



## **HUT 8 HPC MASTER SERVICES AGREEMENT**

This **Master Services Agreement** is made and entered into between Hut 8 High Performance Computing Inc. (“**HPC**”) whose principal place of business is 24 Duncan St., Suite 500, Toronto, Ontario, M5V 2B8 and (“**Customer**”) as set out in the Order Form(s).

In consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the parties hereto agree to be bound by the terms and subject to the conditions of this Agreement. This Agreement consists of this cover page, the terms and conditions on the following pages, the following exhibits and schedules which are incorporated by reference into this Agreement, each Order Form executed by the Customer in accordance with Section 2.2 and any other statement of work as agreed to in writing between HPC and the Customer regarding the Services.

**EXHIBIT A – ORDER FORM(S):** *Establishes the overall framework and summary for the engagement between HPC and the Customer, including Customer billing and the Services to which the Customer wishes to subscribe, together with pricing, applicable one-time fees, quantities and associated term length, and applicable site level forms which are attached as Schedules to the Order Form(s). Orders may be amended or replaced, depending on the circumstances of the Customer requirements and upon written agreement from HPC.*

**EXHIBIT B – SERVICE LEVEL AGREEMENT:** *Sets out the service level commitments of HPC for the Services to which the Customer wishes to subscribe.*

**EXHIBIT C - ACCEPTABLE USE POLICY:** *Sets out the policy in which usage of the Services provided to the Customer by HPC shall be subject to (the **HPC’s Acceptable Use Policy**”). The Customer shall not use or permit usage of any Service in a manner that violates HPC’s Acceptable Use Policy. The Customer acknowledges having read and accepted HPC’s Acceptable Use Policy prior to executing this Agreement.*

## **TERMS AND CONDITIONS**

*These Terms and Conditions (as may be revised or amended from time to time as set out herein) apply to HPC’s provision, and the Customer’s use, of the Services under the Agreement.*

### **1. DEFINITIONS**

Capitalized terms and acronyms in this Agreement have the following meaning:

1.1 “**Activation Date**” means the date a Service has been installed or initiated in accordance with the requirements of the related Order Form.

1.2 “**Affiliate**” means with respect to either party, any other entity controlling, controlled by or under common control of a party, where “control” means the holding of more than fifty percent (50%) of equity ownership.

1.3 “**Agreement**” means collectively, this Master Services Agreement, HPC’s Acceptable Use Policy, the SLA, the terms of each Order Form accepted by HPC and any additional service terms and conditions, schedules or exhibits to this Master Services Agreement that are agreed in writing, by the Customer and HPC.

1.4 “**Confidential Information**” means information disclosed by the Customer or HPC to the other party that is designated at the time of disclosure as confidential (or like designation), is disclosed in circumstances of confidence or would be understood by the Customer and HPC, exercising reasonable business judgment, to be confidential and, in the case of HPC, includes all pricing, performance, technical or security-related information about the Services. Confidential Information shall not include information that: (a) is known by the receiving party or is otherwise generally available to the public prior



to the receipt thereof; (b) becomes known or generally available to the public (other than by act of the recipient) after its disclosure; (c) is disclosed or made available in writing to the recipient by a third party without imposition of similar confidentiality obligations; or (d) is required to be disclosed in compliance with any applicable law (including securities law and regulations), under any applicable stock exchange rules, under order of a court of competent jurisdiction or other similar requirement of a governmental agency, provided that the disclosing party is provided with immediate notice of such requirement (where practicable) so as to enable the disclosing party, if it so chooses, to seek to obtain a judicial or other applicable order prohibiting or limiting the disclosure required.

1.5 “**Content**” means information made available, displayed or transmitted in connection with a Service.

1.6 “**Customer Equipment**” means all material, equipment and software placed by or for the Customer in a colocation space provided by HPC and excludes all HPC Equipment.

1.7 “**Fees**” means the fees and charges in the applicable Order Form.

1.8 “**Force Majeure Event**” has the meaning ascribed to such term in Section 13.1.

1.9 “**HPC Equipment**” means all material, equipment and software provided by or on behalf of HPC, including any equipment or software set out in the Order Form, and any other equipment used in the provision of the Services.

1.10 “**Order Form**” means an order submitted by the Customer for Services under this Agreement, in the form provided for in Exhibit A and to be updated from time to time upon any addition or change of Services.

1.11 “**Service Interruption**” has occurred when a Customer reports a Service Incident (as defined in the SLA). Service Interruption shall not include (a) Scheduled Maintenance or Emergency Maintenance (as defined in the SLA), (b) interruption resulting from any acts or omissions of the Customer or Users or any third parties unrelated to HPC, or (c) interruption resulting from problems related to a Force Majeure Event, including but not limited to problems related to the Customer's networks, Customer's equipment, any failure caused by power outages, problems in the Customer's location, denial of service attacks (other than if Customer subscribes to HPC's DDoS Service), or outages or problems occurring outside of HPC's network.

1.12 “**Services**” means the services HPC shall provide to the Customer according to the applicable Order Form.

1.13 “**SLA**” means the Service Level Agreement set forth in Schedule B that forms part of this Agreement.

1.14 “**Service Term**” means the period of time commencing on the date of the first Order Form unless and until terminated in accordance with the provisions of Section 3 of this Agreement and includes the Initial Service Term and any Renewal Service Term.

1.15 “**Users**” means any person the Customer permits to access or use the Services.

## **2. SCOPE OF AGREEMENT**

**2.1 Services.** HPC will provide the Services in accordance with the Terms and Conditions set forth in this Agreement, as well as the terms and conditions set forth on the Schedule(s) referencing this MSA and any Order Form. This Agreement shall apply to all Services provided to Customer. Service levels and related support and maintenance terms are provided in the SLA.

**2.2 Order Form.** HPC will only perform the Services that are specified in the Order Form. Each Order Form shall identify the Services to be provided by HPC to Customer, the recurring Fees for such Services, and any non-recurring Fees for such Services during the Service Term. The Customer may at any time, and from time to time, order any of the Services offered for sale by HPC pursuant to the following procedure:



- (i) The Customer initiates the Service order process by contacting HPC, in writing (including by email or fax), requesting the Services required by the Customer.
- (ii) Upon receipt of a request for the Services from the Customer, HPC shall assemble and provide (including by email or fax) the Customer with an Order Form (which shall include a quote for the Services).
- (iii) If, upon receipt of the Order Form from HPC, the Customer finds the Order Form acceptable (including upon the receipt of a revised Order Form where the Customer has requested revision to an Order Form submitted and HPC has accepted the revision and submitted a revised Order Form), the Customer shall execute the Order Form, subject to the Terms and Conditions of this Agreement and return of the Order Form to HPC.

2.3 Customer Cooperation. Upon execution of an Order Form and this Agreement, the Customer shall take all reasonable action necessary to give effect to each Order Form and this Agreement including the timely payment of Fees. HPC will notify Customer in writing if a Service in the Order Form requires additional Fees outside of the agreed to Fees. In the event such additional Fees are not approved by Customer in writing, HPC shall not be required to undertake any such additional Service requests.

2.4 Binding Agreement. The Order Form, this Agreement, and any applicable quotes shall form a binding agreement.

### **3. TERM AND TERMINATION**

3.1 Term. Unless otherwise stated in this Agreement, the Service Term for each Service shall be set forth in the applicable Order Form (the “**Initial Service Term**”), beginning on Activation Date of each Service. The Service Term shall automatically renew for successive 12 month-periods (the “**Renewal Service Term**”), unless and until either party provides written notice to the other of such intention to terminate at least sixty (60) days prior to the end of the Initial Service Term or any Renewal Service Term, as the case may be. At any time, HPC may increase any Fees payable by Customer to HPC prior to the start of any Renewal Service Term by providing written notice of the change in applicable Fees to the then-current Service Term; provided, however, that Customer shall have thirty (30) days from the date of HPC’s notice to give written notice of non-renewal effective at the end of the then-current Service Term.

3.2 Termination by HPC. Without incurring liability, HPC may terminate this Agreement or suspend, restrict, or terminate the applicable Service, upon the period of prior written notice (unless, if applicable, Customer cures such failure prior to the effective date of termination, suspension, or restriction pursuant to such notice) set out in parentheses after each ground for termination (provided that such notice shall identify which of such actions is to be taken), if the Customer:

- (a) fails to pay any undisputed Fee when due, upon the invoice for such Fee not having been paid by the later of (i) the expiration of the period for the dispute of such invoice, and (ii) the Payment Due Date (ten (10) days’ notice) issued on or after the expiration of such payment period);
- (b) violates or breaches any of the material provisions of this Agreement (including, for greater certainty, HPC’s Acceptable Use Policy), other than (a) above (thirty (30) days’ notice);
- (c) if the Customer becomes bankrupt or insolvent, makes a general assignment for the benefit of creditors, is dissolved or liquidated or takes any corporate action for such purpose, has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business, ceases to do business as a going concern or admits its inability to pay its debts generally as they become due (thirty (30) days’ notice); or
- (d) where any applicable law or order of a governmental or regulatory body of competent authority



prohibits HPC from furnishing such Services (the lesser of thirty (30) days' notice or as long as compliance allows).

If HPC terminates this Agreement or one or more Services pursuant to this Section 3.2(a) or (b), Section 6.4 or Section 6.5, the Customer shall pay to HPC, as liquidated damages and not as a penalty, and in addition to any validly incurred and undisputed Fees invoiced prior to the date of termination, an amount which is equal to the sum of 50% of all remaining Fees for the Service Term as set out in the relevant Order Form.

3.3 Termination by Customer for Cause. Without incurring liability (including that the remaining Fees for the applicable Services as set out in the relevant Order Form shall not be payable for the period of the Service Term of such Services remaining after termination), the Customer may terminate the applicable Services upon thirty (30) days' prior written notice, if HPC violates any of the material provisions of this Agreement, unless HPC cures its violation within the thirty (30) day notice period.

3.4 Termination by Customer without Cause. If the Customer terminates this Agreement or one or more Services for any reason other than as permitted under Section 3.3, the Customer shall immediately pay to HPC, as liquidated damages and not as a penalty, and in addition to any validly incurred Fees to the date of termination, an amount which is equal to the sum of all remaining Fees for the Service Term as set out in the relevant Order Form.

3.5 Disputes. The Customer shall give notice of all invoice disputes within sixty (60) days of the invoice date and, with such notice, provide any supporting documentation. Failure to give such notice shall constitute acceptance of the accuracy of entire contents of the invoice, and the Customer will have no further right to challenge any portion of the invoice. The Customer agrees and acknowledges that the undisputed portion of each invoice, including any disputed invoice and all subsequent invoices, shall be payable in accordance with the terms of this Agreement.

## **4. REPRESENTATION, WARRANTIES, AND COVENANTS**

4.1 General Representations, Warranties, and Covenants. Each party represents and warrants that:

- (a) It has the corporate power and authority to enter into this Agreement to grant the rights and licenses granted hereunder and to perform its obligations in a manner that does not violate any other agreement with any other person;
- (b) When executed and delivered by such party, this Agreement will constitute a legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms;
- (c) It will comply with all applicable laws, rules, and regulations in the performance of its obligations; and
- (d) It will ensure that its employees, agents, representatives, and contractors comply with the terms of this Agreement and any accompanying documentation relating to the provision of Services.

4.2 HPC Representations, Warranties, Covenants.

- (a) HPC will deliver Services in a professional manner in accordance with generally recognized industry standards and, as applicable, with the necessary personnel to provide support and maintenance in accordance with this Agreement, and the Services will substantially conform to the specifications set out in the applicable Order Form;
- (b) HPC will respond in a timely manner to written Customer inquiries and issues relating to the Services;

- (c) HPC has not, and will not (i) grant any rights or licenses to the whole, or any part, of the or any other intellectual property or technology applicable to the Services that, or (ii) enter into any agreement that, would conflict with HPC's obligations or the Customer's rights under this Agreement;
- (d) HPC has all necessary rights and licenses to (i) provide the Services at or from the specified premises/facilities (if any) in the applicable Order Form, and (ii) provide to Customer and Customer's personnel, all such access to such premises/facilities (subject to applicable security policies and processes) as is necessary to receive the benefit of the Customer's authorized use of the Services; and
- (e) To HPC's knowledge, Customer's authorized use of the Services will not infringe on any registered intellectual property rights of any third party arising under the Laws of Canada.

HPC's obligations under this Agreement do not extend to any relocation, maintenance, repair, rearrangement, alteration, modification, or adjustment which becomes necessary due to, resulting from or in any way related to, damage, misuse, or failure on the part of the Customer.

4.3 Use of Subcontractors. HPC may engage subcontractors or third parties to assist HPC in delivery of the Services, provided, however, that HPC is and will remain fully responsible and liable to Customer for the performance of its obligations under this Agreement.

4.4 EXCEPT AS SET OUT IN THIS AGREEMENT, HPC MAKES NO REPRESENTATIONS, WARRANTIES, COVENANTS, CONDITIONS OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION OR REPRESENTATION OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, HPC MAKES NO REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES RELATING TO: (A) NETWORK TRANSMISSION CAPACITY; (B) WHETHER DATA OR CONTENT WILL BE TRANSMITTED IN AN UNCORRUPTED FORM; (C) THE COMPATIBILITY OF THE SERVICES OR THE FACILITIES (INCLUDING HPC EQUIPMENT) OR SOFTWARE WITH THE CUSTOMER'S USE, INCLUDING THE CUSTOMER'S CONTENT, DATA, PROGRAMS OR TRANSMISSIONS; OR (D) FREEDOM FROM ERROR, NON-INTERRUPTION, NON-INTERFERENCE OR NON-INFRINGEMENT.

## **5. PROPERTY AND EQUIPMENT**

5.1 Title and Care. The parties agree that all title and ownership of HPC Equipment shall at all times remain with HPC or its subcontractors, as the case may be. The Customer shall at all times be responsible to HPC for all loss and/or damage to the HPC Equipment, except where directly caused by weather factors, by the negligence of HPC or where the Customer has no means of access to or control over such HPC Equipment. The Customer shall return any HPC Equipment upon the termination of the related Services or termination of this Agreement in substantially similar condition to that in which they were furnished to the Customer, reasonable wear and tear excepted. If applicable, the Customer shall allow or use commercially reasonable efforts to secure permission for HPC to remove any HPC Equipment from the property and premises of the Customer and any customer or landlord of the Customer upon the termination of the related Services or termination of this Agreement. HPC Equipment shall not be encumbered, loaned, leased, or sold by the Customer.

5.2 Customer Platform. The Customer shall be responsible for procuring and maintaining the platform elements, including any equipment, hardware and computing environment, as may be designated by HPC in the applicable Order Form ("**Customer Platform**"), in accordance with the applicable provider's specifications.

5.3 Limited Software License. To the extent that HPC provides software in relation to the Services or associated hardware or HPC Equipment, HPC grants the Customer a temporary non-exclusive and non-transferable license to such software for the sole purpose of enabling the Customer to use in object code form such software or hardware, as the case may be, for its own internal business purposes in accordance with this Agreement, provided that the Customer (a) uses the software solely



in connection with the Services and in accordance with the applicable written and electronic documentation (“**Documentation**”), (b) does not reverse engineer the software to derive its source code, (c) does not copy or download the software, except as permitted in the Documentation, and (d) complies with any additional terms and conditions that are provided to Customer in advance with any third-party software.

5.4 Equipment Leased by Customer. The Customer’s rights and interests in any HPC Equipment leased from or through HPC will be set out in the applicable Order Form.

5.5 Rights to Service Specifics. The Customer obtains no proprietary right or interest in, or any right to the use of, any specific type of facility, premise, service, equipment, number, domain, process, or code associated with the Services. As between the Customer and HPC, all right, title and interest to such items remain at all times solely with HPC.

5.6 Replacement/Alteration of Equipment. HPC may, at its own cost, in instances necessitated for reasons critical to the performance of HPC’s network or important to quality or consistency of its provisioning of the Services, in HPC’s absolute discretion and without notice to the Customer, make changes to or replace the HPC Equipment and any other equipment used in connection with the provision of the Services, provided that the quality is not materially adversely affected, and any such event shall not be considered a Service Interruption. In other instances, where in HPC’s opinion the HPC Equipment or any other equipment used in connection with the provision of the Services should be changed or replaced, HPC agrees to consult with the Customer, and HPC and the Customer, acting reasonably, will mutually agree in writing on a schedule for the replacement of such equipment.

## **6. SERVICE USE**

6.1 Emergency or Maintenance. The Customer agrees that it may be necessary for HPC or a HPC subcontractor to temporarily suspend Service for planned or emergency maintenance reasons. Such suspension of Service will not be considered a Service Interruption and will therefore not qualify as a Service Incident under the SLA.

6.2 Interconnection. The Customer may choose to interconnect Services with services or facilities of other communications carriers, and with private systems, including the Customer Platform, where those services and facilities are compatible with the Services and applicable product and industry standards. The Customer is solely responsible for such third-party relationships, including but not limited to interconnection, interoperation, maintenance, and performance.

6.3 Compliance with Laws and Policies. HPC shall at all times provide the Services in compliance with all applicable laws. The Customer shall be fully responsible for the Customer’s and Users’ use of the Services and Content. The Customer acknowledges that HPC does not own or have any control over the Content accessible or that may be made available to or by the Customer or its Users through the use of the Services. The Customer’s and Users’ use of the Services and Content shall, at all times, comply with this Agreement, all applicable laws and all applicable policies, including HPC’s Acceptable Use Policy). Customer will promptly notify HPC of any unauthorized use of the Services, security breaches of the Services, or any other breaches of compliance.

6.4 Resale. Unless otherwise agreed upon or specifically prohibited in an Order Form, the Customer may resell the Services (or otherwise make the Services or use of HPC Equipment available to third parties for value). If the Customer has resold Services or use of HPC Equipment contrary to the foregoing (including any restrictions in an applicable Order Form), HPC shall have the right to, upon notice to Customer to either (a) suspend Services or invoke return of the HPC Equipment, as applicable, or (b) terminate this Agreement or the applicable Service(s) and (c) apply a premium to all resold Services or HPC Equipment.



6.5 Suspension or Termination due to Improper Use. Unless otherwise required by law or regulatory authority, HPC may, acting reasonably and without incurring liability: (a) cancel a request for Services; (b) suspend or terminate Services and/or this Agreement; (c) temporarily block Services to Customer premises; (d) remove any materials on any website, electronic mail transmission, news group, or other material created or accessible over or through the Services; or (e) cooperate with law enforcement or the appropriate legal authorities, in each case if HPC deems such action necessary to protect against fraud or the commission of suspected illegal activities, to prevent the Customer's or Users' use of the Services from harming or interfering with any HPC Equipment or third party equipment, or HPC's ability to provide the Services to the Customer or similar Services to others, or other HPC customers' rights to receive such Services. In suspending or temporarily blocking Services under this Section, HPC will use reasonable efforts to provide advanced notice to the Customer before taking action and, if advanced notice cannot be provided, shall provide notice as soon as possible after suspending or temporarily blocking the Services. That notice shall set out adequate reasons for the decision to suspend or terminate the Services.

## **7. LIMITATION OF LIABILITY**

7.1 SUBJECT TO SECTION 8, UNDER NO CIRCUMSTANCES WILL HPC BE LIABLE TO THE CUSTOMER FOR ANY LOST PROFITS, LOST REVENUE, LOSS OF DATA, LOST BUSINESS, FAILURE TO REALIZE EXPECTED SAVINGS OR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHATSOEVER, WHETHER ARISING IN NEGLIGENCE, TORT, STATUTE, EQUITY, CONTRACT, COMMON LAW OR ANY OTHER CAUSE OF ACTION OR LEGAL THEORY, INCLUDING BUT NOT LIMITED TO OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PROVISION OF THE SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

7.2 OTHER THAN PURSUANT TO A FINDING OF WILFUL MISCONDUCT, HPC SHALL, UNDER NO CIRCUMSTANCES, BE LIABLE TO THE CUSTOMER FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: (A) FACILITIES, EQUIPMENT, SOFTWARE, APPLICATIONS, SERVICES OR CONTENT PROVIDED BY THE CUSTOMER, USERS OR THIRD PARTIES; (B) SERVICE INTERRUPTIONS, DEGRADATION, ERRORS, DELAYS OR DEFECTS IN TRANSMISSION, IN EACH CASE OTHER THAN AS SPECIFIED IN THE SLA; (C) UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION OR LOSS OR DESTRUCTION OF THE CUSTOMER'S, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS BY ANY MEANS (INCLUDING, WITHOUT LIMITATION, VIRUSES); OR (D) ANY ACT OR OMISSION OF THE CUSTOMER, USERS OR THIRD PARTIES.

7.3 IN THE EVENT THAT HPC IS FOUND LIABLE IN ANY MANNER, OTHER THAN PURSUANT TO A FINDING OF WILFUL MISCONDUCT, THE CUSTOMER AGREES, ACKNOWLEDGES AND CONFIRMS THAT HPC'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE PROVISION OF THE SERVICES AND RELATED EQUIPMENT SHALL BE LIMITED TO THE FEES PAID BY OR INVOICED TO THE CUSTOMER FOR THE APPLICABLE SERVICES DURING THE 12 MONTHS PRIOR TO THE DATE ON WHICH THE LIABILITY AROSE, AND THAT THIS LIMITATION IS FAIR AND REASONABLE IN THE COMMERCIAL CIRCUMSTANCES OF THIS AGREEMENT AND THAT HPC WOULD NOT HAVE ENTERED INTO THIS AGREEMENT BUT FOR THE CUSTOMER'S AGREEMENT TO LIMIT HPC'S LIABILITY IN THE MANNER, AND THE EXTENT, PROVIDED FOR HEREIN.

## **8. INDEMNITY**

8.1 HPC shall indemnify, defend and hold the Customer, its Affiliates and each of their directors, officers, employees and agents harmless from and against all loss, liability, cost or damages of any type and expense, including reasonable legal fees and disbursements, relating to (a) injury or death or damage or loss of physical property caused by HPC's acts or omissions, and (b) infringement of third party intellectual property right or right of privacy in connection with the use of the Services or otherwise, excluding claims where the infringement or alleged infringement arises from the unauthorized modification, or combination or connection of the Service(s) or HPC Equipment or the Customer's other acts or omissions specifically



relating to its use of the Service or transmissions, information, data, content or programs thereon or associated therewith.

8.2 The Customer shall indemnify, defend and hold HPC, its Affiliates and each of their directors, officers, employees and agents harmless from and against all loss, liability, cost or damages of any type and expense, including reasonable legal fees (of a counsel which HPC may select on its own) and disbursements, relating to: (a) injury or death or damage or loss of physical property caused by the acts or omissions of the Customer, or the Customer's agents, contractors or Users, the Customer Platform, or any Customer-furnished equipment, and (b) the Customer's Content, business practices, operations or conduct, including but not limited to claims for libel, slander, harassment, or other unlawful conduct or improper use of the Services or related facilities, and whether attributable to the Customer or the Customer's agents, contractors or Users.

## **9. INSURANCE**

9.1 The Customer agrees to keep in full force and effect during the term of this Agreement: (a) comprehensive general liability insurance, including contractual liability insurance and defense outside of the limits, in an amount not less than One Million Dollars \$1,000,000 per occurrence and \$2,000,000 aggregate, providing for the investigation, defense and satisfaction (by settlement or otherwise) of any claim under this Agreement, (b) "**All Risks**" Property Policy which includes property insurance covering all of Customer's personal property located at any of HPC's facilities at full replacement cost, and (c) workers' compensation insurance in an amount not less than required by applicable law and employer's liability with limits of at least Five Hundred Thousand Dollars (\$500,000) each accident. Customer acknowledges that it retains risk of loss for, or damage to, Customer's equipment and other personal property, whether owned or leased by the Customer, located at any of HPC's facilities. For clarity, HPC's insurance policies do not provide coverage for Customer's equipment or other personal property.

9.2 Customer's general liability policy shall provide HPC and the HPC indemnitees additional insured status and coverage and shall be the primary and non-contributory to any coverage of additional insureds and shall include a provision denying insurer subrogation rights against HPC or the HPC indemnitees. Customer's general liability policy, workers' compensation and property policies shall also include such provision. Upon request, Customer shall cause the insurance company issuing such policies to issue a certificate to HPC confirming that such policies are in full force and effect during the Service Term of this Agreement.

9.3 Customer shall confirm that before any cancellation or material modification, HPC will be provided with thirty (30) days prior written notice. Customer shall require any contractor, customer, or other third party entering a HPC facility on Customer's behalf to procure and maintain the same types, amounts and coverage extensions as required of Customer and as required and approved by HPC, acting reasonably.

## **10. CONFIDENTIAL INFORMATION**

10.1 Each party agrees not to disclose the Confidential Information of the other party without the other party's written consent, except as required to be disclosed in compliance with any applicable law (including securities law and regulations), under any applicable stock exchange rules, under order of a court of competent jurisdiction or other similar requirement of a governmental agency, and agrees to take such care to protect the confidentiality of the Confidential Information as would be taken by a reasonable party to protect its own confidential information from disclosure (and which will be no less than reasonable care). However, a party may also disclose the Confidential Information to third parties (*e.g.* Affiliates and subcontractors) who have a need to know for purposes of carrying out or enforcing this Agreement and who are bound by confidentiality terms substantially the same and as protective as those of this Agreement.

10.2 Unless the Customer consents in writing or disclosure is made pursuant to a legal or regulatory requirement, all information regarding the Customer, other than the Customer's name, address, listed telephone number, domain name or "**IP**" number, may not be disclosed to anyone other than (a) to a person who (in HPC's reasonable judgment) is seeking the information as the Customer's agent, (b) to an agent retained by HPC in the collection of the Customer's account, (c) to





professional advisors and service providers reasonably required by HPC to provide the Services or to protect or enforce its rights and interests under this Agreement and related agreements including licenses for third-party software or services provided to Customer as part of the Services, or (d) as otherwise required by law, provided in each case that disclosure is made on a confidential basis and the information is required for, and is to be used only for, the stated purpose.

## **11. INTELLECTUAL PROPERTY**

**11.1 No Infringement of Intellectual Property.** Customer represents and warrants that (i) it owns all right, title and interest to, or have appropriate license or other rights to use, all data and content accessed or transmitted using the Services by Customer (“**Customer Provided Materials**”), and (ii) neither the Customer Provided Materials nor Customer’s use of the Services, will infringe the intellectual property or other proprietary rights of HPC or any third party.

**11.2 HPC Intellectual Property.** Customer acknowledges that all right, title, and interest in any and all technology, including without limitation the hardware and software solely provided or made available by HPC in connection with the Services and any trademarks or service marks of HPC or third parties whose products or services are utilized in connection with HPC’s provision of the Services (other than Customer Provided Materials) (collectively, the “**HPC Intellectual Property**”) is vested in HPC and/or in HPC’s licensors. Customer shall have no right, title, claims or interest in or to the HPC Intellectual Property, and Customer may not use the HPC Intellectual Property or related documentation except as expressly provided herein, nor copy, distribute, modify, or translate the HPC Intellectual Property or related documentation, or decompile, disassemble or reverse engineer the HPC Intellectual Property, or grant any other person or entity the right to do so.

**11.3 Customer Intellectual Property.** HPC acknowledges that all right, title or interest in any and all technology that is part of or provided with the Customer Provided Materials, and any and all trademarks or service marks of Customer or third parties whose products or services comprise all or a part of the Customer Provided Materials (collectively, the “**Customer Intellectual Property**”) is vested in Customer and/or in Customer’s licensors. Unless otherwise expressly stated in this Agreement, HPC shall have no right, title, claims or interest in or to the Customer Intellectual Property. Other than to the extent necessary or appropriate to provide the Services or as otherwise permitted under this Agreement, HPC shall not use, copy, modify, distribute, or translate Customer Intellectual Property or related documentation, or decompile or disassemble or reverse engineer the Customer Intellectual Property, or grant any other person or entity the right to do so. Unless otherwise expressly stated in this Agreement, HPC is not authorized to distribute or to authorize others to distribute the Customer Intellectual Property in any manner without the prior written consent of Customer.

## **12. INVOICING AND PAYMENT**

**12.1 Pricing.** Prices stipulated in the Order Form are quoted in Canadian dollars exclusive of applicable taxes. Customer shall be responsible for the timely payment of all Fees and applicable taxes including withholding taxes where applicable. Prices may include certain third-party costs including software licensing, energy or utility usage costs, equipment, and or professional services as required by the Customer. Such additional third-party costs may be subject to increases that are not within the control of HPC and will be charged at the then-current market prices to the Customer.

**12.2 Invoicing.** The Customer shall be invoiced thirty (30) days in advance (the “**Billing Date**”) for all Services provided under this Agreement with payment of undisputed amounts due within forty-five (45) days of the Billing Date (the “**Payment Due Date**”). When any payment falls due on a day other than a Business Day (Monday to Friday excluding statutory holidays), the Payment Due Date shall be the following business day. Payments will be credited to the account of the Customer as of the date the payment is received by HPC. Monthly recurring Fees for Services will not be considered in arrears until the business day following the first calendar day of the month when Services are provided. The Customer shall be responsible for and will reimburse HPC for any fees, including any banking fees, incurred by HPC as a result of NSF cheques or payments delivered by the Customer. In the event of non-payment of an invoice, HPC may suspend any or all Services after providing the Customer with ten (10) Business Days prior written notice. Suspended Services shall be restored to the Customer upon payment in full to HPC of all undisputed amounts owing plus all reasonable costs and expenses actually



incurred by HPC relating to the suspension and restoration of such Services. The foregoing right of suspension shall be in addition to any other rights or remedies HPC may have under this Agreement or at law.

12.3 Interest. Without prejudice to the right of HPC to receive payment when due, HPC may assess a late payment charge of 1.5% per month or fraction of a month (equivalent to 18% per annum) on the unpaid balance of undisputed amounts invoiced. The late payment charge provides for recoupment of administration and carrying charges relating to amounts that are owed to HPC and are in arrears.

### **13. GENERAL PROVISIONS**

13.1 Force Majeure. Neither party will be liable for any event beyond its reasonable control, including but not limited to acts of God, inclement weather including lightning, riots or civil disputes, endemic or pandemic disease, war or armed conflict, any law, governmental order, decision or regulation, or order of any court of competent jurisdiction, or failure of a utility service (including planned or unplanned power outages or breakdowns in power transmission) or transport, telecommunications or internet network (in each case, a “**Force Majeure Event**”). In the case of any such event, performance requirements and timelines will be suspended during such period (except that the Customer’s obligation to pay for Fees incurred for Services received shall not be excused), provided that the party relying on such Force Majeure Event uses all commercially reasonable efforts to alleviate the impediment.

13.2 Currency. Unless otherwise indicated on an Order Form, all monetary references in this Agreement and all pricing and payments will be in Canadian currency.

13.3 Changes to Terms and Conditions or Amendment. HPC may not change the provisions of any of these Terms and Conditions without the prior written consent of Customer. HPC will periodically update the SLA and will distribute the updated version to its customers. HPC shall not make any changes to the SLA that will result in a reduction of its service level commitments under the SLA without the consent of prior written Customer as an amendment to this Agreement and, if HPC purports to make such a change, Customer shall have the right to terminate this Agreement for cause in accordance with Section 3.3. Changes made by HPC which will result in improvements to the level of service provided under the SLA will be made at the sole discretion of HPC in order to ensure that HPC may continue to meet its service level commitments. All other amendments to this Agreement, Order Forms, the SLA or other schedules or exhibits shall be in writing duly executed by each party in the same manner and with the same formality as this Agreement.

13.4 Future Regulation. In the event that this Agreement or any part or provision thereof, the provision of any Services or the Services should become subject to regulation or approval by any authority having lawful jurisdiction, then the Customer shall co-operate with HPC to make reasonable amendments to this Agreement, Order Forms, the SLA or other schedules or exhibits, as applicable, and to obtain any required approvals with respect to the provision of the Services in order to comply with applicable regulatory requirements and to allow the continued supply of the Services by HPC to the Customer under circumstances as close as practicable to those then provided.

13.5 Assignment. Neither party may assign this Agreement, in whole or in part, or any rights or obligations thereafter, without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, HPC may assign its rights and obligations under this Agreement to an Affiliate without the Customer’s consent as part of a reorganization, or to a purchaser of its business entity or substantially all of its assets or business to which rights and obligations pertain, provided that such purchaser is not insolvent or otherwise unable to pay its debts as they become due and is not a competitor of the Customer. Other than the foregoing, any attempt by either party to transfer its rights or obligations hereunder will be void.

13.6 Relationship. The relationship between HPC and the Customer is that of independent contractors, and there is no agency, partnership, joint understanding or joint venture agreement between the parties to this Agreement.

13.7 Entire Agreement. This Agreement constitutes the entire subject matter agreement between HPC and the Customer.



This Agreement supersedes all prior negotiations, proposals, agreements, representations, warranties, whether oral or written, on such subject matter.

**13.8 Enurement.** This Agreement shall be binding upon and enure to the benefit of HPC and the Customer and their respective successors and permitted assigns.

**13.9 Governing Law.** This Agreement shall be governed by and interpreted according to the laws of the Province of Ontario and the laws of Canada applicable therein. Subject to Section 13.10, the parties attorn to the exclusive jurisdiction of the courts in the Province of Ontario in respect of all matters arising out of or in connection with this Agreement.

**13.10 Dispute Resolution.** Any dispute arising out of or connected with this Agreement which cannot be solved amicably by the parties, including a dispute as to the validity, existence or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement, shall be finally resolved by shall be finally settled by one arbitrator, in accordance with the *Arbitration Act, 1991* (Ontario) and the Canadian Arbitration Association rules. The place of arbitration shall be Toronto, Ontario, and the language of the arbitration shall be English. The award rendered by the arbitrator shall be final and binding upon both parties. The judgement of such award may be entered in any court having jurisdiction thereof.

**13.11 Interpretation.** In this Agreement, the headings are for convenience of reference only and shall not affect its construction or interpretation. Words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, societies, and corporations. Singular words include the plural and vice-versa and “including” means including without limitation.

**13.12 Waiver.** No waiver of any term or provision or of any breach or default shall be valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any other terms or provision or any subsequent breach or default of the same or similar nature.

**13.13 Notice.** All notices provided for shall be given in writing and transmitted by personal delivery, prepaid first class registered or certified mail, or electronic mail with confirmation of receipt, to the Customer’s address as identified in this Agreement or the applicable Order Form. All notices shall be deemed given when received.

**If to HPC:**  
24 Duncan St., Suite 500  
Toronto, ON M5V 2B8  
Attention: [james.beer@hut8mining.com](mailto:james.beer@hut8mining.com)

**13.14 Severability.** The invalidity, illegality, or unenforceability of any one or more provisions of this Agreement shall not affect or impair any other provisions of this Agreement.

**13.15 Order of Precedence.** In the event of conflict between the Terms and Conditions of this Agreement and the terms of any Order Form, Schedule, Exhibit or other written agreement incorporated by reference into this Agreement, the Terms and Conditions of this Agreement shall prevail unless the Order Form expressly states that it is amending the Terms and Conditions of this Agreement.

**13.16 Counterparts.** The Order Form may be signed in counterparts by facsimile transmission or .PDF, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument and shall be deemed to bear the date as of the date of execution on the Order Form.

**13.17 Survival.** Sections 7 Limitation of Liability, 8 Indemnity, 9 Insurance, 10 Confidential Information, 11 Intellectual Property, 12 Invoicing and Payment, and 13 General Provisions and other provisions necessary for the interpretation thereof shall survive the termination and expiration of this Agreement.



13.18 Language of Agreement. HPC and the Customer confirm that they wish to have this Agreement written in English only. Les parties aux présentes confirment leur volonté que cette convention soit rédigée en langue anglaise seulement.

*[signature page follows]*



**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be duly executed by their proper authorized officers on the date first above written.

**CUSTOMER NAME.**

**HUT 8 HIGH PERFORMANCE COMPUTING INC.**

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the Corporation*

By: \_\_\_\_\_

Name:

Title:

*I have authority to bind the Corporation*