



Mars Mining Master Agreement

This Mars Mining Master Agreement (this “MA”) is entered into by and between Mars Mining, Inc., an Oregon corporation (“Mars”), and Customer, and is effective on the Effective Date of the first Service Order, Statement of Work or Order Form for the purchase of any Product or Service (the “Effective Date”). This MA provides the general terms and conditions applicable to Customer’s purchase of products and services (“Products” or “Services”) under a schedule(s) or service schedule(s) at <https://www.marsmining.co/legal/product-and-service-terms-and-conditions> (each, a “Schedule” or “Service Schedule”). This MA is part of an online contract (defined herein as the Agreement) comprised of this MA, one or more Service Schedules, one or more Service Orders (as defined in the applicable Service Schedule) and/or Statements of Work (as defined in the applicable Service Schedule), and such other documents listed herein as comprising the Agreement. The components of the Agreement will work together as described in the table at <https://www.marsmining.co/legal/product-and-service-terms-and-conditions>, as such table may be modified from time to time to reflect additional or modified Products or Services.

1. Services;

a. Service Schedules. Mars, or an Affiliate thereof, may enter into one or more Service Schedules with Customer, or an Affiliate thereof, which shall set forth the terms and conditions relevant to, and the process for ordering, the Products and Services covered thereby.

b. Service Orders. From time to time, the parties may execute Service Orders which reference this Agreement and this Agreement is hereby incorporated into such Service Orders. This Agreement will govern over any inconsistent terms and conditions contained in a Service Order. For clarity, each Service Order is a separate and distinct agreement between Mars and Customer.

c.

d. Commencement of Services. The “Commencement Date” for the Colocation Space and the Colocation Services will be the earlier of: (i) the date Mars makes the Colocation Space available to Customer or (ii) the date Customer places any Customer Equipment in the Colocation Space. The Commencement Date for Carrier Services will be the date on which the Carrier Services are made available to Customer by the applicable Carrier.

2. Colocation Space.

a. License Grant. Starting on the Commencement Date, Mars hereby grants Customer a limited, revocable license to operate the Customer Equipment within the Colocation Space and for no other purpose.

b. Installation and Removal. Mars will install and remove Customer Equipment from the Colocation Space (by placing the Customer Equipment in storage at Customer’s risk and expense). Once Mars has removed the Customer Equipment from the Colocation Space, Customer will either promptly: (a) remove such Customer Equipment from the Mars premises (“Premises”); or (b) provide shipping instructions to Mars for the Customer Equipment via a carrier paid for by Customer. If Customer fails to provide such shipping instructions (or to prepay for the carrier) or to remove the Customer Equipment from the Premises within thirty (30) days (or such other longer time as required by law) after Mars has removed such Customer Equipment from the Colocation Space, Mars may dispose of any such Customer Equipment in any manner.

c. Access. Upon written request at least 24 hours in advance, Mars will allow identified Customer Representatives (defined below) access the Colocation Space during Mars’s business hours. All access to the Premises will be in accordance with Mars’s security and access procedures. Customer is responsible for any and all actions of Customer’s representatives, agents and persons escorted by or on behalf of Customer (collectively, “Customer Representatives”). Mars may suspend access by any Customer Representative or other person to the Premises including the Colocation Space for security or other violations of Mars’s security or access procedures or in the event of an emergency. Mars will promptly notify Customer in the event any such suspension occurs.

d. Additional Services. Mars will assist Customer in performing light duties or correcting minor problems with respect to the Customer Equipment, at no additional charge. Mars may, in its sole discretion, assist Customer in performing other duties, pursuant to a separately executed professional services agreement.

e. Removal of Customer Equipment. Customer will provide Mars with notice at least two (2) business days before Customer desires to have Mars remove a significant piece of Customer Equipment from the Colocation Space.

f. Vacating the Colocation Space. Mars, in its sole discretion, may permit Customer to continue its presence in the Colocation Space after the termination of the applicable Service Order or this Agreement. In such an event, Customer will be subject to all the terms and provisions of this Agreement during such occupancy period, except that Customer will pay an amount equal to Mars’s then current month to month rate. No occupancy of the Colocation Space or payments of money by Customer after termination will prevent Mars’s from immediately removing the Customer Equipment and recovering the Colocation Space.

g. Relocation of Customer Equipment. Mars may relocate the Customer Equipment (and thereby cause an outage not to exceed 48 hours); provided that the relocation site will afford comparable environmental conditions for and accessibility to the Customer Equipment. The reasonable direct costs of the relocation will be borne by Mars unless the relocation is required to accommodate Customer’s requests or the physical requirements of the Premises.

h. Cross-Connections/Carrier Services. All cross-connections will be installed by Mars in accordance with Mars current processes and procedures. Customer will notify Mars when Customer desires to terminate or modify any cross-connections. Customer acknowledges that the Carrier Services will be provided by one or more third party Carriers who are not under the control of Mars and hereby waives any and all claims against Mars for the performance or non-performance of the Carriers even when resold by Mars.

3. Term; Termination.

a. Term of this MA. The term of this MA will commence on the Effective Date and continue until terminated in accordance with the terms hereof.

b. Termination Upon Expiration or Termination of all Services. The Agreement will automatically terminate following expiration or termination of the last effective Service being provided or to be provided under a Service Schedule.

c. Termination for Cause. If an “Event of Default” has occurred and is continuing, the non-defaulting party may terminate the Agreement (and all Services being provided under the Agreement) by providing written notice to the defaulting party setting forth: (i) the specific facts and circumstances of the Event of Default and (ii) the effective date of the termination (which shall be no later than thirty (30) days after the date the non-defaulting party sends such notice to the defaulting party). In the event Customer terminates a Service pursuant to this Section 2.c as a result of a Mars Event of Default, (x) Customer will not be liable for any “Early Termination Charge” in connection with such termination and (y) Customer will be entitled to a refund of all prepaid fees with respect to such terminated Service relating to periods of time following such termination. In addition to the right of termination set forth in this Section 2.c, the terminating party shall be entitled to any and all rights and remedies available under the Agreement and at law or in equity.

d. Service Commitment Period. Subject to Section 3.c., Service Orders are non-cancellable by Customer during the Commitment Period. As a material inducement for Mars to enter into this Agreement and each Service Order, Customer acknowledges, agrees and covenants that (i) Customer is responsible for full payment of the services for the entire Commitment Period regardless of the portion of the services actually consumed; and, (ii) termination of the Service Order or this Agreement (other than for breach by Mars) or suspension of services as permitted in this Agreement will not relieve Customer of its obligation to pay the full MRC for the duration of Commitment Period (subject to any applicable Service Credits).

e. Network Protection. In the event of an emergency and to the extent necessary to protect the any Mars network or to remedy AUP violations, Mars may temporarily restrict or suspend Customer’s rights under this Agreement, including the Colocation Services and Carrier Services, without liability to Customer. Mars will use reasonable efforts to notify Customer prior to any such restriction or suspension and will notify Customer promptly when such restriction or suspension is no longer necessary. Suspension of Colocation Services and/or Carrier Services pursuant to this Section will not be a violation of this Agreement.

f.

4. **Fees and Billing.**

a. Payment. Mars may begin invoicing for specific Services as specified in the applicable Service Schedule. Unless otherwise indicated, all charges are quoted and payable only in United States dollars. For convenience, a single Mars entity may invoice Customer for Services provided by another Mars Affiliate. Invoiced amounts are due in full within five (5) days of the date of delivery of the invoice to Customer (the “Due Date”). MRC and any other sums not paid within five (5) days after the due date are subject to a late fee of five percent (5%) of the amount due plus an interest charge on the outstanding balance equal to the lower of one and one-half percent (1.5%) per month or the maximum allowable rate under applicable law. Customer will pay the expenses Mars may incur in collection efforts including any attorneys’ fees. Additionally, Mars reserves its rights in law and in equity, including the ability to collect the MRC for the balance of the Service Commitment Period. To dispute a charge on an invoice, Customer must submit a written notice to Mars on or prior to the Due Date for such invoice identifying the specific charge(s) in dispute and providing reasonable supporting documentation. Customer may withhold payment of any amount

disputed in good faith in accordance with this Section 3, but shall remain obligated to make timely payment of all other charges (“Undisputed Charges”) by the Due Date. In the event Customer disputes an amount in accordance with this Section 3, the parties will work in good faith to resolve the dispute as expeditiously as possible. If the parties mutually determine that a disputed charge is in error, Mars will reverse the amount incorrectly billed or, if Customer has already paid such disputed charge to Mars, issue a credit to Customer for such amount. If the parties mutually determine that a disputed charge was billed correctly (“Resolved Charge”), Customer will be required to pay the Resolved Charge in full no later than ten (10) days after such mutual determination (the “Resolved Charge Due Date”). Any amount not disputed by Customer by the Due Date shall be deemed correct and binding upon Customer; Customer unconditionally and irrevocably waives any right to dispute any billed amount after the applicable Due Date. Any Undisputed Charge not paid by the Due Date or Resolved Charge not paid by the Resolved Charge Due Date is subject to late interest at the lesser of 1.5% per month or the maximum rate allowed by law. In the event Customer does not pay an Undisputed Charge by the Due Date or Resolved Charge by the Resolved Charge Due Date, Customer shall be liable for the payment of all fees and expenses, including reasonable attorneys’ fees, incurred by Mars in collecting, or attempting to collect, any such amount. Customer’s payments to Mars must be made by wire transfer, ACH, check or any other Mars approved payment method. Mars’s acceptance of late or partial payments (even those marked, “paid in full”) and late payment charges is not a waiver of its right to collect the full amount due.

b. Bankruptcy/Insolvency. If Customer fails to make any payments hereunder, or if a petition is brought by or against Customer under any state or federal insolvency law, Mars may modify the payment terms to secure Customer’s payment obligations before providing any services. Customer hereby grants Mars a security interest in the Customer Equipment to secure Customer’s obligations hereunder. Upon request, Customer will execute any documents intended to perfect Mars’s security interest.

c. Taxes. All fees stated are exclusive of Tax. Customer is responsible for all taxes, duties, fees and other governmental charges of any kind (other than taxes based on the net income of Mars) imposed by any governmental entity on the provision, sale or use of the Services or required by any governmental entity to be assessed on Customer in connection therewith (collectively, “Taxes”). All payments due to Mars shall be made without any deduction or withholding on account of any Tax, duty, charge or penalty, except as required by applicable law (in which case the sum payable by Customer in respect of which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, Mars receives and retains (free from any liability in respect thereof, other than with respect to taxes based on the net income of Mars) a net sum equal to the sum it would have received but for such deduction or withholding being required). Customer may present Mars with a valid Tax exemption certificate; Mars will give effect thereto prospectively for as long as such Tax exemption certificate remains valid.

5. **Confidentiality.**

a. As used in this Section 5, the term “disclosing party” refers to either party to the Agreement that is disclosing Confidential Information to the other party thereto, and the party receiving such Confidential Information is referred to as the “receiving party”. Except as set forth in the Agreement, receiving party shall not, without the prior written consent of the disclosing party, disclose or use the

Confidential Information of the disclosing party for any purpose other than in connection with the consummation of the transactions contemplated under the Agreement or prosecuting or defending any claim arising under or with respect to the Agreement. Receiving party will protect the disclosing party's Confidential Information using at least the same degree of care the receiving party uses to protect its own confidential information of a similar nature, but in no event less than commercially reasonable degree of care. Receiving party agrees to limit disclosure and access to the disclosing party's Confidential Information to those of its officers, employees, contractors, attorneys, or other representatives who (a) reasonably require such access in connection with the consummation of the transactions contemplated under the Agreement or prosecuting or defending any claim arising under or with respect to the Agreement, (b) are made aware of the Confidential Information's confidential nature and (c) are subject to confidentiality obligations at least as restrictive as those set forth herein. Nothing in the Agreement shall be deemed or construed to grant to the receiving party a license to sell, develop, exploit or create derivatives of the disclosing party's Confidential Information. A receiving party may disclose the disclosing party's Confidential Information to the extent required to do so by applicable law, provided, that, (i) to the extent legally permissible, the receiving party notifies the disclosing party prior to making any such disclosure so as to enable the disclosing party to seek such protection as may be available to preserve the confidentiality of such Confidential Information and (ii) the receiving party discloses only such information as its counsel advises is legally required to be disclosed.

b. Notwithstanding the obligations in this Section 5, receiving party's obligations under this Section 5 shall not apply to information that (1) is at the time of disclosure by the disclosing party to the receiving party in the public domain or, at any time thereafter enters the public domain through no breach of this Section 5 by the receiving party, (2) is already known to the receiving party at the time of its disclosure by the disclosing party to the receiving party, (3) is independently developed by the receiving party without use of or reference to Confidential Information of the disclosing party, or (4) is received by the receiving party from a third party who is not known to the receiving party to be subject to any restriction on disclosure. Promptly following receipt of the disclosing party's written request, the receiving party shall return to the disclosing party or destroy (at the receiving party's option) all of the disclosing party's Confidential Information. Notwithstanding the foregoing, the receiving party shall have no obligation to return or destroy any of the disclosing party's Confidential Information retained in standard archival or computer back-up systems or pursuant to the receiving party's normal document or email retention practices, provided, that, the receiving party's obligations under this Section 5 with respect thereto shall survive for two (2) years following the date such Confidential Information is no longer retained pursuant to this sentence (but no less than two (2) years following expiration or termination of the Agreement). Each party's obligations under this Section 5 shall survive for two (2) years following expiration or termination of the Agreement, provided, that, to the extent any of the disclosing party's Confidential Information constitutes a trade secret, the receiving party's obligations under this Section 5 with respect thereto shall survive until such Confidential Information ceases to so constitute a trade secret (but no less than two (2) years following expiration or termination of the Agreement). Each receiving party acknowledges that a threatened or actual breach by it of this Section 5 may result in immediate, irreparable harm to the disclosing party for which monetary damages may not be adequate compensation and, consequently, that the disclosing party shall be entitled, in addition

to all other remedies available to it at law or equity, to seek (without any requirement to post bond) injunctive or other equitable relief to prevent such threatened or actual breach. The receiving party will be responsible for any violation of the terms of this Section 5 committed by its officers, employees, contractors, attorneys or other representatives.

6. **Use of Name and Marks.** Each party may reference the other party's status as a customer or vendor, as applicable, of the referencing party in marketing materials, sales presentations, on such referencing party's website and for other valid business purposes. Each party may use the other party's tradenames, trademarks and domain names in connection with the foregoing, provided, that, any use thereof by Customer shall be in accordance with Mars's tradename/trademark usage policy, a copy of which is available to Customer upon request. Neither party may issue a press release referencing the other party, directly or indirectly, without such other party's prior written consent.

7. **DISCLAIMER OF WARRANTIES.** EXCEPT AS SET FORTH IN THE APPLICABLE SERVICE SCHEDULE, (A) ALL PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND CUSTOMER'S USE OF THE PRODUCTS AND SERVICES IS SOLELY AT ITS OWN RISK, (B) MARS DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, COMPATABILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM, (C) MARS MAKES NO WARRANTIES OR REPRESENTATIONS THAT ANY PRODUCT OR SERVICE WILL BE COMPLETELY SECURE, FREE FROM LOSS OR LIABILITY ARISING OUT OF HACKING OR SIMILAR MALICIOUS ACTIVITY, OR ANY ACT OR OMISSION OF CUSTOMER, AND (D) MARS DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES ARE OR WILL BE ERROR-FREE OR THAT THE USE OR OPERATION OF THE PRODUCTS OR SERVICES WILL BE UNINTERRUPTED.

8. **Limitations of Liability; Warranties.**

a. **LIMITATION OF LIABILITY.** EXCEPT (I) AS SET FORTH IN THE APPLICABLE SERVICE SCHEDULE OR (II) WITH RESPECT TO A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER OR CUSTOMER'S INFRINGEMENT OR MISAPPROPRIATION OF MARS'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY, NOR ITS AFFILIATES, SHALL BE LIABLE UNDER THE AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ANY LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, COST OF PURCHASING REPLACEMENT SERVICES, LOSS OF PROFITS OR REVENUE, LOSS OF OR CORRUPTION OF DATA OR DATA USE, OR COMPUTER FAILURE, DELAY OR MALFUNCTION, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, AND REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITY (THE "INDIRECT/CONSEQUENTIAL DAMAGES WAIVER"). EXCEPT (I) AS SET FORTH IN THE APPLICABLE SERVICE SCHEDULE OR (II) WITH RESPECT TO A PARTY'S BREACH OF ITS PAYMENT OBLIGATIONS HEREUNDER, A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS

HEREUNDER, OR CUSTOMER'S INFRINGEMENT OR MISAPPROPRIATION OF MARS'S INTELLECTUAL PROPERTY RIGHTS, EACH PARTY'S MAXIMUM LIABILITY FOR ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING FROM OR RELATED TO THE AGREEMENT WILL NOT EXCEED TWELVE (12) TIMES THE AVERAGE MRCS PAID OR PAYABLE BY CUSTOMER AND ITS AFFILIATES TO MARS AND ITS AFFILIATES UNDER THE AGREEMENT AS OF THE DATE THE APPLICABLE CLAIM ARISES (THE "DAMAGE CAP").

b. **Personal Injury.** Each Customer Representative and any other person visiting the Premises does so at his or her own risk and Mars will not be liable for any harm to such persons.

9. **Intellectual Property.** Except as set forth in the applicable Service Schedule, nothing in the Agreement or the performance thereof shall convey, license or otherwise transfer any right, title or interest (express, implied or otherwise) in any information, material, technology, trademarks, copyrights, service marks, trade names, patents, trade secrets or other form of intellectual property of a party, its Affiliates or their respective licensors to the other party. Except as set forth in the applicable Service Schedule, Mars's intellectual property and proprietary rights include any skills, know-how, modifications, other enhancements or derivative works developed or acquired by or on behalf of Mars in the course of configuring, providing or managing the Service. Customer agrees that it will not, directly or indirectly, circumvent, reverse engineer, decompile, disassemble, reproduce, otherwise attempt to derive source code, trade secrets or other intellectual property, or modify or make derivative works from any information, material, technology, trademarks, copyrights, service marks, trade names, patents, trade secrets or other intellectual property of Mars, its Affiliates or their respective licensors. Customer agrees that it will not disclose or publish performance benchmark results or test results with respect to the Services.

10. **Additional Responsibilities.**

a. **Customer Equipment.** Customer has sole control and responsibility for the testing and operation of the Customer Equipment (including services not provided by Mars). In no event will the untimely installation or non-operation of Customer Equipment relieve Customer of its obligation to pay MRC.

b. **Customer's End Users.** Customer is solely responsible for providing its end users with customer service.

c. **Compliance with Law/AUP.** Customer will at all times fully comply with and faithfully carry out all laws, statutes, ordinances, regulations, promulgations and mandates of all duly constituted authorities applicable to the operations of its business, and any failure to do so will constitute a default under this Agreement if not cured within the cure period set forth in Section 5. Customer will at all times maintain in good standing and effect all necessary and proper business licenses and other licenses and permits relating to its business operations. Customer acknowledges that Mars exercises no control over the content of the information passing through the Customer's telecommunications network and that it is Customer's sole responsibility to ensure that the information Customer transmits and receives complies with all applicable laws and regulations. Customer will cooperate with any investigation by any governmental authority or Mars, and will immediately rectify any illegal use, failure to do so will be in material breach of this Agreement. Customer's use of the Colocation Space and operations

therein will comply with Mars's and each Carrier's then current Acceptable Use Policy (each an "AUP"). Storage, processing or transmission of any material in violation of any law, regulation or an AUP is strictly prohibited. Customer will ensure that any access made to other networks must comply with the rules of the other network and the AUP.

d. **Effect of Termination.** Upon termination of this Agreement: (i) Mars may immediately cease providing all services; and (ii) all MRC will become immediately due and payable.

e. **Insurance.** At all times, Customer will maintain appropriate insurance that is of an amount at least equal to the full replacement value of the Customer Equipment; and, any business loss and interruption insurance in an amount sufficient to compensate Customer for loss of the Colocation Services or the Carrier Services. Customer retains the risk of loss for, loss of (including loss of use), or damage to, the Customer Equipment and other personal property located in the Premises. Mars's insurance policies do not provide coverage for Customer's personal property. Customer will not and will cause the Customer Representatives to not pursue any Claims against Mars unless and until Customer or the Customer Representative, as applicable, first files a claim against Customer's insurance policy and the applicable insurance provider(s) finally resolve such claims. Customer will name Mars as an additional insured on all general liability insurance policies, such policies may not be cancelled without thirty (30) days prior notice to Mars and Customer will provide policy endorsements upon request. Customer will ensure that each policy required hereunder contains a waiver of subrogation provision for the benefit of Mars.

11. **Limitations of Liability; Warranties.**

a. **Liability.** IN NO EVENT WILL MARS BE LIABLE TO CUSTOMER, ANY THIRD PARTY OR OTHERWISE, FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUE, LOST PROFITS, DAMAGE TO CUSTOMER EQUIPMENT, LOSS OF TECHNOLOGY, LOSS OF DATA, NON-DELIVERIES, OR IN ANY WAY RELATED TO THE SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER ANY THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. IN NO EVENT WILL MARS'S AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT UNDER ANY THEORY OF LIABILITY EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE SERVICES WHICH ARE THE SUBJECT OF THE DISPUTE IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE SUBJECT CLAIM AROSE. THESE LIMITATIONS WILL APPLY DESPITE THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY.

b. **Indemnification.** Customer will defend, indemnify and hold harmless Mars, its directors, officers, managers, members, employees, agents, affiliates and customers (collectively with Mars, the "Covered Entities") from and against any and all costs, expenses, damages, losses and/or liabilities (including attorney fees) (collectively, "Costs") arising from or related to any claims, demands, suits or investigations made by or against any of the Covered Entities alleging: (i) infringement or misappropriation of any intellectual property rights; (ii) damage caused by or related to Customer's operations, including any violation of Mars's or any Carrier's AUP (including the Anti-Spam Policy); (iii) any damage or destruction to the Colocation Space, the Premises, Mars equipment or to another Mars customer which

damage is caused by or results from acts or omissions by Customer or any Customer Representative; (iv) any property damage or personal injury to any Customer Representative arising out of such individual's activities at the Premises; (v) any damage arising from or related to the Customer Equipment or Customer's business; or any warranties provided by or through Customer to any third parties regarding the Colocation Space, the Colocation Services or the Carrier Services (collectively, the "Covered Claims"). In the event of a Covered Claim, the Covered Entity may select its own counsel to participate in the defense of such Claim. Customer will not settle a Covered Claim in a manner that imposes liability or obligation upon a Covered Entity.

12. Miscellaneous.

- a. Entire Agreement. The Agreement constitutes the sole and entire agreement between the parties with respect to the subject matter thereof and supersedes all prior and contemporaneous agreements, representations, warranties and understandings, verbal and/or written, with respect thereto. The terms of the Agreement shall supersede the terms in any purchase order or other response made by Customer and no terms included in any such purchase order or response shall apply to the Agreement or in any way be binding upon Mars.
- b. Amendments. Except as otherwise set forth in the Agreement, the Agreement may only be amended, modified, supplemented or revoked by an instrument in writing signed by both parties. Mars may modify this MA and/or any Service Schedule from time to time by posting an updated MA or Service Schedule, as applicable, at <https://www.marsmining.co/legal/product-and-service-terms-and-conditions> or a successor website and providing at least thirty (30) days prior notice to Customer. In the event such notice does not specify the date such modification is effective as of, such modification shall be effective thirty (30) days after Customer's receipt of such notice. Notwithstanding the foregoing, if, at any time prior to the effective date of such modification, Customer sends written notice to Mars rejecting such modification, such modification will be deemed to have never had any force or effect and this MA or Service Schedule, as applicable, will continue under the provisions in effect immediately prior to Mars's making such modification.
- c. Waiver. No waiver by any party of any of the provisions hereof shall be (i) effective unless explicitly set forth in writing and signed by the party so waiving or (ii) construed as a waiver of the same provision at any time in the future or of any other provision. No failure to exercise or delay in exercising any right, remedy, power or privilege arising from the Agreement shall operate or be construed as a waiver thereof.
- d. Headings. The headings in the Agreement are for reference only and shall not affect the interpretation of the Agreement.
- e. Severability. If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction and, in the jurisdiction in which such term or provision is invalid, illegal or unenforceable, such term or provision will be modified as nearly as possible to reflect the intentions of the parties so as to no longer be invalid, illegal or unenforceable in such jurisdiction.
- f. Governing Law. All matters arising out of or relating to the Agreement shall be governed by and construed in accordance with the internal laws of the State of Oregon, excluding principles of conflicts of laws, whether of the State of Oregon or any other jurisdiction. Notwithstanding anything in the Agreement to the contrary, each party shall have the right to commence and prosecute any action for injunctive or other equitable relief before any court of competent jurisdiction.
- g. Venue. Each of the parties agrees that all claims, demands, causes of action, actions, suits or proceedings arising out of, based upon or relating to the Agreement, the subject matter hereof or thereof or the transactions contemplated hereby or thereby ("Legal Proceedings") shall be brought and maintained exclusively in the Federal and state courts of Klamath Falls, Oregon. Each party agrees and submits to the exclusive venue and jurisdiction of such courts and unconditionally and irrevocably waives any objection based on lack of jurisdiction or inconvenient forum. Notwithstanding the foregoing, the provisions of this Section 10.g shall not restrict the ability of any party to enforce in any court any judgment obtained in a Federal or state court of Klamath Falls, Oregon.
- h. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT OR TORT OR OTHERWISE.
- i. Expenses; Attorneys' Fees. In the event that any party institutes any Legal Proceeding against the other party, the prevailing party in the Legal Proceeding shall be entitled to receive, and the nonprevailing party shall pay, in addition to all other remedies to which the prevailing party may be entitled, the reasonable costs and expenses (including, without limitation, those incident to appellate, bankruptcy and post-judgment proceedings) incurred by the prevailing party in conducting the Legal Proceeding, including reasonable attorneys' fees and expenses and court costs.
- j. Counterparts; Delivery. Each document governed by, or that is incorporated by reference into, this MA or a Service Schedule, may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. A signed copy of any such document delivered by facsimile or other electronic means shall be deemed to have the same legal effect as delivery of an original signed copy of such document.
- k. Survival. Notwithstanding anything contained in the Agreement to the contrary, the terms of any sections of the Agreement which by their nature are intended to extend beyond expiration or termination of (i) this MA, (ii) any Service Schedule or (iii) any other document governed by, or that is incorporated by reference into, this MA or a Service Schedule, will survive expiration or termination of this MA, such Service Schedule or such other document, as applicable.
- l. Conflicts. If a conflict exists among provisions within the Agreement, unless otherwise expressly stated to the contrary, the following order of precedence will apply in descending order of control: (i) this MA, (ii) a Service Schedule, (iii) an SLA, (iv) a Service Order, Statement of Work, Order Form or Quote, (v) a Service Guide or AUP and (vi) any other document governed by, or that is incorporated by reference into, this MA or any of the documents referenced in subclauses (ii) through (v) hereof.
- m. Relationship of the Parties. Mars is an independent contractor and shall not be deemed an employee or agent of Customer.

Nothing in the Agreement shall be construed to create a joint venture, partnership, association or other form of legal entity or business enterprise between the parties hereto. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement or undertaking.

n. Force Majeure. The obligations of a party to perform under the Agreement (other than obligations to pay any sum due under the Agreement) may be temporarily suspended during any period during which such party is unable to carry out its obligations under the Agreement, when and to the extent such failure or delay is caused by or results from acts beyond such party's reasonable control (a "Force Majeure Event"), and such party shall not have any liability or responsibility to the other party or be deemed to have defaulted under or breached the Agreement for failure or delay in performance to the extent resulting therefrom. In the event Mars is unable to deliver a Service as a result of a Force Majeure Event, Customer shall not be obligated to pay Mars for the affected Service for so long as Mars is unable to deliver such affected Service as a result of the Force Majeure Event. If a Force Majeure Event prevents the provision of a particular Service for a period of thirty (30) consecutive days, either party may terminate such Service by providing written notice to the other party, provided, that, the terminating party exercises its right to terminate before Mars is able to resume providing such Service. In the event of termination of a Service in accordance with this Section 10.n, (i) Customer will not be liable for any "Early Termination Charge" with respect to such terminated Service and (ii) Customer will be entitled to a refund of all pre-paid fees with respect to such terminated Service relating to periods of time (A) following such termination and (B) for which Customer is not obligated to pay for the affected Service pursuant to this Section 10.n.

o. Assignment; Successors and Assigns. The Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither the Agreement nor any rights or obligations under the Agreement may be transferred, assigned or delegated, in whole or in part, by Customer, without Mars's prior written consent, and any attempted transfer, assignment or delegation without such consent shall be null and void. Notwithstanding the foregoing, Customer may, after providing at least thirty (30) days' advance written notice to Mars, assign the Agreement in its entirety to one of its Affiliates, provided, that, the assigning Customer shall remain liable under the Agreement.

p. Notices. All notices in connection with the Agreement (other than Customer's disconnect, termination and non-renewal notices) shall be in writing and shall be deemed to have been given: (i) when delivered, if delivered by hand, (ii) on the next business day after the date sent, if sent (for overnight delivery) by nationally recognized overnight courier, (iii) upon the earlier to occur of receipt by the addressee as evidenced by return receipt thereof or five (5) days from the date of mailing, when sent by first class mail, prepaid postage, return receipt requested, (iv) on the date the transmission was sent if sent during normal business hours of the recipient or on the next business day if sent after normal business hours of the recipient, if sent by facsimile or e-mail, or (v) on the date the transmission was sent, if sent by Mars to Customer through any customer portal made available by Mars to Customer, any such notice to be sent to Mars at 521 Walnut Ave., Klamath Falls, OR 97601, Attention: Legal Department, legal@marsmining.co or to Customer at Customer's address as set forth in Mars's records. Customer's disconnect, termination and nonrenewal notices must be submitted

by Customer in the Customer portal made available by Mars to Customer for such purpose and shall not be effective if sent to Mars in any other manner. Either party may change its address for notices upon written notice to the other party in accordance with this Section 10.p.

q. No Third-party Beneficiaries. Except as otherwise set forth in the Agreement, no person or entity, other than the parties and their respective successors and permitted assigns, shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, the Agreement.

r. Resale, Leasing, Licensing or Sublicensing of Services. Customer shall not be permitted to resell, lease, license or sublicense any of the Services provided hereunder without Mars's prior written consent, which can be withheld in Mars's sole and absolute discretion.

2. Definitions.

a. "Affiliate" means any entity controlled by, controlling, or under common control with a party, where the term "control" and its correlative terms, "controlling", "controlled by" and "under common control with", means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the aggregate of all voting equity interests in an entity.

b. "Agreement" means (i) this MA, (ii) all Service Schedules, Service Orders, Statements of Work, Order Forms, Quotes, Service Guides, AUPs and SLAs, and (iii) any other document governed by, or that is incorporated by reference into, this MA or any of the documents referred to in subclause (ii) hereof.

c. "Confidential Information" means all information (including, for the avoidance of doubt, information about the disclosing party's Affiliates) that is disclosed by or on behalf of the disclosing party to the receiving party, during the term of the Agreement, whether written, oral, visual or otherwise that (i) is identified as confidential using an appropriate legend, marking, stamp, or other clear and conspicuous written identification that unambiguously indicates the information being provided is Confidential Information (or, in the case of information provided in other than written form, is identified as confidential at the time it is first disclosed, with such identification to be confirmed in writing by the disclosing party to the receiving party promptly following disclosure) or (ii) should reasonably be understood to be confidential or proprietary based on the content of the information and/or the circumstances of its disclosure. Mars does not have access to information (x) on Customer Equipment or Compute Nodes or (y) transmitted or processed by Customer through use of the Services. Therefore, for the elimination of doubt, such information is not considered "Confidential Information" solely as a result of it being (i) stored by Customer on customer equipment or compute nodes or (ii) transmitted or processed by Customer through use of the Services

d. "Colocation Services" means a collective reference to the Colocation Space together with associated power, cooling, Carrier Services, and other services to be provided by Mars pursuant to a Service Order.

e. "Carrier Services" means a collective reference to internet, transport, and other services provided by one or more third-party telecommunications carrier (each a "Carrier") which are resold to Customer by Mars.

f. "Customer Equipment" means the computer equipment, software, hardware and other materials placed by or for Customer in the Colocation Space, other than Mars equipment.



g. An “Event of Default” shall be deemed to occur if (i) Customer fails to make any payment when due under the Agreement and such failure continues for ten (10) days after Customer’s receipt of written notice from Mars, (ii) either party materially breaches the Agreement and fails to cure such breach within thirty (30) days (unless a different period is set forth in the Agreement) after the defaulting party’s receipt of written notice from the non-defaulting party, provided, that, if such breach cannot reasonably be cured within such timeframe, an “Event of Default” shall not be deemed to have occurred so long as the defaulting party (a) commences curing such breach within the required timeframe and (b) uses commercially

reasonable efforts to cure such breach as promptly as possible thereafter, or (iii) a party (1) becomes insolvent, (2) becomes subject to any voluntary or involuntary bankruptcy, liquidation, insolvency or similar proceedings (which, with respect to any involuntary bankruptcy, liquidation, insolvency or similar proceeding, is not dismissed within sixty (60) days of the date filed), (3) makes an assignment for the benefit of creditors, (4) appoints, or consents or acquiesces to the appointment of, a receiver, liquidator, assignee, trustee or similar person or entity for all or any substantial part of its assets, or (5) admits in writing its inability to pay its debts as they become due.
