As filed with the Securities and Exchange Commission on July 24, 2024

Registration No. 333-269663

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 2
TO
FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Sphere 3D Corp.

(Exact name of registrant as specified in its charter)

Ontario, Canada	**98-1220792**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

243 Tresser Blvd., 17th Floor
Stamford, CT 06901
(647) 952-5049
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

CCS Global Solutions, Inc.
500 Seventh Avenue, Office 12B101
New York, NY 10018
(917) 566-7046
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

M. Ali Panjwani, Esq.
Pryor Cashman LLP
7 Times Square
New York, New York 10036
(212) 421-4100

Approximate date of commencement of proposed sale to the public: **From time to time after the effective date of this registration statement.**

If only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐	Accelerated filer ☐
Non-accelerated filer ☒	Smaller reporting company ☒
	Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act ☐

† The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with

Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JULY 24, 2024

Prospectus

Sphere 3D Corp.

Common Shares
Preferred Shares
Debt Securities
Warrants
Units

We may offer and sell from time to time common shares, preferred shares, debt securities, warrants and units of Sphere 3D Corp. in any combination from time to time in one or more offerings, at prices and on terms described in one or more supplements to this prospectus. The securities offered by this prospectus will have an aggregate offering price of up to $100,000,000. The preferred shares, debt securities, warrants and units may be convertible into or exercisable or exchangeable for our common shares or other securities. This prospectus provides you with a general description of the securities we may offer.

Each time we sell the securities, we will provide a supplement to this prospectus that contains specific information about the offering and the terms of the securities. The supplement may also add, update or change information contained in this prospectus. You should carefully read this prospectus and any prospectus supplement before you invest in any of our securities.

We may sell the securities independently or together with any other securities registered hereunder through one or more underwriters, dealers and agents, or directly to purchasers, or through a combination of these methods, on a continuous or delayed basis. See "*Plan of Distribution*." If any underwriters, dealers or agents are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangements between or among them, will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement.

Our principal executive offices are located at 243 Tresser Blvd., 17th Floor, Stamford, CT 06901. Our telephone number is +1 (647) 952-5049 and our Internet website address is *www.sphere3d.com*. Our common shares are listed on the Nasdaq Capital Market under the symbol "ANY."

As of July 15, 2024, the aggregate market value of our outstanding common shares held by non-affiliates, or public float, was $26,864,530, based on 20,549,777 outstanding common shares, of which 650,125 common shares were held by affiliates, and a price of $1.35 per share, which was the price at which our common shares were last sold on the Nasdaq Capital Market on June 6, 2024. We have not offered any securities pursuant to General Instruction I.B.5 of Form F-3 or General Instruction I.B.6 of Form S-3 during the prior 12-calendar-month period that ends on and includes the date of this prospectus. Pursuant to General Instruction I.B.6 of Form S-3, in no event will we sell securities registered on this registration statement in a public primary offering with a value exceeding more than one-third of our public float in any 12-month period so long as our public float remains below $75 million (the "Baby Shelf Limitation").

Investing in our securities involves risks. See the "Risk Factors" section on page 11 of this prospectus, and those contained in the applicable prospectus supplement, any related free writing prospectus and the documents we incorporate by reference in this prospectus to read about factors you should consider before investing in our securities.

This prospectus may not be used to offer or sell any securities unless accompanied by a prospectus supplement.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of the disclosures in this prospectus, including any prospectus supplement and documents incorporated by reference. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2024

TABLE OF CONTENTS

ABOUT THIS PROSPECTUS

You should read this prospectus and any prospectus supplement together with the additional information described under the heading "Where You Can Find More Information About Us" and "Incorporation of Documents by Reference."

In this prospectus, unless otherwise indicated or unless the context otherwise requires,

- "shares" or "common shares" refer to our common shares, no par value per share;
- "$" and "dollars" refer to the legal currency of the United States; and
- "we," "us," "our company," "our group" and "our" refer to Sphere 3D Corp. and its subsidiaries.

This prospectus is part of a registration statement on Form S-3 that we filed with the U.S. Securities and Exchange Commission (the "SEC") using a "shelf" registration process permitted under the Securities Act of 1933, as amended (the "Securities Act"). By using a shelf registration statement, we may sell our shares, debt securities, warrants and units or any combination of any of the foregoing having an aggregate initial offering price of up to $100,000,000 from time to time in one or more offerings on a continuous or delayed basis. This prospectus only provides you with a summary description of these securities. Each time we sell the securities, we will provide a supplement to this prospectus that contains specific information about the securities being offered and the specific terms of that offering. The supplement may also add, update or change information contained in this prospectus. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the prospectus supplement. Before purchasing any of the securities, you should carefully read both this prospectus and any supplement, together with the additional information described under the heading "Where You Can Find More Information About Us" and "Incorporation of Documents by Reference."

You should rely only on the information contained or incorporated by reference in this prospectus and in any prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We will not make an offer to sell the securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the applicable supplement to this prospectus is accurate as of the date on its respective cover, and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospects may have changed since those dates.

WHERE YOU CAN FIND MORE INFORMATION ABOUT US

We are subject to periodic reporting and other informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Accordingly, we are required to file reports, including annual reports on Form 10-K, and other information with the SEC. The SEC maintains a web site at *www.sec.gov* that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with the SEC using its EDGAR system, and all information filed with the SEC can be obtained over the internet at this website. We also maintain a website at *www.sphere3d.com*, but information contained on, or linked from, our website is not incorporated by reference in this prospectus or any prospectus supplement. You should not regard any information on our website as a part of this prospectus or any prospectus supplement.

This prospectus is part of a registration statement that we filed with the SEC and does not contain all the information in the registration statement. You will find additional information about us in the registration statement. Any statement made in this prospectus concerning a contract or other document of ours is not necessarily complete, and you should read the documents that are filed as exhibits to the registration statement or otherwise filed with the SEC for a more complete understanding of the document or matter. Each such statement is qualified in all respects by reference to the document to which it refers. You may inspect a copy of the registration statement through the SEC's website at *www.sec.gov*.

INCORPORATION OF DOCUMENTS BY REFERENCE

The SEC allows us to "incorporate by reference" the information we file with them. This means that we can disclose important information to you by referring you to those documents. Each document incorporated by reference is current only as of the date of such document, and the incorporation by reference of such documents shall not create any implication that there has been no change in our affairs since the date thereof or that the information contained therein is current as of any time subsequent to its date. The information incorporated by reference is considered to be a part of this prospectus and should be read with the same care. When we update the information contained in documents that have been incorporated by reference by making future filings with the SEC, the information incorporated by reference in this prospectus is considered to be automatically updated and superseded. In other words, in the case of a conflict or inconsistency between information contained in this prospectus and information incorporated by reference into this prospectus, you should rely on the information contained in the document that was filed later.

We incorporate by reference into the prospectus the documents listed below:

- our Annual Report on 10-K for the fiscal year ended December 31, 2023 filed with the SEC on March 13, 2024 (the "2023 Annual Report");
- our Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2024 filed with the SEC on May 13, 2024;
- our definitive Schedule 14A filed with the SEC on April 5, 2024;
- our Current Reports on Form 8-K dated January 4, 2024; January 19, 2024; March 1, 2024; March 20, 2024; March 21, 2024; March 26, 2024, March 29, 2024 and May 15, 2024; and
- with respect to each offering of the securities under this prospectus, all of our subsequent annual reports on Form 10-K and any report on Form 8-K that indicates that it is being incorporated by reference that we file or furnish with the SEC on or after the date on which the registration statement is first filed with the SEC and until the termination or completion of the offering by means of this prospectus.

Our 2023 Annual Report contains a description of our business and audited consolidated financial statements with a report by our independent auditors. The consolidated financial statements are prepared and presented in accordance with U.S. GAAP.

Unless expressly incorporated by reference, nothing in this prospectus shall be deemed to incorporate by reference information furnished to, but not filed with, the SEC. Copies of all documents incorporated by reference in this prospectus, other than exhibits to those documents unless such exhibits are specifically incorporated by reference in this prospectus, will be provided at no cost to each person, including any beneficial owner, who receives a copy of this prospectus on the written or oral request of that person made to:

Sphere 3D Corp.
243 Tresser Blvd., 17th Floor
Stamford, CT 06901
Attn: Patricia Trompeter, Chief Executive Officer
(647) 952-5049

You should rely only on the information that we incorporate by reference or provide in this prospectus. We have not authorized anyone to provide you with different information. We are not making any offer of these securities in any jurisdiction where the offer is not permitted. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents, or as otherwise set forth therein.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus and any prospectus supplement, and the information incorporated by reference herein, contain forward-looking statements that reflect our current expectations and views of future events. Known and unknown risks, uncertainties and other factors, including those listed under "Risk Factors," may cause our actual results, performance or achievements to be materially different from those expressed or implied by the forward-looking statements. These statements are made under the "safe harbor" provisions of the U.S. Private Securities Litigations Reform Act of 1995.

You can identify some of these forward-looking statements by words or phrases such as "may," "will," "expect," "anticipate," "aim," "estimate," "intend," "plan," "believe," "is/are likely to," "potential," "continue" or other similar expressions. We have based these forward-looking statements largely on our current expectations and projections about future events that we believe may affect our financial condition, results of operations, business strategy and financial needs. These forward-looking statements include, but are not limited to, statements relating to:

- our mission and strategies;
- our future business development, financial condition and results of operations;
- our expectations regarding demand for and market acceptance of our products and services;
- our expectations regarding our relationships with borrowers and institutional partners;
- competition in our industry;
- our ability to obtain financing in the future; and
- relevant government policies and regulations relating to our industry and the industry of any companies that we may acquire.

These forward-looking statements involve various risks and uncertainties. Although we believe that our expectations expressed in these forward-looking statements are reasonable, our expectations may later be found to be incorrect. Our actual results could be materially different from our expectations. You should thoroughly read this prospectus, any prospectus supplement and the documents that we refer to with the understanding that our actual future results may be materially different from and worse than what we expect. In addition, the rapidly changing nature of the online consumer finance industry results in significant uncertainties for any projections or estimates relating to the growth prospects or future condition of our market. Furthermore, if any one or more of the assumptions underlying the market data are later found to be incorrect, actual results may differ from the projections based on these assumptions. You should not place undue reliance on these forward-looking statements. We qualify all of our forward-looking statements by these cautionary statements.

The forward-looking statements made in this prospectus or any prospectus supplement, or the information incorporated by reference herein, relate only to events or information as of the date on which the statements are made in such document. Except as required by law, we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise, after the date on which the statements are made or to reflect the occurrence of unanticipated events.

OUR COMPANY

Overview

We were incorporated under the *Business Corporations Act* (Ontario) on May 2, 2007 as T.B. Mining Ventures Inc. On March 24, 2015, we completed a short-form amalgamation with a wholly-owned subsidiary. In connection with the short-form amalgamation, we changed our name to "Sphere 3D Corp." Any reference to the "Company", "Sphere 3D", "we", "our", "us", or similar terms refers to Sphere 3D Corp. and its subsidiaries. In January 2022, we commenced operations of our Bitcoin mining business and are dedicated to becoming a leader in the blockchain and cryptocurrency industry. We have established and plan to continue to grow an enterprise-scale mining operation through the procurement of mining equipment and partnering with experienced service providers. On December 28, 2023, we sold our service and product segment which included HVE ConneXions and Unified ConneXions. See additional information below.

We are a "smaller reporting company" as defined in Rule 12b-2 of the Exchange Act since the market value of our shares held by non-affiliates is less than $700 million and our annual revenue was less than $100 million during the most recently completed fiscal year. We may continue to be a smaller reporting company after this offering if either (i) the market value of our shares held by non-affiliates is less than $250 million or (ii) our annual revenue was less than $100 million during the most recently completed fiscal year and the market value of our shares held by non-affiliates is less than $700 million. As a "smaller reporting company," we have elected to take advantage of certain of the scaled disclosure available for smaller reporting companies in this prospectus as well as our filings under the Exchange Act, including that we may choose to present only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and have reduced disclosure obligations regarding executive compensation, and, if we are a smaller reporting company with less than $100 million in annual revenue, we would not be required to obtain an attestation report on internal control over financial reporting issued by our independent registered public accounting firm.

Cryptocurrencies and blockchain

Bitcoin is a cryptocurrency issued by and transmitted through an open source protocol maintained by a peer-to-peer network of decentralized user nodes. This network hosts a public transaction ledger blockchain where the cryptocurrencies and their corresponding transactions are recorded. The cryptocurrencies are stored in individual wallets with public addresses and a private key that controls access. The blockchain is updated without a single owner or operator of the network. New cryptocurrencies are generated and mined rewarding users after transactions are verified in the blockchain.

Cryptocurrencies and their corresponding markets emulate fiat currency exchange markets, such as the U.S. dollar, where they can be exchanged to various fiat currencies on trading exchanges. In addition, several markets such as derivative markets, exist for enhanced trading. Since the nature of cryptocurrencies is such that it exists solely in electronic form, they are exposed to risks similar to that of any data held solely in electronic form such as power failure, data corruption, cyber security attacks, and protocol breaches, among others. Since blockchain relies on open source developers to maintain the cryptocurrency protocols, it may be subject to other risks associated with open source software.

Cryptocurrencies serve multiple purposes - a medium of exchange, store of value or unit of account. Examples of cryptocurrencies include: Bitcoin, Bitcoin cash, Ethereum, and Litecoin. Cryptocurrencies are decentralized currencies that facilitate instant transfers. Transactions occur on an open source platform using peer-to-peer direct technology with no single owner. Blockchain is a public transaction ledger where transactions are recorded and tracked, however are not owned nor managed by one single entity. Blockchain, accessible and open to all, contains records of all existing and historical transactions. All accounts on the blockchain have a unique public key and is secured with a private key that is only known to the individual. The combination of private and public keys results in a secure digital "fingerprint" which results in a strong control of ownership.

We believe cryptocurrencies have many advantages over traditional, physical fiat currencies, including immediate settlement, fraud deterrent as they are unable to be duplicated or counterfeited, lower fees, mass accessibility, decentralized nature, transparency of transactions, identity theft prevention, physical loss prevention, no devaluation due to dilution, no counterparty risk, no intermediary facilitation, no arduous exchange rate implications and a strong confirmation transaction process.

Digital Mining

As of December 31, 2023, our Digital Mining business segment operated approximately 12,800 miners with a total hash rate capacity of 1.3 exahash per second ("EH/s"). We have an additional 730 machines that are awaiting deployment. In 2023, we mined 667.4 Bitcoin, which represented an increase of 409% over the 131.01 Bitcoin we mined in 2022. Based on our existing operations and expected deployment of miners we have purchased, we anticipate having approximately 1.4 EH/s of total hash rate in operation during 2024.

Our Bitcoin mining operations are focused on maximizing our ability to successfully mine Bitcoin by growing our hash rate (the amount of computer power we devote to supporting the Bitcoin blockchain), to increase our chances of successfully creating new blocks on the Bitcoin blockchain (a process known as "solving a block"). Generally, the greater share of the Bitcoin blockchain's total network hash rate (the aggregate hash rate deployed to solving a block on the Bitcoin blockchain) a miner's hash rate represents, the greater that miner's chances of solving a block and, therefore, earning the block reward, which is currently 3.125 Bitcoin plus transaction fees per block (subject to periodic halving, as discussed below). As the proliferation of Bitcoin continues and the market price for Bitcoin increases, we expect additional miner operators to enter the market in response to an increased demand for Bitcoin which we anticipate to follow increased Bitcoin prices. As these new miner operators enter the market and as increasingly powerful miners are deployed in an attempt to solve a block, the Bitcoin blockchain's network hash rate grows, meaning an existing miner must increase its hash rate at pace commensurate with the growth of network hash rate to maintain its relative chance of solving a block and earning a block reward. As we expect this trend to continue, we will need to continue growing our hash rate to compete in our dynamic and highly competitive industry.

A key component of the Digital Mining business segment is to acquire highly-specialized computer servers (known in the industry as "miners"), which operate application-specific integrated circuit ("ASIC") chips designed specifically to mine Bitcoin, and deploy such miners at-scale utilizing our hosting agreements. We believe ASIC miners are the most effective and energy-efficient miners available today, and we believe deploying them at-scale, including in quiet immersion-cooled environments, with their more efficient heat dissipation and reduced wear-and-tear compared to traditional air-cooled hardware, will enable us to continue growing our hash rate and optimize the output and longevity of our miners once they are deployed.

Due to concerns around resource consumption and associated environmental concerns, particularly as such concerns relate to public utilities companies, various countries, states and cities have implemented, or are considering implementing, moratoriums on Bitcoin mining in their jurisdictions. Such moratoriums would impede Bitcoin mining and/or Bitcoin use more broadly. For example, in November 2022, New York imposed a two-year moratorium on new proof-of-work mining permits at fossil fuel plants in the state. We currently mine Bitcoin only in Missouri, Texas and Iowa, which states do not have any material state-specific regulatory restrictions on the mining of Bitcoin. However, it is possible that those states or other states in which we may seek to operate may create laws that would impede Bitcoin mining that could have a material adverse effect on our business, financial condition and results of operations. It also is possible that we could choose to begin mining Bitcoin in New York or other jurisdictions that are or may in the future be subject to such laws.

At this time, we intend only to mine Bitcoin and hold no other cryptocurrencies other than Bitcoin. We do not have any power purchase agreements for the supply of power.

Mining Pools

A "mining pool" is a service operated by a mining pool operator that pools the resources of individual miners to share their processing power over a network. Mining pools emerged in response to the growing difficulty and network hash rate competing for Bitcoin rewards on the Bitcoin blockchain as a way of lowering costs and reducing the risk of an individual miner's mining activities. Mining pool operators provide a service that coordinates the computing power of the independent mining enterprises participating in the mining pool. Mining pools are subject to various risks such as disruption and down time. In the event that a pool we utilize experiences down time or is not yielding returns, our results may be impacted.

We currently have service agreements (the "Service Agreements" and each, a "Service Agreement") with Foundry Digital LLC ("Foundry") and Luxor Technology Corporation ("Luxor" and, together with Foundry, the "Operators" and each, an "Operator"), each a cryptocurrency mining pool operator, to provide computing power to the mining pools. Under the Service Agreements, we provide computing power to mining pools operated by the Operators. In exchange for providing computing power, we are entitled to Full Pay Per Share ("FPPS"), which is a fractional share of the fixed Bitcoin award the applicable Operator receives, plus a fractional share of the transaction fees attached to that blockchain, less net cryptocurrency fees due to the Operators over the measurement period, as applicable. The pay-outs that we receive are based on the expected value from the block reward plus the transaction fee reward, regardless of whether the applicable Operator successfully records a block to the blockchain.

Our fractional share is based on the proportion of computing power that we contributed to the total computing power contributed by all mining pool participants in solving the current algorithm. The Service Agreements are terminable at any time by either party without compensation, and our enforceable right to compensation only begins when we begin providing computing power to the applicable Operator (which occurs daily at midnight Universal Time Coordinated ("UTC time")). The Service Agreements arise at the point that we provide computing power to the Operator, which occurs at midnight UTC time on the date of the applicable Service Agreement (contract inception), as customer consumption is in tandem with daily earnings of delivery of the computing power. Daily earnings are calculated from midnight-to-midnight UTC time, and the sub-account balance is credited shortly after.

Master Services Agreement

On August 19, 2021, we entered into a Master Services Agreement (the "Gryphon MSA") with Gryphon Digital Mining, Inc. ("Gryphon") under which Gryphon agreed to be the exclusive provider of any and all management services for all of our blockchain and cryptocurrency-related operations including but not limited to services relating to all mining equipment owned, purchased, leased, operated, or otherwise controlled by us at any location (collectively, the "Services") unless the Gryphon MSA is terminated by us. On December 29, 2021, we entered into Amendment No. 1 to the Gryphon MSA (the "Gryphon MSA Amendment") with Gryphon which extended the initial term of the Gryphon MSA to five years as we did not receive delivery of a specified minimum number of digital mining machines during 2022. Subject to written notice from us and an opportunity by Gryphon to cure for a period of up to 180 days, the Gryphon MSA provided us with the right to terminate the Gryphon MSA in the event of: (i) Gryphon's failure to perform the Services under the Gryphon MSA in a professional and workmanlike manner in accordance with generally recognized digital mining industry standards for similar services, or (ii) Gryphon's gross negligence, fraud or willful misconduct in connection with performing the Services. Gryphon shall be entitled to specific performance or termination for cause in the event of a breach by us, subject to written notice and an opportunity to cure for a period of up to 180 days. As consideration for the Gryphon MSA, Gryphon shall receive the equivalent of 22.5% of the net operating profit, as defined in the Gryphon MSA, of all of our blockchain and cryptocurrency related operations as a management fee. In addition, any costs Gryphon incurs on our behalf are to be reimbursed to Gryphon as defined in the Gryphon MSA. During the years ended December 31, 2023 and 2022, we paid costs under the Gryphon MSA of $8.4 million and $1.3 million, respectively.

On April 7, 2023, we filed litigation against Gryphon outlining several breaches to the Gryphon MSA, including but not limited to, several fiduciary and operational breaches. On October 6, 2023, in accordance with the cure period, we terminated the Gryphon MSA. In November 2023, Gryphon indicated that upon receipt of certain information it would remit outstanding Bitcoin proceeds, less fees and expenses that we assert is currently held by Gryphon on behalf of us, which we believe amounts to approximately 21.6 Bitcoin and approximately $0.6 million of revenue at December 31, 2023, before factoring in fees and expenses. On March 19, 2024, we filed a separate lawsuit against Gryphon in the U.S. District Court for the Southern District of New York. We alleged that Gryphon converted our property by failing to return certain cryptocurrencies after the termination of the Gryphon MSA. After we filed the lawsuit, Gryphon substantially returned the property. We subsequently dismissed the suit without prejudice.

Hosting Sub-License

On October 5, 2021, we entered into a Sub-License and Delegation Agreement ("Hosting Sub-Lease") with Gryphon, which assigned to us certain Master Services Agreement, dated as of September 12, 2021 (the "Core Scientific MSA"), by and between Core Scientific, Inc. ("Core Scientific"), and Gryphon and Master Services Agreement Order #2 ("Order 2"). On December 29, 2021, we entered into Amendment No. 1 to the Sub-Lease Agreement (the "Sub-Lease Amendment") with Gryphon to provide Gryphon the right to recapture the usage of up to 50% of the hosting capacity to be managed by Core Scientific. The agreement allows for approximately 230 MW of carbon neutral digital mining hosting capacity to be managed by Core Scientific as hosting partner. As part of the agreement, Core Scientific will provide digital mining fleet management and monitoring solution, Minder™, data analytics, alerting, monitoring, and miner management services. The Hosting Sub-Lease shall automatically terminate upon the termination of the Core Scientific MSA and/or Order 2 in accordance with their respective terms.

On October 31, 2022, we filed an arbitration request against Core Scientific regarding the Hosting Sub-Lease. We have requested that certain advanced deposits paid be refunded back to us as a result of the modification to our machine purchase agreement with FuFu Technology Limited (now Ethereal Tech Pte. Ltd.). In December 2022, Core Scientific filed Chapter 11 bankruptcy.

As of December 31, 2023, we have a pre-paid deposit balance of $33.9 million towards the Hosting Sub-Lease, which we have recorded a $23.9 million provision for losses on the deposit due to Core Scientific's Chapter 11 bankruptcy filing in December 2022. During the years ended December 31, 2023 and 2022, we had $8.2 million and $15.7 million, respectively, of expense included in provision for losses on deposits due to vendor bankruptcy filings on the consolidated statements of operations.

On January 16, 2024, we reached a settlement agreement (the "Settlement Agreement") with Core Scientific, which was approved by a United States Bankruptcy Judge on January 16, 2024 as part of Core Scientific's emergence from bankruptcy, for $10.0 million of Core Scientific's equity. The Settlement Agreement includes access to potential additional funds for interest as well as an additional equity pool if the value of Core Scientific's equity decreases below plan value in the 18 months after the date of the Settlement Agreement commensurate with the other unsecured creditors. On January 23, 2024, we received 2,050,982 shares of Core Scientific Inc. common stock trading under the NASDAQ symbol CORZ.

Hosting Agreements

On October 18, 2023, we entered into a Hosting Agreement with Joshi Petroleum, LLC (the "Joshi Hosting Agreement") for rack space, network services, electrical connections, routine facility maintenance, and technical support of certain of our mining equipment. The Joshi Hosting Agreement has an initial term of three years with subsequent one year renewal periods until either party provides written notice to the other party of its desire to avoid and given renewal term at least 30 days in advance of the conclusion of the prior initial term or renewal period. As required by the Joshi Hosting Agreement, we paid a deposit of $0.1 million, and will pay an additional $0.2 million, representing the last two months of estimated service fees.

On April 4, 2023, we entered into a Master Hosting Services Agreement with Rebel Mining Company, LLC (the "Rebel Hosting Agreement") for rack space, network services, electrical connections, routine facility maintenance, and technical support of certain of our mining equipment. The Rebel Hosting Agreement has a term of three years with subsequent one year renewal periods. As required by the Rebel Hosting Agreement, we paid a deposit of $2.6 million representing the last two months of estimated service fees.

On February 8, 2023, we entered into a Hosting Agreement with Lancium FS 25, LLC (the "Lancium Hosting Agreement") for rack space, network services, electrical connections, routine facility maintenance, and technical support of certain of our mining equipment. The Lancium Hosting Agreement has a term of two years with subsequent one year renewal periods. As required by the Lancium Hosting Agreement, we paid a deposit of $0.2 million representing a partial payment towards the last two months of estimated service fees.

On June 3, 2022, we entered into a Master Agreement with Compute North LLC (the "Compute North MA") for, the colocation, management, and other services of certain of our mining equipment for an initial term of five years. As of December 31, 2023, we have deposits, in the aggregate, of $0.7 million to Compute North for which during the years ended December 31, 2023 and 2022, we recorded a $0.3 million and $0.4 million, respectively, provision for losses on the deposit due to Compute North's 2022 bankruptcy filing. In December 2022, the Compute North MA was assigned to GC Data Center Granbury, LLC (the "GC Data Center MA") and has a term of five years from such assignment date. Under the GC Data Center MA, the monthly service fee is payable based on the actual hashrate performance of the equipment per miner type per location as a percentage of the anticipated monthly hashrate per miner type. A deposit of $0.5 million previously paid to Compute North for the last two months of monthly service fees was remitted to GC Data Center on our behalf and is included in prepaid digital hosting services at December 31, 2023.

Series H Preferred Shares

On November 7, 2022, we entered into an agreement with Hertford Advisors Ltd. ("Hertford") modifying the number of outstanding Series H Preferred Shares held by Hertford (the "Modified Hertford Agreement"). Pursuant to the Modified Hertford Agreement, we cancelled 36,000 Series H Preferred Shares, with a value of $15.9 million, without payment of any cash consideration, and reduced the value of the supplier agreement intangible asset by such amount. The Modified Hertford Agreement also provides for certain resale restrictions applicable to the common shares that are issuable upon the conversion of the remaining Series H Preferred Shares during the two-year period ending on December 31, 2024, which are different from the restrictions contained in the Hertford Agreement, as well, commencing January 1, 2023 and terminating on December 31, 2023, holders of Series H Preferred Shares are permitted to (a) convert Series H Preferred Shares in an aggregate amount up to or equal to 3.0% of the aggregate number of Series H Preferred Shares outstanding on the first day of each such month and (b) sell the resulting number (and no greater number) of such converted common shares within such month. Commencing January 1, 2024 and terminating on December 31, 2024, holders of Series H Preferred Shares are permitted to (a) convert Series H Preferred Shares in an aggregate amount up to or equal to 10.0% of the aggregate number of Series H Preferred Shares outstanding on the first day of each such month and (b) sell the resulting number (and no greater number) of such converted common shares within such month.

In August 2023, we entered into an Amended and Restated Agreement (the "Hertford Amendment") with Hertford Advisors Ltd. and certain other parties listed in the Hertford Amendment (together, the "Hertford Group"), which amends and restates in its entirety the purchase agreement between us and Hertford Advisors Ltd. dated July 31, 2021, as modified by the amendment to such agreement dated November 7, 2022 (together, the "Original Hertford Agreement"). As an inducement to enter into the Hertford Amendment, we issued to Hertford 1,376 Series H Preferred Shares and 800,000 warrants with an aggregate fair value of $1.0 million.

In August 2023, we entered into a Securities Purchase Agreement (the "Purchase Agreement") pursuant to which we issued to two investors a total of 13,764 of our Series H Preferred Shares (the "Investor Series H Shares") and a total of 1,966,293 common share purchase warrants (the "Warrants"), each of which entitled the holder to purchase one of our common shares (the "Warrant Shares"). Pursuant to the terms of the Purchase Agreement, we received gross proceeds of $3.0 million. We issued a total of 1,377 Series H Preferred Shares and 196,629 warrants as a finder's fee for the transaction with an aggregate fair value of $0.5 million. Pursuant to the terms of the Purchase Agreement, we will reserve for issuance the maximum aggregate number of common shares that are issuable upon exercise in full of the Warrants at any time. As of May 3, 2024, 161 Investor Series H Shares remain outstanding, which are convertible into 23,000 of our common shares.

The Warrants issued in connection with the Hertford Amendment and the Purchase Agreement are exercisable beginning February 12, 2024 and February 23, 2024, respectively, at an initial exercise price of $2.75 per share and have a term of three years from the date of issuance. The exercise price of the Warrants are subject to adjustment for certain stock splits, stock combinations and dilutive share issuances.

As of May 3, 2024, Hertford holds 23,430 Series H Preferred Shares, which are convertible into approximately 3,347,140 of our common shares provided that, at no time shall Hertford be permitted to convert Series H Preferred Shares that, when aggregated with any common shares beneficially owned by Hertford prior to such conversion, would result in Hertford exceeding 9.99% of the common shares outstanding immediately after giving effect to such conversion (the "Beneficial Ownership Limitation"). In addition to the Beneficial Ownership Limitation, with respect to 16,718 of the Series H Preferred Shares held by Hertford, commencing on January 1, 2024 and in each month thereafter until December 31, 2024, Hertford is only permitted to convert such Series H Preferred Shares in an aggregate amount equal to 10% of the aggregate number of such Series H Preferred Shares owned by Hertford on the first day of such month; provided that in any trading day, Hertford shall not be permitted to sell more than that number of common shares equal to 20% of the previous trading day's volume for common shares traded on the principal exchange upon which the common shares are listed and, for any subsequent trading day, the shares sold by Hertford on the previous trading day shall be excluded when calculating the day's volume. Beginning on January 1, 2025, Hertford shall not be prohibited, restrained or otherwise limited from converting its Series H Preferred Shares or selling any common shares converted from Series H Preferred Shares, subject to applicable laws, exchange requirements and the terms and conditions of the Series H Preferred Shares.

The offer and sale of the Series H Preferred Shares and the Warrants have not been registered under the Securities Act and may not be offered or sold in the United States in the absence of an effective registration statement or exemption from the registration requirements, and in each case in compliance with applicable state securities laws. In accordance with the authoritative guidance for distinguishing liabilities from equity, we have determined that our Series H preferred shares carry certain redemption features beyond our control. Accordingly, the Series H Preferred Shares are presented as temporary equity.

Special Purpose Acquisition Company

In April 2021, we sponsored a special purpose acquisition company ("SPAC"), Minority Equality Opportunities Acquisition Inc. ("MEOA"), through our wholly owned subsidiary, Minority Equality Opportunities Acquisition Sponsor, LLC ("SPAC Sponsor"). MEOA's purpose is to focus initially on transactions with companies that are minority owned businesses. On July 3, 2023, MEOA announced that it did not complete an initial business combination on or prior to June 30, 2023, the deadline by which it must have completed an initial business combination. As of the close of business on July 3, 2023, MEOA's redeemable public shares were deemed cancelled and represented only the right to receive the redemption amount. MEOA instructed Continental Stock Transfer & Trust Company, the trustee of the trust account, to liquidate the redeemable securities held in the trust account. The redemption of MEOA's redeemable public shares for $10.4 million was completed in the third quarter of 2023. We received no proceeds from the trust account.

On November 30, 2022, after giving effect to the redemption of redeemable public shares of MEOA, our subsidiary owned a controlling interest of MEOA and it was consolidated. As of December 31, 2022, we held 3,162,500 shares of MEOA's Class B common stock. The SPAC Sponsor agreed to waive its redemption rights with respect to its outstanding Class B common stock issued prior to MEOA's initial public offering. On December 19, 2023, our 3,162,500 shares of MEOA's Class B common stock were cancelled, eliminating our ownership of MEOA, and we recognized a $6.1 million gain related to the deconsolidation of MEOA.

Liquidity and Cash Flows

At March 31, 2024, we had cash and cash equivalents of $2.1 million compared to cash and cash equivalents of $0.6 million at December 31, 2023. As of March 31, 2024, we had working capital of $6.4 million reflecting a decrease of $1.8 million since December 31, 2023 primarily related to the $2.7 million loss on our investment in equity securities offset by an increase in cash. Cash management continues to be a top priority. Included in our working capital is an investment in equity securities that we can liquidate as needed to assist in funding our operations.

Management has projected that based on our hashing rate at March 31, 2024, cash on hand may not be sufficient to allow us to continue operations and there is substantial doubt about our ability to continue as a going concern for the next 12 months if we are unable to raise additional funding for operations. We expect our working capital needs to increase in the future as we continue to expand and enhance our operations. Our ability to raise additional funds for working capital through equity or debt financings or other sources may depend on the financial success of our then current business and successful implementation of our key strategic initiatives, financial, economic and market conditions and other factors, some of which are beyond our control. Further equity financings may have a dilutive effect on shareholders and any debt financing, if available, may require restrictions to be placed on our future financing and operating activities. If we require additional capital and are unsuccessful in raising that capital at a reasonable Bitcoin cryptocurrency mining industry or we may be unable to advance our growth initiatives, either of which could adversely impact our business, financial condition and results of operations.

Significant changes from our current forecasts, including but not limited to: (i) shortfalls from projected mining earning levels; (ii) increases in operating costs; (iii) decreases in the value of cryptocurrency; and (iv) our inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or our inability to maintain listing with the NASDAQ Capital Market could have a material adverse impact on our ability to access the level of funding necessary to continue our operations at current levels. If any of these events occurs or we are unable to generate sufficient cash from operations or financing sources, we may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any of, which would have a material adverse effect on our business, results of operations, financial position and liquidity.

Nasdaq Listing

On July 25, 2022, we received a notice from the Nasdaq Listing Qualifications Department of the Nasdaq Stock Market LLC ("Nasdaq") stating that the bid price of our common shares for the last 30 consecutive trading days had closed below the minimum $1.00 per share required for continued listing under Listing Rule 5550(a)(2) (the "Listing Rule"). We had a period of 180 calendar days, or until January 23, 2023, to regain compliance with the Listing Rule.

On January 24, 2023, we received notification from Nasdaq indicating that we will have an additional 180-day grace period, or until July 24, 2023, to regain compliance with the Listing Rule's $1.00 minimum bid requirement. The notification indicated that we did not regain compliance during the initial 180-day grace period provided under the Listing Rule. In accordance with Nasdaq Marketplace Rule 5810(c)(3)(A), we are eligible for the additional grace period because we meet the continued listing requirement for market value of publicly held shares and all other applicable requirements for initial listing on the Nasdaq Capital Market with the exception of the bid price requirement, and our written notice to Nasdaq of our intentions to cure the deficiency by effecting a reverse stock split, if necessary.

On June 28, 2023, we filed Articles of Amendment to effect a share consolidation (also known as a reverse stock split) of our issued and outstanding common shares on a 1-for-7 basis. The share consolidation became effective on June 28, 2023. All share and per share amounts have been restated for all periods presented to reflect the share consolidation. On July 14, 2023, we received notification from Nasdaq indicating that we had regained compliance with the Listing Rule.

Recent Key Events

- On January 16, 2024 we reached a settlement agreement (the "Settlement Agreement") with Core Scientific Inc., which was approved by a United States Bankruptcy Judge on January 16, 2024 as part of Core Scientific's emergence from bankruptcy, for $10.0 million of Core Scientific's equity. The Settlement Agreement includes access to potential additional funds for interest as well as an additional equity pool if the value of Core Scientific's equity decreases in the 18 months after the date of the Settlement Agreement commensurate with the other unsecured creditors. On January 23, 2024, we received 2,050,982 common shares of Core Scientific Inc. trading under the Nasdaq symbol CORZ.

- Subsequent to December 31, 2023, pursuant to the Modified Hertford Agreement, we issued 2,846,280 common shares for the conversion of 19,924 Series H Preferred Shares.

- On December 28, 2023, we entered into a share purchase agreement with Joseph O'Daniel, a related party ("Purchaser"), pursuant to which we sold our service and product segment, including HVE ConneXions and Unified ConneXions, for $1.00 and the transfer of outstanding assets and liabilities. As a result of the share purchase agreement, the Purchaser, who served as our President, resigned effective December 28, 2023. Through December 28, 2023, the service and product segment provided network operations center ("NOC") services to its customers. NOC revenues were for monthly services performed for the customer that are performed either in-house or at the customer's site. The service and product segment also delivered data management and desktop and application virtualization solutions through hybrid cloud, cloud and on premise implementations by a reseller network. We recognized a noncash gain of $0.7 million related to the transfer of net liabilities to the Purchase.

- On December 19, 2023, our 3,162,500 shares of Minority Equality Opportunities Acquisition Inc. ("MEOA") Class B common stock were cancelled, eliminating our ownership of MEOA, and we recognized a $6.1 million gain related to the deconsolidation of MEOA.

Organizational Structure

The following sets forth our wholly-owned subsidiaries at July 24, 2024:

Name of subsidiary	Jurisdiction of Incorporation or Organization
Sphere 3D Inc.	Ontario, Canada
101250 Investments Ltd.	Turks & Caicos Islands
Sphere 3D Mining Corp.	Delaware, United States
Minority Equality Opportunities Acquisition Sponsor, LLC	Delaware, United States

RISK FACTORS

Investing in our securities involves risk. You should carefully consider the risk factors and uncertainties described under the heading "Item 1A. Risk Factors" in our most recently filed Annual Report on Form 10-K, which is incorporated into this prospectus by reference, as updated by our subsequent filings under the Exchange Act, and in any applicable prospectus supplement and in the other documents incorporated by reference into this prospectus, before investing in any of the securities that may be offered or sold pursuant to this prospectus. These risks and uncertainties and other risks and uncertainties not presently known to us or that we currently believe are immaterial, could materially affect our business, results of operations or financial condition and cause the value of our securities to decline.

Risks Related to Our Business

Our total revenue is substantially dependent on the prices of Bitcoin and volume of Bitcoin transactions. If such price or volume declines, our business, operating results, and financial condition would be adversely affected.

We generate the majority of our total revenue from digital mining. As such, any declines in the volume of Bitcoin transactions, the price of Bitcoin, or market liquidity for Bitcoin generally may result in lower total revenue. The price of Bitcoin and associated demand for buying, selling, and trading Bitcoin have historically been subject to significant volatility. The price and trading volume of Bitcoin is subject to significant uncertainty and volatility, depending on a number of factors, including:

- market conditions of, and overall sentiment towards, Bitcoin;
- changes in liquidity, market-making volume, and trading activities;
- trading activities on other cryptocurrency trading platforms worldwide, many of which may be unregulated, and may include manipulative activities;
- investment and trading activities of highly active retail and institutional users, speculators, miners, and investors;
- the speed and rate at which Bitcoin is able to gain adoption as a medium of exchange, utility, store of value, consumptive asset, security instrument, or other financial assets worldwide, if at all;
- decreased investor confidence in Bitcoin and cryptocurrency trading platforms;
- negative media publicity and events relating to the cryptocurrency economy;
- unpredictable social media coverage or "trending" of, or other rumors and market speculation regarding Bitcoin;
- the ability for cryptocurrencies to meet user and investor demands;
- the functionality and utility of Bitcoin and its associated ecosystems and networks;
- increased competition from other payment services or other cryptocurrencies that exhibit better speed, security, scalability, or other characteristics;
- regulatory or legislative changes and updates affecting the digital economy;
- the maintenance, troubleshooting, and development of the blockchain networks underlying Bitcoin, including by miners, validators, and developers worldwide;
- the ability for cryptocurrency networks to attract and retain miners or validators to secure and confirm transactions accurately and efficiently;
- ongoing technological viability and security of Bitcoin and their its smart contracts, applications and networks, including vulnerabilities against hacks and scalability;

- fees and speed associated with processing Bitcoin transactions, including on the underlying blockchain networks and on cryptocurrency trading platforms;
- financial strength of market participants;
- the availability and cost of funding and capital;
- the liquidity of cryptocurrency trading platforms;
- interruptions in service from or failures of major cryptocurrency trading platforms;
- availability of an active derivatives market for Bitcoin;
- availability of banking and payment services to support digital-related projects;
- level of interest rates and inflation; and
- environmental, social, and governance (ESG) concerns about power and water consumption.

There is no assurance that Bitcoin will maintain its value or that there will be meaningful levels of trading activities. In the event that the price of Bitcoin or the demand for trading Bitcoin decline, our business, operating results, and financial condition would be adversely affected.

Our operating results have and will significantly fluctuate due to the highly volatile nature of Bitcoin.

Our operating results are dependent on Bitcoin and the broader cryptocurrency economy. Due to the highly volatile nature of the cryptocurrency economy and the prices of Bitcoin, our operating results have, and will continue to, fluctuate significantly from quarter to quarter in accordance with market sentiments and movements in the broader cryptocurrency economy.

Our operating results will continue to fluctuate significantly as a result of a variety of factors, many of which are unpredictable and in certain instances are outside of our control, including:

- our dependence on offerings that are dependent on Bitcoin trading activity, including trading volume and the prevailing trading prices for Bitcoin, whose trading prices and volume can be highly volatile;
- adding other cryptocurrencies to our platform, if we choose to do so in the future;
- market conditions of, and overall sentiment towards, the cryptocurrency economy; and
- system failure, outages, or interruptions, including with respect to third-party cryptocurrency trading platforms.

As a result of these factors, it is challenging for us to forecast growth trends accurately and our business and future prospects are difficult to evaluate, particularly in the short term. Further, any decrease in the price of bitcoin creates a risk of increased losses or impairments. In view of the rapidly evolving nature of our business and the cryptocurrency economy, period-to-period comparisons of our operating results may not be meaningful, and you should not rely upon them as an indication of future performance. Quarterly and annual expenses reflected in our financial statements may be significantly different from historical or projected rates. Our operating results in one or more future quarters may fall below the expectations of securities analysts and investors. As a result, the trading price of our common shares may increase or decrease significantly.

The recent disruption in the cryptocurrency markets may harm our reputation.

Due to the recent disruption in the cryptocurrency markets, our customers, suppliers and other business partners may deem our business to be risky and lose confidence to enter into business transactions with us on terms that we deem acceptable. For example, our suppliers may require higher deposits or advance payments from us. In addition, new regulations may subject us to investigation, administrative or regulatory proceedings, and civil or criminal litigation, all of which could harm our reputation and negatively affect our business operation and the value of our common shares. As of the date of this annual report, we do not believe that our operations or financial conditions associated have been materially impacted by any reputational harm that we may face in light of the recent disruption in the cryptocurrency markets. However, there is no guarantee that such disruption or any reputational harm resulting therefrom will not have a material adverse effect on our business, financial condition and results of operations in the future.

The future development and growth of Bitcoin is subject to a variety of factors that are difficult to predict and evaluate. If Bitcoin does not grow as we expect, our business, operating results, and financial condition could be adversely affected.

Cryptocurrencies built on blockchain technology were only introduced in 2008. Cryptocurrencies are designed for different purposes. Bitcoin, for instance, was designed to serve as a peer-to-peer electronic cash system, while Ethereum was designed to be a smart contract and decentralized application platform. Many other cryptocurrency networks, ranging from cloud computing to tokenized securities networks, have only recently been established. The further growth and development of any cryptocurrencies and their underlying networks and other cryptographic and algorithmic protocols governing the creation, transfer, and usage of cryptocurrency represent a new and evolving paradigm that is subject to a variety of factors that are difficult to evaluate, including:

- many cryptocurrency networks have limited operating histories, have not been validated in production, and are still in the process of developing and making significant decisions that will affect the design, supply, issuance, functionality, and governance of their respective cryptocurrencies and underlying blockchain networks, any of which could adversely affect their respective cryptocurrencies;

- many cryptocurrency networks are in the process of implementing software upgrades and other changes to their protocols, which could introduce bugs, security risks, or adversely affect the respective cryptocurrency networks;

- security issues, bugs, and software errors have been identified with many cryptocurrencies and their underlying blockchain networks, some of which have been exploited by malicious actors. There are also inherent security weaknesses in some cryptocurrencies, such as when creators of certain cryptocurrency networks use procedures that could allow hackers to counterfeit tokens. Any weaknesses identified with a cryptocurrency could adversely affect its price, security, liquidity, and adoption. If a malicious actor or botnet (a volunteer or hacked collection of computers controlled by networked software coordinating the actions of the computers) obtains a majority of the compute or staking power on a cryptocurrency network, as has happened in the past, it may be able to manipulate transactions, which could cause financial losses to holders, damage the network's reputation and security, and adversely affect its value;

- if rewards and transaction fees for miners or validators on any particular cryptocurrency network are not sufficiently high to attract and retain miners, a cryptocurrency network's security and speed may be adversely affected, increasing the likelihood of a malicious attack;

- algonomic units to U.S. dollar may fail causing devaluation in specific cryptocurrencies which may impact the market perception of safer currencies; and

- many cryptocurrency networks are in the early stages of developing partnerships and collaborations, all of which may not succeed and adversely affect the usability and adoption of the respective cryptocurrencies.

Various other technical issues have also been uncovered from time to time that resulted in disabled functionalities, exposure of certain users' personal information, theft of users' assets, and other negative consequences, and which required resolution with the attention and efforts of their global miner, user, and development communities. If any such risks or other risks materialize, and in particular if they are not resolved, the development and growth of cryptocurrency may be significantly affected and, as a result, our business, operating results, and financial condition could be adversely affected.

Concerns about greenhouse gas emissions and global climate change may result in environmental taxes, charges, assessments, penalties or litigation, and could have a material adverse effect on our business, financial condition and results of operations.

The effects of human activity on global climate change have attracted considerable public and scientific attention, as well as the attention of the United States and other governments. Efforts are being made to reduce greenhouse gas emissions, particularly those from coal combustion power plants, some of which plants our hosting facility suppliers may rely upon for power. The added cost of any environmental taxes, charges, assessments or penalties levied on such power plants, or the cost of litigation filed against such power plants, could be passed on to us, increasing the cost to provide hosting services to its customers. Any enactment of laws or promulgation of regulations regarding greenhouse gas emissions by the United States, or any domestic or foreign jurisdiction in which we conduct business, could have a material adverse effect on our business, financial condition, or results of operations. In addition, as a result of negative publicity regarding environmental concerns associated with Bitcoin mining, some companies have ceased accepting Bitcoin for certain types of purchases, and additional companies may do so in the future, which may have a material adverse effect on our business, financial condition or results of operations.

Changing environmental regulation and public energy policy may expose our business to new risks.

Our Bitcoin mining operations require a substantial amount of power and can only be successful, and ultimately profitable, if the costs we incur, including for electricity, are lower than the revenue we generate from our operations. As a result, any mine we establish can only be successful if we can obtain sufficient electrical power for that mine on a cost-effective basis, and our establishment of new mines requires us to find locations where that is the case. For instance, our plans and strategic initiatives for expansion are based, in part, on our understanding of current environmental and energy regulations, policies and initiatives enacted by regulators, and any such regulations that may be adopted in the future. Although we are not currently subject to environmental and energy regulations, policies or initiatives in Missouri, Texas or Iowa, the states in which we currently mine Bitcoin, related to our Bitcoin mining operations, if new regulations in these jurisdictions are imposed, or if we begin mining Bitcoin in other jurisdictions that do have such regulations, policies or initiatives, the assumptions we made underlying our plans and strategic initiatives may be inaccurate, and we may incur additional costs to adapt our planned business, if we are able to adapt at all, to such regulations.

There continues to be a lack of consistent climate legislation, which creates economic and regulatory uncertainty for our business because the Bitcoin mining industry, with its high energy demand, may become a target for future environmental and energy regulation. New legislation and increased regulation regarding climate change could impose significant costs on us and our suppliers, including costs related to increased energy requirements, capital equipment, environmental monitoring and reporting, and other costs to comply with such regulations. Further, any future climate change regulations could also negatively impact our ability to compete with companies situated in areas not subject to such limitations. For example, the recently passed legislation in the state of New York imposing a two-year moratorium on certain Bitcoin mining operations that run carbon-based power.

Given the political significance and uncertainty around the impact of climate change and how it should be addressed, we cannot predict how legislation and regulation will affect our financial condition and results of operations. Further, even without such regulation, increased awareness and any adverse publicity in the global marketplace about potential impacts on climate change by us or other companies in our industry could harm our reputation. Any of the foregoing could result in a material adverse effect on our business and financial condition.

Bitcoin mining activities are energy-intensive, which may restrict the geographic locations of miners and have a negative environmental impact. Government regulators may potentially restrict the ability of electricity suppliers to provide electricity to mining operations, such as ours, or even fully or partially ban mining operations.

Mining Bitcoin requires large amounts of electrical power, and electricity costs are expected to account for a significant portion of our overall costs. The availability and cost of electricity will restrict the geographic locations of our mining activities. Any shortage of electricity supply or increase in electricity costs in any location where we plan to operate may negatively impact the viability and the expected economic return for Bitcoin mining activities in that location and may negatively impact our business model. While the increase in costs of power are mitigated by our fixed price contracts, we are unable to control power outages due to factors such as inclement weather or state requests to curtail our use of power may impact our gross profit. Although we do not have any power purchase contracts directly with any utilities, we have been advised by our hosting partners that they have such contracts. In most cases we have a fixed cost of power built into our contracts with our hosting partners.

Further, our business model can only be successful and our mining operations can only be profitable if the costs, including electrical power costs, associated with Bitcoin mining are lower than the price of Bitcoin itself. As a result, any mining operation we establish can only be successful if we can obtain sufficient electrical power for that site on a cost-effective basis, and our establishment of new mining data centers requires us to find sites where that is the case. Even if our electrical power costs do not increase, significant fluctuations in, and any prolonged periods of, low Bitcoin prices will decrease our gross profit and may also cause our electrical supply to no longer be cost-effective.

Furthermore, there may be significant competition for suitable cryptocurrency mining sites, and government regulators, including local permitting officials, may potentially restrict our ability to set up cryptocurrency mining operations in certain locations. They can also restrict the ability of electricity suppliers to provide electricity to mining operations in times of electricity shortage, or may otherwise potentially restrict or prohibit the provision of electricity to mining operations. In addition, if cryptocurrency mining becomes more widespread, government scrutiny related to restrictions on cryptocurrency mining facilities and their energy consumption may significantly increase. The considerable consumption of electricity by mining operators may also have a negative environmental impact, including contribution to climate change, which could set the public opinion against allowing the use of electricity for Bitcoin mining activities or create a negative consumer sentiment and perception of Bitcoin. This, in turn, could lead to governmental measures restricting or prohibiting cryptocurrency mining or the use of electricity for Bitcoin mining activities. Any such development in the jurisdictions where we plan to operate could increase our compliance burdens and have a material adverse effect on our business, prospects, financial condition, and operating results. Government regulators in other countries may also ban or substantially limit their local cryptocurrency mining activities, which could have a material effect on our supply chains for mining equipment or services and the price of Bitcoin. It could also increase our domestic competition as some of those cryptocurrency miners or new entrants in this market may consider moving their cryptocurrency mining operations or establishing new operations in the United States.

Additionally, our mining operations could be materially adversely affected by power outages and similar disruptions. Given the power requirements for our mining equipment, it would not be feasible to run this equipment on back-up power generators in the event of a government restriction on electricity or a power outage. If we are unable to receive adequate power supply and are forced to reduce our operations due to the availability or cost of electrical power, it would have a material adverse effect on our business, prospects, financial condition, and operating results.

We rely on hosting arrangements to conduct our business, and the availability of such hosting arrangements is uncertain and competitive and may be affected by changes in regulation in one or more countries.

If we are unable to successfully enter into definitive hosting agreements with mining data centers on favorable terms or those counterparties fail to perform their obligations under such agreements, we may be forced to look for alternative mining data centers to host its mining equipment.

Significant competition for suitable mining data centers is expected to continue, and other government regulators, including local permitting officials, may potentially restrict the ability of potential mining data centers to begin or continue operations in certain locations. They can also restrict the ability of electricity suppliers to provide electricity to mining operations in times of electricity shortage, or may otherwise potentially restrict or prohibit the provision of electricity to mining operations.

We face risks of downtime at hosting sites due to excessive weather or heat, which could have an adverse effect on the mining of cryptocurrency and impact our revenues.

A disruption at hosting sites may affect the mining of cryptocurrency. Generally, cryptocurrency and our business of mining cryptocurrency is dependent upon consistent operations at hosting sites. A significant disruption in a hosting site's ability to function due to adverse weather could disrupt mining operations until the disruption is resolved and have an adverse effect on our ability to mine Bitcoin, impacting our revenues.

We may be affected by price fluctuations in the wholesale and retail power markets.

Market prices for power, generation capacity and ancillary services, are unpredictable. Depending upon the effectiveness of any price risk management activity undertaken by us, including but not limited to attempts to secure hosting services contracts at fixed fees, an increase in market prices for power, generation capacity, and ancillary services may adversely affect our business, prospects, financial condition, and operating results. Long- and short-term power prices may fluctuate substantially due to a variety of factors outside of our control, including, but not limited to:

- increases and decreases in generation capacity;
- changes in power transmission or fuel transportation capacity constraints or inefficiencies;
- demand response/mandatory curtailments;
- volatile weather conditions, particularly unusually hot or mild summers or unusually cold or warm winters;
- technological shifts resulting in changes in the demand for power or in patterns of power usage, including the potential development of demand-side management tools, expansion and technological advancements in power storage capability and the development of new fuels or new technologies for the production or storage of power;
- federal and state power, market and environmental regulation and legislation; and
- changes in capacity prices and capacity markets.

If we are unable to secure consistent power supply at prices or on terms acceptable to it, it would have a material adverse effect on our business, prospects, financial condition, and operating results.

As cryptocurrencies may be determined to be investment securities, we may inadvertently violate the Investment Company Act of 1940 and incur large losses as a result and potentially be required to register as an investment company or terminate operations and we may incur third-party liabilities.

In general, novel or unique assets such as Bitcoin may be classified as securities if they meet the definition of investment contracts under U.S. law. In recent years, the offer and sale of cryptocurrencies other than Bitcoin, most notably Kik Interactive Inc.'s Kin tokens and Telegram Group Inc.'s TON tokens, have been deemed to be investment contracts by the SEC. The SEC has also sued Genesis Global Capital LLC and Gemini Trust Company LLC over their cryptocurrency-lending program that allegedly violated investor-protection laws. While we believe that Bitcoin is unlikely to be considered an investment contract, and thus a security under the investment contract definition, we cannot provide any assurances that Bitcoin that we mine or otherwise acquire or hold for our own account, will never be classified as a security under U.S. law. Our determination that Bitcoin is not a security is a risk-based assessment, not a legal standard binding on any regulatory body or court, and such determination does not preclude legal or regulatory action. If Bitcoin were to be classified as a security under U.S. law, we would be obligated to comply with registration and other requirements by the SEC, which would cause us to incur significant, non-recurring expenses which would materially and adversely impact your investment.

We believe that we are not engaged in the business of investing, reinvesting, or trading in securities, and we do not hold ourself out as being engaged in those activities. However, under the Investment Company Act of 1940 (the "Investment Company Act"), a company may be deemed an investment company under section 3(a)(1)(C) thereof if the value of its investment securities is more than 40% of its total assets (exclusive of government securities and cash items) on an unconsolidated basis.

As a result of our investments and our mining activities, the investment securities we hold could exceed 40% of our total assets, exclusive of cash items and, accordingly, we could determine that we have become an inadvertent investment company. The cryptocurrency that we own, acquire or mine may be deemed an investment security by the SEC, and although we do not believe any of the cryptocurrency we own, acquire or mine are securities, any determination we make regarding whether cryptocurrencies are securities is a risk-based assessment, not a legal standard binding on a regulatory body or court, and does not preclude legal or regulatory action. An inadvertent investment company can avoid being classified as an investment company if it can rely on one of the exclusions under the Investment Company Act. One such exclusion, Rule 3a-2 under the Investment Company Act, allows an inadvertent investment company a grace period of one year from the earlier of (a) the date on which an issuer owns securities and/or cash having a value exceeding 50% of the issuer's total assets on either a consolidated or unconsolidated basis and (b) the date on which an issuer owns or proposes to acquire investment securities having a value exceeding 40% of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. As of the date of this proxy statement/prospectus, we do not believe we are an inadvertent investment company. We may take actions to cause the investment securities held by us to be less than 40% of our total assets, which may include acquiring assets with our cash and cryptocurrency on hand or liquidating our investment securities or cryptocurrency or seeking a no-action letter from the SEC if we are unable to acquire sufficient assets or liquidate sufficient investment securities in a timely manner.

As the Rule 3a-2 exception is available to a company no more than once every three years, and assuming no other exclusion were available to us, we would have to keep within the 40% limit for at least three years after we cease being an inadvertent investment company. This may limit our ability to make certain investments or enter into joint ventures that could otherwise have a positive impact on our earnings. In any event, we do not intend to become an investment company engaged in the business of investing and trading securities.

Classification as an investment company under the Investment Company Act requires registration with the SEC. If an investment company fails to register, it would have to stop doing almost all business, and its contracts would become voidable. Registration is time consuming and restrictive and would require a restructuring of our operations, and we would be very constrained in the kind of business we could do as a registered investment company. Further, we would become subject to substantial regulation concerning management, operations, transactions with affiliated persons and portfolio composition, and would need to file reports under the Investment Company Act regime. The cost of such compliance would result in us incurring substantial additional expenses, and the failure to register if required would have a materially adverse impact to conduct our operations.

If regulatory changes or interpretations of our activities require its registration as a money services business under the regulations promulgated by The Financial Crimes Enforcement Network under the authority of the U.S. Bank Secrecy Act, we may be required to register and comply with such regulations. If regulatory changes or interpretations of our activities require the licensing or other registration of us as a money transmitter (or equivalent designation) under state law in any state in which we operate, we may be required to seek licensure or otherwise register and comply with such state law. In the event of any such requirement, to the extent we decide to continue, the required registrations, licensure and regulatory compliance steps may result in extraordinary, non-recurring expenses to us. We may also decide to cease its operations. Any termination of certain operations in response to the changed regulatory circumstances may be at a time that is disadvantageous to investors.

To the extent that our activities cause us to be deemed a money service business under the regulations promulgated by the Financial Crimes Enforcement Network of the U.S. Treasury Department ("FinCEN") under the authority of the U.S. Bank Secrecy Act, we may be required to comply with FinCEN regulations, including those that would mandate us to implement anti-money laundering programs, make certain reports to FinCEN and maintain certain records.

To the extent that our activities cause us to be deemed a money transmitter or equivalent designation under state law in any state in which we operate, we may be required to seek a license or otherwise register with a state regulator and comply with state regulations that may include the implementation of anti-money laundering programs, maintenance of certain records and other operational requirements. Currently, the New York Department of Financial Services has finalized its "BitLicense" framework for businesses that conduct "virtual currency business activity." We will continue to monitor for developments in New York legislation, guidance, and regulations.

Such additional federal or state regulatory obligations may cause us to incur extraordinary expenses, possibly affecting our business in a material and adverse manner. Furthermore, we and our service providers may not be capable of complying with certain federal or state regulatory obligations applicable to money service businesses and money transmitters. If we are deemed to be subject to and determine not to comply with such additional regulatory and registration requirements, we may act to dissolve and liquidate us. Any such action may adversely affect an investment in us.

Regulatory changes or actions in one or more countries or jurisdictions may alter the nature of an investment in us or restrict the use of cryptocurrencies in a manner that adversely affects our business, prospects or operations.

As cryptocurrencies have grown in both popularity and market size, governments around the world have reacted differently, with certain governments deeming cryptocurrencies illegal, and others allowing their use and trade without restriction. In some jurisdictions, such as in the United States, cryptocurrencies are subject to extensive regulatory requirements. Several countries have taken and may continue to take regulatory actions in the future that could severely restrict our right to mine, acquire, own, hold, sell or use cryptocurrency or to exchange for local currency. For example, in China and Russia, it is illegal to accept payment in Bitcoin and other cryptocurrencies for consumer transactions and banking institutions are barred from accepting deposits of cryptocurrencies.

Cryptocurrency is viewed differently by different regulatory and standards setting organizations globally as well as in the United States on the federal and state levels. For example, the Financial Action Task Force ("FATF") and the Internal Revenue Service ("IRS") consider a cryptocurrency as currency or an asset or property. Further, the IRS applies general tax principles that apply to property transactions to transactions involving cryptocurrency.

If regulatory changes or interpretations require the regulation of cryptocurrency under the securities laws of the United States or elsewhere, including the Securities Act of 1933, the Exchange Act and the 1940 Act or similar laws of other jurisdictions and interpretations by the SEC, the CFTC, the IRS, Department of Treasury or other agencies or authorities, we may be required to register and comply with such regulations, including at a state or local level. To the extent that we decide to continue operations, the required registrations and regulatory compliance steps may result in extraordinary expense or burdens to us. We may also decide to cease certain operations and change our business model. Any disruption of our operations in response to the changed regulatory circumstances may be at a time that is disadvantageous to us.

Current and future legislation and SEC rule making and other regulatory developments, including interpretations released by a regulatory authority, may impact the manner in which cryptocurrencies are viewed or treated for classification and clearing purposes. In particular, cryptocurrencies may not be excluded from the definition of "security" by SEC rule making or interpretation requiring registration of all transactions unless another exemption is available, including transacting in cryptocurrency among owners and require registration of trading platforms as "exchanges".

Due to concerns around resource consumption and associated environmental concerns, particularly as such concerns relate to public utilities companies, various countries, states and cities have implemented, or are considering implementing, moratoriums on Bitcoin mining in their jurisdictions. Such moratoriums would impede Bitcoin mining and/or Bitcoin use more broadly. For example, in November 2022, New York imposed a two-year moratorium on new proof-of-work mining permits at fossil fuel plants in the state. Although we do not mine in New York (we currently mine Bitcoin only in Missouri, Texas and Iowa) it is possible that other states may create similar laws that could have a material adverse effect on our business, financial condition and results of operations.

We cannot be certain as to how future regulatory developments will impact the treatment of cryptocurrencies under the law. If we fail to comply with such additional regulatory and registration requirements, we may seek to cease certain of our operations or be subjected to fines, penalties and other governmental action. Such circumstances could have a material adverse effect on our ability to continue as a going concern or to pursue its business model at all, which could have a material adverse effect on its business, prospects or operations and potentially the value of any cryptocurrencies we plan to hold or expect to acquire for our own account.

Our business is dependent on a small number of Bitcoin mining equipment suppliers.

Our business is dependent upon Bitcoin mining equipment suppliers providing an adequate supply of new generation Bitcoin mining machines at economical prices to customers intending to purchase our hosting and other solutions. The growth in our business is directly related to increased demand for hosting services and Bitcoin which is dependent in large part on the availability of new generation mining machines offered for sale at a price conducive to profitable Bitcoin mining, as well as the trading price of Bitcoin. The market price and availability of new mining machines fluctuates with the price of cryptocurrencies and can be volatile. In addition, as more companies seek to enter the mining industry, the demand for machines may outpace supply and create mining machine equipment shortages. There are no assurances that cryptocurrency mining equipment suppliers will be able to keep pace with any surge in demand for mining equipment. We currently do not have an agreement with our suppliers to purchase additional machines, and therefore there is no guarantee that we will be able to purchase machines on terms acceptable to us. We intend to complete one or more financings to provide liquidity to purchase additional machines, at which point we expect to enter into an agreement with one or more machine suppliers in order to purchase additional machines. Further, manufacturing mining machine purchase contracts are not favorable to purchasers and even if we do enter into agreements with our suppliers, we may have little or no recourse in the event a mining machine manufacturer defaults on its mining machine delivery commitments. If we and our customers are not able to obtain a sufficient number of Bitcoin mining machines at favorable prices, our growth expectations, liquidity, financial condition and results of operations will be negatively impacted.

Mining machines rely on components and raw materials that may be subject to price fluctuations or shortages, including ASIC chips that have been subject to a significant shortage.

In order to build and sustain our self-mining operations we will depend on third parties to provide us with ASIC chips and other critical components for our mining equipment, which may be subject to price fluctuations or shortages. For example, the ASIC chip is the key component of a mining machine as it determines the efficiency of the device. The production of ASIC chips typically requires highly sophisticated silicon wafers, which currently only a small number of fabrication facilities, or wafer foundries, in the world are capable of producing. We believe that the previous microchip shortage that the entire industry experienced lead to price fluctuations and disruption in the supply of key miner components. Specifically, the ASIC chips have recently been subject to a significant price increases and shortages.

We do not currently have agreements in place for the supply of ASIC chips. There is a risk that a manufacturer or seller of ASIC chips or other necessary mining equipment may adjust the prices based on fluctuations in cryptocurrency prices or otherwise, and the cost of new machines could become unpredictable and extremely high. As a result, at times, we may be forced to obtain mining machines and other hardware at premium prices, to the extent they are even available. Such events could have a material adverse effect on our business, prospects, financial condition, and operating results.

Banks and financial institutions may not provide banking services, or may cut off services, to businesses that engage in cryptocurrency-related activities or that accept cryptocurrency as payment, including financial institutions of investors in our common shares.

A number of companies that engage in cryptocurrency-related activities have been unable to find banks or financial institutions that are willing to provide them with bank accounts and other services. Similarly, a number of companies and individuals or businesses associated with cryptocurrencies may have had and may continue to have their existing bank accounts closed or services discontinued with financial institutions in response to government action. We also may be unable to obtain or maintain these services for our business. The difficulty that many businesses that provide cryptocurrency-related activities have and may continue to have in finding banks and financial institutions willing to provide them services may be decreasing the usefulness of cryptocurrency as a payment system and harming public perception of cryptocurrency, and could decrease their usefulness and harm their public perception in the future.

The impact of geopolitical and economic events on the supply and demand for cryptocurrency is uncertain.

Geopolitical crises may motivate large-scale purchases of cryptocurrencies, which could increase the price of cryptocurrencies rapidly. This may increase the likelihood of a subsequent price decrease as crisis-driven purchasing behavior dissipates, adversely affecting the value of our inventory following such downward adjustment. Such risks are similar to the risks of purchasing commodities in uncertain times, such as the risk of purchasing, holding or selling gold. Alternatively, as an emerging asset class with limited acceptance as a payment system or commodity, global crises and general economic downturns may discourage investment in cryptocurrency as investors focus their investment on less volatile asset classes as a means of hedging their investment risk.

As an alternative to fiat currencies that are backed by central governments, cryptocurrency, which is relatively new, is subject to supply and demand forces. How such supply and demand will be impacted by geopolitical events is largely uncertain but could be harmful to us. Political or economic crises may motivate large-scale acquisitions or sales of cryptocurrency either globally or locally. Such events could have a material adverse effect on our ability to continue as a going concern or to pursue our new strategy at all, which could have a material adverse effect on our business, prospects or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account.

We may not be able to compete with other companies, some of whom have greater resources and experience.

We may not be able to compete successfully against present or future competitors. We do not have the resources to compete with larger providers of similar services at this time. The cryptocurrency industry has attracted various high-profile and well-established operators, some of which have substantially greater liquidity and financial resources than we do. With the limited resources we have available, we may experience great difficulties in expanding and improving our network of computers to remain competitive. Competition from existing and future competitors, particularly those that have access to competitively-priced energy, could result in our inability to secure acquisitions and partnerships that we may need to expand our business in the future. This competition from other entities with greater resources, experience and reputations may result in our failure to maintain or expand our business, as we may never be able to successfully execute our business plan. If we are unable to expand and remain competitive, our business could be negatively affected.

The mining data centers at which we maintain our mining equipment may experience damages, including damages that are not covered by insurance.

The mining data centers at which we maintain our mining equipment are, and any future mining data centers at which we maintain our mining equipment will be, subject to a variety of risks relating to physical condition and operation, including:

- the presence of construction or repair defects or other structural or building damage;
- any non-compliance with or liabilities under applicable environmental, health or safety regulations or requirements or building permit requirements;
- any damage resulting from natural disasters, such as hurricanes, earthquakes, fires, floods and windstorms; and
- claims by employees and others for injuries sustained at our properties.

For example, the mining data centers at which we maintain our mining equipment could be rendered inoperable, temporarily or permanently, as a result of a fire or other natural disaster or by a terrorist or other attack on the facilities where our mining equipment is located. Although we have multiple sites in an effort to mitigate this risk, these and other measures we take to protect against these risks may not be sufficient. Any property insurance we obtain in the future may not be adequate to cover any losses we suffer as a result of any of these events. In the event of an uninsured loss, including a loss in excess of insured limits, at any of the mining data centers at which we maintain our mining equipment, such mining data centers may not be adequately repaired in a timely manner or at all and we may lose some or all of the future revenues anticipated to be derived from our equipment located at such mining data centers.

Further significant disruptions in the cryptocurrency markets, such as those experienced in the second half of 2022, may cause further material impairment of the value and use of our miners.

During the fourth quarter of 2022, the per coin price of Bitcoin reached a low of approximately $15,500 from a high of high of approximately $64,500 a year earlier, in the fourth quarter of 2021. This decrease in the price of Bitcoin combined with the general market sentiment caused in large part by the FTX collapse and various Bitcoin company related bankruptcies and restructurings led to a material decline in the fair value of our miners and deposits for future miner purchases. Although the price of Bitcoin has recovered to previous levels, future decreases in the value of Bitcoin could cause us to experience increased losses or to record additional impairments in the value of these and future miner assets.

In addition, if Bitcoin prices dropped to levels below those experienced in 2022 and held at those levels for a significant period of time, it could impact our profitability to the point that we would have to consider whether there would be less diminution of value if we were to leave certain of our miners to idle until the price of Bitcoin recovered. Theoretically, there is a minimum Bitcoin price that is so low that we would want to turn off our miners. This is a complex projection involving multiple ever-changing, dynamic variables that include the price of Bitcoin, the exhash we have online, the network exahash, the amount of time our machines are online hashing (uptime) and our cost to mine Bitcoin. We have multiple mining sites and hosting partners, all with different hosting prices, electricity prices, and contract structures. These costs, some fixed and some variable, would need to be compared to the current revenue being produced by the miners in order to make any such decision. In recent months the price of Bitcoin has increased, while our fixed rate contracts have stayed the same. The largest impact on breakeven has been the impact of the Bitcoin halving, which reduced the Bitcoin earned by half while the same amount of computing power was supplied. The following sensitivity tables, which do not account for cost to purchase mining equipment because we do not finance our mining equipment, assist us in our decision making. We update these tables periodically because the inputs are dynamic.

S19j Pro Marginal Cost to Produce 1 Bitcoin

Cost per kWh \ Network Hashrate	525 EH/s	550 EH/s	575 EH/s	600 EH/s	625 EH/s	650 EH/s	675 EH/s	700 EH/s	725 EH/s
$0.053	$43,655	$45,733	$47,812	$49,891	$51,970	$54,049	$56,127	$58,206	$60,285
$0.058	$47,812	$50,089	$52,366	$54,642	$56,919	$59,196	$61,473	$63,750	$66,026
$0.060	$49,891	$52,267	$54,642	$57,018	$59,394	$61,770	$64,146	$66,521	$68,897
$0.063	$51,970	$54,444	$56,919	$59,394	$61,869	$64,343	$66,818	$69,293	$71,768
$0.065	$54,049	$56,622	$59,196	$61,770	$64,343	$66,917	$69,491	$72,065	$74,638
$0.068	$56,127	$58,800	$61,473	$64,146	$66,818	$69,491	$72,164	$74,836	$77,509
$0.070	$58,206	$60,978	$63,750	$66,521	$69,293	$72,065	$74,836	$77,608	$80,380
$0.073	$60,285	$63,156	$66,026	$68,897	$71,768	$74,638	$77,509	$80,380	$83,251
$0.075	$62,364	$65,333	$68,303	$71,273	$74,242	$77,212	$80,182	$83,152	$86,121
$0.078	$64,442	$67,511	$70,580	$73,649	$76,717	$79,786	$82,855	$85,923	$88,992
$0.080	$66,521	$69,689	$72,857	$76,024	$79,192	$82,360	$85,527	$88,695	$91,863
$0.083	$68,600	$71,867	$75,133	$78,400	$81,667	$84,933	$88,200	$91,467	$94,733
$0.085	$70,679	$74,045	$77,410	$80,776	$84,141	$87,507	$90,873	$94,238	$97,604

S19j Pro Breakeven $/MWh

Bitcoin Price \ Network Hashrate	525 EH/s	550 EH/s	575 EH/s	600 EH/s	625 EH/s	650 EH/s	675 EH/s	700 EH/s	725 EH/s
$56,000	$67	$64	$61	$59	$57	$54	$52	$51	$49
$57,500	$69	$66	$63	$61	$58	$56	$54	$52	$50
$60,000	$72	$69	$66	$63	$61	$58	$56	$54	$52
$62,500	$75	$72	$69	$66	$63	$61	$58	$56	$54
$65,000	$78	$75	$71	$68	$66	$63	$61	$59	$57
$67,500	$81	$77	$74	$71	$68	$66	$63	$61	$59
$70,000	$84	$80	$77	$74	$71	$68	$66	$63	$61
$72,500	$87	$83	$80	$76	$73	$70	$68	$65	$63
$75,000	$90	$86	$82	$79	$76	$73	$70	$68	$65
$77,500	$93	$89	$85	$82	$78	$75	$72	$70	$67
$80,000	$96	$92	$88	$84	$81	$78	$75	$72	$70
$82,500	$99	$95	$91	$87	$83	$80	$77	$74	$72
$85,000	$102	$98	$93	$89	$86	$83	$80	$77	$74

The dynamic nature of cryptocurrency exchanges which Bitcoin, and other cryptocurrencies, are traded on may cause disruptions in the cryptocurrency markets, which may expose us to the effects of negative publicity resulting from fraudulent actors in the cryptocurrency space, and can adversely affect an investment in us.

The cryptocurrency exchanges on which Bitcoin is traded are relatively new. Many cryptocurrency exchanges do not provide the public with significant information regarding their ownership structure, management teams, corporate practices, or regulatory compliance. As a result, the marketplace may lose confidence in, or may experience problems relating to, such cryptocurrency exchanges, including prominent exchanges handling a significant portion of the volume of cryptocurrency trading. In the recent past, a number of companies in the cryptocurrency industry declared bankruptcy. Such bankruptcies have contributed, at least in part, to further price volatility in most cryptocurrencies, a loss of confidence in the participants of the cryptocurrency ecosystem and negative publicity surrounding cryptocurrencies more broadly, and other participants and entities in the cryptocurrency industry have been, and may continue to be, negatively affected. These events have also negatively impacted the demand for the cryptocurrency markets. As a result of these events, many cryptocurrency markets, including the market for Bitcoin, have experienced increased price volatility. The Bitcoin ecosystem may continue to be negatively impacted and experience long term volatility if public confidence decreases. Further, we have been directly and indirectly impacted by certain of the recent bankruptcies in the cryptocurrency space, and may in the future be directly or indirectly impacted by any future bankruptcies in the cryptocurrency space. For example, we were adversely impacted by the December 2022 bankruptcy of Core Scientific, with whom we previously entered into a Sub-License and Delegation Agreement. See "*Our Company—Overview—Hosting Sub-License*." In addition, on June 3, 2022, we entered into a Master Agreement with Compute North LLC (the "Compute North MA") for co-location, management and other services of certain of our mining equipment for an initial term of five years. Compute North filed for bankruptcy in September 2022. As a result, we recorded provisions for losses on deposits due to vendor bankruptcy filings in the amounts of $8.5 million and $16.1 million for the years ended December 31, 2023 and 2022, respectively, as a result of those two vendors filing for Chapter 11 bankruptcy.

These events are continuing to develop and it is not possible to predict, at this time, every risk that they may pose to us, our service providers, or the cryptocurrency industry as a whole. A perceived lack of stability in the cryptocurrency exchange market and the closure or temporary shutdown of cryptocurrency exchanges due to business failure, hackers or malware, government-mandated regulation, or fraud, may reduce confidence in cryptocurrency networks and result in greater volatility in cryptocurrency values. These potential consequences of a cryptocurrency exchange's failure could adversely affect an investment in us.

It may be illegal now, or in the future, to acquire, own, hold, sell, or use cryptocurrencies, participate in blockchains or utilize similar cryptocurrencies in one or more countries, the ruling of which would adversely affect us.

As cryptocurrency has grown in both popularity and market size, governments around the world have reacted differently to cryptocurrency; certain governments have deemed them illegal, and others have allowed their use and trade without restriction, while in some jurisdictions, such as in the United States, subject to extensive and evolving regulatory requirements. Until recently, little, or no regulatory attention has been directed toward cryptocurrency by U.S. federal and state governments, foreign governments and self-regulatory agencies. As cryptocurrency has grown in popularity and in market size, the Federal Reserve Board, U.S. Congress, and certain U.S. agencies have begun to examine cryptocurrency in more detail.

One or more countries, including but not limited to China and Russia, which have taken harsh regulatory action in the past, may take regulatory actions in the future that could severely restrict the right to acquire, own, hold, sell, or use these cryptocurrencies or to exchange for fiat currency. In many nations, particularly in China and Russia, it is illegal to accept payment in cryptocurrencies for consumer transactions and banking institutions are barred from accepting deposits of cryptocurrency. Such restrictions may adversely affect us as the large-scale use of cryptocurrency as a means of exchange is presently confined to certain regions globally. Such circumstances could have a material adverse effect on our ability to continue as a going concern or to pursue our strategy at all, which could have a material adverse effect on our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account, and harm investors.

Investors may not have the same protections that exist for traditional stock exchanges.

Traditional stock exchanges have listing requirements and vet issuers, requiring them to be subjected to rigorous listing standards and rules, and monitor investors transacting on such platform for fraud and other improprieties. Depending on a ledger-based platform's controls and the other policies of the ledger-based platform on which a given cryptocurrency trades, such cryptocurrency may not benefit from the protections afforded to traditional stock exchanges. For ledger-based platforms that do not provide sufficient protections, there is a risk of fraud and manipulation. These factors may decrease liquidity or volume of a given ledger-based platform or of the cryptocurrency industry in general or may otherwise increase volatility of investment securities or other assets trading on a ledger-based system. Such potential decreased liquidity or volume, or increase in volatility may adversely affect us, and could have a material adverse effect on our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account and harm investors.

Our operations, investment strategies and profitability may be adversely affected by competition from other methods of investing in cryptocurrency.

We compete with other users and/or companies that are mining cryptocurrency and other potential financial vehicles, including securities backed by or linked to cryptocurrency through entities similar to us. Market and financial conditions, and other conditions beyond our control, may make it more attractive to invest in other financial vehicles, or to invest in cryptocurrency directly. The emergence of other financial vehicles and exchange-traded funds have been scrutinized by regulators and such scrutiny and the negative impressions or conclusions resulting from such scrutiny could be applicable to us and impact our ability to successfully pursue our strategy or operate at all, or to establish or maintain a public market for our securities. Such circumstances could have a material adverse effect on our ability to continue as a going concern or to pursue our strategy at all, which could have a material adverse effect on our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account, and harm investors.

Cryptocurrency may be subject to loss, theft, or restriction on access.

There is a risk that some or all of any cryptocurrency that we own could be lost or stolen. Cryptocurrencies are stored in cryptocurrency sites commonly referred to as "wallets" by holders of cryptocurrencies which may be accessed to exchange a holder's cryptocurrencies. Access to our Bitcoin could also be restricted by cybercrime (such as a denial of service attack) against a service at which we maintain a hosted hot wallet. A hot wallet refers to any cryptocurrency wallet that is connected to the Internet. Generally, hot wallets are easier to set up and access than wallets in cold storage, but they are also more susceptible to hackers and other technical vulnerabilities. Cold storage refers to any cryptocurrency wallet that is not connected to the Internet. Cold storage is generally more secure than hot storage, but is not ideal for quick or regular transactions and we may experience lag time in our ability to respond to market fluctuations in the price of our Bitcoin. We expect to hold all our cryptocurrency in a combination of insured institutional custody services and multi signature cold storage wallets, and maintain secure backups to reduce the risk of malfeasance, but the risk of loss of our Bitcoin cannot be wholly eliminated. Any restrictions on access to our hot wallet accounts due to cybercrime or other reasons could limit our ability to convert cryptocurrency to cash, potentially resulting in liquidity issues. Currently, we store our Bitcoin in wallets custodied by Bitgo and Coinbase (each, a "Custodian" and together, the "Custodians"). All of our wallets held by Custodians are cold wallets. Such arrangements are governed by each Custodian's terms of service, and we do not have agreements with either Custodian other than such terms of service. When we decide to sell Bitcoin, we transfer it from our digital wallets held by the applicable Custodian to our trading account wallet, which is held by us. We do not currently have a specific policy for how or when to sell Bitcoin for fiat currency to fund our operations for growth or through what exchange we do so, or whether we should hold our mining rewards for investment purposes. At this time, our Bitcoin are not held for long periods of time and they are generally sold nearly immediately in order to fund our operations. Transfers through Bitgo over a certain size require video conference verification to ensure that the request came from one of our authorized signors, and that we in fact authorized the transfer in question.

Hackers or malicious actors may launch attacks to steal, compromise or secure cryptocurrency. As we increase in size, we may become a more appealing target of hackers, malware, cyber-attacks, or other security threats. Any of these events may adversely affect our operations and, consequently, our investments and profitability. The loss or destruction of a private key required to access our digital wallets may be irreversible and we may be denied access for all time to our cryptocurrency holdings or the holdings of others held in those compromised wallets. Our loss of access to our private keys or a data loss relating to our digital wallets could adversely affect our investments and assets.

Cryptocurrencies are controllable only by the possessor of both the unique public and private keys relating to the local or online digital wallet in which they are held, which wallet's public key or address is reflected in the network's public blockchain. To the extent such private keys are lost, destroyed, or otherwise compromised, we will be unable to access our cryptocurrency rewards and such private keys may not be capable of being restored by any network. Any loss of private keys relating to digital wallets used to store our cryptocurrency could have a material adverse effect on our ability to continue as a going concern or to pursue our new strategy at all, which could have a material adverse effect on our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account.

Incorrect or fraudulent cryptocurrency transactions may be irreversible.

Cryptocurrency transactions are irrevocable and stolen or incorrectly transferred cryptocurrencies may be irretrievable. As a result, any incorrectly executed or fraudulent cryptocurrency transactions could adversely affect our investments and assets. Cryptocurrency transactions are not, from an administrative perspective, reversible without the consent and active participation of the recipient of the cryptocurrencies from the transaction. Once a transaction has been verified and recorded in a block that is added to a blockchain, an incorrect transfer of a cryptocurrency or a theft thereof generally will not be reversible and we may not have sufficient recourse to recover our losses from any such transfer or theft. It is possible that, through computer or human error, or through theft or criminal action, our cryptocurrency rewards could be transferred in incorrect amounts or to unauthorized third parties, or to uncontrolled accounts. Further, at this time, there is no specifically enumerated U.S. or foreign governmental, regulatory, investigative or prosecutorial authority or mechanism through which to bring an action or complaint regarding missing or stolen cryptocurrency. In the event of a loss, we would be reliant on existing private investigative entities to investigate any such loss of our Bitcoin. To the extent that we are unable to recover our losses from such action, error or theft, such events could have a material adverse effect on our ability to continue as a going concern or to pursue our new strategy at all, which could have a material adverse effect on our business, prospects, or operations of and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account.

Our interactions with a blockchain may expose us to specially designated nationals or blocked persons or cause us to violate provisions of law that did not contemplate distributed ledger technology.

The Office of Financial Assets Control of the U.S. Department of Treasury ("OFAC") requires us to comply with its sanction program and not conduct business with persons named on its specially designated nationals list. However, because of the pseudonymous nature of blockchain transactions, we may inadvertently and without our knowledge engage in transactions with persons named on OFAC's specially designated nationals list. Our policy prohibits any transactions with such specially designated national individuals, but we may not be adequately capable of determining the ultimate identity of the individual with whom we transact with respect to selling cryptocurrency. We do not directly sell Bitcoin to individuals; rather our custodial partners sell Bitcoin on our behalf. We require that our custodial partners who sell our cryptocurrency to have standard industry anti-money laundering (AML), know your customer (KYC) and OFAC policies. To the extent government enforcement authorities literally enforce these and other laws and regulations that are impacted by decentralized distributed ledger technology, we may be subject to investigation, administrative or court proceedings, and monetary fines and penalties, which could harm our reputation.

The price of cryptocurrency may be affected by the sale of cryptocurrency by other vehicles investing in cryptocurrency or tracking cryptocurrency markets.

The mathematical protocols under which many cryptocurrencies are mined permit the creation of a limited, predetermined amount of currency, while others have no limit established on total supply. To the extent that other vehicles investing in cryptocurrency or tracking cryptocurrency markets form and come to represent a significant proportion of the demand for a cryptocurrency, large redemptions of the securities of those vehicles and the subsequent sale of such cryptocurrency by such vehicles could negatively affect the price and value of the cryptocurrency inventory we hold. Such events could have a material adverse effect on our ability to continue as a going concern or to pursue our new strategy at all, which could have a material adverse effect on our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account.

Bitcoin is subject to halving, and our Bitcoin mining operations may generate less revenue as a result.

At mathematically predetermined intervals, the number of new Bitcoin awarded for solving a block is cut in half, which is referred to as "halving." Bitcoin halving last occurred in April 2024, at which time the block rewards for Bitcoin halved from 6.25 to 3.125. While we cannot predict the exact date of the next halving, as it is predicated on factors such as the block height and the network hashrate, halving happens every 210,000 blocks, and the next Bitcoin halving is expected to occur in 2028. While Bitcoin prices have historically increased around these halving events, there is no guarantee that the price change will be favorable or would compensate for the reduction in mining rewards. If a corresponding and proportionate increase in the price of Bitcoin does not follow the upcoming or future halving events, the revenue we earn from our Bitcoin mining operations would see a decrease, which could have a material adverse effect on our results of operations and financial condition.

The maximum number of Bitcoins that may be released into circulation is 21 million, and the number of Bitcoins currently in circulation is approximately 19.70 million. As the number of bitcoin available to be mined narrows, we expect the fees for Bitcoin transactions to increase. Eventually, once the majority of Bitcoin is mined and in circulation, we expect to see revenue from fees to exceed the revenue from mining Bitcoin. Once this occurs, we may need to find additional ways to increase our revenue, which could include entering into other areas within the cryptocurrency industry.

There are risks related to technological obsolescence, the vulnerability of the global supply chain to cryptocurrency hardware disruption, and difficulty in obtaining new hardware which may have a negative effect on our business.

Our mining operations can only be successful and ultimately profitable if the costs of mining cryptocurrency, including hardware and electricity costs, associated with mining cryptocurrency are lower than the price of cryptocurrency. As our mining facility operates, our miners experience ordinary wear and tear, and may also face more significant malfunctions caused by a number of extraneous factors beyond our control. The physical degradation of our miners will require us to, over time, replace those miners which are no longer functional. Additionally, as the technology evolves, we may be required to acquire newer models of miners to remain competitive in the market.

Also, because we expect to depreciate all new miners, our reported operating results will be negatively affected. Further, the global supply chain for cryptocurrency miners is presently heavily dependent on China. Should disruptions to the China-based global supply chain for cryptocurrency hardware occur, we may not be able to obtain adequate replacement parts for existing miners or to obtain additional miners from the manufacturer on a timely basis. Such events could have a material adverse effect on our ability to pursue our new strategy, which could have a material adverse effect on our business.

We may not adequately respond to price fluctuations and rapidly changing technology, which may negatively affect our business.

Competitive conditions within the cryptocurrency industry require that we use sophisticated technology in the operation of our business. The industry for blockchain technology is characterized by rapid technological changes, new product introductions, enhancements, and evolving industry standards. New technologies, techniques or products could emerge that might offer better performance than the software and other technologies we currently utilize, and we may have to manage transitions to these new technologies to remain competitive. We may not be successful, generally or relative to our competitors in the cryptocurrency industry, in timely implementing new technology into our systems, or doing so in a cost-effective manner. As a result, our business and operations may suffer.

The reward for mining cryptocurrency in the future may decrease, and the value of cryptocurrency may not adjust to compensate us for the reduction in the rewards we receive from our mining efforts.

There is no guarantee that price fluctuations of cryptocurrencies will compensate for the reduction in mining reward. If a corresponding and proportionate increase in the trading price of a cryptocurrency or a proportionate decrease in mining difficulty does not follow the decrease in rewards, the revenue we earn from our cryptocurrency mining operations could see a corresponding decrease, which would have a material adverse effect on our business and operations.

The value of cryptocurrency may be subject to pricing risk and has historically been subject to wide swings.

Cryptocurrency market prices, which have historically been volatile and are impacted by a variety of factors (including those discussed below), are determined primarily using data from various exchanges, over-the-counter markets, and derivative platforms. Furthermore, such prices may be subject to factors such as those that impact commodities, more so than business activities, which could be subjected to additional influence from fraudulent or illegitimate actors, real or perceived scarcity, and political, economic, regulatory, or other conditions. Pricing may be the result of, and may continue to result in, speculation regarding future appreciation in the value of cryptocurrencies, inflating and making its market prices more volatile or creating "bubble" type risks for cryptocurrencies.

We may not be able to realize the benefits of forks. Forks in a cryptocurrency network may occur in the future which may affect the value of cryptocurrency held by us.

To the extent that a significant majority of users and miners on a cryptocurrency network install software that changes the cryptocurrency network or properties of a cryptocurrency, including the irreversibility of transactions and limitations on the mining of new cryptocurrency, the cryptocurrency network would be subject to new protocols and software. However, if less than a significant majority of users and miners on the cryptocurrency network consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a "fork" of the network, with one prong running the pre-modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of the cryptocurrency running in parallel, yet lacking interchangeability and necessitating exchange-type transactions to convert currencies between the two forks. A fork in a cryptocurrency could adversely affect our business because we may not be able to realize the economic benefit of a fork, either immediately or ever, which could adversely affect our business. If we hold a cryptocurrency at the time of a hard fork into two cryptocurrencies, industry standards would dictate that we would be expected to hold an equivalent amount of the old and new assets following the fork. However, we have not in the past, and have no plans in the future, to use or participate in forks, and, as a result, we may not realize the economic benefit of a new asset created by a fork. Additionally, laws, regulations or other factors may prevent us from benefiting from the new asset.

If a malicious actor or botnet obtains control in excess of 50% of the processing power active on any cryptocurrency network, it is possible that such actor or botnet could manipulate the blockchain in a manner that adversely affects an investment in us.

If a malicious actor or botnet (a volunteer or hacked collection of computers controlled by networked software coordinating the actions of the computers) obtains a majority of the processing power dedicated to mining on any cryptocurrency network it may be able to alter the blockchain by constructing alternate blocks if it is able to solve for such blocks faster than the remainder of the miners on the blockchain can add valid blocks. In such alternate blocks, the malicious actor or botnet could control, exclude, or modify the ordering of transactions, though it could not generate new cryptocurrency or transactions using such control. Using alternate blocks, the malicious actor could "double-spend" its own cryptocurrency (i.e., spend the same cryptocurrency in more than one transaction) and prevent the confirmation of other users' transactions for so long as it maintains control. To the extent that such malicious actor or botnet does not yield its majority control of the processing power or the cryptocurrency community does not reject the fraudulent blocks as malicious, reversing any changes made to the blockchain may not be possible. Such changes could adversely affect an investment in us.

The approach towards and possible crossing of the 50% threshold indicate a greater risk that a single mining pool could exert authority over the validation of cryptocurrency transactions. To the extent that the cryptocurrency ecosystems do not act to ensure greater decentralization of cryptocurrency mining processing power, the feasibility of a malicious actor obtaining more than 50% of the processing power on any cryptocurrency network (e.g., through control of a large mining pool or through hacking such a mining pool) will increase, which may adversely impact an investment in us.

Cryptocurrencies, including those maintained by or for us, may be exposed to cybersecurity threats and hacks.

As with any computer code generally, flaws in cryptocurrency codes may be exposed by malicious actors. Several errors and defects have been found previously, including those that disabled some functionality for users and exposed users' information. Exploitation of flaws in the source code that allow malicious actors to take or create money have previously occurred. Despite our efforts and processes to prevent breaches, our devices, as well as our miners, computer systems and those of third parties that we use in our operations, are vulnerable to cybersecurity risks, including cyberattacks such as viruses and worms, phishing attacks, denial-of-service attacks, physical or electronic break-ins, employee theft or misuse, and similar disruptions from unauthorized tampering with our miners and computer systems or those of third parties that we use in our operations. Such events could have a material adverse effect our business, prospects, or operations and potentially the value of Bitcoin that we mine or otherwise acquire or hold for our own account.

Malicious cyber-attacks, attempted cybersecurity breaches, and other adverse events affecting our operational systems or infrastructure, or those of third parties, could disrupt our businesses and cause losses.

Despite defensive measures we have taken to protect, detect, respond and recover from cyber threats, we experience cybersecurity threats and incidents from time to time, and it is possible that such defensive measures will be unsuccessful in mitigating a cybersecurity event. These events may arise from external factors such as governments, organized crime, hackers, and other third parties such as infrastructure-support providers and application developers, or may originate internally from an employee or service provider to whom we have granted access to our computer systems. If our security measures are breached, our business would suffer and we could incur material liability. Because techniques used to obtain unauthorized access or to sabotage computer systems change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventive measures.

We also face the risk of operational disruption, failure or capacity constraints of any of the third-party service providers that facilitate our business activities. In addition, the increased flexibility for our employees to work remotely post-Pandemic has amplified certain risks related to, among other things, the increased demand on our information technology resources and systems, the increased risk of phishing and other cybersecurity attacks, and the increased number of points of possible attack, such as laptops and mobile devices (both of which are now being used in increased numbers), to be secured.

Our remediation costs and lost revenues could be significant if we fall victim to a cyber-attack. If an actual, threatened or perceived breach of our security occurs, the market perception of the effectiveness of our security measures could be harmed. We may be required to expend significant resources to repair system damage, pay a ransom, protect against the threat of future security breaches or to alleviate problems caused by any breaches.

Our cash and other sources of liquidity may not be sufficient to fund our operations and there is substantial doubt about our ability to continue as a going concern over the next 12 months and we may not be successful in raising the additional capital necessary to meet expected increases in our working capital needs.

We have recurring losses from operations. Our primary source of cash flow is generated from Bitcoin mining revenue. In addition, in the past we have financed our operations through proceeds from private and public sales of securities. At March 31, 2024, we had cash and cash equivalents of $2.1 million compared to cash and cash equivalents of $0.6 million at December 31, 2023. As of March 31, 2024, we had working capital of $6.4 million reflecting a decrease of $1.8 million since December 31, 2023 primarily related to the $2.7 million loss on our investment in equity securities offset by an increase in cash. Included in our working capital is an investment in equity securities that we can liquidate as needed to assist in funding our operations. Cash management continues to be a top priority as we expect to incur negative operating cash flows as we work to increase our hashrate and Bitcoin mining revenue.

Management has projected that based on our hashing rate at March 31, 2024, cash on hand may not be sufficient to allow us to fund our working capital requirements and there is substantial doubt about our ability to continue as a going concern over the next 12 months if we are unable to raise additional funding for operations. We expect our working capital needs to increase in the future as we continue to expand our hashrate and enhance our operations. Our ability to raise additional funds for working capital through equity or debt financings or other sources may depend on the financial success of our then-current business and successful implementation of our key strategic initiatives, financial, economic and market conditions and other factors, some of which are beyond our control. Further equity financings may have a dilutive effect on shareholders and any debt financing, if available, may require restrictions to be placed on our future financing and operating activities. If we require additional capital and are unsuccessful in raising that capital at a reasonable cost and at the required time, or at all, we may not be able to continue our business operations in the cryptocurrency mining industry or we may be unable to advance our growth initiatives, either of which could adversely impact our business, financial condition and results of operations.

Significant changes from our current forecasts, including but not limited to: (i) shortfalls from projected mining earning levels; (ii) increases in operating costs; (iii) decreases in the value of cryptocurrency; and (iv) our inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or our inability to maintain listing with the NASDAQ Capital Market could have a material adverse impact on our ability to access the level of funding necessary to continue our operations at current levels. If any of these events occurs or we are unable to generate sufficient cash from operations or financing sources, we may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any of, which would have a material adverse effect on our business, results of operations, financial position and liquidity.

We have a history of net losses and may not achieve or maintain profitability.

We have limited non-recurring revenues derived from operations. We have a history of net losses, and we expect to continue to incur net losses and we may not achieve or maintain profitability. We may see continued losses during 2024 and as a result of these and other factors, we may not be able to achieve, sustain or increase profitability in the near future.

We are subject to many risks common to early-stage enterprises, including under-capitalization, cash shortages, limitations with respect to personnel, financial, and other resources, technology, and market acceptance issues. There is no assurance that we will be successful in achieving a return on shareholders' investment and the likelihood of success must be considered considering our stage of operations.

The failure to attract, hire, retain and motivate key personnel could have a significant adverse impact on our operations.

Our success depends on the retention and maintenance of key personnel, including members of senior management. Achieving this objective may be difficult due to many factors, including competition for such highly skilled personnel; fluctuations in global economic and industry conditions; changes in our management or leadership; competitors' hiring practices; and the effectiveness of our compensation programs. The loss of any of these key persons could have a material adverse effect on our business, financial condition or results of operations.

Our success is also dependent on our continuing ability to identify, hire, train, motivate and retain highly qualified management and finance personnel. Any such new hire may require a significant transition period prior to making a meaningful contribution. Competition for qualified employees is particularly intense in the technology industry, and we have in the past experienced difficulty recruiting qualified employees. Our failure to attract and to retain the necessary qualified personnel could seriously harm our operating results and financial condition. Competition for such personnel can be intense, and no assurance can be provided that we will be able to attract or retain highly qualified technical and managerial personnel in the future, which may have a material adverse effect on our future growth and profitability. We do not have key person insurance.

Our financial results may fluctuate substantially for many reasons, and past results should not be relied on as indications of future performance.

Our revenues and operating results may fluctuate from quarter to quarter and from year to year due to a combination of factors. Thus, there can be no assurance that we will be able to reach profitability on a quarterly or annual basis. We believe that our revenue and operating results will continue to fluctuate, and that period-to-period comparisons are not necessarily indications of future performance. Our revenue and operating results may fail to meet the expectations of public market analysts or investors, which could have a material adverse effect on the price of our common shares. In addition, portions of our expenses are fixed and difficult to reduce if our revenues do not meet our expectations. These fixed expenses magnify the adverse effect of any revenue shortfall.

Our plans for implementing our business strategy and achieving profitability are based upon the experience, judgment and assumptions of our key management personnel, and available information concerning the communications and technology industries. If management's assumptions prove to be incorrect, it could have a material adverse effect on our business, financial condition, or results of operations.

We have made a number of acquisitions in the past and we may make acquisitions in the future. Our ability to identify complementary assets, products or businesses for acquisition and successfully integrate them could affect our business, financial condition and operating results.

In the future, we may continue to pursue acquisitions of assets, products, or businesses that we believe are complementary to our existing business and/or to enhance our market position or expand our product portfolio. There is a risk that we will not be able to identify suitable acquisition candidates available for sale at reasonable prices, complete any acquisition, or successfully integrate any acquired product or business into our operations. We are likely to face competition for acquisition candidates from other parties including those that have substantially greater available resources. Acquisitions may involve a number of other risks, including:

- diversion of management's attention;
- disruption to our ongoing business;
- failure to retain key acquired personnel;
- failure to obtain required regulatory approvals;
- difficulties in integrating acquired operations, technologies, products, or personnel;
- unanticipated expenses, events, or circumstances;
- assumption of disclosed and undisclosed liabilities; and
- inappropriate valuation of the acquired in-process research and development, or the entire acquired business.

If we do not successfully address these risks or any other problems encountered in connection with an acquisition, the acquisition could have a material adverse effect on our business, results of operations and financial condition. Further, our success will depend, in part, on the extent to which we are able to integrate acquired companies (and any additional businesses with which we may combine in the future) into a cohesive, efficient enterprise. This integration process may entail significant costs and delays. Our failure to integrate the operations of companies successfully could adversely affect our business, financial condition, results of operations and prospects. To the extent that any acquisition results in additional goodwill, it will reduce our tangible net worth, which might adversely affect our business, financial condition, results of operations and prospects, as well as our credit capacity and if we proceed with an acquisition, our available cash may be used to complete the transaction, diminishing our liquidity and capital resources, or shares may be issued which could cause significant dilution to existing shareholders.

We have implemented cost reduction efforts; however, these efforts may need to be modified, and if we need to implement additional cost reduction efforts it could materially harm our business.

We have implemented certain cost reduction efforts. There can be no assurance that these cost reduction efforts will be successful. As a result, we may need to implement further cost reduction efforts across our operations, such as further reductions in the cost of our workforce and/or suspending or curtailing planned programs, either of which could materially harm our business, results of operations and future prospects.

Risks Related to Our Public Company Status and Our Common Shares

Sales of common shares issuable upon exercise of outstanding warrants, the conversion of outstanding preferred shares, or the effectiveness of our registration statement may cause the market price of our common shares to decline. Currently outstanding preferred shares could adversely affect the rights of the holders of common shares.

On October 1, 2021, we filed articles of amendment to create a series of preferred shares, being, an unlimited number of Series H Preferred Shares and to provide for the rights, privileges, restrictions, and conditions attaching thereto. Pursuant to the articles of amendment governing the rights and preferences of outstanding shares of Series H Preferred Shares, each holder of the Series H Preferred Shares, may, subject to prior shareholder approval, convert all or any part of the Series H Preferred Shares provided that after such conversion the common shares issuable, together with all the common shares held by the shareholder in the aggregate would not exceed 9.99% of the total number of our outstanding common shares. The Series H Preferred Shares are non-voting and do not accrue dividends.

As of December 31, 2023, we had in the aggregate 43,515 Series H Preferred Shares outstanding. The conversion of the outstanding Preferred Shares will result in substantial dilution to our common shareholders. Pursuant to our articles of amalgamation, our Board of Directors has the authority to fix and determine the voting rights, rights of redemption and other rights and preferences of preferred stock. The Modified Hertford Agreement also provides for certain resale restrictions applicable to the common shares that are issuable upon the conversion of the remaining Series H Preferred Shares during the two-year period ending on December 31, 2024, which are different from the restrictions contained in the Hertford Agreement, as well, commencing January 1, 2023 and terminating on December 31, 2023, holders of Series H Preferred Shares are permitted to (a) convert Series H Preferred Shares in an aggregate amount up to or equal to 3.0% of the aggregate number of Series H Preferred Shares outstanding on the first day of each such month and (b) sell the resulting number (and no greater number) of such converted common shares within such month. Commencing January 1, 2024 and terminating on December 31, 2024, holders of Series H Preferred Shares are permitted to (a) convert Series H Preferred Shares in an aggregate amount up to or equal to 10.0% of the aggregate number of Series H Preferred Shares outstanding on the first day of each such month and (b) sell the resulting number (and no greater number) of such converted common shares within such month. Commencing January 1, 2025, there are no resale restrictions applicable to the common shares that are issuable upon the conversion of any remaining Series H Preferred Shares then outstanding.

Additionally, as of December 31, 2023 we had warrants outstanding for the purchase of up to 5,842,354 common shares having a weighted-average exercise price of $28.50 per share. The sale of our common shares upon exercise of our outstanding warrants, the conversion of the Preferred Shares into common shares, or the sale of a significant amount of the common shares issued or issuable upon exercise of the warrants in the open market, or the perception that these sales may occur, could cause the market price of our common shares to decline or become highly volatile.

We may issue additional shares or other equity securities without your approval, which would dilute your ownership interest in us and may depress the market price of our common shares.

We may issue additional shares or other equity securities in the future in connection with, among other things, future acquisitions, repayment of outstanding indebtedness or grants without shareholder approval in a number of circumstances. The issuance of additional shares or other equity securities could have one or more of the following effects:

- our existing shareholders' proportionate ownership interest will decrease;
- the amount of cash available per share, including for payment of dividends in the future, may decrease;
- the relative voting strength of each previously outstanding share may be diminished; and
- the market price of our common shares may decline.

The market price of our common shares is volatile and it may decline significantly.

The market price for our common shares is volatile and subject to wide fluctuations in response to numerous factors, many of which are beyond our control, including the following:

- price and volume fluctuations in the overall stock market, the cryptocurrency market, and of Bitcoin mining stocks from time to time;
- future capital raising activities;
- sales of common shares by holders thereof or by us;
- changes in financial estimates by securities analysts who follow us, or our failure to meet these estimates or the expectations of investors;
- the financial projections we may provide to the public, any changes in those projections or our failure to meet those projections;
- rumors and market speculation involving us or other companies in our industry;
- actual or anticipated changes in our operating results or fluctuations in our operating results;
- actual or anticipated developments in our business, our competitors' businesses or the competitive landscape generally;
- litigation involving us, our industry or both, or investigations by regulators into our operations or those of our competitors;
- developments or disputes concerning our intellectual property or other proprietary rights;
- announced or completed acquisitions of businesses or technologies by us or our competitors;
- new laws or regulations or new interpretations of existing laws or regulations applicable to us and our business;
- any significant change in our executive officers and other key personnel or Board of Directors;
- release of transfer restrictions on certain outstanding common shares; and
- fluctuating or anticipated changes in power markets.

Financial markets may experience price and volume fluctuations that affect the market prices of equity securities of companies and that are unrelated to the operating performance, underlying asset values or prospects of such companies. Accordingly, the market price of the common shares may decline even if our operating results, underlying asset values or prospects have not changed. As well, certain institutional investors may base their investment decisions on consideration of our governance and social practices and performance against such institutions' respective investment guidelines and criteria, and failure to meet such criteria may result in a limited or no investment in our common shares by those institutions, which could adversely affect the trading price of our common shares. There can be no assurance that fluctuations in price and volume will not occur due to these and other factors.

In the past, plaintiffs have often initiated securities class action litigation against a company following periods of volatility in the market price of its securities. We may in the future be a target of similar litigation. Securities litigation could result in substantial costs and liabilities and could divert management's attention from day-to-day operations and consume resources, such as cash. In addition, the resolution of those matters may require us to issue additional common shares, which could potentially result in dilution to our existing shareholders. Expenses incurred in connection with these matters (which include fees of lawyers and other professional advisors and potential obligations to indemnify officers and directors who may be parties to such actions) could adversely affect our cash position.

If our performance does not meet market expectations, the price of our common shares may decline.

If our performance does not meet market expectations, the price of our common shares may decline. The market value of our common shares may vary significantly from the price of our common shares on the date of this Annual Report.

In addition, fluctuations in the price of our common shares could contribute to the loss of all or part of your investment. Any of the factors listed below could have a material adverse effect on your investment in our common shares and our common shares may trade at prices significantly below the price you paid for them. Factors affecting the trading price of our common shares may include:

- actual or anticipated fluctuations in our financial results or the financial results of companies perceived to be similar to it;
- changes in the market's expectations about our operating results;
- success of competitors;
- our operating results failing to meet market expectations in a particular period;
- changes in financial estimates and recommendations by securities analysts concerning us;
- operating and share price performance of other companies that investors deem comparable to us;
- changes in laws and regulations affecting our business;
- commencement of, or involvement in, litigation involving us;
- changes in our capital structure, such as future issuances of securities or the incurrence of debt;
- the volume of our shares available for public sale;
- any significant change in our board or management;
- sales of substantial amounts of shares by our directors, executive officers or significant shareholders or the perception that such sales could occur; and
- general economic and political conditions such as recessions, interest rates, fuel prices, international currency fluctuations and acts of war or terrorism.

Broad market and industry factors may depress the market price of our common shares irrespective of our operating performance. The stock market in general and Nasdaq have experienced price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of the particular companies affected. The trading prices and valuations of these stocks, and of our securities, may not be predictable. A loss of investor confidence in the market for technology, Bitcoin mining or sustainability-related stocks or the stocks of other companies that investors perceive to be similar to us could depress our share price regardless of our business, prospects, financial conditions or results of operations. A decline in the market price of our common shares also could adversely affect our ability to issue additional securities and our ability to obtain additional financing in the future.

We may be subject to securities litigation, which is expensive and could divert management attention.

Our share price may be volatile and, in the past, companies that have experienced volatility in the market price of their shares have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Litigation of this type could result in substantial costs and diversion of management's attention and resources, which could have a material adverse effect on our business, financial condition, results of operations and prospects. Any adverse determination in litigation could also subject us to significant liabilities.

If the trading price of our common shares fails to comply with the continued listing requirements of the Nasdaq Capital Market, we would face possible delisting, which would result in a limited public market for our common shares and make obtaining future debt or equity financing more difficult for us.

Companies listed on the Nasdaq Capital Market are subject to delisting for, among other things, failure to maintain a minimum closing bid price of $1.00 per share for 30 consecutive business days pursuant to Nasdaq Listing Rule 5550(a)(2) and 5810(c)(3)(A) (the "Nasdaq Listing Rules"). Although we believe that we are currently in compliance with the Nasdaq Listing Rules, we were out of compliance with the Nasdaq Listing Rules in the recent past, and cannot guarantee that we will continue to comply with the Nasdaq Listing Rules for continued listing on the Nasdaq Capital Market in the future. If we cannot comply with the Nasdaq Listing Rules, our common shares would be subject to delisting and would likely trade on the over-the-counter market. If our common shares were to trade on the over-the-counter market, selling our common shares could be more difficult because smaller quantities of shares would likely be bought and sold, transactions could be delayed, and security analysts' coverage of us may be reduced. In addition, broker-dealers have certain regulatory burdens imposed upon them, which may discourage broker-dealers from effecting transactions in our common shares, further limiting the liquidity of our common shares. As a result, the market price of our common shares may be depressed, and you may find it more difficult to sell our common shares. Such delisting from the Nasdaq Capital Market and continued or further declines in our share price could also greatly impair our ability to raise additional necessary capital through equity or debt financing.

We will continue to incur substantial costs and obligations as a result of being a public company.

As a publicly-traded company, we will continue to incur significant legal, accounting, and other expenses. In addition, new and changing laws, regulations and standards relating to corporate governance and public disclosure for public companies, including the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), regulations related thereto and the rules and regulations of the SEC and Nasdaq, have increased the costs and the time that must be devoted to compliance matters. We expect these rules and regulations will increase our legal and financial costs and lead to a diversion of management time and attention from revenue-generating activities.

We must comply with the financial reporting requirements of a public company, as well as other requirements associated with being listed on the Nasdaq Capital Market.

We are subject to reporting and other obligations under applicable Canadian securities laws, SEC rules and the rules of the Nasdaq Capital Market. These reporting and other obligations, including National Instrument 52-102 - Continuous Disclosure Obligations and National Instrument 52-109 - Certification of Disclosure in Issuers' Annual and Interim Filings, place significant demands on our management, administrative, operational, and accounting resources. Moreover, any failure to maintain effective internal controls could cause us to fail to meet our reporting obligations or result in material misstatements in our consolidated financial statements. If we cannot provide reliable financial reports or prevent fraud, our reputation and operating results could be materially harmed, which could also cause investors to lose confidence in our reported financial information, which could result in a lower trading price of our common shares.

Management does not expect that our disclosure controls and procedures and internal controls over financial reporting will prevent all errors and all fraud. A control system, no matter how well designed and implemented, can provide only reasonable, not absolute, assurance that its objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Due to the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues within a company are detected. The inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple errors or mistakes. Controls can also be circumvented by individual acts of some persons, by collusion of two or more people or by management override of the controls. Due to the inherent limitations in a cost-effective control system, misstatements due to error, or fraud may occur and not be detected.

We may be treated as a Passive Foreign Investment Company.

There is also an ongoing risk that we may be treated as a Passive Foreign Investment Company ("PFIC"), for U.S. federal income tax purposes. A non-U.S. corporation generally will be considered to be a PFIC for any taxable year in which 75% or more of its gross income is passive income, or 50% or more of the average value of its assets are considered "passive assets" (generally, assets that generate passive income). This determination is highly factual, and will depend upon, among other things, our market valuation and future financial performance. Based on current business plans and financial expectations, we do not believe we were a PFIC for our tax year ended December 31, 2023, and based on current business plans and financial expectations, we expect that we will not be a PFIC for our current tax year ending December 31, 2024 or for the foreseeable future. If we were to be classified as a PFIC for any future taxable year, holders of our common shares who are U.S. taxpayers would be subject to adverse U.S. federal income tax consequences.

Certain of our directors, officers and management could be in a position of conflict of interest.

Certain of our directors, officers and members of management may also serve as directors and/or officers of other companies. We may contract with such directors, officers, members of management and such other companies or with affiliated parties or other companies in which such directors, officers, or members of management own or control. These persons may obtain compensation and other benefits in transactions relating to us. Consequently, there exists the possibility for such directors, officers, and members of management to be in a position of conflict.

Future sales of common shares by directors, officers and other shareholders could adversely affect the prevailing market price for common shares.

Subject to compliance with applicable securities laws, officers, directors and other shareholders and their respective affiliates may sell some or all of their common shares in the future. No prediction can be made as to the effect, if any, such future sales will have on the market price of the common shares prevailing from time to time. However, the future sale of a substantial number of common shares by our officers, directors and other shareholders and their respective affiliates, or the perception that such sales could occur, could adversely affect prevailing market prices for the common shares.

We may issue an unlimited number of common shares. Future sales of common shares will dilute your shares.

Our articles permit the issuance of an unlimited number of common shares, and shareholders will have no preemptive rights in connection with such further issuances. Our directors have the discretion to determine the price and the terms of issue of further issuances of common shares in accordance with applicable laws.

ABOUT THIS OFFERING

We may from time to time, offer and sell any combination of the securities described in this prospectus up to a total dollar amount of $100,000,000 in one or more offerings. We will keep the registration statement of which this prospectus is a part effective until such time as all of the securities covered by this prospectus have been disposed of pursuant to and in accordance with this registration statement.

USE OF PROCEEDS

We intend to use the net proceeds from the sale of the securities registered as set forth in the applicable prospectus supplement.

CAPITALIZATION

Our capitalization will be set forth in the applicable prospectus supplement or in a report on Form 8-K subsequently furnished to the SEC and specifically incorporated by reference into this prospectus.

DILUTION

If required, we will set forth in a prospectus supplement the following information regarding any material dilution of the equity interests of investors purchasing securities in an offering under this prospectus:

- the net tangible book value per share of our equity securities before and after the offering;
- the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers in the offering; and
- the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

ENFORCEABILITY OF CIVIL LIABILITIES

We are a corporation organized pursuant to articles of amalgamation under the *Business Corporations Act* (Ontario) (the "OBCA") dated August 1, 2018. Some of our assets are located outside of the United States and some of our directors and officers, as well as some of the experts named in this prospectus, are residents of Canada. As a result, it may be difficult for U.S. investors to:

- effect service within the United States upon us or those directors, officers and experts who are not residents of the United States; or
- realize in the United States upon judgments of courts of the United States predicated upon the civil liability provisions of the United States federal securities laws.

TAXATION

Material income tax consequences relating to the purchase, ownership and disposition of any of the securities offered by this prospectus will be set forth in the applicable prospectus supplement relating to the offering of those securities.

DESCRIPTION OF SHARE CAPITAL

We may issue, offer and sell from time to time, in one or more offerings, the following securities:

- common shares;
- preferred shares;
- debt securities;
- warrants to purchase common shares, preferred shares or debt securities; and
- units.

The following is a description of the terms and provisions of our shares, preferred shares, debt securities, warrants to purchase common shares, preferred shares or debt securities and units, which we may offer and sell using this prospectus. These summaries are not meant to be a complete description of each security. We will set forth in the applicable prospectus supplement a description of the preferred shares, warrants, and, in certain cases, the common shares that may be offered under this prospectus. The terms of the offering of securities, the initial offering price and the net proceeds to us, as applicable, will be contained in the prospectus supplement and other offering material relating to such offering. The supplement may also add, update or change information contained in this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for each security. You should carefully read this prospectus and any prospectus supplement before you invest in any of our securities.

General

The following is a description of the material terms of our share capital of as set forth in our articles of amalgamation and bylaws, as amended to date, and certain related sections of the OBCA. For more detailed information, please see our articles of amalgamation and bylaws and amendments thereto, which are filed as exhibits to the registration statement of which this prospectus forms a part.

Our authorized capital consists of unlimited common shares, no par value, unlimited series A preferred shares, no par value, unlimited series B preferred shares, no par value, unlimited series C preferred shares, no par value, unlimited series D preferred shares, no par value, unlimited series E preferred shares, no par value, unlimited series F preferred shares, no par value, unlimited series G preferred shares, no par value and unlimited series H preferred shares, no par value. As of April 30, 2024, there were issued and outstanding 18,162,811 common shares and 24,588 series H preferred shares. There are no series A, series B, series C, series D, series E, series F or series G preferred shares outstanding, all of which were converted to common shares, with the exception of series F preferred shares which were never issued or outstanding. Pursuant to our articles of amalgamation, our board of directors has the authority to fix and determine the voting rights, rights of redemption and other rights and preferences of each series of preferred shares. The series H preferred shares outstanding do not have voting rights.

The following summary does not purport to be complete and is subject to, and is qualified in its entirety by reference to, the applicable provisions of the OBCA and our articles of amalgamation and by-laws. We encourage you to review our:

- Articles of Amendment dated June 28, 2023;
- Articles of Amendment dated October 1, 2021;
- Articles of Amendment dated July 13, 2021;
- Articles of Amendment dated January 4, 2021;
- Articles of Amendment dated September 29, 2020;
- Articles of Amendment dated May 6, 2020;
- Articles of Amendment dated November 6, 2019;
- Articles of Amendment dated July 12, 2019;
- Articles of Amendment dated November 13, 2018;
- Articles of Amendment dated November 5, 2018;
- Articles of Amendment dated September 28, 2018;
- Articles of Amendment dated July 11, 2017;
- Articles of Amalgamation dated March 24, 2015;
- By-law No. 1, as amended; and
- By-law No. 2.

Common Shares

Voting, Dividend and Other Rights. Each outstanding common share entitles the holder to one vote on all matters presented to the shareholders for a vote. Holders of common shares have no cumulative voting, pre-emptive, subscription or conversion rights. The board of directors determines if and when distributions may be paid out of legally available funds to the holders. The declaration of any cash dividends in the future will depend on the board of directors' determination as to whether, in light of earnings, financial position, cash requirements and other relevant factors existing at the time, it appears advisable to do so. We do not anticipate paying cash dividends on the common shares in the foreseeable future.

Rights Upon Liquidation. Upon liquidation, subject to the right of any holders of preferred shares to receive preferential distributions, each outstanding common share may participate pro rata in the assets remaining after payment of, or adequate provision for, all known debts and liabilities.

Majority Voting. In accordance with our by-laws, two holders representing not less than thirty-three and one-third percent (33 1/3%) of the outstanding common shares constitute a quorum at any meeting of the shareholders. A majority of the votes cast at a meeting of shareholders elects directors. The common shares do not have cumulative voting rights. Therefore, the holders of a majority of the outstanding common shares can elect all of the directors. In general, a majority of the votes cast at a meeting of shareholders must authorize shareholder actions other than the election of directors.

Preferred Shares

Under our articles of amalgamation, our board of directors can issue an unlimited amount of preferred shares from time to time in one or more series. Our board of directors is authorized to fix by resolution as to any series the designation and number of shares of the series, the voting rights, the dividend rights, the redemption price, the amount payable upon liquidation or dissolution, the conversion rights, and any other designations, preferences or special rights or restrictions as may be permitted by law. Unless the nature of a particular transaction and the rules of law applicable thereto require such approval, our board of directors has the authority to issue these shares of preferred shares without shareholder approval.

Series H Preferred Shares. The holders of Series H Preferred Shares have the following rights, restrictions and privileges in respect of their preferred shares:

- The Series H Preferred Shares are convertible into 142.857 common shares for every Series H Preferred Share. Each holder may convert such holders Series H Preferred Shares provided that after such conversion the common shares issuable, together with all the common shares held by the shareholder in the aggregate, would not exceed 9.99% of the total number of outstanding common shares.

- The holders of Series H Preferred Shares are not entitled to receive dividends and are not entitled to voting rights.

Warrants

As of May 3, 2024, we had the following warrants outstanding:

- Warrants to purchase 14,286 common shares until February 7, 2027 at an initial exercise price of $28.00 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 14,286 common shares until February 7, 2027 at an initial exercise price of $35.00 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 14,286 common shares until February 7, 2027 at an initial exercise price of $42.00 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 2,162,922 common shares until August 23, 2026, at an initial exercise price of $2.75 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 800,000 common shares until August 11, 2026, at an initial exercise price of $2.75 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 73,556 common shares until April 17, 2026, at an initial exercise price of $1.342 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 121,429 common shares until October 1, 2024 at an initial exercise price of $42.00 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 1,614,299 common shares until September 8, 2026 at an initial exercise price of $66.50 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 370,787 common shares until August 25, 2024 at an initial exercise price of $45.50 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 370,787 common shares until August 25, 2024 at an initial exercise price of $52.50 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

- Warrants to purchase 285,716 common shares until December 22, 2024 at an initial exercise price of $28.00 per share, subject to adjustment in the event of stock splits, combinations or the like of common shares.

Limitation of Liability and Indemnification of Directors and Officers

Under the OBCA, we may indemnify our current or former directors or officers or another individual who acts or acted at our request as a director or officer, or an individual acting in a similar capacity, of another entity which we are or were a shareholder or creditor of, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of his or her association with us or another entity. The OBCA also provides that we may also advance moneys to a director, officer or other individual for costs, charges and expenses reasonably incurred in connection with such a proceeding; provided that such individual shall repay the moneys if the individual does not fulfill the conditions described below.

However, indemnification is prohibited under the OBCA unless the individual:

- acted honestly and in good faith with a view to our best interests, or the best interests of the other entity for which the individual acted as director or officer or in a similar capacity at our request; and

- in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

Our bylaws require us to indemnify each of our current or former directors and officers and each individual who acts or acted at our request as a director or officer of another entity which we are or were a shareholder or creditor of, as well as their respective heirs and successors, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by them in respect of any civil, criminal or administrative action or proceeding to which they were made a party by reason of being or having been a director or officer, except as may be prohibited by the OBCA.

We have entered into indemnity agreements with our directors and executive officers that provide, among other things, that we will indemnify them to the fullest extent permitted by law from and against all liabilities, costs, charges and expenses incurred as a result of their actions in the exercise of their duties as a director or officer; provided that, we shall not indemnify such individuals if, among other things, they did not act honestly and in good faith with a view to our best interests and, in the case of a criminal or penal action, the individuals did not have reasonable grounds for believing that their conduct was lawful.

Material differences between Ontario Corporate Law and Delaware General Corporation Law

Our corporate affairs are governed by our articles of amalgamation and bylaws and the provisions of the OBCA. The OBCA differs from the various state laws applicable to U.S. corporations and their stockholders. The following is a summary of the material differences between the OBCA and the General Corporation Law of the State of Delaware (“DGCL”). This summary is qualified in its entirety by reference to the DGCL, the OBCA and our governing corporate instruments.

Delaware	Ontario

Stockholder/Shareholder Approval of Business Combinations; Fundamental Changes

Under the DGCL, certain fundamental changes such as amendments to the certificate of incorporation (subject to certain exceptions), a merger, consolidation, sale, lease, exchange or other disposition of all or substantially all of the property of a corporation, or a dissolution of the corporation, are generally required to be approved by the holders of a majority of the outstanding stock entitled to vote on the matter, unless the certificate of incorporation requires a higher percentage.

However, under the DGCL, mergers in which, among other requirements, less than 20% of a corporation's stock outstanding immediately prior to the effective date of the merger is issued generally do not require stockholder approval. In addition, mergers in which one corporation owns 90% or more of each class of stock of a second corporation may be completed without the vote of the second corporation's board of directors or stockholders. In certain situations, the approval of a business combination may require approval by a certain number of the holders of a class or series of shares. In addition, Section 251(h) of the DGCL provides that stockholders of a constituent corporation need not vote to approve a merger if: (1) the merger agreement permits or requires the merger to be effected under Section 251(h) and provides that the merger shall be effected as soon as practicable following the tender offer or exchange offer, (2) a corporation consummates a tender or exchange offer for any and all of the outstanding stock of such constituent corporation that would otherwise be entitled to vote to approve the merger, (3) following the consummation of the offer, the stock accepted for purchase or exchanges plus the stock owned by the consummating corporation equals at least the percentage of stock that would be required to adopt the agreement of merger under the DGCL, (4) the corporation consummating the offer merges with or into such constituent corporation, and (5) each outstanding share of each class or series of stock of the constituent corporation that was the subject of and not irrevocably accepted for purchase or exchange in the offer is to be converted in the merger into, or the right to receive, the same consideration to be paid for the shares of such class or series of stock of the constituent corporation irrevocably purchased or exchanged in such offer.

The DGCL does not contain a procedure comparable to a plan of arrangement under the OBCA.

Under the OBCA, certain extraordinary corporate actions including: amalgamations; arrangements; continuances; sales, leases or exchanges of all or substantially all of the property of a corporation; liquidations and dissolutions are required to be approved by special resolution.

A "special resolution" is a resolution (i) submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed at the meeting by at least two-thirds of the votes cast, or (ii) consented to in writing by each shareholder of the corporation entitled to vote on the resolution.

In the case of an offering company, an "ordinary resolution" is a resolution that is submitted to a meeting of the shareholders of a corporation and passed, with or without amendment, at the meeting by at least a majority of the votes cast, in person or by proxy.

Under the OBCA, shareholders of a class or series of shares are entitled to vote separately as a class in the event of certain transactions that affect holders of the class or series of shares in a manner different from the shares of another class or series of the corporation, whether or not such shares otherwise carry the right to vote.

Under the OBCA, arrangements are permitted. An arrangement may include an amalgamation, a transfer of all or substantially all the property of the corporation, and a liquidation and dissolution of a corporation. In general, a plan of arrangement is approved by a corporation's board of directors and then is submitted to a court for approval. It is customary for a corporation in such circumstances to apply to a court initially for an interim order governing various procedural matters prior to calling any security holder meeting to consider the proposed arrangement. Arrangements must generally be approved by a special resolution of shareholders. The court may, in respect of an arrangement proposed with persons other than shareholders and creditors, require that those persons approve the arrangement in the manner and to the extent required by the court. The court determines, among other things, to whom notice shall be given and whether, and in what manner, approval of any person is to be obtained and also determines whether any shareholders may dissent from the proposed arrangement and receive payment of the fair value of their shares. Following compliance with the procedural steps contemplated in any such interim order (including as to obtaining security holder approval), the court would conduct a final hearing, which would, among other things, assess the fairness and reasonableness of the arrangement and approve or reject the proposed arrangement.

Delaware	Ontario

Special Vote Required for Combinations with Interested Stockholders/Shareholders

Section 203 of the DGCL provides (in general) that, unless otherwise provided in the certificate of incorporation, a corporation may not engage in a business combination with an interested stockholder for a period of three years after the time of the transaction in which the person became an interested stockholder.

The prohibition on business combinations with interested stockholders does not apply in some cases, including if: (1) the board of directors of the corporation, prior to the time of the transaction in which the person became an interested stockholder, approves (a) the business combination or (b) the transaction in which the stockholder becomes an interested stockholder; (2) upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced; or (3) the board of directors and the holders of at least two-thirds of the outstanding voting stock not owned by the interested stockholder approve, at an annual or special meeting of stockholders, the business combination on or after the time of the transaction in which the person became an interested stockholder.

For the purpose of Section 203, the DGCL, subject to specified exceptions, generally defines an interested stockholder to include any person who, together with that person's affiliates or associates, (1) owns 15% or more of the outstanding voting stock of the corporation (including any rights to acquire stock pursuant to an option, warrant, agreement, arrangement or understanding, or upon the exercise of conversion or exchange rights, and stock with respect to which the person has voting rights only), or (2) is an affiliate or associate of the corporation and owned 15% or more of the outstanding voting stock of the corporation, in each case, at any time within the previous three years.

While the OBCA does not contain specific anti-takeover provisions with respect to "business combinations", rules and policies of certain Canadian securities regulatory authorities, including Multilateral Instrument 61-101—Protection of Minority Security Holders in Special Transactions ("MI 61-101"), contain requirements in connection with, among other things, "related party transactions" and "business combinations", including, among other things, any transaction by which an issuer directly or indirectly engages in the following with a related party: acquires, sells, leases or transfers an asset, acquires the related party, acquires or issues treasury securities, amends the terms of a security if the security is owned by the related party or assumes or becomes subject to a liability or takes certain other actions with respect to debt.

The term "related party" includes, *inter alia*, directors, senior officers and holders of more than 10% of the voting rights attached to all outstanding voting securities of the issuer or holders of a sufficient number of any securities of the issuer to materially affect control of the issuer.

MI 61-101 requires, subject to certain exceptions, the preparation of a formal valuation relating to certain aspects of the transaction and more detailed disclosure in the proxy materials sent to security holders in connection with a related party transaction including related to the valuation. MI 61-101 also requires, subject to certain exceptions, that an issuer not engage in a related party transaction unless the shareholders of the issuer, other than shares held by the related parties, approve the transaction by a simple majority of the disinterested votes cast.

Delaware	Ontario
Appraisal Rights; Rights to Dissent; Compulsory Acquisition	
Under the DGCL, a stockholder of a corporation participating in certain major corporate transactions may, under varying circumstances, be entitled to appraisal rights pursuant to which the stockholder may receive cash in the amount of the fair market value of his or her shares in lieu of the consideration he or she would otherwise receive in the transaction. For example, a stockholder is entitled to appraisal rights in the case of a merger or consolidation if the stockholder is required to accept in exchange for his or her shares anything other than: (1) shares of stock of the corporation surviving or resulting from the merger or consolidation, or depository receipts in respect thereof; (2) shares of any other corporation, or depository receipts in respect thereof, that on the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 stockholders; (3) cash instead of fractional shares of the corporation or fractional depository receipts of the corporation; or (4) any combination of the shares of stock, depository receipts and cash instead of the fractional shares or fractional depository receipts.	Under the OBCA, each of the following matters listed will entitle shareholders to exercise rights of dissent and to be paid the fair value of their shares: (i) any amalgamation with another corporation (other than with certain affiliated corporations); (ii) an amendment to the corporation's articles to add, change or remove any provisions restricting the issue, transfer or ownership of a class or series of shares; (iii) an amendment to the corporation's articles to add, change or remove any restriction upon the business or businesses that the corporation may carry on or the powers that the corporation may exercise; (iv) a continuance under the laws of another jurisdiction; (v) a sale, lease or exchange of all or substantially all the property of the corporation other than in the ordinary course of business; and (vi) where a court order permits a shareholder to dissent in connection with an application to the court for an order approving an arrangement. However, a shareholder is not entitled to dissent if an amendment to the articles is effected by a court order approving a reorganization or by a court order made in connection with an action for an oppression remedy. The OBCA provides these dissent rights for both listed and unlisted shares. Under the OBCA, a shareholder may, in addition to exercising dissent rights, seek an oppression remedy for any act or omission of a corporation which is oppressive or unfairly prejudicial to or that unfairly disregards a shareholder's interests. The OBCA's oppression remedy enables a court to make an order to rectify the matters complained of if the court is satisfied upon application by a complainant (as defined herein) that in respect of a corporation or any of its affiliates, (i) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result; (ii) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or (iii) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner, that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any securityholder, creditor, director or officer of the corporation. The oppression remedy provides the court with broad and flexible jurisdiction to make any order it thinks fit including but not limited to: amending the articles of a corporation, issuing or exchanging securities, setting aside transactions, and appointing or replacing directors. For the purposes of the oppression remedy, a "complainant" includes current and former registered and beneficial owners of a security of the corporation or any of its affiliates, a director or an officer or former director or officer of the corporation or any of its affiliates, as well as any other person whom the court considers appropriate. The OBCA provides a right of compulsory acquisition for an offeror that acquires 90% of a corporation's securities pursuant to a take-over bid or issuer bid, other than securities held at the date of the bid by or on behalf of the offeror. The OBCA also provides that where a person, its affiliates and associates acquire 90% or more of a class of equity securities of a corporation, then the holder of any securities of that class not counted for the purposes of calculating such percentage is entitled to require the corporation to acquire the holder's securities of that class in accordance with the procedure set out in the OBCA.
Stockholder/Shareholder Consent to Action Without Meeting	
Under the DGCL, unless otherwise provided in the certificate of incorporation, any action that can be taken at a meeting of the stockholders (except stockholder approval of a transaction with an interested stockholder, which may be given only by vote at a meeting of the stockholders) may be taken without a meeting if written consent to the action is signed by the holders of outstanding stock having not less than the minimum number of votes necessary to authorize or take the action at a meeting of the stockholders.	Under the OBCA, a written resolution signed by all the shareholders of a corporation who would have been entitled to vote on the resolution at a meeting is effective to approve the resolution.

Delaware	Ontario
Special Meetings of Stockholders/Shareholders	
Under the DGCL, a special meeting of stockholders may be called by the board of directors or by such persons authorized in the certificate of incorporation or the by-laws.	The OBCA provides that our shareholders may requisition a special meeting in accordance with the OBCA. The OBCA provides that the holders of not less than 5% of our issued shares that carry the right to vote at a meeting may requisition our directors to call a special meeting of shareholders for the purposes stated in the requisition. If the directors do not call such meeting within 21 days after receiving the requisition despite the technical requirements under the OBCA having been met, any shareholder who signed the requisition may call the special meeting.
Distributions and Dividends; Repurchases and Redemptions	
Under the DGCL, subject to any restrictions contained in the certificate of incorporation, a corporation may declare and pay dividends out of capital surplus or, if there is no surplus, out of net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year, as long as the amount of capital of the corporation following the declaration and payment of the dividend is not less than the aggregate amount of the capital represented by issued and outstanding shares having a preference upon the distribution of assets. Surplus is defined in the DGCL as the excess of the net assets over capital, as such capital may be adjusted by the board of directors.	Under the OBCA, a corporation may pay a dividend in money or other property unless there are reasonable grounds for believing that the corporation is or after the payment would be unable to pay its liabilities as they become due or the realizable value of its assets would thereby be less than the aggregate of its liabilities and its stated capital of all classes. The OBCA provides that no special rights or restrictions attached to a series of any class of shares confer on the series a priority in respect of dividends or return of capital over any other series of shares of the same class. Any such restrictions are set forth in our articles.
A Delaware corporation may purchase or redeem shares of any class except when its capital is impaired or would be impaired by the purchase or redemption. A corporation may, however, purchase or redeem out of capital shares that are entitled upon any distribution of its assets to a preference over another class or series of its shares if the purchased or redeemed shares are to be retired and the capital reduced.	Under the OBCA, the purchase or other acquisition by a corporation of its shares is generally subject to solvency tests similar to those applicable to the payment of dividends (as set out above). We are permitted, under our articles, to acquire any of our shares, subject to the special rights and restrictions attached to such class or series of shares and the approval of our board of directors. Under the OBCA, subject to solvency tests similar to those applicable to the payment of dividends (as set out above), a corporation may redeem, on the terms and in the manner provided in its articles, any of its shares that has a right of redemption attached to it.
Vacancies on Board of Directors	
Under the DGCL, a vacancy or a newly created directorship may be filled by a majority of the directors then in office, although less than a quorum, or by the sole remaining director, unless otherwise provided in the certificate of incorporation or by-laws. Directors chosen to fill vacancies generally hold office until the next election of directors. If, however, a corporation's directors are divided into classes, a director chosen to fill a vacancy holds office until the next election of the class for which such director was chosen.	Under the OBCA, vacancies that exist on the board of directors may generally be filled by the board of directors if the remaining directors constitute a quorum. In the absence of a quorum, the remaining directors shall call a meeting of shareholders to fill the vacancy. Our articles of amalgamation set out a minimum number of directors of one (1) and maximum number of directors of ten (10). Under the OBCA, where a minimum and maximum number of directors of a corporation is provided for in its articles, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the shareholders shall be such number as shall be determined from time to time by special resolution or, if the special resolution empowers the directors to determine the number, by resolution of the directors. Where such a resolution is passed (which resolution has been previously approved by a corporation), the directors may not, between meetings of shareholders, appoint an additional director if, after such appointment, the total number of directors would be greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders.

Delaware	Ontario
Constitution of Directors	
The DGCL does not have residency requirements, but a corporation may prescribe qualifications for directors under its certificate of incorporation or by-laws.	Under the OBCA and our articles of amalgamation, the board of directors must consist of at least three members so long as we remain an "offering corporation" for purposes of the OBCA, which includes a corporation whose securities are listed on a recognized stock exchange such as the Nasdaq. Under the OBCA, the shareholders of a corporation elect directors by ordinary resolution at each annual meeting of shareholders at which such an election is required. Under the OBCA, so long as we remain an offering corporation, at least one-third of our directors must not be officers or employees of our company or our affiliates.
Removal of Directors; Terms of Directors	
Under the DGCL, except in the case of a corporation with a classified board of directors (unless the certificate of incorporation provides otherwise) or in the case of a corporation with cumulative voting, any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares entitled to vote at an election of directors.	Under the OBCA, shareholders of a corporation may, by resolution passed by a majority of the vote cast thereon at a meeting of shareholders, remove a director and may elect any qualified person to fill the resulting vacancy. If holders of a class or series of shares have the exclusive right to elect one or more directors, a director elected by them may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series. The OBCA provides that shareholders shall elect at each annual meeting of shareholders at which an election of directors is required, directors to hold office for a term expiring not later than the close of the third annual meeting of shareholders following the election. It is not necessary that all directors elected at a meeting of shareholders hold office for the same term. A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of shareholders following his or her election.
Inspection of Books and Records	
Under the DGCL, any holder of record of stock or a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, upon written demand, inspect the corporation's books and records during business hours for a proper purpose and may make copies and extracts therefrom.	Under the OBCA, registered holders of shares, beneficial owners of shares and creditors of a corporation, their agents and legal representatives may examine the records of the corporation during the usual business hours of the corporation, and may take extracts from those records, free of charge, and, if the corporation is an offering corporation, any other person may do so upon payment of a reasonable fee.

Delaware	Ontario

Amendment of Governing Documents

Under the DGCL, a certificate of incorporation may be amended if: (1) the board of directors adopts a resolution setting forth the proposed amendment, declaring its advisability and specifying whether the stockholders will vote on the amendment at a special meeting or annual meeting of stockholders; provided that, unless required by the certificate of incorporation, no meeting or vote is required to adopt an amendment for certain specified changes; and (2) the holders of a majority of shares of stock entitled to vote on the matter approve the amendment, unless the certificate of incorporation requires the vote of a greater number of shares.

The DGCL requires that certain amendments to a certificate of incorporation be approved by a particular class of stockholders. If an amendment requires a class vote, it must be approved by a majority of the outstanding stock of the class entitled to vote on the matter, unless a greater proportion is specified in the certificate of incorporation or other provisions of the DGCL.

Under the DGCL, a corporation's stockholders may amend its by-laws. The board of directors also may amend a corporation's by-laws if so authorized in the certificate of incorporation.

Under the OBCA, amendments to the articles of incorporation generally require the approval of not less than two-thirds of the votes cast by shareholders entitled to vote on the special resolution. In certain cases, holders of a class or series of shares are entitled to vote separately on the resolution.

Under the OBCA, the directors may, by resolution, make, amend or repeal any by-laws that regulate the business or affairs of a corporation. The by-law, amendment or repeal is generally effective immediately; however, the directors must submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders may confirm, reject or amend the by-law, amendment or repeal.

Indemnification of Directors and Officers

Under the DGCL, subject to specified limitations in the case of derivative suits brought by a corporation's stockholders in its name, a corporation may indemnify any person who is made a party to any action, suit or proceeding on account of being a director, officer, employee or agent of the corporation (or who was serving at the request of the corporation in such capacity for another corporation, partnership, joint venture, trust or other enterprise) against expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding if: (1) the individual acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation; and (2) in a criminal action or proceeding, the individual had no reasonable cause to believe that his or her conduct was unlawful. Without court approval, however, no indemnification may be made in respect of any derivative action in which an individual is adjudged liable to the corporation, except to the extent the Court of Chancery or the court in which such action or suit was brought determines, in its discretion, that such person is fairly and reasonably entitled to indemnity.

If a director or officer successfully defends a third-party or derivative action, suit or proceeding, the DGCL requires that the corporation indemnify such director or officer for expenses (including attorneys' fees) actually and reasonably incurred in connection with his or her defense.

Under the DGCL, a corporation may advance expenses relating to the defense of any proceeding to directors and officers upon the receipt of an undertaking by or on behalf of the individual to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified.

Under the OBCA, a corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or another individual who acts or acted at the corporation's request as a director or officer, or an individual acting in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the corporation or other entity, and the corporation may advance moneys to such indemnified persons.
The foregoing indemnification is prohibited under the OBCA unless the individual (i) acted honestly and in good faith with a view to the best interests of the corporation or, as the case may be, to the best interests of any other entity for which the individual acted as a director or officer or in a similar capacity at the corporation's request and (ii) if the matter is a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.

In addition to any indemnity the corporation may elect to provide, the OBCA provides that an individual referred to above is entitled to an indemnity from the corporation against all costs, charges and expenses reasonably incurred by the individual in connection with the defense of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the corporation or other entity referred to above, if, in addition to fulfilling the conditions in (i) and (ii) above, the individual was not judged by a court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done.

Delaware	Ontario
	The corporation may also, with the approval of a court, indemnify an individual referred to above or advance moneys to such individual in respect of an action by or on behalf of the corporation or other entity to obtain a judgement in its favor, to which the individual is made a party because of the individual's association with the corporation or other entity, if the individual fulfils the conditions in (i) above. Our by-laws provide that we shall indemnify the foregoing persons on substantially the terms set forth above.
Limited Liability of Directors	
The DGCL permits the adoption of a provision in a corporation's certificate of incorporation limiting or eliminating the monetary liability of a director to a corporation or its stockholders by reason of a director's breach of the fiduciary duty of care. The DGCL does not permit any limitation of a director's liability for: (1) breaching the duty of loyalty to the corporation or its stockholders; (2) acts or omissions not in good faith; (3) engaging in intentional misconduct or a known violation of law; (4) obtaining an improper personal benefit from the corporation; or (5) paying a dividend or approving a stock repurchase that was illegal under applicable law.	The OBCA does not permit the limitation of a director's liability as the DGCL does. Under the OBCA, directors and officers owe a fiduciary duty to the corporation. Every director and officer of a corporation must act honestly and in good faith with a view to the best interests of the corporation and must also exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Directors will not be found liable for breach of their duties where they exercise the care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances. This includes good faith reliance on: financial statements and reports represented by an auditor or officer of the corporation to fairly present the financial position of the corporation; advice or reports from an officer or employee of the corporation where it is reasonable in the circumstances to rely on such information; and, reports from an engineer, lawyer, accountant, or other person whose profession lends credibility to a statement made by any such person.
Stockholder/Shareholder Lawsuits	
Under the DGCL, a stockholder may bring a derivative action on behalf of a corporation to enforce the corporation's rights if he or she was a stockholder at the time of the transaction which is the subject of the action. Additionally, under Delaware case law, a stockholder must have owned stock in the corporation continuously until and throughout the litigation to maintain a derivative action. Delaware law also requires that, before commencing a derivative action, a stockholder must make a demand on the directors of the corporation to assert the claim, unless such demand would be futile. A stockholder also may commence a class action suit on behalf of himself or herself and other similarly situated stockholders where the requirements for maintaining a class action have been met.	Under the OBCA, a "complainant", which includes a current or former shareholder (including a beneficial shareholder), director or officer of a corporation or its affiliates (or former director or officer of the corporation or its affiliates) and any other person who, in the discretion of the court, is an appropriate person, may make an application to court to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate (a derivative action). No derivative action may be brought unless notice of the application has been given to the directors of the corporation or its subsidiary not less than fourteen days before bringing the application and the court is satisfied that (i) the directors of the corporation or the subsidiary will not bring, diligently prosecute or defend or discontinue the action, (ii) the complainant is acting in good faith and (iii) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued. A complainant is not required to provide the notice referred to above if all of the directors of the corporation or its subsidiary are defendants in the action. In connection with a derivative action, the court may make any order it thinks fit, including an order requiring the corporation or its subsidiary to pay reasonable legal fees and any other costs reasonably incurred by the complainant in connection with the action.

Delaware	Ontario
Blank Check Preferred Stock/Shares	
Under the DGCL, a corporation's certificate of incorporation may authorize the board of directors to issue new classes of preferred shares with voting, conversion, dividend distribution and other rights to be determined by the board of directors at the time of issuance. Such authorization could prevent a takeover attempt and thereby preclude stockholders from realizing a potential premium over the market value of their shares. In addition, Delaware law does not prohibit a corporation from adopting a shareholder rights plan, or "poison pill", which could prevent a takeover attempt and also preclude stockholders from realizing a potential premium over the market value of their shares.	Under our articles of amalgamation, preferred shares may be issued in one or more series. Accordingly, our board of directors is authorized, without shareholder approval, but subject to the provisions of the OBCA, to determine the maximum number of shares of each series, create an identifying name for each series and attach such special rights or restrictions, including dividend, liquidation and voting rights, as our board of directors may determine, and such special rights or restrictions, including dividend, liquidation and voting rights, may be superior to the common voting shares. The issuance of preferred shares, or the issuance of rights to purchase preferred shares, could make it more difficult for a third-party to acquire a majority of our outstanding shares and thereby have the effect of delaying, deferring or preventing a change of control of us or an unsolicited acquisition proposal or of making the removal of management more difficult. Additionally, the issuance of preferred shares may have the effect of decreasing the market price of our subordinate voting shares. The OBCA does not prohibit a corporation from adopting a shareholder rights plan, or "poison pill", which could prevent a takeover attempt and also preclude shareholders from realizing a potential premium over the market value of their shares. However, unlike Delaware law, pursuant to applicable Canadian securities laws, Canadian securities regulators have frequently ceased traded shareholder rights plans in the face of a take-over bid.
Advance Notification Requirements for Proposals of Stockholders/Shareholders	
Delaware corporations' by-laws typically provide that stockholders may introduce a proposal to be voted on at an annual or special meeting of the stockholders, including nominees for election to the board of directors, only if they provide notice of such proposal to the secretary of the corporation in advance of the meeting. In addition, advance notice by-laws frequently require stockholders to provide information about their board of directors nominees, such as a nominee's age, address, employment and beneficial ownership of shares of the corporation's capital stock. The stockholder may also be required to disclose, among other things, his or her own name, share ownership and any agreement, arrangement or understanding with respect to such nomination. For other proposals, the proposing stockholder is often required by the by-laws to provide a description of the proposal and any other information relating to such stockholder or beneficial owner, if any, on whose behalf that proposal is being made, that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitation of proxies for the proposal and pursuant to and in accordance with the *Exchange Act* and the rules and regulations promulgated thereunder.	Under the OBCA, the directors of a corporation are required to call an annual meeting of shareholders no later than fifteen months after holding the last preceding annual meeting. Under the OBCA, the directors of a corporation may call a special meeting at any time. In addition, the OBCA provides that holders of not less than five percent of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders. In our by-laws, we have included certain advance notice provisions with respect to the election of its directors (the "Advance Notice Provisions"). Only persons who are nominated by shareholders in accordance with the Advance Notice Provisions will be eligible for election as directors at any annual meeting of shareholders, or at any special meeting of shareholders if one of the purposes for which the special meeting was called was the election of directors. Under the Advance Notice Provisions, a shareholder wishing to nominate a director would be required to provide us notice, in the prescribed form, within the prescribed time period.

Other Important Provisions in Articles of Amalgamation and Bylaws

The following is a summary of certain important provisions of our articles of amalgamation and bylaws, as amended. Please note that this is only a summary, is not intended to be exhaustive and is qualified in its entirety by reference to the articles of amalgamation and bylaws. For further information, please refer to the full version of the articles of amalgamation and bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus forms a part.

Objects and Purposes

Our articles of amalgamation do not contain and are not required to contain a description of our objects and purposes. There is no restriction contained in our articles of amalgamation on the business that we may carry on.

Directors

Interested Transactions

The OBCA states that a director must disclose to us, in accordance with the provisions of the OBCA, the nature and extent of an interest that the director has in a material contract or material transaction, whether made or proposed, with us, if the director is a party to the contract or transaction, is a director or an officer or an individual acting in a similar capacity of a party to the contract or transaction, or has a material interest in a party to the contract or transaction.

A director who holds an interest in respect of any material contract or transaction into which we have entered or propose to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless the contract or transaction:

- relates primarily to the director's remuneration as a director, officer, employee or agent of our company or an affiliate of our company;
- is for indemnity or insurance otherwise permitted under the OBCA; or
- is with an affiliate.

Remuneration of Directors

The OBCA provides that the remuneration of directors, if any, may be determined by the directors subject to our articles of amalgamation and bylaws. That remuneration may be in addition to any salary or other remuneration paid to any employees who are also directors.

Age Limit Requirement

Neither our articles of amalgamation nor the OBCA impose any mandatory age-related retirement or non-retirement requirement for directors.

Action Necessary to Change the Rights of Holders of Shares

Shareholders can authorize the amendment of our articles of amalgamation to create or vary the special rights or restrictions attached to any of the shares by passing a special resolution. However, a right or special right attached to any class or series of shares may not be prejudiced or interfered with unless the shareholders holding shares of that class or series to which the right or special right is attached consent by a separate special resolution. A special resolution means a resolution passed by: (1) a majority of not less than two-thirds of the votes cast by the applicable class or series of shareholders who vote in person or by proxy at a meeting or (2) a resolution consented to in writing by all of the shareholders entitled to vote.

Shareholder Meetings

We must hold an annual general meeting of shareholders at least once every year at a time and place determined by the board of directors, provided that the meeting must not be held later than 15 months after the preceding annual general meeting but no later than six months after the end of the preceding financial year. A meeting of shareholders may be held anywhere in Canada, as provided in our bylaws or, at a place outside Canada if our board of directors so determines.

Directors may, at any time, call a special meeting of shareholders. Shareholders holding not less than 5% of the issued voting shares may also cause directors to call a shareholders' meeting.

A notice to convene a meeting, specifying the date, time and location of the meeting, and, where a meeting is to consider special business, the general nature of the special business, must be sent to shareholders, to each director and the auditor not less than 21 days prior to the meeting, although, as a result of applicable securities laws, the time for notice is effectively longer. Under the OBCA, shareholders entitled to notice of a meeting may waive or reduce the period of notice for that meeting, provided applicable securities laws requirements are met. The accidental omission to send notice of any meeting of shareholders to, or the non-receipt of any notice by, any person entitled to notice does not invalidate any proceedings at that meeting.

As required by Nasdaq Listing Rules, a quorum for meetings is two persons present and holding, or represented by proxy, 33.3% of the issued shares entitled to be voted at the meeting. If a quorum is not present at the opening of the meeting, the shareholders may adjourn the meeting to a fixed time and place but may not transact any further business.

Holders of outstanding common shares are entitled to attend meetings of shareholders. Except as otherwise provided with respect to any particular series of preferred shares, and except as otherwise required by law, the holders of preferred shares are not entitled as a class to receive notice of, or to attend or vote at any meetings of shareholders. Directors, the secretary (if any), the auditor and any other persons invited by the chairman or directors or with the consent of those at the meeting are entitled to attend at any meeting of shareholders but will not be counted in the quorum or be entitled to vote at the meeting unless he or she is a shareholder or proxyholder entitled to vote at the meeting.

Director Nominations

Pursuant to a bylaw relating to the advance notice of nominations of directors, shareholders seeking to nominate candidates for election as directors other than pursuant to a proposal or requisition of shareholders made in accordance with the provisions of the OBCA must provide timely written notice to the corporate secretary. To be timely, a shareholder's notice must be received (i) in the case of an annual meeting of shareholders, not less than 30 days prior to the date of the annual meeting of shareholders; provided, however, that in the event that the annual meeting of shareholders is to be held on a date that is less than 50 days after the date on which the first public announcement of the date of the annual meeting was made, notice by the shareholder must be received not later than the close of business on the 10th day following the date of such public announcement; and (ii) in the case of a special meeting (which is not also an annual meeting) of shareholders called for any purpose which includes the election of directors to the board of directors, not later than the close of business on the 15th day following the day on which the first public announcement of the date of the special meeting was made. This bylaw also prescribes the proper written form for a shareholder's notice.

Impediments to Change of Control

Our articles of amalgamation do not contain any change of control limitations with respect to a merger, acquisition or corporate restructuring that involves our company.

Compulsory Acquisition

The OBCA provides that if, within 120 days after the date of a take-over bid made to shareholders of a corporation, the bid is accepted by the holders of not less than 90% of the shares (other than the shares held by the offeror or an affiliate of the offeror) of any class of shares to which the bid relates, the offeror is entitled to acquire (on the same terms on which the offeror acquired shares under the take-over bid) the shares held by those holders of shares of that class who did not accept the take-over bid. If a shareholder who did not accept the take-over bid (a dissenting offeree) does not receive an offeror's notice, with respect to a compulsory acquisition (as described in the preceding sentence), that shareholder may require the offeror to acquire those shares on the same terms under which the offeror acquired (or will acquire) the shares owned by the shareholders who accepted the take-over bid.

Ownership and Exchange Controls

Competition Act

Limitations on the ability to acquire and hold common shares may be imposed by the *Competition Act* (Canada). This legislation establishes a pre-merger notification regime for certain types of merger transactions that exceed certain statutory shareholding and financial thresholds. Mergers that are subject to notification cannot be closed until the required materials are filed and the applicable statutory waiting period has expired or been waived by the Commissioner of Competition (the "Commissioner"). Further, the *Competition Act* (Canada) permits the Commissioner to review any acquisition of control over or of a significant interest in our company, whether or not it is subject to mandatory notification. This legislation grants the Commissioner jurisdiction, for up to one year, to challenge this type of acquisition before the Canadian Competition Tribunal if it would, or would be likely to, substantially prevent or lessen competition in any market in Canada.

Investment Act (Canada)

The *Investment Act* (Canada) requires notification and, in certain cases, advance review and approval by the Government of Canada of an investment to establish a new Canadian business by a non-Canadian or of the acquisition by a non-Canadian of "control" of a "Canadian business", all as defined in the *Investment Act* (Canada). Generally, the threshold for advance review and approval will be higher in monetary terms for a member of the World Trade Organization. The *Investment Act* (Canada) generally prohibits the implementation of such a reviewable transaction unless, after review, the relevant minister is satisfied that the investment is likely to be of net benefit to Canada.

The *Investment Act* (Canada) contains various rules to determine if there has been an acquisition of control. For example, for purposes of determining whether an investor has acquired control of a corporation by acquiring shares, the following general rules apply, subject to certain exceptions. The acquisition of a majority of the voting shares of a corporation is deemed to be acquisition of control of that corporation. The acquisition of less than a majority but one-third or more of the voting shares of a corporation is presumed to be an acquisition of control of that corporation unless it can be established that, on the acquisition, the corporation is not controlled in fact by the acquiror through the ownership of voting shares. The acquisition of less than one-third of the voting shares of a corporation is deemed not to be acquisition of control of that corporation.

In addition, under the *Investment Act* (Canada), national security review on a discretionary basis may also be undertaken by the federal government in respect of a much broader range of investments by a non-Canadian to "acquire, in whole or in part, or to establish an entity carrying on all or any part of its operations in Canada, with the relevant test being whether such an investment by a non-Canadian could be "injurious to national security." The Minister of Industry has broad discretion to determine whether an investor is a non-Canadian and therefore may be subject to national security review. Review on national security grounds is at the discretion of the federal government and may occur on a pre- or post-closing basis.

Any of these provisions may discourage a potential acquirer from proposing or completing a transaction that may have otherwise presented a premium to our shareholders. We cannot predict whether investors will find us and our common shares less attractive because we are governed by foreign laws.

Transfer Agent and Registrar

The registrar and transfer agent for our common shares is TSX Trust Company, located at 301 - 100 Adelaide Street West, Toronto, Ontario M5H 4H1.

DESCRIPTION OF COMMON SHARES

We may issue our common shares either alone or underlying other securities convertible into or exercisable or exchangeable for our common shares.

Holders of our common shares are entitled to certain rights and subject to certain conditions as set forth in our articles of amalgamation and bylaws, as amended. See "*Description of Share Capital — Common Shares*."

DESCRIPTION OF PREFERRED SHARES

Preferred Shares

Authority of Board of Directors to Create Series and Fix Rights. Under our certificate of amalgamation, as amended, our board of directors can issue an unlimited amount of preferred shares from time to time in one or more series. Our board of directors is authorized to fix by resolution as to any series the designation and number of shares of the series, the voting rights, the dividend rights, the redemption price, the amount payable upon liquidation or dissolution, the conversion rights, and any other designations, preferences or special rights or restrictions as may be permitted by law. Unless the nature of a particular transaction and the rules of law applicable thereto require such approval, our board of directors has the authority to issue these shares of preferred shares without shareholder approval.

Outstanding Preferred Shares. Holders of our outstanding preferred shares are entitled to certain rights and subject to certain conditions as set forth in our articles of amalgamation and by-laws, as amended. See "*Description of Share Capital — Preferred Shares*."

DESCRIPTION OF DEBT SECURITIES

We may issue series of debt securities, which may include debt securities exchangeable for or convertible into common shares or preferred shares. When we offer to sell a particular series of debt securities, we will describe the specific terms of that series in a supplement to this prospectus. The following description of debt securities will apply to the debt securities offered by this prospectus unless we provide otherwise in the applicable prospectus supplement. The applicable prospectus supplement for a particular series of debt securities may specify different or additional terms.

The debt securities offered by this prospectus may be secured or unsecured, and may be senior debt securities, senior subordinated debt securities or subordinated debt securities. The debt securities offered by this prospectus may be issued under an indenture between us and the trustee under the indenture. The indenture may be qualified under, subject to, and governed by, the Trust Indenture Act of 1939, as amended. We have summarized selected portions of the indenture below. The summary is not complete. The form of the indenture has been filed as an exhibit to the registration statement on Form S-3, of which this prospectus is a part, and you should read the indenture for provisions that may be important to you.

The terms of each series of debt securities will be established by or pursuant to a resolution of our board of directors and detailed or determined in the manner provided in a board of directors' resolution, an officers' certificate and by a supplemental indenture. The particular terms of each series of debt securities will be described in a prospectus supplement relating to the series, including any pricing supplement.

We may issue any amount of debt securities under the indenture, which may be in one or more series with the same or different maturities, at par, at a premium or at a discount. We will set forth in a prospectus supplement, including any related pricing supplement, relating to any series of debt securities being offered, the initial offering price, the aggregate principal amount offered and the terms of the debt securities, including, among other things, the following:

- the title of the debt securities;
- the price or prices (expressed as a percentage of the aggregate principal amount) at which we will sell the debt securities;
- any limit on the aggregate principal amount of the debt securities;
- the date or dates on which we will repay the principal on the debt securities and the right, if any, to extend the maturity of the debt securities;
- the rate or rates (which may be fixed or variable) per annum or the method used to determine the rate or rates (including any commodity, commodity index, stock exchange index or financial index) at which the debt securities will bear interest, the date or dates from which interest will accrue, the date or dates on which interest will be payable and any regular record date for any interest payment date;
- the place or places where the principal of, premium, and interest on the debt securities will be payable, and where the debt securities of the series that are convertible or exchangeable may be surrendered for conversion or exchange;
- any obligation or right we have to redeem the debt securities pursuant to any sinking fund or analogous provisions or at the option of holders of the debt securities or at our option, and the terms and conditions upon which we are obligated to or may redeem the debt securities;
- any obligation we have to repurchase the debt securities at the option of the holders of debt securities, the dates on which and the price or prices at which we will repurchase the debt securities and other detailed terms and provisions of these repurchase obligations;
- the denominations in which the debt securities will be issued;
- whether the debt securities will be issued in the form of certificated debt securities or global debt securities;
- the portion of principal amount of the debt securities payable upon declaration of acceleration of the maturity date, if other than the principal amount;
- the currency of denomination of the debt securities;
- the designation of the currency, currencies or currency units in which payment of principal of, premium and interest on the debt securities will be made;

- if payments of principal of, premium or interest on, the debt securities will be made in one or more currencies or currency units other than that or those in which the debt securities are denominated, the manner in which the exchange rate with respect to these payments will be determined;

- the manner in which the amounts of payment of principal of, premium or interest on, the debt securities will be determined, if these amounts may be determined by reference to an index based on a currency or currencies other than that in which the debt securities are denominated or designated to be payable or by reference to a commodity, commodity index, stock exchange index or financial index;

- any provisions relating to any security provided for the debt securities;

- any addition to or change in the events of default described in the indenture with respect to the debt securities and any change in the acceleration provisions described in the indenture with respect to the debt securities;

- any addition to or change in the covenants described in the indenture with respect to the debt securities;

- whether the debt securities will be senior or subordinated and any applicable subordination provisions;

- a discussion of material income tax considerations applicable to the debt securities;

- any other terms of the debt securities, which may modify any provisions of the indenture as it applies to that series; and

- any depositaries, interest rate calculation agents, exchange rate calculation agents or other agents with respect to the debt securities.

We may issue debt securities that are exchangeable for and/or convertible into common shares or preferred shares. The terms, if any, on which the debt securities may be exchanged and/or converted will be set forth in the applicable prospectus supplement. Such terms may include provisions for exchange or conversion, which can be mandatory, at the option of the holder or at our option, and the manner in which the number of common shares, preferred shares or other securities to be received by the holders of debt securities would be calculated.

We may issue debt securities that provide for an amount less than their stated principal amount to be due and payable upon declaration of acceleration of their maturity pursuant to the terms of the indenture. We will provide you with information on the U.S. federal income tax considerations, and other special considerations applicable to any of these debt securities in the applicable prospectus supplement. If we denominate the purchase price of any of the debt securities in a foreign currency or currencies or a foreign currency unit or units, or if the principal of and any premium and interest on any series of debt securities is payable in a foreign currency or currencies or a foreign currency unit or units, we will provide you with information on the restrictions, elections, specific terms and other information with respect to that issue of debt securities and such foreign currency or currencies or foreign currency unit or units in the applicable prospectus supplement.

We may issue debt securities of a series in whole or in part in the form of one or more global securities that will be deposited with, or on behalf of, a depositary identified in the prospectus supplement. Global securities will be issued in registered form and in either temporary or definitive form. Unless and until it is exchanged in whole or in part for the individual debt securities, a global security may not be transferred except as a whole by the depositary for such global security to a nominee of such depositary or by a nominee of such depositary to such depositary or another nominee of such depositary or by such depositary or any such nominee to a successor of such depositary or a nominee of such successor. The specific terms of the depositary arrangement with respect to any debt securities of a series and the rights of and limitations upon owners of beneficial interests in a global security will be described in the applicable prospectus supplement.

The indenture and the debt securities will be governed by, and construed in accordance with, the internal laws of the State of New York, unless we otherwise specify in the applicable prospectus supplement.

DESCRIPTION OF WARRANTS

We may issue and offer warrants under the material terms and conditions described in this prospectus and any accompanying prospectus supplement. The accompanying prospectus supplement may add, update or change the terms and conditions of the warrants as described in this prospectus.

General

We may issue warrants to purchase our common shares, preferred shares or debt securities. Warrants may be issued independently or together with any securities and may be attached to or separate from those securities. The warrants will be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent, all of which will be described in the prospectus supplement relating to the warrants we are offering. The warrant agent will act solely as our agent in connection with the warrants and will not have any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

Equity Warrants

Each equity warrant issued by us will entitle its holder to purchase the equity securities designated at an exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Equity warrants may be issued separately or together with equity securities.

The equity warrants are to be issued under equity warrant agreements to be entered into between us and one or more banks or trust companies, as equity warrant agent, as will be set forth in the applicable prospectus supplement and this prospectus.

The particular terms of the equity warrants, the equity warrant agreements relating to the equity warrants and the equity warrant certificates representing the equity warrants will be described in the applicable prospectus supplement, including, as applicable:

- the title of the equity warrants;
- the initial offering price;
- the aggregate amount of equity warrants and the aggregate amount of equity securities purchasable upon exercise of the equity warrants;
- the currency or currency units in which the offering price, if any, and the exercise price are payable;
- if applicable, the designation and terms of the equity securities with which the equity warrants are issued, and the amount of equity warrants issued with each equity security;
- the date, if any, on and after which the equity warrants and the related equity security will be separately transferable;
- if applicable, the minimum or maximum amount of the equity warrants that may be exercised at any one time;
- the date on which the right to exercise the equity warrants will commence and the date on which the right will expire;
- if applicable, a discussion of tax, accounting or other considerations applicable to the equity warrants;
- anti-dilution provisions of the equity warrants, if any;
- redemption or call provisions, if any, applicable to the equity warrants; and
- any additional terms of the equity warrants, including terms, procedures and limitations relating to the exchange and exercise of the equity warrants.

Holders of equity warrants will not be entitled, solely by virtue of being holders, to vote, to consent, to receive dividends, to receive notice as shareholders with respect to any meeting of shareholders for the election of directors or any other matters, or to exercise any rights whatsoever as a holder of the equity securities purchasable upon exercise of the equity warrants.

Debt Warrants

Each debt warrant issued by us will entitle its holder to purchase the debt securities designated at an exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Debt warrants may be issued separately or together with debt securities.

The debt warrants are to be issued under debt warrant agreements to be entered into between us, and one or more banks or trust companies, as debt warrant agent, as will be set forth in the applicable prospectus supplement and this prospectus.

The particular terms of each issue of debt warrants, the debt warrant agreement relating to the debt warrants and the debt warrant certificates representing debt warrants will be described in the applicable prospectus supplement, including, as applicable:

- the title of the debt warrants;
- the initial offering price;
- the title, aggregate principal amount and terms of the debt securities purchasable upon exercise of the debt warrants;
- the currency or currency units in which the offering price, if any, and the exercise price are payable;
- the title and terms of any related debt securities with which the debt warrants are issued and the amount of the debt warrants issued with each debt security;
- the date, if any, on and after which the debt warrants and the related debt securities will be separately transferable;
- the principal amount of debt securities purchasable upon exercise of each debt warrant and the price at which that principal amount of debt securities may be purchased upon exercise of each debt warrant;
- if applicable, the minimum or maximum amount of warrants that may be exercised at any one time;
- the date on which the right to exercise the debt warrants will commence and the date on which the right will expire;
- if applicable, a discussion of United States federal income tax, accounting or other considerations applicable to the debt warrants;
- whether the debt warrants represented by the debt warrant certificates will be issued in registered or bearer form, and, if registered, where they may be transferred and registered;
- anti-dilution provisions of the debt warrants, if any;
- redemption or call provisions, if any, applicable to the debt warrants; and
- any additional terms of the debt warrants, including terms, procedures and limitations relating to the exchange and exercise of the debt warrants.

Debt warrant certificates will be exchangeable for new debt warrant certificates of different denominations and, if in registered form, may be presented for registration of transfer, and debt warrants may be exercised at the corporate trust office of the debt warrant agent or any other office indicated in the related prospectus supplement. Before the exercise of debt warrants, holders of debt warrants will not be entitled to payments of principal of, premium, if any, or interest, if any, on the debt securities purchasable upon exercise of the debt warrants, or to enforce any of the covenants in the indentures governing such debt securities.

DESCRIPTION OF UNITS

We may issue units comprised of one or more of the other securities described in this prospectus in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

The applicable prospectus supplement will describe:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any unit agreement under which the units will be issued;
- any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units; and
- whether the units will be issued in fully registered or global form.

The applicable prospectus supplement will describe the terms of any units. The preceding description and any description of units in the applicable prospectus supplement does not purport to be complete and is subject to and is qualified in its entirety by reference to the unit agreement and, if applicable, collateral arrangements and depositary arrangements relating to such units. For more information on how you can obtain copies of the applicable unit agreement if we offer units, see "*Where You Can Find More Information*" and "*Incorporation of Certain Information by Reference*." We urge you to read the applicable unit agreement and any applicable prospectus supplement in their entirety.

PLAN OF DISTRIBUTION

We may sell or distribute the securities offered by this prospectus, from time to time, in one or more offerings, as follows:

- through agents;
- to dealers or underwriters for resale;
- directly to purchasers;
- in "at-the-market offerings," within the meaning of Rule 415(a)(4) of the Securities Act, to or through a market maker or into an existing trading market, on an exchange or otherwise; or
- through a combination of any of these methods of sale.

The prospectus supplement with respect to the securities may state or supplement the terms of the offering of the securities.

In addition, we may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders. In some cases, we or dealers acting for us or on our behalf may also repurchase securities and reoffer them to the public by one or more of the methods described above. This prospectus may be used in connection with any offering of our securities through any of these methods or other methods described in the applicable prospectus supplement.

Our securities distributed by any of these methods may be sold to the public, in one or more transactions, either:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to prevailing market prices; or
- at negotiated prices.

Sale through Underwriters or Dealers

If underwriters are used in the sale, the underwriters will acquire the securities for their own account, including through underwriting, purchase, security lending or repurchase agreements with us. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions. Underwriters may sell the securities in order to facilitate transactions in any of our other securities (described in this prospectus or otherwise), including other public or private transactions and short sales. Underwriters may offer the securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless otherwise indicated in the applicable prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions, and the underwriters will be obligated to purchase all the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallowed or paid to dealers.

If dealers are used in the sale of securities offered through this prospectus, we will sell the securities to them as principals. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale. The applicable prospectus supplement will include the names of the dealers and the terms of the transaction.

Direct Sales and Sales through Agents

We may sell the securities offered through this prospectus directly. In this case, no underwriters or agents would be involved. Such securities may also be sold through agents designated from time to time. The applicable prospectus supplement will name any agent involved in the offer or sale of the offered securities and will describe any commissions payable to the agent. Unless otherwise indicated in the applicable prospectus supplement, any agent will agree to use its commonly reasonable efforts to solicit purchases for the period of its appointment. We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those shares. The terms of any such sales will be described in the applicable prospectus supplement.

Offered securities may be sold at a fixed price or prices, which may be changed, or at varying prices determined at the time of sale. Any agent involved in the offer or sale of the offered securities in respect of which this prospectus is delivered will be named, and any commissions payable by us to such agent will be set forth, in the supplement relating to that offering. Unless otherwise specified in connection with a particular offering of securities, any such agent will be acting on a best efforts basis for the period of its appointment.

As one of the means of direct issuance of offered securities, we may utilize the services of an entity through which it may conduct an electronic “dutch auction” or similar offering of the offered securities among potential purchasers who are eligible to participate in the auction or offering of such offered securities, if so described in the applicable prospectus supplement.

Delayed Delivery Contracts

If the applicable prospectus supplement indicates, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The applicable prospectus supplement will describe the commission payable for solicitation of those contracts.

Market Making, Stabilization and Other Transactions

Unless the applicable prospectus supplement states otherwise, each series of offered securities will be a new issue and will have no established trading market. We may elect to list any series of offered securities on an exchange. Any underwriters that we use in the sale of offered securities may make a market in such securities, but may discontinue such market making at any time without notice. Therefore, we cannot assure you that the securities will have a liquid trading market.

Any underwriter may also engage in stabilizing transactions, syndicate covering transactions and penalty bids in accordance with Rule 104 under the Exchange Act. Stabilizing transactions involve bids to purchase the underlying security in the open market for the purpose of pegging, fixing or maintaining the price of the securities. Syndicate covering transactions involve purchases of the securities in the open market after the distribution has been completed in order to cover syndicate short positions.

Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when the securities originally sold by the syndicate member are purchased in a syndicate covering transaction to cover syndicate short positions. Stabilizing transactions, syndicate covering transactions and penalty bids may cause the price of the securities to be higher than it would be in the absence of the transactions. The underwriters may, if they commence these transactions, discontinue them at any time.

Derivative Transactions and Hedging

We and the underwriters may engage in derivative transactions involving the securities. These derivatives may consist of short sale transactions and other hedging activities. The underwriters may acquire a long or short position in the securities, hold or resell securities acquired and purchase options or futures on the securities and other derivative instruments with returns linked to or related to changes in the price of the securities. In order to facilitate these derivative transactions, we may enter into security lending or repurchase agreements with the underwriters. The underwriters may affect the derivative transactions through sales of the securities to the public, including short sales, or by lending the securities in order to facilitate short sale transactions by others. The underwriters may also use the securities purchased or borrowed from us or others (or, in the case of derivatives, securities received from us in settlement of those derivatives) to directly or indirectly settle sales of the securities or close out any related open borrowings of the securities.

Loans of Securities

We may loan or pledge securities to a financial institution or other third parties that in turn may sell the securities using this prospectus and an applicable prospectus supplement.

General Information

Agents, underwriters, and dealers may be entitled, under agreements entered into with us, to indemnification by us, against certain liabilities, including liabilities under the Securities Act. Our agents, underwriters, and dealers, or their affiliates, may be customers of, engage in transactions with or perform services for us or our affiliates, in the ordinary course of business for which they may receive customary compensation.

Conflicts of Interest

Underwriters, dealers and agents may be entitled, under agreements with us, to indemnification by us relating to material misstatements and omissions in our offering documents. Underwriters, dealers and agents may engage in transactions with, or perform services for, us in their ordinary course of business.

Except for securities issued upon a reopening of a previous series, each series of offered securities will be a new issue of securities and will have no established trading market. Any underwriters to whom offered securities are sold for public offering and sale may make a market in such offered securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. The offered securities may or may not be listed on a securities exchange. No assurance can be given that there will be a market for the offered securities.

LEGAL MATTERS

The validity of the debt securities, warrants and units offered by this prospectus, to the extent governed by the laws of the State of New York, will be passed upon for us by Pryor Cashman LLP, our special United States counsel. The validity of the common and preferred shares, the debt securities, the warrants and the units to the extent governed by Ontario law, will be passed upon for us by Meretsky Law Firm, our special legal counsel as to Ontario, Canada law. If legal matters in connection with offerings made pursuant to this prospectus are passed upon by counsel to underwriters, dealers or agents, such counsel will be named in the applicable prospectus supplement relating to any such offering.

EXPERTS

The consolidated financial statements of our company incorporated into this prospectus by reference to our Annual Report on Form 10-K for the year ended December 31, 2023 have been so incorporated in reliance on the report (which contains an explanatory paragraph regarding our ability to continue as a going concern) of MaloneBailey, LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The office of MaloneBailey, LLP is located at 10370 Richmond Ave., Suite 600, Houston, TX 77042.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the aggregate expenses to be paid by us in connection with this offering. All amounts shown are estimates, except for the SEC registration fee.

SEC Registration Fee	$	11,020
Legal Fees and Expenses		25,000
FINRA filing fees		15,500
Accounting Fees and Expenses		15,000
Printing Expenses		5,000
Miscellaneous		5,000
Total	$	76,520

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Under the *Business Corporations Act* (Ontario), Sphere 3D Corp. (the "Registrant") may indemnify a director or officer of the Registrant, a former director or officer of the Registrant or another individual who acts or acted at the Registrant's request as a director or officer, or an individual acting in a similar capacity, of another entity (each of the foregoing, an "Individual") against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the Individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the Individual is involved because of that association with the Registrant or other entity, on the condition that:

(i) the Individual acted honestly and in good faith with a view to the best interests of the Registrant or, as the case may be, to the best interests of the other entity for which the Individual acted as a director or officer or in a similar capacity at the Registrant's request; and

(ii) if the matter is a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Registrant shall not indemnify the Individual unless the Individual had reasonable grounds for believing that his or her conduct was lawful.

The Registrant may advance money to a director, officer or other Individual in relation to the foregoing matters, but the Individual shall repay the money of the Individual does not fulfill the conditions set out in (i) and (ii) above.

Further, the Registrant may, with the approval of a court, indemnify an Individual in respect of an action by or on behalf of the Registrant or other entity, or advance moneys as set out above, to obtain a judgment in its favor, to which the Individual is made a party because of the Individual's association with the Registrant or other entity as a director or officer, a former director or officer, an Individual who acts or acted at the Registrant's request as a director or officer, or an Individual acting in a similar capacity, against all costs, charges and expenses reasonably incurred by the Individual in connection with such action, if the Individual fulfils the conditions in (i) and (ii) above. Such Individuals are entitled to indemnification from the Registrant in respect of all costs, charges and expenses reasonably incurred by the Individual in connection with the defense of any civil, criminal administrative, investigative or other proceeding to which the Individual is subject because of the Individual's association with the Registrant or other entity as described above, provided the Individual is seeking an indemnity: (A) was not judged by a court or other competent authority to have committed any fault or omitted to do anything that the Individual ought to have done; and (B) fulfils the conditions in (i) and (ii) above.

The by-laws of the Registrant provide that, subject to the *Business Corporations Act* (Ontario), the Registrant shall indemnify an officer or director of the Registrant, former officer or director of the Registrant and every individual who acts or acted at the Registrant's request as a director or officer or an individual in a similar capacity of another entity, from and against all costs, charges and expense, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by that individual in respect or any civil, criminal, administrative, investigative or other proceeding to which that individual is involved because of their association with the Registrant or other entity if such individual (i) acted honestly and in good faith with a view to the best interests of the Registrant or, as the case may be, to the best interests of the other entity for which the individual acted as a director or officer or as an individual in a similar capacity at the Registrant's request and (ii) in the case or a criminal or administrative action or proceeding that is enforced by monetary penalty, the individual had reasonable grounds for believing that the conduct was lawful.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling the Registrant pursuant to the foregoing, the Registrant has been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

ITEM 16. EXHIBITS

The exhibits to this registration statement are listed on the Index to Exhibits to this registration statement, which Index to Exhibits is hereby incorporated by reference.

ITEM 17. UNDERTAKINGS

(A) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement;

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended, or the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or any decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the registration statement is on Form S-3 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended, or Exchange Act, that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser:

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities:

(A) The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(B) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(C) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(D) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of section 310 of the Trust Indenture Act of 1939, as amended, or the Act, in accordance with the rules and regulations prescribed by the Commission under section 305(b)(2) of the Act.

INDEX TO EXHIBITS

Exhibit Number	Description of Document
1.1*	Form of Underwriting Agreement
4.1	Registrant's Specimen Certificate for Common Shares (incorporated herein by reference to Exhibit 4.1 to our registration statement on Form F-3 (file No. 333-210735), filed with the Securities and Exchange Commission on April 13, 2016)
4.2*	Specimen Preferred Share Certificate and Form of Certificate of Designations of Preferred Shares
4.3*	Form of Indenture
4.4*	Form of Debt Security
4.5*	Form of Warrant
4.6*	Form of Warrant Agreement
4.7*	Form of Unit Agreement (including form of Unit Certificate)
5.1+	Opinion of Meretsky Law Firm regarding the validity of the securities
5.2+	Opinion of Pryor Cashman LLP regarding the validity of the securities
10.1#	Master Agreement between Sphere 3D Corp. and Compute North LLC (as assigned to GC Data Center Granbury, LLC) dated June 3, 2022
10.2#	Hosting Agreement between Sphere 3D Corp. and Lancium, FS 25, LLC dated February 8, 2023
10.3#	Master Hosting Services Agreement between Sphere 3D Corp. and Rebel Mining Company, LLC dated April 4, 2023
10.4#	Hosting Agreement between Sphere 3D Corp. and Joshi Petroleum, LLC dated October 18, 2023.
23.1	Consent of MaloneBailey, LLP, Independent Registered Public Accounting Firm
23.2+	Consent of Meretsky Law Firm (included in Exhibit 5.1)
23.3+	Consent of Pryor Cashman LLP (included in Exhibit 5.2)
24.1+	Powers of Attorney (included as part of signature page)
25.1*	Form T-1 Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, as amended, of the Trustee under the Indenture
107+	Filing Fee Table

* To be filed as an exhibit to a post-effective amendment to this registration statement or as an exhibit to a report filed under the Exchange Act and incorporated herein by reference.

\+ Previously filed.

\# Certain confidential portions of this Exhibit were omitted pursuant to Item 601(b)(10)(iv) by means of marking such portions with brackets ("[***]"); the identified confidential portions (i) are not material and (ii) are customarily and actually treated as private or confidential

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Toronto, Ontario, Canada, on July 24, 2024.

Sphere 3D Corp.

By: /s/ Patricia Trompeter
Name: Patricia Trompeter
Title: Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated below on July 24, 2024.

Signature	**Title**
/s/ Patricia Trompeter Name: Patricia Trompeter	Chief Executive Officer and Director (Principal Executive Officer)
/s/ Kurt L. Kalbfleisch Name: Kurt L. Kalbfleisch	Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)
* Name: David Danziger	Director
* Name: Timothy Hanley	Director
* Name: Susan Harnett	Director
* Name: Vivekanand Mahadevan	Director
* Name: Duncan McEwan	Director

*By: /s/ Patricia Trompeter
Patricia Trompeter
Attorney-in-Fact

SIGNATURE OF AUTHORIZED UNITED STATES REPRESENTATIVE

Pursuant to the Securities Act of 1933, as amended, the undersigned, the duly authorized representative in the United States of Sphere 3D Corp., has signed this registration statement or amendment thereto in the United States on July 24, 2024.

By: /s/ Kurt L. Kalbfleisch
Name: Kurt L. Kalbfleisch
Title: Chief Financial Officer

Exhibit 10.1

Certain confidential information contained in this document, marked by "[***]", has been omitted because it is both (i) not material and (ii) the type that the registrant treats as private or confidential.

MASTER AGREEMENT

This Master Agreement (the "**Agreement**"), dated 6/3/2022, is between Compute North LLC ("**Compute North**") and Sphere 3D ("**Customer**"). In consideration of the promises set forth below, the parties agree as follows:

1. **Services**. Compute North shall provide, and Customer shall pay for, the colocation, managed and other services (the "Services") for Customer's cryptocurrency mining hardware (the "Mining Equipment," and collectively with any Capital Equipment and Acquired Hardware, the "Equipment") identified on the order form attached hereto and incorporated herein as Exhibit A, as may be updated or supplemented in writing and duly signed by Customer and Compute North from time to time (the "Order Form"). Compute North shall provide the Services consistent with, and as more fully described in, its customer handbook (the "Customer Handbook"), available at *www.computenorth.com/handbook-sla.pdf* and incorporated herein, as Compute North may update from time to time.

2. **Colocation Services**.

2.1. Colocation Facility. Compute North will provide Services for Mining Equipment at a facility provided with electricity and network connectivity sited at the location specified the Order Form (the "Facility") during the Equipment Term specified on the Order Form in accordance with the Customer Handbook.

2.2. Acceptable Use Policy. Customer's receipt of Services and its use of Mining Equipment pursuant to this Agreement is subject to Customer's compliance with Compute North's then-current Acceptable Use Policy, available at *www.computenorth.com/acceptable-use-policy* and incorporated herein, as Compute North may update from time to time.

2.3. Customer Portal. Compute North will provide Customer with access to its customer portal. Customer's access to and use of the customer portal is subject to, and Customer agrees to be bound by, Compute North's Terms of Use, available at *www.computenorth.com/terms-of-use/* and incorporated herein, as Compute North may update from time to time. All written notices required by Customer under this Agreement shall be submitted using the customer portal, and all written notices by Compute North may be made using the customer portal or by email to the address set forth on Customer's most recent Order Form.

2.4. Transfer of Mining Equipment. Customer shall promptly notify Compute North if it transfers legal title or grants to any third-party rights in or to any Equipment to a third party. All such transfers shall be subject to and shall preserve Compute North's security interest under Section 6. In the event of a transfer, Customer shall remain obligated to pay Compute North the Monthly Service Fees for the transferred Mining Equipment for the remainder of the Equipment Term applicable to such Mining Equipment unless and until such Mining Equipment is placed into service under, and is subject to, a collocation agreement between the acquiring third party and Compute North, which shall require Compute North's approval (including satisfaction of Compute North's credit and know-your-customer requirements).

2.5. Transfer of Services. Customer may not sublicense, assign, delegate or otherwise transfer its receipt of Services under this Agreement to a third party without Compute North's written consent in its sole discretion. Compute North shall not under any circumstance be deemed to be providing any Services to any third party for or on behalf of Customer.

3. Hardware Acquisition. Compute North agrees to acquire and sell to Customer, and Customer agrees to buy from Compute North, such cryptocurrency mining hardware, if any, elected on the Order Form ("Acquired Hardware"). The initial deposit for the Acquired Hardware set forth on the Order Form (the "Hardware Deposit") shall be due and payable as of the date on which Compute North and Customer have both executed the Order Form, with the remaining balance owed for the Acquired Hardware due and payable by the earlier of (a) the date on which Compute North notifies Customer that the Acquired Hardware has been shipped or (b) as stated on the Order Form. Legal title to the Acquired Equipment only shall transfer to Customer when the fee for the Acquired Hardware has been paid to Compute North in full. The Acquired Hardware shall be Mining Equipment subject to this Agreement upon its delivery to the Facility. Customer solely shall be responsible for determining whether the Acquired Hardware is fit and suitable for its particular purposes. Customer acknowledges that no warranty, express or implied, is provided by Compute North for any Acquired Hardware and agrees that the only warranties associated therewith are the warranties, if any, offered or made by the manufacturers thereof.

4. Term and Termination.

4.1. Term of Agreement. This Agreement shall be effective as of the date on which it has been executed by Compute North and Customer (the "Effective Date") and, unless otherwise terminated, shall continue until all Equipment Terms for all Equipment under each Order Form have expired or terminated.

4.2. Equipment Term. The Equipment Term set forth on an Order Form for each piece of Equipment shall commence as of the date Compute North notifies Customer in writing that the Mining Equipment has been received and turned on by Compute North. Unless an Order Form provides otherwise, the Equipment Term shall renew for successive one (1) month periods unless one party notifies the other in writing at least thirty (30) days prior to the conclusion of the then-current Equipment Term.

4.3. Mining Equipment Return. Upon Customer's written request, and provided that Customer has paid all amounts then due and owing under this Agreement, Compute North shall decommission and return the corresponding Mining Equipment to Customer upon the expiration or termination of the applicable Equipment Term as provided in Section 8.3.

4.4. Event of Default. An event of default (each, a "Default") shall exist if Customer: (a) fails to make any payment(s) due pursuant to this Agreement; (b) violates, or fails to perform or fulfill any covenant or provision of this Agreement, and such matter is not cured within ten (10) days after written notice from Compute North; or (c) enters into bankruptcy, dissolution, financial failure or insolvency.

4.5. Effect of Default. In the event of a Default by Customer, Compute North may terminate this Agreement or any Order Form on written notice to Customer and Customer shall pay immediately to Compute North (i) all amounts then owed under this Agreement (or the applicable Order Form(s)) plus, (ii) as liquidated damages, the Fees that would have been paid for the remainder of the applicable Equipment Term(s) if the Agreement or Order Form(s), as applicable, were not terminated. The Parties agree that the damages sustained by Compute North in connection with the termination of this Agreement may be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive and otherwise inconvenient, and therefor agree that in the event of such termination, the liquidated damages are a reasonable approximation of the harm or loss, and not a penalty. If Customer fails to make any payments due under this Agreement (including, as applicable, the amounts specified in clauses (i) and (ii) above plus interest thereon, the "Default Amount"), in addition to any other rights and remedies it may have, Compute North shall have the right to (a) sell or retain possession of, (b) reconfigure for Compute North's use, or (c) remove and store at Customer's expense, all or any portion of the Mining Equipment without any cost, obligation or liability of Compute North to Customer; provided, that the net proceeds received by Compute North in exercise of its remedies under clauses (a) and (b) may not exceed the aggregate Default Amount for this Agreement or Order Form(s), as applicable.

5. Fees and Payment.

5.1. Initial Fees. The one-time fee for setup, installation, and configuration of Mining Equipment (the "Initial Setup Fee") and the initial deposit specified in the applicable Order Form (the "Initial Deposit") and any Hardware Deposit shall be due and payable as of the date on which Compute North and Customer have both executed an Order Form. The Initial Setup Fee is non-refundable and non-transferrable under any circumstance. The Initial Deposit and Hardware Deposit are non-transferrable under any circumstance and are not refundable except as expressly set forth herein and only to the extent that all of Customer's obligations under this Agreement have been fully satisfied.

5.2. Monthly Fees. Customer shall pay to Compute North the Monthly Service Fees and Monthly Package Fees (collectively, the "Fees") as set forth on the Order Form. Compute North reserves the right to adjust fixed-rate Monthly Service Fees (but not performance-based Monthly Service Fees) based on the actual performance and efficiency of the Equipment, as reasonably determined by Compute North. Late payments of any Fees shall bear interest at the lesser of 1.5% per month or the maximum amount allowed under applicable law.

5.3. Taxes. All amounts payable by Customer under this Agreement are exclusive of, and Customer shall solely be responsible for paying, all taxes, duties, and fees, including federal, state, and local taxes on manufacture, sales, gross income, receipts, occupation, and use, not based on Compute North's income that arise out of this Agreement. If any deduction, withholding, or payment for taxes is required in any jurisdiction on amounts payable to Compute North, Customer shall indemnify and make Compute North whole for the full amount thereof.

5.4. Payment Method. Unless otherwise agreed in writing, all payments due and owing under this Agreement shall be made through automated clearing house ("ACH") transfers by Compute North from an account established by Customer at a United States bank designated by Customer (the "Payment Account"). Customer agrees to execute and deliver to Compute North or its ACH payment agent an authorization agreement authorizing Compute North to initiate ACH transfers from the Payment Account to Compute North in the amounts required or permitted under this Agreement. Customer shall be responsible for all costs, expenses or other fees and charges incurred by Compute North as a result of any failed or returned ACH transfers, whether resulting from insufficient sums being available in the Payment Account or otherwise.

6. Security Interest. Customer hereby grants and assigns to Compute North a continuing first-position security interest in, and lien on, the Equipment (including Equipment acquired after the Effective Date), and all proceeds resulting therefrom or the liquidation thereof, in each case wherever located and whether now existing or hereafter coming into existence, as collateral security for Customer's performance of its obligations under this Agreement when due. Compute North may, as it deems appropriate, file UCC-1 financing statements to evidence this security interest and Customer agrees to cooperate fully with Compute North to obtain and perfect this security interest as may be reasonably required.

7. Network and Access.

7.1. Network. Compute North will provide a minimum of [***] of local network connectivity for all Mining Equipment on a single Ethernet segment. Customer may request VPN access its Mining Equipment. Customer is solely responsible for preventing unauthorized network access to the Mining Equipment. Customer authorizes Compute North to monitor Customer's network usage and traffic and to access, collect and use data relating to the Mining Equipment and Customer's use thereof in the course of providing Services.

7.2. Access. Only persons specifically authorized by Compute North in writing may access the Facility. Compute North may deny or suspend Customer's access to the Equipment based on Compute North's then-current Security Policies and Procedures. Without limiting the foregoing: all access into the Facility must be supervised by a Compute North representative; Customer shall provide two (2) day' written notice to Compute North prior to any maintenance or repair of the Equipment; Customer shall perform Equipment maintenance and repairs during normal business hours (Monday-Friday, 7 am to 6 pm Central Time); and, Customer may request immediate or after-hour access to the Facility to perform emergency maintenance. Customer shall be solely responsible for any damage or loss caused by anyone acting for or on its behalf while at the Facility.

7.3. Third-Party Management. Customer shall notify Compute North if it engages a third party to provide services on its behalf with respect to the Equipment. Customer shall be fully responsible for all acts or omissions by any third-party service provider acting for or on its behalf.

7.4. Hazardous Conditions. If any hazardous conditions arise on, from, or affecting the Facility, whether caused by Customer or a third party, Compute North may suspend Services under this Agreement without liability until the hazardous conditions have been resolved.

7.5. Demand Response, Load Resource and Curtailment Programs. Customer acknowledges and understands that Compute North participates in various demand response/, load resource, curtailment, or other, similar programs ("LRP Programs") at its facilities. Customer understands and agrees that Compute North's participation in LRP Programs provides the applicable electric grid operator and Compute North, in response to requests from the applicable grid operator, with the capability to shut off the power serving Compute North customers in response to certain electric system or energy market situations. Customer agrees that the Fees reflect Compute North's participation in the LRP Programs and that Compute North shall have no liability to Customer for any actions or omissions due to or resulting from its participation in the LRP Programs.

8. Removals and Relocation of Mining Equipment.

8.1. Relocation. Compute North may relocate Mining Equipment within the Facility or to another Compute North facility upon twenty (20) days' prior written notice to Customer at Compute North's expense.

8.2. Emergency. In the event of an emergency, Compute North may rearrange, remove, or relocate Mining Equipment at Customer's expenses and without any liability to Compute North. Notwithstanding the foregoing, in the case of emergency, Compute North shall provide Customer, to the extent practicable, reasonable notice prior to rearranging, removing, or relocating Mining Equipment.

8.3. Mining Equipment Return. Provided that Customer has paid all amounts then due and owing under this Agreement, including costs due with respect to this Section 8.3, Compute North shall decommission and make the Mining Equipment available to Customer for pickup at, or shipment from, the Facility within thirty (30) business days of Customer's written request. Customer shall be responsible for all deinstallation, packing, storage, transportation, delivery, and other costs associated with removing and returning its Mining Equipment, including as set forth in the Customer Handbook. Compute North will notify Customer when its Mining Equipment is ready for pickup, and Customer shall arrange for pickup and removal of the Mining Equipment at its sole risk and expense. If Customer does not remove the Mining Equipment as provided herein, Compute North may charge Customer for storage from the date of notice that the Mining Equipment is ready for pickup. Any Mining Equipment that is not picked up and removed within thirty (30) days of such notice shall be deemed abandoned and legal title to such Mining Equipment shall transfer to Compute North.

9. Customer Responsibilities.

9.1. Licenses and Permits. Customer is responsible for obtaining any licenses, permits, consents, and approvals from any federal, state, or local government that may be necessary to install, possess, own, or operate the Equipment. Unless specifically set forth on the applicable Order Form, Customer is solely responsible for all requirements for renewable energy certificates, allowances, or other carbon offsets required by or otherwise necessary for Customer's compliance with any federal, state, local or other applicable Law. As used herein, "Law" means any law, statute, rule, protocol, procedure, exchange rule, tariff, decision, requirement, writ, order, decree or judgment adopted by or any interpretation thereof by any court, government agency, regulatory body, instrumentality or other entity, including an electric utility, retail electric provider, regional transmission organization or independent system operator.

9.2. Insurance. Customer acknowledges that Compute North is not an insurer and Equipment is not covered by any insurance policy held by Compute North. Customer is solely responsible for obtaining insurance coverage for the Equipment. Customer shall have and maintain throughout the term of this Agreement commercial general liability insurance for both bodily injury and property damage.

9.3. Equipment in Good Working Order. Customer shall be responsible for delivering all Equipment that is not Acquired Hardware to the Facility and such Equipment shall be in good working order and suitable for use in the Facility. Customer is responsible for all risk of loss or damage to the prior to Compute North receiving the Equipment at the Facility, regardless of whether such Equipment is delivered by the Customer or Acquired Hardware. Customer shall be responsible for all costs associated with the troubleshooting and repair of Equipment received in non-working order, including parts and labor at Compute North's then-current rates. Compute North is not responsible in any way for installation delays or losses as a result of Equipment not in good working order upon arrival at Facility.

9.4. Modification or Overclocking of Mining Equipment. Customer shall notify and obtain prior written approval from Compute North before any material modifications, alternations, firmware adjustments, over-clocking or other changes are made to Mining Equipment ("Modified Equipment") that are intended to or might cause the Equipment's performance to deviate from the standard or factory specifications. If Equipment subject to fixed-rate Monthly Service Fees has been materially altered or modified without Compute North's prior written approval ("Non-Compliant Equipment"), it shall be an event of Default and Customer shall owe an additional Non-Compliant Equipment fee equal to [***] of the monthly Fees for such Equipment for each month Equipment was non-compliant.

10. Representations, Warranties, and Disclaimer.

10.1. Mutual. Customer and Computer North each represents and warrants that: it is properly constituted and organized; it is duly authorized to enter into and perform this Agreement; and, its execution, delivery, and performance of this Agreement will not violate the terms of any other agreement to which it is a party or obligation by which it is bound.

10.2. By Customer. Customer represents and warrants that it owns and has good title to, and covenants that it shall continue to own and have good title to, the Equipment free and clear of any mortgage, pledge, lien, charge, security interest, claim or other encumbrance, other than the security interest granted hereunder in favor of Compute North. Customer further represents and warrants that neither it nor any of its subsidiaries nor, to Customer's knowledge, any director, officer, agent, employee, affiliate, or person acting on behalf of Customer or its subsidiaries: has violated or will violate any applicable anti-bribery or anti-corruption Law, including the U.S. Foreign Corrupt Practices Act; has violated or will violate any applicable money laundering Laws; or is or will become subject to any U.S. sanctions administered by the Office of Foreign Asset Control of the U.S. Treasury Department.

10.3. By Compute North. Compute North represents and warrants that it will provide the Services at the Facility in a professional and workmanlike manner consistent with the terms and conditions of this Agreement. Except as expressly set forth herein, COMPUTE NORTH MAKES NO WARRANTIES OR GUARANTEES RELATED TO THE AVAILABILITY OF SERVICES OR THE OPERATING TEMPERATURE OF THE FACILITY. THE SERVICES, FACILITY AND ANY ACQUIRED HARDWARE AND CAPITAL EQUIPMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMPUTE NORTH DOES NOT PROVIDE MECHANICAL COOLING OR BACKUP POWER AND THE FACILITY IS SUBJECT TO SWINGS IN LOCAL TEMPERATURE, WIND, HUMIDITY AND OTHER SUCH CONDITIONS. COMPUTE NORTH MAKES NO WARRANTY, AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, WITH RESPECT TO GOODS AND SERVICES SUBJECT TO THIS AGREEMENT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF NONINFRINGEMENT AND (D) WARRANTY AGAINST INTERFERENCE. COMPUTE NORTH DOES NOT WARRANT THAT (A) THE SERVICE WILL BE FREE FROM INTERRUPTION OR ERROR; (B) THE SERVICE, CAPITAL EQUIPMENT OR ACQUIRED HARDWARE WILL MEET CUSTOMER'S REQUIREMENTS OTHER THAN AS EXPRESSLY SET FORTH HEREIN; OR (C) THE SERVICE, CAPITAL EQUIPMENT OR ACQUIRED HARDWARE WILL PROVIDE ANY FUNCTION NOT EXPRESSLY DESIGNATED AND SET FORTH HEREIN.

11. Limitation of Liability.

11.1. Customer understands and acknowledges that, in certain situations, Services and Equipment functionality may be unavailable due to factors outside of Compute North's control, including force majeure, weather, network failures, pool operator failures, denial of service attacks, network and power grid outages, cyberattacks, including hacking or malicious attacks on networks or exchanges, or Acts of God ("External Factors"). Customer further acknowledges that cryptocurrency price movements, difficulty, and legal and regulatory risks ("External Risks") could have a material adverse impact on the value of cryptocurrencies, cryptocurrency mining, the Equipment, and the Services. Customer assumes responsibility for all such External Factors and External Risks, and Compute North hereby disclaims all liability for any losses that may arise as a result thereof.

11.2. COMPUTE NORTH SHALL HAVE NO OBLIGATION, RESPONSIBILITY, OR LIABILITY FOR ANY OF THE FOLLOWING: (A) ANY INTERRUPTION OR DEFECTS IN THE EQUIPMENT FUNCTIONALITY CAUSED BY FACTORS OUTSIDE OF COMPUTE NORTH'S REASONABLE CONTROL; (B) ANY LOSS, DELETION, OR CORRUPTION OF CUSTOMER'S DATA OR FILES; (C) ANY LOST REVENUE OR PROFITS TO CUSTOMER DURING NETWORK OR POWER OUTAGES OR CURTAILMENT, EQUIPMENT FAILURES, OR OTHER FACTORS OUTSIDE OF COMPUTE NORTH'S DIRECT CONTROL; (D) DAMAGES RESULTING FROM ANY ACTIONS OR INACTIONS OF CUSTOMER OR ANY THIRD PARTY NOT UNDER COMPUTE NORTH'S CONTROL; OR (E) DAMAGES RESULTING FROM EQUIPMENT OR ANY THIRD-PARTY EQUIPMENT.

11.3. IN NO EVENT SHALL COMPUTE NORTH BE LIABLE TO CUSTOMER OR ANY OTHER PERSON, FIRM, OR ENTITY IN ANY RESPECT, INCLUDING, WITHOUT LIMITATION, FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF BUSINESS, OR COST OF COVER OF ANY KIND OR NATURE WHATSOEVER, ARISING OUT OF OR RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY THEREOF. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, COMPUTE NORTH'S TOTAL CUMULATIVE LIABILITY UNDER OR RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY, OR OTHERWISE (INCLUDING ATTORNEYS' FEES), SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE AMOUNTS ACTUALLY RECEIVED BY COMPUTE NORTH FROM CUSTOMER FOR THE SERVICE MONTH DURING WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED.

11.4. Remedy. Customer's sole remedy for Compute North's non-performance of its obligations under this Agreement shall be a refund of any fees paid to Compute North for the service month during which the nonperformance occurred. Any action against Compute North in connection with this Agreement must be commenced within one (1) year after the cause of the action has accrued.

11.5. Insurance loss. Customer agrees to look exclusively to Customer's insurer to recover for injury or damage in the event of any covered loss or injury, and releases and waives all right of recovery against Compute North for any covered loss or injury.

12. Indemnification. Customer shall indemnify, hold harmless and defend Compute North, the Facility Owner, and their respective affiliates, subsidiaries, employees, agents, directors, owners, executives, representatives, Lenders and subcontractors from all third-party liability, claim, judgment, loss, cost, expense or damage, including attorneys' fees and legal expenses, arising out of or relating to the Equipment or Customer's use thereof, or any injuries or damages sustained by any person or property due to any direct or indirect act, omission, negligence or misconduct of Customer, its agents, representatives, employees, contractors and their employees and subcontractors and their employees, including due to a breach of this Agreement by Customer. Customer shall not enter into any settlement or resolution with a third party under this section without Compute North's written consent, which shall not be unreasonably withheld.

13. Miscellaneous.

13.1. Lease Agreement. Compute North may lease certain premises in the Facility from the Facility's owner ("Facility Owner") pursuant to a lease agreement. Customer is not a party to or a beneficiary under such lease, if any, and has no rights thereunder; however, Customer shall be required to adhere to all rules of operation established therein. Whether owned or leased by Compute North, Customer acknowledges and agrees that it does not have, has not been granted, and will not own or hold any real property interest in the Facility, that it is a licensee and not a tenant, and that it does not have any of the rights, privileges, or remedies that a tenant or lessee would have under a real property lease or occupancy agreement.

13.2. Entire Agreement. This Agreement, including the Order Form and any documents referenced herein, constitutes the parties' entire understanding regarding its subject and supersedes all prior or contemporaneous communications, agreements and understanding, including any prior master or colocation agreement, between them relating thereto. In the event of a conflict between the terms and conditions of this Master Agreement and an Order Form, the specific terms and conditions of the Order Form shall take precedence. Customer acknowledges and agrees that it has not, and will not, rely upon any representations, understandings, or other agreements not specifically set forth in this Agreement. This Agreement shall not be superseded, terminated, modified, or amended except by express written agreement of the parties that specifically identifies this Agreement.

13.3. Waiver, Severability. The waiver of any breach or default does not constitute the waiver of any subsequent breach or default. If any provision of this Agreement is held to be illegal or unenforceable, it shall be deemed amended to conform to the applicable Law, or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken and the remainder of this Agreement shall continue in full force and effect.

13.4. Assignment. Except as part of or in connection with a Change of Control or a reorganization solely among Customer and its Affiliates, Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Compute North's written consent. "Change of Control" means (i) a sale by Customer of all or substantially all of its assets that are the subject of this Agreement to an unaffiliated person or entity, (ii) a merger, reorganization, conversion or other transaction in which more than fifty percent (50%) of the voting control of Customer is held by persons or entities who did not hold voting control of such party, whether directly or indirectly, immediately prior to such transaction (excluding any reorganization solely among Customer and any entities that directly or indirectly controls, is controlled by, or is under common control with Customer (each, an "Affiliate"), or (iii) a sale by the equity holders of Customer that results in more than fifty percent (50%) of the voting control of such party being held by persons or entities who did not hold voting control of Customer, whether directly or indirectly, immediately prior to such sale (excluding any reorganization solely among Customer and its Affiliates). Customer shall notify Compute North in writing within ten (10) days of any assignment or transfer under this Section 13.4. Compute North may at any time assign, transfer, delegate, or subcontract any or all of its rights or obligations under this Agreement without Customer's written consent. Subject to the restrictions on assignment of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and assigns. Customer and Compute North acknowledge and agree that in the event Compute North enters into a partial assignment or other document evidencing a partial transfer of the obligations under this Agreement, (i) this Agreement and the applicable Order Forms shall apply as to the assignee to the extent assigned, (ii) the obligations of Compute North and such assignee shall be several, and not joint or collective obligations and there shall be no cross-default, cross- termination or other common performance or liability provisions as between the obligations under this Agreement and any Order Form(s) that are assigned and those obligations under this Agreement and any Order Form(s) that remain with Compute North.

13.5. Force Majeure. Neither party shall be liable in any way for delay, failure in performance, loss or damage due to any of the following force majeure conditions: fire, strike, embargo, explosion, power failure, flood, lightning, war, water, electrical storms, labor disputes, civil disturbances, governmental requirements, acts of civil or military authority, acts of God, acts of public enemies, inability to secure replacement parts or materials, transportation facilities, or other causes beyond its reasonable control, whether or not similar to the foregoing. This also includes planned service and maintenance needs. Under no circumstances shall the following constitute a force majeure: (i) a Party's inability to finance its obligations or the unavailability of funds to pay amounts when due in the currency of payment, (ii) changes in either Party's market factors, default of payment obligations or other commercial, financial or economic conditions, including failure or loss of any cryptocurrency markets, (iii) the ability of Customer to obtain better economic terms for the Services or similar services or (iv) Customer's failure to timely apply for any licenses, permits, consents, or approvals. No force majeure shall relieve, suspend, or otherwise cause either Party from performing any obligation to indemnify, reimburse, hold harmless or otherwise pay the other Party under this Agreement, including Customer's obligation to pay any Fees. Notwithstanding anything to the contrary in this Agreement, Force Majeure includes an increase of ten percent (10%) or more in Compute North's variable operating costs.

13.6. Compliance with Laws. Customer's use of the Facility and the Equipment located at the Facility shall conform to all applicable Law, including international Law, the Law of the jurisdictions in which Customer is doing business and where the Facility is located. In the event that there is a new or a change in Law that causes Compute North to directly or indirectly incur new or additional costs in connection with the Services or the Facility, Compute North may pass through such costs to Customer without markup, terminate this Agreement or any Order Form, or modify the Services as necessary to account for such costs. Customer shall timely cooperate in any audit or review of Customer's compliance with the terms hereof conducted by or on behalf of Compute North, responding accurately and completely to all inquiries, and providing any requested documents.

13.7. Governing Law. This Agreement shall be governed by and interpreted in accordance with the Laws of the State of New York, excluding any conflicts of law rule or principle which might refer such construction to the laws of another state or country. Any dispute, claim, counterclaim or controversy of any kind arising under or relating to this Agreement is and shall continue to be subject to the exclusive jurisdiction of the courts of the State of New York or of the federal courts sitting in the State of New York, and the parties submit to the jurisdiction of such courts in respect of any such action or proceeding brought in such courts. The parties waive, to the fullest extent permitted by Law, any objection that they may now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

13.8. Relationship of the Parties. The parties agree that their relationship hereunder is in the nature of independent contractors. Neither party shall be deemed to be the agent, partner, joint venturer or employee of the other, and neither shall have any authority to make any agreements or representations on the other's behalf. Each party shall be solely responsible for the payment of compensation, insurance and taxes of its own personnel, and such personnel are not entitled to the provisions of any employee benefits from the other party. Neither party shall have any authority to make any agreements or representations on the other's behalf without the other's written consent. Additionally, Compute North shall not be responsible for any costs and expenses arising from Customer's performance of its duties and obligations pursuant to this Agreement.

13.9. Third-Party Beneficiaries. Nothing in this Agreement is intended, nor shall anything herein be construed to confer any rights, legal or equitable, in any person or entity other than the parties hereto, the Facility Owner, the Lenders and their respective successors and permitted assigns.

13.10. Publicity. Neither party may use the name, trademark, logo, acronym, or other designation of the other party in connection with any press release, advertising, publicity materials or otherwise without the prior written consent of the other party. Notwithstanding the foregoing, Customer agrees that Compute North may publicly identify Customer, both orally and in writing, as a customer of Compute North.

13.11. Construction; Interpretation. Unless the context otherwise requires, words in the singular include the plural, and in the plural include the singular; masculine words include the feminine and neuter; "or" means "either or both" and shall not be construed as exclusive; "including" means "including but not limited to"; "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not any particular section in which such words appear, unless otherwise specified; "any" and "all" each means "any and all" and shall not be construed as terms of limitation; and, a reference to a thing (including any right or intangible asset) includes any part or the whole thereof. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation and construction of this Agreement, and this Agreement shall be construed as having been jointly drafted by the parties. The titles and headings for particular paragraphs, sections and subsections of this Agreement have been inserted solely for reference purposes and shall not be used to interpret or construe the terms of this Agreement. Compute North's rights and remedies hereunder are cumulative and in addition to any other rights or remedies it may have at law or in equity.

13.12. Survival. Notwithstanding any provisions herein to the contrary, the obligations set forth in Sections 4.3, 4.5, 5.3, 5.4, 6, 8.3,11,12, and 13 shall survive the expiration or termination of this Agreement.

13.13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same document. The parties may sign and transmit an electronic signature of this Agreement (whether by facsimile, pdf, email, or other electronic means), which signature shall be binding on the party whose name is contained therein.

13.14. Financing Accommodation. Upon the receipt of a written request from Compute North, Customer shall execute, or arrange for the delivery of, such estoppels and other documents, in each case, as may be (A) reasonably necessary in order for Compute North or its affiliates to consummate the financing, (B) customarily provided in connection with financing of a similar nature and (C) reasonably acceptable to Customer. Without limitation of the foregoing, Compute North may notify Customer of one or more of its or its affiliate's lenders or financing parties that are financing the Facility (the "Lenders"), and following such notice, Customer shall provide written notice of any default or breach by Compute North to such Lenders, and such Lenders or their designee shall have the right, but not the obligation, to perform any act required to be performed by Compute North under the Agreement to prevent or cure a default or breach as if done by Compute North.

IN WITNESS WHEREOF, the parties have executed this Agreement in a manner appropriate to each and with the authority to do so as of the date set forth below.

Compute North LLC

By: /s/ Kyle Wenzel
Name: Kyle Wenzel
Its: Chief Commercial Officer

Sphere 3D

By: /s/ Patricia Trompeter
Name: Patricia Trompeter
Its: Chief Executive Officer

Exhibit A – Order Form

Certain confidential information contained in this document, marked by "[***]", has been omitted because it is both (i) not material and (ii) the type that the registrant treats as private or confidential.

Hosting Agreement

This Hosting Agreement (this "**Agreement**") is made as of February 8**,** 2023 (the "**Effective Date**") between Lancium FS 25, LLC, a Delaware limited liability company, having its principal office at 9950 Woodloch Forest Drive, Suite 1600, The Woodlands, TX 77380 ("**Provider**"), and Sphere 3D Mining Corp., a Delaware corporation, having its principal office at 4 Greenwich Office Park, Suite 100, Greenwich, Connecticut, 06831 ("**Customer**"). Provider and Customer are hereinafter together referred to as the "**Parties**" and each as a "**Party**."

WHEREAS, Provider owns and operates or is in the process of developing 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 and are seeking a location to store and operate such devices;

WHEREAS, Customer currently owns 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.

Initial Term Length	**Two (2) Years**
Specified Power Draw	[***]
Fees	[***]
Provider Account	[***]
Number of Bitcoin Miners	[***]

2. Definition

2.1. Defined Terms

The terms listed below (in addition to certain terms defined elsewhere in this Agreement), when used in this Agreement, shall have the following meaning:

"Active Bitcoin Miner" means a Bitcoin Miner qualifying as Customer Equipment that has been installed in an Immersion Tank by Provider, has Available (as defined in Section 8.2) Hosting Services, and has not been (i) removed from the Immersion Tank by the Provider for repairs or RMA Processing or (ii) placed in Diagnostic Mode.

"**Ancillary Services**" means the products and programs offered by ERCOT, including Demand Reduction Benefit Programs, Controllable Load Resource programs, and Primary Frequency Response programs; except those products where dispatch is determined at the discretion of Provider.

"**Applicable Law**" means in relation to any Person, transaction or event, all applicable provisions of laws, statutes, rules, regulations, official directives and orders of all federal, state, territorial, municipal and local Governmental Authorities (whether administrative, legislative, executive, or otherwise) and final, non-appealable judgements, orders and decrees of all courts, commissions or bodies exercising similar functions in actions or proceedings in which the Person in question is a party, by which it is bound or having application to the transaction or event in question, including, for greater certainty, any securities laws, any regulatory approval, the ISO or RTO rules, protocols, regulations, any Nodal Protocol Rule Revisions (NPRRs), the Tariffs or any other trade regulations, any interconnection standards and industry reliability standards or requirements adopted, applied, or imposed in Texas to any of the foregoing.

"**AUP**" or "**Acceptable Usage Policy**" means Provider's then-current acceptable use policy.

"**Available**" or "**Availability**" is defined in Section 8.2.

"**Bitcoin Miner**" means a Bitmain S19j Pro.

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

"**Business Day**" means a day which is not a Saturday, Sunday or a federal public holiday in the United States.

"**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 or throughout the Term 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 Calculated Rewards**" is defined in Section 3.6.

"**Customer Equipment**" means the Bitcoin Miners (including the required PSUs and all other ancillary equipment that is necessary to run the Bitcoin Miners) that are 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 Mining Pool**" means a Customer-designated Mining Pool.

"**Customer Representative**" means any officer, employee, agent, auditor, sub-contractor or other person(s) identified in writing by Customer's CEO from time to time as acting on Customer's behalf, including for purposes of making changes with respect to the Customer Mining Pool or Customer's Wallet.

"**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.

"**Deinstallation Commencement Date**" is defined in Section 17.3.

"**Deinstallation Fee**" means a charge of [***] for the removal of each Bitcoin Miner from the Immersion Tanks.

"**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 ERCOT under which power consumers receive a benefit in connection with any limitation on their power demand during times of peak power usage, including the Four Coincident Peak (or, "4CP") program administered by ERCOT.

"**Diagnostic Mode**" means, as applied to a Bitcoin Miner, when the miner is not producing at an optimal level and is being assessed by the Provider for RMA or repair.

"**Disposal Charge**" is defined in Section 17.3.

"**ERCOT**" means Electric Reliability Council of Texas, Inc., a Texas non-profit corporation.

"**Facility**" means the data center operated by Provider and located at Fort Stockton, Texas.

"**Force Majeure Event**" means any of the following events (to the extent such event directly or indirectly impacts the Facility and such event is beyond the reasonable control of a party): 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, legally-mandated 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, targeted cyber-attack, DDOS, DNS Poisoning, malware, 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.

"**Forced Outage**" means any event where the Provider is prevented, in whole or in part, from providing the Services as a result or any of the following (other than, for certainty, as a result of a Force Majeure Event): (i) In response to any emergency at the Facility or as necessary to prevent an imminent emergency at the Facility (which for such purpose shall mean an emergency, or imminent emergency to human health or safety, the environment, or the engineering or structural integrity of the Customer Area or the Facility as a whole); (ii) for compliance with any Applicable Law, specifically applicable to the ownership or operation of the Facility; (iii) for compliance with a new or change in the Applicable Law coming into force after the date of this Agreement, (iv) any energy service or power provider derate event; (v) for compliance with any requirement, request or decision made by the supplier under the Power Supply Contract or obligation thereunder; (vi) any outages or curtailments arising under the Power Supply Contract or at the direction of ERCOT or the Utility; or (vii) any other facility outages related to events similar to those described above.

"**Good Engineering and Operating Practices**" means any of the practices, methods and activities adopted by, engaged in or approved by a significant portion of the electric generation and Bitcoin mining industry in North America as good practices applicable to the design, engineering, procurement, development, construction, commissioning, ownership, operation, maintenance and decommissioning of power infrastructure and Bitcoin mining equipment of similar type, size and capacity as the Facility, from time to time, or any of the practices, methods or activities which, in the exercise of skill, diligence, prudence, foresight and reasonable judgement in light of the facts known or reasonable ascertainable at the time the decision was made, could reasonably cost consistent with good business practices, reliability, safety, expedition and Applicable Laws. Good Engineering and Operating Practices are not intended to be limited to optimum practices, methods or acts to the exclusion of all others, but rather are intended to delineate acceptable practices, methods or acts generally accepted in North America electric generation, infrastructure, and Bitcoin mining industry.

"**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), including ERCOT, TRE, NERC, PUCT, Utility, independent system operator or regional transmission operator, in each case anywhere in the world, having competent jurisdiction over a Party.

"**Hardware Unit**" means each individual unit of Customer Equipment bearing a separate identification code, including but not limited to Bitcoin Miners.

"**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.

"**Hashrate**" means the processing power to participate in finding of new Bitcoin blocks and earning Mining Rewards that is measured in terahash per second.

"**Hashrate Transfer**" means to programmatically split Hashrate between two Mining Pool Accounts.

"**Hosting Services**" is defined in Section 3.2.

"**Immersion Tanks**" means the immersion tanks provided by Provider and configured for installation of the particular Customer Equipment.

"**Initial Term**" is defined in Section 16.

"**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.

"**Manufacturer Specified Hashrate**" means the rate of computation certified by the manufacturer for such Bitcoin Miner, measured in terahash per second, plus one (1) terahash per second. Annex 3 sets forth the rate of computation certified by the manufacturer for all Bitcoin Miners delivered by Customer hereunder (which Annex 3 shall be updated in the event that the Parties become aware of any given manufacturer updating its certifications for a particular Bitcoin Miner).

"**Metrics**" is defined in Section 21.

"**Miner Charge**" is defined in Section 6.1(a).

"**Miner Delivery Date**" is defined in Section 3.3.

"**Mining Pool**" means the digital location of a network of distributed Bitcoin miners cooperating to participate in finding new Bitcoin blocks and earning Bitcoin based on contribution of Hashrate.

"**Mining Pool Account**" means a registered account on a Mining Pool that identifies a unique user and provides management of the user's Wallet, accounting, and audit trail.

"**Mining Reward**" means Bitcoin that is generated by the Active Bitcoin Miners.

"**Monthly Manufacturer Specified Hashrate Amount**" is defined in Section 6.1.

"**Monthly Real Time Hashrate Transfer**" is defined in Section 6.1.

"**Notice**" is defined in Section 19.

"**Operational Services**" is defined in Section 3.4.

"**Operations Commencement Date**" means such date as Provider notifies Customer that the Customer Area is fully ready for use and fully operational, such that the Customer Equipment is fully operational, and Customer Equipment is hashing on Customer Designated Pool. Provider shall work in good faith with Customer to determine a schedule for having the Customer Equipment installed and operational.

"**Outage**" means a Forced Outage or a Planned Outage.

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

"**Person**" means an individual, partnership, corporation, limited liability company, unincorporated syndicate, unincorporated organization, trustee, executor, administrator or other legal representative, Governmental Authority or other legal entity, as the case may be.

"**Phase-Out Period**" is defined in Section 17.3.

"**Planned Outage**" means that total or partial removal of the Facility from service or derating of the Facility that is scheduled by Provider in advance and in accordance with Good Engineering and Operating Practices.

"**power**" means electric power.

"**Power Firmware**" means firmware that may be required in order to enable certain advanced power management functions. Customer expressly consents to the installation of the Power Firmware on the Customer Equipment by Provider.

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

"**Processing Fee**" means the fee of [***] paid by Customer to Provider for the management and coordination of RMA on a per Bitcoin Miner basis.

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

"**PSU**" means power supply unit.

"**Real Time Hashrate Transfer**" is defined in Section 3.6.

"**Related Services**" is defined in Section 3.2.

"**Renewal Term**" is defined in Section 16.

"**Repair Facility**" means a repair facility that is certified by the manufacturer of a Bitcoin Miner for repair after the warranty period for such Bitcoin Miner has ended.

"**Repair Processing**" means the then-current process for management, coordination, and communications required to facilitate the repair of a Bitcoin Miner at a Repair Facility.

"**RMA**" means the return merchandise authorization, part of the process of returning a Bitcoin Miner to receive a refund, replacement, or repair during the Bitcoin Miner's manufacturer warranty period.

"**RMA Processing**" means the then-current process for management, coordination, and communications that are required to return a Bitcoin Miner to the manufacturer for warranty repair and facilitating its return to an Active Bitcoin Miner once shipped to the Facility by the manufacturer.

"**Scheduled Maintenance**" means any Maintenance activities for which Provider notified Customer at least three (3) days in advance.

"**Service Order**" is defined in Section 3.5.

"**Services**" is defined in Section 3.2.

"**Shipping Fee**" means the cost for the Customer's preferred shipping method and cost of insurance related to such shipping (as determined by the Customer after the submission of the first Service Order that requires shipping), as adjusted, so as to never exceed the cost of shipping actually paid by the Provider to facilitate the shipping of Customer Equipment.

"**Specified Power Draw**" means the sum of (a) the maximum amount of total Facility power that is to be made available to Customer as part of the Hosting Services in the amount of approximately [***] (b) the additional power required for immersion cooling and related Facility equipment related to the Customer's Active Bitcoin Miners in the amount of approximately [***], in each case subject to adjustment as provided in Section 4.

"**Suspension**" is defined in Section 7.1.

"**Tariffs**" means, collectively, the ERCOT Nodal Protocols, the Oncor Transmission Tariff, the AEP Texas North Transmission Tariff, the CenterPoint Energy Transmission Tariff, the Texas - New Mexico Power Company Tariff for Transmission Services, the AEP Texas Central Tariff for Transmission Services, and any tariff imposed on gas supply or transportation.

"**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 a request for service generated pursuant to the Ticketing Process.

"**Ticketing Process**" means Provider's then-current policy for customers to submit, manage, and participate in Tickets.

"**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 8.1.

"**Utility**" means a transmission and delivery utility or a transmission and distribution service provider, including municipally owned utilities and electric cooperatives.

"**Wallet**" means a program or a service that stores digital assets.

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**"):

- physical hosting of the Customer Equipment in the Customer Area;
- power supply up to the Specified Power Draw (subject to the provisions of Section 4 and otherwise in this Agreement);
- transforming equipment;
- limited air filtration; and
- internet connectivity;

in each case in accordance with Good Engineering and Operating Practices, 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 guarantee that the Customer Area will be contiguous. The Customer Area may be spread over several Building Units and/or operational sites as determined by the Provider, 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, at its own cost.

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 Immersion Tanks in the Customer Area;
- hosting the provided Customer Equipment in the Immersion Tanks;

- hosting the Customer-provided PSUs installed in the Immersion Tanks, as may be required by the particular Customer Equipment;
- providing monthly reports to the Customer that will contain a summary of monthly power draw in the Customer Area;
- with respect to the Customer Equipment, running basic diagnostics; reboots; restarts; validating, re-flashing and where necessary upgrading firmware; addressing settings; checking/ testing Bitcoin Miners; and simple repairs on PSUs;
- the Operational Services as defined in Section 3.4; and
- providing basic physical security and physical access control for the Facility; in each case in accordance with Good Engineering and Operating Practices.

The "**Related Services**" consist of

- installation of Customer Equipment (as more particularly described in Section 3.3); and
- deinstallation of Customer Equipment (as more particularly described in Section 17.3).

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

3.3. Installation

Installation shall include:

- unpacking;
- labelling;
- positioning in the Immersion Tanks;
- installation and management of cables (power and LAN connection);
- inventory management;
- installation of any Power Firmware, if applicable;
- hardware modifications necessary for immersion and maximum overclocking, including without limitation removal of fans from Bitcoin Miners;
- configuring Mining Pool notifications;
- initial setting; and
- disposal of packing materials which will not be stored nor returned to the customer.

Installation does not include any testing before being modified to be placed in Immersion Tanks nor the provision or installation of any software other than as expressly stated above. In certain cases, a particular Hardware Unit may require an update to its firmware. In such case, Provider will apply such firmware update in accordance with the instructions provided by Power Firmware supplier. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER'S 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 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 ORDINARY NEGLIGENCE. CUSTOMER FURTHER ACKNOWLEDGES THAT THE SUBMERSION OF CUSTOMER EQUIPMENT IN IMMERSION TANKS IS A RELATIVELY UNTESTED TECHNOLOGY AND THERE IS A RISK OF DAMAGE TO THE CUSTOMER EQUIPMENT, OR DELAY IN THE BEGINNING OF THE HOSTING SERVICES, DUE TO NEEDS TO ADAPT THE CUSTOMER EQUIPMENT TO THE IMMERSION TANKS ENVIRONMENT.

The installation of any individual Hardware Unit is deemed completed when such Hardware Unit connects and sends computations to the Customer 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 or digitally access any Hardware Units in the Facility.

Customer shall provide all of the Customer Equipment in the amount specified in Section 1.1 above (the "**Initial Customer Equipment**") to the Provider no later than February 28, 2023 (the "**Miner Delivery Date**"). Furthermore, if the Initial Customer Equipment has not been delivered to Provider by the date that is 30 days following the Miner Delivery Date, then the Provider shall have a termination right in accordance with Section 17.1.6 below.

3.4. Operational Services

The following activities are regularly executed on behalf of Customer in order to keep the Customer Equipment in good working order and operational as often as reasonably possible. These services ("**Operational Services**") include:

- pushing a button;
- switching a toggle;
- turning on/off of Customer Equipment;
- switching back on any breakers that have tripped;
- 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;
- monitoring temperature of the Customer Equipment;
- installation of applications or software on Customer Equipment;
- uploading of data to Customer Equipment;
- configuration of Customer Equipment operating system;
- basic hardware fault diagnosis;
- basic software fault diagnosis;
- efforts to rectify problems caused by Customer Equipment or software;
- efforts to rectify problems caused by Customer; and
- packaging and shipping Hardware Units for factory RMA.

Performance of these services will be available on a 24/7 basis, subject to any Force Majeure and the provisions of Section 8. Any particular Operational Service that is performed by Provider shall be deemed to be part of the "Services" under this Agreement. Any software or firmware installed on any Hardware Unit will only be done by Provider as part of the Operational Service. For the avoidance of doubt, no item constituting Operational Service shall be done by Customer, and such shall only be performed by Provider in the reasonable determination of Provider. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CUSTOMER HEREBY AGREES THAT IN THE ABSENCE OF PROVIDER'S 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 THE PERFORMANCE OF OPERATIONAL SERVICES, AND 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 ORDINARY NEGLIGENCE.

CUSTOMER HEREBY ACKNOWLEDGES THAT OPERATIONAL SERVICES, 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 IN THE ABSENCE OF PROVIDER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, 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 OPERATIONAL SERVICES.

3.5. Service Orders

All requests not included in Operational Services shall be placed by opening a Ticket pursuant to Provider's Ticketing Process specifying the relevant Hardware Unit(s), the requested action, and all other information requested by Provider (a "**Service Order**"). All such Tickets shall be deemed to be orders for such services to the extent accepted by Provider, and in such case, Customer shall be obligated to pay all direct costs on a pass-through basis other than those governed by specified fees in writing. Notwithstanding anything to the contrary, in the case of any Service Order required as a result of (i) Provider supplied firmware, (ii) Providers ramping up or down the power consumption of the Customer's Equipment, or (iii) Provider provided PSU or upgraded PSU, the Provider shall solely bear the costs necessary to make such Bitcoin Miner an Active Bitcoin Miner. To the extent Provider does not accept an order for services, it agrees to comply with Section 3.6 below.

(a) New Bitcoin Miner Request. Any Customer Equipment that Customer desires to place in Immersion Tanks after the initial installation of Customer Equipment shall be considered an additional service order. Placement of such additional Hardware Units not included in the initial installation shall be at the discretion of the Provider, who may decline such request if the Customer Equipment is incompatible with Immersion Tanks or would not operate with reasonable profit margins in comparison to such Customer Equipment. For the avoidance of doubt, the initial installation of Customer Equipment shall include the original order of [***]. Reinstallation of a repaired miner shall not be considered a New Bitcoin Miner Request.

(b) RMA or Repair Request. Customer Equipment reasonably determined by Provider to be non-working (which, for the avoidance of doubt and not in limitation thereof, shall include any Bitcoin Miner that has a Hashrate, without consideration of any overclocking, less than 70% of the Manufacturer Specified Hashrate for such Bitcoin Miner) will be triaged and diagnosed in accordance with Operational Services. This will place the applicable Customer Equipment into Diagnostic Mode. If no resolution is found, upon the written approval of the Customer, Provider will assist Customer in facilitating the modifications required for such Customer Equipment to be an Active Bitcoin Miner, which shall be coordinated via the Ticketing Process. If the Customer Equipment is still in the manufacturer warranty period, it will be processed through RMA Processing. If the Customer Equipment is no longer covered under manufacturer warranty, the Customer Equipment will be processed through Repair Processing. Both RMA Processing and Repair Processing will result in a Shipping Fee and a Processing Fee. Provider makes no claim to the feasibility of RMA approval from the manufacturer after the Customer Equipment has been modified for the Immersion Tanks and submersed in dielectric fluid. If the subject Customer Equipment has not been repaired within three (3) months of being placed into Diagnostic Mode, Provider shall return such Customer Equipment to Customer and Customer shall provide Provider with a replacement Customer Equipment that is fully operational within 90 days of notice of replacement sent by Provider in writing.

3.6. Mining Rewards

Customer will create a new Mining Pool Account in the Customer Mining Pool and provide any required or requested connection information for such Mining Pool Account to Provider on or before the applicable Miner Delivery Date. On a real-time programmatic basis, the Provider will automatically perform a Hashrate Transfer to the Customer's Mining Pool Account in an amount based on the aggregate Hashrate then being produced by the Customer's Active Bitcoin Miners (not then subject to Suspension) as measured by reference to such Active Bitcoin Miners (the "**Real Time Hashrate Transfer**"); provided, however, that Provider shall have the option (in its sole and absolute discretion and without notice or any other obligation or condition) to increase (or decrease), from time to time and at any time, by overclocking up to [***] (or ramping down) Active Bitcoin Miners, the Real Time Hashrate Transfer beyond (or below) what it otherwise would be (and in such event, such aggregate Hashrate Transfer shall constitute the Real Time Hashrate Transfer for the relevant period for all purposes hereunder). Provider shall provide, with the monthly Invoices specified in Section 6.2, the calculations utilized by Provider and/or the Mining Pool in determining the Real Time Hashrate Transfer. For the avoidance of doubt, Provider shall be entitled to retain any amounts of Hashrate in excess of the Real Time Hashrate Transfer and Customer shall have no claim or ownership in such excess.

(a) Mining Rewards Dispute. In the event the Customer disagrees with the aggregate Hashrate Transfer received by the Customer's Mining Pool Account, Customer shall notify the Provider within thirty (30) days of the receipt of the Invoice describing such Hashrate Transfer, and include in such notification a calculation by the Customer describing the aggregate amount of Hashrate Transfer the Customer believes is accurate (the "**Customer Calculated Rewards**"). Provider may either (i) accept the calculation of the Customer, and provide to Customer an amount (in United States Dollars) to compensate for the difference between the Customer Calculated Rewards and the actual aggregate Hashrate Transfer provided or (ii) contest the Customer Calculated Rewards, and provide an explanation for such contest (the "**Provider Response**"). In the event the Customer contests the Provider Response, the Provider will provide an audit of its Bitcoin per terahash for the relevant period; in the event the Bitcoin per terahash is compliant with or less than the aggregate Hashrate Transfer, the Customer agrees to accept the aggregate Hashrate Transfer as invoiced and shall pay for the reasonable and documented costs of any such audit. If the Bitcoin per terahash exceeds the aggregate Hashrate Transfer calculation, the Provider will compensate the Customer (in United States Dollars) for the difference between the Customer Calculated Rewards and the actual aggregate Hashrate Transfer and Provider shall bear the reasonable and documented costs of any such audit.

(b) Real Time Hashrate Transfer Pool Error. If the Real Time Hashrate Transfer is incorrectly performed, then the Customer will be notified of the error promptly upon Provider obtaining knowledge thereof, and assuming the issue has been resolved and the Real Time Hashrate Transfer has been restored, Customer will be provided with the correct calculation, including any adjustments required due to the error, with the Hashrate Transfer occurring during the next three (3) business days. If the Provider is not at fault and there is a loss in digital assets, both Customer and Provider will cooperate with each other to seek reimbursement and damages from the applicable Mining Pool.

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 the terms of this Section 4 and Uptime requirements as specified in Section 8.1 of this Agreement; provided, however, that notwithstanding anything to the contrary, Provider shall have no obligation to make power available to the Customer Equipment in excess of approximately [***], or sufficient power to achieve the Manufacturer Specified Hashrate for each Active Bitcoin Miner.

4.2. Customer acknowledges that Provider may, but is under no obligation to, provide power beyond the Specified Power Draw, notwithstanding the Uptime requirements as specified in Section 8.1 of this Agreement. Customer further acknowledges that Provider has the right, in its commercially reasonable discretion, to power down Customer Equipment in the event that (i) the power draw of the Customer Area (including the immersion 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 Hardware Unit designated for such Hardware Units.

4.3. Customer acknowledges that the power to the Facility is ultimately provided by Governmental Authorities and other third parties, whose provision and transmission of power is governed by Applicable Law, including but not limited to rules and regulations promulgated by ERCOT 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, a Force Majeure Event or an Outage, and such reductions are not due to the gross negligence or willful misconduct 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; provided, that any Planned Outages in excess of [***] per year shall be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level, except as approved by Customer where such approval shall not be unreasonably withheld. It is expressly agreed that Provider may voluntarily reduce availability at its sole discretion, and such reduction shall not be deemed availability for purposes of calculating Uptime under the Uptime Service Level. To the extent that any voluntary unavailability results in the Uptime Service Level to not be met, then the calculations set forth in Section 8.4 for applicable compensation to Customer shall apply.

4.4. Customer hereby expressly consents to Provider's participation in the ERCOT Ancillary Services markets and/or 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 (and Provider shall have no liability to Customer in connection with any such reduction or unavailability, except as otherwise contemplated herein). 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; provided, that any reductions for Ancillary Services in excess of [***] per year shall be deemed to be unavailability for purposes of calculating Uptime under the Uptime Service Level, except as approved by Customer where such approval shall not be unreasonably withheld. 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 Miner Charge, would be substantially different. Furthermore, Customer hereby expressly consents to the use of the Power Firmware in connection with the foregoing ERCOT Ancillary Services markets and/or Demand Reduction Benefit Programs.

5. Access to the Facility; Data Center Rules

5.1. In connection with the Services and this Agreement, Customer shall allow Provider to have exclusive log-in access and other applicable access to all firmware and related components of the Customer Equipment to the extent necessary to provide the Services, and all such access is hereby authorized and approved by Customer.

5.2. Customer agrees that Provider will maintain exclusive access to Customer Area. After thirty (30) days from the Operations Commencement Date, Customer will nominate two Customer Representatives (the "**Representatives**"), to be reasonably approved by Provider. The Representatives will be granted exclusive access to Customer Area after written notice is provided by Customer and agreed upon scheduling with the Provider. The Representatives will be granted access to Customer Area only. The Representatives agree to sign a Non-Disclosure Agreement with Provider and other tenants in the Facility while also abiding by the Data Center Rules. The Representatives agree that no form of onsite or offsite recording(s) including but not limited to, video, photo, sketches or electronic copies of floor plans. In the event that the Representatives must be changed, both Customer and Provider must mutually agree on the new Representatives. Site visits by Representatives will be accompanied by personnel of Provider's choice. Customer agrees that either the Customer or Customer Representatives will provide at least one (1) week's advance notice prior to the visit of the Customer Area. Provider retains right to terminate site visits at any time and to request a redelegation of the Representatives in the event of conflict or compromise of the current Representatives.

6. Hosting and Charges; Payments; Deposit

6.1. Charges for Hosting Services

[***]

6.2. Invoicing; Payments

(a) Within [***] Business Days of the end of each calendar month during the Term, Provider shall issue an invoice (an "**Invoice**") to Customer setting forth all charges, including such charges as applicable for Deinstallation Fees, or storage fees (in accordance with Section 17.3), the calculation of Real Time Hashrate Transfer, and Service Credits (as such term is defined in Section 8) for the Real Time Hashrate Transfer; and all Miner Charges pursuant to Section 6, in each case during the prior calendar month, plus any applicable taxes. Such Invoice shall include an appropriate level of detail (consistent with the calculations and information derived in accordance with Section 6.1(b)). No later than [***] Business Days after receipt of a given Invoice, Customer shall pay to Provider the full amount of charges reflected on the Invoice. If balance is still unpaid after the tenth Business Day following receipt, Provider shall issue written notice of late payment to Customer in writing. Customer shall have [***] business days to pay Provider the full amount of the charges reflected on the Invoice following receipt of such notice. If Customer should become delinquent in the payment of any Invoice in excess of [***] Business Days following notice of late payment, without limitation of its rights under Section 7 or Section 17, Provider shall have the right thereafter to require pre-payments for any charges, at its reasonable discretion.

(b) All payments owed to Provider will be made in United States Dollars by wire transfer into the Provider Account, unless agreed otherwise by the Parties.

6.3. Reserved

6.4. Change of Miner Charge

In the event of changes in Applicable Laws, including without limitation the imposition of any material amounts of the type described in Section 6.1(b), or an adverse change to any ERCOT Ancillary Service program or any Demand Reduction Benefit Program which would render the Provider's continued performance of this Agreement under its current terms materially less economical, as evidenced in writing to Customer on an itemized basis, the Provider shall have the right to make increases in the Miner Charge, in amounts necessary to put Provider in the same economic position hereunder had such change in Applicable Laws not occurred, upon written notice (the "**Increase Notice**"). Upon receipt of the Increase Notice, Customer shall have the right to terminate this Agreement upon delivery to Provider of an election expressly stating the same, which election must be delivered within fifteen (15) days of receipt of the Increase Notice. To the extent Customer expressly agrees in writing to the Increase Notice, or fails to deliver a termination notice to Provider within fifteen (15) days of receipt of the Increase Notice, then Customer shall be deemed to have accepted the Increase Notice and any such increases shall be passed through and shall become effective upon the next billing cycle.

6.5. Customer Deposit.

[***}

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 (each a "**Suspension**"):

- in connection with any Planned Outages;
- with respect to Forced Outages;
- as required in connection with a Force Majeure Event;
- in response to an ISO dispatch directive for ERCOT Ancillary Services, or a request under a Demand Reduction Benefit Program;
- 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;
- suspension caused by the acts or omissions of Customer, including as requested by Customer;
- the occurrence of a Termination Event giving Provider the right to terminate the Agreement.

7.2. In the event Customer fails to pay Provider any amounts owed and overdue within ten (10) Business Days of being notified that such payment is overdue (and, in such event, it is further agreed by the Parties that until such default is cured), all Mining Rewards related to the Active Bitcoin Miners of Customer from the 10th Business Day following notification that such payment is overdue, may be retained in the Provider's Wallet until such overdue payment is made, at which time such Mining Rewards retained by Provider will be added to the Customer Deposit. If the Agreement is terminated due to such non-payment under Section 17.1.1, and such non-payment has not been cured within the applicable cure period as specified in this Agreement, then all Mining Rewards related to the Customer Equipment may be setoff against the amount of such non-payment.

7.3. 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 and prior notice thereof is given in accordance with the terms of this Agreement or the acts or omissions of Customer. Provider shall use commercially reasonable efforts to perform all Maintenance as Scheduled Maintenance.

8. Service Level Agreement

8.1 [***]

8.2 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 and the Bitcoin Miners are configured with the Customer Mining Pool information (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 lack of Available Hosting Services, or other Bitcoin Miner inactivity caused by a Suspension (other than Planned Outages in excess of [***] per year, Ancillary Services in excess of [***] per year, or as agreed by the Parties in writing), or if a Bitcoin Miner is not an Active Bitcoin Miner due to being removed from the tank for repairs or RMA Processing or is in Diagnostic Mode (an "**Allowed Outage**") will, in each case, not be considered unavailability for the purposes of calculating Uptime and the Uptime Service Level; provided, that, for the avoidance of doubt, unavailability directly caused by breach by Provider of its obligations under Section 11.3 shall not be an Allowed Outage.

8.3 During any period of unavailability caused by a Suspension, except as otherwise contemplated by the terms herein, the Hosting Services shall be deemed to be Available for purposes of calculating Uptime.

8.4 [***]

8.5 Without limitation of the Service Credits due under Section 8.4, if the Uptime Service Level averaged across six continuous calendar months during the Term is [***], upon written notice being delivered to the Provider within 45 days after the end of such period, Customer may elect to terminate this Agreement without any penalty, liability, or further payment obligations under the Agreement (other than amounts attributable to periods prior to termination and/or amounts due under Section 17.3).

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 acknowledges 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 IN THE ABSENCE OF PROVIDER'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, 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.

Customer acknowledges that Provider may choose to operate its own or any other third party's cryptocurrency mining equipment not owned by Customer in the Facility at any time during the Term, so long as such operation does not interfere with the operation of Customer's Equipment in accordance with this Agreement.

9.2. Customer Wallet and Bank Account

Customer is responsible for (a) any Mining Reward once such Mining Reward is delivered to the Customer's Wallet, and (b) any amounts in US Dollars once such amounts are delivered to the Customer's bank account. Customer acknowledges that Provider has no responsibility for the activity related to the Customer's Wallet or Customer's bank account other than necessary transfers for credits or debits to the Customer's Wallet or Customer's bank account, respectively, resulting from a dispute resolution.

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 or such other Provider location as may be directed by Provider. 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. Provider shall reasonably cooperate with Customer regarding Customer's requests for serial numbers, Availability or Allowed Outage data, or other information with respect to Customer Equipment or the Customer Area reasonably ascertainable by Provider.

Customer shall be responsible for, but is not obligated to, test all Customer Equipment prior to providing the Customer Equipment to Provider. Provider is not responsible for any testing of Customer Equipment to ensure functionality prior to the modification of Customer Equipment for placement in the Immersion Tanks, which may void any manufacturer warranty of the Customer Equipment.

Provider reserves the rights to open and modify Bitcoin Miners for usage in the Immersion Tanks in order to achieve greater utilization of the machine (provided that, prior to making any such modifications, Provider has given Customer written notice (which may be provided by email) setting forth in reasonable detail the extent and nature of such modifications). Customer acknowledges that such modifications may void the warranty of the Bitcoin Miners. Provider shall not be liable for any defects or malfunctions in the Bitcoin Miners or for failing to identify any hidden defects during installation or testing. Except for issues caused by the Provider's gross negligence or willful misconduct, Provider shall not be liable for any issues relating to modification, alteration, or variation in the Bitcoin Miners. Except in cases arising out of Provider's fraud, gross negligence or willful misconduct, Customer expressly agrees to waive Provider liability for voiding any Bitcoin Miner's factory warranty through modification or alteration of Bitcoin Miners for purposes of use in Immersion Tanks and acknowledges the necessity of such modifications to achieve the purpose of the Hosting Services provided by Provider.

9.4. 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 and (ii) all Customer Representatives against their acts and omissions, injury, 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 shall produce applicable certificates evidencing the insurance coverage required hereunder, at the Provider's written request. CUSTOMER HEREBY AGREES THAT, ABSENT LIABILITIES ARISING OUT OF PROVIDER'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, 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. IT IS SPECIFICALLY ACKNOWLEDGED THAT THE PROVIDER'S INSURANCE (INCLUDING THAT RELATED TO THE FACILITY) WILL NOT COVER LOSS OR DAMAGE TO THE CUSTOMER EQUIPMENT IN ANY MANNER.

9.5. Information; Know Your Customer

Upon written request from Provider, 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.

9.6. Compliance with Law

Each Party is solely responsible for ensuring that its performance of its respective obligations under this Agreement comply with all Applicable Law.

9.7 Third-Party Services

Customer shall notify Provider if it engages a third party to provide services on its behalf with respect to the Customer Equipment. Customer shall be fully responsible to and indemnify Provider under this Agreement for any liability, losses, claims, costs, expenses or damages, including attorney's fees and legal expense, arising out of or relating to any acts or omissions of any third-party service provider acting for or on Customer's behalf. Notwithstanding the foregoing, only those persons specifically authorized by Provider in writing may access the Facility. Provider may reasonably deny or suspend Customer's or its agents' access to the Customer Equipment to the extent such denial or suspension is necessary based on Provider's then- current security policies and procedures, and provided, however, that in such instance, Provider shall restore Customer's access as soon as reasonably practicable.

10. Reserved

11. Provider's Warranties

11.1. Capacity

Provider represents and warrants, as of the date hereof and as of the Operations Commencement Date that Provider is validly formed as the type of legal entity it purports to be in the jurisdiction of its formation.

11.2. Authority; Enforceability

Provider has all company power and has received any company and/or third-party authorizations necessary for it to enter into this Agreement and perform its obligations hereunder. This Agreement represents a valid and binding obligation of Provider, enforceable against it in accordance with its terms.

11.3. Temperature Issues

Notwithstanding anything to the contrary herein, Provider represents, warrants and covenants, that it will abide by a customary duty of care and operate the Facility in a manner reasonably intended to ensure that the temperature of the Customer Equipment is maintained within manufacturer specifications for the Bitcoin Miners (which, for the avoidance of doubt, includes overclocking of the Customer Equipment). The Parties acknowledge that such customary duty of care requires the Provider to monitor the temperature of the Customer Equipment and cease, or cause its contractors, representatives or others under its control or direction to cease, any activity (including, for the avoidance of doubt, overclocking) that is reasonably likely to cause the temperature of the Customer Equipment to deviate from the manufacturer specifications for the Bitcoin Miners.

11.4. Disclaimer

CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 11, 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 Operations Commencement 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.

12.2. Authority; Enforceability

Customer has all company power and has received any company and/or third-party authorizations necessary for it to enter into this Agreement and perform its obligations hereunder. This Agreement represents a valid and binding obligation of Customer, enforceable against it in accordance with its terms.

12.3. 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. To the best of Customer's knowledge, all 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. The Customer Equipment is new from their original manufacturer, not used, renewed, refurbished, remanufactured or otherwise in a condition other than new from their original manufacturer.

12.4. No Judgment or Governmental Order

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

12.5. 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.

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, 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. EXCEPT FOR LIABILITIES ARISING OUT OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL AGGREGATE LIABILITY OF PROVIDER (FOR ANY AND ALL CLAIMS) FOR DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE [***].

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, reasonable attorneys' fees and disbursements, and reasonable accountants' fees and disbursements (collectively, "**Losses**") or threatened Losses due to third-party claims arising out of or relating to this Agreement or the Services provided hereunder any of the following: (i) breach of, or non-compliance with, any of its agreements with third parties, the AUP, the Data Center Rules, or any of its representations, warranties or obligations 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 wrongful 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; (iv) Customer's violation of Applicable Law; or (v) Customer's wrongful use of the Hosting Services, except to the extent that such Losses arise out of or relate to the gross negligence or willful misconduct of the related Provider Indemnified Party.

Provider shall indemnify and hold harmless Customer, its affiliates, and each of its and their respective officers, stockholders, directors, employees, and agents (collectively, the "**Customer Indemnified Parties**") from and against any and all Losses or threatened Losses due to third-party claims arising out of or relating to this Agreement or the Services provided hereunder any of the following: (i) breach of, or non-compliance with, any of its agreements with third parties, or any of its representations, warranties or obligations under this Agreement; (ii) its 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 the Services or any Provider owned equipment in the Customer Area; or (iii) its violation of Applicable Law, except to the extent that such Losses arise out of or relate to the gross negligence or willful misconduct of the related Customer Indemnified Party.

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 (provided that such shall not relieve Provider of its obligations to provide security at the Facility as part of the Services as described in Section 3.2), even if the acts or omissions of such persons were not authorized by Customer. It is the further intention of the Parties that (a) Customer shall not be entitled to assert negligence of a Provider Indemnified Party as a defense to the indemnification rights set forth in this Section 15, and (b) Provider shall not be entitled to assert negligence of a Customer Indemnified Party as a defense to the indemnification rights set forth in this Section 15.

If a Party receives notice of a claim that is covered by this Section 15, such Party (the "**Indemnifying Party**") shall promptly give the other Party (the "**Indemnified Party**") written notice thereof. The Indemnifying Party 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 the Indemnified Party in writing. The Indemnified Party shall comply with the Indemnifying Party's reasonable requests for assistance and cooperation in the defense of such claim. The Indemnifying Party shall not settle the claim without the Indemnified Party's written consent, which may not be unreasonably withheld, delayed or conditioned. The Indemnifying Party shall pay reasonable costs and expenses due under this Section 15 upon written demand as the Indemnified Party incurs them. There shall be no express or implied requirement of a judgment, final judgment on the merits, or other event occurring prior to the Indemnifying Party paying the Indemnified Party such reasonable costs and expenses as the Indemnified Party incurs them.

Notwithstanding Section 13.1, a Party's liability for breach of its confidentiality obligations in Section 18 below shall not be limited.

16. Term

The initial term of this Agreement will commence on the Effective Date and will continue for a period of two (2) years from the Operations Commencement Date (except for an earlier expiration or termination of this Agreement in accordance with Section 17 below) (the "**Initial Term**"). Upon the expiration of the Initial Term (and any subsequent term), the term shall renew for a successive periods of one (1) year (a "**Renewal Term**") unless either Party provides notice to the other at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term. The Initial Term, together with any applicable Renewal Term, are collectively referred to as the "**Term**".

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 only 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 Customer fails to make a payment owed to Provider under this Agreement when due, and such default is not remedied within thirty (30) days following the Customer's receipt of notice by the Provider of such failure, then Provider shall have a right of termination hereunder. Any Hashrate produced by any Customer Equipment during the occurrence and continuance of such default shall accrue solely to Provider to the extent required to satisfy Customer's outstanding obligations hereunder.

17.1.2. Insolvency

If a Party becomes subject to any voluntary or involuntary insolvency proceeding, receivership, assignment for the benefit of creditors, bankruptcy or related action, and such proceedings are not stayed or discharged within sixty (60) days, the other Party shall have a right of termination hereunder upon written notice.

17.1.3. Material Breach

Subject to Section 14 and without limitation of Section 17.1.1, if a Party fails to perform or otherwise breaches a material obligation under this Agreement and such breach is not cured within ten (10) Business Days after the breaching Party becomes aware of such breach, then the non-breaching Party shall have a right of termination hereunder.

17.1.4. Adverse Legal Changes

If there exists or arises an adverse change in Applicable Law which prevents the legal mining of Bitcoin under no circumstances under such Applicable Law, then upon ten (10) Business Days' notice each Party shall have a right of termination hereunder.

17.1.5 Increased Costs

If, after receipt of an Increase Notice in accordance with Section 6.4, Customer delivers a termination election to Provider within fifteen (15) days of receipt of the Increase Notice, the Customer shall have a right of termination hereunder without penalty or further liabilities or obligations (aside from such obligations accrued up until and at the time such Increase Notice is received).

17.1.6 Delay in Customer Equipment

If, due to non-delivery of the Initial Customer Equipment, Provider delivers a termination notice at any time after the date that is sixty (60) days following the Miner Delivery Date, in accordance with the last sentence of Section 3.3.

17.1.7 Excessive Downtime

If Customer delivers a notice of termination pursuant to Section 8.5.

17.2. Termination

Upon the occurrence of a Termination Event, the Party having the right to terminate may so terminate this Agreement with immediate effect (or, if applicable, effect as of the end of the requisite notice period) as of the date set forth in a written notice thereof provided to the other Party. No termination of this Agreement shall affect (x) the obligation of Customer to pay any Miner Charge or other amounts due to Provider hereunder, to the extent such relate to the period prior to termination (or, as described in Section 17.3, during the Phase-out Period)(and provided that in the event of a termination by Provider pursuant to Section 17.1.1 through 17.1.3, all amounts owed to a Party shall be accelerated such that they are due and payable immediately, including Customer Deposit and any amounts due or expected to become due pursuant to Section 17.3) or (y) the right of a Party to pursue claims for damages associated with a Termination Event, subject in all instances to the limitations set forth in Sections 13 and 15.

17.3. Deinstallation and Removal of Customer Equipment

Subject to each Party's rights under Section 17.1, each Party (i) acknowledges that all Customer Equipment will be dismantled and removed from the Facility by the Termination Date (or in the case of a material breach that cannot be cured, within twenty (20) Business Days) 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 twenty (20) Business Days from the Termination Date, unless otherwise mutually agreed to in writing. 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 de-install 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 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.

On the Deinstallation Commencement Date, and in any event within twenty (20) Business Days from the Termination Date, the Customer shall pay a Deinstallation Fee per unit. If shipment is not arranged by Customer for Customer Equipment to be removed from the Facility within thirty (30) days from the date Provider notifies Customer that such Customer Equipment is removed from service, Customer shall be charged [***] per Hardware Unit removed per month until such Hardware Unit has been removed 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, Provider shall be entitled to deinstall the Customer Equipment [***] 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 FRAUD, 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**"), provided such Disposal Charge is mutually agreed upon in writing. The Customer acknowledges that such Disposal Charge is dependent on environmental and other regulations applicable during the Phase-out Period. The Parties shall attempt to mutually agree upon a Disposal Charge in writing upon request after a Notice of termination has been issued under this Agreement.

Customer acknowledges that the Customer Equipment will be affected by the Immersion Tanks and that Provider is not responsible for the removal of oil or liquid related to the Immersion Tanks prior to the return of the Customer Equipment to the Customer. Provider shall, to the extent it is able, re- attach any hardware removed from the Customer Equipment by the Provider to allow for the use of the Customer Equipment in the Immersion Tanks (including but not limited to fans) prior to returning the Customer Equipment to the Customer. To the extent Provider is unable to re-attach any removed hardware, such removed hardware shall be sent to Customer with, but not attached to, the Customer Equipment.

18. Confidentiality

18.1. The Parties agree that Confidential Information directly related to this Agreement, including but not limited to any information related to the Immersion Tanks, 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 and upon written request, the Parties shall return any Confidential Information to the disclosing Party or destroy such Confidential Information (provided that a Party may retain an archival copy of any Confidential Information in a manner consistent with its record retention policies or in order to comply with Applicable Law; provided further that any Confidential Information so retained shall remain subject to the confidentiality restrictions of this Section 18 in all respects).

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 obligations under this Section.

18.3. The following shall not constitute "Confidential Information" under this Agreement: (i) information that 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; (ii) information that is or becomes generally available to the public other than as a (direct or indirect) result of any unauthorized disclosure by the receiving Party or its representatives; and (iii) information that is shown to have been independently developed by the receiving Party. Additionally, Confidential Information may be disclosed to the extent such is required by law or regulation or by an order or subpoena of any Governmental Authority, provided that in such event 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 (and the receiving Party shall reasonably cooperate at the disclosing Party's expense with the disclosing Party's effort in the same).

19. Notices

Any Party can give notice under this Agreement (each a "**Notice**") by sending an email, by a physical mailing using a recognized overnight courier, or by registered mail, return receipt requested, to the applicable email or mailing address listed below; provided that any Termination Event Notice, and any notice for breach, indemnification, or other legal matter, shall be given by a physical mailing using a recognized overnight courier, or by registered mail with return receipt requested, to the applicable mailing address listed below, also sending an electronic copy of said physical writing via email to the applicable email address listed below.

To Provider:

Address:	Lancium FS 25, LLC 9950 Woodloch Forest Drive, Suite 1600 The Woodlands, TX 77380
Attention:	Michael McNamara, CEO and Legal Department
Email:	michael.mcnamara@lancium.com and Legal@lancium.com

To Customer:

Address:	Sphere3D Mining Corp. 4 Greenwich Office Park, Suite 100 Greenwich, Connecticut, 06831

Email: patricia.trompeter@sphere3d.com

Attention:	Patricia Trompeter

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 (using the methods set forth in this Section 19).

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, subsidiary, or successor (collectively, "**Transferee**") of such Party, provided that the would be Transferee of such Party agrees to be bound to the terms of this Agreement, such Transferee is not a competitor of the other Party, and the credit of such Transferee is not materially worse than the credit of such Party.

Provider may use subcontractors or affiliates to perform some or all of its obligations under this Agreement; provided that Provider shall remain fully responsible and liable 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

Provider shall not publicly disclose that it is providing Services to Customer or use Customer's name and logo to identify Customer in promotional materials, including press releases, without first obtaining Customer's prior written approval of each such disclosure. Customer shall not publicly disclose that it is receiving Services from Provider or use Provider's name and logo to identify Provider in promotional materials, including press releases, without first obtaining Provider's prior written approval of each such disclosure. Customer agrees that Provider may use metrics from the Facility, including Uptime, rewards, and profitability, that may relate to Customer's activity within the Facility (the "**Metrics**"), without the permission of Customer; provided that the Metrics shall be aggregated with other similar metrics from other customers of Provider and shall not be used in any way that identifies Customer; provided further that either Party shall be entitled to disclose the terms of this Agreement as required by Applicable Law or any Government Authority (including without limitation the Securities and Exchange Commission). Neither Party may issue any press release or publicity regarding the Agreement, use the other Party's name or logo, or any other trademarks, service marks, or other identifying indicia, or publicly disclose that it is using the Services, or provide Metrics related to the Facility, without first obtaining the other Party'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 DELAWARE 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 HARRIS 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.

Notwithstanding the foregoing, in the event of any breach or threatened breach of Section 18 of this Agreement, any Party who desires to protect its Confidential Information will have the right to seek, without the requirement of posting a bond or security, equitable relief, including, without limitation, injunctive relief and specific performance, in addition to any other remedies at law or in equity it may have under this Section 22, and the other Party will not object to such equitable relief and will reasonably cooperate with the Party whose Confidential Information is being disclosed to obtain such relief.

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 either Party to pay or return any amounts (i) owed under this Agreement prior to the Termination Date (or during the Phase-out Period) or (ii) otherwise owed by a Party, 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 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. Each Party acknowledges it has no rights to sublease, subassign, or otherwise transfer its rights pursuant to this Agreement to any third party except as expressly provided under this Agreement.

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. 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. Except for the Indemnified Parties under Section 15, 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 as mutually agreed upon in writing between such Parties. 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, and the Data Center Rules, the following shall be the order of precedence: (i) AUP; (ii) Agreement; (iii) 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."; "or" means "either or both" and shall not be construed as exclusive; "hereof," "hereby," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not any particular section in which such words appear, unless otherwise specified; and "any" and "all" each means "any and all" and shall not be construed as terms of 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. Each party recognizes that this Agreement is a legally binding contract and acknowledges that it, he or she has had the opportunity to consult with legal counsel of choice. In any construction of the terms of this Agreement, the same shall not be construed against either party on the basis of that party being the drafter of such terms.

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. Without limitation of the foregoing, the Key Terms and the scope of Services may be amended to modify, add, or remove Key Terms and/or Services by a writing that references this Agreement and that is signed by both Parties. In no event will the terms of any 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. This Agreement may be executed by facsimile or in pdf or other electronic format (including DocuSign), and a facsimile or electronic signature shall be deemed the same, and equally enforceable, as an original.

[SIGNATURE PAGE FOLLOWS]

This Hosting Agreement is executed among the undersigned as of the date first set forth above:

LANCIUM FS 25, LLC

By: /s/ Michael McNamara
Name: Michael McNamara
Title: Chief Executive Officer

SPHERE 3D MINING CORP.

By: /s/ Patricia Trompeter
Name: Patricia Trompeter
Title: Chief Executive Officer

ANNEX 1

ANNEX 2

ANNEX 3

Certain confidential information contained in this document, marked by "[***]", has been omitted because it is both (i) not material and (ii) the type that the registrant treats as private or confidential.

MASTER HOSTING SERVICES AGREEMENT

This Master Hosting Services Agreement (the **"Master HSA")** is entered into on this 4th day of April, 2023 by and between **REBEL MINING COMPANY, LLC** a limited liability corporation organized and existing under the laws of Wyoming, having its principal offices at 680 S. Cache St., Suite 100-8790 Jackson, WY 83001 (hereinafter **"Host"**), and **SPHERE 3D CORP.** a company organized and existing under the laws of Ontario, Canada having its principal offices at 4 Greenwich Office Park, Ste 100, Greenwich, CT, 06831 USA (hereinafter **"Client"**), with Host and the Client are collectively referred to as the **"Parties".**

RECITALS

WHEREAS Host desires to manage certain hosting services to digital currency data center clients (the **"Managed Services")** including rack space, network services, electrical connections, routine facility maintenance, and technical support;

WHEREAS Client desires to co-locate application specific integrated circuits (**"ASIC**s") and associated equipment (collectively, the **"Client Equipment"**) at one (1) or more digital currency data center facilities managed by the Host (each a **"Host Facility"**);

WHEREAS Client shall execute one (1) or more hosting orders (each, a **"Hosting Order"**) in the same or substantially similar form as Exhibit A describing the Client Equipment to be installed at the Host Facility, the term, commencement date, required pre-paid services, fees, and payment schedule; and,

WHEREAS Client acknowledges and agrees that this Master HSA shall govern any and all Hosting Orders with Host.

In consideration of the terms and conditions set forth in this Master HSA, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Host and Client hereby agree as follows:

ARTICLE 1

COLOCATION SERVICES

1.1 Client Onboarding.

A. Client Responsibilities.

(1) *Client Equipment.* Client shall either—(a) purchase Client Equipment from Host, or (b) provide third-party Client Equipment **("Third-Party Client Equipment")** for testing and approval prior to installation at Host Facility. Host shall [***] installation fee per ASIC, which shall include power cables and power splitters. If (b), Host may require supplemental Client Equipment information (e.g., SKU, serial number, and MAC address, as applicable) for all Client Equipment prior to installation at a Host Facility.

(2) *Equipment Delivery.* Client shall be solely liable for all logistical expenses related to insuring, transporting, and shipping Third Party Client Equipment to and from Host Facility. To provide Host adequate time to prepare for Third Party Client Equipment delivery to a Host Facility, once Client has arranged for the Third-Party Client Equipment to be shipped, Client shall provide Host written notice no later than one (1) week prior to the scheduled shipping date (the **"Shipping Notice"**). In Client's Shipping Notice, Client shall include any tracking information provided to Client, and Host shall be responsible for monitoring the tracking information for updates as to expected delivery date. Any reasonable costs incurred by the Host due to the Client's failure to provide the Shipping Notice for the Third-Party Client Equipment shall be borne by the Client. Client's provision of the Shipping Notice shall be sufficient notice for Client to prepare a Host Facility for delivery and acceptance of the Third-Party Client Equipment. Client shall bear responsibility for all loss or damage to the Third-Party Client Equipment which is incurred prior to delivery and acceptance of the Third-Party Client Equipment to the Host at the Host's Facility.

(3) *Equipment Delays.* For any Third Party Client Equipment described in a Hosting Order not delivered to the Host Facility thirty (30) days prior to the Estimated Commencement Date (as defined herein), Host may at its sole discretion— (a) charge a service reservation fee equal to [***] of the undelivered or delayed equipment's Managed Service Fees (a **"Service Reservation Fee"**) until such time the Third Party Client Equipment is installed and receiving Managed Services at the Host Facility, or (b) in lieu of a Service Reservation Fee, Host may reallocate the Client's reserved Client Space (as defined herein) to another Client, and relocate the Third Party Client Equipment at an alternate Host Facility or location as soon as practicable upon receipt of delayed Third Party Client Equipment. Any equipment delay shall extend the Term on a day-for-day basis.

(4) *Security.* Host agrees to store Client equipment in a secure facility during the time after the Third-Party Client Equipment has been delivered and accepted, but prior to the time that the Third-Party Client Equipment is installed, and the Host is providing Managed Services. Host shall be responsible for the safeguarding and security of all Client's equipment from receipt of equipment to installation. Host shall employ appropriate security and monitoring of equipment.

(5) *Corporate Policies.* Client and Client Equipment shall comply with onboarding policies outlined in Exhibit B, and Acceptable Use Policies enumerated in Exhibit C, which may be updated from time to time.

B. Host Responsibilities.

(1) *Testing.* Host may perform a commercially reasonable audit of Client Equipment in accordance with prudent industry testing procedures. Host reserves the right to reject and remove, replace, or repair any defective Client Equipment in coordination with Client as a result of a Host audit. Host shall not be liable for failing to identify any hidden defects during testing.

(2) *Installation.* Host shall install all properly functioning Client Equipment at the Facility. Host reserves the right to configure Client Equipment in a manner that optimizes equipment performance based on actual, operational conditions. Host shall not be liable for failing to identify any hidden defects during installation.

(3) *Hosting Order Commencement Date(s).*

(i) Estimated Commencement Date. Each Hosting Order shall provide an estimated date on which the Host shall begin providing Managed Services to the specified Client Equipment (each, an **"Estimated Commencement Date").** The Host reserves the right to—(A) a one-time extension of an Estimated Commencement Date by up to ninety (90) days as the Host deems reasonable, or (B) reissue a new Estimated Commencement Date to address a Client Event of Default.

(ii) Actual Commencement Date. The actual commencement date of any given Hosting Order shall be defined as the date on which all Client Equipment enumerated in any given Hosting Order is properly tested and installed at a Host Facility (each, an **"Actual Commencement Date").**

1.2 Managed Services. Host shall provide rack space allocation for the Client Equipment (the **"Client Space"),** installation services, electrical power connection, network connectivity, security, and technical support, as outlined in this Agreement (the **"Managed Services").**

A. Host Responsibilities.

(1) *Data Analytics.* For the purposes of the Host providing Managed Services to the Client, Client acknowledges and agrees that Host may monitor Client's communications network and electrical usage; provided, that the Host agrees not to use such information for any purposes other than the provision of Managed Services to the Client.

(2) *Minimum Service Level.* Host shall use commercially reasonable efforts to provide uninterrupted Managed Services for [***] of the time of the Term **("Minimum Service Level")**. Only the Host's ASIC management software shall be used to calculate the Minimum Service Level metric. For avoidance of doubt, Managed Services are provided when Client Equipment is—(i) receiving power at a Host Facility, (ii) connected to a communications network, and (iii) detected by the Host's ASIC managements software.

(3) *Physical Access.* All visits to the Host Facility are at the Host's sole discretion which shall not be unreasonably withheld and must be supervised by a Host or its representative; provided that the Client shall be entitled to visit the Host Facility at least once every three (3) months. Client shall be solely responsible for any damage or loss caused by any person acting for, or on its behalf, while at the Facility except to the extent that any such damage or loss is due in any part to the contributory negligence of Host.

(4) *Host Facility Maintenance.* Host shall perform such building and Host Facility maintenance actions as Host deems necessary or desirable and as may be required to maintain Host's network **(**the **"Maintenance Services").** Client acknowledges and agrees that the performance of Maintenance may cause Host's network, and the Managed Services, to be temporarily unavailable to Client. Host shall use commercially reasonable efforts to conduct such Maintenance in a manner which shall mitigate, avoid, or minimize the impact to the Managed Services and Client Equipment. Host shall notify Client at least five (5) days in advance of any scheduled maintenance.

(5) *Hazardous Conditions.* If, in the reasonable discretion of Host, an emergency or hazardous condition arises on, from, or affecting the Host Facility, Host is hereby authorized to: (i) temporarily suspend service under this Agreement for only the period of time necessary to address the emergency or hazardous condition, and (ii) rearrange, remove, or relocate Client Equipment.

(6) *Service Failures.* Client accepts that from time-to-time Managed Services may be temporarily interrupted and may not be error-free (each a **"Service Failure"**). Host shall not be deemed in default of this Agreement for failure to provide Managed Services if Host can demonstrate that one (1) or more Service Failure(s) were the result of: (i) Force Majeure, (ii) any material actions or inactions of Client, including any activity under Client's reasonable control or within the obligations undertaken by Client including, provision of inaccurate or corrupt data, use of the Managed Services other than materially in accordance with the Acceptable Use Policy enumerated in Exhibit C, or (iii) reasonably related to the (x) Client's failure or inability to receive Digital Currency, (y) failure of Client Equipment hardware or the underlying software protocols of the Digital Currency networks, and (z) problems in Client's local environment.

(7) *Equipment Repairs.*

(i) **Generally.** Host's primary business is providing digital currency data center hosting services, not the repair of Client Equipment. Host shall undertake the most cost-efficient option for certain Client Equipment repairs (as defined herein) initiated by either the Host or Client. Host will make reasonable efforts to repair Client Equipment on-site but may require Client Equipment to be shipped to the manufacturer or a third-party vendor. If, in the Host's reasonable opinion, Client Equipment must be shipped to the manufacturer or to a third-party vendor, Host shall provide Client notice at least three (3) days before shipping such Client Equipment. Client shall be responsible for all costs and services associated with Client Equipment repairs including packaging, storage, logistics, insurance, and delivery of Client Equipment to and from a repair facility. Client is responsible for any loss or damages related to any repair of Client Equipment. Host shall provide Client timely and accurate information regarding any repairs and replacements performed or facilitated by Host on Client's behalf.

(ii) **Replacement Parts.** Host may provide replacement parts for Client Equipment available for purchase online including — (A) control boards, (B) PSUs, (C) fans, (D) pin signal cables, and (E) voltage regulating cables. Any Client request for the installation of Host-provided replacement parts shall be priced according to current market conditions, labor rates, and material costs; *provided however*, that if a valid warranty covers the repair, Host shall make a reasonable determination as to whether utilizing such valid warranty is the most cost-efficient repair option and shall use should warranty if it so determines.

(iii) **Minor Repairs.** Host shall perform certain minor, routine maintenance on Client Equipment (each, a **"Minor Repair")** as an ancillary service. In the event Client Equipment requires the replacement of minor parts with a retail value of [***] per unit, including fans, power supplies, control boards, Host shall, at its sole discretion, install one (1) or more replacement parts as a part of the Host's routine maintenance. Host shall invoice the Client on the following month for time and materials necessary to perform routine maintenance; *provided however*, that if a valid warranty covers the repair, Host shall make a reasonable determination as to whether utilizing such valid warranty is the most cost-efficient repair option and shall use should warranty if it so determines.

(iv) **Major Repairs.** To the extent that the Host or Client determines any Client Equipment requires a Major Repair, the Client will be notified of an estimated cost and timeline for repairs to be completed. Host may, in coordination with the Client, send Client Equipment to the manufacturer for repair and may or may not be fully covered under a standard manufacturer warranty. If a Major Repair can be performed by Host without voiding a Client Equipment warranty, then Host may in coordination with the Client, elect to repair Client Equipment. If the performance of a Major Repair by Host would void a Client Equipment warranty, Client may elect, and Host may agree, at Host's sole discretion, to perform the Major Repair; *provided however*, Host shall not be liable for any present or future Client Equipment issues resulting from any Major Repairs, including a Client's inability to file any warranty claim, unless such liability arises from the Host's negligence or willful misconduct in completing such repairs.

(v) **Long-Lead Time Repairs.** If either a Major or Minor Repair has an estimated lead time of more than ninety (90) days (a **"Long Lead Time Repair"**) that reduces the utilization of a Hosting Order's reserved capacity by more than ten (10.0%) percent, the Host may, at its sole discretion— (a) provide Client ability to replace the Client Equipment as soon as practicable, (b) charge a Service Reservation Fee until such time the Long Lead Time Repair is reinstalled and receiving Managed Services at the Host Facility, or (c) in lieu of a Service Reservation Fee, reallocate the Client's reserved Client Space to another client, and relocate Client Equipment at an alternate Host Facility or third party facility location in the United States as soon as practicable upon receipt of Long Lead Time Repair. Any Long Lead Time Repair shall extend the Term on a day-for-day basis.

(8) *Equipment Relocation and Returns.*

(i) **Relocation.** If it is necessary or desirable for Host's efficient use of the Host Facility to relocate the Client Equipment to a different location within the same Host Facility, Host shall provide notice to Client as soon as practicable. Host reserves the right to move any Client Equipment to another Host Facility, as Host deems reasonable under the circumstances. If Client Equipment is relocated to a different Host Facility or third-party facility within the United States, Host shall provide Client fifteen (15) days prior written notice of Host's intention to relocate Client Equipment and following expiration of the fifteen (15) day notice period the Parties shall cooperate in good faith to facilitate such relocation within a reasonable time. If Client Equipment is relocated to a different Host Facility or third-party facility outside the United States, Host shall obtain Client approval and shall cooperate in good faith to facilitate such relocation within a reasonable time. Host shall bear all liability and costs associated with any such relocation unless the request is made by the Client. Host shall use reasonable efforts to minimize and avoid any interruption in Managed Services during such relocation. If Host relocates Client Equipment to a third-party facility as provided by Section 1.1(B)(3)(ii)(c) that does not provide substantially similar Managed Services to Client, the Client shall have right for sixty (60) days following the relocation of Client Equipment, to request a subsequent relocation to another that is substantially similar to the initial Host Facility or other third-party facility that is substantially similar to the initial Host Facility. Host shall bear all logistical costs related to fulfilling a Client request for a subsequent relocation due to a deficient third-party facility. For avoidance of doubt, a Client relocation request shall not provide the Host an ability to materially alter the terms of any Hosting Order.

(ii) **Equipment Return; Abandonment.** Provided that Client has paid all amounts then due and owing under this Agreement, Host shall decommission and make the Client Equipment available to Client for pickup at, or shipment from, the Facility within thirty (30) calendar days of Client's written request, which may be extended upon the Parties' mutual agreement. Client shall be responsible for all reasonable and documented deinstallation, packing, storage, transportation, and delivery costs associated with removing and returning Client Equipment. Host shall notify Client in writing when Client Equipment is ready for pickup, and Client shall be responsible for arranging for pickup and removal of Client Equipment within thirty (30) calendar days of receiving such written notice. Such notice shall include a list detailing all Client Equipment that is ready for pickup and removal. Host may charge Client for storage beginning thirty (30) days after notice is provided that the Client Equipment is ready for pickup. Any Client Equipment that is not picked up and removed within thirty (30) days of such notice shall be deemed abandoned and legal title to such Client Equipment shall transfer to Host.

(9) *Insurance.* Client acknowledges that Host is not an insurer and that neither Client nor any Client Equipment is covered by any insurance policy held by Host or the Host Facility.

(10) *Demand Response; Load Resource Participation Programs.* Host may participate in various demand response **("DR")** activities, including participation in utility Load Resource Participation Programs **("LRP Programs")** at any Host Facility. Client understands and agrees that DR activities and LRPs provides the Host's Facility's local grid operator the critical ability to reduce grid demand in response to adverse grid conditions, as well as stabilize Host facilities' ongoing operational expenses in the event of such power market conditions. Client acknowledges the Managed Services Fees consider the Host's participation in DR activities and LRPs, and that Host shall have no liability to Client for any involuntary or compelled actions or omissions, including curtailments due to, or resulting from a Facility's participation in a DR activity or an LRP. Host may in its sole discretion curtail any Host Facility's Managed Services due to energy market conditions; *provided however,* such curtailments shall not result in an average Managed Service level of less than ninety-two (92.0%) percent for any twelve-month (12) period without Client's consent, which consent shall not be unreasonably conditioned, withheld, or delayed.

B. Client Responsibilities.

(1) *Acceptable Use Policy.* Client shall at all times remain in material compliance with Host's current Acceptable Use Policy attached hereto as Exhibit C, which may be modified from time to time and posted on Host website or transmitted via any reasonable form of communication. Regardless of the type of communication, modifications will be incorporated herein.

(2) *Compliance with Laws.* Client's use of the Host Facility shall materially conform to all applicable domestic and international laws, including jurisdictions where the Host Facility is located. Client is also responsible for obtaining any licenses, permits, consents, and approval from any authority having jurisdiction (the **"AHJ")** that may be necessary to install, possess, own, or operate the Client Equipment. As used herein, "Law" means any law, statute, rule, protocol, procedure, exchange rule, tariff, decision, requirement, writ, order, decree, or judgment adopted by or any interpretation thereof by any court, government agency, regulatory body, instrumentality, or other entity, including an electric utility, retail electric provider, regional transmission organization or independent system operator. Client shall cooperate in a reasonable manner with any auditor review of Client's compliance with the terms hereof conducted by or on behalf of Host, including responding accurately and completely to all inquiries, and providing any requested documents, which shall occur no more than one (1) request per year.

(3) *Equipment Modifications.* Client shall notify and obtain prior written approval from Host before any material modifications, alterations, firmware adjustments, or other changes are made to any Client Equipment (the "**Modified Equipment")** that is intended to or might reasonably be expected to cause the Client Equipment's performance to deviate from the standard or factory specifications in a manner than could reasonably be expected to effect the continued function and safe operation of such Client Equipment and Host Facility. For any modifications made after the initial installation of Client Equipment, Host shall notify Client if Client must purchase from Host, or other third-party, additional equipment, accessories, software, or hardware, such as power cords to ensure the Modified Equipment is in compliance with the technical and fire safety codes and standards at a Host Facility. Host shall have the right to consent to any Modified Equipment necessary to ensure continued function and safe operation of the Client Equipment and the Host Facility which consent shall not be unreasonably withheld, delayed, or conditioned.

(4) *Transfer of Client Equipment*. Client shall provide prompt written notice to Host if the Client transfers legal title, ownership interests, or grants any third-party rights in any Client Equipment to an affiliate, related party, or third party.

(5) *Transfer of Managed Services.* Other than to a Client Affiliate, Client may sublease, sublicense, assign, delegate, or otherwise transfer its receipt of Managed Services under this Agreement to any third party **("Managed Service Transferee")** by providing Host ten (10) days prior written notice. For avoidance of doubt, Client shall remain the sole point of contact and liable for any Managed Service Transferee HSA obligations, including payment. Client shall not transfer Managed Services more than (1) time per billing cycle.

ARTICLE 2

PAYMENT TERMS AND CONDITIONS

2.1 Client Deposit(s). Client shall remit the last three (3) months of the Managed Service Fees to Host (the **"Client Deposit"**) for the specified Client Equipment, unless otherwise provided in the Hosting Order. For avoidance of doubt, each Client Deposit shall be calculated on the Managed Services pricing at the time of execution of each Hosting Order.

2.2 Managed Service Fees. All Hosting Orders shall be invoiced on a prepaid, monthly basis and sent to Client [***] days prior to the end of the preceding calendar month. Client shall remit the monthly Managed Service Fees due under all Hosting Orders to Host within [***] business days of invoice receipt, including any other due and payable services performed, or reimbursements invoiced by Host to Client. The initial invoice shall be sent to Client [***] days prior to the Host Facility is scheduled to begin delivery of Managed Services to Client Equipment

2.3 Credits and Overages. In the event a Client does not receive the Minimum Service Level during a billing cycle, the Host shall credit the Client an amount equal to [***]

2.4 Rate Modifications. The Host reserves the right to modify its Managed Service Fees under the following circumstances:

A. **End of Term.** At the end of the contract Term, provided Host notifies Client at least thirty (30) calendar days in advance of the effective date of such rate change; or,

B. **Pass-Throughs.** In the event of new or additional costs directly or indirectly incurred by Host in connection with providing any level of Managed Services, such costs (the **"Passed- Through Amounts"**) shall be billed to the Client with no markup so long as the Managed Services do not exceed [***] for more than one (1) billing cycle. Client shall pay all such amounts in accordance herewith. Such costs include, whether retroactive or prospectively applied, (i) costs attributable to newly enacted or amendments to existing state, federal, or international laws and/or regulations, (ii) compliance requirements, (iii) utility tariffs, fees, or riders including fuel adjustment riders, demand charges, and other utility-related pass throughs, or (iv) taxes, levies, governmental or quasi- governmental fees, and property assessments.

Any Pass-Through Amounts resulting in Managed Services exceeding [***] for more than one (1) billing cycle **(**the **"Pass Through Ceiling"**) shall provide Host the ability to — (i) at Host's expense, relocate Client Equipment to an alternate Host Facility or third-party facility with substantially similar Managed Services and a new Estimated Commencement Date or (ii) terminate due to an Event of Force Majeure if a relocation is not feasible; *provided, however*, Client may elect to remain at the Host Facility, and (i) accept Managed Services at a rate in excess of the Pass Through Ceiling, or (ii) enter into a period of Client Downtime (as defined herein).

C. **Supply Chain Disruptions.** Host may experience increased costs of goods and services, inventory shortages, and temporary shutdowns due to global supply chain disruptions, labor shortages, as well as monetary inflationary pressures, in which case the Host may pass on such increased costs (but no more than such increased costs) to the Client.

2.5 Minimum Usage Fees. Any Client hosting capacity reserved pursuant to a Hosting Order unused as a result of any Client act or omission for any period of time (**"Client Downtime"**) during the Term shall be subject to a [***] of such Hosting Order's Managed Services rate, plus all direct utility and other operating expenses incurred by Host during any Client Downtime.

2.6 Payment Currency. Except for payments made in U.S. Dollars (or equivalent USDC), Host reserves the right to reject any payment, or require additional payment based on the conversion rate of such payment to U.S. Dollars (if applicable). Any fees or expenses associated with the rejection and substitution of any full or partial payments to Host shall be borne by Client at their sole expense.

2.7 Taxes. Each Party shall be responsible for the taxes (including, without limitation, sales, use, transfer, privilege, excise, consumption, and other taxes), fees, duties, governmental assessments, impositions, and levies that may be imposed or levied on it in connection with this Agreement and/or the provision of Managed Services hereunder under applicable law.

2.8 Late Penalties. Any amounts, other than amounts that are disputed in good faith, due hereunder that remain unpaid for ten (10) days or more shall be payable on demand together with interest computed from the date payment was due at a rate of six percent per annum (6.0%) on a daily simple interest basis.

ARTICLE 3

TERM AND TERMINATION

3.1 Term.

A. **Initial Term**. All obligations and provisions contained in this Agreement shall be binding as of the date of execution and terminate at the later of—(i) three (3) years, or (ii) the date of the expiration or termination of the last Hosting Order executed by the Client (the "**Initial Term**")**.**

B. **Renewals.** At the end of the Initial Term of the Master HSA, unless either Party issues a written notice of non-renewal within thirty (30) days prior to the expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) calendar year terms **("Renewal Terms").**

3.2 Expiration. Upon expiration of this Agreement, Host shall have no further obligation to Client except to return the Client Equipment in accordance with this Agreement.

3.3 Termination; Events of Default. This Agreement may be terminated for cause by either Party at any time if the non-terminating Party breaches any material term of this Agreement (any such breach, an **"Event of Default"**), and fails to cure such breach (if susceptible to cure) within five (5) days, or according to the timelines prescribed in this Section.

A. Termination for Non-Performance. A Party shall be deemed in default for non- performance under the following circumstances—

(1) If Client fails to deliver Third-Party Client Equipment to a Host Facility within thirty (30) days of the Estimated Commencement Date, Client shall have thirty (30) days from this type of Event of Default to cure the breach; *provided however,* Host may at its sole discretion either —(i) toll an Event of Default resulting from a delay in the delivery of Third-Party Client Equipment for up to six (6) months, but only on a day- for-day basis, and only if Client can demonstrate the delay is caused by a logistics or supplier-related delay, or (ii) issue Client a new Estimated Commencement Date to address the Event of Default.

(2) If there is a delay caused by the Host or the Host's affiliates or a logistics, supplier- related or utility-related delay of more than thirty (30) days after the Estimated Commencement Date (a **"Commencement Delay"**), and Host fails to cure after thirty (30) days, Client shall have the right to terminate for cause; *provided, however,* Client, may at its sole discretion either (i) toll an Event of Default resulting from a delay in the providing Managed Services at a Host Facility for up to six (6) months, but only on a day-for-day basis, and only if Host can demonstrate the delay is caused by a logistics, supplier-related, or utility-related delays, or (ii) amend a Hosting Order and provide a new Estimated Commencement Date to address the Event of Default. If a Client decides to toll the Agreement, Host may if available—(1) with notice provided to the Client, relocate the Client Equipment to an alternate Host Facility or third-party facility in the United States that provides substantially similar Managed Services to the Client with a new Estimated Commencement Date, or (2) in coordination with the Client, relocate the Client Equipment to an alternate Host Facility or third-party facility outside the United States that provides substantially similar Managed Services to the Client; *provided, however,* if not Host Facility or third- party facility is not available the Client may choose, in its sole discretion, to receive a service credit equal to [***] of the average per day miner profit as calculated below to be used as a credit against the Managed Service Fees until such time as such Client Equipment is installed and Managed Services are being provided at the Host Facility.

1. BTC Mined per Miner: [Commencement Delay in Seconds] / ([Difficulty] * [232] / Hashrate) [Block Subsidy]

2. Average Mining Profit per Miner:

([BTC Mined] * [Average XBT Price]) – ([Commencement Delay in Hours] * [Managed Service Fees] * [Reserved Hosting Capacity]

(3) Client delivers Third-Party Client Equipment to Host or a Host Facility that does not materially conform with or is materially different from the equipment enumerated in a Hosting Order; *provided however,* Host may accept the non-conforming Third-Party Client Equipment so long as it meets the requirements enumerated in Exhibit B. Host shall adjust the Managed Service Fees based on the Third-Party Client Equipment accepted and installed by Host.

(4) Client's failure to respond to a Host request for necessary Major Repairs, Minor Repairs, Client Equipment Modifications, or replacements of Client Equipment within ten (10) days of Client receiving notice from Host.

(5) a non-terminating Party becomes the subject of a voluntary or involuntary proceeding relating to insolvency, bankruptcy, receivership, liquidation, or reorganization for the benefit of creditors, and such petition or proceeding is not dismissed within sixty (60) calendar days of the filing thereof; or

(6) a court or other government authority having jurisdiction over the Host or Managed Services prohibits Host from furnishing the Managed Services to Client.

(7) Host fails to provide security services for Client Equipment that would reasonably be expected to be provided by a company similarly situated to the Host.

B. **Non-Payment.** Client's non-payment of any service, deposits, fees, and/or other charges due and owing to Host in accordance with the terms of this Agreement and Hosting Orders shall constitute an Event of Default. Failure of Client to cure an Event of Default due to non-payment within five (5) business days shall provide Host an ability to pursue the remedies as further described in Section 3.4(A)(1)-(3); *provided, however*, that Client may request from Host an additional five (5) day extension for such payment, which Host may approve in its discretion, and shall not be unreasonably withheld, conditioned, or delayed. Failure of Client to cure an Event of Default due to non-payment within thirty (30) days shall provide Host, at its sole discretion to terminate the Agreement for cause. For avoidance of doubt, Client shall be charged no less than the full Managed Service Fee Rate during any period of Default.

3.4 Effect of Default.

A. **Host Remedies.** After three (3) Events of Default for non-payment by Client, Host reserves the right to enter a period of Client Downtime until the Event of Default is cured. The Host may take one (1) or more of the following actions to address a Client Event of Default—

(1) *Default Mining.* Unless otherwise agreed, fifteen (15) days after a Client Event of Default for non-payment remains uncured (other than any amounts disputed in good faith), the Host may redirect and utilize the hashrate of the Client Equipment for the Host's benefit, until such time as the Client cures the Event of Default. Twelve (12) months after the Actual Commencement Date, with notice given to the Host at the time the Client requests an extension for non-payment described in Section 3.3(B), Client shall have an ability to request a one-time (1) supplemental extension of ten (10) days prior to Host redirecting Client Equipment (the **"Supplemental Extension"**); *provided, however,* the Client event of Default shall remain uncured until the Host receives the full amount due and owing, including any Client Deposits applied by Host during the Supplemental Extension.

(3) *Termination Fee.* Should the Host elect to terminate a Client's Hosting Order or this Agreement for cause thirty (30) days after a Client's Event of Default remains uncured, the Client shall owe Host a termination fee equal to all Client Deposits, which shall be deemed non-refundable (the **"Termination Fee**"). The Client shall be responsible for any decommissioning, storage, and logistics expenses in excess of the Termination Fee.

B. **Client Remedies.** Client's remedy for Host's non-performance of its obligations pursuant to a specific Hosting Order governed by this Agreement shall be a refund of any unused fees or deposits paid by Client to Host for each specific Hosting Order subject to Host's breach for non-performance. Should the Client elect to terminate this Agreement for cause, the Host shall owe Client a fee equal to all expenses associated with the decommissioning, storage, and/or removal of any Client Equipment from a Host Facility.

C. **Termination in Consequence of Force Majeure Event**. If a Force Majeure Event shall have occurred that has caused a Party's performance of its obligations under this Agreement to be impossible without undue hardship and that has continued for a continuous period of one hundred eighty (180) days, except as provided by Section 2.4(B) for instances where the Pass Through Ceiling is exceeded, then the other Party shall be entitled to terminate this Agreement upon thirty (30) days' prior written notice to the Party whose performance is so affected by the Force Majeure Event. If at the end of the thirty (30) day notice period the Force Majeure Event shall still continue, this Agreement shall be deemed terminated in accordance with such notice of termination. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other under this Agreement other than any such liabilities that have accrued prior to such termination, which shall be refunded within thirty (30) days of the Host receiving a notice of termination under this Section.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES

4.1 Host Representations and Warranties. Host represents and warrants to Client that—

A. Host has full power and authority to enter into this Agreement and perform Host's obligations hereunder;

B. Host's performance of its obligations hereunder will not violate any applicable laws or require the consent of any third party;

C. Host will provide the Managed Services at the Facility in a professional and workmanlike manner consistent with the terms and conditions of this Agreement; and,

4.2 No Other Host Warranties. The Managed Services (including all materials supplied and used therewith) are provided "AS IS," "WHERE IS", and Client's use of the Managed Services is at Client's own risk. Host does not make, and hereby disclaims, any and all representations and warranties, express or implied, whether in fact or by operation of law, statutory or otherwise, including, but not limited to, any representation or warranty regarding (i) the impact of wind, humidity, and other weather-related variables on Facility operating conditions, (ii) the price or liquidity of any Digital Currency, and (iii) either now or in the future, warranties of merchantability, habitability, marketability, profitability, fitness for a particular purpose, suitability, noninfringement, title, or arising from a course of dealing, or trade practice.

4.3 Client Representations and Warranties. Client represents and warrants to Host that:

A. **Authority.** Client has full power and authority to enter into this Agreement and perform Client's obligations hereunder;

B. **Information Security**. Client understands and agrees that use of telecommunications and data communications networks and the Internet may not be secure and that connection to and transmission of data and information over the Internet provides the opportunity for unauthorized access to wallets, computer systems, networks, and all data stored therein. Information and data transmitted through the Internet or stored on any equipment through which Internet information is transmitted may not remain confidential, and Host does not make any representation or warranty regarding privacy, security, authenticity, and non- corruption or destruction of information or data specifically as a result of such transmission through the Internet; provided that the Host shall take commercially reasonable steps to protect Client information and data. Host shall not be responsible for any adverse consequence or loss whatsoever to Client's (or its **"users"** or **"subscribers"**) use of the Services or the Internet, unless caused by the negligence or willful misconduct of Host. Use of any information transmitted or obtained by Client from Host is at Client's own risk. Host is not responsible for the accuracy or quality of information obtained through its network, including as a result of failure of performance, error, omission, interruption, corruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of information or facilities, or malfunctioning of websites. Host does not control the transmission or flow of data to or from Host's network and other portions of the Internet, including the Digital Currency networks. Such transmissions and/or flow depend in part on the performance of telecommunications and/or Internet services provided or controlled by third parties. At times, actions, or inactions of such third parties may impair or disrupt Host or Client's connections to the Managed Services. Host does not represent or warrant that such events will not occur, and Host disclaims any and all liability resulting from or related to such acts or omissions. If Host suspects any security violations have occurred related to Client's account or Digital Currency, Host may suspend access to Client's account and hardware pending resolution;

C. **Client Software.** Client will provide all end-user equipment, software, credentials, and/or related equipment that Client deems necessary or desirable for Client's use of the Managed Services for mining Digital Currency.

D. **Client Equipment Insurance.** Client has procured and shall maintain a valid insurance policy for any and all Client Equipment in the Host's care and custody during the term of this Agreement.

E. **Financial Service Laws.** Client will at all times materially comply with all "know your customer" **("KYC")** laws, regulations; applicable regulations and guidance set forth by the Financial Crimes Enforcement Network **("FinCen")**; state money transmission laws; laws, regulations, and rules of relevant tax authorities; the Bank Secrecy Act of 1970; the USA PATRIOT Act of 2001; AML/CTF provisions as mandated by U.S. federal law and any other rules and regulations regarding AML/CTF; issuances from the Office of Foreign Assets Control **("OFAC")**; the National Futures Association; the Financial Industry Regulatory Authority; and the Commodity Exchange Act. Upon Host's request, Client shall supply any KYC documentation of a type that a business such that as conducted by Client would typically be expected to provide, in order for to Host to perform certain regulatory and legal compliance obligations.

F. **Export Control Laws.** Client shall not export, re-export or otherwise transfer any products, commodities, or technology, in connection with its performance of this Agreement, that is inconsistent with any requirement of the Export Administration Regulations **(**the **"EAR"),** the International Traffic in Arms Regulation **(**the **"ITAR"),** or Foreign Assets Control Regulations, or the laws or regulations of the United States and (as applicable) the exporting country outside the United States; and,

G. **Unauthorized Use**. Client will not use the Managed Services to intentionally store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights; use the Managed Services to intentionally store or transmit Viruses; attempt to gain unauthorized access to any Managed Services or its related systems or networks; permit direct or indirect access to or use of any Managed Service in a way that circumvents a contractual usage limit; copy a Managed Service or any part, feature, function, or user interface thereof except as permitted under this Agreement; or use the Managed Services in relation to any act which is unlawful. Client will use reasonable efforts to prevent unauthorized access to or unauthorized use of the Managed Services and shall notify Host promptly of any such unauthorized access of use. For purposes of this section, **"Viruses"** means any malicious data, code, program, or other internal component (e.g., computer worm, computer time bomb or similar component), which could damage, destroy, alter, or disrupt any computer program, firmware, or hardware, or which could, in any manner, reveal, damage, destroy, alter, or disrupt any data or other information accessed through or processed by the Service in any manner.

ARTICLE 5

LIMITATION OF LIABILITY

5.1 Digital Currency. Host does not make any claims, representations, or warranties related to any Digital Currency associated with the operation of the Client Equipment and does not own the underlying software protocols of Digital Currency networks which govern the operation of such Digital Currency. Host is not responsible for the operation of the underlying protocols and makes no guarantees regarding their security, functionality, or availability. In no event shall Host be liable to Client or any other entity for any decision made, or action taken by Client in reliance on, or in connection with the Managed Services. This limitation on liability includes, without limitation, any damage or interruptions caused by any computer viruses, spyware, scamware, trojan horses, worms, or other malware that may affect Client's computer or other equipment, or any phishing, spoofing, domain typo squatting or other attacks (collectively**, "Hacking"**), other than Hacking caused by Host's negligence or willful misconduct. If this disclaimer of liability section is deemed to conflict with any other section of this Agreement, this disclaimer of liability section shall prevail and control to the extent of the conflict. For purposes of this Agreement, **"Digital Currency"** means any digital asset, cryptocurrency, virtual currency, digital currency, or digital commodity, which is based on the cryptographic protocol of a computer network that may be: centralized or decentralized; closed or open source; or used as a medium of exchange and/or store of value. Client further acknowledges that cryptocurrency price movements, difficulty, and legal and regulatory risks **(**collectively, the **"Market Risks")** could have a material adverse impact on the value of digital currencies, Digital Currency Data Centers, Client Equipment, and Managed Services. Client assumes responsibility for all such Market Risks, and Host hereby disclaims all liability for any losses that may arise as a result thereof.

5.2 Indemnification.

A. **Host Indemnification.** In addition to any other applicable rights under this Agreement, Client agrees to indemnify, defend and hold harmless Host and its officers, managers, partners, members, agents, employees, Affiliates, attorneys, heirs, successors and assigns **(**collectively, the **"Host Parties")** from any and all claims, demands, actions, suits, proceedings, and all damages, judgments, liabilities, losses, and expenses, including, but not limited to, reasonable attorney's fees **("Losses"),** arising from or relating to— (i) any legal, regulatory or governmental action against or including Client, (ii) the maintenance or operation of Client's Equipment, (iii) any Loss by any of Client, its officers, managers, partners, members, agents, employees, affiliates, attorneys, heirs, successors or assigns (collectively **"Client Parties")**, (iv) any claim by an Affiliate of the Client Parties, including a Client, relating to, or arising out of, this Agreement or the Managed Services (including claims arising from or relating to interruptions, suspensions, failures, defects, delays, impairments or inadequacies in any of the aforementioned Services), (v) any breach or nonperformance by Client Parties of any provision or covenant contained in this Agreement or the Managed Services, or (vi) any claim related to Hacking; *provided*, *however,* such instances in (i) through (vi) involve the negligence or willful misconduct of Host or the breach by the Host of this Agreement.

B. **Client Indemnification.** The Host shall indemnify, defend and hold harmless the Client and its respective Affiliates, officers, directors, employees, agents, successors and assigns **("the Client Parties"**) from and against any and all Indemnifiable Losses resulting from or arising out of: (i) any inaccuracy in or breach or non-performance of any of the Host's representations and warranties, or other covenants or agreements in this Agreement or any other transaction document by the Host, (ii) the failure of the Host to perform or observe fully any covenant, agreement or other provision to be performed or observed by it pursuant to this agreement or any other transaction document, or (iii) any other matters, things or events which give rise to any Indemnified Party suffering or incurring Indemnifiable Losses with respect to its or its Affiliates' investments in the Client. If and to the extent that such indemnification is unenforceable for any reason, the Host will make the maximum contribution to the payment and satisfaction of such indemnified liabilities permissible under applicable Law. Unless otherwise mandated by applicable law, all obligations set out in this Article 5 shall be without monetary limit, are independent of any insurance requirements, and such indemnity obligations shall not be limited by any insurance requirements, nor shall they be lessened by reason of Client's failure to obtain the required insurance covered or by any defenses asserted by Client's insurers.

5.3 Limitation of Liability.

A. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT, HOST SHALL HAVE NO OBLIGATION, RESPONSIBILITY, OR LIABILITY FOR ANY OF THE FOLLOWING: (1) ANY INTERRUPTION OR DEFECTS IN THE CLIENT EQUIPMENT CAUSED BY FACTORS OUTSIDE OF HOST'S REASONABLE CONTROL; (2) ANY LOSS, DELETION, OR CORRUPTION OF CLIENT'S DATA OR FILES; (3) DAMAGES RESULTING FROM ANY ACTIONS OR INACTIONS OF CLIENT OR ANY THIRD PARTY NOT UNDER HOST'S CONTROL; (4) DAMAGES RESULTING FROM CLIENT EQUIPMENT OR ANY THIRD-PARTY EQUIPMENT; OR (5) DAMAGES RESULTING FROM HOST FACILITATING REPAIRS OF CLIENT EQUIPMENT, OTHER THAN, IN THE CASE OF (1)-(5), DAMAGES RESULTING FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE HOST.

B. IN NO EVENT SHALL HOST BE LIABLE TO CLIENT OR ANY OTHER PERSON, FIRM, OR ENTITY IN ANY RESPECT, INCLUDING FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF BUSINESS, OR COST OF COVER OF ANY KIND OR NATURE WHATSOEVER, ARISING OUT OF OR RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY THEREOF. HOST'S TOTAL CUMULATIVE LIABILITY UNDER OR RELATING TO ANY SPECIFIC HOSTING ORDER GOVERNED BY THIS AGREEMENT, WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY, OR OTHERWISE INCLUDING ATTORNEYS' FEES, SHALL BE LIMITED TO— (1) ONE (1) MONTH OF MANAGED SERVICES FEES, PLUS (2) REIMBURSEMENT OF ANY SERVICE PREPAYMENTS, DEPOSITS, OR FEES, PAID BY CLIENT TO HOST PER HOSTING ORDER, AND NOT APPLIED TO A TERMINATION PAYMENT.

C. **Damage to Client Equipment**. Host shall not be responsible for any cosmetic damage from Client Equipment not due to Host's intentional acts or omissions, negligence or willful misconduct. Host shall not repair or reimburse the Client for any such damage without Host's prior written consent.

D. **Unauthorized Access.** Host shall not be liable for damages related to unauthorized network security breaches to Client Equipment. Host will not provide any service to detect or identify any security breach of Client Equipment. Host will not provide any tests, tools, or techniques intended to gain unauthorized network access to Client Equipment or Client's personal property.

ARTICLE 6

CONFIDENTIALITY AND NON-DISPARAGEMENT

6.1 The Parties agree and understand that confidentiality and non-disparagement provisions of this Article 6 are material and essential elements of this Agreement. Except for the rights expressly granted herein, all rights, titles, and interests to any and all Client relationships, proprietary rights and intellectual property rights in Host's data will remain with and be the exclusive property of Host. Accordingly, the Parties agree that each will keep the terms of this Agreement confidential at all times, except in the event disclosure shall be required by a subpoena, an order of a court of competent jurisdiction or a governmental agency empowered to compel or require such disclosure, or, if necessary to enforce any provision of this Agreement, or such disclosure is required by law. The Parties agree that any non- public technical or business information that is disclosed to one Party (the **"Receiving Party")** by or on behalf of the other Party (the **"Disclosing Party")** in connection with this Agreement, whether orally or in writing, whether disclosed before or after the execution of this Agreement (the **"Effective Date"),** hereinafter **"Confidential Information"**, is to be treated as confidential and proprietary. Confidential Information shall also include the existence of this Agreement and the transactions contemplated herein, any non-public information that is designated by the Disclosing Party as confidential, that the Receiving Party understands to be confidential, or that a reasonable person would understand to be confidential.

6.2 The Receiving Party shall maintain the Confidential Information in strict confidence and not use or disclose it for any purpose except as expressly permitted by this Agreement.

6.3 The Receiving Party will not use Confidential Information for any purpose whatsoever, except as necessary to perform its obligations under this Agreement. The Receiving Party shall limit access to Confidential Information to those of its employees who have a need to know such information for purposes of this Agreement provided that— (i) the employees are bound by confidentiality obligations at least as stringent as those set forth herein and (ii) the Receiving Party shall be liable for any act or omission by such employee that would constitute a breach of this Article 6 if such act or omission had been caused by the Receiving Party itself.

6.4 The Receiving Party may disclose Confidential Information as required by law or government process (including a subpoena); provided the Receiving Party— (i) provides advanced written notice, unless such notice is expressly prohibited by law, to the Disclosing Party prior to disclosure sufficient to allow the Disclosing Party to seek protection from such disclosure, and (ii) reasonably cooperates with the Disclosing Party in minimizing the extent of such disclosure. In any event, the Receiving Party shall disclose only that Confidential Information that is strictly required to be disclosed and such information shall remain protected as Confidential Information in accordance with this Agreement despite any disclosure pursuant to this Section.

6.5 The Receiving Party shall use the same standard of care to protect Confidential Information as it uses to protect its own information of similar nature and importance, and in any event, no less than a reasonable standard of care.

6.6 Upon termination of this Agreement or request of the Disclosing Party, the Receiving Party shall return or destroy all Confidential Information in its care, custody, possession, or control (including all copies thereof) and shall certify its compliance with this Section in writing within seven (7) days of such return or destruction.

6.7 The Receiving Party acknowledges and agrees that in the event of an actual or threatened breach of this Article 6, that money damages may not be a sufficient remedy and in any event would be difficult to calculate and therefore, the Disclosing Party may, in addition to any other remedies available to it whether under law, equity or otherwise, seek injunctive relief without the necessity of posting bond or surety. In any such action brought by either of the parties, the prevailing Party shall be entitled to recover reasonable attorneys' fees, court costs and expenses through and including all appeals.

6.8 Notwithstanding anything to the contrary in this Agreement, Confidential Information shall not include information that— (i) is publicly available, (ii) was in the possession of the Receiving Party prior to its relationship with the Disclosing Party, or (iii) is independently developed by the Receiving Party without reliance on or reference to Confidential Information.

6.9 The obligations to protect Confidential Information as set forth in this Agreement shall remain in place during the term of this Agreement and for a period of five (5) years thereafter or for so long as the Receiving Party retains possession of Confidential Information, whichever is longer, provided that Confidential Information that is a trade secret shall remain protected for so long as such information remains a trade secret.

6.10. Non-Disparagement; Liquidated Damages.

A. **Generally.** The Parties respectively agree to refrain from making or authorizing any written or oral statements that disparage, criticize, or otherwise reflect adversely upon any of the other Parties or any of its or their directors, managers, officers, partners, attorneys, or employees. During the Term of this Agreement and for a period of two (2) years immediately after the expiration or termination of this Agreement for any reason, regardless of the reason for termination, the Parties will not, directly or indirectly, on its own behalf or on behalf of or in conjunction with any person or legal entity:

(1) engage in any practice or acts that would be reasonably expected to cause public disrepute, contempt, scandal, or ridicule for the other Party, or which might tend to reflect unfavorably on the other Party; or

(2) make public oral or written statements that disparage the business reputation of the other Party (or the Parties' management team).

B. **Right to Cure.** The Parties agree that any practice, acts, conduct, actions, statements, or other disparaging activities performed during or after the term of this Agreement will cause irreparable harm to the non-breaching Party for which money damages may not be an adequate remedy. To cure a breach of this obligation, within forty (48) hours of receiving notice of an employee or independent contractor disparaging the non-breaching Party in a manner described in Section 6.10(A), the breaching Party's management must issue a public statement retracting and reducing any negative impacts of the disparaging activities.

ARTICLE 7

MISCELLANEOUS

7.1 Entire Agreement. This Agreement, together with the documents referenced herein, is the entire Agreement between the Parties regarding the subject matter hereof and supersedes and replaces all prior and contemporaneous agreements, representations, and promises between or among the Parties. Neither Party is relying on any statement, representation, or warranty except those expressly set forth in this Agreement. In the event of a conflict, inconsistency, or ambiguity between the provisions of the body of this Agreement and any Exhibit or document referenced herein, the provisions of this Master Agreement shall control.

7.2 Choice of Law. This Agreement, including performance hereunder, are governed by the laws of the State of New York, irrespective of its conflict of laws rules.

7.3 Dispute Resolution. All disputes between Host and Client arising out of or related to: (i) this Agreement, including without limitation the performance, interpretation, termination, (in)validity and/or breach thereof, (ii) Client Equipment; and/or (iii) Managed Services, shall be exclusively resolved in the state or federal courts, as applicable, located in State of New York. The Parties each hereby consent to the jurisdiction of such courts and waive any objection to such venue, including any objection based on *forum non conveniens* grounds.

7.4 Assignment. Except as part of or in connection with a Change of Control or a reorganization solely among Client and its Affiliates, and subject to such assignee agreeing in writing to be subject to the terms and conditions hereof, Client shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily by operation of law or otherwise, without Host's written consent, such consent not to be unreasonably withheld. "**Change of Control"** means—(i) a sale by Client of all or substantially all of its assets that are the subject of this Agreement to an unaffiliated person or entity, (ii) a merger reorganization, conversion or other transaction in which more than fifty percent (50.0%) of the voting control of Client is held by persons or entities who did not hold voting control of such party, whether directly or indirectly, immediately prior to such transaction excluding any reorganization solely among Client and any entities that directly or indirectly controls, is controlled by, or is under common control with Client (each, an **"Affiliate"),** or (iii) a sale by the equity holders of Client that results in more than fifty percent (50.0%) of the voting control of such party being held by persons or entities who did not hold voting control of Client, whether directly or indirectly, immediately prior to such sale (excluding any reorganization sold among Client and its Affiliates). Client shall notify Host in writing within fifteen (15) days of any assignment or transfer. Host may at any time assign, transfer, delegate, or subcontract any or all its rights or obligations under this Agreement without Client' written consent. Subject to the restrictions on assignment of this Agreement, this Agreement shall be binding upon, and inure to the benefit of the Parties, their legal representatives, successors, and assigns.

7.5 Counterparts. This Agreement may be executed in counterparts, with all counterparty's signatures combined constituting a single executed Agreement. Electronic, scanned, faxed, or photocopied signatures shall be treated as original.

7.6 Amendment. This Agreement and Exhibits hereto may be amended or modified from time to time by mutual agreement in writing by both Parties; any such amendments shall be deemed part of this Agreement.

7.7 Survival. Those obligations that expressly or by their nature survive or extend beyond this Agreement, including any termination or expiration thereof, shall so survive. Those obligations include, without limitation, all indemnity, warranty, confidentiality, insurance, and risk allocation provisions. This Section applies irrespective of which Party terminates this Agreement.

7.8 Force Majeure. Neither Party shall be liable for any delay or failure of performance caused by, resulting from, or occasioned by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, the Party claiming the Force Majeure protections under this Section shall give reasonably prompt notice thereof to the other Party and shall use commercially reasonable efforts to remove or mitigate the effects of the Force Majeure Event. A **"Force Majeure Event"** means any event beyond the reasonable control of the Party claiming the Force Majeure protections under this Section including but not limited to acts of God, storms, criminal acts, mudslides, earthquakes, avalanches, weather, and other naturally occurring phenomena, war, fire, flood, industry wide strikes, acts of the public enemy, terrorism, insurrections, riots, pandemic, endemic, epidemic, system-wide cyber-attacks, network outages, as well as laws, rules, or regulations of any governmental authority or utility, including public utility commissions, asserting jurisdiction or control, that render performance under this Agreement impossible or impracticable. Notwithstanding the foregoing, a Force Majeure Event does not include events caused by the negligence, intentional, or willful misconduct of the Party claiming the Force Majeure protections under this Section.

7.9 Subcontractors. Host reserves the right to provide the Managed Services directly or through agents, affiliates, and/or third-party vendors. Client acknowledges and agrees that Host may procure products, services, and facilities from, and subcontract the provision of the Managed Services to, third party providers, affiliates, and subcontractors.

7.10 Notice. Whenever a written communication, notice, or confirmation is required or permitted by this Agreement, the same may be made via e-mail to an e-mail address provided by the party for the purpose of receiving notices and shall be deemed sent on the date sent, unless sender receives indicia of a failure of transmission.

7.11 No Waiver. None of the requirements of this Agreement will be considered as waived by either Party unless the same is done in writing and failure by either Party to enforce any rights will not waive those or other rights hereunder.

7.12 Publicity. Neither Party may use the name, trademark, logo, acronym, or other designation of the other party in connection with any press release, advertising, publicity materials or otherwise without the prior written consent of the other Party unless required by law.

7.13 No Third-Party Beneficiaries. Nothing in this Agreement is intended to nor shall be construed as conferring any rights or benefits to anyone other than the Parties and their affiliates. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Parties and their affiliates and not for the benefit of any third party.

7.14 Relationship of the Parties. Nothing herein does or is intended to create an agency relationship, partnership, or joint venture. Neither Party has the authority to bind the other.

7.15 Interpretation. Each Article of this Agreement contains provision that are sometimes referred to as Section(s) of an Article. Unless context requires otherwise, a general reference to any Article includes the entire Article and a reference to any specific Section(s) of an Article refers only to the identified Section(s).

7.16 Time is of the Essence. Time is of the essence in performing all obligations under this Agreement, except in those instances which implement a specific deadline or timeline.

7.17 Electronic Commerce. Because Host operates online, it is necessary for Client to consent to transact business with Host online and electronically, including the execution of this Agreement and associated Hosting Orders. As part of doing business with Host, therefore, Client consents to execute certain Agreements with the Host electronically, and the Host agrees to provide certain disclosures electronically. By entering into this Agreement, Client consents to receive electronically all documents, communications, notices, contracts, and agreements arising from or relating in any way to Client's or Host's rights, obligations, or services under this Agreement (each, a **"Disclosure"**). If Client's registered email or mailing address changes, Client must notify Host immediately.

7.18 Severability. If any term or other provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or incapable of being enforced, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

WITNESS THE SIGNATURES of the Parties to the Hosting Services Agreement as set forth below.

HOST	CLIENT
REBEL MINING COMPANY, LLC	**SPHERE 3D CORP.**
By: /s/ Thomas D. Guel	By: /s/ Patricia Trompeter
Name: Thomas D. Guel	Name: Patricia Trompeter
Title: Authorized Signator	Title: CEO
Date: 4/5/2023	Date: 4/5/2023

EXHIBIT A

EXHIBIT B

EXHIBIT C

Certain confidential information contained in this document, marked by "[***]", has been omitted because it is both (i) not material and (ii) the type that the registrant treats as private or confidential.

HOSTING AGREEMENT

THIS HOSTING AGREEMENT ("Hosting Agreement") is entered into on this 18th day of October, 2023 ("Effective Date") by and among Joshi Petroleum , LLC, a Texas limited liability company "Joshi Petroleum" and Sphere 3D Corporation, a Corporate entity ("Customer") (each a "Party" and collectively, the "Parties").

WHEREAS Joshi Petroleum either operates or leases its facilities (each a "Hosting Facility") nearby natural gas wells in order for it to convert the natural gas into electricity to be used to power computer equipment used to mine cryptocurrency;

WHEREAS Joshi Petroleum either operates or leases its facilities (each a "Hosting Facility") on grid sites where electricity is to be used to power computer equipment used to mine cryptocurrency;

WHEREAS Joshi Petroleum provides hosting services to its customers whereby it operates and maintains computer servers that are used to mine cryptocurrency;

WHEREAS Customer owns such servers and other electronic hardware used to mine cryptocurrency ("Computer Hardware");

WHEREAS the Parties desire for Customer to provide its Computer Hardware to Joshi Petroleum in order for Joshi Petroleum to operate the Computer Hardware to mine cryptocurrency;

WHEREAS the Parties desire for Customer to pay Joshi Petroleum a fee based on the amount of power generated by Joshi Petroleum and reserved by Customer to be used in operating the Customer Hardware.

1. Hosting Services

1.1. Hosting Arrangement. Joshi Petroleum shall host the Customer Hardware at a Hosting Facility ("Hosting Service"). As part of the Hosting Service, Joshi Petroleum shall provide for or arrange shelf and/or rack space, sufficient electrical capacity at the required voltage and wattage of Customer Hardware to achieve the service Level (i.e., standard boxes, basic repairs or hardware resets), adequate site security, and support from Joshi Petroleum.

1.2. Service Level. Joshi Petroleum shall make an effort to make the Hosting Service available to Customers for at least [***] of the time each month (the "Service Level"), except in the event of maintenance of the Hosting Facility and its associated infrastructure, Customer Hardware failure, or events constituting Force Majeure. "Force Majeure Event" means a failure by the other party to perform any of its obligations under this Agreement, if such failure is caused by events or circumstances beyond its reasonable control, including, without limitation, acts of God, war, labor strike, terrorist act, earthquake, landslide, hurricane, typhoon, tsunami, volcanic eruption, inclement weather, health epidemic or any law, order, regulation, seizure or other action of any governing authority or agency.

Notwithstanding the foregoing, in the event of such an occurrence, each party agrees to make a good faith effort to perform its obligations hereunder. Joshi Petroleum does not guarantee that the Hosting Service will not be interrupted by outages or shortages of power that are planned or unplanned and outside of Joshi Petroleum 's control. Joshi Petroleum will not be liable for the foregoing interruptions. If uptime falls below [***] for at least three (3) consecutive months, then Customer shall be entitled to terminate this Agreement in accordance with Section 6

1.3 Miner Inventory. The breakdown of the type and quantity of miners to be provided by Customer to Joshi Petroleum to be hosted is set out in Schedule A.

1.4. Capacity Expansion. If the Parties desire to expand the volume of power to be provided hereunder, they may amend Schedule A in writing to reflect the expansion.

1.5. Hosting Location. Joshi Petroleum will host the Customer Hardware at one of the hosting locations maintained by Joshi Petroleum.

2. Customer Hardware and Delivery

2.1. Delivery to Hosting Facility. Customer Hardware will require shipping and delivery to the Hosting Facility from the hardware manufacturer or a third-party distributor or reseller. In such cases, the Customer shall provide for the delivery of the Customer Hardware to the Hosting Facility designated by Joshi Petroleum to Customer.

2.2. Inspection and Installation. Joshi Petroleum shall inspect the Customer Hardware for suitability of hosting and has full discretion to accept or reject any Customer Hardware. Upon receipt, inspection, and confirmation that Customer Hardware is fully functioning, Joshi Petroleum shall provide for the installation of Customer Hardware at the Hosting Facility. Joshi Petroleum shall charge customer a non-refundable fee of [***] for miner installation.

2.3. Operation and Commencement Date. Joshi Petroleum shall make best efforts to ensure operation by the Commencement Date set forth in Schedule A, and in no event no later than thirty (30) days from such date. If Joshi Petroleum is unable to meet this timeline, provided, however, that, except for cases arising out of Joshi Petroleum 's gross negligence or willful misconduct, delay in receipt of Customer Hardware, events constituting Force Majeure, lack of available rack space, or electrical or network connectivity problems, Customer shall be entitled to terminate this Agreement immediately and have the Customer Hardware returned in accordance with Section 4.5 hereof.

2.4. Serial Numbers. If requested by Customer, Joshi Petroleum shall provide Customer with that serial number for each machine included as part of Customer Hardware within 30 business days of such request.

3. Hosting Facility Maintenance

3.1. Facility Maintenance. Joshi Petroleum shall be entitled to perform maintenance and any actions as deemed necessary or desirable by Joshi Petroleum or its agents with respect to the Hosting Facility and to maintain the network. The customer acknowledges and agrees that the performance of such maintenance may cause the network to be temporarily inaccessible and the Customer's Hardware may experience temporary downtime or unavailability. Joshi Petroleum shall use commercially reasonable efforts to conduct such Maintenance in a manner so as to avoid or minimize the unavailability of the Hosting Service. If a scheduled Maintenance as soon as reasonably practicable, identifying the time and anticipated duration.

3.2. Hardware Maintenance and Repair. Joshi Petroleum shall be entitled to perform maintenance and any actions as deemed necessary or desirable with respect to Customer Hardware. Other than simple repairs and immaterial costs for parts and labor, the Customer will be notified of an estimated cost and timeline for Customer Hardware repairs to be completed. Joshi Petroleum may require Customer Hardware to be shipped to the manufacturer warranty, but shipping costs will be paid at the Customer's expense. If the Customer does not agree with repair options or costs, the Customer has the right to have the Customer Hardware shipped to them at Customer's expense. If the Customer does not respond to options for repair provided by Joshi Petroleum within (15) days, Joshi Petroleum reserves the right to remove such Customer Hardware from operation, without a fee reduction.

4. Hosting Service Fee and Customer Responsibility

4.1. Delivery and Installation of Customer Hardware. Any costs for the installation, mounting, and unmounting of Customer Hardware and all tariffs, taxes, shipping costs, or other expenses associated with shipping, importing, exporting, and transporting Customer Hardware to the Hosting Facility shall be borne by the customer.

4.2. Selection of Mining Pool. The Parties acknowledge that the cryptocurrency mining industry is primarily comprised of a variety of "*mining pools*" of unrelated parties joined together in a pool to mine as a group. The customer shall timely provide Joshi Petroleum with the mining pool it seeks to join. The customer is at all times responsible for the selection of the mining pool, monitoring pool performance, and instructing Joshi Petroleum to make any changes to the mining pool(s) Customer seeks to use. Joshi Petroleum shall not be liable for any losses or damages related to the choice of mining pools.

4.3. Private Key and Wallet Security. The Parties acknowledge that the cryptocurrency mining industry involves the use of a "*Wallet*" which contains ownership rights to the cryptocurrency mined, which are accessed by passwords, or "*privatekeys*" The customer shall at all times be responsible for maintaining software and all other telecommunications, internet access, and related equipment required to receive the Customer's mined cryptocurrency. The Customer is solely responsible for the security of the Customer's private keys. Customer shall hold Joshi Petroleum harmless from a breach of security related the user or access security with respect to any of Customer Hardware, wallet or private keys. Joshi Petroleum does not provide any service to detect or identify any security breach of Customer Hardware. Joshi Petroleum does not provide any tests employing tools and techniques intended to gain unauthorized access to Customer Hardware.

4.4. RESERVED.

4.5. Return of Customer Hardware. The Customer may request upon the expiration or termination of this Agreement, for Joshi Petroleum to return any and all Customer Hardware unless the Customer is in default of payment and has not cured such default within ten (10) business days. All shipping costs, fees, taxes, handling costs, and risk of loss during shipping shall be borne by the Customer. If the Customer does not provide return directions within thirty (30) days of termination or expiration of this Agreement, Joshi Petroleum shall be entitled to a storage fee of [***] per day per miner, until equipment is removed. If the Customer does not either provide directions or arrange for self-pickup within ninety (90) days, the Joshi Petroleum es entitled to retain or dispose of Customer Hardware. Joshi Petroleum will not be responsible for any damage or operation deficiency of Customer Hardware and Joshi Petroleum will not repair or reimburse Customer in any form.

5. Payment Terms

5.1. Hosting Service Fee. [***]

5.2. Deposit. Customer shall deliver to Joshi Petroleum an amount equal to the Deposit(s) as set forth in Schedule A ("Deposit"), [***] In the absence of Synota, Foreman or pool information shall be used to calculate daily power usage. If Joshi Petroleum were to mine using customer's miners, only the mining proceeds minus the hosting fee would count towards the deposit. The USD value of the mining proceeds will be calculated at the equivalent BTC price on the day the coins are mined. If the Customer fails to pay the Hosting Fee, Joshi Petroleum may use, apply or retain all or any portion of the Deposit for the payment of any amount due under this Hosting Agreement. Customer has the option to prepay the balance of the deposit at any time during which the miners are pointed to Joshi Petroleum's wallet. Once the deposit is satisfied, the Customer may redirect the hashrate to Customer's wallet.

6. Term, Termination, Modification, and Suspension

6.1. Term. Unless terminated sooner as provided in this Hosting Agreement, the initial term of this Hosting Agreement shall begin on the Commencement Date and expire three (3) years thereafter (the "Initial Term"). Upon expiration of the Initial Term, this Agreement will renew automatically for additional successive one-year periods ("Renewal Term") until and unless either party provides written notice to the other party of its desire to avoid and given Renewal Term at least thirty (30) days in advance of the conclusion of the prior Initial Term or Renewal Term. The Renewal Term together with the Initial Term shall constitute the "Term".

6.2. Termination. Joshi Petroleum may terminate this Agreement immediately following written notice to Customer that Customer (I) failed to make any payments due under this Hosting Agreement on a timely basis after an opportunity to cure within ten (10) days of when such payment was due; (ii) violate, or fail to perform or fulfill any material covenant or provision of this Agreement, and such breach is not cured within thirty (30) days after written notice from Joshi Petroleum describing the breach, or (iii) enter into bankruptcy, financial failure or insolvency ("Insolvency Event"). Customer may terminate this Agreement immediately following written notice if Joshi Petroleum (I) violates or fails to perform or fulfill any of its obligations under this Agreement, and such breach is not cured within ten (10) days after written notice from Customer to Joshi Petroleum describing the breach, or (ii) enters into an Insolvency Event. The Parties may terminate this Agreement in writing by mutual consent.

6.3. Effects of Termination. Upon termination or expiration of this Agreement, each Party agrees to pay to the other Party all amounts then owed in accordance with the payment timelines as specified under this Agreement (including Customer's hosting deposit) up to the date of termination. Upon the termination or expiration of the Agreement for any reason, Joshi Petroleum will permanently delete the Customer's personal information from any and all storage devices as soon as reasonably practicable but no later than fourteen (14) days from the date of termination or expiration. Joshi Petroleum agrees to assist in the transfer of any history reporting to Customer where possible.

6.4. Amendment. This Hosting Agreement may only be amended in writing, and only with the written consent of both Parties. In the event that the performance by the Parties of any of their obligations hereof becomes a violation of any applicable law, rules, regulations, administrative or judicial orders, or decree ("Regulatory Condition"), then this Hosting Agreement shall be amended by the Parties as minimally as necessary to come into compliance with such Regulatory Condition. The parties agree that they will have no liability whatsover to the other for any damage, loss, expense, or cost as a result of such Regulatory Condition.

7. Representations and Warranties

7.1. Authority and Capacity. Each party represents, warrants and covenants that (I) it has full legal capacity, right, power, and authority to execute and perform its obligations under this Agreement; and (ii) its performance of obligations hereunder will not violate any applicable laws or require the consent of any third party.

7.2. Title to Customer Hardware and Receipt of Mining Rewards. Customer represents, warrant, and covenant that (I) Customer has a clear title, free and clear of all security interests or liens, to Customer Hardware, including the legal right to use, operate and locate the Customer Hardware; and (ii) its receipt of Mining Rewards will not violate any applicable laws or require the consent of any third party.

7.3. Accuracy of Customer Information. Customer represents and warrants that: (I) the information Customer has provided for the purpose of establishing an account with Joshi Petroleum is true, accurate, current, and complete; and (ii) Customer will maintain and promptly amend all information and material to keep it true, accurate, current and complete. OFAC. Pursuant to United States Presidential Executive Order 13224 ("Executive Order"), each Party may be required to ensure that it does not transact business with persons or entities determined to have committed or to pose a risk of committing or supporting, terrorist acts and those identified on the list of Specially Designated Nationals and Blocked Persons ("List") generated by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury. The names or aliases of these persons or entities ("Blocked Persons") are updated from time to time. Each Party certifies, represents, and warrants that: (a) it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any Law that is enforced or administered by the OFAC; and (b) it is not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each Party hereby agrees to defend, indemnify and hold the other Party harmless from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorney's fees and costs) arising from or related to any breach of the foregoing certification.

8. Risk Factors and Limitations of Liability

8.1. Protocol Risk. Joshi Petroleum does not own or control the underlying software cryptographic protocols of networks that govern the operation of any cryptocurrency. Joshi Petroleum is not responsible for the operation of the underlying protocols and makes no guarantees regarding their security, functionality, or availability.

8.2. Network and Information Security Risk. The customer acknowledges and agrees that the use of telecommunications and data communications networks and the Internet may not be secure and that connection to and transmission of data and information over the Internet and such facilities provide the opportunity of unauthorized access to wallets, computer systems, networks and all data stored therein. Information and data transmitted through the Internet or stored on any equipment through which Internet information is transmitted may not remain confidential and Joshi Petroleum does not make any representation or warranty regarding privacy, security, authenticity, and non-corruption or destruction of any such information. Joshi Petroleum does not warrant that the Hosting Service or Customer's use will be uninterrupted, error-free, or secure. Joshi Petroleum shall not be responsible to any adverse consequence or loss whatsoever to the Customer's use of the Hosting Service of the Internet except if caused by Joshi Petroleum 's gross negligence or willful misconduct. Use of any information transmitted or obtained by Customer from Joshi Petroleum is at Customer's own risk. Joshi Petroleum is not responsible for the accuracy or quality of information obtained through its network, including as a result of the failure of performance, error, omission, interruption, corruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of information or facilities, or malfunctioning of websites.

8.3. As-Is- and No Warranty. Joshi Petroleum MAKES NO WARRANTIES OR GUARANTEES RELATED TO THTE AVAILABILITY OF HOSTING SERVICE (EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT). THE HOSTING SERVICE AND THE DATA CENTER PROVIDED BY JOSHI PETROLEUM IS PROVIDED "AS IS". Joshi Petroleum DOES NOT PROVIDE MECHANICAL COOLING OR BACKUP POWER AND THE DATA CENTER IS SUBJECT TO SWINGS IN LOCAL TEMPERATURE, WIND, HUMIDITY, ETC. JOSHI PETROLEUM MAKES NO WARRANTY WHATSOEVER, INCLUDING ANY (I) WARRANTY OF MERCHANTABILITY; (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (III) WARRANTY AGAINST INTERFERENCE; OR (IV) PRICE OR LIQUIDITY OF ANY DIGITAL ASSET. JOSHI PETROLEUM DOES NOT WARRANT THAT (I) THE HOSTING SERVICE SHALL BE AVAILABLE 24/7 OR FREE FROM MINOR INTRERRUPTIONS; (II) THE HOSTING SERVICE SHALL MEET CUSTOMER'S REQUIREMENTS OTHER THAN AS SET OUT IN THIS AGREEMENT; (C) THE HOSTING SERVICE SHALL PROVIDE ANY FUNCTION NOT DESIGNATED IN WRITTEN AGREEMENT BETWEEN THE PARTIES.

8.4. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR (I) LOST PROFITS; (II) LOSS OF BUSINESS; (III) LOSS OF REVENUES; (IV) LOSS, INTERRUPTION, OR USE OF DATA OR LOSS OF USE OF CUSTOMER HARDWARE; (V) ANY CONSEQUESNTIAL OR INDIRECT DAMAGES; OR (VI) COST OF COVER, ANY INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY OR PUNITIVE DAMAGES 9IF APPLICABLE0, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT TO THE EXTENT THAT ANY SUCH LOSS OR DAMAGES ARISES OUT OF SUCH PARTY'S GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT. THE LIMITATIONS AND EXCEPTINOS SET FORTH HEREUNDER WILL APPLY TO ALL CLAIMS AND CAUSES OF ACTION, REGARDLESS OF WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHER THEORY.

9. Confidentiality

9.1. General. Each acknowledges that it and its employees or agents may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information that is Confidential Information of the other party. The existence of this Agreement shall not be deemed to be Confidential Informatoin. Neither party may use nor copy any Confidential Information except to the limited extent necessary to perform its obligations under this Agreement and will not disclose any Confidential Information or as otherwise expressly permitted by this Agreement. Each party shall use the same measures that it uses to protect its own most confidential and proprietary information to protect the Confidential Information but in no event less than commercially reasonable measures."Confidential Information" refers to confidential or proprietary information of a party including, without limitation, business plans, strategies, forecasts and projections and information about business structures, operations, systems, nuances, asset, investments, investment strategies, software, and other technology systems, and personnel, customers and suppliers. Confidential Information does not include if it (I) is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise ceases to be confidential, except through a breach of this Agreement by the receiving party; or (iv) is independently developed by the receiving party.

9.2. Return of Confidential Information. Upon termination or expiration of this Agreement, or any other time at the request of the other party, each party shall return to the other party, or destroy and delete, as applicable, all Confidential Information and any copies thereof in its possession or control.

9.3. Privacy. Joshi Petroleum warrants and represents that, Joshi Petroleum shall comply with all applicable privacy laws throughout the Term, and will take all reasonable steps within its power to ensure that Joshi Petroleum 's employees, contractors, and other customers comply with all applicable privacy laws.

9.4. Joshi Petroleum Proprietary Information. Except for the rights expressly granted herein, all rights, titles, and interests to any and all customer relationships, proprietary rights, and intellectual property rights in Joshi Petroleum 's data will remain with and be the exclusive property of Joshi Petroleum .

9.5. Government Enquiries and Investigations. Joshi Petroleum may cooperate with any government or legal investigation regarding any aspect of the Hosting Service, which may include producing identifying information of the Customer, with prior written notice to the Customer, to the extent legally permitted to do so. Upon such notice, Joshi Petroleum shall reasonably cooperate with Customer to contest the request for Customer information. Further, Joshi Petroleum agrees that, to the extent Customer is unable to successfully contest such request, that Joshi Petroleum shall only provide the minimum amount of information necessary to fulfill such request.

10. Intellectual Property

10.1. Use of Trademarks. Neither party may use the other party's trademarks, service marks, trade names, logos, copyrights, other intellectual property rights, or other designations in any promotion, marketing, publication, or press release without the prior written consent of the other party.

11. Insurance

11.1. General. The Parties agree that Joshi Petroleum is not an insurer and Customer Hardware is not covered by any insurance policy held by Joshi Petroleum . Customers will be solely responsible to ensure their equipment and property are against all forms of damage.

12. Disputes

13.1 The Parties agree that any dispute between or among them or their subsidiaries, affiliates, or related entities arising out of, relating to, or in connection with this Agreement, will be attempted to be resolved in accordance with a confidential two-step dispute resolution procedure involving: (1) non-binding mediation, and (2) binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1, et. set., or state law, whichever is applicable. Any such binding arbitration hereunder will be under the auspices of the American Arbitration Association ("AAA") pursuant to its then- current Commercial Arbitration Rules and Mediation Procedures (the "AAA" Commercial Rules"). The arbitration will be conducted by a single AAA arbitrator, mutually selected by the Parties, as provided for by the AAA Commercial Rules. The Parties agree that the arbitrator will apply the law of the State of Missouri to all claims. Any award rendered by the arbitrator will be final and binding and judgment may be entered on it in any court of competent jurisdiction. Nothing contained herein will restrict either party from seeking temporary injunctive relief in a court of law.

13.2. If disputes arising out of or related to (I) this Agreement, including without limitation the performance, interpretation, termination, (in) validity and/or breach thereof; (ii) Customer Hardware; and/or (iii) Hosting or Monitoring, cannot be resolved thru arbitration or mediation, either party can seek remedies in court. These disputes shall be exclusively resolved in the state or federal courts, as applicable, located in the state of Missouri. The Parties each hereby consent to the jurisdiction of such courts and waive any objection to such venue, including any objection based on forum non conveniens grounds. All disputes, whether in contract, tort, equity, or any other type of claim related to this Agreement or any relationship between the parties are governed by the laws of the State of Missouri.

13. General Provisions

13.1. Captions and Section Headings. Captions and section headings are for convenience only, are not a part of this Agreement, and may not be used in construing it.

13.2. Entire Agreement. This Agreement, including any Service Order(s), certificate, schedule, exhibit, or other document delivered pursuant to its terms, constitutes the entire agreement between the parties and supersedes any other agreement, whether oral or written, with respect to the subject matter hereof. There are no verbal agreements, representations, warranties, undertakings, or agreements between the parties, and this Agreement may not be amended or modified in any respect, except by a written instrument signed by the parties to this Agreement. ANY WARRANTIES, TERMS AND/OR CONDITIONS IN ANY PURCHASE AGREEMENTS, INVOICES, CREDIT APPLICATIONS, PURCHASE ORDERS, AND THE LIKE, OR ANY OTHER DOCUMENTS BETWEEN Joshi Petroleum LLC AND CUSTOMER THAT CONFLICT WITH THE TERMS AND CONDITIONS SET FORTH HEREINARE GOVERNED BY THE TERMS HEREIN.

13.3. Force Majeure. Neither party will be responsible nor in any way liable for any delays or failures in performance, except for payment of the Hosting Service Fee under this Agreement, arising out of or relating to a Force Majeure Event.

13.4. Governing Law. This Agreement and all claims arising out of or related to this Agreement are governed by and construed in accordance with the laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of Missouri. The jurisdiction is exclusive to the courts within the State of Missouri.

13.5. Injunctive Relief. The parties acknowledge that the Confidentiality provision of the Agreement is reasonable in scope and duration and is not unduly restrictive. Bothe Parties further acknowledges that a breach of any confidentiality obligation of this Agreement may cause irreparable harm to a party, that a remedy at law for breach of the Agreement is inadequate, and that Joshi Petroleum shall therefore be entitled to seek any and all equitable relief, including, but not limited to, temporary and permanent injunctive relief, without the necessity of posting a bond, and to any other remedy that may be available under any applicable law or agreement between the parties. The customer acknowledges and agrees that an award of damages to a Party does not preclude a court from ordering injunctive relief. Both damages and injunctive relief shall be proper modes of relief and are not to be considered alternative remedies.

14.6 No Assignment. Either Party may assign this Agreement without the other Party's consent (I) in connection with a merger, acquisition, or sale of all or substantially all of our assets, or (ii) to any affiliate or as part of a corporate reorganization; and effective upon such assignment, the assignee is deemed substituted for the relevant party as a party to this Agreement and the assigning party is fully released from all of its obligations and duties to perform under this Agreement (and such obligations and duties under this Agreement are expressly assumed by the assignee). Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective permitted successors and assigns.

14.7. Notice. Notice is effective when received. All notices, requests, demands, and other communications under this Agreement must be in writing and will be deemed duly given, unless otherwise expressly indicated to the contrary in this Agreement, (I) when personally delivered, (ii) upon receipt of a telephonic facsimile transmission with a confirmed telephonic transmission answer back, (iii) three (3) days after having been deposited in the United States mail, certified or registered, return receipt requested, postage prepaid, (iv) one (1) business day after having been dispatched by a nationally recognized overnight courier service, or (v) on the date transmitted if by email, addressed to the parties or their permitted assigns at such address or number as is given in writing by either party to the other.

14.8. Relationship of the Parties. Nothing in this Agreement shall be deemed to create any agency, employment, partnership, or joint venture relationship between the parties. Neither party has the power or authority as agent, employee or in any other capacity to represent, act for, bind, or otherwise create or assume any obligation on behalf of the other party for any purpose whatsoever without the other's prior written consent.

14.9. Survival. Any provision of this Agreement, which, by its nature, would survive termination or expiration of this Agreement, will survive any such termination or expiration, including, without limitation, those provisions concerning confidentiality, indemnification, and limitation of liability. In the event of Joshi Petroleum 's insolvency, cessation of operations, or ling for bankruptcy, Joshi Petroleum shall make good faith efforts, as directed by Customer, to either secure transition of Customer's Hosting Service to the Hosting Facility or return the Customer Hardware to the Customer at Customer's sole expense.

WITNESS THE SIGNATURES of the Parties to the Hosting Agreement as set forth below.

Sphere 3D

a limited liability company

a Texas limited liability company

By: /s/ Patricia Trompeter
Printed Name: Patricia Trompeter
Date: 10/18/2023

Joshi Petroleum LLC,

By: /s/ Krunal Joshi
Krunal Joshi, Manager
Date: 10/18/2023

Primary Contact Information:

Name: Patricia Trompeter

Address: 895 Don Mills Road
Toronto, ON Canada
Email: patricia.trompeter@Sphere3d.com

Primary Contact Information:

Name: Krunal Joshi

Address: 2935 Double Lake Dr,
Missouri City, TX 77459
Email: joshipetroleum5@gmail.com

Schedule A

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Amendment No. 2 to the Registration Statement on Form S-3 of our report dated March 13, 2024 with respect to the audited consolidated financial statements of Sphere 3D Corp. for the year ended December 31, 2023. Our report contains an explanatory paragraph regarding the Company's ability to continue as a going concern.

We also consent to the references to us under the heading "Experts" in such Registration Statement.

/s/ MaloneBailey, LLP
www.malonebailey.com
Houston, Texas
July 24, 2024