customer to manage the Customer Equipment.

"Hardware Control Software" means the software which enables management of the Customer Equipment by Customer and Provider via the Hardware Control App.

"Hardware Control EULA" is defined in Section 3.2.

"Hardware Unit" means each individual unit of Customer Equipment bearing a separate identification code.

"Harmful Code" means any software, hardware or other technologies, devices, or means, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, (i) any computer, software, firmware, hardware, system (including equipment) or network, (ii) the Facility or portion thereof or (iii) any application or function of any of the foregoing or the integrity, use, or operation of any data processed thereby, and, in each case, includes any virus, malware, bug, Trojan horse, worm, backdoor, or other malicious computer code and any time bomb or drop-dead device.

"Hosting Services" is defined in Section 3.1.

"Maintenance" means any activity performed by Provider in order to maintain, upgrade or improve the Services, including any modification, change, addition, or replacement of any Provider hardware, or any part of, or machinery or other components of, the Facility.

"Minimum Hosting Charge" is defined in Section 6.1.

"Mining Pool" means the group of Bitcoin miners to which Customer determines to contribute the processing power of any particular piece of Customer Equipment in order to collaborate in finding new Bitcoin blocks.

"Non-Defaulting Party" is defined in Section 17.2.

"Notice" is defined in Section 19.

"Parties" is defined in the preamble to this Agreement.

"PDU" means power distribution unit.

"Phase-out Period" is defined in Section 17.3.

"power" means electric power.

"Power Firmware" means firmware that is made available by a third party, and that may be required in order to enable certain advanced power management functions. In all cases, the Power Firmware is licensed by the third party to Customer and is installed on the Customer Equipment by Provider only at the express direction of Customer.

"Power Supply Contract" means Provider's agreements with third parties related to the provision of power to the Facility.

"Provider" is defined in the preamble to this Agreement.

"Racks" means the racks provided by Provider and configured for installation of the particular Customer Equipment.

"Related Services" is defined in Section 3.2.

"Remote Hands Service" is defined in Section 3.5.

"RFU Date" or **"Ready-for-Use Date"** means December 31, 2020.

“**Scheduled Maintenance**” means any Maintenance activities for which Provider notified Customer at least 3 days in advance, which notice may be given by publication on the Hardware Control App.

“**Service Rates**” means Provider’s then-current rates for Related Services and Advanced Remote Hands Services, as set forth in Annex 1.

“**Service Charges**” means amounts owed by Customer in connection with the Services.

“**Service Level Default**” is defined in Section 8.

“**Service Level Credit**” is defined in Section 8.

“**Services**” is defined in Section 3.2.

“**Specified Power Draw**” means the amount of power that is to be made available to Customer as part of the Hosting Services, as the same may be increased as provided in Sections 3.6 and 6.2.

“**Term**” is defined in Section 16.

“**Termination Date**” means the date this Agreement terminates or expires.

“**Termination Event**” is defined in Section 17.1.

“**Ticket**” means an electronic request for service generated in the Hardware Control App.

“**Unscheduled Maintenance**” means Maintenance that is not Scheduled Maintenance.

“**Uptime**” means the amount of time in the applicable month that the Hosting Services are available to Customer, as determined in accordance with Section 8.

“**Uptime Service Level**” is defined in Section 8.

“**Working Hours**” means the hours from 8:00 a.m. to 5:00 p.m., Central Time, on a Business Day.

3. **Provider’s Services**

3.1. Facility

All Services are provided within the Facility, which is designed to meet the following specifications (the “**Data Center Specifications**”):

- power supply up to the Specified Power Draw;
transforming equipment;
-
- evaporative cooling;
- limited air filtration; and
- internet connectivity.

it being understood that each of the foregoing is made available to the Customer Area on a shared, non-exclusive and non-redundant basis.

Within the Facility, Provider does not guaranty that the Customer Area will be contiguous. The Customer Area may spread over several Building Units, and is not physically separated from areas in the Facility in which the equipment of other customers is hosted. Provider has the right to change the location of the Customer Area within the Facility and to relocate Customer Equipment, subject to the maintenance and service level obligations set forth in this Agreement.

3.2. Services

Provider shall provide Customer with the Hosting Services and the Related Services (together the “**Services**”) during the Term.

The "Hosting Services" consist of:

- providing the Customer Area in accordance with the Data Center Specifications;
- providing Racks in the Customer Area;
- hosting the provided Customer Equipment in the Racks;
- hosting the Customer-provided PDUs installed in the Racks, as may be required by the particular Customer Equipment;
- making available the Hardware Control Software and Hardware Control App (it being understood that these components are subject to a separate license agreement (the "Hardware Control EULA"), but for which no separate license fee is payable);
- monitoring the fire detection and alarm system provided by Customer
- providing monthly reports to the Customer that will contain a summary of monthly power draw in the Customer Area as measured from power consumption meters; and
- providing basic physical security and physical access control for the Facility.

The "Related Services" consist of

- installation of Customer Equipment (as more particularly described in Section 3.3);
- the Basic Remote Hands Service (as more particularly described in Section 3.4); and
- deinstallation of Customer Equipment.

For the avoidance of doubt, the Related Services are not optional, and the Customer's receipt of and payment for the Related Services is a requirement for hosting the Customer Equipment in the Facility.

3.3. Installation

Customer agrees to pay hourly for installation services as defined in Annex 1 and includes, as it relates to the Customer Equipment, PDUs, and any other Customer-provided materials (e.g., the fire detection and alarm system, specific air filtration equipment, single phase liquid cooling units, etc.):

- unpacking;
- labelling;
- positioning in the Racks;
- installation and management of cables (power and LAN connection);
- inventorization and inventory management;
- installation of the Hardware Control Software and Power Firmware, if applicable;
- initial setting;
- disposal of packing materials; and
- installation of any Customer-provided fencing or other physical security devices that are agreed by the Parties

Installation does not include the provision or installation of any software other than the Hardware Control Software. In certain cases, a particular Hardware Unit may require an update to its firmware (as determined and designated by the manufacturer thereof). In such case, Provider will apply such firmware update in accordance with the instructions provided by such manufacturer. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY

HARDWARE UNIT, ANY SOFTWARE OR FIRMWARE INSTALLED THEREON, OR ANY MANUFACTURER WARRANTY RIGHTS RELATING THERETO (INCLUDING ANY VOIDED WARRANTIES) ARISING OUT OF OR RESULTING FROM THE APPLICATION OF ANY SUCH MANUFACTURER-PROVIDED FIRMWARE UPDATE OR THE POWER FIRMWARE. IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer-designated Mining Pool. If Customer has not designated a Mining Pool, installation will be deemed complete when the applicable Hardware Unit powers up without fault (it being understood that in no event will Provider be required or requested to select a Mining Pool on Customer's behalf). In the case of faulty Hardware Units, installation is completed when Provider diagnoses the fault and provides a report to Customer.

Except as may otherwise be determined by Provider in its sole discretion, Customer shall not have any rights to install, uninstall, or otherwise physically access any Hardware Units in the Facility.

3.4. Basic Remote Hands Service

The basic Remote Hands Service (the "**Basic Remote Hands Service**") consists of the following tasks, as applicable, which will be performed by Provider based on the specific instructions of Customer with a cost defined in Annex 1 and billed weekly.

- pushing a button;
- switching a toggle;
- turning on/off of Customer Equipment;
- switching back on any breakers that have tripped during the 8am to 8pm CT time period;
- securing cabling connections;
- observing, describing and/or reporting of indicator lights or display information on machines or consoles;
- cable organization;
- modifying basic cable layout, labelling and/or re-labelling of Customer Equipment;
- cable patching;
- checking alarms for faults; and/or
- inserting/removing discs or equivalent storage devices provided by Customer into/from the Customer Equipment (it being understood that Provider shall not be responsible for, or have any obligation to verify, the contents of such devices).

Performance of these services will be available on a 24/7 basis. For the avoidance of doubt, the Basic Remote Hands Service is included as part of the Variable Hosting Rate and will not be subject to separate charges or invoices.

3.5. Advanced Remote Hands Service

The following activities, which require software or hardware changes requested by Customer (the "**Advanced Remote Hands Service**" and, together with the Basic Remote Hands Service, the "**Remote Hands Service**"), may be requested by Customer and provided by Provider on an "as-is" basis, subject to the prior mutual agreement of the Parties with a cost defined in Annex 1 and billed weekly.

- installation of applications or software on Customer Equipment;
- uploading of data to Customer Equipment;

- configuration of Customer Equipment operating system;
- hardware fault diagnosis;
- software fault diagnosis;
- rectification of problems caused by Customer Equipment or software;
- rectification of problems caused by Customer;
- cleaning of Customer Equipment;
- any service requiring the opening of the outer casing of any Customer Equipment; and
- providing support for customer installed IT security for the Facility, including the installation, maintenance and operation of a firewall and implementation and administration of an IT security policy to prevent unauthorized access, viruses, and ransomware; and
- monitoring and performing routine and as-required maintenance of the single phase liquid cooling units provided by Customer;
- managing the Customer-provided air filtration equipment;
- any other activity not expressly listed as a Related Service.

Performance of these services will be available on a 24/7 basis. Any particular Advanced Remote Hands Service that is commissioned by Customer and performed by Provider shall be deemed to be part of the "Services" under this Agreement. Customer hereby acknowledges that Provider makes no warranties of any kind in connection with the provision of the Advanced Remote Hands Services. Any software or firmware installed on any Hardware Unit as part of the Advanced Remote Hands Service must be pre-approved by Provider. Provider will install such software or firmware in accordance with Customer's instructions, and Provider shall have no obligation to install any software or firmware without, or not in accordance with, Customer's instructions. CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES. PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND ARISING OUT OF ANY APPLICATIONS, SOFTWARE, DATA, OR OTHER MATERIALS PROVIDED BY CUSTOMER, AND IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

CUSTOMER HEREBY ACKNOWLEDGES THAT ADVANCED REMOTE HANDS SERVICE, INCLUDING ANY DISASSEMBLING OR OPENING OF THE OUTER CASING OF ANY CUSTOMER EQUIPMENT AND THE INSTALLATION OF ANY SOFTWARE OR FIRMWARE ON ANY HARDWARE UNIT, MAY VOID SOME OR ALL OF THE MANUFACTURER WARRANTIES RELATING TO SUCH HARDWARE UNIT (INCLUDING ANY SOFTWARE OR FIRMWARE INSTALLED THEREON). CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH, ANY SUCH VOIDED MANUFACTURER WARRANTIES ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES.

3.6. Engineering Services

The Engineering Services may be requested by Customer and provided by Provider on an "as-is" basis, subject to the prior mutual agreement of the Parties with a cost defined in Section 5. For the avoidance of doubt, Provider shall not be required to perform any Engineering Services unless and until (i) there is a written authorization executed by authorized representatives of each Party that sets forth the scope of the services and the charges to be paid therefor, and (ii) Customer has

executed a written acknowledgement of and express agreement with respect to the increase to the Specified Power Draw that will be applicable for the then-remaining Term and the Deposit that is payable in respect thereof.

3.7. Service Orders

Customer shall place all orders for Remote Hands Service through the Hardware Control App. Such orders are placed by opening a Ticket specifying the relevant Hardware Unit, the requested action, and all other information requested by the Hardware Control App. All such Tickets shall be deemed to be orders for such services, and Customer shall be obligated to pay all fees arising out of Provider's performance thereof.

Under certain circumstances the Hardware Control App has the ability to open Tickets automatically in response to certain performance characteristics and failure modes relating to the Customer Equipment, to the extent that such functionality is enabled by Customer. Any such Tickets that call for Basic Remote Hands Service shall be deemed to have been opened by the Customer, and be conclusive orders for such Basic Remote Hands Service. For the avoidance of doubt, the performance of this functionality under the Hardware Control App shall be governed by the Hardware Control EULA and not this Agreement.

4. **Power Supply**

4.1. Provider will make power available to and in connection with the Customer Area up to the amount of the then-applicable Specified Power Draw, subject to Sections 4.5 and 4.6.

4.2. Customer acknowledges that the Specified Power Draw will be allocated to the Customer Area for the power usage of the Customer Equipment, the evaporative cooling of the Customer Area, as well as any other components that may be installed in the Customer Area that require power, such as additional cooling, air filtration, and monitoring equipment (i.e., it is allocated to the collective requirements of all components in the Customer Area that draw power).

4.3. Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw. Provider has the right to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the evaporative cooling therefor) is, in the aggregate, reasonably likely to exceed the Specified Power Draw, or (ii) individual Hardware Units are reasonably likely to draw beyond the power usage per unit set forth in Section 1.

4.4. If a Ramp-Up Period is provided in Section 1, then for the applicable periods set forth therein the Specified Power Draw shall be deemed to be replaced with the values of the Temporary Power Draw.

4.5. Customer acknowledges that the power to the Facility is ultimately provided by third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by the Electric Reliability Council of Texas, Inc., and the Public Utility Commission of Texas (collectively, the "Power Regulations"). To the extent that the available power to the Facility is reduced pursuant to Power Regulations, and such reductions are not due to the wrongful actions of Provider, Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw; provided that in such case, Provider shall not treat Customer, in any respect, less favorably than any similarly situated Provider customer. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.

4.6. Customer hereby expressly consents to Provider's participation in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion. Customer acknowledges that any such participation may result in partial or complete reduction in power available to Customer from time to time, and that Provider may reduce the power available to Customer to an amount that is less than

the Specified Power Draw. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.

- 4.7. **Customer acknowledges that Provider's right to participate in any Demand Reduction Benefit Programs**, as determined by Provider in its sole discretion, forms an essential basis of the agreements set forth in this Agreement, and that, absent such right, the terms of this Agreement, including the Hosting Charges, would be substantially different.
- 4.8. Customer hereby expressly consents to the use of the Power Firmware in connection with the foregoing Demand Reduction Benefit Programs.

5. Access to the Facility; Data Center Rules

- 5.1. Customer Representatives may access the Customer Area of the Facility during Working Hours, in accordance with the Data Center Rules, for equipment inspections, installation, removal, additions, subtractions or physical maintenance or otherwise by prior appointment as mutually agreed. To obtain such access, Customer must provide prior notice to Provider in accordance with the Data Center Rules, and coordinate with Provider so that all such access may be escorted. Notwithstanding anything to the contrary, Provider shall have the right to remove any **Customer Representative from the Facility premises in Provider's sole discretion, at any time, and without any liability to Customer or any Customer Representative.**
- 5.2. Customer, and the Customer Representatives, shall comply with all Data Center Rules in connection with such access. Customer shall inform each applicable Customer Representative of the Data Center Rules prior to such Customer Representative accessing the Facility. Customer shall be liable for the acts and omissions of all Customer Representatives who access, or attempt to access, the Facility, including for their violation of the Data Center Rules, at least to the same extent as if such **acts and omissions were Customer's own.**

6. Hosting and Service Charges; Payments; Deposit

6.1. Charges for Hosting Services

In consideration of Provider's performance of the Hosting Services, Customer shall pay Provider each of the following fees (the "Hosting Fees"):

Power Charges

Each month, the *greater of* (i) the Power Charge for the aggregate amount of power actually consumed (expressed in kWh) by all power-consuming devices in the Customer Area, and (ii) the Power Charge for the volume of power represented by the then-current Specified Power Draw (expressed in kWh).

The "Power Charge" in respect of a stated amount of power (expressed in kWh) shall be determined based on a per-kWh cost that is equal to the effective per-kWh cost of power to the Facility as a whole for the subject month (i.e., the Facility's wholesale power cost (including both supply and delivery charges, including any retail adders) less any credit amounts actually received by Provider under applicable ERCOT load response programs); provided, however, that in the event that such effective per-kWh cost exceeds \$0.01705, the Power Charge shall be determined using \$0.01705 as the assumed Facility per-kWh power cost.

The Hosting Services charge is inclusive of any and all value added taxes, sales, use, excise and other similar transactional taxes or duties.

Hosting Share Payment

An amount equal to approximately 12.5% of customer EBITDA measured over a calendar-year basis. The precise "12.5% Rev Share Payment" which approximated customer EBITDA is defined in Annex 2.

6.2. Charges for Related Services, Advanced Remote Hands Services, and Engineering Services

Customer shall pay for Engineering Services as the Parties mutually agree, both as to scope thereof and the specific charges to be paid in respect thereof. As of the Effective Date, the Parties believe that such charges are likely to be approximately \$160,000-200,000 USD per increase in committed megawatt, or \$1.6mm to \$2.0mm per 10-megawatt phase. The preliminary planning of the Parties indicates as phased build-out to a total of 130 committed megawatts, as follows:

- Phase 1 Engineering Services for 30 MW -\$6,000,000.00
- Phase 2 Engineering Services for 30 MW -\$6,000,000.00
- Phase 3 Engineering Services for 30 MW -\$6,000,000.00
- Phase 4 Engineering Services for 30 MW -\$6,000,000.00
- Phase 5 Engineering Services for 10 MW -\$2,000,000.00

The Related Services and Advance Remote Hands Services shall be paid by Customer at the Service Rates, billed in half-hour (0.5h) increments. The Service Rates are exclusive of any value added taxes, sales, use, excise and other similar transactional taxes or duties. Customer will pay the value added tax and such other taxes referenced in the foregoing at the rate and in the manner prescribed by Applicable Law.

6.3. Deposit

Customer will pay to Provider as security for any obligations of Customer one or more security deposits (the "Deposits") in amounts that are equal to any deposit amounts or other similar payments providing security for Provider's obligations to the supplier under any Power Supply Contract, to the extent that such payment arises out of the Specified Power Draw or any increases thereto. Provider's obligation to provide the Specified Power Draw shall be excused during any period that Customer is in default of the obligations relating to the payment of Deposits.

Each Deposit will be paid to Provider on or before the date that such amounts are due under the Power Supply Contract and will be returned to Customer within six (6) months following the end of the Term, unless used by Provider to set off claims against Customer.

Customer acknowledges that the Deposits do not need to be segregated from other funds of Provider and that, in particular, Provider is authorized to use the Deposits to make any deposit payments it is required to make with its power provider or other suppliers.

6.4. Invoicing; Payments

Customer shall pay Provider the Hosting Fee relating to Power Charges each month, no later than ten (10) Business Days after the end of such month. Customer shall pay Provider the Hosting Fee relating to the 12.5% Rev Share Payment on a monthly, quarterly, or annually, with such payment interval to be selected by Customer, but provided, however, that in any case, payment shall be made within ninety (90) Business Days following the closing of Customer's books for such period, but in any event no later than one hundred twenty (120) calendar days following the end of such period.

No later than ten (10) Business Days after the end of each month during the Term, Provider will invoice Customer for any Related Services, Advanced Remote Hands Services, or any Engineering Services, plus any applicable taxes.

Customer shall make such payment within ten (10) Business Days following the date of such invoice.

If Customer should become delinquent in the payment of any invoice, Provider shall have the right thereafter to request pre-payments for Service Charges, charges for Advanced Remote Hands Services, or Engineering Services, at its reasonable discretion.

All Payments among the Parties will be made in United States Dollars by wire transfer of immediately available funds into the Provider Account or Customer Account, as applicable, unless agreed otherwise by the Parties.

6.5. No Off-Set

Customer shall not set-off any amount owed or alleged to be owed by Provider to Customer against any other payments due to Provider.

6.6. Change of Hosting Charges

In the event of changes in or the establishment of laws, regulations, orders or policies by Governmental Authorities, including any adverse change to any Demand Reduction Benefit Program (but excluding a wholesale power price increase to Provider), Provider shall have the right to make corresponding increases in the Hosting Fees and the Services Rate, upon written notice and mutual agreement by the Customer.. Any such change shall become effective upon the next billing cycle.

7. Suspension of Services

7.1. Provider may suspend the Services, in whole or in part, for any of the following reasons, and in each case to the extent required by or mandated in respect of such underlying reason:

- to conduct Maintenance;
- to prevent, mitigate, or cease damage to Customer Equipment, any portion of the Facility, Provider's systems (including equipment), or the equipment of other Provider customers;
- as required in connection with a Force Majeure Event;
- in response to a request under a Demand Reduction Benefit Program;
- to comply with an order, instruction, or request of any Governmental Authority;
- suspension caused by the acts or omissions of Customer, including as requested by Customer;
- in the event Customer fails to pay Provider any amounts owed and overdue within three (3) Business Days of being notified that such payment is overdue; or
- the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2. Provider shall use commercially reasonable efforts to give prior notice, to the extent possible, to Customer before suspending the Services in whole, other than in situations where the suspension of Services occurs due to Scheduled Maintenance or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

7.3. During any suspension of Services pursuant to this Section, Customer's access through the Hardware Control App will be "read only", which will provide system status and other related information only, and Customer will not have the ability to open Tickets or control the Customer

Hardware. In no event shall such inability be deemed to be a breach of this Agreement or of the Hardware Control EULA.

8. Service Level Agreement

For each month that Provider provides the Hosting Services to Customer, Provider will make commercially reasonable efforts to provide the Hosting Services with an Uptime of at least 97.0% (the "Uptime Service Level").

For purposes of the determination of Uptime, the Hosting Services shall be considered to be "available" if power, cooling, and internet connectivity are available to the Customer Area (in accordance with the Data Center Specifications, and subject to the obligations and rights of Provider under this Agreement), independent of Customer's actual ability to operate the Customer Equipment for any particular purpose. Any unavailability caused by (i) Force Majeure Events, (ii) Scheduled Maintenance, (iii) Demand Reduction Benefit Programs, or (iv) other environmental factors (e.g., temperature or humidity), notwithstanding the Facility operating in accordance with the Data Center Specifications, will, in each case, not be considered unavailability for the purposes of calculating Uptime.

During any period of unavailability caused by any suspension of Services permitted by Section 6.1, other than any total suspension of the Hosting Services due to Unscheduled Maintenance, the Hosting Services shall be deemed to be available for purposes of calculating Uptime.

Customer's termination right set out in Section 17.1.4 of this Agreement shall be Customer's sole and exclusive remedy in connection with the occurrence of any Uptime Service Level defaults.

9. Customer Responsibilities

9.1. Use of Services

Customer's use of the Hosting Services shall at all times comply with the AUP. For the avoidance of doubt, Customer expressly acknowledge that the Facility has been purpose-built to support the physical requirements of devices that perform Bitcoin mining activities, and that such activities are the sole permitted use of the Hosting Services. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROVIDER SHALL NOT HAVE, AND THAT CUSTOMER HEREBY EXPRESSLY AND KNOWINGLY RELEASES AND WAIVES ANY CLAIMS FOR, ANY LIABILITY ARISING IN CONNECTION WITH CUSTOMER'S MINING ACTIVITIES, AND THAT ALL SUCH ACTIVITIES, INCLUDING BUT NOT LIMITED TO THE CHOICES RELATING TO MINING POOL PARTICIPATION, ARE AT CUSTOMER'S SOLE DISCRETION.

9.2. Designated Mining Pool

It is Customer's responsibility to determine and designate a Mining Pool for each Hardware Unit, and Customer is free to designate any Mining Pool, in its sole discretion. In no event shall Provider be obligated to designate any Mining Pool on Customer's behalf.

If Customer designates a Provider-sponsored private Mining Pool to be the Mining Pool, Customer acknowledges that Provider may receive remuneration in connection with the applicable Hardware Units' contribution to the mining conducted by such Provider-sponsored private Mining Pool.

Customer acknowledges that Provider may choose to operate its own or any other third party's cryptocurrency mining equipment in the Facility at any time during the Term.

9.3. Customer Equipment.

Customer shall be responsible for providing the Customer Equipment, and for causing it to arrive at Provider's loading dock at the Facility. All costs associated with the foregoing, including but not limited to shipping costs, hardware costs, software license costs, and import duties, shall be borne exclusively by Customer. In the event that Provider agrees to procure any such Customer Equipment on Customer's behalf and for the account of Customer, such procurement shall be governed by a separate written agreement between Customer and Provider.

Customer shall further be solely responsible for maintaining the Customer Equipment in operable condition by requesting Advanced Remote Hands Service in accordance with Section 3.7 (*Service Orders*) hereof. Customer acknowledges that Provider will not conduct maintenance of the Customer Equipment, except to the extent Provider agrees to Customers' requests for Advanced Remote Hands Service.

9.4. Hardware Control Software; Hardware Control App; Access

Customer hereby directs Provider to register each Hardware Unit in the Hardware Control Software and acknowledges that the Service Charges for Related Services and Remote Hands Service are based on the availability of the Hardware Control Software in relation to the Customer Equipment. For purposes of clarity, the Hardware Control Software is for purposes of management convenience only, and notwithstanding any information or analytics that may be or become available therein, at no point shall the Hosting Control Software be the system of record for purposes of determining the power consumption of Hardware Units, individually, or the Customer Equipment, in the aggregate. Further, Customer shall at all times maintain the ability to report to Provider through automated means, and for Provider to affirmatively query, in respect of each Hardware Unit (i) the designated Mining Pool, and (ii) the hash rate (current and cumulative over the applicable period) thereof.

9.5. Availability

Customer shall have a Customer Representative available for communication through the Hardware Control App at all times.

9.6. Insurance

Customer shall maintain insurance coverage consistent with prevailing industry practices, but in any event, during the Term of this Agreement, Customer shall insure and keep insured (i) the Customer Equipment against all manner of loss in an amount not less than the replacement cost of the Customer Equipment, including during shipping to or from the Facility and (ii) all Customer Representatives against their acts and omissions, injury, or death in connection with any visits to the Facility or this Agreement. Customer shall maintain such insurance coverage during the Term, but in no event starting later than the first delivery of such Customer Equipment and the first arrival of a Customer Representative at the Facility, respectively. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES, IN THE EVENT CUSTOMER DOES NOT OBTAIN SUCH INSURANCE COVERAGE, OR IN THE EVENT SUCH INSURANCE COVERAGE IS INSUFFICIENT TO COVER CUSTOMER'S LOSSES IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES.

9.7. Information; Know Your Customer

Customer will provide Provider with any information required under any laws and regulations or orders by any Governmental Authority, in particular, but not limited to, information required for so-called "know your customer" checks under laws and regulations for the prevention of money laundering and terrorism finance.

9.8. Compliance with Law

Customer is solely responsible for ensuring that its use of the Services and its operations in connection with this Agreement comply with all Applicable Law.

10. Ownership

10.1. Customer Equipment

The parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Provider claim ownership of any of the Customer Equipment.

10.2. Ownership of Generated Assets

The Parties acknowledge and agree that any generated digital assets, including but not limited to blockchains, hash and digital currencies, generated from the operation of the Customer Equipment, are the sole property of the Customer. The foregoing shall not impair in any way Customer's obligations to pay the Fees hereunder, including the Hosting Fees arising out of Customer EBITDA, or any claims that Provider may make in connection therewith.

10.3. Liens / Encumbrances

Provider shall not sell any mortgage, lien, or any kind of encumbrance on the Customer Equipment,

11. Provider's Warranties

11.1. Capacity

Provider represents and warrants, as of the date hereof and as of the RFU Date that Provider is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

11.2. Disclaimer

PROVIDER DOES NOT AND CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT GIVE ANY IMPLIED, EXPRESS OR STATUTORY WARRANTIES OR REPRESENTATIONS, INCLUDING ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT.

12. Customer's Representations

Customer represents and warrants, as of the date hereof and as of the RFU Date that:

12.1. Capacity

Customer is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

12.2. Customer Equipment

Unless specifically disclosed otherwise, Customer Equipment is owned by Customer and is free of any lien or other interest or encumbrance of any third-party. Customer Equipment, is free of any defects or Harmful Code which could cause any harm to the Facility or the systems, including equipment, of Provider or any other customer. The Customer Equipment does not, and its operation does not, infringe (or result from the misappropriation of) any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right, of a third party.

12.3. No judgment or governmental order

There is no judgment, decree or order by any Governmental Authority applicable to Customer, which limits Customer in pursuing Customer Purpose or otherwise restricts Customer in performing its obligations under this Agreement or the transactions contemplated thereunder.

12.4. Export Matters

Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and is not otherwise a person to whom Provider is legally prohibited to provide the Services. Customer shall not provide administrative access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations.

12.5. No Inducements

Neither Customer, any affiliate of Customer, nor any of its or their employees, officers, directors, or representatives acting on their behalf, have provided or offered, or will provide or offer, any illegal or improper bribe, kickback, payment, gift or anything of value (but excluding any reasonable and ordinary business entertainment or gifts of an unsubstantial value, that are customary in local business relationships and permitted by Applicable Law) to Provider, any affiliate of Provider, nor any of its or their employees, officers, directors, or representatives acting on their behalf, in each case in connection with this Agreement.

13. Exclusion and Limitation of Liability

13.1. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF ANY DATA (INCLUDING BITCOINS), REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY).

13.2. THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER FOR THE SERVICES IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT(S) THAT FIRST GAVE RISE TO A CLAIM. PROVIDER SHALL NOT BE DEEMED TO BE A BAILEE IN RESPECT OF ANY CUSTOMER EQUIPMENT.

13.3. Notwithstanding anything in this agreement to the contrary, Provider's liability in connection with this Agreement for or arising from Provider's recklessness, gross negligence, fraud, or wilful misconduct shall be unlimited.

13.4. Notwithstanding anything in this Agreement to the contrary, Customer's liability in connection with this Agreement for or arising from : (i) Customer's recklessness, gross negligence, fraud, or wilful misconduct ; (ii) damage to the Facility, Provider's systems (including equipment), or any equipment of Provider's other customers, suppliers, contractors or other third parties caused by Customer, any Customer Representative, or Customer Equipment; (iii) Customer's breach of any of its representations or warranties under this Agreement, or of its confidentiality or intellectual property obligations hereunder; (iv) Customer's indemnification obligations hereunder; or (v) Customer's

breach of, or non-compliance with, the AUP or the Data Center Rules, shall, in each case, be unlimited in type and amount.

14. Force Majeure

A Party shall not be in breach of this Agreement and shall not be liable to the other Party for any loss or other damages suffered by reason of any failure or delay of such Party in the performance of its obligations hereunder due to a Force Majeure Event; provided that under no circumstances will a Force Majeure Event excuse any failure or delay in the performance of a Party's payment obligations hereunder.

If a Party becomes aware of circumstances in which a Force Majeure Event affects or will affect such Party's ability to perform any of its obligations hereunder, it shall notify the other Party in writing as soon as reasonably possible, specifying the nature of the Force Majeure Event and its effect on the performance of such Party's obligations hereunder.

15. Indemnity

Customer shall indemnify and hold harmless Provider, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "Provider Indemnified Parties") from and against any and all liabilities, obligations, losses, damages, allegations, claims, demands, suits, actions, deficiencies, penalties, charges, taxes, levies, fines, judgments, settlements, costs, expenses, interest, attorneys' fees and disbursements, and accountants' fees and disbursements (collectively, "Losses") or threatened Losses due to third-party claims arising out of or relating to any of the following: (i) Customer's breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, the Hardware Control EULA, or any of Customer's representations or warranties under this Agreement; (ii) actual or alleged infringement or misappropriation of any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right related to Customer Equipment, including any acquisition, provision, or use of Customer Equipment, or Customer's use of the Hosting Services; (iii) Customer Equipment, including all software and firmware thereon, or Provider's acquisition, provision, or use of Customer Equipment in accordance with this Agreement, except to the extent directly related to the Hardware Control App or Hardware Control Software; (iv) Customer's violation of Applicable Law; or (v) Customer's use of the Hosting Services.

Customer's obligations under this Section 15 include claims arising out of the acts or omissions of any Customer representative or Customer's users, any other person to whom Customer has given physical or virtual access to the Customer Equipment, and any person who gains access to the Customer Equipment or any of Provider's systems or Provider's other customers as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

If Provider receives notice of a claim that is covered by this Section 16, Provider shall promptly give Customer written notice thereof. Provider shall be allowed to conduct the defense of such claim at any time, including choosing legal counsel to defend such claim, provided that such choice is reasonable and is communicated to Customer in writing. Customer shall comply with Provider's reasonable requests for assistance and cooperation in the defense of such claim. Provider shall not settle the claim without Customer's written consent, which may not be unreasonably withheld, delayed or conditioned. Customer shall pay costs and expenses due under this Section 15 as Provider incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to Customer paying Provider such costs and expenses as Provider incurs them.

In the event Provider notifies Customer in writing that Provider does not desire to defend, or to continue to defend, such claim, Customer shall defend such claim using legal counsel of Customer's choice, provided that such choice is reasonable and is communicated to Provider in writing. Customer shall not settle the claim without Provider's written consent.

IT IS THE INTENTION OF THE PARTIES THAT CUSTOMER PROVIDE INDEMNIFICATION RIGHTS TO A PROVIDER INDEMNIFIED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT EVEN FOR THE CONSEQUENCES OF THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

16. Term

The term of this Agreement will commence on the Effective Date and will continue until the expiration or termination of this Agreement in accordance with its terms (the "Term"). The Term may include, as applicable, the period between the Effective Date and the RFU Date, the Initial Term, and any Renewal Terms.

The Initial Term will commence on the RFU Date and will continue for the length of time indicated in the Key Terms. Neither Party shall have the right to terminate this Agreement prior to the end of the Initial Term; provided that each Party may terminate this Agreement for cause due to the occurrence of an applicable Termination Event.

If neither Party delivers Notice to the other Party at least three (3) months prior to the end of the Initial Term or then-current Renewal Term, then the Term shall be extended automatically for another twelve (12) months (each such twelve (12)-month period, a "Renewal Term").

Notwithstanding the foregoing or anything to the contrary, in no event shall the Term extend beyond the term of Provider's lease to the Facility. Upon the expiration or termination of such lease, the Term, if still in effect, shall be automatically terminated. To the extent applicable, Provider shall provide Customer with Notice of such expiration or termination, and of the resulting termination of this Agreement (i) at least three (3) months prior to such termination of this Agreement or (ii) as soon as practicable after Provider becomes aware of such termination of this Agreement, whichever is later.

17. Termination; Removal of Customer Equipment

17.1. Termination Events

Other than at the end of the Term, the non-breaching Party may terminate this Agreement upon the occurrence of one of the following events (each a "Termination Event"), as may be applicable to such non-breaching Party:

17.1.1. Payment Default

If a Party fails to make a payment to the other Party owed under this Agreement when due, unless such default is remedied within three (3) Business Days following the breaching Party's receipt of notice by the non-breaching Party of such failure.

17.1.2. Insolvency

If a Party is unable to pay its financial obligations when due, becomes subject to insolvency proceedings, applies for or institutes insolvency proceedings or offers or makes an arrangement with its creditors generally, or if a third-party applies for insolvency proceedings against such Party and such proceedings are not stayed or discharged within thirty (30) days, unless such proceeding is dismissed due to insufficiency of assets.

17.1.3. Material Breach

If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within ten (10) Business Days after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.

17.1.4. Service Level Defaults

If Provider suffers Service Level Defaults in three (3) consecutive months, in respect of which the Uptime during each such month was less than 80%.

17.2. Termination

Upon the occurrence of a Termination Event, the Party not having given rise to such Termination Event (the "Non-Defaulting Party") may terminate this Agreement with immediate effect as of the date set forth in a written notice thereof provided to the Defaulting Party.

17.3. Deinstallation and Removal of Customer Equipment

Customer (i) acknowledges that all Customer Equipment must be dismantled and removed from the Facility by the Termination Date and (ii) shall deliver to Provider (x) written shipping instructions for the Customer Equipment, (y) packaging materials suitable for the Customer Equipment, and (z) standard containers in which packaged Customer Equipment can be stored until it is shipped, in each case, in accordance with the following:

Within five (5) Business Days from receiving a Notice of termination from Customer, or having issued a notice of termination to Customer, Provider shall provide Customer with a written estimate of the number of days required for Provider to deinstall and package the Customer Equipment for shipment to Customer, and of the date on which such work is expected to begin (the "Deinstallation Commencement Date"). Provider shall use commercially reasonable efforts to begin such work on or around the Deinstallation Commencement Date, and in any event within a reasonable number of days from the Termination Date. In no event shall Provider begin deinstallation of the Customer Equipment prior to the Deinstallation Commencement Date. The period between the Deinstallation Commencement Date and the Termination Date is herein referred to as the "Phase-out Period."

During the Phase-Out Period Provider will deinstall the Customer Equipment, package it in Customer-provided packaging materials, and ship it to Customer in accordance with Customer's shipping instructions, all of which shall be at Customer's expense (at the Service Rates for Provider's work, and at the actual cost for all third party costs such as shipping). For the avoidance of doubt, all deinstallation must be performed by Provider, and Customer shall have no right to deinstall or remove Customer Equipment from the Facility.

During the Phase-out Period the Specified Power Draw will be adjusted downward on a straight-line basis, based on the assumption that an equal number of Hardware Units will be deinstalled on each Working Day during the Phase-out Period.

In the event Customer does not deliver the shipping instructions, packaging materials and containers to Provider in accordance with this Section 17.3, the deinstallation and removal of the Customer Equipment may be delayed beyond the Termination Date. To the extent such a delay occurs, all Hosting Charges shall be due and owing until such time as all Customer Equipment is deinstalled and removed from the Facility (for which Customer's provision of such instructions, materials and containers is a condition precedent). Provider will use commercially reasonable efforts to deinstall, remove and pack the Customer Equipment without damage; provided, however, that CUSTOMER HEREBY AGREES THAT EXCEPT FOR CLAIMS BASED ON PROVIDER'S RECKLESSNESS, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION

WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM PROVIDER'S DEINSTALLATION, PACKAGING, AND SHIPMENT OF THE CUSTOMER EQUIPMENT.

At the request of the Customer, the Provider can dispose of the Customer Equipment for a fixed charge (the "**Disposal Charge**"). The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Provider will inform the Customer of the Disposal Charge upon request after a Notice of termination has been issued under this Agreement.

18. Confidentiality

- 18.1. The Parties agree that Confidential Information shall be used solely for the purpose for which it was furnished in connection with the performance of this Agreement and that they shall each hold confidential all Confidential Information and not disclose it to any third-parties, except that the Parties may disclose Confidential Information to their affiliates, to their auditors and legal advisors and to such Customer Representatives who need access to Confidential Information to perform their duties in connection with this Agreement. At the expiration of the Term, the Parties shall return any Confidential Information to the disclosing party or destroy such Confidential Information.
- 18.2. Any disclosure of Confidential Information permitted by Section 18.1 shall only be to the extent that any person who Confidential Information is provided to needs to know the same for the performance of their duties, and shall only be under the condition that such person acknowledges and agrees to be bound by, the confidentiality obligation under this Section.
- 18.3. The restrictions set out in Sections 18.1 and 18.2 above shall not apply to Confidential Information that:
- 18.3.1. was previously known to the receiving Party, independent from any disclosure under or in connection with this Agreement and free from any obligation to keep confidential;
- 18.3.2. is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorised disclosure by the receiving Party or its representatives;
- 18.3.3. is shown to have been independently developed by the receiving Party;
- 18.3.4. the Parties agree in writing need not be kept confidential;
- 18.3.5. is required to be disclosed by law or regulation or by an order of any Governmental Authority.

In the case of Section 18.3.5, the receiving Party shall, to the extent legally and practically possible, inform the disclosing Party of the information to be disclosed and the timing and circumstances of such disclosure, providing the disclosing Party with an opportunity to avoid and limit any such disclosure.

19. Notices

Any Party can give notice under this Agreement (each a "**Notice**") by sending an email or by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the

applicable email or mailing address listed below; provided that any Termination Notice, and any notice for breach, indemnification, or other legal matter, shall be given by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable mailing address listed below, sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address: Whinstone US Corporation
2721 Charles Martin Hall Road
Rockdale, Texas 76567, USA
email: c.harris@whinstone.us
Attention: Chad Everett Harris

To Customer:

Address: Rhodium JV LLC
7546 Pebble Drive
Fort Worth, Texas 76118
email: [email address]
Attention: [representative]

Notices by email are deemed received as of the time sent, and notices by mail (and all notices required to be by mail) are deemed received as of the time delivered. If such time does not fall within a Business Day, as of the beginning of the first Business Day following such time. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices shall be given in the English language.

Either Party may change its notice addresses for future Notices by providing the other Party with Notice of such change.

20. Assignment; Subcontracting

This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of each Party hereto. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that either Party may assign this Agreement, in whole or in part, to an affiliate or successor or wholly-owned subsidiary of such Party as part of a corporate reorganization or a sale of some or all of its business; provided that the assigning Party notifies the other Party of such assignment in writing.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain responsible under this Agreement for work performed by its subcontractors and affiliates to the same extent as if Provider had performed such work itself.

21. Right of Publicity; Use of Marks

Customer agrees that Provider may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Provider name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services without first obtaining Provider's prior written approval of each such disclosure.

22. Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD.

NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

23. Miscellaneous

23.1. Survival

The following provisions shall survive termination or expiration of this Agreement: Confidential Information, Indemnification, Limitation on Damages, Notice, Governing Law / Arbitration, Miscellaneous, all provisions requiring Customer to pay any amounts (i) owed for Services provided under this Agreement prior to the Termination Date or otherwise (ii) otherwise owed by Customer hereunder, and any other provisions of this Agreement that, by their nature, would continue beyond termination or expiration of this Agreement.

23.2. No Lease

This Agreement does not create any real property interest for Customer in the Customer Area or the Facility, and Customer shall not, shall not attempt to, and shall not encourage any third party to file or otherwise create any liens or other property interest or liability on the Facility or any portion thereof.

23.3. Independent Contractor

Each Party is an independent contractor to the other Party in connection with this Agreement, and personnel used or supplied by a Party in the performance of this Agreement shall be and remain employees or agents of such Party and under no circumstances shall be considered employees or agents of the other Party. Each Party shall have the sole responsibility for supervision and control of its personnel. Except with to the extent Provider purchases Hardware Units on Customer's behalf in accordance with this Agreement, Neither Party is an agent for the other Party, and neither Party has the right to bind the other Party in connection with any agreement with a third party.

23.4. No Third Party Beneficiaries

This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns. Nothing herein, express or implied, shall confer, or shall be construed to confer, any rights or benefits in or to any other person.

23.5. Remedies

The rights and remedies of either Party under this Agreement shall be cumulative and not exclusive or alternative.

23.6. Waiver

No failure or delay by either Party in requiring strict performance of any provision of this Agreement, no previous waiver or forbearance of the provisions of this Agreement by either Party, and no course of dealing between the Parties will in any way be construed as a waiver or continuing waiver of any provision of this Agreement.

23.7. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be enforced to the maximum extent possible under law and will, to the extent possible, be replaced by such enforceable provision most closely mirroring the Parties' intentions. All other provisions of this Agreement will remain unaffected by such invalidity or unenforceability and will remain in full force and effect. The Parties acknowledge and agree that the pricing and other terms in this Agreement reflect, and are based upon, the intended allocation of risk between the Parties and form an essential part of this Agreement.

23.8. Conflict

To the extent there is a conflict between or among the terms of this Agreement, the AUP, the Data Center Rules, and the Hardware Control EULA, the following shall be the order of precedence: (i) AUP; (ii) Hardware Control EULA; (iii) Agreement; (iv) Data Center Rules.

23.9. Interpretation

The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party. The words "include," "includes," and "including" (or similar terms) shall be deemed to be followed by the words "without limitation." The captions, titles, and section headings are for convenience only and are not intended to aid or otherwise affect the interpretation of this Agreement. The words "written" or "in writing" are used for emphasis in certain circumstances and shall not reduce or eliminate the notice requirements set forth in this Agreement. The use of a term defined herein in its plural form includes the singular and vice versa. The terms defined herein shall be inclusive of all tenses. All references to "days" shall be deemed to refer to calendar days, except as expressly stated otherwise.

23.10. Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

The Key Terms and Services may be amended to modify, add, or remove Key Terms and Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of Customer's purchase order or business form, or other standard or pre-printed terms that

Customer provides, be of any force or effect as between the Parties.

23.11. Counterparts

This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed counterparts or the exchange electronic transmissions of executed counterparts.

[Signature Page Follows.]

Rockdale, December 31, 2020

Chad Everett Harris
Whinstone US, INC


RHODIUM JV LLC

by: Cameron Blackmon

title: Manager

Annex 1
Services Rates

The hourly rates listed below include costs associated with essential equipment, such as cranes, heavy machinery, forklifts, hand tools, fuel, insurance, software, transportation, and handling. Provider will also handle administrative matters such as timekeeping, performance tracking, safety enforcement and incident response, payroll, and employee complaints.

Engineers

Lead Engineer - \$425.00 per hour

Assistant Engineer - \$250.00 per hour

Junior Engineer - \$175.00 per hour

Administrators

Administrator - \$135.00 per hour

Supervisors

Construction Supervisor - \$85.00 per hour

Equipment Operation Supervisor - \$85.00 per hour

Laborers

Skilled Laborers - \$45.00 per hour

IT Service

Basic Remote Hand Service \$70.00 per hour

Advance Remote Hand Service \$140.00 per hour

Annex 2

12.5% Rev Share Payment

The **"12.5% Rev Share Payment"** as described in section 6.1 of this agreement shall be calculated based on what is effectively earnings before interest, taxes, depreciation, and amortization (EBITDA), adjusted for certain cashflow adjustments as indicated below. For avoidance of doubt in preparing such calculation, the formula and mechanical steps to calculate the **12.5% Rev Share Payment** shall be applied as follows:

- Step 1: Customer shall prepare its books and records based on its internal accounting policies and procedures for the Measurement Period in order to calculate Net Income.
- Step 2: Customer shall make certain tax adjustments, as prescribed by and in accordance with US tax law, to its Net Income in order to accurately estimate its annual federal, state and local tax liability for the Measurement Period ("**Cash Tax Estimate**").
- Step 3: Customer make certain deductions from Net Income for any forecasted working capital and capital expenditure needs (excluding dividends) of the Customer for the future ("**Retained Cash**").
- Step 4: Customer shall deduct from Net Income any contractual debt obligations service obligations Customer pays prior to the Lump Sum Hosting Payment ("**Debt Service**").
- Step 5: The result of Customer adjusting Net Income in Step 1 for steps 2, 3 and 4, shall be defined as the preliminary cash available for payment ("**Preliminary-Cash-Available-For-Payment**").

EXHIBIT 2

Hosting Agreement

This Hosting Agreement (this “**Agreement**”) is made as of **December 31, 2020** (the “**Effective Date**”) between **Whinstone US, Inc.**, a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA (“**Provider**”), and **AIR HPC LLC**, a limited liability company organized and existing under the laws of Delaware, having its principal office at 7546 Pebble Drive, Fort Worth, Texas 76118 (“**Customer**”). **Provider and Customer are hereinafter together referred to as the “Parties” and each as a “Party.”**

WHEREAS, Provider operates a hosting data center facility the primary business purposes of which is to make the facilities (e.g., power, cooling, and Internet connectivity) necessary to support high volumes of cryptocurrency mining devices available to customers that have, or desire to obtain, such devices, and are seeking an off-premises location to store and operate such devices;

WHEREAS, Customer currently owns or desires to procure dedicated Bitcoin mining devices, and desires to install such devices in a facility at which Customer may manage and operate such devices remotely;

WHEREAS, Provider is willing to provide such hosting services to Customer, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1. Key Terms

- 1.1. The table below sets forth a summary of the principal terms of the hosting arrangement under this **Agreement (the “Key Terms”)**. Each of the terms in the leftmost column of this table will have the meaning set forth in the respective row(s) in the column(s) to the right.

| | | |
|----------------------------------|--|------------|
| Target Ready-for-Use Date | December 31, 2020 | |
| Initial Term Length | 120 months | |
| Customer Equipment | (To be specified in writing by Customer and document here) | |
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit*: | _____ TH/s |
| | Power usage per unit*: | _____ W/GH |
| Hardware Unit | | |
| Unit type: | _____ | |
| Number of units: | _____ | |
| Hash rate per unit: | _____ TH/s | |
| Power usage per unit: | _____ W/GH | |
| Specified Power Draw | Up to 25 MW | |
| Hosting Fees | As defined in Section 6.1 of this Agreement | |
| Provider Account | _____ | |
| Customer Account | _____ | |

*The “hash rate per unit” and “power usage per unit” values (i) are estimates included for reference purposes only, (ii) do not constitute a service level, guarantee, or other obligation of Provider, (iii) may vary significantly from time to time and from the estimated values, and (iv) have no impact on pricing or amounts owed under the Agreement.

2. Definitions

2.1. Defined Terms

The terms listed below, when used in this Agreement, shall have the following meaning

“**Advanced Remote Hands Service**” is defined in Section 3.4.

“**Applicable Law**” means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, interpretation, writ, judgment, injunction, license, or permit, issued or enacted by any Governmental Authority, which is applicable to a Party under this Agreement, including securities laws, tax laws, tariff and trade laws, and data laws.

“**AUP**” or “**Acceptable Usage Policy**” means Provider’s then-current acceptable use policy, which may be referenced at www.whinstone.us.

“**Basic Remote Hands Service**” is defined in Section 3.3.

"Building Unit" means each separate building within the Facility.

"Business Day" means a day which is not a Saturday, Sunday or a public holiday in Texas.

"Confidential Information" means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs.

"Connection" means the connection between Customer Equipment and the internet.

"Customer" is defined in the preamble to this Agreement.

"Customer Area" means the part of the Facility that is designated for the installation of the Customer Equipment.

"Customer Equipment" means the hardware equipment (including required PDUs) that is provided by Customer and installed in the Customer Area, including all software and firmware on such equipment other than any software and firmware owned or licensed by Provider.

"Customer Representative" means any officer, employee, agent, sub-contractor or other person identified by Customer as acting on Customer's behalf.

"Data Center Rules" means the then-current rules and procedures relating to physical access to the Facility.

"Data Center Specifications" is defined in Section 3.1.

"Defaulting Party" is defined in Section 17.1.

"Deinstallation Commencement Date" is defined in Section 17.3.

"Demand Reduction Benefit Program" means any scheme initiated by a power supplier, power network supplier or other third party in the power market area managed by the Electric Reliability Council of Texas, under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage.

"Deposit" is defined in Section 6.3.

"Disposal Charge" is defined in Section 17.3.

"Engineering Services" means services relating to Facilities engineering in connection with Customer's increase in power consumption requirements and the related increases in Customer Equipment associated therewith.

"Facility" means the data center operated by Provider at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

"Force Majeure Event" means any event beyond the reasonable control of a Party, including, without limitation, war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law, regulation, rule, or any act, order, direction, or ruling of a Governmental Authority coming into force after the date of this Agreement, tornado, hurricane, severe storms, earthquake, lightning, fire, flood or other natural or environmental disaster, temperature and humidity above the cooling capabilities of the Facility, epidemic, quarantine, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, acts of God, failure of a part of the power grid or related substation failure of the Internet, failure or delay in the performance of Provider's third-party suppliers or of other third-party suppliers, including the supplier under the Power Supply Contract, and strikes, slowdowns, lockouts or other labor stoppages.

"Governmental Authority" means any domestic or foreign, supra-national, national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, taxing

authority, agency (public or otherwise), or governmental entity or quasi-governmental entity (including any subdivision thereof), in each case anywhere in the world, having competent jurisdiction over a Party.

"Hardware Control App" means the application that is made available by Provider to permit Customer to manage the Customer Equipment.

"Hardware Control Software" means the software which enables management of the Customer Equipment by Customer and Provider via the Hardware Control App.

"Hardware Control EULA" is defined in Section 3.2.

"Hardware Unit" means each individual unit of Customer Equipment bearing a separate identification code.

"Harmful Code" means any software, hardware or other technologies, devices, or means, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, (i) any computer, software, firmware, hardware, system (including equipment) or network, (ii) the Facility or portion thereof or (iii) any application or function of any of the foregoing or the integrity, use, or operation of any data processed thereby, and, in each case, includes any virus, malware, bug, Trojan horse, worm, backdoor, or other malicious computer code and any time bomb or drop-dead device.

"Hosting Services" is defined in Section 3.1.

"Maintenance" means any activity performed by Provider in order to maintain, upgrade or improve the Services, including any modification, change, addition, or replacement of any Provider hardware, or any part of, or machinery or other components of, the Facility.

"Minimum Hosting Charge" is defined in Section 6.1.

"Mining Pool" means the group of Bitcoin miners to which Customer determines to contribute the processing power of any particular piece of Customer Equipment in order to collaborate in finding new Bitcoin blocks.

"Non-Defaulting Party" is defined in Section 17.2.

"Notice" is defined in Section 19.

"Parties" is defined in the preamble to this Agreement.

"PDU" means power distribution unit.

"Phase-out Period" is defined in Section 17.3.

"power" means electric power.

"Power Firmware" means firmware that is made available by a third party, and that may be required in order to enable certain advanced power management functions. In all cases, the Power Firmware is licensed by the third party to Customer and is installed on the Customer Equipment by Provider only at the express direction of Customer.

"Power Supply Contract" means Provider's agreements with third parties related to the provision of power to the Facility.

"Provider" is defined in the preamble to this Agreement.

"Racks" means the racks provided by Provider and configured for installation of the particular Customer Equipment.

"Related Services" is defined in Section 3.2.

"Remote Hands Service" is defined in Section 3.5.

"RFU Date" or **"Ready-for-Use Date"** means December 31, 2020.

"Scheduled Maintenance" means any Maintenance activities for which Provider notified Customer

at least 3 days in advance, which notice may be given by publication on the Hardware Control App.

“Service Rates” means Provider’s then-current rates for Related Services and Advanced Remote Hands Services, as set forth in Annex 1.

“Service Charges” means amounts owed by Customer in connection with the Services.

“Service Level Default” is defined in Section 8.

“Service Level Credit” is defined in Section 8.

“Services” is defined in Section 3.2.

“Specified Power Draw” means the amount of power that is to be made available to Customer as part of the Hosting Services, as the same may be increased as provided in Sections 3.6 and 6.2.

“Term” is defined in Section 16.

“Termination Date” means the date this Agreement terminates or expires.

“Termination Event” is defined in Section 17.1.

“Ticket” means an electronic request for service generated in the Hardware Control App.

“Unscheduled Maintenance” means Maintenance that is not Scheduled Maintenance.

“Uptime” means the amount of time in the applicable month that the Hosting Services are available to Customer, as determined in accordance with Section 8.

“Uptime Service Level” is defined in Section 8.

“Working Hours” means the hours from 8:00 a.m. to 5:00 p.m., Central Time, on a Business Day.

3. **Provider’s Services**

3.1. Facility

All Services are provided within the Facility, which is designed to meet the following specifications (the **“Data Center Specifications”**):

- power supply up to the Specified Power Draw;
transforming equipment;
-
- evaporative cooling;
- limited air filtration; and
- internet connectivity.

it being understood that each of the foregoing is made available to the Customer Area on a shared, non-exclusive and non-redundant basis.

Within the Facility, Provider does not guaranty that the Customer Area will be contiguous. The Customer Area may spread over several Building Units, and is not physically separated from areas in the Facility in which the equipment of other customers is hosted. Provider has the right to change the location of the Customer Area within the Facility and to relocate Customer Equipment, subject to the maintenance and service level obligations set forth in this Agreement.

3.2. Services

Provider shall provide Customer with the Hosting Services and the Related Services (together the **“Services”**) during the Term.

The "Hosting Services" consist of:

- providing the Customer Area in accordance with the Data Center Specifications;
- providing Racks in the Customer Area;
- hosting the provided Customer Equipment in the Racks;
- hosting the Customer-provided PDUs installed in the Racks, as may be required by the particular Customer Equipment;
- making available the Hardware Control Software and Hardware Control App (it being understood that these components are subject to a separate license agreement (the "Hardware Control EULA"), but for which no separate license fee is payable);
- monitoring the fire detection and alarm system provided by Customer
- providing monthly reports to the Customer that will contain a summary of monthly power draw in the Customer Area as measured from power consumption meters; and
- providing basic physical security and physical access control for the Facility.

The "Related Services" consist of

- installation of Customer Equipment (as more particularly described in Section 3.3);
- the Basic Remote Hands Service (as more particularly described in Section 3.4); and
- deinstallation of Customer Equipment.

For the avoidance of doubt, the Related Services are not optional, and the Customer's receipt of and payment for the Related Services is a requirement for hosting the Customer Equipment in the Facility.

3.3. Installation

Customer agrees to pay hourly for installation services as defined in Annex 1 and includes, as it relates to the Customer Equipment, PDUs, and any other Customer-provided materials (e.g., the fire detection and alarm system, specific air filtration equipment, single phase liquid cooling units, etc.):

- unpacking;
- labelling;
- positioning in the Racks;
- installation and management of cables (power and LAN connection);
- inventorization and inventory management;
- installation of the Hardware Control Software and Power Firmware, if applicable;
- initial setting;
- disposal of packing materials; and
- installation of any Customer-provided fencing or other physical security devices that are agreed by the Parties

Installation does not include the provision or installation of any software other than the Hardware Control Software. In certain cases, a particular Hardware Unit may require an update to its firmware (as determined and designated by the manufacturer thereof). In such case, Provider will apply such firmware update in accordance with the instructions provided by such manufacturer. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY

HARDWARE UNIT, ANY SOFTWARE OR FIRMWARE INSTALLED THEREON, OR ANY MANUFACTURER WARRANTY RIGHTS RELATING THERETO (INCLUDING ANY VOIDED WARRANTIES) ARISING OUT OF OR RESULTING FROM THE APPLICATION OF ANY SUCH MANUFACTURER-PROVIDED FIRMWARE UPDATE OR THE POWER FIRMWARE. IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer-designated Mining Pool. If Customer has not designated a Mining Pool, installation will be deemed complete when the applicable Hardware Unit powers up without fault (it being understood that in no event will Provider be required or requested to select a Mining Pool on Customer's behalf). In the case of faulty Hardware Units, installation is completed when Provider diagnoses the fault and provides a report to Customer.

Except as may otherwise be determined by Provider in its sole discretion, Customer shall not have any rights to install, uninstall, or otherwise physically access any Hardware Units in the Facility.

3.4. Basic Remote Hands Service

The basic Remote Hands Service (the "**Basic Remote Hands Service**") consists of the following tasks, as applicable, which will be performed by Provider based on the specific instructions of Customer with a cost defined in Annex 1 and billed weekly.

- pushing a button;
- switching a toggle;
- turning on/off of Customer Equipment;
- switching back on any breakers that have tripped during the 8am to 8pm CT time period;
- securing cabling connections;
- observing, describing and/or reporting of indicator lights or display information on machines or consoles;
- cable organization;
- modifying basic cable layout, labelling and/or re-labelling of Customer Equipment;
- cable patching;
- checking alarms for faults; and/or
- inserting/removing discs or equivalent storage devices provided by Customer into/from the Customer Equipment (it being understood that Provider shall not be responsible for, or have any obligation to verify, the contents of such devices).

Performance of these services will be available on a 24/7 basis. For the avoidance of doubt, the Basic Remote Hands Service is included as part of the Variable Hosting Rate and will not be subject to separate charges or invoices.

3.5. Advanced Remote Hands Service

The following activities, which require software or hardware changes requested by Customer (the "**Advanced Remote Hands Service**" and, together with the Basic Remote Hands Service, the "**Remote Hands Service**"), may be requested by Customer and provided by Provider on an "as-is" basis, subject to the prior mutual agreement of the Parties with a cost defined in Annex 1 and billed weekly.

- installation of applications or software on Customer Equipment;
- uploading of data to Customer Equipment;

- configuration of Customer Equipment operating system;
- hardware fault diagnosis;
- software fault diagnosis;
- rectification of problems caused by Customer Equipment or software;
- rectification of problems caused by Customer;
- cleaning of Customer Equipment;
- any service requiring the opening of the outer casing of any Customer Equipment; and
- providing support for customer installed IT security for the Facility, including the installation, maintenance and operation of a firewall and implementation and administration of an IT security policy to prevent unauthorized access, viruses, and ransomware; and
- monitoring and performing routine and as-required maintenance of the single phase liquid cooling units provided by Customer;
- managing the Customer-provided air filtration equipment;
- any other activity not expressly listed as a Related Service.

Performance of these services will be available on a 24/7 basis. Any particular Advanced Remote Hands Service that is commissioned by Customer and performed by Provider shall be deemed to be part of the "Services" under this Agreement. Customer hereby acknowledges that Provider makes no warranties of any kind in connection with the provision of the Advanced Remote Hands Services. Any software or firmware installed on any Hardware Unit as part of the Advanced Remote Hands Service must be pre-approved by Provider. Provider will install such software or firmware in accordance with Customer's instructions, and Provider shall have no obligation to install any software or firmware without, or not in accordance with, Customer's instructions. CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES. PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND ARISING OUT OF ANY APPLICATIONS, SOFTWARE, DATA, OR OTHER MATERIALS PROVIDED BY CUSTOMER, AND IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

CUSTOMER HEREBY ACKNOWLEDGES THAT ADVANCED REMOTE HANDS SERVICE, INCLUDING ANY DISASSEMBLING OR OPENING OF THE OUTER CASING OF ANY CUSTOMER EQUIPMENT AND THE INSTALLATION OF ANY SOFTWARE OR FIRMWARE ON ANY HARDWARE UNIT, MAY VOID SOME OR ALL OF THE MANUFACTURER WARRANTIES RELATING TO SUCH HARDWARE UNIT (INCLUDING ANY SOFTWARE OR FIRMWARE INSTALLED THEREON). CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH, ANY SUCH VOIDED MANUFACTURER WARRANTIES ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES.

3.6. Engineering Services

The Engineering Services may be requested by Customer and provided by Provider on an "as-is" basis, subject to the prior mutual agreement of the Parties with a cost defined in Section 5. For the avoidance of doubt, Provider shall not be required to perform any Engineering Services unless and until (i) there is a written authorization executed by authorized representatives of each Party that sets forth the scope of the services and the charges to be paid therefor, and (ii) Customer has

executed a written acknowledgement of and express agreement with respect to the increase to the Specified Power Draw that will be applicable for the then-remaining Term and the Deposit that is payable in respect thereof.

3.7. Service Orders

Customer shall place all orders for Remote Hands Service through the Hardware Control App. Such orders are placed by opening a Ticket specifying the relevant Hardware Unit, the requested action, and all other information requested by the Hardware Control App. All such Tickets shall be deemed to be orders for such services, and Customer shall be obligated to pay all fees arising out of Provider's performance thereof.

Under certain circumstances the Hardware Control App has the ability to open Tickets automatically in response to certain performance characteristics and failure modes relating to the Customer Equipment, to the extent that such functionality is enabled by Customer. Any such Tickets that call for Basic Remote Hands Service shall be deemed to have been opened by the Customer, and be conclusive orders for such Basic Remote Hands Service. For the avoidance of doubt, the performance of this functionality under the Hardware Control App shall be governed by the Hardware Control EULA and not this Agreement.

4. **Power Supply**

4.1. Provider will make power available to and in connection with the Customer Area up to the amount of the then-applicable Specified Power Draw, subject to Sections 4.5 and 4.6.

4.2. Customer acknowledges that the Specified Power Draw will be allocated to the Customer Area for the power usage of the Customer Equipment, the evaporative cooling of the Customer Area, as well as any other components that may be installed in the Customer Area that require power, such as additional cooling, air filtration, and monitoring equipment (i.e., it is allocated to the collective requirements of all components in the Customer Area that draw power).

4.3. Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw. Provider has the right to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the evaporative cooling therefor) is, in the aggregate, reasonably likely to exceed the Specified Power Draw, or (ii) individual Hardware Units are reasonably likely to draw beyond the power usage per unit set forth in Section 1.

4.4. If a Ramp-Up Period is provided in Section 1, then for the applicable periods set forth therein the Specified Power Draw shall be deemed to be replaced with the values of the Temporary Power Draw.

4.5. Customer acknowledges that the power to the Facility is ultimately provided by third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by the Electric Reliability Council of Texas, Inc., and the Public Utility Commission of Texas (collectively, the "Power Regulations"). To the extent that the available power to the Facility is reduced pursuant to Power Regulations, and such reductions are not due to the wrongful actions of Provider, Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw; provided that in such case, Provider shall not treat Customer, in any respect, less favorably than any similarly situated Provider customer. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.

4.6. Customer hereby expressly consents to Provider's participation in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion. Customer acknowledges that any such participation may result in partial or complete reduction in power available to Customer from time to time, and that Provider may reduce the power available to Customer to an amount that is less than

the Specified Power Draw. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.

- 4.7. **Customer acknowledges that Provider's right to participate in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion, forms an essential basis of the agreements set forth in this Agreement, and that, absent such right, the terms of this Agreement, including the Hosting Charges, would be substantially different.**
- 4.8. Customer hereby expressly consents to the use of the Power Firmware in connection with the foregoing Demand Reduction Benefit Programs.

5. Access to the Facility; Data Center Rules

- 5.1. Customer Representatives may access the Customer Area of the Facility during Working Hours, in accordance with the Data Center Rules, for equipment inspections, installation, removal, additions, subtractions or physical maintenance or otherwise by prior appointment as mutually agreed. To obtain such access, Customer must provide prior notice to Provider in accordance with the Data Center Rules, and coordinate with Provider so that all such access may be escorted. Notwithstanding anything to the contrary, Provider shall have the right to remove any **Customer Representative from the Facility premises in Provider's sole discretion, at any time, and without any liability to Customer or any Customer Representative.**
- 5.2. Customer, and the Customer Representatives, shall comply with all Data Center Rules in connection with such access. Customer shall inform each applicable Customer Representative of the Data Center Rules prior to such Customer Representative accessing the Facility. Customer shall be liable for the acts and omissions of all Customer Representatives who access, or attempt to access, the Facility, including for their violation of the Data Center Rules, at least to the same extent as if such **acts and omissions were Customer's own.**

6. Hosting and Service Charges; Payments; Deposit

6.1. Charges for Hosting Services

In consideration of Provider's performance of the Hosting Services, Customer shall pay Provider each of the following fees (the "Hosting Fees"):

Power Charges

Each month, the *greater of* (i) the Power Charge for the aggregate amount of power actually consumed (expressed in kWh) by all power-consuming devices in the Customer Area, and (ii) the Power Charge for the volume of power represented by the then-current Specified Power Draw (expressed in kWh).

The "Power Charge" in respect of a stated amount of power (expressed in kWh) shall be determined based on a per-kWh cost that is equal to the effective per-kWh cost of power to the Facility as a whole for the subject month (i.e., the Facility's wholesale power cost (including both supply and delivery charges, including any retail adders) less any credit amounts actually received by Provider under applicable ERCOT load response programs); provided, however, that in the event that such effective per-kWh cost exceeds \$0.01705, the Power Charge shall be determined using \$0.01705 as the assumed Facility per-kWh power cost.

The Hosting Services charge is inclusive of any and all value added taxes, sales, use, excise and other similar transactional taxes or duties.

Hosting Share Payment

An amount equal to approximately 50.0% of customer EBITDA measured over a calendar-year basis. The precise "50.0% Rev Share Payment" which approximated customer EBITDA is defined in Annex 2.

6.2. Charges for Related Services, Advanced Remote Hands Services, and Engineering Services

Customer shall pay for Engineering Services as the Parties mutually agree, both as to scope thereof and the specific charges to be paid in respect thereof. As of the Effective Date, the Parties believe that such charges are likely to be approximately \$160,000-200,000 USD per increase in committed megawatt, or \$1.6mm to \$2.0mm per 10-megawatt phase. The preliminary planning of the Parties indicates as phased build-out to a total of 130 committed megawatts, as follows:

- Phase 1 Engineering Services for 30 MW -\$6,000,000.00
- Phase 2 Engineering Services for 30 MW -\$6,000,000.00
- Phase 3 Engineering Services for 30 MW -\$6,000,000.00
- Phase 4 Engineering Services for 30 MW -\$6,000,000.00
- Phase 5 Engineering Services for 10 MW -\$2,000,000.00

The Related Services and Advance Remote Hands Services shall be paid by Customer at the Service Rates, billed in half-hour (0.5h) increments. The Service Rates are exclusive of any value added taxes, sales, use, excise and other similar transactional taxes or duties. Customer will pay the value added tax and such other taxes referenced in the foregoing at the rate and in the manner prescribed by Applicable Law.

6.3. Deposit

Customer will pay to Provider as security for any obligations of Customer one or more security deposits (the "Deposits") in amounts that are equal to any deposit amounts or other similar payments providing security for Provider's obligations to the supplier under any Power Supply Contract, to the extent that such payment arises out of the Specified Power Draw or any increases thereto. Provider's obligation to provide the Specified Power Draw shall be excused during any period that Customer is in default of the obligations relating to the payment of Deposits.

Each Deposit will be paid to Provider on or before the date that such amounts are due under the Power Supply Contract and will be returned to Customer within six (6) months following the end of the Term, unless used by Provider to set off claims against Customer.

Customer acknowledges that the Deposits do not need to be segregated from other funds of Provider and that, in particular, Provider is authorized to use the Deposits to make any deposit payments it is required to make with its power provider or other suppliers.

6.4. Invoicing; Payments

Customer shall pay Provider the Hosting Fee relating to Power Charges each month, no later than ten (10) Business Days after the end of such month. Customer shall pay Provider the Hosting Fee relating to the 50.0% Rev Share Payment on a monthly, quarterly, or annually, with such payment interval to be selected by Customer, but provided, however, that in any case, payment shall be made within ninety (90) Business Days following the closing of Customer's books for such period, but in any event no later than one hundred twenty (120) calendar days following the end of such period.

No later than ten (10) Business Days after the end of each month during the Term, Provider will invoice Customer for any Related Services, Advanced Remote Hands Services, or any Engineering Services, plus any applicable taxes.

Customer shall make such payment within ten (10) Business Days following the date of such invoice.

If Customer should become delinquent in the payment of any invoice, Provider shall have the right thereafter to request pre-payments for Service Charges, charges for Advanced Remote Hands Services, or Engineering Services, at its reasonable discretion.

All Payments among the Parties will be made in United States Dollars by wire transfer of immediately available funds into the Provider Account or Customer Account, as applicable, unless agreed otherwise by the Parties.

6.5. No Off-Set

Customer shall not set-off any amount owed or alleged to be owed by Provider to Customer against any other payments due to Provider.

6.6. Change of Hosting Charges

In the event of changes in or the establishment of laws, regulations, orders or policies by Governmental Authorities, including any adverse change to any Demand Reduction Benefit Program (but excluding a wholesale power price increase to Provider), Provider shall have the right to make corresponding increases in the Hosting Fees and the Services Rate, upon written notice and mutual agreement by the Customer.. Any such change shall become effective upon the next billing cycle.

7. Suspension of Services

7.1. Provider may suspend the Services, in whole or in part, for any of the following reasons, and in each case to the extent required by or mandated in respect of such underlying reason:

- to conduct Maintenance;
- to prevent, mitigate, or cease damage to Customer Equipment, any portion of the Facility, Provider's systems (including equipment), or the equipment of other Provider customers;
- as required in connection with a Force Majeure Event;
- in response to a request under a Demand Reduction Benefit Program;
- to comply with an order, instruction, or request of any Governmental Authority;
- suspension caused by the acts or omissions of Customer, including as requested by Customer;
- in the event Customer fails to pay Provider any amounts owed and overdue within three (3) Business Days of being notified that such payment is overdue; or
- the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2. Provider shall use commercially reasonable efforts to give prior notice, to the extent possible, to Customer before suspending the Services in whole, other than in situations where the suspension of Services occurs due to Scheduled Maintenance or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

7.3. During any suspension of Services pursuant to this Section, Customer's access through the Hardware Control App will be "read only", which will provide system status and other related information only, and Customer will not have the ability to open Tickets or control the Customer

Hardware. In no event shall such inability be deemed to be a breach of this Agreement or of the Hardware Control EULA.

8. Service Level Agreement

For each month that Provider provides the Hosting Services to Customer, Provider will make commercially reasonable efforts to provide the Hosting Services with an Uptime of at least 97.0% (the "Uptime Service Level").

For purposes of the determination of Uptime, the Hosting Services shall be considered to be "available" if power, cooling, and internet connectivity are available to the Customer Area (in accordance with the Data Center Specifications, and subject to the obligations and rights of Provider under this Agreement), independent of Customer's actual ability to operate the Customer Equipment for any particular purpose. Any unavailability caused by (i) Force Majeure Events, (ii) Scheduled Maintenance, (iii) Demand Reduction Benefit Programs, or (iv) other environmental factors (e.g., temperature or humidity), notwithstanding the Facility operating in accordance with the Data Center Specifications, will, in each case, not be considered unavailability for the purposes of calculating Uptime.

During any period of unavailability caused by any suspension of Services permitted by Section 6.1, other than any total suspension of the Hosting Services due to Unscheduled Maintenance, the Hosting Services shall be deemed to be available for purposes of calculating Uptime.

Customer's termination right set out in Section 17.1.4 of this Agreement shall be Customer's sole and exclusive remedy in connection with the occurrence of any Uptime Service Level defaults.

9. Customer Responsibilities

9.1. Use of Services

Customer's use of the Hosting Services shall at all times comply with the AUP. For the avoidance of doubt, Customer expressly acknowledge that the Facility has been purpose-built to support the physical requirements of devices that perform Bitcoin mining activities, and that such activities are the sole permitted use of the Hosting Services. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROVIDER SHALL NOT HAVE, AND THAT CUSTOMER HEREBY EXPRESSLY AND KNOWINGLY RELEASES AND WAIVES ANY CLAIMS FOR, ANY LIABILITY ARISING IN CONNECTION WITH CUSTOMER'S MINING ACTIVITIES, AND THAT ALL SUCH ACTIVITIES, INCLUDING BUT NOT LIMITED TO THE CHOICES RELATING TO MINING POOL PARTICIPATION, ARE AT CUSTOMER'S SOLE DISCRETION.

9.2. Designated Mining Pool

It is Customer's responsibility to determine and designate a Mining Pool for each Hardware Unit, and Customer is free to designate any Mining Pool, in its sole discretion. In no event shall Provider be obligated to designate any Mining Pool on Customer's behalf.

If Customer designates a Provider-sponsored private Mining Pool to be the Mining Pool, Customer acknowledges that Provider may receive remuneration in connection with the applicable Hardware Units' contribution to the mining conducted by such Provider-sponsored private Mining Pool.

Customer acknowledges that Provider may choose to operate its own or any other third party's cryptocurrency mining equipment in the Facility at any time during the Term.

9.3. Customer Equipment.

Customer shall be responsible for providing the Customer Equipment, and for causing it to arrive at Provider's loading dock at the Facility. All costs associated with the foregoing, including but not limited to shipping costs, hardware costs, software license costs, and import duties, shall be borne exclusively by Customer. In the event that Provider agrees to procure any such Customer Equipment on Customer's behalf and for the account of Customer, such procurement shall be governed by a separate written agreement between Customer and Provider.

Customer shall further be solely responsible for maintaining the Customer Equipment in operable condition by requesting Advanced Remote Hands Service in accordance with Section 3.7 (*Service Orders*) hereof. Customer acknowledges that Provider will not conduct maintenance of the Customer Equipment, except to the extent Provider agrees to Customers' requests for Advanced Remote Hands Service.

9.4. Hardware Control Software; Hardware Control App; Access

Customer hereby directs Provider to register each Hardware Unit in the Hardware Control Software and acknowledges that the Service Charges for Related Services and Remote Hands Service are based on the availability of the Hardware Control Software in relation to the Customer Equipment. For purposes of clarity, the Hardware Control Software is for purposes of management convenience only, and notwithstanding any information or analytics that may be or become available therein, at no point shall the Hosting Control Software be the system of record for purposes of determining the power consumption of Hardware Units, individually, or the Customer Equipment, in the aggregate. Further, Customer shall at all times maintain the ability to report to Provider through automated means, and for Provider to affirmatively query, in respect of each Hardware Unit (i) the designated Mining Pool, and (ii) the hash rate (current and cumulative over the applicable period) thereof.

9.5. Availability

Customer shall have a Customer Representative available for communication through the Hardware Control App at all times.

9.6. Insurance

Customer shall maintain insurance coverage consistent with prevailing industry practices, but in any event, during the Term of this Agreement, Customer shall insure and keep insured (i) the Customer Equipment against all manner of loss in an amount not less than the replacement cost of the Customer Equipment, including during shipping to or from the Facility and (ii) all Customer Representatives against their acts and omissions, injury, or death in connection with any visits to the Facility or this Agreement. Customer shall maintain such insurance coverage during the Term, but in no event starting later than the first delivery of such Customer Equipment and the first arrival of a Customer Representative at the Facility, respectively. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES, IN THE EVENT CUSTOMER DOES NOT OBTAIN SUCH INSURANCE COVERAGE, OR IN THE EVENT SUCH INSURANCE COVERAGE IS INSUFFICIENT TO COVER CUSTOMER'S LOSSES IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES.

9.7. Information; Know Your Customer

Customer will provide Provider with any information required under any laws and regulations or orders by any Governmental Authority, in particular, but not limited to, information required for so-called "know your customer" checks under laws and regulations for the prevention of money laundering and terrorism finance.

9.8. Compliance with Law

Customer is solely responsible for ensuring that its use of the Services and its operations in connection with this Agreement comply with all Applicable Law.

10. Ownership

10.1. Customer Equipment

The parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Provider claim ownership of any of the Customer Equipment.

10.2. Ownership of Generated Assets

The Parties acknowledge and agree that any generated digital assets, including but not limited to blockchains, hash and digital currencies, generated from the operation of the Customer Equipment, **are the sole property of the Customer. The foregoing shall not impair in any way Customer's obligations to pay the Fees hereunder, including the Hosting Fees arising out of Customer EBITDA, or any claims that Provider may make in connection therewith.**

10.3. Liens / Encumbrances

Provider shall not sell any mortgage, lien, or any kind of encumbrance on the Customer Equipment,

11. Provider's Warranties

11.1. Capacity

Provider represents and warrants, as of the date hereof and as of the RFU Date that Provider is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

11.2. Disclaimer

PROVIDER DOES NOT AND CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT GIVE ANY IMPLIED, EXPRESS OR STATUTORY WARRANTIES OR REPRESENTATIONS, INCLUDING ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT.

12. Customer's Representations

Customer represents and warrants, as of the date hereof and as of the RFU Date that:

12.1. Capacity

Customer is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

12.2. Customer Equipment

Unless specifically disclosed otherwise, Customer Equipment is owned by Customer and is free of any lien or other interest or encumbrance of any third-party. Customer Equipment, is free of any defects or Harmful Code which could cause any harm to the Facility or the systems, including equipment, of Provider or any other customer. The Customer Equipment does not, and its operation does not, infringe (or result from the misappropriation of) any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right, of a third party.

12.3. No judgment or governmental order

There is no judgment, decree or order by any Governmental Authority applicable to Customer, which limits Customer in pursuing Customer Purpose or otherwise restricts Customer in performing its obligations under this Agreement or the transactions contemplated thereunder.

12.4. Export Matters

Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and is not otherwise a person to whom Provider is legally prohibited to provide the Services. Customer shall not provide administrative access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations.

12.5. No Inducements

Neither Customer, any affiliate of Customer, nor any of its or their employees, officers, directors, or representatives acting on their behalf, have provided or offered, or will provide or offer, any illegal or improper bribe, kickback, payment, gift or anything of value (but excluding any reasonable and ordinary business entertainment or gifts of an unsubstantial value, that are customary in local business relationships and permitted by Applicable Law) to Provider, any affiliate of Provider, nor any of its or their employees, officers, directors, or representatives acting on their behalf, in each case in connection with this Agreement.

13. Exclusion and Limitation of Liability

13.1. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF ANY DATA (INCLUDING BITCOINS), REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY).

13.2. THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER FOR THE SERVICES IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT(S) THAT FIRST GAVE RISE TO A CLAIM. PROVIDER SHALL NOT BE DEEMED TO BE A BAILEE IN RESPECT OF ANY CUSTOMER EQUIPMENT.

13.3. Notwithstanding anything in this agreement to the contrary, Provider's liability in connection with this Agreement for or arising from Provider's recklessness, gross negligence, fraud, or wilful misconduct shall be unlimited.

13.4. Notwithstanding anything in this Agreement to the contrary, Customer's liability in connection with this Agreement for or arising from : (i) Customer's recklessness, gross negligence, fraud, or wilful misconduct ; (ii) damage to the Facility, Provider's systems (including equipment), or any equipment of Provider's other customers, suppliers, contractors or other third parties caused by Customer, any Customer Representative, or Customer Equipment; (iii) Customer's breach of any of its representations or warranties under this Agreement, or of its confidentiality or intellectual property obligations hereunder; (iv) Customer's indemnification obligations hereunder; or (v) Customer's

breach of, or non-compliance with, the AUP or the Data Center Rules, shall, in each case, be unlimited in type and amount.

14. Force Majeure

A Party shall not be in breach of this Agreement and shall not be liable to the other Party for any loss or other damages suffered by reason of any failure or delay of such Party in the performance of its obligations hereunder due to a Force Majeure Event; provided that under no circumstances will a Force Majeure Event excuse any failure or delay in the performance of a Party's payment obligations hereunder.

If a Party becomes aware of circumstances in which a Force Majeure Event affects or will affect such Party's ability to perform any of its obligations hereunder, it shall notify the other Party in writing as soon as reasonably possible, specifying the nature of the Force Majeure Event and its effect on the performance of such Party's obligations hereunder.

15. Indemnity

Customer shall indemnify and hold harmless Provider, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "Provider Indemnified Parties") from and against any and all liabilities, obligations, losses, damages, allegations, claims, demands, suits, actions, deficiencies, penalties, charges, taxes, levies, fines, judgments, settlements, costs, expenses, interest, attorneys' fees and disbursements, and accountants' fees and disbursements (collectively, "Losses") or threatened Losses due to third-party claims arising out of or relating to any of the following: (i) Customer's breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, the Hardware Control EULA, or any of Customer's representations or warranties under this Agreement; (ii) actual or alleged infringement or misappropriation of any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right related to Customer Equipment, including any acquisition, provision, or use of Customer Equipment, or Customer's use of the Hosting Services; (iii) Customer Equipment, including all software and firmware thereon, or Provider's acquisition, provision, or use of Customer Equipment in accordance with this Agreement, except to the extent directly related to the Hardware Control App or Hardware Control Software; (iv) Customer's violation of Applicable Law; or (v) Customer's use of the Hosting Services.

Customer's obligations under this Section 15 include claims arising out of the acts or omissions of any Customer representative or Customer's users, any other person to whom Customer has given physical or virtual access to the Customer Equipment, and any person who gains access to the Customer Equipment or any of Provider's systems or Provider's other customers as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

If Provider receives notice of a claim that is covered by this Section 16, Provider shall promptly give Customer written notice thereof. Provider shall be allowed to conduct the defense of such claim at any time, including choosing legal counsel to defend such claim, provided that such choice is reasonable and is communicated to Customer in writing. Customer shall comply with Provider's reasonable requests for assistance and cooperation in the defense of such claim. Provider shall not settle the claim without Customer's written consent, which may not be unreasonably withheld, delayed or conditioned. Customer shall pay costs and expenses due under this Section 15 as Provider incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to Customer paying Provider such costs and expenses as Provider incurs them.

In the event Provider notifies Customer in writing that Provider does not desire to defend, or to continue to defend, such claim, Customer shall defend such claim using legal counsel of Customer's choice, provided that such choice is reasonable and is communicated to Provider in writing. Customer shall not settle the claim without Provider's written consent.

IT IS THE INTENTION OF THE PARTIES THAT CUSTOMER PROVIDE INDEMNIFICATION RIGHTS TO A PROVIDER INDEMNIFIED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT EVEN FOR THE CONSEQUENCES OF THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

16. Term

The term of this Agreement will commence on the Effective Date and will continue until the expiration or termination of this Agreement in accordance with its terms (the "Term"). The Term may include, as applicable, the period between the Effective Date and the RFU Date, the Initial Term, and any Renewal Terms.

The Initial Term will commence on the RFU Date and will continue for the length of time indicated in the Key Terms. Neither Party shall have the right to terminate this Agreement prior to the end of the Initial Term; provided that each Party may terminate this Agreement for cause due to the occurrence of an applicable Termination Event.

If neither Party delivers Notice to the other Party at least three (3) months prior to the end of the Initial Term or then-current Renewal Term, then the Term shall be extended automatically for another twelve (12) months (each such twelve (12)-month period, a "Renewal Term").

Notwithstanding the foregoing or anything to the contrary, in no event shall the Term extend beyond the term of Provider's lease to the Facility. Upon the expiration or termination of such lease, the Term, if still in effect, shall be automatically terminated. To the extent applicable, Provider shall provide Customer with Notice of such expiration or termination, and of the resulting termination of this Agreement (i) at least three (3) months prior to such termination of this Agreement or (ii) as soon as practicable after Provider becomes aware of such termination of this Agreement, whichever is later.

17. Termination; Removal of Customer Equipment

17.1. Termination Events

Other than at the end of the Term, the non-breaching Party may terminate this Agreement upon the occurrence of one of the following events (each a "Termination Event"), as may be applicable to such non-breaching Party:

17.1.1. Payment Default

If a Party fails to make a payment to the other Party owed under this Agreement when due, unless such default is remedied within three (3) Business Days following the breaching Party's receipt of notice by the non-breaching Party of such failure.

17.1.2. Insolvency

If a Party is unable to pay its financial obligations when due, becomes subject to insolvency proceedings, applies for or institutes insolvency proceedings or offers or makes an arrangement with its creditors generally, or if a third-party applies for insolvency proceedings against such Party and such proceedings are not stayed or discharged within thirty (30) days, unless such proceeding is dismissed due to insufficiency of assets.

17.1.3. Material Breach

If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within ten (10) Business Days after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.

17.1.4. Service Level Defaults

If Provider suffers Service Level Defaults in three (3) consecutive months, in respect of which the Uptime during each such month was less than 80%.

17.2. Termination

Upon the occurrence of a Termination Event, the Party not having given rise to such Termination Event (the "Non-Defaulting Party") may terminate this Agreement with immediate effect as of the date set forth in a written notice thereof provided to the Defaulting Party.

17.3. Deinstallation and Removal of Customer Equipment

Customer (i) acknowledges that all Customer Equipment must be dismantled and removed from the Facility by the Termination Date and (ii) shall deliver to Provider (x) written shipping instructions for the Customer Equipment, (y) packaging materials suitable for the Customer Equipment, and (z) standard containers in which packaged Customer Equipment can be stored until it is shipped, in each case, in accordance with the following:

Within five (5) Business Days from receiving a Notice of termination from Customer, or having issued a notice of termination to Customer, Provider shall provide Customer with a written estimate of the number of days required for Provider to deinstall and package the Customer Equipment for shipment to Customer, and of the date on which such work is expected to begin (the "Deinstallation Commencement Date"). Provider shall use commercially reasonable efforts to begin such work on or around the Deinstallation Commencement Date, and in any event within a reasonable number of days from the Termination Date. In no event shall Provider begin deinstallation of the Customer Equipment prior to the Deinstallation Commencement Date. The period between the Deinstallation Commencement Date and the Termination Date is herein referred to as the "Phase-out Period."

During the Phase-Out Period Provider will deinstall the Customer Equipment, package it in Customer-provided packaging materials, and ship it to Customer in accordance with Customer's shipping instructions, all of which shall be at Customer's expense (at the Service Rates for Provider's work, and at the actual cost for all third party costs such as shipping). For the avoidance of doubt, all deinstallation must be performed by Provider, and Customer shall have no right to deinstall or remove Customer Equipment from the Facility.

During the Phase-out Period the Specified Power Draw will be adjusted downward on a straight-line basis, based on the assumption that an equal number of Hardware Units will be deinstalled on each Working Day during the Phase-out Period.

In the event Customer does not deliver the shipping instructions, packaging materials and containers to Provider in accordance with this Section 17.3, the deinstallation and removal of the Customer Equipment may be delayed beyond the Termination Date. To the extent such a delay occurs, all Hosting Charges shall be due and owing until such time as all Customer Equipment is deinstalled and removed from the Facility (for which Customer's provision of such instructions, materials and containers is a condition precedent). Provider will use commercially reasonable efforts to deinstall, remove and pack the Customer Equipment without damage; provided, however, that CUSTOMER HEREBY AGREES THAT EXCEPT FOR CLAIMS BASED ON PROVIDER'S RECKLESSNESS, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION

WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM PROVIDER'S DEINSTALLATION, PACKAGING, AND SHIPMENT OF THE CUSTOMER EQUIPMENT.

At the request of the Customer, the Provider can dispose of the Customer Equipment for a fixed charge (the "**Disposal Charge**"). The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Provider will inform the Customer of the Disposal Charge upon request after a Notice of termination has been issued under this Agreement.

18. Confidentiality

- 18.1. The Parties agree that Confidential Information shall be used solely for the purpose for which it was furnished in connection with the performance of this Agreement and that they shall each hold confidential all Confidential Information and not disclose it to any third-parties, except that the Parties may disclose Confidential Information to their affiliates, to their auditors and legal advisors and to such Customer Representatives who need access to Confidential Information to perform their duties in connection with this Agreement. At the expiration of the Term, the Parties shall return any Confidential Information to the disclosing party or destroy such Confidential Information.
- 18.2. Any disclosure of Confidential Information permitted by Section 18.1 shall only be to the extent that any person who Confidential Information is provided to needs to know the same for the performance of their duties, and shall only be under the condition that such person acknowledges and agrees to be bound by, the confidentiality obligation under this Section.
- 18.3. The restrictions set out in Sections 18.1 and 18.2 above shall not apply to Confidential Information that:
- 18.3.1. was previously known to the receiving Party, independent from any disclosure under or in connection with this Agreement and free from any obligation to keep confidential;
- 18.3.2. is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorised disclosure by the receiving Party or its representatives;
- 18.3.3. is shown to have been independently developed by the receiving Party;
- 18.3.4. the Parties agree in writing need not be kept confidential;
- 18.3.5. is required to be disclosed by law or regulation or by an order of any Governmental Authority.

In the case of Section 18.3.5, the receiving Party shall, to the extent legally and practically possible, inform the disclosing Party of the information to be disclosed and the timing and circumstances of such disclosure, providing the disclosing Party with an opportunity to avoid and limit any such disclosure.

19. Notices

Any Party can give notice under this Agreement (each a "**Notice**") by sending an email or by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the

applicable email or mailing address listed below; provided that any Termination Notice, and any notice for breach, indemnification, or other legal matter, shall be given by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable mailing address listed below, sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address: Whinstone US Corporation
2721 Charles Martin Hall Road
Rockdale, Texas 76567, USA
email: c.harris@whinstone.us
Attention: Chad Everett Harris

To Customer:

Address: AIR HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
email: CameronBlackmon@imperiumholdings.io
Attention: Cameron Blackmon

Notices by email are deemed received as of the time sent, and notices by mail (and all notices required to be by mail) are deemed received as of the time delivered. If such time does not fall within a Business Day, as of the beginning of the first Business Day following such time. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices shall be given in the English language.

Either Party may change its notice addresses for future Notices by providing the other Party with Notice of such change.

20. Assignment; Subcontracting

This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of each Party hereto. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that either Party may assign this Agreement, in whole or in part, to an affiliate or successor or wholly-owned subsidiary of such Party as part of a corporate reorganization or a sale of some or all of its business; provided that the assigning Party notifies the other Party of such assignment in writing.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain responsible under this Agreement for work performed by its subcontractors and affiliates to the same extent as if Provider had performed such work itself.

21. Right of Publicity; Use of Marks

Customer agrees that Provider may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Provider name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services without first obtaining Provider's prior written approval of each such disclosure.

22. Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD.

NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

23. Miscellaneous

23.1. Survival

The following provisions shall survive termination or expiration of this Agreement: Confidential Information, Indemnification, Limitation on Damages, Notice, Governing Law / Arbitration, Miscellaneous, all provisions requiring Customer to pay any amounts (i) owed for Services provided under this Agreement prior to the Termination Date or otherwise (ii) otherwise owed by Customer hereunder, and any other provisions of this Agreement that, by their nature, would continue beyond termination or expiration of this Agreement.

23.2. No Lease

This Agreement does not create any real property interest for Customer in the Customer Area or the Facility, and Customer shall not, shall not attempt to, and shall not encourage any third party to file or otherwise create any liens or other property interest or liability on the Facility or any portion thereof.

23.3. Independent Contractor

Each Party is an independent contractor to the other Party in connection with this Agreement, and personnel used or supplied by a Party in the performance of this Agreement shall be and remain employees or agents of such Party and under no circumstances shall be considered employees or agents of the other Party. Each Party shall have the sole responsibility for supervision and control of its personnel. Except with to the extent Provider purchases Hardware Units on Customer's behalf in accordance with this Agreement, Neither Party is an agent for the other Party, and neither Party has the right to bind the other Party in connection with any agreement with a third party.

23.4. No Third Party Beneficiaries

This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns. Nothing herein, express or implied, shall confer, or shall be construed to confer, any rights or benefits in or to any other person.

23.5. Remedies

The rights and remedies of either Party under this Agreement shall be cumulative and not exclusive or alternative.

23.6. Waiver

No failure or delay by either Party in requiring strict performance of any provision of this Agreement, no previous waiver or forbearance of the provisions of this Agreement by either Party, and no course of dealing between the Parties will in any way be construed as a waiver or continuing waiver of any provision of this Agreement.

23.7. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be enforced to the maximum extent possible under law and will, to the extent possible, be replaced by such enforceable provision most closely mirroring the Parties' intentions. All other provisions of this Agreement will remain unaffected by such invalidity or unenforceability and will remain in full force and effect. The Parties acknowledge and agree that the pricing and other terms in this Agreement reflect, and are based upon, the intended allocation of risk between the Parties and form an essential part of this Agreement.

23.8. Conflict

To the extent there is a conflict between or among the terms of this Agreement, the AUP, the Data Center Rules, and the Hardware Control EULA, the following shall be the order of precedence: (i) AUP; (ii) Hardware Control EULA; (iii) Agreement; (iv) Data Center Rules.

23.9. Interpretation

The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party. The words "include," "includes," and "including" (or similar terms) shall be deemed to be followed by the words "without limitation." The captions, titles, and section headings are for convenience only and are not intended to aid or otherwise affect the interpretation of this Agreement. The words "written" or "in writing" are used for emphasis in certain circumstances and shall not reduce or eliminate the notice requirements set forth in this Agreement. The use of a term defined herein in its plural form includes the singular and vice versa. The terms defined herein shall be inclusive of all tenses. All references to "days" shall be deemed to refer to calendar days, except as expressly stated otherwise.

23.10. Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

The Key Terms and Services may be amended to modify, add, or remove Key Terms and Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of Customer's purchase order or business form, or other standard or pre-printed terms that

Customer provides, be of any force or effect as between the Parties.

23.11. Counterparts

This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed counterparts or the exchange electronic transmissions of executed counterparts.

[Signature Page Follows.]

Rockdale, December 31, 2020

Chad Everett Harris

Whinstone US, INC



Customer

by: name: Cameron Blackmon

title: Manager

AIR HPC LLC

Annex 1
Services Rates

The hourly rates listed below include costs associated with essential equipment, such as cranes, heavy machinery, forklifts, hand tools, fuel, insurance, software, transportation, and handling. Provider will also handle administrative matters such as timekeeping, performance tracking, safety enforcement and incident response, payroll, and employee complaints.

Engineers

Lead Engineer - \$425.00 per hour

Assistant Engineer - \$250.00 per hour

Junior Engineer - \$175.00 per hour

Administrators

Administrator - \$135.00 per hour

Supervisors

Construction Supervisor - \$85.00 per hour

Equipment Operation Supervisor - \$85.00 per hour

Laborers

Skilled Laborers - \$45.00 per hour

IT Service

Basic Remote Hand Service \$70.00 per hour

Advance Remote Hand Service \$140.00 per hour

Annex 2
50.0% Rev Share Payment

The **"50.0% Rev Share Payment"** as described in section 6.1 of this agreement shall be calculated based on what is effectively earnings before interest, taxes, depreciation, and amortization (EBITDA), adjusted for certain cashflow adjustments as indicated below. For avoidance of doubt in preparing such calculation, the formula and mechanical steps to calculate the **50.0% Rev Share Payment** shall be applied as follows:

- Step 1: Customer shall prepare its books and records based on its internal accounting policies and procedures for the Measurement Period in order to calculate Net Income.
- Step 2: Customer shall make certain tax adjustments, as prescribed by and in accordance with US tax law, to its Net Income in order to accurately estimate its annual federal, state and local tax liability for the Measurement Period ("**Cash Tax Estimate**").
- Step 3: Customer make certain deductions from Net Income for any forecasted working capital and capital expenditure needs (excluding dividends) of the Customer for the future ("**Retained Cash**").
- Step 4: Customer shall deduct from Net Income any contractual debt obligations service obligations Customer pays prior to the Lump Sum Hosting Payment ("**Debt Service**").
- Step 5: The result of Customer adjusting Net Income in Step 1 for steps 2, 3 and 4, shall be defined as the preliminary cash available for payment ("**Preliminary-Cash-Available-For-Payment**").

EXHIBIT 3

New Hosting Service Agreement No. #R-5MW-004

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
- 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
- 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
- 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
- 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
- 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
- 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
- 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
- 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-003

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
- 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
- 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
- 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
- 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
- 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
- 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
- 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
- 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-005

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith with the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-006

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-001

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right to, after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith with the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
- 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
- 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
- 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
- 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
- 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
- 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
- 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
- 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-002

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer's Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer's use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-007

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-009

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer's Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer's use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-008

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer's Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer's use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.
- This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.
- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-011

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ ^{reasonably} possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
 - 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
 - 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-013

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

- 11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

- 11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:

- 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-010

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre- printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-014

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-015

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-016

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer's Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer's use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:

11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

12.1. Whinstone reserves the right to suspend the Services for the following reasons:

12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-012

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the "Capital Expenditure" (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The "Capital Expenditure" is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a "qualifying data center" within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT ("SLA")

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
- 8.5.1. death or personal injury caused by its negligence;
- 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
- 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
- 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
- 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
- 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:

11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

12.1. Whinstone reserves the right to suspend the Services for the following reasons:

12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-017

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer's Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer's use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-019

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:
- 11.2.1. Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot
- 11.2.2. Rhodium JV LLC.
7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon
- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
- 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x Chad Everett Harris

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-018

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00
 31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, uncracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

- 11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:
- 11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

- 11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

- 12.1. Whinstone reserves the right to suspend the Services for the following reasons:
 - 12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
- 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
- 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
- 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
- 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
- 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
- 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
- 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
- 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

Cameron Blackmon
x _____

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

Chad Everett Harris
x _____

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

New Hosting Service Agreement No. #R-5MW-020

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“Whinstone”)

AND

Rhodium JV LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “Customer”).

Whinstone and the Customer are referred to individually as “Party” and collectively as “Parties”.

WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“RFU”) Date to be set by the Customer no sooner than thirty (30) days from the date of the RFU Notice (as hereinafter defined); and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 5 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“Agreement” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“AUP” or “Acceptable Usage Policy” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“Advanced Remote Hands Service” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“Background IP” shall have the meaning set out in Clause 6.5 below;

“Basic Remote Hands Service” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“Business Day” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“Capital Expenditure” shall have the meaning ascribed to that term in Clause 3.14.1 below.

“Confidential Information” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“Customer Equipment” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“Data Center” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“Data Center Rules” means the rules applying to the Customer’s use of the Data Center;

“Data Protection Laws” means the laws and regulations governing the use of personal data;

“Defaulting Party” shall have the meaning set out in Clause 13.2 below;

“Developed IP” shall have the meaning set out in Clause 6.5 below;

“Extended Term” shall have the meaning set out in Clause 13.1 below;

“Force Majeure” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflicts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“Hosting Service” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“Initial Term” shall have the meaning set out in Clause 13.1 below;

“Intellectual Property” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“IP Connection Service” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“Licensed Area” means the Building C where the Customer Equipment will be placed;

“Maintenance” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“Miners” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“Mining Pool” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“Services” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“Service Details” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“Party” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “Parties” shall mean both of them;

“Pass Through Rate” shall have the meaning set out in Clause 3.11.2 below;

“Personal Data” shall have the meaning as defined under the Data Protection Laws;

“PPM Agreement” shall have the meaning set out in Clause 3.11.2 below;

“RFU Date” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“RFU Notice” means the written notice provided by the Customer to Whinstone setting the Ready For Use Date. This RFU Notice shall be provided to Whinstone no less than thirty (30) days prior to the Ready For Use Date set forth in the RFU Notice.

“Representatives” means, in relation to any party, its officers, employees and agents;

“Scheduled Maintenance” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“Specified Power Draw” shall have the meaning set out in Clause 3.13 below;

“Whinstone Equipment” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.

- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses, paragraphs, subparagraphs of or to this Agreement;
 - 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

- 2.1. Data Center Facilities
 - 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
 - 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
 - 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
 - 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
 - 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
 - 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone

covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer’s employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days’ notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer’s equipment at 240V. The equipment’s power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer’s Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and

hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
- iii. Intake and exhaust fans are free of obstruction or debris.

2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.

- i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
- ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.

2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.

2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.

2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.

2.3. Basic Remote Hands Service

2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:

- i. Remote monitoring of equipment performance and status;
- ii. Remote fault diagnosis;
- iii. Pushing a button;
- iv. Switching a toggle;
- v. Power cycling (turning on/off) the Customer Equipment;
- vi. Re-setting, rebooting the Customer Equipment;
- vii. Securing cabling to connections
- viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
- ix. Cable organization;

- x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;
- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

- 3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.
- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "Pass Through Rate" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the

Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the “PPM Agreement”) or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice a 5,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$1,667.00 (USD) for the Advanced Remote Hands Services based on a scale of 1317 Miners, or 5mW equivalent. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 5,000 kW (5) MW of power available for the Services by the RFU Date. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: 5,000 kW * Hosting Fee * 24 hours * 30days = \$61,380.00

31-day month: 5,000kW * Hosting Fee * 24 hours * 31days = \$63,426.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient

Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) not to exceed \$800,000. The Capital Expenditure shall be paid in full to Whinstone no later than five (5) business days after the RFU Notice is provided. The “Capital Expenditure” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Eight Hundred Thousand U.S. Dollars (\$800,000.00 USD). No later than thirty (30) days after the the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$800,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$800,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
- 3.18. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

4. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 4.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 4.2. Without prejudice to Clause 4.1, Whinstone reserves the right after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 4.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.

- 4.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.
- 4.5. Uptime Guarantee
 - 4.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
 - 4.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
 - 4.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
 - 4.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.
- 4.6. Performance Guarantee
 - 4.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
 - 4.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
 - 4.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
 - 4.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
 - 4.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be place in a maintenance queue and reported to the Customer by the next business day.
 - 4.6.6. Whinstone will reply to notices from the Customer on the same business day.
 - 4.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.
- 4.7. Advanced Remote Hands Service
 - 4.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.

- 4.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.
- 4.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 4.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

5. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 6.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 6.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 6.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 6.5. Customer owns any Developed IP. "Developed IP" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "Background IP" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any

Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

7. CONFIDENTIALITY

- 7.1. The parties agree that Confidential Information:

- 7.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 7.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 7.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 7.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 7.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 7.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 7.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 7.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 7.3.4. the Parties agree in writing that it need not be kept confidential; or

- 7.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as ~~reasonably~~ **reasonably** possible before such disclosure must be made and, at the disclosing Party's request and cost, assists the disclosing Party in avoiding or limiting any such disclosure.
- 7.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 7.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 7.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 7.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 7.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

8. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 8.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 8.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 8.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligent or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.

- 8.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.
- 8.5. Neither Party excludes or limits its liability to the other Party for:
 - 8.5.1. death or personal injury caused by its negligence;
 - 8.5.2. fraud or fraudulent misrepresentation.
- 8.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 8.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 8.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 8.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 8.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 8.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 8.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or

- 8.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 8.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.
- 8.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

9. ASSIGNMENT

- 9.1. This Agreement and all rights and obligations hereunder, in whole or in part, may be assigned or transferred by the Customer without the prior written consent of Whinstone. The Customer shall provide prompt written notice to Whinstone of any such assignment or transfer. Following such assignment or transfer, but provided that the Customer has provided written notice thereof to Whinstone, (i) the assignee or transferee shall assume and be liable to Whinstone for the full and faithful performance of all of the Customer's obligations under this Agreement and be considered the "Customer" for all purposes under this Agreement and (ii) Rhodium JV LLC shall have no further liability to Whinstone..
- 9.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or sub-contract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

10. FORCE MAJEURE

- 10.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the

other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.

- 10.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 10.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

11. NOTICES

11.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:

11.2. The addresses of the parties for the purposes of Clause 11.1 are:

11.2.1. Whinstone US, Inc.

2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot

11.2.2. Rhodium JV LLC.

7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon

11.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

12. SUSPENSION OF SERVICE

12.1. Whinstone reserves the right to suspend the Services for the following reasons:

12.1.1. to carry out Maintenance with the prior written consent of the Customer;

- 12.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;
 - 12.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;
 - 12.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;
 - 12.1.5. in an emergency; or
 - 12.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 12.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 12.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

13. TERMINATION

- 13.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“Initial Term”) unless and until terminated in accordance with this Clause 13.

This Agreement shall be automatically extended for a period of 12 months (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 13.2. Customer Elected Termination. Whinstone understands and agrees that the Customer shall have the right to elect not to provide a RFU Notice in relation to this Agreement. If no RFU Notice is provided to Whinstone prior to June 1, 2028, this Agreement shall be considered terminated with immediate effect and any rights or obligations of either Party under this Agreement shall be null and void.
- 13.3. Termination for Cause. Either party (the “Non-Defaulting Party”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “Defaulting Party”) if:
- 13.3.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30

- days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
- 13.3.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 13.3.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 13.3.4. In the case that the Customer terminates this Agreement due to Whinstone's failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.
- 13.4. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
 - 13.5. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
 - 13.6. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
 - 13.7. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 13.7.1. accrued rights and obligations of the Parties at the date of termination; and
 - 13.7.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
 - 13.8. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
 - 13.9. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

14. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

15. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

16. GENERAL

16.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:

16.1.1. be confined to the specific circumstances in which it is given;

16.1.2. not affect any other enforcement of the same or any other right; and

16.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

16.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

16.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

16.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

16.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

16.4. No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provision of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

17. ENTIRE AGREEMENT

- 17.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.
- 17.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre-printed terms and conditions shall be null and void and of no force and effect.
- 17.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing.
- 17.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

18. COUNTERPARTS

- 18.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.
- 18.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

19. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

20. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise give effect to this Agreement and to the rights and obligations contained within this Agreement.

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium JV LLC,
By: Imperium Investments Holdings LLC
Its: Manager

x Cameron Blackmon

By: Cameron Blackmon

Its: Manager

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

| | |
|--------------------------------|--|
| TITLE | Rhodium 5MW Hosting Agreements - 20 identical agreements |
| FILENAME | 6.30.20 Wh...UTABLE.pdf and 19 others |
| DOCUMENT ID | 0056b5ab07d364d2cb98c5a9e3c9486c652260cc |
| AUDIT TRAIL DATE FORMAT | MM / DD / YYYY |
| STATUS | ● Out For Signature |

Document History



06 / 30 / 2020
18:21:45 UTC-6

Sent for signature to Cameron Blackmon
(cameronblackmon@rhodiummining.io) and Chad Harris
(c.harris@whinstone.us) from corporate@fornarolaw.com
IP: 73.50.131.53



06 / 30 / 2020
19:38:22 UTC-6

Viewed by Cameron Blackmon
(cameronblackmon@rhodiummining.io)
IP: 107.77.198.141



06 / 30 / 2020
19:39:19 UTC-6

Signed by Cameron Blackmon
(cameronblackmon@rhodiummining.io)
IP: 107.77.198.141



INCOMPLETE

06 / 30 / 2020
19:39:19 UTC-6

This document has not been fully executed by all signers.

| | |
|--------------------------------|---|
| TITLE | Rhodium 5mw - 20 identical hosting agreements |
| FILENAME | Rhodium Whinstone...hodium signed.pdf |
| DOCUMENT ID | 05761f8ce96c279fb2bc64744ce0853a4d15f0da |
| AUDIT TRAIL DATE FORMAT | MM / DD / YYYY |
| STATUS | ● Completed |

Document History



SENT

07 / 07 / 2020

13:28:01 UTC-6

Sent for signature to Chad Harris (c.harris@whinstone.us)
from corporate@fornarolaw.com
IP: 73.50.131.53



VIEWED

07 / 09 / 2020

13:51:40 UTC-6

Viewed by Chad Harris (c.harris@whinstone.us)
IP: 8.2.195.142



SIGNED

07 / 09 / 2020

14:01:15 UTC-6

Signed by Chad Harris (c.harris@whinstone.us)
IP: 8.2.195.142



COMPLETED

07 / 09 / 2020

14:01:15 UTC-6

The document has been completed.

EXHIBIT 4

(6.30.20 FINAL EXECUTABLE)

New Hosting Service Agreement

THIS AGREEMENT (defined below) shall be effective upon the date of receipt of the electronic signature by Whinstone US, Inc.

BY AND BETWEEN

Whinstone US, Inc., a company having its registered office located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567 (“**Whinstone**”)

AND

Rhodium 30mw LLC of 7546 Pebble Drive, Fort Worth, Texas 76118, (the “**Customer**”).

Whinstone and the Customer are referred to individually as “**Party**” and collectively as

“**Parties**”. WHEREAS

- (A) Whinstone wishes to provide electrical power at its site under the terms and conditions contained in this New Hosting Service Agreement entered into by and between the Parties as of the seal or signature date of both Parties with a Ready For Use (“**RFU**”) Date of September 30, 2020; and
- (B) The Customer desires to utilize Whinstone’s services and intends operate 30 MW of Miners and immersible equipment on Whinstone’s property in Rockdale, Texas.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

- 1.1. In this Agreement the following words and expressions shall have the meanings set out below. Additional terms may be defined in the context of particular provisions of this Agreement:

“**Agreement**” means these terms and conditions, any orders placed under them, and any amendments or additions or replacements to any of the aforementioned;

“**AUP**” or “**Acceptable Usage Policy**” means Whinstone Acceptable Usage Policy from time to time which, at the date of this Agreement, is set out in a Schedule to this Agreement;

“**Advanced Remote Hands Service**” means repair and maintenance services that require taking Customer Equipment off rack as detailed in Clause 2.4 below;

“**Background IP**” shall have the meaning set out in Clause 6.5 below;

“**Basic Remote Hands Service**” means repair and maintenance services performed without taking Customer Equipment off rack as detailed in Clause 2.3 below;

“**Business Day**” means a day which is not a Saturday, Sunday or a public holiday in the United States;

“**Capital Expenditure**” shall have the meaning ascribed to that term in Clause 3.14 below.

“**Confidential Information**” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs;

“**Customer Equipment**” means the Customer’s Miners and other Customer equipment installed in the Licensed Area;

“**Data Center**” means the Whinstone leased site located at the former Alcoa Rockdale Energy Sandow Mine facility in Rockdale, Texas;

“**Data Center Rules**” means the rules applying to the Customer’s use of the Data Center;

“**Data Protection Laws**” means the laws and regulations governing the use of personal data;

“**Defaulting Party**” shall have the meaning set out in Clause 13.2 below;

“**Developed IP**” shall have the meaning set out in Clause 6.5 below;

“**Extended Term**” shall have the meaning set out in Clause 13.1 below;

“**Force Majeure**” means any event beyond the reasonable control of either or both of the parties including but without limitation to war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule or regulation or direction coming into force after the date of this Agreement, epidemics, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, and acts of God and strikes, slowdowns, lockouts or other labor stoppages excluding employee(s) of Whinstone affecting third parties which in each case causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

“**Hosting Service**” means service providing electrical power and ventilation to the Customer Equipment as detailed in Clause 2.2 below;

“**Initial Term**” shall have the meaning set out in Clause 14.1 below;

“**Intellectual Property**” means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“**IP Connection Service**” means the connection to the Customer Equipment permitting communication with the Internet as specified in the Service Details;

“**Licensed Area**” means the Building C where the Customer Equipment will be placed;

“**Maintenance**” means any work carried out by Whinstone in order to upgrade, improve or maintain the Service including any modification, change, addition or replacement which does not detract from, reduce or impair the overall quality or performance of the Service;

“**Miners**” means cryptocurrency mining machines, which are part of the Customer Equipment, which connect using the IP Connection Service and send computation results to the Mining Pool.

“**Mining Pool**” is the pooling of resources by Miners, who share their processing power over a network, to split the reward equally, according to the amount of work they contributed to the probability of finding a block.

“**Services**” collectively means Hosting Service, Basic Remote Hands Service, and Advanced Remote Hands Service, with the Hosting Service and Basic Remote Hands Service provided as needed to the Customer;

“**Service Details**” means service details in the format provided by Whinstone pursuant to which the Customer may request Services;

“**Party**” means Whinstone and the Customer (as the case may be) and shall include their permitted assignees and “**Parties**” shall mean both of them;

“**Pass Through Rate**” shall have the meaning set out in Clause 3.11.2 below;

“**Personal Data**” shall have the meaning as defined under the Data Protection Laws;

“**PPM Agreement**” shall have the meaning set out in Clause 3.11.2 below;

“**RFU Date**” means the Ready For Use Date, which is the date Whinstone will fully provide the Customer the Services;

“**Representatives**” means, in relation to any party, its officers, employees and agents;

“**Scheduled Maintenance**” means Maintenance that is: (i) carried out between the hours of 12:00 am to 6:00 am; and (ii) notified to the Customer at least five (5) Business Days in advance;

“**Specified Power Draw**” shall have the meaning set out in Clause 3.13 below;

“**Whinstone Equipment**” means any equipment which is supplied by or on behalf of Whinstone to the Customer for the purpose of providing the Services and includes any equipment specified in Service Details; and

- 1.2. In the event of any conflict between any of the documents referred to in this Clause 1.2, they shall be given the following order of priority:
 - 1.2.1. the terms of the relevant Service Details;
 - 1.2.2. the terms set out in this Agreement; and
 - 1.2.3. the terms set out in the AUP.
- 1.3. In the Agreement:
 - 1.3.1. references to Clauses, paragraphs and subparagraphs are references to clauses,

paragraphs, subparagraphs of or to this Agreement;

- 1.3.2. the headings contained in this Agreement are for convenience only and shall not influence the interpretation of this Agreement;
 - 1.3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.
- 1.4. Whinstone and the Customer each represents and warrants to each other that it has the power to enter into, exercise its rights under and perform and comply with its obligations under this Agreement and all actions, conditions and things required to be taken, fulfilled and done by it to so enter into, exercise its rights under and perform and comply with its obligations under this Agreement and ensure that those obligations are valid, legally binding and enforceable have been taken, fulfilled and done.

2. SERVICE DESCRIPTION

2.1. Data Center Facilities

- 2.1.1. Whinstone will provide an installation environment for the Customer Equipment including, but not limited to, the Licensed Area in two buildings, rack systems, electricity supply (including PDU), transforming equipment, free air cooling (including evaporative cooling and single phase liquid cooling), smoke detection, IP Connection Service and physical security. Physical security includes 24-hour patrol, camera security, and a fence around the Licensed Area.
- 2.1.2. Whinstone shall grant the Customer, free of charge, escorted access to the property in Rockdale, TX for equipment inspections, installation, removal, additions, subtractions or physical maintenance by prior appointment.
- 2.1.3. With written prior consent of the Customer, Whinstone may relocate the Customer Equipment within the Data Center or to another facility operated by Whinstone provided that there are no changes to the terms of this Agreement. Any such relocation of the Customer Equipment will be carried out by Whinstone. Any costs incurred in relation to such relocation will be borne by Whinstone. The Customer shall reserve the right to inspect the new facility beforehand.
- 2.1.4. When the Customer visits the property in Rockdale, TX or accesses the Data Center network remotely the Customer shall at all times comply with the Data Center Rules that have been provided to the Customer in advance; provided, however, that the Customer shall only be obligated to comply with such Data Center Rules to the extent that they are reasonable. Whinstone shall provide the Customer a copy of the Data Center Rules and shall send a new copy if there are any changes made therein.
- 2.1.5. Whinstone represents and warrants that building or other permits, city inspection, or certification is not required with regard to providing services under this Agreement.
- 2.1.6. Whinstone represents and warrants that the Data Center has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a “Qualifying Data Center” within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Whinstone covenants and agrees that the Data Center shall remain certified by and publicly registered with the Texas Comptroller as a “Qualifying Data Center” during and throughout the Initial Term.

2.2. Overview of Hosting Service

Whinstone shall be responsible for the following:

- 2.2.1. License of the Licensed Area.
- 2.2.2. Provision of the cabling for a connection to the IP Connection Service by way of a CAT 5e Ethernet cable.
- 2.2.3. Escorted access by the Customer's employees to the Customer Equipment at any time from 10 am to 5 pm Monday through Friday.
- 2.2.4. Monitored alarm and security call out service.
- 2.2.5. Physical Security: The facility will be surrounded by fencing and monitored by security cameras. Whinstone shall implement access control policies to ensure non-authorized persons are not able to enter the facility. Armed personnel will be onsite at all times.
- 2.2.6. IT Security: Whinstone will install a firewall and implement an IT security policy to prevent unauthorized access physically or remotely, viruses and ransomware. However, the Customer shall have the right to install its own firewall and implement its own security policies in the place of or in addition to Whinstone as mutually agreed to by both parties.
- 2.2.7. Fire detection and alarm system.
- 2.2.8. Equipment parts storage and inventory management.
- 2.2.9. After the RFU Date, acceptance of delivery of the Customer Equipment between 10:00 am to 4:00 pm on Business Days, subject to two (2) Business Days' notice to Whinstone, to be stored prior to installation.
- 2.2.10. Whinstone will be solely responsible for handling any complaints from third parties with respect to the noise from the Customer Equipment and shall hold the Customer harmless from any responsibility or costs arising out of or in relation to such complaints.
- 2.2.11. Whinstone will install all Customer Equipment on the data center racks, provide power and internet connection within thirty days of RFU Date. Installation includes unpacking, assembly and installation, LAN cable and power connection, initial setting, and garbage disposal.
- 2.2.12. Whinstone will provide stable power supply to the Customer's equipment at 240V. The equipment's power consumption may be adjusted by following instructions from the manufacturer. Whinstone will comply with any request from the Customer to adjust the power consumption if the total power consumption of all Customer equipment does not exceed the Specified Power Draw, or fall below eighty percent (80%) of the Specified Power Draw, unless both Parties mutually agree to do so.
- 2.2.13. Whinstone will follow the Service Level Agreement in Clause 4 and make its best efforts to ensure:
 - i. Average air intake temperature into the Customer's Miners is not greater than 30 degrees Celsius by maintaining sufficient airflow, preventing mixing of cool and hot exhaust air from the equipment in the data center, and using evaporative cooling;

- ii. Filters are used in the air intake system of the data center facility, and the air inside the data center is free of dust, insects, corrosion, precipitation and condensation.
 - iii. Intake and exhaust fans are free of obstruction or debris.
- 2.2.14. Whinstone will label all the Customer Equipment, cables, replacement parts to track inventory, replacement parts, and to make Basic Remote Hand Service the most efficient.
 - i. Whinstone will reference Miners with a unique identifiable identification number when giving reports to the Customer;
 - ii. For equipment other than Miners which may not have a unique ID number, Whinstone will properly label and store the equipment separate from other customers in the data center.
- 2.2.15. Whinstone will provide monthly reports to the Customer. These reports shall contain a summary of monthly power draw as measured from power consumption meters and include appropriate billing owed to Whinstone by the Customer.
- 2.2.16. Whinstone will provide Basic Remote Hands Service at no extra charge as outlined in Clause 2.3.1 and will offer Advanced Remote Hands Service for additional cost as outlined in Clause 2.4.1.
- 2.2.17. Customers may inspect the site before shipping its equipment and supplies to bring the Customer's Miners online. Upon completion of the inspection, the Customer may reduce the Specified Power Draw cited in Clause 3.12.1 if the site does not meet Customer's expectations and reduce the Advanced Remote Hands Service fee by the same proportionate amount as the reduction of Specified Power Draw.
- 2.3. Basic Remote Hands Service
 - 2.3.1. Basic Remote Hands Service is available twenty-four (24) hours a day, seven (7) days a week. Where requested by the Customer, Whinstone staff shall be available to perform the following tasks only on the instructions of the Customer in respect of the Customer Equipment:
 - i. Remote monitoring of equipment performance and status;
 - ii. Remote fault diagnosis;
 - iii. Pushing a button;
 - iv. Switching a toggle;
 - v. Power cycling (turning on/off) the Customer Equipment;
 - vi. Re-setting, rebooting the Customer Equipment;
 - vii. Securing cabling to connections
 - viii. Observing, describing and/or reporting to the Customer indicator lights or display information on machines or consoles;
 - ix. Cable organization;
 - x. Modifying basic cable layout, labelling and/or re-labelling of the Customer Equipment;

- xi. Cable patching;
- xii. Checking alarms for faults; and/or
- xiii. Inserting/removing discs or equivalent storage devices into/ from the Customer Equipment.

2.4. Advance Remote Hands Service

2.4.1. The following Advanced Remote Hands Services are not included in the Basic Remote Hands Service but may be provided by Whinstone to the Customer on a best effort basis. Unless explicitly expressed in Clause 2.3.1, in cases of ambiguity between Advanced Remote Hands Services and Basic Remote Hands Services, Advanced Remote Hands Services shall come into effect if the Customer Equipment must be taken off the rack:

- i. Installing applications or software to the Customer Equipment;
- ii. Uploading of data to the Customer Equipment;
- iii. Configuring the Customer Equipment operating system;
- iv. Configuring any software or applications on the Customer Equipment;
- v. Customer Equipment component fault diagnosis;
- vi. Software component fault diagnosis;
- vii. Rectifying problems caused by the Customer Equipment or software;
- viii. Rectifying problems caused by the Customer; or
- ix. Any service whatsoever requiring the opening of the outer casing of any of the Customer Equipment.

2.4.2. Communication for Advance Remote Hands Service shall be done via email or Whinstone's ticketing system. Whinstone will follow the Service Level Agreement as well as the work schedule specified in Clause 4.

2.4.3. Advanced Remote Hands Service shall be provided by Whinstone to the Customer for a fixed monthly fee as detailed in Clause 3.12, separately from Hosting Fees which includes only the Basic Remote Hands Service.

3. CHARGES AND PAYMENTS

3.1. In consideration of the provision of the Services, the Customer shall pay charges in accordance with this Clause 3.

3.2. Whinstone shall issue a monthly invoice to the Customer no later than the tenth day of the following month containing all charges and fees for providing the Services under this contract, including the Hosting Fees prepayment under 3.11.2. The Customer shall pay the undisputed amounts of such invoice no later than the last day of the month in which the Customer receives it.

3.3. If the Customer requests Whinstone to provide any services other than contemplated in this Agreement, Whinstone shall be entitled to invoice the Customer for any and all changes to such services pursuant to the agreement between the parties.

- 3.4. If either Party fails to pay any amount owed under this Agreement by the dates set forth herein:
 - 3.4.1. The Party to receive payment shall be entitled but not obliged to charge the Customer interest at a rate of 5% per year on the overdue amount commencing 14 business days after the due date up to the date of actual payment.
 - 3.4.2. Actual power consumption is measured at the end of each month, and a credit or debit is applied toward the next hosting fee prepayment invoice. If the credit or debit is not paid or applied on that invoice, the Party to receive payment shall be entitled but not obliged to charge the other Party interest 5% per year on the overdue amount commencing 14 business days after the due date of the invoice to the date of actual payment.
- 3.5. All charges and payments referred to in this Agreement are inclusive of sales tax (if applicable) and all similar taxes and duties payable in respect of such payments. To the extent that additional tax is properly chargeable to the Customer, the Customer shall pay at the time that the payment becomes due.
- 3.6. All amounts due under this Agreement shall be paid in accordance with all work performed and services provided. In the event that the Parties change the scope of the services, Whinstone and the Customer will agree on all billing changes and handle each credit or debit once there is a mutual agreed amount.
- 3.7. In the event of any failure by either Party to make full payment to the other Party of any and all amounts due pursuant to this Agreement, the Party owing payment shall be responsible for all costs and expenses which the other Party reasonably incurs in collecting such amounts.
- 3.8. The Parties may combine charges and invoices and offset any amounts owed to the other Party.
- 3.9. This Clause intentionally left blank.
- 3.10. Installation Fees
 - 3.10.1. This Clause intentionally left blank.
 - 3.10.2. Installation is considered complete when the Miner is seen remotely connecting to the Mining Pool and sending computation. In cases of faulty equipment, installation will be considered complete when Whinstone diagnoses the fault, sends a report to the Customer, and completes installation of alternative equipment.
 - 3.10.3. This Clause intentionally left blank.
- 3.11. Hosting Fees
 - 3.11.1. The Hosting Fees cover all services and items specified in this Agreement except for Advanced Remote Hands Service in Clause 3.12 and is calculated based on the power consumption of the Customer Equipment and shall not include Whinstone's own equipment (PUE) or the equipment of Whinstone's other customers.
 - 3.11.2. The Hosting Fee rate is the lesser of either (i) \$0.01705 USD or (ii) the "Pass Through Rate" as hereinafter defined. As used herein, the "**Pass Through Rate**" is defined as the lesser of either (i) the "Net Effective Rate" as that rate is defined and calculated in the Pro Forma Pricing Model attached as Attachment C to that certain Power Services Agreement entered into by and between Whinstone and Priority Power Management LLC on April 3, 2020 (the "**PPM Agreement**") or (ii) the exact price at which Whinstone is billed monthly for electricity provided to Customer per kilowatt-hour. The Hosting Fee

rate shall remain unchanged for 3 (three) consecutive years under any Extended Term under Clause 13.1. Whinstone will install power consumption meters at the transformers.

3.11.3. Whinstone, to the best of its knowledge, confirms that the “Pass Through Rate” is presently \$14.74 per Megawatt Hour as shown in the Pro Forma Pricing Model attached as Attachment C to the PPM Agreement, a materially accurate copy of which is attached hereto as Exhibit “1”. Customer understands that this rate is variable.

3.11.4. Hosting Fee rate = \$17.05 per Megawatt Hour or lower depending on the “Pass Through Rate” for 3 years, with the option to renew for the remainder of the Initial Term at the same pre-agreed upon terms seen in 3.11.2, in one year increments. Whinstone will invoice an 30,000 kW upon deployment of the Customer Equipment. Whinstone will require the payment to be made fifteen days prior to powering the Licensed Area.

3.12. Advanced Remote Hands Service Fee

3.12.1. Whinstone will invoice the Customer a fixed monthly fee of \$10,000.00 (USD) for the Advanced Remote Hands Services based on a scale of 7900 Miners. Whinstone will invoice Advanced Remote Hands Services together with the Hosting Fees and the applicable period for services rendered shall be the same month as the Hosting Fees unless otherwise specified. Notwithstanding the prior sentence, until all Specified Power Draw is provided, and all the Miners have been installed, Whinstone will invoice the Customer for Advanced Remote Hands Services based on the average number of installed Miners during the prior month. This fixed monthly fee will be credited towards Customer’s power bill in the result that there is greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1

3.12.2. Whinstone will adhere to all sections of the Service Level Agreement in Clause 4 as well as those specifically detailed for the Advanced Remote Hands Service.

3.12.3. In the likely result that the Advanced Remote Hands Service Fee is not necessary for Customer because they are monitoring their own systems with on-site staff, Customer will elect, in writing, that this service is no longer needed. Upon election and acceptance from Whinstone, this fixed monthly fee will be waived indefinitely.

3.13. Specified Power Draw

3.13.1. Whinstone will provide the Customer with at least 30,000 kW (30) MW of power available for the Services by September 30, 2020. As a minimum commitment, regardless of power consumption, the Customer shall pay for Hosting Fees for greater than or equal to eighty percent (80%) of the Specified Power Draw at the rate specified in Clause 3.11.1.

3.13.2. Customer and Whinstone agree, to the best of their ability, to be fair in negotiations and working to a mutually beneficial decision in the result of unforeseen circumstances.

For Purpose of Example and Reference, a cost of power calculation has been provided below based on \$17.05/mWh (\$0.01705/kWh), the “Hosting Fee rate”

30-day month: $30,000 \text{ kW} * \text{Hosting Fee} * 24 \text{ hours} * 30 \text{ days} = \368280.00

31-day month: $30,000 \text{ kW} * \text{Hosting Fee} * 24 \text{ hours} * 31 \text{ days} = \380556.00

3.13.3. If Whinstone determines that the over-usage of power cannot be reasonably permitted, Whinstone reserves the right to require the Customer to remove or deactivate sufficient Customer Equipment to prevent such over-usage within 24 hours of notification, which will describe in detail the reasons for the removal or deactivation. Whinstone shall consult with the Customer in good faith before determining to remove or deactivate.

- 3.14. Capital Expenditure. The Customer will pay to Whinstone the “Capital Expenditure” (as defined in the following sentence) in multiple payments, no one to exceed \$2,000,000 each (for a total Capital Expenditure not to exceed \$6,000,000). These payments shall be made on mutually agreed upon dates. The “**Capital Expenditure**” is defined as the lesser of either (i) the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area or (ii) Six Million U.S. Dollars (\$6,000,000.00 USD). At least thirty (30) days prior to the RFU date, Whinstone shall provide to Customer a full accounting of the actual costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area along with accurate receipts, bookkeeping, and proof of purchase for all invoices exceeding \$5,000 per line item.
- 3.15. This Clause intentionally left blank.
- 3.16. Whinstone agrees that all costs of construction and buildout of the infrastructure, building and power requirements of the Licensed Area greater than \$6,000,000 will be at the sole cost and expense of Whinstone. Whinstone agrees that, in the result of which this \$6,000,000 is more than necessary for the Capital Expenditure, Whinstone will refund the remaining funds to Customer.
- 3.17. Whinstone represents and warrants that the Capital Expenditure and Hosting Fees shall be exempt from Texas state sales tax because the expenditures for which the Capital Expenditure and Hosting Fees will be allocated are qualifying purchases for a “qualifying data center” within the meaning of Texas Tax Code Section 151.359 and the rules promulgated thereunder. In the event that, at any time during the Initial Term, any Texas state sales tax should be assessed on any portion of the Capital Expenditure or any portion of the Hosting Fees, Whinstone shall pay such Texas state sales tax solely from its own funds and shall indemnify and hold harmless the Customer from any and all liability, charges, costs, assessments, fees, fines, penalties and interest arising out of such assessment.
4. Whinstone agrees that the Capital Expenditure allows Customer complete use of the Licensed Area for a continuous, uninterrupted period of ten (10) years, unless otherwise mutually agreed upon by both Parties in writing at a later date.

5. OPERATIONS AND SERVICE LEVEL AGREEMENT (“SLA”)

- 5.1. Whinstone reserves the right to vary the technical specifications of the Services where necessary for operational reasons and without detracting from, reducing or impairing the overall quality or performance of the Services, after giving reasonable written notice to the Customer (except in the case of an emergency where notice is not possible; provided, however, that in such case, Whinstone shall provide notice to the Customer then as soon as reasonably possible).
- 5.2. Without prejudice to Clause 4.1, Whinstone reserves the right to, after providing the Customer with reasonable advance written notice (provided, however, that in the event of an emergency, as soon as reasonably possible) at any time to make any change, addition to or replacement of any part of the Services where this is required to conform with any applicable safety, statutory or legal requirement, provided that this does not detract from, reduce or impair the overall quality or performance of the Services.
- 5.3. The Customer may report any claims including failures of performance of the Services by Whinstone to the Whinstone support center at any time. Whinstone shall take all actions necessary to remedy such failures as soon as possible.
- 5.4. Interface or access to inventory, monitoring and Hashtrend software is provided to the Customer at no additional charge.

5.5. Uptime Guarantee

- 5.5.1. Whinstone guarantees an uptime percentage (percentage of time to maintain uninterrupted performance of the total Customer Equipment) of 96.35% and no more than 6 days of planned downtime due to loss of power, construction, or network outage.
- 5.5.2. Whinstone will not charge Customer for any power cost during the period of which there is interrupted performance of the total Customer Equipment.
- 5.5.3. Whinstone will give at least twenty-four (24) hours advance notice to the Customer via email before any datacenter downtime, or any downtime affecting more than one hundred (100) machines at one time.
- 5.5.4. If any unplanned event causes more than 10% of equipment to go offline, Whinstone will acknowledge the alert within 1 hour and report immediately to the Customer. Whinstone will attempt to begin remedy of the issue within 1 hour of alert acknowledgement and shall provide a full incident report within 5 business days of alert acknowledgement to the Customer.

5.6. Performance Guarantee

- 5.6.1. Whinstone will perform maintenance and repairs to ensure the total daily average hashrate of all machines does not fall by more than 5% below the Customer Equipment manufacturer's specified range.
- 5.6.2. If total hourly average hashrate of all Customer Equipment falls more than 10% compared to the previous hour, Whinstone will respond to the incident within 1 hour and provide a full incident report within 5 business days of the incident to the Customer.
- 5.6.3. Whinstone will make the best effort to employ a monitoring system to monitor uptime, performance and other machine metrics.
- 5.6.4. Whinstone shall maintain average hashrate overall for Customer Equipment within the tolerance range of the equipment manufacturer's specifications.
- 5.6.5. Whinstone shall acknowledge alerts from its monitoring system within 30 minutes and respond within 1 hour. If the problem cannot be corrected, the Customer Equipment affected will be placed in a maintenance queue and reported to the Customer by the next business day.
- 5.6.6. Whinstone will reply to notices from the Customer on the same business day.
- 5.6.7. Whinstone shall maintain an intake temperature suitable for proper operation of the machines. If any machines do overheat, Whinstone shall turn them off as soon as possible and report the issue to the Customer.

5.7. Advanced Remote Hands Service

- 5.7.1. Whinstone will provide Advanced Remote Hands Service from 9 am to 9 pm, seven days a week. This service includes repairs, unracking/racking units, and replacement of parts such as hashboards, fans, controller boards.
- 5.7.2. If the hourly hashrate performance of a single Miner drops more than 10%, Whinstone will respond within 30 minutes, and attempt to repair or replace faulty parts and components within 1 hour. If the issue cannot be resolved within 1 hour, Whinstone will place the equipment into a maintenance repair queue.

- 5.7.3. Whinstone shall reduce the maintenance repair queue at all times it is not responding to any incidents.
- 5.8. Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. The profit will be distributed 100% to the Customer.

6. WHITELABELING OF SERVICES

The Customer may white label the Services and arrangements under this Agreement on a back-to-back basis to specifically named third parties upon thirty-day notification to Whinstone, and Whinstone shall accept such execution of this right provided there are no changes to the terms of this Agreement. Any requested changes to warranties, representations, obligations, or service levels to be provided by Whinstone shall be negotiated in good faith by the Parties. Unless prior arrangement is made, the Customer shall be responsible for billing and collection associated with any white label offering.

7. OWNERSHIP AND INTELLECTUAL PROPERTY

- 7.1. The Parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Whinstone claim ownership of any of the equipment.
- 7.2. The Parties acknowledge and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the equipment are the sole property of the Customer. In no event shall Whinstone claim the ownership of any of such outcomes or productivities.
- 7.3. Whinstone shall not sell or create any mortgage, lien, or any kind of encumbrance on the Customer Equipment, the Intellectual Property, or any outcomes or productivities owned by the Customer.
- 7.4. The Customer will have a non-transferable license to use any IP address allocated by Whinstone to the Customer for the duration of this Agreement. If this Agreement is terminated for any reason, the Customer's license to use the IP address shall automatically terminate.
- 7.5. Customer owns any Developed IP. "**Developed IP**" means any intellectual property other than Background IP created or discovered by the Parties in connection with this Agreement, including without limitation any reports Whinstone provides to Customer. "**Background IP**" means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all intellectual property rights in the Developed IP. To the extent that Whinstone or its personnel own any rights in the Developed IP, Whinstone assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Whinstone will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Whinstone from transferring ownership of any Developed IP to Customer, Whinstone grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of such Developed IP. This agreement does not transfer

any rights associated with Background IP, which will remain vested with their owners.

- 6.6 Whinstone will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of the Services or any deliverable under this Agreement from Whinstone infringes or misappropriates the third party's Intellectual Property Rights.

8. CONFIDENTIALITY

- 8.1. The parties agree that Confidential Information:

- 8.1.1. shall be used solely for the purpose for which it was furnished in connection with performance of this Agreement;
- 8.1.2. shall be maintained in strict confidence and shall not be disclosed to third parties, provided, however, that Whinstone and the Customer may disclose Confidential Information to their respective affiliates and sub-contractors and their respective employees who need to have access to such Confidential Information for the purposes of providing the Services on the condition that Whinstone and the Customer shall procure compliance by such sub-contractors or affiliates and their respective employees with the terms of this Clause 7; provided, however, that Whinstone and the Customer shall be responsible for any breach of the obligations set forth in this Clause 7 by such sub-contractors or affiliates and their respective employees; and
- 8.1.3. upon termination of this Agreement shall be returned to the disclosing Party, together with all copies, or (at the disclosing Party's option) destroyed.

- 8.2. Any disclosure of Confidential Information permitted under Clause 7.1.2 shall be in confidence, and only be to the extent that any persons to whom the information is disclosed need to know the same for the performance of their duties and the receiving Party shall be obliged to procure that all such persons are aware of the obligation of confidentiality and undertake to comply with it.

- 8.3. The obligations of confidentiality and restricted use set out in Clauses 7.1 and 7.2 are not applicable to Confidential Information that:

- 8.3.1. was previously or becomes known to the receiving Party, free from any obligation to keep the same confidential (provided that Confidential Information disclosed in contemplation of the provision of the Services shall still remain subject to such obligations);
- 8.3.2. is or becomes generally available to the public, other than as a direct or indirect result of unauthorized disclosure by the receiving Party, its affiliates or a person engaged by the receiving Party or its affiliates contrary to their respective obligations of confidentiality;
- 8.3.3. is shown to have been independently developed by the receiving Party, its officers, employees, agents or contractors;
- 8.3.4. the Parties agree in writing that it need not be kept confidential; or
- 8.3.5. is required to be disclosed by law or by regulation or by the order of any governmental authority or court provided that, to the extent permitted by law, prior to any disclosure, the receiving Party notifies the disclosing Party of the information to be disclosed and the circumstances in which the disclosure is alleged to be required as early as reasonably possible before such disclosure must be made and, at the disclosing Party's request and

cost, assists the disclosing Party in avoiding or limiting any such disclosure.

- 8.4. Without prejudice to any other rights and remedies that the disclosing Party may have, the receiving Party agrees that if Confidential Information is used or disclosed or threatened to be used or disclosed other than in accordance with the terms of this Agreement, the disclosing Party shall, without proof of special damage, be entitled to seek an injunction, specific performance or other equitable relief for any actual or threatened breach of this Clause 7.
- 8.5. Notwithstanding Clause 7.1, Whinstone will request in writing to the Customer and request the Customer to participate in its advertising and/or promotional literature and other materials. The Customer has the right to opt out of any and all advertising request.
- 8.6. In order for Whinstone to provide the Services, the Customer will need to supply certain information or data. Where such information or data constitutes Personal Data, Whinstone will comply with the Data Protection Laws. The Parties shall duly observe and comply with all their obligations under the Data Protection Laws in relation to any Personal Data processed in connection with this Agreement and shall render such assistance and cooperation as is reasonably necessary or reasonably requested by the other Party in respect thereto.
- 8.7. It shall be the Customer's responsibility to keep any Personal Data provided to Whinstone up to date and the Customer warrants and undertakes to Whinstone that all of its Personal Data and contact details are accurate and complete.
- 8.8. Whinstone may pass the Customer's Personal Data to Whinstone affiliates and to any third-party suppliers Whinstone may use to provide services that involve processing data on Whinstone's behalf for the purpose of providing the Services and as contemplated by the terms of this Agreement; provided, however, that Whinstone shall be responsible for any breach of the obligations set forth in this Clause 7 by such affiliates and third party suppliers.

9. LIABILITY, REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATIONS

- 9.1. Both Parties represent and warrant that they have the right and capacity to enter into this Agreement and fully perform their respective obligations hereunder;
- 9.2. Whinstone shall perform the Services as described herein and shall provide the Services in a professional manner consistent with industry standards.
- 9.3. Whinstone hereby agrees to indemnify and hold harmless the Customer and any of its managers, owners, successors, licensees and assignees, from any and all losses, costs, liabilities, damages and expenses, including but not limited to, reasonable attorney fees resulting from any breach of any obligations, representation, warranty and/or covenant under this Agreement. Notwithstanding any provisions herein, Whinstone agrees to indemnify the Customer for any losses directly or indirectly caused by negligence or intentional or willful misconduct of Whinstone in its performance of obligations under this Agreement, including but not limited to, faulty operations, bad design, or misuse of the facilities in the datacenter.
- 9.4. If electrical supply is suspended for five (5) or more consecutive days, or more than seven (7) days in any twelve (12) month period due to any cause other than due to Force Majeure event, the Customer is entitled to suspend or terminate this Agreement by giving a written notice to Whinstone. Written notice will be signed and emailed to Whinstone, and a physical copy will be sent to Whinstone's registered address. The timestamp of the email will be considered the

date of the receipt of such notice. If the Customer terminates this Agreement for the aforementioned reason, Whinstone shall pay for the costs to decommission, clean, package onto pallets and for the shipping cost to transport all Customer's Customer Equipment to a new location.

- 9.5. Neither Party excludes or limits its liability to the other Party for:
 - 9.5.1. death or personal injury caused by its negligence;
 - 9.5.2. fraud or fraudulent misrepresentation.
- 9.6. Subject to Clauses 6, 8.5, 8.7, and claims for outstanding payment, the aggregate liability of each Party to the other in contract, tort (including negligence), for breach of a statutory duty or otherwise arising under or in connection with this Agreement or its subject matter shall be limited to a sum equal to the greater of: (i) the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement had been in force for less than twelve months at that date, the annualized amount of the charges payable by that date; and (ii) USD \$250,000.
- 9.7. Subject to Clause 8.5 but notwithstanding anything else in this Agreement, the aggregate liability of:
 - 9.7.1. the Customer to Whinstone for damage to property, in contract, (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date; and
 - 9.7.2. Whinstone to the Customer for damage to property, in contract, tort (including negligence) or otherwise arising under or in connection with this Agreement shall be limited to a sum equal to the aggregate charges payable by the Customer to Whinstone in the twelve-month period immediately prior to the date on which the cause of action first arose or, if the Agreement has been in force for less than twelve months on such date, the annualized amount of the charges payable by that date.
- 9.8. In no event will Whinstone have any liability for non-provision or delay in the provision of the Services which:
 - 9.8.1. can be reasonably attributed to the acts or omissions of the Customer, its affiliates, employees, workers, sub-contractors, agents or customers including but not limited to failure to provide complete, accurate information in a timely manner for Whinstone;
 - 9.8.2. arises from or as a consequence of use of the Services other than in accordance with the express terms of this Agreement; and/or
 - 9.8.3. occurs during any period of suspension in accordance with Clause 12, provided, however, that this Clause 8.8 shall not apply in the case of willful misconduct or negligence by Whinstone, its affiliates, employees, workers, sub-contractors or agents.
- 9.9. The Customer acknowledges that Whinstone would not enter into this Agreement at the prices herein without the foregoing limitations of liability. Each Party acknowledges that the allocation of risk in this Agreement (including the exclusions and limitations set out in this

Clause 8) has been freely negotiated at arm's length and is regarded by it as reasonable. The Customer acknowledges that it has had an opportunity to consider adequate insurance cover and to obtain professional advice in relation to this Clause 8.

- 9.10. Whinstone shall not be liable for any claim arising under this Agreement unless the Customer gives Whinstone written notice of the claim within twelve months of becoming aware of the circumstances giving rise to the claim.
- 8.11. Whinstone shall maintain minimum general business liability insurance in the amount of ten million US Dollars per occurrence or replacement value of the Customer's Customer Equipment, whichever is lower. This coverage will not include business income interruption coverage. The Customer is responsible for insuring their equipment and business income interruption insurance.
- 8.12. Whinstone represents to the Customer that it has secured rights to at least 100 acres of leased land for two years for the Data Center and secured for commercial access up to one (1) gigawatt of aggregated electricity that can be delivered to the Data Center, of which a portion of that may be incrementally offered to the Customer under an Extended Term.

10. ASSIGNMENT

- 10.1. This Agreement and all rights and obligations hereunder, in whole or in part, may not be assigned or transferred by either Party without the prior written consent of the other Party. The Party is and shall remain liable to the other Party for any act or omission of any of its Representatives and/or customers.
- 10.2. Whinstone may, upon receipt of the Customer's prior written consent, assign, sub-license or deal in any other manner with this Agreement or any rights under the Agreement, or subcontract any or all of any or all of obligations under this Agreement to one or more of its affiliates or to any third party upon a sale of all or substantially all of its assets and will provide notice to the Customer of any such assignment, provided, however, that the Customer is provided with the Services under the same terms and conditions as those of this Agreement until the expiration of the Initial Term or the relevant Extended Term, as the case may be, of this Agreement.

11. FORCE MAJEURE

- 11.1. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including any damages whether directly or indirectly caused or incurred by the other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure.
- 11.2. If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to prevent the performance of any obligations on its part, it shall as soon as reasonably possible and in any event within five (5) Business Days after commencement of the Force Majeure serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- 11.3. If either Party is prevented from performance of substantially all of its obligations by Force Majeure for more than two (2) months in total, the other Party may terminate this Agreement by giving notice in writing to the other Party at any time, in which case neither Party shall

have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

12. NOTICES

12.1. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the Party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth below, or to such e-mail address, as subsequently modified by written notice given in accordance with this Clause 11 herein:

12.2. The addresses of the parties for the purposes of Clause 11.1 are:

12.2.1. Whinstone US, Inc.

**2721 Charles Martin Hall Road
Rockdale, Texas 76567
Marked for the attention of: Lyle Theriot
Email: Lyle.Theriot@whinstone.us
Attention: Lyle Theriot**

12.2.2. Rhodium 30mw, LLC.

**7546 Pebble Drive
Fort Worth, Texas 76118
Marked for the attention of: Cameron Blackmon
Email: cameronblackmon@imperiumpartners.io
Attention: Cameron Blackmon**

12.3. In proving service, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party set out in Clause 11.2 (or as otherwise notified by that party under this Clause) and delivered to that address.

13. SUSPENSION OF SERVICE

13.1. Whinstone reserves the right to suspend the Services for the following reasons:

13.1.1. to carry out Maintenance with the prior written consent of the Customer;

13.1.2. to make any modification, change, addition to, or replacement of, the Whinstone Equipment or any part of the IP Connection Service or the Services where this is required to conform with any applicable safety, statutory or legal requirements, provided that such modification, change, addition or replacement does not detract from, reduce or impair the overall quality or performance of the Services with prior written consent of the Customer;

13.1.3. where the Customer fails to pay any undisputed Charges in accordance with Clause 3;

13.1.4. where Whinstone is obliged to comply with an order, instruction or request of Government, court, law enforcement agency or other competent administrative or regulatory authority, in which case Whinstone shall provide notice to the Customer as soon as possible, and cooperate with the Customer to mitigate losses or take other appropriate actions;

- 13.1.5. in an emergency; or
- 13.1.6. where Whinstone has reason to terminate this Agreement in accordance with its terms.
- 13.2. Where suspension of the Services is necessary in accordance with the provisions of Clause 12.1.2, Whinstone will carry out such work as Scheduled Maintenance but in circumstances where this is not possible, Whinstone shall use all reasonable endeavors to perform such work between the hours of midnight and 6am and shall restore the Services as soon as reasonably practical in the circumstances.
- 13.3. If Whinstone exercises its right of suspension under this Clause, this will not exclude its right to terminate this Agreement later in respect of that or any other event, nor will it prevent Whinstone claiming damages from the Customer in respect of any breach.

14. TERMINATION

- 14.1. This Agreement shall commence on the Effective Date and shall continue for a period of One hundred twenty (120) months from the RFU Date (“**Initial Term**”) unless and until terminated in accordance with this Clause 14.

This Agreement shall be automatically extended for a period of 12 months (“**Extended Term**”) at the end of the Initial Term and at the end of each Extended Term. The Customer can terminate the contract at the end of the twelfth month of the Initial Term or any Extended Term with no penalty by notifying Whinstone in writing sixty (60) days prior to the end of the contract. Unless notified in writing of termination by the Customer as mentioned above, the Customer contract will renew automatically for an additional twelve (12) months under the same conditions.

- 14.2. Termination for Cause. Either party (the “**Non-Defaulting Party**”) may terminate this Agreement (without prejudice to its other rights and remedies) with immediate effect by written notice to the other party (the “**Defaulting Party**”) if:
 - 14.2.1. the Defaulting Party commits a material breach of any of its material obligations under this Agreement (including failing to pay any sums payable under this Agreement by the due date) and if the breach is capable of remedy, fails to remedy it during the period of 30 days starting on the date of receipt of notice from the Non- Defaulting Party specifying the breach and requiring it to be remedied; or
 - 14.2.2. the Defaulting Party becomes insolvent including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities, proposes an individual, company or partnership voluntary arrangement, has a receiver, administrator or manager appointed over the whole or any part of its business or assets; if any petition shall be presented, order shall be made or resolution passed for its winding up (except for the purpose of a bona fide amalgamation or reconstruction), bankruptcy or dissolution (including the appointment of provisional liquidators/interim receivers or special managers); if it shall otherwise propose or enter into any composition or arrangement with its creditors or any class of them; if it ceases or threatens to cease to carry on business or if it claims the benefit of any statutory moratorium; or
 - 14.2.3. the Defaulting Party suffers, or there occurs in relation to that party, any event which is analogous to any of the events referred to in Clause 13.2.2 in any part of the world.
 - 14.2.4. In the case that the Customer terminates this Agreement due to Whinstone’s failure to cure a default, or the matters specified in Clause 13.3 or 13.4, Whinstone will pay for the costs to decommission, clean, package onto pallets and ship the Customer equipment to a

new location. Whinstone will also pay Customer's lost revenue from mining resulting from such termination converted to US dollars, which shall be calculated based on the average market price of the mined digital asset and mining difficulty levels for a period of four calendar weeks from the date of the termination.

- 14.3. It is in the best interest of both Parties to pursue all reasonable efforts to remedy any issues with the Services or Service Level Agreement without termination or penalties. In cases of negligence or failure to maintain the Service Level Agreement for more than two (2) consecutive months, the Customer shall be entitled to the right to terminate the Agreement.
- 14.4. If Whinstone fails to install all of the Customer Equipment within 60 days of the RFU Date, the Customer shall be entitled to terminate or suspend the Agreement, and Whinstone shall refund the customer the 90% of the installation charges.
- 14.5. Either Party may terminate this Agreement with immediate effect by written notice and without further obligation or liability to the Customer if required by any law enforcement or other government or regulatory organization or authority or by the courts.
- 14.6. All rights and obligations of the Parties shall cease to have effect immediately upon termination of this Agreement, except that termination shall not affect:
 - 14.6.1. accrued rights and obligations of the Parties at the date of termination; and
 - 14.6.2. the continued survival and validity of the rights and obligations of the Parties under Clauses 7, 8, this Clause 13.4 and Clauses 15, 17 and 19 and any other provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.
- 14.7. For the avoidance of doubt, save where otherwise agreed in writing between the Parties, termination of any Services at a site does not constitute termination of this Agreement, and, where this Agreement has been terminated in accordance with its terms, all Services will automatically terminate upon such termination.
- 14.8. Upon termination of this Agreement, the Customer shall at its own cost and expense return to Whinstone all IP addresses provided to it by Whinstone.

15. ANTI-BRIBERY AND CORRUPTION

Each Party warrants and represents that it has not and will not carry out any act that could be an offense under anti-bribery laws.

16. APPLICABLE LAW

This Agreement shall be governed by Texas Law and the parties hereby submit to the exclusive jurisdiction of the Texas courts.

17. GENERAL

- 17.1. No failure or delay of either Party in exercising its rights hereunder (including the right to require performance of any provision of this Agreement) shall be deemed to be a waiver or release of such rights. Any waiver or release must be specifically granted in writing signed by the Party waiving its rights and shall:
 - 17.1.1. be confined to the specific circumstances in which it is given;
 - 17.1.2. not affect any other enforcement of the same or any other right; and

17.1.3. unless it is expressed to be irrevocable, be revocable at any time in writing.

Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

17.2. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

17.2.1. the legality, validity, or enforceability in that jurisdiction of any other provision of this Agreement; or

17.2.2. the legality, validity, or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

17.3. All work performed by Whinstone under this Agreement shall be performed as an independent contractor and not as an agent of the Customer and neither Party shall be, nor represent itself to be, the employee, agent, representative, partner or joint venture of the other. Neither Party shall have the right or authority to assume or create an obligation on behalf of or in the name of the other or to otherwise act on behalf of the other. The performing Party shall be responsible for its employees' compliance with all applicable laws, rules, and regulations while performing work under this Agreement.

No modification, amendment or other change may be made to this Agreement or any part thereof unless reduced to writing and executed by authorized representatives of Whinstone and the Customer. Unless expressly so agreed, no modification or variation of this Agreement shall constitute or be construed as a general waiver of any provisions of this Agreement, nor shall it affect any rights, obligations or liabilities under this Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the Parties under this Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

18. ENTIRE AGREEMENT

18.1. This Agreement constitutes the entire understanding between the Parties concerning the subject matter of the Agreement and supersedes any previous agreement or understanding between the Parties in relation to the subject matter.

18.2. With effect from the date of this Agreement all Services shall be provided solely in accordance with the terms of this Agreement and all prior agreements and understandings between the Parties in relation to the same shall be deemed terminated from the date hereof. Save in respect of rights and liabilities arising prior to such date, all such prior agreements and understandings shall cease to be of effect from the date of signature of this Agreement. In no event shall the pre-printed terms and conditions found on any Customer purchase order, acknowledgement, or other form be considered an amendment or modification of this Agreement, even if such documents are signed by representatives of both Parties; such pre- printed terms and conditions shall be null and void and of no force and effect.

18.3. Each Party acknowledges and agrees that in entering into the Agreement or in amending any part of this Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in the Agreement. Each Party irrevocably and unconditionally waives all claims, rights and

remedies which but for this clause it might otherwise have had in relation to any of the foregoing.

18.4. Nothing in Clauses 17.1 to 17.3 (inclusive) shall limit or exclude any liability for fraud.

19. COUNTERPARTS

19.1. This Agreement shall be executed in two originals, each Party shall retain one original respectively This Agreement shall not be effective until each of the Parties has executed at least one counterpart.

19.2. Each counterpart shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

20. THIRD PARTIES

It is agreed that this Agreement is not intended to and does not give to any other person who is not a party to this Agreement any rights to enforce directly any provisions contained in this Agreement except for any person to whom the benefit of this Agreement is assigned or transferred in accordance with Clause 9.

21. FURTHER ASSURANCE

Each Party shall, if requested by the other Party and at the other Party's cost, execute or cause to be executed all documents and do or cause to be done all further acts and things as may be necessary in order to vest in and secure to the other Party and its successors in title the full benefit of the assets, rights and benefits to be transferred or granted to the other Party under this Agreement and for the protection and enforcement of the same and otherwise to give effect to this Agreement and to the rights and obligations contained within this Agreement.

[Remainder of this page intentionally left blank; signature page follows]

The Agreement shall come into force from the seal or signature date by both Parties. This Agreement is made out in two original copies, one copy to be held by each Party in witness thereof.

CUSTOMER:

On behalf of Rhodium 30mw LLC.

x *Cameron Blackmon*

Name: Cameron Blackmon

Title: Corporate Officer

Date: 06 / 30 / 2020

WHINSTONE:

On behalf of Whinstone US, Inc.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 07 / 2020

EXHIBIT 1

| | |
|--------------------------------|--|
| TITLE | Rhodium 30MW |
| FILE NAME | 6.30.20 Whinstone...AL EXECUTABLE.pdf |
| DOCUMENT ID | 253747e5d995ac9a4a792b970f6a26383444552d |
| AUDIT TRAIL DATE FORMAT | MM / DD / YYYY |
| STATUS | ● Completed |

Document History

| | | |
|--|---|---|
|  SENT | 06 / 30 / 2020 17:48:18 UTC-6 | Sent for signature to Cameron Blackmon (Cameronblackmon@rhodiummining.io) and Chad Harris (c.harris@whinstone.us) from corporate@fornarolaw.com IP: 73.50.131.53 |
|  VIEWED | 06 / 30 / 2020 17:56:33 UTC-6 | Viewed by Cameron Blackmon (cameronblackmon@rhodiummining.io) IP: 47.51.239.218 |
|  VIEWED | 07 / 03 / 2020 19:33:30 UTC-6 | Viewed by Chad Harris (c.harris@whinstone.us) IP: 8.2.194.186 |
|  SIGNED | 06 / 30 / 2020 17:57:13 UTC-6 | Signed by Cameron Blackmon (cameronblackmon@rhodiummining.io) IP: 47.51.239.218 |
|  SIGNED | 07 / 07 / 2020 11:58:25 UTC-6 | Signed by Chad Harris (c.harris@whinstone.us) IP: 8.2.195.142 |
|  COMPLETED | 07 / 07 / 2020 11:58:25 UTC-6 | The document has been completed. |

EXHIBIT 5

Colocation Agreement

This Colocation Agreement (this “Agreement ”) is made as of November 2, 2020 (the “Effective Date”) between Whinstone US Corporation , a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA (“Provider ”), and Jordan HPC LLC , a limited liability company organized and existing under the laws of Wyoming, having its principal office at 7546 Pebble Drive, Fort Worth, Texas 76118 (“ Customer ”). Provider and Customer are hereinafter together referred to as the “ Parties ” and each as a “Party .”

WHEREAS, Provider operates a colocation data center facility the primary business purposes of which is to make the facilities (e.g., power, cooling, and Internet connectivity) necessary to support high volumes of Bitcoin mining devices available to customers that have, or desire to obtain, such devices, and are seeking an off-premises location to store and operate such devices;

WHEREAS, Customer currently owns or desires to procure dedicated Bitcoin mining devices, and desires to install such devices in a facility at which Customer may manage and operate such devices remotely; and

WHEREAS, Provider is willing to provide such hosting services to Customer, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1. Key Terms

- 1.1. The table below sets forth a summary of the principal terms of the hosting arrangement under this Agreement (the “Key Terms ”). Each of the terms in the leftmost column of this table will have the meaning set forth in the respective row(s) in the column(s) to the right.

| | | |
|---------------------------|--|------------|
| Target Ready-for-Use Date | September 30, 2020 | |
| Initial Term Length | 120 months with option to extend for up to an additional 120 months at Customer's discretion | |
| Customer Equipment | (To be specified in writing by Customer) | |
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit: | _____ TH/s |
| | Power usage per unit: | _____ W/GH |
| | Hardware Unit | |
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit: | _____ TH/s |
| | Power usage per unit: | _____ W/GH |
| Specified Power Draw | _____ Up to 25 MW broken into executable increments of 5MW | |
| Hosting Fees | As defined in Section 6.1 of this Agreement | |
| Provider Account | _____ | |
| Customer Account | _____ | |

2. Definitions

2.1. Defined Terms

The terms listed below, when used in this Agreement, shall have the following meaning

“Advanced Remote Hands Service ” is defined in Section 3.4.

“Applicable Law ” means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, interpretation, writ, judgment, injunction, license, or permit, issued or enacted by any Governmental Authority, which is applicable to a Party under this Agreement, including securities laws, tax laws, tariff and trade laws, and data laws.

“AUP” or “Acceptable Usage Policy ” means Provider’s then-current acceptable use policy, which may be referenced at www.whinstone.us.

“Basic Remote Hands Service ” is defined in Section 3.4.

“Building Unit ” means each separate building within the Facility.

“Business Day ” means a day which is not a Saturday, Sunday or a public holiday in Texas.

“Confidential Information ” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services,

data used or generated in the provision of the Services, or any of Customer's products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs.

"Connection " means the connection between Customer Equipment and the internet.

"Customer " is defined in the preamble to this Agreement.

"Customer Area " means the part of the Facility that is designated for the installation of the Customer Equipment.

"Customer Equipment " means the hardware equipment that is owned by Customer and installed in the Customer Area.

"Customer Representative " means any officer, employee, agent, sub-contractor or other person identified by Customer as acting on Customer's behalf.

"Data Center Rules " means the then-current rules and procedures relating to physical access to the Facility.

"Data Center Specifications " is defined in Section 3.1.

"Defaulting Party " is defined in Section 17.1.

"Deinstallation Commencement Date " is defined in Section 17.3.

"Demand Reduction Benefit Program " means any scheme initiated by a power supplier, power network supplier or other third party in the power market area managed by the Electric Reliability Council of Texas, under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage.

"Deposit " is defined in Section 6.3.

"Disposal Charge " is defined in Section 17.3.

"Equipment Lien " is defined in Section Error! Reference source not found. .

"Facility " means the data center operated by Provider at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

"Force Majeure Event " means any event beyond the reasonable control of a Party, including, without limitation, war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law, regulation, rule, or any act, order, direction, or ruling of a Governmental Authority coming into force after the date of this Agreement, natural and environmental disaster, epidemic, quarantine, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, acts of God, failure of a part of the power grid, failure of the Internet, failure or delay in the performance of Provider's third-party suppliers or of other third-party suppliers, and strikes, slowdowns, lockouts or other labor stoppages.

"Governmental Authority " means any domestic or foreign, supra-national, national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, taxing authority, agency (public or otherwise), or governmental entity or quasi-governmental entity (including any subdivision thereof), in each case anywhere in the world, having competent jurisdiction over a Party.

"Hardware Control App " means the application that is made available by Provider to permit Customer to manage the Customer Equipment.

"Hardware Control Software " means the software which enables management of the Customer Equipment by Customer and Provider via the Hardware Control App.

"Hardware Control EULA " is defined in Section 3.2.

"Hardware Unit " means each part of Customer Equipment bearing a separate identification code.

"Hosting Services " is defined in Section 3.1.

“IP-Rights ” means all intellectual property rights, including patents, utility models, trade and service marks, trade names, domain names, rights in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world.

“Maintenance ” means any activity performed by Provider in order to maintain, upgrade or improve the Services, including any modification, change, addition, or replacement of any Provider hardware, or any part of, or machinery or other components of, the Facility.

“Minimum Hosting Charge ” is defined in Section 6.1.

“Mining Pool ” means the group of Bitcoin miners to which Customer determines to contribute the processing power of any particular piece of Customer Equipment in order to collaborate in finding new Bitcoin blocks.

“Non-Defaulting Party ” is defined in Section 17.2.

“Notice ” is defined in Section 19.

“Parties ” is defined in the preamble to this Agreement.

“PDU” means power distribution unit.

“Phase-out Period ” is defined in Section 17.3.

“power ” means electric power.

“Power Supply Contract ” means Provider’s agreements with third parties related to the provision of power to the Facility.

“Provider ” is defined in the preamble to this Agreement.

“Racks” means the racks provided by Provider and configured for installation of the particular Customer Equipment.

“Related Services ” is defined in Section 3.1.

“Remote Hands Service ” is defined in Section 3.5.

“RFU Date” or “Ready-for-Use Date ” means January 30, 2021.

“Scheduled Maintenance ” means any Maintenance activities for which Provider notified Customer at least 3 days in advance, which notice may be given by publication on the Hardware Control App.

“Service Rates ” means Provider’s then-current rates for Related Services, as set forth in Annex 1.

“Service Charges ” means amounts owed by Customer in connection with the Services.

“Service Level Default ” is defined in Section 8.

“Service Level Credit ” is defined in Section 8.

“Services ” is defined in Section 3.2.

“Specified Power Draw ” means the amount of power available to Customer as part of the Hosting Services.

“Term” is defined in Section 16.

“Termination Date ” means the date this Agreement terminates or expires.

“Termination Event ” is defined in Section 17.1.

“Ticket ” means an electronic request for service generated in the Hardware Control App.

“Unscheduled Maintenance ” means Maintenance that is not Scheduled Maintenance.

“Uptime ” means the amount of time in the applicable month that the Hosting Services are available to Customer, as determined in accordance with Section 8.

“Uptime Service Level ” is defined in Section 8.

“Working Hours ” means the hours from 8:00 a.m. to 5:00 p.m., Central Time, on a Business Day.

3. Provider’s Services

3.1. Facility

All Services are provided within the Facility, which is designed to meet the following specifications (the “Data Center Specifications ”):

- * power supply up to the Specified Power Draw;
- * transforming equipment;
- * racks
- * all air cooling equipment, PDUs, etc,
- * evaporative cooling;
- * air ventilation and cooling sufficient to ensure that the average ambient temperature within any Customer Area is not greater than 30 degrees Celsius;
- * limited air filtration sufficient to ensure that the Customer Area remains free of dust, insects, precipitation and condensation
- * internet connectivity; and
- * smoke detection

it being understood that each of the foregoing is made available to the Customer Area on a shared, non-exclusive and non-redundant basis.

Within the Facility, Provider does not guaranty that the Customer Area will be contiguous. The Customer Area may spread over several Building Units, and is not physically separated from areas in the Facility in which the equipment of other customers is hosted. Provider has the right to change the location of the Customer Area within the Facility and to relocate Customer Equipment, subject to the maintenance and service level obligations set forth in this Agreement.

3.2. Services

Provider shall provide Customer with the Hosting Services and the Related Services (together the “Services ”) during the Term.

The “Hosting Services ” consist of:

- * providing the Customer Area in accordance with the Data Center Specifications;
- * providing Racks in the Customer Area;
- * providing customers with limited air filtration at an additional cost in the Customer Area;
- * hosting the provided Customer Equipment in the Racks;
- * providing customers PDUs installed in the Racks, as may be required by the particular Customer Equipment;
- * making available the Hardware Control Software and Hardware Control App (it being understood that these components are subject to a separate license agreement (the “Hardware Control EULA ”), but for which no separate license fee is payable);

- * Switching back on any breakers that have tripped during the 8am to 8pm CT time period.
- * subject to Section 5, providing Customer with escorted access to the Customer Area for equipment inspections, installation, removal, additions, subtractions or physical maintenance at any time during Working Hours or otherwise by prior appointment as mutually agreed;
- * fire detection and alarm system provide by Rhodium JV LLC
- * providing monthly reports to the Customer that will contain a summary of monthly power draw as measured from power consumption meters;
- * providing IT security for the Facility, including the installation, maintenance and operation of a firewall and implementation and administration of an IT security policy to prevent unauthorized access, viruses, and ransomware; and
- * providing physical security for the Facility which will include, but not be limited to, 24-hour patrol, camera security, monitored alarm security, and a fence around the Building Units in which any part or all of the Customer Area is located.

The "Related Services " consist of

- * installation of Customer Equipment (as more particularly described in Section 3.3);
- * the Basic Remote Hands Service (as more particularly described in Section 3.4); and
- * deinstallation of Customer Equipment.

For the avoidance of doubt, the Related Services are not optional, and the Customer's receipt of and payment for the Related Services is a requirement for hosting the Customer Equipment in the Facility.

3.3. Installation

The installation of Customer Equipment includes:

- * unpacking;
- * labelling;
- * positioning in the Racks
- * installation and management of cables (power and LAN connection);
- * inventorization and inventory management;
- * installation of the Hardware Control Software;
- * initial setting; and
- * disposal of packing materials.

Installation does not include the provision or installation of any software other than the Hardware Control Software. In certain cases, a particular Hardware Unit may require an update to its firmware (as determined and designated by the manufacturer thereof). In such case, Provider will apply such firmware update in accordance with the instructions provided by such manufacturer. CUSTOMER HEREBY AGREES THAT, IN THE ABSENCE OF PROVIDER'S RECKLESSNESS, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT ARISING OUT OF OR RESULTING FROM THE APPLICATION OF ANY SUCH MANUFACTURER-PROVIDED FIRMWARE UPDATE.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer-designated Mining Pool. In the case of faulty Hardware Units, installation is completed when Provider diagnoses the fault and provides a report to

Customer.

Except as may otherwise be determined by Provider in its sole discretion, Customer shall not have any rights to install, uninstall, or otherwise physically access any Hardware Units in the Facility.

3.4. Basic Remote Hands Service

The basic Remote Hands Service (the "Basic Remote Hands Service ") consists of the following tasks, as applicable, which will be performed by Provider based on the specific instructions of Customer:

- * pushing a button;
- * switching a toggle;
- * turning on/off of Customer Equipment;
- * securing cabling connections;
- * observing, describing and/or reporting of indicator lights or display information on machines or consoles;
- * cable organization;
- * modifying basic cable layout, labelling and/or re-labelling of Customer Equipment;
- * cable patching;
- * checking alarms for faults; and/or
- * inserting/removing discs or equivalent storage devices into/from the Customer Equipment.

Performance of these services will be available on a 24/7 basis. For the avoidance of doubt, the Basic Remote Hands Service is included as part of the Variable Hosting Rate and will not be subject to separate charges or invoices.

3.5. Advanced Remote Hands Service

The following activities, which require software or hardware changes requested by Customer (the "Advanced Remote Hands Service " and, together with the Basic Remote Hands Service, the "Remote Hands Service "), may be requested by Customer and provided by Provider on an "as-is" basis, subject to the prior mutual agreement of the Parties:

- * installation of applications or software on Customer Equipment;
- * uploading of data to Customer Equipment;
- * configuration of Customer Equipment operating system;
- * hardware fault diagnosis;
- * software fault diagnosis;
- * rectification of problems caused by Customer Equipment or software;
- * rectification of problems caused by Customer;
- * cleaning of Customer Equipment;
- * any service requiring the opening of the outer casing of any Customer Equipment; and
- * any other activity not expressly listed as a Related Service.

Performance of these services will be available on a 24/7 basis. Any particular Advanced Remote Hands Service that is commissioned by Customer and performed by Provider shall be deemed to be part of the "Services" under this Agreement. Customer hereby acknowledges that Provider makes no

warranties of any kind in connection with the provision of the Advanced Remote Hands Services, and CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER'S RECKLESSNESS, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES.

3.6. Service Orders

Customer shall place all orders for Remote Hands Service through the Hardware Control App. Such orders are placed by opening a Ticket specifying the relevant Hardware Unit, the requested action, and all other information requested by the Hardware Control App. All such Tickets shall be deemed to be orders for such services, and Customer shall be obligated to pay all fees arising out of Provider's performance thereof.

Under certain circumstances the Hardware Control App has the ability to open Tickets automatically in response to certain performance characteristics and failure modes relating to the Customer Equipment, to the extent that such functionality is enabled by Customer. Any such Tickets that call for Basic Remote Hands Service shall be deemed to have been opened by the Customer, and be conclusive orders for such Basic Remote Hands Service. For the avoidance of doubt, the performance of this functionality under the Hardware Control App shall be governed by the Hardware Control EULA and not this Agreement.

4. Power Supply

- 4.1. Provider will make power available to and in connection with the Customer Area up to the amount of the Specified Power Draw, subject to Sections 4.5 and 4.6.
- 4.2. Customer acknowledges that the Specified Power Draw will be allocated to the Customer Area for the power usage of the Customer Equipment, the evaporative cooling of the Customer Area, as well as any other components that may be installed in the Customer Area that require power (i.e., it is allocated to the collective requirements of all components in the Customer Area that draw power).
- 4.3. Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw. Provider has the right to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the evaporating cooling therefor) is, in the aggregate, reasonably likely to exceed the Specified Power Draw, or (ii) individual Hardware Units are reasonably likely to draw beyond the power usage per unit set forth in Section 1.
- 4.4. If a Ramp-Up Period is provided in Section 1, then for the applicable periods set forth therein the Specified Power Draw shall be deemed to be replaced with the values of the Temporary Power Draw.
- 4.5. Customer acknowledges that the power to the Facility is ultimately provided by third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by the Electric Reliability Council of Texas, Inc., and the Public Utility Commission of Texas (collectively, the "Power Regulations "). To the extent that the available power to the Facility is reduced pursuant to Power Regulations, and such reductions are not due to the wrongful actions of Provider, Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw; provided that in such case, Provider shall not treat Customer, in any respect, less favorably than any similarly situated Provider customer. Such reductions shall be considered and included in all respects in connection with any calculation of performance under the Uptime Service Level.
- 4.6. Customer hereby expressly consents to Provider's participation in any Demand Reduction Benefit

Programs, as determined by Provider in its sole discretion. Customer acknowledges that the requirements of any such Demand Reduction Benefit Program could lead to a complete or partial suspension of the Services; provided, however, that any unavailability of the Services (as contemplated under Section 8) arising out of any such participation is not excused for purposes of calculating Uptime. Provider shall allocate the impact of any Demand Reduction Benefit Program across the customers of the Facility on a pro rata basis, based on their respective Specified Power Draw amounts. Any savings in power costs that may be realized from the Facility's participation in any Demand Reduction Benefit Programs will be considered a rebate subject to the provisions of Section 6.7 of this Agreement.

5. Access to the Facility; Data Center Rules

5.1. Customer Representatives may access the Customer Area of the Facility during Working Hours, in accordance with the Data Center Rules, for the purpose of conducting inspections relating to Customer Equipment. To obtain such access, Customer must deliver prior written notice to Provider in accordance with the Data Center Rules, and in no event later than two (2) Business Days prior to the date of such access. Notwithstanding anything to the contrary, Provider shall have the right to remove any Customer Representative from the Facility premises in Provider's sole discretion, at any time, and without any liability to Customer or any Customer Representative.

5.2. Customer, and the Customer Representatives, shall comply with all Data Center Rules in connection with such access. Customer shall inform each applicable Customer Representative of the Data Center Rules prior to such Customer Representative accessing the Facility. Customer shall be liable for the acts and omissions of all Customer Representatives who access, or attempt to access, the Facility, including for their violation of the Data Center Rules, at least to the same extent as if such acts and omissions were Customer's own.

6. Hosting and Service Charges; Payments; Deposit

6.1. Charges for Hosting Services

The Hosting Fees shall have one component part, defined for purposes of this contractual agreement. Component one of the Hosting Fees shall be the Hosting Services charge, which will be calculated based on the wholesale power cost less the credits issued of the Ercot 4CP/CLR program, based on actual customer usage numbers with no minimum but shall in not case exceed the ceiling of USD \$1.705 cents ("1.705 Upper Bound Limit") for power costs.

6.2. Charges for Additional Services

Related Services and Advance Remote Hands Services shall be charged to Customer at the Service Rates. All Service Rates are exclusive of any value added taxes, sales, use, excise and other similar transactional taxes or duties. Customer will pay the value added tax and such other taxes referenced in the foregoing at the rate and in the manner prescribed by Applicable Law.

Service Rates are expressed in half-hour (0.5h) increments, or as otherwise may be described in this Agreement.

6.3. Deposit

Customer will pay to Provider as security for any obligations of Customer a security deposit (the "Deposit") in an amount that is equal to the Deposit Amount.

The Deposit will be paid to Provider on or before the Deposit Amount Due Date and will be returned to Customer within six (6) months following the end of the Term, unless used by Provider to set off claims against Customer.

Customer acknowledges that the Deposit does not need to be segregated from other funds of Provider and that, in particular, Provider is authorized to use the Deposit to make any deposit payments it is required to make with its power provider or other suppliers.

At the time of this agreement, no deposit is anticipated by Customer or Provider. To the extent the Customer makes Provider aware of the need to utilize power/hosting services

6.4. Invoicing; Payments

No later than ten (10) Business Days after the end of each month during the Term, Provider will invoice Customer for any Related Services, plus any applicable taxes.

The Party owing a payment under such invoice will make such payment within ten (10) Business Days from the Invoice date.

If Customer should become delinquent in the payment of any Invoice, Provider shall have the right thereafter to request pre-payments for Service Charges at its reasonable discretion.

All Payments among the Parties will be made in United States Dollars by wire transfer of immediately available funds into the Provider Account or Customer Account, as applicable, unless agreed otherwise by the Parties.

6.5. No Off-Set

Customer shall not set-off any amount owed or alleged to be owed by Provider to Customer against any other payments due to Provider.

6.6. Change of Hosting Charges

In the event of changes in or the establishment of laws, regulations, orders or policies by Governmental Authorities other than a power rate increase to provider, Provider shall have the right to make corresponding increases in the Hosting Rate and the Services Rate, upon written notice and mutual agreement by the Customer. Any such change shall become effective upon the next billing cycle.

6.7. Rebate

If and to the extent the Provider receives a rebate in connection with the participation in a Demand Reduction Benefit Program, such rebate will be passed on to the Customer pro rata. Customer acknowledges that such rebates can be paid for periods which are longer than the billing cycles under this Agreement, so that the rebates may be received with significant delay after a suspension of services because of the participation in a Demand Reduction Benefit Program.

7. Suspension of Services

7.1. Provider may suspend the Services, in whole or in part, for any of the following reasons, and in each case to the extent required by or mandated in respect of such underlying reason:

- * to conduct Maintenance;

- * to prevent, mitigate, or cease damage to Customer Equipment, any portion of the Facility, Provider's systems (including equipment), or the equipment of other Provider customers;
- * as required in connection with a Force Majeure Event;
- * in response to a request under a Demand Reduction Benefit Program;
- * to comply with an order, instruction, or request of any Governmental Authority;
- * suspension caused by the acts or omissions of Customer, including as requested by Customer;
- * in the event Customer fails to pay Provider any amounts owed and overdue within three (3) Business Days of being notified that such payment is overdue; or
- * the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2. Provider shall use commercially reasonable efforts to give prior notice, to the extent possible, to Customer before suspending the Services in whole, other than in situations where the suspension of Services occurs due to Scheduled Maintenance or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

7.3. During any suspension of Services pursuant to this Section, Customer's access through the Hardware Control App will be "read only", which will provide system status and other related information only, and Customer will not have the ability to open Tickets or control the Customer Hardware. In no event shall such inability be deemed to be a breach of this Agreement or of the Hardware Control EULA.

7.4. In the event of any suspension of Services due to a failure by Customer to timely pay any charges in accordance with this Agreement, or the occurrence of a Termination Event for which Customer is the defaulting Party, Customer shall pay to Provider US-\$ 35 per Hardware Unit in liquidated damages. The Parties agree that such liquidated damages are not a penalty, are fair and reasonable, and represent a reasonable estimate of loss that may reasonably be anticipated from such failure to pay or such Termination Event.

8. Service Level Agreement

For each month that Provider provides the Hosting Services to Customer, Provider will make commercially reasonable efforts to provide the Hosting Services with an Uptime of at least 97.0% (the "Uptime Service Level").

For purposes of the determination of Uptime, the Hosting Services shall be considered to be "available" if power, cooling, and internet connectivity are available to the Customer Area (in accordance with the Data Center Specifications, and subject to the obligations and rights of Provider under this Agreement), independent of Customer's actual ability to operate the Customer Equipment for any particular purpose. Any unavailability caused by (i) Force Majeure Events, (ii) Scheduled Maintenance, (iii) Demand Reduction Benefit Programs, or (iv) other environmental factors (e.g., temperature or humidity), notwithstanding the Facility operating in accordance with the Data Center Specifications, will, in each case, not be considered unavailability for the purposes of calculating Uptime.

Any suspension of Services permitted by Section 7.1, other than any total suspension of the Hosting Services due to (i) Unscheduled Maintenance or (ii) Provider reducing power consumption by the Facility in response to a request under a Demand Reduction Benefit Program, shall not count as unavailability for purposes of calculating Uptime.

If, in any whole month during the Term following the RFU Date, the Uptime Service Level is not met (a "Service Level Default"), Provider shall issue a credit (a "Service Level Credit") to Customer on

the invoice for Hosting Services for the following month in an amount that is equal to (i) the fees for Hosting Services payable in the month in which such Service Level Default Occurred, multiplied by (ii) the difference, measured as a percentage of Uptime, between the Uptime Service Level and the Uptime of the Hosting Services that was actually achieved. By way of example, if in the subject month the actual Uptime of the Hosting Services was 95%, and the fees payable for such Hosting Services in such month was \$100,000, the Service Level Credit would be calculated as follows:

The Uptime Service Level was 97.0%

The actual Uptime was 95%

The Service Level Credit is 2.0% of the fees for Hosting Services (97% minus 95%)

Service Level Credit = \$100,000 x 2.0% = \$2,000

The Service Level Credits shall be Customer's sole and exclusive remedy in connection with the occurrence of any Service Level Default.

9. Customer Responsibilities

9.1. Use of Services

Customer's use of the Hosting Services shall at all times comply with the AUP. For the avoidance of doubt, Customer expressly acknowledge that the Facility has been purpose-built to support the physical requirements of devices that perform Bitcoin mining activities, and that such activities are the sole permitted use of the Hosting Services. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROVIDER SHALL NOT HAVE, AND THAT CUSTOMER HEREBY EXPRESSLY AND KNOWINGLY RELEASES AND WAIVES ANY CLAIMS FOR, ANY LIABILITY ARISING IN CONNECTION WITH CUSTOMER'S MINING ACTIVITIES, AND THAT ALL SUCH ACTIVITIES, INCLUDING BUT NOT LIMITED TO THE CHOICES RELATING TO MINING POOL PARTICIPATION, ARE AT CUSTOMER'S SOLE DISCRETION.

9.2. Customer Equipment.

Customer shall be responsible for providing the Customer Equipment, and for causing it to arrive at Provider's loading dock at the Facility. All costs associated with the foregoing, including but not limited to shipping costs, hardware costs, software license costs, and import duties, shall be borne exclusively by Customer. In the event that Provider agrees to procure any such Customer Equipment on Customer's behalf and for the account of Customer, such procurement shall be governed by a separate written agreement between Customer and Provider.

9.3. Hardware Control Software; Hardware Control App

Customer hereby directs Provider to register each Hardware Unit in the Hardware Control Software and acknowledges that the Service Charges for Related Services and Remote Hands Service are based on the availability of the Hardware Control Software in relation to the Customer Equipment. For purposes of clarity, the Hardware Control Software is for purposes of management convenience only, and notwithstanding any information or analytics that may be or become available therein, at no point shall the Hosting Control Software be the system of record for purposes of determining the power consumption of Hardware Units, individually, or the Customer Equipment, in the aggregate.

9.4. Availability

Customer shall have a Customer Representative available for communication through the Hardware Control App at all times.

9.5. Insurance

Customer shall maintain insurance coverage consistent with prevailing industry practices, but in any event in sufficient coverages and amounts to provide for the complete replacement of the Customer Equipment. Provider represents that adequate insurance shall be in place for all equipment (e.g., substation) owned or leased by the Provider which is needed for the Provider to deliver its contractual services.

9.6. Information; Know Your Customer

Customer will provide Provider with any information required under any laws and regulations or orders by any Governmental Authority, in particular, but not limited to, information required for so-called “know your customer” checks under laws and regulations for the prevention of money laundering and terrorism finance.

9.7. Compliance with Law

Customer is solely responsible for ensuring that its use of the Services and its operations in connection with this Agreement comply with all Applicable Law.

10. Ownership and Intellectual Property

10.1. Customer Equipment

The parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Provider claim ownership of any of the Customer Equipment.

10.2. Ownership of Outcomes and Productivities

The parties acknowledged and agree that any outcomes or productivities, including but not limited to, block chains, hash and digital currencies, generated from the operation of the Customer Equipment are the sole property of the Customer. In no event shall Provider claim any ownership rights or IP-Rights in or to such outcomes or productivities.

10.3. Liens / Encumbrances

Provider shall not sell any mortgage, lien, or any kind of encumbrance on the Customer Equipment, any IP Rights owned by Customer, or any outcomes or productivities owned by Customer.

10.4. Developed IP

Customer owns any Developed IP. “Developed IP ” means any intellectual property other than Background IP created or discovered by the parties in connection with this Agreement, including without limitation any reports Provider provides to Customer. “Background IP ” means all intellectual property owned or licensed by a Party before starting services under this Agreement or independent of services under this Agreement. The Developed IP is a work made for hire for the Customer to the extent permitted by applicable law, and Customer retains all IP-rights in the Developed IP. To the extent that Provider or its personnel own any rights in the Developed IP, Provider assigns, or will procure the assignment of, all rights, title, and interest in the Developed IP to Customer. If applicable law prevents future assignments, Provider will assign, or will procure the assignment of, such rights as these are created. If applicable law prevents Provider from transferring ownership of any Developed IP to Customer, Provider grants Customer a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license, with the right to sublicense, to: (1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use such Developed IP; and (2) make, use, sell, offer for sale, import, export any component of, and otherwise

dispose of such Developed IP. This Agreement does not transfer any rights associated with Background IP, which will remain vested with their owners.

10.5 Provider's Indemnity.

Provider will defend Customer and its affiliates, and indemnify them against liabilities in any third-party legal proceeding to the extent arising from an unaffiliated third party's allegation that Customer or its affiliate's use of any Services or any deliverable provided by Provider under this Agreement infringes or misappropriates any third party's IP-Rights.

11. Provider's Warranties

11.1. Warranties by Provider

Provider warrants that the Facility, as of the RFU Date, will meet the Data Center Specifications. Provider also warrants that the Facility has been certified by the Texas Comptroller of Public Accounts as, and is presently publicly registered with the Texas Comptroller as a "Qualifying Data Center" within the meaning of the Texas Tax Code Section 151.359 and the rules promulgated thereunder, and, as such, is entitled to claim an exemption from the Texas state sales tax for qualifying purchases. Provider covenants and agrees that the Facility shall remain certified by and publicly registered with the Texas Comptroller as a "Qualifying Data Center" during and throughout the Initial Term.

Provider warrants that it maintains the adequate level of insurance to cover replacement cost of any and all equipment, services, personnel etc. which is needed to perform the Provider's contractual obligations.

11.2. No implied representations or warranties

OTHER THAN THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN SECTION 11.1 ABOVE, PROVIDER DOES NOT AND CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT GIVE ANY IMPLIED, EXPRESS OR STATUTORY WARRANTIES OR REPRESENTATIONS, INCLUDING ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT.

12. Customer's Representations

Customer represents and warrants, as of the date hereof and as of the RFU Date that:

12.1. Capacity

Customer is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

12.2. Customer Equipment

Unless specifically disclosed otherwise, Customer Equipment is owned by Customer and is free of any lien or other interest or encumbrance of any third-party. Customer Equipment, is free of any defects which could cause any harm to the Facility or the systems, including equipment, of Provider or any other customer.

12.3. No judgment or governmental order

There is no judgment, decree or order by any Governmental Authority applicable to Customer,

which limits Customer in pursuing Customer Purpose or otherwise restricts Customer in performing its obligations under this Agreement or the transactions contemplated thereunder.

13. Exclusion and Limitation of Liability

- 13.1. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF ANY DATA (INCLUDING BITCOINS), REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY).
- 13.2. THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER FOR THE SERVICES IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT(S) THAT FIRST GAVE RISE TO A CLAIM.
- 13.3. Notwithstanding anything in this agreement to the contrary, Provider's liability in connection with this Agreement for or arising from Provider's recklessness, gross negligence, fraud, or wilful misconduct shall be unlimited.
- 13.4. Notwithstanding anything in this Agreement to the contrary, Customer's liability in connection with this Agreement for or arising from : (i) Customer's recklessness, gross negligence, fraud, or wilful misconduct shall, be unlimited.

14. Force Majeure

A Party shall not be in breach of this Agreement and shall not be liable to the other Party for any loss or other damages suffered by reason of any failure or delay of such Party in the performance of its obligations hereunder due to a Force Majeure Event; provided that under no circumstances will a Force Majeure Event excuse any failure or delay in the performance of a Party's payment obligations hereunder.

If a Party becomes aware of circumstances in which a Force Majeure Event affects or will affect such Party's ability to perform any of its obligations hereunder, it shall notify the other Party in writing as soon as reasonably possible, specifying the nature of the Force Majeure Event and its effect on the performance of such Party's obligations hereunder.

15. Indemnity

Customer shall indemnify and hold harmless Provider, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "Provider Indemnified Parties ") from and against any and all liabilities, obligations, losses, damages, allegations, claims, demands, suits, actions, deficiencies, penalties, charges, taxes, levies, fines, judgments, settlements, costs, expenses, interest, attorneys' fees and disbursements, and accountants' fees and disbursements (collectively, "Losses ") or threatened Losses due to third-party claims arising out of or relating to any of the following: (i) Customer's breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, the Hardware Control EULA, or any of Customer's representations or warranties under this Agreement; (ii) Customer Equipment, including all software and firmware thereon, or Provider's acquisition, provision, or use of Customer Equipment in accordance with this Agreement, except to the extent directly related to the Hardware Control App or Hardware Control Software; (iii) Customer's violation of Applicable

Law; or (iv) Customer's use of the Hosting Services.

Customer's obligations under this Section 15 include claims arising out of the acts or omissions of any Customer representative or Customer's users, any other person to whom Customer has given physical or virtual access to the Customer Equipment, and any person who gains access to the Customer Equipment or any of Provider's systems or Provider's other customers as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

If Provider receives notice of a claim that is covered by this Section 16, Provider shall promptly give Customer written notice thereof. Provider shall be allowed to conduct the defense of such claim at any time, including choosing legal counsel to defend such claim, provided that such choice is reasonable and is communicated to Customer in writing. Customer shall comply with Provider's reasonable requests for assistance and cooperation in the defense of such claim. Provider shall not settle the claim without Customer's written consent, which may not be unreasonably withheld, delayed or conditioned. Customer shall pay costs and expenses due under this Section 15 as Provider incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to Customer paying Provider such costs and expenses as Provider incurs them.

In the event Provider notifies Customer in writing that Provider does not desire to defend, or to continue to defend, such claim, Customer shall defend such claim using legal counsel of Customer's choice, provided that such choice is reasonable and is communicated to Provider in writing. Customer shall not settle the claim without Provider's written consent.

IT IS THE INTENTION OF THE PARTIES THAT CUSTOMER PROVIDE INDEMNIFICATION RIGHTS TO A PROVIDER INDEMNIFIED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT EVEN FOR THE CONSEQUENCES OF THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

16. Term

The term of this Agreement will commence on the Effective Date and will continue until the expiration or termination of this Agreement in accordance with its terms (the "Term"). The Term may include, as applicable, the period between the Effective Date and the RFU Date, the Initial Term, and any Renewal Terms.

The Initial Term will commence on the RFU Date and will continue for the length of time indicated in the Key Terms. Neither Party shall have the right to terminate this Agreement prior to the end of the Initial Term; provided that each Party may terminate this Agreement for cause due to the occurrence of an applicable Termination Event.

If neither Party delivers Notice to the other Party at least three (3) months prior to the end of the Initial Term or then-current Renewal Term, then the Term shall be extended automatically for another twelve (12) months (each such twelve (12)-month period, a "Renewal Term").

Notwithstanding the foregoing or anything to the contrary, in no event shall the Term extend beyond the term of Provider's lease to the Facility. Upon the expiration or termination of such lease, the Term, if still in effect, shall be automatically terminated. To the extent applicable, Provider shall provide Customer with Notice of such expiration or termination, and of the resulting termination of this Agreement (i) at least three (3) months prior to such termination of this Agreement or (ii) as soon as practicable after Provider becomes aware of such termination of this Agreement, whichever is later.

17. Termination; Removal of Customer Equipment

17.1. Termination Events

Other than at the end of the Term, the non-breaching Party may terminate this Agreement upon the occurrence of one of the following events (each a "Termination Event"), as may be applicable to such non-breaching Party:

17.1.1. Payment Default

If a Party fails to make a payment to the other Party owed under this Agreement when due, unless such default is remedied within three (3) Business Days following the breaching Party's receipt of notice by the non-breaching Party of such failure.

17.1.2. Insolvency

If a Party is unable to pay its financial obligations when due, becomes subject to insolvency proceedings, applies for or institutes insolvency proceedings or offers or makes an arrangement with its creditors generally, or if a third-party applies for insolvency proceedings against such Party and such proceedings are not stayed or discharged within thirty (30) days, unless such proceeding is dismissed due to insufficiency of assets.

17.1.3. Material Breach

If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within ten (10) Business Days after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.

17.1.4. Service Level Defaults

If Provider suffers Service Level Defaults in three (3) consecutive months, in respect of which the Uptime during each such month was less than 80%.

17.2. Termination

Upon the occurrence of a Termination Event, the Party not having given rise to such Termination Event (the "Non-Defaulting Party") may terminate this Agreement with immediate effect as of the date set forth in a written notice thereof provided to the Defaulting Party.

17.3. Deinstallation and Removal of Customer Equipment

Customer (i) acknowledges that all Customer Equipment must be dismantled and removed from the Facility by the Termination Date and (ii) shall deliver to Provider (x) written shipping instructions for the Customer Equipment, (y) packaging materials suitable for the Customer Equipment, and (z) standard containers in which packaged Customer Equipment can be stored until it is shipped, in each case, in accordance with the following:

Within five (5) Business Days from receiving a Notice of termination from Customer, or having issued a notice of termination to Customer, Provider shall provide Customer with a written estimate of the number of days required for Provider to deinstall and package the Customer Equipment for shipment to Customer, and of the date on which such work is expected to begin (the "Deinstallation Commencement Date"). Provider shall use commercially reasonable efforts to begin such work on or around the Deinstallation Commencement Date, and in any event within a reasonable number of days from the Termination Date. In no event shall Provider begin deinstallation of the Customer Equipment prior to the Deinstallation Commencement Date. The period between the Deinstallation

Commencement Date and the Termination Date is herein referred to as the "Phase-out Period ."

During the Phase-Out Period Provider will deinstall the Customer Equipment, package it in Customer-provided packaging materials, and ship it to Customer in accordance with Customer's shipping instructions, all of which shall be at Customer's expense (at the Service Rates for Provider's work, and at the actual cost for all third party costs such as shipping). For the avoidance of doubt, all deinstallation must be performed by Provider, and Customer shall have no right to deinstall or remove Customer Equipment from the Facility.

During the Phase-out Period the Specified Power Draw will be adjusted downward on a straight-line basis, based on the assumption that an equal number of Hardware Units will be deinstalled on each Working Day during the Phase-out Period.

In the event Customer does not deliver the shipping instructions, packaging materials and containers to Provider in accordance with this Section 17.3, the deinstallation and removal of the Customer Equipment may be delayed beyond the Termination Date. To the extent such a delay occurs, all Hosting Charges shall be due and owing until such time as all Customer Equipment is deinstalled and removed from the Facility (for which Customer's provision of such instructions, materials and containers is a condition precedent). Provider will use commercially reasonable efforts to deinstall, remove and pack the Customer Equipment without damage; provided, however, that CUSTOMER HEREBY AGREES THAT EXCEPT FOR CLAIMS BASED ON PROVIDER'S RECKLESSNESS, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM PROVIDER'S DEINSTALLATION, PACKAGING, AND SHIPMENT OF THE CUSTOMER EQUIPMENT.

At the request of the Customer, the Provider can dispose of the Customer Equipment for a fixed charge (the "Disposal Charge "). The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Provider will inform the Customer of the Disposal Charge upon request after a Notice of termination has been issued under this Agreement.

18. Confidentiality

18.1. The Parties agree that Confidential Information shall be used solely for the purpose for which it was furnished in connection with the performance of this Agreement and that they shall each hold confidential all Confidential Information and not disclose it to any third-parties, except that the Parties may disclose Confidential Information to their affiliates, to their auditors and legal advisors and to such Customer Representatives who need access to Confidential Information to perform their duties in connection with this Agreement. At the expiration of the Term, the Parties shall return any Confidential Information to the disclosing party or destroy such Confidential Information.

18.2. Any disclosure of Confidential Information permitted by Section 18.1 shall only be to the extent that any person who Confidential Information is provided to needs to know the same for the performance of their duties, and shall only be under the condition that such person acknowledges and agrees to be bound by, the confidentiality obligation under this Section.

18.3. The restrictions set out in Sections 18.1 and 18.2 above shall not apply to Confidential Information that:

18.3.1. was previously known to the receiving Party, independent from any disclosure under or in connection with this Agreement and free from any obligation to keep confidential;

- 18.3.2. is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorised disclosure by the receiving Party or its representatives;
- 18.3.3. is shown to have been independently developed by the receiving Party;
- 18.3.4. the Parties agree in writing need not be kept confidential;
- 18.3.5. is required to be disclosed by law or regulation or by an order of any Governmental Authority.

In the case of Section [18.3.4 and] 18.3.5, the receiving Party shall, to the extent legally and practically possible, inform the disclosing Party of the information to be disclosed and the timing and circumstances of such disclosure, providing the disclosing Party with an opportunity to avoid and limit any such disclosure.

19. Notices

Any Party can give notice under this Agreement (each a "Notice ") by sending an email or by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable email or mailing address listed below; provided that any Termination Notice, and any notice for breach, indemnification, or other legal matter, shall be given by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable mailing address listed below, sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address: Whinstone US Corporation
2721 Charles Martin Hall Road
Rockdale, Texas 76567, USA
email: c.harris@whinstone.us
Attention: Chad Everett Harris

To Customer:

Address: Rhodium JV LLC
7546 Pebble Drive
Fort Worth, Texas 76118

email: [email address]
Attention: [representative]

Notices by email are deemed received as of the time sent, and notices by mail (and all notices required to be by mail) are deemed received as of the time delivered. If such time does not fall within a Business Day, as of the beginning of the first Business Day following the such time. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices shall be given in the English language.

Either Party may change its notice addresses for future Notices by providing the other Party with Notice of such change.

20. Assignment; Subcontracting

This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors

and assigns of each Party hereto. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that either Party may assign this Agreement, in whole or in part, to an affiliate or successor or wholly-owned subsidiary of such Party as part of a corporate reorganization or a sale of some or all of its business; provided that the assigning Party notifies the other Party of such assignment in writing.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain responsible under this Agreement for work performed by its subcontractors and affiliates to the same extent as if Provider had performed such work itself.

21. Right of Publicity; Use of Marks

Customer agrees that Provider may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Provider name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services without first obtaining Provider's prior written approval of each such disclosure.

22. Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD.

NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

23. Miscellaneous

23.1. Survival

The following provisions shall survive termination or expiration of this Agreement: Confidential Information, Indemnification, Limitation on Damages, Notice, Governing Law / Arbitration, Miscellaneous, all provisions requiring Customer to pay any amounts (i) owed for Services provided under this Agreement prior to the Termination Date or otherwise (ii) otherwise owed by Customer hereunder, and any other provisions of this Agreement that, by their nature, would continue beyond

termination or expiration of this Agreement.

23.2. No Lease

This Agreement does not create any real property interest for Customer in the Customer Area or the Facility, and Customer shall not, shall not attempt to, and shall not encourage any third party to file or otherwise create any liens or other property interest or liability on the Facility or any portion thereof.

23.3. Independent Contractor

Each Party is an independent contractor to the other Party in connection with this Agreement, and personnel used or supplied by a Party in the performance of this Agreement shall be and remain employees or agents of such Party and under no circumstances shall be considered employees or agents of the other Party. Each Party shall have the sole responsibility for supervision and control of its personnel. Except with to the extent Provider purchases Hardware Units on Customer's behalf in accordance with this Agreement, Neither Party is an agent for the other Party, and neither Party has the right to bind the other Party in connection with any agreement with a third party.

23.4. No Third Party Beneficiaries

This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns. Nothing herein, express or implied, shall confer, or shall be construed to confer, any rights or benefits in or to any other person.

23.5. Remedies

The rights and remedies of either Party under this Agreement shall be cumulative and not exclusive or alternative.

23.6. Waiver

No failure or delay by either Party in requiring strict performance of any provision of this Agreement, no previous waiver or forbearance of the provisions of this Agreement by either Party, and no course of dealing between the Parties will in any way be construed as a waiver or continuing waiver of any provision of this Agreement.

23.7. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be enforced to the maximum extent possible under law and will, to the extent possible, be replaced by such enforceable provision most closely mirroring the Parties' intentions. All other provisions of this Agreement will remain unaffected by such invalidity or unenforceability and will remain in full force and effect. The Parties acknowledge and agree that the pricing and other terms in this Agreement reflect, and are based upon, the intended allocation of risk between the Parties and form an essential part of this Agreement.

23.8. Conflict

To the extent there is a conflict between or among the terms of this Agreement, the AUP, the Data Center Rules, and the Hardware Control EULA, the following shall be the order of precedence: (i) AUP; (ii) Hardware Control EULA; (iii) Agreement; (iv) Data Center Rules.

23.9. Interpretation

The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party. The words "include," "includes," and "including" (or similar terms) shall be deemed to be followed by the words "without limitation." The captions, titles, and section headings are for convenience only and are not intended to aid or otherwise affect the interpretation of this Agreement. The words "written" or "in writing" are used for emphasis in certain circumstances and shall not reduce or eliminate the notice requirements set forth in this Agreement. The use of a term defined herein in its plural form includes the singular and vice versa. The terms defined herein shall be inclusive of all tenses. All references to "days" shall be deemed to refer to calendar days, except as expressly stated otherwise.

23.10. Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

The Key Terms and Services may be amended to modify, add, or remove Key Terms and Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of Customer's purchase order or business form, or other standard or pre-printed terms that Customer provides, be of any force or effect as between the Parties.

23.11. Counterparts

This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed counterparts or the exchange electronic transmissions of executed counterparts.

[Signature Page Follow Rockdale, November 2, 2020


CHASE HARRIS (Nov 3, 2020 14:17 CST)

[Provider]
Director


Cameron Blackmon (Nov 3, 2020 14:13 CST)

[customer name]
by: JORDAN HPC LLC


Cameron Blackmon (Nov 3, 2020 14:13 CST)

Cameron Blackmon

Annex 1
Service Rates

See attached.

clean - Whinstone-Jordan HPC LLC ---- operating hosting

Final Audit Report

2020-11-03

| | |
|-----------------|---|
| Created: | 2020-11-03 |
| By: | Cameron Blackmon (cameronblackmon@rhodiummining.io) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAMsbUj8QxrH0Epd155eScshWAYrTPPsoi |

"clean - Whinstone-Jordan HPC LLC ---- operating hosting" History

-  Document created by Cameron Blackmon (cameronblackmon@rhodiummining.io)
2020-11-03 - 7:13:22 PM GMT- IP address: 107.194.108.213
-  Document emailed to Cameron Blackmon (cameronblackmon@imperiumpartners.io) for signature
2020-11-03 - 8:08:19 PM GMT
-  Email viewed by Cameron Blackmon (cameronblackmon@imperiumpartners.io)
2020-11-03 - 8:11:15 PM GMT- IP address: 107.194.108.213
-  Document e-signed by Cameron Blackmon (cameronblackmon@imperiumpartners.io)
Signature Date: 2020-11-03 - 8:13:33 PM GMT - Time Source: server- IP address: 107.194.108.213
-  Document emailed to CHAD HARRIS (c.harris@whinstone.us) for signature
2020-11-03 - 8:13:34 PM GMT
-  Email viewed by CHAD HARRIS (c.harris@whinstone.us)
2020-11-03 - 8:16:44 PM GMT- IP address: 107.77.198.66
-  Document e-signed by CHAD HARRIS (c.harris@whinstone.us)
Signature Date: 2020-11-03 - 8:17:16 PM GMT - Time Source: server- IP address: 107.77.198.66
-  Agreement completed.
2020-11-03 - 8:17:16 PM GMT

EXHIBIT 6

RHODIUM JV LLC

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THE MEMBERSHIP INTERESTS DESCRIBED IN AND REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER ANY SECURITIES LAWS, AND THE TRANSFERABILITY OF THE MEMBERSHIP INTERESTS IS THEREFORE RESTRICTED. THE MEMBERSHIP INTERESTS MAY NOT BE SOLD, ASSIGNED OR TRANSFERRED, NOR WILL ANY ASSIGNEE, BUYER, DONEE, TRANSFEREE OR ENDORSEE BE RECOGNIZED AS HAVING AN INTEREST IN SUCH MEMBERSHIP INTEREST ISSUED BY THE COMPANY FOR ANY PURPOSE, UNLESS (1) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, WITH RESPECT TO SUCH MEMBERSHIP INTEREST SHALL THEN BE IN EFFECT AND SUCH TRANSFER HAS BEEN QUALIFIED UNDER APPLICABLE STATE SECURITIES LAW, OR (2) THE AVAILABILITY OF AN EXEMPTION FROM REGISTRATION AND QUALIFICATION SHALL BE ESTABLISHED TO THE SATISFACTION OF THE COMPANY AND ITS COUNSEL. THE MEMBERSHIP INTERESTS DESCRIBED IN AND REPRESENTED BY THIS AGREEMENT ARE SUBJECT TO FURTHER RESTRICTIONS AS TO THEIR SALE, TRANSFERABILITY OR ASSIGNMENT AS MORE FULLY DESCRIBED HEREIN AND AGREED TO BY EACH MEMBER. SAID RESTRICTIONS INCLUDE, AMONG OTHER THINGS, THAT NO VENDEE, TRANSFEREE OR ASSIGNEE SHALL BECOME A SUBSTITUTE MEMBER WITHOUT THE CONSENT OF THE REMAINING MEMBERS OR AS PROVIDED FOR BELOW.

OPERATING AGREEMENT FOR RHODIUM JV LLC

This Operating Agreement (the “**Agreement**”) for RHODIUM JV LLC (the “**Company**”) is made effective as of March 6, 2020 (the “**Effective Date**”), by and between IMPERIUM INVESTMENTS HOLDINGS LLC (the “**Manager**”), a Wyoming limited liability company, and WHINSTON US, INC., a Delaware C corporation, and/or its subsidiaries and/or affiliates (collectively, as the “**Members**”). The Manager and the Members may be referred to herein singularly as “**Party**” or collectively as the “**Parties**”. In consideration of the mutual covenants and conditions herein, the Parties agree as follows:

RECITALS

A. WHEREAS the Parties hereto desire to form the Company pursuant to the Delaware Limited Liability Company Act (the “**Act**” as hereinafter defined);

B. WHEREAS the Parties hereto desire to enter into this Agreement in order to govern the affairs of the Company and to memorialize and set forth their rights, obligations and understandings with respect to the Company;

C. WHEREAS the Parties agree to execute those certain power contracts, the forms of which are provided in Exhibit B, concurrently with the execution of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

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ARTICLE 1.
-Definitions-

1.1. *Definitions.* In this Agreement, the following terms shall have the meanings set forth below:

“**AAA**” shall have the meaning set forth in Subsection 12.2.1 of this Agreement.

“**Act**” shall mean the Delaware Limited Liability Company Act.

“**Additional Member**” shall have the meaning set forth in Section 9.1 of this Agreement.

“**Affiliated Transaction**” shall mean a transaction with, or a borrowing of funds from, a Member.

“**Business Day**” means any day on which banks are open for business other than weekend days.

“**Capital Account**” as of any date shall mean the dollar amount of the Member’s claim on the capital of the Company (or, if a Member has a negative capital account, the dollar amount of the Company’s claim on the capital of a Member), adjusted as of such date pursuant to this Agreement.

“**Capital Contribution**” shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to render services. The capital of the Company will be represented by Units which will constitute membership interests under the Act. The capital structure of the Company will initially consist of two Membership classes: Class A Voting Units and Class B Non-Voting Units. The Class B Non-Voting Units shall have no right to vote or otherwise participate in the management or control of the Company. Unless the Manager determines otherwise, no Units will be certificated.

“**Certificate of Formation**” shall mean the Certificate of Formation of the Company filed with the Delaware Department of State, Division of Corporations, as it may from time to time be amended.

“**Class A Voting Unit Members**” means the Members who are holders of Class A Voting Units.

“**Class A Voting Units**” means those Units which are designated as Class A Voting Units (in accordance with Section 4.2 and Exhibit “A” attached hereto). The Class A Voting Units will not be registered under the Securities Act of 1933 or any state securities laws on the grounds that the issuance of such Class A Voting Units is exempt from the registration provisions of those laws.

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“**Class B Non-Voting Unit Members**” means Members who are holders of Class B Non-Voting Units.

“**Class B Non-Voting Units**” means those Units which are designated as Class B Non-Voting Units on Exhibit “A” attached hereto. Class B Non-Voting Units shall only have financial rights and no management or governance rights (except as may otherwise be expressly provided for in this Agreement or the Act). The Class B Non-Voting Units will not be registered under the Securities Act of 1933 or any state securities laws on the grounds that the issuance of such Class B Non-Voting Units is exempt from the registration provisions of those laws.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended, or any successor federal revenue statute.

“**Company**” shall refer to RHODIUM JV LLC.

“**Distribution**” means any cash and other property paid to a Member by the Company from the operations of the Company, whether in the form of a dividend or in any other form.

“**Fiscal Year**” shall mean the Company’s fiscal year, which shall be the calendar year ending December 31.

“**Manager**” shall have the meaning set forth in Section 3.1 of this Agreement.

“**Mediator**” shall have the meaning set forth in Subsection 12.2.3 of this Agreement.

“**Member Dispute**” shall have the meaning set forth in Section 12.1 of this Agreement.

“**Member Notice**” shall have the meaning set forth in Section 9.2.1 of this Agreement.

“**Members**” shall refer to the “Members” identified in identified in Section 4.2 of this Agreement, but if any “Additional Members” should be admitted to the Company in the future, the term “**Members**” shall thereafter also include such “Additional Members”.

“**Membership Classes**” shall mean (a) Class A Voting Unit Members and (b) Class B Non-Voting Unit Members. Only Class A Voting Unit Members shall have the right to vote on issues presented to the Members. Class B Non-Voting Unit Members shall have no right to vote or otherwise participate in the management or control of the Company.

“**Membership Interest**” of a Member shall mean (a) the Member’s share of the Company’s profits and losses and (b) the Member’s right to receive distributions of the Company’s assets, all subject to the covenants, terms, conditions, restrictions and limitations of this Agreement and the Act. Such interest of a Member shall, except as

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specifically provided herein, be equivalent to such Member's Percentage Interest as set forth in Exhibit "A" to this Agreement.

"Net Losses" shall mean the losses of the Company, if any; determined in accordance with generally accepted accounting principles.

"Net Profits" shall mean the income of the Company, if any, determined in accordance with generally accepted accounting principles.

"Non-Domestic Member" shall mean any individual, corporation, limited liability company, partnership, trust, unincorporated association or other entity incorporated and existing outside of the United States of America.

"Partnership Representative" shall have the meaning set forth in Section 8.4 of this Agreement.

"Percentage Interest" of a Member in the Company shall mean the result obtained by dividing the sum of the number of Class A Voting Units and Class B Non-Voting Units held by the Member by the sum of the number of Class A Voting Units and Class B Non-Voting Units held by all of the Members. As of the Effective Date of this Agreement, the division of the Percentage Interests in the Company is set forth in Section 4.3 of this Agreement.

"Permitted Transferee" shall have the meaning set forth in Section 9.3 of this Agreement.

"Person" shall mean any individual, corporation, governmental authority, Limited Liability Company, partnership, trust, unincorporated association or other entity.

"Rules" shall have the meaning set forth in Section 12.3 of this Agreement.

"Selling Member" shall have the meaning set forth in Section 9.2 of this Agreement.

"Substitute Member" shall have the meaning set forth in Section 9.4 of this Agreement.

"Total Disability" shall have the meaning set forth in Section 10.5 of this Agreement.

"Transfer" shall have the meaning set forth in Section 9.5 of this Agreement.

"Treasury Regulations" shall mean regulations issued by the Department of Treasury under the Code. Any reference to a specific section or sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provision of future regulations under the Code.

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“Units” or “Membership Units” means units of beneficial interest in the Company and include, unless otherwise stated, both Class A Voting Units and Class B Non-Voting Units.

ARTICLE 2.
-Organization-

2.1. *Binding Effect of Agreement / Effective Date.* This Agreement shall bind the Members effective as of the Effective Date.

2.2. *Formation.* The Members hereby acknowledge and agree that the Company has been formed as a limited liability company under and pursuant to the Act and shall continue to exist as a limited liability company upon the terms and conditions provided in this Agreement, subject to the provisions of the Act.

2.3. *Entity Status of Company.* Since its formation, the Company has been, and shall remain, a legal entity, separate and distinct from its Members.

2.4. *Name.* The name of the Company is RHODIUM JV LLC.

2.5. *Principal Place of Business.* The principal place of business of the Company shall be 4412 Summercrest Ct., Fort Worth, TX 76109. The Company may locate its place of business and registered office at any other place or places as the Manager may deem advisable.

2.6. *Delaware Registered Agent.* The Company’s Delaware registered agent shall be Harvard Business Services, 16192 Coastal Highway, Lewes, Delaware 19958, or equivalent third-party registered Delaware agent.

2.7. *Registered Agents in Other States.* The Company shall retain and maintain such registered agents in states where it does business as the Manager may deem advisable.

2.8. *Term.* The term of the Company shall be perpetual from the date of filing of the Certificate of Formation with the Delaware Secretary of State, unless the Company is dissolved pursuant to this Agreement or the Act.

2.9. *Purposes.* The purpose for which the Company is organized is to conduct any lawful business whatsoever that may be conducted by limited liability companies pursuant to the Act.

2.10. *Powers.* In pursuing its lawful purposes, the Company shall be empowered to do all things that limited liability companies are permitted to do under the Act.

2.11. *Certificate of Formation.* The Certificate of Formation, as may have been, and as may be, amended from time to time, is hereby adopted and incorporated by reference into this Agreement. The Manager shall execute such further documents and take such further action as shall be appropriate or necessary to comply with the requirements of law for the formation and

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operation of a limited liability company in all states and counties where the Company elects to transact its business.

3.12. *Identity of Members.* As of the Effective Date of this Agreement, the Members, identified in Section 4.2 of this Agreement, are the only Members of the Company. Additional and Substituted Members (as defined in Article 9 of this Agreement) may be admitted to the Company in accordance with Article 9 of this Agreement.

ARTICLE 3.

-Management and Obligations of the Members and Manager-

3.1. *Management.* Management of the Company shall be vested in the Manager. The Manager shall direct, manage, and control the business of the Company. The Manager shall have full authority to bind the Company, to sign documents and to make any decisions required to operate the Company except for those instances in which super majority consent is required as set forth in Section 3.3 of this Agreement. The Members shall not be vested with any powers to direct, manage and control the business of the Company except as authorized by the Manager. The Manager shall possess all rights and powers generally conferred by law and all rights and powers that are necessary, advisable or consistent in connection therewith and with the provisions of this Agreement. The Manager shall also be vested with all specific rights and powers required for or appropriate to the management, conduct or operation of the business of the Company.

3.2. *Designation of Manager.* The Manager of the Company shall be IMPERIUM INVESTMENTS HOLDINGS LLC. In the event for any reason the Manager shall cease to be a Manager, the Class A Members may appoint a new Manager upon the affirmative vote of Class A Voting Unit Members whose combined share of all Class A Voting Units is seventy-five percent (75%) of greater.

3.3. *Super Majority Vote Requirements.* The consent of Class A Voting Unit Members whose combined share of all Class A Voting Units is seventy-five percent (75%) or greater and the agreement of the Manager shall be required as a condition precedent to the company taking any of the following actions:

3.3.1. the issuance of any membership or other equity interests in the Company, or any rights or options convertible into or exchangeable for the foregoing, or the admission of any new Member to the Company, except with respect to properly admitted Additional Members;

3.3.2. conversion of the Company to a corporation, partnership or any other entity form;

3.3.3. calling upon the Members to guarantee loans other than the loans which the Members agree to guarantee as elsewhere provided in this Agreement;

3.3.4. calling upon the Members to make additional Capital Contributions;

3.3.5. the withdrawal or reduction of Capital Contributions;

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3.3.6. the filing of any voluntary petition in bankruptcy or any other initiation of proceedings to have the Company adjudicated insolvent;

3.3.7. dissolution or liquidation of the Company;

3.3.8. any merger or consolidation of the Company with another entity, or any transaction regarding, or entry into any agreement, contract or commitment in furtherance of a sale of all or substantially all of the assets of or equity in the Company;

3.3.9. the formation of any subsidiary or establishment of any joint venture, partnership, or other form of business entity;

3.3.10. the making of any loan or advance other than any loan or advance less than \$50,000 for the purpose of advancing normal trade credit or create, incur, assume or suffer to exist any material lien or encumbrance on any of the Company's properties or assets;

3.3.11. the expenditure, in the normal course of business, of any amount greater than \$50,000;

3.3.12. the filing of any registration statement with respect to the initial public offering of equity securities of the Company;

3.3.13. the initiation of any litigation or arbitration;

3.3.14. ceasing to be engaged in a business that is substantially similar to the Company's business as of the effective date of this Agreement;

3.3.15. the determination that there shall be an issuance of a dividend, a Distribution of Net Profits or a payment of Net Losses for any Fiscal Year;

3.3.16. entering into an Affiliated Transaction;

3.3.17. the assignment of duties to or the removal of any officer of the Company;
and

3.3.18. the determination of the compensation, if any, of any Manager and any Member.

3.4. *Binding Authority.* No Person shall have any power or authority to bind the Company unless such Person has been authorized by the Manager to act on behalf of the Company in accordance with Section 3.1 of this Agreement.

3.5. *No Exclusive Duty to Company.* The Manager shall not be required to manage the Company as their sole and exclusive function and may have other business interests and may engage in other activities in addition to those relating to the Company. The Manager shall incur no liability to the Company as a result of engaging in any other business interests or activities.

3.6. *Indemnification.* The Company shall indemnify and hold harmless each of the Members and the Manager, provided that the act or omission or error of judgment for which

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indemnification is sought arises out of such Member's performance of a managerial function on behalf of the Company that was authorized by the Manager, from and against any claims, personal loss, liability or damage incurred as a result of any act or omission, or any error of judgment, unless such loss, liability or damage results from such Member's willful misconduct or gross negligence. Any such indemnification shall be paid only from the assets of the Company, and neither the Members nor the Manager shall have any personal liability on account thereof.

3.7. *Company Debt Liability.* Neither the Members nor the Manager will be personally liable for any debts or losses of the Company or any debts incurred to third party creditors while acting on behalf of or guaranteeing the obligations of the Company, except as provided in the Act. Under no circumstances will the liability of a Class B Non-Voting Unit Member for any debts or losses of the Company exceed the amount of such Class B Non-Voting Unit Member's capital account unless such Class B Non-Voting Unit Member's own willful misconduct or gross negligence is the cause of the debt or loss in question.

3.8. *Officers.* The Manager may designate one or more individuals as officers of the Company, who shall have such titles and exercise and perform such powers and duties as shall be assigned to them by the Manager. Any officer may be removed by the Manager at any time, with or without cause. Any number of offices may be held by the same individual.

3.9. *Insurance.* The Company may maintain for the protection of the Company such insurance as the Manager, in its sole discretion, deems necessary for the operations of the Company, including, without limitation to the generality of the foregoing, life insurance insuring the life of any one or more Members.

3.10. *Compensation.* The Company may compensate any Manager or any officers for management services as may be determined by the Manager.

3.11. *Removal/Replacement.* A Manager may be removed upon the affirmative vote of the Class A Voting Unit Members whose combined shares of all Class A Voting Units is seventy-five percent (75%) or greater. A new Manager may be appointed upon the affirmative vote of all Class A Voting Unit Members whose combined shares of all Class A Voting Units is seventy-five percent (75%) or greater.

3.12. *Other Activities of Members.*

3.12.1. Concurrent Activities. Any Member may engage in or possess an interest in other business ventures of any nature or description, independently or with others, provided such ventures are not competitive with the Company, and the pursuit of such ventures shall not be wrongful or improper, or cause the Company to be in breach or default of any agreement (including any franchise agreement) to which it is a party, and neither the Company nor any Member shall have any right by virtue of this Agreement in or to any of such ventures, or in or to the income, gains, losses or deductions derived or to be derived therefrom.

3.12.2. No Obligation to Offer. No Member shall be obligated to offer or present any particular investment opportunity to the Company, unless such opportunity is related

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to the current business of the Company or developed out of the operation of the Company, but rather the Members shall have the right to take for their own account or to recommend to others any investment opportunity which is not related to or developed out of the operation of the Company.

3.12.3. Loans and Other Transactions with Members. From time to time, the Company may enter into an Affiliated Transaction with one or more Members; provided, however, that such Affiliated Transaction is at arms' length, is disclosed to all of the Members, and is agreed upon by seventy-five percent (75%) or more of Class A Unit Members as contemplated by Section 3.3.10. As a material consideration and inducement for entering into an Affiliated Transaction with the Company, it is agreed that the Member, its affiliated entities and each of their respective successors and assigns, or any person, firm or entity acting on behalf of, or on the directions of, such Member, involved in such transaction or loan, may, at any time and for any reason, exercise and enforce any and all provisions, rights and remedies provided for in the underlying legal documents or available at law or in equity, for such transaction or loan, including, but not limited to, foreclosing on any property of the Company pledged as collateral for a loan, initiating adversarial legal proceedings against the Company, or taking any other actions which could have an adverse effect on the Company or its other Members. The exercise or enforcement of any such provisions, rights or remedies shall not, under any circumstances, be construed as a breach of any fiduciary duty, legal, equitable or otherwise, owed by the Member to the Company or its Members, it being expressly understood by all that such provisions, rights and remedies may be exercised and enforced to the fullest extent permitted by applicable law. Neither the Company nor its Members shall be entitled to defend against the exercise or enforcement of any such provisions, rights and remedies on any ground relating, directly or indirectly, to the fact that the Member has an ownership interest in the Company. If the Company or any Member violates or seeks to violate the provisions of this Section by raising such a defense, then, in addition to any other rights available at law or in equity, the defending party shall have the right to plead the provisions of this Section as a waiver, estoppel or other appropriate response or defense to any conflicting allegation or contention.

ARTICLE 4.**-Meetings of Members-**

4.1. *Meetings of Members.* No meetings of Members shall be required unless required by the Act. Any meetings of Members shall be scheduled by the Manager upon reasonable notice to, and the agreement of, all Members. Each Class A Voting Unit Member hereby appoints the Manager as his/her/its proxy to cast any and all votes that such Member is entitled to cast at any duly scheduled and noticed meeting from which such Member is absent. Members may participate in regular or special meetings by conference telephone or any other means of communication by which all Members participating may simultaneously hear each other during the meeting. A Member participating in a meeting (in person, by conference telephone or any other means of communication by which all Members participating may simultaneously hear each other during the meeting, or by proxy) is deemed to be present in person at the meeting.

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4.2. *Voting at Meetings.* Each Class A Voting Unit Member participating at any duly scheduled and noticed meeting may cast votes consistent with the Class A Voting Unit Member's share of all Class A Voting Units in the Company. Class A Voting Unit Members shall have the right to vote upon all matters upon which members of a limited liability company have the right to vote under the Act or upon which Class A Voting Unit Members have the right to vote under this Agreement.

4.3. *Percentage Interests.* As of the Effective Date of this Agreement, the following is the division of the Percentage Interests in the Company:

| MEMBER | CLASS A VOTING UNITS HELD | CLASS B NON-VOTING UNITS HELD | % SHARE OF CLASS A UNITS | % SHARE OF CLASS B NON-VOTING UNITS | PERCENTAGE INTEREST IN COMPANY |
|-----------------------------------|---------------------------|-------------------------------|--------------------------|-------------------------------------|--------------------------------|
| Imperium Investments Holdings LLC | 87.5 | 87.5 | 87.5% | 87.5% | 87.5% |
| Whinstone US, Inc. | 12.5 | 12.5 | 12.5% | 12.5% | 12.5% |
| Equity in Company | 100 | 100 | 100% | 100% | 100% |

In the event that either (a) any Additional Members (as defined in Section 9.1 of this Agreement) are admitted to the Company after the Effective Date of this Agreement, and/or (b) any additional Membership Units are issued by the Company after the Effective Date of this Agreement, the percentages set forth above shall not be controlling but shall be adjusted as set forth in Section 4.4 below to reflect the new division of Percentage Interest in the Company including such Additional Members and/or additional Membership Units as the case may be.

4.4. *Addition of Class A Voting Unit Member or Class B Non-Voting Unit Member.* If either a Class A Voting Unit Member or a Class B Non-Voting Unit Member is added as an Additional Member in accordance with Section 9.1 of this Agreement, then the addition shall result in the *pro rata* dilution of the Percentage Interests of all of the Members of the Company, each in proportion to such Member's own Percentage Interest.

4.5. *Voting Procedure.* Except as otherwise provided by law or expressly provided in this Agreement, each matter voted upon at any meeting of Members shall be decided by the affirmative vote of Class A Voting Unit Members whose combined percentage share of all Class A Voting Units is seventy-five percent (75%) or greater.

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ARTICLE 5.
-Capital Contributions-

5.1. *Members' Capital Contributions.* Each Member's Capital Contribution to the Company as of the Effective Date shall be reflected in Exhibit "A". No Member shall be required to contribute any additional capital to the Company unless all Members are required to contribute additional capital as determined by the affirmative vote of Class A Voting Unit Members whose combined percentage share of all Class A Voting Units is seventy-five percent (75%) or greater. If, upon such affirmative vote requiring a Member to contribute additional capital, such Member cannot make such a contribution, such Member's Capital Account shall be reduced *pro rata*.

5.2. *Preemptive Rights.*

5.2.1. The Company may from time to time determine that additional capital (in addition to the initial Capital Contributions made pursuant to this Agreement) is required in order to achieve the purposes of the Company. Upon such a determination, the Manager is authorized without a vote or consent of the Members to cause the Company to offer additional Class B Non-Voting Units in the Company to investors upon such terms and conditions as are determined by the Manager to be fair and reasonable. The Manager is further authorized to cause the Company to take all necessary actions, including the amendment of this Agreement, to reflect the admission of Additional Members and any adjustment to the number of Class B Non-Voting Units held by the Members, resulting from the offering of additional Class B Non-Voting Units in the Company.

5.2.2. In the event that the Company proposes to issue and sell additional Class B Non-Voting Units in the Company or any other instruments exercisable for or convertible into Class B Non-Voting Units in the Company to a Member of the Company or any other Person, each Member shall have the right, prior to such sale of Class B Non-Voting Units or other instruments by the Company, to purchase a percentage of such Class B Non-Voting Units or instruments equal to such Member's proportionate Percentage Interest in the Company at the proposed issuance price, which right shall be exercisable by such Member by written notice to the Company given within ten (10) days after receipt by such Member of written notice of the proposed issuance. If a Member shall fail to respond to the Company within the 10-day notice period, then such failure shall be regarded as a rejection of the right to participate in the purchase of Class B Non-Voting Units or instruments to be issued. The closing of any purchase by a participating Member under this Section shall be held at the principal office of the Company ten (10) business days after notification of the closing to such participating Member by the Company, or at such other time, place, and manner as the parties to the transaction may agree upon. At this closing of such sale of Class B Non-Voting Units or instruments, the participating Member shall deliver, in immediately available United States funds, payment in full for the Class B Non-Voting Units or other instruments being purchased.

5.3. *Withdrawal or Reduction of Capital Contributions.* In accordance with Section 3.3 of this Agreement, the return of Capital Contributions or any portions thereof may be made at the sole discretion of the Manager.

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5.4. *Interest on Capital Contributions.* No Member shall receive interest on such Member's Capital Contributions.

ARTICLE 6.

-Allocations and Distributions-

6.1. *Allocations of Profits and Losses.* In the event the Manager determines that there shall be a Distribution of dividends or Net Profits or a payment of Net Losses for any Fiscal Year in accordance with Sections 3.3 and 6.2, those Net Profits and Net Losses shall be allocated to each Member *pro rata* in accordance with each Member's Percentage Interest.

6.2. *Distributions.* No Distributions of dividends or Net Profits shall be made to Members until after the payment in full by the Company of any and all indebtedness owed to any and all Members pursuant to any loans made to the Company by such Members in connection with one or more Affiliated Transactions. Thereafter, the Manager shall from time to time, in accordance with Section 3.3 of this Agreement, and without obligations to do so, determine the timing and the aggregate amount of any Distributions of dividends or Net Profits to Members. All such Distributions shall be made to all Members *pro rata* to their respective Percentage Interests. For the avoidance of doubt, all excess cash received or accumulated by the Company shall first be applied toward repayment of debt owed by the Company to any Members before being applied toward Distributions.

6.3. *Withholding.* The Company is authorized to withhold from Distributions to Members, or with respect to allocations to Members, and in each case, to pay over to the appropriate federal, state, local or non-U.S. government any amounts required to be so withheld (including, without limitation, any interest, penalties and expenses associated with such payments) as determined by the Manager in its sole discretion exercised in good faith. The provisions of this Section 6.3 shall survive the dissolution, winding-up and termination of the Company, and a Member's ceasing to be a Member of the Company. The Members agree to provide the Manager with any information reasonably requested by the Manager with respect to withholding taxes or otherwise with respect to tax matters of the Company. All Non-Domestic Members hereby indemnify and hold harmless the Company from and against any taxes, tariffs, or fees payable by the Company as the result of any Distribution to said Member which would not have been required but for the non-domestic location of said Member.

6.4. *No Company Duty to Make Distributions.* The Company shall have no duty to make Distributions to any Member except as expressly provided in this Agreement.

6.5. *Liquidating Distributions.* The Company shall make Liquidating Distributions to Members in connection with its purchase of their Membership Rights in accordance with Section 10.4 or 11.3.3 of this Agreement. The Company shall make Liquidating Distributions to Members in connection with the liquidation of the Company in accordance with Section 6.6 of this Agreement.

6.6. *Payments and Distributions of Company Assets at Liquidation.* Upon completion of the Company's winding-up, and, to the extent reasonably practicable, on or before the date of termination of the Company's legal existence, the Company shall (subject to any applicable

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provisions of the Internal Revenue Code and other applicable federal and state law) pay out its assets in connection with its liquidation as follows:

6.6.1. Payment of Creditors. First, the Company shall pay (or shall make adequate provision to pay) its creditors, including any loans made by Members.

6.6.2. Distributions to Members to Return Their Contributions. Second, the Company shall distribute its assets to Members for the return of their contributions.

6.6.3. Distributions in Accordance with Section 6.1. Third, the Company shall distribute its assets to Members in accordance with the allocation formula set forth in Section 6.1.

ARTICLE 7. -Creditors' Rights-

7.1. Governing Law. Creditors' rights shall be controlled by this Agreement and Delaware law.

7.2. Exclusive Remedy of the Creditor. To the fullest extent permitted by law, a creditor's remedy shall be limited to the following provisions:

7.2.1. Creditor of any Member. A creditor seeking to reach any Member's interest in the Company has the sole and exclusive right to a charging order remedy as set forth in Section 18-703 of the Act, which will allow a creditor to exercise the creditor's charge as an assignee if and when the Company makes a Distribution to the debtor Member. The Company has no obligation to make any Distributions. The Company, in the sole and absolute discretion of the Manager, can make distributions to all of the Members other than the Member(s) whose interest(s) is/are subject to any charging orders. The Manager has the right to accumulate Company income.

7.2.2. Exclusive Remedy. In order for a creditor to exercise this exclusive remedy, the creditor is agreeing to be bound by the terms of this Agreement, even though the creditor has never signed this Agreement. A creditor that does not exercise this exclusive remedy cannot maintain any action against any debtor Member as it relates to Distributions. Any creditor of any Member cannot bring any direct legal or equitable legal actions against the Company or the Company assets to recover money from the debtor Member and has no right to attach any Company property. In addition, the creditor may not bring any type of other action for the purposes of selling the debtor Member's interest in the Company.

7.2.3. Creditor Shall Not Interfere. Any creditor of any Member shall have no right to interfere in the management of the Company; the creditor shall not have any right to vote, shall have no right to compel Distributions and shall have no right to participate in the business or affairs of the Company. If the creditor makes any attempt to interfere in the management or attempts to compel Distributions with or without legal involvement, the creditor will be assessed a fee in the amount of \$50,000.00 per such attempt, and the creditor will be liable for the Company's legal fees and costs in the enforcement of this

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Agreement and the cost of collecting fees. A creditor shall do nothing to disrupt the business of the Company or do anything that will affect the interests of the Company.

ARTICLE 8.
-Books and Records-

8.1. *Books and Records.* The Company shall maintain books and records of accounts that accurately record all items of income and expenditure relating to the business of the Company.

8.2. *Inspection of Books and Records.* Each Member has the right, on reasonable notice for purposes reasonably related to the interest of the person as Member or Manager, to: (a) inspect and copy during normal business hours any of the Company's records described in Section 8.1; and (b) obtain from the Company promptly after their becoming available a copy of the Company's federal, state and local income tax or information returns for each Fiscal Year.

8.3. *Tax Returns.* The Manager shall cause to be prepared and filed all necessary income tax returns for the Company. The Company shall deliver to each Member a Schedule K-1, Form 1099, or equivalent form for each tax year, as applicable, containing such information as may be needed to enable each Member to prepare and file her, his, or its federal income tax return, any required state income tax return, and any other tax form required by a non-domestic jurisdiction.

8.4. *Partnership Representative.* The Manager shall designate a "**Partnership Representative**", with all powers that accompany such status, including, without limitation, the power to make any election or take any action allowed or permitted under the Code and Treasury Regulations in his sole discretion. Each Member expressly consents to such designation and agrees that, upon the request of the Partnership Representative, it will execute, acknowledge, deliver, file and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent. The Partnership Representative is specifically directed and authorized to take whatever steps the Partnership Representative deems necessary or desirable to perfect such designation, making any election or filing any forms or documents with the applicable tax authority, settle disputes with the applicable tax authority, extend the statute of limitations for any taxes, and taking such other action as may from time to time be required under the Code, the Treasury Regulations, or any other law or regulations.

8.4.1. The Company shall indemnify and reimburse the Partnership Representative for all expenses (including legal and accounting fees) incurred as Partnership Representative pursuant to this Section 8.4 in connection with any examination, any administrative or judicial proceeding, or otherwise. The cost of participation in any such proceeding by a Member other than the Partnership Representative and the cost of any audit or adjustment to a Member's tax return will be borne by the affected Member (it being understood that this sentence shall not be construed as providing any rights to any Member other than the Partnership Representative to participate in any such proceeding).

8.4.2. If requested by the Partnership Representative, each Member shall provide the Partnership Representative with any information, representations, certifications, forms,

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or documentation, and take such action, that, as determined by the Partnership Representative in its sole discretion, is necessary for the Company to make any election or to modify an imputed underpayment. Notwithstanding anything to the contrary in this Agreement, any information, representations, certifications, forms or documentation so provided may be disclosed to any applicable taxing authority. Any action taken by the Partnership Representative in connection with audits of the Company under the applicable law will, to the extent permitted by law, be binding upon the Members.

8.4.3. Each Member other than the Partnership Representative agrees that such Member will not independently act with respect to tax audits or tax litigation affecting the Company, unless previously authorized to do so in writing by the Partnership Representative, which authorization may be withheld in the reasonable discretion of the Partnership Representative.

ARTICLE 9.

-Admissions of Additional Members; Transfers and Pledges of Membership Rights-

9.1. *Admission of Additional Members to the Company.* The Members shall admit no person as an additional member of the Company after the Effective Date of this Agreement (an “**Additional Member**”) except in accordance with this Article 9 or 5.2 of this Agreement. In addition to complying with all other terms and provisions set forth in this Agreement, additional Members may be admitted to the Company only upon the prior written consent of the Manager. This Agreement shall be amended by the Manager to reflect the Additional Members as parties, and Exhibit ”A” shall be amended by the Manager to set forth the information relating to such Additional Members. The Members acknowledge and agree that the admission of Additional Members may reduce their proportionate rights with respect to the Company, including, without limitation, their Percentage Interest, and hereby consent to the admission of Additional Members. The Additional Members shall be required to execute this Agreement, as so amended, and to comply with the other requirements set forth herein.

9.2 *Transfer of Membership Units / Rights of First Refusal.* In addition to complying with all other terms and provisions set forth in this Agreement and subject to the Manager’s consent as described in subsection 9.2.3 of this section, if a Member (hereafter in this Section referred to as the “**Selling Member**”) proposes to “Transfer” (as hereinafter defined) their Units to any person (including, without limitation, to another Member) then such Selling Member must first deliver a written notice to the Company and all other Members. The notice must include a copy of the offer which the Selling Member proposes to accept. Such notice constitutes an offer by the Selling Member to sell to the Company and non-selling eligible Members the Units proposed to be transferred, on the same terms and conditions as those contained in the proposed offer. At any time within fifteen (15) days after receipt of such written offer, the Company may, but is under no obligation to, accept such offer in writing.

9.2.1 If the Company does not exercise the foregoing right of first refusal, then the Company shall notify the other non-Selling Members of the Company’s non-acceptance, including a copy of the offer, within the aforesaid fifteen-day period. Upon receipt of such notice (the “**Member Notice**”), then subject to Subsection 9.2.2 of this Agreement, the other Members shall have the right to purchase the Units being sold by

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the Selling Member, with each such non-Selling Member's share of such Units to be equal to the proportion to which each non-Selling Member's Units bears to all of the same class of Units held by other Members. The non-Selling Members shall exercise the options to purchase by delivering written notice of exercise to the Company within ten (10) days of receipt of the Member Notice.

9.2.2 Notwithstanding any provision to the contrary, Members owning Class B Non-Voting Units shall only have a right of first refusal as to Class B Non-Voting Units and shall not be eligible to purchase, and shall have no right to purchase, Class A Voting Units under the right of first refusal contained in this Section 9.2 except upon the approval of the Manager and the unanimous approval of Class A Voting Unit Members.

9.2.3 If the Company and the non-selling Members do not agree to purchase, on the terms and conditions above provided, all of the Units being offered by the Selling Member, within the aforesaid time periods, then the Selling Member may transfer his Units to such third party at a price not less than the price and on terms at which such Units were offered to the Company and non-selling Members, but such transfer must comply with all other requirements set forth elsewhere in this Agreement. Notwithstanding any other provision to the contrary, in no event may a Member Transfer any portion and/or all of his or her Units to a competitor of the Company, an affiliate of a competitor of the Company, or to any other person and/or company which would, in the sole determination of the Manager, subject the Company to a competitive disadvantage or otherwise frustrate the purpose of the Company and/or this Agreement.

9.2.4 The provisions of this Section shall not apply to any Transfer of the Units of a bankrupt, deceased, dissolved or incompetent Member to the trustee, executor, administrator or guardian of his estate, but shall apply to such trustee, executor, administrator or guardian to the same extent that such provisions would have applied to such Member. A Member may not Transfer any of his or her Membership Units to a minor or incompetent unless by will or intestate succession, and then only if a legal representative of such minor or incompetent has been duly appointed according to law.

9.2.5 With respect to any proposed or requested Transfer of any part or all of a Member's Units, the Manager, in its sole and absolute discretion, may require an opinion of counsel for the Company, or of other counsel satisfactory to the Manager, that such proposed disposition: (i) may be effected without registration of the Units under the Securities Act of 1933, as amended, and (ii) would not be in violation of any applicable securities law of any state or other jurisdiction, and (iii) would not cause the termination of the Company for federal income tax purposes.

9.3 *Certain Permitted Transfers of Member's Units.* Provided that all of the other conditions, terms and provisions set forth in this Agreement governing the Transfer of Units have been complied with, a Member may Transfer his Units to any "Permitted Transferee" without triggering the right of first refusal requirement described in Section 9.2. For purpose of this provision, a "**Permitted Transferee**" shall be any of the following persons:

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9.3.1 with respect to any Class A Voting Units, the parent or parents of the transferring Member, or his brothers or sisters, his spouse, his natural or adopted descendants, or the spouse of any such descendant; or

9.3.2 with respect to any Class B Non-Voting Units, an *inter vivos* or testamentary trust established for the benefit of such transferring Member for estate planning purposes, provided such Member, either individually or as a trustee of such trust, retains the right to control the disposition of the Units; or

9.3.3 with respect to any Member that is an entity, the Transfer to another entity with identical beneficial owners; or

9.3.4 with respect to any Member that is an entity, the Transfer to the beneficial owners of that entity in proportion to the extent of each such beneficial owner's beneficial interest in that entity (in which case each such beneficial owner would then be considered a "Substituted Member" for purposes of this Section).

The Permitted Transferee shall comply with the provisions of this Article before being admitted as a "Substitute Member" (as hereinafter defined).

9.4 *Admission of Substitute Members.* Subject to the other provisions of this Article 9, an assignee of the Units of a Member (which is understood to include any purchaser, transferee, donee, or other recipient on any disposition of such Units) will be deemed admitted as a "**Substitute Member**" of the Company only upon the satisfactory completion of the following:

9.4.1 written consent by the Manager;

9.4.2 the assignee accepts and agrees to be bound by the terms and provisions of this Agreement, and such other documents or instruments as the Manager may require;

9.4.3 a counterpart of this Agreement or subscription agreement is executed to evidence the consents and agreements above;

9.4.4 if the assignee is not a natural person, the assignee provides the Manager with evidence satisfactory to counsel for the Company of its authority to become a Member under the terms and provisions of this Agreement;

9.4.5 if deemed necessary or desirable by the Manager in its sole and absolute discretion, counsel for the Company, or a counsel for the assignee, which counsel is not disapproved by the Manager, has rendered an opinion to the Company that the admission of the assignee as a Substitute Member is in conformity with the Act and that none of the actions taken in connection with the admission will cause the termination or dissolution of the Company, or will adversely affect its classification as a partnership for federal income tax purposes; and

9.4.6 the assignee pays all reasonable legal fees of the Company and the Manager in connection with his admission as a Substitute Member.

9.5. *Definition of Transfer.* For purposes of this Section 9, "**Transfer**" shall include:

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9.5.1. Transfers, pledges or assignments by sale;

9.5.2. Transfers, pledges or assignments by gift;

9.5.3. Transfers, pledges or assignments (whether by will, trust or otherwise) taking effect on the death of the transferor; and

9.5.4. Involuntary transfers, including transfers, pledges or assignments by operation of law and pursuant to divorce and bankruptcy decrees.

9.6. *Formalities for Approved Transfers of Membership Rights.* In circumstances in which a Transfer of all or any part of a Member's rights has received the prior written approval of the Manager in accordance with Section 9.2 of this Agreement, a simple document evidencing the assignment and acceptance shall be deemed sufficient to memorialize such transaction.

9.7. *Signature of Agreement Required.* No Person shall be admitted as an Additional Member or Substituted Member of the Company until such Person signs this Agreement (as it may be amended from time to time prior to the admission of such Person as an Additional Member or Substituted Member).

9.8. *Right to Acquire a Member's Company Interest Upon Dissociation.* Except as otherwise provided in this Agreement, the Manager may require a Member to promptly sell all or any part of the Member's Company Interest to the Company or to the other Members for its then fair value and upon other reasonable purchase terms if such Member is dissociated from the company under Article 10 of this Agreement.

9.9. *Transfers and Pledges in Breach of this Agreement.* Transfers and pledges of Membership Rights in breach of the terms of this Agreement shall be void and of no effect.

ARTICLE 10.

-Member Dissociations-

10.1. *Events of Dissociation.* A Member shall be dissociated from the Company only upon the occurrence of one of the following events:

10.1.1. Death. A Member, who is an individual, shall be dissociated upon the Member's death (or, if such Member is an entity, upon incurring a dissolution or equivalent event).

10.1.2. Disability. A Member, who is an individual, shall be dissociated upon incurring a Total Disability (as defined in Section 10.5).

10.1.3. Bankruptcy. A Member shall be dissociated upon incurring bankruptcy.

10.1.4. Resignation. A Member shall be dissociated upon resigning from the Company in accordance with Section 10.7.

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10.1.5. Transfer of Entire Company Interest. A Member shall be dissociated upon transferring the Member's entire Company interest to another person.

10.1.6. Expulsion. A Member shall be dissociated upon being expelled from membership in the Company in accordance with Sections 10.9 and 10.10.

10.1.7. Sale, etc., of Membership Rights. A Member shall be dissociated upon attempting to selling or otherwise transfer all of the Member's Membership Rights in breach of the terms of this Agreement.

10.2. *Certain Consequences of Dissociation.* Except as otherwise expressly provided in this Agreement, any Member who is dissociated from the Company shall immediately lose all of the Member's rights as a Member except the Member's right to receive allocations of Company profits and losses and distributions of Company assets based on events attributable to the period prior to the date of such Member's dissociation.

10.3. *Company to Continue Upon any Dissociation.* Upon dissociation of any Member, the Company shall continue as a going concern following such dissociation, and all Members hereby voluntarily and unequivocally waive any and all rights, if any, to have the Company's business wound up and the Company terminated on account of such dissociation, unless by the affirmative vote of Class A Voting Unit Members not dissociated whose combined percentage share of all Class A Voting Units constitutes seventy-five percent (75%) or greater of the total percentage share of all Class A Voting Units of the Class A Voting Unit Members not dissociated, vote in favor of such winding up and termination.

10.4. *Distributions, Etc., to Dissociated Members in Connection with Their Dissociation.* If a Member who is an individual, dies, or a court of competent jurisdiction adjudges such Member to be incompetent to manage his/her person or his/her property, the Member's representative may exercise all of the Member's rights for the purpose of settling such Member's estate or administering his/her property. If the Company continues to operate, the heirs or representative of the individual who dies or is adjudged incompetent shall be entitled to the percentage of the value of the assets including any profits of the Company according to that Member's Percentage Interest in the Company at the time of dissociation. However, the dissociation shall not unreasonably interfere with the operation of the Company. Any Allocations shall be made as stated in this Agreement or, if not stated, within a reasonable period of time after the dissociation event.

10.5. *Definition of Total Disability.* Any Member shall be deemed to have incurred a "**Total Disability**" within the meaning of Section 10.1.2 if, by reason of any physical or mental disability, any Member is unable to participate significantly in the business and internal affairs of the Company for 180 consecutive days.

10.6. *Determination of Total Disability.* Whether such Member has incurred a Total Disability and the date on which such Member has incurred a Total Disability shall be determined by the Manager.

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10.7. *Definition and Effective Date of Resignation.* For purposes of this Section 10, the resignation of any Member means the Member's voluntary renunciation of the Member's right to participate in the business and internal affairs of the Company. Members shall be deemed to have resigned from the Company within the meaning of this Section 10 on the effective date of the notice of resignation described in Section 10.8.

10.8. *Right of Members to Resign from Company; Notice of Resignation.* A Member may resign as a Member of the Company by giving written notice of resignation to the Manager. The resignation shall be effective sixty (60) days after the Manager has received the notice. Unless there is a loss, any Member who resigns shall be entitled to receive a distribution when distributions are paid to the remaining Members based on such resigning Member's Percentage Interest in the Company as of the time of resignation. In the event of a loss, such Member shall pay such Member's portion of the loss based on the percentages specified within this Agreement within sixty (60) days of determining the valuation of the resigning Member's interest. The amount of any distribution or loss shall be determined solely by the Manager.

10.9. *Member Expulsions.* A Member may be expelled from the Company in the following circumstances:

10.9.1. Breach of Agreement. A Member materially breaches this Agreement and fails to cure the breach within a reasonable time after receiving notice of it.

10.9.2. Certain Misconduct. A Member engages in misconduct that causes or is likely to cause a material adverse impact on the reputation of the Company or on its business; or

10.9.3. Fraud or Illegality. A Member engages in fraudulent or illegal actions relating to the business or internal affairs of the Company.

10.10. *Requirements for Expulsion of a Member.* The Members are empowered and authorized to expel a Member if the Manager determines that any of the circumstances set forth in Section 10.9 are present and upon the affirmative vote in favor of expulsion of all Class A Voting Unit Members whose combined percentage share of Class A Voting Units not including the Member being considered for expulsion is seventy-five percent (75%) or greater.

10.11. *Purchase of Expelled Member's Company Interest.* If the Company or the other Members exercise their right under Section 9.5 to purchase the Company interest of an expelled Member, the expelled Member shall receive a distribution at the end of the calendar year following the year in which the expulsion occurs of 75% of the expelled Member's entitlement, and, shall receive such Member's Percentage Interest in the Company. In the event of a loss, the expelled Member shall pay such Member's portion of the loss based on the percentages specified within this Operating Agreement within three (3) months after the end of the calendar year in which a Member is expelled. If the Members cannot agree with the expelled Member on the purchase price or on the other terms of this purchase, the Manager's determination of the subject purchase price or other terms as aforesaid shall be conclusive.

ARTICLE 11.

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-Dissolution-

11.1. *Dissolution.* The Company shall be dissolved and its affairs shall be wound up upon the occurrence of any of the following: (a) an affirmative vote of Members whose combined Percentage Interest in the Company is seventy five percent (75%) or greater, (b) the sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company, (c) the entry of a decree of judicial dissolution under § 18-802 of the Act, or d) the dissociation of the final Member of the Company unless such Member's personal representative agrees to continue the Company and the admission of the personal representative of such Member or its nominee or designee to the Company as a Member effective as of the occurrence of the event that terminated the continued membership of the final Member.

11.2. *Final Accounting.* In case of the dissolution of the Company, a proper accounting shall be made from the date of the last previous accounting to the date of dissolution.

11.3. *Winding Up.* Upon the dissolution of the Company and until the filing of a Certificate of Cancellation with the Delaware Department of State, Division of Corporations and upon undertaking such actions as are sufficient to withdraw its authority to conduct business in each and every state in which it operates at the time such Certificate of Cancellation is filed, the Manager (or, if the Manager are unable, the Person winding up the Company's affairs) may, in the name of and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative; sell and close the Company's business, obtain an independent appraisal of the fair market value of the Company's assets and property, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Member any remaining assets of the Company, all without affecting the liability of Member. Upon winding up of the Company, the assets shall be distributed as follows:

11.3.1. To creditors, including any Member that is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to any Members due under the Act; and

11.3.2. To the Members in satisfaction of liabilities for Distributions in accordance with the Act; and

11.3.3. To the Members first for the return of their respective Capital Contributions, to the extent not previously returned, and second respecting their respective Membership Interests, in the proportion in which each such Member shares in Distributions in accordance with this Agreement.

11.4. *Certificate of Cancellation.* Within ninety (90) days following the dissolution and the commencement of winding up of the Company, a Certificate of Cancellation shall be filed with the Delaware Department of State, Division of Corporations pursuant to the Act.

11.5. *Termination.* Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

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ARTICLE 12.
-Dispute Resolution-

12.1. *Disputes Among Members.* The Members agree that in the event of any dispute or disagreement solely between and among any of them arising out of, relating to or in connection with this Agreement or the Company or its organization, formation, business or management (“**Member Dispute**”), the Members shall use their best efforts to resolve any dispute arising out of or in connection with this Agreement by good-faith negotiation and mutual agreement.

12.2. *Nonbinding Mediation.* In the event that the Members are unable to resolve any Member Dispute, such parties may opt to first attempt to settle the dispute through a confidential, non-binding mediation proceeding, provided that all parties agree to submit to such confidential, non-binding mediation proceeding. If such a confidential, non-binding mediation proceeding is conducted, then in the event any party to such proceeding is not satisfied with the results thereof, any unresolved disputes shall be finally settled in accordance with a binding arbitration proceeding conducted in accordance with Sections 12.3 and 12.4 of this Agreement. In no event shall the results of any confidential mediation proceeding be admissible in any arbitration or judicial proceeding. Confidential, non-binding mediation proceedings shall be conducted as follows:

12.2.1. Confidential nonbinding mediation proceedings shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (“**AAA**”) in effect on the date of the notice of mediation was served, other than as specifically modified herein, and shall be non-binding on the parties thereto.

12.2.2. Any Member may commence such a mediation proceeding by serving written notice thereof to the other Members, by mail or otherwise, designating the issue(s) to be mediated and the specific provisions of this Agreement under which such issue(s) and dispute arose. Upon receipt of such written notice, the other Members shall have ten (10) Business Days in which to either submit to such mediation proceeding or opt-out of such mediation proceeding by specifying such election in writing to the Member seeking to commence such mediation proceeding. If any Member fails to respond or opts out of such mediation proceeding, then the mediation proceeding cannot go forward and any unresolved dispute must be resolved through binding arbitration in accordance with Section 12.3 of this Agreement.

12.2.3. Provided that all Members have opted-in to mediation, the Members shall select one neutral party AAA mediator (the “**Mediator**”). If a Mediator is not selected within five (5) Business Days thereafter, then a Mediator shall be selected by the AAA in accordance with the Commercial Mediation Rules of the AAA. The mediation proceedings shall be held in the city that is the Company’s principal place of business.

12.2.4. The Mediator shall make written recommendations for settlement in respect of the dispute, including apportionment of the mediator’s fee, within ten (10) Business Days of the last scheduled session. If any Member involved is not satisfied with the recommendation for settlement, he/she may commence an arbitration proceeding.

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12.3. *Binding Arbitration.* Whether non-binding mediation is conducted or not, any unresolved Member Disputes must be finally settled in accordance with binding arbitration conducted pursuant to this Section. A Member may commence a binding arbitration proceeding by serving written notice thereof to the other Members, by mail or otherwise, designating the issue(s) to be arbitrated and, if applicable, the specific provisions of this Agreement under which such issue(s) and dispute arose. Binding arbitration proceedings shall be conducted under the Rules of Commercial Arbitration of the AAA (the “**Rules**”). A Member may withdraw from the Member Dispute by signing an agreement to be bound by the results of the arbitration. Binding arbitration proceedings shall be conducted as follows:

12.3.1. The arbitration panel shall consist of one arbitrator. If an Arbitrator has not been selected within five (5) Business Days thereafter, then an Arbitrator shall be selected by the AAA in accordance with the Commercial Arbitration Rules of the AAA. The arbitration proceedings shall be held in the city that is the Company’s principal place of business. To the extent any provision of the Rules conflict with any provision of this Section, the provisions of this Section shall control.

12.3.2. The statutory, case law and common law of the State of Delaware shall govern in interpreting the respective rights, obligations and liabilities arising out of or related to the transactions provided for or contemplated by this Agreement.

12.3.3. In any final award and/or order, the arbitrator shall apportion all the costs (other than attorney’s fees which shall be borne by the party incurring such fees) incurred in conducting the arbitration in accordance with what the arbitrator deems just and equitable under the circumstances. The arbitrator’s final award and/or order shall be final and not appealable. Such final award and/or order shall not be subject to judicial review by any court or any other agency, tribunal, panel, commission, arbitrator, judge, magistrate, special master, or mediator.

12.4. *Exclusive Remedy.* The dispute resolution procedures specified in this Article 12 of this Agreement set forth the exclusive remedies available to Members for the resolution of, or any award of relief in connection with, any Member Dispute. Each Member of the Company hereby accepts such procedures, agrees to be bound by the result of any binding arbitration proceeding conducted in accordance with this Article, and knowingly and voluntarily waives all other rights available at law or in equity to seek relief in a court of competent jurisdiction in connection with any Member Dispute. Each Member shall indemnify and hold harmless all other Members from and against any and all costs, expenses, and damages, including reasonable attorneys’ fees, such other Members incur in connection with any action filed in any court in connection with any Member Dispute and each Member hereby waives any and all defenses to a motion to compel arbitration filed by any other Member in any such action.

ARTICLE 13.
-General Provisions-

13.1. *Amendments.* This Agreement may be amended only as provided in Subsections 13.1.1 and 13.1.2.

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13.1.1. Amendments Without Member Approval. The Manager, without the approval of the Members, may amend Exhibit "A" and may make such other amendments to the Agreement solely to the extent required to accurately reflect the names, addresses and Capital Contributions of the Members and the admission to the Company of any Additional Member or Substituted Member in accordance with the terms of this Agreement. In addition to any amendments otherwise authorized herein, amendments may be made to this Agreement from time to time by the Manager without the consent of the Members (a) to cure any ambiguity or to correct or supplement any provision herein which may be inconsistent with any other provision herein or (b) to delete or add any provisions of this Agreement required to be so deleted or added by federal, state or local law or by the Securities and Exchange Commission, the Internal Revenue Service, or any other federal agency or by a state securities or "blue sky" commission, a state revenue or taxing authority or any other similar entity or official, but only to the extent necessary to comply with such requirements and/or bring this Agreement into compliance thereof; provided, however, that no amendments to this Agreement will be effective against any Member without such Member's written consent to such amendment if such amendment would increase any personal liability of such Member, diminish such Member's voting rights, as applicable, or create or increase any economic obligation of such Member, including without limitation increasing such Member's obligation to contribute additional capital to the Company or otherwise provide additional funds in excess of what is then required of such Member pursuant to this Agreement or the Act.

13.1.2. Conditions to Other Amendments. Except as provided in Subsection 13.1.1, this Agreement may not be amended in whole or in part without the unanimous consent of all then-current Class A Voting Unit Members.

13.2. *Governing Law.* This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Delaware, including the Delaware Limited Liability Company Act as amended from time to time, without regard to principles of conflict of laws unless otherwise specified by the Manager through an amendment to this Agreement. To the extent that any provision of this Agreement is inconsistent with any provision of the Act, this Agreement shall govern to the extent permitted by the Act.

13.3. *Headings.* The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

13.4. *Severability.* Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other provision of this Agreement being prohibited or invalid.

13.5. *Binding.* This Agreement shall be binding upon and inure to the benefit of the Members, and any of each of their respective successors and/or assignees, except that no right or obligation of any Member of the Company may be assigned by such Member without the prior

RHODIUM JV LLC

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written consent of the Manager, which may be granted or denied at the Manager's sole and unfettered discretion.

13.6. *Incorporation of Exhibits.* All exhibits identified in the Agreement as exhibits to the Agreement are hereby incorporated into the Agreement and made integral parts of it.

13.7. *Interpretation.* As the context shall require, the use of the singular in this Agreement shall denote the plural and vice versa, and the use of a particular gender shall denote both genders.

13.8. *Waiver.* No delay of or omission by a Member in the exercise of any right, power or remedy accruing to a Member as a result of any breach or default by another Member under this Agreement: (1) shall impair any such right, power or remedy accruing to a Member; or (2) shall be construed as a waiver of or acquiescence by a Member in any such breach or default or of any similar breach or default occurring later. No waiver by a Member of any single breach or default under this Agreement shall be construed as a waiver by a Member of any other breach or default occurring before or after that waiver.

13.9. *Assumption of Risk.* Each Member, by signing this Agreement, represents and warrants that such Member understands the risks of an investment in the Company and is aware that such Member could lose such Member's entire investment that is the subject of such Member's Membership Interest in the Company. Each Member, by signing this Agreement, further represents and warrants that such Member (a) has consulted with an attorney and/or accountant prior to executing this Agreement or has had the opportunity to do so; (b) has had an opportunity to question the Manager as to all matters which such Member deemed material and relevant in such Member's decision to become a Member of, and make an investment in, the Company; (c) has had the opportunity to obtain any and all additional information necessary to verify the accuracy of the information received or any other supplemental information which such Member deemed relevant to make an informed investment decision; (d) possesses such knowledge or experience in business and financial matters, or competent professional advice concerning the Company, that such Member is capable of evaluating the merits and risks of the prospective investment in the Company that is evidenced by such Member's Membership Interest in the Company; (e) possesses sufficient net worth and annual income to be able to bear the substantial economic risks of an investment in the Company, including the complete loss of such Member's investment; (f) has adequate means of providing for such Member's current needs and personal contingencies, and has no need for liquidity in the investment evidenced by such Member's Membership Interest in the Company; and (g) has acquired the Membership Interest evidenced by this Agreement for such Member's own account for investment only and not as a nominee for others, and has not acquired such Membership Interest with an intention or a view toward resale, transfer or distribution thereof, and will not, in any event, resell or otherwise transfer such interest within twelve (12) months after the date upon which such Membership Interest has been acquired.

13.10. *Spousal Consent.* Each Member who has a Spouse on the date of this Agreement shall cause such Member's Spouse to execute and deliver to the Company a "**Spousal Consent**" in the form attached as Exhibit "B" hereto, pursuant to which the Spouse acknowledges that he or she has read and understood the Agreement and agrees to be bound by its terms and conditions. If any Member should marry or engage in a marital relationship or civil union following the date of

RHODIUM JV LLC

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this Agreement, such Member shall cause his or her Spouse to execute and deliver to the Company a Spousal Consent in the form attached as Exhibit "B" hereto within fifteen (15) days thereof.

13.11. *Supersession.* This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

13.12. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes and all of which when taken together shall constitute a single counterpart instrument. Executed signature pages to any counterpart instrument may be detached and affixed to a single counterpart, which single counterpart with multiple executed signature pages affixed thereto constitutes the original counterpart instrument. All of these counterpart pages shall be read as though one and they shall have the same force and effect as if all of the parties had executed a single signature page.

[Remainder of page intentionally left blank; signature page follows]

RHODIUM JV LLC

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SIGNATURE PAGE TO RHODIUM JV LLC OPERATING AGREEMENT

In witness of his acceptance of the above terms and conditions of the RHODIUM JV LLC Operating Agreement, the undersigned, in his capacity as a Class A Voting Unit Member and a Class B Non-Voting Unit Member, has duly signed this Agreement, effective as of the Effective Date:

Cameron Blackmon

IMPERIUM INVESTMENTS HOLDINGS LLC

[Remainder of page intentionally left blank; additional signature page follows]

RHODIUM JV LLC

EXECUTABLE 2.20.2020

SIGNATURE PAGE TO RHODIUM JV LLC OPERATING AGREEMENT

In witness of his acceptance of the above terms and conditions of the RHODIUM JV LLC Operating Agreement, the undersigned, in his capacity as a Class A Voting Unit Member and a Class B Non-Voting Unit Member, has duly signed this Agreement, effective as of the Effective Date:

A handwritten signature in black ink that reads "Chad Everett Harris". The signature is written in a cursive, flowing style.

WHINSTONE US, INC.

[Remainder of page intentionally left blank; additional signature page follows]

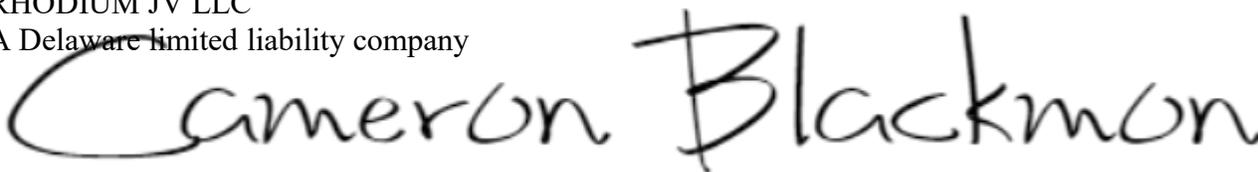
RHODIUM JV LLC

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SIGNATURE PAGE TO RHODIUM JV LLC OPERATING AGREEMENT

In witness of his acceptance of the above terms and conditions of the RHODIUM JV LLC Operating Agreement, the undersigned, in his capacity as a Manager of the Company, has duly signed this Agreement, effective as of the Effective Date:

RHODIUM JV LLC
A Delaware limited liability company

A handwritten signature in black ink that reads "Cameron Blackmon". The signature is written in a cursive, slightly slanted style. The first letter 'C' is large and loops around. The last name 'Blackmon' is written in a similar cursive style.

By: IMPERIUM INVESTMENTS HOLDINGS LLC
Its: Manager

[Remainder of page intentionally left blank; additional signature page follows]

RHODIUM JV LLC

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EXHIBIT A**Membership Interest**

| MEMBER | CLASS A VOTING UNITS HELD | CLASS B NON-VOTING UNITS HELD | % SHARE OF CLASS A UNITS | % SHARE OF CLASS B NON-VOTING UNITS | PERCENTAGE INTEREST IN COMPANY |
|-----------------------------------|----------------------------------|--------------------------------------|---------------------------------|--|---------------------------------------|
| Imperium Investments Holdings LLC | 87.5 | 87.5 | 87.5% | 87.5% | 87.5% |
| Whinstone US, Inc. | 12.5 | 12.5 | 12.5% | 12.5% | 12.5% |
| Equity in Company | 100 | 100 | 100% | 100% | 100% |

Capital Contribution

| MEMBER | CAPITAL CONTRIBUTION |
|-----------------------------------|-----------------------------|
| Imperium Investments Holdings LLC | \$0.00 |
| Whinstone US, Inc. | \$0.00 |

RHODIUM JV LLC

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EXHIBIT B**EXHIBIT B**

Exhibit B is attached to and included as part of this Agreement and is legally binding on all parties. The purpose for entering into this Agreement is for the power contracts in this Exhibit B to be executed concurrently with this Agreement, but the Company, which is supposed to be the counterparty to the power contracts, has not been formed as of the Effective Date. Accordingly, the Parties explicitly agree that the power contracts may be executed by the Manager as the counterparty in lieu of the Company. The Parties further agree that the Manager will then transfer the power contracts to the Company as soon as reasonably practicable following the formation of the Company. The power contracts shall not be transferred to anyone other than the Company and/or its subsidiaries.

Since each contract is a stand-alone legal contract, but is attached to and made part of this Agreement, this exhibit (i.e., Exhibit B) makes reference to each contract for administrative ease and clarity. The contracts are attached to and made part of this Agreement through reference in Exhibit B-1, B-2, and B-3. For avoidance of doubt, the parties agreeing to execute the contracts listed below are Whinstone US, Inc., as the power seller ("**Power Seller**"), and Imperium Investments Holdings LLC and/or Rhodium JV LLC, as the power purchaser ("**Power Purchaser**"). For avoidance of doubt, the Power Seller and Power Purchaser have reached verbal agreement on all material terms of the contracts in exchange for mutual consideration and such contracts are being memorialized in writing and attached to and made part of Exhibit B. The execution of the power contracts in Exhibit B is in consideration and as a condition of the Parties entering into this Agreement. The power contracts are as follows:

- Contract 1: 30 Megawatts for 3 years
A contract for thirty (30) Megawatts of electrical capacity at a purchase price of \$0.01705 per Kilowatt Hour (i.e., \$17.05 per Megawatt Hour) to Rhodium JV LLC, for three years from the start of the contract ("**Contract 1**").
- Contract 2: Option to extend Contract 1
An option contract for Rhodium JV LLC to purchase up to an additional six years of electrical capacity at a purchase price of \$0.01705 per Kilowatt Hour (\$17.05 per Megawatt Hour), in one-year increments ("**Contract 2**").
- Contract 3: Right of first refusal to purchase an additional 100 Megawatts
A right of first refusal (via an option contract) to purchase an additional 100 Megawatts of electrical capacity at a purchase price of \$0.01705 per Kilowatt Hour (\$17.05 per Megawatt Hour) ("**Contract 3**").

RHODIUM JV LLC

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EXHIBIT B-1

See separate document for Contract 1.

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EXHIBIT B-2

See separate document for Contract 1.

RHODIUM JV LLC

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EXHIBIT B-3

See separate document for Contract 1.

RHODIUM JV LLC

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SIGNATURE PAGE TO RHODIUM JV LLC OPERATING AGREEMENT, EXHIBIT B

In witness of his acceptance of the above terms and conditions of the RHODIUM JV LLC Operating Agreement Exhibit B, the undersigned, in his capacity as a Class A Voting Unit Member and a Class B Non-Voting Unit Member, has duly signed this Agreement, effective as of the Effective Date:

A handwritten signature in black ink that reads "Cameron Blackmon". The signature is written in a cursive, slightly slanted style.

IMPERIUM INVESTMENTS HOLDINGS LLC

[Remainder of page intentionally left blank; additional signature page follows]

RHODIUM JV LLC

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SIGNATURE PAGE TO RHODIUM JV LLC OPERATING AGREEMENT, EXHIBIT B

In witness of his acceptance of the above terms and conditions of the RHODIUM JV LLC Operating Agreement Exhibit B, the undersigned, in his capacity as a Class A Voting Unit Member and a Class B Non-Voting Unit Member, has duly signed this Agreement, effective as of the Effective Date:

A handwritten signature in black ink that reads "Chad Everett Harris". The signature is written in a cursive, flowing style.

WHINSTONE US, INC.

[Remainder of page intentionally left blank; additional signature page follows]

EXHIBIT 7

WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT

This WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT (the “**Agreement**”) is made and entered into on this 31 day of December, 2020 (the “**Effective Date**”) by, between and among WHINSTONE US, INC., a Delaware corporation (“**Whinstone**” or the “**Withdrawing Member**”), IMPERIUM INVESTMENTS HOLDINGS LLC, a Wyoming limited liability company (“**Imperium**” or the “**Remaining Member**”) and RHODIUM JV LLC, a Delaware limited liability company (“**Rhodium JV**” or the “**Company**”) (collectively, the “**Parties**,” or either individually, also a “**Party**”).

WHEREAS, the Company was duly organized and formed as a Limited Liability Company in the State of Delaware on April 1, 2020 and gained Authority to Transact in Texas on April 8, 2020; and

WHEREAS, Imperium and Whinstone by virtue of their Membership Interest in the Company, are subject to the provisions of the Operating Agreement for Rhodium JV LLC, attached hereto as Exhibit “A”; and

WHEREAS, Whinstone holds Twelve point Five (12.5) Class A Voting Units and Twelve point Five (12.5) Class B Non-Voting Units, equating to a Twelve and 50/100s Percent (**12.50%**) Percentage Interest in the Company; and

WHEREAS, Whinstone desires to redeem all of its Class A Voting Units and all of its Class B Non-Voting Units in the Company and to withdraw from membership in the Company in an orderly and expeditious fashion; and

WHEREAS, the Parties also desire that, upon withdrawal of Whinstone from membership in the Company, Whinstone shall no longer have any Percentage Interest in the Company and the Remaining Member’s Percentage Interest in the Company shall thereafter be One Hundred Percent (100%); and

WHEREAS, the Parties have had the opportunity to retain the benefit of legal counsel, and otherwise, fully understand the terms and conditions herein provided, and freely and voluntarily enter into this Agreement.

NOW THEREFORE, in consideration of the mutual terms, provisions, reciprocal promises and covenants exchanged herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Parties acknowledge and agree that the foregoing recitals are true in fact and substance and are hereby incorporated into this Agreement as integral and material terms hereof.

2. Whinstone's Withdrawal and Dissociation from Rhodium JV. Whinstone is hereby withdrawn and dissociated as a member of Rhodium JV and is no longer an ownership interest holder of Rhodium JV. Each Party hereby voluntarily, irrevocably and unequivocally releases, remises, and waives any and all claims based upon any technical noncompliance with the operating agreement of Rhodium JV, any prior resolution of Rhodium JV, or any applicable law or regulation, based on insufficient notice, authority or procedure as it relates to the withdrawal and dissociation of Whinstone from membership in Rhodium JV, all such claims being forever barred and acquitted, and each Party covenants and agrees that it will protect and save and keep the other forever harmless and indemnified from and against any and all such claims.

3. Redemption of Whinstone's Interest. In consideration of the promises and covenants set forth in this Agreement, and for the sum of One and 00/100s Dollars (\$1.00) in hand paid, Rhodium JV hereby redeems all of the Class A Voting Units and Class B Non Voting Units held by Whinstone, and Whinstone hereby transfers and assigns to Rhodium JV all of its right, title and interest in and to all such units, and Rhodium JV hereby accepts such transfer and assignment, and the Parties agree that Whinstone's Percentage Interest in Rhodium JV shall be adjusted in Rhodium JV's books and records to Zero Percent (0%), and Imperium's Percentage Interest in Rhodium JV shall be increased in Rhodium JV's books and records to One Hundred Percent (100%). To the extent required by applicable law, this Agreement shall serve as a bill of sale evidencing such redemption, in consideration of the book value of Whinstone's Percentage Interest.

4. Continuation of Business Relationship. Whinstone and Rhodium JV agree that all the terms and conditions of any other agreements, entered into between them, including but not limited to the duties and obligations of the Parties to each other under any hosting or colocation agreements, shall continue as set forth in such agreements. Whinstone agrees that it shall not hold itself out to any third party as continuing to have any membership in Rhodium JV, and Whinstone acknowledges and agrees that Rhodium JV and its Remaining Member may inform and represent to third parties that Whinstone is no longer a member of Rhodium JV.

5. Rhodium JV's Continuation as Going Concern. The Parties acknowledge and agree that Rhodium JV will continue as a going concern following Whinstone's withdrawal and dissociation as a member of Rhodium JV. Whinstone hereby voluntarily, irrevocably and unequivocally waives any and all rights, if any, to have Rhodium JV's business wound up and Rhodium JV terminated on account of its withdrawal, dissociation, transfer and assignment, and covenants and agrees that it will protect and save and keep Rhodium JV forever harmless and indemnified from and against any and all such claims.

6. Holding out. The Parties agree to eliminate any type of appearance that Whinstone is a member of Rhodium JV. Whinstone agrees not to make any public statements, whether written or oral, or any other statements which are reasonably likely to become public, which statements could be interpreted, under the circumstances, to have a material adverse impact on the reputation of Rhodium JV or the Remaining Member, or detrimental to their interests. Contemporaneously with the execution of this Agreement, or as soon as is reasonably practicable thereafter, the Parties will complete any additional paperwork necessary to accommodate the changes contemplated by this Agreement.

7. Representations of the Parties. The following material representations and warranties

are made by one or more of the Parties as indicated:

(a) Each Party warrants and represents that there are no actions, suits, or other pending litigation that would materially affect the terms of this Agreement or impair such Party from fully performing it.

(b) Whinstone warrants and represents that it has not, prior to the date of this Agreement, assigned, transferred, mortgaged, gifted, pledged, or otherwise alienated its interest in Rhodium JV.

(c) Whinstone warrants and represents that it has not, prior to the date of this Agreement, incurred any past, current or future liability on behalf of Rhodium JV, and has not entered into any contract, agreement or any other undertaking with any third party on behalf of Rhodium JV.

(d) Whinstone warrants and represents that it has complete and unrestricted power to assign and deliver all of the Class A Voting Units and Class B Non-Voting Units held by Whinstone to Rhodium JV and to redeem all such units in accordance with the terms and conditions of this Agreement.

(e) Each Party warrants and represents that, in the event that additional documents are necessary to satisfy and fulfill the terms and obligations of this Agreement, such Party will promptly execute and deliver the same.

(f) Each Party warrants and represents that, effective immediately upon the execution of this Agreement, Whinstone will have no further interest in Rhodium JV and no further liability related to Rhodium JV.

(g) Rhodium JV warrants and represents that it has fully consented to the withdrawal of Whinstone as a member.

(h) The Remaining Member warrants and represents that it has fully consented to the withdrawal of Whinstone as a member.

8. Further Assurances. Whinstone promises and covenants that, if requested by Rhodium JV or the Remaining Member, it shall execute such other and further documents as may be required, and undertake such other and further acts as may be required, to lawfully and properly carry out and complete the withdrawal, dissociation, assignment and redemption of Whinstone's interest in Rhodium JV contemplated by this Agreement.

9. Applicable Law: This Agreement shall be construed in accordance with and governed by the laws of the State of Texas. The Parties agree that any litigation arising in connection with this Agreement shall be conducted in Tarrant County, Texas.

10. Amendments. Any modification of this Agreement can only be done in writing, signed by all of the Parties hereto.

11. Benefit. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties hereto and to each of their respective heirs, executors, administrators, legal representatives, successors and assigns.

12. Performance. In the event of the bringing of any action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other Party arising out of this Agreement, then in that event, the prevailing Party shall be entitled to have and recover from the other Party all costs and expenses of the action or suit, including reasonable attorneys' fees.

13. Original Agreements. All Parties understand that this document is being executed in three identical counterparts with original signatures of each.

14. Miscellaneous. All Parties shall use their best efforts to effectuate the purposes and ends of this Agreement, and shall fully cooperate to ensure full compliance with this Agreement.

[Remainder of this page left blank; signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT on this 31 day of December, 2020.

RHODIUM JV LLC,
A Delaware limited liability company
By: Imperium Investments Holdings LLC,
Its: Manager

Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 10:47 CST)
By: Cameron Blackmon
Its: Manager

WHINSTONE US, INC.,
A Delaware Corporation


Chad Harris (Dec 31, 2020 10:00 CST)
By: Chad Harris
Its: Director

IMPERIUM INVESTMENTS HOLDINGS LLC,
A Wyoming limited liability company

Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 10:47 CST)
By: Cameron Blackmon
Its: Manager

EXHIBIT A

OPERATING AGREEMENT FOR RHODIUM JV LLC
(Attached hereto)

**ASSIGNMENT OF MEMBERSHIP INTEREST
RHODIUM JV LLC**

WHINSTONE US, INC., a Delaware Corporation, (the “**Assignor**”), holder of Twelve and 50/100s (12.5) Class A Voting Units and Twelve and 50/100s Class B Non-Voting Units in RHODIUM JV LLC, a Delaware limited liability company, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby unconditionally and irrevocably transfers, assigns and sets over to RHODIUM JV LLC, a Delaware limited liability company, or its successors in interest (the “**Assignee**”), all of the Assignor’s right, title, and interest in and to its Class A Voting Units, Class B Non-Voting Units and corresponding Twelve and 50/100s Percent (12.5%) Percentage Interest in RHODIUM JV LLC.

Dated: December 31, 2020.


CHAD HARRIS (Dec 31, 2020 19:08 CST)
By: Chad Harris
Its: Director

ACCEPTANCE OF ASSIGNMENT

RHODIUM JV LLC, a Delaware limited liability company, by IMPERIUM INVESTMENTS HOLDINGS, its Manager, hereby: (a) accepts the foregoing assignment and (b) acknowledges receipt of the Class A Voting Units, Class B Non-Voting units.

Dated: December 31, 2020.

IMPERIUM INVESTMENTS
HOLDINGS LLC
Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 16:47 CST)
By: Cameron Blackmon
Its: Manager

CONSENT TO ASSIGNMENT

The undersigned, being the Manager of RHODIUM JV LLC, a Delaware limited liability company, hereby approves, on behalf of RHODIUM JV LLC, the transfer of Membership Interest evidenced by the aforesaid Assignment from the Assignor to the Assignee.

Dated: December 31, 2020.

IMPERIUM INVESTMENTS HOLDINGS
LLC
Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 16:47 CST)
By: Cameron Blackmon
Its: Manager

**UNANIMOUS WRITTEN CONSENT OF
MEMBERS OF RHODIUM JV LLC**

The undersigned, being all of the Class A Voting Unit Members of RHODIUM JV LLC, a Delaware limited liability company (the “**Company**”), hereby enter into the resolutions set forth below in reference to the following recitals:

WHEREAS, it has been determined that it is in the best interest of the Company and all of its undersigned Members to provide for the orderly and expeditious withdrawal from membership in the Company of WHINSTONE US, INC., a Delaware corporation (“**Whinstone**”), upon which event Whinstone shall no longer be considered an interest holder of the Company; and

WHEREAS, Whinstone holds Twelve and 50/100s (12.5) Class A Voting Units and Twelve and 50/100s (12.5) Class B Non-Voting Units in the Company which equates to a Twelve and 50/100s Percent (12.5%) Percentage Interest in the Company; and

WHEREAS, it has also been determined that it is in the best interest of the Company and all of its undersigned Members for the Company to continue in operation as a going concern following the withdrawal of Whinstone and redemption of all of its Class A Voting Units and Class B Non-Voting Units in the Company; and

WHEREAS, upon the aforesaid withdrawal, dissociation, and membership redemption of Whinstone, the remaining Member desires to amend Exhibit A of the Company’s Operating Agreement to reflect the change in Units and Percentage Interest in the Company of Whinstone and the remaining Member.

NOW THEREFORE, the undersigned, being all of the Members of RHODIUM JV LLC, a Delaware limited liability company (the “**Company**”), in consideration of the foregoing recitals, do hereby consent to, approve and adopt the following resolutions:

IT IS HEREBY RESOLVED, that Whinstone is hereby withdrawn and dissociated as a member of the Company, and is no longer an interest holder of the Company; and it is

FURTHER RESOLVED, that Whinstone’s Twelve and 50/100s (12.5) Class A Voting Units and Twelve and 50/100s (12.5) Class B Non-Voting Units in the Company and all of its Percentage Interest in and to any distributions of the Company are hereby redeemed by the Company and transferred and assigned to the Company, and Whinstone’s prior Percentage Interest shall be adjusted in the Company’s books and records to zero, and the remaining Member’s Percentage Interest shall be increased in the Company’s books and records to One Hundred Percent (100%); and it is

FURTHER RESOLVED, that all of the undersigned Members do hereby voluntarily, irrevocably and unequivocally waive all rights, if any, to have the Company’s business wound up and the Company terminated on account of the Whinstone withdrawal, dissociation, and membership interest redemption described in the foregoing resolutions; and it is

FURTHER RESOLVED, that Cameron Blackmon, the Manager of Imperium Investments

Holdings LLC, the Manager of the Company, is authorized to present to Whinstone and enter into, on behalf of the Company, the Withdrawal, Dissociation, and Membership Interest Redemption Agreement, in the form attached hereto as Exhibit “A”, which the undersigned Members do hereby authorize, ratify and approve; and it is

FURTHER RESOLVED, that Cameron Blackmon, the Manager of Imperium Investments Holdings LLC, the Manager of the Company, is authorized to consent to, on behalf of the Company, the Assignment of Membership Interest from Whinstone to the Company, in the form attached hereto as Exhibit “B”; and it is

FURTHER RESOLVED, that Cameron Blackmon, the Manager of Imperium Investments Holdings LLC, the Manager of the Company, is authorized to amend Exhibit “A” to the Operating Agreement of the Company in order to reflect the Class A Voting Units, Class B Non-Voting Units and Percentage Interest held by the remaining Member of the Company, attached hereto as Exhibit “C”; and it is

FURTHER RESOLVED, that Cameron Blackmon, the Manager of the Company, is authorized to do all other acts necessary and proper to effectuate, carry out and complete the Whinstone withdrawal, dissociation, and membership interest redemption described in the foregoing resolutions; and it is

FURTHER RESOLVED, that the Class A Voting Unit Members of the Company do hereby ratify and approve all of the acts of the said Manager of the Company taken in its name and on its behalf in connection with said resolutions.

IMPERIUM INVESTMENTS HOLDINGS LLC

A Delaware limited liability company


Cameron Blackmon (Dec 31, 2020 16:47 CST)

By: Cameron Blackmon
Its: Manager

WHINSTONE US, INC.

A Delaware corporation


CHAD HARRIS (Dec 31, 2020 19:08 CST)

By: Chad Harris
Its: **Director**

EXHIBIT A

FORM OF WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT

This WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT (the “**Agreement**”) is made and entered into on this 31 day of December, 2020 (the “**Effective Date**”) by, between and among WHINSTONE US, INC., a Delaware corporation (“**Whinstone**” or the “**Withdrawing Member**”), IMPERIUM INVESTMENTS HOLDINGS LLC, a Wyoming limited liability company (“**Imperium**” or the “**Remaining Member**”) and RHODIUM JV LLC, a Delaware limited liability company (“**Rhodium JV**” or the “**Company**”) (collectively, the “**Parties**,” or either individually, also a “**Party**”).

WHEREAS, the Company was duly organized and formed as a Limited Liability Company in the State of Delaware on April 1, 2020 and gained Authority to Transact in Texas on April 8, 2020; and

WHEREAS, Imperium and Whinstone by virtue of their Membership Interest in the Company, are subject to the provisions of the Operating Agreement for Rhodium JV LLC, attached hereto as Exhibit “A”; and

WHEREAS, Whinstone holds Twelve point Five (12.5) Class A Voting Units and Twelve point Five (12.5) Class B Non-Voting Units, equating to a Twelve and 50/100s Percent (**12.50%**) Percentage Interest in the Company; and

WHEREAS, Whinstone desires to redeem all of its Class A Voting Units and all of its Class B Non-Voting Units in the Company and to withdraw from membership in the Company in an orderly and expeditious fashion; and

WHEREAS, the Parties also desire that, upon withdrawal of Whinstone from membership in the Company, Whinstone shall no longer have any Percentage Interest in the Company and the Remaining Member’s Percentage Interest in the Company shall thereafter be One Hundred Percent (100%); and

WHEREAS, the Parties have had the opportunity to retain the benefit of legal counsel, and otherwise, fully understand the terms and conditions herein provided, and freely and voluntarily enter into this Agreement.

NOW THEREFORE, in consideration of the mutual terms, provisions, reciprocal promises and covenants exchanged herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Parties acknowledge and agree that the foregoing recitals are true in fact and substance and are hereby incorporated into this Agreement as integral

and material terms hereof.

2. Whinstone's Withdrawal and Dissociation from Rhodium JV. Whinstone is hereby withdrawn and dissociated as a member of Rhodium JV and is no longer an ownership interest holder of Rhodium JV. Each Party hereby voluntarily, irrevocably and unequivocally releases, remises, and waives any and all claims based upon any technical noncompliance with the operating agreement of Rhodium JV, any prior resolution of Rhodium JV, or any applicable law or regulation, based on insufficient notice, authority or procedure as it relates to the withdrawal and dissociation of Whinstone from membership in Rhodium JV, all such claims being forever barred and acquitted, and each Party covenants and agrees that it will protect and save and keep the other forever harmless and indemnified from and against any and all such claims.

3. Redemption of Whinstone's Interest. In consideration of the promises and covenants set forth in this Agreement, and for the sum of One and 00/100s Dollars (\$1.00) in hand paid, Rhodium JV hereby redeems all of the Class A Voting Units and Class B Non Voting Units held by Whinstone, and Whinstone hereby transfers and assigns to Rhodium JV all of its right, title and interest in and to all such units, and Rhodium JV hereby accepts such transfer and assignment, and the Parties agree that Whinstone's Percentage Interest in Rhodium JV shall be adjusted in Rhodium JV's books and records to Zero Percent (0%), and Imperium's Percentage Interest in Rhodium JV shall be increased in Rhodium JV's books and records to One Hundred Percent (100%). To the extent required by applicable law, this Agreement shall serve as a bill of sale evidencing such redemption, in consideration of the book value of Whinstone's Percentage Interest.

4. Continuation of Business Relationship. Whinstone and Rhodium JV agree that all the terms and conditions of any other agreements, entered into between them, including but not limited to the duties and obligations of the Parties to each other under any hosting or colocation agreements, shall continue as set forth in such agreements. Whinstone agrees that it shall not hold itself out to any third party as continuing to have any membership in Rhodium JV, and Whinstone acknowledges and agrees that Rhodium JV and its Remaining Member may inform and represent to third parties that Whinstone is no longer a member of Rhodium JV.

5. Rhodium JV's Continuation as Going Concern. The Parties acknowledge and agree that Rhodium JV will continue as a going concern following Whinstone's withdrawal and dissociation as a member of Rhodium JV. Whinstone hereby voluntarily, irrevocably and unequivocally waives any and all rights, if any, to have Rhodium JV's business wound up and Rhodium JV terminated on account of its withdrawal, dissociation, transfer and assignment, and covenants and agrees that it will protect and save and keep Rhodium JV forever harmless and indemnified from and against any and all such claims.

6. Holding out. The Parties agree to eliminate any type of appearance that Whinstone is a member of Rhodium JV. Whinstone agrees not to make any public statements, whether written or oral, or any other statements which are reasonably likely to become public, which statements could be interpreted, under the circumstances, to have a material adverse impact on the reputation of Rhodium JV or the Remaining Member, or detrimental to their interests. Contemporaneously with the execution of this Agreement, or as soon as is reasonably practicable thereafter, the Parties will complete any additional paperwork necessary to accommodate the changes contemplated by

this Agreement.

7. Representations of the Parties. The following material representations and warranties are made by one or more of the Parties as indicated:

(a) Each Party warrants and represents that there are no actions, suits, or other pending litigation that would materially affect the terms of this Agreement or impair such Party from fully performing it.

(b) Whinstone warrants and represents that it has not, prior to the date of this Agreement, assigned, transferred, mortgaged, gifted, pledged, or otherwise alienated its interest in Rhodium JV.

(c) Whinstone warrants and represents that it has not, prior to the date of this Agreement, incurred any past, current or future liability on behalf of Rhodium JV, and has not entered into any contract, agreement or any other undertaking with any third party on behalf of Rhodium JV.

(d) Whinstone warrants and represents that it has complete and unrestricted power to assign and deliver all of the Class A Voting Units and Class B Non-Voting Units held by Whinstone to Rhodium JV and to redeem all such units in accordance with the terms and conditions of this Agreement.

(e) Each Party warrants and represents that, in the event that additional documents are necessary to satisfy and fulfill the terms and obligations of this Agreement, such Party will promptly execute and deliver the same.

(f) Each Party warrants and represents that, effective immediately upon the execution of this Agreement, Whinstone will have no further interest in Rhodium JV and no further liability related to Rhodium JV.

(g) Rhodium JV warrants and represents that it has fully consented to the withdrawal of Whinstone as a member.

(h) The Remaining Member warrants and represents that it has fully consented to the withdrawal of Whinstone as a member.

8. Further Assurances. Whinstone promises and covenants that, if requested by Rhodium JV or the Remaining Member, it shall execute such other and further documents as may be required, and undertake such other and further acts as may be required, to lawfully and properly carry out and complete the withdrawal, dissociation, assignment and redemption of Whinstone's interest in Rhodium JV contemplated by this Agreement.

9. Applicable Law: This Agreement shall be construed in accordance with and governed by the laws of the State of Texas. The Parties agree that any litigation arising in connection with this Agreement shall be conducted in Tarrant County, Texas.

10. Amendments. Any modification of this Agreement can only be done in writing, signed by all of the Parties hereto.

11. Benefit. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties hereto and to each of their respective heirs, executors, administrators, legal representatives, successors and assigns.

12. Performance. In the event of the bringing of any action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other Party arising out of this Agreement, then in that event, the prevailing Party shall be entitled to have and recover from the other Party all costs and expenses of the action or suit, including reasonable attorneys' fees.

13. Original Agreements. All Parties understand that this document is being executed in three identical counterparts with original signatures of each.

14. Miscellaneous. All Parties shall use their best efforts to effectuate the purposes and ends of this Agreement, and shall fully cooperate to ensure full compliance with this Agreement.

[Remainder of this page left blank; signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this WITHDRAWAL, DISSOCIATION, AND MEMBERSHIP INTEREST REDEMPTION AGREEMENT on this 31 day of December, 2020.

RHODIUM JV LLC,
A Delaware limited liability company
By: Imperium Investments Holdings LLC,
Its: Manager

Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 10:47 CST)
By: Cameron Blackmon
Its: Manager

WHINSTONE US, INC.,
A Delaware Corporation


Chad Harris (Dec 31, 2020 10:08 CST)
By: Chad Harris
Its: Director

IMPERIUM INVESTMENTS HOLDINGS LLC,
A Wyoming limited liability company

Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 10:47 CST)
By: Cameron Blackmon
Its: Manage

EXHIBIT B

FORM OF ASSIGNMENT OF MEMBERSHIP INTEREST

**ASSIGNMENT OF MEMBERSHIP INTEREST
RHODIUM JV LLC**

WHINSTONE US, INC., a Delaware Corporation, (the “Assignor”), holder of Twelve and 50/100s (12.5) Class A Voting Units and Twelve and 50/100s Class B Non-Voting Units in RHODIUM JV LLC, a Delaware limited liability company, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby unconditionally and irrevocably transfers, assigns and sets over to RHODIUM JV LLC, a Delaware limited liability company, or its successors in interest (the “Assignee”), all of the Assignor’s right, title, and interest in and to its Class A Voting Units, Class B Non-Voting Units and corresponding Twelve and 50/100s Percent (12.5%) Percentage Interest in RHODIUM JV LLC.

Dated: December 31, 2020.


CHAD HARRIS (Dec 31, 2020 19:08 CST)
By: *Chad Harris*
Its: Director

ACCEPTANCE OF ASSIGNMENT

RHODIUM JV LLC, a Delaware limited liability company, by IMPERIUM INVESTMENTS HOLDINGS, its Manager, hereby: (a) accepts the foregoing assignment and (b) acknowledges receipt of the Class A Voting Units, Class B Non-Voting units.

Dated: December 31, 2020.

IMPERIUM INVESTMENTS
HOLDINGS LLC
Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 16:47 CST)
By: *Cameron Blackmon*
Its: *Manager*

CONSENT TO ASSIGNMENT

The undersigned, being the Manager of RHODIUM JV LLC, a Delaware limited liability company, hereby approves, on behalf of RHODIUM JV LLC, the transfer of Membership Interest evidenced by the aforesaid Assignment from the Assignor to the Assignee.

Dated: December 31, 2020.

IMPERIUM INVESTMENTS HOLDINGS
LLC
Cameron Blackmon
Cameron Blackmon (Dec 31, 2020 16:47 CST)
By: *Cameron Blackmon*
Its: *Manager*

EXHIBIT C**AMENDED EXHIBIT "A" TO OPERATING AGREEMENT FOR RHODIUM JV LLC****EXHIBIT A****Membership Interest**

| MEMBER | CLASS A VOTING UNITS HELD | CLASS B NON- VOTING UNITS HELD | % SHARE OF CLASS A UNITS | % SHARE OF CLASS B UNITS | PERCENTAGE INTEREST IN COMPANY |
|---|--|---|---|---|---|
| Imperium Investments Holdings LLC | 87.5 | 87.5 | 100% | 100% | 100% |
| Percent Equity in Company | 100 | 100 | 100% | 100% | 100% |

Whinston Contracts -Mbrsp Redemption, Assign of Mbsp, Mbr Consent

Final Audit Report

2021-01-01

| | |
|-----------------|---|
| Created: | 2020-12-31 |
| By: | Cameron Blackmon (cameronblackmon@rhodiummining.io) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAA4EAMafxphez0wVtEhWptsSYNeu2hOVQJ |

"Whinston Contracts -Mbrsp Redemption, Assign of Mbsp, Mbr Consent" History

-  Document created by Cameron Blackmon (cameronblackmon@rhodiummining.io)
2020-12-31 - 10:45:11 PM GMT- IP address: 107.194.108.213
-  Document emailed to Cameron Blackmon (cameronblackmon@imperiumholdings.io) for signature
2020-12-31 - 10:46:09 PM GMT
-  Email viewed by Cameron Blackmon (cameronblackmon@imperiumholdings.io)
2020-12-31 - 10:46:27 PM GMT- IP address: 107.194.108.213
-  Document e-signed by Cameron Blackmon (cameronblackmon@imperiumholdings.io)
Signature Date: 2020-12-31 - 10:47:46 PM GMT - Time Source: server- IP address: 107.194.108.213
-  Document emailed to CHAD HARRIS (c.harris@whinstone.us) for signature
2020-12-31 - 10:47:48 PM GMT
-  Email viewed by CHAD HARRIS (c.harris@whinstone.us)
2021-01-01 - 1:05:19 AM GMT- IP address: 107.77.201.183
-  Document e-signed by CHAD HARRIS (c.harris@whinstone.us)
Signature Date: 2021-01-01 - 1:08:17 AM GMT - Time Source: server- IP address: 107.77.201.183
-  Agreement completed.
2021-01-01 - 1:08:17 AM GMT

EXHIBIT 8

December 05, 2023

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REPORTER'S RECORD

VOLUME 1 OF 1

CAUSE NO. CV41873

| | | |
|---------------------------|---|------------------------|
| Whinstone US, INC., | § | IN THE DISTRICT COURT |
| Plaintiff, | § | |
| | § | |
| v. | § | MILAM COUNTY, TEXAS |
| | § | |
| Rhodium 30MW LLC; Rhodium | § | |
| JV, LLC; Air HPC LLC; and | § | |
| Jordan HPC LLC, | § | |
| Defendants. | § | 20TH JUDICIAL DISTRICT |

MOTION FOR TEMPORARY INJUNCTION

On the 5th day of December, A.D., 2023, the above entitled and numbered cause came on for hearing, and the following proceedings were had before the Honorable John Youngblood, Judge Presiding, 20th Judicial District, held in Cameron, Milam County, Texas:

Proceedings reported by Computerized Stenotype Machine; Reporter's Record produced by Computer-Assisted Transcription.

Page 2

1 A P P E A R A N C E S

2 Foley & Lardner LLP

3 2021 McKinney Avenue, Suite 1600

4 Dallas, Texas 75201

5 rslovak@foley.com; slockhart@foley.com;

6 bmarx@foley.com

7 BY: ROBERT SLOVAK, STEVEN C. LOCKHART,

8 BRANDON MARX

9 Appearing for the Plaintiff

10 Cappolino Dodd & Krebs, LLP

11 312 S. Houston Ave.

12 Cameron, Texas 76520

13 BY: CRAIG W. BROWN

14 Appearing for the Plaintiff

15 Whinstone US, Inc.

16 Deputy General Counsel

17 pwooding@riot.inc

18 BY: PATRICK WOODING

19 Appearing for the Plaintiff

20 Lehotsky Keller Cohn LLP

21 919 Congress Avenue

22 Austin, Texas 78701

23 will@lkcfirm.com

24 BY: WILL THOMPSON

25 Appearing for the Defendants

 Stris & Maher LLP

 777 S. Figueroa Street, Suite 3850

 Los Angeles, CA 90017

 jstokes@stris.com; voconnell@stris.com;

 pbrody@stris.com

 BY: JOHN STOKES, VICTOR O'CONNELL,

 PETER BRODY

 Appearing for the Defendants

 SHERRI K. WILLIAMSON,

 Certified Shorthand Reporter

 in and for the State of Texas

* * * * *

Page 4

1 THE COURT: Gentlemen, that brings us to

2 Whinstone versus Rhodium, 41873. I've got the file up

3 here.

4 (Brief interruption)

5 THE COURT: All right. Back to Whinstone.

6 Parties ready to proceed?

7 MR. SLOVAK: We are, Your Honor.

8 MR. THOMPSON: Yes, Your Honor.

9 THE COURT: All right. Very well. All

10 right. I'm sure you'll tell me more about why we're

11 here, but, according to my memory, we had a hearing back

12 on September 13th about the arbitration issue. I ruled

13 that it should go to arbitration. Plaintiffs petitioned

14 the Court of Appeals for mandamus. That was denied.

15 And then the next day, morning, evening -- I'm not

16 sure -- Whinstone locked Rhodium out of the premises,

17 more or less, and I signed an emergency order,

18 basically, to maintain the status quo going forward.

19 All right. So what -- where are we going

20 today?

21 MR. THOMPSON: Yes, Your Honor.

22 Will Thompson. I represent Rhodium. We're here on

23 Rhodium's Motion for Temporary Injunction. Obviously,

24 that hearing had to be set based on the granting of the

25 TRO. With Your Honor's permission, I'll just introduce

Page 3

1 VOLUME 1

2 December 5, 2023 Page Vol.

3 Caption.....1 1

4 Appearances.....2 1

5 Proceedings.....4 1

6

7 Opening Statements

8 By Mr. Thompson.....4 1

9 By Mr. Slovak.....9 1

10

11 PLAINTIFF'S WITNESSES Direct Cross Vol.

12 DAVID SCHATZ.....138,176 167 1 1

13 JEFFREY MCGONEGAL.....178 186 1 1

14 GERALD HARTFORD.....194,207 204 1 1

15 DEFENDANTS' WITNESSES Direct Cross Vol.

16 CHASE BLACKMON.....19,111 35,113 1 1

17 NATHAN NICHOLS.....116 133 1 1

18

19 EXHIBIT INDEX

20 PLAINTIFF'S EXHIBITS Offered Admitted Vol.

21 P-1-Ground Lease Agreement 142 143 1 1

22

23 DEFENDANTS' EXHIBITS Offered Admitted Vol.

24 R1-Declaration 20 20 1 1

25 R3-Contract 210 210 1 1

 R4-Contract 210 210 1 1

 R5-Contract 183 183 1 1

 R6-Contract 183 183 1 1

 R10-Contracts 210 210 1 1

 R12-Notice of Termination 168 168 1 1

 R13-Letter 170 170 1 1

26

27 End of Volume 1.....227

28 Court Reporter's Certificate.....228

29

30

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1 the motion and get moving on it.

2 THE COURT: Okay.

3 MR. THOMPSON: Thank you.

4 Rhodium was forced to seek a TRO,

5 Your Honor, and move for this temporary injunction

6 because on Monday of last week, Whinstone locked the

7 doors, had security escort our personnel from the

8 premises, and shut off the power. Your Honor may recall

9 that Rhodium, my client, mines Bitcoin at the Rockdale

10 facility that Whinstone operates, and on Monday, at

11 10:00 P.M., that's when all this happened.

12 Whinstone's offered only one reason for

13 taking this extreme step. Whinstone thinks Rhodium has

14 miscalculated the profit-sharing payments that Rhodium

15 makes to Whinstone under a couple of contracts that

16 we'll talk about. It's a dispute about whether we've

17 interpreted the contract correctly and whether we're

18 paying the right number. There's no dispute that we've

19 paid them and have paid them and will pay them millions

20 of dollars in profit sharing. It's just a dispute about

21 how we calculate how many millions it is.

22 At core, Whinstone thinks it should get a

23 certain percentage of the profits. It should take its

24 cut from the operating entities that mine the Bitcoin,

25 but, in truth, Whinstone signed its profit-sharing

Page 6

1 agreements with the parent companies that only receive a
2 portion of the profits from the operating companies.

3 That's because a portion of the profits have to go back
4 to paying the investors who funded this whole thing.

5 So Rhodium's position is we've paid them
6 every dollar we owed them. We think we're right about
7 that. We're happy to try and -- happy to prove it
8 today. They get the cut of the profits from the
9 entities that signed the profit-sharing agreements, not
10 from others.

11 THE COURT: But isn't all of that an issue
12 that needs to go to arbitration?

13 MR. THOMPSON: We 100 percent agree,
14 Your Honor. So we think all of that should go to the
15 arbitrator. We think Your Honor has ruled that, and the
16 Court of Appeals has declined to disturb that ruling.
17 So we think there are two legal theories here that would
18 justify continuing to maintain the status quo. Both are
19 meritorious.

20 No. 1, the Texas Arbitration Act empowers
21 Your Honor to enter an order maintaining the status quo
22 until the arbitration can get going. That can be
23 justified on multiple grounds, including the need to
24 preserve evidence and the need to maintain an orderly
25 arbitration proceeding.

Page 7

1 Your Honor may recall that Whinstone has
2 served discovery on us. That was improper, we believe,
3 under the Rules. We're not supposed to be engaging in
4 discovery in this court, but the discovery they served
5 is revealing. Essentially, it tells us what evidence
6 they think will be important to the issues Your Honor
7 sent to arbitration.

8 One of the many things they asked for in
9 the discovery was information about the condition of the
10 Bitcoin miners and the whole equipment setup that's
11 inside the facility. They want to know about our
12 maintenance, that kind of thing, whether the miners are
13 still in good standing, whether they still work
14 properly. They've made arguments in related litigation
15 against other tenants that, "Oh, the problem is related
16 to your equipment. Your equipment is no good. That's
17 the source of the problem."

18 Obviously, Your Honor, we don't want them
19 to remove our equipment, thereby damaging it, and use
20 that to improperly bolster their theory that our
21 equipment was no good. Our equipment's fine. We're
22 happy to show that. We don't want that evidence
23 spoliated, effectively, by the removal of it, sawing
24 through pipes, messing with sensitive equipment, that
25 kind of thing.

Page 8

1 Your Honor, obviously, we have to show you
2 that we have irreparable harm to justify an order to
3 maintain the status quo. That's exactly what we face
4 here. If this kind of equipment is removed from the
5 Rockdale site, there is no way we will be able to get it
6 back up and running in anything less than six months.

7 If six months go by without my client
8 being able to mine Bitcoin at its primary location, the
9 Rockdale facility, they will go out of business. We
10 won't make it to the end of an arbitration proceeding or
11 litigation or anything else. Whinstone will have
12 succeeded in unilaterally putting my client out of
13 business because it wasn't getting its way in the
14 courts.

15 The issues that Whinstone has raised with
16 us are contract issues that the parties have been
17 discussing between themselves since at least May of
18 2022. We have the same issues that Whinstone brought to
19 this Court in May of 2023 and the same issues this Court
20 and now the Court of Appeals have said ought to go to
21 arbitration, but instead of going to arbitration,
22 Whinstone decided to take matters into its own hands and
23 try to put my client out of business.

24 We have a couple of witnesses who are
25 going to explain all of this, Your Honor. With your

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1 permission, my co-counsel, Mr. Stokes, will put on
2 Chase Blackmon, who is the co-CEO of Rhodium. He's
3 going to testify about the irreparable harm that Rhodium
4 faces at the facility, especially from kind of an
5 engineering perspective.

6 Then my co-counsel, Victor O'Connell, will
7 put on Nathan Nichols, who is Rhodium's other co-CEO.
8 He'll testify about the financial wreckage that Rhodium
9 faces absent relief maintaining the status quo, and he's
10 also prepared to testify about the contractual
11 relationships between the parties and how it is Rhodium
12 who has always complied with its contractual
13 obligations, and it is Whinstone who has breached them.

14 With Your Honor's permission, we'll keep
15 going.

16 MR. SLOVAK: Brief response, Your Honor?
17 THE COURT: Please.

18 MR. SLOVAK: And if you don't mind, I have
19 an Achilles surgery, so if I don't stand and argue from
20 the counsel table, will that be okay?

21 THE COURT: However you're comfortable.
22 It doesn't matter to me.

23 MR. SLOVAK: Thank you, Your Honor.
24 Rob Slovak on behalf of Whinstone. In rushing to the
25 courthouse and seeking an ex parte TRO, they called us

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1 Q (BY MR. STOKES) Collectively, for all of the
2 Rhodium entities at the Rockdale site, could you
3 describe the infrastructure that Rhodium has at
4 Rockdale?
5 MR. LOCKHART: Objection; assumes -- it is
6 misleading, Your Honor. All the Rhodium entities --
7 There are four operating entities at that site in one
8 facility and one in another, and if they want to refer
9 to those as "the Rhodium subsidiaries" -- and I'm happy
10 to identify them for Your Honor. I want the record to
11 be clear.
12 They're trying to testify on an enterprise
13 level where multiple parties, including Rhodium
14 Enterprises, Inc., is not a party, has not made an
15 appearance, has not tried to intervene, has no claims,
16 has no contract as it relates to this dispute. They are
17 trying to get harm of entities that have no business in
18 this courtroom today, before the Court, in order to
19 prejudice us.
20 MR. STOKES: If I may, Your Honor.
21 Q (BY MR. STOKES) Mr. Blackmon, what are the
22 operating entities at the Rockdale facility?
23 A Yes, sir. So we have Rhodium 30mw,
24 Rhodium Encore, Rhodium 10mw, Rhodium 2.0, and then
25 Jordan HPC.

Page 23

1 Q Got it. Could you describe the infrastructure
2 that those entities that you just named have at the
3 Rockdale site?
4 A Yes, sir. So, first and foremost, they're very
5 large. They're -- The Building C -- Building C is
6 1,080 feet long by 60 feet wide, and inside of that
7 building is our proprietary liquid-cooling system that
8 the -- we spoke about earlier. That system is comprised
9 of a series of large pipes, anywhere from 18-inch down
10 to 4-inch pipes.
11 Those pipes are filled with a special
12 dielectric fluid that travels from the interior of the
13 building to the exterior of the building. It's pumped
14 by a 60-horsepower pump that's connected to a
15 176,000-pound fin fan air cooler, where that dielectric
16 fluid is then cooled, and then it comes back into the
17 facility for the purpose of cooling the miners that we
18 use to mine Bitcoin.
19 Q And again referring to those entities that you
20 named before, how many total miners are there at the
21 Rockdale facility?
22 A In Building C we have roughly 27,000 miners,
23 and in Building B we have roughly 8,000.
24 Q Who designed the system, all of this -- the
25 system that is all of this infrastructure that you've

Page 24

1 just been talking about?
2 A I did.
3 Q How long did it take to build all this out?
4 A Gosh. Roughly, two years.
5 Q And how much did it cost?
6 A \$159 million.
7 Q Could you readily use this infrastructure at
8 another site?
9 MR. LOCKHART: Objection; vague, ambiguous
10 as to what "readily" means.
11 THE COURT: As to what what means?
12 MR. LOCKHART: What "readily use" means.
13 May I get a ruling, Judge?
14 THE COURT: I'm going to overrule the
15 objection.
16 MR. STOKES: Thank you, Your Honor.
17 Q (BY MR. STOKES) You may answer, Mr. Blackmon.
18 A No. This infrastructure was tailored
19 specifically and engineered specifically for the
20 Rockdale facility.
21 Q What would it take to disassemble all of that
22 infrastructure?
23 MR. LOCKHART: Objection; foundation.
24 THE COURT: Overruled.
25 THE WITNESS: An army. Like I said

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1 before, it's a pretty, you know, complicated system.
2 There are hundreds of thousands of bolts, hundreds of
3 thousands of connection points where all the pipes
4 connect throughout the facility, and it took us roughly
5 two years to, you know, build it the first time. It
6 would take a lot to bring everything down.
7 Q (BY MR. STOKES) Now, assume that your Rockdale
8 site -- again, referring to all those entities that you
9 named a few moments ago, assume that all of that
10 infrastructure gets disassembled in the most orderly way
11 that you can imagine. Once that happens, how long would
12 it take to reassemble it all back into the Rockdale
13 site?
14 MR. LOCKHART: Objection; foundation.
15 THE COURT: Overruled.
16 THE WITNESS: Well, in the absolute, like,
17 ideal conditions, where you have everything laid out,
18 preplanned, you could procure all the necessary labor,
19 absolute best conditions, I believe it would take
20 roughly six months to get that infrastructure put back
21 together.
22 Now, life doesn't always go the way we
23 anticipate, especially when you're working on a project
24 over a significant period. I think it's more reasonable
25 it would take about a year.

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1 Q What would it be like for the company that you
2 built with Mr. Nichols here and some others to have to
3 let these people go?
4 A It would be -- It would be devastating. You
5 know, these are good people that picked up and moved
6 their lives from other places around the United States,
7 who have come here to Texas or come to Rockdale to chase
8 a new American dream, if you will. It would be really
9 hard to look them in the eye and tell them that dream
10 was dead.
11 MR. STOKES: I have nothing further,
12 Your Honor.
13 THE COURT: All right. Very well.
14 Mr. Slovak, questions for the witness?
15 MR. SLOVAK: It will be my co-counsel.
16 MR. LOCKHART: Your Honor,
17 Steven Lockhart --
18 THE COURT: All right.
19 MR. LOCKHART: -- on behalf of Whinstone.
20 May I have freedom to move about?
21 THE COURT: Absolutely.
22 MR. LOCKHART: Thank you.
23 THE WITNESS: May I grab a sip of water?
24 MR. STOKES: May I approach, Your Honor,
25 with his water cup?

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1 THE COURT: Sure.
2 MR. STOKES: Thank you, sir.
3 CROSS-EXAMINATION
4 Q (BY MR. LOCKHART) Good afternoon, Mr. Blackmon.
5 How are you?
6 A I'm doing all right.
7 Q All right. So let's start with your
8 declaration, which was Exhibit 1, I believe.
9 A Yes, sir.
10 Q You identify seven entities in your
11 declaration; correct?
12 A I can review it real quick, if you'd like.
13 Q You identify seven in the definition of
14 "Rhodium."
15 A Okay.
16 Q Feel Free. It's on the first page,
17 Paragraph 1.
18 A (Reviewing document) Yes, sir.
19 Q So let's start with Rhodium 30mw LLC. Is that
20 an operator out at the facility right now?
21 A I believe Rhodium is an -- Rhodium 30mw LLC is
22 an operating subsidiary.
23 Q Is it operating out at the Rockdale facility,
24 actually mining?
25 A Yes, Rhodium 30mw is mining.

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1 Q Okay. We've got 30mw that's out there; fair?
2 Rhodium Encore, is it operating out at the Rockdale
3 facility with miners?
4 A Rhodium Encore LLC also operates at the
5 Rockdale facility, mining Bitcoin.
6 Q So Encore. How about 10mw? Is it operating
7 miners out at the Rockdale facility?
8 A Yes, sir. Rhodium 10mw LLC is an operating
9 entity.
10 Q Rhodium 2.0, is it operating miners out at the
11 Rockdale facility?
12 A Yes, sir. Rhodium 2.0 LLC is an operating
13 entity.
14 Q Jordan HPC, is it operating miners out at the
15 facility?
16 A Yes, sir, Jordan HPC is operating.
17 Q All right. Those are the only five that are
18 operating any miners out at the facility in Rockdale
19 currently; correct? Those five entities?
20 A Yes, sir.
21 Q All right. So let's talk about Air HPC.
22 Air HPC is Jordan's parent?
23 A That is Jordan's holding company.
24 Q Okay. So we've got Air HPC. (Indicating) Is
25 that accurate?

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1 A Yes, sir.
2 Q Okay. And here, who's the parent or the
3 holding company of these four entities (Indicating)?
4 A That would be Rhodium JV LLC.
5 Q Which you didn't include in your definition of
6 "Rhodium" here, did you? Is that correct?
7 A It is not an operating entity. It is a holding
8 company, sir.
9 Q I understand. I'm just trying to understand
10 the structure of your company right now.
11 A Okay.
12 Q So you didn't -- Well, Air HPC isn't operating
13 out there except through Jordan; correct?
14 A Correct.
15 Q Okay. So you left Rhodium JV off your list of
16 entities that are included in your definition of
17 "Rhodium" in your declaration; correct? It's not in
18 there?
19 A I see that.
20 Q Okay. So above Rhodium JV LLC and Air HPC LLC,
21 we've got Rhodium Technologies LLC; right? And above
22 Rhodium Technologies -- that's the entity you started
23 with today, right, which is Rhodium Enterprises, Inc.?
24 MR. STOKES: Your Honor, I'm going to
25 object on relevance grounds. I think that they've

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1 THE COURT: I'm going to overrule the
2 objection. You can answer.
3 THE WITNESS: Yes. None of the Rockdale
4 operating subsidiaries or their holding companies have
5 any -- sorry -- they are not owned by Rhodium
6 Renewables.
7 Q (BY MR. LOCKHART) But your complaint, in part,
8 is money can't filter up here (Indicating) so that you
9 can go build a new, shiny facility and finish it all the
10 way out; correct?
11 A I don't believe we said that.
12 Q Okay. You don't want to use money that's
13 generated from down here (Indicating) in order to work
14 its way up the chain to nonparties so that it can go
15 over and help buy stuff at the Temple facility?
16 A Well, sir, we're not looking to -- Maybe I
17 don't understand the question. I'm sorry. Can you say
18 it again?
19 Q You talk about Temple throughout your
20 declaration, on multiple occasions; correct?
21 A Temple is mentioned in my declaration.
22 Q And right now Temple -- Is Temple a U-shaped
23 facility?
24 A Temple is a U-shaped facility, yes, sir.
25 Q I mean -- Forgive my crude drawing here, but it

Page 51

1 looks something like that (Indicating); fair?
2 Shape-wise?
3 A That's fair.
4 Q Okay. And right now at the Temple facility,
5 Rhodium fills this side over here (Indicating); right?
6 A We are currently operating in PowerShell A,
7 which is that long --
8 Q This is A (Indicating)?
9 A Yeah, the long, skinny part over there.
10 Q Okay. And what's this (Indicating)?
11 A That is PowerShell C.
12 Q Is that where, like, the ops center and all
13 that stuff is?
14 A Server room, stuff like that.
15 Q Okay. Are you going to have miners down there
16 at some point?
17 A Not currently anticipated.
18 Q Okay. But -- This is B, I take it
19 (Indicating)?
20 A Yes, sir.
21 Q All right. Is B empty right now?
22 A B is -- B and C are largely being used for
23 storage as of this moment.
24 Q So there's space there for miners?
25 A There could be space there for miners.

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1 Q You could locate miners here? That's your
2 intention, in fact; right?
3 A We were originally planning to build out the
4 majority of the Temple facility; however, that is not
5 currently on the docket today.
6 Q Because you want to use money from other
7 operations in order to fund this; right?
8 A No, sir.
9 Q Okay. Is it your sworn testimony that no money
10 that's been generated from the Rockdale facility has
11 gone to finance anything over here at the Temple
12 facility?
13 A I did not say that.
14 MR. STOKES: Objection. I -- Sorry. I
15 think that misstates the witness's testimony.
16 MR. LOCKHART: I asked if it was his
17 testimony, Your Honor. That's not me stating any
18 testimony.
19 THE COURT: I'm going to overrule the
20 objection. The witness can answer.
21 THE WITNESS: No, sir, I did not say that.
22 Q (BY MR. LOCKHART) So, in fact, money has been
23 sent -- that was earned at the Rockdale facility, sent
24 up the chain and used, in part, to fund the creation of
25 a new facility?

Page 53

1 A The profits that Rhodium has earned through
2 its --
3 Q That's a yes-or-no question.
4 A -- operating entities at the Rockdale facility
5 have been used for various purposes, not solely for
6 building out the Temple facility, but --
7 Q Is the answer to my question "yes"?
8 A Funds from the operating subsidiaries has
9 flowed up to Rhodium Enterprises to be used at the
10 Temple facility.
11 Q All right. Let's go to your -- Paragraph 1 of
12 your --
13 MR. LOCKHART: May I stand here,
14 Your Honor?
15 THE COURT: That's fine.
16 Q (BY MR. LOCKHART) Are you okay with it? Am I
17 making you uncomfortable?
18 A No. You're good.
19 Q If I am, I'll move away.
20 A You're good.
21 Q All right. So let's go to Paragraph 1. Second
22 sentence, you say, "I have personal knowledge of the
23 facts set forth below, and if called, I could and would
24 competently attest to them." Did I get that right?
25 A That is what this says.

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1 A (No verbal response)

2 Q So -- I want you to turn to Tab 5 in the

3 notebook. And this is Exhibit R5?

4 MR. STOKES: Yeah, it's been marked as R5.

5 MR. LOCKHART: Oh, I was letting him

6 answer.

7 MR. STOKES: Sorry.

8 MR. LOCKHART: Not a problem.

9 Q (BY MR. LOCKHART) So if you will turn --

10 Remember earlier today we were talking about the

11 Specified Power Draw in the 5mw agreement?

12 A Yes, sir.

13 Q Huh?

14 A Yes, sir.

15 Q We were talking about Section 3.13, and that's

16 how you got your understanding to make your sworn

17 testimony that that was a power agreement? And then

18 later in your declaration you refer to -- Well, what do

19 you call this agreement (Indicating) that's in front of

20 you, Exhibit R5? What do you call it?

21 A It's the Profit Share Agreement.

22 Q Okay. Where does it say "Profit Share

23 Agreement" at the top of it?

24 A Well, it doesn't say it at the top of it.

25 Q Okay. It's -- Flip back -- Hold that spot, but

Page 103

1 Exhibit R4, what's it called?

2 A Goodness. New Hosting Service Agreement.

3 Q Okay. So, then, we've got a New Hosting

4 Service Agreement, and then months later we've got a

5 Hosting Agreement in Exhibit R5; right?

6 A Yes, sir.

7 Q And remember how we were talking about the

8 Specified Power Draw of up to the 5mw or at least 5mw in

9 Section 3.13 in Exhibit R4?

10 A I remember this.

11 Q Okay. So if you'd turn to Page 2 of

12 Exhibit R6 -- excuse me -- R5.

13 A I'm sorry. What page? 4?

14 Q Page 2.

15 A Oh, 2?

16 Q Yeah. See that little chart there?

17 A Yes, sir.

18 Q See "Specified Power Draw"?

19 A Yes, sir.

20 Q How much does it say?

21 A This says, "Up to 130 megawatts (30 megawatts

22 as of the Effective Date, which may be increased to up

23 to 130 megawatts pursuant to the requirements of this

24 Agreement)."

25 Q How much -- How much power do you contend that

Page 104

1 the Rhodium entities that are out at the Rockdale

2 facility -- how much power, in megawatts, that they have

3 under contract?

4 A Well --

5 Q Total.

6 A Okay. So, currently, Building C is 100mw worth

7 of power usage and contracts. Building B is 25mw of

8 power contracts. And then inside Rhodium JV, there is

9 still -- What is it? Six? Yeah, six 5mw power

10 contracts remaining to be assigned. So that's 100

11 and --

12 Q So -- so you're saying you use 14 of these

13 (Indicating), and you have six left?

14 A Uh-huh.

15 Q Okay. And then here you're saying you've got

16 30 (Indicating)?

17 A Yes, sir.

18 Q And then -- Are you talking about the Jordan

19 agreement for the 25?

20 A Yeah. Building B is 25mw.

21 Q All right. So this equals how much, in total?

22 A 155? Is that right?

23 Q 155mw. And you -- That's the total that you

24 believe that you have rights to out at the Rockdale

25 facility; right?

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1 A From what I remember.

2 Q Okay. So we looked at the "up to

3 130 megawatts" in Exhibit R5, under "Specified Power

4 Draw"; right? And then if you turn to Section 3.1 on

5 Page 5 -- if you'd read that first bullet point for me

6 under 3.1.

7 A "3.1 Facility. All Services are provided

8 within the Facility, which is designed to meet the

9 following specifications (the 'Data Center

10 Specifications'). Power supply up to the Specified

11 Power Draw; transforming equipment; evaporative cooling;

12 limited" --

13 Q You can stop there. I said "first bullet

14 point" --

15 A Oh, sorry.

16 Q -- "power supply up to the Specified Power

17 Draw." Remember -- The Specified Power Draw was how

18 much?

19 A On this -- On Page 2 it says "130 megawatts."

20 Q Okay. So under this agreement -- So this is

21 pre-December 2020. This is December 31st, 2020. So --

22 (Discussion held off the record)

23 (Recess from 3:53 P.M. to 4:07 P.M.)

24 THE COURT: Mr. Lockhart, do you want to

25 proceed?

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1 MR. LOCKHART: I would. Thank you,
2 Your Honor.
3 Q (BY MR. LOCKHART) So when we stopped a moment
4 ago, we were in Exhibit R5. Are you back there with me?
5 A Yes, sir.
6 Q All right. So we looked at the "Specified
7 Power Draw" definition. Remember that? On Page 2?
8 A Yes, sir.
9 Q And then we looked at the "Data Facility"
10 definition under 3.1, first bullet point, talking about
11 the power supply to the Specified Power Draw on Page 5.
12 Remember that?
13 A I remember talking about -- yes, sir.
14 Q So if you turn with me to Page 9, and you see
15 Section 4.1?
16 A Yes, sir.
17 Q And there it says, "Provider will make power
18 available to and in connection with the Customer Area up
19 to the amount of the then-applicable Specified Power
20 Draw..." Do you see that?
21 A Yes, sir.
22 Q So you understand that to mean that the
23 provider, which is Whinstone, will provide the Customer
24 Area, which is Buildings C and a portion of B that the
25 Rhodium units are in -- or the Rhodium subsidiaries are

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1 in, up to the Specified Power Draw; right?
2 A That is what it -- appears to be what this
3 bullet point says.
4 Q And if you turn to Exhibit R6, it's the same
5 thing, which -- By the way, the declaration that you
6 submitted had these agreements, I think, attached to it.
7 Were they attached to it or -- Strike that. Don't worry
8 about it.
9 So if you look in R5 -- or R6 -- excuse
10 me -- you see that's an agreement between Air HPC --
11 A Yes, sir.
12 Q -- which is in Building B, through its entity,
13 Jordan; right?
14 A Yes.
15 Q And on Page 2, what's the Specified Power Draw
16 in that chart?
17 A Specified Power Draw says, "Up to
18 25 megawatts."
19 Q Okay. So we have Air also on December 31st;
20 right?
21 A That's what this says.
22 Q It says "25 megawatts," and then, similar to
23 last time, if you flip over a couple of pages to Page --
24 oops -- 5, Section 3.1, you see where, just like the
25 prior agreement we looked at in R5, it says, "Power

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1 supply up to the Specified Power Draw"; right?
2 A I see this.
3 Q Which was the 25mw that we just read; right?
4 A Yes, Specified Power Draw is 25mw.
5 Q And then we go to Page 9, and in Section 4.1 --
6 looks like 4.1 in Exhibit R5, doesn't it?
7 A At first glance, it looks very similar.
8 Q So under these two agreements, what's the
9 Specified Power Draw, the commitment in Section 4.1 of
10 R5 and R6? How much does that total?
11 A Specified Power Draw, as stated by Exhibits R5
12 and R6, 155mw.
13 Q You understand that under Exhibits R5 and R6,
14 there was a commitment in Section 4.1 to provide this
15 amount of power; correct?
16 A I see that that's what this document has laid
17 out in the sections you put forth.
18 Q Is that a "yes"?
19 A Well, I do not believe that is the intended
20 purpose of this document.
21 Q Does Section 4.1 in R5 and R6, as you
22 understand it, commit 155mw worth of power? Is that how
23 you understand the agreement? It's a yes-or-no
24 question.
25 A Yes.

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1 Q All right. Last subject. Then I'll leave you
2 alone. Employees -- I thought you were going to tear up
3 there for a minute when you were talking about your
4 employees. Were you?
5 A Yeah. It's emotional.
6 Q You said you had what? About 12 out here?
7 A 14.
8 Q 14 out here? Who are they?
9 A Well, we have our site manager.
10 Q No. What are their names?
11 A Okay. I'll go through it. So we have our site
12 manager, Brendan Cottrell. We have Brian Avalos, the
13 maintenance gentleman. We have John Hall, who is a
14 Data Center technician. We've had Pete Richison,
15 R-I-C-H-I-S-O-N, Stevie Saganski, S-A-G-A-N-S-K-I. A
16 litany of folks.
17 Q Do they work at any other facilities? Do they
18 cross over?
19 A From time to time.
20 Q So they do some work up at Temple?
21 A From time to time.
22 Q And, in fact, Temple's hiring right now; right?
23 A We are hiring --
24 Q A number of positions; right?
25 A As is the Rockdale facility.

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1 Q (BY MR. O'CONNELL) Sorry. I'm going to reask
 2 the question to make sure we have a clean record. Were
 3 those contracts supposed to replace your existing
 4 contracts?
 5 A No.
 6 Q What were those contracts supposed to do?
 7 A It was a synthetic dividend or a Profit Share
 8 Agreement that was supposed to be a two-part process,
 9 and the first part was to redeem out Whinstone from
 10 equity in Rhodium JV.
 11 MR. LOCKHART: Objection; best evidence.
 12 I mean, he's saying what a document -- what an agreement
 13 is supposed to say, what it's supposed to provide. This
 14 is hearsay. It's expert testimony and it's best
 15 evidence.
 16 MR. O'CONNELL: I'm just asking his
 17 personal knowledge.
 18 THE COURT: I'll come back to my point
 19 about relevance as far as what we're here for today.
 20 MR. O'CONNELL: I understand, Your Honor.
 21 THE COURT: So I will sustain that
 22 objection.
 23 MR. O'CONNELL: I'm cutting out pages of
 24 my script, so -- saving time.
 25 Q (BY MR. O'CONNELL) You entered into two

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1 additional contracts at the end of December 2020;
 2 correct?
 3 A Yes, sir.
 4 Q Did you begin making profit-sharing payments to
 5 Whinstone shortly after that?
 6 A Yes, sir.
 7 Q And was Northern Data still Whinstone's parent
 8 company at the time?
 9 A Yes, sir.
 10 Q Did Whinstone, while it was owned by
 11 Northern Data, ever say you had miscalculated the
 12 profit-sharing payments?
 13 A No.
 14 MR. LOCKHART: Objection; hearsay.
 15 THE COURT: Sustained.
 16 Q (BY MR. O'CONNELL) Did Northern Data eventually
 17 sell Whinstone?
 18 A Yes.
 19 MR. LOCKHART: Objection; no personal
 20 knowledge.
 21 MR. O'CONNELL: He's in --
 22 THE COURT: Yeah, I'll have to overrule
 23 that objection.
 24 MR. LOCKHART: Relevance as well.
 25 THE COURT: Well, that would be a better

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1 objection.
 2 MR. O'CONNELL: Okay.
 3 MR. LOCKHART: Fair enough, Judge.
 4 Q (BY MR. O'CONNELL) About when after the Profit
 5 Sharing Agreement that we discussed at length did you
 6 receive the first word that someone, Whinstone, whoever
 7 owned it, believed that Rhodium had miscalculated the
 8 profit-sharing payments?
 9 A It was about 12 months after.
 10 Q So you were making profit-sharing payments,
 11 following the formula that you believed applied, for a
 12 year without objection?
 13 A Correct.
 14 Q Rhodium ultimately assigned 14 of its power
 15 contracts to operating entities; is that correct?
 16 A Yes, sir.
 17 MR. LOCKHART: Objection; form. Calls for
 18 a legal conclusion, vague and confusing as to "Rhodium,"
 19 vague and confusing as to -- or lacks specificity on the
 20 contracts.
 21 THE COURT: I'll sustain the objection.
 22 MR. O'CONNELL: Okay. Your Honor, I pass
 23 the Witness.
 24 THE COURT: All right.
 25 MR. LOCKHART: I'll be short.

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1 THE COURT: I've heard that one before,
 2 Mr. Lockhart.
 3 MR. LOCKHART: Well, the second time, I
 4 was short.
 5 CROSS-EXAMINATION
 6 Q (BY MR. LOCKHART) If the Defendants -- the
 7 Rhodium Defendants in this action have to pay my client,
 8 Whinstone, damages, they can't; right?
 9 A I believe that if operations were to sustain,
 10 that we could.
 11 Q You've got \$25 million cash on hand, you said,
 12 with \$54 million worth of debt just at this level
 13 (Indicating)?
 14 A Yes, sir.
 15 Q Okay. How much -- How much debt at this level
 16 (Indicating)?
 17 A There is, roughly, \$10 million of debt.
 18 Q Only 10?
 19 A Yes.
 20 Q Is that because y'all were taking money from
 21 down here and moving it up here to pay obligations
 22 (Indicating)?
 23 A Actually, no.
 24 Q Okay. How much debt at this level
 25 (Indicating)?

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1 A I apologize. The 10 million is at
 2 Technologies.
 3 Q Okay. How much at Renewables? Because it's a
 4 lot more than that, isn't it?
 5 A No. It's zero.
 6 Q Zero?
 7 A I believe so, yes, sir.
 8 Q Have to take your word on it because we don't
 9 have financials.
 10 Rhodium Enterprises, debt?
 11 A No, sir.
 12 Q So you pay cash for everything over at
 13 Renewables?
 14 A Pretty much, yes, sir.
 15 Q Where did you get that cash? Because it wasn't
 16 operating.
 17 A We got it from an \$87 million SAFE investment,
 18 which is a Sale Agreement for Future Equity, and then we
 19 also got it from cash flows of operations.
 20 Q From down there (Indicating); right?
 21 A Yes, sir.
 22 Q So if you'd left it down here (Indicating),
 23 they could continue on, shutter things, not have costs
 24 in power during a shutdown; right?
 25 A Well, sir --

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1 Q And have enough cash to survive; right?
 2 A Yes.
 3 Q Okay. You said -- I think I heard you. Did
 4 you say \$30 million loss at the end of this year if
 5 these are shut down or even if they're open?
 6 A If they're shut down.
 7 Q How much is the loss if they're open?
 8 A For the business?
 9 Q Yeah.
 10 A There isn't a loss.
 11 Q Do you know what those numbers are?
 12 A Roughly.
 13 Q What's your background, by the way?
 14 A I have an accounting degree.
 15 Q Okay. Are there insufficient obligations --
 16 or -- excuse me. Is there insufficient money currently
 17 on hand in order to pay the debts -- Strike that.
 18 Is there insufficient money to pay the
 19 outstanding debts of the company right now?
 20 A At this exact moment, yes.
 21 Q Would you say the company is insolvent?
 22 A No.
 23 Q Does JV have any expenses? You said it didn't
 24 have any employees.
 25 A Well, it has the profit-share expense, sir.

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1 Q Have you told your shareholders that you've
 2 been using profits from the Whinstone facility to pay
 3 debts of other entities?
 4 MR. O'CONNELL: Objection; vague.
 5 THE COURT: Yeah, that was a bit vague.
 6 Do you want to restate the question, please?
 7 THE WITNESS: We haven't used --
 8 Q (BY MR. LOCKHART) How much debt does
 9 Whinstone -- Excuse me. How much debt is on the books
 10 of the Enterprise for the profit share to Whinstone?
 11 A Can you clarify that question, sir? I'm sorry.
 12 Q We have a dispute that is currently ongoing.
 13 Typically, you do a reserve, right, when you have a
 14 dispute? How much reserve have you put on the books for
 15 the potential exposure that exists from this lawsuit?
 16 A We believe that this lawsuit is frivolous and
 17 meritless.
 18 Q So is that zero?
 19 A No. We have cash on hand. That's at the --
 20 both the Technologies and the Rhodium --
 21 Q That's not what I asked. Sir, that's not what
 22 I asked.
 23 A Okay.
 24 Q I asked: How much on your books do you have
 25 listed as reserve as it relates to the potential

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1 exposure in this lawsuit?
 2 A I would say zero.
 3 Q Is that consistent with GAAP?
 4 MR. O'CONNELL: Objection; calls for a
 5 legal conclusion.
 6 MR. LOCKHART: He's an accountant.
 7 THE WITNESS: I am not.
 8 Q (BY MR. LOCKHART) Okay. You have an accounting
 9 degree?
 10 A Yes, sir.
 11 Q Do you understand GAAP?
 12 A Generally. It's been a few years since I went
 13 to college.
 14 THE COURT: I think he can answer the
 15 question.
 16 THE WITNESS: I don't have enough personal
 17 knowledge to know if that's in compliance with GAAP or
 18 not.
 19 MR. LOCKHART: Pass.
 20 MR. O'CONNELL: No further questions.
 21 THE COURT: All right. Sir, you can step
 22 down. Thank you.
 23 THE WITNESS: Thank you, Your Honor.
 24 THE COURT: Next witness?
 25 MR. THOMPSON: Your Honor, Rhodium doesn't

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1 of poking holes in the filing by Mr. Blackmon. Some of
2 it held up, some of it became shaky, and some of it was
3 blown out of the water, but at the end of the day, the
4 issue for me, as I was discussing with Mr. Slovak
5 earlier, is the downside of putting this on hold until
6 this matter can be resolved by your arbitrator.
7
8 And so that's what I'm going to rule this
9 evening is -- I am going to grant injunctive relief. I
10 think it's fair to increase the bond. I'm going to
11 increase the bond to a million dollars, and the
12 injunction will last until your arbitrator can rule on
13 further matters regarding everything we've talked about
14 today, putting -- whether operations out there can
15 continue or not.
16 MR. SLOVAK: To be clear, Your Honor, is
17 your ruling that it -- the injunction is to be in place
18 until there's a final adjudication on the merits between
19 the parties?
20 THE COURT: No. I'm going to let the
21 arbitrator take a look at it at the time that he takes
22 up -- he or she takes up arbitration.
23 MR. SLOVAK: So meaning that -- allow the
24 arbitrator to decide whether the injunction should stay
25 in place?
THE COURT: Yes. All right?

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1 MR. THOMPSON: Thank you, Your Honor.
2 MR. SLOVAK: Thank you.
3 (PROCEEDINGS CONCLUDED AT 6:39 P.M.)
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1 STATE OF TEXAS)
2 COUNTY OF MILAM)
3
4 I, SHERRI K. WILLIAMSON, Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that the above and foregoing contains a true and
7 correct transcription of all portions of evidence and
8 other proceedings requested in writing by counsel for
9 the parties to be included in this volume of the
10 Reporter's Record, in the above-styled and numbered
11 cause, all of which occurred in open court or in
12 chambers and were reported by me.
13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 exhibits, if any, offered by the respective parties.
16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$_____
18 and will be paid by BRANDON MARX for the Plaintiff.
19 WITNESS MY OFFICIAL HAND this the 11th day of
20 December, 2023.
21
22
23
24
25


SHERRI K. WILLIAMSON, TX CSR #5105
Expiration Date: 7-31-2025
U.S. LEGAL SUPPORT, INC.
Firm Registration No. 122
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Houston, TX 77060
713-653-7100

EXHIBIT 9

Cause No. CV41873

Whinstone US, Inc.,

Plaintiff,

v.

Rhodium 30MW LLC; Rhodium JV,
LLC; Air HPC LLC; and Jordan
HPC LLC,

Defendants.

In the District Court of

Milam County, Texas

20th Judicial District

**DEFENDANTS' PLEA IN ABATEMENT, MOTION TO COMPEL
ARBITRATION AND STAY LITIGATION, AND ORIGINAL
ANSWER SUBJECT TO PLEA IN ABATEMENT AND MOTION TO
COMPEL ARBITRATION AND STAY LITIGATION**

Defendants file this Plea in Abatement, Motion to Compel Arbitration and Stay Litigation, and subject to its Plea in Abatement and Motion to Compel Arbitration and Stay Litigation, its Original Answer to Plaintiff's First Amended Petition (the "Petition" or "FAP") filed by Whinstone US, Inc., and in support would show the Court the following:

**PLEA IN ABATEMENT AND MOTION TO COMPEL ARBITRATION
AND STAY LITIGATION**

1. Plaintiff Whinstone U.S. Inc. seeks to litigate meritless claims for

breach of two contracts, one with defendant Rhodium JV and one with defendant Air HPC. Defendants (collectively, Rhodium) did not breach any obligations to Whinstone. To the contrary, as Rhodium's counterclaims detail, Whinstone owes Rhodium millions of dollars under the parties' agreements. *See infra* ¶¶ 32-101.

2. As a threshold matter, however, Whinstone should never have brought this dispute to Court. Both contracts that it purports to enforce expressly require that "All disputes hereunder, whether based in statutory, contract or tort claims, shall be submitted to binding arbitration." Ex. A, at § 22; *id.* Ex. B, at § 22.¹ Whinstone's petition omits any mention of this mandatory arbitration clause. But Whinstone agreed to it, and it is binding. The Court should abate these proceedings, grant Defendants' motion, and issue an order compelling arbitration and staying this litigation.

¹ Pursuant to Texas Rule of Civil Procedure 59, these contracts are attached to this filing as Exhibits A and B. Exhibits A and B are incorporated by reference and should be deemed part of Defendants' Plea in Abatement, Motion to Compel Arbitration and Stay Litigation, and Original Answer Subject to Plea in Abatement and Motion to Compel Arbitration and Stay Litigation.

BACKGROUND

3. Whinstone filed its petition on May 2, 2023, and its First Amended Petition the next day. Whinstone alleges that it developed a Bitcoin mining facility in Rockdale and Rhodium uses part of that facility to mine Bitcoin. FAP ¶ 1. Whinstone is a Delaware corporation, and all Defendants are Delaware limited liability companies. FAP ¶¶ 4-8.

4. Whinstone seeks damages for alleged breach of contract and declaratory relief based on two contracts, both entered into on or around December 30, 2020: an agreement between Whinstone and Rhodium JV LLC, and an agreement between Whinstone and Air HPC LLC. FAP ¶¶ 13-14, 24-27, 31-35, 39, 43. Whinstone alleges that these agreements “are meant to provide Whinstone with a share of Rhodium’s net revenue from its mining operations at the Rockdale Facility.” FAP ¶ 18. Whinstone further alleges that these two agreements superseded all other contracts between Whinstone and all Defendants—including ones that did not sign the two agreements—and seeks declaratory relief that it has no obligations under any prior contract, including no obligation to pay Rhodium for power

credits. FAP ¶¶ 13-14, 37-38, 41, 43.

5. Both agreements that Whinstone purports to enforce contain identical arbitration clauses. The arbitration clauses state:

Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (AAA) IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD. NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT

SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

Ex. A, at § 22; *id.* Ex. B, at § 22. Whinstone has not commenced an arbitration proceeding nor has it asked Rhodium to arbitrate consistent with the parties' agreements.

6. Whinstone breached these arbitration agreements by filing its petition and amended petition in this Court. Even worse, Whinstone concealed the arbitration clauses. It did not disclose their existence to the Court and did not provide the Court with copies of the agreements. Whinstone says it withheld the agreements because of their confidentiality provisions. But as Whinstone well knows, redacted versions of the agreements were filed with the SEC and are readily available online.² Nothing prevented Whinstone from directing the Court to the publicly available versions of the agreements.

² Rhodium Enters. Inc., S-1 Registration Filing, Exs. 10.9, 10.10, https://www.sec.gov/Archives/edgar/data/1874985/000121390021062893/fs12021a2_rhodium.htm (as filed Dec. 12, 2021).

7. Along with ignoring its contractual duty to arbitrate, Whinstone ignores a host of inconvenient facts. Rhodium has fully satisfied its contractual obligations to Whinstone. It has paid Whinstone tens of millions of dollars under the parties' agreements—including advance payments that aren't even due yet. Whinstone misreads the two agreements on which it relies; those agreements do not obligate Rhodium JV or Air HPC to share "revenues" that *other* companies earned. And Whinstone is flatly wrong to suggest that those agreements supersede all prior contracts between the parties—including contracts that have been signed by other Rhodium entities—that have governed the parties' course of dealing for years. That claim is a transparent attempt to evade Whinstone's own debts to Rhodium and re-write the parties' longstanding agreements on terms more favorable to Whinstone. *See* FAP ¶ 41 (attempting to avoid power credit obligations to Rhodium).

8. But those arguments are for another day and, critically, another forum. This dispute belongs in arbitration.

ARGUMENT

9. This Court should compel arbitration and stay this matter pending completion of the arbitration. *First*, the December 2020 agreements include binding arbitration clauses, and the threshold requirements for compelling arbitration under the Federal Arbitration Act are satisfied. Further, the parties not only agreed to arbitrate, but also gave the arbitrator the power “to determine the arbitrability of any claim.” *TotalEnergies E&P USA, Inc. v. MP Gulf of Mexico, LLC*, __ S.W.3d __, 2023 WL 2939648, at *11 (Tex. April 14, 2023). Any dispute about the scope of the arbitration clauses must also be decided in arbitration. *Second*, and in the alternative, even if the Court concludes that the contracts are governed by the Texas Arbitration Act, the outcome is the same.

I. The Court must compel arbitration under the Federal Arbitration Act.

10. The Federal Arbitration Act (FAA) requires courts, including state courts, to enforce arbitration clauses by staying proceedings and compelling arbitration. *See, e.g., Jack B. Anglin Co. v. Tipps*, 842 S.W.2d 266, 269 (Tex. 1992) (FAA applies in state and federal courts). Arbitration “agreements are

avored by both Texas and federal law.” *City of Lubbock v. Hancock*, 940 S.W.2d 123, 125 (Tex. App.—Amarillo 1996, no writ). This Court should adhere to federal and state precedent and compel Whinstone to arbitrate its claims.

11. The FAA applies here because it governs any “written arbitration clause in a contract ‘evidencing a transaction involving commerce’” *Rapid Settlements, Ltd. v. SSC Settlements, LLC*, 251 S.W.3d 129, 141–42 (Tex. App.—Tyler 2008, no pet.) (quoting 9 U.S.C. § 2). As the U.S. Supreme Court has held, the FAA reflects “expansive congressional intent” and reaches any transaction involving or “affecting commerce”—a reach coextensive with that of the Commerce Clause. *Allied-Bruce Terminix Companies, Inc. v. Dobson*, 513 U.S. 265, 274 (1995); see *In re L & L Kempwood Assocs.*, 9 S.W.3d 125, 127 (Tex. 1999).³

³ The parties’ choice of Texas law to govern the contract does not displace the FAA. See, e.g., *In re L & L Kempwood Assocs., L.P.*, 9 S.W.3d 125, 127–28 (Tex. 1999) (rejecting argument that choice-of-law provision displaced FAA, because “choice-of-law provision did not specifically exclude the application of federal law”); *In re Devon Energy Corp.*, 332 S.W.3d 543, 547–48 (Tex. App.—Houston [1st Dist.] 2009, no pet.) (“Under Texas law, the FAA applies to an agreement governed by TX law unless the contract excludes federal law.”).

12. The agreements that Whinstone purports to enforce easily satisfy this minimal standard. To begin, the parties to both contracts are Delaware corporations doing business in Texas. FAP ¶¶ 4-8. That alone is sufficient to show that the contracts affect interstate commerce. Further, the contracts relate to Bitcoin mining and profits generated from Bitcoin mining. That activity takes place in and affects interstate commerce. Where both parties are incorporated outside Texas and the contemplated activity involves interstate commerce—even minimally—the FAA applies. *See, e.g., Allied-Bruce*, 513 U.S. at 269, 282 (FAA applied where Alabama resident did business with local office of “multistate” corporation, and some product was shipped from outside Alabama); *In re Nexion Health at Humble, Inc.*, 173 S.W.3d 67, 69 (Tex. 2005), *as supplemented on denial of reh’g* (Oct. 14, 2005) (FAA governed surviving spouse’s wrongful death action against healthcare facility because facility received Medicare funds for deceased patient’s care); *Steer Wealth Mgmt., LLC v. Denson*, 537 S.W.3d 558, 565 (Tex. App.—Houston [1st Dist.] 2017, no pet.) (“sale of securities involves interstate commerce” for purposes of FAA); *In re Border Steel, Inc.*, 229 S.W.3d 825, 831 (Tex. App.—El

Paso 2007, no pet.) (FAA governed employment agreement because employer was involved in interstate commerce, which includes “transportation of materials across state lines and the use of interstate mail”).

13. The threshold requirements for enforcing an arbitration agreement under the FAA are likewise readily met here. As the party seeking to compel arbitration, Rhodium need only “establish a valid arbitration agreement whose scope includes the claims asserted.” *In re AdvancePCS Health L.P.*, 172 S.W.3d 603, 605 (Tex. 2005). Rhodium has proffered the contracts, which include unambiguous and broad arbitration clauses. Ex. A, at § 22; Ex. B, at § 22. Given that Whinstone purports to enforce the December 2020 contracts, it cannot dispute their existence or that Whinstone entered into them. *E.g.*, FAP ¶¶ 13-14. And there can be no question that Whinstone’s claims for breach of contract and declaratory relief are covered by the broad arbitration clauses. The parties expressly agreed to arbitrate all disputes under the agreements, “whether based in statutory, contract or tort claims.” Ex. A, at

§ 22; Ex. B, at § 22.⁴

14. The Texas Supreme Court's recent decision in *TotalEnergies* confirms that Whinstone has no possible grounds for avoiding arbitration. Whinstone not only agreed to arbitrate; it agreed to binding arbitration pursuant to the "commercial arbitration rules of the American Arbitration Association (AAA)." Ex. A, at § 22; Ex. B, at § 22. The same was true of the parties in *TotalEnergies*: one of the parties' contracts provided for arbitration pursuant to the AAA commercial rules. 2023 WL 2939648, at *2-3. Rule 7(a) of those rules gives the arbitrator "power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim." R-7(a), Commercial Arbitration Rules, American Arbitration Association (eff. Oct. 1, 2013).⁵ The *TotalEnergies* plaintiff nonetheless argued

⁴ In addition to asserting that Rhodium breached the December 2020 agreements, Whinstone seeks a declaratory judgment that the December 2020 agreements supersede other, earlier agreements between Whinstone and Rhodium entities, including Rhodium entities that did not sign the December 2020 agreements. FAP ¶¶ 41, 43(iii), (iv). Although the earlier agreements do not contain arbitration clauses, Whinstone's claim *that the December 2020 agreements supersede the earlier agreements* is arbitrable. Regardless, as explained *infra*, any dispute about arbitrability must be decided by the arbitrator.

⁵ See <https://www.adr.org/Rules>.

that parts of its claims were not arbitrable and had to be decided in court. 2023 WL 2939648, at *2.

15. The Texas Supreme Court rejected that argument, “agree[ing] with the vast majority of courts that, as a general rule, an agreement to arbitrate in accordance with the AAA or similar rules constitutes a clear and unmistakable agreement that the arbitrator must decide whether the parties’ disputes must be resolved through arbitration.” *TotalEnergies*, 2023 WL 2939648, at *10; *see also, e.g., Halliburton Energy Servs., Inc. v. Ironshore Specialty Ins. Co.*, 921 F.3d 522, 537 (5th Cir. 2019) (parties provide “clear and unmistakable evidence of their intent to delegate” questions of substantive arbitrability by “expressly incorporating rules empowering the arbitrator to decide substantive arbitrability,” including AAA rules) (cleaned up). As the Court explained, because Rule 7(a) “provid[es] that the arbitrator “*shall* have *the* power” to determine the arbitrability of any claim, the rule clearly and unmistakably delegates that decision exclusively to the arbitrator.” *TotalEnergies*, 2023 WL 2939648, at 11 (quoting Rule 7(a) of the Commercial Arbitration Rules).

16. What *TotalEnergies* means here is straightforward: any argument Whinstone might want to make regarding the scope of arbitration or arbitrability of any particular issue must be made to the arbitrator. The *TotalEnergies* plaintiff tried in vain to keep some portion of its case in court, pointing to other agreements with different dispute resolution clauses and insisting that its claims did not “arise under” the agreement that incorporated the AAA rules. *See id.* at *12-18. The Supreme Court rejected those arguments, instead concluding that the “arbitration agreement clearly and unmistakably requires the arbitrator to decide whether the present disputes must be resolved through arbitration.” *Id.* at *17. The Court “enforce[d] that provision as written.” *Id.* at *18.⁶

17. This Court must do the same. Because Whinstone agreed to arbitrate its claims, the FAA requires the Court to enter an order compelling arbitration and staying this litigation. *See Zuffa, LLC v. HDNet MMA 2008 LLC*, 262 S.W.3d 446, 450 (Tex. App.—Dallas 2008, no pet.) (holding that trial

⁶ The same reasoning applies to Rhodium’s counterclaims. To the extent the parties dispute the arbitrability of the counterclaims, the arbitrator will decide that issue and any claims not subject to arbitration may be litigated after the arbitration concludes.

court “was required” to grant motion to stay under FAA “if any issue involved in the case was ‘referable to arbitration’”); 9 U.S.C. § 3 (requiring stay of “any suit or proceeding” brought “upon any issue referable to arbitration under an agreement in writing for such arbitration”); *id.* § 4 (authorizing orders compelling arbitration). Given “the strong federal presumption favoring arbitration,” *In re Jim Walter Homes, Inc.*, 207 S.W.3d 888, 895 (Tex. App.—Houston [14th Dist.] 2006, no pet.), Whinstone cannot avoid that outcome.

II. In the alternative, the Court should stay the litigation and compel arbitration pursuant to the Texas Arbitration Act.

18. Although the FAA supplies the governing law, the result would be the same under the Texas Arbitration Act. *See, e.g., In re J.D. Edwards World Solutions Co.*, 87 S.W.3d 546, 549 (Tex. 2002) (orig. proceeding) (per curiam) (where valid arbitration agreement exists for which there is no valid defense, a “trial court has no discretion—it must compel arbitration and stay its own proceedings”). As the Texas Supreme Court recognized in *TotalEnergies*, the “Federal Arbitration Act, 9 U.S.C. §§ 1–16, and the Texas Arbitration Act, Tex. Civ. Prac. & Rem. Code §§ 171.001–.098, both honor parties’ freedom to

contractually agree to arbitrate disputes and require courts to enforce those agreements in accordance with the law of contracts.” 2023 WL 2939648, at *4 n. 3. The Court’s holding in *TotalEnergies* is not specific to the FAA. The Court noted that the parties in that case had “not dispute[d] or address[ed] which act applies.” *Id.* Thus, whether the FAA or Texas Arbitration Act governs, the arbitration clauses at issue here have the same force and meaning: any and all questions about the scope of the arbitration are for the arbitrator in the first instance. *See generally id.*

19. The procedure is also the same under the Texas Arbitration Act. Pursuant to Civil Practice & Remedies Code § 171.021(a), a “court shall order the parties to arbitrate on application of a party showing: (1) an agreement to arbitrate; and (2) the opposing party’s refusal to arbitrate.” The Court must also “stay a proceeding that involves an issue subject to arbitration if an order for arbitration or an application for that order is made under” the Texas Arbitration Act. Tex. Civ. Prac. & Rem. Code Ann. § 171.025; *id.* § 171.021(c) (“An order compelling arbitration must include a stay of any proceeding subject to Section 171.025.”); *see also, e.g., Solcius, LLC v. Meraz,*

No. 08-22-00146-CV, 2023 WL 2261414, at *9 (Tex. App.—El Paso Feb. 27, 2023, no pet.) (order compelling arbitration must include stay of underlying litigation).

20. The Court should enforce the parties' agreement, compel arbitration, and stay this case.

CONCLUSION

21. For the reasons given, the Court should abate these proceedings, grant Defendants' motion, and issue an order compelling the parties to arbitrate and staying the litigation pending the conclusion of the arbitration.

ORIGINAL ANSWER SUBJECT TO PLEA IN ABATEMENT AND MOTION TO COMPEL ARBITRATION AND STAY LITIGATION

22. Subject to their Plea in Abatement and Motion to Compel Arbitration and Stay Litigation, Defendants answer the First Amended Petition as follows:

GENERAL DENIAL

23. Under Texas Rule of Civil Procedure 92, Defendants deny each and every allegation within Plaintiff's Petition. They reserve the right to amend this answer in accordance with the Texas Rules of Civil Procedure.

AFFIRMATIVE DEFENSES

24. *First Affirmative Defense (Fraudulent Inducement)*. Whinstone's claims are barred by the doctrine of fraudulent inducement. If Whinstone is correct that its December 2020 agreements with Rhodium JV and Air HPC supersede all other agreements by and among the parties to this action, Whinstone obtained Rhodium JV and Air HPC's agreement by materially misrepresenting that Whinstone believed the sole purpose of the December 2020 agreements was to create a profit-sharing arrangement, and that the other agreements would continue to be in effect.

25. *Second Affirmative Defense (Estoppel)*. Whinstone's claims are barred by the doctrine of estoppel. If Whinstone is correct that its December 2020 agreements with Rhodium JV and Air HPC supersede all other agreements by and among the parties to this action, Whinstone obtained Rhodium JV and Air HPC's agreement by representing that the sole purpose of the December 2020 agreements was to create a profit-sharing arrangement, and that the other agreements would continue to be in effect. Whinstone is accordingly estopped from asserting otherwise in this litigation.

26. *Third Affirmative Defense (Waiver)*. Whinstone's claims are barred by the doctrine of waiver. Whinstone has either expressly or impliedly waived any assertion that the Power Agreements described in paragraph 53 *infra* are no longer operative. For years, Whinstone has acted as if the Power Agreements remain in existence and provided power according to their terms. Whinstone's actions are accordingly fundamentally inconsistent with its current assertion that the December 2020 agreements superseded all other contracts by and among the parties.

27. *Fourth Affirmative Defense (Ratification)*. Whinstone's claims are barred by the doctrine of ratification. Whinstone has either expressly or impliedly ratified Rhodium's continued treatment of the Power Agreements as operative contracts between the parties. For years, Whinstone has itself acted as if the Power Agreements remain in existence and provided power according to their terms.

28. *Fifth Affirmative Defense (Mistake)*. Whinstone's claims are barred by the doctrine of mistake. Through their words and actions, the parties expressly contemplated that Whinstone's December 2020 agreements with

Rhodium JV and Air HPC were for the sole purpose of creating a profit-sharing arrangement and would not supersede the existing contracts by and among the parties to this action. To the extent the December 2020 agreements do supersede the prior contracts, the December 2020 agreements are the product of a mutual mistake.

29. *Sixth Affirmative Defense (Payment)*. Whinstone's claims fail because Rhodium has paid Whinstone all amounts owed under the contracts governing the parties' relationship.

30. *Seventh Affirmative Defense (Unclean Hands)*. Whinstone's claims are barred by the doctrine of unclean hands. As described in the Counterclaims *infra*, Whinstone's conduct with respect to Rhodium has been unconscientious and unjust and violates the principles of equity and fair dealing. Whinstone has accordingly acted with unclean hands.

31. *Eighth Affirmative Defense (Plaintiff's Material Breach)*. Whinstone's claims are barred because of its prior material breaches of the parties' contracts. As described in the Counterclaims *infra*, Whinstone has deprived Rhodium of significant benefits it reasonably anticipated from Whinstone's

full performance. Rhodium was accordingly discharged or excused from any obligation to perform.

COUNTERCLAIMS AND PETITION

32. The Petition is a smoke screen. Whinstone knows that Rhodium never breached any contract, and its supposed theory of breach rests on a remarkably basic flaw, conflating the profits of one entity (Rhodium JV) with the profits of *every single* affiliated entity. But Whinstone has a stake only in Rhodium JV's profits, and it has received every dollar of profits it is owed.

33. In fact, it is Whinstone that has breached more than a dozen contracts that collectively form the relationship between the parties—and in the process, it has materially understated its financial liabilities. For years, Whinstone understood that these contracts are binding on the parties, and it has received tens of millions of dollars in payment pursuant to the agreements. Only now, while Whinstone attempts to renegotiate the contracts it no longer likes, does Whinstone claim those agreements are all null and void.

34. Accordingly, Counterclaim Plaintiffs Rhodium 30MW LLC,

Rhodium JV LLC, and Jordan HPC LLC, along with Plaintiffs Rhodium Encore LLC, Rhodium 2.0 LLC, and Rhodium 10MW LLC (collectively, “Rhodium” or “Counterclaim Plaintiffs”) file these Counterclaims against Counterclaim Defendant Whinstone US, Inc., stating as follows:

PRELIMINARY STATEMENT

35. Rhodium is a leading Bitcoin mining company and a major tenant at Whinstone’s data center near Rockdale, Texas. Rhodium is also a competitor of Whinstone’s new parent company, Riot Platforms, Inc.

36. Before Riot entered the picture, Whinstone and Rhodium entered a series of contracts through which various Rhodium entities would receive energy from Whinstone over a ten-year period. These contracts locked in a heavily-negotiated price for energy that—given market conditions today—is favorable to Rhodium.

37. Some of the contracts also require *Whinstone* to make payments to *Rhodium*: “Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot market profitability exceeds the 250% of the contract price. *The profit will be distributed 100% to the Customer.*” (emphasis

added). Whinstone has since sold tens, if not hundreds, of millions in electricity into the ERCOT market. But, disregarding the plain terms of the contracts, it has not distributed a dime of its profits to Rhodium—ever.

38. Once Riot purchased Whinstone, moreover, Whinstone began curtailing Rhodium's power even when it was *not* selling into the ERCOT market. Rather than providing that power to Rhodium (as it was contractually obligated to do), Whinstone siphoned the power to its parent—which competes with Rhodium. This breach has, on many occasions, left Rhodium literally powerless to mine Bitcoin.

39. In addition to electricity, the parties entered an agreement for Whinstone to provide water to Rhodium. Water—at a certain volume and water pressure—is important for successful and efficient Bitcoin mining. But despite taking on this significant obligation, and accepting payment in full from Rhodium, Whinstone has failed to build the necessary infrastructure to provide Rhodium a single drop.

40. Riot and Whinstone now regret the deal Whinstone struck with Rhodium. They wish Whinstone had negotiated a higher rate for electricity;

they wish Whinstone were not obligated to provide energy sale profits; and they wish Whinstone had not agreed to provide water infrastructure.

41. But rather than honor the parties' agreements, Whinstone now seeks to renegotiate the contracts and to use the judicial process as a cudgel.⁷

42. In its Petition against Rhodium, Whinstone has trumped up bogus claims that Rhodium has failed to pay all that the contracts require. In due course, and in the proper forum, Rhodium will show that it is millions *ahead* in its payments to Whinstone. Whinstone's Petition is a work of fiction.

43. As relevant to these Counterclaims, Whinstone has flagrantly breached its own obligations to Rhodium. It has flatly refused to pay Rhodium tens of millions in energy sale profits. It has taken power that should have gone to Rhodium and instead given it to Riot, leaving Rhodium unable to mine Bitcoin worth seven to eight figures. And Whinstone has

⁷ Riot has indeed *publicly announced* its plan to "actively pursu[e] litigation" against "Data Center Hosting clients inherited through Whinstone acquisition under hosting agreements originally negotiated on below-market terms." Riot Platforms Q1 2023 Quarterly Update at p. 8 (May 10, 2023), available at <https://shorturl.at/bjtIT>. And sure enough, on information and belief, Whinstone has also breached its agreements with its two other customers at the Rockdale site, GMO GameCenter USA, Inc. and SBI Crypto Co., Ltd., both of whom have sued Whinstone for breaches akin to those at issue here.

failed to provide the water and infrastructure it promised to Rhodium, causing an additional seven to eight figures in damages. These breaches are willful, malicious, and plainly designed to injure Rhodium and benefit Riot.

I. Discovery Control Plan

44. Discovery shall be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

II. Parties

45. All Counterclaim Plaintiffs are Delaware limited liability companies with their principal place of business in Rockdale, Texas.

46. Counterclaim Defendant Whinstone is a Delaware corporation with its principal place of business in Rockdale, Texas.

III. Jurisdiction and Venue

47. Counterclaim Plaintiffs dispute that this Court is the proper venue for Whinstone's claims. Whinstone's claims should be arbitrated pursuant to the parties' agreements and the arbitrator should decide whether Counterclaim Plaintiffs' claims are arbitrable as well. To the extent the arbitrator decides that any of Counterclaim Plaintiffs' claims are not arbitrable, this Court has jurisdiction and is a proper venue for litigating

them.

IV. Rule 47 Statement

48. Pursuant to Texas Rule of Civil Procedure 47, Rhodium seeks non-monetary relief, monetary relief over \$1,000,000, attorneys' fees, and court costs incurred in connection with this dispute.

V. Facts

A. The parties enter into a series of inter-related contracts governing different aspects of their relationship.

1. The Power Agreements

49. In July 2020, Whinstone and Rhodium JV entered fourteen identical power agreements, each providing for Rhodium JV to receive 5MW of electricity from Whinstone (the "5MW Agreements"). The central purpose of each agreement was to provide electricity (70MW in total) at a fixed price for at least 10 years. Each of the fourteen 5MW Agreements states that it supersedes all prior or contemporaneous agreements between the parties relating to the "subject matter" thereof.⁸

⁸ Whinstone and Rhodium JV executed 20 total 5MW agreements, but Rhodium has only ever drawn power under 14 of them. Thus, only those 14 are relevant for present purposes.

50. Rhodium JV was permitted to assign the 5MW Agreements, with or without Whinstone's consent. In September 2021, as contemplated by the parties, Rhodium JV assigned six of the 5MW Agreements to Rhodium Encore LLC, six to Rhodium 2.0 LLC, and two to Rhodium 10MW LLC (the "5MW Entities"). Outside investors have an economic interest in all of the 5MW Entities.

51. Rhodium JV provided notice to Whinstone of all assignments, and Whinstone has never challenged the validity of the assignments. To the contrary, Whinstone has provided power to the 5MW Entities; each 5MW Entity paid the power deposit under its power agreements in its own name; and Whinstone contracted directly with the 5MW Entities to provide water for their Bitcoin mining operations.

52. Also in July 2020, Whinstone and Rhodium 30MW LLC entered a power agreement for Rhodium 30MW LLC to receive 30MW of power from Whinstone at a fixed price (the "30MW Agreement"). The 30MW Agreement also states that it supersedes all prior or contemporaneous agreements between the parties relating to the "subject matter" thereof.

53. Because Bitcoin mining is energy intensive, the price of electricity is generally the most important term in any power agreement. It is, therefore, heavily negotiated. The situation here is no different. Following extensive negotiation between the parties, the 5MW Agreements and the 30MW Agreement (collectively, the “Power Agreements”) locked in the same, fixed energy price for Rhodium for a ten-year period. As market conditions have developed, this price is currently favorable to Rhodium.⁹

54. The Power Agreements also all contain a clause requiring Whinstone to pass its profits on to Rhodium under certain circumstances: “Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. *The profit will be distributed 100% to the Customer.*” (emphasis added).

55. Except when Whinstone sells electricity into the ERCOT market, and in certain specific circumstances not relevant here, Whinstone must

⁹ Whinstone also entered a 25MW power agreement with an additional Rhodium entity, Jordan HPC LLC. The Jordan power agreement contains many of the same terms as the other Power Agreements, but it does not include the energy sale profits clause.

provide the amount of power called for by the Power Agreements. Whinstone is not permitted to curtail Rhodium's electricity below that level.

2. The Profit Share Agreement

56. In December 2020, Whinstone and Rhodium JV entered an additional agreement for the purpose of granting Whinstone a 12.5% share in the profits of Rhodium JV (the "Profit Share Agreement").

57. Previously, Whinstone had been a 12.5% owner of Rhodium JV. But because, on information and belief, Whinstone's former parent did not want Whinstone to have an ownership stake in a Bitcoin mining company, Rhodium agreed to redeem Whinstone's interest in Rhodium JV and instead give it a 12.5% share of Rhodium JV's profits, approximating what it previously received as a 12.5% owner. The parties have referred to this arrangement as a "synthetic dividend."

58. Whinstone never had any ownership interest in any other Rhodium entity, and the Profit Share Agreement does not give Whinstone a share of the profits of any other Rhodium entity. Under the plain terms of the contract, Whinstone receives only a share of Rhodium JV's profits.

59. Like every other agreement among the parties, the Profit Share Agreement states that it supersedes prior agreements with respect to the “subject matter” thereof. The parties expressly contemplated that the “subject matter” of the Profit Share Agreement was to grant Whinstone a 12.5% share of Rhodium JV’s profits. The parties further expressly contemplated that their other contracts, including the Power Agreements, would continue to govern other aspects of their relationship. Consistent with that understanding, Whinstone has continued to provide power to Rhodium 30MW and the 5MW Entities to this day.

60. As Rhodium will explain in due course, and in the proper forum, in connection with Whinstone’s Petition against Rhodium, Rhodium has made all required payments under the Profit Share Agreement. Whinstone has received 12.5% of the profits of Rhodium JV, just as the parties agreed in the contract. Whinstone’s Petition makes the simple but fatal mistake of treating *all* profits generated by *any* Rhodium entity as the profit of *Rhodium JV*. They are not; significant portions of those profits belong to other Rhodium entities, in which outside investors have an economic stake.

3. The Water Supply Agreement

61. In August 2021, Whinstone entered into a Water Supply Services Agreement (the “Water Supply Agreement”) with Rhodium JV, Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC, Jordan HPC LLC, and Rhodium 10MW LLC. The Water Supply Agreement, like every other agreement between the parties, states that it supersedes all prior agreements between the parties with respect to the “subject matter” thereof.

62. Under the Water Supply Agreement, in exchange for a \$350,000 Annual Water Reservation Fee and costs and expenses, Whinstone was obligated to provide certain “water supply services,” which included building out the necessary infrastructure to provide a specified volume of water at a specified water pressure in order to cool Rhodium’s Bitcoin mining machines.

4. The Parties’ Course of Dealing

63. Whinstone asserts in its Petition that the Profit Share Agreement rendered null and void all prior agreements between Whinstone and every Rhodium entity, including the Power Agreements. But Whinstone is

mistaken. The Profit Share Agreement does not repeal the Power Agreements, which address distinct “subject matters,” and provide for fixed amounts of electricity and fixed prices to various Rhodium entities.

64. The parties’ course of dealing for two-and-a-half years confirms that the Power Agreements are in effect. Among other things: Whinstone has continued to provide power to Rhodium 30MW LLC and the 5MW Entities under the terms of the Power Agreements. Rhodium 30MW LLC and the 5MW Entities have paid—and Whinstone has accepted—separate power deposits in their own names. And Whinstone has contracted directly with Rhodium 30MW LLC and the 5MW Entities to provide water—which would make no sense if these entities no longer had any rights to power; there would be nothing for the water to cool.

65. The parties’ course of dealing thus confirms that the Profit Share Agreement did not displace the Power Agreements. Rather, the Profit Share Agreement had a different “subject matter” —specifically, to provide a share of Rhodium JV’s profits to Whinstone. The Profit Share Agreement is not the only contract governing the parties’ overall relationship; it is one of many.

B. Whinstone breaches each of its agreements with Rhodium.

1. Whinstone sells electricity to the ERCOT market without paying profits to Rhodium.

66. Public records show that Whinstone has sold more than \$100 million in electricity into the ERCOT market over the last several years. In 2022 alone, Whinstone's sales approached \$30 million.

67. Based on the proportion of Whinstone's total electricity allotted to Rhodium, Rhodium should have received approximately 25% to 30% of the profit from Whinstone's sales into the ERCOT market.

68. But Whinstone has not paid Rhodium a dollar of its energy sale profits. Indeed, Whinstone's former CEO flatly told Rhodium personnel that Whinstone would not honor its obligation to share energy sale profits.

69. Since August 2022, Rhodium has repeatedly sought payment of profits due from Whinstone's energy sales. Rhodium has also requested information regarding Whinstone's energy sales an overwhelming number of times, to numerous personnel; Whinstone has never provided a shred of information. Rhodium's requests have been ignored in their entirety.

70. All told, Whinstone owes Rhodium at least \$7 to \$10 million in

unpaid energy sale profits.

71. In fact, the amount is likely tens of millions higher. During a major winter storm in Texas, Whinstone sold electricity into the ERCOT market at incredibly lucrative rates, worth potentially hundreds of millions. Whinstone later fraudulently obtained a release from certain Rhodium entities in connection with these “winter storm” sales. Whinstone represented that, given the extraordinary circumstances of the storm, it had not actually received payment from ERCOT (and thus had no profits to pass on). On information and belief, Whinstone in fact *did* receive compensation from ERCOT from these sales and intentionally represented to the contrary. Rhodium is accordingly entitled to these energy sale profits as well.

2. Whinstone siphons power from Rhodium to Whinstone’s parent company – a competitor of Rhodium.

72. Whinstone has also impermissibly curtailed Rhodium’s power in circumstances when Whinstone was *not* selling energy into the ERCOT market.

73. Anytime Whinstone curtails Rhodium’s power, Rhodium is unable

to mine Bitcoin and thus loses substantial sums of money.

74. Under the Power Agreements, Whinstone is permitted to divert power away from Rhodium only in certain specifically enumerated circumstances.

75. On numerous occasions, however, Whinstone has shut down or otherwise limited Rhodium's electricity without justification, providing the power instead to Riot (Whinstone's parent company and a competitor of Rhodium). Siphoning power from Rhodium to Riot is not one of the circumstances under which Whinstone is permitted to curtail Rhodium's electricity.

76. Whinstone's impermissible curtailments have prevented Rhodium from mining Bitcoin worth seven to eight figures.

3. Whinstone fails to provide the water supply services called for by the Water Supply Agreement.

77. Water infrastructure (used to cool Bitcoin mining machines) is important for successful and efficient Bitcoin mining. As the operator of a Bitcoin mining data center, Whinstone knew this fact when it entered the Water Supply Agreement, and the parties contemplated that the provision

of water pursuant to the Water Supply Agreement would be important to the success of Rhodium's Bitcoin mining business.

78. Through its gross negligence, recklessness, or intentional misconduct, Whinstone has never provided the "water supply services" called for by the Water Supply Agreement. In the approximately 18 months since the parties entered the agreement, Whinstone has not even built the required infrastructure, apparently acting in complete disregard of its contractual obligations.

79. Despite Whinstone's failure to provide the required water supply services, Rhodium has paid Whinstone the amounts called for by the Water Supply Agreement.

80. Whinstone's failure to provide the required water supply services has caused Rhodium's Bitcoin mining business to operate less efficiently and therefore generate seven to eight figures less in profits than it would have had Whinstone upheld its contractual obligations.

VI. Causes of Action

A. Count I – Breach of the Power Agreements

81. Rhodium repeats and incorporates by reference all preceding paragraphs as if fully restated herein.

82. The Power Agreements are valid and binding contracts between Whinstone, Rhodium JV, Rhodium 30MW LLC, and the 5MW Entities.

83. These agreements require Whinstone to pay Rhodium 100% of its profits from selling electricity into the ERCOT market.

84. Whinstone has sold energy into the ERCOT market without sharing profits with Rhodium.

85. Whinstone has also failed on numerous occasions to provide electricity to Rhodium as required by the Power Agreements, as well as the Jordan HPC LLC power agreement, instead siphoning that electricity off to its parent company and Rhodium's competitor. This has repeatedly left Rhodium unable to mine Bitcoin as contemplated by the Power Agreements.

86. Rhodium has been damaged by Whinstone's conduct and seeks recovery of benefit-of-the-bargain damages for the energy sale profits owed

and for Rhodium's downtime when Whinstone siphoned power from Rhodium, along with consequential damages for Rhodium's lost profits, plus reasonable attorneys' fees, pre- and post-judgment interest, and court costs.

B. Count II – Breach of Other Agreements

87. Rhodium repeats and incorporates by reference all preceding paragraphs as if fully restated herein.

88. The Power Agreements are valid and binding contracts between Whinstone, Rhodium JV, Rhodium 30MW LLC, and the 5MW Entities, as is the contract between Whinstone and Jordan HPC LLC.

89. In the alternative to its allegations in Count I, to the extent Whinstone contends it provided electricity to Rhodium under any agreements other than the Power Agreements or the contract between Whinstone and Jordan HPC LLC, Whinstone breached those agreements by failing to provide electricity, including when it sold electricity into the ERCOT market and siphoned electricity off to its parent company.

90. Rhodium has been damaged by Whinstone's conduct and seeks

recovery of benefit-of-the-bargain damages for the energy sale profits owed and for Rhodium's downtime when Whinstone siphoned power from Rhodium, along with consequential damages for Rhodium's lost profits, plus reasonable attorneys' fees, pre- and post-judgment interest, and court costs.

91. Rhodium is also entitled to disgorge Whinstone's profits, including the profits from selling electricity to ERCOT, for opportunistic breach of contract and unjust enrichment.

C. Count III – Breach of the Water Supply Agreement

92. Rhodium repeats and incorporates by reference all preceding paragraphs as if fully restated herein.

93. The Water Supply Agreement is a valid and binding contract between Whinstone, Rhodium JV, Rhodium 30MW LLC, Jordan HPC LLC, and the 5MW Entities.

94. Under the Water Supply Agreement, Whinstone was obligated to provide certain "water supply services" that were critical to the success of Rhodium's Bitcoin mining business.

95. As the operator of a Bitcoin mining data center, Whinstone was aware and the parties contemplated that providing water as prescribed in the Water Supply Agreement was important for Rhodium to effectively mine Bitcoin.

96. Whinstone has not provided the water supply services required of it in the Water Supply Agreement.

97. Whinstone was intentional, reckless, or at minimum grossly negligent in its failure to provide the required water supply services, failing even to build the basic infrastructure necessary to provide the water.

98. Rhodium has been damaged by Whinstone's conduct and seeks recovery of all amounts paid pursuant to the Water Services Agreement, as well as benefit-of-the-bargain damages and consequential damages, including for lost profits, plus reasonable attorneys' fees, pre- and post-judgment interest, and court costs.

VII. Attorneys' Fees

99. Counterclaim Plaintiffs are entitled to their reasonable attorneys' fees and costs incurred through trial and final appeal in accordance with

Texas Practice and Remedies Code §§ 38.001 and 37.009 and all other applicable law.

VIII. Conditions Precedent

100. All conditions precedent to the recovery sought herein have been met, excused, or otherwise have been waived.

IX. Prayer

101. Subject to their plea in abatement and motion to compel arbitration, and for the reasons set forth herein, Defendants ask that Plaintiff take nothing by this action, Defendants ask that Defendants be awarded their costs and attorney's fees, and Counterclaim Plaintiffs ask that the Court render judgment in favor of Counterclaim Plaintiffs and against Whinstone as follows:

- a) Enter judgment in favor of Counterclaim Plaintiffs on their claims for breach of contract;
- b) Declare that Whinstone is in material breach of its contractual obligations under the Power Agreements and its agreement with Jordan HPC LLC;
- c) Declare that Whinstone is in material breach of its contractual obligations under the Water Supply Agreement;
- d) Award Counterclaim Plaintiffs the full amount of energy sale

profits due under the Power Agreements, plus their attorneys' fees, pre- and post-judgment interest, and court costs;

- e) Award Counterclaim Plaintiffs an amount to compensate them for the Bitcoin they were unable to mine during periods when Whinstone impermissibly curtailed Rhodium's power, plus their attorneys' fees, pre- and post-judgment interest, and court costs;
- f) Award Counterclaim Plaintiffs all amounts paid pursuant to the Water Services Agreement, as well as benefit-of-the-bargain damages and consequential damages, including for lost profits, plus reasonable attorneys' fees, pre- and post-judgment interest, and court costs;
- g) Order Whinstone to specifically perform all of its obligations under the Water Supply Agreement and the parties' other agreements; and
- h) Award all other relief, general or special, either at law or in equity, to which Counterclaim Plaintiffs may justly be entitled to receive.

Dated: June 11, 2023

Respectfully submitted,

/s/ William T. Thompson

William T. Thompson (Texas Bar.
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Counsel for Defendants

VERIFICATION AND AFFIDAVIT

State of Texas §

County of Somervell §

BEFORE ME, the undersigned authority, on this day personally appeared Cameron K. Blackmon whose identity is known to me. After I administered an oath, affiant testified as follows:

“My name is Cameron K. Blackmon. I am capable of making this verification. I have read the Plea in Abatement and Motion to Compel Arbitration and Stay Litigation, paragraphs 1 to 21. The facts stated in it are within my personal knowledge and are true and correct.

“The attached Exhibit A is a true and correct copy of the Hosting Agreement between Whinstone US, Inc., and Rhodium JV LLC made December 31, 2020, with redactions agreed to by both Whinstone US, Inc., and Rhodium JV LLC. The parties agreed to those redactions as part of the process for filing this agreement with the Securities and Exchange Commission. None of the redactions affect the arbitration provision Section 22.

“The attached Exhibit B is a true and correct copy of the Hosting Agreement between Whinstone US, Inc., and AIR HPC LLC made December 31, 2020, with redactions agreed to by both Whinstone US, Inc., and Rhodium JV LLC. The parties agreed to those redactions as part of the process for filing this agreement with the Securities and Exchange Commission. None of the redactions affect the arbitration provision Section 22.”


Cameron K. Blackmon

Sworn to and subscribed before me by Cameron K. Blackmon on
June 9, 2023.





Notary Public in and for
the State of Texas

My commission expires: 4-16-2024

Exhibit A

SPECIFIC TERMS IN THIS EXHIBIT HAVE BEEN REDACTED BECAUSE SUCH TERMS ARE BOTH NOT MATERIAL AND ARE THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. THESE REDACTED TERMS HAVE BEEN MARKED IN THIS EXHIBIT WITH THREE ASTERISKS [*].**

Hosting Agreement

This Hosting Agreement (this “Agreement”) is made as of December 31, 2020 (the “Effective Date”) between Whinstone US, Inc., a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA (“Provider”), and Rhodium JV LLC, a limited liability company organized and existing under the laws of Delaware, having its principal office at [***], Texas [***] (“Customer”). Provider and Customer are hereinafter together referred to as the “Parties” and each as a “Party.”

WHEREAS, Provider operates a hosting data center facility the primary business purposes of which is to make the facilities (e.g., power, cooling, and Internet connectivity) necessary to support high volumes of cryptocurrency mining devices available to customers that have, or desire to obtain, such devices, and are seeking an off-premises location to store and operate such devices;

WHEREAS, Customer currently owns or desires to procure dedicated Bitcoin mining devices, and desires to install such devices in a facility at which Customer may manage and operate such devices remotely;

WHEREAS, Provider is willing to provide such hosting services to Customer, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1 Key Terms

1.1 The table below sets forth a summary of the principal terms of the hosting arrangement under this

Agreement (the “Key Terms”). Each of the terms in the leftmost column of this table will have the meaning set forth in the respective row(s) in the column(s) to the right.

| | | |
|---------------------------|--|------------|
| Target Ready-for-Use Date | December 31, 2020 | |
| Initial Term Length | [***] months | |
| Customer Equipment | (To be specified in writing by Customer and document here) | |
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit:* | _____ TH/s |
| | Power usage per unit*: | _____ W/GH |
| | Hardware Unit | |

| | | |
|----------------------|---|------------|
| | Unit type: | _____ |
| | Number of units: | _____ |
| | Hash rate per unit: | _____ TH/s |
| | Power usage per unit: | _____ W/GH |
| Specified Power Draw | Up to [***] MW ([***] MW as of the Effective Date, which may be increased to up to [***] MW pursuant to the requirements of this Agreement) | |
| Hosting Fees | As defined in Section 6.1 of this Agreement | |
| Provider Account | _____ | |
| Customer Account | _____ | |

*The “hash rate per unit” and “power usage per unit” values (i) are estimates included for reference purposes only, (ii) do not constitute a service level, guarantee, or other obligation of Provider, (iii) may vary significantly from time to time and from the estimated values, and (iv) have no impact on pricing or amounts owed under the Agreement.

2 Definitions

2.1 Defined Terms

The terms listed below, when used in this Agreement, shall have the following meaning

“**Advanced Remote Hands Service**” is defined in Section 3.4.

“**Applicable Law**” means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, interpretation, writ, judgment, injunction, license, or permit, issued or enacted by any Governmental Authority, which is applicable to a Party under this Agreement, including securities laws, tax laws, tariff and trade laws, and data laws.

“**AUP**” or “**Acceptable Usage Policy**” means Provider’s then-current acceptable use policy, which may be referenced at www.whinstone.us.

“**Basic Remote Hands Service**” is defined in Section 3.3.

“**Building Unit**” means each separate building within the Facility.

“**Business Day**” means a day which is not a Saturday, Sunday or a public holiday in Texas.

“**Confidential Information**” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer’s products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs.

“**Connection**” means the connection between Customer Equipment and the internet.

“**Customer**” is defined in the preamble to this Agreement.

“**Customer Area**” means the part of the Facility that is designated for the installation of the Customer Equipment.

“**Customer Equipment**” means the hardware equipment (including required PDUs) that is provided by Customer and installed in the Customer Area, including all software and firmware on such equipment other than any software and firmware owned or licensed by Provider.

“**Customer Representative**” means any officer, employee, agent, sub-contractor or other person identified by Customer as acting on Customer’s behalf.

“**Data Center Rules**” means the then-current rules and procedures relating to physical access to the Facility.

“**Data Center Specifications**” is defined in Section 3.1.

“**Defaulting Party**” is defined in Section 17.1.

“**Deinstallation Commencement Date**” is defined in Section 17.3.

“**Demand Reduction Benefit Program**” means any scheme initiated by a power supplier, power network supplier or other third party in the power market area managed by the Electric Reliability Council of Texas, under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage.

“**Deposit**” is defined in Section 6.3.

“**Disposal Charge**” is defined in Section 17.3.

“**Engineering Services**” means services relating to Facilities engineering in connection with Customer’s increase in power consumption requirements and the related increases in Customer Equipment associated therewith.

“**Facility**” means the data center operated by Provider at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

“**Force Majeure Event**” means any event beyond the reasonable control of a Party, including, without limitation, war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law, regulation, rule, or any act, order, direction, or ruling of a Governmental Authority coming into force after the date of this Agreement, tornado, hurricane, severe storms, earthquake, lightning, fire, flood or other natural or environmental disaster, temperature and humidity above the cooling capabilities of the Facility, epidemic, quarantine, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, acts of God, failure of a part of the power grid or related substation failure of the Internet, failure or delay in the performance of Provider’s third-party suppliers or of other third-party suppliers, including the supplier under the Power Supply Contract, and strikes, slowdowns, lockouts or other labor stoppages.

“**Governmental Authority**” means any domestic or foreign, supra-national, national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, taxing authority, agency (public or otherwise), or governmental entity or quasi-governmental entity (including any subdivision thereof), in each case anywhere in the world, having competent jurisdiction over a Party.

“**Hardware Control App**” means the application that is made available by Provider to permit Customer to manage the Customer Equipment.

“**Hardware Control Software**” means the software which enables management of the Customer Equipment by Customer and Provider via the Hardware Control App.

“**Hardware Control EULA**” is defined in Section 3.2.

“**Hardware Unit**” means each individual unit of Customer Equipment bearing a separate identification code.

“**Harmful Code**” means any software, hardware or other technologies, devices, or means, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, (i) any computer, software, firmware, hardware, system (including equipment) or network, (ii) the Facility or portion thereof or (iii) any application or function of any of the foregoing or the integrity, use, or operation of any data processed thereby, and, in each case, includes any virus, malware, bug, Trojan horse, worm, backdoor, or other malicious computer code and any time bomb or drop-dead device.

“**Hosting Services**” is defined in Section 3.1.

“**Maintenance**” means any activity performed by Provider in order to maintain, upgrade or improve the Services, including any modification, change, addition, or replacement of any Provider hardware, or any part of, or machinery or other components of, the Facility.

“**Minimum Hosting Charge**” is defined in Section 6.1.

“**Mining Pool**” means the group of Bitcoin miners to which Customer determines to contribute the processing power of any particular piece of Customer Equipment in order to collaborate in finding new Bitcoin blocks.

“**Non-Defaulting Party**” is defined in Section 17.2.

“**Notice**” is defined in Section 19.

“**Parties**” is defined in the preamble to this Agreement.

“**PDU**” means power distribution unit.

“**Phase-out Period**” is defined in Section 17.3.

“**power**” means electric power.

“**Power Firmware**” means firmware that is made available by a third party, and that may be required in order to enable certain advanced power management functions. In all cases, the Power Firmware is licensed by the third party to Customer and is installed on the Customer Equipment by Provider only at the express direction of Customer.

“**Power Supply Contract**” means Provider’s agreements with third parties related to the provision of power to the Facility.

“**Provider**” is defined in the preamble to this Agreement.

“**Racks**” means the racks provided by Provider and configured for installation of the particular Customer Equipment.

“**Related Services**” is defined in Section 3.2.

“**Remote Hands Service**” is defined in Section 3.5.

“**RFU Date**” or “Ready-for-Use Date” means December 31, 2020.

“**Scheduled Maintenance**” means any Maintenance activities for which Provider notified Customer at least 3 days in advance, which notice may be given by publication on the Hardware Control App.

“**Service Rates**” means Provider’s then-current rates for Related Services and Advanced Remote Hands Services, as set forth in Annex 1.

“**Service Charges**” means amounts owed by Customer in connection with the Services.

“**Service Level Default**” is defined in Section 8.

“**Service Level Credit**” is defined in Section 8.

“**Services**” is defined in Section 3.2.

“**Specified Power Draw**” means the amount of power that is to be made available to Customer as part of the Hosting Services, as the same may be increased as provided in Sections 3.6 and 6.2.

“**Term**” is defined in Section 16.

“**Termination Date**” means the date this Agreement terminates or expires.

“**Termination Event**” is defined in Section 17.1.

“**Ticket**” means an electronic request for service generated in the Hardware Control App.

“**Unscheduled Maintenance**” means Maintenance that is not Scheduled Maintenance.

“**Uptime**” means the amount of time in the applicable month that the Hosting Services are available to Customer, as determined in accordance with Section 8.

“**Uptime Service Level**” is defined in Section 8.

“**Working Hours**” means the hours from 8:00 a.m. to 5:00 p.m., Central Time, on a Business Day.

3 Provider’s Services

3.1 Facility

All Services are provided within the Facility, which is designed to meet the following specifications (the “Data Center Specifications”):

- power supply up to the Specified Power Draw;
- transforming equipment;
- evaporative cooling;
- limited air filtration; and
- internet connectivity.

it being understood that each of the foregoing is made available to the Customer Area on a shared, non-exclusive and non-redundant basis.

Within the Facility, Provider does not guaranty that the Customer Area will be contiguous. The Customer Area may spread over several Building Units, and is not physically separated from areas in the Facility in which the equipment of other customers is hosted. Provider has the right to change the location of the Customer Area within the Facility and to relocate Customer Equipment, subject to the maintenance and service level obligations set forth in this Agreement.

3.2 Services

Provider shall provide Customer with the Hosting Services and the Related Services (together the “Services”) during the Term.

The “Hosting Services” consist of:

- providing the Customer Area in accordance with the Data Center Specifications;
- providing Racks in the Customer Area;
- hosting the provided Customer Equipment in the Racks;
- hosting the Customer-provided PDUs installed in the Racks, as may be required by the particular Customer Equipment;
- making available the Hardware Control Software and Hardware Control App (it being understood that these components are subject to a separate license agreement (the “Hardware Control EULA”), but for which no separate license fee is payable);
- monitoring the fire detection and alarm system provided by Customer
- providing monthly reports to the Customer that will contain a summary of monthly power draw in the Customer Area as measured from power consumption meters; and
- providing basic physical security and physical access control for the Facility.

The “Related Services” consist of

- installation of Customer Equipment (as more particularly described in Section 3.3);
- the Basic Remote Hands Service (as more particularly described in Section 3.4); and
- deinstallation of Customer Equipment.

For the avoidance of doubt, the Related Services are not optional, and the Customer’s receipt of and payment for the Related Services is a requirement for hosting the Customer Equipment in the Facility.

3.3 Installation

Customer agrees to pay hourly for installation services as defined in Annex 1 and includes, as it relates to the Customer Equipment, PDUs, and any other Customer-provided materials (e.g., the fire detection and alarm system, specific air filtration equipment, single phase liquid cooling units, etc.):

- unpacking;
- labelling;

- positioning in the Racks;
- installation and management of cables (power and LAN connection);
- inventorization and inventory management;
- installation of the Hardware Control Software and Power Firmware, if applicable;
- initial setting;
- disposal of packing materials; and
- installation of any Customer-provided fencing or other physical security devices that are agreed by the Parties

Installation does not include the provision or installation of any software other than the Hardware Control Software. In certain cases, a particular Hardware Unit may require an update to its firmware (as determined and designated by the manufacturer thereof). In such case, Provider will apply such firmware update in accordance with the instructions provided by such manufacturer. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE OR FIRMWARE INSTALLED THEREON, OR ANY MANUFACTURER WARRANTY RIGHTS RELATING THERETO (INCLUDING ANY VOIDED WARRANTIES) ARISING OUT OF OR RESULTING FROM THE APPLICATION OF ANY SUCH MANUFACTURER-PROVIDED FIRMWARE UPDATE OR THE POWER FIRMWARE. IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer-designated Mining Pool. If Customer has not designated a Mining Pool, installation will be deemed complete when the applicable Hardware Unit powers up without fault (it being understood that in no event will Provider be required or requested to select a Mining Pool on Customer's behalf). In the case of faulty Hardware Units, installation is completed when Provider diagnoses the fault and provides a report to Customer.

Except as may otherwise be determined by Provider in its sole discretion, Customer shall not have any rights to install, uninstall, or otherwise physically access any Hardware Units in the Facility.

3.4 Basic Remote Hands Service

The basic Remote Hands Service (the "**Basic Remote Hands Service**") consists of the following tasks, as applicable, which will be performed by Provider based on the specific instructions of Customer with a cost defined in Annex 1 and billed weekly.

- pushing a button;
- switching a toggle;
- turning on/off of Customer Equipment;
- switching back on any breakers that have tripped during the 8am to 8pm CT time period;
- securing cabling connections;

- observing, describing and/or reporting of indicator lights or display information on machines or consoles;
- cable organization;
- modifying basic cable layout, labelling and/or re-labelling of Customer Equipment;
- cable patching;
- checking alarms for faults; and/or
- inserting/removing discs or equivalent storage devices provided by Customer into/from the Customer Equipment (it being understood that Provider shall not be responsible for, or have any obligation to verify, the contents of such devices).

Performance of these services will be available on a 24/7 basis. For the avoidance of doubt, the Basic Remote Hands Service is included as part of the Variable Hosting Rate and will not be subject to separate charges or invoices.

3.5 Advanced Remote Hands Service

The following activities, which require software or hardware changes requested by Customer (the “**Advanced Remote Hands Service**” and, together with the Basic Remote Hands Service, the “**Remote Hands Service**”), may be requested by Customer and provided by Provider on an “as-is” basis, subject to the prior mutual agreement of the Parties with a cost defined in Annex 1 and billed weekly.

- installation of applications or software on Customer Equipment;
- uploading of data to Customer Equipment;
- configuration of Customer Equipment operating system;
- hardware fault diagnosis;
- software fault diagnosis;
- rectification of problems caused by Customer Equipment or software;
- rectification of problems caused by Customer;
- cleaning of Customer Equipment;
- any service requiring the opening of the outer casing of any Customer Equipment; and
- providing support for customer installed IT security for the Facility, including the installation, maintenance and operation of a firewall and implementation and administration of an IT security policy to prevent unauthorized access, viruses, and ransomware; and
- monitoring and performing routine and as-required maintenance of the single phase liquid cooling units provided by Customer;
- managing the Customer-provided air filtration equipment;
- any other activity not expressly listed as a Related Service.

Performance of these services will be available on a 24/7 basis. Any particular Advanced Remote Hands Service that is commissioned by Customer and performed by Provider shall be deemed to be part of the “Services” under this Agreement. Customer hereby acknowledges that Provider makes no warranties of any kind in connection with the provision of the Advanced Remote Hands Services. Any software or firmware installed on any Hardware Unit as part of the Advanced Remote Hands Service must be pre-approved by Provider. Provider will install such software or firmware in accordance with Customer’s instructions, and Provider shall have no obligation to install any software or firmware without, or not in accordance with, Customer’s instructions. CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER’S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES. PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND ARISING OUT OF ANY APPLICATIONS, SOFTWARE, DATA, OR OTHER MATERIALS PROVIDED BY CUSTOMER, AND IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER’S NEGLIGENCE.

CUSTOMER HEREBY ACKNOWLEDGES THAT ADVANCED REMOTE HANDS SERVICE, INCLUDING ANY DISASSEMBLING OR OPENING OF THE OUTER CASING OF ANY CUSTOMER EQUIPMENT AND THE INSTALLATION OF ANY SOFTWARE OR FIRMWARE ON ANY HARDWARE UNIT, MAY VOID SOME OR ALL OF THE MANUFACTURER WARRANTIES RELATING TO SUCH HARDWARE UNIT (INCLUDING ANY SOFTWARE OR FIRMWARE INSTALLED THEREON). CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH, ANY SUCH VOIDED MANUFACTURER WARRANTIES ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES.

3.6 Engineering Services

The Engineering Services may be requested by Customer and provided by Provider on an “as-is” basis, subject to the prior mutual agreement of the Parties with a cost defined in Section 5. For the avoidance of doubt, Provider shall not be required to perform any Engineering Services unless and until (i) there is a written authorization executed by authorized representatives of each Party that sets forth the scope of the services and the charges to be paid therefor, and (ii) Customer has executed a written acknowledgement of and express agreement with respect to the increase to the Specified Power Draw that will be applicable for the then-remaining Term and the Deposit that is payable in respect thereof.

3.7 Service Orders

Customer shall place all orders for Remote Hands Service through the Hardware Control App. Such orders are placed by opening a Ticket specifying the relevant Hardware Unit, the requested action, and all other information requested by the Hardware Control App. All such Tickets shall be deemed to be orders for such services, and Customer shall be obligated to pay all fees arising out of Provider’s performance thereof.

Under certain circumstances the Hardware Control App has the ability to open Tickets automatically in response to certain performance characteristics and failure modes relating to the Customer Equipment, to the extent that such functionality is enabled by Customer. Any such Tickets that call for Basic Remote Hands Service shall be deemed to have been opened by the Customer, and be conclusive orders for such Basic Remote Hands Service. For the avoidance of doubt, the performance of this functionality under the Hardware Control App shall be governed by the Hardware Control EULA and not this Agreement.

4 Power Supply

4.1 Provider will make power available to and in connection with the Customer Area up to the amount of the then-applicable Specified Power Draw, subject to Sections 4.5 and 4.6.

- 4.2 Customer acknowledges that the Specified Power Draw will be allocated to the Customer Area for the power usage of the Customer Equipment, the evaporative cooling of the Customer Area, as well as any other components that may be installed in the Customer Area that require power, such as additional cooling, air filtration, and monitoring equipment (i.e., it is allocated to the collective requirements of all components in the Customer Area that draw power).
- 4.3 Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw. Provider has the right to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the evaporative cooling therefor) is, in the aggregate, reasonably likely to exceed the Specified Power Draw, or (ii) individual Hardware Units are reasonably likely to draw beyond the power usage per unit set forth in Section 1.
- 4.4 If a Ramp-Up Period is provided in Section 1, then for the applicable periods set forth therein the Specified Power Draw shall be deemed to be replaced with the values of the Temporary Power Draw.
- 4.5 Customer acknowledges that the power to the Facility is ultimately provided by third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by the Electric Reliability Council of Texas, Inc., and the Public Utility Commission of Texas (collectively, the "Power Regulations"). To the extent that the available power to the Facility is reduced pursuant to Power Regulations, and such reductions are not due to the wrongful actions of Provider, Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw; provided that in such case, Provider shall not treat Customer, in any respect, less favorably than any similarly situated Provider customer. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.
- 4.6 Customer hereby expressly consents to Provider's participation in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion. Customer acknowledges that any such participation may result in partial or complete reduction in power available to Customer from time to time, and that Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.
- 4.7 Customer acknowledges that Provider's right to participate in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion, forms an essential basis of the agreements set forth in this Agreement, and that, absent such right, the terms of this Agreement, including the Hosting Charges, would be substantially different.
- 4.8 Customer hereby expressly consents to the use of the Power Firmware in connection with the foregoing Demand Reduction Benefit Programs.

5 Access to the Facility; Data Center Rules

- 5.1 Customer Representatives may access the Customer Area of the Facility during Working Hours, in accordance with the Data Center Rules, for equipment inspections, installation, removal, additions, subtractions or physical maintenance or otherwise by prior appointment as mutually agreed. To obtain such access, Customer must provide prior notice to Provider in accordance with the Data Center Rules, and coordinate with Provider so that all such access may be escorted. Notwithstanding anything to the contrary, Provider shall have the right to remove any Customer Representative from the Facility premises in Provider's sole discretion, at any time, and without any liability to Customer or any Customer Representative.
- 5.2 Customer, and the Customer Representatives, shall comply with all Data Center Rules in connection with such access. Customer shall inform each applicable Customer Representative of the Data Center Rules prior to such Customer Representative accessing the Facility. Customer shall be liable for the acts and omissions

of all Customer Representatives who access, or attempt to access, the Facility, including for their violation of the Data Center Rules, at least to the same extent as if such acts and omissions were Customer's own.

6 Hosting and Service Charges; Payments; Deposit

6.1 Charges for Hosting Services

In consideration of Provider's performance of the Hosting Services, Customer shall pay Provider each of the following fees (the "Hosting Fees"):

Power Charges

Each month, the *greater of* (i) the Power Charge for the aggregate amount of power actually consumed (expressed in kWh) by all power-consuming devices in the Customer Area, and (ii) the Power Charge for the volume of power represented by the then-current Specified Power Draw (expressed in kWh).

The "Power Charge" in respect of a stated amount of power (expressed in kWh) shall be determined based on a per-kWh cost that is equal to the effective per-kWh cost of power to the Facility as a whole for the subject month (i.e., the Facility's wholesale power cost (including both supply and delivery charges, including any retail adders) *less* any credit amounts actually received by Provider under applicable ERCOT load response programs); provided, however, that in the event that such effective per-kWh cost exceeds \$[***], the Power Charge shall be determined using \$[***] as the assumed Facility per-kWh power cost.

The Hosting Services charge is inclusive of any and all value added taxes, sales, use, excise and other similar transactional taxes or duties.

Hosting Share Payment

An amount equal to approximately [***]% of customer EBITDA measured over a calendar-year basis. The precise "[***]% **Rev Share Payment**" which approximated customer EBITDA is defined in Annex 2.

6.2 Charges for Related Services, Advanced Remote Hands Services, and Engineering Services

Customer shall pay for Engineering Services as the Parties mutually agree, both as to scope thereof and the specific charges to be paid in respect thereof. As of the Effective Date, the Parties believe that such charges are likely to be approximately \$[***] USD per increase in committed megawatt, or \$[***] to \$[***] per [***]-megawatt phase. The preliminary planning of the Parties indicates as phased build-out to a total of [***] committed megawatts, as follows:

- Phase 1 Engineering Services for [***] MW - \$[***]
- Phase 2 Engineering Services for [***] MW - \$[***]
- Phase 3 Engineering Services for [***] MW - \$[***]
- Phase 4 Engineering Services for [***] MW - \$[***]
- Phase 5 Engineering Services for [***] MW - \$[***]

The Related Services and Advance Remote Hands Services shall be paid by Customer at the Service Rates, billed in [***] increments. The Service Rates are exclusive of any value added taxes, sales, use, excise and

other similar transactional taxes or duties. Customer will pay the value added tax and such other taxes referenced in the foregoing at the rate and in the manner prescribed by Applicable Law.

6.3 Deposit

Customer will pay to Provider as security for any obligations of Customer one or more security deposits (the "Deposits") in amounts that are equal to any deposit amounts or other similar payments providing security for Provider's obligations to the supplier under any Power Supply Contract, to the extent that such payment arises out of the Specified Power Draw or any increases thereto. Provider's obligation to provide the Specified Power Draw shall be excused during any period that Customer is in default of the obligations relating to the payment of Deposits.

Each Deposit will be paid to Provider on or before the date that such amounts are due under the Power Supply Contract and will be returned to Customer within [***] months following the end of the Term, unless used by Provider to set off claims against Customer.

Customer acknowledges that the Deposits do not need to be segregated from other funds of Provider and that, in particular, Provider is authorized to use the Deposits to make any deposit payments it is required to make with its power provider or other suppliers.

6.4 Invoicing; Payments

Customer shall pay Provider the Hosting Fee relating to Power Charges each month, no later than [***] Business Days after the end of such month. Customer shall pay Provider the Hosting Fee relating to the [***]% Rev Share Payment on a monthly, quarterly, or annually, with such payment interval to be selected by Customer, but provided, however, that in any case, payment shall be made within [***] Business Days following the closing of Customer's books for such period, but in any event no later than [***] calendar days following the end of such period.

No later than [***] Business Days after the end of each month during the Term, Provider will invoice Customer for any Related Services, Advanced Remote Hands Services, or any Engineering Services, plus any applicable taxes.

Customer shall make such payment within [***] Business Days following the date of such invoice.

If Customer should become delinquent in the payment of any invoice, Provider shall have the right thereafter to request pre-payments for Service Charges, charges for Advanced Remote Hands Services, or Engineering Services, at its reasonable discretion.

All Payments among the Parties will be made in United States Dollars by wire transfer of immediately available funds into the Provider Account or Customer Account, as applicable, unless agreed otherwise by the Parties.

6.5 No Off-Set

Customer shall not set-off any amount owed or alleged to be owed by Provider to Customer against any other payments due to Provider.

6.6 Change of Hosting Charges

In the event of changes in or the establishment of laws, regulations, orders or policies by Governmental Authorities, including any adverse change to any Demand Reduction Benefit Program (but excluding a wholesale power price increase to Provider), Provider shall have the right to make corresponding increases in the Hosting Fees and the Services Rate, upon written notice and mutual agreement by the Customer.. Any such change shall become effective upon the next billing cycle.

7 Suspension of Services

7.1 Provider may suspend the Services, in whole or in part, for any of the following reasons, and in each case to the extent required by or mandated in respect of such underlying reason:

- to conduct Maintenance;
- to prevent, mitigate, or cease damage to Customer Equipment, any portion of the Facility, Provider's systems (including equipment), or the equipment of other Provider customers;
- as required in connection with a Force Majeure Event;
- in response to a request under a Demand Reduction Benefit Program;
- to comply with an order, instruction, or request of any Governmental Authority;
- suspension caused by the acts or omissions of Customer, including as requested by Customer;
- in the event Customer fails to pay Provider any amounts owed and overdue within [***] Business Days of being notified that such payment is overdue; or
- the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2 Provider shall use commercially reasonable efforts to give prior notice, to the extent possible, to Customer before suspending the Services in whole, other than in situations where the suspension of Services occurs due to Scheduled Maintenance or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

7.3 During any suspension of Services pursuant to this Section, Customer's access through the Hardware Control App will be "read only", which will provide system status and other related information only, and Customer will not have the ability to open Tickets or control the Customer Hardware. In no event shall such inability be deemed to be a breach of this Agreement or of the Hardware Control EULA.

8 Service Level Agreement

For each month that Provider provides the Hosting Services to Customer, Provider will make commercially reasonable efforts to provide the Hosting Services with an Uptime of at least [***]% (the "Uptime Service Level").

For purposes of the determination of Uptime, the Hosting Services shall be considered to be "available" if power, cooling, and internet connectivity are available to the Customer Area (in accordance with the Data Center Specifications, and subject to the obligations and rights of Provider under this Agreement), independent of Customer's actual ability to operate the Customer Equipment for any particular purpose. Any unavailability caused by (i) Force Majeure Events, (ii) Scheduled Maintenance, (iii) Demand Reduction Benefit Programs, or (iv) other environmental factors (e.g., temperature or humidity), notwithstanding the Facility operating in accordance with the Data Center Specifications, will, in each case, not be considered unavailability for the purposes of calculating Uptime.

During any period of unavailability caused by any suspension of Services permitted by Section 6.1, other than any total suspension of the Hosting Services due to Unscheduled Maintenance, the Hosting Services shall be deemed to be available for purposes of calculating Uptime.

Customer's termination right set out in Section 17.1.4 of this Agreement shall be Customer's sole and exclusive remedy in connection with the occurrence of any Uptime Service Level defaults.

9 Customer Responsibilities

9.1 Use of Services

Customer's use of the Hosting Services shall at all times comply with the AUP. For the avoidance of doubt, Customer expressly acknowledge that the Facility has been purpose-built to support the physical requirements of devices that perform Bitcoin mining activities, and that such activities are the sole permitted use of the Hosting Services. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROVIDER SHALL NOT HAVE, AND THAT CUSTOMER HEREBY EXPRESSLY AND KNOWINGLY RELEASES AND WAIVES ANY CLAIMS FOR, ANY LIABILITY ARISING IN CONNECTION WITH CUSTOMER'S MINING ACTIVITIES, AND THAT ALL SUCH ACTIVITIES, INCLUDING BUT NOT LIMITED TO THE CHOICES RELATING TO MINING POOL PARTICIPATION, ARE AT CUSTOMER'S SOLE DISCRETION.

9.2 Designated Mining Pool

It is Customer's responsibility to determine and designate a Mining Pool for each Hardware Unit, and Customer is free to designate any Mining Pool, in its sole discretion. In no event shall Provider be obligated to designate any Mining Pool on Customer's behalf.

If Customer designates a Provider-sponsored private Mining Pool to be the Mining Pool, Customer acknowledges that Provider may receive remuneration in connection with the applicable Hardware Units' contribution to the mining conducted by such Provider-sponsored private Mining Pool.

Customer acknowledges that Provider may choose to operate its own or any other third party's cryptocurrency mining equipment in the Facility at any time during the Term.

9.3 Customer Equipment.

Customer shall be responsible for providing the Customer Equipment, and for causing it to arrive at Provider's loading dock at the Facility. All costs associated with the foregoing, including but not limited to shipping costs, hardware costs, software license costs, and import duties, shall be borne exclusively by Customer. In the event that Provider agrees to procure any such Customer Equipment on Customer's behalf and for the account of Customer, such procurement shall be governed by a separate written agreement between Customer and Provider.

Customer shall further be solely responsible for maintaining the Customer Equipment in operable condition by requesting Advanced Remote Hands Service in accordance with Section 3.7 (*Service Orders*) hereof. Customer acknowledges that Provider will not conduct maintenance of the Customer Equipment, except to the extent Provider agrees to Customers' requests for Advanced Remote Hands Service.

9.4 Hardware Control Software; Hardware Control App; Access

Customer hereby directs Provider to register each Hardware Unit in the Hardware Control Software and acknowledges that the Service Charges for Related Services and Remote Hands Service are based on the availability of the Hardware Control Software in relation to the Customer Equipment. For purposes of clarity, the Hardware Control Software is for purposes of management convenience only, and notwithstanding any information or analytics that may be or become available therein, at no point shall the Hosting Control Software be the system of record for purposes of determining the power consumption of Hardware Units, individually, or the Customer Equipment, in the aggregate. Further, Customer shall at all times maintain the ability to report to Provider through automated means, and for Provider to affirmatively query, in respect of each Hardware Unit (i) the designated Mining Pool, and (ii) the hash rate (current and cumulative over the applicable period) thereof.

9.5 Availability

Customer shall have a Customer Representative available for communication through the Hardware Control App at all times.

9.6 Insurance

Customer shall maintain insurance coverage consistent with prevailing industry practices, but in any event, during the Term of this Agreement, Customer shall insure and keep insured (i) the Customer Equipment against all manner of loss in an amount not less than the replacement cost of the Customer Equipment, including during shipping to or from the Facility and (ii) all Customer Representatives against their acts and omissions, injury, or death in connection with any visits to the Facility or this Agreement. Customer shall maintain such insurance coverage during the Term, but in no event starting later than the first delivery of such Customer Equipment and the first arrival of a Customer Representative at the Facility, respectively. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES, IN THE EVENT CUSTOMER DOES NOT OBTAIN SUCH INSURANCE COVERAGE, OR IN THE EVENT SUCH INSURANCE COVERAGE IS INSUFFICIENT TO COVER CUSTOMER'S LOSSES IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES.

9.7 Information; Know Your Customer

Customer will provide Provider with any information required under any laws and regulations or orders by any Governmental Authority, in particular, but not limited to, information required for so-called "know your customer" checks under laws and regulations for the prevention of money laundering and terrorism finance.

9.8 Compliance with Law

Customer is solely responsible for ensuring that its use of the Services and its operations in connection with this Agreement comply with all Applicable Law.

10 Ownership

10.1 Customer Equipment

The parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Provider claim ownership of any of the Customer Equipment.

10.2 Ownership of Generated Assets

The Parties acknowledge and agree that any generated digital assets, including but not limited to blockchains, hash and digital currencies, generated from the operation of the Customer Equipment, are the sole property of the Customer. The foregoing shall not impair in any way Customer's obligations to pay the Fees hereunder, including the Hosting Fees arising out of Customer EBITDA, or any claims that Provider may make in connection therewith.

10.3 Liens / Encumbrances

Provider shall not sell any mortgage, lien, or any kind of encumbrance on the Customer Equipment,

11 Provider's Warranties

11.1 Capacity

Provider represents and warrants, as of the date hereof and as of the RFU Date that Provider is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

11.2 Disclaimer

PROVIDER DOES NOT AND CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT GIVE ANY IMPLIED, EXPRESS OR STATUTORY WARRANTIES OR REPRESENTATIONS, INCLUDING ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT.

12 Customer's Representations

Customer represents and warrants, as of the date hereof and as of the RFU Date that:

12.1 Capacity

Customer is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

12.2 Customer Equipment

Unless specifically disclosed otherwise, Customer Equipment is owned by Customer and is free of any lien or other interest or encumbrance of any third-party. Customer Equipment, is free of any defects or Harmful Code which could cause any harm to the Facility or the systems, including equipment, of Provider or any other customer. The Customer Equipment does not, and its operation does not, infringe (or result from the misappropriation of) any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right, of a third party.

12.3 No judgment or governmental order

There is no judgment, decree or order by any Governmental Authority applicable to Customer, which limits Customer in pursuing Customer Purpose or otherwise restricts Customer in performing its obligations under this Agreement or the transactions contemplated thereunder.

12.4 Export Matters

Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and is not otherwise a person to whom Provider is legally prohibited to provide the Services. Customer shall not provide administrative access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations.

12.5 No Inducements

Neither Customer, any affiliate of Customer, nor any of its or their employees, officers, directors, or representatives acting on their behalf, have provided or offered, or will provide or offer, any illegal or improper bribe, kickback, payment, gift or anything of value (but excluding any reasonable and ordinary business entertainment or gifts of an unsubstantial value, that are customary in local business relationships and permitted by Applicable Law) to Provider, any affiliate of Provider, nor any of its or their employees, officers, directors, or representatives acting on their behalf, in each case in connection with this Agreement.

13 Exclusion and Limitation of Liability

- 13.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF ANY DATA (INCLUDING BITCOINS), REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY).
- 13.2 THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER FOR THE SERVICES IN THE [***] IMMEDIATELY PRECEDING THE EVENT(S) THAT FIRST GAVE RISE TO A CLAIM. PROVIDER SHALL NOT BE DEEMED TO BE A BAILEE IN RESPECT OF ANY CUSTOMER EQUIPMENT.
- 13.3 Notwithstanding anything in this agreement to the contrary, Provider's liability in connection with this Agreement for or arising from Provider's recklessness, gross negligence, fraud, or wilful misconduct shall be unlimited.
- 13.4 Notwithstanding anything in this Agreement to the contrary, Customer's liability in connection with this Agreement for or arising from : (i) Customer's recklessness, gross negligence, fraud, or wilful misconduct; (ii) damage to the Facility, Provider's systems (including equipment), or any equipment of Provider's other customers, suppliers, contractors or other third parties caused by Customer, any Customer Representative, or Customer Equipment; (iii) Customer's breach of any of its representations or warranties under this Agreement, or of its confidentiality or intellectual property obligations hereunder; (iv) Customer's indemnification obligations hereunder; or (v) Customer's breach of, or non-compliance with, the AUP or the Data Center Rules, shall, in each case, be unlimited in type and amount.

14 Force Majeure

A Party shall not be in breach of this Agreement and shall not be liable to the other Party for any loss or other damages suffered by reason of any failure or delay of such Party in the performance of its obligations hereunder due to a Force Majeure Event; provided that under no circumstances will a Force Majeure Event excuse any failure or delay in the performance of a Party's payment obligations hereunder.

If a Party becomes aware of circumstances in which a Force Majeure Event affects or will affect such Party's ability to perform any of its obligations hereunder, it shall notify the other Party in writing as soon as reasonably possible, specifying the nature of the Force Majeure Event and its effect on the performance of such Party's obligations hereunder.

15 Indemnity

Customer shall indemnify and hold harmless Provider, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "Provider Indemnified Parties") from and against any and all liabilities, obligations, losses, damages, allegations, claims, demands, suits, actions, deficiencies, penalties, charges, taxes, levies, fines, judgments, settlements, costs, expenses, interest, attorneys' fees and disbursements, and accountants' fees and disbursements (collectively, "Losses") or threatened Losses due to third-party claims arising out of or relating to any of the following: (i) Customer's breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, the Hardware Control EU LA, or any of Customer's representations or warranties under this Agreement; (ii) actual or alleged infringement or misappropriation of any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right related to Customer Equipment,

including any acquisition, provision, or use of Customer Equipment, or Customer's use of the Hosting Services; (iii) Customer Equipment, including all software and firmware thereon, or Provider's acquisition, provision, or use of Customer Equipment in accordance with this Agreement, except to the extent directly related to the Hardware Control App or Hardware Control Software; (iv) Customer's violation of Applicable Law; or (v) Customer's use of the Hosting Services.

Customer's obligations under this Section 15 include claims arising out of the acts or omissions of any Customer representative or Customer's users, any other person to whom Customer has given physical or virtual access to the Customer Equipment, and any person who gains access to the Customer Equipment or any of Provider's systems or Provider's other customers as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

If Provider receives notice of a claim that is covered by this Section 16, Provider shall promptly give Customer written notice thereof. Provider shall be allowed to conduct the defense of such claim at any time, including choosing legal counsel to defend such claim, provided that such choice is reasonable and is communicated to Customer in writing. Customer shall comply with Provider's reasonable requests for assistance and cooperation in the defense of such claim. Provider shall not settle the claim without Customer's written consent, which may not be unreasonably withheld, delayed or conditioned. Customer shall pay costs and expenses due under this Section 15 as Provider incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to Customer paying Provider such costs and expenses as Provider incurs them.

In the event Provider notifies Customer in writing that Provider does not desire to defend, or to continue to defend, such claim, Customer shall defend such claim using legal counsel of Customer's choice, provided that such choice is reasonable and is communicated to Provider in writing. Customer shall not settle the claim without Provider's written consent.

IT IS THE INTENTION OF THE PARTIES THAT CUSTOMER PROVIDE INDEMNIFICATION RIGHTS TO A PROVIDER INDEMNIFIED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT EVEN FOR THE CONSEQUENCES OF THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

16 Term

The term of this Agreement will commence on the Effective Date and will continue until the expiration or termination of this Agreement in accordance with its terms (the "Term"). The Term may include, as applicable, the period between the Effective Date and the RFU Date, the Initial Term, and any Renewal Terms.

The Initial Term will commence on the RFU Date and will continue for the length of time indicated in the Key Terms. Neither Party shall have the right to terminate this Agreement prior to the end of the Initial Term; [***].

If neither Party delivers Notice to the other Party at least [***] prior to the end of the Initial Term or then-current Renewal Term, then the Term shall be extended [***].

Notwithstanding the foregoing or anything to the contrary, in no event shall the Term extend beyond the term of Provider's lease to the Facility. Upon the expiration or termination of such lease, the Term, if still in effect, shall be automatically terminated. To the extent applicable, Provider shall provide Customer with Notice of such expiration or termination, and of the resulting termination of this Agreement (i) at least [***] prior to such termination of this Agreement or (ii) as soon as practicable after Provider becomes aware of such termination of this Agreement, whichever is later.

17 Termination; Removal of Customer Equipment

17.1 Termination Events

Other than at the end of the Term, the non-breaching Party may terminate this Agreement upon the occurrence of one of the following events (each a “Termination Event”), as may be applicable to such non-breaching Party:

17.1.1 Payment Default

If a Party fails to make a payment to the other Party owed under this Agreement when due, unless such default is remedied within [***] Business Days following the breaching Party’s receipt of notice by the non-breaching Party of such failure.

17.1.2 Insolvency

If a Party is unable to pay its financial obligations when due, becomes subject to insolvency proceedings, applies for or institutes insolvency proceedings or offers or makes an arrangement with its creditors generally, or if a third-party applies for insolvency proceedings against such Party and such proceedings are not stayed or discharged within [***], unless such proceeding is dismissed due to insufficiency of assets.

17.1.3 Material Breach

If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within [***] Business Days after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.

17.1.4 Service Level Defaults

If Provider suffers Service Level Defaults in [***], in respect of which the Uptime during each such month was less than [***].

17.2 Termination

Upon the occurrence of a Termination Event, the Party not having given rise to such Termination Event (the “Non-Defaulting Party”) may terminate this Agreement [***] as of the date set forth in a written notice thereof provided to the Defaulting Party.

17.3 Deinstallation and Removal of Customer Equipment

Customer (i) acknowledges that all Customer Equipment must be dismantled and removed from the Facility by the Termination Date and (ii) shall deliver to Provider (x) written shipping instructions for the Customer Equipment, (y) packaging materials suitable for the Customer Equipment, and (z) standard containers in which packaged Customer Equipment can be stored until it is shipped, in each case, in accordance with the following:

Within [***] Business Days from receiving a Notice of termination from Customer, or having issued a notice of termination to Customer, Provider shall provide Customer with a written estimate of the number of days required for Provider to deinstall and package the Customer Equipment for shipment to Customer, and of the date on which such work is expected to begin (the “Deinstallation Commencement Date”). Provider shall use commercially reasonable efforts to begin such work on or around the Deinstallation Commencement Date, and in any event within a reasonable number of days from the Termination Date. In no event shall Provider begin deinstallation of the Customer Equipment prior to the Deinstallation Commencement Date. The period

between the Deinstallation Commencement Date and the Termination Date is herein referred to as the “Phase-out Period.”

During the Phase-Out Period Provider will deinstall the Customer Equipment, package it in Customer-provided packaging materials, and ship it to Customer in accordance with Customer’s shipping instructions, all of which shall be at Customer’s expense (at the Service Rates for Provider’s work, and at the actual cost for all third party costs such as shipping). For the avoidance of doubt, all deinstallation must be performed by Provider, and Customer shall have no right to deinstall or remove Customer Equipment from the Facility.

During the Phase-out Period the Specified Power Draw will be adjusted downward on a straight-line basis, based on the assumption that an equal number of Hardware Units will be deinstalled on each Working Day during the Phase-out Period.

In the event Customer does not deliver the shipping instructions, packaging materials and containers to Provider in accordance with this Section 17.3, the deinstallation and removal of the Customer Equipment may be delayed beyond the Termination Date. To the extent such a delay occurs, all Hosting Charges shall be due and owing until such time as all Customer Equipment is deinstalled and removed from the Facility (for which Customer’s provision of such instructions, materials and containers is a condition precedent). Provider will use commercially reasonable efforts to deinstall, remove and pack the Customer Equipment without damage; provided, however, that CUSTOMER HEREBY AGREES THAT EXCEPT FOR CLAIMS BASED ON PROVIDER’S RECKLESSNESS, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION

WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM PROVIDER’S DEINSTALLATION, PACKAGING, AND SHIPMENT OF THE CUSTOMER EQUIPMENT.

At the request of the Customer, the Provider can dispose of the Customer Equipment for a fixed charge (the “Disposal Charge”). The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Provider will inform the Customer of the Disposal Charge upon request after a Notice of termination has been issued under this Agreement.

18 Confidentiality

- 18.1 The Parties agree that Confidential Information shall be used solely for the purpose for which it was furnished in connection with the performance of this Agreement and that they shall each hold confidential all Confidential Information and not disclose it to any third-parties, except that the Parties may disclose Confidential Information to their affiliates, to their auditors and legal advisors and to such Customer Representatives who need access to Confidential Information to perform their duties in connection with this Agreement. At the expiration of the Term, the Parties shall return any Confidential Information to the disclosing party or destroy such Confidential Information.
- 18.2 Any disclosure of Confidential Information permitted by Section 18.1 shall only be to the extent that any person who Confidential Information is provided to needs to know the same for the performance of their duties, and shall only be under the condition that such person acknowledges and agrees to be bound by, the confidentiality obligation under this Section.
- 18.3 The restrictions set out in Sections 18.1 and 18.2 above shall not apply to Confidential Information that:
 - 18.3.1 was previously known to the receiving Party, independent from any disclosure under or in connection with this Agreement and free from any obligation to keep confidential;

- 18.3.2 is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorised disclosure by the receiving Party or its representatives;
- 18.3.3 is shown to have been independently developed by the receiving Party;
- 18.3.4 the Parties agree in writing need not be kept confidential;
- 18.3.5 is required to be disclosed by law or regulation or by an order of any Governmental Authority.

In the case of Section 18.3.5, the receiving Party shall, to the extent legally and practically possible, inform the disclosing Party of the information to be disclosed and the timing and circumstances of such disclosure, providing the disclosing Party with an opportunity to avoid and limit any such disclosure.

19 Notices

Any Party can give notice under this Agreement (each a “Notice”) by sending an email or by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable email or mailing address listed below; provided that any Termination Notice, and any notice for breach, indemnification, or other legal matter, shall be given by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable mailing address listed below, sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address: Whinstone US Corporation
2721 Charles Martin Hall Road
Rockdale, Texas 76567, USA
email: [***]
Attention: [***]

To Customer:

Address: Rhodium JV LLC
[***]
[***], Texas [***]
email: [email address]
Attention: [representative]

Notices by email are deemed received as of the time sent, and notices by mail (and all notices required to be by mail) are deemed received as of the time delivered. If such time does not fall within a Business Day, as of the beginning of the first Business Day following such time. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices shall be given in the English language.

Either Party may change its notice addresses for future Notices by providing the other Party with Notice of such change.

20 Assignment; Subcontracting

This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of each Party hereto. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that either Party may assign this Agreement, in whole or in part, to an affiliate or successor or wholly-owned subsidiary of such Party as part of a corporate reorganization or a sale of some or all of its business; provided that the assigning Party notifies the other Party of such assignment in writing.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain responsible under this Agreement for work performed by its subcontractors and affiliates to the same extent as if Provider had performed such work itself.

21 Right of Publicity; Use of Marks

Customer agrees that Provider may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Provider name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services without first obtaining Provider's prior written approval of each such disclosure.

22 Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD.

NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

23 Miscellaneous

23.1 Survival

The following provisions shall survive termination or expiration of this Agreement: Confidential Information, Indemnification, Limitation on Damages, Notice, Governing Law / Arbitration, Miscellaneous, all provisions requiring Customer to pay any amounts (i) owed for Services provided under this Agreement prior to the Termination Date or otherwise (ii) otherwise owed by Customer hereunder, and any other provisions of this Agreement that, by their nature, would continue beyond termination or expiration of this Agreement.

23.2 No Lease

This Agreement does not create any real property interest for Customer in the Customer Area or the Facility, and Customer shall not, shall not attempt to, and shall not encourage any third party to file or otherwise create any liens or other property interest or liability on the Facility or any portion thereof.

23.3 Independent Contractor

Each Party is an independent contractor to the other Party in connection with this Agreement, and personnel used or supplied by a Party in the performance of this Agreement shall be and remain employees or agents of such Party and under no circumstances shall be considered employees or agents of the other Party. Each Party shall have the sole responsibility for supervision and control of its personnel. Except with to the extent Provider purchases Hardware Units on Customer's behalf in accordance with this Agreement, Neither Party is an agent for the other Party, and neither Party has the right to bind the other Party in connection with any agreement with a third party.

23.4 No Third Party Beneficiaries

This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns. Nothing herein, express or implied, shall confer, or shall be construed to confer, any rights or benefits in or to any other person.

23.5 Remedies

The rights and remedies of either Party under this Agreement shall be cumulative and not exclusive or alternative.

23.6 Waiver

No failure or delay by either Party in requiring strict performance of any provision of this Agreement, no previous waiver or forbearance of the provisions of this Agreement by either Party, and no course of dealing between the Parties will in any way be construed as a waiver or continuing waiver of any provision of this Agreement.

23.7 Severability

In the event any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be enforced to the maximum extent possible under law and will, to the extent possible, be replaced by such enforceable provision most closely mirroring the Parties' intentions. All other provisions of this Agreement will remain unaffected by such invalidity or unenforceability and will remain in full force and effect. The Parties acknowledge and agree that the pricing and other terms in this Agreement reflect, and are based upon, the intended allocation of risk between the Parties and form an essential part of this Agreement.

23.8 Conflict

To the extent there is a conflict between or among the terms of this Agreement, the AUP, the Data Center Rules, and the Hardware Control EULA, the following shall be the order of precedence: (i) AUP; (ii) Hardware Control EULA; (iii) Agreement; (iv) Data Center Rules.

23.9 Interpretation

The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party. The words "include," "includes," and "including" (or similar terms) shall be deemed to be followed by the words "without limitation." The captions, titles, and section headings are for convenience only and are not intended to aid or otherwise affect the interpretation of this Agreement. The words "written" or "in writing" are used for emphasis in certain circumstances and shall not reduce or eliminate the notice requirements set forth in this Agreement. The use of a term defined herein in its plural form includes the singular and vice versa. The terms defined herein shall be inclusive of all tenses. All references to "days" shall be deemed to refer to calendar days, except as expressly stated otherwise.

23.10 Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

The Key Terms and Services may be amended to modify, add, or remove Key Terms and Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of Customer's purchase order or business form, or other standard or pre-printed terms that

Customer provides, be of any force or effect as between the Parties.

23.11 Counterparts

This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed counterparts or the exchange electronic transmissions of executed counterparts.

[Signature Page Follows.]

[***], December 31, 2020

/s/ Chad Everett Harris
Whinstone US, INC

/s/ Cameron Blackmon
RHODIUM JV LLC

By: Cameron Blackmon

Title: Manager

Annex 1

Services Rates

[***]

Annex 2

[*]% Rev Share Payment**

[***]

Exhibit B

SPECIFIC TERMS IN THIS EXHIBIT HAVE BEEN REDACTED BECAUSE SUCH TERMS ARE BOTH NOT MATERIAL AND ARE THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. THESE REDACTED TERMS HAVE BEEN MARKED IN THIS EXHIBIT WITH THREE ASTERISKS [*].**

Hosting Agreement

This Hosting Agreement (this “**Agreement**”) is made as of **December 31, 2020** (the “**Effective Date**”) between **Whinstone US, Inc.**, a corporation organized and existing under the laws of the state of Delaware, having its principal office at 2721 Charles Martin Hall Road, Rockdale, Texas 76567, USA (“**Provider**”), and AIR HPC LLC, a limited liability company organized and existing under the laws of Delaware, having its principal office at [***], Texas [***] (“**Customer**”). Provider and Customer are hereinafter together referred to as the “**Parties**” and each as a “**Party.**”

WHEREAS, Provider operates a hosting data center facility the primary business purposes of which is to make the facilities (e.g., power, cooling, and Internet connectivity) necessary to support high volumes of cryptocurrency mining devices available to customers that have, or desire to obtain, such devices, and are seeking an off-premises location to store and operate such devices;

WHEREAS, Customer currently owns or desires to procure dedicated Bitcoin mining devices, and desires to install such devices in a facility at which Customer may manage and operate such devices remotely;

WHEREAS, Provider is willing to provide such hosting services to Customer, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1 Key Terms

1.1 The table below sets forth a summary of the principal terms of the hosting arrangement under this Agreement (the “**Key Terms**”). Each of the terms in the leftmost column of this table will have the meaning set forth in the respective row(s) in the column(s) to the right.

| | | |
|---------------------------|--|------|
| Target Ready-for-Use Date | December 31, 2020 | |
| Initial Term Length | [***] | |
| Customer Equipment | (To be specified in writing by Customer and document here) | |
| | Unit type: | TH/s |
| | Number of units: | W/GH |
| | Hash rate per unit*: | |
| | Power usage per unit*: | |
| | Hardware Unit | |
| | Unit type: | TH/s |
| | Number of units: | W/GH |
| | Hash rate per unit: Power usage per unit: | |
| Specified Power Draw | Up to [***] MW | |
| Hosting Fees | As defined in Section 6.1 of this Agreement | |
| Provider Account | | |
| Customer Account | — | |

*The “hash rate per unit” and “power usage per unit” values (i) are estimates included for reference purposes only, (ii) do not constitute a service level, guarantee, or other obligation of Provider, (iii) may vary

significantly from time to time and from the estimated values, and (iv) have no impact on pricing or amounts owed under the Agreement.

2. **2 Definitions**

2.1 Defined Terms

The terms listed below, when used in this Agreement, shall have the following meaning

“**Advanced Remote Hands Service**” is defined in Section 3.4.

“**Applicable Law**” means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, interpretation, writ, judgment, injunction, license, or permit, issued or enacted by any Governmental Authority, which is applicable to a Party under this Agreement, including securities laws, tax laws, tariff and trade laws, and data laws.

“**AUP**” or “**Acceptable Usage Policy**” means Provider’s then-current acceptable use policy, which may be referenced at www.whinstone.us.

“**Basic Remote Hands Service**” is defined in Section 3.3.

“**Building Unit**” means each separate building within the Facility.

“**Business Day**” means a day which is not a Saturday, Sunday or a public holiday in Texas.

“**Confidential Information**” means the terms of this Agreement and all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of this Agreement and which is identified as confidential or is clearly by its nature confidential including information relating to this Agreement or the Services, data used or generated in the provision of the Services, or any of Customer’s products, operations, processes, plans or intentions, know-how, trade secrets, market opportunities, customers and business affairs.

“**Connection**” means the connection between Customer Equipment and the internet.

“**Customer**” is defined in the preamble to this Agreement.

“**Customer Area**” means the part of the Facility that is designated for the installation of the Customer Equipment.

“**Customer Equipment**” means the hardware equipment (including required PDUs) that is provided by Customer and installed in the Customer Area, including all software and firmware on such equipment other than any software and firmware owned or licensed by Provider.

“**Customer Representative**” means any officer, employee, agent, sub-contractor or other person identified by Customer as acting on Customer’s behalf.

“**Data Center Rules**” means the then-current rules and procedures relating to physical access to the Facility.

“**Data Center Specifications**” is defined in Section 3.1.

“**Defaulting Party**” is defined in Section 17.1.

“**Deinstallation Commencement Date**” is defined in Section 17.3.

“Demand Reduction Benefit Program” means any scheme initiated by a power supplier, power network supplier or other third party in the power market area managed by the Electric Reliability Council of Texas, under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage.

“Deposit” is defined in Section 6.3.

“Disposal Charge” is defined in Section 17.3.

“Engineering Services” means services relating to Facilities engineering in connection with Customer’s increase in power consumption requirements and the related increases in Customer Equipment associated therewith.

“Facility” means the data center operated by Provider at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

“Force Majeure Event” means any event beyond the reasonable control of a Party, including, without limitation, war, civil war, armed conflict or acts of terrorism or a public enemy or other catastrophes, riot, civil commotion, malicious damage, compliance with any law, regulation, rule, or any act, order, direction, or ruling of a Governmental Authority coming into force after the date of this Agreement, tornado, hurricane, severe storms, earthquake, lightning, fire, flood or other natural or environmental disaster, temperature and humidity above the cooling capabilities of the Facility, epidemic, quarantine, pressure waves caused by devices traveling at supersonic speeds, nuclear accident, acts of God, failure of a part of the power grid or related substation failure of the Internet, failure or delay in the performance of Provider’s third-party suppliers or of other third-party suppliers, including the supplier under the Power Supply Contract, and strikes, slowdowns, lockouts or other labor stoppages.

“Governmental Authority” means any domestic or foreign, supra-national, national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, taxing authority, agency (public or otherwise), or governmental entity or quasi-governmental entity (including any subdivision thereof), in each case anywhere in the world, having competent jurisdiction over a Party.

“Hardware Control App” means the application that is made available by Provider to permit Customer to manage the Customer Equipment.

“Hardware Control Software” means the software which enables management of the Customer Equipment by Customer and Provider via the Hardware Control App.

“Hardware Control EULA” is defined in Section 3.2.

“Hardware Unit” means each individual unit of Customer Equipment bearing a separate identification code.

“Harmful Code” means any software, hardware or other technologies, devices, or means, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, (i) any computer, software, firmware, hardware, system (including equipment) or network, (ii) the Facility or portion thereof or (iii) any application or function of any of the foregoing or the integrity, use, or operation of any data processed thereby, and, in each case, includes any virus, malware, bug, Trojan horse, worm, backdoor, or other malicious computer code and any time bomb or drop-dead device.

“Hosting Services” is defined in Section 3.1.

“Maintenance” means any activity performed by Provider in order to maintain, upgrade or improve the Services, including any modification, change, addition, or replacement of any Provider hardware, or any part of, or machinery or other components of, the Facility.

“**Minimum Hosting Charge**” is defined in Section 6.1.

“**Mining Pool**” means the group of Bitcoin miners to which Customer determines to contribute the processing power of any particular piece of Customer Equipment in order to collaborate in finding new Bitcoin blocks.

“**Non-Defaulting Party**” is defined in Section 17.2.

“**Notice**” is defined in Section 19.

“**Parties**” is defined in the preamble to this Agreement.

“**PDU**” means power distribution unit.

“**Phase-out Period**” is defined in Section 17.3.

“**power**” means electric power.

“**Power Firmware**” means firmware that is made available by a third party, and that may be required in order to enable certain advanced power management functions. In all cases, the Power Firmware is licensed by the third party to Customer and is installed on the Customer Equipment by Provider only at the express direction of Customer.

“**Power Supply Contract**” means Provider’s agreements with third parties related to the provision of power to the Facility.

“**Provider**” is defined in the preamble to this Agreement.

“**Racks**” means the racks provided by Provider and configured for installation of the particular Customer Equipment.

“**Related Services**” is defined in Section 3.2.

“**Remote Hands Service**” is defined in Section 3.5.

“**RFU Date**” or “**Ready-for-Use Date**” means December 31, 2020.

“**Scheduled Maintenance**” means any Maintenance activities for which Provider notified Customer at least 3 days in advance, which notice may be given by publication on the Hardware Control App.

“**Service Rates**” means Provider’s then-current rates for Related Services and Advanced Remote Hands Services, as set forth in Annex 1.

“**Service Charges**” means amounts owed by Customer in connection with the Services.

“**Service Level Default**” is defined in Section 8.

“**Service Level Credit**” is defined in Section 8.

“**Services**” is defined in Section 3.2.

“**Specified Power Draw**” means the amount of power that is to be made available to Customer as part of the Hosting Services, as the same may be increased as provided in Sections 3.6 and 6.2.

“**Term**” is defined in Section 16.

“**Termination Date**” means the date this Agreement terminates or expires.

“**Termination Event**” is defined in Section 17.1.

“**Ticket**” means an electronic request for service generated in the Hardware Control App.

“**Unscheduled Maintenance**” means Maintenance that is not Scheduled Maintenance.

“**Uptime**” means the amount of time in the applicable month that the Hosting Services are available to Customer, as determined in accordance with Section 8.

“**Uptime Service Level**” is defined in Section 8.

“**Working Hours**” means the hours from 8:00 a.m. to 5:00 p.m., Central Time, on a Business Day.

3 Provider’s Services

3.1 Facility

All Services are provided within the Facility, which is designed to meet the following specifications (the “**Data Center Specifications**”):

- power supply up to the Specified Power Draw;
- transforming equipment;
- evaporative cooling;
- limited air filtration; and
- internet connectivity.

it being understood that each of the foregoing is made available to the Customer Area on a shared, non-exclusive and non-redundant basis.

Within the Facility, Provider does not guaranty that the Customer Area will be contiguous. The Customer Area may spread over several Building Units, and is not physically separated from areas in the Facility in which the equipment of other customers is hosted. Provider has the right to change the location of the Customer Area within the Facility and to relocate Customer Equipment, subject to the maintenance and service level obligations set forth in this Agreement.

3.2 Services

Provider shall provide Customer with the Hosting Services and the Related Services (together the “**Services**”) during the Term.

The “**Hosting Services**” consist of:

- providing the Customer Area in accordance with the Data Center Specifications;
- providing Racks in the Customer Area;
- hosting the provided Customer Equipment in the Racks;

- hosting the Customer-provided PDUs installed in the Racks, as may be required by the particular Customer Equipment;
- making available the Hardware Control Software and Hardware Control App (it being understood that these components are subject to a separate license agreement (the “**Hardware Control EULA**”), but for which no separate license fee is payable);
- monitoring the fire detection and alarm system provided by Customer
- providing monthly reports to the Customer that will contain a summary of monthly power draw in the Customer Area as measured from power consumption meters; and
- providing basic physical security and physical access control for the Facility.

The “**Related Services**” consist of

- installation of Customer Equipment (as more particularly described in Section 3.3);
- the Basic Remote Hands Service (as more particularly described in Section 3.4); and
- deinstallation of Customer Equipment.

For the avoidance of doubt, the Related Services are not optional, and the Customer’s receipt of and payment for the Related Services is a requirement for hosting the Customer Equipment in the Facility.

3.3 Installation

Customer agrees to pay hourly for installation services as defined in Annex 1 and includes, as it relates to the Customer Equipment, PDUs, and any other Customer-provided materials (e.g., the fire detection and alarm system, specific air filtration equipment, single phase liquid cooling units, etc.):

- unpacking;
- labelling;
- positioning in the Racks;
- installation and management of cables (power and LAN connection);
- inventorization and inventory management;
- installation of the Hardware Control Software and Power Firmware, if applicable;
- initial setting;
- disposal of packing materials; and
- installation of any Customer-provided fencing or other physical security devices that are agreed by the Parties

Installation does not include the provision or installation of any software other than the Hardware Control Software. In certain cases, a particular Hardware Unit may require an update to its firmware (as determined and designated by the manufacturer thereof). In such case, Provider will apply such firmware update in accordance with the instructions provided by such manufacturer. CUSTOMER HEREBY AGREES THAT

PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE OR FIRMWARE INSTALLED THEREON, OR ANY MANUFACTURER WARRANTY RIGHTS RELATING THERETO (INCLUDING ANY VOIDED WARRANTIES) ARISING OUT OF OR RESULTING FROM THE APPLICATION OF ANY SUCH MANUFACTURER-PROVIDED FIRMWARE UPDATE OR THE POWER FIRMWARE. IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER'S NEGLIGENCE.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer-designated Mining Pool. If Customer has not designated a Mining Pool, installation will be deemed complete when the applicable Hardware Unit powers up without fault (it being understood that in no event will Provider be required or requested to select a Mining Pool on Customer's behalf). In the case of faulty Hardware Units, installation is completed when Provider diagnoses the fault and provides a report to Customer.

Except as may otherwise be determined by Provider in its sole discretion, Customer shall not have any rights to install, uninstall, or otherwise physically access any Hardware Units in the Facility.

3.4 Basic Remote Hands Service

The basic Remote Hands Service (the "**Basic Remote Hands Service**") consists of the following tasks, as applicable, which will be performed by Provider based on the specific instructions of Customer with a cost defined in Annex 1 and billed weekly.

- pushing a button;
- switching a toggle;
- turning on/off of Customer Equipment;
- switching back on any breakers that have tripped during the 8am to 8pm CT time period;
- securing cabling connections;
- observing, describing and/or reporting of indicator lights or display information on machines or consoles;
- cable organization;
- modifying basic cable layout, labelling and/or re-labelling of Customer Equipment;
- cable patching;
- checking alarms for faults; and/or
- inserting/removing discs or equivalent storage devices provided by Customer into/from the Customer Equipment (it being understood that Provider shall not be responsible for, or have any obligation to verify, the contents of such devices).

Performance of these services will be available on a 24/7 basis. For the avoidance of doubt, the Basic Remote Hands Service is included as part of the Variable Hosting Rate and will not be subject to separate charges or invoices.

3.5 Advanced Remote Hands Service

The following activities, which require software or hardware changes requested by Customer (the “**Advanced Remote Hands Service**” and, together with the Basic Remote Hands Service, the “**Remote Hands Service**”), may be requested by Customer and provided by Provider on an “as-is” basis, subject to the prior mutual agreement of the Parties with a cost defined in Annex 1 and billed weekly.

- installation of applications or software on Customer Equipment;
- uploading of data to Customer Equipment;
- configuration of Customer Equipment operating system;
- hardware fault diagnosis;
- software fault diagnosis;
- rectification of problems caused by Customer Equipment or software;
- rectification of problems caused by Customer;
- cleaning of Customer Equipment;
- any service requiring the opening of the outer casing of any Customer Equipment; and
- providing support for customer installed IT security for the Facility, including the installation, maintenance and operation of a firewall and implementation and administration of an IT security policy to prevent unauthorized access, viruses, and ransomware; and
- monitoring and performing routine and as-required maintenance of the single phase liquid cooling units provided by Customer;
- managing the Customer-provided air filtration equipment;
- any other activity not expressly listed as a Related Service.

Performance of these services will be available on a 24/7 basis. Any particular Advanced Remote Hands Service that is commissioned by Customer and performed by Provider shall be deemed to be part of the “Services” under this Agreement. Customer hereby acknowledges that Provider makes no warranties of any kind in connection with the provision of the Advanced Remote Hands Services. Any software or firmware installed on any Hardware Unit as part of the Advanced Remote Hands Service must be pre-approved by Provider. Provider will install such software or firmware in accordance with Customer’s instructions, and Provider shall have no obligation to install any software or firmware without, or not in accordance with, Customer’s instructions. CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER’S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES. PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND ARISING OUT OF ANY APPLICATIONS, SOFTWARE, DATA, OR OTHER MATERIALS PROVIDED BY CUSTOMER, AND IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE FOREGOING APPLY EVEN IN RESPECT OF PROVIDER’S NEGLIGENCE.

CUSTOMER HEREBY ACKNOWLEDGES THAT ADVANCED REMOTE HANDS SERVICE, INCLUDING ANY DISASSEMBLING OR OPENING OF THE OUTER CASING OF ANY CUSTOMER

EQUIPMENT AND THE INSTALLATION OF ANY SOFTWARE OR FIRMWARE ON ANY HARDWARE UNIT, MAY VOID SOME OR ALL OF THE MANUFACTURER WARRANTIES RELATING TO SUCH HARDWARE UNIT (INCLUDING ANY SOFTWARE OR FIRMWARE INSTALLED THEREON). CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH, ANY SUCH VOIDED MANUFACTURER WARRANTIES ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF ADVANCED REMOTE HANDS SERVICES.

3.6 Engineering Services

The Engineering Services may be requested by Customer and provided by Provider on an “as-is” basis, subject to the prior mutual agreement of the Parties with a cost defined in Section 5. For the avoidance of doubt, Provider shall not be required to perform any Engineering Services unless and until (i) there is a written authorization executed by authorized representatives of each Party that sets forth the scope of the services and the charges to be paid therefor, and (ii) Customer has executed a written acknowledgement of and express agreement with respect to the increase to the Specified Power Draw that will be applicable for the then-remaining Term and the Deposit that is payable in respect thereof.

3.7 Service Orders

Customer shall place all orders for Remote Hands Service through the Hardware Control App. Such orders are placed by opening a Ticket specifying the relevant Hardware Unit, the requested action, and all other information requested by the Hardware Control App. All such Tickets shall be deemed to be orders for such services, and Customer shall be obligated to pay all fees arising out of Provider’s performance thereof.

Under certain circumstances the Hardware Control App has the ability to open Tickets automatically in response to certain performance characteristics and failure modes relating to the Customer Equipment, to the extent that such functionality is enabled by Customer. Any such Tickets that call for Basic Remote Hands Service shall be deemed to have been opened by the Customer, and be conclusive orders for such Basic Remote Hands Service. For the avoidance of doubt, the performance of this functionality under the Hardware Control App shall be governed by the Hardware Control EULA and not this Agreement.

4 Power Supply

4.1 Provider will make power available to and in connection with the Customer Area up to the amount of the then-applicable Specified Power Draw, subject to Sections 4.5 and 4.6.

4.2 Customer acknowledges that the Specified Power Draw will be allocated to the Customer Area for the power usage of the Customer Equipment, the evaporative cooling of the Customer Area, as well as any other components that may be installed in the Customer Area that require power, such as additional cooling, air filtration, and monitoring equipment (i.e., it is allocated to the collective requirements of all components in the Customer Area that draw power).

4.3 Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw. Provider has the right to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the evaporative cooling therefor) is, in the aggregate, reasonably likely to exceed the Specified Power Draw, or (ii) individual Hardware Units are reasonably likely to draw beyond the power usage per unit set forth in Section 1.

4.4 If a Ramp-Up Period is provided in Section 1, then for the applicable periods set forth therein the Specified Power Draw shall be deemed to be replaced with the values of the Temporary Power Draw.

4.5 Customer acknowledges that the power to the Facility is ultimately provided by third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by the Electric Reliability Council of Texas, Inc., and the Public Utility Commission of Texas

(collectively, the “**Power Regulations**”). To the extent that the available power to the Facility is reduced pursuant to Power Regulations, and such reductions are not due to the wrongful actions of Provider, Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw; provided that in such case, Provider shall not treat Customer, in any respect, less favorably than any similarly situated Provider customer. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.

- 4.6 Customer hereby expressly consents to Provider’s participation in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion. Customer acknowledges that any such participation may result in partial or complete reduction in power available to Customer from time to time, and that Provider may reduce the power available to Customer to an amount that is less than the Specified Power Draw. Any such reductions, and any unavailability of the Hosting Services arising out of such reductions, shall not be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level.
- 4.7 Customer acknowledges that Provider’s right to participate in any Demand Reduction Benefit Programs, as determined by Provider in its sole discretion, forms an essential basis of the agreements set forth in this Agreement, and that, absent such right, the terms of this Agreement, including the Hosting Charges, would be substantially different.
- 4.8 Customer hereby expressly consents to the use of the Power Firmware in connection with the foregoing Demand Reduction Benefit Programs.

5 Access to the Facility; Data Center Rules

- 5.1 Customer Representatives may access the Customer Area of the Facility during Working Hours, in accordance with the Data Center Rules, for equipment inspections, installation, removal, additions, subtractions or physical maintenance or otherwise by prior appointment as mutually agreed. To obtain such access, Customer must provide prior notice to Provider in accordance with the Data Center Rules, and coordinate with Provider so that all such access may be escorted. Notwithstanding anything to the contrary, Provider shall have the right to remove any Customer Representative from the Facility premises in Provider’s sole discretion, at any time, and without any liability to Customer or any Customer Representative.
- 5.2 Customer, and the Customer Representatives, shall comply with all Data Center Rules in connection with such access. Customer shall inform each applicable Customer Representative of the Data Center Rules prior to such Customer Representative accessing the Facility. Customer shall be liable for the acts and omissions of all Customer Representatives who access, or attempt to access, the Facility, including for their violation of the Data Center Rules, at least to the same extent as if such acts and omissions were Customer’s own.

6 Hosting and Service Charges; Payments; Deposit

- 6.1 Charges for Hosting Services

In consideration of Provider’s performance of the Hosting Services, Customer shall pay Provider each of the following fees (the “**Hosting Fees**”):

Power Charges

Each month, the *greater of* (i) the Power Charge for the aggregate amount of power actually consumed (expressed in kWh) by all power-consuming devices in the Customer Area, and (ii) the Power Charge for the volume of power represented by the then-current Specified Power Draw (expressed in kWh).

The “Power Charge” in respect of a stated amount of power (expressed in kWh) shall be determined based on a per-kWh cost that is equal to the effective per-kWh cost of power to the Facility as a whole for the subject month (i.e., the Facility’s wholesale power cost (including both supply and delivery charges,

including any retail adders) *less* any credit amounts actually received by Provider under applicable ERCOT load response programs); provided, however, that in the event that such effective per-kWh cost exceeds \$[***], the Power Charge shall be determined using \$[***] as the assumed Facility per-kWh power cost.

The Hosting Services charge is inclusive of any and all value added taxes, sales, use, excise and other similar transactional taxes or duties.

Hosting Share Payment

An amount equal to approximately [***]% of customer EBITDA measured over a calendar- year basis. The precise “[***]% Rev Share Payment” which approximated customer EBITDA is defined in Annex 2.

6.2 Charges for Related Services, Advanced Remote Hands Services, and Engineering Services

Customer shall pay for Engineering Services as the Parties mutually agree, both as to scope thereof and the specific charges to be paid in respect thereof. As of the Effective Date, the Parties believe that such charges are likely to be approximately \$[***] USD per increase in committed megawatt, or \$[***] to \$[***] per [***]-megawatt phase. The preliminary planning of the Parties indicates as phased build-out to a total of [***] committed megawatts, as follows:

- Phase 1 Engineering Services for [***] MW - \$[***]
- Phase 2 Engineering Services for [***] MW - \$[***]
- Phase 3 Engineering Services for [***] MW - \$[***]
- Phase 4 Engineering Services for [***] MW - \$[***]
- Phase 5 Engineering Services for [***] MW - \$[***]

The Related Services and Advance Remote Hands Services shall be paid by Customer at the Service Rates, billed in [***] increments. The Service Rates are exclusive of any value added taxes, sales, use, excise and other similar transactional taxes or duties. Customer will pay the value added tax and such other taxes referenced in the foregoing at the rate and in the manner prescribed by Applicable Law.

6.3 Deposit

Customer will pay to Provider as security for any obligations of Customer one or more security deposits (the “Deposits”) in amounts that are equal to any deposit amounts or other similar payments providing security for Provider’s obligations to the supplier under any Power Supply Contract, to the extent that such payment arises out of the Specified Power Draw or any increases thereto. Provider’s obligation to provide the Specified Power Draw shall be excused during any period that Customer is in default of the obligations relating to the payment of Deposits.

Each Deposit will be paid to Provider on or before the date that such amounts are due under the Power Supply Contract and will be returned to Customer within six (6) months following the end of the Term, unless used by Provider to set off claims against Customer.

Customer acknowledges that the Deposits do not need to be segregated from other funds of Provider and that, in particular, Provider is authorized to use the Deposits to make any deposit payments it is required to make with its power provider or other suppliers.

6.4 Invoicing; Payments

Customer shall pay Provider the Hosting Fee relating to Power Charges each month, no later than [***] Business Days after the end of such month. Customer shall pay Provider the Hosting Fee relating to the [***]% Rev Share Payment on a monthly, quarterly, or annually, with such payment interval to be selected by Customer, but provided, however, that in any case, payment shall be made within [***] Business Days following the closing of Customer's books for such period, but in any event no later than [***] calendar days following the end of such period.

No later than [***] Business Days after the end of each month during the Term, Provider will invoice Customer for any Related Services, Advanced Remote Hands Services, or any Engineering Services, plus any applicable taxes.

Customer shall make such payment within [***] Business Days following the date of such invoice.

If Customer should become delinquent in the payment of any invoice, Provider shall have the right thereafter to request pre-payments for Service Charges, charges for Advanced Remote Hands Services, or Engineering Services, at its reasonable discretion.

All Payments among the Parties will be made in United States Dollars by wire transfer of immediately available funds into the Provider Account or Customer Account, as applicable, unless agreed otherwise by the Parties.

6.5 No Off-Set

Customer shall not set-off any amount owed or alleged to be owed by Provider to Customer against any other payments due to Provider.

6.6 Change of Hosting Charges

In the event of changes in or the establishment of laws, regulations, orders or policies by Governmental Authorities, including any adverse change to any Demand Reduction Benefit Program (but excluding a wholesale power price increase to Provider), Provider shall have the right to make corresponding increases in the Hosting Fees and the Services Rate, upon written notice and mutual agreement by the Customer.. Any such change shall become effective upon the next billing cycle.

7 Suspension of Services

7.1 Provider may suspend the Services, in whole or in part, for any of the following reasons, and in each case to the extent required by or mandated in respect of such underlying reason:

- to conduct Maintenance;
- to prevent, mitigate, or cease damage to Customer Equipment, any portion of the Facility, Provider's systems (including equipment), or the equipment of other Provider customers;
- as required in connection with a Force Majeure Event;
- in response to a request under a Demand Reduction Benefit Program;
- to comply with an order, instruction, or request of any Governmental Authority;
- suspension caused by the acts or omissions of Customer, including as requested by Customer;
- in the event Customer fails to pay Provider any amounts owed and overdue within [***] Business Days of being notified that such payment is overdue; or

- the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2 Provider shall use commercially reasonable efforts to give prior notice, to the extent possible, to Customer before suspending the Services in whole, other than in situations where the suspension of Services occurs due to Scheduled Maintenance or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

7.3 During any suspension of Services pursuant to this Section, Customer's access through the Hardware Control App will be "read only", which will provide system status and other related information only, and Customer will not have the ability to open Tickets or control the Customer Hardware. In no event shall such inability be deemed to be a breach of this Agreement or of the Hardware Control EULA.

8 Service Level Agreement

For each month that Provider provides the Hosting Services to Customer, Provider will make commercially reasonable efforts to provide the Hosting Services with an Uptime of at least [***]% (the "Uptime Service Level").

For purposes of the determination of Uptime, the Hosting Services shall be considered to be "available" if power, cooling, and internet connectivity are available to the Customer Area (in accordance with the Data Center Specifications, and subject to the obligations and rights of Provider under this Agreement), independent of Customer's actual ability to operate the Customer Equipment for any particular purpose. Any unavailability caused by (i) Force Majeure Events, (ii) Scheduled Maintenance, (iii) Demand Reduction Benefit Programs, or (iv) other environmental factors (e.g., temperature or humidity), notwithstanding the Facility operating in accordance with the Data Center Specifications, will, in each case, not be considered unavailability for the purposes of calculating Uptime.

During any period of unavailability caused by any suspension of Services permitted by Section 6.1, other than any total suspension of the Hosting Services due to Unscheduled Maintenance, the Hosting Services shall be deemed to be available for purposes of calculating Uptime.

[***]

9 Customer Responsibilities

9.1 Use of Services

Customer's use of the Hosting Services shall at all times comply with the AUP. For the avoidance of doubt, Customer expressly acknowledge that the Facility has been purpose-built to support the physical requirements of devices that perform Bitcoin mining activities, and that such activities are the sole permitted use of the Hosting Services. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT PROVIDER SHALL NOT HAVE, AND THAT CUSTOMER HEREBY EXPRESSLY AND KNOWINGLY RELEASES AND WAIVES ANY CLAIMS FOR, ANY LIABILITY ARISING IN CONNECTION WITH CUSTOMER'S MINING ACTIVITIES, AND THAT ALL SUCH ACTIVITIES, INCLUDING BUT NOT LIMITED TO THE CHOICES RELATING TO MINING POOL PARTICIPATION, ARE AT CUSTOMER'S SOLE DISCRETION.

9.2 Designated Mining Pool

It is Customer's responsibility to determine and designate a Mining Pool for each Hardware Unit, and Customer is free to designate any Mining Pool, in its sole discretion. In no event shall Provider be obligated to designate any Mining Pool on Customer's behalf.

If Customer designates a Provider-sponsored private Mining Pool to be the Mining Pool, Customer acknowledges that Provider may receive remuneration in connection with the applicable Hardware Units' contribution to the mining conducted by such Provider-sponsored private Mining Pool.

Customer acknowledges that Provider may choose to operate its own or any other third party's cryptocurrency mining equipment in the Facility at any time during the Term.

9.3 Customer Equipment.

Customer shall be responsible for providing the Customer Equipment, and for causing it to arrive at Provider's loading dock at the Facility. All costs associated with the foregoing, including but not limited to shipping costs, hardware costs, software license costs, and import duties, shall be borne exclusively by Customer. In the event that Provider agrees to procure any such Customer Equipment on Customer's behalf and for the account of Customer, such procurement shall be governed by a separate written agreement between Customer and Provider.

Customer shall further be solely responsible for maintaining the Customer Equipment in operable condition by requesting Advanced Remote Hands Service in accordance with Section 3.7 (*Service Orders*) hereof. Customer acknowledges that Provider will not conduct maintenance of the Customer Equipment, except to the extent Provider agrees to Customers' requests for Advanced Remote Hands Service.

9.4 Hardware Control Software; Hardware Control App; Access

Customer hereby directs Provider to register each Hardware Unit in the Hardware Control Software and acknowledges that the Service Charges for Related Services and Remote Hands Service are based on the availability of the Hardware Control Software in relation to the Customer Equipment. For purposes of clarity, the Hardware Control Software is for purposes of management convenience only, and notwithstanding any information or analytics that may be or become available therein, at no point shall the Hosting Control Software be the system of record for purposes of determining the power consumption of Hardware Units, individually, or the Customer Equipment, in the aggregate. Further, Customer shall at all times maintain the ability to report to Provider through automated means, and for Provider to affirmatively query, in respect of each Hardware Unit (i) the designated Mining Pool, and (ii) the hash rate (current and cumulative over the applicable period) thereof.

9.5 Availability

Customer shall have a Customer Representative available for communication through the Hardware Control App at all times.

9.6 Insurance

Customer shall maintain insurance coverage consistent with prevailing industry practices, but in any event, during the Term of this Agreement, Customer shall insure and keep insured (i) the Customer Equipment against all manner of loss in an amount not less than the replacement cost of the Customer Equipment, including during shipping to or from the Facility and (ii) all Customer Representatives against their acts and omissions, injury, or death in connection with any visits to the Facility or this Agreement. Customer shall maintain such insurance coverage during the Term, but in no event starting later than the first delivery of such Customer Equipment and the first arrival of a Customer Representative at the Facility, respectively. CUSTOMER HEREBY AGREES THAT PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND, AND DOES HEREBY WAIVE AND RELEASE ALL CLAIMS IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES, IN THE EVENT CUSTOMER DOES NOT OBTAIN SUCH INSURANCE COVERAGE, OR IN THE EVENT SUCH INSURANCE COVERAGE IS INSUFFICIENT TO COVER CUSTOMER'S LOSSES IN CONNECTION WITH THE CUSTOMER EQUIPMENT OR THE CUSTOMER REPRESENTATIVES.

9.7 Information; Know Your Customer

Customer will provide Provider with any information required under any laws and regulations or orders by any Governmental Authority, in particular, but not limited to, information required for so-called “know your customer” checks under laws and regulations for the prevention of money laundering and terrorism finance.

9.8 Compliance with Law

Customer is solely responsible for ensuring that its use of the Services and its operations in connection with this Agreement comply with all Applicable Law.

10 Ownership

10.1 Customer Equipment

The parties acknowledge and agree that the Customer Equipment is the sole property of the Customer. In no event shall Provider claim ownership of any of the Customer Equipment.

10.2 Ownership of Generated Assets

The Parties acknowledge and agree that any generated digital assets, including but not limited to blockchains, hash and digital currencies, generated from the operation of the Customer Equipment, are the sole property of the Customer. The foregoing shall not impair in any way Customer’s obligations to pay the Fees hereunder, including the Hosting Fees arising out of Customer EBITDA, or any claims that Provider may make in connection therewith.

10.3 Liens / Encumbrances

Provider shall not sell any mortgage, lien, or any kind of encumbrance on the Customer Equipment,

11 Provider’s Warranties

11.1 Capacity

Provider represents and warrants, as of the date hereof and as of the RFU Date that Provider is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

11.2 Disclaimer

PROVIDER DOES NOT AND CUSTOMER ACKNOWLEDGES THAT PROVIDER DOES NOT GIVE ANY IMPLIED, EXPRESS OR STATUTORY WARRANTIES OR REPRESENTATIONS, INCLUDING ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT.

12 Customer’s Representations

Customer represents and warrants, as of the date hereof and as of the RFU Date that:

12.1 Capacity

Customer is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation and has the power to enter into this Agreement and perform the transactions contemplated thereunder.

12.2 Customer Equipment

Unless specifically disclosed otherwise, Customer Equipment is owned by Customer and is free of any lien or other interest or encumbrance of any third-party. Customer Equipment, is free of any defects or Harmful Code which could cause any harm to the Facility or the systems, including equipment, of Provider or any other customer. The Customer Equipment does not, and its operation does not, infringe (or result from the misappropriation of) any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right, of a third party.

12.3 No judgment or governmental order

There is no judgment, decree or order by any Governmental Authority applicable to Customer, which limits Customer in pursuing Customer Purpose or otherwise restricts Customer in performing its obligations under this Agreement or the transactions contemplated thereunder.

12.4 Export Matters

Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and is not otherwise a person to whom Provider is legally prohibited to provide the Services. Customer shall not provide administrative access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations.

12.5 No Inducements

Neither Customer, any affiliate of Customer, nor any of its or their employees, officers, directors, or representatives acting on their behalf, have provided or offered, or will provide or offer, any illegal or improper bribe, kickback, payment, gift or anything of value (but excluding any reasonable and ordinary business entertainment or gifts of an unsubstantial value, that are customary in local business relationships and permitted by Applicable Law) to Provider, any affiliate of Provider, nor any of its or their employees, officers, directors, or representatives acting on their behalf, in each case in connection with this Agreement.

13 Exclusion and Limitation of Liability

13.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF ANY DATA (INCLUDING BITCOINS), REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, TORT, WARRANTY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY).

13.2 THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER FOR THE SERVICES IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT(S) THAT FIRST GAVE RISE TO A CLAIM. PROVIDER SHALL NOT BE DEEMED TO BE A BAILEE IN RESPECT OF ANY CUSTOMER EQUIPMENT.

13.3 Notwithstanding anything in this agreement to the contrary, Provider's liability in connection with this Agreement for or arising from Provider's recklessness, gross negligence, fraud, or wilful misconduct shall be unlimited.

13.4 Notwithstanding anything in this Agreement to the contrary, Customer's liability in connection with this Agreement for or arising from : (i) Customer's recklessness, gross negligence, fraud, or wilful misconduct;

(ii) damage to the Facility, Provider's systems (including equipment), or any equipment of Provider's other customers, suppliers, contractors or other third parties caused by Customer, any Customer Representative, or Customer Equipment; (iii) Customer's breach of any of its representations or warranties under this Agreement, or of its confidentiality or intellectual property obligations hereunder; (iv) Customer's indemnification obligations hereunder; or (v) Customer's breach of, or non-compliance with, the AUP or the Data Center Rules, shall, in each case, be unlimited in type and amount.

14 Force Majeure

A Party shall not be in breach of this Agreement and shall not be liable to the other Party for any loss or other damages suffered by reason of any failure or delay of such Party in the performance of its obligations hereunder due to a Force Majeure Event; provided that under no circumstances will a Force Majeure Event excuse any failure or delay in the performance of a Party's payment obligations hereunder.

If a Party becomes aware of circumstances in which a Force Majeure Event affects or will affect such Party's ability to perform any of its obligations hereunder, it shall notify the other Party in writing as soon as reasonably possible, specifying the nature of the Force Majeure Event and its effect on the performance of such Party's obligations hereunder.

15 Indemnity

Customer shall indemnify and hold harmless Provider, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "Provider Indemnified Parties") from and against any and all liabilities, obligations, losses, damages, allegations, claims, demands, suits, actions, deficiencies, penalties, charges, taxes, levies, fines, judgments, settlements, costs, expenses, interest, attorneys' fees and disbursements, and accountants' fees and disbursements (collectively, "Losses") or threatened Losses due to third-party claims arising out of or relating to any of the following: (i) Customer's breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, the Hardware Control EU LA, or any of Customer's representations or warranties under this Agreement; (ii) actual or alleged infringement or misappropriation of any intellectual property right, including any patent, copyright, trademark, trade secret, or other intellectual property right related to Customer Equipment, including any acquisition, provision, or use of Customer Equipment, or Customer's use of the Hosting Services; (iii) Customer Equipment, including all software and firmware thereon, or Provider's acquisition, provision, or use of Customer Equipment in accordance with this Agreement, except to the extent directly related to the Hardware Control App or Hardware Control Software; (iv) Customer's violation of Applicable Law; or (v) Customer's use of the Hosting Services.

Customer's obligations under this Section 15 include claims arising out of the acts or omissions of any Customer representative or Customer's users, any other person to whom Customer has given physical or virtual access to the Customer Equipment, and any person who gains access to the Customer Equipment or any of Provider's systems or Provider's other customers as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

If Provider receives notice of a claim that is covered by this Section 16, Provider shall promptly give Customer written notice thereof. Provider shall be allowed to conduct the defense of such claim at any time, including choosing legal counsel to defend such claim, provided that such choice is reasonable and is communicated to Customer in writing. Customer shall comply with Provider's reasonable requests for assistance and cooperation in the defense of such claim. Provider shall not settle the claim without Customer's written consent, which may not be unreasonably withheld, delayed or conditioned. Customer shall pay costs and expenses due under this Section 15 as Provider incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to Customer paying Provider such costs and expenses as Provider incurs them.

In the event Provider notifies Customer in writing that Provider does not desire to defend, or to continue to defend, such claim, Customer shall defend such claim using legal counsel of Customer's choice, provided

that such choice is reasonable and is communicated to Provider in writing. Customer shall not settle the claim without Providers written consent.

IT IS THE INTENTION OF THE PARTIES THAT CUSTOMER PROVIDE INDEMNIFICATION RIGHTS TO A PROVIDER INDEMNIFIED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT EVEN FOR THE CONSEQUENCES OF THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

16 Term

The term of this Agreement will commence on the Effective Date and will continue until the expiration or termination of this Agreement in accordance with its terms (the "Term"). The Term may include, as applicable, the period between the Effective Date and the RFU Date, the Initial Term, and any Renewal Terms.

The Initial Term will commence on the RFU Date and will continue for the length of time indicated in the Key Terms. Neither Party shall have the right to terminate this Agreement prior to the end of the Initial Term; provided that each Party may terminate this Agreement for cause due to the occurrence of an applicable Termination Event.

If neither Party delivers Notice to the other Party at least [***] prior to the end of the Initial Term or then-current Renewal Term, then the Term shall be extended automatically for another [***] (each such [***] period, a "**Renewal Term**").

Notwithstanding the foregoing or anything to the contrary, in no event shall the Term extend beyond the term of Provider's lease to the Facility. Upon the expiration or termination of such lease, the Term, if still in effect, shall be automatically terminated. To the extent applicable, Provider shall provide Customer with Notice of such expiration or termination, and of the resulting termination of this Agreement (i) at least [***] prior to such termination of this Agreement or (ii) as soon as practicable after Provider becomes aware of such termination of this Agreement, whichever is later.

17 Termination; Removal of Customer Equipment

17.1 Termination Events

Other than at the end of the Term, the non-breaching Party may terminate this Agreement upon the occurrence of one of the following events (each a "Termination Event"), as may be applicable to such non-breaching Party:

17.1.1 Payment Default

If a Party fails to make a payment to the other Party owed under this Agreement when due, unless such default is remedied within [***] following the breaching Party's receipt of notice by the non-breaching Party of such failure.

17.1.2 Insolvency

If a Party is unable to pay its financial obligations when due, becomes subject to insolvency proceedings, applies for or institutes insolvency proceedings or offers or makes an arrangement with its creditors generally, or if a third-party applies for insolvency proceedings against such Party and such proceedings are not stayed or discharged within [***], unless such proceeding is dismissed due to insufficiency of assets.

17.1.3 Material Breach

If a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is either not susceptible to being cured or is not being cured within [***] after the breaching Party becomes aware of such breach. The Parties agree that any Force Majeure Event can never result in a material breach.

17.1.4 Service Level Defaults

If Provider suffers Service Level Defaults in [***], in respect of which the Uptime during each such month was less than [***].

17.2 Termination

Upon the occurrence of a Termination Event, the Party not having given rise to such Termination Event (the “Non-Defaulting Party”) may terminate this Agreement [***] as of the date set forth in a written notice thereof provided to the Defaulting Party.

17.3 Deinstallation and Removal of Customer Equipment

Customer (i) acknowledges that all Customer Equipment must be dismantled and removed from the Facility by the Termination Date and (ii) shall deliver to Provider (x) written shipping instructions for the Customer Equipment, (y) packaging materials suitable for the Customer Equipment, and (z) standard containers in which packaged Customer Equipment can be stored until it is shipped, in each case, in accordance with the following:

Within [***] Business Days from receiving a Notice of termination from Customer, or having issued a notice of termination to Customer, Provider shall provide Customer with a written estimate of the number of days required for Provider to deinstall and package the Customer Equipment for shipment to Customer, and of the date on which such work is expected to begin (the “Deinstallation Commencement Date”). Provider shall use commercially reasonable efforts to begin such work on or around the Deinstallation Commencement Date, and in any event within a reasonable number of days from the Termination Date. In no event shall Provider begin deinstallation of the Customer Equipment prior to the Deinstallation Commencement Date. The period between the Deinstallation Commencement Date and the Termination Date is herein referred to as the “Phase-out Period”

During the Phase-Out Period Provider will deinstall the Customer Equipment, package it in Customer-provided packaging materials, and ship it to Customer in accordance with Customer’s shipping instructions, all of which shall be at Customer’s expense (at the Service Rates for Provider’s work, and at the actual cost for all third party costs such as shipping). For the avoidance of doubt, all deinstallation must be performed by Provider, and Customer shall have no right to deinstall or remove Customer Equipment from the Facility.

During the Phase-out Period the Specified Power Draw will be adjusted downward on a straight-line basis, based on the assumption that an equal number of Hardware Units will be deinstalled on each Working Day during the Phase-out Period.

In the event Customer does not deliver the shipping instructions, packaging materials and containers to Provider in accordance with this Section 17.3, the deinstallation and removal of the Customer Equipment may be delayed beyond the Termination Date. To the extent such a delay occurs, all Hosting Charges shall be due and owing until such time as all Customer Equipment is deinstalled and removed from the Facility (for which Customer’s provision of such instructions, materials and containers is a condition precedent). Provider will use commercially reasonable efforts to deinstall, remove and pack the Customer Equipment without damage; provided, however, that CUSTOMER HEREBY AGREES THAT EXCEPT FOR CLAIMS BASED ON PROVIDER’S RECKLESSNESS, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND FOR, AND DOES HEREBY WAIVE AND RELEASE ANY CLAIM IN CONNECTION WITH, ANY DAMAGE TO ANY HARDWARE UNIT, ANY SOFTWARE INSTALLED THEREON, AND ANY RIGHT TO MANUFACTURER WARRANTY

SERVICE RELATING THERETO, ARISING OUT OF OR RESULTING FROM PROVIDER'S DEINSTALLATION, PACKAGING, AND SHIPMENT OF THE CUSTOMER EQUIPMENT.

At the request of the Customer, the Provider can dispose of the Customer Equipment for a fixed charge (the "**Disposal Charge**"). The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Provider will inform the Customer of the Disposal Charge upon request after a Notice of termination has been issued under this Agreement.

18 Confidentiality

- 18.1 The Parties agree that Confidential Information shall be used solely for the purpose for which it was furnished in connection with the performance of this Agreement and that they shall each hold confidential all Confidential Information and not disclose it to any third-parties, except that the Parties may disclose Confidential Information to their affiliates, to their auditors and legal advisors and to such Customer Representatives who need access to Confidential Information to perform their duties in connection with this Agreement. At the expiration of the Term, the Parties shall return any Confidential Information to the disclosing party or destroy such Confidential Information.
- 18.2 Any disclosure of Confidential Information permitted by Section 18.1 shall only be to the extent that any person who Confidential Information is provided to needs to know the same for the performance of their duties, and shall only be under the condition that such person acknowledges and agrees to be bound by, the confidentiality obligation under this Section.
- 18.3 The restrictions set out in Sections 18.1 and 18.2 above shall not apply to Confidential Information that:
- 18.3.1 was previously known to the receiving Party, independent from any disclosure under or in connection with this Agreement and free from any obligation to keep confidential;
- 18.3.2 is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorised disclosure by the receiving Party or its representatives;
- 18.3.3 is shown to have been independently developed by the receiving Party;
- 18.3.4 the Parties agree in writing need not be kept confidential;
- 18.3.5 is required to be disclosed by law or regulation or by an order of any Governmental Authority.

In the case of Section 18.3.5, the receiving Party shall, to the extent legally and practically possible, inform the disclosing Party of the information to be disclosed and the timing and circumstances of such disclosure, providing the disclosing Party with an opportunity to avoid and limit any such disclosure.

19 Notices

Any Party can give notice under this Agreement (each a "**Notice**") by sending an email or by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable email or mailing address listed below; provided that any Termination Notice, and any notice for breach, indemnification, or other legal matter, shall be given by mailing a physical writing by FedEx Priority Overnight or registered mail, return receipt requested, to the applicable mailing address listed below, sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address: Whinstone US Corporation
2721 Charles Martin Hall Road
Rockdale, Texas 76567, USA

email: [***]
Attention: [***]

To Customer:

Address: AIR HPC LLC
[***]
[***], Texas [***]
email: [***]
Attention: [***]

Notices by email are deemed received as of the time sent, and notices by mail (and all notices required to be by mail) are deemed received as of the time delivered. If such time does not fall within a Business Day, as of the beginning of the first Business Day following such time. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices shall be given in the English language.

Either Party may change its notice addresses for future Notices by providing the other Party with Notice of such change.

20 Assignment; Subcontracting

This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of each Party hereto. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that either Party may assign this Agreement, in whole or in part, to an affiliate or successor or wholly-owned subsidiary of such Party as part of a corporate reorganization or a sale of some or all of its business; provided that the assigning Party notifies the other Party of such assignment in writing.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain responsible under this Agreement for work performed by its subcontractors and affiliates to the same extent as if Provider had performed such work itself.

21 Right of Publicity; Use of Marks

Customer agrees that Provider may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Provider name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services without first obtaining Provider's prior written approval of each such disclosure.

22 Governing Law; Arbitration

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. THE AGREEMENT SHALL NOT BE GOVERNED BY THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS. ALL DISPUTES HEREUNDER, WHETHER BASED IN STATUTORY, CONTRACT OR TORT CLAIMS, SHALL BE SUBMITTED TO BINDING ARBITRATION. THE ARBITRATION SHALL BE CONDUCTED IN MILAM COUNTY, TEXAS, AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") IN EFFECT AT SUCH TIME. THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR APPOINTED BY THE AAA, AND WHO IS SELECTED PURSUANT TO THE APPLICABLE RULES OF THE AAA. THE ARBITRATOR SHALL ISSUE A DECISION WITH FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ANY JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY

COURT HAVING APPROPRIATE JURISDICTION. EITHER PARTY MAY BRING AN ACTION IN ANY COURT OF COMPETENT JURISDICTION TO COMPEL SUCH ARBITRATION, OR TO ENFORCE A PROPERLY ENTERED ARBITRATION AWARD.

NO CLAIM MAY BE BROUGHT AS A CLASS OR COLLECTIVE ACTION. CUSTOMER SHALL NOT ASSERT SUCH A CLAIM AS A MEMBER OF A CLASS OR COLLECTIVE ACTION THAT IS BROUGHT BY ANOTHER CLAIMANT. EACH PARTY AGREES THAT IT SHALL NOT BRING A CLAIM UNDER THE AGREEMENT MORE THAN TWO (2) YEARS AFTER THE TIME THAT THE CLAIM ACCRUED.

23 Miscellaneous

23.1 Survival

The following provisions shall survive termination or expiration of this Agreement: Confidential Information, Indemnification, Limitation on Damages, Notice, Governing Law / Arbitration, Miscellaneous, all provisions requiring Customer to pay any amounts (i) owed for Services provided under this Agreement prior to the Termination Date or otherwise (ii) otherwise owed by Customer hereunder, and any other provisions of this Agreement that, by their nature, would continue beyond termination or expiration of this Agreement.

23.2 No Lease

This Agreement does not create any real property interest for Customer in the Customer Area or the Facility, and Customer shall not, shall not attempt to, and shall not encourage any third party to file or otherwise create any liens or other property interest or liability on the Facility or any portion thereof.

23.3 Independent Contractor

Each Party is an independent contractor to the other Party in connection with this Agreement, and personnel used or supplied by a Party in the performance of this Agreement shall be and remain employees or agents of such Party and under no circumstances shall be considered employees or agents of the other Party. Each Party shall have the sole responsibility for supervision and control of its personnel. Except with to the extent Provider purchases Hardware Units on Customer's behalf in accordance with this Agreement, Neither Party is an agent for the other Party, and neither Party has the right to bind the other Party in connection with any agreement with a third party.

23.4 No Third Party Beneficiaries

This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective permitted successors and assigns. Nothing herein, express or implied, shall confer, or shall be construed to confer, any rights or benefits in or to any other person.

23.5 Remedies

The rights and remedies of either Party under this Agreement shall be cumulative and not exclusive or alternative.

23.6 Waiver

No failure or delay by either Party in requiring strict performance of any provision of this Agreement, no previous waiver or forbearance of the provisions of this Agreement by either Party, and no course of dealing between the Parties will in any way be construed as a waiver or continuing waiver of any provision of this Agreement.

23.7 Severability

In the event any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be enforced to the maximum extent possible under law and will, to the extent possible, be replaced by such enforceable provision most closely mirroring the Parties' intentions. All other provisions of this Agreement will remain unaffected by such invalidity or unenforceability and will remain in full force and effect. The Parties acknowledge and agree that the pricing and other terms in this Agreement reflect, and are based upon, the intended allocation of risk between the Parties and form an essential part of this Agreement.

23.8 Conflict

To the extent there is a conflict between or among the terms of this Agreement, the AUP, the Data Center Rules, and the Hardware Control EULA, the following shall be the order of precedence: (i) AUP; (ii) Hardware Control EULA; (iii) Agreement; (iv) Data Center Rules.

23.9 Interpretation

The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party. The words "include," "includes," and "including" (or similar terms) shall be deemed to be followed by the words "without limitation." The captions, titles, and section headings are for convenience only and are not intended to aid or otherwise affect the interpretation of this Agreement. The words "written" or "in writing" are used for emphasis in certain circumstances and shall not reduce or eliminate the notice requirements set forth in this Agreement. The use of a term defined herein in its plural form includes the singular and vice versa. The terms defined herein shall be inclusive of all tenses. All references to "days" shall be deemed to refer to calendar days, except as expressly stated otherwise.

23.10 Entire Agreement; Amendment

This Agreement is the only agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, and negotiations, whether written or oral, between the Parties relating to such subject matter. Unless otherwise expressly permitted in this Agreement, no modification, amendment, or waiver of this Agreement is effective or binding unless made in a writing that references this Agreement and is signed by both Parties.

The Key Terms and Services may be amended to modify, add, or remove Key Terms and Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of Customer's purchase order or business form, or other standard or pre-printed terms that Customer provides, be of any force or effect as between the Parties.

23.11 Counterparts

This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed counterparts or the exchange electronic transmissions of executed counterparts.

[Signature Page Follows.]

[***], December 31, 2020

/s/ Chad Everett Harris
Whinstone US, INC

/s/ Cameron Blackmon
Rhodium JV, LLC
By: Cameron Blackmon
Title: Manager

Annex 1

Services Rates

[***]

Annex 2
[*]% Rev Share Payment**

[***]

CERTIFICATE OF SERVICE

I certify that I served a copy of this filing to the following counsel for Plaintiff on June 11, 2023, via electronic service.

Robert T. Slovak
rslovak@foley.com
Brandon C. Marx
bmarx@foley.com
FOLEY & LARDNER LLP
2021 McKinney Avenue, Ste. 1600
Dallas, TX 75201

/s/ William T. Thompson
William T. Thompson

EXHIBIT 10



ATTORNEYS AT LAW

2021 MCKINNEY AVENUE, SUITE 1600
DALLAS, TX 75201-3340
214.999.3000 TEL
214.999.4667 FAX
WWW.FOLEY.COM

November 27, 2023

Via FedEx Priority Overnight and Email:

Lehotsky Keller Cohn LLP
919 Congress Avenue, Suite 1100
Austin, Texas 78701
Attn: Will Thompson
Email: will@lkcfirm.com

Rhodium JV, LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Air HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Re: Notice of Termination

Dear Mr. Thompson,

On April 28, 2023, Whinstone US, Inc. ("Whinstone") notified Rhodium JV, LLC and Air HPC LLC (collectively, "Rhodium") of their payment defaults under their respective hosting agreements dated December 31, 2020 ("Hosting Agreements"). In so doing, Whinstone demanded that Rhodium cure the same by paying at least \$13,582,106.10 within three business days of receiving notice as required by Section 17.1.1.¹ Rhodium failed to do so. Pursuant to Section 17.2, Whinstone thus notifies Rhodium that the Hosting Agreements are terminated effective immediately.² The Water Supply Services Agreement dated August 12, 2021 ("Water Agreement") between the parties automatically terminates pursuant to Section 4(B) thereof as well.

Because of the foregoing, Whinstone immediately ceases providing power and Hosting Services³ to Rhodium pursuant to Section 7.1. Please immediately provide written shipping instructions, packaging materials, and containers for Rhodium's equipment pursuant to Section 17.3.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert T. Slovak", with a blue scribble underneath.

Robert T. Slovak

t: 214.999.4334

f: 214.999.3334

rslovak@foley.com

¹ Rhodium also owes Whinstone at least \$6,600,000 in revenue share payments for 2023 as well.

² Nothing herein should be construed as a waiver of any rights. Whinstone reserves all rights and remedies available in contract, equity, and law.

³ Capitalized terms not defined herein are defined in the Hosting Agreements.

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN FRANCISCO
SALT LAKE CITY
SILICON VALLEY

TALLAHASSEE
TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO

EXHIBIT 11



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

2021 MCKINNEY AVENUE, SUITE 1600
DALLAS, TX 75201
214.999.3000 TEL
214.999.4667 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
214.999.4334
rslovak@foley.com

May 17, 2022

**VIA FedEx Priority Overnight Mail
and Email:**

Rhodium Enterprises, Inc.
7546 Pebble Drive
Fort Worth, Texas 76118

Rhodium JV, LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Air HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Rhodium 30MW LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Re: Breach of Whinstone - Rhodium Hosting Agreements

Dear Mr. Blackmon:

This firm represents Whinstone US, Inc. (“**Whinstone**”) in connection with the hosting agreement, dated as of July 7, 2020, by and between Whinstone and Rhodium 30MW LLC (the “**Rhodium 30MW Agreement**”), and the hosting agreements, dated as of December 31, 2020, by and between Whinstone and Rhodium JV, LLC (the “**Rhodium JV Agreement**”) and Whinstone and Air HPC LLC (the “**Air HPC Agreement**” and, collectively, the “**Rhodium Agreements**”). The purposes of this letter are twofold. First, Whinstone notifies Rhodium 30MW, LLC, Air HPC, LLC, and Rhodium JV, LLC, as well as their parent company and ultimate beneficial owner, Rhodium Enterprises, Inc., (collectively, “**Rhodium**”) that Rhodium is in material default and breach of the Agreements for (1) failure to pay in full the Hosting Fee owed to Whinstone under the Rhodium Agreements, and (2) continuing violations of Whinstone’s Data Center Rules and Acceptable Use Policy (the “**AUP**”), which are damaging Whinstone. Second, Whinstone declares its intention to pursue all rights and remedies available to it and to enforce its rights under the Rhodium Agreements, as necessary, for uncured defaults.

1. Rhodium is in breach of the Rhodium Agreement for failing to pay the Hosting Fees.

Under the Rhodium Agreements, Whinstone agreed to provide the Hosting Services to Rhodium in exchange for the specified Hosting Fees. Whinstone provided the Hosting Services to Rhodium, enabling it to operate its cryptocurrency mining servers known as “miners” to generate revenue by “mining” Bitcoin and other cryptocurrencies. However, Rhodium has failed to pay Whinstone the full Hosting Fees owed under the Rhodium Agreements. Specifically, Rhodium has



Page 2

failed to pay the full 12.5% Rev Share Payment and the 50.0% Rev Share Payment it owes to Whinstone under the Rhodium JV Agreement and the Air HPC Agreement, respectively (collectively, the “**Revenue Share**”).

Rhodium provided Whinstone an accounting purporting to demonstrate that the Revenue Share payment owed to Whinstone under the Rhodium Agreements for the year ended December 31, 2021 is \$8,528,151.97. However, Rhodium’s calculations do not comply with Appendix 2 to the applicable Rhodium Agreements which sets out the methodology for calculating the Revenue Share. The information that Rhodium provided to Whinstone (which Whinstone does not accept as complete or accurate) demonstrates that under the agreed Revenue Share calculations the actual 2021 Revenue Share payments owed to Whinstone under the Rhodium Agreements is **no less than \$18.5 million**.

2. *Rhodium breached and continues to be in breach of the Rhodium Agreements for its ongoing violations of the AUP.*

Whinstone repeatedly notified Rhodium that its violations of the AUP constitute a breach of Rhodium’s obligations under the Rhodium Agreements. Rhodium’s repeated and ongoing violations of the AUP clearly demonstrate its complete disregard for the Rhodium Agreements, as well as for the safety and property of other persons at Whinstone’s facility.

First, Rhodium employees have operated all-terrain vehicles dangerously on the premises of Whinstone’s facility in violation of the AUP after Whinstone specifically instructed Rhodium to cause its employees to cease such dangerous behavior. In at least one instance, a Rhodium employee sustained bodily injury because of his unsafe operation of an all-terrain vehicle in violation of the AUP. Rhodium’s repeated refusal and/or inability to control its employees and cause them to abide by the AUP when operating heavy machinery violates the AUP and, therefore, constitutes a breach of the Rhodium Agreements.

Second, Rhodium’s improperly designed and/or operated liquid cooling equipment has impermissibly discharged potentially harmful chemical effluent at the Whinstone’s facility in violation of the AUP. This impermissible discharge of chemical effluent poses a potential environmental contamination risk to the facility premises, and Whinstone may be required to pay to remediate this spill. Rhodium’s failure to adequately protect against impermissible effluent spills is in violation of the AUP and, therefore, a breach of the Rhodium Agreements. Of course, Whinstone reserves its contractual and other legal rights to recover any remediation costs and other damages from Rhodium.

Finally, as Rhodium has been repeatedly warned, its ongoing overuse of power far in excess of its Specified Power Draw (as defined in the Rhodium Agreements) continues to damage Whinstone’s systems and risks starting large-scale electrical fires due to shorts in transmission equipment. As Whinstone has repeatedly informed Rhodium, this continuing misuse far exceeds the tolerances of Whinstone’s equipment and, due to the very large electrical loads being delivered by this overtaxed equipment, Rhodium’s overuse can cause an explosion or fire. Accordingly, Rhodium’s knowing misuse of Whinstone’s power supply equipment to pull more than its Specified Power Draw



FOLEY & LARDNER LLP

Page 3

poses a significant threat to Whinstone's equipment, other Whinstone customers' equipment, and the health and safety of Whinstone's personnel and other persons present on the facility premises. This is a clear violation of the AUP and, therefore, a breach of the Rhodium Agreements. Whinstone reserves its contractual and other legal rights to recover any remediation costs and other damages from Rhodium.

3. *Notice of Payment Default and Demand to Cure.*

Based on the foregoing description of Rhodium's failure to timely pay the full Hosting Fee under Section 1 of this notice, Rhodium has breached numerous obligations under the Rhodium Agreements. Whinstone therefore demands that Rhodium pay to Whinstone the full and proper amount of the Hosting Fees and all other amounts due to it under the Rhodium Agreements within three (3) business days of the date of this notice. Because Rhodium has failed to provide Whinstone with sufficient information to determine the precise amount owed, Whinstone has been required to estimate the amount owed. Thus, if the full balance outstanding **of at least 10 million** is not paid by that time, Whinstone may exercise its right pursuant to Section 17.1.1 of the Rhodium JV Agreement and the Air HPC Agreement, to terminate such agreements. Whinstone reserves the right to pursue all other remedies available under the applicable agreements and governing law.

4. *Notice of Default for Material Breach and Demand to Cure.*

Finally, due to Rhodium's repeated and ongoing violations of the AUP resulting from its ongoing overuse of power far in excess of its Specified Power Draw, which constitutes its breach of all three of the Rhodium Agreements, Rhodium must immediately cease these violations of the AUP. If such violations are not cured within ten (10) business days after the date this notice is received, Whinstone may exercise its right, pursuant to Section 17.1.3 of the Rhodium JV Agreement and the Air HPC Agreement, to terminate such agreements. Further, if these violations with respect to the Rhodium 30MW Agreement are not cured within thirty (30) days after the date this notice is received, Whinstone has the right, pursuant to Section 14.2.1 of the Rhodium 30MW Agreement, to terminate such agreement. The claims and facts set forth in this letter are not exhaustive, and Whinstone reserves the right to pursue all remedies available under the applicable agreements and governing law.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Slovak", with a long horizontal line extending to the right.

Robert Slovak

cc: William Jackman, General Counsel

EXHIBIT 12



ATTORNEYS AT LAW
2021 MCKINNEY AVENUE, SUITE 1600
DALLAS, TX 75201-3340
214.999.3000 TEL
214.999.4667 FAX
WWW.FOLEY.COM

April 28, 2023

Via FedEx Priority Overnight and Email

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attn: Jordan D. Peterson
Email: Jordan.peterson@kirkland.com

Rhodium JV, LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Air HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Re: Notice of Rhodium's Breaches
TOTAL AMOUNT PAST-DUE: \$13,582,106.10

Dear Mr. Peterson,

Whinstone US, Inc. ("Whinstone") hereby provides notice that Rhodium JV, LLC and Air HPC LLC (collectively, "Rhodium") have breached their respective hosting agreements dated December 31, 2020 ("Hosting Agreements") by failing to pay the past-due amount of **\$13,582,106.10** (the "Total Past-Due Amount"). Demand is made upon Rhodium to cure no later than **May 3, 2023**. Capitalized terms not defined shall have the meaning provided in the applicable Hosting Agreement.

1. 2021 Past-Due Amounts

On May 17, 2022, Whinstone delivered Rhodium a notice (the "2022 Notice," attached as Exhibit 1) outlining Rhodium's breach of the Hosting Agreements for failure to pay the past-due amount of \$18,500,000.00, of which Rhodium has a remaining past-due amount of **\$10,402,732.00** (the "2021 Past-Due Amount"). Following the 2022 Notice, Whinstone has consistently attempted to negotiate the breach with Rhodium through a new payment arrangement, however, Rhodium has been unwilling to agree on terms to satisfy the 2021 Past-Due Amount. As of the date of this Notice the entire 2021 Past-Due Amount remains outstanding.

2. 2022 Past-Due Amounts

Since the 2022 Notice, Rhodium has failed to pay each of the full Rev Share Payments owed to Whinstone under the respective Hosting Agreements for 2022. The information Rhodium has provided to Whinstone (which Whinstone has not had an opportunity to review and as such does not accept as accurate) demonstrates that Rhodium owes **\$1,180,205.00** in Rev Share Payments, the total amount of which is past-due and remains outstanding.

3. 2023 Rev Share Payments

As of March 31, 2023, Rhodium computed **\$556,198.00** of Rev Share Payments due to Whinstone, based on Rhodium's own calculations (which Whinstone has not performed a review of),

4879-2206-6752.6

AUSTIN
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DENVER

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MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN FRANCISCO
SALT LAKE CITY
SILICON VALLEY

TALLAHASSEE
TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO

under the respective Hosting Agreements. That amount is currently unpaid and is assumed to be in default.

4. Other Past-Due Amounts

The Agreement for Water Rights requires Rhodium to pay for water reservation. For 2023, Rhodium has been billed **\$423,500.00** in water reservation charges, the total amount of which is past-due and remains outstanding, not considering applicable interest. See 2022 water invoices attached as Exhibit 2.

The Hosting Agreements further require Rhodium to pay for labor provided by Whinstone. In 2022, Rhodium has incurred **\$49,354.97** in labor, the total amount of which is past-due and remains outstanding. See 2022 labor invoices attached as Exhibit 3.

Finally, the Hosting Agreements require Rhodium to pay for charges imposed by Governmental Authorities. In 2022, ERCOT has imposed **\$970,116.13** in ancillary charges, the total amount of which is past-due and remains outstanding. See 2022 ancillary invoices attached as Exhibit 4.

5. Demand to Cure

Rhodium remains in breach of the Hosting Agreements. Since receipt of the 2022 Notice, Rhodium has consistently attempted to delay payment of the past-due amounts through the guise of 'negotiation' and has shown no intention of curing its breach. Whinstone demands that Rhodium cure its material breaches by paying Whinstone **\$13,582,106.10** no later **May 3, 2023**.¹ Failure to comply will force Whinstone to terminate the Hosting Agreements pursuant to Section 17 thereof.

Sincerely,



Robert T. Slovak

Attachments

¹ Whinstone reserves all rights and remedies and nothing herein should be construed as a waiver of the same.



ATTORNEYS AT LAW

2021 MCKINNEY AVENUE, SUITE 1600
DALLAS, TX 75201
214.999.3000 TEL
214.999.4667 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
214.999.4334
rslovak@foley.com

EXHIBIT

1

May 17, 2022

**VIA FedEx Priority Overnight Mail
and Email:**

Rhodium Enterprises, Inc.
7546 Pebble Drive
Fort Worth, Texas 76118

Rhodium JV, LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Air HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Rhodium 30MW LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon
Email: CameronBlackmon@imperiumholdings.io

Re: Breach of Whinstone - Rhodium Hosting Agreements

Dear Mr. Blackmon:

This firm represents Whinstone US, Inc. (“**Whinstone**”) in connection with the hosting agreement, dated as of July 7, 2020, by and between Whinstone and Rhodium 30MW LLC (the “**Rhodium 30MW Agreement**”), and the hosting agreements, dated as of December 31, 2020, by and between Whinstone and Rhodium JV, LLC (the “**Rhodium JV Agreement**”) and Whinstone and Air HPC LLC (the “**Air HPC Agreement**” and, collectively, the “**Rhodium Agreements**”). The purposes of this letter are twofold. First, Whinstone notifies Rhodium 30MW, LLC, Air HPC, LLC, and Rhodium JV, LLC, as well as their parent company and ultimate beneficial owner, Rhodium Enterprises, Inc., (collectively, “**Rhodium**”) that Rhodium is in material default and breach of the Agreements for (1) failure to pay in full the Hosting Fee owed to Whinstone under the Rhodium Agreements, and (2) continuing violations of Whinstone’s Data Center Rules and Acceptable Use Policy (the “**AUP**”), which are damaging Whinstone. Second, Whinstone declares its intention to pursue all rights and remedies available to it and to enforce its rights under the Rhodium Agreements, as necessary, for uncured defaults.

1. Rhodium is in breach of the Rhodium Agreement for failing to pay the Hosting Fees.

Under the Rhodium Agreements, Whinstone agreed to provide the Hosting Services to Rhodium in exchange for the specified Hosting Fees. Whinstone provided the Hosting Services to Rhodium, enabling it to operate its cryptocurrency mining servers known as “miners” to generate revenue by “mining” Bitcoin and other cryptocurrencies. However, Rhodium has failed to pay Whinstone the full Hosting Fees owed under the Rhodium Agreements. Specifically, Rhodium has



failed to pay the full 12.5% Rev Share Payment and the 50.0% Rev Share Payment it owes to Whinstone under the Rhodium JV Agreement and the Air HPC Agreement, respectively (collectively, the “**Revenue Share**”).

Rhodium provided Whinstone an accounting purporting to demonstrate that the Revenue Share payment owed to Whinstone under the Rhodium Agreements for the year ended December 31, 2021 is \$8,528,151.97. However, Rhodium’s calculations do not comply with Appendix 2 to the applicable Rhodium Agreements which sets out the methodology for calculating the Revenue Share. The information that Rhodium provided to Whinstone (which Whinstone does not accept as complete or accurate) demonstrates that under the agreed Revenue Share calculations the actual 2021 Revenue Share payments owed to Whinstone under the Rhodium Agreements is **no less than \$18.5 million**.

2. *Rhodium breached and continues to be in breach of the Rhodium Agreements for its ongoing violations of the AUP.*

Whinstone repeatedly notified Rhodium that its violations of the AUP constitute a breach of Rhodium’s obligations under the Rhodium Agreements. Rhodium’s repeated and ongoing violations of the AUP clearly demonstrate its complete disregard for the Rhodium Agreements, as well as for the safety and property of other persons at Whinstone’s facility.

First, Rhodium employees have operated all-terrain vehicles dangerously on the premises of Whinstone’s facility in violation of the AUP after Whinstone specifically instructed Rhodium to cause its employees to cease such dangerous behavior. In at least one instance, a Rhodium employee sustained bodily injury because of his unsafe operation of an all-terrain vehicle in violation of the AUP. Rhodium’s repeated refusal and/or inability to control its employees and cause them to abide by the AUP when operating heavy machinery violates the AUP and, therefore, constitutes a breach of the Rhodium Agreements.

Second, Rhodium’s improperly designed and/or operated liquid cooling equipment has impermissibly discharged potentially harmful chemical effluent at the Whinstone’s facility in violation of the AUP. This impermissible discharge of chemical effluent poses a potential environmental contamination risk to the facility premises, and Whinstone may be required to pay to remediate this spill. Rhodium’s failure to adequately protect against impermissible effluent spills is in violation of the AUP and, therefore, a breach of the Rhodium Agreements. Of course, Whinstone reserves its contractual and other legal rights to recover any remediation costs and other damages from Rhodium.

Finally, as Rhodium has been repeatedly warned, its ongoing overuse of power far in excess of its Specified Power Draw (as defined in the Rhodium Agreements) continues to damage Whinstone’s systems and risks starting large-scale electrical fires due to shorts in transmission equipment. As Whinstone has repeatedly informed Rhodium, this continuing misuse far exceeds the tolerances of Whinstone’s equipment and, due to the very large electrical loads being delivered by this overtaxed equipment, Rhodium’s overuse can cause an explosion or fire. Accordingly, Rhodium’s knowing misuse of Whinstone’s power supply equipment to pull more than its Specified Power Draw



FOLEY & LARDNER LLP

Page 3

poses a significant threat to Whinstone's equipment, other Whinstone customers' equipment, and the health and safety of Whinstone's personnel and other persons present on the facility premises. This is a clear violation of the AUP and, therefore, a breach of the Rhodium Agreements. Whinstone reserves its contractual and other legal rights to recover any remediation costs and other damages from Rhodium.

3. *Notice of Payment Default and Demand to Cure.*

Based on the foregoing description of Rhodium's failure to timely pay the full Hosting Fee under Section 1 of this notice, Rhodium has breached numerous obligations under the Rhodium Agreements. Whinstone therefore demands that Rhodium pay to Whinstone the full and proper amount of the Hosting Fees and all other amounts due to it under the Rhodium Agreements within three (3) business days of the date of this notice. Because Rhodium has failed to provide Whinstone with sufficient information to determine the precise amount owed, Whinstone has been required to estimate the amount owed. Thus, if the full balance outstanding **of at least 10 million** is not paid by that time, Whinstone may exercise its right pursuant to Section 17.1.1 of the Rhodium JV Agreement and the Air HPC Agreement, to terminate such agreements. Whinstone reserves the right to pursue all other remedies available under the applicable agreements and governing law.

4. *Notice of Default for Material Breach and Demand to Cure.*

Finally, due to Rhodium's repeated and ongoing violations of the AUP resulting from its ongoing overuse of power far in excess of its Specified Power Draw, which constitutes its breach of all three of the Rhodium Agreements, Rhodium must immediately cease these violations of the AUP. If such violations are not cured within ten (10) business days after the date this notice is received, Whinstone may exercise its right, pursuant to Section 17.1.3 of the Rhodium JV Agreement and the Air HPC Agreement, to terminate such agreements. Further, if these violations with respect to the Rhodium 30MW Agreement are not cured within thirty (30) days after the date this notice is received, Whinstone has the right, pursuant to Section 14.2.1 of the Rhodium 30MW Agreement, to terminate such agreement. The claims and facts set forth in this letter are not exhaustive, and Whinstone reserves the right to pursue all remedies available under the applicable agreements and governing law.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Slovak", with a long horizontal stroke extending to the right.

Robert Slovak

cc: William Jackman, General Counsel

Whinstone US
 2721 Charles Martin Hall Rd
 Rockdale TX 76567
 United States



Invoice

Bill To
 Rhodium 30MW LLC
 United States

INVOICE # INV64
DATE 12/31/2022
TERMS Due on receipt
DUE DATE 12/31/2022

| Description | Quantity | Rate | Amount |
|---------------------------------------|----------|------------|------------|
| Water Reservation for 2023 Building C | 1 | 423,500.00 | 423,500.00 |

Total 423,500.00
Amount Due \$423,500.00

****WIRING INSTRUCTIONS****

Beneficiary:
 Whinstone US
 3855 Ambrosia St, Suite 300
 Castle Rock, CO 80109

Beneficiary BANK
 Signature Bank
 565 Fifth Ave
 New York, NY 10017

ABA/Routing: 026013576
 Acct: 1504971666
 SWIFT Code: SIGNUS33

Whinstone US INC
 3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO
 Rhodium 30MW LLC

INVOICE # 5751R
DATE 02/10/2022
DUE DATE 03/12/2022
TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------|-----------------------------------|-------------|-----|----------|----------|
| | Service:Service Income | | 1 | 4,734.32 | 4,734.32 |

| | |
|-------------|-------------------|
| SUBTOTAL | 4,734.32 |
| TAX | 0.00 |
| TOTAL | 4,734.32 |
| BALANCE DUE | \$4,734.32 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5752R

DATE 02/24/2022

DUE DATE 03/26/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------|-----------------------------------|-------------|-----|----------|----------|
| | Service:Service Income | | 1 | 3,490.60 | 3,490.60 |

| | |
|-------------|----------------|
| SUBTOTAL | 3,490.60 |
| TAX | 0.00 |
| TOTAL | 3,490.60 |
| PAYMENT | 3,459.08 |
| BALANCE DUE | \$31.52 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5754R

DATE 03/10/2022

DUE DATE 04/09/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------|-----------------------------------|-------------|-----|----------|----------|
| | Service:Service Income | | 1 | 9,336.75 | 9,336.75 |

| | |
|-------------|-------------------|
| SUBTOTAL | 9,336.75 |
| TAX | 0.00 |
| TOTAL | 9,336.75 |
| BALANCE DUE | \$9,336.75 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5758R

DATE 03/24/2022

DUE DATE 04/23/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------|-----------------------------------|-------------|-----|--------|--------|
| | Service:Service Income | Building B | 1 | 300.00 | 300.00 |

| | |
|-------------|-----------------|
| SUBTOTAL | 300.00 |
| TAX | 0.00 |
| TOTAL | 300.00 |
| BALANCE DUE | \$300.00 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5771 Rod

DATE 05/26/2022

DUE DATE 06/25/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|--------------|-----|----------|----------|
| 05/19/2022 | Service:Construction, Inventory, and Site Services | See Attached | 1 | 7,225.00 | 7,225.00 |

| | |
|-------------|-------------------|
| SUBTOTAL | 7,225.00 |
| TAX | 0.00 |
| TOTAL | 7,225.00 |
| BALANCE DUE | \$7,225.00 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5809 - A

DATE 09/08/2022

DUE DATE 10/08/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|--------------|-----|-----------|-----------|
| 09/08/2022 | Service:Construction, Inventory, and Site Services | See Attached | 1 | 10,008.75 | 10,008.75 |

| | |
|-------------|--------------------|
| SUBTOTAL | 10,008.75 |
| TAX | 0.00 |
| TOTAL | 10,008.75 |
| BALANCE DUE | \$10,008.75 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5810 - A

DATE 09/15/2022

DUE DATE 10/15/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|--------------|-----|----------|----------|
| 09/15/2022 | Service:Construction, Inventory, and Site Services | See Attached | 1 | 2,486.25 | 2,486.25 |

| | |
|-------------|-------------------|
| SUBTOTAL | 2,486.25 |
| TAX | 0.00 |
| TOTAL | 2,486.25 |
| BALANCE DUE | \$2,486.25 |

Whinstone US INC

3855 Ambrosia St
Castle Rock, CO 80109
5044156669
info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5811 - A

DATE 09/22/2022

DUE DATE 10/22/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|--------------|-----|----------|----------|
| 09/22/2022 | Service:Construction, Inventory, and Site Services | See Attached | 1 | 1,827.50 | 1,827.50 |

| | |
|-------------|-------------------|
| SUBTOTAL | 1,827.50 |
| TAX | 0.00 |
| TOTAL | 1,827.50 |
| BALANCE DUE | \$1,827.50 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5812 - A

DATE 09/29/2022

DUE DATE 10/29/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|--------------|-----|----------|----------|
| 09/29/2022 | Service:Construction, Inventory, and Site Services | See Attached | 1 | 5,822.50 | 5,822.50 |

| | |
|--------------------|-------------------|
| SUBTOTAL | 5,822.50 |
| TAX | 0.00 |
| TOTAL | 5,822.50 |
| BALANCE DUE | \$5,822.50 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5837 - A

DATE 11/10/2022

DUE DATE 12/10/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|---------------------------------------|-----|----------|----------|
| 11/10/2022 | Service:Construction, Inventory, and Site Services | 11/04-11/10 See Monday Board INV 5801 | 1 | 6,141.25 | 6,141.25 |

See Monday Board INV 5801

| | |
|--------------------|-------------------|
| SUBTOTAL | 6,141.25 |
| TAX | 0.00 |
| TOTAL | 6,141.25 |
| BALANCE DUE | \$6,141.25 |

NEW BANKING INFORMATION

BENEFICIARY

Riot Blockchain, Inc.
 3855 Ambrosia St, Suite 301
 Castle Rock, CO 80109

BENEFICIARY ACCOUNT

1503265660

BENEFICIARY BANK

Signature Bank
 565 Fifth Avenue
 New York, NY 10017

ABA/Routing Number: 026013576

SWIFT Code: SIGNUS33

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Jordan HPC LLC

INVOICE # 5813 - A

DATE 09/29/2022

DUE DATE 10/29/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|---|----------------------|-----|----------|----------|
| 09/29/2022 | Service:Construction, Inventory, and Site Services | Service See attached | 1 | 1,445.00 | 1,445.00 |

| | |
|--------------------|-------------------|
| SUBTOTAL | 1,445.00 |
| TAX | 0.00 |
| TOTAL | 1,445.00 |
| PAYMENT | 3.87 |
| BALANCE DUE | \$1,441.13 |

Whinstone US INC
 3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO
 Rhodium 30MW LLC

INVOICE # 6736R
DATE 02/23/2022
DUE DATE 02/23/2022
TERMS Due on receipt

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|--|---|-------------|--------|------------|
| 02/23/2022 | Service:Colocation Contract Service | Other Charge 2021 Ancillary Service 1.50 mWh | 245,046,297 | 0.0015 | 367,569.45 |

We will be issuing an invoice for all power used between August 2021 and February 1, 2022 of a new fee that has been added(we think this might only last the rest of 2022). We received this invoice today and it was unexpected. Additionally, there is an new change that will be added to all bills going forward related to the bankruptcy of Brazos Utility. (this will be the next 20 years)

BALANCE DUE

\$367,569.45

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 7747R

DATE 03/28/2022

DUE DATE 04/12/2022

TERMS Net 15

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|--|--|---------------|--------|-----------|
| 03/01/2022 | Service:Colocation Contract Service | Additional Ancillary Charge Mandated by ERCOT | 47,474,385.80 | 0.0015 | 71,211.58 |

| | |
|--------------------|--------------------|
| SUBTOTAL | 71,211.58 |
| TAX | 0.00 |
| TOTAL | 71,211.58 |
| BALANCE DUE | \$71,211.58 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # RFPO-RH2013

DATE 04/01/2022

DUE DATE 05/15/2022

TERMS Net 15

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|-------------|--|--|------------|--------|--------------------|
| 03/31/2022 | Service:Colocation Contract Service | Additional Ancillary Charge Mandated by ERCOT - March | 63,846,811 | 0.0015 | 95,770.22 |
| SUBTOTAL | | | | | 95,770.22 |
| TAX | | | | | 0.00 |
| TOTAL | | | | | 95,770.22 |
| BALANCE DUE | | | | | \$95,770.22 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # RFPO-RH2010

DATE 05/01/2022

DUE DATE 05/16/2022

TERMS Net 15

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|-------------|--|--|---------------|--------|--------------------|
| 04/30/2022 | Service:Colocation Contract Service | Additional Ancillary Charge Mandated by ERCOT - April | 60,301,611.50 | 0.0015 | 90,452.42 |
| SUBTOTAL | | | | | 90,452.42 |
| TAX | | | | | 0.00 |
| TOTAL | | | | | 90,452.42 |
| BALANCE DUE | | | | | \$90,452.42 |

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5821 - A

DATE 09/30/2022

DUE DATE 10/30/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|--|---|------------|--------|-----------|
| 09/30/2022 | Service:Colocation Contract Service | Charge for Ancillary Services per mandate from ERCOT - SEPTEMBER 2022 | 46,468,783 | 0.0015 | 69,703.17 |

NEW WIRING INSTRUCTIONS

Beneficiary:
 Whinstone US
 3855 Ambrosia St, Suite 301
 Castle Rock, CO 80109

| | |
|--------------------|--------------------|
| SUBTOTAL | 69,703.17 |
| TAX | 0.00 |
| TOTAL | 69,703.17 |
| BALANCE DUE | \$69,703.17 |

Beneficiary BANK:
 Signature Bank
 565 Fifth Ave
 New York, NY 10017

ABA/Routing: 026013576
 Acct: 1504682001
 SWIFT Code: SIGNUS33

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Rhodium 30MW LLC

INVOICE # 5834 - A

DATE 10/31/2022

DUE DATE 11/30/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|--|---|------------|--------|-----------|
| 10/31/2022 | Service:Colocation Contract Service | Charge for Ancillary Services per mandate from ERCOT - OCTOBER 2022 | 56,078,594 | 0.0015 | 84,117.89 |

NEW WIRING INSTRUCTIONS

Beneficiary:
 Whinstone US
 3855 Ambrosia St, Suite 301
 Castle Rock, CO 80109

Beneficiary BANK:
 Signature Bank
 565 Fifth Ave
 New York, NY 10017

ABA/Routing: 026013576
 Acct: 1504682001
 SWIFT Code: SIGNUS33

BALANCE DUE

\$84,117.89

Whinstone US
 2721 Charles Martin Hall Rd
 Rockdale TX 76567
 United States



Invoice

Bill To
 Rhodium 30MW LLC
 United States

INVOICE # INV63
DATE 12/1/2022
TERMS Net 30
DUE DATE 12/31/2022

| Description | Quantity | Rate | Amount |
|--------------------------------|------------|--------|-----------|
| ANCILLARY SVCS - NOVEMBER 2022 | 61,255,445 | 0.0015 | 91,883.17 |

Total 91,883.17
Amount Due \$91,883.17

****WIRING INSTRUCTIONS****

Beneficiary:
 Whinstone US
 3855 Ambrosia St, Suite 300
 Castle Rock, CO 80109

Beneficiary BANK
 JP Morgan Chase Bank, N.A.
 PO Box 182051
 Columbus, OH 43218-2051

ABA/Routing: 021000021
 Acct: 771539217
 SWIFT Code: CHASUS33

Whinstone US
 2721 Charles Martin Hall Rd
 Rockdale TX 76567
 United States



Invoice

Bill To
 Rhodium 30MW LLC
 United States

INVOICE # INV71
DATE 12/31/2022
TERMS Net 15
DUE DATE 1/15/2023

| Description | Quantity | Rate | Amount |
|------------------------------------|------------|--------|-----------|
| ANCILLARY SERVICES - DECEMBER 2022 | 58,805,917 | 0.0015 | 88,208.88 |

Total 88,208.88
Amount Due \$88,208.88

****WIRING INSTRUCTIONS****

Beneficiary:
 Whinstone US
 3855 Ambrosia St, Suite 300
 Castle Rock, CO 80109

Beneficiary BANK
 JP Morgan Chase Bank, N.A.
 PO Box 182051
 Columbus, OH 43218-2051

ABA/Routing: 021000021
 Acct: 771539217
 SWIFT Code: CHASUS33

Whinstone US INC

3855 Ambrosia St
 Castle Rock, CO 80109
 5044156669
 info@whinstone.us



INVOICE

BILL TO

Jordan HPC LLC

INVOICE # 5794 - A

DATE 07/31/2022

DUE DATE 08/30/2022

TERMS Net 30

| DATE | ACTIVITY | DESCRIPTION | QTY | RATE | AMOUNT |
|------------|--|--|---------------|--------|-----------|
| 07/31/2022 | Service:Colocation Contract Service | Charge for Ancillary Services per mandate from ERCOT - JULY 2022 | 11,618,783.54 | 0.0015 | 17,428.18 |

| | |
|--------------------|--------------------|
| SUBTOTAL | 17,428.18 |
| TAX | 0.00 |
| TOTAL | 17,428.18 |
| PAYMENT | 6,228.83 |
| BALANCE DUE | \$11,199.35 |

EXHIBIT 13



Whinstone US, Inc.
2721 Charles Martin Hall Road
Rockdale, Texas 76567

April 22, 2024

Via FedEx Priority Overnight:

Rhodium JV LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Rhodium 30MW, LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon

Air HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118
Attn: Cameron Blackmon

Jordan HPC LLC
7546 Pebble Drive
Fort Worth, Texas 76118

Re: Notice of Termination

Dear Mr. Blackmon,

By Notice of Termination dated November 27, 2023 ("Termination Notice"), Whinstone US, Inc. ("Whinstone") terminated that: (a) Hosting Agreement made as of December 31, 2020 ("Rhodium JV December 2020 Hosting Agreement"), between Whinstone and Rhodium JV, LLC ("Rhodium JV"); (b) Hosting Agreement made as of December 31, 2020 ("Air HPC December 2020 Hosting Agreement"), between Whinstone and Air HPC, LLC ("Air HPC"); and (c) Whinstone Building C Water Services Agreement dated effective as of August 12, 2021 ("Water Agreement"), by and between Whinstone and Rhodium Industries LLC and its affiliates. Throughout various forums, Rhodium JV and Air HPC dispute the basis of Whinstone's termination of the Rhodium JV December 2020 Hosting Agreement and Air HPC December 2020 Hosting Agreement, respectively.

Additionally, Claimants¹ dispute that: (a) the Rhodium JV December 2020 Hosting Agreement superseded and/or replaced (i) that New Hosting Service Agreement made effective as of July 7, 2020, by and between Whinstone and Rhodium 30MW (the "Rhodium 30MW Hosting Agreement") and (ii) the twenty New Hosting Service Agreements dated effective as of July 9, 2020, by and between Whinstone and Rhodium JV (the "5MW Hosting Agreements"); and (b) the Air HPC December 2020 Hosting Agreement superseded and/or replaced that Colocation Agreement made as of November 2, 2020, by and between Whinstone and Jordan HPC (the "Jordan HPC Hosting Agreement") .

While Whinstone stands on its Termination Notice and its position that all of the above-referenced agreements have either been terminated, superseded, and/or replaced, Whinstone provides this notice in the event that a court or arbitrator determines that any of those agreements remains in effect as of the date of this letter.

¹ "Claimants" include Rhodium JV, Air HPC, Rhodium 30MW LLC ("Rhodium 30MW"), Rhodium Encore LLC ("Rhodium Encore"), Rhodium 2.0 LLC ("Rhodium 2.0"), Rhodium 10MW LLC ("Rhodium 10MW"), and Jordan HPC LLC ("Jordan HPC").

In addition to the reasons detailed in the Termination Notice, Whinstone reaffirms its termination of the Rhodium JV December 2020 Hosting Agreement and Air HPC December 2020 Hosting Agreement for the following reasons:

- Rhodium JV December 2020 Hosting Agreement:
 - Termination pursuant to Section 17.1.1 due to Rhodium JV's payment defaults;
 - Termination pursuant to Section 17.1.3 due to Rhodium JV's material breaches of Sections 5.1, 5.2, 6.5, 9.1, 9.3, 9.8, 10.1, 10.2, 12.2, 20, and 23.4; and
 - Termination pursuant to Section 17.1.2 due to Rhodium JV's insolvency.
- Air HPC December 2020 Hosting Agreement:
 - Termination pursuant to Section 17.1.1 due to Air HPC's payment defaults;
 - Termination pursuant to Section 17.1.3 due to Air HPC's material breaches of Sections 5.1, 5.2, 6.5, 9.1, 9.3, 9.8, 10.1, 10.2, 12.2, 20, and 23.4; and
 - Termination pursuant to Section 17.1.2 due to Air HPC's insolvency.

To the extent that it is determined that the Rhodium 30MW Hosting Agreement, twenty 5MW Hosting Agreements, and Jordan HPC Hosting Agreement were not previously superseded and/or replaced, those agreements are hereby terminated for the following reasons:

- Rhodium 30MW Hosting Agreement:
 - Termination pursuant to Section 14.2.1 due to Rhodium 30MW's material breaches of Sections 2.1.4, 3.6, and 17.3; and
 - Termination pursuant to Section 14.2.2 due to Rhodium 30MW's insolvency.
- Twenty 5MW Hosting Agreements:
 - Termination pursuant to Section 13.3.1 due to Rhodium 30MW's material breaches of Sections 2.1.4, 3.6, and 16.3; and
 - Termination pursuant to Section 13.3.2 due to Rhodium 30MW's insolvency.
- Jordan HPC Hosting Agreement:
 - Termination pursuant to Section 17.1.3 due to Jordan HPC's material breaches of Sections 5.1, 5.2, 9.1, 9.7, and 12.2; and
 - Termination pursuant to Section 17.1.2 due to Rhodium 30MW's insolvency.

The provisions of this letter shall not constitute a waiver of any known or unknown, past, present or future Termination Event, suspension of Services event, breach or other event of default under the above-reference agreements, and shall not directly or indirectly in any way whatsoever either: (a) impair, prejudice or otherwise adversely affect Whinstone's right at any time to exercise

any right, privilege or remedy in connection with the above-referenced agreements or any other contract; (b) amend or alter any provision of the above-referenced agreements or any other contract; or (c) constitute any course of dealing or other basis for altering any obligation of any Claimant or any right, privilege or remedy of Whinstone under the above-referenced agreements or any other contract or constitute any consent of Whinstone to any prior, existing or future violations of the above-referenced agreements. There are no oral agreements between Whinstone and any of the Claimants and any prior or future discussions or representations regarding the subject matter thereof shall not constitute a waiver of, or forbearance with respect to, any past, present or future Termination Event, suspension of Services event, breach or other event of default.

Nothing herein should be construed as an admission or waiver of any of Whinstone's rights. Whinstone reserves all rights.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alex Travis", is positioned above the printed name and title.

Alex Travis
General Counsel

EXHIBIT 14
Filed Under Seal

EXHIBIT 15
Filed Under Seal

EXHIBIT 16
Filed Under Seal

EXHIBIT 17

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Jordan D. Peterson
To Call Writer Directly:
+1 212 909 3303
jordan.peterson@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

May 20, 2022

By E-mail

Robert Slovak
Foley & Lardner LLP
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201
rslovak@foley.com

Re: Whinstone's Notice to Rhodium

Dear Mr. Slovak:

We represent Rhodium Enterprises, Inc., Rhodium JV, LLC, Air HPC LLC, and Rhodium 30MW LLC (collectively, "Rhodium"). Rhodium forwarded me your May 17, 2022 letter alleging breaches of various agreements between Rhodium and Whinstone US, Inc. We vigorously dispute your characterization of the agreements and events at issue. In particular, we disagree with your assertion that Whinstone is entitled to additional payments under the hosting agreements. To be clear, Whinstone has no basis for suspending or terminating its obligations under the agreements.

We understand that our clients will discuss the issues raised in your letter on Monday, May 23, 2022, and we hope that these discussions will be productive. And despite Whinstone lacking any basis for suspending or terminating its obligations, we appreciate your client's commitment to refrain from disrupting Rhodium's business operations while our clients engage in good faith discussions to resolve this dispute.

* * *

KIRKLAND & ELLIS LLP

Robert Slovak
May 20, 2022
Page 2

Rhodium reserves all rights, including the right to seek equitable relief should Whinstone take action to disrupt Rhodium's operations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jordan D. Peterson', with a stylized flourish extending to the right.

Jordan D. Peterson

cc: Charles Topping, Rhodium Enterprises, Inc.
(CharlesTopping@RHDM.com)

EXHIBIT 18



Peter K. Stris
FOUNDING PARTNER

STRIS & MAHER LLP
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May 3, 2023

VIA FEDEX PRIORITY OVERNIGHT AND EMAIL

Robert Slovak (rslovak@foley.com)
Foley & Lardner LLP
2021 McKinney Ave, Ste 1600
Dallas, TX 75201

William Jackman (wjackman@riotblockchain.com)
Executive Vice President, General Counsel and Secretary
Jeff McGonegal (jmcgonegal@riotblockchain.com)
Senior Advisor
Whinstone US Corporation
c/o Riot Platforms, Inc.
2721 Charles Martin Hall Road
Rockdale, TX 76567

Re: Your letter dated April 28, 2023

Dear Mr. Slovak:

We have been retained to represent Rhodium JV, LLC, Air HPC LLC, Rhodium 30MW LLC, Rhodium 2.0 LLC, Rhodium Encore LLC, Rhodium 10MW LLC, and Jordan HPC LLC (individually or collectively, “Rhodium”) in their dispute with Whinstone US, Inc. (“Whinstone”) regarding certain hosting agreements.

Our clients dispute the claims in your April 28 letter. Nonetheless, in an effort to facilitate the parties’ continued progress toward a business resolution of this dispute, our clients made payments to Whinstone over the last 24 hours totaling more than \$3 million. Aside from your assertions regarding the 2021 profit-share, these payments represented the entirety of the amounts you claim are past due.¹

Your letter demanded that Rhodium cure any alleged defaults by May 3, 2023. But shortly before Rhodium sent this letter—and after Rhodium had made the payments described herein—we received notice of an action you filed against Rhodium yesterday, on May 2, 2023. Your filing of this action was premature and improper.

¹ Rhodium reserves all of its rights with respect to these payments, including, without limitation, the right to dispute Rhodium’s obligation to make such payments, their timing and amount. Neither this letter nor the payments are intended to constitute, or should be construed as, any waiver or relinquishment of any of Rhodium’s rights, claims, or defenses, all of which are expressly reserved.

May 3, 2023

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This letter does not respond specifically to the allegations in your petition and Rhodium expressly reserves all rights in connection with same. Rhodium will respond within the litigation, and in due course. To be clear, however, our clients strenuously dispute the allegations you are making.

It appears that negotiations have broken down and our clients will be forced to (and will) pursue all relief available to them in court or arbitration. As explained below, Whinstone is not entitled to the \$10+ million it has demanded for purportedly due profit-sharing payments. *See infra* Section I. If Whinstone were to go through with its threatened termination of the hosting agreements, it would be liable to Rhodium for catastrophic damages. *See infra* Section II. And in fact, it is *Whinstone* who owes *Rhodium* past-due payments from Whinstone's nearly \$30 million in recent energy sales to the ERCOT markets. *See infra* Section III. Thus, Rhodium will not hesitate to fully assert and defend its rights in the now-pending legal action.

I. Whinstone is not entitled to the claimed \$10+ million in profit sharing payments.

Whinstone's April 28 letter claims an entitlement to over \$10.4 million in profit-sharing payments for 2021, beyond the \$8+ million Rhodium has already paid. Whinstone is incorrect. It appears Whinstone has added up the profits of every entity it has a hosting agreement with and assessed a 12.5% profit-sharing charge based on *that* figure (even though Rhodium JV receives only a fraction of what those entities earn). Whinstone has thus calculated an amount that does not reflect the terms of the hosting agreement.

To be sure: Whinstone has a stake in the profits of Rhodium JV, LLC (12.5%) and Air HPC LLC (50%). But Whinstone has no direct contractual right to profit-share with any other Rhodium entity. Nor does Whinstone have any right to assess charges against Rhodium JV or Air HPC based on the profits of any other Rhodium entity. It is only Rhodium JV and Air HPC's own profits that count.

Rhodium JV is but one of multiple investors in Rhodium 30MW LLC and the entities that were assigned the various 5MW hosting agreements. Thus, Rhodium JV does not itself receive 100% of those entities' profits, but rather only the portion based on its ownership stake. So too for Whinstone—it receives a percentage only of what *Rhodium JV* receives. *Compare* Rhodium JV "Hosting Agreement" (containing profit sharing provision) *with* the 14 identical 5MW Agreements and the 30MW Agreement (not containing profit sharing provisions).

This structure was put in place specifically to address Chad Harris' desire for Whinstone to no longer hold equity in any bitcoin mining company. As Whinstone is well aware, Whinstone at one time held a 12.5% membership interest in Rhodium JV. The agreement memorializing the profit share between Rhodium JV and Whinstone was entered into as a mechanism to substitute for the share of the profits that Whinstone would have received had it remained a member of Rhodium JV. Whinstone's interpretation thus conflicts not only with the relevant agreements, but also with the circumstances that gave rise to them. Whinstone is not entitled to rewrite the profit-share agreements now.

May 3, 2023

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Under a proper understanding of the agreements, Rhodium has properly calculated and paid the entirety of its profit-sharing obligations to Whinstone and has made all the audited financial statements and relevant calculations available to Whinstone quarterly for review.

II. Should Whinstone terminate any of the hosting agreements, it will be liable for damages in the hundreds of millions of dollars.

As set forth above, Whinstone has no colorable argument that Rhodium JV and Air HPC have failed to provide their required profit-sharing payments for 2021. And in any event, any alleged breach by Rhodium JV or Air HPC would be relevant only to Whinstone's agreements with those particular entities.

In contrast, Whinstone has not asserted any breach or served notice of any default by Rhodium 2.0 LLC, Rhodium Encore LLC, Rhodium 10 MW LLC (collectively, the "Rhodium 70MW Entities"), Rhodium 30MW LLC, or Jordan HPC LLC. Indeed, no such breach or default has occurred. And absent a properly served notice and opportunity to cure any breach or default, Whinstone lacks any good faith basis to terminate any of its hosting agreements with *those* entities.²

Accordingly, should Whinstone terminate any hosting agreement between Whinstone and Rhodium 30MW LLC, Jordan HPC LLC, or any of the Rhodium 70MW Entities—or take any other action in breach of those hosting agreements, including *any* suspension of power delivery to those entities—that termination or breach would unquestionably constitute intentional, willful, reckless, and grossly negligent conduct. As you are aware, damages for breaches of that nature cannot be waived or limited by contract. *See, e.g., Zachry Const. Corp. v. Port of Houston Auth. of Harris Cty.*, 449 S.W.3d 98, 116-17 (Tex. 2014) (holding that a party may not waive contractual liability for gross negligence, recklessness, or intentional misconduct).

In the aggregate, the Rhodium 70MW Entities, Rhodium 30MW LLC, and Jordan HPC LLC would suffer damages from that termination or breach in the 9-figure range. Please be advised that should any such termination or breach occur, Rhodium will devote all of its resources to pursuing its rights to the fullest extent of the law.

III. Rhodium is entitled to unpaid energy sale profits.

Rhodium also hereby notifies Whinstone of its failure to make required payments pursuant to § 4.8 of the 5MW Agreements and § 5.8 of the 30MW Agreement. These agreements provide that:

² Your April 28, 2023 letter refers only to Rhodium JV, LLC and Air HPC LLC. Your letter from May 2022 asserted a failure to make profit-share payments only "under the Rhodium JV Agreement and the Air HPC Agreement." Any asserted breaches of the Acceptable Use Policy either were incorrect or were timely cured.

May 3, 2023

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Whinstone will sell electricity in lieu of providing electricity to the Customer if the Ercot Market profitability exceeds the 250% of the contract price. ***The profit will be distributed 100% to the Customer.***

We understand from public disclosures that Whinstone's recent sales of energy in the ERCOT markets have approached \$30 million. Under the agreements, the Rhodium entities are entitled to 100% of Whinstone's profits from these sales. Yet, to date, Whinstone has failed to distribute *any* such profits to Rhodium. Rhodium does not have access to information regarding the proportion of those sales attributable to Rhodium. But it estimates that the unpaid profits due to Rhodium total at least \$10 million.

As you are no doubt aware, from August to December 2022 Rhodium contacted Whinstone regarding the unpaid energy-sale profits more than a dozen times. Whinstone has acknowledged receipt of this correspondence but, to date, has not provided a response—let alone the payments expressly required by the agreements. Whinstone's refusal to address these material contractual obligations is perhaps unsurprising given its former executives' statements (including in text messages to Rhodium personnel) that Whinstone would intentionally withhold the energy sale payments owed under the agreements.

This letter serves as further notice of the Rhodium 70MW Entities' and Rhodium 30MW LLC's claims for unpaid energy sales pursuant to § 4.8 of the 5MW Agreements and § 5.8 of the 30MW Agreement.

Should Whinstone not immediately calculate and distribute the required profits, Rhodium reserves all rights, including the right to take legal action to recover the outstanding amounts.³

* * *

Rhodium looks forward to reaching a final resolution of all of these matters.

Sincerely,

/s/ Peter K. Stris

Peter K. Stris

cc (via email only):

Jason Les (jles@riotblockchain.com) / Riot Platforms, Inc.

William Jackman (wjackman@riotblockchain.com) / Riot Platforms, Inc.

Jeff McGonegal (jmcgonegal@riotblockchain.com) / Riot Platforms, Inc.

David Schatz (dschatz@riot.inc) / Riot Platforms, Inc.

³ As you are aware, the hosting agreements do not limit Whinstone's liability on "claims for outstanding payment amounts."

May 3, 2023

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John Stokes / Stris & Maher LLP
Victor O'Connell / Stris & Maher LLP

Chase Blackmon
Cameron Blackmon
Nicholas Cerasuolo
Anthony Ausiello
Charles Topping