

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

In re:	§	Chapter 11
	§	
RHODIUM ENCORE LLC, <i>et al.</i> , ¹	§	Case No. 24-90448 (ARP)
	§	
Debtors.	§	
	§	(Jointly Administered)
	§	

DEBTORS' MOTION FOR PARTIAL SUMMARY JUDGMENT

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/](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 YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

¹ 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), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), Rhodium Encore Sub LLC (1064), Rhodium Enterprises, Inc. (6290), Rhodium Industries LLC (4771), Rhodium Ready Ventures LLC (8618), Rhodium Renewables LLC (0748), Rhodium Renewables Sub LLC (9511), Rhodium Shared Services LLC (5868), and Rhodium Technologies LLC (3973). The mailing and service address of Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.



TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
TABLE OF EXHIBITS	iv
STATEMENT OF UNDISPUTED FACTS	3
I. The 25 Contracts	3
II. Rhodium’s Corporate Structure	6
III. Rhodium JV’s and Air HPC’s Profit Share Payments.....	9
IV. Whinstone’s Lawsuit and Attempts to Terminate the Contracts	11
V. Procedural Background.....	13
LEGAL STANDARD.....	13
ARGUMENT.....	14
I. As a matter of law, the November 2023 Notice is invalid and ineffective because Whinstone is not entitled to the additional payments it demanded.	14
A. The plain language of the Rhodium JV Profit Sharing Agreement provides that Whinstone is entitled to 12.5% of <i>Rhodium JV’s</i> profits.	15
B. The plain language of the Air HPC Profit Sharing Agreement provides that Whinstone is entitled to 50% of <i>Air HPC’s</i> profits.	17
C. Whinstone’s alternative interpretation is untenable.....	17
II. As a matter of law, the April 2024 Notice did not validly or effectively terminate any of the 25 contracts.	20
A. The April 2024 Notice did not validly terminate the twenty 5MW Power Agreements (contract nos. 1-20).....	20
B. The April 2024 Notice did not validly terminate the Rhodium 30MW Power Agreement (contract no. 21).....	26
C. The April 2024 Notice did not validly terminate the Jordan HPC Power Agreement (contract no. 22).	28
D. The April 2024 Notice did not validly terminate the Rhodium JV and Air HPC Profit Sharing Agreements (contract nos. 23 and 24).	29
E. Whinstone has failed to show that Rhodium 30MW, Rhodium JV, or Air HPC were insolvent when Whinstone issued the April 2024 Notice.	30
RELIEF REQUESTED.....	33

TABLE OF AUTHORITIES

Cases	Page(s)
<i>In re Alta Mesa Res., Inc.</i> , 613 B.R. 90 (Bankr. S.D. Tex. 2019)	32
<i>In re Babcock & Wilcox Co.</i> , 274 B.R. 230 (Bankr. E.D. La. 2002)	32
<i>Cheung-Loon, LLC v. Cergon, Inc.</i> , 392 S.W.3d 738 (Tex. App.—Dallas 2012, no pet.).....	26
<i>Matter of Condo. Admin. Servs., Inc.</i> , 55 B.R. 792 (Bankr. M.D. Fla. 1985)	23
<i>Emerald Forest Util. Dist. v. Simonsen Const. Co., Inc.</i> , 679 S.W.2d 51 (Tex. App.—Houston [14th Dist.] 1984, writ ref'd n.r.e.)	24
<i>Gonzalez v. Denning</i> , 394 F.3d 388 (5th Cir. 2004)	14
<i>In re Greenville Am. Ltd. P'ship</i> , 2000 WL 33710874 (Bankr. D.S.C. Mar. 24, 2000)	14
<i>Ibe v. Jones</i> , 836 F.3d 516 (5th Cir. 2016)	22
<i>James Constr. Group, LLC v. Westlake Chem. Corp.</i> , 650 S.W.3d 392 (Tex. 2022).....	24, 25
<i>James v. Tex. Collin Cnty.</i> , 535 F.3d 365 (5th Cir. 2008)	32
<i>In re Lease-A-Fleet, Inc.</i> , 155 B.R. 666 (Bankr. E.D. Pa. 1993)	32
<i>Neurobehavioral Assocs., P.A. v. Cypress Creek Hosp., Inc.</i> , 995 S.W.2d 326 (Tex. App.—Houston [1st Dist.] 1999, no pet.)	26
<i>In re Pyramid Operating Auth., Inc.</i> , 144 B.R. 795 (Bankr. W.D. Tenn. 1992).....	13, 14
<i>In re Rachels Indus., Inc.</i> , 109 B.R. 797 (Bankr. W.D. Tenn. 1990).....	13
<i>In re Richmond Produce Co.</i> , 151 B.R. 1012 (Bankr. N.D. Cal. 1993)	32

In re Seahawk Drilling, Inc.,
No. 11-20089, 2012 WL 1123864 (Bankr. S.D. Tex. Mar. 30, 2012)..... 13

In re Vanguard Nat. Res., LLC,
624 B.R. 400 (Bankr. S.D. Tex. 2020) 13

In re Vitanza,
1998 WL 808629 (Bankr. E.D. Pa. Nov. 13, 1998)..... 14, 23

Weaver v. Metro. Life Ins. Co.,
287 F. Supp. 3d 645 (N.D. Tex. 2017), *aff'd*, 939 F.3d 618 (5th Cir. 2019)..... 14

Other Authorities

Fed. R. Civ. P. 56(a) 13

Fed. R. Civ. P. 56(c)(2)..... 10

Fed. R. Evid. 408(b)..... 10

Fed. R. Evid. 802 32

TABLE OF EXHIBITS

Exhibits to the Declaration of Nathan Nichols (“Nichols Decl.”)

Exhibit 1.a-1.t – Twenty 5MW Power Agreements

Exhibit 2.a.-2.n – Assignments of 5MW Power Agreements Nos. 1-14

Exhibit 3.a-3.o – October 1, 2021 Email from Nathan Nichols to Chad Harris and 14 Notice Letters attached thereto

Exhibit 4 – Rhodium 30MW Power Agreement

Exhibit 5 – Jordan HPC Power Agreement

Exhibit 6 – Withdrawal, Dissociation, and Membership Interest Redemption Agreement

Exhibit 7 – Rhodium JV Profit Sharing Agreement

Exhibit 8 – Air HPC Profit Sharing Agreement

Exhibit 9 – May 17, 2022 Letter

Exhibit 10.a -10.b – May 19, 2022 email from William Jackman and attachment

Exhibit 11 – April 28, 2023 Letter

Exhibit 12 – November 27, 2023 Notice of Termination

Exhibit 13 – April 22, 2024 Notice of Termination

Exhibit 14.a-14.b – March 31, 2020 email from Nick Cerasuolo to Chad Harris and attachment

Exhibit 15 – December 30, 2020 email from Nick Cerasuolo to Chad Harris

Exhibits to the Declaration of Bridget Asay (“Asay Decl.”)

Exhibit 16 – September 13, 2023 Milam County District Court Order granting Rhodium’s Motion to Compel Arbitration

Exhibit 17 – November 22, 2023 Third District Order Denying Whinstone’s mandamus petition

Exhibit 18 – November 29, 2023 Milam County District Court Order granting Rhodium’s Motion for Temporary Restraining Order

Exhibit 19 – December 12, 2023 Milam County District Court Order granting Rhodium’s Motion for Temporary Injunction

Exhibit 20 – March 7, 2024 AAA Emergency Arbitrator’s Order granting Rhodium’s Application for Emergency Relief

Exhibit 21 – January 25, 2024 Email from Judge Youngblood to counsel for Rhodium and Whinstone

Exhibit 22 – June 4, 2024 AAA Arbitrator’s Order

Exhibit 23 – Debtors’ Interrogatories, Set One to Whinstone US, Inc.

Exhibit 24 – Whinstone’s Objections and Responses to Debtors’ Interrogatories, Set One

Exhibit 25 – Rhodium Enterprises Inc. Consolidated Financial Statements December 31, 2023 and 2022

Debtors have moved to assume 25 executory contracts with Whinstone US, Inc.² These contracts underpin Debtors' bitcoin-mining operations. Debtors built out their operations at Whinstone's Rockdale Site, at substantial cost and with the contributions of outside investors, in reliance on these long-term contracts that provide below-market electricity. The contracts provide significant value to Debtors' bankruptcy estates.

After these long-term deals were struck, Whinstone was acquired by Riot Blockchain, Inc.—one of Debtors' largest competitors. According to its own public statements, Riot wants to rid itself of these inconvenient “legacy contracts” and use the power for its own bitcoin mining operations. Driven by Riot's desire to expand its operations and power use at Rockdale, Whinstone has invented a series of disingenuous, pretextual reasons for terminating the contracts.

Relying on these pretexts, Whinstone has tried multiple times to shut down Rhodium's operations. Debtors have successfully fought off these attempts, because neutral decisionmakers have seen right through Whinstone's unlawful actions. Specifically:

- In November 2023, Whinstone issued a Notice of Termination (“November 2023 Notice”) and simultaneously had armed security remove Debtors from the Rockdale Site. Debtors secured injunctive relief from this attempted termination, initially from a Texas district judge and eventually from an arbitrator.
- In January 2024, Whinstone issued a Notice of Suspension (“January 2024 Notice”) and shut down about 80% of Debtors' Rockdale operation based on an obviously pretextual concern about “partially-contained spills of non-toxic non-corrosive non-conductive and generally non-hazardous biodegradable coolant mitigated promptly without injury to any

² “Rhodium” or “Debtors” refers to Rhodium Encore LLC and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases.

person or property.” Asay Decl. Ex. 20 ¶ 19. That shutdown cost Debtors millions and ended only after an emergency arbitrator enjoined it. *Id.*

- In April 2024, Whinstone issued another Notice of Termination (“April 2024 Notice”) purporting to terminate all of the contracts at issue. Again, only the order of an arbitrator prevented Whinstone from acting on its bad-faith attempt to shut Debtors down. Asay Decl. Ex. 22.

These constant legal battles have undermined Debtors’ operations and finances.

Continuing its quest to undermine Debtors’ operations, Whinstone now raises a grab bag of baseless objections to the motions to assume, including its erroneous assertion that “Debtors cannot assume the Whinstone Contracts because they were terminated.”³ Neither of Whinstone’s purported Notices of Termination prevents assumption of the contracts at issue because both notices were invalid as a matter of law. As explained herein:

- The November 2023 Notice is invalid as a matter of law because it rests on a demand for money Whinstone is not owed. Whinstone signed profit share agreements with two Debtors, and it received the specified percentages of those Debtors’ profits. But Whinstone wants more. It is demanding a share of profits earned by *partially owned* subsidiaries, which did not sign profit share agreements with Whinstone. Outside investors partially own these entities, and Whinstone is effectively seeking to tax the money that went to the outside investors. Whinstone has no conceivable claim to a share of those profits.

³ See Whinstone’s Preliminary Response and Objection to Debtors’ Motion and Supplemental Motion to Assume Certain Executory Contracts with Whinstone US, Inc. (hereinafter “Whinstone Prelim. Resp.”), Dkt. 144 ¶ 47.

- The April 2024 Notice is invalid because it rests on a smorgasbord of 45 pretextual and utterly unexplained assertions. Failing basic legal and contractual requirements at every step, the April 2024 Notice (1) purports to terminate contracts based entirely on alleged breaches by non-parties, (2) fails to provide contractually required notices and opportunities to cure, and (3) alleges insolvency of entities without any conceivable evidentiary basis.

Accordingly, the Court should grant summary judgment to Debtors on the November 2023 and April 2024 Notices of Termination.

STATEMENT OF UNDISPUTED FACTS

Rhodium is an industrial scale digital asset technology company utilizing proprietary technologies to mine bitcoin. Nichols Decl. ¶ 3. Rhodium conducts its principal operations at a data center in Rockdale, Texas owned by Whinstone. *Id.*

I. The 25 Contracts

In 2020, Whinstone and various Debtors entered into a series of 25 contracts—twenty two power agreements, two profit sharing agreements, and a water agreement—to set up a long-term business relationship: Whinstone would provide space, power, and other services at the Rockdale facility for Rhodium to operate its bitcoin miners; in exchange, Rhodium would, among other things, pay certain fees. *Id.* ¶ 4. Rhodium has petitioned to assume all 25 of these contracts, which are described below and in the Motion to Assume, Dkt. 7 ¶¶ 10-15; *see also* Suppl. Motion to Assume, Dkt. 32.

First, in July 2020, Whinstone and Rhodium JV LLC (“Rhodium JV”) entered into twenty identical hosting agreements, each providing for Rhodium JV to receive five megawatts of electricity from Whinstone at a fixed price for at least ten years (the “5MW Power Agreements”). Nichols Decl. ¶ 8, Exs. 1.a-t.; Whinstone Prelim. Resp. ¶ 11.

Rhodium JV is a holding company; it does not operate its own bitcoin miners. Nichols Decl. ¶ 6. Instead, it holds interests in operating entities that conduct bitcoin mining at the Rockdale Site. *Id.* ¶¶ 6-7. In accordance with its status as a holding company, under § 9.1 of each of the 5MW Power Agreements, Rhodium JV is entitled to “assign[] or transfer[]” the Agreements “without the prior written consent of Whinstone.” *See, e.g.*, Nichols Decl. Ex. 1.a § 9.1.

On September 30, 2021, Rhodium JV assigned the first fourteen of the 5MW Power Agreements to three Rhodium entities that operate bitcoin miners at the Rockdale Site. Nichols Decl. ¶ 9 & Ex. 2.a–2.n.⁴ Rhodium JV assigned five of the contracts to Rhodium Encore LLC, two of the contracts to Rhodium 10MW LLC, and seven of the contracts to Rhodium 2.0 LLC. *Id.* The next day, October 1, 2021, Rhodium JV provided Whinstone with written notice of these assignments. Nichols Decl. ¶ 10 & Ex. 3.a–3.o.

Second, also in July 2020, Whinstone and Rhodium 30MW LLC (“Rhodium 30MW”) entered into a hosting agreement pursuant to which Rhodium 30MW would receive 30 megawatts of power from Whinstone at a fixed price for at least ten years (“30MW Power Agreement”). Nichols Decl. ¶ 12, Ex. 4; Whinstone Prelim. Resp. ¶ 11. Rhodium 30MW is an operating entity that operates bitcoin miners at the Rockdale Site. Nichols Decl. ¶ 7.

Third, in November 2020, Whinstone and Jordan HPC LLC (“Jordan HPC”) entered into a hosting agreement pursuant to which Jordan HPC would receive 25 megawatts of power from Whinstone at a fixed price for at least ten years (“Jordan HPC Power Agreement”). Nichols Decl. ¶ 12, Ex. 5; Whinstone Prelim. Resp. ¶ 12. Jordan HPC is also an operating entity that operates

⁴ Rhodium JV remained a party to the last six 5MW Power Agreements until late April 2024, when it assigned them to Rhodium 30MW. Neither Rhodium JV nor Rhodium 30MW have ever drawn any power under these six Agreements.

bitcoin miners at the Rockdale Site. Nichols Decl. ¶ 16. It is owned in part by Air HPC LLC (“Air HPC”), another Rhodium holding company. *Id.*

Fourth, on December 31, 2020, Whinstone redeemed a 12.5% ownership interest it held in Rhodium JV, Nichols Decl. ¶ 15, Ex. 6; Whinstone Prelim. Resp. ¶ 13, and Whinstone and Rhodium JV entered into an agreement pursuant to which Whinstone would receive 12.5% of Rhodium JV’s profits calculated pursuant to a formula set forth in Annex 2 to the agreement (“Rhodium JV Profit Sharing Agreement”), Nichols Decl. ¶ 16, Ex. 7; Whinstone Prelim. Resp. ¶ 13. According to Whinstone, it entered into these agreements because it wanted to convert its 12.5% equity interest into a 12.5% synthetic dividend “for business and tax reasons.” Whinstone Mot. Partial Summary Judgment, Dkt. 207 ¶ 6. It was not trying to fundamentally change the way Debtors conducted their business. Indeed, the Redemption Agreement made clear that “other agreements” between Whinstone and Rhodium JV, including “hosting or colocation agreements” would “continue as set forth in such agreements.” Nichols Decl. Ex. 6 § 4.

That same day, December 31, 2020, Whinstone and Air HPC entered into an agreement pursuant to which Whinstone would receive 50% of Air HPC’s profits calculated pursuant to a formula set forth in Annex 2 to the agreement (“Air HPC Profit Sharing Agreement”). Nichols Decl. ¶ 17, Ex. 8; Whinstone Prelim. Resp. ¶ 13.

Finally, in August 2021, Whinstone entered into a water supply services agreement with seven different Rhodium entities, including the five entities that operate miners at the Rockdale Site. Nichols Decl. ¶ 19. Under this agreement, Whinstone would supply water and services to these entities at the Rockdale Site to support their bitcoin mining operations. *Id.*; Whinstone Prelim. Resp. ¶ 18.

After Rhodium JV assigned 14 of the 5MW contracts to operating companies in September 2021, the contracts between the parties (contract nos. 1-25), and the parties thereto, were as follows:

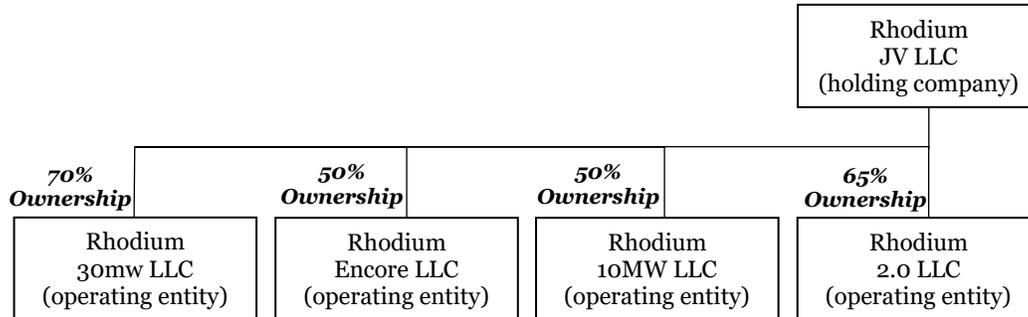
No.	Contracting Date	Contract	Party to the Contract
1	July 2020	5MW Power Agreement No. 1	Rhodium Encore LLC
2	July 2020	5MW Power Agreement No. 2	Rhodium Encore LLC
3	July 2020	5MW Power Agreement No. 3	Rhodium Encore LLC
4	July 2020	5MW Power Agreement No. 4	Rhodium Encore LLC
5	July 2020	5MW Power Agreement No. 5	Rhodium Encore LLC
6	July 2020	5MW Power Agreement No. 6	Rhodium 2.0 LLC
7	July 2020	5MW Power Agreement No. 7	Rhodium 2.0 LLC
8	July 2020	5MW Power Agreement No. 8	Rhodium 2.0 LLC
9	July 2020	5MW Power Agreement No. 9	Rhodium 2.0 LLC
10	July 2020	5MW Power Agreement No. 10	Rhodium 2.0 LLC
11	July 2020	5MW Power Agreement No. 11	Rhodium 2.0 LLC
12	July 2020	5MW Power Agreement No. 12	Rhodium 2.0 LLC
13	July 2020	5MW Power Agreement No. 13	Rhodium 10MW LLC
14	July 2020	5MW Power Agreement No. 14	Rhodium 10MW LLC
15	July 2020	5MW Power Agreement No. 15	Rhodium JV LLC
16	July 2020	5MW Power Agreement No. 16	Rhodium JV LLC
17	July 2020	5MW Power Agreement No. 17	Rhodium JV LLC
18	July 2020	5MW Power Agreement No. 18	Rhodium JV LLC
19	July 2020	5MW Power Agreement No. 19	Rhodium JV LLC
20	July 2020	5MW Power Agreement No. 20	Rhodium JV LLC
21	July 2020	Rhodium 30MW Power Agreement	Rhodium 30MW LLC
22	November 2020	Jordan HPC Power Agreement	Jordan HPC LLC
23	December 2020	Rhodium JV Profit Sharing Agreement	Rhodium JV LLC
24	December 2020	Air HPC Profit Sharing Agreement	Air HPC LLC
25	August 2021	Water Supply Services Agreement	Rhodium Industries, LLC, Rhodium JV LLC, Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC, Jordan HPC LLC, Rhodium 10MW LLC

II. Rhodium's Corporate Structure

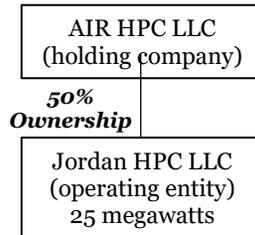
To understand the contracts and the parties' disputes, an understanding of Rhodium's corporate structure is critical.

Rhodium JV holds ownership interests in four operating Rhodium entities: Rhodium 30MW (of which it owns 70%), Rhodium Encore (of which it owns 50%), Rhodium 10MW (of which it owns 50%), and Rhodium 2.0 (of which it owns 65%). Nichols Decl. ¶¶ 6-7. Collectively,

these four Rhodium entities utilize 100 megawatts of power and occupy all of Building C at the Rockdale Site. *Id.* ¶¶ 7, 11-12. The structure of these entities is as follows:



Air HPC (another holding company) owns a 50% ownership interest in one Rhodium entity: Jordan HPC. *Id.* ¶ 18. Jordan utilizes 25 megawatts of power and operates exclusively in Building B at the Rockdale Site. *Id.* ¶¶ 14, 18. The structure of these two entities is as follows:



From the outset of the parties’ relationship, Whinstone understood the structure of Rhodium’s business—and that its share of the profits was based only on amounts that flowed up to the holding companies. For example, prior to entering any agreements, Rhodium shared a March 31, 2020 PowerPoint slide with Whinstone’s then-CEO, Chad Harris, which showed

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

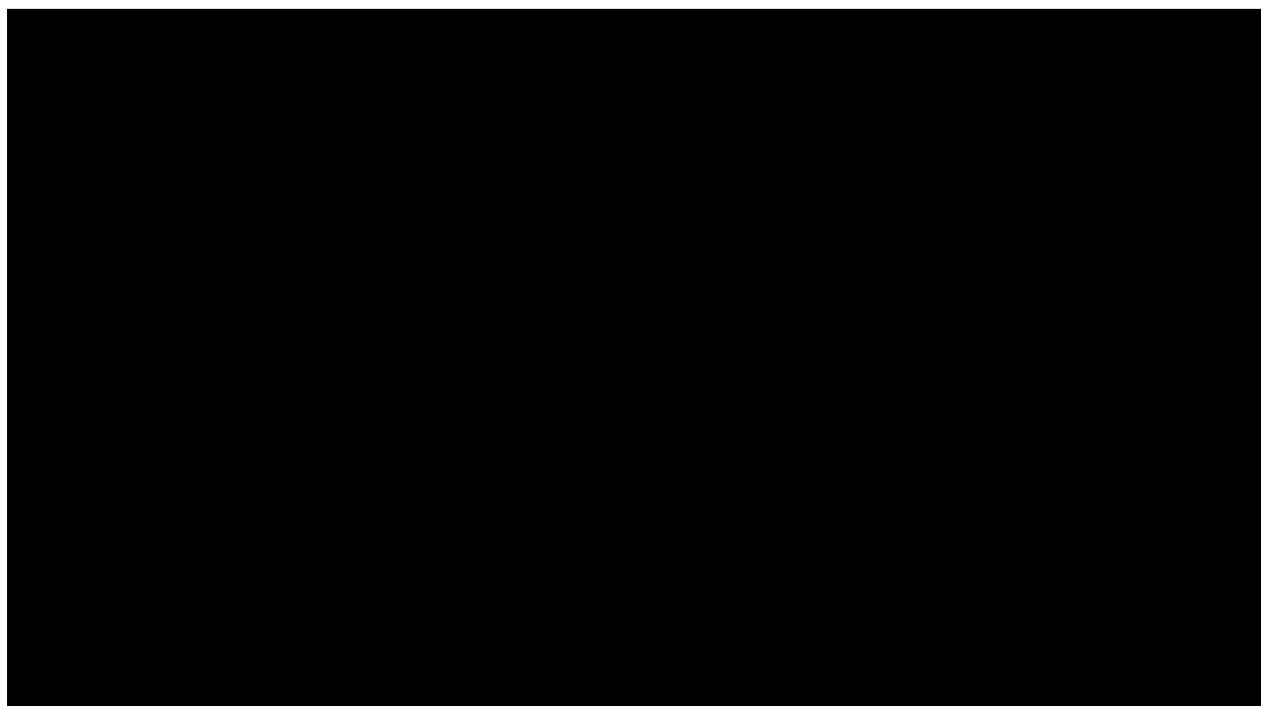
Repeatedly and consistently throughout the parties' relationship, Rhodium explained—and Whinstone acknowledged—this corporate structure and profit-flow to Whinstone. *E.g.* Nichols Decl. Ex. 15. Indeed, on the eve of executing the Rhodium JV and Air HPC Profit Sharing Agreements, Rhodium's then-CFO explained the arrangement to Whinstone in exacting detail in response to questions from Whinstone's own attorneys. *Id.* Rhodium's CFO explained, in red, that [REDACTED]

Id. Whinstone never pushed back on this explanation of how the contracts would work and instead proceeded to sign the Profit Sharing Agreements the next day. There can be no doubt that everyone was on the same page.

III. Rhodium JV's and Air HPC's Profit Share Payments

Rhodium JV and Air HPC began making payments to Whinstone under their respective Profit Sharing Agreements in 2021. Nichols Decl. ¶ 20. For the year ending December 31, 2021, Rhodium JV and Air HPC paid Whinstone approximately \$8.5 million: approximately \$1.7 million under the Rhodium JV 12.5% profit share and \$6.8 million under the Air HPC 50% profit share. *Id.* Debtors made these payments exactly as provided in the contract and exactly as the parties described in email communications immediately before the contracts were signed.

Unhappy with the deal it had negotiated, Whinstone challenged Rhodium’s calculation of the profit share payments. In a demand letter on May 17, 2022 (“May 17, 2022 Letter”), Whinstone asserted it was owed “no less than \$18.5 million”—roughly \$10 million more than Rhodium’s calculations. Nichols Decl. ¶ 21 & Ex. 9. The key difference was that Whinstone wanted to apply its percentage to the profits earned by the partially owned operating subsidiaries, not the holding companies that had signed the profit share agreements. *Id.* Exs. 9, 10.a, 10.b. To support its demand, Whinstone provided the following calculations:



Id. Ex. 10.b.⁵ Whinstone’s calculations simply ignored the fact that Rhodium JV and Air HPC do not receive 100% of the profits earned by their partially owned operating subsidiaries. They take

⁵ This document is not excludable under Federal Rule of Evidence 408(a). It is not offered to “prove or disprove the validity or amount of a disputed claim,” Fed. R. Evid. 408(a), but rather for “another purpose,” to show how exactly the parties disagree about the amount of the profit share payments. *See* Fed. R. Evid. 408(b). In addition, Debtors can overcome any “object[ion] that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.” Fed. R. Civ. P. 56(c)(2).

no account of the outside investors who are entitled to a share of the operating subsidiaries' profits. Rhodium refused to pay the alleged "Shortpay" because Whinstone's demands were the opposite of what the parties had agreed to.

In April 2023, Whinstone sent another demand letter to Rhodium JV and Air HPC, asserting the same alleged \$10 million "Shortpay" in profit share payments for 2021, demanding more than \$1 million in profit share payments for 2022, and more than \$500,000 in profit share payments for 2023. Nichols Decl. ¶ 23, Ex. 11. Again, Rhodium refused to pay money that it did not owe.⁶

IV. Whinstone's Lawsuit and Attempts to Terminate the Contracts

When Rhodium again refused to cede to baseless demands, Whinstone filed suit in May 2023 in district court in Milam County, Texas. Whinstone Prelim. Resp. ¶ 35. Rhodium moved to compel arbitration, and the court granted that motion. *Id*; Asay Decl. Ex. 16. Whinstone sought mandamus relief and lost. Asay Decl. Ex. 17.

Immediately thereafter, Whinstone resorted to self-help. On November 27, 2023, the Monday after Thanksgiving, it sent a Notice of Termination to Rhodium JV and Air HPC. Nichols Decl. Ex. 12. It simultaneously shut off all power to Rhodium's Rockdale operations and evicted Rhodium's staff. Nichols Decl. ¶ 24. The sole asserted basis for termination in the November 2023 Notice was Rhodium's failure to pay the profit share payments improperly demanded in the April 2023 Letter (*i.e.*, the \$10 million+ "shortpay" based on the profits of the operating entities). Nichols Decl. Ex. 11; Whinstone Prelim. Resp. ¶ 28.

⁶ The April 2023 letter also demanded that Rhodium pay approximately \$1.5 million for water reservation fees, labor costs, and ERCOT charges. Nichols Decl. Ex. 10. Rhodium paid these amounts under protest, and they are not at issue in this proceeding.

The next day, Rhodium successfully sought a temporary restraining order from the Milam County district court. Asay Decl. Ex. 18. Then, after a full evidentiary hearing, the court enjoined Whinstone from enforcing the November 2023 Notice. Asay Decl. Ex. 19 (ordering Whinstone to “restore . . . the provision of electricity, access, and other services” and finding Rhodium would “be irreparably injured in numerous ways” absent an injunction).

Less than two months later, Whinstone resorted to self-help *again*. It issued a notice of suspension and simultaneously cut off Rhodium’s power based on the pretextual excuse of a modest spill of a “non-toxic non-corrosive non-conductive and generally non-hazardous biodegradable coolant.” Asay Decl. Ex. 20 ¶ 19. So, *again*, Rhodium was forced to seek emergency relief. The district court took “a dim view of Whinstone’s cutting power to Rhodium’s entire operation for what appears to be a deminimis incident,” noting that “[t]his action could come back to haunt Whinstone,” but left the matter to be resolved in arbitration. *Id.* Ex. 21. An emergency arbitrator heard two days of argument and testimony and then ordered Whinstone to “restore and re-establish” power to Rhodium’s Rockdale operations. *Id.* Ex. 20 ¶¶ 15, 20. The emergency arbitrator concluded that Whinstone’s “contentions [we]re not persuasive” and that Whinstone’s asserted basis for cutting power did not meet the contractual “conditions for suspension.” *Id.* ¶ 19. He enjoined Whinstone from acting on the January 2024 Notice. *Id.* ¶ 20.

Whinstone subsequently issued another Notice of Termination on April 22, 2024, this time purporting to terminate all of the parties’ contracts, haphazardly citing *45 separate contract clauses* as grounds for termination without providing any information about the alleged breaches. Nichols Decl. ¶ 25, Ex. 13; Whinstone Prelim. Resp. ¶ 37. *Yet again*, a neutral decision-maker sided with Rhodium. Former-Justice Harriet O’Neill, the AAA-appointed arbitrator, enjoined

Whinstone from taking any action on either of its Notices of Termination and refused Whinstone's request to dissolve the emergency arbitrator's injunction. Asay Decl. Ex. 22.

V. Procedural Background

On August 24 and 29, 2024, Debtors filed voluntary petitions under Chapter 11. Debtors moved to assume the 25 Whinstone contracts. Dkt. 7, 32. Whinstone opposed assumption, Dkt. 144, and the matter is set for trial starting November 12, *see* Dkt. 121.

LEGAL STANDARD

Federal Rule of Civil Procedure 56 applies to motions for partial summary judgment in this contested matter. *E.g., In re Seahawk Drilling, Inc.*, No. 11-20089, 2012 WL 1123864, at *2 (Bankr. S.D. Tex. Mar. 30, 2012). Under Rule 56, a movant is entitled to summary judgment if it can show "that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The movant may seek summary judgment on any "claim or defense—or [any] part of [any] claim or defense." *Id.* In cases such as this one "involving the interpretation of a contract," summary judgment is appropriate "where the language of the contract is unambiguous." *In re Vanguard Nat. Res., LLC*, 624 B.R. 400, 415 (Bankr. S.D. Tex. 2020).

On a motion to assume executory contracts, a party opposing the motion based on an alleged default carries "the initial burden of showing defaults in the executory contracts or leases and that those defaults have been properly noticed." *In re Pyramid Operating Auth., Inc.*, 144 B.R. 795, 809 (Bankr. W.D. Tenn. 1992). "If defaults are established by the proof, then the burden shifts back to the debtor to provide satisfactory proof that the defaults have either been cured or will be promptly cured and that there would be adequate assurance of future performance." *In re Rachels Indus., Inc.*, 109 B.R. 797, 802 (Bankr. W.D. Tenn. 1990). Similarly, a party opposing a motion to assume based on a claimed pre-petition termination of the contract carries the initial

burden of showing it properly “exercised its termination rights” under the terms of the contract. *In re Greenville Am. Ltd. P’ship*, 2000 WL 33710874, at *6, *10 (Bankr. D.S.C. Mar. 24, 2000). This includes establishing “by a preponderance of the evidence” the existence of “defaults . . . and that those defaults have been properly noticed.” *In re Pyramid*, 144 B.R. at 809. If the objecting party carries its burden, the burden shifts to the debtor to show the contract “has not terminated.” *In re Greenville*, 2000 WL 33710874, at *4, *10; *see also In re Vitanza*, 1998 WL 808629, at *14 (Bankr. E.D. Pa. Nov. 13, 1998).

ARGUMENT

I. As a matter of law, the November 2023 Notice is invalid and ineffective because Whinstone is not entitled to the additional payments it demanded.

Whinstone’s November 2023 Notice asserted *one* alleged basis for termination: Rhodium JV and Air HPC’s alleged failure to pay the appropriate amount of profit share. Nichols Decl. Ex. 12. Whinstone’s allegation, however, rests entirely on the false premise that it gets a share of the profits of *all* Rhodium entities at Rockdale, including ones that are partially owned by outside investors. In fact, the Profit Sharing Agreements unambiguously give Whinstone a share *only* of Rhodium JV and Air HPC’s profits. Whinstone has no contractual right to a profit share from any other entity or any of the outside investors. Because the contracts’ language is plain, and Whinstone has adduced no other evidence (or even theory) of underpayment, Debtors are entitled to summary judgment that the November 2023 Notice did not effectively terminate either the Rhodium JV Profit Sharing Agreement or the Air HPC Profit Sharing Agreement because Rhodium did not materially breach either agreement. *See, e.g., Gonzalez v. Denning*, 394 F.3d 388, 392 (5th Cir. 2004) (under Texas law, “the interpretation of an unambiguous contract is a question of law for the court to decide”); *Weaver v. Metro. Life Ins. Co.*, 287 F. Supp. 3d 645, 649 (N.D. Tex. 2017), *aff’d*, 939 F.3d 618 (5th Cir. 2019) (citation omitted) (noting that summary

judgment “is particularly appropriate” where “the language of a contract is unambiguous and only the interpretation of the contract in light of state substantive law is in dispute”).⁷

A. The plain language of the Rhodium JV Profit Sharing Agreement provides that Whinstone is entitled to 12.5% of *Rhodium JV*'s profits.

The parties agree that Whinstone's profit share is governed by Section 6.1 of the Rhodium JV Profit Sharing Agreement. Nichols Decl. Ex. 7. That provision requires Rhodium JV to pay Whinstone a “Hosting Share Payment.” Nichols Decl. Ex. 7 § 6.1. The Hosting Share Payment is defined as:

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.

Id.

Because “customer” is a defined term in the Agreement meaning “Rhodium JV LLC,” *id.* at 1, the Hosting Share Payment is thus “equal to approximately 12.5% of [**Rhodium JV**’s] EBITDA.” This is confirmed by Annex 2, which sets forth the steps used to calculate the “precise ‘12.5% Rev Share Payment’”:

⁷ Prior to the November 2023 Notice, Rhodium had paid, under protest and with a reservation of rights, all alleged past-due amounts aside from the \$10 million Whinstone sought in profit sharing based on the other entities' profits.

- 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”).

Id. at Annex 2.

Every single step of these calculations uses as an input “Customer’s”—*i.e.* **Rhodium JV’s**—financials. The first step calls for Customer (**Rhodium JV**) to calculate its Net Income. *Id.* Steps 2, 3, and 4 then require Customer (**Rhodium JV**) to make certain adjustments to its Net Income. *Id.* At no point does any step call for the financials of any entity other than Customer (**Rhodium JV**), much less the financials of any of its subsidiary operating companies. And it is plain to see why: inputting another entity’s financials into the calculation would be inconsistent with the purpose of the calculation, which is expressly designed to “approximate[]” **Rhodium JV’s** EBITDA. *Id.* § 6.1.

In short, there is nothing ambiguous about Rhodium JV’s Hosting Share Payment: Rhodium JV owes 12.5% of the profits of **Rhodium JV**, as calculated using **Rhodium JV’s** financials and the specific steps defined in Annex 2.

B. The plain language of the Air HPC Profit Sharing Agreement provides that Whinstone is entitled to 50% of Air HPC's profits.

The Rhodium JV and Air HPC Profit Sharing Agreements operate almost identically. Just like the Rhodium JV Profit Sharing Agreement, Section 6.1 of the Air HPC Profit Sharing Agreement provides that the “Customer shall pay Provider” a “Hosting Share Payment.” Nichols Decl. Ex. 8 § 6.1. Here the “Customer” is defined as “Air HPC LLC” and the “Provider” is defined as “Whinstone US, Inc.” *Id.* at 1. The “Hosting Share Payment” is defined as:

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.

Id. § 6.1. Annex 2 to the Air HPC Profit Sharing Agreement lays out the exact same five steps as Annex 2 to the Rhodium JV Profit Sharing Agreement to calculate the “Preliminary-Cash-Available-For-Payment.” *Id.* Annex 2. As a final step, 50% of the Preliminary-Cash-Available-For-Payment is calculated to determine the 50% Rev Share Payment. *Id.* § 6.1; Annex 2.

Again, the language of this contract is unambiguous. Both section 6.1 and Annex 2 make clear that the 50% Rev Share Payment is based only on the **Customer's** revenue—*i.e.* only on Air HPC's revenue. Section 6.1 provides that the Hosting Share Payment is “[a]n amount equal to approximately 50% of **customer** EBITDA.” *Id.* § 6.1. Annex 2 refers repeatedly to the “**Customer**” and its calculations are based on the **Customer's** Net Income. *Id.* Annex 2. This contract is thus also susceptible to only one reading: the Hosting Share Payment is 50% of the profits of **Air HPC alone**.

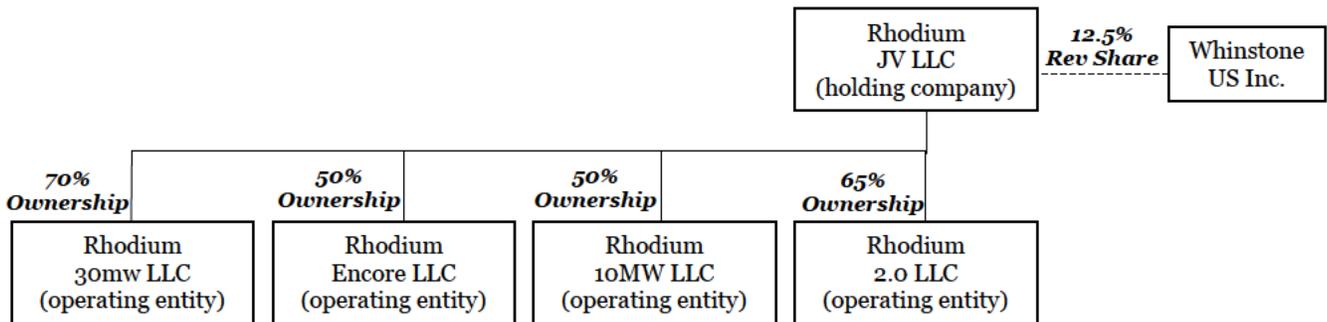
C. Whinstone's alternative interpretation is untenable.

Whinstone is now trying to rewrite the deal that it struck. It wants 12.5% of all the bitcoin mined by all Rhodium entities in Building C and 50% of all of the bitcoin mined by the Rhodium entity in Building B. But as the contract makes perfectly clear, that was not the deal. Whinstone

agreed to receive 12.5% of Rhodium JV’s profits and 50% of Air HPC’s profits. *See supra* Part I.A., B.

Rhodium JV owns an interest in all of the Rhodium entities that operate in Building C, but it does not own a 100% interest in those entities. Those entities are substantially owned by investors who contributed tens of millions of dollars to build out the bitcoin mining operations in Rockdale. Nichols Decl. ¶ 7.

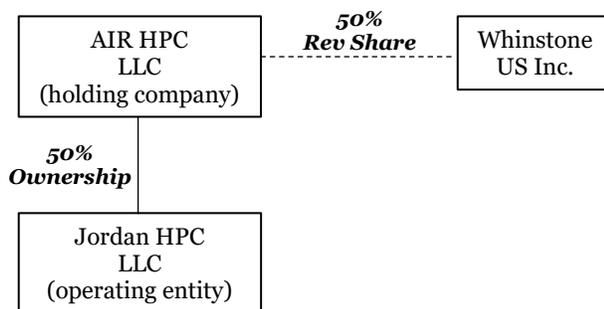
Accordingly, Rhodium JV does not receive 100% of the profits of each of the four entities operating in Building C. It receives a percentage of the profits of each entity consistent with its ownership interest. As a result, Rhodium’s JV’s “Net Income”—the starting block for calculating the 12.5% Rev Share Payment—includes only some of the profits of the four entities operating in Building C. Visually, the Rhodium JV revenue share operates as follows:



In light of this structure, Whinstone’s position that it is entitled to 12.5% of the Building C operating entities’ profits makes no sense. For example, Rhodium JV receives only 70% of Rhodium 30MW profits. Under the plain language of the contract, Rhodium JV then gives 12.5% of that amount (after making certain permitted adjustments) to Whinstone. Nowhere does the contract say that Whinstone will receive 12.5% of the profits of Rhodium 30MW or 12.5% of the profits of any entity Rhodium JV holds any interest in. Whinstone cannot ignore Rhodium JV’s corporate structure—which it understood from the outset of the parties’ relationship. *See supra*

7-9. Nor can it disregard the plain language of the contract simply because it wants a bigger slice of the pie.

Similar to Rhodium JV, Air HPC holds only a 50% interest in Jordan HPC, the only Rhodium entity that operates in Building B. Accordingly, Air HPC receives only 50% of Jordan HPC's profits and, as a result, Air HPC's "Net Income"—the starting block for the 50% Rev Share Payment—includes only 50% (not all) of Jordan HPC's profits. Visually, the Air HPC revenue share operates as follows:



Again, in light of this structure, Whinstone's position that it is entitled to 50% of Jordan HPC's profits makes no sense. Air HPC receives only 50% of Jordan HPC's profits. Air HPC then gives 50% of that amount (after making certain permitted adjustments) to Whinstone. Nowhere in the contract does it say that Whinstone will receive 50% of Jordan HPC's profits. Whinstone cannot ignore Air HPC's corporate structure or the plain language of the contract to benefit itself.

To be clear: Whinstone's erroneous reading of the Rhodium JV and Air HPC Profit Sharing Agreement has been its core theory of underpayment—and breach—for years. It forms the primary basis of Whinstone's May 17, 2022 Letter, its April 28, 2023 Letter, and its November 2023 Notice. *See* Nichols Decl. Exs. 9, 11, 12. And Whinstone has adduced no other evidence (or even theory) of underpayment in this case. As explained above, contemporaneous communications between the parties confirm the plain meaning of the contractual text. *Supra* 8-

9. Accordingly, resolving the legal question of whose profits are included in the profit sharing payments will dramatically narrow the issues that the parties will need to present at trial.⁸

Because the contractual language is clear, and Whinstone has not presented any other evidence or theory of underpayment that could carry its burden at trial, Rhodium is entitled to summary judgment. The November 2023 Notice did not effectively terminate the Rhodium JV Profit Sharing Agreement or the Air HPC Profit Sharing Agreement because Rhodium did not materially breach either agreement by supposedly underpaying Whinstone.

II. As a matter of law, the April 2024 Notice did not validly or effectively terminate any of the 25 contracts.

The April 2024 Notice is the exact opposite of what Whinstone wants it to be. Rather than supporting Whinstone's claim that it terminated the contracts pre-petition, it in fact proves Whinstone's desperate and pretextual efforts to get out of these contracts. It has virtually every flaw that a termination notice could have: It is not addressed to the right entities, it does not describe the supposed breaches, it ignores contractual notice and cure provisions, it tries to terminate contracts based on supposed breaches by non-parties, and makes assertions that are indisputably false. As explained below, the April 2024 Notice did not terminate *any* of the 25 contracts at issue. Summary judgment declaring as much is warranted.

A. The April 2024 Notice did not validly terminate the twenty 5MW Power Agreements (contract nos. 1-20).

Whinstone's contention that Debtors cannot assume the twenty 5MW Power Agreements (contract nos. 1-20) because Whinstone terminated those agreements in its April 2024 Notice is

⁸ Whinstone at times has falsely accused Rhodium JV and Air HPC of offsetting its profit share payments with "Power Credits" that Whinstone owes the Rhodium operating entities (and has never paid). That Whinstone has even attempted this argument is troubling: it knows that the payments it has received do not reflect any such offset. Debtors assume Whinstone has now dropped this baseless claim, but are prepared to rebut it if necessary.

wrong. That Notice did not validly terminate any of the twenty 5MW Power Agreements for two independent reasons: (1) the only breaches of contract it alleges are based on the actions of a *non-party* and (2) the Notice did not comply with mandatory contractual notice and cure provisions.

Whinstone's April 2024 Notice of Termination devotes just two bullet points to identifying the grounds for terminating all twenty of the 5MW Power Agreements:

- 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.

Nichols Decl. Ex. 13 at 2. But Rhodium 30MW was *never a party to any of the 5MW Power Agreements*. And, of course, Whinstone can only terminate the 5MW Power Agreements based on the actions of a party to those contracts. Summary judgment is warranted.

1. Whinstone cannot rely on the alleged material breaches or insolvency of a non-party as grounds for termination.

The 5MW Power Agreements provide that Whinstone (the "Non-Defaulting Party") may terminate those agreements "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...

Nichols Decl. Ex. 1.a § 13.3.1 (emphasis added). The “Defaulting Party” must be a “party” to the contract. *Id.* § 13.3 (defining “Defaulting Party” as “the other party”). Accordingly, the 5MW Power Agreements could only be terminated under § 13.3.1 or § 13.3.2 based on the actions of a party to the contract. This makes sense—after all, only a party to the contract could even have “material obligations under [the 5MW Power] Agreement” that could conceivably be the subject of “a material breach.” *Id.* § 13.3.1; *see also Ibe v. Jones*, 836 F.3d 516, 524 (5th Cir. 2016) (“Under Texas law, ‘a party generally must be a party to a contract before it can be held liable for a breach of the contract.’”).

For each 5MW Power Agreement, the only parties are Whinstone and the “Customer.” *E.g.* Nichols Decl. Ex. 1.a at 1. Under all twenty 5MW Power Agreements, the original “Customer” was Rhodium JV. *E.g., id.* In September 2021, Rhodium JV assigned fourteen of the contracts to Rhodium Encore, Rhodium 2.0, and Rhodium 10MW, Nichols Decl. Exs. 2.a–2.n, and provided Whinstone with written notice of the assignments, Nichols Decl. Exs. 3.a–3.o. After the assignments, these assignees became the “Customer” under the first fourteen Agreements. *E.g.* Nichols Decl. Ex. 1.a § 9.1. Rhodium JV remained the Customer for the last six of the 5MW Power Agreements. Thus, at the time Whinstone sent the April 2024 Notice, the Customers—i.e. the only other parties to the 5MW Power Agreements—were as follows:

No.	Contract	Party to the Contract
1	5MW Power Agreement No. 1	Rhodium Encore LLC
2	5MW Power Agreement No. 2	Rhodium Encore LLC
3	5MW Power Agreement No. 3	Rhodium Encore LLC
4	5MP Power Agreement No. 4	Rhodium Encore LLC
5	5MW Power Agreement No. 5	Rhodium Encore LLC
6	5MW Power Agreement No. 6	Rhodium 2.0 LLC
7	5MW Power Agreement No. 7	Rhodium 2.0 LLC
8	5MW Power Agreement No. 8	Rhodium 2.0 LLC
9	5MW Power Agreement No. 9	Rhodium 2.0 LLC
10	5MW Power Agreement No. 10	Rhodium 2.0 LLC
11	5MW Power Agreement No. 11	Rhodium 2.0 LLC
12	5MW Power Agreement No. 12	Rhodium 2.0 LLC
13	5MW Power Agreement No. 13	Rhodium 10MW LLC

14	5MW Power Agreement No. 14	Rhodium 10MW LLC
15	5MW Power Agreement No. 15	Rhodium JV LLC
16	5MW Power Agreement No. 16	Rhodium JV LLC
17	5MW Power Agreement No. 17	Rhodium JV LLC
18	5MW Power Agreement No. 18	Rhodium JV LLC
19	5MW Power Agreement No. 19	Rhodium JV LLC
20	5MW Power Agreement No. 20	Rhodium JV LLC

As is plain from this chart, Rhodium 30MW was not a party to any of the twenty 5MW Power Agreements when Whinstone issued the April 2024 Notice. Indeed, Rhodium 30MW was *never a/* party to *any* of the 5MW Power Agreements at any point before Whinstone issued the April 2024 Notice. Accordingly, Whinstone could not terminate any of those agreements based on Rhodium 30MW’s actions.

Because the only grounds Whinstone gave for terminating all twenty of the 5MW Power Agreements are Rhodium 30MW’s alleged material “breaches” and Rhodium 30MW’s alleged “insolvency,” the termination of these Agreements was ineffective as a matter of law.⁹ *See, e.g., In re Vitanza*, 1998 WL 808629, at *20 (“[N]one of the non-monetary defaults upon which [lessor] relied in terminating the Lease in April of 1997 effected its termination. As the Lease was not terminated pre-petition, Debtor is not barred from assuming the Lease under § 365(c)(3).”); *Matter of Condo. Admin. Servs., Inc.*, 55 B.R. 792, 796-97 (Bankr. M.D. Fla. 1985) (finding “letter enumerat[ing] several ‘failures of performance’ by the Debtor” did not effectuate termination under the terms of the lease prior to bankruptcy and lease was therefore “assumable”).

⁹ To be clear, *no* Rhodium entity materially breached the 5MW Power Agreements, and no Rhodium entity was insolvent. And even if Whinstone could rely on Rhodium 30MW’s insolvency as a basis for termination, as discussed *infra* Part II.E., Whinstone has failed to show that Rhodium 30MW was insolvent at the time of the April 2024 Notice of Termination.

2. Whinstone failed to comply with contractual notice and cure requirements.

Whinstone's purported termination of the 5MW Power Agreements was also ineffective because it failed to give the contractually required notice and opportunity to cure. Under Texas law, which governs all of the parties' agreements, "[w]hen a contract provides for a particular form of notice, compliance with such provisions is a condition precedent to invoking the contract rights which are conditioned on the notice." *Emerald Forest Util. Dist. v. Simonsen Const. Co., Inc.*, 679 S.W.2d 51, 54 (Tex. App.—Houston [14th Dist.] 1984, writ ref'd n.r.e.). When measuring whether a party complied with contractual notice provisions, only "*minor* deviations from a contractual notice condition that do not severely impair the purpose underlying that condition and cause *no prejudice*" are excused. *James Constr. Group, LLC v. Westlake Chem. Corp.*, 650 S.W.3d 392, 406 (Tex. 2022) (emphasis added).

Whinstone's April 2024 Notice failed to substantially comply with numerous contractual notice requirements rendering it ineffective. *First*, Section 13.3.1 of the 5MW Power Agreements expressly requires "written notice to the other party." *E.g.* Nichols Decl. Ex. 1.a § 13.3. As explained above, for 5MW Power Agreements Nos. 1-14, which had been assigned, "the other party" was Rhodium Encore, Rhodium 2.0, or Rhodium 10MW. *See supra* Part II.A. Whinstone did not provide *any* written notice to any of those entities. The April 2024 Notice was directed only to Rhodium JV, Rhodium 30MW, Air HPC, and Jordan HPC. Nichols Decl. Ex. 13 at 1.

Second, Section 13.3.1 of the 5MW Power Agreements requires that, for alleged material breaches, the notice must "specify[] the breach." Nichols Decl. Ex. 1.a § 13.3.1. The April 2024 Notice is the only communication any Rhodium entity has ever received from Whinstone asserting that any of the 5MW Power Agreements have been breached. Thus, the April 2024 Notice is the only possible "written notice" Whinstone has provided under Section 13.3.1 and it

provides no information about any alleged breach. It merely cites three subsections of the 5MW Power Agreements: Sections 2.1.4, 3.6, and 16.3. Nichols Decl. Ex. 13 at 2.

Section 2.1.4, requires “the Customer” to “comply with the Data Center Rules” “to the extent that they are reasonable.” Nichols Decl. Ex. 1.a § 2.1.4. The “Data Center Rules” refer to “the rules applying to the Customer’s use of the Data Center.” *Id.* at 2. The Notice does not provide any information about what Data Center Rule (of which there are many) was purportedly breached, when such breach or breaches occurred, or how such rules were breached. Section 3.6 generally provides that all “[a]ll amounts due under this Agreement shall be paid in accordance with all work performed and services provided.” *Id.* § 3.6. Again, the notice does not provide any information as to how or when this provision was breached. Section 16.3 generally prohibits both parties from acting as the agent or representative of the other and requires both parties to ensure that their employees comply “with all applicable laws, rules, and regulations while performing work under th[e] Agreement.” *Id.* § 16.3. Once again, Whinstone fails to provide any information detailing any purported breach of this Section. Whinstone’s failure to provide *any* information regarding the purported breaches plainly fails Section 13.3.1’s requirement to “specify[] the breach.” Whinstone’s failure to comply with this requirement also prejudices Rhodium. It has no information about what Whinstone even thinks happened—much less information necessary to assess whether a material breach actually occurred or to begin to cure. Rhodium should not be left to guess which Data Center Rule it purportedly breached or what rule or regulation one of its employees may have failed to comply with. *See James Constr. Grp., LLC v. Westlake Chem. Corp.*, 650 S.W.3d 392, 408-13 (Tex. 2022) (finding party failed to provide all contractually required written notices to invoke termination clause).

Third, Section 13.3.1 required Whinstone to give the “Defaulting Party” a “period of 30 days starting on the date of receipt of” the written notice “to remedy” any material breach. *E.g.* Nichols Decl. Ex. 1.a § 13.3.1. Instead of providing an opportunity to cure, Whinstone purported to terminate the contracts immediately. Nichols Decl. Ex. 13 at 2 (the “agreements are hereby terminated”). Whinstone’s failure to provide the requisite 30 days to cure any breach, as the parties agreed, renders the termination ineffective. *See Cheung-Loon, LLC v. Cergon, Inc.*, 392 S.W.3d 738, 745, 747 (Tex. App.—Dallas 2012, no pet.) (letter terminating lease was ineffective because it did not give the recipient 30 days to cure the alleged breach after receiving written notice, as required by the lease); *Neurobehaviorial Assocs., P.A. v. Cypress Creek Hosp., Inc.*, 995 S.W.2d 326, 332 (Tex. App.—Houston [1st Dist.] 1999, no pet.) (termination of contract improper where terminating party failed to provide “notice” identifying “the specific reasons for the termination” and failed to provide “30 days to cure” the breach, as required by the contract).

Whinstone’s failure to provide notice, specify the purported breach, and provide a cure period are further reasons that the April 2024 Notice is invalid and ineffective.

B. The April 2024 Notice did not validly terminate the Rhodium 30MW Power Agreement (contract no. 21).

The April 2024 Notice purports to terminate the Rhodium 30MW Power Agreement on the following two grounds:

- 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.

Nichols Decl. Ex. 13. Neither of these grounds for termination is valid. First, as with the 5MW Power Agreements, the failure to specify purported breaches and provide a cure period means the April 2024 Notice did not validly terminate the Rhodium 30MW Power Agreement. Second, Whinstone has failed to show that Rhodium 30MW was insolvent at the time of the April 2024 Notice of Termination.¹⁰

Similar to the 5MW Power Agreements, Section 14.2.1 of the Rhodium 30MW Power Agreement likewise requires (1) written “notice” of the alleged default that “specif[ies] the breach,” and (2) a “period of 30 days starting on the date of receipt of” the written notice “to remedy” the breach. Nichols Decl. Ex. 4. Whinstone provided neither. It merely cited multiple contract provisions without providing any specifics, and purported to terminate the contract immediately with no opportunity to cure. Nichols Decl. Ex. 13 at 2 (the “agreements are hereby terminated”). Again, this failure to comply with the notice and cure requirements prejudiced Rhodium’s ability to assess whether any material breach occurred and whether it was able to cure. As a matter of law, the April 2024 Notice was ineffective and invalid.

Whinstone’s filings suggest that it has recognized the obvious deficiencies in its April 2024 Notice and may try to claim that a letter from two years prior (Whinstone’s May 17, 2022 Letter (Nichols Decl. Ex. 9)) provided the requisite notice under the contract. The Court should reject as a matter of law any argument that a letter issued two years earlier and mentioned nowhere in the April 2024 Notice somehow provided notice of the breaches *alleged in 2024* and an opportunity to cure them. The delay alone defeats this argument. Further, there’s no connection between the May 17, 2022 Letter and the April 2024 Notice: The Letter does not cite the contract

¹⁰ The April 2024 Notice’s ineffective attempt to terminate the 30MW Power Agreement based on Rhodium 30MW’s alleged insolvency is addressed in Part II.E, *infra*.

sections cited in the April 2024 Notice, and the April 2024 Notice does not reference the matters discussed in the May 17, 2022 Letter. *Compare* Nichols Decl. Ex. 9, *with* Ex. 13. An unrelated, two-year-old letter cannot save Whinstone’s deficient April 2024 Notice. Because the April 2024 Notice failed to specify any alleged breach or provide an opportunity to cure, it did not validly terminate the Rhodium 30MW Power Agreement.

C. The April 2024 Notice did not validly terminate the Jordan HPC Power Agreement (contract no. 22).

The April 2024 Notice purports to terminate the Jordan HPC Hosting Agreement on the following two grounds:

- 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.

Nichols Decl. Ex. 13 at 2 For reasons similar to those discussed above, neither ground is valid.

First, Whinstone failed to comply with contractual notice and cure requirements. Like the 5MW and Rhodium 30MW Power Agreements, the Jordan HPC Power Agreement provides for a notice-and-cure period. The allegedly breaching party must be made aware of the alleged breach, and then must commence curing the breach within ten days. Nichols Decl. Ex. 5 § 17.1.3. The April 2024 Notice fails both requirements. It does nothing to make Jordan HPC aware of the conduct that supposedly breaches the Agreement, and it provides no opportunity to cure whatsoever. Therefore, Whinstone’s attempted termination was ineffective and invalid.

Second, Whinstone cannot rely on the alleged insolvency of a non-party as grounds for termination. Under Section 17.1.2 of the Jordan HPC Power Agreement, the Agreement may be

terminated if “a Party” to the agreement is insolvent. Nichols Decl. Ex. 5 § 17.1.2. The only “Parties” to that agreement are “Whinstone US Corporation” and “Jordan HPC LLC.” *Id.* at 1. Thus, under Section 17.1.2, Whinstone could only have terminated the Jordan HPC Power Agreement if *Jordan HPC* became insolvent, not if some non-party, like Rhodium 30MW, became insolvent. As a matter of law, the April 2024 Notice did not validly terminate the Jordan HPC Power Agreement based on *Rhodium 30MW*’s alleged insolvency.¹¹

D. The April 2024 Notice did not validly terminate the Rhodium JV and Air HPC Profit Sharing Agreements (contract nos. 23 and 24).

The April 2024 Notice purports to terminate the Rhodium JV and Air HPC Profit Sharing Agreements on three grounds: Underpayment of the profit share, expressly referencing the November 2023 Notice; other unspecified breaches; and insolvency. Nichols Decl. Ex. 13 at 2. None of these grounds are valid.

First, for precisely the same reasons addressed in Part I, *supra*, the April 2024 Notice did not validly terminate these agreements based on underpayment; Whinstone has no contractual entitlement to additional payments. *See supra* Part I.

Second, as addressed in Part II.E, Whinstone has failed to show that either Rhodium JV or Air HPC were insolvent at the time of the April 2024 Notice of Termination.

Finally, with respect to termination for the other unspecified breaches, Whinstone once again failed to follow contractual notice and cure provisions. Like the Power Agreements, the Profit Sharing Agreements provide a notice-and-cure period. The allegedly breaching party must be made aware of the alleged breach, and then must commence curing the breach within ten days. *E.g.*, Nichols Decl. Ex. 7 § 17.1.3. The April 2024 Notice flunks both requirements. It does

¹¹ As addressed in Part II.E, Whinstone has also failed to show that Rhodium 30MW was insolvent at the time of the April 2024 Notice.

nothing to make Rhodium JV and Air HPC aware of the conduct that supposedly breaches the agreements, and it provides no opportunity to cure whatsoever.

The importance of compliance with the notice-and-cure period cannot be understated. Whinstone issued its April 2024 Notice *after* the emergency arbitrator held that Whinstone's January 2024 Notice did not meet the contractual requirements for suspension and *after* the emergency arbitrator enjoined Whinstone "from taking any action pursuant to the" January 2024 Notice. Asay Decl. Ex. 20 ¶ 20. Because of that injunction, the April 2024 Notice could not be based in any way on the (meritless) allegations that underpinned the January 2024 suspension. If Whinstone wanted to interject new allegations of breach, it had to make Rhodium aware of them and provide the required opportunity to cure. It failed to do so. Accordingly, the April 2024 Notice did not validly or effectively terminate the Rhodium JV and Air HPC Profit Sharing Agreements.

E. Whinstone has failed to show that Rhodium 30MW, Rhodium JV, or Air HPC were insolvent when Whinstone issued the April 2024 Notice.

Consistent with its throw-everything-at-the-wall style, Whinstone's April 2024 Notice purports to terminate *every* single contract because of the "insolvency" of three Rhodium entities: Rhodium 30MW, Rhodium JV, and Air HPC. Nichols Decl. Ex. 13 at 2. But these three entities were not insolvent when Whinstone issued the April 2024 Notice and Whinstone cannot come forward with any evidence showing they were.¹² Because there are no material facts in dispute, summary judgment on this issue is warranted.

Whinstone must come forward with evidence showing that these three entities were insolvent at the time it issued the April 2024 Notice of Termination in order for Whinstone to establish that it properly terminated these agreements on the basis of insolvency pre-petition. *See*

¹² To be clear, *no* Rhodium entity was insolvent when the April 2024 Notice was sent. But only the alleged insolvency of Rhodium 30MW, Rhodium JV and Air HPC are before the Court.

supra 13-14 (citing *In re Pyramid*, 144 B.R. at 809; *In re Greenville*, 2000 WL 33710874, at *4, *10). Despite issuing its notice *nearly six months ago* and having the opportunity for discovery in this case, Whinstone has still failed to identify any evidence even remotely indicating that any of these three entities were insolvent when it issued the April 2024 Notice of Termination.

On September 12, 2024, Debtors served the following interrogatory request on Whinstone in this litigation:

Interrogatory No. 5:

For each alleged insolvency that You contend underlies the April 22, 2024 Notice of Termination, explain in detail the alleged insolvency, the date the alleged insolvency occurred, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that the alleged insolvency occurred.

Asay Decl. Ex. 23 at 6.

On October 3, 2024, Whinstone provided the following response:

INTERROGATORY NO. 5:

.... Whinstone refers Debtors to their financial statements (e.g., RHOD-BK-00016037), intercompany loan transfers, amount of debt greater than assets, Debtors' inability to make payments as they come due, the temporary injunction orders Debtors three times obtained, TheMinerMag's August 7, 2024 article titled "Bitcoin Miner Rhodium in Distress Amid Loan Defaults," temporary injunction hearing transcripts and briefing in which Debtors affirmatively represented they would go out of business and had mismanaged their finances and operations, and Debtors' bankruptcy petitions and related filings. Whinstone will further provide expert reports and testimony regarding Debtors' insolvency.

Asay Decl. Ex. 24 at 7-8.

Whinstone's response is wholly insufficient to meet its initial burden of showing that Rhodium 30MW, Rhodium JV, and Air HPC were insolvent when Whinstone issued its April 2024 Notice. Whinstone's general citations to categories of documents such as Debtor's financial statements, intercompany loan transfers, and Debtors' bankruptcy petitions and related filings

provides no explanation whatsoever of how or when any of these three entities were insolvent.¹³ Further, Whinstone’s reliance on an article from *August 7, 2024*, can hardly be evidence of these entities’ insolvency as of *April 22, 2024*.¹⁴ The Court “is not obligated to search the record for the non-moving party’s evidence.” *In re Alta Mesa Res., Inc.*, 613 B.R. 90, 97 (Bankr. S.D. Tex. 2019). Nor is the Court obligated to piece together a theory of insolvency based on Whinstone’s scattershot citations. Whinstone’s allusions to forthcoming “expert reports and testimony regarding Debtors’ insolvency” also do not save its case. Whinstone’s expert disclosures and reports, served on October 14, 2024, do not even *mention* the Debtors’ insolvency let alone provide any analysis as to the insolvency of these three entities at the time of the April 2024 Notice. If Whinstone had any evidence of these entities’ insolvency as of April 22, 2024, it should have come forward with that evidence by now. It has not. Whinstone’s failure to do so is fatal to its argument that any agreement was terminated due to the insolvency of either Rhodium JV, Air HPC, or Rhodium 30MW.

¹³ The only specific document in the record that Whinstone cites to in its Interrogatory response is RHOD-BK-00016037. This document consists of the consolidated financials of the Rhodium entities for year-end 2022 and 2023 based on generally accepted accounting principles (GAAP). Asay Decl. Ex. 25. However, GAAP does not control in a solvency determination. *In re Babcock & Wilcox Co.*, 274 B.R. 230, 260 (Bankr. E.D. La. 2002) (“Virtually all of the cases that discuss GAAP in the context of a solvency analysis recognize that the court is not bound by GAAP in making a solvency determination.”); *In re Lease-A-Fleet, Inc.*, 155 B.R. 666, 679 (Bankr. E.D. Pa. 1993) (“Courts are not required to rely upon GAAP standards when determining the issue of insolvency.”); *In re Richmond Produce Co.*, 151 B.R. 1012, 1019 (Bankr. N.D. Cal. 1993) (“However, generally accepted accounting principles do not control the determination of solvency in a trustee’s avoidance action”). This is the only document Whinstone pointed to in existence at or before April 22, 2024. As such, Whinstone entirely fails to demonstrate that Rhodium 30MW, Rhodium JV, or Air HPC were insolvent as of that date.

¹⁴ Whinstone also cannot rely on this article because it is inadmissible hearsay under Federal Rule of Evidence 802. *James v. Tex. Collin Cnty.*, 535 F.3d 365, 374 (5th Cir. 2008) (holding that “[n]ewspaper articles, however, are not proper summary judgment evidence to prove the truth of the facts that they report because they are inadmissible hearsay” (citing *Roberts v. City of Shreveport*, 397 F.3d 287, 295 (5th Cir. 2005) (holding that newspaper articles were not competent summary judgment evidence because they are “classic, inadmissible hearsay.”))).

Whinstone's complete failure to provide any evidence of these entities' insolvency makes sense because none of these entities were (or are) insolvent. Rhodium 30MW assumed loans to purchase the miners it uses at the Rockdale Site under the Rhodium 30MW Power Agreement, but it paid off those debts on September 10, 2021, and currently has income from mining bitcoin. Nichols Decl. ¶ 13. Accordingly, it is not insolvent. Both Rhodium JV and Air HPC are holding companies. Nichols Decl. ¶¶ 6, 18. As such, they do not have debt or operating costs, but they receive income from the subsidiaries that they own in part. *Id.* ¶¶ 6, 7, 18. In short, these holding companies are not now, nor were they ever, insolvent, and Whinstone cannot present any evidence to the contrary.

RELIEF REQUESTED

Debtors respectfully request that the Court enter summary judgment in their favor by declaring that Whinstone did not validly terminate any of the contracts Debtors have moved to assume.

Respectfully submitted this 16th day of October, 2024.

STRIS & MAHER LLP

/s/ Colleen R. Smith

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Counsel for Debtors and Debtors in Possession

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Colleen R. Smith

Colleen R. Smith

Certificate of Service

I, Colleen R. Smith, hereby certify that on the 16th day of October, 2024, a copy of the foregoing Motion was served by the Electronic Case Filing System for the United State Bankruptcy Court for the Southern District of Texas.

/s/ Colleen R. Smith

Colleen R. Smith

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

<p>In re:</p> <p style="margin-left: 40px;">RHODIUM ENCORE LLC, <i>et al.</i>,¹</p> <p style="margin-left: 80px;">Debtors.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Chapter 11</p> <p>Case No. 24-90448 (ARP)</p> <p>(Jointly Administered)</p>
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**DECLARATION OF NATHAN NICHOLS IN SUPPORT OF
DEBTORS’ MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Nathan Nichols, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Nathan Nichols. I am co-CEO of Rhodium Enterprises, Inc., which directly or indirectly manages other Rhodium-family entities, including but not limited to Rhodium 30MW LLC, Rhodium JV LLC; Rhodium 2.0 LLC, Rhodium 10MW LLC, Rhodium Encore LLC, Jordan HPC LLC, and Air HPC LLC (collectively referred to as “Rhodium” herein).² I have personal knowledge of the facts set forth below, and if called as a witness, I could and would competently attest to them.

¹ 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), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), Rhodium Encore Sub LLC (1064), Rhodium Enterprises, Inc. (6290), Rhodium Industries LLC (4771), Rhodium Ready Ventures LLC (8618), Rhodium Renewables LLC (0748), Rhodium Renewables Sub LLC (9511), Rhodium Shared Services LLC (5868), and Rhodium Technologies LLC (3973). The mailing and service address of Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in Debtors’ Motion for Partial Summary Judgment.

2. I submit this Declaration in support of Debtors' Motion for Partial Summary Judgment.

3. Rhodium is an industrial scale digital asset technology company utilizing proprietary technologies to mine Bitcoin. Rhodium conducts its principal operations at a data center in Rockdale, Texas owned by Whinstone US, Inc.

4. In 2020, Whinstone and Rhodium entered into a series of contracts to set up a long-term business relationship whereby Whinstone would provide Rhodium with space, power, and other services at the Rockdale facility for Rhodium to operate its Bitcoin miners and in exchange Rhodium would, among other things, pay certain fees.

5. Whinstone and Rhodium's founders initially formed a joint venture called Rhodium JV LLC ("Rhodium JV"). Rhodium's founders owned 87.5% of Rhodium JV's equity, and Whinstone owned the remaining 12.5%.

6. Rhodium JV is, and has always been, a holding company. It holds ownership interests in operating entities that mine Bitcoin at the Rockdale Site. It does not hold other assets and does not run any of its own Bitcoin mining operations.

7. Rhodium JV owns partial interests in four entities, all of which operate Bitcoin miners exclusively in Building C at the Rockdale Site. It owns 70% of Rhodium 30MW, 50% of Rhodium Encore, 50% of Rhodium 10MW, and 65% of Rhodium 2.0. Investors own the remainder of the ownership interests in these entities. These investors contributed tens of millions of dollars to purchase an interest in these entities. Those funds enabled these entities to build out the Bitcoin mining operations at the Rockdale Site.

8. In July 2020, Whinstone and Rhodium JV entered into the twenty identical "5MW Power Agreements," each providing for Rhodium JV to receive 5 megawatts of electricity from

Whinstone at a fixed price for at least ten years. True and correct copies of the 5MW Power Agreements are attached hereto as Exhibits 1.a–1.t.

9. On September 30, 2021, Rhodium JV assigned the first fourteen of the 5MW Power Agreements to three Rhodium entities that operate Bitcoin miners at the Rockdale Site. It assigned five of the contracts to Rhodium Encore, two of the contracts to Rhodium 10MW, and seven of the contracts to Rhodium 2.0. True and correct copies of those assignments are attached hereto as Exhibits 2.a–2.n.

10. On October 1, 2021, Rhodium JV provided Whinstone with written notice of these assignments. Attached as Exhibits 3.a–3.o are true and correct copies of an email I sent to Chad Harris, dated October 1, 2021, and the fourteen Notice Letters attached thereto that notified Whinstone of Rhodium JV’s assignment of the fourteen 5MW Power Agreements to other Rhodium entities.

11. Under these assignments, Rhodium Encore currently operates 25 megawatts of Bitcoin miners at the Rockdale Site, Rhodium 10MW currently operates 10 megawatts of Bitcoin miners at the Rockdale Site, and Rhodium 2.0 currently operates 35 megawatts of Bitcoin miners at the Rockdale Site.

12. In July 2020, Whinstone and Rhodium 30MW entered into the “Rhodium 30MW Power Agreement” pursuant to which Rhodium 30MW would receive 30 megawatts of power from Whinstone at a fixed price for at least ten years. A true and correct copy of that agreement is attached hereto as Exhibit 4.

13. Rhodium 30MW assumed loans to purchase the miners that it uses at the Rockdale Site under this Agreement. It paid off those loans on September 10, 2021, and no longer has any debt.

14. In November 2020, Whinstone and Jordan HPC entered into the “Jordan HPC Power Agreement” pursuant to which Jordan HPC would receive 25 megawatts of power from Whinstone at a fixed price for at least ten years. A true and correct copy of that agreement is attached hereto as Exhibit 5.

15. On December 31, 2020, Whinstone redeemed the 12.5% ownership interest it held in Rhodium JV. A true and correct copy of the Withdrawal, Dissociation, and Membership Interest Redemption Agreement that effectuated this redemption is attached hereto as Exhibit 6.

16. On December 31, 2020, Whinstone and Rhodium JV also entered into the “Rhodium JV Profit Sharing Agreement.” A true and correct copy of that agreement is attached hereto as Exhibit 7.

17. On December 31, 2020, Whinstone and Air HPC entered into the “Air HPC Profit Sharing Agreement.” A true and correct copy of that agreement is attached hereto as Exhibit 8.

18. Air HPC, like Rhodium JV, is, and always has been, a holding company. Air HPC owns a 50% interest in one Rhodium entity, Jordan HPC, which operates 25 megawatts of Bitcoin miners exclusively in Building B at the Rockdale Site. Air HPC does not hold other assets and does not run its own Bitcoin mining operations.

19. In August 2021, Whinstone entered into a water supply services agreement with Rhodium Industries, LLC, Rhodium JV, Rhodium 30MW, Rhodium Encore, Rhodium 2.0, Jordan HPC, and Rhodium 10MW pursuant to which Whinstone would supply water and services to Building C at the Rockdale Site to support Rhodium’s Bitcoin mining operations.

20. Rhodium JV and Air HPC began making payments to Whinstone under their respective Profit Sharing Agreements in 2021. For the year ending December 31, 2021, Rhodium

JV and Air HPC paid Whinstone approximately \$8.5 million: Approximately \$1.7 million under the Rhodium JV 12.5% profit share and \$6.8 million under the Air HPC 50% profit share.

21. On May 17, 2022, Rhodium Enterprises, Inc., Rhodium JV, Air HPC, and Rhodium 30MW received a letter from Whinstone's attorneys demanding, among other things, that Rhodium JV and Air HPC pay more than \$10 million more in profit share payments for the year ending December 31, 2021. A true and correct copy of that letter is attached hereto as Exhibit 9.

22. On May 19, 2022, I received an email with an excel attachment from William Jackman, the General Counsel at Riot, setting forth Whinstone's calculations of what it believed it was entitled to receive in profit share payments under the Rhodium JV and Air HPC Profit Sharing Agreements for the year ending on December 31, 2021. True and correct copies of that email and its attachment are attached hereto as Exhibit 10.a and 10.b.

23. On April 28, 2023, Rhodium JV and Air HPC received another letter from Whinstone's attorneys, this time demanding approximately \$12 million in profit share payments and approximately \$1.5 million for "other past due amounts." A true and correct copy of that letter is attached hereto as Exhibit 11.

24. On November 27, 2023, Rhodium JV and Air HPC received a "Notice of Termination" from Whinstone's attorneys. A true and correct copy of that Notice of Termination is attached hereto as Exhibit 12. That same evening, Whinstone shut off all power to Rhodium's operations at the Rockdale Site and evicted all Rhodium personnel working at the Site.

25. On April 22, 2024, Rhodium JV, Rhodium 30MW, Air HPC, and Jordan HPC received another "Notice of Termination" from Whinstone. A true and correct copy of that Notice of Termination is attached hereto as Exhibit 13.

26. Over the course of their business relationship, Rhodium repeatedly explained its corporate structure and profit-flow to Whinstone. For example, on March 31, 2020, Nick Cerasuolo sent the email and attachment attached hereto as Exhibits 14.a and 14.b to Whinstone's then-CEO Chad Harris. I was copied on this email.

27. As another example, on December 30, 2020, Nick Cerasuolo sent the email attached hereto as Exhibit 15 to Mr. Harris. I was copied on this email.

28. I hereby declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: October 16, 2024

Signed by:

/B0AFDF7A6BA421...
Nathan Nichols

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

<p>In re:</p> <p style="margin-left: 40px;">RHODIUM ENCORE LLC, <i>et al.</i>,¹</p> <p style="margin-left: 80px;">Debtors.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Chapter 11</p> <p>Case No. 24-90448 (ARP)</p> <p>(Jointly Administered)</p>
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**DECLARATION OF BRIDGET ASAY IN SUPPORT OF
DEBTORS’ MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Bridget Asay, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney with the firm Stris & Maher LLP. I am an attorney at law, admitted to practice in this matter pro hac vice. I represent Rhodium Encore LLC and its debtor affiliates in the above-captioned chapter 11 cases.
2. I submit this Declaration in support of Debtors’ Motion for Partial Summary Judgment.²

¹ 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), Jordan HPC Sub LLC (0463), Rhodium 2.0 Sub LLC (5319), Rhodium 10MW Sub LLC (3827), Rhodium 30MW Sub LLC (4386), Rhodium Encore Sub LLC (1064), Rhodium Enterprises, Inc. (6290), Rhodium Industries LLC (4771), Rhodium Ready Ventures LLC (8618), Rhodium Renewables LLC (0748), Rhodium Renewables Sub LLC (9511), Rhodium Shared Services LLC (5868), and Rhodium Technologies LLC (3973). The mailing and service address of Debtors in these chapter 11 cases is 2617 Bissonnet Street, Suite 234, Houston, TX 77005.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in Debtors’ Motion for Partial Summary Judgment.

3. Attached hereto as Exhibit 16 is a true and correct copy of the Milam County District Court Order dated September 13, 2023, granting Rhodium's Motion to Compel Arbitration.

4. Attached hereto as Exhibit 17 is a true and correct copy of the Order from the Texas Court of Appeals, Third District, dated November 22, 2023, denying Whinstone's mandamus petition.

5. Attached hereto as Exhibit 18 is a true and correct copy of the Milam County District Court Order dated November 29, 2023, granting Rhodium's Motion for a Temporary Restraining Order.

6. Attached hereto as Exhibit 19 is a true and correct copy of the Milam County District Court Order dated December 12, 2023, granting Rhodium's Motion for a Temporary Injunction.

7. Attached hereto as Exhibit 20 is a true and correct copy of the AAA Emergency Arbitrator's Order dated March 7, 2024, granting in part Rhodium's Application for Emergency Relief.

8. Attached hereto as Exhibit 21 is a true and correct copy of a January 25, 2024 email from the Milam County District Court Judge John Youngblood to counsel for Rhodium and Whinstone.

9. Attached hereto as Exhibit 22 is a true and correct copy of the AAA Arbitrator's Order dated June 4, 2024, denying Whinstone's Emergency Application to Dissolve Temporary Injunction and Plea to Jurisdiction and granting Rhodium's Request for Interim Relief.

10. Attached hereto as Exhibit 23 is a true and correct copy of Debtors' Interrogatories, Set One to Whinstone US, Inc., which Debtors served on Whinstone US, Inc. on September 12, 2024.

11. Attached hereto as Exhibit 24 is a true and correct copy of Whinstone's Objections and Responses to Debtors' Interrogatories, Set One, which Debtors received from Whinstone US, Inc. on October 3, 2024.

12. Attached hereto as Exhibit 25 is a true and correct copy of a document bearing bates stamp RHOD-BK-00016037, which Debtors produced as part of this proceeding.

13. I hereby declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: October 16, 2024

Signed by:

23201258ADC9410
Bridget Asay

EXHIBIT 1

EXHIBIT 1.a

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 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 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 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: 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 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 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.
- 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 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.

- 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 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.

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 to 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.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

EXHIBIT 1.b

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 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 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 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: 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 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 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.
- 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 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.

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 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.

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 to 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

EXHIBIT 1.c

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 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 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 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: 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 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.d

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 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 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 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: 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 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 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.
- 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 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.

- 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.

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 to 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

EXHIBIT 1.e

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.f

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 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 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 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: 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 placed 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, unstacking/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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.g

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to give effect to this Agreement and to the rights and obligations contained within this Agreement.

EXHIBIT 1

EXHIBIT 1.h

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.i

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.j

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.k

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.1

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.m

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.n

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

EXHIBIT 1.0

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 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 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.

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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.p

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.q

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 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 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 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: 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 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.r

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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.

x *Chad Everett Harris*

Name: Chad Everett Harris

Title: Director

Date: 07 / 09 / 2020

EXHIBIT 1

EXHIBIT 1.s

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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

EXHIBIT 1.t

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 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 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 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: 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 placed 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 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.
- 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 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.

- 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 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.

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 to 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



TITLE	Rhodium 5MW Hosting Agreements - 20 identical agreements
FILE NAME	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



SENT

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



VIEWED

06 / 30 / 2020

19:38:22 UTC-6

Viewed by Cameron Blackmon
(cameronblackmon@rhodiummining.io)
IP: 107.77.198.141



SIGNED

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
FILE NAME	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 2

EXHIBIT 2.a

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-001 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-001 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium Encore LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.b

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-002 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-002 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium Encore LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.c

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-003 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-003 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium Encore LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.d

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-004 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-004 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium Encore LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.e

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-005 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium Encore LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-005 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium Encore LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.f

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-006 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-006 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.g

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-007 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-007 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.h

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-008 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-008 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.i

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-009 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-009 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.j

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-010 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-010 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.k

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-011 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-011 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.1

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-012 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 2.0 LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-012 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 2.0 LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.m

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 10MW LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-013 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 10MW LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-013 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 10MW LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 2.n

ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

On this 30th day of September, 2021, Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”), hereby transfers, assigns and sets over to Rhodium 10MW LLC, a Delaware limited liability company (the “**Assignee**”), all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-014 dated July 9, 2020 and entered into by and between Assignor and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium JV LLC
A Delaware limited liability company
By: Rhodium Technologies LLC
Its: Manager

Nathan Nichols

By: Nathan Nichols
Its: Authorized Representative

ACCEPTANCE OF ASSIGNMENT

On this 30th day of September, 2021, Rhodium 10MW LLC, a Delaware limited liability company (the “**Assignee**”), hereby accepts all right, title and interest in and to that certain New Hosting Service Agreement No. #R-5MW-014 dated July 9, 2020 and entered into by and between Rhodium JV LLC, a Delaware limited liability company (the “**Assignor**”) and Whinstone US, Inc., a Delaware corporation (“**Whinstone**”) for electrical power to operate 5 MW of Miners in immersible equipment on Whinstone’s property in Rockdale, Texas, and all addenda and riders thereto (the “**Agreement**”).

Rhodium 10MW LLC
A Delaware limited liability company
By: Rhodium JV LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Representative

EXHIBIT 3

EXHIBIT 3.a

From: Nathan Nichols [nathannichols@rhodiummining.io]
Sent: 10/1/2021 2:44:12 PM
To: c.harris@whinstone.us
CC: Charles Topping [chucktopping@rhodiummining.io]; Nick Cerasuolo [nickcerasuolo@rhodiummining.io]
Subject: Notice of Assignment of Rhodium JV 5MW Contracts
Attachments: Notice to Whinstone - Asgmt of 5mw K #1.pdf; Notice to Whinstone - Asgmt of 5mw K #2.pdf; Notice to Whinstone - Asgmt of 5mw K #3.pdf; Notice to Whinstone - Asgmt of 5mw K #4.pdf; Notice to Whinstone - Asgmt of 5mw K #5.pdf; Notice to Whinstone - Asgmt of 5mw K #6.pdf; Notice to Whinstone - Asgmt of 5mw K #7.pdf; Notice to Whinstone - Asgmt of 5mw K #8.pdf; Notice to Whinstone - Asgmt of 5mw K #9.pdf; Notice to Whinstone - Asgmt of 5mw K #10.pdf; Notice to Whinstone - Asgmt of 5mw K #11.pdf; Notice to Whinstone - Asgmt of 5mw K #12.pdf; Notice to Whinstone - Asgmt of 5mw K #13.pdf; Notice to Whinstone - Asgmt of 5mw K #14.pdf

Hi Chad,

Hope you're having a wonderful Friday! As Nick helps get Jimmy and RIOT's finance team requested financial information for efficient reporting purposes, we wanted to give notice of Rhodium JV LLC's assignment of 14 5MW contracts to its intended subsidiaries.

Rhodium Encore LLC: 5 5MW Contracts (25MW)

Rhodium 10MW LLC: 2 5MW Contracts (10MW)

Rhodium 2.0 LLC 7 5MW Contracts (35MW)

Total Transfer 14 5MW (70MW) Contracts.

All the best,
Nathan



Nathan Nichols | Chief Executive Officer
Rhodium Enterprises, Inc. | 4146 W US Hwy 79 | Rockdale, TX 76567
e: nathannichols@rhodiummining.io
m: [434-249-2648](tel:434-249-2648)

EXHIBIT 3.b

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

**Re: Assignment of New Hosting Service Agreement No. #R-5MW-001 to Rhodium
Encore LLC**

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-001 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium Encore LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.c

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-002 to Rhodium Encore LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-002 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium Encore LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.d

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-003 to Rhodium Encore LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-003 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium Encore LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.e

NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-004 to Rhodium Encore LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-004 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium Encore LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.f

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

**Re: Assignment of New Hosting Service Agreement No. #R-5MW-005 to Rhodium
Encore LLC**

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-005 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium Encore LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.g

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-006 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-006 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.h

NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-007 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-007 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.i

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-008 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-008 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.j

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-009 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-009 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.k

NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-010 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-010 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.1

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-011 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-011 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.m

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

Re: Assignment of New Hosting Service Agreement No. #R-5MW-012 to Rhodium 2.0 LLC

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-012 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 2.0 LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.n

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

**Re: Assignment of New Hosting Service Agreement No. #R-5MW-013 to Rhodium
10MW LLC**

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-013 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 10MW LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

EXHIBIT 3.0

**NOTICE LETTER
ASSIGNMENT OF NEW HOSTING SERVICE AGREEMENT**

SENT VIA EMAIL CHARRIS@WHINSTONE.US

WHINSTONE US, INC.
C/O CHAD HARRIS
2721 CHARLES MARTIN HALL ROAD
ROCKDALE, TEXAS 76567

September 30, 2021

**Re: Assignment of New Hosting Service Agreement No. #R-5MW-014 to Rhodium
10MW LLC**

Dear Chad:

In accordance with Section 9.1 of the New Hosting Service Agreement No. #R-5MW-014 by and between Whinstone US, Inc, a Delaware limited liability company (“**Whinstone**”) and Rhodium JV LLC, a Delaware limited liability company (“**Rhodium JV**”) dated July 9, 2020 (the “**Hosting Agreement**”), please accept this letter as Rhodium JV’s notice to Whinstone of Rhodium JV’s assignment, effective as of September 30, 2021, of said Hosting Agreement to Rhodium 10MW LLC, a Delaware limited liability company.

Should you have any questions, please do not hesitate to contact the undersigned at cameronblackmon@rhodiummining.io.

Sincerely,

Rhodium JV LLC
By: Rhodium Technologies LLC
Its: Manager

Cameron Blackmon

By: Cameron Blackmon
Its: Authorized Signatory

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 kW * Hosting Fee * 24 hours * 30days = \$368280.00

31-day month: 30,000kW * Hosting Fee * 24 hours * 31days = \$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, unstacking/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 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.

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



Audit Trail

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.

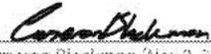
23.11. Counterparts

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.

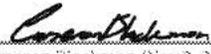
[Signature Page Follow Rockdale, November 2, 2020


C. 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

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
By: Cameron Blackmon
Its: Manager

WHINSTONE US, INC.,
A Delaware Corporation


By: Chad Harris
Its: Director

IMPERIUM INVESTMENTS HOLDINGS LLC,
A Wyoming limited liability company

Cameron Blackmon
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 (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 (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

Cameron Blackmon (Del. St., 2024-10-17)

By: Cameron Blackmon

Its: Manager

WHINSTONE US, INC.

A Delaware corporation



Chad Harris (Del. St., 2024-10-17)

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
By: Cameron Blackmon
Its: Manager

WHINSTONE US, INC.,
A Delaware Corporation


By: Chad Harris
Its: Director

IMPERIUM INVESTMENTS HOLDINGS LLC,
A Wyoming limited liability company

Cameron Blackmon
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 7

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

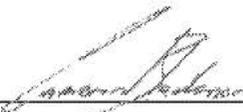
This Agreement and each exhibit or attachment hereto may be executed in counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument, and if so executed in counterparts shall be enforceable and effective upon the exchange of executed 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 8

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 9



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



FOLEY & LARDNER LLP

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 black ink, appearing to read "Robert Slovak", with a horizontal line extending to the right.

Robert Slovak

cc: William Jackman, General Counsel

EXHIBIT 10
FILED UNDER SEAL

EXHIBIT 11



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
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

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

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



FOLEY & LARDNER LLP

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 black ink, appearing to read "Robert Slovak", with a horizontal line extending to the right.

Robert Slovak

cc: William Jackman, General Counsel

Whinstone US
 2721 Charles Martin Hall Rd
 Rockdale TX 76567
 United States



WHINSTONE

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

EXHIBIT
3

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

NEW BANKING INFORMATION

TOTAL 6,141.25

BALANCE DUE **\$6,141.25**

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

EXHIBIT
4



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 12



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,

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 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 black ink, appearing to read "Alex Travis". The signature is written in a cursive, flowing style.

Alex Travis
General Counsel

EXHIBIT 14
FILED UNDER SEAL

EXHIBIT 15
FILED UNDER SEAL

EXHIBIT 16

ORIGINAL

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

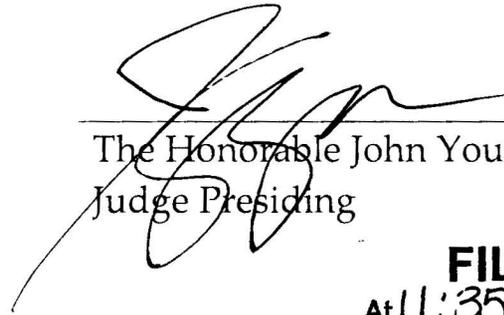
Milam County, Texas

20th Judicial District

**ORDER GRANTING DEFENDANTS' MOTION TO
COMPEL ARBITRATION AND STAY LITIGATION**

After considering Defendants' Motion to Compel Arbitration and Stay Litigation, the response, the reply, and arguments of counsel, and after a hearing on the application, the Court GRANTS the motion and orders the parties to arbitrate the claims presented in Plaintiff's Second Amended Petition. The Court stays litigation in this case pending the outcome of the arbitration.

Signed on Sept. 13th, 2023.



The Honorable John Youngblood
Judge Presiding

FILED
At 11:35 o'clock AM

SEP 13 2023

KAREN BERRY
DISTRICT CLERK, MILAM COUNTY, TEXAS
BY Cindy Brazel
DEPUTY

EXHIBIT 17

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-23-00717-CV

In re Whinstone US, Inc.

ORIGINAL PROCEEDING FROM MILAM COUNTY

MEMORANDUM OPINION

The petition for writ of mandamus is denied. *See* Tex. R. App. P. 52.8(a).

Darlene Byrne, Chief Justice

Before Chief Justice Byrne, Justices Kelly and Theofanis

Filed: November 22, 2023

EXHIBIT 18

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

**ORDER GRANTING RHODIUM'S MOTION FOR AN EMERGENCY
ORDER IN SUPPORT OF ARBITRATION AND A TEMPORARY
RESTRAINING ORDER**

After considering Rhodium's motion, accompanying evidence, relevant briefing, and any arguments of counsel, the Court finds it should be granted. The Court finds immediate relief is necessary to prevent "the destruction of all or an essential part of the subject matter of the controversy," to prevent "the destruction or alteration of books, records, documents, or other evidence needed for the arbitration," and "to permit the arbitration to be conducted in an orderly manner and to prevent improper

interference or delay of the arbitration.” Tex. Civ. Prac. & Rem. Code § 171.086(a).

The Court further finds that there is evidence that harm is imminent to Rhodium. If the Court does not issue the temporary restraining order, Rhodium will be irreparably injured in numerous ways, including permanent harm to its equipment and custom-built facilities, immeasurable harm to its goodwill and reputation, being forced to terminate its highly skilled Rockdale workforce, disclosure of confidential intellectual property to a competitor, the risk that Whinstone and Riot would not be able to satisfy a money judgment against them related to this conduct, exclusion from its leasehold, and an inability to mine Bitcoin.

To the extent Whinstone did not appear, an ex parte order, without notice to Whinstone, is necessary because there was not enough time to give notice to Whinstone, hold a hearing, and issue a restraining order before the irreparable injury, loss, or damage would occur. Specifically, if Whinstone disassembles and removes Rhodium’s equipment and systems from the Rockdale Facility, it will necessarily cause Rhodium’s operations at the

Rockdale Facility to be offline for at least six months—likely resulting in Rhodium going out of business.

Therefore, by this Order, Plaintiff is hereby commanded to restore the status quo from before Plaintiff's purported termination, including by:

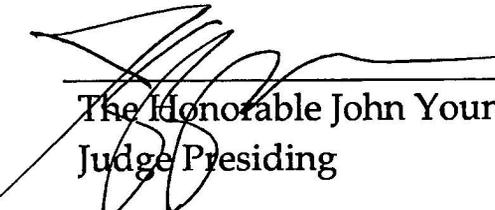
- Restoring Rhodium's access to Whinstone's bitcoin mining facility in Rockdale, Texas.
- Providing Rhodium access to electricity, water, and maintenance, as contemplated by the parties' contracts for Rhodium to conduct its business of mining bitcoin.
- Providing access to all other necessary services contemplated by the parties' contracts for Rhodium to conduct its business of mining bitcoin at Whinstone's bitcoin mining facility.
- Restoring Rhodium's remote access to all of its bitcoin mining equipment and systems located at Whinstone's bitcoin mining facility.
- Re-activating all Rhodium security badges.

A hearing on Rhodium's application for a temporary injunction is set for Dec. 5th, 2023 at 1:30 a.m./p.m. The purpose of the hearing will be to determine whether this temporary restraining order should be made a temporary injunction pending a full arbitration or trial on the merits.

Rhodium is ordered to post bond in the amount of \$20. In lieu of filing the bond, Rhodium may deposit cash or any negotiable obligation permitted with or without leave of court under Texas Rule of Civil Procedure 14c.

This order expires on Dec. 13th, 2023.

Signed Nov. 29th, 2023 at 9:11 a.m./p.m.


The Honorable John Youngblood
Judge Presiding

FILED
At 9:05 o'clock AM

NOV 29 2023

KAREN BERRY
DISTRICT CLERK, MILAM COUNTY, TEXAS
BY Cindy Krazel
DEPUTY

EXHIBIT 19

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

**ORDER GRANTING RHODIUM'S MOTION
FOR A TEMPORARY INJUNCTION**

After considering Rhodium's Motion for Emergency Order in Support of Arbitration, Temporary Injunction, and Temporary Restraining Order, the submissions of the parties, and holding an evidentiary hearing, the Court finds that the request for temporary-injunctive relief made by Rhodium JV LLC, AIR HPC LLC, Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC, Rhodium 10MW LLC, and Jordan HPC LLC (collectively, "Rhodium") should be granted.

Therefore, by this Order, Whinstone is hereby commanded to restore and maintain the status quo regarding its contractual relationships with Rhodium from before Whinstone's purported "Notice of Termination" on November 27, 2023, including with respect to the provision of electricity, access, and other services Whinstone was providing pursuant to the parties' contracts prior to November 27, 2023. This order is not intended to conclusively resolve the parties' dispute about which contracts govern their relationships. It simply restores the status quo that the parties were operating under prior to November 27, 2023.

This temporary injunction is subject to modification, and may be lifted, extended, or otherwise altered, as deemed appropriate by a duly appointed arbitrator. This temporary injunction may also be modified by further order of this Court.

To the extent any claims are to be resolved by the arbitrator, the setting of any trial proceedings in front of the arbitrator shall be determined by the arbitrator and the American Arbitration Association rules.

To the extent any claims remain to be resolved in this Court after the stay is lifted, trial on those claims is set for June 5, 2025.

Proceedings in this case remain stayed in accordance with the Court's previous order granting Rhodium's Motion to Compel Arbitration and Stay Litigation. That stay remains in effect until further order of this Court. If the stay is not lifted in time for the parties to prepare for trial at the set time, then the Court will reset the trial as needed.

The Court finds that temporary-injunctive relief is necessary to prevent "the destruction of all or an essential part of the subject matter of the controversy," to prevent "the destruction or alteration of books, records, documents, or other evidence needed for the arbitration," and "to permit the arbitration to be conducted in an orderly manner and to prevent improper interference or delay of the arbitration." Tex. Civ. Prac. & Rem. Code § 171.086(a).

The Court further finds that irreparable harm is imminent to Rhodium. If the Court does not issue the temporary injunction, Rhodium will be irreparably injured in numerous ways, including permanent harm to its

equipment and custom-built facilities, immeasurable harm to its goodwill and reputation, losing its highly skilled Rockdale workforce, disclosure of confidential intellectual property to a competitor, the risk that Whinstone and Riot would not be able to satisfy a money judgment against them related to this conduct, exclusion from its leasehold, and an inability to mine bitcoin. See Tex. R. Civ. P. 683.

If Rhodium's equipment and systems are disassembled and removed from the Rockdale Facility, it will necessarily cause Rhodium's operations at the Rockdale Facility to be offline for at least six months—likely resulting in Rhodium going out of business.

Rhodium is ordered to post bond in the amount of \$1,000,000. In lieu of filing the bond, Rhodium may deposit cash or any negotiable obligation permitted with or without leave of court under Texas Rule of Civil Procedure 14c.

Signed Dec 12th, 2023 at 4:20 a.m./p.m.

FILED
At 8:20 o'clock AM

DEC 12 2023

KAREN BERRY,
DISTRICT CLERK, MILAM COUNTY, TEXAS

BY Cindy Hazel

DEPUTY

4

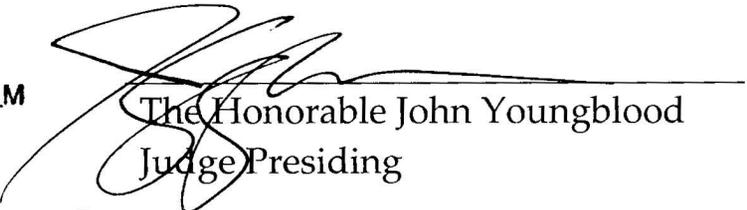

The Honorable John Youngblood
Judge Presiding

EXHIBIT 20

**AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration**

Case Number: 01-23-0005-7116

Rhodium JV LLC, Air HPC LLC, Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC, Rhodium 10MW LLC, and Jordan HPC LLC
("Claimants" or singularly, a "Claimant")

v.

Whinstone US, Inc.
("Respondent")

ORDER GRANTING IN PART CLAIMANT'S APPLICATION FOR EMERGENCY RELIEF

CAME ON TO BE CONSIDERED Claimants' Application For Emergency Relief Pursuant To R-39 Of The AAA Commercial Rules ("Application") filed on or about February 15, 2024. Respondent filed a response ("Response") on or about February 29, 2024 and Claimants filed a reply ("Reply") on or about February 29, 2024.

An evidentiary hearing was held on the Application before the Emergency Arbitrator via Zoom videoconference on March 1, 2024 beginning at 9:00AM, Central time, and ending at 6:18PM, Central time, and continuing on March 2, 2024 beginning at 9:00AM, Central time, and ending at 2:25PM, Central time. Lead counsel John Stokes and counsel Todd Disher, Victor O'Connell, John Cohn, Colleen Smith and Will Thompson appeared for Claimants. Lead counsel Steven Lockhart and counsel Rob Slovak, Michael Thomas and Brandon Marx appeared for Respondent. Case Administrator Jared Flores participated on behalf of the American Arbitration Association ("AAA"). The following individuals were also in attendance: Patrick Wooding, Bridget Asay, Jaida Hodge-Adams, Nathan Nichols, Eric Brown, Brendan Cottrell, Kessha Spruill, Jeremy Yeglin, Tanya Durham, Eddie Klekar, Gerald Hartford, David Schatz, Charles Topping, and Nicholas Burnett.

Other than the Emergency Arbitrator, no one else participated in the hearing.

Claimants and Respondent each submitted numerous exhibits and called multiple witnesses to testify.

After due consideration of the Application, the Response, the Reply, all exhibits and witness testimony submitted by Claimants and by Respondent, and arguments presented at the hearing by Claimants and by Respondent, the Emergency Arbitrator has determined as follows:

1. Claimants and Respondent are or have been parties to at least twenty-two (22) agreements (collectively, "Agreements" and singularly an "Agreement") pursuant to which Claimants have conducted a large-scale Bitcoin cryptocurrency mining operation ("Operation") at and within that certain physical facility owned and operated by Respondent located in Rockdale, Texas ("Facility"). The two buildings within the Facility in which the Operation has been conducted are identified as "Building B" and "Building C".
2. Claimants are affiliated through common ownership. Claimant Air HPC LLC ("Air HPC") conducts the Operation in Building B through operating subsidiary and Claimant Jordan HPC LLC ("Building B Operating Subsidiary"). Claimant Rhodium JV LLC ("Rhodium JV") conducts the Operation in Building C

through operating subsidiaries and Claimants Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC and Rhodium 10MW LLC (“Building C Operating Subsidiaries”).

3. Claimants and Respondent are in dispute (“Dispute”) concerning alleged breach of or lack of compliance with certain of the Agreements. The Dispute includes claims and counter-claims alleging failure to pay money owed or to provide financial credits owed.

4. Respondent through counsel sent to Rhodium JV and Air HPC a letter dated November 27, 2023 (“Termination Notice”) citing alleged breaches of or failures to comply with the two (2) Hosting Agreements (see paragraphs 10 and 11 below) under which the Operation was conducted in Building B and Building C as basis for termination of those Agreements and one other Agreement. The Termination Notice had the effect of forcing shutdown of the Operation.

5. The Dispute was a subject of litigation at Cause No. CV-41873 in the 20th Judicial District Court in and for Milam County, Texas (“Litigation”). In that cause, Claimants sought and on or about December 12, 2023 were awarded temporary injunctive relief (“Court Injunction”) against Respondent applicable to the Termination Notice to permit the Operation to continue while the Dispute is addressed. Respondent has filed an appeal of the Court Injunction that is pending. The court also ordered the Dispute into arbitration. Respondent’s appeal of that order via application for writ of mandamus was denied.

6. Respondent then sent to Rhodium JV a letter dated January 12, 2024 (“Suspension Notice”). The Suspension Notice cited certain coolant leakage events at Building C as basis for suspension of electrical power and all other services (collectively, “Services”) provided by Respondent in support of the Operation conducted in Building C by Rhodium JV and the Building C Operating Subsidiaries. The Suspension Notice has had the effect of forcing shutdown of the Operation conducted in Building C.

7. Claimants sought relief from the Suspension Notice in the Litigation, but the court declined to intervene on the basis that the Dispute had been ordered into arbitration where relief could be pursued.

8. Claimant initiated this arbitration through AAA to address the Dispute. As of the date of this Order, the process of selection of one or more arbitrator(s) to hear and decide the merits has commenced and is underway but no merits arbitrator has yet been appointed.

9. Via the Application, Claimants now seek in this arbitration on an emergency basis an award of injunctive relief to permit the Operation to continue while the Dispute is addressed. Respondent via the Response opposes such relief. Claimants have requested that AAA appoint an emergency arbitrator pursuant to AAA Commercial Arbitration Rule R-39 to hear and decide the matters addressed in the Application. AAA has appointed the Emergency Arbitrator for that purpose.

10. Air HPC and Respondent are parties to that certain Hosting Agreement dated December 31, 2020 (“Building B Hosting Agreement”) under which Air HPC conducts the Operation in Building B through the Building B Operating Subsidiary. The Suspension Notice was not given pursuant to the Building B Hosting Agreement and had no effect on the Operation conducted in Building B. The Building B Hosting Agreement contains, among other things, an arbitration provision that incorporates AAA Commercial Arbitration Rules.

11. Rhodium JV and Respondent are parties to that certain Hosting Agreement dated December 31, 2020 (“Building C Hosting Agreement”) under which Rhodium JV conducts the Operation in Building C through the Building C Operating Subsidiaries. The Suspension Notice was given pursuant to Section 7.1 of the Building C Hosting Agreement providing for suspension under specified conditions and had the effect of shutting down the Operation conducted in Building C. The Building C Hosting Agreement contains, among other things, an arbitration provision that incorporates AAA Commercial Arbitration Rules.

12. Respondent has raised issues concerning arbitrability and proper parties to this arbitration that will be heard and decided by one or more merits arbitrator(s) yet to be appointed. For purposes of this emergency proceeding, it is enough that Air HPC and Rhodium JV are proper parties to arbitration under existing arbitration agreements with Respondent that incorporate by reference AAA Commercial Arbitration Rules and thus are entitled to seek emergency relief pursuant to the Application.

13. The Operation conducted in Building B by Air HPC through the Building B Operating Subsidiary is not affected by the Suspension Notice. That Operation may have been affected by the Termination Notice, but the Court Injunction has mitigated such effect, at least until Respondent's pending appeal of same is decided. Such being the case, Air HPC cannot at present demonstrate that it will sustain immediate and irreparable loss or damage that cannot be remedied at law through award of money damages or that it will suffer extreme hardship unless Respondent is enjoined from actions pursuant to the Termination Notice and the Suspension Notice. Air HPC and the Building B Operating Subsidiary are not entitled to an award of emergency relief pursuant to the Application.

14. The Operation conducted in Building C by Rhodium JV through the Building C Operating Subsidiaries is affected by the Suspension Notice; that Operation has been shut down. That Operation also may have been affected by the Termination Notice, but the Court Injunction has mitigated such effect, at least until Respondent's pending appeal of same is decided. Such being the case, Rhodium JV cannot at present demonstrate that it will sustain immediate and irreparable loss or damage that cannot be remedied at law through award of money damages or that it will suffer extreme hardship unless Respondent is enjoined from actions pursuant to the Termination Notice, and thus Rhodium JV and the Building C Operating Subsidiaries are not entitled to an award of emergency relief pursuant to the Application with respect to the Termination Notice. However, Rhodium JV has demonstrated that it is entitled to emergency relief pursuant to the Application with respect to the Suspension Notice.

15. Rhodium JV has demonstrated that Rhodium JV, either directly or through the Building C Operating Subsidiaries, has one or more legal claims against Respondent and that it has a probable right to the relief sought. Further, Rhodium JV has demonstrated that it will sustain, directly and through the Building C Operating Subsidiaries, imminent and irreparable loss or damage that cannot be remedied at law through award of money damages and that it will suffer extreme hardship unless Respondent is enjoined from actions pursuant to the Suspension Notice and is required to restore and re-establish access to Building C and to Services in Building C at levels and otherwise as was the case immediately prior to the date of the Suspension Notice.

16. In short, Rhodium JV has demonstrated that, without such emergency relief, the Operation conducted in Building C will be and remain shut down causing Rhodium JV, directly and through the Building C Operating Subsidiaries, to (i) lose millions of dollars monthly, (ii) lose most or all of the skilled and trained staff conducting the Operation in Building C, (iii) suffer damage to or loss of equipment and other property located in Building C, (iv) lose opportunities for financing the Operation conducted in Building C, (v) suffer damage to relations with investors, lenders and others, (vi) lose most or all of the value of the multi-million dollar investment in the Operation conducted in Building C, (vii) suffer damage to goodwill and reputation, and (viii) become insolvent and cease business operations in the next few months. Rhodium JV has demonstrated that, in light of the foregoing, without such emergency relief it cannot survive long enough to pursue this arbitration of the Dispute to conclusion.

17. It is noted that Rhodium JV and the rest of Claimants are part of a larger Rhodium organization. The Operation conducted in Building C by Rhodium JV through the Building C Operating Subsidiaries constitutes a major investment by the Rhodium organization and is a major contributor of earnings and cash flow that spread throughout the larger Rhodium organization and upon which that organization depends. Thus the

effects of continued shutdown of that Operation will have a major adverse, and perhaps terminal, impact on the entire Rhodium organization.

18. Rhodium JV and the Building C Operating Subsidiaries have met the applicable standards for entry of injunctive relief.

19. Respondent has contended that certain instances of cooling fan failure and coolant leakage at Building C associated with the Operation conducted by Rhodium JV through the Building C Operating Subsidiaries along with certain conditions observed within Building C alleged to violate the federal Occupational Safety and Health Act (“OSHA”) constitute dangerous conditions that justify Respondent’s suspension of Services pursuant to Section 7.1 of the Building C Hosting Agreement causing shutdown of the Operation conducted in Building C. Respondent’s contentions are not persuasive. The evidence shows that the cooling fan failure and coolant leakage incidents in question involved two (2) partially-contained spills of non-toxic non-corrosive non-conductive and generally non-hazardous biodegradable coolant mitigated promptly without injury to any person or property and that no adverse regulatory action was taken with respect to same. Further, the evidence shows that the alleged OSHA violations were not relied upon as a basis for the Suspension Notice but were only raised after the fact as partial justification for same, are easily mitigated, and have not been the subject of regulatory investigation or other action. In short, the cited events and circumstances did not meet the conditions for suspension pursuant to Section 7.1 of the Building C Hosting Agreement.

20. Therefore:

The Application is GRANTED in favor of Rhodium JV and the Building C Operating Subsidiaries and Respondent is ENJOINED from taking any action pursuant to the Suspension Notice. Further, Respondent is ORDERED to restore and re-establish Rhodium JV’s and the Building C Operating Subsidiaries’ access to Building C and to Services at Building C at levels and otherwise as was the case immediately prior to the date of the Suspension Notice. Specifically, and without limiting the generality of the foregoing sentence, Respondent is ORDERED to (i) allow draw of up to 130 MW of electrical power at Building C for use in the Operation, (ii) allow personnel, vendors and agents to access Building C and conduct the Operation, and (iii) provide general maintenance, electrical maintenance, water system maintenance, water service, Internet service and security service at Building C for use in the Operation, all at levels and otherwise as was the case immediately prior to the date of the Suspension Notice.

The Application is DENIED as to all other Claimants and in all other respects.

21. Claimants are subject to bonding requirements imposed pursuant to the Court Injunction. No additional bond or other security shall be required pursuant to this Order.

22. This Order shall be in force and effective immediately upon entry. This Order shall continue in force and effect unless and until (i) amended, altered, modified, lifted, dissolved or rescinded by subsequent order of the Emergency Arbitrator, (ii) amended, altered, modified, lifted, dissolved or rescinded by order of one or more merits arbitrator(s) duly appointed and qualified to serve in this arbitration, (iii) a final award is rendered in this arbitration by one or more merits arbitrator(s) duly appointed and qualified to serve, or (iv) this arbitration is finally concluded by agreement of the parties or otherwise in a manner not involving the rendering of a final award by one or more merits arbitrator(s) duly appointed and qualified to serve.

23. This Order is not and shall not be construed as a final order and is not intended to and does not resolve the Dispute. The Dispute will be heard and resolved by one or more merits arbitrator(s) duly appointed and qualified to serve in this arbitration. This Order is intended solely as a temporary and interim measure to protect and preserve the Operation conducted in Building C while the Dispute is addressed in this arbitration.

24. Pursuant and subject to the provisions contained in AAA Commercial Arbitration Rule R-39, the costs of AAA and compensation of the Emergency Arbitrator associated with the Application and this emergency proceeding shall be apportioned as follows:

One half to Claimants; and

One half to Respondent.

All other costs, expenses, attorney fees and other fees associated with the Application and this emergency proceeding shall be apportioned to the parties AS INCURRED.

ENTERED on this 7th day of March, 2024.



James L. Young, Emergency Arbitrator

EXHIBIT 21

From: [Patricia Torres](#)
To: [John Stokes](#); [Will Thompson](#); [Slovak, Rob](#); [Craig Brown](#)
Subject: RE: CV41873 Whinstone vs Rhodium
Date: Thursday, January 25, 2024 9:34:44 AM
Attachments: [image001.png](#)
[image002.png](#)

[External Email]

Counsel:

In light of Whinstone's pending appeal in the 3rd Court of Appeals regarding this Court's temporary injunction order, it would be in the interest of judicial economy to hold off on tomorrow's hearing until we have an answer from the 3rd.

Further, Whinstone has tendered substantial authority indicating that while the interlocutory appeal is pending, the 3rd Court of Appeals has exclusive jurisdiction over anything pertaining to the temporary injunction. As such, it would appear that Rhodium needs to take this emergency action up with them.

That said, this Court takes a dim view of Whinstone's cutting power to Rhodium's entire operation for what appears to be a deminimis incident. This action could come back to haunt Whinstone... I strongly suggest they turn the power back on pending the 3rd's ruling.

Again, tomorrow's hearing is cancelled.

Thank you all,

Judge Youngblood

Patricia Torres
Court Coordinator
20th District Court
(254) 697-7010

From: Patricia Torres
Sent: Thursday, January 25, 2024 10:24 AM
To: John Stokes <JStokes@stris.com>; Will Thompson <will@lkcfirm.com>; Slovak, Rob <rslovak@foley.com>; Craig Brown <Craig@craigbrownlaw.com>
Subject: RE: CV41873 Whinstone vs Rhodium

Ok so Judge is canceling tomorrow hearing and he will be sending you a letter when he gets done with court today

Patricia Torres
Court Coordinator
th

20 District Court
(254) 697-7010

From: Patricia Torres
Sent: Tuesday, January 23, 2024 2:17 PM
To: John Stokes <JStokes@stris.com>; Will Thompson <will@lkcfirm.com>; Slovak, Rob <rslovak@foley.com>; Craig Brown <Craig@craigbrownlaw.com>
Subject: RE: CV41873 Whinstone vs Rhodium

So judge has decide to set this case for January 26@10:30 for 1 hour and this will be in person please let everyone know about the hearing

Patricia Torres
Court Coordinator
20th District Court
(254) 697-7010

From: Patricia Torres
Sent: Tuesday, January 23, 2024 8:35 AM
To: John Stokes <JStokes@stris.com>; Will Thompson <will@lkcfirm.com>; Slovak, Rob <rslovak@foley.com>; Craig Brown <Craig@craigbrownlaw.com>
Subject: RE: CV41873 Whinstone vs Rhodium

So judge has set this case for January 26@10:30 for 1 hour and this will be in person

Patricia Torres
Court Coordinator
20th District Court
(254) 697-7010

From: John Stokes <JStokes@stris.com>
Sent: Friday, January 19, 2024 12:43 PM
To: Patricia Torres <ptorres@milamcounty.net>; Will Thompson <will@lkcfirm.com>; Slovak, Rob <rslovak@foley.com>; Craig Brown <Craig@craigbrownlaw.com>
Subject: RE: CV41873 Whinstone vs Rhodium

Dear Ms. Torres,

Thanks for your email. For the reasons explained in Rhodium's motion, Rhodium believes this matter is urgent and would ask that the Court set the hearing for next week. Rhodium's first choice would be January 24 at 9:00. Rhodium will make itself available at the Court's convenience and is available on all of the dates you provided.

Thank you,
John

John Stokes

Partner

Stris & Maher LLP

777 S Figueroa St, Ste 3850

Los Angeles, CA 90017

Direct: 213 995 6813



From: Patricia Torres <ptorres@milamcounty.net>

Sent: Friday, January 19, 2024 10:01 AM

To: Will Thompson <will@lkcfirm.com>; John Stokes <JStokes@stris.com>; Slovak, Rob <rslovak@foley.com>; Craig Brown <Craig@craigbrownlaw.com>

Subject: CV41873 Whinstone vs Rhodium

[External Email]

Judge said you will need a hearing on the Motion so for a 1 hearing these are the dates available

January 23@9:00

January 24@9:00

February 12@9:00

Please let me know what date works for you

Patricia Torres

Court Coordinator

20th District Court

(254) 697-7010

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EXHIBIT 22

Rhodium 30MW LLC; Rhodium JV, LLC, Air HPC LLC; and Jordan HPC LLC (the “Lawsuit”), The Honorable John Youngblood presiding, granted a request by Claimants for temporary injunctive relief, enjoined the Notice of Termination given by Respondent on November 27, 2023 (hereafter the “First Termination Notice”), and ordered Respondent to restore the status quo, including with respect to the provision of electricity, access, and other services Respondent was providing pursuant to the parties’ contracts prior to the notice (the “Termination Injunction”). The Arbitrator acknowledges and, for purposes of the Pending Motions only, accepts the following findings made by the court in that proceeding:

[T]emporary-injunctive relief is necessary to prevent “the destruction of all or an essential part of the subject matter of the controversy,” to prevent “the destruction or alteration of books, records, documents, or other evidence needed for the arbitration,” and “to permit the arbitration to be conducted in an orderly manner and to prevent improper interference or delay of the arbitration.” TEX. CIV. PRAC. & REM. CODE § 171.086(A).

[I]rreparable harm is imminent to Rhodium. If the Court does not issue the temporary injunction, Rhodium will be irreparably injured in numerous ways, including permanent harm to its equipment and custom-built facilities, immeasurable harm to its goodwill and reputation, losing its highly skilled Rockdale workforce, disclosure of confidential intellectual property to a competitor, the risk that Whinstone and riot would not be able to satisfy a money judgment against them related to this conduct, exclusion from its leasehold, and an inability to mine bitcoin. *See* TEX. CIV. PRAC. & REM. CODE 683.

If Rhodium’s equipment and systems are disassembled and removed from the Rockdale Facility, it will necessarily cause Rhodium’s operations at the Rockdale Facility to be offline for at least six months—likely resulting in Rhodium going out of business.

The trial court ordered Claimants to post bond in the amount of \$1,000,000.00, and it appears undisputed that the bond was posted and remains in place. Respondent appealed the Termination Injunction to the Third District Court of Appeals. The trial court

compelled the case to arbitration, and Respondent's mandamus petition challenging that order was denied.

2. Thereafter, on January 12, 2024, Respondent sent Rhodium JV a notice that it was suspending the provision of power to "Rhodium JV and its affiliates" in Building C of Respondent's Rockdale Facility, citing an equipment failure and coolant discharge (hereafter the "Suspension Notice"). On March 7, 2024, after a two-day evidentiary hearing, an Emergency Arbitrator signed an ORDER GRANTING IN PART CLAIMANT'S APPLICATION FOR EMERGENCY RELIEF (hereafter the "Suspension Injunction") enjoining Respondent from taking any action on the Suspension Notice. The Emergency Arbitrator ordered the Respondent to "restore and re-establish Rhodium JV's and the Building C Operating Subsidiaries' access to Building C and to Services at Building C at levels and otherwise as was the case immediately prior to the date of the Suspension Notice." Specifically, the Emergency Arbitrator ordered the Respondent

to allow draw of up to 130 MW of electrical power at Building C for use in the Operation, (ii) allow personnel, vendors and agents to access Building C and conduct the Operation, and (iii) provide general maintenance, electrical maintenance, water system maintenance, water service, Internet service and security service at Building C for use in the Operation, all at levels and otherwise as was the case immediately prior to the date of the Suspension Notice.

The Application was otherwise denied.

3. The Arbitrator acknowledges and, for purposes of the Pending Motions only, accepts the following findings made by the Emergency Arbitrator in that proceeding:

1. Claimants and Respondent are or have been parties to at least twenty-two (22) agreements (collectively, "Agreements" and singularly an "Agreement") pursuant to which Claimants have conducted a large-scale Bitcoin cryptocurrency mining operation ("Operation") at and within that certain physical facility owned and operated by Respondent located in Rockdale, Texas ("Facility"). The two buildings within the Facility in which the

Operation has been conducted are identified as “Building B” and “Building C”.

2. Claimants are affiliated through common ownership. Claimant Air HPC LLC (“Air HPC”) conducts the Operation in Building B through operating subsidiary and Claimant Jordan HPC LLC (“Building B Operating Subsidiary”). Claimant Rhodium JV LLC (“Rhodium JV”) conducts the Operation in Building C through operating subsidiaries and Claimants Rhodium 30MW LLC, Rhodium Encore LLC, Rhodium 2.0 LLC and Rhodium 10MW LLC (“Building C Operating Subsidiaries”).
3. Claimants and Respondent are in dispute (“Dispute”) concerning alleged breach of or lack of compliance with certain of the Agreements. The Dispute includes claims and counter-claims alleging failure to pay money owed or to provide financial credits owed.
4. Respondent through counsel sent to Rhodium JV and Air HPC a letter dated November 27, 2023 (“Termination Notice”) citing alleged breaches of or failures to comply with the two (2) Hosting Agreements (see paragraphs 10 and 11 below) under which the Operation was conducted in Building B and Building C as basis for termination of those Agreements and one other Agreement. The Termination Notice had the effect of forcing shutdown of the Operation.
5. The Dispute was a subject of litigation at Cause No. CV-41873 in the 20th Judicial District Court in and for Milam County, Texas (“Litigation”). In that cause, Claimants sought and on or about December 12, 2023, were awarded temporary injunctive relief (“Court Injunction”) against Respondent applicable to the Termination Notice to permit the Operation to continue while the Dispute is addressed. Respondent has filed an appeal of the Court Injunction that is pending. The court also ordered the Dispute into arbitration. Respondent’s appeal of that order via application for writ of mandamus was denied.
6. Respondent then sent to Rhodium JV a letter dated January 12, 2024 (“Suspension Notice”). The Suspension Notice cited certain coolant leakage events at Building C as basis for suspension of electrical power and all other services (collectively, “Services”) provided by Respondent in support of the Operation conducted in Building C by Rhodium JV and the Building C Operating Subsidiaries. The Suspension Notice has had the effect of forcing shutdown of the Operation conducted in Building C.
7. Claimants sought relief from the Suspension Notice in the Litigation, but the court declined to intervene on the basis that the Dispute had been ordered into arbitration where relief could be pursued.

8. Claimant initiated this arbitration through AAA to address the Dispute. As of the date of this Order, the process of selection of one or more arbitrator(s) to hear and decide the merits has commenced and is underway but no merits arbitrator has yet been appointed.
9. Via the Application, Claimants now seek in this arbitration on an emergency basis an award of injunctive relief to permit the Operation to continue while the Dispute is addressed. Respondent via the Response opposes such relief. Claimants have requested that AAA appoint an emergency arbitrator pursuant to AAA Commercial Arbitration Rule R-39 to hear and decide the matters addressed in the Application. AAA has appointed the Emergency Arbitrator for that purpose.
10. Air HPC and Respondent are parties to that certain Hosting Agreement dated December 31, 2020 (“Building B Hosting Agreement”) under which Air HPC conducts the Operation in Building B through the Building B Operating Subsidiary. The Suspension Notice was not given pursuant to the Building B Hosting Agreement and had no effect on the Operation conducted in Building B. The Building B Hosting Agreement contains, among other things, an arbitration provision that incorporates AAA Commercial Arbitration Rules.
11. Rhodium JV and Respondent are parties to that certain Hosting Agreement dated December 31, 2020 (“Building C Hosting Agreement”) under which Rhodium JV conducts the Operation in Building C through the Building C Operating Subsidiaries. The Suspension Notice was given pursuant to Section 7.1 of the Building C Hosting Agreement providing for suspension under specified conditions and had the effect of shutting down the Operation conducted in Building C. The Building C Hosting Agreement contains, among other things, an arbitration provision that incorporates AAA Commercial Arbitration Rules.
12. Respondent has raised issues concerning arbitrability and proper parties to this arbitration that will be heard and decided by one or more merits arbitrator(s) yet to be appointed. For purposes of this emergency proceeding, it is enough that Air HPC and Rhodium JV are proper parties to arbitration under existing arbitration agreements with Respondent that incorporate by reference AAA Commercial Arbitration Rules and thus are entitled to seek emergency relief pursuant to the Application.
13. The Operation conducted in Building B by Air HPC through the Building B Operating Subsidiary is not affected by the Suspension Notice. That Operation may have been affected by the Termination Notice, but the Court Injunction has mitigated such effect, at least until Respondent’s pending appeal of same is decided. Such being the case, Air HPC cannot at present demonstrate that it will sustain immediate and irreparable loss or damage that cannot be remedied at law through award of money damages or that it will suffer extreme hardship

unless Respondent is enjoined from actions pursuant to the Termination Notice and the Suspension Notice. Air HPC and the Building B Operating Subsidiary are not entitled to an award of emergency relief pursuant to the Application.

14. The Operation conducted in Building C by Rhodium JV through the Building C Operating Subsidiaries is affected by the Suspension Notice; that Operation has been shut down. That Operation also may have been affected by the Termination Notice, but the Court Injunction has mitigated such effect, at least until Respondent's pending appeal of same is decided. Such being the case, Rhodium JV cannot at present demonstrate that it will sustain immediate and irreparable loss or damage that cannot be remedied at law through award of money damages or that it will suffer extreme hardship unless Respondent is enjoined from actions pursuant to the Termination Notice, and thus Rhodium JV and the Building C Operating Subsidiaries are not entitled to an award of emergency relief pursuant to the Application with respect to the Termination Notice. However, Rhodium JV has demonstrated that it is entitled to emergency relief pursuant to the Application with respect to the Suspension Notice.
15. Rhodium JV has demonstrated that Rhodium JV, either directly or through the Building C Operating Subsidiaries, has one or more legal claims against Respondent and that it has a probable right to the relief sought. Further, Rhodium JV has demonstrated that it will sustain, directly and through the Building C Operating Subsidiaries, imminent and irreparable loss or damage that cannot be remedied at law through award of money damages and that it will suffer extreme hardship unless Respondent is enjoined from actions pursuant to the Suspension Notice and is required to restore and re-establish access to Building C and to Services in Building C at levels and otherwise as was the case immediately prior to the date of the Suspension Notice.
16. In short, Rhodium JV has demonstrated that, without such emergency relief, the Operation conducted in Building C will be and remain shut down causing Rhodium JV, directly and through the Building C Operating Subsidiaries, to (i) lose millions of dollars monthly, (ii) lose most or all of the skilled and trained staff conducting the Operation in Building C, (iii) suffer damage to or loss of equipment and other property located in Building C, (iv) lose opportunities for financing the Operation conducted in Building C, (v) suffer damage to relations with investors, lenders and others, (vi) lose most or all of the value of the multi-million dollar investment in the Operation conducted in Building C, (vii) suffer damage to goodwill and reputation, and (viii) become insolvent and cease business operations in the next few months. Rhodium JV has demonstrated that, in light of the foregoing, without such emergency relief it cannot survive long enough to pursue this arbitration of the Dispute to conclusion.

17. It is noted that Rhodium JV and the rest of Claimants are part of a larger Rhodium organization. The Operation conducted in Building C by Rhodium JV through the Building C Operating Subsidiaries constitutes a major investment by the Rhodium organization and is a major contributor of earnings and cash flow that spread throughout the larger Rhodium organization and upon which that organization depends. Thus the effects of continued shutdown of that Operation will have a major adverse, and perhaps terminal, impact on the entire Rhodium organization.
18. Rhodium JV and the Building C Operating Subsidiaries have met the applicable standards for entry of injunctive relief.
19. Respondent has contended that certain instances of cooling fan failure and coolant leakage at Building C associated with the Operation conducted by Rhodium JV through the Building C Operating Subsidiaries along with certain conditions observed within Building C alleged to violate the federal Occupational Safety and Health Act (“OSHA”) constitute dangerous conditions that justify Respondent’s suspension of Services pursuant to Section 7.1 of the Building C Hosting Agreement causing shutdown of the Operation conducted in Building C. Respondent’s contentions are not persuasive. The evidence shows that the cooling fan failure and coolant leakage incidents in question involved two (2) partially-contained spills of non-toxic non-corrosive non-conductive and generally non-hazardous biodegradable coolant mitigated promptly without injury to any person or property and that no adverse regulatory action was taken with respect to same. Further, the evidence shows that the alleged OSHA violations were not relied upon as a basis for the Suspension Notice but were only raised after the fact as partial justification for same, are easily mitigated, and have not been the subject of regulatory investigation or other action. In short, the cited events and circumstances did not meet the conditions for suspension pursuant to Section 7.1 of the Building C Hosting Agreement.

The Emergency Arbitrator declined to award emergency relief with respect to Respondent’s First Termination Notice, concluding that the Termination Injunction mitigated any immediate harm until such time as Whinstone’s pending appeal before the Third District Court of Appeals in Cause No. 03-23-000853-CV was resolved.

4. Thereafter, on March 27, 2024, the court of appeals reversed and rendered judgment dissolving the Termination Injunction on the sole ground that its disposition was insufficiently specific. The court’s mandate is expected to issue on or about June 6, 2024.

5. In anticipation of the mandate, and with a merits arbitrator yet to be appointed, Claimants filed an emergency motion requesting the Emergency Arbitrator to modify his Suspension Injunction to also enjoin Respondent from taking action on the First Termination Notice during the pendency of this Arbitration. The Emergency Arbitrator conducted an evidentiary hearing on Claimants' request on April 2, 2024. The Emergency Arbitrator denied Claimants' request for relief, noting that no merits arbitrator had yet been appointed and that, at least until the court of appeals' mandate issues (and perhaps beyond if further appeal is pursued), both the Termination and Suspension Injunctions remain in full force and effect. *See* ORDER DENYING CLAIMANTS' REQUEST TO MODIFY ORDER GRANTING EMERGENCY RELIEF AND REQUEST FOR IMMEDIATE TEMPORARY ADMINISTRATIVE RELIEF PURSUANT TO R-39 (April 3, 2024).

6. The undersigned was appointed merits Arbitrator in this proceeding on April 11, 2024.

7. On April 18, 2024, Respondent filed its pending Emergency Application to Dissolve Temporary Injunction and Plea to Jurisdiction requesting the Arbitrator to enter an order (1) dissolving the Suspension Injunction as to all Claimants, (2) dismissing for want of jurisdiction what it terms the Rhodium "Non-Arbitral Parties" (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"))(hereafter, collectively, the "Operating Subsidiaries")), and (3) dismissing for want of jurisdiction any and all claims concerning the Water Supply Services Agreement (the "Water Agreement").

8. On April 22, 2024, Respondent issued a second termination letter (the “Second Termination Notice”). The letter stated that Respondent was standing on the grounds asserted in its First Termination Notice, but noted that Claimants disputed Respondent’s contention that its December 2020 Hosting Agreements (the “Hosting Agreements”) with Rhodium JV and Air HPC (collectively, the “Holding Companies”) terminated, superseded and/or replaced Respondent’s earlier power-supply agreements (collectively, the “Power Agreements”) with Rhodium 30MW, Jordan HPC, and the twenty 5MW agreements with Rhodium JV (collectively, the “Power Agreement Signatories”). The letter advised that, in the event Respondent lost that dispute, it was terminating both the Hosting Agreements and the Power Agreements based on an enumerated but nonspecific list of material breaches, and further reserved all rights to at any time exercise any contractual right based on “any known or unknown, past, present or future Termination Event, suspension of Services event, breach or other event of default.”

9. On April 24, 2024, Claimants filed their pending Motion for Leave to File Amended Complaint and Increase Demand seeking to add claims and request additional relief based on Respondent’s alleged conduct after this Arbitration was initiated. On April 26, 2024, Claimants filed their pending Request for Interim Relief seeking an order enjoining Respondent from implementing its two Termination Notices when the court of appeals mandate issues.

10. The parties timely filed their respective Responses and Replies to the Pending Motions, with Exhibits, Attachments, and Proposed Orders, in accordance with the Report of Preliminary Hearing and Scheduling Order (Arbitrator Order No. 1) dated April 30, 2024.

II. Pending Motions

A. Claimants’ Motion for Leave to File Amended Complaint and Increase Demand.

11. The AAA Commercial Arbitration Rules provide that, once the arbitrator is appointed, a party must obtain the Arbitrator's consent to increase or decrease the amount of its claim or counterclaim or alter its request for non-monetary relief, R-6(a), or to file a new or different claim or counterclaim, R-6(b). Containing no standards that a party must meet to obtain that consent, the Rule leaves the decision to the Arbitrator's discretion. Claimants sought leave to file their Amended Complaint within two weeks of the Arbitrator's appointment. In opposition, Respondent reurges its jurisdictional objections, *see* ¶ 12 *infra*, and challenges the availability of declaratory relief for Claimants' breach-of-contract damages claims. However, declaratory relief and breach-of-contract damages are not mutually exclusive remedies, nor will granting Claimants' motion preclude or decide Respondent's jurisdictional plea. Given the timeliness of Claimants' request and the early stage of this proceeding, the Arbitrator concludes that Claimants' Amended Complaint will assist the parties and the Arbitrator in framing the issues in dispute without unduly prejudicing Respondent. Accordingly, Claimants' Motion for Leave to File Amended Complaint and Increase Demand is hereby **GRANTED**.

B. Respondent's Plea to the Jurisdiction.

12. Respondent's plea seeks to dismiss the Operating Subsidiaries for want of jurisdiction on the grounds that (a) the trial court did not compel the claims of the "Non-Arbitral Parties" (Rhodium 30MW, Rhodium Encore, Rhodium 2.0, Rhodium 10MW) to arbitration, and (b) the "Non-Arbitral Parties" are not signatories to what Respondent contends are the only operative agreements that contain arbitration clauses—the Hosting Agreements—and that Jordan HPC has asserted no claims under any agreement between it and Whinstone that contains an arbitration clause.

(a) Respondent brought the Lawsuit against the Holding Companies for their alleged failure to pay amounts owed under the Hosting Agreements. Respondent also sought a declaration that the Hosting Agreements superseded and/or replaced the Power Agreements and named Rhodium 30MW, Jordan HPC and Rhodium JV (the “Power Agreement Signatories”) as defendants. Because the Termination Notice had the effect of disrupting the operations of Rhodium Encore, Rhodium 2.0 and Rhodium 10MW, the operating subsidiaries who were not signatories to either the Hosting or Power Agreements (the “Non-Signatories”), those entities intervened and made an appearance in the Lawsuit. The named defendants and the intervenors (all Claimants here) moved to compel arbitration, and the trial court ordered “the parties” to arbitrate the claims presented in Respondent’s Second Amended Petition. Whether rightly or wrongly, all Claimants fall within the trial court’s order compelling arbitration and the Arbitrator rejects Respondent’s challenge on this ground.

(b) Respondent’s plea does not contest the Arbitral Tribunal’s jurisdiction over the Holding Companies pursuant to the Hosting Agreements. After all, it is the alleged breach of those Agreements that prompted Respondent to send the First Termination Notice and the Suspension Notice to the Holding Companies and to initiate the Lawsuit against them (together with Rhodium 30MW LLC and Jordan HPC LLC) that was compelled to Arbitration and forms the basis of Respondent’s counterclaims herein. Nor does Respondent dispute that the Holding Companies’ claims on their own behalf in Counts I, II, III, IV and VII are properly asserted in this Arbitration.

13. The Emergency Arbitrator concluded that, because the Holding Companies are independently entitled to seek relief from Respondent’s Termination and Suspension Notices, and because they collectively conduct their bitcoin-mining operations through the Buildings B

and C Operating Subsidiaries, “it is enough that [the Holding Companies] are proper parties to arbitration under existing arbitration agreements with Respondent that incorporate by reference AAA Commercial Arbitration Rules” without addressing broader questions of arbitrability or proper parties. ORDER GRANTING IN PART CLAIMANT’S APPLICATION FOR EMERGENCY RELIEF at ¶¶ 12, 13, 14 (March 7, 2024). There has been no material change in circumstances since then that would justify overturning the Emergency Arbitrator’s conclusions which, for purposes of the Pending Motions only, the Arbitrator has adopted. *See supra* at ¶ 2; AAA R-39(f).

14. In addition, much of the dispute between the parties will turn on whether Respondent’s Hosting Agreements with the Holding Companies are the sole operative agreements, or whether the Power Agreements signed by their respective Signatories (Rhodium 30MW, Jordan HPC and Rhodium JV) remain in effect. Respondent’s Lawsuit against the Power Agreement Signatories sought a declaration that those agreements are no longer operable, and the answer to this question will depend, at least in part, on the Hosting Agreements’ terms and effect. Here, Respondent opposes arbitration with Power Agreement Signatories Rhodium 30 MW and Jordan HPC, but seeks to enforce the terms of an agreement with an arbitration clause (Hosting Agreements) to override the agreements (Power Agreements) to which they are parties. The Arbitrator holds that the doctrine of direct-benefits estoppel applies to allow the Power Agreement Signatories Rhodium 30MW and Jordan HPC to arbitrate their claims in this dispute. *See, e.g., Jody James Farms, JV v. Altman Grp., Inc.* 547 S.W.3d 624 (Tex. 2018). Accordingly, Respondent’s jurisdictional challenge as to these parties is **DENIED**.

15. Claimants assert that the doctrine of direct-benefits estoppel applies as well to the Non-Signatories (Rhodium 2.0, Rhodium Encore, Rhodium 10MW) because Respondent’s

Termination and Suspension Notices attempted to shut them down based on the Hosting Agreements, which contain an arbitration clause. However, having carefully studied the parties' submissions, the Arbitrator is unwilling at this early stage of the proceedings, with an undeveloped record, to make such a definitive determination one way or another.

16. The Arbitrator is similarly unwilling to resolve the question of which agreements control as a matter of law at this stage of the proceedings. Respondent urges that the issue can be dispositively decided now based on the Agreements' plain language. Claimants, on the other hand, contend a facial reading of the Agreements reveals they are between different entities who are unable to bind each other to their respective agreements, and that an understanding of the overall transactions and course of dealing between the parties is necessary to discern their legal effect. The Arbitrator agrees that this significant merits issue is premature for disposition. Determining the rights and obligations among and between the various agreements' signatories and non-signatories involves merits determinations that are yet to be decided and on which the jurisdictional questions may or may not ultimately depend.

17. AAA Rule 7(c) provides that the arbitrator may rule on jurisdictional objections as a preliminary matter or as part of the final award. As a preliminary matter, the Arbitrator has concluded that Rhodium JV, Air HPC, Rhodium 30 MW and Jordan HPC are proper parties to this Arbitration and has denied Respondent's jurisdictional challenges as to these parties. The Arbitrator will rule on Respondent's jurisdictional objections directed to Operating Subsidiaries Rhodium 2.0, Rhodium Encore and Rhodium 10MW, and the question of which agreements control, as part of the final award.

C. Respondent's Emergency Application to Dissolve Temporary Injunction.

18. Beyond the jurisdictional challenges described above, Respondent seeks to

dissolve the Suspension Injunction on grounds that the Emergency Arbitrator exceeded his authority because (a) Rhodium JV asserted no cause of action against Respondent; (b) Rhodium JV failed to establish a probable right to relief or immediate and irreparable harm; (c) relief was improperly based on alleged harm to other affiliated Rhodium entities, including the Non-Arbitral parties; and (d) the order improperly reimposed the previously terminated Power Agreements. Respondent further claims the Suspension Injunction is void for vagueness and that all claims concerning the Water Supply Agreement should be dismissed. Claimants respond by challenging the procedural propriety of Respondent's Motion, citing Rule 39(f)'s requirement that "an application to modify an interim award of emergency relief must be based on changed circumstances." Claimants contend Respondent has failed to demonstrate changed circumstances and, for this reason alone, its motion should be denied. Claimants further contest each of the grounds Respondent has asserted as a basis for dissolution.

19. The Arbitrator agrees that Respondent has not shown a change in circumstances that would warrant disturbing the Suspension Order. Moreover, having carefully reviewed the record and the parties' submissions, the Arbitrator has accepted the Emergency Arbitrator's findings for purposes of the Pending Motions. *See supra*, ¶ 3. The Arbitrator further concludes that Claimants' Demand for Arbitration naming Respondent and seeking "a declaration regarding the parties' rights and obligations under multiple contracts, as well as money damages and specific performance of Respondent's obligations to provide electricity and other services," was sufficient to support its request for injunctive relief. And though the Respondent challenges the sufficiency of the evidence to support some of the Emergency Arbitrator's specific findings and complains that the Emergency Arbitrator improperly factored harm to Rhodium-affiliated Non-Arbitral and nonparties, the evidence as a whole supports the Emergency Arbitrator's

conclusion that the Suspension Notice (directed to Rhodium JV and based on its contractual relationship with Respondent), if not enjoined, will directly cause Rhodium JV immediate harm for which it has no adequate remedy at law, and is enough to sustain the Suspension Order irrespective of potential harm to other affiliated entities. Respondent's arguments that the Suspension Order rewrote the Hosting Agreements and improperly reimposed a terminated contract begs the merits questions of the effectiveness of Respondent's termination and whether the Hosting Agreements superseded or replaced the Power Agreements, questions that are premature at this stage of the proceeding and will be resolved in the final award. Nor does the doctrine of "efficient breach" preclude the issuance of interim injunctive relief to preserve the status quo until trial can be had on the merits. Likewise, the evidence showed that Respondent was providing water service to Building C immediately before the Suspension Notice, and the Emergency Arbitrator did not exceed his powers by preserving the status quo to prevent irreparable harm pending trial on the merits, at which Respondent's jurisdictional challenge regarding the Water Services Agreement will be resolved as well.

20. Finally, Respondent seeks to dissolve the Suspension Order on vagueness grounds. The Order provides as follows:

Respondent is ENJOINED from taking any action pursuant to the Suspension Notice. Further, Respondent is ORDERED to (i) allow draw of up to 130 MW of electrical power at Building C for use in the Operation, (ii) allow personnel, vendors and agents to access Building C and conduct the Operation, and (iii) provide general maintenance, electrical maintenance, water system maintenance, water service, Internet service and security service at Building C for use in the Operation, all at levels and otherwise as was the case immediately prior to the date of the Suspension Notice.

Respondent complains that, unless the Arbitrator immediately resolves which agreements control, it cannot know the contractual obligations with which it must comply. As an example, Respondent posits that if it must comply with both the Hosting and Power Agreements, it could

be obliged to provide up to 310MW of electricity rather than 155MW. However, there appears to be no dispute that at least 155MW is required under one or both contracts, and the Suspension Order merely prevents Respondent from providing less than 130MW to Building C. Moreover, the requirement that Respondent provide Building C access, security and other services at pre-Suspension Notice levels does not implicate the alleged conflicting contractual provisions about which Respondent complains—revenue share payments, power credits, suspension rights, and termination rights—all of which will be determined at the final merits hearing. Respondent has presented no specific points on which it is unclear how it should operate pending final resolution.

21. For the foregoing reasons, Respondent's Emergency Application to Dissolve Temporary Injunction is **DENIED**.

D. Claimants' Request for Interim Relief

22. In light of the impending June 6, 2024, mandate from the court of appeals that will dissolve the Court Injunction, Claimants seek interim relief enjoining Respondent from acting on its Termination Notices for the duration of the arbitration. Having carefully considered the parties' submissions and accompanying record, and having adopted for purposes of the Pending Motions the findings contained in the Court and Suspension Injunctions, the Arbitrator concludes that there has been no change in circumstances that would diminish or undermine the proof supporting the right to injunctive relief as recited in the foregoing Injunctions. The Arbitrator has reviewed the evidence presented at both hearings and finds that it supports the Court's and Emergency Arbitrator's conclusions that a shutdown of Claimants' operations would cause immediate and irreparable injury and that Claimants otherwise meet the requirements for injunctive relief. In light of, *inter alia*, Respondent's multiple attempts to shut down Claimants' operations and the more recent issuance of Respondent's Second Termination Notice, the

Arbitrator finds that the threat of another shutdown when the mandate issues is sufficiently imminent that issuance of injunctive relief is necessary to maintain the status quo and prevent the destruction of Claimants' business pending the final merits hearing. *See* Suspension Order ¶ 16 (“Rhodium has demonstrated that . . . without such emergency relief it cannot survive long enough to pursue this arbitration of the Dispute to conclusion.”)

23. Respondent contends another evidentiary hearing must be conducted before the Second Termination Notice can be used as a basis for injunctive relief, and seeks expedited discovery “that go[es] to the heart of its right to terminate and suspend under the December Hosting Agreements and whether Claimants were in fact going to suffer immediate and irreparable harm.” Mot. Dissolve, 4-5. Among other things, Respondent seeks expedited discovery on “financial, operational, testing, and maintenance documents and communications” to determine whether the revenue share payments are being calculated correctly and whether the facility is being correctly tested and maintained. Response to Req. for Interim Relief, 27. Respondent additionally seeks documentation “to test the alleged scope, extent, and bases for Claimants’ alleged immediate and irreparable harm to ‘Rhodium.’” *Id.* According to Respondent, the records from the Lawsuit and Emergency Arbitrator hearings “are not sufficient to determine whether a probable right of relief and immediate and irreparable harm exist.” *Id.* at 28.

24. The Arbitrator concludes that expediting discovery at this stage of the proceedings and conducting another evidentiary hearing on injunctive relief that has already been heard and sustained twice would undermine the efficiency goals the arbitration process is designed to promote. *See* R-22(b) (requiring “fair, efficient, and economical resolution of the dispute.”). Moreover, the requested expedited discovery would largely duplicate the merits

discovery and unduly delay the proceedings. A ruling on a temporary injunction “may not be used to obtain an advance ruling on the merits.” *Iranian Muslim. Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981). The Arbitrator reserves the complex legal and factual issues the parties’ raise for full development and resolution at the merits trial, which will be set with all due haste with a corresponding scheduling order to govern an orderly exchange of information. See ¶¶ 27-28, *supra*. Respondent’s request for expedited discovery is **DENIED**.

25. Claimants’ Request for Interim Relief is hereby **GRANTED**, and Respondent is hereby **ENJOINED** from taking any action on its November 27, 2023 and April 22, 2024, Termination Notices pending trial on the merits. The Emergency Arbitrator’s Suspension Order remains in force and effect according to its terms.

26. Claimants are subject to the bonding requirements imposed by the Court Injunction. No additional bond or other security shall be required pursuant to this Order.

III. Formal Notice of Hearing Date.

27. The parties estimate that this case will require no more than five (5) days of hearing time, inclusive of arguments, and further agree that the Final Hearing should take place in a three-week period beginning January 20, 2025. Accordingly, the Final Hearing will commence at a suitable location to be determined on **Monday, January 20, 2025, beginning at 9:00 a.m. CT and ending no later than Friday, January 24, 2025, with Saturday, January 25, 2025, to be reserved and held open by the parties should the need arise for additional time.** *This is a firm setting and will not be changed or continued absent, in the Arbitrator’s determination, exceptional circumstances upon a showing of good cause. If all or any part of the hearing is cancelled or postponed by either or both parties for any reason, the Arbitrator’s cancellation fees, reflected in her AAA Notice of Compensation Arrangements, will apply.*

Counsel are directed to confer concerning the specific location for the hearing and so advise the AAA and the Arbitrator.

28. The parties are directed to confer and submit **on or before Friday, June 14, 2024**, either an agreed scheduling order governing the exchange of information and other pre-hearing deadlines or, if unable to agree on particular items, setting out their respective positions. A Zoom conference is set for **Monday, July 1, 2024, at 10:30 a.m. CT**, for purposes of finalizing the scheduling order.

This Order is effective immediately and shall continue in force and effect unless and until amended or dissolved by subsequent order of the Arbitrator.



Hon. Harriet O'Neill, Arbitrator

Date: June 4, 2024

EXHIBIT 23

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

In re:	§	Chapter 11
	§	
RHODIUM ENCORE LLC, <i>et al.</i> , ¹	§	Case No. 24-90448 (ARP)
	§	
Debtors.	§	
	§	(Jointly Administered)
	§	
	§	

**DEBTORS' INTERROGATORIES, SET ONE TO
WHINSTONE US, INC.**

Pursuant to Federal Rules of Civil Procedure 26 and 36 (made applicable to this matter by Federal Rules of Bankruptcy Procedure 7036 and 9014), Rhodium Encore LLC and its debtor affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) propound this First Set of Interrogatories to Whinstone US, Inc. These Interrogatories are to be answered fully and separately in writing by October 3, 2024, subject to the following definitions and instructions.

INSTRUCTIONS

1. These Interrogatories shall be continuing in nature. If, after providing information responsive to these Interrogatories, additional information becomes available to You, You should provide such additional information to Debtors in a supplemental response.

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.

2. If You are unable to answer or respond fully to any of these Interrogatories, answer or respond to the extent possible and specify the reasons for Your inability to answer or respond in full.

3. If You object to any of these Interrogatories, state the reason for Your objection.

4. The Interrogatories shall be construed to include the past tense and the past tense shall be construed to include the present tense as necessary to bring within the scope of these Interrogatories any Document or other information that might otherwise be construed to be outside their scope.

5. The singular shall be construed to include the plural and the plural shall be construed to include the singular as necessary to bring within the scope of these Interrogatories any Document or other information that might otherwise be construed to be outside their scope.

6. In the event that any information is withheld or is not produced by reason of a claim of privilege, work product, or any other reason, You should produce a privilege log that complies with any agreement of the parties and any applicable Court order.

7. If the information furnished in answer to all or any part of an Interrogatory is not within Your personal knowledge, identify each Person to whom all or any part of the information furnished is a matter of personal knowledge, and each Person who communicated to You any part of the information furnished.

8. Unless otherwise indicated, the relevant time period for each Interrogatory is January 1, 2020, to the present.

DEFINITIONS

1. “You” and “Your” means Whinstone US, Inc. and any of its parents, subsidiaries, affiliates, partners, representatives, employees, or agents, or any other individual or entity that

speaks or acts, or purports to speak or act, on its behalf, including, but not limited to, Riot Blockchain, Inc. and Riot Platforms, Inc.

2. “Document” or “Documents” is to be construed in the broadest way possible to mean any written, typed, printed, recorded, or graphic material, however produced, reproduced, or stored, including but not limited to, all Communications, electronic data, Word processed documents, memoranda, reports, correspondence, spreadsheets, tables, images, sound recordings, databases, files, folders, accounts, information, records, presentations, backup and archival files, calendar entries, contact information, and any drafts or versions thereof.

3. “Person” or “Persons” is to be construed in the broadest way possible to include, without limitation, individuals or entities of any type, including but not limited to natural persons, governments, agencies, quasi-public entities, corporations, partnerships, associations, groups, mutual or joint ventures, and any other legal entities and divisions, departments, organizations, associations, or units.

4. “Day-Ahead Market” is to be given the definition as provided in ERCOT’s Nodal Protocols. *See* Nodal Protocols, <https://tinyurl.com/mu2kyyd8>.

5. “ERCOT” means the Electric Reliability Council of Texas.

6. “ESI ID” means electric service identifier.

7. “Legacy Hosting Customer” means any Person You (including Riot Platforms, Inc.) have identified as a “Legacy Hosting Customer” in any submission to the United States Securities and Exchange Commission, including without limitation Rhodium, SBI Crypto Co., GMO Gamecenter USA, Inc., and GMO Internet, Inc.

8. “Notices” refers, individually and collectively, to the Notices of Termination and the Notice of Suspension served on Rhodium JV LLC on January 12, 2024.

9. “Notices of Termination” refers, individually and collectively, to the Notice of Termination You served on Rhodium JV LLC and Air HPC LLC and their counsel on November 27, 2023; the Notice of Termination You served on Rhodium JV LLC, Rhodium 30MW, LLC, Air HPC LLC, and Jordan HPC LLC and their counsel on April 22, 2024; and any notice of termination that Whinstone may subsequently issue.

10. “Qualified Scheduling Entity” is to be given the definition as provided in ERCOT’s Nodal Protocols, Section 2 Definitions and Acronyms. *See* Nodal Protocols, <https://tinyurl.com/mu2kyyd8>.

11. “Resource Entity” is to be given the definition as provided in ERCOT’s Nodal Protocols, Section 2 Definitions and Acronyms. *See* Nodal Protocols, <https://tinyurl.com/mu2kyyd8>.

12. “Ancillary Services” is to be given the definition as provided in ERCOT’s Nodal Protocols, Section 2 Definitions and Acronyms. *See* Nodal Protocols, <https://tinyurl.com/mu2kyyd8>.

13. “Real-Time Market” is to be given the definition as provided in ERCOT’s Nodal Protocols, Section 2 Definitions and Acronyms. *See* Nodal Protocols, <https://tinyurl.com/mu2kyyd8>.

14. “Redemption Agreement” means the contract You, Imperium Investments Holdings LLC, and Rhodium JV LLC entered into on or around December 31, 2020.

15. “Rhodium JV Profit Share Agreement” refers to the contract You and Rhodium JV LLC entered into on or around December 31, 2020.

16. “Rockdale Site” means the data center You operate located at 2721 Charles Martin Hall Road, Rockdale, Texas 76567.

17. “Water Supply Agreement” means the contract You and Rhodium Industries, LLC, Rhodium JV LLC, Rhodium 30 MW LLC, Jordan HPC LLC, Rhodium Encore LLC, Rhodium 2.0 LLC, and Rhodium 10MW LLC entered into effective August 12, 2021.

18. “Whinstone Contracts” means each of the contracts listed in Exhibit 1 to Debtor’s Supplemental Motion to Assume (ECF No. 32).

INTERROGATORIES

Interrogatory No. 1:

For each of the Whinstone Contracts, identify whether You oppose assumption and the basis for any opposition, including whether and when You contend that the contract was terminated and whether You contend that the contract was superseded and/or replaced by a later contract.

Interrogatory No. 2:

For any alleged payment defaults that You contend underlie the November 27, 2023 Notice of Termination, identify the amount of each alleged default and alleged defaulting entity, the amount to cure such alleged default, explain in detail Your methods of identifying and calculating such alleged defaults and the amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

Interrogatory No. 3:

For any alleged payment defaults that You contend underlie the April 22, 2024 Notice of Termination, identify the amount of each alleged default and alleged defaulting entity, the amount to cure such alleged default, explain in detail Your methods of identifying and calculating such alleged defaults and the amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

Interrogatory No. 4:

For each alleged material breach that You contend underlies the April 22, 2024 Notice of Termination, identify the alleged material breach, the date the alleged material breach occurred, explain in detail the alleged breach, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contentions that a breach occurred and that the alleged breach was material.

Interrogatory No. 5:

For each alleged insolvency that You contend underlies the April 22, 2024 Notice of Termination, explain in detail the alleged insolvency, the date the alleged insolvency occurred, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that the alleged insolvency occurred.

Interrogatory No. 6:

For any Whinstone Contract that You contend was superseded and/or replaced by a later contract, identify the later contract that You contend superseded and/or replaced the earlier contract, explain in detail the bases for Your contention that the earlier contract was superseded and/or replaced, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that the earlier contract was superseded and/or replaced.

Interrogatory No. 7:

For any Debtor that You contend is presently in default on a payment obligation to You under any of the Whinstone Contracts, identify the contract under which the default occurred, the amount of each alleged default, the amount to cure such default, the alleged defaulting entity, the date each alleged default occurred, and explain in detail Your methods of identifying and

calculating such alleged defaults and amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

Interrogatory No. 8:

For any Debtor that You contend is currently in breach of any of the Whinstone Contracts on grounds other than default on a payment obligation, identify the alleged breach, the date the alleged breach occurred, and explain in detail the alleged breach and whether You contend the breach is material, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contentions.

Interrogatory No. 9:

Identify all individuals within Whinstone US, Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. who participated or had any involvement regarding, relating to, or concerning the Notices.

Interrogatory No. 10:

Identify all individuals within Whinstone US, Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. who participated in or had any involvement regarding, relating to, or concerning Your determination that any Debtor is presently in default on a payment obligation to You under any of the Whinstone Contracts or Your contention that any Debtor is currently or was in breach of any of the Whinstone Contracts on grounds other than default on payment obligations.

Interrogatory No. 11:

Identify all contracts between You and any Debtor that You believe were in effect as of December 30, 2020 (*i.e.*, immediately prior to the signing of the Redemption Agreement and Rhodium JV Profit Share Agreement).

Interrogatory No. 12:

Identify by date, amount, and source all payments that You received from any Debtor entity during the relevant time period.

Interrogatory No. 13:

Identify the name, address, and contact information for each and every Qualified Scheduling Entity that has sold or submitted offers to sell electricity and/or ancillary services in any ERCOT market (including but not limited to the Day-Ahead Market and Real-Time Market) on Your behalf or on behalf of any entity operating at the Rockdale Site.

Interrogatory No. 14:

Identify each electricity meter currently in use or previously in use at the Rockdale Site and specify the source of the electricity being metered and the ESI ID for each meter; the use of the electricity being metered; what entity or entities have access to the meter's data, including usage data; and whether the meter is accessed as part of any ERCOT settlement program.

Interrogatory No. 15:

For every Request for Admission answer that is not an unqualified admission, state the basis for your denial.

Interrogatory No. 16:

Identify all of the resource entities, along with the buildings they are associated with at the Rockdale Site, associated with the sale or offer to sell electricity and/or ancillary services in any ERCOT market (including but not limited to the Day-Ahead Market and Real-Time Market) on Your behalf or on behalf of any entity operating at the Rockdale Site.

Interrogatory No. 17:

For the time period October 1, 2020 through today, identify, by hour, the amount in megawatts and type of Ancillary Services awarded to the Resource Entity associated with Building C at the Rockdale Facility.

Interrogatory No. 18:

For the time period October 1, 2020 through today, provide the time periods in which ERCOT called on the awarded Ancillary Services identified in Interrogatory No. 18 to be deployed, and the amount of deployment requested and actually provided.

Interrogatory No. 19:

Identify all individuals who have participated in conversations at Whinstone U.S., Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. regarding, relating to, or concerning any decision to remove Legacy Hosting Customers from the Rockdale Site or any decision to terminate any agreement with Legacy Hosting Customers, the dates those conversations occurred, and whether those conversations occurred orally or in writing.

Interrogatory No. 20:

Identify Your good faith basis, if any, for suing Rhodium Renewables, LLC, on July 19, 2024, in Tarrant County, Texas, in Cause No. 153-354718-24.

Interrogatory No. 21:

Identify what you contend to be the subject matter of the Whinstone Building C Water Supply Service Agreement executed on August 20, 2021.

Interrogatory No. 22:

Does “Riot’s 345MW Long-Term 24/7 Fixed-Price Power Contract” referenced in Riot Platforms, Inc.’s April 18, 2024 Investor Presentation (available at

<https://d2ghdaxqb194v2.cloudfront.net/2865/193757.pdf>) include the power that is the subject matter of the Base Contract for Supply of Electricity entered into by Whinstone US Inc. and Txu Energy Retail Company LLC on or about May 11, 2020?

Interrogatory No. 23:

Explain in detail the methodology that You use to allocate power credits to Bitcoin mining and/or other operations as reported in Your financial statements. Include in Your response any changes made to this allocation since October 1, 2020.

Interrogatory No. 24:

Explain in detail, with all supporting calculations, how You calculated the estimated \$24.2 million in power credits and \$7.4 million in demand response credits referenced in press releases from Riot Platforms Inc. dated September 6, 2023 (available at <https://www.riotplatforms.com/riot-announces-august-2023-production-and-operations-updates/>) and September 8, 2023 (available at <https://www.riotplatforms.com/riot-responds-to-recent-inquiries-regarding-its-power-strategy/>).

Interrogatory No. 25:

Explain in detail, with all supporting calculations, how You calculated the values for “hedge optimization,” “economic curtailment,” “ancillary services,” and “4CP transmission savings” provided at page 24 of Riot Platforms, Inc.’s April 18, 2024 Investor Presentation (available at <https://d2ghdaxqb194v2.cloudfront.net/2865/193757.pdf>).

Dated: September 12, 2024

Respectfully submitted,

STRIS & MAHER LLP

/s/ Helen Marsh

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Attorneys for Debtors

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2024, a copy of the foregoing document was served by email on counsel of record to all parties.

/s/ Helen Marsh
Helen Marsh

EXHIBIT 24

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

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

**WHINSTONE’S OBJECTIONS AND RESPONSES TO DEBTORS’
INTERROGATORIES, SET ONE**

Pursuant to Federal Rules of Civil Procedure 26 and 33 (made by applicable to this matter by Federal Rules of Bankruptcy Procedure 7033 and 9014), Whinstone US, Inc. (“Whinstone”) serves its Objections and Responses to Debtors’ Interrogatories, Set One.

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.

DATED: October 3, 2024

Respectfully submitted by:

/s/ J. Michael Thomas

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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COUNSEL TO WHINSTONE US, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 3, 2024, a true and correct copy of the above and foregoing document was served via ECF and/or email to counsel for the Debtors.

/s/ Brandon C. Marx

Brandon C. Marx

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Whinstone objects to Instruction No. 6 as not being required by the Federal Rules of Civil Procedure. Privilege logs are limited to “documents, communications, or tangible things not produced or disclosed” and do not concern interrogatories Fed. R. Civ. Proc. 26(a)(5)(A)(ii).

2. Whinstone objects to Instruction No. 7 as exceeding the Federal Rules of Civil Procedure and impermissibly seeking to include discrete subparts designed to exceed the number of interrogatories allowed. Whinstone will answer the Interrogatory after conducting a reasonable investigation of those individuals that are believed to have personal knowledge of the facts and circumstances to be provided in each Interrogatory.

3. Whinstone objects definitions of “You” and “Your” as overly broad, seeking information not reasonably calculated to discover relevant evidence, and seeking information outside of Whinstone’s possession, custody, or control. Whinstone is not obligated to conduct an investigation for information in third-parties’ possession, custody, and control. Whinstone will conduct a good-faith, reasonable investigation of its actual agents, employees, representatives, etc. that Whinstone believes have possession, custody, or control of responsive information.

4. Whinstone objects to the definition of “Documents” as being overbroad and calling for the investigation of “databases . . . accounts, records, backup and archival files, . . . and any drafts or versions thereof.”

INTERROGATORIES

INTERROGATORY NO. 1:

For each of the Whinstone Contracts, identify whether You oppose assumption and the basis for any opposition, including whether and when You contend that the contract was terminated and whether You contend that the contract was superseded and/or replaced by a later contract.

RESPONSE:

Subject to its objections to instructions and definitions, Whinstone states that it is opposed to the assumption of the “Whinstone Contracts” listed in Exhibit 1 to Debtor’s Supplemental Motion to Assume (ECF No. 32) as the December 31, 2020 Rhodium JV LLC and Air HPC LLC Hosting Agreements (the “December 2020 Agreements”) superseded and/or replaced the prior hosting agreements at the time of the December 2020 Agreements’ execution and all agreements were terminated months prior to Debtors filing their bankruptcy petitions.

INTERROGATORY NO. 2:

For any alleged payment defaults that You contend underlie the November 27, 2023 Notice of Termination, identify the amount of each alleged default and alleged defaulting entity, the amount to cure such alleged default, explain in detail Your methods of identifying and calculating such alleged defaults and the amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

RESPONSE:

Whinstone objects to the phrase “state all facts and evidence underlying, warranting, justifying, or evidencing” as improper and lacks particularity. *E.g., Lopez v. Don Herring Ltd.*, 327 F.R.D. 567, 576 (N.D. Tex. 2018). Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the Interrogatory as calling for the production of information outside of its possession, custody, and control. Debtors possess the information necessary to completely calculate the amounts owed by Rhodium JV and Air HPC LLC under the December 2020 Agreements—some of which has been produced and some of which has not yet been produced due to Debtors’ withholding and/or delay. Whinstone objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court’s scheduling order. Whinstone further objects to the Interrogatory as the burden of answering is

substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the May 17, 2022 Notice of Default, April 28, 2023 Notice of Default, November 27, 2023 Notice of Termination, the parties' numerous email correspondence about Rhodium JV LLC and Air HPC LLC not paying the full amount of revenue share and invoice payments due under the December 2020 Agreements, and Whinstone's aged accounts receivables. Whinstone will further provide expert reports and testimony regarding the amount of payment defaults by Debtors.

INTERROGATORY NO. 3:

For any alleged payment defaults that You contend underlie the April 22, 2024 Notice of Termination, identify the amount of each alleged default and alleged defaulting entity, the amount to cure such alleged default, explain in detail Your methods of identifying and calculating such alleged defaults and the amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

RESPONSE:

Whinstone objects to the phrase "state all facts and evidence underlying, warranting, justifying, or evidencing" as improper and lacks particularity. *E.g., Lopez*, 327 F.R.D. at 576. Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the Interrogatory as calling for the production of information outside of its possession, custody, and control. Debtors possess the information necessary to completely calculate the amounts owed by the various Debtor entities under the respective contracts they contend are still in effect (which is not the case)—some of which has been produced and some of which has not yet been produced due to Debtors' withholding and/or delay. Whinstone objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court's scheduling order.

Whinstone further objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the April 22, 2024 Notice of Termination, May 17, 2022 Notice of Default, April 28, 2023 Notice of Default, November 27, 2023 Notice of Termination, the parties' numerous email correspondence about Rhodium JV LLC and Air HPC LLC not paying the full amount of revenue share and invoice payments due under the December 2020 Agreements, and Whinstone's aged accounts receivables.

INTERROGATORY NO. 4:

For each alleged material breach that You contend underlies the April 22, 2024 Notice of Termination, identify the alleged material breach, the date the alleged material breach occurred, explain in detail the alleged breach, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contentions that a breach occurred and that the alleged breach was material.

RESPONSE:

Whinstone objects to the phrase “state all facts and evidence underlying, warranting, justifying, or evidencing” as improper and lacks particularity. *E.g., Lopez*, 327 F.R.D. at 576. Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the Interrogatory as calling for the production of information outside of its possession, custody, and control. Debtors possess the information necessary to completely calculate the amounts owed by the various Debtor entities and identify all of the material breaches under the respective contracts Debtors contend are still in effect (which is not the case)—some of which has been produced and some of which has not yet been produced due to Debtors' withholding and/or delay. Whinstone objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court's scheduling order. Whinstone further objects to the Interrogatory as the

burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the January 12, 2024 Notice of Suspension, July 1, 2021 Notice of Violations and Suspensions of Services, April 22, 2024 Notice of Termination, May 17, 2022 Notice of Default, April 28, 2023 Notice of Default, November 27, 2023 Notice of Termination, the parties' numerous email correspondence about Rhodium JV LLC and Air HPC LLC not paying the full amount of revenue share and invoice payments due under the December 2020 Agreements, the parties' numerous email correspondence about certain Debtors' lack of maintenance—which resulted in oil spills and Texas Commission on Environmental Quality (“TCEQ”), Whinstone's aged accounts receivables, the parties' incident reports, the parties' numerous email correspondence about certain Debtors' failure to comply with the Data Access Rules and operate their operations in a professional and safe manner, documents evidencing the Debtors' insolvency, intercompany transfers, preference payments, and dilution of Whinstone's revenue share payments, and documents evidencing the liens impermissibly encumbering equipment.

INTERROGATORY NO. 5:

For each alleged insolvency that You contend underlies the April 22, 2024 Notice of Termination, explain in detail the alleged insolvency, the date the alleged insolvency occurred, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that the alleged insolvency occurred.

RESPONSE:

Whinstone objects to the phrase “state all facts and evidence underlying, warranting, justifying, or evidencing” as improper and lacks particularity. *E.g., Lopez*, 327 F.R.D. at 576.

Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the

Interrogatory as calling for the production of information outside of its possession, custody, and control. Debtors possess the information necessary to determine the true extent of Debtors' insolvency—some of which has been produced and some of which has not yet been produced due to Debtors' withholding and/or delay. Whinstone objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court's scheduling order. Whinstone further objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to their financial statements (*e.g.*, RHOD-BK-00016037), intercompany loan transfers, amount of debt greater than assets, Debtors' inability to make payments as they come due, the temporary injunction orders Debtors three times obtained, TheMinerMag's August 7, 2024 article titled "Bitcoin Miner Rhodium in Distress Amid Loan Defaults," temporary injunction hearing transcripts and briefing in which Debtors affirmatively represented they would go out of business and had mismanaged their finances and operations, and Debtors' bankruptcy petitions and related filings. Whinstone will further provide expert reports and testimony regarding Debtors' insolvency.

INTERROGATORY NO. 6:

For any Whinstone Contract that You contend was superseded and/or replaced by a later contract, identify the later contract that You contend superseded and/or replaced the earlier contract, explain in detail the bases for Your contention that the earlier contract was superseded and/or replaced, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that the earlier contract was superseded and/or replaced.

RESPONSE:

Whinstone objects to the phrase "state all facts and evidence underlying, warranting, justifying, or evidencing" as improper and lacks particularity. *E.g.*, *Lopez*, 327 F.R.D. at 576.

Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the Interrogatory as impermissibly calling for a legal conclusion. Whinstone will limit the Interrogatory to concern which contracts superseded and/or replaced another contract.

Subject to its objections to instructions and definitions and specific objections, Whinstone states that, per Section 23.10 of the Rhodium JV LLC December 2020 Agreement, that contract superseded and/or replaced the twenty July 9, 2020 Hosting Agreements with Rhodium JV LLC and the July 7, 2020 Hosting Agreement with Rhodium 30MW LLC and, similarly, per Section 23.10 of the Air HPC December 2020 Agreement, that contract superseded and/or replaced the November 2, 2020 Hosting Agreement with Jordan HPC LLC. Moreover, the December 2020 Agreements are valid agreements intended to extinguish the prior obligations of the pre-December agreements and cover the same essential services, amount of power, and subject matter as the prior contracts.

INTERROGATORY NO. 7:

For any Debtor that You contend is presently in default on a payment obligation to You under any of the Whinstone Contracts, identify the contract under which the default occurred, the amount of each alleged default, the amount to cure such default, the alleged defaulting entity, the date each alleged default occurred, and explain in detail Your methods of identifying and calculating such alleged defaults and amount to cure the same, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contention that a payment default occurred.

RESPONSE:

Whinstone objects to the phrase “state all facts and evidence underlying, warranting, justifying, or evidencing” as improper and lacks particularity. *E.g., Lopez*, 327 F.R.D. at 576.

Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the Interrogatory as being duplicative of Interrogatory Nos. 2-3. Whinstone objects to the Interrogatory as calling for the production of information outside of its possession, custody, and

control. Debtors possess the information necessary to completely calculate the amounts owed by the various Debtor entities under the respective contracts they contend are still in effect (which is not the case)—some of which has been produced and some of which has not yet been produced due to Debtors’ withholding and/or delay. Whinstone further objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court’s scheduling order. Whinstone objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the April 22, 2024 Notice of Termination, May 17, 2022 Notice of Default, April 28, 2023 Notice of Default, November 27, 2023 Notice of Termination, the parties’ numerous email correspondence about Rhodium JV LLC and Air HPC LLC not paying the full amount of revenue share and invoice payments due under the December 2020 Agreements, and Whinstone’s aged accounts receivables. Whinstone will further provide expert reports and testimony regarding Debtors’ payment defaults.

INTERROGATORY NO. 8:

For any Debtor that You contend is currently in breach of any of the Whinstone Contracts on grounds other than default on a payment obligation, identify the alleged breach, the date the alleged breach occurred, and explain in detail the alleged breach and whether You contend the breach is material, and state all facts and evidence underlying, warranting, justifying, or evidencing Your contentions.

RESPONSE:

Whinstone objects to the phrase “state all facts and evidence underlying, warranting, justifying, or evidencing” as improper and lacks particularity. *E.g., Lopez*, 327 F.R.D. at 576. Whinstone will generally provide the factual basis for its answer. Whinstone also objects to the

Interrogatory as being duplicative of Interrogatory Nos. 2-3 and 7. Whinstone objects to the Interrogatory as calling for the production of information outside of its possession, custody, and control. Debtors possess the information necessary to completely calculate the amounts owed by the various Debtor entities under the respective contracts they contend are still in effect (which is not the case)—some of which has been produced and some of which has not yet been produced due to Debtors' withholding and/or delay. Whinstone further objects to the Interrogatory as prematurely calling for expert testimony. Thus, Whinstone will comply with the Court's scheduling order. Whinstone objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject to its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the April 22, 2024 Notice of Termination, May 17, 2022 Notice of Default, April 28, 2023 Notice of Default, November 27, 2023 Notice of Termination, the parties' numerous email correspondence about Rhodium JV LLC and Air HPC LLC not paying the full amount of revenue share and invoice payments due under the December 2020 Agreements, and Whinstone's aged accounts receivables. Whinstone will further provide expert reports and testimony regarding Debtors' non-payment defaults.

INTERROGATORY NO. 9:

Identify all individuals within Whinstone US, Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. who participated or had any involvement regarding, relating to, or concerning the Notices.

RESPONSE:

Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot

answer on behalf of Riot as to who may have been involved with the decision to issue the Notices.

Subject to its objections to instructions and definitions and specific objections, Whinstone states David Schatz, Heath Davidson, Eddie Klekar, Ryan Werner, Jeff McGonegal, William Jackman, Alex Travis, and Patrick Wooding.

INTERROGATORY NO. 10:

Identify all individuals within Whinstone US, Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. who participated in or had any involvement regarding, relating to, or concerning Your determination that any Debtor is presently in default on a payment obligation to You under any of the Whinstone Contracts or Your contention that any Debtor is currently or was in breach of any of the Whinstone Contracts on grounds other than default on payment obligations.

RESPONSE:

Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot answer on behalf of Riot as to who may have been involved with the determination of the payment defaults.

Subject to its objections to instructions and definitions and specific objections, Whinstone states Jeff McGonegal, Ryan Werner, William Jackman, Alex Travis, and Patrick Wooding.

INTERROGATORY NO. 11:

Identify all contracts between You and any Debtor that You believe were in effect as of December 30, 2020 (*i.e.*, immediately prior to the signing of the Redemption Agreement and Rhodium JV Profit Share Agreement).

RESPONSE:

Whinstone objects to the Interrogatory as being vague and confusing in regard to scope. Whinstone interprets the Interrogatory to concern hosting agreements for Buildings B and C only.

Subject to its objections to instructions and definitions and specific objections, Whinstone states the twenty July 9, 2020 Hosting Agreements with Rhodium JV LLC, the July 7, 2020 Hosting Agreement with Rhodium 30MW LLC, and November 2, 2020 Colocation Agreement with Jordan HPC LLC.

INTERROGATORY NO. 12:

Identify by date, amount, and source all payments that You received from any Debtor entity during the relevant time period.

RESPONSE:

Whinstone further objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject its objections to instructions and definitions and specific objections, Whinstone refers Debtors to Whinstone's accounts receivables statements. *E.g.*, WHIN_0025646.

INTERROGATORY NO. 13:

Identify the name, address, and contact information for each and every Qualified Scheduling Entity that has sold or submitted offers to sell electricity and/or ancillary services in any ERCOT market (including but not limited to the Day-Ahead Market and Real-Time Market) on Your behalf or on behalf of any entity operating at the Rockdale Site.

RESPONSE:

Whinstone objects to the Interrogatory as being overly broad and seeking irrelevant information. The selling of electricity and provision of ancillary services related to any other building or entity than those for certain Debtors have no bearing on a claim or defense in this case. Whinstone will limit the Interrogatory to concern the selling of electricity and provision of ancillary services for certain Debtors' operations at Buildings B and C.

Subject its objections to instructions and definitions and specific objections, Whinstone states Priority Power Management, 2201 E. Lamar Blvd., Suite, 275, Arlington, Texas 76006.

INTERROGATORY NO. 14:

Identify each electricity meter currently in use or previously in use at the Rockdale Site and specify the source of the electricity being metered and the ESI ID for each meter; the use of the electricity being metered; what entity or entities have access to the meter's data, including usage data; and whether the meter is accessed as part of any ERCOT settlement program.

RESPONSE:

Whinstone objects to the Interrogatory as being overly broad, seeking irrelevant information, and not being proportional to the needs of the case. The identification of each and every electricity meter at Whinstone's Rockdale facility that has been in use or ever used has no bearing on a claim or defense in this case. Whinstone will limit the Interrogatory to the amount of energy provided to certain Debtors at Buildings B and C. Whinstone further objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the various TXU statements and data and power consumption reports produced in this case. *E.g.*, WHIN_0000695.

INTERROGATORY NO. 15:

For every Request for Admission answer that is not an unqualified admission, state the basis for your denial.

RESPONSE:

Whinstone objects to the Interrogatory as comprising tens of subparts and violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33.

Subject its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the reasons stated in Whinstone's responses and objections to Debtors Requests for Admission and incorporates by reference its responses to Interrogatory Nos. 1-8.

INTERROGATORY NO. 16:

Identify all of the resource entities, along with the buildings they are associated with at the Rockdale Site, associated with the sale or offer to sell electricity and/or ancillary services in any ERCOT market (including but not limited to the Day-Ahead Market and Real-Time Market) on Your behalf or on behalf of any entity operating at the Rockdale Site.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone also objects to the Interrogatory as being overly broad, seeking irrelevant information, and not being proportional to the needs of the case. The issue in this dispute is the parties' contractual obligations under applicable contracts. What happens at other buildings has no bearing on a claim or defense in this case. Whinstone will limit the Interrogatory to concern certain Debtors' operations at Buildings B and C.

Subject its objections to instructions and definitions and specific objections, Whinstone states Priority Power Management is the QSE and SNDSW_LD1 covered Buildings B and C from 2020 to the latter part of 2022, at which point in time Building C became the sole building covered by SNDSW_LD1 and Building B was covered by SNDSW_LD10.

INTERROGATORY NO. 17:

For the time period October 1, 2020 through today, identify, by hour, the amount in megawatts and type of Ancillary Services awarded to the Resource Entity associated with Building C at the Rockdale Facility.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone also objects to the Interrogatory as the burden of answering is

substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the Priority Power Management reports produced in this case. *E.g.*, WHIN_0032823.

INTERROGATORY NO. 18:

For the time period October 1, 2020 through today, provide the time periods in which ERCOT called on the awarded Ancillary Services identified in Interrogatory No. 18 to be deployed, and the amount of deployment requested and actually provided.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone also objects to the Interrogatory as being nonsensical because it refers to itself and cannot be answered. Whinstone presumes the Interrogatory is referring to Interrogatory No. 17. Whinstone also objects to the Interrogatory as the burden of answering is substantially the same for either party. As detailed below, Whinstone will refer to its various business records.

Subject its objections to instructions and definitions and specific objections, Whinstone refers Debtors to the Priority Power Management reports produced in this case. *E.g.*, WHIN_0032823.

INTERROGATORY NO. 19:

Identify all individuals who have participated in conversations at Whinstone U.S., Inc., Riot Blockchain, Inc., or Riot Platforms, Inc. regarding, relating to, or concerning any decision to remove Legacy Hosting Customers from the Rockdale Site or any decision to terminate any agreement with Legacy Hosting Customers, the dates those conversations occurred, and whether those conversations occurred orally or in writing.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot answer on behalf of Riot as to who may have been involved with the decision to issue the Notices. Whinstone also objects to the Interrogatory as being overly broad, seeking irrelevant information, and not being proportional to the needs of the case. Any dispute Whinstone may have with other Legacy Hosting Customers concern alleged breaches of contract between those entities and Whinstone. *See, e.g.*, Fourth Am. Compl. (Oct. 19, 2023) at Cause of Action (Breach of Contract) (ECF No. 106). Those allegations do not make it more or less probable that certain Debtors breached their respective contracts with Whinstone here. *E.g., BNSF Ry. Co. v. Panhandle N. R.R. LLC*, No. 4:16-CV-01061-O, 2018 WL 4076487, at *2 (N.D. Tex. Jan. 11, 2018) ("Agreements and communications with non-party competitors are unlikely to be relevant to litigation of a contract dispute, as the other contracts would have been negotiated separately, contain different terms, and derive from different underlying circumstances."); *Dizdar v. State Farm Lloyds*, No. 7:14-CV-402, 2015 WL 12780640, at *5 (S.D. Tex. Jan. 21, 2015) ("The Court will not allow Plaintiffs to fish into unrelated third-party matters because that information cannot reasonably support whether *Plaintiffs'* claims were undervalued. Even if Plaintiffs were to establish an ostensible pattern or practice of undervaluation of claims in the Rio Grande Valley, it would not prove that this individual claim was undervalued.") (emphasis in original); *U.S. v. Austin Radiological Ass'n*, No. A-10-CV-914-AWA, 2013 WL 1136668, at *11 (W.D. Tex. Mar. 18, 2013) (holding plaintiff's job performance history at prior employers was

irrelevant to proving her retaliation claim against defendant employer), *order clarified sub nom. U.S. ex rel. Simms v. Austin Radiological Ass'n*, 292 F.R.D. 378 (W.D. Tex. 2013).

INTERROGATORY NO. 20:

Identify Your good faith basis, if any, for suing Rhodium Renewables, LLC, on July 19, 2024, in Tarrant County, Texas, in Cause No. 153-354718-24.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as calling for a legal conclusion and demanding the production of privileged information. Whinstone also objects to the Interrogatory as being overly broad, seeking irrelevant information, and not being proportional to the needs of the case. Suing Rhodium Renewables LLC in a separate proceeding has no bearing on whether or not the contracts at-issue with entities other than Rhodium Renewables LLC may be assumed.

INTERROGATORY NO. 21:

Identify what you contend to be the subject matter of the Whinstone Building C Water Supply Service Agreement executed on August 20, 2021.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as calling for a legal conclusion. The contract speaks for itself.

INTERROGATORY NO. 22:

Does “Riot’s 345MW Long-Term 24/7 Fixed-Price Power Contract” referenced in Riot Platforms, Inc.’s April 18, 2024 Investor Presentation (available at <https://d2ghdaxqb194v2.cloudfront.net/2865/193757.pdf>) include the power that is the subject

matter of the Base Contract for Supply of Electricity entered into by Whinstone US Inc. and Txu Energy Retail Company LLC on or about May 11, 2020?

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot answer on behalf of Riot as to what is being referenced. The document speaks for itself.

INTERROGATORY NO. 23:

Explain in detail the methodology that You use to allocate power credits to Bitcoin mining and/or other operations as reported in Your financial statements. Include in Your response any changes made to this allocation since October 1, 2020.

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as being vague and ambiguous as to "other operations reported in Your financial statements." Whinstone will limit the Interrogatory to concern power credits only.

Subject its objections to instructions and definitions and specific objections, Whinstone states that power credits are determined by examining the amount identified on the monthly TXU invoice. *E.g.*, WHIN_0033075.

INTERROGATORY NO. 24:

Explain in detail, with all supporting calculations, how You calculated the estimated \$24.2 million in power credits and \$7.4 million in demand response credits referenced in press releases

from Riot Platforms Inc. dated September 6, 2023 (available at <https://www.riotplatforms.com/riot-announces-august-2023-production-and-operations-updates/>) and September 8, 2023 (available at <https://www.riotplatforms.com/riot-responds-to-recent-inquiries-regarding-its-power-strategy/>).

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot answer as to how Riot calculated the amounts put in its own press releases. The document speaks for itself.

INTERROGATORY NO. 25:

Explain in detail, with all supporting calculations, how You calculated the values for "hedge optimization," "economic curtailment," "ancillary services," and "4CP transmission savings" provided at page 24 of Riot Platforms, Inc.'s April 18, 2024 Investor Presentation (available at <https://d2ghdaxqb194v2.cloudfront.net/2865/193757.pdf>).

RESPONSE:

Whinstone objects to the Interrogatory as violating the number of interrogatories permitted by Federal Rule of Civil Procedure 33 due to the number of discrete subparts in Interrogatory No. 15. Whinstone objects to the Interrogatory as requesting information outside of Whinstone's possession, custody, and control. Whinstone and Riot are separate entities. Whinstone cannot answer as to how Riot calculated the amounts put in its investor presentations. The document speaks for itself.

EXHIBIT 25
FILED UNDER SEAL